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PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

SENATE—*Tuesday, September 28, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Revered Richard C. Halverson, D.D., offered the following prayer:

"Our fathers' God, to Thee,
Author of liberty,
To Thee we sing:
Long may our land be bright
With freedom's holy light;
Protect us by Thy might
Great God, our King."
—Rev. SAMUEL F. SMITH, 1832.

Our Heavenly Father, nobody seems to be happy with our Government today—but neither can anyone suggest any other government in the world—or in history—that they would be willing to trade for ours. Forgive us, Lord, for demanding perfect performance from imperfect humans. Help us to appreciate that however our system fails, it is the best there is. Help us also to realize that the God-factor is fundamental to our system, that if we refuse to be "governed by God," we will be ruled by tyrants.

Forgive our cynicism. Deliver us from ingratitude and a critical spirit. Awaken us to the incalculable benefits we enjoy. We pray this in the name of Him Who guided our forefathers to these shores. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order and the special order in favor of the Senator from Florida, that there be a period for the transaction of routine morning business to extend not past the hour of 10 a.m. in which Senators may speak for not more than 5 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I remind Senators that at 10 a.m., under the unanimous-consent order previously entered, the Senate will turn to the consideration of the agriculture appropriations bill, H.R. 7072, on which there is a time agreement.

ORDER FOR RECESS FROM 12 NOON UNTIL 2 P.M. TODAY

Mr. BAKER. Mr. President, today is Tuesday. Members on both sides of the aisle will attend caucuses away from the floor. I ask unanimous consent that between the hours of 12 noon and 2 p.m. today, the Senate stand in recess.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

ROLLCALL VOTE ON H.R. 4613 TO OCCUR AT 2 P.M. TODAY

Mr. BAKER. Mr. President, at 2 p.m., when the Senate reconvenes, according to the order previously entered, a rollcall vote will occur on H.R. 4613, the debt collection bill. That rollcall was ordered yesterday. No rollcalls were conducted yesterday in deference to the religious holiday.

Thereafter, Mr. President, the Senate will continue its consideration of the agriculture appropriations bill until it is completed. It is hoped, Mr. President, that we can reach the continuing resolution making appropriations for 1983 during the day today and that we will be able to make good progress on that measure.

Senators are warned that the Senate may be in late this evening; indeed, it may be in late every evening this week in order to complete the business of the Senate before we adjourn on Friday for the campaign period.

DEBT COLLECTION ACT OF 1982

Mr. BAKER. Mr. President, I would like to take this opportunity to congratulate my distinquished colleague from Illinois on his outstanding leadership in the area of improving Federal debt collection. Passage of this legislation before the Senate will take us one step closer to our goal of eliminating waste and mismanagement in Government spending.

Senator PERCY has devoted 2 years on the Governmental Affairs Committee to this costly problem. His hearings focusing on mismanagement of Federal credit programs, and the legislation aimed at ending these abuses will result in savings of $20 billion over the next 5 years.

In September 1980, Senator PERCY introduced the first legislation dealing with the Government-wide problem of uncollected debts. A few months later, he held the first Senate hearings exposing the magnitude of Uncle Sam's debt collection problems. At those first hearings, it was disclosed that over $25 billion in loans, overpayments, and taxes were delinquent. This shocking discovery caught the eye of Ronald Reagan, then President-elect.

Within a few months, the President's new administration put a high priority on providing support for Senator PERCY's legislation, and implemented a series of reforms to crack down on delinquent debtors. In April 1980, Senator PERCY continued his oversight hearings on this growing problem and, shortly thereafter, reintroduced tough debt collection legislation. This bill, S. 1249, called for 13 major reforms to strengthen debt collection including credit bureau report-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ing, use of commercial collection agencies, charging private sector rates for interest and penalties, and allowing the offset of Federal employee wages in cases where they default on Government loans.

Since introducing this far-reaching legislation, Senator PERCY has continued his fight against sloppy management of Government loan programs. In December of last year, he led an investigation and hearing that disclosed that almost one out of three doctors, dentists, and other health professionals is seriously delinquent in repaying student loans. He also launched a study focusing on an incredible mismanagement of Federal housing loans. Finally, just this past summer, my distinguished colleague blew the whistle on some 30,000 Federal employees who have defaulted on their Federal student loans, turning their backs on the same Government that pays their salaries.

We have faced many difficult choices recently over how to bring Federal spending under control. We have had to ask all Americans to tighten their belts. It is under these circumstances that taxpayers demand that tax dollars be spent wisely. Senator PERCY's tremendous efforts to bring this appalling waste of taxpayers' dollars under control could not have come at a better time. Every dollar we save through better management of these programs is a dollar that does not have to be cut from social programs. Every dollar collected in these loan programs is a dollar that can be used to reduce our deficit.

Mr. President, it is costing the taxpayers of this country $15 million each day these delinquent debts go uncollected. We simply cannot afford to wait any longer to pass this legislation.

TRIBUTE TO ALLYN COX, THE OFFICIAL MURALIST FOR THE CAPITOL

Mr. BAKER. Mr. President, last Tuesday, I was fortunate to participate in a ceremony pursuant to a congressional resolution which designated September 21, 1982, as a day for special tribute to Allyn Cox, the official muralist for the Capitol.

It was a moving and glowing exhibition of the praise and esteem which Mr. Cox earned throughout his 61 years as one of our Nation's most distinguished muralists. His work on the Great Experiment Hall and the Hall of Capitols is perhaps unsurpassed in the field, and is a work committed to history and the spirit of the Capitol.

Mr. President, it is all the more painful, after witnessing such a tribute, to report to my colleagues of Mr. Cox's death this past weekend. It is a loss that will be grieved by many.

Remembering his handshake after I said a few words about his work to the audience that was gathered in his honor, and remembering his smile after listening to the other speakers battle for complimentary adjectives to describe his mastery, I can only believe that we shall never be without Allyn Cox's presence, and we shall certainly never be without the beautiful legacy he left behind for an entire nation.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have no further need for my time under the standing order. I ask unanimous consent that the time allocated to the minority leader under the standing order and any time remaining to me may be reserved for our use at any time during the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I ask unanimous consent that if the minority leader has a statement to make, it be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield the floor.

RECOGNITION OF SENATOR CHILES

The PRESIDING OFFICER. Under the previous order, the Senator from Florida is recognized for 15 minutes.

CRIME FIGHTING BILLS

Mr. CHILES. Mr. President, for over 4 months now, Senator NUNN and I have been coming to the floor of the Senate every day to urge our colleagues to move to pass legislation to fight crime and to stop drug trafficking. Despite the fact that so little time remains in this session of Congress, we still have a unique opportunity to pass anticrime proposals before we break in October. There are two anticrime bills now pending on the Senate Calendar, and we could take either one off the calendar, pass it, and then work with the House to get these proposals passed into law. The first bill, S. 2543, was introduced by Senator NUNN and myself. The second bill, S. 2572, was introduced by Senator THURMOND and Senator BIDEN, the chairman and the ranking member of the Senate Judiciary Committee, and is cosponsored by Senator NUNN and myself, along with 50 other Senators. Both bills contain bail and sentencing reform provisions, both bills increase penalties for drug traffickers, and both bills make it easier to fight mob violence.

The passage of either of these bills will be especially useful in helping to fight drug trafficking, and the violence and corruption it produces. There can be no doubt that the Federal Government can be particularly effective in fighting narcotics trafficking, since the people who run the big drug operations act on an interstate and an international level. These drug lords show no respect for the law, and do not hesitate to do away with anyone who stands in their way.

Recently, law enforcement authorities caught up with one of these drug lords, Conrado Zalgado. Zalgado, who is known as El Loco, was one of the legends of the south Florida cocaine trade. El Loco's arrest in Los Angeles brought to an end a 3-year manhunt by south Florida law enforcement authorities, and also put behind bars a true cocaine cowboy. According to press reports, El Loco's story began in the summer of 1979 when El Loco allegedly hung from the window of a car speeding down the highway in south Florida, firing a .45 caliber submachinegun at another automobile. It was a classic cocaine war.

Several weeks later, El Loco's enemies tried to get back at him. Two of El Loco's associates were shot down in a large Miami shopping mall by assassins with submachineguns. El Loco, however, had escaped both from his rival cocaine cowboys and from the law. He had posted a cash bond of $105,000, checked out of the Dade County Jail and disappeared.

Miami area law enforcement agents tried without success for close to 3 years to locate El Loco. Finally, late this summer, Los Angeles area police became suspicious when a local landlord reported that several Colombians had just rented a house from him for $4,500 a month, a sum they paid to him in cash. A police stakeout of the Los Angeles house revealed a whole series of visitors arriving from Miami, as well as a man matching El Loco's description, who was driving around Los Angeles in fancy, antique convertibles. With assistance from Miami area police, Los Angeles law enforcement authorities finally tracked down El Loco, and arrested him at a girlfriend's apartment.

Police found over a pound of cocaine, a .357 magnum, and the instruction manual for a submachinegun. The submachinegun itself was seized in another raid in the Los Angeles area, along with nearly 40 pounds of high-grade cocaine, 12 grams of heroin, 2,700 quaaludes, yet another submachinegun, bags of gold jewelry and some $26,000 in cash.

The Los Angeles arrests were timed to coincide with Dade County police activities. Back in Miami, they raided the homes of El Loco's mother-in-law and his sister-in-law and seized another 11 pounds of cocaine. El Loco has been charged with conspiracy and with possession of cocaine with intent to sell. He is being held under a $2.5 million bond in Los Angeles, and Los Angeles police want to question him in

connection with a gangland type execution of a Colombian man in front of a Los Angeles bar. Dade County law enforcement officials plan to bring El Loco back to Miami to go on trial, where he faces a charge of attempted murder and several firearms violations. It turns out that El Loco's wife was also arrested in Los Angeles. She is now free, after she posted a $100,000 bond.

Metro Dade Detective Al Lopez, the man who has been tracking El Loco these past years, was of course pleased that El Loco was finally behind bars. Detective Lopez pointed out, however, that El Loco's wife, the woman who had just come up with a $100,000 bond, had filed an income tax return for 1981 that claimed an income of just $3,300. In fact, she ended up getting a $547 refund from the Internal Revenue Service.

Mr. President, in Miami, where the arrest of El Loco was front-page news, law enforcement officials and law-abiding citizens have reason to be happy. Another big-time cocaine cowboy has been taken off the streets. But we know that there will be others waiting to take El Loco's place.

We in the Senate can help stop the drug trade, and the violence and corruption it creates. We can help get the cocaine cowboys off the streets and behind bars where they belong. Both of the crime bills now on the Senate Calendar contain tough new bail reform laws that will make it easier to stop big time drug dealers like El Loco from using bail as their ticket to freedom. Both bills increase penalties for drug traffickers and violent criminals, and both bills contain special provisions that will make it easier to fight the violence that organized criminals and drug dealers use to get their way. We can make these changes but ony if we act now, in the few days remaining. We cannot wait until next year to catch up with the el locos of this world.

Mr. President, for over 4 months now, as I said, Senator NUNN and I have been speaking about these bills, the need to try to pass provisions of these bills, to try to stop that, and we now have this unique opportunity. I hope that we shall avail ourselves of that during the days that we now have remaining.

I suggest the absence of a quorun, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 10 a.m. during which Senators may speak for up to 5 minutes each.

CIVIL DEFENSE: AGAINST NUCLEAR WAR

Mr. PROXMIRE. Mr. President, the President has asked Congress to approve a 7 year, $4.2 billion civil defense program, obviously geared to the threat of nuclear war. The program has a number of elements including crisis relocation—the dispersal of up to two-thirds of the American population during an emergency; the construction of blast shelters for certain essential workers, and protection for industrial machinery.

The philosophy behind this resurgence in interest in civil defense is basic to an understanding of how it is justified militarily and economically. First, there appears to be a commitment by this administration to upgrading our nuclear war fighting capability—not just for deterrent purposes or in the short run but for long-term nuclear exchanges. In October of 1981, Louis O. Guiffrida, the Director of the Federal Emergency Management Agency, said:

> The other thing this Administration has categorically rejected is the short-war, mutually assured destruction, it'll all be over in 20 minutes so why the hell mess around spending dollars on it. We're trying to inject long-war mentality.

A second theme related to the long war mentality argument is that civil defense is practical—even easy to achieve and that a little preparation will provide enormous recovery potential. As Mr. T. K. Jones, the Deputy Under Secretary of Defense, once said:

> Everybody's going to make it if there are enough shovels to go around. Dig a hole, cover it with a couple of doors and then throw three feet of dirt on top. It's the dirt that does it.

Which is true of course until one needs to breathe uncontaminated air or consume uncontaminated food and water.

All of this sets the stage for the real basis for the renewal in civil defense which is economic recovery. As the Federal Emergency Management Agency has written:

> A close look at the facts show with fair certainty that with reasonable protective measures, the United States could survive nuclear attack and go on to recovery within a relatively few years.

What does this mean? In blunt terms, it is a call to accept nuclear war as thinkable, winnable, survivable—a major catastrophe perhaps but similar to other natural and man-made tragedies; that is, something that can be planned for, anticipated, and recovered from.

Such is the state of our current civil defense philosophy. This is the consequence of planners sitting in Government office buildings with statistical models of survival—mere numbers on game boards and calculations of recovery rates. It is a fantasy world of manipulated numbers and megadeaths translated into war fighting potentials. It is the ultimate game for the planners.

Perhaps the most ironic element of this is that the planners have made plans for themselves to escape what the average American will have to live through in a nuclear war. The planners will, if their plans work, be spirited away to resolve more planning problems in the aftermath. They have written themselves into the ranks of the surviving. How convenient for them to anticipate the need for our society to retain their unique planning capabilities while the rest of America lies smouldering in destruction.

Mr. President, I ask unanimous consent that part of an article analyzing the administration's civil defense plans be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Defense Monitor]

PRESIDENT REAGAN'S CIVIL DEFENSE PROGRAM

Today with U.S.-Soviet relations at their worst point in twenty years, the Reagan Administration has proposed a massive, multi-billion dollar civil defense program. This program represents a dramatic change from past civil defense efforts in scope and purpose.

In principle, civil defense is a worthy goal. Protecting life and a nation's resources are the highest responsibilities of government. But the reality of the nuclear age is that, in practice, civil defense measures can be easily overcome by the vast numbers and destructive power of nuclear weapons. Further, civil defense programs do not exist apart from each side's perceptions of the other. Preparations to survive a nuclear war in the United States and the Soviet Union will stimulate fears that increase the likelihood of nuclear war.

Since 1950 the U.S. has spent $2.6 billion on civil defense. In general, past programs have been met with public apathy and Congressional skepticism. A system of nationwide blast shelters has been consistently rejected as too costly. A number of fallout shelter programs have been proposed but have never been sustained. Almost all previous Administration budget requests have been cut, sometimes over ninety per cent.

REAGAN'S RATIONALE

Reagan's civil defense proposal is a natural complement to the nuclear warfighting strategy of the United States. A recent defense document approved by secretary of Defense Weinberger states that, "The United States nuclear capabilities must prevail even under the condition of a prolonged war." The Reagan Administration appears convinced that nuclear wars can be fought and "won" and is making detailed preparations in the hope that the leadership, eco-

nomic infrastructure and some portion of the population can survive. Reagan's proposed civil defense program reflects the Administration's rejection of the possibility that a nuclear war could result in the mutual destruction of both societies and that each government holds the other society hostage.

Key figures of the present Administration find the situation of mutual vulnerability intolerable and consider it immoral. Richard Pipes, a top member of the National Security Council staff, has recently said that the Administration no longer accepts the concept of mutual assured destruction. All agree that living under the shadow of nuclear holocaust has caused fear and anxiety. But rather than go to the source of the problem, this Administration is trying to remedy what it regards as a loss of will and resolve. Eugene Rostow, the Director of the Arms Control and Disarmament Agency, has said, "The magnitude and momentum of the Soviet arms buildup has wearied people to the point of accommodation, isolationism and capitulation. . . . It's this fear of nuclear war, this fear we can't restore a second strike capability, that makes men want to pursue the absolutely defeatist, suicidal policies of disengagement and isolationism."

According to this notion, it is desirable to lessen the American people's horror of nuclear war by preparing them to survive it. With a fearless population and a massive nuclear weapons buildup, we can once again intimidate the Soviets and maneuver for geopolitical advantage. Civil defense is envisioned as a major element in this effort. Each citizen will be made a nuclear soldier, rather than a nuclear hostage. They will not be frightened of nuclear war because, when the time comes, they will be told how to survive it. Sold to the American people as something prudent, responsible and humanitarian, the Reagan Administration's civil defense plans are in fact an effort to mobilize the society and make nuclear troops out of the citizenry. Civil defense is now considered a weapon and an integral part of U.S. nuclear strategy.

PRESIDENTIAL DIRECTIVE-41

The Carter Administration, responding to claims of a civil defense "gap," laid the framework for the enhanced civil defense progran. President Carter authorized new civil defense policy in the form of Presidential Directive (PD)-41 in 1978 (recently declassified) and reorganized the U.S. civil defense bureaucracy through the establishment of the Federal Emergency Management Agency (FEMA) in 1979. Congress subsequently endorsed PD-41 in an amendment to the Federal Civil Defense Act of 1950. PD-41 stated that an improved civil defense program would not change the U.S. policy of relying on strategic nuclear forces as the major factor in maintaining deterrence. President Reagan's plans change this concept significantly.

THE REAGAN PLAN

A civil defense policy change was formally announced in March 1982 through the release of President Reagan's National Security Decision Directive (NSDD)-26. This policy change received little attention but goes far beyond PD-41 by expanding substantially the scope and importance of the U.S. civil defense program.

NSDD-26 represents a commitment to a national policy of nuclear war survival. It takes U.S. nuclear warfighting plans a significant step further by declaring that civil defense now "complements" U.S. reliance on strategic nuclear forces. Unlike PD-41, the Directive calls for the "survival of a substantial portion of the American people in the event of a nuclear attack."

The decision was made to fund a major, multi-year civil defense program in spite of reservations expressed by the Chairman of the Joint Chiefs of Staff and the Office of Management and Budget because the program could cost over $10 Billion. The fiscal year 1983 request for civil defense is $252 million, a 100% increase over the previous year. FEMA claims the seven year plan will cost $4.2 Billion. This figure excludes the cost of a number of major programs.

The Reagan civil defense plan consists of several elements: population protection, blast sheltering for essential workers, industrial protection and continuity of government.

MOVING THE CITIES

The contribution by the public to U.S. nuclear warfighting plans is being prepared and coordinated by FEMA with the help of state and local governments. The most visible part of the FEMA civilian survival program is "crisis relocation." This plan calls for the evacuation of 150 million Americans from about 400 "high-risk" areas to about 2000 presumably lower risk, "host" areas, at least 50 miles away. "Host" areas are primarily small, rural towns. The two kinds of areas which comprise FEMA's "high-risk" list are: regions around 63 "counterforce" sites (important military installations) and, 330 other military/industrial installations and urban areas with populations of 50,000 or more.

FEMA's evacuation and relocation planning relies heavily on the availability and reliability of private automobiles, trained personnel for traffic control and emergency law enforcement, warning and communication systems for population "direction and control," the rechanneling of normal commerce to support the evacuated population, as well as the continued operation of designated "essential" industries.

Once urban refugees have been relocated, they must be provided protection from radioactive fallout. FEMA expects to identify about one and a half million public and private buildings in "host" areas for use as fallout shelters after an attack. Before or during the attack, civilian work crews would "upgrade" these buildings under supervision of local officials. Using bulldozers, shovels and buckets, they would pile dirt around and on top of these buildings to shield out radiation. They would then have to stock these structures with food, water, medical and sanitation supplies, special filtration devices, radiological instruments and communication equipment. Specially trained "shelter managers" would be assigned to assist in survival training and provide leadership in shelters.

for the tens of millions of people who will not have access to these million and a half structures, FEMA has developed elaborate instructions for the construction of "expedient" fallout shelters. These instructions come in a variety of designs: above ground, below ground or some combination of the two. Such instructions must be reproduced in newspapers as attack threatens or distributed in host areas through other means. In general, plans usually specify that an abundance of small trees or doors will have to be readily available, 3 to 5 people each working 6 to 18 hours will be needed, and that evacuees should bring with them tools, construction materials and at least two weeks of food, water, medical, sanitary and other supplies. In addition, instructions must be provided for the construction of air pumps and emergency lamps and stoves. Evacuees are asked to bring along a radio and batteries to receive broadcasts from the authorities but few will be able to communicate with the outside world, to receive specific advice or to call for help.

Comment: FEMA assumes that a nuclear war would occur only after a period of rising tensions. At least three days would be needed to evacuate some areas, though large cities would require at least a week. For FEMA, a nuclear war must not come too soon nor too late or its plans will not work. An attack during the evacuation could result in more deaths than if the population had remained in place. If the evacuation were carried out and the attack did not come for several weeks, great strains would be put on limited resources.

The smooth coordination of an evacuation will require a high degree of volunteerism and calm behavior. In fact, problems would result at every juncture: automobiles would breakdown or run out of gas; some traffic control personnel would go with their families rather than direct traffic; and not all essential workers would stay on the job.

The availability of the supplies and equipment needed to support an evacuated population and to construct tens of millions of fallout shelters is doubtful. Two thousand shelters for 10,000 people could require 300,000 to 500,000 logs. It will be impossible for a typical family of four people to get any significant portion of the materials and supplies needed into a family automobile. The competency to build effective shelters is also in doubt. Severe weather conditions would exacerbate these problems.

SURGE

All of FEMA's plans require that a great deal be accomplished in a short time prior to and during a nuclear attack. The term used for this rapid mobilization of resources and people is "surge". Past experience has shown the U.S. civil defense bureaucracy that the American public will not support a permanent nuclear war mobilization program and, in fact, many of the measures FEMA plans to implement just prior to nuclear war require a variety of emergency powers not available in peacetime.

According to "surge" plans, active participation of the American public is not necessary and will not be sought during peacetime. FEMA will require only passive acceptance and several billion dollars to develop its crisis planning. An example of a specific "surge" program is a plan to multiply many times the number of "qualified" civil defense workers, state and local officials, police, military reservists and others to assist in "direction and control" and "post-attack recovery operations". FEMA's goal is "to reach approximately 7 to 8 million emergency services personnel . . . in the event of nuclear attack."

Comment: This will surely be needed according to an Army study which predicted there would be "an increase in conflict between sections of the country, between advocates of varying war policies, and between urban and rural populations as well." The study further noted, "the imposition of martial law or other authoritarian systems in many localities, and the widespread use of troops to maintain order" would be needed. The FEMA program to prepare for this in peacetime is called Direction and Control.

DIRECTION AND CONTROL

The bulk of FEMA's budget for civil defense, especially in the first five years of the program, is dedicated to building and modernizing a nationwide civil defense command structure. The system FEMA envisions to direct and control the population consists primarily of a sophisticated state and local governmental communications net which will serve some 3,000 protected command posts, called "Emergency Operating Centers" (EOCs), for civil defense officials before, during and after a nuclear war.

By the end of the seven year period, all command posts will be supplied under federal matching funds with: fallout protection, emergency power generators, food, water, medical and sanitation supplies, and ventilation and radiological detection devices. These facilities and their staffs are considered the critical elements for effective crisis relocation, shelter construction, and post-attack recovery. Attempts will be made in all EOCs and over 2,500 Emergency Broadcast Stations to "harden" against the effects of electromagnetic pulse (EMP). EMP is a high voltage wave produced by a nuclear detonation which can disable or disrupt communications and other electronic equipment over a wide area.

To assist EOC officials in reporting local nuclear war damage to federal authorities, FEMA will provide specially trained radiation experts called "Radiological Defense Officers." They will attempt to predict local fallout patterns and advise other EOCs and the sheltered population on local conditions. To aid post-attack recovery operations, FEMA has begun producing and refurbishing millions of radiological instruments to be distributed prior to attack to law enforcement personnel, shelter managers, EOCs and others. These instruments are designed to monitor accumulated radiation doses and radiation levels and decay rates in and outside of shelters.

Comment: The Direction and Control program alone will cost billions of dollars. FEMA argues that these improvements will have peacetime utility for responding to natural and technological disasters. Most of the improvements, however, are designed only for nuclear war.

The availability of a crude radiation monitoring system will do little to protect individuals or contribute to their treatment. Radiation can be neither felt nor seen by individuals and radiation sickness is not easily detectable in its early stages. Many victims could enter shelters, get seriously ill and receive little or no medical care. Disposing of corpses could expose others to radiation. And, due to unpredictable weather conditions, forecasting fallout patterns would be difficult. Whether or not communication equipment can be effectively shielded from EMP is still uncertain.

BLAST SHELTERS

The second element in the Reagan civil defense program, one not included in the Carter Directive, is blast sheltering for essential workers in high-risk areas. Estimates for a funding decision on this program are to be completed in two years. The cost of this shelter program could run into billions of dollars but is not included in any of the FEMA estimates for civil defense.

Evacuation plans call for essential workers to relocate with their families to "nearby" host areas and to commute on a two-shift basis into the risk areas to keep essential industries operating. Certain industries, such as chemical and steel plants cannot be shut down. Others are needed to support the evacuated population. Law enforcement personnel would also be needed to patrol the empty cities and protect the workers. Present plans call for identifying some four million essential workers in the next two years as a first step to prepare for construction of an industrial blast shelter system. To reduce workers' vulnerability to radiation, FEMA will increase research efforts on radioprotective drugs.

In 1983, FEMA will sponsor the design and construction of 20 prototype blast shelters: 10 reinforced concrete, each with a 100 person capacity and 10 prefabricated steel tube, each with a 20 person capacity. FEMA and industry officials are optimistic that these shelters could be mass produced at a cost of several Billion dollars.

In the event Congress does not authorize these funds, FEMA is preparing plans for "expedient" industrial blast shelters. Construction of these shelters would require an extended crisis period, possibly up to a year.

Comment: An industrial blast shelter system could cost as much as $10 Billion. With a peacetime workforce of 100 million people, it is doubtful 4 million workers would be sufficient to carry on vital economic functions. Many workers could refuse to participate in the program. Those that did participate could not be assured protection anyway because even the most hardened structures are vulnerable to attack.

Construction of blast shelters in an emergency would be even less effective. FEMA itself recognizes some of the serious disadvantages of this method. According to the Agency, "For good confidence of continuing essential risk-area operation, workers must be given the assurance that they will be provided high quality blast protection should an attack occur. Otherwise, many are likely not to commute to the risk area and will remain in host areas with their families."

THE REAGAN CIVIL DEFENSE PROGRAM

The 5 major parts of the Administration's civil defense program are:

I. CRISIS RELOCATION

In the event of rising tensions or indications of a Soviet evacuation, relocate 150 million Americans from 400 probable target areas to the countryside.

Problems: Evacuation requires at least a week.

The nuclear attack must not occur too early or too late.

Soviets must not target relocation areas.

Adequate food and supplies must reach relocation areas.

People must cooperate and not panic.

Particular categories of people such as prisoners, the old and the sick pose special difficulties.

II. FALLOUT PROTECTION

Provide the entire population with protection from radioactive fallout. Construct tens of millions of shelters before or during a nuclear attack.

Problems: Available construction materials may be inadequate.

Competency in building effective shelters may be lacking.

Severe weather conditions will hamper shelter construction.

Food, water and sanitation equipment must be available in the shelters for many days or weeks.

III. BLAST SHELTERS

Provide shelters for 4 million "essential" workers at their workplaces to protect against the direct effects of nuclear weapons (blast, heat, initial radiation). From the countryside, workers would commute to keep key industries operating.

Problems: Program will costs many Billions of dollars.

Workers may refuse to participate.

Four million workers may not be sufficient to carry on economic production.

Even harden shelters are vulnerable to attack.

IV. INDUSTRIAL PROTECTION

Develop plans to protect industry from nuclear attack. During a crisis, essential workers would dismantle, disperse and bury machinery in phases. After an attack, workers would emerge from shelter, recover machinery and restart production.

Problems: Warning time may be insufficient to implement plans.

Many industries, such as chemical and nuclear power plants, cannot be shut down or dismantled.

Even if machines survive, resources needed for production, such as energy and raw materials, may be scarce or nonexistent.

Targeted areas may not be safe to work in for months or years.

V. CONTINUITY OF GOVERNMENT

Provide thousands of government officials with facilities and duplicate records to carry out essential functions in order to insure the survival of the U.S. govenment. Protect presidential successors in the event the President is killed in an attack.

Problems: Plans concentrate on Executive branch bureaucrats and functions; only a few Legislative and Judicial branch officials are provided for.

Even hardened facilities are vulnerable to direct attack and the locations are presumably known to the Soviets.

A TRAGIC TALE OF VIOLENCE AND THE PLANTING OF THE SEEDS OF GENOCIDE

Mr. PROXMIRE. Mr. President, there is at this moment a young woman hiding in the hills of Guatamala whose story, I believe, is worth telling. It is not an account of genocide but of callous, inhuman violence directed against a group that could bear the seeds for genocide. It is a tale in which innocents are terrorized in the name of justice and murder avenges murder in a seemingly endless succession. But more importantly it is a story of a family ravaged by senseless violence and the personal tragedy of one of its members.

The story on this Indian girl was sent to me by Amnesty International and occurred in a small hamlet in Alta Verapaz. On April 7, a group of soldiers entered the girl's village and began to search and interrogate the Indians they found. Most of the village, including the girl, had ran for cover in the mountains when the line of soldiers first came into sight. Upon finding few Indians in the village, the soldiers began to search the nearby mountains and it is there that they discovered the girl and two other Indians hiding underneath a tree trunk.

The three were promptly tied and taken off for questioning. According to the report, the soldiers took the Indi-

ans captured with the girl and, as she watched, butchered them with machetes and knives. The soldiers then turned to the girl and asked her to identify the guerrillas in her village. The girl refused. The men then raped the 17-year-old; slashed her repeatedly with machetes—almost severing one hand—and left her to die. By some extraordinary means this courageous young woman managed to crawl to the village for help.

Once in the safety of friends the girl discovered that her rape and torture would not be the end of her tragic day. It seems that the army had returned to the village, seized her 13-year-old brother Ramos, shot him in the foot, and, like his sister, left the boy by the side of the road to die. As bad as this was, the rest of the girl's family fared far worse:

My brother and my parents and my other brothers and sisters had been in the house. The soldiers said, "They are guerrillas, and they must be killed." My brother saw how they killed my parents, my mother, my brothers and sisters and my little 1-year-old brother; the soldiers machine-gunned them to death when they arrived in the village. Only my brother, Ramos, and I are alive. Our friends are giving us injections and medicines. We can't go to the hospital at Coban. I think they would kill us there.

And so this young Kekchi Indian and her brother are all that remain of their family and they continue to evade any soldiers for fear that they may decide to finish their task and kill the last two members of their family. It is fitting that the girl should go nameless in this account because her attack was an impersonal one. These Indians are tortured and murdered collectively but on an individual basis. While there is no evidence to suggest a directed campaign of genocide, this horribly generalized definition of "the enemy" may well, in the end, have the same tangible consequences as an actual genocide policy. If this story is indicative of the normal criteria used to determine guerrilla identity, then certainly few Kekchi Indians can be expected to survive.

The story of these Kekchi Indians is not an unique one. Throughout the world, tragedies of this sort are occurring and if anything they are on the rise. If a genocidal policy was ever to be issued, then cases like this young woman's would be multiplied thousands and even millions of times over. This account resembles the face of genocide but only in the miniature. This is what is really at stake when considering the Genocide Convention. The ratification of the convention will not stop the future planting of the seeds of genocide but it will help keep its evil fruits from blossoming again.

DEFENSE APPROPRIATIONS

Mr. GOLDWATER. Mr. President, last Sunday, in the Washington Post, an article written by George Wilson appeared on the front page of that publication and, in it, the author recognized a real, outstanding problem that we on the Armed Services Committee have. It is an annual problem—scratching backs.

Unfortunately, the Post article only focused on the problems on Capitol Hill. However, I am going to include with this article a letter that I wrote Mr. Edwin Meese at the White House relative to the stuffing of the appropriations bill at the request of the White House. What this indicates is that this practice is not just confined to a committee, but is so widespread that the White House is now engaged in it. All this amounts to is trying to satisfy every single Member of Congress who might have a defense industry in his, or her district, or State that is affected by appropriations. Mind you, we know full well of these goings-on.

For instance, take the case of the A-10 aircraft. The Air Force decided it needed no more of them; the Tactical Warfare Subcommittee, of which I am chairman, after 6 months of discussion, decided the Air Force needed no more of them; so we decided to terminate it. Lo and behold, Mr. Stockman promised four House Members on Long Island that they would get their A-10 if they would vote for the President's tax bill.

I would like to ask a simple question—just whom are we defending, the United States, or the people of some district in this State, or that State, or some other State? I think it is high time these absurdities are brought to the surface and that is the purpose of these remarks and of this insertion in the RECORD.

However, when the appropriations bill is before us for discussion, I expect to go into this in much greater detail because this and this fact alone is one of the biggest contributors to the high cost of military appropriations in this country.

I ask unanimous consent that my letter to Mr. Meese and Mr. Wilson's article be printed in the RECORD at this point.

There being no objection, the letter and article were ordered to be printed in the RECORD, as follows:

September 13, 1982.

Mr. EDWIN MEESE III,
Counselor to the President,
The White House, Washington, D.C.

DEAR ED: Through the unstoppable grapevine, I have heard that your office has sent word to the Air Force to include A-10s in its next purchase from unobligated funds. Now, Ed, I think this is going a little bit too far. Having the President do what he did on Taiwan was something many of us did not like, but we are willing to take our chances. But, for the White House to flaunt six months of deliberations by the Armed Services Committee, and particularly the Tactical Warfare Subcommittee which I chair, is just a little bit more than I care to put up with.

As I have reminded others, I was one of the chief advocates of buying the A-10 when we first purchased them. However, the last results of Israeli air-to-ground warfare against Egypt and the further devastating demonstration of high speed, low level ground attacks by F-15s and F-16s in Lebanon have completely convinced our Subcommittee, and indeed the full Armed Services Committee, that we have an adequate inventory of A-10s.

We terminated the production in the FY83 Defense Authorization Bill, as you know. Since that time, we are told that Mr. Stockman made a promise to four House members on Long Island that if they would vote for the President's tax bill, the A-10 would be put back in. What happened? I think one of them voted for the tax bill. We are also told that at least one senior House Appropriations member has been threatening the White House that, unless A-10s are funded in some way by the White House or by the Armed Services, other funds will have trouble.

Now, I think the time has come when individual members of the Congress should be told that they are not in the business of procuring equipment for the Armed Services. That is the job of the Armed Services Committee. But, and I must emphasize this, if the White House continues to go around the Armed Services Committee in the Senate, I don't know how much longer some of us are going to be willing to serve on that committee. This comes from a person who has spent much of his life in the uniform of our country and 55 years of his life studying, working with, and understanding aircraft. With that, I advise you, and this comes from a man who has seen mistakes made, not to make the mistake of trying to circumvent the best judgments of people who are working hard to legislate an effective budget, particularly in defense.

So, please, and I use please advisedly, do not tell the Secretary of the Air Force or the Secretary of Defense to include A-10s. It is not going to sit well.

Sincerely,

BARRY GOLDWATER.

IT MAY BE NATIONAL DEFENSE, BUT THE PORK IS JUST AS SWEET

(By George C. Wilson)

The Senate Appropriations Committee, while claiming to be looking for fat in President Reagan's defense budget, last week ordered the Pentagon to revamp a rocket production program so some of the work could go to a company in Louisiana.

The shift was made for political reasons, not military. The Army says the change could waste $100 million.

In the House, the chairman of the Appropriations subcommittee on defense is demanding that the Navy buy a radar from the contractor near his district.

The Navy says this would waste $2 billion.

The debate about the defense budget is mostly a lofty one. The arguments tend to be over such things as national security and fiscal restraints. But the defense budget also has an earthier side: defense projects, just like public works and all other federal projects, are a form of pork.

INCREASED EMPHASIS ON PREVENTIVE MEDICINE WOULD IMPROVE PUBLIC HEALTH AND LOWER COST OF HEALTH CARE ACCORDING TO HAWAII'S DEAN JERROLD M. MICHAEL

Mr. MATSUNAGA. Mr. President, Dean Jerrold M. Michael of the University of Hawaii School of Public Health recently delivered a very thought-provoking speech about the importance of preventive health care before the Honolulu Rotary Club. Dean Michael, a former Assistant Surgeon General of the United States, pointed out that one of the principal causes of the spiraling cost of medical care in this country is an overemphasis on high technology individual medical treatment and a corresponding neglect of preventive health care.

He observed that while life expectancy at birth has risen dramatically since the latter part of the 19th century, the overall health of the American public has improved only slightly; and he predicted that future improvements in health care in this country will come not from high technology treatment in hospitals, but from an increased awareness on the part of people of the importance of taking responsibility for their own health and from efforts aimed at reducing environmental hazards.

Mr. President, Dean Michael's remarks at the Rotary Club were recently reprinted in the Honolulu Star-Bulletin and they have been very well received in Hawaii. I believe that his views deserve the full consideration of my colleagues in the Senate as well, and for that reason I ask unanimous consent that the text of his remarks, as published on the editorial page of the Honolulu Star-Bulletin, be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AMERICAN HEALTH STATUS—WHO'S IN CHARGE HERE?

(By Jerrold M. Michael)

Any dispassionate analysis of the American health care system will find it significantly out of balance—it overemphasizes individual treatment and it neglects prevention.

This means that the cost of health care is much higher than it should be, that it will get even higher, and that the present system could be much more effective.

In 1978 the health bill for Americans was $183 billion. In 1981 it was $287 billion, 9.8 percent of GNP. By 1983 it will be $323 billion! By 1990 it will be $821 billion!

And rising costs are not the only issue.

At a time when, for example, our milk is inadvertently contaminated with pesticides, and when poor people are afflicted with hypertension, obesity, poor dental care, and bad nutrition, funds for preventive health services and protection of the environment are of necessity being reduced.

Nationally, although not publicized, it's well known in the public health profession that we have a double standard of health care—with 20 million Americans getting no care, and 50 million getting inadequate and sparse care.

At this very time we are forced to reduce funds for the nutrition of expectant mothers and infants; cut back on health programs for the elderly; and slash research funds into the social and behavioral causes of illness.

Many factors have contributed to, if you'll pardon the expression, the unhealthy state of affairs to which I have just alluded.

The health care system is likely to continue to move in an illogical direction because of the difficulty in making the health system responsible to the client—to the average citizen.

Let us look more closely at some of the "ways things are":

A state-by-state review of health data makes even professionals in the field—such as me—wonder why hospitals have so little measureable effect on the rate of illness. There are few significant variations in the health status of people living in those states that are below the national average in number of hospital beds as compared to people in states which are above average.

And yet we continue to add to our current hospital facilities.

Nearly everyone who is objective agrees that America has a surplus of hospital beds. Unfortunately, it is also a fact that the more beds that there are available, the more pressure there is to use them. This is known in health circles as "Roemer's Law" after Professor Milton Roemer of UCLA's School of Public Health. Roemer's Law, briefly stated, says "if you have an extra hospital bed, you will do your damndest to fill it."

Occupied hospital beds are associated, in turn, to increased use of expensive diagnostic procedures and therapeutic methods.

Expensive new and remodeled hospital facilities not only drive up the cost of health care, but because there is a limit to expendable resources, they drain away money from essential preventive health services.

This raises one of the currently most sensitive and controversial subjects in medical care delivery: unnecessary surgery.

The New York Times projected four years ago that nearly 2½ million unnecessary operations were being performed in this country each year. In addition to the $8 billion cost of these unnecessary operations, the Times projected 12,000 needless related deaths.

The American Medical Association was outraged—perhaps properly so—sharply attacked the Times for exaggeration, but presented no figures of its own to support its argument.

The issue of high technology medicine is one I would like to explore a bit further, mainly in terms of its overall effect on health status relative to the proportion of health resources expended upon it.

First, a bit of background. A visit to the old Hawaii cemeteries will reveal the fact that, in earlier times, many people died in infancy and many women died in childbirth. Indeed more people died young than lived to a ripe old age.

In the latter part of the 19th century, dramatic discoveries by Pasteur, Koch, and others led to the development of immunization. Diseases which previously had been common killers could now be entirely prevented.

With improvements in nutrition, the control of contagious diseases, and reduction in sewage-related pollution and contamination of food and water, life expectancy at birth has risen dramatically for all of us.

Two hundred years ago, life expectancy at birth was 35 years; by 1850 it has risen to 40; by 1900 to 47; by 1920 to 55.

Today the life expectancy of a child born in Hawaii is over 70 years. But—and it is a major but—the life expectancy of persons aged 60 to 65 has increased only a very little.

And as Rene Dubos, who was one of our most respected medical philosophers, pointed out: " . . . a large part of this increased life expectancy in the older age groups represents merely prolongation of survival time through complex and costly medical procedures, rather than healthy years gained from the onslaught of disease.

"It corresponds to what has been called medicated survival. In other words, aged people do not retain their health much longer now than they used to; the chief difference is that many more people survive infancy and live to reach adulthood.

"The increase in expectancy of life at birth provides, therefore, no evidence that men and women are healthier. In fact, our contemporaries do not have a much greater chance than our ancestors to enjoy longevity coupled with health."

But the medical costs of the elderly have gone up a thousandfold and more.

To repeat—improved environmental sanitary conditions, better nutrition for expectant mothers and children, together with improvements in immunization against disease have sharply reduced human mortality. All of these approaches are well known as the public health approach.

Professor Steven Jonas, past president of the Association of Teachers of Preventive Medicine, has shown, most convincingly, that ". . . the other 'miracles of modern medicine' such as highly advanced surgery, increased technology, laboratory and X-ray equipment of amazing complexity have done little to affect health, at least to the extent we can measure it."

Three years ago the Hastings Center on Society, Ethics and the Life Sciences sponsored a large conference on health cost containment. The enormous increase in health costs, greatly exceeding the inflation rate, was traced by a wide spectrum of speakers to the phenomenal growth of high technology medicine.

It was pointed out, for example, that Sweden, a country with absolutely first class medical care, had only 11 CAT-scanners (a special diagnostic X-ray device) at a time when the city of Denver had just added its 11th.

Now we in Hawaii have almost as many of these expensive electronic devices as all of Sweden. Someone at the conference pointed out that when a hospital has a new CAT-scanner, the "law of the little boy with a hammer" applies: Give a little boy a hammer, and everything needs a pounding.

This is not to say that advanced surgical techniques or sophisticated laboratory analysis may not be of great value, to the extent of saving the life, for a time, of many individuals. But the results of these advances have not, at least to date, been shown to have had much effect on death rates, life expectancy, and health of the population as a whole.

Historically, most of our dramatic medical successes have come from the discovery of successful methods of treating virulent micro-organisms to which persons were exposed from external sources of infection. But the most common contemporary dis-

eases result from micro-organisms that are always present in the environment and that (surprisingly) can be found in most people's bodies at any given time. Ordinarily these do not cause disease.

These ubiquitous agents exert pathological effects only when the infected person is under conditions of physiological stress.

In other words, when a person is under acute or chronic stress and lacks a supportive, caring, human network, he or she often succumbs to illness.

Effective prevention includes reduction of excessive stress and development of human support systems, like strong family ties, social and club linkages and home visitors for the elderly.

At the same time, stresses from such things as unemployment and powerlessness are increasing and affecting a larger proportion of the population.

Poverty and powerlessness are highly correlated with increased rates of both physical and mental disorders.

Many have criticized proposals that prevention efforts be directed toward the reduction of poverty. They say these efforts are premature because, although we have shown poverty and emotional stress are highly related, we have not shown that one causes the other.

But we accept other kinds of correlational evidence without much question. For example, the contribution of air pollution to pulmonary diseases and the relationship between cigarette smoking and lung cancer are also correlational. Despite this, health facilities have removed cigarette machine and automobile manufacturers control noxious emissions, all in the absence of evidence of causation.

One need not be a radical to see clearly the low utility of increasingly expensive medical care for these problems relative to the potentially high value of reducing the stresses of poverty and powerlessness.

Indeed, today certain diseases are increasing. The cancer rate has tripled, at least, since 1900. Environmental causes have been blamed by some researchers for at least 75 percent of all cancers. It seems reasonabe to encourage and support the health profession and others in identifying these environmental causes and to take leadership in preventing further environmental damage.

Jonas points out that "many—and obviously not all—doctors tend to concentrate on treatment and tend to ignore preventive services, whether of the personal, community, or combined sort." He accounts for this state of affairs by the fact that physicians are not trained for prevention.

This is reinforced by the fact that the primary system of paying U.S. physicians is for taking care of sick people, not for preventing them from getting sick.

Future improvements in health in this country will not come primarily from high technology medical treatment in hospitals, but from an increased awareness on the part of people of the importance of taking responsibility for their own health and from efforts at reducing environmental hazards.

One's life style is far more important in determining one's health than is the availability of complex medical treatment.

Within the practical grasp of most Americans are simple measures to enhance the prospects of good health and extending life including:

Elimination of cigarette smoking.

Reduction of alcohol misuse.

Moderate dietary changes to reduce intake of excess calories and excess fats.

Periodic screening for major disorders such as high blood pressure and certain cancers.

Adherence to speed laws and use of seat belts.

One study conducted by my colleague, Professor Lester Breslow, former dean of the School of Public Health at the University of California at Los Angeles, found that people who practiced what after all are common sense, simple health habits, lived on the average 11 years longer than those who practiced none of them.

Those common sense health habits, combined with sound collective decisions about expenditures for health, including the control of pollution and environmental degradation, are far more important to future health status than high technology hospital methods, individual demands for medical care, choice of providers, and patient requests for drugs.

A final caution—letting only health providers and their collaborators make decisions about priorities for health strategies will not lead to the best solutions; nor is it politically possible. Decisions about expenditures for health care will and should be made by citizens acting through elected officials.

Too often the decision-makers are related directly, ideologically, or by social class to society's power brokers—and that includes me.

Human nature being what it is, decisions are made that enhance the power, the prestige, and the income and the influence of those who already control a highly profitable treatment system.

Those who question the wisdom, or the motives, of those who stand to gain the most from expensive hospital construction run the risk of being branded as misinformed, disloyal, un-American, or as part of some dark, sinister conspiracy.

The only force powerful enough to provide a counterweight to that status quo is the combined opinion and determination of large numbers of informed citizens.

TRIBUTE TO DR. FRANK J. MANNING

Mr. KENNEDY. Mr. President, in our proud history, the Commonwealth of Massachusetts has been blessed with many things and many great men and women.

Today, in 1982, that tradition is carried on by Dr. Frank J. Manning, president of the Massachusetts Association of Older Americans, and president of the Legislative Council of Older Americans. Now in his 80th year, we know him as a relentless organizer, speaker and, once in a while, an arm twister on behalf of the older Americans of Massachusetts and our Nation. And in his dozen years as the leader of the Massachusetts Association of Older Americans, we have known him as an effective voice in shaping national policies in areas such as nutrition, housing, and fuel assistance.

I am proud to have known Frank as a trusted adviser and as a staunch ally in the battles for older Americans for over 12 years. Our friendship and our alliance dates from the now famous Suffolk Downs senior power rally in 1970, where Frank spoke eloquently and forcefully to 14,000 senior citizens of their deepest concerns: Adequate nutrition, decent housing, the high costs of winter fuel, and the need to protect the social security system. Since then, we have joined forces many times to turn his dream of a better life for senior citizens into real legislative victories.

For Frank's relentless efforts, senior citizens in Massachusetts now receive help in paying their winter fuel bills, assistance in receiving decent housing, and nutritional assistance through the Older Americans Act. And during these past 2 years, Frank has taken his fight to Washington for the most important battle of all: Saving social security.

For me, Frank is not just an effective partner in the causes we share—he is also a loyal friend. Throughout my 1980 campaign for the Presidency, although ill at the time, Frank maintained a campaign schedule on my behalf that was nearly as hectic as my own. More than once, Frank rose from a hospital bed to organize, to speak out, and to campaign for me.

Two years ago, as that campaign drew to a close, I spoke in New York of "the golden friends" who marched with me across the miles of America and who shared in causes for which we fought so many months. Today, as in 1980, I think of Frank as one of those "golden friends"—a friend to me, to elderly citizens everywhere, and to all of us who hope and strive for a better life in a better land.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1983

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now proceed to the consideration of H.R. 7072, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 7072) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal

year ending September 30, 1983, and for the other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

Mr. BAKER. Mr. President, the distinguished Senator from Mississippi (Mr. COCHRAN) will manage the bill on our side, and I will yield the floor so he may seek recognition.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, this appropriation bill that we bring to the floor today provides funding for most all of the activities of the Department of Agriculture and some related agencies. It funds such activities as research, conservation, nutrition, rural development and lending, commodity price and income stabilization, and other services and programs administered by the Department of Agriculture.

The bill also provides funds for the Food and Drug Administration and the Commodity Futures Trading Commission, and places a limitation on administrative expenses of the Farm Credit Administration.

Our recommendation is for funding these activities at a level of $27.4 billion for the next fiscal year. This is under the fiscal 1982 level of funding.

It also meets the budget resolution target. It should be pointed out that the Budget Committee is not scoring the $3.8 billion Commodity Credit Corporation reimbursement against our appropriation.

Our recommendation total is over the President's budget and the House bill by a little over $2 billion. I want to point out, however, that, in the case of the House level of funding, this is due to the fact that our committee is choosing to recommend funding for the full year for food stamps, the child nutrition programs, and the feeding program for women, infants, and children (WIC).

As it relates to the President's budget request, our recommendation is over the request, because the President based his recommendation on assumptions that large savings would be achieved through various legislative changes by the legislative committees in these nutrition areas. The Agriculture Committee here in the Senate did receive the President's proposed legislative changes earlier in the year, had several days of hearings, and then made some changes to achieve a certain level of savings in these activities for the next fiscal year, but not to the extent recommended by the President.

Therefore, our committee is recommending funding that would be consistent with the legislation that has previously been approved by the Congress and signed into law.

We are recommending funding of these nutrition programs at current law levels, therefore, for the full year. We believe this method of funding, as compared with the House's action, is much more realistic, and it avoids the risks and uncertainty of potential program delays or closedowns. And it removes the need for the inevitable request for supplemental appropriations later in the fiscal year.

In terms of outlays, the bill provides $21.8 billion. This is under the budget allocation, but, again, it is over the House level and the President's budget request, primarily because we are choosing to fully fund three major nutrition programs for the entire fiscal year.

BILL HIGHLIGHTS

First. Research. We are reasserting our general support for research activities, and have increased the President's request and the House total by about $20 million. Our emphasis again is on a good mix of Federal and Federal-State research activities.

Second. Animal and Plant Health Inspection Service (APHIS). We are recommending a $45.8 million increase over the President and a $3.8 million increase over the House, primarily to protect investments and progress made to date in disease and pest control and eradication programs.

Third. Commodity Credit Corporation (CCC). We recommend reimbursement for past expenses totaling $3.8 billion, needed to fund the commodity price and income support programs in agriculture. We also recommend earmarking $500 million for use in the direct export credit program, dormant for some years in CCC. Both are in concurrence with the House.

Fourth. Farmers Home. Our basic decision involved one of maintaining the loan programs fairly close to the status quo. We continue to support low-income housing loans, and moderate-income programs to a lesser extent. We support farm operating loans. In all, we are $86 million over the House mark for FmHA credit budget items, and $2.3 billion over the President.

Fifth. Rural Electrification Administration (REA). We concur with the House which provides loan levels at or near last year's, but $1.4 billion above the budget request.

Sixth. Conservation. The committee rejects the Administrator's cuts of some $222 million. In the soil conservation (SCS), all technical programs are provided appropriations at or near last year's levels. Agricultural stabilization and conservation (ASCS), the agricultural conservation program (ACP), forestry incentives program (FIP), and the water bank program are all restored to 1982 levels.

Seventh. Nutrition programs. As I mentioned earlier, we are recommending that the child nutrition programs, the feeding program for women, infants, and children (WIC), and the food stamp program all be funded for the entire fiscal year at current-law levels (that is, child nutrition, $3.18 billion; WIC, $1.06 billion; and food stamps, $10.89 billion). The administration's lower request in each account was premised on savings to be realized from legislative changes never made, nor expected to be made. The House chose to accept the budget estimates, but for less than a full year in each case (that is, child nutrition, August 15; WIC, May 15; and food stamps, July 15). Our decision to fully fund the program is based on the best available extimates of participation at current-law levels. It is important to remember these differences in comparing our bll with both the budget request and the House total.

Eighth. International programs. For the Foreign Agricultural Service (FAS), we recommend continuation of support for its fine activities to promote export markets abroad, and add $7 million for the cost of Landsat use in the remote sensing data programs.

For Public Law 480, we recommend a total of $1.28 billion, with $378 million for title I/III (credit sales) $650 million for title II (commodity distribution program).

Ninth. Related agencies. For the Food and Drug Administration (FDA), we recommend the same amount as the House, and a decrease in the request, which FDA approves.

For the Commodity Futures Trading Commission (CFTC), we restore $400,000 to the House number for the automated data program, and otherwise fully support CFTC's request.

Tenth. Standard level user charges (SLUC). These charges are extracted from pertinent agency and office accounts, and consolidated into one account entitled SLUC. This change will allow closer scrutiny over the charging and expenditure of these funds, which are paid by the Government agencies to GSA to cover the costs of office space, facilities, and services.

Eleventh. Advisory committees. Similarly, we have established a new account for advisory committees. This account consolidated accounts previously appropriated in lined accounts, and sets them apart under one heading, again so we can better monitor and account for the flow of those funds.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill, as thus amended, be regarded for the

purpose of amendment as original text, provided that no point of order shall be waived by reason of agreement to this request.

The PRESIDING OFFICER. Is there objection? If not, the amendments will be considered and agreed to en bloc.

The amendments agreed to en bloc are as follows:

On page 6, line 15, strike "$451,530,000", and insert "$455,201,000";

On page 7, line 19, strike ": Provided", through and including the end of line 22;

On page 8, line 7, strike "$850,000", and insert "$2,750,000";

On page 10, line 3, strike "$24,409,000", and insert "$27,280,000";

On page 10, line 5, strike "$10,000,000", and insert "$18,000,000";

On page 10, line 6, after "expenses", insert the following: "$6,000,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses;";

On page 10, line 21, strike "$230,082,000", and insert "$246,953,000";

On page 11, strike line 12, through and including "$3,000,000;" on line 13;

On page 11, line 14, strike "$7,531,000", and insert "$7,067,000";

On page 11, line 15, strike "payments", through and including "$1,020,000;" on line 16;

On page 11, line 18, strike "payments", through and including "$285,000;" on line 19, and insert the following: "payments for the nonpoint source pollution program under section 3(d) of the Act, $702,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978, $4,000,000;";

On page 12, line 2, strike "$321,506,000", and insert "$321,439,000";

On page 12, line 20, strike "$5,521,000", and insert "$5,171,000";

On page 13, line 13, strike "$266,531,000", and insert "$270,332,000";

On page 13, line 14, strike "$2,500,000", and insert "$1,000,000";

On page 16, line 24, strike "$37,251,000", and insert "$38,251,000";

On page 18, line 1, strike "$50,823,000", and insert "$51,185,000";

On page 18, line 19, strike "$3,999,000", and insert "$5,000,000";

On page 19, line 7, strike "$1,353,000", and insert "$1,453,000";

On page 19, line 20, strike "$31,912,000", and insert "$30,412,000";

On page 19, line 21, strike ": of", through and including the end of line 22";

On page 21, line 17, strike "$8,268,000", and insert "$8,668,000";

On page 22, line 13, strike "$54,699,000", and insert "$55,962,000";

On page 22, line 16, strike "$369,517,000", and insert "$370,780,000";

On page 24, line 23, strike "$262,140,000", and insert "$235,200,000";

On page 25, line 5, strike "$200,000,000", and insert "$150,000,000";

On page 26, line 18, strike "$2,142,000", and insert "$2,000,000";

On page 27, line 8, strike "$3,261,000,000", and insert "$3,391,000,000";

On page 27, line 13, strike "17,560", and insert "27,060";

On page 27, line 17, after "total", insert "new";

On page 27, line 18, strike "$73,745,000"; and insert "$173,745,000";

On page 28, line 4, after "$1,109,722,000", insert the following: "and for an additional amount as authorized by section 521(c) of the Act as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended."

On page 28, line 12, strike "$840,100,000", and insert "$818,000,000";

On page 28, line 15, strike "$53,100,000", and insert "$31,000,000";

On page 28, line 20, after "disasters", insert the following: ": *Provided*, That not less than 20 per centum of the farm ownership loans nor less than 20 per centum of the operating loans insured, or made to be sold and insured, under this provision shall be for low-income limited resource borrowers.";

On page 29, line 8, strike "For loans to", and insert "Loans may";

On page 29, line 12, strike "$375,000,000", and insert "$300,000,000";

On page 29, line 13, strike "$300,000,000", and insert "$350,000,000";

On page 30, line 9, strike "$12,500,000", through and including line 10, and insert "$10,000,000";

On page 30, line 15, strike "$5,000,000", and insert "$15,000,000";

On page 31, line 13, strike "$286,870,000", and insert "$291,706,000";

On page 32, after line 20, insert the following: *Provided further*, That as a condition of approval of insured electric loans during fiscal year 1983, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982.";

On page 33, line 4, strike ": *Provided*", through and including line 6;

On page 35, line 5, strike "$3,878,000", and insert "$3,742,000";

On page 35, line 6, strike "$3,781,000", and insert "$3,757,000";

On page 37, line 12, strike "$189,925,000", and insert "$194,925,000";

On page 42, line 7, strike ": *Provided*", through the end of line 8;

On page 42, line 20, strike "$2,825,781,000" through and including "1983" on line 21, and insert "$3,178,000,000";

On page 42, line 21, strike "$544,105,000", and insert "$896,324,000;"

On page 44, line 2, after "allocated", insert the following: ": *Provided further*, That if the funds available for Nutrition Education and Training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum grant for each State shall be $50,000: *Provided further*, That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within 60 days following the claiming month shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within 90 days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.";

On page 44, line 22, strike "$28,100,000", and insert "$20,100,000";

On page 45, line 7, strike "$652,000,000", through and including "1983" on line 8, and insert "$1,060,000,000";

On page 45, line 10, after "1984", insert the following: ": *Provided further*, That notwithstanding any other provision of law, funds provided herein for the special supplemental food program shall not be withheld from obligation unless Congress approves a rescission of budget authority for such programs: *Provided further*, That all funds appropriated for the first quarter of fiscal year 1983 for this program shall be allocated to the States immediately upon enactment of this Act.";

On page 45, line 23, after "$32,600,000", insert the following: ": *Provided*, That funds provided herein shall remain available until September 30, 1984.";

On page 46, line 3, strike "$9,291,707,000", and insert through and including "1083" on line 4, and insert "$10,646,000,000";

On page 46, line 18, strike "for", through and including "1983", on line 19;

On page 47, line 11, strike "$165,200,000", and insert "$156,266,000";

On page 47, line 14, strike "$80,146,000", and insert "$82,976,000";

On page 48, line 20, strike "$70,947,000", and insert "$77,961,000";

On page 52, line 7, strike "$22,592,000", and insert "$22,999,000";

On page 54, line 17, after "Facilities;", insert "Agricultural Research Service, Buildings and Facilities;";

On page 58, after line 23, insert the following:

SEC. 625. None of the funds in this Act shall be used to place in effect any rule pursuant to section 17 of the Child Nutrition Act of 1966 which would not maintain or enhance the nutritional integrity of the supplemental foods made available under the special supplemental food program for women, infants, and children of the Child Nutrition Act of 1966.".

Mr. COCHRAN. Mr. President, I wish to express my appreciation to the distinguished Senator from Missouri (Mr. EAGLETON), who is the ranking minority member of this subcommittee, for his help and assistance in the development of the bill that we bring to the floor today.

Mr. President, I yield the floor at this point.

Mr. EAGLETON. Mr. President, the Agriculture, rural development and related agencies appropriations bill for fiscal year 1983, as reported to the Senate, is an excellent example of the need to address pressing problems and the need to restrain the Federal budget.

The bill is within the allocation for outlays provided the Agriculture Subcommittee in accordance with the first concurrent budget resolution, although it does exceed the President's request for fiscal year 1983. The subcommittee spent considerable time and effort reviewing the President's budget and the impact that budget would have on the many critical programs of the Department of Agriculture, the Food and Drug Administration, and the Commodity Futures Trading Commission.

I am pleased to say that we have considerably improved the President's budget in several important areas. The budget had proposed significant reductions in the programs of the Soil Conservation Service as well as the cost-

share programs of the Agricultural Stabilization and Conservation Service. At a time when farmers can barely afford to plant and harvest their crops, and at a time when an increasing amount of information is available regarding the negative impact of soil erosion on the productivity of our Nation's farmland, now is not the time to be reducing Federal support for soil conservation efforts. The committee's recommendation maintains funding for the cost-share programs at the current levels and provides for a modest increase for the Soil Conservation Service.

The Animal and Plant Health Inspection Service provides a vital service of protecting the crop and livestock resources from disease and pestilence. Shortchanging the preventive activities of this agency could potentially result in the need to spend substantially larger sums to protect our food supply. The budget proposed about a 15-percent reduction in the programs of the Animal and Plant Health Inspection Service. Although we have accepted some reduction here, we have restored many of the extremely large reductions recommended in the budget. Funding for the brucellosis program, for instance, has been maintained.

The committee has likewise done an excellent job in funding the research and extension programs. For the first time, funding for these vital programs will exceed the $1 billion level. Too often we take for granted the success of our agricultural research and extension network and the role it plays in providing our Nation and much of the world with a bounteous and safe food supply. Dollars spent in support of these programs are an investment in our future and our children's future. I am pleased that the committee has acted to increase funding for research and extension even beyond what the President had proposed.

As I mentioned earlier, farmers are in the economic doldrums, commodity prices are severely depressed. Land values are dropping, net farm income is at the lowest level since the Great Depression, and the value of U.S. exports has declined for the first time in 13 years. To help address the farm crisis, the committee has accepted the recommendation of the House to direct that no less than $500 million be used for direct credits to expand U.S. exports. For fiscal year 1982, the Congress had provided the administration with the authority to use up to $2.2 billion for direct lending activity. In spite of the drop in the value of U.S. agricultural exports, in spite of the use of credit by our competitors to expand their markets, in spite of clear indications that customers were ready to buy U.S. goods if direct credit was available, the administration did not utilize this authority. If this administration will not use the full authority is has at its discretion to help farmers, then it is incumbent upon the Congress to require that action be taken. It makes far more sense to sell our surpluses than to have them sit in warehouses and elevators that are completely full.

The committee report expresses the consternation of the committee on the apparent reluctance of the administration to fully utilize the loan deferral and repayment moratorium authority to assist Farmers Home Administration borrowers in staying in business. Here again, plenty of authority is available if the administration will only use it.

Finally, Mr. President, I want to discuss the committee's recommendations for the Federal feeding programs funded in this bill. I am pleased to say that we have fully funded the current estimated requirements for the child nutrition programs, WIC, the commodity supplemental feeding program and the food stamp program.

As is often the case, however, this is not as simple as it may appear. The committee has provided $10.89 billion for the food stamp program, the amount USDA has estimated to be needed when the budget cuts in the Omnibus Reconciliation Act of 1982 are taken into account. I must express some concern about this figure, however. It is based on an administration assumption that unemployment will average 8.7 percent over fiscal year 1983, and that in the first quarter of fiscal year 1983—which begins in less than 2 weeks—that unemployment will average 9 percent. How unemployment will get down to 9 percent in the first quarter of the fiscal year when it stood at 9.8 percent in August and may hit 10 percent in September is something the administration has not explained to us.

In addition, the administration estimate assumes timely implementation of the cuts contained in the new Reconciliation Act. But with the new fiscal year nearly upon us, no regulations have yet been issued to implement most of these changes. Even after regulations are published, States require some time to implement them—and then it takes an additional period of time for States to convert the full food stamp caseload to the new, more restrictive rules. The administration may very well have been too optimistic when estimating the savings these provisions will achieve in fiscal year 1983.

These factors mean that the food stamp estimate may be too low and that a supplemental may be required at a later date. We have directed USDA not to reduce benefits if the appropriation does prove insufficient. It would be unconscionable for the Department to take food away from low-income people because the Department had submitted an inaccurate estimate of costs. Rather, if the estimate proves too low, the Department would be expected to notify the Congress in a timely fashion so that we may consider a supplemental. There should be little question that in such circumstances, a supplemental would be provided. In past years, the Congress has always provided supplemental funds when needed to avoid food stamp benefit reductions. In addition, any supplemental that might be needed later in fiscal year 1983 would fall squarely within the food stamp authorization limits. The amount appropriated by the committee in this bill falls more than $1.1 billion below the food stamp authorization ceiling.

The committee has included $1.060 billion, the full amount authorized for the special supplemental food program for women, infants, and children (WIC). This funding level is necessary to keep overall caseload reductions as small as possible in this highly effective and valuable program and to avoid any reductions among those participants in the highest risk categories under the WIC priority system. Even at this level of funding, WIC participation may have to be reduced by 100,000 persons.

As is normally the case, any carryover funds from fiscal year 1982 would be in addition to this $1.060 billion appropriation. However, carryover funds are likely to be very small this year—insufficient to avoid some reduction in the WIC caseload.

The committee also included a number of provisions in the bill and in report language to protect the integrity of the WIC program and to improve its operations. Last October, OMB took several weeks to apportion WIC funds, causing one State WIC program to close down for awhile and disrupting activities in others. There simply is no reason for this series of events to be repeated this year. We have, therefore, included language in the bill requiring that the funds appropriated for the WIC program for the first quarter of fiscal year 1983 be made available immediately upon enactment of this legislation. This requirement is intended to supersede normal procedures under which OMB may take up to 30 days to apportion funds. Since little carryover funding is available this year to maintain the program in October, a delay of even a week or two in apportioning and allocating funds would be likely to cause shutdowns. There is no reason that States cannot be officially notified of their first quarter allocations within a day or two after enactment and funds moved into State letters-of-credit as rapidly as the technology permits. Any action to the contrary would be inconsistent with our intent.

This provision also requires the obligation of one-fourth of the appropriation, or $265 million during the first quarter of the fiscal year. Such a requirement is clearly within our power and is consistent with other acts of Congress such as the Federal Highway Act of 1956, Federal Water Pollution Control Act of 1972 and the fiscal year 1976 appropriation for the Older Americans Act which have required expenditure of funds duly appropriated by Congress.

Finally, the committee has included language in the bill precluding the use of appropriated funds to make rule changes that would not maintain or enhance the nutritional integrity of the WIC food package. At a time when budgetary limitations prevent us from serving millions of those in need of WIC, we should be sure to spend every dollar as wisely as possible. We have been concerned by reports that the Department is considering allowing high-sugar cereals and chocolate milk to be added to the WIC food package. These foods add no nutrients to the existing package, only empty calories. In addition, these foods frequently cost a bit more than other cereals or unflavored milk—which means fewer participants could be served within the same amount of funds. It should be clear that changes which add no nutrients, which may increase dental caries, and which could result in fewer eligible persons receiving the nutritional benefits of WIC, do not serve to maintain the program's nutritional integrity.

As I said in the beginning of my statement, Mr. President, I believe the bill as reported deserves the support of every Member of the Senate and I urge my colleagues to support it.

Mr. MATTINGLY. Mr. President, there is absolutely no question that American agriculture occupies a strategic position in the battle we are currently waging to achieve economic recovery. Agriculture is the largest industry in the United States, spending more than $140 billion in 1981 for goods and services needed to produce food for Americans and also for much of the world. In this effort, our farm producers are the major earners of foreign exchange, earning some $44 billion last year alone to help offset deficits in other areas of trade.

Without doubt, the American farmer deserves our respect, our thanks, and most of all our honesty and best efforts. Honesty? Yes; complete intellectual and practical political honesty. The average farmer in this great land is hard working, industrious, creative, and dedicated to a set of values which have been forgotten to a large extent by other sectors of our society. Given their choice, a large majority of agricultural producers would rather depend upon their own resources in a free market system which would provide them with a fair profit in return for their investment of labor, capital, and expertise. Instead, we in Government have created an absolute nightmare of artificial and largely unworkable-band-aid solutions over the last 40 years. These crisis-oriented programs have generally resulted in far more frustration and adverse effects on U.S. farmers, taxpayers, and consumers than the original problems they were designed to correct. The Congress has tinkered with the system until the "golden goose" is in the intensive care ward.

Down but not out. That is the attitude of this sturdy lot, just as it has been in years past. "Just give us an honest chance," I repeatedly hear our farmers say. They ask only that Government interference be relegated to its legitimate areas of constitutional authority—health, safety, and welfare of the populace considered as a whole, the promotion of commerce and urgent issues of national defense.

But some 40 years ago, the Congress, in its somewhat questionable wisdom, began to significantly tamper with America's most vital of all industries and her trump card, the most important element of world politics—a stable, dependable supply of food and fiber. Like other well-intentioned projects, farm programs during this period have largely tended to find an immediate answer by simply throwing taxpayer dollars at the symptoms of farm problems rather than finding and correcting the underlying cause for temporary dislocations. We have been a government of band-aid solutions for the past 40 years and our current problems in agricultural production are a prime example.

Having "vented my spleen" on the subject of Government farm policy development overall, let me now add my compliments to Senator THAD COCHRAN, chairman of our Appropriations Subcommittee for Agricultural, Rural Development and Related Agencies, and to my other colleagues who serve on the subcommittee. Given the sorry state of agricultural affairs—which has resulted in large part from decades of misguided governmental programs—the recommendation before us is almost a miracle. Almost, but as my farm friends remind me, "almost" only counts if you are playing horseshoes. We are most certainly not playing horseshoes here today. We are playing with the destiny of America as a reliable, affordable supplier of agricultural produces for the people of the world, and we are setting the stage for future governmental attitudes in solving the real problems of U.S. farmers.

Ask any farmer: The best things we could do for him are reduce inflationary pressures, lower interest rates, curtail policies which lead to domestic overproduction, and reinforce our credibility as dependable suppliers in the world market. He feels that Government intervention should be more properly geared toward the areas of inspections, research, conservation, and the encouragement and development of fair world markets for his products. U.S. farmers need and deserve the support of an efficiently operated and adequately funded Department of Agriculture to accomplish these goals.

The committee has done a reasonably good job in presenting 1983 spending levels which address this need. It is important to note that even though the bill before us would appear to be more than $2 billion over the budget estimates and the House bill, that this figure simply represents the true cost of funding the nutrition programs for a full year rather than a partial year. However, there are areas which can and should be reformed and further modified. Over the years, USDA has become burdened with many programs which have hindered its ability to efficiently deal with the legitimate function of assisting agricultural producers in the orderly marketing of their goods. For instance, why should USDA be involved in providing housing assistance for persons who have not even a remote connection with farming?

I was astounded to read of a recent instance where Farmers Home Administration made a loan of approximately $46,500 to move a 33-year-old lady and her two teenage sons from their subsidized-rent apartment in the Maryland suburbs into a new, three-bedroom home. The article tells us that this woman works only 20 hours a week and thus her $11,000 annual income qualified her for the program. The loan was made for a 33-year term at 1 percent interest. I do not claim to be a mathematical genius, but it is fairly easy to figure that the interest subsidy on just this one loan will cost American taxpayers approximately $177,375 over the next 33 years. And not one red cent of this goes to help farmers. Worse still, there are thousands of farmers who have labored hard for many years—working 60 and 80 hours a week—who cannot even qualify for a loan on a $45,000 home for their families. I do not want to see suburban women who voluntarily work only 20 hours a week freeze with their families in inadequate housing. But it causes me great concern, Mr. President, when I see American farmers who have devoted their entire lifetimes to the production of food and fiber now being faced with impending bankruptcy and foreclosure while Government programs lavish this kind of largesse on less productive sectors of society.

The 97th Congress has made some progress toward reform under the leadership of President Reagan, but

we have only scratched the surface. We have the power to make even more significant improvement if we can muster the courage to wisely use that power. In both the subcommittee and the full committee I pointed out several areas in this bill where we could save about $50 million in outlays and the interest subsidy cost on almost $1 billion in loans. I confess, however, that these amounts seem ridiculously insignificantly when we refuse to correct just one program that is costing taxpayers nearly $2½ billion a year by encouraging the overproduction and storage of dairy products.

Mr. President, it is with mixed feelings that I announce my intention to support H.R. 7072. In many respects its provisions will truly help meet the legitimate needs of American farmers and consumers of argicultural products. I would only hope that in the closing days of this Congress and with the beginning of the 98th Congress that we can find the courage to make meaningful reforms which will give our farmers a chance to make a fair profit and eliminate government meddling in the marketplace.

Mr. DOLE. Mr. President, as chairman of the Nutrition Subcommittee, I would like to commend the distinguished Agriculture Appropriations Subcommittee chairman, Mr. COCHRAN, and the distinguished ranking minority member, Mr. EAGLETON for the splendid job they did in constructing appropriations for the food stamp and child nutrition programs. The distinguished Senators from Oregon and Wisconsin should also be congratulated for their skilled leadership in expeditiously getting this appropriations bill through the committee process. The nutrition programs are vital to the lives of many low-income Americans, and the Senator from Kansas is happy to see that these programs have been funded to the extent of their authorizations under the law.

During the last 2 years, the Congress has enacted significant budget reductions in the nutrition area. For fiscal year 1983, these total about $2.5 billion for the food stamp program and $1.5 billion for the child nutrition programs, with the exception of WIC, which has been very fortunate in being left untouched by the budget tax. This means a savings of about $4 billion for the nutrition area alone.

Given this background, the Appropriations Committee has acted responsibly in fulfilling the funding needs of the nutrition programs according to the best estimates of anticipated expenditures for the coming fiscal year. They have allocated a total of $10.9 billion for the food stamp program, which is the amount authorized under this year's program extension. The child nutrition programs, which include school lunch, school breakfast, summer feeding, nutrition education and training, and the child care food programs, would receive appropriations of $3.2 billion with an additional $21 million for the special milk program, $32.6 million for the commodity supplemental food program, and $1.060 billion for the WIC program.

WIC PROGRAM FUNDING

Mr. President, the Senator from Kansas was especially pleased to see that the committee decided to fund the WIC program adequately for fiscal year 1983. Several months ago, when we were debating the first concurrent budget resolution on the Senate floor, this Senator made some strong statements concerning funding of the WIC program. At the time, the Senator from Kansas emphasized that full funding of the program was an appropriations issue and should not be dealt with in the context of the budget resolution. Again, the subcommittee has exercised its proper and responsible authority in deciding to fund the program to the extent of its authorization of $1.060 billion. Among all the child nutrition programs, the WIC program has consistently demonstrated its cost effectiveness, and, for this reason, it has generated strong bipartisan support in both Houses of Congress. This support is well-deserved, because of the efficient way in which WIC serves the needs of low-income women, infants, and children. Unlike some of the other nutrition programs, this one is relatively free from abuse and negative image problems. Participants in this program must be determined by health professionals to be at nutritional risk due to a combination of inadequate nutrition and their low-income status. The $1.060 billion appropriations contained in this bill is $155.7 million more than the program received in 1982, and $408 million more than the amount requested in the House bill.

FOOD STAMP PROGRAM

Mr. President, the Senator from Kansas is greatly relieved that, for the first time in recent years, according to the best estimates of the Congressional Budget Office and the Office of Management and Budget, the food stamp authorization "cap" seems to be adequate to provide full funding of the food stamp program through fiscal year 1983. In order to facilitate smooth program administration, the Appropriations Committee has funded the program up to the limit of the spending ceiling. If the economy performs according to expectation, we may be able to get through an entire fiscal year, without keeping the States in suspense because the program is likely to run out of money unless Congress acts in time to raise the "cap," and the administration requests the necessary supplemental appropriations.

Hopefully, this year will be free of such antics, and the program will have a much needed period of stability.

CONCLUDING REMARKS

Mr. President, this concludes the legislative action necessary to authorize and fund the nutrition programs for the next fiscal year. These programs have greatly enhanced the nutritional status of low-income Americans over the last 20 years. Unfortunately, given the current state of the economy, more and more people are having to turn to nutrition programs for assistance.

The food stamp program remains the most basic nutrition program, because it serves low-income individuals of all ages, and the child nutrition programs complement this effort very nicely. The school lunch, school breakfast, summer feeding, and child care food programs serve school-age children, for whom good nutritional input is crucial during the growth and development process. The WIC program targets an especially vulnerable group—low-income pregnant and lactating women, infants and children up to school age, who have been determined by health professionals to be at nutritional risk.

This comprehensive effort by the Federal Government to provide nutrition assistance to low-income Americans has been highly successful in reducing the incidence of domestic hunger and malnutrition. Earlier this summer, Congress acted to extend the food stamp program, which was the only nutrition program whose authorization would have expired. This appropriations measure will enable all of the nutrition programs under the jurisdiction of the Agriculture Department to provide benefits in fiscal year 1983 to those who depend upon them for nutrition assistance.

Mr. COCHRAN. Mr. President, I understand that the Senator from Illinois (Mr. DIXON) has an amendment that he would like to offer at this point. I know of no further requests for time for general debate. We are prepared to go forward in handling amendments.

UP AMENDMENT NO. 1301

(Purpose: To limit to not less than $66,000 the amount that may be used by USDA in preparing and disseminating quarterly farm income statistics)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Illinois (Mr. DIXON), for himself, Mr. HUDDLESTON, Mr. LEAHY, Mr. BOREN, Mr. HEFLIN, Mr. BAUCUS, Mr. SASSER, Mr. RIEGLE, Mr. DECONCINI, and Mr. BENTSEN, proposes an unprinted amendment numbered 1301.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, insert a colon and the following immediately before the period on line 19:

"Provided further, That not less than $66,000 of the funds contained in this appropriation shall be available for preparing and disseminating forecasts of farm sector receipts, production expenses, and net income indicators for crop year 1983 on a quarterly basis commencing prior to December 31, 1982.".

Mr. DIXON. Mr. President, I send to the desk an unprinted amendment No. 1301 to H.R. 7072, which is the product of discussions between myself, the administration, the distinguished Senator from Mississippi, and the distinguished Senator from Missouri.

Mr. President, the Nation's farmers continue to face low commodity prices and high interest rates. The outlook for farm income this year would appear to be bleak.

The Department of Agriculture, since the 1940's, has made available on a routine basis an estimate of net farm income to the public. This information was used by Congress to determine the current and expected financial condition of agriculture producers.

Earlier this year the Department of Agriculture adopted a policy of embargoing the release of information on farm income. This action raised fears that the income outlook was so bad that the Department of Agriculture was reluctant to give an estimate.

The amendment before us now that I have introduced along with Senators HUDDLESTON, LEAHY, BOREN, HEFLIN, BAUCUS, SASSER, RIEGLE, and DECONCINI, will correct this inappropriate policy. This amendment would require the Secretary of Agriculture to disseminate quarterly his Department's estimate of farm-sector receipts, production expenses and net income. It would reinstate the public's right to know as the centerpiece of USDA policy.

On April 19, the Senate Agriculture Committee adopted report language to the Potato Research and Promotion Act that stated: "The committee intends that the Secretary continue to make and disseminate the estimates of gross farm receipts, production expenses, and net farm income." The Department ignored the committee's intention.

This amendment would not require any new program to be established; it would not require any new personnel. It would simply require that the previous schedule for release of farm-income forecasts be reinstated.

During a recent Senate Agriculture Committee hearing, it was determined that the Department of Agriculture is continuing to estimate net farm income and is providing this information to the Commerce Department to estimate the gross national product. However, the Department indicated that it was not going to change its present policy, and would not provide the Congress, or the public, this information.

For effective and responsible Government, all parties involved in the policymaking process must have some basic agreement on economic conditions, if agriculture policy is to be informed and productive.

At a recent Senate Agriculture Committee hearing, Mr. J. B. Penn of Economic Perspectives stated:

I think it is vastly better to have the best information and judgment of the analysts, the professionals, at the Department of Agriculture than it is to simply try to operate in the dark, and try to have no information. And I think that is true whether you are a farmer trying to sort out what your plans are going to be for next year, or whether you are a member of the Agriculture Committee trying to sort out the farm program for next year. I think it is better to have some notion of what is going to happen.

At the same hearing Mr. Robert Mullins of the National Farmers Union stated:

In our discussions and deliberations on public policy, be it agricultural policy or in any other area, we must have an agreed-upon base to begin those deliberations. This is a function which the United States Department of Agriculture has performed and performed well over the long period of its existence under Republican and Democratic administrations alike.

This information is also important to agribusiness. Mr. Raymond Daniels of Chase-Econometrics recently testified:

The agri-business sector needs farm income information in order to provide farmers with farm input supplies, especially tractors, buildings, and other capital goods.

Without such strategic information as farm income data indicating an improvement in the farmer's purchasing power and subsequently his future needs for equipment, equipment manufacturers will not have inputs available when farmers need them to plant crops, subsequently the world and U.S. consumers would suffer.

We in the agri-business consulting industry are constantly asked to make such information available to the farm supply industry and monthly updates by the USDA provide valuable input into our analysis.

Routine publication of current economic statistics is hardly an unusual occurrence. Most major indicators of the state of the economy are published monthly. We receive labor statistics, such as the unemployment rate and estimates of the number of people employed. We receive price statistics, such as the consumer price index and the producer price index. We receive national income statistics, such as gross national product and personal income statistics. Why should we not have knowledge of the current status of the farm income?

USDA has claimed that farm income for 1982 could not be forecast accurately until September. Yet every other administration has faced the same uncertainties and still published much earlier a forecast prepared using the best professional expertise available within the Department. Their forecasts have been of great value to Congress in overseeing the operations of the Department and in evaluating legislative proposals.

The professionals at the Department and the users of farm income estimates are aware of the uncertainty inherent in forecasts. The public interest is still served as long as the inaccuracies are the result only of statistical estimating procedure. The issue here is how to separate the politics from the statistical science which has traditionally supported the farm income statistic.

Mr. President, the level of farm income is an important indicator of the health of rural America. The level of farm income helps Congress to evaluate whether or not legislative action is required to preserve our vital food and fiber producing industry, an industry that contributes more to our balance of payments than any other. Only with all concerned parties sharing the same statistical information as a starting point for debate can the best interests of the Nation be served.

Mr. President, I express my appreciation to my distinguished colleague and friend, the Senator from Mississippi, for his accommodation, as well as my colleague, the distinguished Senator from Missouri. Mr President, I move adoption of unprinted amendment No. 1301.

Mr. COCHRAN. Mr. President, I congratulate the Senator from Illinois for bringing this amendment to the floor and for urging once again that we have publication by the Secretary of Agriculture of this farm income information.

Hearings in the legislative committee clearly demonstrated that there is a great deal of reliance placed on these forecasts and reports by many farmers throughout the country, and others who are interested in this information.

We have talked to the Department about including this language in the bill. Frankly, while they are not too excited about it, we feel as though compliance would be achieved without any great dislocation of personnel or any other problems occurring at the Department.

I am prepared to recommend that the Senate accept this amendment. I again thank the Senator from Illinois for bringing this important matter to the attention of the Senate.

Mr. EAGLETON. Mr. President, I agree with my colleague from Mississippi that the Dixon amendment is a

worthy addition to the bill, and I urge my colleagues to adopt it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. COCHRAN. I am prepared to yield back all time, Mr. President.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (UP No. 1301) was agreed to.

Mr. COCHRAN. Mr. President, we are advised that there are Senators who wish to offer amendments to the bill, though not a great many, I am happy to say. We would hope that those amendments could be presented to the Senate in a timely fashion so that we could dispose of them. We understand that we do have scheduled on the floor today the continuing resolution. It is hoped that we could dispose of this bill at an early time today. We would like to urge those Senators who do intend to offer amendments to present them to the Senate as soon as possible.

Seeing no Senators on the floor who have amendments, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the time charged under the quorum be equally divided between both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I commend the distinguished chairman of the subcommittee (Mr. COCHRAN) and the ranking member (Mr. EAGLETON) along with the members of the Appropriations Committee for reporting the Agriculture, rural development, and related agencies bill that meets the subcommittee's spending allocations for fiscal year 1983.

Mr. President, I support the bill as reported.

The bill as reported, together with outlays from prior-year budget authority, other actions completed, and other adjustments, puts the subcommittee almost exactly on its budget authority and outlay section 302(b) crosswalk allocation.

The House bill appropriates $22.1 billion, significantly less than the Senate bill. The House bill only partially funds the food stamps and child nutrition programs for fiscal year 1983. In the House bill the food stamp program is funded only through July 15, the WIC program only through May 15, and the school lunch and other child feeding programs only through August 15. The Senate bill provides full-year funding for these programs. Supplementals in these programs have historically had the tendency to increase budget exposure and result in more funding than would have been necessary if the regular appropriation had been provided. The Senate bill provides administrators and program managers the ability to better financially plan their programs next year; and most importantly reduces uncertainty and anxiety for needy persons receiving assistance through these programs.

The Senate bill appropriates nearly $2.9 billion more than the President's request. But almost all of this increase is in nutrition programs, where the Congress chose not to approve all of the administration's legislative proposals. The recently enacted reconciliation bills did, however, include savings in the food stamp program of approximately $660 million next year; no savings were enacted in the other nutrition programs nor did the first budget resolution assume any savings in these other programs.

Both the Senate and House bills mandate an export credit sales direct loan program of not less than $500 million. Funds for this new program would be derived from the Commodity Credit Corporation. The Senate Budget Committee is scoring this program against the subcommittee's spending and credit allocations. While I understand the Appropriations Committee's provision establishing this program may be subject to a point of order as being legislation on an appropriations bill, the additional spending for the new program still remains within the subcommittee's allocation.

Both the Senate and House bills fund a dairy indemnity program at $7 million. The Omnibus Budget Reconciliation Act of 1981 established an authorization ceiling on this program at $200,000. I am concerned about the practice of appropriating in excess of authorized levels, but again given that the overall spending in the bill is less than the committee's allocation, I will not challenge it.

With respect to the credit budget, the bill provides $22.3 billion in new direct loan obligations and $1.1 billion in primary loan guarantee commitments. The total for new direct loan obligations include $500 million for the export credit sales program mandated by the bill. These levels cause the subcommittee to be $0.5 billion over its allocation for new direct loan obligations and $0.5 billion under its allocation for primary loan guarantee commitments. Given the large reductions in new direct loan obligations in the House and Senate passed HUD-independent agencies appropriation bill for fiscal year 1983, the Agriculture Subcommittee's overage in new direct loan obligations probably will not create a problem with the credit ceiling as established by the first budget resolution.

An adjustment in the subcommittee totals has been made to assure that entitlement programs contained in this bill are charged at the levels assumed in the first budget resolution. This permits discretionary amounts in the bill to be compared to the subcommittee allocations under the first budget resolution. An adjustment has also been made to conform Commodity Credit Corporation budget authority to Senate scorekeeping procedures.

Mr. President, I ask unanimous consent that two tables showing the relationship of the reported bill to the congressional spending and credit budgets and the President's budget request be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES SPENDING TOTALS

[Dollars in billions]

	Fiscal year 1983	
	Budget authority	Outlays
Outlays from prior-year budget authority and other actions completed	$0.4	1.4
H.R. 7072 as reported	28.1	20.4
Total for Agriculture, Rural Development, and Related Agencies Subcommittee	28.5	21.9
Adjustment to conform CCC budget authority to Senate scorekeeping procedures	−3.8	—
Adjustment to conform entitlements to first budget resolution assumption	+0.1	+0.1
Adjusted total	24.8	22.0
First budget resolution 302(b) allocation	24.8	22.0
House level[1]	24.7	22.2
President's request	21.9	19.9
Adjusted total compared to:		
First budget resolution 302(b)	—	—
House level	+0.1	−0.2
President's request	+2.9	+2.1

[1] Adjusted to Senate scorekeeping procedures, and including adjustment to conform to entitlement levels in the first budget resolution.

Note.—Details may not add to totals due to rounding.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES CREDIT TOTALS

[Dollars in billions]

	Fiscal year 1983	
	New direct loan obligations	New primary loan guarantee commitments
H.R. 7072, as reported in Senate, with direct loan obligations resulting from prior-year commitments and other actions completed	$22.3	$1.1
Total for Agriculture, Rural Development and Related Agencies Subcommittee	22.3	1.1

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES CREDIT TOTALS—Continued

[Dollars in billions]

	Fiscal year 1983	
	New direct loan obligations	New primary loan guarantee commitments
First budget resolution 9(b)(2) allocation	21.8	1.6
House level	22.2	1.1
President's request	18.3	−1.3
Subcommittee total compared to:		
First budget resolution 9(b)(2) allocation level	+0.5	−0.5
House	+0.1	
President's request	+4.0	+2.4

UP AMENDMENT NO. 1302

(Purpose: To amend title III, feeding program for women, infants, and children to comply with Impoundment Control Act of 1974)

Mr. DOMENICI. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 1302:

On page 45, line 10, strike all the words after "September 30, 1984": and ending in line 14 with the words "budget authority for such programs:".

Mr. DOMENICI. Mr. President, at this time I rise to offer an amendment to title III of H.R. 7072. This amendment in no way affects the level of appropriations in the bill but, rather, it addresses language in the bill that is in violation of the Congressional Budget and Impoundment Control Act of 1974. I believe the distinguished Senator from Mississippi is aware of my concerns, and it is my understanding that he will support the amendment. I hope my friend, Senator EAGLETON, will do likewise.

The amendment I offer strikes language related to funding procedures for the special supplemental food program for women, infants, and children, the WIC program. The language I wish struck from the bill exempts the WIC program from existing statutory procedures for deferral actions under the Budget Act.

I want to make it clear that my amendment is in no way meant to reflect negatively on this vital supplemental food program, nor is it meant to question the legitimate concerns of those who felt it necessary to include such language in the bill.

My concern addresses specifically the seriousness of such language in that it poses some very serious conflicts with direct language in the budget procedures found in the Congressional Budget and Impoundment Control Act. It seriously undermines those provisions of that act that were created to deal with difficult impoundment activities. The language, if adopted, sets an unwanted precedent for future program exemptions and therein the loss of congressional and executive fiscal flexibility.

As Senators may recall, the concern over administration claims of impoundment powers, was one of the big issues that led to the enactment of the Congressional Budget and Impoundment Control Act. Congress, in fact, felt so strongly about impoundment procedures that title X of the act stands alone as the "Impoundment Control Act of 1974." The act established distinct procedures for two types of impoundments—deferrals and rescissions. Deferrals are executive actions to delay the obligation or expenditure of funds appropriated by the Congress; and rescissions repeal appropriations. Rescissions require approval by both Houses of the Congress, and withheld funds must be released unless Congress passes a rescission bill within 45 days of receiving the President's request. Deferrals, on the other hand remain in effect unless disapproved by either the House or Senate.

The language of H.R. 7072 would prevent any deferrals with respect to the WIC program. Mr. President, such language goes well beyond the spirit and intent of the Budget Act. If we are to amend the Budget Act, this bill is not the appropriate vehicle. Hearings are now underway in both the House and Senate examining proposals to amend the Budget Act. Those hearings and debate on any subsequent legislation are the appropriate forums to consider specific problems of the impoundment provisions, and to consider exemptions under the general rules established by the act.

I am convinced that a careful balancing of difficult competing objectives has been the hallmark of the impoundment provisions in the Budget Act. The Comptroller General has stated that the Impoundment Control Act "does not purport to invalidate the exercise of reasonable administrative discretion in the adoption of program provisions and regulations." At the same time, however, deferrals cannot be used lightly. Deferrals are to be proposed only when the administration anticipates future but not current need for the funds.

I, therefore, request that the bill, H.R. 7072, be amended to remain in compliance with the Budget Act.

While I am sympathetic with those who have concerns about the exercise of either deferral or rescission with respect to this program, I think it has worked well to this point. There are many Members of the Senate who feel that the Congressional Budget and Impoundment Control Act vests the President with too little authority. I do not think we should change it now, regardless of how important the program, but, rather, stand together. If it is the consensus that the program should remain funded as stated, I think we can work our will without changing the Congressional Budget and Impoundment Control Act in the appropriation measure.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from New Mexico (Mr. DOMENICI), the chairman of the Senate Budget Committee, for his support of the bill as proposed by the Appropriations Committee. As usual, his advice and counsel in the development of the bill have been very useful and helpful to this Senator and to our committee.

In connection with the amendment that is proposed, I appreciate the concerns that are expressed by the Senator, and I am sympathetic to them.

I do not think that our committee presumed to rewrite the Budget Act in including language relating to deferrals in the WIC program. I think it was more a manifestation of concern that there might be arbitrary submissions of deferrals or withholding of spending funds that are very important and needed for this program.

There was some concern in the committee that led to the inclusion of this language.

Unless the Senator from Missouri is reluctant to agree, I am prepared to recommend that the Senate accept this change in the bill.

Mr. DOMENICI. Mr. President, I had hoped to be able to tell the distinguished Senators who are managing this bill, before this moment, that I had received word from the administration regarding this program. However, I have just received word, and I tell them and the Senate that the OMB Director has authorized me to state that the administration will not seek any deferrals or rescissions in the WIC program in 1983.

I hope that allays any concerns and that we can proceed to adopt the Domenici amendment. That is what we wanted and the committee wanted, and the Senate can take my word that they so indicated to the Senator from New Mexico.

Mr. EAGLETON. Mr. President, I am delighted at Senator DOMENICI's announcement which he has just made with respect to OMB that the administration will not seek any rescissions or deferrals with respect to WIC.

That, of course, was the thrust of the language in the bill. Since we have Senator DOMENICI's pledge on behalf of OMB that funds will not be withheld from obligation, I will agree to accept the Domenici amendment. Although I do not quite share the enthusiasm of my colleague for protecting the Budget and Impoundment Control Act, I believe he shares my interest in

seeing to it that the funds provided for the WIC program are fully utilized.

The record should be crystal clear that the objection to the language stricken by this amendment was procedural and not a substantive one.

The WIC program provides direct benefits to women, infants, and children who have been determined by a physician to be at nutritional risk. Even at the level provided by the committee for WIC—$1.060 billion which is the current amount authorized—approximately 100,000 persons may have to have their benefits terminated. It is unconscionable that in this country we are going to deny food benefits to those whom we know need them. It would be absolutely tragic if even more individuals were to be cut off the program by virtue of the President submitting a rescission or deferral message and then withholding funds from obligation while awaiting congressional action on such a proposal.

I hope that as the Budget Committee continues its review of the Budget and Impoundment Control Act, that it will give consideration to revising the rescission and deferral process so that direct benefit programs such as WIC can be afforded some special consideration. It is certainly one thing to withhold the obligation of construction funds or grant money for a period of time, it is a wholly different situation to consciously withhold funding for a program that provides vital nutrients to many individuals.

Mr. DOMENICI. Mr. President, I move the adoption of the Domenici amendment.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. COCHRAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment.

The amendment (UP No. 1302) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I thank the Senator from Mississippi and the Senator from Missouri for their cooperation. I think this is a good precedent to maintain.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum, and I ask that the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATTINGLY). Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I understand the Senator from Colorado (Mr. ARMSTRONG) has an amendment and the Senator from Nebraska (Mr. ZORINSKY) also has an amendment he may be offering soon. We are prepared to deal with those.

UP AMENDMENT NO. 1303

(Purpose: To prohibit the expenditure of funds to provide to persons who produce certain agricultural commodities on highly erodible land benefits from certain agricultural programs)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1303.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and I will endeavor to explain this simple proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

AGRICULTURAL COMMODITY PRODUCTION ON HIGHLY ERODIBLE LAND

SEC. . (a) For purposes of this section—

(1) the term "agricultural commodity" means an agricultural commodity normally produced by annual tilling of the soil, including one-trip planters; and

(2) the term "highly erodible land" means land classified by the Soil Conservation Service of the Department of Agriculture as class IVe, VIe, VII, or VIII land under the Land Capability Classification System of the Soil Conservation Service as in effect on the date of enactment of this Act.

(b) Except as provided in subsection (c) and notwithstanding any other provision of law, no funds appropriated under this Act may be expended to provide to a person who produces an agricultural commodity on highly erodible land—

(1) any type of price support assistance on such commodity made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any other Act;

(2) a loan for the construction or purchase of a facility for the storage of such commodity made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h));

(3) crop insurance for such commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(4) a disaster payment for such commodity made under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.); or

(5) a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Farmers Home Administration, if the Secretary of Agriculture determines that such loan will be used for a purpose which will contribute to excessive erosion of highly erodible land.

(c) Subsection (b) shall not apply to—

(1) any land which was cultivated by a person to produce any of the 1977 through 1982 crops of agricultural commodities;

(2) any agricultural commodity planted by a person before the date of enactment of this Act;

(3) any agricultural commodity planted by a person during a crop year beginning before such date;

(4) any loan described in subsection (b) made before such date; or

(5) any agricultural commodity produced using a conservation system which has been approved by a soil conservation district.

Mr. ARMSTRONG. Mr. President, all my legislative life I have been looking for a truly perfect legislative proposition; that is, something which contained an important benefit which would save money and which, as far as I can tell, will make no one angry.

I believe this amendment embodies such advantage. It addresses itself to a terribly serious problem—that is, the erosion of our fragile lands as a result of wind and water, particularly those lands which are unwisely plowed. I am thinking first and foremost of areas in my own State where literally thousands of acres of naked sod have been plowed up in recent years in a futile attempt to grow crops. In many cases, these are lands which, frankly, are not well suited to cultivation and should be left perpetually and forever in grassland.

Mr. President, as we debate various ways to reduce Federal spending and move in the direction of fiscal responsibility with the pending legislation, we also have the unique opportunity to reduce spending and solve one of the Nation's most pressing problems at once. It will come as no surprise to my fellow farm State Senators that the ever-growing threat of another dust bowl is uppermost in the minds of our Nation's agricultural leaders.

A year ago I introduced a bill which came to be known as the sodbuster's bill. It addressed itself to the erosion problem in this way, not to tell any farmer or landowner what they could or could not do with their property but simply to change Federal policy so that we would no longer subsidize the growth of crops on newly plowed fragile lands. And that is what this amendment does. It simply says that, while we do not think the Federal Government ought to tell people what to do on their property, neither do we think we ought to hold out the prospect of farm subsidies and encourage people to do something which we believe to be environmentally or in other ways undesirable.

When I first introduced my sodbusters bill last November, I pointed out that America was washing out and blowing away to the tune of 5 billion tons of topsoil every year. It had been documented that more than 40,000

tons of our Nation's best crop-producing soil floated down the Mississippi River every hour, hour after hour, day after day, month after month, year after year.

But, Mr. President, the problem has not gone away since November. It has gotten much worse. In the days since I first brought this matter to the attention of my colleagues when we were considering the 1981 farm bill, an entire year of plowing has been completed. In my own State of Colorado, more than half a million acres of fragile grasslands have been put to the plow since 1979. More than 100,000 of those acres were plowed this year, while my bill, S. 1825, was pending in the Agriculture Committee. The situation is growing increasingly worse throughout the great plains, and other parts of the country, and we cannot afford to wait longer for action.

The problem is a complex one. Our economy is in bad shape in very general terms, but the situation facing our farmers is critical. High interest rates arguably hurt farmers worse than most other businesses, since farming is—by nature—more dependent on borrowed money than most other businesses. The enormous size of Government surpluses of virtually every commodity constantly keeps market prices depressed, particularly for wheat and feedgrains farmers. For instance, the Commodity Credit Corporation expects to acquire more than 72 million new bushels of corn this year, as a result of our price support programs.

It is not my purpose to change the price support system here, though good arguments could be made for doing so. My argument is this: At a time when the agriculture economy is in very serious trouble, and a time when our budget situation is critical, it simply makes no sense to continue channeling our resources into areas where they are counterproductive. And that is precisely the situation with respect to the plowing of our fragile grasslands.

As the plows continue to move through grasses that took centuries to build up, it seems incredible to me that the Federal Government would encourage this practice, but we do. We continue to offer Federal price support assistance, disaster payments, crop insurance, farmers home loans, farm storage facility loans, and other economic incentives to investors who plow up fragile grasslands and jeopardize the surrounding country to put additional land into surplus crop production, at the expense of the American taxpayer.

When I first introduced S. 1825, it was not my intention—nor is it my intention now—to oversensationalize the issue. I went out of my way to avoid alarming people that we were in the midst of another Dust Bowl, and I did not claim that the thickness of America's topsoil had diminished to less than 6 inches. Though these statements were made by others who supported this bill, my goal was very simply this: I wanted to point out that we were directing Federal dollars into areas where they threaten the long-term economic viability of our agricultural system. I believe we are rapidly creating the conditions whereby a new Dust Bowl beside which that of the 1930's would pale by comparison could occur, given the wrong weather and economic conditions.

But I must point out that the situation, as I mentioned earlier, has grown much worse. I am concerned that Congress must act now, to deny these Federal incentives to crops grown on land that should never be plowed, if we want to avoid another year of plowing.

A hearing was held jointly by the Subcommittee on Soil and Water Conservation and the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices on May 6, 1982. During that hearing, this bill was supported by virtually every farm and conservation organization in America, as well as a number of concerned individuals who told stories of how the plowing had affected them personally. The statements of the American Farm Bureau Federation, the National Association of Conservation Districts, the National Farmers Union, and the Natural Resources Defense Council were especially informative and I will ask that they be printed at the conclusion of my statement. In each case, these able witnesses testified that hundreds of thousands of acres of marginal, fragile grasslands, lands not suitable for cultivation without unacceptable erosion, were being plowed, largely as a result of Government handouts.

Now this kind of plowing and overproduction is not the intent of the Government farm programs in question. Over the years, those programs have served an important function in our Nation's agricultural system. But they are now being used to destroy that system, and we must stop this misuse of funds while we still have abundant natural resources.

This amendment is critical at this time. The United States has the world's most abundant, low-cost supply of food and fiber. We have for years out-shone the rest of the world in our ability to produce the food we need. We produce a large part of the food the rest of the world needs, as well. But we cannot continue to ignore the importance of the land on which this food is grown if we expect to continue this production. I wonder how many years the United States can continue to produce food like there is no tomorrow, completely ignoring the future food needs of the world.

I do not want to sound overly alarmed but those are the choices we are facing. Will we continue to subsidize the plowing and destruction of our Nation's fragile lands, with the resulting consequences to all surrounding lands? Or will we act responsibly to see that the Federal economic incentives we provide will be directed to lands suitable for farming?

This amendment I propose is very simple. Put quite simply, land which is not considered suitable for cultivation without serious consequences in terms of wind and water erosion, will not be eligible for Government economic incentives. Now there are some circumstances under which carefully controlled conservation measures can render land not vulnerable to erosion, so there is an exception for that situation. The amendment refers to tilled crops, because we want to make it clear to producers of cattle, sheep, and crops which do not require plowing that they are not the problem. And this does not apply to lands plowed before the date of enactment of this bill.

I urge adoption of this amendment for two reasons: First, while we discuss reduction in Federal spending, it would be wise to reduce spending on counterproductive practices. Second, we are facing another year of plowing if we do not act on this matter now. As I pointed out when the bill was first introduced last fall, in the race for the land and against time, literally, we are losing ground.

Let me just sum up the proposal in this way: I do not want to claim more than what this amendment can deliver. Obviously, it is not anything like a total or sweeping answer to the problem of erosion. But it does do something that I think is long overdue. It simply says that the Federal Government at least is not going to encourage improper cultivation practices by crop subsidies and other Federal programs.

Mr. President, I ask unanimous consent that the statements of the American Farm Bureau Federation, the National Association of Conservation Districts, the National Farmers Union, and the Natural Resources Defense Council be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION

(Presented by Bruce Hawley, Assistant Director, Washington Office)

Mr. Chairman and Members of the Subcommittees, Farm Bureau appreciates the opportunity to present testimony on Senator Armstrong's Soil Conservation bill.

The American Farm Bureau Federation is the nation's largest general farm organization with a membership of over 3 million member families in 48 states and Puerto Rico. Farm Bureau members produce virtually every type of commodity grown on a commercial basis in the country. Farm Bureau policy is developed by the producer

members at the country, state and national levels of the organization.

1982 is emerging as the third consecutive year that farmers will be facing increased costs and low farm income. As a result, farmers are likely to engage in numerous practices which could affect soil conservation in order to increase their cash flow in these difficult economic times. Farm Bureau believes that the federal government should not provide incentives which increase soil erosion problems in certain areas.

S. 1825 is designed to counteract the incentive the government is providing to plow up "NEW" lands. The bill states that if individuals cultivate lands west of the 100th meridian which were not cultivated during the last ten crop years, they will not be eligible for farm storage facility loans or government price support assistance for the commodities raised.

An exception is made if the owner or operator of such land has entered into a long-term agreement with the Secretary of Agriculture to carry out land conservation practices.

During the American Farm Bureau's 63rd annual meeting, the voting delegates of the member state Farm Bureaus adopted the following policy concerning soil conservation:

"We oppose economic incentives to artificially stimulate producers to bring fragile lands under cultivation. Fragile grasslands are defined as those lands highly subject to wind and water erosion that have a projected erosion rate in excess of 5 tons per acre per year in the absence of soil conservation practices."

"We oppose economic incentives to artificially stimulate producers to bring fragile lands under cultivation. Fragile grasslands are defined as those lands highly subject to wind and water erosion that have a projected erosion rate in excess of 5 tons per acre per year in the absence of soil conservation practices."

Farm Bureau believes there are a number of deficiencies in S. 1825. The bill proposes to withhold government assistance from certain farmers only during the marketing phase of farming. Farmers face two major risks—a risk during production and a risk during marketing. Federally subsidized multi-peril crop insurance and federal disaster programs are significant factors in a decision to break fragile lands—lands more frequently susceptible to crop failure. This "production risk" factor is not addressed in S. 1825.

S. 1825 is tied to land not cultivated within the past ten years. Our concern is not whether the land has recently been in production per se, but whether the land is suitable for production. Many lands not currently in production can be safely cultivated. Many lands not suitable for row crops could be safely utilized for speciality crops. Many lands with excellent production potential have been idled for years because of personal circumstances of the owner. And some lands will be destroyed if brought under the plow. S. 1825 makes no distinction between "new lands" and "fragile lands".

S. 1825 addresses lands west of the 100th meridian only. Excess erosion resulting from cultivation of fragile lands is not only a Colorado problem or a western problem. It is a concern anywhere it occurs in the country, and the federal government should not encourage such problems anywhere.

We appreciate this Committee's willingness to hold hearings to consider this important issue. We urge the Committee to consider a substitute for S. 1825 that would deny government incentives, including, but not limited to, commodity price supports, commodity loans, federal crop insurance, disaster payments, and FmHA loans for any new production on fragile lands. Fragile lands would be defined as lands under the land capability class system of the S.C.S., USDA placed in catagories IV through VIII (specifically land capability classes IVe, Ve, VIe, VIIe, and VIIIe) because of excess erosion potential, unless the local conservation district certifies that such production will not result in excessive erosion.

We would be happy to respond to any questions.

RESOLUTION OF THE AMERICAN FARM BUREAU FEDERATION

(Adopted at National Convention, 1981)

We oppose economic incentives to artificially stimulate producers to bring fragile lands under cultivation. Fragile grasslands are defined as those lands highly subject to wind and water erosion that have a projected erosion rate in excess of 5 tons per acre per year in the absence of soil conservation practices.

STATEMENT OF MILTON E. MEKELBURG

Mr. Chairman, members of the subcommittee; it is a distinct privilege to come before you today to discuss the problem of marginal croplands as they affect the national soil and water conservation situation and the farm program in general. This is a difficult issue, but one which the Congress must address.

NACD's policy—developed by its member districts, state associations, and national council, does not speak directly to S. 1825 but it does address the problem. In 1979, the NACD Council adopted the following position:

"Using land within its capability and treating it according to its needs is a basic creed of conservation districts and conservation programs. USDA lending and crop stabilization programs, however, base land most judiciously or properly used. This tends to reward growers who plant unsuitable lands while penalizing conservation farms who crop only those lands capable of supporting stable cropping systems.

"USDA should establish policies that will require agencies such as Agricultural Stabilization and Conservation Service and Farmer's Home Administration to change their rules and regulations so that farm programs based on the use of the land will be consistent with the capability of the land as demonstrated by soil surveys and land capability classifications."

This position clearly urges USDA programs to recognize land capability and conservation treatment as one criteria under which assistance is to be offered. While NACD's Council has not supported a cross-compliance type of program, it is becoming clearer and clearer to conservation officials that government financial incentives in the past have been used to foster land mismanagement, and that such practices should be halted.

We have circulated S. 1825 for comments among some of our members, and have received several suggestions, upon which this testimony will be based. The first question involves the application of the rule only to those lands west of the 100th meridian. While the arid and semi-arid lands lie mainly west of that line, the problem of farming marginal lands does not. In a moment, we would like to show some slides that depict the fact that the problem is a national one. If the Congress is to devise a solution, we feel the solution should be applied nationally as well.

The second question involves the use of the term "any land" in regard to application of the program. The goal, as we see it, is to eliminate government incentives for the cultivation of highly erosive lands, and we would suggest the substitution of the words "highly erosive" for the term "any land" on page 1, line 5 of the bill. We would suggest limiting the application of this law to lands which fall in Capability Classes IVe through VIIIe. This is one way to identify the highly erosive soils and limit the effects of the bill to them.

The third question involves the application of the bill only to those lands that had not been use for production of an agricultural commodity some time during the previous ten crop years. Several of our correspondents felt that Federal programs should not encourage the cropping of highly erosive land at any time, no matter when or how many times it has been plowed out in the past.

Finally, Mr. Chairman, we feel that farmers should have the option, should they choose, of getting Federal program incentives on any land, providing they are willing to install and maintain adequate soil conservation systems. This would keep farmers fully free to make any decision they desire, but would limit Federal program supports to those farmers willing to pay the full price of cropping land that takes additional care for sustained production.

We have appended to this testimony a re-written version of S. 1825 that we feel incorporates these ideas. We feel that if the bill can be amended in this fashion, it should find good support among many agricultural and conservation organizations. In addition, we have included a copy of a resolution passed by the 1981 North Dakota legislature on this topic.

With your permission, Mr. Chairman, we would like to turn now to a set of slides that we have collected over the past few months by asking conservationists in the field to share some examples with us.

We all remember the pictures that emerged from the great Dust Bowl of the 1930's. That terrible tragedy brought the need for soil conservation to the attention of all Americans and was instrumental in influencing Congress to establish the first soil conservation programs. Unfortunately, we can see many of those same scenes today, as farmers practice intensive cultivation on soils that are too marginal to withstand such treatment without intensive conservation care.

From little dust devils in Utah to bigger storms in New Mexico and Oklahoma, the scenes look much the same—topsoil being moved off unprotected land by the wind. This field in Harmon County, Oklahoma, had a wheat crop destroyed in the process. What is surprising is to see similar scenes from South Carolina, Virginia, Minnesota, Missouri, Alabama.

The impacts on the land are davastating. This Colorado field needed emergency tillage four times, and still ended up looking like this. The topsoil in this Michigan field is converted to almost pure sand. In Nebraska, a new pivot irrigation system opened up the land to the damage shown in these two slides. Crops are either badly damaged, as in this field near Comanche, Texas, or buried as in this Kansas field. These next two

slides might have come from Saharan Africa, but they didn't. They came from Texas.

Man's investments are damaged by the erosion that results from cultivating marginal lands, and often the people damaged are far downwind from the source of the trouble. Soil deposited by wind damages farm equipment in Kansas and piles up in fencerows in Oklahoma, Texas, North Dakota, and Colorado.

Here are highway scenes from Illinois and Kansas. This Goodland, Kansas road sign tells the story: "Caution: Blowing Dust Ahead." The costs of cleanup, whether on this railroad north of Roy, New Mexico or this highway in Texas are significant, and we all pay for them in one way or another.

And the soil blown from misused land doesn't just fall on rural people. This scene in LaJunta, Colorado, shows what can happen in just about any town in the Plains. The person who sent me this slide from the hospital district in Fort Worth, Texas, included the following note: "You don't have to ask a doctor about the problems of dust like this, I can tell you. I have a son with asthma and when we get a dust storm like this, he has severe attacks and usually has to be medicated for a number of days and weeks before it clears up and he can breathe normally again."

Marginal land can also be highly susceptible to erosion from rainfall and snowmelt. Here the cause is usually slopes too steep or cultivation too intense for the soils to withstand the elements. Again, the photos look surprisingly alike, whether they come from Utah, Rhode Island, Nebraska, Connecticut, Minnesota, Illinois, Missouri, Tennessee, North Dakota, Iowa, New Hampshire, Alabama, Mississippi, or Montana.

Rough land in Nebraska gets bulldozed smooth enough so that center pivot sprinklers can handle the terrain, but the land is susceptible to serious erosion damage from both wind and rain after it has been converted in this fashion.

In Georgia, conservation systems were taken out and a big piece of land blocked up for a center pivot sprinkler, but there was no place for the excess water to go so it started a huge gully. The landowner turned the gully into a nearby patch of woods, which is now in the process of being buried.

Some marginal land gets so badly damaged by soil erosion that it may never be used again. These slides come from Illinois, New Jersey, Mississippi, Indiana, and Oklahoma. Even the deep black soils of the Corn Belt can only stand so much, as this Minnesota corn field shows.

I close on this note, Mr. Chairman: Poor soils lead to poor farms and poor people. Federal farm programs need to encourage proper land treatment and stop encouraging farmers to abuse the land. We stand ready to assist you in any way we can to effect that policy change.

TESTIMONY OF JOHN STENCEL

Chairman Jepsen, Chairman Cochran, my name is John Stencel; I am President of the Rocky Mountain Farmers Union, comprised of 11,500 family farmers and ranchers from Colorado and Wyoming. On behalf of the membership, I would like to thank you for this opportunity to testify before your subcommittees on Senator Armstrong's "Sodbuster" legislation.

Because Farmers Union speaks in the interest of family owned and run operations, we have very special reasons for supporting this bill. We feel that S. 1825 both directly and indirectly responds to many of the crucial issues facing American agriculture today.

In the last couple of years, a great deal of attention has been focused upon the problems caused by soil and water erosion. It is particularly gratifying to note that media attention has not been limited solely to trade publications within the agricultural sector; that would be nothing more than preaching to the saved. Instead, features have appeared in major metropolitan areas both in print and on the air waves. These efforts have made millions of Americans more conscious of the harsh fact that prime cropland is far from being a disposable good.

Since 1977, the appearance of several government-sponsored studies has provided empirical evidence of just how serious the problem is. I shall forego a review of these reports, as I am confident that the members of both of these distinguished panels are familiar with the contents of the Natural Resources Inventory, the National Agricultural Lands Study, and the Resources Conservation Act report.

Throughout this period, the response of the National Farmers Union has been a call for the Department of Agriculture to strengthen its budgetary commitment to the conservation programs which are already in place. Although improved management may play a role in enhancing the operations of the Soil Conservation Service and the Agricultural Stabilization and Conservation Service, we feel that it cannot substitute for sorely-needed financial support.

Farmers Union feels that S. 1825 serves a vital need in bringing farm policies into congruence with one another. By prohibiting price support payments to operators who plow out fragile soils, it brings an end to the absurd present situation wherein the federal government acts as an accomplice in the erosion process. Current law permits investors to receive federal assistance for abusing the land. We find this contradiction intolerable.

As I indicated earlier, we Westerners take a special interest in this legislation. In fact, Rocky Mountain Farmers Union was the first organization to publicly endorse Senator Armstrong's bill. And there are sound reasons for endorsing this legislation, because Colorado is at the heart of the sodbusing issue.

More than 400,000 acres of Colorado rangeland had been broken out in the period from 1979 through 1981, according to the USDA's Soil Conservation Service. That trend has accelerated in the past three months, and thousands of acres of our fragile grasslands are disappearing under the plow each day.

Some of this land is Class III or better, and is capable of supporting wheat. Under Senator Armstrong's legislation, this land would still be eligible for our federal farm programs. But all too often, these sodbusters are breaking out fragile grasslands, exposing the marginal soil to the erosive power of wind and water.

Soil conservation officials in eastern Colorado estimate that the land will support about two crops of wheat before the decaying organic matter and stored moisture is depleted. Last fall, they cautioned that wind and water erosion would become a serious problem as the wheat yields began to fall.

The unfortunate combination of high winds and inadequate moisture on the High Plains this Spring brought their prophecy to pass sooner than expected.

An account of one dust storm, as reported in the Greeley Tribune on March 31, said, "The blowing dirt blotted out the sun. The fence along the west side of the county road—what's left of it—is buried in a collection of weeds, topsoil and sand. The adjoining field is virtually bare; young wheat plants sliced off at ground level by the biting sand."

Those dust storms underlined the need for immediate action on this issue. But to properly address this problem, we must first answer three important questions:

Who is responsible for the plow-up?

Why are the grasslands being broken?

What is the danger—if any—of this trend?

The Rocky Mountain Farmers Union spent the past several months researching this issue in an effort to answer these questions. What we discovered is a marriage of large custom farmers and foreign owners who are breaking the grassland for an immediate profit without regard to the long-term environmental and economic considerations.

According to the U.S. Department of Agriculture, Colorado contained 320,000 acres of foreign-owned land on December 31, 1980, an increase of 37.5 percent in only 23 months.

A survey conducted by our organization of the Foreign Investment Disclosure Act statements filed in six selected Colorado counties reveals that the trend has rapidly escalated in the past 16 months. Many of the files disclose transactions conducted since the USDA's latest report in December 31, 1981. In fact, the files studies in April disclosed that four eastern Colorado counties alone contain 191,000 acres of foreign-owned land.

Comments included on those disclosure forms tell the sodbusting story:

"Pasture is to be changed to farmland," reads one report, while another states, "We have put all of this land into crop production except 330 acres." A third report explains, "The foreign owner hires local farmers on hourly rates to break ground and plant crops."

These statements parallel the USDA's conclusions about foreign ownership of American farmland. In a report published in July, 1981, the USDA states, "Important differences were found between farming operations on foreign and U.S.-owned tracts in (1) livestock hay, and pasture production, (2) investments in improvements and conservation, (3) marketing of crops, and (4) leasing arrangements."

While I do not want to get sidetracked into the specifics of all of those areas, it is important to note that the USDA foud the percentage of farmers who engage in livestock production was the lowest on foreign-owned tracts, and highest on owner-operated acreages.

Likewise, the study concluded, "Investments in land improvements, primarily fences, drains, and terraces over the last five years were least frequent on foreign-owned tracts and most frequent on owner-operated tracts. Conservation practices on cultivated land with slopes over five percent were also least frequent on the foreign-owned tracts."

This leads to the question, "Why are the grasslands being plowed?"

Quick profit is a prime motive, since $150 per acre grassland can be converted into $300 per acre wheatland with the passing of a plow. A handful of custom farmers in Colorado are now involved in the process of buying grassland, breaking and planting it, and then selling it to foreign owners at its wheatland value.

The role of government farm programs in encouraging this trend cannot be ignored.

The Disclosure Files examined by the Rocky Mountain Farmers Union document high participation in the federal farm programs by the absentee foreign owners. Soil conservation official David Sharman of Lincoln County, Colorado, has reported that the sodbusters have been eager to establish their average crop yield on the basis of the crop harvested during the first year, when the decaying grass and stored moisture produce an abnormally heavy crop. The federal Crop Insurance Program, and other disaster provisions will base all future payments on the basis of that first crop, even though wheat yields will decline after the second year on this marginal land. That crop insurance program will protect these producers from the results of their own destructive farming practices.

A number of other factors involved in this issue are interrelated with some of the major questions in American agriculture today. During the past decade, for example, every administration has urged that American farmers increase their production to meet foreign demand for food and feedstuffs. Farmers responded willingly to this "fencerow-to-fencerow" encouragement. But with bountiful crops, a depreciated dollar, and a worldwide recession, farmers found themselves selling millions of tons to overseas customers at below cost of production. For many, farming became a matter of minimizing losses rather than maximizing profits. The short-term solution for this has been to put marginal lands into production; the long range damage caused by that response may be devastating.

Some have argued that the farmer has every reason to plow up new land under current conditions, and little incentive to practice conservation. We feel that those who make this claim should define "farmer" a little more carefully. The true family farmer or rancher who owns a small or intermediate-sized operation may resort to working marginal soil as a temporary measure to ease a cash-flow dilemma, but will ultimately return to using conservation techniques. The family farmer must think in terms of generations, not just quarterly profits. The corporate landowner and foreign investor, on the other hand, do not share this vision. They tend to regard agriculture as just another business venture, one which must show a return on investment as quickly as possible. And the land is worked accordingly.

We have created a situation where the government farm programs—which were originally designed to foster an owner-operator system of agriculture—are instead serving as a type of foreign aid program for wealthy investors in Canada and overseas. S. 1825 would remove the government incentive for this destructive agricultural practice.

If we fail to enact S. 1825, we will have set the stage not only for increased soil erosion on the American High Plains, but for economic decline as well. As an SCS official observed recently, "Every time one of these ranches is bought out, one less family lives here." That is the crux of the problem.

Our most serious erosion problem in the United States is the erosion of farm and ranch families from our soil. Those are the families who produce our abundant food supplies at reasonable prices, and who have been documented to be the best stewards of our food resources. S. 1825 will help halt this form of erosion. We are pleased to endorse this bill.

In the months and years ahead, we will be working for additional measures which will erase the tax incentives for foreign investment, and which will return our domestic farm programs to the role of fostering growth among the moderate-sized segment of farm and ranch owners.

Thank you.

Supporting Improvement of Conservation Effort

Testimony in Support of Senator Armstrong's Conservation Legislation

We testify in support of S. 1825 which, if passed by Congress, would help mightily to ensure that topsoil stays where it is needed as new cropland is developed in our nation's vitally important Western farming regions. With this legislation, as farmers and ranchers shift from cattle production to crop production and then again, perhaps, back to cattle production as market opportunities beckon, the topsoil, that very basic resource for low cost, highest efficiency farm production, will not be wasted due to unwise federal government underwriting of productive effort. Our concern is for topsoil.

Yet we would point out what we feel to be the wisdom in considering a national scope for this legislation. For should S. 1825 be passed, as farmers and ranchers in the West undertake perhaps some portion of conservation effort or expense, in certain cases, in bringing new land into production in order to qualify for federal financing support, landowners elsewhere can be bringing new land into production without making such expenditure and receiving federal financing assistance to help in the effort because the owner is not asked to make any conservation expenditure in return for the federal assistance being requested. Should S. 1825 be passed, we would point out that the increment of production coming to markets from new cropland in other areas than the Western states which the federal government has helped to develop without some minimal conservation requirement, this extra production is going to impact market prices received by farmers and ranchers west of the 100th meridian who have made conservation investment in response to government request. We suggest an inequity here if the legislation is confined just to the West. Because federal financial support is national in scope, attention to conservation must be fully integrated and have national scope as well. Otherwise as States and regions work towards their respective conservation goals, their effort is undermined by federal assistance being made available without firm reference to conservation objectives.

We do not see what is being proposed in S. 1825 as a significant alteration of current Department policy. We pointed out that in the existing Set Aside Programs as administered by the Department under authority from the Agriculture Committees of the Congress, there is requirement that the land to be set aside have some conserving use applied: This has been Department policy for 30 years under administrations of both parties. The Department has been requiring specific measures of farmers in return for financial support ever since federal financial assistance programs were established within the USDA. It is a small, small step to be asking operators for attention to soil conserving practices for new cropland that they want to develop with financial assistance from the federal government. To the extent that there will be no serious erosion occurring on such land, no added levels of response to conservation needs need be sought.

We would like to express our gratitude to the Committee for addressing the topsoil erosion problem on America's cropland. The fact that one third of America's cropland is suffering topsoil losses at rates greater than can be allowed if our crop producing capacity is not to suffer in future years is a national resource issue of major importance.

We also compliment the Department of Agriculture for the furthering of the RCA process which it has undertaken. My organization will continue to take a constructively critical stance with regard to the principal RCA proposals of the Department, namely (1) targeting of conservation assistance and (2) the requirement of a conservation plan for Farmers Home Loans. We are only critical in that, we feel these steps do not address the situation in full measure. What value do we gain if all the conservation dollar and personnel assistance is sent to a needy area and a landowner still ignores conservation responsiblity? An owner may have a conservation plan but it may be too technical or expensive or impractical to apply. Or even if the plan is feasible for the owner to undertake but the owner still chooses to ignore this plan, the owner may still apply for and receive financial assistance from the USDA and federally supported and insured financing institutions. The owner can be bringing the money from the bank and ignoring the appeals of conservation professionals with all the assistance that has been marshalled to help bring any excessive erosion under control.

But our criticism is not, I repeat, not a criticism of the steps the Secretary of Agriculture has proposed for the ongoing RCA process. We appreciate very much his attention and concern to this difficult area. We are for transactions to achieve conservation objectives, transactions that utilize employee time to maximum efficiency, transactions that, perhaps, reduce conservation paperwork from current levels per farm unit.

In closing I would like to apologize for the lack of attention paid by the environmental and conservation community to this very critical environmental problem area. Environmental and conservation organizations should be providing much greater support in the work of reducing topsoil losses by educating citizens across the nation to the problems that are upon us now and that will weigh even more heavily in the years ahead unless conservation of topsoil resources is addressed comprehensively and thoroughly. Also, we in the environmental and conservation organizations can encourage attention to inexpensive conservation systems, conservation systems that pay the farmer. This very critical work is not being done by the environmental and conservation organizations to the extent it can be with available resources.

And to the extent that this very critical work is not being done by the environmental and conservation community, we are a party to the destruction of the topsoil resource that is taking place, we are a party to the stripping away of the irreplaceable resource.

Again, I want to thank the leadership of this Committee and the Department of Agriculture for their thoughtful and concerned work on this very critical problem the solution of which is vital to the future strength of our nation. There are no limits to the increase of productive capacity with wise agriculture. The limits to growth, and

they are very well, come with abusive agriculture. Thank you.

Mr. ARMSTRONG. So, that is the essence of the amendment and with that word of explanation, Mr. President, I urge its adoption and reserve the remainder of my time.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I first want to commend the distinguished Senator from Colorado (Mr. ARMSTRONG) for bringing this legislative initiative to the attention of the body. Whether it is a perfect initiative or not, as he suggested at the outset of his remarks, is a matter that will have to be left to those who might consider this from a historical perspective. But let me say that it does suggest an innovative way for the Government to help solve some of the serious problems that we are confronted with in connection with soil erosion.

As the Senator pointed out, the Agriculture Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, which this Senator chairs, along with the subcommittee chaired by the Senator from Iowa (Mr. JEPSEN), did convene hearings at the request of the Senator from Colorado to look into the proposal in a little more depth. We were impressed with testimony from farm groups and others who are sympathetic to the initiative.

There are some serious questions, however, that were brought to the attention of those of us who were conducting the hearings. Specifically, there is difficulty in defining the lands that are highly erodible as described in the amendment. Difficulties in administration of the program were brought to the attention of the subcommittee, and those difficulties have not yet been worked out.

The appropriation bill before us attempts to address some of these conservation problems. We recommend in the bill a restoration of over $200 million for cost-sharing and technical programs to deal with these serious problems.

There is another difficulty that I see with the amendment, and that is that it proposes a new legislative scheme and purports to add that to an appropriation bill, a funding bill, which, in my judgment would not be the thing to do at this point.

Because of the problems that still remain, we are going to have to recommend that the Senate not accept this amendment and that it be left for the legislative committee to continue to work on in an effort to reach some solution to this continuing and very serious problem.

Mr. President, I reserve the remainder of my time.

Mr. ARMSTRONG. Mr. President, alas, my earlier expectation that this was a truly perfect legislative proposition has proven to be unfounded, and I shall have to continue my search for something which will meet the approval of all Senators.

Nonetheless, while it may not be perfect and may not be agreed to by every single Senator, I hope it will be agreed to by a majority of those present. I believe that I can satisfy the concerns that have been raised by my colleague from Mississippi and, in fact, I think I can explain, hopefully to his satisfaction as well as to that of other Senators, that the concerns he has expressed are unfounded.

Mr. President, my colleague raises the issue of whether or not it is difficult to define the term "highly erodible lands." In the original draft of the legislation, which was the subject of the hearing, there was some concern of whether or not we had identified the lands in question with specific precision in two respects. First of all, the question of how to define them. In the amendment now pending, the following paragraph appears, and I just direct the attention of my colleagues to it because I think it fully responds to the concerns of the Senator from Mississippi.

> The term "highly erodible land" means land classified by the Soil Conservation Service of the Department of Agriculture as class IV(e), VI, VII or VIII land under the Land Capability Classification System of the Soil Conservation Service as in effect on the date of enactment of this Act.

It is my understanding, Mr. President, that all the lands of the country other than public lands have been classified under this scheme so there is no question, I am so advised, of what land falls in what classification. Public land, of course, is exempted, but then public land would not be used for growing crops which would be eligible for subsidy under this program in any case.

Second, the question raised by the Senator from Mississippi as to whether or not this is the appropriate legislative vehicle. It appears to me that it is exactly the right vehicle because this is a bill which provides for the expenditure of funds and the amendment is a classic limitation on the expenditure of funds.

So neither from a logical standpoint nor I believe from a parliamentary standpoint is there any doubt that the amendment is fully in order.

I am hopeful that these explanations will be satisfying to my friend from Mississippi. If so, I would be prepared to go ahead and vote on this matter at this time. If not, I would be constrained to ask for the yeas and nays.

I want to stress again, this is not a sudden or off-the-wall proposal. It is a proposal which has been thought through very carefully and on which there has been extensive consultation. It is endorsed by the American Farm Bureau Federation; National Association of Conservation Districts; American Wilderness Alliance; National Governors Association; Soil Conservation Society of America; Colorado Audubon Council; Colorado State Soil Conservation board; Trout Unlimited, Colorado Council; Colorado State Grange; Colorado Farm Bureau; Colorado Cattlemen's Association; Centennial Soil Conservation District; the National Farmers Union; Natural Resources Defense Council; American Farmland Trust; North Dakota Wildlife Society; Colorado Department of Agriculture; League of Women Voters of Colorado; Colorado Potato Growers Exchange; High Country Citizens Alliance; Rocky Mountain Farmers Union; Pikes Peak Cattlemen's Association; and the Eagle County Soil Conservation District.

I would be hopeful that my colleagues would approve this amendment.

Mr. COCHRAN. Mr. President, I am impressed with the earnestness with which the Senator presents this amendment. It seems to me that we are wiser to wait until we have had an opportunity in the legislative committee to fully evaluate the hearings that have been held on this issue and the proposal that is being urged by the Senator from Colorado.

The question of newly plowed fragile lands is one that is not easily resolved. For instance, there are some farmers, I know in my part of the country, who have taken land out of row crop production, for instance, and put that land in pasture where it has remained for some several years. Whether or not a farmer would be prohibited from participating in a farm program if he chose to put back into row crop cultivation some of that pastureland is a matter that could present some serious problems. He would have to apply to someone within the Department of Agriculture for a ruling about whether this was fragile land or not. The problems attendant to the administration of such a program could really become quite devilish.

I know there are no easy answers to some of those questions. I am not suggesting that, just because it would cause some difficulty to administer, a program of this kind ought to be abandoned or rejected out of hand. I am simply saying that, at this time, as an amendment that is brought on the floor on an appropriation bill, an effort to rewrite the qualifications for farmlands to participate in existing programs is not the thing to do. I would hope that the Senate would reject the amendment and leave to the wisdom of the legislative committee the question of whether or not this program could be so drawn and implemented as to help solve some of the se-

rious problems that we face with soil conservation.

With respect to a vote on this measure, I might advise the Senator that we have been requested to try to withhold the taking of a vote until the hour of 2 o'clock. There is a vote already scheduled, as I understand it, for that time. If the Senator does desire the yeas and nays, a recorded vote on his amendment, of course, we would be glad to help him get the yeas and nays, and then ask that the vote be stacked behind whatever other votes are already scheduled at 2 o'clock.

Mr. ARMSTRONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that Senator WARNER be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the vote on this amendment occur after the vote already scheduled for 2 p.m.

Mr. EAGLETON. Would the Senator amend his request to make it a 10-minute vote since the one to be held first will require 15 minutes?

Mr. COCHRAN. I am not sure that would pass muster over here. Would the Senator withhold that request?

Mr. EAGLETON. That is all right.

The PRESIDING OFFICER. Without objection, the original request of the Senator from Colorado is agreed to.

Have Senators yielded back their remaining time?

Mr. ARMSTRONG. Yes, Mr. President, I yield back my remaining time.

Mr. COCHRAN. I yield back my remaining time, Mr. President.

UP AMENDMENT NO. 1304

(Purpose: To provide equitable payments for storage under the farmer-held reserve program for wheat and feed grains)

Mr. ZORINSKY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nebraska (Mr. ZORINSKY) proposes unprinted amendment No. 1304.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 59, after line 5, insert a new section as follows:

"SEC. 626. None of the funds provided by this Act may be used to conduct a producer reserve program for wheat and feed grains under which the Commodity Credit Corporation, in making payments for storage, provides payment for such storage in an area at rates that are less than the rates at which the Corporation provides payment for the storage of grain in commercial storage facilities in the area.".

Mr. ZORINSKY. I received a letter from Nebraska State Senator, Hon. Loran Schmit, the chairman of the Nebraska State Agricultural Committee, concerning the differential between grain storage rates paid to the farmers by the Commodity Credit Corporation and the rates paid to commercial grain storage facilities by the Corporation.

In as much as Senator Schmit's letter explains the discrepancy between farm and commercial storage rates I am including it in this part of my remarks. The letter follows:

DEAR SENATOR ZORINSKY: I am once again writing to you to ask your help to correct what I believe is a serious injustice to Nebraska farmers. At the present time any Nebraska farmer who stores grain in his facilities on his farm receives a storage payment of 26.5 cents per bushel. The same grain stored in a commercial facility in David City receives a storage payment of 29.1 cents per bushel and beginning July 1st will be paid at the rate of 32.4 cents.

The difference in the on farm storage rate versus the commercial storage rate represents a loss of millions of dollars to an already financially strapped agricultural economy. I do not believe the elevators should be paid any less for storage services but that farmers should be paid an equal amount. I believe that at a time when the federal government is writing three year guarantee storage construction contracts that farmers would be willing to build additional grain storage even without government loans or a three year guarantee as in the commercial program.

I would appreciate it very much if you would use your considerable influence with the Department of Agriculture to raise the storage rate for on farm storage to the equivalent of commercial storage.

With every best wish,

Sincerely,

LORAN SCHMIT,
State Senator.

Mr. President, I have written to Secretary of Agriculture John Block and raised the question as to the fairness and equity in the rate differential. I asked the specific question as to the justification for a difference of 5.6 cents per bushel on stored grain between the farm and commercial facilities and whether there was some problem with agricultural statutes that should be corrected. I indicated that if there is need for correction, I would like to have his recommendations.

The Secretary's response confirmed the fact that a discrepancy does exist and that, in some instances, the rate paid per bushel may be as high as 50 cents depending on the type of grain stored and the elevator location. His response also indicated that farmer-owned grain stored in a commercial facility is entitled to the 26.5-cent per bushel rate even though the rate paid on CCC-owned grain is higher. This means that during the time farmers are required to pay storage on grain under loan to CCC, the farmer has to make up the difference.

I believe that Senator Schmit has good cause to ask for equal rates for farm-stored grain and commercially stored grain.

The farmer is accountable for keeping stored grain under loan to CCC in condition as is the commercial facility accountable for keeping grain in condition. I can ascertain no good reason for the differential. Therefore, Mr. President, not having received a satisfactory response from Secretary of Agriculture John Block, I am introducing today an amendment that would amend the Commodity Credit Corporation Charter, H.R. 7072, the Agricultural Appropriations Act, to require that the grain storage rate paid by CCC be the same in the area where the grain is stored whether farm or commercially stored.

I ask that my colleagues support this amendment which attempts to correct an injustice which has only further eroded the farmer's position in our economy today.

Mr. President, I would appreciate the subcommittee chairman's comments with respect to the equity that this amendment would once again create.

Mr. COCHRAN. Mr. President, the Senator from Nebraska is offering an amendment which is going to add considerably to the cost of our farm programs. I am assuming that, by equalizing the payments for storage, he is not suggesting that the amount paid for commercial storage be reduced to the amount being paid to farmers for on-farm storage. This would necessarily require an increase of about 15 percent in the amount of the payments for farm storage. That means that the cost would be $45 million more than is currently being paid under this program, so we are confronted with a request for a substantial increase in outlays under this bill.

We are at the budget target in our allocation figure now, and it would put us in a very serious situation with respect to meeting those allocations and restraints that we have imposed upon the appropriations process by the adoption earlier this year of the budget resolution.

Mr. President, we reluctantly have to oppose the amendment offered by the Senator. It may very well be that continued efforts through discussion with the Department and others might lead to some change in policy, but at this time, on this appropriations bill, we are simply not able to recommend the acceptance of the amendment. It is a substantial legislative change. It is not merely a change in funding level, but changes in sub-

stance the way our farm program for grain storage is run and administered.

Mr. ZORINSKY. Mr. President, may I ask the chairman if he indicated it was $48 million additional outlay?

Mr. COCHRAN. If the Senator will yield, our estimate is that it would result in the payment of $45 million additional for farm storage of grain.

Mr. ZORINSKY. I would say that is a very minimal number, Mr. President, considering that I have seen outlays here—for instance, for the Tennessee-Tombigbee Canal project, $2.2 billion. I have seen outlays of $50 million for earthquakes in foreign nations. I have seen military aid to nations, that would attack us tomorrow morning if they thought they could defeat us, to a greater extent than $45 million.

I think this is equity for a segment of our industry in this Nation that is the only thing separating us from devastation in the world marketplace with respect to our balance of trade with the rest of the world. What I am referring to is the most productive segment of our economy. That is agriculture, which is not in prime economic condition today, and this merely attempts to resolve an inequity that has existed for many years.

So, Mr. President, I do not want to belabor the discussion on this as a pure and simple case of equity. All the grain begins on the farm. Merely because it is stored in a secondary location—I feel it is long overdue for this inequity to be abolished.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, this amendment would require that the rate which the Commodity Credit Corporation pays for grain storage be the same, whether grain is stored on the farm or in a commercial warehouse. The amendment does not reflect the fact that these are different programs and different circumstances, so the amendment should not be approved by the Senate.

The amendment is modeled after S. 2891 which was introduced on September 10. Since it was introduced so recently, no hearings have been held.

The sponsors of this legislation are correct in that there is a differential in the rate paid for farm-stored grain versus commercially-stored grain. I recognize the point made by the sponsors of this legislation, which is that a comparable rate should be paid for comparable storage.

However, the fact is that there are differences between farm-stored and commercially stored grain which justify a difference in storage rate. The requirements and costs of commercial storage are greater so a commensurately higher rate is paid.

A commercial warehouseman must pay for bonding and insurance. He is responsible for the uniform grain storage agreement with CCC and the net worth requirements. He must guarantee to deliver to CCC the same quality and quantity of grain that he received, at the risk of substantial penalty.

These are costs and requirements which do not apply to on-farm-stored grain. Thus a higher rate is paid to those who bear a higher risk.

Of course, if this amendment was enacted, USDA might be forced to tighten the requirements on farm-stored grain. Surely the sponsors of this amendment do not intend to force an additional regulatory burden on farmers, but that could be the end result.

If storage payments for farm-stored grain in the farmer-owned reserve are increased, there will be a substantial increase in the costs to the taxpayer. This is an increased cost which will not make our reserve programs any more effective.

Grain is already moving into the farmer-owned reserve in record amounts. Clearly there is no additional incentive needed, so any increase provided by this amendment would be costly and unnecessary.

It is true that a lack of grain storage space will probably be a problem this fall as record crops are harvested. Rather than this amendment, however, it is best to address the problem directly, as Secretary Block has done.

On September 23, Secretary Block announced that an additional $60 million would be allocated to USDA's farm storage facility loan program beyond the $40 million he announced in July. Furthermore, on August 20, Secretary Block announced revisions in this program so that more farmers would be eligible for storage loans.

The Secretary has also announced that USDA will approve certain temporary facilities for grain storage. My colleagues should keep in mind that higher storage payments means there is less CCC funding for other storage programs. In that sense, this amendment will worsen, rather than improve, the difficult grain storage situation which we now face.

I commend the Secretary of Agriculture for the actions he has taken. Altering storage payment rates at this point would be costly and unjustified, and I urge the Senate to disapprove this amendment.

Mr. ZORINSKY. Would the chairman like to stack this after the other votes?

Mr. EAGLETON. Mr. President, I was going to ask unanimous consent that the vote on the Zorinsky amendment follow the vote on the Armstrong amendment, as previously agreed to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Does the Senator yield back the time on the amendment?

Mr. ZORINSKY. I yield back my time on the amendment.

Mr. COCHRAN. Mr. President, I yield back our time.

UP AMENDMENT NO. 1305

(Purpose: To add appropriations for the economic emergency loan program and impose a limitation on the use of funds for the Farmers Home Administration)

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. HUDDLESTON. Mr. President, I send an amendment to the desk on behalf of myself, the Senator from Oklahoma (Mr. BOREN), the Senator from Tennessee (Mr. SASSER), the Senator from Vermont (Mr. LEAHY), and the Senator from Nebraska (Mr. ZORINSKY) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON), for himself, Mr. BOREN, Mr. SASSER, Mr. LEAHY, Mr. ZORINSKY, and Mr. KENNEDY, proposes an unprinted amendment numbered 1305

On page 28, line 24, strike out "borrowers." and insert in lieu thereof "borrowers; economic emergency loans under the Emergency Agricultural Credit Adjustment Act of 1978, $600,000,000.".

On page 32, line 3, strike out "U.S.C. 3109." and insert in lieu thereof the following: "U.S.C. 3109: *Provided further*, That none of the funds provided by this Act may be used to liquidate (against the wishes of the borrower) outstanding farm loans under the Consolidated Farm and Rural Development Act or the Emergency Agricultural Credit Adjustment Act of 1978 made to borrowers who are owners or operators of not larger than family-size farms but who fail to pay principal and interest when due, nor to institute foreclosure proceedings with respect to such loans, in any case in which the Secretary determines that the borrower (1) has followed good farm management practices, (2) due to circumstances beyond the borrower's control, is temporarily unable to continue making payment on principal and interest under the loan when due, and (3) has a reasonable chance of repayment of the loan in subsequent years.".

Mr. HUDDLESTON. Mr. President, I advise my colleagues that this is an amendment which the Senator from Oklahoma (Mr. BOREN) has very strong and protective interest in. He would be here for himself presenting it except for the fact that illness in the family has prevented him from being in the Senate today.

Mr. President, this amendment has two principal provisions.

The first provision would provide appropriations of $600 million for the Farmers Home Administration's economic emergency loan program for fiscal year 1983.

The second provision requires the Secretary of Agriculture to permit certain family farmers to defer repayment of Farmers Home Administra-

tion farm loans for 1 year. To qualify for a deferral, the borrower must show that he:

First, has followed good management practices;

Second, due to circumstances beyond the borrower's control, is temporarily unable to continue making payment of such principal and interest when due; and

Third, has a reasonable chance of repayment of the loan after the deferral period.

Earlier this month, the National Association of State Departments of Agriculture unanimously adopted a resolution that calls for the actions provided in this amendment. Also earlier this month, the Senate Committee on Agriculture reported out a bill with essentially the same provisions and did concur in this approach.

The Congressional Budget Office has prepared a cost estimate on the committee bill. That report indicates that the operation of the economic emergency loan program in fiscal year 1983 will have a minimal effect on the Federal budget. The program is a loan program, and funding supplied under the program is repaid. Also, the Congressional Budget Office estimates that the major costs of deferral are loss of interest on deferred interest, and that is not part of the amendment, and administrative expenses. In summary based on CBO's analysis, the amendment does not appreciably increase Federal spending. I ask unanimous consent that the CBO cost estimate on the committee bill (S. 2960) be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HUDDLESTON. Mr. President, I also think it is important to point out that the amendment will not require an automatic moratorium on repayment of debt owed to the Farmers Home Administration. Nor will it require forgiveness of debt owed to the Farmers Home Administration for loans already made.

The amendment will not make any farmer prosperous. However, it will provide some moderate amount of assistance to farmers who are experiencing severe economic stress because of low commodity prices and high interest rates.

Mr. President, right now, the directors of the 12 districts of the Farm Credit System are meeting in Louisville, Ky. They are trying to deal with the tremendous adverse economic conditions that exist for farmers throughout the United States. I do not think I have to repeat to this body the statistics that are now a matter of reality; that is, farm income is going through the third year of actual decline. If projections for the coming year hold up—and there is every indication that they will—we are going to see U.S. net farm income fall to about one-half of what it was just a few years ago.

This is creating a difficult situation. It is important that we take every possible opportunity to work with those farmers who are good managers, who have not made bad investment decisions nor overextended themselves, farmers who can demonstrate that they have the potential to repay the loans after deferral under the amendment ends, to help keep them on the farm, to help keep going this tremendous agricultural production capacity that we have, and to avoid economic dislocation.

There is a national interest, in my judgment, beyond the need to maintain the Nation's agricultural production capacity, in trying to keep farmers on the land. There have been times during past history when our farmers and their young people could have moved off the land and expected to find good job opportunities in the urban areas. We all know that situation does not exist today.

So in helping to deal with the unemployment problem in this country, it behooves us to do whatever we can to make life on the farm economically viable.

Mr. President, I ask the adoption of this measure.

EXHIBIT 1

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 21, 1982.

Hon. JESSE A. HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for a bill to extend the economic emergency loan program for farmers and provide loan deferrals for borrowers of farm loans from the Farmers Home Administration, and for other purposes.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

COST ESTIMATE, SEPTEMBER 21, 1982

1. Bill number: Not yet assigned.

2. Bill title: A bill to extend the economic emergency loan program for farmers and provide for loan deferrals for borrowers of farm loans from the Farmers Home Administration, and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Agriculture, Nutrition and Forestry, September 15, 1982.

4. Bill purpose: The bill mandates the Secretary of Agriculture to make economic emergency loans of $600 million in fiscal year 1983 and reduces the maximum debt that individual borrowers may owe to the Farmers Home Administration (FmHA). The bill also requires the Secretary of Agriculture to defer through fiscal year 1983 payments of principal and interest on farm ownership, farm operating, disaster and economic emergency loans and to forgo foreclosure at the request of any borrower who qualifies under conditions of good management, temporary inability to make payments and the probability of repaying the loan. Interest on deferred loans accruing during the deferral period may be repaid interest free.

5. Cost estimate: The impact of the $600 million in economic emergency loans on the unified budget is significantly reduced by the sale of assets by the FmHA to the Federal Financing Bank (FFB). The following table summarizes both the on-budget and off-budget effects of this program.

[By fiscal years, in millions of dollars]

	1983	1984	1985	1986	1987
On-budget (functions 350 and 900):					
Estimated budget authority	37	−132	−132	−132	−132
Estimated outlays		−132	−132	−132	−132
Off-budget (FFB):					
Estimated budget authority	600				
Estimated outlays	600				

Note.—Reliable data are not available to permit a precise estimate of the budget impact of the provision requiring the Secretary of Agriculture to defer certain loan repayments.

There is no firm basis for estimating the amount of loans that would be deferred. If it is assumed that principal and interest payments are deferred on 40 percent of outstanding ACIF loans, the total amount of deferred payments would be $1.7 billion in fiscal year 1983, assuming enactment by October 1982. (However, some of these borrowers might have received deferrals in any event.) Interest on the deferred interest payments is not required, to be paid, and that provision would result in the loss of about $115 million annually in accrued interest until repayments begin. The administrative costs to review applications and reschedule payments for the deferrals are based on an estimated 1,500 additional staff years, assuming suitable personnel could be hired and trained, and would result in outlays of about $35 million. All these costs could be correspondingly larger or smaller, depending on the actual amount of outstanding borrowing approved for deferral. In the long term, the deferred loans are to be repaid with interest, though there is no basis for projecting the repayment schedule. Assuming such repayments, the major costs of the deferral are the administrative expenses and the loss of interest on the deferred interest payments.

6. Basis of estimate: On-budget outlays from the mandated economic emergency loans represent interest and principal received from borrowers. Budget authority is calculated as interest accrued on FFB transactions less interest and principal received from borrowers. Principal and interest repayments are made annually and begin one year after the loan is disbursed.

The loan assets are assumed to be sold in the year the loans are disbursed. The repurchase of the loan assets from the FFB is assumed to occur after 1987.

7. Estimate comparison: None.

8. Previous CBO estimate: On September 15, 1982, CBO prepared a cost estimate of H.R. 6818, as ordered reported by the House Committee on Agriculture. This bill contains identical provisions for extension of the economic emergency loan program, and those provisions are expected to have the same budget impact.

On May 27, 1982, CBO prepared a cost estimate of H.R. 5831, as ordered reported by the House Committee on Agriculture. This bill contains similar provisions for the deferral of principal and interest payments and a moratorium on foreclosure of agricultural credit loans, and those provisions are expected to have the same budget impact.

9. Estimate prepared by: Howard Conley (226-2860).

10. Estimate approved by C. G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, the Senator from Kentucky brings to the Senate's attention an amendment containing provisions that this Senator has very strongly supported in recent weeks be included as a change in the law. It has been my hope that we could see the bill that was recently reported by the Senate Agriculture Committee brought to the floor for the consideration of the Senate. That bill contains the authority and direction and the language for the Secretary of Agriculture to make available economic emergency loans to farmers who really are unable to obtain adequate levels of credit at reasonable rates of interest from other sources, who are put in positions of having to close down operations if they are not able to receive credit under a program like this.

So it puts this Senator in a very difficult position of having to decide whether to support the legislative language being added to this appropriation bill at this time. As much as I hate to, I have to oppose the adoption of the amendment by the Senate on this bill. It is not timely. It is not the proper vehicle for this legislative change in my judgment.

The Senate Agriculture Committee has acted. It has approached substantially the the language that is proposed to be added to this bill, but it has done so in the appropriate legislative process. I hope that bill can be brought to the floor for early consideration and passage by the Senate.

I commend the Senators from Kentucky and Oklahoma for their efforts in this regard, and I certainly hope that we can see the problem of farm credit solved before this next planting season. We are going to have some serious difficulties throughout the farm sector in obtaining adequate levels of credit to finance the planting of crops next spring. I think everybody agrees with that. This would be another way to get at that problem. But because it is a legislative change, Mr. President, we suggest that program adjustments of this kind be made in the regular legislative process and not on an appropriation bill.

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Regretfully, Mr. President, I must rise to disagree with my distinguished chairman. I realize that this is legislation on an appropriation bill, so that from a procedural standpoint he is correct. However, I think that the emergency nature of the times in which we find ourselves in the agricultural areas of America should compel us to go beyond the procedural technicalities and deal with this matter substantively.

There are three things which occurred in the world that have particularly and egregiously impacted on American farmers: First, net farm income is projected to be at the lowest level since the Great Depression; second, land values have dropped for the first time in a decade or more; third, the value of U.S. exports has dropped for the first time in 13 years. All of these matters are beyond the control of any individual farmer. There is no question that credit is indispensable to the continuance of hundreds, indeed thousands, of American farmers in business.

Although I agree with my chairman that under normal, routine circumstances it is clearly better and preferable for the authorizing committee to consider these matters and dispose of them, nevertheless because of the crisis—and I use that word advisedly—in American agriculture I feel that we must act in a timely manner. I consider the Huddleston amendment to be a timely response to a compelling problem.

Mr. HUDDLESTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, first let me say that no one has been more supportive of the agricultural producers in this country than the distinguished Senator from Mississippi, the floor manager of the bill. He did support, in legislative form, the approach that we are seeking when it was considered by the Agriculture Committee.

I recognize that the floor managers of any bill are always reluctant to have substantial amendments made to their bill. They have developed it through the committee process, and they would prefer, of course, that it not be substantially amended during the floor debate; but the Senator from Missouri has been entirely correct in stating that time is of the essence as far as the plight of many of our agricultural producers is concerned. This is not an unusual way to address a difficult problem. We have to take into account the schedule of the Congress, the time that is left to us, and the amount of business remaining that must also be dealt with. I am fearful that if we go home for the recess, whether it is this week or next week, and postpone this action until the so-called lameduck session that is at least tentatively set to occur sometime after Thanksgiving, we are sending the wrong signal to the agricultural producers of the country. We are certainly not providing them encouragement or hope for the future.

However, adoption of the amendment now will give us an opportunity to provide such encouragement to farmers.

So I hope that, the arguments of the distinguished Senator from Mississippi notwithstanding, the Senate will move forcefully and send a signal to the agricultural producers that we want to do everything that we possibly can to help get them through these rough economic times.

I repeat that the amendment does not provide for blanket deferrals. Deferral is not forgiveness. It is not a moratorium. It is to be done on a case-by-case basis, when the farmer can demonstrate that his conditions are the result of no mismanagement on his part, no bad decisions, and that he will have a reasonable capability to repay that loan at the appropriate time.

Mr. SASSER. Mr. President, I am a cosponsor of the Huddleston amendment to the agriculture appropriations bill.

For the past several years, high interest rates and low market prices have had a devastating effect on the income of American farmers. Bumper domestic crops and a decline in export demands are driving farm prices to record lows this year as well. Indeed, the U.S. Department of Agriculture has projected that net farm income for this year will be $19 billion, the lowest mark when adjusted for inflation, since 1933.

The last time this Nation saw such dismal figures in the agricultural sector was during the Great Depression. In fact, not since the Great Depression has this Nation seen 3 consecutive years of declining farm income.

The upshot of these disheartening figures is that many farmers are no longer able to afford the loans they rely upon to provide operating expenses to help them get through bad years. Many farmers are simply being driven out of farming.

In Tennessee 148 farm borrowers were reported to have left farming for the 11-month period ending August 31, 1982. Of this number 22 were foreclosed upon, 45 experienced forced liquidations and 73 voluntarily liquidated. This last figure represents farmers who are not getting the funds they need to operate their farms. Their bills come due and to meet them they sell off their property "voluntarily." While this is not technically a foreclosure, it still represents a farmer going out of production.

The point is, Mr. President, that we do not want to see large scale farm liquidations whether they be "voluntary" or otherwise. The threat that such sales of farm land and equipment pose for the economy is frightening.

Clearly, something needs to be done about this situation. The Department of Agriculture already has numerous tools available to combat this situation but it has failed to use many of them. My home State is a chilling case in point. Thus far this year, some 345 farmers in Tennessee have requested deferrals of their FmHA operating and real estate loans. A mere 15 percent of these requests have been approved. This contrasts with the national approval rate of 52 percent. This shocking discrepancy is intolerable and can only lend support to the fears of foreclosure fever within the Department of Agriculture felt by many farmers.

Our amendment would provide relief in Tennessee and other areas where farmers meet the necessary requirements for loan deferral. In addition to deferring the loan, our amendment would impose the original rate of interest on the loan after the deferral period.

Another area demanding our immediate attention is the economic emergency (EE) loan program. Loans under this program are made to farmers who are unable to obtain credit elsewhere due to economic conditions. However, while the Secretary of Agriculture has the authority to disburse $600 million in EE loans this year, he has chosen not to do so.

This refusal is astounding in light of the economic emergency facing America's farmers today. Interest expenses alone reached 19.7 billion for our Nation's farmers in 1981. The high rate of farm debt rollovers is likely to drive this figure higher this year. Several studies indicate that total farm debt at the end of 1982 will surpass 200 billion, setting yet another all-time record. On top of this, a survey conducted by American Banker Association member banks indicates that 85 percent of these banks report deterioration in the financial condition of their farm borrowers from 1 year ago.

The EE loan program was instituted to combat just this type of economic emergency. And it is a program that works well. According to an evaluation study done by the Department of Agriculture in 1981, without the EE program many farmers would have been forced out of the farming industry and a large number of agricultural lenders would probably have been in serious trouble. There was even evidence at the time of this study which indicated that the EE program was having a positive effect on the financial situation of the American farmer. The study concluded that the EE program effectively fulfilled its basic objective, assisting farmers in maintaining their farming operation during a period of economic pressures.

Nobody knows what the possible impact of the program could have been this year. It is, however, a safe guess that it would have continued to save farmers who were teetering on the brink of disaster.

Mr. President, our amendment keeps this worthwhile program in effect for fiscal year 1983. The amendment directs the Secretary to disburse EE loans where they are needed during this time of economic emergency.

The economic plight of American farmers demands that we take such actions today. I urge my colleagues to join me in lending support to this timely and significant amendment.

(By request of Mr. HUDDLESTON, the following statement was ordered to be printed in the RECORD:)

● Mr. BOREN. Mr. President, the largest industry in this Nation is agriculture. Agriculture employs more workers—23 million—than any other industry and is larger than the auto, steel, and housing industries combined. Agriculture is indeed a major market for labor and industry. One out of every five jobs in private enterprise is related to agriculture. Further, agriculture generates about 20 percent of the gross national product (GNP).

As such, agriculture is, and always has been, the very foundation of the American economy. The health and welfare of farmers and consumers is fully interrelated. A depressed farm economy will eventually result in a depressed urban economy. When the farm economy is weak, the entire American economy is weak.

Americans need only look back at history to learn a simple, invaluable lesson. It was the collapse of agriculture, leading to dispersal sales of land and equipment which signaled the start of the last depression. The domino effect which could result from a collapse of agriculture threatens our entire economy again in the 1980's.

It is clear from the statistics that the agricultural economy is in a depression. We are facing an economic emergency in the agricultural economy and we must take action.

Net farm income, adjusted for inflation, is lower than it was in 1932, the worst year of the depression. Indeed, farm income appears to be the lowest annual farm income, adjusted for inflation, since the Department of Agriculture began keeping records of farm income in the early part of this century.

Projections indicate that total cash receipts to farmers in 1982 will actually be less than receipts in 1981, the first time there has been such a decline since 1975. It is expected that in 1982, for the first time ever, farm production expenses will exceed cash receipts from farm marketings, despite an increase in production expenses of only 2 percent over 1981 expenses.

Agricultural exports accounted for one-fifth of total U.S. exports in fiscal year 1981. Last year, Agricultural exports contributed a surplus of $26.6 billion to partially offset the large deficit in nonagricultural trade. Regretfully, the value of agricultural exports shipped in fiscal year 1982 will decline for the first time in more than a decade.

Along with this bleak picture, we must realize that the outlook is not very bright. Due to the inadequacies of the 1982 farm programs, we are looking at record surpluses in the main grain crops. All wheat production is forecast at a record high of 2.82 billion bushels. Winter wheat alone is forecast at a record high of 2.11 billion bushels. Corn production is now forecast at a record high of 8.32 billion bushels. Soybean production is estimated at a record high of 2.31 billion bushels.

The current farm credit situation exemplifies the seriousness of the agricultural economy. The percent of Farmers Home Administration farm borrowers delinquent as of June 30 of each year have also increased dramatically, signifying the seriousness of the agricultural economy condition. Five years ago, in 1978, 13 percent of Farmers Home Administration farm borrowers were delinquent, as compared to 28 percent in 1982. The dollar amount delinquent has more than tripled in the past 3 years, rising to $2.9 billion this year.

Not only are Farmers Home Administration delinquencies rising, but every farm credit source shows similar increases. Preliminary data collected by the Farm Credit Administration shows that 4,383 farm credit borrowers are now in the process of being liquidated. That number is estimated to be a 100-percent increase over last year. Federal land banks report a 30-percent increase in delinquent borrowers over last year. Production credit associations report a 27-percent increase in delinquent borrowers over last year.

Preliminary findings of the 1982 midyear survey of American Bankers Association member banks show that 3.4 percent of farm borrowers were discontinued from bank financing from June 1981 to June 1982. The findings further stated that 62.2 percent of banks described the rate of going out of business as higher than normal.

Obviously, the farm economic situation for 1983 will show no improvement from 1982 without a major revision of agricultural policy. Every effort must be made to ease the credit situation for farmers, reduce interest rates, reduce commodity surpluses, improve farm income, and increase agricultural exports.

At a time when declining land values threaten the foundation of our economy, the administration has continued to allow the Farmers Home Administration to foreclose on good farm managers, farmers who, through no fault of their own, are caught in the middle of low prices and a credit squeeze.

The administration has not used existing authorities to ease the farm credit situation. Under existing law, the administration could forgo foreclosures, but it has refused to use its authority. In 1981, it was reported that the Farmers Home Administration had set a goal of reducing farm loan delinquencies by 20 percent, even if that meant forcing some farmers out of business.

The administration has a strategy goal of reducing Farmers Home Administration delinquencies by 70,000 borrowers in 1983. The administration's budget attributes $4 billion in savings to this and other similar efforts. It may be assumed that efforts will be made to speed up collections and liquidate borrowers' assets with little regard for the financial condition of individual borrowers.

The administration has said repeatedly that forced liquidations were not increasing. Yet, the facts show otherwise.

In 1980, there were a total of 260 foreclosures by the Farmers Home Administration. There were no more than 300 foreclosures in 1981. However, from October 1, 1981, to August 31, 1982, there were 776 foreclosures—more than twice the amount in 1981—5,501 voluntary liquidations, and 1,156 bankruptcies discharged.

Despite the tight farm credit situation and despite the true economic emergency we are facing in agriculture, the administration has not used its authority to implement the economic emergency loan program. The 1981 farm bill extended, until September 30, 1982, the authority for the Secretary of Agriculture to make economic emergency loans to farmers.

Under the economic emergency loan program, the Secretary makes insured loans to qualified farmers who cannot get credit elsewhere due to economic stresses, such as a general tightening of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodites. The loans bear an interest rate that reflects the cost of money to the Government.

With the extension made by the 1981 act, the Secretary could have made up to $600 million in economic emergency loans in fiscal year 1982. The funds for these loans would come from repayment of outstanding economic emergency loans; and, therefore, the programs would not involved substantial new Federal expenditures.

Although we are indeed facing an economic emergency in agriculture, the administration has not yet decided the program is needed.

Our amendment is an attempt to provide some credit assistance to farmers suffering from economic depression.

Specifically, our amendment will require the Secretary of Agriculture to permit the deferral of payments of principal and interest for farm loans. Second, the amendment will require the Secretary to forgo foreclosure of farm loans when a borrower can show: (a) that he has demonstrated good management practices, (b) that because of circumstances beyond his control he is temporarily unable to continue making payments which are due on his principal and interest, and (c) there is a reasonable chance of loan repayment in the future. Finally, our amendment will continue the appropriations for the desperately needed economic emergency loan program.

This amendment is both compassionate and prudent. It is compassionate in that it will assist those farmers who are having financial difficulties through no fault of their own. It is prudent in that it will protect not only the agricultural economy, but it will also protect the health of our Nation's total economy from a potential domino effect if agriculture experienced a total collapse.

It is imperative that we act now. The future of our entire economy rests upon agriculture. If we do not see recovery in the agricultural sector, we will never experience full economic recovery in the Nation. I urge my colleagues to help us enable our farmers to remain on the farm.●

Mr. BENTSEN. Mr. President, the American farmer is facing a very tough, very serious situation. Prices for wheat, corn, milo, and other grains are well below the loan rate and are even farther below the cost of production. Farmers are struggling to refinance loans that they cannot pay off because of heavy losses. Commercial financing is becoming increasing scarce. Bank examiners are looking at farm sales where good used farm equipment brings pennies on the dollar and they are tightening up on farm loans, in many cases forcing banks to give up on long-time customers who have just flat used up all their equity in just a few bad years.

Production credit associations are also feeling the pinch. This farmer-owned system gives farmers direct access to the Nation's money markets, but to maintain that access, to maintain their ability to finance American agriculture, they must maintain their bond ratings. That means they cannot finance even their member-borrowers through an indefinite string of losses. As a result, the Beaumont PCA is not undergoing a major reorganization under the supervision of the Federal Intermediate Credit Bank of Texas. Hundreds of rice farmers in a five-county area of southeast Texas have been notified that the collateral value of their equipment and even of their land has been marked down severely. This loss of borrowing power comes at a time when rice prices are at rock-bottom levels, resulting in a third consecutive year of losses. Many of these farmers will no longer be farming next year at this time.

The Farmers Home Administration of the Department of Agriculture is the lender of last resort. Local FmHA offices are understaffed and overworked. The program people want to help. They want to do their job well, and in many cases they put in many long and unrecognized hours to get the job done and to serve their farm customers. Unfortunately, they have not had the kind of support that they should have had from the policy level of USDA. Local FmHA loan officers have been struggling to keep farmers afloat, but their efforts have in many cases been negated by failures of our farm policy. Failures that have given us record crops when we already had surpluses, that have seen a decline in the value of our farm exports when farmers were being asked to rely on an "export-oriented" farm policy, that have seen net farm income plunge to the lowest real levels since 1933 while USDA hid its head in the sand by refusing to publish the traditional monthly estimates of net farm income.

This amendment will help address these problems by making two policy changes that I have been advocating for some time. First, it will extend the authorization for the FmHA economic emergency loan program for 1 more year and will make its use mandatory, not discretionary. I have been urging Secretary Block to activate the EE program since last winter, and USDA has still not decided that the farm situation is serious enough to call it an economic emergency. In many parts of Texas the farm economy is not an emergency—it is a catastrophe.

Second, our amendment will recognize the impossible situation that many farm borrowers have been put in by requiring a moratorium on foreclosures and repayments for farmers who have been carrying out approved farming practices, who cannot repay due to circumstances beyond their control, and who can show a reasonable expectation that they can repay their debts after the moratorium.

The major theme of our farm policy for the last 2 years has been that prosperity is just around the corner. If that is indeed the case then USDA should have no objection to a moratorium on loan repayments for farmers who cannot make it through the depths of the current farm depression but who can be expected to survive

and prosper in anything approaching normal times.

FmHA is the lender of last resort for farmers and ranchers. But just when a third consecutive bad year is causing hundreds of farmers to be dropped by banks, PCA's, and other commercial lenders, USDA has cut holes in this safety net through numerous changes that mean that many farmers will drop through the cracks into bankruptcy with no chance at this safety net because it is already full. Farmers who were good enough to stay with a commercial credit source until this year were good farmers. Now in many cases a third bad year in a row has wiped out their equity and their bank is letting them go. Now they are turning to FmHA, and many of them will find a repeat of what happened last year.

Last year FmHA officials in Washington issued reassuring statements about how they were well able to cope with the demand for farm loans while at the same time farmers in Texas and elsewhere were told not to even apply for loans. Farmers were told the FmHA was taking no new applicants because they did not have enough loan funds for their old borrowers. This happened months after I and others had told USDA leaders what was coming, and yet they kept up the pretense that prosperity was coming, that it was just around the corner.

Congress finally had to step in last month and mandate that USDA follow a more rational and realistic farm policy. We required a tougher acreage reduction program with a paid diversion for all the major grain crops. USDA should be making detailed farm policy decisions, not Congress. However, in this case the Department of Agriculture has clearly shown that it lacks the clout in this administration to deliver a farm policy that adequately addresses the reality of our farm problems.

The Senator from Texas is not willing to sacrifice the farmers of Texas to an agricultural policy determined at the State Department and the Office of Management and Budget. I urge my colleagues to join with me in supporting this amendment.

Mr. BURDICK. Mr. President, I rise in support of the amendment offered by Senators HUDDLESTON and BOREN which would prohibit the Farmers Home Administration from liquidating loans to family farmers who have: First, followed good farm management practices; second, are victims of circumstances beyond their control; and third, who have a reasonable chance of repayment.

North Dakota has a strong tradition of defending its family farms, and my support of this amendment stems from a longstanding commitment to the farmers of my State to see that they are treated fairly and honestly by all agencies of the Federal Government.

In the 1930's, when thousands of farmers were at the brink of financial disaster, the North Dakota Farm Holiday Association was founded to save the family farm. By today's standards, it would be considered a radical organization for its members, which numbered about 5,000, were committed to take action to stop foreclosures and keep farmers on their land. There were instances of association members forcibly stopping sheriffs on their way to farm auctions; members could be seen at mortgage sales intimidating bidders; and the association was responsible for blockading and picketing farm marketing centers. I remember well the high degree of anger, hostility, and frustration exhibited by these farmers who felt they had nothing left to lose.

Today's farmers are faced with a similar economic situation and their feelings of frustration are no less than those farmers of the 1930's. The combination of high-interest rates and production costs, low prices, and natural disasters have resulted in an unusually high rate of Farmers Home Administration loan delinquencies. To make the situation worse, these farmers say they are being pressured into foreclosure by the very agency that was established to help them. Instead of deferring or slowing down the loan payments, I am told that the FmHA is accelerating them; instead of helping farmers avoid the worst—foreclosure and loss of the family farm—I am told the FmHA has chosen not to use the law which would allow the agency to defer payments and foreclosures.

Mr. President, I support this amendment. However, this amendment would not be necessary if the Secretary of Agriculture would choose to implement a law already on the books which the Congress passed in 1978 and was signed into law by President Carter. In Public Law 95-334, the Agriculture Credit Act of 1978, there is a special provision which deals specifically with the FmHA loan moratorium and policy on foreclosures and if implemented, would bring the immediate relief so desperately needed by those thousands of struggling farmers across this Nation who face losing their farms due to economic conditions beyond their control. As contained in the United States Code, the provision reads, in part:

The Secretary may permit, at the request of the borrower, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this chapter, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower.

This provision is also referred to in the report on the fiscal year 1983 agriculture appropriations bill, and the committee has urged the Secretary to implement it.

Mr. President, thousands of farmers are in serious trouble today and we must do our best to help them on a case-by-case basis through this time of economic distress. It is also the intent of this amendment to reiterate that the first obligation of the FmHA is to the solvency of its farmer-clients, not to their liquidation; and that this should be the primary consideration in the Secretary's determination of eligibility for deferral of loan payment and/or foreclosure. Mr. President, I fully support this amendment and enlist the support of my colleagues in adopting this important step toward preserving our family farms.

FARM CREDIT AMENDMENT

● Mr. BAUCUS. Mr. President, Senator BOREN originally intended to offer this amendment. However, his father is very ill and was due to undergo surgery today. I know that my colleague from Oklahoma feels very strongly about this amendment, and I regret that we will have to do without his usual eloquence during the consideration of the amendment.

Mr. President, this amendment requires that the Secretary of Agriculture notify all Farmers Home Administration borrowers of their rights of deferral. Also, the amendment clarifies the procedures facing FmHA borrowers should they be given notice of foreclosure.

The amendment would also reestablish the economic emergency (EE) loan program. The economic emergency loan program was authorized in the 1981 farm bill. However, the Secretary did not exercise his discretion to utilize the $600 million available, despite considerable urging from Congress.

Mr. President, this action has been talked about at great lengths in the Congress this past year. The distinguished ranking minority member of the Senate Agriculture Committee (Mr. HUDDLESTON) included a section dealing with deferral in the Huddleston resolution introduced on Agriculture Day on March 18.

I supported the Huddleston resolution and the efforts of several Members of Congress who introduced legislation relating to the farm credit problems being experienced in rural America. The amendment before us is a moderate step to take.

I think we should be very clear about what this amendment does. The amendment does not place a blanket moratorium on foreclosure of delinquent accounts at the Farmers Home Administration. The amendment

simply assures borrowers that the FmHA will stick by them through these tough economic times. This is a very minor step to be taking on behalf of FmHA borrowers and one that may be necessitated by a Federal court ruling last June.

In a class action suit filed on behalf of Georgia loan holders, U.S. district judge, Anthony Alaimo ruled that the Farmers Home Administration must clearly inform every borrower of his or her deferral opportunities. Judge Alaimo also ruled that holders of Consolidated Farm and Rural Development Act loans should have the same chances for deferrals as holders of FmHA Rural Housing loans.

But what is the real need for this clarification of FmHA policy? In the case I just mentioned, there were more than 5,000 Georgia farmers behind on loan payments to FmHA. The FmHA has more than $20 billion in loans outstanding in the United States. In my home State of Montana, as of June 30, there were roughly 4,900 borrowers under FmHA's farmer program. Of these, 1,430 are delinquent in their repayment—that is over a 29 percent delinquency rate. Nationwide, over 33 percent of the total FmHA loans were in arrears.

The latest figures I have from the Farmers Home Administration show that in the first three-quarters of this fiscal year, 4,600 farmers have been told they are being foreclosed. In the entire year of 1980, there were only 133 foreclosures.

Mr. President, I have held several meetings in Montana to discuss the farm credit situation with bankers, farmers, and small businessmen. In these meetings, it was apparent that farm operators having financial trouble were not poor operators. For example, one second-generation farmer, who has farmed for 30 years is facing the prospects of losing the family farm. His banker, neighbors, and local businessmen confirm that he is an efficient farmer that is simply suffering from low farm prices and increasing costs of production.

Everyone should be concerned about the economic crisis in agriculture today. The total farm debt is over $200 billion—that is even more than the projected Federal deficit this year. There are a growing number of reports every day in papers across the country of farm auctions, business bankruptcies, the depression in agriculture, and even stress on the farm.

The cost-price squeeze has not only hit farmers directly, but the entire rural economy. Most noticeable is the financial trouble of large companies like International Harvester and John Deere. However, every State has its own example of businesses that are in trouble because of the poor farm economy.

Mr. President, for those of my colleagues who have not had the chance to see the Chicago Tribune reprint of a series of articles from the first week in May of this year entitled, "Down On The Farm," I recommend it highly. The picture is not very bright with headlines like: "Economics Threatens Farms: Planting Debts, Not Crops" and "When Farms Get Into Trouble, U.S. Cities Also Feel The Pinch." However, perhaps the most appropriate headline reads: "Typical American Farmer Worries About Future, Determined to Survive." American farmers are determined to survive. The amendment before us is aimed at helping farmers survive the present economic crisis.

I urge my colleagues to support this modest proposal.●

OPPOSITION TO MANDATORY DEFERRAL OF FMHA LOANS

● Mrs. HAWKINS. Mr. President, I rise in opposition to this amendment for several reasons. The first reason has already been pointed out by the distinguished Senator from Mississippi, the floor manager of the bill. This amendment authorizes legislation on an appropriations bill, violating the rules of the Senate.

The second reason I am opposed to this amendment is that a mandatory deferral of loans is unnecessary. The Secretary of Agriculture already has the authority to defer, reschedule, reamortize, and subordinate loans on a case-by-case basis. In fact, the criteria for loan deferrals established by Secretary Block coincide with the provisions of this amendment. In February of this year, Secretary Block issued a directive that every effort be made to continue loans on a year-to-year basis to farmers who fulfill these requirements.

First, loans should be made to borrowers who made an honest effort to pay but cannot because of circumstances beyond their control.

Second, we should continue helping farmers who apply recommended and recognized successful production and financial management practices.

Third, farmers who have acted in good faith in trying to meet agreements with FmHA should still receive assistance.

Fourth, borrowers who carefully maintain and account for security property should not be cut off.

Finally, those who have a reasonable chance to repay any new production loans should receive them.

I believe that the Secretary ordered this directive because he is deeply concerned, as I am, that the Federal Government do everything in its power to help American farmers survive the current crisis. The fact of the matter is that the Secretary is already reamortizing, deferring, subordinating, and rescheduling the loans of hard-pressed farmers. There is no reason the Senate should now order a mandatory deferral of these loans.

The third reason I am opposed to a mandatory deferral is that I believe the great majority of America's farmers are opposed to it.

During hearings about the reauthorization of the Farmers Home Administration, the Agriculture Committee heard testimony from five leading organizations representing America's agricultural community. All but one of these groups opposed a policy of mandatory deferrals on Farmers Home loans. And, the one group that did support such an action readily agreed that the Secretary of Agriculture already has all the authority he needs to defer and reschedule these loans.

The National Farm Bureau and the National Grange both opposed mandatory deferral because they believe the Secretary already has the authority to take actions that will keep farmers in business. The Farm Bureau made the important point that this will be gravely unfair to those who must borrow from the private sector and have no opportunity for such relief.

The Farm Credit Administration, responsible for much of the private farm credit extended American agriculture, testified that it would never consider such a blanket loan deferral. In fact, the FCA indicated that this directive would strip FmHA of what is, in the most severe cases, the only action left to save farmers from financial ruin.

The Agricultural Division of the American Bankers Association testified that it believed many individuals who could repay their loans would not repay them if given the opportunity. They believed this would be a grave injustice to those farmers who must borrow from the private sector, who also face a credit squeeze, and who have no opportunity for such a deferral. Instead, the ABA believes that farm loans should be revised on a case-by-case basis. Clearly, FmHA is following just such a policy.

Even the National Farmers Union, the only farm group to support mandatory deferrals, said Farmers Home has all the authority it needs to reschedule, reamortize, and defer payment of loans.

Mr. President, the fourth reason I am opposed to this amendment is that it is clearly unfair to other Americans. To those who maintain that this amendment is necessary to save farmers from impending financial disaster, I ask, "how beneficial is an action that extends credit to someone who may never have any hope of repaying?"

To those who say this amendment is fair because farm income has reached alltime lows, I say, "Where is the equity in an action that forgives the debts of only one small part of this industry?" Surely, there are 2.2 million other farmers who would gladly allow

the burden of debt to be lifted from their shoulders. But that debt will not be lifted. They will have to continue, in the face of adverse economic conditions, to work and save and economize their operations.

I also have additional concerns relating to a revival of the economic emergency program. The economic emergency program was created in 1978 when interest rates were shooting sky high. During fiscal years 1979 through 1981 the EE program provided more than $5 billion in emergency credit to agriculture. This was a time when resources of agricultural banks were at subnormal levels, and many farmers had nowhere else to turn but to the Government for additional funds.

In 1982, though, while farm income is depressed, there is some hope that economic conditions will improve. The rate of inflation has been slowed to 3.3 percent a year. Interest rates have fallen over the last 3 months and appear to be stabilizing at levels lower than those at the end of the 1970's. The ratio of loans to deposits has improved over the last 3 years, as well. A high of 67 percent on mid-1979 loans, as a percentage of deposits, have fallen to 58 percent. Clearly, there has been an increase in available funds at private banks.

Proponents of this amendment argue that the economic emergency program is necessary to help hard-pressed farmers through their current economic difficulties. I do not believe it. During 1982, the Farmers Home Administration was not required to lend all the funds provided for farm operating loans. Furthermore, although there is a cap of $100,000 on FmHA direct loans and $200,000 on guaranteed loans, this amendment does not address this issue. This amendment, however, lowers the economic emergency loan limits and makes this program little more than an extension of the farm operating and ownership programs. If this is the intent of the amendment's supporters, I suggest that they look at the level of remaining 1982 operating funds. They will discover that additional funding is not necessary.

To conclude, Mr. President, this amendment is most unfair to millions of American farmers as well as all American taxpayers. It is also unfair to the Secretary of Agriculture who is doing everything in his power to renegotiate FmHA loans to hard-pressed farmers. It is also unfair to the constitution of the Senate because supporters of this amendment are throwing aside the time-honored rules of the Senate.

One thing this amendment is; it is a dramatic political move late in an election year. Its proponents have put this forth so they can loudly proclaim, "I care about the American farmer." I submit that if these gentlemen really cared about the American farmer, they would do far more than propose an amendment that is unnecessary and unfair.

If the Senators really care about the American farmers, they will search for constructive ways to improve his income. If they really care about the American farmer, they will actively pursue increased agricultural exports. The Senate can go ahead with the new amendments to the FIFRA. These amendments go a long way toward providing more effective, less costly and far safer chemicals for agricultural production. The Senate will move ahead with reauthorization of the CFTC. If the Senate really cares about the American farmer, it will move swiftly to pass reauthorization of the Farmers Home Administration. That way, FmHA can get on with the task of dealing with the difficult circumstances facing the American farmer. If any Senator has criticisms of these bills, as I do in some instances, they will be able to explain them here on the floor. But at least the Senate will be working on constructive solutions to real problems, not just window dressing for November 2.●

Mr. KENNEDY. Mr. President, I am pleased to give my strong support to this amendment to block farm foreclosures and alleviate the harsh and unfair impact of the recession on the Nation's farmers.

The signs of the farm crisis are stark—more than a quarter of all the loans of the Farmers Home Administration this year are delinquent. Through August 31 of the current fiscal year, there were 776 foreclosures, or twice as many as in 1981. During the same period this year, there were 5,501 voluntary liquidations.

American agriculture is the backbone of the Nation's economy. We cannot stand idle while this collapse continues. The combination of the prolonged depression in commodity prices and the record high level of interest rates is preventing more and more farmers from meeting their loan payments on time. And once farmers fall behind on existing loans, it is impossible for them to obtain new credit. The result is an endless downward spiral into delinquency, bankruptcy, and foreclosure. As agriculture falters, related industries such as the farm machinery industry are damaged, and the entire economies of rural communities are endangered.

Congress has given the administration the tools needed to ease this farm credit crisis. Under existing law, the Secretary of Agriculture has the authority to make emergency loans to farmers suffering from this economic crisis, but he has refused to use this power. No administration can afford to close its eyes to the decline of American agriculture.

The administration has repeatedly ignored earlier requests by Congress to use its authority under existing law to help the Nation's farmers. Additional delay is unacceptable. It is time for Congress to act. No farmer should lose his farm because of the failure of national economic policy. I urge the Senate to adopt the pending amendment.

Mr. HUDDLESTON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the vote on the Huddleston amendment follow the vote on the Zorinsky amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I do not want to prolong this debate, but I feel constrained to add one or two comments.

Whether or not an emergency exists on the farm today, it is not going to be cured with extra credit to farmers at this time of the year. I am fully supportive of the need for an emergency loan program. I believe it has its place in our programs that are designed to make available necessary credit to those who, through no fault of their own, are in unusual financial circumstances. But the fact is that what is going to help the plight of the American farmer more than any one thing is increased prices at market for the commodities he is producing. The farmer simply is not getting enough at market for his commodities.

We have put language in this bill to earmark $500 million out of Commodity Credit Corporation funds for use in promoting exports and helping finance export sales of agricultural commodities.

We cannot continue to let these huge amounts of unsold grains and other commodities just site there. We need to make every possible effort to move as aggressively as we can, in conjunction with and in partnership with the private sector, the private landowner, to get these grains into the stream of international commerce and thereby increase the demand for American-produced agricultural commodities. That is going to be the salvation of the American farmer, along with reasonable cutbacks in production to help balance the supply of commodities with the demand that exists both here and abroad in international markets.

So, while it could offer some help—and I am not arguing that it would not—the real challenge we are faced with today in agriculture is one that is understood by this Appropriations Committee.

Efforts have been made in this bill to provide the kinds of initiatives and allocations of resources that will enhance our ability to improve the lot of the farmer. We think many factors will have to come together to help make the farmers' opportunity for profit more likely.

We have to confront this issue today on an appropriations bill which is concerned with allocation of resources, not the writing of loan programs. But confront it we must. I hope the Senate will recognize the efforts that are being made in the bill and that there are other legislative vehicles available to implement this very program.

I hope the amendment will be rejected when we vote on it this afternoon.

Mr. President, I am prepared to yield back the time I have under the amendment, if the proponent is ready to do so.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the names of Senator BAUCUS, Senator BURDICK, Senator DECONCINI, Senator EXON, Senator INOUYE, Senator NUNN, Senator PRYOR, Senator BUMPERS, and Senator BENTSEN be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. I yield back the remainder of my time.

Mr. COCHRAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment is yielded back.

Mr. EAGLETON. Mr. President, so far as Senator COCHRAN and I know, that completes the amendments that we believe will be offered. However, there is a possibility that Senators GARN, HATCH, STEVENS, and PRESSLER may have an amendment or two which they wish to offer, and their offices are being contacted. We are not certain that they have amendments.

In any event, if those Senators do not have amendments to offer, that will conclude the bill, so far as we know, and we can vote on final passage after 2 p.m. when we dispose of the amendments that have already been stacked.

Mr. COCHRAN. Mr. President, we have just been advised that Senators HATCH, GARN, and PRESSLER will not offer amendments to the bill. We are still awaiting a response from the office of Senator STEVENS about whether or not he intends to offer an amendment. Other than a possible Stevens amendment, this Senator has no information about any other Senator who might want to offer an amendment. We would like to proceed to third reading, with deferral of the vote on final passage after 2 p.m.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on final passage, after the several amendments have been disposed of.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum, and I ask that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. By the previous order, the Senate stands in recess until the hour of 2 p.m.

The Senate, at 12 noon, recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LUGAR).

The PRESIDING OFFICER. The Chair in the capacity of the Senator from Indiana suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I believe there is an order to proceed with a series of votes, and I believe this is the time to do it.

The PRESIDING OFFICER. The Senator is correct.

DEBT COLLECTION ACT OF 1982

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a vote on H.R. 4613.

The bill, having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN) is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The results was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 359 Leg.]

YEAS—96

Abdnor	Andrews	Armstrong
Baker	Glenn	Moynihan
Baucus	Goldwater	Murkowski
Bentsen	Gorton	Nickles
Biden	Grassley	Nunn
Boschwitz	Hart	Packwood
Bradley	Hatch	Pell
Brady	Hatfield	Percy
Bumpers	Hawkins	Pressler
Burdick	Hayakawa	Proxmire
Byrd, Harry F., Jr.	Heflin	Pryor
	Helms	Quayle
Byrd, Robert C.	Hollings	Randolph
Cannon	Huddleston	Riegle
Chafee	Humphrey	Roth
Chiles	Inouye	Rudman
Cochran	Jackson	Sarbanes
Cohen	Jepsen	Sasser
Cranston	Johnston	Schmitt
D'Amato	Kassebaum	Simpson
Danforth	Kasten	Specter
DeConcini	Kennedy	Stafford
Denton	Laxalt	Stennis
Dixon	Leahy	Stevens
Dodd	Levin	Symms
Dole	Long	Thurmond
Domenici	Lugar	Tower
Durenberger	Matsunaga	Tsongas
Eagleton	Mattingly	Wallop
East	McClure	Warner
Exon	Melcher	Zorinsky
Ford	Metzenbaum	
Garn	Mitchell	

NAYS—2

Mathias	Weicker

NOT VOTING—2

Boren	Heinz

So the bill (H.R. 4613), as amended, was passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1983

The Senate continued with the consideration of the bill, H.R. 7072.

Mr. STEVENS. Mr. President, there are five votes here in a row. I ask unanimous consent that on the third, fourth, and fifth votes there be a 10-minute time limit. That means that the next vote will be 15 minutes but Members will be on notice that after the next vote the following three votes will be 10 minutes.

The PRESIDING OFFICER. There were only four votes that had been ordered in a row.

Mr. STEVENS. That is correct, but we just had one.

The PRESIDING OFFICER. Including this one. There are three more votes.

Mr. STEVENS. We were counting final passage as the fifth vote, Mr. President.

The PRESIDING OFFICER. There is still time remaining on the bill.

Mr. STEVENS. Very well. I make the request just for the third and fourth votes at this time and serve notice that on final passage unless there is time to be consumed we will

ask that that be a 10-minute vote also, but not at this time.

The PRESIDING OFFICER. Is there objection? If not, without objection, it is so ordered.

VOTE ON UP AMENDMENT NO. 1303

The question is on agreeing to the Armstrong unprinted amendment No. 1303. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN) is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 69, nays 29, as follows:

[Rollcall Vote No. 360 Leg.]

YEAS—69

Armstrong	Hart	Nickles
Baucus	Hatch	Packwood
Bentsen	Hatfield	Pell
Bradley	Hawkins	Percy
Brady	Hayakawa	Pressler
Bumpers	Helms	Proxmire
Burdick	Hollings	Quayle
Byrd, Harry F., Jr.	Humphrey	Randolph
	Jepsen	Riegle
Byrd, Robert C.	Johnston	Roth
Cannon	Kassebaum	Rudman
Chafee	Kasten	Sarbanes
Chiles	Kennedy	Schmitt
D'Amato	Leahy	Simpson
Danforth	Levin	Stafford
DeConcini	Long	Stevens
Denton	Lugar	Symms
Domenici	Mathias	Tsongas
Durenberger	Mattingly	Wallop
Exon	McClure	Warner
Garn	Melcher	Weicker
Goldwater	Mitchell	Zorinsky
Gorton	Moynihan	
Grassley	Murkowski	

NAYS—29

Abdnor	Dole	Matsunaga
Andrews	Eagleton	Metzenbaum
Baker	East	Nunn
Biden	Ford	Pryor
Boschwitz	Glenn	Sasser
Cochran	Heflin	Specter
Cohen	Huddleston	Stennis
Cranston	Inouye	Thurmond
Dixon	Jackson	Tower
Dodd	Laxalt	

NOT VOTING—2

Boren	Heinz

So the amendment (UP No. 1303) was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON UP AMENDMENT NO. 1304

The PRESIDING OFFICER. The vote now occurs on unprinted amendment No. 1304 offered by the Senator from Nebraska (Mr. ZORINSKY). The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN) is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 50, as follows:

[Rollcall Vote No. 361 Leg.]

YEAS—48

Abdnor	Exon	Levin
Andrews	Ford	Long
Baucus	Glenn	Matsunaga
Bentsen	Grassley	Melcher
Biden	Hart	Metzenbaum
Boschwitz	Hatch	Nickles
Bradley	Heflin	Nunn
Bumpers	Hollings	Pressler
Burdick	Huddleston	Pryor
Byrd, Robert C.	Inouye	Randolph
Cranston	Jackson	Riegle
DeConcini	Jepsen	Sarbanes
Dixon	Johnston	Sasser
Dodd	Kassebaum	Stennis
Durenberger	Kennedy	Tsongas
Eagleton	Leahy	Zorinsky

NAYS—50

Armstrong	Goldwater	Pell
Baker	Gorton	Percy
Brady	Hatfield	Proxmire
Byrd, Harry F., Jr.	Hawkins	Quayle
	Hayakawa	Roth
Cannon	Helms	Rudman
Chafee	Humphrey	Schmitt
Chiles	Kasten	Simpson
Cochran	Laxalt	Specter
Cohen	Lugar	Stafford
D'Amato	Mathias	Stevens
Danforth	Mattingly	Symms
Denton	McClure	Thurmond
Dole	Mitchell	Tower
Domenici	Moynihan	Wallop
East	Murkowski	Warner
Garn	Packwood	Weicker

NOT VOTING—2

Boren	Heinz

So Mr. ZORINSKY's amendment (UP No. 1304) was rejected.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1305

Mr. HELMS. Mr. President, although I certainly sympathize with the intent of my distinguished colleague in offering this provision, the fact remains that the amendment is not in order on an appropriations bill because of legislation contained in a general appropriations bill. I shall make a parliamentary inquiry of the Presiding Officer in that regard in a moment. I think I know what the response will be.

The Secretary of Agriculture has aggressively pursued a policy of forbearance for delinquent borrowers. He already has the authority to defer payments of Farmers Home Administration loans for up to 3 years and can forgo action on foreclosures. Also, the Secretary may reschedule operating loans and reamortize real estate loans.

Mr. President, these authorities have been used by the Farmers Home Administration on a case-by-case basis, as they should be, to insure that the interests of both the borrower and the Government are protected. Many erroneous reports would have us believe that the Secretary is engaging in some heinous plot to foreclose on farmers temporarily falling on hard times. Of course, we know that this is not the case—in fact, the opposite is true. Secretary Block has instructed the Farmers Home Administration to use all the means at its disposal to assist farmers experiencing difficulty in repaying loans.

Approximately 3,500 borrowers have received deferrals and 12,000 others have been granted a rescheduling of payments this year to help them remain in business. Total foreclosures during this fiscal year, through August, totaled 776—only one-fourth of 1 percent of all farmers having loans with the FmHA.

However, it is essential to provide the FmHA with the flexibility it must have to effectively service their loans. This would require that the Secretary continue to possess discretionary authority to use these servicing tools, but not to mandate that they be used in all cases. Careful review, on an individual basis, provides the best possible manner in which to assist borrowers experiencing problems with their credit situation.

Overall delinquency of FmHA farm loans was 58 percent in January 1981 when this administration took office and it was down to 25 percent in August of this year. This should be evidence enough that the aggressive actions taken by the Secretary are working to help delinquent borrowers.

The Department of Agriculture estimates that deferrals will cost the Government about $13 million for every $100 million deferred. There are approximately 271,000 borrowers under FmHA farmer programs with outstanding loans totaling over $22 billion. Of course, it is impossible to calculate how many of these borrowers might request deferment under the proposed legislation, but it is easy to see the potential budgetary impact that will result from an across-the-board deferral.

In a worst-case situation, we would have a program that costs over $2.5 billion. Even if only half of present borrowers request deferment, we are going to have a financial impact of monstrous proportions.

Let us just suppose for a moment that we did have that kind of money to spend for agricultural programs—and I do not believe any of us really thinks so. What would be the most beneficial way to spend that kind of

money—between $1.5 and $3 billion? I think we should look into export credit buy-downs and other programs to assist farmers to earn real profits in the marketplace. There is just no way that spending a huge sum of money for a mandatory deferral is going to produce the necessary bottomline—farmers need adequate returns on their investment and labor through increased commodity prices.

Earlier this year the Agriculture Committee and the Congress adopted my proposal to encourage agricultural exports and provide cash flow assistance to farmers by instructing the Secretary of Agriculture to use at least $175 million and not more than $190 million of CCC funds to enhance American exports. There is no question that this provision should help strengthen the agricultural economy both domestically and in international trade.

The Congressional Budget Office estimated the cost associated with this program if these funds were used to buy down rates on 10-year term export credit loans. CBO projects that this would stimulate $500 million in additional exports for $1 billion in additional credit in 1983, $450 million in additional exports in 1984, and $400 million in additional exports in 1985. The CBO further estimated that these additional exports to be 30 percent wheat, 30 percent corn, 15 percent soybeans, 10 percent cotton, 8 percent rice, and 7 percent other commodities. The additional exports are projected to increase prices and result in commodity program savings of $291 million, $239 million, $183 million in fiscal years 1983 through 1985.

Mr. President, I wish we had the money to provide all of the programs which would assist farmers. But the hard fact is that we do not. The point I have tried to make is that we must target every available dollar toward programs that will increase farmers' profits.

The Farmers Home Administration is already taking every response action, including those mentioned in this amendment, to help farmers relieve some of their credit burden. However, it must be emphasized that these procedures now available to FmHA can only be managed effectively on a case-by-case, individual basis.

An extension of the economic emergency loan program will cause similar budgetary problems. USDA has insisted all along that sufficient operating loan funds will be available in fiscal year 1983 to provide for necessary credit demand. As of August 31, 1982, over $175 million remained in farm operating loan funds for the remainder of this fiscal year and it appears a similar situation should exist next year.

Reauthorization of the economic emergency loan program will provide $600 million to make loans for purposes already covered under the farm ownership and farm operating programs. These programs will be adequately funded for the next fiscal year.

As I have already stated, we simply do not have $600 million to put into this program. If we did have the money, it would be of far greater assistance to farmers to put it into programs to help them make a profit by increasing farm prices.

I know that my colleagues are sincere in offering this amendment and share deeply their concern for the present plight of our farmers. However, we must resist the impulse to rush into a program which may cost untold billions and provide only questionable results. Most importantly, it does not address the causes of our agricultural problems—low commodity prices and high interest rates. In fact, Government borrowing to cover these programs would be like throwing gasoline on the fires of inflation. We simply cannot afford to do the things required by this legislation.

Mr. President, I would like to read a portion of a letter I received on this matter from the American Farm Bureau Federation and will ask for unanimous consent that the entire letter be printed at the conclusion of my remarks.

Farm Bureau would like to take this opportunity to comment on the Senate Agriculture Committee's bill which mandates USDA hold off on farm foreclosures and defer payments on Farmers Home Administration loans.

* * * * *

Farm Bureau opposes the bill's provision mandating the deferral of payments on FmHA loans when a borrower meets certain criteria. The present discretionary authorities for rescheduling, reamortizing, deferring and carrying delinquent accounts in lieu of foreclosures are sufficient for FmHA to service accounts on a case-by-case basis. Mandatory deferral requirements would create huge administrative problems and be very costly as many borrowers would attempt to take advantage of the provisions, whether or not they need the assistance.

Farm Bureau also opposes mandatory use of the Economic Emergency loan funds. We continue to support discretionary use of a $600 million fund, but cannot support mandating the Secretary use funds at this time.

Mr. President, I ask unanimous consent that the entire letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C. September 27, 1982.

Hon. JESSE HELMS,
Chairman, Senate Agriculture Committee, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR HELMS: Farm Bureau would like to take this opportunity to comment on the Senate Agriculture Committee's bill which mandates USDA hold off on farm foreclosures and defer payments on Farmers Home Administration loans.

The American Farm Bureau Federation is the nation's largest general farm organization with a membership of over three million families in 48 states and Puerto Rico. Farm Bureau members produce virtually every type of commodity grown on a commercial basis in the country. Farm Bureau policy is developed by the producer members at the county, state and national levels of the organization.

Farm Bureau opposes the bill's provision mandating the deferral of payments on FmHA loans when a borrower meets certain criteria. The present discretionary authorities for rescheduling, reamortizing, deferring and carrying delinquent accounts in lieu of foreclosures are sufficient for FmHA to service accounts on a case-by-case basis. Mandatory deferral requirements would create huge administrative problems and be very costly as many borrowers would attempt to take advantage of the provisions, whether or not they need the assistance.

Farm Bureau also opposes mandatory use of the Economic Emergency loan funds. We continue to support discretionary use of a $600 million fund, but cannot support mandating the Secretary use the funds at this time.

Thank you for your consideration of our comments.

Sincerely,

JOHN C. DATT,
Secretary and Director.

VOTE ON UP AMENDMENT NO. 1305

The PRESIDING OFFICER. The vote will now occur on unprinted amendment No. 1305, offered by the Senator from Kentucky (Mr. HUDDLESTON).

Mr. HELMS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Is the amendment in order under rule XVI?

The PRESIDING OFFICER. The amendment would be subject to a point of order under rule XVI.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. It is a new item on appropriation, not protected by the exceptions.

Mr. COCHRAN. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Kentucky. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) and the Senator from New Jersey (Mr. BRADY) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN) is absent because of illness in the family.

The PRESIDING OFFICER (Mr. ANDREWS). Are there any other Senators in the Chamber who desire to vote?

The result was anounced—yeas 37, nays 60, as follows:

[Rollcall Vote No. 362 Leg.]

YEAS—37

Armstrong	Gorton	Pell
Baker	Hatfield	Percy
Byrd,	Hawkins	Proxmire
Harry F., Jr.	Hayakawa	Quayle
Chafee	Helms	Rudman
Cochran	Humphrey	Simpson
Cohen	Laxalt	Specter
D'Amato	Lugar	Stafford
Denton	Mathias	Stevens
Dole	Mattingly	Symms
East	McClure	Warner
Garn	Murkowski	Weicker
Goldwater	Packwood	

NAYS—60

Abdnor	Exon	Melcher
Andrews	Ford	Metzenbaum
Baucus	Glenn	Mitchell
Bentsen	Grassley	Moynihan
Biden	Hart	Nickles
Boschwitz	Hatch	Nunn
Bradley	Heflin	Pressler
Bumpers	Hollings	Pryor
Burdick	Huddleston	Randolph
Byrd, Robert C.	Inouye	Riegle
Cannon	Jackson	Roth
Chiles	Jepsen	Sarbanes
Cranston	Johnston	Sasser
Danforth	Kassebaum	Schmitt
DeConcini	Kasten	Stennis
Dixon	Kennedy	Thurmond
Dodd	Leahy	Tower
Domenici	Levin	Tsongas
Durenberger	Long	Wallop
Eagleton	Matsunaga	Zorinsky

NOT VOTING—3

Boren	Brady	Heinz

So the motion to lay on the table Mr. HUDDLESTON's amendment (UP No. 1305) was rejected.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I observe that that is a fairly decisive margin. I wonder, then, if there is still a need for a rollcall vote on the underlying amendment.

I ask unanimous consent, Mr. President, that the rollcall vote ordered on the amendment itself be vitiated.

The PRESIDING OFFICER. Is there objection? Hearing no objection, the unanimous-consent request is agreed to.

The question is on agreeing to the amendment of the Senator from Kentucky (Mr. HUDDLESTON).

The amendment (UP No. 1305) was agreed to.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

UP AMENDMENT NO. 1306

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1306.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following: That section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) is amended by adding at the end thereof the following new sentence: "The Secretary shall require—

"(1) that milk in final package form for leverage use shall contain not less than 12.2 percent total milk solids (including milk fat and milk solids not fat);

"(2) that lowfat milk in final package form for beverage use that—

"(A) has a milk fat content of, within limits of good manufacturing practice, not over 1 percent by weight shall contain not less than 11 percent total milk solids (including milk fat and milk solids not fat), or

"(B) has a milk fat content of, within limits of upon manufacturing practice, not over 2 percent by weight shall contain not less than 12 percent total milk solids (including milk fat and milk solids not fat); and

"(3) that skim milk in final package form for beverage use shall contain not less than 9.25 percent total milk solids (including milk fat and milk solids not fat).".

Mr. HAYAKAWA. Mr. President, as a member of the Senate Agriculture Committee, I have come to learn much about the dairy industry and its dairy price support program. It seems to be a topic which we have been unable to get away from for the past couple of years—and for good reason. The spending involved has reached appalling levels.

In order to maintain the legislated price for dairy products, the Government has had to purchase enormous amounts of surplus. We as taxpayers, own the following surplus dairy products: Approximately 400 million pounds of butter, 700 million pounds of cheese, and over 1 billion pounds of nonfat dry milk. It we were to distribute all of this surplus, there would be nearly 2 pounds of butter, 3 pounds of cheese, and over 4 pounds of milk for every man, woman, and child in this country.

The cost of the dairy price support program has been just as staggering. In 1979, it cost the Government $46 million for the entire fiscal year. Today, it costs the Government nearly the same amount every week. This program required nearly $2 billion last year, and will probably cost as much, if not more, this year.

Fortunately, this year Congress has made some significant strides toward bringing the spending involved with this program under control. However, this issue should not be considered closed. In these times of economic duress, I believe we all have an obligation to consider serious changes aimed at reducing the expenditures incurred by this program.

With this in mind, I am proposing a unique amendment. It is unique because it will reduce program expenditures significantly, and at the same time, command the support of both producers and consumers.

As many of my colleagues know, since the early 1970's California has had higher component standards for fresh milk than were required by the Federal Government. In order to meet these higher standards, California processors generally have had to fortify their product by adding nonfat dry milk delivered from the farm. Thus, under the higher standards, it takes more milk from a cow to make a gallon of fresh milk for public sale.

Specifically, my amendment would bring the Federal standards for total standards basically up to the levels for total solids now in effect in California.

I ask unanimous consent that a table comparing the standards be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[Minimum]

Types	Current U.S. standards (percent):			Current California standards (percent)			Hayakawa standards (percent)		
	BF	SNF	Total	BF	SNF	Total	BF	SNF	Total
Whole	3.25	8.25	11.50	3.5	8.7	12.2	3.25	8.25	12.2
Lowfat	0.5–2.0	8.25	8.75–10.25	2.0	10.0	12.0	0.5–2.0	8.25	11.0–12.0
Nonfat	0—.5	8.25	8.25—8.75	0.25	9.0	9.25	0–0.5	8.25	9.25

Mr. HAYAKAWA. Mr. President, it is important to remember that my proposal does not increase the minimum standards for either component, leaving the processor with the option of increasing either the butterfat content

or the solids not fat content in order to meet the requirement for total solids. With the cost of butterfat being so much greater than that of nonfat solids, consumers can be sure that the fat content of fresh milk will not increase. In addition, because the current Federal minimums for butterfat will remain intact, consumers will continue to have the same varieties from which to choose.

If our experience in California is any indication, these higher standards will present consumers with a more nutritious and better tasting product. Consumers, in turn, should react by improving their consumption of milk. Furthermore, because the higher standards require that more product be used in each carton sold, my proposal should result in an increase in the amount of product consumed by the public, and thus reduce Government expenditures for surplus dairy products.

One of the great advantages of my proposal is that it will bring consumers a more nutritious product. Following are three tables which show the nutritional value of an 8-ounce glass of milk under both current law and under my proposed standards. For each type of milk; whole, lowfat, and nonfat, my proposed standards resulted in a significant increase in protein, vitamins, and minerals. The most staggering increase comes for the increasingly popular lowfat milk. Those who buy this type of milk would obtain a 33-percent increase in nutrients under the proposed standards.

Mr. President, I ask unanimous consent that these tables be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

NUTRIENT CONTENT OF FLUID MILK PRODUCTS—8-OZ WHOLE MILK

Nutrient	Current law, 3.25–8.25	Percent increase	Hayakawa proposal, 3.25–8.95
Energy (kcal)	144.387	4.3	150.7237
Protein (g)	7.6494	8.4	8.2984
Fat (g)	7.93	.....	7.93
Carbohydrate, total (g)	10.7897	8.4	11.7052
Ash (g)	1.6708	8.4	1.8126
Minerals:			
Calcium (mg)	277.794	8.4	301.3644
Iron (mg)	.1208	8.4	.1310
Magnesium (mg)	32.208	8.4	34.9408
Phosphorus (mg)	217.404	8.4	235.8504
Potassium (mg)	352.275	8.4	382.165
Sodium (mg)	144.741	8.4	124.4766
Zinc (mg)	.8857	8.4	.9609
Vitamins:			
Ascorbic acid (mg)	2.174	8.4	2.3585
Thiamin (mg)	.0886	8.4	.0961
Riboflavin (mg)	.3764	8.5	.4084
Niacin (mg)	.1953	8.4	.2118
Niacin equivalents (mg)	1.9868	8.4	2.1554
Pantothenic acid (mg)	.7287	8.4	.7905
Vitamin B_6 (mg)	.0966	8.4	.1048
Folacin (mcg)	12.078	8.4	13.1028
Vitamin B_{12} (mcg)	.8294	8.4	.8997
Vitamin A (RE)	73.749	.....	73.749
Vitamin A (IU)	298.961	.....	298.961
Cholesterol (mg)	31.72	.....	31.72

NUTRIENT CONTENT OF FLUID MILK PRODUCTS—8 OZ. 2-PERCENT LOW FAT

Nutrient	Hayakawa proposal, 2.0–10.0	Current law, 2.0–8.25	Percentage increase
Energy (kcal)	133.4192	117.5775	13
Protein (g)	9.272	7.6494	21
Fat (g)	4.88	4.88	.....
Carbohydrate, total (g)	13.0784	10.7897	21
Ash (g)	2.0252	1.6708	21
Minerals:			
Calcium (mg)	336.72	277.794	21
Iron (mg)	.1464	.1208	21
Magnesium (mg)	39.04	32.208	21
Phosphorus (mg)	263.52	217.404	21
Potassium (mg)	427.00	352.275	21

NUTRIENT CONTENT OF FLUID MILK PRODUCTS—8 OZ. 2-PERCENT LOW FAT—Continued

Nutrient	Hayakawa proposal, 2.0–10.0	Current law, 2.0–8.25	Percentage increase
Sodium (mg)	139.08	114.741	21
Zinc (mg)	1.0736	.8857	21
Vitamins:			
Ascorbic acid (mg)	2.6352	2.174	21
Thiamin (mg)	.1074	.0886	21
Riboflavin (mg)	.4563	.3764	21
Niacin (mg)	.2367	.1953	21
Niacin equivalents (mg)	2.4083	1.9868	21
Pantothenic Acid (mg)	.8833	.7287	21
Vitamin B_6 (mg)	.1171	.0966	21
Folacin (meg)	14.64	12.078	21
Vtiamin B_{12} (mcg)	1.0053	.8294	21
Vtiamin A (RE)	45.384	45.384	.....
Vitamin A (IU)	183.976	183.976	.....
Cholesterol (mg)	19.52	19.52	.....

NUTRIENT CONTENT OF FLUID MILK PRODUCTS—8-OZ. NONFAT

Nutrient	Hayakawa proposal, 0.25–9.0	Current law, 0.25–8.25	Percentage increase
Energy (kcal)	86.8335	80.0442	8.4
Protein (g)	8.3448	7.6494	9.0
Fat (g)	.61	.61	.....
Carbohydrate, total (g)	11.7706	10.7897	9.0
Ash (g)	1.8227	1.6708	9.0
Minerals:			
Calcium (mg)	303.048	277.794	9.0
Iron (mg)	.1318	.1208	9.0
Magnesium (mg)	35.136	32.208	9.0
Phosphorus (mg)	237.168	217.404	9.0
Potassium (mg)	384.30	352.275	9.0
Sodium (mg)	125.172	114.741	9.0
Zinc (mg)	.9662	.8857	9.0
Vitamins:			
Ascorbic acid (mg)	2.3717	2.174	9.0
Thiamin (mg)	.0966	.0886	9.0
Riboflavin (mg)	.4107	.3764	9.0
Niacin (mg)	.2130	.1953	9.0
Niacin equivalents (mg)	2.1675	1.9868	9.0
Pantothenic acid (mg)	.795	.7287	9.0
Vitamin B_6 (mg)	.1054	.0966	9.0
Folacin (mcg)	13.176	12.078	9.0
Vitamin B_{12} (mcg)	.9048	.8294	9.0
Vitamin A (RE)	5.673	5.673	.....
Vitamin A (IU)	22.997	22.997	.....
Cholesterol (mg)	2.44	2.44	.....

ANNUAL PER CAPITA SALES OF FLUID WHOLE, LOWFAT, AND SKIM MILK PRODUCTS, FEDERAL MILK ORDER MARKETS AND CALIFORNIA (POUNDS)

	Whole		Low fat		Skim		Total	
	Federal order	California	Federal order	California	Federal order	California	Federal order	California
1971	173.9	201.2	36.8	39.7	10.0	15.3	220.7	256.2
1972	173.8	202.8	40.8	46.2	11.4	16.7	226.0	265.7
1973	167.7	198.3	44.3	50.7	13.0	17.2	225.0	266.2
1974	157.1	190.2	48.0	57.5	13.0	18.0	218.1	265.7
1975	154.4	184.6	56.4	63.6	10.1	18.8	220.8	267.0
1976	145.1	184.0	58.4	69.5	10.0	18.6	213.5	272.1
1977	147.3	178.4	70.0	75.3	10.7	18.6	228.0	272.3
1978	143.5	174.3	74.1	78.3	10.5	17.8	228.0	270.3
1979	139.7	169.3	77.9	81.9	11.0	17.1	228.7	268.2
1980	122.1	155.2	74.6	83.4	10.2	16.3	206.9	254.9
1971–80 percent change	−29.8	−22.9	+102.7	+110.1	+2.0	+6.5	−6.3	−.5
Percent of total sales:								
1971	78.8	78.5	16.7	15.5	4.5	6.0	.....	.....
1980	59.0	60.9	36.1	32.7	4.9	6.4	.....	.....

Population figures source: Federal Milk Order Market statistics, 1980 annual summary, table 2, USDA Agricultural Marketing Service and California Dairy Industry statistics, 1980, table 62, California Department of Food and Agriculture.

Mr. HAYAKAWA. Besides increasing the nutritional value of milk, the proposed standards also result in a markedly better tasting product. A study done by the University of Arizona found that the reason why the California standards have been so successful is that the resultant products taste better and attract additional consumers. In fact, independent research has shown that consumers can detect changes of this magnitude and prefer the higher standards.

This proposal, by both raising the standards, and mandating a study by the USDA of FDA enforcement of standards, will help protect consumers from unknowingly purchasing watered down milk. An article in the June 1982 issue of Consumer Reports observed how although intended as floors, those (current U.S. milk solids) limits have instead pretty well become ceilings—different batches of milk are often blended to lower the fat or solids content to the legal minimums.

"Since fats and solids are," the article continues, "a yardstick of milk's economic value, consumers can easily be fleeced without even knowing it. And according to a study reported in the article, consumers are being fleeced by the processors. Of the milk samples surveyed it was found that

about 28 percent did not contain enough fat to meet the standards of the State in which they were bought, and 30 percent fell short in total solids, nonfat solids, or both. This shortfall of solids," the article continues, "means that a good number of samples would shortchange milk drinkers both in flavor and nutritional value."

As one might expect, consumers should react to these advances in product quality by increasing their purchases of milk. This correlation between milk quality and consumption is well substantiated by California's experience with the higher standards. For example, in 1980, the California shopper purchased 23.2 percent more milk than the average American.

Yet, it is not just in California where quality is correlated with consumption. An editorial in the June 25 issue of the industry publication Holstein World acknowledges the importance of producing a quality product, suggesting that it is part of a challenge which offers the only basis for long-term stability in the industry. A Cornell University study showed a 30-percent drop in milk consumption in areas where schoolage children had poorer quality milk to drink. And Consumer Reports concluded in its June 1982 article that regulations that improve milk's flavor and quality, might, in the end, be a boon to dairies as well as consumers in an era of declining milk production.

Thus, because of their higher standards, California has saved the Federal Government hundreds of millions of dollars in purchases of surplus dairy products. In 1980 alone, these standards were responsible for California consumers using 46 million pounds of nonfat dry milk (NFDM), or 0.5 billion pounds milk equivalent that otherwise would have been sold to the Commodity Credit Corporation (CCC). Acquisition of this product alone, not including subsequent storage costs, would have cost the Government $41 million.

When one considers that California makes up but 11.37 percent of the fluid milk market in the United States, it becomes apparent how much my proposal can produce in savings for the Federal Government. If the savings which Califonria produced in 1980 were extrapolated nationwide, it can be estimated that the CCC would have been relieved of the obligation to purchase and store 404 million pounds of nonfat dry milk, or 4.7 billion pounds milk equivalent. This would have produced an estimated savings of $360 million for the purchase of the product alone.

What I have here, I believe, is a rare proposal—one that works to the advantage of all affected by the dairy price support program. For consumers, it means a better tasting, and substantially more nutritious product. For taxpayers, it means having to pay less for dairy price supports. And for the dairy farmers, it means both an increase in demand for their product, and a chance to address the dairy issue in a positive fashion.

Mr. President, I ask for the immediate consideration of this amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HAYAKAWA. Mr. President, I yield to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, let me say to the able Senator from California that I was in his State a few weeks ago and I traveled from Sacramento all the way down. I think I talked to every dairy farmer there. I can assure you there is honest support for this amendment.

Mr. HAYAKAWA. I yield to the Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I rise in support of the amendment of the Senator from California. California has done some very interesting things with respect to milk which has indeed increased consumption there. As the able Senator has pointed out, it has increased a great deal the usage of nonfat dried milk.

Mr. President, without advertising the product on the floor of the Senate, if you go out and buy 2-10 milk, which is 2 percent butterfat and 10 percent solids, which is sold here locally by Safeway, you will find the milk at 2 percent butterfat—approximately half of what normal milk has—nevertheless has the same rich taste that whole milk does because of the additional nonfat dry milk.

As a matter of fact, if you take skim milk and add nonfat milk to it you can make it taste a good deal richer and make it a good deal more acceptable.

That is what the able Senator from California is trying to do, to raise the standards of milk.

I must tell you, Mr. President, I have found this to be very widely accepted in my State among dairy farmers. The net effect would be that it will use a great deal of nonfat dried milk and the effect of that, of course, would be that the CCC would have to purchase less. The cost of the dairy program would be reduced as a result.

Therefore, it is with pleasure that I support the able Senator from California and ask that I be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I am reluctant to rise to oppose the amendment offered by the Senator from California. I know he is offering the amendment, because he is convinced that it will have a good effect on the efforts to try to reduce the cost to the Government of the dairy price support program. But the fact of the matter is that what we would be doing, if we agreed to this amendment, is substituting an opinion by this body for a decision of the Food and Drug Administration as to standards in milk, nationwide. It is not appropriate, in this Senator's judgment, for us, at this point, on an appropriations bill that provides funding of resources for Department of Agriculture activities, to be legislating a new milk standard for the United States. That is what we are being asked to do.

We did have hearings in the Senate committee earlier this year about changes and alternatives for the dairy program so as to try to reduce the surplus of milk, encourage consumption, and reduce the cost of the milk program to the Government.

During the course of that testimony, there was a suggestion that by changing the milk standards, you might have the effect of increasing the sale of milk solids, by including more milk solids in a gallon of milk.

What is not known is the effect it would have on consumers. First of all, prices would go up. Milk is going to cost more if it has more solid content, so people who do not have the financial resources, as they might in some areas of California, to come up with these fancy prices for some of the milk just are not going to buy the milk. They will go to some alternative drink or just not drink milk at all.

There is this question, Mr. President, that has not been resolved. The Milk Industry Foundation opposes this legislation for that reason. Also, it is legislation.

Let me suggest to the Senate that we are not really here in a committee forum having a hearing and taking testimony to pass legislation. This is an appropriations bill. We are trying to allocate our resources fairly and equitably among the various, different functions of the Department of Agriculture and related agencies.

I hope the Senate will not lose sight of what we are doing here. While there may be a great deal of merit to the argument of the Senator from California and the distinguished Senator from Minnesota as well, it is just not appropriate to try to work out these issues in this forum on this appropriations bill.

Mr. President, I urge the Senate to reject the amendment and, at the appropriate time, when Senators have discussed the issue to their satisfaction, it is my intention to move to lay the amendment on the table.

Mr. HAYAKAWA. Mr. President, the cost should be minimal, so minimal in fact, that it has not been an issue.

If there is anyone who benefits from this the most, it is probably the con-

sumer. For a slight increase in price, the consumer will see the nutritional value of milk increase by as much as 21 percent.

Strengthening milk standards has long been a goal of consumer groups. In fact, the first recommendation made by Consumer Reports in their article on milk quality was "Establish mandatory nationwide dairy standards." This magazine is published by Consumers' Union, as you know, Mr. President—the largest consumer group in the Nation.

After all, consumers are going to pay for the milk in one fashion or the other—either they will pay for the Government to buy it and store it, or they can pick it up in the grocery store as a more nutritious and better tasting product.

The FDA does not even enforce the current standards. That is a very important point. A recent study showed that 50 percent of tested milk was watered down. This is an economic issue, an issue which is under our purview.

I thank the Chair. I yield to the distinguished Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I ask the distinguished subcommittee chairman, the Senator from Mississippi to hear me for a moment. He knows how I respect him in this general area.

I must say I agree with him that most of the issues that are presented to us are fairly complicated and difficult to deal with on the floor. Because I have worked in this area, I do agree with the Senator from California. This is why I support him. I have held my own hearings, so to speak, and have looked into the issue myself.

There is no question that it may increase the price. However, if there is any evidence that it decreases consumption, I am not aware of that. As a matter of fact, California is one of the few areas where there has been a reversal of the sliding consumption of milk. One of the reasons is that they have presented not only other types of products, but also, they have presented to their consumers a more wholesome product than we find in the rest of the country, with the result that milk consumption in California has actually gone up a little bit in recent years.

For those reasons, addressing myself to that point specifically, I do indeed support my distinguished colleague from California.

Mr. COCHRAN. Mr. President, I appreciate the remarks of the Senator from Minnesota. He remembers, as do others, that we spent a good deal of time this year talking about ways to improve the dairy program, to reduce the cost of the program to the Government, and to do something to relieve the overproduction that is plaguing the dairy industry right now. If this were such a good idea, my question is, "Why was it not brought up and offered to the committee as an alternative when we were considering changes in the dairy program?" I know the Senator took a lead in presenting the position of the Milk Industry Foundation in the committee. This is something that was suggested for the committee to do in changing the law.

Another response I am constrained to make to the Senator is I do not know whether he considers milk in the same way he would other commodities that are for sale on the open market. When we were dealing with the energy problem, one of the arguments for taking regulations off the price of energy products—gasoline, heating oil, and all the rest—was that, as prices went higher, people were going to be forced to conserve because they could not afford to buy as much at the higher prices.

Coming from the poorest State in the Nation, I can assure the Senator that people are not going to be able to afford to buy milk at higher prices or in quantities they buy now, simply because their pocketbooks cannot stand it. Their limited budget for food and other expenditures cannot stand it. That may not be a problem in some States. It certainly is a problem in the poorer States.

I suggest it does not necessarily mean that increasing the consumption of milk does not mean the price will go up. When the price goes up, you sell less. That may apply to plywood, too.

Just because it is happening in California does not mean it is going to happen in Alabama or Mississippi or some of the other States that are not blessed with all the resources people may have in California.

I am not arguing this issue from a competitive viewpoint. I am simply saying this is legislation. The Senators are asking the Senate to rewrite the Food and Drug Administration's standards on milk nationwide without adequate hearings on it.

We had one witness who testified on this subject. He might be right. But there were no other persons who were interested enough or thought this should be done to come to the committee and offer that as a suggestion. It never has been brought up in the Agriculture Committee as a change that ought to be made by law. But here, on an appropriations bill, we find there is this magic solution to the dairy program problem. Where has it been all the time? I think we should have heard about it earlier. It is not fair to ask the Senate to vote on this, as complicated as it is.

I suggest the appropriate thing to do is move to table the amendment when the Senators have completed their discussion.

Mr. HAYAKAWA. Mr. President, I yield to the distinguished Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I must tell the Senator from Mississippi that we were prepared in committee to go ahead with this amendment. Due to my absence one day, it was not introduced. It was going to be part of the bill that we were introducing, as the Senator will recall.

I would not represent this to be a solution by any means to the dairy problem. It is just that it would be a part of the solution to the dairy problem.

This would increase the prices, without question, and the Senator is quite right that in the commodity I am most familiar with that he mentioned, plywood, in the event the price rises, we probably will sell less and vice versa.

This is a rather nominal price rise, however, and in the event of a nominal price rise, my experience has been that demand is not too much impacted.

This is a price rise of somewhere between 1 and 3 percent, depending on what type of product we are talking about.

I yield the floor.

The PRESIDING OFFICER. All the time of the Senator from California has expired. The Senator from Mississippi has 8 minutes and 32 seconds.

Mr. METZENBAUM. Will the Senator from Mississippi yield me 1 minute?

Mr. COCHRAN. If he will not talk too long.

I yield to the Senator from Ohio.

Mr. METZENBAUM. Would the Senator from California be good enough to advise what he thinks the price would be on a per gallon basis, a per quart basis, or any other amount he thinks appropriate, or the total cost to the consumers of the country?

Mr. HAYAKAWA. Specifically, Mr. President, the increase will be 2.5 cents a gallon for whole milk, 5.5 cents for low-fat milk and 1.5 cents for nonfat milk. The difference is very, very little.

Mr. METZENBAUM. Does he have any idea of the total cost?

Mr. HAYAKAWA. The point I would like to make to the distinguished Senator from Mississippi is that with this small difference in price, the important thing is the consumption.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. HAYAKAWA. Consumption goes up considerably——

Mr. COCHRAN. Mr. President, I refuse to yield further. I feel we have discussed it enough.

The PRESIDING OFFICER. The Senator has not yielded time.

Mr. COCHRAN. Mr. President, I feel we have discussed it enough. Unless there are Senators who feel as though they need to have any more debate, I am prepared to move to table.

Mr. President, I move to table the amendment of the Senator from California.

The PRESIDING OFFICER. The question is on the motion to table the amendment of the Senator from California.

The motion to lay on the table UP amendment No. 1306 was agreed to.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I know of no other amendments——

Mr. HAYAKAWA. Mr. President, I protest the ruling of the Chair. There is no clear-cut majority of yeas and nays on it that I can see.

The PRESIDING OFFICER. Is the Senator asking for reconsideration?

Mr. HAYAKAWA. I certainly am.

The PRESIDING OFFICER. The question is on the motion to reconsider.

Mr. HAYAKAWA. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BAKER. Mr. President, may I be recognized?

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, why not let the Senator have his yeas and nays vote on the motion to table? I urge Senators not to ask for the yeas and nays on the motion to reconsider the vote. I will not vote for the motion to reconsider, although I will vote for the motion to table the Hayakawa amendment.

Mr. President, have the yeas and nays been ordered on the motion to reconsider?

The PRESIDING OFFICER. They have not been ordered on the motion.

Mr. BAKER. Mr. President, I urge that we go ahead and adopt the motion to reconsider. Will the Chair put the question?

The PRESIDING OFFICER. The question is on the motion to reconsider.

The motion to reconsider the vote was agreed to.

Mr. BAKER. Now, Mr. President, does the Senator ask for the yeas and nays on the motion to table?

The PRESIDING OFFICER. Are the yeas and nays requested on the motion to table?

Mr. BOSCHWITZ. I make the request.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered on the motion to table. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN) is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 28, nays 70, as follows:

[Rollcall Vote No. 363 Leg.]

YEAS—28

Baker	Dixon	Long
Bradley	Domenici	McClure
Byrd, Harry F., Jr.	Ford	Metzenbaum
	Glenn	Mitchell
Cannon	Hart	Nunn
Chafee	Hatfield	Packwood
Chiles	Hollings	Pell
Cochran	Huddleston	Percy
Cohen	Humphrey	Stennis
Denton	Inouye	

NAYS—70

Abdnor	Grassley	Proxmire
Andrews	Hatch	Pryor
Armstrong	Hawkins	Quayle
Baucus	Hayakawa	Randolph
Bentsen	Heflin	Riegle
Biden	Helms	Roth
Boschwitz	Jackson	Rudman
Brady	Jepsen	Sarbanes
Bumpers	Johnston	Sasser
Burdick	Kassebaum	Schmitt
Byrd, Robert C.	Kasten	Simpson
Cranston	Kennedy	Specter
D'Amato	Laxalt	Stafford
Danforth	Leahy	Stevens
DeConcini	Levin	Symms
Dodd	Lugar	Thurmond
Dole	Mathias	Tower
Durenberger	Matsunaga	Tsongas
Eagleton	Mattingly	Wallop
East	Melcher	Warner
Exon	Moynihan	Weicker
Garn	Murkowski	Zorinsky
Goldwater	Nickles	
Gorton	Pressler	

NOT VOTING—2

Boren	Heinz

So the motion to lay on the table Mr. HAYAKAWA's amendment (UP No. 1306) was rejected.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I am not seeking recognition.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the yeas and nays on the amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered. The order for the yeas and nays on the amendment is vitiated.

The question is on agreeing to the amendment of the Senator from California.

The amendment (UP No. 1306) was agreed to.

Mr. ABDNOR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1307

(Purpose: To require implementation of the special standby export subsidy program)

Mr. DURENBERGER. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER) proposes an unprinted amendment numbered 1307.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. 626. Section 1203(a) of the Agriculture and Food Act of 1981 is amended by inserting ", not later than November 20, 1982," immediately after "the Secretary shall formulate"; and

Mr. DURENBERGER. Mr. President, the amendment I sent to the desk is technical in nature and has no budgetary impact.

The Senate passed 1981 farm bill contained a provision for a special standby export subsidy program (SSESP). Section 1203(a) of that program required the Secretary of Agriculture to formulate a SSESP. It would be implemented only after the President made a determination under section 301 of the Trade Act of 1974 that:

First, an act, policy, or practice of another country results in substantial displacement of U.S. agricultural exports or results in prices for agricultural commodities in foreign markets materially below prices U.S. suppliers must charge to supply the same market.

Second, that the act, policy, or practice of the foreign country involves the use of export subsidies to support that country's commodities in foreign markets other than the United States;

Third, that a mutually acceptable resolution of the matter cannot be obtained through consultation.

With the exception of the conferees decision to make implementation of the program, based on the President's determinations, discretionary rather than mandatory, no other changes were made in the Senate-passed provision. Today, almost 1 year since the Senate acted on the measure, no program has been announced.

This is particularly distressing to this Senator, as I believe it is to many, because such a program would be a useful tool to the U.S. delegation to the GATT ministerial meeting in November, to say nothing of it being a useful tool to the American farmer.

This amendment would require the Secretary of Agriculture to formulate and announce a standby export subsidy program by November 20, 1982.

Mr. COCHRAN. Mr. President, I congratulate the Senator from Minnesota for bringing this amendment to the Chamber and urging the adoption of it by the Senate. It will accelerate, in my judgment, the implementation of an effective export program.

We do need to sell more of our commodities in overseas trade. This is one way to improve commodity prices to farmers.

There are only two ways to do that: either to reduce supplies or increase demand. This is going to work on the demand side and help us move these commodities and will be an effective program if we can get it implemented, and this brings the attention of the administration to the fact that it has not been implemented and should be.

I am prepared to recommend that the Senate accept the amendment, and I appreciate the Senator from Minnesota bringing this to the attention of the Senate.

Mr. DURENBERGER. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DURENBERGER. Mr. President, I yield back the remainder of my time.

Mr. COCHRAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (UP No. 1307) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I wonder if I might ask the Senator from Mississippi, the chairman of the subcommittee, a few clarifying points about some of the language contained in the committee's report regarding CCC funds being used for distribution of surplus commodities. I recognize that neither the report nor a clarification is binding on the CCC Board, but I would like to get a clear expression of congressional wishes in the event that the report's suggestion is pursued by the Board.

The report refers to providing "reimbursement for reasonable expenses." Inasmuch as any reimbursement would increase CCC losses, I presume that we are talking about a relatively small amount of money, certainly not more than what it costs the Government to store the commodities during the fiscal year. Is that correct?

Mr. COCHRAN. While no amount is specified or referred to, I would think that we would not expect reimbursement to exceed the total amount spent for storing the commodities.

Mr. HELMS. I presume that the provision of Federal reimbursement would not obviate the responsibility of agencies distributing the surplus commodities to provide some of the reimbursement from their own funds.

Mr. COCHRAN. That is correct.

Mr. HELMS. I also want to clarify that the reimbursement merely refers to the surplus commodities—such as cheese, and now butter and nonfat dry milk—made available under the President's distribution of surplus dairy commodities and not to institutions participating in the regular commodities distribution program.

Mr. COCHRAN. That is also correct.

Mr. HELMS. I thank the Senator for this clarification.

● Mr. LEAHY. Mr. President, I rise in support of the agriculture appropriations bill for fiscal year 1983. The committee has provided $10.89 billion for the food stamp program, the amount the Department of Agriculture estimates will be needed when the budget cuts of the Omnibus Reconciliation Act of 1982 are put into effect.

In order for $10.89 billion to provide sufficient food stamp benefits through fiscal year 1983, unemployment must average 8.7 percent over the next 12 months. To bring this projection into focus, the administration assumes that, over the first quarter of this fiscal year, unemployment will average 9 percent, or nearly 1 full percentage point below the current level. It is indeed a questionable assumption that around 1 million people will be back to work in the next 13 weeks.

In addition, the administration assumes that the cost saving cuts contained in the 1982 Reconciliation Act will be implemented in a timely fashion. At this time, no regulations have been issued to direct States to adopt the new restrictive rules, making the administration's prediction for savings appear at best unrealistic.

The above assumptions were the basis for the appropriation level of $10.89 billion. The committee has directed USDA that an underestimation of program costs must not be translated into reduced benefits to poor people later on this year. The Department is expected to notify Congress, in a timely fashion, that a supplemental is needed to continue benefits throughout fiscal year 1983. Historically, Congress has always provided such a supplemental in the food stamp program. We also recognize that the funds appropriated by the committee are $1.1 billion below the authorization ceiling. When, and if, a supplemental is required, total program funding would approach the more realistic authorization level.

For the special supplemental food program for women, infants, and children (WIC), the committee has included for fiscal year 1983 $1.060 billion, a spending level which is necessary to keep reductions in this program's caseload to a minimum. Even at this level of funding, WIC's current nationwide caseload is threatened with a loss of some 100,000 persons. Normally, this reduction in caseload would be averted as carryover funds from fiscal year 1982 are added to the $1.060 billion appropriation. However, come October 1, we will realize only a small carryover of funds, insufficient to prevent the caseload reductions which have been predicted.

The committee has included a number of provisions in both the bill and report language to insure that the WIC program maintains its status as one of the most effective of our Nation's nutrition programs. Two such measures are intended to stabilize the spending patterns in this discretionary program so that WIC project shutdowns or disruptions can be averted. Last October OMB stalled several weeks before allocating WIC program funds, causing one State shutdown and hampering service in several others. Recognizing that very little carryover funds will be available this fall, the committee's bill directs OMB to allocate first quarter WIC funds immediately upon enactment. By requiring an immediate allocation of all funds appropriated for the first quarter, we have exempted the WIC appropriation from the normal 30-day period which the Antideficiency Act (31 U.S.C. 665) provides OMB to apportion appropriated moneys. The language is clear in its intent—any delay in allocation of WIC funds threatens the health of pregnant women and children—a contradiction to the purpose of the WIC program.

In this period prior to congressional action, critical prenatal and postnatal nutritional needs will simply not be met for thousands upon thousands of people. For this reason, the committee has chosen to include exceptional language to protect the unique benefits which the WIC program provides.

In addition, the Department is directed to reallocate in a timely fashion fiscal year 1983 funds and any unspent fiscal year 1982 funds during the upcoming year in order that all intended funds, appropriated for this year and last, are fully utilized.

The committee has called attention to a third concern, one which threatens the nutritional integrity of the WIC program. We are all concerned about indications that the Department is considering modifying the WIC food package to include high-sugared cereals and chocolate-flavored milk, both sources of "empty calories" at higher costs.

Over the past decade, the WIC program has built a well-deserved reputation as both a nutrition and preventive health program. The program has been scrutinized the past 2 years during the budget process and has prevailed. We know that there are still many women, infants, and children who are eligible yet not served by the WIC program.

A pediatrician would not prescribe chocolate milk and sugared cereals for introduction to a young child's diet.

That is why the committee has included language in the bill forbidding any use of appropriated WIC funds to make any rule changes which would not maintain the nutritional integrity of the WIC program food package.

Finally, there is bill language that requires that the administration obligate one-fourth of the total appropriation, or $265 million, during the first quarter of the new fiscal year. Incorporation of such language requiring the obligation and expenditure of such moneys is clearly within our powers under the so-called disclaimer provision in the Impoundment Control Act.●

● Mr. BAUCUS. Mr. President, I want to commend the chairman of the Appropriations Subcommittee on Agriculture (Mr. COCHRAN) and the ranking minority member (Mr. EAGLETON) for their efforts in fashioning a bill under the current budget constraints. Although the bill does not provide all that I wanted for certain programs, I believe the measure is a good one.

AGRICULTURAL RESEARCH

Maintaining a quality agricultural research program is critical for U.S. agriculture. Every State, every region of the country, faces its own particular research challenges. In my home State of Montana, range and forest research are carried out through cooperative programs with the USDA and the Montana University system. Again this year, I supported increased funding for noxious weed research—including research into the control of leafy spurge. Leafy spurge is a noxious weed that now infests an estimated 3 million acres in Great Plains States. More needs to be done to insure that we do not lose any more ground to this menacing weed.

Overall, research plays an important part in assuring that U.S. agriculture remains as productive as it has been in the past.

Mr. President, the Office of Transportation is a very small office in USDA. However, their work is essential for agriculture in Montana. Transportation costs and the availability of transportation are of great concern to Montana farmers. I plan to continue to work with the USDA Office of Transportation in looking for help in dealing with rail branch line abandonment, the market dominance of our sole railroad—Burlington Northern, and in finding viable transportation alternatives.

AGRICULTURAL CREDIT

I believe the availability of credit is one of the most critical problems for agriculture today. I will be continuing my efforts to deal with high interest rates and rural credit problems. I am pleased to be a cosponsor of the deferral amendment being offered today—which represents a small step to meet the short term credit needs of a number of our farmers. Montana farmers simply need improved prices to help meet the high cost of borrowing and the other increasing costs of production. Until there is improvement in the farm economy, I do not believe there can be recovery for small businesses and other businesses with farm customers.

SOIL AND WATER CONSERVATION

I was concerned about the extent of the cutbacks proposed by the administration for resource conservation and development and the Great Plains conservation program. The House and Senate recommendation for these programs of $25,744,000 and $21,315,000 respectively, represent budget reductions. However, the reductions are more reasonable considering the priority that these programs deserve. Land is a farmer's biggest asset. We cannot afford to allow economic difficulties to prevent farmers from continuing to be good stewards of the land.

INTERNATIONAL PROGRAMS

The real hope for the future of U.S. agriculture depends on agricultural exports. Developing new markets to satisfy our productive capacity is essential if we expect farm prices to improve. Last year, I sponsored an amendment to increase the funding for international market development under the Foreign Agricultural Service (FAS). This year's appropriations bill does increase the FAS budget to reflect the need to promote agricultural exports. The cooperator program under FAS combines Federal and private money to gain a greater share of the world market for individual commodities.

Mr. President, there are many essential programs in this bill. Again, I commend the Appropriations Subcommittee for their diligence in allocating the limited resources judiciously.●

● Mr. LEAHY. Mr. President, I want to commend the distinguished chairman of the Agriculture Appropriations Subcommittee, Senator COCHRAN, and the ranking minority member, the distinguished Senator from Missouri Mr. EAGLETON, for their work on the Farmers Home Administration (FmHA) rural programs contained in H.R. 7072.

The programs of the FmHA rural development insurance fund and the rural housing insurance fund have served rural residents in our country well for many, many years.

The funding levels contained in H.R. 7072, while considerably less than past years due to budgetary constraints, will enable the FmHA to continue their strong record of service to rural Americans and their families.

This record of service includes 276,000 rural jobs saved or created by the FmHA business and industrial loan program and the placement of more than 1.3 million rural families into decent housing through the efforts of the rural housing insurance fund.

Police and fire stations, health clinics, and other essential community facilities have been built with the help of the community facility loan program.

Thousands of rural families have benefited from cleaner and more plentiful water supplies and better sewage facilities through the efforts of the water and waste disposal loan and grant programs.

Mr. President, I must say, however, that these funding levels have been put in place through the laudable efforts of the chairman and ranking minority member of the subcommittee in spite of Reagan administration's requests for severe new cuts in funding for these programs for fiscal year 1983.

Overall, Mr. President, the fiscal year 1983 Reagan budget requested a 70-percent cut in the FmHA rural development insurance fund and a 67-percent cut in the rural housing insurance fund.

These cuts were simply out of line with the needs in rural America—needs that continue to persist despite administration claims that these programs have been so successful that we do not need them any more.

Their rhetoric about the private sector coming in to take over for these programs rings hollow when one considers that they have contributed more than $100 billion in loans and other aid to rural areas since 1935.

Mr. President, rural America is a growing, dynamic part of this country. It experienced a 15-percent increase in population over the last decade, outstripping growth in urban areas for the first time, and reversing a 160-year trend of outmigration from rural areas.

This administration, no administration, can turn its back on the unique and pressing needs facing all rural Americans—particularly during the stressful time of growth.

I want to again commend the efforts of the chairman and ranking minority member of the Agriculture Appropriations Subcommittee for their efforts on behalf of the nearly 60 million people who are now rural Americans.●

Mr. HELMS. Mr. President, I regret that I cannot in good conscience support the appropriations bill which is before us today. As chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, I obviously have a great interest in the programs of the Department of Agriculture. I enthusiastically support many of the programs operated by the Department, particularly those which are intended to help our Nation's farmers and to assist in proper management of our national forests.

The great majority of expenditures in this bill, however, are for various nutrition programs of the Department of Agriculture. Here again, some of the programs are worthwhile in their entirety and some aspects of other programs have some merit.

Unfortunately, however, this bill contains appropriations which perpetuate many costly and unworthy programs characterized as nutrition programs.

The largest item in the bill, for instance, is the food stamp program. The administration earlier this year proposed responsible reforms in the program which would reduce expenditures to $9.5 billion in addition to the $825 million block grant for Puerto Rico. However, the Congress failed to enact the administration's recommendations. As a result, food stamp spending will increase (again) in fiscal year 1983.

That is correct, Mr. President. I said increase. I know that many of my colleagues and those in the news media like to portray the President and those of us who support his efforts as heartless. However, the fact which continues to be overlooked is that, at best, we are slowing the rapid pace of this program's expanded cost.

For the current fiscal year, 1982, $11.3 billion has been appropriated for the entire food stamp program, including the recently implemented block grant in Puerto Rico. However, the committee's recommendations for fiscal year 1983 will provide $11.721 billion for the same programs next year.

The much heralded reconciliation process this year managed to trim less than 5 percent of the expected cost of this program for the next 3 years. This result is a continuing expansion of the cost of the food stamp program. There has been no net reduction in spending.

Apparently the severity of our economic situation has not yet impressed itself on the Congress relative to food stamp spending. The program remains the second most costly Federal needs-based program.

While I do not feel the Congress has done enough, I do want to thank the chairman of the Senate Agriculture Appropriations Subcommittee, Senator COCHRAN, for his iniative in funding the food stamp program at an honest level. The $11.721 billion included in the bill for food stamps and the Puerto Rico block grant is within the administration's current estimates for program costs for fiscal year 1983, and only slightly higher than the Congressional Budget Office's estimate of $11.630.

The House has taken what I consider to be unconscionable action in approving funding sufficient for only 9½ months of food stamps. On an annualized basis, that would be over $12.8 billion.

Fiscal responsibility demands that we at least be honest with the figures, and I commend Senator COCHRAN and his colleagues on the sbucommittee and full committee for establishing this and other spending levels at full year levels. Nevertheless, I feel they are too high.

I commend the administration for trying to make reasonable reforms to target assistance to those most in need. Much remains to be done in the food stamp program—and other nutrition programs as well.

The programs continue to have a large amount of duplication. Pregnant women, and children up to age 5, who may already be receiving food stamps, may also receive assistance under the special supplemental food program for women, infants, and children.

Yet those same children may be receiving benefits under the child care food program if they are left in a child care center or day care home during the day. School age children whose parents receive food stamps on behalf of the entire family may receive free school breakfasts and lunches. Any of these children may also receive meals under the summer food program.

In short, the existing patchwork of programs has failed to take account of the total nutritional resources available to each household.

I would hope it could go without saying that I do not begrudge help to needy women and children. It seems to me, however, that appropriate assistance could be targeted in a more responsible and cost-efficient manner which would better serve both the recipients of aid and the taxpayers who furnish it.

The administration has proposed a more comprehensive analysis of these programs in order to target tax dollars rather than squander them on costly administration of multiple programs and on multiple benefits to the same individuals.

Frankly, Mr. President, I think this Congress is going to have to look at these programs more thoroughly and resolve the difficulties in a comprehensive fashion.

Given the congressional failure to act in this manner, I cannot support the perpetuation of appropriations to finance these unreformed programs at unacceptably high levels.

I also wish to address those items which, as chairman of the Committee on Agriculture, Nutrition, and Forestry, this Senator finds troublesome:

The funds appropriated for the dairy indemnity program exceed the authorization. The authorization was intentionally reduced by Congress during reconciliation in 1981.

Creation of new budget authority for the export credit direct loan program. While we all hope for increased agricultural exports, the manner in which funds are authorized in this legislation is questionable. Mr. WHITTEN, during House debate, said on this matter, "What we do is authorize loans." That is both an accurate statement and inappropriate on this bill under Senate rules.

Contained in the section of the Rural Electrification Association is legislation directing REA to provide borrowers supplemental financing in the ratios in effect during prior years. Again this is legislating on an appropriations bill.

Sections 611, 619, 620, and 623 are all legislative. Again, a point of order could be raised.

Mr. SYMMS. Mr. President, I would like to take this opportunity to praise the gentleman from Mississippi and the Appropriations Committee and subcommittee for their hard work on H.R. 7072, the Agricultural appropriations bill. It is with some reluctance that I oppose the passage of this legislation.

Specifically, the bill appropriates much needed funds for agricultural research. My own State of Idaho will reap tremendous benefits from several of the appropriations outlined in the Senate report that accompanies the bill:

First, $389,000 for the prevention of TCK smut in wheat grown in the Pacific Northwest.

Second, the recommendation that USDA relocate the National Plant Germplasm System from Beltsville, Md., to Aberdeen, Idaho. I have been a vocal proponent for this action for some months.

Third, $200,000 for continued research on yellow star thistle.

Fourth, $100,000 for continued pea and lentil research in the Palouse hills of Idaho and Washington, known as the pea and lentil capital of the world.

Fifth, $100,000 for continued research into vegetable oils as a replacement for diesel fuel.

Sixth, $100,000 for continued research on the chalk brood syndrome in bees.

Seventh, $622,000 special research grant for study into soil erosion in the Pacific Northwest—known as the STEEP program.

It is not these or the many other research programs that are the basis for my opposition to the legislation. The fact is that this bill is over budget to the extent that I anticipate this President, who strongly supports American agriculture, will veto this bill. My vote should not be considered as a vote against the many productive programs that are funded by this bill, nor should it be an adverse reflection on the hard work that went into its preparation.

For years this Senator has maintained that the Department of Agri-

culture has been so consumed by consumer and welfare programs that it has begun to lose sight of its primary objective as farmer's advocate. This was especially true of the Department under the previous administration. While I believe that Secretary Block has restored that objective, I am not sure that Congress has gotten the message yet. As a result, I intend to oppose this bill, not because it is too much for agriculture, but because it includes too much that is not for agriculture.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 7072.

The PRESIDING OFFICER. Without objection, it is so ordered.

Are there further amendments to be proposed?

Mr. COCHRAN. I know of no further amendments, and there is no more time on the bill, as I understand it. The yeas and nays have already been ordered on the bill and we are ready for third reading.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. Is all time yielded back on the bill?

Mr. COCHRAN. Yes.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ), is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN) is absent because of illness in the family.

The PRESIDING OFFICER (Mr. HAYAKAWA). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 84, nays 14, as follows:

[Rollcall Vote No. 364 Leg.]

YEAS—84

Abdnor	Chiles	Exon
Andrews	Cochran	Ford
Baker	Cohen	Garn
Baucus	Cranston	Glenn
Bentsen	D'Amato	Goldwater
Biden	Danforth	Grassley
Boschwitz	DeConcini	Hart
Bradley	Denton	Hatch
Brady	Dixon	Hatfield
Bumpers	Dodd	Hayakawa
Burdick	Dole	Heflin
Byrd, Robert C.	Domenici	Hollings
Cannon	Durenberger	Huddleston
Chafee	Eagleton	Inouye
Jackson	Melcher	Sasser
Jepsen	Metzenbaum	Schmitt
Johnston	Mitchell	Simpson
Kassebaum	Moynihan	Specter
Kasten	Murkowski	Stafford
Kennedy	Nunn	Stennis
Laxalt	Packwood	Stevens
Leahy	Pressler	Thurmond
Levin	Pryor	Tower
Long	Quayle	Tsongas
Lugar	Randolph	Wallop
Matsunaga	Riegle	Warner
Mattingly	Rudman	Weicker
McClure	Sarbanes	Zorinsky

NAYS—14

Armstrong	Hawkins	Pell
Byrd, Harry F., Jr.	Helms	Percy
East	Humphrey	Proxmire
Gorton	Mathias	Roth
	Nickles	Symms

NOT VOTING—2

Boren	Heinz

So the bill (H.R. 7072), as amended, was passed.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1308

Mr. COCHRAN. Mr. President, I ask unanimous consent that, notwithstanding final passage of H.R. 7072, the Senate now consider certain technical amendments which I send to the desk, that the amendments be considered and agreed to en bloc, and that the bill be engrossed accordingly.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I have no objection.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) proposes an unprinted amendment numbered 1308.

Mr. COCHRAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 38, line 14, just before the figure, $25,744,000, add: "and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461),".

(2) On page 43, strike the provision on lines 4 through "reimbursement:" on line 7. This Senate amendment was not picked up by the printer.

(3) On page 45, line 14, change the word "programs" to "program".

(4) On page 53, line 4, of the engrossed bill, change the word "agricultural" to "agriculture".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (UP No. 1308) was agreed to.

Mr. COCHRAN. Mr. President, I move that the Senate insist on its amendments to H.R. 7072 and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

The motion was agreed to and the Chair appointed Senators COCHRAN, MCCLURE, ANDREWS, ABDNOR, KASTEN, MATTINGLY, SPECTER, HATFIELD, EAGLETON, STENNIS, ROBERT C. BYRD, CHILES, BURDICK, SASSER, and PROXMIRE conferees on the part of the Senate.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I wish to take this opportunity to commend the distinguished Senator from Mississippi, the chairman of the Subcommittee on Appropriations, and the distinguished Senator from Missouri, the ranking minority manager, for their skillful management of this measure. This is another of the appropriations bills, I wish to extend to them my appreciation and congratulations for bringing us to this point. We are making good progress and we are grateful.

CONTINUING APPROPRIATIONS, 1983

Mr. BAKER. Mr. President, there is now the question of turning to the continuing resolution.

Mr. President, everyone who is interested in that particular issue is not on the floor, I will make an effort in the next few moments to obtain their attendance here so that they may be involved in any colloquy which may occur. But for the moment, Mr. President, let me say that I very much hope we can go to the continuing resolution making appropriations for 1983. The report is on the desks which accompanies House Joint Resolution 599. I must say in all candor I am afraid it has not been here for the requisite 3 days.

If we are to finish this bill and get on with the other necessary business of the Senate we have to do this and have it out of the way, at least through the Senate, by midday or thereabouts tomorrow, which I believe makes it imperative that we take it up now.

Mr. President, I now see that the principals are on the floor. I would like to make a request at this time, Mr. President.

Mr. STENNIS. Mr. President, may we have order?

Mr. BAKER. I thank the Senator.

Mr. President, I ask unanimous consent that it may be in order, notwithstanding the provisions of the 3-day rule, to proceed now to the consideration of House Joint Resolution 599, the continuing resolution for 1983.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I hope the distinguished majority leader will not push this request at this moment. I very much hope that the

Senate can proceed to the consideration of this measure and that the 3-day rule can be waived on this side of the aisle.

I also hope that there can be a time agreement worked out on the measure.

I hope that the number of amendments to this bill may be limited to as few as possible because the Senate will have another crack at the continuing resolution when it comes back on November 29. I would hope that on those few amendments there can be time agreements.

However, I would have to say that, in my judgment, after discussing the matter with my colleagues, there would have to be an identification of the amendments that are intended to be called up.

I would like to see an agreement which would allow us to work not necessarily late into the evening but if late into the evening to schedule votes for tomorrow morning.

I would like to see an agreement, as the distinguished majority leader and I have discussed, which would see us complete action on the continuing resolution by 1 or 2 o'clock tomorrow so that the conference can take place as expeditiously as possible and the conference report brought back to the two bodies. This would be in line with the conversations I have had with the majority leader, with the distinguished chairman of the committee (Mr. HATFIELD), and with my own colleagues during our caucus which was held earlier today.

If the distinguished majority leader would indulge me, I should like to try for a few minutes to see what amendments are in the offing on this side and perhaps any Senators who have amendments could speak up at this time and so indicate and would give final agreements on them.

Mr. KENNEDY. Will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. The majority leader has the floor.

Mr. KENNEDY. Mr. President, will the majority leader yield?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BAKER. Mr. President, I shall temporarily withdraw my request and yield the floor so the minority leader may gain recognition in his own right for purposes of yielding to Senators.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I had hoped to add the so-called jobs bill as an amendment but I would enter into a time limitation of about an hour equally divided, if that is agreeable when the minority leader enters into discussions with the majority leader. I think it is important that we address this issue and address it now.

The new figures on unemployment will come out on Friday. I expect they will exceed 10 percent. Every indication is that they will. The House has taken action on this measure and I think we should take action, too. An hour should do it.

Mr. ROBERT C. BYRD. Mr. President, as a cosponsor of that bill, I would be agreeable to 1 hour, equally divided, on the amendment.

Does Mr. METZENBAUM have an amendment?

Mr. METZENBAUM. Mr. President, I say to the minority leader I have an amendment on unemployment benefits being extended, a subject that we have attempted to deal with previously. I think the matter has been rather thoroughly discussed on several occasions. I would be willing to agree to a time limitation of 40 minutes equally divided.

Mr. KENNEDY. Mr. President, there is one other item I know the Senator from New York (Mr. MOYNIHAN) was going to offer, a sense-of-the-Senate resolution on medicare, which I am going to join as a cosponsor. I know he will speak for himself, but I think he would be inclined toward a reasonable time limitation on this.

Mr. ROBERT C. BYRD. Mr. MOYNIHAN would have one sense-of-the-Senate resolution by way of amendment.

Mr. KENNEDY. I am joining him as a cosponsor. It is a Moynihan amendment dealing with medicare. I am sure he is going to be willing to agree to a time limitation on this, but he can speak for himself.

Mr. ROBERT C. BYRD. We shall attempt to get that nailed down.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have an amendment dealing with the Clinch River breeder reactor. Before entering into an agreement, I want to make sure that we do not have a tabling motion on the amendment. I would like to have a vote on it.

Mr. BAKER. Will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes, Mr. President.

Mr. BAKER. Mr. President, I represented to the Senator from Arkansas some time ago, when he did not offer this amendment to the supplemental, I believe, that he could do it later without any tabling motion from me. I do not expect a tabling motion. I shall not make a tabling motion, I shall urge other Senators not to do that. I am willing to include in the order that no tabling motion would be in order.

Mr. BUMPERS. My colleague, Mr. HUMPHREY, and I are offering this amendment together. As I say, we are willing to enter into a time agreement of an hour and a half, with that understanding that no tabling motion be in order.

Mr. HUMPHREY. If the minority leader will yield——

Mr. BAKER. Yes.

Mr. HUMPHREY. I have previously discussed this with the majority leader, and with the additional caveat that no amendment to the Humphrey-Bumpers or Bumpers-Humphrey amendment be in order. That is two conditions, that it be neither tabled nor amended.

Mr. BAKER. Mr. President, I probably would agree to that. I do not think that will be a problem. I would not suggest that it is an issue at this time.

Mr. BUMPERS. Mr. Leader, I have two other short items. I was hoping the Senator from Idaho (Mr. MCCLURE) and I would be able to work out a little agreement on an amendment that was brought up in the Appropriations Committee the other day. That has not been consummated as yet. Even if it is not, I would not estimate more than 15 to 20 minutes on any amendment I might offer. It deals with the sale of Federal lands. I am hoping that we can work something out. If we do not, it is not one of those things that is going to raise a lot of hackles, I hope, or take a lot of time.

Mr. McCLURE. Will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I have the floor. I yield for that purpose.

Mr. McCLURE. I think the Senator from Idaho offered the amendment in the committee not knowing the Senator from Arkansas was going to offer an amendment on the same subject. The wording of the two is slightly different, but not so dissimilar that we cannot arrive at some understanding. I guess that if we can arrive at that understanding, it will consume very little time of the Senate. It is more a matter of the Senator from Arkansas and myself agreeing than it is a question that needs to be presented to the Senate.

Mr. BUMPERS. We shall visit further about that, Mr. President.

Mr. Leader, there is one other thing. I have one sense-of-the-Senate resolution which I am willing to agree to a 10-minute time limitation on. It deals with asking the President to declare October 10 as "National Peace Day."

Mr. METZENBAUM. Too controversial.

Mr. BUMPERS. I think I have 40 to 45 cosponsors on it.

Mr. ROBERT C. BYRD. That would probably be a time limitation of 10 minutes equally divided?

Mr. BUMPERS. Yes.

Mr. ROBERT C. BYRD. Are there others on my side? Mr. Ford.

Mr. FORD. I say to the Democratic leader that I have no amendments, but

I shall reserve the right to object if there be any amendments relating to PAC's presented on the resolution—relating to PAC's, political action committee groups.

Mr. BAKER. Did I understand the Senator wanted to reserve the right to offer an amendment?

Mr. FORD. No, Mr. President, I reserve the right to object if amendments are to be presented to the continuing resolution which relate to political action committees, so-called PAC's.

Mr. ROBERT C. BYRD. What the Senator is saying is if there are no amendments but an agreement is reached regarding an amendment dealing with PAC's, he would have no objection.

Mr. FORD. I would have no objection.

Mr. ZORINSKY. Mr. President, in the interest of time, I probably would not object, provided there is an agreement of Radio Marti being precluded as an amendment to the continuing resolution.

Mr. ROBERT C. BYRD. What the Senator from Nebraska is saying is that if an amendment dealing with Radio Marti is ruled out and would not be called up, he would have no objection to a waiver of the 3-day rule entering into an agreement?

Mr. ZORINSKY. That is correct.

Mr. METZENBAUM. Mr. President, I assume this entire colloquy is proceeding on the assumption that, at a certain point, these amendments and such other amendments as the majority leader might know would be called up will be the only amendments that will be able to be called up. Is the Senator from Ohio correct in that understanding?

Mr. ROBERT C. BYRD. I assume the majority leader is seeking to get an agreement that lays out the amendments, identifies them, provides time limitations on them. He is seeking agreement that will try to get the Senate to complete action on this measure by 12, 1, or 2 p.m. tomorrow.

I share that desire on his part. I can understanding what the Senator from Ohio is saying, if he can be assured that certain other amendments—well, all amendments are identified and if he sees among those the amendment that he does not want included, whether or not he can agree would depend on that.

Mr. METZENBAUM. As usual, the Senator from West Virginia clearly understands the Senator from Ohio.

Mr. PROXMIRE. Mr. President, I have an amendment that will cap the number of Senate employees. I shall not offer that on this continuing resolution if I can be assured by the chairman of the Appropriations Committee, the manager of the bill, that it can be offered on the resolution coming up in December. However, I understand that the House has a legislative appropriations bill that goes for the full year. It is an exception to all the others. In that case, I might be foreclosed. So I want to reserve the possibility that I might be compelled to offer my amendment on the continuing resolution that is before us now.

Mr. BAKER. Mr. President, will the minority leader yield to me?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. BAKER. Mr. President, I am advised by the staff of the Committee on Appropriations that the legislative appropriations bill has been changed now—in the continuing resolution—so that both of them expire at the same time.

Mr. PROXMIRE. Well, we still do not know what the conference will do. They may make it a full year, and that would foreclose me.

Mr. BAKER. But the continuing resolution provides that they both expire at the same time.

Mr. PROXMIRE. Well, they may expire after a year. The House, I understand, makes that one exception for the legislative appropriation bill. That goes through for a year. Is that correct?

Mr. BAKER. I am told if the House prevails in the conference, it could go the whole year. If the Senate prevails, it would expire in December.

Mr. PROXMIRE. Then I assume there is that possibility. I would agree to 10 minutes, 5 minutes on either side.

Mr. ROBERT C. BYRD. May I say, Mr. President, to the majority leader that as of now it appears that the following amendments would be called up on our side of the aisle: three amendments by Mr. BUMPERS, one dealing with the breeder reactor, he in conjunction with Mr. HUMPHREY, one amendment dealing with proclaiming Peace Day, and did I understand a third amendment from Mr. BUMPERS?

Mr. BAKER. Federal lands.

Mr. ROBERT C. BYRD. Public land disposal.

Mr. BUMPERS. The Senator is correct.

Mr. ROBERT C. BYRD. So there would be three.

Am I also correct in saying that on the public land disposal limitation language the Senator would be agreeable to 15 minutes equally divided?

Mr. BUMPERS. Yes, that will be all right. We can do that in 15 minutes.

Mr. ROBERT C. BYRD. Fifteen minutes equally divided. On the breeder reactor, 1½ hours equally divided.

Mr. BUMPERS. That is correct.

Mr. ROBERT C. BYRD. On the proclaiming of Peace Day, 15 minutes equally divided; that Mr. KENNEDY has a jobs amendment on which there would be 1 hour equally divided. We would like to have an up-or-down vote on that, I say to the majority leader. On the unemployment situation, Mr. METZENBAUM has an amendment on which he would agree to 1 hour, and he wishes an up-and-down vote on that.

Mr. BAKER. One hour or 40 minutes?

Mr. ROBERT C. BYRD. Forty minutes.

Mr. METZENBAUM. As long as I get an up-or-down vote, 40 minutes will be fine.

Mr. ROBERT C. BYRD. Forty minutes equally divided. And then in addition to these, Mr. PROXMIRE, I think, has an amendment on which he ageeed to 10 minutes, was it, equally divided?

Mr. PROXMIRE. Right.

Mr. ROBERT C. BYRD. And an amendment by Mr. SASSER, ban on hydroelectric pricing studies, 30 minutes; an amendment by Mr. NUNN to extend the authority of the President's Commission on Ethical Problems in Medicine to March 1983, which would be a 3-month extension, 20 minutes equally divided; and amendment by Mr. MOYNIHAN dealing with reimbursement of medicare expenses to States, 30 minutes equally divided.

Mr. BAKER. That was Mr. NUNN?

Mr. ROBERT C. BYRD. The one just preceding was Mr. NUNN.

Mr. BAKER. And then?

Mr. ROBERT C. BYRD. And then Mr. MOYNIHAN, 30 minutes equally divided. And then one by Mr. MOYNIHAN, a sense of the Senate on the medicare means test. I understand that he would be agreeable to 30 minutes equally divided. Mr. EXON has one on impact aid on which he would agree to 45 minutes equally divided; Mr. HART, an amendment dealing with no new weapons startups, 2 hours equally divided.

Mr. BUMPERS. Will the leader repeat the Hart amendment?

Mr. ROBERT C. BYRD. No new weapons startups.

Mr. BUMPERS. I was just wondering if that touches on the MX. I know that there is likely to be——

Mr. ROBERT C. BYRD. He has an amendment in conjunction with Mr. HOLLINGS and Mr. LEVIN on the MX on which there will be 1 hour. Mr. HOLLINGS has an amendment on the B-1 and MX, maybe one or both, and he had not decided as to the time limitation.

Mr. SARBANES. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. SARBANES. There might be an amendment involving appropriations to the District of Columbia to be 20 minutes equally divided. That is a possibility. I do not know about that yet.

Mr. ROBERT C. BYRD. Mr. SARBANES, an amendment dealing with the—what is the identification of the amendment? What does it do?

Mr. SARBANES. Involving appropriations for the District of Columbia.

Mr. ROBERT C. BYRD. Mr. SARBANES, an amendment dealing with appropriations for the District of Columbia. Twenty minutes?

Mr. SARBANES. Yes.

Mr. ROBERT C. BYRD. Twenty minutes equally divided; two amendments by Mr. DECONCINI, one of the SBA, one on the Treasury bill revenue ruling, on each of which he would agree to 30 minutes equally divided.

Mr. PROXMIRE. Will the leader yield for one other?

Mr. ROBERT C. BYRD. Yes.

Mr. PROXMIRE. Senator SASSER tells me that he would have an amendment to ban hydroelectric power pricing studies, 30 minutes equally divided.

Mr. ROBERT C. BYRD. I have already stated that.

Mr. PROXMIRE. I beg your pardon.

Mr. ROBERT C. BYRD. Mr. President, I think I have outlined to the distinguished majority leader the amendments that are going to be called up on my side, or are likely to be called up. I have also enumerated the time limitations in connection with almost every one of them.

Mr. BUMPERS. Mr. President, let me just say that I think—and we are working on it right now—there is one other problem I have that we will probably be able to work out in a colloquy. If we happen not to—and I feel reasonably certain we will—it would possibly require an amendment on my part, and it could take at least an hour to dispose of it.

Mr. ROBERT C. BYRD. Will the Senator identify that subject matter?

Mr. BUMPERS. If the leader will indulge me at this moment, I would rather not, but I would say it has nothing to do with the amendments the leader might be concerned about.

Mr. ROBERT C. BYRD. Very well.

Mr. BAKER. Which leader will not be concerned?

Mr. ROBERT C. BYRD. Mr. President, I am cognizant of the fact that we have Members on our side who are unwilling to give agreement unless they know the identity of the amendments that come from the other side.

Mr. METZENBAUM. Will the leader be good enough——

Mr. ROBERT C. BYRD. It is only for that reason that I—yes.

Mr. METZENBAUM. I am sorry to interrupt. Will the leader be good enough to explain or tell us more about the DeConcini amendment? I did not get that.

Mr. ROBERT C. BYRD. One DeConcini amendment dealing with the Small Business Administration. That is all I have on it just now. And one dealing with Treasury bill revenue ruling. We will attempt to get further information for the Senator.

Mr. METZENBAUM. I would appreciate further information prior to agreeing to final signoff.

Mr. ROBERT C. BYRD. I say to the majority leader that that is about all I can offer from my side. There are certain of those amendments that we have time limitations on that have been stated. I assume that Senators will be willing, if the majority leader proceeds, to tie down time limitations on those amendments at this time. We are not waiving the 3-day rule yet, and we are not agreeing to a full time limit on the bill, but I hope we can do that.

Mr. BRADLEY. Will the leader yield for one additional request?

Mr. ROBERT C. BYRD. Yes.

Mr. BRADLEY. That is, in any unanimous-consent agreement, to reserve the right of Senator MOYNIHAN or myself or another Senator to offer an amendment on section 133 of the continuing resolution, and that amendment could be 30 minutes in time.

Mr. METZENBAUM. Will the Senator from New Jersey be good enough to explain what that would be about?

Mr. ROBERT C. BYRD. I yield for that purpose, Mr. President.

Mr. BRADLEY. That has to do with the amendment on reimbursement on medicaid.

Mr. METZENBAUM. I thank the Senator.

Mr. BRADLEY. I should like to preserve the right to move to strike that section, and that that be in order.

Mr. ROBERT C. BYRD. Mr. President, we have run the hotline on our side, and I think that I have enumerated for the majority leader about everything that we have been able to determine as a result of those calls and personal conversations. It is quite a lengthy list of amendments. I had hoped there would be fewer, but in any event that is what we have to offer from this side at this time.

Mr. BAKER. I thank the Senator.

Mr. President, may I be recognized?

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I do not quite know where to start. I had hoped that we could pare this thing down so there were only a few amendments, all of us could agree that we were going to offer amendments to other measures and we could get this continuing out of the way and recess on Friday. But there are 20 amendments that we have just listed, or requirements for time as in the case of the Senator from Arkansas for a colloquy and the Senator from New Jersey for a point of order.

It adds up to more than 10 hours of debate, not even counting the B-1 and MX matters, which were not specified, or maybe one or two others that I could not jot down as fast as I tried. That is even before we get to our side.

I do not know whether we can finish this matter or not. I think it is going to require a further effort on both sides to trim the thing down, if we are going to finish it in anything like a reasonable time and get out of here on Friday or Saturday.

We have the 3-day rule problem. It may be that the best thing to do is just to go out until tomorrow and take up the matter. But if we do that, Senators should understand that we are going to be here Saturday and perhaps Monday, because there is no way we can deal with these amendments plus the crime package—which I agreed we are going to take up, and I am going to redeem that promise if it is humanly possible, and I believe it is.

If we are going to do this legislative agenda on the continuing resolution, 20 items on the Democratic side and probably a similar number on the Republican side, and we cannot get started on it because of the 3-day rule, absent unanimous consent—and waving the rules would require notice and a two-thirds vote—what is amounts to is that until 8:20 in the morning, I am out of business.

ORDER FOR RECESS UNTIL 8:20 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:20 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, it is not my intention to presume to tell the majority leader what he should do or even to suggest what he should do, but I have seen previous situations in which the time on amendments has not taken the amount that was allowed. His side controls half the time and can yield back as much of that as it wishes.

I observe that on the amendments that have been enumerated, time limitations have been relatively short: a good many of them 30 minutes, a good many less than that, and a few a little more than that.

I hope we can get the 3-day rule waived and that the Senator can nail down the time limitations on the amendments, because I have found that if one waits overnight, sometimes he does not come off with quite as good a bargain. I hope he will nail down the time that has been laid out for the amendments.

I will certainly do what I can to continue to limit the number of amendments and limit the time, within the rights of all Senators.

I also hope we could say that in order to waive the 3-day rule, there would be no amendment dealing with the FEC and there would be no amendment dealing with Radio Marti. Perhaps if we could rule out those two

amendments, I assume there would be no objection to waiving the 3-day rule on this side of the aisle.

Mr. BAKER. Mr. President, I am going to talk out of school a little when I say that during our caucus today, on our side, I tried hard to urge all Senators not to offer amendments, in the hope that we would have no amendments on the other side or, at the most, two amendments, maybe three, on the Democratic side.

One of the amendments that is in controversy is the one just identified by the minority leader; that is, a possible Helms amendment, I believe, that would have FEC impact. But I lose all my bargaining power when I am faced with 20 amendments on the Democratic side.

I really do not know what I can do to urge Members on this side to forbear to offer amendments when there are 20 listed on the Democratic side.

The minority leader knows I am not fussing with him. I am not fussing with anybody. I am just wailing, as I find I do increasingly these days, about the position in which I find myself.

In any event, I will not give up at this point. But let me do what the minority leader has suggested and see if I can find out what amendments there are on this side and whether we can get time limitations on them.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. I find myself wailing somewhat, also. I made known to my caucus that it was our desire to limit the number of amendments and to limit the time on any amendments, and I find more amendments on my side than I had anticipated at that time. Of course, some of the Members were not at the caucus, and I think that will partially explain it.

I must say that Members on my side have limited time on amendments, very graciously, and I am pleased with the limitations they have offered to the amendments they have enumerated.

Having said that, I hope the Senator will persist.

Mr. BAKER. I thank the Senator.

Mr. President, let me list the amendments as I have put them on a sheet of paper, and it may be that some Senators on our side will, and some will not, offer the amendments.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. HELMS. Mr. President, I have two amendments. One is the PAC amendment, to which Senator Ford has alluded. If the Senator will look at the calendar, the bill for the FEC was reported on May 26, with the understanding that I will be able to offer this amendment, which is just to establish parity between the various political contributors—the labor unions on one side, the business PAC on the other—to make it fair and square for everybody.

I do not understand why anybody on this side or that side could object to consideration of a concept such as that. It is just beyond me.

I say to the majority leader that I am willing to take 20 minutes equally divided.

The other amendment I have is to place a cap on the salaries of Congressmen, Senators, and others. Otherwise, on October 1 there is going to be another of these automatic pay increases for judges and Members of Congress, and so forth.

Those are my two amendments. Again, I will be glad to take 20 minutes equally divided.

Mr. BAKER. In addition, there is a Murkowski amendment dealing with Arctic studies. I do not know what it is. It is the funding of a study commission.

There is a Humphrey amendment which I believe is the same as the Bumpers amendment, dealing with Clinch River.

Mr. HUMPHREY. Mr. President, the majority leader is correct. However, as I mentioned to him earlier, I have, in addition, a resolution which would not consume more than 10 minutes on a side.

Mr. BAKER. Also dealing with Clinch River?

Mr. HUMPHREY. Dealing with Clinch River.

Mr. BAKER. It would be a Humphrey Clinch River amendment, 20 minutes equally divided?

Mr. HUMPHREY. Yes.

Mr. BAKER. In addition, a Percy foreign operations amendment. The distinguished chairman of the committee is not here. That would be an amendment he is interested in offering.

A Tower amendment. I do not know the subject matter of that.

A Heinz amendment to delete section 133 regarding timely filing of social security claims.

A Heinz-Specter amendment dealing with runaway children.

A McClure amendment dealing with native Hawaiian study commission.

A Stafford amendment dealing with Federal aid highway extension.

A Hatfield amendment dealing with wage board language.

Mr. METZENBAUM. What is that?

Mr. BAKER. Wage board. House section 110 of the continuing resolution.

A Radio Marti amendment to be offered by the Senator from Wisconsin (Mr. KASTEN).

That is 31 amendments, then, counting amendments on both sides.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. McCLURE. The Senate had a colloquy a little earlier with respect to language that might or might not be offered that deals with the amendment I offered in the committee that was not listed. I wish to have it listed on our side, and I believe it will be either agreed to or accepted.

Mr. BAKER. Give me the subject matter so that I may tie it up.

Mr. McCLURE. It is with respect to the sale of public lands. It is also to clarify, and I will say to the Senator, that is to clarify the language of the amendment that will be adopted according to an agreement Senator BUMPERS and I will arrive at, I am certain, before we get to that point.

There is also, I understand, some discussion about the need for clarification of the language of the temporary withdrawal or extension of the withdrawal of leasing of public lands. That amendment that was offered in committee by myself might need further clarification. If so I wish to be listed for an opportunity to offer such an amendment in the event we come to an agreement on that.

Mr. BAKER. I thank the Senator.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. BAKER. I yield now to the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I hate to take issue with the majority leader's word.

But we recently discovered language in the Senate version of the continuing resolution which once again violates the canons by which the strategic stockpile is supposed to be managed. There is language in there requiring the purchase of copper. We dealt with that in the supplemental. Here it is again.

As chairman of the subcommittee having jurisdiction over the strategic stockpile, I feel bound to look out for its interest. So I will have to offer an amendment to delete that, and inasmuch as that issue has been aired recently I would be willing for 20 minutes on a side to obtain that agreement.

Mr. BAKER. I thank the Senator.

Mr. HUMPHREY. I thank the majority leader.

Mr. HART. Mr. President, will the Senator yield for a question?

Mr. BAKER. I yield to the Senator from Colorado.

Mr. HART. The majority leader said earlier even if he got a time agreement he might go out tonight, and we might be in Saturday. My question has to do with if the agreement is obtained could we not go late in the week with the hope of getting out say Friday? Why go out early tonight so we insure ourselves being in Friday?

Mr. BAKER. There is no reason that I can think of. It is only until 8:21 a.m.

in the morning, that I cannot get this bill up except by unanimous consent.

Mr. HART. I presume if we got the unanimous consent it would be all right.

Mr. BAKER. If I get the consent, we are going to go on. It is my understanding that we would perhaps not have unanimous consent unless the Senator from North Carolina did not offer his amendment.

I frankly do not think we are going to get to that point now. I do not blame the Senator from North Carolina. Now with 34 amendments he is just one of many.

But, Mr. President, I am not going to make the request at this time. I am so overwhelmed by the sheer numbers involved that I am going to suggest the absence of a quorum, and I am going to come back about 5:15 p.m. or 5:20 p.m. and see how we get along.

In the meantime it is my fervent hope that we can weed out a lot of these amendments because otherwise we are never going to get this thing done. If we cannot get unanimous consent to go to this bill tonight, that is, unanimous consent to waive that fragment of the 3-day rule that confronts us at this moment, I do not intend to go to anything else, and we will just go out until 8:20 a.m. in the morning. I do not mean that as an inducement or as a threat, but as a simple statement of fact. There is simply nothing I can do from the procedural standpoint.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. HATFIELD. Mr. President, will the majority leader consider 5:20 p.m. instead of 8:20 a.m. in order to realistically finish this and get some kind of continuing resolution by midnight on Thursday?

I can assure the Senate there is no way we can impose upon the appropriations process the kind of timeframe that the majority leader is, if we are going to take up all these amendments which we already have 10 hours on one side of the aisle and probably equal hours on the other side and when it is all added up we have 20 hours. Even if we cut that in half we have 10 hours facing us. There is no way we can get this back and acted upon. We cannot go to conference or send over to the House of Representatives by noon tomorrow the amendments that we have adopted on the Senate side so they can process them and hope to be able to call their committee meeting tomorrow night and thereby give us an opportunity to go to conference on Thursday morning and get some reports back.

Let me remind the Senate again we cannot bring in the cover sheet of a committee report of this kind and have it suffice for meeting the requirements of our rules. We have to bring in the finished product and then have it signed by the White House before midnight or vetoed by the White House before midnight on Thursday. There is no way that we can expect to accomplish that unless we can get this completed by noon tomorrow.

That is a result of conferences with the House staff people and Chairman WHITTEN of the House Appropriations Committee and our own staff people.

Mr. BAKER. Mr. President, could I say to my friend, the chairman of the committee, I am willing to come in any time that we can get on this bill, but the bill qualifies, I am told by the clerk, at 8:21 a.m. in the morning. That is the first time we can reach it absent unanimous consent.

Mr. HATFIELD. Mr. President, if the majority leader will yield for 1 further minute, I appreciate the fact we are locked in to the 8:21 a.m. rather than 5:21 p.m.

Let me also reiterate that every one of these amendments that I have heard this afternoon can be hung on a bill in the lameduck session just as easily as on the continuing resolution with maybe two or three exceptions that relate to an October deadline or some expiration deadline, but the overwhelming number of these amendments can be handled without losing rights or privileges of Senators on the bills as they emerge out of the special session or out of a second continuing resolution that we will have to pass for those bills we do not act upon in that special session.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BAKER. I am going to yield next to the Senator from Idaho, and then I wish to make another statement unless the minority leader has something to say.

I yield now to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I think every Member of the Senate is caught in an extremely difficult position at the present time because we are nearing the end of the session, and each one of us has some item of legislation that we have been hoping would be acted upon before the end of this session. I have some such myself.

It has been my hope to offer some of those to either the debt limit bill or to the continuing resolution, both of which have to be signed by the President. It is a way of getting legislation considered that otherwise perhaps we cannot get considered.

I have been persuaded by the distinguished Senator from Tennessee and the distinguished Senator from West Virginia, I might say, that if we all do that, we are not going to get this job done by the end of this week.

I am not running for reelection. I can stay here until November 4 without tremendous dislocation to the senior Senator from Idaho.

But there are others whom I wish to accommodate who do have commitments they are trying to keep.

For that reason I have agreed in an effort to expedite the business of the Senate that I will not offer some of those amendments that are near and dear to my heart.

I can identify them. I suspect there are a number of Senators in this Chamber who could run down the list before I could get to them.

I might just mention that the reformation of the 1968 Gun Control Act is a matter that is near and dear to my heart. We managed to finally get a piece of legislation reported by the Judiciary Committee. It had the approval of that committee. We have not been able to get it to the Chamber. I wish very much to get it done this year.

There are even some who would suggest that makes great politics; let us have a vote on that before the election. I will forego all of that opportunity if as a matter of fact we can get somehow resolved on the issues.

I do not happen to agree with my friend from New Hampshire with respect to the Clinch River breeder reactor program nor do I agree that it is necessary to have a vote at this time on this vehicle.

I am willing to waive an awful lot of advantages or disadvantages for myself in order to accommodate the Senate, but if we are going to have 40 amendments, why not 60? Why not accommodate 100 Members of the Senate and let them all offer all their amendments rather than just pick out 10, 15, 20, 30, or 40 that are going to be in the favored position of getting their favored issue aired at this time?

Mr. President, I thank the Senator from Tennessee for yielding, and I make this statement only to express the somewhat less than mild frustration on the part of the Senator from Idaho that if we are going to accommodate everyone else in this body maybe I am going to seek some accommodation also.

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator from Tennessee.

Mr. BAKER. Mr. President, before this goes any further I wish to stop because while I have stood here and been talking seven amendments have been called in on the telephone and I must say, Mr. President, that one of my predecessors who pointed out that amendments are like mushrooms, they grow after dark, is right, and they are growing now.

So I hope that we can do something about this, but there is no point in trying to work this out.

For instance, I have received a call from a Senator objecting to one of the

20-minute time limitations we mentioned.

Now let me say where I think the Senate is. We must pass a continuing resolution because we have not done the country's work. And I am going to say something I should not say. We have not done it not by choice but because we have not had the opportunity to do it because there has not been these bills from the House of Representatives here for us to work on. But that is not the question right now.

The point of the matter is we have to pass the continuing resolution. If we are going to get out of here anything close to October 1, we have to do it promptly.

I hope, in the time that I am going to try to create now by suggesting the absence of a quorum in a moment, I hope Senators will reconsider all of this and I hope three amendments will be offered. And I do not like any of the three of them so I am not trying to feather my own nest. One would be the jobs bill that Senator KENNEDY will offer, one would be the unemployment compensation amendment that Senator METZENBAUM will offer, and one would be the Clinch River amendment that would be offered by Senator HUMPHREY and Senator BUMPERS.

As I say, I am going to vote against all three of them. But that is not the point. The point is those are the issues everybody knows we are going to get to. While I would like to get them off this, I do not think we can. But everything else on that list I think ought to wait.

We have 81 days until we get another chance at another continuing resolution. We have less time than that before, I hope, we have other authorization bills or even other appropriations bills to deal with.

So I hope, in the 20 minutes that we are going to have now, more or less, that Members will reconsider this and they will give us consent to take up this bill with only those three amendments in order and come back here tomorrow or come back tonight and do that and pass the bill tonight. If we cannot pass it tonight, pass it no later than noon tomorrow. Maybe that is a forlorn hope, but that is what I hope we can do.

Mr. McCLURE. Will the Senator yield for just a brief moment? I agree with what the Senator has said.

Let me make one caveat. I understand that the amendment I had offered in the committee dealing with the FTC has caused considerable discussion and there was earlier hope made that I would agree to withdraw that at this time and offer it again sometime later. I hope that the statement of the Senator from Tennessee, the majority leader, would not preclude that opportunity. I understand that there are those who would desire that it be done in that manner and I am quite willing to to do that if we can in order to aid the passage of the bill at this time. But we would have to make room for us to do that. And the correction of the language that we had referred to earlier with respect to the colloquy between Senator BUMPERS and myself would be totally agreed upon and it simply would be a matter of correcting language already agreed upon.

Mr. BAKER. Mr. President, that is true and that would be included in the request.

Mr. President, does the Senator from Nebraska wish me to yield?

Mr. EXON. Yes. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. EXON. Mr. President, I have been listening with great interest to the debate that has been going on here. It seems that the majority leader indicates that those of us who have amendments have some fish to fry. That is not the case with the Senator from Nebraska.

I think, through error, the Appropriations Committees have not looked at the havoc that would be raised if the amendment on impacted aid that I am offering is not passed and some of our schools would be closed up by December 15. So, as far as the Senator from Nebraska is concerned, I would be willing to accommodate the Senate by even cutting down the time. I am hopeful that maybe it can be voice voted through once I have a chance to explain my position to the Members. But, in order to get things going, if it is any help to the majority leader, I will cut my 45 minutes down to 20 minutes equally divided.

Mr. BAKER. I am most grateful.

Mr. President, I think the best thing to do now is to break for a little while. I urgently ask Senators to consider forgoing the opportunity to offer their amendments or to reduce the time, as the Senator from Nebraska has now indicated his willingness to do.

Mr. ROBERT C. BYRD. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Mr. President, I would be glad to do what I can on this side to see if we can reduce the time. The two amendments that apparently stand in the way of waiving the 3-day rule are the two which have been enumerated, one that deals with PAC's and one that deals with Radio Marti. If an assurance could be given on those, I assume that the rule would be waived and the Senator could proceed tonight with some business. Otherwise, he can do so anyhow in the morning at 8:20. I will do the best I can to help the Senator.

Mr. BAKER. Mr. President, I will work on it, as well.

Mr. President, I expect this quorum will run at least 15 minutes and perhaps a little longer.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, the list of amendments has grown to about 40 and threatens to go even higher. But my cloakroom cannot work the suggested time agreements on amendments until they have a little time. They need about an hour, I am told, to work this through our clearance process.

I say to my friend the minority leader that some of the very short time limitations that have been identified apparently will not fly on our side. We will have some objections to them.

I have instructed our cloakrooms to do the best they can, and at 7 p.m. we will try to get as many time agreements as we can on the continuing resolution.

I understand that the minority leader was constrained to object to consent to proceed to the continuing resolution tonight, absent certain conditions. But hope springs eternal. I still hope we will be able to do that. We will not be able to do that right away.

RECESS UNTIL 7 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate stand in recess until 7 p.m. this evening.

There being no objection, the Senate, at 5:52 p.m., recessed until 7 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STAFFORD).

Mr. HATFIELD. Mr President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT ON S. 2116

Mr. STEVENS. Mr. President, I understand that the distinguished minority leader has a request for a star print of a bill, and it is perfectly agreeable so far as we are concerned.

Mr. ROBERT C. BYRD. I thank the distinguished acting Republican leader.

Mr. President, I ask unanimous consent that a star print for S. 2616 be prepared.

The PRESIDING OFFICER. Without objection, it is so ordered.

MISSING CHILDREN ACT

Mr. STEVENS. Mr. President, I move that the Committee on the Judiciary be discharged from further consideration of H.R. 6976, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. Mr. President, reserving the right to object, will the acting majority leader be good enough to explain what that measure is?

Mr. STEVENS. Mr. President, these matters were cleared on the Consent Calendar. If they are not cleared, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I move that the Committee on the Judiciary be discharged from further consideration of H.R. 6976, and I ask for its immediate consideration.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

The motion was agreed to.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6976) to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons).

Mr. STEVENS. Mr. President, I move to strike all after the enacting clause and insert in lieu thereof the text of S. 1701, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The text of S. 1701 is as follows:

That this Act may be cited as the "Missing Children Act".

SEC. 2. (a) Section 534(a) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (4);

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) acquire, collect, classify, and preserve any information which would assist in the identification of any deceased individual who has not been identified after the discovery of such deceased individual;

"(3) acquire, collect, classify, and preserve any information from authorized officials of the Federal Government, the States, cities, and penal and other institutions, and acquire, collect, and classify any information from a parent, legal guardian, or next of kin of an unemancipated person, as defined by the laws of the State of residence of such person, which would assist in the location of any missing person including but not limited to any missing person who—

"(A) is under proven physical or mental disability making the person a danger to himself or others;

"(B) is in the company of another person under circumstances indicating that his physical safety is in danger;

"(C) is missing under circumstances indicating that the disappearance was not voluntary; or

"(D) is unemancipated as defined by the laws of his State of residence and after such parent, legal guardian or next of kin of such unemancipated person has reported the missing person to the appropriate law enforcement agency which has jurisdiction to investigate such matter: *Provided*, That the failure of any parent, legal guardian or next of kin of any unemancipated person to provide accurate information to the United States Government or any agency or employee thereof, or the failure of any parent, legal guardian or next of kin of any unemancipated person to remove such information in a timely manner shall not give rise to any cause of action against the United States Government or any agency or employee thereof; and"; and

(4) by striking out "exchange these records" in paragraph (4) (as so redesignated) and inserting in lieu thereof "exchange such records or information".

SEC. 3. (a) The heading for section 534 of title 28, United States Code, is amended to read as follows:

"§ 534. Acquisition, preservation, and exchange of identification records and information; appointment of officials".

(b) The table of sections at the beginning of chapter 33 of such title is amended by striking out the item relating to section 534 and inserting in lieu thereof the following new item:

"534. Acquisition, preservation, and exchange of identification records and information; appointment of officials.".

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRESIDENTIAL PROTECTION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 805, H.R. 6168.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6168) to amend title 18, United States Code, to provide a criminal penalty for threats against former Presidents, major Presidential candidates, and certain other persons protected by the Secret Service, and for other purposes.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MILITARY CONSTRUCTION AUTHORIZATION—CONFERENCE REPORT

Mr. STEVENS. Mr. President, I submit a report of the committee of conference on S. 2586 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. THURMOND. Mr. President, the matter before the Senate is the conference report on S. 2586, the fiscal year 1983 military construction authorization bill. I do not expect any controversy with this report so I shall be brief.

In considering the budget request for military construction authorization for fiscal year 1983, the Senate made reductions of $1.4 billion from a budget request of $7.8 billion. The House companion bill allowed $7.5 billion. The conference report before the Senate recommends a figure of just over $7 billion—an increase of $600 million above the Senate figure and $500 million less than the House figure.

In arriving at this conference report, the conferees agreed initially to three ground rules.

First, a spending target of $7 billion in budget authority was established which represented the amount that the conferees felt could be authorized for appropriations with reasonable

confidence that the ceiling for the defense function, established by the first concurrent resolution on the budget, would not be breached.

Second, given this target, certain adjustments could be made and first priority for restoration of projects was given to budgeted projects cut by the Senate but not by the House.

Third, unbudgeted projects added to the bill by the House, if justified, were included in the conference bill, but authorized for construction with savings that are expected to be generated as budgeted and authorized projects are put under contract.

I am particularly pleased that the conferees adopted the approach of agreeing to fund certain projects only from savings. The current bidding climate in the construction industry is conducive to excellent competition and the military departments have achieved savings in their fiscal year 1982 program of from 12 to 15 percent. By denying appropriations for certain projects but permitting them to be built with savings, we are building incentives into the program—incentives for the military departments to execute the program quickly and with maximum savings, and incentives for the industry to remain competitive to enable more contracts to be awarded.

Mr. President, this bill will give a real boost to the construction industry at a time when unemployment is high. I urge my colleagues to support this bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT ON S. 2712

Mr. STEVENS. Mr. President, on behalf of the Senator from Pennsylvania (Mr. HEINZ), I ask unanimous consent that S. 2712 be star printed to reflect the changes which I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, on July 1, Senator RIEGLE and I introduced S. 2712, a bill designed to defend American industry against unfair, predatory trade practices. Specifically, S. 2712 would prohibit the furnishing of capital assistance under the Urban Mass Transportation Act of 1964 to recipients of unfairly subsidized foreign articles or materials. In the intervening time since the introduction of the bill, certain concerns have been brought to our attention which we have addressed by making two specific modifications in the bill's language.

First, since the legislation was intended to prevent unfair import competition rather than be a punitive measure aimed at any one organization, the language of the bill is modified so that those entities which entered into legal contracts, which include foreign subsidization, before the passage of the bill would not be penalized.

Second, the bill as modified would require the Secretary of Transportation to notify recipients of subsidized articles of his intent to withhold capital assistance and provide a period for recipients to either cure the violation or appeal the ruling. These are important, perfecting modifications of the bill's language in order that it would conform more fully with our original intentions.

Mr. President, in the time since S. 2712 was first introduced, two Government decisions have underlined the need for congressional action on this matter. Both concern a $700 million contract for 825 subway cars awarded by the Metropolitan Transit Authority of New York City (MTA) to Bombardier, Inc. of Canada.

First, on July 13 of the Department of the Treasury published its determination not to award matching financing under section 1912 of the Export-Import Bank Act Amendments of 1978 to Bombardier's American competitor, the Budd Co. of Troy, Mich. While admiting that the 9.7 percent, 15-year financing provided by the Canadian Government in support of Bombardier's bid was in violation of internationally agreed-upon export credit arrangements, the Treasury inexplicably concluded that subsidized financing was not a determining factor in the MTA's decision to go with Bombardier—this despite the fact that the official bid submitted by the Budd Co. was $28,000 per car lower than that of Bombardier.

Now on August 18, to add to the confusion, the International Trade Commission (ITC) published a preliminary determination in the same case in which they concluded that—

> There is a reasonable indication that an industry in the United States (the Budd Co.) is materially injured or threatened with material injury, by reason of imports of rail passenger cars . . . allegedly subsidized by the Government of Canada.

Furthermore, the ITC determined that—

> There is evidence on the record that financing was crucial in the MTA contract decision and an important factor in explaining Budd's failure to win the contract.

It is my opinion that, in this case, the ITC is correct and the Treasury has erred. All evidence in the case points to the fact that the Budd Co. was the victim of predatory export financing. S. 2712 would prevent similar occurrences in the future.

Mr. President, on behalf of Senator RIEGLE and myself, I ask unanimous consent that the changes I have discussed in S. 2712 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1602) is amended by adding at the end thereof the following:

"(i)(1) The Secretary may not furnish any assistance under this Act on or after the date of enactment of this Subsection for use by any recipient who, during the fiscal year with respect to which the assistance would be provided contracts to purchase, takes delivery of, or makes payment on any article or material purchased pursuant to a purchase contract entered into after the date of enactment of this statute with respect to which there is a violation of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (relating to subsidies and countervailing measures.)

"The Secretary, prior to withholding any assistance pursuant to this Subsection, shall notify such recipient of his intent to withhold and provide opportunity for such recipient to cure such violation as it relates to future payments on any article or material or to justify such action taking account of national and local interests. In the event of such cure, or justification satisfactory to the Secretary, the Secretary shall not withhold assistance. The Secretary shall defer the grant of any assistance from the time of his notification of intent to withhold pursuant to this subparagraph until such time as he makes a final determination as to such withholding action.

"(2) A violation shall be presumed to exist if—

"(A) the Secretary of the Treasury has determined, pursuant to section 1912 of the Export-Import Bank Act Amendments of 1978 (12 U.S.C. 635(a)(3)) that foreign noncompetitive financing is being offered;

"(B) the United States Trade Representative has made an affirmative determination pursuant to section 302(b)(2) of the Trade Act of 1974; or

"(C) the Secretary of Commerce has made an affirmative preliminary determination pursuant to section 703(b) of the Tariff Act of 1930.".

REFERRAL OF A BILL

Mr. STEVENS. Mr. President, I ask unanimous consent that the bill (S. 2965) reported from the Committee on Armed Services today, dealing with naval vessels to foreign countries, be sequentially referred to the Committee on Foreign Relations for not to exceed 2 calendar days.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADMISSION OF CERTAIN CHILDREN OF U.S. ARMED FORCES PERSONNEL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 842, S. 1698, the Amerasian children bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1698) to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of United States Armed Forces personnel.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause, and insert the following:

That section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by inserting at the end thereof the following new subsection:

"(h)(1) Any alien claiming to be an alien described in paragraph (2) of this subsection (or any person on behalf of such an alien) may file a petition with the Attorney General for classification under section 201(b), 203(a)(1), or 203(a)(4), as appropriate. After an investigation of the facts of each case the Attorney General shall, if he has reason to believe that the alien is an alien described in paragraph 2 of this subsection, approve the petition and forward one copy to the Department of State.

"(2) The Attorney General may approve petitions under paragraph (1) of this subsection if he has received an acceptable guarantee of financial support as described in paragraph (4) of this subsection and if he has reason to believe that—

"(A) the alien was born in Korea, Vietnam, Laos, Kampuchea, or Thailand after 1950; and

"(B) the alien was fathered by a United States citizen.

"(3) In considering petitions filed under paragraph (1) the Attorney General shall—

"(A) consult with appropriate governmental officials and officials of private voluntary organizations in the country of the alien's birth in order to make the determination described in subparagraphs (A) and (B) of paragraph 2; and

"(B) consider the physical appearance of the alien and any evidence provided by the petitioner, including birth and baptismal certificates, local civil records, photographs of, and letters or proof of financial support from, a putative father who is a citizen of the United States, and the testimony of witnesses, to the extent it is relevant or probative.

"(4)(A) A guarantee of financial support for an alien described in paragraph (2) must—

"(i) be signed in the presence of an immigration officer or consular officer by an individual (hereinafter in this paragraph referred to as the 'sponsor') who is twenty-one years of age or older and is a citizen of the United States or alien lawfully admitted for permanent residence, and

"(ii) provide that the sponsor agrees to furnish, during the five-year period beginning on the date of the alien's acquiring the status of an alien lawfully admitted for permanent residence, or beginning on the date of the alien's acquiring the status of an alien lawfully admitted for permanent residence and ending on the date on which the alien becomes twenty-one years of age, whichever period is longer, such financial support as is necessary to maintain the family in the United States of which the alien is a member at a level equal to at least 125 per centum of the current official poverty line (as established by the Director of the Office of Management and Budget, under section 673(2) of the Omnibus Budget Reconciliation Act of 1981 and as revised by the Secretary of Health and Human Services under section 652 of such Act) for a family of the same size as the size of the alien's family.

"(B) A guarantee of financial support described in subparagraph (A) may be enforced with respect to an alien against his sponsor in a civil suit brought by the Attorney General in the United States district court for the district in which the sponsor resides, except that a sponsor of his estate shall not be liable under such a guarantee if the sponsor dies or is adjudicated a bankrupt under title II, United States Code.".

Mr. STEVENS. Mr. President, the amendment is in the nature of a committee substitute, is it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I ask that the committee substitute be adopted.

The PRESIDING OFFICER. Without objection, the committee substitute is adopted.

Mr. DENTON. Mr. President, I urge the Senate to pass without delay S. 1698, the Amerasian children's bill. The bill received the unanimous favorable recommendation of the Subcommittee on Immigration and Refugee Policy and the full Judiciary Committee. I thank the committee members for their support, and I hope that all Senators will support the bill enthusiastically on the floor.

Senator LEVIN and I introduced this bill because we believe that our country has too long ignored its responsibility to the abandoned offspring of our citizens in Asia. We are all aware of the problems Amerasians face in their countries of birth. The national press has brought the issue to the attention of Congress and the public. The latest television documentary was broadcast just last week, when "60 Minutes" featured a segment on Amerasians in Vietnam as its lead story of its new season. The story highlighted the point that the Senate and the House must pass legislation this Congress to benefit the Amerasian children in Vietnam, Laos, Cambodia, Korea, and Thailand.

With each day that we delay, the Amerasian children, who are our responsibility because they are half American, are further away from escaping the discrimination that is caused by their mixed heritage. Passage of this bill will finally give those children and young adults the opportunity to come to the land of their fathers. This is an opportunity they richly deserve because they are American children.

S. 1698 will allow Amerasians to exercise their Amerasian heritage by giving them priority under the preference system established by the Immigration and Nationality Act. Amerasians would be eligible under the first preference for unmarried adult sons and daughters of citizens or the fourth preference for married adult sons and daughters of citizens. Under these provisions, Amerasians could claim their birthright without the necessity that the fathers be specifically or individually identified. They will also be included under any quotas, under immigration law, which apply to their country of birth or to the preference category for which they are deemed eligible.

The bill also requires the applicant to supply the Attorney General with a guarantee of financial support, signed by a U.S. citizen or permanent resident in the presence of an immigration officer. The sponsor agrees to be financially responsible for 5 years or until the applicant is 21 years of age, whichever is longer. The guarantee is enforceable through suit brought by the Attorney General against the sponsor. The sponsorship provision is unprecedented in our immigration law, and will insure that Amerasians do not become public charges.

In all senses, the bill, as reported from committee, is the result of the active cooperation of all interested parties to refine the language. I believe it is the best solution that the Congress can offer to the problems encountered by the Amerasians.

It is not certain that the bill will enable us to accommodate all of the Ameraisan children who experience difficulty in Asia. It is, however, the first and essential step in changing our longstanding neglect of the needs of the Amerasians. I urge my distinguished colleagues in the House of Representatives to quickly follow in acting on this bill. It would be unconscionable to disregard the opportunity to correct the many wrongs that now exist by failing to act during the few days that remain in this session of Congress.

S. 1698 has strong support from Republicans, Democrats, and the administration. I wish to thank Senator SIMPSON for his firm support in the Subcommittee on Immigration and Refugee Policy. I thank Senator THURMOND, the distinguished chairman of the Judiciary Committee, for making possible swift committee action. I also thank Father Alfred Keane, and Dick and Jodie Darragh, of Americans for International Aid, who originally brought the plight of the Amerasians to my attention.

I am proud and confident that this distinguished body will soon join in the effort to make it possible for some of our children to come to their rightful home.

Mr. LEVIN. Mr. President, 1 year ago this month I had the pleasure of joining with Senator DENTON as the principal cosponsor of this vital and human legislation. I am proud that the Senate is now ready to act on this legislation. There are a good many citizens of my own State of Michigan who are also proud, and excited, today. They have worked diligently for the cause of dignity and justice for all Amerasian children. I am talking about people like Kris and Arnie Lee and Jean C. Mitchell, adoptive parents of Amerasian children in Grand Rapids, Mich. I am talking about Jess and Jan Adler of Southfield, Mich., coordinators of families for children—a support group of over 100 families who have adopted Amerasians and another 600 to 700 families who are interested in the plight of Amerasian children. And, Mr. President, I am talking about Dr. Thomas B. Hoeksema of Calvin College in Grand Rapids, Mich., who has helped to educate us all on the plight of these, mostly orphaned, children of our U.S. servicemen.

Mr. President, we have anxiously awaited the moment when the entire Senate would have an opportunity to assert itself on this issue. I am very pleased that from all indications, this much-needed legislation will be accepted with the unanimous consent of the Members of this body.

I am sure our colleague in the House, Congressman STEWART MCKINNEY, is delighted by our action. His tenacity in this area is to be commended. Congressman MCKINNEY has been long the champion of this effort. I know Senator DENTON joins me in thanking him on this issue. Mr. President, I would also like to add my commendation and thanks to Father Alfred Keane for his efforts on behalf of the Amerasian children and John Shade and Jodie Darragh for their extraordinary and gifted work in this area.

Mr. President, the proposal before us seeks to correct a flaw in the current Immigration and Nationality Act which denies the children of U.S. citizens their legitimate claim to proper immigration status. S. 1698 specifically addresses the needs of those individuals, often referred to as Amerasian, who have been adandoned by their U.S. serviceman-fathers in Korea, Vietnam, Laos, Thailand, and Kampuchea.

Under the provisions of this bill, as offspring of U.S. citizens, an Amerasian would be able to apply for immigration to the United States under the first preference (unmarried sons and daughters of U.S. citizens) and fourth preference (married sons and daughters) categories of the Immigration Act. The legislation also directs the Department of State and the Department of Justice, in cooperation with the host government and private voluntary agencies to substantiate U.S. paternity. Although it can be difficult to substantiate U.S. parentage, every form of documentation must be used on a case-by-case basis. Additionally, the bill requires the applicant to have a U.S. sponsor. This sponsor would be legally responsible for supporting the applicant for a period of 5 years beginning on the date of the alien's admission for permanent residence, or during the period beginning on the date of the alien's admission for permanent residence and ending on the date on which the alien becomes 21 years of age, whichever period is longer.

Mr. President, this legislation responsibly addresses the needs of thousands of Amerasians and the obligation encumbent upon this country to meet those needs. The Amerasian would come at no expense to the taxpayer. He or she would be included in the present quota of immigrants from their countries and would not increase the total number of persons coming to this country. They would be required to meet all the requirements of health and character expected from other immigrants.

I should like to share with my colleagues the remarks contained in a letter to me from Kris and Arnie Lee of Grand Rapids, Mich.:

We are the parents of six children (five adopted). Two of these children are from a home of mixed race children in Korea. They are the children of a Korean woman and an American serviceman. We are concerned about the many other half American children who live in Korea.

They went on to say:

The children of Americans in certain Asian countries are not wanted by their birth countries. They are shunned and excluded from full participation in education, marriage, and employment opportunities. Because of this rejection an Amerasian person comes to feel that he is a freak of nature, the punishment for his parent's disregard of social norms. He learns that he has no right to expect the basic things in life that other purer Asians take for granted. Cruel as this is, we cannot be too quick to blame his mother's world for their insensitivity to the Amerasians without also looking at ourselves and our own responsibility to our childjren born in other countries. * * * America is in a better position to accept children of mixed parentage than are the homogeneous societies in Asia. In America there are many minority groups where individuals can derive a sense of identity. Culturally, financially, and practically we have the ability to help the Amerasian children and young people.

They went on to say:

There are many tragic situations in the world that we can do little about. But in this situation we can do something and we should feel especially compelled since this involves our own children. How can we as a country speak about human rights if we turn our backs on the rights of the American-Asian child? We do not believe that America will continue to ignore these children and young people.

Mr. President, the United States is partly accountable for the current conditions of Amerasian individuals. This country should meet its responsibility by providing the opportunity for a better future for these children of U.S. citizens.

According to an article entitled, "The Warrior's Children," written by David Devoss in the November 1980 issue of GEO:

Thirty years of U.S. military involvement in Korea have produced as many as 6,000 Amerasians. Only 4,500 of an estimated 8,000 Amerasians have been located in Thailand. There are more than 5,000 "Vietnam era" Amerasians in the Philippines, and the number of unwanted half-Americans in Vietnam itself, which hosted better than 2.1 million U.S. soliders between 1965 and 1973, could conceivably total 25,000. Only the homeless Amerasians in Saigon were ever counted and when the last U.S. helicopter rose from Tan Son Nhut Airport five years ago, an estimated 8,000 of them were left behind. Adorned with cowlicks and spattered with freckles, many resemble midwestern members of Future Farmers of America. Only their tattered pajamas and the pox they have acquired from sleeping in fetid back alleys brand them as bui doi—"dust of life." The rumpled, bureaucratic men who control South Vietnam today insist that Amerasians are not their responsibility. For them, the children and their mothers are "American" and thus ineligible to attend public schools, hold a job or receive a government ration card. "Our society does not need these bad elements," says Vo Vonh Thuan, a former Viet Cong who administers Saigon's Department of Social Welfare.

Mr. President, in the words of Jean C. Mitchell of Grand Rapids, Mich., adoptive mother of two Amerasian girls, "America owes these children a chance to become good citizens in the country of their fathers."

Mr. President, time is of the essence. Condemned children are waiting and hoping for the opportunity to come to a land that will accept them. I am proud that the Senate is now ready to signal our acceptance of these children and this legislation.

Mr. HATFIELD. Mr. President, I shall be brief in extolling the true virtue of what the Senate is about to do today.

None of us care to reminisce about America's involvement in Southeast Asia in the 1960's and early 1970's. The aftermath of the Vietnam war has left veterans ashamed, military and foreign policy advisors discredited, and the pride and soul of this country humiliated. Simply put, the Vietnam days are dark moments in a great nation's history that all of us would gladly put behind us.

Unfortunately, despite the fact that all of our troops and personnel had left the Southeast Asia region long

ago, there was something very American left behind. And that was children, so-called Amerasian children. Children fathered by American citizens who, through no fault or action of their own, have been and are being subjected to the cruelest ridicule, abuse, and overt discrimination because they are one-half American. These children, though blameless in the eyes of God, have been forced to bear alone the brunt of anti-American sentiment and cultural biases that stigmatize illegitimate or mixed children. These Amerasians are damned to a life of noncitizenship, and they are in these dreadful situations simply because the U.S. presence in Southeast Asia put them there. Americans left Southeast Asia long ago and regrouped, but these children were not able to come along. They have been left to pick up the fragile pieces of their broken lives in an environment assuredly hostile to their emotions and interests.

Up until today, the United States, through operation of its immigration policy, has turned a deaf ear to the cries of the Amerasian children. To the credit of the many people who have persisted in drawing attention to this truly American tragedy, the day is now upon us to respond in a humanitarian fashion to a situation which begs our compassion.

Mr. President, contrary to what some individuals have maintained over the years, legislation similar to S. 1698 will not encourage fraudulent entry by illegal aliens. That argument has always been specious at best, and does not apply to S. 1698. We are talking here about children, children who have a distinct American appearance and who can prove through evidence such as letters, past financial support, and local testimony and birth records, that they are the children of U.S. citizens. Further, we are talking about children who have sponsors in America that are willing to guarantee financial support until the child is at least 21, or, if the Amerasian is older than 16, support for at least 5 years. The Amerasian immigration bill allows the Attorney General to consider appearance and other means of verification when reviewing an application for a first or fourth preference immigration visa, and it institutes a guaranteed support mechanism to insure the Amerasians will not be public charges.

Indeed, the Senate can be proud for facing up to this unfortunate legacy of our days in Vietnam, Cambodia, Thailand, Laos, and South Korea. As one of the original cosponsors of the bill, I had sincere doubts that S. 1698 would be acted upon before the end of this Congress. Senator DENTON and his staff are to be commended for their diligence and their persistence in bringing S. 1698 a step closer to the status of public law. Prompt action by the House is necessary if the lifelong nightmare of Amerasian children is ever to end.

Mr. HAYAKAWA. Mr. President, I rise to congratulate my friend from Alabama, Senator DENTON, for the compassion he has shown in introducing S. 1698 and the perseverance he has exhibited in seeing it through. He and his staff have worked terribly hard and have overcome a number of barriers to reach this final consideration of S. 1698.

The bill before us will allow Amerasians—the children of American soldiers who served in Asia—to immigrate to the United States. Their very name—Amerasian—tells of their plight. They are not completely American, but not really Asian either. Their Western physical traits, while not enough to make them citizens of the United States, are more than enough reason to their Asian countrymen to ostracize and persecute them.

I agree with Senator DENTON that we as a nation have a responsibility to help these children. Whatever we do, right or wrong, we are a nation with a conscience. We chose to participate militarily in Asia and we now have a moral responsibility to assist the human beings that are products of our involvement: The Amerasians.

I urge the Senate to pass S. 1698 and bring our children home.

Mr. SIMPSON. Mr. President, I am pleased to speak in favor of S. 1698, the bill sponsored by Senator JEREMIAH DENTON, which confers special immigration status to certain Amerasian persons—children and adults. This bill, which has overwhelming bipartisan support in both Houses of Congress, with over 200 sponsors in the House and 40 in the Senate, was reported unanimously by the Subcommittee on Immigration and Refugee Policy, and by the full Judiciary Committee. The administration also fully supports this bill and is urging speedy passage.

The moving plight of Amerasians, children of American fathers and Asian mothers, has been a continuing humanitarian concern since U.S. servicemen and civilians have been stationed in various countries of Asia during the past 30 years. It has been documented that in several Asian countries these children frequently face serious discrimination, and sometimes outright persecution, as a result of their mixed race and American parentage.

In order to be admitted as an Amerasian, the petitioner must demonstrate the following three requirements:

First, that he or she has an acceptable guarantee of financial support from an American sponsor for a period of 5 years or until reaching age 21, whichever is longer. This sponsorship is legally binding.

Second, that he or she was born in Korea, Vietnam, Laos, Kampuchea, or Thailand after 1950, and;

Third, that he or she was fathered by a U.S. citizen.

In considering whether a person meets the eligibility requirements, the Attorney General shall:

Consult with appropriate Government officials and officials of private voluntary agencies in the country of the alien's birth.

Consider the physical appearance of the alien and any evidence including birth and baptismal certificates, local civil records, photographs of, and letters or proof of financial support from, a putative father who is a U.S. citizen, and the testimony of witnesses, to the extent it is relevant or probative.

Senator DENTON has been absolutely tireless in his efforts to provide a legislative remedy to enable these children and adults to immigrate to the United States, which many of them consider as their homeland. I urge that the Senate take swift favorable action on this important bill.

Mr. KENNEDY. Mr. President, I am pleased to join Senator SIMPSON and Senator DENTON in expediting consideration today of S. 1698, a bill to assist American-fathered children in Asia.

As the ranking member of the Subcommittee on Immigration and Refugee Policy, I was pleased to be able to work with our chairman, Senator SIMPSON, in moving this important humanitarian legislation through the Judiciary Committee—following our agreement last June that we would deal with this bill separately in order to assure its passage this session of Congress.

Mr. President, there are few other humanitarian issues that touch the heart of the American people more than the needs of thousands of orphans and disadvantaged children scattered in several countries of Asia where we have been heavily involved—and particularly those children fathered and abandoned by U.S. citizens.

For more than a generation, periods of conflict, war, and upheaval, and the heavy presence of American personnel in many parts of Asia, have left a tragic legacy of disadvantaged children—especially in South Korea, Vietnam, Laos, Cambodia, and Thailand. The plight of these children has never received the needed attention and concern of our Government. For too many years their cries for help have fallen on deaf ears. And the energetic efforts of many private voluntary agencies to help these children have garnered little official support.

I believe our country has a profound humanitarian obligation toward these children. It was for this reason that I sponsored legislation some 4 years ago that established a $2 million fund to

assist in the expansion and improvement of orphanages, hostels, day-care centers, and health and education programs for them. In addition, this special fund has been used to facilitate the adoption by Americans of these children, and the cutoff age for adoption was raised by legislation I introduced in 1978 from 14 to 16, so that more children could be adopted.

However, Mr. President, I knew then that these steps—as important as they were—would not be sufficient to address the fundamental problem of permitting more of these children to come to the United States because of existing restrictions in the Immigration and Nationality Act. So during the last Congress, while I served as chairman of the Judiciary Committee, I attempted to work with the administration in developing legislation that would effectively deal with these immigration hurdles without undermining the nationality provisions of our law.

Although the entry of these children to the United States, under the sponsorship of an American family and through the help of a voluntary agency, has long been seen to be in their best interests, our immigration laws have not permitted it. And that is the fundamental objective of this legislation—which was finally developed in a collaborative effort between the Congress and the executive branch.

Although it is long overdue, I am pleased to join my colleagues today in moving it through the Senate—to finally help resolve the plight of these children by admitting those who were fathered by Americans to this country, where they belong.

I hope the House of Representatives will also move expeditiously on this legislation so it can be signed into law this year.

Again, Mr. President, I commend the efforts of Senator DENTON, and I have been pleased to work with him.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by inserting at the end thereof the following new subsection:

"(h)(1) Any alien claiming to be an alien described in paragraph (2) of this subsection (or any person on behalf of such an alien) may file a petition with the Attorney General for classification under section 201(b), 203(a)(1), or 203(a)(4), as appropriate. After an investigation of the facts of each case the Attorney General shall, if he has reason to believe that the alien is an alien described in paragraph 2 of this subsection, approve the petition and forward one copy to the Department of State.

"(2) The Attorney General may approve petitions under paragraph (1) of this subsection if he has received an acceptable guarantee of financial support as described in paragraph (4) of this subsection and if he has reason to believe that—

"(A) the alien was born in Korea, Vietnam, Laos, Kampuchea, or Thailand after 1950; and

"(B) the alien was fathered by a United States citizen.

"(3) In considering petitions filed under paragraph (1), the Attorney General shall—

"(A) consult with appropriate governmental officials and officials of private voluntary organizations in the country of the alien's birth in order to make the determination described in subparagraphs (A) and (B) of paragraph 2; and

"(B) consider the physical appearance of the alien and any evidence provided by the petitioner, including birth and baptismal certificates, local civil records, photographs of, and letters or proof of financial support from, a putative father who is a citizen of the United States, and the testimony of witnesses, to the extent it is relevant or probative.

"(4)(A) A guarantee of financial support for an alien described in paragraph (2) must—

"(i) be signed in the presence of an immigration officer or consular officer by an individual (hereinafter in this paragraph referred to as the 'sponsor') who is twenty-one years of age or older and is a citizen of the United States or alien lawfully admitted for permanent residence, and

"(ii) provide that the sponsor agrees to furnish, during the five-year period beginning on the date of the alien's acquiring the status of an alien lawfully admitted for permanent residence, or beginning on the date of the alien's acquiring the status of an alien lawfully admitted for permanent residence and ending on the date on which the alien becomes twenty-one years of age, whichever period is longer, such financial support as is necessary to maintain the family in the United States of which the alien is a member at a level equal to at least 125 per centum of the current official poverty line (as established by the Director of the Office of Management and Budget, under section 673(2) of the Omnibus Budget Reconciliation Act of 1981 and as revised by the Secretary of Health and Human Services under section 652 of such Act) for a family of the same size as the size of the alien's family.

"(B) A guarantee of financial support described in subparagraph (A) may be enforced with respect to an alien against his sponsor in a civil suit brought by the Attorney General in the United States district court for the district in which the sponsor resides, except that a sponsor of his estate shall not be liable under such a guarantee if the sponsor dies or is adjudicated a bankrupt under title II, United States Code.".

The title was amended so as to read "A bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of United States citizens."

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

The following routine morning business was transacted today:

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:39 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 6156. An act to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and for other purposes;

H.R. 6867. An act to change the tariff treatment with respect to certain articles, and for other purposes; and

H.J. Res. 486. Joint resolution authorizing and requesting the President to issue a proclamation designating the period from October 3, 1982 through October 9, 1982, as "National Schoolbus Safety Week of 1982".

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 412. Concurrent resolution extending to the graduate school, Department of Agriculture, the appreciation of the Congress on the 60th anniversary of the founding of the school.

ENROLLED BILLS SIGNED

At 2:22 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the Speaker has signed the following enrolled bills:

S. 907. An act to amend section 351 and 1751 of title 18 of the United States Code to provide penalities for crimes against Cabinet officers, Supreme Court Justices, and Presidential staff members, and for other purposes;

S. 2271. An act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1983, and for other purposes;

S. 2405. An act to further amend the boundary of the Cibola National Forest to allow an exchange of lands with the city of Albuquerque, New Mexico;

H.R. 5081. An act to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the United States Forest Service; and

H.R. 7065. An act to amend the Community Service Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

At 6:40 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House has passed the bill (S. 2336) to authorize appropriations for fiscal year 1983 for certain maritime programs of the Department of Transportation, and for other purposes; with amendments, it insists upon its amendments to the bill; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. JONES of North Carolina, Mr. BIAGGI, Mr. BREAUX, Mr. DONNELLY, Mr. SNYDER, Mr. MCCLOSKEY, and Mr. YOUNG of Alaska as managers of the conference on the part of the House.

The message also announced that the Hosue disagrees to the amendments of the Senate to the bill (H.R. 6956) making appropriations for the Deparment of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses, and appoints Mr. BOLAND, Mr. TRAXLER, Mr. STOKES, Mrs. BOGGS, Mr. SABO, Mr. WHITTEN, Mr. GREEN, Mr. COUGHLIN, Mr. YOUNG of Florida, and Mr. CONTE as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6267) to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and insuring the availability of home mortgage loans; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ST GERMAIN, Mr. REUSS, Mr. ANNUNZIO, Mr. STANTON of Ohio, and Mr. WYLIE as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2386. An act to require the Director of the Office of Management and Budget to prepare an annual report consolidating the available data on the geographic distribution of Federal funds, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the following bill:

H.R. 6454. An act to amend title 18, United States Code, to clarify the applicability of offenses involving explosives and fire.

The message also announced that the House agrees to the amendments of the Senate to the following bill:

H.R. 4623. An act to amend titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the Code.

The message further announced that the House agrees to the amendment of the Senate numbered 1 to the bill (H.R. 5228) to amend title 18 of the United States Code to implement the Convention on the Physical Protection of Nuclear Material, and for other purposes; it agrees to the amendments of the Senate numbered 3, 5, and 8, to the bill, each with an amendment, in which it requests the concurrence of the Senate; and it disagrees to the amendments of the Senate numbered 2, 4, 6, and 7 to the bill.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3278. An act to amend title 10, United States Code, to provide additional standard for determining the amount of space to be programed for military retirees and their dependents in medical facilities of the uniformed services, and for other purposes.

H.R. 5238. An act to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare diseases and conditions, and for other purposes.

H.R. 5447. An act to extend the Commodity Exchange Act, and for other purposes.

H.R. 5455. An act to amend the Act of July 2, 1962, to authorize intrastate quarantines under extraordinary emergency conditions.

H.R. 5456. An act to amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements.

H.R. 6142. An act to authorize the Commodity Credit Corporation to process its accumulated stocks of agricultural commodities into liquid fuels and agricultural commodity byproducts, and for the disposition thereof, and for other purposes.

H.R. 6173. An act to amend the Public Health Service Act to replace title XV of such act with a block grant to States for health planning.

H.R. 6679. An act to authorize the Secretary of Agriculture to assess civil penalties with respect to violations of certain Acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant diseases, and livestock and poultry diseases, to increase the amount of criminal fines which may be imposed with respect to violations of such Acts, and for other purposes.

H.R. 6865. An act to amend the Perishable Agricultural Commodities Act, 1930, to require the Secretary of Agriculture to accept the payment of monetary penalties for certain admitted and infrequent violations involving misrepresentation under such Act, and for other purposes.

H.R. 7005. An act to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes.

H.R. 7115. An act to authorize the transfer of nine naval vessels to certain foreign governments.

H.R. 7140. An act to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to improve forteiture provisions and strengthen penalties for controlled substances offenses, and for other purposes.

H.R. 7143. An act to amend the Foreign Assistance Act of 1961 to extend for an additional year the Agricultural and Productive Credit and Self-Help Community Development Programs.

H.R. 7173. An act to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 3589. An act to authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, and for other purposes;

H.R. 4347. An act to authorize the Secretary of the Interior to proceed with the development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power; and

H.J. Res. 496. Joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week".

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3278. An act to amend title 10, United States Code, to provide additional standards for determining the amount of space to be programed for military retirees and their dependents in medical facilities of the uniformed services, and for other purposes; to the Committee on Armed Services.

H.R. 5238. An act to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare diseases and conditions, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 5455. An act to amend the act of July 2, 1962, to authorize intrastate quarantines under extraordinary emergency conditions, to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 5456. An act to amend the Plant Quirantine Act of August 20, 1912, as

amended, to eliminate certain unnecessary regulatory requirements; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 6142. An act to authorize the Commodity Credit Corporation to process its accumulated stocks of agricultural commodities into liquid fuels and agricultural commodity byproducts, and for the disposition thereof, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 6173. An act to amend the Public Health Service Act to replace title XV of such act with a block grant to States for health planning; to the Committee on Labor and Human Resources.

H.R. 6679. An act to authorize the Secretary of Agriculture to assess civil penalties with respect to violations of certain acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant diseases, and livestock and poultry diseases, to increase the amount of criminal fines which may be imposed with respect to violations of such acts, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 6865. An act to amend the Perishable Agricultural Commodities Act, 1930, to require the Secretary of Agriculture to accept the payment of monetary penalties for certain admitted and infrequent violations involving misrepresentation under such act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 6867. An act to change the tariff treatment with respect to certain articles, and for other purposes; to the Committee on Finance.

H.R. 7005. An act to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes, to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 7115. An act to authorize the transfer of nine naval vessels to certain foreign governments, to the Committee on Foreign Relations.

H.R. 7140. An act to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to improve forfeiture provisions and strengthen penalties for controlled substances offenses, and for other purposes; to the Committee on the Judiciary.

H.R. 7143. An act to amend the Foreign Assistance Act of 1961 to extend for an additional year the Agricultural and Productive Credit and Self-Help Community Development Programs; to the Committee on Foreign Relations.

H.J. Res. 486. Joint resolution authorizing and requesting the President to issue a proclamation designating the period from October 3, 1982 through October 9, 1982, as "National Schoolbus Safety Week of 1982"; to the Committee on the Judiciary.

HOUSE BILL PLACED ON CALENDAR

The following bill was read the first and second times by unanimous consent and placed on the calendar:

H.R. 5447. An act to extend the Commodity Exchange Act, and for other purposes.

HOUSE CONCURRENT RESOLUTION HELD AT THE DESK

The following concurrent resolution was held at the desk pursuant to the order of the Senate.

H. Con. Res. 412. Concurrent resolution extending to the Graduate School, Department of Agriculture, the appreciation of the Congress on the sixtieth anniversary of the founding of the school.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 28, 1982, he had presented to the President of the United States the following enrolled bills:

S. 907. An act to amend section 351 and 1751 of title 18 of the United States Code to provide penalties for crimes against Cabinet officers, Supreme Court Justices, and Presidential staff members, and for other purposes;

S. 2271. An act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1983, and for other purposes; and

S. 2405. An act to further amend the boundary of the Cibola National Forest to allow an exchange of lands with the city of Albuquerque, New Mexico.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 534. A bill for the relief of Frank L. Hulsey (Rept. No. 97-593).

S. 1510. A bill for the relief of Apolonio P. Tumamao and others (Rept. No. 97-594).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.R. 3171. A bill for the relief of Dr. David Pass.

H.R. 4490. A bill for the relief of Lehi L. Pitchforth, Junior.

By Mr. ROTH, from the Committee on Governmental Affairs, without amendment:

H.R. 6276. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to allow the issuance of revenue bonds to finance college and university programs which provide student educational loans.

Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 481. An original resolution to pay a gratuity to Giannina V. de Chellis.

S. Res. 482. An original resolution paying a gratuity to Linda Boyce Smith.

S. Res. 483. An original resolution to pay a gratuity to Andrea M. Wright; Lauree A. McDaniel and Demet N. McDaniel.

By Mr. COHEN, from the Committee on Armed Services, without amendment:

S. 2965. An original bill to authorize the transfer of certain excess naval vessels to foreign countries (Rept. No. 97-595); by unanimous consent, referred to the Committee on Foreign Relations for not to exceed two calendar days.

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. 2965, A bill to authorize the transfer of certain excess naval vessels to foreign countries.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Treaty Document 97-21. The Radio Regulations (Geneva, 1979) and a Final Protocol, signed on behalf of the United States at Geneva, December 6, 1979, with several reservations (with one condition) (Ex. Rept. 97-61).

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

Philip Abrams, of Massachusetts, to be an Assistant Secretary of Housing and Urban Development;

By Mr. ROTH, from the Committee on Government Affairs:

K. William O'Connor, of Virginia, to be Special Counsel of the Merit Systems Protection Board for the remainder of the term expiring June 3, 1986.

By Mr. THURMOND, from the Committee on the Judiciary:

Raymond L. Acosta, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico;

James C. Fox, of North Carolina, to be U.S. district judge for the eastern district of North Carolina;

Arthur F. Van Court, of California, to be U.S. Marshal for the eastern district of California for the term of 4 years;

Robert A. Destro, of Wisconsin, to be a member of the Commission on Civil Rights;

Constantine Nicholas Dombalis, of Virginia, to be a member of the Commission on Civil Rights;

Guadalupe Quintanilla, of Texas, to be a member of the Commission on Civil Rights.

By Mr. TOWER, from the Committee on Armed Services:

Stephen W. Bosworth, of Michigan, to be a member of the Board of the Panama Canal Commission.

Mr. TOWER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Lt. Gen. Harold F. Harding, Jr., U.S. Army, (age 54), for appointment to the grade of Lieutenant general on the retired list, Maj. Gen. Donald M. Babers, U.S. Army, to be lieutenant general, Lt. Gen. Robert T. Herres, U.S. Air Force, to be reassigned to a position of importance and responsibility designated by the President, Maj. Gen. William J. Campbell, U.S. Air Force, to be reassigned to a position of importance and responsibility designated by the President and to be lieutenant general, Adm. George E. R. Kinnear, U.S. Navy, (age 54), for appointment to the grade of admiral on the retired list, Vice Adm. John D. Johnson, Jr., U.S. Navy, (age 56), for appointment to the grade of vice admiral on the retired list, Lt. Gen. Larry D. Welch, U.S. Air Force, to be reassigned to a position of importance and responsibility designated by the President, Maj. Gen. Sloan R. Gill, U.S. Air Force Reserve, for appointment as Chief of the Air Force Reserve, Lt. Gen. John L. Piotrowski, U.S. Air Force, to be reassigned to a position of importance and responsibility desig-

nated by the President, Maj. Gen. Robert D. Russ, U.S. Air Force, to be reassigned to a position of importance and responsibility designated by the President and to be lieutenant general, Col. Paul J. Kopsch, U.S. Army National Guard, for appointment to the grade of brigadier general as a Reserve commissioned officer of the Army, Col. Philip B. Finley, U.S. Army National Guard, for appointment to the grade of brigadier general as a Reserve commissioned officer of the Army, Chaplain (Col.) Paul O. Forsberg, U.S. Army, to be brigadier general, Brig. Gen. Hubert T. Chandler, U.S. Army, to be Assistant Surgeon General (Dental) of the Army, Lt. Gen. James B. Vaught, U.S. Army, (age 56), for appointment to the grade of lieutenant general on the retired list, Maj. Gen. Louis C. Menetrey, U.S. Army, to be reassigned to a position of importance and responsibility designated by the President and to be lieutenant general, Lt. Gen. John R. McGiffert II, U.S. Army, (age 56), for appointment to the grade of lieutenant general on the retired list, Maj. Gen. Edward A. Partain, U.S. Army, to be reassigned to a position of importance and responsibility designated by the President and to be lieutenant general, Rear Adm. James A. Sagerholm, U.S. Navy, to be reassigned to a position of importance and responsibility designated by the President and to be vice admiral, and Lt. Gen. James A. Ahmann, U.S. Air Force, (age 51), for appointment to the grade of lieutenant general on the retired list. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER, Mr. President, in addition, in the Air Force there are 22 permanent promotions to the grade of lieutenant colonel (list begins with William J. Crielly, Jr.), in the Air Force there are 68 permanent promotions to the grade of colonel (list begins with Thomas L. Huff), in the Regular and Reserve of the Air Force there are 47 appointments to the grade of colonel and below (list begins with Robert W. Baker), in the Air Force there are three appointments to the grades and dates of rank to be determined by the Secretary of the Air Force (list begins with Michael J. Arganbright), in the Air Force there are 15 permanent promotions to the grade of lieutenant colonel and below (list begins with Michael J. Arganbright), in the Air Force there are 55 appointments to the grades and dates of rank to be determined by the Secretary of the Air Force (list begins with Leonard B. Amick, Jr.), in the Air Force there are 318 permanent promotions to the grade or major (list begins with Walter A. Aichel), in the Air Force there are 2,674 permanent promotions to the grade of lieutenant colonel (list begins with Michael A. Abair), in the Navy there are 167 permanent promotions to the grade of chief warrant officer (list begins with Milburn M. Anderson), in the Navy and Naval Reserve there are 42 permanent promotions to the grade of commander and below (list begins with James O. Royder) and in the Marine Corps there are 365 transfers from the Marine Corps Reserve at the grade of colonel and below (list begins with William J. Brooks). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of September 23, and September 27, 1982, at the end of the Senate proceedings.)

By Mr. PERCY, from the Committee on Foreign Relations:

William Alexander Hewitt, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States to Jamaica:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: William Alexander Hewitt.

Post: U.S. Ambassador to Jamaica.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

1. Self: William A. Hewitt, $1,000, September 18, 1977, Iowa/Illinois Republican Dinner; $500, April 20, 1978, Citizens for Percy; $1,000, June 19, 1978, Illinois Fund—PAC; $250, July 31, 1978, Illinois Fund—PAC; $335, August 1, 1978, Citizens for Percy; $300, August 9, 1978, Citizens for Jim Thompson; $50, September 8, 1978, Ben Polk (R) Illinois State Senator Campaign Fund; $165, October 2, 1978, Citizens for Percy; $100, October 3, 1978, Golden for Treasurer (Rock Island County); $250, February 8, 1979, Bush for President; $750, June 5, 1979, Bush for President; $1,000, July 24, 1979, Illinois Fund—PAC; $335, February 28, 1980, Citizens for Percy; $100, February 28, 1980, Delegates for George Bush Committee; $1,500, April 17, 1980, Deere PAC—Illinois; $1,000, June 6, 1980, Reagan for President Committee; $250, August 6, 1980, Citizens for Dave O'Neal (R. Cand. U.S. Senate); $2,500, October 6, 1980, Republican Senatorial Inner Circle; $100, November 3, 1980, Friends of Governor Rockefeller (W. Virginia); $2,000, November 25, 1980, 1980 Victory Committee; $5,000, December 24, 1980, Presidential Transition Foundation, Inc.; $100, January 28, 1981, Davis for Mayor Comm. (City of Rock Island); $100, March 26, 1981, Moline Republican Central Committee; $3,000, March 30, 1981, 1981 Senate-House Dinner, $1,000, May 1, 1981, Connally for President Comm. (campaign debt); $2,500, June 8, 1981, Citizens for Jim Thompson; $1,000, June 10, 1981, People for John Heinz Committee; $5,000, July 2, 1981, Citizens for Thompson for Reagan/Thompson dinner; $1,000, August 24, 1981, National Republican Congressional Committee; $1,200, August 26, 1981, The Illinois Forum, $1,500, September 4, 1981, Deere PAC-Illinois; $250, October 16, 1981, Bob Michel for Congress Committee; $1,000, January 15, 1982, Friends of Prescott Bush; $50, January 14, 1982, Citizens for Jack Foley (Rock Island County); $2,000, February 8, 1982, Iowa State Republican Central Committee (Visit of President Reagan); $1,800, February 9, 1982, Deere PAC-Illinois; $100, March 16, 1982, Railsback for Congress Committee; and $5,000, April 23, 1982, Republican Senate-House Dinner.

2. Spouse: Patricia Wiman Hewitt, $25, March 29, 1977, United Republican Fund of Illinois; $2 April 13, 1977, Rock Island Republican Women's Club; $45, September 9, 1977, Rock Island County Republican Central Committee; $100, September 1, 1978, Rock Island County Republican Central Committee; $1,000, October 2, 1978, Citizens for Percy; $250, February 8, 1979, Bush for President; $2, March 29, 1979, Rock Island Republican Women's Club; $100, April 18, 1979, Illinois State Senator Don Wooten Committee; $25 April 26, 1979, United Republican Fund of Illinois, $100, September 11, 1979, Railsback for Congress Comm.; $750, November 2, 1979, Bush for President; $100, February 6, 1980, Delegates for Bush Committee; $100, February 19, 1980, Rock Island County Republican Women's Committee; $500, July 13, 1980, National Unity Campaign for Anderson, R.I. County, Ill.; 1981, none; $25, February 16, 1982, United Republican Fund of Illinois; and $750, March 9, 1982, Railsback for Congress.

3. Children and Spouses: Adrienne D. Hewitt, $600, 1979, George Bush for President Committee; Anna Hewitt Wolfe, $650 1979, George Bush for President Committee; Joseph V. Wolfe (husband), $400, 1979, George Bush for President Committee; and Alexander S. Hewitt, $1,000, 1980, George Bush for President Committee.

4. Brothers and Spouses: Edward T. Hewitt, $100, 1977, GOP Campaign Fund; $15, 1977, Bronxville, N.Y. Republican Committee; $15, 1977, Bronxville, N.Y. Republican Men's Club; $100, 1978, GOP Campaign Fund; $15, 1978, Bronxville Republican Committee; $15, 1978, Bronxville Republican Men's Club; $100, 1978, Jesse Helms; $100, 1978, Bruce Caputo, Rep. candidate for N.Y. Lt. Gov.; $100, 1979, GOP Campaign Fund; $15, 1979, Bronxville Republican Committee; $15, 1979, Bronxville Republican Men's Club; $100, 1979, George Bush for President Committee; $50, 1979, John Connally for President Committee; $25, 1979, Jesse Helms;

$100, 1980, GOP Campaign Fund; $15, 1980, Bronxville Republican Committee; $15, 1980, Bronxville Republican Men's Club; $225, 1980, George Bush for President Committee; $200, 1980, Jim Santini Primary Campaign Fund—Nevada; $25, 1980, Jesse Helms; $100, 1981, GOP Campaign Fund; $15, 1981, Bronxville Republican Committee; $15, 1981, Bronxville Republican Men's Club; $100, 1981, Jim Santini; $100, 1982, GOP Campaign Fund; $15, 1982, Bronxville Republican Committee; $15, 1982, Bronxville Republican Men's Club; $100, 1982, Dean Rhoads (Rep. Primary); Viola K. Hewitt (spouse), $15, 1977, Women's Republican Club of Bronxville, N.Y.; $15, 1978, Women's Republican Club of Bronxville, N.Y.; $15, 1979, Women's Republican Club of Bronxville, N.Y.; $15, 1980, Women's Republican Club of Bronxville, N.Y.; $15, 1981, Women's Republican Club of Bronxville, N.Y.; and $15, 1982, Women's Republican Club of Bronxville, N.Y.

5. Sisters and Spouses: Adrienne Hewitt Gordon, Donald B. Gordon (spouse), Joint Contributions: $5, 1977, California GOP Fund; $5, 1977, U.S. GOP Fund; $1, 1977, U.S. GOP Fund; $5, 1977, U.S. GOP Fund; $1, 1977, Republican Party; $1, 1977, Republican Party; $2, 1977, Republican National Committee; $2, 1977, John Schmitz (California); $1, 1977, John Schmitz (California); $4, January 17, 1978, GOP Victory Fund; $4, January 17, 1978, California Republican Party; $4, January 17, 1978, Republican National Committee; $1, February 18, 1978, Republican National Committee; $1, February 23, 1978, Republican National Committee; $5, March 6, 1978, San Francisco Republican Committee; $2, March 26, 1978, Republican Party; $2, May 6, 1978, RNC Candidate Victory Fund; $2, May 22, 1978, Republican Committee; $2, May 22, 1978, California Republican Party; $2, August 25, 1978, San Francisco Republican Party; $2, October 24, 1978, Republican Committee; $10, October 29, 1978, The Republican; $2, March 17, 1979, National Republican Committee; $5, March 29, 1979, Republican; $2, May 25, 1979, GOP; $2, July 17, 1979, California Republican Party; $2, July 17, 1979, GOP Victory Fund; $2, August 13, 1979, San Francisco Republican Committee; $2, October 19, 1979, GOP; $2, October 19, 1979, GOP—AC; $8, December 8, 1979, Republican National Committee; $2, January 10, 1980, GOP; $2, March 31, 1980, Republican National Committee; $2, June 10, 1980, Republican Party; $2, July 8, 1980, GOP Fund; $2, August 30, 1980, GOP Fund; $4, November 21, 1980, GOP Fund; $2, January 10, 1981, GOP Fund; $5, February 25, 1981, GOP Fund; $4, May 5, 1981; GOP Fund; $5, May 27, 1981, California Republican Fund; $5, May 27, 1981, Republican National Committee; $4, August 10, 1981, GOP Fund; $2, November 7, 1981, California GOP; $2, November 7, 1981, Republican National Committee; $5, January 12, 1982, Mike Curb for Governor (Calif.); $5, February 8, 1982, GOP Fund; $5, March 1, 1982, San Francisco GOP; $8, March 1, 1982, Republican National Committee; $2, April 7, 1982, California GOP; and $2, April 7, 1982, Republican National Committee.

Theodore C. Maino, of California, to be Ambassador extraordinary and Plenipotentiary of the United States to the Republic of Botswana:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Theodore Carlton Maino.

Ambassador to Botswana.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

1. Self, $50, 1978, American Conservative Union; $100, 1978, Committee to re-elect Lagomarsino; $200, 1978, Stevens for Senate; $100, 1978, Committee to re-elect Lagomarsino; $50, 1979, Reagan for President; $50, 1980, Reagan for President; $25, 1981, Citizens for the Republic; $100, 1981, 1981 GOP Victory Fund; $50, 1981, Republican National Committee; $100, 1981, Committee to re-elect Lagomarsino; $100, 1981, GOP Victory Fund.

2. Spouse, $25, 1981, Citizens for Reagan and $25, 1981 Fund for Conservative Majority.

3. Children and spouses names: Michael M. Maino—Michaline, none; Theodore W. Maino, none; Melissa Maino, none; Molly Farley, none.

4. Parents, none living.

5. Grandparents, none living.

6. Brothers and spouses, none.

7. Sisters and spouses, names: Frances M. Bode—William Bode, $55, 1981, National Republican Senatorial Comm.; $50, 1982, National Republican Senatorial Comm.; $20, 1981, National Republican Congressional Comm.; $15, 1981, GOP Victory Fund.

Peter Dalton Constable, of New York, a Career Member of the Senior Foreign Service; Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Zaire:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Peter Dalton Constable.

Post: Zaire.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

1. Self, none.

2. Spouse, none.

3. Children and spouses, none.

4. Parents, names: Mr. and Mrs. R. D. Constable, $15 1978, Republican National Committee; $15, 1979, Republican National Committee; $15, 1980, Republican National Committee; $200, 1980, Reagan for President Committee; $15, 1981, Republican National Committee; $15, 1982, Republican National Committee.

5. Grandparents, none.

6. Brothers and spouses, names: Mr. and Mrs. R. S. Constable, none.

7. Sisters and spouses, names: Mr. and Mrs. R. F. Ledyard, $5, 1978, Republican National Committee; $25, 1978, Republican National Committee; $15, 1979 NCPAC; $20, 1979, Republican National Committee; $5, 1979, Republican National Senatoria Committee; $40, 1980, Republican National Committee; $30, 1980, NCPAC; $30, 1980, Republican National Committee; (sustaining); $30, 1981, Republican National Committee; $20, 1982, Republican National Committee.

Roger Bigger Oakley, of Louisiana, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Somali Democratic Republic:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert B. Oakley. Post: Kinshasa, Zaire.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

1. Self, none.

2. Spouse, none.

3. Children and spouses, none.

4. Parents, names: Mrs. J. B. Oakley, $50, October 1978, Sen. J. B. Johnston, D-Louisiana.

5. Grandparents, none.

6. Brothers and spouses, names: Mr. and Mrs. Thomas Elliott, Ft. Wayne, Ind., $50, April 1979, Winfield Moses, D-candidate for Mayor Ft. Wayne.

Everett Ellis Briggs, of Maine, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to Panama:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Everett Ellis Briggs.

Post: Ambassador, Panama.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

1. Self, none.

2. Spouse, none.

3. Children and spouses, names: Everett B., Catherine Briggs Gieszler (spouse), Allen, Lucy and Church, none.

4. Parents, father deceased; mother's name: Lucy Barnard Briggs, small donations, last 4 years, George Bush and GOP, none.

5. Grandparents names (deceased): Everett and Therina Barnard; James and Lucy Briggs, none.

6. Brothers and spouses, none.

7. Sisters and spouses, names: Lucy T. Briggs, none.

David Joseph Fischer, of Texas, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Seychelles:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: David Joseph Fischer.

Post: Ambassador to the Seychelles.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

1. Self, none.

2. Spouse, none.

3. Children and spouses, names: Keith, Mark, Anne Fischer, none.

4. Parents names: J. D. Fischer, none.

5. Grandparents deceased, none.

6. Brothers and spouses, names: Keith P. Fischer, $1,000, 1980, Committee to Elect George Bush.

7. Sisters and spouses, none.

Sharon Erdkamp Ahmad, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of The Gambia:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Sharon Erdkamp Ahmad.

Post: Being considered for Ambassador to The Gambia.

CONTRIBUTIONS, AMOUNT, DATE, AND DONEE

1. Self, none.

2. Spouse, no spouse.

3. Children and spouses, names: Marya Ahmad, age 10, and Sameena Ahmad, age 9, no contributions.

4. Parents names: Mr. and Mrs. Walter Erdkamp, none.

5. Grandparents, deceased.

6. Brothers and spouses, none.

7. Sisters and spouses, names: Mrs. John Culligan (Joyce), none.

John Blane, of Illinois, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Rwanda:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: John Blane.

Post: Ambassador to Rwanda.

CONTRIBUTIONS, AMOUNT, DATE AND DONEE

1. Self, $200, 1980, John Anderson.
2. Spouse, none.
3. Children and spouses' names: Sharon Blane and Patrick Blane, none.
4. Parents' names: Mr. and Mrs. John Blane, none.
5. Grandparent's name, Mrs. Arthur Stewart, none.
6. Brothers and spouses, none.
7. Sisters and spouses, none.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SASSER:

S. 2962. A bill to amend the Consolidated Farm and Rural Development Act to reduce the interest rate payable on certain disaster emergency loans made and insured under such act; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOLE (for himself, Mr. MOYNIHAN, and Mr. MATSUNAGA):

S. 2963. A bill to amend sections 2314 and 2315 of title 18, United States Code, relating to stolen archaeological material; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

S. 2964. A bill to establish a hydrogen research and development program; to the Committee on Energy and Natural Resources.

By Mr. COHEN from the Committee on Armed Services:

S. 2965. An original bill to authorize the transfer of certain naval vessels to foreign countries; to the Committee on Foreign Relations, by unanimous consent for a period not to exceed 2 calendar days.

By Mr. MATTINGLY:

S. 2966. A bill to amend title II of the Social Security Act to provide a more representative method for measuring changes in the Consumer Price Index for purposes of determining automatic cost-of-living increases; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MATHIAS:

S. Res. 481. An original resolution to pay a gratuity to Giannina V. de Chellis; from the Committee on Rules and Administration; placed on the calendar.

S. Res. 482. An original resolution paying a gratuity to Linda Boyce Smith; from the Committee on Rules and Administration; placed on the calendar.

S. Res. 483. An original resolution to pay a gratuity to Andrea M. Wright; Lauree A. McDaniel and Demet N. McDaniel; from the Committee on Rules and Administration; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SASSER:

S. 2962. A bill to amend the Consolidated Farm and Rural Development Act to reduce the interest rate payable on certain disaster emergency loans made and insured under such act; to the Committee on Agriculture, Nutrition, and Forestry.

REDUCTION OF INTEREST RATES FOR CERTAIN EMERGENCY ASSISTANCE

● Mr. SASSER. Mr. President, last month torrential rainstorms caused severe flooding in several counties in middle and east Tennessee. These flood ravaged counties were declared major disaster areas on August 24. With this declaration, many of the residents of this troubled area became eligible for emergency loan programs which would enable them to start putting their lives back together after this devastating act of nature.

Unfortunately this natural disaster hit at a time when many of these same individuals are caught in the grips of another tragic situation, the current crisis in our economy. In three of the hardest hit counties unemployment is well in excess of the national average, running at 12 percent in Hamilton County, 14.8 percent in Marion County and a tragic 21 percent in Jackson County, based on July's preliminary figures.

Agriculture makes up a good portion of the economy in these counties as well. I am sure all of my colleagues are aware of the troubled state of the American farmer. According to the United States Department of Agriculture estimates, farm income will be down again this year, marking the fourth straight year of such declines. In addition the projected level of farm income for the year is the lowest mark, when adjusted for inflation, since 1933. Finally, it is now estimated that about 29 percent of Farmers Home Administration loans are now considered delinquent.

In light of these circumstances I am today taking steps to protect those victimized by the flooding in Tennessee from further economic harm. I am introducing S. 2962, as a companion bill to H.R. 7131 on this matter introduced by Mr. GORE in the House. S. 2962 proposes to lower the interest rate on emergency loans under the Consolidated Farm and Rural Development Act from 8 to 5 percent. In addition, for loans in excess of the applicant's actual loss caused by the disaster the bill sets the interest rate equal to the current market rate rather than leaving this decision solely to the discretion of the Secretary of Agriculture.

Mr. President, I ask unanimous consent that the full text of S. 2962 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 324(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(b)(1)) is amended—

(1) in subparagraph (A) by striking out "8 per centum" and inserting in lieu thereof "5 per centum", and

(2) in subparagraph (B) by striking out "the rate prevailing in the private market for similar loans, as determined by the Secretary" and inserting in lieu thereof "the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to the outstanding amount of any loan made or insured after September 30, 1981.●

By Mr. DOLE (for himself, Mr. MOYNIHAN, and Mr. MATSUNAGA):

S. 2963. A bill to amend sections 2314 and 2315 of title 18, United States Code, relating to stolen archeological property; to the Committee on the Judiciary.

STOLEN ARCHEOLOGICAL PROPERTY

● Mr. DOLE. Mr. President, I introduce today a bill to amend the National Stolen Property Act (NSPA), as it may apply to imported archaeological and ethnological materials. Because of their long interest and great expertise in this subject, my distinguished colleagues on the Committee on Finance, Senator MATSUNAGA and Senator MOYNIHAN, join me in sponsoring this legislation.

This bill is a companion piece of legislation to title II of H.R. 4566, a miscellaneous tariff bill reported on September 21 by the Committee on Finance. That title contains the implementing legislation for the 1972 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Cultural Property, legislation that Senator MATSUNAGA introduced as S. 1723 earlier in this Congress. The convention, to which the Senate gave its unanimous advice and consent in 1972, represents a joint international commitment among its approximately 50 signatories to the preservation of the common cultural heritage of mankind. In substance, the convention commits its adherents in certain circumstances to consider applying import controls on illicitly traded artifacts, and to bar the importation of articles stolen from museums and similar institutions abroad. After years of consideration by both the Senate and House of Representatives, I believe the legislation contained in H.R. 4566 reflects a consensus attained among representatives of the administration, the academic and museum communities, and art dealers on the necessary parameters for U.S. efforts in this field. I hope our colleagues will join us in supporting this long overdue legislation.

In consideration of the bill before the Finance Committee, it became apparent that even should H.R. 4566 become law, there would remain an issue outstanding that is of concern to many involved in the trade of art materials. The issue is the application of existing U.S. law, in the form of the NSPA, to imported art objects that are alleged to be stolen within the meaning of that Act. The NSPA makes it a crime to transport in interstate or foreign commerce goods valued at least $5,000 knowing the goods to be stolen, converted, or taken by fraud, or to receive, conceal, store, sell, or dispose of such goods with such knowledge. As the substance of title II of H.R. 4566 directly addresses illicitly traded art objects, it is important for the Congress to insure that the potential application of existing law is consistent with our national policy, that will be substantially established by H.R. 4566, with respect to illicitly traded cultural materials.

With this in mind, I agreed to introduce with Senators MATSUNAGA and MOYNIHAN a bill separate from H.R. 4566 that will clarify the application of the NSPA to stolen art objects. The bill defines the elements necessary to obtain a conviction under the NSPA with regard to imported archaeological or ethnological materials. It reflects what I understand to be the administration's current interpretation of the NSPA, although the administration has not yet had the opportunity to review the bill.

The possible need for clarification of the application of the NSPA to imported art objects arises from the act's uncertain reach as a result of recent judicial interpretations in *United States* v. *McClain*, a case twice reviewed by the Court of Appeals for the Fifth Circuit (545 F.2d 988 (5th cir.) (*McClain I*), rehearing denied, 551 F.2d 52 (5th cir. 1977) (per curiam); *United States* v. *McClain*, 593 F.2d 658 (5th cir.) (*McClain II*), cert. denied, 444 U.S. 918 (1979). The court in McClain sustained a conviction of conspiracy to violate the NSPA where, besides the elements requisite to a conspiracy, the Government demonstrated that the defendants were aware of an unambiguous declaration of sovereign ownership of pre-Columbian artifacts, and they knew this declaration applied to the goods in question at the time they conspired to export the goods illegally from Mexico. Under this holding, a plenary declaration of national ownership of certain classes of articles, without regard to whether particular ones are identified, possessed by the foreign government, or illegally acquired, may render criminal liability under U.S. law essentially contingent on the export laws of other countries. Many question whether the court's interpretation of McClain thus is overly broad as a matter of national policy.

In introducing a bill that would clarify the application of the NSPA in an appropriate way, it is my intention to gain full congressional consideration of this matter. I believe that this country does have an important stake in assisting others to preserve their national treasures from pillage, and that we should preclude illicitly traded art from becoming a serious foreign relations problem between ourselves and some of our closest allies. At the same time, the reach of U.S. criminal law must be carefully drawn so that legitimate purchasers and traders in art objects do not mistakenly become caught in its net. I hope the Members will join Senator MATSUNAGA, Senator MOYNIHAN, and myself as we seek a way to complete full consideration by the Congress of this important subject.●

● Mr. MOYNIHAN. Mr. President, I am pleased to join Senators DOLE and MATSUNAGA in introducing legislation to amend the National Stolen Property Act.

On September 15, the Finance Committee approved S. 1723, a bill to implement the 1972 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Cultural Property. The Congress has taken many years to assure that this important implementing legislation properly balances all competing interests. Now, as a result of the dedication, diligence, and selfless leadership of Senator MATSUNAGA, I am hopeful that we will enact it into law before the end of this session. I am most grateful, and want to express my appreciation and congratulations, to the distinguished gentleman from Hawaii for his vital leadership on this subject.

In the course of our committee's consideration of S. 1723, we became convinced that Congress should establish a comprehensive policy for controlling the import of archeological and ethnological material. The Finance Committee, however, was unable to be as comprehensive as warranted because doing so would have involved legislative changes that are properly within the jurisdiction of the Committee on the Judiciary. Consequently, Senators DOLE, MATSUNGA, and I determined to introduce this separate bill which we hope can be considered and enacted promptly.

The need for this bill arises from interpretations of a decision construing the National Stolen Property Act by the Court of Appeals for the Fifth Circuit in *United States* v. *McClain*, 545 F.2d 988 (1977). That decision, Mr. President, appears flatly inconsistent with traditional American common law jurisprudence, has created widespread confusion in the American art community and represents an intrusion by the courts into a type of international policymaking that should be left to the Congress.

Under McClain, it appears that one might be convicted of stealing cultural property without any proof whatsoever that the property was in fact "stolen" in any common law sense of the word. Cultural property might be considered stolen simply because a foreign country declares that it owns all art objects found within its boundaries—even though citizens of that country may possess and trade in the objects. We should not permit our art dealers and museums who bring such material into the United States to be subject to criminal prosecution by substituting hollow declarations of foreign ownership for the time-tested requirement that an owner have had a real possessory interest in property before it can be considered stolen. Moreover, it is important to assure that the U.S. Customs Service not seize or detain cultural property simply in reliance on the McClain theory that a country owns whatever it says it owns. American art dealers will be unnecessarily reluctant to important antiquities or other cultural objects when threatened with these kinds of unwarranted actions.

In addition to being inconsistent with conventional American common law, the McClain decision is inconsistent with a basic principle of the UNESCO Convention implementing legislation—namely, that U.S. participation in controlling the international movement of cultural properties shall primarily be part of a concerted international effort. The McClain decision represents, instead, a unilateral and excessive response to the problem of the illegal pillage of cultural property.

Finally, as a result of the broad sweep of the McClain decision, the interpretation of the National Stolen Property Act effectively turns on the meaning of foreign law (largely unavailable in translation) and on legal concepts alien to American common law. Our Federal law should embrace American—and not foreign—legal principles.

The bill we are introducing today rejects this mischievous interpretation of "stolen." It sets forth the principle that restrictions on the import of cultural property will be established in accordance with the policies of Congress as expressed in the UNESCO Convention implementing legislation and not the metaphysical concepts of ownership employed in a foreign country's law. Our bill rejects the notion that an art dealer or collector who brings an antiquity or other cultural property into the United States may be subject to criminal prosecution—or be faced with a de facto Customs embargo—simply because a foreign country supplements a restriction on ex-

ports with a broad-based claim to ownership of all such property. In this way, it is our goal to avoid unnecessary curbs on the import of ancient and primitive art, which have been imposed independent of any policy of Congress, and to substitute a plan whereby the Executive may regulate the import of antiquities and similar objects subject to carefully prescribed congressional guidelines and procedures.

This bill makes clear that a violation of the National Stolen Property Act cannot be established solely by virtue of the fact that a foreign government declares that it owns a particular type of property, and the alleged theft is based only upon illegal export of the property from that country with or without the importer's knowledge. The courts must look to established common law.

Mr. President, this clarification of American law goes hand-in-hand with, and is essential to the successful implementation of, the Cultural Property Implementation Act. I believe we can, and should, move promptly to enact it.●

By Mr. MATSUNAGA:

S. 2964. A bill to establish a hydrogen research and development program; to the Committee on Energy and Natural Resources.

HYDROGEN RESEARCH AND DEVELOPMENT ACT

Mr. MATSUNAGA. Mr. President, I am today introducing a bill to provide for the establishment of an expanded and intensified research and development program to accelerate the commercialization of the hydrogen economy.

The timing is indeed ideal for the introduction of this measure, for the provisions of the bill address and attempt to resolve some of the problems we are having with national defense and energy in a manner which is in tune with the philosophy of the present administration, where support has been articulated for basic research and development of those potential energy sources which, by their very innovativeness, are deemed too risky for unilateral commercialization by the private sector, but yet show promise for having a major impact on the well-being of the Nation.

The ultimate impact of this bill will be to reduce oil importation, an economically debilitating dependence which has been bleeding our Nation at a rate of as much as $80 billion each year. The defense implications are partially related to development of the next generation of jet fuel, and partially tied to the concept of energy self-sufficiency, both of critical importance to our national security.

Yet another reasons is the simple fact that most of the other industrialized countries are carrying on hydrogen R&D activity at a level said to be considerably greater than ours. While AEG-Telefunkun of West Germany has proposed a $50 trillion, 60-year solare photovoltaic/hydrogen plantation program, and an all-party Canadian Commons committee has recommended an expenditure of $1 billion over the next 5 years to develop a hydrogen system to make our neighbors to the north a world leader in hydrogen development, our domestic program has declined from a combined $28 million in fiscal year 1977 to a phaseout budget.

To be truthful, there is currently no specific Federal program for the development of hydrogen as an energy transportation and storage medium. Worse yet, the disparate projects appear to begin various stages of termination.

How is it that a technology that was virtually born in these United States can suffer such retrogression in the face of significant foreign advancements? It was nearly a decade ago that Fortune magazine reported on the promise of the "hydrogen economy." The very first professional meeting to comprehensively consider the entire field of hydrogen-related research was held in this country in 1974, while demonstrations of a hydrogen-fueled automobile and hydrogen homestead were conducted shortly thereafter. NASA has very successfully applied the technology in the space race, including the Space Shuttle, which was hydrogen-driven into space. Yet spinoffs have not occurred into the commercial sector.

Worldwide, the Netherlands has pioneered work on metal hydrides; West Germany is advancing high temperature production of hydrogen; Brazil, with vast hydroelectric resources, already is using a 50-50 mixture of hydrogen and carbon monoxide as a substitute for natural gas; and Japan's auto industry is considering making hydrogen a fuel choice option in the foreseeable future. Japan also has its sunshine project, which emphasizes solar-assisted hydrogen production.

We should not carry on an overly ambitious hydrogen program just for the sake of copying the other industrialized nations of the world. On the other hand, the recent deemphasis in Federal hydrogen initiatives very much concerns me, and I seriously wonder if we again might be letting slip a technological imperative that could have crucial future economic implications.

Visions of the American auto industry seeking assistance to combat the superiority of foreign hydrogen-powered vehicles come to mind, but worse still, the possibility of the aerospace industry knocking on our doors lamenting foreign dominance of the air because of our inability to anticipate an almost obvious long-term development, is worrisome because of the defense overtones which would compound the disastrous economic and national image consequences.

Let me assure my colleagues, though, that this bill will not be creating yet another trough from which subsidies can be drawn. The provisions of this measure will commit our Nation to a reevaluation of where we are so that recommendations can be made on what can be done to get us where we should be in the future. As a starting point, the Hydrogen Energy Coordinating Committee, an informal group representing 10 Department of Energy offices, can be activated to get the program off to a running start. There is every reason to believe that with some redirection and front-end Government incentives, our free enterprise system will take charge and assume primary responsibility over the commercialization of the technology.

A hint as to why there is so much intense worldwide interest in this alternative can perhaps best be appreciated by the various popular names by which hydrogen is known: "Fuel of the future," "energy for peace," "ultimate fuel," "universal fuel," and "cleanest, most natural fuel."

Hydrogen is the most abundant element on Earth, and is therefore readily available. Thus, wherever there might be electricity or high temperature, hydrogen can be produced from biomass, most fossil fuels, and water.

Hydrogen is the lightest element in the universe, and therefore offers unique advantages in certain applications. For example, as hydrogen has a much higher energy per unit weight value than conventional jet fuel, one very obvious use is as a replacement fuel for aircraft.

Hydrogen has universal applicability, being a substitute for electricity or conventional fuels: Combined in a fuel cell with the atmosphere, electricity is produced; burned in a stove or engine, heat or mechanical motion can be extracted; stored in hydride form, a vehicle can be powered; and cooled into the liquid state, it is the ideal jet fuel.

Hydrogen has a number of advantages over electricity. It can be conveniently stored, allowing hydrogen generation plants to produce at maximum capacity at all times, or in the case of intermittent renewable energy sources such as sunlight or windpower, permit sporadic production and storage for constant overall use. Hydrogen transmission over long distances through pipelines, furthermore, is more efficient and less costly than electrical transmission lines. While 10 percent or more of electrical energy can be dissipated as heat in the line, hydrogen gas leakage will only be a fraction of this loss. Also, projected costs for hydrogen transmission amount to 4 cents to 6 cents per million Btu per 100 miles, compared to 37 cents to $1.05 for over-

head transmission lines and $1 to $2 for underground transmission lines.

Although the Hindenburg dirigible syndrome has unfortunately created some safety doubts about this gas, experimental evidence indicates that there may be less exposure to hazard if liquid or hydrided hydrogen is used instead of jet fuel, gasoline, propane, kerosene, or liquid methane. A tankful of jet fuel shot with a high-powered rifle will explode, while a similar direct hit for liquid hydrogen will only cause leakage. The properties of hydrogen which lead to this contradiction of popular expectation are its low density, its high diffusion velocity in air, and its low emissivity.

Finally, hydrogen is very much the ultimate, natural and cleanest fuel. While fossil fuels emit particulates, carbon dioxide, carbon monoxide, oxides of sulfur, oxides of nitrogen, scrubber sludge and ash, and nuclear energy yields various radioactive products, hydrogen combines with oxygen from the atmosphere to produce heat and/or electricity, with water as the byproduct. Hydrogen from solar energy sidesteps the dangers of nuclear proliferation and the greenhouse effect.

This not to say, however, that hydrogen is the cure-all for our energy problem. There are questions about economics and timing. However, the technical knowhow is a sine qua non: Hydrogen cannot be regarded as a logical option unless the technical particulars of its generation, transmission, and storage are explored to their full potential.

A joint Department of Energy and National Academy of Sciences 1979 report entitled, "Hydrogen as a Fuel," indicated that there is a need for a well-conceived R&D program to study the basic problems that constrain the entrance of hydrogen into the economy. Specifically, the following principles should guide the formulation of a U.S. program in support of hydrogen systems:

First. Basic exploratory research should be pursued on innovative concepts for hydrogen production, transmission, storage, and utilization through the laboratory demonstration stages. Such research should be pursued even if near-term market needs cannot be identified.

Second. The Federal program should include R&D elements designed to create a national data base of sufficient depth and quality that sound evaluations can be made of program alternatives in the future selections of coherent and timely development and demonstration programs.

Third. The Federal program should defer large-scale system development and demonstration activities aimed at hydrogen production until a market need of significant magnitude is clearly identified and it is established that the timing or risks make it unlikely that the private sector will undertake these R&D phases.

Fourth. The architects of hydrogen R&D programs should remain alert to development in applications areas that might enhance the need for hydrogen, and thus accelerate consideration of development and demonstration programs for production, transmission, and storage systems.

Fifth. Program priority should be given to exploratory research on concepts that hold promise of significantly reducing hydrogen production costs, particularly for coal/hydrogen systems where the cost reductions could also benefit synthetic fuel costs.

Sixth. Research should be initiated on hydrogen/air fuel-cells suitable for transportation applications to provide an alternative to battery-powered automobiles in the event that future hydrocarbon fuel limitations are encountered.

Seventh. In addition to work on hydrogen production concepts, appropriate R&D should be conducted on potential problems associated with the transmission and storage of hydrogen as a consumer fuel. Particular attention should be given to the identification and resolution of potential safety problems for all phases of the hydrogen chain from production to consumption. Such studies should be conducted in a timely fashion so as to contribute to the overall evaluation of the feasibility of proposed hydrogen systems.

I should particularly point out that this proposed bill advocates the use of renewable energy in the production of hydrogen. This emphasis is being advocated for three primary reasons:

First, the long-term survival of mankind cannot be tied to depletable energy. The energy content of domestic hydrogen annually produced today is approximately one quad. However, the corresponding energy consumption required, largely in the form of natural gas and petroleum, is about 1½ quads. In other words, if the current modes of hydrogen production are maintained, we would be using up fossil fuels at an even greater rate. Fortunately, a number of renewable energy options can be developed to totally replace fossil fuels.

Second, both the West German $50 trillion proposal and Japan's Project Sunshine specifically identify solar energy as the primary energy source in the process.

Third, a January 1981 publication summarizing the Department of Energy hydrogen projects states that the ultimate requirement is a method of hydrogen production which makes use of renewables or long-term primary energy sources.

Mr. President, in closing, I would like to say that the 1979 report issued by the U.S. General Accounting Office entitled, "The Potential for Hydrogen as an Energy Source," perhaps said it best. To paraphrase, while the decision to use hydrogen as a fuel will depend on economic, technical, sociopolitical and institutional factors, the gas itself is an ideal fuel to meet our Nation's energy needs because it is virtually inexhaustible, clean burning, convenient, versatile, and free from foreign control. Ladies and gentlemen, I submit that Congress can serve as the catalyst to help the private sector overcome these potential barriers, and I urge you to expeditiously act on this measure to accelerate the commercialization of the hydrogen economy.

ADDITIONAL COSPONSORS

S. 1249

At the request of Mr. PERCY, the names of the Senator from Florida (Mrs. HAWKINS), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Idaho (Mr. SYMMS) were added as cosponsors of S. 1249, a bill to increase the efficiency of Government-wide efforts to collect debts owed the United States, to require the Office of Management and Budget to establish regulations for reporting on debts owed the United States, and to provide additional procedures for the collection of debts owed the United States.

S. 1698

At the request of Mr. DENTON, the name of the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. Armed Forces personnel.

S. 1775

At the request of Mr. GRASSLEY, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of S. 1775, a bill to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts or omissions of U.S. employees, to provide a remedy against the United States with respect to constitutional torts, and for other purposes.

S. 2061

At the request of Mr. MOYNIHAN, the name of the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2061, a bill to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and for other purposes.

S. 2167

At the request of Mr. SPECTER, the name of the Senator from Virginia (MR. HARRY F. BYRD, JR.) was added as a cosponsor of S. 2167, a bill to amend the Unfair Competition Act of 1979

and Clayton Act to provide for further relief in the event of unfair foreign competition.

S. 2466

At the request of Mr. HATCH, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2466, a bill to amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations.

S. 2498

At the request of Mr. MATSUNAGA, the names of the Senator from Texas (Mr. BENTSEN) and the Senator from Oklahoma (Mr. BOREN) were added as cosponsors of S. 2498, a bill to amend the Internal Revenue Code of 1954 to provide that certain indebtedness incurred by educational organizations in acquiring or improving real property shall not be treated as acquisition indebtedness for purposes of the tax on unrelated business taxable income.

S. 2647

At the request of Mr. MATSUNAGA, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2647, a bill to amend the Internal Revenue Code of 1954 to allow a business expense deduction for certain conventions on cruise ships and to reinstate the convention reporting requirements.

S. 2770

At the request of Mr. HEINZ, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2770, a bill to provide import relief for the specialty steel industry.

S. 2771

At the request of Mr. HEINZ, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2771, a bill to provide import relief for the specialty steel industry.

S. 2857

At the request of Mr. ROBERT C. BYRD, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2857, a bill to establish a customs revenue-sharing trust fund for public works projects for the development and maintenance of the Nation's ports.

S. 2901

At the request of Mr. DOLE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2901, a bill to establish a National Commission on Neurofibromatosis.

S. 2902

At the request of Mr. THURMOND, the names of the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Maine (Mr. COHEN) were added as cosponsors of S. 2902, a bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes.

S. 2929

At the request of Mr. NICKLES, the name of the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 2929, a bill to amend the Davis-Bacon Act.

S. 2930

At the request of Mr. HATCH, the name of the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 2930, a bill to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor, and for other purposes.

S. 2933

At the request of Mr. MATSUNAGA, the name of the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 2933, a bill to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income.

S. 2935

At the request of Mr. SASSER, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2935, a bill to amend the Internal Revenue Code of 1954 to provide for a credit against tax with respect to the employment of certain unemployed individuals.

S. 2942

At the request of Mr. COHEN, the name of the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of S. 2942, a bill to provide that disability benefits under title II of the Social Security Act shall continue to be paid through the end of the administrative appeals process, and that periodic reviews of disability cases shall be carried out only to the extent determined to be appropriate.

SENATE JOINT RESOLUTION 215

At the request of Mr. HATCH, the names of the Senator from Maryland (Mr. MATHIAS), the Senator from Alabama (Mr. HEFLIN), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of Senate Joint Resolution 215, a joint resolution to provide that the week beginning March 6, 1983, shall be designated as "Women's History Week."

SENATE JOINT RESOLUTION 228

At the request of Mr. NUNN, the names of the Senator from Georgia (Mr. MATTINGLY), the Senator from Utah (Mr. HATCH), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of Senate Joint Resolution 228, a joint resolution to provide for the designation of the week beginning on October 24, 1982, as "National Tourette Syndrome Awareness Week".

SENATE JOINT RESOLUTION 236

At the request of Mr. MCCLURE, the names of the Senator from Idaho (Mr. SYMMS), the Senator from California (Mr. HAYAKAWA), the Senator from Arizona (Mr. GOLDWATER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Nevada (Mr. LAXALT), the Senator from South Dakota (Mr. ABDNOR), the Senator from Utah (Mr. HATCH), the Senator from Wyoming (Mr. WALLOP), the Senator from Utah (Mr. GARN), the Senator from Oregon (Mr. PACKWOOD), the Senator from North Carolina (Mr. HELMS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Oregon (Mr. HATFIELD), the Senator from Colorado (Mr. ARMSTRONG), the Senator from Oklahoma (Mr. NICKLES), the Senator from Washington (Mr. JACKSON), the Senator from Arizona (Mr. DECONCINI), the Senator from Mississippi (Mr. STENNIS), the Senator from Montana (Mr. MELCHER), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Nebraska (Mr. ZORINSKY), the Senator from North Dakota (Mr. BURDICK), the Senator from Alabama (Mr. HEFLIN), the Senator from Montana (Mr. BAUCUS), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Kentucky (Mr. FORD), the Senator from North Carolina (Mr. EAST), and the Senator from Nevada (Mr. CANNON) were added as cosponsors of Senate Joint Resolution 236, A joint resolution to designate the week of October 24 through 28, 1982, as "National Water Resources Week."

SENATE JOINT RESOLUTION 255

At the request of Mr. GOLDWATER, his name was added as a cosponsor of Senate Joint Resolution 255, a joint resolution to designate the week of October 10, 1982, through October 16, 1982, as "Freedom Week U.S.A.".

SENATE CONCURRENT RESOLUTION 87

At the request of Mr. TSONGAS, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. METZENBAUM), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Maine (Mr. COHEN) were added as cosponsors of Senate Concurrent Resolution 87, a concurrent resolution expressing the sense of the Congress that the President should take certain actions with respect to East Timor.

UP AMENDMENT NO. 1305

At the request of Mr. KENNEDY, his name was added as a cosponsor of UP amendment No. 1305 proposed to H.R. 7072, a bill making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes.

At the request of Mr. HUDDLESTON, the names of the Senator from Montana (Mr. BAUCUS), the Senator from North Dakota (Mr. BURDICK), the Sen-

ator from Arizona (Mr. DECONCINI), the Senator from Nebraska (Mr. EXON), the Senator from Hawaii (Mr. INOUYE), the Senator from Georgia (Mr. NUNN), and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of UP amendment No. 1305 proposed to H.R. 7072, supra.

SENATE RESOLUTION 481—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO GIANNINA V. DE CHELLIS

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 481

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Giannina V. de Chellis, mother of Genevieve V. de Chellis, an employee of the Senate at the time of her death, a sum equal to one year's compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 482—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO LINDA BOYCE SMITH

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 482

Resolved, That the Secretary of the Senate is authorized and directed to pay, from the contingent fund of the Senate, to Linda Boyce Smith, widow of Kirk Smith, an employee of the Senate at the time of his death, a sum equal to four months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 483—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO ANDREA M. WRIGHT, LAUREE A. McDANIEL, AND DEMET N. McDANIEL

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 483

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Andrea M. Wright; Lauree A. McDaniel and Demet N. McDaniel, daughters of Dianne L. McDaniel, an employee of the Senate at the time of her death, a sum to each equal to one-third of three months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

AMENDMENTS SUBMITTED FOR PRINTING

CONTINUING APPROPRIATIONS, FISCAL YEAR 1983

AMENDMENT NO. 3621

(Ordered to be printed and lie on the table.)

Mr. METZENBAUM submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 599) making continuing appropriations for the fiscal year 1983, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Economic Development of the Committee on Small Business be authorized to meet during the session of the Senate today, September 28, 1982, to hold an oversight hearing on the SBA section 503 program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, September 28, at 9 a.m., to hold a hearing on proposals providing for a flat-rate income tax, and simplified income tax with lower rates and fewer exemptions from the general rate.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 28, at 11 a.m., to hold a business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 29, at 10 a.m., to conduct a hearing entitled "Overview of U.S. Nuclear Nonproliferation Policy."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 29, in order to receive testimony concerning S. 2784, the Major League Sports Community Protection Act of 1982 and the following nomination: Judge George G. Fagg, of Iowa, to be U.S. Circuit Judge for the Eight Circuit Court of Appeals.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, October 1, in order to receive testimony concerning S. 2044, a bill to amend work for hire clause of the copyright law.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, September 28, at 10 a.m., to hold an oversight hearing on hotel employees' and restaurant employees' international union.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, September 29, at 10 a.m., to hold an oversight hearing on hotel employees' and restaurant employees' international union.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, September 30, at 10 a.m., to hold an oversight hearing on hotel employees' and restaurant employees' international union.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, September 28, 1982, at 10 a.m. to conduct a closed session hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, September 29, 1982, at 10 a.m., to conduct an open session hearing dealing with Soviet succession.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be au-

thorized to meet during the session of the Senate on Wednesday, September 29, at 2 p.m., to hold a business meeting to consider S. 1325, Former President's Facilities and Services Reform Act of 1982, and S. 2127, Competition in Construction Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, September 28, in order to consider and act on the following Committee business:

TENATIVE AGENDA

(1) NOMINATIONS

UNITED STATES DISTRICT JUDGES

Mr. Raymond L. Acosta, of Puerto Rico, to the U.S. District Judge for the District of Puerto Rico.

Mr. James C. Fox, of North Carolina, to be U.S. District Judge for the Eastern District of North Carolina.

UNITED STATES MARSHALS

Mr. Arthur F. Van Court, of California, to be U.S. Marshal for the eastern district of California.

Other

Professor Robert A. Destro, of Wisconsin, to be a Member of the Commission on Civil Rights.

Dr. Guadalupe Quintanilla, of Texas, to be a Member of the Commission on Civil Rights.

Reverend Constantive N. Dombalis, of Virginia, to be a Member of the Commission on Civil Rights.

(2) BILLS

H.R. 5879. A bill to reauthorize the Refugee Act of 1980. (Subcommittee on Immigration and Refugee Policy)

Private Immigration Bills

Favorably reported from Subcommittee:

S. 273, S. 369, S. 370, S. 372, S. 374, S. 375, S. 377, S. 379, S. 596, S. 617, S. 642, S. 717, S. 747, S. 1329, S. 1465, S. 1470 S. 1499 S. 1513, S. 1547, and S. 1636.

S. 1838, S. 2039, S. 2052, S. 2103, S. 2116, H.R. 684, H.R. 825, H.R. 828, H.R. 1481, H.R. 1783, H.R. 1826, H.R. 1841, H.R. 2193, H.R. 2340, H.R. 2342, H.R. 2520, H.R. 3451, H.R. 3592, H.R. 4662, and H.R. 6811.

Subcommittee recommends for indefinite postponement:

S. 217, S. 299, S. 318, S. 325, S. 336, S. 357, S. 378, S. 431, S. 504, S. 554, S. 619, S. 627, S. 942, S. 1241, S. 1401, S. 1418, S. 1492, S. 1518, S. 1756, S. 1920, S. 2030, S. 2228, and S. 2041.

Relief bills from the Subcommittee on Agency Administration:

H.R. 3171. For the relief of Doctor David Pass.

H.R. 4490. For the relief of Lehi L. Pitchforth, Jr.

S. 1510. For the relief of Alpononio P. Tumamao.

S. 534. For the relief of Frank L. Husley.

(3) COMMEMORATIVE RESOLUTIONS

S.J. Res. 249. Designating the month of October, 1982 as "National Spinal Cord Injury Month". (Introduced by Senator Kennedy).

S.J. Res. 251. Designating October 10, 1982 as "National Peace Day". (Introduced by Senator Bumpers).

H.J. Res. 568. Designating October 5, 1982, as "Dr. Robert H. Goddard Day".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, September 28, at 2 p.m., to mark up the following legislation: S. 2942, relating to social security disability payments—clean bill without pension amendments although pension amendments could be considered and reported separately; H.R. 4577, tax treatment of property received as compensation; H.R. 4948, money purchase plan revisions; H.R. 5470, Periodic Payments Settlement Act; H.R. 5573, contributions of computers to schools; H.R. 6055, Subchapter S revisions; H.R. 7094, multiemployer plans—determination letter conditions; and S. 2298, the Enterprise Zone Tax Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

UNEMPLOYMENT COMPENSTION BENEFITS

● Mr. HEINZ. Mr. President, when the Senate takes up consideration of the continuing resolution later this week, Senators METZENBAUM, BYRD, MATHIAS, and I, along with other colleagues, intend to offer an amendment designed to preserve unemployment compensation benefits for unemployed workers in those States hardest hit by this recession. The amendment would delay any changes in the "trigger" mechanism until the unemployment rate has dropped below 8.7 percent nationally.

Until September 25, 1982—this past Saturday—a State was eligible for the 13-week, extended-benefits program if it had a flat insured unemployment rate (IUR) of 5 percent, or, under the alternative test, if its IUR was 4 percent and at least 120 percent higher over the same 13-week period over the last 2 years.

Starting on September 25—now—the trigger for extended benefits has been increased to a flat 6-percent IUR, or, under the alternative test, an IUR of 5 percent and that that rate is at least 120 percent higher over the same 13 week period over the last 2 years.

In sum, this change will make it more difficult for States to qualify for the extended benefits program, just when the need for these prolonged benefits is greatest.

Mr. President, our amendment would reduce the trigger mechanism from the new level established on September 25 to the level existing all during the previous year.

In addition, our amendment would repeal a change made in last year's omnibus budget reconciliation bill which excluded extended benefits recipients from being counted for purposes of calculating the insured unemployment rate. The exclusion of extended benefit recipients from the IUR calculation has already led to 10 States triggering off the program in recent months.

It is anticipated that 16 more States will trigger off as a result of the higher trigger calculation established on September 25,

Mr. President, I want to insure that Pennsylvanians continue to receive their full and fair share of unemployment benefits. Over 10 million Americans in other States are just as concerned. When Congress approved the 10-week extension of supplemental benefits for Pennsylvania last month, it was to insure that the unemployed received additional aid beyond what was then available to them. But, without this new action, millions could find themselves without 13 weeks of benefits they desperately need. For many, unemployment benefits have become the only means available to weather this prolonged recession. Our unemployed have suffered undue hardship and must be protected, and I urge my colleagues to support our effort.●

CONTINUING VIOLENCE IN GUATEMALA

● Mr. KENNEDY. Mr. President, I should like to alert my colleagues to a recent Boston Globe article concerning the present political situation in Guatemala. This article by Stephen Kinzer describes the continuation of human rights violations in Guatemala, especially against the Indian population in the western and northern provinces of that country.

Several times in the course of this year, I have expressed concern about the issue of human rights violations in Guatemala. On those occasions, I reiterated my belief that the United States should withhold military aid until the Guatemalan Government undertook measures to guarantee the human rights of all people living in Guatemala. Earlier, we had seen some reductions in the violence and terrorism in Guatemala's larger cities. Tragically, ugly atrocities persist throughout the country, and there has been a renewal of repression in the urban centers. Brutal torture and murder of innocent people committed by army patrols go unchecked by the Government. Before Government censorship descended again on the press, Jorge Carpio Nicolle, the editor of El Grafico, wrote in a signed declaration:

The massacres of peasants that are going on in the Guatemalan highlands cannot be explained, have no reason to be, have no logic. The murder of defenseless children

and pregnant women is stupid and bestial. The genocide that is taking place in the Indian parts of the country is truly horrifying.

It is vitally important that we, here in the United States, continue to emphasize to the authorities in Guatemala our strongest opposition to these atrocities and our deepest concern for the human rights of all Guatemalan people. I request that Stephen Kinzer's important and comprehensive article be printed at this point in the RECORD.

The article follows:

[From the Boston Globe, Sept. 7, 1982]

GUATEMALA CURBS SQUADS BUT THE KILLING GOES ON

(By Stephen Kinzer)

GUATEMALA CITY.—There has been no respite in the cycle of violence and brutality that has wracked this spectacularly beautiful land for more than 25 years. Since Gen. Jose Efrain Rios Montt came to power five months ago, hundreds of improverished Indians in the remote Western highlands have been shot, hacked to death and burned alive, and nearly 15,000 have fled the country to neighboring Mexico in fear for their lives.

Gen. Rios Montt, a fundamentalist Christian, has ordered his soldiers to follow a policy of "absolute respect for human rights," and his press secretary, Francisco Bianci, asserted in an interview that "the president truly wants to make a change in this country." Yet foreign diplomats, priests, rural-development workers and local journalists agree that unspeakable massacres are continuing, especially in the northwestern provinces of Alta and Baja Verapaz, San Marcos, Huehuetanango and El Quiche.

"We cannot explain this contrast," said one of the country's leading Catholic bishops, who like many informed Guatemalans, spoke only after being promised anonymity. "There seems to be good will, but the facts show another reality that makes one lose hope."

Here in the capital, the change in political climate since Rios Montt took over is dramatic. Gone are the murderous death squads that only last year roamed the streets freely in cars without license plates, assassinating trade unionists, politicians, student leaders and university professors. Well-to-do Guatemalans who once cowered in their houses at night, never knowing whose turn might come next, today fill restaurants and night clubs and talk freely of their relief that the terror they lived with for so long now finally seems to have ended.

"TERRIBLE THINGS GOING ON"

The same seems true in many of Guatemala's large towns. "These terrible professional killers who were employed by the government, they're just about gone now," said an American-educated professional in the provincial capital of Chimaltenango. "But," he added, "there are still terrible things going on in the northern and western parts of the country, there's no doubt about it."

Under the regime of deposed Gen. Fernando Romeo Lucas Garcia, who took office in 1978 and served until he was overthrown last March 23, more than a dozen priests were killed or driven into exile by death threats. During the same period, nearly 300 activists in the center-left Christian Democratic Party were gunned down or kidnaped and tortured to death. In contrast, not a single priest or Christian Democrat has died violently since Gen. Rios Montt assumed power following the March coup.

The marginalized Indians who make up a majority of Guatemala's population, however, have not been so lucky. As the war between government forces and leftist insurgents has intensified, they have found themselves caught in the middle of a crossfire that is jarring, even by the standards of this blood-soaked country.

A group of rural workers in the Guatemalan northwest has compiled a chronology of savagery for the month of July that includes accounts of 89 people being burned alive after being herded into a local schoolhouse; five men clubbed to death for allegedly giving food to guerrillas; a masked informer entering a village with an army patrol and pointing out 43 supposed subversives who were summarily executed; and 10 Indians being told they were obligated to join the government's civil defense forces, only to be set upon and killed with machetes before they had been marched a mile outside town.

As this slaughter spread during the spring and early summer, several of Guatemala's newpapers felt obligated to speak out. "We are now facing the crude and painful reality of terrible massacres," El Impacto observed in an editorial. "The sterile sacrifice of Guatemalan Indians in the western highlands is reaching Dantesque proportions, and the number of innocent victims is growing daily."

Jorge Carpio Nicolle, editor of El Grafico, took the unusual step of signing a declaration that read in part: "The massacres of peasants that are going on in the Guatemalan highlands . . . cannot be explained, have no reason to be, have no logic. The murder of defenseless children and pregnant women is stupid and bestial. The genocide that is taking place in the Indian parts of the country is truly horrifying."

A "STATE OF SIEGE"

Soon after these and other similar commentaries were published, Rios Montt imposed a state of siege under which the only news of the civil conflict that can appear in the press must come from government communiques.

In areas where the guerrilla war is centered, rebels control considerable amounts of land, and according to reports from a variety of neutral sources, often compel local residents to help them by supplying food, hiding weapons and providing intelligence. When these areas are retaken by army patrols, the sources said, Indians who live there are generally viewed as collaborators and are hence subject to harsh and frequently fatal reprisals.

"Rios Montt is not shocked by the killings," asserted one of the country's most experienced journalists. "They are part of the army plan to eliminate the whole guerrilla infrastructure. He knows very well what is going on, and thinks it is necessary."

"The army plan is having a lot of success. Terror is accomplishing what terror sets out to do. They want to teach the Indians a lesson they'll remember for a thousand years."

THE REBELS' RESPONSIBILITY

Not everyone here is convinced the army is responsible for the latest round of terror, however. "The subversives are engaged in a sophisticated plan to misinform the world," declared the army chief of staff, Gen. Hector Mario Lopez Fuentes. "They are the ones who are planting these stories and creating this refugee problem by their killings of innocent civilians."

At the American Embassy here, diplomats also assign responsibility for most of the violence to rebel groups. Embassy officers are extrardinarily reluctant to speak for quotation, but in private they refute claims of military involvement in the killings. In a statement to the US Congress in July supporting new aid to Guatemala, Duputy Assistant Secretary of State Stephen W. Bosworth said; "I cannot emphasize strongly enough the favorable contrast between the current human-rights situation in Guatemala and the situation last December. . . ."

Since the state of siege was imposed July 1, Gen. Rios Montt has assumed virtually complete control in Guatemala. He has pledged to use his power to end corruption and violence, both of which had reached staggering proportions under the Lucas regime. The "fundamental law" under which he rules includes a promise to follow "the path of honesty, stability, legality and security."

Supporters of the new president, a born-again Christian given to lectures on the evils of liquor, tobacco and marital infidelity, say he is determined to wipe out the guerrilla movement and consolidate his own power as steps towards pacifying the country.

"Please draw a clear line between what happened before March 23 and what has happened since," urged Jose Luis Zelaya Coronado, the new ambassador to Washington. "This regime is determined to bring the country back to normality and return national sovereignty to the Guatemalan people, whose will has been ignored by governments dedicated to electoral fraud."

A FEAR OF DICTATORSHIP

Others are less disposed to trust the general. "If he continues to ignore the political parties and rely exclusively on the army for support, he will turn this country once again into a dictatorship," predicted Marco Vinicio Serezo Arevalo, leader of the Christian Democrats. "To the extent that he refuses to redefine the role of the military and refuses to give political leaders any real voice, he is only justifying the violent alternative."

Gen. Rios Montt, who speaks to his countrymen every Sunday on national television and who counts American evangelists Pat Robertson and Jerry Falwell among his backers, has little use for Guatemalan politicians, whom he blames for dragging the country into its present abyss of terror, war and international isolation. He has given no indication that he is disposed to call elections any time soon.

"What wories me," said Edgar Ponce of the liberal United Revolutionary Front, "is how irreversible this process of polarization and closing of political alternatives has been. I wonder if it is still possible, at this point, to resolve our national problems peacefully."●

COAL SLURRY PIPELINES

● Mr. DANFORTH. Mr. President, legislation pending before the Senate (S. 1844) would grant the power of Federal eminent domain for the construction of coal slurry pipelines.

When this bill was reported by the Committee on Energy and Natural Resources, I immediately scheduled hear-

ings before the Surface Transportation Subcommittee of the Committee on Commerce, Science, and Transportation to consider the impacts such pipelines would have.

Two days of hearings have convinced me that the impacts would be negative—that the case being made for this bill is a public relations house of cards. Unfortunately, many people accept the claims of pipeline proponents at face value.

The president of the Association of American Railroads, William H. Dempsey, did an excellent job of rebutting some of those claims in a letter published last Wednesday in the Washington Post, and Maurice Rosenblatt, a transportation and environment consultant, offered important additional arguments in a second letter published yesterday. I commend these letters to my colleagues' attention, and I ask that the text of both letters appear in the RECORD following these remarks.

The letters follow:

PIPELINES VS. RAILROADS

The editorial "Pipelines vs. Railroads" [Sept. 13] used a series of totally erroneous assumptions to reach the conclusion that Congress should grant federal eminent domain to the builders of coal slurry pipelines.

The central point seems to be The Post's belief that coal slurry pipelines would deliver coal more cheaply than railroads—thus driving down the consumer cost of electric power. Obviously, The Post believes the assertions of the slurry promoters.

But why? Slurry promoters have been trying for 20 years to make this special-interest legislation look like public-interest legislation. In all that time, the best they have managed is a study—which they themselves commissioned—that finds that a slurry pipeline constructed in 1982 might (if a number of unrealistic assumptions are made) begin, in 1990, to save residential consumers an average of 47 cents each month.

That is the best they have done—in a study for which they paid.

It is interesting to note that The Post cited the Office of Technology Assessment on the subject of water, but not on the subject of saving to utility customers. Here the OTA said: "If pipeline economics do result in savings, the benefit will accrue to the coal-mining, electric utility and pipeline industries." The study suggested that regulatory mechanisms might be needed to protect the consumer. The OTA also said that, since pipelines will employ long-term "take-or-pay" contracts, "the cast of errors in judgment will probably be borne largely by the public and not necessarily the utility investors."

Thus we see the symmetry of the pipeline scheme. If there is anything to be won, the coal-mining, electric utility and pipeline interests—the very people seeking the legislation—will win it. If there is anything to be lost, the public will lose it.

Lest this argument seem too theoretical, let me remind The Post of its front page story Sept. 2, "Natural Gas Surplus Leads to 20 Percent Price Rise."

In this story, we learned that a company entered into long-term, "take-or-pay" contracts for natural gas and is now stuck with paying much higher prices than are available elsewhere.

But who gets hurt? The company can pass the cost along to its utility customers. The utilities can pass the cost along to the consumers. The consumers are stuck with it.

The coal pipeline in Ohio, which The Post cited as an example of competition benefiting the public, did not use a "take-or pay" contract. If it had, Cleveland utility customers might still be paying higher than necessary prices for electric power—despite the existence of lower-priced rail service.

The Post does, as noted, cite the OTA finding, which said that, while sufficent water exists now [in 1978], "in each of the potential . . . origin areas except Tennessee, demand projected for the 1985-2000 period exceeds the legally available supply."

It can be shown that coal slurry pipelines would cripple the railroads, render tens of thousands jobless, consume vast quantities of water and threaten the environment.

But, in 20 years of trying, the best "benefit" pipeline promoters have come up with is a saving of 47 cents per month—eight years after construction starts.

I submit that it is not worth it.

WILLIAM H. DEMPSEY.

By entitling the editorial in support of coal slurry "Pipeline vs. Railroads," The Post sets up a narrow and, therefore, false premise. This is not just another battle between two technologies in which the newer approach (pipelines) is supposed to be more efficient, and should therefore replace the older, traditional method of transporting coal (railroads).

Actually, a coal-slurry system, facilitated by federal eminent domain, will have macro consequences on the economy and the political demography of the United States. New technology is often alluring in its promise but appalling in its performance, with cost overruns (the Northwest Alaska Gas Pipeline was a ten-fold overrun), spills (there were 115 oil and gas line spills in 1981 alone), and huge increases in consumers' energy bills (Washington area consumers are paying at least 20 percent more for energy than they would without the Columbia Gas Pipeline).

Today's rail facilities are more than adequate; they could carry 25 percent more coal than they are how hauling. So the argument comes down to one of price. Pipeline advocates claim that railroads exploit their captive shippers, and that competition from pipelines would keep railroads on their toes and prices down. The pipeline would carry millions of tons of coal (if all the Powder River Basin pipelines are built, they will divert 134 million tons of coal) lowering costs, slurry proponents claim.

Would this were so! But the utilities must sign long-term, fixed-price contracts (for 30 years or more), or the pipeline will not be built. This locks in the utilities, and their customers, who end up paying the difference even when coal prices decline and alternate fuels become available. Customers in the Washington area are seeing this phenomenon in action, courtesy of the Columbia Gas Pipeline.

There remains the major question of putting the federal government behind a $30 billion capital commitment devoted to a single-use, redundant transport device, while a heavily capitalized, multiuse rail system faces the diversion of a major part of its traffic. The fact that private capital will be invested does not diminish the role of federal eminent domain, judicial condemnation proceedings, water diversion and waste treatment. All this adds up to an effective federal subsidy for pipelines.

Finally, the politics behind the pipeline campaign reveal another march in the battle of the Sun Belt versus the Frost Belt. Sun Belt strategists seek the slurry system to maintain and enlarge their energy edge over the Frost Belt. Slurry will deliver coal to a few utilities located in the South, forcing an increase in freight rates in the rest of the country for agricultural and general cargo, as well as coal. A comparison of current residential and commercial electric rates shows the Northeast paying almost double the rate presently charged in Arkansas and Louisiana, two prospective terminal pipeline states. Once the lines are constructed, their advantage will increase even more.

A decade ago, Congress rejected the SST, another super-technology with claims of wonderous potential but suffering from a flawed rationale: the exotic proposal offered supersonic speed, national prestige and lots of one-time jobs. It was finally rejected by Congress as duplicative, impractical, environmentally threatening—an economic turkey. Some of the same considerations should now restrain Congress before it is sucked into this latest pipe dream.

MAURICE ROSENBLATT.●

COMMODITY USER FEES

● Mr. ROTH. Mr. President, Senators RUDMAN, STEVENS, MURKOWSKI, PROXMIRE and myself intend to offer an amendment to the Commodity Futures Trading Commission reauthorization bill, S. 2109, which provides for the implementation of fees to be paid by traders of commodity contracts for trades made. Along with these user fees, our amendments also charge the traders for audits, financial reviews and other services performed for them by the CFTC. The fees will be used to fund the CFTC, thereby providing that the regulatory cost be paid by the beneficiaries of the regulation. The user fee concept has the full support of the CFTC and the administration.

The commodities industry, however, has generally decried implementing user fees claiming, among other things, that it would be an undue burden upon the American agricultural community. Nothing could be further from the truth. In fact, the largest farm organization in the Nation, the American Farm Bureau Federation, along with the Grange and the Cattleman's Association, have solidly supported the amendment of user fees. I ask that a September 14, 1982, letter from Robert B. Delano, president of the American Farm Bureau Federation, to me, be printed in the RECORD. It is clear from this letter that the farming industry is helped, rather than hindered by user fees.

The letter follows:

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., September 14, 1982.
HON. WILLIAM V. ROTH, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ROTH: The American Farm Bureau Federation is the largest general farm organization in the United States representing more than three million families in approximately 2,800 counties in 48 states and Puerto Rico. It is a voluntary, nongovernmental organization representing over 75 percent of the nation's commercial farms and ranches.

At a Senate Agriculture Subcommittee hearing on the Commodity Futures Trading Commission (CFTC) reauthorization last March, Farm Bureau testified in support of user fees. The purpose of this letter is to inform you of our support for an amendment by Senators Roth, Rudman, Stevens, Murkowski and Proxmire to S. 2109 establishing a user fee schedule for transactions and services such as audits, review of financial statements, etc.

Farm Bureau supports CFTC user fees because we believe in the philosophy that those who receive the direct benefit of government service should be required to pay the regulatory cost. We also don't want to jeopardize the enactment of this legislation because it contains a favorable provision on options trading which could prove to be a valuable marketing tool to farmers, and a provision clarifying the jurisdictional authority of the CFTC and the Security Exchange Commission (SEC).

User fees were implemented at the SEC in 1934. The National Association of Securities Dealers was created and developed while transaction fees were being collected. Therefore, it is reasonable to expect that the National Futures Association can also develop with the existence of user fees.

Finally, we are concerned that there will be a reduction in CFTC's budget without the imposition of user fees. Only a small percent of agriculture producers use the futures market as a risk management tool. Past problems associated with the trade of silver and soybean contracts have been widely publicized and have tended to reduce producer confidence in all futures markets. It is essential, therefore, that budgets be maintained at a level which will allow CFTC to adequately regulate the futures industry and provide market stability.

We will appreciate your support for the user fee amendment and your vote in favor of S. 2109.

Sincerely,

ROBERT B. DELANO,
President.

I also wish to include in the RECORD portions of an editorial appearing in the New York Times on September 23, 1982, page A-27, entitled "Why Won't Brokers Pay 12¢?".

On Capitol Hill, where program costs are rounded to the nearest billion, the issue hardly seems worth a second glance. The Reagan Administration is pressing for a small user fee on transactions in commodities "futures," enough to offset the $23 million annual cost of regulating the futures markets. But commodity brokers don't want to pay and the way they are resisting says a lot about political power in America, none of it is nice.

Stockbrokers and corporations issuing new securities pay fees that cover most of the costs of running the Securities and Exchange Commission. Banks cover most of the costs of their regulation with similar fees. So why not charge to offset the costs of regulating commodities futures contracts for future delivery of cocoa and heating oil and dozens of other products?

Commodities brokers and their clients could certainly afford it. The proposed fee would be just 12 cents on a transaction in which brokers' commissions alone now average $60 to $70. When millions of poor Americans suffer real hardship, failing to make commodities traders pay their way would be shameful. Still the chances seem slight that Congress will impose a user fee.

The user fee is given little chance of passage in the House. It could fare better in the Senate, where Administration support counts for more. But there the brokers have a fair chance of keeping it bottled in committee.

But the only remedy at the moment is public anger. Citizens who pay their own way should know about brokers unwilling to cough up 12 cents to pay theirs.

I, therefore, request the support of my fellow Members in the passage of this important piece of legislation when it reaches the floor and can be debated.●

A NATION OF IMMIGRANTS

● Mr. KENNEDY. Mr. President, it has often been observed that one of our Nation's oldest themes is immigration. Except for native Indian citizens, we are all immigrants or refugees or the descendants of immigrants and refugees.

Yet, over the years, our memory of this unique national heritage has faded. For many Americans immigration has become a controversial issue, clouded by misunderstandings and false stereotypes and fears. We have tended to focus on the problems of immigration, rather than on the benefits migrants have brought to our country.

This has been especially so during the recent congressional debate on current proposals for immigration reform. Both on the Senate floor last month, and recently in the House Judiciary Committee, there has been a tendency for some to see immigration "reform" as immigration "restriction"—restrictions that are contrary to our immigrant traditions as well as to our national interests.

However, this week the New York Times initiated a series of articles on "A New Melting Pot"—on what recent immigration has meant for New York City. The first article yesterday reminds us again of the important contributions immigrants have brought to our society. It is a story filled with both success and failure, but mainly of overwhelming confidence in America and the opportunities it offers.

Mr. President, as we consider proposals for immigration reform I believe it is important for us to keep in mind the kind of stories in yesterday's New York Times. They remind us that we can continue to be proud of our immigrant heritage, and confident that reasonable and humane immigration policies remain in our Nation's best interests.

I ask that the text of the article be printed at this point in the RECORD.

The article follows:

[From the New York Times, Sept. 27, 1982]

INFLUX OF IMMIGRANTS SPICES LIFE OF NEW YORK

(By Dena Kleiman)

More so today than at any time since the early part of this century, when boatloads of Irish, Italians and Eastern Europeans spilled onto the city's shores, New York is a city of immigrants.

Beginning 17 years ago with a loosening in the Federal immigration law, the latest surge of foreigners from virtually every nation has reached dimensions not seen since the last great wave of immigration ended in the 1920's as the heyday of Ellis Island came to a close, Federal immigration records show. More than a million immigrants now live in New York City. According to the Immigration and Naturalization Service, there are more than 650,000 legal immigrants here, and the city estimates that there are 750,000 illegal aliens as well.

The heaviest influxes are from Central and South America, the Caribbean, Italy, the Soviet Union, India, China and Korea, a complex mix that includes wealthy newcomers whose high visibility around the city often obscures the traditional immigrant force—those who come here with only a dream and a willingness to struggle.

This new surge is altering the city's ethnic texture, revitalizing many of its neighborhoods and reaffirming something about the city that many may have thought long lost—that despite the fiscal crisis, crime statistics and other drawbacks, the rags-to-riches promise of New York that attracted generations of immigrants is still very much alive.

"The word has leaked out," said Frank Vardy, who analyzes immigration for the city's Planning Commission. "You can make a living in this city, and you might even make it big."

All over New York, immigrants are making their mark. And nowhere is this presence more apparent than in the new ethnic outposts that have sprouted in recent years, taking over where Little Italy, Chinatown, the Lower East Side and other immigrant nurturing grounds of the past left off.

Of these, perhaps none is more an epitome of the whole city's new ethnic landscape than Elmhurst, Queens. It is the city's most ethnically diverse neighborhood, a true melting pot where 20,000 immigrants from more than 110 countries live in the shadow of the elevated No. 7 Flushing subway line, and where every day a trip to the cleaners, a stop at the post office or a wait for the bus becomes an important step in that complicated osmosis involved in becoming an American.

Elmhurst is the kind of place where the local grocer is Korean, the butcher comes from Argentina and the baker is Colombian—where it is harder to find a decent hamburger than Pakistani lemon pickle. There are blocks where the fashion is saris, and others where it is mandarin collars, and still others with garments that look plucked from the streets of Guatemala.

Ethnic surprises abound in this community of modest row houses and low-rise apartment buildings that has been transformed over the past decade from an Archie Bunker-style working class haven to an

international metropolis in miniature. Indian, Greek, Korean, Thai, Chinese, Argentine, Colombian, Italian, Ecuardorean restaurants dot the commercial terrain. An Indian ashram sits across from the local high school. The Dutch Reformed Church now conducts services in Taiwanese.

Unlike many other sectors of the city where people have flocked in distinct ethnic groups, Elmhurst is a place where Bengalis live alongside Ecuadoreans—where lending a cup of sugar becomes as much an exercise in double translation as in neighborliness.

Elmhurst has an Italian-style pizzeria operated by a newcomer from Greece who is unable to talk to his customers because most are from India. The most faithful patrons at the local doughnut shop are Chinese, although most have yet to master the word for cruller.

It is a place, in fact, where the pale-skinned look out of place and unaccented English sounds odd.

IN SEARCH OF ENGLISH

"I came to New York so that I could learn English," said Jumoke Rhodes, a Nigerian whose native language is Yoruba and who complains that neither she nor her two children can find anyone in Elmhurst to speak English with. "Here is an English-speaking country. What I got in my life is something else. I don't know where I am. Spain? China?"

In many ways, Elmhurst furnishes an overview of today's immigrant experience—reflecting many of the contributions and burdens this foreign population has brought to the city as a whole.

There are 34 different languages spoken by pupils in the local public school, P.S. 89. Citywide, the Board of Education has hired 2,500 teachers at a yearly cost of $27 million to work with youngsters unable to speak English.

Elmhurst General Hospital employs its own interpreters, and deals daily with such situations as having an Indian man refuse an emergency gynecological examination for his wife because the only doctors on call are men.

There are sweatshops in Elmhurst where workers are paid by the piece—and below the minimum wage. There are places, too, where forged Social Security cards are reported to go for $180.

"The city is changing, there's no question about that," said Charles B. Keely, a senior associate at the Population Council, which studies international population movement and trends. "Not since the turn of the century have there been so many foreigners here, and they are as diverse a group as ever."

"It's amazing," said Detective Jerry Campbell of the 110th Precinct, which includes Elmhurst. "Anything God put on this earth, we've got at least two of them here in this precinct."

No one quite knows why so many different foreigners flock to Elmhurst, which is about an 18-minute subway ride from Times Square. Housing is cheaper than it is in Manhattan, but no more so than in many other neighborhoods. There is nothing about the community's layout or services that would naturally attract the foreign born. Still, immigrants arrive every day—having been given the green light by relatives and friends or by friends of friends—often oblivious to how international a center it really is.

"Please, change, quarters," Lev Mines said in uncertain English the other day, handing over a dollar bill to a woman in a coffee shop in Elmhurst.

"Not enough," Maria Fernanda replied with equal linguistic difficulty, attempting to explain she only had dimes.

There the two of them were. He, who moved to this country two years ago from Leningrad, and she, who arrived here two years ago from Colombia, reaching out to one another in a foreign tongue, ultimately arriving at some understanding, with neither of them quite aware how.

A SHARED DEFICIENCY

"No English, no English," Mr. Mines exclaimed, as if to apologize to the rest of the customers in the shop. Unbeknown to him, the shop caters primarily to Colombians, and few of the customers spoke English either.

Elmhurst—named years ago for its abundance of elm trees—sits in the heart of Queens adjoining such other increasingly immigrant communities as Rego Park, Jackson Heights, Corona and Woodside. Walk down Broadway, the area's principal commercial strip, and it resembles the main street of a small town. Look again, and the serpentine stretch that runs from Roosevelt Avenue which separates Elmhurst from Jackson Heights, to Queens Boulevard is an exotic thoroughfare.

One travel agency deals exclusively with Koreans, does not ever bother to have on its staff someone who can communicate in English. The Chinese coffee shop here offers a breakfast choice of either steamed dumplings or Frosted Flakes. There is a sari emporium, a Greek snack bar and a grocery that stocks ready-made sushi.

"This place sure has changed," said the Rev. David Boyce, looking out at the huge electric rice cookers that now sit on the kitchen counter at the Dutch Reformed Church, whose congregation is predominantly Oriental. Now, instead of coffee on Sunday afternoons, the church serves oolong.

ECONOMIC CONTRASTS

Few foreigners find life easy here in Elmhurst. It is a place where families are often crowded five to a room and work as many as 14 hours a day, seven days a week. Many in this community hold two or three jobs.

It is a place of extremes: A Yugoslavian handyman and his wife, who cleans office buildings at night in Manhattan, saved up $90,000 to buy a new home, but a young Colombian busboy who came to this country last year to seek his fortune paces the floor at night, torn between subsisting here or swallowing his pride and going home.

In Elmhurst lives Isabel Aguirre from Argentina, who operates the shish kebob stand on Vanderbilt Avenue at 43d Street, across from Grand Central Station, and Nu Trieu Pheu, who escaped by boat from Vietnam. It is home for 25-year-old Cesar Sierra, an immigrant from Colombia now studying to become a doctor, and 28-year-old Cheng-I Chang, who hopes someday to open his own Chinese restaurant. And it is now home for Yvonne Chang, a 3-year-old immigrant from Taiwan, who has been here three months and is already listening to records about the life of Curious George.

Sophie Chapman was on a float in a Hispanic Day parade when she met the man she hopes to marry. Tina Wong decided to marry Jimmy, and did, after bumping into him on a street corner in Brooklyn after not having seen him for years since their school days in Hong Kong.

AN IMMIGRANT ROMANCE

As for Sarita Ocampo, romance was a bit more involved.

Mrs. Ocampo, who now works in Elmhurst, first came to the United States from Colombia as a maid. She had never been a maid before, and disliked the job from the start. She continued, however, because—given her inability to speak the language—there was nothing else for her to do.

One day Mrs. Ocampo went looking for an apartment and consulted a real estate agent. This particular agent had more than simply real esate to offer. He asked whether Mrs. Ocampo was interested in making some extra money. She said she was. He opened his wallet, and took out a photograph of his brother.

He said his brother, who had no legal way to remain in this country, would pay her $800 if she would agree to marry him. Mrs. Ocampo recalls that she was intrigued by the photograph. She agreed to the deal, and a week later was married. That, she says, was 10 years ago. They are still married. They are still in love. He has never paid her the $800.

These days, the Ocampos, who have recently bought a home on Long Island, are both in the real estate business. They are looking for a maid.●

MILDRED S. COMPTON—21 YEARS OF ACHIEVEMENT

● Mr. LUGAR. Mr. President, on October 2, 1982, in Indianapolis, Ind., we will celebrate the 21 years of achievement of Mildred S. Compton, executive director of the world's largest and finest museum for children. The Children's Museum has grown from a dream that began in 1925 to a major national museum with an impressive international reputation.

During my term as mayor, I enjoyed first-hand the blossoming of the Children's Museum, under Mildred Compton's leadership, into one of the country's most significant cultural resources. Her vision, dedication, and prudent management were the sources of this success.

The Children's Museum is truly a national treasure. Exhibit subjects drawn from all over the world are brought together with a common purpose: They are designed to delight as well as to teach, and to encourage an awareness of history and the natural and physical sciences so that visitors might better understand the world in which we live.

Each year this magnificent institution welcomes more than 1 million children and adults. Admission is always free.

I am proud to know Mildred Compton and to have this opportunity upon her retirement to salute her 21 years of leadership, loyalty, and service to the museum profession, the State of Indiana, and especially to the millions of children whose lives she has influenced so profoundly during the past 21 years.●

WILLIE FLEMING, FIRST AMERICAN IN CANADIAN FOOTBALL HALL OF FAME

● Mr. LEVIN. Mr. President, on Saturday, September 18, 1982, Willie Fleming became the first American to be inducted into the Canadian Football Hall of Fame.

Willie Fleming went to Hamtramck (Michigan) High School and then on to the University of Iowa, where he gained national prominence in the 1957 Rose Bowl game. He left the University of Iowa in 1958 and began his professional career with the British Columbia Lions of the Canadian Football League.

"Willie the Wisp" was exactly that to opposing tacklers. He is the only CFL player ever to post a career rushing record of better than 7 yards per carry (7.1) more than half a yard better than the runnerup. In 1963, he led the B.C. Lions into their first Grey Cup game (the equivalent of our Super Bowl) with a fantastic 9.7-yard average per rush, another record. That same season he averaged 22.8 yards in catching 28 passes. Fleming is the Lions' all-time rushing leader and second only to Jim Young in career pass-receiving. He is one of only two CFL players ever to run 109 yards from scrimmage for a touchdown. He was All-Western Conference running back 3 years.

Today, Willie Fleming resides in Detroit, Mich. with his wife of 21 years, Arlene, and two sons, Eric and Tony. He is a member of the school board of Redford St. Mary's School and a member of the Dad's Club there.

On Sunday, September 26, 1982, a surprise reception was held for Willie Fleming at his Detroit home. Many of his teammates and friends from Canada, and as far away as California, were there to pay recognition to Willie Fleming. I would like to take this opportunity to congratulate this outstanding sportsman, citizen, and family man.●

EXPLANATION OF VOTE ON RECLAMATION ACT CONFERENCE REPORT

● Mr. LEVIN. Mr. President, I wish to explain why I opposed the conference report on the Reclamation Act adopted by voice vote last Friday. The bill reported by the conference committee had a few features that were an improvement over the version passed by the Senate. In general, however, it was as unsound as the bill passed by the Senate, which I also opposed.

Taken together, the issues of acreage limitation, equivalency, and residency make the legislation unacceptable. The acreage limitation of 960 acres, although lower than the 1,280 acres in the Senate-passed bill, is too high. Read in conjunction with the equivalency provision, it is hard to imagine that many farms will ever be above the acreage limitation and therefore be required to pay full cost for the water they obtain from the Federal Government. We are not contemplating taking anyone's land; the acreage limitation simply establishes which farmers will get subsidized water and which will pay full cost for their irrigation water.

Any discussion of the equivalency provision sounds like a debate with the Mad Hatter in "Alice in Wonderland." The concept was originally envisioned to allow those farmers living in cold climates, having less than 180 frost-free days a year, to irrigate larger acreages to assure that they could make a reasonable living in their less temperate climates. Equivalency was proposed to allow farmers in northern climates to obtain Federal largess closer to that enjoyed by farmers in California. Under the bill accepted last Friday, however, irrigators in any district, including those in California, could qualify for equivalency, so that those farming in regions with year-round frost-free growing seasons could qualify for federally subsidized irrigation water for more than 960 acres.

Many of the farm groups that discussed the reclamation bill with me stated that the residency requirement was the most important issue to them. Unfortunately, their view did not prevail and the residency requirement has been dropped from the law. Rather than helping family farmers earn a living, subsidized Federal water will now be available to anyone who owns the land, whether they live within 5, 50, or 5,000 miles of their farm. The arguments heard on the Senate floor about the residency requirement preventing young farmers from leasing from retired or disabled farmers are not relevant and miss the whole purpose of the residency requirements. First of all, the regulations drafted by the Department of the Interior would have allowed disabled or retired farmers to retain their irrigation rights if they rented to other farmers. And second, those supporting the retention of the residency requirement have always stated their willingness to include such an exception in the statute rather than just depend upon the regulations. The residency requirement was included in the 1902 Reclamation Act to assure that the benefits of Federal assistance for irrigation projects went to family farmers and homesteaders, not to speculators. It should have been retained in the law to provide the same protections and limitations. If the Reclamation Act is intended to provide assistance to family farms, why does the bill reported by the conference committee include special exceptions for Corps of Engineer projects and the central Arizona projects, exceptions that aid some of the largest farming units in the United States? Is this part of the safety net that protects our neediest citizens?

The next issues to which I take exception could be termed "good government" provisions that were watered down or deleted by the conference committee. The water conservation section of the bill is a shadow of its former self. The House-passed bill provided that when a State agency found an irrigation district to be wasting water, the Secretary could impose a surcharge on water. The conference deleted this. I would have hoped that they objected because the surcharge was merely discretionary, not mandatory. Unfortunately, the entire surcharge provision was excised by the conference committee. The second good government provision eliminated by the conference is the civil penalties provision. The conference report states that given "the criminal penalties under law which apply * * * there is no need for such a penalty provision." The conference report does not mention that often criminal penalties are seen as too harsh and that when no civil penalties are available, charges are not filed for wrongdoing. These seem to be the case with the Reclamation Act because almost no criminal charges have ever been filed against alleged infractions of the Reclamation Act. And without civil penalties, this practice cannot be expected to change.

The final good government provision rejected by the conference committee was the audit compliance section. This modest proposal would have required the Inspector General of the Interior Department to review the audits he has made of the Bureau of Reclamation and recommend to the Secretary of Interior how the activities of the Department should be modified. The Secretary would then have been required to follow the Inspector General's recommendations or explain to the Congress why such recommendations were not being implemented. This provision was deleted by the conference committee. The conference report argues that this provision was dropped because it would "constitute a redefinition of the statutory functions of the Inspector General." As a member of the Senate Governmental Affairs Committee, which has oversight responsibility for the activities of the Inspectors General, I can assure the conference committee that the requirements of the excised audit review provision are fully within the scope of the present responsibilities of Interior's Inspector General. I would add that the Inspector General would probably welcome some action from the Secretary of Interior to improve practices of the Bureau of Reclamation.

Finally, I am dissatisfied with the provision of the bill concerning excess crops. Although the conference ac-

cepted the study provision I proposed that requires the Secretary of Agriculture to provide Congress with specific information about the production of surplus crops on irrigated lands, it dropped House provisions that would have limited the production of these crops on new irrigation projects. The conference committee also lifted the prohibition on the production of surplus crops in the few projects that currently are not allowed to grow such crops during years of excess production. All of us are aware of the crisis in rural America, which is caused by disastrously high interest rates and disastrously low prices for basic commodities. These two factors are driving farmers in my State bankrupt. Why should we continue to subsidize any farmers to grow surplus crops while we must pay millions to maintain a minimum price?

For these reasons I opposed the conference report on the Reclamation Act. It helps more than just family farmers and is a disservice to American taxpayers and farmers who do not receive federally subsidized irrigation waters.●

THE EXIMBANK NEEDS MORE SUPPORT

● Mr. HEINZ. Mr. President, last week, the Subcommittee on International Finance and Monetary Policy of the Senate Banking Committee held a series of hearings on the Export-Import Bank. These hearings have taken on a vital importance as the Congress is now considering funding for the Bank within the context of the continuing resolution.

It is unfortunate that the Bank's authorization levels are being considered in a continuing resolution; for I fear that they may not receive the attention they deserve. The Eximbank is worthy of far greater budgetary authority than what has been recommended in the budget. Witness after witness in the hearings pointed out the great and increasing need for a strong, competitive, and adequately funded Eximbank. The Bank's impact on the credit markets and on Federal budgetary outlays is small, but its impact on job creation, and on the survival of crucial high technology industries and manufacturers of capital goods in America is very profound.

Last week, one of the administration's highest trade officials, Under Secretary of Commerce for International Trade, Lionel Olmer, testified that well over $1 billion of American exports were lost this past year due to inadequate support for the Eximbank. Labor and industry witnesses suggested that such a figure was only the tip of the iceberg of the business lost, especially when follow-on business is considered and the secondary and tertiary effects for subcontractors of export sales are added.

To aid my colleagues in the consideration of the Bank's authorization for fiscal year 1983, I am submitting some letters that I received at the time of the hearings, explaining the importance of the Eximbank. The first letter is from the Dravo Corp., headquartered in Pennsylvania, stating that this corporation "has been forced to decline certain proposal opportunities on international engineering and construction jobs in the past year due to the probability that a U.S. based bid would not be competitive in the financial area. In other cases, we have directed business to foreign affiliates existing or to be formed rather than not participate." These jobs lost or transferred to foreign affiliates are due directly to inadequate Eximbank support.

In another letter, from the United Brotherhood of Carpenters and Joiners of America, the importance of the Bank to American jobs is cited. The letter calls for "adequate credit facilities to enable American industries to produce in America for export to foreign nations. That would help put some of the 10 million unemployed Americans back to work. The Export-Import Bank is vital to American jobs."

This same theme was echoed in a mailgram that I received from the Communications Workers of America, AFL-CIO:

> At this time, when our country and much of the non-communist world are plagued by unacceptable levels of unemployment, we are concerned that our industries may not be given the same kinds of advantages as are enjoyed by the competitors. Key industries affected are telecommunications equipment, computers, airplanes and heavy machinery. We view export financing and the Export-Import Bank as necessities in enabling American firms, using American labor, to compete in the international market place.

I would also like to draw my colleagues' attention to two other items of correspondence that I have received from constituents of mine. I believe it safe to assert that similar conditions exist all across this increasingly export reliant economy. In a telegram from Erie, Pa., Carl Schlemmer, vice president of General Electric's transportation systems division, located in Erie, reports that 40 percent of that division's business relies upon Eximbank's ability to function on a competitive basis with the Government export financing facilities of our trade competitors.

Finally, a letter from Joseph T. Simpson, chairman of the board of Harsco Corp., a small business located near Harrisburg, Pa., states that the Eximbank was essential in the promulgation of its $50 million of export sales in 1981. Mr. Simpson goes on to state: Ex-Im financing means jobs, a great many of U.S. jobs, and it will be the labor force of this country who will suffer most if the system is discarded or reduced. It will be the U.S. and State Tax coffers who will also suffer from loss of tax revenues estimated to be $13 for every one dollar spent by Ex-Im.

Mr. President, I ask that this correspondence that I have cited, along with the written statement of Mr. Robert A. Best—containing, among other things, the citation from the 1980 Republican Party platform in support of a strong export policy—be printed in the RECORD at this point.

The material referred to follows:

DRAVO CORP.,
Pittsburgh, Pa., September 16, 1982.

Hon. JOHN H. HEINZ III,
Chairman, U.S. Senate Banking Subcommittee on International Finance, Dirksen Office Building, Washington, D.C.

DEAR JOHN: Dravo Corporation strongly supports your efforts to make the Export-Import Bank of the United States competitive.

Certainly, we are not opposed to Export-Import Bank efforts through Mr. William Draper, its president, to reduce or eliminate the need for governmental financial subsidies in export sales. In fact, he should be applauded for these efforts, as well as the agreement to guarantee private loans in foreign currencies.

Nevertheless, it is true that Dravo Corporation has been forced to decline certain proposal opportunities on international engineering and construction jobs in the past year due to the probability that a U.S. based bid would not be competitive in the financial area. In other cases, we have directed business to foreign affiliates existing or to be formed rather than not participate.

Your support is needed in Pittsburgh where the unemployment levels exceed 12 percent, as is also true in other parts of the United States. Efforts to make Ex-Im Bank more competitive supports not only the named U.S. exporter, but the second and third level suppliers and subcontractors from throughout the nation. In the Pittsburgh area alone, Dravo has over 6,000 employees directly or indirectly involved in exports.

Though it is understandable that our export balance may be helped by commodity shipments, it is necessary to make U.S. suppliers competitive in the financial area to hold or improve our worldwide level of participation. We must become and remain competitive.

We applaud your leadership in promoting an environment that will make American firms more competitive in the international marketplace.

Sincerely,

ROBERT DICKEY III.

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA,
Washington, D.C., September 14, 1982.

Hon. JOHN HEINZ,
Chairman, Subcommittee on International Finance and Monetary Policy, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The United Brotherhood of Carpenters and Joiners of America strongly supports a positive, job-creating export policy.

One important aspect of such a policy is adequate credit facilities to enable American industries to produce in America for export to foreign nations. That would help put some of the 10 million unemployed Americans back to work.

The Export-Import Bank is vital to American jobs. It is currently hampered by shortsighted policies and inadequate "lending ceilings". Your bill, S. 2600, is an important step in resolving this problem and we support it.

Sincerely,

CHARLES E. NICHOLS,
General Treasurer and Director of Legislation.

[Mailgram—Western Union]

COMMUNICATIONS WORKERS OF AMERICA,
Washington, D.C., September 15, 1982.

Hon. JOHN HEINZ,
Chairman, Subcommittee on International Finance and Monetary Policy, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Communications Workers of America, an AFL-CIO affiliate, supports efforts to help our country's industries compete in world markets.

We are alarmed at what we perceive as cross-signals from the Reagan administration: those who want to cut the budget would make significant reductions in the direct loan authority of the Export-Import Bank, even though it may not have a dollar outflow effect on the budget while others talk about fair trade and jobs. At this time, when our country and much of the noncommunist world are plagued by unacceptable levels of unemployment, we are concerned that our industries may not be given the same kinds of advantages as are enjoyed by the competitors. Key industries affected are telecommunications equipment, computers, airplanes and heavy machinery. These industries in Japan, the United Kingdom, France and Germany all enjoy the benefits of active and vigorous export-subsidy programs, using various kinds of public and private funds.

We view export financing and the Export-Import Bank as necessities in enabling American firms, using American labor, to compete in the international market place.

We understand your bill, S. 2600, would provide greater independence and a more rational budget procedure for the Bank, as well as additional resources to be used only when necessary to meet predatory subsidies of our trading competitors.

We support the provisions of S. 2600.

Sincerely,

JAMES B. BOOE,
Executive Vice President.

[Telegram]

GENERAL ELECTRIC CO.,
Erie, Pa., September 16, 1982.

Sen. JOHN HEINZ III,
International Finance and Monetary Policy Subcommittee, Senate Banking Committee, Washington, D.C.

Understand that you are having oversight hearings on the importance of Ex-Im Bank to U.S. exporters. As a major exporter of locomotives and off-highway equipment, we can assure you that competitive export financing is essential to our ability to remain competitive in the world market. Ex-Im Bank's ability, therefore, to function on a competitive basis with Canada, Japan, Germany, France, etc., is therefore sustaining roughly 40 percent of our jobs in northwestern Pennsylvania since more than 40 percent of our product is shipped offshore and a high percentage must be competitively financed.

We appreciate the fine efforts you have made in the past to keep the United States in the forefront of the world trade, and we urge you to continue those efforts with our full support

CARL SCHLEMMER,
Vice President and General Manager.

HARSCO CORP.,
Camp Hill, Pa., September 13, 1982.

Hon. H. JOHN HEINZ III,
Russell Senate Office Building, Washington, D.C.

DEAR SENATOR HEINZ: I write to urge your support of the Export-Import (Ex-Im) Bank provisions now being debated in the U.S. Senate.

As a Pennsylvania corporation with direct and indirect export sales in excess of $50 million in 1981, we are absolute in stating that the Ex-Im was essential in the promulgation of these sales. Furthermore, a continued and more muscular Ex-Im will enhance present and future sales potential overseas.

We can compete with any foreign manufacturer of our type of products on the basis of value, delivery, price and other commercial factors. But we cannot compete with the Governments of Japan, France, Germany, Canada, Italy, Brazil, Spain and others who provide official export financing, at below market rates, for the customers of their own markets. The U.S. is surely strapping its lending authority in a straight jacket, a sort of sales destructive system that discards one of the only trade advantages we can muster. Yet, the subject of predatory financing being offered by our competitor's governments is not even on the agenda of the forthcoming GATT meetings, and this, to most of us in this country, is one of the most important and controversial issues in the world trade system.

Ex-Im financing means jobs, a great many of U.S. jobs, and it will be the labor force of this country who will suffer most if the system is discarded or reduced. It will be the U.S. Federal and State tax coffers who will also suffer from loss of tax revenues estimated to be $13 for every one dollar spent by Ex-Im.

We need a strong congressional and administrative commitment to export financing not only to help us compete overseas, but as a very positive and beneficial step in helping a great many of the unemployed to get back on the job and for the overall benefit of stepping up the economic vitality of this country.

Sincerely,

JOSEPH T. SIMPSON,
Chairman of the Board.

STATEMENT OF ROBERT A. BEST, EXECUTIVE VICE PRESIDENT, AMERICAN LEAGUE FOR EXPORTS AND SECURITY ASSISTANCE, INC.

Mr. Chairman, Members of this Subcommittee, we are delighted to testify on the Eximbank legislation pending before this Subcommittee. Our organization—the American League for Exports and Security Assistance, Inc.—represents 41 corporations and four unions, all committed to a common goal—increasing exports and jobs created by exports. These corporations employ some 800,000 Americans in all 50 states and the unions have over 4 million dues-paying members.

EXIM BANK AND THE BUDGET

Mr. Chairman, we support the provisions of S. 2600. Of particular importance to the exporting community and we think to sound budgetary principles is section 3 of the bill which would provide that the net lending outlays of the Bank would no longer be carried on the Federal expenditure budget. Program levels would still have to go through the appropriations process, as would the budget for administrative expenses. Borrowing by the Bank would still be subject to the debt ceiling, and it would be carried on the Federal Credit Budget. Congress would still have to renew periodically the authority for the Bank to exist. Congressional notification for all nuclear projects and loans of $100+ million would still be required. And borrowings by the Bank would still be subject to approval by Treasury's Debt Management section.

The issue is whether Eximbank's loans should be treated the same as expenditures. Under current budget treatment, the Bank's loan outlays contribute to Federal expenditure totals the same as if they were outright grants. Yet, they are loans that are paid back with interest, with 99.98 per cent of all Eximbank loans recovered to date. No money is actually ever appropriated to the Bank. Instead, it has returned more than $1 billion to the Treasury, even while increasing its capitalization by $2 billion.

The current budget treatment is a gross distortion. In a year when Eximbank is making a profit and returning dividends to the Treasury, on the budget it is made to look as though it is in the red, for its loans are counted as expenditures, balanced against the repayment of previous loans. If it is expanding, as U.S. exports should be, it will be making more loans than it is collecting. The reasonable reaction would be to want to curb expenditures, especially in a year of austerity, so pressure mounts to curb Eximbank activities, although no budget expenditures are really involved. Thus, Exim lending authority is cut back to reduce a fictitious drain on the Federal budget. The loans of a commercial bank are considered the purchase of assets. Yet, in the case of Eximbank current budget bookkeeping requires that they be listed as debits. This misrepresents the Bank and inflates the Federal deficit.

Annual budget-making procedures coincide very poorly with Eximbank operations, and thwart congressional intent. Congress addresses Eximbank activities in two major ways. First of all, it authorizes limits for the various Eximbank programs. Secondly, it sets a level for net lending outlays (the figure affected by the bill). Under program authority for a given year, commitments are made to industries for export financing. Actual disbursals, then, are made in the course of several years; repayments are also spread out over time. The figure for net-lending-outlays appropriately should reflect the needs in a particular fiscal year, based upon the disbursals to be made under previous authorizations, disbursals projected to begin in the current program authority, and repayments to be received in the current fiscal year based upon a thorough examination of the repayments schedules of all of the loans in the Bank's portfolio. Needless to say, this is never done in determining the net-lending-outlays figure for the budget. Rather, this figure is determined by the exigencies of the current Federal budget and the need to curb real expenditures. Often, the Eximbank's fictitious expenditures are

curbed to avoid cutting back in real expenditures elsewhere in the Federal budget. Further, Eximbank's export support is highly leveraged, so that a small cut back in its net-lending outlays has an effect many times larger in terms of exports lost.

Exim Bank pays its own way. Exim operates as a self-sustaining institution by raising money in the U.S. capital markets and has returned more than one billion dollars in dividends to the U.S. Treasury.

Exim has more than trebled its initial capitalization of one billion dollars since organization. It uses this retained capital, loan repayments, interest and fees collected on its loans and guarantees, and borrowings to fund operations. Each year Exim is given authority to borrow the resources necessary to fulfill its commitments. Exim receives no appropriated funds and thus does not compete for scarce budget dollars. Exim seeks loan and guaranty authority only, not direct funding from Congress.

EXIM BANK AND EXPORTS

The U.S. merchandise trade balance (by year end 1981) has been in deficit for 66 consecutive months. In 1981 the U.S. trade deficit amounted to a staggering $39.7 billion.

Exim Bank is a critical factor in promoting foreign trade. In fiscal year 1981 Exim's loans, guarantees and insurance supported exports of $18.6 billion, a 38 percent increase of fiscal year 1979. The Department of the Treasury found that at least 70 percent of the exports attributable to Exim Bank would not have occurred without Exim support. Exim helps our international balance of trade, strengthens the dollar, and thus helps ease inflationary pressures.

EXIM BANK AND JOBS

The Bureau of the Census has estimated that 4.8 million jobs were associated with exports of manufactured goods in the United States in 1980—over 30,000 jobs for every $1 billion of exports. Using Census Bureau's figures, Exim Bank's 1981 operations supported 573,000 American jobs. One in every seven American workers is involved in the production of manufactured goods that are sold abroad. Exim Bank is critically important to these workers.

We honestly believe a careful analysis of the facts lead to the conclusion that unilateral reductions in lending authority of the Eximbank seriously: undermine our competitive position; cause more unemployment; increase inflation; worsen our balance of trade position; undermine any possibility of reaching an effective international agreement on export financing terms; and worsen the Federal deficit.

Chairman Draper's concluding paragraph in his statement in the Bank's fiscal 1981 report appears to reflect a real understanding of the role of the Bank in financing exports. He states: "The time is past when American companies can limit their sales to the domestic market, and the time may never come when they can rely on the private sector to meet all of their needs for competitive export financing. The Export-Import Bank has provided essential financing assistance to American exporters for nearly five decades. From its inception, the Bank was given the flexibility to help American companies export during periods of prosperity and recession, peace and war. Certainly for the foreseeable future, we will continue to play a vital role. We will take those risks which are the legitimate responsibility of the government; and, until we achieve our ultimate objective of free trade, Eximbank will be aggressive in those competitive situations where our involvement means winning an order for an American exporter and keeping American workers on the job."

Having said that one wonders why the Administration and Bank do not support provisions which are designed to assist the Bank in being "aggressive in those competitive situations where our involvement means winning an order for an American exporter and keeping American workers on the job."

Does the Bank support the current "appropriations process" under which six legislative Committees[1] in both Houses of Congress annually set lending limits even though the Bank, as stated clearly in its own report, "does not receive any appropriated funds"? Isn't it time to establish a more rational approach to the "off-budget financing" or "crowding out" concerns that prompted including this agency in the Federal budget. We do not believe that an institution which, under any fair cost-benefit analysis, has been a strongly positive force in the U.S. economy should be treated as if it were a foreign aid "giveaway" program.

COMPETITIVE REALITIES

The United States faces fierce competition from European and Japanese producers in almost every sector, including high technology sectors. Their products are fine quality. On large ticket items—aircraft, heavy machinery, construction equipment, the credit terms are often the determining factor in who makes the sale. Foreign credit institutions are generally far more generous than the Eximbank. At the end of 1979, the latest full year in which data are available, Japanese MITI had export supporting policies outstanding of $460 billion; Hermes of Germany, $42 billion and the U.S. Export-Import Bank, $10 billion. This explains in large part why the Japanese had a trade surplus in manufactured goods of $72 billion of 1979, Germany $59.2 billion, while the U.S. had a deficit of $2.1 billion. These data and the comparative export business financed by various export credit institutions are shown in Table 1 of the appendix.

There has been much publicity that the Bank is "owned" so to speak by a few major export oriented companies in the aerospace industry. This is misleading. It is misleading in that, over the history of the Bank, commitments have been made to over 9,000 suppliers in all 50 states. A review of these commitments suggest that small and large export oriented companies in all 50 states have received vital export financing from the Bank. Also, as representatives from the aerospace industry have pointed out, an airplane such as a Boeing 747 is not made exclusively in Seattle. There are thousands of suppliers and subcontractors spread across the land for each of these aircraft. Thus, if we lose an aircraft sale because of noncompetitive or inadequate export financing it means lost jobs all over America, not just in Seattle.

Another assumption we seriously question is that if Eximbank direct loans are cut, the private banking institutions would pick up the slack and (a) the sale would be made anyway; and (b) we would benefit our budget. Increasingly, the availability of favorable financing has become a key element in making an export sale of major capital equipment. Under today's high interest rates in the private sector, concessionary financing is more vital than ever. Many of our international trading competitors, notably the French, Germans, British, and Japanese are aggressively providing concessionary financing assistance to their exporters despite the intention of reducing and eliminating such subsidies which formed the basis for the Tokyo Round GATT negotiations and the OECD export credit Arrangement. In 1980 official government support was behind 39 per cent of Japanese exports, 35 per cent of British, 34 per cent of French, while only 18 per cent of U.S. exports received official support. Today, in the direct loan program the Bank is only mildly competitive with its world counterparts which almost universally provide 85 percent loan cover after a 15 per cent cash payment and at interest rates of 10 per cent for developing countries, 11 per cent for intermediate, and 12.4 for developed countries. Eximbank interest rates have been generally higher for "intermediate" and "developing" countries with much lower cover provided. The GAO study on the Export-Import Bank discusses in detail the constraints which prevent the Eximbank from consistently offering competitive financing for U.S. exports.

Mr. Chairman, we recently surveyed our members on the impact of various export incentives and disincentives. The responses of both large, medium and smaller exporters indicate that the following export disincentives have a serious impact on exports and jobs.

Inadequate credit facilities. Virtually all the respondents indicate that the lack of available financing on competitive terms has resulted in substantial losses of overseas sales. The Europeans and Japanese are able to offer complete financing on much more favorable terms than the U.S. manufacturers on both military and commercial equipment. As a result, many developing nations, already burdened by heavy external debt, are turning to Europe and Japan for their capital goods requirements. The inadequate credit availability cases, cited below, apply to both high technology civilian and military products in which the U.S. is high competitive.

EXAMPLES

A. From a Small Business Exporter: "Eximbank's fixed rate financing is 13 percent-15 percent. Its counterparts in the U.K., Germany, France and Japan offer fixed rate financing at 8-10 percent and for a period of time longer than Eximbank.

This year, Columbia, Peru, and Ecuador requested payment terms from us of between 7 and 10 years at a fixed rate of 10%. We could not comply and will lose a substantial amount of business this year."

B. From a Small Business Exporter: "We cannot compete on the international markets with firms which can obtain government-backed loans at much lower rates than can be obtained through U.S. banks (typical recent experience 7¾%, 20 year, 5 year guaranteed period). In some cases, such as Brazil and Peru, availability of credit is almost nonexistent through U.S. commercial channels. We recently lost a $12 million contract in Brazil based solely on financing. This contract is the first in a series of three over the next five years for at least the same amount. We have been told that for an upcoming procurement in Peru, where we face the same competition as in Brazil, there can be no contract unless we furnish a complete financing package. Our outlook is not optimistic."

[1]The Budget, Banking, and Appropriations Committees.

C. From a Medium-Large sized Company: "$500 million to sales to Portugal and Thailand at stake due to inadequate credit facilities. Both countries import to U.S. security interests."

Among the U.S. export incentives in place, respondents to our questionnaire indicated that DISC and the Export-Import Bank were extremely important to their export efforts. Many indicated, however, that recent cutbacks in the Export-Import Bank and the curtailment in the DISC program had made these incentives less useful than they had been in the past. The unilateral cutbacks in Export Bank financing have placed the U.S. aircraft and capital goods industries at a distinct disadvantage vis a vis European and Japanese competition.

"Additionality" of U.S. Exim programs, especially direct lending, is very high; e.g., sales which would have gone to foreign suppliers if Eximbank had not provided financing assistance. This was confirmed by a January, 1980 Treasury Department study, which concluded that, in FY 1978, Exim's "additionality" on lending programs was over 70 per cent.

If the ultimate aim of the Administration is, as it appears to be, to phase out the government's role in export financing, it should be aware that the result (which all the market economics or competitive "supply side" theories in the world will not prevent) will inevitably be the loss of billions of dollars of U.S. export sales as well as the loss of thousands of American jobs.

Unless these jobs can be quickly absorbed in other sectors of the economy, the government will have less revenue, greater expenditures for unemployment compensation and higher budget deficits, the very opposite of the intended goal.

Thus, we really believe the Administration is unintentionally hurting its own cause by sharp unilateral cuts in Export-Import Bank lending authority.

We believe that those in the Administration who have had business experience, such as Secretaries Shultz, Baldrige, and Ambassador Brock, not only understand and appreciate the role of exports in our economy but also the importance of maintaining a competitive export financing institution. Unfortunately, however, it appears that the decisions on Eximbank's issues are made by the OMB Director who does not appear to have such an understanding of the importance of exports to the U.S. economy.

In the final analysis, however, we believe that the Administration will come to realize that the words in the Republican Platform were not empty rhetoric but were based on hard realities. We could not make the case for exports any better than by repeating the following Platform statement on International Trade and Economic Policy:

REPUBLICAN PLATFORM STATEMENT ON INTERNATIONAL TRADE AND ECONOMIC POLICY

The Republican Party believes the United States must adopt an aggressive export policy. For too long, our trade policy has been geared toward helping our foreign trading partners. Now, we have to put the United States back on the world export map. We helped pull other countries out of the post-World War II economic chaos; it is time to remedy our own crisis. Trade, especially exporting, must be high on our list of national priorities. The Republicans will put it there and will promote trade to ensure the long-term health of the U.S. economy.

Exports can play a key role in strengthening the U.S. economy, creating jobs and improving our standard of living. A $15 billion increase in exports can increase employment by 1,000,000, the Gross National Product by $37 billion per year, and private investment by $4 billion per year. Nevertheless, the Carter Administration has placed exporting at the bottom of its priority list. The present administration's trade policies lack coordination, cohesiveness, and true commitment to improving our export performance. Rather than helping to create strong exporters in the United States and thereby create more jobs for Americans, the Carter Administration's trade policies have discouraged traders. At best, the Administration has adopted a passive approach to trade, merely reacting to changing world economies, rather than actively seeking to promote a global structure that best addresses America's needs. As a result, we lag seriously behind our foreign competitors in trade performance and economic strength. Export promotion will be a central objective of international economic policy in a Republican Administration.

A Republican Administration will emphasize a policy of free trade, but will expect our trading partners to do so as well. The failure of the Carter Administration energetically to pursue negotiations designed to improve the access of American exports to foreign markets has contributed, in part, to protectionist sentiment.

Domestic problems—over-burdensome government regulations, excessive taxation, inflationary monetary policy, and an unstable economy—have contributed to the protectionist sentiments as well. We realize that protectionist legislation has engendered retaliation by America's trading partners in the past resulting in "beggar thy neighbor" policies that had such disastrous consequences in the 1930s.

Republicans are committed to protect American jobs and American workers first and foremost. The Republican Party believes in free trade, and we will insist that our trade policy be based on the principles of reciprocity and equity. We oppose subsidies, tariff and non-tariff barriers that unfairly restrict access of American products to foreign markets. We will not stand idly by as the jobs of millions of Americans in domestic industries, such as atuomobiles, textiles, steel, and electronics are jeopardized and lost. We pledge to strengthen trade agreements and to change the Carter economic policies that have undermined the capability of American agriculture and industry to compete abroad.

Republicans believe that this nation's international trade balance can be improved through the elimination of disincentives for exporters. Statutory and regulatory requirements that inhibit exports should be reviewed and, where practical, eliminated. We further recognize that government can play a role in promoting international trade by establishing incentives for exports, especially those for small and medium size business. We pledge also to work with our trading partners to eliminate subsidies to exports and dumping.

Mr. Chairman, this concludes our statement.

COMPARATIVE BALANCE OF MERCHANDISE TRADE 1970–80 [1]

[In billions of dollars]

Period	United States	France	Federal Republic of Germany	Japan	U.K.	Canada
1970	0.1	−0.8	4.3	0.4	−2.4	−2.3
1975	3.7	−1.0	15.3	−2.1	−9.4	−2.4
1976	−14.7	−7.4	13.8	2.4	−9.8	−0.2
1977	−36.4	−5.5	16.6	9.7	−6.3	0.9
1978	−39.5	−2.5	20.7	18.2	−6.8	1.2
1979	−37.3	−7.1	12.2	−7.7	−12.0	0.8
1980	−36.4	[2] −18.0	[2] 5.6	[2] −14.5	[2] −7.6	[3] 3.8
Trade balances of manufactured goods						
1970	2.3	1.5	13.3	12.5	5.4	−1.0
1975	15.9	8.9	29.6	41.7	8.1	−8.7
1976	7.6	4.9	42.1	51.2	7.9	−8.1
1977	−1.8	8.0	46.9	63.0	9.6	−7.3
1978	−12.3	9.6	53.5	74.2	7.7	−6.6
1979	−2.1	11.5	59.2	72.0	3.5	−10.4
1980 (January–June)	3.9	n/a	32.3	41.6	1.8	−4.6
Imports of petroleum and products						
1973	8.7	3.9	5.7	6.9	4.1	1.2
1975	28.4	11.0	11.8	21.0	9.3	3.5
1976	36.5	13.3	14.0	23.3	10.0	3.5
1977	47.1	13.9	14.8	26.0	8.8	3.3
1978	44.3	13.2	16.1	25.7	8.7	3.3
1979	62.7	19.4	26.7	38.2	11.1	4.1
1980 [3]	80.0	29.0	36.0	58.0	14.0	6.0

[1] Exports fob; Imports cif.
[2] First three quarters at annual rate.
[3] Estimate based on first three quarters 1980.

Source: Commerce Department, International Economic Indicators, December 1980.

COMPARISON OF BERNE UNION MEMBERS' EXPORT FINANCING

[In millions of U.S. dollars]

	Total income		Surplus/deficit		Total business		Short term		Medium term		Long term	
	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979	1978	1979
Exim (United States)	829.2	865.9	152.4	145.7	9,490.5	12,927.8	1,973.0	2,266.0	4,466.3	6,818.4	3,051.2	3,843.4
ECGD (United Kingdom)	331.4	360.9	(11.9)	(186.8)	35,116	33,428	26,642	25,835	5,395	3,716	416	163
Hermes [1] (Germany)	280.7	373.8	71.6	98.7	14,961.4	14,504.8	10,522.9	10,460.4	2,502.3	1,027.2	1,936.3	3,017.2
COFACE (France)	531.9	619.1	(41.1)	(365.9)	30,663.8	32,152.3	11,840.2	13,982.9	10,688.8	9,260.0	602.7	727.3
EDC (Canada)	14.1	14.9	5.6	2.9	2,533	1,772	990.6	1,225	1,540	547	2	
EID/MITI (Japan)	87.0	102.9	(44.4)	9.1	31,813.8	39,355.8	26,189.9	31,766.3	2,259.2	4,939.4	2,825.0	2,558.1
SACE (Italy)	110.2	146.8	20.2	9.4	8,703.2	8,017.5					[2] 7,171.5	6,200.3

[1] Short, medium and long term includes buyer credits.
[2] Not broken down into short, medium or long term.

THE VALUE OF A FREEZE

● Mr. KENNEDY. Mr. President, it is with special pride that I announce to my colleagues that Massachusetts has become the ninth State to provide its citizens the opportunity to express their will on the nuclear arms race and the proposition of a nuclear weapons freeze this fall.

In this initiative, and in the important successes already registered by the nationwide Freeze movement, we can see this country's best, greatest hope to end and reverse the nuclear arms race. The American people, true to their noblest tradition, are standing up and taking their destiny and that of their children into their own hands.

Experts who have made strategic nuclear doctrine their specialty have also been speaking out in remarkable numbers, throwing the weight of their expertise behind the Freeze movement. Last week, in an article for the New York Times, Hans Bethe, winner of the Nobel Prize in Physics, and Franklin Long, a former Assistant Director of the U.S. Arms Control and Disarmament Agency, made an eloquent case for the nuclear freeze. Such strong and authoritative endorsement of the freeze is a welcome and important addition to the already impressive chorus of support from distinguished scientists and experts. I commend the Bethe-Long article to my colleagues, and ask that it be printed at this point in the RECORD.

The article referred to follows:

THE VALUE OF A FREEZE

(By Hans A. Bethe and Franklin A. Long)

ITHACA, N.Y.—The rapid increase in public support for a nuclear-freeze agreement—that is, a mutual freeze on the testing, production and further deployment of nuclear weapons—has been a remarkable political phenomenon. In less than a year, support has grown from a few volunteers collecting signatures on petitions to a Congressional vote in which supporters of a freeze very nearly prevailed. This fall, eight states and the District of Columbia will vote on freeze referendums. Already Wisconsin voters have overwhelmingly voted yes in such a referendum.

There are many reasons for this strong support for a freeze, including fear of nuclear war, resistance to high levels of military spending and opposition to particular military policies of the Reagan Administration. But to most supporters, the chief purpose of a freeze is simple: It is to help stop an immense, continuing, dangerous and incredibly costly arms race between the two superpowers.

The Administration opposes a prompt freeze. Its members offer a variety of arguments why a freeze is a bad idea. Most of these arguments lack validity.

One argument that spokesmen offer is that a freeze would leave no incentives for the Soviet Union to stop the arms race. But strong incentives to stop it already exist in both countries. The Soviet Union shares with us an unbalanced economy caused by immense expenditures for military systems. A freeze that permitted large decreases in military spending would be of great help to the civilian economies of both countries.

Another argument is that America would be "behind" the Soviet Union if a freeze were agreed upon. This is highly debatable. American military leaders have argued that our nuclear forces are preferable to the Soviet Union's, and even our more pessimistic military leaders agree that there exists an approximate nuclear parity and a situation of strong mutual strategic deterrence.

The Administration complains that in the 1970's, the Russians built up their nuclear arsenal relentlessly while America stood still. In fact, the number of warheads in our strategic forces increased from about 4,000 in 1970 to 10,000 in 1980, while the Soviet Union's increased from about 1,800 to 6,000 in 1980 and 8,000 in 1982. The Soviet buildup followed ours by about five years. The best way to stop still further buildups is a freeze followed by negotiated, substantial arms reductions.

One Administration spokesman bases some of his arguments against a freeze on a proposition with which we agree—namely, nuclear weapons "are good if they promote stability and contribute to deterrence of war, and bad if they diminish stability and weaken deterrence." But then he argues in favor of all components of the Administration's nuclear arms buildup, whether they lead to stability or not.

Consider two new American delivery systems: the proposed intercontinental ballistic missile called the MX, and the planned deployment of highly accurate cruise missiles on submarines. Both weapons, if deployed, will be seriously destabilizing. All plausible arrangements for basing the MX will leave it vulnerable to Soviet attack; moreover, the threat to Soviet ICBM's from the high accuracy of the MX is an added reason for the Russians to launch a nuclear first strike with their own ICBM's. Our submarine-launched cruise missile will be destabilizing because of the serious difficulty, in reaching arms-control agreements, in verifying the numbers that are deployed.

It will take statesmanship and a mutual desire for peace to negotiate a freeze. Either country can obstruct the negotiations by unrealistic conditions or by demands for excessively intrusive verification procedures. But verification need not be a severe problem, since both countries have substantial national technical means for verification. Furthermore, it is clearly easier to verify zero activity—that is, no testing, no production, no deployment of new systems—than to verify quotas or restrictions.

The larger goal for Washington and Moscow is to obtain some measure of political reconciliation, based on a mutual understanding, that neither party benefits from the current costly and dangerous confrontation. Arms-control agreements will still be needed to reduce the world's arsenals of nuclear weapons. The Start negotiations and those on reductions in intermediate-range nuclear forces underway in Geneva should continue. Both sides still need other political agreements and confidence-building measures. Both must work to decrease greatly the threat of major war in Europe. But for all of these, a mutually agreed nuclear freeze would be an important first step, a clear signal for new directions.●

VOLUNTARY SCHOOL PRAYER AND ABORTION

● Mr. HUMPHREY. Mr. President, recently, the distinguished senior Senator from North Carolina, Senator HELMS, brought before the Senate two important issues: voluntary school prayer in public schools, and abortion.

During the course of these proceeding, Senator HELMS' actions were both highly praised and highly criticized. In particular, members of the press and syndicated columnists expounded at great length upon the merits or the pitfalls associated with the amendments under consideration and the distinguished Senator's handling of the associated debate. One such article, written by Beth Fallon, appeared in the New York Daily News. The point of view expounded by Ms. Fallon was subsequently critiqued by Max Freedman in a column which appeared in the News World on August 27, 1982.

Mr. President, I believe that my colleagues would be interested in reviewing both articles, and I ask that they be printed in the RECORD.

The articles follow:

THE GOSPEL ACCORDING TO HELMS

(By Beth Fallon)

When Sen. Jesse Helms surprised the U.S. Senate on Wednesday with a substitute amendment restricting abortions and tying the issue to the other emotional watershed of this Congress—school prayer—his liberal opponents were elated. A tactical mistake, they said. Helms lost a key first vote in the squabble, 59–38.

But Republican opponents Lowell Weicker of Connecticut and Bob Packwood of Oregon were filibustering on Monday, and yesterday on the Senate floor they were still filibustering, mostly to the empty seats of colleagues and the fascinated glances of brightly clad tourists in the gallery.

"If it was a tactical mistake," said Jim Lucier blandly, "what are they worried about. You don't filibuster if you're sure you have the votes." Helms' chief legislative aide has a point. Press gallery scuttlebutt and Senate floor gossip indicate that Helms did lose votes by twinning the two issues. But on the abortion question, some guess that Lucier's numbers are right—45 solidly for restricting abortion, 45 solidly against, 10 swinging—with the vote possibly not to come until after Labor Day.

In an election year, in a Senate 98 members male and two females, the gospel according to Jesse Helms is a fearsome weapon. His new legislation would restrict abortion further than any since the 1973 Supreme Court decision that the right to an abortion in the first three months of pregnancy was absolute and constitutionally protected. It would end federal funds for research on abortion, medical insurance for abortions for federal employes and permanently end all Medicaid-funded abortions except to save the life of the mother.

Most restrictively, it states that the United States Supreme Court erred in its 1973 decision and provides an immediate appeal to the Supreme Court if any federal court should strike down a state law restricting abortion. In other words, it removes the power of the lower federal courts to review cases regarding a constitutional question. When Helms lost Wednesday in a flurry of anger on similar restrictions of the high court itself, Packwood said there was "no chance" for prayer, busing or abortion legislation this year.

Helms also lost support by switching his abortion language and virtually lifting the

revised version from fellow Republican Mark Hatfield's bill, without so much as a "G'mawnin" y'all." The North Carolinian also nettled Senate Majority Leader Howard Baker by unraveling his carefully constructed agreement between liberals and conservatives on how to bring up debate and vote on the two divisive measures.

If Helms' opponents did have the votes, they would be glad to use them. They're still trying to round them up. Further, Helms' people don't seem to mind losing, if they can label opposition votes "anti-life" in the coming election. Helms' weakening of the bill by moving the "human life begins at conception" portion from the force-of-law section to an earlier non-binding preamble may help him get votes. Some senators may shy at making public asses of themselves by declaring as law what science, philosophy and theology cannot agree upon. But some are perfectly willing to compromise on a "finding" to disarm a radical right that helped defeat Birch Bayh, George McGovern and others.

The smell of fear is all over this issue, the fear of organized minority pressure groups, of vigorous lobbying, of Republicans having a fight among themselves about what it is to be a conservative. Behind it all is the great silence of the majority of women—only two are present on the floor—who would really never want to have an abortion.

But, they might be the mother of four by an unemployed auto worker. But, they might be near a nervous breakdown over an alcoholic husband. But, they might be 13, or 12, or 10.

I remembered yesterday, as I do so many days, the face of the mother whose 8-year-old had been raped by the retarded cousin the family had befriended.

"Mommy," said the little one, "Mommy, he put his finger in me." The mother cried as she repeated it and said, "I just thank God for one thing. I thank God she is not old enough to be pregnant."

Yesterday in The News, the rape of a 10-year-old girl in Brooklyn by a 12-year-old boy was reported. It is at least theoretically possible that she is old enough to be pregnant. This is a real and human fact not of interest here in Washington to those preaching the gospel according to Helms.

HELMS' VALUES ARE "BACKWOODS" TO N.Y. ELITISTS

(By Max Freedman)

Before we run out of days on which to celebrate famous people's birthdays, I'd like to propose that one be set aside for a very deserving, and so far unappreciated, figure. Her name is Marie Antoinette, she of the let-them-eat-cake fame—which she, by the way, never said, but most certainly felt.

Marie, bless her uncaring heart, represents to me a lost value: honest elitism. Her contempt for the common people was absolute and undisguised. And how very refreshing that is to contemplate in our age of elitists who pose as egalitarians.

I'm thinking in particular of Beth Fallon, so-called columnist for the Daily News. She has the same contempt for ordinary folk that Antionette did. But, unlike Antoinette, she's not honest about it. She keeps trying to convince her non-elitist readers that's she's really just plain folks, same as them.

ATTACK ON OUR VALUES

Well, the other day Fallon really let her elitism and her contempt for the ordinary folk of this town show. In a piece called "The Gospel According to Helms," she conducted a duplicitous attack not only on a great and courageous American, Sen. Jesse Helms, but on all of us who don't share her Silk-Stocking-District ideology.

Senator Helms is one of those who believe that the values we lived with for almost two centuries, up until the 1960s, were basically good ones and as such worth restoring. He doesn't think, for example, that because children were allowed to pray in the classroom in that era that this was an oppressive theocracy. Nor does he feel that until the Roe decision of the Supreme Court in 1973 this was a fascist society simply because it was then against the law to kill unborn babies. Apparently Fallon does.

The hackneyed way Fallon put down the values this country grew up with and that Senator Helms now seeks to bring back was totally insulting to the intelligence of the discerning reader. No one, of course, expects Beth Fallon to be profound. As a thinker she's about as original as, say, those guitar-toting clowns who march around Memphis in jumpsuits, sporting pompadours, hatchet sideburns and singing "You ain't nothin' but a hound dog" to anyone who'll listen.

But in this particular column she reached new depths of banality, ending her anti-Helms diatribe and pro-abortion pitch with images of underaged girls being raped by mentally retarded cousins. It was, of course, with heart-tugging imagery exactly like this that the pro-abortionists began prying open the door to free-for-all abortion some 20 years ago. Not mentioned by Fallon—just as it wasn't mentioned by the abortion pioneers in the initial stages—was the fact that the overwhelming majority of abortions in a free-abortion society are performed not on 12-year-old victims of rape but on consenting adults for reasons of convenience: to allow for a second car, for an undisrupted vacation itinerary, for an uninterrupted academic year.

SYMBOL OF THE MAINSTREAM

Senator Helms is where he is because the people of North Carolina, by way of a democratic election, put him there. And he is a leading figure in the Senate because other duly-elected senators, recognizing his ability and integrity, put him in a position of leadership.

Most important for purposes of this discussion, Senator Helms is pushing for values that are not only embraced by tens of millions of Americans of this generation but were cherished by numberless patriotic Americans—including most if not all presidents—of generations past. In short, Senator Helms is nothing if not representative of mainstream America—past and present.

Fallon, on the other hand, is decidedly unrepresentative. Her views not only do not represent mainstream America, they do not even represent New York—unless one thinks of New York as just those few square blocks in Midtown which house the major media. She represents an elitist viewpoint, extremist, if you will, that is overwhelmingly rejected in such communities as Greenpoint, Bensonhurst and Ozone Park—the kind of places she occasionally glorifies in her patronizing columns but probably wouldn't be caught dead in unless while making a public appearance.

Not that Fallon is the only one here who is publicly attacking Senator Helms. Far from it. There are, in fact, all too many media figures who look at his concept of morality as a relic of the Dark Ages. But most of them, unlike Fallon, have the decency to remain in their sophisticated towers and not pretend they're one of the troops.

TRUTH WILL WIN OUT

I am confident that the forces led by Senator Helms will eventually triumph. Sure, the Beth Fallons control the giant media and, sure, whoever controls the media to a great extent controls public opinion. But I happen to believe, as Daniel Webster did, that there is nothing so powerful as truth. And that truth will finally triumph.

Meantime, a little thanks seems to be in order. We might give thanks that in the monumental battle we face to restore those values our forebears fought and died for, we have someone of the stature of Jesse Helms at the helm, a man who is willing to stand up to the abuse of the Beth Fallons as well as to the sabotaging tactics of some of his own "enlightened" colleagues.

And while we're at it, we might offer another note of thanks that in this hotbed of liberal media one paper, The News World, has the courage to express what *real* New Yorkers are still thinking.●

STOP SMOKING CAMPAIGN IN NEWS MEDIUM

● Mr. LEVIN. Mr. President, I call attention to an interesting new idea which I was recently alerted to.

Mr. T. Casey Brennan of Ann Arbor, Mich., is a freelance magazine writer who is carrying on a unique campaign on behalf of children. He is endeavoring to discourage the portrayal of pipes, cigars, and cigarettes in comic books. His campaign has taken him on numerous radio and television talk shows throughout the country. His articles have appeared in several magazines.

I submit for the RECORD two articles which appeared in Smoke Signals magazine.

I commend these articles to my colleagues, and ask that they give careful thought to Mr. Brennan's concept.

The articles follow:

[From Smoke Signals, January 1981]

CHILDREN MAY LEARN SMOKING BY SEEING IT IN THE COMICS

(By T. Casey Brennan)

There are regulations on cigarette advertising that caters to teen-agers, but what about the subtle advertising when smoking is portrayed in the medium that children and teens like best—*comic books?*

What is the effect on the impressionable young mind when Thunderbolt Ross (from Marvel Comics' *The Hulk)* or Perry White (from DC Comics' *Superman)* chomp down on a cigar, or a tough detective lets a cigarette dangle between his teeth?

Does the twelve- or thirteen-year-old realize that the cigarette is a bigger danger to that tough guy than the story's villain?

And does the average comic book writer, editor, or artist strive always to protect the young from those misconceptions bred by the casual portrayal of the use of cigarettes?

As one who worked inside the comic-book business for part of the sixties and most of the seventies, I would say No most emphatically, to both of those last questions.

Cheap sensationalism and dramatic effect are of far greater concern to the average comic book professional than is responsibility toward his youthful audience. A Marvel

Comics story once portrayed a super-character called Dr. Strange, not only smoking a cigarette, but smoking it in bed!

And while several attempts have been made to write stories attacking alcohol and drug addiction, the results were so reeking with drippy melodrama that the over-all effect was to encourage the very practice which the tale purported to oppose.

Even these pathetic, perhaps well-intentioned but poorly conceived attempts at civic responsibility, are few and far between. While scripting the regular series *Vampirella*, I was instructed by the editor to make the constant drunkenness of a supporting character, a stage magician named Pendragon, a matter of lightness and humor.

It should be noted that a few companies do produce comics with characters who never use cigarettes. Archie Comics, Whitman Comics, Harvey Comics, Fawcett, Spire Christian Comics, and Crusaders feature nonsmoking characters. Most of the others are likely to present anything from smoking to drunkenness to ax-murder.

Speaking from personal knowledge of the people behind the scenes, I find it difficult to imagine the often hard-drinking and chain-smoking comic book professional taking a stand against the very things which he feels are part of his productive and creative processes.

Television programs such as *Shazam* and *Isis*, with their mild themes, or movies such as *Superman*, mislead parents into believing that comic books are far more wholesome than they really are. In the early 1950s, when comic books overstepped the boundaries of good taste, and began to show gory murders, glorifying even real-life criminals with such titles as *Famous Gangsters*, it took a nationwide comic-book burning campaign to turn the tide, and force distributors and retailers to demand a better product.

The 1980s may require a repeat performance of this before publishers begin to live up to their responsibilities as the architects of young minds.

[From Smoke Signals, February 1982]

COMIC BOOK HEROES EDGE INTO NO-SMOKING ADVICE FOR KIDS

(By Casey Brennan)

A year after publication of the article "Children May Learn Smoking by Seeing It in the Comics," in the January 1981, issue of SMOKE SIGNALS, a leading comic book publisher has taken a firm stand against cigarette smoking.

That publisher is Marvel Comics, and with the publication of the February, 1982, issue of their popular title, *Daredevil*, they have taken the first step toward civic responsibility on the smoking issue. Throughout the book-length story, the lead character of the comic, as well as minor characters, make frequent remarks pointing out the dangers of cigarette smoking or ridiculing the practice altogether.

"Pro smoking? Hey, not us!" said *Daredevil* editor Denny O'Neil in a letter to the author of the SMOKE SIGNALS article, a longtime fellow book scripter.

Both Denny O'Neil and the comic book *Daredevil* has been associated with strongly ethical positions in the past. A decade ago, Denny O'Neil's comic book scripts for Marvel's chief rival, DC Comics, won him much support for their hard-line antidrug stance. At the 1971 New York Comic Art Convention, held the Fourth of July weekend at the New York Statler Hilton, Denny O'Neil's antidrug stories in the DC title *Green Lantern* were nominated for awards from both the Academy of Comic Book Arts and the Goethe Comic Art Fan Awards, voted by the comic book fans themselves.

Now editor, O'Neil gives us a Daredevil who advises a friend, on page five of the February, 1982, issue, "Ben, you've got to stop smoking those cigarettes. They'll kill you."

At another point, later in the story, another character remarks on the cigarette issue, "Still smoking those weeds, eh, Benny boy? Bet your lungs look like something died in them."

Problems with comic books? Sure there are still many of them, just as was noted in that January, 1981, SMOKE SIGNALS article. But, as a result of the position taken by that article, "Children May Learn Smoking by Seeing It in the Comics," at least one problem is being positively tackled; a strong antismoke stance has been taken by a leading character of a leading comic book publisher.

Certainly, there's more to be done. We cannot feel that our work is complete until cigarettes, pipes, and cigars are never portrayed except in stories specifically designed to oppose and ridicule their use, as in this latest *Daredevil* story.

The *Daredevil* story is not a war won, but a battle begun.●

MILITARY CONSTRUCTION APPROPRIATIONS

● Mr. QUAYLE. Mr. President, yesterday the Senate passed H.R. 6968, the Military Construction Appropriations bill. The bill as reported and passed was approximately $1.1 billion below the President's request. I know that the Senator from Nevada (Mr. LAXALT) worked hard along with the other members of his Military Construction Subcommittee to report a bill which complied with the allocations in the first concurrent budget resolution. For that I strongly commend him.

I am sure that among the many projects which had to be cut from the bill to meet the budget allocations there were some which were much needed. But there are certain budget realities which we must accept. In that regard, I note that among projects for Indiana facilities, the bill included $8.7 million compared to an administration request of $9.6 million and a House approved amount of $13.9 million. Like everyone else in Congress, I would like to see as many projects as possible in my State. However, I am willing to accept what has to be.

Having said that, Senator LUGAR and I have asked the Senator from Nevada to give serious consideration to one urgent project when the Senate conferees meet with the House conferees on this bill. This project, an Army National Guard armory in Gary, Ind., is very special for two reasons. First of all, it is a project very badly needed by the Indiana National Guard. Second, it is a project which was of special interest to the late Adam Benjamin, Representative from the First District of Indiana.

The existing armory in Gary was built in 1924 in a downtown location. It has no room for expansion, no adjacent outside training area, and provides substandard security for weapons and equipment. The facility is expensive to heat, has badly deteriorated, and its repair costs would be in excess of $1 million. This is clearly uneconomical in light of the $1.8 million needed for replacement costs.

Plans for a replacement armory have been under consideration for some time, but have previously been deferred because of lack of a suitable site and lack of State matching funds. These problems have now been resolved by a $580,600 State appropriation and the purchase of a 15-acre site. Because of the overcrowded condition of the existing facility and the lack of adequate secure storage and training areas, construction of a replacement armory and organizational maintenance shop is very badly needed. This is a high priority item with the Indiana National Guard and the State of Indiana.

Earlier this year, Adam Benjamin put his all into getting this project approved. This was typical of everything he did for the people of the First District. As a result of his efforts, the military construction authorization and appropriations bills on the House side both include the new Gary Armory. But only half the work has been done. In Adam Benjamin's vocabulary there was no such word as "halfway" and it is for that reason Senator LUGAR and I would like to see this important project finished. It is a project Adam Benjamin wanted because he knew it was needed for the Nation, the State of Indiana, and the Gary area—an area that has suffered as much or greater unemployment than any industrial region in the country.

The commanding officer of the Indiana National Guard stands ready to dedicate this new and badly needed facility to the memory of Adam Benjamin. That would be as fitting as any memorial for this uniquely effective and compassionate Member of Congress. Those of us who served with him in the House and as a part of the Indiana delegation know only too well what a great void was created by his untimely death.

Because of the urgent military requirement for this project and because of the unique relationship between this particular project and the late Adam Benjamin, we urge the Senator from Nevada to give this project favorable consideration during conference with the House. From our discussions we understand that the Senate conferees will do everything they can to accommodate our request and agree to funding of the Gary armory.●

ALLYN COX: AMERICAN MICHELANGELO

● Mr. HELMS. Mr. President, on September 21, 1982, Statuary Hall in the U.S. Capitol was the scene of a most impressive ceremony to honor Allyn Cox, the great mural artist whose works in the Capitol and many other locations in the United States will inspire future generations for ages to come.

Present on that memorable occasion, he responded to the tributes of some of our leading statesmen and other leaders in a brilliant address, winning the admiration of all who heard him. Five days later, following a massive stroke, he was dead but his works will live.

On a personal note, Mr. President, Mrs. Helms greatly admired Mr. Cox, and spent many hours with him as he worked in the Capitol. She is greatly saddened by the death of this great man, as am I.

Mr. President, because the life and career of Allyn Cox should be of unusual interest to the Congress and admirers of historically based art, I ask for two obituary notices to be published in the RECORD.

The material follows:

[From the New York Times, Sept. 28, 1982]

ALLYN COX, 86, PAINTER OF MURALS FOR U.S. CAPITOL

(By Walter H. Waggoner)

Allyn Cox, a prominent American mural painter whose work adorns the rotunda and corridors of the United States Capitol in Washington and a former member of the New York City Art Commission, died Sunday at the Washington Medical Center. He was 86 years old and had recently lived in the Cosmos Club in Washington.

Mr. Cox was honored at the Capitol last Tuesday by a bipartisan group of political and artistic leaders for his depiction of memorable scenes in American history that he began three decades ago. He was hailed as "a great artist" by House Speaker Thomas P. O'Neill Jr., Democrat of Massachusetts. The Senate majority leader, Howard H. Baker Jr., Republican of Tennessee, told Mr. Cox, "Your splendid work enjoys a special place in the art history of the world."

Mr. Cox began murals in the Great Experiment Hall on the House side of the Capitol building in 1973. In failing health recently, Mr. Cox retired last December; the work will be completed by his assistant, Cliff Young.

Mr. Cox, already a well-known muralist, began his career at the Capitol in 1952, when he was commissioned to complete the last 32 feet of the frieze in the building's great rotunda. The 300-foot mural had been started nearly a century earlier by the Italian artist, Constantino Brumidi, who died in 1880 several months after falling from a scaffold before his work was finished. His successor, Filippo Costaggini, died with 32 feet of the frieze still bare.

With a Congressional commission, Mr. Cox finished the mural with scenes from the Civil War, the Spanish-American War and the birth of the age of aviation with a depiction of the Wright brothers' first flight. President Dwight D. Eisenhower dedicated the completed rotunda frieze on May 11, 1954.

In addition to his Capitol scenes, Mr. Cox has painted murals and produced decorative panels of mosaics and stained class for many private buildings, including the Guaranty Trust Company and the U.S. Grant Memorial, both in New York City, the George Washington Masonic Memorial in Alexandria, Va., and the University of Virginia Law School.

Mr. Cox was born in New York City on June 5, 1896, the son of Kenyon and Louise King Cox, both of whom were artists. He studied at the National Academy of Design and the Art Students League in New York from 1911 to 1916. Then, on a fellowship in painting, he was a student at the American Academy in Rome from 1916 to 1920, except for his service as a first lieutenant with the American Red Cross in Italy in 1917 and 1918.

Soon after his return to New York, Mr. Cox began to receive commissions for murals and decorative paintings for private homes, churches and other public and private buildings. Among his earlier works were murals for Dumbarton Oaks in Washington and decorative paintings for the National City Bank and the Continental Bank in New York.

Mr. Cox was a member of the New York City Art Commission from 1952 to 1958 and was a past president and honorary president of the National Society of Mural Painters. He was also a former president of the American Artists Professional League and past vice president of the Architectural League of New York.

Mr. Cox is survived by a sister, Caroline Cox Lansing of Apache Junction, Ariz.

Funeral services will be private.

[From the Washington Post, Sept. 28, 1982]

ALLYN COX DIES; WORKS INCLUDED CAPITOL MURALS

(By J. Y. Smith)

Allyn Cox, 86, an artist whose work includes some of the major murals and friezes in the U.S. Capitol, died at the Washington Hospital Center on Sept. 26 following a stroke.

In 1953, Mr. Cox was commissioned to complete the Rotunda Frieze just under the dome of the Capitol. The paintings were begun in the 19th century by Constantino Brumidi, the Italian artist who spent much of his professional life working on the Capitol. Brumidi died before the work could be completed.

This circumstance provided Mr. Cox with an amibition that began in his boyhood: to complete what Brumidi had started. "When I was very young," he said in an interview shortly before his retirement last April, "my parents brought me here and showed me an empty space in the frieze under the Rotunda dome. After that, I used to dream and dream of painting it one day."

When the call came, he mounted a scaffold and painted in the 32-foot space with figures depicting the American Civil War, the Spanish-American War and the birth of the age of aviation. All of it was faithfully executed in the style of his Italian predecessor.

In 1969, Mr. Cox again was called to the Capitol. This time the job was to clean and restore the Brumidi mural called "The Apotheosis of Washington," which is at the very top of the Rotunda.

Before that task was over, Congress authorized the decoration of various walls and ceilings on the House side of the building. Brumidi himself had done a number of murals in the corresponding corridors in the Senate wing.

The actual work began in 1973 under the auspices of the U.S. Capitol Historical Society and the Daughters of the American Revolution. Mr. Cox and two assistants, Cliff Young and John Roach, did the ceiling of the Capitol Hall with scenes showing the development of Congress. In the Great Experiment Hall, they covered the ceiling with paintings of the growth of American democracy.

The work was dedicated earlier this month and on Sept. 21 a ceremony in Mr. Cox's honor was held in the Statuary Hall with House Speaker Thomas P. (Tip) O'Neill Jr. (D-Mass.) and Senate Majority Leader Howard Baker (R-Tenn.) in attendance.

Inevitably, perhaps, Mr. Cox's work has been compared to that of Michelangelo. When the validity of this was put to him in an interview, Mr. Cox replied with puckish good humor. "Well," he said, "the ceiling of this corridor is longer than the one in Sistine Chapel."

Mr. Cox was born in New York City. He studied at home—his father was a painter—at the National Academy School and at the Art Students League. He served in the Red Cross in Europe during World War I, then came home to begin his career.

Having already decided that murals would be his milieu, his first major effort was to paint a room in his parent's house in New York. This brought a number of commissions from private persons, including Vincent Astor and others among the very rich. With his father, he also did some murals in the Wisconsin State Capitol in Madison.

With the onset of the Great Depression and the consequent disappearance of large private commissions, Mr. Cox turned to decorating public buildings. Those on which he worked included the law school of the University of Virginia. He also worked on the George Washington Masonic Memorial and the Knights Templar Chapel in Alexandria.

His wife, Lillian, died in 1968, and Mr. Cox had lived in Washington. Survivors include a sister, Carolyn Lansing of Apache Junction, Ariz.●

HIGHWAY SAFETY IMPROVES UNDER REAGAN

● Mr. SYMMS. Mr. President, for several years, Ralph Nader's protege, Joan Claybrook, ran the National Highway Traffic Safety Administration. Against the advice of many experts, she stubbornly insisted that the only way to reduce highway deaths and injuries was to crack down on speeders on the interstate highways and to force motorists to put expensive airbags in their cars. While she was in charge of the agency, the number of highway fatalities continued to increase each year.

Now, suddenly, they have dramatically declined. In fact, traffic deaths this year will probably reach the lowest level in nearly 20 years.

Why?

Because President Reagan had the wisdom to replace Joan Claybrook and her Naderite nostrums with an experi-

enced, practical administrator, Raymond Peck, who is trying to solve the problem by dealing with its major causes.

Most deaths do not occur on interstate highways, but on other roads. Alcohol, not speed, is the main cause. These are facts, and Raymond Peck is using them—not theories—as the basis of his highway safety policies and priorities. The focus of his campaign is on drunk driving, and encouraging motorists to use the seatbelts that are already in their cars, instead of trying to replace them with airbags. He is encouraging the enforcement of speed limits on all roads, not just the interstates. And the campaign is working.

The record speaks for itself. It shows that the American people are driving just as much and just as fast, but not as many are killing each other on the Nation's highways.

A fascinating and much more detailed account of the accomplishments of Raymond Peck and the Reagan administration in this crucial area is spelled out in an article published in the Washington Times today. I ask that the article, written by Roger Johnson, be inserted in the RECORD.

The text of the article follows:

[From the Washington Times, Sept. 28, 1982]

HIGHWAY SAFETY IMPROVES UNDER REAGAN

(By Roger Johnson)

Question: Whose administration has a better record on highway safety, Jimmy Carter's or Ronald Reagan's?

Answer: Ronald Reagan's.

Surprised? So are Ralph Nader and Joan Claybrook, self-proclaimed auto safety experts. Claybrook you may recall, was Nader's protege and the head of the National Highway Traffic Safety Administration under President Carter. She was the one whose obsessive preoccupation with enforcement of the 55 mph speed limit led her to equip America's state troopers with a millions of dollars' worth of radar units and to direct the majority of the police onto the interstate highways.

It was of little concern to her, of course, that interstates had never accounted for more than 10 percent of the total traffic fatalities in any given year. Meanwhile, deaths and injuries soared on the other, now underprotected, streets and highways. In the year before Claybrook took over the NHTSA, 45,500 people died on the nation's highways; in her last year at NHTSA, 51,100 people died. By the time her tenure at the NHTSA had expired, 5,600 more people were dying on the highways each year than when she started.

In contrast to the shameful legacy of Claybrook's failed policies, the situation is improving substantially under her successor, Raymond Peck. Over 1,500 fewer people died in traffic accidents during Peck's first year than during Claybrook's last year. And if present trends continue, deaths this year will fall to about 43,500, their lowest level in nearly two decades.

Furthermore, the highway fatality rate, a measure of relative safety, is likely to drop below 3 deaths per 100 million vehicle-miles (the common means of expressing the rate) for the first time. this is a magnificent achievement by any standard, especially considering that the rate had risen during each year that Claybrook headed the NHTSA. What all this means is that there will have been about 9,500 fewer traffic deaths during the first two years with Ronald Reagan than there were during the last two years under Jimmy Carter. Highway travel today is significantly safer than it was two years ago.

The reasons for this improvement are as remarkable for what hasn't happened as for what has. Highway travel hasn't decreased; quite the opposite, in fact. There is, as yet, no evidence that seatbelt usage has improved. Airbags are nowhere in evidence, much to the chagrin of Nader and pals. Perhaps most amazing of all, and contrary to what most so-called "experts" would predict, highway speeds have increased dramatically. The number of drivers violating the 55 mph speed limit is now so great that well over half the states may face the imposition of federal funding sanctions.

Ironically, increased highway speeds are indicative of the major reason for the recent decrease in fatalities. One of the first things Ray Peck did when he came to the NHTSA was to moderate his predecessor's fanatical enforcement of the 55 mph speed limit, thus freeing valuable police resources for more pressing problems such as apprehending drunk drivers.

Peck's NHTSA had gotten serious about drunk drivers while Claybrook's never could. She was much too busy lambasting the auto industry and requiring cars to be equipped with speedometers that highlighted her beloved 55 to worry about such mundane things as drunks on the highways. alcohol has always been the leading cause of traffic fatalities while excessive speed ranks much lower. Little wonder, then, that traffic deaths are now declining.

The sad thing is that Claybrook knew these facts yet chose to ignore them. Professor Martin Whol of Carnegie-Mellon University and a recognized expert on traffic safety, had warned in June 1977 of the inherent risks of overzealous speed limit enforcement. In 1979 Terry Dawson, a transportation planner with eleven years experience, had noted in a Federal Highway Administration publication that most of the fatality reductions during 1974, when 55 was first imposed, occurred on roads where the speed limit was already under 55 mph.

He also warned against concentrating excessively on speed reductions. State police agencies around the country reacted with growing alarm as their resources were siphoned from more dangerous roads and placed, radar in hand, on the safer interstates. Claybrook scorned them all and the bodies piled up.

Maryland provides a perfect example of what happened. In 1980, Gov. Harry Hughes directed his state police superintendant, Col. Thomas Smith to begin a massive and well publicized crackdown on speeders. Hughes, a Democrat, launched this drive in the hopes of making Maryland a model for other states. Claybrook, sensing the political advantages of Hughes' support during a presidential election year, poured extra NHTSA funds into Maryland. Unmarked patrol cars, semi-trailers, and airplanes were employed. The "Yellow Jackets" were formed, an elite group of radar-toting state police. The number of citations issued for 55 speed limit violations jumped.

Those who were lucky paid with their money; the unlucky paid with their lives. Traffic deaths for 1980 skyrocketed by 10 percent, the largest absolute increase since 1968. This was not some act of fate. It was the result of stubborn adherence to official dogma. By contrast, with this year's reduced emphasis on 55 mph violations and a renewed effort against drunk drivers, highway deaths in Maryland are already down by 30 percent. Claybrook's efforts, however, were not totally in vain: Maryland was one of the few states where the majority voted for Carter.

Peck's achievements deserve the gratitude of every person in the country. By eliminating ineffective regulations and redirecting his agency's priorities toward drunk drivers and increased seatbelt usage, he has radically improved the highway safety environment. But don't expect any acclaim for either him or Reagan from the Naderites. That bunch of fractious old malcontents are too occupied plugging their twin nostrums of airbags and absurdly low speed limits to appreciate that Peck has succeeded where they failed. Trouble is, Peck has not yet publicized his triumphs. Perhaps it's time he does.●

FLAT-RATE AND MAJOR TAX REFORM PROPOSALS

● Mr. QUAYLE. Mr. President, the Senate Finance Committee has begun hearings on various flat rate and major tax reform proposals. I believe that tax simplification and major tax reform will be among the most important issues to be addressed by Congress in the next few years. Today, I presented my position and proposals for dealing with these issues to the Finance Committee. In order that my colleagues who are not on the Finance Committee and other interested persons may be fully informed of the debate on these issues, I ask that my testimony along with its appendix, tables and footnotes, be reprinted in the RECORD.

The testimony follows:

STATEMENT BY SENATOR DAN QUAYLE—FLAT RATE AND MAJOR TAX REFORM PROPOSALS

Mr. Chairman, millions of Americans are today fed up with the complexity of our income tax code. Every year complaints proliferate about the difficulty of preparing the individual tax return. Taxpayer compliance is declining while the underground economy is growing rapidly.

I believe we must restructure the tax code to eliminate its complexity and restore its credibility. For these reasons, I have introduced in the Senate the SELF-tax Plan Act of 1982 (S. 2557), a moderately progressive low-rate individual tax coupled with a flat rate business tax.

I believe the time has come to seriously consider restructuring our federal tax system. The American people demand it and our economic health requires it.

My testimony today consists of a statement explaining the principles and purposes of the SELF-tax Plan Act of 1982, along with an appendix which presents some relevant recent data and trends. I ask that these be printed in the record.

FAILURES OF THE CURRENT TAX SYSTEM

Henry Simons, writing in his classic study, "Personal Income Taxation," insisted that an income tax, if it was to be an improvement over payroll or excise taxes, "should

be progressive, it should be levied according to single general rules or principles . . . and it should be as equitable as possible among individuals. Thus, it must proceed from a clear and workable conception of personal income; and it must be constructed in such manner as to minimize the possibilities, both of lawful avoidance . . . and of successful evasion through false declaration."

Our current tax system retains an officially progressive rate structure, but in every other respect fails to meet the primary requirements of a fair tax system. These requirements are: Simplicity, Efficiency, Low tax rates and Fairness (SELF). Our tax system, taking into account all the exceptions and preferences built into the law, is also not even very progressive.

A. Simplicity

A "simple" tax system is one in which the tax code is relatively simple to understand and administer. Regulations, forms and instructions should be easily understood by taxpayers and tax administrators alike.

Today, our tax structure is more complex than it has ever been. In 1954, only 18 percent of taxpayers used tax return preparers; over 80 percent filled out their tax forms personally. In 1981, 52.4 percent of all 1040 forms were prepared by specialists as were 16.9 percent of all 1040A forms—an average of almost 40 percent overall.

In addition, in 1953, even though most Americans filled out their own tax forms, only 3.2 percent of 1040 and 1040A returns had mathematical errors. In 1976, 8.8 percent of these forms had such errors, and in 1980 the error rate was 7.4 percent.

The Commissioner of Internal Revenue, in 1977, summarized the difficulty clearly when he stated that the basic filing requirements for U.S. tax returns are "beyond the comprehension of a large portion of the adult population."

B. Efficiency

An efficient tax system is "neutral:" it allows personal and business decisions to be made on the basis of their perceived value, apart from tax considerations. It does not induce individuals and businesses to engage in uneconomic activity in order that they receive specific tax breaks.

Clearly the U.S. tax system has been a major factor influencing recent U.S. patterns in trade, investment, research and development. The tax structure has promoted consumption and over-investment in such items as residential housing and race horses, while it has discouraged business modernization. It has been a major factor contributing to our recent decline in productivity growth.

An efficient tax system is also one which can collect necessary revenues with relatively simple enforcement procedures, made possible by public support and cooperation. Thus, an efficient tax system must be perceived as basically fair and worthy of support.

There was a time when Americans were proud to pay their income tax. Efficiency of collection surpassed the efforts of most other nations, with relatively few tax collectors and special enforcement mechanisms. Today, this situation is dramatically different.

More Americans each year are taking advantage of the available tax loopholes. For every year since 1976 a smaller percentage of American tax returns have chosen to take the standard deduction while a higher percentage has chosen to itemize. Also, the average American taxpayer who itemizes no longer fills out his own tax form; a clear majority of those who itemize have their returns filled out by professionals. American business also has taken advantage of the tax preferences; it is now estimated that nearly half of all American businesses, as a result of the complex collection of available business tax provisions, will pay no corporate income tax in fiscal year 1983.

Enforcement of the tax laws has become extremely costly to government. Nearly half of all government-created paperwork stems from different tax forms, requiring an estimated expenditure of 650 billion man-hours annually. The system, rather than inducing cooperation, has angered the average taxpayer who is beginning to turn away from the system altogether. It is now estimated that 15 percent of income goes unreported, probably the highest percentage in the history of the Internal Revenue Code.

On August 19, Congress adopted provisions that would reform the tax compliance system. Mr. Chairman, you have estimated that the income tax compliance gap for both individual and corporate income taxes (the difference between what the Federal Government is owed and what it collects) grew from $21 billion in 1973 to $76 billion in 1981. The Tax Equity and Fiscal Responsibility Act of 1982, which I supported, will require stiffer reporting, higher penalties for noncompliance, and a beefing-up of IRS resources.

The regulatory cost of the present tax system is staggering. Today IRS regulations contained in Title 26 of the Internal Revenue Code fill some 10,000 pages. The IRS employs more than fifty attorneys who spend 65 percent of their time writing new regulations, generally specifically authorized by Congress. Rather than attempting to cut down on these regulations, we are now considering expanding and enforcing them more effectivley. This can only serve to anger the average taxpayers even more.

C. Low tax rates

The profusion of tax preferences in the present code substantially redistributes the federal tax burden and renders it considerably less progressive than the published tax rates. Also, by excluding substantial amounts of income from the tax base, rates imposed on the remainder must be kept high so the necessary amount of revenue can be raised.

For example, in 1961 only 10 percent of U.S. tax returns had a positive marginal tax rate other than 20–22 percent. In that year we had almost a flat, rather than progressive schedule of tax rates. Today, in comparison, published tax rate schedules are much more progressive than they were in 1961, but we also have enacted a profusion of tax expenditures.

The result has been, in spite of all the changes in the tax laws over the last thirty years, average tax rates as a percent of personal income have gradually increased, despite passage of the 1964 and 1981 tax laws which both substantially lowered maximum tax rates (from 91 percent to 70 percent in 1964; from 70 percent to 50 percent in 1981). Between 1951 and 1981 the average tax rate as a percentage of personal income increased from 9.2 percent in 1951 to 12.1 percent in 1981.

D. Fairness

A tax system is fair if it is based on the basic principle of ability of pay. All income should be treated equally as part of the tax base, and people with the same income should pay the same tax.

Clearly this does not describe the current American tax system. In 1982, U.S. individual income tax rates ranged from zero to 50 percent. However, U.S. law also provides for well over a hundred separate exclusions, exemptions, deductions, preferential tax rates, credits and tax deferrals which allow for relief or exemption from current taxes. These so-called "tax expenditures" either reduce taxable income or reduce taxes by applying lower rates, credits or delays in tax payment. The total revenue lost to all tax expenditures will be over $250 billion in FY82, well over twice the size of the federal budget deficit projected for that year.

Because of the complexity in the tax law, substantial equity has been lost; different taxpayers with roughly the same income pay for different rates of tax depending on their eligibility for different tax preferences. Tax expenditures have rendered the otherwise progressive rate structure less progressive, partly because tax preferences are most prevalently used by wealthy taxpayers to reduce their tax burden: these are the taxpayers who can afford to hire specialists to take advantage of the tax code's complexity.

A NEW APPROACH TO RAISING REVENUES: THE SELF-TAX PLAN

I believe we need to reexamine the fundamental structure of our tax system. We must reestablish SELF as the overriding principle in taxation: Simplicity, Efficiency, Low tax rates, and Fairness. These principles entail the following:

People should be able to understand the basic requirements of the tax law and to file their returns by themselves, without the need for professional assistance.

All income should be taxed equally. People who earn the same income should pay the same tax.

The poor should not be taxed at all, and we should be careful to establish this standard fairly generously.

Specific preferences and subsidies should be removed from the tax code; economic policy should be addressed directly and not through incomprehensible tax manipulations.

What I am advocating is a return to a simple, mildly progressive, but low-rate tax schedule. While a single flat rate would be simplest to administer, for reasons of equity I would advocated retaining at least some progressively in the tax structure. I would exempt from all taxes persons earning $17,500 per year or less. However, I would include all sources of income in computation of each individual's tax-base.

My plan would eliminate almost all special tax exemptions from the code. Government benefits would be counted as income. This would include, for example, unemployment insurance, employers' contributions to health benefits, credits for child care expenses, the exclusion of employee meals, food stamp benefits, and basic retirement benefits. I would include a provision to ensure that persons receiving Social Security should not be taxed twice on their Social Security contribution.

Currently the officially defined poverty level is about $9,000 per year for a family of four. The value of transfer payments received for the same size family is now estimated to equal about $5,000 per year. I believe that with a $17,500 limitation per individual taxpayer, no poor person by current definitions would be required to pay any tax. In addition, the lowest income recipients among the non-poor population would

also be exempt from individual income taxation.

In addition, I believe the wealthiest taxpayers should pay a somewhat higher rate than the average taxpayer. Thus, I would advocate a top rate of 25 percent on incomes above $50,000 per year. Incomes between $17,500 and $50,000 would be taxed at an 18 percent rate. This would add an element of progressivity to the system and should provide sufficient revenue to conduct the activities of the Federal government.

I would permit a dependents' allowance of $600 per person to recognize the costs of raising children. I would end the current system which applies different tax rates to single individuals and married persons, thus eliminating the marriage penalty and singles bonus.

With respect to business taxes, I would establish a flat 20 percent rate that would apply to all forms of business, including corporations, partnerships, and farms. Business would be taxed on the base of gross earnings, less the amount paid for goods, services and employee compensation. I would permit a capital recovery allowance to encourage investment in plant and equipment and allow deductions for such normal costs of business as depreciation.

As with the individual income tax base, I would repeal the current morass of deductions from the numerous specific business subsidies in the present tax code. Businesses would not be taxed on earnings received from ownership of other businesses, provided the owned business files its own tax return.

I would tax business income only once, with the business tax. I would therefore not tax individuals for earnings from dividends and capital gains, since this income would already have been taxed via the business tax. The effect of removing the current double taxation of business income should be to encourage investment in productive enterprise and to simplify investment decisions.

Under this general plan, then, all official tax rates would be reduced substantially. The top individual tax rate would drop from 50 percent to 25 percent. The top business tax rate would be reduced from 46 percent to 20 percent.

TABLE I.—INCOME TAX REVENUES COLLECTED BY THE FEDERAL GOVERNMENT FOR FISCAL YEAR 1982—TAX LAW COMPARED TO QUAYLE SELF—TAX PLAN

	1981 tax law (1982 estimate)		Quayle self-tax plan[1]	
	Billions of dollars	Percent of total Federal revenue collected	Billions of dollars	Percent of total Federal revenue collected
A. Individual income taxes (per year)	$300.0	47.8	$267	40.7
Taxpayers:				
Under $17,500	34.5	5.5	0	0
$17,500 to $50,000	198.3	31.6	[2] 182	27.7
Over $50,000	67.2	10.7	85	13.0
B. Business income tax	50.0	8.0	112	17.1
Total	$350.0	55.8	$379	57.8

[1] Assumes revenues collected from other than income taxes will not be changed (social insurance, excise, estate and gift taxes, custom duties, and miscellaneous receipts)—a total of $277.1 billion.

[2] The $600 dependents allowance (an estimated revenue loss of $6 billion) is attributed entirely to the $17,500–$50,000 income bracket.

Source: U.S. Department of the Treasury Office of Tax Analysis, reported in "A Program for Economic Recovery" White House report, (Feb. 1981).

The IRS could devise a post card on which every taxpayer could compute his own tax. Paperwork for business would be cut very radically, as it would for Government. Lower rates would be made possible by a fairly broad expansion of the tax base. The poorest individuals would pay no tax, and we would retain a slightly progressive rate schedule. In addition, business would pay its fair share of the tax burden.

The estimated effects of my proposed plan are summarized in table I.

As can be seen from the table which is based on data produced by the Treasury Department in 1981, if my plan were in effect for the current fiscal year, the Federal Government would collect about $29 billion more in revenue than under current law.

The different income groups would be affected differently by the proposed system. The poor and near-poor would pay no tax. In 1982, this group paid $34.5 billion in Federal income taxes.

The middle group, $17,500 to $50,000, would pay about $16.3 billion less in tax than they pay under current law, providing a somewhat lower percentage of total Federal taxes collected. The $17,500 to $50,000 income group would provide 27.7 percent of total Federal revenues compared to 31.6 percent under current law.

The wealthiest group of taxpayers, over $50,000 per year, would pay $17.8 billion more in individual income taxes under the SELF plan than under current law. The highest income group would also provide a higher proportion of Federal revenues collected than they do now; 13 percent compared to 10.7 percent.

Under my proposed SELF plan, business income taxes would provide $62 billion more in Federal tax revenues than at present. Business would provide 17.1 percent of total Federal revenues—not a high proportion by historic standards. This would reverse the recent trend of eliminating business taxes. In 1982, business income taxes will provide only 8 percent of total Federal revenues. It should be noted, however, that while revenues from direct business income taxes would be increased under the SELF plan, capital gains and interest income would be taxed only at the business and not the individual level. There would therefore be a compensatory reduction in tax burden to individuals with business interests compared to present law.

Necessity for dealing with the tax problem now

The present tax structure, including its numerous preferences and loopholes, is no longer able to raise sufficient revenues for the operation of the Federal government. If we do nothing to raise revenues we cannot avoid large budget deficits. Such deficits frighten businessmen and investors, causing interest rates to remain very high. This weakens the prospects for a healthy economic recovery. It is clear that Congress must address the issue of long-term revenues if the Federal deficit is to be reduced.

The need to simplify the tax structure is widely recognized. Several bills in addition to my own have already been introduced in both the Senate and the House which would order the Treasury Secretary to propose legislation or to draft changes in regulations to provide for massive simplification of the tax code.

If a serious approach to increasing the tax base is not soon adopted, we will face the prospect of either raising rates or adding new taxes. I believe we will all be better off if we took the path of reform. If we do not, we will be perpetuating the present inequities and inefficiencies in the system.

Many advantages would ensue from a program of tax simplification. Americans could once again compute their own taxes. They no longer would have to employ tax preparers to wade through a jungle of incomprehensible regulations. The ease of dealing with the tax system should result in an increase in income reported, and the underground economy would begin to shrink.

With a low-rate simplified tax structure Americans would have substantially increased incentives to work and be productive. This is because most members of the labor force would be able to keep a much larger share of any additional earnings than under current law. At the lowest income levels, the incentives to earn would be greatly increased since income would not be taxed at all below the $17,500 level. Also, with low marginal rates for the middle and higher income groups there would be little need for tax shelters. Productive behavior would become rational and efficient from both the individual and business viewpoints. The recent decline in rates of national productivity growth might well be reversed.

The system would also be much fairer. People with the same income would pay the same level of tax. There would be no reward to employing high priced tax specialists to gain special benefits by manipulating confusing rules and regulations; there would be relatively few regulations to manipulate. Everyone who pays tax would do so on the same, straightforward basis. This should reduce taxpayer anger and restore basic public respect for the total system.

The system would also be more equitable and more efficient. The poor would not pay anything, the wealthy would pay a higher rate than anyone else, and business would pay its fair share. A substantial burden in paperwork would be lifted from business, Government, and individuals alike. Tax considerations would no longer be the driving force behind specific business decisions; the economy would be freer to respond to normal market forces. The result should be higher economic growth and productivity. Overall long-term benefits from such tax reform can be very great, and I believe we should begin to consider the issue seriously.

[Appendix*]

CURRENT REVENUE LOSSES DUE TO TAX EXPENDITURES AND TRENDS IN FEDERAL INCOME TAX COLLECTIONS

This appendix presents some data on tax expenditure revenue losses and recent trends in the federal income tax structure. These data show (1) the Federal government currently foregoes collection of substantial revenue due to current individual and corporate tax expenditures. From a tax viewpoint the effect of these tax expenditures is to reduce the tax base; revenues foregone to tax expenditures are now projected to increase further, even with passage of H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982; (2) individual income tax rates today are higher for all income groups than they were in 1965; the tax structure is also much more progressive than it was fifteen years ago; and (3) revenues from the corporate income tax have radically declined in recent years implying that much could be gained in efficiency and

*This appendix was prepared with the assistance of Barbara N. McLennan of my legislative staff, Allen Unsworth of the minority staff of the House Budget Committee and Peter Davis of the staff of the Senate Budget Committee.

fairness by simplification and rate reduction in the corporate income tax.

I. PROJECTED REVENUE LOSSES DUE TO TAX EXPENDITURES

Table I compares estimated Federal Income Tax Collections and Federal tax expenditures for the fiscal years 1981-1987. As can be seen from the table, before passage of the Tax Equity and Fiscal Responsibility Act of 1982 (H.R. 4961) total tax revenues foregone by the Federal government was estimated to increase from $228.6 billion in FY 81 to $439.4 billion in fiscal year 1987. This represents a gradual increase from 40 to 46 percent of total taxes foregone over this seven year period.

TABLE 1.—FEDERAL INCOME TAX COLLECTIONS AND FEDERAL TAX EXPENDITURES, FISCAL YEARS 1981–87

[Dollar amounts in billions]

	1981	1982	1983	1984	1985	1986	1987
Corporate tax collections	$61.1	$46.7	$56.2	$67.7	$73.3	$69.1	$64.9
Corporate tax expenditures	$48.8	$55.1	$64.0	$80.4	$96.3	$110.7	$122.0
Percent of corporate taxes foregone through tax expenditures	79.9	118.0	113.9	118.8	131.4	160.2	188.0
Individual tax collections	$285.9	$298.6	$304.5	$322.9	$362.0	$401.5	$445.7
Individual tax expenditures	$179.8	$198.4	$209.1	$225.6	$251.5	$285.3	$317.4
Percent of individual taxes foregone through tax expenditures	62.9	66.4	68.7	69.9	69.5	71.1	71.2
Total income tax collections	$347.0	$345.3	$360.7	$390.5	$435.3	$470.6	$510.6
Total tax expenditures	$228.6	$253.5	$273.1	$306.0	$347.8	$396.0	$439.4
Percent of total income taxes foregone through tax expenditures	65.9	73.4	75.7	78.4	79.9	84.1	86.1

Sources: Data on projected tax collections is from the budget of the U.S. Government, fiscal year 1983. Data on projected tax expenditures is from the Joint Committee on Taxation, estimates of Federal tax expenditures for fiscal years 1982–87 (Mar. 8, 1982) and estimates of Federal tax expenditures for fiscal years 1981–86 (Mar. 16, 1981). All figures assume continuation of 1981 tax policies, and do not reflect effects of H.R. 4961, the 1982 tax bill.

As can be seen from the table, before passage of H.R. 4961, corporate tax expenditures by fiscal year 1987 would have increased from $48.8 billion to $122 billion. In fiscal year 1981 corporate tax expenditures were nearly equal to 80 percent of total corporate taxes collected; by 1987, corporate tax expenditures would have risen to nearly double the amount collected by the corporate tax (188 percent). Table I also indicates that in fiscal year 1981 individual tax expenditures equalled $179.8 billion—about 63 percent of total individual taxes collected; by 1987 the amount of individual taxes foregone would have risen to $317.4 billion, over 71 percent of total individual taxes collected.

As a result of H.R. 4961, much of the previously projected increase in corporate tax expenditures will be substantially reduced. Table 2 presents the estimates of revenue effects of H.R. 4961. As can be seen from the table, business tax provisions will raise over $5 billion in revenues in 1983, rising to more than $40 billion by 1987. As a result, revenue losses due to business tax expenditures will be much less than under ERTA, although the combined effect of both laws is still to reduce the corportate tax burden.

II. THE INDIVIDUAL INCOME TAX

The Treasury Department is currently analyzing the individual income tax base but those data are not yet available. Table 3 presents a comparison of marginal tax rates for four-person families from 1965-1984, as estimated after passage of the Economic Recovery Tax Act of 1981.

TABLE 2.—SUMMARY OF ESTIMATED REVENUE EFFECTS OF TAX PROVISIONS OF H.R. 4961 AS AGREED TO BY THE CONFERENCE COMMITTEE, FISCAL YEARS 1983–87

[In millions of dollars]

Provision	1983	1984	1985	1986	1987
Individual income tax provisions	272	3,113	3,106	3,336	3,556
Business tax provisions	5,422	13,292	16,497	28,042	40,116
Compliance provisions	3,365	8,869	8,660	10,174	11,217
Pension provisions	194	780	870	970	1,058
Life insurance and annuities	1,942	2,155	2,920	3,138	3,370
Employment tax provisions	1,904	3,083	3,577	2,853	2,572
Excise tax provisions	2,798	4,009	4,702	2,054	1,472
Miscellaneous provisions	−38	−37	−34	−32	−30
Total, tax provisions	15,859	35,264	40,298	50,535	63,331
Revenue gain resulting from additional IRS enforcement personnel	2,100	2,400	2,400	1,300	600
Grant total, all provisions	17,959	37,664	42,698	51,835	63,931

Source: Tax Equity & Fiscal Responsibility Act of 1982, Conference Report (August 17, 1982) p. 691.

TABLE 3.—MARGINAL TAX RATES FOR FOUR-PERSON FAMILIES 1965–84 [1]

Year	One-half median income tax rate		Median income tax rate		Twice median income tax rate	
	Dollars	Percent	Dollars	Percent	Dollars	Percent
1965	$3,900	14	$7,800	17	$15,600	22
1970	5,582	15	11,165	20	22,330	26
1975	7,924	17	15,848	22	31,696	32
1977	9,162	16	18,723	22	37,446	36
1978	10,214	19	20,428	25	40,856	39
1979	11,211	18	22,422	24	44,844	43
1980	12,722	18	25,443	24	50,886	43
The Economic Recovery Act of 1981 Under (P.L. 97–34) [2]						
1981	14,100	18	28,100	28	56,200	43
1982	15,100	16	30,100	25	60,300	44
1983	16,000	17	31,900	23	63,900	40
1984	16,800	16	33,600	24	67,200	38

[1] Assumes itemized deductions equal to 23 percent of income.
[2] Rate changes only, assumes inflation of 8.7 percent in fiscal 1982 trending down to 5.0 percent in fiscal 1986 and same increases in median income.
Source: Office of Tax Analysis, Department of the Treasury. Does not reflect effect of H.R. 4967, The Tax Equity & Fiscal Responsibility Act of 1982.

As can be seen from Table 3, in 1965 we had a very much "flatter" individual income tax rate structure than we have today. In that year, four-person families with one-half median income paid an average tax rate of 14 percent; families at the median income paid 17 percent; families at twice the median income level paid 22 percent. Over the ensuing fifteen years, the rate structure became very much more progressive. By 1980, families in the one-half median income group paid an 18 percent rate; median income families paid 24 percent; families at the twice median income level paid 43 percent. Rates for all groups increased because of real economic growth combined with inflation, resulting in "bracket creep"—the pushing of all taxpayers into higher tax brackets because of higher nominal incomes.

The effect of the 1981 Economic Recovery Tax Act was to reduce rates proportionately for all income groups. By 1984, it is estimated that families with one half median income will pay 16 percent; families at the median income level will pay 24 percent; families at the twice median level will pay 38 percent. This represents a reversal of the previous fifteen year trend. However, in 1984 the individual tax rate structure will still be far more progressive than it was in 1965; also, families at all income levels will pay higher rates of tax than they did in 1965.

III. REFORMING THE CORPORATE INCOME TAX

The most important benefit of the broader-based, lower-rate corporate income tax would be greater economic efficiency. Increased efficiency in the allocation of economic resources would result both from the reduction in the marginal corporate tax rate, and from the elimination of most tax preferences.

The corporate tax is essentially a tax on capital. The existence of such a tax implies that there will be less than the optimal amount of resources devoted to capital investment. It follows that a reduction in the marginal rate of corporate tax will reduce the underinvestment in capital equipment. Roger H. Gordon and Burton G. Malkiel have estimated that the efficiency gain resulting from a small cut in the corporation income tax is about 40 percent larger than the revenue loss (assuming no change on corporate tax preferences).[1]

The SELF-tax Plan Act (S. 2557), which mandates a 20 percent across-the-board tax rate on all net corporate income, and at the same time would eliminate most special tax preferences, would provide a significant reduction in marginal tax rate reduction on corporate income. At the same time SELF-tax would not result in any revenue loss because of the elimination of most special preferences and interest cost deductions. Thus the average effective tax rate on corporate income would approximate the 20 percent marginal rate. The current (1981) effective corporate tax rate is 20.5 percent (see Table 2) which is considerably less than the current marginal rate of 46 percent largely because of the myriad of tax preferences contained in the current law. The SELF-tax will, therefore, lead to the efficiency gains outlined and estimated in Gordon and Malkiel without the offsetting revenue losses.

In addition to increasing economic efficiency by reducing the marginal corporate tax rate, the SELF-tax will improve the allocation of resources by eliminating the wide disparity of effective tax rates across industries which have resulted from the host of

[1] Roger H. Gordon and Burton G. Malkiel, "Corporation Finance" in Henry J. Aaron and Joseph A. Pechman (eds.) "How Taxes Affect Economic Behavior," Washington, D.C.: The Brookings Institution, 1981.

tax preferences which have been added to the tax code over the years. Table 4 summarizes the major tax preferences, and Table 5 illustrates the effects of these tax preferences on the effective tax rates by industry.

As can be seen from Table 5, under current (1981) law effective tax rates range from −12.6 percent on commercial banks to 39.7 percent on apparel companies. This dispersion of 52.3 percentage points in the tax burden imposed on different industries is far from the neutral corporate tax which would minimize the economic inefficiency of the tax system.

Each of the tax expenditures in the current law were added to meet a specific felt national need at the time of enactment. Unfortunately, the net result of all of these preferences taken together has been to reduce the effective tax rates imposed upon corporations in a haphazard way. Some of these tax expenditures apply only to particular industries such as the expensing and depletion provisions for mineral extraction industries. Other tax expenditures apply generally, such as the investment tax credit and accelerated depreciation, but even these provisions differentially favor those industries that differentially favor industries that happen to use relatively more depreciable capital.

Capital responds to this preferential tax treatment by flowing to the most tax-favored industries, where the after-tax rates of return are greater. This flow continues until after-tax returns in the tax-preferred industries are bid down to equality with those industries that are more heavily taxed. The result is that the Nation's capital stock is misallocated; there is too much investment in the tax-favored industries, and not enough in the others. The value of our total income is therefore reduced; we would produce more output according to society's valuation if there were no tax preferences, and tax rates were equal across industries: In that circumstance, capital would be reallocated until pretax returns were equal, and so output in society's view would be maximized.

The problems with the current tax system, and the corresponding benefits from streamlining the law, show up in different ways. Corporate tax expenditures reduce the amount of revenue collected at any given statutory tax rate, and therefore force tax rates up. That means that undertaking any nontaxed preferred activity is less profitable and, therefore, in all likelihood less activity will take place.

The need for higher tax rates imposed by the tax expenditures creates a vicious cycle. The higher the statutory tax rates, the greater must be the incentive to take advantage of preferences and shelters. Over time, there will be ever-increasing pressure for the creation of new tax expenditures. Eliminating most tax preferences and reducing the tax rate both cut this vicious cycle.

Finally, the present tax system, by allowing interest expense deductability and the double taxation of dividends, creates a bias towards debt versus equity finance, increasing firm's exposure to the risks of bankruptcy and society to the economic loss this creates. The SELF-tax, by eliminating interest deductions and double taxation of corporate income would remove this source of economic inefficiency.

TABLE 4.—*Important tax perferences for selected industry groupings, 1981 (Preferences in Descending Order of Importance)*

Aerospace Companies.—Long-term contracts, investment tax credit, DISC.

Apparel Companies.—Investment tax credit, possessions corporations, accelerated depreciation.

Automotive Companies.—Investment tax credit, accelerated depreciation. DISC.

Beverage Companies.—Investment tax credit, accelerated depreciation, intangible drilling costs.

Chemical companies.—Accelerated depreciation, investment tax credit, intangible drilling costs.

Commericial Banks.—Tax-exempt income, accelerated depreciation, investment tax credit.

Diversified Service Industries.—Investment tax credit, accelerated depreciation, long-term, contracts.

Electronics and Appliance Companies.—Investment tax credit, accelerated depreciation, DISC.

Food Processors.—Investment tax credit, accelerated depreciation, DISC.

Glass, Concrete, Abrasives and Gypsum Companies.—Accelerated depreciation, investment tax credit, depletion.

Industrial and Farm Equipment Companies.—Investment tax credit, accelerated depreciation, DISC.

Instrument Companies.—Investment tax credit, accelerated depreciation, posessions corporations.

Life Insurance Companies (Stock).—Special insurance deductions. tax-exempt income, deferred acquisitions costs.

Metal Manufacturing companies.—Investment tax credit, accelerated depreciation, depletion.

Metal Products Companies.—Investment tax credit, accelerated depreciation, long-term contracts.

Mining and Crude Oil Production Companies.—Accelerated depreciation, investment tax credit, intangible drilling costs.

Musical Instruments, Toy, and Sporting Goods Companies.—Investment tax credit, accelerated depreciation, long-term contracts.

Office Equipment Companies.—Investment tax credit, accelerated depreciation.

Oil and Refining Companies—Accelerated depreciation, investment tax credit, intangible drilling costs.

Paper, Fiber, and Wood Products Companies.—Accelerated depreciation, investment tax credit, capital gains.

Pharmaceutical Companies.—Possessions corporations, investment credit, accelerated depreciation.

Publishing and Printing Companies.—Investment tax credit, accelerated depreciation, capital gains.

Food Retailers.—Investment tax credit, accelerated depreciation, capital gains.

Non-Food Retailers.—Accelerated depreciation, investment tax credit, tax-exempt income.

Rubber, Plastics, and Leather Companies.—Investment tax credit, accelerated depreciation, long-term contracts.

Shipbuilding, Railroad, and Transportation Equipment Companies.—Accelerated depreciation, investment tax credit, long-term contracts.

Soap and Cosmetics Companies.—Accelerated depreciation, investment tax credit, possession corporations.

Textile and Vinyl Flooring Companies.—Investment tax credit, accelerated depreciation, depletion.

Tobacco Companies.—Accelerated depreciation, investment tax credit, tax-exempt income.

Transportation Companies.—Accelerated depreciation, investment tax credit, capital gains.

Utilities.—Capitalized interest and construction costs, investment tax credit, accelerated depreciation.

Source: Congressional Budget Office.

TABLE 5.—*Effective corporate tax rates by industry—1981 (percentage of net income paid in tax—U.S. rate on U.S. income)*

Industry:	*Tax rate (percent)*
Commercial banks	−12.6
Transportation companies	−4.8
Shipbuilding, railroad, and transportation equipment companies	−1.2
Paper, fiber, and wood products companies	4.0
Mining and crude oil production companies	9.4
Metal manufacturing companies	10.1
Utilities	11.5
Life insurance companies (stock)	13.0
Aerospace companies	13.5
Chemical companies	13.6
Automotive companies	19.1
Glass, concrete, abrasives, and gypsum companies	19.8
Average rate for all industries	20.5
Oil and refining companies	21.4
Nonfood retailers	22.0
Rubber, plastics, and leather products companies	23.4
Metal products companies	24.1
Office equipment companies	26.7
Instrument companies	26.8
Diversified service industries	27.8
Pharmaceutical companies	28.5
Beverage companies	28.6
Industrial and farm equipment companies	28.8
Electronics and appliance companies	29.3
Food retailers	30.8
Tobacco companies	31.4
Textiles and vinyl flooring companies	31.9
Food processors	33.6
Musical instruments, toy, and sporting goods companies	34.5
Publishing and printing companies	36.3
Soap and cosmetics companies	39.4
Apparel companies	39.7

Source: "Tax Notes."

Effective tax rates are based on a sample of firms and therefore are subject to sampling variation.●

SENATOR HELMS AND THE PRESS

● Mr. EAST. Mr. President, over the past few weeks action in the Senate has centered around the efforts of Senator JESSE HELMS and others who have fought for two sensitive and controversial amendments—the right-to-life amendment and the school prayer amendment. The right-to-life amendment would have permanently banned Federal funding of abortions and the prayer amendment would have allowed the States to permit voluntary prayer in school. I supported both proposals.

Unfortunately, much of the press, as is sadly their wont to do, have taken full advantage of Senator HELMS being in a leadership role in that effort by seizing every opportunity to attack his integrity and ability. Through their

own twisted interpretations of his full and fair use of the rules of the Senate, many in the media have tried to portray him as ineffective. In short, Senator HELMS has generally been made to bear the brunt of the animosity the press holds toward the strong public support he enjoys.

A refreshing article by John Lofton appeared, however, in the Washington Times on September 24, 1982. The article brings out several important points about the circumstances surrounding the legislation which the liberal media failed to convey to the public. It also shows the futility of efforts to embroil a Senator of the highest caliber in their shallow attempts to cast him in an unfavorable light.

I ask that the full text of the Lofton article be printed in the RECORD.

The article follows:

HELMS IS DRIVING HILL LIBERALS BATTY

The Honorable Jesse Alexander Helms—a former unborn child and fetus who (praise the Lord) is in his 731st month of development—is driving the liberals nuts. Let us count the ways.

In an artfully contrived piece of rubbish littering the pages of The Washington Post, reporter Bill Peterson calls the 47-46 vote against Helms' anti-abortion legislation "a jolting defeat." Peterson says this occurred despite the "conventional wisdom," which had the senator leading a charge of New Right knights across the political landscape, cutting a swath through established government policies on the so-called "social issues."

Peterson also says that Helms is being accused of "high-handed tactics," of "tying up the Senate" and of making some of his colleagues angry.

Well, now. What is one to make of all this? The answer is not much, not much at all. The first thing Peterson does is set up a classic straw man. The "conventional wisdom" alluded to is fraudulent. Senator Helms and his fellow New Rightists felt all along that it would be an uphill fight to get his anti-abortion legislation passed. As the Senator pointed out to me in an interview:

"What must be understood is that we do not yet have a conservative Senate. We have a Republican Senate." Helms estimates that there are—depending on the issue—maybe 35 bona fide Senate conservatives.

Indeed, this is true. And when considered in this context the narrow defeat of Helms' toughest ever anti-abortion legislation—accurately characterized by President Reagan as "the first clear-cut vote in this Congress on the humanity of the unborn"—is hardly a "jolting" defeat. As a still-worried Ron Fitzsimmons, chief lobbyist for the National Abortion Rights Action League, told me: from 1973 until only recently anti-abortion legislation never even got out of committee. Says Fitzsimmons:

"This is the furthest Helms has ever gotten. We are not resting on our laurels. A no-vote margin doesn't make me feel very comfortable."

As for the accusation that he tied up the Senate, for Helms this is a no-win charge. In the past, when the senator led filibusters (as in the case of the Labor Law Reform Act), he was said to be an obstructionist. In the most recent situation, dealing with abortion and school prayer, even though it was liberals doing the filibustering, Helms was once more said to be the obstructionist. So, it's heads the libs win; tails Helms loses.

Now, what "high-handed tactics" means is that Helms is an astute master of the Senate rules. And this gets kind of technical. By making his abortion legislation a second degree amendment it was thus not amendable itself. Also, putting his amendment on a must-pass bill, like the debt limit bill, made it more difficult to bury in a committee. Therefore, Helms' effort shows a seriousness of purpose in making his proposal law rather than a mere cosmetic vote that even if it passed, would probably doom it to oblivion in the House.

Undoubtedly, and for good reason, some of Helms' colleagues are angry with him. Why? Because, as he tells me: "The liberals just don't want to vote on these issues." Consider the case of Sen. James Sasser, Tennessee, who cast the deciding vote against Helms' anti-abortion legislation and who is up for re-election this year. Because of Helms' fancy parliamentary footwork, Sasser is not the pointman in the pro-abortion movement. And his campaign manager, Bill Combs, isn't at all happy about this.

When I asked Combs if he liked his man being out front of the pro-abortion crowd, he laughed and laughed and laughed. His reply, in effect, was: no way. He says that "yes, obviously a lot of people in Tennessee care about this issue" because their state is a "fundamentalist, religious border state and there is a segment that feels strongly" about abortion. Already, Sasser's opponent, Rep. Robin Beard, Tennessee, is beating the senator over the head with his anti-life vote.

Sasser's press aide here, Doug Hall, says that Sasser is opposed to abortion and wants to restrict it "as much as possible." The assertion is ridiculous. If it were true, then Sasser would have backed Helms' legislation. When I asked him what specific legal rights Sasser thinks the unborn should have, Hall says:

"You know, he is uh—he is—it is not—it cannot be drawn in some sort of language . . . This doesn't mean he's not for rights though."

Me: Fine. Then what legal rights for the unborn does he favor?

Hall: (Pause) "I've not discussed that with him."

Jesse Helms' political enemies are still his political enemies. But, this is hardly a revelation. It's strictly dog-bites-man. However, the senator's friends still love and admire him more than ever. Direct-mail advertising specialist Richard Viguerie says: "Sen. Helms has put the shoe on the other foot. He has the liberals responding to his agenda. The momentum is now with us." Rep. Henry Hyde, Illinois, observes: "If Jesse Helms was crusading for liberal causes, they would have erected a stained-glass window in his honor at the Brookings Institution. He is reviled because he is unyielding in his fight on behalf of traditional values. One Jesse Helms is worth a thousand political opportunists."

Paul Weyrich, head of the committee for the Survival of a Free Congress notes: "In 16 years working for the Senate and with it, in my judgment, no other senator's integrity is greater than Jesse Helms'. Any suggestion that he's not kept his word makes my blood boil even more than the usual vicious Washington rumors make it boil."

Howard Phillips, national director of the Conservative Caucus, says: "Jesse is unique. The only battles we lose are the ones we fail to fight. And Jesse can never be accused of failing to fight. That's why he is our most valuable player."

Hanging on Jesse Helms' office wall is a plaque from his late dad, Jesse Sr., which reads: "Son, the Lord doesn't require you to win: He just expects you to try."

Jesse Helms is a winner regardless of how any vote count is ever tallied.●

A NATIONAL MARITIME POLICY

● Mr. HUMPHREY. Mr. President, as we proceed with the national debate over the security of our country and the budget for the Department of Defense, it is appropriate to remember the need for balance in our forces.

On June 30, 1982, the Chairman of the Committee on Armed Services delivered an address in Annapolis, Md., on the subject of balance in our naval forces, which include the merchant marine. The occasion was the change of command of the Chief of Naval Operations.

Mr. President, I ask that this address by the senior Senator from Texas be printed in the RECORD for the benefit of my colleagues.

The address follows:

A NATIONAL MARITIME POLICY

(Address by Senator John Tower)

Three years ago, Tom Hayward testified before the Congress that the United States Navy, with its allies, enjoyed only a "slim margin of superiority" over the combined forces of the Soviet Union and the Warsaw Pact nations, and that the trends in this balance were adverse. As the causes of this situation, he cited not only insufficient defense funding on the part of the United States, but also the tremendous allocation of resources that the Soviets were making in their own shipbuilding effort.

Last year he testified that the margin had vanished, and that a favorable outcome in a potential conflict could not be assured.

These were the obstacles that Tom Hayward faced when he assumed command of the Navy and to reverse them would take a tremendous effort. Not only would spending patterns have to be reversed, but so would national policy.

He began this monumental task by focusing on people. At the time, pay was capped at levels far below comparable civilian standards, and valuable, skilled people were leaving the Navy in droves. He called it a "hemorrhage of talent," and he set to work to get Congress to change it.

And, as we all know, he was successful. With the help of those in and out of the service, he convinced the Congress, and the pay and benefits of our servicemen increased dramatically over the past two years. The outward flow of talent has been stemmed.

Then came the election of 1980, and the civilian leadership in the Administration picked up the call for maritime superiority and made plans to build a 600 ship Navy. Tom Hayward became one of the foremost salesman for increased American maritime power, and today we can see those results: Significant increases in the Navy's ship and aircraft procurement accounts and in the capabilities of the vessels and airplanes they buy; an unstinting effort to control costs in those accounts; and an ever increasing awareness in key decision making circles of the necessity of a strong Navy for a strong America.

Jim Watkins himself has said that as the new CNO, he is standing in a long shadow, and has a large pair of shoes to fill. But, I have known Jim for a long time, and I am extremely confident in his ability to do just that.

In fact, in purely naval terms, his job may be easier than he thinks, because I agree with Tom Hayward in that the Navy is "on the move" again. Because of Tom's efforts—with "pride and professionalism" as his theme—the Navy has turned the corner on performance, discipline, and morale. The men and women in the Naval Service are once again proud of their heritage and their profession.

But believe me, there are other challenges for Jim Watkins. Naturally, he must first learn to face, on a daily basis, the same unending challenge that both Tom Hayward and I have lived for almost two years now—John Lehman, "Mr. Low Profile, himself." But we never told him it would be easy.

But there is a serious challenge I would offer him—one that I have thought about for a long time, and no doubt he has too, but one over which neither of us have had a direct responsibility—the U.S. Merchant Marine and the civilian shipbuilding industrial base. I feel it is an integral part of our national need for maritime superiority. But because it is a separate bureaucratic entity, we pay little attention to it—until we need it.

Admiral. Maritime policy that could have a major affect on U.S. naval strategy is being formulated at this moment outside the Pentagon. This could well be a watershed in American maritime affairs. It behooves us both to pay attention.

In 1893, Alfred Thayer Mahan wrote of the effect of sea power upon the course of history and the prosperity of nations. He said,

"The necessity of a Navy * * * in the restricted sense of the work, springs * * * from the existence of a peaceful shipping, and disappears with it."

As I look at what is happening in the world today, Mahan's words still ring true. The health of the merchant marine and the long-term capabilities of the Navy are still bound together, although we have bureaucratically and mentally separated them for years. I need list only four examples.

First, and most recently, the British quickly assembled some 70 merchant ships in the Falkland Island campaign, including most notably the QE 2 and the cargo ship *Atlantic Conveyor*, to move their men and supplies to the South Atlantic. I doubt if they could have been successful without both the Royal Navy and the merchant marine. Significantly, we should remember that the British have twice the number of nationally flagged vessels we do, but less than one fourth the warships.

Second, the growth we have seen in the Soviet Navy is parallel with the growth in the Soviet merchant marine. They have over 2,500 ships—up 70% in the last ten years—and are second only to Greece in the number of ocean going vessels at their disposal. Today, we have only about 550 U.S. flag vessels and rank twelfth in the world. In 1950, we were second behind only the United Kingdom.

Third, during the Vietnam war, 96% of the equipment shipped to the theater went by sea. In fact, in 1968, we were using over 150 ships just to ship ammunition.

And finally, during the Korean war we had over 2,400 dry cargo ships in the U.S. flag fleet, the National Defense Reserve Fleet, and the Military Sealift Command nucleus fleet. During Vietnam, a decade and a half later, that number had declined to just over 1,100. Today it is down to just over 400. This year 98% of the U.S. dry bulk trade will move in foreign flag ships.

We are being put out of the merchant ship business by an international conglomeration of subsidized fleets, led by our friends, the Soviet Union. Can we live with this, militarily?

Eisenhower felt the merchant marine fleet was so valuable that he characterized it as "the fourth arm of defense," and it is on this note that I challenge our new Chief of Naval Operations to broaden the scope of our thinking on naval policy to include our vitally important Merchant Marine and civilian shipbuilding assets. If we are to regain the necessary maritime superiority we seek, and feel is essential, we cannot do it with naval vessels alone. Otherwise, we face the same future of which Mahan wrote: "As the United States has at present no aggressive purposes, and as its merchant service has disappeared, the dwindling of the armed fleet and general lack of interest in it are strictly logical consequences. When for any reason sea trade is again found to pay, a large enough shipping interest will reappear to compel the revival of the war fleet."

Ladies and Gentlemen, we are inextricably tied to overseas sources of petroleum and minerals as we never were in Mahan's time. We are a free enterprise-oriented society competing for raw materials in a subsidy-prone world shipping market.

Are we ready to face a military crisis without a viable merchant service or an adequately broad shipbuilding and repair base? What is the deterrent value of a powerful fleet, if the world knows we cannot keep it armed, fueled, fed, and repaired?

We must turn from spending all our time on purely naval programming concerns and insert ourselves into the making of a national maritime policy—a maritime policy that will serve this nation in war and peace and will reflect the concerns of the Navy, the maritime services, and the shipbuilding base.

In closing let me turn once again to the affairs of today.

To Jim Watkins I wish good luck as he begins what every naval officer, and every civilian who follows these things, realizes is the ultimate culmination of a fine naval career. I wish him good luck with his service, his secretary, and the Congress.

To Tom Hayward I wish Godspeed and thank you for all you have done for the Navy and the nation. Your accomplishments have been great, and you can now look back proudly at a career that sincerely reflected great credit upon yourself and the naval service; and I might add, upon this great country as a whole. We eagerly sought your advice while you were in uniform; we only hope that your advice will continue to be available after you enter civilian life.

To you both I wish fair winds and following seas in everything you do.●

CONTINUING APPROPRIATIONS, 1983—TIME LIMITATION AGREEMENTS

Mr. HATFIELD. Mr. President, the majority leader indicated to me earlier that he would not propose a unanimous-consent request on taking up the continuing resolution tonight, but requested that we enter into as many unanimous-consent agreements on time limitations on the list of amendments as we have been able to work out. We have about five or six I would like to propound at this time which have been cleared on both sides of the aisle and both sides of the issue.

The first, Mr. President, would be on behalf of Senator BUMPERS' land disposal language, section 109 of the continuing resolution.

There is an agreement of 15 minutes to be equally divided, and I offer that as a request now at this time for that 15-minute time limitation on Senator BUMPERS' behalf.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATFIELD. Mr. President, there is a second one on behalf of Senator BUMPERS and Senator HUMPHREY relating to the Clinch River breeder reactor.

Mr. President, I ask unanimous consent for an hour and a half time limitation to be applied to this amendment, and I further ask that there be no tabling motion in the unanimous-consent agreement and no amendments allowed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, on behalf of Senator EXON, I ask unanimous consent that on an amendment relating to impact aid there be a 30-minute time limitation, to be equally divided.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. HATFIELD. On behalf of Senator SASSER, I ask unanimous consent that on an amendment on a ban on hydroelectric power pricing studies there be a 30-minute time limitation, equally divided.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent, on behalf of Senator SARBANES, that on an amendment relating to District of Columbia appropriations—I believe that is the one that relates to the restrictions placed upon the use of the District of Columbia Convention Center—there be a 20-minute time limitation, equally divided.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. HATFIELD. Mr. President, I know of no other amendments at this time upon which we have negotiated a time agreement, so that completes the business that I have to present on behalf of the continuing resolution.

APPOINTMENT OF CONFEREES—H.R. 6968

Mr. HATFIELD. Mr. President, yesterday the Senate agreed to H.R. 6968, the military construction appropriations bill for fiscal year 1983. The Senate subsequently insisted on its amendments and requested a conference with the House on the disagreeing votes of the two Houses. However, the Chair was not authorized to appoint conferees. The committee is now ready to request that the conferees be appointed.

Mr. President, on behalf of Mr. LAXALT, the chairman of the Military Construction Subcommittee of the Appropriations Committee, I ask unanimous consent that the Chair be authorized to appoint conferees on the part of the Senate on H.R. 6968. This has been cleared on both sides of the aisle and with the ranking minority member of the committee.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. STAFFORD) appointed Mr. LAXALT, Mr. SCHMITT, Mr. GARN, Mr. MATTINGLY, Mr. SASSER, Mr. PROXMIRE, and Mr. INOUYE conferees on the part of the Senate.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, is there an order for convening on tomorrow?

The PRESIDING OFFICER. The Chair is informed an order has been entered for 8:20 a.m.

Mr. STEVENS. And has there been an order entered concerning the leaders' time under the standing order?

The PRESIDING OFFICER. There has been no such order.

Mr. STEVENS. I think Members should be on notice that following the expiration of the leadership time there are no special orders for tomorrow.

CONTINUING APPROPRIATIONS, 1983

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate, House Joint Resolution 599, the continuing resolution.

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

The legislative clerk read as follows:

A House joint resolution (H.J. Res. 599) making continuing appropriations for the fiscal year 1983, and for other purposes.

Mr. STEVENS. Mr. President, this will be the pending business when the leaders' time is exhausted tomorrow morning. The Senate is coming in at 8:20 a.m. under the previous order. Members who are interested in this legislation should be on the floor by 8:30 a.m. There will be a series of committee amendments that will be considered. Then we have time agreements on several amendments already. It is the intention of the leadership to try to pursue this bill, to finish it if at all possible, tomorrow.

Mr. METZENBAUM. Will the acting majority leader indicate to the Senator from Ohio, does one of the committee amendments have to do with the matter of the jurisdiction of the FTC as pertains to matters with regard to the American Medical Association and the American Dental Association, et cetera?

Mr. STEVENS. Mr. President, there is a McClure amendment reported out of the Appropriations Committee that is the amendment that I think the Senator from Ohio has addressed.

The PRESIDING OFFICER. The Chair must inquire, is there an objection to the present consideration of the continuing resolution?

Mr. METZENBAUM. I have no objection.

Mr. ROBERT C. BYRD. Mr. President, there is no objection to proceeding with the continuing resolution. I have been able to clear that parliamentarily. I understand there will be no action tonight.

Mr. STEVENS. There is no objection, Mr. President. Is that a matter of record?

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Appropriations with amendments.

Mr. STEVENS. Mr. President, the section the Senator from Ohio is addressing is section 142 in the bill as reported from the Appropriations Committee.

RECESS UNTIL TOMORROW AT 8:20 A.M.

Mr. STEVENS. Mr. President, if there be no further business to come before the Senate, I ask that the Senate recess until tomorrow at 8:20 a.m. under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate, at 7:54 p.m., recessed until tomorrow, Wednesday, September 29, 1982, at 8:20 a.m.

NOMINATIONS

Executive nominations received by the Senate September 28, 1982:

SOLAR ENERGY AND ENERGY CONSERVATION BANK

Robert W. Karpe, of California, to be President of the Solar Energy and Energy Conservation Bank, vice Joseph S. Bracewell.

NATIONAL COUNCIL ON THE HANDICAPPED

Carmine R. Lavieri, of Connecticut, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1983, vice Henry Williams.

HOUSE OF REPRESENTATIVES—*Tuesday, September 28, 1982*

The House met at 12 o'clock noon.

The Right Reverend Eugene G. Bilski, the National Shrine of the Immaculate Conception, Washington, D.C., offered the following prayer:

God, our Father, we pause, at this moment to acknowledge the power of Your presence in creation and in the maturity of its perfection.

We ask Your blessing upon the thought, dialog, and activity of the House of Representatives who, by Your will and the mandate of Your people, seeks to do good for the welfare of the human family.

Guide the Members of this assembly in the way of peace so that the hunger for life, liberty, and the pursuit of happiness which is a part of every human person may be satisfied in the people whom we are called to serve.

We offer this prayer through the intercession of Jesus Christ, Your Son and our brother. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2852) entitled "An act to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-84, and 1984-85, and for other purposes."

The message also announced that the Senate recedes from its disagreement to the amendment of the House to the title of the bill.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1409) entitled "An act to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes."

The message also announced that the Senate agrees to the amendment of the House with an amendment to a bill of the Senate of the following title:

S. 2252. An act to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4623. An act to amend titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the Code;

H.R. 6782. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans, and for other purposes; and

H.R. 6956. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 6956) entitled "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATFIELD, Mr. GARN, Mr. WEICKER, Mr. LAXALT, Mr. D'AMATO, Mr. SCHMITT, Mr. SPECTER, Mr. HUDDLESTON, Mr. PROXMIRE, Mr. STENNIS, Mr. LEAHY, and Mr. SASSER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 178. Joint resolution to authorize and request the President to proclaim the second week in April of 1983 as "National Medical laboratory Week."

The message also announced that Mr. D'AMATO, Mr. SCHMITT, and Mr. PROXMIRE are excused as conferees on the bill (H.R. 6267) entitled "An act to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and insuring the availability of home mortgage loans."

THE RIGHT REVEREND EUGENE G. BILSKI

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, I rise with honor to present to the House our guest chaplain of the day, Monsignor Eugene G. Bilski, who is the director of the Shrine of the Immaculate Conception here in Washington, on whose board of governors I have the privilege to sit.

Monsignor Bilski took his B.A. and his theological training at Emmitsburg, Md., went on to become a teacher, the principal of a high school, the superintendent of schools and an assistant pastor in the Diocese of Scranton, Pa. He came to the shrine in 1977 as an assistant director, went on to become its administrator and the head of its education department, taught in the liturgical enrichment program and encouraged pilgrimages to the shrine.

So it is not unusual that he would become the director of this shrine and to encourage all of us in our journey of life to make important pilgrimages to places of worship and to places where we can, indeed, go on the road to be able to make this country a better place in which to live and where all peoples' journeys can lead to happiness and contentment.

In the homily when he was made director of the shrine, Monsignor Bilski talked about this pilgrimage of life and said that the visits of thousands of people yearly to this holy place is a mere symbol of a much more significant journey to which each of us has been called, namely, the journey of faith.

We are pleased, Mr. Speaker, to have Monsignor Bilski with us today to celebrate a journey of faith, a faith in our God and a faith in the United States of America.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

September 27, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the House of Representatives, the Clerk received the following messages from the Secretary of the Senate:

(1) At 9:35 a.m. on Monday, September 27, 1982: That the Senate passed H.R. 7065.

(2) At 9:35 a.m. on Monday, September 27, 1982: That the Senate passed H. Con. Res. 407.

(3) At 9:35 a.m. on Monday, September 27, 1982: That the Senate passed H.J. Res. 496.

(4) At 12:35 p.m. on Monday, September 27, 1982: That the Senate passed with an amendment H.R. 6267 and asks for a conference thereon.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

APPOINTMENT OF CONFEREES ON H.R. 6956, HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATION ACT, 1983

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes; with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts? The Chair hears none, and appoints the following conferees:

Messrs. BOLAND, TRAXLER, and STOKES, Mrs. BOGGS, and Messrs. SABO, WHITTEN, GREEN, COUGHLIN, YOUNG of Florida, and CONTE.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6956, HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATION ACT, 1983

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MAKING IN ORDER AT ANY TIME ON WEDNESDAY, SEPTEMBER 29, 1982, OR ANY DAY THEREAFTER, CONSIDERATION OF CONFERENCE REPORT AND ANY AMENDMENTS IN DISAGREEMENT ON H.R. 6956, HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATION ACT, 1983

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Wednesday, September 29, 1982, or any day thereafter, to consider the conference report and any amendments in disagreement on the bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 6267, NET WORTH GUARANTEE ACT

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6267) to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and insuring the availability of home mortgage loans, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island? The Chair hears none, and appoints the following conferees: Messrs. ST GERMAIN, REUSS, ANNUNZIO, STANTON of Ohio, and WYLIE.

PERMISSION FOR SUBCOMMITTEE ON MERCHANT MARINE OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, SEPTEMBER 29, 1982

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Merchant Marine of the Committee on Merchant Marine and Fisheries be permitted to sit on Wednesday, September 29, 1982 during the 5-minute rule for the purpose of holding a hearing on H.R. 6829, a bill to require owners of vessels engaged in foreign commerce using U.S. ports to establish and maintain financial responsibility for claims arising from the furnishing of maritime services to the vessels, and for other purposes.

The ranking minority member of the subcommittee, the gentleman from California (Mr. MCCLOSKEY), and the gentleman from Kentucky (Mr. SNYDER) have apprised of the hearing time and are in accord with this request.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

ANTIARSON ACT OF 1982

Mr. HUGHES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6454) to amend title 18, United States Code, to clarify the applicability of offenses involving explosives and fire, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2 after line 2, insert:

SEC. 3. The Director of the Federal Bureau of Investigation is authorized and directed to classify the offense of arson as a Part I crime in its Uniform Crime Reports. In addition, the Director of the Federal Bureau of Investigations is authorized and directed to develop and prepare a special statistical report in cooperation with the national Fire Data Center for the crime of arson, and shall make public the results of that report.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. FISH. Mr. Speaker, reserving the right to object, and I will not object, I ask the gentleman if he would explain what the amendment does.

Mr. HUGHES. Mr. Speaker, will the gentleman yield on his reservation?

Mr. FISH. I am happy to yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, the Senate amendment offered by Senator GLENN would make the crime of arson a part I offense of the uniform crime reports, and would authorize the Director of the FBI to issue reports on the crime of arson.

The uniform crime reports is one of the two major statistical systems used to examine the problem of crime in the United States. It has two parts, the part I offenses which are the serious offenses of murder, robbery, burglary, rape, assault, larcency, and motor vehicle theft. The part II offenses, of which arson is still formally a part, are the less important offenses such as loitering, prostitution, drunkenness, and so forth. Law enforcement agencies are required to keep only a record of arrests for part II offenses unlike the part I offenses for which they record a great deal more information that is used to determine the trends and rates, the number of clearances, and the characteristics of the persons who commit part I offenses. This in-depth information is needed to better understand the scope of the arson problem and to shape our Nation's antiarson efforts.

It is part of our effort to move arson to actually part I offenses for some

time; so I would hope that my colleagues will support this particular amendment.

Mr. FISH. Mr. Speaker, further reserving the right to object, I join the gentleman from New Jersey in urging this body to concur in the Senate amendment. The amendment would place in permanent law the requirement that arson be classified as a part I crime in the FBI's uniform crime reports. This would essentially codify an amendment reported by the Committee on the Judiciary in authorization bills. That provision was also recommended by the administration in the authorization bill which it sent to Congress for fiscal year 1983. The amendment also requires the preparation of a statistical report relating to the crime of arson which should be valuable to the public and to law enforcement in evaluating the nature of the problem and proposed solutions.

Mr. Speaker, I commend the gentleman from New Jersey for agreeing to this important amendment, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL IMPLEMENTATION ACT OF 1982

Mr. HUGHES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5228) to amend title 18 of the United States Code to implement the Convention on the Physicial Protection of Nuclear Material and for other purposes, with Senate amendments thereto, concur in Senate amendment numbered 1; disagree to Senate amendments numbered 2, 4, 6, and 7; and concur in Senate amendments numbered 3, 5, and 8 with amendments.

The Clerk read the title of the bill.

The SPEAKER. The Clerk will report the Senate amendments and the House amendments to the Senate amendments numbered 3, 5, and 8.

The Clerk read the Senate amendments and the House amendments to Senate amendments numbered 3, 5, and 8, as follows:

Page 2, line 8, after "thereby" insert "knowing".

Page 3, line, 12, after "subsection;" insert "or".

Page 3, strike out all after line 17 over to and including line 3 on page 4.

Page 4, line 4, before "shall" insert "or attempts or conspires to do so,".

Page 4, strike out lines 5 to 13, inclusive, and insert:

"(b) The punishment for an offense under this section is—

"(1) a fine of not more than $250,000; and

"(2) imprisonment for any term of years or for life if the offender while committing an offense under subsection (a)—

"(A) knowingly causes the death of any person; or

"(B) under circumstances manifesting

Page 4, line 18, strike out "'(ii)" and insert "'(C)".

Page 4, line 19, strike out "case; and" and insert "case.".

Page 4, strike out lines 20, 21, and 22.

House amendments to Senate amendments numbered 3, 5, and 8:

Amendment to Senate amendment numbered 3: In lieu of the matter proposed to be stricken by the Senate amendment, insert the following:

"(7) attempts to commit an offense under paragraph (1), (2), (3), or (4) of this subsection; or

"(7) is a party to a conspiracy of two or more persons to commit an offense under paragraph (1), (2), (3), or (4) of this subsection, if any of the parties intentionally engages in any conduct in furtherance of such offense;

Amendment to Senate amendment numbered 5: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

"(b) The punishment for an offense under—

"(1) paragraphs (1) through (7) of subsection (a) of this section is—

"(A) a fine of not more than $250,000; and

"(B) imprisonment—

"(i) for any term of years or for life (I) if, while committing the offense, the offender knowingly causes the death of any person; or (II) if, while committing an offense under paragraph (1) or (3) of subsection (a) of this section, the offender, under circumstances manifesting

Amendment to Senate amendment numbered 8: In lieu of the matter proposed to be stricken by the Senate amendment, insert the following:

"(2) paragraph (8) of subsection (a) of this section is—

"(A) a fine of not more than $250,000; and

"(B) imprisonment—

"(i) for not more than 20 years if the offense which is the object of the conspiracy is punishable under paragraph (1)(B)(i); and

"(ii) for not more than 10 years in any other case.

Mr. HUGHES (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendments to Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. FISH. Mr. Speaker, reserving the right to object, and I do not intend to object, I make the reservation to ask the gentleman from New Jersey (Mr. HUGHES) to explain the Senate amendments in which he urges us to concur, as well as his reasons for disagreeing with the others.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. FISH. I am happy to yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, the Senate amendments with which I ask the House to disagree are minor technical changes. The amendment with which I ask the House to concur is also fairly minor: It simply adds the word "knowing" to the state of mind required for an offense under subsection (a)(1) of the bill, to clarify the state of mind required for conviction of such an offense.

The Senate amendments with which I ask the House to concur with amendments as added by the House arrive, I believe, at an acceptable compromise between the House and Senate positions. Instead of completely defining the words "attempt" and "conspiracy," as the attempted revisions of the Criminal Code do, the House amendments provide for a more limited definition that insures that current law is carried forward.

The Senate amendment provides that when the defendant commits a knowing homicide, the defendant can be sentenced to up to life in prison, no matter what offense the defendant has committed under the bill. The Senate, however, also wanted to provide for life in prison for any of these offenses when the defendant causes a death or serious bodily injury with less than a knowing state of mind. The House amendments provide for life imprisonment for any offense under the bill when the defendant's state of mind is knowing, but limit the life penalty when the defendant's state of mind is less than knowing to those offenses prohibited by the bill that are inherently violent. To do otherwise would be close to expanding the controversial felony-murder rule by providing a murder penalty when the defendant's state of mind is less than that required for conviction for murder.

The Senate also wanted to make the punishment for conspiracy to commit an offense under the bill the same as that for the underlying substantive offense. The House Judiciary Committee, after considering this question in the context of the revision of the Criminal Code, decided that grading conspiracy at the same level as the substantive offense was inappropriate, and that conspiracies should be punished at a lower level. The punishment provided by the general conspiracy statute in title 18 is 5 years. However, a number of specific statutes increase that penalty where the severity of the underlying offense warrants it. Consistent with the approach taken in the Criminal Code revision, but recognizing the seriousness of the offenses prohibited by this bill, the House amendment provides for a 20-year penalty for conspiracy where the maximum penalty for the substantive offense is any term of years or life, and for a 10-year penalty where the maximum penalty for the substantive offense is 20 years.

I believe that in many respects the Senate amendments made helpful changes in H.R. 5228. I believe that when those amendments are amended by the House, the bill will become the best possible vehicle for protecting this Nation, and the world, from the dangers of unauthorized uses of nuclear material.

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Mr. Speaker, I hope I have responded to the request of the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. speaker, further reserving the right to object, I join the gentleman from New Jersey (Mr. HUGHES) in urging this body to concur in some of the Senate amendments and disagree with others. I consider most of these amendments which we are accepting fairly technical in nature and improve the bill as it passed this body in July. One change which would be made under this unanimous-consent request would be an increase in the penalties for persons who engage in a conspiracy to commit an offense under this bill. Because of the dangerous nature of the offenses, conspiracies to commit them pose a greater danger than conspiracies to commit other crimes. Therefore, the increased penalties are in my judgment appropriate.

I commend the gentleman from New Jersey for making this unanimous-consent request so that we can get this important bill passed promptly and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

TECHNICAL AMENDMENTS TO TITLES 10, 14, 37, AND 38, UNITED STATES CODE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4623) to amend titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the code, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, beginning on line 6, strike out through line 8 on page 2.

Page 2, line 9, strike out "(f)" and substitute "(e)".

Page 2, on lines 20-21, and 27, strike out "related to" and substitute "with respect to".

Page 3, line 6, strike out "assaults" and substitute "assets".

Page 3, line 25, strike out "weapons" and substitute "weapon".

Page 3, line 25, strike out the closing quotation marks and the 2d period.

Page 3, strike out lines 26-32 and substitute the following:

"§ 133b. Sale or transfer of defense articles: reports to Congress

"When there is a letter of offer to sell or a proposal to transfer defense articles that are valued at $50,000,000 or more from the inventories of a regular component of the armed forces or from current production, the Secretary of Defense shall submit a report to Congress stating—

"(1) the impact of the sale or transfer on the current readiness of the armed forces;

"(2) the adequacy of reimbursements to cover, at the time of replenishment of United States inventories, the replacement costs of those items sold or transferred; and

"(3) for each article to be sold—

"(A) the initial issue quantity requirement for the armed forces for that article;

"(B) the percentage of that requirement already delivered to the armed forces or contracted for at the time of the report;

"(C) the timetable for meeting that requirement absent the proposed sale; and

"(D) the timetable for meeting that requirement if the sale is approved.".

(B) The analysis of chapter 4 is amended by inserting the following items immediately below item 133:

"133a. Secretary of Defense: annual report on North Atlantic Treaty Organization readiness.

"133b. Sale or transfer of defense articles: reports to Congress.".

(8) Page 3, line 33, strike out "(4)" and substitute "(3)".

Page 3, lines 35, 37, and 38, and page 4, lines 2 and 5-6, strike out "manpower" and substitute "personnel".

(10) Page 4, between lines 6 and 7, insert the following:

"(i) Funds may be appropriated for the armed forces for use as an emergency fund for research, development, test, and evaluation, or related procurement or production, only if the appropriation of the funds is authorized by law after June 30, 1966.".

(11) Page 4, strike out lines 7-27.

(12) Page 4, line 28, strike out "(6)" and substitute "(5)".

(13) Page 4, line 34, strike out "(7)" and substitute "(6)".

(14) Page 4, between lines 35 and 36, insert the following:

(7) The catchline for section 532 is amended by inserting "a" after "original appointment as".

(15) Page 4, after line 41, insert the following:

(11) Section 741(c) is amended by striking out "the the" and substituting "the".

(16) Page 5, line 1, strike out "(11)" and substitute "(12)".

(17) Page 5, between lines 5 and 6, insert the following:

(13) Section 931 is amended by striking out "United States Code,".

(14)(A) Chapter 49 is amended by adding at the end thereof the following:

"§ 978. Denial of entrance into the armed forces of persons dependent on drugs or alcohol

"(a) The Secretary of Defense shall prescribe regulations, implement procedures using each practical and available method, and provide necessary facilities to identify each person examined at an armed forces examining and entrance station who is dependent on drugs or alcohol.

"(b) Each person identified under subsection (a) as dependent on drugs or alcohol shall be—

"(1) denied entrance into the armed forces; and

"(2) referred to a civilian treatment facility.".

(B) The analysis of chapter 49 is amended by adding at the end thereof the following item:

"978. Denial of entrance into the armed forces of persons dependent on drugs or alcohol.".

(18) Page 5, line 6, strike out "(12)" and substitute "(15)".

(19) Page 5, strike out lines 11-19 and substitute the following:

to identify, treat, and rehabilitate members of the armed forces who are dependent on drugs or alcohol.".

(20) Page 5, lines 22 and 24, strike out "(13)" and "(14)" and substitute "(16)" and "(17)", respectively.

(21) Page 5, strike out line 25 and substitute the following:

(A) by striking out "3991 (formula B)" and substituting "3991 (formula A), 3992 (formula B)".

(22) Page 5, strike out line 27 and substitute the following:

(C) by striking out "8991 (formula B)" and substituting "8991 (formula A), or 8992 (formual B)".

(23) Page 5, between lines 27 and 28, insert the following:

(18) The catchline for section 1448 is amended by striking out "plar" and substituting "Plan".

(24) Page 5, lines 28, 31, and 37, strike out "(15)", "(16)", and "(17)" and substitute "(19)", "(20)", and "(21)", respectively.

(25) Page 6, line 3, strike out "(18)" and substitute "(22)".

(26) Page 6, strike out lines 7-15 and substitute the following:

(23) Section 2239 is amended by striking out "section 3648 of the Revised Statutes (31 U.S.C. 529)" and substituting "section 3324 (a) and (b) of title 31".

(27) Page 6, line 16, strike out "(20)" and substitute "(24)".

(28) Page 6, between lines 33 and 34, insert the following:

(25) Section 2315 is amended by striking out "(40 U.S.C. 795)" and substituting "(40 U.S.C. 759)".

(29) Page 6, line 34, strike out "(21)" and substitute "(26)".

(30) Page 7, immediately below the matter between lines 4 and 5, insert the following:

(27) Section 2388(c) is amended by striking out "section 3648 of the Revised Statutes (31 U.S.C. 529)" and substituting "section 3324 (a) and (b) of title 31".

(28)(A) Section 2394 (as enacted by section 2(b)(4) of Public Law 97-258) is redesignated as section 2395 and is amended to read as follows:

"§ 2395. Availability of appropriations for procurement of technical military equipment and supplies

"Funds appropriated to the Department of Defense for the procurement of technical military equipment and supplies remain available until spent.".

(B) Section 2395 (as enacted by section 2(b)(4) of Public Law 97-258) is redesignated as section 2396 and is amended by striking out "another" in subsection (b)(2)(C) and substituting "any other".

(31) Page 7, Line 5, strike out "(22)" and substitute "(29)".

(32) Page 7, line 7, strike out "Section 2395" and substitute "Section 2397".

(33) Page 9, line 11, strike out "Section 2396" and substitute "Section 2398".

(34) Page 9, strike out lines 18-26 and the matter between lines 28 and 29 and substitute the following:

"§ 2399. Limitation on availability of appropriations to reimburse a contractor for the cost of commercial insurance

"None of the funds appropriated to the Department of Defense is available for obligation to reimburse a contractor for the cost of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.

"§ 2400. Limitation on procurement of buses

"Funds appropriated for use by the armed forces are available to acquire a multipas-

senger motor vehicle (bus) only if the vehicle is manufactured in the United States. However, the Secretary of Defense may prescribe regulations authorizing the acquisition of a multipassenger motor vehcile (bus) not manufactured in the United States, but only to ensure that compliance with this section will not result in an uneconomical procurement action or adversely affect the national interest.".

(B) The analysis of chapter 141 is amended by striking out items 2394 and 2395 (as enacted by section 2(b)(4) of Public Law 97-258) and substituting the following:

"2395. Availability of appropriations for procurement of technical military equipment and supplies.
"2396. Advances for payments for compliance with foreign law, rent in foreign countries, tuition, and pay and supplies of armed forces of friendly foreign countries.
"2397. Employees or former employees of defense contractors: reports.
"2398. Procurement of gasohol as motor vehicle fuel.
"2399. Limitation on availability of appropriations to reimburse a contractor for the cost of commercial insurance.
"2400. Limitation on procurement of buses.".

(35) Page 9, line 29, strike out "(23)" and substitute "(30)".

(36) Page 10, between lines 24 and 25, insert the following:

"(c)(1) It is the sense of Congress that weapons systems being developed wholly or primarily for employment in the North Atlantic Treaty Organization theater should conform to a common Organization requirement in order to proceed toward joint doctrine and planning and to facilitate maximum feasible standardization and interoperability of equipment, and that a common Organization requirement should be understood to include a common definition of the military threat to the members of the Organization.

"(2) It is further the sense of Congress that standardization of weapons and equipment within the Organization on the basis of a 'two-way street' concept of cooperation in defense procurement between Europe and North America can only work in a realistic sense if the European nations operate on a united and collective basis. Therefore, the governments of Europe are encouraged to accelerate their present efforts to achieve European armaments collaboration among all European members of the Organization.

(37) Page 10, line 25, strike out "(c)" and substitute "(d)".

(38) Page 10, line 29, strike out "Organization" and substitute "North Atlantic Treaty Organization".

(39) Page 10, beginning with line 35, strike out through line 2 on page 11 and substitute the following:

"(4) the identity of—

"(A) each program of research and development for the armed forces of the United States stationed in Europe that supports, conforms, or both, to common Organization requirements of developing weapon systems for use by the Organization, including a common definition of the military threat to the Organization; and

"(B) the common requirements of the Organization to which those programs conform or which they support";

(40) Page 11, line 4, strike out "and".

(41) Page 11, line 6, strike out "requirements." and substitute "requirements;".

(42) Page 11, between lines 6 and 7, insert the following:

"(7) a description of each existing and planned program of the Department of Defense that supports the development or procurement of a weapon system or other military equipment originally developed or procured by members of the Organization other than the United States and for which funds have been authorized to be appropriated for the fiscal year in which the report is submitted, including a summary listing of the amount of funds—

"(A) appropriated for those programs for the fiscal year in which the report is submitted; and

"(B) requested, or proposed to be requested, for those programs for each of the 2 fiscal years following the fiscal year for which the report is submitted; and

"(8) a description of each weapon system or other military equipment originally developed or procured in the United States and that is being developed or procured by members of the Organization other than the United States during the fiscal year for which the report is submitted".

(43) Page 11, line 7, strike out "(d)" and substitute "(e)".

(44) Page 11, line 10, insert "that" before "equipment".

(45) Page 11, line 12, strike out "(e)" and substitute "(f)".

(46) Page 11, immediately below the matter between lines 17 and 18, insert the following:

(31)(A) Section 2661a is repealed.

(B) The analysis of chapter 159 is amended by striking out item 2661a.

(32) Section 2664(a) is amended—

(A) by striking out "military department" in the matter before paragraph (1) and all that follows through "or any" and substituting "military department, the Secretary of Transportation, or any"; and

(B) by striking out "transferred to the" in paragraph (3) and all that follows and substituting "transferred to the Secretary of Transportation under section 3 of the Maritime Act of 1981 (46 U.S.C. 1602).".

(33) Section 2665 is amended—

(A) by striking out "executive department" and all that follows through "may sell" in subsections (a) and (b) and substituting "executive department, may sell"; and

(B) by striking out "Air Force" and all that follows in subsection (b) and substituting "Air Force, or Department of Transportation.".

(47) Page 11, line 18, strike out "(24)" and substitute "(34)".

(48) Page 11, between lines 20 and 21, insert the following:

(35) Section 2852(a) is amended by striking out "section 3648 of the Revised Statutes (31 U.S.C. 529)" and substituting "section 3324(a) and (b) of title 31".

(36) Section 2859 is amended by striking out "section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)" and substituting "section 1105 of title 31".

(37) Section 3068(5) is amended by striking out "(a)", "(b)", "(c)", "(d)", and "(e)" and substituting "(A)", "(B)", "(C)", "(D)", and "(E)", respectively.

(49) Page 11, lines 21, 27 and 29, strike out "(25)", "(26)", and "(27)" and substitute "(38)", "(39)", and "(40)", respectively.

(50) Page 11, line 34, strike out "of this section" and substitute "of the following table".

(51) Page 11, line 35, strike out "of this section" and substitute "of that table".

(52) Page 12, immediately below the matter before line 1, insert the following:

(41)(A) Chapter 403 is amended by adding at the end thereof the following:

"§4356. Use of certain gifts

"Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy may (without regard to section 2601 of this title) accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property of a value of $20,000 or less made to the United States on the condition that such gift, devise, or bequest be used for the benefit of the Academy or any entity thereof. The Secretary may pay or authorize the payment of all reasonable and necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest under this section.".

(B) The analysis of chapter 403 is amended by adding at the end thereof the following item:

"4356. Use of certain gifts.".

(53) Page 12, lines 1, 4, 6, 9, 11, 12, and 14, strike out "(28)", "(29)", "(30)", "(31)", "(32)", "(33)", and "(34)", and substitute "(42)", "(43)", "(44)", "(45)", "(46)", "(47)", and "(48)", respectively.

(54) Page 13, line 3, strike out "(35)", and substitute "(49)".

(55) Page 13, line 5, strike out "§7309" and substitute "§7310".

(56) Page 13, between lines 23 and 24, strike out "7309" and substitute "7310".

(57) Page 13, line 24, strike out "(36)" and substitute "(50)".

(58) Page 14, on lines 24-25 and 26-27, strike out "adding at the end thereof the following item" and substitute "inserting the following item immediately below item 165".

(59) Page 14, immediately below the matter between lines 32 and 33, insert the following:

(51)(A) Item 659 in the analysis of subtitle C is amended by striking out "responsibility" and substituting "Responsibility".

(B) The analysis of part IV of subtitle C is amended by adding at the end thereof the following item: "661. Accountability and Responsibility 7861".

(C) The catchline for section 7861 is amended by striking out "public" and substituting "naval".

(D) Item 7861 in the analysis of chapter 661 is amended by striking out "public" and substituting "naval".

(60) Page 14, line 33, strike out "(37)" and substitute "(52)".

(61) Page 15, line 1, strike out "of this section" and substitute "of the following table".

(62) Page 15, line 2, strike out "of this section" and substitute "of that table".

(63) Page 15, line 3, strike out "(38)" and substitute "(53)".

(64) Page 17, strike out line 12 and substitute the following:

"§661. Authorization of personnel end strengths".

(65) Page 17, line 13, strike out "end".

(66) Page 17, line 21, strike out "recruit" and substitute "Recruit".

(67) Page 17, line 22, strike out "flight" and substitute "Flight".

(68) Page 17, line 23, strike out "professional" and substitute "Professional".

(69) Page 17, line 24, strike out "officer" and substitute "Officer".

(70) Page 17, line 31, strike out "enacted".

(71) Page 17, strike out lines 33 and 34 and substitute the following:

"(1) For the operation and maintenance of the Coast Guard.

"(2) For the acquisition, construction, rebuilding, and improvement of

(72) Page 17, lines 37 and 36, strike out "for" and substitute "For".

(73) Page 17, line 38, strike out "tests" and substitute "test".

(74) Page 18, strike out item 661 in the matter between lines 6 and 7 and substitute the following:

"661. Authorization of personnel end strengths.".

(75) Page 18, between lines 15 and 16, insert the following:

(1) Section 305a(d) is amended by striking out "clause (B)" in the 2d sentence and substituting "clause (2)".

(2) Section 308b(a)(1) is amended by striking out "services" and substituting "service".

(76) Page 18, lines 16 and 19, strike out "(1)" and "(2)" and substitute "(3)" and "(4)", respectively.

(77) Page 18, line 20, strike out "(j)" and substitute "(k)".

(78) Page 18, line 30, strike out "(3)" and substitute "(5)".

(79) Page 18, beginning on line 36, strike out through the matter after line 39 on page 19 and substitute the following:

(6)(A) Chapter 17 is amended by adding at the end thereof the following:

"§ 908. Employment of reserves and retired members by foreign governments

"(a) Subject to subsection (b) of this section, Congress consents to the following persons accepting civil employment (and compensation for that employment) for which the consent of Congress is required by the last paragraph of section 9 of article I of the Constitution, related to acceptance of emoluments, offices, or titles from a foreign government:

"(1) Retired members of the uniformed services.

"(2) Members of a reserve component of the armed forces.

"(3) Members of the Commissioned Reserve Corps of the Public Health Service.

"(b) A person described in subsection (a) of this section may accept employment or compensation described in that subsection only if the Secretary concerned and the Secretary of State approve the employment.".

(B) The analysis of chapter 17 is amended by adding at the end thereof the following:

"908. Employment of reserves and retired members by foreign governments.".

(80) Page 22, strike out lines 21 and 22 and substitute the following:

(21) Section 704(e) is amended—

(A) in the first sentence, by striking out "On and after the effective date of this subsection" and substituting "After June 30, 1972,"; and

(B) in the 3d sentence, by striking out "subsections" and substituting "subsection".

(81) Page 23, strike out lines 33-35 and substitute the following:

(A) in subsection (a)(2)(B), by striking out "the date of enactment of this paragraph" and substituting "November 23, 1977,"; and

(82) Page 23, strike out lines 1 and 2 and substitute the following:

(C) in subsection (b)(1), by striking out "subsection (h), of section 415 of such title" and substituting "subsection (g), of section 415 of this title"; and

(83) Page 29, line 18, strike out "those" and substitute "such".

(84) Page 30, strike out lines 11-13 and substitute the following:

(89) Section 4207 is amended by striking out "the Accounting and Auditing Act of 1950" and substituting "section 3523 of title 31".

(85) Page 32, in the item related to "Oct. 7" under "1975", strike out "811" and "539" and substitute "812" and "540", respectively.

(86) Page 32, in the item related to "Nov. 9" under "1979", strike out "809," in the "Section" column and "815," in the "Page" column.

(87) Page 32, strike out the item related to "Dec. 1" under "1981" and substitute the following:

December 29, 1982	97-114	770	95	1590.
September 8	97-252	1104, 1121, 1133(a).	96	739, 754, 761.

Mr. HUGHES (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from New Jersey?

Mr. FISH. Mr. Speaker, reserving the right to object, I yield to my colleague, the gentleman from New Jersey (Mr. HUGHES), to explain the Senate amendments.

Mr. HUGHES. Mr. Speaker, the Senate amendments are technical in nature. The amendments make changes in titles 10, 14, 37, and 38, United States Code, required by passage of the Military Construction Codification Act (Public Law 97-214), the Department of Defense Authorization Act, 1983 (Public Law 97-252), and the codification of title 31 (Public Law 97-258), and to correct grammatical and printing errors and to maintain consistency of style in titles 10, 14, 37, and 38.

Mr. Speaker, I hope I have responded to the request of the gentleman from New York.

Mr. FISH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the initial request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2036, TRAINING FOR JOBS ACT

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill (S. 2036) to provide for a job training program and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. JEFFORDS. Mr. Speaker, reserving the right to object, I understand this is the conference agreement which was reached this past week and which has the consent and support of the administration.

Mr. HAWKINS. Mr. Speaker, will the gentleman yield to me?

Mr. JEFFORDS. I yield to the gentleman from California.

Mr. HAWKINS. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is correct.

Mr. JEFFORDS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CONSOLIDATED FEDERAL FUNDS REPORT ACT OF 1982

Mr. BROOKS. Mr. Speaker, I call up the bill (H.R. 7096) to require the Director of the Office of Management and Budget to prepare an annual report consolidating the available data on the geographic distribution of Federal funds, and for other purposes, and ask unanimous consent for its immediate consideration in the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HORTON. Mr. Speaker, reserving the right to object, and I will not object, I would like to ask the chairman of the Committee on Government Operations, the gentleman from Texas (Mr. BROOKS), to explain the content of this bill.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Texas.

Mr. BROOKS. I thank the gentleman for yielding.

Mr. Speaker, I say to my friend, the gentleman from New York, that H.R. 7096, the Consolidated Federal Funds Report Act of 1982, would require the Office of Management and Budget (OMB) to compile from available sources information detailing the amounts of Federal funds expended in each State, county, congressional district, and municipality.

The Consolidated Federal Funds Report (CFFR) would provide a summarized account of the amounts expended in categories, such as grants, cooperative agreements, loans, salaries, pensions, procurements, and similar disbursements for fiscal years 1983, 1984, and 1985. The CFFR would be based on actual transactions and would capture approximately 85 percent of Federal disbursements. This system would provide more accurate information than has been available in the past. Since OMB is planning to absorb the cost of producing this report, no new appropriation will be needed.

Mr. HORTON. Mr. Speaker, I thank the chairman for his concise description. I would like to indicate my support for the bill.

This bill passed the Committee on Government Operations unanimously.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7096

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Consolidated Federal Funds Report Act of 1982".

SEC. 2. As used in this Act, the term—

(1) "Director" means the Director of the Office of Management and Budget;

(2) "State" means any State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; and

(3) "municipality" means any subcounty unit of local government that received Federal assistance under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221) for the appropriate fiscal year.

SEC. 3. (a) For fiscal years 1983, 1984, and 1985, not later than one hundred and eighty days after the end of each fiscal year, the Director shall prepare a Consolidated Federal Funds Report presenting the total amount of Federal funds that were obligated for expenditure in or expended in each State, county or parish, congressional district, and municipality of the United States in appropriate general categories of Federal funds during the preceding fiscal year. The report shall be in the form described in subsection (b) and shall be based on the data referred to in subsection (c).

(b) The Director shall include in each report required by subsection (a)—

(1) the total amount of Federal funds that were reported obligated for expenditure in each State, county or parish, congressional district, and municipality of the United States in appropriate general categories of Federal funds in the fiscal year preceding the fiscal year in which the report is made; or

(2) the total amount of Federal funds that were reported actually expended in each State, county or parish, congressional district, and municipality of the United States in appropriate categories in the fiscal year preceding the fiscal year in which the report is made.

(c) The report required by subsection (a) shall be based on the data included in—

(1) the Federal Assistance Awards Data System established as a result of the study referred to in the first sentence of section 8;

(2) the Federal Procurement Data System referred to in section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5));

(3) the appropriate data file of the Office of Personnel Management; and

(4) the records of the Office of the Secretary of Defense.

(d) For the purposes of subsection (b), the general categories of Federal funds presented in each report required by subsection (a) shall include data with respect to grants, loans, purchases and contracts, cooperative agreements, direct Federal payments to individuals, pay of civilian employees of the Government, military pay, annuities, retirement pay, pensions, and disability compensation.

SEC. 4. (a) The Director shall prepare a report setting forth the total amount of Federal funds that were obligated for expenditure in or expended in each State in appropriate general categories of Federal funds during each of the fiscal years 1981 and 1982. The report shall be in the form described in subsection (b).

(b) The Director shall include in each report required by subsection (a)—

(1) the total amount of Federal funds that were reported obligated for expenditure in each State in appropriate general categories of Federal funds in the fiscal year preceding the fiscal year in which the report is made; or

(2) the total amount of Federal funds that were reported actually expended in each State in appropriate general categories in the fiscal year preceding the fiscal year in which the report is made.

(c) For the purposes of subsection (b), the general categories of Federal funds presented in each report required by subsection (a) shall include data with respect to grants, loans, purchases and contracts, direct Federal payments to individuals, pay of civilian employees of the Government, military pay, annuities, retirement pay, pensions, disability compensation, and other large programs or categories where data are available such as the National Aeronautics and Space Administration and the Army Corps of Engineers.

(d) The reports required by subsection (a) shall be available no later than one hundred and twenty days after the end of fiscal year 1982.

SEC. 5. (a)(1) The Director shall—

(A) prepare—

(i) printed copies of each of the reports required by this Act; and

(ii) computer tapes of such reports; and

(B) make the printed copies of the reports and the computer tapes available to the public for purchase at a price fixed under subsection (b).

(2) The Director shall transmit free of charge one of each of the printed copies of the reports required by this Act to—

(A) each Federal regional depository library;

(B) the Committee on Government Operations, the Budget, and Appropriations of the House of Representatives; and

(C) the Committees on Governmental Affairs, the Budget, and Appropriations of the Senate.

(3) The Director shall also promptly transmit, free of charge, one computer tape of the report required by section 3 annually and of the data in the System required by section 8 quarterly to the Committee on Rules and Administration of the Senate and to the Committee on House Administration of the House of Representatives.

(4) Subject to subsection (b), the Director may, at his discretion, waive all or part of the fee required by subsection (a)(1)(B) of this section.

(b) In carrying out subsection (a)(1)(B), the Director shall, based on the estimates made under paragraphs (1) and (2) of this subsection, fix the price of each printed copy and each computer tape of the report so that the aggregate revenues obtained in each fiscal year under subsection (a) will cover as much of the incremental costs incurred in making these reports and tapes available for purchase by the public as is feasible. In computing these costs the Director shall not consider the costs of the activities set forth in sections 7, 8, and 10, but shall consider—

(1) the cost of compiling the reports required by this Act; preparing the printed copies and computer tapes under subsection (a); and distributing the printed copies and the computer tapes of the report for each fiscal year; and

(2) the number of printed copies and the number of computer tapes of the report that will be purchased.

SEC. 6. In order to carry out sections 3, 4, and 5 of this Act, the Director may delegate to any authority of the executive branch of the Federal Government the responsibility for carrying out such sections. The Director shall oversee the activities of any authority to which responsibilities are delegated under this section and shall monitor the compliance of each authority with respect to the requirements set forth in section 7.

SEC. 7. Each head of any authority of the Government having custody of the data files and systems referred to in section 3(c) shall make available to the Director or other authority to which the Director has delegated the responsibility to carry out such section, such information, administrative services, equipment, personnel, and facilities as the Director or such authority requires to carry out such section.

SEC. 8. (a) The Director shall operate and maintain, and update on a quarterly basis, the Federal Assistance Awards Data System established as a result of the study conducted by the Director under section 9 of the Federal Program Information Act (31 U.S.C. 1701 note).

(b) In order to carry out subsection (a), the Director—

(1) may delegate to any authority of the executive branch of the Federal Government the responsibility for carrying out subsection (a), and

(2) shall review any reports submitted to him by Federal agencies in the process of carrying out subsection (a) and may validate, by appropriate means, the processes by which Federal agencies prepared such reports.

SEC. 9. The Director shall designate a single organizational unit to provide for data consistency and uniform reporting of data elements.

SEC. 10. The Comptroller General shall conduct a review of the data systems and reports required by this Act. This review shall include a determination of the accuracy of the data contained within the report required by section 3 and the costs of data collection, report preparation, and dissemination of such data and report. The review shall also include an analysis of the use and primary users of the data. In making this review, the Comptroller General shall consult with Members of Congress, the Congressional Budget Office, the Office of Management and Budget, the Committee on Rules and Administration of the Senate, the Committee on House Administration of the House of Representatives, the Census Bureau, representatives of State and local governments, and any other persons he deems appropriate. This review shall be submitted to the Committee on Governmental Affairs of the Senate and the Committee on Operations of the House of Representatives no later than October 1, 1984.

SEC. 11. (a) Each head of any executive department or establishment that has compiled or can readily compile data that would have been included in the reports entitled "the Geographic Distribution of Federal Funds" for fiscal year 1981 or fiscal year 1982, or both, shall forward a copy of such to the Committee on Rules and Administration of the Senate and to the Committee on House Administration of the House of Representatives. Delivery of such shall be made within 60 days after enactment of this bill for fiscal year 1981 and within 120 days of the close of the fiscal year for fiscal year 1982.

(b) Each head of any executive department or establishment who does not forward a copy of data as required by subsection (a) for fiscal year 1981 or fiscal year 1982 shall submit a statement to that effect, along with a statement of the reasons for the failure, to the Committee on Rules and Administration of the Senate and to the Committee on House Administration of the House of Representatives.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be dis-

charged from further consideration of the Senate bill (S. 2386) to require the Director of the Office of Management and Budget to prepare an annual report consolidating the available data on the geographic distribution of Federal funds, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(1) "Director" means the Director of the Office of Management and Budget;

(2) "State" means any State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; and

(3) "municipality" means any subcounty unit of local government that received Federal assistance under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221) for the appropriate fiscal year.

SEC. 2. (a) Beginning for fiscal year 1983, not later than one hundred and eighty days after the end of each fiscal year, the Director of the Office of Management and Budget shall prepare a report setting forth the total amount of Federal funds that were obligated for expenditure in or expended in each State, county or parish, and municipality of the United States in each appropriate general category of Federal funds during the preceding fiscal year. The report shall be in the form described in subsection (b) and shall be based on the data referred to in subsection (c).

(b) The Director shall specify in each report required by subsection (a)—

(1) the total amount of Federal funds that were reported obligated for expenditure in each State, county or parish, and municipality of the United States in each appropriate general category of Federal funds in the fiscal year preceding the fiscal year in which the report is made; or

(2) the total amount of Federal funds that were reported actually expended in each State, county or parish, and municipality of the United States in each such category in the fiscal year preceding the fiscal year in which the report is made.

(c) The report required by subsection (a) shall be based on the data included in—

(1) the Federal assistance awards data system established as a result of the study referred to in the first sentence of section 6.

(2) the Federal procurment data system referred to in section 6(d)(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(5));

(3) the central personnel data file of the Office of Personnel Management; and

(4) the records of the Defense Manpower Data Center (DMDC) within the Department of Defense.

(d) For the purposes of subsection (b), the general categories of Federal funds specified in each report required by subsection (a) shall include grants, loans, purchases and contracts, cooperative agreements, direct Federal payments to individuals, pay of civilian employees of the Government, military pay, annuities, retired or retainer pay, pensions, and disability compensation.

SEC. 3. (a) The Director shall prepare a report setting forth the total amount of Federal funds that were obligated for expenditure in or expanded in each State in each appropriate general category of Federal funds during each fiscal year 1981 and 1982. The report shall be in the form described in subsection (b).

(b) The Director shall specify in each report required by subsection (a)—

(1) the total amount of Federal funds that were reported obligated for expenditure in each State in each appropriate general category of Federal funds in the fiscal year preceding the fiscal year in which the report is made; or

(2) the total amount of Federal funds that were reported actually expended in each State in each such category in the fiscal year preceding the fiscal year in which the report is made.

(c) For the purposes of subsection (b), the general categories of Federal funds specified in each report required by subsection (a) shall include grants, loans, purchases and contracts, direct Federal payments to individuals, pay of civilian employees of the Government, military pay, annuities, retired or retainer pay, pensions, disability compensation, and other large programs or categories where data are available such as NASA and the Corps of Engineers.

(d) The reports required by subsection (a) shall be available no later than one hundred and twenty days after the end of fiscal year 1982.

SEC. 4. (a)(1) The Director shall—

(A) prepare—

(i) printed copies of each of the reports required by this Act; and

(ii) computer tapes of such reports; and

(B) make the printed copies of the reports and the computer tapes available to the public for purchase at a price fixed under subsection (b).

(2) The Director shall transmit free of charge one of each of the printed copies of the reports required by this Act to—

(A) each Federal regional depository library;

(B) the Committees on Government Operations, the Budget, and Appropriations in the United States House of Representatives; and

(C) the Committees on Governmental Affairs, the Budget, and Appropriations in the United States Senate.

(3) The Director shall also transmit free of charge, one computer tape of the reports required by this Act to the Committee on Rules and Administration of the United States Senate and to the Committee on House Administration of the United States House of Representatives.

(4) Subject to subsection (b), the Director may, at his discretion, waive all or part of the fee required by section (1)(B) of this subsection.

(b) In carrying out subsection (a)(1)(B), the Director shall, based on the estimates made under sections (1) and (2) of this subsection, fix the price of each printed copy and each computer tape of the report so that the aggregate revenues obtained in each fiscal year under subsection (a) will cover the cost of carrying out the provisions of this Act (other than sections 6 and 7). The Director shall estimate—

(1) the cost of compiling the reports required by this Act; preparing the printed copies and computer tapes under subsection (a); and distributing the printed copies and the computer tapes of the report for each fiscal year; and

(2) the number of printed copies and the number of computer tapes of the report that will be purchased.

SEC. 5. Each head of any authority of the Government having custody of the data files and systems referred to in subsection (c) of the second section shall make available to the Director such information, administrative services, equipment, personnel, and facilities as the Director requires to carry out such section.

SEC. 6. (a) The Director shall operate and maintain the Federal Assistance Awards Data System established as a result of the study conducted by the Director under section 9 of the Federal Program Information Act (31 U.S.C. 1701 note).

(b) In order to carry out subsection (a), the Director—

(1) may delegate to any authority of the executive branch of the Federal Government the responsibility for carrying out subsection (a), and

(2) shall review any reports submittted to him by Federal agencies in the process of carrying out subsection (a) and may validate, by appropriate means, the processes by which Federal agencies prepared such reports.

SEC. 7. (a) The Comptroller General, in consultation with the Congressional Budget Office and the Census Bureau, shall conduct an annual study to determine that—

(1) data sources used to compile the reports required by this Act are consolidated in a consistent manner without overlap; coverage of the types of expenditures specified in this Act is comprehensive; and data set forth in the reports required by this Act are accurate;

(2) definitions of cities or other entities of local government employed to produce the reports required by this Act are adequate; and

(3) other such requirements and procedures as the Comptroller General considers appropriate to carry out the purposes of sections (2) and (3) of this Act are adequate.

(b) The Comptroller General shall make the report required by subsection (a) available to the Committee on Governmental Affairs in the United States Senate and the Committee on Government Operations in the United States House of Representatives.

SEC. 8. There are authorized to be appropriated to the Office of Management and Budget and its designated executive agency not to exceed $340,000 for the fiscal year ending September 30, 1983, $310,000 for the fiscal year ending September 30, 1984, $300,000 for the fiscal year ending September 30, 1985, $250,000 for the fiscal year ending September 30, 1986, and $250,000 for the fiscal year ending September 30, 1987.

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike all after the enacting clause of the Senate bill (S. 2386) and to insert in lieu thereof the text of the bill H.R. 7096, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 7096) was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

89-059 O-86-4 (Pt. 19)

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CERTAIN CHANGES IN MEMBERSHIP AND OPERATIONS OF ADVISORY COMMISSION ON INTERGOVERMENTAL RELATIONS

Mr. FOUNTAIN. Mr. Speaker, I call up the bill (H.R. 7173) to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations, and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. HORTON. Mr. Speaker, reserving the right to object, and I will not object, I would like to ask the gentlemen from North Carolina (Mr. FOUNTAIN) to explain concisely the provisions of the bill.

Mr. FOUNTAIN. Mr. Speaker, will the gentleman yield to me?

Mr. HORTON. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. I thank the gentleman for yielding.

Mr. Speaker, I would be very happy to comply with the request of the distinguished gentleman from New York.

This bill would add the following members to the Advisory Commission on Intergovernmental Relations. That Commission already contains 26 members representing the executive and legislative branches of Federal, State, and local levels of government and the general public.

This bill would add:

First, one Federal judge appointed by the Chief Justice of the U.S. Supreme Court;

Second, one State judge appointed by the Chief Justice of the U.S. Supreme Court from a slate of nominees submitted by the Conference of Chief Justices;

Third, one elected school board member appointed by the President from a slate of nominees submitted by the National School Boards Association; and

Fourth, one municipal official appointed by the President from a slate of nominees of officials from areas of less than 10,000 population submitted jointly by the National League of Cities and the National Association of Towns and Townships.

Mr. Speaker, that is concisely what the bill does.

Mr. HORTON. Mr. Speaker, I thank the gentleman for his explanation.

Mr. McGRATH. Mr. Speaker, will the gentleman yield to me?

Mr. HORTON. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York (Mr. McGRATH), who is a member of the subcommittee and the full committee and who has given a lot of time to this particular legislation.

Mr. McGRATH. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of H.R. 7173, and want to commend the chairman of the Government Operations Committee, Mr. BROOKS, and particularly the chairman of the Intergovernmental Relations and Human Resources Subcommittee, Mr. FOUNTAIN, for their prompt action on this legislation. H.R. 7173, which would modify the membership of the Advisory Commission on Intergovernmental Relations has been cosponsored by all members of the Subcommittee on Intergovernmental Relations, including its ex officio members.

While the ACIR is a little known Federal commission, it is nonetheless important. It is the single most influential body, studying the administration of Federal grants and other programs, addressing the emerging public problems that are likely to require intergovernmental cooperation, and recommending the most desirable allocation of functions, responsibilities and revenues among the several levels of government.

Since the ACIR was established in 1959, the composition of its membership has remained unchanged, and in my view, the Commission does not now fully reflect the changes which have occurred in intergovernmental relations over the past two decades, H.R. 7173 would remedy that situation.

This year, many of my colleagues joined me as cosponsors of H.R. 5192, to add elected school board members to the ACIR. H.R. 7173, recognizes the growing importance of local school districts in the federal system, by providing for the appointment of one school board member to the ACIR, from a panel of nominees selected by the National School Boards Association.

Besides the school board nominee, the bill makes other, critical changes in the membership structure of the ACIR. It provides, for example, for at least partial statutory recognition of the National Association of Towns and Townships. In addition, it provides for the first time representation of both Federal and State courts, in partial recognition of the increasingly important role played by the judicial branch in our federal system of government.

Mr. Speaker, thanks to the foresight of our friend and colleague, L. H. FOUNTAIN, the ACIR has become the single most important body involved in studying the complex relationships between the various levels of government. I believe this legislation positively contributes to the ACIR's mission, and I urge its approval by the House.

Mr. HORTON. Mr. Speaker, I thank the gentleman from New York for his statement, for his leadership on this legislation.

This legislation has my support. It was adopted unanimously in the Committee on Government Operations, and I urge its approval.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Act of September 24, 1959, entitled "An Act to establish an Advisory Commission on Intergovernmental Relations", is amended—

(1) by striking out "twenty-six members" and inserting in lieu thereof "twenty-nine members";

(2) by striking out "Governors;' Conference" in paragraph (4) and inserting in lieu thereof "National Governors' Association";

(3) by striking out "board of managers of the Council of State Governments" in paragraph (5) and inserting in lieu thereof "National Conference of State Legislatures";

(4) by striking out "Four" in paragraph (6) and inserting in lieu thereof "Three";

(5) by striking out "eight" in such paragraph and inserting in lieu thereof "six";

(6) by striking out "and" at the end of paragraph (6) and by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(7) by inserting after paragraph (7) the following new paragraphs:

"(8) One appointed by the President from a panel of at least two elected officers of a town or other municipal government with a population of less than ten thousand submitted jointly by the National Association of Towns and Townships and the National League of Cities;

"(9) One appointed by the President from a panel of at least two elected school board members submitted by the National School Boards Association;

"(10) One appointed by the Chief Justice of the United States, who shall be a judge of a United States court of appeals or district court; and

"(11) One appointed by the Chief Justice of the United States from a panel of two or more chief justices or judges of a State court of last resort submitted by the Conference of Chief Justices.".

SEC. 2. Section 4(e) of such Act is amended by striking out "Thirteen" and inserting in lieu thereof "Fifteen".

SEC. 3. The amendments made by this Act shall not be construed to affect the current members of the Advisory Commission on Intergovernmental Relations, but shall apply with respect to any member appointed to such Commission on or after the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TRIBUTE TO ALLYN COX

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I rise to address my colleagues with a real note of sadness. On Sunday, the American people lost not only a friend, but the man responsible for enrolling the history of our people in their Capitol Building, Capitol artist Allyn Cox.

Only last week, we gathered in Statuary Hall to pay tribute to Allyn Cox's final masterpiece, the House of Representatives corridor mural. At that time, we paid tribute to his decade of painstaking work in capturing the American spirit and interpreting it through his fine art.

In my remarks at Statuary Hall that day, I was reminded of a statement of French essayist Theophile Gautier who said "Everything passes—Art alone is eternal. The bust survives the city." How fortunate it is for the American people that Allyn Cox chose the Nation's Capitol as his canvas, and American history as his palette. His works live on forever.

□ 1230

IF 40 PERCENT HIGHER GAS BILLS ARE NOT INFLATIONARY—WHAT IS?

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, The Federal Energy Regulatory Commission has granted the Panhandle Eastern Corp. an increase to pay for the purchase of expensive natural gas from Algeria. Meanwhile the company is also pressing FERC for approval of a general rate increase.

These rate increases have been passed along to the Missouri companies served by Panhandle Eastern who in turn plan to pass it on to consumers.

As a result Missouri consumers can expect to see their natural gas heating bills go up in November and this winter to go up anywhere from 20 to 50 percent.

This administration likes to brag that it is winning the war against inflation. But I ask, if 40 percent higher gas bills are not inflationary I do not know what is.

To its credit FERC has now demanded that Panhandle Eastern justify its purchase of the Algerian gas. Why should we be buying expensive imported gas when it is cheaper to buy it here at home?

I have written to FERC Chairman Charles Butler in opposition to these rate increases. The Algerian gas purchase is not warranted, and clearly it should be overturned.

A FINE COACH AND A GREAT MAN

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, on Saturday night in Tallahassee, Fla., Eddie Robinson reached another milestone in a legendary coaching career when his Grambling State University football team won again.

With the victory, Grambling's head coach became only the fourth man in college football history to win 300 games or more. And he is the only one of the four to reach this historic plateau in a career spent at a single school.

Now in his 41st season at Grambling, Robinson has compiled a remarkable winning percentage of .744. He also has built the Grambling football program into one of the best known in the world; his teams attract capacity crowds from New York City to Tokyo, Japan. An incredible number of his players go on to stardom in the pro ranks, too.

More importantly, Coach Robinson refuses to concentrate on winning only. He is much more concerned about teaching, building character, and promoting his school. He would rather talk about the large number of his athletes who graduate than about his own coaching record.

Robinson will be remembered as one of the best football coaches. He is already known as a great man. A rival coach said it best: "Eddie Robinson is a tribute to college football."

REVISED SCHOOL PRAYER AMENDMENT

(Mr. COATS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, while endorsing the President's proposed constitutional amendment for school prayer, I am today offering a revised version which I believe will strengthen such a constitutional amendment.

The revised amendment reads:

Nothing in this Constitution shall be construed to prohibit prayer or other religious activity in public schools. Neither the United States nor any State shall require any person to participate in prayer or other religious activity or influence the form or content of any prayer or other religious activity in such public schools.

This amendment would allow voluntary prayer, as well as the voluntary exercise of religion in debates, private meditation, Bible study, moral instruction, or religious clubs, as long as these did not infringe upon the freedom of the nonparticipant.

The real key to this revised version, however, is that it specifically prohibits the Government from requiring anyone to participate in prayer or any other religious activity, and it also forbids the Government from influencing the form or content of a prayer or a religious activity. The Government would not be permitted to prescribe a particular form even for voluntary use.

This improved language directly addresses the legitimate concerns of those who fear the forced imposition of a mandatory State prayer or religious activity. I urge my colleagues to carefully review this revised prayer amendment and, of course, would appreciate their endorsement and support.

ALLYN COX

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, it is with sadness that I note the passing of Allyn Cox. His legacy to the American people is significant. The two halls of magnificent murals in the House wing of the Capitol, along with his completion of the Brumidi frieze in the rotunda, are crowning achievements of a long and honored career.

During this past decade we all became familiar with the scaffolding erected in these halls. We were all aware that artistic greatness was in the making. His work was recently unveiled and that greatness has been confirmed.

Mr. Cox was honored this past week by those who had watched and supported his work—the leadership of the House and Senate, the officers and board members of the U.S. Capitol Historical Society, and the national officers of the DAR, along with his fellow artisans from the Muralist Society. After so many years of dedicated effort, I am glad he was still with us to receive these well-deserved accolades. The U.S. Capitol is visually richer because of the outstanding talent and dedication of Allyn Cox.

AUTHORIZING THE SPEAKER FOR REMAINDER OF THE WEEK TO ENTERTAIN MOTIONS TO SUSPEND THE RULES ON MEASURES LISTED ON WHIP NOTICE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that it be in order on any day for the remainder of the week for the Speaker to entertain motions to suspend the rules on those measures listed on the whip notice for consideration today and not reached today.

The SPEAKER pro tempore (Mr. BONIOR of Michigan). Is there objection to the request of the gentleman from Washington?

There was no objection.

REQUEST FOR AUTHORIZATION FOR SPEAKER TO ENTERTAIN MOTIONS TO SUSPEND THE RULES ON MEASURES OTHER THAN PROCEDURAL MEASURES

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that on a subsequent day this week it shall be in order for the Speaker to entertain motions to suspend the rules on measures other than procedural measures which the Speaker has announced would be scheduled for such action at least 1 day prior thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, reserving the right to object, I have some concerns about the language suggested by the gentleman from Washington in that it does seem that the Membership would have very limited notice on a number of matters that could be brought before us. At the present time, the membership has had to focus on about 31 suspensions.

It is very difficult here in the closing week of Congress to keep up with all the matters that are before us, to be discussed, let alone the matters that could be brought up almost at a momentary notice. So, I do have some concerns about this request.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will be glad to yield.

Mr. FOLEY. Mr. Speaker, I think it is because of this concern that the motion was worded in such a way as to provide Members with 1-day notice prior to consideration of any bills. As the gentleman knows, in other sessions, we have sometimes given blanket authority, in the last days of the session, to consider bills under suspension on the rules.

This unanimous-consent request has two restrictions on that otherwise all-encompassing permission. One is that it is limited to substantive matters. Procedural matters could not be brought under this unanimous-consent request without further permission. Second, it requires the 1-day notice so that Members would be advised of what bills were in fact going to be considered on the Suspension Calendar the following day and thus could not be, as the gentleman suggests, perhaps taken by surprise by the presence of a bill they did not expect to come forward.

Mr. WALKER. Further reserving the right to object, I do understand that those protections are afforded. I am wondering whether or not we could not arrive at some kind of a compromise on it that would give the Members some sort of a written notice as to bills that might be expected under such a procedure so that here, early in the week, we would have some idea as to what bills might be brought up under such a procedure.

That would allay a lot of my fears, if we had some idea as to what the list of bills is that could be acted upon under such a procedure.

I would be glad to yield further to the gentleman.

Mr. FOLEY. Well, I say to the gentleman—and thank him for yielding—of course the bills that are eligible for suspension are usually bills that have not been reported by committees, so I would certainly be able to give the gentleman that assurance, that we would not bring up an unannounced bill.

The second problem is that if we, in effect, present a list of possible legislation to the House for unanimous-consent request, I think the gentleman understands that that puts every Member into the position of objecting if one of the bills is a bill he opposes, and that is normally not the procedure in the scheduling of House bills. I grant that there is some possibility that a bill may come on the calendar that a Member is individually opposed to, but he has his remedy of voting against it on the Suspension Calendar, which as the gentleman knows is a very difficult task for a bill requiring a two-thirds vote.

Mr. WALKER. Further reserving the right to object, I was not suggesting that we prepare a list for unanimous-consent purposes as much as I was suggesting a list might be prepared that would give the Members an opportunity to know what kinds of things might be brought up under suspension of the rules, what the leadership has in mind. That is really my suggestion. I understand the problem with unanimous-consent requests.

Mr. FOLEY. I would certainly suggest that it is possible to publish a list at a relatively early time of bills that might be considered under suspension of the rules as long as it was understood that the list was neither exclusive nor absolute. The presence on the list of bills would not necessarily exclude or include all the bills listed. If that is what the gentleman has in mind I will do my best to see that he is advised as to what that list might be.

Mr. WALKER. Further reserving the right to object, what I would be constrained to do is object at this point, and if we could get an agreement as to how such a list can be developed, if the gentleman would renew his request at that point I think my concerns about it would be lessened, but at this time, Mr. Speaker, I do object.

The SPEAKER pro tempore. Objection is heard.

SOCIAL SECURITY BENEFIT TERMINATION REFORM ACT OF 1982

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, today I have introduced legislation to ease the financial burden faced by the survivors of social security beneficiaries. This bill, the Social Security Benefit Termination Reform Act of 1982, would change the current procedure which does not provide any benefits for the month in which a beneficiary dies. Under my legislation, the survivors would receive a share of the deceased recipient's monthly benefits prorated to the number of full days in the month that the beneficiary lived.

This measure would alleviate the unfair burden on survivors who have to deal with the expenses incurred by the beneficiary without the expected income which is lost as a result of his or her death.

The inequities and hardships of the current system are illustrated clearly in a case from my State of Nebraska. A 72-year-old man died at 11:23 p.m. on May 31. Because this was 37 minutes too soon, the man's widow is now being asked to return her husband's May social security benefit of $358.60, which despite his death arrived in early June.

With my legislation, a widow in such a situation would be allowed benefits for the 30 of 31 days of the month that he was alive.

I urge my colleagues to join me in this effort to eliminate current inequities of the social security system by cosponsoring this worthwhile legislation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken later today.

PERISHABLE AGRICULTURAL COMMODITIES ACT AMENDMENTS

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6865) to amend the Perishable Agricultural Commodities Act, 1930, to require the Secretary of Agriculture to accept the payment of monetary penalties for certain admitted and infrequent violations involving misrepresentation under such act, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6865

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(5) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499b(5)), is amended by amending the proviso to read as follows: "*Provided,* That any commission merchant, dealer, or broker who has violated—

"(A) any provision of this paragraph may, with the consent of the Secretary, admit the violation or violations; or

"(B) any provision of this paragraph relating to a misrepresentation by mark, stencil, or label shall be permitted by the Secretary to admit the violation, or violations if such violation or violations are not repeated or flagrant;

any pay, in the case of a violation under either clause (A) or (B) of this paragraph, a monetary penalty not to exceed $2,000 in lieu of a formal proceeding for the suspension or revocation of license, any payment so made to be deposited in the Treasury of the United States as miscellaneous receipts;".

SEC. 2. Section 6(e) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499f(e)), is amended by inserting "or by a resident of the United States to whom the

claim of a nonresident of the United States has been assigned," after "nonresident of the United States,".

SEC. 3. The amendment made by section 2 shall not apply with respect to complaints made under section 6(e) of the Perishable Agricultural Commodities Act, 1930, before the date of enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. FINDLEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. FINDLEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6865, a bill to amend the Perishable Agriculture Commodities Act, 1930, to require the Secretary of Agriculture to accept the payment of monetary penalties for certain admitted and infrequent violations involving misrepresentation under such act, and for other purposes.

The Perishable Agricultural Commodities Act establishes a code of fair trading in the marketplace, provides for aid in the enforcement of contracts for marketing these commodities and serves to suppress unfair and fraudulent practices in the marketing of fresh and frozen fruits and vegetables.

The Perishable Agricultural Commodities Act, commonly referred to as "PACA," has served the fruit and vegetable industry well since its enactment in 1930. However, the fruit and vegetable industry pointed out to our committee two problems that are of concern. The first is the possibility of making inadvertent or unintentional errors in marking, stenciling, or labeling due to modern, speedy methods of packaging. It is possible that some larger firms with multiple operations may accumulate many minor but sanctionable violations, all of them unwitting, in a relatively short period of time because of the sheer volume of shipments.

H.R. 6865 provides for the assessment of a civil penalty for violations of the Perishable Agricultural Commodities Act in lieu of a more stringent penalty in the event there are inadvertent or unintentional misrepresentations that result from errors in marking, stenciling, or labeling so long as the violations are not repeated or flagrant.

The action of suspension or revocation of a license is a serious action against any company. In essence this prevents the company from operating in the produce industry and thus deprives the company of its source of income. The monetary penalty for violations is sufficent to encourage good packing and marketing practices, thereby assuring that the consumer will receive the produce designated by the mark, label, or stencil on the shipping container.

It is intended by the amendments to section 2(5) of the act that violations would be considered to be repeated or flagrant depending on the circumstances of the misrepresentation. The Secretary would have authority to issue the more stringent sanction of suspending or revoking a license if there is a determination on a case-by-case basis that the violations are serious enough to warrant such action.

H.R. 6865 also addresses the situation where a foreign claimant circumvents the bonding requirements of the act by assigning the claim to a U.S. resident. Section 2 would close that loophole by also requiring the U.S. resident, to whom the claim has been assigned, to post a bond. The purpose of the bond is to provide for payment of attorney fees, court costs, and any award on a counterclaim if the respondent, who is a resident of the United States, should prevail in the reparation proceedings. The Secretary is authorized by the act to waive the bonding requirements in those cases where a claimant is a resident of a country that permits the filing of a complaint by a resident of the United States without the furnishing of a bond.

The two amendments contained in this bill will bring the act into conformity with current trading practices of the produce industry, eliminate inequities and perfect the administration of the act.

I ask all Members to join me in supporting enactment of H.R. 6865.

Mr. FINDLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill.

Mr. Speaker, the House now considers H.R. 6865, which is a housekeeping bill under the Perishable Agricultural Commodities Act. Hearings were held on this bill a few days ago, and because of its minor, but necessary, provisions, the full Agriculture Committee dealt promptly with it.

Simply said, it establishes a more expeditious procedure for dealing with violations of the act regarding stencil, mark, or label misrepresentations. In larger fresh fruit and vegetable operations these do occur, generally by accident. However, rather than begin an administrative action against an offending licensee, a fine of not more than $2,000 may be imposed for less flagrant and uncommon violations.

It also establishes a bonding requirement of U.S. residents acting in behalf of a foreign claimant under the act. In effect, it closes a loophole in the law whereby foreign claimants were getting around a requirement to post a bond.

This bill remedies a couple of troublesome inadequacies in the present law. The House should adopt it this afternoon.

Mr. DE LA GARZA. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, the bill reported by the Subcommittee on Domestic Marketing and the full Committee on Agriculture proposes a solution to two problems being faced by the fresh fruit and vegetable industry under the Perishable Agricultural Commodities Act. The bill amends the act in two ways:

First, for violations of the act involving misrepresentations on packaging or labels, which in the Secretary's assessment are not repeated or flagrant, a violator will be permitted to admit guilt and pay a fine of up to $2,000, instead of being subject to a formal license revocation proceeding. It is the current practice of the Agency to allow violators to opt for a fine when the violations are not considered to be serious enough to warrant a revocation proceeding. This amendment conforms the law to current agency practice.

Second, the bill would also require a foreign claimant or the assignee of a nonresident to post a mandatory bond under the PACA. This would close a loophole in the current law which permits a nonresident to avoid the bonding requirements by assigning claims to U.S. residents. This bill would make it mandatory that all nonresidents and their assignees post a bond, except in instances where the country of the foreign claimant would not require a U.S. resident to do so.

I believe these amendments are needed to bring the PACA in line with the current practices of the Agency and regulated produce industry, and will result in more effective and efficient enforcement of the act. I commend the chairman for introducing this bill and urge the House to adopt this bill.

● Mr. WAMPLER. Mr. Speaker, H.R. 6865, a bill to amend the Perishable Agricultural Commodities Act, contains two provisions to assure a more orderly administration by the Secretary of Agriculture.

The purpose of the Perishable Agricultural Commodities Act, PACA as it is known at USDA and in the industry, is to restrain unfair and fraudulent practices in the marketing of fresh and frozen fruits and vegetables and cherries in brine in interstate and foreign commerce. PACA sets up a code of practices for the marketplace and provides for USDA enforcement of contracts for marketing these commodities.

Traders must comply with contract terms. Sellers must ship the quantity and quality of produce specified; buyers must accept shipments that meet contracts and pay promptly. Whenever commitments are not honored, the USDA may step in under the PACA.

The legislation which the House considers today is simple, straightforward language. In the case of larger firms which deal in big volumes of fresh and frozen produce oftentimes commodities are mishandled and packaged incorrectly. When a mark, label, or stencil on a packaging container misrepresents the product, Federal officials may sanction the PACA offense. Most times, however, these are accidental misrepresentations caused by large volumes of produce being handled in a short time. Under the amendment, such offending companies would be subject to fines not to exceed $2,000. The monetary penalty would be in lieu of formal action to revoke the company's license to operate under PACA.

Certainly, this action would be administered on a case-by-case basis, and USDA officials would sanction repeated and flagrant violations of misrepresenting produce under the existing statutes.

The other amendment closes a loophole in the law which allows foreign claimants to forego posting a bond under the act by assigning a claim to a U.S. resident. Under the proposed amendment, a U.S. resident to whom a claim has been assigned will be required to post a bond. This is simply an equity provision, and in cases where a claimant is a resident of a country that has reciprocity, the Secretary is authorized to waive the bonding requirements.

Mr. Speaker, those are the provisions of H.R. 6865. I urge their approval.●

□ 1245

Mr. DE LA GARZA. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

Mr. FINDLEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 6865, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SURPLUS AGRICULTURAL COMMODITIES DISPOSAL ACT OF 1982

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6142), to require the Commodity Credit Corporation to dispose of Government-owned stocks of agricultural commodities, as amended.

The Clerk read as follows:

H.R. 6142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surplus Agricultural Commodities Disposal Act of 1982".

SEC. 2. The Agricultural Act of 1949 is amended by adding at the end thereof the following new section:

"SEC. 423. (a) Notwithstanding any other provision of law, in order to prevent the accumulation of excessive stocks of agricultural commodities through the price support and stabilization operations of the Commodity Credit Corporation, the Corporation may provide, under terms and conditions established by the Secretary, for processing its accumulated stocks of agricultural commodities into liquid fuels and agricultural commodity byproducts and (1) for making such liquid fuels available by the Corporation to Federal agencies either to help meet the needs of such agencies for transportation and industrial fuels or to be stored for emergency uses, or (2) for the sale of such liquid fuels by the Corporation in commercial markets. The liquid fuels shall be made available to Federal agencies or sold at a price as determined appropriate by the Secretary, notwithstanding any price restrictions that may be contained in other provisions of law, and in a manner that does not disrupt the prices in commercial markets of liquid fuels derived from agricultural commodities.

"(b) In determining the feasibility of providing for the processing of Commodity Credit Corporation stocks of commodities under subsection (a), the Secretary shall consider the nature of the commodities, and the acquisition, transportation, handling, storage, interest, and other costs associated with acquiring and maintaining such stocks, including the effect of such stocks in depressing commodity prices, as well as the value and utility of such stocks when processed into liquid fuels and agricultural commodity byproducts.

"(c) Not later then one hundred and twenty days after the date of enactment of this section, and annually thereafter, the Secretary shall report to the Congress with respect to the operation of this section, including any recommendations for legislative changes the Secretary finds necessary with respect to the authority provided in this section.".

The SPEAKER pro tempore. Is a second demanded?

Mr. FINDLEY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. FINDLEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6142, a bill to provide an impetus for the disposition of surplus stocks of agricultural commodities owned by the Commodity Credit Corporation in the form of alcohol fuels.

H.R. 6142 provides specific authority for the processing of Commodity Credit Corporation owned stocks of agricultural commodities into alcohol fuels and for the disposition of such products to Federal agencies either to help them meet their immediate needs for transportation and industrial fuels or for storage for later emergency fuel uses. In addition, the Corporation is given authority to sell liquid fuels in commercial markets. The liquid fuels would be made available at a price as determined appropriate by the Secretary, notwithstanding any price restrictions that may be contained in other provisions of law, and in a manner that does not disrupt prices in commercial markets of liquid fuels derived from agricultural commodities.

The dismal economic situation currently facing producers of U.S. grain commodities makes a priority issue of the need to develop additional domestic outlets for these commodities. H.R. 6142 offers the potential for creating substantial new domestic demand for grain, a goal, which, if realized, could lead to stronger and more stable prices for American producers.

There are prospects for record grain production and carryover levels, which will increase acquisitions of grain under the price support activities of the Commodity Credit Corporation. There has been a reversal in the long series of year-to-year increases in U.S. farm exports. And the United States has not attained self-sufficiency in the production of liquid fuels. These factors combine to illustrate the wisdom of directing a significant portion of U.S. agricultural production toward fostering the continued growth of the young domestic alcohol fuels industry.

Recent projections by the U.S. Department of Agriculture forecast a record production in the United States of major farm commodities, including corn (8.32 billion bushels), wheat (2.82 billion bushels), and soybeans (2.31 billion bushels). The 1982-83 season carryover estimated for corn alone is a record 2.8 billion bushels, which far surpasses historical levels. This anticipated production has reduced farm prices to severely depressed levels and sharply increased expected outlays for farm price support programs. Current price quotations in local markets for 1982 crops of wheat, corn and soybeans are well below $3.50, $2, and $5 per bushel, respectively. Recently, projected Commodity Credit Corporation outlays for its price support activities for fiscal year 1982 were doubled to about $12.75 billion and outlays for fiscal year 1983 were estimated at over $12 billion.

The expected record crops threaten to tax the grain handling and storage system as never before. New storage facilities are being constructed at a rapid pace, and the Federal Government is approving for commercial storage, facilities that were once considered substandard and inadequate to maintain grain in proper condition.

Mr. Speaker, not only are private stocks of grain held on the farm and in commercial elevators accumulating to record levels. Government stocks of farm commodities are also building

rapidly as producers forfeit to the Commodity Credit Corporation grain used to secure Government price support loans. By the end of the 1982-83 marketing year, USDA projects that CCC-owned stocks of corn will increase by at least 150 million bushels to nearly 400 million bushels.

The first-year cost to CCC of assuming ownership of a bushel of corn is estimated to be at least 50 cents per bushel. In addition, CCC is likely to own this grain, at substantial additional cost, for some time given current restrictions on its authority to dispose of its stocks in commercial markets and the prospects for continued depressed farm prices.

One of the primary reasons that agriculture finds itself in a depressed state is the deterioration in the farm export outlook. The burden of record agricultural surpluses has been compounded by this reduction in the value of U.S. farm exports—the first such reduction since 1969. Export sales are estimated to decline 8 percent or $3.3 billion to $40.5 billion in the fiscal year just ending. In addition, certain commodities are experiencing a reduction in export volume, as well as value; corn export shipments, for example, are at a 5-year low.

A mature alcohol fuels industry could serve as a model for current efforts to promote the "value added" production and export of U.S. goods. For example, alcohol producers using the "wet milling" process can obtain, from one 56-pound bushel of corn, 2.5 gallons of anhydrous ethanol, 1.7 pounds of corn oil, 3 pounds of corn gluten meal (a 60-percent protein product), 14.5 pounds of corn gluten feed (a 21-percent protein additive), and 15 pounds of high-grade carbon dioxide.

Finally, contrary to the current widely held perception, sales of gasoline/alcohol blend fuels have not declined in the face of the current oil glut and moderate gasoline prices. Alcohol blend fuels—commonly marketed today as "super unleaded with ethanol" or "unleaded plus" rather than "gasohol"—are attaining a steadily increasing share of the motor fuel market nationally and in the key alcohol fuel consuming States.

Nevertheless, the need for the United States to become significantly more self-reliant in the production of liquid fuels remains urgent, despite substantial gains made in reducing petroleum imports and the overall level of energy consumption in the U.S. alcohol fuels, from renewable resources such as grain and crop residues, wood and wood residues, and wastes, can be produced in a decentralized fashion and serve as a fuel extender or important octane enhancing additive for gasoline. Such an effort could lead, as outlined, to expanded domestic markets for U.S. grain, to lower Government farm program outlays, to increased employment and national income, and to improved U.S. energy security.

The committee notes that Executive Order 12261, signed by President Carter on January 6, 1981, continues to provide a framework under which the Federal Government may purchase and use ethanol blend fuels in its vehicles. The Executive order states that, whenever feasible, Federal agencies, shall, in procuring unleaded gasoline motor fuel, demonstrate a "preference for the purchase of gasohol." The order further provides that "the Secretary of Defense with respect to gasohol use by the Department of Defense, and the Administrator of General Services with respect to gasohol use by other agencies, shall issue such guidelines for the implementation of this Order as they deem appropriate." The committee urges the Secretary of Agriculture to use the mandate provided in Executive Order 12261 to facilitate the exercise of the authority granted in H.R. 6142 in making available to Federal agencies the liquid fuels processed from stocks of Commodity Credit Corporation.

Mr. Speaker, it is rather unusual for a single piece of legislation to deal with the range of problems which H.R. 6142 addresses—and at minimal cost to the Government. I enthusiastically urge my colleagues to support the bill with their votes.

Mr. Speaker, I yield 2 minutes to the author of the legislation, the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, first, I would like to thank the chairman of the committee, and, particularly, I extend my thanks to my colleague, the gentleman from Illinois (Mr. FINDLEY), the coauthor of this legislation, for the work which he has done on this legislation.

As has already been explained, H.R. 6142, as amended, would authorize the Secretary of Agriculture to provide for the processing of Commodity Credit Corporation stocks of agricultural commodities into liquid fuels and agricultural commodity byproducts.

The legislation further provides the Secretary with discretion to establish the terms and conditions under which the Corporation's stocks are to be made available for processing by liquid fuel producers. The liquid fuels produced may be made available by the Corporation to Federal agencies either to help them meet their immediate needs for transportation and industrial fuels, or for storage for later emergency fuel uses. In addition, the Secretary is given authority to sell the liquid fuels in commercial markets, provided any sale does not disrupt commercial markets for the liquid fuels.

The measure also instructs the Secretary, in determining the feasibility of offering Corporation stocks of agricultural commodities for processing into liquid fuels and agricultural commodity byproducts, to consider the likely cost to the Federal Government of retaining ownership of the stocks in their original form, the impact of excessive supplies of Government-owned stocks in depressing agricultural commodity prices, and the value and usefulness of the stocks as liquid fuels and agricultural commodity byproducts.

H.R. 6142 was approved by the Committee on Agriculture on a unanimous voice vote, and enjoys the support of 30 Members of the House, including the chairman of the Subcommittee on Fossil and Synthetic Fuels, Mr. SHARP.

Prospects for record grain production and carryover levels, increasing acquisitions of grain under the price support activities of the Commodity Credit Corporation, a reversal in the long series of year-to-year increases in U.S. farm exports, and the failure of the United States to attain adequate self-sufficiency in the production of liquid fuels, confirm the need for directing a significant portion of U.S. agricultural production toward fostering the continued growth of the young domestic alcohol fuels industry.

Recent projections by the U.S. Department of Agriculture forecast record U.S. production of major farm commodities, including corn (8.32 billion bushels), wheat (2.82 billion bushels), and soybeans (2.31 billion bushels). The 1982-83 season carryover estimated for corn alone is a record of 2.8 billion bushels, which far surpasses historical levels. This anticipated production has pressured farm prices to severely depressed levels and sharply increased expected outlays for farm price support programs. Current price quotations in local markets for 1982 crops of wheat, corn, and soybeans are well below $3.50, $2, and $5 per bushel, respectively. Recently, the estimate for projected Commodity Credit Corporation outlays for its price support activities was doubled to nearly $11 billion.

The expected record crops threaten to tax the grain handling and storage system as never before. New storage facilities are being constructed at a rapid pace, and the Federal Government is approving for commercial storage, facilities that were once considered substandard and inadequate to maintain grain in proper condition.

Not only are private stocks of grain held on the farm and in commercial elevators accumulating to record levels, Government stocks of farm commodities are also building rapidly as producers forfeit to the Commodity Credit Corporation grain used to secure Government price support loans. By the end of the 1982-83 marketing year, USDA projects that CCC-owned stocks of corn will increase by at least 150 million bushels to nearly 400 million bushels.

The estimated first-year cost to CCC of assuming ownership of a bushel of corn is estimated to be at least $0.80 per bushel when commercial storage rates, transportation, and handling

charges, forfeited interest on the loan and forgone first-year interest revenue on the grain in CCC possession are considered. In addition, given current severe restrictions on CCC's authority to return grain under its ownership to commercial markets, as well as prospects for continued depressed farm prices in the near term, CCC is likely to own this grain, at substantial additional cost, for some time.

One of the primary reasons that agriculture finds itself in a depressed state is the deterioration in the farm export outlook. The burden of record agricultural surpluses has been compounded by this reduction in the value of U.S. farm exports—the first such reduction since 1969. In addition, certain commodities are experiencing a reduction in export volume, as well as value; corn export shipments, for example, are at a 5-year low.

The dismal prospects for resumed strong growth in U.S. export markets point to the need for developing additional domestic outlets for our grain production. The development of an established alcohol fuels industry offers the potential for creating substantial new domestic demand for grain, a goal which, if realized, could lead to strong and stable prices for American producers.

A mature alcohol fuels industry could also serve as a model for current efforts to promote the value added production and export for U.S. goods. For example, those alcohol producers using the wet milling process can obtain, from one 56-pound bushel of corn, 2.5 gallons of anhydrous ethanol, 1.7 pounds of corn oil, 3 pounds of corn gluten meal (a 60-percent protein product), 14.5 pounds of corn gluten feed (a 21-percent protein additive), and 15 pounds of high-grade carbon dioxide. In addition, wet-milling facilities have the flexibility to reduce their ethanol production in favor of producing high fructose corn syrup. In a dry milling facility, 2.5 gallons of ethanol and nearly 17 pounds of a 26- to 32-percent protein material call dried distillers grain (DDG) remain after the process.

According to a 1981 study by the U.S. Department of Energy's Office of Alcohol Fuels, based on mid-1981 corn prices, U.S. GNP would increase by "$1.89 for each bushel of corn diverted from the export market to produce ethanol." Similar studies have projected the increased employment, national income, and balance of payments benefits that would likely accrue to the United States if a strong alcohol fuels industry were established.

Contrary to the current widely held perception, sales of gasoline/alcohol blend fuels have not declined in the face of the current oil glut and period of moderate gasoline prices. As the information in the tables below relates, alcohol blend fuels—commonly marketed today as "super unleaded with ethanol" or "unleaded plus" rather than "gasohol"—are attaining a steadily increasing share of the motor fuel market nationally and in the key alcohol fuel consuming states.

U.S. gasohol sales in 1981 and 1982

	Gallons
1982:	
January	80,747,000
February	94,129,000
March	110,515,000
April	110,030,000
May	113,250,000
June	118,000,000
July	121,000,000
1981:	
January	50,705,000
February	47,870,000
March	55,795,000
April	54,417,000
May	56,952,000
June	59,290,000
July	62,615,000
August	57,820,000
September	55,123,000
October	56,651,000
November	70,029,000
December	86,021,000
Total	713,288,000

NOTE.—Information derived from sales recorded by the Federal Highway Administration.

1982 STATE GASOHOL CONSUMPTION LEADERS THROUGH JUNE

	State	Volume (gallons)	Change 1981 (percent)
1.	Iowa	235,700,000	+196
2.	California	166,350,000	+308
3.	Illinois	55,750,000	+52
4.	Michigan	52,300,000	+96
5.	Florida	45,200,000	+44
6.	Oklahoma	35,800,000	+67
7.	Nebraska	27,200,000	+88
8.	Virginia	12,400,000	+1,250
9.	Ohio	10,500,000	+276
10.	South Carolina	10,450,000	+76

However, the need for the United States to become significantly more self-reliant in the production of liquid fuels remains urgent, despite substantial gains made in reducing petroleum imports and the overall level of energy consumption in the United States. Alcohol fuels, from renewable resources such as grain and crop residues, wood and wood residues, and wastes, can be produced in a decentralized fashion and serve as a fuel extender or important octane enhancing additive for gasoline. Such an effort could lead, as outlined, to expanded domestic markets for U.S. grain, to lower Government farm program outlays, to increase employment and national income, and to improved U.S. energy security.

Finally, I would like to call attention to the fact that Executive Order 12261, signed by President Carter on January 5, 1981, continues to provide a framework under which the Federal Government may purchase and use ethanol blend fuels in its vehicles. The Executive order states that, whenever feasible, Federal agencies, shall, in procuring unleaded gasoline motor fuel, demonstrate a "preference for the purchase of gasohol." The order further provides that "the Secretary of Defense with respect to gasohol use by the Department of Defense, and the Administrator of General Services with respect to gasohol use by other agencies, shall issue such guidelines for the implementation of this order as they deem appropriate." I would urge the Secretary of Agriculture, in making available to Federal agencies the liquid fuels acquired by the Department under the authority granted in H.R. 6142, to utilize the mandate provided in Executive Order 12261 to facilitate the exercise of this authority.

Mr. Speaker, this bill is a bill which will, first of all, help us solve some of our surplus problems that we have in agriculture. It will save the taxpayers money in that it will be cheaper to do this than it would be to pay the excessive costs of storing more and more grain, and, finally, it will go part way toward helping to reduce our dependence upon OPEC oil.

Mr. Speaker, I strongly urge passage of the bill.

Mr. FINDLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us is the result of bipartisan efforts to improve economic conditions in the farm sector, while stimulating development of an industry that could, at some future date, be vital to the Nation's security.

This bill is not a sweeping bill. It does not mandate new programs. It does not require large expenditures. It does not require anything.

What it does do is give the Secretary of Agriculture authority to convert Commodity Credit Corporation-owned grain stocks into alcohol fuels to meet Federal and private fuel needs, so long as the process does not unduly disrupt prices in the alcohol fuel market.

Mr. Speaker, this bill is predicated on the idea that it could cost less to convert CCC stocks to alcohol than to store those stocks as grain. Right now, the Agriculture Department is conducting a series of pilot projects to determine, among other things, conversion costs.

In testimony before the House Agriculture Subcommittee on Wheat, Soybeans and Feed Grains, David Hallberg, president of the Renewable Fuels Association, said:

> It should be remembered that current law restricts the release of CCC-surplus stocks until prices reach 110 percent of the Reserve release level, which for 1982 reserve corn is $3.25. This means that the market price for corn must hit at least $3.57! This figure seems astronomical when one considers the testimony of a USDA official, J. Dawson Ahalt, before this Committee several months ago, who stated that the Department projections were for a "season average price of around $2.70 for corn in 1983 and 1984."

Hence, the cost of holding this grain could be astronomical. We are talking about hundreds of millions of bushels of grain that must be acquired and stored. This entails large costs. If we can reduce these costs by converting these stocks to alcohol, without disrupting markets, then we should do it.

As we all know, uncontrollable factors such as weather and biology determine crop sizes; that is, whether we will have large surpluses. For the past 2 years, these factors have been good to us by providing abundant food and feed supplies, but bad to us by driving market prices through the floor. Because of the tremendous surpluses confronting us today, some people have joked that we ought to take some of our surplus grain and dump it in the ocean or burn it.

With all of the hungry people in the world, we simply cannot condone this; however, with alcohol conversion, we could have the best of both worlds. We could extract fuel to burn, and have feed left over.

Mr. Speaker, the memory of the 1973 oil embargo prompts me to remind my colleagues how vulnerable we are to fuel embargoes. Just because we have a surplus now does not mean we will have one 2 years from now. We owe it to the people of this country to give the administration every means to assure our future energy security.

As research and development of alcohol technology moves forward, we must constantly reassess its feasibility as an alternate fuel. This bill helps us do that. So, I must urge my colleagues to support it.

Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. DAUB).

Mr. DAUB. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of this legislation, and I commend my colleague from the other side of the Missouri River, the gentleman from Iowa (Mr. BERKLEY BEDELL) for the fine work he has done and salute the committee for its prompt attention to a technical matter which can have enormous impact.

The Surplus Agricultural Commodities Disposal Act will provide the Secretary of Agriculture with the needed authority to dispose of surplus Commodity Credit Corporation grain by allowing him to convert grain to alcohol fuel and use it in Government vehicles.

In these times of burgeoning supluses, every effort must be made to reduce quantities. Our farmers are suffering from low-commodity prices brought on by these tremendous quantities, and I see no better way for the U.S. Government to demonstrate its support and concern for the today's farm situation.

I, therefore, encourage my colleagues to support this measure. We have before us a method for strenghtening farm prices and reducing Government costs, as well as contributing to the long-term search for energy security.

Mr. Speaker, I encourage adoption of the bill.

Mr. SHARP. Mr. Speaker, I rise today to urge adoption of H.R. 6142, which would allow the Commodity Credit Corporation to convert accumulated excess stocks into alcohols for use by the Federal Government.

We are faced with a projected 1 percent increase over last year's record grain crop of 8.2 billion bushels. I believe the answer to reducing that surplus is increasing exports and have been urging this administration to actively pursue export policies which are fair and competitive.

This bill would also aid in depleting our grain surplus and producing a product which will improve our national energy security and create jobs. The public has clearly expressed distress at the cost of stockpiling our grain and I believe we should use every opportunity to put our surplus to a constructive use.

As chairman of the Subcommittee on Fossil and Synthetic Fuels, I am constantly reminded of the need to develop alternative energy sources. We need to encourage conversions, such as this, to decrease our dependence on foreign oil.

This alcohol could be stored by the Government as a supplement to the strategic petroleum reserve for use in extending gasoline supplies during periods of shortages. Alcohol storage may become a basis for a cost-effective regional reserve. Both ideas are being studied by the Congressional Budget Office and the administration, thanks to an amendment to H.R. 6337, which was passed earlier this year.

There are several factors which should offset the cost of this program. First, we are offsetting the cost of storing the grain. Second, the Federal Government will save on the cost of purchasing oil and gas by using alcohol fuel instead. In addition, we are giving the Secretary of Agriculture discretion over this program—we are not mandating the terms and conditions of this conversion. If the Secretary finds this program to be cost effective, we are giving him the authority to implement it.

The potential benefits to both our energy security and our agriculture community merit passage of this legislation. I urge my colleagues to support final passage.

● Mr. WAMPLER. Mr. Speaker, this bill would increase the tools available to the Secretary of Agriculture for dealing with commodity surpluses. It would authorize him to convert surplus grain into alcohol fuels for use by the Federal Government and the private sector.

The authorities contained in this bill are completely discretionary and could lead to substantial budgetary savings.

This bill is a bipartisan effort that has been carefully studied by the Agriculture Committee, and I urge my colleagues to pass it.

Thank you.●

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FINDLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA), that the House suspend the rules and pass the bill, H.R. 6142, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize the Commodity Credit Corporation to process its accumulated stocks of agricultural commodities into liquid fuels and agricultural commodity byproducts, and for the disposition thereof, and for other purposes."

A motion to reconsider was laid on the table.

AUTHORIZATION OF CIVIL PENALTIES FOR VIOLATIONS OF LAWS DEALING WITH INTRODUCTION AND DISSEMINATION OF LIVESTOCK AND PLANT DISEASES

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rule and pass the bill (H.R. 6679) to authorize civil penalties for violations of various laws for preventing the introduction and dissemination of livestock and poultry diseases, plant diseases, and plant pests, as amended.

The Clerk read as follows:

H.R. 6679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 103(a) of the Federal Plant Pest Act (7 U.S.C. 150bb(a)) is amended by striking out "knowingly" each place it appears.

(b) Section 108 of the Federal Plant Pest Act (7 U.S.C. 150gg) is amended to read as follows:

"SEC. 108. (a) Any person who—

"(1) knowingly violates section 103 of this Act or any regulation promulgated under this Act;

"(2) knowingly forges or counterfeits any permit or other document provided for by this Act or by any such regulation; or

"(3) knowingly and without the authority of the Secretary, uses, alters, or defaces any such permit or document;

shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $5,000, by imprisonment not exceeding one year, or both.

"(b) Any person who—

"(1) violates section 103 of this Act or any regulation promulgated under this Act;

"(2) forges or counterfeits any permit or other document provided for by this Act or by any such regulation; or

"(3) without the authority of the Secretary, uses, alters, or defaces any such permit or document;

may be assessed a civil penalty by the Secretary not exceeding $1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.".

SEC. 2. The first paragraph of section 10 of the Act of August 20, 1912 (7 U.S.C. 163, 164), commonly known as the Plant Quarantine Act, is amended by striking out "That any person" and all that follows through "; and it" and inserting in lieu thereof the following: "That any person who knowingly violates any provision of this Act or any rule or regulation promulgated by the Secretary of Agriculture under this Act, or who knowingly forges or counterfeits any certificate provided for in this Act or in any such rule or regulation, or who, knowingly and without the authority of the Secretary, uses, alters, defaces, or destroys any such certificate shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding $5,000, by imprisonment not exceeding one year, or both. Any person who violates any such provision, rule, or regulation, or who forges or counterfeits any such certificate, or who, without the authority of the Secretary, uses, alters, defaces, or destroys any such certificate, may be assessed a civil penalty by the Secretary not exceeding $1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty. It".

SEC. 3. The Act of January 31, 1942 (7 U.S.C. 149), is amended by—

(1) inserting "(a)" after "That"; and

(2) adding at the end the following new subsection:

"(b)(1) Any person who knowingly violates any rule or regulation promulgated under subsection (a) shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $5,000, by imprisonment not exceeding one year, or both.

"(2) Any person who violates any such rule or regulation may be assessed a civil penalty by the Secretary of Agriculture not exceeding $1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.".

SEC. 4. Section 6 of the Act of August 30, 1890 (21 U.S.C. 104), is amended by striking out the last sentence and inserting in lieu thereof the following: "Any person who knowingly violates any provision of this section or sections 7 through 10 of this Act or any regulation prescribed by the Secretary of Agriculture under any such section shall be guilty of a misdemeanor and shall, on conviction, be punished by a fine not exceeding $5,000, by imprisonment not exceeding one year, or both. Any person who violates any such provision or any such regulation may be assessed a civil penalty by the Secretary of Agriculture not exceeding $1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.".

SEC. 5. Section 7 of the Act of May 29, 1884 (21 U.S.C. 117), commonly known as the Animal Industry Act, is amended by—

(1) inserting "(a)" after "SEC. 7.";

(2) inserting "or the rules and regulations prescribed by the Secretary of Agriculture under such section" after "Act"; and

(3) adding at the end the following new subsection:

"(b) Any person or persons operating any railroad, or master or owner of any boat or vessel, or owner or custodian of, or person having control over, cattle or other livestock or live poultry who shall violate the provisions of section 6 of this Act or the rules and regulations prescribed by the Secretary of Agriculture under such section may be assessed a civil penalty by the Secretary of not more than $1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.".

SEC. 6. Section 3 of the Act of February 2, 1903 (21 U.S.C. 122), commonly known as the Cattle Contagious Diseases Act of 1903, is amended by—

(1) striking out "one thousand dollars" and inserting in lieu thereof "five thousand dollars"; and

(2) adding at the end the following: "Any person, company, or corporation violating such provisions, orders, or regulations may be assessed a civil penalty by the Secretary of Agriculture of not more than one thousand dollars. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.".

SEC. 7. Section 6 of the Act of March 3, 1905 (21 U.S.C. 127), is amended by—

(1) striking out "one thousand dollars" and inserting in lieu thereof "five thousand dollars"; and

(2) adding at the end the following: "Any person, company, or corporation violating such provisions may be assessed a civil penalty by the Secretary of Agriculture of not more than one thousand dollars. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.".

SEC. 8. Section 6(a) of the Act of July 2, 1962 (21 U.S.C. 134e), is amended by—

(1) inserting "(1)" after "(a)";

(2) striking out "$1,000" and inserting in lieu thereof "$5,000"; and

(3) adding at the end the following new paragraph:

"(2) Whoever violates any such regulation may be assessed a civil penalty by the Secretary not exceeding $1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.".

SEC. 9. Section 2 of the Act of May 6, 1970 (21 U.S.C. 135a), is amended by—

(1) inserting "(a)" after "SEC. 2." and

(2) adding at the end the following new subsection:

"(b) Any person who brings any animal to the quarantine station or moves any animal from the quarantine station, contrary to the conditions prescribed by the Secretary in regulations issued hereunder, may be assessed a civil penalty by the Secretary not to exceed $1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28, United States Code. The validity of such order may not be reviewed in an action to collect such civil penalty.".

The SPEAKER pro tempore. Is a second demanded?

Mr. THOMAS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes, and the gentleman from California (Mr. THOMAS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6679, a bill to authorize the Secretary of Agriculture to assess civil penalties with respect to violations of certain acts relating to animal and plant quarantine laws and to increase the amount of criminal fines which may be imposed with respect to violations of such acts.

H.R. 6679 expands the scope of sanctions for violations of certain animal and plant quarantine laws established to prevent the introduction into and dissemination in the United States, of livestock and poultry diseases, plant diseases, and plant pests, by adopting a degree of conformity in the criminal penalties and providing for the imposition of civil penalties for violations of said laws, rules, or regulations promulgated thereunder.

Violations of laws designed to protect the United States against the introduction and dissemination of animal and plant diseases and pests, sometimes subject the violator to neither a criminal or a civil penalty. In other instances, violators are only exposed to criminal sanctions, which, on many occasions, lack consistency or do not effectuate the purpose of the act involved.

Criminal sanctions are vital in assuring the enforcement of our laws, but they are not enough. Criminal prosecution is a lengthy and cumbersome process in an already overburdened judicial system. While the system moves sluggishly, the violator is often free to continue the same practices which threaten the American agricultural industry. Civil penalties, on the other hand, can be imposed administratively, insuring that the violator will be dealt with in a timely and effective manner. Moreover, a monetary penalty is more real to most than a distant and lengthy legal process that may or may not be instituted and that can sometimes be overcome. Civil penalties can

thus become not only an effective enforcement tool but a potential deterrent as well.

Mr. Speaker, let me cite some examples of the numerous and daily problems that confront the Animal and Plant Health Inspection Service that administers these laws, so that we can better understand the need for these proposed amendments.

Many of our laws and regulations to control interstate and foreign commerce movement of animals require that these animals be accompanied by papers showing ownership, identification, and records of health tests. This information is essential to the accomplishment of our mission, which is to prevent the introduction or dissemination of any communicable animal disease into and within the United States. In the event of an outbreak of an exotic disease, this information is used to assist the veterinarian to trace back any animals found to be infected to their herd of orgin.

For example, there have been cases where horses found to be infected with equine infectious anemia (EIA)—a communicable disease which is spread by biting insects—have been shipped interstate without the required paperwork. Although these horses may appear to recover from EIA, they remain carriers for life, and have the potential for endangering the health of other horses. Yet, violators have received only minor fines and been placed on probation for 1 year. In other cases, violators that have been prosecuted, and in rare instances, placed on probation for 1 year, have received minimal fines for illegally shipping diseased cattle, destined for slaughter, to their own premises and subsequently selling the animals. On the foreign commerce side, small fines have been imposed on violators for attempting to export animals from the United States without the required U.S. origin health certificate. These certificates are required to assure foreign livestock importers and foreign veterinary health officials that exported U.S. livestock and poultry are free of communicable diseases.

Further, Mr. Speaker, persons and baggage entering the United States from foreign countries are inspected for prohibited agricultural materials—both animal and plant—at U.S. ports of entry. Also, articles moving in commerce are inspected for prohibited pests. Our port of entry inspections of the baggage of incoming travelers routinely disclose large quantities of prohibited plant and animal products. Our inspectors indicate that deliberate concealment is involved in many interceptions of prohibited agricultural materials.

These violations present a real and constant threat for the introduction of destructive animal and plant diseases and pests into the United States.

We believe that authority to impose civil money penalties will enable the Department to handle violations more expeditiously, provide greater flexibility in sanctions for more effective enforcement, and insure a greater degree of consistency in sanctions imposed.

Also, Mr. Speaker, we are aware that some violators could consider the payment of civil money penalties as merely a cost of doing business. Therefore, to deter potential violators and discourage repeat violations, the bill retains the current criminal sanctions, provides criminal sanctions where none exist, and adds violations to rules and regulations promulgated under these laws as a punishable offense. It also increases the monetary penalties where they already exist and adjusts the imprisonment provisions to a degree of consistency and conformity with the nature of the offense.

Finally, in order to assure that the public is protected against arbitrary or capricious action by the Secretary, each of the civil penalty provisions added by the bill requires that such a penalty may be assessed only after notice and opportunity for an agency hearing on the record. Further, an order by the Secretary imposing a civil penalty is subject to court review.

I ask all Members to join me in supporting enactment of H.R. 6679.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may require.

Mr. THOMAS. Mr. Speaker, I rise in support of H.R. 6679, which provides for civil penalties for violations of various laws established to prevent the introduction and dissemination of livestock and poultry diseases, plant diseases, and plant pests.

This legislation expands the scope of sanctions for violations of these laws by adopting a degree of conformity in the criminal penalties and providing for the imposition of civil penalties for violations.

Penalties under laws designed to protect the United States against the introduction and dissemination of animal and plant diseases and pests are not uniform, so the attempt is made in this legislation to secure uniformity, retaining the sanction of criminal prosecution but also establishing civil monetary penalties. Criminal sanctions are vital in assuring the enforcement of our laws but they are not enough. Criminal prosecution is lengthy and cumbersome and sometimes the district attorney does not see fit to prosecute for a variety of reasons. Civil penalties can be imposed administratively, thus becoming an effective enforcement tool.

The public is protected against arbitrary or capricious action by the Secretary in that the bill requires that civil penalty provisions be assessed only after notice and hearing and a civil penalty is subject to court review.

Mr. Speaker, the Department of Agriculture recommends enactment of this legislation and I urge my colleagues to vote for this bill.

● Mr. WAMPLER. Mr. Speaker, I rise in support of H.R. 6679, a bill which would authorize civil penalties for violations of various animal and plant quarantine laws.

Criminal sanctions are vital in assuring the enforcement of our laws, but sometimes they are not enough. Criminal prosecution is a lengthy and cumbersome process in an already-overburdened judicial system, and sometimes culminates in no prosecution because of a variety of reasons.

This legislation retains the sanction of criminal prosecution now provided in the acts but would increase the monetary penalties where they already exist and provide for monetary penalties where none exist.

This legislation will simply expand the scope of sanctions that can be imposed on violators by adding civil penalties. These civil penalties will not be imposed indiscriminately. Cases must be supported by substantial evidence and a penalty cannot be imposed without notice and opportunity for a hearing. Provisions for appeal through the U.S. Courts of Appeals are included.

Mr. Speaker, the Department of Agriculture supports H.R. 6679. I urge my colleagues to support this legislation.●

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 6679, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize the Secretary of Agriculture to assess civil penalties with respect to violations of certain Acts relating to the prevention of the introduction and dissemination into the United States of plant pests, plant diseases, and livestock and poultry diseases, to increase the amount of criminal fines which may be imposed with respect to violations of such Acts, and for other purposes."

A motion to reconsider was laid on the table.

AUTHORIZATION OF INTRASTATE QUARANTINES UNDER EMERGENCY CONDITIONS

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5455), to amend the act of July 2, 1962, to authorize intrastate quarantines under extraordinary emergency conditions, as amended.

The Clerk read as follows:

H.R. 5455

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the

Act of July 2, 1962 (21 U.S.C. 134a(b)), is amended by striking out the colon in the first sentence of section 2(b) and everything thereafter to the end of the subsection and inserting in lieu thereof the following: ", and the Secretary may prohibit or regulate the movement within the State or other jurisdiction involved, of animals, animal carcasses, products and articles as the Secretary deems necessary in order to prevent the dissemination of any such disease or to eradicate any such disease or to otherwise protect the livestock or poultry of the United States: *Provided*, That such action may be taken under this subsection only if the Secretary finds, after review of measures taken by the State or other jurisdiction and after consultation with the Governor, that the measures being taken are inadequate. Before any action is taken in any State or other jurisdiction under this subsection, the Secretary shall notify the Governor of the State or other jurisdiction, shall issue a public announcement and shall file a statement for publication in the Federal Register of the action the Secretary intends to take, together with the findings and reasons therefor: *Provided*, That if it is not possible to make such a filing with the Federal Register prior to taking action, the filing shall be made within a reasonable time, not to exceed five business days, after commencement of the action. If the Secretary wishes to change any action previously taken under this subsection, the Secretary shall follow the procedures set forth in the preceding sentence.".

The SPEAKER pro tempore. Is a second demanded?

Mr. THOMAS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes, and the gentleman from California (Mr. THOMAS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I rise in support of H.R. 5455, a bill to amend the act of July 2, 1962, to authorize the Secretary of Agriculture to declare intrastate quarantines under extraordinary emergency conditions.

Public Law 87-518, the act of July 2, 1962, authorizes the Secretary of Agriculture to declare an extraordinary emergency and take specified actions when he finds that a State or other jurisdiction is not taking adequate measures to control the existence of any dangerous communicable disease of livestock or poultry that constitutes a threat to the livestock or poultry in the United States. The Department of Agriculture presently does not have authority to prevent the intrastate movement of animals, animal carcasses, animal products, or articles in such an emergency situation, unless the Secretary finds that the animals are, or have been, affected with, or exposed to, such a disease, and that the carcasses, products, and articles were so related to such animals as to be likely to be a means of disseminating such disease. Then, he may seize, quarantine, and dispose of the particular animals, carcasses, products, or articles involved.

This legislation provides authority to quarantine specific localities and control the intrastate movement of animals, their carcasses, and related products and articles which are not necessarily found to be affected by, or exposed to, any dangerous communicable disease of livestock or poultry. This additional authority would make it possible for the U.S. Department of Agriculture to implement the most effective quarantine controls to prevent the inadvertent intrastate spread of such a disease from affected localities. Uncontrolled movements of livestock and poultry into affected areas can hamper control and eradication efforts by increasing the population of exposed animals needing treatment.

The outbreak of exotic Newcastle disease in southern California in 1971-73, and recent outbreaks in California, Virginia, and Pennsylvania in 1980, clearly demonstrate the need for this additional authority. This legislation paralleling the authority recently given USDA in the Agriculture and Food Act of 1981 for control of plant pests under the Federal Plant Pest Act, would allow the Department of Agriculture additional flexibility for early control of the spread of said diseases.

Also, this bill tracks the language of the amendments to the Federal Plant Pest Act in imposing the same strict notice requirements, that before any action is taken in any State or other jurisdiction, the Secretary must notify the Governor of the State, or other jurisdiction, issue a public announcement and file a statement for publication in the Federal Register of the action the Secretary intends to take, together with the findings and reasons therefor.

I urge all Members to join me in supporting enactment of H.R. 5455.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I rise in support of H.R. 5455, the legislation we are considering which amends the act of July 2, 1962, to authorize intrastate quarantines of animals and poultry under extraordinary emergency conditions.

The act of July 2, 1962, authorizes the Secretary of Agriculture to declare an extraordinary emergency and take certain specified actions when he finds that a State or other jurisdiction is not taking adequate measures to control the existence of any dangerous communicable disease of livestock or poultry that constitutes a threat to the livestock or poultry in the United States. The Secretary of Agriculture presently does not have authority to prevent the intrastate movement of animals or poultry or their products unless he can prove the animals or poultry have been affected or exposed to such disease; then he may seize, quarantine, and dispose of the particular animals or poultry.

This legislation would allow the Secretary of Agriculture to quarantine specific localities and control the intrastate movement of animals and products which are not necessarily found to be affected with or exposed to a dangerous communicable disease of livestock and poultry.

This additional authority would make it possible to implement more effective quarantine controls to prevent the inadvertent spread from affected localities.

This is similar to the authority I was privileged to sponsor which was incorporated in the Agriculture and Food Act of 1981 for control of plant pests under the Federal Plant Pest Act. Certain safeguards are provided in that several conditions must be fulfilled by the Secretary. He must notify the Governor of the State or other jurisdiction, make a public announcement, and file a notice in the Federal Register of the action he intends to take, together with the findings and reasons for his action.

Mr. Speaker, this legislation is supported by the Department of Agriculture and I urge its adoption.

● Mr. WAMPLER. Mr. Speaker, I rise in support of H.R. 5455, a bill to authorize intrastate quarantines of animals and poultry under extraordinary emergency conditions.

This bill would expand the powers of the Secretary of Agriculture after he has declared an extraordinary emergency due to the existence of any dangerous communicable disease of livestock or poultry of the United States. The Secretary already has this authority if interstate commerce is involved. In the Agriculture and Food Act of 1981, similar authority was given to the Secretary to protect against the introduction and dissemination of plant pests by amending the Federal Plant Pest Act. Thus, with this legislation paralleling the previously mentioned authority, the additional authority would enable the Department of Agriculture to implement the most effective control and eradication procedures possible to prevent the intrastate spread of the disease from affected localities.

H.R. 5455 is supported by the U.S. Department of Agriculture. Mr. Speaker, I urge my colleagues to pass this legislation.●

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. THOMAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 5455, as amended.

The question was taken; and (two-thirds having voted in favor thereof)

the rules were suspended and the bill, as amended, was passed .

A motion to reconsider was laid on the table.

ELIMINATION OF CERTAIN UNNECESSARY REGULATORY REQUIREMENTS

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5456), to amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements.

The Clerk read as follows:

H.R. 5456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of August 20, 1912 (7 U.S.C. 159, 160, 161), is amended by—

(1) striking out in section 5 the colon and all that follows down through the end of the sentence and inserting in lieu thereof a period;

(2) striking out in the second sentence of section 7 the following: "That before the Secretary of Agriculture shall promulgate his determination that it is necessary to forbid the importation into the United States of the articles named in this section he shall, after due notice to interested parties, give a public hearing, under such rules and regulations as he shall prescribe, at which hearing any interested party may appear and be heard, either in person or by attorney: *Provided further,*"; and

(3) striking out in the fourth sentence of section 8 the following: "That before the Secretary of Agriculture shall promulgate his determination that it is necessary to quarantine any State, territory, or district of the United States, or portion thereof, under the authority given in this section, he shall, after due notice to interested parties, give a public hearing under such rules and regulations as he shall prescribe, at which hearing any interested party may appear and be heard, either in person or by attorney: *Provided further,*".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes, and the gentleman from California (Mr. THOMAS) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5456, a bill to amend the Plant Quarantine Act of August 20, 1912, to eliminate certain unnecessary regulatory requirements.

The Plant Quarantine Act, administered by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture, requires that public hearings be held before promulgating regulations under the act.

The Plant Quarantine Act was enacted on August 20, 1912, by Congress to regulate the importation of nursery stock and other plants and plant products in order to prevent the introduction of injurious plant diseases or insect pests and avoid the spread of certain dangerous plant diseases or insect infestations. To this end, it authorized the Secretary of Agriculture to establish and maintain quarantine districts for plant diseases and insect pests, and to regulate the movement of fruits, plants, and vegetables therefrom in order to protect our domestic industry.

The Plant Quarantine Act requires that a public hearing be held before a regulation may be promulgated for any of these purposes. This requirement was incorporated into the act of 1912 to provide for public participation in the rulemaking process. In 1912, public hearings were a practical way to provide for public participation. Since the passage of the Administrative Procedure Act in 1946, and its subsequent revision in 1966, other, more practical, means of public participation in the rulemaking process have been established.

The Administrative Procedure Act requires that notice of proposed rulemaking be published in the Federal Register. It further requires that the agency give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments, as well as an opportunity for oral presentation if the agency should consider it advisable.

The Department believes that the public participation process under the Administrative Procedure Act provides interested parties ample opportunity to have their views considered and included as part of the official record. Moreover, if a strong need is perceived for a public hearing, such an activity is authorized under the Administrative Procedure Act.

H.R. 5456 would eliminate the mandatory requirement for public hearings in view of the provisions of the Administrative Procedure Act that protect the public interest by requiring publication of proposed regulations in the Federal Register, solicitation of views, and a public hearing if the response of the public shows a need for one.

I urge all Members to join me in supporting enactment of H.R. 5456.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

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Mr. Speaker, I rise in support of H.R. 5456, which amends the Plant Quarantine Act to eliminate certain unnecessary regulatory requirements.

The Plant Quarantine Act, administered by the Animal and Plant Health Inspection Service of USDA, requires that public hearings be held before promulgation of regulations under the act.

This bill would eliminate the mandatory requirement for public hearings. This requirement was first included because in 1912 public hearings were a practical method of providing for public participation. Upon passage of the Administrative Procedures Act in 1946 and its revision in 1966, a more practical means has been established. The Administrative Procedures Act requires that notice of proposed rulemaking be published in the Federal Register. It further requires that the agency give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments, and in some cases for oral presentation. Based on past experience the benefits to be derived from public hearings are minimal since public response has been limited. The same goals can be achieved under the Administrative Procedures Act.

Mr. Speaker, the Department of Agriculture supports this legislation and I urge my colleagues to do the same.

● Mr. WAMPLER. Mr. Speaker, I rise in support of H.R. 5456, a bill to amend the Plant Quarantine Act by eliminating the mandatory requirement for public hearings.

The Plant Quarantine Act, first enacted in 1912, requires that a public hearing be held before a regulation may be promulgated. This requirement thus provides for public participation in the rulemaking process. Since the passage of the Administrative Procedures Act in 1946 and its subsequent revision in 1966, other more practical means of public participation in the rulemaking process have been established. Now a notice of proposed rulemaking is published in the Federal Register and interested persons are given the opportunity to participate through submission of written data, views, or arguments, as well as the opportunity for oral presentation if the agency should consider it advisable.

Thus, there no longer appears to be a requirement for a public hearing. The Department of Agriculture supports passage of H.R. 5456.

Mr. Speaker, I urge support of this legislation.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 5456.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FEDERAL SEED ACT AMENDMENTS OF 1982

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7005) to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Seed Act Amendments of 1982".

LAWN AND TURF SEED

SEC. 2. (a) The matter preceding clause (1) section 201(a) of the Federal Seed Act (7 U.S.C. 1571(a)) is amended by striking out ", except as provided in paragraph (j) of this section for seed mixtures intended for lawn and turf purposes,".

(b) Section 201(a)(1) of such Act (7 U.S.C. 1571(a)(1)) is amended by—

(1) inserting "(A), except with respect to seed mixtures intended for lawn and turf purposes," after "Provided, That";

(2) striking out ": And provided further, That", and inserting in lieu thereof ", (B)"; and

(3) inserting before the semicolon at the end thereof the following: ", and (C) seed mixtures intended for lawn and turf purposes shall be designated as a mixture on the lable and each seed component shall be listed on the lable in the order of predominance".

(c) Section 201(j) of such Act (7 U.S.C. 1571(j)) is repealed.

SEED MIXTURE TEST DATES

SEC. 3. Section 201(a)(8) of the Federal Seed Act (7 U.S.C. 1571(a)(8)) is amended by inserting before the semicolon at the end thereof the following: ", except that, in the case of a seed mixture, it is only necessary to state the calendar month and year of such test for the kind or variety or type of agricultural seed contained in such mixture which has the oldest calendar month and year test date among the tests conducted on all the kinds or varieties or types of agricultural seed contained in such mixture".

PERIOD BETWEEN GERMINATION TEST AND TRANSPORTATION

SEC. 4. Section 201(c) of the Federal Seed Act (7 U.S.C. 1571(c)) is amended by—

(1) striking out "(a)" and inserting "(1)" in lieu thereof;

(2) striking out "(b)" and inserting "(2)" in lieu thereof;

(3) inserting "(A)" after "which" in clause (2) as redesignated by this section; and

(4) adding before the period at the end thereof the following: "; or (B) the Secretary finds will maintain a percentage of germination within the limits of tolerance established under this Act under ordinary conditions of handling".

PROHIBITIONS RELATING TO IMPORTATION

SEC. 5. (a)(1) Section 101(a)(8) of the Federal Seed Act (7 U.S.C. 1561(a)(8)) is amended by—

(A) striking out subparagraph (B);

(B) striking out "(A)";

(C) striking out "(i)" and inserting in lieu thereof "(A)"; and

(D) striking out "(ii)" and inserting in lieu thereof "(B)".

(2) Section 101(a) of such Act (7 U.S.C. 1561(a)) is amended by striking out paragraph (17) and redesignating paragraphs (18) through (25) as paragraphs (17) through (24), respectively.

(b)(1) Section 301(a)(1) of such Act (7 U.S.C. 1581(a)(1)) is amended by striking out "any seed containing 10 per centum or more of any agricultural or vegetable seeds if any such seed is adulterated or unfit for seeding purposes" and inserting in lieu thereof "any agricultural or vegetable seeds if any such seed contains noxious-weed seeds".

(2) Section 302(a) of such Act (7 U.S.C. 1582(a)) is amended by striking out the second sentence.

(3) Section 302(d) of such Act (7 U.S.C. 1582(d)) is amended by—

(A) striking out "that is adulterated or unfit for seeding purposes" in the matter preceding clause (1); and

(B) striking out clause (3).

(4) Sections 303 and 304 of such Act (7 U.S.C. 1583 and 1584) are repealed and sections 305 and 306 of such Act (7 U.S.C. 1585 and 1586) are redesignated as sections 303 and 304, respectively.

The SPEAKER pro tempore. Is a second demanded?

Mr. THOMAS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes, and the gentleman from California (Mr. THOMAS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7005, a bill to amend the Federal Seed Act to change certain labeling and testing requirements that have been rendered obsolete due to a number of advancements in seed technology and marketing. These changes are primarily of a technical nature, will eliminate undue burdens and expense on both the seed industry and the Federal Government, while maintaining adequate protection for users of seed.

H.R. 7005 would amend title II of the Federal Seed Act to delete the requirement that any agricultural seed mixtures intended for lawn and turf seed purposes, in containers of 50 pounds or less, be labeled as "Fine-Textured Grasses" or "Coarse Kinds." Because of the development of new improved varieties of grass seed, it has become increasingly difficult, and virtually impossible, from a legal standpoint, to make a distinction between these categories. The Association of American Seed Control officials has adopted a change in the Recommended Uniform State Seed Laws to eliminate the labeling requirement for these categories. A number of States have already adopted the labeling change; other States, however, are awaiting changes in the Federal Seed Act before changing their State laws.

A member of the seed industry selling seeds on a national level finds it costly and burdensome in attempting to conform to these differing requirements.

A second change made to the Federal Seed Act, pertaining to lawn seed mixtures, would revise the labeling requirement to provide that only the month and year of the oldest germination test be required. Since the test must be completed within a 5-month period of the date of shipment, listing only the oldest germination test date would automatically cover those varieties within the mixture which had been tested at a later date. There is a great deal of information required on a small package of seed and, since this is a control measure and does not afford the consumer additional protection, it would save time and money in printing the label and make it easier for the consumer to understand the information on the label.

The bill amends the act to provide the Secretary of Agriculture with authority to extend the 5-month period between the test date and date of shipment, when he finds that, under ordinary conditions of handling, the seed will maintain its germination qualities over a longer period of time.

H.R. 7005 also contains a number of amendments to the Federal Seed Act relating to restrictions on the importation of seed. Title III of the Federal Seed Act now requires testing of imported seed to determine if it meets the pure live seed requirements of the act and whether the seed contains more than 2 per centum by weight of common weed seeds. According to testimony received by the committee, there is currently no demonstrated need for continuing to carry out these activities. Examining seed imports to determine that the level of common weed seed contamination does not exceed 2 per centum is not cost effective. In fiscal year 1980 only 2 of over 9,000 imported seed lots (1980) were determined to exceed that level.

USDA believes that the current requirement does not protect the United States from contamination since these common weed species are prevalent throughout this country. Further it does not serve to protect seed buyers since domestic crop seeds containing various amounts of these same weed seeds are routinely marketed in this country. The amendment to delete requirements for pure live seed and common weed seed would not in any way affect the Department's responsibility for examining imports for the presence of noxious weed seed under the Noxious Weed Act.

Many seed imports have been produced outside the United States for various reasons by or under the direct control of U.S. seed firms, with the balance produced or purchased under specific contract specifications for quality factors. Thus, the purity and germination qualities of imported seed are established prior to shipment. Once the seed enters interstate commerce, it must meet all requirements for the shipment of domestic seeds as established under the Federal Seed Act and State seed laws. Elimination of the requirements for pure live seed testing and testing for common weed seed contamination will facilitate movement of imported seed, reduce

the workload in laboratory testing, and thus result in some cost savings.

I ask all members to join me in supporting enactment of H.R. 7005.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, I rise in support of H.R. 7005, the Federal Seed Act Amendments of 1982. This legislation amends the Federal Seed Act to change certain labeling and testing requirements that have been rendered obsolete due to a number of advancements in seed technology and marketing.

These amendments are primarily technical in nature and will eliminate undue burdens and expense on both the seed industry and the Federal Government.

This legislation as introduced by my California colleague, Congressman FAZIO, resulted from some administrative action taken by USDA. The proposed budget for the fiscal year 1983 calls for closing of four regional seed laboratories. One of the primary functions of these laboratories is to provide technical backup in regulating the import of seed. Concurrent with the closing of these labs the administration of title III of the Federal Seed Act is transferred to the Animal and Plant Health Inspection Service from the Agricultural Marketing Service. This is logical since APHIS already has the responsibility, under separate legislation, for administration of the Federal Noxious Weed Act and the phytosanitary regulations governing imported seed.

Another purpose in amending the Federal Seed Act is that of eliminating conflicts between Federal and State seed laws and providing flexibility to the Secretary of Agriculture in administering the act.

Thus by making these needed changes we assist the Animal and Plant Health Inspection Service meet its obligations in carrying out its new responsibilities with reduced manpower and funding.

This legislation has the approval of the Department of Agriculture as well as the American Seed Trade Association.

Mr. Speaker, I urge my colleagues to support the enactment of this legislation.

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

If I might add to what my distinguished colleague from California (Mr. THOMAS) just mentioned, the members of the seed industry selling seeds on a national level find it costly and burdensome in attempting to conform to differing State and Federal requirements. This is an attempt to make changes that are necessary, uniform and conforming to modern needs in the Federal Seed Act pertaining to lawn and turf seed mixture provisions, labeling requirements and provisions relative to the month and year of the oldest germination test.

The industry has worked long and hard in trying to see that their tests, their labelings, abide by all of the requirements of protecting consumers and protecting the users of those seeds, but nonetheless, this is a changing technology and the needs not only of consumers but of commercial producers are such that the basic Seed Act was obstructing some of the commercial flow of these seeds which are sold not only through hardware stores and drugstores, et cetera, but through commercial seed suppliers.

This legislation represents the united and cooperative effort of the industry, working hand in hand with the Department of Agriculture and with our committee, who, I might state, has been very diligent, as well as the subcommittee that handles this legislation, in continuing oversight over this matter.

These are minor changes, mostly technical in nature. I am satisfied that they would accrue to the benefit of consumers, the eventual users of the products.

There would be some savings in these very difficult times both to the consumer, to commercial or private purchasers of seeds, as well as to suppliers to the general public.

At this time, Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. FAZIO) who is the prime sponsor of the legislation.

Mr. FAZIO. I thank the chairman very much for yielding this time.

I would also like to express my appreciation to the chairman of the full committee, Mr. DE LA GARZA, and the chairman of the subcommittee, the gentleman from California, Mr. GEORGE BROWN, for their very expeditious handling of this legislation.

This is very crucial to the seed industry which is so dominant in California and which is particularly well represented in the agricultural community that I represented in the agricultural community that I represent in northern California, the Sacramento Valley.

This legislation is important to the industry because it helps them deal with the reality of the closure of four regional seed laboratories throughout the Nation. I think it is going to go a long way toward making it possible for the remaining Federal agencies with jurisdiction and the State seed laboratories working hand in hand to insure that these closure and the consequent cost reductions do not have a negative effect on the industry, particularly in its import-export business aspects.

Mr. Speaker, I appreciate the attention of the House to this matter which, while relatively small in comparison to most items before us, is of some timely significance to producers and vendors of seed in the Nation. I introduced it as the request of the seed industry and the Department of Agriculture for the direct purpose of eliminating from the 1939 Seed Act some provisions which have become by general consensus obsolete. The first has to do with requirements that grass seed by labeled fine or coarse, a distinction which had some meaning at one time but which has none whatsover now.

The second set of provisions constituted requirements that the USDA perform pure live seed random sampling testing on imported seed, to standards set in the thirties. All the States have seen laws of their own and in most cases those standards are higher than those set in the Federal Seed Act. In no case are they lower. Further, for purposes of its own industry has standards it imposes upon itself which are generally higher still. So there is no need for the requirement, and we propose to alleviate the AMS from the pointless burden of fulfilling it.

The urgency behind the bill derives from the need to eliminate this requirement before the AMS completes closure of its four regional seed laboratories, October 1. At that time all the seed laboratories' functions which have not been otherwise delegated would be consolidated into one main laboratory at Beltsville, Md. It is obvious from the perspective of a west coast seed dealer, for instance, that dealing with one laboratory 3,000 miles away might lead to expensive delays in the handling of seed as compared with dealing with the former regional AMS lab in Sacramento. Departmental representatives have assured the Congress during hearings before the Agriculture Committee that one function known as noxious weed testing can be safely delegated to the Animal and Plant Health Inspection Service. Another, the issuance of Federal certificates on the quality of U.S. seed exported, could be delegated to the State seed labs by the AMS if the additional shipping time required for certification in Beltsville becomes a burden. The USDA assured us of its wilingness to delegate certification to the States should time prove a problem.

The only remaining function to be dealt with became pure live seed random sampling, and rather than delegate it or perform it from Beltsville the simplest solution was determined to be eliminating it altogether. I appreciate very much the cooperation of the American Seed Trade Association, my colleague GEORGE BROWN, chairman of the Agriculture Subcommittee on Department Operations, and the distinguished chairman of the full House Agriculture Committee, KIKA DE LA GARZA, for all their assistance in helping me do so.

● Mr. WAMPLER. Mr. Speaker, I rise in support of H.R. 7005, the Federal Seed Act Amendments of 1982. This legislation would eliminate certain obsolete provisions of the Federal Seed Act.

The Federal Seed Act first was enacted into law in 1939 and very few changes have been made in the law since that time. Because of advancements in seed technology and marketing, many of the provisions are outdated.

These amendments are supported by the U.S. Department of Agriculture and by the American Seed Trade Association.

I would urge my colleagues to support this legislation.●

Mr. THOMAS. Mr. Speaker, I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 7005, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills, H.R. 6865, H.R. 6142, H.R. 6679, H.R. 5455, H.R. 5456, and H.R. 7005, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZATION FOR APPROPRIATIONS OF MARITIME PROGRAMS FOR FISCAL YEAR 1983

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5723) to authorize appropriations for certain maritime programs of the Department of Transportation for fiscal year 1983, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5723

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Transportation for fiscal year 1983, as follows:

(1) for payment of obligations incurred for operating differential subsidy, $454,010,000;

(2) for research and development, $15,300,000;

(3) for operations and training, $78,113,000 including—

(A) $7,505,000 for reserve fleet expenses;

(B) $36,707,000 for maritime education and training expenses, including $17,251,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $17,768,000 for financial assistance to State maritime academies, and $1,688,000 for expenses necessary for additional training; and

(C) $33,901,000 for other operating and training expenses; and

(4) for the acquisition of three C-6 type vessels for the National Defense Reserve Fleet pursuant to section 510 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1160), for operators replacing such vessels in their services with vessels to be delivered by United States shipyards during 1982, not more than $25,000,000.

SEC. 2. There are authorized to be appropriated for the fiscal year 1983, in addition to the amounts authorized by section 1 of this Act, such supplemental amounts for the activities for which appropriations are authorized under section 1 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

SEC. 3. Section 1103(f) of the Merchant Marine Act, 1936 (52 Stat. 969), as amended (46 U.S.C. 1273(f), is amended by striking the figure "$12,000,000,000" and inserting in lieu thereof the figure "$15,000,000,000" and inserting at the end thereof the following: "No application that meets the standards and criteria of this title, the approval of which will not cause the aggregate unpaid principal amount of the obligations guaranteed under this section and outstanding at any one time to exceed the dollar limitations herein, shall be denied or deferred.".

SEC. 4. The Merchant Marine Act, 1920 (41 Stat. 988), as amended (46 U.S.C. 861 et seq.), is amended by adding at the end of section 27: "For the purposes of this section, after December 31, 1983, or after such time as an appropriate vessel has been constructed and documented as a vessel of the United States, the transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(5)), from a point in the United States for the purpose of the incineration at sea of that waste shall be deemed to be transportation by water of merchandize between points in the United States; *Provided, however,* that the provisions of this sentence shall not apply to this transportation when performed by a foreign-flag ocean incineration vessel, owned by or under construction on May 1, 1982 for a corporation wholly owned by a citizen of the United States; the term "citizen of the United States," as used in this proviso, means a corporation as defined in section 2(a) and 2(b) of the Shipping Act, 1916 (46 U.S.C. 802(a) and 2(b)). The incineration equipment on these vessels shall meet all current United States Coast Guard and Environmental Protection Agency standards. These vessels shall, in addition to any other inspections by the flag state, be inspected by the United States Coast Guard, including drydock inspections and internal examinations of tanks and void spaces, as would be required of a vessel of the United States. Satisfactory inspection shall be certified in writing by the Secretary of Transportation. Such inspections may occur concurrently with any inspections required by the flag state or subsequent to be no more than one year after the initial issuance or the next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making such inspections, the Coast Guard shall refer to the conditions established by the initial flag state certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of an equivalent fitting, material, appliance, apparatus, or equipment other than that required for vessels of the United States if the Coast Guard has been satisfied that fitting, material, appliance, apparatus, or equipment is at least as effective as that required for vessels of the United States."

SEC. 5. That, notwithstanding the failure of the vessel named below to meet the requirements contained in sections 111 and 112 of the Vessel Documentation Act, as amended (46 U.S.C. 65 i and j), and section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), on the date of this Act, the Secretary of the Department in which the Coast Guard is operating shall cause the vessel Centurion, owned by Joseph B. Simoncelli, to be documented as a vessel of the United States upon compliance with all other requirements of law, with the privilege of engaging in the coastwise trade.

The SPEAKER pro tempore. Is a second demanded?

Mr. SNYDER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. JONES) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5723 as amended. The bill before us today is the bill to authorize appropriations for the Maritime Administration in the Department of Transportation. The bill authorizes amounts exactly equal to those which the appropriations bill, H.R. 6957, provides. Likewise, H.R. 5723 reflects accurately the administration's requests, except for two minor items.

The first deviation is necessary to provide a little over $7.1 million to renovate the Massachusetts training vessel, the *Bay State* which suffered extensive fire damage. The second exception is the authorization of not more than $25 million for the acquisition of three trade-in vessels for the defense reserve fleet. In addition to providing much needed vessels for our defense reserve fleet, this authorization fulfills a commitment of the United States to buy back vessels when U.S.-built replacements become operational. The ability of the Maritime Administration to fulfull this obligation was impaired when, at the insistence of the administration, we zero budgeted the construction subsidy account from which these buy-backs would have been funded. Again I reiterate that the Appropriations Committee has included both the $7.1 million for the *Bay State* and the $25 million for defense reserve fleet acquisitions in H.R. 6957.

The routine authorization items, including those previously discussed, total $572,423,000 and break down as follows:

First, operating differential subsidy, $454,010,000.

Second, research and development, $15,300,000.

Third, operations and training, $78,113,000; reserve fleet, $7,505,000; maritime education, $36,707,000 ($17,251,000, U.S. Maritime Academy; $17,768,000, State maritime academies; $1,688,000, additional training); and other operating costs, $33,901,000.

Fourth, reserve vessel acquisition, $25,000,000. Note, that as in fiscal year 1982, and as a departure from H.R. 5723, as reported by the Committee on Merchant Marine and Fisheries, this bill contains no request for funding of the construction differential subsidy program. It is still our sincere desire to fashion a workable, cost-efficient ship construction program, and the elimination of the $100 million for construction subsidy from this bill should be viewed as temporary only, pending the development of a comprehensive maritime promotional policy. We continue to work with the administration to achieve this goal.

Among the nonappropriations items in H.R. 5723, as amended, is the authorization to strengthen the ship mortgage guarantee program. Title XI of the Merchant Marine Act, 1936 has, from its inception, been successful in encouraging shipbuilding in U.S. yards without one penny's cost to the taxpayer. The amendment in this bill is intended to clarify the intent of Congress that the program not be restricted as to vessel types; nor should artificial limitations be placed on the amounts which are available in the title XI account.

In recognition of the need to protect our ocean and coastal environment, the bill also imposes stricter control over the ocean transportation of hazardous wastes which will be incinerated at sea. H.R. 5723 will require that such transportation be in U.S.-built, U.S.-operated vessels. Since there is foreign-flag operator now offering incineration services, H.R. 5723 "grandfathers" a maximum two vessel foreign-flag operation, but makes it subject to strict U.S.-inspection requirements.

Finally, the bill authorizes the U.S.-built sailing ship *Centurion*, a replica of an 1812 customs cutter to be appropriately utilized by permitting her to operate as a vessel of the United States, in all trades.

I ask your support for this bill which the administration does not, as the bill is presently constituted, oppose.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. JONES of North Carolina. I yield to the gentleman from California.

Mr. Speaker, I would like to commend our distinguished colleague, the gentleman from North Carolina (Mr. JONES), for leadership in respect to this legislation and throughout the entire maritime area of jurisdiction. I would also like to thank our distinguished colleague from New York.

I would like to express my concern about the deletion of $100 million for the construction differential subsidy program. I hope, as the distinguished Chair noted in his remarks, that this is only temporary and will be dealt with soon.

Our maritime industry is at a critical stage. If our shipbuilding capability continues to decline, America's shipbuilding mobilization base will be seriously threatened. This could result in the loss of thousands of jobs and the further demise of a key U.S. industry. The construction differential subsidy program can provide critical work for U.S. shipyards. It deserves our support.

□ 1315

Mr. JONES of North Carolina. Mr. Speaker, I thank the gentleman for his comments, and I would just like to say that the gentleman from California (Mr. PHILLIP BURTON) through the years has been a strong supporter of all maritime legislation for the betterment, the buildup, and the protection of our maritime service.

Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. DONNELLY).

Mr. DONNELLY. Mr. Speaker, I rise in strong support of the committee substitute for H.R. 5723.

For those of us who hope to relieve the depression in American heavy industry, this version of the bill is far superior to the authorization passed by the Senate.

In most shipbuilding countries the national governments offer large-scale subsidies for new ship construction. Historically, the United States has refused to get into such a bidding war. There are, though, a couple of important incentives on the books in this country to attempt to keep American shipbuilders in a reasonably competitive position.

The Senate version of this legislation not only would do away with those incentives, it would actually apply those taxpayer-supported incentives to the construction of ships in foreign yards. That position would undercut our own deeply troubled shipbuilding industry, as well as American producers of steel and other materials essential to ship construction.

In fiscal year 1983, the maritime authorization will provide direct operating subsidies to American-flagged merchant ships of more than $454 million. In order to qualify for this subsidy, the ships must be operated by American crews, and built in American shipyards. The Senate bill unlike the House bill before us would allow ship operators to continue to draw operating subsidies even if they replaced their current ships with vessels built overseas through 1984.

Another longstanding incentive to operate American-built ships is the capital construction fund. Earnings of qualified ships remain tax deferred, so long as they are invested in future ship construction in this country. The Senate bill allows these tax-deferred dollars to be withdrawn without penalty to finance foreign modification or replacement for American-built ships.

During deliberation on the maritime authorization bill, the House Merchant Marine Committee carefully considered these two key provisions. In both cases, the committee found that the national interest would best be served by maintaining these limited incentives only for American shipbuilding.

The committee determined that it made no sense for the Tax Code or taxpayer-supported subsidies of our merchant marine to be used to subsidize the export of jobs from American industry.

Last year, Mr. Speaker, subsidized operators were granted temporary authority to build foreign without jeopardizing their Government benefits. That shortsighted provision expires at midnight Thursday. In that 1-year grace period, foreign ship construction projects either approved or pending before the Maritime Administration represent the loss of $1 billion in business for our shipyards and our steel industry has lost potential orders of 400,000 tons of steel.

At a time when unemployment in our heavy industries has reached depression levels the American taxpayer cannot be asked to give active financial support to foreign industry. That is the conclusion reached by the Merchant Marine Committee. That is the conclusion I urge my colleagues to reach in this House today, and that is the conclusion I urge the conferees on this legislation to demand in the final version of the bill.

Mr. Speaker, I commend the chairman of the full committee, the chairman of the subcommittee, and the ranking minority member for their work, in these efforts.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5723, a bill to authorize appropriations for certain maritime programs of the Department of Transportation for fiscal year 1983. Although the bill before us does not comply entirely with the administration's request, it does represent a respectable attempt to hold down spending in several key areas. I understand that the administration does not object to the House consideration of H.R. 5723 but will work vigorously in conference to insure that specific areas of concern, such as the title XI loan guarantee program, are modified to reflect the administration's position.

The committee amendment provides authority of $454,010,000 for the operating-differential subsidy program (ODS) which is the same amount requested by the administration. Under the ODS program, the Government subsidizes the operation of U.S.-flag vessels by paying a direct subsidy to the vessel operators to compensate for the difference between what it costs a U.S.-flag operator to operate versus

the cost of a similarly situated foreign operator. While I personally do not agree with the principle of ODS this obligation is the result of existing long-term contracts which must legally be honored.

The bill provides $15,300,000 for research and development. This is $1,500,000 less than the amount requested by the administration.

Also provided for under the bill is $78,113,000 for operations and training. This exceeds the administration request by $7,100,000 and is principally intended to be used to repair the vessel, *Bay State*, which is used by the Massachusetts State Maritime Academy and was damaged by a fire.

The bill also contains not more than $25 million for the acquisition of three C-6 type vessels for the National Defense Reserve Fleet. These vessels would be purchased from operators replacing their vessels pursuant to their ODS contracts.

Another provision in the bill raises the title XI loan guarantee authority from $10 billion to $12 billion, and includes language which is intended to preclude the administration from imposing an annual ceiling on the amount of loans which may be approved during any fiscal year. The administration opposes this provision and intends to work in conference to modify it.

Section 5 extends the coverage of the Merchant Marine Act of 1920—Jones Act—to include the transportation of hazardous waste material from a point in the United States for the purpose of incineration-at-sea, effective December 31, 1983, or such time as an appropriate such vessel—U.S.-built, U.S.-flag—has been documented as a U.S. vessel. Since the full committee markup, much work has been done to insure that the existing foreign-flag operator is grandfathered into the Jones Act trade and still complies with the relevant U.S. Coast Guard and EPA standards. The existing operator is Waste Management, Inc., of Chicago, Ill., which owns two incineration ships. In order to insure that all such vessels, regardless of flag, are maintained in a very high state of repair, and meet all U.S.-mandated standards for ocean incineration, the committee has included language which insists upon regular Coast Guard inspection.

Last, a new section has been added which directs the Secretary of Transportation to document the vessel *Centurion* as a vessel of the United States. The *Centurion* is a 53-foot replica of an American gunboat used in the War of 1812. The vessel was built in the United States in 1947, but lost its coastwise trading privileges because it was once owned by non-U.S. citizens. Congressman JOSEPH M. MCDADE introduced a bill (H.R. 7071) which would direct that the *Centurion* be documented as a U.S.-flag vessel, and this provision in the authorization bill incorporates Mr. MCDADE's bill. The administration does not object to H.R. 7071.

In conclusion, Mr. Speaker, I hope that my colleagues will support H.R. 5723.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I rise in support of this legislation which responds to requirements of section 209 of the Merchant Marine Act of 1936. I would also like to associate myself with the remarks of the gentleman from Kentucky (Mr. SNYDER), the ranking minority member of the Committee on Merchant Marine and Fisheries.

This legislation represents a careful and balanced approach to the further development of the foreign and domestic commerce and our national defense requirements through the maintenance of a viable and effective merchant marine—supplemented by an efficient shipbuilding and ship repair industry.

Mr. Speaker, the U.S. shipbuilding industry is in trouble. Heavily subsidized foreign shipyards and inexpensive foreign labor have combined to siphon work from American shipyards, and as a result, half of the 12 leading U.S. shipyards are simply running out of work. Both our national security and our foreign commerce commitments requires that the Congress and the administration work together to formulate a maritime policy which will fulfill these obligations.

This legislation, is what I believe, a responsive approach to to this commitment. It contains the necessary authority for the maritime research and development program, acquisition, construction (or reconstruction) of Merchant Marine vessels, and maintains the National Defense Reserve Fleet—our only source of reserve shipping resources during times of national emergency. The bill also provides for maritime training at the Merchant Marine Academy and the six State maritime academies. All of these activities are essential to our maritime strategy in the 1980's and I believe that the national security significance of this legislation far outweighs any argument to the contrary.

Mr. Speaker, I urge my colleagues to support passage of this bill.

Mr. SNYDER, Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. FINDLEY).

(By unanimous consent, Mr. FINDLEY was allowed to speak out of order.)

H.R. 6838, A BILL TO RESCIND CERTAIN OIL AND GAS EXPORT CONTROLS, MAY BE SCHEDULED THIS WEEK

Mr. FINDLEY. Mr. Speaker, many of my colleagues expected that on today's program would be my bill to rescind the sanctions against the Soviet Union related to pipeline equipment.

I have learned that the Secretary of State, Mr. Shultz, made an urgent plea to Speaker O'NEILL earlier today, citing the fact that he would have discussions with foreign ministers from Western Europe today and tomorrow and asking that the bill not be considered on today's schedule for that reason.

In my opinion, the request from the Secretary of State was untimely and unjustified, and I regret it very much; but I certainly do not quarrel with Speaker O'NEILL's thoughtfulness in cooperating with the Secretary of State.

The Secretary of State said that action today on this bill, which I think would have a very substantial majority in favor of it, would undercut his position in talking about the pipeline issue with the foreign ministers. Well, my main concern is whether or not the continuation of sanctions will undercut the very livelihood of thousands of workers and heavy equipment factories throughout the United States and especially in central Illinois.

A major factory in my district is simply going to be shutdown in a few days for want of business; and, otherwise, had it not been for the sanctions, would be employing 400 or 500 people for the next 4 or 5 years. So the question is undercutting the livelihoods of workers in the United States.

Nevertheless, the bill is still available, pending, and it is my hope and expectation that it may well be scheduled before the week is over.

UAW AND NAM SUPPORT END TO PIPELINE SANCTIONS

Mr. Speaker, I would like to call the attention of my colleagues to the following letters in support of H.R. 6838 from the UAW and from the National Association of Manufacturers. Both labor and industry support an end to these unilateral U.S. pipeline sanctions which have been a costly failure.

UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA,
Washington, D.C., September 27, 1982.

DEAR REPRESENTATIVE: The UAW urges you to support H.R. 6838. This bill would reverse administrative decisions made in December and June to restrict sales and deliveries to the Soviet Union on foreign policy grounds. Those two decisions substantially reduce employment in this country with negligible effect on the Soviet pipeline and, unfortunately, no support for Polish workers.

In today's world economy, the U.S. cannot impose effective economic sanctions without the full cooperation of its European and Japanese allies. This has been driven home to UAW members this year.

The December decision prevented Caterpillar Tractor and Fiat-Allis from shipping pipelaying equipment and bulldozers to the Soviets. Soon thereafter, Komatsu—with Japanese government approval—announced that it would begin to fill orders of just such equipment worth hundreds of millions of dollars.

The additional loss of work to our members at Caterpillar and Fiat-Allis is devastating. At Caterpillar, almost a third of the workforce of 60,000 has been laid off; the plant at Fiat-Allis, which recently had 1,200 workers, is scheduled to close indefinitely in November. Unless the December decision is

reversed, potential contracts for more equipment worth several hundred million dollars—and, more importantly, several thousand jobs—will be denied to these U.S. companies and workers and snapped up by foreign competitors.

Thank you for considering our views on this issue.

Sincerely,

DICK WARDEN,
Legislative Director.

NATIONAL ASSOCIATION
OF MANUFACTURERS,
Washington, D.C., September 28, 1982.

Hon. PAUL FINDLEY,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN FINDLEY: I am writing to express the support of the National Association of Manufacturers for legislation, H.R. 6838, now pending before the House of Representatives which would lift controls on oil and gas equipment exports to the Soviet Union. Our views on the efficacy of economic sanctions in general and the so-called "pipeline" controls in particular are set forth in the enclosed letter to President Reagan and in our testimony before the Senate Foreign Relations Committee.

In both these documents we recommended that the Administration "withdraw the regulations that went into effect in December and June at the earliest possible date." We regret that these control policies have not been rescinded. In fact, the conflict over the controls has escalated with the Administration placing various foreign licensees of U.S. oil and gas technology and foreign subsidiaries of U.S. companies in this field on a limited export denial list.

In the face of the Administration's determination on this policy matter, we feel that there is no alternative but to support Congressional action to lift the controls imposed on December 30, 1981 and June 22, 1982. We do not take this step without serious thought. We are fully aware of the need to preserve Presidential power in foreign affairs. We are also aware of the need to preserve stable commercial relations with the rest of the world—a point not adequately recognized by the latest U.S. export control policies.

It should be noted that precedent already exists for Congressional override of Presidential decisions regarding export controls. Under the Export Administration Act, if the President acts to restrict U.S. agricultural exports for either foreign policy or short supply reasons, the Congress within thirty days can adopt a concurrent resolution disapproving the Presidential action and lifting the controls.

In 1979, the version of the Export Administration Act passed by the House would have permitted this type of Congressional disapproval of all new control policies whether applying to agriculture or industrial products. In the House-Senate conference, this Congressional veto was limited to agriculture. But the Conference Report stated that "in agreeing to eliminate the House provision for Congressional veto by concurrent resolution of new forms of export controls for foreign policy purposes, the conferees emphasized their expectation that the Executive Branch would consult fully with Congress prior to employing any such controls, and agreed to give further consideration to a Congressional veto mechanism in subsequent legislation in the event that prior consultation on foreign policy controls proved inadequate . . ."

It is our view that the consultation process described above has been given only perfunctory attention by the Administration in imposing the controls of December 30, 1981 and June 22, 1982. Legislation such as H.R. 6838 is the logical step to be taken under the circumstances. NAM, therefore, would urge prompt Congressional action on this bill.

Sincerely,

A. B. TROWBRIDGE.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I want to associate myself with the remarks of Chairman JONES. I also want to highlight the strong bipartisan effort that has been made to bring this bill up for consideration under suspension of the rules. Many of us who are directly involved in these maritime issues have had some difficulty in accepting some of the agreed-to changes to H.R. 5723. Be that as it may, I think it is important to express my concern over two areas I feel deserve everyone's attention.

First, I want to highlight the fact that the condition of the federally provided training vessels that are being used to train prospective merchant marine and Naval Reserve officers at the State maritime academies is close to a national disgrace. They are old—devoid of spare parts—full of antiquated training equipment—and fuel-inefficient.

These antiquated vessels are simply not capable of providing state-of-the-art training. They do not compare to the new and modern training vessels that are used by other maritime nations, particularly those of the Eastern bloc nations.

An example is the Massachusetts training vessel, *Bay State*, which has been subjected to numerous mechanical breakdowns and has required extensive shipyard repairs to remain marginally operational. Recently, soon after undergoing repairs at a shipyard, she suffered a near-fatal fire in her engineroom that resulted in serious and costly damage.

I recommended—and we in committee were successful in adding—$10 million dollars over the administration's request to fund repairs for all State vessels. I was pleased to see that the Appropriations Committee accepted our judgment—although they reduced it back to $7.1 million. This, gentlemen, is still only stopgap aid. We must, in the near future, look at the desirability of building new and modern training vessels.

I believe that the Federal support provided to State maritime academies is still the least expensive alternative for providing officers for the merchant marine, the Navy, and the related maritime transportation industries. We must give them the support they require. The basic cost of Federal funding is minuscule, in contrast to what State taxpayers are paying.

The second and probably the most difficult issue we as a nation must face is our eroding shipyard capability and support industries for the construction and repair of merchant vessels, such as container vessels, roll-on/roll-off vessels, dry-bulk carriers, oil tankers, and other vessels such as drilling rigs and offshore support vessels. The problem centers on the apparent demise of the construction differential subsidy program.

The present administration, in its first budget submission for fiscal year 1982, proposed an annual program level for CDS of $100 million for 1982 and for each year through the year 1986. Since then, no new funds have been authorized for 1982, and the program appears dead. We all know that $100 million is not much, since it will not support one shipyard nor build more than a couple of vessels; however, the amount of funding is really not the issue.

While I have not always agreed with all of the features of the CDS program, I feel that it should not die until suitable changes or alternatives have been developed and are in effect. The CDS program can be very effective in maintaining a merchant vessel shipbuilding and ship repair base—if it is adequately funded and planned so as to permit series construction and standardization.

The competitive position of our shipyards has been adversely affected due to the need for the shipyards to continually shift and adjust for the construction of different types of vessels. They are also competitively disadvantaged by the support foreign governments give to their own shipyards—and the tax and trade incentives they provide to purchasers of domestic-built vessels.

Maybe some sort of Federal funding for the building of a standard-type vessel that is a combination containership with roll-on/roll-off capability and adequate tankage for bulk cargoes might be one answer. Maybe this, along with various lease-back arrangements with industry and the Navy, is another answer. Maybe new tax and trade incentives are in order.

What I do know is that we cannot afford to lose our shipyard capability nor the capabilities of the dozens of dependent support industries. President Reagan, in his "seven point program for the development of an effective maritime strategy," included an assurance that our vital shipbuilding mobilization base is to be preserved.

Various studies support the need to maintain this capability. A data resources study indicates every new ship dollar spent infuses an additional $3.80 into the economy. Dollar value is returned to the United States in the form of lessening of unemployment benefits and welfare programs—increased international trade in aid to our balance of payments—and increased support of peripheral industries.

Another study by a Prof. H. C. Chung has highlighted the value of CDS. It indicates that, during the 1971–78 period:

A total of $1.4 billion in CDS was awarded that led to 4.2 billion dollars' worth of U.S.-flag vessels;

Gross national product contribution was $1.8 billion;

Shipyards invested over $1.5 billion in capital improvements;

Direct and indirect impact was estimated at: $5.7 billion in output; $2.4 billion in personal income; $70 billion in value added by industries; and 494,000 man-years of employment through affected industries.

What makes the CDS issue so critical is that the United States liner industry has reached a stage where they must replace their vintage vessels with newer, state-of-the-art, fuel-efficient vessels if they are to remain competitive with foreign-flag shipping.

If they have to build in U.S. Shipyards without the aid of CDS, there is absolutely no way they can compete with cheaper foreign-built foreign-flag vessels.

If they build their replacement vessels in foreign yards, then they will lose their operating differential subsidy. With such a loss, there is absolutely no way they can compete with cheaper Third World crews of competing foreign-flag vessels.

Today, I only want to emphasize the problems facing U.S.-flag vessel operators and the shipyards, because it is in the national interest. Later in this Congress and certainly during the next, we will have to find solutions for these problems.

At this time, I urge the support of all Members for H.R. 5723, as amended.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Speaker, I want to thank the gentleman at this point for yielding and for his leadership in this field.

Let me just say that the fire on the vessel *Bay State,* to which the gentleman referred, unfortunately was a fatal fire. One cadet did lose his life in that fire. Let me just say that all that the gentleman has said with respect to the obligation of this Nation to adequately provide for the training of its merchant mariners is true many times over.

I commend the gentleman for his leadership and I look forward to working with him to correct a situation which never should have been allowed to develop in the first instance.

□ 1330

Mr. JONES of North Carolina. Mr. Speaker, I yield 1½ minutes to the gentleman from Louisiana (Mr. BREAUX).

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. JONES) has 3 minutes remaining.

Mr. SNYDER. Mr. Speaker, if the gentleman would like a little more than the 3 minutes, I would be glad to yield some time. I am waiting for one speaker.

Mr. JONES of North Carolina. Under those conditions, Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I would take this time to commend our distinguished chairman, the gentleman from North Carolina (Mr. JONES) and the gentleman from New York (Mr. BIAGGI) for the work they have put into this legislation.

It is not uncomplicated. It covers a number of areas which have merited the detailed consideration of our committee over a number of months of extensive hearings.

I would use a little amount of time I have just to address one particular aspect of the authorization bill, and that is that we have in this legislation language that guarantees, No. 1, that all new vessels that are going to be engaged in the incineration of toxic waste chemicals in U.S. waters will be built by U.S. citizens and U.S. shipyards, and will be built according to U.S. Government standards.

And in addition, they will be inspected by the Environmental Protection Agency, and that the U.S. Coast Guard will have to certify that these vessels meet all of these very rigid safety requirements. I point this out because there are some incineration vessels, one and possibly another one, that will be foreign built.

The committee wrestled a long time with trying to be equitable, and the compromise that has been brought to the floor today, I think, is an equitable compromise. And thanks to the chairmen of the subcommittee for his detailed attention.

What we are basically saying is that existing vessels, if they can meet U.S. standards, will in fact be allowed to continue. This is a very narrow exemption, and we are calling on the Coast Guard to make sure that it is enforced and enforced in detail. And I can assure the Members of Congress that this Member and I know others will do everything that we can to make sure that any vessels that are operating in U.S. waters that are turning toxic wastes, which are very, very sensitive and very, very dangerous, will in fact be doing such in a manner that we can all feel comfortable with, knowing that they in fact are meeting the highest safety requirements.

The SPEAKER Pro tempore. The time of the gentleman from Louisiana (Mr. BREAUX) has expired.

Mr. SNYDER. Mr. Speaker, I yield 2 additional minutes to the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman very much for yielding me this time.

There were some who said that somehow we were being unfair to these two foreign built, foreign run, foreign operated vessels. I would say to heck with that notion. If we can require that cotton and grain be shipped in U.S.-built vessels, we certainly should have a requirement that toxic wastes be handled in U.S. vessels that are meeting the highest possible safety standards that the United States can possibly require.

We are not dealing with cotton. We are dealing with toxic chemical wastes. So we have been very strict I think in carving this very narrow exemption.

I would only say that as a committee I know we will insist that the Coast Guard make sure that all vessels meet the high safety standards that we have placed in this legislation. I think it is also very clear that the narrow exemptions that we have provided for these two vessels cover only these two vessels and should not in any way be construed to cover any replacements of these vessels should one of them have an unfortunate accident or need to be replaced for whatever reason; that we are talking about these vessels. We are in fact not talking about any replacement of these vessels, but only these two vessels.

I think we have a good bill, and I certainly commend the chairman of the subcommittee and the ranking minority member and the chairman of our full committee and the staff for their work and patience in bringing this legislation to the floor.

Mr. SNYDER. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I will only take a couple of minutes.

Mr. Speaker, the Committee on Merchant Marine and Fisheries, that I had the pleasure of serving on a few years ago, I think always does an outstanding job with this very important legislation, the Maritime Administration authorization. There are many features in this bill that obviously we need. We need to extend the act.

But I must confess that I have some reservations about suspending the rules to pass it at this time, without any opportunity to offer amendments. This is a substitute bill that is different from the one passed by the committee. The language providing for construction differential subsidy was eliminated.

But in the interest of getting the legislation through, and realizing that this may in fact be the last week that we can take up this legislation, I am going to mute my opposition.

So I just wanted to express that reservation. While I do support basically what they are attempting to do here, there is the concern I have that the shipbuilding industry is being dealt another blow here without any chance of amendment. I am sorry we are not going to be able to consider this important issue, but I do basically support the bill.

Mr. SNYDER. Mr. Speaker, I have no further requests for time and I reserve the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Speaker, I rise in support of passage of the fiscal year 1983 maritime authorization. It includes a very important provision which increases the ceiling on title XI Federal ship financing guarantees from $12 to $15 billion.

The title XI loan guarantees were first authorized in 1936 and they provide a guarantee by the U.S. Government for mortgages on American-built vessels. This mechanism is essential to the being of our shipbuilding industry, our merchant marine and our inland waterway transportation system.

The title XI program finances only part of the cost of the vessels involved. The program encourages capital formation because it requires users of the loan guarantees to fund 20 to 40 percent of the capital costs. However, this program is not a subsidy. Users of title XI must pay market rates for the financing plus an annual user charge of up to 1 percent of the guaranteed amount. These user charges pay all of the administrative costs incurred by the Maritime Administration.

This program is at no real cost to the Federal Government. No appropriated funds are involved. It also has no distorting effect on the national credit markets since title XI represents less than one four-hundredths of all federally assisted borrowing.

In sum, this is a good program that meets a real need by facilitating the construction of vessels for commerce and industry. I commend the committee for including this provision in H.R. 5723 and I urge passage of the bill.

● Mr. ZEFERETTI. Mr. Speaker, presently, the merchant marine industry in this country is seriously jeopardized and without the support and assistance of the Federal Government will be in grave peril.

Let us look at the facts:

Fact: Merchant ship construction has declined over 80 percent since 1972, and in 1982 contracts for only nine new buildings of 1,000 gross tons and over were placed with U.S. shipbuilders.

Fact: Employment of skilled workers in U.S. shipyards has declined by 50,000 over the last 10 years.

Fact: U.S. built, owned, and manned vessels now carry less than 4 percent of U.S. exports and imports.

Fact: If we allow the present decline in our merchant shipbuilding to continue the manpower and technology which we now control in American shipyards will be unavailable in 5 years' time.

In light of these statistics it would be utterly irresponsible and illogical to allow foreign subsidized operators to build foreign vessels and further the decline of an already depressed industry.

Yet, as incredible as it may seem, a number of my colleagues support provisions that would continue to work against American shipbuilding interests and instead advance subsidized foreign shipyards.

Mr. Speaker, H.R. 5723 hopefully will check the continuing erosion of the merchant marine industry and represents a vital step in turning this important and strategic industry around. I commend the members of the Merchant Marine and Fisheries Committee for bringing this bill forward and trust they will remain steadfast with the provisions of this measure if a conference is required. I enthusiastically support H.R. 5723 and urge my colleagues to do the same.●

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 5723, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table, a similar Senate bill, (S. 2336) to authorize appropriations for fiscal year 1983 for certain maritime programs of the Department of Transportation, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds are authorized to be appropriated for certain maritime programs of the Department of Transportation for the fiscal year 1983, as follows:

(1) for payment of obligations incurred for operating differential subsidy, not to exceed $454,010,000;

(2) for expenses necessary for research and development activities, not to exceed $16,800,000;

(3) for expenses necessary for operations and training activities, not to exceed $71,013,000, including not to exceed—

(a) $6,516,000 for reserve fleet expenses;

(b) $29,607,000 for maritime education and training expenses, including not to exceed $17,251,000 for maritime training at the Merchant Marine Academy maintained under section 1303 of the Merchant Marine Act, 1936, as amended, $10,668,000 for financial assistance to State maritime academies assisted under section 1304 of the Act, and $1,688,000 for expenses necessary for additional training provided under section 1305 of the Act; and

(c) $34,890,000 for other operations and training expenses.

SEC. 2. Section 615 of the Merchant Marine Act, 1936 (46 U.S.C. 1185), is amended to read as follows:

"SEC. 615. Notwithstanding any other provision of this Act, prior to October 1, 1984, an operator receiving or applying for operating differential subsidy under this title may construct, reconstruct, or acquire its vessels of over five thousand deadweight tons outside the United States. Any vessel constructed, reconstructed, or acquired in accordance with this section or section 1610 of Public Law 97-35 and any vessel otherwise constructed, reconstructed, or acquired outside of the United States and documented under the laws of the United States prior to October 1, 1984, shall be deemed to have been United States built for the purposes of this title, section 901(b) of this Act, and section 5(7) of the Port and Tanker Safety Act of 1978 (46 U.S.C. 391a(7)).".

SEC. 3. Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)), is amended by adding at the end thereof the following new sentence: "No additional limitations may be imposed on new commitments to guarantee loans for any fiscal year, except in such amounts as established in advance in annual authorization Acts.".

SEC. 4. The Secretary of Transportation shall not enter into new commitments to guarantee loans under section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)) in an amount greater than $2,250,000,000 during fiscal years 1983, 1984, and 1985: *Provided,* That not more than $850,000,000 may committed in any one of those years.

SEC. 5. (a) Section 1104(a)(3) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1274(a)(3)), is amended by inserting after the word "Fund" the words ", or for which related obligations were accelerated and paid by the Secretary,".

(b) Section 1104(h) of such Act (46 U.S.C. 1274(h)) is amended by inserting after the word "acceleration" the word ", assumption,".

(c) The first sentence of section 1105(a) of such Act (46 U.S.C. 1275(a)) is amended by inserting after the word "demand" the following: "(unless the Secretary shall, upon such terms as may in his discretion be provided in the obligations or agreements relating thereto, prior to such demand, in his discretion, have assumed the obligor's rights and duties under said obligations and agreements and shall have made any payments in default)".

(d) Section 1105(b) of such Act (46 U.S.C. 1276(b)) is amended to read as follows:

"(b) In the event of a default under a mortgage, loan agreement, or other security agreement between the obligor and the Secretary, the Secretary may (upon such terms as may in his discretion be provided in the obligations or agreements relating thereto), at his option and discretion—

"(1) notify the obligee or his agent of such default and the assumption by the Secretary of the obligor's rights and duties under said obligation and agreements relating thereto and make any payment in default; or

"(2) notify the obligee or his agent of such default and the obligee or his agent shall have the right to demand at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 60 days from the date of such notice, payment by the Secretary of the unpaid principal amount of said obligation and the unpaid interest thereon. Within such period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid principal amount of said obligation and unpaid interest thereon to the date of payment.

The validity of the guarantee of any obligation made by the Secretary under this title shall be unaffected and such guarantee shall remain in full force and effect not-

withstanding any assumption of such obligation by the Secretary pursuant to subsections (a) and (b) of this section.".

(e) The first sentence of section 1105(c) of such Act (46 U.S.C. 1275(c)) is amended by inserting after the word "payment" the words "or assumption" and by inserting after "Secretary", the first time it appears, the words ", in his discretion,".

SEC. 6. Section 362(b)(7) of title 1, United States Code, is amended to read as follows:

"(7) under subsection (1) of this section, of the commencement of any action by—

"(A) the Secretary of Housing and Urban development to foreclose a mortgage or deed of trust in any case in which the mortgage or deed of trust held by the Secretary is insured or was formerly insured under the National Housing Act and covers property, or combinations of property, consisting of five or more living units; or

"(B) the Secretary of Transportation to foreclose a mortgage on a vessel or vessels pursuant to the Ship Mortgage Act, 1920, as amended, held by said Secretary under the provisions of sections 1101-1110 or section 207 of the Merchant Marine Act, 1936, as amended; or".

SEC. 7. Commencing with fiscal year 1983, appropriation of funds to carry out the laws administered by the Federal Maritime Commission shall be subject to annual authorization.

SEC. 8. Funds are authorized to be appropriated in the amount of $11,650,000 for the use of the Federal Maritime Commission for the fiscal year 1983.

SEC. 9. Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), is amended by adding the following new sentence at the end thereof: "For the purposes of this section, after December 31, 1983, or until such time as an incineration vessel has been constructed in the United States and documented as a vessel of the United States, whichever occurs later, the transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(5)), from a point in the United States for the purpose of the incineration at sea of that waste shall be deemed to be transportation by water of merchandise between points in the United States: *Provided, however,* That the provisions of this sentence shall not apply to such transportation when performed by an ocean incineration vessel, or a replacement to such vessel in case of maritime casualty, owned by or under construction for a citizen of the United States on May 1, 1982. Such vessels shall meet all current Coast Guard and Environmental Protection AGency standards with respect to ocean incineration. The term 'citizen of the United States' means a corporation wholly owned by such a citizen as defined in section 2(a) and 2(b) of the Shipping Act, 1916 (46 U.S.C. 802(a) and (b))."

MOTION OFFERED BY MR. JONES OF NORTH CAROLINA

Mr. JONES of North Carolina. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. JONES of North Carolina moves to strike out all after the enacting clause of the Senate bill, S. 2336, and to insert in lieu thereof the provisions contained in the bill H.R. 5723, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to authorize appropriations for certain maritime programs of the Department of Transportation for fiscal year 1983, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 5723) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2336

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the House insist upon its amendments to the Senate bill (S. 2336) to authorize appropriations for certain maritime programs of the Department of Transportation for fiscal year 1983, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina. The Chair hears none, and without objection, appoints the following conferees: Messrs. JONES of North Carolina, BIAGGI, BREAUX, DONNELLY, SNYDER, MCCLOSKEY, and YOUNG of Alaska.

There was no objection.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2336, as amended, just passed by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON S. 2586, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1983

Mr. BRINKLEY submitted the following conference report and statement on the bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 97-880)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Military Construction Authorization Act, 1983".

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

SEC. 101. The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $25,120,000.
Fort Campbell, Kentucky, $10,650,000.
Fort Carson, Colorado, $11,900,000.
Fort Devens, Massachusetts, $3,200,000.
Fort Drum, New York, $1,550,000.
Fort Hood, Texas, $21,750,000.
Fort Irwin, California, $21,590,000.
Fort Lewis, Washington, $21,700,000.
Fort McPherson, Georgia, $41,000,000.
Fort Meade, Maryland, $2,500,000.
Fort Ord, California, $8,900,000.
Fort Polk, Louisiana, $16,840,000.
Camp Roberts, California, $2,050,000.
Fort Sam Houston, Texas, $22,000,000.
Fort Stewart, Georgia, $23,000,000.
Fort Wainwright, Alaska, $3,020,000.
Yakima Firing Center, Washington, $2,950,000.

UNITED STATES ARMY WESTERN COMMAND

Schofield Barracks, Hawaii, $2,930,000.
Aliamanu, Hawaii, $4,100,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Benning, Georgia, $26,250,000.
Fort Bliss, Texas, $21,300,000.
Fort Eustis, Virginia, $6,400,000.
Fort Gordon, Georgia, $9,200,000.
Fort Knox, Kentucky, $8,400,000.
Fort Leavenworth, Kansas, $17,800,000.
Fort Leonard Wood, Missouri, $11,000,000.
Fort McClellan, Alabama, $7,500,000.
Fort Rucker, Alabama, $17,750,000.
Fort Story, Virginia, $13,800,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, $27,500,000.
Pine Bluff Arsenal, Arkansas, $19,650,000.
Red River Army Depot, Texas, $39,000,000.
Tooele Army Depot, Utah, $4,150,000.
White Sands Missile Range, New Mexico, $5,500,000.

AMMUNITION FACILITIES

Indiana Army Ammunition Plant, Indiana, $2,910,000.
Iowa Army Ammunition Plant, Iowa, $430,000.
Kansas Army Ammunition Plant, Kansas, $7,200,000.
Longhorn Army Ammunition Plant, Texas, $230,000.
Louisiana Army Ammunition Plant, Louisiana, $3,410,000.
Milan Army Ammunition Plant, Tennessee, $5,500,000.
Radford Army Ammunition Plant, Virginia, $2,400,000.
Sunflower Army Ammunition Plant, Kansas, $3,000,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $2,600,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Fort Detrick, Maryland, $1,700,000.
Fitzsimons Army Medical Center, Colorado, $3,600,000.
Walter Reed Army Medical Center, Washington, District of Columbia, $9,800,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

Classified Locations, $20,000,000.

OUTSIDE THE UNITED STATES

EIGHTH UNITED STATES ARMY

Korea, $57,850,000.

UNITED STATES ARMY FORCES COMMAND

Panama, $6,800,000.
Egypt, $50,400,000.

UNITED STATES ARMY, EUROPE

Germany, $240,440,000.

Turkey, $7,050,000.

UNITED STATES ARMY WESTERN COMMAND

Johnston Island, $1,050,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Germany, $3,950,000.

CONTRACTING FOR CERTAIN PROJECTS

SEC. 102. (a) The following projects authorized in section 101 may be carried out only as provided in subsection (b):

Insulation of Buildings in the amount of $1,550,000 at Fort Drum, New York.

Division Headquarters in the amount of $13,800,000 at Fort Hood, Texas.

Headquarters Facility in the amount of $41,000,000 at Fort McPherson, Georgia.

Health Clinic in the amount of $1,050,000 at Fort Benning, Georgia.

Barracks in the amount of $9,700,000 at Fort Benning, Georgia.

Post Office in the amount of $270,000 at Fort Benning, Georgia.

Training Facility in the amount of $9,200,000 at Fort Gordon, Georgia.

Barracks in the amount of $18,100,000 at Aberdeen Proving Ground, Maryland.

Barracks in the amount of $20,000,000 at Fort Sam Houston, Texas.

Dining Facility Modernization in the amount of $310,000 at Fort Sam Houston, Texas.

Air Conditioning in the amount of $2,000,000 at Fort Sam Houston, Texas.

Community Center in the amount of $4,100,000 at Aliamanu, Hawaii.

(b) A contract for a project listed in subsection (a) may be entered into only if the funds to be obligated for the contract are derived from the total amount of funds (if any) available from (1) the net savings from the execution of the projects authorized by section 101 other than those listed in subsection (a), (2) total savings from cancellations of such projects, and (3) other sources, including savings from projects authorized for the Army in previous military construction authorization Acts.

(c) Before the Secretary of the Army may advertise for bids, or may negotiate, for a contract described in subsection (b), the Secretary shall submit a written report to the appropriate committees of Congress certifying that funds for the contract are available in accordance with subsection (b) and identifying the source of the funds. Such a report may not be submitted before June 1, 1983, or after June 30, 1983.

MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army may carry out minor construction projects under the authority of section 2805 of title 10, United States Code, and construction projects in amounts of $1,000,000 or less under the authority of this section, in the total amount of $53,780,000.

FAMILY HOUSING

SEC. 104. (a) The Secretary of the Army may construct family housing (including land acquisition) and acquire manufactured home facilities at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Irwin, California, one hundred and fourteen units, $8,208,000.

Fort Lewis, Washington, one hundred and fifteen units, $8,962,000.

(b) Section 601(c) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1373), is amended by striking out "four hundred and fifty-four units" in the item relating to Fort Irwin, California, and inserting in lieu thereof "four hundred and eighty-four units".

IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

SEC. 105. (a) Subject to section 2825 of title 10, United States Code, the Secretary of the Army may make expenditures to improve existing military family housing units in an amount not to exceed $115,760,000, of which $43,800,000 is available only for energy conservation projects.

(b) Within the amount specified in subsection (a), the Secretary of the Army may, notwithstanding the maximum amount per unit for an improvement project for family housing units under section 2825 of title 10, United States Code, carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Aberdeen Proving Ground, Maryland, one hundred and sixty units, $6,080,000.

Fort Hamilton, New York, one hundred and eight units, $4,800,000.

(c) Section 505 of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 561), is amended by striking out "$195,000" in the item relating to Fort McNair, Washington, District of Columbia, and inserting in lieu thereof "$223,000".

LIMITATION ON LEASING OF HOUSING IN FOREIGN COUNTRIES

SEC. 106. Section 605(a)(2) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1374), is amended by striking out "$113,717,000" and inserting in lieu thereof "$118,017,000".

LIMITS ON PROJECTS IN SUPPORT OF THE MASTER RESTATIONING PLAN

SEC. 107. (a) None of the funds appropriated pursuant to authorizations of appropriations in this Act may be obligated or expended for projects in the Federal Republic of Germany in support of the master restationing plan until (1) there is a formal agreement between the governments of the United States and the Federal Republic of Germany on the cost sharing arrangements that will apply to all projects in support of such master restationing plan, (2) the Secretary of Defense has submitted a copy of the agreement to Congress, and (3) a period of 30 days of continuous session of Congress has expired following the date of such submittal.

(b) For the purposes of subsection (a), the continuity of a session of Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 30-day period.

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

SEC. 201. The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

INSIDE THE UNITED STATES

UNITED STATES MARINE CORPS

Marine Corps Air Station, Beaufort, South Carolina, $4,650,000.

Marine Corps Base, Camp Lejeune, North Carolina, $28,550,000.

Marine Corps Base, Camp Pendleton, California, $33,965,000.

Marine Corps Air Station, Cherry Point, North Carolina, $31,800,000.

Marine Corps Air Station, El Toro, California, $7,200,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $1,450,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $1,550,000.

Marine Corps Development and Education Command, Quantico, Virginia, $23,250,000.

Marine Corps Recruit Depot, San Diego, California, $27,100,000.

Marine Corps Air Station, Tustin, California, $7,350,000.

OFFICE OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, $1,800,000.

CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, $16,900,000.

Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $147,750,000.

Naval Support Activity, San Francisco, California, $1,400,000.

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Air Station, Cecil Field, Florida, $9,300,000.

Naval Station, Charleston, South Carolina, $12,250,000.

Naval Amphibious Base, Little Creek, Virginia, $1,850,000.

Naval Station, Mayport, Florida, $36,100,000.

Naval Submarine Base, New London, Groton, Connecticut, $5,900,000.

Commander Oceanographic System Atlantic, Norfolk, Virginia, $3,100,000.

Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, $2,085,000.

Naval Air Station, Norfolk, Virginia, $2,150,000.

Naval Air Station, Oceana, Virginia, $6,200,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Facility, Adak, Alaska, $1,900,000.

Naval Air Station, Alameda, California, $3,650,000.

Naval Air Station, Lemoore, California, $10,700,000.

Naval Air Station, Moffett Field, California, $11,800,000.

Naval Air Station, North Island, California, $31,070,000.

Naval Station, Pearl Harbor, Hawaii, $14,400,000.

Naval Station, San Diego, California, $27,300,000.

Shore Intermediate Maintenance Activity, San Diego, California, $14,100,000.

Shore Intermediate Maintenance Activity, Pearl Harbor, Hawaii, $7,000,000.

Naval Air Station, Whidbey Island, Washington, $1,200,000.

NAVAL EDUCATION AND TRAINING COMMAND

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $1,700,000.

Naval Air Station, Corpus Christi, Texas, $2,800,000.

Naval Training Center, Great Lakes, Illinois, $1,850,000.

Naval Air Station, Memphis, Tennessee, $8,400,000.

Naval Education and Training Center, Newport, Rhode Island, $1,100,000.

Fleet Training Center, Norfolk, Virginia, $5,400,000.

Naval Training Center, Orlando, Florida, $5,500,000.

Naval Air Station, Pensacola, Florida, $5,400,000.

Naval Technical Training Center, Pensacola, Florida, $4,450,000.

Fleet Anti-Submarine Warfare Training Center Pacific, San Diego, California, $3,950,000.

Naval Air Station, Whiting Field, Florida, $7,650,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Oakland, California, $9,700,000.

Naval Regional Medical Center, Camp Lejeune, North Carolina, $2,800,000.

NAVAL MATERIAL COMMAND

Naval Weapons Station, Charleston, South Carolina, $1,140,000.

Naval Air Rework Facility, Cherry Point, North Carolina, $5,550,000.

Naval Weapons Center, China Lake, California, $8,700,000.

Naval Surface Weapons Center, Dahlgren, Virginia, $10,800,000, all of which must be used for the Applied Research Center, Wallops Island, Virginia.

Navy Public Works Center, Great Lakes, Illinois, $3,400,000.

Mare Island Naval Shipyard, Vallejo, California, $9,150,000.

Naval Underwater Systems Center, Newport, Rhode Island, $6,500,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, $160,000,000.

Navy Public Works Center, Norfolk, Virginia, $16,030,000.

Naval Air Rework Facility, North Island, California, $18,500,000.

Aviation Supply Office, Philadelphia, Pennsylvania, $1,400,000.

Naval Ship System Engineering Station, Philadelphia, Pennsylvania, $1,500,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $17,500,000.

Naval Ship Weapon System Engineering Station, Port Hueneme, California, $7,800,000.

Naval Supply Center, San Diego, California, $4,430,000.

Naval Mine Engineering Facility, Yorktown, Virginia, $3,250,000.

Navy Public Works Center, San Francisco, California, $9,800,000.

Portsmouth Naval Shipyard, Kittery, Maine, $6,600,000.

Naval Air Development Center, Warminster, Pennsylvania, $1,400,000.

Naval Surface Weapons Center, White Oak, Maryland, $1,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station Eastern Pacific, Honolulu, Hawaii, $6,300,000.

Naval Communication Area Master Station Atlantic, Norfolk, Virginia, $1,850,000.

OUTSIDE THE UNITED STATES

UNITED STATES MARINE CORPS

Marine Corps Base, Camp Butler, Okinawa, Japan, $2,000,000.

Marine Corps Air Station, Iwakuni, Japan, $1,350,000.

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Facility, Keflavik, Iceland, $1,400,000.

Naval Station, Keflavik, Iceland, $8,800,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Air Facility, Atsugi, Japan, $1,700,000.

Naval Air Station, Cubi Point, Republic of the Philippines, $10,400,000.

Naval Support Facility, Diego Garcia, Indian Ocean, $53,395,000.

Naval Magazine, Guam, Mariana Islands, $24,000,000.

Naval Activities, Kenya, $8,300,000.

Naval Activities, Somalia, $30,000,000.

COMMANDER IN CHIEF, NAVAL FORCES, EUROPE

Naval Air Station, Sigonella, Italy, $31,900,000.

NAVAL MATERIAL COMMAND

Navy Public Works Center, Subic Bay, Republic of the Philippines, $2,050,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Western Pacific, Guam, $1,750,000.

Naval Communication Area Master Station, Mediterranean, Naples, Italy, $2,500,000.

Naval Communication Station, Thurso, Scotland, $1,400,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $9,390,000.

HOST NATION INFRASTRUCTURE SUPPORT

Various Locations, $3,000,000.

CONTRACTING FOR CERTAIN PROJECTS

SEC. 202. (a) The following projects authorized in section 201 may be carried out only as provided in subsection (b):

Maintenance Hanger in the amount of $12,600,000 at the Naval Station, Mayport, Florida.

Maintenance Facility in the amount of $7,700,000 at the Naval Station, Mayport, Florida.

Land Acquisition in the amount of $6,200,000 at the Naval Air Station, Oceana, Virginia.

Dining Facility in the amount of $820,000 at the Naval Air Station, Meridian, Mississippi.

Airfield Pavement in the amount of $7,650,000 at the Naval Air Station, Whiting Field, Florida.

Electrical Distribution System Addition in the amount of $3,500,000 at Mare Island Naval Shipyard, Vallejo, California.

Compressed Breathing Air Distribution System in the amount of $3,400,000 at Mare Island Naval Shipyard, Vallejo, California.

Administrative Office Modernization in the amount of $1,000,000 at the Aviation Supply Office, Philadelphia, Pennsylvania.

Electrical Distribution in the amount of $1,500,000 at the Naval Ship Systems Engineering Station, Philadelphia, Pennsylvania.

Engineering Management Building in the amount of $17,500,000 at the Philadelphia Naval Shipyard, Philadelphia, Pennsylvania.

Fire Protection System in the amount of $1,000,000 at the Philadelphia Naval Shipyard, Philadelphia, Pennsylvania.

Steam Plant Improvement in the amount of $900,000 at the Portsmouth Naval Shipyard, Kittery, Maine.

Tool Shop Modernization in the amount of $4,400,000 at the Portsmouth Naval Shipyard, Kittery, Maine.

Ammunition Wharf in the amount of $24,000,000 at the Naval Magazine, Guam, Mariana Islands.

(b) A contract for a project listed in subsection (a) may be entered into only if the funds to be obligated for the contract are derived from the total amount of funds (if any) available from (1) the net savings from the execution of the projects authorized by section 201 other than those listed in subsection (a), (2) total savings from cancellations of such projects, and (3) other sources, including savings from projects authorized for the Navy in previous military construction authorization Acts.

(c) Before the Secretary of the Navy may advertise for bids, or may negotiate, for a contract described in subsection (b), the Secretary shall submit a written report to the appropriate committees of Congress certifying that funds for the contract are available in accordance with subsection (b) and identifying the source of the funds. Such a report may not be submitted before June 1, 1983, or after June 30, 1983.

MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy may carry out minor construction projects under the authority of section 2805 of title 10, United States Code, and construction projects in amounts of $1,000,000 or less under the authority of this section, in the total amount of $61,068,000.

FAMILY HOUSING

SEC. 204. (a) The Secretary of the Navy may construct family housing (including land acquisition) and acquire manufactured home facilities at the following installations in the number of units shown, and in the amount shown, for each installation:

Marine Corps Base, Camp Pendleton, California, one hundred and four units, $8,200,000.

Marine Corps Mountain Warfare Training Center, Bridgeport, California, seventy-seven units, $8,470,000.

Naval Station, Long Beach, California, two hundred units, $16,200,000.

Naval Air Training Center, Patuxent River, Maryland, two hundred and fifty units, $19,500,000.

Naval Station, Guantanamo Bay, Cuba, one hundred units, $11,000,000.

(b) The Secretary of the Navy may purchase 91 acres of land at a cost not to exceed $1,000,000 in support of a future project to construct family housing units at the Naval Station, Mayport, Florida.

IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

SEC. 205. (a) Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may make expenditures to improve existing military family housing units in an amount not to exceed $30,533,000, of which $7,574,000 is available only for energy conservation projects.

(b) Within the amount specified in subsection (a), the Secretary of the Navy may, notwithstanding the maximum amount per unit prescribed in section 2825(b) of title 10, United States Code, carry out a project to improve an existing military family housing unit at the Naval Station, Guantanamo Bay, Cuba, in the amount of $75,000.

HOUSING UNITS ACQUIRED FROM PUBLIC HEALTH SERVICE

SEC. 206. The Secretary of the Navy may use for military family housing purposes the seven housing units comprising a portion of the United States Public Health Service Facility, Norfolk, Virginia, to be acquired by the Secretary of the Navy by transfer from the Secretary of Health and Human Services pursuant to section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35).

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

SEC. 301. The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $5,845,000.

Kelly Air Force Base, Texas, $12,000,000.

McClellan Air Force Base, California, $9,000,000.

Robins Air Force Base, Georgia, $4,700,000.

Tinker Air Force Base, Oklahoma, $10,650,000.

Wright-Patterson Air Force Base, Ohio, $32,186,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $6,600,000.

Edwards Air Force Base, California, $12,100,000.
Eglin Air Force Base, Florida, $22,600,000.
Fort MacArthur, California, $1,900,000.
Laurence G. Hanscom Air Force Base, Massachusetts, $9,100,000.
Cape Canaveral, Florida, $9,100,000.
Moffett Naval Air Station, California, $1,900,000.
Sunnyvale Air Force Station, California, $11,700,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $22,260,000.
Columbus Air Force Base, Mississippi, $1,150,000.
Goodfellow Air Force Base, Texas, $15,300,000.
Keesler Air Force Base, Mississippi, $9,000,000.
Lackland Air Force Base, Texas, $6,100,000.
Laughlin Air Force Base, Texas, $5,770,000.
Lowry Air Force Base, Colorado, $13,050,000.
Maxwell Air Force Base, Alabama, $15,150,000.
Randolph Air Force Base, Texas, $3,900,000.
Reese Air Force Base, Texas, $3,750,000.
Sheppard Air Force Base, Texas, $5,500,000.
Vance Air Force Base, Oklahoma, $8,000,000.
Williams Air Force Base, Arizona, $8,700,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $6,580,000.
Elmendorf Air Force Base, Alaska, $4,800,000.
Galena Airport, Alaska, $2,050,000.
Shemya Air Force Base, Alaska, $1,200,000.
Various Locations, Alaska, $43,600,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $3,160,000.
Andrews Air Force Base, Maryland, $13,200,000.
Charleston Air Force Base, South Carolina, $1,550,000.
Dover Air Force Base, Delaware, $2,500,000.
Kirtland Air Force Base, New Mexico, $3,570,000.
Little Rock Air Force Base, Arkansas, $3,000,000.
McChord Air Force Base, Washington, $3,700,000.
McGuire Air Force Base, New Jersey, $16,000,000.
Norton Air Force Base, California, $1,300,000.
Pope Air Force Base, North Carolina, $4,400,000.
Scott Air Force Base, Illinois, $4,850,000.
Travis Air Force Base, California, $2,400,000.

NATIONAL MILITARY COMMAND CENTER

Pentagon Building, Virginia, $3,300,000.

NORTH AMERICAN AEROSPACE DEFENSE COMMAND

NORAD Cheyene Mountain Complex, Colorado, $1,900,000.

STRATEGIC AIR COMMAND

Beale Air Force Base, California, $2,595,000.
Blytheville Air Force Base, Arkansas, $8,733,000.
Carswell Air Force Base, Texas, $54,500,000.
Dyess Air Force Base, Texas, $1,650,000.
Ellsworth Air Force Base, South Dakota, $1,350,000.
Francis E. Warren Air Force Base, Wyoming, $4,150,000.
Fairchild Air Force Base, Washington, $3,740,000.
Griffiss Air Force Base, New York, $56,450,000.
Grissom Air Force Base, Indiana, $3,400,000.
K. I. Sawyer Air Force Base, Michigan, $4,450,000.
Loring Air Force Base, Maine, $38,420,000.
Malmstrom Air Force Base, Montana, $55,000,000.
March Air Force Base, California, $1,550,000.
McConnell Air Force Base, Kansas, $3,000,000.
Offutt Air Force Base, Nebraska, $13,255,000.
Peterson Air Force Base, Colorado, $67,700,000.
Powell, Wyoming, $1,250,000.
Vandenberg Air Force Base, California, $79,759,000.
Various Locations, Continental United States, $1,900,000.
Whiteman Air Force Base, Missouri, $7,800,000.
Wurtsmith Air Force Base, Michigan, $1,800,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, $5,450,000.
Cannon Air Force Base, New Mexico, $1,800,000.
Davis-Monthan Air Force Base, Arizona, $11,950,000.
George Air Force Base, California, $1,400,000.
Gila Bend Air Force Auxiliary Field, Arizona, $1,700,000.
Holloman Air Force Base, New Mexico, $2,800,000.
Homestead Air Force Base, Florida, $1,500,000.
Langley Air Force Base, Virginia, $15,550,000.
MacDill Air Force Base, Florida, $20,700,000.
Moody Air Force Base, Georgia, $6,550,000.
Mountain Home Air Force Base, Idaho, $1,700,000.
Nellis Air Force Base, Nevada, $19,900,000.
Seymour-Johnson Air Force Base, North Carolina, $3,620,000.
Shaw Air Force Base, South Carolina, $1,150,000.
Tyndall Air Force Base, Florida, $11,540,000.
Various Locations, Maine, $1,200,000.

UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado, $3,000,000.

MX CONSTRUCTION

Various Locations, Continental United States, $40,000,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $1,100,000.
Otis Air National Guard Base, Massachusetts, $3,440,000.

AIR FORCE RESERVE

Westover Air Force Reserve Base, Massachusetts, $2,700,000.

OUTSIDE THE UNITED STATES

MILITARY AIRLIFT COMMAND

Rhein-Main Air Base, Germany, $7,270,000.

PACIFIC AIR FORCES

Camp Long, Korea, $1,750,000.
Clark Air Base, Republic of the Philippines, $14,380,000.
Diego Garcia Air Base, Indian Ocean, $4,550,000.
Kadena Air Base, Japan, $15,950,000.
Kunsan Air Base, Korea, $36,490,000.
Kwang-Ju Air Base, Korea, $2,450,000.
Misawa Air Base, Japan, $6,600,000.
Osan Air Base, Korea, $44,000,000.
San Miguel, Republic of the Philippines, $1,750,000.
Yaedake Radio Relay Station, Japan, $1,300,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $2,440,000.

TACTICAL AIR COMMAND

Keflavik Naval Station, Iceland, $3,600,000.
Various Locations, Worldwide, $21,000,000.

UNITED STATES AIR FORCES IN EUROPE

Egypt, Various Locations, $121,700,000.
Germany, Various Locations, $12,038,000.
Aviano Air Base, Italy, $7,200,000.
Oman, Various Locations, $60,350,000.
Incirlik Air Base, Turkey, $7,290,000.
Torrejon Air Base, Spain, $4,000,000.
Various Locations, United Kingdom, $55,910,000.
Various Locations, $116,630,000.

CONTRACTING FOR CERTAIN PROJECTS

SEC. 302. (a) The following projects authorized in section 301 may be carried out only as provided in subsection (b):

Management Facility in the amount of $11,000,000 at Eglin Air Force Base, Florida.

Barracks in the amount of $10,800,000 at Chanute Air Force Base, Illinois.

Barracks in the amount of $8,000,000 at Vance Air Force Base, Oklahoma.

Maintenance Facilities in the amount of $500,000 at Vance Air Force Base, Oklahoma.

Operations Facilities in the amount of $900,000 at Vance Air Force Base, Oklahoma.

Barracks in the amount of $2,100,000 at Altus Air Force Base, Oklahoma.

Barracks in the amount of $3,600,000 at Blytheville Air Force Base, Arkansas.

Maintenance Shop in the amount of $1,533,000 at Blytheville Air Force Base, Arkansas.

Maintenance Shop in the amount of $7,400,000 at Griffis Air Force Base, New York.

Barracks in the amount of $3,400,000 at Grissom Air Force Base, Indiana.

Barracks in the amount of $5,100,000 at Malstrom Air Force Base, Montana.

Barracks in the amount of $7,800,000 at Whiteman Air Force Base, Missouri.

Barracks in the amount of $4,000,000 at Moody Air Force Base, Georgia.

Petroleum Facility in the amount of $5,240,000 at Tyndall Air Force Base, Florida.

(b) A contract for a project listed in subsection (a) may be entered into only if the funds to be obligated for the contract are derived from the total amount of funds (if any) available from (1) the net savings from the execution of the projects authorized by section 301 other than those listed in subsection (a), (2) total savings from cancellations of such projects, and (3) other sources, including savings from projects authorized for the Air Force in previous military construction authorization Acts.

(c) Before the Secretary of the Air Force may advertise for bids, or may negotiate, for a contract described in subsection (b), the Secretary shall submit a written report to the appropriate committees of Congress certifying that funds for the contract are available in accordance with subsection (b) and identifying the source of the funds. Such a report may not be submitted before June 1, 1983, or after June 30, 1983.

MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force may carry out minor construction projects under the authority of section 2805 of title 10, United States Code, and construction projects in amounts of $1,000,000 or less under the authority of this section, in the total amount of $98,421,000.

FAMILY HOUSING

SEC. 304. The Secretary of the Air Force may construct family housing (including land acquisition) and acquire manufactured home facilities at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort MacArthur, California, two hundred units, $18,000,000.

Powell, Wyoming, fifty units, $3,465,000.

Incirlik Air Base, Turkey, two hundred units, $18,000,000.

IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

SEC. 305. (a) Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may make expenditures to improve existing military family housing units in an amount not to exceed $76,500,000, of which $17,000,000 is available only for energy conservation projects.

(b) Within the amount specified in subsection (a), the Secretary of the Air Force may, notwithstanding the maximum amount per unit prescribed in section 2825(b) of title 10, United States Code, carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Loring Air Force Base, Maine, four hundred units, $13,080,000.

F. E. Warren Air Force Base, Wyoming, one hundred and sixty-two units, $5,783,300.

Kirtland Air Force Base, New Mexico, one hundred and twenty-five units, $4,123,700.

Holloman Air Force Base, New Mexico, one hundred and forty-two units, $4,253,600.

Ramstein Air Base, Germany, one hundred and twenty units, $7,630,000.

RAF Lakenheath, United Kingdom, thirty-six units, $1,569,700.

RAF Upper Heyford, United Kingdom, eighteen units, $934,900.

DEFICIENCY AUTHORIZATION FOR PRIOR YEAR PROJECT

SEC. 306. (a) Section 301 of the Military Construction Authorization Act, 1977 (Public Law 94-431), is amended by striking out "$519,010,000" in the item relating to the Arnold Engineering Development Center, Tennessee, and inserting in lieu thereof "$561,010,000".

(b) Section 602(3) of such Act is amended by striking out "$759,759,000" and "$816,409,000" and inserting in lieu thereof "$801,759,000" and "$858,409,000", respectively.

CONVERSION OF FACILITY AT WRIGHT-PATTERSON AIR FORCE BASE, OHIO

SEC. 307. The Secretary of the Air Force may carry out a project to convert, rehabilitate, or alter an existing facility located at Wright-Patterson Air Force Base, Ohio, for use by personnel engaged in logistics system support and management of the foreign military sales program of the Air Force. In carrying out such project the Secretary may use not more than $395,000 derived from amounts received for administrative services under the foreign military sales program.

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS AND LAND ACQUISITION FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations:

INSIDE THE UNITED STATES

DEFENSE MAPPING AGENCY

Aerospace Center, St. Louis, Missouri, $24,141,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $75,500,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $2,100,000.

Defense Foreign Language Institute, Monterey, California, $31,000,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Guam, $43,900,000.

Defense Personnel Support Center, Kaiserslautern, Germany, $5,100,000.

Various Locations, Korea, $29,000,000.

NATIONAL SECURITY AGENCY

Classified Locations, $8,557,000.

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS

Bamberg, Germany, $3,470,000.

Kaiserslautern Air Base, Germany, $7,967,000.

Karlsruhe, Germany, $7,380,000.

Mainz, Germany, $2,830,000.

Nuernberg, Germany, $2,820,000.

Ramstein Air Base, Germany, $1,460,000.

Wuerzburg, Germany, $3,920,000.

Zweibruecken Air Base, Germany, $1,780,000.

Yokota Air Base, Japan, $5,660,000.

RAF Woodbridge, United Kingdom, $1,200,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified locations, $13,000,000.

MINOR CONSTRUCTION

SEC. 402. The Secretary of Defense may carry out minor construction projects under the authority of section 2805 of title 10, United States Code, and construction projects in amounts of $1,000,000 or less under the authority of this section, in the total amount of $13,460,000.

FAMILY HOUSING

SEC. 403. The Secretary of Defense may construct four family housing units for the National Security Agency at classified locations overseas in the total amount of $560,000.

IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

SEC. 404. Subject to section 2825 of title 10, United States Code, the Secretary of Defense may make expenditures to improve existing military family housing units in an amount not to exceed $33,000.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

AUTHORITY OF THE SECRETARY OF DEFENSE TO MAKE CONTRIBUTIONS

SEC. 501. The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure program as provided in section 2806 of title 10, United States Code, in the amount appropriated pursuant to the authorization of appropriations in section 604(6).

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND RECURRING ADMINISTRATIVE PROVISIONS

AUTHORIZATION OF APPROPRIATIONS, ARMY

SEC. 601. Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1982, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,924,544,000 as follows:

(1) For projects authorized by section 101 that are to be carried out inside the United States, $498,428,000.

(2) For projects authorized by section 101 that are to be carried out outside the United States, $336,299,000.

(3) For minor construction projects under section 2805 of title 10, United States Code, and section 103 of this Act, $49,209,000.

(4) For military family housing functions—

(A) for construction and acquisition of military family housing, including minor construction, improvements to existing military family housing units, relocation of military family housing units under section 2827 of title 10, United States Code, and architectural and engineering services and construction design, $132,930,000;

(B) for support of military family housing (including operating expenses, leasing expenses, maintenance of real property expenses, payments of principal and interest on mortgage debts incurred, payments of mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m)), $905,678,000, of which not more than $1,763,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $77,707,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for homeowners assistance under the authority of the Secretary of Defense described in section 2832 of title 10, United States Code, including acquisition of properties, $2,000,000.

AUTHORIZATION OF APPROPRIATIONS, NAVY

SEC. 602. Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1982, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,811,325,000 as follows:

(1) For projects authorized by section 201 that are to be carried out inside the United States, $824,204,000.

(2) For projects authorized by section 201 that are to be carried out outside the United States, $176,902,000.

(3) For minor construction projects under section 2805 of title 10, United States Code, and section 203 of this Act, $55,877,000.

(4) For military family housing functions—

(A) for construction and acquisition of military family housing, including minor construction, improvements to existing military family housing units, relocation of military family housing units under section 2827 of title 10, United States Code, and architectural and engineering services and construction design, $94,903,000; and

(B) for support of military family housing (including operating expenses, leasing expenses, maintenance of real property expenses, payments of principal and interest on mortgage debts incurred, payments of mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m)), $659,439,000, of which not more than $1,492,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $19,988,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

SEC. 603. Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1982, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,397,132,000 as follows:

(1) For projects authorized by section 301 that are to be carried out inside the United States, $879,564,000.

(2) For projects authorized by section 301 that are to be carried out outside the United States, $502,013,000.

(3) For minor construction projects under section 2805 of title 10, United States Code, and section 303 of this Act, $90,055,000.

(4) For military family housing functions—

(A) for construction and acquisition of military family housing, including minor construction, improvements to existing military family housing units, relocation of military family housing units under section 2827 of title 10, United States Code, and architectural and engineering services and construction design, $115,965,000; and

(B) for support of military family housing (including operating expenses, leasing expenses, maintenance of real property expenses, payments of principal and interest on mortgage debts incurred, payments of mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m)), $809,535,000, of which not more than $2,300,000 may be obligated or expended for the leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $51,423,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

SEC. 604. Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1982, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $282,714,000 as follows:

(1) For projects authorized by section 401 that are to be carried out inside the United States, $121,458,000.

(2) For projects authorized by section 401 that are to be carried out outside the United States, $126,310,000.

(3) For minor construction projects under section 2805 of title 10, United States Code, and under section 402 of this Act, $12,316,000.

(4) For military family housing functions—

(A) for construction and acquisition of military family housing, including minor construction, improvements to existing military family housing units, relocation of military family housing units under section 2827 of title 10, United States Code, and architectural and engineering services and construction design, $593,000; and

(B) for support of military family housing (including operating expenses, leasing expenses, maintenance of real property expenses, payments of principal and interest on mortgage debts incurred, payments of mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715m)), $17,279,000, of which not more than $14,366,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(5) For construction projects under the contingency construction authority of the Secretary of Defense under section 2804 of title 10, United States Code, $4,758,000.

(6) For contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the United States share of the cost of construction projects for the North Atlantic Treaty Organization Infrastructure program, $375,000,000.

TITLE TOTAL LIMITATION ON COST VARIATIONS

SEC. 605. Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under each of titles I, II, III, and IV of this Act may not exceed the total amount authorized under sections 601, 602, 603, and 604, respectively, to be appropriated for the military department concerned or the Secretary of Defense, as the case may be.

EXPIRATION OF AUTHORIZATIONS; EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

SEC. 606. (a)(1) Except as provided in paragraph (2), all authorizations contained in titles I, II, III, and IV for military construction projects, land acquisition projects, and family housing projects, and all authorizations of appropriations for such projects contained in sections 601 through 604, expire on October 1, 1984, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later.

(2) The provisions of paragraph (1) do not apply to authorizations for military construction and land acquisition projects, and authorizations of appropriations for such projects, for which appropriated funds have been obligated before October 1, 1984, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later, for construction contracts or land acquisition.

(b) As of October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, all authorizations for military construction projects, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations for such projects, that are contained in titles I, II, III, IV, V, and VI of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), and all such authorizations contained in Acts approved before December 23, 1981, and not superseded or otherwise modified by a later authorization, are repealed except—

(1) authorizations for military construction projects (and for appropriations for such projects) that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for military construction projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later (and authorizations for appropriations for such projects or payments).

(c) Notwithstanding the provisions of subsection (b) and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following projects authorized in section 101 or 103 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1749), shall remain in effect until October 1, 1983, or the date of enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later:

(1) Temperature Control/Heat Recovery Construction in the amount of $2,300,000 at Baumholder, Germany.

(2) Temperature Control/Heat Recovery Construction in the amount of $2,270,000 at Hanau, Germany.

(3) Temperature Control/Heat Recovery Construction in the amount $2,500,000 at Giessen, Germany.

(4) Energy Monitor and Control System in the amount of $840,000 at Karlsruhe, Germany.

(5) Troop Medical Clinic in the amount of $4,700,000 at Fort Ord, California.

(6) Electromagnetic Test Facility in the amount of $4,650,000 at Fort Huachuca, Arizona.

(7) Minor Construction Projects in the amount of $2,800,000 at specified locations.

(d) Notwithstanding the provisions of subsection (b) and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following projects authorized in section 201 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1752), shall remain in effect until October 1, 1983, or the date of enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later:

(1) Nautilus Memorial in the amount of $1,930,000 at the Naval Submarine Base, New London, Connecticut.

(2) Unaccompanied Enlisted Personnel Housing Modernization in the amount of $4,700,000 at the Fleet Combat Training Center, Atlantic, Dam Neck, Virginia.

(3) Land Acquisition in the amount of $330,000 at the Naval Air Station, Fallon, Nevada.

(4) Dual Purpose Passenger Terminal in the amount of $20,000,000 at the Naval Station, Keflavik, Iceland.

(5) Facility Energy Improvements in the amount of $1,450,000 at the Naval Air Rework Facility, Alameda, California.

(e) Notwithstanding the provisions of subsection (b) and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following projects authorized in section 201 of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 567), and extended in section 605(c) of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1772), shall remain in effect until October 1, 1983, or the date of enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later:

(1) Energy Monitoring and Control System in the amount of $765,000 at the Naval Air Station, Jacksonville, Florida.

(2) Municipal Sewer Connection Construction in the amount of $2,500,000 at the Naval Education and Training Center, Newport, Rhode Island.

(f) Notwithstanding the provisions of subsection (b) and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following projects authorized in section 301 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1756), shall remain in effect until October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later:

(1) Various Rapid Deployment Force Facilities, in the amount of $20,000,000 at Lajes Air Base, Portugal.

(2) Energy Showcase Initiatives in the amount of $1,600,000 at McClellan Air Force Base, California.

(3) Space Transportation System Solid Rocket Disassembly Complex in the amount

of $16,700,000 at Port Hueneme Naval Installation, California.

DEFICIENCY AUTHORIZATION FOR PRIOR YEAR PROJECT

SEC. 607. (a) Section 201 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1365), is amended by striking out the following item under the headings "OUTSIDE THE UNITED STATES" and "CHIEF OF NAVAL OPERATIONS":

"Defense Installations, Mariana Islands, $32,000,000.".

(b) Section 401 of such Act (95 Stat. 1370) is amended by inserting below "Classified Activity, Classified Location, $2,000,000.", under the headings "OUTSIDE THE UNITED STATES" and "OFFICE OF THE SECRETARY OF DEFENSE", the following new item:

"Defense Installations, Mariana Islands, $35,000,000.".

(c) Section 702 of such Act (95 Stat. 1375) is amended—

(1) by striking out "$236,445,000" and "$1,240,033,000" in clause (2) and inserting in lieu thereof "$204,445,000" and "$1,208,033,000", respectively; and

(2) by striking out "$282,815,000" in clause (4) and inserting in lieu thereof "$317,815,000".

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $44,111,000; and

(B) for the Army Reserve, $28,500,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $21,900,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $116,500,000; and

(B) for the Air Force Reserve, $29,000,000.

TITLE VIII—GENERAL PROVISIONS

USE OF RENEWABLE FORMS OF ENERGY

SEC. 801. (a)(1) Chapter 141 of title 10, United States Code, is amended by adding after section 2394, as added by section 6(a)(1) of the Military Construction Codification Act (Public Law 97-214; 96 Stat. 171), the following new section:

"§ 2394a. Procurement of energy systems powered by renewable forms of energy

"(a) In procuring energy systems the Secretary of a military department shall procure systems that use solar energy or other renewable forms of energy whenever the Secretary determines that such procurement is possible and will be cost effective, reliable, and otherwise suited to supplying the energy needs of the military department under his jurisdiction.

"(b)(1) The Secretary of Defense shall from time to time study uses for solar energy and other renewable forms of energy to determine what uses of such forms of energy may be cost effective and reliable in supplying the energy needs of the Department of Defense. The Secretary of Defense, based upon the results of such studies, shall from time to time issue policy guidelines to be followed by the Secretaries of the military departments in carrying out subsection (a) and section 2857 of this title.

"(2) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives not less often than every two years a report on the studies conducted pursuant to paragraph (1). Each such report shall include any findings of the Secretary with respect to the use of solar energy and other renewable forms of energy in supplying the energy needs of the Department of Defense and any recommendations of the Secretary for changes in law that may be appropriate in light of such studies.

"(c)(1) For the purposes of this section, an energy system using solar energy or other renewable forms of energy shall be considered to be cost effective if the difference between (A) the original investment cost of the energy system using such a form of energy, and (B) the original investment cost of the energy system not using such a form of energy can be recovered over the expected life of the system.

"(2) A determination under paragraph (1) of whether a cost-differential can be recovered over the expected life of a system shall be made using accepted life-cycle costing procedures and shall include—

"(A) the use of all capital expenses and all operating and maintenance expenses associated with the energy system using solar energy or other renewable forms of energy, and not using such a form of energy, over the expected life of the system or during a period of 25 years, whichever is shorter;

"(B) the use of fossil fuel costs (and a rate of cost growth for fossil fuel costs) as determined by the Secretary of Defense; and

"(C) the use of a discount rate of 7 percent per year for all expenses of the energy system.

"(3) For the purpose of any life-cycle cost analysis under this subsection, the original investment cost of the energy system using solar energy or other renewable forms of energy shall be reduced by 10 percent to reflect an allowance for an investment cost credit.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2394, as added by section 6(a)(2) of the Military Construction Codification Act (Public Law 97-214; 96 Stat. 172), the following new item:

"2394a. Procurement of energy systems using renewable forms of energy.".

(3) The first report under section 2394a(b)(2) of title 10, United States Code, as added by paragraph (1), shall be submitted not later than two years after the date of the enactment of this Act.

(b)(1) Section 2857 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out "solar energy systems" and inserting in lieu thereof "energy systems using solar energy or other renewable forms of energy"; and

(ii) by striking out "solar energy would" and inserting in lieu thereof "such form of energy would";

(B) in subsection (b)—

(i) by striking out "solar energy systems" in paragraphs (1) and (2) and inserting in lieu thereof "energy systems using solar energy or other renewable forms of energy"; and

(ii) by striking out "a solar energy has" in paragraph (1) and inserting in lieu thereof "such form of energy has";

(C) in subsection (c)(1)—

(i) by striking out "a solar energy system" the first place it appears and inserting in lieu thereof "an energy system using solar energy or other renewable forms of energy"; and

(ii) by striking out "a solar energy system" the second and third places it appears and inserting in lieu thereof "such a system";

(D) in subsection (c)(2)(A), by striking out "a solar energy system" and inserting in lieu thereof "an energy system using solar energy or other renewable forms of energy";

(E) in subsection (c)(3), by striking out "solar energy system" and inserting in lieu thereof "energy system using solar energy or other renewable forms of energy"; and

(F) in subsection (d), by striking out "solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, or with a passive solar energy system" and inserting in lieu thereof "heating equipment, cooling equipment, or both heating and cooling equipment using solar energy or other renewable forms of energy or with a passive energy system using solar energy or other renewable forms of energy".

(2) The heading of such section is amended to read as follows:

"§ 2857. Use of renewable forms of energy in new facilities".

(3) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2857. Use of renewable forms of energy in new facilities.".

RESTRICTION ON CONSTRUCTION OF SPECIAL CONTINGENCY FACILITIES IN CERTAIN COUNTRIES

SEC. 802. (a) Subject to subsections (b) and (c), none of the funds appropriated pursuant to this Act for the construction of any contingency facility to support the national security interests of the United States in Egypt, Kenya, Oman, or Somalia, on the island of Diego Garcia, or at Lajes Field (Portugal) may be obligated or expended for the construction of such facility unless each contract entered into for the construction of such facility requires that all construction materials (other than cement, cement products, aggregates, and concrete components other than steel) to be used in carrying out the contract will be materials produced, manufactured, or refined in the United States or the host nation.

(b) The provisions of subsection (a) shall not apply (1) if the application of such provisions would violate a formal agreement between the United States and the country that exercises sovereignty over the land on which a facility referred to in such subsection is to be constructed, or (2) in the case of a contract for $5,000,000 or less.

(c) The project manager of a facility referred to in subsection (a) may authorize, in the construction of such facility, a limited use of materials not produced, manufactured, or refined in the United States if the manager determines that the use of such materials is necessary for the orderly and timely construction of such facility. However, the total amount expended for materials not produced, manufactured, or refined in the United States under a contract for the construction of a facility referred to in subsection (a) may not exceed the applicable limit specified in the following table:

If the contract amount is—		The percent of the contract amount that may be used to procure materials not produced, manufactured, or refined in the United States may not exceed—
More than—	But not more than—	
$5,000,000	$25,000,000	5
$25,000,000	$50,000,000	3
$50,000,000	$100,000,000	2
$100,000,000		1

AUTHORIZATION TO USE MONEYS RECEIVED FROM GRAZING AND AGRICULTURAL LEASES

SEC. 803. Section 2667(d) of title 10, United States Code, is amended—

(1) by striking out "Money" and inserting in lieu thereof "(1) Except as provided in paragraph (2), money"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Money rentals received by the United States directly from a lease under this section for agricultural or grazing purposes of lands under the control of the Secretary of a military department (other than lands acquired by the United States for flood control or navigation purposes or any related purpose, including the development of hydroelectric power) may be retained and spent by the Secretary concerned in such amounts as the Secretary considers necessary to cover the administrative expenses of leasing for such purposes and to cover the financing of multiple-land use management programs at any installation under the jurisdiction of the Secretary.".

OBLIGATIONS FOR COMMISSARY STORE FACILITY CONSTRUCTION

SEC. 804. Section 2685 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The Secretary of a military department, with the approval of the Secretary of Defense and the Director of the Office of Management and Budget, may obligate anticipated proceeds from the adjustments or surcharges authorized by subsection (a) for any use specified in subsection (b), without regard to fiscal year limitations, if the Secretary of the military department determines that such obligation is necessary to carry out any use of such adjustments or surcharges specified in subsection (b).".

CLARIFICATION OF CONSTRUCTION AUTHORITY ON LAND HELD IN OTHER THAN A FEE SIMPLE INTEREST; TECHNICAL AMENDMENTS

SEC. 805. (a)(1) Section 2852(b) of title 10, United States Code, is amended to read as follows:

"(b) Authority to carry out a military construction project or a military family housing project may be exercised on land not owned by the United States—

"(1) before title to the land on which the project is to be carried out is approved under section 355 of the Revised Statutes (40 U.S.C. 255); and

"(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.".

(2) Section 2239(b) of such title is amended to read as follows:

"(b) Authority provided by law to place permanent or temporary improvements on land under section 2233 of this title may be exercised on land not owned by the United States—

"(1) before title to the land on which the improvement is located (or is to be located) is approved under section 355 of the Revised Statutes (40 U.S.C. 255); and

"(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project.".

(b)(1) The heading of section 2806 of such title is amended to read as follows:

"§ 2806. Contributions for North Atlantic Treaty Organization Infrastructure".

(2) The second sentence of section 2828(e)(1) of such title is amended by inserting "the" after "may be waived by".

(3) Section 2394 of such title is amended—

(A) by striking out "subsection (c)" in subsection (a) and inserting in lieu thereof "subsection (b)"; and

(B) by redesignating subsection (d) as subsection (c).

(4) The item relating to section 2689 in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2689. Development of geothermal energy on military lands.".

LAND CONVEYANCE, BELL, CALIFORNIA

SEC. 806. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the City of Bell, California (hereinafter in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of land aggregating 7.2 acres, more or less, and more particularly described on a map entitled "Outgrant to California Army National Guard, Bell, California, drawing numbered 247-K-31.1", dated December 14, 1977, and on file in the Office of the District Engineer, United States Army Engineer District, Los Angeles, California, together with any improvements located on that parcel of land.

(b)(1) In consideration for the conveyance authorized by subsection (a), the City, pursuant to an agreement to be entered into between the City and the Secretary, shall provide to the United States, to the extent of the fair market value (as determined by the Secretary) of the land conveyed by the Secretary under subsection (a), the buildings and other improvements described in paragraph (2), which buildings and improvements shall be the property of the United States.

(2) The buildings and improvements to be provided to the United States are the following:

(A) A National Guard armory.

(B) An organizational maintenance shop.

(C) Modernization of the Government-owned building located in the City designated in Department of the Army records as Building 332.

(3) The design and construction of the National Guard armory and the organizational maintenance shop and the modernization of the building described in paragraph (2)(C) shall be in conformance with plans and specifications approved by the Secretary.

(c) The City shall pay to the United States, as further consideration for the conveyance authorized by subsection (a), an amount equal to the amount by which the fair market value (as determined by the Secretary) of the property to be conveyed by the Secretary under subsection (a) exceeds the sum of the actual costs (as determined by the Secretary) of the buildings and improvements provided to the United States under subsection (b).

(d) The exact acreage and legal descriptions of any property to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City.

(e) The Secretary may require such additional terms and conditions in carrying out this section as the Secretary considers appropriate to protect the interests of the United States.

(f) The authority of the Secretary under this section expires at the end of the three-year period beginning on the date of the enactment of this Act.

MODIFICATION OF REVERSIONARY INTEREST IN FORMER NAVY LAND AT SAN DIEGO, CALIFORNIA

SEC. 807. The Secretary of the Navy shall, subject to the same conditions as set forth in the first section of Public Law 87-662 (76 Stat. 546), execute such documents as may be necessary in order to provide that a parcel of not more than 30 acres of the property conveyed (subject to a reversionary interest) to the regents of the University of California pursuant to Public Law 87-662 (76 Stat. 546) may, in addition to the use for educational purposes authorized pursuant to section 3 of such Public Law, be used for industrial scientific or technological research purposes, subject to the condition that if at any time the Secretary of the Navy determines that such parcel is not held for such purposes title to such parcel shall immediately revert to the United States. In the event of any such reversion, title to all improvements made on such parcel during the occupancy of such parcel shall vest in the United States without compensation for such improvements.

LAND CONVEYANCES, EGLIN AIR FORCE BASE, FLORIDA

SEC. 808. (a) Notwithstanding the restoration provisions of the Second Deficiency Appropriation Act, 1940 (54 Stat. 628, 655), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") may take appropriate action to quiet title to tracts of land at or adjoining Eglin Air Force Base, Florida, in order to resolve encroachments, resulting from a reliance on inaccurate surveys, by the United States onto private property at or adjacent to such base and by private parties onto property owned by the United States.

(b) In carrying out subsection (a), the Secretary (1) may disclaim on behalf of the United States any intent by the United States to acquire by prescription any property at or in the vicinity of Eglin Air Force Base, (2) may dispose of tracts of land owned by the United States, and (3) may acquire tracts of land by purchase, by donation, or by exchange for tracts of land owned by the United States at or adjacent to Eglin Air Force Base.

(c) Any conveyance by the Secretary under this section may be made, at the discretion of the Secretary, without consideration or by exchange for tracts of land adjoining Eglin Air Force Base in possession of private parties who mistakenly believed that they had acquired title to such tracts.

LAND CONVEYANCE, CLARKE COUNTY, GEORGIA

SEC. 809. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Clarke County, Georgia, Board of Education all right, title, and interest of the United States in and to a tract of land consisting of approximately 3.88 acres and located in the City of Athens, Georgia, together with any improvements located on the tract of land.

(b) In consideration for the conveyance authorized by subsection (a), the Clarke County, Georgia, Board of Education shall convey to the United States all right, title, and interest of the board in and to a tract of land consisting of approximately 12.5 acres and delineated as the site of the Lyons School on a plat entitled "Plat of land deeded to the Clarke County Board of Education by Clarke County, Ga.", dated December 21, 1953, and annexed to the deed from the Commissioner of roads and revenues of Clarke County, Georgia, to the Clarke County Board of Education, dated January 9, 1954, and recorded in deed book 139, page 368, in the Office of the Clerk of the Superior Court of Clarke County, Georgia, together with any improvements located on the tract of land.

(c)(1) If the fair market value (as determined by the Secretary) of the property to be

conveyed by the United States to the Clarke County, Georgia, Board of Education under subsection (a) exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the board to the United States under subsection (b), the board shall pay to the United States the amount of the difference.

(2) If the fair market value (as determined by the Secretary) of the property to be conveyed by the Clarke County, Georgia, Board of Education to the United States under subsection (b), exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the board under subsection (a), the United States shall pay to the board the amount of the difference, but not more than $300,000.

(3) The authority to make a payment under paragraph (2) shall take effect on October 1, 1982, and is subject to the availability of appropriations for that purpose.

(d)(1) The exact acreages and legal descriptions of any property acquired or conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Board of Education of Clarke County, Georgia.

(2) The Secretary may require such additional terms and conditions with respect to the acquisition and conveyance authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

LAND CONVEYANCE, HOUSTON COUNTY, GEORGIA

SEC. 810. (a) The Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to convey to the City of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, all right, title, and interest of the United States in and to a portion (as determined by the Secretary) of tracts of land consisting of a total of approximately 70 acres, together with any improvements located on the land.

(b) In consideration for the conveyance authorized by subsection (a), the City of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, shall convey to the United States all right, title, and interest of the City and the board in and to four tracts of land consisting of a total of approximately 400 acres and located contiguous to Robins Air Force Base, Georgia, together with any improvements located on the tracts of land.

(c) The City of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, shall pay to the United States an amount equal to the amount by which the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the City and the board under subsection (a) exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the City and the board to the United States under subsection (b).

(d)(1) The exact acreages and legal descriptions of any property acquired or conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia.

(2) The Secretary may require such additional terms and conditions with respect to the acquisition and conveyance authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

LAND CONVEYANCE, COOK COUNTY, ILLINOIS

SEC. 811. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the State of Illinois all right, title, and interest of the United States in and to approximately ten acres of land comprising a portion of the National Guard Maintenance Center located in Cook County, Illinois, and presently under license to the State of Illinois for National Guard use. The land authorized to be conveyed is more particularly described as follows: Beginning at a point four hundred feet north of the southwest corner of section 23; thence east of a line parallel to the south line of the southwest quarter of section 23, a distance of four hundred and eighty-two feet (plus or minus) to the existing chain link fence; thence north along the chain link fence eight hundred and forty feet (plus or minus) to the south line of the Illinois Central Railroad property; thence northwesterly and west along the same south property line of the Illinois Central Railroad to the west line of the southwest quarter of section 23; thence south along the west line of the southwest quarter of section 23, nine hundred and twenty feet (plus or minus) to the point of beginning, all lying in the southwest quarter of section 23, township 39 north, range 12 east of the third principal meridian.

(b) In consideration for the conveyance authorized by subsection (a), the State of Illinois shall pay to the United States an amount equal to the appraised fair market value of the land to be conveyed (as determined by the Secretary), less any credit allowed under subsection (c). In addition, such conveyance shall be made subject to such terms, conditions, restrictions, and reservations as the Secretary determines to be necessary to protect the interests of the United States, including the interest of the United States in connection with the continued use by the United States of any property adjacent to or nearby the property conveyed.

(c) In determining the amount to be paid as consideration for the land to be conveyed, the Secretary may give appropriate credit for costs previously incurred by the State of Illinois in improving that land incident to its use under license from the Secretary.

(d) After the determination by the Secretary of the amount to be paid by the State of Illinois as consideration for the land to be conveyed (including the determination of any credit to be allowed under subsection (c)), and before the conveyance is made, the Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives setting forth the facts and circumstances leading to such determination. Such report shall include a detailed statement of the nature, extent, and amount of the costs previously incurred by the State for which the Secretary proposes to allow credit under subsection (c).

(e) The cost of any survey in connection with the conveyance of such property shall be borne by the State of Illinois.

(f) The authority of the Secretary under this section expires at the end of the two-year period beginning on the date of the enactment of this Act.

LAND EXCHANGE, KANSAS CITY, MISSOURI

SEC. 812. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Kansas City Corporation for Industrial Development of Kansas City, Missouri (hereinafter in this section referred to as the "Corporation"), all right, title, and interest of the United States in and to a parcel of land, aggregating one and two-tenths acres, more or less, together with improvements thereon, situated in Jackson County, Kansas City, Missouri, and presently used by the United States for Army Reserve purposes and known as the Sergeant Charles R. Long Army Reserve Training Center.

(b) In consideration for the conveyance by the Secretary under subsection (a), the Corporation shall—

(1) convey to the United States all right, title, and interest in and to a parcel of land, aggregating four and one-half acres, more or less, together with improvements thereon, known as the Carlisle School;

(2) repair and rehabilitate the Carlisle School in accordance with specifications approved by the Secretary; and

(3) provide to the United States the cost, as determined by the Secretary, of relocating Federal Government activities from the Sergeant Charles R. Long Army Reserve Training Center to the Carlisle School.

(c) If the sum of the fair market value (as determined by the Secretary) of the property conveyed to the United States under subsection (b)(1) and the cost of the repair and rehabilitation under subsection (b)(2) is less than the fair market value (as determined by the Secretary) of the property of the United States conveyed under subsection (a), the Corporation shall pay to the United States the amount of the difference. Any such payment shall be deposited into the Treasury as miscellaneous receipts.

(d) If the Corporation offers to provide to the United States another facility as consideration for the conveyance under subsection (a) in lieu of conveying the Carlisle School, and the Secretary determines that such facility is equal to or better than the Carlisle School from a functional, rehabilitative, economic, or other aspect, the Secretary may accept such alternative facility as consideration for the conveyance under subsection (a) in lieu of accepting the Carlisle School under subsection (b). Before accepting such facility, the Secretary shall submit a report of the facts concerning the proposed transaction to the Committees on Armed Services of the Senate and House of Representatives as required by section 2662 of title 10, United States Code.

(e) The exact acreages and legal descriptions of the properties to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by the Corporation.

(f) The Secretary may require such additional terms and conditions in connection with the conveyances authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

LAND EXCHANGE, FORT LEWIS, WASHINGTON

SEC. 813. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Weyerhaeuser Corporation, Tacoma, Washington, all right, title, and interest of the United States in and to five parcels of land totaling approximately 300 acres located along the western boundary of the Fort Lewis Military Reservation, Pierce County, Washington, together with the improvements on such land. Such conveyance shall include the following easements on behalf of the United States:

(1) A training easement over tract 1-US.

(2) An access easement over tract 4-US.

(b) In consideration for the conveyance authorized by subsection (a), the Weyerhaeuser Corporation—

(1) shall convey, or cause to be conveyed, to the United States all right, title, and interest in and to two parcels of land totaling approximately 290 acres, together with the improvements on such parcels, which are acceptable to the Secretary and the value of which (as determined by the Secretary) is

not less than the value of the land conveyed under subsection (a); and

(2) shall pay all costs for the installation of fencing necessitated by the conveyances made pursuant to subsection (a) and this subsection (as determined by the Secretary).

(c) The Secretary may not execute the conveyance authorized by subsection (a) unless the conveyance of the property referred to in subsection (b) is made to the United States without the reservation for the benefit of the Weyerhaeuser Corporation of any easement other than two easements over roads in tract 1-W.

(d) The exact acreages and legal descriptions of the lands to be conveyed under subsections (a) and (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Weyerhaeuser Corporation.

(e) The Secretary may enter into an agreement with the appropriate officials of Pierce County, Washington, under which (1) the existing reversionary interest of Pierce County in the lands to be conveyed by the United States under subsection (a) is extinguished, and (2) the conveyance to the United States under subsection (b) is made subject to a similar reversionary interest in favor of Pierce County in the lands conveyed under such subsection.

(f) The Secretary may require such additional terms and conditions in connection with the conveyances authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

ACTIVITIES TO ALLOW CONSOLIDATION OF CERTAIN FUNCTIONS AT WASHINGTON NAVY YARD, WASHINGTON, DISTRICT OF COLUMBIA

SEC. 814. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") may spend funds appropriated to the Department of the Navy for military construction for fiscal years beginning after September 30, 1982, in an amount not to exceed $5,000,000 for projects at the Washington Navy Yard, Washington, District of Columbia, as follows:

(1) Alteration, conversion, and modernization of building numbered 210 at the Washington Navy Yard for use as administrative office space.

(2) Alterations of buildings numbered 142 and 198 for use as public works facilities in support of building numbered 210.

(3) Systems, utilities, and site improvements in support of the projects described in clauses (1) and (2).

(b)(1) The Secretary may dispose of the property owned by the United States at 8621 Georgia Avenue, Silver Spring, Maryland, sometimes known as the Wolfe Building. The disposal of such property shall be made at not less than the fair market value of the property (as determined by the Secretary). The Secretary may use the proceeds from such disposal to reimburse the appropriations account from which funds are spent for the projects authorized by subsection (a).

(2) The authority of the Secretary under paragraph (1) includes authority to dispose of the property described in such paragraph by sale to private parties or transfer to any Federal, State, or local government agency for cash, on credit, and upon such other terms and conditions as the Secretary determines to be in the public interest.

(c) Any proceeds from the disposal authorized by subsection (b) in excess of the amount necessary for reimbursement under subsection (a), as determined by the Secretary, shall be available to the Secretary for military construction projects authorized for the Navy for fiscal year 1984 and for later fiscal years.

TECHNICAL AMENDMENT OF PRIOR AUTHORITY FOR LAND CONVEYANCE, SOUTH CHARLESTON, WEST VIRGINIA

SEC. 815. Section 915 of the Military Construction Authorization Act, 1982 (Public Law 97-99, 95 Stat. 1388), is amended—

(1) in subsection (a) by inserting "or the State of West Virginia" after "South Charleston, West Virginia" the first place it appears; and

(2) in subsection (b)(1)(A) by inserting a comma and "or such other alternate sites which may be acceptable to the Secretary" after "South Charleston, West Virginia".

And the House agree to the same.

MELVIN PRICE,
JACK BRINKLEY,
G. V. MONTGOMERY,
A. KAZEN, Jr.,
ANTONIO BORJA WON PAT,
WM. L. DICKINSON,
PAUL TRIBLE,
G. WILLIAM WHITEHURST,
DONALD J. MITCHELL,
Managers on the Part of the House.

JOHN TOWER,
STROM THURMOND,
JOHN WARNER,
GORDON J. HUMPHREY,
JEREMIAH DENTON,
NICHOLAS F. BRADY,
JOHN STENNIS,
GARY HART,
HOWARD W. CANNON,
J. JAMES EXON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

COMPARISON OF HOUSE AND SENATE BILLS

As passed by the Senate, S. 2586, provided $6,441,521,000 in new authorization.

The bill as amended by the House provided $7,515,167,000 in new authorization.

SUMMARY OF RESOLUTION OF DIFFERENCES

As a result of the conference between the House and Senate on the differences in S. 2586, the conferees agree to a new adjusted authorization for appropriations for military construction and family housing for fiscal year 1983 in the amount of $7,030,726,000.

Initially, the Department of Defense and the respective military departments submitted a request in the amount of $7,811,164,000 for new construction authorization for fiscal year 1983. Subsequently, the Department of Defense submitted a supplemental authorization request for fiscal year 1982 for $52,101,000. The conferees agree to authorize appropriations for new construction in the amount of $7,030,726,000.

Total authorization granted—fiscal year 1983

	Thousands
Title I (Army):	
Inside the United States	$498,428
Outside the United States	336,299
Minor construction	49,209
Family housing construction	132,930
Family housing support	905,678
Homeowners assistance	2,000
Subtotal	1,924,544
Title II (Navy):	
Inside the United States	824,204
Outside the United States	176,902
Minor construction	55,877
Family housing construction	94,903
Family housing support	659,439
Subtotal	1,811,325
Title III (Air Force):	
Inside the United States	879,564
Outside the United States	502,013
Minor construction	90,055
Family housing construction	115,965
Family housing support	809,535
Subtotal	2,397,132
Title IV (Defense agencies):	
Inside the United States	121,458
Outside the United States	126,310
Minor construction	12,316
Emergency construction	4,758
Family housing construction	593
Family housing support	17,279
Subtotal	282,714
Title V (NATO infrastructure)	375,000
Title VII (Guard and Reserve forces):	
Army National Guard	44,111
Army Reserve	28,500
Naval and Marine Corps Reserve	21,900
Air National Guard	116,500
Air Force Reserve	29,000
Subtotal	240,011
Total granted by titles I-VII	7,030,726

GENERAL TOPICS

Budget considerations

Setting conference guidelines

The limitations imposed by the First Concurrent Resolution on the Budget with respect to defense spending complicated the task of the conferees in resolving the substantial differences between the House and Senate military construction authorization bills.

There were several hundred projects or language items in dispute between the two bills and in order to facilitate the resolution of these differences the conferees agreed to several "ground rules":

1. A spending target of $7,000,000,000 in budget authority was established which represented the amount that the conferees felt could be authorized for appropriations with reasonable confidence that the ceiling for the defense function, established by the First Concurrent Resolution on the Budget, would not be breached.

2. Given this target, certain adjustments could be made and first priority for restoration of projects was given to budgeted projects cut by the Senate but not by the House.

3. Unbudgeted projects added to the bill by the House, if justified, were included in the conference bill, but authorized for con-

struction with savings that are expected to be generated as budgeted and authorized projects are put under contract.

Projects constructed with savings

The conferees are confident that the projects authorized for construction with savings can, in fact, be put under contract with appropriations authorized for other military construction projects for fiscal year 1983. Experience to date in fiscal year 1982 has shown that savings from the amounts authorized for projects, based upon bids received from the construction industry, have ranged from 12 to 15 percent.

In determining the appropriations to be authorized for fiscal year 1983 the conferees reduced the total of the projects authorized for construction, including those projects to be accomplished only with savings, by 8.5 percent. The following table summarizes the calculations used by the conferees to arrive at the amounts included in the final bill.

FISCAL YEAR 1983 MILITARY CONSTRUCTION CONFERENCE ALLOWANCES

[In thousands of dollars]

	Title I—Army		Title II—Navy		Title III—Air Force		Title IV—DOD	
	Authorization	Appropriation	Authorization	Appropriation	Authorization	Appropriation	Authorization	Appropriation
Military construction:								
Inside the United States	544,730	498,428	900,770	824,204	961,273	879,564	132,741	121,458
Outside the United States	367,540	336,299	193,335	176,902	548,648	502,013	138,044	126,310
Minor construction	53,780	49,209	61,068	55,877	98,421	90,055	13,460	12,316
Emergency construction							5,200	4,758
Subtotal	[1] 966,050	[1] 883,936	[1] 1,155,173	[1] 1,056,983	[1] 1,608,342	[1] 1,471,632	[1] 289,445	[1] 264,842
Family housing:								
Construction	132,930	132,930	94,903	94,903	115,965	115,965	593	593
Housing support	905,678	905,678	659,439	659,439	809,535	809,535	17,279	17,279
Homeowner's assistance	2,000	2,000						
Total	2,006,658	1,924,544	1,909,515	1,811,325	2,533,842	2,397,132	307,317	282,714

[1] Project authorizations have been reduced by 8.5 percent to arrive at appropriation amounts. Reductions are possible because of current competitive bidding results in the construction industry.

The conference bill includes a special section in each of the first three titles which specifically lists the projects to be built with savings. These savings can be generated from three sources—savings as a result of good bids as mentioned previously, savings resulting from project cancellations, and savings from prior years. The intent of the provision is that after a majority of the authorized and appropriated projects have been placed under contract, then the status of net savings will be determined. If there are sufficient cumulative savings, the services, after providing a complete report to the appropriate committees of the Congress, could proceed to award contracts for those projects specifically listed in each title. The conferees expect the services to give the highest priority to training, operational and living facilities in the development of their priority listing for the execution of these projects. The title total limitation found in title VI, however, would continue to apply and the services could not build projects summing to more than their total authorization for appropriations.

The conferees expect the Services to be especially aggressive in getting the fiscal year 1983 projects under contract to take advantage of the current favorable bidding climate. In the unlikely event that sufficient savings did not accrue to enable the execution of all of these projects, the services would be expected to seek the necessary authority and appropriations for the remaining projects at the earliest possible time.

Bachelor housing

The military services all have different designs for permanent party bachelor housing (commonly called barracks). From time to time the Armed Services Committees have urged the services to consider the adoption of a common design, but the services have resisted that suggestion.

The Army situation is typical. Currently the Army uses two designs for barracks which provide for three-person rooms. For Bragg, N.C. The Navy and the Air Force have designs that provide two- and three-person rooms.

fiscal year 1983 the Army proposed to change that standard to provide a new design with four persons to a room with pilot projects at Fort Story, Va., and Fort

The conferees see no justification for each Service to continue to design its own barracks, setting its own standards. A common design will provide fair treatment to all service personnel regardless of branch of service and it should save money in reduced design cost. The conferees direct that the Secretary of Defense select a standard design for permanent party barracks (other than trainee barracks) for all services and apply that standard design to all future projects. (The fiscal year 1984 barracks projects should be examined on a case-by-case basis, and an appropriate determination made based on the current design status as to whether or not this new standard is to be applied.) This standard design should be based on a two-person room (two persons through the grade of E-5, one person above the grade of E-5) with 90 net square feet of living space per person. Adjoining rooms should be served by a common bathroom facility.

The Armed Services Committees of the Senate and the House should be consulted during the process of selecting this standard design. The conferees will expect this standard barracks design to have been selected prior to hearings on the Fiscal Year 1984 Military Construction Authorization Bill.

Military family housing

The military family housing program totals $2.74 billion for fiscal year 1983. This program represents 39 percent of the total $7 billion authorized in the conference bill—a significant investment of financial resources.

The conferees, therefore, believe that every effort should be made to obtain the best possible housing in the most cost effective manner for military families.

New construction—United States

A significant portion of new housing being built today in the United States uses assembly line techniques to some degree to reduce cost. The services have done limited tests of this emerging housing technology with good results. The conferees feel that the manufactured housing industry should not be excluded from bidding on new military family housing. Therefore the military services are directed to use construction performance standards when advertising for family housing bids that permit competition by all types of housing construction on new housing projects to be built in the United States in fiscal year 1983 and thereafter. These standards should permit conventional, on-site construction methods to compete with factory-built housing or manufactured housing. The military services should utilize performance standards patterned after the construction specifications and criteria developed by the Department of the Army for use with its 200 unit family housing program at Fort Irwin, California authorized in fiscal year 1982. Final standards with regard to space, structural durability, energy efficiency, material quality and life safety should be established by the Secretary of Defense and be compatible with, and complementary to, the Federal Manufactured Housing Construction and Safety Standards (FMHCSS) established by legislation in 1974. Such standards, coupled with the favorable bidding climate that currently exists, should result in significant cost savings and the services should be able to execute their housing programs at the adjusted levels agreed to by the conferees.

Housing construction—overseas

This year for the first time in more than a decade the Department requested projects to construct new family housing in the Federal Republic of Germany and the United Kingdom. This represents a significant departure from past policy wherein new military family housing needs have been met through leasing. One item in the demarche, tabled by the then-Ambassador Stoessel with the German government in November of 1980, sought to increase the involvement of the German government in the build-lease program. The conferees feel that this approach may be more cost effective and the services are encouraged to reexamine that option.

The conferees have deferred the Department's requests for new construction in Germany and Great Britain and expect the services to carefully review their overseas housing requirements and to develop a comprehensive policy on how to meet their needs, either through construction, build to lease, or a combination thereof. The review and plan should be completed in time for committee consideration of the fiscal year

1984 military construction authorization request.

Overseas senior grade housing

The House amendment authorized $500,000 for the construction of two units of secure housing for senior officers assigned to Italy. The House action was in response to the kidnapping of Brigadier General James Dozier. The Senate bill did not provide for such authorization.

After careful examination of the costs involved with the housing, the House conferees recede to the Senate. In doing so, it is agreed that the services should develop a comprehensive plan for providing secure housing in the most cost effective manner for all general officers and civilians of comparable grade assigned overseas.

Allocation of foreign leases for military family housing

In reaching conference agreement, the following distribution of foreign leases for military family housing is agreed to:

FOREIGN LEASE ALLOCATIONS

	Total	High cost
Army	18,441	20
Navy	1,874	37
Air Force	8,028	6
Defense Intelligence Agency	354	137
Defense Mapping Agency	1	0
National Security Agency	302	0
Total	29,000	200

Military personnel support facilities

The three military services requested authorization for a number of child care centers, family service centers, chapels, and religious education centers in their respective fiscal 1983 military construction programs. In agreeing to authorize the requested projects, the conferees expect the services, starting with the fiscal year 1984 program, to consider the consolidation of these activities into a single facility when there is a valid requirement for two or more of these types of facilities. This multi-use facility design approach should result in significant cost savings and will provide a single location where a service member or his family can go to seek assistance for personal or family problems.

Miscellaneous report requirements

In the respective reports on the bill, both the Senate and the House Armed Services Committees included items of "Special Emphasis". The conferees hereby endorse the language on items of "Special Emphasis" found in both reports and, unless some modification to that language is contained in this joint statement of the committee of conference, the positions and requirements contained under items of "Special Emphasis" in both Senate and House reports on the fiscal year 1983 military construction authorization bills are concurred in by the conferees.

TITLE I—ARMY

The House approved $2,025,073,000 in authorization for the Department of the Army military construction and family housing programs. The Senate approved authorization in the amount of $1,742,758,000 for such purposes. The conferees agree to authorize appropriations for projects in Title I in the amount of $1,924,544,000 which is $100,529,000 below the House figure and $181,786,000 above the Senate figure. Among the items considered in conference and acted upon by the conferees were the following:

MASTER RESTATIONING PLAN

The Senate bill authorized $26.5 million for four master restationing plan (MRP) projects at Vilseck, Germany and $10.7 million for three military construction projects at Wildflecken, Germany, designated MRP sites. The projects represent the second phase of the MRP, which is part of an overall upgrade program that is designed to enhance readiness by moving U.S. units in Germany closer to the eastern border to respond to an improved Warsaw Pact offensive capability.

The United States and the Federal Republic of Germany (FRG) have entered into negotiations on the MRP. It has been the position of the U.S. government that the FRG should fund construction requirements in support of the MRP.

In providing authorization, the Senate bill included language that prevented obligation of any funds for any MRP projects until there is formal agreement between the U.S. and the FRG as to the cost sharing.

The House amendment did not authorize the projects at either Vilseck or Wildflecken. The House conferees agree to recede to the Senate with an amendment that stipulates that any cost sharing agreement between the two governments must be submitted to the respective Committees on Armed Services for review and thirty legislative days must expire before any funds may be obligated for any MRP projects.

FORT SAM HOUSTON, TEX.

The House amendment provided authorization of $2,000,000 to air condition a school building located on Fort Sam Houston. The Senate bill contained no similar authorization. The Senate recedes.

In reaching agreement, the conferees note that the school building is not owned by the Department of the Army and was built with funds provided by another Federal agency. The conferees expect the Army to work with the Federal agency holding title to the facility to accomplish the project or to transfer the funds so that the project may be accomplished by others.

REALLOCATION AUTHORITY IN HOUSING ACCOUNTS

The House amendment authorized $30,400,000 more than the Senate bill for maintenance activities for the family housing program in Europe. The additional authorization was requested by the Army in the fiscal year 1982 supplemental bill which the House considered with the fiscal year 1983 request.

In the conference bill, the House recedes to the Senate figure for family housing support because the authorized level of appropriations for that program is considered sufficient to cover the costs for all family housing support activities. The conferees agree, however, that the Department of the Army should be permitted to reallocate funds within the family housing support account to permit funding for maintenance activities at the requested level.

TITLE II—NAVY

The House approved $1,973,303,000 in authorization for the Department of the Navy military construction and family housing programs. The Senate approved authorization in the amount of $1,620,976,000 for such purposes. The conferees agree to a new total in Title II in the amount of $1,811,325,000 which is $161,978,000 below the House figure and $190,349,000 above the Senate figure.

Among the items considered in the conference were:

FAMILY HOUSING—NAVAL AIR TEST CENTER, PATUXENT RIVER, MD.

The House version provided authorization of $5,000,000 for the acquisition of 1,000 units of privately owned Wherry housing, known as St. Mary's Gardens, that had been built in 1952 on land leased from the Navy. Authorization of $16,800,000 was provided also to rehabilitate and modernize the existing units.

The Senate bill did not contain similar authorization. The Senate conferees recede to the House with an amendment that authorized $19,500,000 for 250 units of new family housing to be built at the St. Mary's Gardens site. This number of units will meet the housing deficit at the Test Center. The Navy is directed to use the construction performance standards and criteria that were included in the housing section under the general topics discussion of the conference report.

FAMILY HOUSING—NAVAL STATION, GUANTANAMO BAY, CUBA

The Department of the Navy had requested $25,403,000 in authorization for 200 units at the Guantanamo Bay Naval Station. The Senate bill did not include such authorization. The House amendment provided the authorization.

The Senate conferees recede with an amendment that provided $11,000,000 in authorization for 100 units of housing. This number of units will meet the current housing deficit.

FAMILY HOUSING, NAVAL STATION, LONG BEACH, CALIF.

The House provided $33,090,000 in authorization for 368 units of housing for the Long Beach Naval Station area and stipulated that none of the housing could be built at the Los Alamitos Armed Forces Reserve Center. That site was the Navy's preferred location for 168 units of the total number; however, the Defense Department indicated that alternative sites would be appropriate because of opposition to the Los Alamitos location.

The Senate bill did not authorize the housing. The Senate conferees recede with an amendment that provides authorization of $16,200,000 for 200 units of housing at Seal Beach, California. The other 168 units are deferred without prejudice, and the conferees expect the Navy to resolve any siting problems as quickly as possible because of the critical housing shortage facing military families in the Long Beach area.

NORFOLK SHIPYARD POWERPLANT

Congress has called upon the Department of Defense to pursue aggressively the development of alternative energy sources (including solar, geothermal and refuse derived fuel) to lesson our dependence on foreign oil. To further the goal of efficient energy usage, a project in Title II for $160 million authorizes the Navy to build a power plant at the Norfolk Naval Shipyard fueled by refuse derived fuel. After extensive analysis and research, the Navy has concluded that the most energy efficient program requires the construction of a power plant with a 48 megawatt capacity which will be capable of burning both coal and refuse derived fuel (RDF)—to be produced at an adjoining processing facility. (See 10 U.S.C. § 2394 for the general authority for this type of project.)

At times during the operation of the plant, the amount of electric power generated may exceed the Navy's current needs at the Norfolk Shipyard. The conferees confirm the intent of Congress that the Navy be authorized to proceed with the power plant facilities and to sell any surplus electricity. The sale of surplus electricity to the Virginia Electric and Power Company (VEPCO) will make the operation of the Navy's generating plant more efficient, facilitate the national defense, and reduce dependence on foreign energy sources. In addi-

tion, as a result of this provision, the sales proceeds (after costs are deducted) will be deposited in the Treasury as miscellaneous receipts.

The Navy's installation of the power plant to burn refuse derived fuel and the sale of surplus electric power generated at the shipyard will reduce the government's cost of operating the facility, assist in the Nation's energy conservation programs, reduce dependence on foreign oil and make an important contribution to the national defense.

TITLE III—AIR FORCE

The House approved $2,604,314,000 for military construction and military family housing for the Department of the Air Force. The Senate approved $2,248,757,000. The conferees agree to a new total in the amount of $2,397,132,000, which is $207,182,000 below the House figure and $148,375,000 above the Senate figure.

Major issues resolved in the conference include:

MX MISSILE BASING

The Air Force request as originally submitted, contained $207,000,000 to begin construction of various logistics, flight test, training, and weapon system support facilities required by the MX missile system. The House approved $103,000,000 for the construction of logistics, flight test, and weapon system support facilities.

The Senate approved $40,000,000 for construction of logistics facilities and flight test silos only.

The conferees, while supporting the MX missile program and the expeditious selection of a permanent basing mode, agree that the lack of design progress and site selection, together with environmental concerns make it highly improbable that contracts can be awarded in fiscal year 1983 for construction of the weapon system support facilities to be located at the deployment base.

The House recedes.

CONTINGENCY FACILITIES

The Air Force requested $45,000,000 for contingency facilities at three locations: Portugal, Egypt, and Honduras.

The House approved $15,000,000 for contingency facilities in Egypt only, while deferring facilities requested for Portugal and Honduras for lack of country to country access agreements.

The Senate approved $21,000,000 for airfield improvements in Honduras only.

Subsequent to the House action, an access agreement allowing U.S. use of airfields for certain routine and contingency purposes was signed by the United States and Honduras.

Recognizing vital interests of the United States in the Western Caribbean, the conferees agree to authorize funds for improvement of two airfields to provide the United States with the previously unavailable capability to respond to contingencies.

Fully cognizant of the conflict surrounding Honduras in Central America, the conferees urge the Administration to proceed with extreme caution so as not to exacerbate the problems already existing in that sensitive part of the world. A careful review of the requirement for the bases should be made before proceeding with construction.

The House recedes.

COLLOCATED OPERATING BASES

The Air Force has a program to provide austere airfield facilities to support deploying U.S. aircraft at allied bases throughout NATO. These facilities (primarily fuel and ammunition storage) will enable U.S. based aircraft to deploy to NATO quickly in the event of mobilization.

For the most part these facilities are eligible for NATO Infrastructure funding and the Congress has in the past encouraged the Air Force to use that fund source. The Air Force in an effort to expedite this construction has sought unilateral U.S. funding to prefinance the work with the intent of recouping the funds from the NATO Infrastructure program at some unspecified later date.

For Fiscal Year 1983 the Air Force sought $28 million to prefinance facilities at six allied air bases. In addition, the NATO Infrastructure program has, for the first time, allocated $32 million to this effort. The House amendment authorized the $28 million requested by the Air Force; the Senate bill denied the requested authorization.

After some discussion, the conferees agree to the prefinancing request of $28 million for Fiscal Year 1983 with the understanding that, since NATO is now funding the program directly, additional requests for prefinancing of this program in future years will not be considered favorably.

TITLE IV—DEFENSE AGENCIES

The House authorized $297,466,000 in new construction authorization for Defense Agencies while the Senate approved $251,830,000. The conferees agree to a new total of $282,714,000 which is $30,884,000 above the Senate figure and $14,752,000 below the House figure.

DEPENDENT SCHOOLS

The original budget request included funds in the amount of $72,857,000 for dependent schools at five overseas locations. The House approved $42,327,000 for 16 of the 18 projects requested. The House deferred authorization for two schools at Comiso, Italy and Greenham Common, United Kingdom, bases which will house the ground launched cruise missile, because the ongoing U.S.-U.S.S.R. talks on intermediate range nuclear forces could impact on this requirement. The Senate bill did not contain any funds for overseas dependent schools.

The conferees, recognizing the need to provide adequate schools for the approximately 17,000 students overseas, agree to the House position and funds are restored for overseas dependent schools in the amount of $42,327,000.

The Senate recedes.

USEUCOM WAR HEADQUARTERS

The House deferred without prejudice the $13,000,000 budget request for U.S. European Command War Headquarters because formal host nation approval had not been received.

The Senate approved $13,000,000 for the project.

The conferees recognize the need to provide a secure and survivable facility for the Headquarters, U.S. European Command (USEUCOM) to carry out its missions under emergency or wartime conditions. Subsequent to the House action, host nation approval was obtained and the conferees agree to authorize $13,000,000 for this purpose.

The House recedes.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

In Section 605, a large number of exceptions to repeal of prior year authorizations were requested by the military services because of problems encountered in awarding contracts within the two-year life of the authorization.

The House approved the request. The Senate deleted Section 605 on the basis that cost estimates are no longer valid if projects are not put under contract within two years.

The conferees agree to approve the exceptions to repeal contained in a new Section 606 for one year only with the understanding that no future requests for these same projects will be approved.

TITLE VII—GUARD AND RESERVE FACILITIES

In its version, the House provided a lump sum authorization of $240,011,000 for the Guard and Reserve construction program. The Senate bill contained authorization in the amount of $202,200,000. The Conferees agree to authorize $240,011,000 and the projects to be built are included in the state listing attached as part of the statement of managers.

TITLE VIII—GENERAL PROVISIONS

Among the major items relating to the general provisions that were subject to conference action were the following:

USE OF RENEWABLE FORMS OF ENERGY

The House version included a provision, Section 803, that would promote the utilization of photovoltaics and other renewable forms of energy in military construction and military procurement where such power systems would be cost effective and applicable (such as energy systems powered by solar energy, or other renewable forms of energy, to supply energy for mobile power systems, cathodic protection of pipelines, remote communications sites, mobile radar sites, navigational aids, military range monitoring and conditioning equipment, load center power, water pumping and purification, cathodic protection of water towers and bridges, perimeter security devices, data links, repeater stations, emergency and rescue communications, lighting, remote instrumentation, marking and warning devices, monitoring and sensing devices, and remote weather stations and transmitters). Existing life-cycle costing procedures applicable to solar energy systems would be used to evaluate the cost effectiveness of photovoltaic projects.

The Senate bill contained no similar provision. The Senate recedes with a technical amendment.

MANAGEMENT OF DEFENSE REAL PROPERTY

The Senate bill included a provision, Section 804, authorizing the President to sell or exchange any defense real estate if such sale or exchange would be in the public interest. Five percent of the net proceeds realized from such transactions would be used to finance a defense facility replacement fund and ninety-five percent of the remainder of the proceeds would be applied to the national debt.

The intent of the Senate provision was to permit the Defense Department to manage its real estate resources in the most prudent manner and to provide some incentive for a military department to divest itself of unneeded and inefficiently utilized real estate.

Current law and implementing procedures provide significant disincentives for the military to prudently manage its real estate assets. Excessing procedures are now slow and cumbersome and the military departments are required to provide site security and maintain the grounds and facilities during the excessing process—a process which often takes years to complete.

The Senate conferees argued that because the military departments do not have authority to sell or exchange underutilized or inefficiently utilized land and to use part of the proceeds to buy replacement land and build replacement facilities, they must "make do" with existing facilities. Replacement facilities are considered low in priority and are not included in the budget. A number of major metropolitan areas have dilapidated defense enclaves on high value urban real estate; if they enclaves could be sold on the market and all or part of the

proceeds used to relocate the activity into the suburbs or on other available defense property, all parties would benefit and the profits could go to the Treasury to reduce the national debt.

The conferees agree that this issue requires the thorough attention of the Congress and the Administration.

Because the issue had not been carefully and fully examined by the House during its consideration of the military construction bill, the House conferees were extremely reluctant to accept the provision. Both House and Senate conferees agree that the issue should be considered during hearings and review of the Fiscal Year 1984 Military Construction Authorization Bill.

The Senate reluctantly recedes.

MULTIPLE LAND USE MANAGEMENT PROGRAM ON MILITARY INSTALLATIONS

The Senate bill included a provision, Section 805, that authorizes the use of rental receipts derived from agricultural and grazing leases to (a) finance multiple land use management programs on military installations and (b) cover administrative costs associated with such leasing. The provision does not apply to lands acquired by the United States for flood control, navigation and allied purposes, including hydroelectric power. Also, the provision does not authorize the funding of capital improvements, which are normally provided for in the annual military construction authorization and appropriations acts.

The House amendment contained no similar provision. The House recedes.

BUY AMERICAN

Section 809 of the Senate bill amended the provision included in P.L. 97-99, the Fiscal Year 1982 Military Construction Authorization Act, that requires the use of U.S. construction materials in support of the U.S. Rapid Deployment Force. The revised provision permits the limited use of construction materials produced, manufactured or refined in the host nations for essentially joint venture purposes.

The House amendment contained no similar provision.

The House recedes.

APPENDIX

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION INSIDE THE UNITED STATES

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
ALABAMA (total 47.672)		
Army:		
Fort McClellan		7.500
Decontamination Training Facility	7.500	
Fort Rucker		17.750
Barracks	11.700	
Company Administration and Supply	2.100	
Dining Facility	1.650	
Training Facilities	2.300	
Air Force:		
Maxwell Air Force Base		15.150
Energy Conservation Investment Program	7.850	
Readiness Training Facility	7.300	
Army National Guard:		
Vernon		.565
150-Person Armory	.565	
Army Reserve:		
Redstone Arsenal		3.187
600-Member Army Reserve Center/Organizational Maintenance Shop/Area Maintenance Support Activity	3.187	
Air National Guard:		
Birmingham Municipal Airport		.650
Support Equipment Shop	.650	
Dannelly Field		2.870
Weapons Release System/Electronic Countermeasures Storage	1.590	
Munitions Maintenance & Storage Facility	.980	
Fire Suppression Systems	.300	
ALASKA (total 71.183)		
Army:		
Fort J. M. Wainwright		3.020
Control Tower	1.670	
Range and Training Facility Improvement	1.350	
Navy:		
Naval Facility, Adak		1.900
Security Improvements	1.900	
Naval Station, Adak		.580
Oil Spill Prevention	.580	
Air Force:		
Eielson Air Force Base		6.990
Support Equipment Shop	5.100	
Add to and Alter Data Processing Facility	1.480	
Alter Aircraft Nose Dock	.410	
Elmendorf Air Force Base		4.800
Alter Unaccompanied Enlisted Personnel Housing	4.800	
Galena Airport		2.050
Petroleum, Oil & Lubricants Operations Facility	2.050	
Shemya Air Force Base		1.200
Aircraft Instrument Landing System	1.200	
Various Locations		43.600
Minimum Attended Radar (Phase II)	43.600	
Army National Guard:		
Anchorage		3.863
600-Person Armory	3.863	
Air National Guard:		
Kulis International Airport		3.180
Operational Training Facility	3.180	
ARIZONA (total 53.516)		
Army:		
Fort Huachuca		2.600
Child Care Center	2.600	
Navy:		
Marine Corps Air Station, Yuma		.720
Dining Facility Modernization	.720	
Air Force:		
Davis-Monthan Air Force Base		11.950
Airfield Pavements	1.600	
Aircraft Corrosion Control Facility (OSH)	1.850	
Small Aircraft Maintenance Dock	3.850	
Water Supply Storage & Distribution System	4.650	
Luke Air Force Base		2.160
Security Police Operations Facility	1.000	
Various Operational Maintenance Facilities	.510	
Energy Conservation Investment Program	.650	
Williams Air Force Base		8.700
Logistics Complex	6.100	
Unaccompanied Enlisted Personnel Housing	2.600	
Gila Bend Auxiliary Field		1.700
Gymnasium	1.700	
Army National Guard:		
Kingman		.589
Armory Addition	.589	
Sunnyslope		.657
Armory Addition	.657	
Ft. Huachuca, Libbey Army Airfield		16.200
Runway, Taxiway, Apron	16.200	
Air National Guard:		
Sky Harbor International Airport		1.440
Construct Runway Overrun	1.440	
Air Force Reserve:		
Luke Air Force Base		6.800
Apron	.970	
Composite Maintenance Facility	3.030	
Squadron Operations/Group Operations and Training	2.800	
ARKANSAS (total 33.097)		
Army:		
Pine Bluff Arsenal		19.650
Binary Munitions Facility	18.300	
Contain Hazardous Chemical Runoff	1.350	
Air Force:		
Blytheville Air Force Base		8.733
Unaccompanied Enlisted Personnel Housing	[1] 3.600	
Unaccompanied Enlisted Personnel Housing	[1] 3.600	
Composite support equipment and organization maintenance shop	[1] 1.533	
Little Rock Air Force Base		3.570
Corrosion Control Facility	3.000	
Add to and Alter Child Care Center	.570	
Army National Guard:		
Fort Chaffee		.670
Ranges	.670	
Camp Robinson		.474
Armory Addition	.220	
Direct Support Logistics Facility	.254	
CALIFORNIA (total 522.924)		
Army:		
Fort Irwin		29.798
Company Administration and Supply	2.400	
Training Ranges	1.540	
Road Improvements	13.000	
Dining Facility	2.550	
Vehicle Wash Facilities Center	2.100	
Family Housing (114 Units)		8.208
Fort Ord		10.440
Tactical Equipment Shop	.990	
Company Administration and Supply	.550	
Tactical Equipment Shop	3.200	
Occupational Safety and Health Deficiencies	2.100	
Barracks	2.200	
Hardstand Expansion	1.400	
Camp Roberts		2.050
Satellite Control Facility	2.050	
Presidio of San Francisco		.460
Heating and Lighting Controls	.460	
Navy:		
Naval Air Station, Alameda		3.650
Child Care Center	1.750	
Solid Waste Disposal System	1.900	
Marine Corps Base, Camp Pendleton		43.165
Telephone Exchange Building	1.750	
Tactical Vehicle Maintenance Shops	4.850	
Unaccompanied Enlisted Personnel Housing	9.715	
Small Arms Range—Outdoor	3.750	
Armories	3.400	
Unaccompanied Enlisted Personnel Housing	10.500	
Dining Facility Addition	1.000	
Family Housing (104 Units)		8.200
Naval Weapons Center, China Lake		9.400
Engineering Laboratory	8.700	
Electrical Distribution Lines	.700	
Naval Amphibious School, Coronado		.380
Applied Instruction Building Addition	.380	
Naval Station, Long Beach		16.200
Family Housing (368 Units)	16.200	
Naval Air Facility, El Centro		.370
Lighting Systems	.370	
Marine Corps Air Station, El Toro		7.200
Unaccompanied Enlisted Personnel Housing	7.200	
Naval Air Station, Lemoore		11.620
Airframes Shop	3.400	
Operational Trainer Facility	5.600	
Family Services Center	.920	
Pay and Personnel Support Office	1.700	
Naval Regional Medical Center, Long Beach		.700
Medical Clinic, (San Nicholas Island)	.700	
Mare Island Naval Shipyard, Vallejo		9.150
Breathing Air System Safety Improvements	2.250	
Electrical Distribution System Addition	[1] 3.500	
Compressed Breathing Air Distribution System	[1] 3.400	
Naval Air Station, Moffett Field		12.200
Unaccompanied Enlisted Personnel Housing	6.850	
Applied Instruction Building	4.950	
Family Services Center	.400	
Naval Postgraduate School, Monterey		.550
Boiler Plant Modifications	.550	
Naval Air Rework Facility, North Island		18.500
Manufacture/Repair Shop	18.500	
Naval Air Station, North Island		31.390
Unaccompanied Enlisted Personnel Housing	8.200	
Aircraft Intermediate Maintenance Facility	3.870	
Maintenance Hangar and Apron	19.000	
Heating, Ventilation, and Air Conditioning	.320	
Naval Regional Medical Center, Oakland		9.700
Medical and Dental Clinic (Mare Island Naval Shipyard, Vallejo)	9.700	
Naval Ship Weapons System Engineering Station, Port Hueneme		7.800
Guided Missile Laboratory	7.800	
Pacific Missile Test Center, Point Mugu		.190
Unaccompanied Enlisted Personnel Housing Modernization Fire Protection System	.190	
Naval Construction Battalion Center, Port Hueneme		1.080
Child Care Center	.890	
Lighting Systems	.190	
Shore Intermediate Maintenance Activity, San Diego		14.100
Intermediate Maintenance Facility	14.100	
Marine Corps Mountain Warfare Training Center, Bridgeport		8.470
Family Housing (77 Units)	8.470	
Fleet Anti-Submarine Warfare Training Center, Pacific San Diego		3.950
Applied Instruction Building	3.950	
Marine Corps Recruit Depot, San Diego		27.100
Dining Facility	3.400	
Armory	2.700	
Unaccompanied Enlisted Personnel Housing	21.000	
Naval Station, San Diego		27.300
Drydock Mooring	24.000	
Land Acquisition	3.300	
Naval Supply Center, San Diego		4.430
General Warehouse	4.430	
Navy Public Works Center, San Diego		.850
Facility Energy Improvements	.850	
Navy Public Works Center, San Francisco		10.750
Sewerage System	9.800	
Sewerage System	.950	
Marine Corps Air Station, Tustin		8.150
Warehouse	4.950	
Ground Support Equipment Shop	2.400	
Operational Trainer Facility	.800	
Naval Support Activity, San Francisco		1.670
Lighting Systems Improvements	.270	
Child Care Center	1.400	
Naval Weapons Station, Seal Beach		.628
Container Repair Facility Modernization	.628	
Air Force:		
Beale Air Force Base		3.105
Satellite Communications Ground Terminal	1.250	
Data Processing Facility	1.345	
Alter Jet Fuel Storage	.510	
Castle Air Force Base		.750
Alter Jet Fuel Storage	.750	

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION INSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
Edwards Air Force Base		12.100
Security Police Operations Facility	1.550	
Modernize Satellite Propulsion Research Facility	5.000	
Munitions Area Upgrade	1.950	
Flight Test Support Complex	3.600	
George Air Force Base		1.910
Data Processing Facility	1.400	
Alter Jet Fuel Storage	.510	
McClellan Air Force Base		10.310
Integration Support Facility	9.000	
Depot Maintenance Facility Fire Protection—OSH	.800	
Alter Jet Fuel Storage	.510	
March Air Force Base		1.550
Data Processing Facility	1.550	
Mather Air Force Base		1.180
Add to and Alter Data Processing Facility	.580	
Alter Jet Fuel Storage	.600	
Norton Air Force Base		1.720
Add to Petroleum Operations Facility	.420	
Alter Jet Fuel Storage	1.300	
Travis Air Force Base		2.400
Chapel Center	2.400	
Vandenberg Air Force Base		80.109
Petroleum, Oil, & Lubricants Operations Facility	.350	
Security Police Operations Facility	2.559	
Vehicle Maintenance Shop	1.300	
Range Safety Processing Center	6.200	
Hypergolic Stockpile Storage	4.900	
Data Processing Facility	1.550	
Unaccompanied Enlisted Personnel Housing	4.100	
Visiting Officer Quarters	4.350	
Space Transportation Systems Facility Modifications	14.800	
Space Transportation Systems Assembly Environment Shelter	40.000	
Sunnyvale Air Force Station		11.700
Add to and Alter Satellite Control Facility	11.700	
Fort MacArthur		20.650
Alter Unaccompanied Enlisted Personnel Housing	.750	
Alter Unaccompanied Officer Personnel Housing	1.900	
Family Housing (200 Units)	18.000	
Moffett Naval Air Station		1.900
Unaccompanied Enlisted Personnel Housing	1.900	
Army National Guard:		
Los Alamitos		.537
Organizational Maintenance Shop	.537	
Sacramento		.355
Organizational Maintenance Shop	.355	
Stockton		.680
Army Aviation Support Facility	.680	
Army Reserve:		
Santa Barbara		.702
Alter 100-Member Army Reserve Center/Organizational Maintenance Shop	.702	
Air National Guard:		
March Air Force Base		2.750
Rocket Storage Checkout & Assembly Facility	2.750	
Moffett Naval Air Station		2.140
Parachute & Dinghy Shop/Pararescue Operations	1.440	
Medical Training and Administrative Facility	.700	
Air Force Reserve:		
Mather Air Force Base		.985
Composite Training Facility	.985	
Defense Logistics Agency:		
Defense Fuel Support Point, Ozol		1.000
Air Pollution Abatement	1.000	
Office of the Secretary of Defense:		
Defense Foreign Language Institute, Monterey		31.000
Classrooms	7.500	
Student Quarters	23.500	
COLORADO (total 118.830)		
Army:		
Fort Carson		13.220
Company Administration and Supply	.440	
Tactical Equipment Shop	1.550	
Battalion Headquarters and Classroom	1.450	
Company Administration and Supply	1.750	
Combined Range	2.500	
Fencing	.880	
Rail Loading Facilities	2.800	
Access Road	1.850	
Fitzsimons Army Medical Center		5.000
Barracks	3.600	
Energy Conservation-Series 600 Buildings	.850	
Insulate Buildings	.550	
Air Force:		
United States Air Force Academy		6.080
Airmanship Training Facilities	3.000	
Safety Guards-OSH	.630	
Fire Protection System-OSH	.950	
Energy Conservation Investment Program	.900	
Alter Community Support Center	.600	
Lowry Air Force Base		13.050
Technical Training Facility	11.300	
Data Processing Facility	1.750	
Peterson Air Force Base		67.700
Consolidated Space Operations Center, Phase I	67.700	
Buckley Air National Guard Base		1.100
Satellite Communications Ground Terminal	1.100	
North American Aerospace Defense Command, Cheyenne Mountain Complex		1.900
Add to Fire Protection System	1.900	

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION INSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
Air National Guard:		
Peterson Field		5.150
Communications/Electronics Training Complex	5.150	
Air Force Reserve:		
Peterson Field		5.630
Fuel System Maintenance Dock	5.630	
CONNECTICUT (total 5.900)		
Navy:		
Naval Submarine Base, New London, Groton		5.900
Waterfront Facilities Improvement and Land Acquisition	5.900	
DELAWARE (total 3.300)		
Air Force:		
Dover Air Force Base		3.300
Alter Aircraft Maintenance Shop	.550	
Energy Conservation Investment Program	.250	
Alter Heat Plant	2.500	
DISTRICT OF COLUMBIA (total 12.850)		
Army:		
Walter Reed Army Medical Center		9.800
Heating and Cooling Upgrade	9.800	
Navy:		
Naval Research Laboratory, Washington		1.800
Electronics Laboratory	1.800	
Naval Security Station, Washington		.750
Weatherization	.750	
Naval and Marine Corps Reserve:		
Naval Facility, Washington		.500
Upgrade Avionics	.500	
FLORIDA (total 141.030)		
Navy:		
Naval Air Station, Cecil Field		9.300
Aircraft Maintenance Facilities	2.500	
Unaccompanied Enlisted Personnel Housing	6.800	
Naval Air Rework Facility, Jacksonville		.280
Heating, Ventilation, Air Conditioning	.280	
Naval Air Station, Jacksonville		.150
Receiving and Shipping Facility	.150	
Naval Air Station, Key West		.180
Heating, Ventilation, Air Conditioning	.180	
Naval Station, Mayport		37.750
Utilities System Expansion	6.800	
Operational Trainer Facilities	9.000	
Family Service Center	.650	
Land Acquisition for Family Housing	1.000	
Maintenance Hangar	[1] 12.600	
Aircraft Intermediate Maintenance Facility	[1] 7.700	
Naval Air Station, Whiting Field		7.650
Airfield Pavements Addition	[1] 4.500	
Airfield Pavements Improvement	[1] 3.150	
Naval Training Center, Orlando		5.500
Utilities Improvements	2.800	
Heating, Ventilation, Air Conditioning	2.700	
Naval Coastal Systems Center, Panama City		.340
Ventilation Improvement	.340	
Naval Air Station, Pensacola		5.400
Facility Energy Improvements	1.400	
Training Management Complex	4.000	
Naval Technical Training Center, Pensacola		4.450
Applied Instruction Buildings	4.450	
Air Force:		
Eglin Air Force Base		24.020
Aircraft Operational Facilities	3.500	
Sound Suppressor Support	.570	
Add to Heavy Equipment Shop	1.050	
Photo Optics Maintenance Facility	2.850	
Add to Explosive Processing Laboratory	.340	
Electronic Countermeasures Pod Storage	.510	
Aircraft General Purpose Shop—Auxiliary Field	3.000	
Add to and Alter Recreation Center—Auxiliary Field 9	1.200	
Composite Management Facility	[1] 11.000	
Homestead Air Force Base		1.760
Data Processing Facility	1.500	
Energy Conservation Investment Program	.260	
MacDill Air Force Base		21.960
Sound Suppressor Support	.600	
Data Processing Facility	1.400	
Energy Conservation Investment Program	.660	
Rapid Deployment Force/Readiness Command Base Support	2.300	
RDF/Redcom support	17.000	
Tyndall Air Force Base		11.540
Unaccompanied Enlisted Personnel Housing	3.500	
Regional Sewer Connection	2.750	
Pol complex	[1] 5.240	
Cape Canaveral		9.100
Alter Various Space Transportation System Facilities	9.100	
Naval and Marine Corps Reserve:		
Naval and Marine Corps Reserve Center, Orlando		1.650
Reserve Training Buidling Addition	1.650	
GEORGIA (total 267.661)		
Army:		
Fort Benning		26.520
Infantry/Cavalry Fighting Vehicle Ranges	15.500	
Health clinic	[1] 1.050	267.661
Receptee Barracks with Dining Facility	[1] 9.700	
Branch Post Office	.270	

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION INSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
Fort Gordon		9.200
Academic Traning Building	[1] 9.200	
Fort McPherson		41.00
Command and Control Facility	[1] 41.000	
Fort Stewart/Hunter Army Air Field		26.640
Company Administration and Supply	.580	
Tactical Equipment Shop	1.000	
Range Upgrade	1.950	
Warehouse	.540	
Company Administration and Supply	.520	
Tactical Equipment Shop	5.700	
Barracks	5.800	
Sewerage System Extension	1.250	
Water Distribution System	1.000	
Road Network	8.300	
Naval Submarine Support Base, Kings Bay, Kingsland		148.280
Utilities & Site Improvements	124.700	
Unaccompanied Enlisted Personnel Housing	3.600	
Enlisted Dining Facility	3.900	
Dredging	14.800	
Public Works Support Facilities	.530	
Land Acquisition	.750	
Air Force:		
Moody Air Force Base		6.550
Small Aircraft Maintenance Dock	2.550	
Unaccompanied Enlisted Personnel Housing	[1] 4.000	
Robins Air Force Base		4.700
Jet Fuel Storage	4.700	
Army National Guard:		
Dobbins Air Force Base		1.756
400-Person Armory	1.756	
Springfield		.248
Armory Addition	.248	
Army Reserve:		
Dublin		1.892
300-Member Army Reserve Center/Organizational Maintenance Shop	1.892	
Air National Guard:		
Savannah Municipal Airport		.410
Munitions Storage Facility	.410	
Air Force Reserve:		
Dobbins Air Force Base		.465
Alter Control Tower	.465	
HAWAII (total 43.873)		
Army:		
Aliamanu		4.100
Consolidated Community Center	[1] 4.100	
Schofield Barracks		2.930
Barracks	0	
Tactical Equipment Shop	2.930	
Navy:		
Naval Communication Area Master Station Eastern Pacific, Honolulu		7.250
Chapel	.950	
Satellite Communications Building Addition	1.800	
Stand-By Generator Plant	4.500	
Marine Corps Air Station, Kaneohe Bay		1.650
Radar Operational Facility	1.450	
Aircraft Rinse Facility	.200	
Naval Station, Pearl Harbor		14.400
Unaccompanied Enlisted Personnel Housing	12.500	
Electronics/Communications Maintenance Shop	1.900	
Pearl Harbor Naval Shipyard, Pearl Harbor		.530
Electrical System Safety Improvements	.530	
Navy Public Works Center, Pearl Harbor		.550
Facility Energy Improvements	.550	
Shore Intermediate Maintenance Activity, Pearl Harbor		7.000
Intermediate Maintenance Facility	7.000	
Air Force:		
Hickam Air Force Base		.410
Aircraft Corrosion Control Facility	.410	
Army National Guard:		
Hilo		1.253
Army Aviation Support Facility	1.253	
Air National Guard:		
Wheeler Air Force Base		3.800
Aircraft Control & Warning System	3.800	
IDAHO (total 3.885)		
Air Force:		
Mountain Home Air Force Base		3.390
Add to Field Training Facility	.750	
Aircraft Maintenance Unit Facility	1.700	
Aircraft Maintenance Area Lighting	.940	
Army National Guard:		
Gowen Field		.495
Moving Target Range	.220	
Tank Tables VII & VIII	.275	
ILLINOIS (total 41.200)		
Army:		
Savanna Army Depot		.710
Insulate Buildings	.710	
Rock Island Arsenal		.630
Addition to Electric Power Building	.630	
Navy:		
Naval Training Center, Great Lakes		1.850
Facility Energy Improvements	1.850	
Navy Public Works Center, Great Lakes		3.400
Heating, Ventilation, Air Conditioning	3.400	

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION INSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
Air Force:		
Chanute Air Force Base		23.170
Gymnasium	3.300	
Energy Conservation Investment Program	8.160	
Add to and Alter Water Treatment Plant	.910	
Unaccompanied Enlisted Personnel Housing/Dining Hall	[1] 10.800	
Scott Air Force Base		5.250
Vehicle Maintenance Complex	3.450	
Composite Medical Facility Upgrade	1.400	
Alter Headquarters Facility	.400	
Army Reserve:		
Arlington Heights		4.899
600-Member Army Reserve Center/Organizational Maintenance Shop	4.899	
Naval and Marine Corps Reserve:		
Naval Air Station, Glenview		.367
Storm Windows, Various Buildings	.367	
Air National Guard:		
Capital Municipal Airport		.924
Fire Suppression Systems	.400	
Energy Conservation Investment Program	.524	
INDIANA (total 17.840)		
Army:		
Indiana Army Ammunition Plant		2.910
Power Tie Line	2.600	
Emergency Power Source for Operating Lines	.310	
Navy:		
Naval Weapons Support Center, Crane		1.990
Facility Energy Improvements	.800	
Ventilation Improvements	.240	
Ship Weapon Systems Laboratory	.600	
Electronics/Communications Maintenance Shop	.350	
Air Force:		
Grissom Air Force Base		3.670
Alter Data Processing Facility	.270	
Alter 2 Unaccompanied Enlisted Personnel Housing	[1] 3.400	
Army National Guard:		
Gary		1.853
Armory	1.853	
Army Reserve:		
Richmond		1.522
200-Member Army Reserve Center	1.522	
Air National Guard:		
Hulman Field		2.790
Composite Fuel Storage & Support Facility	.790	
Composite Squadron Operations Facility	2.000	
Fort Wayne Municipal Airport		1.520
Base Engineer Maintenance Facility	1.120	
Fire Suppression Systems	.400	
Air Force Reserve:		
Grissom Air Force Base		1.585
Weapons Release & Electronic Countermeasures Pod Shop	1.585	
IOWA (total 1.390)		
Army:		
Iowa Army Ammunition Plant		0.430
Explosive Storage Building with Walkway	.310	
Truck Dock and Storage Area	.120	
Air National Guard:		
Sioux City Municipal Airport		.960
Aircraft Arresting System	.560	
Fire Suppression System	.400	
KANSAS (total 40.570)		
Army:		
Kansas Army Ammunition Plant		7.200
Consolidated Administration Building	7.200	
Fort Leavenworth		17.800
Hospital Upgrade	13.600	
Addition to Bell Hall	4.200	
Sunflower Army Ammunition Plant		3.000
Restore 300 Ton/Day Ammonia Oxidation Plant	3.000	
Air Force:		
McConnell Air Force Base		3.000
Dining Hall	3.000	
Air National Guard:		
McConnell Air Force Base		9.570
Add to Aircraft Parking Apron	1.140	
Add to and Alter Composite Squadron Operational/Academic Training Facility	2.730	
Composite Aircraft Maintenance Hangar	5.200	
Power Check Pad with Suppressor	.500	
KENTUCKY (total 22.189)		
Army:		
Fort Campbell		10.650
Flight Simulator Building	2.850	
Tactical Equipment Shop	7.800	
Fort Knox		9.080
Site Preparation and Hardstand	.680	
Tank Driving Course	2.900	
Sanitary Landfill	3.000	
Correct Safety Deficiencies	2.500	
Army National Guard:		
Hazard		.792
150-person Armory	.792	
Jackson		.937
150-person Armory	.937	
Naval and Marine Corps Reserve:		
Naval and Marine Corps Reserve Center, Louisville		.300

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION INSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
Combat Vehicle Maintenance Shop	.300	
Air National Guard:		
Standiford Field		.430
Security Police Operations Facility	.430	
LOUISIANA (total 26.848)		
Army:		
Louisiana Army Ammunition Plant		3.410
Container Distribution Facility	3.050	
Gasoline and Diesel Dispensing Station	.220	
Water Well Buildings	.140	
Fort Polk		17.230
Tactical Equipment Shop	2.950	
Tactical Equipment Shop	1.640	
Company Administration and Supply	4.300	
Battalion Headquarters and Classroom	2.450	
Tactical Equipment Shop	5.500	
Correct Safety Deficiencies	.390	
Air Force:		
Barksdale Air Force Base		.650
Energy Conservation Investment Program	.650	
England Air Force Base		1.170
Ammunition Maintenance Shop	.790	
Entomology Shop	.380	
Army National Guard:		
Lake Charles		.228
Organizational Maintenance Shop	.228	
Army Reserve:		
New Orleans		1.590
Modernize/Add to 400-Member Army Reserve Center/Organizational Maintenance Shop	1.590	
Navy and Marine Corps Reserve:		
Naval Air Station, New Orleans		.270
Combat Vehicle Maintenance Shop	.270	
Air National Guard:		
Naval Air Station, New Orleans		.500
Add to and Alter Munitions Storage Facility	.500	
Air Force Reserve:		
Barksdale Air Force Base		.700
Convert to Fuel System Maintenance Facility	.700	
Naval Air Station, New Orleans		1.100
Flight Simulator	1.100	
MAINE (total 49.450)		
Navy:		
Naval Air Station, Brunswick		.840
Family Services Center	.840	
Portsmouth Naval Shipyard, Kittery		7.500
Electrical/Electronics Shop Modernization	2.200	
Machine/Central Tool Shops Modernization	[1] 4.400	
Steam Plant Improvements	[1] .900	
Naval Security Group Activity, Winter Harbor		.930
Ocean Surveillance Building Improvements	.930	
Air Force:		
Loring Air Force Base		38.980
Energy Conservation Investment Program	1.220	
Heat Plant Alteration	33.700	
Advanced Waste Treatment Facility	3.500	
Add to and Alter Operations and Maintenance Facilities	.560	
Various Location		1.200
Over-the-Horizon-B Operational Support Facility and Land Acquisition	1.200	
MARYLAND (total 170.090)		
Army:		
Aberdeen Proving Ground		27.500
Training Facilities	9.400	
Enlisted Barracks	[1] 18.100	
Fort Detrick		2.350
Barracks Modernization—Building 1681	.650	
Communications System Facilities	1.700	
Fort Meade		2.500
Satellite Control Facility	2.500	
Navy:		
Naval Academy, Annapolis		16.900
Physical Education Facilities Modernization	11.200	
Heating, Ventilation, Air Conditioning	3.200	
Vehicular Bridge	2.500	
Naval Explosive Ordnance Disposal Facility, Indian Head		.600
High Explosive Magazine	.600	
Naval Surface Weapons Center, White Oak		1.700
Sewerage System	1.700	
Naval Ordnance Station, Indian Head		.250
Weatherization	.250	
Naval Air Test Center, Patuxent River		19.500
Family Housing Purchase (1000 units)	19.500	
Air Force:		
Andrews Air Force Base		13.200
Unaccompanied Enlisted Personnel Housing	6.100	
Add to Child Care Center	1.050	
Energy Conservation Investment Program	6.050	
Air National Guard:		
Andrews Air Force Base		8.000
Air National Guard Support Center	8.000	
Air Force Reserve:		
Andrews Air Force Base		.900
Convert to Fuel Systems Maintenance Dock	.900	
Defense Mapping Agency:		
Hydrographic/Topographic Center		.990
Mezzanine Construction	.990	
National Security Agency:		
Fort Meade		75.500

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION INSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
Operations Building 2A & B	75.500	
Defense Nuclear Agency:		
Harry Diamond Laboratory, Adelphi		.200
Covered Storage Facility	.200	
MASSACHUSETTS (total 30.518)		
Army:		
Fort Devens		4.010
Training Area	3.200	
Observed Fire Trainer	.320	
Gymnasium Addition	.490	
Air Force:		
Laurence G. Hanscom Air Force Base		9.670
Systems Management Engineering Facility (Phase II)	9.100	
Alter Base Access Roads	.570	
Westover Air Force Reserve Base		2.700
Air Installation Compatible Use Zones	2.700	
Otis Air National Guard Base		3.440
Satellite Communications Ground Terminal	1.100	
Air Installation Compatible Use Zones	2.340	
Boston		[1] 5.300
2 Armories	[1] 5.300	
Army National Guard:		
Camp Edwards		.245
Unit Training Equipment Site Modification	.245	
Army Reserve:		
Fort Devens		4.383
Expand to 1,000-Member Army Reserve Center/Organizational Maintenance Shop	4.383	
Air National Guard:		
Otis Air National Guard Base		.500
Power Check Pad w/Suppressors	.500	
Air Force Reserve:		
Westover Air Force Base		.270
Aircraft Ground Equipment Shop/Storage	.270	
MICHIGAN (total 15.408)		
Air Force:		
K. I. Sawyer Air Force Base		4.450
Aircraft Organizational Maintenance Shop	1.600	
Upgrade Sewage Treatment Plant	2.850	
Wurtsmith Air Force Base		2.550
Add to and Alter Support Equipment Shop	.750	
Waste Treatment Facility	1.800	
Army National Guard:		
Camp Grayling		2.560
Logistics Facility	2.560	
Muskegon		1.375
200-Person Armory	.659	
Organizational Maintenance Shop	.230	
Motor Vehicle Storage Building	.486	
Army Reserve:		
Detroit (Stroh)		2.783
Expand to 600-Member Army Reserve Center	2.783	
Air National Guard:		
Selfridge Air National Guard Base		1.300
Alter Hangar for Weapon & Release System Shop/Electronic Countermeasure Shop	.800	
Power check Pad with Suppressor	.500	
Kellogg Regional Airport		.400
Fire Suppression Systems	.400	
MINNESOTA (total 2.181)		
Army National Guard:		
New Brighton		.191
Organizational Maintenance Shop	.191	
Air National Guard:		
Minneapolis-St. Paul International Airport		1.020
Aerial Port Training Facility	1.020	
Duluth International Airport		.970
Combined Telecommunications/Security Police Operations Facility	.970	
MISSISSIPPI (total 16.032)		
Navy:		
Naval Construction Battalion Center, Gulfport		.420
Family Services Center	.420	
Naval Air Station, Meridian		.820
Dining Facility Addition	[1] .820	
Air Force:		
Columbus Air Force Base		2.370
Centralized Aircraft Support System (CASS)	1.150	
Add to and Alter Data Processing Facility	.820	
Energy Conservation Investment Program	.400	
Keesler Air Force Base		9.970
Alter Unaccompanied Enlisted Personnel Housing	7.500	
Energy Conservation Investment Program	.270	
Fire Suppression System—OSH	1.500	
Alter Electrical Distribution System (Phase III)	.700	
Army National Guard:		
Jackson		.822
400-person Armory	.822	
Army Reserve:		
Greenwood		.330
Organizational Maintenance Shop/Area Maintenance Support Activity	.330	
Air National Guard:		
Key Field		1.300
Fuel System Maintenance/Corrosion Control Dock	1.300	
MISSOURI (total 44.848)		
Army:		
Fort Leonard Wood		11.000

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION INSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
Maintenance Division Complex	11.000	
Air Force:		
Whiteman Air Force Base		9.707
Add to Child Care Center	.540	
Add to Security Police Support Facility	.200	
Convert to Group Headquarters Complex	.457	
Unaccompanied Enlisted Personnel Housing	[1] 7.800	
Small Arms Range Complex	.710	
Defense Mapping Agency:		
Defense Mapping Agency Aerospace Center		24.141
Addition to Cartographic & Geophysical Building	24.141	
MONTANA (total 56.915)		
Air Force:		
Malmstrom Air Force Base		55.000
Heat Plant	49.900	
Upgrade 3 unaccompanied enlisted personnel housing	[1] 5.100	
Army National Guard:		
Helena		.726
Unit Training Equipment Site	.726	
Harlowton		0.578
60-Person Armory	0.578	
Army Reserve:		
Helena		.611
Area Maintenance Support Activity	.611	
NEBRASKA (total 13.255)		
Air Force:		
Offutt Air Force Base		13.255
Add to and Alter Communications Receiver Facilities	3.805	
Satellite Communications Ground Terminal	3.300	
Jet Fuel Storage	1.350	
Energy Conservation Investment Program	2.800	
Emergency Power Circuit	2.000	
NEVADA (total 23.690)		
Army:		
Hawthorne Army Ammunition Plant		.430
Steam Distribution System	.430	
Navy:		
Naval Air Station, Fallon		.210
Airfield Pavements Lighting Systems	.210	
Air Force:		
Nellis Air Force Base		21.920
Addition to Aircraft Apron	5.900	
Various Operations/Maintenance Facilities	3.350	
Squadron Operations Facility	1.900	
Tactical Range Support	2.300	
Sound Suppression Support	.670	
Data Processing Facility	.370	
Add to Water System	4.550	
Aircraft Maintenance Unit Facility	.980	
Vehicle Maintenance Shop	1.900	
Air National Guard:		
Reno International Airport		1.130
Telecommunications Center	.550	
Aircraft Arresting System	.580	
NEW HAMPSHIRE (total 1.290)		
Air Force:		
Pease Air Force Base		1.290
Add to and Alter Gymnasium	.290	
Child Care Center	1.000	
NEW JERSEY (total 17.298)		
Army:		
Military Ocean Terminal, Bayonne		.300
Economizers	.300	
Air Force:		
McGuire Air Force Base		16.160
Hydrant Fueling System	8.000	
Upgrade Aircraft Maintenance Facilities	8.000	
Energy Conservation Investment Program	.160	
Army National Guard:		
Trenton		.338
Army Expansion	.338	
Air National Guard:		
McGuire Air Force Base		.500
Power Check Pad with Suppressor	.500	
NEW MEXICO (total 16.780)		
Army:		
White Sands Missile Range		5.500
Launch Complex	5.500	
Air Force::		
Cannon Air Force Base		1.800
Energy Conservation Investment Program	1.800	
Holloman Air Force Base		5.250
Large Target Precision Rotator	1.000	
Data Processing Facility	1.300	
Energy Conservation Investment Program	.940	
Water Wells	1.500	
Jet Fuel Storage	.510	
Kirtland Air Force Base		3.570
Energy Conservation Investment Program	3.570	
Air National Guard:		
Kirtland Air Force Base		.660
Add to and Alter Composite Squadron Operations Facility	.660	

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION INSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
NEW YORK (total 74.366)		
Army:		
Fort Drum		1.550
Insulate 300/400 Area	[1] 1.550	
United States Military Academy		.300
Heating System Modifications	.300	
Air Force:		
Griffiss Air Force Base		57.650
Command/Control Simulation Laboratory	.900	
Alter Data Processing Facility	.300	
Heat Plant	49.050	
Vehicle Maintenance Facility	[1] 7.400	
Plattsburgh Air Force Base		.770
Energy Conservation Investment Program	.770	
Army National Guard:		
Ronkonkama		1.601
400-Person Armory	.474	
Army Aviation Support Facility	.962	
Organizational Maintenance Shop	.165	
Air National Guard:		
Niagara Falls International Airport		1.000
Automotive Maintenance/Refueling Vehicle Shop	1.000	
Stewart Field		10.500
Aircraft Parking Ramp	2.500	
Jet Fuel Storage	3.000	
Site Preparation	5.000	
Fort Drum Gunnery Range		0.450
Range Maintenance Facility	.450	
Air Force Reserve:		
Niagara Falls International Airport		.545
Security Police Operations	.545	
NORTH CAROLINA (total 107.361)		
Army:		
Fort Bragg		25.120
Barracks With Dining Facility	15.470	
Electric Distribution System	5.300	
Company Administration and Supply	2.050	
Tactical Equipment Shop	2.300	
Navy:		
Marine Corps Base, Camp Lejeune		28.550
Engineer Battalion Vehicle Maintenance Shop	2.850	
Maintenance shop	2.400	
Unaccompanied Enlisted Personnel Housing	21.800	
Applied Instruction Building Improvements	1.500	
Naval Regional Medical Center, Camp Lejeune		2.800
Support Facilities	2.800	
Marine Corps Air Station, Cherry Point		31.800
Maintenance and Operations Facility	1.300	
Aircraft Parking Apron	3.800	
Maintenance Facilities	3.550	
Avionics Shop	2.900	
Operational Trainer Facility	2.550	
Warehouse	2.500	
Power Check Pads	2.000	
Engine Maintenance Shop	3.100	
Ground Support Equipment Shop	3.000	
Maintenance Hangar	7.100	
Naval Air Rework Facility, Cherry Point		6.210
Support Equipment Shop	5.550	
Heating, Ventilation, Air Conditioning	.660	
Marine Corps Air Station, New River		.800
Magazines	.800	
Air Force:		
Pope Air Force Base		4.400
Upgrade Overruns	2.000	
Data Processing Facility	1.400	
Land Fee Purchase	1.000	
Seymour-Johnson Air Force Base		4.880
Various Aircraft Maintenace Facilities	1.400	
Vehicle Maintenance Shop	.400	
Add to and Alter Data Processing Facility	.860	
Energy Conservation Investment Program	2.220	
Army National Guard:		
Roanoke Rapids		.501
60-Person Armory	.501	
Air National Guard:		
Douglas Municipal Airport		2.300
Jet Fuel Storage/Petroleum, Oil and Lubricants Operations/Refueler Vehicle Parking	1.900	
Fire Suppression Systems	.400	
NORTH DAKOTA (total 0.510)		
Air Force:		
Grand Forks Air Force Base		.510
Precision Measurement Equipment Laboratory	.510	
OHIO (total 38.750)		
Air Force:		
Wright-Patterson Air Force Base		33.676
Air Freight Terminal	9.500	
Refueling Vehicle Shop	.700	
Materials Laboratory	20.600	
Alter Foreign Technology Division Computer Facility	2.086	
Energy Conservation Investment Program	.790	
Army National Guard:		
Camp Perry		.524
Barracks Company Administrative/Supply Facility-Phase III	.524	
Air National Guard:		
Springfield Municipal Airport		2.000
Add to and Alter Automotive Maintenance Shop	1.160	

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION INSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
Add to and Alter Communications Electronics Support Equipment Facility	.840	
Toledo Express Airport		.500
Power Check Pad with Suppressors	.500	
Air Force Reserve:		
Wright-Patterson Air Force Base		.350
Power Check Pad with Suppressors	.350	
Defense Logistics Agency:		
Defense Construction Supply Center, Columbus		.890
Maintenance Shop Improvement	.210	
Pesticide Storage and Handling Facility	.340	
Upgrade Automated Data Processing Facility	.160	
Building Insulation	.180	
Defense Electronics Supply Center, Dayton		.810
Coal Storage Pad	.370	
Automated Data Processing	.440	
OKLAHOMA (total 32.269)		
Air Force:		
Altus Air Force Base		3.160
Add to and Alter Data Processing Facility	1.060	
Unaccompanied Enlisted Personnel Housing	[1] 2.100	
Tinker Air Force Base		10.950
Alter Aircraft Depot Maintenance Hangars—OSH	8.700	
Unaccompanied Enlisted Personnel Housing	1.950	
Ramp Power	.300	
Vance Air Force Base		9.400
Unaccompanied Officer Personnel Housing	[1] 8.000	
Flight Facilities Maintenance	[1] .500	
Base Flight Operations Facility	[1] .900	
Ardmore		.801
150-Person Armory	.801	
Army National Guard:		
Bartlesville		.574
100-Person Armory	.574	
Camp Gruber		.925
Barracks Company Administrative/Supply Facility—Phase I	.925	
Okemah		.606
100-Person Armory	.606	
Tahlequah		.578
100-Person Armory	.578	
Tonkawa		.552
100-Person	.552	
Army Reserve:		
Stillwater		.793
Modernize/Add to 100-Member Army Reserve Center	.793	
Air National Guard:		
Tulsa International Airport		3.930
Communications/Electronics Facility	1.980	
Automotive Maintenance/Support Equipment Shop	1.150	
Site Preparation/Roads/Parking/Utilities	.800	
OREGON (total 10.217)		
Army National Guard:		
Camp Rilea		3.012
Barracks, Latrine, Administrative and Supply Facility	1.506	
Barracks Latrine Administrative and Supply Facility	1.506	
Air National Guard:		
Portland International Airport		4.650
Fuel System Maintenance/Corrosion Control Dock	1.600	
Rocket Storage Checkout & Assembly Facility	3.050	
Air Force Reserve:		
Portland International Airport		2.555
Squadron Operations	1.350	
Utilities	1.205	
PENNSYLVANIA (total 33.651)		
Navy:		
Ships Parts Control Center, Mechanicsburg		.380
Heating, Ventilation, Air Conditioning	.380	
Aviation Supply Office, Philadelphia		2.400
Heating, Ventilation, Air Conditioning	1.400	
Administration Offices Modernization	[1] 1.000	
Naval Air Development Center, Warminster		1.570
Combined Structural/Aircraft Fire/Rescue Station	1.400	
Weatherization	.170	
Naval Ship Systems Engineering Station, Philadelphia		1.500
Electrical Distribution Lines	[1] 1.500	
Naval Shipyard, Philadelphia		18.500
Engineering Management Building	[1] 17.500	
Fire Protection System	[1] 1.000	
Army Reserve:		
Kittanning		1.886
100-Member Army Reserve Center/Organizational Maintenance Shop	1.886	
Navy and Marine Corps Reserve:		
Naval Air Station, Willow Grove		.750
Marine Corps Storage	.750	
Air National Guard:		
Harrisburg International Airport		3.140
Composite Squadron Operations/Telecommunications	3.140	
Greater Pittsburgh Airport		.400
Fire Suppression System	.400	
Air Force Reserve:		
Greater Pittsburgh International Airport		3.125
Aircraft Maintenance Hangar	3.125	

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION INSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
RHODE ISLAND (total 7.600)		
Navy:		
Naval Underwater Systems Center, Newport		6.500
Launcher Laboratory	6.500	
Naval Education and Training Center, Newport		1.100
Facility Energy Improvements	1.100	
SOUTH CAROLINA (total 28.825)		
Army:		
Fort Jackson		.360
Dining Facility Modernization	.360	
Navy:		
Marine Corps Air Station, Beaufort		5.220
Maintenance Hangar Addition	4.650	
Gymnasium Addition	.570	
Fleet Missiles Weapons Training Center, Charleston		.460
Training Mock-up	.460	
Naval Station, Charleston		12.250
Degaussing Pier	4.000	
Child Care Center	1.550	
Mooring Platform	6.700	
Naval Weapons Station, Charleston		2.660
Steam Plant	1.140	
Fire Protection System	.880	
Pay and Personnel Support Office	.250	
Family Services Center	.390	
Marine Corps Recruit Depot, Parris Island		1.550
Enlisted Dining Facilities Modernization	1.550	
Naval Regional Medical Center, Charleston		1.020
Unaccompanied Enlisted Personnel Housing Improvements	.660	
Heating, Ventilation, Air Conditioning	.360	
Polaris Missile Facility, Atlantic, Charleston		.540
Missile Assembly Plant Addition	.540	
Air Force:		
Charleston Air Force Base		2.030
Data Processing Facility	1.550	
Energy Conservation Investment Program	.480	
Shaw Air Force Base		1.550
Sound Suppressor Support	.400	
Data Processing Facility	1.150	
Naval and Marine Corps Reserve:		
Naval and Marine Corps Reserve Center, Columbia		.300
Combat Vehicle Maintenance Shop	.300	
Air Force Reserve:		
Charleston Air Force Base		.885
Add to Reserve Forces Aeromedical Evacuation Facility	.885	
SOUTH DAKOTA (total 2.214)		
Air Force:		
Ellsworth Air Force Base		1.350
Jet Fuel Storage	1.350	
Army National Guard:		
Rapid City		.304
60-Person Armory	.304	
Air National Guard:		
Joe Foss Field		.560
Aircraft Arresting System	.560	
TENNESSEE (total 31.573)		
Army:		
Milan Army Ammunition Plant		5.500
Rehabilitation of K–10 Boilers	5.500	
Navy:		
Naval Air Station, Memphis		8.400
Applied Instruction Building	8.400	
Air Force:		
Arnold Engineering Development Center		6.600
Energy Conservation Investment Program	6.600	
Army National Guard:		
Lexington		.650
100-Person Armory	.650	
Knoxville		2.004
Army Aviation Support Facility	2.004	
Navy and Marine Corps Reserve:		
Naval and Marine Corps Reserve Center, Knoxville		3.100
Jet Engine Test Cell	3.100	
Air National Guard:		
McGhee-Tyson Airport		2.400
Operational Training Facility	2.000	
Fire Suppression System	.400	
Nashville Municipal Airport		2.469
Medical Training & Administrative Facility	1.130	
Dining Hall	.910	
Energy Conservation Investment Program	.429	
Defense Logistics Agency:		
Defense Depot, Memphis		.450
Pesticide Storage and Handling	.450	
TEXAS (total 237.517)		
Army:		
Fort Bliss		21.300
Training Facility	6.700	
Tactical Equipment Shop	8.400	
Tactical Equipment Shop	6.200	
Fort Hood		21.750
Battalion Headquarters and Classroom	1.500	
Company Administration and Supply	2.350	
Tactical Equipment Shop	4.100	
Division Headquarters	[1] 13.800	
Fort Sam Houston		22.310
Company Barracks	[1] 20.000	
Dining Facility Modification	[1] .310	
Air-Conditioning Base School District	[1] 2.000	
Longhorn Army Ammunition Plant		.230
Modify Chemical Laboratory System	.230	
Red River Army Depot		39.000
Maintenance Modernization	39.000	
Navy:		
Naval Air Station, Chase Field		.120
Weatherization	.120	
Naval Air Station, Corpus Christi		2.800
Aircraft Ready Fuel Storage	1.150	
Radar Air Traffic Control Center	1.650	
Air Force:		
Bergstrom Air Force Base		5.810
Add to and Alter Security Police Facility	.360	
Squadron Operations	1.250	
Alter Unaccompanied Enlisted Personnel Housing	4.200	
Brooks Air Force Base		1.150
Animal Quarantine Support Facility	.750	
Add to Chapel Center	.400	
Carswell Air Force Base		54.800
Add to and Alter Composite Medical Facility	49.500	
Alter Unaccompanied Enlisted Personnel Housing	5.000	
Site Activation Task Force Training Facilities	.300	
Dyess Air Force Base		1.650
Add to and Alter Dining Hall	1.650	
Kelly Air Force Base		13.570
Refueling Vehicle Shop	0.920	
Logistics Systems Operations Center	8.500	
Education Center	2.000	
Alter Industrial Waste Treatment Plant	1.500	
Alter Metal Bonding Shop	.650	
Lackland Air Force Base		6.100
Clinical Investigation Facility	6.100	
Laughlin Air Force Base		5.770
Unaccompanied Enlisted Personnel Housing	2.850	
Energy Conservation Investment Program	2.920	
Randolph Air Force Base		4.380
Approach Lighting System	1.050	
Alter Administrative Facilities	2.850	
Energy Conservation Investment Program	.480	
Reese Air Force Base		3.750
Alter Unaccompanied Enlisted Personnel Housing	3.750	
Sheppard Air Force Base		6.260
Add to and Alter Data Processing Facility	.760	
Visiting Officer Quarters	5.500	
Goodfellow Air Force Base		15.300
Special Intelligence Training Facility	3.600	
Cryptologic Systems Maintenance Training Facility	4.300	
Unaccompanied Enlisted Personnel Housing	7.400	
Army Reserve:		
Grand Prairie		.819
Improve Flight Facilities	.819	
Naval and Marine Corps Reserve:		
Naval Air Station, Dallas		4.363
Aircraft Maintenance Hangar	3.900	
Water Connection with City	.330	
Energy Conservation, Various Buildings	.133	
Air National Guard:		
Ellington Air National Guard Base		4.710
Automotive Maintenance/Refueling Vehicle Shop	1.230	
Alter Hangar For Avionics Shop	.480	
Rocket Storage Checkout & Assembly Facility	2.700	
Aircraft Arresting System	.300	
Air Force Reserve:		
Carswell Air Force Base		1.115
Power Check Pad with Suppressor	.590	
Add to Rocket Checkout Facility	.525	
Bergstrom Air Force Base		.460
Power Check Pad with Suppressor	.460	
UTAH (total 15.174)		
Army:		
Tooele Army Depot		4.150
Solid Waste Incinerator	4.150	
Air Force:		
Hill Air Force Base		5.845
Unaccompanied Enlisted Personnel Housing	3.950	
Emergency Back-Up Power	1.895	
Army Reserve:		
Fort Douglas		.839
Add to and Alter Organizational Maintenance Shop/Area Maintenance Support Activity/ Equipment Concentration Site	.839	
Tooele		1.630
Annual and Weekend Training Site	1.630	
Air National Guard:		
Salt Lake City International Airport		.930
Add to Base Supplies & Equipment Warehouse	.930	
Air Force Reserve:		
Hill Air Force Base		1.180
Avionics Shop	1.180	
Defense Logistics Agency:		
Defense Depot, Ogden		.600
Pesticide Storage and Handling Facility	.350	
Warehouse Mechanization Support Facility	.250	
VIRGINIA (total 288.145)		
Army:		
Fort Eustis		6.400
Aviation Training Facility	6.400	
Radford Army Ammunition Plant		2.400
Replace Barricades	1.850	
120mm Propellant Paste Facility	.550	
Fort Story		13.800
Barracks With Dining Facility	13.800	
Navy:		
Naval Security Group Activity, Northwest, Chesapeake		.930
Religious Education Building	.930	
Fleet Combat Training Center, Atlantic, Dam Neck		2.420
Operational Trainer Facility Addition	.720	
Enlisted Dining Facility Addition	1.700	
Naval Amphibious Base, Little Creek		2.660
Oil Spill Prevention	.810	
Dredging	1.850	
Commander, Oceanographic System Atlantic, Norfolk		3.100
Readiness Training Facility (Dam Neck)	3.100	
Atlantic Fleet Headquarters Support Activity, Norfolk		2.085
Intelligence Building Addition	2.085	
Fleet Training Center, Norfolk		5.400
Applied Instruction Buildings	5.400	
Naval Air Station, Norfolk		2.150
Applied Instruction Building	2.150	
Naval Station, Norfolk		.210
Collimation Tower	.210	
Naval Air Station, Oceana		6.200
Land Acquisition	[1] 6.200	
Norfolk Naval Shipyard, Portsmouth		160.270
Steam Plant (Phase 1)	160.000	
Facility Energy Improvement	.270	
Navy Public Works Center, Norfolk		16.030
Facility Energy Improvements	2.330	
Utilities Improvements	4.600	
Air Emission Control	9.100	
Naval Mine Engineering Facility, Yorktown		3.250
Mine Engineering Laboratory	3.250	
Naval Weapons Station, Yorktown		.970
Torpedo Shop Addition	.970	
Marine Corps Development and Education Command, Quantico		23.250
Cold Storage Warehouse	2.750	
Coal Conversion	20.500	
Naval Communication Area Master Station Atlantic, Norfolk		1.850
Seawalls (Annapolis)	1.850	
Naval Surface Weapons Center, Dahlgren		10.800
Applied Research Laboratory	10.800	
Air Force:		
Langley Air Force Base		17.890
Addition to Aircraft Apron	4.750	
Squadron Operations	1.050	
Aircraft Maintenance Unit Facility	.850	
Entomology Shop	.420	
Alter Unaccompanied Enlisted Personnel Housing	4.550	
Child Care Center	.550	
Energy Conservation Investment Program	.520	
Vehicle Maintenance Complex	5.200	
National Military Command Center, Pentagon, Arlington		3.300
Power Upgrade	3.300	
Defense Logistics Agency:		
Defense General Supply Center, Richmond		.680
Energy Management Control System	.680	
Office of the Secretary of Defense:		
Fort Belvoir		2.100
Classified Activity-Facility Additions & Alterations	2.100	
WASHINGTON (total 56.862)		
Army:		
Fort Lewis		30.662
Helicopter Hangar	7.400	
Helicopter Hangar	7.500	
Aircraft Parking Apron	2.800	
Tactical Equipment Shop	2.900	
Tactical Equipment Shop	1.100	
Family Housing (115 Units)	8.962	
Yakima Firing Center		2.950
Gymnasium	1.700	
Firing Range Roads	1.250	
Navy:		
Naval Submarine Base, Bangor		.360
Facility Energy Improvements	.180	
Waterfront Operations Control Tower	.180	
Puget Sound Naval Shipyard, Bremerton		1.450
Energy Monitoring and Control System	.520	
Asbestos/Lead Handling Facility	.930	
Naval Air Station, Whidby Island		1.200
Child Care Center	1.200	
Air Force:		
Fairchild Air Force Base		4.370
Tanker Alert Facility	2.000	
Control Tower	1.740	
Energy Conservation Investment Program	.630	
McChord Air Force Base		5.570
Hazardous Materials Storage—OSH	.510	
Alter Data Processing Facility	.850	
Alter Telecommunications Center	.510	
Gymnasium	3.700	
Naval and Marine Corps Reserve:		
Naval Air Reserve Unit, Naval Air Station, Whidbey Island		10.300
Aircraft Maintenance Hangar	10.300	
WEST VIRGINIA (total 3.497)		
Air National Guard:		
East West Virginia Regional Airport (Martinsburg)		3.097
Fuel system Maintenance/Corrosion Control Dock	2.650	
Energy Conservation Investment Program	.447	

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION INSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
Kanawha Airport		.400
Fire Suppressison System	.400	
WISCONSIN (total 0.984)		
Army Reserve:		
Fort McCoy		.634
Convert 3 Barracks to Student Housing	.634	
Air Force Reserve:		
General Billy Mitchell Field		.350
Alter Jet Fuel Storage	.350	
WYOMING (total 12.486)		
Air Force:		
Francis E. Warren Air Force Base		4.150
Unaccompanied Enlisted Personnel Housing	4.150	
Powell		6.625
Operational Facilities	.510	
Unaccompanied Enlisted Personnel Housing	.400	
Recreational Facilities	1.000	
Land, Utilities, Site Improvements	1.250	
Family Housing (50 units)	3.465	
Pinedale		.589
Power/Data Upgrade Special Operations Facililty	.589	
Army National Guard:		
Camp Guernsey		1.122
60-Person Armory	.774	
Training Facility (Dispensary)	(.348)	
VARIOUS LOCATIONS (total 123.690)		
Army:		
Minor Construction		24.620
Minor Construction, Exigent	27.420	
Specified Minor Reduction	2.800	
Classified Locations		20.000
Aircraft Hangar	20.000	
Navy:		
Minor Construction, Exigent	17.280	17.280
Air Force:		
Minor Construction, Exigent	15.890	15.890
Various Locations		41.900
Mobile Ground Terminal Support	1.900	
Various M–X Support Facilities	40.000	
Defense Agencies:		
Minor Construction, Exigent	4.000	4.000
NOT SPECIFIED (total 2,621.957)		
Army:		
Family Housing Support	1,023.428	1,023.438
Navy:		
Family Housing Support	689.972	689.972
Air Force:		
Family Housing Support	886.035	886.035
Defense Agencies:		
Family Housing Support	17.312	17.312
Office of the Secretary of Defense:		
Various Locations		5.200
Contingency Construction	5.200	

[1] Indicates projects authorized for construction only with savings.

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION OUTSIDE THE UNITED STATES

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
BELGIUM (total 0.810)		
Army:		
Zutendaal		.180
Ammunition Security	.180	
Air Force:		
Chievres Air Base		.630
Aircraft Instrument Landing System	.630	
BERMUDA (total 0.230)		
Navy:		
Naval Facility, Bermuda		.230
Fire Protection Pumping Station	.230	
CANADA (total 0.420)		
Navy:		
Naval Facility, Argentina, Newfoundland		.420
Security Improvements	.420	
CUBA (total 11.510)		
Navy:		
Naval Station, Guantanamo Bay		11.000
Family Housing (200 Units)	11.000	
Dependents Schools:		
Guantanamo Bay		.510
Elementary School Addition	.510	
EGYPT (total 172.100)		
Army:		
Ras Banas		50.400
Rapid Deployment Force Facilities	50.400	

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION OUTSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
Air Force:		
Ras Banas		121.700
Upgrade/Construct Rapid Deployment Force Facilities	121.700	
GERMANY (total 320.354)		
Army:		
Night Setback Controls—Augsburg	.160	251.450
Defense Communications System Terminal—Bad Aibling	3.950	
Barracks—Bamberg	2.200	
Ammunition Storage—Bamberg	.680	
Maintenance Facility—Bamberg	2.100	
Temperature Controls—Baumholder	1.250	
Heat Recovery System—Baumholder	.440	
Waste Oil Burner—Baumholder	.120	
Barracks With Dining Facility—Baumholder	1.100	
Hospital Renovation—Bremerhaven	29.000	
Barracks With Dining Facility—Dexheim	14.600	
Tactical Equipment Shop—Dexheim	1.250	
Ammunition Storage—Dichtelback/Grenderich	.620	
Tactical Equipment Shop—Erlangen	9.840	
Tactical Equipment Shop—Erlangen	2.300	
Dining Facility—Erlangen	1.750	
Temperature Controls—Frankfurt	.300	
Tactical Equipment Shop—Friedberg	.920	
Barracks—Friedberg	2.100	
Temperature Controls—Fulda	.720	
Consolidated Heating Plant—Giessen	1.300	
Temperature Controls—Goeppingen	.440	
Decontamination Site—Grafenwoehr	1.650	
Squad Qualification Range—Grafenwoehr	4.500	
Infantry Squad Qualification Range—Grafenwoehr	2.650	
Platoon Qualification Range—Grafenwoehr	7.500	
Temperature Controls—Hanau	1.850	
Barracks—Hanau	3.650	
Energy Monitoring and Control System—Heidelberg	1.150	
Storage and Maintenance Facility—Hohenfels	1.150	
Flight Simulator Building—Illesheim	7.300	
Barracks—Kaiserslautern	12.200	
Heating Plant—Kaiserslautern	1.450	
Dining Facility—Kaiserslautern	2.650	
Tactical Equipment Shop—Kaiserslautern	.830	
Tactical Equipment Shop—Kirchgoens	3.350	
Barracks with Dining Facility—Kirchgoens	10.400	
Barracks—Kitzingen	3.950	
Maintenance Facility—Kitzingen	6.300	
Tactical Equipment Shop—Kitzingen	7.100	
Barracks—Kitzingen	3.450	
Barracks—Kriegsfeld	3.650	
Vehicle Hardstand—Kriegsfeld	.520	
Water Supply System Expansion—Kriegsfeld	.610	
Barracks With Dining Facility—Mainz	5.100	
Ammunition Storage—Quirnheim	.460	
Facilities Modernization—Schweinfurt	2.450	
Ammunition Security—Twisteden	.240	
Battalion Headquarters and Classroom—Vilseck	3.000	
Dining Facility—Vilseck	3.600	
Barracks—Vilseck	10.600	
Fighting Vehicle Training Facility—Vilseck	9.400	
Barracks—Vilseck	5.800	
Barracks—Vilseck	9.300	
Barracks—Wertheim	7.600	
Tactical Equipment Shop—Wertheim	6.200	
Ammunition Storage—Wertheim	2.150	
Barracks—Wertheim	2.050	
General Support Maintenance Facility—Wiesbaden	1.200	
Facility Modernization—Wildflecken	5.800	
Upgrade Range 9—Wildflecken	3.050	
Attic Insulation—Wildflecken	1.850	
Various Locations		6.600
Secure Parking Areas	5.300	
Temperature and Thermostat Controls	1.300	
Hahn Air Base		3.840
Approach Lighting System	.360	
Explosive Ordnance Disposal Facility	.590	
Sound Suppressor Support	.460	
Energy Conservation Investment Program	.630	
Data Processing Facility	1.800	
Ramstein Air Base		3.798
Add to Fire Station	.350	
Security Police Operations Facility	1.348	
Add to and Alter Simulator Facility	.800	
Sound Suppressor Support	1.300	
Rhein-Main Air Base		10.379
Alter Maintenance Hangar	.670	
Vehicle Maintenance Complex	1.900	
Add to and Alter Fuel System Maintenance Dock	2.200	
Refueling Vehicle Maintenance Shop	.900	
Add to/Alter Data Processing Facility	1.000	
Energy Conservation Investment Program	3.170	
Add to and Alter Telecommunications Center	.539	
Sembach Air Base		4.420
Add to and Alter Digital European Backbone Facility	.580	
Aircraft Engine Maintenance facility	2.950	
Add to and Alter Data Processing Facility	.890	
Bitburg Air Base		2.380
Sound Suppressor Support	.580	
Data Processing Facility	1.800	
Spangdahlem Air Base		2.230

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION OUTSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
Add to and Alter Digital European Backbone Facility	.410	
Data Processing Facility	1.820	
Zweibrucken Air Base		1.530
Alter Date Processing Facility	1.020	
Energy Conservation Investment Program	.510	
Apfeldorf Air Base		.330
Long Range Navigation (LORAN) Support	.330	
Wenigerath		.900
Alter Munitious Maintenance Facility	.900	
Dependents School:		
Wuerzburg		3.920
Elementary School Addition	3.920	
Bamberg		3.470
Elementary School Addition	1.730	
High School Addition	1.740	
Nelligen		.950
Elementary School Addition	.950	
Karlsruhe		7.380
Elementary/High School Addition	7.380	
Hanau		.510
Elementary School Addition	.510	
Ludwigsburg		.910
Middle School Addition	.910	
Mainz		2.830
Elementary School Addition	2.830	
Ramstein Air Base		1.460
High School Addition	1.460	
Kaiserslautern Air Base		7.967
Elementary School Annex	7.967	
Nuernberg		2.820
High School Addition	2.820	
Zweibrucken Air Base		1.780
High School Addition	1.780	
Defense Logistics Agency:		
Kaiserslautern Cold Storage Facility		5.100
Cold Storage Expansion	5.100	
GUAM (total 72.360)		
Navy:		
Naval Communication Area Master Station Western Pacific, Guam		2.020
Roads	.270	
Stand-By Generator Plant	1.750	
Naval Magazine, Guam		24.000
Ammunition Wharf	[1] 24.000	
Air Force:		
Andersen Air Force Base, Guam		2.440
Munitions Maintenance/Storage Facilities	2.440	
Defense Logistics Agency:		
Anderson Air Force Base, Guam		43.900
JP–4 Fuel Storage Tanks	43.900	
ICELAND (total 13.800)		
Navy:		
Naval Facility, Keflavik		1.400
Security Improvements	1.400	
Naval Station, Keflavik		8,800
Chapel and Religious Education Building	4.700	
Fuel Facilities-(1st increment)	2.600	
Family Services Center	1.500	
Air Force:		
Keflavik		3.600
Data Processing Facility	3.600	
INDIAN OCEAN (total 57.945)		
Navy:		
Navy Support Facility, Diego Garcia		53.395
Facilities Expansion	53.395	
Air Force:		
Diego Garcia		4.550
Upgrade/Construct Rapid Deployment Force Facilities	4.550	
ITALY (total 44.470)		
Navy:		
Naval Communication Area Master Station, Mediterranean, Naples		2.500
Communications Terminal	2.500	
Naval Air Station, Sigonella		33.670
Ordnance Operations building	.780	
Cold Storage Warehouse	1.300	
Unaccompanied Enlisted Personnel Housing and Dining Facility	15.800	
Family Services Center	.990	
Utilities Upgrade, Expansion, and Land Acquisition	14.800	
Air Force:		
Aviano Air Base		7.390
Vehicle Maintenance Shop	2.800	
Energy Conservation Investment Program	.190	
Alter Electrical Distribution System	4.400	
Camp Darby		.910
Missile Maintenance Facility	.910	
JAPAN (total 37.040)		
Army:		
Kawakami		.630
Control Electric Substations	.630	
Navy:		
Naval Air Facility, Atsugi		2.650
Steam and Condensate System	1.700	

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION OUTSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
Family Services Center	.950	
Marine Corps Air Station, Iwakuni		1.350
Engine Maintenance Shop	1.350	
Marine Corps Base, Camp Butler, Okinawa		2.000
Aircraft Rinse Facility	2.000	
Air Force:		
Kadena Air Base		16.850
Aircraft Corrosion Control Facility	6.100	
Vehicle Maintenance Shop	.510	
Add to Munitions Maintenance Shop	.390	
Jet Fuel Storage (Phase III)	8.000	
Alter Unaccompanied Enlisted Personnel Housing	1.850	
Misawa Air Base		6.600
Fire Station	1.650	
Security Police Operations Facility	1.300	
Add to and Alter Electronic Security Operations Facility	3.650	
Yaedake Air Base		1.300
Upgrade Power Plant	1.300	
Dependents Schools:		
Yokota Air Base		5.660
High School Addition	5.660	
JOHNSTON ISLAND (total 1.050)		
Army:		
Johnston Island		1.050
Expansion of Maintenance Building	1.050	
KENYA (total 8.300)		
NAVY:		
Naval Activities, Kenya		8.300
Facilities Expansion	8.300	
KOREA (total 178.980)		
Army: ($60.780):		
Tactical Equipment Shop Steam System—Camp Carroll	.530	
Technical Inspection Facility—Camp Carroll	1.000	
Trailer Repair Shop—Camp Carroll	.790	
Troop Medical Clinic—Camp Casey	3.800	
Dining Facility—Camp Casey/Camp Howze	4.050	
Barracks—Camp Essayons	2.100	
Upgrade Power Distribution—Camp Henry/Camp Walker	1.550	
Barracks—Camp Kittyhawk	1.900	
Unaccompanied Officer Quarters—Camp Red Cloud	.610	
Combined Maintenance Facility—K-16 Army Airfield	5.500	
Water Distribution and Fire Protection—Pusan	1.700	
Emergency Operations Center—Taegu	2.150	
Various Locations:		
Tactical Equipment Shops	9.600	
Tactical Equipment Shop	7.100	
Electrical System Upgrade	4.600	
Water System Upgrade	3.900	
Sewer System Upgrade	9.900	
Air Force:		
Kunsan Air Base		37.560
Airfield Pavements (Choke Points)	2.900	
Operating Jet Fuel Storage	2.050	
Alter Aircraft Shelters	15.290	
Sound Suppressor Support	.630	
Add to Data Processing Facility	.440	
Alter/Construct Unaccompanied Enlisted Personnel Housing	10.500	
Airmen Dining Hall	2.500	
Unaccompanied Officer Personnel Housing	3.250	
Osan Air Base		45.970
Aircraft Shelters & Pavements	7.000	
Flight Simulator Training Facility	1.000	
Aircraft Maintenance & Operations Facilities	2.700	
Composite Medical Facility	20.500	
Add to Data Processing Facility	.460	
Unaccompanied Enlisted Personnel Housing	10.500	
Unaccompanied Officer Personnel Housing	3.300	
Child Care Center	.510	
Taegu Air Base		.510
Avionics/Supply Administrative Facilities	.510	
Kwang-Ju Air Base		2.450
Ground Fuel Storage	2.450	
Camp Long		1.750
Power/Data Upgrade for Special Operations Facility	1.750	
Dependents Schools:		
Seoul		.960
Elementary and High School Addition	.960	
Defense Logistics Agency:		
Various Locations		29.000
Fuel Storage Tankage	29.000	
NETHERLANDS (total 0.200)		
ARMY:		
Coeverden		.200
Ammunition Security	.200	
OMAN (total 60.350)		
Air Force:		
Various Locations		60.350
Upgrade/Construct Rapid Deployment Force Facilities	60.350	

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION OUTSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
PANAMA (total 8.090)		
Army:		
Panama		8.090
Hospital Alteration	2.650	
Barracks With Dining Facility	1.350	
Tactical Equipment Shop	.570	
Tactical Equipment Shop	.720	
Barracks Modification	2.800	
PHILIPPINES, REPUBLIC OF (total 30.396)		
Navy:		
Naval Air Station, Cubi Point		10.400
Jet Engine Test Cell	5.000	
Unaccompanied Enlisted Personnel Housing	4.100	
Engine Maintenance Shop Addition	1.300	
Naval Ship Repair Facility, Subic Bay		.500
Facility Energy Improvements	.500	
Navy Public Works Center, Subic Bay		2.050
Facility Energy Improvements	2.050	
Air Force:		
Clark Air Base		15.696
Aircraft Corrosion Control Facility	.330	
Repairable Assets Facility	.710	
Alter Unaccompanied Enlisted Personnel Housing	3.350	
Upgrade Power Plant (Phase II)	11.030	
Add to and Alter Composite Medical Facility	.276	
San Miguel		1.750
Pacific Radar Barrier (PACBAR) Radar Support Facilities	1.750	
PUERTO RICO (total 3.715)		
Navy:		
Naval Communication Station, Ponce		.900
Stand-By Generator Plant	.900	
Army National Guard:		
Juanta Diaz		.815
200-Person Armory	.815	
Air National Guard:		
Puerto Rico International Airport		2.000
Security Enhancement	2.000	
SOMALIA (total 30.000)		
Navy:		
Naval Activities, Somalia		30.000
Facilities Expansion	30.000	
SPAIN (total 5.890)		
Navy:		
Naval Station, Rota		.640
Family Services Center	.640	
Air Force:		
Torrejon Air Base		5.250
Arm/Disarm Pad	.600	
Sound Suppressor Support	1.100	
Refueling Vehicle Complex	1.200	
Alter Unaccompanied Enlisted Personnel Housing	1.700	
Energy Conservation Investment Program	.650	
TURKEY (total 36.570)		
Army:		
Location 276		1.750
Heating and Cooling Upgrade	.950	
Power Upgrade	.800	
Various Locations		7.970
Unaccompanied Officer Quarters	2.300	
Gymnasium	2.200	
Barracks	1.450	
Administration Building	1.100	
Multi-Purpose Building	.570	
Multi-Purpose Building	.350	
Air Force:		
Incirlik Air Base		25.290
Transmitter/Receiver Facility	6.000	
Add to and Alter Data Processing Facility	1.290	
Family Housing (200 Units)	18.000	
Ankara		1.560
Fire Station	.560	
Base Civil Engineer Complex	1.000	
UNITED KINGDOM (total 76.390)		
Navy:		
Naval Facility, Brawdy, Wales		.670
Security Improvements	.670	
Naval Communications Station, Thurso, Scotland		1.400
Medical and Dental Facility	1.400	
Naval Security Group Activity, Edzell, Scotland		9.390
Operations Building Addition	3.600	
Unaccompanied Enlisted Personnel Housing Addition	3.600	
Dining Facility	1.140	
Fire Protection/Water System	1.050	
Air Force:		
Alconbury Royal Air Force Station		20.000
Medical/Dental Clinic	19.100	
Add to and Alter Data Processing Facility	.900	
Bentwaters Royal Air Force Station		2.270
Alter Data Processing Facility	.840	
Alter Unaccompanied Enlisted Personnel Housing	1.250	
Energy Conservation Investment Program	.180	
Fairford Royal Air Force Station		9.510
Fire Station	2.700	
Aircraft Instrument Landing System	1.200	

PROJECT LISTING: FISCAL YEAR 1983 MILITARY CONSTRUCTION AUTHORIZATION BILL—PROJECTS AUTHORIZED FOR CONSTRUCTION OUTSIDE THE UNITED STATES—Continued

[In millions of dollars]

Component/Installation/Project	Project cost	Installation total
Visiting Officer Quarters	4.900	
Energy Conservation Investment Program	.160	
Alter Petroleum, Oil, and Lubricants System	.250	
Liquid Oxygen Storage	.300	
Lakenheath Royal Air Force Station		4.100
Sound Suppressor Support	.510	
Add to and Alter Data Processing Facility	.830	
Alter Unaccompanied Enlisted Personnel Housing	1.100	
Child Care Center	1.450	
Energy Conservation Investment Program	.210	
Mildenhall Air Base		14.180
Aircraft Support Facilities	6.700	
Add to and Alter Data Processing Facility	.810	
Unaccompanied Enlisted Personnel Housing	3.750	
Energy Conservation Investment Program	.220	
Visiting Officer Quarters	2.700	
Upper Heyford Royal Air Force Station		11.030
Aircraft Support Facilities	6.700	
Add to and Alter Fire Station	1.110	
Sound Suppressor Support	.510	
Add to and Alter Data Processing Facility	.730	
Child Care Center	1.500	
Upgrade Aircraft Maintenance Shop	.480	
Woodbridge Royal Air Force Station		1.750
Fuel Systems Maintenance Dock	1.750	
Welford Royal Air Force Station		.890
Water Storage Tanks	.890	
Dependent Schools:		
Woodbridge Royal Air Force Station		1.200
Elementary School Addition	1.200	
VIRGIN ISLANDS (total 1.455)		
Army National Guard:		
St. Thomas		1.455
300-Person Armory	1.455	
VARIOUS LOCATIONS (total 538.747)		
Navy:		
NATO Infrastructure		3.000
Host Nation Infrastructure Support	3.000	
Air Force:		
Various Locations—Worldwide		21.000
Contingency Facilities	21.000	
Various Locations		117.630
Minimum Essential Facilities	28.600	
Ground-Launched Cruise Missile Support Facilities (GLCM)	85.400	
Communications Site Survivability	1.000	
Special Operations Facility	2.630	
National Security Agency		
Classified Location		.560
Family Housing (4 Units)	.560	
Classified Locations		8.557
Operations Building Addition	7.500	
Lancer	1.057	
Office of the Secretary of Defense:		
Classified Location		13.000
U.S. European Command War Headquarters	13.000	
NATO:		
NATO Infrastructure	375.000	375.000

[1] Indicates projects authorized for construction only with savings.

MELVIN PRICE,
JACK BRINKLEY,
G. V. MONTGOMERY,
A. KAZEN, Jr.,
ANTONIO BORJA WON PAT,
WM. L. DICKINSON,
PAUL TRIBLE,
G. WILLIAM WHITEHURST,
DONALD J. MITCHELL,
Managers on the Part of the House.

JOHN TOWER,
STROM THURMOND,
JOHN WARNER,
GORDON J. HUMPHREY,
JEREMIAH DENTON,
NICHOLAS F. BRADY,
JOHN STENNIS,
GARY HART,
HOWARD W. CANNON,
J. JAMES EXON,
Managers on the Part of the Senate.

REQUEST TO MAKE IN ORDER ON OR AFTER TUESDAY, SEPTEMBER 28, 1982, CONSIDERATION OF CONFERENCE REPORT ON S. 2586, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1983

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent that it be in order on any date after the conference report is filed to take up the conference report on the Senate bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. MOLINARI. Mr. Speaker, reserving the right to object, would the gentleman tell me whether this has been cleared with the minority.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Speaker, I do not know that it has.

Mr. MOLINARI. Would the gentleman withhold the request, then, until it is cleared please?

Mr. BRINKLEY. Of course.

Mr. MOLINARI. I appreciate that.

Mr. BRINKLEY. Mr. Speaker, I withdraw my request.

□ 1345

RECOVERY OF DAMAGES BY FOREIGN SEAMEN

Mr. BIAGGI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4863) to modify the maritime laws applicable to the recovery of damages by certain foreign seamen, as amended.

The Clerk read as follows:

H.R. 4863

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 20 of the Act of March 4, 1915 (38 Stat. 1185), as amended (46 U.S.C. 688), is amended—

(a) by redesignating that section as section 20(a); and

(b) by adding at the end thereof the following new subsection:

"(b)(1) No action may be maintained under subsection (a) or under any other maritime law of the United States for maintenance and cure or for damages for the injury or death of a person who was not a citizen or permanent resident alien of the United States at the time of the incident giving rise to the action, if the incident occurred—

"(A) while that person was engaged in the exploration, development, or production of offshore mineral or energy resources—including drilling, transporting supplies, equipment, or personnel, mapping, surveying, diving, pipelaying, maintaining, repairing, or constructing, but not including transporting those resources by vessel; and

"(B) in the territorial waters or waters overlying the continental shelf of a nation other than the United States, its territories, of possessions. As used in this paragraph, the term 'continental shelf' has the meaning stated in article I of the 1958 Convention on the Continental Shelf.

"(2) Notwithstanding paragraph (1) of this subsection, an action may be maintained if the person bringing the action establishes that, at the time of the commencement of the action in the United States, no remedy was available to that person either—

"(A) under the laws of the nation asserting jurisdiction over the area in which the incident occurred; or

"(B) under the laws of the nation in which, at the time of the incident, the person for whose injury or death a remedy is sought maintained citizenship or residency.".

SEC. 2. The amendment made by section 1 of this Act does not apply to any action arising out of an incident that occurred before the effective date of this Act.

SEC. 3. (a) Upon each departure of an offshore supply vessel of the United States as defined in section 4426a of title 52 of the Revised Statutes, from a port of the United States, its territories, or possessions, bound for the territorial waters or waters overlying the continental shelf of a nation other than the United States, its territories, or possessions, all of the crew of that vessel, including licensed officers, shall be citizens of the United States. If such a vessel while on a foreign voyage is for any reason deprived of the services of any member of the crew, that position or the vacancy caused by the promotion of another to that position may be filled by a person other than a citizen of the United States until the first call of the vessel at a port in the United States: *Provided, however,* That the position or vacancy may not be filled by a person other than a citizen of the United States within thirty days of the last departure of the vessel from a port of the United States.

(b) This section applies to the maximum extent possible not inconsistent with any statute, regulation, requirement, policy, or practice of the nation asserting jurisdiction over the waters in which the vessel is operating.

(c) This section becomes effective on April 1, 1983.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. BIAGGI) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House considers H.R. 4863—legislation that will modify the rights of certain workers under the Merchant Marine Act of 1920, known as the Jones Act.

Congress has long recognized that it would be arbitrary and unfair to force a U.S. seaman—injured while employed on a U.S.-owned vessel—to sue in a foreign nation merely because the injury occurred while the vessel was passing through the waters of that foreign nation.

The Jones Act protects injured American seamen by giving them a right to sue in the United States—regardless of where their injury occurs. The courts have interpreted the law to also apply to foreign seamen injured on U.S.-owned vessels—regardless of factors such as the flag of the vessel or the place of injury.

H.R. 4863, as reported by the Merchant Marine and Fisheries Committee, would limit maritime suits by foreign nationals injured while engaged in certain activities related to the exploration for—or recovery of—oil, gas, or other minerals in the coastal waters adjacent to a foreign nation.

In recent years, a substantial number of foreign offshore workers—injured while working in waters under the jurisdiction of a foreign nation—have commenced lawsuits against U.S. companies in our courts based on the theory that they are seamen covered under the Jones Act and other maritime laws.

Most court decisions have held that a foreign offshore worker injured on a foreign Continental Shelf should not bring his action in a U.S. court—unless he lacks a remedy in the host nation or his home nation. H.R. 4863 will codify this judicial precedent.

I emphasize that this legislation does not usurp a legitimate court prerogative but, rather, it codifies the precedents already established by the courts.

There is abundant justification for treating the offshore worker differently from his counterpart engaged in international commerce.

Workers engaged in offshore activities along the coast of a foreign nation differ materially from traditional seamen in that offshore workers have a forum close to the site of the injury where they can assert their claim for compensation. They generally lack the close contact with the United States that warrants granting traditional seamen almost unchallenged access to the U.S. court system.

The worker in the offshore petroleum industry is not engaged in a maritime activity that takes him into waters controlled by a number of different nations or no nation. Rather, he is involved in an activity under the clear jurisdiction of one nation.

In light of this relationship, the place of injury is an appropriate forum in which to seek redress. The justification for applying the "Law to the Flag" to maritime workers does not exist for foreign offshore energy production workers whose activities are more closely related to land-based petroleum technology.

Members should also be aware that the offshore worker can still bring suit in the place where he has chosen to live or work. Additionally, if an injured worker has no remedy in either of these jurisdictions, he could still seek relief in the United States under the Jones Act.

Enactment of this legislation will not affect existing legal remedies of the traditional merchant seaman employed on U.S.-flag vessels or U.S. beneficially owned vessels—nor will it affect existing legal remedies of American citizens or permanent resident

aliens employed in the offshore oil and gas industry.

This legislation recognizes that other nations may have established programs to protect the interests of their workers and citizens—and that the existence of those programs should serve as a bar to litigation under the Jones Act.

If, however, there are no programs to compensate workers or their survivors for work-related injuries, the injured party would still be allowed to utilize the Jones Act to gain access to the Federal courts.

This bill has been attacked as one that will hurt American workers. It has been argued that it will result in an incentive for the offshore oil and mineral industry to hire foreign workers instead of American workers. If I thought the bill would have that effect, I would be vigorously opposing it instead of supporting it.

Two days of hearings and extensive discussions, research, and review of a great deal of submitted material produced no evidence to support the contention that the bill would adversely affect American workers in any way. In fact, the evidence suggests the contrary.

Enactment of the bill should make our American companies more competitive with foreign companies. If, as a result, they win more contracts, they will hire more Americans. That is the result we all desire.

I, therefore, support the bill and urge all Members to join me in doing so.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4863. As my colleague from New York (Mr. BIAGGI) has already explained, this bill would require a foreign seaman injured while engaged in offshore drilling activity in waters of a foreign country to first pursue whatever legal remedy is available to him through the country in whose jurisdiction he was injured or in the country in which he is a citizen or resident before he comes to the U.S. judicial system. If there is a remedy available to him through a foreign jurisdiction, then he is precluded from instituting an action in the U.S. courts. However, if the injured party can show that there is no remedy available to him in either the country where the accident occurred, or his place of citizenship or residence, then he would be permitted to pursue his legal action in U.S. courts.

In recent years there has been a substantial number of cases instituted in the United States involving injuries sustained in foreign waters which appear to have little or no relationship with the United States. However, some courts have held that mere U.S. corporate ownership of a drilling activity may be enough to permit a lawsuit by a foreign seaman to proceed. Consequently, there has been an uncertain and confusing case law development regarding the offshore industry. H.R. 4863 is an attempt to establish a uniform approach to considering suits brought by foreign workers injured over the Outer Continental Shelf of a foreign nation.

Let me stress that this bill only addresses those injuries suffered above the Outer Continental Shelf of foreign nations and is not intended to alter rights presently enjoyed by workers injured while working over the Outer Continental Shelf of the United States.

This bill will not result in an increase in cost to the Federal Government and should, in fact, result in some decrease in expenses related to our now overburdened court system. The administration does not object to passage of this bill, and I urge my colleagues to vote for it.

Mr. BIAGGI. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I find myself in a very unique position today. Regrettably, I must rise in opposition to the bill. I think it is going to have an adverse effect on the hiring of American workers in this sphere of activity.

At a time when record numbers of Americans are out of work, we should be doing everything in our power to encourage companies to hire American workers. This bill will provide incentives for the oil companies to hire cheap foreign labor at the expense of American workers. It would be clearly more profitable for the oil companies to hire foreign workers who cannot sue in U.S. courts. We cannot afford to pass this legislation which will put more Americans out of work.

Mr. BIAGGI. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I would like to commend the chairman of the subcommittee who has worked tirelessly on this legislation, as well as the ranking minority member who has been very helpful in trying to come up with a plan that makes sense.

Do you know what we are talking about? It is quite simple. We are saying to foreign seamen who work for U.S. companies that if they are injured, that if they have a remedy in their own country, if they have a court remedy in their own country for the injury that they have received, that they have to first pursue that remedy in their own country. That is not a novel, unusual approach. It makes sense. It is logical. We are not telling them that they cannot have access to U.S. courts. They can have access to our courts if they have no remedy available in their own country.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. I am glad to yield.

Mr. SNYDER. The gentleman is correct, except that the gentleman did not go quite far enough. That foreign worker has to be injured in foreign waters.

Mr. BREAUX. That is also correct. It is even stronger than that. If the foreign worker is injured in the U.S. waters, he has a remedy just as if he were a U.S. seaman.

I think the basic opposition we have had on this, not surprisingly, comes from plaintiffs' lawyers who have had a field day transporting injured foreign seamen to U.S. courts so they can file suits in the U.S. courts, when they have a remedy that is completely and totally available to them in their own courts.

The bill before the House, H.R. 4863, which amends the Merchant Marine Act of 1920, known as the Jones Act, has been the subject of too much ill-informed discussion. In strongly supporting this legislation, I would like to set the record straight as to what this bill does and does not do.

As my good friend and colleague, the distinguished chairman of the Merchant Marine Subcommittee, Mr. BIAGGI, has explained, the provisions of the Merchant Marine Act of 1920 addressed by H.R. 4863 provide special litigation rights for traditional "blue water" merchant seamen. The thrust of the congressional effort in 1920 was to provide a forum for such merchant seamen who were injured while plying their trade on the oceans of the world, where no one nation could assert jurisdiction.

Unfortunately, over the years, a combination of court expansions of original congressional intent and the development of a whole new industry, never envisioned by the original authors of the Jones Act, have resulted in an inequity which we seek to redress today. All this bill does is recognize the difference between traditional merchant shipping and offshore mineral extraction activities. In so doing, it further recognizes the paramount interest of each coastal nation in controlling activities occurring off their coasts.

As I indicated, Mr. Speaker, various claims have been made about this legislation during our committee's deliberations. For example, it has been alleged that this bill denies foreign nations' citizens the right to sue in U.S. courts; that the bill denies foreign seamen of their Jones Act remedies; that it is carefully crafted to shield U.S. companies from potential liability for any and all offshore accidents; that it denies foreign workers operating on our own Outer Continental Shelf or U.S. workers employed anywhere overseas the rights and remedies afforded under the 1920 legislation and court interpretations thereof. Nothing is, in fact, further from the truth. Mr. Speaker, allow me to elaborate.

This bill does provide clear choice of law guidance to U.S. courts confronted with litigation arising from accidents in foreign offshore areas.

This bill does maintain the full range of U.S. Jones Act protections U.S. courts currently afford U.S. citizens employed on both traditional merchant marine vessels and special purpose vessels engaged in exploration, development, or production of offshore mineral and energy resources, no matter where they are located.

This bill does maintain the full range of U.S. Jones Act protections U.S. courts currently afford foreign seamen employed on traditional merchant marine vessels, no matter where they are located.

This bill does maintain the full range of U.S. Jones Act protections U.S. courts currently afford foreign citizens employed on special purpose vessels engaged in exploration, development, or production of mineral and energy resources on the U.S. Outer Continental Shelf.

This bill does not deny a remedy to foreign workers employed on special purpose vessels engaged in the exploration, development, or production of mineral or energy resources on the Outer Continental Shelves of foreign nations. It does, however, require such foreign citizens to first pursue their remedies in either the country off whose coast they are working or where they are a citizen. If no remedy exists in either forum, they may pursue Jones Act actions in U.S. courts.

This bill does not shield U.S. companies from litigation in the courts of the foreign country off whose coast they are operating. It is standard practice for all such companies to sumit themselves to the legal procedures of such countries in return for the granted offshore concession.

Finally, this bill in no way indicates a congressional preference for the hiring of foreign, over domestic, workers in foreign offshore areas. It is designed to make American companies more competitive in the world market and in that sense is compatible with recent congressional actions such as the reform of the income tax levied on Americans working abroad, all designed to increase the number of U.S. workers overseas.

As a further indication of this last point, I think the Members should be aware that this legislation expands current legal requirements as to both the percent of the total crew and length of time after departure that U.S. vessels leaving U.S. ports for foreign offshore areas must maintain U.S. citizen crews.

In concluding, Mr. Speaker, I believe that this is sensible and proper legislation. I believe it is in our best national interest to pass this bill and send it to the other body with the strongest recommendation for their concurrence.

Mr. BIAGGI. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to H.R. 4863, as amended, concerning the maritime torts law modifications.

This legislation, if enacted, would have a severely detrimental impact on the American worker and on U.S. bilateral and multilateral treaty obligations.

By limiting the ability of foreign seamen employed on U.S.-flag vessels and oil production platforms to sue in U.S. courts as a result of on-the-job injury or loss, the bill encourages ship and oil production platform owners to employ only foreign nationals, thus avoiding lawsuits concerning work-related injuries which could occur if American workers were involved.

Moreover, the legislation, in its present form, not only would be disadvantageous to American workers, but it would also further separate the rights of American workers from those of their foreign counterparts, thereby creating an underclass of foreign workers on American-owned vessels. Furthermore, the legislation could encourage negligence and inadequate safety standards on those vessels. Such discriminatory tactics could well lead to retaliation against American workers abroad, ultimately resulting in fewer jobs for Americans in the offshore exploration industry around the world.

Further, the Department of State has expressed its opposition to this legislation on the grounds that its enactment could lead to claims by countries with which the United States has treaties of friendship, commerce, and navigation that we are not living up to our commitments under those treaties.

At the conclusion of my statement, I will include my communication to the Speaker on this issue as well as the text of the State Department position on the matter.

In sum, Mr. Speaker, H.R. 4863 is a bad bill. Its purpose is to serve a narrow special interest group at the expense of the American worker, foreign laborers, and, potentially, at the expense of U.S. foreign policy interests abroad. I urge the defeat of the bill.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C., September 16, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, H-204, the Capitol, Washington, D.C.

DEAR MR. SPEAKER: I am writing to request that H.R. 4863, to modify the maritime laws applicable to the recovery of damages by certain foreign seamen, as amended by the Committee on Merchant Marine and Fisheries, be sequentially referred to the Committee on Foreign Affairs.

As ordered reported, the bill would severely limit the rights of foreign seamen employed on U.S.-flag vessels and oil production platforms to file suit in U.S. courts to recover expenses resulting from injury or other damages incurred while so employed.

Such a provision involves issues which clearly fall under the jurisdiction of the Committee on Foreign Affairs pursuant to Clause 1(i) of Rule X of the Rules of the House.

First, enactment of this legislation in its present form very well may put the United States in violation of obligations it has undertaken in several bilateral and multilateral treaties with other countries. With respect to the bill's impact on such treaties, I am enclosing a letter from the Department of State which cites the potential impact of this legislation on certain treaties, and a copy of excerpts from a multilateral convention on shipowner's liabilities.

Second, in the event that this legislation is enacted in its present form, it will discriminate directly against citizens of foreign countries, an action which would have a direct impact on our relations with other countries, and which could result in retaliatory actions against U.S. business interests abroad. These are matters within this Committee's jurisdiction under Clauses 1(i) (1) and (8).

As precedent for referral to the Foreign Affairs Committee of legislation which would be violative of U.S. treaty obligations, I refer you to the sequential referral of H.R. 11942 to this Committee in the 95th Congress. H.R. 11942, which involved the application of the U.S. antitrust laws, is very similar to H.R. 4863 in that the issue was discrimination against foreign parties who desired to bring lawsuits in U.S. courts. A principal justification for that referral was that enactment of that legislation "would violate U.S. treaties and agreements with a number of foreign nations." (See attached letter from Chairman Morgan.) It is significant that the treaty provisions which were the basis for referral in that case are the same types of nondiscrimination provisions as is the case with regard to H.R. 4863. I believe that precedent is directly on point in this case.

According to Hinds' Precedents (IV, 4170-4178), the Committee on Foreign Affairs has on several occasions exercised jurisdiction over legislation relating to U.S. rights and obligations under treaties. In addition, according to the report of the Select Committee on Committees (the "Bolling Committee") on the Committee Reform Amendments of 1974, "international agreements not presently within the jurisdiction of another standing committee are included . . . as part of the general foreign policy jurisdiction" of the Committee on Foreign Affairs.

Thus, it is clearly established that legislation which would directly violate U.S. rights and obligations established by treaty or other international agreements falls under the jurisdiction of the Committee on Foreign Affairs for purposes of consideration of those violations.

Thank you for your consideration of this matter.

With best wishes, I am,

Sincerely yours,

CLEMENT J. ZABLOCKI,
Chairman.

DEPARTMENT OF STATE,
Washington, D.C., June 8, 1982.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives.

DEAR MR. CHAIRMAN: In response to your letter of November 2, the Department of State has reservations concerning the advisability of enacting H.R. 4863. Enactment of this legislation could lead to claims by countries with which the United States has treaties, of friendship, commerce and navigation that the United States is not living up to its commitments under those treaties.

U.S. treaties of friendship, commerce and navigation typically require both parties to accord to nationals and companies of either party "national treatment and most-favored-nation treatment with respect to

access to the courts of justice and to administrative tribunals and agencies within the territories of the other Party, in all degrees of jurisdiction, both in pursuit and in defense of their rights." *E.g.*, Treaty of Friendship, Commerce and Navigation between the United States and Japan ["US-Japanese Treaty"], April 2, 1953, Art. IV(1), 4 U.S.T. 2063, T.I.A.S. No. 2863. *See also* Treaty of Friendship, Commerce and Navigation between the United States and the Federal Republic of Germany ["US-German Treaty"], Oct. 29, 1954, Art. VI(1), 7 U.S.T. 1839, T.I.A.S. No. 3593 (which accords national treatment, but not most-favored-nation treatment). "National treatment" is typically defined as treatment "upon terms no less favorable than the treatment accorded . . . in like situations, to nationals, companies, products, vessels or other objects . . . of such Party." *E.g.*, US-Japanese Treaty, Art. XXII(1); US-German Treaty, Art. XXV(1).

The provisions of H.R. 4863, although carefully limiting the circumstances and manner in which nonresident aliens are treated less favorably than US citizens and resident aliens, could nonetheless give rise to claims by US treaty partners that the United States is not providing the national treatment in terms of access to U.S. courts generally required by our treaties of friendship, commerce and navigation. It is also conceivable that enactment of H.R. 4863 would lead to a limited retaliation against the ability of US nationals to bring actions seeking recovery for the injury or death of a US seaman in the courts of our treaty partners, especially in situations where the U.S. seaman is engaged in the exploration, development, or production of offshore mineral or energy resources.

For the above reasons, the Department of State cannot support the enactment of this piece of legislation.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

With cordial regards,

Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.

Mr. BIAGGI. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. HUBBARD).

□ 1400

Mr. HUBBARD. Mr. Speaker, as chairman of the Panama Canal/Outer Continental Shelf Subcommittee of the House Merchant Marine and Fisheries Committee, I am very aware of the importance of the U.S. offshore service industry. This industry, which provides drilling services, transportation services, construction services, diving services, and other services to companies seeking oil and gas offshore, is a young industry. This industry did not really mature until the 1960's, and is still on the edge of new ocean technology.

On the other hand, our maritime tort laws were enacted between 1915 and 1920, long before the offshore service industry was born. These laws, in their present form, are not able to adequately clarify when a foreign offshore oil and gas worker may seek a remedy in U.S. courts for personal injuries sustained in a work-related accident occuring over the continental shelf of a foreign nation.

H.R. 4863 would provide the needed clarification by establishing that such a foreign worker may not seek a remedy in a U.S. court for personal injury arising overseas if he has a remedy available in his home nation, or in the nation with jurisdiction over the accident site.

H.R. 4863 also has a provision creating new job opportunities for U.S. seamen on U.S. offshore service vessels while they are on a foreign voyage.

The legislation has been carefully reviewed by the Merchant Marine Subcommittee since 1980, and particularly since 1981 under the chairmanship of MARIO BIAGGI. I commend the gentleman from New York for the fairness that he has given to all views on this legislation.

I am a cosponsor of this bill and ask my colleagues to vote for H.R. 4863.

It is timely and needed legislation.

Mr. BIAGGI. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CROCKETT).

Mr. CROCKETT. I thank the gentleman for yielding this time to me. Mr. Speaker, I rise today to oppose the maritime torts legislation, H.R. 4863, which is before us on the Suspension Calendar, and which would modify the maritime laws applicable to the recovery of damages by certain foreign seamen.

I do not believe this bill has been given the careful consideration it needs; nor has it been reviewed by the Foreign Affairs or Judiciary Committees, both of which have jurisdiction over areas touched by this legislation. In fact, Chairman ZABLOCKI of the Foreign Affairs Committee requested sequential jurisdiction over the bill, but his request was apparently denied by the Parliamentarian.

As reported by the Merchant Marine and Fisheries Committee, this legislation would severely limit the rights of foreign seamen employed on U.S.-flag vessels and oil production facilities to file suit in U.S. courts to recover damages for injuries suffered while so employed.

Such changes in the treatment of foreign nationals should, I believe, be studied by the Foreign Affairs Committee. Enactment of this legislation in its present form could put the United States in violation of bilateral and multilateral treaties concerning the treatment of foreign workers. In addition, the discriminatory treatment of foreign workers in this bill could lead to retaliatory measures being taken against American workers in other countries, or against American business operating abroad.

The Department of State, from which comment was requested by the Merchant Marine Committee, replied unfavorably on the legislation, saying that it would violate treaties of friendship, commerce, and navigation.

The bill would also have an impact on the scope of jurisdiction of U.S. courts, restricting the access to those courts by foreign workers. It would seem to me that such a restriction of the courts' jurisdiction should be examined by the Judiciary Committee before this House votes on it.

Mr. Speaker, I oppose this bill not only because I do not believe it has been given full consideration; I also oppose it on the contents of the legislation itself.

Under current law, a foreign worker injured while employed on a U.S.-flag vessel or oil production facility has access to U.S. courts, but only after a careful review of the circumstances surrounding the injury. Standing before the courts is decided on a case-by-case basis, giving the courts the flexibility to determine culpability. Foreign seamen injured while working on U.S. rigs must clear a number of hurdles before their cases are heard, and the courts consider factors such as the place of the wrongful act, the law of the flag, the allegiance or domicile of the injured seaman, the allegiance of the shipowner, the place of the contract, the inaccessibility of a foreign court and the law of the forum before allowing an injured party to proceed.

This bill would disallow any review, and would cut foreign workers off from this avenue of redress.

If this legislation is passed, Mr. Speaker, the oil conglomerates will have won another battle against the rights of American labor and its efforts to maximize safety on U.S. vessels and oil rigs.

Given the choice between hiring an American worker, who if injured would still have access to sue under U.S. courts, or a foreign-born worker, who could not sue for damages, an oil company would undoubtedly choose the latter as the more profitable decision. The number of U.S. workers on rigs would diminish, while profits for the oil companies would rise.

Additionally, with diminished liability toward foreign workers, the pressure for safety standards will be lessened on the vessels and rigs, making an already dangerous profession even more so.

Mr. Speaker, I urge my colleagues to carefully reflect on what this bill would do to American workers, to our court system and to our foreign relations, and I urge you to reject it until such time as it receives the full review and study needed to insure that justice is served.

Mr. SNYDER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LENT).

Mr. LENT. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to commend both the gentleman from New York (Mr. BIAGGI) and the gentleman from Kentucky (Mr. SNYDER) for their leadership in connection with H.R. 4863, to modify U.S. maritime tort laws.

As an original cosponsor of H.R. 4863, I urge its adoption by the House.

Three days of committee hearings over the past 3 years have established the need for this legislation. Without this legislation, U.S. offshore service companies will continue to be plagued by numerous lawsuits brought in U.S. courts by foreign offshore oil and gas workers. These workers bring these lawsuits to obtain U.S. remedies for personal injuries which arise from work-related incidents occurring over the continental shelf of a foreign nation. Presently, 200 such lawsuits are pending in U.S. courts, and they seek over $2 billion in damages. Our hearings established in every instance remedies are available to these plaintiffs overseas.

With this legislation enacted into law, foreign offshore oil and gas workers would have to show that they had no remedy overseas before seeking a U.S. remedy under U.S. maritime tort laws. This would be an equitable system that allows each nation to provide a remedy for its citizens, or to those working within its jurisdiction.

Passage of this legislation is important, and I urge a yes vote on H.R. 4863.

Mr. SNYDER. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. I thank the gentleman for yielding this time to me.

Mr. Speaker, U.S. offshore service companies have been plagued in recent years by lawsuits brought by foreign offshore oil and gas workers seeking U.S. remedies for injuries arising from work-related incidents occurring overseas. In every instance, these workers have remedies in their home nations, or in the nations where they work.

At this time there are about 200 such lawsuits pending in U.S. courts seeking over $2 billion in damages. This is more than double the number of suits that were pending in 1980.

Other nations do not allow their work-related compensation laws and judicial systems to be used by noncitizens for incidents occurring beyond their jurisdiction. Hence U.S. offshore service companies have been saddled with the costs resulting from these lawsuits while their foreign offshore competitors have not had to bear such costs. Thus, the U.S. companies are at a competitive disadvantage.

I am proud to be a consponsor of H.R. 4863 which clarifies U.S. maritime tort laws by establishing how U.S. courts should apply these laws to foreign offshore oil and gas workers. The clarification is that a foreign offshore oil and gas worker may not obtain a U.S. remedy for a work-related incident occuring over the Continental Shelf of a foreign nation if a remedy is available to the foreign worker in his home nation, or in the nation with jurisdiction over the accident site, if different. If there is no remedy available in either of the nations, then the foreign worker may seek a remedy in the United States.

H.R. 4863 does not affect U.S. workers no matter where in the world they are working, or United States or foreign seamen on traditional blue-water vessels, or any person, regardless of nationality, working over the U.S. Continental Shelf.

H.R. 4863 insures that a remedy is available for every offshore worker, no matter where he may work, or his nationality. It does so by allowing the nation with the greatest interest in the worker's welfare to provide him with compensation for a work-related injury.

I strongly support H.R. 4863, and urge my colleagues to join me voting "aye."

Mr. SNYDER. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. I thank the gentleman for yielding this time to me.

Mr. Speaker, in recent weeks I have had brought to my attention a problem faced by U.S. offshore service companies. The problem is that they are being subjected to numerous lawsuits by foreign offshore oil and gas workers seeking remedies under U.S. law for injuries sustained overseas. In every instance, these workers have remedies overseas.

H.R. 4863 would correct the problem by prohibiting these foreign offshore oil and gas workers from seeking U.S. remedies for injuries sustained overseas unless they can show that they have no remedy overseas.

It makes sense that every worker seeks his compensation for a work-related injury in the nation with the most interest in his welfare.

H.R. 4863 establishes such a system, and I ask for the passage of H.R. 4863.

Mr. BIAGGI. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of H.R. 4863 and I commend the members of the committee for their diligence in bringing this important legislation to the floor today.

I believe this legislation is important to the economic health of our offshore service industry. As many of my colleagues know, a number of offshore service companies are based in the New Orleans area. These companies operate throughout the world, in the Middle East, off the coasts of Nigeria, Mexico, and Indonesia, in Prudhoe Bay, Alaska, and in the North Sea, just to name some of the major areas.

In recent years some of these companies have been plagued by numerous lawsuits filed by foreign offshore oil and gas workers for injuries occurring over the Continental Shelf of foreign nations for which remedies are available overseas. This has proved to be very costly to these companies and to the world energy effort.

U.S. offshore service companies' costs are in the form of defending expensive lawsuits tried thousands of miles away from the place of the incident. These cases should not be tried in American courts; rather, they should be tried under the laws of the jurisdiction in which the incident occurred. This situation results in additional insurance costs since the U.S. companies also are subject to the work-related compensation scheme where they work—that is, in the foreign country—and the cost of settling or even losing lawsuits brought in U.S. courts by foreign nationals.

Foreign companies operating in competition to our own industry are not subject to these same costs. Because they do not bear this same burden they are at a competitive advantage over U.S. industry. Unfortunately, these additional costs are pricing our companies out of the market when they bid for work overseas against foreign-owned businesses.

H.R. 4863 would eliminate the disadvantage to American firms. This is a fair bill that preserves a remedy for all workers. It would have no impact whatsoever on American workers employed by U.S. offshore service companies overseas or here in the United States. American workers would continue to have recourse to American law and foreign workers would have recourse to their own national courts or compensation systems. In the interest of fairness the bill permits foreign workers injured overseas to seek a U.S. remedy if he simply shows he has no remedy overseas and if he established the proper legal points of contact in a U.S. court.

Mr. Speaker, this is a very limited modification of maritime tort law. As my colleague from Louisiana has said it would have no impact on U.S. workers, on "blue water" seamen, or any person—no matter what his or her nationality—working over the U.S. Continental Shelf. It simple remedies a "loophole" in existing law which puts American companies at a severe disadvantage worldwide. It is a reasonable and needed bill and I support its passage.

Mr. BIAGGI. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. I thank the gentleman for yielding this time to me.

Mr. Speaker, many of the major U.S. offshore service companies are located in my congressional district. So there are many people in my district working for these companies all over the world.

Over the past 3 years, it has come to my attention that these U.S. companies are at a competitive disadvantage with foreign-owned offshore service companies because present U.S. maritime tort laws need clarifying. The needed clarification is to establish when a foreign employee of a U.S. company or its foreign subsidiary may obtain a remedy under U.S. maritime tort laws. Until the clarification is

made, U.S. offshore service companies will have more compensation and insurance costs than foreign-owned offshore companies.

H.R. 4863 would make the clarification by establishing that the foreign employee may not obtain a remedy under U.S. laws for an injury sustained in a work-related incident which occured overseas for which a remedy is available overseas. H.R. 4863 would not affect U.S. maritime laws as they may be applied to any U.S. worker, any seaman on a blue-water vessel, or anyone working over the U.S. Continental Shelf.

During the discussions on this bill in Committee, the question was raised, "Why do U.S. companies hire foreign employees overseas?" The answer is simple in that most nations require by law, or encourage, only its nationals to be employed over their continental shelf. The same policy is reflected in our own visa and immigration laws, and in our OCS laws. We cannot expect other nations to be different.

At the same time, our judicial policy toward foreigners injured thousands of miles from the United States in an offshore oil and gas field should be in conformity with the national practices of the foreign competitors of U.S. companies.

Since other nations do not allow foreign citizens to obtain remedies for injuries sustained within the jurisdiction of foreign nations when remedies are available elsewhere, the United States should do likewise. Only under this system may U.S. offshore service companies compete equally with foreign-owned offshore service companies.

In short, H.R. 4863 will help U.S. businesses and their employees.

I ask for a "yes" vote on H.R. 4863.

Mr. SNYDER. Mr. Speaker, it is with reluctance that I yield time to a Member who has left our committee for perhaps a greater love, but I yield 1 minute to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, it is with greater reluctance that I have to compliment the ranking member of the Subcommittee on Merchant Marine of the Committee on Merchant Marine and Fisheries, but I certainly, with a great deal of enthusiasm, would compliment the entire committee for, I think, undoing what was an injustice in the past.

We seem to have masochistic tendencies, in dealing with ourselves. In going through this bill, as I was on the committee when the bill was marked up, one begins to wonder how the law ever got to be otherwise than is stated in this bill.

I enthusiastically support this bill and again would like to compliment all the people who worked so hard to bring it to us.

Mr. BIAGGI. Mr. Speaker, I yield myself the balance of my time.

I think for the record certain things should be clear: Neither the Department of State nor the administration oppose the bill.

My concerns for the laboring elements in this area have been clearly manifested because what this bill includes, which the law has not included heretofore, is an increase from 75 percent of American personnel leaving the United States to 100 percent. Also, they could not be replaced for 30 days. Heretofore they could have been replaced any time the employer desired to do so.

But let us look at one important fact: What we are dealing with is an abuse that has been precipitated by an international network of attorneys and their field operators.

We had evidence during the hearings that representatives of attorneys from the States were up in Canada after the fatal Ranger accident, knocking on the doors of Canadians in ambulance chasing fashion. They were appalled at the approach. They were not aware of what was happening, that it never happened to them before.

That is clearly one illustration of the abuse we intend to correct. They go to these foreign lands, sign up the client, and say, "Sue in America. American courts are very generous with their awards. You can return home and live in wealth for the rest of your life."

That clearly is an abuse. But in the process of trying to deal with the abuse, we do not deny any victim of an injury the right to come to these United States when a U.S. company is involved, if there is no remedy, no compensation provided in their lands for injuries occurring in the foreign waters—the Outer Continental Shelf.

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As another factor, many of these foreign countries mandate that the American companies have a certain percentage of their employees as foreign nationals. Members can see the inconsistency of those who are critical. If they are going to mandate it, why not make the courts in those countries available for any injury incurred by a foreign national?

Clearly, this legislation has been given extensive hearings, a very considerable record, and we addressed ourselves to the concerns of the laboring segment in our Nation. No one has greater sympathy for them than I, and yet there was not a scintilla of evidence. We asked them time and time again, "Give us that evidence; show us something where this will bring about a negative reaction."

They have failed to do that. They have said it with rhetoric, and I understand that, but my obligation is to the facts and legislating to the abuses. I tell them, "Show me something that will prove your position, and we will do something in the legislation."

They did not show it. All the arguments that this would have negative impact on labor I think is without real basis.

I urge all the Members of the House to vote for this legislation. It is thoughtful legislation. It deals with an abuse. Why should the American taxpayer, and in the end the consumer, be saddled with the cost of paying for these additional hundreds of claims?

None of the claims that are initiated now will be vitiated. This is not retroactive. There was mention here that there were some 200 claims pending in the courts. This legislation, if adopted, cannot impact on those 200 claims. Clearly, that is not the case. The law becomes effective prospectively. There are no gimmicks, no curves. It is a straight-forward approach. We know it has merit and we know it deals with an abuse that should be corrected.

I am an attorney myself, and I can tell the Members that the practice engaged in by those few law firms, just a few in this country that have an international network, might be worthy of some review.

● Mr. FIELDS. Mr. Speaker, as an original cosponsor of H.R. 4863, I am extremely pleased that we are meeting today to consider this most important legislation.

This long-overdue measure is designed to correct what I feel is an unintended application of our maritime tort laws.

Under present law, a foreign citizen who is injured while working on an oil rig located within the territorial waters of a foreign nation is encouraged to file suit in U.S. Federal courts because of the record of generous settlements.

Mr. Speaker, I do not believe that our maritime tort laws, which were enacted to protect workers employed on traditional blue water merchant vessels, were ever intended to cover the activities of these oil rig service workers.

In an effort to clarify this situation, H.R. 4863, stipulates that an injured foreign worker must first seek relief in either the court system where the accident occured or the courts of his own nation. If the worker is unable to obtain redress in either of these court systems, then and, only then, may he utilize our court system and petition for relief. In short, this bill directs those foreign injured workers to utilize our court system as a remedy of the last resort not of the first, as is currently the case.

Let me also emphasize that this legislation will have absolutely no effect on American seamen and more importantly is not retroactive in application. Therefore, those families of workers who were regrettably killed on the ocean ranger are not precluded from seeking relief in our court system.

Mr. Speaker, H.R. 4863, sets forth an equitable solution as to when foreign offshore oil and gas workers may seek U.S remedies for alleged injuries which occured overseas.

I am convinced that with the passage of this bill our offshore service companies will be able to remain strong around the world and that there will be thousands of jobs for Americans overseas.

Finally, I would like to commend the gentleman from New York (Mr. BIAGGI), for his invaluable leadership on this most important legislative issue.●

OPPOSITION TO H.R. 4863

● Mr. HERTEL. Mr. Speaker, the report to accompany H.R. 4863, filed September 23, 1982, states on page 5:

The legislation requires the claimant to show that at the time the U.S. action was commenced, he had no remedy under either the laws of the nation asserting jurisdiction over the area in which the incident occurred or the nation in which the injured worker maintains citizenship or residency. A U.S. national who brings a suit as the representative or survivor of a foreign injured worker would still have to show that he (the U.S. national) lacked a remedy in the nation of citizenship or residency of the injured worker, and in the nation exercising jurisdiction over the place of injury.

This means that if a U.S. widow of a foreign injured worker would be barred from bringing a Jones Act claim in U.S. courts unless there was no remedy in the nation of citizenship of her injured foreign spouse. This is an enormous impairment of the right of Americans. It changes the Death on the High Sea Act, the Jones Act, and the Seaman's Act of 1915.

The committee report also shows that the Department of State does not support the enactment of this piece of legislation because:

It is also conceivable that the enactment of H.R. 4863 would lead to a limited retaliation against the ability of U.S. nationals to bring action seeking recovery for injury or death of a U.S. seaman in the courts of our treaty partners, especially in situations where the U.S. seaman is engaged in the exploration, development or production of offshore mineral or energy resources.

The Department of Transportation questioned, "Whether H.R. 4863, as introduced, would encourage the displacement of U.S. seamen by foreign nationals from such employment with the U.S. mineral and oil industry." While the Department favors the general intent of the proposed legislation, it would be opposed to the use of this legislation as a vehicle to arbitrarily displace U.S. seamen from such employment. The Department of Transportation also deferred to the Department of State with respect to treaty matters.

The offshore oil industry is the most hazardous sector of employment for worker safety. Injuries and illnesses per 100 workers in 1980 for the oil and gas drilling industry was more than twice that for the remainder of the private sector. H.R. 4863 purports to address abuses by foreign nationals in tort litigation targeted at the offshore oil industry. There are other means to protect against abuses by foreign nationals, such as double-judgments or double-dipping recoveries. Those provisions would consist of offsets in consideration of judgments. H.R. 4863 slams the doors of the Federal court on all foreign victims of drilling injuries and their survivors.

The Federal courts now possess all means necessary to reject cases by foreign seamen which are without merit. A good example is the case of *Philips* v. *Amoco-Trinidad Oil Company* (632 F2d 82) 1980, which clearly delineates that foreign seamen do not have an automatic right to sue under section 688 of the Jones Act, nor does this section operate on the basis of some social welfare theory as has been suggested by proponents of the bill. As a matter of fact, the Philips court expressly rejected the notion that because injured Americans can sue, injured foreigners can do the same thing. The court was emphatic stating that:

The suggestion that one follows from another is another "variety of social jingoism" which presumes that the "liberal purposes" of American law must be exported to wherever our multinational corporations are permitted to do business—
(page 89).

Further, at page 84:

"But the courts have never applied the Jones Act as a literal reading of what it requires." The Supreme Court has indicated that the Jones Act applies, "only to areas and transactions in which American law would be considered operative under the prevalent doctrines of international law."

This is clearly reflected in the statistics on maritime personal injury cases filed in U.S. Federal courts. For the year ending June 30, 1982: 5,394 maritime personal injury claims were filed. In the hearings on H.R. 4863, the highest number of cases which were claimed to be filed by foreigners amounted to 106, which is less than 2 percent of that total. Estimates of claims, not judgments, were pegged at somewhere in excess of $100 million total. A simple calculation of these two figures indicates that each of these cases made claims of approximately $1 million each. It tends to be an unwritten legal practice to claim $1 million in virtually any personal injury case.

There was no testimony at the hearing that indicated any specific abuses or lack of merit in any of these 106 cases, nor a total figure of actual recoveries paid out.

It is important to understand the principles of tort law. Its most important function is to encourage safety by making it economically unadvantageous to put individuals at risk. H.R. 4863 creates a double standard of tort law for seamen on a single vessel. Not only does this change hundreds of years of maritime legal tradition, it encourages the exploitation of foreign workers because it is economically more advantageous to put these individuals at risk because, should harm come to them, the penalties will not be as great. Alternatively, this works to discourage the employment of American seamen because our laws require greater legal responsibility for our workers' safety.

H.R. 4863 is perhaps one of the coldest uses of cost-benefit analysis with respect to individuals' lives or safety. It encourages the use of individuals in the most dangerous occupation who have the least legal protections.

Finally, since this bill has been considered, there have been three oil drilling vessel disasters: the *Ocean Ranger* which sunk off the coast of Nova Scotia claiming 83 lives of the multinational crew, received wide publicity; the sinking of an oil drilling vessel off the coast of Indonesia in which several lives were lost; and this week's abandonment of an oil drilling vessel in the Bering Sea. All these disasters clearly indicate that the offshore oil industry has not suddenly become safer in recent times.

H.R. 4863 is a radical departure for American maritime jurisprudence. This bill purports to stem the increasing number of aliens filing suit in U.S. courts seeking Jones Act and other maritime remedies for injuries and deaths in offshore oil industry related accidents beyond the territorial waters of the United States.

During the last 5 years 106 such suits were brought in Texas, Louisiana, Pennsylvania, and California against seven of the most active companies in offshore oil industries abroad. Witnesses at the hearing for this bill sought to boggle the mind with stories of massive judgments and alleged ethical abuses by attorneys. The solution this bill offers is slamming the door on every hapless victim simply because they happen to be foreigners.

What does H.R. 4863 remedy? There is no member of this committee who would deny that the offshore oil industry is a difficult and dangerous undertaking. The New Orleans Times-Picayune, Sunday, August 8, 1982, in a series of articles which illustrate the dangers in oil and gas drilling wrote that the oil and gas industry had 6.8 fatalities per 10,000 workers versus 5.9 for the coal industry and 0.84 for other sectors of the economy. Injuries and illness per 100 workers in 1980 for the oil and gas drilling industry was 19.3 versus 8.7 for the remainder of the private sector.

This bill does not address abuses of tort litigation targeted at the offshore oil industry. It grants a license to neglect the safety of workers. H.R. 4863 departs from American maritime tradition by creating a dual standard on a single vessel. American and foreign seamen suffering the same injury on the same vessel will recover radically different amounts. This can lead to two situations:

One, the foreign worker be exploited and placed in the more hazardous situation because a traditional cost-benefit analysis would dictate one should risk

those personnel who result in less tort liability; or

Two, expanding upon the previous example. There would be little reason to hire American workers because foreign workers without the right to recover damages on an equal basis are a better value. When one is confronted with liability for injuries, H.R. 4863 is a broad statement of policy which encourages exploitation of foreign workers for the most hazardous duty and discourages employment of Americans.

Allegations of abuse of judicial process and excessive awards of money was not balanced in the subcommittee hearings by the testimony by any victims. This committee did not see the injured, and maimed, the dead, but we are racing to stop any recovery these individuals may have. The committee was presented with ample evidence that the courts do look to the merits of injuries suffered by victims, in evaluating cases. The Congress can only set policy matters, but the court has the handicapped worker before it. The courts have and will continue to bounce cases which are frivolous or devoid of merit. They possess the requisite tools in the doctrine of "forum non conviens" to defer cases brought by aliens in U.S. courts to courts of appropriate jurisdiction.

This is the complex and difficult area, involving choice and conflicts of law which may indeed need further guidance as alleged by proponents of this bill. However, H.R. 4863 is not choice of law guidance. It is the elimination of a certain class of civil action which I believe to be beyond the jurisdication of this committee to adequately address.

Beyond the complexities of the conflict of laws question in this issue lies a painfully difficult foreign policy question. The United States has entered into more than two dozen treaties of friendship, commerce, and navigation containing provisions for equal access to our courts on the basis of national treatment of most-favored-nation treatment.

National treatment means access to our courts by aliens of one country on terms no less favorable than the treatment accorded in like situations to U.S. citizens. Most-favored-nation treatment means access to our courts by aliens upon terms no less favorable than the treatment accorded in like situations to nationals of any third nation. Thus, the United States has pledged that it will not adopt precisely the sort of door closing law that is found in H.R. 4863.

The United States presently has treaties of this sort with Argentina, Austria, Belgium, Bolivia, Colombia, Costa Rica, Denmark, Ethiopia, Germany, Finland, Greece, Honduras, Ireland, Israel, Japan, Korea, Liberia, Luxembourg, the Netherlands, Nicaraugua, Norway, Pakistan, Paraguay, Spain, and Thailand. Congress clearly has the power to abrogate those treaties, but it would be disruptive to our friendly relations with these countries to do so. What will be the international perception of the United States moving to deny legal redress to the injured and dead who have suffered as a result of our industrial efforts. It is horribly ironic that each time this bill has been scheduled for hearing or markup it has been preceeded by tragic disasters for offshore drilling vessels. It is almost as if a higher authority were telling us—no.●

● Mr. DERWINSKI. Mr. Speaker, I rise in support of this measure providing for a limited change in U.S. maritime tort laws.

Currently, these laws give inadequate guidance as to whether a foreign oil and gas worker may seek a remedy in a U.S. court for injuries sustained in a work-related accident over the continental shelf of a foreign nation. If H.R. 4863 is enacted, such a foreign worker would not be able to obtain a remedy in U.S. courts if he had a remedy available in his home nation, or in the nation with jurisdiction over the accident site, if different. If he had no remedy overseas, he then may seek a remedy under U.S. law.

This legislation would not affect the right to sue in U.S. courts of any U.S. citizen or permanent U.S. resident alien working overseas; any seaman on a blue water vessel; or anyone working over the U.S. Continental Shelf.

Mr. Speaker, I believe this bill is needed to put U.S. offshore companies and their workers on an even basis with foreign-owned offshore companies in terms of the costs of work-related compensation and insurance.

The bill's manning provisions were deliberately added in committee to insure that American jobs would not be lost and that safety standards would not be lowered as a result of the enactment of this legislation.

Mr. Speaker, I urge my colleagues' support of H.R. 4863.●

● Mr. HUTTO. Mr. Speaker, H.R. 4863 would establish that a foreign offshore oil and gas worker may not obtain a U.S. remedy for an injury sustained in a work-related incident over the continental shelf of a foreign nation if he has a remedy in his home nation, or in the nation with jurisdiction over the incident site.

This is a fair approach, and it is certainly better than the present application of U.S. law to these foreign offshore oil and gas workers. Presently there is great uncertainty as to when U.S. maritime tort laws are applicable to foreign offshore oil and gas workers. H.R. 4863 would end the confusion.

As an original cosponsor of H.R. 4863, I urge its adoption.

I commend the gentleman from North Carolina, Mr. JONES, and the gentleman from New York, Mr. BIAGGI, for bringing this needed legislation to the floor of the House.●

Mr. SNYDER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from New York (Mr. BIAGGI) that the House suspend the rules and pass the bill, H.R. 4863, as amended.

The question was taken.

Mr. ZABLOCKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

COASTAL BARRIER RESOURCES ACT

Mr. BREAUX. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3252) to establish the Coastal Barrier Resources System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal Barrier Resources Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) coastal barriers along the Atlantic and gulf coast of the United States and the adjacent wetlands, marshes, estuaries, inlets, and near shore waters provide—

(A) habitats for migratory birds and other wildlife; and

(B) habitats which are essential spawning, nursery, nesting, and feeding areas for commercially and recreationally important species of finfish and shellfish, as well as other aquatic organisms such as sea turtles;

(2) coastal barriers contain resources of extraordinary scenic, scientific, recreational, natural, historic, archeological, cultural, and economic importance; which are being irretrievably damaged and lost due to development on, among, and adjacent to, such barriers;

(3) coastal barriers serve as natural storm protective buffers and are generally unsuitable for development because they are vulnerable to hurricane and other storm damage and because natural shoreline recession and the movement of unstable sediments undermine manmade structures;

(4) certain actions and programs of the Federal Government have subsidized and permitted development on coastal barriers and the result has been the loss of barrier resources, threats to human life, health, and property, and the expenditure of millions of tax dollars each year; and

(5) a program of coordinated action by Federal, State, and local governments is critical to the more appropriate use and conservation of coastal barriers.

(b) PURPOSE.—The Congress declares that it is the purpose of this Act to minimize the loss of human life, wasteful expenditure of Federal revenues, and damage to the natural and other resources associated with the coastal barriers along the Atlantic and gulf coasts by establishing a Coastal Barrier Resource System, by restricting future Federal

expenditures and financial assistance which have the effect of encouraging development of coastal barriers, and by considering the means and measures by which the long-term conservation of these barriers may be achieved.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "coastal barrier" means—

(A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that—

(i) consists of unconsolidated sedimentary materials,

(ii) is subject to wave, tidal, and wind energies, and

(iii) protects landward aquatic habitats from direct wave attack; and

(B) all associated aquatic habitats, including, but not limited to adjacent wetlands, marshes, estuaries, inlets, and nearshore waters.

but only if such feature and associated habitats (i) contain few manmade structures and these structures, and man's activities on such feature and within such habitats, do not significantly impede geomorphic and ecological processes, and (ii) are not included within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization as defined in section 170(h)(3) of the Internal Revenue Code of 1954, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes.

(2) The term "committees" refers to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(3) The term "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance other than—

(A) general or special revenue-sharing grants made to States;

(B) deposit or account insurance for customers of banks, savings and loan associations, credit unions, or similar institutions;

(C) the purchase of mortgages or loans by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation; and

(D) assistance for environmental studies, planning, and assessments that are required incident to the issuance of permits or other authorizations under Federal law.

Effective October 1, 1983, such term includes flood insurance issued under the National Flood Insurance Act of 1968.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "System unit" means any coastal barrier, or combinaton of closely related coastal barriers, included within the Coastal Barrier Resource System established by section 4.

SEC. 4. THE COASTAL BARRIER RESOURCE SYSTEM.

(a) ESTABLISHMENT.—There is established the Coastal Barrier Resource System which shall consist of those coastal barriers located on the Atlantic and gulf coasts of the United States that are identified and generally depicted on the maps that are entitled "Coastal Barrier Resources System", numbered A01 through T12, and dated September 16, 1982.

(b) AVAILABILITY OF MAPS.—(1) The maps referred to in subsection (a) shall be available for public inspection at the offices of the United States Fish and Wildlife Service in the District of Columbia and in other appropriate offices of the Service.

(2) Within sixty days after the date of the enactment of this Act, the Secretary shall provide copies of the maps referred to in subsection (a) to the chief executive officer of (A) each State and political subdivision in which a System unit is located, and (B) each affected Federal agency.

(c) BOUNDARY MODIFICATIONS.—(1) Within one hundred and eighty days after the date of the enactment of this Act, the Secretary may, in consultation with the appropriate officers referred to in subsection (b)(2), and the public, make such minor and technical modifications to the boundaries of System units as depicted on the maps referred to in subsection (a) as are consistent with the purposes of this Act and necessary to clarify the boundaries of said System units. The Secretary shall, not less than thirty days before the effective date of any such boundary modifications, submit written notice of such modification to each of the committees.

(2) The Secretary shall conduct, at least once every five years, a review of the maps referred to in subsection (a) and make such minor and technical modifications to the boundaries of System units as are necessary solely to reflect changes that have occurred in the size or location of any System units as a result of natural forces.

SEC. 5. LIMITATIONS ON FEDERAL EXPENDITURES AFFECTING THE SYSTEM.

(a) Except as provided in section 6, within the Coastal Barrier Resource System no new expenditures or new financial assistance may be made available under authority of Federal law for any purpose, including, but not limited to—

(1) the construction or purchase of any structure, appurtenance, facility, or related infrastructure;

(2) the construction or purchase of any road, airport, boat landing facility, or other facility on, or bridge or causeway to, any System unit; and

(3) the carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet, shoreline, or inshore area, except that such assistance and expenditures may be made available on units designated pursuant to section 4 on maps numbered S01 through S11 for purposes other than encouraging development and, in all units, in cases where an emergency threatens life, land, and property immediately adjacent to that unit.

(b) An expenditure of financial assistance made available under authority of Federal law shall be treated as being a new expenditure or new financial assistance for the purposes of this subsection if—

(1) in any case with respect to which specific appropriations are required, no money for the construction or purchase of the facility or project was appropriated before the date of the enactment of this Act; or

(2) no legally binding commitment regarding financial assistance with respect to the facility or project was made before such date of enactment.

SEC. 6. EXCEPTIONS.

(a) Notwithstanding subsection 5, the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures or financial assistance available within the Coastal Barrier Resource System for—

(1) projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects;

(2) any use or facility necessary for the exploration, extraction, or transportation of energy resources which can be carried out only on, in, or adjacent to coastal water areas because the use of facility requires access to the coastal water body;

(3) the maintenance of existing channel improvements and related structures, such as jetties, and including the disposal of dredge materials related to such improvements;

(4) the maintenance, replacement, reconstruction or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system;

(5) military activities essential to national security;

(6) the construction, operation, maintenance, and rehabilitation of Coast Guard facilities and access thereto; and

(7) any of the following actions or projects, but only if the making available of expenditures or assistance therefor is consistent with the purposes of this Act:

(A) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(B) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 11) and the Coastal Zone Management Act of 1975 (16 U.S.C. 1451 et seq.).

(C) Scientific research, including but not limited to aeronautical, atmosp-heric, space, geologic, marine, fish, and wildlife and other research, development, and applications.

(D) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146) and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103).

(E) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, of facilities.

(F) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

(b) For purposes of subsection (a)(3), a channel improvement or a related structure shall be treated as an existing improvement or an existing related structure only if all, or a portion, of the moneys for such improvement or structure was appropriated before the date of the enactment of this Act.

SEC. 7. CERTIFICATION OF COMPLIANCE.

The Director of the Office of Mangement and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this Act during each fiscal year beginning after September 30, 1982. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.

SEC. 8. REPORTS TO CONGRESS.

(a) IN GENERAL.—Before the close of the three-year period beginning on the date of the enactment of this Act, the Secretary shall prepare and submit to the committees a report regarding the System.

(b) CONSULTATION IN PREPARING REPORT.—The Secretary shall prepare the report required under subsection (a) in consultation with the Governors of the States in which System units are located and after providing opportunity for, and considering, public comment.

(c) REPORT CONTENT.—The report required under subsection (a) shall contain—

(1) recommendations for the conservation of the natural resources of the Coastal Barrier Resources System based on an evaluation and comparison of all management alternatives, and combinations thereof, such as State and local actions (including management plans approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)), Federal actions (including acquisition for administration as part of the National Wildlife Refuge System) and initiatives by private organizations and individuals;

(2) recommendations for additions to, or deletions from, the Coastal Barrier Resource System, and for modifications to the boundaries of System units; and

(3) a summary of the comments received from the Governors of the States, other government officials, and the public regarding the System units covered in the report.

SEC. 9. AMENDMENT REGARDING FLOOD INSURANCE.

Section 1321 of the National Flood Insurance Act of 1968 (42 U.S.C. 4028) is amended to read as follows:

"UNDEVELOPED COASTAL BARRIERS

"SEC. 1321. No new flood insurance coverage may be provided under this title on or after October 1, 1983, for any new construction or substantial improvements of structures located on any coastal barrier within the Coastal Barrier Resource System established by section 4 of the Coastal Barrier Resources Act. A federally insured financial institution may make loans secured by structures which are eligible for flood insurance by reason of this section.".

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Department of the Interior $1,000,000 for the period beginning October 1, 1982, and ending September 30, 1985, for purposes of carrying out section 8.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Louisiana (Mr. BREAUX) will be recognized for 20 minutes, and the gentleman from Delaware (Mr. EVANS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3252 is a relatively straightforward piece of legislation. It is aimed at preserving undeveloped coastal barrier beaches and islands by prohibiting Federal financial assistance for new development. Under this legislation, Federal assistance for roads, bridges, and sewer systems would not be available for areas that are identified as undeveloped coastal barriers on maps that are referenced in the legislation. Financial assistance in the form of VA and FHA loans would also be precluded. Finally, this legislation would continue the policy of restricting the issuance of new Federal flood insurance policies in these areas after October 1, 1983. This policy was adopted by Congress in section 341(d) of the Omnibus Budget Reconciliation Act of 1981.

The legislation contains exceptions that allow for Federal activities in support of energy development or for those activities relating to national defense or Coast Guard operations. Maintenance of channels and navigation facilities, enhancement of fish and wildlife habitat and shoreline stabilization activiteis in certain areas of extreme coastal erosion would also be allowed.

The areas this legislation is designed to protect—coastal barriers—are so named because thay create a barrier that buffers the mainland and associated widlife-rich aquatic areas—such as lagoons, marshes, and estuaries—from the direct attack of ocean waves, storms and hurricanes. Generally, these areas are among the most unstable of land forms. Beaches, dunes, and entire Islands erode and migrate, subject to the constant forces of wind, wave, and storm. The processes that shape coastal barriers are most visible during periods of storm, as the Ash Wednesday storm of 1962 demonstrates. Twenty-foot-high waves breached dunes from Georgia to New York, overwashed many coastal barriers, and cut numerous new inlets. Even without major storms, however, coastal barriers are constantly shifting, most of them gradually migrating landward in response to a slow rise in sea level.

The value to these areas for fisheries is enormous.Coastal barriers create and maintain wetlands and estuaries which nurture vital fish stocks. It has been estimated by the National Marine Fisheries Service (NMFS) that more than 80 percent of the shellfish and finfish caught by sport fishermen on the Atlantic and gulf coasts are dependent upon these estuaries during sime stage of their life cycles. In addition, NMFS estimates that ove 90 percent of the U.S. commercial catch in the Gulf of Mexico and more than 80 percent of the commercial harvest on the Atlantic soast is composed of species dependent on habitats created and protected by coastal barriers.

These areas also provide habitat for a wide variety of wildlife, especially waterfowl and shorebirds. More than 20 endangered or threatened species find habitat on coastal barriers. These include raptors such as the bald eagle and peregrine falcon, as well as the whooping crane, eastern brown pelican, and sea turtles.

Yet, despite the fish and wildlife values of these areas and their unatable nature, coastal barriers are being developed at an estimated rate of 5,000 to 6,000 acres per year.

Mr. Speaker, this legislation will have a major effect on slowing down this rate of development. It will also have a major effect on private property owners along the Atlantic and gulf coasts. Because of this impact, we have proceeded with caution on this legislation. The Subcommittees on Fisheries and Wildlife Conservation and the Environment and Oceanography held their first hearing in June 1981 and a second hearing in June 1982. We purposefully delayed further action on the legislation until the Interior Department finished the report on barrier islands mandated by Congress in the Omnibus Budget Reconciliation Act of 1981. That report, and the proposed final designations of undeveloped coastal barriers, reaffirmed the purpose of the legislation and provided us with a well-documented set of maps on which to base the designations of undeveloped coastal barriers. The maps that the Merchant Marine and Fisheries Committee adopted were based on the Interior maps. Additions and deletions were made to correct inequities that would result from a narrow reading of the legislation. The maps we have adopted maintain a strong barrier islands bill yet address some of the major concerns of the coastal residents. As such, I think it represents a legitimate compromise that we can all support.

Mr. Speaker, this legislation incorporates the prohibitions on new flood insurance on undeveloped coastal barriers adopted by Congress pursuant to section 341(d) of the Omnibus Budget Reconciliation Act. In doing so, we have made it explicit in the legislation that the maps identifying undeveloped coastal barriers referenced in this legislation shall serve as the sole designation of those areas. This makes sense for two reasons. First, to have two sets of maps—one for flood insurance and one for all other forms of Federal assistance—would be ridiculous, particularly since both sets of maps are presumably based on identical definitions of undeveloped coastal barriers. Second, as I also stated, this legislation would have a serious impact on private landowners. Too often, Congress commits its deeds by agent, passing legislation that has substantial effect but, in effect, laundering that effect through bureaucrats and the regulatory process. If we are to deny people Federal benefits that are available to other citizens in other areas, we should have the courage to do it directly. By adopting the maps we have referenced in this legislation, we have accepted our responsibility in this matter.

Finally, Mr. Speaker, I would like to commend the chief proponent of this legislation in the House, the gentleman from Delaware (Mr. EVANS). He has been very tenacious in pursuing his goal, yet flexible enough to accomplish it. He deserves a great deal of the credit for getting this legislation to where it is today.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. I am happy to yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I rise in support of this vital important environmental legislation, Coastal Barrier Resources Act. I would like to highly commend the gentleman from Louisiana for his leadership coupled with the leadership of the gentleman from Delaware.

I am acutely aware of the difficulties they faced in bringing this legislation to the floor. Some of us wrestled with this in the last Congress without notable success.

I would also like to note the invaluable assistance provided by the Coastal Alliance and the Barrier Islands Coalition in bringing the problem to the attention of Congress and aiding its passage through the House.

Mr. Speaker, I reserve the balance of my time.

Mr. EVANS of Delaware. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Coastal Barrier Resources Act gives us a unique opportunity to vote for legislation that is both fiscally and environmentally responsible. From Maine to Texas, most of our coast is fronted by coastal barriers. These low-lying, storm-prone areas, in their natural state, are the mainland's first line of defense against the full fury of storms and hurricanes, and they create and maintain the estuaries which nurture vital fish stocks so important for recreational and commercial fishing. I might add that this means protecting jobs and the economies of those coastal States affected.

These areas are exceptionally hazardous places for permanent human development, and yet the Federal Government has played a significant role in encouraging and perpetuating development on coastal barriers. One of the purposes of this legislation is to stop the Federal role of encouraging development on coastal barriers. It just does not make sense, with the limited resources we have available, to subsidize development on shifting sands.

This bill will end Federal subsidies like Federal flood insurance, funding for roads, bridges and sewers, and in no way is this bill Federal land use planning. Land use planning should quite properly be the province of State and local governments.

This bill does not prevent property owners from developing their land, but what it does do is to say to those property owners, "If you are going to develop on shifting sands, do it at your own risk, not at the risk of the American taxpayer."

I introduced this bill some 17 months ago, and it is gratifying indeed that we have come this far. In the past 17 months, H.R. 3252 has been very carefully reviewed. Two complete sets of hearings have been held by the Merchant Marine and Fisheries Joint Subcommittees on Fish and Wildlife Conservation and Oceanography. Testimony has been heard from realtors, developers, environmental groups, the insurance industry, and State, local, and Federal officials.

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The maps of the areas affected by H.R. 3252 are based on maps which the Department of the Interior has proposed in compliance with last year's Budget Act (Public Law 97-35). That act contains a provision which denies the issuance of new flood insurance policies after October 1, 1983, in areas that are designated by the Secretary of the Interior as undeveloped coastal barriers. The Secretary established the Coastal Barrier Task Force which has had responsibility for complying with Public Law 97-35.

That task force began a yearlong process involving aerial photography, on-the-ground inspections, and two separate comment periods. That process was, for the most part, completed in August of this year when the Interior Department published its final proposed maps on the areas involved.

I think most everyone agrees that the Interior Department's designations of barrier islands for flood insurance purposes could be subject to lengthy and costly litigation. The passage of this legislation will codify a set of maps that should make such litigation unlikely. This bill will provide property owners and local governments involved with the certainty needed to plan safety for the future.

The coastal barrier legislation establishes a set of maps, as the gentleman from Louisiana (Mr. BREAUX) pointed out, which used the Department of the Interior maps as a foundation, because we need one set of maps. Our maps represent a carefully derived consensus among the various interests involved.

Very rarely, if ever, do Democrats and Republicans have an opportunity to vote for a bill that saves lives, saves money, and helps protect our environment. And when have you ever seen a bill endorsed by the National Wildlife Federation, the National Taxpayers' Union, the the American Red Cross?

In summary, Mr. Speaker, I want to thank all of those who have worked so hard to bring us to this point, the point toward which we have been working for close to 17 months. I extend my thanks to the National Wildlife Federation and the rest of the Barrier Islands coalition, the distinguished gentleman from Louisiana (Mr. BREAUX), the chairman of our Committee on Merchant Marine and Fisheries, the distinguished gentleman from North Carolina (Mr. JONES), and all of the other members, including those who cosponsored H.R. 3252, and the subcommittee and full committee staffs, as well as Secretary Watt himself, who, as Secretary of the Interior, played a substantial role in this process.

Very rarely do you see the gentleman from California, Mr. PHILLIP BURTON, get up and praise legislation that has also been praised by the Secretary of the Interior, Mr. Watt. And very rarely, if ever, do you see cosponsors like my friend, the gentleman from Massachusetts (Mr. STUDDS), the gentleman from Kentucky (Mr. SNYDER), the gentleman from Ohio (Mr. SEIBERLING), the gentleman from Oregon (Mr. AUCOIN), and the gentleman from California (Mr. CLAUSEN) cosponsoring the same piece of legislation. So I would like to thank not only the Secretary of the Interior and all the committee staff and members of the committee but all of those who worked so hard to bring us to the point at which we have arrived and a consensus where we have a reasonable bill that balances development and environmental interests, that will narrow the Federal deficit, that will help save lives, and that will help protect some of the very fertile and vital wetland areas along the Atlantic and gulf coasts that are absolutely essential to our Nation's economy.

Mr. NELSON. Mr. Speaker, will the gentleman yield?

Mr. EVANS of Delaware. I yield to my friend, the gentleman from Florida, Mr. NELSON.

Mr. NELSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 3252 in the form that it is in presently before this House. This is an excellent product. The fact that it is balanced and fair is proven by the virtual consensus with which it is greeted here on the floor of this House.

Both environmentalists and property owners find much to appreciate in this finely crafted measure. This legislation can truly be called landmark environmental legislation.

Mr. Speaker, this legislation in its present form is fair but firm. I want to thank the chairman of the subcommittee, the gentleman from Louisiana (Mr. BREAUX), for his leadership, and I particularly want to thank the gentleman from Delaware (Mr. EVANS) for the unceasing resolve that he has shown in bringing this to the consciousness of the Nation and in educating the various constituencies that have brought this legislation to the act of passage that it will be embraced with today.

Mr. EVANS of Delaware. Mr. Speaker, I thank the gentleman from Florida (Mr. NELSON) for his many contributions.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

Mr. EVANS of Delaware. I yield to my friend, the gentleman from Florida, who is one of the original cosponsors of H.R. 3252.

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I also rise in strong support of this most meaningful legislation which, of course, is going to have a tremendous effect on my own home State of Florida.

I would like for a moment to pursue the question of modification which earlier came up in a colloquy between the gentleman from Illinois and the gentleman from Louisiana. I would like to direct my question to section 8 of the legislation.

There are still a few system units in the September 16, 1982, maps over which there is substantial dispute as to the classification of undeveloped

coastal barrier islands and whether they meet the statutory criteria of the bill. Such a parcel of land is in Hollywood, Fla., in my home district, known as North Beach.

Does section 8 of this bill allow for further boundary modification to resolve such classification disputes or does this bill provide an absolute determination of such lands?

Mr. EVANS of Delaware. Mr. Speaker, I thank the gentleman from Florida (Mr. SHAW) for his question.

Section 8 does require the Secretary of the Interior to submit a report recommending additions and deletions to the coastal barrier resource system. He plays an advisory role only, and the recommendations must be approved by the appropriate committees involved.

So, yes, the gentleman is right, section 8 would permit modifications with the approval of the relevant committees.

Mr. SHAW. Mr. Speaker, I thank the gentleman from Delaware (Mr. EVANS).

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. EVANS of Delaware. I yield to the gentleman from California, who is also one of the original cosponsors of H.R. 3252.

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the legislation. I want to commend the gentleman in the well, the gentleman from Delaware (Mr. EVANS) for his leadership role in bringing this bill to the floor today. I also want to commend the chairman of the subcommittee, the gentleman from Louisiana (Mr. BREAUX).

I think this is, as has already been pointed out, a landmark piece of legislation. It is an environmentally sound piece of legislation, and one that makes eminently good fiscal sense at the same time. I think this is landmark legislation in many ways. It is something that we should try to achieve here more often.

Mr. Speaker, I am pleased to support the bill, and I share the gentleman's pride in bringing the bill to the floor.

Mr. EVANS of Delaware. Mr. Speaker, I thank the gentleman from California (Mr. LAGOMARSINO) for his kind remarks.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. EVANS of Delaware. I yield to the gentleman from California, who is also one of the original cosponsors of H.R. 3252.

Mr. CLAUSEN. Mr. Speaker, I wish to extend my congratulations to the gentleman in the well for his extraordinary leadership in pulling together, in cooperation with the distinguished leadership of the various committees, this package that I believe will serve not only environmental but also economic objectives.

I believe the gentleman literally deserves a trophy for perseverance, and I am pleased and proud to be associated with the effort at both committee levels.

Mr. Speaker, I rise in support of H.R. 3252, the Coastal Barrier Resources Act. This legislation, as it was reported from the Merchant Marine and Fisheries Committee earlier this month, is the result of lengthy negotiation and compromise, and I commend my colleagues on the committee for their efforts in this matter.

Mr. Speaker, in H.R. 3252, we have the opportunity to achieve two very worthwhile objectives—fiscal responsibility and environmental protection. Barrier islands, in their natural state, serve an important purpose by helping to reduce the force of violent storms, and in addition provide a unique environment for a wide variety of plant and animal species. For the most part, the islands consist of shifting spits of sand, and both commonsense and experience show that barrier island development is generally imprudent and very risky at best.

Nevertheless, the Federal Government subsidizes flood insurance policies, as well as water, sewer, and highway construction, thus encouraging the development of previously undeveloped islands. It has been estimated that the Federal Government will spend between $4 to $11 billion in development aid and disaster relief over the next 20 years if it is allowed to continue subsidizing development of these storm-prone areas. The American taxpayer should not have to foot the bill for stimulating development of these low-lying barrier islands, only to turn around after one of many frequent hurricanes devastates these areas and fork out more money for disaster assistance. This bill does not preclude private property owners from further barrier island development, but it does protect the taxpayers from subsidizing such risky ventures.

In addition, this bill will aid in maintaining the estuary environment of undeveloped barrier islands, which is vital to the health of the sport and commercial fishing industries. It has been estimated that more that 80 percent of the shellfish and finfish caught by fishermen on the Atlantic and gulf coasts are, at some stage of their life cycles, dependent upon the estuaries created and maintained by coastal barriers. As well, the dunes, marshes, and upland meadows of the islands provide a habitat for many endangered species, among them the bald eagle, the Peregrine falcon, and the American alligator. This proposal merits the combined support of fiscal conservatives and those concerned with the protection of our marine environment.

Mr. Speaker, I believe that every effort has been made by the Merchant Marine and Fisheries Committee to insure the development of provisions in this legislation that are fair to all parties concerned. The maps of the areas affected by the bill have been the subject of intense scrutiny, and each Member of Congress who has undeveloped coastal barriers in his or her district has been consulted. Testimony was heard from realtors, developers, environmental groups, the insurance industry, and State, local, and Federal officials, and the measure has developed a broad base of support.

The Coastal Barrier Resources Act will provide savings for taxpayers, protect lives and property as well as natural resources. I urge you to vote for this legislation.

Mr. EVANS of Delaware. Mr. Speaker, I thank the gentleman from California (Mr. CLAUSEN) for his kind remarks and his strong support of this legislation.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. EVANS of Delaware. I am delighted to yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding. I rise in support of Representative EVANS' H.R. 3252, the Coastal Barrier Resources Act.

Although I represent one of the most landlocked districts in the United States, I and all of my constituents have an interest in this legislation.

First, as taxpayers, we strongly support H.R. 3252's effort to end the ill-suited subsidy which we have financed for far too long. It makes just good commonsense that the hard working men and women of my district will not see their tax dollars go to support endless building and rebuilding on barrier islands never suited for development. If individuals choose to build structures on these unstable formations, they should bear the risks of development themselves, and not ask taxpayers from across the Nation to finance this folly.

Second, all Americans have an interest in seeing that the delicate coastal barriers, which provide a frontline of defense against tropical storms, remain. To upset the delicate ecological balance on these important yet unstable landforms may cause damage of untold extent in the future. Elimination of these national "shock absorbers" just asks for trouble. Moreover, the barrier islands provide unique habitats and food for hundreds of species of coastal birds, fish, shellfish, reptiles, and mammals. The recreational opportunities and scenic wonders which Americans experience as a result of the presence of these barriers enrich the lives of the surrounding residents and all visitors.

The Coastal Barrier Resources Act brings commonsense to Federal policy toward development and natural resource management on these critical landforms. It is long overdue, and I strongly urge all of my colleagues to vote for this much-needed legislation.

Mr. EVANS of Delaware. Mr. Speaker, I thank the gentleman from Nebraska (Mr. BEREUTER) for his contri-

bution, not only as a cosponsor but also for his leadership on the Banking, Finance, and Urban Affairs Committee when we considered the prohibition on Federal flood insurance on undeveloped service structures.

Mr. Speaker, I reserve the balance of my time.

Mr. BREAUX. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. YATES).

● Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 3252, the Coastal Barrier Resources Act. This bill was reported by the Merchant Marine and Fisheries Committee on September 21, 1982, and was sequentially referred to the Committee on Public Works and Transportation in light of our jurisdiction over roads, airports, transportation, energy resources, beach erosion, channel improvements and a number of other matters addressed in the bill. Our committee was discharged from consideration of the bill on September 22.

H.R. 3252 would provide a needed measure of environmental protection to our fragile coastal barriers, as well as prevent threats to human life, health and property and save millions of Federal dollars which might otherwise be lost to the relentless forces of nature that constantly shape and change our Atlantic and gulf coasts. H.R. 3252 would accomplish these goals by restricting future Federal assistance for construction on those currently undeveloped coastal barriers included in the coastal barrier resource system created by the bill. It would also preclude national flood insurance coverage for new construction or substantial improvements after October 1, 1983. However, I should point out that the bill, as reported, would not interfere with the maintenance of existing navigation improvements or with the maintenance of existing public roads, structures or facilities that are essential links in a larger system.

I urge passage of the bill.●

Mr. BREAUX. Mr. Speaker, I yield 2 minutes to the chairman of the committee, the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I rise in support of H.R. 3252, the Coastal Barrier Resource System Act.

This legislation received the unanimous approval of the Subcommittees on Fisheries and Wildlife Conservation and the Environment and on Oceanography on September 15, 1982. The full Merchant Marine and Fisheries Committee ordered the measure reported by a unanimous vote, as well.

H.R. 3252 was the subject of a thorough review during two joint hearings by the subcommittees over a 1-year period. After the first of these hearings, in August 1981, Congress enacted the Omnibus Budget Reconciliation Act which contained a provision eliminating Federal flood insurance after October 1, 1983, for new construction or substantial improvements of existing structures located on undeveloped coastal barrier islands to be designated by the Secretary of the Interior.

On August 16 of this year, the Department of the Interior released a series of maps designating proposed undeveloped coastal barriers and these maps were used as a basis for the maps which accompany H.R. 3252.

The maps which now accompany H.R. 3252 reflect a "consensus" agreement reached among members of my committee after many long hours of examining related information brought to the committee's attention by a broad array of interested persons and groups including local governments, property owners and real estate, environmental and taxpayers organizations.

The legislation before us would eliminate Federal flood insurance effective October 1, 1983 on those areas designated "undeveloped" in the accompanying maps in accordance with last year's budget act. Other Federal assistance, such as moneys for bridges and roads, would cease upon enactment of H.R. 3252.

I would like to note, however, Mr. Speaker, that this legislation is not designed to hamper or prevent such vital Federal services as Coast Guard search and rescue operations or maintenance of Coast Guard facilities. Nor is it intended to prevent necessary Army Corps of Engineers projects. Those projects should be examined based on their merits and judged accordingly.

Mr. Speaker, the stated purpose of this legislation is to minimize the loss of human life, the wasteful expenditure of Federal revenues, and the damage to fish and wildlife and other natural resources associated with the remaining undeveloped areas of the Barrier Islands which stretch the length of our Atlantic and Gulf Coasts. All of us, I am sure, strongly support these admirable aims. The difficult task has been determining those areas which, in fact, are undeveloped and where the cutoff of the Federal funds involved would not impose unwarranted hardships on those who have developed these areas on the basis of existing laws allowing for various types of Federal assistance. I believe that my committee, with the cooperation of many persons and groups, including the Department of the Interior and its coastal barrier task force, has come up with a reasonable and workable compromise which takes into account all of the factors involved and is equitable to all concerned.

As the representative of one of the most beautiful of these areas, the outer banks of North Carolina, as well as the chairman of the reporting committee, I wholeheartedly support H.R. 3252 and urge all of the Members of the House to vote in favor of its passage.

Mr. BREAUX. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Subcommittee on Water Resources, the gentleman from New Jersey (Mr. ROE).

Mr. ROE. Mr. Speaker, I thank the distinguished gentleman from Louisiana for giving me the time to speak on this issue, and I want to commend him, together with the distinguished gentleman from Delaware, Mr. TOM EVANS, for a superb job in bringing this legislation to the floor of the House.

Mr. Speaker, I rise in support of H.R. 3252, the Coastal Barrier Resources Act. After being reported by the Committee on Merchant Marine and Fisheries, this bill was sequentially referred to the Committee on Public Works and Transportation in recognition of our committee's jurisdiction over some subject matter of the bill.

This bill is designed to minimize the loss of human life and damage to the natural and other resources associated with the coastal barriers along the Atlantic and gulf coasts. It does this by establishing a coastal barrier resource system, by restricting future Federal expenditures and financial assistance which have the effect of encouraging development of coastal barriers, and by considering the means and measures by which the long-term conservation of these barriers may be achieved.

With certain exceptions, the bill would provide that no new expenditures or financial assistance could be made available under Federal law for purposes such as the purchase of structures, the construction of roads, airports, bridges, and boat landing facilities; and the carrying out of any project for prevention of shore erosion. Existing navigation projects and roads could be continued to be maintained.

Mr. Speaker, I support the purposes of this legislation and urge passage of the bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 3252, which limits Federal investments on coastal barrier islands has both environmental and economic benefits.

Federal investments in the past have helped encourage development on these relatively unstable areas. There is potential for very high cost in Federal disaster relief, flood insurance, and other programs if the Federal Government continues to encourage development of the undeveloped barrier islands. I would stress that this legislation does not affect previously developed barrier islands. Although there is still some question as to exactly which portions of mapping done by the Department of the Interior will be included, I am confident that the final maps will reflect appropriate protection for the most important undeveloped barrier islands.

Development on the relatively unstable islands will not be prohibited, of course, but those developing will have to do so at their own risk. What is eliminated is the commitment of Federal funds to provide services or recovery in case of flooding or similar problems. The Committee on Public Works and Transportation has jurisdiction over the Disaster Relief Act, EPA's construction grants program for sewage treatment plants and the Corps of Engineers water resources programs, among others. It is these types of programs which would be limited through this legislation. In carrying out this legislation, the Federal agencies must, of course, insure that existing facilities and projects continue to be protected and maintained. In addition, activities in the area of undeveloped barrier islands by, for instance, the Corps of Engineers, may be necessary in order to protect a project located on the mainland or on the channel between the barrier island and the mainland. This type of activity is permissible with agencies following all the environmental requirements for such activities.

Mr. Speaker, H.R. 3252 is a valuable bill. I support it and urge my colleagues to support it as well.

Mr. BREAUX. Mr. Speaker, on behalf of the Subcommittee on Water Resources and the full Committee on Public Works and Transportation, we offer our fullest support and cooperation with the Committee on Merchant Marine and Fisheries and the distinguished chairman of that committee, the gentleman from North Carolina (Mr. JONES).

Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend the chairman of the subcommittee and, particularly the gentleman from Delaware (Mr. EVANS) for the excellent work done on this bill and particularly for recognizing the unique situation that exists along the coastline of the State of Louisiana.

While the remarkable efforts of the gentleman from Delaware in this bill were designed to protect barrier islands which are undeveloped from development, he was quick to recognize that in our own State our own problem is protecting the barrier islands themselves from being lost and devastated.

As the gentleman from Louisiana (Mr. BREAUX) has already identified, we are losing 40 square miles a year in Louisiana to erosion, much of that occurring on our barrier islands. Unless we do something dramatic soon and use whatever funds are available to halt that erosion and turn it around, we will suffer the loss of invaluable coastlines.

Mr. Speaker, I thank the gentleman for recognizing that and for accepting amendments.

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Mr. EVANS of Delaware. Will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. I would like to thank the gentleman from Louisiana for his many contributions. Certainly we do see the unique situation in Louisiana at the mouth of the Mississippi River and recognize that in this legislation.

I thank the gentleman for his contribution and for his support.

Mr. TAUZIN. The gentleman's insight and consideration of our problems is remarkable and we do thank you, sir.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. I, too, wish to commend the gentleman from Louisiana for making certain that this amendment was carried in the bill.

I want to thank so much the chairman of the full committee and the ranking member of the full committee, the gentleman from Louisiana (Mr. BREAUX) the gentleman from Delaware (Mr. EVANS) for this splendid piece of legislation.

I am particularly pleased that the amendment of the gentleman from Louisiana (Mr. TAUZIN) is contained within the bill and will keep the erosion problems from occurring in the barrier islands and hopefully will do something to stop the erosion that is occurring there where we are losing these valuable wetlands and barrier islands each year.

I am very pleased to join in support of the bill with the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentlewoman.

I think it is also important to point out that the amendment adopted through the sponsorship of the chairman of the subcommittee is also designed specifically to protect wildlife and fisheries areas.

Mr. BREAUX. Mr. Speaker, I reserve the balance of my time.

Mr. EVANS of Delaware. Mr. Speaker, I yield 2 minutes to the distinguished ranking minority member of the full committee, the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I rise in support of this legislation which would deny Federal expenditures and financial assistance on coastal barrier structures along the Atlantic and gulf coasts which are not presently developed. Enactment of this legislation will mean that Federal expenditures will be reduced by eliminating Federal subsidies to storm-prone areas. Also, the measure will help to preserve valuable wetlands which are disappearing at an alarming rate.

While this proposal has generated a great deal of controversy, I note that many of those originally opposed to the legislation no longer object to its enactment. It is conceded by the former opponents that they will be better off if the bill is enacted.

The National Association of Realtors, one of the most vocal opponents, is no longer objecting to the committee proposal because it corrects many of the deficiencies in the Interior Department maps which have been drawn up pursuant to the Omnibus Budget Reconciliation Act provisions of 1981. Members who represent districts which would be affected by the legislation have been consulted and, to my knowledge, all disputes concerning their districts have been resolved or otherwise compromised.

I would like to compliment the gentleman from Delaware (Mr. EVANS) for an excellent job of bringing everyone together to move the bill. Without the gentleman's efforts, I doubt that we would be debating this measure at this time. The chairman of the full committee, Mr. JONES, and the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, Mr. BREAUX, as well as the subcommittee's ranking minority member, Mr. FORSYTHE, should also be recognized for their hard work and support for this legislation.

Mr. Speaker, this bill has the laudable goals of reduced Federal expenditures and enhanced environmental protection. I urge my colleagues to support it.

Mr. EVANS of Delaware. Mr. Speaker, I thank the gentleman for his contribution and thank him for his support.

I yield 2 minutes to the distinguished gentleman from New York (Mr. LENT), one of the original cosponsors of H.R. 3252.

Mr. LENT. Mr. Speaker, I rise to commend the gentleman from Delaware (Mr. EVANS) for his dedication and leadership in seeing this bill to passage today and also the gentleman from Louisiana (Mr. BREAUX) for his contribution to this effort.

As a cosponsor of the Coastal Barrier Resources Act, I rise in strong support of H.R. 3252. Similar legislation already has passed the other body. Thus, prompt approval of H.R. 3252 will expedite final action on this important legislation which protects the environment and saves taxpayer dollars in the process.

For years, the Federal Government has been using taxpayer dollars to play a kind of Russian roulette with Mother Nature. We have played the game by offering Federal subsidies which encourage development and construction on unstable coastal barriers which are continuously subject to shifting sands and storms. Then, when the periodic, but inevitable storm hits, taxpayer dollars are used once again to reconstruct bridges, sewers, highways, and buildings. As development of these fragile, unstable areas increases, so do recovery costs.

H.R. 3252 is designed to halt this fiscally unwise and environmentally unsound practice of subsidizing development of storm-prone, ecologically sensitive coastal barrier areas which are not yet developed. It should be emphasized that only areas that currently are not developed are affected, so existing coastal communities are excluded from the bill's provisions. Furthermore, the bill specifically provides for the continued maintenance of existing channel improvements and related structures such as jetties.

Thus, if individuals wish to build on undeveloped coastal barrier areas in the future, this legislation requires that they do so at their own financial risk.

It is estimated that enactment of H.R. 3252 will save $5 to $11 billion in Federal money, and will eliminate some $200 to $250 million annually in Federal subsidies. In addition, it will help us protect ecologically sensitive undeveloped coastal barriers which line our Atlantic and gulf coasts. These barrier areas are environmentally significant for many reasons; they offer natural protection from storms at sea by acting as a buffer between the mainland and the ocean itself. They provide necessary habitat and haven for fish and wildlife, and as such, they are vital to the well-being of sport and commercial fishing, as well as the millions of Americans who enjoy hunting, bird watching, and other recreational pursuits. In addition, they offer relaxation and recreation to swimmers and sunbathers, for their natural beauty is a joy to all who behold it.

This legislation is both environmentally sound and in the taxpayers best interests. I urge its passage without delay.

Mr. BREAUX. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Speaker, because the gentleman from Delaware (Mr. EVANS) has been inadequately commended in the past 30 minutes, I add my own commendations to those he has received, as well as to those for the gentleman from Louisiana (Mr. BREAUX).

I was almost wanly waiting here for someone to speak in opposition to the bill, bearing in mind Robert Kennedy's injunction that if no one is standing in your way, then you are not going anywhere.

I cannot recall in a decade of service here a bill of substance which had this degree of unanimity and bipartisanship and enthusiasm of support.

It is an unusual coalition, to put it mildly, as has been pointed out by many of the speakers on both sides of the aisle.

I think it is the extraordinary commonsense embodied in the proposition that one can save money and save natural resources simultaneously that has brought together people who normally find themselves, or frequently at least find themselves, on differing sides of many issues.

It is a rare moment of tranquility on the floor of the House.

This is a measure of substance, and I think perhaps after adopting it unanimously we would do best to adjourn.

Mr. EVANS of Delaware. Mr. Speaker, will the gentleman yield?

Mr. STUDDS. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. I would second the motion of the gentleman from Massachusetts.

I would like to say in all seriousness that the gentleman from Massachusetts (Mr. STUDDS) was one of the great leaders in bringing this bill to the point where it is today. I congratulate him.

Mr. STUDDS. I thank the gentleman.

May I just conclude with some pride. I believe I am correct in saying that the State of Massachusetts was that State which added most new areas to the maps already devised by the Department of the Interior. We say that with some pride and again we thank the gentleman for his leadership.

I yield back the balance of my time.

Mr. BREAUX. Mr. Speaker, I reserve the balance of my time.

Mr. EVANS of Delaware. Mr. Speaker, I yield 1 minute to the distinguished minority whip, the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, you know there has already been a lot of praise given out here for the distinguished subcommittee chairman of the Committee on Merchant Marine and Fisheries, the gentleman from Louisiana (Mr. BREAUX) and certainly the gentleman from Delaware (EVANS).

But I think it should be pointed out that it is with good cause.

This legislation was not easily developed. There were some problems. There were some different views on how it should be worked out between the Southern and the Northern Coastal States.

So it is a credit to the work of this subcommittee that they were able to come up with a bill that has the type of broad support from all of the different groups and from the different regions of the country, too.

I think the attitude of the gentleman from Delaware, who authored the bill, has been particularly generous in his willingness to leave the door open to all sides in shaping the bill and, of course, my good friend and neighbor from Louisiana certainly has been cooperative in getting the bill out in recent weeks and we appreciate that.

I think as a result the bill before us today represents a fair environmental policy and certainly it represents fiscal restraint. it does not tell State and local officials how to manage their development plans nor does it require it require private developers to do or not to do anything.

H.R. 3252 simply says if you have to plan for the development of these Barrier Islands you do it at your own risk.

This is a good bill and I urge its support.

Mr. EVANS of Delaware. Mr. Speaker, I thank the gentleman for his contribution and for his support.

I yield a minute and a half to my good friend, the gentleman from New York (Mr. CARNEY) also one of the original cosponsors and a member of the Committee on Merchant Marine and Fisheries.

Mr. CARNEY. Mr. Speaker, I, too, certainly would like to add my words of praise for the gentleman from Delaware, the original sponsor of the bill, and to the subcommittee chairman, the gentleman from Louisiana (Mr. BREUX), for the fine work that they did in our committee.

I think H.R. 3252 clearly shows how the legislative process can work to the advantage of everyone when you do it in a cooperative spirit.

First, I would like to point out that section 6 is mistakenly printed in the bill as section 5, but I am sure we can make that correction. I would like to go to section 6, the "Exceptions" section if I may.

I would ask my colleague from Delaware about section 6(a)(3), which talks to the maintenance of existing channel improvements and related structures such as jetties and including the disposal of dredge materials related to such improvements. Does this mean that we can replace in total those jetties or channel improvements that may be destroyed by hurricanes, storms, or that type of disaster?

Mr. EVANS of Delaware. Will the gentleman yield?

Mr. CARNEY. I will be glad to yield.

Mr. EVANS of Delaware. I would answer the gentleman in the affirmative. It does include that and in our colloquy in the full committee we certainly did include the reconstruction of those jetties the gentleman is concerned with.

I am glad we were able to work that out as a part of the legislative history.

Mr. CARNEY. I appreciate that very much. Again I commend the gentleman for the job he has done. Thank God that we go to October these days because it took that much of an effort and time on the gentleman's behalf, and that of the gentleman from Louisiana (Mr. BREAUX) to get this bill to the floor.

Mr. EVANS of Delaware. I thank the gentleman for his contribution.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Speaker, I rise in support of H.R. 3252, the Coastal Barrier Resources Act. The purpose of H.R. 3252 is to minimize the loss of human life, the wasteful expenditures of Federal revenues, and damage to the natural resources associated with coastal barriers.

The legislation establishes a coastal barrier resources system comprised of barrier islands designated "undeveloped" along the Atlantic and Gulf of Mexico coasts. A barrier island will be considered "undeveloped"; if there are few manmade structures on the island and the ecological systems in these designated areas are not disrupted by man's activities. The areas designated "undeveloped" were identified through a mapping process.

H.R. 3252 would eliminate Federal expenditures for such items as flood insurance, bridges, sewers, and highways, to any areas designated "undeveloped." Exceptions to this provision include Federal expenditures for developing energy resources, conductng military activities, purchasing land through the land and water conservation fund, protecting fish and wildlife resources, and providing emergency relief.

Coastal barriers are vital to the health of the sport and commercial fishing industries and to the protection of the mainland from storms and hurricanes. They provide endless hours of recreation to hunters, birdwatchers, and swimmers. However, the Federal Government has underwritten the construction and subsequent disaster relief for coastal barriers that has caused them to urbanize at twice the rate of the rest of the Nation. By taking the financial risk out of locating on these migrating, unstable land forms, the Federal Government has removed the incentive to make prudent business decisions about construction on hazardous coastal barriers. H.R. 3252 would restore that marketplace incentive.

I strongly urge my colleagues to support this legislation because it will save Federal money, increase public safety, and will help to protect valuable fish and wildlife resources.

Mr. EVANS of Delaware. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Delaware has 30 seconds remaining, and the gentleman from Louisiana (Mr. BREAUX) has 5 minutes remaining.

Mr. BREAUX. Mr. Speaker, I reserve the balance of my time.

Mr. EVANS of Delaware. Mr. Speaker, I have several requests for time.

Mr. BREAUX. Mr. Speaker, I will be glad to yield some of our time to some of the Members who still have requests. I have no other requests on my side and would reserve the time to close debate.

Mr. EVANS of Delaware. In the spirit of unanimity, the gentleman from Pennsylvania (Mr. GOODLING) would like to have 1 minute.

Mr. BREAUX. Mr. Speaker, I am glad to yield 1 minute to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I agree with the sponsors of H.R. 3252, the Coastal Barrier Resources Act, that it is rare when this body has an opportunity to support legislation that combines the twin objectives of fiscal restraint and environmental protection. That is why I cosponsored, and support, this bill.

This legislation addresses the matter of recurring Federal expenditures and financial assistance on storm-prone barrier islands on the Atlantic and Gulf of Mexico coasts by denying Federal expenditures and financial assistance on coastal barrier structures which are presently not developed. I agree with the bill's authors that private property owners of these areas may develop their property as they wish, provided that they—and not the American taxpayer—bear the costs and the risks associated with building on our shifting shorelines.

H.R. 3252 is supported by the administration, and I urge my fellow Members to vote for this s.o.s. measure to save our shorelines. Without Federal subsidies, these national treasures which first welcomed our ancestors will fare better, protecting local fishing and recreation industries, and helping the American pocketbooks as well.

Mr. BREAUX. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. I thank the gentleman for yielding.

I would just like to again reiterate my very strong support for this bill, obviously, but say also how gratified I am at the coalition that we were able to put together. A coalition that consisted of those who were strongly interested in environmental protection, those that are interested in fiscal responsibility, and those that are interested in saving lives.

I guess we could call this the three S's: Save lives, save dollars, and save the environment.

It is rather unique when you have that type of coalition put together. I hope very seriously we will be able to do the same thing in a bipartisan effort in other areas as well.

I would just like to end by thanking the distinguished chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment, the gentleman from Louisiana (Mr. BREAUX) for his cooperation and for his support of this bill.

I also would like to thank the staff again, both the minority staff as well as the majority staff, the National Wildlife Federation, and all those who participated in bringing us to this point where we can pass something that really does truly make a great deal of sense.

I yield back the balance of my time.

□ 1500

Mr. BREAUX. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, I rise today to support H.R. 3252, the Coastal Barriers Resources Act. I cosponsored this legislation over 1 year ago because I agreed that it offered a way to reduce excess Government expenditures and, at the same time, protect the environmental quality of this country's undeveloped coastal barriers.

The legislation would eliminate certain Federal expenditures that seem to perpetuate themselves by providing assistance, on the one hand, for the development of coastal areas and then by providing assistance, on the other hand, for the rehabilitation of these same coastal areas after the earlier development has been devastated by ocean storms. Correspondingly, by eliminating Federal assistance in these areas, development will be discouraged and the natural resources of the areas will, as a result, be enhanced and preserved.

I commend Chairman BREAUX's subcommittee on an excellent job of examining the coastal areas throughout the country and determining to the best extent possible the precise areas to be subject to the provisions of this legislation. I think that, under the circumstances, they have done a fine job, and I urge my fellow Members to pass this bill.

Mr. BREAUX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the risk of defeating the bill by any additional remarks, I will close my remarks. I think that what we have seen is an effort on the part of the Merchant Marine and Fisheries Committee, however, to minimize the conflicts involved in this very controversial legislation and to maximize the cooperation of Members on both sides of the aisle. So I think we have a good product, it is a fair compromise, and I think it meets the concerns of everybody who has worked on this legislation. I commend it to the Members and ask for their support of it.

● Mr. ST GERMAIN. Mr. Speaker, I wish to commend the Committee on Merchant Marine and Fisheries for their work on producing H.R. 3252, the coastal barrier resource system bill. Of particular concern to me as chairman of the Committee on Banking, Finance and Urban Affairs is section 4 of the bill that deals with the designation of coastal barrier islands that would be denied Federal flood insurance under the provisions of the Budget Reconciliation Act that was developed by the Banking Committee last year.

I regret that because of the constraints and the limited period of time available under the sequential referral to the Banking Committee that we were not able to review the changes made by section 4 of H.R. 3252 dealing with the designated coastal barrier islands.

While I do not intend at this point to delay the congressional action on H.R. 3252, I will state that the Committee on Banking, Finance and Urban

Affairs in its review of the Federal flood insurance bill early next year will carefully review the mapping of the coastal barrier islands that are contained in this legislation. The Federal flood insurance program will have an expiration date in 1983 so that we will have an opportunity during the course of next year's legislation to review this issue.●

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 3252, the Coastal Barrier Resources Act, which would restrict Federal assistance for development of certain designated "barrier islands" and undeveloped coastal areas along the gulf and Atlantic coasts.

As the distinguished gentleman from Delaware has already pointed out, the legislation would remove Federal assistance for projects such as roads, bridges, as well as flood insurance in undeveloped coastal areas which have been designated on a set of maps approved by the Merchant Marine and Fisheries Committee.

The committee-approved maps are based on maps that have been developed by the Department of the Interior pursuant to the Omnibus Budget Reconciliation Act of 1981, which prohibited the issuance of flood insurance on barrier structures designated by the Secretary of the Interior after October 1, 1983.

H.R. 3252 makes some changes, with regard to Interior's maps, which I believe better achieve both the intent and goals of the Reconciliation Act provisions.

As the Representative from New Jersey's largest coastal district, encompassing most of the State's coastline, I am well aware of the important role that barrier islands play in both mitigating the impact of hurricanes and other coastal storms and in providing much-needed habitat protection for many species of plants and animals. Clearly, the time has come to assure that undeveloped coastal areas receive the protection they deserve.

In many instances, however, coastal development has already reached the point where further Government intrusion is unnecessary—this is already true with regard to much of the New Jersey coastline. Those areas in the State that have not been developed are already protected under strict State or local controls. The Merchant Marine and Fisheries Committee has already recognized this fact and has deleted the two New Jersey units from the set of maps originally proposed. Inclusion of these areas in the coastal barrier resource system would be both inappropriate and beyond the intent and purpose of the legislation.

Finally, I would like to commend the distinquished gentleman from Delaware for his fine work and his personal commitment to this important legislation. I have no doubt that without his personal interest and commitment we would not be considering this bill today.

Thank you.

● Mrs. SCHNEIDER. Mr. Speaker, there are more than 400 barrier islands and related structures along the Atlantic and gulf coasts, with an area of 1.4 million acres—fastland and wetland—and an ocean front mileage of about 2,500 miles. These coastal barriers, while undeveloped, prove to be natural buffer zones during hurricanes and other storms, as well as a protectorate of life-supporting estuaries. This 13 percent of our shoreline, which is both undeveloped and unprotected, is an environmentally sensitive area and with the threat of development becomes even more so.

The stated purpose of H.R. 3252 is to minimize the loss of human life, the wasteful expenditure of Federal revenues, and damage to fish and wildlife and other resources. It does not tell State and local officials how to manage their development plans, nor does it forbid private developers from anything. Rather, H.R. 3252 simply states that if any development is to be done, it will be done at the builder's own risk, not the American taxpayers'. It has been said that the Federal flood insurance progran is the second largest liability of the U.S. Treasury after social security; 78 percent of the national flood insurance claims for 1978 and 1979 were paid to coastal States at a rate three times the amount collected in premiums and these costs are rising. Also, according to the Department of the Interior's draft environmental impact statement regarding Federal policies toward these areas, nearly half a billion dollars in Federal funds were spent on developing barrier islands and beaches, and if these futile programs continue, the cost could range from $3 billion to $10.7 billion over the next 20 years.

Paired with this obvious financial burden is the consideration of the amount of stress which will be placed on the environment. The development of coastal barriers results in the impeding of natural erosion and migration processes as well as ultimately destroying the wetlands and leaving the mainland open to damage from storms. Estuaries, which at one point harbor over 85 percent of fin and shellfish relied upon by both recreational and commercial fisheries, are extremely vulnerable to future development. Finally, coastal barriers are especially dangerous from the standpoint of evacuating people in crisis situations, where there may be limited access to the mainland and a minimal amount of time involved.

For these reasons stated I strongly support H.R. 3252.●

Mr. BREAUX. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BREAUX) that the House suspend the rules and pass the bill, H.R. 3252, as amended.

The question was taken.

Mr. EDWARDS of Alabama. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO FILE REPORT ON H.R. 6514

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight tonight to file a report on H.R. 6514, a bill to revise and reform the Immigration and Nationality Act, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

ORPHAN DRUG ACT

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5238) to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for race diseases and conditions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5238

That (a) this Act may be cited as the "Orphan Drug Act".

(b) The Congress finds that—

(1) there are many diseases and conditions, such as Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette syndrome, and muscular dystrophy which affect such small numbers of individuals residing in the United States that the diseases and conditions are considered rare in the United States;

(2) adequate drugs for many of such diseases and conditions have not been developed;

(3) drugs for these diseases and conditions are commonly referred to as "orphan drugs";

(4) because so few individuals are affected by any one rare disease or condition, a pharmaceutical company which develops an orphan drug may reasonably except the drug to generate relatively small sales in comparison to the cost of developing the drug and consequently to incur a financial loss;

(5) there is reason to believe that some promising orphan drugs will not be developed unless changes are made in the applicable Federal laws to reduce the costs of developing such drugs and to provide financial incentives to develop such drugs; and

(6) it is in the public interest to provide such changes and incentives for the development of orphan drugs.

SEC. 2. (a) Chapter V of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"SUBCHAPTER B—DRUGS FOR RARE DISEASES OR CONDITIONS

"RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR RARE DISEASE OR CONDITIONS

"SEC. 525. (a) The sponsor of a drug for a disease or condition which is rare in the States may request the Secretary to provide written recommendations for the non-clinical and clinical investigations which must be conducted with the drug before—

"(1) it may be approved for such disease or condition under section 505, or

"(2) if the drug is a biological product, before it may be licenses for such disease or condition under section 351 of the Public Health Service Act.

If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for a disease or condition which is rare in the States, the Secretary shall provide the person making the request written recommendations for the non-clinical an clinical investigations which the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for such disease or condition under section 505 or licensing under section 351 of the Public Health Service Act for such disease or condition.

"(b) The Secretary shall by regulation promulgate procedures for the implementation of subsection (a).

"DESIGNATION OF DRUGS FOR RARE DISEASES OR CONDITIONS

"SEC. 526. (a) The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for a disease or condition which is rare in the States. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for a rare disease or condition and—

"(1) if an application for such drug is approved under section 505, or

"(2) if the drug is a biological product, a license is issued under section 351 of the Public Health Service Act.

the approval or license would be for use for such disease or condition, the Secretary shall designate the drug as a drug for such disease or condition. A request for a designation for a drug under this subsection shall contain the consent of the application to notice being given by the Secretary under subsection (b) respecting the designation of the drug.

"(b) Notice respecting the designation of a drug subsection (a) shall be made available to the public.

"(c) The Secretary shall by regulation promulgate procedures for the implementation of subsection (a).

"PROTECTION FOR UNPATENTED DRUGS FOR RARE DISEASES OR CONDITIONS

"SEC. 527. (a) Except as provided in subsection (b), if the Secretary—

"(1) approves an application filed pursuant to section 505(b), or

"(2) issues a license under section 351 of the Public Health Service Act.

for a drug designated under section 526 for a rare disease or condition and for which a United States Letter of Patent may not be issued, the Secretary may not approve another application under section 505(b) or issue another license under section 351 of the Public Health Service Act for such drug for such disease or condition for a person who is not the holder of such approved applcation or of such license until the expiration of seven years from the date of the approval of the approved application or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

"(b) If an application filed pursuant to section 505(b) is approved for a drug designated under section 526 for a rare disease or condition or a license is issued under section 351 of the Public Health Service Act for such a drug and if a United States Letter of Patent may not be issued for the drug, the Secretary may, during the seven-year period beginning on the date of the application approval or of the issuance of the license, approve another application under section 505(b), or, if the drug is a biological product, issue a license under section 351 of the Public Health Service Act, for such drug for such disease or condition for a person who is not the holder of such approved application or of such license if—

"(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the holder of the approved application or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with the disease or condition for which the drug was designated; or

"(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications or the issuance of other licenses before the expiration of such seven-year period.

"OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR RARE DISEASES OR CONDITIONS

"SEC. 528. If a drug is designated under section 526 as a drug for a rare disease or condition and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary shall encourage the sponsor of such drug to design protocols for clinical investigtions of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with the disease or condition who need the drug to treat the disease or condition and who cannot be satisfactorily treated by available alternative drugs.".

(b) Chapter V of the Federal Food, Drug, and Cosmetic Act is amended by inserting before section 501 the following:

"SUBCHAPTER A—DRUGS AND DEVICES.".

SEC. 3. Title II of the Public Health Service Act is amended by adding at the end the following:

"ORPHAN PRODUCTS BOARD

"SEC. 227. (a) There is established in the Department of Health and Human Services a board for the development of drugs (including biologics) and devices (including diagnostic products) for rare diseases or conditions to be known as the Orphan Products Board. The Board shall be comprised of the Assistant Secretary for Health of the Department of Health and Human Services and representative, selected by the Secretary, of the Food and Drug Administration, the National Institutes of Health, the Centers for Disease Control, and any other Federal department or agency which the Secretary determines has activities relating to drugs and devices for rare diseases or conditions. The Assistant Secretary for Health shall chair the Board.

"(b) The function of the Board shall be to promote the development of drugs and devices for rare diseases or conditions and the coordination among Federal, other public, and private agencies in carrying out their respective functions relating to the development of such articles for such diseases or conditions.

"(c) In the case of drugs for rare diseases or conditions the Board shall—

"(1) evaluate—

"(A) the effect of subchapter B of the Federal Food, Drug, and Cosmetic Act on the development of such drugs, and

"(B) the implementation of such subchapter.

"(2) evaluate the activities of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration for the development of drugs for such diseases or conditions,

"(3) assure appropriate coordination among the Food and Drug Administration, the National Institutes of Health, the Alcohol, Drug Abuse, and Mental Health Administration, and the Centers for Disease Control in the carrying out of their respective functions relating to the development of drugs for such diseases or conditions to assure that the activities of each agency are complementary,

"(4) assure appropriate coordination among all interested Federal agencies, manufacturers, and organizations representing patients, in their activities relating to such drugs,

"(5) with the consent of the sponsor of a drug for a rare disease or condition exempt under section 505(i) of the Federal Food Drug, and Cosmetic Act or regulations issued under such section, inform physicians and the public respecting the availability of such drug for such disease or condition and inform physicians and the public respecting the availability of drugs approved under section 505(c) of such Act or licensed under section 351 of this Act for rare diseases or conditions,

"(6) seek business entities and others to undertake the sponsorship of drugs for rare diseases or conditions, seek investigators to facilitate the development of such drugs, and seek business entities to participate in the distribution of such drugs, and

"(7) recognize the efforts of public and private entities and individuals in seeking the development of drugs for rare diseases or conditions and in developing such drugs.

"(d) The Board shall consult with interested persons respecting the activities of the Board under this section and as part of such consultation shall provide the opportunity for the submission of oral views.

"(e) The Board shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report—

"(1) indentifying the drugs which have been designated under section 526 of the Federal Food, Drug, and Cosmetic Act for a rare disease or condition,

"(2) describing the activities of the Board, and

"(3) containing the results of the evaluations carried out by the Board.

The Director of the National Institutes of Health and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration shall submit to the Board for inclusion in the annual report a report on the rare disease and condition research activities of the Institutes of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration; and the Secretary of the Treasury shall submit to the Board for inclusion in the annual report a report on the use of the credit against tax provided by section 44H of the Internal Revenue Code of 1954. Each annual report shall be submitted by June 1 of each year for the preceding calendar year.".

SEC. 4. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44G the following new section:

"SEC. 44H. EXPERIMENTAL EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES OR CONDITIONS.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to ninety percent of the qualified experimental expenses paid or incurred by the taxpayer during such taxable year.

(b) QUALIFIED EXPERIMENTAL EXPENSES.—For purpose of this section—

"(1) IN GENERAL.—The term 'qualified experimental expenses' means any amount paid or incurred for activities carried out—

"(A) in connection with an exemption for a drug for a rare disease or condition under section 505(i) of the Federal Food, Drug, and Cosmetic Act, or regulations issued under such section, and

"(B) after the date the drug is designated under section 526 of such Act.

"(2) EXPENSES MUST BE RELATED TO USE FOR RARE DISEASE OR CONDITION.—Amounts may be taken into account under paragraph (1) only to the extent they are attributable to activities related to the use of a drug for the disease or condition for which it was designated under section 526 of the Federal Food, Drug, and Cosmetic Act.

"(3) AMOUNTS PAID FOR LAND, ETC.—Amounts paid or incurred for land (or improvements to land) or for property of a character subject to the allowance for depreciation shall not be taken into account under paragraph (1); except that allowances under section 167 shall be treated as expenses.

"(c) ELECTION.—The credit authorized by subsection (a) shall be allowed to a tax payer who makes an election at such time and in such manner as the Secretary may by regulations prescribe.

"(d) DISALLOWANCE OF CREDIT OR DEDUCTION FOR QUALIFIED EXPERIMENTAL EXPENSES.—Any amount for which a credit is allowable under this section (determined without regard to subsection (e))—

"(1) shall not be taken into account under section 44F (relating to credit for increasing research activities), and

"(2) shall not be allowed as a deduction under any provision of this title.

"(e) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by this section for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.".

(b) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44G the following new item:

"SEC. 44H. Experimental expenses for certain drugs for rare diseases or conditions.".

(c) The amendments made by this section shall apply to amounts paid or incurred—

(1) after the date of the enactment of this Act in taxable years ending after such date, and

(2) before December 31, 1989.

The SPEAKER pro tempore. Is a second demanded?

Mr. MADIGAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. WAXMAN) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 5238, the Orphan Drug Act, is to facilitate and to provide incentives for the development of drugs for rare diseases and conditions.

There are many diseases and conditions which affect only a small number of people in this country. Examples of such diseases and conditions are Huntington's disease which afflicts 14,000 persons, Myoclonus—2,000 persons, ALS—Lou Gehrig's disease—9,000 persons, Tourette syndrome—100,000 persons, and muscular dystrophy—200,000 persons. Unfortunately, adequate drugs have not been developed for these rare diseases or conditions because pharmaceutical companies expect to lose money on them. The cost of developing such drugs is likely to exceed the relatively small return on sales. As a result, these drugs generally lack a sponsor to undertake the necessary research and development activities to obtain approval by the Food and Drug Administration (FDA). For this reason, they are known as orphan drugs.

After extensive negotiations with the Department of Health and Human Services, FDA, and the Pharmaceutical Manufacturers' Association, the committee fashioned a marketplace oriented solution that provides incentives for private enterprise to develop orphan drugs. The legislation that resulted from this bipartisan effort was unanimously reported by the Energy and Commerce Committee on September 15, 1982.

The bill encourages the development of orphan drugs in four ways. First, it amends applicable Federal law to clarify the requirements needed for FDA approval of an orphan drug.

Second, it provides a tax credit equal to 90 percent of the cost of conducting human clinical investigations of orphan drugs. This limited tax credit expires on December 31, 1989. The Congressional Budget Office estimates that the tax credit will result in a revenue loss of $9 million in the first year after enactment, and $18 million a year thereafter. This provision will expire in 1989.

Third, H.R. 5238 offers exclusive marketing rights on orphan drugs which are not subject to patent protection. These exclusive rights would extend for a period of 7 years.

Finally, the legislation establishes an Orphan Products Board to coordinate the activities of the Federal agencies involved in drug research and regulation.

Mr. Speaker, many Members of the House have recognized the importance and urgency of this legislation. TED WEISS, in particular, deserves credit for having introduced the first orphan drug bill in this Congress. He has been joined by 77 Members.

The bill before the House today has 171 cosponsors. I urge all my colleagues to join these cosponsors in supporting this legislation.

Thank you.

Mr. MADIGAN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I rise in support of H.R. 5238, the Orphan Drug Act, which would encourage pharmaceutical companies to develop drugs for rare diseases.

Presently there is little incentive for drug companies to spend time and money researching cures for little known diseases, affecting small sections of our population. But, Mr. Speaker, I do not feel people should continue to suffer just because the development of a cure for their disease is unprofitable. Just because fewer people are affected by a disease, does not mean it is less deadly, less debilitating.

Earlier this year I received a letter from one of my constituents whose husband is suffering from Huntingtons disease. Not only did the writer of the letter have to watch her husband of 38 years slowly being destroyed physically and mentally by the disease, but she lived with the fear that her children would one day also suffer and be affected by Huntingtons disease. Should the Orphan Drug Act pass, it is highly possible that more and more drug companies will join in the search for a cure for this dreaded disease.

In her letter, Mrs. George DeWees of New Cumberland states:

> It is reassuring to know that research for new drugs for the treatment of rare, but devastating diseases may take place in the future without profit being the main consideration.

For Mrs. DeWees and others like her throughout our country and the world, I urge you to join me in supporting the passage of this bill.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5238, a bill intended to facilitate the development and marketing of drugs for rare diseases or conditions. This bipartisan legislation has 171 cosponsors and was reported with amendment by the Committee on Energy and Commerce on September 15, 1982, by unanimous voice vote. As such, I believe, the bill is noncontroversial and should accordingly be treated favorably under suspension of the rules. I, therefore, urge my colleagues to support this very important and needed piece of legislation.

● Mrs. SNOWE. Mr. Speaker, I rise in support of H.R. 5238, the Orphan Drug Act, and in the sincere hope that my colleagues will join me in passing this bill today. The passage of the bill will mark the beginning of the end to

one of the more cruel dilemmas in the health care field today.

The importance of this legislation was brought to my attention by one of my constituents, who is tragically afflicted with amytrophic lateral sclerosis, or ALS. There is presently no cure or treatment for this life crippling disease, which claims a total of 9,000 victims. The existence of so few victims of ALS makes drug companies unlikely to engage in the research and development of drugs to aid in its treatment or cure. Additionally, it is difficult to find enough subjects to take part in the clinical studies that are currently required for new drug approvals.

This scenario is repeated with a number or other diseases, including Huntington's disease, myoclonus, Parkinson's disease, and Tourette syndrome to name a few. Since these rare diseases afflict a relatively small number of Americans, drug companies find it unprofitable to either produce the drugs that will offer some measure of hope to these people or engage in the research necessary to develop such drugs. Simply, the costs outdistance the revenues that the companies can expect to reap from producing the drugs. This explanation, while perfectly logical from a business perspective, is of little comfort to the victims and their families.

The Orphan Drug Act, of which I am proud to be a cosponsor, takes crucial steps toward combating this tragic dilemma. The bill clarifies the approval process for orphan drugs, provides a tax credit equal to 90 percent of the cost of conducting human clinical tests as an incentive to develop drugs, offers exclusive marketing rights on unpatentable orphan drugs for a period of 7 years, and establishes an Orphan Products Board to coordinate the activities of Federal agencies involved in drug research and regulation. Clearly, this bill holds the promise of new discoveries and hope for the future for the victims of rare diseases.

This bill deserves the support of every Member of this body and I encourage its passage today.●

● Mr. RATCHFORD. Mr. Speaker, America's medical care record is strong in the development of treatments and drugs for a countless number of ailments effecting large numbers of the population. However, the search for treatment and cures of rare diseases is often bypassed by pharmaceutical companies because the cost is high and the return in dollars is low. I speak in support today of a solution to this dilemma; the Orphan Drug Act, H.R. 5238.

I have received heart wrenching letters from my constituents who have children, spouses, or loved ones with rare and presently incurable diseases such as Huntington's disease, muscular dystrophy, and Tourette syndrome. The desperation in these letters, imploring Congress to act on behalf of the minority in this country stricken with rare diseases, is truly compelling. And a true minority it is—only about 14,000 people in the United States have Huntington's disease. Only 100,000 have Tourette syndrome, and 200,000 have muscular distrophy. I believe it is our humane responsibility to act on their behalf.

The Orphan Drug Act will facilitate the development of drugs and treatments for rare diseases by providing greater flexibility in the drug approval process, without compromising the safety or efficacy of the drugs. The bill will create financial incentives in the form of tax credits, which will provide a greater impetus for pharmaceutical companies to search for these drugs. Further, the bill will assure better coordination between the work done in this area by various Government agencies.

The opportunity is before us to provide hope and greatly needed relief to a suffering segment of our population. I urge my colleagues to join me in support of this vital legislation.●

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MADIGAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN) that the House suspend the rules and pass the bill, H.R. 5238, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1510

CABLE COPYRIGHT BILL

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5949) to amend the copyright law respecting the limitations on exclusive rights to secondary transmissions, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Cable Copyright and Signal Carriage Act of 1982".

TITLE I—AMENDMENTS TO TITLE 17, UNITED STATES CODE

SECONDARY TRANSMISSIONS BY CABLE TELEVISION SYSTEMS

SEC. 101. (a) Section 111(a)(3) of title 17, United States Code, is amended to read as follows:

"(3) the secondary transmission is made by any carrier who has no direct or indirect control over the content of the primary transmission or over the ultimate recipients of the secondary transmission, and whose activities with respect to the secondary transmission consist primarily of providing wires, cables, or other communications channels for the use of others: *Provided*, That the provisions of this clause extend only to the activities of said carrier or like entity with respect to secondary transmissions and do not exempt from liability the activities of others with respect to their own primary or secondary transmissions; or".

(b) Section 111(b) of title 17, United States Code, is amended to read as follows:

"(b) SECONDARY TRANSMISSION OF PRIMARY TRANSMISSION TO CONTROLLED GROUP.—Notwithstanding the provisions of subsections (a) and (c), the secondary transmission to the public of a primary transmission embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if the primary transmission is not made for reception by the public at large but is controlled and limited to reception by particular members of the public: *Provided, however*, That such secondary transmission is not actionable as an act of infringement if—

"(1) the primary transmission is made by a broadcast station licensed by the Federal Communications Commission; and

"(2) the carriage of the signals comprising the secondary transmission is required by sections 341 and 342 of the Communications Act of 1934, as amended, and under the rules, regulations, or authorizations of the Federal Communications Commission; and

"(3) the signal of the primary transmitter is not altered or changed in any way by the secondary transmitter.".

(c) Section 111(c)(1) and (2) of title 17, United States Code, are amended to read as follows:

"(c) SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—

"(1) Subject to the provisions of clauses (2), (3), (4), (5), and (6) of this subsection, secondary transmissions to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work shall be subject to compulsory licensing upon compliance with the requirements of subsection (d) where the carriage of the signals comprising the secondary transmission is permissible under sections 341 and 342 of the Communications Act of 1934, as amended, and the rules, regulations, or authorizations of the Federal Communications Commission.

"(2) Notwithstanding the provisions of clause (1) of this subsection, the willful or repeated secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, in the following cases:

"(A) where the carriage of the signals comprising the secondary transmission is not permissible under section 342 or 343 of the Communications Act of 1934, as amended, or under the rules, regulations, or authorizations of the Federal Communications Commission related thereto; or

"(B) where the cable system has not recorded the notice specified by subsection (d) and deposited the statement of account and royalty fee required by subsection (d), unless, before the commencement of any infringement action brought against it pursuant to this section, the cable system, through corrective filings, has complied with the requirements of recording notices

and depositing statements of account and royalty fees.".

(d) Section 111(c) of title 17, United States Code, is amended by adding the following new clause at the end thereof:

"(5) Notwithstanding the provisions of clause (1) of this subsection, the willful or repeated secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, where upon receipt of the required notice from a commercial television broadcasting station which would be eligible for mandatory carriage by the system under section 341(b) of the Communications Act of 1934, but for the provisions of section 341(c)(1) of such Act, the system fails to delete the following syndicated television programming broadcast by any commercial television station without such eligibility for mandatory carriage:

"(A) series program packages while a commercial television broadcasting station with such eligibility for mandatory carriage by the cable television system has exclusive broadcast exhibition rights (both over-the-air and by cable) to that program package in its market; and

"(B) feature film while a commercial television broadcasting station with such eligibilty for mandatory carriage by the cable television system has exclusive broadcast exhibition rights (both over-the-air and by cable) to that film in its market: *Provided,* That each independent television broadcasting station shall be entitled to assert such exclusivity to no more than 300 feature film titles in any quarter of a calendar year and exclusivity to any individual film title shall be asserted in no more than two quarters per calendar year: *Provided further,* That each network television broadcasting station shall be entitled to assert such exclusivity to no more than 100 feature film titles in any quarter of a calendar year and exclusivity to any individual film title shall be asserted in no more than two quarters per calendar year.

The provisions of this clause shall not apply to any cable television system located outside of all television markets which existed as of November 1, 1981, or to any cable television system having 3,000 or fewer subscribers or to any broadcast television signal carried by any cable television system, regardless of number of subscribers or of location, prior to March 31, 1972, or by any other cable television system located in the same community as a system which carried that signal prior to March 31, 1972, or to any aspects of a waiver granted to any cable television system pursuant to the syndicated exclusivity rules and regulations of the Federal Communications Commission prior to June 25, 1981. The provisions of this clause shall be subject to the authority of the Federal Communications Commission under section 343 of the Communications Act of 1934.".

(e) Subparagraphs (B), (C), and (D) of section 111(d)(1) of title 17, United States Code, as so redesignated in section 402(a), are amended to read as follows:

"(B) except in the case of a cable system whose royalty is specified in subclause (C) or (D), a total royalty fee for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during said period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

"(i) 0.675 of 1 percent of such gross receipts for the first distant signal equivalent transmitted in whole or in part beyond the local service area of such primary transmitter;

"(ii) 0.425 of 1 percent of such gross receipts for each of the second, third, and fourth distant signal equivalents;

"(iii) 0.2 of 1 percent of such gross receipts for the fifth distant signal equivalent and each additional distant signal equivalent thereafter; and

in computing the amounts payable under paragraphs (i) through (iii), above, any fraction of a distant signal equivalent shall be computed at its fractional value and, in the case of any cable system located partly within and partly without the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located without the local service area of such primary transmitter; and

"(C) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters total $80,000 or less, gross receipts of the cable system for the purpose of this subclause shall be computed by subtracting from such actual gross receipts the amount by which $80,000 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $3,000. The royalty fee payable under this subclause shall be 0.5 of 1 percent, regardless of the number of distant signal equivalents (if any): *Provided, however,* That any cable system which carries no distant signal equivalents, or fraction thereof, is exempt from payment of any royalty fee under this subclause; and

"(D) if the actual gross receipts paid by subscribers to a cable system for the period covered by the statement, for the basic service of providing secondary transmissions of primary broadcast transmitters, are more than $80,000 but less than $160,000, the royalty fee payable under this subclause shall be (i) 0.5 of 1 percent of any gross receipts up to $80,000; and (ii) 1 percent of any gross receipts in excess of $80,000 but less than $160,000, regardless of the number of distant signal equivalents (if any): *Provided,* however, That any cable system which carries no distant signal equivalents, or fraction thereof, is exempt from payment of any royalty fee under this subclause; and".

(f) Section 111(f) of title 17, United States Code, is amended by striking out everything after the definition of "cable system" and inserting in lieu thereof the following:

"The 'local service area of a primary transmitter', in the case of a full service television broadcast station, comprises the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, or in the case of a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico, the area in which it would be entitled to insist upon its signal being retransmitted if it were a television broadcast station subject to such rules, regulations, and authorizations.

"The 'local service area of a primary transmitter', in the case of other television broadcast stations or services, comprises the primary service area of such station or service, pursuant to the rules and regulations of the Federal Communications Commission. The 'local service area of a primary transmitter', in the case of a radio broadcast station, comprises the primary service area of such station, pursuant to the rules and regulations of the Federal Communications Commission.

"A 'distant signal equivalent' is the value assigned to the secondary transmission of any nonnetwork television programming carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programming. It is computed by assigning a value of one to each independent station and a value of one-quarter to each network station and noncommercial educational station for the nonnetwork programming so carried pursuant to sections 341 and 342 of the Communications Act of 1934, as amended, or the rules, regulations, and authorizations of the Federal Communications Commission. The foregoing values for independent, network, and noncommercial educational stations are subject, however, to the following exceptions and limitations. Where the provisions of the Communications Act of 1934, as amended, or the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and the cable system elects to substitute another program embodying a performance or display of a work in place of the omitted transmission, no value shall be assigned for the substituted or additional program; where the rules, regulations, or authorizations of the Federal Communications Commission in effect on October 19, 1976, permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year. In the case of a station carried pursuant to the late night or specialty programming rules of the Federal Communications Commission, or a station carried on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals which it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth above, as the case may be, shall be multiplied by a fraction which is equal to the ratio of the broadcast hours of such station carried by the cable system to the total broadcast hours of the station.

"A 'network station' is a commercial television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of that station's typical broadcast day.

"An 'independent station' is a commercial television broadcast station other than a network station.

"A 'noncommercial educational station' is a television station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934.

"A 'full service television broadcast station' is a television broadcast station which operates on a nonpreemptive basis on a channel assigned to its community by the Federal Communications Commission pur-

suant to its table of assignments. This does not include television broadcast translator stations or any other limited television broadcast stations which may be authorized by the Federal Communications Commission.".

INFRINGEMENT OF COPYRIGHT

SEC. 102. Section 501 of title 17, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Any secondary transmission by a cable system shall be actionable as an act of infringement pursuant to section 111(c)(5) unless the Federal Communications Commission within 90 days of receipt of a notice of violation has certified that such secondary transmission was due to technical error or other factors beyond the reasonable control of the cable system.".

FUNCTIONS OF COPYRIGHT ROYALTY TRIBUNAL

SEC. 103. (a) Section 801(b)(2) of title 17, United States Code, is amended to read as follows:

"(2) to make determinations concerning the adjustment of the copyright royalty rates in section 111 solely in accordance with the following provisions:

"(A) The rates established by section 111(d)(2)(B) may be adjusted to reflect (i) national monetary inflation or deflation or (ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of enactment of this Act: *Provided,* That if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(2)(B) shall be permitted: *And provided further,* That no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber. The Copyright Royalty Tribunal may consider all factors relating to the maintenance of such level of payments including, as an extenuating factor, whether the cable industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmission and, in the adjustment proceeding commenced in 1983 pursuant to section 804(a)(2), the impact of the deletion of nonnetwork television programming caused by the syndicated exclusivity provisions as codified in section 111(c)(5) of this title and section 343 of the Communications Act of 1934.

"(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 15, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(2)(B) may be adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. Such adjustment shall differentiate between those additional television broadcast signals on which a cable system is required to delete nonnetwork television programming pursuant to section 111(c)(5) of this title and section 343 of the Communications Act of 1934 and those signals on which no deletion is required by that system. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Tribunal shall consider, among other factors, the economic impact on copyright owners and users: *Provided,* That no adjustment in royalty rates shall be made under this subclause with respect to any distant signal equivalent or fraction thereof represented by (i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal, or (ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

"(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(2)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

"(D) The gross receipts limitations established by section 111(d)(2) (C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section; and the royalty rate specified therein shall not be subject to adjustment; and".

(b) Subsection 801(b)(3) of title 17, United States Code, is amended by inserting before the period at the end thereof the following: ": *Provided,* That in accordance with section 111(d)(4)(C), a portion of such fees are distributed to copyright owners whose work consists exclusively of aural signals, and that at least $300,000 of such fees are distributed to copyright owners whose work consists exclusively of aural signals transmitted on those radio stations defined in section 397(6) of the Communications Act of 1934 that are eligible to receive funds under section 396(k)(6)(B) of the Communications Act of 1934; by January 1, 1985, and every third subsequent calendar year, the Tribunal shall review the distribution directed in this proviso and adjust the amount of such fees to be distributed under this proviso to reflect a fair and reasonable allocation, in accordance with this proviso, to the copyright owners identified herein".

(c) Subsections (a) and (b) of section 804 of title 17, United States Code, are amended to read as follows:

"(a) With respect to proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in sections 115 and 116, and with respect to proceedings under section 801(b)(2) (A) and (D)—

"(1) On January 1, 1980, the Chairman of the Tribunal shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter; and

"(2) during the calendar years specified in the following schedule, any owner or user of a copyrighted work whose royalty rates are specified by this title, or by a rate established by the Tribunal, may file a petition with the Tribunal declaring that the petitioner requests an adjustment of the rate. The Tribunal shall make a determination as to whether the applicant has a significant interest in the royalty rate in which an adjustment is requested. If the Tribunal determines that the petitioner has a significant interest, the Chairman shall cause notice of this determination, with reasons therefor, to be published in the Federal Register, together with notice of commencement of proceedings under this chapter.

"(A) In proceedings under section 801(b)(2) (A) and (D), such petition may be filed during 1983 and in each subsequent third calendar year.

"(B) In proceeedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 115, such petition may be filed in 1987 and in each subsequent tenth calendar year.

"(C) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 115, such petition may be filed in 1987 and in each subsequent tenth calendar year.

"(b) With respect to proceedings under subclause (B) or (C) of section 801(b)(2), following an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established by the Tribunal, may, within twelve months, file a petition with the Tribunal declaring that the petitioner requests an adjustment of the rate. In this event the Tribunal shall proceed as in subsection (a)(2), above. Any change in royalty rates made by the Tribunal pursuant to this subsection may be reconsidered in 1983 and each third calendar year thereafter, in accordance with section 801(b)(2) (A), (B), or (C), as the case may be.".

TITLE II—AMENDMENTS TO COMMUNICATIONS ACT OF 1934

REQUIREMENTS APPLICABLE TO CABLE TELEVISION SYSTEMS

SEC. 201. Title III of the Communications Act of 1934 is amended by redesignating parts II, III, and IV as parts III, IV, and V, respectively, and by inserting after part I the following new part:

"PART II—CABLE TELEVISION SYSTEMS

"CARRIAGE OF BROADCAST SIGNALS BY CABLE TELEVISION SYSTEMS

"SEC. 341. (a)(1) The Commission shall place no restrictions on the number, type, or source of television broadcasting stations or other video services whose signals may be carried by a cable television system, except as provided pursuant to this Act.

"(2) Nothing in this Act shall prohibit the Commission from requiring a cable system to refrain from carrying a noncommercial educational station whose carriage is not required in this section, upon a showing of adverse impact upon a noncommercial educational station whose carriage is required in this section.

"(b) Except as provided in subsections (c), (d), and (e), the Commission shall require the carriage of television broadcasting stations (including television broadcasting translator stations) by cable television systems in accordance with its rules, regulations, and authorizations in effect on November 1, 1981, and shall not require the carriage of any other broadcasting station or—

"(1) any broadcasting station (A) which operates on a channel not listed in the table of allotments of the Commission as of November 1, 1981; or (B) which operates pursuant to an authorization by the Commission as a low power broadcasting facility;

"(2) any direct broadcast satellite service;

"(3) any station in the multipoint distribution service; or

"(4) any other radio communication service intended for direct reception by members of the public.

"(c)(1) Any cable television system having 36 or fewer activated channels may elect not

to carry any television broadcasting station whose signal does not receive—

"(A) a 1 percent share of viewing hours in noncable television households in the county in which the cable system is located; or

"(B) a 2 percent share of viewing hours in all television households in such county;

except that such systems shall carry noncommercial educational stations and nonentertainment commercial stations whose signals are not viewed to the extent specified in this subsection in accordance with subsections (d) and (e), notwithstanding subsection (g)(1).

"(2) Any cable television system having 36 or fewer activated channels shall not be required—

"(A) to carry any network station which has the same network affiliation as a network station which the cable system otherwise is required to carry in any community which is located, in whole or in part, more than 55 miles (as determined in accordance with standards established in the rules, regulations, and authorizations of the Commission in effect on November 1, 1981) from the network station; or

"(B) to carry more than 2 network stations which have the same network affiliation.

A cable system, in determining which network stations may be deleted from carriage under subparagraph (B), shall delete such stations in order of their distance from the cable system, beginning with the most distant.

"(d)(1)(A) Any cable television system having 36 or fewer activated channels shall be required to carry not more than 3 noncommercial educational stations (including stations whose signals receive at least the percentage shares specified in subsection (c)) in any community located, in whole or in part, within the grade B contour of such stations.

"(B) Except as provided in subsection (e)(3), if a cable television system is required to carry a nonentertainment commercial station in a community under subparagraph (D), then such cable system shall be required to carry not more than 2 noncommercial educational stations in such community.

"(C) No cable television system shall be required to carry (i) 2 or more noncommercial educational stations which duplicate simultaneously 100 percent of their instructional programs and 90 percent of other programs; or (ii) a noncommercial educational station which requests not to be carried.

"(D) Any cable television system having 36 or fewer activated channels shall carry one, but shall not be required to carry more than one, nonentertainment commercial station in a community if—

"(i) that community served by such cable system is located, in whole or in part, not more than 35 miles from (I) the reference point (as defined by the rules, regulations, and authorizations of the Commission in effect as of November 1, 1981) of the community of license of such nonentertainment commercial station; or (II) any designated community of the major market (as defined by the Commission as of November 1, 1981) which includes the county specified in subsection (e)(3)(C); and

"(ii) such station was granted an initial construction permit by the Commission on or before August 4, 1982, and such station qualified as a nonentertainment commercial station based upon its regularly carried programming for a representative week during the first 30 days of regular broadcast operations subsequent to August 4, 1982, by such station.

"(2) Television translator broadcasting stations which rebroadcast the signal of a noncommercial educational station shall be considered to be noncommercial educational stations for purposes of this section and shall be entitled to carriage in the same manner on cable systems operating in communities served by the translator station as a noncommercial educational station where the cable system community is located outside the grade B contour of 2 noncommercial educational television stations and the translator station serves the community of the cable system and provides an adequately receivable signal at the cable system headend.

"(3)(A)(i) In selecting the noncommercial educational stations to be carried pursuant to this subsection, each cable television system shall carry each noncommercial educational station licensed to a community which is located, in whole or in part, in the same county as the community served by the cable system. If there is no such station in the county, then the cable system shall carry the closest in-State noncommercial educational television station. For purposes of this clause only, the noncommercial educational stations licensed to Newark, New Jersey, and Wilmington, Delaware, shall be considered to be licensed to New York, New York, and Philadelphia, Pennsylvania, respectively.

"(ii) Notwithstanding the carriage requirements set forth in clause (i), cable systems with 36 or fewer activated channels which are located within the grade B contour of a noncommercial educational television station licensed in the District of Columbia shall carry any such station, upon request, in addition to the closest in-State noncommercial educational television station.

"(B) In selecting the nonentertainment commercial station to be carried pursuant to this subsection and subsection (e), each cable television system shall—

"(i) carry the nonentertainment commercial station licensed to the community served by the cable system; or

"(ii) if more than one of, or if none of, such nonentertainment commercial stations meets the criteria established in clause (i), designate, in its discretion, the nonentertainment commercial station whose signal is to be carried, except that such cable television system shall not solicit or accept any payment from any such nonentertainment commercial station in connection with taking any action under this clause.

"(e)(1) Any cable television system having twelve or fewer channels shall not be required to carry any nonentertainment commercial station under subsection (d)(1)(D) which is not viewed to the extent specified in subsection (c)(1)(A) or (c)(1)(B).

"(2)(A) A cable television system shall not be required to carry any nonentertainment commercial station under subsection (d) if (i) such system serves a community located in any county specified in subparagraph (B); and (ii) such community is within the grade B contour of at least three noncommercial educational stations, none of which provides substantially duplicative programming, within the meaning of subsection (d)(1)(C).

"(B) The provisions of subparagraph (A) shall apply to cable television systems providing service in the following jurisdictions: (i) in the State of California: the Counties of Marin, San Mateo, Monterey, Napa, San Francisco, Solano, Sonoma, Contra Costa, Alameda, Santa Clara, and Santa Cruz; (ii) in the State of Maryland: the Counties of Howard, Montgomery, Prince Georges, and Anne Arundel; (iii) in the State of Michigan, the Counties of Oakland, Wayne, Washtenaw, and Monroe; and (iv) in the State of Virginia: the Counties of King George, Spotsylvania, Stafford, Prince William, Orange, Culpepper, Rappahannock, Arlington, Fairfax, Loudoun, Clarke, Warren, and Fauquier.

"(3)(A) A cable television system which is required in subsection (d) to carry the signal of a nonentertainment commercial station shall comply with such requirement by—

"(i) carrying a required noncommercial educational station, which is licensed to a school district or which is providing secondary or higher education services, during all or part of the period beginning at 7:30 o'clock ante meridian and ending at 4:00 o'clock post meridian, Monday through Friday; and

"(ii) carrying the required nonentertainment commercial station over the same channel during all other periods;

if such cable system serves a community located in any jurisdiction specified in subparagraph (B), except that any such cable system may elect to carry all such signals in full.

"(B) The provisions of subparagraph (A) shall apply to cable television systems providing service in the following jurisdictions: (i) in the State of California: the Counties of Riverside, San Bernardino, Orange, and Ventura; and (ii) in the State of Virginia: Charles City, Richmond, James City, and the Counties of Carolina, Hanover, Louisa, Goochland, Powhatten, Amelia, Chesterfield, Dinwiddie, Henrico, King William, King and Queen, Essex, Prince George, Surrey, Sussex, and New Kent.

"(C) In the case of Los Angeles County, in the State of California, if the signal of a school district station licensee is not required to be carried by a cable television system during any portion of a broadcast day, then such cable system shall carry the signal of a community college station licensee over the same channel during such portion of the broadcast day.

"(f) Cable television systems which—

"(1) are required to carry a nonentertainment commercial station or a noncommercial educational television station pursuant to subsection (d); or

"(2) elect to carry one or more additional nonentertainment commercial stations or noncommercial educational television stations whose carriage would be required by the rules, regulations, and authorizations of the Commission in effect on November 1, 1981;

may elect not to carry an equivalent number of network television stations which substantially duplicate the service provided by other signals being carried by the cable system pursuant to subsection (b). Such deletions of duplicating network stations shall be made in order of their distance from the cable system, beginning with the most distant.

"(g)(1) A cable television system shall carry any television broadcasting station required to be carried by subsection (b) and operating on the effective date of this section and any such station thereafter made operational—

"(A) if the station (other than a noncommercial educational station) is located not more than 35 miles from the cable system; and

"(B) until such station is subject to deletion under subsection (c), based upon publication of viewing share reports (that are bona fide independent professional audience surveys which are published annually and all of which were conducted after such station began operation) for the market served by such station;

except that, with respect to any cable teievision system having no vacant channel upon

which to commence carriage as required by this section, the Commission shall authorize the deletion of a station required to be carried under this section and not otherwise deleted under this paragraph, or waive such carriage required by this section, such that the number of channels on the cable system devoted to the required carriage of television broadcasting stations is not increased. If carriage of a station pursuant to this subsection requires the deletion of a station which would otherwise be carried by the cable system and the station so carried may subsequently be deleted by operation of subsection (c), the cable system shall resume carriage of the broadcasting television station previously deleted under the exception in the preceding sentence.

"(2) Carriage of signals deleted pursuant to this subsection shall be required only upon expansion of the number of activated channels of the cable television system beyond the limit set forth in subsection (c).

"(3) Notwithstanding subsection (b) and subject to subsection (c), any cable television system with 12 or fewer activated channels may elect not to carry any television broadcasting station which transmits subscription television broadcasting programs, except that—

"(A) any such cable television system shall carry any broadcasting station which transmits subscription television broadcast programs if (i) such programs are transmitted by such station only between 12 o'clock midnight and 6 o'clock antemeridian; and (ii) such programs do not constitute a predominant (more than 50 percent) portion of transmissions made by such station; and

"(B) any cable television system with more than twelve activated channels may elect not to carry the signal of any television broadcasting station if more than 50 percent of the programming of such station is subscription television programming.

No cable system shall be required to carry the subscription television programming of any television broadcasting station.

"(h) The Commission shall prescribe such rules and regulations as are reasonable and necessary to carry out the provisions of this section.

"DELETION OF CERTAIN DUPLICATING NETWORK PROGRAMMING

"SEC. 342. (a) The Commission shall require cable television systems to delete the simultaneously duplicating network or noncommercial educational television programming of lower priority television signals in accordance with its rules and regulations in effect on October 1, 1981. Same day carriage of such programming also shall be considered simultaneously duplicating if the lower priority television station is located in another standard time zone from the cable system, except for cable systems in the mountain time zone for which the same day carriage of such programming shall be considered simultaneously duplicating only if the lower priority television station is located more than one standard time zone from such cable system, except that a cable television system need not delete same day duplicating network television programming from any station which such cable system normally carried on a full-time basis before October 1, 1981.

"(b)(1) A cable television system serving the community of license of a qualifying television broadcasting station may, at its option, delete any simultaneously duplicating network programming broadcast by any other television broadcasting station which is more than 55 miles from the location of the principal headend of such cable television system as of September 1, 1982.

"(2) If a cable television system does not exercise the option available to such cable system under paragraph (1), the qualifying station which would be the beneficiary of the programming deletion involved may petition the Commission to issue an order requiring such cable system to make such deletion. The Commission shall issue such order if it finds that such order serves the public interest. In making such finding, the Commission shall take into account whether the order (A) is necessary to protect the economic viability of such qualifying station; and (B) will impose any undue burden upon such cable system.

"(c)(1) Any television broadcasting station which is aggrieved by any violation of this section or section 341 allegedly committed by a cable television system may file a complaint with the Commission. The Commission, not later than 10 days after the date of such filing, shall determine whether the complaint presents a prima facie case that any such violation has occurred, and shall notify the cable system of such determination. The Commission shall make a final determination regarding the complaint not later than 60 days after such filing.

"(2) If the Commission finds that the complaint does present such a prima facie case, then the cable system involved, upon notice from the Commission, shall be required to end the violation alleged in the complaint until final disposition of the complaint or be subject to liability under the following sentence if the violation is sustained in a final determination by the Commission. If the cable system involved does not cease engaging in such conduct after the Commission has made such a finding that a prima facie case has been presented, then the Commission shall impose forfeiture penalties against the cable system operator commencing with the date of such notice to the cable system that a Commission determination has been made that a prima facie case has been presented. Any final determination as to a violation of this section or section 341 shall be made in a hearing conducted on a priority basis pursuant to section 503(b)(3).

"SYNDICATED PROGRAMMING EXCLUSIVITY

"SEC. 343. (a) Upon receipt of the required notice from a commercial television broadcasting station which would be eligible for mandatory carriage by a cable television system under section 341(b), but for the provisions of section 341(c)(1), such cable television system shall delete the following syndicated television programming broadcast by any commercial television station without such eligibility for mandatory carriage:

"(1) series program packages while a commercial television broadcasting station with such eligibility for mandatory carriage by such cable television system has exclusive broadcast exhibition rights (both over-the-air and by cable) to such program package in its market; and

"(2) feature film while a commercial television broadcasting station with such eligibility for mandatory carriage by such cable television system has exclusive broadcast exhibition rights (both over-the-air and by cable) to such film in its market, except that—

"(A) each independent television broadcasting station shall be entitled to assert such exclusivity to no more than 300 feature film titles in any quarter of a calendar year and exclusivity to any individual film title shall be asserted in no more than two quarters per calendar year; and

"(B) each network television broadcasting station shall be entitled to assert such exclusivity to no more than 100 feature film titles in any quarter of a calendar year and exclusivity to any individual film title shall be asserted in no more than two quarters per calendar year.

"(b) The provisions of this section shall not apply to—

"(1) any cable television system located outside of all television markets which existed as of November 1, 1981;

"(2) any cable television system having 3,000 or fewer subscribers;

"(3) any broadcast television signal carried by (A) any cable television system, regardless of number of subscribers or of location, prior to March 31, 1972; or (B) any other cable television system located in the same community as a system which carried such signal prior to March 31, 1972; or

"(4) any cable television system which was granted a waiver pursuant to the syndicated exclusivity rules and regulations of the Commission prior to June 25, 1981.

"(c) The Commission may grant exceptions to the requirements of this section, and to the requirements of section 111(c)(5) of title 17, United States Code, to cable systems where—

"(1) it has found that the distant signal on which a series program package or feature film appears (A) obtains a net weekly circulation of 5 percent or more in the county in which the cable system is located; and (B) places a grade B contour (as defined by the rules of the Commission) over all or part of the community in which the cable system is located; and

"(2) the market zone of the distant station on which the program appears overlaps with the market zone of one or more of the stations which possesses exclusive exhibition rights to such series program package or feature film.

"(d) The Commission shall promulgate such rules and regulations as are reasonably necessary to carry out the provisions of this section, including such rules and regulations as are reasonably necessary for the adequate and timely notification to the cable television system by the station eligible to request deletion under this section of the syndicated television programming to be deleted, the television broadcasting station from which deletion is to be made, and the time at which the affected programming is scheduled for broadcast.

"DEFINITIONS

"SEC. 344. For purposes of this part:

"(1) The term 'activated channels' means those 6 megahertz signal paths which are suitable for the transmission of National Television Systems Committee Standard color television in accordance with technical specifications of the Commission, and which are in use or are legally and technically usable throughout the entire cable system.

"(2) The terms 'cable television system' and 'cable system' mean a nonbroadcast facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment, under common ownership and control, that distributes or is designed to distribute to subscribers the signals of one or more television broadcasting stations. Such term shall not include (A) any such facility that serves fewer than 50 subscribers; or (B) any such facility that serves or will serve only subscribers in one or more multiple unit dwellings under common ownership, control, or management.

"(3) The term 'community of license' means the principal community which a television broadcasting station is licensed to serve, as specified in the license issued to such station by the Commission, except that, for purposes of section 341(d)(1)(D)(i), the community of license for a nonenter-

tainment commercial station which was authorized by the Commission to engage in broadcast operations as of November 1, 1981, shall be the community of license specified by the Commission in the most recent renewal of license granted to such station before November 1, 1981, notwithstanding any subsequent grant of authority by the Commission for such station to change its community of license.

"(4) The term 'independent station' means a commercial television broadcasting station other than a network station.

"(5) The term 'network station' means a commercial television broadcasting station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of such station's typical broadcast day.

"(6) The term 'noncommercial educational station' means a television station which is a noncommercial educational broadcast station within the meaning of section 397(6).

"(7)(A) The term 'nonentertainment commercial station' means any commercial television broadcasting station whose regularly carried nonentertainment programming, exclusive of sports programming, exceeds 50 percent of all programming carried by such station during the total weekly broadcasting of such station—

"(i) from 6 o'clock ante meridian to 12 o'clock midnight, local time; and

"(ii)(I) from 6 o'clock post meridian to 11 o'clock post meridian, local time, in all time zones other than the central and mountain time zones; or

"(II) from 5 o'clock post meridian to 10 o'clock post meridian in the central and mountain time zones.

"(B) Programming which constitutes nonentertainment programming, other than sports programming, shall be determined in accordance with the rules and regulations of the Commission in effect on November 1, 1981.

"(C) The Commission shall have authority to determine whether a station has ceased to operate as a nonentertainment commercial station under this paragraph. No nonentertainment commercial station eligible for carriage under subsection (d) or (e) of section 341 may be deleted except after such a determination by the Commission.

"(8) The terms 'qualifying television broadcasting station' and 'qualifying station' mean any television broadcasting station which, according to the most recent bona fide nationwide professional audience surveys published before the effective date of this section, is located within a television market which—

"(A) has 35,000 or fewer television households in its area of dominant influence; or

"(B) does not have an area of dominant influence and which has 35,000 or fewer television households.

"(9) The term 'share of viewing hours' means the estimated percentage of total hours broadcast by a television broadcasting station which are viewed in the county in either all television homes or in all noncable television homes, or both. For purposes of establishing the share of viewing hours on a countywide basis, nationwide survey information such as that provided annually in an independent, professional, countywide audience survey shall be used. Share of viewing hours of stations which transmit both subscription and nonsubscription television programming shall be based only on the nonsubscription programming transmitted by such station.

"(10) The term 'television translator broadcasting station' is a television broadcasting station as defined in sections 74.701 and 74.731 of title 47, Code of Federal Regulations, as in effect on January 1, 1982.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 202. (a)(1) Section 3 of the Communications Act of 1934 is amended by striking out "part II" each place it appears therein and inserting in lieu thereof "part III", and by striking out "parts II and III" and inserting in lieu thereof "parts III and IV".

(2) Section 4(f)(3) of the Communications Act of 1934 is amended by striking out "part II" and inserting in lieu thereof "part III".

(3) Section 331(c)(3) of the Communications Act of 1934 is amended by striking out "subsection" and inserting in lieu thereof "title".

(4) Section 382(1) of the Communications Act of 1934 is amended by striking out "part II" and inserting in lieu thereof "part III".

(5) Section 503(b) of the Communications Act of 1934 is amended by striking out "part II or III" and inserting in lieu thereof "part III or IV".

(6) Section 504(b) of the Communications Act of 1934 is amended by striking out "parts II and III" and inserting in lieu thereof "parts III and IV".

(b)(1) Section 214(c) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 214(c)) is amended by striking out "part IV" and inserting in lieu thereof "part V".

(2) Section 509(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3188a(c)) is amended by striking out "part IV" and inserting in lieu thereof "part V".

TITLE III—SPORTS PROGRAMMING

SECONDARY TRANSMISSIONS BY CABLE TELEVISION SYSTEMS RELATING TO SPORTS PROGRAMMING

SEC. 301. Section 111(c) of title 17, United States Code, as amended in section 101(d), is further amended by adding at the end thereof the following:

"(6) Notwithstanding the provisions of clause (1) of this subsection, the secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if—

"(A)(i) the primary transmission is made in the period from September 1 through the second Saturday in December of each year and consists of the nonnetwork live television broadcast licensed for local distribution only of an intercollegiate football game, or any substantial part thereof, involving institutions of higher learning both of which confer degrees upon students following completion of sufficient credit hours to equal a four-year course; and

"(ii) the secondary transmission is (I) beyond the local service area of the primary transmitter, and (II), if a VHF station, more than 120 miles from the site of the primary transmitter or, if a UHF station, more than 45 miles from the site of the primary transmitter; or

"(B) the secondary transmission is in violation of regulations of the Federal Communications Commission as of December 31, 1981, regarding sports broadcasts (47 C.F.R. 76.67).".

TITLE IV—MISCELLANEOUS PROVISIONS

EXTENSION OF MASTER ANTENNA EXEMPTION

SEC. 401. Section 111(a) of title 17 of the United States Code is amended by striking out subparagraph (1) and inserting in lieu thereof the following:

"(1) the secondary transmission is not made by a cable system, and consists entirely of the relaying by the management of a hotel, apartment house, or similar establishment, of signals transmitted by a broadcast station licensed by the Federal Communications Commission to the private lodgings of guests or residents of such establishment, and no direct charge is made to see or hear the secondary transmission nor is any charge made, direct or indirect, to see or hear any other video or audio service and—

"(A) the secondary transmission is made within the local service area of such station; or

"(B) the signals are received by such establishment by means of the direct reception of a free space radio wave emitted by such station; or".

ELIMINATION OF NOTICES OF IDENTITY AND NOTICES OF CHANGE

SEC. 402. (a) Section 111(d) of title 17, United States Code, is amended by striking out paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(b) Section 111(d)(2) of title 17, United States Code, as so redesignated in subsection (a), is amended by striking out "clause (2)" and inserting in lieu thereof "clause (1)".

(c) Section 111(d)(3) of title 17, United States Code, as so redesignated in subsection (a), is amended by striking out "clause (5)" and inserting in lieu thereof "clause (4)".

(d) Section 111(d)(3)(B) of title 17, United States Code, as so redesignated in subsection (a), is amended by striking out "clause (2)" and inserting in lieu thereof "clause (1)".

(e) Section 111(f) of title 17 of the United States Code is amended by striking out "subsection (d)(2)" in the definition of a "cable system" and inserting in lieu thereof "subsection (d)(1)".

(f) Section 801(b)(2) of title 17 of the United States Code is amended by striking out "111(d)(2)(B)" each place it appears therein and inserting in lieu thereof "111(d)(1)(B)".

(g) Section 801(b)(2)(D) of title 17 of the United States Code is amended by striking out "111(d)(2)(C) and (D)" and inserting in lieu thereof "111(d)(1)(C) and (D)".

FLEXIBILITY IN STATEMENTS OF ACCOUNT

SEC. 403. Section 111(d)(1) of title 17, United States Code, as so redesignated in section 402(a), is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) a statement of account, covering the six months next preceding, specifying such data as the Register of Copyrights may, after consultation with the Copyright Royalty Tribunal, from time to time prescribe by regulation; and".

CLARIFICATION OF TIERING ROYALTY CALCULATIONS

SEC. 404. Section 111(d)(1) of title 17, United States Code, as so redesignated in section 402(a), is amended by inserting after subparagraph (D) the following:

"(E) In computing the amounts payable under subparagraphs (B), (C), and (D), above, a cable system shall comply with requirements that the Register of Copyrights may, after consultation with the Copyright

Royalty Tribunal, from time to time prescribe by regulation, with respect to the appropriate calculation of gross receipts for the basic service of providing secondary transmissions of primary broadcast transmitters and distant signal equivalent values. The regulations may take into account such secondary transmissions made to a limited number of subscribers or carried on a tier other than the initial tier of service.".

TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

SEC. 405. (a) This Act, and the amendments made by this Act, shall become effective on the date of the enactment of this Act, except that—

(1) as to cable television systems located in the first 50 major television markets, the programming syndicated exclusivity protections of section 111(c)(5) of title 17, United States Code, as added by section 101, shall take effect at the expiration of 6 months after such date of enactment;

(2) as to cable television systems located in the second 50 major television markets, the syndicated programming exclusivity protections of section 111(c)(5) of title 17, United States Code, as added by section 101, shall take effect at the expiration of 12 months after such date of enactment; and

(3) as to all other cable television systems subject to the provisions of section 111(c)(5) of title 17, United States Code, as added by section 101, section 111(c)(5) shall take effect at the expiration of 24 months after such date of enactment.

(b) Notwithstanding the provisions of section 111(c)(5) of title 17, United States Code, as added by section 101, no syndicated program embodied in a television broadcast signal comprising a secondary transmission must be deleted by a cable system if (1) the program is embodied in a television broadcast signal delivered via satellite transmission; (2) the primary transmitter of such signal acquired broadcast rights to the program before the date of the enactment of this Act; and (3) the primary transmitter has provided written notice to the cable system that the program may be retransmitted by the cable system.

The SPEAKER pro tempore. Is a second demanded?

Mr. RAILSBACK. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased today to join not only my colleague, the gentleman from Illinois (Mr. RAILSBACK) and other colleagues, but certainly the Commerce Committee and the gentleman from Colorado (Mr. WIRTH) in behalf of a bill which I think will go a long way to resolving one of the most difficult copyright law controversies the Congress has faced, and that is of course the copyright liability of cable television systems.

As Members know, under the Federal copyright statute authors and other copyright owners generally enjoy certain exclusive rights to control markets and reap the financial rewards from their creations.

However, in very special circumstances the copyright law has created compulsory licenses giving certain users guaranteed use of the work in exchange for assuring that the author has some remuneration for that use. The author relinquishes control over the work as well as the right to have the market decide its value in return for guaranteed payment, for exploitation of the work in a manner permitted by the statutory licenses.

In the case of cable transmission, the Congress determined that compulsory license was warranted. And so under the 1976 Copyright Act, cable systems do not negotiate for retransmission rights, copyrighted video products, and do not pay royalties directly to the copyright owners. Rather the royalties are paid to the Copyright Office and distributed to copyright owners by the Copyright Royalty Tribunal.

Since the passage of the 1976 act 6 years ago, the cable television compulsory license has come under increasing criticism largely as a result of three developments. First, the enormous growth of the cable industry and the entry of large well financed corporations into the market.

Second, the development of satellite retransmission technology and the superstations.

And third, deregulation of the cable industry by the FCC.

As early as 1979, the subcommittee which I chair was urged to reopen the 1976 act. Several days of hearings were held in 1979, but we did not then enact any legislation.

However, in 1981 the real catalyst for change in the compulsory license occurred. The FCC repealed the syndicated exclusivity and distance signal rules which had for many years restricted the use of over-the-air broadcast signals by cable television systems. Repeal of these rules was subsequently upheld in the Court of Appeals for the Second Circuit. So in 1981 the subcommittee held extensive hearings on the compulsory license, as well as the impact of the deregulation. Representatives of the motion picture, professional sports, and broadcasting industries testified in favor of abolishing the compulsory license, citing these three developments which I had mentioned before in support of their view that the cable industry is now able to purchase copyright programing in a free market, just as their competitors do.

The cable industry, however, testified it would be impracticable and unduly burdensome to require every cable system to negotiate for the use of each copyrighted program.

However, following the hearings and with the encouragement of my subcommittee, the three major interest groups involved in this controversy—the National Association of Broadcasters, the Motion Picture Association of America, and the National Cable Television Association—began discussions which eventually led to compromise legislation approved by the Judiciary Committee.

This was a very difficult negotiation, and I must compliment the industry leaders on their perseverance, creativity, and willingness to compromise.

Subsequently, under the guidance of the gentleman from Colorado, the Commerce Committee was able to fashion a resolution of the controversy on mandatory carriage by cable systems of broadcast signals. The resolution of this issue has resulted in the support additionally of the National Association of Religious Broadcasters and certainly the retention of the active support of the National Association of Public Television Stations.

The bill before us today can be best described as a genuine compromise among the interested parties. And I believe it is also a compromise which is in the public interest.

I would like to clarify further another issue in this legislation.

House Report 97-559, at page 7, addresses the public radio portion of this bill. One statement in that passage may conceivably be read to imply that copyright owners of dramatic works have an independent claim to royalties for the cable retransmission of radio or television broadcasts. This is not in accordance with the intent of the subcommittee that drafted this legislation.

The Copyright Royalty Tribunal noted, in rejecting claims by copyright owners of cartoon characters, that except for owners of copyrighted music, Congress "did not contemplate this Tribunal awarding royalty fees to copyright owners of individual components of programs." We wish to confirm the Tribunal's understanding that Congress does not intend to authorize the award of royalty fees to authors whose works are adapted into programs. Rather, in this and other instances addressed by section 103(b), the owner of the copyright for the entire program—in the case of public radio, this will ordinarily be National Public Radio, on behalf of itself and its member stations—is the proper claimant before the Tribunal.

Also, for the record, I would like to correct an error in the Judiciary Committee Report (H.R. 97-559, part 1) at page 7 in the fourth complete paragraph, the sentence which begins, "In reaching this judgment * * *" should read as follows:

In reaching this judgment, the Committee notes that a portion of public radio programming consists of copyrighted music, in an amount to be determined by the Tribunal.

Mr. Speaker, I would urge passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RAILSBACK. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, in the words of my friend, the gentleman from Massachusetts (Mr. CONTE), this one is a real turkey. And let me tell the Members why it is. It is opposed by the administration. It is opposed by the Chairman of the Federal Communications Commission within whose jurisdiction these kinds of things lie. It is opposed by the Registrar, the head of Copyright, Mr. Ladd. It is opposed by the Justice Department. In other words, it is opposed by everybody who has looked at it, except the three beneficiaries of the act.

Let me tell the Members what has happened so the Members will have a little picture of this situation.

Back in 1976, cable was brand new. It was just budding and it needed some protection. So the 1976 Copyright Act created a whole scheme of Federal regulation, and created a brandnew agency called the Copyright Royalty Tribunal. It mandated that all cable be given a compulsory license to pick up and transmit television broadcasts without copyright liability. They in turn had to pay into the Copyright Royalty Tribunal a fee fixed by the Federal Government which then was to be distributed to the holders of the copyrights on the program.

Well, this Rube Goldberg arrangement did one thing. It let cable get big and strong and grow so it can take care of itself. But the scheme itself has never worked. The Copyright Royalty Tribunal is now sitting with $87 million of undisbursed money tied up in litigation.

The chairman of the Royalty Tribunal did something I have never seen any bureaucrat do. He appeared before our subcommittee and testified his agency will never work, and we should abolish it.

The subcommittee on a 4-to-3 vote came pretty close to taking him at his word.

The situation has progressed now to where even a worse proposal has come into being, and that is this bit of legislation.

The complaint that brought this matter to the subcommittee was that this Federal bureaucracy and price-fixing scheme had not worked and affected parties wanted it dissolved. The fees were unrealistic, the money could not be disbursed, it was a mess, cable did not need it anymore.

In the meantime three of the five interested parties under the chairman of the subcommittee got together, and whacked up the cake in a way they liked it better leaving the original problem untouched and actually froze into legislation what had been the regulatory scheme giving rise to the original complaint.

The program producers got syndicated exclusivity—which had been repealed by the Federal Communications Commission—locked right into the statute.

□ 1520

This means that when a program is syndicated by a broadcaster, it cannot be picked up and rebroadcast by cable, but has to be blanked out with very expensive equipment.

The cable companies got what they wanted. They got a continuation of the compulsory license at the artificially low fee and the broadcasters got their little bit. They got the compulsory must-carry rule, so that every cable must carry at least two of every television stations in its area for each network and all religious broadcasters and allocate channels to them.

In the meantime, the public, who were not party to this thing, get nothing but a continuation of this absolutely unnecessary Federal bureaucracy where the Federal Government has inserted itself in lieu of a free market to fix copyright fees, to collect, but never disperse the money, and to sit bogged down in highly expensive litigation which is no longer needed.

As the people who have looked at this have said virtually unanimously, this entire situation is now able to be handled by the free market.

I just quote one, Bernard Wonder, the Assistant Secretary of Commerce for Telecommunications and Information, stated in January 1982:

> There is no real reason, no real public policy reason why the flexibility and efficiency of private bargaining cannot replace the current government devised and administered cable television copyright scheme. We have stated in behalf of the Reagan administration that we are not in favor of piecemeal changes that simply try to fine tune the present cable television copyright system.

In other words, this is the day of deregulation. The people that are regulated as usual want to keep the regulation. These in this industry want to keep it because they have each protected his own turf.

Let us get rid of it. It is no longer needed. The Government ought not to be fixing the fees, collecting them, and trying to disperse them.

Mr. RAILSBACK. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I rise in very strong support of this bill. It does insure that television stations are going to have access to programing in order to provide those programs to audiences that they are licensed to serve.

At the same time, this bill will protect the property rights of those who own the programing that is going to be broadcast by television stations or reshown on cable.

I might also point out that the bill puts into law the recent decision by the FCC to eliminate all those restrictions on the number of distant TV stations that cable systems may carry.

Mr. Speaker, this whole subject matter has been of some controversy for some time, our committees have been working out different arrangements as to what would be fair to all concerned.

I think the bill does represent and protects the fundamental interests of all the major industries who are affected by this legislation.

I understand that the bill does have the strong support of the National Association of Broadcasters, the National Cable Television Association, the Motion Picture Association of America, the National Association of Public Television Stations, as well as the National Religious Broadcasters.

So, Mr. Speaker, I am supporting this bill because I believe that the legislation deals with cable television copyright and cable signal carriage issues that should be enacted by Congress this year.

This is not a bill that has just come up in the last few days. It has been worked on for months and months, in fact, by practically this whole Congress.

I might point out that there was almost unanimous support for this bill in both committees, and I think the fact that there is unanimity of support by the affected industries shows that the bill is in the public interest.

I am pleased that we have been able to develop this bill. It does serve the fundamental interest of the viewing public as well as the major industries which are affected by this legislation.

Mr. KASTENMEIER. Mr. Speaker, I yield such time as he may consume to my comanager, the chairman of the Communications Subcommittee of the Committee on Energy and Commerce, the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, I thank the gentleman for yielding.

First of all, I want to thank the distinguished gentleman from Wisconsin (Mr. KASTENMEIER) and our esteemed colleagues, the gentleman from Illinois (Mr. RAILSBACK) and the gentleman from North Carolina (Mr. BROYHILL).

One would not gather from the discussion on the floor how tortuous the discussions aimed at bringing to agreement all of the parties affected by the legislation actually were. Mr. SAWYER spoke at great length about the opposition to this legislation. However, what we may really have are some bureaucrats who oppose this legislation. And the arguments of those bureaucrats is that the bill is too regulatory—not free market oriented enough. However, with respect to the must-carry rules there are significant reliefs in here from the present FCC rules about what the cable systems are required to carry. We have deregulated substantially from the existing FCC rules.

On syndicated exclusivity, it is my understanding of the marketplace that one of the most important parts of market economy is that people who

own a certain property are able to protect that property, and that is what imposition of syndicated exclusivity protection insures.

As it has been pointed out, no one with interests at stake who understand and are concerned about this very important legislation oppose the legislation. That is, those who must operate in the marketplace under its provisions strongly support it.

I believe the gentleman from North Carolina pointed out the strong support of the NAB, the National Association of Broadcasters; the NCTA, the National Cable Television Association; the Motion Picture Association of America, the National Association of Public Television Stations, the National Religious Broadcasters and the Community Antenna Television Association.

H.R. 5949, which was introduced by my distinguished colleague from Wisconsin (Mr. KASTENMEIER) was jointly referred to the Judiciary and Energy and Commerce Committees. It was reported as introduced by the full Judiciary Committee. The Subcommittee on Telecommunications, Consumer Protection and Finance, which I chair, and the full Energy and Commerce Committee unanimously reported the bill with amendments. The bill as amended is before us today.

The principal purposes of H.R. 5949 are to amend the copyright law to allow for the continuance of compulsory licensing for cable retransmission of broadcast signals; to reinstitute syndicated exclusivity protection for local broadcasters; and, to codify within the Communications Act of 1934 a modified version of the Federal Communications Commission's rules on the mandatory carriage of local broadcast signals, known as the must-carry rules.

Efforts to develop consensus cable copyright legislation have been ongoing for the past 18 months. The negotiating process has been prolonged and painstaking, but has been marked by a spirit of compromise and flexibility on the part of interested Members and the affected parties. Since passage of the bill by the Judiciary Committee in March, my subcommittee has been working with the various groups affected by this bill to reach a compromise on those issues that were still outstanding. I am very pleased that a final accommodation has been reached, and that we now have before us consensus legislation which serves the public interest.

The bill as reported by the Commerce Committee made significant changes in the Communications Act portions of the bill. The legislation now provides must-carriage protection for existing nonentertainment broadcasters even if those stations would not qualify for such protection under the minimum viewing standard test established in the bill. In extending must-carriage protection to those broadcasters, it adequately balances the competing interests of other commercial broadcast stations and public broadcast stations with respect to their must-carriage rights, and of cable system operators, who get significant relief from the must-carriage rules with respect to carrying duplicating network affiliates. I believe this approach fairly accommodates the interests of all concerned, while providing a proper basis for assuring the public a diversity of video programing sources. In general, and greater access to new sources of cable programing in particular.

This compromise, which is reflected in the bill as reported by the subcommittee, has the strong support of the National Association of Broadcasters, National Cable Television Association, Motion Picture Association of America, National Association of Public Television Stations, the National Religious Broadcasters and the Community Antenna Television Association. These groups, despite their various competing interests, agree that this legislation as amended is fair and balanced in addressing the needs of the viewing public as well as the affected industries.

H.R. 5949 is bipartisan, consensus legislation, and I urge my colleagues to support it. I look forward to the expeditious consideration of this bill.

Mr. Speaker, I would very much hope that all of our colleagues would support this legislation. It was reported unanimously out of the Subcommittee on Communications and Finance, which I have the privilege of chairing, and out of the full Committee on Energy and Commerce. We have worked very closely with the majority and the minority of the Judiciary and the Commerce Committees.

Again I thank the gentleman from Wisconsin (Mr. KASTENMEIER) and the gentleman from Illinois (Mr. RAILSBACK) and the gentleman from North Carolina (Mr. BROYHILL), as well as my full committee chairman (Mr. DINGELL).

Mr. Speaker, I would like to have a brief colloquy with the gentleman from Wisconsin (Mr. KASTENMEIER) on a question which the gentleman and I have discussed previously.

Mr. Speaker, an issue of concern to many parties has been the question of cable carriage of Teletext materials. Can we clarify for the record the Judiciary Committee's report language with regard to this issue?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman from Colorado yield?

Mr. WIRTH. Yes; I am happy to yield. It is the gentleman's time, in fact.

Mr. KASTENMEIER. Mr. Speaker, on this question, I am pleased to make reference to a letter of September 16, 1982, to the gentleman from my colleague, the gentleman from Illinois (Mr. RAILSBACK) and myself. We said in this letter that we indicate our recognition that this is a communication's policy question properly within the jurisdiction of the Energy and Commerce Committee. We expressed our intention to avoid making any judgments with respect to the communications issues associated with the carriage by cable systems of Teletext material transmitted as part of the vertical blanking interval by broadcasters, and defer entirely to the Committee on Energy and Commerce on this issue.

Mr. Speaker, I ask unanimous consent to include this letter at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The letter follows:

COMMITTEE ON THE JUDICIARY,
Washington, D.C., September 16, 1982.

Hon. TIMOTHY E. WIRTH,
Chairman, Subcommittee on Telecommunications, Consumer Protection, and Finance, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing with regard to H.R. 5949, a bill which amends both the copyright and communications statutes, jointly referred to the Committees on the Judiciary and Energy and Commerce.

First, we applaud the efforts of your subcommittee to resolve the outstanding issues associated with this legislation, so central to the well being of the cable television, broadcasting and motion picture industries. We congratulate you on your success and wish to endorse the legislative compromise you have fashioned.

On two issues we believe that specific comments are in order. First with regard to a proposal to encourage cable systems to correct any errors contained in statements of account filed with the Copyright Office, we endorse the following amendment to H.R. 5949:

On page 4 line 24, strike out "." and insert in lieu thereof the following: ", unless prior to the commencement of any infringement action brought against it, the cable system, through corrective filings, has complied with the requirements of recording notices and depositing statements of account and royalty fees.".

As representatives of the committee with jurisdiction over our copyright laws we fully endorse this amendment and encourage you to include it in your reported version of H.R. 5949.

With regard to the communications issues associated with the carriage by cable systems of teletext material transmitted as part of the vertical blanking interval by broadcasters, we recognize that this is a matter of communications policy and, on this issue, defer entirely to your Committee's jurisdiction, interpretations and actions.

We look forward to joining you in bringing this bill to the full House and would be pleased to engage in a colloquy for the record on these and other matters of importance.

Sincerely,

ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties and the Administration of Justice.

TOM RAILSBACK,
Ranking Minority Member, Subcommittee on Courts, Civil Liberties and the Administration of Justice.

Mr. RAILSBACK. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. BUTLER).

□ 1530

Mr. BUTLER. Mr. Speaker, I rise in opposition to H.R. 5949, and urge the Members not to vote in favor of its passage.

Almost a year has passed since the FCC deregulation of cable TV has gone into effect. The Judiciary Committee is not familiar with anything devastating happening out there in the real world as the result of the FCC deregulation. There is nothing to justify legislating in this area at this time. The cable TV industry testified before the subcommittee that things were just fine under present law. If something is not broken, why undertake to fix it?

H.R. 5949 represents an agreement among the three principal parties of interest: The cable TV industry, the National Association of Broadcasters, and the motion picture industry as represented by the Motion Picture Association of America. Their interest is primarily financial. H.R. 5949 means a lot of money to each of these industries, they all got something out of it but who was representing the public interest during these negotiations?

The fact is that no one represented the public's interest. The subcommittee hearings and the debate that has followed have never focused on the public's interest but rather the debate has focused on the dividing of the spoils among various competitors. The public's interest should be our first and primary concern here but it was not.

In this "let's make a deal" atmosphere, there appears to have been no consumer representation. The public surely will not benefit from a bill that gives each portion of the communications industry a piece of that industry's pie. The truly unfortunate factor in H.R. 5949, however, is that the discredited Copyright Royalty Tribunal (CRT) is the agency responsible for enforcing much of this new law.

Copyright has its basis in the U.S. Constitution (article I, section 8, clause 8) which empowers Congress "to promote the progress of science and useful arts, by securing for limited times to authors and investors the exclusive right to their respective writings and discoveries." In my opinion, H.R. 5949 does very little, if anything, to promote the useful arts. It merely promotes further the economic positions of these already wealthy industries. The service and product which the public now receives and for which it pays a high price is at best questionably useful. And this legislation does nothing to change that.

I recommend that the House reject H.R. 5949.

Mr. RAILSBACK. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I must rise in opposition to the revisions of the 1976 Copyright Act contained in H.R. 5949. While the complex system of Federal legislation and regulation may have served a useful purpose in nurturing the cable industry in its infancy, the infant has grown to a multibillion-dollar industry that includes corporate giants like Westinghouse Teleprompter, Time-Life, American Express, and Times-Mirror. The best solution is to adopt a free market approach after a period of 3 years as advocated by my colleague from Michigan (Mr. SAWYER).

Instead of moving toward deregulation, H.R. 5949 would move us in the other direction. The special interests affected by the bill have sought to enshrine in the legislation a portion of FCC policy that existed in 1976 but has since been repealed as unnecessary and counterproductive, that is, the syndicated exclusivity rule. The FCC "must carry" rules are currently being considered for repeal by the FCC for the same reason and yet they are also protected by H.R. 5949. While the system of copyright royalty fee collection and distribution under the Copyright Royalty Tribunal has been a prolific source of attorneys fees, it has done little to facilitate the renumeration of copyright holders. Yet it is perpetuated by this legislation.

Current and former regulators alike, have expressed their skepticism concerning the feasibility of reforming what is essentially an unworkable system. Clarence Janes, Chairman, Copyright Royalty Tribunal under the Carter administration has indicated that:

> In my opinion, the Tribunal is not required or needed and is clearly unnecessary to determine reasonable terms and rates of royalty payments . . . My personal view is that Congress should eliminate the compulsory license so that the marketplace can set the true value of secondary transmission.

David Ladd, Register of Copyrights and Assistant Librarian of Congress for Copyright Services has stated:

> Of all program delivery services only cable stands outside of the marketplace for a portion of its programming. Competition is consequently skewed in favor of cable to the detriment of the other distribution services and the public. In short the basic premises of the 1976 cable regulation construct have vanished.

Mark Fowler, Commissioner of the Federal Communications Commission stated:

> I believe that the proposed cable copyright compromise is not a marketpalce solution . . . I am inclined to favor the imposition of full copyright liability on cable television systems.

In addition, the National Telecommunications and Information Administration recently completed a 141-page study endorsing the elimination of the compulsory license. The report details the methods of transition available to the cable industry entering the free market. The study concludes that cable licensing of copyrighted material in the free market "would be a less complex and more manageable task than music licensing, which has operated successfully for years."

The free market provides the only clear-cut permanent solution. We cannot keep changing the copyright law every time technology advances or the FCC alters its policy. The commerical interests that are party to this compromise should be encouraged to move their bargaining from Capitol Hill to the marketplace.

Mr. KASTENMEIER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. I thank the gentleman for yielding this time to me.

Mr. Speaker, I know how much work has gone into this legislation. To both my colleague from Colorado and my colleague from Wisconsin, I just want to make it very clear that I have no problem with the legislation, but it was called to my attention by a group of Hispanic broadcasters, Spanish International Network, over the last week that this bill, the fact that it must rely on Nielsen ratings, a minimum of 1 percent, would exclude many Hispanic TV stations throughout the country because heretofore they have never been part of the Nielsen rating process.

Some of the cities that would be directly affected would be the city of New York, obviously, the city of Los Angeles, the city of Miami, the city of San Antonio, the city of Fresno, Calif., San Francisco, Calif., and Phoenix, Ariz.

From that I gather, it was told that what they would try to do was, when this bill gets into conference, to make the appropriate amendments to insure that Hispanic stations would not be jeopardized.

I would support the legislation as it stands now if I could get some assurances from the sponsors of this bill that that in fact would be a reality when the House and the Senate joined together to put out the final bill that we will vote on as a conference report.

H.R. 5949, the Cable Copyright and Signal Carriage Act of 1982, will deprive significant numbers of our 16,400,000 Spanish-speaking Americans of broadcast service especially designed to meet their television programing needs.

Currently, the Federal Communications Commission requires cable television systems to carry all "local" television signals, generally those within a specified 35-mile zone and any others which are "significantly viewed" in the county in which the cable system is located. A primary objective of these rules is to insure that the entire local community has available to it the television programing of those stations licensed to serve the unique needs of that local community.

As a consequence of these rules, the signals of this country's seven full-time Spanish language television stations, WXTV Channel 41, Secaucus, N.J., KMEX-TV Channel 34, Hollywood, Calif.; WLTV Channel 23, Miami, Fla.; KWEX-TV Channel 41, San Antonio, Tex.; KFTV Channel 21, Fresno, Calif.; KDTV Channel 14, San Francisco, Calif.; and KTVW-TV Channel 33, Phoenix, Ariz., are now being retransmitted by some 322 cable systems thereby increasing the diverisity of the programing available to all the members of these communities and fulfilling the unique needs of the Hispanic residents.

H.R. 5949 signals the end of this carriage. While it is characterized as requiring cable television systems to carry the signals of television stations "substantially" in accordance with existing FCC rules, passage of this bill will foreclose access by these television stations to their local cable systems and our Hispanic citizens—indeed, all the citizens of those communities—will be rendered choiceless, having the option only to subscribe to the monocultural programing fare which, surprisingly, continues to be offered up to our multicultural society.

The problem is that for H.R. 5949 would basically do away with the mileage zone concept altogether and require carriage of a local signal only when it receives a 1-percent share of the viewing hours of noncable television households in the county of the cable system or a 2-percent share of viewing hours in all television households in such county.

While this change might appear relatively harmless at first blush—one would probably think that any truly local station would receive a 1-percent share—the matter is not so simple or evenhanded. A longstanding problem exists relative to the measurement standard being used. For more than 15 years, the Spanish International Network, the only free over-the-air broadcast service designed solely to serve the programing needs of Hispanic Americans, has been engaged in a constant battle with the Nielsen and Arbitron rating services to persuade them to change their procedures so as to accurately measure Hispanic viewing patterns. Specifically, SIN has long believed and has documented that diary-based methodology used by these rating services is not effective in the Spanish market.

Consequently, SIN has for the past 18 years commissioned audience research using inhome personal interviews. The following article by Strategy Research Corp. Vice President Peter Roslow presents the matter in detail.

A brief chronology will illustrate this ongoing problem:

In March 1966, Arbitron measured the audience of KWEX-TV, the San Antonio Spanish station, in two separate studies, conducted simultaneously. One study, ordered by SIN, was a telephone survey, which reported that the station reached an average of 23,400 households in prime time, Monday-Friday. This was 10 times the audience reported by Arbitron's regular syndicate study, which used the diary methodology.

In 1967, the Broadcast Rating Council, the researcher's own "watchdog" organization, criticized the diary sampling of telephone homes for "distorted estimates" of Spanish viewers.

In February 1975, Arbitron measured New York Spanish audiences in two separate studies. One study, commissioned by SIN, utilized telephone surveys, in conjunction with diaries, and said that WXTV, the SIN New York affiliate, reached an average of 72,000 homes in prime time. This was roughly triple the audience reported by Arbitron's simultaneous syndicated study, using diaries.

In 1978, the American Association of Advertising Agencies, the largest such agency organization, decried the "undermeasurement" of Spanish viewing. Even Nielsen's Media Research President James Lyons, went on record advocating an all-industry effort to seek a better methodology for measuring Spanish viewers. And in January 1981, Arbitron's Dr. Joseph Philpor discussed the need for "better representation" of ethnic households.

Despite this evidence, Arbitron and Nielsen continue to publish data which drastically undermeasures Hispanic audiences. In October 1981, both Arbitron and Nielsen gave SIN's New York affiliate, WXTV, ratings and shares of zero during prime time, Monday-Friday. Nielsen estimated that the station reached the insignificant audience of 25,000 homes and Arbitron estimated WXTV reached but 27,000 homes. Yet the latest SRC study, conducted in March-April 1981, found WXTV had a rating of 2.6, equal to 166,000 homes reached, and a share of 4.

The call letters of SIN's San Francisco affiliate, KDTV, are not even printed among the stations listed in the Nielsen and Arbitron rating reports indicating, I assume, that the audience is thought to be so small as to be of no consequence whatever. Yet the SRC study for March-April 1981, credited KDTV with a rating of 3.5, equal to 68,000 homes, and a share of 6.8.

As constituted H.R. 5949 enjoys tremendous support. The National Association of Broadcasters, the National Cable Television Association, the Motion Picture Association of America, the National Association of Public Television Stations, the Community Antenna Television Association, and the National Religious Broadcasters have characterized themselves as the "most affected" by this legislation and this bill represents a compromise among these organizations which addresses each of their key interests and principal objectives.

The religious broadcasters and the public television stations have no problem with the percentage test incorporated in this bill because they have been specifically exempted from its application and, under certain conditions, both religious and public television stations are required to be carried by local cable systems. Television broadcasters are satisfied that the ratings services accurately measure their audiences and therefore happily consent to the percentage test. The bill guarantees cable systems that the number of television stations they "must carry" will be limited and frees the system to import unlimited distant signals and "pay" services.

Not one of these industries or organizations, however, represents the Hispanic audience or has evinced concern about the problems which this bill, as constituted, will impose on the Hispanic audience. The efforts of the Spanish International Network to tend to the concerns of this sector of the American public have been greeted with a gross lack of enthusiasm, if acknowledged at all. This indifference must cease. Certainly, we should not pass into law a bill which will effectively serve to decrease service to any sector of the American public. Unless, Spanish language television stations are exempted from the percentage test imposed on them by this bill, the measure should be defeated.

Mr. WIRTH. Mr. Speaker, will the gentleman yield to me?

Mr. GARCIA. I would be delighted to yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yield.

Mr. Speaker, the gentleman is concerned particularly with what rating service might be used, and the impact that that might have on the Spanish-speaking audience; is that correct?

Mr. GARCIA. Let me rephrase my concern, if I may.

What I am concerned about, as it was told to me—not being an expert, as my colleagues are—is that under the present system Nielsen ratings do not include the Spanish International Network. So if that is the case, they would not be a part of this legislation and would be excluded and can be hurt.

Mr. WIRTH. Mr. Speaker, if the gentleman will yield further to me, the bill at one point in the early draft did make specific reference to a rating service. I believe it was Arbitron.

The concerns that the gentleman from New York expressed were raised by some who asked, "What happens if that rating service does not include a particular group in a population?"

So we dropped the reference in the legislation itself to any specific rating service.

The gentleman is quite correct in raising the issue, and we have dropped any specific reference to a rating service.

In establishing the rules under the legislation any bona fide independent,

professional rating service that supplies the necessary information, can be used. Any such service can be used for establishing the carriage rules under the legislation.

Mr. RAILSBACK. Mr. Speaker, I yield 5 minutes to myself.

Mr. Speaker, I rise in very strong support of H.R. 5949.

I want to make the point that it is, as Members can imagine, extremely difficult to get the program suppliers, those that actually make, create, and sell the programing, and the broadcasters that buy the programs from the program suppliers, and then the cable operators who are in the business of picking up the distant signals and retransmitting them to their viewers without having to pay anything except a royalty, to negotiate an agreement acceptable to all. They have all agreed.

I want to make it very clear that this bill is strongly backed by the radio broadcasters, by the program suppliers or the creators, as well as by the cable systems. It passed the House Judiciary Committee by a voice vote. I am told that it passed the House Commerce Committee, to which it was sequentially referred, also by a voice vote.

What has happened, and the reason for the legislation—and I sincerely hope the Members understand this—if we do not do anything, then by reason of an action by the FCC we will have the cable operators benefited by a compulsory license, but we will have the radio broadcasters without any control over their property, even though they may own that property, and we have the program suppliers that created the property, without any recourse except for the payment of a royalty.

What the FCC did was done in opposition to many Members of this body, including the chairman of the subcommittee, Mr. KASTENMEIER, myself, and Mr. DINGELL, and I believe many others as well who asked the FCC not to deregulate without giving those of us that have responsibility over the copyright issue the right to take a look at what the consequences would be. I was very surprised that the parties under the prodding of the chairman of the subcommittee, Mr. KASTENMEIER—and I give him a great deal of the credit for doing this—he was able to get the parties together, and the parties were able to work out what I think was a very fair agreement.

Now, what if we go in the opposite direction, and this was attempted in committee, where there was an amendment offered that would have returned it to the free market? We would have abolished the compulsory license. All right, if that was permitted to happen, and some people wanted that to happen including the administration, then what we would have is, we would have the cable systems that right now have available to them a compulsory license, we would have something over 4,000 cable systems that would then have to negotiate with all of the program suppliers. I sincerely believe we would have chaos, so I strongly—strongly urge my colleagues to back this bill which was reported out by both the Judiciary Committee and the Commerce Committee, by voice vote. It has bipartisan support, and my feeling is that what we are doing is maybe most important of all to the consumer.

Frankly, the talk about it not being fair to the consumer, in my opinion, begs the question because if we adopt the amendment offered in committee by the gentleman from Michigan, then I think what we would have or could have is what we had in the case of retransmission consents. We could have the program suppliers refusing to supply the programs to the cable systems, and this would impact very seriously on the viewing public.

Why should this legislation be enacted?

There presently exists within these industries an imbalance which resulted from the FCC deregulation of the cable industry in the summer of 1980. That action stripped programers of the only right of syndicated exclusivity which the FCC abolished. This coupled with the abolition of the limitation on the number of distant signals a cable operator can import gives that cable operator the opportunity to select any program he chooses from wherever he likes and without limit, it also has a direct effect on the contracts programers have with broadcasters. Without some adjustment in the present situation, cable is able to deliver the same programing as the local broadcaster at a fraction of the cost.

Why not the status quo? If Congress fails to act this year nothing is likely in the way of legislation for a couple of years, if ever. If that is the case, I beleive we will force the program creators to sell their product to the market assuring the most protection and control, and paying the most money and that market is likely to be pay TV. Free TV as we know it today then may well become a thing of the past.

Why not a return to the so-called free market—the Hal Sawyer approach? Free market means the abolition of the use of compulsory licensing. The cable industry looks at compulsory license as their lifeblood. It is a system that works and it is a system they can live with. They are prepared to fight such an abolition with all of their considerable power.

In addition, the cable operator will have difficulty negotiating with every copyright owner whose work is retransmitted by a cable system. The FCC tried an experiment in 1968 whereby cable operators were required to have retransmission consent prior to the retransmitting of any broadcast signal. Except for one instance, the cable operators were unable to acquire such consent and the FCC abandoned the experiment. It would be very difficult for over 4,000 separate cable systems to negotiate with thousands of copyright owners when it is the television station which selects the programing, not the individual cable operators.

There is a need for this legislation now and if we fail to adopt it for whatever reasons, the loser is going to be the copyright owner and eventually the loser is going to be the consumer because the good programing is going to be difficult to come by.

I urge you to vote in favor of this legislation.

I ask unanimous consent that Congressman JIM COLLINS statement be printed in the RECORD following mine.

Although I support the prompt passage of H.R. 5949, I remain quite troubled by the major deficiency in the bill—the failure to treat in any meaningful fashion the concerns of professional sports. I think the record is clear that cable's unconsented appropriation of sports signals causes significant damage to professional sports teams. I have felt throughout the long consideration of the cable/copyright legislation in this Congress that it was important that this bill provide for a major reconciliation of all involved parties, both owners and users. However, notwithstanding what I believe was a powerful and persuasive record developed by the professional sports teams, sports was the one group of copyright owners that was slighted in the remedial portions of the bill.

What this bill does is to continue the FCC protection under its rules, 47 CFR 76.67, which provides an administrative rule that bars cable's unconsented importation into a team's home territory of that team's home game. Nothing that we have done in any way disturbs the continued vitality of the regulation, and the FCC's enforcement of it. Indeed, in section 401 of H.R. 5949, we have made, in effect, the FCC rule permanent and in addition defined it a matter of copyright infringement for a cable system to have violated the FCC rule. Thus, the sports interests have two available routes to secure this "home game" protection—through the FCC procedures or by a copyright infringement action.

Nevertheless, I have felt that this statutory response to the severe problems of professional sports simply was inadequate. Therefore, I offered an amendment before the Judiciary Committee, which failed narrowly, that would have afforded sports with reasonable protection against unconsented cable importation of distant, competing games. This amendment would have recognized the simple equity of a copyright owner having some reasonable control over the distribution of his product.

Although I am profoundly disturbed with the failure to include meaningful protection for professional sports in

this bill, I have determined not to oppose consideration of the bill on the Suspension Calendar which will not permit any amendments.

The bill will now go to the Senate. Particularly with the scheduling of the postelection session, there may no be sufficient time for all affected parties to sit down and resolve their differences before the end of the session, so that we may truly have a comprehensive solution to this nagging problem. I hope that the parties will do so, and I strongly encourage it.

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. RAILSBACK. I will be happy to yield.

Mr. KASTENMEIER. Mr. Speaker, on that question consumer groups were free to testify before the committee, and elected not to do so. That is, they found nothing objectional in this bill. Furthermore, it is the case that we tried in this bill to protect viewer interests in what is presently available. If we changed the system in terms of distant signals, we will cut down options that the viewers will have, so this bill is in fact an attempt to preserve viewer opportunities in terms of current transmissions.

Mr. RAILSBACK. I thank the gentleman.

Mr. KASTENMEIER. Mr. Speaker, I yield such time as he may require to the gentleman from Colorado (Mr. WIRTH), chairman of the Subcommittee on Communications.

Mr. EVANS of Delaware. Mr. Speaker, will the gentleman yield?

Mr. WIRTH. I will be happy to yield.

Mr. EVANS of Delaware. Mr. Speaker, I thank the gentleman for yielding. There is something in this bill on page 26, at the bottom, that got my attention. It says:

> For purposes of this clause only, the noncommercial educational stations licensed to Newark, New Jersey, and Wilmington, Delaware, shall be considered to be licensed to New York, New York, and Philadelphia, Pennsylvania, respectively.

Let me point out to the gentleman from Colorado, as he well knows, we have no commercial television in Delaware. We have a virtual monopoly on the news by one newspaper, the only newspaper that has statewide circulation. Is the mention of the Wilmington, Del., station in any way designed to transfer the license from Wilmington, or will it diminish in any manner public television coverage in Delaware, or is the gentleman's purpose merely and effort to permit coverage of that station on the cable TV system in Pennsylvania?

Mr. WIRTH. Very much the latter. There is no purpose nor intent, nor was there ever any discussion, to transfer the station from Delaware to Pennsylvania. The reference in the statute to the Wilmington, Del., noncommercial educational station, is to assure carriage of that station on close-by Pennsylvania cable systems.

There are a lot of cable systems across the State line carrying the Wilmington signal. This provision in fact is to the benefit of the Wilmington station.

Mr. EVANS of Delaware. Will the gentleman yield further?

Mr. WIRTH. I will be happy to.

Mr. EVANS of Delaware. The gentleman recognizes the unique situation we have in the State of Delaware, and I appreciate the fact that he does recognize it; and this in no way would diminish the coverage that we have, or transfer channel 12 from Wilmington, Del., to another place.

Mr. WIRTH. The gentleman from Colorado recognizes the uniqueness of the Delaware situation. I want to also, for the record, point out the efforts on behalf of the citizens of Delaware by the gentleman from Delaware arguing strongly that there should be a commercial station for Delaware.

Mr. EVANS of Delaware. As the first State, we ought not be the only State in America that does not have commercial television?

Mr. WIRTH. Mr. Speaker, there have been some questions raised about the Collins amendment and certain concerns of some of the religious broadcasters. I should point out that Mr. COLLINS is one of the chief supporters of the legislation, as are the National Religious Broadcasters. I wanted to make sure this is clear because some Members have been asking me in the limited time of debate what Mr. COLLINS' position was and what the position of the National Religious Broadcasters is, and they are both very much in support of the legislation.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield for the purpose of my asking one or two questions?

Mr. WIRTH. I yield.

Mr. GONZALEZ. Mr. Speaker, in pursuance of the issue Mr. GARCIA of New York initially raised, because I think I am the cause of that, the lawyers for the network that are headquartered in my district live in New York.

I raised some questions earlier when I became aware of this legislation, and they have to do with this very special area of Spanish-language broadcasting, which I think the gentleman ought to know about, which is very extensive. I think Mr. GARCIA touched on a peripheral question, and perhaps may not be addressing himself to the central issue.

On page 9 of the report, where we have subsection 331(b)(2)A, it provides

> Any cable television system having thirty-six or fewer activated channels may select not to carry any television broadcasting station whose signal receives neither a 1 per centum share of viewing hours in noncable television households in the county in which the cable system is located nor a 2 per centum share of viewing hours in all television households in that county * * *.

I would couple that with the language that I believe the gentleman from Delaware just had reference to.

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And that is discussed on page 26 of the report, which states as follows:

> The "local service area of a primary transmitter," in the case of a full service television broadcast station, comprises the area in which such station is entitled to insist upon its signal being retransmitted by a cable system pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, or in the case of a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico . . .

Mr. Speaker, what I would like to ask the gentleman is this: What is the thrust of this bill with respect to an adverse impact on this network that specializes in the transmission of programing in the Spanish language, but, particularly, programs originating in, say, Mexico?

Mr. WIRTH. Mr. Speaker, the very simple and short answer to the gentleman's concerns is that under the legislation we are freeing up a great deal of cable capacity. Every cable system does not have to carry every broadcast signal. Cable systems are freed up consequently for development and carriage of other programing such as Spanish language programing, by expanding the ability to carry specialized cable services.

Mr. GONZALEZ. In other words, rather than restricting information, it is expanded?

Mr. WIRTH. In fact, this provides expanded opportunities for Spanish language programing over cable systems.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman from Colorado (Mr. WIRTH) very much.

Mr. KASTENMEIER. Mr. Speaker, may I inquire as to how much time remains to the gentleman from Wisconsin?

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Wisconsin has 1 minute remaining, and the gentleman from Illinois (Mr. RAILSBACK) has 2 minutes remaining.

Mr. RAILSBACK. Mr. Speaker, I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I yield myself my remaining 1 minute.

In conclusion, Mr. Speaker, I would say that I think the question raised by the gentleman from Texas (Mr. GONZALEZ) has been answered. The Spanish International Network is a very unique situation. We think actually, under franchising and because of the fact that cable systems will have, if anything, more channel capacity under this bill, that they will fare better than they do under the present situation.

I might also say in conclusion that we have a unique consensus, perhaps not among the bureaucrats but certainly among the people affected, the various industries, the broadcasters, the program producers, the cable stations, and public television as well, and having brought this consensus togeth-

er constructively, we have, I think, an obligation to give approval to this bill.

Mr. Speaker, I want to compliment the Committee on Energy and Commerce, as well as the Committee on the Judiciary, for its action, and I urge passage of the bill.

● Mr. COLLINS of Texas. Mr. Speaker, as the ranking Republican on the Subcommittee on Telecommunications, Consumer Protection, and Finance, I support H.R. 5949 and urge my colleagues to support the bill as well.

As approved by the Judiciary Committee several months ago, H.R. 5949 required cable television systems to carry local commercial television stations which obtain a 1-percent over-the-air viewership or a 2-percent viewership in both cable and noncable households in the county where the cable system is located. Because most television stations choose voluntarily to broadcast substantial amounts of entertainment programing—which appeals to broad audiences—these minimum viewing requirements were sufficiently low to insure that most stations are carried by cable systems throughout their service areas.

However, some stations choose voluntarily to broadcast substantial amounts of nonentertainment programing even though that programing does not appeal to large audiences. The minimum viewership requirements that were in the bill as reported by the Judiciary Committee would have penalized these stations by permitting cable systems to refrain from carrying their signals.

Nonentertainment programing—that is, programing which informs, educates, and inspires, rather than merely entertains—has long been the hallmark of a broadcaster's public service obligation. Congress and the FCC have long encouraged broadcasters to air nonentertainment programing because such programing furthers important social policies.

It did not seem fair to me for Congress to enact legislation that reversed the long tradition of recognizing the importance of nonentertainment programing by enacting legislation which had the effect of discriminating against those stations which help promote important social policies. Accordingly, I offered an amendment in the Telecommunications Subcommittee which requires many cable systems to carry local television stations that broadcast substantial amounts of nonentertainment programing regardless of the viewing levels obtained by those stations. My amendment was approved unanimously and is now part of the bill.

H.R. 5949, as amended by the Collins amendment, recognizes that the value of nonentertainment programing—and its contribution to diversity—is not reflected by mere audience ratings alone. My amendment preserves the tradition of Congress and the FCC of refusing to discriminate against those stations which choose to further their public service obligations by broadcasting substantial amounts of nonentertainment programing.

I would like to make two additional points about those provisions which preserve the important public interest values described above. First, the carriage rights provided to nonentertainment commercial stations by sections 341(b) and 341(d)(1)(D) are cumulative; that is, cable systems must carry all nonentertainment stations that qualify under the provisions of section 341(b) and must also carry a single additional nonentertainment commercial station that qualifies under the provisions of section 341(d)(1)(D).

Second, the carriage requirement in section 341(d)(1)(D) is intended to be self-executing; that is, cable systems are to carry a television station which qualifies for carriage under that provision, even in the absence of an order from the Commission requiring such carriage.●

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, H.R. 5949, as amended.

The question was taken.

Mr. SAWYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON S. 2586, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1983, ON ANY DATE AFTER FILING OF CONFERENCE REPORT

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent that it be in order on any date after the conference report is filed to take up the conference report on the Senate bill (S. 2586) to authorize construction at military installations for fiscal year 1983, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

COMPREHENSIVE DRUG PENALTY ACT OF 1982

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7140) to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to improve forfeiture provisions and strengthen penalties for controlled substances offenses, and for other purposes.

The Clerk read as follows:

H.R. 7140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Drug Penalty Act of 1982".

SEC. 2. (a) Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new paragraph:

"(7) All land and buildings used, or intended for use, for holding or storage of property described in paragraph (1) or (2), if the offense involved is a felony.".

(b) Section 511(d) of the Controlled Substances Act (21 U.S.C. 881(d)) is amended—

(1) by inserting "(1)" before "The provisions of law"; and

(2) by adding at the end the following new paragraph:

"(2) In addition to the venue provided for in section 1395 of title 28, United States Code, or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.".

(c) The sentence beginning "The Attorney General shall" in section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by striking out "the general fund of the United States Treasury" and inserting in lieu thereof "accordance with subsection (h) of this section".

SEC. 3. (a) Section 511 of the Controlled Substances Act (21 U.S.C. 881) is amended by adding at the end the following new subsection:

"(h)(1) There is established in the United States Treasury a revolving fund to be known as the Drug Enforcement Fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriation Acts for the purpose of enforcing this Act and the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

"(2) Any reward paid from the fund for information resulting in a conviction or forfeiture shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay a reward of $10,000 or more shall not be delegated to any person other than the Director of the Federal Bureau of Investigation or the Administrator of the Drug Enforcement Administration. Any reward for such information shall not exceed $250,000, except that a reward paid for information resulting in a forfeiture, shall not exceed the lesser of $250,000 or one quarter of the amount realized by the United States from the property forfeited.

"(3) There shall be deposited in the fund—

"(A) amounts remaining after payment of expenses of proceedings for forfeiture and sale under subsection (e) of this section;

"(B) any amount realized by the United States from forfeiture of gross profits or other proceeds under section 1963(a)(3) of title 18, United States Code, in any case in which the racketeering activity consists of a narcotic or other dangerous drug offense referred to in section 1961(1)(A) or section 1961(1)(D) of such title; and

"(C) any amount realized by the United States from forfeiture of property under section 415 of this Act.

"(4) Amounts in the fund which are not currently needed for the purpose of this sec-

tion shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(5) The Attorney General and the Secretary of the Treasury shall jointly transmit to the Congress, not later than four months after the end of each fiscal year a detailed report on the amounts deposited in the fund and a description of expenditures made under this section.

"(6) There are authorized to be appropriated from the fund for fiscal year 1984 not more than $10,000,000 or one quarter of the total amount deposited in the fund during that fiscal year, whichever is lesser, and for fiscal year 1985 not more than $10,000,000 or one quarter of the total amount deposited in the fund during that fiscal year, whichever is lesser. At the end of the last fiscal year for which appropriations to the fund are authorized by this Act, the fund shall cease to exist and any amount then remaining in the fund shall be deposited in the general fund.".

SEC. 4. (a) A reference in this section to a section or other provision is a reference to a section or other provision of the Controlled Substances Act (21 U.S.C. 801 et seq.).

(b) Section 401(b)(1)(A) (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(c) Section 401(b)(1)(B) (21 U.S.C. 841(b)(1)(B)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$15,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$30,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(d) Section 401(b)(2) (21 U.S.C. 841(b)(2)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$10,000, or both" and inserting in lieu thereof "$100,000, or both if such person is an individual, or to a fine of not more than $250,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$20,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $500,000 if such person is other than an individual".

(e) Section 401(b)(3) (21 U.S.C. 841(b)(3)) is amended—

(1) in the sentence beginning "In the case of", by striking out "$5,000, or both" and inserting in lieu thereof "$10,000, or both if such person is an individual, or to a fine of not more than $25,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$10,000, or both" and inserting in lieu thereof "$25,000, or both if such person is an individual, or to a fine of not more than $50,000 if such person is other than an individual".

(f) Section 401(b)(5) (21 U.S.C. 841(b)(5)) is amended—

(1) in the sentence beginning "Notwithstanding paragraph (1)(B)", by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $2,000,000 if such person is other than an individual".

(g) Section 401(b)(6) (21 U.S.C. 841(b)(6)) is amended—

(1) in the sentence beginning "In the case of", by striking out "and in addition, may be fined not more than $125,000" and inserting in lieu thereof "a fine of not more than $250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) in the sentence beginning "If any person", by striking out "and in addition, may be fined not more than $250,000" and inserting in lieu thereof "a fine of not more than $500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(h) Section 401(d) (21 U.S.C. 841(d)) is amended by striking out "$15,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(i) Section 402(c)(2)(A) (21 U.S.C. 842(c)(2)(A)) is amended by striking out "$25,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(j) Section 402(c)(2)(B) (21 U.S.C. 842(c)(2)(B)) is amended by striking out "$50,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual".

(k) Section 403(c) (21 U.S.C. 843(c)) is amended—

(1) by striking out "$30,000, or both" and inserting in lieu thereof "$250,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) by striking out "$60,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or to a fine of not more than $1,000,000 if such person is other than an individual."

(l) Section 408(a)(1) (21 U.S.C. 848(a)(1)) is amended—

(1) by striking out "$100,000" and inserting in lieu thereof "$500,000 if such person is an individual, or a fine of not more than $1,000,000 if such person is other than an individual"; and

(2) by striking out "$200,000" and inserting in lieu thereof "$1,000,000 if such person is an individual, or a fine of not more than $2,000,000 if such person is other than an individual".

(m) Part D is amended by adding at the end the following new sections:

"ALTERNATIVE FINE

"SEC. 413. In lieu of a fine authorized by this part, a defendant who derives profits or other proceeds directly from the offense may be fined not more than twice the gross profits or other proceeds so derived, if such amount is greater than the fine so authorized.

"GENERAL PROVISIONS RELATING TO FINES

"SEC. 414. (a) In determining whether to impose a fine under this part, and the amount, time for payment, and method of payment of a fine, the court shall—

"(1) consider the defendant's income (regardless of source), earning capacity, and financial resources, including the nature of the burden that the fine will impose on the defendant and on any person who is legally or financially dependent upon the defendant;

"(2) consider the proof received at trial or as a result of a plea of guilty or nolo contendere concerning any profits or other proceeds derived by the defendant;

"(3) consider any other pertinent equitable consideration; and

"(4) give primary consideration to the need to deprive the defendant of illegally obtained profits or other proceeds from the offense.

"(b) As a condition of a fine, the court may require that payment be made in specified installments or within a specified period of time, but such period shall not be greater than the maximum applicable term of probation or imprisonment, whichever is greater. If not otherwise required by such a condition, payment of a fine shall be due immediately.

"(c) If a fine under this part is imposed on an organization, it is the duty of each individual authorized to make disbursement of the assets of the organization to pay the fine from assets of the organization.

"(d)(1) A defendant who has been sentenced to pay a fine, and who has paid part but not all of such fine, may petition the court for extension of the time for payment, modification of the method of payment, or remission of all or part of the unpaid portion.

"(2) The court may enter an appropriate order under this subsection, if it finds that—

"(A) the circumstances that warranted imposition of the fine in the amount imposed, or payment by the time or method specified, no longer exist; or

"(B) it is otherwise unjust to require payment of the fine in the amount imposed or by the time or method specified.

"CRIMINAL FORFEITURE

"SEC. 415. (a) Any person who is convicted of a violation of this title or title III that is punishable by imprisonment for more than one year shall forfeit to the United States—

"(1) any gross profits or other proceeds derived as a result of such violation;

"(2) any property used, or intended to be used, to commit such violation; and

"(3) in the case of a person convicted under section 408 of this title, in addition to the property described in paragraphs (1) and (2), any interest in, claim against, or right affording a source of control over, the continuing criminal enterprise.

"(b) In any action brought by the United States under this section, the district courts of the United States shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

"(c)(1) Upon filing of an indictment or information alleging that any property is subject to forfeiture under this section, the Attorney General may request an order for seizure of such property in the same manner as provided for a search warrant. The court shall enter an order for seizure upon determining that—

"(A) there is probable cause to believe that the property to be seized is subject to forfeiture; and

"(B) an order restraining transfer of the property is not sufficient to ensure availability of the property for a forfeiture proceeding under this section.

"(2) The court shall enter an order of forfeiture of any property referred to in subsection (a)(1), (2), or (3) if the trier of fact determines that the United States has established beyond a reasonable doubt that such property is subject to forfeiture under this section.

"(3) The United States shall, to the maximum extent practicable, identify all persons with an alleged interest in property that is the subject of an order under paragraph (2) and shall provide to such persons notice of the order and the relief available under paragraph (4).

"(4)(A) Not later than sixty days (or such longer period as the court may order for good cause shown) after the date of an order under paragraph (2), any person with an alleged interest in the property may petition the Attorney General for remission or mitigation of the forfeiture—

"(i) on the ground that when acquiring the interest involved, such person did not know or have reason to know of the violation of law on which the order of forfeiture is based or of any existing order restraining transfer of the property; or

"(ii) on other equitable grounds that justify remission or mitigation.

A petition under this paragraph shall set forth the nature and extent of the petitioner's interest in the property, the time and circumstances of the petitioner's acquisition of interest in the property, any additional facts and circumstances supporting remission or mitigation, and the relief sought.

"(B) In the case of a petition under subparagraph (A)(ii), not later than ninety days (or such longer period as the court may order for good cause shown) after the end of the period specified in subparagraph (A), the Attorney General shall issue a decision with respect to the petition. The property shall be disposed of pursuant to such decision, which shall not be subject to review of any kind.

"(C) In the case of a petition under subparagraph (A)(i), not later than ninety days (or such longer period as the court may order for good cause shown) after the end of the period specified in subparagraph (A), the Attorney General shall provide the relief sought or submit to the court a written recommendation for other disposition of the property. Except as provided in subparagraph (D), the court shall order disposition of the property in accordance with a recommendation made under the preceding sentence.

"(D) The court shall provide notice of the recommendation and opportunity for a hearing to any petitioner under subparagraph (A)(i). If, at such hearing, a petitioner establishes, by a preponderance of the evidence, that such petitioner's interest was acquired without actual or constructive knowledge of the violation of law on which the order of forfeiture is based, or of any order restraining transfer of the property, the court shall grant appropriate relief that does equity to that interest.

"(5)(A) Except as provided in subparagraph (B), the provisions of the customs laws relating to disposition of forfeited property shall apply to dispositions of property forfeited under this chapter, to the extent that such provisions are not inconsistent with this chapter.

"(B) The duties of the Secretary of the Treasury with respect to dispositions of forfeited property under the customs laws shall be performed under subparagraph (A) by the Attorney General, except to the extent that such duties arise from forfeitures effected under the customs laws.

"(d) The United States shall promptly dispose of all property forfeited under this section through commercial means or as otherwise permitted by law, making due provision for the rights of innocent persons, but the United States shall take such action as may be required to prevent any person convicted under this section from purchasing or otherwise acquiring property so forfeited as a result of such conviction. Upon conviction of a person under this section, the court shall authorize the Attorney General to seize forfeited property under such reasonable conditions as the court may impose. If a forfeited property right is not exercisable or transferable for value by the United States, it shall expire and shall not revert to the convicted person.

"(e) The filing of an indictment or information alleging that any property is subject to forfeiture under this section shall, upon motion of the United States for good cause shown, stay any civil forfeiture proceeding with respect to such property.

"(f)(1) In addition to any order authorized by subsection (b), the court may, before the filing of an indictment or information, enter an order restraining the transfer of property that is or may be subject to forfeiture under subsection (a) of this section.

"(2) An order shall be entered under this subsection if the court determines that—

"(A) there is substantial probability that the United States will prevail on the issue of forfeiture;

"(B) failure to enter the order will result in irreparable harm to the United States; and

"(C) the hardship on the United States if the order is not entered will be greater than the hardship on any person restrained if the order is entered.

"(3) For purposes of paragraph (2)(B), irreparable harm to the United States may be shown by proof by a preponderance of the evidence that, unless the order is entered, there is a substantial likelihood that the property will be destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture.

"(4)(A) Except as provided in subparagraph (B), an order under this subsection shall be entered only after notice to persons appearing to have an interest in the property and opportunity for a hearing.

"(B) A temporary order under this subsection may be entered upon application of the United States, without notice or opportunity for a hearing, if an information or indictment has not been filed with respect to the property and the United States demonstrates that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than ten days after the date on which it is entered, except that the effective period of the order may be extended by the court for not more than ten days for good cause shown and for a longer period with the consent of all parties affected by the order.

"(g) There may be a rebuttable presumption at trial that any property of a person convicted of a felony under this title or title III is subject to forfeiture under this section if the United States establishes by a preponderance of the evidence that—

"(1) such property was acquired by such person during the period of the violation of this title or title III or within a reasonable time after such period; and

"(2) there was no likely source for such property other than the violation of this title or title III.

"(h) The findings of the trier of fact with respect to property subject to forfeiture shall be set forth in a special verdict.".

SEC. 5. (a) Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended in the sentence beginning "In the case of" by striking out "$25,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(b) Section 1010(b)(2) of such Act (21 U.S.C. 960(b)(2)) is amended in the sentence beginning "In the case of" by striking out "$15,000, or both" and inserting in lieu thereof "$500,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual".

(c) Section 1010(b) of such Act (21 U.S.C. 960(b)) is amended by adding at the end the following new paragraph:

"(3) In the case of a violation under subsection (a) involving more than 1,000 pounds of marihuana, the person committing such violation shall be imprisoned not more than fifteen years, or fined not more than $250,000, or both if such person is an individual, or shall be fined not more than $1,000,000 if such person is other than an individual.".

(d) Section 1011(2) of such Act (21 U.S.C. 961(2)) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(e) Part A of such Act is amended by adding at the end the following new sections:

"ALTERNATIVE FINE

"SEC. 1017. In lieu of a fine authorized by this part, a defendant who derives profits or other proceeds directly from the offense may be fined not more than twice the gross profits or other proceeds so derived, if such amount is greater than the fine so authorized.

"GENERAL PROVISIONS RELATING TO FINES

"SEC. 1018. (a) In determining whether to impose a fine under this part, and the amount, time for payment, and method of payment of a fine, the court shall—

"(1) consider the defendant's income (regardless of source), earning capacity, and financial resources, including the nature of the burden that the fine will impose on the defendant and on any person who is legally or financially dependent upon the defendant;

"(2) consider the proof received at trial or as a result of a plea of guilty or nolo contendere concerning any profits or other proceeds derived by the defendant;

"(3) consider any other pertinent equitable consideration; and

"(4) give primary consideration to the need to deprive the defendant of illegally obtained profits or other proceeds from the offense.

"(b) As a condition of a fine, the court may require that payment be made in specified installments or within a specified period of time, but such period shall not be greater than the maximum applicable term of probation or imprisonment, whichever is greater. If not otherwise required by such a condition, payment of a fine shall be due immediately.

"(c) If a fine under this part is imposed on an organization, it is the duty of each individual authorized to make disbursement of the assets of the organization to pay the fine from assets of the organization.

"(d)(1) A defendant who has been sentenced to pay a fine, and who has paid part but not all of such fine, may petition the court for extension of the time for payment,

modification of the method of payment, or remission of all or part of the unpaid portion.

"(2) The court may enter an appropriate order under this subsection, if it finds that—

"(A) the circumstances that warranted imposition of the fine in the amount imposed, or payment by the time or method specified, no longer exist; or

"(B) it is otherwise unjust to require payment of the fine in the amount imposed or by the time or method specified.".

SEC. 6. Section 408 of the Controlled Substances Act (21 U.S.C. 848), as amended by section 4(l) of this Act, is further amended—

(1) in subsection (a)—

(A) by striking out "SEC. 408. (a)(1)" and inserting in lieu thereof "SEC. 408. (a)";

(B) by striking out "paragraph (2)" each place it appears and inserting in lieu thereof "section 415"; and

(C) by striking out paragraph (2); and

(2) by striking out subsection (d).

SEC. 7. This Act and the amendments made by this Act shall take effect on January 1, 1983.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New Jersey (Mr. HUGHES) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. SAWYER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one of the single most important crime problems confronting this country is the phenomenal increase in drug trafficking in recent years. We are now faced with a situtation where drug dealers have been able to amass huge fortunes as a result of their illegal activities and the sad truth is that the financial penalties for drug dealing are frequently only seen by dealers as a cost of doing business. Under current law the maximum fine for many serious drug offenses is only $25,000. Moreover, the Government's ability to obtain civil or criminal forfeiture of the profits or proceeds of drug dealing has been hampered by statutory deficiencies. This bill attempts to address these problems in a manner that will encourage the immediate and effective utilization of these new tools by law enforcement.

As such, this bill substantially increases maximum fines for drug offenders, and changes the law and procedures on civil and criminal forefeiture of property which is utilized in, and obtained as a result of major drug related crimes.

The following are the essential elements of this bill:

First, it amends the present civil forfeiture law (21 U.S.C. 881) to permit the civil forfeiture of land and buildings used, or intended to be used, for holding or storage of dangerous drugs.

Second, the bill changes certain venue authority to allow the Justice Department to bring civil forfeiture actions in the district where the defendant is found or where the criminal prosecution is brought.

Third, it sets aside up to $10 million in fiscal year 1984 and fiscal year 1985 from forfeiture dispositions into a revolving fund to be used for drug law enforcement purposes.

Fourth, the bill substantially increases the criminal fines in drug cases and establishes a new alternative fine concept under which drug offenders can be fined up to twice their gross profits or proceeds.

Fifth, the bill provides, for the first time, criminal forfeiture provisions for all felony drug cases.

Sixth, it outlines authority for courts to restrain the transfer of property which might be subject to forfeiture and to order the seizure of such property in order to insure its availability for a forfeiture proceeding. Remission and mitigation provisions are also provided in order to protect the interests of innocent property owners.

It also details procedures for allowing temporary restraining orders in ex parte hearings under extraordinary circumstances.

Seventh, H.R. 7140 also creates a permissive presumption in criminal foreiture cases that all property acquired by drug offenders during the period of the violations or shortly thereafter, is subjected to forfeiture if no other likely source for such property exists.

In this manner, H.R. 7140 attempts to address drug trafficking in a reasonable and practical fashion in order to develop effective tools for law enforcement agencies. At the same time the bill balances this strong societal interest in eradicating illegal trafficking in drugs with the constitutional rights of our citizens. I am satisfied that a proper balance has been struck in this bill, and that this legislation will well serve the public interest.

I should also like to inform you that the Department of Justice strongly supports this bill, as does every law enforcement official I have talked to over this last year that we have discussed this initiative.

I urge my colleagues to give this legislation their strong and overwhelming support.

Mr. Speaker, let me also at this time thank my colleagues, particularly my colleague, the gentleman from New York (Mr. LEO ZEFERETTI), for the work that he and his committee have done in identifying this particular area as a area of great concern for our enforcement agencies. I urge my colleagues to give this legislation their strong and overwhelming support.

Mr. Speaker, I reserve the balance of my time.

□ 1600

Mr. SAWYER. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I urge my colleagues to vote in favor of suspending the rules and passing H.R. 7140, the Comprehensive Drug Penalty Act. This is an important piece of legislation which will serve as a strong weapon for the Federal Government in fighting drug trafficking. It is strongly supported by the administration.

H.R. 7140 is based in part upon H.R. 2646, which I introduced during the early months of this Congress, after receiving favorable comments from the then-head of the DEA, Peter Bensinger. My bill essentially provided for two things:

First, a presumption that a convicted drug defendant's assets were subject to forfeiture, unless he proved otherwise; and

Second, a fund consisting of the proceeds of forfeited property, which the Attorney General could use to finance Federal law enforcement efforts against drug traffickers.

The presumption would operate like the net worth test in income tax cases, where a similar burden is placed on the taxpayer. The fund would essentially use the drug traffickers' own profits to put them in jail.

The gentleman from New Jersey and I worked with the Justice Department to expand my original suggestions into a comprehensive package to beef up the penalties for major drug offenses. Our final package, H.R. 7140, contains the following additional provisions:

First, it expands the forfeiture penalty to all major drug offenses. Under current law, it is only available where the defendant has been convicted of engaging in a continuing criminal enterprise. This is very difficult to prove and is rarely prosecuted.

Second, it permits the court to restrain property transfers under certain circumstances so that defendants will not be able to avoid penalties by transferring their property to others prior to sentencing.

Third, it provides protections for innocent third parties by setting up remission and mitigation procedures within the Justice Department, with court review.

Fourth, it would increase the fines for major drug offenses and authorize an alternative fine based on the profits made in the drug activity.

As my colleagues are aware, the entire country has been besieged by drug trafficking. This bill, along with the posse comitatus bill which was enacted into law last year, will be instrumental in providing relief for our citizens from drug traffic and all of the related crime that they breed. I believe that the Federal Government must hit drug traffickers where it hurts most—in the pocketbook. That is the premise behind this bill and I urge my colleagues to give it a favorable vote.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 7140, the Comprehensive Drug Penalty Act of 1982, that would strengthen the forfeiture provisions and that would increase the fines

and prison terms for drug traffickers convicted under the Controlled Substances Act and the Controlled Substances Import and Export Act. I commend my colleagues, the distinguished chairman of the Judiciary's Subcommittee on Crime (Mr. HUGHES) and the subcommittee's ranking minority member (Mr. SAWYER), for their leadership in bringing this bill to the floor.

As the author of H.R. 2910, permitting the Attorney General to use certain proceeds from forfeited property to purchase evidence and other information, I am pleased that H.R. 7140 would establish a revolving fund for our Drug Enforcement Administration (DEA) consisting of proceeds of forfeited drug-related property. The purpose of creating such a fund is to encourage our DEA to intensify their efforts to aggressively pursue forfeiture actions. Under my proposal, the amount of forfeited funds turned over to the DEA would supplement, not replace or reduce authorized appropriations for DEA's drug trafficking investigation and would be limited to the purchase of evidence and other information needed for the arrest and conviction of drug traffickers.

Although H.R. 7140 does not stipulate that the forfeited drug assets deposited in the drug enforcement fund would supplement DEA's budget, it would permit the Attorney General to use for fiscal year 1984—and like amount for fiscal year 1985—no more than $10 million to enforce all aspects of the Comprehensive Drug Penalty Act. H. R. 7140 also provides reward payments for information resulting in forfeited property and requires the Attorney General and the Secretary of the Treasury to jointly submit a detailed report to the Congress regarding the deposits to and expenditures from the fund.

At a time when tax dollars are scarce, I would hope that the Appropriations Committee would not reduce DEA's budget by the amount of forfeited drug assets deposited in the fund but instead would view these forfeited assets as supplements to DEA's regular budget. In short, let us make good use of forfeited drug proceeds and these untaxed criminal dollars to help underwrite drug investigations and to help convict drug traffickers. Let us use the forfeited criminal proceeds as a supplement to DEA's regular budget, thereby encouraging our drug law enforcement agents to go after the criminal assets of the drug traffickers and to attack the traffickers where it would hurt them most—right in their pocketbooks.

Mr. Speaker, H.R. 7140 is a strong, effective step in the right direction of providing increased criminal penalties and urgently needed strengthened forfeiture procedures to combat global drug trafficking operations. Accordingly, I urge my colleagues to fully support this measure.

Mr. SAWYER. I thank the gentleman, and I reserve the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, I rise in support of this legislation and congratulate the gentleman from New Jersey (Mr. HUGHES), the gentleman from New York (Mr. ZEFERETTI), the gentleman from Michigan (Mr. SAWYER), and others who have made this legislation possible. It is very much needed.

Mr. Speaker, I rise today to support H.R. 7140, the Comprehensive Drug Penalty Act of 1982. This legislation would provide much-needed reform in our laws relating to the punishment of individuals trafficking in dangerous drugs.

I have cosponsored legislation which has similar provisions providing for changes in the law to allow criminal forfeiture of property owned by drug traffickers at the time of their arrest and conviction. It is simply too easy for wealthy drug traffickers to post bail after their arrest and then to continue with their profitable drug trade. This legislation would allow the Federal Government to force forfeiture of the property essential to the drug traffickers' illegal trade or business and thus to more easily put the felony offender out of business.

In addition, this bill would substantially increase the monetary penalties for trafficking in dangerous drugs. I certainly think it is high time that criminal fines for drug trafficking were brought in line with the potential profits that are available.

I worked on the posse comitatus legislation last year and have introduced and cosponsored several bills to reform Federal bail procedures in drug trafficking cases, similar to H.R. 7140. This new legislation would be a major step toward reducing drug traffic. I commend Chairman HUGHES, Mr. SAWYER, and Mr. ZEFERETTI and the subcommittee for this fine piece of legislation, and I urge my fellow Members to adopt it.

Mr. HUGHES. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Speaker, I rise in support of H.R. 7140, the Comprehensive Drug Penalty Act of 1982.

I, too, would like to congratulate Chairman HUGHES and the ranking Member, the gentleman from Michigan (Mr. SAWYER), and the members of the committee for bringing this very important bill to the floor.

During the past Congress, as chairman of the Select Committee on Narcotics Abuse and Control, I have strongly urged and proposed improvements in Federal criminal forfeiture laws and procedures. H.R. 7140 incorporates my recommendations testified to before the Subcommittee on Crime. The annual report of the Select Committee for 1981, as part of its comprehensive recommendations to control the worldwide problem of drug abuse, put forward these recommendations to the House. H.R. 7140 contains many of the concepts embodied in the Select Committee's recommendations.

The bill makes subject to criminal forfeiture any gross profits or other proceeds derived as a result of a felony violation of the Controlled Substances Act or the Controlled Substances Import and Export Act. This provision will permit Federal prosecutors to seize and forfeit the vast profits and assets of narcotics traffickers and thus cripple these criminal organizations. The bill, yet, protects the rights of third parties in forfeitable property by establishing well-defined procedures in which aggrieved parties can set forth their legitimate claims.

Section 3 of the bill would provide a mechanism to help fund Federal drug law enforcement efforts out of the illicit proceeds of drug trafficking. The bill would establish a drug enforcement fund in the Treasury consisting of amounts realized by forfeiture efforts. Amounts in the fund up to $10 million per year could be used by the Attorney General for drug law enforcement purposes. The fund would be established for fiscal years 1984 and 1985. Annual reports are required of the amounts deposited in the fund and a description of expenditures made under this section.

Mr. Speaker, I strongly support section 3 of the bill. The lure of vast profits is at the heart of the illicit drug-trade. The creation of the drug-enforcement fund will provide an incentive for our drug enforcement officials to use the tools of forfeiture aggressively. Moreover, nothing could make much more sense than to force the traffickers themselves to share in the cost of putting them out of business, especially at a time when Federal budgetary resources are shrinking.

The bill also creates a rebuttable presumption that any property of a person convicted of a felony under the Controlled Substances Act or the Controlled Substances Import and Export Act is subject to forfeiture if the property was acquired by the defendant during the period of criminal violation and there is no other likely source for the property. I vigorously support this concept which will assist Federal prosecutors in the identification and forfeiture of drug-trafficking assets.

Last, this bill would substantially increase the maximum fines that may be levied for drug trafficking and related offenses. In lieu of a specific fine, the bill would also authorize the imposition of an alternative fine of up to twice the amount of any gross profits or proceeds a defendant derives from a drug offense if the amount is greater than the authorized fine. The Select Committee's 1981 recommendations called for increasing the existing fines that may be imposed against drug of-

fenders. Accordingly, I fully support the objective of H.R. 7140 with respect to increased fines. Raising the fines for drug offenses will provide yet another tool to deter drug trafficking and take profits out of drug dealing.

Mr. Speaker, this bill is a significant step in our efforts to attack the financial base of the drug trade, and I urge my colleagues to give their fullest support to this important measure.

□ 1610

Mr. SAWYER. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. McCLORY), the ranking minority member on the full committee.

Mr. McCLORY. Mr. Speaker, I rise in enthusiastic support of H.R. 7140, the Comprehensive Drug Penalty Act of 1982. This is a bipartisan measure which has the general purpose of depriving drug traffickers of the profits of their illegal activities.

As the First Lady of the United States, Nancy Reagan, has pointed out in her travels across the country, drug abuse is a national problem of frightening magnitude. It does not discriminate on the basis of age, race, economic status, or education. It strikes a cross section on all Americans, particularly, and most unfortunately, our youth. The damage that drug abuse does during adolescence affects the abuser throughout his life and has an adverse impact on his ability to function as a productive and responsible citizen of this country.

Consider the toll that drug abuse takes in this country, the greed and callousness of drug traffickers in profiting from the misery of others are absolutely appalling. Testimony before the subcommittee was virtually unanimous on the proposition that if our law enforcement efforts against the drug trade are to be effective, they must be directed against the economic incentive that currently exists for engaging in the business of providing drugs. With that goal in mind, the subcommittee reported, and the full committee approved, H.R. 7140, the Comprehensive Drug Penalty Act of 1982. That act contains the following new initiatives, which are based in part on the productive input of the administration:

First, the bill permits the forfeiture of real property which is used to store dangerous drugs. Under current law, the Government may seize a container in which controlled substances are held, but not necessarily a warehouse filled with drugs.

Second, based on the proposal of the gentleman from Michigan (Mr. SAWYER), who serves as ranking Republican on the subcommittee, the bill permits the proceeds of forfeited property to be set aside in a separate fund to be used for drug law enforcement. This will increase the availability of funds for fighting drug trafficking.

Third, H.R. 7140 substantially increases the maximum fines for major drug trafficking offenses. Existing fines are relatively paltry and do not serve as a sufficient deterrent to the drug business. This bill will also provide for an alternative fine, where the maximum specified penalty may not prove sufficient. That alternative fine would be twice the proceeds that the drug trafficker accrued in his illegal activity.

Fourth, the bill will make all felony offenses under the Controlled Substances Act subject to penalty of forfeiture. Current law limits the availability of that penalty to continuing criminal enterprise offenses, which affect few cases.

Fifth, the bill contains important protections for the rights of innocent third parties who may have an interest in the property that is subject to forfeiture. While we certainly want to punish the drug trafficker, it would be unfair to penalize persons who are unaware of his involvement in that activity.

Mr. Speaker, I believe that the administration and the leadership of the subcommittee on both sides of the aisle deserve our highest praise for bringing this bill to the floor today. H.R. 7140 provides our Federal drug enforcement officials with the means that they so sorely need to take strong action against the drug trade in this Nation. I strongly urge my colleagues to vote in favor of suspending the rules and passing H.R. 7140.

Mr. SAWYER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I take this moment to recognize the long and distinguished service on the Committee on the Judiciary of my friend from Illinois, BOB McCLORY.

It may well be that there will be other bills coming before this Chamber from the Committee on the Judiciary before sine die adjournment, but just on the chance that that may not be so, I wanted to voice my admiration for him, especially for the leadership he has provided consistently through the years in behalf of the advancement of human rights for people here in this country and worldwide.

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Just to pick up on the comments of our distinguished colleague, the gentleman from Illinois (Mr. FINDLEY), I had intended to do the same thing. I have been privileged to serve with BOB McCLORY on the Committee on the Judiciary since I arrived back in 1975. I can truthfully say that you will not find a more conscientious or diligent, hard-working Member of Congress than BOB McCLORY. I have developed a great deal of respect for his abundant fairness, his evenhandedness. He always approached issues on a bipartisan basis. I have never seen BOB McCLORY partisan in any of the debates that I have engaged in. We are going to miss his service.

We have passed out of the Subcommittee on Crime about 10 anticrime measures, most of which our colleague from Illinois is a cosponor and worked with us on and helped us develop sections of the bill. We are deeply appreciative.

I could not have had a better partner in this session of Congress than I have had in HAL SAWYER, a distinguished district attorney from his own district. We have managed to develop a crime package which I think will make a real impact on the crime problems of this country. For the first time in many years we had two former prosecutors to head up the Subcommittee on Crime. We did reorder our priorities, as my colleague indicated in his statement, and we focused in on the drug problem, with the help of Members like CHARLIE BENNETT of Florida in his initiative dealing with the modification of the posse comitatus law which has made possible major inroads into our fight against the criminal element.

This legislation, I believe, is going to be one of the most effective tools that we have sent to the President this year. I think it is going to certainly parallel what we have done with our use of military intelligence, made possible because we modified the posse comitatus law.

Just a little while ago we sent to the President an arson bill which is going to broaden our arson jurisdiction.

So I want to thank my colleague, the gentleman from Illinois, for his work on the full committee, my colleague from Michigan for his great work on the Subcommittee on Crime and, again, my colleague, LEO ZEFERETTI, from the select committee and, BEN GILMAN for their leadership.

Mr. SAWYER. I yield myself such time as I may consume.

Mr. Speaker, I join in the remarks of my colleagues. I did not earlier discuss this situation of the retirement of the gentleman from Illinois (Mr. McCLORY).

He decided not to run this time, and we are going to miss him on the Committee on the Judiciary.

We are going to have two more Judiciary bills up that I can think of, one the extradition bill, and the bankruptcy bill; I presume they will both arrive on the floor. But just on the odd chance that they do not, I want to join in the statements concerning the leadership and the cooperation of the gentleman from Illinois as the ranking Republican member on the full Committee on the Judiciary.

I also want to say that I have enjoyed, too, working with the gentleman from New Jersey. I think we share a kind of common outlook, particularly on the drug problem, but on a number of other problems related to crime. We both have had some time as prosecuting attorneys, or district attorneys, as they call them in New Jersey.

I also want to compliment Haydin Gregory and Debbie Owen here, who

are extemely valuable staff members. As a matter of fact, most of the things I have said on the floor have really been Debbie's words rather than mine. She has been of great assistance, and I want to acknowledge that.

□ 1620

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman from yielding.

I, too, want to echo those sentiments. Debbie Owen and Hayden Gregory, our chief counsel; David Beier, who also served on the Subcommittee on Crime, who worked on a lot of matters including expedition. Jenny Southern, Eric Sterling, and Ed McConnaugh. We have had a great staff.

● Mr. FISH. Mr. Speaker, as a member of the Subcommittee on Crime, I have heard extensive testimony about the problem of drugs in this country. We have heard startling testimony concerning the profits that drug traffickers reap at the expense of our Nation's health. For instance, drug traffickers consider forfeited bail a cost of doing business. It is not inconceivable that a drug trafficker will post bail of over $1 million with full knowledge that it will be lost when he fails to appear for trial. The phenomenal profits of the drug trade enable him to treat our criminal justice system with that kind of contempt.

The very clear answer to this problem is to strip these offenders of the profits that they have made during the course of their illegal conduct. Not only will that prevent the abuse of the bail system, but it will prevent the reinvestment of those profits in the drug business.

H.R. 7140 is a bill which was reported out of the Subcommittee on Crime with my very enthusiastic support. I am an original cosponsor of the bill, because I believe it offers an innovative and fair solution to the problems generated by the substantial profits of drug trafficking.

H.R. 7140 contains various provisions which are designed to take the profits out of drug trafficking. These include:

First, a presumption similar to the one that operates in income tax cases which puts a limited burden on the defendant to show that his assets were not the proceeds of drug trafficking.

Second, a provision that land and buildings used to store controlled substances are forfeitable.

Third, a fund for drug law enforcement consisting of the proceeds realized by the Government from forfeitures.

Fourth, a large increase in the fines for drug trafficking. Current fines are totally unrealistic.

Fifth, protections for innocent third parties who may have an interest in property subject to forfeiture. Obviously, the penalties imposed should not be at the expense of persons who were not involved in, or aware of, illegal activity.

Mr. Speaker, I believe that H.R. 7140 is a commendable first step by this Congress toward providing a substantial disincentive to drug-related activity, I am hopeful that this body will also pass other important crime measures which will have an adverse impact on drug trafficking, such as reforms of our bail procedures. I hope my colleagues will joing the gentleman from New Jersey and myself in voting to suspend the rules and pass H.R. 7140.●

● Mr. BIAGGI. Mr. Speaker, I rise in full support of the bill H.R. 7140 the Comprehensive Drug Penalty Act. I support this legislation because it promises both an effective and novel approach relative to one of our Nation's most serious law enforcement problems—drug trafficking.

This bill proposes to increase the maximum fines for drug offenses both as committed by individuals and groups in some cases by 10 times as much as the present fines. Too often today, the fines assessed against individuals involved in drug trafficking are so insufficient they can be paid simply by the profits they make from their illicit business. If the criminal justice system is to be effective it must have sufficiently strong penalties which will deter criminal activity not reward it.

The novel features of this bill include a provision which allows the forfeiture of land and buildings used—or intended to be used for holding or storing of dangerous drugs. It allows the Justice Department to bring civil forfeiture actions in the district where the defendant is found or where the criminal prosecution is brought. If we are to be serious about fighting crime then we must be as smart as the criminals. We must make our laws adaptable to all phases of the criminal activity. If the crime involves drugs let us have our law enforcement capacity working from the beginning of the criminal activity until it can be ended.

I am also in agreement with the provision that allows the court to presume in a criminal case that all property acquired by drug offenders during the period of the violations or shortly thereafter is subjected to forfeiture if no other likely source for such property exists.

I approach this legislation not only from the standpoint of a concerned Member of Congress and American but also as a former police officer. I know that crime—all crime cannot be controlled if there are weak and ineffective laws on our books. Passage of laws such as H.R. 7140 are prime examples of those kinds of laws and it deserves our immediate consideration.

It is vital that we recognize the extent to which drugs have become a menace to our society. Those who are profiting by drugs—turning a generation of Americans into drug addicts are among the most banal people we have in our society. We must clamp down on them before their evil spreads any further. H.R. 7140 is a positive step forward.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the House suspend the rules and pass the bill, H.R. 7140.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2330, AUTHORIZING APPROPRIATIONS TO NUCLEAR REGULATORY COMMISSION, FISCAL YEARS 1982 AND 1983

Mr. UDALL submitted the following conference report and statement on the bill (H.R. 2330) to authorize appropriation to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 97-884)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330) to authorize appropriation to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

AUTHORIZATION OF APPROPRIATIONS

SECTION 1. (a) There are hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal years 1982 and 1983 to remain available until expended, $485,200,000 for fiscal year 1982 and $513,100,000 for fiscal year 1983 to be allocated as follows:

(1) Not more than $80,700,000 for fiscal year 1982 and $77,000,000 for fiscal year 1983 may be used for "Nuclear Reactor Regulation", of which an amount not to exceed $1,000,000 is authorized each such fiscal year to be used to accelerate the effort in gas-cooled thermal reactor preapplication review, and an amount not to exceed $6,000,000 is authorized each such fiscal year to be used for licensing review work for a fast breeder reactor plant project. In the event of a termination of such breeder reactor project, any unused amount appropriated pursuant to this paragraph for licensing review work for such project may be used only for safety technology activities.

(2) Not more than $62,900,000 for fiscal year 1982 and $69,850,000 for fiscal year 1983 may be used for "Inspection and Enforcement".

(3) Not more than $42,000,000 for fiscal year 1982 and $47,059,600 for fiscal year 1983 may be used for "Nuclear Material Safety and Safeguards".

(4) Not more than $240,300,000 for fiscal year 1982 and $257,195,600 for fiscal year 1983 may be used for "Nuclear Regulatory Research", of which—

(A) an amount not to exceed $3,500,000 for fiscal year 1982 and $4,500,000 for fiscal year 1983 is authorized to be used to accelerate the effort in gas-cooled thermal reactor safety research;

(B) an amount not to exceed $18,000,000 is authorized each such fiscal year to be used for fast breeder reactor safety research; and

(C) an amount not to exceed $57,000,000 is authorized for such two fiscal year periods to be used for the Loss-of-Fluid Test Facility research program.

In the event of a termination of the fast breeder reactor plant project, any unused amount appropriated pursuant to this paragraph for fast breeder reactor safety research may be used generally for "Nuclear Regulatory Research".

(5) Not more than $21,900,000 for fiscal year 1982 and $20,197,800 for fiscal year 1983 may be used for "Program Technical Support".

(6) Not more than $37,400,000 for fiscal year 1982 and $41,797,000 for fiscal year 1983 may be used for "Program Direction and Administration".

(b) The Nuclear Regulatory Commission may use not more than 1 percent of the amounts authorized to be appropriated under subsection (a)(4) to exercise its authority under section 31 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2051(a)) to enter into grants and cooperative agreements with universities pursuant to such section. Grants made by the Commission shall be made in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) and other applicable law. In making such grants and entering into such cooperative agreements, the Commission shall endeavor to provide appropriate opportunities for universities in which the student body has historically been predominately comprised of minority groups.

(c) Any amount appropriated for a fiscal year to the Nuclear Regulatory Commission pursuant to any paragraph of subsection (a) for purposes of the program office referred to in such paragraph, or any activity that is within such program office and is specified in such paragraph, may be reallocated by the Commission for use in a program office referred to in any other paragraph of such subsection, or for use in any other activity within a program office, except that the amount available from appropriations for such fiscal year for use in any program office or specified activity may not, as a result of reallocations made under this subsection, be increased or reduced by more than $500,000 unless—

(1) a period of 30 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the reallocation proposed to be made and the facts and circumstances relied upon in support of such proposed reallocation; or

(2) each such committee, before the expiration of such period, transmits to the Commission a written notification that such committee does not object to such proposed reallocation.

AUTHORITY TO RETAIN CERTAIN AMOUNTS RECEIVED

SEC. 2. Moneys received by the Nuclear Regulatory Commission for the cooperative nuclear research program and the material access authorization program may be retained and used for salaries and expenses associated with such programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

AUTHORITY TO TRANSFER CERTAIN AMOUNTS TO OTHER AGENCIES

SEC. 3. From amounts appropriated to the Nuclear Regulatory Commission pursuant to section 1(a), the Commission may transfer to other agencies of the Federal Government sums for salaries and expenses for the performance by such agencies of activities for which such appropriations of the Commission are made. Any sums so transferred may be merged with the appropriation of the agency to which such sums are transferred.

LIMITATION ON SPENDING AUTHORITY

SEC. 4. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

AUTHORITY TO ISSUE LICENSES IN ABSENCE OF EMERGENCY PREPAREDNESS PLANS

SEC. 5. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission may use such sums as may be necessary, in the absence of a State or local emergency preparedness plan which has been approved by the Federal Emergency Management Agency, to issue an operating license (including a temporary operating license under section 192 of the Atomic Energy Act of 1954, as amended by section 11 of this Act) for a nuclear power reactor, if it determines that there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

NUCLEAR SAFETY GOALS

SEC. 6. Funds authorized to be appropriated under this Act shall be used by the Nuclear Regulatory Commission to expedite the establishment of safety goals for nuclear reactor regulation. The development of such safety goals, and any accompanying methodologies for the application of such safety goals, should be expedited to the maximum extent practicable to permit establishment of a safety goal by the Commission not later than December 31, 1982.

LOSS-OF-FLUID TEST FACILITY

SEC. 7. Of the amounts authorized to be used for the Loss-of-Fluid Test Facility in accordance with section 1(a)(4) for fiscal years 1982 and 1983, the Commission shall provide funding through contract with the organization responsible for the Loss-of-Fluid Test operations for a detailed technical review and analysis of research results obtained from the Loss-of-Fluid Test Facility research program. The contract shall provide funding for not more than twenty man-years in each of fiscal year 1982 and 1983 to conduct the technical review and analysis.

NUCLEAR DATA LINK

SEC. 8. (a) Of the amounts authorized to be appropriated under this Act for the fiscal years 1982 and 1983, not more than $200,000 is authorized to be used by the Nuclear Regulatory Commission for—

(1) the acquisition (by purchase, lease, or otherwise) and installation of equipment to be used for the "small test prototype nuclear data link" program or for any other program for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at such reactors; and

(2) the conduct of a full and complete study and analysis of—

(A) the appropriate role of the Commission during abnormal conditions at a nuclear reactor licensed by the Commission;

(B) the information which should be available to the Commission to enable the Commission to fulfill such role and to carry out other related functions;

(C) various alternative means of assuring that such information is available to the Commission in a timely manner; and

(D) any changes in existing Commission authority necessary to enhance the Commission response to abnormal conditions at a nuclear reactor licensed by the Commission.

The small test prototype referred to in paragraph (1) may be used by the Commission in carrying out the study and analysis under paragraph (2). Such analysis shall include a cost-benefit analysis of each alternative examined under subparagraph (C).

(b)(1) Upon completion of the study and anlaysis required under subsection (a)(2), the Commission shall submit to Congress a detailed report setting forth the results of such study and analysis.

(2) The Commission may not take any action with respect to any alternative described in subsection (a)(2)(C), unless a period of 60 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

INTERIM CONSOLIDATION OF OFFICES

SEC. 9. (a) Of the amounts authorized to be appropriated pursuant to paragraph 6 of section 1(a), such sums as may be necessary shall be available for interim consolidation of Nuclear Regulatory Commission headquarters staff offices.

(b) No amount authorized to be appropriated under this Act may be used, in connection with the interim consolidation of Nuclear Regulatory Commission offices, to relocate the offices of members of the Commission outside the District of Columbia.

THREE MILE ISLAND

SEC. 10. (a) No part of the funds authorized to be appropriated under this Act may be used to provide assistance to the General Public Utilities Corporation for purposes of the decontamination, cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

(b) The prohibition contained in subsection (a) shall not relate to the responsibilities of the Nuclear Regulatory Commission for monitoring or inspection of the decontamination, cleanup, repair, or rehabilitation activities at Three Mile Island and such prohibition shall not apply to the use of funds by the Nuclear Regulatory Commission to carry out regulatory functions of the

Commission under the Atomic Energy Act of 1954 with respect to the facilities at Three Mile Island.

(c) The Nuclear Regulatory Commission shall include in its annual report to the Congress under section 307(c) of the Energy Reorganization Act of 1974 (42 U.S.C. 5877(c)) as a separate chapter a description of the collaborative efforts undertaken, or proposed to be undertaken, by the Commission and the Department of Energy with respect to the decontamination, cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

(d) No funds authorized to be appropriated under this Act may be used by the Commission to approve any willful release of "accident-generated water", as defined by the Commission in NUREG-0683 ("Final Programmatic Environmental Impact Statement" p. 1-23), from Three Mile Island Unit 2 into the Susquehanna River or its watershed.

TEMPORARY OPERATING LICENSES

SEC. 11. Section 192 of the Atomic Energy Act of 1954 (42 U.S.C. 2242) is amended to read as follows:

"SEC. 192. TEMPORARY OPERATING LICENSE.—

"a. In any proceeding upon an application for an operating license for a utilization facility required to be licensed under section 103 or 104 b. of this Act, in which a hearing is otherwise required pursuant to section 189 a., the applicant may petition the Commission for a temporary operating license for such facility authorizing fuel loading, testing, and operation at a specific power level to be determined by the Commission, pending final action by the Commission on the application. The initial petition for a temporary operating license for each such facility, and any temporary operating license issued for such facility based upon the initial petition, shall be limited to power levels not to exceed 5 percent of rated full thermal power. Following issuance by the Commission of the temporary operating license for each such facility, the licensee may file petitions with the Commission to amend the license to allow facility operation in staged increases at specific power levels, to be determined by the Commission, exceeding 5 percent of rated full thermal power. The initial petition for a temporary operating license for each such facility may be filed at any time after the filing of: (1) the report of the Advisory Committee on Reactor Safeguards required by section 182 b.; (2) the filing of the initial Safety Evaluation Report by the Nuclear Regulatory Commission staff and the Nuclear Regulatory Commission staff's first supplement to the report prepared in response to the report of the Advisory Committee on Reactor Safeguards for the facility; (3) the Nuclear Regulatory Commission staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and (4) a State, local, or utility emergency preparedness plan for the facility. Petitions for the issuance of a temporary operating license, or for an amendment to such a license allowing operation at a specific power level greater than that authorized in the initial temporary operating license, shall be accompanied by an affidavit or affidavits setting forth the specific facts upon which the petitioner relies to justify issuance of the temporary operating license or the amendment thereto. The Commission shall publish notice of each such petition in the Federal Register and in such trade or news publications as the Commission deems appropriate to give reasonable notice to persons who might have a potential interest in the grant of such temporary operating license or amendment thereto. Any person may file affidavits or statements in support of, or in opposition to, the petition within thirty days after the publication of such notice in the Federal Register.

"b. With respect to any petition filed pursuant to subsection a. of this section, the Commission may issue a temporary operating license, or amend the license to authorize temporary operation at each specific power level greater than that authorized in the initial temporary operating license, as determined by the Commission, upon finding that—

"(1) in all respects other than the conduct or completion of any required hearing, the requirements of law are met;

"(2) in accordance with such requirements, there is reasonable assurance that operation of the facility during the period of the temporary operating license in accordance with its terms and conditions will provide adequate protection to the public health and safety and the environment during the period of temporary operation; and

"(3) denial of such temporary operating license will result in delay between the date on which construction of the facility is sufficiently completed, in the judgment of the Commission, to permit issuance of the temporary operating license, and the date when such facility would otherwise receive a final operating license pursuant to this Act.

The temporary operating license shall become effective upon issuance and shall contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for the extension thereof. Any final order authorizing the issuance or amendment of any temporary operating license pursuant to this section shall recite with specificity the facts and reasons justifying the findings under this subsection, and shall be transmitted upon such issuance to the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate. The final order of the Commission with respect to the issuance or amendment of a temporary operating license shall be subject to judicial review pursuant to chapter 158 of title 28, United States Code. The requirements of section 189 a. of this Act with respect to the issuance or amendment of facility licenses shall not apply to the issuance or amendment of a temporary operating license under this section.

"c. Any hearing on the application for the final operating license for a facility required pursuant to section 189 a. shall be concluded as promptly as practicable. The Commission shall suspend the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence. Issuance of a temporary operating license under subsection b. of this section shall be without prejudice to the right of any party to raise any issue in a hearing required pursuant to section 189 a.; and failure to assert any ground for denial or limitation of a temporary operating license shall not bar the assertion of such ground in connection with the issuance of a subsequent final operating license. Any party to a hearing required pursuant to section 189 a. on the final operating license for a facility for which a temporary operating license has been issued under subsection b., and any member of the Atomic Safety and Licensing Board conducting such hearing, shall promptly notify the Commission of any information indicating that the terms and conditions of the temporary operating license are not being met, or that such terms and conditions are not sufficient to comply with the provisions of paragraph (2) of subsection b.

"d. The Commission is authorized and directed to adopt such administrative remedies as the Commission deems appropriate to minimize the need for issuance of temporary operating licenses pursuant to this section.

"e. The authority to issue new temporary operating licenses under this section shall expire on December 31, 1983.".

OPERATING LICENSE AMENDMENT HEARINGS

SEC. 12. (a) Section 189 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) The Commission may issue and make immediately effective any amendment to an operating license, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Such amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. In determining under this section whether such amendment involves no significant hazards consideration, the Commission shall consult with the State in which the facility involved is located. In all other respects such amendment shall meet the requirements of this Act.

"(B) The Commission shall periodically (but not less frequently than once every thirty days) publish notice of any amendments issued, or proposed to be issued, as provided in subparagraph (A). Each such notice shall include all amendments issued, or proposed to be issued, since the date of publication of the last such periodic notice. Such notice shall, with respect to each amendment or proposed amendment (i) identify the facility involved; and (ii) provide a brief description of such amendment. Nothing in this subsection shall be construed to delay the effective date of any amendment.

"(C) The Commission shall, during the ninety-day period following the effective date of this paragraph, promulgate regulations establishing (i) standards for determining whether any amendment to an operating license involves no significant hazards consideration; (ii) criteria for providing or, in emergency situations, dispensing with prior notice and reasonable opportunity for public comment on any such determination, which criteria shall take into account the exigency of the need for the amendment involved; and (iii) procedures for consultation on any such determination with the State in which the facility involved is located.".

(b) The authority of the Nuclear Regulatory Commission, under the provisions of the amendment made by subsection (a), to issue and to make immediately effective any amendment to an operating license shall take effect upon the promulgation by the Commission of the regulations required in such provisions.

QUALITY ASSURANCE

SEC. 13. (a) The Nuclear Regulatory Commission is authorized and directed to implement and accelerate the resident inspector program so as to assure the assignment of at least one resident inspector by the end of fiscal year 1982 at each site at which a commercial nuclear powerplant is under construction and construction is more than 15

percent complete. At each such site at which construction is not more than 15 percent complete, the Commision shall provide that such inspection personnel as the Commissions deems appropriate shall be physically present at the site at such times following issuance of the construction permit as may be necessary in the judgment of the Commission.

(b) The Commission shall conduct a study of existing and alternative programs for improving quality assurance and quality control in the construction of commercial nuclear powerplants. In conducting the study, the Commission shall obtain the comments of the public, licensees of nuclear powerplants, the Advisory Committee on Reactor Safeguards, and organizations comprised of professionals having expertise in appropriate fields. The study shall include an analysis of the following:

(1) providing a basis for quality assurance and quality control, inspection, and enforcement actions through the adoption of an approach which is more prescriptive than that currently in practice for defining principal architectural and engineering criteria for the construction of commercial nuclear powerplants;

(2) conditioning the issuance of construction permits for commercial nuclear powerplants on a demonstration by the licensee that the licensee is capable of independently managing the effective performance of all quality assurance and quality control responsibilities for the powerplant;

(3) evaluations, inspections, or audits of commercial nuclear powerplant construction by organizations comprised of professionals having expertise in appropriate fields which evaluations, inspections, or audits are more effective than those under current practice;

(4) improvement of the Commission's organization, methods, and programs for quality assurance development, review, and inspection; and

(5) conditioning the issuance of construction permits for commercial nuclear powerplants on the permittee entering into contracts or other arrangements with an independent inspector to audit the quality assurance program to verify quality assurance performance.

For purposes of paragraph (5), the term "independent inspector" means a person or other entity having no responsibility for the design or construction of the plant involved. The study shall also include an analysis of quality assurance and quality control programs at representative sites at which such programs are operating satisfactorily and an assessment of the reasons therefor.

(c) For purposes of—

(1) determining the best means of assuring that commercial nuclear powerplants are constructed in accordance with the applicable safety requirements in effect pursuant to the Atomic Energy Act of 1954; and

(2) assessing the feasibility and benefits of the various means listed in subsection (b);

the Commission shall undertake a pilot program to review and evaluate programs that include one or more of the alternative concepts identified in subsection (b) for the purposes of assessing the feasibility and benefits of their implementation. The pilot program shall include programs that use independent inspectors for auditing quality assurance responsibilities of the licensee for the construction of commercial nuclear powerplants, as described in paragraph (5) of subsection (b). The pilot program shall include at least three sites at which commercial nuclear powerplants are under construction. The Commission shall select at least one site at which quality assurance and quality control programs have operated satisfactorily, and at least two sites with remedial programs underway at which major construction, quality assurance, or quality control deficiencies (or any combination thereof) have been identified in the past. The Commission may require any changes in existing quality assurance and quality control organizations and relationships that may be necessary at the selected sites to implement the pilot program.

(d) Not later than fifteen months after the date of the enactment of this Act, the Commission shall complete the study required under subsection (b) and submit to the United States Senate and House of Representatives a report setting forth the results of the study. The report shall include a brief summary of the information received from the public and from other persons referred to in subsection (b) and a statement of the Commission's response to the significant comments received. The report shall also set forth an analysis of the results of the pilot program required under subsection (c). The report shall be accompanied by the recommendations of the Commission, including any legislative recommendations, and a description of any administrative actions that the Commission has undertaken or intends to undertake, for improving quality assurance and quality control programs that are applicable during the construction of nuclear powerplants.

LIMITATION ON USE OF SPECIAL NUCLEAR MATERIAL

SEC. 14. Section 57 of the Atomic Energy Act of 1954 (42 U.S.C. 2077) is amended by adding at the end thereof the following new subsection:

"e. Special nuclear material, as defined in section 11, produced in facilities licensed under section 103 or 104 may not be transferred, reprocessed, used, or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes.".

RESIDENT INSPECTORS

SEC. 15. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission shall use such sums as may be necessary to conduct a study of the financial hardships incurred by resident inspectors as a result of (1) regulations of the Commission requiring resident inspectors to relocate periodically from one duty station to another; and (2) the requirements of the Commission respecting the domicile of resident inspectors and respecting travel between their domicile and duty station in such manner as to avoid the appearance of a conflict of interest. Not later than 90 days after the date of the enactment of this Act, the Commission shall submit to the Congress a report setting forth the findings of the Commission as a result of such study, together with a legislative proposal (including any supporting data or information) relating to any assistance for resident inspectors determined by the Commission to be appropriate.

SABOTAGE OF NUCLEAR FACILITIES OR FUEL

SEC. 16. Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended to read as follows:

"SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—

"a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

"(1) any production facility or utilization facility licensed under this Act;

"(2) any nuclear waste storage facility licensed under this Act; or

"(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility;

shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.

"b. Any person who intentionally and willfully causes or attempts to cause an interruption of normal operation of any such facility through the unauthorized use of or tampering with the machinery, components, or controls of any such facility, shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.".

DEPARTMENT OF ENERGY INFORMATION

SEC. 17. (a) Section 148 a. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2168(a)(1)) is amended by inserting after " 'Secretary')" the following: ", with respect to atomic energy defense programs,".

(b) Section 148 of the Atomic Energy Act of 1954 (42 U.S.C. 2168) is amended by adding at the end thereof the following new subsections:

"d. Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5, United States Code.

"e. The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall—

"(1) identify any information protected from disclosure pursuant to such regulation or order;

"(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons, or theft, diversion, or sabotage of nuclear materials, equipment, or facilities, as specified under subsection a.; and

"(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.".

STANDARDS AND REQUIREMENTS UNDER SECTION 275

SEC. 18. (a) Section 275 of the Atomic Energy Act of 1954 is amended—

(1) by striking in subsection a. "one year after the date of enactment of this section" and substituting "October 1, 1982" and by adding the following at the end thereof: "After October 1, 1982, if the Administrator has not promulgated standards in final form under this subsection, any action of the Secretary of Energy under title I of the Uranium Mill Tailings Radiation Control Act of 1978 which is required to comply with, or be taken in accordance with, standards of the Administrator shall comply with, or be taken in accordance with, the standards proposed by the Administrator under this subsection until such time as the Administrator promulgates such standards in final form.";

(2) by striking in subsection b. (1) "eighteen months after the enactment of this section, the Administrator shall, by rule, promulgate" and inserting in lieu thereof the following: "October 31, 1982, the Administrator shall, by rule, propose, and within 11 months thereafter promulgate in final form,";

(3) by adding the following at the end of subsection b. (1): "If the Administrator fails to promulgate standards in final form under this subsection by October 1, 1983, the authority of the Administrator to promulgate such standards shall terminate, and the Commission may take actions under this Act without regard to any provision of this Act requiring such actions to comply with, or be taken in accordance with, standards promulgated by the Administrator. In any such case, the Commission shall promulgate, and from time to time revise, any such standards of general application which the Commission deems necessary to carry out its responsibilities in the conduct of its licensing activities under this Act. Requirements established by the Commission under this Act with respect to byproduct material as defined in section 11 e. (2) shall conform to such standards. Any requirements adopted by the Commission respecting such byproduct material before promulgation by the Commission of such standards shall be amended as the Commission deems necessary to conform to such standards in the same manner as provided in subsection f. (3). Nothing in this subsection shall be construed to prohibit or suspend the implementation or enforcement by the Commission of any requirement of the Commission respecting byproduct material as defined in section 11 e. (2) pending promulgation by the Commission of any such standard of general application.":

(4) by adding the following new subsection at the end thereof:

"f. (1) Prior to January 1, 1983, the Commission shall not implement or enforce the provisions of the Uranium Mill Licensing Requirements published as final rules at 45 Federal Register 65521 to 65538 on October 3, 1980 (hereinafter in this subsection referred to as the 'October 3 regulations'). After December 31, 1982, the Commission is authorized to implement and enforce the provisions of such October 3 regulations (and any subsequent modifications or additions to such regulations which may be adopted by the Commission), except as otherwise provided in paragraphs (2) and (3) of this subsection.

"(2) Following the proposal by the Administrator of standards under subsection b., the Commission shall review the October 3 regulations, and, not later than 90 days after the date of such proposal, suspend implementation and enforcement of any provision of such regulations which the Commission determines after notice and opportunity for public comment to require a major action or major commitment by licensees which would be unnecessary if—

"(A) the standards proposed by the Administrator are promulgated in final form without modification, and

"(B) the Commission's requirements are modified to conform to such standards.

Such suspension shall terminate on the earlier of April 1, 1984 or the date on which the Commission amends the October 3 regulations to conform to final standards promulgated by the Administrator under subsection b. During the period of such suspension, the Commission shall continue to regulate by product material (as defined in section 11 e. (2)) under this Act on a licensee-by-licensee basis as the Commission deems necessary to protect public health, safety, and the environment.

"(3) Not later than 6 months after the date on which the Administrator promulgates final standards pursuant to subsection b. of this section, the Commission shall, after notice and opportunity for public comment, amend the October 3 regulations, and adopt such modifications, as the Commission deems necessary to conform to such final standards of the Administrator.

"(4) Nothing in this subsection may be construed as affecting the authority or responsibility of the Commission under section 84 to promulgate regulations to protect the public health and safety and the environment.".

(b)(1) Section 108(a) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following new paragraph at the end thereof:

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, after October 31, 1982, if the Administrator has not promulgated standards under section 275 a. of the Atomic Energy Act of 1954 in final form by such date, remedial action taken by the Secretary under this title shall comply with the standards proposed by the Administrator under such section 275 a. until such time as the Administrator promulgates the standards in final form.".

(2) The second sentence of section 108(a)(2) of the Uranium Mill Tailings Radiation Control Act of 1978 is repealed.

AGREEMENT STATES

SEC. 19. (a) Section 274 o. of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof: "In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275. Such alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.".

(b) Section 204(h)(3) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by inserting the following before the period at the end thereof ": Provided, however, That, in the case of a State which has exercised any authority under State law pursuant to an agreement entered into under section 274 of the Atomic Energy Act of 1954, the State authority over such byproduct material may be terminated, and the Commission authority over such material may be exercised, only after compliance by the Commission with the same procedures as are applicable in the case of termination of agreements under section 274 j. of the Atomic Energy Act of 1954.".

AMENDMENT TO SECTION 84

SEC. 20. Section 84 of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof:

"c. In the case of sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), a licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this Act. Such alternative proposals may take into account local or regional conditions, including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275.".

EDGEMONT

SEC. 21. Section 102(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following at the end thereof:

"(3) The Secretary shall designate as a processing site within the meaning of section 101(6) any real property, or improvements thereon, in Edgemont, South Dakota that—

"(A) is in the vicinity of the Tennessee Valley Authority uranium mill site at Edgemont (but not including such site), and

"(B) is determined by the Secretary to be contaminated with residual radioactive materials.

In making the designation under this paragraph, the Secretary shall consult with the Administrator, the Commission and the State of South Dakota. The provisions of this title shall apply to the site so designated in the same manner and to the same extent as to the sites designated under subsection (a) except that, in applying such provisions to such site, any reference in this title to the date of the enactment of this Act shall be treated as a reference to the date of the enactment of this paragraph and in determining the State share under section 107 of the costs of remedial action, there shall be credited to the State, expenditures made by the State prior to the date of the enactment of this paragraph which the Secretary determines would have been made by the State or the United States in carrying out the requirements of this title.".

ADDITIONAL AMENDMENTS TO SECTIONS 84 AND 275

SEC. 22. (a) Section 84 a. (1) of the Atomic Energy Act of 1954 is amended by inserting before the comma at the end thereof the following: ", taking into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate,".

(b) Section 275 of the Atomic Energy Act of 1954 is amended—

(1) in subsection a., by inserting after the second sentence thereof the following new sentence: "In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate."; and

(2) by adding at the end of subsection b. (1) the following new sentence: "In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.".

URANIUM SUPPLY

SEC. 23. (a)(1) Not later than 12 months after the date of enactment of this section, the President shall prepare and submit to the Congress a comprehensive review of the status of the domestic uranium mining and milling industry. This review shall be made available to the appropriate committees of the United States Senate and the House of Representatives.

(2) The comprehensive review prepared for submission under paragraph (1) shall include—

(A) projections of uranium requirements and inventories of domestic utilities;

(B) present and future projected uranium production by the domestic mining and milling industry;

(C) the present and future probable penetration of the domestic market by foreign imports;

(D) the size of domestic and foreign ore reserves;

(E) present and projected domestic uranium exploration expenditures and plans;

(F) present and projected employment and capital investment in the uranium industry;

(G) an estimate of the level of domestic uranium production necessary to ensure the viable existence of a domestic uranium industry and protection of national security interests;

(H) an estimate of the percentage of domestic uranium demand which must be met by domestic uranium production through the year 2000 in order to ensure the level of domestic production estimated to be necessary under subparagraph (G);

(I) a projection of domestic uranium production and uranium price levels which will be in effect both under current policy and in the event that foreign import restrictions were enacted by Congress in order to guarantee domestic production at the level estimated to be necessary under subparagraph (G);

(J) the anticipated effect of spent nuclear fuel reprocessing on the demand for uranium; and

(K) other information relevant to the consideration of restrictions on the importation of source material and special nuclear material from foreign sources.

(b)(1) Chapter 14 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

"SEC. 170B. URANIUM SUPPLY.

"a. The Secretary of Energy shall monitor and for the years 1983 to 1992 report annually to the Congress and to the President a determination of the viability of the domestic uranium mining and milling industry and shall establish by rule, after public notice and in accordance with the requirements of section 181 of this Act, within 9 months of enactment of this section, specific criteria which shall be assessed in the annual reports on the domestic uranium industry's viability. The Secretary of Energy is authorized to issue regulations providing for the collection of such information as the Secretary of Energy deems necessary to carry out the monitoring and reporting requirements of this section.

"b. Upon a satisfactory showing to the Secretary of Energy by any person that any information, or portion thereof obtained under this section, would, if made public, divulge proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code.

"c. The criteria referred to in subsection a. shall also include, but not be limited to—

"(1) an assessment of whether executed contracts or options for source material or special nuclear material will result in greater than thirty-seven and one-half percent of actual or projected domestic uranium requirements for any two consecutive year period being supplied by source material or special nuclear material from foreign sources;

"(2) projections of uranium requirements and inventories of domestic utilities for a 10 year period;

"(3) present and probable future use of the domestic market by foreign imports;

"(4) whether domestic economic reserves can supply all future needs for a future ten year period;

"(5) present and projected domestic uranium exploration expenditures and plans;

"(6) present and projected employment and capital investment in the uranium industry;

"(7) the level of domestic uranium production capacity sufficient to meet projected domestic nuclear power needs for a ten-year period; and

"(8) a projection of domestic uranium production and uranium price levels which will be in effect under various assumptions with respect to imports.

"d. The Secretary of Energy, at any time, may determine on the basis of the monitoring and annual reports required under this section that source material or special nuclear material from foreign sources is being imported in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the United States uranium mining and milling industry. Based on that determination, the United States Trade Representative shall request that the United States International Trade Commission initiate an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251).

"e. (1) During the period 1982 to 1992, if the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within or under the jurisdiction of the United States represent greater than thirty-seven and one-half percent of actual or projected domestic uranium requirements for any two consecutive year period, then the Secretary shall immediately revise criteria for services offered under paragraph (A) of section 161 v. to enhance the use of source material of domestic origin for use in utilization facilities licensed, or required to be licensed, under section 103 or 104b. of this Act within or under the jurisdiction of the United States.

"(2) In revising criteria pursuant to paragraph (1), the Secretary shall not affect in any way the right to deliver, use, or enrich foreign source material or foreign special nuclear material, including any such right arising under existing contracts or option contracts.

"(3) Subsequent to the determination under paragraph (1), or if the Secretary of Energy determines the level of contracts or options involving source material and special nuclear material from foreign sources threatens to impair the national security, the Secretary of Energy shall request the Secretary of Commerce to initiate under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) an investigation to determine the effects on the national security of imports of source material and special nuclear material. The Secretary of Energy shall cooperate fully with the Secretary of Commerce in carrying out such an investigation and shall make available to the Secretary of Commerce the findings that lead to this request, the basis for them and such other information that will assist the Secretary of Commerce in the conduct of the investigation.

"(4) The Secretary of Commerce shall, in the conduct of any investigation requested by the Secretary of Energy pursuant to this section, take into account any information made available by the Secretary of Energy, including an assessment of whether projected or executed contracts or options for source material or special nuclear material from foreign sources threaten to impair the national security or whether domestic production capacity is sufficient to supply projected national security or defense requirements.

"(5) No sooner than 3 years following completion of any investigation by the Secretary of Commerce under paragraph (3), if no recommendation has been made pursuant to such study for trade adjustments to assist or protect domestic uranium production, the Secretary of Energy may initiate a request for another such investigation by the Secretary of Commerce, except that restrictions on contracting under subsection f. shall not take effect by reason of such additional investigation unless the Secretary of Energy determines that new information related to national security requires that contracting be suspended pursuant to subsection f.

"f. In order to protect essential security interests of the United States, upon the initiation of an investigation under subsection e. to determine the effects on the national security of imports of source material or special nuclear material pursuant to section 232 of the Trade Expansion Act of 1962, it shall be unlawful to execute a contract or option contract resulting in the import of additional source material or special nuclear material from foreign sources, which is intended to be used in domestic utilization facilities licensed, or required to be licensed, under section 103 or 104 b. of this Act. This prohibition shall remain in effect for a period of two years or until the President has taken action to adjust the importation of source material and special nuclear material so that such imports will not threaten to impair the national security, whichever first occurs.".

(2) The table of contents for such chapter 14 is amended by adding the following at the end thereof:

"Sec. 170B. Uranium supply.".

And the Senate agree to the same.

MO UDALL,
JONATHAN B. BINGHAM,
JOHN F. SEIBERLING,
EDWARD J. MARKEY,
JOHN D. DINGELL,
RICHARD OTTINGER,
TOBY MOFFETT,
MANUEL LUJAN, JR.,
DAN MARRIOTT,
JAMES T. BROYHILL,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

AL SIMPSON,
PETE V. DOMENICI,
STEVE SYMMS,
ROBERT T. STAFFORD,
GARY HART,
GEORGE J. MITCHELL,
JENNINGS RANDOLPH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2330), to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes submit the

following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TOTAL NRC AUTHORIZATION

Section 1 of the conference agreement authorizes the appropriation of funds for the salaries and expenses of the Nuclear Regulatory Commission (NRC) during fiscal years 1982 and 1983.

Subsection 1(a) of the agreement authorizes a total of $485,200,000 for fiscal year 1982, and $513,100,000 for fiscal year 1983. For each fiscal year, the two houses recommended differing total funding levels for the NRC. The conference agreement incorporates the lesser of the two total authorization levels for each of the fiscal years; the effect is to use the Senate-approved authorization for FY 1982, and the House-approved total for FY 1983. For FY 1982, the authorization total is in excess of the amount appropriated for NRC under Public Law 97-88. For fiscal year 1983, the amount authorized for the agency is in excess of the amount requested in January 1982 by the Administration for the NRC.

The table below summarizes the various total authorization levels recommended for NRC.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$500,700,000	$530,000,000
NRC request submitted January 1982		479,500,000
Public Law 97-88, Energy and Water Appropriation Act (passed Dec. 4, 1981)	465,700,000	
H.R. 2330 (passed by House Nov. 5, 1981)	485,873,000	513,100,000
S. 1207 (passed by Senate Mar. 30, 1982)	485,200,000	530,100,000
Conference agreement	485,200,000	513,100,000

NUCLEAR REACTOR REGULATION

Paragraph 1 of subsection 1(a) of the conference agreement authorizes funds for the NRC's Office of Nuclear Reactor Regulation (NRR).

The House bill authorized $74, 097,800 for NRR in fiscal year 1982, and $76,714,400 in fiscal year 1983. The House also specified that up to $1,000,000 in each fiscal year was available to accelerate the effort in gas-cooled thermal reactor preapplication review.

The Senate amendment authorized $85,100,000 for NRR during fiscal year 1982, and $78,280,000 during fiscal year 1983. The Senate amendment, like the House bill, specified that an amount not to exceed $1,000,000 in each fiscal year be available to accelerate the effort in gas-cooled thermal reactor preapplication review. The Senate amendment also designated up to $6,500,000 in each fiscal year for licensing review work for a fast breeder reactor project.

The conference agreement recommends an authorization for Nuclear Reactor Regulation which in each fiscal year falls between the amounts recommended by the House and Senate in their respective bills. The compromise authorizes $80,700,000 during fiscal year 1982, and $77,000,000 during fiscal year 1983.

The conference agreement retains the specification of $1,000,000 to be available in each fiscal year for gas-cooled reactors. These funds have been earmarked because the conferees believe that, in comparison with light water reactors, gas-cooled reactors are potentially advantageous with respect to safety, uranium requirements, and cooling water requirements.

Based upon a review of the NRC's current regulatory needs for the fast breeder reactor program, the agreement reduces from $6,500,000 to $6,000,000 the maximum amount available for license review work related to the fast breeder reactor (i.e., Clinch River) project. Also, the compromise requires that in the event of a termination of the Clinch River project, the amounts designated for this purpose are to be used only for NRR safety technology activities. NRR's safety technology activities include work in the following areas; unresolved generic safety issues; generic issues; risk assessment; research and standards coordination; operating experience evaluation; regulatory requirements; and, code analysis and maintenance.

The table below summarizes various authorization levels recommended for the Office of Nuclear Reactor Regulation.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$75,610,000	$78,280,000
NRC request submitted January 1982		93,120,000
H.R. 2330 (passed by House Nov. 5, 1981)	74,097,800	76,714,400
S. 1207 (passed by Senate Mar. 30, 1982)	85,100,000	78,280,000
Conference agreement	80,700,000	77,000,000

INSPECTION AND ENFORCEMENT

Paragraph 2 of subsection 1(a) of the conference agreement authorizes funds for the Office of Inspection and Enforcement (I&E) during fiscal years 1982 and 1983.

The House bill authorized $61,513,400 for I&E during FY 1982, and $62,564,600 for the program in FY 1983. The Senate amendment recommended an authorization for the Office of Inspection and Enforcement of $62,900,000 in FY 1982 and $70,270,000 during FY 1983.

The conference agreement authorizes $62,900,000 for I&E during fiscal year 1982. This amount is equal to that approved in the Senate amendment and is the higher of the differing amounts approved by the two houses in their respective versions of the authorizing legislation. The conferees believe the higher authorization level in this case will help to expand the resident inspector program, upgrade quality assurance and quality control functions, and establish an investigative office responsible for rigorous investigations of failures and alleged breakdowns of the NRC inspection and enforcement program.

The conference agreement authorizes $69,850,000 for I&E during FY 1983. This amount falls between the recommendations of the House and Senate for FY 1983.

The availability and use of funds for a nuclear data link system is not addressed in paragraph 2 of subsection 1(a). This matter is treated separately in section 8 of the conference agreement.

The table below summarizes the authorization of funds for the Office of Inspection and Enforcement.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$67,680,000	$70,270,000
NRC request submitted January 1982		69,850,000
H.R. 2330 (passed by House Nov. 5, 1981)	61,513,400	62,564,600
S. 1207 (passed by Senate Mar. 30, 1982)	62,900,000	70,270,000
Conference agreement	62,900,000	69,950,000

NUCLEAR MATERIAL SAFETY AND SAFEGUARDS

Paragraph 3 of subsection 1(a) of the conference agreement authorizes appropriations for NRC's Office of Nuclear Material Safety and Safeguards (NMSS) for FY 1982 and FY 1983.

The House bill authorized $45,766,000 during FY 1982, and $47,059,600 for FY 1983 to be appropriated for NMSS. The Senate amendment authorized $38,500,000 for NMSS in FY 1982, and $48,020,000 during FY 1983.

The conference agreement for FY 1982 is $42,000,000 for NMSS; an amount that is approximately midway between the authorization levels approved by the respective houses. The conference agreement also authorizes $47,059,600 for NMSS during FY 1983, an amount equal to that authorized by the House bill. The authorization recommendations for NRC's Office of Nuclear Material Safety and Safeguards are summarized in the table below.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$46,700,000	$48,020,000
NRC request submitted January 1982		37,385,000
H.R. 2330 (passed by House Nov. 5, 1981)	45,766,000	47,059,600
S. 1207 (passed by Senate Mar. 30, 1982)	38,500,000	47,059,600
Conference agreement	42,000,000	47,059,600

NUCLEAR REGULATORY RESEARCH

Paragraph 4 of subsection 1(a) of the conference agreement authorizes funds to be used by the NRC's Office of Nuclear Regulatory Research (RES) during fiscal year 1982 and 1983. Under the conference agreement the authorization of funds for Standards Development has been included in the RES line-item, thereby reflecting an internal reorganization at the NRC that was consumated following consideration by the House authorizing committees of the Commission budget request submitted in January of 1981. The Commission budget request had maintained the separation of the Standards Development budget function from the RES function which prevailed prior to the reorganization.

The House bill authorized $227,301,200 for RES and $17,594,000 for Standards Development during FY 1982. The House also authorized $247,136,400 for regulatory research and $17,630,200 for Standards Development in FY 1983. The House bill specified that of the funds authorized for each of the fiscal years, amounts not to exceed $3,500,000 in FY 1982 and $4,500,000 in FY 1983 are available to accelerate the effort in gas-cooled thermal reactor safety research.

The Senate amendment, like the conference agreement, authorizes funds for RES and Standards Development as a single line-item identified as "Nuclear Regulatory Research." The Senate amendment (S. 1207) authorized $240,300,000 during FY 1982 and $270,170,000 in FY 1983 for this function. Similar to the House bill (H.R. 2330), the Senate amendment specifies that up to $3,500,000 in FY 1982 and $4,500,000 in FY 1983 of the amounts authorized are available to accelerate the effort in gas-cooled thermal reactor safety research. Further, the Senate amendment designated an amount not to exceed $20,000,000 in each fiscal year to be used for fast breeder reactor safety research.

The conference agreement authorizes $240,300,000 for fiscal year 1982 and $257,195,000 for fiscal year 1983 which may be used for Nuclear Regulatory Research. In each fiscal year the total amounts authorized for Nuclear Regulatory Research subsumes funds authorized for Standards Development. The conference agreement adopts the authorization level for FY 1982 that was originally approved by the Senate. The authorization level for fiscal year 1983 falls between the differing amounts approved by the House and Senate.

The conference agreement allocates up to $3,500,000 in FY 1982, and up to $4,500,000 in FY 1983 for the purpose of accelerating the effort in gas-cooled reactor safety research. This designation of funds to be available for gas-cooled reactors is identical to the provisions that appeared in H.R. 2330 and S. 1207.

Based upon a review of the NRC's current regulatory research budget needs for the fast breeder reactor program (predominantly for the Clinch River project), the conference agreement reduces the amount set aside within the RES line item for fast breeder reactor regulatory research from $20,000,000 per year to $18,000,000 per year. The conferees intend that the funds earmarked for breeder reactor regulatory research will help prepare the NRC for reviewing and acting on applications for licenses to construct and operate a breeder reactor, as well as subsequent regulation of the facility. The conferees expect the Commission to use the funds designated for this purpose to establish the necessary regulatory program and requirements in order that any required licensing determinations can be made in a manner which provides adequate protection of public health and safety and the environment.

The conference agreement further provides that if the fast breeder reactor project is terminated (i.e., if the Clinch River Breeder Reactor construction permit application is withdrawn or indefinitely deferred) funds set aside for the breeder reactor safety research program shall be used generally for Nuclear Regulatory Research.

Paragraph 4 of subsection 1(a) of the conference agreement is silent on the availability and use of funds for the Loss-of-Fluid-Test facility and program. This matter is addressed separately in section 7 of the conference agreement.

A summary of requests and recommendations for the authorization of appropriations for Nuclear Regulatory Research during fiscal years 1982 and 1983 is presented in the table below.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981:		
Standards development	$17,950,000	$17,990,000
Regulatory research	231,940,000	252,180,000
NRC request submitted January 1982 (SD and RES combined)		219,725,000
H.R. 2330 (passed by House Nov. 5, 1981):		
Standards development	17,591,000	17,630,200
Regulatory research	227,301,200	247,136,400
S. 1207 (passed by Senate Mar. 30, 1982)	240,300,000	270,170,000
Conference agreement	240,300,000	257,195,600

PROGRAM TECHNICAL SUPPORT

Paragraph 5 of subsection 1(a) of the conference agreement authorizes appropriations for the agency's Program Technical Support (PTS) function.

The House bill authorized appropriations for PTS in the amounts of $18,757,200 for fiscal year 1982, and $20,197,800 for fiscal year 1983. The Senate amendment authorized $21,900,000 for PTS in FY 1982 and $20,610,000 for that budget function in FY 1983.

The conference agreement authorizes an amount equal to that approved by the Senate, $21,900,000, for FY 1982; and, an amount equal to that approved by the House for FY 1983, $20,197,800.

A summary of the authorization for Program Technical Support is presented in the table below.

	Fiscal year—	
	1982	1983
NRC request submitted January 1981	$19,140,000	$20,610,000
NRC request submitted January 1982		23,400,000
H.R. 2330 (passed by House Nov. 5, 1981)	18,757,200	20,197,800
S. 1207 (passed by Senate Mar. 30, 1982)	21,900,000	20,610,000
Conference agreement	21,900,000	20,197,800

PROGRAM DIRECTION AND ADMINISTRATION

Paragraph 6 of subsection 1(a) of the conference agreement authorizes funds during fiscal years 1982 and 1983 for the Commission's Program Direction and Administration (PDA) budget function.

The House bill authorized $40,846,400 for PDA during fiscal year 1982, and $41,797,000 for fiscal year 1983. The Senate amendment authorized $37,000,000 for PDA in FY 1982, and $42,650,000 during fiscal year 1983.

The conference agreement authorizes $37,400,000 in fiscal year 1982 for Program Direction and Administration, and $41,797,000 for fiscal year 1983. The conference agreement for fiscal year 1982 falls between the differing funding levels authorized by the House bill and Senate amendment. For fiscal year 1983, the conferees adopted the authorization level recommended by the House in H.R. 2330.

The table below summarizes the Program Direction and Administration authorization.

	Fiscal years—	
	1982	1983
NRC request submitted January 1981	$41,680,000	$42,650,000
NRC request submitted January 1982		36,020,000
H.R. 2330 (passed by House Nov. 5, 1981)	40,846,400	41,797,000
S. 1207 (passed by Senate Mar. 30, 1982)	37,000,000	42,650,000
Conference agreement	37,400,000	41,797,000

RESEARCH GRANTS AND COOPERATIVE AGREEMENTS WITH UNIVERSITIES

Subsection 1(b) of the conference agreement authorizes the Commission to use up to one percent of the amounts authorized for the Office of Nuclear Regulatory Research (paragraph 4 of subsection 1(a)) for the purpose of making research grants and other research arrangements with universities. Both houses had approved a similar provision in their respective bills.

The conference agreement also incorporates language from H.R. 2330 which instructs the Commission to endeavor to provide appropriate opportunities for universities in which the student body is predominantly comprised of minority groups.

The conference agreement responds to a situation brought to the attention of the Congress by the Nuclear Engineering Department Heads Organization. This group is concerned that the NRC is exercising its existing authority under section 31a. of the Atomic Energy Act of 1954 (42 U.S. 2051(a)) to make research grants to universities in a way that unnecessarily impedes and frustrates the ability of those institutions to perform research for the agency.

The conferees believe that the MRC's university grants program provides an important means of obtaining high quality research of direct value to the agency and its regulatory mission. The conferees believe the NRC should continue the grants program through an annual request for proposal (RFP) solicitation in the Federal Register.

While the funds authorized by the conference agreement for university research grants are a small part of the overall NRC budget (approximately $2.5 million in each fiscal year), the conferees believe these funds represent a very valuable resource for graduate student training and university participation in reactor safety technology and nuclear regulation.

REPROGRAMMING AUTHORITY

Both the House bill and the Senate amendment authorized the Commission to reallocate authorized funds among programs provided certain specified conditions were fulfilled. Both houses required the Commission to notify the authorizing committees of any intended action to reprogram more than $500,000. Both provisions specified that the authorizing committees would have thirty legislative days to review the Commission's proposed action. Finally, under both provisions, the proposed reallocation of $500,000 could go forward before the expiration of the 30-day period (following submission to the authorizing committees of the Commission's "full and complete statement" of the proposed action to be taken) if each authorizing committee transmits to the Commission a written notification that the committee does not object to the proposed action.

Subsection 1(c) of H.R. 2330 authorized the Commission to reallocate funds in excess of $500,000 following the expiration of the 30-day period only if none of the authorizing committees had objected in writing to such proposed action. House approval of this requirement was linked to the new 2-year authorization period and was based on the expectation that the Commission would have cause to use the reprogramming authority more frequently than was the case when a new authorization bill was enacted each year. The House provision both provided the Commission with flexibility to reallocate funds, and provided the authorizing committees with a mechanism for ensuring that the Commission use authorized funds in a manner consistent with congressional intent.

Under the Senate provision, subsection 1 (c) of S. 1207, there was no authority vested in the authorizing committees to disapprove such reallocations by objecting in writing.

In light of concerns raised by the Department of Justice regarding the constitutionality of a legislative veto of the type contained in the House bill, the conferees adopted the Senate provision, with one modification. The modification agreed to by the conferees is intended to clarify that the Commission is authorized to reprogram funds not only between program offices, but also between specific activities within a single program office.

The conferees also expect that the Commission will give substantial weight to written comments forwarded to it by any of the authorizing committees concerning any NRC proposed action to reallocate amounts in excess of $500,000.

SECTION 2—COOPERATIVE RESEARCH AND MATERIAL ACCESS AUTHORIZATION FUNDING

Both the House bill and the Senate amendment authorized the Commission to use funds received for the cooperative nuclear program for salaries and expenses associated with that program. The Senate provision also authorized use of funds received for the material access authorization program for salaries and expenses associated with that program. The conferees incorporated this Senate provision in the conference agreement.

SECTION 3—TRANSFERS OF FUNDS

The conferees adopted the Senate provision, which differs only in certain minor technical respects from the House provision.

SECTION 4—LIMITATION ON SPENDING AUTHORITY

The conference agreement contains this provision which is identical to that in both H.R. 2330 and S. 1207.

SECTION 5—EMERGENCY PLANNING

Both the House bill and the Senate amendment contained provisions reaffirming the authority granted to the Commission under section 109 of the NRC Authorization Act for fiscal year 1980 (Public Law 96-295). This authority allows the Commission, in the absence of an approved State or local emergency preparedness plan, to issue an operating license for a nuclear power plant only if it determines that there exists a State, local, or utility emergency preparedness plan which provides reasonable assurance that the public health and safety is not endangered by operation of the plant.

In addition to reiterating the intent of Congress in enacting section 109 of P.L. 96-295, both houses explicitly stated that, in the absence of an approved State or local emergency preparedness plan, the Commission must make a similar determination prior to the issuance of a temporary operating license. The relevent legislative language is found in section 8 of H.R. 2330 and section 302 of S. 1207.

While technical differences exist between section 8 of the House bill and section 302 of the Senate amendment, the intent of both houses was the same. The conferees adopted the House provision which is included as section 5 of the conference agreement.

Finally, the conferees reiterate and emphasize the congressional intent expressed upon enactment of section 109 of P.L. 96-295 that ultimately every nuclear power plant will have applicable to it a state emergency response plan that provides reasonable assurance that the public health and safety will not be endangered in the event of an emergency at such plant requiring protective action.

SECTION 6—NUCLEAR SAFETY GOAL

Both the House bill and the Senate amendment contained provisions respecting the Commission's efforts to establish a safety goal for nuclear reactor regulation.

Section 9 of H.R. 2330 limited the authority of the Commission to promulgate or publish a safety goal for nuclear power reactors prior to the completion of public hearings and directed the Commission to expedite, to the extent practicable, the development of the safety goal so as to allow for its establishment no later than December 31, 1981.

Section 106 of S. 1207 directed NRC to expedite establishment of a safety goal for nuclear reactor regulation. The Senate further directed that, unless the Commission decided otherwise, the safety goal was to be issued prior to issuance of regulations affecting engineered safety features, siting requirements, and emergency planning.

Section 6 of the conference agreement directs the Commission to expedite the development of a safety goal and accompanying methodologies so as to permit establishment of a safety goal no later than December 31, 1982. In light of information presented to the conferees indicating that the Commission is already conducting public hearings on the development of a safety goal, the compromise provision deletes that portion of the House provision related to public hearings. The conferees intend that the Commission continue to solicit public comment, and the conferees encourage the Commission to ensure ample opportunity for public participation in the development of the safety goal.

The conference agreement deletes from the Senate amendment the references to deferral of promulgation of certain new regulations until after the establishment of a safety goal. While the conferees have decided to delete this language from the compromise, the conferees nevertheless wish to emphasize the importance of early development and promulgation of a safety goal. It is the view of the conferees, therefore, that unless the Commission determines otherwise, establishment of the safety goal should precede development of certain new regulations referred to in the Senate amendment, thereby providing a threshold standard upon which the development of these other requirements could be premised. The conferees intend that the definition of safety goals and the regulations to achieve them proceed in reasoned sequence to the end that those regulations necessary to protect public health and safety effectively incorporate the safety goal.

The conferees also reiterate their full support of the objectives and policies of section 108 of the NRC Authorization Act for fiscal year 1980 (Public Law 96-295) related to remote siting of utilization facilities. Specifically, the conferees intend that the Commission continue to promulgate in a timely fashion demographic requirements for the siting of utilization facilities which are independent of facility design.

SECTION 7—LOSS-OF-FLUID-TEST PROGRAM

The House bill and the Senate amendment each contained provisions pertaining to the funding of the Loss-of-Fluid-Test facility (LOFT).

Section 6 of H.R. 2330 imposed restrictions on the amounts and use of funds authorized to be appropriated for LOFT. The House provision specified that not more than $30 million during fiscal year 1982 could be used to continue tests at the LOFT facility. The House bill was silent on the question of LOFT funding for fiscal year 1983. The restrictions on LOFT imposed by the House were in large part a response to criticism of that program by the Advisory Committee on Reactor Safeguards.

The Senate amendment authorized up to $45 million in each fiscal year for the LOFT program. In addition, of this amount, the Senate provision directed the NRC to fund by contract with the operator of LOFT for twenty staff-years in each fiscal year for the purpose of analyzing research results and recommending to the Commission appropriate revisions in its regulations.

Section 7 of the conference agreement authorizes the NRC to spend up to $57 million during the period of fiscal years 1982-1983 for the LOFT program. The conferees intend that these funds be used by the Commission to complete those tests identified by the LOFT Special Review Group in its report to the Commission of February 1981. According to information presented to the conferees by the Commission, these tests can be completed in fiscal years 1982 and 1983 for $57,000,000. In addition, the conference agreement authorizes the Commission to provide funding for up to 20 person-years each fiscal year for the purpose of conducting technical review and analysis of research results obtained from the LOFT test program. The conferees intend this technical review and analysis, together with appropriate test results from other test facilities, to be used in assessing the adequacy of the Commission's regulations (for example, Appendix K to Part 50 of the Commission's regulations).

Finally, the conferees are of the view that a continuation of the LOFT program under the management of the Department of Energy, sponsored both financially and technically by an international consortium, may be of some future benefit. It is the conferees' understanding that United States participation in such a program might include financial contributions from NRC of approximately $5 million to $10 million per year for a three year program beginning after FY 1983. While the conferees do not authorize funding for this program in this legislation, they are of the view that operation of the LOFT facility by an international consortium is an option that should be explored.

SECTION 8—NUCLEAR DATA LINK

Both houses placed restrictions on the amount and use of authorized funds available during fiscal year 1982 and fiscal year 1983 for the Nuclear Data Link (NDL) program.

Section 5 of H.R. 2330 specified that not more than $200,000 was available under that bill for the acquisition and installation of equipment to be used for the "small test prototype nuclear data link" program proposed by the Commission. This restriction on the availability of authorized funds also applied to any other program for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at such reactors.

Subsection (b) of the House provision provided a procedure for the Commission and the Congress that could have led to the lifting of the restrictions imposed by subsection (a). Under this procedure the Commission was required to submit a proposal to the Congress, whereupon either House of Congress could have rejected the proposal during a 60-day period following such submission. If neither House rejected the Commission proposal then upon conclusion of the 60-day period, the Commission was empowered to initiate its proposed action. The Commission also was authorized to initiate its proposed action before the expiration of said 60-day period, only if both Houses explicitly approved such proposed action.

Under section 5 of the House bill, paragraph (2) of subsection (b) specified actions the Commission must take prior to submitting a proposal to the Congress. Under this paragraph the Commission was required to conduct a full and complete study and analysis of the issues involved, and prepare a detailed report of the results of such study and analysis. The paragraph also required that any Commission proposal submitted to the Congress under this section was to be accompanied by such report, and a "concise statement" (based upon such report) setting forth the reasons and justifications for the proposal.

H.R. 2330 also specified minimum requirements for the issues that were to be addressed in carrying out the study and analysis referred to in paragraph (2) of subsection (b). The House required that the Commission "study and analysis" of the NDL include, at a minimum: an examination of the appropriate role of the Commissioners during a nuclear plant accident; information and data that should be available to the Commission so that it might fulfill its emergency role; alternative means for assuring that such information and data is available to the Commission; and, recommended changes in the Commission's existing authority so that the appropriate Commission role during a nuclear plant accident can be fulfilled. Section 5 of the House bill also required a cost-benefit analysis of the alternative means for making such information available to the Commission. Under the House bill this study and analysis must have been completed prior to any NRC request for NDL budget authority above the $200,000 ceiling.

The Senate amendment earmarked the availability of $1,000,000 to establish a prototype nuclear data link system. The Senate, in approving Section 101(a)(2) of S. 1207, contemplated that the prototype would be used in developing answers to the following questions: the specific role or roles of NRC Operations Center personnel in responding to a nuclear plant accident; the information needs of such personnel; and, a cost-benefit analysis of alternative systems for satisfying such information needs. The answers to these questions were to have been incorporated into a report to the Congress which included the recommendations of NRC on a specific system. After the report was submitted, under S. 1207, $5,013,000 in fiscal year 1982, and $6,300,000 in fiscal year 1983, was authorized for acquisition and installation of a full nuclear data link system.

Section 8 of the conference agreement is a compromise provision which specifies that during the period of fiscal years 1982-1983, not more than $200,000 is authorized to be used for certain specified activities including, but not limited to, the acquisition and installation of equipment to be used for a "small test prototype nuclear data link" program. The agreement also allows the use of some or all of said $200,000 for any other program (i.e., other than an electronic data link) for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at those facilities.

The conference agreement requires the conduct of a full and complete study and analysis of several fundamental questions which the conferees believe are material to any future Commission decision to proceed with the development of a nuclear data link program beyond a "small test prototype nuclear data link." These specific questions are set forth in subsection 8(a)(2) of the conference agreement.

Subsection 8(b) of the conference agreement requires the Commission to submit to Congress a "detailed report" on the results of the study and analysis required under subsection (a)(2). In addition, subsection 8 (b)(2) prohibits the Commission from taking action pursuant to such report until the authorizing committees have had a period of sixty calendar days to review the Commission's proposed action. While the conferees do not intend to establish a mechanism by which further action by the Commission may be vetoed by individual committees, the conferees expect the Commission will give substantial weight to any comments provided by those committees on any such action proposed by the NRC. With this in mind, and in response to concerns raised by the Department of Justice, the conferees agreed to omit from the conference agreement the legislative veto that the House had included in section 5 of H.R. 2330.

The conference agreement does not restrict the use of fiscal year 1981 carryover funds for activities under section 8 of the conference agreement, except insofar as the use of such funds would otherwise be subject to any applicable reprogramming requirements.

SECTION 9—INTERIM CONSOLIDATION OF NRC HEADQUARTERS STAFF

Section 7 of the House bill specified that of the amount authorized for "Program Direction and Administration" (under section 1(a)(7) of H.R. 2330) such sums as may be necessary were available for the interim consolidation of the NRC headquarters staff offices in the District of Columbia and, to the extent necessary, in Bethesda, Maryland.

The House provision also made clear, however, that no amount was authorized to be appropriated under H.R. 2330 for the purpose of relocating the officers of the Commission outside of Washington, D.C.

The Senate amendment contained no provision similar to section 7 of the House bill.

The conferees are very concerned by the serious problem confronting the NRC as a result of the agency's being housed in ten different buildings in five different locations in Washington, D.C. and suburban Maryland. The conferees agree with the Commission's own unanimous conclusion that the scattered physical location of the NRC staff has a significant adverse effect on the agency's operations. The conferees are aware that problems associated with NRC's current building situation have been documented by both the President's Commission on the Accident at Three Mile Island (the Kemeny Commission) and the NRC's Special Inquiry Group, and that the reports of both groups have called for urgent action to consolidate the agency. In addition, the Nuclear Safety Oversight Committee, in its September 26, 1980 letter to President Carter, stressed the importance of quickly achieving NRC consolidation.

The conferees note that the Congress has authorized construction of a building for the permanent consolidation of the agency. While the conferees look forward to the day when the Commission and its entire headquarters staff can be moved into a single building, it is the conferees' understanding that such a move will not be possible for at least several years. Because the General Services Administration currently has no plans for the commencement of construction of an NRC headquarters building before 1984, the conferees strongly support an interim consolidation of the Nuclear Regulatory Commission headquarters staff offices.

Section 9 of the conference agreement authorizes the use of such sums as may be necessary during fiscal years 1982 and 1983 for such an interim consolidation. The conference agreement also prohibits the use of any authorized funds to relocate the offices of the Commissioners outside the District of Columbia. The conference agreement applies only to interim consolidation of the NRC, and does not foreclose from further consideration any proposal for the long-term solution to the agency's building situation.

SECTION 10—THREE MILE ISLAND

The House bill included three separate provisions related to the NRC's activities pertaining to the Three Mile Island (TMI) nuclear power station in Pennsylvania.

First, section 10 of H.R. 2330 explicitly prohibited the use of any funds authorized by that bill for the purpose of decontamination, cleanup, repair, or rehabilitation of the Three Mile Island Unit 2 (TMI-2) reactor which was severely damaged in an accident on March 28, 1979. The House bill further provided that this prohibition does not extend to expenses incurred by the NRC in carrying out its responsibilities to protect public health and safety. The Senate amendment did not contain a similar provision. The conferees adopted this House provision and incorporated it in section 10 of the conference agreement.

Second, subsection 10(c) of the House bill directed the NRC to enter into a memorandum of understanding with the Department of Energy specifying agency procedures for the disposal of radioactive materials resulting from the clean-up of TMI-2. The original Senate legislation, as reported by the Senate Environment and Public Works Committee, contained a similar provision, but this provision was deleted during consideration of S. 1207 by the full Senate. The conferees have been advised that the NRC and DOE, on March 15, 1982, entered into a memorandum of understanding which sets forth the respective responsibilities of the two agencies for removal and disposition of the solid nuclear wastes from the cleanup of TMI-2. Accordingly, the conferees have agreed to omit the House provision. At the same time, however, the conferees intend that the Congress be kept fully apprised by the NRC of all activities undertaken by the NRC and DOE of a collaborative nature with respect to the cleanup of TMI-2. Therefore, in lieu of the requirement contained in subsection 10(c) of H.R. 2330, the conferees have included in section 10 of the conference agreement a provision directing the NRC, in its annual report to the Congress, to include a separate chapter discussing such activities.

Third, the House bill included a provision (section 14) barring the NRC from any willful release of radioactive waste water from TMI-2 into the Susquehanna River. The Senate amendment did not contain a similar provision. The conference agreement includes in subsection 10(d) a modified version of the House provision. Under section 14 of H.R. 2330, NRC was prohibited from using any authorized funds to approve any willful release of "radioactive water resulting from the accident" at TMI-2. The conference agreement modifies this language for the purpose of making it clear that the prohibition does not extend to routine discharges of radioactive water from the Three Mile Island Unit 1.

The conferees intend the prohibition in subsection 10(d) of the compromise agreement to be narrowly limited to "accident-generated water." The conference agreement references the definition of this phrase contained in the Commission's Final Programmatic Environmental Statement (NUREG-0683, page 1-23). The conferees do not intend this provision to apply, in any fashion, to discharges of radioactive waste water which do not fall within this definition. Moreover, the conferees do not intend that the adoption of this provision in any way implies that routine discharges from other commercial nuclear power reactors which meet all applicable standards or requirements pose an unacceptable risk to the public health, safety, or the environment.

Finally, the conferees recognize that NRC staff studies and analyses will continue to evaluate alternative means for the disposition of the water as a necessary step in the cleanup. Those studies are, in the view of the conferees, potentially useful to the Commission as it endeavors to fulfill NRC's responsibility to protect the public health and safety.

SECTION 11—TEMPORARY OPERATING LICENSES

Both the House bill and the Senate amendment granted the Commission new limited authority to issue temporary (or "interim") operating licenses for nuclear power reactors if certain conditions were fulfilled.

Section 12 of H.R. 2330 gave the Commission authority to issue temporary operating licenses (TOLs) for nuclear generating stations in advance of the conduct and completion of hearings required under section 189 and 192 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2242). The House provision invoked the existing authority and procedural requirements of section 192 of the Atomic Energy Act, and thus did not directly amend existing law.

Section 201 of S. 1207 amended section 192 of the Atomic Energy Act of 1954, and explicity amended existing procedures under section 192 for the issuance of a temporary operating license.

The House bill required that a TOL first be limited to no more than five percent of a power reactor's rated full thermal power. The House provision allowed, subsequent to the issuance of a 5% TOL, and contingent upon licensee application and Commission approval, the plant to operate at levels up to and including full power. The Senate amendment incorporated a similar step-by-step TOL (with an initial upper limit of five percent power operations) permitting the possibility of ascendancy to full power prior to the completion of hearings required under section 189 of the Atomic Energy Act.

The Senate amendment required filing of a State, local, or utility emergency preparedness plan prior to petition by an applicant for an interim operating license. Section 12 of the House bill contained no similar requirement. The House did provide in section 8 of H.R. 2330, however, that the Commission was to determine prior to issuing a TOL that an emergency preparedness plan existed which provided reasonable assurance that public health and safety would not be endangered by a plant operating under a temporary operating license.

S. 1207 required NRC to publish notice of a petition for an interim operating license. Under the Senate amendment, any party was allowed to file supporting or opposing affidavits within 30 days of such notice. By reference to the existing section 192 of the Atomic Energy Act, the House provided that any party could file supporting or opposing affidavits within 14 days of the filing of the petition. The House provision also empowered the NRC to extend this time by 10 days.

H.R. 2330 required the Commission to hold a hearing on the issue of whether or not to grant a temporary operating license. Under the House bill, such hearing, which could be held after the issuance of the TOL, could be consolidated with the final operating license hearing held by NRC pursuant to section 189 of the Atomic Energy Act. S. 1207 did not require a hearing on the issuance of an interim operating license.

The House provision required NRC to find, prior to issuance of a TOL, that the licensee would not retire or dismantle any of its existing generating capacity because of the new capacity provided by the facility to be granted the temporary license. The Senate amendment to section 192 of the Atomic Energy Act did not contain this restriction.

The Senate amendment did require the Commission to make a finding, prior to issuance of an interim operating license, that denial of such license would result in delay in the initial operation of the facility (due to completion of the plant's construction prior to the completion of the section 189 public hearings required under the Atomic Energy Act). The House bill contained no similar requirement.

S. 1207 included a provision directing any party to the final operating license proceeding, as well as any member of the Commission's licensing board, to notify the Commission of any information indicating that the licensee was not complying with the terms of the interim operating license. Similarly, the Commission was required to be informed if the terms of the interim license were not adequate. The House bill had no similar requirement.

The Senate amendment directed NRC to adopt administrative changes that would minimize the need for issuance of interim operating licenses. H.R. 2330 had no such directive.

Both the House and Senate intended that the Commission's authority to issue temporary operating licenses should expire at a time certain. The Commission's authority under the House bill ended on September 30, 1983. The expiration date under S. 1207 was December 31, 1983.

Section 11 of the conference agreement amends section 192 of the Atomic Energy Act of 1954 (42 U.S.C. 2242) and grants the Commission authority to issue a temporary operating license for a utilization facility required to be licensed under section 103 or 104 b. of the Act. The agreement specifies that an applicant may petition the Commission for a TOL authorizing fuel loading, reactor testing, and operations at a specific power level to be determined by the Commission. The conferees intend that the applicant cannot undertake any such activities until final favorable action by the Commission on the TOL application. The conference agreement also specifies that the initial petition for a TOL, and any temporary license issued by the Commission pursuant to the initial petition, must be limited to power levels not to exceed five percent of rated full thermal power.

Under the conference agreement, which is substantially similar to section 201 of the Senate amendment, the conferees intend that any TOL, whether for initial operation at 5% of full power or for operation at a higher power level, would be issued or amended only upon a vote of the Commission itself. The conferees intend that the authority to issue or amend such licenses, or to make findings required by subsection b, may not be delegated to the NRC staff.

The conferees believe that the circumstances which gave rise to the need for section 11 of the conference agreement, (including primarily the temporary reassignment of NRC staff from licensing review work to post-Three Mile Island safety reevaluations) were unique and will not recur in the foreseeable future. As the Commission itself noted in its March 18, 1981 letter submitting proposed legislation to authorize the issuance of temporary low-power operating licenses, such legislation represents an "extraordinary and temporary cure for an extraordinary and temporary situation. In addition, the conferees expect the Commission to use this period to continue to review its operating license and case management procedures, and to make such changes as may be needed to increase their overall efficiency without restricting the rights of the public to raise and have resolved the legitimate safety and environmental issues which accompany the construction and licensing of nuclear powerplants.

The conferees caution that in no way should the conference agreement be interpreted as a determination by Congress that any particular facility is presumptively ready to operate, or has a valid legal claim to begin operations once construction is completed. Under the agreement, a TOL cannot be issued before all significant safety issues specific to the facility in question have been resolved to the Commission's satisfaction. Paragraphs (1) and (2) of subsection b of the conference agreement are intended to assure that, based upon all the information available to the Commission, the Commission is able to find that the facility would meet all requirements of law (other than the conduct or completion of any required hearing) necessary for the issuance of the final operating license.

Subsection 11(d) of the conference agreement directs the Commission to adopt such administrative remedies as it deems appropriate to minimize the need for issuance of temporary operating licenses. This subsection reflects the conferees' expectation that a TOL should be a last resort remedy, to be employed only when no other alternative is available. This subsection envisions that the NRC will adopt such remedies pursuant to its current statutory authority, and is not intended to confer any additional authority upon the NRC beyond that it now possesses. In addition, the conferees expect that any administrative remedies adopted to minimize the need for issuance of TOL's shall not themselves infringe upon the right of any party to a full and fair hearing under the Atomic Energy Act. The conferees intend that the Commission shall notify the Congressional committees listed in subsection 11(b) of the conference agreement of all administrative remedies that it proposes to adopt in accordance with subsection 11(d).

SECTION 12—OPERATING LICENSE AMENDMENT HEARINGS (THE "SHOLLY" PROVISION)

The House and Senate each granted the Commission new authority to approve and make immediately effective certain amendments to licenses for nuclear power reactors, upon a determination by the Commission that the amendment involved no significant hazards consideration.

Section 11 of the House established this new Commission authority in a provision that did not amend existing law. The Senate amendment granted the Commission permanent authority by amending the Atomic Energy Act of 1954.

Under H.R. 2330, the Commission's new authority was limited to amendments to nuclear power reactor licenses. The authority under S. 1207 was broader, and extended to amendments to licenses for all facilities licensed under the Atomic Energy Act.

The House specified that NRC could approve and make immediately effective a license amendment only after notification of the State in which the facility was located. Also, the House required the Commission "when practicable" to consult with the State before issuance of an amendment. The Senate required the Commission to consult with the State in which the facility was located when determining whether or not an amendment involved a significant hazards consideration. The Senate also directed NRC to promulgate within 90 days criteria for providing prior notice and public comment on such determinations and procedures for consultation with the affected State.

Section 11 of the House bill directed NRC to publish periodically (at least every 30 days) notice of amendments issued or proposed to be issued using the immediate effectiveness authority; the nuclear power reactor concerned; and, a brief description of the amendment. The Senate, in its report accompanying S. 1207, directed the NRC to submit a monthly report to Congress on the exercise of its authority under this provision.

The House bill directed the NRC to promulgate standards (within 90 days of enactment) for determining whether or not an amendment to a license involved no significant hazards consideration. The Senate amendment explicitly preconditioned the Commission's authority to issue and make immediately effective license amendments involving no significant hazards consideration on promulgation by NRC of standards for making the "no significant hazards" determination.

The conferees adopted a compromise provision (section 12 of the conference agreement) which amends section 189a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)). Under the conference agreement, the NRC may issue and make immediately effective a no significant hazards consideration amendment to a facility operating license before holding a hearing upon request

of an interested party. The Commission may take such action only after (in all but emergency situations), (1) consulting with the State in which the facility is located, and (2) providing the public with notice of the proposed action and a reasonable opportunity for comment.

The conference agreement maintains the requirement of the current section 189a. of the Atomic Energy Act that a hearing on the license amendment be held upon the request of any person whose interest may be affected. The agreement simply authorizes the Commission, in those cases where the amendment involved poses no significant hazards consideration, to issue the license amendment and allow it to take effect before this hearing is held or completed. The conferees intend that the Commission will use this authority carefully, applying it only to those license amendments which pose no significant hazards consideration.

The conferees also expect the Commission, in promulgating the regulations required by the new subsection (2)(C)(i) of section 189a. of the Atomic Energy Act, to establish standards that to the extent practicable draw a clear distinction between license amendments that involve a significant hazards consideration and those amendments that involve no such consideration. These standards should not require the NRC staff to prejudge the merits of the issues raised by a proposed license amendment. Rather, they should only require the staff to identify those issues and determine whether they involve significant health, safety or environmental considerations. These standards should be capable of being applied with ease and certainly, and should ensure that the NRC staff does not resolve doubtful or borderline cases with a finding of no significant hazards consideration.

The conferees intend that in determining whether a proposed license amendment involves no significant hazards consideration, the Commission should be especially sensitive to the issue posed by license amendments that have irreversible consequences (such as those permitting an increase in the amount of effluents or radiation emitted from a facility or allowing a facility to operate for a period of time without full safety protections). In those cases, issuing the order in advance of a hearing would, as a practical matter, foreclose the public's right to have its views considered. In addition, the licensing board would often be unable to order any substantial relief as a result of an after-the-fact hearing. Accordingly, the conferees intend the Commission be sensitive to those license amendments which involve such irreversible consequences.

The conferees note that the purpose of requiring prior notice and an opportunity for public comment before a license amendment may take effect, as provided in subsection (2)(C)(ii) for all but emergency situations, is to allow at least a minimum level of citizen input into the threshold question of whether the proposed license amendment involves significant health or safety issues. While this subsection of the conference agreement preserves for the Commission substantial flexibility to tailor the notice and comment procedures to the exigency of the need for the license amendment, the conferees expect the content, placement and timing of the notice to be reasonably calculated to allow residents of the area surrounding the facility an adequate opportunity to formulate and submit reasoned comments.

The requirement in subsection 2(c)(ii) that the Commission promulgate criteria for providing or dispensing with prior notice and public comment on a proposed determination that a license amendment involves no significant hazards consideration reflects the conferees' intent that, wherever practicable, the Commission should publish prior notice of, and provide for prior public comment on, such a proposed determination.

In the context of subsection (2)(C)(ii), the conferees understand; the term "emergency situations" to encompass only those rare cases in which immediate action is necessary to prevent the shutdown or derating of an operating commercial reactor. (The Commission already has the authority to respond to emergencies involving imminent threats to the public health or safety by issuing immediately effective orders pursuant to the Atomic Energy Act or the Administrative Procedure Act. And the licensee itself has authority to take whatever action is necessary to respond to emergencies involving imminent threat to the public health and safety.) The Commission's regulations should insure that the "Emergency situations" exception under section 12 of the conference agreement will not apply if the licensee has failed to apply for the license amendment in a timely fashion. In other words, the licensee should not be able to take advantage of the emergency provision by creating the emergency itself. To prevent abuses of this provision, the conferees expect the Commission to independently assess the licensee's reasons for failure to file an application sufficiently in advance of the threatened closure or derating of the facility.

Subsection 2(C)(iii) of the conference agreement requires the Commission to promulgate procedures for consulting with a State in which the relevant facility is located on a determination that an amendment to the facility license involves no significant hazards consideration. The conferees expect that the procedures for State consultation will include the following elements:

(1) The State would be notified of a licensee's request for an amendment;

(2) The State would be advised of the NRC's evaluation of the amendment request;

(3) The NRC's proposed determination on whether the license amendment involves no significant hazards consideration would be discussed with the State and the NRC's reasons for making that determination would be explained to the State;

(4) The NRC would listen to and consider any comments provided by the State official designated to consult with the NRC; and

(5) The NRC would make a good faith attempt to consult with the State prior to issuing the license amendment.

At the same time, however, the procedures for State consultation would not:

(1) Give the State a right to veto the proposed NRC determination;

(2) Give the State a right to a hearing on the NRC determination before the amendment became effective;

(3) Give the State the right to insist upon a postponement of the NRC determination or issuance of the amendment; or,

(4) Alter present provisions of law that reserve to the NRC exclusive responsibility for setting and enforcing radiological health and safety requirements for nuclear power plants.

In requiring the NRC to exercise good faith in consulting with a state in determining whether a license amendment involves no significant hazards consideration, the conferees recognize that a very limited number of truly exceptional cases may arise when the NRC, despite its good faith efforts, cannot contact a responsible State official for purposes of prior consultation. Inability to consult with a responsible state official following good faith attempts should not prevent the NRC from making effective a license amendment involving no significant hazards consideration, if the NRC deems it necessary to avoid the shut-down or derating of a power plant.

SECTION 13—QUALITY ASSURANCE

Section 304 of the Senate amendment required NRC to accelerate its resident inspector program so that by the end of fiscal year 1982 at least one resident inspector would be at each power reactor site where construction is more than fifteen percent (15%) complete. The Senate also directed NRC to study options for improving quality assurance at reactors under construction, and to undertake a pilot program at a minimum of three sites to evaluate alternative approaches to quality assurance. Finally, S. 1207 directed NRC to report to Congress on the results of this program with 18 months.

The House bill contained no similar provision.

The conferees adopted a provision similar to section 304 of the Senate amendment.

Subsection 304(a) of S. 1207 required that by the end of 1982 an NRC resident inspector would be assigned to each site where a commercial nuclear powerplant is under construction, and construction is at least 15% complete. The conference agreement instructs the Commission, where it deems appropriate, to provide NRC "inspection personnel" at any such site following issuance of a construction permit for the facility in question. The conferees do not intend that such "inspection personnel" *must* be a resident inspector, although the Commission has discretion to assign a resident inspector to a site where construction is less then 15% complete. Like the Senate amendment, the conference agreement requires that once construction of a given nuclear powerplant reaches the 15% completion threshold, a resident inspector must be assigned to the project. The conferees do not intend to imply the NRC's responsibility to regulate nuclear powerplant construction is any less during the early stages of reactor construction (i.e., when construction is less than 15% complete), than it is once a project is 15% complete.

Subsection 13(b) of the conference agreement, like subsection 304(b) of the Senate amendment, directs the Commission to conduct a study of existing and alternative programs for improving quality assurance and quality control in the construction of commercial nuclear powerplants. In fulfilling this requirement, the Commission is instructed by the conference agreement to obtain comments from the public, licensees, the Advisory Committee on Reactor Safeguards, and "organizations comprised of professionals having expertise in appropriate fields." The conferees intend that these latter "organizations" include, but not be limited to, the following: the National Board of Boiler and Pressure Vessel Inspectors, the American Society on Mechanical Engineers, the American Welding Society, the Institute for Nuclear Power Operations, and private nuclear insurance pools.

Subsection 13(b) of the conference agreement sets forth specific proposals for improving quality assurance and quality control in the construction of nuclear powerplants, and requires the Commission to conduct a study and detailed analysis of those proposals. Subsection 13(d) of the agreement directs the Commission to report to Congress on the results of the study conducted pursuant to subsection (b).

Subsection 13(c) of the conference agreement requires the Commission to undertake a pilot program to "review and evaluate" programs that include one or more of the alternative proposals identified in subsection (b). The purpose of the pilot program is

twofold: (1) to determine the best means of assuring that commercial nuclear powerplants are constructed in accordance with all applicable safety requirements; and (2) to assess the feasibility, advantages, and disadvantages of the proposals listed in subsection 13(b). In undertaking the pilot program, the Commission must include the use of "independent inspectors" as described under paragraph (5) of subsection (b). By imposing the requirement that the pilot program shall include programs that use an "independent inspector," the conferees do not mean that the Commission, in undertaking the pilot program, should place lesser emphasis on the review and evaluation of progams incorporating the concepts in paragraphs (1) through (4) of subsection 13(b).

The conference agreement stipulates that the pilot program shall include at least one site at which quality assurance and quality control programs have operated satisfactorily, and shall include at least two sites "at which major construction, quality assurance and quality control deficiencies . . . have been identified in the past." The conferees recommend that the Commission, in selecting these latter two sites, refer for guidance to the testimony of the NRC Executive Director for Operations before the House Committee on Interior and Insular Affairs on November 19, 1981.

Subsection 13(d) requires that the Commission report to Congress (within fifteen months of enactment of this Act) on the results of the pilot program.

SECTION 14—LIMITATION ON THE USE OF SPECIAL NUCLEAR MATERIAL

Section 207 of S. 1207 amended the Atomic Energy Act to prohibit the use of special nuclear material (or, spent fuel) from licensed nuclear power reactors for the production of nuclear explosive devices. H.R. 2330 had no equivalent section.

The conferees agreed to include the Senate provision in the conference agreement.

SECTION 15—RESIDENT INSPECTORS

At the request of the Commission, the Senate amended the Atomic Energy Act to authorize NRC to reimburse all or part of the expenses of resident inspectors incurred in relocating between two NRC duty stations. In addition section 205 of S. 1207 specified that the Federal Government would pay expenses related to travel and transportation to and from work.

Specifically, section 205 of the Senate amendment would have amended the Atomic Energy Act to allow NRC to reimburse resident inspectors for: (1) points or mortgage loan origination fees; (2) interest on "bridge" or "swing" loans; and, (3) title insurance. In addition, S. 1207 would have enabled resident inspectors to use government cars for daily commuting to and from work. The Senate authorized appropriations of $1,162,000 in fiscal year 1982, and $1,129,000 in fiscal year 1983, for these purposes.

The House did not include any similar provision in H.R. 2330.

The conferees rejected the Senate provision amending the Atomic Energy Act, and agreed instead to authorize such sums as may be necessary for the Commission to conduct a study of the financial hardships incurred by resident inspectors as a result of: (1) certain Commission regulations which require resident inspectors to relocate periodically from one duty station to another; and, (2) Commission requirements intended to assure that a conflict of interest (or appearance of such a conflict of interest) does not develop as a result of a resident inspector either living near licensee employees, or commuting to and from work with licensee employees. Section 15 of the conference agreement directs the Commission to report to Congress on the results of this study.

The conference agreement is responsive to concerns raised in a May 6, 1982 letter to the conferees from the Administrator of the General Services Administration (GSA). The Administrator expressed the view that relocation problems are government-wide, and not unique to NRC resident inspectors. Also, it is GSA's opinion that government cars should not be used to compensate Federal employees for unusual expenses of their jobs. The conferees expect the Commission to address the GSA concerns in the study and report to Congress required by section 15 of the conference agreement.

The conferees also call the Commission's attention to page 9 of the "Follow-up Audit of OIA's December 1979 Report Entitled 'Review of Continuing Implementation of NRC's Resident Inspection Program', July 1982" which was forwarded to the conference committee by the Commission on July 28, 1982. That report states the original recommendation of NRC's Office of the Inspector and Auditor was that the Commission should "either develop a legislative proposal . . . . *or* (find) *alternative methods*" to reimburse resident inspectors relocation costs (emphasis added). The conferees expect the study and the report to Congress authorized by section 15 of the conference agreement to give full consideration to such "alternative methods" of compensation.

The conferees believe the NRC's resident inspector program significantly enhances the agency's ability to monitor licensee's compliance with the Commission's regulations on a day-to-day basis. For this reason, the total funding requested by NRC for fiscal years 1982 and 1983 to be used for personnel expenses due to expansion of the resident inspector program.

SECTION 16—SABOTAGE OF NUCLEAR FACILITIES OR FUEL

The Senate amendment contained a provision amending section 236 of the Atomic Energy Act of 1954, by adding a new subsection b. that subjects to criminal penalties any person who intentionally and willfully causes or attempts to cause an interruption of the normal operation of any facility specified in subsection 236b., through the unauthorized use of, or tampering with, the machinery, components, or controls of such facility.

H.R. 2330 contained no similar provision.

The conferees agreed to include the Senate provision in the conference agreement. The conferees intend the phrase "unauthorized use" to mean use without permission of the licensee; the word "tampering" to mean altering for improper purposes or in an improper way; and the phrase "interruption of normal operation" to mean a cessation of actual production, utilization, or storage operations which, if accomplished, will result in substantial economic harm or cost to the licensee. The conferees do not intend, however, for this provision to apply to demonstrating, picketing, or other concerted labor union activities that may have the effect of exerting economic pressure upon the licensee.

SECTION 17—DEPARTMENT OF ENERGY INFORMATION

The Senate amendment included a provision amending the existing section 148 of the Atomic Energy Act. That section currently authorizes the Department of Energy to prohibit unauthorized dissemination of certain unclassified information. The House considered no comparable provision.

The Senate amendment made three changes in the existing section 148. First, the Senate provision amended subsection 148a.(1) to make it clear that the authority of the Secretary of Energy to withhold information under this subsection is limited to certain narrowly-defined categories of information related to atomic energy defense programs. The specific categories of information are set forth in subsection 148a.(1)(A)-(C). By inserting the phrase "with respect to atomic energy defense programs," the Senate intended to ensure that the authority conferred upon the Department of Energy under section 148 authorized only the withholding of information that (1) falls within one of the three categories specified in subsection 148a.(1)(A)-(C), *and* (2) is related to the Department's atomic energy defense programs.

Second, the Senate amendment added a new subsection "e" to section 148, requiring the Secretary to prepare a quarterly report detailing the secretary's application of section 148 during that period. The information to be contained in this report, which is to be made available upon request of any interested program, was set forth by the Senate in subsection 148a. (1)-(3).

The conferees agreed to include the Senate provision in the conference agreement, subject to one clarification. Namely, the conferees do not intend that DOE, in preparing the report required under subsection 148e., identify the actual information to be withheld under this provision. These reports should (1) identify the type of information withheld, (2) provide a statement justifying the withholding of the information, and (3) provide assurance that only the minimum amount of information is being withheld.

SECTIONS 18, 19, 20, AND 21—URANIUM MILL TAILINGS

The Senate amendment contained a number of provisions relating to implementation of the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). The provisions adopted by the Senate, which are included in section 206 of S. 1207, were based upon certain problems identified in hearings held before the Senate Environment and Public Works Committee on June 16, 1981.

First, the Senate provision established new deadlines for the promulgation by the Environmental Protection Agency (EPA) of inactive and active site general environmental standards, in light of the fact that EPA missed the existing Statutory deadlines of November 8, 1979 and May 8, 1980 for issuing inactive and active site standards, respectively. The Senate provision provided that EPA shall have until April 1, 1982 to issue final inactive site standards and until October 1, 1982 to issue proposed active site standards, with final active site standards to follow six months thereafter. The Senate provision clarified EPA's authority to consider impacts on public health and safety and the environment, as well as the economic cost of applying the standards. In addition, the Senate provision provided EPA with flexibility under the Solid Waste Disposal Act to consider special circumstances associated with uranium mill tailings.

Second, the Senate provision suspended NRC's regulations, which were issued in advance of EPA's standards, until EPA promulgates its standards. Within 90 days of promulgation by EPA of final standards, the Senate provision directed NRC to initiate a rulemaking proceeding to conform its regulations to those standards. Pending promulgation by the NRC of its regulations, the NRC was barred from implementing or enforcing any of its current regulations, but was allowed to regulate uranium mill activi-

ties on a case-by-case basis as necessary to protect public health and safety.

Third, the Senate provision clarified that NRC has the authority to consider all relevant factors, including impact on public health and safety and the environment, as well as economic cost in developing its standards. For existing uranium mills, the Senate provision authorized the NRC to consider certain site-specific conditions.

Fourth, the Senate provision clarified the authority of Agreement States that elect to regulate uranium milling activities to adopt alternatives to Federal requirements if the States find that the Federal requirements are not practicable under local conditions. The provision specified that NRC may not reject any such State findings that are supported by substantial evidence in the record, unless the NRC finds that the State alternative fails to provide adequate protection to the public health, safety, and the environment. Such NRC action may only be taken in accordance with the notice and hearing provisions of the Atomic Energy Act. Upon promulgation by NRC of its regulatory requirements, Agreement States were given six months, under the Senate provision, to issue such amended State requirements as may be necessary. NRC may terminate a State's authority after this period only by following the notice and hearing requirements of the Atomic Energy Act.

Fifth, the Senate provision clarified that NRC retains authority in Agreement States to evaluate compliance with Agreement State requirements, but not to impose additional requirements.

Finally, the Senate provision authorized NRC to exempt land in which tailings have been employed as backfill in underground mines from the ownership transfer provisions of the Act.

The House bill did not contain any provisions related to uranium mill tailings.

The conferees have agreed to a compromise that includes four essential elements. First, the conference agreement establishes new deadlines for the promulgation by EPA of general environmental standards required under section 275 of the Atomic Energy Act. The original deadlines established when the Uranium Mill Tailings Radiation Control Act (UMTRCA) was passed in 1978 called upon EPA to promulgate final general environmental standards for inactive and active uranium processing sites by November 8, 1979 and May 8, 1980, respectively. Those deadlines have long since passed and EPA has yet to issue either its final active or inactive standards. The conferees wish to emphasize their concern and express their displeasure over EPA's past failures to promulgate these general environmental standards in a timely fashion.

When UMTRCA was passed in 1978, Congress assigned to EPA a significant role in the program for regulation of uranimum mill tailings activities. An EPA regulatory role in this area should, in the view of the conferees, be brought to bear on the task of assessing and controlling the risks posed by uranimum mill tailings and developing general environmental standards only if a regulatory program including EPA can be implemented with certainty and in a timely manner. To date, EPA has failed to meet this Congressional mandate as it was first spelled out in UMTRCA.

Accordingly, the conference agreement establishes new deadlines for the promulgation by EPA of general environmental standards. Specifically, EPA is directed to promulgate the following standards by the dates identified:

Final Inactive Site Standards—October 1, 1982;

Proposed Active Site Standards—October 31, 1982; and

Final Active Site Standards—October 1, 1983.

It is the intent of the conferees that EPA make every effort to allocate those resources necessary to ensure that the foregoing deadlines are met. In this regard, the conferees note the assurances of the Administrator of EPA contained in a letter to the conferees of April 28, 1982, that these deadlines are, in fact, achievable.

Should EPA fail to meet the deadlines set forth for the promulgation of final general environmental standards, the conference agreement includes specific directions on the actions that are to follow. Section 18(a)(1) provides that, if EPA fails to promulgate final inactive site standards by October 1, 1982, all action required of the Secretary of Energy under title I of UMTRAC shall be taken in accordance with EPA's proposed inactive site general environmental standards (published at 46 Federal Register 2556 on January 9, 1981), until such time as EPA promulgates final inactive site standards. EPA should continue in its efforts to promulgate final inactive standards as soon as possible and, upon promulgation, the conferees intend that the Secretary of Energy's actions, as required under title I, be taken in compliance with such final standards. To the extent practicable, DOE should make every reasonable effort, in complying with EPA's proposed standards, to take those actions required under title I which will, upon promulgation of EPA's final standards, be least likely to be disrupted. In addition the conferees note that, for purposes of the "7-year clock" for the completion of cleanup, DOE's time begins to run October 1, 1982.

If EPA fails to promulgate final active site standards by October 1, 1983, section (a)(3) of the conference agreement provides that the authority of EPA to promulgate such active site standards terminates. In such event, the NRC is authorized to determine, in its discretion, whether the promulgation of such general environmental standards is necessary in order for NRC to carry out its reponsibilities under title II and, if so, to promulgate any such standards deemed necessary. Upon promulgation of any such standards, the NRC shall take such action as it deems necessary to conform its regulations to such standards. It is the conferees' intent, however, that during the period in which the NRC promulgates these active site standards and subsequently conforms its regulations to such standards, nothing in the conference agreement shall be construed as requiring the NRC to prohibit or suspend the implementation or enforcement of its regulations. In light of this, it would be the conferees' expectation that, in promulgating any general environmental standards deemed necessary, the Commission would provide notice and opportunity for public comment similar to that available had EPA been promulgating such standards.

The second major element of the conference agreement relates to the regulations required to be promulgated by NRC under UMTRCA and the Atomic Energy Act. On October 3, 1980, the Commission promulgated its final Uranium Mill Tailings Requirements (45 Federal Register 65521 to 65538). Under the conference agreement, the Commission is prohibited from implementing or enforcing those regulations until January 1, 1983. Due to the confusion which has arisen with EPA's failure to promulgate final regulations in advance of the NRC, according to the timetable established in the UMTRCA, the conferees believed the simplest and most efficient manner in which to restore order to the regulatory scheme, was temporarily to suspend implementation and enforcement of the NRC's mill tailings regulations until January 1, 1983. The conferees have limited the suspension to the minimum time required to straighten-out potentially conflicting regulatory requirements. The conferees take this action only to assure a smooth regulatory system while transitions are occurring. On that date, the Commission is authorized to implement and enforce all of its October 3rd Uranium Mill Licensing Requirements *except* those that the Commission determines would require a major action or commitment by licensees which would be unnecessary if (1) the active site standards proposed by EPA are promulgated in final form without modification, and (2) the Commission's requirements are modified to conform to such standards. The conferees note that, in this context, the term "commitment" may include financial obligations or expenditures that might be required. This determination referred to in section 18(a)(4) of the conference agreement is to be made by the Commission following a review and analysis of the Commission's regulations and EPA's proposed active site standards as soon as the latter are promulgated. Section 18(a)(4) specifically provides that, following proposal by EPA of its active site standards, the Commission is to undertake a review of its regulations in order to make the determination referred to above. The conference agreement provides the NRC 90 days in which to make this determination. This period of time, in the view of the conferees, should provide sufficient opportunity for the Commission to provide notice and opportunity for public comment prior to reaching its determination.

Those requirements that the Commission determines would require a major action or commitment by licensees which would be unnecessary if (1) the standards proposed by the Administrator are promulgated in final form without modification, and (2) the Commission's requirements are modified to conform to such standards, shall continue to the suspended (both implementation and enforcement) until the earlier of April 1, 1984, or the date on which the Commission amends its regulations to conform to EPA's final active site standards (to be promulgated by October 1, 1983). Upon promulgation by EPA of its final active site standards, the Commission shall have until April 1, 1984 to conform its regulations to EPA's standards. If NRC completes this task prior to April 1, 1984, the suspension of such regulations shall terminate upon this earlier date. If EPA does not promulgate final standards by October 1, 1983, the agency's regulatory authority terminates and NRC's regulations go into effect on that date as initially proposed or as modified by rule by NRC. Once again, the conferees fully expect that this six month period of time is of sufficient length to enable the Commission to provide notice and opportunity for public comment prior to reaching its determination.

During the period of suspension of NRC's uranium Mill Licensing Requirements imposed under the conference agreement, the NRC is authorized to take such action as it may deem necessary, on a licensee-by-licensee basis, to protect public health, safety, and the environment.

Subsection (f)(4) clarifies that nothing in this section is intended to affect the authority or responsibility of the Commission to promulgate regulations to protect the public health and safety and the environment. The conferees specifically rejected the notion that the NRC in any way acted improperly, in promulgating its regulations in advance of action by the Environmental Protection Agency. This subsection is not intended to

affect the temporary suspension imposed under 18(a)(4) of the implementation and enforcement of certain of NRC's uranium Mill Licensing Requirements.

The third major element of the conference agreement pertains to the responsibilities of EPA and NRC to promulgate, respectively, general environmental standards and uranium mill licensing regulations. In each instance, the conferees have agreed to include specific references in the appropriate sections of the Atomic Energy Act directing EPA and NRC, in promulgating such standards or regulations, to consider the risk to the public health, safety, and the environment, the environmental and economic costs of such standards or regulations, and such other factors as EPA or NRC, respectively, determine to be appropriate.

The conferees do not intend and specifically oppose by this language affecting any pending litigation or appeal of judicial decisions based on the fundamental missions or responsibilities of the agencies. The conferees note that this language reflects accurately the current regulatory approach of the agencies. The language agreed to by the conferees should not result in any delays in establishment of remedial action standards. EPA, for example, has already advised the conferees that it is considering costs in formulating its inactive site requirements. In addition, the NRC has testified before Congress that it, too, took costs into account in promulgating its Uranium Mill Licensing Requirements. Moreover, in adopting the language, the conferees intend neither to divert EPA and NRC from their principal focus on protecting the public health and safety nor to require that the agencies engage in cost-benefit analysis or optimization.

The conferees are of the view that the economic and environmental costs associated with standards and requirements established by the agencies should bear a reasonable relationship to the benefits expected to be derived. This recognition is consistent with the accepted approach to establishing radiation protection standards, and reflects the view of the conferees that, in promulgating such general environmental standards and regulations, EPA and NRC should exercise their best independent technical judgment in making such a determination. At all times, the conferees fully intend that EPA and NRC recognize as their paramount responsibility protection of the public health and safety and the environment.

The fourth major element of the conference agreement involves implementation of the federal standards and regulations of EPA and NRC at the State level. Under section 19 of the conference agreement, individual Agreement States are authorized to adopt alternatives (including site-specific alternatives) to the Commission's regulations. These alternative State requirements, which may take into account local or regional conditions, must be submitted to the Commission for approval. If, after notice and opportunity for a public hearing, the Commission determines that the State alternatives will achieve a level of stabilization and containment of the site and a level of protection for public health, safety, and the environment, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by the EPA and NRC standards and requirements, the State is to be allowed to implement such alternatives.

Section 20 of the conference agreement confers upon individual licensees a related but less independent ability to propose alternatives. Under this section, individual licensees are authorized to propose alternatives to specific Commission requirements. The Commission may treat such alternatives as satisfying Commission requirements if it determines that such alternatives will achieve a level of protection for public health, safety, and the environment, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by the EPA and NRC standards and requirements.

States and licensees are intended to be provided an opportunity to propose approaches to mill tailings containment and stabilization suited to regional or site-specific conditions which may vary from engineering or technical specifications recommended by the Commission. The Commission is expected to assure that alternative approaches meet the operational criteria and objectives set by the NRC regulations and the general environmental standards set by EPA. The conferees note that the right of Agreement State regulatory authorities to adopt regulations which meet the NRC/EPA standard is being clarified, but that a distinction exists between this right and the opportunity being affirmed for licensees to propose to NRC alternative approaches to compliance with Commission regulations.

Finally, section 19(b) of the conference agreement provides that there is to be no termination of the regulatory program of any Agreement State that is acting to exercise authority over mill tailings unless NRC complies with the procedures specified in subsection 274(j) of the Atomic Energy Act.

S. 1207, as passed by the Senate, included several provisions not included in the conference agreement. In some instances, the conferees were of the view that the authority conferred pursuant to these specific provisions in S. 1207 already existed under current law or that the Commission was interpreting its authority in a fashion consistent with the conferees' understanding of what current law provides, and that no further statutory guidance was required. Accordingly, the conferees agreed to delete those provisions. Specifically, those provisions of S. 1207 which were so deleted are as follows: Sections 206(i), (j), and (k).

SECTION 21—EDGEMONT

The Senate amendment included a provision directing the Commission, in consultation with the State of South Dakota and a number of other federal departments to establish a monitoring, engineering assessment, and remedial action program for the purpose of cleaning up offsite locations in the vicinity of Edgemont, South Dakota that have been contaminated by residual radioactivity from the Tennessee Valley Authority (TVA) uranium mill site. Although the Edgemont site is an inactive uranium mill site, it was not included in the remedial action program established by the Uranium Mill Tailings Radiation Control Act of 1978 because TVA held a current license from the NRC for the mill. TVA is obligated and has agreed to clean up the mill tailings on the Edgemont site. No legal responsibility has been established, however, for cleanup of the tailings at the offsite locations.

The Senate amendment was intended to address the concerns that have arisen over who has the jurisdiction and responsibility for cleanup of the offsite locations by incorporating into the remedial action program of the mill tailings act these offsite mill tailings locations. In addition, the Senate provision was intended to confirm the monitoring and engineering assessment program now underway by the NRC that would precede the cleanup itself at these offsite locations.

The House bill did not contain a similar provision.

The conferees agreed to a compromise provision that is intended to address those concerns raised by the Senate. The provision agreed upon by the conferees amends section 102(e) of the Uranium Mill Tailings Radiation Control Act of 1978 by adding a new subsection (3). This new subsection directs the Secretary of Energy to designate for remedial action any property within the vicinity of the TVA site in Edgemont, South Dakota that the Secretary determines to be contaminated with residual radioactive materials from the TVA site. The Secretary, in making this designation, is to consult with the Environmental Protection Agency, the NRC, and the State of South Dakota.

The conferees intend that the Secretary place a high priority on the activities required of DOE under subsection (3) and, in particular, that the Secretary move expeditiously to designate those properties requiring cleanup, based upon the NRC assessments completed or close to completion, and begin the necessary remedial action as soon as possible. In this regard, the conferees note that the NRC has been directly involved in the Edgemont offsite remedial action program for some time and has completed or is close to completing the work upon which DOE's remedial action program should be based. NRC's involvement to date has extended to the performance of radiological surveys of residences and vacant lots, radiological engineering assessments, and the completion of detailed cleanup plans. According to information supplied to the conferees, the NRC has completed nearly 95 percent of the radiological surveys of the affected properties in the vicinity of Edgemont. Approximately 225 properties were identified by the NRC as requiring a full radiological engineering assessment, and the conferees are advised that the NRC has completed 159 of these assessments. As a result of the assessments to be completed to date, 80 properties have been identified that will require cleanup. In all, the NRC projects that nearly 130 properties will require varying amounts of cleanup action and estimates that the contractor costs for the actual cleanup activities should be approximately $300,000. The conferees intend that the results of the foregoing work serve as the basis for the DOE remedial action program, and that all cleanup plans prepared by the NRC be transferred to DOE for implementation.

The compromise agreed to by the conferees also provides that the Secretary, in determining the State's share under section 107 of the costs of of remedial action, shall credit the State of South Dakota for expenditures made by the State which, had the offsite properties in the vicinity of Edgemont been listed under section 102(a)(1) of the Mill Tailings Act when it was passed in 1978, would have been paid by the State or by the federal government. Thus, it is the intent of the conferees that the State of South Dakota be required to pay ten percent of the total cost of remedial action undertaken in the vicinity of the Edgemont site, but that, in calculating this ten percent share, the State be credited for expenditures made prior to the date of enactment of this bill associated with the remedial action which would have been credited pursuant to title I of the 1978 Act had they been made after the date of enactment of this Act. According to information supplied to the conferees, the State has already spent approximately $150,000 on the Edgemont effort. Of this amount, the conferees identified certain expenses for which the State should be given credit under section 107. These expenses include the following: contractual costs for radiological monitoring assessments, costs for time of state personnel conducting actual monitoring, costs for

travel to and from Edgemont, costs for radiological monitoring equipment, per diem costs for personnel at off-site locations, and costs for time of personnel analyzing the test results and notifying owners of potentially dangerous property. Beyond these expenditures, it is the intent of the conferees that the Secretary identify those additional State expenses for which South Dakota should be given credit in determining the State's ten percent share under section 107.

SECTION 23—URANIUM SUPPLY

The Senate amendment included provisions creating a new Commission responsibility for the regulation of uranium imports into the United States. No more than 20 percent of uranium consumed in the United States would have been permitted to be of foreign origin.

The conferees agreed to a strict review and monitoring program to guard against damage to the domestic uranium industry resulting from foreign uranium imports. The program utilizes existing trade authorities and the existing authority of the Secretary of Energy under the Atomic Energy Act to protect the domestic uranium industry through regulation of feedstock into U.S. uranium enrichment facilities.

If during a ten-year period following enactment of this Act uranium imports reach a level of 37.5 percent, the Secretary of Energy is required to revise enrichment criteria to increase the use of domestic uranium in U.S. enrichment facilities and to initiate an investigation and consideration of import restrictions by the Secretary of Commerce under the Trade Expansion Act to determine whether imports threaten national security and whether therefore trade restrictions should be enacted. The conferees believe that imports at the 37.5 percent level could affect national security. For national security reasons, therefore, contracting for new imports must be restricted while the Secretary of Commerce's study is being conducted to determine whether a national security threat does in fact materialize at that import level. The conferees do not intend that any restrictions be imposed until such time as the Secretary of Energy finds that import levels are, in fact, at the 37.5 percent level, and the Secretary of Commerce initiates an investigation to determine the effects of such imports on national security. The contracting restriction is limited to a maximum duration of two years.

The conference agreement contains no restrictions with respect to contractural agreements in existence at the date of enactment. It may apply to future contracts for purchase of foreign uranium and is to be limited to contracts executed subsequent to notice in the Federal Register by the Secretary of Commerce of the initiation of an investigation under Section 232 of the Trade Expansion Act. The authority of the Secretary of Energy to limit new foreign source contractural obligations is limited to two years' duration. In the event that a temporary restriction is implemented, the conference agreement provides that all contracts, including contracts for options for supply of foreign uranium, executed prior to the initiation of the Commerce Secretary's investigation shall not be affected by such prohibitions.

The Secretary of Energy may at any time trigger a study under the Trade Act by the United States International Trade Commission by making a determination that uranium imports threaten to injure the domestic uranium industry. The study would also result in consideration of trade restrictions to protect the domestic uranium industry. A temporary trade restriction would not, however, be in effect during the study.

The Secretary of Energy's determinations regarding the viability of the uranium mining industry will be made pursuant to criteria he is required to develop by rule within 9 months of enactment of this Act. The Secretary is required to assess in the study whether contracting for foreign imports resulting in greater than 37.5 percent of domestic uranium requirements, and other factors, affect the viability of the domestic uranium industry. The Secretary's determination of final criteria for assessing the viability of the domestic uranium industry will be used as the basis for carrying-out his responsibilities to monitor the domestic industry under this Act and under the section 161v. of the Atomic Energy Act.

To assist the Congress in maintaining a clear understanding of the status of the domestic mining and milling industry, the conference agreement provides that, within a year after the date of enactment, the President is to prepare and submit to the Congress a comprehensive review of the current status of the industry. Among the issues to be addressed in the comprehensive review are: projections of uranium requirements and inventories; uranium production levels; penetration of domestic markets by foreign imports; levels of production necessary to ensure a viable domestic uranium industry; a projection of production and price levels currently in effect and which would be in effect if import restrictions were enacted by Congress; and the anticipated effect of spent nuclear fuel reprocessing on the demand for raw uranium. A national policy relating to the domestic uranium industry based on the most complete information and full consideration of alternatives is intended to be developed as a result of this study.

The Conferees also agreed that when the Secretary determines that executed contracts or options for foreign uranium reached a level of 37.5% of the total domestic reactor demand for uranium in any two consecutive years, the Secretary shall modify the criteria setting forth terms and conditions under which services are provided in contracts executed subsequent to that determination. These modifications should provide for the greater use of uranium in the enrichment process and the increased increment of uranium should be restricted to uranium of domestic origin.

An example of such a policy change would be a modification in the enrichment plant tails assay. A modification of the tails assay from .20% to .25% when imports consisted of 37.5% of the domestic market would, during the period when these enrichment criteria and the requirements of this section were applicable, result in an increase in the use of domestic uranium of approximately 14% over what it would have been if the tails assay has remained at .20% and the requirements of this section (i.e. those requirements that increased use of uranium resulting from modifications in enrichment criteria should be uranium of domestic origin) did not apply.

Another example of an enrichment policy change to fulfill the requirements of this section would be elimination of the current selloff of the separative work stockpile. The Conferees do not intend that the Secretary affect in any way, rights to enrichment of foreign uranium which exist under contracts executed prior to the determination of the Secretary.

The conferees expect that the Secretary, in modifying the enrichment criteria, will take account of both the need to utilize enrichment facilities in an efficient manner and maintain the competitive position of uranium enrichment services on the world market. In addition, the conferees expect that the Secretary, in informing the Congress of proposed changes in the enrichment criteria pursuant to the requirements of section 161(v), will include a statement as to the effect of the changes upon production of domestic uranium, the utilization of enrichment capability, the use of electric power for enrichment purposes, the cost of electric power purchased for enrichment purposes, competitive position of uranium enrichment services on the world market, and the cost to electric utilities of uranium and enrichment services.

As used in this provision, the conferees intend that "contracts" mean contracts and options included in those contracts and options contracts or contracts for options.

COMMENTS ON A TEMPORARY ADVISORY PANEL TO STUDY THE NUCLEAR POWERPLANT LICENSING PROCESS

Section 13 of H.R. 2330 directed NRC to establish a temporary advisory panel to evaluate the efficiency and effectiveness of the nuclear powerplant licensing process. The panel was to complete its evaluation within six months after anactment and then submit a report to the Commission and to the Congress. The House further directed the Commission to provide Congress its views on the panel's report as well as its recommendations on the need for legislative and administrative changes to improve the licensing process.

A similar provision was approved by the Senate Committee on Environment and Public Works, and then subsequently deleted from S. 1207 on the Senate floor.

The conferees agreed to delete the House provision from the conference agreement. The conferees' rationale for dropping this provision is that a requirement for such a temporary advisory panel is not needed at this time because similar initiatives are already underway at the Nuclear Regulatory Commission, the Department of Energy, and outside the Federal Government.

COMMENTS ON THE 2-YEAR AUTHORIZATION CYCLE

For the first time, the conference agreement embodies a two-year authorization (fiscal years 1982 and 1983) for the Nuclear Regulatory Commission. The conferees believe that inherent in this 2-year authorization is the potential for significant reduction in the congressional legislative workload without impairing the ability of Congress to exercise effectively its jurisdiction over the NRC and the regulation of the commerical nuclear industry. Also, the conferees believe the 2-year cycle will promote more coherent budgetary planning and program and policy continuity at the NRC.

The conferees believe that the NRC authorization levels for fiscal year 1983 contained in the conference agreement are based upon reasonable projections. In testimony before the House Interior and Insular Affairs Committee, the Commission described the following internal budget process that the agency went through in developing its authorization request for fiscal year 1983:

This process included detailed office submissions for both fiscal years (i.e. fiscal year 1982 and fiscal year 1983) based on the guidance provided in the PPPG. All of the office submissions were subjected to successive reviews by the Office of the Controller, the Budget Review Group headed by the Deputy Director for Operations, the EDO and the Commission prior to submission to the Office of Management and Budget. At each review step, the office directors were encouraged to discuss their requirements and to advise the reviewers of any impacts that proposed changes on their fiscal year

1982 budget request might have on fiscal year 1983. Through the EDO level, equal attention was given to both budget year and outyear estimates.

The Commission, having gone through the process of developing and reviewing a 2-year budget request, indicated their support of a 2-year authorization cycle.

The conferees recommend a 2-year authorization for the NRC with full understanding that there will always be greater uncertainty with regard to the funding requirements of the second year of the 2-year cycle vis-a-vis the first year of the cycle. With this in mind, a reprogramming procedure is provided in subsection 1(c) of the conference agreement that will enable the NRC and the Congress to work together to reallocate authorized funds in the event circumstances change during the authorization period. In addition, the option is always open to the Commission to request a supplemental authorizing of appropriations; and the Congress can amend the authorizing legislation.

The conferees expect the Commission in early 1983 to submit to Congress proposed legislation authorizing appropriations for the agency's salaries and expenses for the 2-year period of fiscal year 1984 and fiscal year 1985. The conferees further instruct the Commission to submit such proposed legislation in a line-item format with specific amounts requested for each of NRC's programmatic functions for each fiscal year.

MO UDALL,
JONATHAN B. BINGHAM,
JOHN F. SEIBERLING,
EDWARD J. MARKEY,
JOHN D. DINGELL,
RICHARD OTTINGER,
TOBY MOFFETT,
MANUEL LUJAN, JR.,
DAN MARRIOTT,
JAMES T. BROYHILL,
CARLOS J. MOORHEAD,
Managers on the Part of the House.

AL SIMPSON,
PETE V. DOMENICI,
STEVE SYMMS,
ROBERT T. STAFFORD,
GARY HART,
GEORGE J. MITCHELL,
JENNINGS RANDOLPH,
Managers on the Part of the Senate.

FOREIGN ASSISTANCE ACT AMENDMENTS TO EXTEND AGRICULTURAL AND COMMUNITY DEVELOPMENT PROGRAMS

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7143) to amend the Foreign Assistance Act of 1961 to extend for an additional year the agricultural and productive credit and self-help community development programs.

The Clerk read as follows:

H.R. 7143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 222A(h) of the Foreign Assistance Act of 1961 is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1983".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. FINDLEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before the House is technical in nature. Last year when the Congress enacted a 2-year foreign assistance authorization bill, the extension of a small guaranty program was inadvertently left out. This bill would provide for the extension through September 30, 1983.

The program in question is the agricultural and productive credit and self-help community development program. Section 222A of the Foreign Assistance Act authorizes up to $20 million in guarantees to establish pilot programs in up to six Latin American countries to encourage private financial institutions to make loans to organizations and individuals who are normally unable to obtain commercial credit. The loans are for small productive enterprises and community projects.

I would urge the Members to vote in favor of the bill so that AID can continue to test the program to determine whether it should be expanded to a broader basis.

Mr. FINDLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is necessary to correct an oversight last year when the Congress inadvertently neglected to extend the authority of section 222A of the Foreign Assistance Act of 1961, as amended. This section of the act is a small loan guaranty authority for pilot programs to encourage private banks, credit institutions, cooperatives, and similar private groups in less developed Latin American countries to make loans at reasonable rates to individuals and groups in their communities for agricultural credit and self-help community development projects for which they would otherwise be unable to obtain financing on reasonable terms. Under this program, the Agency for International Development (AID) guarantees a percentage of aggregate loans from private indigenous lenders to encourage financing to self-help projects for needs such as wells, pumps, farm machinery, improved seed, fertilizer, vocational training, nutrition improvement, sanitation facilities, and handicraft aids.

No authorization of budget authority is involved, merely loan guaranties. Such small amounts of funds as are necessary for maintaining a guaranty reserve and administrative costs of the programs are obtained from fees charged for the issuance of guaranties. I urge my colleagues to suspend the rules and pass this routine one-year extension of this small, but useful program to promote private financing for agricultural credit and self-help community development.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 7143, Foreign Assistance Act amendments to extend agricultural and productive credit programs and community development programs in Latin America.

The productive credit guarantee program was established to stimulate the participation of the private sector in the economic development of less-developed Latin American countries. The authority for the productive credit guarantee program expires at the end of fiscal year 1982. The Foreign Affairs Committee, of which I am a member, had originally included a 1-year extension as part of the International Security and Development Cooperation Act of 1982 (H.R. 6370), however, that bill is unlikely to be enacted before the end of the fiscal year.

As the ranking minority member of the Subcommittee on Inter-American Affairs, I share the committee's view that this important program should not be allowed to expire. As a loan guarantee program, no authorization of budget authority is required. In addition, the small amount of funds that are necessary for maintaining a guaranty reserve and administrative costs for these private sector self-help projects are raised from fees charged for the issuance of guaranties.

I urge my colleagues to join with me in strong support of H.R. 7143.

Mr. FINDLEY. Mr. Speaker, I have no further requests for time.

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7143.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and pass the bill, H.R. 7143.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TRANSFER OF CERTAIN NAVAL VESSELS

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7115) to authorize the transfer of nine naval vessels to certain foreign governments, as amended.

The Clerk read as follows:

H.R. 7115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the approval of the Congress required by section 7307(b)(1) of title 10, United States Code, is hereby granted for the sale under section 21 of the Arms Export Control Act (22 U.S.C. 2761) of a vessel of the United

States Navy, as follows: the sale of one auxiliary drydock of the ARD 12 class to the Government of Ecuador.

SEC. 2. (a) The approval of the Congress required by section 7307(b)(1) of title 10, United States Code, is hereby granted for the lease under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796-2796c) of vessels of the United States Navy, as follows:

(1) The lease of two patrol combatants of the Asheville class to the Government of Colombia.

(2) The lease of three fast patrol boats of the Osprey class to the Government of the Dominican Republic.

(3) The lease of one oceanographic research ship of the Conrad class to the Government of Mexico.

(4) The lease of one destroyer tender of the Arcadia class to the Government of Pakistan.

(5) The lease of one destroyer tender of the Dixie class to the Government of Turkey.

(b)(1) Except as provided in section 3, section 62 of the Arms Export Control Act (22 U.S.C. 2796a) shall not apply with respect to the leases described in subsection (a) of this section.

(2) The requirement contained in section 61(a)(3) of the Arms Export Control Act (22 U.S.C. 2796(a)(3)) shall not apply to a lease described in subsection (a) of this section which would otherwise be subject to that requirement; however, any expense of the United States in connection with any such lease shall be charged to the government to which the vessel is leased.

(3) Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the lease of a vessel described in subsection (a) of this section may provide, as part or all of the consideration for the lease, for the maintenance, protection, repair, or restoration of the vessel by the lessee.

SEC. 3. The approval to transfer naval vessels granted by this Act shall expire at the end of the two-year period beginning on the date of the enactment of this Act, but a lease for any such vessel which is entered into before the end of that period may be renewed in accordance with this Act, subject to the reporting requirement of section 62 of the Arms Export Control Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7115, as amended by the Committee on Foreign Affairs. The amendment, in the nature of a substitute, enjoyed complete bipartisan support in the committee and is supported by my colleagues in the House Armed Services Committee. In addition, both the Senate Armed Services and Foreign Relations Committees support the bill as amended.

Briefly, the amendment adopted unanimously by the Committee on Foreign Affairs does the following:

First, it approves of the one sale and eight leases of naval vessels to key friendly countries and allies as requested by the Department of the Navy. H.R. 7115, as amended, provides that the transfers will be in accordance with the Arms Export Control Act which is the appropriate legal authority for the transfer of defense articles to foreign countries. Legislation approved by the Congress in 1981 stipulated that leases of defense articles to foreign countries be conducted under chapter 6 of the Arms Export Control Act, and not the authority of title 10, section 2667. Exceptions to the full costing and to the advance notification requirements in that act for leases have been provided consistent with the executive branch's draft legislation and after careful review by the Committee on Foreign Affairs.

Second, it reinforces Committee on Foreign Affairs jurisdiction over leases and sales of defense articles to foreign countries. It also preserves the role of the Department of State in insuring that U.S. foreign policy objectives are factored into the decision to conduct leases and sales.

Third, it strengthens congressional oversight since leases under the Arms Export Control Act are subject to prior reporting requirements, prior U.S. Government approval of third-country transfers, appropriate accounting procedures, a stipulation that the transferred equipment will be used for defensive purposes only, and other conditions.

In short, the committee amendment assures that U.S. foreign policy objectives are adequately factored into the decision to conduct leases and sales of naval vessels. In all these cases, ship transfers and a modest FMS program are important elements in our relations with these respective countries and are designed to meet the legitimate defense needs of these countries and to support our U.S. foreign policy objectives.

I would like to thank the ranking minority member of the committee, my colleague and good friend, the gentleman from Michigan (Mr. BROOMFIELD) for his full support of this measure.

Finally, I would like to thank my colleagues on the House Armed Services Committee, Mr. PRICE, Mr. BENNETT, and Mr. SPENCE for the close cooperation we enjoyed on this measure.

I urge the adoption of H.R. 7115, as amended.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the bill authorizing the transfer of nine U.S. Navy vessels to six foreign countries. These transfers are strong indicators of U.S. ties to friendly nations and are a visible reminder of American support for the legitimate security needs of our friends and allies. Moreover, these ship transfers are viewed by both the United States and the recipient countries as fulfilling political requirements as well as military ones.

Having considered legislation proposed by the Navy in our committee, an amendment in the nature of a substitute was offered by my good friend and chairman, the gentleman from Wisconsin, CLEMENT ZABLOCKI. The legislation before us today contains the substitute language accepted by our committee.

In short, the bill approves one sale and eight leases of naval vessels which the Department of Navy is requesting. My colleagues should be fully aware that although a U.S. Navy ship is generally leased for a 5-year period, we not only retain the title for the ship but also have the flexibility to recall the ship on demand.

Also, if any restoration and training for a ship is desired by the foreign country, those services are purchased from the United States, thus contributing to higher employment in our shipyards as well as greater military exchanges among the friendly parties.

The legislation further provides that the transfer of these naval vessels be in accordance with the Arms Export Control Act. As a result, we strengthen congressional oversight, since leases under the Arms Export Control Act are subject to reporting requirements, prior U.S. Government approval of third country transfers, as well as the stipulation that the transferred military equipment will be used only for defensive purposes.

In summary, the bill before us today provides for increased congressional oversight while authorizing ship transfers which are not only consistent with friendly political and military needs, but also U.S. national security interests. For these reasons, I urge my colleagues to support the legislation.

Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LAGOMARSINO), a member of the committee.

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 7115, legislation providing for the transfer of nine naval vessels to several important allies of the United States.

Two of the vessels will be going to Colombia, three to the Dominican Republic and one each to Mexico, Pakistan, and Turkey. The transfer of these ships represent a significant opportunity to demonstrate the U.S. interest in promoting close, friendly ties with our neighbors and allies.

In each case, with the exception of Mexico, the United States will be contributing to the defense capability and drug enforcement capability of those nations by transferring these vessels, and thereby, reducing the necessity for other defense commitments which the United States might have to make to protect our national interest. The

ship destined for Mexico is an oceanographic research vessel.

I believe it is also important to emphasize that H.R. 7115 strengthens congressional oversight of defense leasing arrangements and that the transferred equipment will be used for defensive purposes only.

I urge my colleagues to give their full support to H.R. 7115.

Mr. ZABLOCKI. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would also like to thank the ranking minority member of the Committee on Foreign Affairs, my colleague and good friend, the gentleman from Michigan (Mr. BROOMFIELD), for his full support on this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. BENNETT).

□ 1630

Mr. BENNETT. Mr. Speaker, I rise in support of the bill, H.R. 7115, as amended.

The bill was jointly referred to the Committee on Armed Services and to the Committee on Foreign Affairs.

The Committee on Armed Services considered the bill H.R. 7115 and reported the bill favorably to the House. The amendment in the nature of a substitute of the Committee on Foreign Affairs would achieve the same purpose as the bill reported by the Committee on Armed Services; namely, it would authorize the transfer of nine naval vessels to six friendly and allied countries. Accordingly, I am supporting the bill, as amended, on behalf of the Committee on Armed Services.

Present law prohibits the transfer, by any means, of a naval vessel in excess of 3,000 tons or less than 20 years of age to another nation unless the transfer has been authorized by law.

H.R. 7115 was introduced at the request of the Secretary of the Navy to authorize the sale of one vessel that has been determined excess to U.S. Navy requirements and the lease of eight vessels that are not currently needed for public use.

The committee heard testimony that transfer of the ships proposed by this bill would not impede the Navy's stated objective of increasing the size of its fleet. The ships proposed for transfer are not and would not be counted as Navy battle group ships. It was pointed out that the mere existence of vessel hulls stored in inactive ship facilities does not increase the defense posture. Storage uses money that can be better used in new ship construction.

The committee was persuaded that the proposed transfers are of ships no longer essential to the Navy's needs. They are old ships and would be costly to reactivate, modernize, and operate as part of the U.S. Navy. In short, their proposed transfer signals no waivering in the determination to develop a fleet of about 600 ships capable of carrying out all of its assigned tasks.

The Department of Defense and the Department of State strongly support the transfer of the nine vessels. In addition, letters stressing the importance of the transfers and their contribution to the security objectives of the United States have been received from the Chief of Naval Operations and the Commander in Chief, U.S. European Command.

Mr. Speaker, the Committee on Armed Services has carefully reviewed H.R. 7115, as amended, to insure that the proposed ship transfers are in the national security interests of the United States. The ships authorized for transfer in H.R. 7115 can continue to make a contribution to the national security. Ships that would otherwise be scrapped or in a storage facility would instead sail the world's oceans under friendly flags, providing potential extension of our seapower capabilities and contributing a significant reminder of our support to valued allies.

I urge my colleagues to support H.R. 7115, as amended.

At this point in the RECORD I include the following:

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., September 27, 1982.

Hon. CHARLES E. BENNETT,
Chairman, Subcommittee on Seapower and Strategic and Critical Materials, House of Representatives, Washington, D.C.

DEAR CHAIRMAN BENNETT: I understand there is some lingering concern among the Congress that the transfer of nine ships contained in HR 7115 to six friendly Allied nations would reduce our naval readiness or impede Navy's stated objective of increasing the size of the fleet. I want to assure you that while we continue to emphasize the need to rapidly expand our fleet, these transfers would in no way prevent or even hinder achieving that goal.

Specifically all the ships will come from inactive status and therefore no longer possess the combat capability to meet the Navy's needs, and are not viable mobilization assets. As such, their transfer will not impede our ability to improve fleet readiness upon mobilization. Nonetheless, as some of these ships are leased, we retain the option of recalling them should their need exist.

The tenders are approaching forty years of age, significantly past their expected lifetime, and their capabilities to repair or sustain modern fleet ships are severely constrained. The ARD is another forty year old vessel with a lift capability no longer sufficient to handle our present ships. All of these ships have no growth potential, and only limited capability to be modernized.

The AGOR, a previously leased, twenty year old ship, has been inactivated for two years because the private university holding that lease could no longer afford to operate it. By leasing it to a foreign Navy, who will pay for the reactivation and operation costs, the ship will be reemployed in oceanographic missions and the USN will recognize the added benefits of receiving vital hydrographic data.

The lease of three PTFs and two PGs also has no effect on our mobilization capability. These small vessels have been deactivated for several years due to changing mission requirements and the limitations of their respective designs. Their usefulness has diminished significantly.

In summary, the ships proposed for transfer are not and could not be counted as battle force or support assets for mobilization—the prime criteria underlying the counting methodology of our "600" ship Navy. Deployable, war-fighting, and support capability against potential enemies in forward areas determines "countability" in those force levels that we are seeking to achieve.

Both the CNO and I are in total agreement with those principles.

Sincerely,

JOHN LEHMAN,
Secretary of the Navy.

DEPARTMENT OF STATE
Washington, D.C., September 27, 1981.

Hon. CHARLES E. BENNETT,
House of Representatives.

DEAR CONGRESSMAN BENNETT: Thank you for your interest in the sale of the floating dry dock to Ecuador and the status of U.S.-Ecuadorean fishing problems.

We support the sale of the drydock to Ecuador for the following reasons:

A. To help meet Ecuador's legitimate defense needs.

B. To indicate U.S. Government endorsement of Ecuador's democratic government which has been in office since 1979.

C. This is a very small dry dock with a lift capacity of 3,500 tons and falls short of present day U.S. Naval requirements of 8,000 tons for attack submarines and 15,000 to 20,000 tons for surface ships.

U.S.-Ecuadorean fishing problems basically stem from a difference in the laws of the two nations. The Ecuadoreans claim jurisdiction over all fish, including tuna, in the waters off their coast out to 200 miles. The Magnuson Fisheries Conservation and Management Act excludes highly migratory species of tuna from U.S. management within the U.S. 200 mile Fisheries Conservation Zone.

In the U.S. view, our tuna fishermen are not obligated to purchase licenses or comply with other terms of access required by foreign countries to fish for tuna beyond twelve miles. The Ecuadoreans require foreign vessels to obtain licenses to fish for tuna within this 12 to 200 mile zone.

The U.S. presently has an embargo against Ecuadorean tuna because of tuna boat seizures in October 1980. The Ecuadoreans point out that it has been over twenty months since the last seizure. On that occasion the boat was treated in a lenient manner and paid only a token fine. The Ecuadoreans have also instituted procedures for the innocent passage of tuna vessels within this 200 mile zone and to provide licenses by radio. We continue to monitor the tuna problem closely and to seek practical solutions to the conflict between our national laws.

The Department in 1981 recommended against the transfer of U.S. Government vessels to the Ecuadorean Navy which might be used to capture U.S. fishing vessels. We will continue to look very carefully at any future GOE requests of this type so long as the tuna issue remains unresolved. We believe, however, that the dry dock transfer can be considered on its own merits.

U.S. economic interests in Ecuador cover many areas including from U.S. $600 to $650 million of investments in the country. These investments are concentrated in the hydrocarbon, pharmaceutical, chemical, shrimp and food processing industries. Roughly U.S. $800 million or slightly over one-third

of Ecuador's imports come from the United States. In 1981 Ecuador supplied the United States with about U.S. $450 million of oil including some which was placed in the Strategic Petroleum Reserve. It is estimated that U.S. banks hold approximately U.S. $2.9 billion of Ecuador's U.S. $6.5 billion debt.

Should you have any additional questions about U.S.-Ecuadorean relations or need any additional information about Ecuador, please do not hesitate to contact me.

Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.

Mr. ZABLOCKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. GONZALEZ), for the purpose of a question.

Mr. GONZALEZ. Mr. Speaker, I appreciate that very much and I thank the distinguished chairman.

Mr. Speaker, apparently this bill would provide the access of, say, Mexico and Colombia to a ship, I understand.

Mr. ZABLOCKI. Not Mexico.

Mr. GONZALEZ. I thought I heard the gentleman from California indicate that there was a vessel involved, a research vessel.

Mr. ZABLOCKI. Yes, an oceanographic research vessel, but not a warship.

Mr. GONZALEZ. But in the case of Colombia, I believe the language says that it shall be a ship susceptible of being armed for the purpose of controlling the drug traffic.

Mr. ZABLOCKI. That is true, patrolling the shores for the purpose of apprehending drug traffickers.

Mr. GONZALEZ. Well, the distinguished chairman is aware of the fact that a few months ago Mexico was provided two destroyers from our active destroyer list on the basis, I do not know exactly on what basis the exchange was made, that was under the jurisdiction of the Defense Department; but my question is, the gentleman from California also described these vessels as for defense purposes, but if a ship is susceptible of being armed for patrolling, the question I have, say, like in the case of Mexico, what assurances do we have that in some future dispute, as we have had in the past with our shrimp boats, that these boats will not be used against our own American shrimpers or American interests?

Mr. ZABLOCKI. Mr. Speaker, will the gentleman from Texas yield?

Mr. GONZALEZ. Certainly.

Mr. ZABLOCKI. The gentleman from Wisconsin has no knowledge of any destroyers being transferred to Mexico for whatever purposes and it certainly would not have been under this legislation. If they were transferred to Mexico it must have occurred through the Armed Services Committee and not the Foreign Affairs Committee.

Mr. GONZALEZ. Let me assure the distinguished chairman, and let the record reflect that that is, indeed, the fact. Two destroyers were given to Mexico on the basis of scrap value, even though they came from our active duty destroyer list. In fact, the gentleman may have received an invitation, as I did, to the decommissioning from the U.S. Navy and the delivery to the Mexican Navy of those two destroyers; but that may not be relevant to this issue.

The question I have is that in these deals with these countries, such as Colombia, where you have an area that is seething with the potential of events transpiring, such as specifically a controversy with reference to our shrimp boats and their jurisdiction as to where they can shrimp, this has been a very delicate matter in the past few years between Mexico, both the gulf coast shrimping industry as well as California and Mexico.

I just wonder here if some care has been made in the discussions with these countries that their intended use will be with the strict understanding that it will not be used against us some day.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield further?

Mr. GONZALEZ. I am glad to yield.

Mr. ZABLOCKI. It is my understanding that the transfer of this vessel to Colombia is for the sole purpose of curtailing drugs into the United States from Colombia. The transfer of the patrol combat vessels will serve to further Colombia's efforts to deal with the drug problem and certainly will not be used contrary to these stated purposes.

Mr. GONZALEZ. Mr. Speaker, I thank the distinguished chairman.

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and pass the bill, H.R. 7115, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objective to the request of the gentlman from Wisconsin?

There was no objection.

RELATING TO MASSACRE OF PALESTINIANS IN LEBANON

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 409) regarding the massacre of Palestinians in Lebanon.

The Clerk read as follows:

H. CON. RES. 409

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) condemns and deplores the recent massacre of Palestinians in Lebanon;

(2) extends its profound sympathy to the families of those so brutally murdered and to the broader Palestinian community;

(3) expresses its deep regret over the events of the past week including the brutal assassination of President-elect Gemayel;

(4) calls upon the international community and all the people of Lebanon to cooperate with the Lebanese Government to prevent further bloodshed in Lebanon and calls for the removal of all foreign forces from Labanon; and

(5) urges President Reagan to pursue every possible effort to bring peace to the Middle East so that tragedy and conflict in the region may come to an end.

The SPEAKER pro tempore. Is a second demanded?

Mr. BROOMFIELD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 20 minutes.

The chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 409, regarding the massacre of Palestinians in Lebanon.

Mr. Speaker, the shocking massacre of innocent Palestinian civilians in Lebanon is an outrage to all civilized people and nations. Throughout the world, responsible officials and institutions have spoken against this horrible tragedy

H. Con. Res. 409 enables the Congress to also speak out formally about this tragic event. The resolution extends sympathy to the families of the murdered civilians, expresses deep regret over the tragedy as well as the assassination of President-elect Bashir Gemayel, and calls upon the international community and people of Lebanon to cooperate with the Lebanese Government in restoring order.

In addition, the resolution promotes President Reagan's policy in the Middle East by calling for the removal of all foreign forces from Lebanon and urging the President to pursue every possible effort to bring peace to that troubled region.

Mr. Speaker, the Congress should speak out on the tragedy in Lebanon. House Concurrent Resolution 409 provides us with an opportunity to do this in a responsible fashion. I commend the gentleman from Illinois (Mr. FINDLEY) for sponsoring House Concurrent Resolution 409, and urge its adoption.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I was pleased to hear this morning that the Government of Israel has agreed to approve an official inquiry into the recent massacres in Beirut. This is certainly good and positive news which bodes well for an honest and full investigation into the Palestinian refugee camp tragedies. I support this congressional resolution, and join my colleagues in condemning the recent brutality and senseless murder of innocent civilians in Beirut. Much to my regret, the horror of war is still unfolding in that once beautiful and tranquil land.

I am deeply shocked and saddened by the savage and pointless slaughter that took place in the refugee camps. I was also disturbed by the tragic assassination of Lebanon's President-elect Bashir Gemayel. Given the protracted conflict and the animosities which have dominated Lebanese life for 7 years, such tragic violence has become an all too common occurrence.

These despicable murders serve only to continue the cycle of violence, making the possibility of peace even more remote than before.

My heart goes out to the families of the innocent victims of these crimes. I cringe at the thought of this dreadful massacre and fervently hope that this will never happen again. The Lebanese have already suffered greatly and have known too much human misery.

We all hope that the new President of Lebanon will succeed in his efforts to strengthen Lebanon's security forces and reestablish Lebanese sovereignty. The highest priority should be given to the rapid removal of all foreign forces from Lebanon after the departure of the international peacekeeping units so that the Lebanese Government can solve the many problems in its own country.

Let us also hope that Ambassador Habib's efforts to bring peace to Lebanon and the entire Middle East will continue and flourish.

I urge my colleagues to support this resolution.

Mr. Speaker, I yield such time as he may consume to one of the cosponsors of the resolution, the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, as the author and sponsor of House Concurrent Resolution 409, I see it as an expression of sympathy for the families and friends of those brutally murdered at Shatila and Sabra refugee camps, September 16 to 18. It condemns and deplores those shocking massacres.

This resolution is consistent with the tradition of Congress to speak out against human tragedies of great proportion. The mass slaying of innocent civilians—women and children—because they were Palestinians was a heinous act.

This resolution leaves many questions unanswered. How did the massacre occur and who is responsible? Have any of those who perpetrated the murders been identified and apprehended? What was their motive and how could it have been prevented? What Israeli authorities were aware of this tragedy before and as it was happening? What could the United States have done to prevent the massacres?

The resolution also leaves two other important questions unanswered—questions which have long begged for a response from Israel.

First. What happened to the hundreds of Palestinians who were rounded up by Israeli troops and marched off? When will a list of their names be provided to the International Red Cross?

Second. What has happened to Sabri Jiryis, Arafat's closest advisor on Israeli affairs? Reportedly, he is in the hands of Israeli authorities. The International Red Cross should be granted access to him immediately.

But it expresses sentiments which I believe we all share: The hope for peace in the Middle East and justice and security for all peoples there. May this peace come soon.

□ 1640

Mr. ZABLOCKI. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. I thank the gentleman for yielding this time to me.

Mr. Speaker, over a month ago, I returned from a six-nation trip with a new perspective on the Middle East. In the report from my trip, I expressed my concerns about the terrible cost—both in human suffering and in growing political animosities—of Israel's invasion of Lebanon.

I now rise to speak with even more profound sense of grief and, indeed, a sense of deep betrayal at the recent massacre in the Shatila and Sabra refugee camps. I know this is not only my emotion, but this is reaction of world opinion, of the Palestinian people and the Israeli people as well.

The massacre raises profoundly disturbing questions. That the Begin/Sharon government should not merely consent to, but request a joint operation with an extra-legal, rightwing militia is troubling, far more than troubling when we learn, as we have in ever greater detail since Tuesday last, that the Begin/Sharon government knew of the massacres and was unable, or unwilling, to take forceful action to bring them to an end.

Perhaps even more disturbing, however, is the light the present massacres shed on the past policies of the Begin/Sharon government. Can the Begin/Sharon government now disclaim responsibility for the actions of groups, like the Haddad Group, which it armed and, indeed, in a real sense, helped usher into power? Can the Begin/Sharon government disclaim responsiblity for the final, most horrifying "purge" when it set a policy that defined victory as military elimination and aggressively pursued that policy to the edge of the Shatila and Sabra camps?

The Israeli Government owes the world, its allies, and especially its own people answers to these questions. I have hope that the answers will be found. For the shock, the acute moral anguish, the chorus of dissent now reverberating through all levels of Israeli society indicates an awakening among the Israeli people and encourages our respect for the openness of their political institutions.

Can the American people say that the disturbing revelations about our Vietnam war policy found such an immediate refrain in our leading papers, or in the Congress? Can the American people say that their growing concerns over the Vietnam war found so immediate and forceful an expression in Congress.

Perhaps, the political resources of the Israeli people will force more: First, the actions necessary to restore Israeli's credibility in the court of world opinion; second, a full, judicial inquiry into the events surrounding the massacre, third, an immediate and full withdrawal from Beirut; and fourth, an aggressive search for a framework that allows prompt withdrawal from all of Lebanon and, above all, a peace process that will recognize and guarantee the rights to autonomy of the Palestinian people.

Through their history, the people of Israel share a common bond with the Palestinian people. The kinds of atrocities committed in Beirut hold a special horror for the Jewish people; this century has seen no crimes so heinous as those committed against the Jews. And the Jewish people understand no aspiration so deeply as the striving of a dispersed people for a homeland. If the Palestianian people have been hurt by leaders who accepted terrorism as a political solution, perhaps recent events will give the Israeli people a renewed understanding of the disservice leaders can do their people. These are the memories and the lessons impressed upon the conscience of Israel and the world by the horrors of Shatila and Sabra. Out of their shared suffering, and their shared grief, I hope, and the world hopes, the Israeli and Palestinian people can find a way to peace.

Mr. Speaker, following the report on my recent trip to the Middle East, I include a copy of a recent op-ed piece from the New York Times. The piece does not define any bold new diplomatic formulas, but it does eloquently articulate the shared history of the Palestinian and Israeli people. It reminds us that a real peace must, at bottom, rest on the courage to recognize something of ourselves in the plight of others.

CONGRESSMAN DAVID E. BONIOR REPORT ON MIDDLE EAST TRIP

I was part of a six member Congressional delegation which recently returned from the Middle East. The delegation visited Syria, Lebanon, Israel, Jordan, Egypt, and Saudi Arabia over the period from July 22nd through August 1st. This trip provided the opportunity to view, first hand, the conditions in Lebanon and to meet with the heads of state and prominent political leaders in each of these countries. While I make no claims to being an expert on the Middle East, I returned from my journey with what I believe are significant observations and I would like to share these with you.

I have long been a staunch supporter of the state of Israel. My respect for the Israeli cause began when, as a Masters degree student in Modern German history, I was deeply moved by my readings on the holocaust and considered its implications for the Jewish people. Added to my intellectual interest was a profound respect for people like Abba Eban, Golda Meir, and David Ben-Gurion. Upon coming to Congress, my admiration for Israel and its people was reflected in my voting record. I have always supported foreign aid for Israel and have spoken out against arms transfers to its neighbors, such as the recent AWACS sale to Saudi Arabia. However, this trip has opened my eyes to another perspective.

One of the reasons Israel has had considerable political strength is that it has had the moral edge in the ongoing struggle with Arab states. To a large degree, world opinion and especially U.S. opinion has been with Israel since 1948 because of what has properly been considered the past injustice dealt the Jewish people. Over the years, the state of Israel has retained international respect as a pioneering, democratic nation. What has become apparent to me, as a result of this trip, is that the moral edge Israel has enjoyed is now threatened by the actions of the Begin government.

I was somewhat startled by the intransigence of the current Israeli leadership, especially the insistence of Prime Minister Begin, Defense Minister Sharon, and Foreign Minister Shamir that Israel could eliminate the PLO as a political force in the Middle East. All three of these officials indicated this to me during our meetings. What is startling about this is the belief that, by eliminating the PLO, the political problem will disappear. Let me illustrate why I think this is not true.

While I was walking down a bomb-ravaged street in West Beirut, an automobile with a Palestinian family drew up near me. The father got out of the car and the mother and three children remained in the back seat. I asked the father if he lived in the neighborhood and he pointed to a razed building, indicating his son had been killed the day before and buried in the rubble. When his 13 year old son in the back seat learned that I was an American, he became enraged and clearly identified the blame for his brother's death and for the bombing and destruction of West Beirut with the United States. From the fervor of this youth's reactions, it was clear to me that the Begin/Sharon policies are radicalizing a whole new generation of Palestinian people. Far from eliminating the PLO and the Palestinian problem, they are enhancing it and creating additional recruits.

The specific reason for my undertaking this trip was to evaluate the situation in three areas: (1) the wisdom of introducing U.S. troops into Lebanon; (2) the possible violations of U.S. law with respect to arms shipments to Israel; and (3) the future of Lebanon as a state.

First, consistent with America's historic role in the Middle East and the current efforts of Ambassador Habib, the U.S. probably cannot avoid participation in a multilateral peacekeeping force. However, because of the strong anti-American feeling in the Arab world and particularly in the Moslem sections of Beirut and Lebanon, I would caution our government that there are great risks to the introduction of American troops, even as a minority partner in a temporary peacekeeping mission. If an American contingent is sent into the region, we risk a repetition of a major incident like that in Iran, but smaller events could be equally dangerous. For instance, if a U.S. marine were forced to kill a civilian in self-defense, our position in the region would be significantly impaired. The French and others who have offered to participate do not carry the negative political baggage into the region that would hamper U.S. troops. While I hope the Habib initiative will succeed, I fear there is a high probability that U.S. troops would exacerbate rather than ease the tensions in the region.

Second, with regard to the use of military equipment in violation of guidelines established by the Arms Control Export Act and agreements between the U.S. and Israel, it seems clear to me that such violations have occurred. I saw cluster bombs scattered throughout the streets of West Beirut, and indications of cluster bombs on hospital buildings and steps. I think that even the most impartial observer would conclude that these weapons were used offensively and against civilian targets in violation of the spirit and probably the letter of our agreements with Israel. Our delegation raised this issue in a meeting with Defense Minister Sharon. His reply was in essence that there are many agreements with many countries and, during times of war, agreements can be broken.

The issue has implications beyond the use or misuse of a particular type of weapon and the exact application of the precise letter of law and agreement. In the past, our close relationship and our military aid have rested on our faith that the Israeli's (or, for that matter, any nation to whom we provide weapons) will apply reasoned judgment in its use of American-supplied arms. It is of deep concern to me that recent events have strained that relationship of trust that has existed for so long between the United States and Israel.

The U.S.-Israel military link has greatly eroded any semblance of balance in U.S. policy in the Middle East. We heard this from heads of states, foreign ministers, and defense ministers in all the Arab countries we visited. I believe that if this perception continues for any length of time, U.S. interests in the region will be ill-served. The longer the U.S. gives the impression of condoning Israel's actions in Lebanon, the more estranged will be the relation between the U.S. and moderate Arab states such as Egypt and Saudi Arabia. Several Arab leaders warned us further of the possibility of Soviet manipulation of the U.S. position.

Third, the issue of the future of the state of Lebanon is the most complex on my original agenda. I will be frank and admit that I have not yet come to a conclusion on this matter. This much, at least, seems clear. The Israeli action in Lebanon appears to seek to rearrange Lebanese politics as much as it seeks to address the security threat posed by the PLO. In addition, in its efforts to influence internal Lebanese politics, Israel is pursuing a policy that will not add to stability in Lebanon, but instead plays into the hands of divisive forces. I believe that the Christian Phalange does not hold out the promise of progress in Lebanon.

Before concluding. I would like to make some remarks on the general issues of the relation between Israel and the Palestinians, and on the future of Israel itself. It appears that Prime Minister Begin and Defense Minister Sharon are so strongly opposed to negotiations with the PLO and that Chairman Arafat is so determined not to recognize Israel's right to exist without assurances of some kind, either with respect to the U.S. recognizing the PLO or Israel recognizing the PLO, that extraordinary leadership will be required to bring both sides to the negotiating table. I have in mind something like the historic visit of Sadat to Israel. The U.S. should make every effort to get the Palestinian people involved in the negotiations for a broader peace in the Middle East, either through the PLO or the PLO plus other representatives. I must comment here, however, that the PLO is recognized throughout the Arab world as the spokesman for the Palestinian cause. (On the issue of negotiations, I commend to your attention the enclosed article by Flora Lewis).

Within Israel itself, there is a growing backlash against the policies of Prime Minister Begin and Defense Minister Sharon. Israel may soon be facing the kind of internal divisions we saw in the U.S. over the war in Vietnam. Dissent within Israel is not entirely new; the violation of the rights of Palestinians on the West Bank and in Gaza—the confiscation of property, imprisonment without charge, and lack of due process of law—have occasioned some outcry before. We met with Palestinian leaders from the West Bank, including Mayor Freij of Bethlehem who is a moderate by any standards and is willing to recognize Israel but remains insistent on protecting the rights of his people. Yet the Begin government has consistently refused to make accommodation with these people. Previous dissatisfaction with the Begin/Sharon policies is now feeding into a broader movement of opposition within Israel as exemplified by the large demonstration organized by Peace Now, and the role of prominent Israeli politicians in the peace movement. (I have enclosed a copy of a Peace Now pamphlet and an editorial from the Jerusalem Post.

In conclusion, I would like to stress that I am still a strong supporter of the state of Israel. I recognize that Israel has very real security needs, that it is surrounded by hostile neighbors, and that the safety of its people is frequently endangered by ruthless terrorist attacks. Israel's economic condition is equally precarious and its absence of oil resources places it at a disadvantage with respect to many of its Arab neighbors. I understand that, with good reason, Israel lacks confidence in conventional diplomacy and in international institutions, such as the U.N.

Nonetheless, I worry that Israel has been led away from the ideals that gave birth to the Jewish state and gave it what I have called the "moral edge" in the eyes of the world. (See the enclosed article by Milton Viorst). For Israel to lose its standing in world opinion is not merely an abstract problem. It poses a security threat. Israel cannot avoid its dependence on international opinion and foreign suppliers. One of the greatest tragedies of this unspeakably tragic affair, I fear, will be the increasing vulnerability of Israel due to its increasing isolation.

[From the Jerusalem Post, July 26, 1982]

BEWITCHED OR BEWILDERED?

Israel did not go to war in Lebanon in order to enhance the political status of the PLO. For the moment that is what is hap-

pening. Israel also did not go to war in Lebanon in order to be stuck there. That too is happening. Nor was the intent to create a major conflict with Syria. That risk also looms.

All of these problems and more beset Mr. Begin and his government. They were not foreseen on June 5 when the decision to go to war was taken. Presumably not even the government would argue that.

It was natural, therefore, that as the scope of war escalated and then as the West Beirut siege led to immobilism rather than change, critical voices were heard. It was equally natural that the government should silence it by arguing that criticism now was premature, gave comfort to the PLO, and should await the end of the hostilities.

But what is not natural is that in the eighth week of war, with no acceptable solutions in sight, the government should still be playing make believe with the Israeli public.

In West Beriut, Israel, laying a siege, is itself besieged by a no-win dilemma. Military action which would reduce the PLO would bring with it heavy military and political costs. The vaunted political solution would be translated by the PLO and Israel's foes into a PLO political victory.

In Lebanon itself, the government has committed itself to promoting the establishment of a central authority that would make peace with Israel. But there is no surety that these twin aims can be achieved or reconciled. There is also no clarity whether the duration of Israel's military presence in that country is supposed to be determined by these aims.

At the same time the government is committed, on the one hand, to expelling the Syrian forces in Lebanon, and on the other, to not permitting the development of a war of attrition with the Syrian forces. But there is no clarity on how the Syrians are to be induced politically to leave Lebanon, nor how continued military exchanges can be prevented from erupting into a major escalation.

These are genuine dilemmas. They seize the thought and emotion of all Israelis as national dilemmas, regardless of party or partisan sentiments.

Only the government and its various spokesmen are attempting to dismiss the seriousness of the crisis. When former Prime Minister Rabin suggests scaling down the government's goals, he is berated for having in effect caused the present problems by decisions taken seven years ago. When some in Labour suggest that what is in fact a national emergency—with wholly new opportunities and wholly new dangers—requires a national effort beyond partisan reckoning, Mr. Begin makes a pact with far-right Tehiya, and tells reporters how he plans to wage the next election campaign.

Meanwhile, as if to emphasize business as usual, the Prime Minister is making preparations for a visit to Zaire at the beginning of August—August is only a week away—and the Finance Minister heralds a "package deal" to pay for the war, which in truth will not even cover the deficit of the government's pre-war budget.

Obviously this charade cannot be sustained for long. For the government has thrust the nation into a complex vice of political and military attrition. The temptations will be to break it by force in the hope that the fallout will somehow put all the pieces neatly into place.

Eight weeks into a war that was solemnly designed to take 72 hours is enough to give the public pause over this prospect. It would be no dishonour for the government to acknowledge that the public has good reason.

PEACE NOW

Peace Now is a broad-based non-partisan movement. It seeks to further the following objectives:

The fulfillment by the State of Israel of Zionism as the national liberation movement of the Jewish people in its homeland;

Israel living in security and peace with all its neighbors;

Israel as a state of law, freedom, and full equality of rights for all its citizens, regardless of religion or nationality; and

Israel capable of attracting aliyah and providing a focus of identification for the Jews of the Diaspora.

These objectives will not be attained so long as our rule over the Palestinian population in the West Bank and Gaza continues.

The continuing rule over another people:

Involves acts which violate human and Jewish ethics;

Leads to the corruption of society, to the undermining of democracy, and to violence;

Erodes the wide-based national consensus;

Imposes upon the Israeli Defense Forces tasks which distort its character as an army defending its people;

Escalates the struggle in the territories, causes bloodshed, and increases the danger of war; and

Creates barriers between Israel and the Jews of the Diaspora, and isolates Israel from the family of nations.

Therefore, peace on our eastern border is crucial for us.

The peace agreement shall be founded on the following principles:

Readiness by both sides to agree to a partition of the land of Israel. While the people of Israel have a bond with the entire land of Israel, the existence of two peoples on this land necessitates partition as the basis for any compromise solution. Herein lies the basic contradiction between realistic Zionism and the conception of a greater Israel.

Recognition of Israel. The peoples of the region, including the Palestinians, should recognize Isreal's right to sovereign existence within secure and agreed upon borders, and should abandon the road of war and terror.

Recognition of Palestinian national existence. Israel should recognize the right of the Palestinians to a national existence, which will be realized in a manner to be agreed upon by the parties concerned.

Peace with security. The interests of Israel's security shall be assured in any peace agreement. Security has many aspects; the security requirements of Israel need not coincide with permanent sovereign borders.

Jerusalem, the capital of Israel, shall not be redivided. Within its boundaries as one city, proper expression should be given to Jerusalem's unique status in the Moslem and Christian worlds, as well as to the national affinity of its Arab residents.

The continuation of the peace process requires that:

Israel shall take an initiative aimed at breaking the vicious cycle of Israeli-Palestinian hostility. The government of Israel shall declare its readiness to negotiate with those representatives of the Palestinians who recognize negotiations as the only path towards resolution of the conflict.

Israel shall strive to engage Jordan in the peace process, and so also any other Arab state which seeks to play a constructive part in the peace process.

Israel shall continue to nurture peaceful relations with Egypt, whose contribution to the process of a comprehensive peace in the region is essential. Continuing confrontation with the Palestinians endangers the existence of the peace which has already been achieved.

Any temporary arrangement which proceeds a peace treaty must be consistent with the principles of the permanent agreement.

The Autonomy Plan must not be used as a vehicle for annexation and as an obstacle to any future peace agreements.

First and foremost, however, Israel must immediately do its part:

A moratorium should be placed on any future settlement and expropriation of land in the West Bank.

The settlers, some of whom contribute significantly to the spread of hatred, violence and friction, should be restrained.

The restrictions placed upon the Arab population shall be removed, except for those limitations which are clearly required for security reasons. The right of these residents to manage their own affairs and to maintain their own institutions should be preserved.

The well-being, property, and dignity of the residents of the West Bank and Gaza, currently under Israeli control, should be stringently safeguarded.

All resources currently channelled towards settlements in the West Bank should be redirected towards solving the problems of the social gap and of deprivation within Israel.

Peace with Egypt has been achieved. The goal which faces us now is to complete the peace process throughout the entire region; to attain peace that will enable all the peoples of this war-torn region to live securely and to flourish.

Join Us. Peace is greater than greater Israel. Peace now.

Prior to the first major demonstration held by Peace Now this year, the largest number of Knesset members ever to endorse an activity of Peace Now signed the following statement published in all Israeli newspapers:

We, Members of the Knesset of various parties, support and identify with Peace Now's call for a demonstration to take place in Tel Aviv on March 22, 1982.

We join Peace Now in declaring that the government's policy, as expressed in the issue of the Golan Heights, in the policy of settlements and in dealing with the Arab population of the West Bank, prevents the possibility of a settlement with our Arab neighbors, damages Israeli society within, and undermines the democratic and Jewish character of the State of Israel.

Do not be silent about the recent events on the West Bank and Golan Heights!

Abba Eban, Sulamit Aloni, Adi Amorai, Nava Arad, Naphtali Blumenthal, Michael Bar-Zohar, Uzi Baram, Yaakov Gil, Eliezer Grannot, Aharon Harel, Shevah Weiss, Mordechai Wirshubsky, Muhammad Wated, Dov Zakin, Halila Hamed, Micha Harish, Aharon Nahmias, Ora Namir, Uri Sabag, Raphael Suissa, Naphtali Feder, Yair Zaban, Amnon, Rubenstein, Imri Ron, Victor Shem-Tov, Yossi Sarid.

NOTE.—Because of space limitations, the articles referred to in the Report by Flora Lewis from the New York Times for Tuesday, August 3, 1982, "To Break the Deadlock," and by Milton Viorst from the Washington Post for Sunday, August 3, 1982, "It Isn't the Israel it Used to Be," which are easily accessable, have not been submitted for the RECORD.)

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A SHARED HISTORY

[From the New York Times, Sept. 12, 1982]

COMMON VICTIMS IN THE MIDEAST

(By Evan Carton)

AUSTIN, TEX.—In the national press and beyond our boundaries, honorable people continue to debate the Middle East crisis in frightening terms. The terms of the debate are frightening because they tend to represent the Israeli-Palestinian issue in ways that are inherently propagandistic, ways that can bring only counter-propaganda in the short run and, in the long run, doom. Demonstrations that one side or the other broke cease-fires or impeded negotiations, that one or the other was despised by the Lebanese, that one or the other most deserves the epithet "terrorist," are inevitably partisan, peripheral, obscurantist and destructive.

Before there is peace, there must come a full recognition not only of the facts but of the human force of history, for propaganda survives and thrives on the distortion of these.

It requires staggering naivete or disingenuousness to deny that each side has violated cease-fires and that, in their long and bloody struggle, each has committed its share of atrocities. Nor was there much value in recent commentaries, by both Palestinian and Israeli apologists, that the citizens of Lebanon had joined in brotherly solidarity with one or the other occupying army. Coerced, intimidated, fragmented and dependent people are likely to pursue their immediate personal interests wherever they happen to see them.

The things that are important are these: Israelis and Palestinians both bear old and deep wounds; Israelis and Palestinians, whether in the context of decades or millennia, both hold historical, emotional and political claims on Palestine; Israelis and Palestinians both possess and require national identities—on this point the Israeli denial of the historical, emotional and political existence of a Palestinian people is equivalent in its willful incomprehension to the Palestinian denial of the historical, emotional and political legitimacy of a Zionist state.

Beyond their common ethnic origin and their claims on the same tract of land, Palestinians and Jews share a critical identity: the identity of historical victim. The Palestine Liberation Organization's campaign to cast Zionists as classic imperialist aggressors ignores this historical truth, a truth so fundamental to Israel and so palpable to the consciousness of its citizens that a masterly polemicist like Menachem Begin can convert it into virulent propaganda at will. Shameful and brutal centuries of anti-Semitism aren't forgotten in 34 years of war-torn autonomy, and it is clear to me—however I may oppose ghetto mentality in the world—that Israelis would be crazy to forget them now. But the Palestinian people also have been longstanding victims of foreign domination and occupation. From their unassailable perspective, only the oppressor has changed.

One of this century's most bitter ironies is that the modern conflict over Palestine is routed in the simultaneous victimization of Palestinian Arab and Jew by a common ally. Perhaps more by blunder than by design, a crumbling British Empire pledged mutually exclusive commitments to the nationalist aspirations of both groups in the service of its own short-term interests. And once World War II had been won, the sluggish Allied liberators of Nazi death-camp prisoners, more sensitive to the political and economic repercussions of allowing thousands of displaced Jews inside their countries' borders than to the territorial rights of a bunch of inconsequential desert dwellers, opted to let the sins of the West be redeemed by a people in the East who had not the power to refuse. Hence, the classic aftermath of oppression: two victims set against one another and left to cut each other's throats.

That, aided by their respective "friends," is precisely what the Israelis and the Palestinians are doing. Israel, bearing the combined burden of political and economic instability and ostracism from an increasingly hostile international community, is forced into unsavory relations with some of the world's most reactionary countries. What ill will it doesn't sow on its own, it reaps by association. Palestinians are and have been more directly manipulated, when they haven't been slaughtered, in the self-interested power plays of their Arab "brothers." Both Israel and the Palestinians, without much concern for their consent, are subject to the vicissitudes of the Reagan Administration's "strategic consensus."

The consummate irony for these two mortal enemies is that the only likely savior for each is the other. And only their common heritage of historical victimization will serve as a basis upon which both may stop victimizing themselves. For each, proper self-recognition and proper identification of the other amount, oddly, to one and the same thing. Perhaps now, when the physical and psychological suffering of both sides is fresh and heavy, such reciprocal recognition may begin to take place.

(Evan Carton is assistant professor of English at the University of Texas, at Austin.)

Mr. BROOMFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of House Concurrent Resolution 409, relating to the massacre of Palestinians in Lebanon.

The recent events in Lebanon have saddened us all. This Middle Eastern nation has once again become the focus of tragic and senseless violence and destruction.

On Tuesday, September 14, a bomb exploded at the headquarters of the Lebanese Christian Phalangist Party for East Beruit. Among the 22 people killed was the party's leader and President-elect Bashir Gemayel. Within the next few days before the world had recovered from the shock of the Gemayel assassination several hundred Palestinians were killed by the Christian Phalangists forces in the Sabra and Shatila refugee camps in an apparent act of retaliation.

The resolution before us puts the Congress on record as:

Condemning and deploring the recent massacre in the refugee camps;

Extending its profound sympathy to the families of those murdered;

Expressing deep regret over those events including the brutal assassination of President-elect Gemayel;

Calling upon the international community and all the people of Lebanon to prevent further bloodshed and call for the removal of all foreign troops;

Urging the President to pursue every possible effort to bring peace to the region.

An international peacekeeping force of United States, France, and Italian troops has now arrived in Lebanon. The Israeli armed forces are withdrawing from Beirut and we welcomed the news today that the Israeli Government has approved a full scale, independent investigation of the refugee camp massacres.

I know that my colleagues share in the hope that the Government and people of Lebanon will now succeed in their efforts to restore Lebanon's full and independent sovereignty and will seek to bring peace to her people and to her neighbors.

Accordingly, I urge my colleagues to join in support of House Concurrent Resolution 409.

Mr. ZABLOCKI. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. I thank the gentleman for yielding this time to me.

Mr. Speaker, I am sure every Member of this House viewed with horror the slaughter of several hundred Palestinians in the Sabra and Shatila refugee camps earlier this month. This tragedy has riveted the eyes of the world on the continuing instability, violence, and disregard for human life that has plagued the Middle East for much too long.

There is no shortage of blame to be passed about in the wake of the massacre, either, it was a tragedy that should not have occurred. Nothing similar can be permitted to happen again.

In supporting this resolution before the House today, I would repeat the call I have made since the invasion of Lebanon: all foreign occupying troops should get out of the country, and the multinational peacekeeping force once again being emplaced should be expanded to include the men and women of more U.N. member nations.

Lebanon has seen enough violence in the last decade or so, violence which now seems to have reached a peak with the assassination of President-elect Bashir Gemayel and the atrocities committed in Sabra and Shatila. It is time for Lebanon to be given a chance to exist and to rebuild without the threat of destruction which has loomed over that nation for far too long. And it is time for our leaders to redouble their efforts to achieve a negotiated settlement to the pressing issues which plague the Middle East.

Mr. BROOMFIELD. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. I thank the gentleman for yielding to me.

Mr. Speaker I rise in strong support of House Concurrent Resolution 409, a measure relating to the massacre of Palestinians in Lebanon.

I deplore and deeply regret the outrageous loss of life and destruction which has occurred in Lebanon, especially in the refugee camps. As the resolution states, we are urging President

Reagan to pursue every possible effort to bring peace to the Middle East. The President has made it clear that the United States intends to press for the removal of all foreign forces from Lebanon and to continue to push his peace plan for the Middle East. I strongly support his efforts.

I, also, believe that if the United States is to remain as the one major power capable of promoting a peaceful resolution of the crisis in the Middle East, we must maintain our credibility with both Israel and the Arab world. We must not appear to be tilting too far to one side or the other, just as we must remind our allies of the great responsibility they bear for conduct that is conducive to achieving peace.

This resolution offers us the chance to express our deep concern and the hope that from this tragedy we will be able to persuade all the parties involved that the goal of peace in the Middle East can no longer be set aside, but must be the single, most important objective for each government to pursue. I know that is the commitment of President Reagan, and I believe we must show our strong support for that goal. I urge my colleagues to vote in favor of this measure today.

● Mr. DERWINSKI. Mr. Speaker, since the successful negotiations took place providing for withdrawal of the PLO militia from Lebanon, that troubled country has been subject to new tragedies.

The assassination of President-elect Bashir Gemayel was a blow to the hopes for peace and stability in Lebanon and the entire Middle East. He represented an opportunity for unity in Lebanon, and I can only hope that with the accession of his brother Amin to the Presidency, the goals for which Bashir Gemayel stood will be fulfilled.

In addition, the tragedy of the killings of Palestinians in West Beirut has added to the tremendous tensions in that area. This is an unfortunate and shocking event which has compounded the delicate situation in Beirut and which cannot be condoned by any individual or group.

We must now strive to achieve internal stability in Lebanon by working for the complete withdrawal of all foreign forces—Syrian, Israeli, and PLO—so that peace and order can finally return to Lebanon.●

● Mr. SAVAGE. Mr. Speaker, in response to the massacre of more than 1,000 defenseless Palestinians in the refugee camps at Sabra and Shatila, on the outskirts of Beirut, President Reagan ordered U.S. troops to return to Beirut, with French and Italian peacekeeping soldiers, to encourage the Israeli Army to withdraw.

According to generally accepted reports, Israelis invaded the west section of this capital city of Lebanon, contrary to its agreement which secured the withdrawal of PLO forces, and with cabinet approval permitted Israeli equipped and trained "Lebanese militiamen" to travel the some 35 miles from the Lebanese-Israeli border and enter the camps with knowledge of their intent for a murderous rampage which lasted more than 36 hours.

According to a Los Angeles Times report, Israeli soldiers "ringed the camps with armor and sealed off all escape routes. The uniformed (Lebanese) militiamen wore Israeli helmets, were armed with Israeli guns, and were taking orders from the Israelis. Entire familes were slain. Mothers died clutching their babies. All men appeared to be shot in the back. Israeli soldiers stationed less than 100 yards away did not respond to the sound of constant gunfire or the sight of truckloads of bodies being taken away from the camps."

The assassinated Lebanese President-elect Bashir Gemayel and Israeli Defense Minister Ariel Sharon had previously indicated their intent to "eliminate" the remaining PLO supporters.

An on-the-scene UPI report moaned, "Some looked no older than 6 or 7. They were murdered. Everyone who was in the camp when the killers moved through was simply mowed down * * * in civilian clothes. They were victims of pure hatred."

This is one time that I substantially agree with Reagan administration's reaction. However, it should have been taken as part of a United Nations force in order to reduce its risks, to increase its stability, and in respect for existing East-West world differences.

Indeed, our Government should have discontinued military assistance to Israel upon Israel's invasion of Lebanon 3 months ago. We should not aid or condone aggression.

The most sophisticated fighter-bombers, the latest missiles, and the most destructive weapons used by Israel to kill and maim thousands of defenseless old men, women and children in Lebanon are provided by our Government with our tax dollars—$2.5 billion this fiscal year alone. These funds could have been much better spent at home, to promote constructive employment for our jobless, education for our youths, and security for our elderly and needy.

I have consistently spoken out and voted with the distinct minority in Congress which has sought such a change generally in our Federal priorities. In fact, I am proud to be one of the few cosponsors of a resolution proposed in Congress last June calling for Israeli military forces to withdraw then from Lebanon, although my colleagues have not had the courage or conscience to even consider it.

Moreover, it is to the disgrace of the so-called organized peace movement in America that it has not vehemently expressed its support for such demands upon Israel and our Government in the face of the atrocities we all have seen on our living room television screens almost nightly for 15 long weeks. It is further evidence of the moral bankruptcy of American white liberals previously expressed in their recent opposition, neutrality or efforts to weaken affirmative action, school busing for integration, and extension of a strengthened Voting Rights Act.

Furthermore, the shame of Israel's invasion of Lebanon and massacre of Palestinians goes far beyond which of its military leaders were derelict or whether Sharon and Begin should be deposed. These simplistic requisites of justice only reflect the fundamental wrongs of Israeli national policy based on its racist philosophy of devine superiority and historical rights to territorial expansion and the violent destruction or oppression of opposition.

The U.S. Government, Democrat and Republican administrations, and most leaders and organizations of the American Jewish community are guilty of supporting this horrendous policy, despite the opposition of practically all other nations of the world. Zionism and America's foreign policy must be corrected to expiate this shame.

Justice and equality demand that we back the Palestinians' insistence upon the same right to a homeland with secure borders, within the form Palestinian/Jewish area that we support for the Israelis. America must recognize the legitimate representatives of the Palestinian people, the PLO, just as we do the Begin government of Israel—and no longer give to the 3 million Israelis more economic aid than we do to the more than 300 million starving black people of the 47 sub-Sahara nations of Africa combined.

We must become more evenhanded and fairminded in our Middle East policy.

Thank you, Mr. Speaker.●

● Mr. PAUL. Mr. Speaker, I oppose House Concurrent Resolution 409, which concerns the massacre in the Palestinian refugee camps. It is said that a "yes" vote on the resolution is a vote against massacres. I disagree. Hardly anyone, surely, would accuse another of being in favor of such a massive disregard for human life. There are sound reasons, though, for not passing a resolution of this kind without careful consideration of its entire meaning. The first section of the resolution—which condemns the immorality of ruthless killing—is a clear statement with which we all agree. However, section 5—which encourages the President to continue our involvement in the chaos in the Middle East in "every possible" way—just opens the door for more hostility, not less.

Urging the President to pursue peace by any means is an open ended sanction to continue U.S. involvement in the problems that brought about the violence in the first place. This sanctioning of Presidential power to pursue open ended commitments reminds me of the Gulf of Tonkin resolution—at least in its thrust. It entrenches a foreign policy that we have

followed for decades, one that led to the disastrous events of the Korea-Vietnam era. Endorsing international intervention is very different from just condemning massacres.

It is this very policy of interventionism that encouraged and permitted the invasion of Beirut and the massacre of civilians in Beirut and other Lebanese towns. Through our endorsement, financing and providing of weapons to the Government of Israel, we literally subsidized the invasion that set the stage for the weekend massacre. And although our Pentagon did not plan the invasion, the fact that American dollars and American weapons were used means that we bear some responsibility for it.

And even as the bombs were falling on Beirut, we tripled our economic aid to Lebanon to rebuild the towns blown up with our weapons. To confuse matters even more, as the PLO—a declared enemy of the United States—appeared to be on the ropes, we risked life, limb, and diplomacy to rescue them. For all of this the Arabs remain frustrated with us, and Israeli-American relations worsen. The inevitable bad results of trying to be everything to everybody should surely persuade us to reassess our policy of intervention.

In June of 1981 we, the Congress, passed a resolution (House Resolution 159) praising Philip Habib for his efforts in the Middle East. At that time we felt compelled to endorse our past involvement in the Mideast and to encourage even greater involvement by urging the President to "pursue a comprehensive and coordinated policy in Lebanon, including the development of an effective cease-fire, resolution of the issue of Syrian missiles, and promotion of the independence, sovereignty, unity, and territorial integrity of Lebanon." These are good words prompted by good intentions, but they are hollow in substance and only encourage further fruitless involvement on our part. Nothing favorable has happened since June 1981; in fact, the problems have grown worse. Yet our financial and military commitment has also grown, while our relationships with Arabs and Jews continue to deteriorate.

Condemning the killing is fine. But the fact that our policies can lead to and even promote the killing is a more crucial issue than any public pronouncement of this kind. Congressional denunciation of ruthless barbarism can certainly be justified, but if it is used as a stamp of approval for continuing a several-decades-old foreign policy that has helped produce this crisis, then it serves no useful purpose and can actually bring harm.

Congressional resolutions—House Concurrent Resolution 409 and House Resolution 159—are actually congressional stamps of approval for extensive Presidential decisions to intervene with the use of troops, the use of dollars, the use of weapons. And once we are bogged down in a crisis like this one, it is difficult to withdraw gracefully. It seems we would have learned that lesson by now.

If the President decided next week to send in 50,000 troops from the Rapid Deployment Force—on a mission to maintain the peace—there would be little we in Congress could say. He would merely need to inform our congressional leaders of his decision, as required under the War Powers Act.

Yes, it is difficult to vote against a resolution that seems on the surface to be a simple condemnation of a massacre. But I am convinced that my position is consistent with a policy that would preclude our participation in setting the stage for the massacre in the first place.●

Mr. BROOMFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the pending concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 409.

The question was taken.

Mr. FINDLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 1650

RESTORATION OF OLYMPIC RECORDS OF THE LATE JAMES (JIM) THORPE

Mr. BONKER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 364) regarding the restoration of Olympic records of the late James (Jim) Thorpe, as amended.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 364

Whereas the Amateur Athletic Union of 1973 restored the amateur status of James (Jim) Thorpe for the years 1909 through 1912; and

Whereas the United States Olympic Committee forwarded this restoration to the International Olympic Committee: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the International Olympic Committee officially recognize Jim Thorpe's achievements in the 1912 pentathlon and decathlon events and restore these records to the official Olympic books.

SEC. 2. It is the sense of the Congress that the International Olympic Committee be requested to present, during the 1984 Olympics in Los Angeles, California, duplicates of the medals received by Jim Thorpe in 1912.

The SPEAKER pro tempore (Mr. PATTERSON). Is a second demanded?

Mr. LEACH of Iowa. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. BONKER) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. LEACH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. BONKER).

Mr. BONKER Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 364, regarding the restoration of the Olympic records of the late Jim Thorpe, was reported unanimously by the Foreign Affairs Committee. There is no question that Jim Thorpe was an extraordinary person and an exceptional athlete who has suffered an injustice that must be rectified.

In 1912, the International Olympic Committee stripped Thorpe of his awards over a trivial matter, because playing baseball, he had accepted $2 a day, at the request of his coach. His son, Jack Thorpe, testifying recently before the Subcommittee on Human Rights and International Organizations said he asked a friend of his father's if they knew they were playing semi-professional baseball. The reply was, ". . . we hadn't ever heard of semi-professional baseball. We didn't know what it meant. At that time we were even having a hard time understanding English. We played baseball for the enjoyment of it."

Jim Thorpe was probably the greatest athlete in the world. And the fact that he was a native American is even more reason why Congress must use its persuasive powers to restore his honors. This resolution, with technical amendments, has been introduced by our distinguished colleague JIM HOWARD from the State of New Jersey. I commend the gentleman from New Jersey for his leadership on this issue and ask all my distinguished colleagues to support House Concurrent Resolution 364.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. ZABLOCKI), the distinguished chairman of the full committee.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Concurrent Resolution 364, regarding the restoration

of Olympic records of the late James (Jim) Thorpe, as amended. On September 21, the resolution was unanimously agreed to, with technical amendments, by the Committee on Foreign Affairs.

At the very outset I commend the sponsor of House Concurrent Resolution 364, our colleague from New Jersey, the Honorable JAMES J. HOWARD, for his efforts on behalf of the measure, and also my colleague on the committee, the Honorable DON BONKER, chairman of the Subcommittee on Human Rights and International Organizations, for his subcommittee's hearing and markup of the resolution, and consideration of this issue in the past.

Jim Thorpe, who was an exceptional athlete, excelled in many sports. He is most noted, however, for his Olympic achievements. At the 1912 Olympics, Thorpe won both the pentathlon and decathlon events—a feat never before, or since, accomplished. In addition to two gold medals, he was also presented with two special challenge trophies, which recipient athletes were permitted to keep until the following Olympiad.

Seven months after the 1912 games at Stockholm, Thorpe was stripped of all his Olympic awards when it was learned that he had played semiprofessional baseball several years before—a sport unrelated to his Olympic endeavors. Although Thorpe had accepted only expense money while playing baseball, which amounted to $2 per day, the U.S. Athletic Union recommended he be disqualified from the 1912 Olympics. The United States and International Olympic Committees then ruled against Thorpe, repossessed his awards, and expunged his name from the record books.

The original ruling against Thorpe by the International Olympic Committee is of questionable validity, because it was not made within 30 days after the event as prescribed by the Swedish Olympic regulations. Instead, 7 months had elapsed.

In 1973, the U.S. Amateur Athletic Union reversed its previous decision against Jim Thorpe. A similar action was taken by the U.S. Olympic Committee in 1975 to restore Thorpe's athletic standing. The International Olympic Committee, however, has refused to take a parallel stance to reinstate his name and achievements to the official records.

House Concurrent Resolution 364, now before the House, urges that the International Olympic Committee do just that, and that duplicate medals be presented to his family at the 1984 Olympic games in Los Angeles.

Mr. Speaker, I urge the adoption of House Concurrent Resolution 364, and the long-overdue recognition of a truly accomplished athlete, Jim Thorpe.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 364, a resolution calling on the International Olympic Committee to officially recognize Jim Thorpe's achievements in the 1912 Olympic games and, in so doing, honor the accomplishments and integrity of one of America's greatest citizens.

Jim Thorpe's story is well known. It was recounted for the Foreign Affairs Committee by his son, Jack Thorpe, now Principal Chief of the Sac and Fox Tribe of the Sauk Indian Nation.

Orphaned at the age of 16, the elder Thorpe grew up in the backwoods of what was then the Oklahoma Indian Territory. After the death of his mother in 1901, he was sent to a series of Government-run Indian schools. He ended up at the famous Carlisle Indian School at Carlisle, Pa., and it was there his amazing talents as an athlete of unsurpassed versatility emerged.

Besides being among the premier all-around football, baseball, and track and field competitors of all time, Thorpe was captain of the Carlisle basketball team, playing all of the positions at one time or another. He was a member of the school's lacrosse team and its star tennis and handball player. Although he seldom played, he could bowl in the 200s and golf in the 70s. A fine swimmer, Thorpe also excelled at billiards, boxing, gymnastics, rowing, hockey, and figure skating. He even won the intercollegiate dance championship of 1912.

Thorpe reached the pinnacle of his athletic career at the 1912 Olympics in Stockholm, Sweden. He won both the five-event Pentathlon and the 10-event Decathlon, a feat not duplicated before or since.

Seven months later, it was disclosed that Thorpe had played semi-pro baseball for expense money amounting to $2 a day during the summers of 1909 and 1910 while a student at Carlisle. His amateur status was terminated. The U.S. Amateur Athletic Union recommended his disqualification after the fact from the 1912 Olympics. The United States and the International Olympic Committees concurred; Thorpe was stripped of his awards, and his name was stricken from the Olympic records.

Jim Thorpe did not deny that he had accepted the expense money, as a less forthright individual might have been expected to do. Instead, he simply explained that he was unaware of the legalities involved in maintaining an amateur standing when accepting minimal expense money. Thorpe died in 1953, his wish for Olympic recognition unfulfilled.

Now it is possible to play one sport professionally and retain amateur standing for others. It is also possible for amateur athletes to accept expense money for travel, lodging, et cetera.

The wrong done Jim Throrpe should be righted, and the upcoming 1984 summer Olympics provides an ideal opportunity to do so. The combined concerns of Congress, the President—who has endorsed the resolution—the press, and the American public should be marshaled to persuade the International Olympic Committee to award duplicate medals to the heirs of Jim Thorpe at the next Olympic competition hosted by the country he represented so well and honorably.

Seen in the perspective of issues of war and peace, the matter of Jim Thorpe's medals might appear trivial. But righting a wrong—particularly a longstanding one—is never a small thing. Recognizing Thorpe's accomplishments by returning the medals he earned to his family would call attention to a genuine American hero at a time when heroes are both badly needed and in critically short supply. It would also honor a Native American whose loss of amateur status can be traced directly to his economic and social status.

It is ironic that the issue of Jim Thorpe's taking $2 a day in expense money should be raised at the same time NFL players have gone on strike for a multi-billion dollar contract.

During an era in which baseball and basketball players receive millions a year in salary, and when major colleges and universities are having their integrity compromised by the illegal and unethical activities of their athletic departments, Jim Thorpe represented another kind of ideal. "I have always liked sports," he said, "and only played or run races for the fun of the things and never to earn money."

We need to be reminded that sport, of whatever sort and at whatever level played, is of such value to us for precisely this reason. Athletic competitions are redeeming because they serve no end other than themselves, but are games played and races run "for the fun of things," for the values they reflect and instill.

It is therefore fitting and proper for this Congress to take up the cause of righting an historical wrong done a single individual. The International Olympic Committee has a moral obligation to reinstate the Olympic records and medals of Jim Thorpe, the greatest athlete in American, if not world history.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank the gentleman for yielding. I rise in support of House Concurrent Resolution 364, and would like to associate myself with the remarks of the gentleman from Iowa.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Pennsylvania,

Mr. WALKER. Mr. Speaker, I, too, want to associate myself with the remarks of the gentleman from Iowa, and indicate that when Jim Thorpe

was pursuing his athletic career he was a representative not only of America, but particularly of Carlisle, Pa.

The gentleman who now represents Carlisle, Pa. (Mr. GOODLING) does have a statement that he would like to have appear in the RECORD at this point.

● Mr. GOODLING. Mr. Speaker, Jim Thorpe, a Sac and Fox Indian from Oklahoma and one of America's greatest all-around athletes, has a special place not only in the history of America but also in the history of Carlisle, a Pennsylvania town which I am truly proud to represent.

Carlisle is historical—it figured significantly in the French and Indian War, the American Revolution, and the Civil War. It is a town which bears the influence of George Washington and the genius of Benjamin Latrobe, an architect of our beautiful Capitol Building.

Carlisle is also collegiate—it is the home of Dickinson College, Dickinson Law School, and the U.S. Army War College. In the early 1900's it was also the home of the Carlisle Indian School where the great Jim Thorpe began his outstanding athletic career under the guidance of Glenn—Pop—Warner, one of America's greatest football coaches. As a football and track star at Carlisle, Jim Thorpe made this small Cumberland country school one of the most talked about in sports history. Thorpe's accomplishments in the 1911 and the 1912 football seasons earned him all-American status.

While attending Carlisle, Jim Thorpe decided to enter the 1912 Olympic Games in Stockholm, Sweden. He easily won both the pentathlon and the decathlon events. Later it was learned that he had played minor league professional baseball to help defray room and board costs at Carlisle. As a result he was humiliated and stripped of his amateur status as well as his honors and medals.

I feel that a serious wrong was done in Jim Thorpe's case.

I rise in support of the resolution.●

Mr. BONKER. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. HOWARD), the sponsor of the concurrent resolution.

Mr. HOWARD. Mr. Speaker, I would like to thank the distinguished chairman of the Committee on Foreign Affairs, and the subcommittee chairman, Mr. BONKER, and Mr. LEACH of Iowa for their leadership and assistance in bringing this resolution to the floor of the House for consideration.

Simply put, this resolution expresses the sense of the Congress that a great injustice be corrected. Jim Thorpe represented this Nation in the 1912 Olympics, and won both the grueling pentathlon and decathlon events, an achievement no other athlete has or probably ever will accomplish. However, there is no mention of Jim Thorpe's name in the Olympic record books.

For his efforts, Jim Thorpe was awarded the customary gold medals and presented two challenge trophies. However, the heirs of Jim Thorpe do not possess any medals, and the challenge trophies are currently in the Olympic Museum in Sweden, which has been closed for some time.

The reason why Jim Thorpe has been denied the recognition he truly deserves is because, 7 months after the Olympics, it was disclosed that Jim Thorpe played semiprofessional baseball in the summers of 1909 and 1910, and under the direction of his coach accepted expense money amounting to $2 per day. The United States Amateur Athletic Union recommended disqualification from the Olympics. The United States and International Olympic Committees agreed, and Jim was stripped of his awards and his name was stricken from the record books.

Obviously, Jim Thorpe was not playing baseball for wealth. As an Indian schoolboy, he was unaware of the legalities involving in maintaining amateur status. He simply played because he loved sports. It is perhaps unfortunate that Jim Thorpe was not as sophisticated as many of his colleagues who played under aliases and for much more than expense money.

In the last decade, two of the organizations, the U.S. Amateur Athletic Union and the U.S. Olympic Committee, which declared Jim Thorpe ineligible, have reversed their positions. Nevertheless, for a variety of reasons, the International Olympic Committee has refused the overtures of these respected bodies.

The resolution we are now considering would simply request the IOC to reopen the Thorpe case and restore his name to the Olympic record books. With the 1984 Summer Olympics to be held in the Nation which Jim Thorpe represented so well, I can think of no better way to correct this unfortunate circumstance than the present.

What a fitting tribute it would be to have the challenge trophies on display, and award duplicate medals to the heirs of Jim Thorpe at these games. I urge my colleagues to approve this resolution expressing our support for the restoration of Jim Thorpe's name to the Olympic record book.

In addition, Mr. Speaker, just a few minutes ago over the wire service came a story that says:

> Jim Thorpe, the legendary Indian athlete who was stripped of his Olympic medals, has just been nominated as a charter member of the proposed United States Olympic Hall of Fame.

Of all of the great athletes, men and women, who have represented this Nation since 1896 in the Olympics, 50 have been nominated. Twenty will be selected as charter members of this U.S. Olympics Hall of Fame Museum which will be created at the U.S. Olympic Headquarters at Colorado Springs.

□ 1700

I have no doubt that Jim Thorpe will certainly be among the 20 selected and probably the No. 1 athlete of our Nation's history to be selected. It would truly be a shame that this No. 1 Olympic athlete from the United States would not have his name anywhere in the official record books of the Olympic games.

I think we can do a great service to justice by passing this resolution and following it through with presentations to the International Olympic Committee to see that this injustice be corrected.

I thank the committee for its work. I am sure the House will pass this bill and I yield back the balance of my time.

Mr. BONKER. Mr. Speaker, the subcommittee discussed ways in which this resolution could be presented to the Olympic Committee. It is hoped that perhaps the Speaker could appoint our colleague from New Jersey (Mr. HOWARD) to head a congressional delegation to present the resolution to the 1984 Olympic Committee.

Mr. Speaker, I have no further requests for time and yield back the balance of my time.

● Mr. NELLIGAN. Mr. Speaker, today, I join many of my colleagues in support of House Concurrent Resolution 364—to restore the Olympic records of the late Jim Thorpe.

In the 1912 Olympic games in Stockholm, Sweden, the 24-year-old American Indian from Carlisle, Pa., won two gold medals. That is not unusual, considering the feats of Olympians that followed him. But Thorpe's medals came in the decathlon and pentathlon—an incredible track and field double involving 15 events. To this day, no other athlete has ever matched that accomplishment.

The 11th District of Pennsylvania, which I am privileged to represent, has a special way of perpetuating the memory of this outstanding athlete. After his death, Jim Thorpe's widow negotiated with representatives from Mauch Chunk, Pa., to have her husband buried there. She was impressed with the unique plan this town was developing to attract industry, and suggested that the hard-working and successful reputation of Jim Thorpe could help their cause. Thus, the historic Victorian-styled town along the Lehigh River on the fringe of Pennsylvania's Poconos was renamed for Jim Thorpe. A 20-ton granite mausoleum, decorated with sports motifs depicting his Indian heritage and his versatile career in football and baseball, as well as track and field, stands there as a memorial with the epitaph to "the greatest athlete in the world" first attributed to him by King Gustav of Sweden after Jim Thorpe's 1912 Olympic achievements.

Despite his accomplishments, controversy arose and Jim Thorpe's athletic feats were discredited. Seven

months after his Olympic performance, it was disclosed that Jim Thorpe had played semiprofessional baseball, and his amateur ranking was terminated. Actually, Jim Thorpe accepted only expense money amounting to a mere $2 per day, and that came only at his coaches' urging. Nevertheless, the U.S. Amateur Athletic Union recommended disqualification from the 1912 Olympics. The United States and International Olympic Committees agreed, and he was stripped of his awards. His name was abruptly removed from the record books.

Since that time, the U.S. Amateur Athletic Union, the first organization to delcare Jim Thorpe ineligible, has reversed its decision. This reversal has since been endorsed by the U.S. Olympic Committee. However, we must still convince the International Olympic Committee of the unfairness of not recognizing Jim Thorpe's track achievements.

I join the 11th District of Pennsylvania, especially the residents of Jim Thorpe, Pa., in recognizing his outstanding feats, and urge support of House Concurrent Resolution 364, that calls for official recogniztion of the Olympic achievements of Jim Thorpe.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Washington (Mr. BONKER) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 364, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BONKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

SIZING OF MILITARY MEDICAL FACILITIES

Mr. NICHOLS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3278) to amend title 10, United States Code, to provide additional standards for determining the amount of space to be programed for military retirees and their dependents in medical facilities of the uniformed services, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1087 of title 10, United States Code, relating to the programing of space for care of retired members and their dependents, is amended—

(1) by inserting "(a)" before "Space for"; and

(2) by striking out the second sentence and inserting in lieu thereof the following: "The maximum amount of space that may be so programed for a facility is the greater of—

"(1) the amount of space that would be so programed for the facility in order to meet the requirements to be placed on the facility for support of the teaching and training of health-care professionals; and

"(2) the amount of space that would be so programed for the facility based upon the most cost-effective provision of inpatient and outpatient care to persons covered by sections 1074(b) and 1076(b) of this title.

"(b)(1) In making determinations for the purposes of clauses (1) and (2) of subsection (a), the Secretary concerned shall take into consideration—

"(A) the amount of space that would be so programed for the facility based upon projected inpatient and outpatient workloads at the facility for persons covered by sections 1074(b) and 1076(b) of this title; and

"(B) the anticipated capability of the medical and dental staff of the facility, determined in accordance with regulations prescribed by the Secretary of Defense and based upon realistic projections of the number of physicians and other health-care providers that it can reasonably be expected will be assigned to or will otherwise be available to the facility.

"(2) In addition, a determination made for the purpose of clause (2) of subsection (a) shall be made in accordance with an economic analysis (including a life-cycle cost analysis) of the facility and consideration of all reasonable and available medical care treatment alternatives (including treatment provided under a contract under section 1086 of this title or under part A of title XVIII of the Social Security Act).".

SEC. 2. The amendment made by paragraph (2) of the first section of this Act shall apply only with respect to a facility for which funds for construction (or a major alteration) are first appropriated for a fiscal year after fiscal year 1983.

The SPEAKER pro tempore. Is a second demanded?

Mr. MITCHELL of New York. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. NICHOLS) will be recognized for 20 minutes, and the gentleman from New York (Mr. MITCHELL) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring to the floor H.R. 3278, as amended, a bill to revise the current criteria used to size military medical facilities. I want to commend the gentlelady from Maryland (Mrs. HOLT) for her leadership in bringing this legislation before the House.

I am calling this bill before the House in amended form. The amendment, made at the request of the bill's sponsor, the gentlelady from Maryland (Mrs. HOLT), strikes from the bill the requirement for a military hospital at each of the three service academies.

H.R. 3278 is the product of hearings conducted jointly by the Subcommittee on Military Personnel and Compensation and the Subcommittee on Military Installations and Facilities. All witnesses supported a change in the current procedures used to size new or replacement military medical facilities and felt such a change would prove more cost-effective over the life of the facility than current policies.

Let me review briefly where we are today. Current law and policy provide that the amount of space to be included in military medical facilities should be limited to that needed for active duty members and their dependents, plus any additional space the service Secretary determines necessary to meet teaching and training requirements.

Additional space may be programed in areas having a large concentration of retired members and their dependents where there is also a critical shortage of community facilities.

The implementing regulations issued by the Department of Defense in 1968, which have basically remained unchanged since that time, provide that the services may add an additional 5 percent in nonteaching hospitals or 10 percent in teaching hospitals to the space otherwise planned. This additional 5 or 10 percent capacity is the only space that may be programed in new or replacement medical facilities to meet the needs of retirees and their dependents, regardless of the actual retiree workload in that area.

A General Accounting Office report, prepared at the request of the chairman of the House Appropriations Committee and issued in December 1980, criticized the Defense Department's sizing policies and indicated that the services do not apply the same criteria to both inpatient and outpatient facilities. The GAO report suggested that the law be modified to provide additional criteria in sizing military medical facilities so that other factors such as the life cycle costs of the facility could be considered in making a final determination of size. The legislation we are considering today is based on the GAO recommendations.

In evaluating the life cycle cost, for example, the cost of constructing the facility would be weighed against the cost to the Government of providing the medical care under CHAMPUS—the civilian health and medical program of the uniformed services—and, for those over 65, under medicare. CHAMPUS pays a portion of the medical bills for active duty dependents, retirees, their dependents, and survivors who are unable to obtain care in military medical facilities. The budget for CHAMPUS has increased significantly in recent years, due in large

part to the cost growth within the medical sector of the economy. The committee, in fact, just recently approved a $100 million reprograming request for CHAMPUS in order to permit CHAMPUS to meet its bills for the remainder of the fiscal year. Well over half of the shortfall results from cost growth in the program that has exceeded the growth assumed in the budget submission. The committee intends to closely monitor efforts currently underway within the Department of Defense to control the rate of CHAMPUS growth and to insure the most efficient use of military health care dollars. Even with these efforts, however, it would appear that CHAMPUS will remain a significant component of military health care costs for many years in the future.

H.R. 3278 proposes that, in making a decision on the construction of a new or replacement military medical facility, military health care planners be allowed to consider the cost-effectiveness of various sizing options, based on an economic analysis of the facility, including the life-cycle costs. Thus, the cost of building a somewhat larger facility would be weighed against the cost of providing additional medical care under CHAMPUS and medicare within the area served by that facility. The size of the facility would be constrained by the projected availability of staff. The committee concurs with the view of the General Accounting Office that the availability of staff must be a critical determinant in the ultimate sizing decision in order to prevent any propensity to overbuild.

Congress would, of course, continue to have the final say, through the military construction authorization and appropriations process, on the allocation of the limited resources available. The ultimate goal is obviously to provide the highest quality care to the eligible beneficiary population at the lowest cost to the taxpayer.

I urge the members to support the committee recommendation.

Mr. MITCHELL of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3278, to expand the present criteria used to size military medical facilities and would like to join with the gentleman from Alabama (Mr. NICHOLS), the distinguished chairman of our subcommittee in congratulating the gentlelady from Maryland (Mrs. HOLT) for the outstanding work she has done on this legislation.

The bottom line of H.R. 3278 is to save the Government money by insuring that military medical facilities are constructed in the most cost-effective manner. As a member of both the Subcommittee on Military Installations and Facilities, and the Subcommittee on Military Personnel and Compensation, I am particularly aware of the budgetary pressures that are brought to bear to reduce the costs of any project by reducing its size or capabilities. The name of the game is near-term outlays, and we too frequently settle for far less than the optimum in order to reduce those outlays at the front end of the project.

H.R. 3278 does not propose that we suddenly begin to spend more money to build huge military hospitals. Rather, it provides an alternative that military health care planners may consider in making a determination on the ultimate size of the facility.

If the decision is made to build a slightly larger medical facility, I would anticipate that service and Department of Defense officials would defer other projects of lesser priority in order to insure that the overall budget request for military construction is no larger that previously programed. Experience in recent years would certainly indicate that the military construction budget request is likely to be even smaller than previously planned, due to the competition from other areas of the Defense budget.

In addition to the budgetary limitations imposed within the Department of Defense, there is a further very substantial restraint: Congress, through the authorization and appropriations process must approve and fund each and every facility. So we have oversight.

When reductions are made, military construction projects are some of the first to get the ax despite their very direct impact on the welfare and morale of the individual service man and woman.

H.R. 3278 would permit the most cost-effective use of Federal moneys to provide care to beneficiaries of the military health care system: active duty personnel and their dependents, retirees, and dependents of retired and deceased personnel. As the gentleman from Alabama (Mr. NICHOLS) has previously outlined, under present law and policy, the only space that may generally be programed for retirees and their dependents is an additional 5 percent in nonteaching hospitals and an additional 10 percent in teaching hospitals. These restrictions apply even though the new facility is replacing a significantly larger existing military hospital located in an area with a growing concentration of retirees. This makes for poor planning. The Acting Assistant Secretary of Defense for Health Affairs has testified that, unless current law and policy are changed, the military departments will lose approximately 20 percent of the existing hospital beds in the direct care system over the next 20 years. Those individuals unable to obtain care will be shifted to the more costly CHAMPUS program and, at age 65, to medicare. This is far more costly to the government over the life of the facility.

To deter any propensity on the part of the services to overbuild facilities, even with the constraints that would be imposed on the military construction budget, H.R. 3278 provides that the projected availability of staffing must be an integral part of the decisionmaking process and a determinant of the ultimate size. In other words, we cannot build the facility, unless the service has the personnel to staff it.

In view of the shortfalls in the number of doctors and ancillary personnel in the very recent past, the ability of the services to provide sufficient physicians and other medical staff must be a principal factor in the sizing of a military medical facility. The General Accounting Office report recommended that projected staffing act as a major constraint on sizing decisions. The recommendation is incorporated in H.R. 3278.

H.R. 3278 makes good sense for the Department of Defense and the services, for the beneficiaries of the military health care delivery system, but, most importantly, for the taxpayer. By weighing the life-cycle cost of various military hospital sizing options, we will be able to insure the greatest return on the dollars invested. That is tremendously important, especially in light of our huge budgetary deficits.

I urge my colleagues to support this measure. Let us all save the taxpayers' dollars. We especially need to save them and should save them in difficult financial times.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Speaker, I rise in support of H.R. 3278, to update and improve the sizing criteria for the construction of military hospitals and other medical facilities.

As previously outlined by the gentleman from Alabama (Mr. NICHOLS) and the gentleman from New York (Mr. MITCHELL), the sizing constraints now in effect are totally unrealistic. Mr. Speaker, the 5- and 10-percent factors are the total additional space that may be added in considering the health care needs of retirees and their dependents. These limitations were established in 1968 and have remained unchanged since that time.

Congress has on several occasions expressed concern that the criteria should be revised. In July 1976, the conference report on the Military Construction Appropriations Act for fiscal year 1977 directed the Department of Defense to review present policies for determining the number of beds in military hospitals for retirees and dependents of retired and deceased personnel. The conference report further indicated that the Congress would consider providing beds in new military hospitals for beneficiaries now receiving care under CHAMPUS, if it could be demonstrated that the overall cost of such in-house care was less expensive to the Government than CHAMPUS.

In December 1980, the General Accounting Office issued a report prepared at the request of the chairman of the House Appropriations Commit-

tee. GAO found that the inpatient and outpatient workloads for retirees and their dependents in many military hospitals far exceed the 5- and 10-percent factors. For example, GAO cited Department of Defense data indicating that in 1979 at the San Diego Naval Hospital about 31 percent of the outpatient workload and 41 percent of the occupied inpatient beds resulted from treatment of retirees or dependents of retired and deceased beneficiaries. In the replacement hospital, inpatient beds would have to be increased by 70 percent over those needed for active duty personnel and their dependents in order to accommodate the current workload of retirees and dependents of retired and deceased personnel. This compares to the maximum increase of 10 percent to meet teaching and training requirements that is currently allowed by DOD instruction when sizing new hospitals. Thus, the new San Diego Naval Hospital being constructed in accordance with present law and policy will provide significantly less inpatient care than the current facility. Those no longer able to obtain care in the new hospital will be shifted to the more expensive CHAMPUS program or, in the case of those age 65 and over, to medicare.

The private consultant's report prepared on the San Diego Naval Hospital concluded that "the higher the proportion of Navy direct care for the San Diego Naval Regional Medical Center, the lower the life cycle cost to both the Navy and beneficiary population and the higher the demonstrable compliance with initiatives toward containment of health care costs * * *." The General Accounting Office concurred in this assessment by the consultant, and GAO found it to be consistent with other studies comparing the relative costs of providing medical care in-house, to the costs under CHAMPUS.

The General Accounting Office report concluded, in summary, that—

Studies indicate that treatment of DOD beneficiaries in the military hospitals and clinics can, in some cases, be more cost effective to the Government than paying for their care in civilian facilities. They also supply strong evidence that DOD can save money in the long run by adopting a new policy to size hospitals to treat all beneficiaries when proper economic analysis shows this to be most cost effective.

H.R. 3278 is in tune with GAO's findings: It would permit the construction of a slightly larger facility when it can be demonstrated that the Government will save money over the life of the facility.

Mr. Speaker, H.R. 3278, if enacted, will insure that we get the greatest return on our investment of military construction dollars. The legislation reported by the Committee on Armed Services has been carefully formulated in close cooperation with health care planners of both the Department of Defense and the individual services. The bottom line is the cost-effective allocation of scarce resources. I urge my colleagues' support of this legislation.

Mr. NICHOLS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HAWKINS).

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON S. 2036, JOB TRAINING PARTNERSHIP ACT, ANY TIME AFTER FILING

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that, notwithstanding rule XXVIII 2(a), it be in order to take up the conference report on S. 2036 anytime after the filing of the conference report on S. 2036.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ERLENBORN. Mr. Speaker, reserving the right to object, the request the gentleman makes is a request that I intend to support. The bill, which is the subject of the conference report, is the Job Training Partnership Act.

I am very pleased with the results in the conference. The conferees approved of the conference report unanimously and the President has signaled his intention to sign the bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. NICHOLS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. FAZIO).

Mr. FAZIO. Mr. Speaker, I appreciate the gentleman yielding and wish to thank the gentleman, the chairman of the Subcommittee on Military Personnel and Compensation, for the work he has done in bringing this bill to the floor.

I also would like to commend my friend, the gentlewoman from Maryland (Mrs. HOLT), for her excellent effort in behalf of the dependents and retirees around our many military hospitals across this country.

The General Accounting Office has made clear that it is most cost effective to use existing and hopefully enlarged military facilities rather than providing our military personnel dependents and our retirees with assistance through the CHAMPUS program.

□ 1710

In light of that cost-effective approach, I believe this bill is warranted. It gives the Defense Department the flexibility it needs to enlarge our military hospitals and clinics.

Mr. Speaker, I would like to take this opportunity to speak on behalf of H.R. 3278, sizing of military medical facilities, and to commend my distinguished colleague, Mr. NICHOLS, chairman of the Subcommittee on Military Personnel and Compensation, and Mrs. HOLT, sponsor of this bill. I have worked closely with both of these individuals, for I too introduced legislation, H.R. 3017, to correct a problem that has existed for far too long, the inability of the Secretary of Defense to take into account when determining the size of military hospitals and clinics, the retired population that is eligible to use these facilities.

Under existing law, these facilities are sized, not according to the total population served, but rather, according to the number of active duty personnel and their dependents. Thus, the retired population cannot be factored in as a determinant in calculating the size of the hospital. The retired population can only be considered if the hospital is a teaching and training facility. However, if that be the case, the size of the new hospital can only be increased by 5 to 10 percent no matter how large the retirement population is.

As a result, retired personnel and their dependents are forced to seek medical treatment through CHAMPUS, a far costlier alternative to in-house care. In view of the additional costs to the Government of providing private care, and the denial to retirees of an adequate Federal facility, I introduced my bill because I felt that the services should have broader discretion in determining the size of a new or renovated hospital. The decision should be based on the following criteria:

First, life-cycle cost effectiveness;

Second, projected staff availability;

Third, realistic workload projections; and

Fourth, teaching and training requirements.

A new sizing policy should provide enough space in new medical facilities to meet the needs of all elgible beneficiaries, including retirees and dependents of retirees and deceased members, if it is found on the basis of a detailed life-cycle economic analysis to be both cost effective and feasible in terms of staff availability. This would improve DOD's ability to satisfy its obligation regarding the treatment of retirees and dependents of retirees and deceased members. Furthermore, to the extent that such a policy would result in construction of facilities with greater capacity, this would be consistent with DOD's responsibilities to provide adequate medical facilities to meet its responsibilities in the event of war or a national emergency.

The General Accounting Office (GAO), in a report released December 17, 1980, concluded that it was necessary for DOD to revamp its policy on the sizing of hospitals, and the report went so far as to recommend this type of legislative remedy.

To fully understand why such legislation is necessary, we need to look at how the current policy has acutally affected military medical care for retirees.

Today we have over 1½ million military retirees residing in this country. (This figure does not include depend-

ents or survivors.) Not only will that number continue to rise nationwide in the years ahead; but certain areas of the country, particularly the Sunbelt, will experience larger growths due to the shifts in population. This of course will place an added level of stress on military medical facilities in these areas.

My own congressional district in California is a perfect example of this demographic trend. The Greater Sacramento area now has the second largest military retirement population in the country. The medical facilities serving this area are totally inadequate to care for the eligible population.

Fortunately, three of the major military installations which have a medical facility are listed in the Air Force's 5 year hospital/clinic modernization plan and will undergo construction/renovation. Unfortuately, only one of these three facilities will be designed in such a way that it will adequately serve retirees.

Let me detail the situation: Travis AFB is scheduled for a new $237 million hospital in the fiscal year 1985 budget; Mather AFB is scheduled for a $25 million clinic renovation in the fiscal year 1987 budget; and McClellan AFB is scheduled for a new $14.6 million clinic in the fiscal year 1987 budget.

The size of the facility at Travis AFB is of course impacted by current constraints on counting retirees; however, due to this hospital's vast responsibilities in the Air Force's medical network, it is not as adversely affected as hospitals and clinics at other bases.

Travis is the largest Air Force base in the Western States, and its David Grant Memorial Hospital serves as a referral hospital for 20 other AF medical facilities in eight States. It trains over 100 medical and dental interns and residents per year. The hospital also serves an important role in the bay area disaster plan, and is the aeromedical staging port to and from the Pacific theatre. Thus, the AF was able to design the hospital to take into account this unique situation.

The new hospital will be the first DOD medical facility planned with oversized hospital rooms to allow the facility to rapidly expand to a capacity of 555 beds in the event of a regional or national emergency. In addition, it will be one of the first new facilities designed to reflect the trend in modern medicine toward increased outpatient, preventive care as opposed to hospitalization.

While the Air Force is to be commended for its innovative approach at Travis, it does not have this type of flexibility in the majority of cases. Indeed, in other areas where the need is as great or greater, the Air Force, and our other services, are constrained by the current DOD sizing policy.

In the Sacramento area at McClellan AFB and Mather AFB the circumstances are, as at most military installations, quite different from that at Travis.

Despite the fact that both of the clinics are located in an area with over 30,000 retirees plus dependents, and despite the fact that we are going to spend $39 million to renovate these facilities, under present guidelines nothing can be done to significantly increase the size of the population served. Thus we will spend millions of dollars on badly needed renovation—but this might only be half a solution. retirees and their dependents will still be forced to use CHAMPUS. Thus we will possibly experience a greater overall cost in medical care than if we had the flexibility to construct a clinic that could care for the eligible population.

I cannot emphasize enough the importance of changing the existing law. We are in an era of fiscal constraint and must, therefore, seek every opportunity to provide for long-term cost efficiencies. We must allow flexibility in the decisionmaking process, so that when a new medical facility is constructed, or an existing one is renovated, the service Secretaries can consider a broader range of options, and thereby make a better decision.

Continuing with the current policy will not only cost the taxpayers far more money in the long run, but it will also deny the commitment we have made to our men and women now in the Service and those who have retired for adequate health care in a Federal facility.

H.R. 3278 provides the solution we need. Thus, I urge my colleagues to support this measure.

Mr. NICHOLS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. NICHOLS) that the House suspend the rules and pass the bill, H.R. 3278, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

Debate has been concluded on all motions to suspend the rules which will be considered today.

Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 4863, de novo;
H.R. 3252, de novo;
H.R. 5949, by the yeas and nays; and
H. Con. Res. 409, de novo.

The Chair will reduce to 5 minutes the time for all electronic votes after the first such vote in this series.

RECOVERY OF DAMAGES BY FOREIGN SEAMEN

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4863, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BIAGGI) that the House suspend the rules and pass the bill, H.R. 4863, as amended.

The question was taken.

Mr. ZABLOCKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 224, nays 182, answered "present" 1, not voting 25, as follows:

[Roll No. 372]

YEAS—224

Alexander	Daniel, Dan	Gregg
Andrews	Daniel, R. W.	Grisham
Anthony	Dannemeyer	Hagedorn
Archer	Daschle	Hall, Ralph
Ashbrook	Daub	Hammerschmidt
AuCoin	Davis	Hance
Badham	de la Garza	Hansen (ID)
Barnard	Deckard	Hansen (UT)
Bennett	Derrick	Hartnett
Bereuter	Derwinski	Hatcher
Bethune	Dickinson	Hefner
Biaggi	Dorgan	Heftel
Bliley	Dowdy	Hendon
Boggs	Dreier	Hightower
Bowen	Duncan	Hiler
Breaux	Dunn	Hillis
Brinkley	Edwards (AL)	Holt
Brodhead	Edwards (OK)	Hopkins
Brooks	Emerson	Horton
Brown (CO)	Emery	Hubbard
Broyhill	English	Huckaby
Burgener	Erdahl	Hughes
Butler	Erlenborn	Hunter
Byron	Evans (GA)	Hutto
Campbell	Evans (IA)	Hyde
Carman	Fenwick	Ireland
Carney	Fiedler	Jeffords
Chappie	Fields	Jeffries
Cheney	Fountain	Johnston
Chisholm	Fowler	Jones (NC)
Clausen	Frenzel	Jones (OK)
Clinger	Fuqua	Jones (TN)
Coats	Gingrich	Kazen
Coelho	Ginn	Kramer
Conable	Glickman	Lagomarsino
Corcoran	Goldwater	Latta
Coughlin	Goodling	Leath
Courter	Gore	LeBoutillier
Coyne, James	Gradison	Lee
Craig	Gramm	Lent

Levitas	Nichols	Smith (AL)
Livingston	O'Brien	Smith (IA)
Loeffler	Oxley	Smith (NE)
Long (LA)	Parris	Smith (NJ)
Long (MD)	Pashayan	Smith (OR)
Lott	Patman	Snowe
Lowery (CA)	Paul	Snyder
Lujan	Pepper	Solomon
Lungren	Petri	Spence
Madigan	Pickle	Stangeland
Marks	Porter	Staton
Marlenee	Pritchard	Stenholm
Marriott	Pursell	Stratton
Martin (IL)	Quillen	Stump
Martin (NC)	Railsback	Synar
Martin (NY)	Rhodes	Tauzin
McCloskey	Ritter	Thomas
McCollum	Roberts (KS)	Trible
McCurdy	Roberts (SD)	Udall
McDade	Robinson	Vander Jagt
McEwen	Roemer	Walker
McGrath	Rogers	Wampler
McKinney	Roth	Watkins
Mica	Roukema	Weber (MN)
Michel	Rousselot	Weber (OH)
Miller (OH)	Rudd	Whitehurst
Molinari	Scheuer	Whitley
Montgomery	Schulze	Whittaker
Moore	Sensenbrenner	Wilson
Moorhead	Shaw	Winn
Morrison	Shelby	Wolf
Myers	Shumway	Wright
Napier	Shuster	Wyden
Neal	Siljander	Young (AK)
Nelson	Skeen	

NAYS—182

Addabbo	Ford (TN)	Oberstar
Akaka	Frank	Obey
Albosta	Frost	Ottinger
Anderson	Garcia	Panetta
Annunzio	Gaydos	Patterson
Applegate	Gejdenson	Pease
Aspin	Gephardt	Perkins
Atkinson	Gibbons	Peyser
Bailey (PA)	Gilman	Price
Barnes	Gonzalez	Rahall
Bedell	Gray	Rangel
Beilenson	Green	Ratchford
Bevill	Guarini	Regula
Bingham	Gunderson	Reuss
Boland	Hall (OH)	Rinaldo
Bolling	Hall, Sam	Rodino
Boner	Hamilton	Roe
Bonior	Harkin	Rose
Bonker	Hawkins	Rostenkowski
Bouquard	Heckler	Roybal
Broomfield	Hertel	Russo
Brown (CA)	Holland	Sabo
Burton, Phillip	Hollenbeck	Santini
Clay	Howard	Savage
Collins (IL)	Hoyer	Sawyer
Conte	Jacobs	Schneider
Conyers	Kastenmeier	Schroeder
Coyne, William	Kennelly	Schumer
Crane, Daniel	Kildee	Seiberling
Crane, Philip	Kindness	Shannon
Crockett	Kogovsek	Sharp
D'Amours	LaFalce	Simon
Dellums	Leach	Skelton
DeNardis	Lehman	Smith (PA)
Dicks	Leland	Solarz
Dingell	Lowry (WA)	Stark
Dixon	Luken	Stokes
Donnelly	Lundine	Studds
Dougherty	Markey	Swift
Downey	Martinez	Tauke
Dwyer	Matsui	Traxler
Dymally	Mavroules	Vento
Dyson	Mazzoli	Volkmer
Early	McClory	Walgren
Eckart	McDonald	Washington
Edgar	McHugh	Waxman
Edwards (CA)	Mikulski	Weaver
Evans (DE)	Miller (CA)	White
Evans (IN)	Mineta	Whitten
Fary	Minish	Williams (MT)
Fascell	Mitchell (MD)	Williams (OH)
Fazio	Mitchell (NY)	Wirth
Ferraro	Moakley	Wolpe
Findley	Mollohan	Wortley
Fish	Mottl	Wylie
Fithian	Murphy	Yates
Flippo	Murtha	Yatron
Florio	Natcher	Young (MO)
Foglietta	Nelligan	Zablocki
Foley	Nowak	Zeferetti
Ford (MI)	Oakar	

ANSWERED "PRESENT"—1

St Germain

NOT VOTING—25

Bafalis	Collins (TX)	Moffett
Bailey (MO)	Dornan	Rosenthal
Beard	Ertel	Shamansky
Benedict	Forsythe	Stanton
Blanchard	Jenkins	Taylor
Brown (OH)	Kemp	Weiss
Burton, John	Lantos	Young (FL)
Chappell	Lewis	
Coleman	Mattox	

□ 1730

Messrs. CONTE, STOKES, HOWARD, McHUGH, and GILMAN, Mrs. HECKLER, and Messrs. ROSE, HAWKINS, and RODINO, Mrs. SCHROEDER, and Messrs. DYSON, DOWNEY, EVANS of Delaware, NOWAK, ANDERSON, APPLEGATE, and ROSTENKOWSKI, Mrs. SCHNEIDER, and Messrs. MITCHELL of New York, HOLLAND, FINDLEY, BEVILL, WHITTEN, and WILLIAMS of Ohio changed their votes from "yea" to "nay."

Mr. ROBINSON, Mr. McGRATH, and Mr. BUTLER changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3809, ATOMIC ENERGY AMENDMENTS OF 1981

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 97-886) on the resolution (H. Res. 601) providing for the consideration of the bill (H. Res. 3809) to provide for repositories for the disposal of high-level radioactive waste, transurantic waste, and spent nuclear fuel, to amend provisions of the Atomic Energy Act of 1954 relating to low-level waste, to modify the Price-Anderson provisions of the Atomic Energy Act of 1954 and certain other provisions pertaining to facility licensing and safety, and for other purposes, which was referred to the House Calendar and ordered to be printed.

MAKING IN ORDER ON TOMORROW OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON S. 2852, SALLIE MAE TECHNICAL AMENDMENTS OF 1982

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that it may be in order for the House to consider on tomorrow or any succeeding day the conference report on the Senate bill (S. 2852) to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-84, and 1984-85, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

□ 1740

Mr. ERLENBORN. Mr. Speaker, reserving the right to object, I merely want to state that the gentleman from Kentucky (Mr. PERKINS) had conferred with this side concerning his request, in which we concur, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

COASTAL BARRIER RESOURCES ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3252, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BREAUX) that the House suspend the rules and pass the bill, H.R. 3252, as amended.

Mr. EDWARDS of Alabama. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 4, not voting 29, as follows:

[Roll No. 373]

YEAS—399

Addabbo	Bonker	Courter
Akaka	Bouquard	Coyne, James
Albosta	Bowen	Coyne, William
Alexander	Breaux	Craig
Anderson	Brinkley	Crane, Daniel
Andrews	Brodhead	Crane, Philip
Annunzio	Broomfield	Crockett
Anthony	Brown (CA)	D'Amours
Applegate	Brown (CO)	Daniel, Dan
Archer	Broyhill	Daniel, R. W.
Ashbrook	Burgener	Dannemeyer
Aspin	Burton, Phillip	Daschle
Atkinson	Butler	Daub
AuCoin	Byron	Davis
Badham	Campbell	Deckard
Bailey (PA)	Carman	de la Garza
Barnard	Carney	Dellums
Barnes	Chappie	DeNardis
Bedell	Cheney	Derrick
Beilenson	Chisholm	Derwinski
Bennett	Clausen	Dickinson
Bereuter	Clay	Dicks
Bethune	Clinger	Dingell
Bevill	Coats	Dixon
Biaggi	Coelho	Donnelly
Bingham	Collins (IL)	Dorgan
Bliley	Conable	Dougherty
Boggs	Conte	Dowdy
Boland	Conyers	Downey
Boner	Corcoran	Dreier
Bonior	Coughlin	Duncan

Dunn	Jones (NC)	Pritchard
Dwyer	Jones (OK)	Pursell
Dymally	Jones (TN)	Quillen
Dyson	Kastenmeier	Rahall
Early	Kazen	Railsback
Eckart	Kennelly	Rangel
Edgar	Kildee	Ratchford
Edwards (AL)	Kindness	Regula
Edwards (CA)	Kogovsek	Reuss
Edwards (OK)	Kramer	Rhodes
Emerson	LaFalce	Rinaldo
Emery	Lagomarsino	Ritter
English	Latta	Roberts (KS)
Erdahl	Leach	Roberts (SD)
Erlenborn	Leath	Robinson
Evans (DE)	LeBoutillier	Rodino
Evans (GA)	Lee	Roe
Evans (IA)	Lehman	Roemer
Evans (IN)	Leland	Rogers
Fary	Lent	Rose
Fascell	Levitas	Rostenkowski
Fazio	Livingston	Roth
Ferraro	Loeffler	Roukema
Fiedler	Long (LA)	Rousselot
Fields	Long (MD)	Roybal
Findley	Lott	Rudd
Fish	Lowery (CA)	Russo
Fithian	Lowry (WA)	Sabo
Flippo	Lujan	Santini
Florio	Luken	Savage
Foglietta	Lundine	Sawyer
Foley	Lungren	Scheuer
Ford (MI)	Madigan	Schneider
Ford (TN)	Markey	Schroeder
Fountain	Marks	Schulze
Fowler	Marlenee	Schumer
Frank	Marriott	Seiberling
Frenzel	Martin (IL)	Sensenbrenner
Frost	Martin (NC)	Shannon
Fuqua	Martin (NY)	Sharp
Garcia	Martinez	Shaw
Gaydos	Matsui	Shelby
Gejdenson	Mavroules	Shumway
Gephardt	Mazzoli	Shuster
Gibbons	McClory	Siljander
Gilman	McCloskey	Simon
Gingrich	McCollum	Skeen
Ginn	McCurdy	Skelton
Glickman	McDade	Smith (AL)
Goldwater	McDonald	Smith (IA)
Gonzalez	McEwen	Smith (NE)
Goodling	McGrath	Smith (NJ)
Gore	McHugh	Smith (OR)
Gradison	McKinney	Smith (PA)
Gramm	Mica	Snowe
Gray	Michel	Snyder
Green	Mikulski	Solarz
Gregg	Miller (CA)	Solomon
Grisham	Miller (OH)	Spence
Guarini	Mineta	St Germain
Gunderson	Minish	Stangeland
Hagedorn	Mitchell (MD)	Stark
Hall (OH)	Mitchell (NY)	Staton
Hall, Ralph	Moakley	Stenholm
Hamilton	Molinari	Stokes
Hammerschmidt	Mollohan	Stratton
Hance	Montgomery	Studds
Hansen (ID)	Moore	Stump
Hansen (UT)	Moorhead	Swift
Harkin	Morrison	Synar
Hartnett	Mottl	Tauke
Hatcher	Murphy	Tauzin
Hawkins	Murtha	Thomas
Heckler	Myers	Traxler
Hefner	Napier	Trible
Heftel	Natcher	Udall
Hendon	Nelligan	Vander Jagt
Hertel	Nelson	Vento
Hightower	Nichols	Volkmer
Hiler	Nowak	Walgren
Hillis	O'Brien	Walker
Holland	Oakar	Wampler
Hollenbeck	Oberstar	Washington
Holt	Obey	Watkins
Hopkins	Ottinger	Waxman
Horton	Oxley	Weaver
Howard	Panetta	Weber (MN)
Hoyer	Parris	Weber (OH)
Hubbard	Pashayan	White
Huckaby	Patterson	Whitehurst
Hughes	Paul	Whitley
Hunter	Pease	Whittaker
Hutto	Pepper	Whitten
Hyde	Perkins	Williams (MT)
Ireland	Petri	Williams (OH)
Jacobs	Peyser	Wilson
Jeffords	Pickle	Winn
Jeffries	Porter	Wirth
Johnston	Price	Wolf
Wolpe	Wylie	Young (MO)
Wright	Yates	Zablocki
Wyden	Yatron	Zeferetti

NAYS—4

Brooks	Patman
Hall, Sam	Young (AK)

NOT VOTING—29

Bafalis	Collins (TX)	Moffett
Bailey (MO)	Dornan	Neal
Beard	Ertel	Rosenthal
Benedict	Fenwick	Shamansky
Blanchard	Forsythe	Stanton
Bolling	Jenkins	Taylor
Brown (OH)	Kemp	Weiss
Burton, John	Lantos	Wortley
Chappell	Lewis	Young (FL)
Coleman	Mattox	

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BREAUX. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1018), to protect and conserve fish and wildlife resources, and for other purposes, a similar bill, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal Barrier Resources Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) habitats which are essential spawning, nursery, nesting, and feeding areas for migratory birds, aquatic organisms, and other wildlife are provided within the coastal barriers along the Atlantic and gulf coasts of the United States and the adjacent wetlands, marshes, estuaries, inlets, and near shore waters;

(2) these fish and wildlife resources and their habitats are being irretrievably damaged and lost due to development on, among, and adjacent to, such coastal barriers;

(3) certain actions and programs of the Federal Government have subsidized and encouraged such development; and

(4) a program of coordinated action by Federal, State, and local governments is critical to the more appropriate use and conservation of fish and wildlife resources and habitats within the coastal barriers.

(b) PURPOSE.—The Congress declares that it is the purpose of this Act to minimize the damage to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and gulf coasts by restricting future Federal expenditures and financial assistance which have the effect of encouraging development of coastal barriers, by establishing a Coastal Barrier Resources System, and by considering the means and measures by which the long-term conservation of these fish, wildlife, and other natural resources may be achieved.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "coastal barrier" means—

(A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that—

(i) consists of unconsolidated sedimentary materials,

(ii) is subject to wave, tidal, and wind energies, and

(iii) protects landward aquatic habitats from direct wave attack; and

(B) all associated aquatic habitats, including the adjacent wetlands, marshes, estuaries, inlets, and near shore waters.

(2) The term "committees" refers to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(3) The term "financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, or any other form of direct or indirect Federal assistance other than—

(A) deposit or account insurance for customers of banks, savings and loan associations, credit unions, or similar institutions;

(B) the purchase of mortgages or loans by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation; and

(C) assistance for environmental studies, planning, and assessments that are required incident to the issuance of permits or other authorizations under Federal law.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "System unit" means any coastal barrier, or combination of closely related coastal barriers, included within the Coastal Barrier Resources System established by section 4 of this Act.

SEC. 4. THE COASTAL BARRIER RESOURCES SYSTEM.

(a) ESTABLISHMENT.—(1) There is established the Coastal Barrier Resources System which shall consist of those undeveloped coastal barriers located on the Atlantic and gulf coasts of the United States that are identified and generally depicted on the maps that are entitled "Coastal Barrier Resources System" and dated September 10, 1982.

(2) A coastal barrier was treated as an undeveloped coastal barrier for purposes of paragraph (1) only if there were few manmade structures on the barrier and these structures, and man's activities on the barrier, did not significantly impede geomorphic and ecological processes.

(3) A coastal barrier which was included within the boundaries of an area established under Federal, State, or local law or held by a qualified organization (as defined in paragraph (3) of section 170(h) of the Internal Revenue Code of 1954), primarily for wildlife refuge, sanctuary, or natural resource conservation purposes was not included within the Coastal Barrier Resources System.

(4) Any person or persons or other entity owning or controlling land on a coastal barrier, associated landform or any portion thereof not within the Coastal Barrier Resources System established under paragraph (1) may, within one year after the date of enactment of this Act, elect to have such land included within the Coastal Barrier Resources System. This election shall be made in compliance with regulations established for this purpose by the Secretary not later than one hundred and eighty days after the date of enactment of this Act; and, once made and filed in accordance with the laws regulating the sale or other transfer of

land or other real property of the State in which such land is located, shall have the same force and effect as if such land had originally been included within the Coastal Barrier Resources System.

(b) AVAILABILITY OF MAPS.—(1) The maps referred to in paragraph (1) of subsection (a) shall be available for public inspection at the offices of the United States Fish and Wildlife Service in the District of Columbia and in other appropriate offices of the Service.

(2) Within sixty days after the date of enactment of this Act, the Secretary shall provide copies of the maps referred to in paragraph (1) of subsection (a) to each of the Committees and to the chief executive officer of (A) each State and county or equivalent jurisdiction in which a system unit is located, (B) each State coastal zone management agency in those States which have a coastal zone management plan approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.) in which a system unit is located and (C) each affected Federal agency.

(c) BOUNDARY MODIFICATIONS.—(1) Within one hundred and eighty days after the date of enactment of this Act, the Secretary may make such minor and technical modifications to the boundaries of system units as depicted on the maps referred to in paragraph (1) of subsection (a) as are consistent with the purposes of this Act and necessary to clarify the boundaries of said system units: except that, for system units within States which have, on the date of enactment, a coastal zone management plan approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.)—

(A) each appropriate State coastal zone management agency may, within one hundred and eighty days after the date of enactment of this Act, submit to the Secretary proposals for such minor and technical modifications; and

(B) the Secretary may, within three hundred days after the date of enactment of this Act, make such minor and technical modifications to the boundaries of such system units.

(2) The Secretary shall, not less than ninety days prior to the effective date of any such boundary modifications made under the authority of paragraph (1), submit written notice of such modification to (A) each of the Committees and (B) each of the appropriate officers referred to in paragraph (2) of subsection (b).

(3) The Secretary shall conduct, at least once every five years, a review of the maps referred to in subsection (a) and make in consultation with the appropriate officers referred to in paragraph (2) of subsection (b), such minor and technical modifications to the boundaries of system units as are necessary solely to reflect changes that have occurred in the size or location of any system units as a result of natural forces.

(4) If, in the case of any minor and technical modifications to the boundaries of system units made under the authority of this subsection, an appropriate chief executive officer of a State, county or equivalent jurisdiction, or State coastal zone management agency to which notice was given in accordance with this subsection files comments disagreeing with all or part of the modification and the Secretary makes a modification which is in conflict with such comments, or if the Secretary fails to adopt a modification pursuant to a proposal submitted by an appropriate State coastal zone management agency under paragraph (1)(A), the Secretary shall submit to the chief executive officer a written justification for his failure to make modifications consistent with such comments or proposals.

(d) UNDEVELOPED COASTAL BARRIERS.—Section 1321(a) of the National Flood Insurance Act of 1968, as amended, is amended by striking out "undeveloped coastal barriers which shall be designated by the Secretary of the Interior" and by inserting in lieu thereof "those undeveloped coastal barriers which are included in the Coastal Barrier Resources System established under section 4(a)(1) of the Coastal Barrier Resources Act".

(e) NATIONAL FLOOD INSURANCE ACT OF 1968.—Section 1321(b) of the National Flood Insurance Act of 1968, as amended, is repealed.

(f) OMNIBUS BUDGET AND RECONCILIATION ACT OF 1981.—Section 341(d)(2) of the Omnibus Budget and Reconciliation Act of 1981 (Public Law 97-35) is repealed.

SEC. 5. LIMITATIONS ON FEDERAL EXPENDITURES AFFECTING THE SYSTEM.

(a) Except as provided in section 6 of this Act and section 341 of the Omnibus Budget and Reconciliation Act of 1981 (Public Law 97-35), as amended, no new expenditures or new financial assistance may be made available under authority of any Federal law for any purpose within the Coastal Barrier Resources System, including, but not limited to—

(1) the construction or purchase of any structure, appurtenance, facility, or related infrastructure;

(2) the construction or purchase of any road, airport, boat landing facility, or other facility on, or bridge or causeway to, any System unit; and

(3) the carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet or shoreline, except in cases where an emergency threatens life, land, and property immediately adjacent to that unit.

(b) An expenditure or financial assistance made available under authority of Federal law shall, for the purposes of this Act, be a new expenditure or new financial assistance if—

(1) in any case with respect to which specific appropriations are required, no money for construction or purchase purposes was appropriated before the date of the enactment of this Act; or

(2) no legally binding commitment for the expenditure or financial assistance was made before such date of enactment.

SEC. 6. EXCEPTIONS.

(a) Notwithstanding section 5 of this Act, the appropriate Federal officer may, after providing written notification to the Secretary, make Federal expenditures or financial assistance available for the following purposes within the Coastal Barrier Resources System:

(1) The exploration, extraction, or transportation of energy resources which can only be carried out on, in, or adjacent to coastal water areas.

(2) The maintenance of existing channel improvements and related structures, such as jetties, and including the disposal of dredge materials related to such improvements.

(3) Military activities essential to national security.

(4) Any of the following actions or projects, but only if the making available of expenditures or assistance therefor is consistent with the purposes of this Act:

(i) The establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

(ii) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8).

(iii) Projects for the study, management, protection and enhancement of fish and wildlife resources and habitats, including, but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects related to these habitats, and recreational projects.

(iv) Scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife and other research, development, and applications.

(v) Assistance for emergency actions essential to the saving of lives or the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146) and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the immediate emergency.

(vi) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities.

(vii) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

(b) For purposes of paragraph (2) of subsection (a), a channel improvement or a related structure shall be treated as an existing improvement or an existing related structure only if all, or a portion, of the moneys for such improvement or structure were appropriated before the date of the enactment of this Act.

(c) The notification to the Secretary referred to in subsection (a) of this section shall describe the purposes and amount of the expenditure or assistance.

SEC. 7. CERTIFICATION OF COMPLIANCE.

The Director of the Office of Management and Budget shall, on behalf of each Federal agency concerned, make written certification that each such agency has complied with the provisions of this Act during each fiscal year beginning after September 30, 1982. Such certification shall be submitted on an annual basis to the House of Representatives and the Senate pursuant to the schedule required under the Congressional Budget and Impoundment Control Act of 1974.

SEC. 8. PRIORITY OF LAWS.

Nothing contained in this Act shall be construed as indicating an intent on the part of the Congress to change the existing relationship of other Federal laws to the law of a State, or a political subdivision of a State, or to relieve any person of any obligation imposed by any law of any State, or political subdivision of a State. No provision of this Act shall be construed to invalidate any provision of State or local law unless there is a direct and positive conflict between such provision and the law of the State, or political subdivision of the State, so that the two cannot be reconciled or consistently stand together. This Act shall in no way be interpreted to interfere with a State's right to protect, rehabilitate, preserve, and restore lands within its established boundary.

SEC. 9. SEPARABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

SEC. 10. REPORT TO CONGRESS.

(a) IN GENERAL.—Before the close of the three-year period beginning on the date of the enactment of this Act, the Secretary shall prepare and submit to the committees a report regarding the System.

(b) CONSULTATION IN PREPARING REPORT.—The Secretary shall prepare the report required under subsection (a) in consultation with the Governors of the States and with the coastal zone management agencies of the States in which System units are located and after providing opportunity for, and considering, public comment.

(c) REPORT CONTENT.—The report required under subsection (a) shall contain, with respect to the System unit covered in the report—

(1) recommendations for the conservation of the fish, wildlife and other natural resources of the system based on an evaluation and comparison of all management alternatives, and combinations thereof, such as State and local actions (including management plans approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), Federal actions (including acquisition for administration as part of the National Wildlife Refuge System) and initiatives by private organizations and individuals;

(2) recommendations for additions to, or deletions from, the Coastal Barrier Resources System, and for modifications to the boundaries of System units; and

(3) a summary of the comments received from the Governors of the States, State coastal zone management agencies, other government officials, and the public regarding the System units covered in the report.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Department of the Interior $1,000,000 for the period beginning October 1, 1982, and ending September 30, 1985, for purposes of carrying out section 10.

MOTION OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BREAUX moves to strike out all after the enacting clause of the Senate bill, S. 1018 and to insert in lieu thereof the provisions contained in the bill, H.R. 3252, as amended, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to establish the Coastal Barrier Resources System, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 3252, was laid on the table.

□ 1750

Mr. BREAUX. Mr. Speaker, I ask unanimous consent to insist on the House amendments to the Senate bill, S. 1018, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana? The Chair hears none, and, without objection, appoints the following conferees: From the Committee on Merchant Marine and Fisheries: Messrs. JONES of North Carolina, BREAUX, STUDDS, HUGHES, SNYDER, FORSYTHE, and EVANS of Delaware; and

From the Committee on Public Works and Transportation: Messrs. ROE, EDGAR, FARY, CLAUSEN, and HAMMERSCHMIDT.

CABLE COPYRIGHT BILL

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5949, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER) that the House suspend the rules and pass the bill, H.R. 5949, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 347, nays 53, answered "present" 2, not voting 30, as follows:

[Roll No. 374]

YEAS—347

Addabbo	Dicks	Hawkins
Akaka	Dingell	Heckler
Albosta	Dixon	Hefner
Alexander	Donnelly	Hertel
Anderson	Dorgan	Hightower
Andrews	Dougherty	Hiler
Annunzio	Dowdy	Hillis
Anthony	Downey	Holland
Applegate	Duncan	Hollenbeck
Archer	Dunn	Holt
Aspin	Dwyer	Hopkins
Atkinson	Dymally	Horton
AuCoin	Dyson	Howard
Badham	Early	Hoyer
Bailey (PA)	Eckart	Hubbard
Barnard	Edgar	Huckaby
Barnes	Edwards (AL)	Hughes
Bedell	Edwards (CA)	Hutto
Beilenson	Edwards (OK)	Hyde
Bennett	Emerson	Ireland
Bereuter	Emery	Jacobs
Bethune	English	Johnston
Bevill	Erdahl	Jones (OK)
Biaggi	Erlenborn	Jones (TN)
Bingham	Evans (DE)	Kastenmeier
Bliley	Evans (GA)	Kazen
Boggs	Evans (IA)	Kennelly
Boland	Evans (IN)	Kildee
Boner	Fary	Kindness
Bonior	Fascell	Kogovsek
Bonker	Fazio	Kramer
Bouquard	Ferraro	LaFalce
Bowen	Fiedler	Lagomarsino
Breaux	Fields	Latta
Brodhead	Findley	Leach
Brooks	Fish	Leath
Broomfield	Fithian	LeBoutillier
Brown (CA)	Flippo	Lehman
Brown (CO)	Florio	Leland
Broyhill	Foglietta	Lent
Burgener	Foley	Levitas
Burton, Phillip	Ford (MI)	Livingston
Byron	Ford (TN)	Loeffler
Campbell	Fountain	Long (LA)
Carman	Fowler	Long (MD)
Chappie	Frenzel	Lott
Cheney	Frost	Lowry (WA)
Chisholm	Fuqua	Luken
Clausen	Gaydos	Lundine
Clay	Gejdenson	Madigan
Clinger	Gephardt	Markey
Coats	Gibbons	Marks
Coelho	Gilman	Marlenee
Collins (IL)	Ginn	Marriott
Conte	Glickman	Martin (IL)
Conyers	Gonzalez	Martin (NC)
Corcoran	Gore	Martin (NY)
Coughlin	Gramm	Matsui
Courter	Gray	Mavroules
Coyne, James	Green	Mazzoli
Coyne, William	Gregg	McCollum
Crockett	Guarini	McCurdy
D'Amours	Gunderson	McDade
Daniel, Dan	Hagedorn	McGrath
Daniel, R. W.	Hall (OH)	McHugh
Daschle	Hall, Ralph	McKinney
Daub	Hall, Sam	Mica
Davis	Hamilton	Michel
de la Garza	Hammerschmidt	Mikulski
Deckard	Hance	Miller (CA)
Dellums	Hansen (UT)	Miller (OH)
DeNardis	Harkin	Mineta
Derrick	Hartnett	Minish
Dickinson	Hatcher	Mitchell (MD)
Mitchell (NY)	Rinaldo	Stokes
Moakley	Ritter	Stratton
Molinari	Roberts (KS)	Studds
Mollohan	Robinson	Stump
Montgomery	Rodino	Swift
Moorhead	Roe	Synar
Morrison	Rogers	Tauke
Mottl	Rose	Tauzin
Murphy	Rostenkowski	Thomas
Murtha	Roth	Traxler
Myers	Roukema	Trible
Napier	Rousselot	Vento
Natcher	Russo	Volkmer
Neal	Sabo	Walgren
Nelligan	Santini	Walker
Nelson	Savage	Wampler
Nichols	Scheuer	Washington
Nowak	Schneider	Watkins
O'Brien	Schroeder	Waxman
Oakar	Schumer	Weaver
Oberstar	Seiberling	Weber (OH)
Obey	Sensenbrenner	White
Ottinger	Shamansky	Whitehurst
Oxley	Sharp	Whitley
Pashayan	Shaw	Whittaker
Patterson	Shelby	Whitten
Pease	Shuster	Williams (MT)
Pepper	Siljander	Williams (OH)
Perkins	Simon	Wilson
Petri	Skelton	Winn
Peyser	Smith (IA)	Wirth
Pickle	Smith (NE)	Wolf
Porter	Smith (NJ)	Wolpe
Price	Smith (PA)	Wortley
Pritchard	Snowe	Wright
Pursell	Snyder	Wyden
Quillen	Solarz	Yatron
Rahall	Solomon	Young (AK)
Railsback	Spence	Young (MO)
Rangel	St Germain	Zablocki
Ratchford	Staton	Zeferetti
Reuss	Stenholm	

NAYS—53

Ashbrook	Hansen (ID)	Roemer
Brinkley	Hendon	Roybal
Butler	Hunter	Rudd
Carney	Jeffords	Sawyer
Conable	Jeffries	Schulze
Craig	Lee	Shannon
Crane, Daniel	Lowery (CA)	Shumway
Crane, Philip	Lujan	Skeen
Dannemeyer	Lungren	Smith (AL)
Derwinski	Martinez	Smith (OR)
Dreier	McClory	Stangeland
Frank	McDonald	Stark
Garcia	McEwen	Udall
Gingrich	Panetta	Vander Jagt
Goldwater	Patman	Weber (MN)
Goodling	Paul	Wylie
Gradison	Regula	Yates
Grisham	Roberts (SD)	

PRESENT—2

Moore	Parris

NOT VOTING—30

Bafalis	Collins (TX)	Lewis
Bailey (MO)	Dornan	Mattox
Beard	Ertel	McCloskey
Benedict	Fenwick	Moffett
Blanchard	Forsythe	Rhodes
Bolling	Heftel	Rosenthal
Brown (OH)	Jenkins	Stanton
Burton, John	Jones (NC)	Taylor
Chappell	Kemp	Weiss
Coleman	Lantos	Young (FL)

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend title 17, United States Code (relating to copyrights), and the Communications Act of 1934, with respect to the compulsory licensing of secondary transmissions, limitations on rights to secondary transmissions, and the carriage of broadcast signals by cable systems, and for other purposes."

A motion to reconsider was laid on the table.

RELATING TO MASSACRE OF PALESTINIANS IN LEBANON

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 409.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and agree to the concurrent resolution.

The question was taken.

RECORD VOTE

Mr. FINDLEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 401, noes 1, not voting 30, as follows:

[Roll No. 375]

AYES—401

Addabbo	Craig	Frost
Akaka	Crane, Daniel	Fuqua
Albosta	Crane, Philip	Garcia
Alexander	Crockett	Gaydos
Anderson	D'Amours	Gejdenson
Andrews	Daniel, Dan	Gephardt
Annunzio	Daniel, R. W.	Gibbons
Anthony	Dannemeyer	Gilman
Applegate	Daschle	Gingrich
Archer	Daub	Ginn
Ashbrook	Davis	Glickman
Aspin	de la Garza	Goldwater
Atkinson	Deckard	Gonzalez
AuCoin	Dellums	Goodling
Badham	DeNardis	Gore
Bailey (PA)	Derrick	Gradison
Barnard	Derwinski	Gramm
Barnes	Dickinson	Gray
Bedell	Dicks	Green
Beilenson	Dingell	Gregg
Bennett	Dixon	Grisham
Bereuter	Donnelly	Guarini
Bethune	Dorgan	Gunderson
Bevill	Dougherty	Hagedorn
Biaggi	Dowdy	Hall (OH)
Bingham	Downey	Hall, Ralph
Bliley	Dreier	Hall, Sam
Boggs	Duncan	Hamilton
Boland	Dunn	Hammerschmidt
Boner	Dwyer	Hance
Bonior	Dymally	Hansen (ID)
Bonker	Dyson	Hansen (UT)
Bouquard	Early	Harkin
Bowen	Eckart	Hartnett
Breaux	Edgar	Hatcher
Brinkley	Edwards (AL)	Hawkins
Brodhead	Edwards (CA)	Heckler
Brooks	Edwards (OK)	Hefner
Broomfield	Emerson	Heftel
Brown (CA)	Emery	Hendon
Brown (CO)	English	Hertel
Broyhill	Erdahl	Hightower
Burgener	Erlenborn	Hiler
Burton, Phillip	Evans (DE)	Hillis
Butler	Evans (GA)	Holland
Byron	Evans (IA)	Hollenbeck
Campbell	Evans (IN)	Holt
Carman	Fary	Hopkins
Carney	Fascell	Horton
Chappie	Fazio	Howard
Cheney	Ferraro	Hoyer
Chisholm	Fiedler	Hubbard
Clausen	Fields	Huckaby
Clay	Findley	Hughes
Clinger	Fish	Hunter
Coats	Fithian	Hutto
Coelho	Flippo	Hyde
Collins (IL)	Florio	Ireland
Conable	Foglietta	Jacobs
Conte	Foley	Jeffords
Conyers	Ford (MI)	Jeffries
Corcoran	Ford (TN)	Johnston
Coughlin	Fountain	Jones (NC)
Courter	Fowler	Jones (OK)
Coyne, James	Frank	Jones (TN)
Coyne, William	Frenzel	Kastenmeier
Kazen	Myers	Shuster
Kennelly	Napier	Siljander
Kildee	Natcher	Simon
Kindness	Neal	Skeen
Kogovsek	Nelligan	Skelton
Kramer	Nelson	Smith (AL)
LaFalce	Nichols	Smith (IA)
Lagomarsino	Nowak	Smith (NE)
Latta	O'Brien	Smith (NJ)
Leach	Oakar	Smith (OR)
Leath	Oberstar	Smith (PA)
LeBoutillier	Obey	Snowe
Lee	Ottinger	Snyder
Lehman	Oxley	Solarz
Leland	Panetta	Solomon
Levitas	Parris	Spence
Livingston	Pashayan	St Germain
Loeffler	Patman	Stangeland
Long (LA)	Patterson	Stark
Long (MD)	Pease	Staton
Lott	Perkins	Stenholm
Lowery (CA)	Petri	Stokes
Lowry (WA)	Peyser	Stratton
Lujan	Pickle	Studds
Luken	Porter	Stump
Lundine	Price	Swift
Lungren	Pritchard	Synar
Madigan	Pursell	Tauke
Markey	Quillen	Tauzin
Marks	Railsback	Thomas
Marlenee	Rangel	Traxler
Marriott	Ratchford	Trible
Martin (IL)	Regula	Udall
Martin (NC)	Reuss	Vander Jagt
Martin (NY)	Rinaldo	Vento
Martinez	Ritter	Volkmer
Matsui	Roberts (KS)	Walgren
Mavroules	Roberts (SD)	Walker
Mazzoli	Robinson	Wampler
McClory	Rodino	Washington
McCloskey	Roe	Watkins
McCollum	Roemer	Waxman
McCurdy	Rogers	Weaver
McDade	Rose	Weber (MN)
McDonald	Rostenkowski	Weber (OH)
McEwen	Roth	White
McGrath	Roukema	Whitehurst
McHugh	Rousselot	Whitley
McKinney	Roybal	Whittaker
Mica	Rudd	Whitten
Michel	Russo	Williams (MT)
Mikulski	Sabo	Williams (OH)
Miller (CA)	Santini	Wilson
Miller (OH)	Savage	Winn
Mineta	Sawyer	Wirth
Minish	Scheuer	Wolf
Mitchell (MD)	Schneider	Wolpe
Mitchell (NY)	Schroeder	Wortley
Moakley	Schulze	Wright
Molinari	Schumer	Wyden
Mollohan	Seiberling	Wylie
Montgomery	Sensenbrenner	Yates
Moore	Shamansky	Yatron
Moorhead	Shannon	Young (AK)
Morrison	Sharp	Young (MO)
Motti	Shaw	Zablocki
Murphy	Shelby	Zeferetti
Murtha	Shumway	

NOES—1

Paul

NOT VOTING—30

Bafalis	Collins (TX)	Mattox
Bailey (MO)	Dornan	Moffett
Beard	Ertel	Pepper
Benedict	Fenwick	Rahall
Blanchard	Forsythe	Rhodes
Bolling	Jenkins	Rosenthal
Brown (OH)	Kemp	Stanton
Burton, John	Lantos	Taylor
Chappell	Lent	Weiss
Coleman	Lewis	Young (FL)

□ 1800

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RAHALL. Mr. Speaker, in regard to House Concurrent Resolution 409, relating to massacre of Palestinians in Lebanon, I was unavoidably detained in the cloakroom on the telephone. Had I been present and voting I would have voted "aye."

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON TOMORROW, WEDNESDAY, SEPTEMBER 29, 1982

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday Rule be dispensed with on tomorrow, Wednesday, September 29, 1982.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 7058

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 7058.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

VETERANS' COMPENSATION, EDUCATION, AND EMPLOYMENT AMENDMENTS OF 1982

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6782) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of disabled veterans, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

That (a) this Act may be cited as the "Veterans' Compensation, Education, and Employment Amendments of 1982".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES AND PROGRAM IMPROVEMENTS

PART A—RATE INCREASES

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$62";

(2) by striking out "$107" in subsection (b) and inserting in lieu thereof "$114";

(3) by striking out "$162" in subsection (c) and inserting in lieu thereof "$173";
(4) by striking out "$232" in subsection (d) and inserting in lieu thereof "$249";
(5) by striking out "$328" in subsection (e) and inserting in lieu thereof "$352";
(6) by striking out "$413" in subsection (f) and inserting in lieu thereof "$443";
(7) by striking out "$521" in subsection (g) and inserting in lieu thereof "$559";
(8) by striking out "$604" in subsection (h) and inserting in lieu thereof "$648";
(9) by striking out "$679" in subsection (i) and inserting in lieu thereof "$729";
(10) by striking out "$1,130" in subsection (j) and inserting in lieu thereof "$1,213";
(11) by striking out "$1,403" and "$1,966" in subsection (k) and inserting in lieu thereof "$1,506" and "$2,111", respectively;
(12) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,506";
(13) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,661";
(14) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,888";
(15) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,111";
(16) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$906" and "$1,350", respectively;
(17) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,357"; and
(18) by striking out "$244" in subsection (t) and inserting in lieu thereof "$262".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—
(1) by striking out clauses (A) through (G) and inserting in lieu thereof the following:
"(A) has a spouse but no child, $74;
"(B) has a spouse and one or more children, $124 plus $40 for each child in excess of one;
"(C) has no spouse but one or more children, $50 plus $40 for each child in excess of one;";
(2) by redesignating clauses (H), (I), and (J) as clauses (D), (E), and (F), respectively;
(3) by striking out "$56" in clause (D) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$60";
(4) by striking out "$125" in clause (E) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$134"; and
(5) by striking out "$105" in clause (F) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$112".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$305" and inserting in lieu thereof "$327".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 104. (a) Section 411(a) is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	"Pay grade	Monthly rate
E-1	$445	E-2	$459
E-3	$470	O-1	$563
E-4	$500	O-2	$582
E-5	$514	O-3	$622
E-6	$526	O-4	$658
E-7	$552	O-5	$726
E-8	$582	O-6	$817
E-9	[1] $608	O-7	$884
W-1	$563	O-8	$969
W-2	$586	O-9	$1,041
W-3	$603	O-10	[2] $1,139
W-4	$639		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $655.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,222.".

(b) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$51".

(c) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$134".

(d) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$66".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—
(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$225";
(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$323";
(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$417"; and
(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$417" and "$84", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended—
(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$134";
(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$225"; and
(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$114".

PART B—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION IMPROVEMENTS

INCREASE IN COMPENSATION RATE FOR CERTAIN BLINDED VETERANS

SEC. 110. Section 314(n) is amended by inserting "or has suffered total blindness without light perception in both eyes," after "anatomical loss of both eyes,".

ENTITLEMENT TO CERTAIN DEPENDENCY AND INDEMNITY COMPENSATION

SEC. 111. Section 410(b)(1) is amended by inserting "or but for a clear and unmistakable error would have been" after "was" the first two places it appears.

PART C—SUPERSESSION OF CERTAIN PROVISIONS

SEC. 120. The provisions of this title shall supersede the provisions of section 405 of the Omnibus Reconciliation Act of 1982 (Public Law 97-253; 96 Stat. 803).

TITLE II—AMENDMENTS OF VETERANS' EDUCATION AND REHABILITATION PROGRAMS

VETERANS OUTREACH SERVICES PROGRAM

SEC. 201. Section 243 is amended to read as follows: "The Administrator may assign veterans representatives to educational institutions or other appropriate locations as necessary (1) to provide assistance in connection with the provision of benefits under this title to veterans and eligible persons, and (2) to provide outreach services under this subchapter.".

REHABILITATION PROGRAM SUBSISTENCE ALLOWANCE

SEC. 202. Section 1508(g)(2) is amended—
(1) by inserting "not" after "shall"; and
(2) by striking out all after "felony" and inserting in lieu thereof a period.

CALCULATION OF LUMP-SUM PAYMENTS; USE OF POST-VIETNAM ERA VETERANS' EDUCATION ACCOUNT

SEC. 203. Section 1622 is amended—
(1) by striking out in subsection (d) "$75" and inserting in lieu thereof "$100"; and
(2) by adding at the end the following new subsection:
"(e) The Administrator may receive from the Secretary and disburse on behalf of the Secretary funds for administering the education assistance program authorized by section 2141 of title 10 and may use the fund for such purpose.".

REPEAL OF 1989 TERMINATION DATE

SEC. 204. (a) Section 1662 is amended by striking out subsection (e) in its entirety.
(b)(1) Chapter 34 is amended by adding at the end the following new section:
"§ 1694. Reimbursement by the Secretary of Defense
"The Secretary of Defense shall reimburse the Administrator for all amounts of educational or training assistance allowances paid by the Administrator under this chapter or chapter 36 of this title after December 31, 1989.".
(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1694. Reimbursement by the Secretary of Defense.".

REPEAL OF 50-PERCENT RULE

SEC. 205. (a) Section 1673(a) is amended—
(1) by striking out "(1)" before "The";
(2) by striking out paragraph (2) in its entirety;
(3) by redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and
(4) by striking out clause (2) (as redesignated by clause (3) of this subsection) and inserting in lieu thereof the following:
"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".
(b) Section 1723(a) is amended—
(1) by striking out "(1)" before "The";
(2) by striking out paragraph (2) in its entirety;
(3) by redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and
(4) by striking out clause (2) (as redesignated by clause (3) of this section) and inserting in lieu thereof the following:
"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

ADMINISTRATIVE AND TECHNICAL AMENDMENTS

SEC. 206. (a) Section 1652(b) is amended by striking out "402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))" and inserting in lieu thereof "section 7(i) of the Small Business Act (15 U.S.C. 636(i))".
(b) Section 1673(d) is amended by inserting "except to the extent provided for in section 1691(c) of this title" after "subchapter V" in the first sentence.
(c) Section 1682 is amended—
(1) by amending subsection (a)(1) by striking out "or (c)" and inserting in lieu thereof "(c), or (g)";
(2) by amending subsection (e)—
(A) in the first sentence by inserting "(2)" after "subsection (b)"; and

(B) in the second sentence by striking out "at" and inserting in lieu thereof "in accordance with the rate at which training is pursued, but in no event at more than"; and

(3) by amending subsection (g)—

(A) by inserting at the end of paragraph (1) the following new sentence: "Except for the payment of the educational assistance allowance for necessary supplies, books, and equipment required of similarly circumstanced nonveterans, no amount shall be payable to a veteran while so incarcerated for any course for which no tuition or fees are charged.";

(B) by amending paragraph (2)—

(i) by inserting "not" after "shall"; and

(ii) by striking out all after "felony" and inserting in lieu thereof a period.

(d) Section 1780(a) is amended—

(1) by striking out "1504" and inserting in lieu thereof "1508";

(2) by inserting "or" at the end of clause (4);

(3) by striking out the semicolon and "or" at the end of clause (5) and inserting in lieu thereof a period; and

(4) by striking out clause (6) in its entirety.

(e) Section 1798(e)(3) is amended by striking out all after the first sentence.

AUTHORITY TO SUSPEND GI BILL BENEFITS IN CERTAIN CASES

SEC. 207. Section 1790(b) is amended—

(1) in paragraph (2) by striking out "Any" and inserting in lieu thereof "Except as provided in paragraph (3) of this subsection, any"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The Administrator may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the Administrator has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter 32, 34, or 35 of this title.

"(B)(i) Action may be taken under subparagraph (A) of this paragraph only if (I) the Administrator has provided the State approving agency concerned and such institution with written notification of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements, (II) such institution (aa) has refused to take corrective action, or (bb) within sixty days after such notification (or within such other reasonable period as the Administrator determines is appropriate) has failed to take corrective action, and (III) the Administrator has, not less than thirty days prior to taking action under such subparagraph, provided each eligible veteran and eligible person already enrolled in such course with written notification of the Administrator's intention to take such action, together with the reasons therefor, if such corrective action is not taken within such sixty days (or within such other reasonable period as the Administrator has determined is appropriate) and of the date on which the Administrator intends to take action under such subparagraph.".

CLARIFICATION OF TARGETED DELIMITING DATE EXTENSION

SEC. 208. (a) Section 1662(a)(3) is amended—

(1) by striking out "may" in subparagraph (C)(i) and inserting in lieu thereof "shall" and by striking out "only if the veteran has been determined by the Administrator to be in need of such a program or course in order to achieve a suitable occupational or vocational objective" and inserting in lieu thereof "unless the Administrator determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes," and

(2) by striking out "1983" in subparagraph (D) and inserting in lieu thereof "1984".

(b)(1) Not later than thirty days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register, for public review and comment for a period not to exceed thirty days, proposed regulations under section 1662(a)(3)(C)(i) of title 38, United States Code, as amended by subsection (a) of this section.

(2) Not later than ninety days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register final regulations under such section 1662(a)(3)(C)(i) as so amended.

TOLLING DELIMITING DATES BY REASON OF DRUG AND ALCOHOL CONDITIONS

SEC. 209. (a) Section 1503(b)(1) is amended—

(1) by inserting "(A)" before "In"; and

(2) by inserting at the end the following new subparagraph:

"(B)(i) Subject to divisions (iii) and (iv) of this subparagraph, in any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a condition described in division (ii) of this subparagraph made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

"(ii) The condition referred to in division (i) of this subparagraph as described in this division is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(I) such veteran (aa) has received recognized treatment for such condition, or (bb) has participated in a program of rehabilitation for such condition, and

"(II) such condition is sufficiently under control to enable such veteran to participate in a vocational rehabilitation program under this chapter.

"(iii) Division (i) of this subparagraph applies only if the veteran has filed an application under this paragraph within one year after (I) the last date of the period of eligibility otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to division (i) of this subparagraph are published in the Federal Register, whichever is the latest.

"(iv) The period of time during which, pursuant to division (i) of this subparagraph, the twelve-year period of eligibility does not run shall be limited to the period during which the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from participating in a vocational rehabilitation program under this chapter, but in no event shall such period of time be more than four years.

"(v) When, pursuant to division (i) of this subparagraph, a period of eligibility does not run for a period of time, such period of eligibility shall again begin to run on the first day, following such condition becoming sufficiently under control to enable such veteran to participate in such a program of vocational rehabilitation, on which it is reasonably feasible, as determined under such regulations, for such veteran to participate in such a program.".

(b) Section 1662(a) is amended—

(1) in paragraph (1)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4) of this subsection" after "misconduct"; and

(B) by inserting "(except as provided in paragraph (4)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability" after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (1) of this subsection as described in this paragraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such veteran (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

"(ii) such condition is sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (1) of this subsection, a veteran may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within one year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

"(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition for initiating or completing such program of education, but in no event shall the extension be for more than four years. When such extension is granted, the delimiting period with respect to such veteran will again begin running on the first day, following such condition becoming sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

(c) Section 1712(b) is amended—

(1) in paragraph (2)—

(A) by inserting "or because of a condition (and under the circumstances) described in

paragraph (3)(A) of this subsection" after "misconduct";

(B) by inserting "(except as provided in paragraph (3)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability" after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(3)(A) A condition referred to in paragraph (2) of this subsection as described in this paragraph is an alcohol or drug dependence or abuse condition of an eligible person in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such person (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

"(ii) such condition is sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible person may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within one year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

"(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the eligible person was receiving treatment or the period of time such person was participating in a program of rehabilitation for such condition plus such additional length of time as such person demonstrates, to the satisfaction of the Administrator, that such person was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years. When such extension is granted, the delimiting period with respect to such person will again begin running on the first day, following such condition becoming sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such person to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

TITLE III—VETERANS' EMPLOYMENT AMENDMENTS

CONGRESSIONAL FINDINGS

SEC. 301. The Congress makes the following findings:

(1) There exists serious unemployment and underemployment among disabled veterans and veterans of the Vietnam era.

(2) Alleviating unemployment and underemployment among such veterans is a national responsibility.

(3) Because of the special nature of such veterans' employment and training problems and the national responsibility to meet those problems, policies and programs to address those problems need to be effectively and vigorously implemented by the Secretary of Labor through the Assistant Secretary of Labor for Veterans' Employment.

PURPOSE OF JOBS TRAINING PROGRAMS

SEC. 302. Section 2002 is amended—

(1) by inserting "and regulations" after "to this end policies"; and

(2) by inserting a comma and "with priority given to the needs of disabled veterans and veterans of the Vietnam era," after "opportunities".

STATE AND ASSISTANT DIRECTORS FOR EMPLOYMENT

SEC. 303. (a)(1) Section 2003 is amended by striking out the section heading and all of the matter preceding clause (1) and inserting in lieu thereof the following:

"§ 2003. State and Assistant State Directors for Veterans' Employment

"(a) The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service who shall serve as the State Director for Veterans' Employment, and shall assign full-time clerical support to each such Director. The Secretary shall also assign to each State one Assistant State Director for Veterans' Employment per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant State Directors for Veterans' Employment as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, as are necessary to carry out effectively the purposes of this chapter. Full-time Federal clerical support personnel assigned to State Directors for Veterans' Employment shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) Each State Director for Veterans' Employment and each Assistant State Director for Veterans' Employment assigned to serve in any State (1) shall be an eligible veteran who at the time of appointment has been (A) a bona fide resident of the State for at least two years, or (B) if the Secretary, through the Assistant Secretary of Labor for Veterans' Employment, determines after a good faith search within the State that there is no eligible veteran available for appointment who meets such requirement and who is also qualified for the position, an Assistant State Director for Veterans' Employment for at least one year in any other State, and (2) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(c) Each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment shall be attached to the public employment service system of the State to which such Director is assigned. Such Director shall be administratively responsible to the Secretary of Labor for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the Secretary, by other Federal jobs training program grantees in the State, or directly by the State.

"(d) In cooperation with the staffs of the public employment service system and of each other program in the State described in subsection (c) of this section, the State Director for Veterans' Employment for the State and the Assistant State Director for Veterans' Employment for the State shall—".

(2) The item relating to section 2003 in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2003. State and Assistant State Directors for Veterans' Employment.".

(b) Clause (6) of such section is amended to read as follows:

"(6) promote the participation of veterans in Federal employment and training programs and monitor the implementation and operation of such programs to ensure that eligible veterans, disabled veterans, and veterans of the Vietnam era receive such special consideration or priority in the provision of services as is required by law or regulation;".

(c) Such section is further amended by striking out the period at the end of clause (7) and inserting in lieu thereof a semicolon and adding at the end the following:

"(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

"(9) be responsible for ensuring that complaints of discrimination filed under section 2012 of this title are resolved in a timely fashion;

"(10) working closely with appropriate Veterans' Administration officials, cooperate with employers in identifying disabled veterans who have completed or are enrolled in training under chapter 31 of this title;

"(11) cooperate with the directors of the veterans assistance offices established under section 242 of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; and

"(12) in the case of disabled veterans, when requested by Federal and State agencies and private employers, assist those entities in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance disabled veterans' employability.".

DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS

SEC. 304. (a) Section 2003(a) is amended—

(1) in paragraphs (1) and (3), by striking out "available to" and inserting in lieu thereof "available for use in";

(2) in paragraph (2), by striking out "provided to" and inserting in lieu thereof "provided for use in"; and

(3) by adding at the end the following new paragraph:

"(5) The distribution and use of funds provided for use in States under this section shall be subject to the continuing supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or regulation prescribed thereunder, that is inconsistent with the provisions of this section.".

(b) Subsection (b)(2) of such section is amended—

(1) by inserting a comma and "except that the Secretary, after consultation with the appropriate State Directors assigned under section 2003 of this title, may grant waivers of such limitation as long as the percentage of such specialists so stationed in all States does not exceed 80 percent of such specialists stationed in all States" after "such State"; and

(2) by striking out "section 621A" and inserting in lieu thereof "section 612A".

(c) Subsection (c) of such section is amended—

(1) by striking out "prime sponsors under the Comprehensive Employment and Training Act" in paragraph (4) and inserting in lieu thereof "appropriate grantees under other Federal employment and training programs"; and

(2) by adding at the end the following new paragraph:

"(8) Development of outreach programs in cooperation with the Veterans' Administration's vocational rehabilitation staff, with institutions of higher learning, and with employers to assure maximum assistance to

disabled veterans who have completed or are enrolled in training under chapter 31 of this title.".

(d) Section 2003A is further amended—

(1) by striking out subsection (d) in its entirety;

(2) by redesignating subsection (e) as subsection (d); and

(3) by adding at the end of subsection (d) (as redesignated by clause (2) of this subsection) the following new sentence: "In administering the program provided for in this section, the Assistant Secretary of Labor for Veterans' Employment shall monitor the appointment of veterans to serve as disabled veteran outreach program specialists to ensure that appointments are made in accordance with the preference requirements prescribed in subsection (a)(2) of this section.".

ESTIMATES OF FUNDS FOR ADMINISTRATION

SEC. 305. (a) Section 2006(a) is amended—

(1) by inserting in the first sentence "and chapters 42 and 43 of this title" after "of this chapter";

(2) by adding after the third sentence the following new sentence: "Estimates referred to in the preceding sentence shall include amounts necessary to fund the disabled veterans' outreach program under section 2003A of this title and shall be approved by the Secretary of Labor only if the level of funding proposed is in compliance with such section."; and

(3) by adding at the end the following new sentence: "The Secretary shall carry out the provisions of this subsection through the Assistant Secretary for Veterans' Employment.".

(b) Subsection (d) of such section is amended by inserting a comma and "upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment," after "Secretary of Labor".

ANNUAL REPORT TO CONGRESS

SEC. 306. Section 2007(c) is amended by adding at the end the following new sentence: "The report shall also include a report on activities carried out under section 2003A of this title.".

APPLICABILITY OF CHAPTER 42 PROGRAMS

SEC. 307. Section 2011(5) is amended to read as follows:

"(5) The terms 'department or agency' and 'department, agency, and instrumentality in the executive branch' each mean any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5, and the United States Postal Service and the Postal Rate Commission.".

REPORTS OF CONTRACTORS ON VETERANS' EMPLOYMENT EMPHASIS

SEC. 308. (a) Section 2012 is amended by adding at the end the following new subsection:

"(d)(1) Each contractor with respect to which subsection (a) of this section applies shall report at least annually to the Secretary of Labor on the number of veterans of the Vietnam era and the number of special disabled veterans in the work force of such contractor by job category and hiring location.

"(2) The Secretary of Labor shall insure that the administration of the reporting requirement under paragraph (1) of this subsection is coordinated with respect to requirements for the contractor to make other reports to the Secretary of Labor.".

(b) Within ninety days after the date of the enactment of this Act, the Secretary of Labor shall prescribe regulations implementing the amendment made by subsection (a).

JURISDICTION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT

SEC. 309. (a) Section 2025 is amended to read as follows:

"§ 2025. Jurisdiction; assistance in obtaining reemployment

"(a) The Secretary of Labor shall carry out the provisions of this chapter through the Assistant Secretary of Labor for Veterans' Employment.

"(b) The Secretary shall render aid in the replacement in their former positions or reemployment of persons who have satisfactorily completed any period of active duty in the Armed Forces or the Public Health Service. In rendering such aid, the Secretary shall use existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.".

(b) The item relating to section 2025 in the table of sections at the beginning of chapter 43 is amended to read as follows:

"2025. Jurisdiction; assistance in obtaining reemployment.".

REPEAL OF EXEMPLARY REHABILITATION CERTIFICATES PROGRAM

SEC. 310. Section 6 of Public Law 90-83 (81 Stat. 221; 29 U.S.C. 601-607) is repealed.

TITLE IV—MISCELLANEOUS IMPROVEMENTS

ASSIGNMENTS BY VETERANS ADMINISTRATION INSURANCE BENEFICIARIES

SEC. 401. (a) Section 718 is amended by inserting at the end the following new subsection:

"(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

(b) Section 753 is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following new subsection:

"(b) In any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

REMOVAL OF TIME RESTRICTION FOR FILING INSURANCE CLAIMS

SEC. 402. Section 770 is amended—

(1) by amending subsection (c) by striking out the second sentence; and

(2) by adding at the end the following new subsection:

"(h) Under no circumstances shall insurance payable under this subchapter escheat to a State, and payment shall not be made to the insured's estate or the estate of any beneficiary unless it is affirmatively shown that any sum to be paid will not escheat.".

BURIAL BENEFITS FOR CERTAIN INDIGENT VETERANS OF WARTIME SERVICE

SEC. 403. Section 902 is amended by adding at the end the following new subsection:

"(c)(1) For the purposes of this section, a deceased veteran of any war or a deceased veteran who was discharged or released from active military, naval, or air service for a service-connected disability shall be deemed to have been in receipt of pension at the time of such veteran's death if a State or political subdivision of a State certifies in writing to the Administrator that—

"(A) there is no next of kin or other person claiming the body of such deceased veteran;

"(B) such State or political subdivision has assumed responsibility for the burial and funeral expenses of such deceased veteran; and

"(C) there is not available, other than from such State or political subdivision, an amount of resources or funds sufficient to cover the burial and funeral expenses of such deceased veteran.

"(2) The payment made on behalf of such deceased veteran under subsection (a) of this section as a result of paragraph (1) of this subsection shall, notwithstanding the provisions of subsection (b) of this section, be paid to such State or political subdivision and shall be the lesser of $300 or the actual burial and funeral expenses incurred by such State or political subdivision.".

GUARANTEED LOANS TO REFINANCE LIENS ON MANUFACTURED HOMES AND TO PURCHASE MANUFACTURED HOME LOTS; CHANGE IN NOMENCLATURE

SEC. 404. (a) Section 1819(a) is amended—

(1) by striking out "one of the following purposes" and inserting in lieu thereof "the purpose or purposes specified in one of the following clauses";

(2) in paragraph (1), by inserting at the end the following new clause:

"(G)(i) To refinance in accordance with paragraph (5) of this subsection an existing loan that was made for the purchase of and is secured by a manufactured home, and (ii) to purchase a lot on which such manufactured home is or will be placed.";

(3) in paragraph (2), by striking out "any of the purposes described in paragraph (1) of this subsection" and inserting in lieu thereof "a purpose specified in any one of the clauses (A) through (E) or (G) of paragraph

(1) of this subsection or for the purposes specified in clause (G) of such paragraph";

(4) in paragraph (3), by striking out "(C) or (E)" and inserting in lieu thereof "(C), (E), or (G)"; and

(5) by inserting at the end the following new paragraph:

"(5)(A) For a loan to be guaranteed for the purposes specified in clause (G) of paragraph (1) of this subsection—

"(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran as such veteran's home; and

"(ii) the amount of the loan may not exceed an amount equal to the sum of—

"(I) the purchase price of the lot,

"(II) the amount (if any) determined by the Administrator to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

"(III) the balance of the loan being refinanced, and

"(IV) such closing costs (including any discount permitted pursuant to section 1803(c)(3)(E) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan.

"(B) When a loan is made to a veteran for the purposes specified in clause (G) of paragraph (1) of this subsection, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Veterans' Administration under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For the purposes of section 1802(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.".

(b) Section 1803(c)(3) is amended—

(1) by striking out "or" at the end of clause (C);

(2) by striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon and "or"; and

(3) by inserting at the end the following new clause:

"(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 1819(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance such indebtedness.".

(c)(1) Section 1811 is amended—

(A) by striking out in subsection (c)(1) "mobile home" and inserting in lieu thereof "manufactured home"; and

(B) by striking out in subsection (d)(1) "mobile home" and inserting in lieu thereof "manufactured home".

(2) Section 1819 is further amended—

(A) by striking out "mobile home" each place it appears and inserting in lieu thereof "manufactured home";

(B) by striking out "mobile homes" each place it appears and inserting in lieu thereof "manufactured homes";

(C) by striking out "mobile-home" both places it appears in subsection (a)(4)(A)(ii) and inserting in lieu thereof "manufactured-home"; and

(D) by amending the catchline to read as follows:

"§ 1819. Loans to purchase manufactured homes and lots".

(3) The table of sections at the beginning of chapter 37 is amended by amending the item related to section 1819 to read as follows:

"1819. Loans to purchase manufactured homes and lots.".

PERIOD FOR REQUEST OF OVERPAYMENT WAIVER

SEC. 405. Section 3102(a) is amended—

(1) by striking out "two years" and inserting in lieu thereof "one hundred and eighty days"; and

(2) by inserting a comma and "or within such longer period as the Administrator determines is reasonable in a case in which the payee demonstrates to the satisfaction of the Administrator that such notification was not actually received by such payee within a reasonable period after such date" after "payee".

MINIMUM SERVICE REQUIREMENT

SEC. 406. (a) Section 3103A is amended—

(1) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

"(A) twenty-four months of continuous active duty, or

"(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for benefits under Federal law (other than a law described in subsection (a) of this section) on the basis of such person's period of active duty, and no dependent or survivor of such person shall be eligible for such benefits on such basis.

"(2) Paragraph (1) of this subsection applies—

"(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

"(B) to any other person who enters on active duty on or after the date of the enactment of this subsection and has not previously completed a continuous period of active duty of at least twenty-four months or been discharged or released from active duty under section 1171 of title 10.

"(3) Paragraph (1) of this subsection does not apply—

"(A) to any person described in this subsection (b)(3) (A), (B), or (C) of this section; or

"(B) to any benefit (i) under the Social Security Act other than additional wages deemed to have been paid, under section 229(a) of the Social Security Act (42 U.S.C. 429(a)), for any calendar quarter beginning on or after the date of the enactment of this subsection, or (ii) under title 5 other than benefits based on meeting the definition of preference eligible in section 2108(3) of such title.";

(2) in subsection (e) (as redesignated by clause (1) of this subsection) by inserting "(including a right to special consideration, preference, priority, or similar advantage)" after "privilege"; and

(3) by adding at the end the following new subsection:

"(f) Nothing in this section shall be construed to deprive any person of any procedural rights, including any rights to assistance in applying for or claiming a benefit.".

(b)(1) Subsection (d) of section 3103A of title 38, United States Code, as added by subsection (a), shall not apply with respect to the receipt by any person of any benefit provided by or pursuant to law before the date of the enactment of this Act.

(2) For the purposes of paragraph (1) of this subsection, additional wages deemed to have been paid under section 229(a) of the Social Security Act (42 U.S.C. 429(a)) shall be considered to be a benefit that was received by a person on the date that such person is discharged or released from active duty (as defined in section 101(21) of title 38, United States Code).

SEC. 407. Section 977 of title 10, United States Code, is superseded.

CORRESPONDENCE TRAINING

SEC. 408. Notwithstanding any provision of law unless that law is enacted as an amendment to section 1786(a)(3) of title 38, United States Code, in a reconciliation bill pursuant to the Congressional Budget Act of 1974, funds in the Veterans' Administration readjustment benefits account shall be available for payments under paragraph (1) of section 1786(a) of such title for the pursuit of a program of education exclusively by correspondence.

LIMITATIONS ON CONTRACTING OUT

SEC. 409. (a) It is the policy of the United States that the Veterans' Administration shall—

(1) maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans; and

(2) provide such services through the most cost-effective means that are consistent with carrying out fully the functions of the Department of Medicine and Surgery of the Veterans' Administration under title 38, United States Code.

(b) Section 5010 is amended by adding at the end the following new subsection:

"(c)(1) Notwithstanding any other provision of law but except as provided in paragraph (2) of this subsection—

"(A) no contract may be entered into as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction would be converted from an activity performed by employees of the Federal Government to an activity performed by individuals who are employees of a contractor of the Federal Government unless the Chief Medical Director has determined that such activity is not a direct patient care activity or an activity incident to direct patient care; and

"(B) in the case of an activity determined by the Chief Medical Director under clause (A) of this paragraph to be neither such activity, the Administrator, after considering the advice of the Chief Medical Director and the result of a study described in subsection (a)(5) of this section, which study shall be based on an estimate of the most efficient and cost-effective organization for the effective performance of the activity by Veterans' Administration employees, may, in the exercise of the Administrator's sole discretion but only under the conditions described in the following sentence, enter into a contract as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction would be converted from an activity performed by employees of the Federal Government to an activity performed by individuals who are employees of a contractor of the Federal Government. The Administrator may enter into such a contract only if the Administrator determines that—

"(i) over the proposed duration of the contract the cost to the Federal Government of (I) performing such activity under such contract plus (II) the conduct of such study would be not less than 10 percent lower than the cost of performance of such activity by employees of the Federal Government, and

"(ii) such contract would not result in a reduction in the quantity or quality of health-care services provided to eligible veterans by the Veterans' Administration at such facility.

"(2) The provisions of paragraph (1) of this subsection do not apply (A) to any contract or agreement under chapter 17 or section 5011, 5011A, or 5053 of this title or section 686 of title 31, or (B) to a contract under section 4117 of this title if the Chief Medical Director determines that such contract is necessary to obtain services at a Veterans' Administration facility that could not otherwise be provided at such facility.".

SEC. 410. (a)(1) Section 601 is amended by adding at the end the following new paragraph:

"(9) The term 'chiropractic services' means the manual manipulation of the spine performed by a chiropractor (who is licensed as such by the State in which he or she performs such services and who meets the uniform minimum standards promulgated for chiropractors under section 1861(r)(5) of the Social Security Act (42 U.S.C. 1395x(r)(5))) to correct a subluxation of the spine. For the purposes of this paragraph, such term does not include physical examinations, laboratory tests, radiologic services, or other tests or services determined by the Administrator to be excluded.".

(2)(A) Subchapter III of chapter 17 of such title is amended by adding at the end thereof the following new section:

"§ 630. Chiropractic services

"(a) The Administrator shall, under regulations which the Administrator shall prescribe, reimburse a veteran eligible for medical services under this chapter for the reasonable charge for chiropractic services, for which such veteran has made payment, if—

"(1) such chiropractic services were for the treatment of a service-connected neuromusculoskeletal condition of the spine,

"(2) the veteran is a veteran who has been furnished hospital care by the Veterans' Administration for a neuromusculoskeletal condition of the spine within a twelve-month period prior to the provision of such chiropractic services, or

"(3) the veteran is a veteran described in section 612(f)(2) of this title who has been furnished hospital care or medical services by the Veterans' Administration for a neuromusculoskeletal condition of the spine, to the extent that such veteran is not entitled to such chiropractic services or reimbursement for the expenses of such services under an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement for the purpose of providing, paying for, or reimbursing expenses for such services.

"(b) In any case in which reimbursement may be made under this section, the Administrator may, in lieu of reimbursing such veteran, make payment of the reasonable charge for such chiropractic services directly to the chiropractor who furnished such services.

"(c)(1) The Administrator shall, in consultation with appropriate public and nonprofit private organizations and other Federal departments and agencies that provide reimbursement for chiropractic services, establish a schedule of reasonable charges for such services, which schedule shall be consistent with the reasonable charges allowed under title XVIII of the Social Security Act (42 U.S.C. ch. 7).

"(2) The amount payable by the Administrator for chiropractic services furnished under this section shall not exceed $200 in any twelve-month period in the case of any veteran.

"(d) Notwithstanding any other provision of this title, total expenditures for chiropractic services reimbursed under this section shall not exceed $4,000,000 in any fiscal year and no reimbursement or payment may be made under this section for chiropractic services furnished after September 30, 1986."

(B) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 629 the following new item:

"630. Chiropractic services.".

(b) Not later than December 31, 1983 and not later than December 31 of each of the next three years thereafter, the Administrator of Veterans' Affairs shall prepare and submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives reports on the use made of the authority provided for in the amendments made by the first section. Each such report shall include—

(1) the number of requests by eligible veterans for reimbursement or payment for chiropractic services in the most recent fiscal year under section 630 (as added by subsection (a)(2)(A) of this section), and the number of such veterans who made such requests;

(2) the number of reimbursements or payments made by the Administrator of Veterans' Affairs under such section in such fiscal year and the number of veterans to or for whom such reimbursements or payments were made; and

(3) the total amounts of expenditures by the Administrator of Veterans' Affairs for such reimbursements and payments under such section in such fiscal year.

TITLE V—EFFECTIVE DATES

SEC. 501. (a) Except as otherwise provided in subsections (b), (c), (d), (e), and (f) the provisions of this Act shall become effective on October 1, 1982.

(b) The provisions of sections 207, 208, 308(b), and 406 shall be effective on the date of the enactment of this Act.

(c)(1) The provisions of section 111 shall take effect on October 1, 1982.

(2) As soon as practicable after September 30, 1982, the Administrator of Veterans' Affairs shall make a payment to each person who would have been entitled to any payment under section 410(b) of title 38, United States Code, for any portion of the period beginning on October 1, 1978, and ending on September 30, 1982, if the amendment made by section 111 had taken effect on October 1, 1978. Such payment shall be a lump-sum payment in the total amount such person would have been entitled to receive if such amendment had taken effect on October 1, 1978.

(d) The amendment made by section 403 shall apply with respect to burial and funeral expenses incurred after October 1, 1982.

(e) The amendment made by section 405 shall take effect on the one hundred and eightieth day after the date of the enactment of this Act.

(f) Section 408 shall take effect on the day after the effective date of any law (i) that is enacted after August 19, 1982, and (ii) that the Administrator of Veterans' Affairs determines to be inconsistent with the provisions of such section.

Amend the title so as to read: "An Act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of disabled veterans, and to modify and improve the education and vocational rehabilitation programs administered by the Veterans' Administration and veterans' employment programs administered by the Department of Labor; and for other purposes.".

The Clerk read the House amendments to the Senate amendments, as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Compensation, Education, and Employment Amendments of 1982".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

PART A—RATE INCREASES

DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$62";

(2) by striking out "$107" in subsection (b) and inserting in lieu thereof "$114";

(3) by striking out "$162" in subsection (c) and inserting in lieu thereof "$173";

(4) by striking out "$232" in subsection (d) and inserting in lieu thereof "$249";

(5) by striking out "$328" in subsection (e) and inserting in lieu thereof "$352";

(6) by striking out "$413" in subsection (f) and inserting in lieu thereof "$443";

(7) by striking out "$521" in subsection (g) and inserting in lieu thereof "$559";

(8) by striking out "$604" in subsection (h) and inserting in lieu thereof "$648";

(9) by striking out "$679" in subsection (i) and inserting in lieu thereof "$729";

(10) by striking out "$1,130" in subsection (j) and inserting in lieu thereof "$1,213";

(11) by striking out "$1,403" and "$1,966" in subsection (k) and inserting in lieu thereof "$1,506" and "$2,111", respectively;

(12) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,506";

(13) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,661";

(14) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,888";

(15) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,111";

(16) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$906" and "$1,350", respectively;

(17) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,357"; and

(18) by striking out "$244" in subsection (t) and inserting in lieu thereof "$262".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code. Any such adjustment shall be made in conformance with the methodology used in determining the amounts of the increases under subsection (a) and specifically shall include the rounding down to the nearest dollar of each rate as so adjusted.

ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) by striking out clauses (A) through (G) and inserting in lieu thereof the following:

"(A) has a spouse but no child, $74;

"(B) has a spouse and one or more children, $124 plus $40 for each child in excess of one;

"(C) has no spouse but one or more children, $50 plus $40 for each child in excess of one;";

(2) by redesignating clauses (H), (I), and (J) as clauses (D), (E), and (F), respectively;

(3) by striking out "$56" in clause (D) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$60";

(4) by striking out "$125" in clause (E) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$134"; and

(5) by striking out "$105" in clause (F) (as redesignated by clause (2) of this section) and inserting in lieu thereof "$112".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$305" and inserting in lieu thereof "$327".

DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 104. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$445	W-4	$639
E-2	459	O-1	563
E-3	470	O-2	582
E-4	500	O-3	622
E-5	514	O-4	658
E-6	526	O-5	726
E-7	552	O-6	817
E-8	582	O-7	884
E-9	[1] 608	O-8	969
W-1	563	O-9	1,041
W-2	586	O-10	[2] 1,139
W-3	603		

[1] "If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $655.

[2] "If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,222.".

(b) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$51".

(c) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$134".

(d) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$66".

DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$225";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$323";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$417"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$417" and "$84", respectively.

SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended—

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$134";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$225"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$114".

REPEAL OF EARLIER RATE ADJUSTMENT

SEC. 107. Section 405 of the Omnibus Budget Reconciliation Act of 1982 (Public Law 97-253) is repealed.

EFFECTIVE DATE

SEC. 108. The amendments made by this part shall take effect on October 1, 1982.

PART B—PROGRAM IMPROVEMENTS

COMPENSATION RATE INCREASES FOR CERTAIN BLINDED VETERANS

SEC. 111. (a) Section 314(n) is amended by inserting "or has suffered blindness without light perception in both eyes," after "anatomical loss of both eyes,".

(b) Section 314(p) is amended by inserting "or service-connected anatomical loss or loss of use of one hand or one foot" after "in one ear".

(c) The amendments made by subsections (a) and (b) shall take effect on October 1, 1982.

CORRECTION OF TECHNICAL ERROR WITH RESPECT TO ENTITLEMENT TO CERTAIN SURVIVORS' BENEFITS

SEC. 112. (a) Section 410(b)(1) is amended by inserting "or entitled to receive" after "was in receipt of".

(b)(1) The amendment made by subsection (a) shall take effect on October 1, 1982.

(2)(A) As soon as practicable after September 30, 1982, the Administrator of Veterans' Affairs shall pay an amount determined under subparagraph (B) to each person who would have been entitled to a payment under chapter 13 of title 38, United States Code, for any part of the period beginning on October 1, 1978, and ending on September 30, 1982, if the amendment made by subsection (a) had taken effect on October 1, 1978.

(B) The amount of any payment to a person under subparagraph (A) is the amount equal to the total of all payments under chapter 13 of title 38, United States Code, that would have been made to that person for the period described in such subparagraph if the amendment made by subsection (a) had taken effect on October 1, 1978.

ELIGIBILITY FOR VETERANS' ADMINISTRATION BENEFITS OF SENIOR RESERVE OFFICERS' TRAINING CORPS PARTICIPANTS DISABLED DURING CERTAIN TRAINING

SEC. 113. (a) Section 101(22) is amended—

(1) by striking out "and" at the end of clause (C);

(2) by redesignating clause (D) as clause (E); and

(3) by inserting after clause (C) the following new clause (D):

"(D) duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of field training or a practice cruise under chapter 103 of title 10; and".

(b)(1) Section 403 is repealed.

(2) The table of sections at the beginning of chapter 13 is amended by striking out the item relating to such section.

(c) Notwithstanding section 8140 of title 5, United States Code, subchapter I of chapter 81 of such title does not apply in the case of a disability suffered by a member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force that is compensable under chapter 11 of title 38, United States Code, or a death suffered by such a member for which dependency and indemnity compensation is payable under chapter 13 of such title.

(d) The amendments made by subsections (a) and (b) and the provisions of subsection (c) shall apply only with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated after September 30, 1982.

TITLE II—EDUCATIONAL ASSISTANCE

VETERANS' COUNSELING AND OUTREACH SERVICES

SEC. 201. (a) Section 243 is amended to read as follows:

"§ 243. Outstationing of counseling and outreach personnel

"The Administrator may station employees of the Veterans' Administration at locations other than Veterans' Administration offices, including educational institutions, to provide counseling and other assistance regarding benefits under this title to veterans and other persons eligible for benefits under this title and to provide outreach services under this subchapter.".

(b) The item relating to such section in the table of sections at the beginning of chapter 3 is amended to read as follows:

"243. Outstationing of counseling and outreach personnel.".

REPEAL OF 50-PERCENT EMPLOYMENT RULE FOR VOCATIONAL SCHOOLS

SEC. 202. (a) Section 1673(a) is amended—

(1) by striking out "(1)" before "The";

(2) by redesignating clause (A) as clause (1);

(3) by striking out clause (B) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;";

(4) by redesignating clauses (C) and (D) as clauses (3) and (4), respectively; and

(5) by striking out paragraph (2).

(b) Section 1723(a) is amended—

(1) by striking out "(1)" before "The";

(2) by redesignating clause (A) as clause (1);

(3) by striking out clause (B) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;";

(4) by redesignating clauses (C) and (D) as clauses (3) and (4), respectively; and

(5) by striking out paragraph (2).

(c) The amendments made by this section shall take effect on October 1, 1982.

TECHNICAL AMENDMENT RELATING TO 85-15 RULE

SEC. 203. (a) Section 1673(d) is amended—

(1) by striking out "The Administrator" in the first sentence and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, the Administrator";

(2) by striking out "(other than" and all that follows through "of this title)"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) of this subsection—

"(A) does not (except as provided in section 1691(c) of this title) apply with respect to the enrollment of a veteran in a course offered pursuant to subchapter V of this chapter;

"(B) does not apply with respect to the enrollment of a veteran in a farm cooperative training course; and

"(C) does not apply with respect to the enrollment of a veteran in a course described in section 1789(b)(6) of this title.".

(b) Section 1691(c) is amended by striking out "section 1673(d)" and inserting in lieu thereof "section 1673(d)(1)".

CHARGE TO ENTITLEMENT FOR PURSUIT OF INDEPENDENT STUDY PROGRAMS

SEC. 204. Section 1682 is amended—

(1) by striking out "or (c)" in subsection (a)(1) and inserting in lieu thereof "(c), or (g)"; and

(2) by striking out "entitlement shall be charged at one-half of the full-time institutional rate" in subsection (e) and inserting in lieu thereof "the amount of such veteran's entitlement to educational assistance under this chapter shall be charged in accordance with the rate at which the veteran is pursuing the independent study program but at not more than the rate at which such entitle-

ment is charged for pursuit of such program on less than a half-time basis".

MODIFICATION OF RESTRICTION ON ALLOWANCES FOR INCARCERATED PERSONS

SEC. 205. (a) Section 1508(g)(2) is amended—

(1) by inserting "not" after "shall"; and

(2) by striking out all after "felony" and inserting in lieu thereof a period.

(b) Section 1682(g) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "The amount of the educational assistance allowance payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program."; and

(2) in paragraph (2)—

(A) by inserting "not" after "shall"; and

(B) by striking out all after "felony" and inserting in lieu thereof a period.

(c) Section 1780(a) is amended—

(1) by striking out "section 1504" and inserting in lieu thereof "section 1508";

(2) by inserting "or" at the end of clause (4);

(3) by striking out the semicolon and "or" at the end of clause (5) and inserting in lieu thereof a period; and

(4) by striking out clause (6).

CLARIFICATION OF TARGETED DELIMITING DATE EXTENSION AUTHORITY

SEC. 206. (a) Section 1662(a)(3) is amended—

(1) in the first sentence of subparagraph (C)(i)—

(A) by striking out "may" and inserting in lieu thereof "shall"; and

(B) by striking out "only if" and all that follows in such sentence and inserting in lieu thereof "unless the Administrator determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes."; and

(2) by striking out "December 31, 1983" in subparagraph (D) and inserting in lieu thereof "December 31, 1984".

(b)(1) Not later than 30 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register, for public review and comment for a period not to exceed 30 days, proposed regulations under section 1662(a)(3)(C)(i) of title 38, United States Code, as amended by subsection (a).

(2) Not later than 90 days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register final regulations under such section 1662(a)(3)(C)(i).

(c) The amendments made by subsection (a) shall take effect as of January 1, 1982.

AUTHORITY TO SUSPEND EDUCATIONAL ASSISTANCE IN CERTAIN CASES

SEC. 207. Section 1790(b) is amended—

(1) by striking out "Any" in paragraph (2) and inserting in lieu thereof "Except as provided in paragraph (3) of this subsection, any"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The Administrator may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the Administrator has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter 32, 34, or 35 of this title.

"(B)(i) Action may be taken under subparagraph (A) of this paragraph only after—

"(I) the Administrator provides to the State approving agency concerned and the educational institution concerned written notice of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements;

"(II) such institution refuses to take corrective action or does not within 60 days after such notice (or within such longer period as the Administrator determines is reasonable and appropriate) take corrective action; and

"(III) the Administrator, not less than 30 days before taking action under such subparagraph, provides to each eligible veteran and eligible person already enrolled in such course written notice of the Administrator's intent to take such action (and the reasons therefor) unless such corrective action is taken within such 60 days (or within such longer period as the Administrator has determined is reasonable and appropriate), and of the date on which the Administrator intends to take action under such subparagraph.".

MODIFICATION OF REPORTING REQUIREMENT ON DEFAULT RATES UNDER EDUCATIONAL LOAN PROGRAM

SEC. 208. The second sentence of section 1798(e)(3) is amended—

(1) by striking out "in maximum feasible detail";

(2) by inserting "and" at the end of clause (A); and

(3) by striking out clauses (B) and (C) and inserting in lieu thereof the following:

"(B) data regarding the default experience and default rate with respect to (i) loans made under this section in connection with accelerated payments under section 1682A of this title, and (ii) other loans made under this section.".

ADMINISTRATIVE IMPLEMENTATION OF CERTAIN DEPARTMENT OF DEFENSE EDUCATIONAL ASSISTANCE PROGRAMS

SEC. 209. Section 1622 is amended by adding at the end the following new subsection:

"(e) Any amount transferred to the Administrator from the Secretary of a military department under an interagency agreement for the administration by the Veterans' Administration of an educational assistance program established by the Secretary under chapter 107 of title 10 may be deposited into and disbursed from the fund for the purposes of such program.".

ADJUSTMENT OF COMPUTATION OF BENEFIT PAYMENT RATE FOR PARTICIPANTS MAKING LUMP-SUM CONTRIBUTIONS UNDER CHAPTER 32 PROGRAM

SEC. 210. Section 1622(d) is amended by striking out "$75" and inserting in lieu thereof "$100".

TITLE III—EMPLOYMENT ASSISTANCE

CONGRESSIONAL FINDINGS

SEC. 301. (a) Chapter 41 is amended by inserting after the table of sections the following new section:

"§ 2000. Findings

"The Congress makes the following findings:

"(1) As long as unemployment and underemployment continue as serious problems among disabled veterans and Vietnam-era veterans, alleviating unemployment and underemployment among such veterans is a national responsibility.

"(2) Because of the special nature of employment and training needs of such veterans and the national responsibility to meet those needs, policies and programs to increase opportunities for such veterans to obtain employment, job training, counseling, and job placement services and assistance in securing advancement in employment should be effectively and vigorously implemented by the Secretary of Labor and such implementation should be accomplished through the Assistant Secretary of Labor for Veterans' Employment.".

(b)(1) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 2001 the following new item:

"2000. Findings.".

(2) The item relating to chapter 41 in the table of chapters preceding part I and in the table of chapters at the beginning of part III is amended by striking out "2001" and inserting in lieu thereof "2000".

PURPOSE OF JOBS TRAINING PROGRAMS

SEC. 302. Section 2002 is amended—

(1) by inserting "and regulations" after "to this end policies"; and

(2) by inserting a comma and "with priority given to the needs of disabled veterans and veterans of the Vietnam era" after "opportunities".

JURISDICTION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT

SEC. 303. Section 2002A is amended by adding at the end the following new sentence: "The employees of the Department of Labor administering chapter 43 of this title shall be administratively and functionally responsible to the Assistant Secretary of Labor for Veterans' Employment.".

STATE AND ASSISTANT STATE DIRECTORS FOR VETERANS' EMPLOYMENT

SEC. 304. (a)(1) Section 2003 is amended by striking out the section heading and all of the matter preceding clause (1) and inserting in lieu thereof the following:

"§ 2003. State and Assistant State Directors for Veterans' Employment

"(a) The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service to serve as the State Director for Veterans' Employment, and shall assign full-time Federal clerical support to each such Director. The Secretary shall also assign to each State one Assistant State Director for Veterans' Employment per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant State Directors for Veterans' Employment as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, to be necessary to assist the State Director for Veterans' Employment to carry out effectively in that State the purposes of this chapter. Full-time Federal clerical support personnel assigned to State Directors for Veterans' Employment shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

"(b)(1) Each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment (A) shall be an eligible veteran who at the time of appointment has been a bona fide resident of the

State for at least two years, and (B) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

"(2) Each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment shall be attached to the public employment service system of the State to which they are assigned. They shall be administratively responsible to the Secretary of Labor for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the Secretary, by grantees of Federal or federally funded employment and training programs in the State, or directly by the State.

"(c) In cooperation with the staff of the public employment service system and the staffs of each such other program in the State, the State Director for Veterans' Employment and Assistant State Directors for Veterans' Employment shall—".

(2) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2003. State and Assistant State Directors for Veterans' Employment.".

(b) Clause (6) of such section is amended to read as follows:

"(6) promote and facilitate the participation of veterans in Federal and federally funded employment and training programs and directly monitor the implementation and operation of such programs to ensure that eligible veterans, veterans of the Vietnam era, disabled veterans, and eligible persons receive such priority or other special consideration in the provision of services as is required by law or regulation;".

(c) Such section is further amended by striking out the period at the end of clause (7) and inserting in lieu thereof a semicolon and by adding at the end the following new clauses:

"(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

"(9) be responsible for ensuring that complaints of discrimination filed under such section are resolved in a timely fashion;

"(10) working closely with appropriate Veterans' Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, cooperate with employers to identify disabled veterans who have completed or are participating in a vocational rehabilitation training program under such chapter and who are in need of employment;

"(11) cooperate with the staff of programs operated under section 612A of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; and

"(12) when requested by a Federal or State agency or a private employer, assist such agency or employer in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance the employability of disabled veterans.".

DISABLED VETERANS' OUTREACH PROGRAM

SEC. 305. (a) Subsection (a) of section 2003A is amended—

(1) by inserting a comma and "acting through the Assistant Secretary for Veterans' Employment," in paragraph (1) after "Secretary of Labor";

(2) by inserting a comma and "acting through the Assistant Secretary of Labor for Veterans' Employment," in paragraph (3) after "Secretary";

(3) by striking out "available to" in paragraphs (1) and (3) and inserting in lieu thereof "available for use in";

(4) by striking out "provided to" in paragraph (2) and inserting in lieu thereof "provided for use in"; and

(5) by adding at the end the following new paragraph:

"(5) The distribution and use of funds provided for use in States under this section shall be subject to the continuing supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section.".

(b) Subsection (b)(2) of such section is amended—

(1) by inserting after the first sentence the following new sentence: "The Secretary, after consulting the Administrator and the State Director for Veterans' Employment assigned to a State under section 2003 of this title, may waive the limitation in the preceding sentence for that State so long as the percentage of all disabled veterans' outreach program specialists that are stationed at local employment service offices in all States does not exceed 80 percent."; and

(2) by striking out "section 621A" and inserting in lieu thereof "section 612A".

(c) Subsection (c) of such section is amended—

(1) by striking out "prime sponsors under the Comprehensive Employment and Training Act" in clause (4) and inserting in lieu thereof "appropriate grantees under other Federal and federally funded employment and training programs"; and

(2) by adding at the end the following new clause:

"(8) Development of outreach programs in cooperation with appropriate Veterans' Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, with educational institutions, and with employers in order to ensure maximum assistance to disabled veterans who have completed or are participating in a vocational rehabilitation program under such chapter.".

(d) Section 2003A is further amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d) and adding at the end the following new sentence: "The Secretary shall monitor the appointment of disabled veterans' outreach program specialists to ensure compliance with the provisions of subsection (a)(2) of this section with respect to the employment of such specialists.".

ESTIMATES OF FUNDS FOR ADMINISTRATION

SEC. 306. (a) Subsection (a) of section 2006 is amended—

(1) by inserting "and chapters 42 and 43 of this title" after "of this chapter" in the first sentence; and

(2) by adding at the end the following new sentences: "Funds estimated pursuant to the first sentence of this subsection shall include amounts necessary to fund the disabled veterans' outreach program under section 2003A of this title and shall be approved by the Secretary of Labor only if the level of funding proposed is in compliance with such section. Each budget submission with respect to such funds shall include a separate listing of the proposed number, by State, for disabled veterans outreach program specialists appointed under such section. The Secretary shall carry out this subsection through the Assistant Secretary for Veterans' Employment.".

(b) Subsection (d) of such section is amended by inserting a comma and "upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment," after "Secretary of Labor".

ANNUAL REPORT TO CONGRESS

SEC. 307. Section 2007(c) is amended by adding at the end the following new sentence: "The report shall also include a report on activities carried out under section 2003A of this title.".

NATIONAL EMPLOYMENT AND TRAINING PROGRAMS FOR VETERANS

SEC. 308. (a) Chapter 41 is amended by adding at the end the following new sections:

"§ 2009. National veterans' employment and training programs

"(a) The Secretary of Labor shall—

"(1) administer through the Assistant Secretary of Labor for Veterans' Employment all national programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of disabled veterans and veterans of the Vietnam era;

"(2) in order to make maximum use of available resources, encourage all such national programs and all grantees under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns), educational institutions, trade associations, and labor unions;

"(3) ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to such veterans under all such national programs by coordinating and consulting with the Administrator with respect to programs conducted under other provisions of this title, with particular emphasis on coordination of such national programs with readjustment counseling activities carried out under section 612A of this title, apprenticeship or other on-job training programs carried out under section 1787 of this title, and rehabilitation and training activities carried out under chapter 31 of this title; and

"(4) ensure that job placement activities are carried out in coordination and cooperation with appropriate State public employment service officials.

"(b) Not later than February 1 of each year, the Secretary of Labor shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the operation during the preceding fiscal year of national programs for the provision of employment and training services designed to meet the needs of veterans described in subsection (a) of this section. Each such report shall include an evaluation of the effectiveness of such programs during such fiscal year in meeting the goals established in such subsection, the efficiency with which services were provided under such programs during such year, and such recommendation for further legislative action relating to veterans' employment as the Secretary considers appropriate.

"§ 2010. Secretary of Labor's Committee on Veterans' Employment

"(a) There is established within the Department of Labor an advisory committee to be known as the 'Secretary's Committee on Veterans' Employment'. The committee shall meet at least quarterly for the purpose of bringing to the attention of the Secretary problems and issues relating to veterans' employment.

"(b) The committee shall be chaired by the Secretary of Labor. The Assistant Secretary of Labor for Veterans' Employment shall serve as vice chairman of the committee. The committee shall include—

"(1) representatives of—

"(A) the Administrator;
"(B) the Secretary of Defense;
"(C) the Secretary of Health and Human Services;
"(D) the Director of the Office of Personnel Management;
"(E) the Chairman of the Equal Employment Opportunity Commission; and
"(F) the Administrator of the Small Business Administration; and
"(2) a representative of each of the chartered veterans' organizations having a national employment program.
"(c) Members of the committee shall serve without compensation or other reimbursement for their service on the committee.".
(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"2009. National veterans' employment and training programs.
"2010. Secretary of Labor's Committee on Veterans' Employment.".

PERSONS ELIGIBLE FOR CHAPTER 42 EMPLOYMENT AND TRAINING PROGRAMS

SEC. 309. Section 2011 is amended—
(1) by inserting "(or who but for the receipt of military retired pay would be entitled to compensation)" in clauses (1) and (3) after "compensation"; and
(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "and the United States Postal Service and the Postal Rate Commission, and the term 'department, agency, or instrumentality in the executive branch' includes the United States Postal Service and the Postal Rate Commission.".

REPORTS ON VETERANS' EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS

SEC. 310. (a) Section 2012 is amended by adding at the end the following new subsection:
"(d)(1) Each contractor to whom subsection (a) of this section applies shall, in accordance with regulations which the Secretary shall prescribe, report at least annually to the Secretary on—
"(A) the number of employees in the work force of such contractor, by job category and hiring location, who are veterans of the Vietnam era or special disabled veterans; and
"(B) the total number of new employees hired by the contractor during the period covered by the report and the number of such employees who are veterans of the Vietnam era or special disabled veterans.
"(2) The Secretary shall ensure that the administration of the reporting requirement under paragraph (1) of this subsection is coordinated with respect to any requirement for the contractor to make any other report to the Secretary.".
(b) Within 90 days after the date of the enactment of this Act, the Secretary of Labor shall prescribe regulations under subsection (d) of section 2012 of title 38, United States Code, as added by the amendment made by subsection (a).

REPEAL OF EXEMPLARY REHABILITATION CERTIFICATES PROGRAM

SEC. 311. Section 6 of Public Law 90-83, approved September 11, 1967 (29 U.S.C. 601-607), is repealed.

TITLE IV—MISCELLANEOUS PROVISIONS

REMOVAL OF TIME RESTRICTION FOR FILING AN INSURANCE CLAIM; PROHIBITION OF INSURANCE PROCEEDS ESCHEATING TO A STATE

SEC. 401. (a) Section 770 is amended—
(1) by striking out the second sentence of subsection (c); and
(2) by adding at the end the following new subsection:
"(h) Insurance payable under this subchapter may not be paid in any amount to the extent that such amount would escheat to a State. Payment of insurance under this subchapter may not be made to the estate of the insured or the estate of any beneficiary of the insured unless it is affirmatively shown that any amount to be paid will not escheat to a State. Any amount to be paid under this subchapter shall be reduced to the extent necessary to comply with this subsection.".
(b) The amendments made by subsection (a) shall take effect on October 1, 1982.

BURIAL FLAGS

SEC. 402. (a) Section 901 is amended by adding at the end the following new subsection:
"(e) The Administrator shall furnish a flag to drape the casket of each deceased person who is buried in a national cemetery by virtue of eligibility for burial in such cemetery under section 1002(6) of this title. After the burial, the flag shall be given to the next of kin or to such other person as the Administrator considers appropriate.".
(b) The amendment made by subsection (a) shall apply with respect to burials after September 30, 1982.

BURIAL BENEFITS FOR CERTAIN INDIGENT VETERANS WHOSE REMAINS ARE UNCLAIMED

SEC. 403. Section 902(a) is amended by striking out "When a veteran" and all that follows through "the Administrator," and inserting in lieu thereof the following: "In the case of a deceased veteran—
"(1) who at the time of death was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or was in receipt of pension, or
"(2) who was a veteran of any war or was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, whose body is held by a State (or a political subdivision of a State), and with respect to whom the Administrator determines—
"(A) that there is no next of kin or other person claiming the body of the deceased veteran, and
"(B) that there are not available sufficient resources to cover burial and funeral expenses,
the Administrator,".
(b) The amendment made by subsection (a) shall apply with respect to burial and funeral expenses incurred after September 30, 1982.

CLARIFICATION OF ELIGIBILITY FOR BURIAL BENEFITS FOR CERTAIN VETERANS WHO DIE IN CONTRACT NURSING HOME FACILITIES

SEC. 404. (a) Section 903(a) is amended—
(1) by striking out "Where death occurs in a Veterans' Administration facility" and inserting in lieu thereof "When a veteran dies in a Veterans' Administration facility (as defined in section 601(4) of this title)"; and
(2) by inserting "or in an institution at which the deceased veteran was receiving nursing home care under section 620 of this title at the expense of the United States at the time of death" after "of this title".
(b) The amendments made by subsection (a) shall apply with respect to deaths occurring after September 30, 1982.

SUPERINTENDENTS OF NATIONAL CEMETERIES UNDER THE JURISDICTION OF THE SECRETARY OF THE ARMY

SEC. 405. Notwithstanding section 7(b)(2) of the National Cemeteries Act of 1973 (87 Stat. 88), the provisions of the Act entitled "An Act to provide for selection of superintendents of national cemeteries from meritorious and trustworthy members of the Armed Forces who have been disabled in the line of duty for active field service", approved March 24, 1948, as in effect on the day before the effective date of section 7 of the National Cemeteries Act of 1973, shall not apply with respect to the appointment of the superintendent of a national cemetery under the jurisdiction of the Secretary of the Army.

GUARANTEED LOANS TO REFINANCE LIENS ON MANUFACTURED HOMES AND TO PURCHASE MANUFACTURED-HOME LOTS; CHANGE IN NOMENCLATURE

SEC. 406. (a) Section 1819(a) is amended—
(1) in paragraph (1), by adding at the end the following new clause:
"(G) To refinance in accordance with paragraph (5) of this subsection an existing loan that was made for the purchase of, and that is secured by, a manufactured home and to purchase a lot on which such manufactured home is or will be placed.";
(2) in paragraph (2), by inserting "(other than the refinancing under clause (F) of such paragraph of an existing loan)" after "subsection";
(3) in paragraph (3), by striking out "(C) or (E)" and inserting in lieu thereof "(C), (E), or (G)"; and
(4) by adding at the end the following new paragraph:
"(5)(A) For a loan to be guaranteed for the purpose specified in paragraph (1)(G) of this subsection—
"(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran as such veteran's home; and
"(ii) the amount of the loan may not exceed an amount equal to the sum of—
"(I) the purchase price of the lot,
"(II) the amount (if any) determined by the Administrator to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,
"(III) the balance of the loan being refinanced, and
"(IV) such closing costs (including any discount permitted pursuant to section 1803(c)(3)(E) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan.
"(B) When a loan is made to a veteran for the purpose specified in paragraph (1)(G) of this subsection, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Veterans' Administration under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such portion of such loan. For the purposes of section 1802(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.".
(b) Section 1803(c)(3) is amended—
(1) by striking out "used:" in the matter preceding clause (1) and inserting in lieu thereof "used—";
(2) by striking out "or" at the end of clause (C);
(3) by striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon and "or"; and
(4) by adding at the end the following new clause:
"(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 1819(a)(1)(G) of this title, but only

with respect to that portion of the loan used to refinance such indebtedness.".

(c)(1) Section 1811 is amended by striking out "mobile home" in subsections (c)(1) and (d)(1) and inserting in lieu thereof "manufactured home".

(2) Section 1819 is further amended—

(A) by striking out "mobile" each place it appears and inserting in lieu thereof "manufactured";

(B) by striking out "mobile-home" both places it appears in subsection (a)(4)(A)(ii) and inserting in lieu thereof "manufactured-home"; and

(C) by amending the section heading to read as follows:

"§ 1819. Loans to purchase manufactured homes and lots".

(3) The item relating to such section in the table of sections at the beginning of chapter 37 is amended to read as follows:

"1819. Loans to purchase manufactured homes and lots.".

PERIOD FOR REQUEST OF WAIVER OF OVERPAYMENT

SEC. 407. (a) Section 3102(a) is amended—

(1) by striking out "two years" and inserting in lieu thereof "180 days"; and

(2) by inserting a comma and "or within such longer period as the Administrator determines is reasonable in a case in which the payee demonstrates to the satisfaction of the Administrator that such notification was not actually received by such payee within a reasonable period after such date" after "payee".

(b) The amendments made by subsection (a) shall apply only with respect to notifications of indebtedness that are made by the Administrator of Veterans' Affairs after March 31, 1983.

MINIMUM ACTIVE-DUTY SERVICE REQUIREMENT

SEC. 408. (a) Section 3103A is amended—

(1) by striking out "on or after the date of the enactment of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981" in subsection (b)(2)(B) and inserting in lieu thereof "after October 16, 1981,";

(2) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection (d):

"(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

"(A) 24 months of continuous active duty, or

"(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for any benefit under Federal law (other than this title or any other law administered by the Veterans' Administration), and no dependent or survivor of such person shall be eligible for any such benefit by reason of such period of active duty of such person.

"(2) Paragraph (1) of this subsection applies—

"(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

"(B) to any other person who enters on active duty on or after the date of the enactment of this subsection and has not previously completed a continuous period of active duty of at least 24 months or been discharged or released from active duty under section 1171 of title 10.

"(3) Paragraph (1) of this subsection does not apply—

"(A) to any person described in clause (A), (B), or (C) of subsection (b)(3) of this section; or

"(B) with respect to a benefit under (i) the Social Security Act other than additional wages deemed to have been paid, under section 229(a) of the Social Security Act (42 U.S.C. 429(a)), for any calendar quarter beginning on or after the date of the enactment of this subsection, or (ii) title 5 other than a benefit based on meeting the definition of preference eligible in section 2108(3) of such title."; and

(3) by adding at the end the following new subsection:

"(f) Nothing in this section shall be construed to deprive any person of any procedural rights, including any rights to assistance in applying for or claiming a benefit.".

(b)(1) Subsection (d) of section 3103A of title 38, United States Code, as added by subsection (a)(2), shall not apply with respect to the receipt by any person of any benefit provided by or pursuant to law before the date of the enactment of this Act.

(2) For the purposes of paragraph (1) of this subsection, additional wages deemed to have been paid under section 229(a) of the Social Security Act (42 U.S.C. 429(a)) shall be considered to be a benefit that was received by a person on the date that such person was discharged or released from active duty (as defined in section 101(21) of title 38, United States Code).

(c)(1) Section 977 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 49 of such title is amended by striking out the item relating to section 977.

(d) Section 3103A of title 38, United States Code, as amended by subsection (a), is the law with respect to the matters stated in such section and applies, in accordance with its terms, with respect to benefits under Federal law, regardless of the particular title of the United States Code or other law under which any such benefit is provided or the department, agency, or instrumentality which administers any such benefit.

LIMITATIONS ON CONTRACTING OUT ACTIVITIES AT VETERANS' ADMINISTRATION HEALTH-CARE FACILITIES

SEC. 409. (a) It is the policy of the United States that the Veterans' Administration—

(1) shall maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans; and

(2) shall operate such system through cost-effective means that are consistent with carrying out fully the functions of the Department of Medicine and Surgery of the Veterans' Administration under title 38, United States Code.

(b) Section 5010 is amended by adding at the end the following new subsection:

"(c)(1) Notwithstanding any other provision of law but except as provided in paragraph (3) of this subsection—

"(A) a contract may not be entered into as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction (hereinafter in this subsection referred to as a 'Veterans' Administration health-care facility') would be converted from an activity performed by Federal employees to an activity performed by employees of a contractor of the Government unless the Chief Medical Director has determined that such activity is not a direct patient care activity or an activity incident to direct patient care; and

"(B) in the case of an activity determined by the Chief Medical Director under clause (A) of this paragraph to be neither such activity, the Administrator, after considering the advice of the Chief Medical Director and the results of a study described in paragraph (4) of this subsection, may, in the exercise of the Administrator's sole discretion but subject to paragraph (2) of this subsection, enter into a contract as a result of which the activity would be converted from an activity performed by Federal employees to an activity performed by employees of a contractor of the Government.

"(2) The Administrator may enter into a contract under the circumstances described in paragraph (1)(B) of this subsection only if the Administrator determines—

"(A) based on the study described in paragraph (4) of this subsection with respect to the activity involved, that the cost to the Government of the performance of such activity under such a contract over the first five years of such performance (including the cost to the Government of conducting the study) would be lower by 15 percent or more than the cost of performance of such activity by Federal employees; and

"(B) that the quantity or quality of health-care services provided to eligible veterans by the Veterans' Administration at the facility at which the activity is carried out would be maintained or enhanced as a result of such a contract.

"(3) The provisions of paragraph (1) of this subsection do not apply—

"(A) to a contract or agreement under chapter 17 or section 5011, 5011A, or 5053 of this title or under section 1535 of title 31; or

"(B) to a contract under section 213 or 4117 of this title if the Chief Medical Director determines that such contract is necessary in order to provide services to eligible veterans at a Veterans' Administration health-care facility that could not otherwise be provided at such facility.

"(4) A study referred to in paragraph (1)(B) of this subsection is a study that—

"(A) compares the cost of performing an activity at a Veterans' Administration health-care facility through Federal employees with the cost of performing such activity through a contractor of the Government;

"(B) is based on an estimate of the most efficient and cost-effective organization for the effective performance of the activity by Federal employees;

"(C) with respect to the costs of performance of such activity through Federal employees, is based (to the maximum extent feasible) on actual cost factors of the Veterans' Administration for pay and retirement and other fringe benefits for the Federal employees who perform the activity; and

"(D) takes into account (i) the costs to the Government (including severance pay) that would result from the separation of employees whose Federal employment may be terminated as a result of the Administrator entering into a contract described in paragraph (1)(B) of this subsection, and (ii) all costs to the Government associated with the contracting process.

"(5) Prior to conducting a study described in paragraph (4) of this subsection, the Administrator shall (in a timely manner) submit to the appropriate committees of the Congress written notice of a decision to study the activity involved for possible performance by a contractor.

"(6) If, after completion of a study described in paragraph (4) of this subsection, a decision is made to convert performance of the activity involved to contractor performance, the Administrator shall promptly submit to the appropriate committees of the Congress written notice of such decision and a report with respect to such conversion. Each such report shall include—

"(A) a summary of the study described in paragraph (4) of this subsection with respect to such contract;

"(B) a certification that the study itself is available to such committees and that the results of the study meet the requirements of paragraph (2)(A) of this subsection;

"(C) a certification that the requirements of paragraph (2)(B) of this subsection would be met with respect to such contract and a summary of the information that supports such certification;

"(D) if more than 25 jobs are affected, information showing the potential economic impact on the Federal employees affected and the potential economic impact on the local community and the Government of contracting for performance of such activity; and

"(E) information showing the amount of the bid accepted for a contract for the performance of the activity and the cost of performance of such activity by Federal employees, together with the total estimated costs which the Government will incur because of the contract.

"(7) Not later than February 1, 1984, and February 1 of each of the five succeeding years, the Administrator shall submit a written report to Congress describing the extent to which activities at Veterans' Administration health-care facilities were performed by contractors during the preceding fiscal year and the actual cost savings resulting from such contracts.".

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children, and to modify and improve the educational assistance programs administered by the Veterans' Administration and the veterans' employment programs administered by the Department of Labor; and for other purposes.".

Mr. MONTGOMERY. Mr. Speaker, on July 27, the House by a recorded vote of 400 to 0 passed H.R. 6782, a bill that would provide a 7.4-percent cost-of-living increase in compensation for our service-connected veterans and their widows effective October 1, 1982. Also, last week the House passed H.R. 6794, a bill designed to help ease the unemployment problems of Vietnam and disabled veterans. The Senate has accepted most or our provisions and the compromise agreement I bring to you today is a good one.

The cost-of-living increase provided by the proposed amendments is necessary since these benefits are not indexed by law. This adjustment simply keeps pace with the rise in the Consumer Price Index since the last cost-of-living increase that became effective October 1, 1981. The rate increase will benefit almost 2.3 million service-connected disabled veterans and approximately 319,000 widows and children of veterans who have died of service-incurred disease or illness.

In addition to the cost-of-living increase, the proposed amendments contain certain provisions which would provide additional benefits to certain blinded veterans by equalizing benefits for totally blinded veterans without light perception with those who have suffered the enucleation of the eyes or deformity or scarring. An increased compensation rate would also be payable to veterans who suffer from service-connected blindness in both eyes, 5/200 visual acuity or less, and who additionally have incurred the service-connected loss or loss of use of one hand or one foot. We feel this increased compensation is warranted because the loss of an extremity has a far greater impact on a blinded veteran's mobility than such loss would have on an individual who has not lost his or her sight.

The agreement reached with the other body contains a technical amendment with respect to entitlement of dependency and indemnity compensation. DIC is payable to all widows and children of veterans who die of service-connected causes. It is also payable to the surviving spouse or child of a veteran who dies from non-service-connected causes if the veteran was, at the time of death, in receipt of compensation for a disability rated total and permanent for 10 years prior to death, or for 5 years and continuously from the date of discharge. Under this amendment a survivor shall be eligible for benefits at DIC rates if the veteran was entitled to receive compensation at the total rate during the required period but was not assigned a total disability rating for that duration because of VA error. Certainly, no widow should be denied benefits solely because of an administrative error by the Veterans' Administration. The proposed agreement, if enacted, will remedy this situation.

A program change providing entitlement to VA compensation to members of the Senior Reserve Officers Training Corps who, if during military training camp, suffer a disabling injury is also contained in the proposed agreement. The inequity in current law was brought to our attention by an outstanding member of the committee, Hon. TOM DASCHLE. Where an ROTC member suffers a fatal injury during summer camp, his widow is entitled to dependency and indemnity compensation (DIC); but if he is seriously injured resulting in permanent disabilities, he is not eligible to receive disability or medical benefits from the Veterans' Administration. The individual is only eligible for Federal employees compensation under section 8104 of title 5, United States Code, which is substantially lower than VA compensation. The provisions of the bill introduced by Mr. DASCHLE earlier this session are contained in the proposed agreement.

The proposed amendments would also remove the bar against payment of Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) proceeds in the event a claim is filed more than 4 years after the insured's death. It also clarifies that such proceeds may not escheat to a State. These insurance provisions were proposed by the Veterans' Administration.

Burial flags to the next of kin of certain persons buried in a national cemetery would also be provided under the agreement. Public Law 93-43 which became effective June 18, 1973, extended the privilege of being buried in a national cemetery to nonveterans in certain instances so designated by the Administrator under authority of section 1002(6) of title 38, United States Code. This would usually involve an individual who performed outstanding and meritorious service to this Nation. A provision of the agreement would authorize the Administrator to provide a burial flag to drape the casket of distinguished individuals so honored by burial in a national cemetery under this special provision of law.

The agreement would reinstate the $300 burial allowance for certain veterans whose remains are unclaimed and whose estates do not contain sufficient resources to defray the cost of the funeral and burial of the deceased. Under the provisions of Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, the $300 non-service-connected burial allowance was terminated for certain non-service-connected veterans whose deaths occurred after October 1, 1981. Exceptions to this discontinuance were veterans who were drawing VA pension or compensation benefits at time of death or who died in a VA facility. Following the adoption of the Reconciliation Act last year, the press created the impression that many bodies of decreased eligible veterans were being held in county and city morgues because no funds were available to provide a proper burial and no relative had claimed the remains.

Investigation of this situation revealed that the press reports were greatly exaggerated. However, committee staff investigation did confirm that a few cases did exist and that action was warranted to make certain that the unclaimed body of a wartime veteran is not buried in a pauper's grave. The agreement would correct this oversight which occurred by the enactment of Public Law 97-35.

Additionally, the agreement would clarify eligibility for burial benefits for persons who die in contract nursing home facilities. Public Law 97-35 provided that the benefit would no longer be payable unless the deceased veteran was in receipt of compensation or pension at the time of death or unless such veteran died in a VA facility. The Congress, relying on the long-standing interpretation of current law on this issue, did not place any limit on deaths in either a VA-owned facility or in a contract facility when it agreed to the provisions contained in the Reconciliation Act of 1981.

Earlier this year, the VA General Counsel issued an opinion, reversing an opinion issued almost 20 years ago, that death in a contract nursing home did not constitute death in a VA facility for purposes of establishing eligibility for burial benefits. In his latest opinion, the general counsel did not consider the issue of congressional

ratification of the earlier decision, manifested by legislation enacting a number of amendments and restrictions placed on payment of burial benefits. Since the Administrator has restricted these burial benefits beyond the limitations by the Congress, there is no alternative but to enact legislation.

Mr. Speaker, at the request of the Department of the Army, the agreement would provide that the position of superintendents of national cemeteries administered by the Department of the Army need not be restricted to only those who have been disabled in the line of duty. Prior to 1973, the Department of the Army administered 84 national cemeteries and required that each superintendent meet the service-connected disability requirement—a requirement which has been in effect since 1948.

When 82 of the cemeteries were transferred to the Veterans' Administration under the provisions of the National Cemeteries Act of 1973, the act removed the requirement that superintendents for national cemeteries administered by the Veterans' Administration be disabled veterans. It continued the disability requirement, however, for superintendents of Army national cemeteries. The Department of the Army has recommended that the disability requirement be eliminated and the agreement would comply with the Army's request.

The agreement would authorize the VA to guarantee loans made to a veteran for the purpose of refinancing a lien on a manufactured home. Currently, veterans may refinance their VA guaranteed home loans on conventional housing, under certain circumstances, in order to obtain a more favorable rate of interest on a loan. This benefit is not extended to veterans who own manufactured homes. This provision therefore would authorize the VA to guarantee loans made to a veteran for the purposes both of refinancing a lien on a manufactured home and of purchasing a lot for the unit. It also changes the reference to "mobile homes" in chapter 37 to "manufactured homes."

Mr. Speaker, many members of our committee have been very concerned with OMB's concerted effort to push the VA into a headlong rush to convert certain hospital activities to contract under OMB circular A-76. We are concerned that a broadbrush conversion process will adversely affect the quality and quantity of health care provided to our eligible veterans. The proposed amendments include a compromise reached with the other body on this issue. It provides certain safeguards in the contracting out process to insure that our VA hospitals are properly staffed with highly qualified personnel with extensive experience in providing quality medical care and support services to our sick and disabled veterans.

In addition to the agreement reached with the other body in the House-passed compensation bill (H.R. 6782), the proposed amendments also include agreement reached with the other body on H.R. 6794, the Veterans' Employment and Education Assistance Act of 1982, which passed the House by voice vote on September 20, 1982.

The proposed amendments include several provisions relating to the education, training, and employment provisions passed by the House last week and amended by the other body last Friday.

The House-passed bill contains a provision which would terminate the veterans educational assistance program (VEAP) on March 30, 1983, unless the President recommends by January 15, 1983, that the program be extended and the Congress fails to disapprove the President's recommendation within 60 days. The other body refused to accept this provision.

The deficiencies in the VEAP program have been firmly established. Utilization rates are low and among those who have chosen to participate in the program, almost 40 percent have disenrolled. More than 20 hearings were held on the issue of establishing a peacetime GI bill, H.R. 1400, the Veterans' Educational Assistance Act of 1982. Of the over 200 witnesses appearing at those hearings, only one, a representative of the Office of the Secretary of Defense supported VEAP.

Although we reluctantly agreed to recede on this provision, it is certainly the intent of the committee to closely reexamine the VEAP program next year. This program does not work as intended by Congress. In March 1982, the Congressional Budget Office presented a study to the Congress entitled, "Improving Military Educational Benefits: Effects on Costs, Recruiting and Retention." The study listed the following criticisms of the VEAP program as originally implemented in 1977, and the disappointment in the VEAP's effectiveness as follows:

First, an enrollment rate lower than anticipated, with participation unevenly distributed among various groups.

Second, a rate of disenrollment considerably higher than expected, especially among married servicemembers.

Third, less effectiveness than anticipated in the recruitment of better qualified youths.

In spite of the shortsightedness of the administration policy on VEAP, the committee firmly believes that significant changes in the program must be made to accomplish the stated purposes of the program. If H.R. 1400 or similar legislation is not enacted into law this Congress, our committee intends to make major modifications to VEAP.

H.R. 6794 as passed by the House would modify the weekly attendance requirements for veterans and eligible persons who are pursuing nondegree vocational programs. The bill would shorten weekly attendance requirements for veterans in order to provide them with a 10-minute period of time at the end of a shop or laboratory course to enable them to go to their next class. The other body was unwilling to accept this provision.

When queried by this committee, the Veterans' Administration indicated that a legislative amendment would be necessary to alter the attendance requirements for nondegree vocational programs. The States who contacted the committee regarding this provision presented a good case and we believe the provision is justified and has merit. We are, of course, disappointed that we could not convince the other body and this provision is not contained in the compromise agreement.

A provision of the Veterans Health Care, Training, and Small Business Loan Act of 1981 extended through December 31, 1983, the period of time in which a Vietnam era veteran could use his or her GI bill benefits for vocational purposes. This targeted extension was to be used for pursuit of a program of apprenticeship, on-job training programs with a vocational objective, or for pursuit of a program of secondary education, if the Administrator determines that the veteran was in need of such programs in order to achieve a suitable occupational or vocational objective. This extension was designed to particularly assist educationally disadvantaged, unskilled, or unemployed Vietnam era veterans during this time of high unemployment and economic instability. The Congress believed this to be a cost-effective way to assist veterans who have never effectively utilized their GI bill benefits or who need certain vocational education or training assistance.

Since the enactment of this legislation, it has become evident that the Veterans' Administration's interpretation and administration of this provision has been severely restrictive and inconsistent with the congressional intent regarding this extension.

In spite of the somewhat modified criteria which the VA has very recently implemented regarding the determination of eligibility for this extension, the committee agrees with the other body that congressional action is necessary to insure that those veterans whom this legislation was designed to assist will have an opportunity to participate in this program extension.

In that regard, the proposed amendment would amend the targeted delimiting date extension program enacted last year by substantially limiting the flexibility given the Administrator to make determinations regarding a Vietnam era veteran's need for training. Under the agreed to provision, a veteran could be denied eligibility only after a case-by-case determination, thereby avoiding automatically disqualifying criteria such as that now used by the VA. This proposed amendment would further extend the eligibility period for 1 additional year, or

until December 31, 1984. The amendment to section 1662(a)(3) would be effective on January 1, 1982. This will allow veterans who were denied eligibility under existing regulations, or who were discouraged from applying because of the overly restrictive regulations, to be reconsidered for eligibility under this program designed to assist them.

As passed by the House, H.R. 6794 contains a provision which would extend eligibility under the Federal contractor job listing program to all disabled veterans entitled to VA compensation by eliminating the special-disabled-veteran category, those rated at 30 percent or more disabled. This provision would make consistent with other provisions of law the definition of disabled veterans for eligibility under the Federal contractor job listing program.

Many service-connected disabled veterans rated at 10 percent and 20 percent disabled were wounded or disabled while serving in combat against the enemy. The House Committee is disappointed that the other body refused to accept this provision.

These veterans should receive affirmative action for employment as disabled veterans under the provisions of chapter 42, title 38, United States Code, and not be required to rely on affirmative action programs for handicapped persons generally. We shall continue to review this provision.

The disabled veterans' outreach program (DVOP) was established in 1977 by the Department of Labor as part of President Carter's economic stimulus package. Staffed primarily by service-connected disabled veterans, the primary purpose of the DVOP program is to identify disabled veterans in need of employment assistance and help them obtain employment services, including counseling, job development, and placement.

This program has been one of the most successful initiatives developed to address the problem of unemployed veterans, as evidenced by the decision of the Congress to make this program permanent in Public Law 96-466.

The program has, however, been beset by funding problems which have adversely affected the DVOP program as well as the State employment security agencies. H.R. 6794 would provide that the DVOP program be financed by general revenues rather than by employees' taxes which are collected under provisions of the Federal Unemployment Tax Act (FUTA). The other body objected to this language and would amend existing law to provide that no provision of any other law or regulation that is not consistent with the provisions establishing DVOP would govern the funds made available by the Department of Labor for DVOP. The House Committee has accepted this provision in the compromise bill.

The House Committee feels it is important, however, to again express its deep concern regarding the funding of the DVOP program, and urges the Department of Labor to specifically request funding for DVOP from general revenues which will not affect funding for the employment service.

H.R. 6794, as passed by the House, would establish a national employment assistance program for veterans. Under this program, grants would be made to State and local agencies and nonprofit organizations, with eligibility for such a grant based on the applicant's experience with employment and job-training problems of veterans, familiarity with the community where the services are to be provided, and the capability of the applicant to effectively administer a program. The other body agreed to accept some of the provisions contained in the House-passed bill, with amendments.

Under the compromise agreement, the Secretary of Labor would be required to administer, through the Assistant Secretary for Veterans' Employment (ASVE), all national programs for the provision of employment and training services designed to meet the needs of disabled and Vietnam-era veterans.

As passed by the House, H.R. 6794 would modify the 2-year residency requirement applicable to the appointment of State and assistant State directors for veterans employment by authorizing the ASVE to appoint any qualified eligible veteran if it is determined that no qualifed veteran who meets the 2-year residency requirement is available.

The Senate amendment would also modify the residency requirement by authorizing the ASVE, following an unsuccessful good faith search within the State, to appoint a qualified veteran who has been an assistant director for veterans' employment in another State for a least 1 year.

Many felt that the language of the Senate amendment was too restrictive in that it would have limited appointments to a selected few—those who are or have been an assistant director for veterans employment for at least 1 year. The committees were unable to resolve their differences and the current law will remain in effect.

The responsibility of the ASVE is to be the principal adviser to the Secretary of Labor with respect to the formulation and implementation of all departmental policies and procedures to carry out the purposes of chapters 41, 42, and 43 of title 38, United States Code. The proposed agreement would transfer the responsibility for the administration of the veterans reemployment rights program in chapter 43 of title 38, United States Code, to the Assistant Secretary of Labor for Veterans' Employment (ASVE) where it properly and logically belongs.

Finally, when the Senate amendments passed last Friday, Mr. Speaker, an amendment offered by Senator THURMOND to authorize eligible veterans to receive chiropractic care in certain circumstances under the Veterans' Administration medical care program was agreed to by voice vote. This provision was added as a floor amendment because, had it been reported by the Committee on Veterans' Affairs, it would have violated the Budget Act because of certain restrictions contained in the Budget Act of 1974.

We did not agree to the amendment for several reasons. First, the amendment is not germane. In addition, the House Budget Committee, in reviewing the amendment, determined that it would create a new entitlement for certain veterans and therefore would violate the Budget Act unless $4 million was contained in the first concurrent budget resolution and allocated to the Subcommittee on Hospitals and Health Care for this purpose.

In the allocation made by the Committee on Veterans' Affairs earlier this year, no money was set aside for new entitlement authority for medical care purposes. Finally, the committee was placed in an impossible situation regarding this amendment in that our Subcommittee on Hospitals and Health Care had not heard hearings on this issue.

Should I have the good fortune of being elected chairman of the committee next year, I have agreed to discuss this issue with the chairman of the Subcommittee on Hospitals and Health Care so that hearings may be held next year on the amendment offered by the senior Senator from South Carolina.

I know the Chief Medical Director of the Veterans' Administration is very much opposed to the legislation as is the administration. Therefore, because of all the reasons I have outlined and since we must pass the compensation bill and send it to the President no later than today if veterans are to receive an increase in their November checks, the Senate receded. I am most grateful for the cooperation of my good friend, the senior Senator from South Carolina. His willingness to recede was not based on any dilution of the Senate position on this issue. It was simply done so that we might not delay the cost-of-living increase for compensation and DIC beneficiaries that is to become effective October 1.

There follows a more detailed explanation of the provisions passed by the House, the Senate amendments, and the proposed agreement:

H.R. 6782, THE "VETERANS' COMPENSATION, EDUCATION, AND EMPLOYMENT AMENDMENTS OF 1982"—EXPLANATORY STATEMENT OF HOUSE BILL, SENATE AMENDMENT (S. 2913) AND H.R. 6794, AND THE COMPROMISE AGREEMENT

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

PART A—RATE INCREASES

DISABILITY COMPENSATION

Both the House bill and the Senate amendment would amend chapter 11 of title 38, United States Code, to increase by 7.4 percent, effective October 1, 1982, the basic

rates of service-connected disability compensation for veterans, the rates payable for certain severe disabilities, and the annual clothing allowance for certain disabled veterans. In accordance with the policy established in section 405 of the Omnibus Budget Reconciliation Act of 1982 (Public Law 97-253), the increased rates are rounded down to the next lower dollar.

ADDITIONAL COMPENSATION FOR DEPENDENTS

Both the House bill and the Senate amendment would further amend chapter 11 to increase, effective October 1, 1982, the dependents' allowances payable to veterans rated 30-percent or more disabled, with the increased rates rounded down to the next lower dollar. The House bill would increase these allowances by 7.4 percent; the Senate amendment would generally increase these allowances by that percentage but would also provide for a realignment of the allowances with respect to that portion of the allowance payable on account of children.

The House recedes. The rates under current law, the House bill, the Senate amendment, and the compromise agreement are as follows:

	Current law	House bill	Senate amendment/ compromise agreement
Amount payable to 100 percent service-connected disabled veteran for:			
Spouse	$69	$74	$74
First child	47	50	50
Second child	37	40	40
Third child	39	42	40
Each additional child	38	40	40

DEPENDENCY AND INDEMNITY COMPENSATION

Both the House bill and the Senate amendment would amend chapter 13 of title 38 to provide, effective October 1, 1982, an increase of 7.4 percent in the rates of dependency and indemnity compensation (DIC) payable to the surviving spouses and children of veterans whose deaths were service connected, with the increased rates rounded down to the next lower dollar.

The compromise agreement contains these provisions.

REPEAL OF EARLIER RATE ADJUSTMENT

The Senate amendment, but neither the House bill nor H.R. 6794, the proposed "Veterans' Employment and Education Assistance Act of 1982," as passed by the House on September 20, 1982 (hereinafter referred to as "H.R. 6794"), would provide that the provisions of title I of the Senate amendment supersede the provisions of section 405 of the Omnibus Budget Reconciliation Act of 1982 (Public Law 97-253), which made various adjustments, effective January 1, 1983, in the rates of compensation and DIC. Subsection (a) of section 405 of that Act expressly contemplated the enactment of the legislation embodied in this compromise agreement providing for compensation and DIC increases—to be effective October 1, 1982, and to be computed in the same manner as the increases in the compromise agreement have been computed—with the express intent that these increases supersede the adjustments made in section 405 before they take effect.

The House recedes with an amendment providing that section 405 of Public Law 97-253 is repealed.

PART B—PROGRAM IMPROVEMENTS

COMPENSATION RATE INCREASES FOR CERTAIN BLINDED VETERANS

Both the House bill and the Senate amendment would amend section 314 of title 38, effective October 1, 1982, to raise by one full step (from subsection (m) to subsection (n)) the statutory award designation that determines the rates of special monthly compensation payable to veterans who suffer from blindness without light perception in both eyes.

The compromise agreement contains this provision.

The House bill, but not the Senate amendment, would further amend section 314, effective October 1, 1982, to provide payment of special monthly compensation, under subsection (p)(2), at the next higher intermediate rate (not to exceed a specified statutory maximum) to veterans who suffer from both service-connected blindness, with 5/200 visual acuity or less, and service-connected anatomical loss or loss of use of one hand or one foot.

The Senate recedes.

CORRECTION OF TECHNICAL ERROR WITH RESPECT TO CERTAIN SURVIVORS' BENEFITS

Both the House bill and the Senate amendment would amend section 410(b)(1) of title 38 to revise the applicable requirements for benefits at DIC rates for certain survivors of veterans (those who suffered from service-connected disabilities rated totally disabling for specified periods of time but whose deaths are not service connected) so as to provide that the requirement that the veteran have been in receipt of compensation for a service-connected disability rated as total for 10 years prior to death (or for 5 years continuously from the date of discharge) is met if the veteran would have been in receipt of such compensation for such period but for a clear and unmistakable error regarding the award of a total-disability rating. Both the House bill and the Senate amendment would make this amendment effective October 1, 1982, but the Senate amendment would also require the Administrator to make a lump-sum payment after that date to individuals who would have been entitled to benefits prior to that date if the amendment had been effective October 1, 1978.

The compromise agreement contains this provision with the Senate amendment effective date and with technical amendments.

ELIGIBILITY FOR VETERANS' ADMINISTRATION BENEFITS OF SENIOR RESERVE OFFICERS' TRAINING CORPS PARTICIPANTS DISABLED DURING CERTAIN TRAINING

The House bill, but not the Senate amendment, would amend section 101 of title 38, effective with respect to diseases or injuries incurred or aggravated during duty performed after September 30, 1982, to include within the definition of "active duty for training", annual training duty for a period of fourteen days or more performed by a member of the Senior Reserve Officers' Training Corps (SROTC). The effect of this amendment would be to provide basic eligibility for title 38 benefits based on a period of active duty for training during which the individual suffers a service-connected disability or death. (Such a period of active duty for training is included within the definition of "active military, naval, or air service" (section 101(24)); in turn, the definition of "veteran" (section 101(2)), a term used throughout title 38 to denote a basic qualification for benefits eligibility under that title, includes only persons who have served in the "active military, naval, or air service".)

The Senate recedes with an amendment clarifying that the term "active duty for training" includes any period of duty to which the SROTC participant is assigned for the purposes of "field training or practice cruise under chapter 103 of title 10", United States Code. After consultation with Department of Defense and VA officials, the phrase "field training or practice cruise" is used in lieu of the present law (section 403 of title 38) reference to "annual training . . . of fourteen days or more" in order to conform the title 38 terminology to the title 10 terminology. In addition, the compromise agreement would provide, with respect to any death or disability resulting from a disease or injury incurred or aggravated after September 30, 1982, during the SROTC participant's active duty for training, that the eligibility for title 38 benefits would displace any eligibility for Federal workers' compensation benefits pursuant to section 8140 of title 5, United States Code, for that disease or injury. The compromise agreement would also repeal, as being superfluous if this provision in the compromise agreement is enacted, section 403 of title 38, which provides that certain ROTC training is deemed to be active military, naval, or air service for purposes of dependency and indemnity compensation and certain title 38 insurance purposes.

TITLE II—EDUCATIONAL ASSISTANCE

VETERANS' COUNSELING AND OUTREACH SERVICES

Both H.R. 6794 and the Senate amendment would amend subchapter IV of chapter 3 of title 38, United States Code, to repeal the mandatory nature of the veterans' representative program, the so-called "vet-rep" program. H.R. 6794 would repeal section 243 of that subchapter and amend section 242 to permit the Administrator to outstation veterans' benefits counselors at educational institutions and other locations to provide assistance regarding benefits under title 38 and to provide outreach services. The Senate amendment would amend section 243 to delete the existing provisions which relate to the vet-rep program and make it mandatory, and instead to make it discretionary with the Administrator to outstation vet-reps for those purposes.

The House recedes with an amendment deleting the reference to "veterans' representatives" and with other technical amendments.

REPEAL OF 50-PERCENT EMPLOYMENT RULE FOR VOCATIONAL SCHOOLS

Both H.R. 6794 and the Senate amendment would amend sections 1673(a) and 1723(a) of title 38 to repeal the general requirement that for vocational objective courses to be approved for VA educational assistance purposes the institution offering the course must show that at least one-half of the course graduates obtained employment in the career field for which training was provided.

The compromise agreement contains these provisions.

TECHNICAL AMENDMENT RELATING TO THE 85-15 RULE

Both H.R. 6794 and the Senate amendment would make a technical amendment to section 1673(d) of title 38 to clarify that the restriction on the enrollment of veterans in courses where more than 85 percent of the enrollees are in receipt of VA educational assistance applies to high-school level and general-education-diploma training offered (other than through contracts with the Department of Defense) to individuals enrolled in such training at no charge to their entitlements while on active duty.

The compromise agreement contains this provision.

CHARGE TO ENTITLEMENT FOR PURSUIT OF INDEPENDENT STUDY PROGRAMS

Both H.R. 6794 and the Senate amendment would amend section 1682(e) to title 38 to clarify that the rate at which entitlement to GI Bill educational benefits is

charged for programs composed wholly of independent study shall be at the rate at which benefits are paid but not in excess of the less than half-time rate.

The compromise agreement contains this provision.

MODIFICATION OF RESTRICTIONS ON ALLOWANCES FOR INCARCERATED VETERANS

Both H.R. 6794 and the Senate amendment would amend section 1508 of title 38 to revise the restriction on the payment of vocational rehabilitation subsistence allowance to veterans who have been incarcerated as the result of a conviction of a felony. H.R. 6794 would repeal the provision in current law that specifies that payment of the subsistence allowance to such veterans who are residing in halfway houses or participating in work-release programs may be made if the Administrator determines that all the living expenses of a veteran are not being defrayed by a Federal, State, or local government. The Senate amendment would provide that the prohibition on the payment of the subsistence allowance to veterans who have been incarcerated for the conviction of a felony does not apply to a veteran residing in a halfway house or participating in a work-release program.

The House recedes.

Both H.R. 6794 and the Senate amendment would amend section 1682(g) of title 38 to revise the manner in which VA educational assistance allowances are calculated for veterans and eligible persons who are incarcerated as the result of a conviction of a felony. H.R. 6794 would repeal the provision in current law that specifies that payment of full educational assistance allowances to those who are residing in a halfway house or participating in a work-release program may be made if the Administrator determines that all the living expenses of the individual are not being defrayed by a Federal, State, or local government. The Senate amendment would provide that the prohibition on the payment of a certain amount of the educational assistance allowance to an individual who has been incarcerated for the conviction of a felony does not apply to those residing in halfway houses or participating in work-release programs.

The House recedes.

Both H.R. 6794 and the Senate amendment would amend section 1780(a) of title 38, relating to the prohibition on payments of VA educational assistance allowances to incarcerated veterans and eligible persons (1) for any course to the extent that tuition and fees for the course are paid under another Federal, State, or local program, and (2) for any course for which no tuition and fees are charged. H.R. 6794 would limit the applicability of the prohibition to veterans and eligible persons incarcerated for the conviction of a felony; the Senate amendment would repeal the prohibition.

The Senate recedes with a technical amendment incorporating this prohibition in section 1682(g) of title 38.

UPDATE OF REFERENCE TO ANOTHER PROVISION OF LAW

The Senate amendment, but neither the House bill not H.R. 6794, would amend section 1652(b) of title 38 to update a reference to another provision of law.

The Senate recedes. The Committees note that this reference would be updated by section 4(38) of H.R. 4623, a technical-amendments bill to amend titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the Code, as passed by the House on July 19, 1982.

CLARIFICATION OF CLASS HOUR FOR PURPOSES OF LABORATORY AND SHOP COURSES

H.R. 6794, but not the Senate amendment, would amend section 1788(a) of title 38 to shorten the weekly attendance requirements for veterans and eligible persons who are pursuing nondegree vocational programs in order to provide them with a 10-minute period of time at the end of a laboratory or shop course to enable them to go to their next class.

The House recedes.

CLARIFICATION OF TARGETED DELIMITING DATE EXTENSION AUTHORITY

The Senate amendment, but neither the House bill nor H.R. 6794, would amend section 1662(a)(3) of title 38, which provides for delimiting period extensions for the use of GI Bill benefits for the pursuit of secondary education, apprenticeship or other on-job training, or vocational training, so as to clarify Congressional intent with respect to the granting of these so-called "targeted delimiting date extensions" and to extend the period of time during which these extensions are available. Under the Senate amendment, a veteran would be eligible for a targeted delimiting date extension for apprenticeship, other on-job, or vocational training unless the veteran's particular employment and training history is examined and shows that the veteran is not in need of the training in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes. The Senate amendment would extend for 1 additional year—until December 31, 1984—the period of time during which a veteran may use GI Bill educational assistance under the targeted delimiting date extension provision. Also, the Senate amendment would require the Administrator, within 30 days after the date of enactment, to publish, for public review and comment, proposed regulations to implement the new provisions and to publish final regulations within 90 days after the enactment date.

The House recedes with an amendment making the amendment to section 1662(a)(3) effective on January 1, 1982.

TOLLING DELIMITING DATES BY REASON OF DRUG AND ALCOHOL CONDITIONS

The Senate amendment, but neither the House bill nor H.R. 6794, would amend sections 1503(b)(1), 1662(a), and 1712(b) of title 38 to provide for the tolling (extension) under certain specified circumstances of the eligibility periods for a VA program of vocational rehabilitation, for GI Bill educational assistance, and for educational assistance for the dependents and survivors of certain service-connected disabled veterans where an alcohol or drug dependence or abuse condition for which the individual has received treatment or rehabilitation has prevented the individual from pursuing training.

The Senate recedes.

AUTHORITY TO SUSPEND EDUCATIONAL ASSISTANCE IN CERTAIN CASES

Both H.R. 6794 and the Senate amendment would amend section 1790(b) of title 38 to provide the Administrator with the authority to withhold payment of educational assistance benefits in certain cases. H.R. 6794 would authorize the Administrator to discontinue (including suspend) the benefits of eligible veterans and eligible persons enrolled in a course and disapprove new enrollments in the course when the Administrator finds that the course fails to meet an approval requirement of chapter 36 of title 38 or that the institution offering the course has violated applicable recordkeeping or reporting requirements under chapter 31, 32, 34, 35, or 36, where the Administrator has notified the state approving agency (SAA) and the institution concerned of the violation, and where the Administrator finds that the institution has failed to take corrective action within a reasonable period of time after the notification. H.R. 6794 would further require that when the Administrator discontinues educational assistance, notice of the discontinuance be given to the affected students together with a statement of the reasons and of the opportunity to be heard thereon. The Senate amendment would authorize the Administrator to suspend educational assistance benefits to eligible veterans and eligible persons enrolled in a course and to disapprove new enrollments in the course when the Administrator has evidence showing that there is a substantial pattern of veterans or eligible persons receiving educational assistance to which they are not entitled because of the educational institution's noncompliance with or violation of applicable requirements of title 38 relating to course approvals, recordkeeping, and reporting. However, prior to taking that action, the Administrator must give written notice to the SAA and the institution involved; the institution must either have refused to take corrective action or have failed, within 60 days (or other longer, reasonable period determined by the Administrator), to take corrective action; and the Administrator must give no less than a 30-day notice (which could be given within the 60-day period for notice to the SAA and the institution) of the intent to suspend benefits, together with the reasons, to the eligible veterans and eligible persons who would be affected.

The House recedes.

MODIFICATION OF REPORTING REQUIREMENT ON DEFAULT RATES UNDER EDUCATIONAL LOAN PROGRAM

Both H.R. 6794 and the Senate amendment would amend section 1798(e)(3) of title 38 to revise the specifications for the report to be submitted annually by the Administrator to the Congress on the default rate under the VA's educational loan program. H.R. 6794 would repeal the requirements that the data that must be provided in the report be in maximum feasible detail and that the report provide data on the default experience and default rate at each educational institution. The Senate amendment would repeal any specification as to what data such reports must include.

The Senate recedes.

ADMINISTRATIVE IMPLEMENTATION OF CERTAIN DEPARTMENT OF DEFENSE EDUCATIONAL ASSISTANCE PROGRAMS

Both H.R. 6794 and the Senate amendment would amend section 1622 of title 38 to authorize the Administrator to utilize the chapter 32 Post-Vietnam Era Veterans' Educational Assistance program (VEAP) fund for the purposes of receiving funds transferred by the Department of Defense for benefits under the DOD-funded educational assistance pilot program established under chapter 107 of title 10, United States Code, pursuant to section 901 of Public Law 96-342, the Department of Defense Authorization Act, 1981, and of disbursing those funds to beneficiaries enrolled in training under that program.

The compromise agreement contains this provision.

ADJUSTMENT OF COMPUTATION OF BENEFIT PAYMENT RATE FOR PARTICIPANTS MAKING LUMP-SUM CONTRIBUTIONS UNDER CHAPTER 32 PROGRAM

Both H.R. 6794 and the Senate amendment would further amend section 1622 to provide that, for purpose of calculating the amount of a VEAP participant's monthly VEAP benefits, lump-sum contributions will be considered to have been made in monthly military-pay deductions of $100, rather than $75 as under current law.

The compromise agreement contains this provision.

PERIOD FOR ENROLLMENT IN CHAPTER 32 PROGRAM

H.R. 6794, but not the Senate amendment, would amend section 408(a)(1) of the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94-502) to provide that the enrollment period for participation in VEAP will end on March 30, 1983, unless the President submits to the Congress by January 15, 1983, a recommendation that such period be extended and neither the House nor the Senate disapproves the President's recommendation within 60 days after it is submitted.

The House recedes.

REPEAL OF 1989 TERMINATION DATE

The Senate amendment, but neither the House bill nor H.R. 6794, would repeal section 1662(e) of title 38, which prohibits the provision of any GI BIll educational assistance under chapters 34 and 36 of title 38 after December 31, 1989, and would thus allow all veterans to use their GI Bill benefits during their normal periods of eligibility, which generally expire at the end of the 10-year period following discharge or release from active duty. The Senate amendment would also add a new section 1694 to chapter 34 of title 38 that would require the Secretary of Defense to reimburse the Administrator for all GI Bill educational and training allowances under chapters 34 and 36 after December 31, 1989.

The Senate recedes.

TITLE III—EMPLOYMENT ASSISTANCE

CONGRESSIONAL FINDINGS

Both H.R. 6794 and the Senate amendment contain provisions stating Congressional findings relating to veterans' employment programs. Both the H.R. 6794 and Senate amendment findings state that serious unemployment and underemployment problems exist among disabled and Vietnam-era veterans and that programs to alleviate those problems are a national responsibility. The Senate amendment findings state that because of the special nature of these problems and the national responsibility to meet them, policies and programs need to be effectively and vigorously implemented by the Secretary of Labor through the Assistant Secretary of Labor for Veterans' Employment (ASVE). The H.R. 6794 findings add that such problems also exist among recently-separated veterans and that programs to address the problems can best be administered through a systematic, uniform Federal program to provide funds for veterans employment assistance programs.

The House recedes with an amendment incorporating the findings into a new section 2000 of title 38, United States Code, and with technical amendments.

PURPOSE OF JOBS TRAINING PROGRAMS

Both H.R. 6794 and the Senate amendment would amend section 2002 of title 38 to clarify Congressional intent regarding veterans' job training and employment services. Both H.R. 6794 and the Senate amendment would require that regulations be promulgated and administered to provide eligible veterans and eligible persons with the maximum of employment and training opportunities. H.R. 6794 would require that priority be given to eligible veterans and eligible persons in the provision of employment and training services; the Senate amendment would require that priority be given to the needs of disabled and Vietnam-era veterans in the provision of employment and training opportunities.

The House recedes.

JURISDICTION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT

Both H.R. 6794 and the Senate amendment would amend title 38 to transfer responsibilities for the administration of the veterans' reemployment rights programs in chapter 43 of title 38 to the Assistant Secretary of Labor for Veterans' Employment (ASVE). H.R. 6794 would amend section 2002A in chapter 41, relating to the establishment of the office and responsibilities of the ASVE, to provide that the Department of Labor officials administering chapter 43 shall be administratively and functionally responsible to the ASVE. The Senate amendment would amend section 2025 in chapter 43, relating to the Secretary's responsibility to render aid to veterans seeking to secure their reemployment rights, to require that the Secretary carry out the provisions of chapter 43 through the ASVE.

The Senate recedes with technical amendments. The Committees note that this compromise agreement does not address the reemployment rights issues posed by H.R. 6788, which the House passed on September 14, 1982, to amend title 38 to clarify the period for which an employer must grant a leave of absence, in order to allow an employee to perform required active duty for training, to an employee who is a member of the National Guard or Reserve. Nevertheless, the Committees do not believe that the 90-day limit that the Labor Department has imposed on that period, based on the Solicitor of Labor's October 8, 1981, interpretation of section 2024 of title 38, is well-founded either as legislative interpretation or application of the pertinent case law. Accordingly, the Committees urge the ASVE, upon assuming the responsibility for the reemployment rights program provided in the compromise agreement, to review the situation and take appropriate action to eliminate this arbitrary limitation.

STATE AND ASSISTANT STATE DIRECTORS FOR VETERANS' EMPLOYMENT

Both H.R. 6794 and the Senate amendment would amend section 2003 of title 38 to restructure that section, to conform statutory titles for veterans' employment representatives to the current titles being used ("State Directors for Veterans' Employment" (SDVE's) and "Assistant State Directors for Veterans' Employment" (Assistant SDVE's)), and to made a series of substantive changes as discussed below.

Both H.R. 6794 and the Senate amendment would require that the full-time clerical support assigned to SDVE's be provided by Federal employees who are appointed in accordance with the provisions of title 5 governing appointments in the competitive service and paid in accordance with chapter 51 and subchapter III of chapter 53 of that title.

The compromise agreement contains this provision.

Both H.R. 6794 and the Senate amendment would modify the two-year residency requirement applicable to the appointment of SDVE's and Assistant SDVE's H.R. 6794 would authorize the ASVE to appoint any qualified eligible veteran if it is determined that no qualified veteran who meets the two-year residency requirement is available. The Senate amendment, in such cases, would authorize the ASVE, following an unsuccessful good faith search within the State, to appoint a qualified veteran who has been an Assistant SDVE in another State for at least one year.

The Committees were unable to reach agreement on this issue, and the compromise agreement contains neither provision.

Both H.R. 6794 and the Senate amendment would modify the responsibilities of SDVE's and Assistant SDVE's with respect to other Federal and federally-funded employment and training programs. H.R. 6794 would require SDVE's and Assistant SDVE's to be functionally responsible for the supervision of the participation of veterans in such programs and to monitor the programs' implementation and operation to assure that priorities required by law or regulation to be given to eligible veterans, disabled veterans, veterans of the Vietnam era, and eligible persons are provided. The Senate amendment would require SDVE's and Assistant SDVE's to promote the participation of veterans in such programs and to monitor the programs' implementation and operation to ensure that priorities required by law or regulation to be given to eligible veterans, disabled veterans, and Vietnam-era veterans are provided.

The compromise agreement would require SDVE's and Assistant SDVE's to be responsible for promoting and facilitating the participation of veterans in Federal and federally-funded employment and training programs and for directly monitoring the implementation and operation of such programs to ensure that priorities and other special consideration required by law or regulations to be given to eligible veterans, disabled veterans, veterans of the Vietnam era, and eligible persons are provided.

Both H.R. 6794 and the Senate amendment would expand the responsibilities of SDVE's and Assistant SDVE's to include the responsibility to supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of title 38; to ensure that complaints of discrimination filed under such section 2012 are resolved in a timely fashion; working closely with VA officials and cooperating with employers, to identify service-connected disabled veterans who are enrolled in or who have completed programs of vocational rehabilitation under chapter 31 of title 38; and, upon the request of a Federal or State agency or private employer, to assist the agency or employer in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance the employability of disabled veterans.

The compromise agreement contains these provisions.

The Senate amendment, but not H.R. 6794, would further expand the responsibilities of SDVE's and Assistant SDVE's to include cooperating with the directors of VA veterans assistance offices, established under section 242 of title 38, in order to identify and assist veterans who have readjustment problems and who need employment or training assistance.

The House recedes with an amendment including in these responsibilities the task of cooperating with the staff of Vietnam-era veterans readjustment counseling programs conducted under section 612A of title 38—rather than with the directors of section 242 veterans assistance offices—in order to identify and assist veterans who have such problems and need such assistance.

DISABLED VETERAN'S OUTREACH PROGRAM

Both H.R. 6794 and the Senate amendment would make a series of amendments to section 2003A of title 38 that are designed to improve the administration and implementation of the Disabled Veteran's Outreach Program (DVOP).

Both H.R. 6794 and the Senate amendment would make amendments with respect to the funding of DVOP. H.R. 6794 would require funds appropriated for DVOP to be appropriated from general revenues and spcifically set forth in appropriations Acts and to be used only for the purposes speci-

fied in the DVOP authority. The Senate amendment would specify that the distribution and use of DVOP funds are subject to the continuing supervision and monitoring of the ASVE and that such funds are not governed by the provisions of any law or regulations that are inconsistent with the DVOP authority.

The House recedes. The Committees urge that the Department of Labor specifically request funding for this program from general revenues rather than from trust funds.

The Senate amendment, but not H.R. 6794, would clarify that funds for DVOP are made available for use in each State, rather than simply made available to each State.

The House recedes.

Both H.R. 6794 and the Senate amendment would authorize the Secretary of Labor, after consultation with the appropriate SDVE, to waive the requirement that at least 25 percent of the DVOP specialists in a State be outstationed in locations other than employment service offices. The Senate amendment would permit such waivers only as long as the percentage of DVOP specialists outstationed nationwide is at least 20 percent.

The House recedes with an amendment requiring consultation with the Administrator of Veterans' Affairs prior to the granting of a waiver.

Both H.R. 6794 and the Senate amendment would make a series of technical and conforming amendments relating to the DVOP authority and would expand the responsibilities of DVOP specialists to include the development of outreach programs—in cooperation with VA vocational rehabilitation staff, institutions of higher learning, and employers—in order to assure that maximum assistance is provided to service-connected disabled veterans enrolled in a program of vocational rehabilitation under chapter 31 of title 38. H.R. 6794 would also require DVOP specialists to carry out this responsibility in cooperation with nondegree-granting institutions (including vocational and technical schools). The Senate amendment would also require that maximum assistance be assured in the cases of service-connected disabled veterans who have completed—as well as to those who are enrolled in—programs of vocational rehabilitation under chapter 31.

The compromise agreement contains these provisions.

The Senate amendment, but not H.R. 6794, would delete a provision relating to the continued employment of DVOP specialists employed in the program when Public Law 96-466 was enacted in 1980 to provide a statutory basis for DVOP.

The House recedes.

Both H.R. 6794 and the Senate amendment would require the ASVE to monitor the appointment of DVOP specialists to ensure that appointments are made in accordance with the provisions of the DVOP authority.

The compromise agreement contains this provision.

H.R. 6794, but not the Senate amendment, would amend subsection (a) of section 2003A to add a new paragraph requiring that the Secretary of Labor carry out functions under the DVOP authority through the ASVE.

The Senate recedes with an amendment that would, instead of adding a new paragraph to subsection (a), amend paragraphs (1) and (3) in which the Secretary is given certain functions with respect to DVOP, to require specifically that the Secretary carry out those functions through the ASVE. The Committees note that subsection (e) of section 2003A currently provides that the Secretary is to administer DVOP through the ASVE.

ESTIMATE OF FUNDS FOR ADMINISTRATION

Both H.R. 6794 and the Senate amendment would amend section 2006 of title 38 to expand the Secretary's responsibilities for estimating funds needed for the administration of chapter 41 of title 38 and for including that estimate as a special item in the annual budget for the Department of Labor so as to include a requirement that the estimate also include funds needed for the administration of chapters 42 and 43 of title 38.

The compromise agreement contains this provision.

Both H.R. 6794 and the Senate amendment would further amend section 2006 to require that such estimates of funds be approved by the Secretary of Labor only if they are sufficient to support the level of DVOP specialists mandated in section 2003A of title 38. H.R. 6794 would require the ASVE to approve the level of funds estimated; the Senate amendment would require the Secretary of Labor to carry out responsibilities through the ASVE. H.R. 6794 would further require that the budget submission include a separate listing of the proposed number of DVOP specialists and their specific locations.

The compromise agreement contains these provisions except for the requirement that specific DVOP locations be listed.

Both H.R. 6794 and the Senate amendment would further amend section 2006 to restrict the Secretary's authority to divert funds appropriated for the purposes of chapter 41 upon a demonstrated lack of need. H.R. 6794 would authorize such funding diversion after consultation with the ASVE; the Senate amendment would authorize diversion only upon the recommendation of the ASVE.

The House recedes.

ANNUAL REPORT TO CONGRESS

Both H.R. 6794 and the Senate amendment would amend section 2007(c) of title 38 to require that the Secretary's annual report to the Congress on veterans' employment and training initiatives include a report on activities under the DVOP authority in section 2003A of title 38.

The compromise agreement contains this provision.

NATIONAL EMPLOYMENT AND TRAINING PROGRAMS FOR VETERANS

H.R. 6794, but not the Senate amendment, would amend chapter 41 of title 38 to add a new section 2009 to require the Secretary of Labor, through the ASVE, to establish and administer a national employment and training assistance program for veterans through grants to qualified recipients. H.R. 6794 would set forth the criteria for selection of grant recipients and require such grantees to enter into cooperative arrangements to make maximum use of exising programs. It would further require the Secretary to ensure maximum effectiveness and efficiency through coordination, in consultation with the Administrator, with other programs conducted under title 38, particularly the readjustment counseling program conducted under section 612A. Coordination would also be required, in the development of on-job-training opportunities, employability development programs, and job placement programs, with other VA and DOL initiatives. The Secretary would be authorized to enter into demonstration programs in cooperation with DOD and the VA to provide pre-separation counseling and job search assistance. Approval or disapproval of grants would be required to be made within 90 days. The Secretary would be authorized (directly or through grant, contract, or cooperative agreement) to furnish technical assistance and conduct research and development projects for the purposes of establishing and carrying out the grant program. Regulations for fiscal controls, accountability, and reporting by the grantee would be required to be prescribed by the Secretary. Finally, an annual report would be required to be submitted no later than January 1 of each year to the Committees on Veterans' Affairs of the House and Senate on the program established and its effectiveness and efficiency, together with legislative recommendations.

The Senate recedes with an amendment. As agreed to by the Committees, the compromise agreement would amend chapter 41 of title 38 to add a new section 2009 entitled "National Veterans' Employment and Training Programs". Under this new section, the Secretary of Labor would be required to administer through the ASVE all national programs, under the Secretary's jurisdiction, for the provision of employment and training services designed to meet the needs of disabled and Vietnam-era veterans; to encourage all such programs and grantees thereunder to enter into cooperative arrangements with private industry and business concerns, educational institutions, trade associations, and labor unions; to ensure maximum effectiveness and efficiency by coordinating and consulting with the Administrator with respect to programs conducted under other provisions of title 38, with particular emphasis on coordination with the VA's readjustment counseling and apprenticeship and other on-job training programs; and to ensure that job placement activities are carried out in coordination and cooperation with appropriate State officals in the public employment service. An annual report would be required to be submitted to the Committees and the Appropriations Committees, by February 1 of each year, on the operation of national programs to meet the needs of disabled and Vietnam-era veterans. The report would include an evaluation of the effectiveness and efficiency of such programs and any recommendations by the Secretary for legislative action.

The Committees note that the Secretary, consistent with the Secretary's statutory functions under title 38, may also, as a matter of discretion, assign to the ASVE responsibility for implementing or monitoring, or both, activities affecting veterans under employment and job-training programs not designed specifically for the benefit of veterans.

SECRETARY OF LABOR'S COMMITTEE ON VETERANS' EMPLOYMENT

H.R. 6794, but not the Senate amendment, would add a new section 2010 to chapter 41 of title 38 to establish within the Department of Labor and advisory committee known as the "Secretary's Committee on Veterans' Affairs", which would be required to meet at least quarterly for the purpose of bringing problems and issues relating to veterans' employment to the attention of the Secretary. The Committee would be chaired by the Secretary of Labor and vice-chaired by the ASVE and be composed of representatives of the Secretary of Health and Human Services, the Administrator of Veterans' Affairs, the Director of the Office of Personnel Management, the Chairman of Equal Employment Opportunity Commission, the Administrator of the Small Business Administration, chartered veterans' organizations having national employment programs, and such other members as may

be appointed by the Secretary after consultation with the ASVE.

The Senate recedes with amendments changing the name of the committee to the "Secretary of Labor's Committee on Veterans' Employment", adding the Secretary of Defense to the membership of the committee, and deleting the authority of the Secretary to appoint additional members. The Committees expect that the Secretary of Labor would include in the membership of the Committee as representatives of the Secretary those Department of Labor officials involved with issues relating to veterans' employment (such as the Assistant Secretaries for Employment and Training and for Employment Standards) who the Secretary believes should serve on the Committee.

PERSONS ELIGIBLE FOR CHAPTER 42 EMPLOYMENT TRAINING PROGRAMS

H.R. 6794, but not the Senate amendment, would amend section 2011 of title 38 to expand the eligiblity for coverage under the mandatory listing and affirmative action requirements of chapter 42 so as to include veterans whose disabilities are rated 10- or 20-percent disabling.

The House recedes.

H.R. 6794, but not the Senate amendment, would further amend section 2011 to include within the definition of "disabled veteran" for purposes of chapters 41 and 42 veterans who are not in receipt of VA compensation because they have elected to receive military retirement pay in lieu thereof.

The Senate recedes with an amendment including such veterans in the definition of "special disabled veteran" for the purposes of such chapters only if such veterans are 30-percent or more disabled.

H.R. 6794 and the Senate amendment would further amend section 2011 to clarify the status of the United States Postal Service and the Postal Rate Commission for coverage under certain title 38 provisions. H.R. 6794 would specifiy that for purposes of section 2012, relating to veterans employment emphasis under Federal contracts, such entities are considered a "department or agency". The Senate amendment would include such entities in both the terms "department or agency" and "department, agency, and instrumentality in the executive branch" for purposes of all provisions of chapter 42, including section 2014, relating to employment within the Federal Government.

The House recedes with technical amendments.

REPORTS ON VETERANS' EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS

Both H.R. 6794 and the Senate amendment would amend section 2012 of title 38 to require reports by employers having certain contracts with the Federal government in amounts of $10,000 or more (and certain subcontractors of such contractors) who are required to take affirmative action to employ and advance in employment service-connected disabled veterans rated 30-percent or more disabled and veterans of the Vietnam era. H.R. 6794 would require such an employer to file quarterly with the appropriate SDVE a report showing the total number of the employer's new hires and the number of those hires who are disabled veterans, veterans of the Vietnam-era, and other eligible veterans. The Senate amendment would require such employers to file such reports annually with the Secretary of Labor and would require the Secretary to insure that the administration of the reporting requirement is coordinated with other requirements for reports from such contractors.

The House recedes with technical amendments.

VETERANS' EMPLOYMENT IN THE FEDERAL GOVERNMENT

H.R. 6794, but not the Senate amendment, would amend section 2014 of title 38 to permit veterans who believe they were denied an opportunity to participate in a civil service examination because information about that opportunity was not made available to the employment service offices of the United States Employment Service, as required by section 3327 of title 5, United States Code, to file a complaint with the Office of Personnel Management (OPM) and require OPM to investigate these complaints promptly. H.R. 6794 would further require a report on such complaints and on the number of openings listed pursuant to the title 5 requirement to be included in OPM's semi-annual reports on veterans' employment within the Federal government.

The House recedes. The Committees are concerned as to whether the requirements of section 3327 of title 5 are being implemented in the manner called for by that law, but believe that the imposition of a complaint sanction for veterans may not be clearly warranted at this time. Instead, the Committees request the ASVE, in consultation with the Assistant Secretary of Labor for Employment and Training and the Director of OPM, to prepare and submit to the Committees no later than April 1, 1983, a report on the manner in which section 3327 is being implemented and the impact of such implementation on the provision of maximum employment opportunities for veterans in the Federal Government, as required under section 2014 of title 38.

REPEAL OF EXEMPLARY REHABILITATION CERTIFICATES PROGRAM

Both H.R. 6794 and the Senate amendment would amend Public Law 90-83 to repeal the authority in section 6 of that law for the Exemplary Rehabilitation Certificates program.

The compromise agreement contains this repealer.

TITLE IV—MISCELLANEOUS PROVISIONS

REMOVAL OF TIME RESTRICTION FOR FILING INSURANCE CLAIMS; PROHIBITION OF INSURANCE PROCEED ESCHEATING TO A STATE

Both the House bill and the Senate amendment contain provisions that would amend section 770 of title 38, United States Code, to eliminate the 4-year time restriction on the filing of claims for proceeds of insurance under the Servicemen's Group Life Insurance and Veternas' Group Life Insurance programs and to provide that such proceeds may not escheat to a State.

The compromise agreement contains a provision derived from these provisions.

ASSIGNMENTS BY VETERANS' ADMINISTRATION INSURANCE BENEFICIARIES

The Senate amendment, but neither the House bill nor H.R. 6794, would amend chapter 19 of title 38 to provide a limited expansion of the categories of persons to whom assignments of National Service Life Insurance and United States Government Life Insurance proceeds may be made by authorizing, in order to facilitie the resolution of certain disputes between persons claiming those proceeds, certain assignments of the proceeds by one claimant to another.

The Senate recedes.

BURIAL FLAGS

The House bill, but not the Senate amendment, would amend section 901 of title 38 to authorize, effective with respect to burials after September 30, 1982, the Administrator to furnish a flag to drape the casket of an individual buried in a national cemetery by virtue of the Administrator's authority under section 1002(6) to approve the burial of certain non-veterans in a national cemetery.

The Senate recedes.

BURIAL BENEFITS FOR CERTAIN INDIGENT VETERANS WHOSE REMAINS ARE UNCLAIMED

Both the House bill and the Senate amendment would amend section 902 of title 38 to provide for the restoration of the $300 VA burial benefit in the cases of certain indigent wartime veterans and in the case of certain indigent peace-time veterans who had been discharged as a result of a diability incurred or aggravated in line of duty which was non-compensable at the time of death. The House bill would provide, with respect to deaths occurring after September 30, 1982, that the VA would pay such benefits if the Administrator determines that there is no next of kin or other person claiming the body of the deceased veteran and that there are not available from the veteran's estate, or otherwise, sufficient funds to defray the cost of the burial and funeral of the deceased veteran. The Senate amendment would provide, with respect to burial and funeral expenses incurred after October 1, 1982, that the benefit would be paid in the cases of the same veterans if a State or political subdivision certifies that there is no next of kin or other person claiming the body, the State or political subdivision has assumed responsibility for the burial and funeral expenses, and there are not available, other than from the State or political subdivision, sufficient resources to cover the burial and funeral expenses.

The compromise agreement contains a provision derived from these provisions, effective with respect to funeral and burial expenses incurred after September 30, 1982.

CLARIFICATION OF ELIGIBILITY FOR BURIAL BENEFITS FOR CERTAIN VETERANS WHO DIE IN CONTRACT NURSING HOME FACILITIES

The House bill, but not the Senate amendment, would amend section 903(a) of title 38 to authorize, with respect to deaths occurring after September 30, 1982, the VA to pay burial benefits in the cases of deceased veterans who die in a private nursing home with which the VA had contracted for the veteran's care, regardless of whether the VA was bearing the cost of the veteran's care at the time of death.

The Senate recedes with an amendment limiting the authority to pay the benefits to those cases in which the VA was bearing the cost of the veteran's nursing home care at the time of the veteran's death—the same policy that had been in effect until the VA General Counsel ruled on March 15, 1982, that no authority existed to make any such payments in cases of veterans who died in private nursing homes.

SUPERINTENDENTS OF NATIONAL CEMETERIES UNDER THE JURISDICTION OF THE SECRETARY OF THE ARMY

The House bill, but not the Senate amendment, would remove a requirement that superintendents of national cemeteries under Department of the Army jurisdiction (that is, Arlington and Soldiers' Home National Cemeteries) be "members of the Armed Forces who have been disabled in the line of duty for field services".

The Senate recedes.

GUARANTEED LOANS TO REFINANCE LIENS ON MANUFACTURED HOMES AND TO PURCHASE MANUFACTURED-HOME LOTS; CHANGE IN NOMENCLATURE

The Senate amendment but neither the House bill nor H.R. 6794, would amend

chapter 37 of title 38 to authorize the VA to guarantee loans made to a veteran for the purposes of refinancing a lien on a manufactured home and purchasing a lot for the unit and to change the references to "mobile homes" to "manufactured homes".

The House recedes with technical amendments.

PERIOD FOR REQUEST OF WAIVER OF OVERPAYMENT

Both the Senate amendment and H.R. 6794 would amend section 3102 of title 38 to reduce, from two years to 180 days, the period after the date of notification to the payee of the indebtedness for requesting a waiver of repayment of a debt owed to the VA. The Senate amendment would authorize the Administrator to extend the 180-day period for a reasonable length of time when the individual demonstrates to the satisfaction of the Administrator that notification of the indebtedness was not actually received within a reasonable period after the date of notification. The provision in H.R. 6794 would be effective with respect to notifications of indebtedness made by the Administrator after the date of the enactment; the provision in the Senate amendment would take effect 180 days after the date of enactment.

The House recedes with an amendment providing that the provision would be effective with respect to notifications made after March 31, 1983.

MINIMUM ACTIVE-DUTY SERVICE REQUIREMENT

The Senate amendment, but neither the House bill nor H.R. 6794, would amend section 3103A of title 38, enacted last year in section 604 of Public Law 97-66, the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981, which generally provides a two-year minimum-service requirement for title 38 and other VA benefits eligibility with respect to persons who entered on active duty after September 7, 1980, to provide generally uniform minimum-service requirements—based on policies parallel to those applicable under section 3103A to title 38 and other VA benefits—for non-title 38/non-VA, Federal benefits based on active-duty service. The Senate amendment would also provide for the supersession of section 977 of title 10, which section 3103A of title 38 as so amended would replace in its entirety.

The House recedes with amendments repealing section 977 of title 10 and—in order to overcome certain misconceptions of the Office of Personnel Management regarding the legal effect of laws other than title 5 on the veterans preference provisions in title 5—clarifying the applicability of this provision to benefits under laws other than title 38, and with other technical amendments.

LIMITATIONS ON CONTRACTING OUT ACTIVITIES AT VETERANS' ADMINISTRATION HEALTH-CARE FACILITIES

Both the House bill and the Senate amendment contain provisions that would amend section 5010 of title 38, relating to the operation of VA medical facilities, to restrict the VA's ability—under OMB Circular A-76 or otherwise—to contract with private entities for the performance of activities in the agency's Department of Medicine and Surgery (DM&S). The House bill would require that all activities at a VA medical facility be carried out by Federal employees unless the Administrator, after considering the advice of the Chief Medical Director (CMD), determines that a particular VA facility is not capable of carrying out an activity with Federal employees or that contracting out an activity would enhance the quality of medical care provided to eligible veterans. The limitations in the House bill would not affect the VA's ability to enter into contracts or agreements with other Federal or State governmental entities or with nongovernmental entities for the exchange or sharing of resources. Also, these limitations would not apply to any contract in effect on May 5, 1982, or to any renewal, extension, or modification of such a contract.

The Senate amendment would declare, as the policy of the United States, that the VA shall maintain a comprehensive, nationwide health-care system to provide direct health-care services to eligible veterans and shall provide such services in the most cost-effective manner consistent with carrying out the functions of DM&S. It would preclude the VA from converting any activity at a VA health-care facility determined by the CMD to be a direct-patient care activity or an activity incident to direct care from an activity carried out by Federal employees to an activity carried out by employees of a contractor. As to activities at such facilities determined by the CMD to be neither direct-patient care activities nor those incident to direct care, the Administrator, after considering the advice of the CMD and the results of a cost-comparison study, would be authorized, in his sole discretion, to enter into contracts to convert such an activity. However, the Administrator could do so only after first determining both that the cost to the government of having the activity performed by a contractor plus the cost of the study would be at least 10 percent lower than the cost to the government of performing the activity in-house and that there would be no reduction in the quality or quantity of health-care services provided to eligible veterans as a result of the contract. The limitations on contracting out in the Senate amendment would not apply to any contract or agreement under existing contracting authorities in chapter 17 of title 38, relating to hospital, nursing-home, domiciliary, and medical care, or in certain other title 38 provisions (including section 5011, relating to sharing agreements between the VA and the Department of Defense, section 5011A, relating to the VA's contract authority in time of armed conflict, and section 5033, relating to the VA's authority to contract for specialized medical resources) and in section 686 (recently codified as section 1535) of title 31, relating to inter-agency contracting. Also, these limitations would not apply to contracts under section 4117 of title 38, relating to the VA's acquisition of scarce medical specialists, in those cases in which the CMD determines that a contract is necessary to obtain services at a VA facility that could not otherwise be provided at such a facility.

The House recedes with an amendment increasing from 10 to 15 percent the minimum cost-saving level required for certain contracting; requiring that that cost-saving level be determined over a five-year period (rather than over the duration of the contract); revising the requirement of a determination regarding the potential impact of the contract on health-care services so as to require a determination that the quantity and quality of health-care services would be maintained or enhanced as a result of the proposed contract; revising the specifications regarding the content of the cost-comparison study to require that, with respect to the cost of VA-employee performance, the study be based to the maximum extent feasible on actual VA cost-factors for the salaries and retirement and other fringe benefits for the VA employees involved (as opposed, for example, to being based on Government-wide or agency-wide experience factors for retirement benefits), and that the study take into account all costs to the government of contracting out, such as severance pay that would result from the separation of displaced VA employees and the costs of awarding and administering the contract and monitoring the contractor's performance. In addition, the provision in the compromise agreement would establish certain requirements for the Administrator to submit information relating to contracting out to the appropriate Committees of the Congress (the Veterans' Affairs and Appropriations Committees). First, the Administrator would be required, prior to the conduct of a cost-comparison study, to provide the Committees with notification of the decision to conduct the study. Second, following the completion of a cost-comparison study and the making of a decision to convert an activity to contractor performance, the Administrator would be required promptly to provide the Committees with written notice of that decision and a report containing a summary of the study on which the decision is based; certifications that the study itself is available to the Committees and that the requirements described above relating to the cost-savings differential and the impact of conversion on the quality and quantity of health-care are met by the contract; a summary of the information that supports the certification regarding the health-care impact; information—if more than 25 jobs would be affected by the contracting decision—showing the potential economic impact of the contract on the VA employees affected, the local economy, and the federal government; and information on the amount of the contractor's bid and the cost to the government of performing the activity directly and of converting it to contractor performance. Third, the Administrator would be required to submit six annual reports, by February 1 of each year, 1984 through 1989, on the extent to which DM&S activities were performed by contractors during the prior fiscal year and the actual cost savings resulting from such contracts.

The provision in the compromise agreement also contains technical amendments.

The Committees note that, in the process of considering entering into any contracts under the compromise agreement, the Administrator may, if the Administrator wishes, look for guidance to OMB Circular A-76 and the OMB "Cost Comparison Handbook" to the extent that they are consistent with the compromise agreement.

CHIROPRACTIC SERVICES

The Senate amendment, but not the House bill, would amend chapter 17 of title 38 to add a new section 630 to provide for the reimbursement (or direct payment) of reasonable charges for chiropractic services, not otherwise covered by available health insurance or other reimbursement, furnished (prior to September 30, 1986) to certain veterans with neuromusculoskeletal conditions of the spine; and would limit the amount payable for such services furnished an individual veteran to $200 per year and total VA expenditures for chiropractic services to $4 million in any fiscal year.

The Senate recedes. The House Committee Chairman has given assurances to the Senate Committee that the House Committee will conduct hearings on this legislation early next year and will also consider alternatives to ensure that the VA utilize its existing authority to provide chiropractic services to veterans.

CORRESPONDENCE TRAINING

The Senate amendment, but neither the House bill nor H.R. 6794, would provide that funds in the Veterans' Administration readjustment benefits account shall remain available for the payment of GI Bill corre-

spondence training benefits unless the Congress enacts, in a reconciliation bill pursuant to the Congressional Budget Act of 1974, Public Law 93-344, a provision amending section 1786(a)(3) of title 38 so as to restrict such availability. The Senate amendment further provides that this provision would become effective on the day after the effective date of any law enacted after August 19, 1982, that the Administrator determines is inconsistent with this provision.

The Senate recedes.

The Committees are not pressing ahead with this extraordinary provision at this point because it is not clear that it is necessary to take the provision to enactment at this time. The Committees note that they are in total agreement with the thesis underlying the Senate provision that title 38 entitlements should be terminated or otherwise altered only through legislation emanating from the authorizing committees and not through an appropriations measure, as was proposed by the House last year in passing the fiscal year 1982 HUD-Independent Agencies Appropriations Act with a rider terminating correspondence training benefits. This rider was enacted in Public Law 97-101 on December 23, 1981. On May 4, 1982, in section 5 of Public Law 97-174, the Congress enacted legislation expressly designed to supersede that rider and foreclose future such riders.

Nevertheless, on August 10, 1982, the House Appropriations Committee recommended, and on September 15 the House passed, the proposed fiscal year 1983 HUD-Independent Agencies Appropriations Act, H.R. 6956 with a comparable rider. That rider has been struck by the Senate Appropriations Committee in reporting that bill, which was passed by the Senate on September 24. (As of September 28, the status of the rider had not been resolved in the conference on H.R. 6956.)

At the time of the action by the House Appropriations Committee, it was the policy of the House Veterans' Affairs Committee to seek the termination of correspondence training benefits; both the House measure containing reconciliation savings in veterans' benefits and services for fiscal year 1983, H.R. 6956, as well as the House bill (H.R. 6782) provided for the termination of such benefits. However, that Committee expressly receded from that position in resolving differences with the Senate-passed reconciliation measure.

The Committees thus now regard this matter as having been definitively settled between them and as a matter of Congressional policy at this time. They have so informed the Appropriations Committees.

BUDGET SAVINGS PROVISION (NOT CONTAINED IN COMPROMISE AGREEMENT)

The House bill (in title III, entitled "Veterans' Budget Reconciliation Act of 1982"), but not the Senate amendment, contained various cost-saving provisions (relating to a fee for VA home loans, the period of payment of awards and increased awards of disability compensation, dependency and indemnity compensation, and pension, the effective dates of certain compensation and pension dependents' allowance reductions, the rounding-down of pension payments, the termination of pension paid to or for certain college-age students, and the termination of GI bill benefits for correspondence training). These provisions were recommended in response to the reconciliation instructions to the House Veterans' Affairs Committee in section 2(c)(8) of S. Con. Res. 92, 97th Congress, Second Session, the first budget resolution for fiscal year 1983. Following House passage of the House bill on July 30, 1982, the provisions of title III were incorporated in H.R. 6955, a reconciliation bill passed by the House on August 10, and were considered in the context of the conference on H.R. 6955, which was enacted on September 8 as Public Law 97-253, the Omnibus Budget Reconciliation Act of 1982.

The House recedes in light of the actions already taken in Public Law 97-253 by the Congress with respect to the provisions of title III of the House bill.

A document showing changes in existing law that would be made by the compromise agreement follows:

CHANGES IN EXISTING LAW MADE BY COMPROMISE AGREEMENT

Changes in Existing law made by the compromise agreement are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 10—ARMED FORCES

* * * * *

CHAPTER 49—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.
973. Duties: officers on active duty; performance of civil functions restricted.
975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense.
976. Membership in military unions, organizing of military unions, and recognition of military unions prohibited.
[977. Denial of certain benefits to persons who fail to complete at least two years of an original enlistment.]

* * * * *

[§ 977. Denial of certain benefits to persons who fail to complete at least two years of an original enlistment

[(a) Notwithstanding any other provision of law and except as provided in subsection (b), any person who originally enlists in a regular component of the armed forces on or after the date of the enactment of the Department of Defense Authorization Act, 1981, and who fails to complete at least twenty-four months of such person's period of original enlistment shall not be eligible for any right, privilege, or benefit for which persons become eligible under any Federal program by reason of serving on active duty in the armed forces if the claim for the eligibility of such person for such right, privilege, or benefit is based upon any period of service performed by such person under such enlistment.

[(b) Subsection (a) shall not apply to any person (1) who was discharged under section 1173 or chapter 61 of this title, or (2) if it is later established that such person is suffering from a disability which resulted from an injury or disease incurred in or aggravated during the period of the enlistment completed by such person and is not the result of the person's intentional misconduct and was not incurred during a period of unauthorized absence.]

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TITLE 38—UNITED STATES CODE

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PART III. READJUSTMENT AND RELATED BENEFITS

CHAPTER	Sec.
31. Training and Rehabilitation for Veterans with Service-Connected Disabilities	1500
32. Post-Vietnam Era Veterans' Educational Assistance	1601
34. Veterans' Educational Assistance.	1651
35. Survivors' and Dependents' Educational Assistance	1700
36. Administration of Educational Benefits	1770
37. Housing and Small Business Loans	1801
39. Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces	1901
41. Job Counseling, Training and Placement Service for Veterans	[200] *2000*
42. Employment and Training of Disabled and Vietnam Era Veterans.	2011
43. Veterans' Reemployment Rights.	202.

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PART I—GENERAL PROVISIONS

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CHAPTER 1—GENERAL

* * * * *

§ 101. Definitions

For the purposes of this title—

(1) * * *

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(22) The term "active duty for training" means—

(A) full-time duty in the Armed Forces performed by Reserves for training purposes;

(B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits", or (iii) at any time, for the purposes of chapter 13 of this title:

(C) in the case of members of the National Guard or Air National Guard of any State, full-time duty under section 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law; [and]

(D) duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of field training or a practice cruise under chapter 103 of title 10; and

[(D)] *(E)* authorized travel to or from such duty.

The term does not include duty performed as a temporary member of the Coast Guard Reserve.

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CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

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SUBCHAPTER IV—VETERANS OUTREACH SERVICES PROGRAM

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240. Purpose; definitions.
241. Outreach services.
242. Veterans assistance office.
243. [Veterans' representatives] *Outstationing of counseling and outreach personnel.*
244. Utilization of other agencies.
245. Report to Congress.

* * * * *

Subchapter IV—Veterans Outreach Services Program

* * * * *

§ 243. [Veterans' representatives] *Outstationing of counseling and outreach personnel*

[(a)(1) Except as otherwise provided in paragraph (4) of this subsection, the Administrator shall assign, with appropriate clerical-secretarial support, to each educational institution (as defined in section 1652(c) except for correspondence schools) where at least five hundred persons are enrolled under chapters 31, 34, 35, and 36 of this title such number of full-time veterans' representatives as will provide at least one such veterans' representative per each five hundred such persons so enrolled at each such institution; and the Administrator shall also assign to other such veterans; representatives responsiblity for carrying out the functions set forth in paragraph (3) of this subsection with respect to groups of institutions with less than five hundred such persons so enrolled, on the basis of such proportion of such veterans' representatives' time to such persons so enrolled as he deems appropriate to be adequate to perform such functions at such institutions.

[(2) In selecting and appointing veterans' representatives under this subsection, preference shall be given to veterans of the Vietnam era with experience in veterans affairs, counseling, outreach, and other related veterans' services.

[(3) The functions of such veterans' representatives shall be to—

[(A) answer all inquiries related to Veterans' Administration educational assistance and other benefits, and take all necessary action to resolve such inquiries expeditiously, especially those relating to payments of educational assistance benefits;

[(B) assure correctness and proper handling of applications, completion of certifications of attendance, and submission of all necessary information (including changes in status or program affecting payments) in support of benefit claims submitted;

[(C) maintain active liaison, communication, and cooperation with the officials of the educational institution to which assigned, in order to alert veterans to changes in law and Veterans' Administration policies or procedures;

[(D) supervise and expeditiously resolve all difficulties relating to the delivery of advance educational assistance payments authorized under this title;

[(E) coordinate Veterans' Administration matters with, and provide appropriate briefings to, all on-campus veterans' groups, working particularly closely with veterans' coordinators at educational institutions receiving veterans' cost-of-instruction payments under section 420 of the Higher Education Act of 1965, as amended (hereinafter referred to as "V.C.I. institutions");

[(F) provide necessary guidance and support to veteran-student services personnel assigned to the campus under section 1685 of this title;

[(G) where such functions are not being adequately carried out by existing programs at such institutions (i) provide appropriate motivational and other counseling to veterans (informing them of all available benefits and services, as provided for under section 241 of this title) and (ii) carry out outreach activities under this subchapter; and

[(H) carry out such other activities as may be assigned by the director of the Veterans' Administration regional office, established under section 230 of this title.

[(4) Based on the extent to which the functions set forth in paragraph (3) of this subsection are being adequately carried out at a particular educational institution or in consideration of other factors indicating the inappropriateness of assignment of veterans' representatives to a particular educational institution, the director of the appropriate Veterans' Administration regional office shall, notwithstanding the formula set forth in paragraph (1) of this subsection, either reallocate such veterans' representatives to other educational institutions in such region where he determines that such additional veterans' representatives are necessary, or, with the approval of the chief benefits officer of the Veterans' Administration, assign such veterans' representatives to carry out such functions or related activities at the regional office in question, with special responsibility for one or more than one particular educational institution.

[(5) The functions of a veterans' representative assigned under this subsection shall be carried out in such a way as to complement and not interfere with the statutory responsibilities and duties of persons carrying out veteran affairs' functions at V.C.I. institutions.

[(b) The Administrator shall establish rules and procedures to guide veterans' representatives in carrying out their functions under this section. Such rules and procedures shall contain provisions directed especially to assuring that the activities of veterans' representatives carried out under this section complement, and do not interfere with, the established responsibilities of representatives recognized by the Administrator under section 3402 of this title.]

The Administrator may station employees of the Veterans' Administration at locations other than Veterans' Administration offices, including educational institutions, to provide counseling and other assistance regarding benefits under this title to veterans and other persons eligible for benefits under this title and to provide outreach services under this subchapter.

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PART II—GENERAL BENEFITS

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CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

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Subchapter II—Wartime Disability Compensation

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§ 314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 per centum the monthly compensation shall be [$58] *$62;*

(b) if and while the disability is rated 20 per centum the monthly compensation shall be [$107] *$114;*

(c) if and while the disability is rated 30 per centum the monthly compensation shall be [$162] *$173;*

(d) if and while the disability is rated 40 per centum the monthly compensation shall be [$232] *$249;*

(e) if and while the disability is rated 50 per centum the monthly compensation shall be [$328] *$352;*

(f) if and while the disability is rated 60 per centum the monthly compensation shall be [$413] *$443;*

(g) if and while the disability is rated 70 per centum the monthly compensation shall be [$521] *$559;*

(h) if and while the disability is rated 80 per centum the monthly compensation shall be [$604] *$648;*

(i) if and while the disability is rated 90 per centum the monthly compensation shall be [$679] *$729;*

(j) if and while the disability is rated as total the monthly compensation shall be [$1,130] *$1,213;*

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be $62 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed [$1,403] *$1,506* per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by $62 per month for each such loss or loss of use, but in no event to exceed [$1,966] *$2,111* per month.

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,403] *$1,506;*

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or of both legs at a level, or with complications, preventing natural knee action with prostheses in place, or of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prostheses in place, or has suffered blindness in both eyes, having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be [$1,547] *$1,661;*

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both arms at levels, or with complications, preventing natural elbow action with prostheses in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of both eyes, *or has suffered blindness without light perception in both eyes,* the monthly compensation shall be [$1,758] *$1,888;*

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 per centum or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be [$1,966] *$2,111;*

(p) in the event the veteran's service-connected disabilities exceed the requirements

for any of the rates prescribed in this section, the Administrator may allow the next higher rate or an intermediate rate, but in no event in excess of [$1,966] *$2,111.* In the event the veteran has suffered service-connected blindness, with 5/200 visual acuity of less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 40 per centum disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear *or service-connected anatomical loss or loss of use of one hand or one foot,* the Administrator shall allow the next intermediate rate, but in no event in excess of [$1,966] *$2,111.* In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of [$1,966] *$2,111.* Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded to the nearest dollar, between the two rates concerned;

[(q)]

(r) Subject to section 3203(e) of this title, if any veteran, otherwise entitled to compensation authorized under subsection (o) of this section, at the maximum rate authorize under subsection (p) of this section, or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section, is in need of regular aid and attendance, then, in addition to such compensation—

(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of [$844] *$906*; or

(2) if the veteran, in addition to such need of regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of [$1,257] *$1,350*, in lieu of the allowance authorized in clause (1) of this subsection, if the Administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veteran's Administration or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician.

For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability;

(s) If the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 per centum or more or, (2) by reason of such veteran's service-connected disabiltiy or disabilities, is permanently housebound, then the monthly compensation shall be [$1,264] *$1,357.* For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(t)(1) If the veteran (A) is entitled to receive compensation at any rate provided for under subsections (a) through (i) of this section and compensation under subsection (k) of this section, (B) has suffered the loss or loss of use of an extremity as a result of a service-connected disability ratable at 40 per centum or more, and (C) has suffered the loss or loss of use of the paired extremity as a result of a non-service-connected disability, not the result of the veteran's own willful misconduct, that would be rated, if service-connected, at 40 per centum or more, the monthly rate of compensation payable to such veteran shall be increased by [$244] *$262.*

(2) If a veteran described in paragraph (1) of this subsection received any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such paragraph, the increase in the rate of compensation otherwise payable under this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.

§ 315. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 314 of this title, and whose disability is rated not less than 30 per centum, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

[(A) has a spouse but no child living, $69;

[(B) has a spouse and one child living, $116;

[(C) has a spouse and two children living, $153;

[(D) has a spouse and three or more children living, $192 (plus $38 for each living child in excess of three);

[(E) has no spouse but one child living, $47;

[(F) has no spouse but two children living, $86;

[(G) has no spouse but three or more children living, $123 (plus $38 for each living child in excess of three);]

(A) has a spouse but no child, $74;

(B) has a spouse and one or more children, $124 plus $40 each child in excess of one;

(C) has no spouse but one or more children, $50 plus $40 for each child in excess of one;

[(H)] *(D)* has a parent dependent upon such veteran for support, then, in addition to the above amounts, [$56] *$60* for each parent so dependent;

[(I)] *(E)* notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be [$125] *$134* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and

[(J)] *(F)* notwithstanding the other provisions of this paragraph, the monthly payable amount on account of each child who has attained the age of eighteen years and who is pursuing a course of instuction at an approved educational institution shall be [$105] *$112* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section.

* * * * *

Subchapter VI—General Compensation Provisions

* * * * *

§ 362. Clothing allowance.

The Administrator under regulations which the Administrator shall prescribe, shall pay a clothing allowance of [$305] *$327* per year to each veteran who because of disability which is compensable under the provisions of this chapter, wears or uses a prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.

* * * * *

CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

SUBCHAPTER I—GENERAL

Sec.
401. Definitions.
402. Determination of pay grade.
[403. Coverage of members of Reserve Officers' Training Corps.]
404. Special provisions relating to surviving spouses.

* * * * *

Subchapter I—General

* * * * *

[§ 403. Coverage of members of Reserve Officers' Training Corps

[For the purposes of this chapter and section 722 of this title, annual training duty to which ordered for a period of fourteen days or more by a member of a Reserve Officers' Training Corps and authorized travel to or from such a duty, shall be deemed to be active military, naval, or air service.]

* * * * *

Subchapter II—Dependency and Indemnity Compensation

* * * * *

§ Deaths entitling survivors to dependency and indemnity compensation

(a) When any veteran dies after December 31, 1956, from a service-connected or compensable disability, the Administrator shall pay dependency and indemnity compensation to such veteran's surviving spouse, children, and parents. The standards and criteria for determining whether or not a disability is service-connected shall be those applicable under chapter 11 of this title.

(b)(1) Notwithstanding the provisions of subsection (a) of this section, when any veteran dies, not as the result of the veteran's own willful misconduct, if the veteran was in receipt of *or entitled to receive* (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either (A) was continuously rated totally disabling for a period of ten or more years immediately preceding death, or (B) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty, the Administrator shall pay benefits under this chapter to the veteran's surviving spouse, if such surviving spouse was married to such veteran for not not less than two years immediately preceding such veteran's death, and to such veteran's chil-

dren, in the same manner as if the veteran's death were service-connected.

(2) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in paragraph (1) of this subsection, benefits under this chapter payable to such surviving spouse or child by virtue of this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

(3) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this subsection shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.

* * * * *

§ 411. Dependency and indemnity compensation to a surviving spouse

(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

[*Pay grade*	*Monthly rate*
E-1	$415
E-2	428
E-3	438
E-4	466
E-5	479
E-6	490
E-7	514
E-8	542
E-9	[1] 567
W-1	525
W-2	546
W-3	562
W-4	595
O-1	525
O-2	542
O-3	580
O-4	613
O-5	676
O-6	761
O-7	824
O-8	903
O-9	970
O-10	[2] 1,061]

Pay grade	*Monthly rate*
E-1	*$445*
E-2	*459*
E-3	*470*
E-4	*500*
E-5	*514*
E-6	*526*
E-7	*552*
E-8	*582*
E-9	*[1] 608*
W-1	*563*
W-2	*586*
W-3	*603*
W-4	*639*
O-1	*563*
O-2	*582*
O-3	*622*
O-4	*658*
O-5	*726*
O-6	*817*
O-7	*884*
O-8	*969*
O-9	*1,041*
O-10	*[2] 1,139*

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be [$610] *$655.*

If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be [$1,138] *$1,222.*

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran,the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by [$48] *$51 for each such child.*

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$125] *$134* is the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$62] *$66* if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

* * * * *

§ 413. Dependency and indemnity compensation to children

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compenstion shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) one child [$210] *$225*;

(2) two children, [$301] *$323*;

(3) three children, [$389] *$417*; and

(4) more than three children, [$389] *$417*, plus [$79] *$84* for each child in excess of three.

If dependency and indemnity compensation has been awarded under this section to a veteran's child or children and the entitlement to dependency and indemnity compensation under this section of an additional child of that veteran who is over the age of eighteen years and who had previously been entitled to dependency and indemnity compensation under this section before becoming eighteen years of age is later reestablished effective retroactively upon determination that such child is pursuing a course of instruction at an approved educational institution, the amount payable retroactively to the additional child is the amount equal to the difference between the total of the increased award payable under this section to the children of the deceased veteran for the retroactive period and the prior total award for such purpose for that period.

§ 414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by [$125] *$134.*

(b) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of [$210] *$225.*

(c) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of [$107] *$114.*

* * * * *

CHAPTER 19—INSURANCE

* * * * *

Subchapter III—Servicemen's Group Life Insurance

* * * * *

§ 770. Beneficiaries; payment of insurance

(a) * * *

* * * * *

(c) If, within two years after the death of the member or former member, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Administrator nor the administrative office established by the insurance company or companies pursuant to section 766(b) of this title has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Administrator be equitably entitled thereto, and such payment shall be a bar to recovery by any other person. [If, within four years after the death of the member or former member, payment has not been made pursuant to this section and no claim for payment by any person entitled under this section is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 769(d).]

* * * * *

(h) Insurance payable under this subchapter may not be paid in any amount to the extent that such amount would escheat to a State. Payment of insurance under this subchapter may not be made to the estate of the insured or the estate of any beneficiary of the insured unless it is affirmatively shown that any amount to be paid will not escheat to a State. Any amount to be paid under this subchapter shall be reduced to the extent necessary to comply with this subsection.

* * * * *

CHAPTER 23—BURIAL BENEFITS

§ 901. Flags

(a) * * *

* * * * *

(e) The Administrator shall furnish a flag to drape the casket of each deceased person who is buried in a national cemetery by viture of eligibility for burial in such cemetery under section 1002(6) of this title. After the burial, the flag shall be given to the next of kin or to such other person as the Administration considers appropriate.

§ 902. Funeral expenses

(a) [When a veteran dies who was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or in receipt of pension, the Administrator,] *In the case of a deceased veteran—*

(1) who at the time of death was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or was in receipt of pension; or

(2) who was a veteran of any war or was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, whose body is held by a State (or political subdivision of a State), and with respect to whom the Administrator determines—

(A) that there is no next of kin or other person claiming the body of the deceased veteran; and

(B) that there are not available sufficient resources to cover burial and funeral expenses,

the Administrator, in the Administrator's discretion, having due regard to the circumstances in each case, may pay a sum not exceeding $300 to such person as the Administrator prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial. For the purpose of this subsection, the term "veteran" includes a person who died during a period deemed to be active military, naval, or air service under sectin 106(c) of this title.

* * * * *

§ 903. Death in Veterans' Administration facility; lot allowance

(a) [Where death occurs] *When a veteran dies in a Veterans' Administration facility (as defined in section 601(4) of this title)* to which the deceased was properly admitted for hospital, nursing home, or domiciliary care under section 610 or 611(a) of this title *or in an institution at which the deceased veteran was receiving nursing home care under section 620 of this title at the expense of the United States at the time of death,* the Administrator—

(1) shall pay the actual cost (not to exceed $300) of the burial and funeral or, within such limits, may make contracts for such services without regard to the laws requiring advertisement for proposals for supplies and services for the Veterans' Administration; and

(2) shall, when such a death occurs in a State, transport the body to the place of burial in the same or any other State.

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

Chapter Sec.

31. Training and Rehabilitation for Veterans with Service-Connected Disabilities 1500
32. Post-Vietnam Era Veterans' Educational Assistance 1601
34. Veterans' Educational Assistance 1650
35. Survivors' and Dependents' Eduational Assistance 1700
36. Administration of Educational Benefits 1770
37. Home, Condominium, and Mobile Home Loans 1801
39. Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces 1901
41. Job Counseling, training, and Placement Service for Veterans ... [2001] *2000*
42. Employment and Training of Disabled and Vietnam Era Veterans 2011
43. Veterans' Reemployment Rights.. 2021

CHAPTER 31—TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

* * * * *

§ 1508. Allowances

(a)(1) * * *

* * * * *

(g)(1) Notwithstanding any other provision of this title and subject to the provisions of paragraph (2) of this subsection, no subsistance allowance may be paid under this section in the case of any veteran who is pursuing a rehabilitation program under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony.

(2) Paragraph (1) of this subsection shall *not* apply in the case of any veteran who is pursuing a rehabilitation program under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony. [if the Administrator determines that all the veteran's living expenses are being defrayed by a Federal, State, or local government.]

* * * * *

CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

* * * * *

Subchapter II—Eligibility; Contributions; and Matching Fund

§ 1622. Contributions; matching fund

(a) * * *

* * * * *

(d) Subject to the maximum contribution prescribed by subsection (a) of this section, a participant shall be permitted, while serving on active duty, to make a lump-sum contribution to the Fund. A lump-sum contribution to the fund by a participant shall be in addition to or in lieu of monthly deductions made from such participant's military pay and shall be considered, for purposes of paragraph (2) of section 1631(a), to have been made by monthly deductions from such participant's military pay in the amount of [$75] *$100* per month or in such lesser amount as may be specified by such participant pursuant to regulations issued jointly by the Secretary and the Administrator.

(e) Any amount transferred to the Administrator from the Secretary of a military department under an interagency agreement for the administration by the Veterans' Administration of an educational assistance program established by the Secretary under chapter 107 of title 10 may be deposited into and disbursed from the fund for the purposes of such program.

* * * * *

CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

* * * * *

Subchapter II—Eligibility and Entitlement

* * * * *

§ 1662. Time limitations for completing a program of education

Delimiting Period for Completion

(a)(1) * * *

* * * * *

(3)(A) Subject to subparagraph (C) of this paragraph and notwithstanding the provisions of paragraph (1) of this subsection, an eligible veteran who served on active duty during the Vietnam era shall be permitted to use any of such veteran's unused entitlement under section 1661 of this title for the purpose of pursuing—

(i) a program of apprenticeship or other on-job training;

(ii) a course with an approved vocational objective; or

(iii) a program of secondary education, if the veteran does not have a secondary school diploma (or an equivalency certificate).

(B) Upon completion of a program or course pursued by virtue of eligibility provided by this paragraph, the Administrator shall provide the veteran with such employment counseling as may be necessary to assist the veteran in obtaining employment consistent with the veteran's abilities, aptitudes, and interests.

(C)(i) Educational assistance [may] *shall* be provided a veteran for pursuit of a program or course described in clause (i) or (ii) of subparagraph (A) of this paragraph using eligibility provided by this paragraph [only if the veteran has been determined by the Administrator to be in need of such a program or course in order to achieve a suitable occupational or vocational objective] *unless the Administrator determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes.* Any such determination shall be made in accordance with regulations which the Administrator shall prescribe.

(ii) Educational assistance provided a veteran for pursuit of a program described in clause (iii) of subparagraph (A) of this paragraph using eligibility provided by this paragraph shall be provided at the rate determined under section 1691(b)(2) of this title.

(D) Educational assistance may not be provided by virtue of this paragraph after December 31, [1983] *1984.*

* * * * *

Subchapter III—Enrollment

* * * * *

§ 1673. Disapproval of enrollment in certain courses

(a) [(1)] The Administrator shall not approve the enrollment of an eligible veteran in—

[(A)] *(1)* any bartending course or personality development course;

[(B)] *(2)* any [course with a vocational objective, unless the eligible veteran or the institution offering such course presents evidence satisfactory to the Administrator showing that at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment for an average of ten hours a week in an occupational category for which the course was designed to provide training;] *sales or sales management course which does not provide specialized training within a specific vocational field;*

[(C)] *(3)* any type of course which the Administrator finds to be avocational or recreational in character (or the advertising for which the Administrator finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation; or

[(D)] *(4)* any independent study program except one leading to a standard college degree.

[(2)(A) For the purposes of clause (B) of paragraph (1) of this subsection in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

[(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in the institution during the two-year period preceding such year did not exceed 35 percent of the total enrollment in such institution during such period and the course has met the requirements of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

[(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on an educational institution because of the small proportion of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in such institution.]

(b) The Administrator shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

(c) The Administrator shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Administrator may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

(d) [The] *(1) Except as provided in paragraph (2) of this subsection, the* Administrator shall not approve the enrollment of any eligible veteran, not already enrolled, in any course [(other than one offered pursuant to subchapter V any farm cooperative training course, or any course described in section 1789(b)(6) of this title)] for any period during which the Administrator finds that more than 85 per centum of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Veterans' Administration under this title. The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 31, 32, 35, or 36 of this title who are enrolled in such institution equals 35 per centum or less, or such other per centum as the Administrator prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Administrator may apply the provisions of this subsection with respect to any course in which the Administrator has reason to believe that the enrollment of such veterans and persons may be in excess of 85 per centum of the total student enrollment in such course.

(2) Paragraph (1) of this subsection—

(A) does not (except as provided in section 1691(c) of this title) apply with respect to the enrollment of a veteran in a course offered pursuant to subchapter V of this chapter;

(B) does not apply with respect to the enrollment of a veteran in a farm cooperative training course; and

(C) does not apply with respect to the enrollment of a veteran in a course described in section 1789(b)(6) of this title.

* * * * *

Subchapter IV—Payments to Eligible Veterans; Veteran-Student Services

* * * * *

§ 1682. Computation of educational assistance allowances

(a)(1) Except as provided in subsection (b), [or (c)] *(c), or (g)* of this section, or section, 1787 of this title, while pursuing a program of education under this chapter of half-time or more, each eligible veteran shall be paid the monthly educational assistance allowance set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the applicable type of program as shown in column I:

* * * * *

(e) The educational assistance allowance of an eligible veteran pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (b) of this section. If the entire training is to be pursued by independent study, [entitlement shall be charged at one-half of the full-time institutional rate] *the amount of such veteran's entitlement to educational assistance under this chapter shall be charged in accordance with the rate at which the veteran is pursuing the independent study program but at not more than the rate at which such entitlement is charged for pursuit of such program on less than a half-time basis.* In any case in which independent study is combined with resident training, the educational assistance allowance shall be paid at the applicable institutional rate based on the total training time determined by adding the number of semester hours (or the equivalent thereof) of resident training to the number of semester hours (or the equivalent thereof) of independent study that do not exceed the number of semester hours (or the equivalent thereof) required for the less than half-time institutional rate, as determined by the Administrator, for resident training. A veteran's entitlement shall be charged for a combination of independent study and resident training on the basis of the applicable monthly training time rate as determined under section 1788 of this title.

* * * * *

(g)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance allowance paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and to cover the cost of necessary supplies, books, and equipment, or the applicable monthly educational assistance allowance prescribed for a veteran with no dependents in subsection (a)(1) or (c)(2) of this section or section 1787(b)(1) of this title, whichever is the lesser. *The amount of the educational assistance allowance payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program.*

(2) Paragraph (1) of this subsection shall *not* apply in the case of any veteran who is pursuing a program of education under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony [if the Administrator determines that all the veteran's living expenses are being defrayed by a Federal, State, or local government].

* * * * *

Subchapter V—Special Assistance for the Educationally Disadvantaged

* * * * *

§ 1691. Elementary and secondary education and preparatory educational assistance

(a) * * *

* * * * *

(c) The provisions of section 1673(d)*(1)* of this title, relating to the disapproval of enrollment in certain courses, shall be applicable to the enrollment of an eligible veteran who, while serving on active duty, enrolls in one or more courses under this subchapter for the purpose of attaining a secondary school diploma (or an equivalency certificate).

* * * * *

CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

* * * * *

Subchapter III—Program of Education

* * * * *

Subchapter III—Program of Education

* * * * *

§ 1723. Disapproval of enrollment in certain courses

courses

(a) [(1)] The Administrator shall not approve the enrollment of an eligible person in—

[(A)] *(1)* any bartending course or personality development course;

[(B)] *(2)* any [course with a vocational objective, unless the eligible person or the institution offering such course presents evidence satisfactory to the Administrator showing that at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment for an average of ten hours a week in an occupational category for which the course was designed to provide training;] *sales or sales management course which does not provide specialized training within a specific vocational field;*

[(C)] *(3)* any type of course which the Administrator finds to be avocational or recreational in character (or the advertising for which the Administrator finds contains significant avocational or recreational themes) unless the eligible person submits justification showing that the course will be of bona fide use in the pursuit of the person's present or contemplated business or occupation; or

[(D)] *(4)* any independent study program except one leading to a standard college degree.

[(2)(A) For the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

[(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans (as defined in section 1652(a)(1) of this title) and eligible persons enrolled in the institution during the two-year period preceding such year did not exceed 35 percent of the total enrollment in such institution during such period and the course has met the requirements of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

[(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on an educational institution because of the small proportion of eligible veterans (as defined in section 1652(a)(1) of this title) and eligible persons enrolled in such institution.]

* * * * *

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

* * * * *

§ 1780. Payment of educational assistance or subsistence allowances

Period for Which Payment May Be Made

(a) Payment of educational assistance or subsistence allowances to eligible veterans or eligible persons pursuing a program of education or training, other than a program by correspondence, in an educational institution under chapter 31, 34, or 35 of this title shall be paid as provided in this section and, as applicable, in section [1504,] *1508,* 1682, 1691, or 1732 of this title. Such payments shall be paid only for the period of such veterans' or persons' enrollment in, and pursuit of, such program, but no amount shall be paid—

(1) to any eligible veteran or eligible person enrolled in a course which leads to a standard college degree for any period when such veteran or person is not pursuing such veteran's or person's course in accordance with the regularly established policies and regulations of the educational institution, with the provisions of such regulations as may be prescribed by the Administrator pursuant to subsection (g) of this section, and with the requirements of this chapter or of chapter 34 or 35 of this title, but payment may be made for an actual period of pursuit of one or more unit subjects pursued for a period of time shorter than the enrollment period at the educational institution;

(2) to any eligible veteran or eligible person enrolled in a course which does not lead to a standard college degree (excluding programs of apprenticeship and programs of other on-job training authorized by section 1787 of this title) for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends or legal holidays (or customary vacation periods connected therewith) established by Federal or State law (or in the case of the Republic of the Philippines, Philippine law) during which the institution is not regularly in session and periods (not to exceed five days in any twelve-month period) when the institution is not in session because of teacher conferences or teacher training sessions;

(3) to any eligible veteran or person for auditing a course;

(4) to any eligible veteran or person for a course for which the grade assigned is not used in computing the requirements for graduation including a course from which the student withdraws unless the Administrator finds there are mitigating circumstances; *or*

(5) to any eligible veteran or person for pursuit of a program of education exclusively by correspondence as authorized under section 1786 of this title or for the pursuit of a correspondence portion of a combination correspondence-residence course leading to a vocational objective where the normal period of time required to complete such correspondence course or portion is less than 6 months. A certification as to the normal period of time required to complete the course must be made to the Administrator by the educational institution[; or].

[(6) to any eligible veteran or person incarcerated in a Federal, State, or local prison or jail for any course (A) to the extent the tuition and fees of the veteran or person are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program, or (B) for which there are no tuition and fees.]

Notwithstanding the foregoing, the Administrator may, subject to such regulations as the Administrator shall prescribe, continue to pay allowances to eligible veterans and eligible persons enrolled in courses set forth in clause (1) or (2) of this subsection—

(A) during periods when the schools are temporarily closed under an established policy based upon an Executive order of the President or due to an emergency situation, and such periods shall not be counted as absences for the purposes of clause (2);

(B) during periods between consecutive school terms where such veterans or persons transfer from one approved educational institution to another approved educational institution for the purpose of enrolling in and pursuing a similar course at the second institution if the period between such consecutive terms does not exceed 30 days, but such periods shall be counted as absences for the purposes of clause (2); or

(C) during periods between a semester, term, or quarter where the educational institution certifies the enrollment of the eligible veteran or eligible person on an individual semester, term, or quarter basis if the interval between such periods does not exceed 1 full calendar month, but such periods shall be counted as absences for the purposes of clause (2).

* * * * *

§ 1790. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements

Overcharges by Educational Institutions

(a) * * *

* * * * *

Discontinuance of Allowances

(b)(1) The Administrator may discontinue the educational assistance allowance of any eligible veteran or eligible person if the Administrator finds that the program of education or any course in which the veteran or person is enrolled fails to meet any of the requirements of this chapter or chapter 34 or 35 of this title, or if the Administrator finds that the educational institution offering such program or course has violated any provisions of this chapter or chapter 34 or 35, or fails to meet any of the requirements of such chapters.

(2) [Any] *Except as provided in paragraph (3) of this subsection, any* action by the Administrator under paragraph (1) of this subsection to discontinue (including to suspend) assistance provided to any eligible veteran or eligible person under this chapter or chapter 31, 32, 34, or 35 of this title shall be based upon evidence that the veteran or eligible person is not or was not entitled to such assistance. Whenever the Administrator so discontinues any such assistance, the Administrator shall concurrently provide written notice to such veteran or person of such discontinuance and that such veteran or person is entitled thereafter to a statement of the reasons for such action and an opportunity to be heard thereon.

(3)(A) The Administrator may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the Administrator has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter 32, 34, or 35 of this title.

(B)(i) Action may be taken under subparagraph (A) of this paragraph only after—

(I) the Administrator provides to the State approving agency concerned and the educational institution concerned written notice of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements;

(II) such institution refuses to take corrective action or does not within 60 days after such notice (or within such longer period as the Administrator determines is reasonable and appropriate) take corrective action; and

(III) the Administrator, not less than 30 days before taking action under such subparagraph, provides to each eligible veteran and eligible person already enrolled in such course written notice of the Administrator's intent to take such action (and the reasons therefor) unless such corrective action is taken within such 60 days (or within such longer period as the Administrator has determined is reasonable and appropriate), and of the date on which the Administrator intends to take action under such subparagraph.

Examination of Records

(c) Notwithstanding any other provision of law, the records and accounts of educational institutions pertaining to eligible veterans or eligible persons who received educational assistance under this chapter or chapter 31, 32, 34, or 35 of this title, as well as the records of other students which the Administrator determines necessary to ascertain institutional compliance with the requirements of such chapters, shall be available for examination by duly authorized representatives of the Government.

False or Misleading Statements

(d) Whenever the Administrator finds that an educational institution has willfully submitted a false or misleading claim, or that a veteran or person, with the complicity of an educational institution, has submitted such a claim, the Administrator shall make a complete report of the facts of the case to the appropriate State approving agency and, where deemed advisable, to the

Attorney General of the United States for appropriate action.

* * * * *

Subchapter III—Education Loans to Eligible Veterans and Eligible Persons

§ 1798. Eligibility for loans; amount and conditions of loans; interest rate on loans

(a)(1) * * *

* * * * *

(e)(1) Except as provided in paragraph (2) of this subsection, whenever the Administrator determines that a default has occurred on any loan made under this subchapter, the Administrator shall declare an overpayment, and such overpayment shall be recovered from the veteran or person concerned in the same manner as any other debt due the United States.

(2) If a veteran or person who has received a loan under this section dies or becomes permanently and totally disabled, then the Administrator shall discharge the veteran's or person's liability on such loan by repaying the amount owed on such loan.

(3) The Administrator shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the current results of the continuing review required by subsection (g)(1) of this section to be made regarding the default experience with respect to loans made under this section and any steps being taken to reduce default rates on such loans. Such report shall include [in maximum feasible detail]—

(A) data regarding the cumulative default experience, and the default experience during the preceding fiscal year, with respect to such loans; *and*

[(B) data regarding the default experience and default rate at each educational institution (i) with respect to loans made under this section in connection with accelerated payments under section 1682A of this title, and (ii) with respect to other loans made under this section; and

[(C) comparisons of the collective default experience and default rates with respect to such loans at all such institutions to the default experience and default rates with respect to such loans at each such institution.]

(B) data regarding the default experience and default rate with respect to (i) loans made under this section in connection with accelerated payments under section 1682A of this title, and (ii) other loans made under this section.

* * * * *

CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

* * * * *

SUBCHAPTER II—LOANS

1810. Purchase or construction of homes.
1811. Direct loan to veterans.
1815. Insurance of loans.
1816. Procedure on default.
1817. Release from liability under guaranty.
1818. Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975.
1819. Loans to purchase [mobile] *manufactured* homes and [mobile home] lots.

* * * * *

Subchapter I—General

* * * * *

§ 1803. Basic provisions relating to loan guaranty.

(a)(1) * * *

* * * * *

(c)(1) * * *

* * * * *

(3) This section shall not be construed to prohibit a veteran from paying to a lender any reasonable discount required by such lender, when the proceeds from the loan are to be [used:] *used*—

(A) to refinance indebtedness pursuant to clause (5) or (8) of section 1810(a) of this title or section 1819(a)(1)(F) of this title;

(B) to repair, alter, or improve a farm residence or other dwelling pursuant to clauses (4) and (7) of section 1810(a) of this title;

(C) to construct a dwelling or farm residence on land already owned or to be acquired by the veteran except where the land is directly or indirectly acquired from a builder or developer who has contracted to construct such dwelling for the veteran; [or]

(D) to purchase a dwelling from a class of sellers which the Administrator determines are legally precluded under all circumstances from paying such a discount if the best interest of the veteran would be so served [.]; *or*

(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 1819(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance such indebtedness.

* * * * *

§ 1811. Direct loans to veterans

(a) * * *

* * * * *

(c) No loan may be made under this section to a veteran unless the veteran shows to the satisfaction of the Administrator that—

(1) the veteran is unable to obtain from a private lender in such housing credit shortage area, at an interest rate not in excess of the rate authorized for guaranteed home loans or [mobile] *manufactured* home loans, as appropriate, a loan for such purpose for which the veteran is qualified under section 1810 or 1819 of this title, as appropriate; and

(2) the veteran is unable to obtain a loan for such purpose from the Secretary of Agriculture under sections 1000-1029 of title 7 or under sections 1471-1483 of title 42.

(d)(1) Loans made under this section shall bear interest at a rate determined by the Administrator, not to exceed the rate authorized for guaranteed home loans or [mobile] *manufactured home* loans, as appropriate, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as may be applicable.

* * * * *

Subchapter II—Loans

* * * * *

§ 1819. Loans to purchase [mobile] *manufactured* homes and [mobile home] lots

(a)(1) Notwithstanding any other provision of this chapter, any loan to a veteran eligible for the housing loan benefits of this chapter, if made pursuant to the provisions of this section, may be guaranteed if such loan is for [one of the following] *the purpose or* purposes *specified in one of the following clauses*:

(A) To purchase a lot on which to place a [mobile] *manufactured* home already owned by the veteran.

(B) To purchase a single-wide [mobile] *manufactured* home.

(C) To purchase a single-wide [mobile] *manufactured* home and a lot on which to place such home.

(D) To purchase a double-wide [mobile] *manufactured* home.

(E) To purchase a double-wide [mobile] *manufactured* home and a lot on which to place such home.

(F) To refinance in accordance with paragraph (4) of this subsection an existing loan guaranteed, insured, or made under this section.

(G) To refinance in accordance with paragraph (5) of this subsection an existing loan that was made for the purchase of, and that is secured by, a manufactured home and to purchase a lot on which such manufactured home is or will be placed.

(2) A loan for any of the purposes described in paragraph (1) of this subsection *(other than the refinancing under clause (F) of such paragraph of an existing loan)* may include an amount determined by the Administrator to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the costs of installing utility connections and sanitary facilities, of paving, and of constructing a suitable pad for the [mobile] *manufactured* home.

(3) Any loan made for the purposes described in clause [(C) or (E)] *(C), (E), or (G)* of paragraph (1) of this subsection shall be considered as part of one loan. The transaction may be evidenced by a single loan instrument or by separate loan instruments for (A) that portion of the loan which finances the purchase of the [mobile] *manufactured* home, and (B) that portion of the loan which finances the purchase of the lot and the necessary preparation of such lot.

(4)(A) For a loan to be guaranteed for the purpose specified in clause (F) of paragraph (1) of this subsection—

(i) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

(ii) the loan must be secured by the same [mobile] *manufactured* home or [mobile-home] *manufactured-home* lot, or [mobile] *manufactured* home and [mobile-home] *manufactured-home* lot, as was the loan being refinanced and such [mobile] *manufactured* home (or a [mobile] *manufactured* home on such lot) must be owned and occupied by the veteran as such veteran's home;

(iii) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan;

(iv) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced; and

(v) the term of the loan may not exceed the original term of the loan being refinanced.

(B) A loan to a veteran may be guaranteed by the Veterans' Administration under this chapter for the purpose specified in clause (F) of paragraph (1) of this subsection without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 1802(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(C) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan previously guaranteed, insured, or made under this section, such surviving spouse shall, only for the purpose specified in clause (F) of paragraph

(1) of this subsection, be deemed to be a veteran eligible for benefits under this chapter.

(5)(A) For a loan to be guaranteed for the purpose specified in clause (G) of paragraph (1) of this subsection—

(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran as such veteran's home; and

(ii) the amount of the loan may not exceed an amount equal to the sum of—

(I) the purchase price of the lot,

(II) the amount (if any) determined by the Administrator to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

(III) the balance of the loan being refinanced, and

(IV) such closing costs (including any discount permitted pursuant to section 1803(c)(3)(E) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan.

(B) When a loan is made to a veteran for the purpose specified in paragraph (1)(G) of this subsection and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Veterans' Administration under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such portion of such loan. For the purposes of section 1802(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(b)(1) Use of entitlement under this section for the purchase of a [mobile] *manufactured* home unit shall preclude the use of remaining entitlement for the purchase of an additional [mobile] *manufactured* home unit until the unit which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

(2) The Administrator shall restore entitlement to all housing loan benefits under this chapter for the veteran when the conditions prescribed in section 1802(b) of this title have been met.

(c)(1) Loans for any of the purposes authorized by subsection (a) of this section shall be submitted to the Administrator for approval prior to the closing of the loan, except that the Administrator may exempt any lender of a class listed in section 1802(d) of this title from compliance with such prior approval requirement if the Administrator determines that the experience of such lender or class of lenders in [mobile] *manufactured* home financing warrants such exemption.

(2) Upon determining that a loan submitted for prior approval is eligible for guaranty under this section, the Administrator shall issue a commitment to guarantee such loan and shall thereafter guarantee the loan when made if such loan qualifies therefor in all respects.

(3) The Administrator's guaranty may not exceed the lesser of 50 per centum of the loan amount or the maximum loan guaranty entitlement available, not to exceed $20,000. Payment of a claim under such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Administrator. In any such accounting the Administrator shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Administrator may establish, and the Administrator shall allow the holder of the loan to charge against the liquidation or resale proceeds, accrued interest from the cutoff date established to such further date as the Administrator may determine and such costs and expenses as the Administrator determines to be reasonable and proper. The liability of the United States under the guaranty provided for by this section shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(4) The amount of guaranty entitlement available to a veteran under this section shall not be more than $20,000, less the amount of any such entitlement as may have been used under this section. Use of entitlement under section 1810 or 1811 of this title shall reduce entitlement available for use under this section to the same extent that entitlement available under such section 1810 is reduced below $20,000.

(d)(1) The maturity of any loan guaranteed under this section shall not be more than—

(A) fifteen years and thirty-two days, in the case of a loan for the purchase of a lot;

(B) twenty years and thirty-two days, in the case of loan for the purchase of—

(i) a single-wide [mobile] *manufactured* home; or

(ii) a single-wide [mobile] *manufactured* home and a lot;

(C) twenty-three years and thirty-two days, in the case of a loan for the purchase of a double-wide [mobile] *manufactured* home; or

(D) twenty-five years and thirty-two days, in the case of a loan for the purchase of a double-wide [mobile] *manufactured* home and a lot.

(2) Nothing in paragraph (1) of this subsection shall preclude the Administrator, under regulations which the Administrator shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, to a reasonable extension of the term of such loan, or to a reasonable reamortization of such loan.

(e) No loan shall be guaranteed under this section unless—

(1) the loan is repayable in approximately equal monthly installments;

(2) the terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, taking into account the purpose of this program to make available lower cost housing to low and lower income veterans, especially those who have been recently discharged or released from active military, naval, or air service, who may not have previously established credit ratings;

(3) the loan is secured by a first lien on the [mobile] *manufactured* home purchased with the proceeds of the loan and on any lot acquired or improved with the proceeds of the loan;

(4) the amount of the loan to be paid by the veteran is not in excess of the amount determined to be reasonable, based upon—

(A) with respect to any portion of the loan to purchase a new [mobile] *manufactured* home, such cost factors as the Administrator considers proper to take into account;

(B) with respect to any portion of the loan to purchase a used [mobile] *manufactured* home, the reasonable value of the property, as determined by the Administrator;

(C) with respect to any portion of the loan to purchase a lot, the reasonable value of such lot, as determined by the Administrator; and

(D) with respect to any portion of the loan to cover the cost of necessary site preparation, an appropriate amount, as determined by the Administrator;

(5) the veteran certifies, in such form as the Administrator shall prescribe, that the veteran will personally occupy the property as the veteran's home;

(6) the [mobile] *manufactured* home is or will be placed on a site which meets specifications which the Administrator shall establish by regulation; and

(7) the interest rate to be charged on the loan does not exceed the permissible rate established by the Administrator.

(f) The Administrator shall establish such rate of interest for [mobile] *manufactured* home loans and [mobile] *manufactured* home lot loans as the Administrator determines to be necessary in order to assure a reasonable supply of [mobile] *manufactured* home loan financing for veterans under this section.

(g) The Administrator shall promulgate such regulations as the Administrator determines to be necessary or appropriate in order to fully implement the provisions of this section, and such regulations may specify which provisions in other sections of this chapter the Administrator determines should be applicable to loans guaranteed or made under this section. The Administrator shall have such powers and responsibilities in respect to matters arising under this section as the Administrator has in respect to loans made or guaranteed or under other sections of this chapter.

(h)(1) No loan for the purchase of a [mobile] *manufactured* home shall be guaranteed under this section unless the [mobile] *manufactured* home and lot, if any, meet or exceed standards for planning, construction, and general acceptability as prescribed by the Administrator and no loan for the purchase of a lot on which to place a [mobile] *manufactured* home owned by a veteran shall be guaranteed under this section unless the lot meets such standards prescribed for [mobile] *manufactured* home lots. Such standards shall be designed to encourage the maintenance and development of sites for [mobile] *manufactured* homes which will be attractive residential areas and which will be free from, and not substantially contribute to, adverse scenic or environmental conditions.

(2)(A) For the purpose of assuring compliance with the standards prescribed under paragraph (1) of this subsection, the Administrator shall from time to time inspect the manufacturing process of manufacturers of [mobile] *manufactured* homes sold to veterans utilizing assistance under this chapter. For the purpose stated in the preceding sentence and for the additional purpose of monitoring safety factors involved in the installation of [mobile] *manufactured* homes purchased through the utilization of assistance under this chapter, the Administrator shall from time to time conduct random onsite inspections of [mobile] *manufactured* homes purchased through the utilization of such assistance.

(B) The Administrator may, with the agreement of the Secretary of Housing and Urban Development, delegate to the Secretary of Housing and Urban Development the duty of the Administrator under subparagraph (A) of this paragraph to inspect the manufacturing process of manufacturers of [mobile] *manufactured* homes, but any such delegation shall be subject to an agreement that the Secretary of Housing and Urban Development, upon the request of the Administrator, shall promptly provide the Administrator with the complete results of any inspection made by the Secretary pursuant to such delegation. The Administrator shall have the right to withdraw

any delegation under the preceding sentence at any time and in whole or in part.

(i) The Administrator shall require the manufacturer to become a warrantor of any new [mobile] *manufactured* home which is approved for purchase with financing through the assistance of this chapter and to furnish to the purchaser a written warranty in such form as the Administrator shall require. Such warranty shall include (1) a specific statement that the [mobile] *manufactured* home meets the standards prescribed by the Administrator pursuant to the provisions of subsection (h) of this section; and (2) a provision that the warrantor's liability to the purchaser or owner is limited under the warranty to instances of substantial nonconformity to such standards which become evident within one year from date of purchase and as to which the purchaser or owner gives written notice to the warrantor not later than ten days after the end of the warranty period. The warranty prescribed herein shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument and shall so provide in the warranty document.

(j) Subject to notice and opportunity for a hearing, the Administrator is authorized to deny guaranteed or direct loan financing in the case of [mobile] *manufactured* homes constructed by any manufacturer who refuses to permit the inspections provided for in subsection (h) of this section; or in the case of [mobile] *manufactured* homes which are determined by the Administrator not to conform to the aforesaid standards; or where the manufacturer of [mobile] *manufactured* homes fails or is unable to discharge the manufacturer's obligations under the warranty.

(k) Subject to notice and opportunity for a hearing, the Administrator may refuse to approve as acceptable any site in a [mobile] *manufactured* home park or subdivision owned or operated by any person whose rental or sale methods, procedures, requirements, or practices are determined by the Administrator to be unfair or prejudicial to veterans renting or purchasing such sites. The Administrator may also refuse to guarantee or make direct loans for veterans to purchase [mobile] *manufactured* homes offered for sale by any dealer if substantial deficiencies have been discovered in such homes, or if the Administrator determines that there has been a failure or indicated inability of the dealer to discharge contractual liabilites to veterans, or that the type of contract of sale or methods, procedures, or practices pursued by the dealer in the marketing of such properties have been unfair or prejudicial to veterans purchasers.

(l) The Administrator's annual report to Congress shall, beginning 12 months following the date of enactment of the Veterans' Housing Act of 1970, include a report on operations under this section, including the results of inspections required by subsection (h) of this section, experience with compliance with the warranty required by subsection (i) of this section, and the experience regarding defaults and foreclosures.

(m) The provisions of section 1804(d) and 1821 of this chapter shall be fully applicable to lenders making guaranteed [mobile] *manufactured* home loans and [mobile] *manufactured* home lot loans and holders of such loans.

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CHAPTER 41—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS

Sec.
2000. Findings.
2001. Definitions.
2002. Purpose.
2002A. Assistant Secretary of Labor for Veterans' Employment.
[2003. Assignment of veterans' employment representative.]
2003. State and Assistant State Directors for Veterans' Employment.
2003A. Disabled veterans' outreach program.
2004. Employees of local offices.
2005. Cooperation of Federal agencies.
2006. Estimate of funds for administration; authorization of appropriations.
2007. Administrative controls; annual report.
2008. Cooperation and coordination with the Veterans' Administration.
2009. National veterans' employment and training programs.
2010. Secretary of Labor's Committee on Veterans' Employment.

§ 2000. Findings

The Congress makes the following findings:

(1) As long as unemployment and underemployment continue as serious problems among disabled veterans and Vietnam-era veterans, alleviating unemployment and underemployment among such veterans is a national responsibility.

(2) Because of the special nature of employment and training needs of such veterans and the national responsibility to meet those needs, policies and programs to increase opportunities for such veterans to obtain employment, job training, counseling, and job placement services and assistance in securing advancement in employment should be effectively and vigorously implemented by the Secretary of Labor and such implementation should be accomplished through the Assistant Secretary of Labor for Veterans' Employment.

* * * * *

§ 2002. Purpose.

The Congress declares as its intent and purpose that there shall be an effective (1) job and job training counseling service program, (2) employment placement service program, and (3) job training placement service program for eligible veteran and eligible persons and that, to this end policies *and regulations* shall be promulgated and administered by an Assistant Secretary of Labor for Veterans' Employment, established by section 2002A of this title, through a Veterans' Employment Service within the Department of Labor, so as to provide such veterans and persons the maximum of employment and training opportunities, *with priority given to the needs of disabled veterans and veterans of the Vietnam era,* though existing programs, coordination and merger of programs and implementation of new programs.

§ 2002A. Assistant Secretary of Labor for Veterans' Employment

There is established within the Department of Labor an Assistant Secretary of Labor for Veterans' Employment, appointed by the President by and with the advice and consent of the Senate, who shall be the principal advisor to the Secretary of Labor with respect to the formulation and implementation of all departmental policies and procedures to carry out (1) the purposes of this chapter, chapter 42, and chapter 43 of this title, and (2) all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans. *The employees of the Department of Labor administering chapter 43 of this title shall be administratively and functionally responsible to the Assistant Secretary of Labor for Veterans' Employment.*

[§ 2003. Assignment of veterans' employment representative

[The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service to serve as the veterans' employment representative (and shall assign full-time clerical support to each such representative), and shall further assign to each State one assistant veterans' employment representative per each 250,000 veterans and eligible persons of the State veterans population, and such additional assistant veterans' employment representatives as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, to be necessary to assist the veterans' employment representative to carry out effectively in that State the purposes of this chapter. Each veterans' employment representative and assistant veterans' employment representative shall be an eligible veteran who at the time of appointment shall have been a bona fide resident of the State for at least two years and who shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 of subchapter III of chapter 53 of such title, relating to classification and general schedule pay rates. Each such veterans' employment representative and assistant veterans' employment representative shall be attached to the staff of the public employment service in the State to which they have been assigned. They shall be administratively responsible to the Secretary of Labor for the execution of the Secretary's veterans' and eligible persons' counseling and placement policies through the public employment service system and in cooperation with employment and training programs administered by the Secretary or by prime sponsors under the Comprehensive Employment and Training Act in the State. In cooperation with the public employment service system staff and the staffs of each such other program in the State, the veterans' employment representative and such representative's assistants shall—]

§ 2003. State and Assistant State Directors for Veterans' Employment

(a) The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service to serve as the State Director for Veterans' Employment, and shall assign full-time Federal clerical support to each such Director. The Secretary shall also assign to each State one Assistant State Director for Veterans' Employment per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant State Directors for Veterans' Employment as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, to be necessary to assist the State Director for Veterans' Employment to carry out effectively in that State the purposes of this chapter. Full-time Federal clerical support personnel assigned to State Directors for Veterans' Employment shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

(b)(1) Each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment (A) shall be an el-

igible veteran who at the time of appointment has been a bona fide resident of the State for at least two years, and (B) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

(2) Each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment shall be attached to the public employment service system of the State to which they are assigned. They shall be administratively responsible to the Secretary of Labor for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the Secretary, by grantees of Federal or federally funded employment and training programs in the State, or directly by the State.

(c) In cooperation with the staff of the public employment service system and the staffs of each such other program in the State, the State Director for Veterans' Employment and Assistant State Directors for Veterans' Employment shall—

(1) be functionally responsible for the supervision of the registration of eligible veterans and eligible persons in local employment offices for suitable types of employment and training and for counseling and placement of eligible veterans and eligible persons in employment and job training programs;

(2) engage in job development and job advancement activities for eligible veterans and eligible persons, including maximum coordination with appropriate officials of the Veterans' Administration in that agency's carrying out of its responsibilities under subchapter IV of chapter 3 of this title and in the conduct of job fairs, job marts, and other special programs to match eligible veterans and eligible persons with appropriate job and job training opportunities;

(3) assist in securing and maintaining current information as to the various types of available employment and training opportunities, including maximum use of electronic data processing and telecommunications systems and the matching of an eligible veteran's or an eligible person's particular qualifications with an available job or on-job training or apprenticeship opportunity which is commensurate with those qualifications;

(4) promote the interest of employers and labor unions in employing eligible veterans and eligible persons and in conducting on-job training and apprenticeship programs for such veterans and persons;

(5) maintain regular contact with employers, labor unions, training programs and veterans' organizations with a view to keeping them advised of eligible veterans and eligible persons available for employment and training and to keeping eligible veterans and eligible persons advised of opportunities for employment and training;

(6) promote *and facilitate* the participation of veterans in [Comprehensive Employment and Training Act] *Federal and federally funded employment and training* programs and *directly* monitor the implementation and operation of [Comprehensive Employment and Training Act] *such* programs to [assure] *ensure* that the eligible veterans, [disabled veterans, and veterans of the Vietnam era receive *such* special consideration when required; and] *veterans of the Vietnam era, disabled veterans, and eligible persons receive such priority or other special consideration in the provision of services as is required by law or regulation;*

(7) assist in every possible way in improving working conditions and the advancement of employment of eligible veterans and eligible persons[.]*;*

(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2010 of this title;

(9) be responsible for ensuring that complaints of discrimination filed under such section are resolved in a timely fashion;

(10) working closely with appropriate Veterans Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, cooperate with employers to identify disabled veterans who have completed or are participating in a vocational rehabilitation training program under such chapter and who are in need of employment;

(11) cooperate with the staff of programs operated under section 612A of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; and

(12) when requested by a Federal or State agency or a private employer, assist such agency or employer in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance the employability of disabled veterans.

§ 2003A. Disabled veterans' outreach program

(a)(1) The Secretary of Labor, *acting through the Assistant Secretary for Veterans' Employment,* shall make available [to] *for use in* each State, directly or by grant or contract, such funds as may be necessary to support a disabled veterans' outreach program designed to meet the employment needs of veterans, especially disabled veterans of the Vietnam era.

(2) Funds provided [to] *for use in* a State under this subsection shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State. Each such specialist shall be a veteran. Preference shall be given in the appointment of such specialists to disabled veterans of the Vietnam era. If the Secretary finds that a disabled veteran of the Vietnam era is not available for any such appointment, preference for such appointment shall be given to other disabled veterans. If the Secretary finds that no disabled veteran is available for such appointment, such appointment may be given any veteran. Each such specialist shall be compensated at a rate not less than the rate prescribed for an entry level professional in the State government of the State concerned.

(3) The Secretary, *acting through the Assistant Secretary of Labor for Veterans' Employment,* shall also make available [to] *for use in* the States such funds, in addition to those made available to carry out paragraphs (1) and (2) of this subsection, as may be necessary to support the reasonable expenses of such specialists for training, travel, supplies, and fringe benefits.

(4) Specialists appointed pursuant to paragraph (2) of this subsection shall be in addition to and shall not supplant employees assigned to local employment service offices pursuant to section 2004 of this title.

(5) The distribution and use of funds provided for use in States under this section shall be subject to the continuing supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section.

(b)(1) Pursuant to regulations prescribed by the Secretary of Labor, disabled veterans' outreach program specialists shall be assigned only those duties directly related to meeting the employment needs of eligible veterans, with priority for the provision of services in the following order:

(A) Services to disabled veterans of the Vietnam era who are participating in or have completed a program of vocational rehabilitation under chapter 31 of this title.

(B) Services to other disabled veterans.

(C) Services to other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

In the provision of services in accordance with this paragraph, maximum emphasis in meeting the employment needs of veterans shall be placed on assisting economically or educationally disadvantaged veterans.

(2) Not more than three-fourths of the disabled veterans' outreach program specialists in each State shall be stationed at local employment service offices in such State. *The Secretary, after consulting the Administrator and the State Director for Veterans' Employment assigned to a State under section 2003 of this title, may waive the limitation in the preceding sentence for that State so long as the percentage of all disabled veterans' outreach program specialists that are stationed at local employment service offices in all States does not exceed 80 percent.* Specialists not so stationed shall be stationed at centers established by the Veterans' Administration to provide a program of readjustment counseling pursuant to section [621A] *612A* of this title, veterans assistance offices established by the Veterans' Administration pursuant to section 242 of this title, and such other sites as may be determined to be appropriate in accordance with regulations prescribed by the Secretary after consultation with the Administrator.

(c) Each disabled veterans' outreach program specialist shall carry out the following functions for the purpose of providing services to eligible veterans in accordance with the priorities set forth in subsection (b) of this section:

(1) Development of job and job training opportunities for such veterans through contacts with employers, especially small- and medium-size private sector employers.

(2) Pursuant to regulations prescribed by the Secretary after consultation with the Administrator, promotion and development of apprenticeship and other on-job training positions pursuant to section 1787 of this title.

(3) The carrying out of outreach activities to locate such veterans through contacts with local veterans organizations, the Veterans' Administration, the State employment service agency and local employment service offices, and community-based organizations.

(4) Provision of appropriate assistance to community-based groups and organizations and [prime sponsors under the Comprehensive Employment and Training Act] *appropriate grantees under Federal and federally funded employment and training programs* in providing services to such veterans.

(5) Provision of appropriate assistance to local employment service office employees with responsibility for veterans in carrying out their responsibilities pursuant to this chapter.

(6) Consultation and coordination with other appropriate representatives of Feder-

al, State, and local programs for the purpose of developing maximum linkages to promote employment opportunities for and provide maximum employment assistance to such veterans.

(7) The carrying out of such other duties as will promote the development of entry-level and career job opportunities for such veterans.

(8) Development of outreach programs in cooperation with approprate Veterans' Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, with educational institutions, and with employers in order to ensure maximum assistance to disabled veterans who have completed or are participating in a vocational rehabilitation program under such chapter.

[(d) Persons serving as staff in the disabled veterans outreach program conducted under title III of the Comprehensive Employment and Training Act on the date of enactment of this section shall be appointed as disabled veterans' outreach program specialists in the State in which such individual is so serving, unless the Secretary for good cause shown determines that such individual is not qualified for such appointment.]

[(e)](*d*) The Secretary of Labor shall administer the program provided for by this section through the Assistant Secretary of Labor of Veterans' Employment. *The Secretary shall monitor the appointment of disabled veterans' outreach program specialists to ensure compliance with the provisions of subsection (a)(2) of this section with respect to the employment of such specialists.*

* * * * *

§ 2006. Estimate of funds for administration; authorization of appropriations

(a) The Secretary of Labor shall estimate the funds necessary for the proper and efficient administration of this chapter *and chapters 42 and 43 of this title.* Such estimated sums shall include the annual amounts necessary for salaries, rents, printing and binding, travel, and communications. Sums thus estimated shall be included as a special item in the annual budget for the Department of Labor. Estimated funds necessary for proper counseling, placement, and training services to eligible veterans and eligible persons provided by the various State public employment service agencies shall each be separately identified in the budgets of those agencies as approved by the Department of Labor. *Funds estimated pursuant to the first sentence of this subsection shall include amounts necessary to fund the disabled veterans' outreach program under section 2003A of this title and shall be approved by the Secretary of Labor only if the level of funding proposed is in compliance with such section. Each budget submission with respect to such funds shall include a separate listing of the proposed number, but State, for disabled veterans outreach program specialists appointed under such section. The Secretary shall carry out this subsection through the Assistant Secretary for Veterans' Employment.*

(b) There are authorized to be appropriated such sums as may be necessary for the proper and efficient administration of this chapter.

(c) In the event that the regular appropriations Act making appropriations for administrative expenses for the Department of Labor with respect to any fiscal year does not specify an amount for the purposes specified in subsection (b) of this section for that fiscal year, then of the amounts appropriated in such Act there shall be available only for the purposes specified in subsection (b) of this section such amount as was set forth in the budget estimate submitted pursuant to subsection (a) of this section.

(d) Any funds made available pursuant to subsections (b) and (c) of this section shall not be available for any purpose other than those specified in such subsections, except with the approval of the Secretary of Labor, *upon recommendation of the Assistant Secretary of Labor for Veterans' Employment,* based on a demonstrated lack of need for such funds for each purposes.

§ 2007. Administrative controls; annual report

(a) * * *

* * * * *

(c) The Secretary of Labor shall report annually to the Congress on the success of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter. The report shall include, by State, specification of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, of each of such categories, the number referred to jobs, the number placed in permanent jobs as defined by the Secretary, the number referred to and the number placed in employment and job training programs supported by the Federal Government, the number counseled, and the number who received some reportable service. The report shall include any determination by the Secretary under section 2004, 2006 or 2007(a), of this title and a statement of the reasons for such determination. *The report shall also include a report on activities carried out under section 2003A of this title.*

§ 2008. Cooperation and coordination with the Veterans' Administration

In carrying out the Secretary's responsibilities under this chapter, the Secretary of Labor shall from time to time consult with the Administrator and keep the Administrator fully advised of activities carried out and all data gathered pursuant to this chapter to insure maximum cooperation and coordination between the Department of Labor and the Veterans' Administration.

§ 2009. National veterans' employment and training programs

(a) The Secretary of Labor shall—

(1) administer through the Assistant Secretary of Labor for Veterans' Employment all national programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of disabled veterans and veterans of the Vietnam era;

(2) in order to make maximum use of available resources, encourage all such national programs and all grantees under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns), educational institutions, trade associations, and labor unions;

(3) ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to such veterans under all such national programs by coordinating and consulting with the Administrator with respect to programs conducted under other provisions of this title, with particular emphasis on coordination of such national programs with readjustment counseling activities carried out under section 612A of this title, apprenticeship or other on-job training programs carried out under section 1787 of this title, and rehabilitation and training activities carried out under chapter 31 of this title; and

(4) ensure that job placement activities are carried out in coordination and cooperation with appropriate State public employment service officials.

(b) Not later than February 1 of each year, the Secretary of Labor shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the operation during the preceding fiscal year of national programs for the provision of employment and training services designed to meet the needs of veterans described in subsection (a) of this section. Each such report shall include an evaluation of the effectiveness of such programs during such fiscal year in meeting the goals established in such subsection, the efficiency with which services were provided under such programs during such year, and such recommendation for further legislative action relating to veterans' employment as the Secretary considers appropriate.

§ 2010. Secretary of Labor's Committee on Veterans' Employment

(a) There is established within the Department of Labor an advisory committee to be known as the "Secretary's Committee on Veterans' Employment". The committee shall meet at least quarterly for the purpose of bringing to the attention of the Secretary problems and issues relating to veterans' employment.

(b) The committee shall be chaired by the Secretary of Labor. The Assistant Secretary of Labor for Veterans' Employment shall serve as vice chairman of the committee. The committee shall include—

(1) representatives of—

(A) the Administrator;

(B) the Secretary of Defense;

(C) the Secretary of Health and Human Services;

(D) the Director of the Office of Personnel Management;

(E) the Chairman of the Equal Employment Opportunity Commission; and

(F) the Administrator of the Small Business Administration; and

(2) a representative of each of the chartered veterans' organizations having a national employment program.

(c) Members of the committee shall serve without compensation or other reimbursement for their service on the committee.

CHAPTER 42—EMPLOYMENT AND TRAINING OF DISABLED AND VIETNAM ERA VETERANS

* * * * *

§ 2011. Definitions

As used in this chapter—

(1) The term "special disabled veteran" means (A) a veteran who is entitled to compensation *(or who but for the receipt of military retired pay would be entitled to compensation)* under laws administered by the Veterans' Administration for a disability rated at 30 percent or more, or (B) a person who was discharged or released from active duty because of service-connected disability.

(2)(A) Subject to subparagraph (B) of this paragraph, the term "veteran of the Vietnam era" means an eligible veteran any part of whose active military, naval, or air service was during the Vietnam era.

(B) No veteran may be considered to be a veteran of the Vietnam era under this paragraph after December 31, 1991.

(3) The term "disabled veteran" means (A) a veteran who is entitled to compensation *(or who but for the receipt of military retired pay would be entitled to compensation)* under laws administered by the Veterans' Administration, or (B) a person who was discharged or released from active duty because of a service-connected disability.

(4) The term "eligible veteran" means a person who (A) served on active duty for a

period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge, or (B) was discharged or released from active duty because of a service-connected disability.

(5) The term "department or agency" means any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5 *and the United States Postal Service and the Postal Rate Commission, and the term "department, agency, or instrumentality in the executive branch" includes the United States Postal Service and the Postal Rate Commission.*

§ 2012. Veterans' employment emphasis under Federal contracts

(a) * * *

* * * * *

(d)(1) Each contractor to whom subsection (a) of this section applies shall, in accordance with regulations which the Secretary shall prescribe, report at least annually to the Secretary on—

(A) the number of employees in the work force of such contractor, by job category and hiring location, who are veterans of the Vietnam era or special disabled veterans; and

(B) the total number of new employees hired by the contractor during the period covered by the report and the number of such employees who are veterans of the Vietnam era or special disabled veterans.

(2) The Secretary shall ensure that the administration of the reporting requirement under paragraph (1) of this subsection is coordinated with respect to any requirement for the contractor to make any other report to the Secretary.

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PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

* * * * *

§ 3102. Waiver of recovery of claims by the United States

(a) There shall be no recovery of payment or overpayments or interest thereon of any benefits under any of the laws administered by the Veterans' Administration whenever the Administrator determines that recovery would be against equity and good conscience, if an application for relief is made within [two years] *180 days* from the date of notification of the indebtedness by the Administrator to the payee, *or within such longer period as the Administrator determines is reasonable in a case in which the payee demonstrates to the satisfaction of the Administrator that such notification was not actually received by such payee within a reasonable period after such date.*

* * * * *

§ 3103A. Minimum active-duty service requirement

(a) * * *

* * * * *

(b) (1) Except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

(A) 24 months of continuous active duty, or

(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for any benefit under this title or any other law administered by the Veterans' Administration.

(2) Paragraph (1) of this subsection applies—

(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

(B) to any other person who enters on active duty [on or after the date of the enactment of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981] *after October 16, 1981,* and has not previously completed a continuous period of active duty of at least 24 months or been discharged or released from active duty under section 1171 of title 10.

(3) Paragraph (1) of this subsection does not apply—

(A) to a person who is discharged or released from active duty under section 1171 or 1173 of title 10;

(B) to a person who is discharged or released from active duty for a disability incurred or aggravated in line of duty;

(C) to a person who has a disbility that the Administrator has determined to be compensable under chapter 11 of this title;

(D) to the provision of a benefit for or in connection with a service-connected disability, condition, or death; or

(E) to benefit under chapter 19 of this title.

(c)(1) Except as provided in paragraph (2) of this subsection, no dependent or survivor of a person as to whom subsection (b) of this section requires the denial of benefits shall, be reason of such person's period of active duty, be provided with any benefit under this title or any other law administered by the Veterans' Administration.

(2) Paragraph (1) of this subsection does not apply to benefits under chapters 19 and 37 of this title.

(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

(A) 24 months of continuous active duty, or

(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for any benefit under Federal law (other than this title or any other law administered by the Veterans' Administration), and no dependent or survivor of such person shall be eligible for any such benefit by reason of such period of active duty of such person.

(2) Paragraph (1) of this subsection applies—

(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

(B) to any other person who enters on active duty on or after the date of the enactment of this subsection and has not previously completed a continuous period of active duty of at least 24 months or been discharged or released from active duty under section 1171 of title 10.

(3) Paragraph (1) of this subsection does not apply—

(A) to any person described in clause (A), (B), or (C) of subsection (b)(3) of this section; or

(B) with respect to a benefit under (i) the Social Security Act other than additional wages deemed to have been paid, under section 229(a) of the Social Security Act (42 U.S.C. 429(a)), or any calendar quarter beginning on or after the date of the enactment of this subsection, or (ii) title 5 other than a benefit based on meeting the definition of preference eligible in section 2108(3) of such title.

[(d)] *(e)* For the purposes of this section, the term "benefit" includes a right or privilege but does not include a refund of a participant's contributions to the educational benefits program provided by chapter 32 of this title.

* * * * *

(f) Nothing in this section shall be construed to deprive any person of any procedural rights, including any rights to assistance in applying for or claiming a benefit.

* * * * *

PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

* * * * *

CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

* * * * *

Subchapter I—Acquisition and Operation of Medical Facilities

* * * * *

§ 5010. Operation of medical facilities

(a)(1) * * *

* * * * *

(b) When the Administrator determines, in accordance with regulations which the Administrator shall prescribe, that a Veterans' Administration facility serves a substantial number of veterans with limited English-speaking ability, the Administrator shall establish and implement procedures, upon the recommendations of the Chief Medical Director, to ensure the identification of sufficient numbers of individuals on such facility's staff who are fluent in both the language most appropriate to such veterans and in English and whose responsibilities shall include providing guidance to such veterans and to appropriate Veterans' Administration staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

(c)(1) Notwithstanding any other provision of law but except as provided in paragraph (3) of this subsection—

(A) a contract may not be entered into as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction (hereinafter referred to in this subsection as a 'Veterans' Administration health-care facility') would be converted from an activity performed by Federal employees to an activity performed by employees of a contractor of the Government unless the Chief Medical director has determined that such activity is not a direct patient care activity or an activity incident to direct patient care; and

(B) in the case of an activity determined by the Cheif Medical Director under clause (A) of this paragraph to be neither such activity, the Administrator, after considering the advice of the Chief Medical Director and the results of a study described in paragraph (4) of this subsection, may, in the exercise of the Administrator's sole discretion but subject to paragraph (2) of this subsection, enter into a contract as a result of which the activity would be converted from an activity performed by Federal employees to an activity performed by employees of a contractor of the Government.

(2) The Administrator may enter into a contract under the circumstances described in paragraph (1)(B) of this subsection only if the Administrator determines—

(A) based on the study described in paragraph (4) of this subsection with respect to the activity involved, that the cost to the Government of the performance of such activity under such a contract over the first

five years of such performance (including the cost to the Government of conducting such study) would be lower by 15 percent or more than the cost of performance of such activity by Federal employees; and

(B) that the quantity or quality of health-care services provided to eligible veterans by the Veterans' Administration at the facility at which the activity is carried out would be maintained or enhanced as a result of such a contract.

(3) The provisions of paragraph (1) of this subsection do not apply—

(A) to a contract or agreement under chapter 17 or section 5011, 5011A, or 5053 of this title or under section 1535 of title 31; or

(B) to a contract under section 213 or 4117 of this title if the Chief Medical Director determines that such contract is necessary in order to provide services to eligible veterans at a Veterans' Administration health-care facility that could not otherwise be provided at such facility.

(4) A study referred to in paragraph (1)(B) of this subsection is a study that—

(A) compares the cost of performing an activity at a Veterans' Administration health-care facility through Federal employees with the cost of performing such activity through a contractor of the Government;

(B) is based on an estimate of the most efficient and cost-effective organization for the effective performance of the activity by Federal employees;

(C) with respect to the costs of performance of such activity through Federal employees, is based (to the maximum extent feasible) on actual cost factors of the Veterans' Administration for pay and retirement and other fringe benefits for the Federal employees who perform the activity; and

(D) takes into account (i) the costs to the Government (including severance pay) that would result from the separation of employees whose Federal employment may be terminated as a result of the Administrator entering into a contract described in paragraph (1)(B) of this subsection, and (ii) all costs to the Government associated with the contracting process.

(5) Prior to conducting a study described in paragraph (4) of this subsection, the Administrator shall (in a timely manner) submit to the appropriate committees of the Congress written notice of a decision to study the activity involved for possible performance by a contractor.

(6) If, after completion of a study described in paragraph (4) of this subsection, a decision is made to convert performance of the activity involved to contractor performance, the Administrator shall promptly submit to the appropriate committees of the Congress written notice of such decision and a report with respect to such conversion. Each such report shall include—

(A) a summary of the study described in paragraph (4) of this subsection with respect to such contract;

(B) a certification that the study itself is available to such committees and that the results of the study meet the requirements of paragraph (2)(A) of this subsection;

(C) a certification that the requirements of paragraph (2)(B) of this subsection would be met with respect to such contract and a summary of the information that supports such certification;

(D) if more than 25 jobs are affected, information showing the potential economic impact on the Federal employees affected and the potential economic impact on the local community and the Government of contracting for performance of such activity; and

(E) information showing the amount of the bid accepted for a contract for the performance of the activity and the cost of performance of such activity by Federal employees, together with the total estimated costs which the Government will incur because of the contract.

(7) Not later than February 1, 1984, and February 1 of each of the five succeeding years, the Administrator shall submit a written report to Congress describing the extent to which activities at Veterans' Administration health-care facilities were performed by contractors during the preceding fiscal year and the actual cost savings resulting from such contracts.

PUBLIC LAW 90-83

* * * * *

[SEC. 6. (a) The Secretary of Labor shall act on any application for an Exemplary Rehabilitation Certificate received under this section from any person who was discharged or dismissed under conditions other than honorable, or who received a general discharge, at least three years before the date of receipt of such application.

[(b) In the case of any person discharged or dismissed from an armed force under conditions other than honorable before or after the enactment of this section, the Secretary of Labor may consider an application for, and issue to that person, an Exemplary Rehabilitation Certificate dated as of the date of issuance, if it is established to his satisfaction that such person has rehabilitated himself, that his character is good, and that his conduct, activities, and habits since he was so discharged or dismissed have been exemplary for a reasonable period of time, but not less than three yers. The Secretary Labor shall supply to the Secretary of Defense a copy of each Exemplary Rehabilitation Certificate which is issued, and the Secretary of Defense shall place it in the military personnel record of the individual to whom the certificate issued.

[(c) For the purposes of subsection (b), oral and written evidence, or both, may be used, including—

[(1) a notarized statement from the chief law enforcement officer of the town, city, or county in which the applicant resides, attesting to his general reputation so far as police and court records are concerned;

[(2) a notarized statement from his employer, if employed, giving the employer's address, and attesting to the applicant's general reputation and employment record;

[(3) notarized statements from not less than five persons, attesting that they have personally known him for at least three years as a person of good reputation and exemplary conduct, and the extent of personal contact they have had with him; and

[(4) such independent investigations as the Secretary of Labor may make.

[Any person making application under this section may appear in person or by counsel before the Secretary of Labor.

[(d) No benefits under any laws of the United States (including but not limited to those relating to pensions, compensation, hospitalization, military pay and allowances, education, loan guarantees, retired pay, or other benefits based on military service) shall accrue to any person to whom an Exemplary Rehabilitation Certificate is issued under subsection (b) unless he would be entitled to those benefits under his original discharge or dismissal.

[(e) The Secretary of Labor shall require that the national system of public employment offices established under the Act of June 6, 1933, chapter 49, as amended (29 U.S.C. 49 et seq.), accord to any person who has been discharged or dismissed under conditions other than honorable but who has been issued an Exemplary Rehabilitation Certificate special counseling and job development assistance.

[(f) The Secretary of Labor shall report to Congress not later than January 15 of each year the number of cases reviewed by him under this section and the number of Exemplary Rehabilitation Certificates issued.

[(g) In carrying out the provisions of this section the Secretary of Labor is authorized to (1) issue regulations; (2) delegate his authority; (3) utilize the service of the Civil Service Commission for making such investigations as may be mutually agreeable.]

* * * * *

PUBLIC LAW 97-253

* * * * *

[SEC. 405. (a) In contemplation of the enactment, after the date of the enactment of this Act, of legislation providing for cost-of-living increases to be effective on October 1, 1982, in the rates of disability compensation and dependency and indemnity compensation under chapters 11 and 13, respectively, of title 38, United States Code, and the rounding down of the amounts so provided to the nearest dollar and the realigning of the amounts of disability compensation paid on account of dependents, the adjustments made by this section in the current rates under such chapters are enacted, effective January 1, 1983, with the intent that they be superseded by the rounded and realigned increased rates to be provided for in such legislation.

[(b) Section 314 of title 38, United States Code, is amended—

[(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$57";

[(2) by striking out "$162" in subsection (c) and inserting in lieu thereof "$161";

[(3) by striking out "$413" in subsection (f) and inserting in lieu thereof "$412";

[(4) by striking out "$604" in subsection (h) and inserting in lieu thereof "$603";

[(5) by striking out "$62", "$1,403", "$62", and "$1,966" in subsection (k) and inserting in lieu thereof "$61", "$1,402", "$61", and "$1,965", respectively;

[(6) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,402";

[(7) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,546";

[(8) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,757";

[(9) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof in each such place "$1,965";

[(10) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$843" and "$1,256", respectively;

[(11) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,263"; and

[(12) by striking out "$244" in subsection (t) and inserting in lieu thereof "$243".

[(c) Section 315 of such title is amended—

[(1) by striking out "$116" in clause (1)(B) and inserting in lieu thereof "$115";

[(2) by striking out "$38" in clause (1)(D) and inserting in lieu thereof "$37"; and

[(3) by striking out "$38" in clause (1)(G) and inserting in lieu thereof "$37".

[(d) Section 362 of such title is amended by striking out "$305" and inserting in lieu thereof "$304".

[(e)(1) Subsection (a) of section 411 of such title is amended to read as follows:

["(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

[

"Pay grade	Monthly rate
E-1	$414
E-2	427
E-3	438
E-4	466
E-5	479
E-6	490
E-7	514
E-8	541
E-9	[1]566
W-1	524
W-2	545
W-3	561
W-4	594
O-1	524
O-2	541
O-3	579
O-4	612
O-5	675
O-6	760
O-7	823
O-8	902
O-9	969
O-10	[2]1,060

[1]If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $609.

[2]If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,137.".]

[(2) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$47".

[(3) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$124".

[(4) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$61".

[(f) Section 413 of such title is amended—

[(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$209";

[(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$300";

[(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$388"; and

[(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$388" and "$78", respectively.

[(g) Section 414 of such title is amended—

[(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$124";

[(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$209"; and

[(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$106".

[(h) The amendments made by this section shall take effect on January 1, 1983.]

* * * * *

Mr. Speaker, I want to take this opportunity to thank the chairmen of the two subcommittees which developed the legislation we are considering today. BOB EDGAR, who chairs the Subcommittee on Education, Training and Employment, is, by anyone's definition, a dedicated, committed advocate for veterans, particularly disabled and Vietnam-era veterans. He has demonstrated his sincere concern for our Nation's veterans since he was elected to serve on this committee in 1975. I also want to thank the very able ranking minority member of the subcommittee, Hon. MARGARET HECKLER, who has been so helpful and cooperative in reaching all of the provisions of the agreement relating to education, training and employment.

DOUG APPLEGATE assumed leadership of the Subcommittee on Compensation, Pension and Insurance earlier this year and has been very effective as chairman of this very important subcommittee. His contribution in developing and advancing the compensation provisions in this bill is very much appreciated.

I am most grateful for the work of my good friend CHALMERS WYLIE. He brings so much knowledge and experience as the ranking minority member of the subcommittee.

I would be remiss if I did not express my appreciation to Hon. JOHN PAUL HAMMERSCHMIDT, the ranking minority member of our committee for his contribution and assistance in bringing this bill to the floor today. No chairman has a better partner to work with than I do and, as always, I am most grateful for his good work in behalf of our Nation's veterans.

I also want to thank Senator ALAN SIMPSON, chairman of the Senate Committee on Veterans' Affairs and Senator ALAN CRANSTON, the ranking minority member of that committee for their cooperation and assistance on the agreement we have reached. I am especially grateful to another member of the Senate committee, the senior Senator from South Carolina, Hon. STROM THURMOND. As I said earlier, although my personal friend had very strong feelings about certain provisions contained in the Senate amendments, he was instrumental in helping to resolve all of our differences on a timely basis so that the 7.4-percent cost-of-living compensation and DIC rate increase could be provided in checks received by eligible beneficiaries in November. I am most grateful to all members of the House and Senate committees for their splendid cooperation and work on this agreement. Their willingness to work together has enabled us to put before you today a truly bipartisan effort which deserves the support of every Member of the House.

I urge the adoption of the proposed amendments.

Mr. HAMMERSCHMIDT. Mr. Speaker, a cost-of-living increase for service-connected disabled veterans, their dependents and survivors has long been a priority matter with the Congress. This year is no exception and by approving H.R. 6782 as amended by the other body and with our additional amendments the House can do its part to get a bill before the President prior to the forthcoming recess.

Mr. Speaker, H.R. 6782 will provide a 7.4-percent increase in compensation benefits to its recipients. The effective date will be October 1 which means the increase should be reflected in checks received on November 1. This is a good bill which is within budget limitations. We have worked out a good and acceptable compromise with the other body with the net result of having in one piece of legislation a number of matters which have previously received the favorable attention of this body or of the House Committee on Veterans' Affairs. I urge my colleagues to support H.R. 6782 and I congratulate our chairman, the gentleman from Mississippi (Mr. MONTGOMERY) for his diligence in pursuing its passage. It is legislation of which the entire Congress can be proud.

Mr. EDGAR. Mr. Speaker, I rise in full support of the amendments to H.R. 6782 which, in total contain a package of compensation, readjustment, employment, and health care provisions for our Nation's veterans.

This legislation represents the culmination of 1 years' work and intensive investigation on the part of the House Committee on Veterans' Affairs to improve these programs administered by the Veterans' Administration and the Department of Labor. I believe it is essential that the House act swiftly to approve the legislation now in its final form and that the bill be returned to the Senate for final approval and on to the President's desk for his signature as soon as possible.

Of primary concern is the 7.4-percent cost of living in compensation for service-connected disabled veterans and eligible survivors authorized in this legislation. To avoid expensive delays and the possibility that the increase might have to be made retroactive to the effective date of October 1, it is essential that the legislation be approved and signed into law within the next few days. The across-the-board, 7.4 percent increase was authorized by the House Committee on Veterans' Affairs. Funding levels for the increase, which reflects the impact of inflation on the benefit over the past 12 months, was approved by the House Budget Committee earlier this year. I believe every service-connected disabled veteran and eligible survivors should be appreciative of the strong support and hard work of Budget Committee Chairman JIM JONES and his committee who insisted and maintained our recommendation that this incease be across-the-board for all recipients this year when the Senate had wanted to sharply reduce and curtail this amount. The service-connected disabled veteran deserves no less from this Congress.

This legislation also includes, with amendment, the major provisions of H.R. 6794, the Veterans Employment and Education Assistance Act of 1982, which was approved unanimously by the House on September 22. The bill, which I introduced as chairman of the House Veterans' Affairs Subcommittee on Education, Training and Employment contains major revisions in law to strengthen and promote veterans employment and training services. Responding to record unemployment among Vietnam era and disabled veterans, the bill would consolidate all veterans employment services within the Department of Labor under the specific administration of the Assist-

ant Secretary of Labor for Veterans Employment.

For too long these programs, implemented through the Veterans Employment Services, the Office of Veterans Reemployment Rights and the disabled veterans outreach program have been undersupervised and underemphasized. This legislation calls on the Federal Government to declare that veterans employment is a national responsibility which must be fully recognized as such. Documentation has clearly shown that the continuing readjustment problems of thousands of Vietnam era veterans are compounded by a lack of adequate employment opportunities. The bill before us today, as amended, was carefully designed after seven hearings in the Veterans' Affairs Subcommittee on Education, Training and Employment to bring the full focus of the Department of Labor, in conjunction with the Veterans' Administration, in sending vital job training, job placement, and referral services out into the communities to assist these veterans.

Also under the supervision of the Assistant Secretary of Labor for Veterans Employment as contained in the amended bill would be all national employment and assistance programs for veterans. Included within this responsibility would be direct administrative authority over programs already approved by the House in H.R. 5320, the Job Training Partnership Act. That program, which will become part of the total new Federal employment and training program destined to replace CETA, I offered as an amendment to the legislation when it passed the House earlier this year. The amendment set aside a specific percentage of all Federal employment and training funds to be clearly earmarked for grants to localities and nonprofit organizations to establish job training, placement and referral services for veterans.

Hopefully, as a result of a concerted effort between the House and the Senate to improve these programs and the good faith of the administration and the Department of Labor to effectively implement these provisions, thousands of Vietnam era and disabled veterans who still look to the Federal Government for assistance can finally receive the help they deserve.

The veterans education portion of the bill before us today also contains major improvements. Earlier this year many Members of Congress joined those of us who serve on the House Committee on Veterans' Affairs to express our serious concern over the lack of implementation of the extension of job training benefits for Vietnam era veterans as contained in Public Law 97-72. That provision provided a targeted 2-year extension of job training and vocational programs for certain unemployed and underemployed Vietnam era veterans. The President signed that legislation into law last November, however, the regulations designed by the Veterans' Administration to implement the program were drawn so arbitrarily that practically no veterans among the target group intended by the Congress were found eligible to receive this additional training. As a result of hearings before my subcommittee, the VA has agreed to modify those regulations to a limited extent. However, practically 1 year of the mandated 2-year extension of job training benefits has already expired and thousands of veterans are still in need of this assistance. To correct this situation, H.R. 6782 contains an amendment, which I wholeheartedly support, based on legislation which has already been introduced in the House. Earlier this year I introduced H.R. 6441 which called for an additional year extension of the program, and the gentleman from Michigan, DAVID BONIOR introduced H.R. 6915 which also calls for an additional year extension and major modifications in the administrative process for eligibility under the program. The amendment requires the VA to make individual determinations of the need for additional training based on the individual veterans actual training and employment history and his personal readjustment needs requiring additional retraining. It rejects using a cold bureaucratic screening process from which to judge all veterans applicants on the same basis.

I realize it is difficult to do at times, but I believe we can bring a little humanity into the Federal bureaucracy if we push hard enough in inforcing the actual intent of the Congress in extending these benefits in the first place last year.

I would like to thank the chairman of the House Veterans Affairs Committee, SONNY MONTGOMERY and the ranking minority member JOHN PAUL HAMMERSCHMIDT for their assistance and support in working with us to design and pass this legislation. I would also like to express my appreciation to the ranking minority member of the subcommittee, MARGARET HECKLER, BILL BONER, and TOM DASCHLE and all the members of the Subcommittee on Education, Training and Employment for their hard work and hours spent throughout the past year in developing the veterans employment provisions today.

Finally, I believe it must be said that a Member of Congress does not have to serve on the House Committee on Veterans Affairs to clearly show his or her support for those who have served in defense of this Nation. Over the past year many Members of Congress, who do not serve on our committee, have actively participated in our hearings and have let their voices be heard on the floor in support for the work we have accomplished during the past 12 months.

Particularly with our work on the Subcommittee on Education, Training and Employment I would like to express our deep appreciation to the gentleman from Michigan, DAVE BONIOR, cochairman and founding member of the Vietnam Veterans in Congress. DAVE BONIOR and TOM DASCHLE from South Dakota have consistently been the strongest voices in the Congress in support of new and needed programs for Vietnam veterans.

I would also like to thank the members of the House Education and Labor Committee who worked with us closely this year on a wide range of Vietnam veterans issues, some contained in the legislation before us today, and others already approved by the Congress. In particular I would like to express my appreciation on behalf of thousands of Vietnam veterans across the country who will continue to receive valuable education assistance through the Pell grant program as a result of the quick and effective leadership of the gentleman from Illinois, PAUL SIMON, chairman of the Subcommittee on Postsecondary Education. We are indeed grateful for the leadership of CARL PERKINS, chairman of the full Education and Labor Committee and GUS HAWKINS, chairman of the Subcommittee on Employment Opportunities for their willingness to compromise and help us develop meaningful programs of employment assistance for veterans within the Department of Labor approved this session. I know the veterans of this Nation join us in expressing our thanks to them as well.

Mr. BONIOR of Michigan. Mr. Speaker, I rise to commend the bipartisan leadership of the committee for bringing this important measure to the floor today. The full compensation cost-of-living increase provided under today's bill and its comprehensive reform of the veterans' employment programs administered by the Department of Labor are vitally significant steps forward.

In particular, however, I commend the distinguished chairman of the full committee—the gentleman from Mississippi, and the distinguished chairman of the Subcommittee on Education, Training and Employment—the gentleman from Pennsylvania, for adopting language to compel full implementation of section 201 of Public Law 97-72, the Veterans' Health Care, Training and Small Business Loan Act of 1981. In a time of budget uncertainty, and in the face of administration opposition, they have honored the commitment made in last year's act.

BACKGROUND: FAILURE TO IMPLEMENT PUBLIC LAW 97-72

Mr. Speaker, last year's legislation extended long-needed help to Vietnam veterans, but it did more. It signaled this Congress willingness to address and honor its debt to Vietnam veterans.

In particular, section 201 responded to the continuing employment problems among Vietnam era veterans by extending for a 2-year period eligibility for vocational, on-the-job training

and secondary education under the GI bill. Through section 201, Congress sought to reach and help some 40,000 Vietnam-era veterans.

Despite the clear congressional intent, on December 22, 1981, the VA implemented section 201 through regulations—DVB Circular 22-81-15—that strangled its effectiveness with respect to both the on-the-job training program and vocational education. Despite an extensive congressional reaction, only on August 17, 1982, did the VA move to correct its regulations, and then only in part.

The provision the House passes today will clearly repeal any conceivable authority for the VA's overly-stringent regulatory approach. In addition, responding to the time lost under the VA regulations, today's legislation extends the special eligibility period through calendar year 1984.

LEGISLATIVE HISTORY

Mr. Speaker, today's provision is based on section 1 H.R. 6915, introduced by myself; the gentleman from Pennsylvania; the gentleman from California (Mr. EDWARDS); and the gentleman from South Dakota (Mr. DASCHLE. Section 1 of H.R. 6915, in turn, is a companion measure to legislation introduced by Senator CRANSTON and Senator SIMPSON which passed the Senate as section 208 of S. 2913.

As such, today's provision has been exhaustively interpreted through a detailed legislative history in both the House and the Senate. To refer to just the major House documents, H.R. 6915 was defined through a statement following its introduction, the CONGRESSIONAL RECORD, "extended eligibility for Vietnam-era veterans, H.R. 6915," August 5, 1982, E3706-E3709; it was based on extensive hearings held by the Subcommittee on Education, Training and Employment on June 17 and on several clear statements of congressional concern over the original VA regulations made at various points throughout the CONGRESSIONAL RECORD for May 20.

CONGRESSIONAL INTENT

Stated positively, today's provision clearly reiterates Congress attempt to reach and serve a broad range of underemployed and unemployed Vietnam-era veterans. The eligibility extension for on-the-job training and vocational education is targeted and does focus on those with employment needs. It does not reach all Vietnam-era veterans who might wish further training, but within that arch, it is not limited to some special subgroup adjudicated to be "unskilled" or the "hardcore unemployed."

Stated negatively, responding to the VA's earlier regulations, today's provision substantially limits the VA's discretion in implementing the extended eligibility. It precludes any regulations that adjudicate eligibility automatically under any standard, no matter how drawn, without regard to a veteran's individual employment and training history, an approach still contained in the VA regulations after the August 17, 1982 revisions.

In addition, today's provision provides a statutory standard governing implementation. Any veteran is eligible who needs training in order "to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes."

Under this statutory standard, the earlier VA regulatory standard focusing on any veteran who has ever held a job requiring 3 months or more of on-the-job training is invalidated because it reflects an overly stringent criteria, independently of its absolute application under the VA's regulatory schema which adjudicated eligibility without regard to a veteran's actual employment and training history. Even if included within a framework of true case-by-case adjudication, this provision would be inappropriate because it would guide VA adjudicators away from many veterans who meet the statutory standard. A similar objection would rest against the standard focusing on any veteran with more than 60 hours of secondary education, a standard maintained in the VA's August 17, 1982 revisions.

● Mr. LEATH. Mr. Speaker, I rise in strong support of H.R. 6782, as amended, the Compensation, Education and Employment Amendments of 1982.

This bill provides for a well-deserved 7.4-percent cost-of-living increase across the board for service-connected disabled veterans and their eligible dependents and survivors. This provision continues our firm commitment to recognize the sacrifices made by our service-connected disabled veterans.

No portion of this bill concerned by more than amending section 5010 of title 38 relating to the operation of VA medical facilities, to restrict the VA's ability—under OMB circular A-76 or otherwise—to contract with private entities for the performance of activities in the agency's Department of Medicine and Surgery. While I yield to no Member of Congress in my desire to see the Government save money, I do not believe it should be saved by reducing the quality of medical care for our Nation's veterans. And while I did not get everything I wanted in this section of the bill, I am convinced that my concerns have been protected. The botton line is that commercial activities performed at VA hospitals operated by the Government shall be retained in-house if the Chief Medical Director determines that such performance would be in the best interest of patient care, both direct and indirect. In other words, no purely cost-savings initiative will be permitted to interfere with the VA's providing quality health care services to veterans.

Among other diverse but important provisions of the bill are proposals that would increase the compensation rate for certain blinded veterans, restored burial benefits for certain indigent veterans, provide for a burial flag for a distinguished nonveteran citizen if the Administrator authorizes his burial in a VA national cemetery, clarify the intent of Congress that burial benefits are payable if a veteran dies while a patient in a Veterans' Administration contract nursing home.

In conclusion, Mr. Speaker, I commend my great chairman, SONNY MONTGOMERY, for his leadership in bringing this bill to the floor. I also commend DOUG APPLEGATE and BOB EDGAR for their fine efforts on this legislation, and indeed all members of our committee, both majority and minority. I wholeheartedly recommend this bill to my colleagues and urge its adoption.●

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that I may revise and extend my own remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6782.

The SPEAKER pro tempore (Mr. FARY). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MAKING IN ORDER CONSIDERATION OF H.R. 6838 ON WEDNESDAY, SEPTEMBER 29, 1982, OR ANY DAY THEREAFTER

Mr. MICHEL. Mr. Speaker, I ask unanimous consent that it be in order on Wednesday, September 29, 1982, or any day thereafter to consider in the House the bill, H.R. 6838.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
September 28, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the House of Representatives, I have the honor to transmit a sealed envelope from The White House, received in the Clerk's Office at 11:20 a.m. on Monday, September 27, 1982 and said to contain a message from the President wherein he transmits the Fourth Annual Report of the Department of Energy.

With kind regards, I am,
Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.

ANNUAL REPORT OF DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committees on Armed Services, Foreign Affairs, Energy and Commerce, Interior and Insular Affairs, and Science and Technology:

(For message, see proceedings of the Senate of yesterday, Monday, September 27, 1982.)

MEXICAN-VENEZUELAN PEACE INITIATIVE

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BONIOR of Michigan. Mr. Speaker, I rise today to speak to a problem which, although it has moved from the front page of U.S. newspapers, presents an ever-growing danger. War and the threat of war in Central America continue to take a toll in the loss of life and liberty, as military buildup and confrontation isolate the supporters of democracy and feed the most repressive forces in the region.

Every day brings us closer to a regionwide conflict. The deteriorating situation along the Honduran-Nicaraguan border is especially worrisome.

The Presidents of Mexico and Venezuela have taken a bold step to halt the escalating conflict. They have sent an extraordinary joint appeal to the heads of state of Honduras, Nicaragua, and the United States seeking cooperation in reducing regional tensions.

Along with my colleagues, JIM LEACH, MICHAEL BARNES, and MILLICENT FENWICK, I am asking other Members of Congress to sign a letter urging President Reagan to respond positively to the Mexican-Venezuelan initiative.

For the RECORD, I submit a copy of the Mexican and Venezuelan Presidents' letter, as well as the text of our own letter to President Reagan:

[Unofficial translation]

CARACAS AND MEXICO CITY,
September 7, 1982.

His Exellency RONALD REAGAN,
President of the United States of America,
Washington, D.C.

DEAR MR. PRESIDENT AND FRIEND: Concerned over the events which seriously threaten the peace between Nicaragua and Honduras, and furthermore peace in Central America, we have addressed ourselves to the leaders of those countries emphazising the need to abstain from undertaking any action that could imperil the situation and, also bearing in mind, the need for auspicing a constructive dialogue that would permit the necessary rapprochement and cooperation between the parties.

Recently your Administration, in the words of Assistant Secretary of State for Interamerican Affairs, Thomas O. Enders, pronounced at the Commonwealth Club of San Francisco, on August 20, 1982, expressed your concern for peace in Central America pointing out:

"The obstacles to peace in Central America stand more clearly exposed with every new crisis.

"Central America has deep political divisions, among nations as well as within them. It suffers severe economic troubles, with the world recession devastating economies already weakened by high oil prices and internal inefficiencies. And it is fragmented by social tensions, with population growth straining public services and popular aspirations outrunning the historically possible."

We see with equal concern the deterioration of the Central American situation endangered by a conflict that could extend to the whole region. The situation between Honduras and Nicaragua is grave and has reached the levels of armed encounters.

The Program of Cooperation of San José has underscored our countries special interest for peace and stability in the area, in the recovery of its economic problems and in the attainment of political stability. Mexico and Venezuela, linked to the region by geographic considerations, can not be indifferent to the problems that take place there. With full solidarity and absolute respect for the principle of non-intervention in the internal affairs of the countries of the region, our countries feel that, in a most fraternal way, they should express points of view that could contribute to the solution of these problems and, in that manner, keep the continent as a reserve of peace.

We share with the United States the objective of achieving international peace, as well as internal stability and the overcoming of economic difficulties in an environment of freedom and development.

But, although it is true that we share the same objectives sometimes we differ on their treatment and on the methods that should be used to achieve them.

Encouraged by these purposes we would wish to address for your consideration the convenience of undertaking a joint exploration of the paths still open to us in order to stop the actual and worrying escalation, the increasing tensions and the general and dangerous expectations generated by its outcome.

In the same way that we have encouraged the Nicaraguan Government to adopt measures directed to avoid military engagement it its border with Honduras, we also consider convenient to put an end to the support, organization, and emplacement of former Somocista guards.

We have knowledge that conversations are underway between the representatives of the United States and Nicaragua for solving the pending problems.

We express our conviction that, in that way, progress can be attained. In congratulating ourselves for such progress, at the same time, we sincerely invite you to strengthen the dialogue so that it may facilitate a genuine negotiation able to overcome the difficulties.

Likewise, we present to you the need to effectively advance in the conclusion of a global agreement that may provide true peace between Nicaragua and Honduras, and which will bear a positive result in a framework of world tensions and confrontations.

To this effect, allow us to recall the proposals for peace in Central America in relation with the possibility of limiting armaments in the region under international control.

As stated in the Declaration of San José, Costa Rica, of May 8, 1982, adopted during the inauguration of the Costa Rican President, Luis Alberto Monge, six leaders of the region concerned over the arms race in the area, expressed the need "to adjust military personnel and equipment to levels strictly necessary for the defense of national sovereignty, territorial integrity and the maintenance of public order, subject to the requirements universally accepted in any democratic society ruled by law."

We hope, Mr. President, that these ideas find a favorable reception and serve as a basis for peace and stability in the region.

JOSÉ LÓPEZ PORTILLO.
LUIS HERRERA CAMPINS.

President RONALD REAGAN,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Last week, the Presidents of Mexico and Venezuela sent an appeal to the Heads of State of Honduras, Nicaragua, and the United States, concerning the deteriorating situation in Central America. The Mexican and Venezuelan leaders offered their good offices to explore ways of halting the dangerous escalation of conflict in the region, especially along the Honduran-Nicaraguan border.

The Mexican-Venezuelan peace initiative comes at a critical moment. The increasing tensions and clashes along the Honduran borders indicate that Central America is perilously close to a region-wide conflagration. Nonetheless, avenues for political dialogue remain open. Earlier this year, the efforts of Mexian President Jose Lopez Portillo heightened interest in a peace process on the part of the region's principal actors. Recent reports of possible talks between the belligerents in El Salvador bring new hope for a peaceful resolution to that conflict. Now, the offer by the Mexican and Venezuelan Presidents renews the promise of earlier initiatives and broadens the channels for international cooperation.

A month ago, Assistant Secretary of State Thomas Enders issued a call for reconciliation and demilitarization in Central America. We hope the United States will take this opportunity to make these policy goals a reality. We urge you to respond positively to the Mexican-Venezuelan initiative and to encourage all parties in the region to end the military confrontation and begin the process of political dialogue.

Sincerely,

——— ———.

□ 1810

REQUEST FOR COMMITTEE ON THE JUDICIARY TO BE DISCHARGED FROM FURTHER CONSIDERATION OF HOUSE JOINT RESOLUTION 350

Mr. WALKER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from all further consideration of the joint resolution, House Joint Resolution 350, and that the joint resolution be reported to the floor for consideration.

The SPEAKER pro tempore. The Chair will advise the gentleman that the Chair cannot entertain that request at this time.

TRIBUTE TO THE HONORABLE L. H. FOUNTAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BROYHILL) is recognized for 60 minutes.

GENERAL LEAVE

Mr. BROYHILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BROYHILL. Mr. Speaker, my colleague and close friend, the Honorable L. H. FOUNTAIN, will be leaving the U.S. Congress at the close of the 97th Congress. Today I have reserved this time for a number of L. H.'s colleagues to pay tribute to him for his outstanding record.

After serving in the House for 30 years, my fellow North Carolinian has decided to retire. He was under great pressure, both at home and here, to continue in the House. In fact, his decision not to seek reelection caught many by surprise.

There are many things to say about the man we are honoring today. First and foremost, I want to say that L. H. FOUNTAIN is a gentleman. He is a Member whose word can be taken. When L. H. tells you something, you know that he means what he says and that he will stick to his commitment. His strong moral principles guide him in his daily work here in the House, and he sets an example in this regard which we should all follow.

My fellow Tar Heel has left his mark in many areas of the Federal Government. Foremost in my mind have been his tireless efforts to make sure the taxpayers' hard earned money is spent in the most efficient manner possible. This aspect of his career can best be seen in his successful efforts to install independent and powerful Inspectors General throughout the Federal bureaucracy.

L. H. has been a pioneer in the field of Federal-State-local relations, long before it became politically popular. His leadership and keen interest in this area resulted in the establishment of the Advisory Commission of Intergovernmental Relations in 1959. The Commission remains an active and influential voice in our Nation today.

I could list many other areas which bear the fine print of L. H. FOUNTAIN—his work in investigating harmful or ineffective drugs; his persistent and effective work as member of the Committee on Foreign Affairs; and his role as a U.S. Delegate to the 22d General Assembly of the United Nations.

From his native Edgecombe County in North Carolina, through his education at the University of North Carolina at Chapel Hill, and his service as a North Carolina State Senator, Congressman FOUNTAIN has always been a leader—a person who fought, and fought hard for his convictions, but who also worked effectively with those of different political persuasions.

As the dean of the North Carolina congressional delegation, he has always put the good of our State and Nation ahead of narrow partisan interests. In short, he has been an effective voice for our State in Washington.

Louise and I will always remember the many good times we have shared with L. H. and his wife, Christine, who has been a hard worker and a terrific helpmate. We wish for the Fountain family many years of continued success, good health, and much happiness.

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. I thank the gentleman for yielding.

Mr. Speaker, as the 97th session of Congress draws to a close, it is difficult to assess the true loss that we in the North Carolina delegation as well as the entire Congress, will suffer as a result of Congressman L. H. FOUNTAIN's decision not to seek reelection.

As longtime dean of our delegation, we will certainly miss his positive and definite leadership. Along with other members of the delegation, I have been fortunate on many occasions to receive the benefit of his wisdom. His capacity to analyze legislation and make firm and quick decisions on the proper course of action has served as guidance to us all.

Not only the Members of Congress who served with him, but also his constituency and the people of North Carolina, have benefited from his years in Congress. He has been in the forefront of legislation in many areas which are crucial to the well-being of the State. And, as we all know, his many years of service has accorded him quite a bit of seniority in Congress, and this seniority has proved to be invaluable to the people of North Carolina time and time again.

I cannot help but mention his wonderful wife, Christine. Through the many years that I have had the pleasure of serving with him in Congress, I have been most impressed with Christine's warmth and charm. Truly, she has been one of L. H.'s greatest assets during his career.

Much could be said about his civilian and military life, but time does not permit us to list it all. I do think it is important to emphasize the fact that as a Presbyterian Elder he has had a perfect Sunday school attendance for well over 50 years. Few, if any, other Americans can make this statement.

He is the recipient of many honors, including the Jaycee Distinguished Service Award, Man of the Year of the Tarboro Jaycees in 1948. In 1971, he was presented the North Carolina Citizens Association Distinguished Public Service Award. The University of North Carolina School of Medicine Distinguished Service Award was confered on him in 1973. In 1975, the Association of American University Presses gave him their Distinguished Service to Higher Education and the Scholarly Community Award. He received a special citation for Distinguished Congressional Service from the National League of Cities in 1976. The Association of Federal Investigators gave him the Leadership and Distinguished Service Award in 1978.

Again, on an extremely personal note, I want to say that, L. H., I will miss you. In closing, let me say that I am sure the entire Congress joins me in wishing you and Christine many years of health and happiness in whatever activities you choose to pursue.

Mr. BROYHILL. I thank the gentleman for his remarks.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Speaker, it is with considerable personal emotion that I rise to take part in this tribute to our colleague, Congressman L. H. FOUNTAIN of North Carolina, who has decided to not seek reelection to Congress.

After 20 years of experience in this body, I like to think I have developed some capacity for appreciating the lawmaking potential and the quality of service of my colleagues. In the case of L. H. FOUNTAIN, I must aver that no Member of this body commands greater respect or is characterized by greater innate qualities of integrity, conviction and ability than the gentleman from North Carolina, L. H. FOUNTAIN.

Mr. Speaker, I have had the privilege of becoming personally acquainted with L. H. FOUNTAIN and have witnessed firsthand his exceptional qualities of leadership as a lawmaker and as a devoted and loyal representative of his North Carolina constituency and of the Nation.

In addition, my wife Doris and I have enjoyed a close personal relationship with Christine and L. H. FOUNTAIN. Congressman FOUNTAIN's attributes as a Member of this body are equaled by Christine in her roles as a wife, mother, and as helpmate to her husband L. H. FOUNTAIN in his service to North Carolina's Second District.

Mr. Speaker, I know that the future is going to provide many opportunities for continuing service by Christine and L. H. FOUNTAIN. As we join them in retirement from this body, Doris and I hope that our paths cross frequently and that we will enjoy an even closer personal relationship with the Fountains than our respective busy congressional lives have permitted.

□ 1820

Mr. BROYHILL. I thank the gentleman from Illinois.

Mr. Speaker, I yield to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. I thank the distinguished gentleman.

I rise to join the gentleman and thank him for providing us the opportunity to express ourselves with regard to this great American.

Mr. WINN. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Kansas.

Mr. WINN. Mr. Speaker, L. H. FOUNTAIN has served in Congress with distinction for 30 years. During that time, he has seen the faces and traditions of the House change considerably. L. H.'s presence and his fundamental decency, honesty, and civility has provided the House of Representatives with guidelines and ideals even as it underwent those great changes of the 1960's and 1970's. While L. H. has kept abreast of new ideas, he has remained true to long and deeply held principles. For that I very much admire him.

And I have been fortunate to know and work closely with L. H. as a fellow member of the Committee on Foreign Affairs and recently on the Subcommittee on International Security and Scientific Affairs. I have observed the effectiveness of L. H. FOUNTAIN's quiet approach to problems. As Chairman ZABLOCKI's ranking Democratic member, L. H. has served as the right-hand man not only to the chairman but to the entire committee.

This southern gentleman with his kind manner and straightforward style will be sorely missed next year during all those committee debates in which he always makes a real difference. But reluctantly, I must accept L. H. FOUNTAIN's desire to retire after 30 years of service to this institution. Joan and I wish L. H. and his lovely wife, Christine all the best in their retirement.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, Martha and I met the Fountains 20 years ago when he first came to Congress. We know them to be very fine members of this legislative body. They have worked hard. L. H. has devoted his time and his abundant talent to mastering the fields of endeavor in the Government Operations and in the Foreign Affairs Committees. He always has been and I am sure during his remaining time here will be a conscientious legislator and good leader because of his conscientiousness.

I have never seen a man who worked harder to study the issues, to understand them, and to vote fearlessly on the issues.

We wish for L. H. and Christine the very finest of everything in their retirement. The country will miss him, and we will miss him as friends.

Mr. BROYHILL. I thank the gentleman from Florida for his fine comments.

Mr. Speaker, I yield to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. I thank the gentleman for yielding.

I congratulate him for taking a special order on L. H. FOUNTAIN. He is a remarkable gentleman, distinguished for the fact he is a gentleman. He is 1 of 5 who came to Congress together 30 years ago: the Speaker, Mr. THOMAS O'NEILL, JOHN RHODES from Arizona, EDDIE BOLAND from Massachusetts, and BILL NATCHER from Kentucky, all came in the same class 30 years ago.

I wish him every good fortune in his new career, in his retirement, whatever he chooses to do. And I have tremendously appreciated the opportunity of meeting him, establishing a valued friendship with him.

Mr. HUBBARD. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Kentucky.

Mr. HUBBARD. Mr. Speaker, I would like to take this opportunity to speak about my dear friend and colleague, Congressman L. H. FOUNTAIN, who is retiring at the end of the 97th Congress. We are losing a fine gentleman. Indeed, the "dean" of the North Carolina delegation, L. H. FOUNTAIN has been representing the second District of North Carolina since the 83d Congress. Although I have never had the privilege of serving with him on either the House Committee on Government Operations or on the House Committee on Foreign Affairs, I have had the privilege of working with him on the House floor. He and I many times vote the same way on the various issues. My colleagues and I will miss him in the House. Those of us who have known him well, including my wife, Joyce, and me wish him and his lovely wife, Christine, the very best in the years to come.

Mr. BROYHILL. I thank the gentleman for his contribution.

I yield to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. I thank the gentleman for yielding.

I want to join in this salute to our good friend and colleague, L. H. FOUNTAIN. I have had the privilege of serving with him on both the Foreign Affairs Committee and the Government Operations Committee in the past years.

I know the rules of the House provide that one can make no reference to people in the galleries. But if the rules did permit such reference, and if Christine were up in the gallery, I am sure that we would all want to extend our warmest greetings and affections to Christine in the days that lie ahead.

L. H. has had many fine things said about him from both sides of the aisle. And I have to add this observation, that his view on public policy has been so consistently the same as mine that I have often thought he would make a good Republican. I do not know how that would go down back in his home district. But that is exactly the way I feel about him. There have been so many occasions especially on the House Foreign Affairs Committee where we served together for many years that he has shown his independent spirit, has stood with Republicans as well as Democrats as he has seen by his own lights.

And I do thank him for the friendship, the thoughtful consideration he has always given to me. In some of my undertakings which always have not been universally applauded he nevertheless quite often has stood with me. And I appreciate that very much.

Hearing the fine thoughts expressed about L. H. reminds me of the story about a country Illinoisan, a politician of long standing and quite revered who died and many people attended his funeral. One of them said, "If the politician had known what fine things would have been said about him he would have died years ago."

I am not suggesting L. H. would have retired years ago. I just want to wish him well in the years ahead.

Mr. BROYHILL. Mr. Speaker, I yield to the gentleman from South Carolina (Mr. HOLLAND).

Mr. HOLLAND. I thank the gentleman for yielding.

I thank the gentleman from North Carolina (Mr. BROYHILL) for taking this time to allow those of us who have served—I not quite so long as some others—with L. H. FOUNTAIN to express our deep appreciation as citizens of this great country for the years he has given as a Member of this distinguished body.

I came here as a freshman Congressman in 1975. And I always found L. H. FOUNTAIN to be available to the newer Members on the floor, to give us advice and guidance and teach us, if you will, what was going on over here.

I know that knowing him has made me a better Congressman. His being a Congressman has made this a better body and this a greater country. We will all miss him as he returns to North Carolina. And about the best thing I have been able to say about my own retirement this year is that going with L. H. FOUNTAIN, I am going in real good company.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate very much my colleague from North Carolina taking this time so that those of us who have served with L. H. FOUNTAIN cannot only express our appreciation to him for the fine manner in which he has served the House of Representatives and the country, but also thank his district constituency for sending him here so regularly.

I searched my thoughts for something maybe a little different that I could say about L. H., and the best I can come up with, because there are so many qualities that L. H. has expressed and been and represented as a

Member of the House that it is difficult to pinpoint any one thing.

□ 1830

He has been Mr. Reliable himself. You know that when you go to him to talk about information relating to legislation which he has sponsored or which has come from the committees on which he has served, you are well aware that he will give you full, complete, and very positive reliable information on what all of that is about.

He is very much present in the Chamber all the time to participate in every phase of our work here in the House of Representatives and that is another reason that I found him so reliable.

I know that our colleague who served here so many years from Iowa, H. R. Gross, would many times say that there is one man in this Chamber you can always depend upon to get the right information and that is L. H. FOUNTAIN.

So I join with my colleagues in saluting our good friend, Mr. Reliable, L. H. FOUNTAIN, and say that we are, indeed, sorry that he has decided to move on to do something else, but we know that whatever that is, he will be just as reliable at that as he has been in serving our country.

Mr. BROYHILL. Mr. Speaker, I thank the gentleman very much for his remarks about our good friend, L. H. FOUNTAIN.

I yield to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, the honor and the prestige of the U.S. Congress is increased on a daily basis by those men and women who serve in this body by accepting their assignments and by dedicating themselves to their particular work. Some people are able to get headlines, or at least seek them, but the basic work of this Congress is done by those men and women who are assigned posts of duty in their respective committees and who on a daily, weekly, and yearly basis grind out the kind of legislation that brings credit to this institution. That kind of service has been rendered by L. H. FOUNTAIN. He was assigned to the Foreign Affairs Committee, the Government Operations Committee, and holds ranking positions today in both those committees. I daresay if he stayed he would become chairman of either one or the other, or conceivably both, though presumably not at the same time.

L. H. FOUNTAIN considers himself to be a U.S. Congressman from the Second District of North Carolina and he votes and he acts accordingly, first as a U.S. citizen representing his district and his State. He is the dean of his delegation and many times on this floor you will see huddled groups of Representatives from North Carolina and South Carolina and the general southern belt talking to him about how they should cast their votes.

L. H. FOUNTAIN does not cast any vote lightly. He thinks about it. He asks others for their opinions. He worries sometimes about it, and sometimes he is a little slow to vote. If he is not certain, he will vote no because he says you do not have explain a no vote very often. The net of it, thought, is that he gives very thoughful, dedicated consideration to every vote that he casts, and as such he has gained great respect in this body.

Some Members do not know the inside work that L. H. has done in certain committees. As one who has made some trips with respect to the Interparliamentary Union, I have seen L. H. FOUNTAIN go to these meetings and stand up and speak for the United States in a manner that brings great credit to this body. Recently in Rome I attended a meeting in which L. H. FOUNTAIN spoke for the United States and he spoke primarily to our adversary the Russians. He made it plain that we would cooperate, that we are for peace; but the Russians, he said, have to come up and lay their cards on the table at the same time. And that big body of men, representing nearly 100 nations, gave L. H. FOUNTAIN a standing ovation, because they respected the manner in which he delivered his speech, the sincerity with which he presented it, the depth of this feeling and the strength of the presentation. That kind of representation brings credit to us all.

It is not always known on the floor. It may not be recognized throughout the country, but I would hope that the people in his State and his district know that when L. H. FOUNTAIN speaks out, he does so with conviction, with sincerity, and with a voice that is listened to, and that brings credit to his constituents and this body.

Mr. BROYHILL. Mr. Speaker, the gentleman has given an excellent illustration. I had already heard of that incident and I do appreciate the gentleman telling the Members and also the constituents of L. H. about it.

Members, of course, recall that a few years ago L. H. served with great distinction as our representative to the United Nations and in that capacity he carried the rank of ambassador. He was not just a person up there observing with the title, he was a working Ambassador representing us in committees and representing us before the United Nations and he carried out that duty with great ability and great distinction.

I am sure the gentleman from Texas recalls the period when he was our representative.

Mr. PICKLE. I do recall, and that is just another example of the steadfast devotion that L. H. FOUNTAIN has given to this body.

I think the Members ought to take the time in the few remaining days to privately thank L. H. for his work. We should keep in mind that never once has L. H. FOUNTAIN done anything except that which has brought credit to this institution. Not many Members can we say that about, but we can say it about L. H. FOUNTAIN. He is a very great American and a very religious man.

I wonder if people in this body know that L. H. FOUNTAIN has attended Sunday school every year for the last 40 or 50 years. How many, L. H., how many years?

Mr. BROYHILL. Every Sunday.

Mr. PICKLE. For how many Sundays? It must have been—how old are you, L. H.?

However number of years it is, he never once failed to go to his Sunday school and to his church and make his confession to the Lord and ask forgiveness and ask to live a better life.

It is because of that kind of life that he enriches the lives of all of us.

So as L. H. and his wonderful wife, Chris, go, they leave behind a lot of good friends who are proud of his service and will always remember the Fountains.

Mr. BROYHILL. Mr. Speaker, I thank the gentleman very much for that excellent tribute to our good friend, L. H. FOUNTAIN.

I yield to the gentleman from North Carolina (Mr. JOHNSTON).

Mr. JOHNSTON. Mr. Speaker, the last day of this 97th Congress will be a sad one for the people of the Second District of North Carolina. On that day, the Honorable L. H. FOUNTAIN will retire after 30 years of dedicated service to them, to this body and to his State and Nation.

It is rare in this age of uncertainty and distrust that an entire generation of citizens can rely on one Representative who knows their concerns and stands always ready to help. The citizens of the Second District have been fortunate to have had L. H. FOUNTAIN working in Washington on their behalf, and they have been wise to keep him here for these 30 years.

The world has changed much, sometimes for the better, sometimes not, since L. H. was a freshman Representative. Yet his views have been steadfast. He has long worked to make Government more efficient and to minimize its intrusion upon the private lives of his constituents. He has led efforts to establish Inspectors General offices in the departments of the Federal Government and has served the President by giving advice on measures to restore the proper balance among the various levels of Government.

The people of the Second District will soon welcome L. H. FOUNTAIN home, but they will miss his service here. For as long as many of his constituents can remember, he has been their bridge to the Federal Government. He has a generation of good work to his credit.

□ 1840

Mr. BROYHILL. Mr. Speaker, I yield to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, it is with both great pleasure and great sadness that we honor Congressman L. H. FOUNTAIN of North Carolina today. It is a great pleasure because we have had the opportunity to serve in this great institution with such a fine gentleman. It is with great sadness that he is retiring at the end of the 97th Congress, and the Congress will be losing an able, intelligent, and sensitive legislator.

Congressman FOUNTAIN and I serve neighboring States, with many share interests. Partially for this reason, I am especially aware of his dedicated efforts for the constituents he has served so well.

His leadership will be fondly remembered, and although he is retiring from the Congress, his abilities and interests will continue to focus his attention on public issues.

Congressman FOUNTAIN has received many distinguished awards for his public service, but I am sure none of these awards could mean as much as knowing he has the admiration and respect of his colleagues and contituents for his dedicated service to the great State of North Carolina and the Nation.

I am pleased to join my colleagues in wishing him the best in his retirement and future endeavors.

Mr. BROYHILL. Mr. Speaker, I yield to the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. I thank the able gentleman for yielding and for giving me the privilege to join him and our other distinguished colleagues in appropriate words of tribute and appreciation to one of the great Members of this body who, unhappily, is leaving us at the end of this session, the Honorable L. H. FOUNTAIN of North Carolina.

There has never been a finer gentleman to occupy this chamber or to be a Member of this House as L. H. FOUNTAIN, nor has any Member been favored with having a more gracious and lovely wife as L. H. FOUNTAIN has in his gracious and lovely Christine.

For 30 years, L. H. FOUNTAIN has been a Member of this House. He is now the second in rank of the important Committee on Foreign Affairs, a man who has had a profound impact upon the foreign policy of this country and upon the Nation's status and standing before the nations of the world.

A little bit ago, I had the rare privilege of being a delegate with Mr. FOUNTAIN, who was accompanied by his lovely wife, to the Interparliamentary Union, the 69th, held in the Eternal City of Rome. We were anxious to have one of our Members who could, with propriety and moving emphasis and meaning, address the foreign affairs of this country in relation to the Soviet Union.

The Soviet delegate had spoken, in which he had told the conference, consisting of some 90-odd nations of the world, represented through their parliamentary bodies, about the expenditure of this Nation for national defense in the fiscal year 1983 being $257 billion.

He pointed out why we had been provoked to spend the sums that we were having to spend upon our national security, and the constant battle or struggle that we were having with the Soviet Union to confine national defense expenditures within desirable limits respecting our economy.

He laid out the assertions of the Soviet delegate in such a way as to make them seem utterly incredible and rather absurd.

At the same time, he presented the point of view of our country without in any sense of the word it being overaggressive or seeming arrogant in the character of the words. In other words, he was able, with extreme discretion and wisdom, to present the point of view of our country in the international struggle that we are engaged in with the Soviet Union in a persuasive, very effective and meaningful way, and he did it in such a way as not to appear nasty, as we say, not to appear malicious, not to appear pitied in what he said, but he lifted the debate to the level of dignity that should surround discussions and addresses of that important character.

So when he concluded, almost every delegate in that great conference applauded very strongly the remarks that he made, and we of the U.S. delegation were inordinately proud that we had a representative so knowledgeable of the subject, so capable of expressing the view of our Nation and our people, and so eloquent in the phraseology by which he employed those sentiments, to win the admiration of those who heard his address there that evening.

So from then on to the remainder of the conference, he was from time to time warmly commended by the delegates who had heard his address, upon the excellence of what he had said on that occasion.

He was constant in his attendance to the functions of our delegation. He was always alert to watch the interests of our country and see that they were properly protected. He was diligent in the discharge of his duties.

He and his wife made most delightful companions as well as representatives, delegates, of which we were very proud.

Well, that was simply typical of L. H. FOUNTAIN. All of these 30 years that he has been here, he has been hard working, diligent in the discharge of his duties, deeply dedicated to the interests of his beloved Nation and State and district.

He has had the respect, admiration, and affection of all who have served with him in this Congress. I am sure that includes the other body, as well as the Members of this body.

I regret deeply to see a man of his knowledge, experience, and prestige removed from this body. We need men like L. H. FOUNTAIN perhaps more seriously than we have at many times in the past.

Yet, for reasons that he thinks are adequate, he has voluntarily withdrawn himself from this membership and now he will be engaged in other duties. We know, however, that L. H. FOUNTAIN will always be working for his district, his State, his country, and for humanity in the world.

He has left a noble page in the history of America by his service in this House, and I am one of those who has profited immeasurably by his friendship and his noble association, so I join the distinguished gentleman from North Carolina in his warm tribute and that of my colleagues here today to this great and good man, this charming gentleman of our great Southland and his lovely Christine. We wish them many long and many healthy and many happy years ahead.

□ 1850

Mr. BROYHILL. Mr. Speaker, I thank the gentleman from Florida for those very eloquent remarks about our good friend, L. H. FOUNTAIN. As we have heard our colleagues here this evening describe L. H. FOUNTAIN, I have taken the opportunity to write down a few of the words that are descriptive of this man who has served so ably his State and Nation for 30 years. He has been described as a gentleman; reliable; able; careful; hard working; diligent; truthful; effective; an orator, and a credit to this House. Would that we could all live up to that.

● Mr. BROOKS. Mr. Speaker, my good friend and colleague, L. H. FOUNTAIN, will be leaving Congress at the end of this session, and we will miss him deeply. L. H. and I both began our congressional careers in 1953. For the past 30 years, we have served together on the Government Operations Committee. I have grown to admire his skill and dedication as a subcommittee chairman.

The list of L. H.'s accomplishments as chairman of the Government Operations' Subcommittee on Intergovernmental Relations and Human Resources is long. The subcommittee has oversight jurisdiction over the agencies that administer many of the laws that are vital to the American people's health and security, including the Department of Health and Human Services, the Food and Drug Administration, and other important governmental functions. L. H. has investigated the economy and efficiency of these agencies' operations with diligence and perseverance. He also was an early and vigorous sponsor of legislation to establish inspectors general in major executive agencies. The Nation's taxpay-

ers have been saved untold millions of dollars through his subcommittee's investigative work.

L. H.'s important contributions in the area of intergovernmental relation should be noted as well. He can truly be called the father of the Advisory Commission on Intergovernmental Relations which has had a major impact on improving dealings between our Nation's levels of Government. In addition, since 1975, L. H.'s subcommittee has had legislative jurisdiction over the general revenue sharing program. He and I may not always have agreed on the merits of this program, but the technical expertise and responsiveness of his subcommittee in handling this legislation have never been questioned.

Mr. Speaker, the Government Operations Committee will miss L. H. FOUNTAIN's service and dedication, the Congress will miss his contribution to the legislative process, the people of the Second District of North Carolina will miss his skilful representation of their interests, and I will miss him as a friend and valued colleague.●

● Mr. MARTIN of North Carolina. Mr. Speaker, I join our numerous colleagues today in paying tribute to the dean of my State's delegation, the Honorable L. H. FOUNTAIN, a gentleman in the truest sense who has served well the people of the Second District since January of 1953.

Retirements give us all an opportunity to pause and reflect. For instance, as a Republican I can reflect on the fact that L. H. is one of the few who can actually remember a time when my party was in the majority in this House. He was here then and I had not received a driver's license.

We can reflect on what the burning issues have been since 1953: War and peace, waste in Federal spending, the growth of the power of the Federal Government, and Government efficiency and responsibility.

In all these areas L. H. FOUNTAIN has made his constructive mark.

He has served as a member of our delegation at the United Nations, while being ever a proponent of a strong national defense.

He led the fight for the establishment of inspectors general in the major departments of the executive branch. The "I.G.," free of the constraints of parochial bureaucratic influences is the fabled "junkyard dog" set on the task of uncovering waste, fraud, abuse, and misconduct. My view is that this will be remembered as our colleague's greatest single achievement and the one that has best served our country and its Government.

In the area of intergovernmental relations, our friend and colleague, Mr. FOUNTAIN, has made two major achievements. First, there is general revenue sharing. It would not exist had it not been for the work of L. H. FOUNTAIN. As a county commissioner, years ago, I recall coming here to lobby for that legislation which I considered then, and consider now, of the greatest importance to States, counties, and cities. Some day it must be the model for all Federal aid to the States and their subdivisions. Second, there is the Advisory Commission on Intergovernmental Relations. That is also a work of the hand and mind of our retiring colleague, dating from 1959.

My predecessor, Charles Raper Jonas, also entered this body in 1953 and retired a decade ago. When I came here—actually, a bit before that—Congressman Jonas, quoting a former illustrious Member, Champ Clark, taught me the House was composed of work horses and show horses, citing L. H. FOUNTAIN as the exemplar of the former and sturdier breed. That has been the definition of the Fountain role for as long as I have had the honor to observe it, a role that involves the avoidance of unproductive confrontation and the pursuit of compromise in a very civil and civilized process. We could, and should all learn from that.●

● Mr. NEAL. Mr. Speaker, when we come to the adjournment of the 97th Congress, one of the most distinguished Members of this House will end a 30-year career as the Representative of the Second Congressional District of North Carolina.

He is the Honorable L. H. FOUNTAIN, dean of the North Carolina delegation; member of the Committee on Foreign Affairs, the Committee on Government Operations, and chairman of the Subcommittee on Intergovernmental Operations and Human Resources.

As one who has worked closely with the distinguished gentleman as a member of the North Carolina delegation and of the subcommittee which he chairs, I would observe that he is worthy of even more praise than is being heaped upon him on this occasion. He has served his district, his State, and his Nation with honor, with dignity, and with distinction.

There are many things that might be said about my good friend and colleague. None are adequate to describe him, or his devotion to his country and to the job entrusted to him for so long by the people of his district.

It would seem from the record that L. H. FOUNTAIN has been, from the days of his youth, a man with a mission. It also is clear that he has never permitted circumstance, comfort or convenience to delay or deter him from doing what he considered to be both privilege and duty.

It will be told here today that he has not missed a Sunday school class since 1916. That might astound those who are not intimately acquainted with Mr. FOUNTAIN, but is does not surprise those of us who know him well. It is rather typical of the unserving loyalty and devotion he has shown to every honorable cause he has ever undertaken.

He has served his Nation with equal fervor. As a young lawyer, he entered the Army as a private at the beginning of World War II. He rose through the ranks to become a major, and afterward a lieutenant colonel in the Reserves. Again, this is typical of the man. Whatever the duty, whatever the job, the country could depend on L. H. FOUNTAIN.

His work, of course, has not gone unnoticed or unappreciated. He has been given may awards for distinguished achievement. He has served on many important committees and commissions. But perhaps the greatest tribute of all is the esteem in which he is held by his colleagues here in this House.

We shall miss his leadership, his friendship, and his counsel. We wish him well.●

● Mr. BOLAND. Mr. Speaker, I would like to join my colleagues in paying tribute to Congressman L. H. FOUNTAIN.

L. H. FOUNTAIN has been a representative in the best sense of the term. For 30 years, he has devoted his time, energy, and intelligence to the service of America. He has been a dedicated and effective member of the Advisory Commission on Intergovernmental Relations, and the House Committees on Foreign Affairs, and Government Operations. As the chairman of the Intergovernmental Relations and Human Resources Subcommittee of the Government Operations Committee, he has been a crusader in the area of drug regulation and a conscientious overseer of the work of the Food and Drug Administration. His efforts have served the interests of not only his constituents in the Second Congressional District of North Carolina, but of all Americans.

The reputation L. H. FOUNTAIN enjoys in the House, as well as in every aspect of his life, is the product of the quality of his service. As an active member of several civic organizations, he has been honored with numerous awards citing his leadership, skill, and inspiration. L. H.'s devotion to his church is demonstrated by his perfect Sunday school attendance since 1916 and his election as elder at his Presbyterian congregation. As seen from his accomplishments, L. H.'s commitment to service extends far beyond his activities in Congress.

Mr. Speaker, I believe, as all North Carolinians will agree, that we are very fortunate L. H. FOUNTAIN chose to devote his life to public service. He has made an important contribution to the work of Congress and he will be missed. I want to wish him continued success in the years ahead as he turns his considerable talents toward new challenges.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the Honorable L. H. FOUNTAIN, who has dedicated his life to public service, and the last 30 years to ably representing the people of the Second District of North Carolina in the House of Representatives. His tireless efforts on behalf of his constitu-

ents, and on behalf of all citizens of the United States, are most worthy of recognition.

Before coming to the House L. H. honorably served our country in the Army for 4 years, and was discharged from the Judge Advocate General's Office with the rank of major. He presently holds the rank of lieutenant colonel in the Army Reserve. After practicing law for several years in North Carolina, he became a North Carolina State senator, serving in that office for 5 years.

Elected to the House of Representatives in 1952, L. H. has been a dedicated Member of this body, serving with distinction as chairman of the Subcommittee on Intergovernmental Relations and Human Resources of the House Government Operations Committee. His work in the Subcommittee on International Security and Scientific Affairs, and in the Subcommittee on Europe and the Middle East of the House Foreign Affairs Committee is most commendable.

L. H. is a fine legislator, and a Congressman of outstanding ability, compassion, and courage, who has provided exemplary service to our Nation. He will be missed by those of us in the House of Representatives, who have had the pleasure of working with him.

I extend to L. H. FOUNTAIN my best wishes for a happy and healthy retirement, and for continued success in devotion to highest principles.●

● Mr. DERWINSKI. Mr. Speaker, our respected colleague, L. H. FOUNTAIN, will be leaving the House at the end of this term to enjoy the rewards of retirement which, after 30 years of productive service, are well earned.

I have had the great pleasure of working closely with L. H. at a number of international conferences, most recently at the meeting of the Interparliamentary Union (IPU) in Rome, Italy. L. H.'s keen leadership abilities have been a great asset to the U.S. delegation of the IPU, where he was a most effective spokesman for our country. As fellow members of the House Foreign Affairs Committee, I have been privy to his outstanding knowledge of the world political situation and his loyal support of U.S. diplomacy.

As dean of the North Carolina delegation, L. H. has worked diligently on behalf of his district and entire State. He is known for his loyalty to principle and his dedication to the interests of his constituents and to the benefit of each and every American. L. H. has been a devoted public servant throughout his career, and is one of the ablest men serving in Congress. He has faithfully represented the people of North Carolina with great effectiveness, setting an example of leadership and fairness which is a tribute to the great institution of this body.

We have been fortunate to have L. H. FOUNTAIN as a colleague and to benefit from his extraordinary legislative skill. I have enjoyed serving with L. H. on the Foreign Affairs Committee, and found him to be a steadfast and effective member.

A man of great personal warmth, L. H. is respected by everyone who comes in contact with him. To describe L. H.'s character is to say that he is tirelessly dedicated, refreshingly honest, and always a gentleman.

On behalf of my wife, Pat and myself, I wish to express our best wishes to L. H. and his wife, Christine for a long and enjoyable retirement.●

● Mr. BRINKLEY. Mr. Speaker, when the 98th Congress convenes next year, it will feel the loss of one of its best and brightest—L. H. FOUNTAIN—who is retiring from public office at the end of this session.

L. H. has earned a record of exemplary service and devotion to country throughout his 30-year tenure. All of us will remember him for his strong committee leadership as chairman of the House Government Operations' Intergovernmental Relations and Human Resources Subcommittee, as well as for the expertise he has demonstrated on the House Foreign Affairs Committee. We will especially recollect his gift of persuasive speaking, based upon sincere conviction.

My own personal recollections of this good man will be highlighted by his courteous demeanor both on and off the floor. L. H. is an easy man to be with, who is blessed with a special dose of human kindness. A courtly gentleman and a scholar, he has never lost the common touch.

To L. H., his lovely wife Christine, and his fine family, I wish the happiest of times in the years ahead.●

● Mr. BENNETT. Mr. Speaker, one of the great benefits of being a Member of Congress is the association that we are privileged to have with other Members of Congress and the friendships that developed through the years of service. As I look at my own service in Congress, I do not know of anyone with whom I have served whom I more greatly admire than L. H. FOUNTAIN, who is retiring from Congress this year. He not only is a distinguished Congressman with a substantial legislative achievement as a result of his many years here in the House, but he is also a person greatly admired for his integrity, hard work, and dedication to what is best for our country, mankind, and the people he represents. He was a veteran of World War II, a graduate of the University of North Carolina, and has received many awards for his public service through the years. His performance as a leader in the Foreign Affairs and Government Operations Committees and as subcommittee chairman in various capacities has been outstanding. We will all miss him and his beautiful and charming wife, but hope that they will come back to visit us often.●

● Mr. BROWN of Ohio. Mr. Speaker, the dictionary defines a gentlemen as "a man who is noble, refined, and fair." I would like to suggest that Noah Webster could have better described this term in a much abbreviated form by using only three words: L. H. FOUNTAIN. As I am closing my nearly two decades of service in the Congress, I can candidly say that I have met no more fair and honest man in this House than L. H.

As a subcommittee chairman, he always bent over backward to be judicious and equitable. In fact, I think he did this at times to the detriment of positions he was advocating. Yet he always wanted to make certain that all viewpoints were fully aired and no member received short shrift. If you had a problem or some special need, you could always count on L. H. to do all he could to accommodate you.

One particular area where the Nation owes him a debt is in his constant vigilance over the workings of our federal system. In days when this was a less than fashionable topic, L. H. was there lending his hard work and expertise to improving the way our levels of government function together. He has served as the only chairman of the House Intergovernmental Relations and Human Resources Subcommittee and has spent over two decades on the Advisory Commission on Intergovernmental Relations, a body which he created.

He has also been a leader in the fight against the waste of taxpayer dollars. His subcommittee created the first statutory Inspector General for a Federal department, which has since then served as a model for 15 additional Inspectors General. These offices have saved enormous amounts of money and I believe they would not exist if it was not for the diligence of L. H.

I will miss L. H. This Congress will miss him. He is a model of decent and effective public service; a fair man who never let position or opinion stand in the way of his beliefs and principles, and who always made sure that his colleagues were treated fairly and with respect and friendship.●

● Mr. DAN DANIEL. Mr. Speaker, it is a privilege for me to join in this special tribute to our good friend and colleague, L. H. FOUNTAIN.

We often are confronted with the question—"What makes a good Congressman?" and from the 435 districts all over this country come a variety of answers. A Congressman is considered effective if he properly represents his constituents, fulfills his committee responsiblities, and votes most of the time on the floor in a way that satisfies those to whom he looks for reelection. In addition, he has a responsibility to the Nation—and indeed to coming generations, because of the far-reaching effects of his actions.

L. H. has done all of this—and done it well. He is loved by his constituents—who have sent him to Congress for the past 30 years. He has served with distinction on all the committees with which he has been associated. He

is held in high esteem by those with whom he has served in the Congress and his has been a voice of reason in a time when reasonableness has not always been popular.

Congressman FOUNTAIN has been loyal to the Congress and his record of representation has been outstanding. But, even more than that, he is a man who is respected as a gentleman. The sense of values which he has developed over a lifetime of public service is reflected in everything he does. It has affected his attitude toward problems with which every Member of Congress is confronted. It has motivated his life and will continue to serve him well when he leaves here in January.

The House and the Nation have benefited by his service and both will miss his dedication and vision. We wish L. H. and Christine well in whatever they undertake.●

● Mr. MONTGOMERY. Mr. Speaker. I have mixed emotions about this special order today honoring our distinguished colleague, Representative L. H. FOUNTAIN. I am certainly happy to pay tribute to this outstanding American, but I am sorry that he is leaving this Chamber after 30 years of dedicated service.

My personal friendship and respect for L. H. FOUNTAIN dates back to 1967, when I came to the House of Representatives. I have counted on the conservative leadership and advice he has provided over those years.

L. H. FOUNTAIN'S career has truly been one of outstanding service to the people of North Carolina and to this Nation. After graduation from the University of North Carolina with a law degree, he entered the U.S. Army and rose to the rank of major in the Judge Advocate's Office. He now holds the rank of lieutenant colonel, retired, in the Army Reserve.

He returned to North Carolina after the war and was elected to the State senate, where he served until election to the House of Representatives in 1952.

L. H. FOUNTAIN has worked tirelessly on the Foreign Affairs Committee, and the Committee on Government Operations, where he is chairman of the Subcommittee on Intergovernmental Relations and Human Resources. His subcommittee assignments on the Foreign Affairs Committee include Europe and the Middle East, and International Security and Scientific Affairs. The contributions he has made to these vital committees have been a great asset both to those committees and to this Nation.

He was also appointed a delegate to the 22d session of the United Nations in 1967 as a representative of the United States and he serves as a valued member of the Advisory Commission on Intergovernmental Relations, where he has served since it was formed in 1959.

He also has a key role on the Presidential Advisory Committee on Federalism, which advises the President on ways to restore the proper relationships between local, State, and Federal government.

As you can see, L. H. FOUNTAIN has made his presence known in the 30 years he has served in this Chamber. Ths House is losing one of its most respected and hardest working Members. I want to say a personal "thank you" for his advice and counsel over the years. I will miss him, as will my colleagues.●

● Mr. QUILLEN. Mr. Speaker, I wish to join my colleagues in paying tribute to the Honorable L. H. FOUNTAIN of North Carolina.

Congressman FOUNTAIN is retiring from the House at the end of this year after 30 years of distinguished service to his constituents and the country. His departure is a loss to the House and especially so to many of us who have enjoyed working with him over the years.

As a Member from a neighboring State there have been many times when we worked together for the improvement and progress of our part of the country and its industries and Congressman FOUNTAIN was always a skilled and effective legislator in those efforts.

As Congressman FOUNTAIN leaves the House I want to extend to him and his family my best wishes for good health and happiness in the years ahead.●

● Mr. SHUMWAY. Mr. Speaker, I am pleased to have this opportunity to honor our friend and colleague, L. H. FOUNTAIN as he prepares to retire following a long and respected career as a Member of this House. Additionally, I appreciate the fact that the North Carolina delegation has arranged for this time of tribute.

For 30 years, L. H. FOUNTAIN has served the people of North Carolina and the Nation in an exemplary and responsible manner. He has continually demonstrated sound leadership and a keen understanding of the legislative process, and he has proven to be an articular and persuasive spokesman for that in which he believes. His impressive roster of awards and commendations speak volumes for his accomplishments as a Member of Congress, and he has made an indelible mark through his service on the Advisory Commission on Intergovernmental Relations, not to mention his authorship of the ACIR's authorizing legislation. Few among us have served our Nation on an many plateaus as L. H. FOUNTAIN. In Congress, at the United Nations, as a former State senator, and as an adviser on the proper role of federalism, he has consistently offered his best effort. Moreover, his service has extended far beyond his official and governmental duties. L. H. has proven himself a truly civic-minded man and a concerned private citizen.

His leadership will most assuredly be missed, as will his gentlemanly manner. However, it is equally certain that he will not be forgotten by those who have been fortunate enough to know and work with him. Speaking personally, I am delighted to have had the privilege, and I extend every best regard to L. H. and to his family as he prepares to enjoy some very well deserved leisure time.●

● Mr. MURTHA. Mr. Speaker, Congressman L. H. FOUNTAIN served in Congress in the highest traditions of the U.S. House of Representatives.

He is an independent thinker with unique ability who used those qualities for 30 years to help not only the people of his congressional district and North Carolina, but the entire Nation.

Congressman FOUNTAIN understands the balance between how to get things done in Congress and what is important to the people of the Nation. That kind of knowledge is a must for Congress to function on behalf of the people, and Congressman FOUNTAIN used that knowledge to help us reach that goal on numerous occassions.

I have found him to always be a gentleman and a hard worker. He is a statesman in his ability to take the larger view of issues and realize their impact and importance.

There is no doubt that L. H. will be missed, and I know I join with my colleagues in wishing him well, and I know I can speak for all Americans in saying thank you for your outstanding years of service.●

● Mr. NAPIER. Mr. Speaker, we honor a man of strength and compassion today as we, the Members of the 97th Congress, recognize Congressman L. H. FOUNTAIN who is soon to retire from his position. He has sat among each of us on the floor of the House and he has preceded most of us here in the House Chambers during his 30 years of service. The dean of the North Carolina delegation, and Congressman for the Second District in North Carolina, the Honorable L. H. FOUNTAIN is a highly respected, dedicated individual. he has held seats on the House Committee on Government Operations and on the House Committee on Foreign Affairs, and has made valuable contributions to both of these bodies. As he now leaves Congress to enter into retirement, we shall indeed miss Congressman FOUNTAIN, but we shall not forget him.

Mr. Speaker, as one who has come to value L. H. FOUNTAIN as an outstanding person, I am delighted to salute him as a great American.●

● Mr. BUTLER. Mr. Speaker, I am pleased to join with many others in honoring our distinguished colleague, the Honorable L. H. FOUNTAIN. I have been privileged to serve with L. H. on the Government Operations Committee. We have had the opportunity to travel together several times on Interparliamentary Union trips.

As chairman of the Intergovernmental Relations Subcommittee of the House Government Operations Committee, L. H. has demonstrated exceptional leadership which has resulted in

savings of hundreds of millions of dollars for the taxpayer. He led the fight for creation of the first independent, presidentially appointed Inspector General in the former Department of Health, Education and Welfare and worked for the establishment of inspectors general in every key Federal department and agency, now totaling 17.

We will miss the Congressman's dedicated and devoted service to his fellowman and wish him every success in his new endeavors.●

● Mr. YATRON. Mr. Speaker, it gives me great pleasure to join with my colleagues today to pay tribute to one of the most distinguished and respected Members of the United States House of Representatives, L. H. FOUNTAIN. L. H. has an extensive and impressive list of legislative accomplishments, which is the envy of many Members. While I will not enumerate this long list here, suffice it to say that his absence will be sorely felt by the people of North Carolina and by us in this body.

My admiration of this great American extends beyond the legislative realm. L. H. is a compassionate, friendly, caring human being, who has been actively involved in Christian work, and who has always endeavored to help his fellow man. We can all look to L. H. as an individual with both temporal and spiritual achievements.

I consider myself very fortunate to have served with L. H. on the House Foreign Affairs Committee. This experience afforded me the opportunity to witness firsthand his many legislative capabilities and his effectiveness. I learned a great deal from L. H. and I consider myself a better legislator because of our association. I am sure that many other Members have also learned a great deal from L. H. As chairman of the Government Operations Subcommittee on Intergovernmental Relations and Human Resources, he has guided many important measures through the House and has left his imprint on the laws of this great land.

It goes without saying that L. H. will be deeply missed when the next session of Congress is convened.●

● Mr. BEVILL. Mr. Speaker, as the 97th Congress draws to a close, this Nation will be losing one of its most able Representatives, our good friend and colleague, L. H. FOUNTAIN.

When I first came to this body, 16 years ago, L. H. already was one of the senior Members of Congress. His friendliness and willingness to help a freshman Member were reasuring to me, personally, and I know they were to other newly elected Representatives.

L. H. has proven himself to be a dedicated and concerned legislator, ever mindful of his duty to the people of the Second District of North Carolina. He always has impressed me as a man who took his office seriously. I think he is one of the most knowledgeable Members of the House concerning the actual working relationships among the various elements of our Government.

His constitutents have given him the high honor of reelecting him to 15 terms in the House. And he has returned their confidence by giving them conscientious service.

I will personally miss L. H. and I know that the country will be losing one its most dedicated Members of Congress. However, he has served the people well and is most deserving of a long and happy retirement. My best wishes go with L. H. and his wife Christine.●

● Mr. STENHOLM. Mr. Speaker, it is with great pleasure that I join my colleagues today in honoring the dean of the North Carolina Democratic delegation, L. H. (PETE) FOUNTAIN. It has been an honor and an inspiration to serve with Congressman FOUNTAIN during the last 4 years of his illustrous career as Representative of the Second District of North Carolina.

I would like to particularly thank Congressman FOUNTAIN for his guidance and wise counsel given during the organization of the Conservative Democratic Forum. He freely offered this beginner the benefit of his 30 years of service in Congress and his influence here in the Nation's Capital will not be quickly forgotten nor will his shoes be easy ones to fill by his successor.

"PETE" FOUNTAIN is the personification of all of the fine qualities that should be the goal of every public servent. PETE, the "boll weevils" will miss you but hope you will always remain "in high cotton."●

● Mr. ROYBAL. Mr. Speaker, it is both a privilege and a pleasure to rise in tribute to my distinguished colleague, L. H. FOUNTAIN. For the past 30 years L. H. has demonstrated profound commitment and dedication to serving the Nation as well as the people of North Carolina.

His outstanding leadership is reflected in the many awards he has received for service to his community and the Nation as a whole.

L. H.'s legislative contributions during his career in the House have been valuable. Under legislation he introduced in the Congress in 1959, the Advisory Commission on Intergovernmental Relations was established. By providing this much needed forum for communication, Mr. FOUNTAIN has been a major influence in promoting better relations between local, State, and Federal Government.

L. H. FOUNTAIN has been an effective Member of this institution for 30 years and his presence will be sorely missed. I wish him all the best in his future endeavors.●

● Mr. ADDABBO. Mr. Speaker, it is an honor and a privilege to join my colleagues today in paying tribute to our good friend and colleague, L. H. FOUNTAIN.

L. H., who has faithfully and capably represented the Second Congressional District of North Carolina for 30 years, will be retiring at the end of this term. Those of us who have enjoyed the pleasure of working with L. H. will sorely miss his intelligence, his dedication, and his humor.

As chairman of the Intergovernmental Relations and Human Resources Subcommittee of the Committee on Government Operations, and as a member of the Committee on Foreign Affairs, L. H. served well both his constituents in North Carolina and his Nation. He has been recognized by the Association of American University Presses for his service to higher education, and by the National League of Cities for distinguished congressional service. L. H. introduced legislation in 1959 establishing the Advisory Commission on Intergovernmental Relations, and has served as a member of that Commission since. In each of his endeavors and appointments, from serving as a U.S. Delegate to the United Nations General Assembly to serving as a member of the Presidential Advisory Commission on Federalism, L. H. has proved a moderating and thoughtful force.

We will all miss L. H., and wish him a peaceful and rewarding retirement.●

● Mr. SAM B. HALL, JR. Mr. Speaker, it is with both admiration and a sense of sorrow that we join in a well-deserved tribute to our dear friend from North Carolina, L. H. FOUNTAIN. We admire him for his tremendous contribution to the legislative process, and we feel sorrow over his decision not to seek another term after 30 years of exemplary service to his district, State, and Nation.

L. H. FOUNTAIN is a gentleman in the classic sense of the word. He is a man devoid of rancour or bitterness, and as all of us know, you cannot have a better friend in the world than L. H. FOUNTAIN.

There are not too many congressional districts in this country that have been traversed by so many of us than the Second District of North Carolina, which L. H. has so ably represented. If you travel Interstate 95 down to Florida, you will enter the Second District just south of the Virginia State line. It is a beautiful area, rich in history, and composed of some of the finest people to be found anywhere. L. H. FOUNTAIN is the epitomy of the constituent Member of Congress, and his people have demonstrated over and over again their appreciation and support for his untiring efforts in their behalf by returning him to the House with a large percentage of the vote.

In the forefront of consumer affairs, the consumer does not have a better friend than L. H. FOUNTAIN. As chairman of the Intergovernmental Relations and Human Resources Subcommittee, he has taken a balanced and objective approach to many controversial items of great significant to Amer-

ica's consumer. He is persuasive, deliberate, and treads a course of moderation, and we have come to rely heavily on his expertise and knowledge.

L. H. FOUNTAIN is a true patriot. He loves his country and his service in its behalf has been total and without a hint of selfish motive. We need more L. H. FOUNTAINS, and his tenure in this body should be emulated by all aspiring young office seekers.

I know that L. H. FOUNTAIN will enjoy a long and successful retirement. We shall miss him but there is consolation in the fact that a man of his stature is available at our beck and call to help us.●

● Mr. FASCELL. Mr. Speaker, I am proud to participate in this tribute to our friend and colleague, L. H. FOUNTAIN, and I am grateful to the gentleman from North Carolina for providing us with the opportunity to do so.

It has been my privilege to serve for many years with L. H. on both the Committee on Government Operations and the Committee on Foreign Affairs. We have worked closely together through a number of Congresses on a wide variety of issues.

L. H. has been the recognized leader in the Congress on intergovernmental relations, striving mightily to improve communications and the complex relations that exist among the States, local governments, and the Federal Government. He has led some of the most important investigations conducted under the auspices of the Government Operations Committee. These complex and difficult investigations have saved millions of dollars and resulted in Federal prosecutions, new administrative procedures and laws.

He is fair, fearless, tireless, and dedicated. He has been a diligent legislator and a credit to the people of North Carolina and the country. L. H. will be greatly missed within our committees and by the House as a whole.

L. H., Jeanne-Marie and I wish you and Christine the best for the future. May your retirement bring you some well-deserved leisure to pursue interests you have put aside during your long service to the second district.●

● Mr. McGRATH. Mr. Speaker, I am pleased to join with so many of my colleagues in paying tribute to my good friend, L. H. FOUNTAIN.

There are many Members of this body who have served longer with L. H. than I have, but there are few who hold him in higher regard. In the time I have served on L. H.'s Subcommittee on Intergovernmental Relations and Human Resources, I have been deeply impressed by his commitment to making our Government work better, and I will never forget the friendship and consideration he has shown me over the past 2 years.

L. H. FOUNTAIN was one of the first Members of Congress to recognize the changing relationships among Federal, State, and local governments, and in 1959 was instrumental in the enactment of legislation establishing the Advisory Commission on Intergovernmental Relations. L. H. has served on the ACIR since its creation, and in addition has served with distinction on the Presidential Advisory Commission on Federalism. Legislation which he authored led to the establishment of the inspector general program, which has served to streamline and improve the activities of 17 of the largest agencies of the Federal Government.

L. H. FOUNTAIN has served this Nation and the Second District of North Carolina with distinction for more than 30 years, and his guidance and his friendship will be missed by all of us when he leaves this body.

I want to take this opportunity to wish L. H. health, happiness, and fulfillment in his retirement.●

● Mr. MINISH. Mr. Speaker, I am pleased to join in this special order to honor our good friend and colleague, L. H. FOUNTAIN, as he retires from this Chamber.

Although I am certain that my friend is looking forward to new challenges in his private life, the House will surely miss him. In L. H. we had a dedicated Member whose knowledge, energy, and diligence truly distinguished him. Obviously, the people of the Second Congressional District of North Carolina recognized his merit by returning him to Washington since 1952.

L. H., the best of everything to you, Christine, and Nancy. I am sure that the family will appreciate having you around more often in the future. I wish you many years of health and happiness.●

● Mr. ZABLOCKI. Mr. Speaker, I certainly welcome this opportunity to join my colleagues in honoring a distinguished American, the dean of the North Carolina delegation and the ranking majority member of the Committee on Foreign Affairs, the (always) Honorable L. H. FOUNTAIN, on the eve of his retirement from this body.

L. H. has served for many years as a memer of the foreign Affairs Committee and as chairman of the Intergovernmental Relations and Human Resources Subcommittee of the Committee on Government Operations—and I should add that he has served in both capacities with great dedication and distinction.

As his many friends here recognize, he is a man of considerable talent and versatility: An attorney, a soldier, an elder of the Presbyterian Church, an adviser to Presidents (as well as committee chairmen), and a statesman.

The awards and citations he has received in recognition of his outstanding service to the people of North Carolina and his local community are too numerous to mention here, but they stand as a testament to the very high regard and esteem in which L. H. is held by those who know him best and who recognize the invaluable contribution he has made to our political life.

While L. H. has served his constituents well during his 30 years in the House, he has also placed the best interests of his country above all other considerations by his consistent bipartisanship in foreign affairs. Like me, he has seen a number of administrations come and go, while our Nation's basic principles and foreign policy objectives remain constant and deserve our continuing attention and support. It is perhaps illustrative of L. H.'s record that he served as a U.S. delegate to the 22d session (1967) of the United Nation's General Assembly under the Johnson administration and presently serves as a member of the Presidential Advisory Committee on Federalism established by President Reagan.

Above all, however, L. H. has brought a sense of great dignity and honor to the legislative process, and his admirable career of public service attests to that fact.

L. H. will be missed by his many colleages and admirers in this body. I join them in extending to L. H. our warmest congratulations for his past service and our hopes and best wishes for the kind of happy and rewarding retirement which he so richly deserves.●

● Mr. LONG of Louisiana. Mr. Speaker, I appreciate this opportunity to join in paying tribute to our colleague, L. H. Fountain, who is retiring at the end of the 97th Congress.

For the past 30 years, L. H. has very ably represented the people of the Second District of North Carolina, that beautiful Piedmont area that includes Chapel Hill, the home of the University of North Carolina.

As dean of the North Carolina delegation, he has served not only his district and his State, but the entire Nation. In his position as chairman of the Subcommittee on Intergovernmental Relations and Human Resources Subcommittee of the Government Operations Committee, he has led the fight to protect the public from procedures that could have permitted the marketing of possibly harmful drugs.

L. H. was working to prevent waste in Government long before it became so popular to talk about waste, fraud, and abuse. He was an original sponsor of legislation to establish an Office of Inspector General in each executive department. As a result of his foresight and hard work, today there are 18 Offices of Inspectors General working to make our Federal Government more efficient and effective.

I congratulate him on his many contributions to North Carolina and the Nation, and extend my very best wishes to him in his retirement.●

● Mr. REUSS. Mr. Speaker, it is a privilege for me to join in this well-deserved tribute to my friend and colleague, L. H. FOUNTAIN, who is retiring at the end of the 97th Congress after 30 years of dedicated service. As the chairman since 1955 of the House Government Operations Subcommittee on

Intergovernmental Relations, L. H. has fought for legislation of great benefit to all Americans, forcing recalls of dangerous pesticides, removal of carcinogenic cyclamates, and a ban on the extremely dangerous cattle hormone DES. His inquiries into Federal health research agencies led to the establishment of the Inspector General system now in place throughout the Federal Government. That system has saved American taxpayers millions of dollars.

L. H.'s subcommittee also bears responsibility for the often controversial revenue sharing program. Under his patient leadership, Congress produced a number of compromise revenue sharing bills that provide State and local governments with badly needed assistance, while minimizing Federal intrusion in State and local affairs.

The embodiment of the southern gentleman, L. H.'s graciousness and his soft-spoken good nature have earned him the admiration and friendship of all of his colleagues. Although his retirement has certainly been earned, the House will greatly miss his dedication and his quietly effective leadership.●

● Mr. MAZZOLI. Mr. Speaker, today we honor L. H. FOUNTAIN for his many years of distinguished public service. Throughout the 30 years that L. H. has served in the House of Representatives, he has been unwavering in his efforts to serve his State and his constituents of North Carolina. L. H.'s participation in numerous State and local organizations attests to the dedication and commitment with which he has served so well.

I commend L. H. for his work in the House and wish him my very best.●

● Mr. DE LA GARZA. Mr. Speaker, the history of our great Nation is punctuated throughout with names synonymous with courage, foresight and ingenuity. Today we rise to pay our respects to one such man—L. H. FOUNTAIN, dean of the North Carolina delegation.

L. H. FOUNTAIN came to Congress in 1952. Prior to that he served with distinction in the North Carolina State Senate. During his three decades of service here vast changes occurred in our Nation and in the world—but one unchanging factor has been the dedication of our friend from North Carolina to his country, his responsibilities as a Member of the House and to his party.

All aspects of the career of L. H. FOUNTAIN have been outstanding, and his work as chairman of the Intergovernmental Relations and Human Resources Subcommittee recognized as exemplary. In my mind his most important contributions to this House are not contained in any one bill or act. The strength of his personality, the willingness to say what many felt, and the conviction to do things that had to be done—these are the qualities that will be sorely missed.

A leader in the House he never failed to recognize the needs of the people he represented. He contributed to the dignity and effectiveness of this body, being to my mind a shining example of what a Congressman shoud be like. He has come to symbolize that which is wholesome, sacred, and good about America.

Representing a district which knew him well and appreciated his talents, his decision not to return is not only the loss of the Second District of North Carolina, but also a loss for the country he served so well. His wise counsel, his consideration for other Members, his gift of friendship will be sorely missed by all of us.

Distinguished by his affable smile and unfailing thoughtfulness of others, L. H. FOUNTAIN is the kind of friend any man would be proud to have. I know I am. As he leaves I want to express how privileged I am to have served with him and join in wishing him satisfaction and success.●

● Mr. COELHO. Mr. Speaker, I am proud to join my colleagues today in paying a very special and well deserved tribute to a man who for 30 years has served this House ably, effectively and loyally, L. H. FOUNTAIN. Throughout his tenure, he has exhibited an unquestionable allegiance both to his constituents and to this Nation. For those of the Second District of North Carolina, his retirement will deprive them of a representative of loyalty and understanding who represented them and their interests in an exemplary manner. For this Nation, a distinguished and faithful servant who cared for and worked for its future will be sorely missed.

Although within his 30-year tenure, he has numerous accomplishments and achievements that will be remembered for years to come, I would especially like to commend his work as chairman of the Intergovernmental Relations and Human Resource Subcommittee, which he has chaired since 1955. In his role as chairman, he displayed a great concern for the people of this Nation, and was a leader in his work in the area of consumer protection, combating Government waste and corruption and in strengthening the bonds of our government at all levels in order to facilitate the process so government could work more effectively.

He was instrumental in formulating the Advisory Commission on Intergovernmental Relations (ACIR), on which he has served for 24 years and which has been most effective in working toward loosening the intergovernmental constraints that impede progress. His fairness, his tirelessness and his determination have been an inspiration and have gained him not only respect but esteem. Congress has been extremely fortunate to have someone of L. H.'s stature for the past 30 years. We shall all miss not only the statesman, but the dedicated and compassionate man. I want to wish him many years of happiness and joy in his retirement.●

● Mr. BINGHAM. Mr. Speaker, I want to thank our colleague from North Carolina, Mr. BROYHILL, for arranging for this time in which we may pay tribute to our departing friend, L. H. FOUNTAIN, who is retiring from the House after 30 years of distinguished service.

Ever since I was elected to the Foreign Affairs Committee in 1969, I have had the pleasure of serving with L. H. We have also served together on the Subcommittee on International Security and Scientific Affairs.

While we did not always agree on the issues, I have always found the gentleman from North Carolina to be just exactly that, a true gentleman in the finest tradition of our Southern States. He has always been unfailingly courteous, not only to his colleagues, but also (a more uncommon attribute) to representatives of the executive branch and other witnesses appearing before us. I have never known L. H. to be unpleasant to anybody, and he was certainly always friendly toward me.

I don't know what significance it has, but Mr. FOUNTAIN is to my knowledge the only Member of this body who is known exclusively by his initials. Indeed he is so listed in the Congressional Directory. In this regard he has something in common with our late great President Harry S. Truman, whose middle initial stood by itself, not substituting for any more complicated form of nomenclature.

As L. H. and his charming wife Christine leave the House for greener pastures, my wife and June and I wish them all the best.●

● Mr. RODINO. Mr. Speaker, I would like to join in paying tribute to our colleague from North Carolina, L. H. FOUNTAIN, who is retiring at the end of this term.

It has been a distinct pleasure serving with L. H. over the past 30 years. As a member of the Advisory Commission on Intergovernmental Relations and as chairman of the Subcommittee on Intergovernmental Relations and Human Resources, L. H. FOUNTAIN has provided the House with expert advice on the way our Federal, State, and local governments interact. Although we have had divergent views on many issues over the years, L. H. has been courteous, friendly, and sincere at all times. He is a man of integrity and honesty who has given three decades of dedicated service to the people of North Carolina, and who has distinguished the House by his presence.

I join all my colleagues in wishing L. H. FOUNTAIN all the best in his retirement.●

● Mr. HORTON. Mr. Speaker, I am pleased to participate in this special order for L. H. FOUNTAIN. I have served with LARRY since I entered the Congress and have always found him a source of honesty and wisdom. He has

brought realism, practicality, and fairness to our work.

His legislative accomplishments are numerous. In 1959, he authored legislation creating the Advisory Commission on Intergovernmental Relations, which has since then served as the ultimate national forum for discussion of the issues affecting the federal system. Since then he has been a participant in every major decision impacting on our intergovernmental system. He has been a strong supporter of local government through the general revenue sharing. His efforts toward an improved Federal assistance system and simplified grant requirements have made life easier for every State and local official, and at no loss of Federal accountability.

Yet his work on greater governmental efficiency did not end there. He was instrumental in creating the Office of Inspectors General in Federal departments and agencies. These offices have saved taxpayers billions through preventing waste, fraud, and abuse in Federal expenditures. He also has been a leader in protecting the health of our Nation's citizens. His dedicated watch over the Food and Drug Administration's approval of new drugs has saved consumers not only from wasted dollars but also the heartbreak of ineffective or harmful treatment.

Larry has been a colleague of mine for nearly two decades. I appreciate his leadership in the House, yet I treasure his friendship even more. His presence will be sorely missed.●

● Mr. ERLENBORN. Mr. Speaker, the departure of my good friend L. H. FOUNTAIN from the House of Representatives is a loss to the people of North Carolina, to the country, and to this body. In my 18 years of service with him on the Government Operations Committee, I have found him always to be true to his word and his principles, a gentleman on all counts.

As Members depart these halls, for whatever reason, they go with a mixed bag of accomplishments to which they can point with pride. L. H., who has elected to leave this body after 30 years, will have trouble counting his many achievements, but one truly stands out as a crowning glory: The creation of an office of inspector general in 17 departments and agencies of the Federal Government.

All of us talk about waste, fraud, and abuse, and we can all point to one small step or two we have taken. L. H.'s success in turning the concept of inspector general into a reality translates into a giant step for taxpayers and a legacy few of us can hope to match.

My best wishes go to Mr. Inspector General of the United States for a healthy, happy, and satisfying retirement.●

● Mr. BROOMFIELD. Mr. Speaker, I want to take this occasion to honor and say farewell to my very good friend and colleague, L. H. FOUNTAIN. As all of you know, L. H. is retiring from this legislative body at the end of the 97th Congress. The work he has done for our country and the indelible mark he made on Congress will not be forgotten.

A former Member of the North Carolina State Senate, an attorney, and a soldier, L. H. brought a strong background to the House some 30 years ago. He has served the House in its finest tradition with distinction, integrity, and respect. He is an outstanding American, a high-caliber public servant, a real gentleman and a statesman. He has given much to his Government and fellow citizens during his time here in Congress. He deeply cares about the people he represents and conscientiously serves their interests.

He is known among his colleagues in this Chamber as a deeply religious man and a man of his word. As a man with deep and solid roots in the South, he brought to Washington a deep concern and caring for the American people. From the first day of his term, he has exhibited an unquestionable allegiance to this body, this Nation, and his constitutents. He obviously did his homework for his constituents returned him to Congress for 14 additional terms. He understands Congress and works within it to make it a more responsible legislative body.

L. H. was born in the small town of Leggett, N.C. In 1947, he was elected to the State senate and served there until 1952 when he was elected to the 83d Congress. He presently serves with distinction as the chairman of the Intergovernmental Relations and Human Resources Subcommittee of the House Committee on Government Operations and on the House Committee on Foreign Affairs.

L. H. has always maintained an active interest in all facets of foreign affairs. In 1967, he was appointed by President Johnson to serve as the U.S. delegate to the 22d session of the United Nations General Assembly. He served there with distinction and was called upon to deliver a major foreign policy address to the General Assembly regarding China. It was a memorable and historic presentation concerning many aspects of our country's policies toward China.

His efforts rebuffed an attempt by Albania and several cosponsors to expel the Republic of China from the United Nations and seat Communist China in its place. L. H. descriptively, emphatically and clearly pointed out the reasons the Communist Chinese should not, at that time, have a seat in the Assembly. He won the praise of Arthur Goldberg, our Ambassador to the United Nations at that time. As a member of that congressional delegation, I worked closely with L. H. and can testify to his expertise, dedication and enthusiasm for his work.

More recently, I have worked closely with L. H. on the Foreign Affairs committee where he provides insight, valuable guidance and leadership to the members of our committee. He has established himself as a recognized expert in the foreign policy field. He is a quick study in grasping the complexities of current international issues and is a master of moving important legislation through the legislative thicket. I clearly remember his statesmanlike leadership and persistence as past chairman of the Near East Subcommittee to advance peace with justice in the Middle East.

His crowning accomplishment is the recent establishment of an Inspector General Office in the Department of Defense. L. H. also succeeded in establishing inspectors general offices in 16 other Federal departments. These offices independently monitor the expenditure of Federal funds in the field, curbing waste, fraud, abuse, mismanagement, even thievery.

In spite of many obstacles, through his unwavering commitment to honesty and perseverance, he succeeded in establishing these offices which are independent, have the authority to prosecute, and are headed by Presidentially appointed directors.

I believe that it is obvious to all of us that in his professional work and in his personal conduct throughout the years in Congress, L. H. demonstrated the integrity, graciousness, and thoughtfulness for which he is so widely admired by his colleagues and by all who know him.

Mr. Speaker, I am certain that my colleagues will join me in wishing L. H. and his wife, Christine, many continued productive and happy years, and success in their future endeavors. I sadly bid farewell and Godspeed to a good friend and distinguished statesman.●

● Mr. SENSENBRENNER. Mr. Speaker, at the end of the 97th Congress, L. H. FOUNTAIN, the distinguished dean of the North Carolina delegation, will retire. I would like to share some thoughts on this occasion recognizing my distinguished colleague's service.

The energy and dedication with which L. H. FOUNTAIN served his constituents is exemplified through the 15 consecutive terms he was elected to since he first won office in 1952.

During the course of his tenure in Congress, he served as the chairman of the Subcommittee on Intergovernmental Relations and Human Resources, as well as a member of the Committee on Government Operations. Congressman FOUNTAIN also served on the Subcommittees of International Securtiy and Scientific Affairs, and Europe and the Middle East, both of the Committee on Foreign Affairs. His work on all of these committees was respected and admired by all those who had an opportunity to work with him.

Thus, I congratulate L. H. FOUNTAIN for his 30 years of dedicated service to the U.S. Congress.●

● Mr. DUNCAN. Mr. Speaker, North Carolina is losing a son who has shown his interest in the men and women who form the backbone of this Nation; a man who cares for the forgotten farmers and those of the rural sector of our country. L. H. FOUNTAIN has demonstrated over 30 years of representation, that he is not one to forget our country's roots or his own. He has faithfully represented the people of the Second District of North Carolina, both on the House floor and in the committee hearing rooms.

His ability to serve this constituency is shown by his years of leadership. For the past 30 years he has been chosen as the spokesman for the people of northeast North Carolina, and he has defended them from the growth of Government and those forces which threaten to crush the small farmer. By unflinchingly sticking to his principles, he has shown that he cares for and understands the people he represents.

The small farmer remains the backbone of this country. His hard work, determination, and character symbolize an American spirit of independence, self-reliance and strength. It is this type of spirit L. H. FOUNTAIN has embodied in the House of Representatives. He has shown this through this defense of the small farmer on numerous occasions, and his support of the farmers' viewpoint.

The rural nature of the viewpoint breeds an appreciation for a limited Government role. Such a role can best be achieved by an understanding of each level of government and the tasks it can best perform. The Advisory Commission on Intergovernmental Relations provides an opportunity for just such an understanding.

L. H. FOUNTAIN is responsible for the creation of this body, and any results which better the operation of our Federal system can surely be traced to the communication he has made available through the ACIR.

In this manner, it is possible to bring government closer to the people. It is an idea L. H. FOUNTAIN has long shown in his dealings with the people of North Carolina. An idea which is part of the backbone of our country.●

● Mr. PERKINS. Mr. Speaker, it is not a pleasurable occasion when one rises to bid farewell to a colleague with whom he has served for three decades.

L. H. FOUNTAIN has been a good friend since he arrived here at the beginning of the Eisenhower administration, and I have long admired his diligence, his dedication, and his rock-ribbed integrity.

And when his service ends in a few months, I hope he will not desert us permanently for the charm and lure of his native Edgecombe County, N.C. I hope he comes back to visit us often.

From the beginning of his service, almost, L. H. FOUNTAIN has been a leading exponent of federalism in America—a view that the Federal Government should be a working partner with the States and not a high-flying kite to which the States were merely the tail. Always he emphasized partnership, not paternalism.

He was an original author of legislation creating the Advisory Commission on Intergovernmental Relations back in the late 1950's, and has served with distinction as a congressional representative on the Commission for 23 years.

The Commission is composed of Cabinet officials, Governors, Members of the Senate and House, members of State legislatures, city and county officials, and private citizens. Its function is to advise the President and the Congress on the appropriate relationships between the Federal, State, and local governments.

L. H. is uniquely qualified for this role for he has been an outstanding chairman of the Intergovernmental Relations and Human Resources Subcommittee of the Committee on Government Operations.

He has made a significant contribution to the new awareness of federalism in the United States that is the foundation of many of the Reagan administration's initiatives in this direction.

Certainly, no one deserves the pleasures and rewards of retirement from active life more than L. H., but all the same, we are reluctant to say goodbye to one who has been such an amiable and admired colleague for so many years.

Our good wishes go with him and his fine family.●

● Mr. CAMPBELL. Mr. Speaker, I would like to take this opportunity to express my deep regret at the retirement of my colleague from North Carolina. L. H. FOUNTAIN. As dean of the North Carolina delegation and an active member of the Textile Caucus, he has served his State well and will be sorely missed.

Mr. FOUNTAIN demonstrates the best North Carolina politics has to offer. In his white linen suit, he is the archetypical southern congressman, speaking with a gentle southern courtliness. He is not, however, above fighting for what he believes in, as evidenced by his head-to-head battle with the Food and Drug Administration over drug regulation. For more than a dozen years, Mr. FOUNTAIN has been holding hearings and arguing that the FDA has been too liberal in allowing possibly dangerous drugs on the market. By concentrating his efforts in this one area he was able to do a solid job rather than conduct scatter-shot investigations of numerous agencies. He also has other legislative accomplishments, most notably the writing of a law requiring the setting up of an office of inspector general in each of the Cabinet departments.

Despite his busy schedule, Mr. FOUNTAIN has not neglected the spiritual side of his life. He is a Presbyterian elder and has had a perfect Sunday school attendance record since 1916. Neither is his community forgotten. He is a member of the executive committee of the East Carolina Council of the Boy Scouts of America, the local bar association, the Elks, and Kiwanis Club. He served as lieutenant governor of the Sixth Division of the Carolina District of Kiwanis International. He is also a former Jaycee and received the Distinguished Service Award of the Tarboro Jaycees.

The people of the Second District are well aware of the outstanding work Mr. FOUNTAIN has done. In 1971 he was presented with the North Carolina Citizens Association Distinguished Public Service Award. The University of North Carolina School of Medicine Distinguished Service Award was conferred on him in 1973. In 1975, the Association of American University Presses gave him their Distinguished Service to Higher Education and the Scholarly Community Award. He received a special citation for distinguished congressional service from the National League of Cities in 1976. The Association of Federal Investigators gave him the Leadership and Distinguished Service Award. In 1981, the honorary degree of doctor of laws was conferred upon Mr. FOUNTAIN by the University of North Carolina at Chapel Hill.

Mr. FOUNTAIN's career both in and out of the House of Representatives is one that is envied by many of us. He has done an excellent job and can look back with pride on his years in public service. He will be keenly missed by both his colleagues and his constituents, but I know we all wish him the best of luck and a long and happy life.●

Mr. BROYHILL. In closing, I thought that I would read to the Members a few actual quotes of what the people that he represents think about L. H. FOUNTAIN. We have been talking about our affection for him and our admiration for him. These are excerpts from letters that were directed to Congressman FOUNTAIN after he announced his decision to retire from political life. These are direct quotes, and I would like to share them with the Members:

Your positions on national matters have seemed to my husband and me admirable, informed, thoughtful, and refreshingly innocent of any attempt to dazzle or mislead. We shall miss you.

Another quote:

Yes, we will all miss the quiet dignity and eloquency of the gentleman and servant, L. H. Fountain. You have lived in deeds—not years—and I commend you as a man and a patriot.

Another quote:

Your record as a Congressman from this district has been an impressive one. You have represented us in a dignified and gentlemanly manner, endeavoring to carry out the wishes of your constituents. By visiting the district often you have kept in close touch with the thoughts of your people.

And another quote:

Your continuous contact and communication with the people of this area is but a small and often unrecognized symbol of your dedication and your sincerity to representing all citizens.

So, Mr. Speaker, we will miss our good friend, L. H. FOUNTAIN, and his lovely wife, Christine. We will miss his service here in this House of Representatives and on the committees of this body. I just hope that we will not miss his company, his personal company of he and his wife, because I want to urge them to come back often so that we, his friends, can say hello again and be with him as often as we can.

THE HONORABLE JOHN J. RHODES OF ARIZONA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RUDD) is recognized for 60 minutes.

GENERAL LEAVE

Mr. RUDD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today, and to include therein extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RUDD. Mr. Speaker, I am very privileged to be in a position to take out this special order on my friend and colleague from the great State of Arizona, JOHN RHODES.

Mr. Speaker, we are at almost the terminus of a session, and as the various Members of the House are saddled with a number of commitments, they are not able to be with us to participate in the special order today. But, I will tell the Members by 9 o'clock this morning I had either personal telephone calls or statements submitted in my office on behalf of Congressman RHODES which I would like to submit for the RECORD. I was encouraged by that.

Congressman RHODES came to this body 30 years ago. He is 1 of 5 today who have served in the body continuously for the past 30 years, including Speaker O'NEILL, who has time and again, and recently last week in a special affair, made some very friendly and outstanding remarks indicating their long friendship. Unfortunately, the Speaker is involved in a personal affair in his honor tonight, and is not able to be here.

There were other Members much in the same situation who were unable to be here at this time.

Mr. Speaker, I would like to share this special order with a number of Members and friends and supporters of JOHN RHODES who are here tonight. I would yield at this time to the gentleman from New Jersey (Mr. COURTER).

Mr. COURTER. Mr. Speaker, I thank the gentleman from Arizona for yielding to me.

Mr. Speaker, I rise to join my colleagues in paying tribute to JOHN RHODES, a great American and trusted friend of all of us. When I first came to this institution 4 years age, JOHN RHODES was minority leader, and as minority leader had a great many official responsibilities and functions; but nevertheless, he would take time out of his day to talk personally with me, to give me advice as a lowly freshman, as we sometimes say here in this instituton. He was extremely selfless in his desire to help a new Member of this body, as he was always desirous of helping those who had been here for many, many years.

JOHN is a person who worked many years in committee very diligently. As a person, it is obvious that he is one of the finest gentlemen that ever walked down the aisle of the House of Representatives.

We will remember him as an articulate spokesman of the causes of liberty and freedom that he so passionately believed in. We will certainly remember the help that he has given us here in this institution for as many years as we are given the opportunity to think and reflect on his friendship.

Mr. Speaker, I thank the gentleman for yielding to me.

Mr. RUDD. I thank the gentleman from New Jersey for his remarks. On behalf of Congressman RHODES I mentioned earlier that Congressman RHODES came to this body 30 years ago with four other individuals: Speaker O'NEILL, Congressman EDDIE BOLAND from Massachusetts, Congressman BILL NATCHER from Kentucky, and together with the distinguished gentleman from North Carolina, Congressman L. H. FOUNTAIN.

Mr. FOUNTAIN. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Spearker, I thank the gentleman for yielding.

Mr. Speaker, I rise to join my colleagues in honoring Representative JOHN RHODES, a longtime friend and distinguished Member of Congress from the State of Arizona.

It is noteworthy and, I guess, somewhat ironic that JOHN and I have decided not to seek re-election to the 98th Congress.

I have known, respected, and genuinely liked JOHN RHODES since we both entered the 83d Congress as freshmen Members of this body back in 1953. Over the years, our friendship has grown and deepened; and my respect for JOHN'S keen intellect, ability, and leadership has also continued to grow. JOHN is, and always has been, a Doer with a capital "D."

Although JOHN and I are members of different political parties and represent the people of States on opposite sides of the country, we have often found ourselves in philosophical agreement on key issues facing the Nation.

But, whether JOHN comes down as an ally or adversary on any given issue, you can rest assured that JOHN will always give a solid, fair, and determined effort for his position.

Indeed, through his hard work and dedication, JOHN RHODES has gained a degree of respect—from the Members of both parties—which is rivaled by very few Members.

In fact, JOHN'S list of accomplishments illustrate the high esteem in which he is held in both his home State of Arizona and in the U.S. House of Representatives.

When elected in 1952, JOHN became the first Republican ever elected to the House from Arizona. And since that time, JOHN has steadily risen to positions of increasing responsibility, from second-ranking minority member of the Appropriations Committee, to chairman of the House Republican policy committee, to the position of House Republican leader in 1973.

And JOHN has been most recently putting his considerable talents and influence to good use as a member of the all-important House Committee on Rules.

In fact, as dean of Arizona's congressional delegation, JOHN'S 30 years of uninterrupted service gives him the longest House of Representatives service tenure in Arizona's history. And Arizona has been most fortunate to have been so ably represented for so long by such a dedicated and diligent public servant as JOHN RHODES.

While JOHN is retiring from the House of Representatives, I know the people of Arizona and the Nation will continue to call upon JOHN for his experienced advice and counsel. Men of JOHN'S stature can never really retire from public service.

Christine and I do want to wish JOHN and Betty the very best in the future. And I would like to take this opportunity to extend to them an open invitation to visit with us in North Carolina.

Mr. Speaker, let the RECORD indicate that our friend and colleague, JOHN RHODES, with whom we both came to this body in 1953, has been a most capable, thoughtful, honored and valued leader in the Congress for 30 years. This institution and our country will sorely miss both his spoken and silent voice, and statesmanship.

□ 1900

Mr. RUDD. I thank the gentleman for his remarks concerning Congressman RHODES and also his remarks with regard to his service to my State.

I want to assure the gentleman that time and again I have received expressions of thanks for the great service that he has rendered to the State of Arizona.

I would be glad to yield to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, it is most difficult for me to imagine the 98th Congress convening without my good friend, JOHN RHODES, being here for it. As everyone knows, JOHN "retired" as the Republican leader of the House of Representatives 2 years ago. We were pleased when he decided to serve as a Member for another term. While we are sorry he will not be with us on a full-time basis next year, we certainly agree that he and Betty have earned some time for themselves.

JOHN RHODES has not only been an excellent Congressman for his district in Arizona, but he has been an effective leader for the Republican party. I am just sorry that we were unable to put him in the Speaker's chair.

Some say that JOHN RHODES is a quiet leader. That is correct, as far as it goes. Those of us who have worked closely with JOHN know that beneath his quiet and calm demeanor is a man with strong convictions. He pushes hard without being pushy. Often, I have seen him get his ideas into law, but let someone else take the credit.

There are many words to describe JOHN RHODES. He is a diplomat who can work with Democrats and Republicans, conservatives, moderates, and liberals. JOHN RHODES is truly a "people" person. His warmth and his sincerity have won him many, many friends around the world.

What I want to emphasize most about JOHN RHODES is the fact that he is my friend. He is a person whom I can talk to and know that I will receive his best and most candid advice. He is a person whose judgment I trust. He is a person whose word can be taken.

Yes, JOHN RHODES is a true friend. Louise and I will miss JOHN and Betty, his helpful partner in everything her husband does. JOHN, we thank you for your many contributions, which I have not taken the time to list, and we want you to return often. We will still need your help and advice next year and in the years to come.

Mr. RUDD. I thank the gentleman from North Carolina for his remarks.

I yield at this time to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Speaker. It is difficult to know where to begin in expressing gratitude for the distinguished service to the Nation of our respected colleague, JOHN RHODES. His talents constitute an embarrassment of riches, and his absence from this body after 30 years of continuous duty as a Representative in Congress will be deeply felt.

Few individuals in the history of the country have become acquainted with the workings of the U.S. House of Representatives as JOHN RHODES has. From his early days in this body, he was a close student of rules and procedures. He understood then, and certainly could give powerful lectures on that point now, that the way legislation is handled frequently has as much to do with the outcome of an issue as the substance of the legislation itself. We are all in his debt for improvements in the organization and operation of the House of Representatives in the latter half of the 20th century. To name a few instances—

JOHN RHODES was one of the earliest and strongest proponents of television coverage of proceedings on the House floor. At a time when other colleagues were worried about the potential for grandstanding or were simply afraid of the new technology, JOHN RHODES argued persistently, forcefully and successfully of the advantages to the American people in being witnesses to lawmaking activity in their national legislature. After all, that is what democracy is all about: Participation by the pepole in their governance, and we owe no small debt of thanks to JOHN RHODES for his perseverance in opening up the processes of national government to every citizen: To workingmen and workingwomen with no opportunity to visit Washington, D.C., to schoolchildren whose knowledge of government becomes enhanced by watching lawmakers in action, and to citizens of all ages who seek to better understand what goes on in Washington.

During most of the period of JOHN RHODES' service in Congress, his political party was in the minority in this body. As minority leader from 1973 to 1981, and as a minority member of such key committees as Rules, Appropriations, and the Committees on Interior and Education and Labor, JOHN keenly appreciated the uphill battle we had to fight in those years before minority staffing improvements became part of House rules. Having been a participant in those early struggles for minority rights, I can personally testify to the effectiveness of JOHN'S labor for congressional reform. Today, whichever political party is in the minority in the House of Representatives, that party has a right to staff assistance and a guarantee of due process in the handling of legislation as a matter of House rules, not as a matter of sufferance on the part of the majority. In the kind of adversary proceedings theoretically characterized by the House, it is essential that the minority have available to it as a matter of right and rule, the staff assistance and guarantee of fair hearing necessary to fully debate both great and small policy decisions that affect the lives of all of the American people. We are particularly indebted to JOHN RHODES for helping to bring the Congress into the 20th century in terms of making it organizationally responsive to the complexities of today's lawmaking and in assuring participation by the minority as well as the majority in the creation of national policy.

Mr. Speaker, I want to call attention to two other areas of contribution before I conclude these all too brief remarks in tribute to JOHN RHODES: The significant service he rendered for 9 years as chairman of the House Republican Policy Committee, and his unceasing labor for our national Republican Party.

Concomitant with his effort to improve minority participation in national lawmaking by reforming rules and procedures of the House, JOHN was working to strengthen and motivate the role of individual Members of the minority party in carrying forward the arguments needed to expose all facets and points of view in debate on the great issues before the Congress during the latter half of the 20th century. He has always been exceptionally helpful and inspiring to newer Members of Congress, making a sacrifice in time away from his family that is necessarily imposed upon a truly dedicated public servant. JOHN RHODES leaves to this body a legacy of self-effacing helpfulness to his colleagues, continuous intellectual and personal honesty, courage, and preparedness under legislative fire, and a sincerity of purpose and spirit of teamwork that will serve as an example of extraordinary leadership for generations to come.

In his tireless labor for our great national party, as well, JOHN has been an exemplary individual. Not only has he always been ready to hit the stump for other Republicans on short notice, he has invariably been prepared, having done the kind of slogging, detailed, scholarly homework that permitted him to mount the platform armed with formidable debate points. His good natured selflessness and keen, steady intelligence have made JOHN RHODES an outstanding spokesman for Republican ideals and a magnet for new voters and party workers. He has twice served as permanent chairman of Republican national conventions, and his personal integrity and great loyalty to the party shone with special brilliance in the dark days of Watergate.

Mr. Speaker, it is with a deep sense of affection and respect that I stand in tribute to JOHN RHODES who concludes his distinguished service in this body at the end of the 97th Congress.

JOHN and Betty RHODES have been good personal friends of my wife Doris and me, particularly during our recent years here together. We know of no congressional couple with whom we have become acquainted who stands higher in the esteem of all of us who serve here on Capitol Hill than JOHN and Betty RHODES. They are genuine, personable, likeable—and devoted to the public mission to which they have been chosen to serve.

Mr. Speaker, as we bid adieu to JOHN RHODES as a Member of this House, Doris joins me in wishing him and Betty well—good health, much happiness, and long and rewarding years—as they resume their private lives.

Mr. RUDD. I thank the gentleman for his remarks.

I now yield to the distinguished gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. I thank the gentleman for yielding.

I would like to join with the gentleman in the well in paying tribute to JOHN RHODES.

When I think of JOHN RHODES I think of a number of things. I think first of all of the fact that he is always terribly clearly informed on the issues he is dealing with.

Second, I think of the fact that he is a strong party man. I happen to respect that in this institution, and I think that you need people like that.

But more importantly than that, I think JOHN RHODES has the sensitivity to recognize that there are certain issues which are too dangerous to be exploited. I think he recognizes that there are certain things that simply have to be done in this institution that are so important to get done that we need from time to time to forego the partisan advantages that might come to us temporarily from trying, to exploit that fact.

That is one of the reasons I respect him so much.

He is an institutional man. He is a fighter but he recognizes that fights need not be bitter and that they need not be nasty.

I think it is fitting in a sense that JOHN RHODES and DICK BOLLING will leave this place at the same time because I think they both bring to this House that quality of leadership, the quality of being able to look at the needs of this institution in terms of what has to be done here to strengthen and serve the country for years and years down the line. In that sense I think I can think of no persons who we will miss more than we will miss JOHN, and on our side DICK BOLLING.

I think it is unfortunate that we do not have a way in our political system to retain the services of people like JOHN RHODES, to retain the ability, to call upon them to do special tasks even though they would leave here serving on a full-time basis.

There are just some people who so distinguish themselves by their service here that they would always do credit to the House in performing tasks for it and it would be of great benefit to the Nation as well.

Mr. RUDD. I thank the gentleman and I appreciate his remarks.

It is true that Congressman JOHN RHODES is a strong party man but he has never hesitated to put the best interests of the Nation first and foremost, nor has he hesitated in the past, when in a position to do so, to advise the President of the United States of a course of action that might better have been taken otherwise, which is to his credit.

At this time I yield to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Speaker, I have mixed feelings on participating in this special order for my good friend and colleague JOHN RHODES who is retiring from the House of Representatives after 30 years of devoted service to his country and the First District of Arizona. On the one hand, I am happy for JOHN and what the future holds for him. I know he will enjoy more time with his wonderful family and experience the joys of life he was not able to enjoy because of his tireless work habits. On the other hand, I will miss JOHN and his stabilizing presence in this body of representatives. I will miss the devotion to his work as a Congressman and the adherence to his strong principles of representative government. JOHN RHODES has always been an inspiration to me—whether it be in Republican Party or committee meetings, or his leadership on the floor of House.

JOHN RHODES is an effective legislator and at the same time he is a responsible listener when it comes to constituent service—so important to the average American unable to understand the complexities of the Federal Government. While JOHN was conceiving new and innovative ideas on how to govern this great land, he was also willing to talk to a constituent needing help with receiving a Government check. JOHN RHODES is one of the most down-to-earth Members of Congress I have ever known. His understanding and compassion for the people he represented should serve as an example to all of us.

JOHN RHODES has always been a special friend of mine for another reason. JOHN is a native of Council Grove, Kans., and is a graduate of Kansas State University in Manhattan. Although a strong Arizonan, JOHN has always held the State of Kansas in the fondest part of his big heart.

When talking about JOHN RHODES, I would be negligent if I did not say he was one of the best House minority leaders in the history of this great deliberative body. JOHN combined all the admirable attributes of a legislative and party leader. I will remember him as a man who was very principled in the way he provided leadership within the Republican Party and also in the way he dealt with the Democrat majority. JOHN believes in listening to two completely different views and creating compromise which will aid the Congress in dealing with complex problems. He understands that everyone in the House of Representatives wants to make this country great but sometimes we have different ideas on how to do it. I guess you could say JOHN believes in the basic goodness of people in general and Members of Congress in particular. He believes that when reasonable men and women get together, they can make strong decisions for the good of everyone. I believe, in large part, that is why he became such a great minority leader and would have made an effective Speaker as well.

Finally, I will remember JOHN RHODES as a man who has tremendous command of the issues of the day. His ability to pick up the basic bone of contention in any legislative or philosophical battle has always impressed me. Another reason why he was an effective minority leader is his keen knowledge of issues and potential—subjects with the potential to cause controversy or just plain, ordinary thought.

I wish JOHN RHODES and his lovely wife Betty all the best of luck in the future. They will be missed.

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Mr. RUDD. I thank the gentleman for his remarks.

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the highly respected Member of the House, the gentleman from Florida.

Mr. PEPPER. Mr. Speaker, I thank my able friend from Arizona for permitting me to join him and our other distinguished colleagues in paying tribute to one of our most illustrious brethren here, JOHN RHODES. There never was a finer gentleman who ever served in this or any other legislative body than JOHN RHODES. He was one of those men always thoughtful about his friends, his colleagues and his fellow countrymen.

I shall never forget a wonderful example of that unselfishness and that kindly thoughtfulness on his part which my late wife and I enjoyed. On one occasion, I spoke before the State Bar Association of Arizona at Phoenix. JOHN RHODES, then the minority leader of the House, honored my wife and me with his presence on that occasion. In the course of our visiting together, I made the remark that I had never been to the Grand Canyon, and I believe I said my wife had not had that privilege either. Characteristic of his unselfish thoughtfulness, JOHN RHODES arranged for a private plane, without expense to my wife and me, to carry us from Phoenix up to the Grand Canyon, to fly over the Grand Canyon and fly back to the city of Phoenix. As I said, all without any cost whatsoever to my dear wife and me.

Not too many people would have been thoughtful and generous enough to have done that. But JOHN RHODES was. There was a colleague who had expressed a desire to see one of the great wonders of the world that was in his noble State, the Grand Canyon, and he made possible our viewing of that wonderful edifice of nature. That was typical of JOHN RHODES. He and I are on opposite sides politically, but we have been warmest friends since we have been here in this House together. I have respected JOHN RHODES as much as any Member of Congress, whether it be this House or the other, that I have even known. He is a man of outstanding character, a man of deepest dedication to his party, to his country. I have never seen JOHN RHODES ruffled. Sweet reason was the weapon that he used so effectively in gaining the ends that he sought. His

persuasiveness, his sincerity, his moving kindness was such that it was very difficult to resist the entreaty of JOHN RHODES. He will leave an indelible imprint on this House. When he is not here when the new session convenes, there will be not only a void in the seat over there to which we are accustomed to look to see him, there will be a great void in the character of this House because JOHN RHODES stood for integrity, he stood for the highest things that this Nation seeks to achieve and stands for.

We enjoy an association on the Rules Committee together, and JOHN RHODES has been a great addition to that committee. Every member of the committee has welcomed his coming there. He has added enormously to the character and to the significance of that committee.

I am delighted to add my words in commendation of JOHN RHODES. I just hope that he will carry with him happy memories, that he and his lovely wife Betty may have long life and will enjoy some of the good things of this life which he has not had time to enjoy during the performance of his diligent service in his country's behalf here in this House of Representatives.

So may the Lord bless and keep JOHN RHODES and his blessed and lovely wife Betty into the long and happy future.

Mr. RUDD. I thank, the gentleman from Florida for his remarks.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to my friend, the gentleman from Virginia.

Mr. WAMPLER. I thank my colleague for yielding.

Mr. Speaker, my friend and colleague, JOHN RHODES, has elected to retire at the end of this term, after 30 years of exemplary service. He will be greatly missed, not only by those of his own party who looked to him for leadership, but to many on the other side of the aisle who knew him as a friend. In all of his relationships both in and out of this body you could count on JOHN to deal fairly and honorably, with neither prejudice nor malice.

I welcome this opportunity to pay tribute to one of the finest political leaders the House of Representatives has ever known. As leader of a minority party during difficult times, he had a gift of persuasion that he utilized adroitly to bridge the differences that naturally exist between men and women of good will and strong principles. With intelligence and diplomacy he molded the membership into a cohesive force for good, thus making our sometimes frustrating efforts more meaningful.

In addition, he was, and is, a loyal and trusted friend to all who approach him. He takes time to listen to individual gripes, doubts, and uncertainties, and responds with words of encouragement, logic, and wisdom. This is indeed a character trait to be admired and treasured in these days of accelerated activity.

We shall miss JOHN RHODES and his calming, good-natured influence. But we certainly wish him a rewarding and fulfilling retirement, which he has unquestionably earned by his years of devoted service to the Nation and to his constituency.

Mr. RUDD. I thank the gentleman from Virginia for his positive remarks.

Mr. LOEFFLER. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Texas.

Mr. LOEFFLER. I thank the gentleman for yielding and commend him for obtaining this special order.

Mr. Speaker, today, we salute a close friend, a leader, and a great American—JOHN RHODES.

During the 7 years during which JOHN RHODES served as our minority leader, our party's numbers in the House were small—but through his leadership it was a party strong and united.

It has been my high privilege to know JOHN RHODES through three different roles. As a Hill staffer, I can attest to the real concern he has had for the well-being of our hard working staff and support personnel. As a member of the Ford White House staff, I had the opportunity to work closely with him in the legislative arena, and witness firsthand the superior leadership qualities of the minority leader. Then, as a Member and colleague of his in this body, I was blessed with the counsel of this great American.

During his 30 years in Congress, JOHN RHODES has distinguished himself as a legislator, counselor, leader, friend, and gentleman. This House, and our country, will miss his presence here. We know he will continue to stay active in our process, and continue to provide a strong shoulder, so generously and graciously lent to all of us in the past.

I thank our distinguished colleague and friend for giving America a most distinguished career and making our great Nation an even better place in which to live.

Mr. RUDD. I appreciate the gentleman's very pithy remarks.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding.

Mr. Speaker, it is with great respect and honor, and yet with an enormous sense of loss, that I join my colleagues in paying tribute to a colleague and friend, JOHN RHODES. JOHN has left an indelible mark on the record of Congress and, most importantly, in the minds of the hundreds of Members from throughout America, like myself, who were so privileged to have served with this outstanding legislator. Whenever JOHN took the microphone to address the House, our colleagues not only gave him the courtesy of their attention, but they also listened intently to the very constructive, creative, and commonsense comments being articulated by the genial gentleman from Arizona. Even though JOHN'S superior dedication to duty over the years marks a retirement that is certainly well deserved.

I will always remember JOHN RHODES as the champion of water resource development, conservation, and management. He was a man who knew more about water resources than anyone serving in the Congress. Having worked for nearly 20 years on the authorizing committees, I can testify to the accuracy of this statement. I have known JOHN to work unselfishly, hour upon hour, for the advancement of water projects that have not only benefited his native Arizona, but also every section of the United States. JOHN'S work on these projects demonstrated his astute ability to balance necessary protection measures with incentives and resources for growth. There are literally thousands of public works and transportation projects throughout the Nation that will stand as living monuments to his great service.

Yes, JOHN RHODES will always be remembered and admired as an all-American Congressman from Arizona.

He will be remembered and admired as a scholar par excellence of the political and legislative process, a writer of political history who had the courage to tell it like it was, and an adviser to many a young and promising new Congressman or political hopeful. Above all, JOHN is a gentleman in the world of our great statesmen and, most significantly, a loyal and devoted husband to his lovely, most patient, and considerate wife, Betty, and father to their beautiful family.

Having served with literally hundreds of Congressmen and Senators in my 20 years of service, I know that I speak for all of my colleagues when I say, "JOHN RHODES will be missed and he will long be remembered for his great and historic contributions to the House he loved and defended."

JOHN RHODES, this humble senior Republican Member of the California delegation will never forget you and will remain eternally grateful to you for the extraordinary contribution you have made to better the life of every living American.

May the good Lord bless and keep you and your family in the days ahead.

□ 1920

This is one Californian that genuinely admires and will continue to respect this great and genial gentleman from the State of Arizona, JOHN RHODES.

Mr. RUDD. I thank the gentleman from California for his remarks.

Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. NELLIGAN).

Mr. NELLIGAN. I thank the gentleman from Arizona for the opportunity to pay tribute to another gentleman from Arizona, JOHN RHODES.

Perhaps the best way to describe JOHN is just in that manner, the gentleman from Arizona. Because he is truly a gentleman, not only a man of integrity and wisdom, of good nature, but he is one who seems to be always willing to help and always willing to advise.

As a Member of Congress who for many years was a member of the professional staff of the Congress of the United States, I should say serving on the other side of the aisle from which I am serving now, I know the high level of respect and the deep admiration that the Members on that side of the aisle have for JOHN RHODES. JOHN RHODES did not know me until I was elected to Congress, but we certainly knew much of JOHN RHODES.

And it seems to me as perhaps Republican leader emeritus in the last 2 years that he took it upon himself to advise the freshmen Republican Members of Congress, and he was always ready and willing to advise. I kind of thought of JOHN RHODES as the E. F. Hutton of the Congress, because when JOHN RHODES spoke, everybody stopped and everybody listened.

I want to express my appreciation for the help he has been to me during these past 2 years. And I would just like to say that this institution for the past 30 years in which JOHN RHODES has served has certainly been enriched by his presence. I would also like to add that this old House is not going to be the same in his absence.

To JOHN and his family, I wish him a long and healthy and marvelous retirement. God bless you, JOHN, and thank you for all the help you provided to me.

Mr. RUDD. I thank the gentleman for his perceptive remarks.

Mr. CARMAN. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from New York.

Mr. CARMAN. Mr. Speaker, I, first of all, would like to commend the gentleman from Arizona for taking this special order.

Mr. Speaker, it gives me the greatest pleasure to rise this evening to praise a man who has devoted his life to the service of his country and who has served in the Congress since 1952. JOHN RHODES' leadership in Congress is demonstrated not only by his tenure as minority leader from December 1973 until he retired from that post in 1980 at the end of the 96th Congress, but also by his position as chairman of the House Republican policy committee from the 88th through the 93d Congress.

After JOHN received his law degree from Harvard in 1941 he served in the U.S. Air Force for almost 5 years during World War II. He has been active in numerous organizations at the local level and has faithfully served the people of Arizona during his years in Congress.

However, on a personal level, I most deeply appreciate the kindness he has shown me since I came to Congress in 1981. It is indeed an honor for me to participate in thanking JOHN RHODES for his years of service to the country. He is truly a great American.

Mr. RUDD. I thank the gentleman for his sincere remarks.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman from Arizona for yielding me this time and for taking this special order so that all of us might salute with affection the Honorable JOHN RHODES.

I cannot imagine the House of Representatives without JOHN RHODES being here. He has been a Member of this body since I arrived on the scene. And may I say I came to know JOHN RHODES as an intelligent, well-informed, excellent legislator from the moment I became a Member of this Congress.

His daughter was cherry blossom princess from Arizona the same year our daughter Jackie was cherry blossom princess from Ohio. And while we were going through those exciting activities together, we got to know Betty and JOHN on a personal basis and they wear very well.

Marjorie and I had occasion later on to enjoy a very pleasant evening in their home with some of their friends. But it was natural for JOHN RHODES to become minority leader. He has all of the attributes of a natural leader and he would have been an outstanding Speaker of the House given the opportunity.

May I say that I am sorry that he did not have that opportunity. But so be it.

JOHN came into my district for a fundraiser to the delight and admiration of all those in attendance, for which I am forever grateful. JOHN RHODES has always worked hard for his district and the Nation and in the process has gained the respect of everyone with whom he came in contact. He has been a credit to this honorable body and has left a mark that will be noted favorably forever in the annals of our great Nation. His counsel and leadership will be missed.

Marjorie joins me in wishing JOHN and Betty many more years of happiness together and in the service of our great Nation.

Mr. RUDD. I thank the gentleman from Ohio.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Speaker, I commend the gentleman from Arizona (Mr. RUDD), for taking this special order to honor and pay tribute to a special human being—JOHN RHODES.

When I first came to the Congress 10 years ago, it was JOHN RHODES as much as any other Member that I depended upon for guidance and advice.

In whatever walk of life, it is respect from one's peers and colleagues that means the most, and no Member of this institution is respected more by his colleagues than JOHN RHODES of Arizona. In these halls, respect is far from automatic; respect must be earned. JOHN RHODES has earned our respect and our affection not by being here 30 years, but his competency, his dedication, and his accomplishments.

Only a small proportion of those who serve in the Congress make an indelible mark. JOHN RHODES is a member of that small group of true national leaders.

JOHN may be leaving the Congress, but we all know that he will continue in his role of national influence.

I wish you JOHN and Betty only the best in your future endeavors.

Mary and I will always cherish your friendship. Also you will always remain favorites of the 16th District constituents who have been fortunate enough to share the warmth of you two wonderful people.

The young people at our rally some years ago who sang along with you JOHN and Anne Armstrong will never forget the excitement of that moment in their young lives.

□ 1930

Mr. RUDD. Mr. Speaker, I thank the gentleman from Ohio for his very incisive and perceptive remarks.

Mr. Speaker, it is truly an honor, and a privilege to take this time today to pay tribute to JOHN RHODES, leader, colleague, and friend. After serving almost a third of a century in these Halls, it is fair to say that things really will not be the same without him.

There are those who lead and there are leaders. JOHN RHODES falls into the latter category. History will show that real leaders are not made by circumstance, they are born. The important events of men's lives and of nations rarely allow for those at the helm to get "on-the-job training", or to learn profitably by their mistakes. In times of true test, JOHN RHODES was always at his best. His cool composure, his straightforwardness, and his skilled hand at the art of compromise would always surface and begin to take charge as if were innate. This is the mark of a born leader, and this is what made JOHN'S leadership so outstanding.

From the time he was first elected in 1952, JOHN has been active in support of the enduring principles of freedom and democracy. Always a gentleman, ever gracious, he never mitigated his stance defending individual liberty, commonsense, and constitutional government. His constant zeal for positive and constructive conservative alternatives to the strong tide of centralism and Government-controlled expansionism identified him as a born

leader, and a figure in which his party could place its trust.

Having served on numerous House committees, from appropriations to rules, he proved time and time again that the minority can make a difference. JOHN RHODES is resolute and fights a gentleman's fight for the things that are of utmost importance to the Nation and his party. He set about making his presence felt in an insistent but always composed manner which has become his trademark.

When he was elected minority leader, the Congress gained a steadfast and able voice for the cause of conservative alternatives, and his party gained an adroit and purposed captain. Through dark days for the Republican Party and this Nation, JOHN RHODES charted a course which would unite his party and reaffirm its principles to bring it back as a stronger and more vital voice of the American people and to preserve the two party system. For this we all owe JOHN RHODES our heartfelt thanks.

From the time of his early childhood in the State of Kansas, his education at Harvard and his World War II service as an Air Force officer at Williams Field Pilot Training Base in Arizona, JOHN has been a leader and an example of the qualities which compel one to be dedicated to a cause larger than oneself.

His life of public service after World War II was in addition to his great success as an attorney and owner of an insurance business in Arizona. He served as vice chairman of the Arizona Board of Public Welfare, and as an active member and president of the Mesa Chamber of Commerce. He was also senior vice commander of the American Legion Post in Mesa.

The Nation has clearly benefited from JOHN'S record of public service. Not only as He served his country in wartime and in Congress, but for the example which this dedicated and principled man set for those around him. On a larger scale, this Nation owes its thanks to JOHN RHODES for his outspoken and constructive advocacy of a fiscally sound economic policy, and a strong defense.

The Republican Party owes a geat deal of thanks to this man for his diplomacy, and cautious statesmanship in the pursuit of its goals.

The State of Arizona perhaps has been the greatest beneficiary of the strengths and talents of JOHN RHODES. Through his efforts joined by other prominent citizens we are seeing the fulfillment of a dream take place in the desert area of our great State. The central Arizona project which will bring desperately needed water to barren areas, and areas which have outgrown their supplies of water. JOHN RHODES watched Arizona shed its frontier features to become an area of the fastest growing agricultural, technological, and economic productivity in the Nation. He was fully aware of the vital need for new sources of water in order for the State to continue to grow and prosper. Today, the central Arizona project is the promise for tomorrow of continued economic productivity and growth. It will make the desert bloom. Arizona will continue to blossom thanks to JOHN RHODES' vision and persistence.

It is hard to imagine that JOHN RHODES was ever an unseasoned freshman, as we all have been. But he certainly never has forgotten how it feels to be the new kid on the block. I am sure that every person here has experienced the warmth and openness which JOHN offers to all, but extends with special concern to the newcomers. For this reason, he has won the friendship of members of both parties, from Maine to California, no matter the political philosophy or orientation.

It has been said that many Members of Congress are effective and many are popular, but few can be both. I believe that all here would agree that JOHN RHODES has struck the balance of diplomacy and dedication which has earned him both of these. JOHN has always bent over backward to do his best for everyone, and despite his differences with the other party's leadership, has always maintained a friendly relationship. That is true statesmanship.

Having enjoyed the good fortune of representing the district adjacent to JOHN'S, I particularly am aware of the great respect and loyalty he engenders in all who know him, and the great friend that he is. It has been my privilege to serve with JOHN RHODES, and it is an honor to count him as my friend. There is no need to say that JOHN RHODES will not be forgotten, because truthfully, he has made a place for himself by setting a standard of integrity and grace in the hearts and opinions of all who have known him. It is my sincere pleasure on behalf of my wife Ann and myself to wish JOHN, his lovely wife Betty, who has served so faithfully and with no less distinction, at his side, all the best things that retirement, and our State and this great country of ours has to offer.

Mr. Speaker, I yield to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, I thank the gentleman for yielding and I am sorry to have come in so late, but I have been fogbound in the Middle West, as many of our Members were, and arrived here in time to observe this program on my closed circuit television and just felt that I could not let this opportunity pass to say something about JOHN RHODES.

I, of course, have known him. I have associated with him here in the Congress for the same length of time as has the gentleman in the well, maybe not known him as long, and have always been an admirer of him long before I met him; but it seems to me that anything that I could say or really any other individual Member could say really does not carry much impact when you recognize that the Members on this side of the aisle, all of them, extended the greatest honor that is within their power to bestow in electing him their leader, the Republican leader of the House, and they would have very happily extended him the honor of being the Speaker of the House were they numerically sufficient to do that.

For a gentleman who can be elected by secret ballot by a group of political leaders as they are, and certainly self-centered politicians, be elected by a majority of his peers to the role of their leader, it seems to me that anything else anyone adds is superfluous. It speaks for itself.

I thank the gentleman very much for yielding.

Mr. RUDD. Mr. Speaker, I thank the gentleman from Michigan for his perception and for his remarks concerning our colleague and our friend, JOHN RHODES.

As he wells knows, that honor was bestowed on Congressman RHODES. That is the highest honor available by our party. They made him our minority leader, but he earned their trust. As the gentleman from Michigan well knows, JOHN RHODES traveled this country from one end to the other, from Seattle to Florida's Miami Beaches, to the frontier in Maine and to the Southwest of California and Arizona, campaigning as hard as he could for other party Members, but also for those principles that are right within our Constitution and documented by our Constitution, which he protected and defended so very well.

□ 1940

Again I thank the gentleman from Michigan for his remarks.

I think JOHN RHODES exhibited his abilities many times not only on the floor of this House but to the entire Nation.

Mr. Speaker, at this time I yield to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Speaker, I am very pleased that the gentleman has yielded to me in order to let me add my comments to our colleague, JOHN RHODES, and to say that it has been with great privilege and with a great deal of affection that my husband, Hale, and I have served with JOHN RHODES in the House and have had a long and beautiful association with his wife, Betty.

We are very, very saddened to have the two of them leave this House in a formal way. I trust that we will see them often and that they will give us the benefit of their wisdom and their company on many occasions.

Mr. Speaker, I thank the gentleman for yielding.

Mr. RUDD. I thank the gentlewoman from Louisiana for her remarks.

I do remember that the gentleman from Arizona (Mr. RHODES) had the honor of serving with both the gentle-

woman's husband and with the gentlewoman from Louisiana.

JOHN RHODES' prowess at leadership was displayed many times on the floor of this House for the benefit of both sides of the aisle. Twice he wielded the gavel for the Republican Party National Convention and did so with great ability, with humor, and the entire Nation had the opportunity to see this gentleman at work, to observe the great fairness, the good judgment and the high intelligence that he utilized to keep a recalcitrant body intact and on the right track and on the right road.

● Mr. UDALL. Mr. Speaker, I join with my colleagues today in honoring the distinguished gentleman from Arizona and commemorating his very distinguished career in this body.

The House of Representatives is an important part of our system of government. It is the people's house. No one has ever served here by appointment. The only ticket that will gain admission to this body is election by the people. Throughout his 30 years in Congress, JOHN RHODES has been a man of the people, a man of the House.

Few people can claim to be a "man of the House." Many of those serving in this body would prefer to serve in the other body. Few people in the history of this institution have made it their career. JOHN RHODES has. Few people believe, as I do, that service here can be as important and productive as service on the other side of the Capitol. But JOHN RHODES does.

He has not yearned for the power and the glory of the Senate. He has chosen to leave as his legacy his career in the House. It is a legacy of which he can be proud.

He has been one of the finest legislators and public servants in the history of Arizona. Like another legislative giant, Carl Hayden from Arizona, he has been a quiet, but effective leader.

We are told that in the days of ancient Rome, when Cicero spoke, everyone said how beautifully he spoke. But when Demosthenes spoke, the people said, "Let us march." And so it is with JOHN RHODES. He has never been a spellbinding orator. But when he has talked, people have listened.

I, for one, will always remember our work together on the central Arizona project back in the 1960's. But I will also remember that he could be counted upon as a voice of moderation and reason on many of the difficult issues that we have faced together over the years.

I know that the other Members of this body will join with me in expressing appreciation for his years of service and wishing him the best in his well-earned retirement. I know that when he leaves this body, he will continue to serve his country as an elder statesman.●

● Mr. STUMP. Mr. Speaker, how is it possible to tell a man like JOHN RHODES how much he means to his country, this House, Arizona, and especially to the people whose lives he has touched?

We can stand and extol his cool, calm counsel during crises like Watergate or confrontations with the Soviets and Cubans.

We can point to his leadership in the House as an example of how people who disagree on principle can work together to show the world the integrity of our legislative process.

We can describe how he has worked for Arizona with Members of all States and both parties to get the central Arizona project built, so that Arizona could meet its water needs and reach its potential.

We can describe his willingness to share his knowledge or skill with any of us regardless of party.

We can tell how he has touched a great many young people as members of his staff and as visitors to whom he has shown the majesty of American democracy. It is a tribute to his quiet inspiration that so many are making contributions to this country and Arizona.

We can relate total dedication to seeing his constituents served. He understood that what could have been just another call or letter in his office was a crisis to them and a cry for help, and he insisted on compassion and action.

But, I want to tell you what he means to me. When I first came to this Congress as a Democrat, he and his staff gave me all the time and attention possible to help me learn the system and be effective as fast as I could. I was not the only new guy that he got started right. He has helped many new Congressmen to better represent their States. He has promoted that same spirit of cooperation among the Arizona delegation. As a result, we work closely together on issues important for our State.

Recently, when I had to wrestle with whether I could in good conscience as a conservative remain in the Democratic Party from which I had run and been elected for 23 years, JOHN let me know he would understand whatever decision I made, but he made it clear that I would be welcome as a Republican. He helped provide the warmest of all possible receptions when I did decide to change. His example of devotion to service and principle was very persuasive in the choice I made. He demonstrated how productive one could be regardless of whether you were in the majority or the minority.

This House is alive with the spirit of patriots and statesmen who have made this country great. JOHN RHODES is and will be rightfully among them, but to me his retirement means I will miss a good and treasured friend in the Congress.●

● Mr. BOLAND. Mr. Speaker, the end of the 97th Congress will bring to a close the career of one of our most distinguished colleagues. I think it is appropriate that we pause today to reflect on the accomplishments of the gentleman from Arizona, JOHN RHODES.

JOHN and I came to the house in the same year, and I had the privilege of serving with him on the Appropriations Committee. The leadership, skill, and dedication which I have seen JOHN manifest on countless occasions over the last 30 years has earned him the respect of everyone familiar with the work of the House. The high regard in which JOHN is held by the Members of this House transcends party affiliation, and is a tribute to the strength of his character.

JOHN'S achievements are so well known that I do not need to dwell on them, except to make one point. As my colleagues know, JOHN served as House minority leader for 7 years. His service in that demanding position clearly defined his service in Congress. Forsaking flamboyance for effectiveness, he sought to position his party in such a way that it could offer constructive rather than obstructive alternatives to the legislative proposals of the majority. While never surrendering the prerogatives of leadership, he never sought unfair partisan advantage. The manner in which he conducted himself as minority leader enriched that office and reinforced the respect that Members on both sides of the aisle have for JOHN RHODES.

Mr. Speaker, JOHN RHODES never failed to lend a hand when cooperation was needed to transact the important legislative business of this Nation. His capacity for hard work and his steady hand in times of crisis will be difficult to replace. I know that he is looking forward to directing his energies toward new endeavors, and I wish him every success; but I hope that his love for this House and our country will allow him to regard with understanding the numerous requests for his counsel that I am sure will be forthcoming in the years ahead.●

● Mr. ANNUNZIO. Mr. Speaker, I rise today to pay tribute to the Honorable JOHN J. RHODES, who is retiring from the House of Representatives after devoting 30 years of outstanding service to the people of the First District of the State of Arizona, and to the people of this country. His dedication to high standards is an inspiration to his friends and fellow citizens, and his accomplishments as a Member of Congress are most commendable.

Before coming to the House of Representatives, JOHN RHODES received his bachelor of science degree from Kansas State College, and his law degree from Harvard Law School. He served our Nation in the Air Force during World War II.

During his tenure in the Congress, JOHN has distinguished himself while serving on the House Education and Labor Committee, the House Appropriations Committee, the House Interior and Insular Affairs Committee, and the House Rules Committee. As

minority leader from December 1973 until he stepped down at the end of the 96th Congress, he provided exceptional leadership, and his efforts were both fruitful and beneficial to the citizens of this Nation.

JOHN is a dedicated and devoted American, and a Congressman of outstanding ability, who has provided exemplary service to his constituents, to his party, and to the United States. He will be missed here in the House of Representatives, especially by those who have had the opportunity to work with him, and who have known his calm patience and good humor.

I extend to JOHN RHODES my best wishes for continued success in devotion to highest principles and for a healthy and happy retirement.●

● Mr. BENNETT. Mr. Speaker, I arise to praise our wonderful colleague, JOHN J. RHODES, and his great leadership here in the House of Representatives and for our country, his district, and his State through the many years. He came to Congress with the rich background of being a graduate of the Harvard Law School, a veteran of combat in World War II, and a civic and professional leader in his own community. Here in Congress, he has been noteworthy for his initiative, strong leadership, even-handed, down to earth commonsense policies, and for his dedication to everything that is of benefit to our country and to mankind. He has performed his great services for our country with beautiful humor and warm friendship for all of those around him. He is not a man to look for opportunities to disagree, but on the contrary, is a man who finds ways to bring about agreement and accord, the very sort of man most needed in a parliamentary body. His leadership for our country has been outstanding and we will all greatly miss him, and his beautiful and charming wife and children from our House of Representatives family. We all wish him well in everything and hope that he will be with us many times as a visitor even though he will not be a Member in the future because of his own decision to retire from this body.●

● Mr. ERLENBORN. Mr. Speaker, when the 97th Congress ends, many of us who are here today will be pursuing new endeavors and fulfilling old dreams. The Honorable JOHN RHODES, after devoting the past 30 years to service in this Chamber as the Representative for the people of Arizona's First District, has decided to be among those people.

Thirty years is a long time on one job, and JOHN used the time to become a master of his trade. That, along with his intellect, his diplomatic capacity, and his ability to keep his head while those around him are losing theirs, is why he was elected four times as House Republican leader.

His absence will be felt for years to come, but he and Betty are deserving of many happy years in retirement or whatever pursuits they choose to engage in.

I join in saluting JOHN RHODES, a master of the legislative process, a leader, and a good and decent human being.●

● Mr. LONG of Maryland. Mr. Speaker, I rise to pay tribute to my distinguished colleague, JOHN RHODES, who is retiring from the Congress after 30 years.

I have known and admired JOHN RHODES long before I came to Congress in 1962. He is a thoughtful, fair, and wise man, respected by both parties. He has served this House and his constitutents in Arizona's First District ably and effectively since he was first elected to the 83d Congress in 1952.

I had the pleasure of working with JOHN on the Appropriations Committee from 1964 to 1973. It was on this committee that he earned his reputation as a fighter for a strong national defense and for the interests of his State and district, seeking to insure funding for irrigation in central Arizona.

As chairman of the House Republican policy committee in 1972, and as minority leader a year later, JOHN RHODES gained not only the standing that comes with seniority, but the esteem for his hard work and his willingness to seek bipartisan solutions to the Nation's problems.

I know my colleagues join me in wishing him all the best as he prepares to retire. His dedicated service has touched the lives of many people and his contributions will be truly missed.●

● Mr. YATRON. Mr. Speaker, I am grateful for this opportunity to honor one of the most outstanding Members of the U.S. House of Representatives, JOHN RHODES. While I am happy to say some kind words about JOHN, I am truly saddened by the fact that he will be leaving Congress at the end of this session.

Words cannot do justice to JOHN's remarkable and extraordinary legislative career. JOHN has left his imprint on some very important legislation to come out of the Congress. His influence extends well beyond this body. The people of Arizona will be without one of the most effective and capable voices in the Government.

JOHN has been extremely effective not only because of his legislative skills and expertise, but also because of his personal style. He is always willing to listen to another's point of view. He is a courteous, kind, and warm human being, and his integrity is beyond reproach.

Although I come from the other side of the aisle, JOHN RHODES is a man that I have gotten to know, like, and respect. He is a man of sound, solid judgment, whose advice is trusted and valued by members of both political parties. The Congress and the people of the United States will truly miss JOHN RHODES. His career and achievements should serve as an inspiration to us all. He is, in every sense of the word, a true public servant.●

● Mr. SAM B. HALL, JR. Mr. Speaker, for 30 years JOHN RHODES has been a vital part of the American political scene. As the late Dean Atcheson wrote, JOHN was "present at the beginning."

He has advised Presidents, developed far-reaching legislative strategy that has impacted the entire Nation, and has served with great distinction in a leadership capacity here in the House.

Yet, JOHN RHODES puts on no airs. He is not pretentious, or presumptive. As everyone who has ever been privileged to come into contact with him knows, JOHN RHODES is a warm, understanding, and friendly man. A word comes to my mind that describes JOHN RHODES, it is "respect." He has the respect of this entire body.

JOHN came to Congress when Ike was entering his first term, the Korean war was raging, and Republicans were basking in the glow of victory. The Republican success, at least here in the House, was short lived. But JOHN RHODES climed the ladder of Republican leadership in the House, and no more loyal Member of the loyal opposition ever served than JOHN.

He is the essential person; a man of integrity and honesty whose word is his bond. In a time when so many challenges are made to our value system, the national conscience, and just old fashioned good ethic, it is reassuring to know that Americans like JOHN RHODES are helping us through difficult times.

We are going to miss JOHN RHODES. He charted a good course. He leaves a tremendous legacy, and the Nation and the Congress are better for his having served both so nobly.●

● Mr. GOODLING. Mr. Speaker, I am pleased to join with my colleagues today in honoring one of our own: JOHN J. RHODES, of Arizona, who will be leaving this body at the close of the 97th session.

We will miss JOHN, and I think it is appropriate that this special order has been scheduled on the day before the House considers the Colorado River Basin project amendments. Tomorrow, we are slated to take up a measure concerning the central Arizona project, a massive water distribution system designed to bring water from the Rocky Mountains to the arid land around Phoenix and Tucson. For years, the central Arizona project has represented one of JOHN's greatest bipartisan legislative efforts. JOHN has been called the "father of the central Arizona project," and but for JOHN and others like him, it is doubtful whether the residents of those areas would have reaped the benefits of that effort. I commend his spirit of bipartisanship.

At the same time, it must be noted that JOHN was the first Republican Member ever elected to the House

from Arizona, and he has served his party and his State nobly since his election in 1952. I was of course well familiar with the stories of JOHN's role in various leadership positions throughout the years. What I did not realize was that JOHN as a freshman and during his first three terms sat on the Education and Labor Committee, a committee where I sit today. While still a junior Member in this body, JOHN introduced legislation to establish a Federal Agency for the Handicapped, and to prohibit discrimination on account of sex in the payment of wages in commerce, and to provide procedures for assisting employees in collecting wages lost by reason of any such discrimination. It is fitting that we are honoring on the day that we are acting on the Migrant and Seasonal Agricultural Worker Protection Act, for JOHN recognized the emotionalism and sensitivity of this issue, and always looked for a balance which kept in mind the needs of workers from America and from our neighboring countries.

It is said that JOHN is a midwestern with midcentury values, and this solid American commitment to the people in his district, together with his intelligence and knack for diplomacy, distinguished him as a Leader in a House which he served at times as second-ranking minority member of appropriations, as chairman of the House Republican policy committee, and, from 1973 until last year, as House minority leader.

May I extend my best wishes to JOHN and his wife, Betty, and to their family for a happy, healthy, and long retirement. JOHN can remember the days when the GOP held a majority in this Chamber; he served his party during its most troubled hours, and he leaves at a time when it is not only alive but flourishing. Both my dad, George, who also served with JOHN, and I are glad that he witnessed the changes in the workings of Congress and in the American politic that have enabled the greatest bicameral legislature in the free world today to move away from what JOHN described in his early 1970's book as "The Futile System."

The U.S. Congress will miss—and remember—JOHN J. RHODES.●

● Mr. FORSYTHE. Mr. Speaker, it is without question a great privilege for me to have this opportunity to pay tribute to our colleague, JOHN RHODES. He will retire from the House of Representatives at the end of this session after 30 years of brilliant service to this Chamber. It is altogether appropriate that we pause to take careful note of the style and quality of his long and distinguished career because JOHN has been what I consider to be a quintessential Congressman.

He began his congressional career as the first Republican to win a House seat in Arizona. That State's impressive economic development and high quality of life owe much to his efforts. JOHN has shown himself to be an effective legislator, a wise adviser, an excellent facilitator of communication and an outstanding leader in the House. He is also known for his willingness to actively campaign for Republicans all over the country and for the invaluable advice and guidance he offers to freshman Congressmen. He is acknowledged on both sides of the aisle as a gracious man whose door is always open and who is always willing to listen.

In addition to his work on the Education and Labor, Interior and Insular Affairs and Appropriations Committees, JOHN did a fine job as chairman of the House Republican policy committee for nearly a decade. He is best known, of course, as the leader of our party in this Chamber for 7 years. He was passed that baton by Gerald Ford in 1973, and effectively orchestrated Republicans through a period which proved to be trying for both our party and our Nation. He led us through those turbulent times, though, and his leadership and direction are largely responsible for the resurgence of our party.

After he stepped down from the minority leadership in late 1980, it was fitting and proper that Republican Members unanimously designated him our leader emeritus for the 97th Congress, a title rarely bestowed on a Representative. Not surprisingly, he has continued to provide the kind of wisdom and guidance so necessary for a successful and productive democratic process.

There is no doubt that JOHN RHODES' presence in this Chamber will be sorely missed. However, his years of tireless effort in the House have instilled a little of his energy and insight in all of us and will, I feel, continue to influence the quality of our work here for years to come.●

● Mr. BRINKLEY. Mr. Speaker, after three decades of devoted service to his district, State, and the Nation, Congressman JOHN RHODES will be sorely missed by all of us who have been blessed with the privilege of working with him.

JOHN is truly a diplomat in the finest sense. His gift for mediation is legendary, and his tolerant understanding of opposing views has earned him the genuine respect of Members on both sides of the aisle.

JOHN RHODES is a master pariamentarisan, whose outstanding example as House minority leader and as a member of the House Rules Committee has cast a giant shadow in this body.

I salute his record of compassion and conviction and strength and wish him and his fine family the very best in the years ahead.●

● Mr. CONTE. Mr. Speaker, I would like to take this opportunity to congratulate my dear friend and colleague from Arizona, JOHN RHODES, upon his retirement from this body.

It is both with a sense of joy and a deep sense of sorrow that I say goodby to this fine man. My joy stems from the knowledge that JOHN will at long last have the time to enjoy the well-deserved rewards of retirement. While in Washington, a man becomes so involved in the larger concerns affecting every individual in this Nation that precious little time remains to enjoy the peace, comfort and warmth of home. After a successful public career spanning 30 years, JOHN will now be able to return to the family and friends that we all know he loves so much.

My sorrow is borne by the void that JOHN's absence will leave under this dome. In 1952, JOHN became the first Arizona Republican ever elected to the U.S. House of Representatives, and since that time has strived to garner the respect and trust of his fellow party members. JOHN's rise through the House heirarchy was a quite one, but estimable nonetheless. From second ranking minority member on Appropriations to chairman of the House Republican policy committee, JOHN's dedication and commitment to the people of his State and of our Nation is beyond repute. JOHN did perform his job well, and as a measure of our regard, we Republican Members of the House elected him our leader in 1973. More recently, JOHN has proven himself a highly valuable member of the prestigious House Rules Committee.

On a more personal note, I would like to thank JOHN for the pleasure and honor of serving with him when he chaired the Republican National Convention in 1972. That single experience, more than any other, showed me the depth of JOHN's courage, leadership potential and undying faith in the American political system.

For these reasons and many others, we are indeed saddened by your departure JOHN. We do, however, share in your joy upon returning home and want you to know that you leave here with our heartfelt best wishes for continued happiness and good health.●

● Mr. BROOMFIELD. Mr. Speaker, with the close of the 97th Congress, our Nation and this distinguished body will lose one of its most able and effective leaders, Congressman JOHN RHODES.

For almost 26 years, I have had the honor to watch and work with JOHN, and I can truly say he will be missed. He will be missed for the leadership he has provided, for his skilled political counsel, for his ideas on a conservative approach to government, and for the friendship he has shown all of us.

While JOHN is deservedly known for his gentlemanly and considerate nature, he has always had the courage to speak his mind to friend and opponent alike, a quality which made him particularly valuable to a deliberative body such as this. Examples of his candor can be found in his 1976 book,

"The Futile System," which provides an important analysis of Congress and what must be done to make it more responsive.

All of these characteristics were put to the test during the 7 years he served as the House minority leader.

Those were difficult years for Republicans. We were a distinct minority with very little leverage in the House. JOHN kept us together and led us successfully so that our influence was maximized.

The victories we achieved were due to his ability to get along with the majority leadership and avoid the strife and animosities common to partisan politics. He served as negotiator, conciliator and peacemaker for our party and produced solid accomplishments.

While JOHN served in this important national leadership position, he never forgot his State or his congressional district. His efforts ran the gamut from fighting for the central Arizona project which carries vital water from the Colorado River, to maintaining a series of telelectures to high school classes in Arizona. The people of Arizona's First Congressional District are very fortunate to have known and been represented by JOHN RHODES. He has been a model for all of us.

Mr. Speaker, JOHN has said he intends to do some writing after he leaves the Congress in January, and he has said it will not be autobiographical. I can only hope he reconsiders. JOHN RHODES' life represents those values to which many aspire, and few realize. His life and his thoughts hold so much from which we can all learn and benefit.

However, JOHN and his lovely wife, Betty, choose to spend their retirement though, I wish them a rich and fulfilling future. I consider myself fortunate to have served with JOHN RHODES and to be able to call him my friend, for through him I have known a truly great American.●

● Mr. BINGHAM. Mr. Speaker, I am happy to join with his many friends in paying tribute to the distinguished former minority leader, JOHN RHODES, as he retires after 30 years of dedicated service in this House.

The gentleman from Arizona has been just that, a true gentleman, invariably courteous to all his colleagues. As a freshman Member in 1965, I came to know JOHN RHODES as an outgoing and friendly person, ready to be helpful to junior Members, regardless of party affiliation. Throughout my 18 years in the House, JOHN has continued to be Mr. Nice Guy. While he was articulate and vigorous in debate, he never made personal attacks or showed the slightest disrespect for any of his colleagues.

JOHN RHODES has certainly earned his retirement to greener pastures, and we all wish for him and his wife Betty many years of happiness.●

● Mr. ROE. Mr. Speaker, I am indeed pleased to join in the salute today to JOHN RHODES, who is retiring from the House of Representatives after 30 years of outstanding service to the people of Arizona and the Nation.

There is probably no tougher role in politics than being the leader of the minority party. The frustrations associated with that position are enormous.

But during his 7-year tenure as minority leader of the House, JOHN RHODES gave new meaning to the word "bipartisanship" by working closely with the Democratic leadership to insure the passage of legislation vital to this Nation's well-being.

While JOHN and I have sometimes disagreed on the merits of legislation brought before this body, our disagreements have always been handled on the highest levels of debate. For above all else, JOHN RHODES is a gentleman. His dedication and hard work have established him as one of the true leaders of this Congress.

The coming years will find us facing many tough decisions as to how Federal dollars should be spent to meet the needs and interests of the American people. In that effort, JOHN RHODES' guidance will be sorely missed.

JOHN, I am proud to have this opportunity to salute you for your many years of fine service to the United States of America.●

● Mr. PEYSER. JOHN RHODES is a Member of Congress who I have truly respected and enjoyed working with and against. He is an individual who has always been tremendously fair in his dealings with Members of his own side when he was minority leader and who certainly respected the opinion of those in his own party who opposed him. When the Congress looses someone like JOHN RHODES, it is really a loss for the whole country.●

● Mr. CORRADA. Mr. Speaker, I am honored to join in this tribute today to Congressman JOHN RHODES of Arizona.

The 30 years of service that Congressman JOHN RHODES has given to the people of his State of Arizona and to the Nation have been marked by a deep devotion to duty, and to a long and distinguished record in the House of Representatives.

While we are members of different political parties, I know that I share with all Members the feeling that Mr. RHODES' departure will be keenly felt in this body.

With tactfulness and with ability to rise above partisanship, Mr. RHODES has brought unique qualities of skill and parliamentary leadership to the House of Representatives.

I wish him the very best as he leaves the House of Representatives and am delighted to join in this special order as we pay tribute to an outstanding individual and leader.●

● Mr. KEMP. Mr. Speaker, it is with a mixture of joy and sadness that I join the other Members of this body today in saying thank you and farewell to our dear friend and colleague, and great leader, JOHN RHODES.

I am filled with happiness and gratitude for his faithful service and outstanding contributions, not only to the people of Arizona but to all Americans. I am saddened that we will no longer have the benefit of his leadership, counsel, and wisdom in our day-to-day proceedings and deliberations.

JOHN RHODES has consistently devoted himself, for the past 30 years, to serving the people he has so ably represented and the interests of the Nation as a whole. While that in itself would earn our respect and gratitude, JOHN has made the extra effort which has made him an exceptional congressional leader. His work as Republican leader of this body will not soon be forgotten, for it was simply superb. But JOHN'S leadership goes beyond any formal office, and his quiet, diplomatic abilities have been a force for the good of our Nation both before and after he held any formal post. JOHN'S politics are summed up in this principle: Serve your party by serving your country. JOHN truly served his party by serving our Nation first.

While his daily presence will be missed, we have his legacy and continuing counsel.

To JOHN, his wife Betty, and their entire family I wish the very best. I speak for myself, personally, and for those I am privileged to represent in saying, JOHN, we owe you our lasting thanks for a job well done.●

● Mr. LEE. Mr. Speaker, colleagues, I am pleased today to be called upon to take part in this tribute to our colleague, friend, and trusted leader, Hon. JOHN RHODES.

I was fortunate enough to be provided with a first term in Congress under the watchful eye of Mr. RHODES as minority leader. His wisdom, his willingness to help me understand, and work within the processes of this Congress and his overwhelming interest in using this Congress to better the entire American lifestyle will long remain as valuable lessons to me.

While we, in this Chamber, concentrate on the national service and leadership from Mr. RHODES, his Arizona constituents have reaped nearly three decades of consciencious service on their behalf. I would be hard-pressed to say which of us benefited the most. There is no question, though, that Arizona, the Republic, and the U.S. House of Representatives as well as our Republican Party will all feel that one of our best has left us on Mr. RHODES' retirement at the conclusion of this term of office.

Sad as we may be for the loss, I can't help but feel that we can be equally happy to see JOHN take a well-deserved and enjoyable retirement. I am honored today to add my very best and most personal wishes for a happy, healthy, and restful retirement for my friend and fellow Member.●

● Mr. GRADISON. Mr. Speaker, I have personal reasons for joining in this special order. When I arrived in

this House as one of a small band of Republicans elected in 1974, JOHN RHODES was our leader. After the election but before we took office I had frequent meetings with JOHN in my capacity as representative on the Committee on Committees of my freshman Republican colleagues. Since that time I have developed the highest respect for JOHN RHODES—a respect which has deepened to personal affection and warm friendship. JOHN has the perspective which long service in this House can—but does not always—provide. He has won and he has lost. He has served through good times and bad. He has seen major changes both in our society as a whole and in the fast growing area he represents. To me JOHN RHODES is a voice of moderation and commonsense, a man of wisdom and depth, sound counsellor, and strong advocate. He has left a lasting mark on this House and will be missed by us all, and especially by this Member whom JOHN befriended on his arrival 8 short years ago.●

● Mr. SHUMWAY. Mr. Speaker, I am deeply grateful to the gentleman from Arizona for arranging this time for us to pay tribute to a good friend, a fine leader, and a highly respected Member of the House of Representatives. JOHN RHODES will indeed be missed by all of us who have been privileged to serve with him, and to experience his unique attributes and qualities of leadership.

I was fortunate enough to begin my tenure in the House under JOHN RHODES' able guidance during his last term as minority leader. I rapidly came to respect his intelligence, as well as his understanding of House rules and procedures and his tactful and unequaled diplomacy. JOHN has always been an articulate and reasonable spokesman for the Republican position, as well as a statesmanlike Representative. He has provided unparalleled service not only to his own congressional district and State, or to his party, but also to the Nation as a whole. He has never lost his perspective or his sense of humor, nor has he fallen prey to disillusion or frustration. As a freshman Member of Congress, I consider him to be a great inspiration, and certainly I shall continue to do so even after he has returned to private life. It has been an honor and a privilege to serve with him, and even more importantly, it has been a personal pleasure to know him.

I am confident that JOHN RHODES is a man who will continue to serve the best interests of the Nation whether or not he holds public office, and that his example will always be one to be admired and respected. To JOHN and to his family, I offer my most sincere best wishes for rewarding and fruitful retirement, as well as my heartfelt appreciation for his wonderful guidance.●

● Mr. CAMPBELL. Mr. Speaker, the retirement of Representative JOHN RHODES is truly a great loss not only for his colleagues, but for the entire Nation. Mr. RHODES has accomplished much in his 30 years of service to the First Congressional District of Arizona, and although his retirement is disheartening to many of us, I cannot overemphasize the accomplishments during his distinguished career in the House.

First elected in 1952, Mr. RHODES rose steadily in the House hierarchy, becoming the second ranking minority member of the Appropriations Committee and chairman of the House Republican policy committee. In 1973, he was elected House minority leader. It was in this position that JOHN RHODES' leadership, enthusiasm, and diplomacy were major factors in uniting and reviving the Republican Party. His hard work coupled with unwaivering dedication to his position and principles has won the respect and high esteem of those who have worked with him.

Indeed, JOHN RHODES possesses many outstanding qualities. However, his unequaled diplomacy deserves special recognition. His diplomacy and pragmatic approach to many issues enabled him to unite divergent Republicans and reach out to Democrats in an effort to forge bipartisan coalitions. This intangible asset was invaluable on numerous occasions during his tenure in Congress.

I congratulate JOHN RHODES on his retirement, but more importantly, I commend him for the leadership, guidance, and dedication he has displayed in the past and will continue to provide in the future.●

● Mr. SHUSTER. Mr. Speaker, our good friend and distinguished colleague, JOHN RHODES, has served the people of the First District of Arizona, and the Nation, faithfuly and well through a 30-year period marked by some of the most trying, most difficult, most violent, years of our country's history.

Well I arrived in the Congress in 1973, he had already served the first 20 of those years, and was in his 11th year as chairman of the House Republican Policy Committee. As president of our party's freshman class in that 93d Congress, with the monumentally unprecedented burden imposed upon us by the events of that time, I found JOHN RHODES a good and patient teacher, a wise and generous counsel, a man of great integrity, and forever the consummate gentleman.

When, in the 96th Congress, my colleagues assigned me the responsibility of that committee chairmanship, it was JOHN RHODES, in his far greater responsibility as House Republican leader, to whom, again, I was able to turn, repeatedly, for skillful guidance, patient counsel, and unfailing support.

After this 10-year association in which, like the Rock of Gibraltar, JOHN RHODES has always been there when needed, legislating with great skill and craftsmanship, leading with inspiration and dignity—and at all times being a patient and understanding good friend—it will seem strange that he will have moved on to well-earned retirement.

He will be missed, greatly, by all of us, and certainly by me; yet the legacy of all of the great qualities which I have noted will remain, as a reminder of our responsibilities in this body, and of how best to meet them—as JOHN has met them—in statesmanlike fashion.

To this man who has served our Nation so well, in war and in peace, and who will leave this legacy of leadership behind, I say, "Thank you," and "Godspeed."●

● Mr. McGRATH. Mr. Speaker, I am pleased to join with my colleagues in honoring our good friend, JOHN RHODES.

I came to Congress in 1981, the same year that JOHN stepped down as minority leader of the House, but that has not kept me from appreciating the contributions which Mr. RHODES has made to the House of Representatives.

Only a very few people have the opportunity of serving their fellow citizens in the House of Representatives. Far fewer have the opportunity to serve for 15 consecutive terms as JOHN RHODES has. Even fewer have done the job as well.

JOHN RHODES has been a leader among his peers in Congress. He has given of himself to better this institution, and he can leave knowing that he has the deep and abiding respect of the people with whom he has served. His service will be missed by us and by the people in Arizona he has served with such distinction for the past generation.

Under other circumstances, JOHN RHODES might have had the opportunity to serve as Speaker of the House, and I know he would have made a good one. Be that as it may, JOHN RHODES may leave this body with the satisfaction of having done his job well. We will miss his leadership and guidance.●

● Mr. LONG of Louisiana. Mr. Speaker, I am happy to join his many friends in paying tribute to our colleague, the gentleman from Arizona, JOHN RHODES.

I understand that JOHN was the first Republican ever elected to the House from Arizona. The people of Arizona's First District chose well when they sent him to Washington to represent them. He has very ably served them and the Nation; serving first on the Education and Labor Committee, then on the Interior Committee, and later on the Appropriations Committee. He quickly earned the admiration and respect of his colleagues, and as a measure of their esteem for him, his Republican colleagues elected him to serve as the minority leader of the House of Representatives in 1973 when Gerald Ford left that position to become our Vice President.

When JOHN stepped down as minority leader at the end of the 96th Con-

gress, he was appointed to fill a vacancy on the Rules Committee, where his great knowledge of the House and his skills as a parliamentarian are very much in evidence. It has been a real privilege and a pleasure for me to get to know JOHN better during this time we have served together on the Rules Committee. His dedication, intelligence, and wonderful sense of humor have made him a truly outstanding Member of Congress.

JOHN has chosen to retire at the end of this Congress. He will be greatly missed. I salute him for his distinguished service to his State and to the Nation, and extend to him every good wish for the future.●

● Mr. MAZZOLI. Mr. Speaker, it has been an honor to serve with my good friend and colleague, the Honorable JOHN RHODES, in the House of Representatives over these past years. My esteemed friend has been a dedicated and devoted Representative who has rendered true service to his State and to his constituency. He has been an asset to the State of Arizona as well as to the House. His leadership will be a loss to those of us who remain behind to carry on in the tradition in which he so faithfully served.●

● Mr. SENSENBRENNER. Mr. Speaker, on this day, I am proud to have the occasion to join my colleagues in paying tribute to the years of service provided this body by Representative JOHN RHODES of Arizona. Elected to the House of Representatives in 1952, he has given this country 30 years of unswerving and unselfish service. Having served 7 years as the Republican policy chairman, followed by 7 years as the House Republican minority leader, JOHN has been formidable in his influence both on the evolution of the legislative process and in determining the course of the Republican Party. Still, despite these close ties to his party, JOHN nevertheless demonstrated a remarkable ability to work with his colleagues on both sides of the aisle, and can boast of close personal relationships cutting across party lines.

Over the years, JOHN has served as a member of the House Committees on Education and Labor, Interior and Insular Affairs, and Appropriations. He was also a member of the Joint Study Committee on Budget Control, and took part in the important budget process reforms made in recent years. These years of hard work and experience as a key Member of Congress enabled JOHN to write "The Futile System," a book depicting his truly remarkable insight into the legislative process. It was this unique outlook on the congressional process combined with a true dedication to serving the people of this Nation, which led JOHN to his position on the most important Committee on Rules, a position which he has so ably fulfilled.

Having had the opportunity to work with JOHN for 4 years, I can state my unequivocal respect for this man who has given so freely of himself to his country. My appreciation for his help to the Republican Party is deep, and my gratitude for his personal touch during my own election campaign for office is sincere. Not only will his loyal constituency miss him greatly, but his colleagues in Congress will miss him as well. I want to express my wholehearted wishes to JOHN for a well-deserved, and happy retirement.●

● Mr. O'BRIEN. Mr. Speaker, every Member has his own opinion of the special merits and quality of JOHN RHODES. One of several that I hold significant in my high regard for this extraordinary Member of Congress relates directly to floor debate. When JOHN spoke, we all listened. When he took a position, it made a difference in the result. And when he took on another in debate, he always kept in mind his objective. He was a superior duelist, but he never cut. He was a formidable opponent but never a foe. Mary Lou and I wish Betty and JOHN much happiness. May the years ahead be good to them.●

● Mr. BEREUTER. Mr. Speaker, I rise in tribute to my good friend from the State of Arizona, the Honorable JOHN RHODES. For 30 years JOHN RHODES has served his district, his State, and his Nation in this body. His is a distinguished career of service to his country.

JOHN RHODES is the first Republican ever elected to the House from Arizona. He has served as second-ranking minority member of the Appropriations Committee. He has served as chairman of the House Republican Policy Committee. And he served for 8 years with distinction and honor as minority leader.

His contribution during those years has been characterized by capable, dedicated, patriotic leadership. He has earned the respect and admiration of his colleagues, of his party, and of people across this great land.

In order for our two-party system to thrive, it is necessary for individuals to take key roles in maintaining its vitality. And JOHN RHODES has played such a key role. He has demonstrated a capacity for dedicated hard work, a passionate commitment to furthering the best interests of his party and his country, and an honest desire to serve his fellow man. He has gained the respect of his colleagues on both sides of the aisle. He is above all a man of high principle.

JOHN RHODES exemplifies the values that those of us in this body ought to treasure most. We will miss his leadership, but we will reap its benefits for years to come.

JOHN has been a friend, a man whose wise counsel I often sought and whose judgment I highly regard. The House will miss him, and this Member will especially miss him.

Whatever the future holds, I join with the other Members of the House to wish JOHN and his wonderful wife Betty good health and happiness in the years ahead.●

● Mr. RITTER. Mr. Speaker, the U.S. Congress is about to lose a truly great man when JOHN RHODES of Arizona retires.

Today, I would like to join with my colleagues in honoring him. JOHN RHODES as a Congressman and the leader of the Republican Party for four Congresses has always been objective and fair in his judgment and diplomatic in his dealings. His quite leadership set the groundwork for the expansion of the Republican political fortunes in the House and across the country. When people speak of JOHN RHODES they use the words like principled, integrity, honesty, good humored, a great American—the finest kind of person—that is JOHN RHODES. A ready smile and a personal warmth have been his trademarks as I am certain my colleagues from across the aisle will concur. JOHN RHODES' leadership has been nothing but exemplary.

I first met JOHN RHODES as a freshman Congressman in 1979. I personally owe him a great deal for his patience in taking me under his wing and for being the good teacher. I am a better Congressman and even more important a better human being for having known him.

Arizona has been fortunate to have had him as Representative of the First Congressional District; the Republican Party has been honored to have him as their leader here in Congress; and the Nation has been blessed with the service of a fine American.●

● Mr. NAPIER. Mr. Speaker, we are all sorry to see one of America's great leaders leave us, and today, we honor this leader who will end his congressional service after 30 productive years to enter retirement. The man we honor, Congressman JOHN J. RHODES of the First District in Arizona, remains unchallenged in the many contributions he has made in dedicated service to the people he has represented. Certainly he has seen tremendous changes while he has been in Congress—changes in politics, world power, culture, economy, and many other areas—but as a man of uncompromising values and concern for his fellow man, he has always been able to responsibly meet the changing needs of his constituents without changing his convictions. Congressman RHODES is an exemplary individual and an effective leader whose name will be recorded in history as having served his district, his State, and his Nation beyond the call of duty. I shall always cherish the fact that I have known him to be a great man—but beyond that, a great gentleman.●

● Mr. FROST. Mr. Speaker, I am pleased to be able to join with my colleagues in paying tribute to JOHN RHODES. He has, in the past 30 years, been an outstanding Member of this body as well as an exemplary Member of his party. He has served both well

as a responsible and diligent minority leader and as a Member committed to the higher ideals of democracy. During his career in the House of Representatives he has served his party, this body, and the Nation with dignity and we shall all miss his good counsel in the years to come.

In the past 2 years while he has served on the Committee on Rules, I have come to respect and admire JOHN RHODES: he is a man of honor and conscience as well as a man of wit and charm. In the past few months I have been especially impressed with his deep understanding of the legislative process and his respect for the orderly conduct of legislating. He is one of a rare breed and we shall all miss him. JOHN, I wish you the best and hope you will make yourself available to those who remain so that we may continue to benefit from your knowledge, expertise, and just plain good sense.●

● Mr. BROOKS. Mr. Speaker, it is never a pleasure to say goodbye to someone I have known as long and as well as JOHN RHODES. We came to Congress together 30 years ago and although we were members of different parties, we have always maintained a warm and friendly relationship. I know JOHN is looking forward to his retirement, and to being able to spend more time with his family and in his beloved Arizona, so that helps take some of the sting out of his departure.

To me, JOHN RHODES represents that great strength and resiliency of our two-party system. He is a true and staunch believer in the goals and principles of his party, but he is fair and openminded. During his years as the Republican leader in the House, he showed that he places the interests of his country ahead of those of any party, and he worked to produce the best legislation he could. And he did it with the unfailing good humor that is so much a part of his nature. I wish we could have been on the same side more often, but a fight with JOHN RHODES never left any bad feelings. You started and finished as friends. I hope that we can make that his legacy as we go on to face the increasingly divisive issues that come before us, while he goes on the well-earned joys of retirement.●

● Mr. MONTGOMERY. Mr. Speaker, I am certainly pleased today to say a few words about my distinguished colleague from Arizona, Representative JOHN RHODES.

He is leaving this Chamber after 30 years of truly outstanding service to the people of Arizona, to the Republican Party, and to this Nation.

Since his election to the House of Representatives in 1952, JOHN RHODES has been one of the great leaders in this body. Through his service on a number of committees, JOHN has become knowledgeable on a wide range of issues.

He was a member of the Committee on Education and Labor, as well as Interior and Insular Affairs. He also served on the Appropriations Committee for 16 years and is now a member of the Rules Committee.

In addition to the committee work, JOHN has made great contributions to this Chamber as a leading force in the Republican Party. He was elected House minority leader on December 6, 1983, and was reelected minority leader in the 94th, 95th, and 96th Congresses. He was permanent chairman of the Republican National Conventions in both 1976 and 1980.

JOHN has indeed been a most effective leader of the minority in the House of Representatives. He has always possessed tremendous leadership abilities, and when he combined those with the diplomacy required to be the minority leader, he always produced results on the House floor.

I have come to personally respect this outstanding man during our service together these past 16 years. I know my colleagues all join with me in wishing the very best for JOHN RHODES. He will truly be missed.●

● Mr. BEVILL. Mr. Speaker, when our good friend and colleague, JOHN RHODES, announced his intention to retire at the end of this, his 15th term in Congress, all of us were deeply saddened. His many lasting legislative contributions to the people of this country have earned him the respect and admiration of us all.

Although JOHN and I come from different regions of this great country and are of different political parties, I consider him to be one of my best friends in Congress and one of the greatest leaders ever to have served in this House.

JOHN'S keen intelligence, distinguished legislative abilities, and deep respect for this Nation have blended with his spirit of true friendship and unquestioned integrity to produce one of this body's most effective Members.

During his three decades of service in Congress, JOHN RHODES has represented the people of the First District of Arizona with compassion, sincerity, and diligence. As one of his party's principle leaders, JOHN'S fairmindedness, personal kindness, and his ability to put country before partisan politics have set an example for us all. In large measure, JOHN RHODES has been responsible for a productive and harmonious relationship in the House.

He has been a close friend and effective ally in his working tirelessly on behalf of the many important energy and water resource projects for which this body has appropriated funds. I have deeply appreciated his wise counsel and assistance on these important matters.

Personally, I will miss JOHN'S presence in this body, to which he has given himself so unselfishly. He has my best wishes for a long, happy and productive retirement.●

● Mr. QUILLEN. Mr. Speaker, it is a privilege to participate in this special order in tribute to the Honorable JOHN J. RHODES of Arizona, who is retiring from a distinguished congressional career at the end of this year.

When JOHN RHODES leaves the Congress his constituents and the entire country will be losing the outstanding service and wise leadership he has provided for 30 years. We Republicans will suffer further by being deprived of the abilities and sound judgment of one of our finest party leaders.

When I arrived as a new Member in 1963 JOHN RHODES was a 10-year veteran of the House of Representatives. I soon came to discover his warm and friendly personality, and to admire his integrity and dedication, his intelligence and good commonsense. Since then I have been proud of our friendship and have relied often on his experience and judgment. JOHN'S example and counsel are of great value to me as they have been for all of these 20 years.

JOHN RHODES has achieved a remarkable record of accomplishment during his three decades of service in the House. Many are his lasting contributions. I would like to comment briefly on just one.

I believe history will record that he is the man who assumed the leadership of his party in the House at a difficult time for the party and for the country, and who provided a strong and steady hand that helped us through those days. He helped guide us through those troubles and toward a new unity of purpose that moved us forward to better times. For his wise and calm leadership our party and the country own him a great debt of gratitude. We are all fortunate he was our leader.

I recall my pride in the quality of JOHN RHODES' leadership and my admiration for his ability to calm and unite us. As our House Republican leader he was always anxious to listen to everyone in his desire to achieve a broad consensus. No Member or group of Members was excluded from his deliberations aimed at reaching a party position we could be proud of and support enthusiastically. He led us well and we grew strong again under his stewardship.

At the end of the last Congress JOHN stepped down as House Republican leader after 7 successful years of marshaling his troops, years of growth in numbers, and growth in unity.

JOHN joined me on the Rules Committee this Congress and what a strength he has brought to us. His presence is a great assistance to me and his contribution to the work of the committee is truly appreciated. I am proud and glad to have him with me on the Rules Committee.

JOHN RHODES is an example of what one man with sound ideas and strong convictions can accomplish in public life for the common good and accomplish with an unfailing sense of good humor complementing a warm personality.

I am going to miss him. The ready smile, the humor, the commonsense, the wisdom. I am sure he will enjoy success in all his activities after his truly distinguished congressional career. I want to wish him, Betty and the family, good health, great happiness, and good luck in the years ahead.

Finally, JOHN, thank you for our friendship that means so much to me.●

● Mr. ADDABBO. Mr. Speaker, it is with great pleasure that I join my colleagues today in paying tribute to our good friend and colleague, JOHN RHODES.

JOHN, after 30 impressively full years of service to the House, will be retiring at the end of this term. To all of us who know JOHN, both personally and as a coworker, this is a great loss.

JOHN first came to the Hill in 1952, the first Republican ever elected to the House of Representatives from the State of Arizona. After 15 consecutive terms, he justifiably holds the record of the longest House tenure in Arizona's history.

JOHN'S illustrious congressional career included serving as chairman of the House Republican Policy Committee, a member of the Committee on Education and Labor, and a member of the Joint Study Committee on Budget Control. He also served on the Appropriations Committee, where I had the pleasure of working with this most capable Representative. JOHN was very helpful to me personally, and I was able to learn a great deal from him. He served as permanent chairman of the Republican National Convention in 1976 and 1980. We also watched JOHN'S able leadership and smooth diplomacy as a 7-year House minority leader, and his outstanding endeavors as a member of the Committee on Rules. JOHN is a tireless, determined worker, but carries himself with an enviable easygoing, friendly manner.

We will all miss JOHN immensely, but I want to wish him a most relaxing and fulfilling retirement. He certainly deserves it.●

● Mr. RANGEL. Mr. Speaker, I consider it an honor to pay tribute to JOHN RHODES, a stalwart legislator with many accomplishments. His dedicated service to his constituency, and equally important, to the American people, has been outstanding and will always be remembered.

Having shared many working hours with my distinguished colleague and having watched him labor on behalf of his party on the House floor, I feel I can attest, without contradiction, to his ability, his astuteness, and to the warm relationship he has established with his peers.

JOHN has carried his 30 years in the House well, productive from the start and cumulating into a great and esteemed leadership. I hope he wears his retirement as well and that it brings him the enjoyment he and his lovely wife Betty, so richly deserves.●

● Mrs. HECKLER. Mr. Speaker, we recognize our colleague from Arizona, the Honorable JOHN J. RHODES, with pleasure and sadness: Pleasure in his congressional service and sadness in its end.

Throughout my tenure in Congress, I have served with this dedicated, positive public servant, including the 7 years he was minority leader.

I know him as a man of dignity and grace, of courage and conviction.

In his public and private lives, he has fulfilled these words of George Will: "One glance tells you. God has a Congressman in mind when He made JOHN RHODES."

Perhaps He also had a Speaker in mind, because JOHN RHODES—the "Speaker in waiting" for a Republican majority membership—would have made a fine one.

As JOHN RHODES retires, 2 years after relinquishing the House Republican leadership, I look back over my 16 years of service with him and feel a profound loss that it is ending. But JOHN has always had an excellent sense of timing and leaves us no choice but to accept with grace his decision to reap the rewards of retirement, beginning in January. May those rewards be many and varied.●

● Mr. DERWINSKI. Mr. Speaker, it is a special pleasure for me to join my colleagues this afternoon in saluting JOHN RHODES on the great work record that he has compiled as a Member of this body.

For 7 of his 30 years of dedicated service in the House, JOHN provided outstanding leadership as Republican leader. The resurgence of the Republican Party was due, in large part, to JOHN'S tremendous role as an effective leader of the GOP in the House. His political savvy and tactical skill were responsible for many Republican successes on legislation which embodied Republican philosophy. JOHN handled the all-encompassing task of being minority leader, a job that carries with it a great amount of work and responsibility, in a consistently effective fashion.

JOHN is well respected on both sides of the aisle, for his reputation in being fair and nonpartisan and his support for sound legislative initiatives and responsible fiscal policies. JOHN'S grasp of issues and his sharp judgment have made him a driving force in passing legislation which is in the long-term interest of the American people. His dedication and consistent concern not only for the State of Arizona, but also for the good of our country, are hallmarks of JOHN'S work in Congress for the past 30 years. JOHN'S advice and counsel have been of great value to all of us who have asked for his good judgment.

My sincere congratulations to JOHN on the fine job he has done through the years and on his tremendous record. Today we pay tribute to his valued leadership as a statesman and as a friend.

My wife, Pat, joins me in extending our best wishes to JOHN and Betty and their family for many more years of continued health and happiness. Knowing JOHN as I do, I am sure that his retirement will be a busy one, and especially well deserved in view of his productive career in service to the Nation.●

● Mr. REUSS. Mr. Speaker, I am pleased to join in this well-deserved tribute to JOHN J. RHODES, who will retire this year after 30 productive years of service to the people of Arizona's First District. As leader of the House Republicans for 7 years, JOHN and I often disagreed on policy. Yet members of my party will be quick to testify that, despite political differences, JOHN has always been a valued personal friend.

JOHN'S effective work on behalf of his party has been evident to those of us on the other side of the aisle. Prior to his election as minority leader, he served for 9 years as chairman of the House Republican policy committee. He was also a member of the Joint Study Committee on Budget Control, which created the new congressional budgetary process. His good work for his constituents is exemplified by his successful effort, with his fellow Arizonan and my friend MO UDALL, on behalf of the central Arizona project, to bring precious water to the arid land around Phoenix and Tucson.

JOHN has always worked in a spirit of comity and compromise. Those of us who fought him on the floor appreciate his friendship and respect his abilities. Democrats and Republicans alike will miss him greatly.

I congratulate JOHN on his splendid record of service, and wish him the best for a productive and enjoyable retirement.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, it is with the greatest admiration and appreciation that I join with my colleagues in honoring a truly inspirational man, JOHN J. RHODES.

In 1953, the constituents of Arizona's First District elected JOHN RHODES to the House of Representatives. Unknowingly, they delivered to us one of our most vital, constructive, and dedicated leaders. His service of 7 years as minority leader was immeasurable.

Being the first Republican to win a House seat from the State of Arizona was only the first indication of his ability and desire to serve his country and party. JOHN has fulfilled and shared the highest principles upon which the Republican Party was founded—that by serving your country first, you serve your party best. As minority leader, JOHN RHODES led our party through some of its leanest times. Drawing from the opportunities and obstacles presented to the GOP during the post-Watergate years, JOHN sought to restore confidence in the American political and economic sys-

tems, and to restore the belief that the Republican Party is one of integrity.

JOHN further sought to regenerate the Republican Party from what seemed to be a lingering minority to a stronger, more confident, conservative alternative. Those who have served with him, have certainly experienced a unique era of leadership in the House. Through his leadership and political expertise uphill battles were won that as the minority party we were never expected to win.

On December 10, 1980, we honored JOHN as he voluntarily stepped down as minority leader. As we never doubted, he continued to be an active and visible force in the implementation of President Reagan's agenda for recovery. He has continually articulated our party's position forcefully and convincingly in an effort to offer an alternative to the long-prevailing postures held in the House.

Since his election 30 years ago, he has not only helped build a stronger Republican Party in Arizona, but with his positive-minded approach as a leader and spokesman he has worked toward building a national Republican majority. He has sought not to further philosophically divide our political system, but instead has showed us how to be constructive in offering a creative, conservative alternative to dominant past policies. To dedicate ourselves to a cause far greater than ourselves, is a lesson well taught by JOHN RHODES.

JOHN'S love of God, family, and country truly have been a guiding force in his life of public service. In his many accomplishments he has consistently been firm, but fair, persevering yet patient. In his tenure as minority leader he has shared with us the infinite wisdom of his leadership, while as a Member he has shown us the importance of fairness and cooperation.

There are times when words—no matter their number or their meaning—can convey the feelings found in the heart. JOHN, it was a treasure to serve with you, and we thank you.●

● Mr. ZABLOCKI. Mr. Speaker, JOHN RHODES has served his constituents of the First District of Arizona, his party and this House with great distinction over the past 30 years, and I appreciate having this opportunity to join his many friends and admirers in paying tribute to that record.

During his tenure in this body, JOHN has served on four major standing committees of the House and in numerous leadership positions within his party—culminating in his role as minority leader in four Congresses. I should add that his membership in the Rules Committee during the 97th Congress has added particular luster to his remarkable career. We will miss his wise counsel and sound judgment in the years ahead.

Since his legislative accomplishments are well known and will be fully recognized in this special order, I will not dwell on them at this time. Instead, I would like to take note of those special qualities of character and personality, which have made him such a trusted and valued colleague. Above all, JOHN RHODES is a man who has made the words "moderation" and "cooperation" respectable. Although a strong and persuasive advocate of his party's positions on all issues, he has also proven to be a man of commonsense, of reason, and understanding.

Effective leadership, he knows, involves more than oratory or eloquence—it also involves listening to other points of view and reaching reasonable compromises, if legislative progress is to be achieved.

In fact, JOHN RHODES, in his calm, unruffled, and reassuring way, has been a key actor on the congressional stage for over a decade, and we owe him a debt of gratitude for his unselfish and dedicated service to the Congress and the Nation.●

● Mr. MINISH. Mr. Speaker, I am happy to have the occasion to testify to the high esteem in which I hold Congressman JOHN J. RHODES of Arizona. He is a fine gentleman whose talents will be missed in the House.

All of us had a preview of JOHN'S retirement, in a way, when he decided to step down from the leadership of his party in the House. Those of us on this side of the aisle valued his leadership because we had learned to trust him as an honorable legislator and a man of his word. JOHN RHODES showed that it is possible to be a party leader without being a partisan soul, and he earned the respect and esteem of all his colleagues, regardless of their politics. I am happy to add that his successor has carried on in JOHN'S honorable tradition.

Although he stepped aside from the formal leadership of his party, JOHN was here with us this term as a force in his own right, providing insight and guidance for all regardless of party. Now we will have to get along without his daily presence among us, but he has taught us by his conscientious example how to carry on. He has been a good public servant, and he is a good man. I am proud to know JOHN, and I wish him much happiness in the days ahead.●

● Mr. DUNCAN. Mr. Speaker, today we pay tribute to a man who characterizes responsible leadership. In 30 years as a Member of this House, this man has reflected the dignity and reliability which our forefathers envisioned in their design of our democratic Government. He has demonstrated and fulfilled his responsibilities to these ideals, to his constituents, and to his colleagues.

Over 30 years, JOHN RHODES has had to battle the limits of his minority position in striving to shape national policy. It has certainly not been an easy service. In many cases I am sure he felt like a voice in the wilderness, crying out against Federal spending and deficits. He did, however, enjoy one brief term in the majority. There have been many trials, and some victories since that time he was sworn in with a majority on his side of the aisle.

His leadership of the Republican Party in this House came in a time of great difficulty. His ability to bring us through that period won him the respect and admiration of his colleagues. I have respected him for far longer. JOHN RHODES' even-tempered, low-key style carrys great weight. He never acts hastily, but deliberates and makes each move with resolve and determination. The shrill and cheap theatrics which attract attention have never appealed to him. Instead he uses reason, facts, and a quiet voice to express his position firmly.

It is just such a firm hand which safely guided the Republican Party for 7 years without endangering either party or principle. A less steady might have steered a more dangerous course, bringing us closer to peril and defeat. This type of leadership is seldom appreciated because of its subtlety. It lacks the flash of demagoguery.

JOHN RHODES' style has been molded by his responsibilities as a lawmaker, a party leader, and a Representative. As a lawmaker he has labored to reduce the growth of Government and spending; spending that has grown to create a trillion-dollar debt during the years he has worked in Congress. He strived to see that the laws were applied fairly and equitably to all men and women. He never set aside his duties as a lawmaker to achieve some political goal, and thus remained true to the principles espoused by our Founding Fathers.

As Republican leader of the House of Representatives, Congressman RHODES accomplished the difficult task of marshaling troops who were given little voice in the creation of national policy. He upheld his responsibility to his party in the dark days, and the success of the party in the future is a monument to his efforts. Never did JOHN RHODES misuse the powers at his disposal. He used these powers, as leader of the opposition, to offer constructive criticism to the policies of the majority and viable alternatives. Finally, as a Representative, he has expressed the views of the people of Arizona and protected their interests in 30 years of elective service. The responsibilities of representation were not forgotten in spite of his other roles.

These are the characteristics of the responsible leadership JOHN RHODES has displayed to all of us over the last 30 years. He has provided a model of reliability and accomplishment, a record to be envied, simply by being a responsible man.●

● Mr. RUSSO. Mr. Speaker, I would like to take this time on the floor to acknowledge the 30 years of excellent service rendered by our fellow colleague, JOHN RHODES, who is retiring from public service in January.

In 1952, JOHN became the first Republican ever elected to the House from Arizona. He then progressively and steadily rose in the House leadership, eventually becoming the second-ranking minority member of the Appropriations Committee and chairman of the House Republican policy committee. In 1973, when Gerald Ford was appointed Vice President of the United States, Mr. RHODES was heartily elected House minority leader and subsequently reelected for the 94th, 95th, and the 96th Congresses. His present position on the House Rules Committee has given him the opportunity to utilize even further his talent of leadership for the benefit of our country.

Respect for the leadership and legislative work of JOHN RHODES is steadfast throughout the Congress; whether the Members are Democrat or Republican, liberal or conservative, old or new. He will be missed tremendously not only for his dynamic force in national legislature, but also for his highly admirable intellect and keen sense of rationality toward the public interests. We all wish JOHN many more pleasurable years. Having a fine family with whom to share the future, the impending years should indeed be golden ones.

To a man who is truly a servant of the Nation, I wish the best always. May time serve JOHN RHODES as well as he has served the people.●

● Mr. HOWARD. Mr. Speaker, I would first like to commend the gentleman from Arizona for calling this special order for the purpose of paying a most-deserved tribute to our colleague, JOHN RHODES.

One of the most rewarding aspects of this job is that of developing loyal friendships. Certainly an awarding experience for me has been the opportunity to become friends with JOHN RHODES. In addition, my wife, Marlene, has also had the chance to work closely and become good friends with JOHN's wife, Betty, in the Congressional Wives Club. We are both extremely honored for having had this opportunity.

Although JOHN and I disagree more than we agree on most issues, I have sincerely admired his great leadership abilities. As we all know, JOHN assumed a most difficult position in 1973 as minority leader. At that time, the job was particularly trying, but JOHN rose to meet the challenge and lead his party with integrity and courage.

The residents of the First District, the Republican Party, and the Nation as well have all benefited from JOHN's service. Marlene and I wish all the best to JOHN and Betty in the coming years for a happy and prosperous retirement.●

● Mr. MOORHEAD Mr. Speaker, I would like to thank my colleague from Arizona, Mr. RUDD, for calling this special order for a man most deserving of a special order, JOHN RHODES.

JOHN has always been a good and dependable friend to all Members. He was not a boisterous leader. He was self-assured. He was always logical and reasonable when it came to giving answers to questions or taking stands on important issues.

JOHN was prudent. He seldom made mistakes. He was warmhearted and considerate to those whose careers depended on his actions and to those who depend upon his leadership.

Despite the pressures and demands of being the leader of the minority party, he was never so busy that he could not give helpful and assuring words to a fellow Republican. And he was never so partisan that he was impolite to political opponents.

JOHN RHODES was and is a true gentleman.●

● Mr. CLINGER. Mr. Speaker, this year, the House of Representatives will be losing one of its finest Members, JOHN J. RHODES. I am proud to join my colleagues in paying tribute to this fine and compassionate legislator.

Throughout his 30 years of service in Congress, JOHN has been recognized by his colleagues and constituents as hard working and determined. His years here have been marked by achievement and distinction, as he served as minority leader, chairman of the House Republican policy committee, and chairman of the Republican National Convention.

JOHN is an effective and dedicated legislator and his tenure in Congress will be remembered by his dogged pursuit of what is right and reasonable in Government. JOHN RHODES is a true public servant in every sense of the word and I feel privileged to have known him and worked with him.

● Mr. SCHULZE. Mr. Speaker, rarely do we, as Members of Congress, have the opportunity to honor someone of the stature of our friend and colleague, JOHN RHODES.

As a Republican, I can personally attest to his abilities as a leader. Having followed Jerry Ford as the minority leader, JOHN served President Ford as the leading Republican in Congress for the President's legislative agenda. For 7 years, JOHN utilized his talents as a forger of compromises to influence the policies of this body. Having come to Congress in 1952, JOHN served 2 short years as a Member of the majority. For the remainder of his tenure, he was faced with the difficulties which beset those of us who constitute the numerical minority of this House. Only now is the country as a whole pressuring Congress for the kinds of policies which JOHN has advocated since he was elected; a fundamental reliance on the free-enterprise system, less Government decisionmaking in our lives, and the maintenance of a strong national defense. Clearly, JOHN RHODES' ideas were ahead of their time. Truly, this is indicative of JOHN's vision and leadership.

Despite his departure from this body, JOHN's voice will undoubtedly still be heard. Possessing one of the sharpest minds in our national government, JOHN has now chosen to step outside Congress as he continues to make contributions to his country. None who know him can doubt that however JOHN chooses to continue his career, he will take with him, experience which few others have matched. It will serve him, and his country, in good stead.

I am reminded of Hemingway's phrase, used to describe that resolute character in a "Farewell to Arms"—"Grace under pressure." As a man who has carried the responsibilities of his district, his party, and his country so ably, for so many years, I can think of no one who better personifies that admirable description.

Though you are leaving this body, JOHN, your example and influence will stay with us. I wish you, and your lovely wife Betty, only the best. It is what you have always given, and what you most certainly deserve.●

Mr. RUDD. Mr. Speaker, I yield back the balance of my time.

CRIMINAL JUSTICE SUBCOMMITTEE TO RESCHEDULE HEARING ON PUBLIC SAFETY OFFICERS' BENEFITS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

● Mr. CONYERS. Mr. Speaker, the Subcommittee on Criminal Justice, which I chair, has rescheduled a hearing for Thursday, September 30, 1982, at 2:30 p.m. in room 2237 of the Rayburn House Office Building. This is the third in a series of hearings on four bills to amend the Public Safety Officers' Benefits Act.

The witnesses scheduled to testify on Thursday are: Keith Holtermann on behalf of the National Association of Emergency Medical Technicians, as chairman of its legislative committee; Fred Williams, Esq., and David Dwyer, chief of Bethesa-Chevy Chase Rescue Squad, on behalf of the National Volunteer Fire Council; and Stanley Q. Lyman, executive vice president, International Brotherhood of Police Officers.●

ILLEGAL REPRISALS BY RAILROADS AGAINST EMPLOYEES HONORING LAWFUL PICKET LINES DURING RAIL STRIKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 5 minutes.

● Mr. DINGELL. Mr. Speaker, last week Congress passed, and the President signed, Senate Joint Resolution 250, emergency legislation to end the national rail strike and prevent further devastation of an already crippled economy. That legislation resolved the dispute so that the locomotive engi-

neers, who were engaged in a lawful strike, and other rail employees honoring their picket lines, could return to work, get the trains rolling again, and resume essential rail transportation services.

Now it has come to my attention that at least one railroad, and possibly others, have engaged in illegal reprisals against rail employees who honored the engineers' lawful picket lines during the strike. These reprisals have taken the form of selective furloughs, layoffs, and harassment of employees legally on strike.

Mr. Speaker, these reprisals are reprehensible and they are illegal. The constitute blatant violations of both the Railway Labor Act and Senate Joint Resolution 250. The Congress passed Senate Joint Resolution 250 last week to restore the status quo on the railroads represented by the National Railway Labor Conference to that which was in effect prior to 12:01 a.m. on September 19, when the strike began. Restoration of the status quo extends to all classes and crafts of employees of those railroads.●

AMENDMENT TO H.R. 7187

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 5 minutes.

● Mr. WEAVER. Mr. Speaker, I rise to offer an amendment to H.R. 7187, to bar the use of commercial spent fuels in the manufacture of nuclear weapons.

I introduced this amendment nearly a year ago, when the Energy and Environment Subcommittee of the Committee on Interior and Insular Affairs marked up H.R. 3809. The amendment was adopted by the subcommittee and became title II, subtitle A, section 201, when the bill was reported out of the full committee.

Mr. Speaker, this body faces no more important question than whether or not we allow the Department of Energy to turn "Atoms for Peace"—commercial spent fuel—into "Atoms for War"—plutonium 239. Our colleagues in the Senate answered this question with a resounding "no," when they adopted the Hart amendment to the Nuclear Regulatory Commission authorization. I am sorry to say that that amendment, H.R. 2320, is encountering serious procedural obstacles.

Mr. Speaker, even the most strident supporters of nuclear power are in agreement that commercial spent fuel must not be used for military purposes. There are many reasons for their opposition—chief among them being the need they perceive for our Nation to maintain a supply of plutonium that is completely unrelated to the production of nuclear weapons. Those who support the splitting of atoms for peaceful energy purposes rightly wish to avoid any connection with highly politicized nuclear defense purposes. We cannot allow "neighborhood" atomic powerplants to become bomb factories. From the very beginning of the atomic age, the American people have heard a promise that the atom can be split for peaceful purposes. We must not make a mockery of that promise. We must not violate our responsibility to maintain a separation between "Atoms for Peace," and the military rush toward nuclear Armageddon.

As we deliberate on the various ways of disposing of our 35-year accumulation of nuclear waste—as we wonder how we may best treat this dangerous plague on our Nation—I believe that we must remember our essential commitment to the "peaceful atom".

Mr. Speaker, I urge the adoption of this important amendment.●

CONFERENCE REPORT ON S. 2036

Mr. PERKINS submitted the following conference report and statement on the bill (S. 2036) to provide for a job training program and for other purposes.

CONFERENCE REPORT (H. REPT. No. 97-889)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2036) to provide for a job training program and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Job Training Partnership Act".

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. Statement of purpose.
Sec. 3. Authorization of appropriations.
Sec. 4. Definitions.

TITLE I—JOB TRAINING PARTNERSHIP

PART A—SERVICE DELIVERY SYSTEM

Sec. 101. Establishment of service delivery areas.
Sec. 102. Establishment of private industry council.
Sec. 103. Functions of private industry council.
Sec. 104. Job training plan.
Sec. 105. Review and approval of plan.
Sec. 106. Performance standards.
Sec. 107. Selection of service providers.
Sec. 108. Limitation on certain costs.

PART B—ADDITIONAL STATE RESPONSIBILITIES

Sec. 121. Governor's coordination and special services plan.
Sec. 122. State job training coordinating council.
Sec. 123. State education coordination and grants.
Sec. 124. Training programs for older individuals.
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STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to establish programs to prepare youth and unskilled adults for entry into the labor force and to afford job training to those economically disadvantaged individuals and other individuals facing serious barriers to employment, who are in special need of such training to obtain productive employment.

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. (a)(1) There are authorized to be appropriated to carry out part A of title II and title IV (other than part B of such title) such sums as may be necessary for fiscal year 1983 and for each succeeding fiscal year.

(2) From the amount appropriated pursuant to paragraph (1) for any fiscal year, an amount equal to not more than 7 percent of the total amount appropriated pursuant to this section shall be available to carry out parts A, C, D, E, F, and G of of title IV.

(3) Of the amount so reserved under paragraph (2)—

(A) 5 percent shall be available for part C of title IV, and

(B) $2,000,000 shall be available for part F of title IV.

(b) There are authorized to be appropriated to carry out part B of title II such sums as may be necessary for fiscal year 1983 and for each succeeding fiscal year.

(c) There are authorized to be appropriated to carry out title III such sums as may be necessary for fiscal year 1983 and for each succeeding fiscal year.

(d) There are authorized to be appropriated $618,000,000 for fiscal year 1983, and such sums as may be necessary for each succeeding fiscal year, to carry out part B of title IV of this Act.

(e) The authorizations of appropriations contained in this section are subject to the program year provisions of section 161.

DEFINITIONS

SEC. 4. For the purposes of this Act, the following definitions apply:

(1) The term "academic credit" means credit for education, training, or work experience applicable toward a secondary school diploma, a postsecondary degree, or an accredited certificate of completion, consistent with applicable State law and regulation and the requirements of an accredited educational agency or institution in a State.

(2) The term "administrative entity" means the entity designated to administer a job training plan under section 103(b)(1)(B).

(3) The term "area of substantial unemployment" means any area of sufficient size and scope to sustain a program under part A of title II of this Act and which has an average rate of unemployment of at least 6.5 percent for the most recent twelve months as determined by the Secretary. Determinations of areas of substantial unemployment shall be made once each fiscal year.

(4) The term "chief elected official" includes—

(A) in the case of a State, the Governor;

(B) in the District of Columbia, the mayor; and

(C) in the case of a service delivery area designated under section 101(a)(4)(A)(iii), the governing body.

(5) The term "community-based organizations" means private nonprofit organizations which are representative of communities or significant segments of communities and which provide job training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, National Council of La Raza, 70,001, Jobs for Youth, organizations operating career intern programs, neighborhood groups and organizations, community action agencies, community development corporations, vocational rehabilitation organizations, rehabilitation facilities (as defined in section 7(10) of the Rehabilitation Act of 1973), agencies serving youth, agencies serving the handicapped, agencies serving displaced homemakers, union-related organizations, and employer-related nonprofit organizations), and organizations serving nonreservation Indians (including the National Urban Indian Council), as well as tribal governments and Native Alaskan groups.

(6) Except as otherwise provided therein, the term "council" means the private industry council established under section 102.

(7) The term "economic development agencies" includes local planning and zoning commissions or boards, community development agencies, and other local agencies and institutions responsible for regulating, promoting, or assisting in local economic development.

(8) The term "economically disadvantaged" means an individual who (A) receives, or is a member of a family which receives, cash welfare payments under a Federal, State, or local welfare program; (B) has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 percent of the lower living standard income level; (C) is receiving food stamps pursuant to the Food Stamp Act of 1977; (D) is a foster child on behalf of whom State or local government payments are made; or (E) in cases permitted by regulations of the Secretary, is an adult handicapped individual whose own income meets the requirements of clause (A) or (B), but who is a member of a family whose income does not meet such requirements.

(9) The term "Governor" means the chief executive of any State.

(10) The term "handicapped individual" means any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment.

(11) The term "Hawaiian native" means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

(12) The term "institution of higher education" means any institution of higher education as that term is defined in section 1201(a) of the Higher Education Act of 1965.

(13) The term "labor market area" means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such areas shall be identified in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas or similar criteria established by a Governor.

(14) The term "local educational agency" means such an agency as defined in section 195(10) of the Vocational Education Act of 1963.

(15) The term "low-income level" means $7,000 with respect to income in 1969, and for any later year means that amount which bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

(16) The term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary based on the most recent "lower living family budget" issued by the Secretary.

(17) The term "offender" means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom services under this Act may be beneficial or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction.

(18) The term "postsecondary institution" means an institution of higher education as that term is defined in section 481(a)(1) of the Higher Education Act of 1965.

(19) The term "private sector" means, for purposes of the State job training councils and private industry councils, persons who are owners, chief executives or chief operating officers of private for-profit employers and major nongovernmental employers, such as health and educational institutions or other executives of such employers who have substantial management or policy responsibility.

(20) The term "public assistance" means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.

(21) The term "Secretary" means the Secretary of Labor.

(22) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(23) The term "State educational agency" means such an agency as defined in section 195(11) of the Vocational Education Act of 1963.

(24) The term "supportive services" means services which are necessary to enable an individual eligible for training under this Act, but who cannot afford to pay for such services, to participate in a training program funded under this Act. Such supportive services may include transportation, health care, special services and materials for the handicapped, child care, meals, temporary shelter, financial counseling, and other reasonable expenses required for participation in the training program and may be provided in-kind or through cash assistance.

(25) The term "unemployed individuals" means individuals who are without jobs and who want and are available for work. The determination of whether individuals are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining individuals as unemployed.

(26) The term "unit of general local government" means any general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers.

(27)(A) The term "veteran" means an individual who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

(B) The term "disabled veteran" means (i) a veteran who is entitled to compensation under laws administered by the Veterans' Administration, or (ii) an individual who was discharged or released from active duty because of service-connected disability.

(28) The term "vocational education" has the meaning provided in section 195(1) of the Vocational Education Act of 1963.

TITLE I—JOB TRAINING PARTNERSHIP

PART A—SERVICE DELIVERY SYSTEM

ESTABLISHMENT OF SERVICE DELIVERY AREAS

SEC. 101. (a)(1) The Governor shall, after receiving the proposal of the State job training coordinating council, publish a proposed designation of service delivery areas for the State each of which—

(A) is comprised of the State or one or more units of general local government;

(B) will promote effective delivery of job training services; and

(C)(i) is consistent with labor market areas or standard metropolitan statistical areas, but this clause shall not be construed to require designation of an entire labor market area; or

(ii) is consistent with areas in which related services are provided under other State or Federal programs.

(2) The Council shall include in its proposal a written explanation of the reasons for designating each service delivery area.

(3) Units of general local government (and combinations thereof), business organizations, and other affected persons or organizations shall be given an opportunity to comment on the proposed designation of service delivery areas and to request revisions thereof.

(4)(A) The Governor shall approve any request to be a service delivery area from—

(i) any unit of general local government with a population of 200,000 or more;

(ii) any consortium of contiguous units of general local government with an aggregate population of 200,000 or more which serves a substantial part of a labor market area; and

(iii) any concentrated employment program grantee for a rural area which served as a prime sponsor under the Comprehensive Employment and Training Act.

(B) The Governor may approve a request to be a service delivery area from any unit of general local government or consortium of contiguous units of general local government, without regard to population, which serves a substantial portion of a labor market area.

(C) If the Governor denies a request submitted under subparagraph (A) and the entity making such request alleges that the decision of the Governor is contrary to the provisions of this section, such entity may appeal the decision to the Secretary, who shall make a final decision within 30 days after such appeal is received.

(b) The Governor shall make a final designation of service delivery areas within the State. Before making a final designation of service delivery areas for the State, the Governor shall review the comments submitted under subsection (a)(3) and requests submitted under subsection (a)(4).

(c)(1) In accordance with subsection (a), the Governor may redesignate service delivery areas no more frequently than every two years. Such redesignations shall be made not later than 4 months before the beginning of a program year.

(2) Subject to paragraph (1), the Governor shall make such a redesignation if a petition to do so is filed by an entity specified in subsection (a)(4)(A).

(3) The provisions of this subsection are subject to section 105(c).

ESTABLISHMENT OF PRIVATE INDUSTRY COUNCIL

SEC. 102. (a) There shall be a private industry council for every service delivery area established under section 101, to be selected in accordance with this subsection. Each council shall consist of—

(1) representatives of the private sector, who shall constitute a majority of the membership of the council and who shall be owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector executives who have substantial management or policy responsibility; and

(2) representatives of educational agencies (representative of all educational agencies in the service delivery area), organized labor, rehabilitation agencies, community-based organizations, economic development agencies, and the public employment service.

(b) The Chairman of the council shall be selected from among members of the council who are representatives of the private sector.

(c)(1)(A) Private sector representatives on the council shall be selected from among individuals nominated by general purpose business organizations after consulting with, and receiving recommendations from, other business organizations in the service delivery area. The number of such nominations shall be at least 150 percent of the number of individuals to be appointed under subsection (a)(1). Such nominations, and the individuals selected from such nominations, shall reasonably represent the industrial and demographic composition of the business community. Whenever possible, at least one-half of such business and industry representatives shall be representatives of small business, including minority business.

(B) For the purpose of this paragraph, the term—

(i) "general purpose business organizations" means organizations which admit to membership any for-profit business operating within the service delivery area; and

(ii) "small business" means private for-profit enterprises employing 500 or fewer employees.

(2) Education representatives on the council shall be selected from among individuals nominated by local educational agencies, vocational education institutions, institutions of higher education, or general organizations of such agencies or institutions, and by private and proprietary schools or general organizations of such schools, within the service delivery area.

(3) The remaining members of the council shall be selected from individuals recommended by interested organizations. Labor representatives shall be recommended by recognized State and local labor organizations or appropriate building trades councils.

(d)(1) In any case in which there is only one unit of general local government with experience in administering job training programs within the service delivery area, the chief elected official of that unit shall appoint members to the council from the individuals nominated or recommended under subsection (c).

(2) In any case in which there are two or more such units of general local government in the service delivery area, the chief elected officials of such units shall appoint members to the council from the individuals so nominated or recommended in accordance with an agreement entered into by such units of general local government. In the absence of such an agreement, the appointments shall be made by the Governor from the individuals so nominated or recommended.

(e) The initial number of members of the council shall be determined—

(1) by the chief elected offical in the case described in subsection (d)(1),

(2) by the chief elected officials in accordance with the agreement in the case described in subsection (d)(2), or

(3) by the Governor in the absence of such agreement.

Thereafter, the number of members of the council shall be determined by the council.

(f) Members shall be appointed for fixed and staggered terms and may serve until their successors are appointed. Any vacancy in the membership of the council shall be filled in the same manner as the original appointment. Any member of the council may be removed for cause in accordance with procedures established by the council.

(g) The Governor shall certify a private industry council if the Governor determines that its composition and appointments are consistent with the provisions of this subsection. Such certification shall be made or denied within 30 days after the date on which a list of members and necessary supporting documentation are submitted to the Governor. When the Governor certifies the council, it shall be convened within 30 days by the official or officials who made the appointments to such council under subsection (d).

(h) In any case in which the service delivery area is a State, the State job training coordinating council or a portion of such council may be reconstituted to meet the requirements of this section.

FUNCTIONS OF PRIVATE INDUSTRY COUNCIL

SEC. 103. (a) It shall be the responsibility of the private industry council to provide policy guidance for, and exercise oversight with respect to, activities under the job training plan for its service delivery area in partnership with the unit or units of general local government within its service delivery area.

(b)(1) The council, in accordance with an agreement or agreements with the appropriate chief elected official or officials specified in subsection (c), shall—

(A) determine procedures for the development of the job training plan, which may

provide for the preparation of all or any part of the plan (i) by the council, (ii) by any unit of general local government in the service delivery area, or by an agency thereof, or (iii) by such other methods or institutions as may be provided in such agreement; and

(B) select as a grant recipient and entity to administer the job training plan (which may be separate entities), (i) the council, (ii) a unit of general local government in its service delivery area, or an agency thereof, (iii) a nonprofit private organization or corporation, or (iv) any other agreed upon entity or entities.

(2) The council is authorized to provide oversight of the programs conducted under the job training plan in accordance with procedures established by the council. In order to carry out this paragraph, the council shall have access to such information concerning the operations of such programs as is necessary.

(c) For purposes of subsection (b), the appropriate chief elected official or officials means—

(1) the chief elected official of the sole unit of general local government in the service delivery area,

(2) the individual or individuals selected by the chief elected officials of all units of general local government in such area as their authorized representative, or

(3) in the case of a service delivery area designated under section 104(a)(4)(A)(iii), the representative of the chief elected official for such area (as defined in section 4(4)(C)).

(d) No job training plan prepared under section 104 may be submitted to the Governor unless (1) the plan has been approved by the council and by the appropriate chief elected official or officials specified in subsection (c), and (2) the plan is submitted jointly by the council and such official or officials.

(e) In order to carry out its functions under this Act, the council—

(1) shall, in accordance with the job training plan, prepare and approve a budget for itself, and

(2) may hire staff, incorporate, and solicit and accept contributions and grant funds (from other public and private sources).

(f) As used in this section, the term "oversight" means reviewing, monitoring, and evaluating.

JOB TRAINING PLAN

SEC. 104. (a) No funds appropriated for any fiscal year may be provided to any service delivery area under this Act except pursuant to a job training plan for two program years which is prepared in accordance with section 103 and which meets the requirements of this section.

(b) Each job training plan shall contain—

(1) identification of the entity or entities which will administer the program and be the grant recipient of funds from the State;

(2) a description of the services to be provided, including the estimated duration of service and the estimated training cost per participant;

(3) procedures for identifying and selecting participants and for eligibility determination and verification;

(4) performance goals established in accordance with standards prescribed under section 106;

(5) procedures, consistent with section 107, for selecting service providers which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards;

(6) the budget for two program years and any proposed expenditures for the succeeding two program years, in such detail as is determined necessary by the entity selected to prepare this portion of the plan pursuant to section 103(b)(1)(B) and to meet the requirements of section 108;

(7) a description of methods of complying with the coordination criteria contained in the Governor's coordination and special services plan;

(8) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of individual service delivery area programs, including—

(A) assessments of needs and problems in the labor market that form the basis for program planning;

(B) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

(C) coordinated or joint implementation of job development, placement, and other employer outreach activities;

(9) fiscal control, accounting, audit and debt collection procedures to assure the proper disbursal of, and accounting for, funds received under this title; and

(10) procedures for the preparation and submission of an annual report to the Governor which shall include—

(A) a description of activities conducted during the program year;

(B) characteristics of participants; and

(C) the extent to which the activities exceeded or failed to meet relevant performance standards.

(c) If changes in labor market conditions, funding, or other factors require substantial deviation from an approved job training plan, the private industry council and the appropriate chief elected official or officials (as described in section 103(c)) shall submit a modification of such plan (including modification of the budget under subsection (b)(6)), which shall be subject to review in accordance with section 105.

REVIEW AND APPROVAL OF PLAN

SEC. 105. (a)(1) Not less than 120 days before the beginning of the first of the two program years covered by the job training plan—

(A) the proposed plan or summary thereof shall be published; and

(B) such plan shall be made available for review and comment to—

(i) each house of the State legislature for appropriate referral;

(ii) appropriate local educational and other public agencies in the service delivery area; and

(iii) labor organizations in the area which represent employees having the skills in which training is proposed; and

(C) such plan shall be reasonably available to the general public through such means as public hearings and local news facilities.

(2) The final plan, or a summary thereof, shall be published not later than 80 days before the first of the two program years and shall be submitted to the Governor in accordance with section 103(d)(2). Any modification shall be published not later than 80 days before it is effective and shall be submitted to the Governor in accordance with such section.

(b)(1) The Governor shall approve the job training plan or modification thereof unless he finds that—

(A) corrective measures for deficiencies found in audits or in meeting performance standards from previous years have not been taken or are not acceptably underway;

(B) the entity proposed to administer the program does not have the capacity to administer the funds;

(C) there are inadequate safeguards for the protection of funds received;

(D) the plan (or modification) does not comply with a particular provision or provisions of this Act or of regulations of the Secretary under this Act; or

(E) the plan (or modification) does not comply with the criteria under section 121(b) for coordinating activities under this Act with related program activities.

(2) The Governor shall approve or disapprove a job training plan (or modification) within 30 days after the date that the plan (or modification) is submitted, except that if a petition is filed under paragraph (3) such period shall be extended to 45 days. Any disapproval by the Governor may be appealed to the Secretary, who shall make a final decision of whether the Governor's disapproval complies with paragraph (1) of this subsection within 45 days after receipt of the appeal.

(3)(A) Interested parties may petition the Governor within 15 days of the date of submission for disapproval of the plan or modification thereof if—

(i) the party can demonstrate that it represents a substantial client interest,

(ii) the party took appropriate steps to present its views and seek resolution of disputed issues prior to submission of the plan to the Governor, and

(iii) the request for disapproval is based on a violation of statutory requirements.

(B) If the Governor approves the plan (or modification), the Governor shall notify the petitioner in writing of such decision and the reasons therefor.

(c)(1) If a private industry council and the appropriate chief elected official or officials fail to reach the agreement required under section 103(b) or (d) and, as a consequence, funds for a service delivery area may not be made available under section 104, then the Governor shall redesignate, without regard to sections 101(a)(4) and (c)(1), the service delivery areas in the State to merge the affected area into one or more other service delivery areas, in order to promote the reaching of agreement.

(2) In any State in which service delivery areas are redesignated under paragraph (1), private industry councils shall, to the extent necessary for the redesignation, be reconstituted and job training plans modified as required to comply with sections 102 and 103. Services under an approved plan shall not be suspended while the council is reconstituted and the plan is modified.

(d) In any case in which the service delivery area is a State, the plan (or modification) shall be submitted to the Secretary for approval. For the purpose of this subsection, the Secretary shall have the same authority as the Governor has under this section.

PERFORMANCE STANDARDS

SEC. 106. (a) The Congress recognizes that job training is an investment in human capital and not an expense. In order to determine whether that investment has been productive, the Congress finds that—

(1) it is essential that criteria for measuring the return on this investment be developed; and

(2) the basic return on the investment is to be measured by the increased employment and earnings of participants and the reductions in welfare dependency.

(b)(1) The basic measure of performance for adult training programs under title II is the increase in employment and earnings and the reductions in welfare dependency resulting from participation in the program. In order to determine whether these basic measures are achieved, the Secretary shall prescribe standards on the basis of appropri-

ate factors which may include (A) placement in unsubsidized employment, (B) retention in unsubsidized employment, (C) the increase in earnings, including hourly wages, and (D) reduction in the number of individuals and families receiving cash welfare payments and the amounts of such payments.

(2) In prescribing standards under this section the Secretary shall also designate factors for evaluating the performance of youth programs which, in addition to appropriate utilization of the factors described in paragraph (1), shall be (A) attainment of recognized employment competencies recognized by the private industry council, (B) elementary, secondary, and postsecondary school completion, or the equivalent thereof, and (C) enrollment in other training programs or apprenticeships, or enlistment in the Armed Forces.

(3) The standards shall include provisions governing—

(A) the base period prior to program participation that will be used;

(B) a representative period after termination from the program that is a reasonable indicator of postprogram earnings and cash welfare payment reductions; and

(C) cost-effective methods for obtaining such data as is necessary to carry out this section, which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, Federal Insurance Contributions Act records, State aid to families with dependent children records, statistical sampling techniques, and similar records or measures.

(4) The Secretary shall prescribe performance standards relating gross program expenditures to various performance measures.

(c) Within six months after the date of the enactment of this Act, the Secretary shall establish initial performance standards which are designed to contribute to the achievement of the performance goals set forth in subsection (b)(1), based upon data accumulated under the Comprehensive Employment and Training Act, from the National Commission for Employment Policy, and from other appropriate sources. In the development of the initial standards under this subsection, the Secretary shall relate gross program expenditures to the accomplishment of program goals set forth in subsection (b)(1).

(d)(1) The Secretary shall, not later than January 31, 1984, prescribe performance standards for the first program year under this Act to measure the results of the participation in the program to achieve the goals set forth in subsection (b)(1) based upon the initial standards established in subsection (c).

(2) The Secretary, not later than six months after the completion of the first two program years, shall prepare and submit a report to the Congress containing the performance standards established under paragraph (1) of this subsection, together with an analysis of the manner in which the performance standards contribute to the achievement of the goals set forth in subsection (b)(1), including the relative importance of each standard to the accomplishment of such goals.

(3) The Secretary shall prescribe variations in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, and ex-offenders, taking into account their special circumstances.

(4)(A) The Secretary may modify the performance standards under this subsection not more often than once every two program years and such modifications shall not be retroactive.

(B) The Secretary, shall prepare and submit a report to the Congress containing any modifications established under subparagraph (A), and the reasons for such modifications.

(e) Each Governor may prescribe, within parameters established by the Secretary, variations in the standards under this subsection based upon specific economic, geographic, and demographic factors in the State and in service delivery areas within the State, the characteristics of the population to be served, and the type of services to be provided.

(f) The National Commission for Employment Policy shall (1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameters for variations of such standards referred to in subsection (e), (2) evaluate the usefulness of such standards as measures of desired performance, and (3) evaluate the impacts of such standards (intended or otherwise) on the choice of who is served, what services are provided, and the cost of such services in service delivery areas.

(g) The Secretary shall prescribe performance standards for programs under title III based on placement and retention in unsubsidized employment.

(h)(1) The Governor shall provide technical assistance to programs which do not meet performance criteria. If the failure to meet performance standards persists for a second year, the Governor shall impose a reorganization plan. Such plan may restructure the private industry council, prohibit the use of designated service providers or make such other changes as the Governor deems necessary to improve performance. The Governor may also select an alternate entity to administer the program for the service delivery area.

(2) The alternate administrative entity may be a newly formed private industry council or any agency jointly selected by the Governor and the chief elected official of the largest unit of general local government in the service delivery area.

(3) No change may be made under this subsection without an opportunity for a hearing before a hearing officer.

(4) The decision of the Governor may be appealed to the Secretary, who shall make a final decision within 60 days of the receipt of the appeal.

SELECTION OF SERVICE PROVIDERS

SEC. 107. (a) The primary consideration in selecting agencies or organizations to deliver services within a service delivery area shall be the effectiveness of the agency or organization in delivering comparable or related services based on demonstrated performance, in terms of the likelihood of meeting performance goals, cost, quality of training, and characteristics of participants. In complying with this subsection, proper consideration shall be given to community-based organizations as service providers.

(b) Funds provided under this Act shall not be used to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources, unless it is demonstrated that alternative services or facilities would be more effective or more likely to achieve the service delivery area's performance goals.

(c) Appropriate education agencies in the service delivery area shall be provided the opportunity to provide educational services, unless the administrative entity demonstrates that alternative agencies or organizations would be more effective or would have greater potential to enhance the participants' continued occupational and career growth.

(d) The administrative entity shall not fund any occupational skills training program unless the level of skills provided in the program are in accordance with guidelines established by the private industry council.

LIMITATION ON CERTAIN COSTS

SEC. 108. (a) Not more than 15 percent of the funds available to a service delivery area for any fiscal year for programs under part A of title II may be expended for the cost of administration. For purposes of this paragraph, costs of program support (such as counseling) which are directly related to the provision of education or training and such additional costs as may be attributable to the development of training described in section 204(28) shall not be counted as part of the cost of administration.

(b)(1) Not more than 30 percent of the funds available to a service delivery area for any fiscal year for programs under part A of title II may be expended for administrative costs (as defined under subsection (a)) and costs specified in paragraph (2).

(2)(A) For purposes of paragraph (1), the costs specified in this paragraph are—

(i) 50 percent of any work experience expenditures which meet the requirements of paragraph (3);

(ii) 100 percent of the cost of any work experience program expenditures which do not meet the requirements of paragraph (3);

(iii) supportive services; and

(iv) needs-based payments described in section 204(27).

(B) For purposes of paragraph (1), the costs specified in this paragraph do not include expenditures for tryout employment which meets the requirements of section 205(d)(3)(B).

(3) For purposes of paragraph (2), a work experience expenditure meets the requirements of this paragraph if—

(A) the work experience is of not more than 6 months' duration and is combined with a classroom or other training program;

(B) an individual participant is prohibited from participating in any other work experience program following participation in a program meeting the requirements of this paragraph;

(C) the classroom or other training program component is specified in a preemployment contract or meets established academic standards; and

(D) wages paid in the work experience program do not exceed the prevailing entry-level wage for the same occupation in the same labor market area.

(c)(1) Notwithstanding subsection (b), expenditures may be made in excess of the limitation contained in such subsection if such expenditures are made in accordance with the requirements of this subsection.

(2) Expenditures may be made in excess of the limitation contained in subsection (b) in any service delivery area if—

(A) the private industry council for such area initiates a request for such excess costs; and

(B) excess costs are due to one or more of the following conditions in such area:

(i) an unemployment rate (in the service delivery area or that portion within which services resulting in excess costs are to be provided) which exceeds the national average unemployment rate by at least 3 percentage points, and the ratio of current private employment to population in such area or portion is less than the national average of such ratio;

(ii) the job training plan for such area proposes to serve a disproportionately high number of participants from groups requiring exceptional supportive service costs,

such as handicapped individuals, offenders, and single heads of households with dependent children;

(iii) the cost of providing necessary child care exceeds one-half of the costs specified in paragraph (2) of subsection (b);

(iv) the costs of providing necessary transportation exceeds one-third of the costs specified in paragraph (2) of subsection (b); or

(v) a substantial portion of the participants in programs in the service delivery area are in training programs of 9 months' duration or more.

(3) Expenditures may be made in excess of the limitation contained in subsection (b) if the need for and the amount of the excess is stated in the job training plan (or modification thereof) for the service delivery area and such plan demonstrates that administrative costs comply with subsection (a) of this section.

(4) The provisions of this subsection shall not be available to the extent that supportive services provided under the job training plan duplicate services provided by any other public or private source that are available to participants without cost.

(5) The Governor shall not disapprove any plan (or modification thereof) on the basis of any statement of the need for and amount of excess costs in the job training plan if such plan or modification meets the requirements of this subsection.

(d) The provisions of this section do not apply to any service delivery area designated pursuant to 101(a)(4)(A)(iii).

(e) This section shall not be construed to exempt programs under an approved plan from the performance standards established under section 106.

PART B—ADDITIONAL STATE RESPONSIBILITIES

GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN

SEC. 121. (a)(1) The Governor shall annually prepare a statement of goals and objectives for job training and placement programs within the State to assist in the preparation of the plans required under section 104 of this Act and section 7(a) of the Act of June 6, 1933 (known as the Wagner-Peyser Act).

(2) Any State seeking financial assistance under this Act shall submit a Governor's coordination and special services plan for two program years to the Secretary describing the use of all resources provided to the State and its service delivery areas under this Act and evaluating the experience over the preceding two years.

(b)(1) The plan shall establish criteria for coordinating activities under this Act (including title III) with programs and services provided by State and local education and training agencies (including vocational education agencies), public assistance agencies, the employment service, rehabilitation agencies, postsecondary institutions, economic development agencies, and such other agencies as the Governor determines to have a direct interest in employment and training and human resource utilization within the State. Such criteria shall not affect local discretion concerning the selection of eligible participants or service providers in accordance with the provisions of sections 107 and 203.

(2) The plan shall describe the projected use of resources, including oversight and support activities, priorities and criteria for State incentive grants, and performance goals for State supported programs.

(3) The Governor shall report to the Secretary the adjustments made in the performance standards and the factors that are used in making the adjustments.

(4) If major changes occur in labor market conditions, funding, or other factors during the two-year period covered by the plan, the State shall submit a modification to the Secretary describing these changes.

(c) Governor's coordination and special services activities may include—

(1) making available to service delivery areas, with or without reimbursement and upon request, appropriate information and technical assistance to assist in developing and implementing plans and programs;

(2) carrying out special model training and employment programs and related services (including programs receiving financial assistance from private sources);

(3) providing programs and related services for offenders and other individuals whom the Governor determines require special assistance;

(4) providing financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas;

(5) providing training opportunities in the conservation and efficient use of energy, and the development of solar energy sources as defined in section 3 of the Solar Energy Research, Development and Demonstration Act of 1974;

(6) industry-wide training;

(7) activities under title III of this Act;

(8) developing and providing to service delivery areas information on a State and local area basis regarding economic, industrial, and labor market conditions;

(9) providing preservice and inservice training for planning, management, and delivery staffs of administrative entities and private industry councils, as well as contractors for State supported programs; and

(10) providing statewide programs which provide for joint funding of activities under this Act with services and activities under other Federal, State, or local employment-related programs.

(d) A Governor's coordination and special services plan shall be approved by the Secretary unless the Secretary determines that the plan does not comply with specific provisions of this Act.

STATE JOB TRAINING COORDINATING COUNCIL

SEC. 122. (a)(1) Any State which desires to receive financial assistance under this Act shall establish a State job training coordinating council (hereinafter in this section referred to as the "State council"). Funding for the council shall be provided pursuant to section 202(b)(4).

(2) The State council shall be appointed by the Governor, who shall designate one nongovernmental member thereof to be chairperson. In making appointments to the State council, the Governor shall ensure that the membership of the State council reasonably represents the population of the State.

(3) The State council shall be composed as follows:

(A) One-third of the membership of the State council shall be representatives of business and industry (including agriculture, where appropriate) in the State, including individuals who are representatives of business and industry on private industry councils in the State.

(B) Not less than 20 percent of the membership of the State council shall be representatives of the State legislature and State agencies and organizations, such as the State educational agency, the State vocational education board, the State advisory council on vocational education, the State board of education (when not otherwise represented), State public assistance agencies, the State employment security agency, the State rehabilitation agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, State veterans' affairs agencies or equivalent, and such other agencies as the Governor determines to have a direct interest in employment and training and human resource utilization within the State.

(C) Not less than 20 percent of the membership of the State council shall be representatives of the units or consortia of units of general local government in such State (including those which are administration entities or grantees under this Act) which shall be nominated by the chief executive officers of the units or consortia of units of general local government; and

(D) Not less than 20 percent of the membership of the State council shall be representatives of the eligible population and of the general public, representatives of organized labor, representatives of community-based organizations, and representatives of local educational agencies (nominated by local educational agencies).

(4) The State council shall meet at such times and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(5) The State council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this Act.

(6) In order to assure objective management and oversight, the State council shall not operate programs or provide services directly to eligible participants, but shall exist solely to plan, coordinate, and monitor the provision of such programs and services.

(7) The plans and decisions of the State council shall be subject to approval by the Governor.

(8) For purposes of section 105 of the Vocational Education Act of 1963, the State council shall be considered to be the same as either the State Manpower Services Council referred to in that section or the State Employment and Training Council authorized under the Comprehensive Employment and Training Act.

(b) The State council shall—

(1) recommend a Governor's coordination and special services plan;

(2) recommend to the Governor substate service delivery areas, plan resource allocations not subject to section 202(a), provide management guidance and review for all programs in the State, develop appropriate linkages with other programs, coordinate activities with private industry councils, and develop the State job training report and recommend variations in performance standards;

(3) advise the Governor and local entities on job training plans and certify the consistency of such plans with criteria under the Governor's coordination and special services plan for coordination of activities under this Act with other Federal, State, and local employment-related programs, including programs operated in designated enterprise zones;

(4) review the operation of programs conducted in each service delivery area, and the availability, responsiveness, and adequacy of State services, and make recommendations to the Governor, appropriate chief elected officials, and private industry councils, service providers, the State legislature, and the general public with respect to ways to improve the effectiveness of such programs or services;

(5) review and comment on the State plan developed for the State employment service agency;

(6) make an annual report to the Governor which shall be a public document, and

issue such other studies, reports, or documents as it deems advisable to assist service delivery areas in carrying out the purposes of this Act;

(7)(A) identify, in coordination with the appropriate State agencies, the employment and training and vocational education needs throughout the State, and assess the extent to which employment and training, vocational education, rehabilitation services, public assistance, economic development, and other Federal, State, and local programs and services represent a consistent, integrated, and coordinated approach to meeting such needs; and

(B) comment at least once annually on the reports required pursuant to section 105(d)(3) of the Vocational Education Act of 1963; and

(8) review plans of all State agencies providing employment, training, and related services, and provide comments and recommendations to the Governor, the State legislature, the State agencies, and the appropriate Federal agencies on the relevancy and effectiveness of employment and training and related service delivery systems in the State.

(c) In addition to the functions described in subsection (b), the Governor may, to the extent permitted by applicable law, transfer functions which are related to functions under this Act to the council established under this section from any State coordinating committee for the work incentive program under title IV of the Social Security Act or any advisory council established under the Wagner-Peyser Act.

STATE EDUCATION COORDINATION AND GRANTS

SEC. 123. (a) The sums available for this section pursuant to section 202(b)(1) shall be used by the Governor to provide financial assistance to any State education agency responsible for education and training—

(1) to provide services for eligible participants through cooperative agreements between such State education agency or agencies, administrative entities in service delivery areas in the State, and (where appropriate) local educational agencies; and

(2) to facilitate coordination of education and training services for eligible participants through such cooperative agreements.

(b) The cooperative agreements described in subsection (a) shall provide for the contribution by the State agency or agencies, and the local educational agency (if any), of a total amount equal to the amount provided, pursuant to subsection (a)(1), in the grant subject to such agreement. Such matching amount shall not be provided from funds available under this Act, but may include the direct cost of employment or training services provided by State or local programs.

(c)(1) Funds available under this section may be used to provide education and training, including vocational education services, and related services to participants under title II. Such services may include services for offenders and other individuals whom the Governor determines require special assistance.

(2)(A) Not more than 20 percent of the funds available under this section may be spent for activities described in clause (2) of subsection (a).

(B) At least 80 percent of the funds available under this section shall be used for clause (1) of subsection (a) for the Federal share of the cost of carrying out activities described in clause (1). For the purpose of this subparagraph, the Federal share shall be the amount provided for in the cooperative agreements in subsection (b).

(3) Not less than 75 percent of the funds available for activities under clause (1) of subsection (a) shall be expended for activities for economically disadvantaged individuals.

(d) If no cooperative agreement is reached on the use of funds under this section, the funds shall be available to the Governor for use in accordance with section 121.

TRAINING PROGRAMS FOR OLDER INDIVIDUALS

SEC. 124. (a) From funds available for use under section 202(b)(2), the Governor is authorized to provide for job training programs which are developed in conjunction with service delivery areas within the State and which are consistent with the plan for the service delivery area prepared and submitted in accordance with the provisions in section 104, and designed to assure the training and placement of older individuals in employment opportunities with private business concerns.

(b) In carrying out this section, the Governor shall, after consultation with appropriate private industry councils and chief elected officials, enter into agreements with public agencies, nonprofit private organizations, and private business concerns.

(c) The Governor shall give consideration to assisting programs involving training for jobs in growth industries and jobs reflecting the use of new technological skills.

(d) An individual shall be eligible to participate in a job training program under this section only if the individual is economically disadvantaged and has attained 55 years of age.

STATE LABOR MARKET INFORMATION PROGRAMS

SEC. 125. (a) In order to be eligible for Federal financial assistance for State labor market information programs under this Act from funds made available under section 202(b)(4), the Governor shall designate the State occupational information coordinating committee or other organizational unit to be responsible for oversight and management of a statewide comprehensive labor market and occupational supply and demand information system, which shall—

(1) design a comprehensive cost-efficient labor market and occupational supply and demand information system which—

(A) is responsive to the economic demand and education and training supply support needs of the State and areas within the State, and

(B) meets the Federal standards under chapter 35 of title 44, United States Code, and other appropriate Federal standards established by the Bureau of Labor Statistics;

(2) standardize available Federal and State multi-agency administrative records and direct survey data sources to produce an employment and economic analysis with a published set of projections for the State and designated areas within the State which, at the minimum, includes—

(A) identification of geographic and occupational areas of potential growth or decline; and

(B) an assessment of the potential impact of such growth or decline on individuals, industries, and communities, including occupational supply and demand characteristics data;

(3) assure, to the extent feasible, that—

(A) automated technology will be used by the State;

(B) administrative records have been designed to reduce paperwork; and

(C) multiple survey burdens on the employers of the State have been reduced;

(4) publish and disseminate labor market and occupational supply and demand information and individualized career information to State agencies, area public agencies, libraries, and private not-for-profit users, and individuals who are in the process of making career decision choices; and

(5) conduct research and demonstration projects designed to improve any aspect of the statewide information system.

(b)(1) The analysis required under clause (2) of subsection (a) shall be used to contribute in carrying out the provisions of this Act, the Vocational Education Act of 1963, and the Act of June 6, 1933, known as the Wagner-Peyser Act.

(2) The assurance required by clause (3) of subsection (a) shall also include that the State will, to the maximum extent possible, assure consolidation of available administrative data and surveys to reduce duplication of recordkeeping of State and local agencies, including secondary and postsecondary educational institutions.

(3) If any Federal funds are used to carry out clause (5) of subsection (a), access to and information on the results will remain in the public domain.

(c) The Secretary through the National Occupational Information Coordinating Committee shall reimburse the States the costs of carrying out the provisions of this section but the aggregate reimbursements in any fiscal year shall not exceed the amount available under part E of title IV for this subsection.

(d) No provision of this part or any other provision of Federal law shall be construed to prohibit any State from combining or consolidating Federal administrative management information reporting requirements relating to employment, productivity, or training, if notice is transmitted by the Governor to the head of each appropriate Federal and State agency responsible for the laws governing the Federal reporting requirements. The notice shall specify the intent to combine or consolidate such requirements. The head of each appropriate Federal agency shall approve the combination or consolidation unless, within sixty days after receiving the notice, the Federal agency can demonstrate that the combination or consolidation will not meet the essential purposes of the affected Federal law.

AUTHORITY OF STATE LEGISLATURE

SEC. 126. Nothing in this Act shall be interpreted to preclude the enactment of State legislation providing for the implementation, consistent with the provisions of this Act, of the programs assisted under this Act.

INTERSTATE AGREEMENTS

SEC. 127. In the event that compliance with provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

PART C—PROGRAM REQUIREMENT FOR SERVICE DELIVERY SYSTEM

GENERAL PROGRAM REQUIREMENTS

SEC. 141. Except as otherwise provided, the following conditions are applicable to all programs under this Act:

(a) Each job training plan shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities and shall make efforts to provide equitable services among substantial segments of the eligible population.

(b) Funds provided under this Act shall only be used for activities which are in addition to those which would otherwise be available in the area in the absence of such funds.

(c) No funds may be used to assist in relocating establishments, or parts thereof, from one area to another such relocation will not result in an increase in unemployment in

the area of original location or in any other area.

(d)(1) Training provided with funds made available under this Act shall be only for occupations for which there is a demand in the area served or in another area to which the participant is willing to relocate, and consideration in the selection of training programs may be given to training in occupations determined to be in sectors of the economy which have a high potential for sustained demand or growth.

(2) Efforts shall be made to develop programs which contribute to occupational development, upward mobility, development of new careers, and overcoming sex-stereotyping in occupations traditional for the other sex.

(3) Commercially available training packages, including advanced learning technology, may be purchased for off-the-shelf prices and without requiring a breakdown of the cost components of the package if such packages are purchased competitively and include performance criteria.

(e) Only eligible individuals residing in the service delivery area may be served by employment and training activities funded under title II, except that the job training plan may provide for limited exceptions to this requirement.

(f) No member of any council under this Act shall cast a vote on the provision of services by that member (or any organization which that member directly represents) or vote on any matter which would provide direct financial benefit to that member.

(g) Payments to employers for on-the-job training which shall not, during the period of such training, average more than 50 percent of the wages paid by the employer to such participants, and payments in such amount shall be deemed to be in compensation for the extraordinary costs associated with training participants under this title and in compensation for the costs associated with the lower productivity of such participants.

(h) Funds provided under this Act shall not be used to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources, unless the plan establishes that alternative services or facilities would be more effective or more likely to achieve performance goals.

(i) Each administrative entity shall be responsible for the allocation of funds and the eligibility of those enrolled in its programs and shall have responsibility to take action against its subcontractors, subgrantees, and other recipients to eliminate abuses in the programs they are carrying out, and to prevent any misuse of funds by such subcontractors, subgrantees, and other recipients. Administrative entities may delegate the responsibility for determination of eligibility under reasonable safeguards, including provisions for reimbursement of cost incurred because of erroneous determinations made with insufficient care, if such an arrangement is included in an approved job training plan.

(j) No person or organization may charge an individual a fee for the placement or referral of such individual in or to a training program under this Act.

(k) No funds may be provided under this Act for any subsidized employment with any private for-profit employer unless the individual employed is a youth aged 16 to 21, inclusive, who is economically disadvantaged and the employment is provided in accordance with section 205(d)(3)(B).

(l) The Secretary shall not provide financial assistance for any program under this Act which involves political activities.

(m) Pursuant to regulations of the Secretary, income generated under any program may be retained by the recipient to continue to carry out the program, notwithstanding the expiration of financial assistance for that program.

(n) The Secretary shall notify the Governor and the appropriate private industry councils and chief elected officials of, and consult with the Governor and such councils and officials concerning, any activity to be funded by the Secretary under this Act within the State or service delivery area; and the Governor shall notify the appropriate private industry councils and chief elected officials of, and consult with such concerning, any activity to be funded by the Governor under this Act within the service delivery area.

(o)(1) All education programs for youth supported with funds provided under title II shall be consistent with applicable State and local educational standards.

(2) Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in programs conducted under such title shall be consistent with the requirements of applicable State and local law and regulation.

(p) No funds available under a job training plan may be used for public service employment.

BENEFITS

SEC. 142. (a) Except as otherwise provided in this Act, the following provisions shall apply to all activities financed under this Act:

(1) A trainee shall receive no payments for training activities in which the trainee fails to participate without good cause.

(2) Individuals in on-the-job training shall be compensated by the employer at the same rates, including periodic increases, as similarly situated employees or trainees and in accordance with applicable law, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law.

(3) Individuals employed in activities authorized under this Act shall be paid wages which shall not be less than the highest of (A) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, (B) the minimum wage under the applicable State or local minimum wage law, or (C) the prevailing rates of pay for individuals employed in similar occupations by the same employer.

(b) Allowances, earnings and payments to individuals participating in programs under this Act shall not be considered as income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid, other than programs under the Social Security Act.

LABOR STANDARDS

SEC. 143. (a)(1) Conditions of employment and training shall be appropriate and reasonable in light of such factors as the type of work, geographical region, and proficiency of the participant.

(2) Health and safety standards established under State and Federal law, otherwise applicable to working conditions of employees, shall be equally applicable to working conditions of participants. With respect to any participant in a program conducted under this Act who is engaged in activities which are not covered by health and safety standards under the Occupational Safety and Health Act of 1970, the Secretary shall prescribe, by regulation, such standards as may be necessary to protect the health and safety of such participants.

(3) To the extent that a State workers' compensation law is applicable, workers' compensation benefits in accordance with such law shall be available with respect to injuries suffered by participants. To the extent that such law is not applicable, each recipient of funds under this Act shall secure insurance coverage for injuries suffered by such participants, in accordance with regulations prescribed by the Secretary.

(4) All individuals employed in subsidized jobs shall be provided benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

(5) No funds available under this Act may be used for contributions on behalf of any participant to retirement systems or plans.

(b)(1) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) No program shall impair existing contracts for services or collective bargaining agreements, except that no program under this Act which would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) No participant shall be employed or job opening filled (A) when any other individual is on layoff from the same or any substantially equivalent job, or (B) when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this Act.

(4) No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals.

(c)(1) Each recipient of funds under this Act shall provide to the Secretary assurances that none of such funds will be used to assist, promote, or deter union organizing.

(2) Where a labor organization represents a substantial number of employees who are engaged in similar work or training in the same area as that proposed to be funded under this Act, an opportunity shall be provided for such organization to submit comments with respect to such proposal.

(d) All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating, of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Act of March 3, 1921 (40 U.S.C. 276a–276a–5), popularly known as the Davis-Bacon Act. The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)). The provisions of this subsection shall not apply to a bona fide trainee in a training program under this Act. The provisions of section 167(a)(4) shall apply to such trainees.

GRIEVANCE PROCEDURE

SEC. 144. (a) Each administrative entity, contractor, and grantee under this Act shall establish and maintain a grievance procedure for grievances or complaints about its programs and activities from participants, subgrantees, subcontractors, and other interested persons. Hearings on any grievance shall be conducted within 30 days of filing

of a grievance and decisions shall be made not later than 60 days after the filing of a grievance. Except for complaints alleging fraud or criminal activity, complaints shall be made within one year of the alleged occurrence.

(b) Each recipient of financial assistance under this Act which is an employer of participants under this Act shall continue to operate or establish and maintain a grievance procedure relating to the terms and conditions of employment.

(c) Upon exhaustion of a recipient's grievance procedure without decision, or where the Secretary has reason to believe that the recipient is failing to comply with the requirements of this Act or the terms of the job training plan, the Secretary shall investigate the allegation or belief and determine within 120 days after receiving the complaint whether such allegation or complaint is true.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 145. No provision of this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

PART D—FEDERAL AND FISCAL ADMINISTRATIVE PROVISIONS

PROGRAM YEAR

SEC. 161. (a) Beginning with fiscal year 1985 and thereafter, appropriations for any fiscal year for programs and activities under this Act shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

(b) Funds obligated for any program year may be expended by each recipient during that program year and the two succeeding program years and no amount shall be deobligated on account of a rate of expenditure which is consistent with the job training plan.

(c)(1) Appropriations for fiscal year 1984 shall be available both to fund activities for the period between October 1, 1983, and July 1, 1984, and for the program year beginning July 1, 1984.

(2) There are authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this subsection for the transition to program year funding.

PROMPT ALLOCATION OF FUNDS

SEC. 162. (a) All allotments and allocations under this Act shall be based on the latest available data and estimates satisfactory to the Secretary. All data relating to economically disadvantaged and low-income persons shall be based on 1980 Census or later data.

(b) Whenever the Secretary allots and allocates funds required to be allotted or allocated by formula under this Act, the Secretary shall publish in a timely fashion in the Federal Register the proposed amount to be distributed to each recipient.

(c) All funds required to be distributed by formula under this Act shall be allotted within 45 days after enactment of the appropriations, except that, if such funds are appropriated in advance as authorized by section 161, such funds shall be allotted not later than the March 31 preceding the program year for which such funds are to be available for obligation.

(d) Whenever the Secretary utilizes a formula to allot or allocate funds made available for distribution at the Secretary's discretion under this Act, the Secretary shall, not later than 30 days prior to such allotment or allocation, publish such formula in the Federal Register for comments along with the rationale for the formula and the proposed amounts to be distributed to each State and area. After consideration of any comments received, the Secretary shall publish final allotments and allocations in the Federal Register.

(e) Funds shall be made available to the grant recipient for the service delivery area not later than 30 days after the date they are made available to the Governor or 7 days after the date the plan is approved, whichever is later.

MONITORING

SEC. 163. (a) The Secretary is authorized to monitor all recipients of financial assistance under this Act to determine whether they are complying with the provisions of this Act and the regulations issued under this Act.

(b) The Secretary may investigate any matter the Secretary deems necessary to determine compliance with this Act and regulations issued under this Act. The investigations authorized by this subsection may include examining records (including making certified copies thereof), questioning employees, and entering any premises or onto any site in which any part of a program of a recipient is conducted or in which any of the records of the recipient are kept.

(c) For the purpose of any investigation or hearing under this Act, the provisions of section 9 of the Federal Trade Commission Act (15 U.S.C. 49) (relating to the attendance of witnesses and the production of books, papers, and documents) are made applicable to the Secretary.

FISCAL CONTROLS; SANCTIONS

SEC. 164. (a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under titles II and III. The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish guidance for the proper performance of audits. Such guidance shall include a review of fiscal controls and fund accounting procedures established by States under this section.

(2) At least once every two years, the State shall prepare or have prepared an independent financial and compliance audit of each recipient of funds under titles II and III of this Act. Under criteria established by the Director of the Office of Management and Budget, and upon application by the Governor, the Secretary may exempt designated recipients from all or part of the requirements of this section, except that any such exemption shall not apply to the State administering agency, the entity which is the administrative entity for the job training plan for a service delivery area, or a private industry council. Any exemption under this section may be withdrawn by the Secretary in consultation with the Director of the Office of Management and Budget.

(3) Each audit shall be conducted in accordance with applicable auditing standards set forth in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States.

(b)(1) Whenever, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of this Act or the regulations, and corrective action has not been taken, the Governor may issue a notice of intent to revoke approval of all or part of the plan affected. Such notice may be appealed to the Secretary under the same terms and conditions as the disapproval of the plan and shall not become effective until (A) the time for appeal has expired or (B) the Secretary has issued a decision.

(2) The Governor shall withdraw the notice if the appropriate corrective action has been taken.

(c)(1) The Comptroller General of the United States shall, on a selective basis, evaluate the expenditures by the recipients of grants under this Act in order to assure that expenditures are consistent with the provisions of this Act and to determine the effectiveness of each recipient in accomplishing the purposes of this Act. The Comptroller General shall conduct the evaluations whenever he determines it necessary and he shall periodically report to the Congress on the findings of such evaluations.

(2) Nothing in this Act shall be deemed to relieve the Inspector General of the Department of Labor of his responsibilities under the Inspector General Act.

(3) For the purpose of evaluating and reviewing programs established or provided for by this Act, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs that are in the possession, custody, or control of the State, a private industry council established under section 102 of this Act, any recipient of funds under this Act, or any subgrantee or contractor of such recipients.

(d) Every recipient shall repay to the United States amounts found not to have been expended in accordance with this Act. The Secretary may offset such amounts against any other amount to which the recipient is or may be entitled under this Act unless he determines that such recipient should be held liable pursuant to subsection (d). No such action shall be taken except after notice and opportunity for a hearing have been given to the recipient.

(e)(1) Each recipient shall be liable to repay such amounts, from funds other than funds received under this Act, upon a determination that the misexpenditure of funds was due to willful disregard of the requirements of this Act, gross negligence, or failure to observe accepted standards of administration. No such finding shall be made except after notice and opportunity for a fair hearing.

(2) In determining whether to impose any sanction authorized by this section against a recipient for violations by a subgrantee of such recipient under this Act or the regulations under this Act, the Secretary shall first determine whether such recipient has adequately demonstrated that it has—

(A) established and adhered to an appropriate system for the award and monitoring of contracts with subgrantees which contains acceptable standards for ensuring accountability;

(B) entered into a written contract with such subgrantee which established clear goals and obligations in unambiguous terms;

(C) acted with due diligence to monitor the implementation of the subgrantee contract, including the carrying out of the appropriate monitoring activities (including audits) at reasonable intervals; and

(D) taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this Act or the regulations under this Act by such subgrantee.

(3) If the Secretary determines that the recipient has demonstrated substantial compliance with the requirements of paragraph (2), the Secretary may waive the imposition of sanctions authorized by this section upon such recipient. The Secretary is authorized to impose any sanction consistent with the provisions of this Act and any applicable Federal or State law directly against any subgrantee for violation of this Act or the regulations under this Act.

(f) In emergency situations, if the Secretary determines it is necessary to protect the integrity of the funds or ensure the proper operation of the program, the Secretary may immediately terminate or suspend financial assistance, in whole or in part, if the recipient is given prompt notice and the opportunity for a subsequent hearing within 30 days after such termination or suspension. The Secretary shall not delegate any of the functions or authority specified in this subsection, other than to an officer whose appointment was required to be made by and with the advice and consent of the Senate.

(g) If the Secretary determines that any recipient under this Act has discharged or in any other manner discriminated against a participant or against any individual in connection with the administration of the program involved, or against any individual because such individual has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding or investigation under or related to this Act, or otherwise unlawfully denied to any individual a benefit to which that individual is entitled under the provisions of this Act or the Secretary's regulations, the Secretary shall, within thirty days, take such action or order such corrective measures, as necessary, with respect to the recipient or the aggrieved individual, or both.

(h) The remedies under this section shall not be construed to be exclusive remedies.

REPORTS, RECORDKEEPING, AND INVESTIGATIONS

SEC. 165. (a)(1) Recipients shall keep records that are sufficient to permit the preparation of reports required by this Act and to permit the tracing of funds to a level of expenditure adequate to insure that the funds have not been spent unlawfully.

(2) Every recipient shall maintain such records and submit such reports, in such form and containing such information, as the Secretary requires regarding the performance of its programs. Such records and reports shall be submitted to the Secretary but shall not be required to be submitted more than once each quarter unless specifically requested by the Congress or a committee thereof.

(b)(1)(A) In order to evaluate compliance with the provisions of this Act, the Secretary shall conduct, in several States, in each fiscal year investigations of the use of funds received by recipients under this Act.

(B) In order to insure compliance with the provisions of this Act, the Comptroller General of the United States may conduct investigations of the use of funds received under this Act by any recipient.

(2) In conducting any investigation under this Act, the Secretary or the Comptroller General of the United States may not request the compilation of any new information not readily available to such recipient.

(c) Each State, each administrative entity designated under title I, and each recipient (other than a subrecipient, grantee or contractor of a recipient) receiving funds under this Act shall—

(1) make such reports concerning its operations and expenditures as shall be prescribed by the Secretary, and

(2) prescribe and maintain a management information system, in accordance with guidelines prescribed by the Secretary, designed to facilitate the uniform compilation and analysis of programmatic and financial data, on statewide and service delivery area bases, necessary for reporting, monitoring, and evaluating purposes.

ADMINISTRATIVE ADJUDICATION

SEC. 166. (a) Whenever any applicant for financial assistance under this Act is dissatisfied because the Secretary has made a determination not to award financial assistance in whole or in part to such applicant, the applicant may request a hearing before an administrative law judge of the Department of Labor. A similar hearing may also be requested by any recipient upon whom a corrective action or a sanction has been imposed by the Secretary. Except to the extent provided for in section 167, all other disputes arising under this Act shall be adjudicated under grievance procedures established by the recipient or under applicable law other than this Act.

(b) The decision of the administrative law judge shall constitute final action by the Secretary unless, within 20 days after receipt of the decision of the administrative law judge, a party dissatisfied with the decision or any part thereof has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically urged shall be deemed to have been waived. Thereafter the decision of the administrative law judge shall become the final decision of the Secretary unless the Secretary, within 30 days of such filing, has notified the parties that the case has been accepted for review.

(c) Any case accepted for review by the Secretary shall be decided within one hundred and eighty days of such acceptance. If not so decided, the decision of the administrative law judge shall become the final decision of the Secretary.

(d) The provisions of section 168 of this Act shall apply to any final action of the Secretary under this section.

NONDISCRIMINATION

SEC. 167. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

(2) No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

(3) Participants shall not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(4) With respect to terms and conditions affecting, or rights provided to, individuals who are participants in activities supported by funds provided under this Act, such individuals shall not be discriminated against solely because of their status as such participants.

(5) Participation in programs and activities financially assisted in whole or in part under this Act shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, lawfully admitted refugees and parolees, and other individuals authorized by the Attorney General to work in the United States.

(b) Whenever the Secretary finds that a State or other recipient has failed to comply with a provision of law referred to in subsection (a)(1), with paragraph (2), (3), (4), or (5) of subsection (a), or with an applicable regulation prescribed to carry out such paragraphs, the Secretary shall notify such State or recipient and shall request it to comply. If within a reasonable period of time, not to exceed sixty days, the State or recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act, as may be applicable; or

(3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or other recipient is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), (4), or (5) or subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(d) For purposes of this section Job Corps members shall be considered as the ultimate beneficiaries of Federal financial assistance.

JUDICIAL REVIEW

SEC. 168. (a)(1) With respect to any final order by the Secretary under section 166 whereby the Secretary determines to award, to not award, or to only conditionally award, financial assistance, with respect to any final order of the Secretary under section 166 with respect to a corrective action or sanction imposed under section 164, and with respect to a denial of an appeal under sections 101(4)(C) or 105(b)(2), any party to a proceeding which resulted in such final order may obtain review of such final order in the United States Court of Appeals having jurisdiction over the applicant or recipient of funds, by filing a review petition within 30 days of such final order.

(2) The clerk of the court shall transmit a copy of the review petition to the Secretary who shall file the record upon which the final order was entered as provided in section 2112 of title 28, United States Code. Review petitions unless ordered by the court, shall not stay the Secretary's order. Petitions under this Act shall be heard expeditiously, if possible within ten days of the filing of a reply brief.

(3) No objection to the order of the Secretary shall be considered by the court unless the objection shall have been specifically and timely urged before the Secretary. Review shall be limited to questions of law and the Secretary's findings of fact shall be conclusive if supported by substantial evidence.

(b) The court shall have jurisdiction to make and enter a decree affirming, modifying, or setting aside the order of the Secretary in whole or in part. The court's judgment shall be final, subject to certiorari review by the Supreme Court of the United States as provided in section 1254(1) of title 28, United States Code.

ADMINISTRATIVE PROVISIONS

SEC. 169. (a) The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules and regulations (including performance standards) as the Secretary deems necessary. Such rules and regulations may include adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. All such rules and regulations shall be published in the Federal Register at least thirty days prior to their effective date. Copies of all such rules and regulations shall be transmitted to the appropriate committees of the Congress at the same time and shall contain, with respect to each material provision of such rules and regulations, citations to the particular substantive section of law which is the basis therefor.

(b) The Secretary is authorized, in carrying out this Act, to accept, purchase, or lease in the name of the department, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes of the United States.

(c) The Secretary may make such grants, contracts, or agreements, establish such procedures and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds under this Act as necessary to carry out this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments.

(d) The Secretary shall prepare and submit to the Congress an annual report for employment and training programs. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and problems of the programs authorized in this Act in meeting the objective of this Act;

(2) a summary of major findings from research, evaluation, pilot projects, and experiments conducted in the previous fiscal year;

(3) recommendations for program modifications based upon analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary deems appropriate.

(e) The Secretary shall develop methods to ascertain, and shall ascertain annually, energy development and conservation employment impact data by type and scale of energy technologies used. The Secretary shall present the best available data to the Secretary of Energy, the Secretary of Housing and Urban Development, and the Director of the Office of Management and Budget as part of the budgetary process and to the appropriate Committees of Congress annually.

UTILIZATION OF SERVICES AND FACILITIES

SEC. 170. The Secretary is authorized, in carrying out this Act, and to the extent permitted by law other than this Act, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with its consent.

OBLIGATIONAL AUTHORITY

SEC. 171. Notwithstanding any other provision of this Act, no authority to enter into contracts or financial assistance agreements under this Act shall be effective except to such extent or in such amount as are provided in advance in appropriation Acts.

PART E—MISCELLANEOUS PROVISIONS

TRANSITION

SEC. 181. (a) Except as otherwise provided in this section, the Secretary, from funds appropriated pursuant to this Act or pursuant to the Comprehensive Employment and Training Act, shall provide financial assistance under this Act in the same manner that such assistance was provided under the Comprehensive Employment and Training Act (as in effect on the day before the enactment of this Act) until September 30, 1983.

(b) The Commission established by title V of the Comprehensive Employment and Training Act shall continue to be authorized until September 30, 1983, and on such date the personnel, property, and records of such Commission shall be transferred to the Commission established by part E of title IV of this Act.

(c) Notwithstanding the provisions of subsection (a), Governors, prime sponsors, and other recipients of financial assistance under this Act, or under the Comprehensive Employment and Training Act, may expend funds received under this Act, or under the Comprehensive Employment and Training Act, prior to October 1, 1983, in order to—

(1) administer consolidated programs formed by the combining of programs previously administered under different titles, parts, and subparts of the Comprehensive Employment and Training Act;

(2) establish for new participants, in accordance with the eligibility criteria for title II of this Act, uniform eligibility criteria and other provisions relating to participation for programs consolidated pursuant to paragraph (1);

(3) conduct planning for any program or activity authorized under this Act; and

(4) conduct any other activity deemed necessary by the recipient to provide for an orderly transition to the operation, as of October 1, 1983, of programs under this Act.

(d) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges, which have been issued under the Comprehensive Employment and Training Act (as in effect on the date before the date of enactment of this Act), or which are issued under that Act on or before September 30, 1983, shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law other than this Act.

(e) The provisions of this Act shall not affect administrative or judicial proceedings pending on the date of enactment of this Act, or begun between the date of enactment of this Act and September 30, 1984, under the Comprehensive Employment and Training Act.

(f)(1) By January 1, 1983, the Secretary shall have published in the Federal Register final regulations governing the establishment of the State job training coordinating councils and the designation of service delivery areas.

(2) By January 15, 1983, the Secretary shall have published in the Federal Register final regulations governing the establishment of private industry councils.

(3) By March 15, 1983, the Secretary shall have published in the Federal Register final regulations governing all aspects of programs under title II of this Act not described in paragraphs (1) and (2) of this subsection.

(4) All other regulations for programs under this Act shall take effect no later than October 1, 1983.

(5) Pursuant to section 169(a) of this Act the rules described in paragraphs (1), (2), and (3) of this section shall take effect thirty days after publication. In promulgating the rules described in paragraphs (1), (2), and (3), the Secretary shall be exempt from all requirements of law regarding rulemaking procedures except that such rules, prior to their publication in final form, shall be published in the Federal Register for comment for thirty days in the case of rules under paragraphs (2) and (3) and twenty days in the case of rules under paragraph (1).

(6) The Secretary may subsequently modify rules issued pursuant to paragraphs (1), (2), and (3) but, with respect to the program period October 1, 1983, to June 30, 1984, such subsequent rules shall not affect the legitimacy of any State job training coordinating council or private industry council, or the composition of any service delivery area, established under the rules issued pursuant to paragraphs (1) or (2). In addition, with respect to the program period October 1, 1983, to June 30, 1984, no modifications of the rules published pursuant to paragraph (3) shall be effective unless they are published in final form by May 15, 1983.

(7) Upon the certification of any private industry council under section 102(g) the Secretary, from discretionary funds appropriated under this Act or Comprehensive Employment Training Act, for fiscal year 1983, may provide up to $80,000 to each such council to assist it in performing its functions under section 103.

(g) Notwithstanding any other provision of law, any real or nonexpendable personal property, which was acquired on or before September 30, 1983, by prime sponsors (including by their contractors or subrecipients) with funds under the Comprehensive Employment and Training Act or under this Act, and with respect to which the Secretary reserved the right to take title, shall be transferred, as of October 1, 1983, from such prime sponsors to the custody of the entity which is administering programs under title II of this Act in the geographic area in which such property is located. Such transfer shall be subject to the Secretary's rights in such property, which shall continue unchanged.

(h) Funds for fiscal year 1982 allocated to areas served by prime sponsors or to other recipients under the Comprehensive Employment and Training Act, which were not obligated by the prime sponsor or other recipient prior to the end of such fiscal year, shall remain available for obligation by the prime sponsor or other recipient during fiscal year 1983. No reduction shall be made in the allocation for any area served by such a prime sponsor from appropriations to carry out this Act for fiscal year 1983 on account of the carryover of such funds from fiscal year 1982 to fiscal year 1983.

(i) The amendments made by sections 501 and 502 shall be effective October 1, 1983, but, the Secretary is authorized to use funds appropriated for fiscal year 1983 to plan for the orderly implementation of such amendments.

(j)(1) In order to facilitate the development of a service delivery area's job training plan for the program period October 1, 1983, to June 30, 1984, the various time limits contained in this Act which pertain to the planning process shall not be applicable, except that the job training plan must be submitted to the Governor by August 31, 1983. This provision shall apply only to the time limits and shall not apply to any of the required planning procedures, or to the required chronological order of such procedures except that the job training plan and budget need only be for the October 1, 1983 to June 30, 1984 program period.

(2) In order to facilitate planning for the program period October 1, 1983, to June 30, 1984, the local agreement or agreements between the private industry council and the appropriate chief elected official or officials may provide for interim procedures applicable only to that program. Such interim agreements may also, notwithstanding the provisions of section 107, authorize service deliverers under the Comprehensive Employment and Training Act or under this Act during fiscal year 1983 to continue as service deliverers under the program as established by this Act for such period.

(3) The performance standards described in section 106 shall apply to service delivery areas for the program period October 1, 1983, to June 30, 1984. No service delivery area, however, shall suffer a penalty for not meeting such standards during that initial program period.

(k) All participants who are in programs funded under this Act, or under the Comprehensive Employment and Training Act, on September 30, 1983, shall be eligible to continue to participate in such programs, provided such programs have been approved for funding under the service delivery area's newly effective job training plan.

CRIMINAL PROVISIONS

SEC. 182. Section 665 of title 18, United States Code, is amended to read as follows:

"THEFT OR EMBEZZLEMENT FROM EMPLOYMENT AND TRAINING FUNDS: IMPROPER INDUCEMENT: OBSTRUCTION OF INVESTIGATIONS

"SEC. 665. (a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with any agency or organization receiving financial assistance or any funds under the Comprehensive Employment and Training Act or the Job Training Partnership Act knowingly enrolls an ineligible participant, embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a financial assistance agreement or contract pursuant to such Act shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

"(b) Whoever, by threat or procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a financial assistance agreement or contract under the Comprehensive Employment and Training Act or the Job Training Partnership Act induces any person to give up any money or thing of any value to any person (including such organization or agency receiving funds) shall be fined not more than $1,000, or imprisoned not more than 1 year, or both.

"(c) Any person whoever willfully obstructs or impedes or willfully endeavors to obstruct or impede, an investigation or inquiry under the Comprehensive Employment and Training Act or the Job Training Partnership Act, or the regulations thereunder, shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.".

REFERENCE

SEC. 183. Effective on the date of enactment of this Act, all references in any other statute other than this Act, and other than in section 665 of title 18, United States Code, to the Comprehensive Employment and Training Act shall be deemed to refer to the Job Training Partnership Act.

REPEALERS

SEC. 184. (a) Effective on the date of enactment of this Act—

(1) the Comprehensive Employment and Training Act is repealed;

(2) section 5(b) of the Comprehensive Employment and Training Act Amendments of 1978 is repealed.

TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

PART A—ADULT AND YOUTH PROGRAMS

ALLOTMENT

SEC. 201. (a) Not more than $5,000,000 of the amount appropriated pursuant to section 3(a)(1) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(b)(1) Subject to the provisions of paragraph (2), of the remainder of the amount available for this part for each fiscal year—

(A) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all the States;

(B) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States;

(C) 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged individuals within the State compared to the total number of economically disadvantaged individuals in all States, except that, for the allotment for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), the allotment shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

(2)(A) No State shall receive less than one-quarter of 1 percent of the amounts available for allotment under this subsection for each such fiscal year.

(B) No State shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this subparagraph, the allotment percentage for each State for the fiscal year 1982 is the percent that each State received in 1982, pursuant to the formula allocations made under the Comprehensive Employment and Training Act, of the total such formula allocations for all States made under that Act in fiscal year 1982. For each succeeding fiscal year, the allotment percentage of a State shall be the percentage which the State received of all allotments pursuant to this subsection.

(3) For purposes of paragraph (1)—

(A) the term "excess number" means the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State, or the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State; and

(B) the term "economically disadvantaged" means an individual who has, or is a member of a family which has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 percent of the lower living standard income level.

WITHIN STATE ALLOCATION

SEC. 202. (a)(1) The Governor shall, in accordance with section 162, allocate 78 percent of the allotment of the State (under section 201(b)) for such fiscal year among service delivery areas within the State in accordance with paragraph (2).

(2) Of the amount allocated under this subsection—

(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each service delivery area as compared to the total excess number of such unemployed individuals in all such areas of substantial unemployment in the State;

(B) 33⅓ percent shall be allocated on the basis of the relative excess number of unemployed individuals who reside in each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in the State;

(C) 33⅓ percent shall be allocated on the basis of the relative number of economically disadvantaged individuals within each service delivery area compared to the total number of economically disadvantaged individuals in the State, except that the allocation for any service delivery area described in section 101(a)(4)(A)(iii) shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged individuals in such area.

(3) For the purpose of this section—

(A) the term "excess number" means the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the service delivery area or the number which represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such service delivery area; and

(B) the term "economically disadvantaged" means an individual who has, or is a member of a family which has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, was not in excess of the higher of (i) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (ii) 70 percent of the lower living standard income level.

(b)(1) Eight percent of the allotment of each State (under section 201(b)) for each fiscal year shall be available to carry out section 123, relating to State education programs under this Act.

(2) Three percent of such allotment of each State for each fiscal year shall be available to carry out section 124, relating to training programs for older individuals.

(3)(A) Six percent of such allotment of each State for each fiscal year shall be available to carry out subparagraph (B) of this paragraph.

(B) The amount reserved under subparagraph (A) of this paragraph shall be used by the Governor to provide incentive grants for programs exceeding performance standards, including incentives for serving hard-to-serve individuals. The incentive grants made under this subparagraph shall be distributed among service delivery areas within the State exceeding their performance standards in an equitable proportion based on the degree by which the service delivery areas exceed their performance stand-

ards. If the full amount reserved under subparagraph (A) of this paragraph is not needed to make incentive grants under this subparagraph, the Governor shall use the amount not so needed for technical assistance to service delivery areas in the State which do not qualify for incentive grants under this subparagraph.

(4) Five percent of such allotment of the State for each fiscal year shall be available to the Governor of the State to be used for the cost of auditing activities, for administrative activities, and for other activities under sections 121 and 122.

ELIGIBILITY FOR SERVICES

SEC. 203. (a)(1) Except as provided in paragraph (2), an individual shall be eligible to particpate in programs receiving assistance under this title only if such individual is economically disadvantaged.

(2) Up to 10 percent of the participants in all programs in a service delivery area receiving assistance under this part may be individuals who are not economically disadvantaged if such individuals have encountered barriers to employment. Such individuals may include, but are not limited to, those who have limited English-language proficiency, or are displaced homemakers, school dropouts, teenage parents, handicapped, older workers, veterans, offenders, alcoholics, or addicts.

(b)(1) Funds provided under this part shall be used in accordance with the job training plan to provide authorized services to disadvantaged youth and adults. Except as provided in paragraphs (2) and (3), not less than 40 percent of the funds available for such services shall be expended to provide such services to eligible youth.

(2) To the extent that the ratio of economically disadvantaged youth to economically disadvantaged adults in the service delivery area differs from the ratio of such individuals nationally (as published by the Secretary), the amount which shall be required to expend for services for youth under paragraph (1) shall be reduced or increased proportionately in accordance with regulations prescribed by the Secretary.

(3) Recipients of payments made under the program of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act who are required to, or have, registered under section 402(a)(19) of that Act and eligible school dropouts shall be served on an equitable basis, taking into account their proportion of economically disadvantaged persons sixteen years of age or over in the area. For purposes of this subparagraph, a school dropout is an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(4) In each service delivery area the ratio of participants in on-the-job training assisted under this title in the public sector to participants in such training in the private sector shall not exceed the ratio between civilian governmental employment and nongovernmental employment in such area.

(c) For purposes of this title—

(1) the term "youth" means an individual who is aged 16 through 21, and

(2) the term "adult" means an individual who is 22 years of age or older.

USE OF FUNDS

SEC. 204. Services which may be made available to youth and adults with funds provided under this title may include, but need not be limited to—

(1) job search assistance,

(2) job counseling,

(3) remedial education and basic skills training,

(4) institutional skill training,

(5) on-the-job training,

(6) programs of advanced career training which provide a formal combination of on-the-job and institutional training and internship assignments which prepare individuals for career employment,

(7) training programs operated by the private sector, including those operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply,

(8) outreach to make individuals aware of, and encourage the use of employment and training services,

(9) specialized surveys not avilable through other labor market information sources,

(10) programs to develop work habits and other services to individuals to help them obtain and retain employment,

(11) supportive services necessary to enable individuals to participate in the program and to assist them in retaining employment for not to exceed 6 months following completion of training,

(12) upgrading and retraining,

(13) education-to-work transition activities,

(14) literacy training and bilingual training,

(15) work experience,

(16) vocational exploration,

(17) attainment of certificates of high school equivalency,

(18) job development,

(19) employment generating activities to increase job opportunities for eligible individuals in the area,

(20) pre-apprenticeship programs,

(21) disseminating information on program activities to employers,

(22) use of advanced learning technology for education, job preparation, and skills training,

(23) development of job openings,

(24) on-site industry-specific training programs supportive of industrial and economic development,

(25) followup services with participants placed in unsubsidized employment,

(26) coordinated programs with other Federal employment-related activities,

(27) needs-based payments necessary to participation in accordance with a locally developed formula or procedure, and

(28) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training.

EXEMPLARY YOUTH PROGRAMS

SEC. 205. (a) In addition to the services for youth which may be available in accordance with section 204, the job training plan may, at the option of those responsible for its preparation, elect to include one or more of the exemplary youth programs described in subsections (b) through (e) of this section, each of which may modified by the plan to accommodate local conditions.

(b)(1) The job training plan may provide for the conduct of an "education for employment program" for eligible youth who have not attained a high school diploma or who have educational deficiencies despite the attainment of a diploma, with priority given to high school dropouts.

(2) The education for employment programs may provide for the maintenance of a network of learning centers offering individualized or group instruction in convenient locations, such as schools, neighborhood organizations, libraries, and other sites, including mobile vans in rural areas.

(3) The curricula provided by such network shall be designed to prepare the student to meet State and locally determined general education diploma and basic education competency requirements.

(4) For purposes of this section, priority shall be given in the selection of service providers to previously funded in-school and community based organization projects which are both cost-effective and of demonstrated success, and which otherwise meet criteria under this Act.

(c)(1) The job training plan may provide for the conduct of a "preemployment skills training program" for youth, and individuals aged 14 and 15, with priority be given to those individuals who do not meet established levels of academic achievement and who plan to enter the full-time labor market upon leaving school.

(2) The preemployment skill training program may provide youth up to 200 hours of instruction and activities.

(3) The instruction and activities may include—

(A) assessment, testing, and counseling;

(B) occupational career and vocational exploration;

(C) job search assistance;

(D) job holding and survival skills training;

(E) basic life skills training;

(F) remedial education;

(G) labor market information; and

(H) job-seeking skills training.

(d)(1) The job training plan may provide for the conduct of an "entry employment experience program" for youth who—

(A) have completed preemployment skills training or its equivalent;

(B) have not recently held a regular part-time or summer job for more than 250 hours of paid employment, except that this paragraph may be waived in accordance with criteria established in the job training plan; and

(C) are enrolled in a secondary school or an institution offering a certified high school equivalency program and are meeting or have met the minimum academic and attendance requirements of that school or education program during the current or most recent term,

with priority given to youth who do not plan to continue on to postsecondary education.

(2) Entry employment experiences may be up to 20 hours weekly during the school year or full time during the summer and holidays, for a total of not to exceed 500 hours of entry employment experience for any individual. Such experiences shall be appropriately supervised, including the maintenance of standards of attendance and worksite performance.

(3) Entry employment experiences may be one of the following types:

(A) Full-time employment opportunities in public and private nonprofit agencies during the summer and on a part-time basis in combination with education and training activities. These jobs shall provide community improvement services that complement local expenditures.

(B) Tryout employment at private for-profit worksites, or at public and private nonprofit worksites when private for-profit worksites are not available. Compensation in lieu of wages for tryout employment shall be paid by the grant recipient, but the length of any assignment to a tryout employment position shall not exceed 250 hours. Tryout employment positions shall be ones for which participants would not usually be hired (because of lack of experience or other barriers to employment), and vacancies in such positions may not be refilled if the pre-

vious participant completed the tryout employment but was not hired by the employer.

(C) Cooperative education programs to coordinate educational programs with work in the private sector.

(e)(1) The job training plan may provide for the conduct of a "school-to-work transition assistance program" for youth who are—

(A) high school seniors who plan to enter the full-time labor market upon graduation, with priority to seniors in high schools having a predominance of students from families with incomes below 70 percent of the lower living standard income level; and

(B) dropouts, with followup as immediately as possible after leaving school.

(2) Transition services include—

(A) provision of occupational information;

(B) short-duration job search assistance;

(C) job clubs;

(D) placement and job development; and

(E) followup.

(3) Seniors and dropouts who are eligible for and in need of training activities may provided information and, where appropriate, referred to—

(A) preemployment skills training, entry employment experience, and remedial education;

(B) adult training activities; and

(C) the Job Corps.

PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT AND ALLOCATION

SEC. 251. (a) From the funds appropriated under section 3(b), the Secretary shall first allocate to Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and entities eligible under section 401 the same percentage of funds as were available to such areas and entities for the summer youth program in the fiscal year preceding the fiscal year for which the determination is made.

(b) The remainder of sums appropriated pursuant to section 3(b) shall be allotted among States in accordance with section 201(b) and allocated among service delivery areas within States in accordance with section 202(a)(2) and (3).

USE OF FUNDS

SEC. 252. Funds available under this part may be used for—

(1) basic and remedial education, institutional and on-the-job training, work experience programs, employment counseling, occupational training preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search and job club activities, and any other employment or job training activity designed to give employment to eligible individuals or prepare them for, and place them in, employment; and

(2) supportive services necessary to enable such individuals to participate in the program.

LIMITATIONS

SEC. 253. (a) Programs under this part shall be conducted during the summer months.

(b) Except as provided in subsection (c), individuals eligible under this part shall be economically disadvantaged youth.

(c) Eligible individuals aged 14 or 15 shall, if appropriate and set forth in the job training plan, be eligible for summer youth programs under this part.

APPLICABLE PROVISIONS

SEC. 254. Private industry councils established under title I, chief elected officials, State job training coordinating councils, and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this part as private industry councils, chief elected officials, State job training coordinating councils, and Governors have for funds available under part A of title II.

TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

ALLOCATION OF FUNDS

SEC. 301. (a) From the amount appropriated to carry out this title for any fiscal year, the Secretary may reserve up to 25 percent of such amount for use by the States in accordance with subsection (c).

(b) The Secretary shall allot the remainder of the amount appropriated to carry out this title for any fiscal year among the States as follows:

(1) One-third of the remainder of such amount shall be allotted among the States on the basis of the relative number of unemployed individuals who reside in each State as compared to the total number of unemployed individuals in all the States.

(2) One-third of the remainder of such amount shall be allotted among the States on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States. For purposes of this paragraph, the term "excess number" means the number which represents unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

(3) One-third of the remainder of such amount shall be allotted among the States on the basis of the relative number of individuals who have been unemployed for fifteen weeks or more and who reside in each State as compared to the total number of such individuals in all the States.

(c) The Secretary shall make available the sums reserved under subsection (a) for the purpose of providing training, retraining, job search assistance, placement, relocation assistance, and other aid (including any activity authorized by section 303) to individuals who are affected by mass layoffs, natural disasters, Federal Government actions (such as relocations of Federal facilities), or who reside in areas of high unemployment or designated enterprise zones. In order to qualify for assistance from funds reserved by the Secretary under subsection (a), a State shall, in accordance with regulations promulgated by the Secretary establishing criteria for awarding assistance from such funds, submit an application identifying the need for such assistance and the types of, and projected results expected from, activities to be conducted with such funds.

(d) The Secretary is authorized to reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within one year of allotment.

IDENTIFICATION OF DISLOCATED WORKERS

SEC. 302. (a) Each State is authorized to establish procedures to identify substantial groups of eligible individuals who—

(1) have been terminated or laid-off or who have received a notice of termination or lay-off from employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation;

(2) have been terminated, or who have received a notice of termination of employment, as a result of any permanent closure of a plant or facility; or

(3) are long-term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including any older individuals who may have substantial barriers to employment by reason of age.

(b) The State may provide for the use of the private industry councils established under title I of this Act to assist in making the identification established under subsection (a).

(c)(1) Whenever a group of eligible individuals is identified under subsection (a), the State, with the assistance of the private industry council, shall determine what, if any, job opportunities exist within the local labor market area or outside the labor market area for which such individuals could be retrained.

(2) The State shall determine whether training opportunities for such employment opportunities exist or could be provided within the local labor market area.

(d) Whenever training opportunities pursuant to subsection (c) are identified, information concerning the opportunities shall be made available to the individuals. The acceptance of training for such opportunities shall be deemed to be acceptance of training with the approval of the State within the meaning of any other provision of Federal law relating to unemployment benefits.

AUTHORIZED ACTIVITIES

SEC. 303. (a) Financial assistance provided to States under this title may be used to assist eligible individuals to obtain unsubsidized employment through training and related employment services which may include, but are not limited to—

(1) job search assistance, including job clubs,

(2) job development,

(3) training in jobs skills for which demand exceeds supply,

(4) supportive services, including commuting assistance and financial and personal counseling,

(5) pre-layoff assistance,

(6) relocation assistance, and

(7) programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of closures of plants or facilities.

(b) Relocation assistance may be provided if the State determines (1) that the individual cannot obtain employment within the individual's commuting area, and (2) that the individual has secured suitable long-duration employment or obtained a bona fide job offer in a relocation area in a State.

MATCHING REQUIREMENT

SEC. 304. (a)(1) In order to qualify for financial assistance under this title, a State shall demonstrate, to the satisfaction of the Secretary, that it will expend for purposes of services assisted under this title, an amount from public or private non-Federal sources equal to the amount made available to that State under section 301(b).

(2) Whenever the average rate of unemployment for a State is higher than the average rate of unemployment for all States, the non-Federal matching funds described in paragraph (1) required to be provided by such State for that fiscal year shall be reduced by 10 percent for each 1 percent, or portion thereof, by which the average rate of unemployment for that State is greater than the average rate of unemployment for all States.

(3) The Secretary shall determine the average rate of unemployment for a State and the average rate of unemployment for all States for each fiscal year on the basis of the

most recent twelve-month period prior to that fiscal year.

(b)(1) Such non-Federal matching funds shall include the direct cost of employment or training services under this title provided by State or local programs (such as vocational education), private nonprofit organizations, or private for-profit employers.

(2) Funds expended from a State fund to provide unemployment insurance benefits to an eligible individual for purposes of this title and who is enrolled in a program of training or retraining under this title may be credited for up to 50 percent of the funds required to be expended from non-Federal sources as required by this section.

PROGRAM REVIEW

SEC. 305. Except for programs of assistance operated on a statewide or industry-wide basis, no program of assistance conducted with funds made available under this title may be operated within any service delivery area without a 30-day period for review and recommendation by the private industry council and appropriate chief elected official or officials for such area. The State shall consider the recommendation of such private industry council and chief elected official or officials before granting final approval of such program, and in the event final approval is granted contrary to such recommendation, the State shall provide the reasons therefore in writing to the appropriate private industry council and chief elected official or officials.

CONSULTATION WITH LABOR ORGANIZATIONS

SEC. 306. Any assistance program conducted with funds made available under this title which will provide services to a substantial number of members of a labor organization shall be established only after full consultation with such labor organization.

LIMITATIONS

SEC. 307. (a) Except as provided in subsection (b), there shall be available for supportive services, wages, allowances, stipends, and costs of administration, not more than 30 percent of the Federal funds available under this title in each State.

(b) The funds to which the limitation described in subsection (a) applies shall not include the funds referred to in section 301(a). In no event shall such limitation apply to more than 50 percent of the total amount of Federal and non-Federal funds available to a program.

STATE PLANS; COORDINATION WITH OTHER PROGRAMS

SEC. 308. Any State which desires to receive financial assistance under this title shall submit to the Secretary a plan for the use of such assistance which shall include appropriate provisions for the coordination of programs conducted with such assistance, as described in section 121, low-income weatherization and other energy conservation programs, and social services.

TITLE IV—FEDERALLY ADMINISTERED PROGRAMS

PART A—EMPLOYMENT AND TRAINING PROGRAMS FOR NATIVE AMERICANS AND MIGRANT AND SEASONAL FARMWORKERS

NATIVE AMERICAN PROGRAMS

SEC. 401. (a) The Congress finds that (1) serious unemployment and economic disadvantages exist among members of Indian, Alaskan Native, and Hawaiian Native communities; (2) there is a compelling need for the establishment of comprehensive training and employment programs for members of those communities; and (3) such programs are essential to the reduction of economic disadvantages among individual members of those communities and to the advancement of economic and social development in the communities consistent with their goals and lifestyles.

(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of the individuals to be served by the provisions of this section, (1) such programs shall be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and groups and to other groups and individuals of Native American descent; and (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this section.

(c)(1)(A) In carrying out responsibilities under this section, the Secretary shall, wherever possible, utilize Indian tribes, bands, or groups on Federal or State reservations, Oklahoma Indians, and including for the purpose of this Act, Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act, having a governing body for the provision of employment and training services under this section. When the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive employment and training program, the Secretary shall require such tribe, band, or group to submit a comprehensive plan meeting such requirements as the Secretary prescribes.

(B) The Secretary shall arrange for programs to meet the employment and training needs of Hawaiian natives through such organizations as the Secretary determines will best meet their needs.

(2) In carrying out responsibilities under this section, the Secretary shall make arrangements with organizations (meeting requirements prescribed by the Secretary) serving nonreservation Native Americans for programs and projects designed to meet the needs of such Native Americans for employment and training and related services.

(d) Whenever the Secretary determines not to utilize Indian tribes, bands, or groups for the provision of employment and training services under this section, the Secretary shall, to the maximum extent feasible, enter into arrangements for the provision of such services with organizations which meet with the approval of the tribes, bands, or groups to be served.

(e) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the selection, administration, monitoring, and evaluation of Native American employment and training programs authorized under this Act.

(f) Funds available for this section shall be expended for programs and activities consistent with the purposes of this section including but not limited to such programs and activities carried out by recipients under other provisions of this Act.

(g) No provision of this section shall abrogate in any way the trust responsibilities of the Federal Government to Native American bands, tribes, or groups.

(h)(1) The Secretary shall, after consultation with representatives of Indians and other Native Americans, prescribe such rules, regulations, and performance standards relating to Native American programs under this section as may be required to meet the special circumstances under which such programs operate.

(2) Recipients of funds under this section shall establish performance goals, which shall, to the extent required by the Secretary, comply with performance standards established by the Secretary pursuant to section 103.

(i) The Secretary shall provide technical assistance as necessary to tribes, bands, and groups eligible for assistance under this section.

(j) For the purpose of carrying out this section, the Secretary shall reserve, from funds available for this title (other than part B) for any fiscal year, an amount equal to 3.3 percent of the amount available for part A of title II of this Act for such fiscal year.

MIGRANT AND SEASONAL FARMWORKER PROGRAMS

SEC. 402. (a) The Congress finds and declares that—

(1) chronic seasonal unemployment and underemployment in the agricultural industry, aggravated by continual advancements in technology and mechanization resulting in displacement, constitute a substantial portion of the Nation's rural employment problem and substantially affect the entire national economy; and

(2) because of farmworker employment and training problems, such programs shall be centrally administered at the national level.

(b) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the selection, administration, monitoring, and evaluation of migrant and seasonal employment and training programs authorized under this Act.

(c)(1) The Secretary shall provide services to meet the employment and training needs of migrant and seasonal farmworkers through such public agencies and private nonprofit organizations as the Secretary determines to have an understanding of the problems of migrant and seasonal farmworkers, a familiarity with the area to be served, and a previously demonstrated capability to administer effectively a diversified employability development program for migrant and seasonal farmworkers. In awarding any grant or contract for services under this section, the Secretary shall use procedures consistent with standard competitive Government procurement policies.

(2) The Secretary may approve the designation of grantees under this section for a period of two years.

(3) Programs and activities supported under this section, including those carried out under other provisions of this Act, shall enable farmworkers and their dependents to obtain or retain employment, to participate in other program activities leading to their eventual placement in unsubsidized agricultural or nonagricultural employment, and to participate in activities leading to stabilization in agricultural employment, and shall include related assistance and supportive services.

(4) Recipients of funds under this section shall establish performance goals, which shall, to the extent required by the Secretary, comply with performance standards established by the Secretary pursuant to section 103.

(5) No programs and activities supported under this section shall preclude assistance to farmworkers under any other provision of this Act.

(d) In administering programs under this section, the Secretary shall consult with appropriate State and local officials.

(e) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the selection, administration, monitoring, and evaluation of Native American

employment and training programs authorized under this Act.

(f) For the purpose of carrying out this section, the Secretary shall reserve, from funds available for this title (other than part B) for any fiscal year, an amount equal to 3.2 percent of the amount available for part A of title II of this Act for such fiscal year.

PART B—JOB CORPS

STATEMENT OF PURPOSE

SEC. 421. This part maintains a Job Corps for economically disadvantaged young men and women which shall operate exclusively as a distinct national program, sets forth standards and procedures for selecting individuals as enrollees in the Job Corps, authorizes the establishment of residential and nonresidential centers in which enrollees will participate in intensive programs of education, vocational training, work experience, counseling and other activities, and prescribes various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps. The purpose of this part is to assist young individuals who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsible, employable, and productive citizens; and to do so in a way that contributes, where feasible, to the development of national, State, and community resources, and to the development and dissemination of techniques for working with the disadvantaged that can be widely utilized by public and private institutions and agencies.

ESTABLISHMENT OF THE JOB CORPS

SEC. 422. There shall be within the Department of Labor a "Job Corps".

INDIVIDUALS ELIGIBLE FOR THE JOB CORPS

SEC. 423. To become an enrollee in the Job Corps, a young man or woman must be an eligible youth who—

(1) has attained age 14 but not attained age 22 at the time of enrollment, except that such maximum age limitation may be waived, in accordance with regulations of the Secretary, in the case of any handicapped individual;

(2) is economically disadvantaged or is a member of a family which is economically disadvantaged, and who requires additional education, training, or intensive counseling and related assistance in order to secure and hold meaningful employment, participate successfully in regular school work, qualify for other suitable training programs, or satisfy Armed Forces requirements;

(3) is currently living in an environment so characterized by cultural deprivation, a disruptive homelife, or other disorienting conditions as to substantially impair prospects for successful participation in other programs providing needed training, education, or assistance;

(4) is determined, after careful screening as provided for in sections 424 and 425 to have the present capabilities and aspirations needed to complete and secure the full benefit of the Job Corps and to be free of medical and behavioral problems so serious that the individual could not adjust to the standards of conduct, discipline, work, and training which the Job Corps involves; and

(5) meets such other standards for enrollment as the Secretary may prescribe and agrees to comply with all applicable Job Corps rules and regulations.

SCREENING AND SELECTION OF APPLICANTS: GENERAL PROVISIONS

SEC. 424. (a) The Secretary shall prescribe specific standards and procedures for the screening and selection of applicants for the Job Corps. To the extent practicable, these rules shall be implemented through arrangements with agencies and organizations such as community action agencies, public employment offices, entities administering programs under title II of this Act, professional groups, labor organizations, and agencies and individuals having contact with youth over substantial periods of time and able to offer reliable information as to their needs and problems. The rules shall provide for necessary consultation with other individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers. The rules shall also provide for the interviewing of each applicant for the purpose of—

(1) determining whether the applicant's educational and vocational needs can best be met through the Job Corps or an alternative program in the applicant's home community;

(2) obtaining from the applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment; and

(3) giving the applicant a full understanding of the Job Corps and what will be expected of an enrollee in the event of acceptance.

(b) The Secretary is authorized to make payments to individuals and organizations for the cost of the recruitment, screening, and selection of candidates, as provided for in this part. The Secretary shall make no payments to any individual or organization solely as compensation for referring the names of candidates for Job Corps.

(c) The Secretary shall assure that Job Corps enrollees include an appropriate number of candidates selected from rural areas, taking into account the proportions of eligible youth who reside in rural areas and the need to provide residential facilities for such youth.

SCREENING AND SELECTION: SPECIAL LIMITATIONS

SEC. 425. (a) No individual shall be selected as an enrollee unless there is reasonable expectation that the individual can participate successfully in group situations and activities, is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the center to which the individual might be assigned and surrounding communities, and unless the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe those rules.

(b) An individual on probation or parole may be selected only if release from the supervision of the probation or parole officials is satisfactory to those officials and the Secretary and does not violate applicable laws or regulations. No individual shall be denied a position in the Job Corps solely on the basis of that individual's contact with the criminal justice system.

ENROLLMENT AND ASSIGNMENT

SEC. 426. (a) No individual may be enrolled in the Job Corps for more than two years, except in any case in which completion of an advanced career program under section 428 would require an individual to participate in excess of two years, or except as the Secretary may authorize in special cases.

(b) Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

(c) After the Secretary has determined that an enrollee is to be assigned to a Job Corps center, the enrollee shall be assigned to the center which is closest to the enrollee's home, except that the Secretary may waive this requirement for good cause, including to ensure an equitable opportunity for youth from various sections of the Nation to participate in the program, to prevent undue delays in assignment, to adequately meet the educational or other needs of an enrollee, and for efficiency and economy in the operation of the program.

JOB CORPS CENTERS

SEC. 427. (a)(1) The Secretary may make agreements with Federal, State, or local agencies, including a State board or agency designated pursuant to section 104(a)(1) of the Vocational Education Act of 1963 which operates or wishes to develop area vocational education school facilities or residential vocational schools (or both) as authorized by such Act, or private organizations for the establishment and operation of Job Corps centers. Job Corps centers may, subject to paragraph (2), be residential or nonresidential in character, or both, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with education, vocational training, work experience (either in direct program activities or through arrangements with employers), counseling, and other services appropriate to their needs. The centers shall include Civilian Conservation Centers, located primarily in rural areas, which shall provide, in addition to other training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest. The centers shall also include training centers located in either urban or rural areas which shall provide activities including training and other services for specific types of skilled or semiskilled employment.

(2) In any year, not more than 10 percent of the individuals enrolled in the Job Corps may be nonresidential participants.

(b) To the extent feasible, Job Corps centers shall offer education and vocational training opportunities, together with supportive services, on a nonresidential basis to participants in other programs under this Act. Such opportunities may be offered on a reimbursable basis or through such other arrangements as the Secretary may specify.

PROGRAM ACTIVITIES

SEC. 428. (a) Each Job Corps center shall provide enrollees with an intensive, well-organized, and fully supervised program of education, vocational training, work experience, planned vocational and recreational activities, physical rehabilitation and development, and counseling. To the fullest extent feasible, the required program shall include activities to assist enrollees in choosing realistic career goals, coping with problems they may encounter in home communities, or in adjusting to new communities, and planning and managing their daily affairs in a manner that will best contribute to long-term upward mobility. Center programs shall include required participation in center maintenance work to assist enrollees in increasing their sense of contribution, responsibility, and discipline.

(b) The Secretary may arrange for enrollee education and vocational training through local public or private educational agencies, vocational educational institutions, or technical institutes, whenever such institutions provide training substantially equivalent in cost and quality to that which the Secretary could provide through other means.

(c) To the extent feasible, arrangements for education, both at the center and at other locations, shall provide opportunities for qualified enrollees to obtain the equivalent of a certificate of graduation from high

school. The Secretary, with the concurrence of the Secretary of Education, shall develop certificates to be issued to each enrollee who satisfactorily completes service in the Job Corps and which will reflect the enrollee's level of educational attainment.

(d)(1) The Secretary may arrange for programs of advanced career training for selected Corps enrollees in which they may continue to participate for a period not to exceed one year in addition to the period of participation to which Corps enrollees would otherwise be limited.

(2) Advanced career training may be provided for in postsecondary institutions for Corps enrollees who have attained a high school diploma or its equivalent, have demonstrated commitment and capacity in their previous Job Corps participation, and have an identified occupational goal.

(3) The Secretary may contract with private for-profit businesses and labor unions to provide intensive training in company-sponsored training programs, combined with internships in work settings.

(4) During the period of participation in advanced career training programs, Corps enrollees shall be eligible for full Job Corps benefits or a monthly stipend equal to the average value of residential support, food, allowances, and other benefits in residential Job Corps centers, except that the total amount for which an enrollee shall be eligible shall be reduced by the amount of any scholarship or other educational grant assistance received by such enrollee.

(5) After an initial period of time, determined to be reasonable by the Secretary, any Job Corps center seeking to enroll new Corps enrollees in any advanced career training program shall demonstrate that such program has achieved a reasonable rate of completion and placement in training-related jobs before such new enrollments may occur.

ALLOWANCES AND SUPPORT

SEC. 429. (a) The Secretary shall provide enrollees with such personal, travel, and leave allowances, and such quarters, subsistence, transportation, equipment, clothing, recreational services, and other expenses as he may deem necessary or appropriate to their needs. For the fiscal year ending September 30, 1983, personal allowances shall be established at a rate not to exceed $65 per month during the first six months of an enrollee's participation in the program and not to exceed $110 per month thereafter, except that allowances in excess of $65 per month, but not exceeding $110 per month, may be provided from the beginning of an enrollee's participation if it is expected to be of less than six months' duration and the Secretary is authorized to pay personal allowances in excess of the rates specified in this subsection in unusual circumstances as determined by him. Such allowances shall be graduated up to the maximum so as to encourage continued participation in the program, achievement and the best use by the enrollee of the funds so provided and shall be subject to reduction in appropriate cases as a disciplinary measure. To the degree reasonable, enrollees shall be required to meet or contribute to costs associated with their individual comfort and enjoyment from their personal allowances.

(b) The Secretary shall prescribe rules governing the accrual of leave by enrollees. Except in the case of emergency, he shall in no event assume transportation costs connected with leave of any enrollee who has not completed at least six months' service in the Job Corps.

(c) The Secretary may provide each former enrollee upon termination, a readjustment allowance at a rate not to exceed, for the fiscal year ending September 30, 1983, $110 for each month of satisfactory participation in the Job Corps. No enrollee shall be entitled to a readjustment allowance unless he has remained in the program at least 90 days, except in unusual circumstances as determined by the Secretary. The Secretary may, from time to time, advance to or on behalf of an enrollee such portions of his readjustment allowances as the Secretary deems necessary to meet extraordinary financial obligations incurred by that enrollee. The Secretary is authorized, pursuant to rules or regulations, to reduce the amount of an enrollee's readjustment allowance as a penalty for misconduct during participation in the Job Corps. In the event of an enrollee's death during his period of service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

(d) Such portion of the readjustment allowance as prescribed by the Secretary may be paid monthly during the period of service of the enrollee directly to a spouse or child of an enrollee, or to any other relative who draws substantial support from the enrollee, and any amount so paid shall be supplemented by the payment of an equal amount by the Secretary.

STANDARDS OF CONDUCT

SEC. 430. (a) Within Job Corps centers standards of conduct shall be provided and stringently enforced. If violations are committed by enrollees, dismissal from the Corps or transfers to other locations shall be made if it is determined that their retention in the Corps, or in the particular center, will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

(b) To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Job Corps centers shall take appropriate disciplinary measures against enrollees, including dismissal from the Job Corps, subject to expeditious appeal to the Secretary.

COMMUNITY PARTICIPATION

SEC. 431. The Secretary shall encourage and cooperate in activities to establish a mutually beneficial relationship between Job Corps centers and nearby communities. These activities shall include the establishment of community advisory councils to provide a mechanism for joint discussion of common problems and for planning programs of mutual interest. Youth shall be represented on the advisory council and separate youth councils may be established composed of enrollees and young people from the communities. The Secretary shall assure that each center is operated with a view to achieving, so far as possible, objectives which shall include—

(1) giving community officials appropriate advance notice of changes in center rules, procedures, or activities that may affect or be of interest to the community;

(2) affording the community a meaningful voice in center affairs of direct concern to it, including policies governing the issuance and terms of passes to enrollees;

(3) providing center officials with full and rapid access to relevant community groups and agencies, including law enforcement agencies and agencies which work with young people in the community;

(4) encouraging the fullest practicable participation of enrollees in programs for community improvement or betterment, with appropriate advance consultation with business, labor, professional, and other interested community groups;

(5) arranging recreational, athletic, or similar events in which enrollees and local residents may participate together;

(6) providing community residents with opportunities to work with enrollees directly as part-time instructors, tutors, or advisers, either in the center or in the community;

(7) developing, where feasible, job or career opportunities for enrollees in the community; and

(8) promoting interchanges of information and techniques among, and cooperative projects involving, the center and community schools and libraries, educational institutions, agencies serving young people and recipients of funds under this Act.

COUNSELING AND JOB PLACEMENT

SEC. 432. (a) The Secretary shall counsel and test each enrollee at regular intervals to measure progress in educational and vocational programs.

(b) The Secretary shall counsel and test enrollees prior to their scheduled terminations to determine their capabilities and shall make every effort to place them in jobs in the vocation for which they are trained or to assist them in attaining further training or education. In placing enrollees in jobs, the Secretary shall utilize the public employment service system to the fullest extent possible.

(c) The Secretary shall determine the status and progress of enrollees scheduled for termination and make every effort to assure that their needs for further education, training, and counseling are met.

(d) The Secretary shall arrange for the readjustment allowance to be paid to former enrollees (who have not already found employment) at the State employment service office nearest the home of any such former enrollee who is returning home, or at the nearest such office where the former enrollee has indicated an intent to reside. If the Secretary uses any other public agency or private organization in lieu of the public employment service system, the Secretary shall arrange for that organization or agency to pay the readjustment allowance.

EXPERIMENTAL AND DEVELOPMENTAL PROJECTS AND COORDINATION WITH OTHER PROGRAMS

SEC. 433. (a)(1) The Secretary is authorized to undertake experimental, research, or demonstration projects to develop or test ways of better using facilities, encouraging a more rapid adjustment of enrollees to community life that will permit a reduction in their period of enrollment, reducing transportation and support costs, or otherwise promoting greater efficiency and effectiveness in the program. These projects shall include one or more projects providing youth with education, training, and other supportive services on a combined residential and nonresidential basis.

(2) The Secretary is authorized to undertake one or more pilot projects designed to determine the value of Job Corps participation for young adults aged 22 to 24, inclusive.

(3) The Secretary is authorized to undertake one or more pilot projects designed to involve youth who have a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other behavorial aberrations.

(4) Projects under this subsection shall be developed after appropriate consultation with other Federal or State agencies conducting similar or related programs or projects and with the administrative entity in the communities where the projects will be carried out. They may be undertaken jointly with other Federal or federally assisted programs, and funds otherwise available for activities under those programs shall, with the consent of the head of any agency concerned, be available for projects under

this section to the extent they include the same or substantially similar activities. The Secretary is authorized to waive any provision of this part which the Secretary finds would prevent the carrying out of elements of projects under this subsection essential to a determination of their feasibility and usefulness. The Secretary shall, in the annual report of the Secretary, report to the Congress concerning the actions taken under this section, including a full description of progress made in connection with combined residential and nonresidential projects.

(b) In order to determine whether upgraded vocational education schools could eliminate or substantially reduce the school dropout problem, and to demonstrate how communities could make maximum use of existing educational and training facilities, the Secretary, in cooperation with the Secretary of Education, is authorized to enter into one or more agreements with State educational agencies to pay the cost of establishing and operating model community vocational education schools and skill centers.

(c)(1) The Secretary, through the Job Corps and activities authorized under sections 452 and 455, shall develop and implement activities designed to disseminate information gained from Job Corps program experience which may be of use in the innovation and improvement of related programs. To carry out this purpose, the Secretary may enter into appropriate arrangements with any Federal or State agency.

(2) The Secretary is authorized to develop Job Corps programs to test at various centers the efficacy of selected education or training activities authorized under this or any other Act and to appropriately disseminate the results of such tests. To carry out this purpose, the Secretary may enter into appropriate arrangements with any Federal or State agency.

(d) The Secretary is authorized to enter into appropriate arrangements with the Secretary of Defense for the development of pilot projects at Job Corps centers to prepare youth to qualify for military service. In the event that the Secretary of Labor and the Secretary of Defense agree that such pilot projects should be expanded into permanent programs, the Secretary may establish such permanent programs within the Job Corps, if the Secretary of Defense agrees (1) to provide 50 percent of the costs attributable to such permanent programs, and (2) to reimburse the Secretary of Labor for an additional amount if more than 50 percent of the enrollees in such programs become members of the Armed Forces. Such additional amount shall be equal to a percentage of such costs which is the percentage by which more than 50 percent of such enrollees become such members. In addition to the provision of funds, such reimbursement may include the provision of equipment, materials, transportation, technical assistance, or other assistance, as specified by the Secretary.

(e) In order to determine whether community participation as required under section 431 can be improved through the closer involvement of community-based organizations, the Secretary is authorized to undertake one or more pilot projects utilizing community-based organizations of demonstrated effectiveness for Job Corps center operation. For purposes of such pilot projects, the term "community-based organizations" may include nonprofit educational foundations organized on a State or local basis.

ADVISORY BOARDS AND COMMITTEES

SEC. 434. The Secretary is authorized to make use of advisory committees in connection with the operation of the Job Corps, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

PARTICIPATION OF THE STATES

SEC. 435. (a) The Secretary shall take action to facilitate the effective participation of States in the Job Corps programs, including consultation with appropriate State agencies on matters pertaining to the enforcement of applicable State laws, standards of enrollee conduct and discipline, development of meaningful work experience and other activities for enrollees, and coordination with State-operated programs.

(b) The Secretary is authorized to enter into agreements with States to assist in the operation or administration of State-operated programs which carry out the purpose of this part. The Secretary is authorized, pursuant to regulations, to pay part or all of the costs of such programs to the extent such costs are attributable to carrying out the purpose of this part.

(c) No Job Corps center or other similar facility designed to carry out the purpose of this part shall be established within a State unless a notice setting forth such proposed establishment has been submitted to the Governor, and the establishment has not been disapproved by the Governor within thirty days of such submission.

(d) All property which would otherwise be under exclusive Federal legislative jurisdiction shall be under concurrent jurisdiction with the appropriate State and locality with respect to criminal law enforcement as long as a Job Corps center is operated on such property.

APPLICATION OF PROVISIONS OF FEDERAL LAW

SEC. 436. (a) Except as otherwise provided in this subsection and in section 8143(a) of title 5, United States Code, enrollees in the Job Corps shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.) enrollees shall be deemed employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

(2) For purposes of subchapter I of chapter 81 of title 5, United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except—

(A) the term "performance of duty" shall not include any act of an enrollee while absent from the assigned post of duty of such enrollee, except while participating in an activity (including an activity while on pass or during travel to or from such post or duty) authorized by or under the direction and supervision of the Job Corps;

(B) in computing compensation benefits for disability or death, the monthly pay of an enrollee shall be deemed that received under the entrance salary for a grade GS-2 employee, and sections 8113 (a) and (b) of title 5, United States Code, shall apply to enrollees; and

(C) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee is terminated.

(3) For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered employees of the Government.

(b) Whenever the Secretary finds a claim for damages to persons or property resulting from the operation of the Job Corps to be a proper charge against the United States, and it is not cognizable under section 2672 of title 28, United States Code, the Secretary is authorized to adjust and settle it in an amount not exceeding $1,500.

(c) Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade in such services.

SPECIAL PROVISIONS

SEC. 437. (a) The Secretary shall immediately take steps to achieve an enrollment of 50 percent women in the Job Corps consistent with (1) efficiency and economy in the operation of the program, (2) sound administrative practice, and (3) the socioeconomic, educational, and training needs of the population to be served.

(b) The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of the Job Corps program shall become the property of the United States.

(c) Transactions conducted by private for-profit contractors for Job Corps centers which they are operating on behalf of the Secretary shall not be considered as generating gross receipts.

GENERAL PROVISIONS

SEC. 438. The Secretary is authorized to—

(1) disseminate, with regard to the provisions of section 3204 of title 39, United States Code, data and information in such forms as the Secretary shall deem appropriate, to public agencies, private organizations, and the general public;

(2) collect or compromise all obligations to or held by the Secretary and all legal or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

(3) expend funds made available for purposes of this part—

(A) for printing and binding, in accordance with applicable law and regulation; and

(B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary, except that the Secretary shall not utilize the authority contained in this subparagraph—

(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this part, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form or under the conditions in which it is needed; and

(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of the Secretary's intention to exercise such authority, the item, service, or facility with respect to which

such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority.

DONATIONS

SEC. 439. The Secretary is authorized to accept on behalf of the Job Corps or individual Job Corps centers charitable donations of cash or other assistance, including but not limited to, equipment and materials, if such donations are available for appropriate use for the purposes set forth in this part.

PART C—VETERANS' EMPLOYMENT PROGRAMS

PROGRAMS AUTHORIZED

SEC. 441. (a)(1) The Secretary shall conduct, directly or through grant or contract, programs to meet the employment and training needs of service-connected disabled veterans, veterans of the Vietnam era, and veterans who are recently separated from military service.

(2) Programs supported under this part may be conducted through public agencies and private nonprofit organizations, including recipients under other provisions of this Act that the Secretary determines have an understanding of the unemployment problems of such veterans, familiarity with the area to be served, and the capability to administer effectively a program of employment and training assistance for such veterans.

(3) Programs supported under this part shall include, but not be limited to—

(A) activities to enhance services provided veterans by other providers of employment and training services funded by Federal, State, or local government;

(B) activities to provide employment and training services to such veterans not adequately provided by other public employment and training service providers; and

(C) outreach and public information activities to develop and promote maximum job and job training opportunities for such veterans and to inform such veterans about employment, job-training, on-the-job training and educational opportunities under this Act, under title 38, United States Code, and under other provisions of law.

(b)(1) The Secretary shall administer programs supported under this part through the Assistant Secretary for Veterans' Employment.

(2) In carrying out responsibilities under this part, the Assistant Secretary for Veterans' Employment shall—

(A) be responsible for the awarding of grants and the distribution of funds under this part and for the establishment of appropriate fiscal controls, accountability, and program-performance standards for grant recipients under this part; and

(B) consult with the Administrator of Veterans' Affairs and take steps to ensure that programs supported under this part are coordinated, to the maximum extent feasible, with related programs and activities conducted under title 38, United States Code, including programs and activities conducted under subchapter IV of chapter 3 of such title, chapters 31 and 34 of such title, and sections 612A, 620A, 1787, and 2003A of such title.

PART D—NATIONAL ACTIVITIES

MULTISTATE PROGRAMS

SEC. 451. (a) Funds available to carry out this section shall be used for job training programs or services (as authorized under any other provision of this Act) which are most appropriately administered at the national level and which are operated in more than one State.

(b) Programs which are most appropriately administered at the national level include programs such as—

(1) programs addressed to industry-wide skill shortages;

(2) programs designed to train workers for employment opportunities located in another State;

(3) regional or nationwide efforts to develop a labor force with skills that promote the use of renewable energy technologies, energy conservation, and the weatherization of homes occupied by low-income families;

(4) programs designed to develop information networks among local programs with similar objectives under this Act; and

(5) programs which require technical expertise available at the national level and which serve specialized needs of particular client groups, including offenders, individuals of limited English language proficiency, handicapped individuals, women, single parents, displaced homemakers, youth, older workers, individuals who lack education credentials, public assistance recipients, and other individuals whom the Secretary determines require special assistance.

RESEARCH AND DEMONSTRATION

SEC. 452. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of employment and training research, utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's employment and training problems. The program under this section may include studies concerning the development or improvement of Federal, State, local, and privately supported employment and training programs; labor market processes and outcomes; policies and programs to reduce unemployment and the relationships thereof with price stability and other national goals; productivity of labor; improved means of forecasting and using forecasts of labor supply and demand at the national and subnational levels; methods of improving the wages and employment opportunities of low-skilled and disadvantaged workers; measuring and developing policies to eliminate worker shortages; and easing the transition from school to work, from transfer payment receipt to self-sufficiency, from one job to another, and from work to retirement.

(b) The Secretary shall establish a program of experimental, developmental, and demonstration projects, through grants or contracts, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting employment and training problems. Research activities may include studies, experiments, demonstrations, and pilot projects in such areas as easing the transition from school to work, assessing the changing demographics of the American work-force and addressing the short-term and long-term impact of the changes, increasing employment of skilled workers critical to defense readiness, and, subject to the last sentence of this subsection, projects developed in conjunction with the Secretary of Defense to meet civilian manpower needs on military installations and in the private sector, and eliminating artificial barriers to employment. The Secretary may pay not to exceed 60 percent of the costs of projects developed in conjunction with the Secretary of Defense described in the preceding sentence, and the contributions of the Department of Defense may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

PILOT PROJECTS

SEC. 453. (a) From funds made available under this part, the Secretary may provide financial assistance for pilot projects which meet the employment-related needs of persons including the handicapped and displaced homemakers who face particular disadvantages in specific and general labor markets or occupations and other persons whom the Secretary determines require special assistance and projects designed to address skill shortages that affect other critical national objectives, including national security.

(b) Each pilot project assisted under this section shall be designed to assist in eliminating artificial and other employment barriers faced by such persons.

(c) No project under this section shall be financially assisted for more than three years under this Act.

(d) In selecting recipients under this section, the Secretary shall give special consideration to applications submitted by community-based organizations of demonstrated effectiveness, as well as to labor unions, and trade associations and their affiliates that address nationwide concerns through programs operating in more than one State.

EVALUATION

SEC. 454. (a) The Secretary shall provide for the continuing evaluation of all programs, activities, and research and demonstration projects conducted pursuant to this Act, including their cost-effectiveness in achieving the purposes of this Act, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by age, sex, race, and national origin, and the adequacy of the mechanism for the delivery of services.

(b) The Secretary shall evaluate the effectiveness of programs authorized under this Act and part C of title II of the Social Security Act with respect to the statutory goals, the performance standards established by the Secretary, and of increases in employment and earnings for participants, reduced income, support costs, increased tax revenues, duration in training and employment situations, information on the post-enrollment labor market experience of program participants for at least a year following their termination from such programs, and comparable information on other employees or trainees of participating employers.

TRAINING AND TECHNICAL ASSISTANCE

SEC. 455. (a) The Secretary, in consultation with appropriate officials, shall provide directly or through grants, contracts, or other arrangements, appropriate preservice and inservice training for specialized, supportive, supervisory, or other personnel, including job skills teachers, and appropriate technical assistance (including technical assistance to training programs for housing for migrant and seasonal farmworkers) with respect to programs under this Act, including the development and attainment of performance goals. Such activities may include the utilization of training and technical assistance capabilities which exist at the State and service delivery area level.

(b) The Secretary shall establish a national clearinghouse to disseminate materials and information gained from exemplary program experience which may be of use in the innovation or improvement of other programs conducted pursuant to this Act.

PART E—LABOR MARKET INFORMATION

LABOR MARKET INFORMATION; AVAILABILITY OF FUNDS

SEC. 461. (a) The Secretary shall set aside, out of sums available to the Department for any fiscal year including sums available for this title, such sums as may be necessary to maintain a comprehensive system of labor market information on a national, regional,

State, local, or other appropriate basis, which shall be made publicly available in a timely fashion.

(b) Funds available for purposes of this part shall also be available for purposes of section 125 (relating to State labor market information).

(c) Notwithstanding any other provision of law, funds available to other Federal agencies for carrying out chapter 35 of title 44, United States Code, the Vocational Education Act of 1963, and the Act of June 6, 1933 (popularly known as the Wagner-Peyser Act), may be made available by the head of each such agency to assist in carrying out the provisions of this part.

COOPERATIVE LABOR MARKET INFORMATION PROGRAM

SEC. 462. (a) The Secretary shall develop and maintain for the Nation, State, and local areas, current employment data by occupation and industry, based on the occupational employment statistics program, including selected sample surveys, and projections by the Bureau of Labor Statistics of employment and openings by occupation.

(b) The Secretary shall maintain descriptions of job duties, training and education requirements, working conditions, and characteristics of occupations.

(c) In carrying out the provisions of this section, the Secretary shall assure that—

(1) departmental data collecting and processing systems are consolidated to eliminate overlap and duplication;

(2) the criteria of chapter 35 of title 44, United States Code, are met; and

(3) standards of statistical reliability and national standardized definitions of employment, unemployment, and industrial and occupational definitions are used.

(d)(1) The Secretary is authorized to develop data for an annual statistical measure of labor market related economic hardship in the Nation. Among the factors to be considered in developing such a measure are unemployment, labor force participation, involuntary part-time employment, and full-time employment at wages less than the poverty level.

(2) The Secretary is authorized to develop and maintain, on national, State, local, and other appropriate bases, household budget data at different levels of living, including a level of adequacy, to reflect the differences of household living costs in regions and localities, both urban and rural.

(3) The Secretary shall publish, at least annually, a report relating labor force status to earnings and income.

(e) The Secretary shall develop and maintain statistical data relating to permanent lay-offs and plant closings. The Secretary shall publish a report based upon such data, as practicable, after the end of each calendar year. Among the data to be included are—

(1) the number of such closings;

(2) the number of workers displaced;

(3) the location of the affected facilities; and

(4) the types of industries involved.

SPECIAL FEDERAL RESPONSIBILITIES

SEC. 463. (a) The Secretary, in cooperation with the Secretary of Commerce, the Secretary of Defense, the Secretary of the Treasury, the Secretary of Education, and the Director of the Office of Management and Budget, through the National Occupational Information Coordinating Committee established under section 161(b) of the Vocational Education Act of 1963, shall—

(1) review the need for and the application of all operating national data collection and processing systems in order to identify gaps, overlap, and duplications, and integrate at the national level currently available data sources in order to improve the management of information systems;

(2) maintain, assure timely review, and implement national standardized definitions with respect to terms, geographic areas, timing of collection, and coding measures, to the maximum extent feasible; and

(3) provide technical assistance to the States in the development, maintenance, and utilization of labor market/occupational supply and demand information systems and projections of supply and demand as described in section 125, with special emphasis on assistance in the utilization of cost-efficient automated systems and improving access of individuals to career opportunities information in local and State labor markets.

(b) The Secretary, in cooperation with the Secretary of Defense, shall assure the development of an integrated occupational supply and demand information system to be used by States and, in particular, in secondary and postsecondary educational institutions in order to assure young persons adequate information on career opportunities in the Armed Forces.

(c) The Secretary and the Director of the Office of Management and Budget shall assure that, from the funds reserved for this part, sufficient funds are available to provide staff at the Federal level to assure the coordination functions described in this section.

NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

SEC. 464. (a)(1) Of the amounts available for this part, not more than $5,000,000 is authorized to be reserved for the National Occupational Information Coordinating Committee (established pursuant to section 161(b) of the Vocational Education Act of 1963).

(2) In addition to the members required by such Act, the Committee shall include the Assistant Secretary of Commerce for Economic Development and the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics.

(3) Not less than 75 percent of the funds transferred by the Secretary to the National Occupational Information Coordinating Committee shall be used to support State occupational information coordinating committees and other organizational units designated under section 125 for carrying out State labor market information programs.

(b) In addition to its responsibilities under the Vocational Education Act of 1963, the National Occupational Information Coordinating Committee shall—

(1) carry out the provisions of section 463;

(2) give special attention to the labor market information needs of youth and adults, including activities such as (A) assisting and encouraging States to adopt methods of translating national occupational outlook information into State and local terms; (B) assisting and encouraging the development of State occupational information systems, including career information delivery systems and the provision of technical assistance for programs of on-line computer systems and other facilities to provide career information at sites such as local schools, public employment service offices, and job training programs authorized under this Act; (C) in cooperation with educational agencies and institutions, encouraging programs providing career information, counseling, and employment services for postsecondary youth; and (D) in cooperation with State and local correctional agencies, encouraging programs of counseling and employment services for youth and adults in correctional institutions;

(3) provide training and technical assistance, and continuing support to State occupational information coordinating committees, in the development, maintenance, and use of occupational supply and demand information systems, with special emphasis on the use of cost efficient automated systems for delivering occupational information to planners and administrators of education and training programs and on improving the access of such planners and administrators to occupational information systems;

(4) publish at least annually a report on the status of occupational information capabilities at the State and national levels, which may include recommendations for improvement of occupational information production and dissemination capabilities;

(5) conduct research and demonstration projects designed to improve any aspect of occupational and career information systems;

(6) provide technical assistance for programs designed to encourage public and private employers to list all available job opportunities with occupational information and career counseling programs conducted by administrative entities and with local public employment service offices and to encourage cooperation and contact among such employers and such administrative entities and public employment service offices; and

(7) providing assistance to units of general local government and private industry councils to familiarize them with labor market information resources available to meet their needs.

(c) All funds available to the National Occupational Information Coordinating Committee under this Act, under section 161 of the Vocational Education Act of 1963, and under section 12 of the Career Education Act may be used by the Committee to carry out any of its functions and responsibilities authorized by law.

JOB BANK PROGRAM

SEC. 465. The Secretary is authorized to establish and carry out a nationwide computerized job bank and matching program (including the listing of all suitable employment openings with local offices of the State employment service agencies by Federal contractors and subcontractors and providing for the affirmative action as required by section 2012(a) of title 38, United States Code) on a regional, State, and local basis, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available individuals and job vacancies, providing an expeditious means of matching the qualifications of unemployed, underemployed, and economically disadvantaged individuals with employer requirements and job opportunities, and referring and placing such individuals in jobs. An occupational information file may be developed, containing occupational projections of the numbers and types of jobs on regional, State, local, and other appropriate bases, as well as labor supply information by occupation.

PART F—NATIONAL COMMISSION FOR EMPLOYMENT POLICY

STATEMENT OF PURPOSE

SEC. 471. The purpose of this part is to establish a National Commission for Employment Policy which shall have the responsibility for examining broad issues of development, coordination, and administration of employment and training programs, and for advising the President and the Congress on national employment and training issues. For the purpose of providing funds for the Commission, the Secretary shall reserve

$2,000,000 of the sums appropriated for this title for each fiscal year.

COMMISSION ESTABLISHED

SEC. 472. (a) There is established a National Commission for Employment Policy (hereinafter in this part referred to as the "Commission"). The Commission shall be composed of 15 members, appointed by the President. The members of the Commission shall be individuals who are nationally prominent and the Commission shall be broadly representative of agriculture, business, labor, commerce, education (including elementary, secondary, postsecondary, and vocational and technical education), veterans, current State and local elected officials, community-based organizations, assistance programs, and members of the general public with expertise in human resource development or employment and training policy. One of the members shall be a representative of the National Advisory Council on Vocational Education (established under section 162 of the Vocational Education Act of 1963). The membership of the Commission shall be generally representative of significant segments of the labor force, including women and minority groups.

(b) The term of office of each member of the Commission appointed by the President under subsection (a) shall be three years, except that—

(1) any such member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and

(2) of such members first taking office—

(A) five shall serve for terms of one year;

(B) five shall serve for terms of two years; and

(C) five shall serve for terms of three years;

as designated by the President at the time of appointment.

(c)(1) The Chairman shall be selected by the President.

(2) The Commission shall meet not fewer than three times each year at the call of the Chairman.

(3) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings. Any recommendation may be passed only by a majority of the members present. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(d) The Chairman (with the concurrence of the Commission) shall appoint a Director, who shall be chief executive officer of the Commission and shall perform such duties as are prescribed by the Chairman.

FUNCTIONS OF THE COMMISSION

SEC. 473. The Commission shall—

(1) identify the employment goals and needs of the Nation, and assess the extent to which employment and training, vocational education, institutional training, vocational rehabilitation, economic opportunity programs, public assistance policies, employment-related tax policies, labor exchange policies, and other policies and programs under this Act and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

(2) develop and make appropriate recommendations designed to meet the needs and goals described in clause (1);

(3) examine and evaluate the effectiveness of federally assisted employment and training programs (including programs assisted under this Act), with particular reference to the contributions of such programs to the achievement of objectives sought by the recommendations made under clause (2);

(4) advise the Secretary on the development of national performance standards and the parameters of variations of such standards for programs conducted pursuant to this Act;

(5) evaluate the impact of tax policies on employment and training opportunities;

(6) examine and evaluate major Federal programs which are intended to, or potentially could, contribute to achieving major objectives of existing employment and training and related legislation or the objectives set forth in the recommendations of the Commission, and particular attention shall be given to the programs which are designed, or could be designed, to develop information and knowledge about employment and training problems through research and demonstration projects or to train personnel in fields (such as occupational counseling, guidance, and placement) which are vital to the success of employment and training programs;

(7)(A) identify, after consultation with the National Advisory Council on Vocational Education, the employment and training and vocational education needs of the Nation and assess the extent to which employment and training, vocational education, rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and

(B) comment, at least once annually, on the reports of the National Advisory Council on Vocational Education, which comments shall be included in one of the reports submitted by the National Commission pursuant to this title and in one of the reports submitted by the National Advisory Council on Vocational Education pursuant to section 162 of the Vocational Education Act of 1963;

(8) study and make recommendations on how, through policies and actions in the public and private sectors, the Nation can attain and maintain full employment, with special emphasis on the employment difficulties faced by the segments of the labor force that experience differentially high rates of unemployment;

(9) identify and assess the goals and needs of the Nation with respect to economic growth and work improvements, including conditions of employment, organizational effectiveness and efficiency, alternative working arrangements, and technological changes;

(10) evaluate the effectiveness of training provided with Federal funds in meeting emerging skill needs; and

(11) study and make recommendations on the use of advanced technology in the management and delivery of services and activities conducted under this Act.

ADMINISTRATIVE PROVISIONS

SEC. 474. (a) Subject to such rules and regulations as may be adopted by the Commission, the Chairman is authorized to—

(1) prescribe such rules and regulations as may be necessary;

(2) appoint and fix the compensation of such staff personnel as the Chairman deems necessary, and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and the General Schedule pay rates, appoint not to exceed five additional professional personnel;

(3) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code;

(4) accept voluntary and uncompensated services of professional personnel, consultants, and experts, notwithstanding any other provision of law;

(5) accept in the name of the United States and employ or dispose of gifts or bequests to carry out the functions of the Commission under this title;

(6) enter into contracts and make such other arrangements and modifications, as may be necessary;

(7) conduct such studies, hearings, research activities, demonstration projects, and other similar activities as the Commission deems necessary to enable the Commission to carry out its functions under this title;

(8) use the services, personnel, facilities, and information of any department, agency, and instrumentality of the executive branch of the Federal Government and the services, personnel, facilities, and information of State and local public agencies and private research agencies, with the consent of such agencies, with or without reimbursement therefor; and

(9) make advances, progress, and other payments necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529).

(b) Upon request made by the Chairman of the Commission, each department, agency, and instrumentality of the executive branch of the Federal Government is authorized and directed to make its services, personnel, facilities, and information (including computer-time, estimates, and statistics) available to the greatest practicable extent to the Commission in the performance of its functions under this Act.

REPORTS

SEC. 475. The Commission shall make at least annually a report of its findings and recommendations to the President and to the Congress. The Commission may make such interim reports or recommendations to the Congress, the President, the Secretary, or to the heads of other Federal departments and agencies, and in such form, as it may deem desirable. The Commission shall include in any report made under this section any minority or dissenting views submitted by any member of the Commission.

PART G—TRAINING TO FULFILL AFFIRMATIVE ACTION OBLIGATIONS

AFFIRMATIVE ACTION

SEC. 481. (a) A contractor subject to the affirmative action obligations of Executive Order 11246, as amended, issued September 24, 1965, may establish or participate in training programs pursuant to this section for individuals meeting the eligibility criteria established in sections 105(c)(1), 202(a)(1), and 212(a)(1), which are designed to assist such contractors in meeting the affirmative action obligations of such Executive order. To qualify under this section, such a training program shall contain—

(1) a description of the jobs in the contractor's work force or in the service delivery area, for which the contractor has determined there is a need for training;

(2) a description of the recruiting, training, or other functions that the contractor, or the organization that will be engaged to perform the training, will perform and the steps that will be taken to insure that eligible individuals will—

(A) be selected for participation in training,

(B) be trained in necessary skills, and

(C) be referred for job openings,

in accordance with the objectives of such Executive order;

(3) whenever an organization other than the contractor will perform the training, a description of the demonstrated effective-

ness of the organization as a provider of employment and training services;

(4) a description of how the contractor will monitor the program to keep an accurate accounting of all trainees, including (A) whether the trainees successfully complete the training program, and (B) whether the trainees are or are not placed; and

(5) an estimation of the cost of the program and an assurance that the contractor will assume all costs of the program or the pro rata share of costs to the contractor of the program.

(b)(1)(A) If the training proposal is designed to meet the needs of the community rather than, or in addition to, the employment needs of the contractor, and has not been approved by another Federal agency, the program shall be submitted to the private industry council established under section 103 for a determination that there is a need for such training in the community.

(B) Individuals trained under any program satisfying the requirements of this section may be included by the private industry council in its performance accomplishments and the wage gains of such individuals shall be included in determining the compliance of the job training program of the private industry council with applicable standards.

(2) The Director of the Office of Federal Contract Compliance Programs, Department of Labor, shall promulgate regulations setting forth how the Office will determine, during a compliance review, the degree to which a training program will satisfy the contractor's affirmative action obligations. The training and placement of trainees with employers other than the contractor may be considered in evaluating such contractor's overall good faith efforts, but in no event may placement of trainees with employers other than the contractor be permitted to affect that contractor's affirmative action obligations respecting its work force. The content of the training program will not be subject to review or regulation by the Office of Federal Contract Compliance Programs. If during a compliance review the Director of the Office of Federal Contract Compliance Programs determines that a training program does not comply with its regulations, the Director shall—

(A) notify the contractor of the disapproval,

(B) set forth the reasons for the disapproval, and

(C) provide a list of recommendations which, if accepted, will qualify the training program under this section.

(3) A contractor who has a training program which contains the criteria set forth in subsection (a) and which is in accordance with regulations promulgated under paragraph (2) of this subsection shall continue to meet the affirmative action obligations of Executive Order 11246, as amended, but the contractors required to maintain a written affirmative action program need only maintain an abbreviated affirmative action program, the content and length of which shall be determined by the Director of the Office of Federal Contract Compliance Programs, to satisfy the written affirmative action program portion of their obligations under Executive Order 11246, as amended. Successful performance or operation of a training program meeting the criteria set forth in subsection (a) shall create a presumption that the contractor has made a good faith effort to meet its affirmative action obligations to the degree specified by the Director under paragraph (2) of this subsection, but that presumption shall not be applicable to the satisfaction of other affirmative action obligations not directly related to the training and hiring requirements of this section, or other affirmative action obligations not affected by this section. For the purpose of the preceding sentence, "successful performance or operation" means training and placing in jobs a number of individuals which bears a reasonable relationship to the number of job openings in the contractors's facilities or in the relevant labor market area.

(c) Nothing in this section may be interpreted—

(1) to compel contractor involvement in such programs,

(2) to establish the exclusive criteria by which a contractor can be found to have fulfilled its affirmative action obligations,

(3) to provide authority for imposing any additional obligations on contractors not participating in such training activities,

(4) to permit the Office of Federal Contract Compliance Programs to intervene or interfere with the authority and responsibilities of the private industry councils,

(5) to restrict or limit the authority of the Secretary to investigate the employment practices of any Government contractor, to initiate such investigation by the Director, to determine whether any nondiscrimination contractual provisions have been violated, or to enforce Executive Order 11246, or

(6) to prohibit the Secretary or the Director, or other authorized officers of the United States, from requesting or compelling any contractor preparing and maintaining a short form affirmative action plan under subsection (b) to provide information necessary to conduct a compliance review or to provide data necessary to determine whether any violation of Executive Order 11246 has occurred.

TITLE V—MISCELLANEOUS PROVISIONS

AMENDMENTS TO THE WAGNER-PEYSER ACT

SEC. 501. (a) The Act of June 6, 1933, known as the Wagner-Peyser Act (29 U.S.C. 49 et seq.), is amended by striking out all that precedes section 4 of such Act and inserting in lieu thereof the following:

"SEC. 1. In order to promote the establishment and maintenance of a national system of public employment offices, the United States Employment Service shall be established and maintained within the Department of Labor.

"SEC. 2. For purposes of this Act—

"(1) the term 'chief elected official or officials' has the same meaning given that term under the Job Training Partnership Act;

"(2) the term 'private industry council' has the same meaning given that term under the Job Training Partnership Act;

"(3) the term 'Secretary' means the Secretary of Labor;

"(4) the term 'service delivery area' has the same meaning given that term under the Job Training Partnership Act; and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

"SEC. 3. (a) The United States Employment Service shall assist in coordinating the State public employment services throughout the country and in increasing their usefulness by developing and prescribing minimum standards of efficiency, assisting them in meeting problems peculiar to their localities, promoting uniformity in their administrative and statistical procedure, furnishing and publishing information as to opportunities for employment and other information of value in the operation of the system, and maintaining a system for clearing labor between the States.

"(b) It shall be the duty of the Secretary of Labor to assure that unemployment insurance and employment service offices in each State, as appropriate, upon request of a public agency administering or supervising the administration of a State plan approved under part A of title IV of the Social Security Act or of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of title IV of such Act, shall (and, notwithstanding any other provision of law, is authorized to) furnish to such agency making the request, from any data contained in the files of any such office, information with respect to any individual specified in the request as to (1) whether such individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received by such individual, (2) the current (or most recent) home address of such individual, and (3) whether such individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefor.".

(b) Section 5 of such Act is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State which—

"(1) except in the case of Guam, has an unemployment compensation law approved by the Secretary under the Federal Unemployment Tax Act and is found to be in compliance with section 303 of the Social Security Act, as amended,

"(2) is found to have coordinated the public employment services with the provision of unemployment insurance claimant services, and

"(3) is found to be in compliance with this Act,

such amounts as the Secretary determines to be necessary for allotment in accordance with section 6.

"(c)(1) Beginning with fiscal year 1985 and thereafter appropriations for any fiscal year for programs and activities assisted or conducted under this Act shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

"(2) Funds obligated for any program year may be expended by the State during that program year and the two succeeding program years and no amount shall be deobligated on account of a rate of expenditure which is consistent with the program plan.

"(3)(A) Appropriations for fiscal year 1984 shall be available both to fund activities for the period between October 1, 1983, and July 1, 1984, and for the program year beginning July 1, 1984.

"(B) There are authorized to be appropriated such additional sums as may be necessary to carry out the provisions of this paragraph for the transition to program year funding.".

(c) Such Act is amended by adding at the end of section 5 the following new sections:

"SEC. 6. (a) From the amounts appropriated pursuant to section 5 for each fiscal year, the Secretary shall first allot to Guam and the Virgin Islands an amount which, in relation to the total amount available for the fiscal year, is equal to the allotment percentage which each received of amounts available under this Act in fiscal year 1983.

"(b)(1) Subject to paragraphs (2), (3), and (4) of this subsection, the Secretary shall allot the remainder of the sums appropriated and certified pursuant to section 5 of this Act for each fiscal year among the States as follows:

"(A) two-thirds of such sums shall be allotted on the basis of the relative number of individuals in the civilian labor force in each

State as compared to the total number of such individuals in all States; and

"(B) one-third of such sums shall be allotted on the basis of the relative number of unemployed individuals in each State as compared to the total number of such individuals in all States.

For purposes of this paragraph, the number of individuals in the civilian labor force and the number of unemployed individuals shall be based on data for the most recent calendar year available, as determined by the Secretary of Labor.

"(2) No State's allotment under this section for any fiscal year shall be less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made. For the purpose of this section, the Secretary shall determine the allotment percentage for each State (including Guam and the Virgin Islands) for fiscal year 1984 which is the percentage that the State received under this Act for fiscal year 1983 of the total amounts available for payments to all States for such fiscal year. For each succeeding fiscal year, the allotment percentage for each such State shall be the percentage that the State received under this Act for the preceding fiscal year of the total amounts available for allotments for all States for such fiscal year.

"(3) For each fiscal year, no State shall receive a total allotment under paragraphs (1) and (2) which is less than 0.28 percent of the total amount available for allotments for all States.

"(4) The Secretary shall reserve such amount, not to exceed 3 percent of the sums available for allotments under this section for each fiscal year, as shall be necessary to assure that each State will have a total allotment under this section sufficient to provide staff and other resources necessary to carry out employment service activities and related administrative and support functions on a statewide basis.

"(5) The Secretary shall, not later than March 15 of fiscal year 1983 and each succeeding fiscal year, provide preliminary planning estimates and shall, not later than May 15 of each such fiscal year, provide final planning estimates, showing each State's projected allocation for the following year.

"SEC. 7. (a) Ninety percent of the sums allotted to each State pursuant to section 6 may be used—

"(1) for job search and placement services to job seekers including counseling, testing, occupational and labor market information, assessment, and referral to employers;

"(2) for appropriate recruitment services and special technical services for employers; and

"(3) for any of the following activities:

"(A) evaluation of programs;

"(B) developing linkages between services funded under this Act and related Federal or State legislation, including the provision of labor exchange services at education sites;

"(C) providing services for workers who have received notice of permanent layoff or impending layoff, or workers in occupations which are experiencing limited demand due to technological change, impact of imports, or plant closures;

"(D) developing and providing labor market and occupational information;

"(E) developing a management information system and compiling and analyzing reports therefrom; and

"(F) administering the work test for the State unemployment compensation system and providing job finding and placement services for unemployment insurance claimants.

"(b) Ten percent of the sums allotted to each State pursuant to section 6 shall be reserved for use in accordance with this subsection by the Governor of each such State to provide—

"(1) performance incentives for public employment service offices and program, consistent with performance standards established by the Secretary, taking into account direct or indirect placements (including those resulting from self-directed job search or group job search activities assisted by such offices or programs), wages on entered employment, retention, and other appropriate factors;

"(2) services for groups with special needs, carried our pursuant to joint agreements between the employment service and the appropriate private industry council and chief elected official or officials or other public agencies or private nonprofit organization; and

"(3) the extra costs of exemplary models for delivering services of the types described in subsection (a).

"(c) In addition to the services and activities otherwise authorized by this Act, the United States Employment Service or any State agency designated under this Act may perform such other services and activities as shall be specified in contracts for payment or reimbursement of the costs thereof made with the Secretary of Labor or with any Federal, State, or local public agency, or administrative entity under the Job Training Partnership Act, or private nonprofit organization.".

(d) Section 8 of such Act is amended—

(1) by striking out "Director" each place it appears and inserting in lieu thereof "Secretary of Labor";

(2) by designating the first sentence thereof as subsection (a);

(3) by designating the second and third sentences thereof as subsection (d);

(4) by designating the fourth sentence thereof as subsection (e); and

(5) by inserting after subsection (a) as amended by clause (1) of this subsection the following subsections:

"(b) Prior to submission of such plans to the Secretary—

"(1) the employment service shall develop jointly with each appropriate private industry council and chief elected official or officials for the service delivery area (designated under the Job Training Partnership Act) those components of such plans applicable to such area;

"(2) such plans shall be developed taking into consideration proposals developed jointly by the appropriate private industry council and chief elected official or officials in the service delivery area affected;

"(3) such plans, shall be transmitted to the State job training coordinating council (established under such Act) which shall certify such plans if it determines (A) that the components of such plans have been jointly agreed to by the employment service and appropriate private industry council and chief elected official or officials; and (B) that such plans are consistent with the Governor's coordination and special services plan under the Job Training Partnership Act;

"(4) if the State job training coordinating council does not certify that such plans meet the requirements of clauses (A) and (B) of paragraph (3), such plans shall be returned to the employment service for a period of thirty days for it to consider, jointly with the appropriate private industry council and chief elected official or officials, the council's recommendations for modifying such plans; and

"(5) if the employment services and the appropriate private industry council and the chief elected official or officials fail to reach agreement upon such components of such plans to be submitted finally to the Secretary, such plans submitted by the State agency shall be accompanied by such proposed modifications as may be recommended by any appropriated disagreeing private industry council and chief elected official or officials affected, and the State job training coordinating council shall transmit to the Secretary its recommendations for resolution thereof.

"(c) The Governor of the State shall be afforded the opportunity to review and transmit to the Secretary proposed modifications of such plans submitted.";

(e) Section 9 of such Act is amended to read as follows:

"SEC. 9. (a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under this Act. The Director of the Office of Management and Budget, in consultation with the Comptroller General of the United States, shall establish guidance for the proper performance of audits. Such guidance shall include a review of fiscal controls and fund accounting procedures established by States under this section.

"(2) At least once every two years, the State shall prepare or have prepared an independent financial and compliance audit of funds received under this Act.

"(3) Each audit shall be conducted in accordance with applicable auditing standards set forth in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States.

"(b)(1) The Comptroller General of the United States shall evaluate the expenditures by States of funds received under this Act in order to assure that expenditures are consistent with the provisions of this Act and to determine the effectiveness of the State in accomplishing the proposes of this Act. The Comptroller General shall conduct evaluations whenever determined necessary and shall periodically report to the Congress on the findings of such evaluations.

"(2) Nothing in this Act shall be deemed to relieve the Inspector General of the Department of Labor of his responsibilities under the Inspector General Act.

"(3) For the purpose of evaluating and reviewing programs established or provided for by this Act, the Comptroller General shall have access to and the right to copy any books, accounts, records, correspondence, or other documents pertinent to such programs that are in the possession, custody, or control of the State.

"(c) Each State shall repay to the United States amounts found not to have been expended in accordance with this Act. No such finding shall be made except after notice and opportunity for a fair hearing. The Secretary may offset such amounts against any other amount to which the recipient is or may be entitled under this Act.".

(f) Section 10 of such Act is amended to read as follows:

"SEC. 10. (a) Each State shall keep records that are sufficient to permit the preparation of reports required by this Act and to permit the tracing of funds to a level of expenditure adequate to insure that the funds have not been spent unlawfully.

"(b)(1) The Secretary may investigate such facts, conditions, practices, or other matters which the Secretary finds necessary to determine whether any State receiving funds under this Act or any official of such State has violated any provision of this Act.

"(2)(A) In order to evaluate compliance with the provisions of this Act, the Secretary

shall conduct investigations of the use of funds received by States under this Act.

"(B) In order to insure compliance with the provisions of this Act, the Comptroller General of the United States may conduct investigations of the use of funds received under this Act by any State.

"(3) In conducting any investigation under this Act, the Secretary or the Comptroller General of the United States may not request new compilation of information not readily available to such State.

"(c) Each State receiving funds under this Act shall—

"(1) make such reports concerning its operations and expenditures in such form and containing such information as shall be prescribed by the Secretary, and

"(2) establish and maintain a management information system in accordance with guidelines established by the Secretary designed to facilitate the compilation and analysis of programmatic and financial data necessary for reporting, monitoring, and evaluating purposes.".

(g) Section 11(a) of such Act is amended by adding at the end thereof the following new sentence: "Nothing in this section shall be construed to prohibit the Governor from carrying out functions of such State advisory council through the State job training coordinating council in accordance with section 122(c) of the Job Training Partnership Act.".

(h) Such Act is amended by adding at the end thereof the following new sections:

"SEC. 13. (a) The Secretary is authorized to establish performance standards for activities under this Act which shall take into account the differences in priorities reflected in State plans.

"(b) Nothing in this Act shall be construed to prohibit the referral of any applicant to private agencies as long as the applicant is not charged a fee.

"SEC. 14. There are authorized to be appropriated such sums as may be necessary to enable the Secretary to provide funds through reimburseable agreements with the States to operate statistical programs which are essential for development of estimates of the gross national product and other national statistical series, including those related to employment and unemployment.

"SEC. 15. This Act may be cited as the 'Wagner-Peyser Act'.".

AMENDMENTS TO PART C OF TITLE IV OF THE SOCIAL SECURITY ACT

SEC. 502. (a) Section 432(d) of such Act is amended to read as follows:

"(d) In providing the training and employment services and opportunities required by this part, the Secretary of Labor shall, to the maximum extent feasible, assure that such services and opportunities are provided by using all authority available under this or any other Act. In order to assure that the services and opportunities so required are provided, the Secretary of Labor (1) shall assure, when appropriate, that registrants under this part are referred for training and employment services under the Job Training Partnership Act, and (2) may use the funds appropriated under this part to provide programs required by this part through such other Acts to the same extent and under the same conditions (except as regards the Federal matching percentage) as if appropriated under such other Act and, in making use of the programs of other Federal, State, or local agencies (public or private), the Secretary of Labor may reimburse such agencies for services rendered to individuals under this part to the extent that such services and opportunities are not otherwise available on a nonreimbursable basis.".

(b)(1) Section 432(f) of such Act is amended—

(A) by amending paragraph (1) to read as follows:

"(f)(1) The Secretary of Labor shall utilize the services of each private industry council (as established under the Job Training Partnership Act) to identify and provide advice on the types of jobs available or likely to become available in the service delivery area of such council.";

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) by striking out "Labor Market Advisory Council" in such paragraph and inserting in lieu thereof "private industry council".

(2) Section 433(b)(2) of such Act is amended by striking out "Labor Market Advisory Council (established pursuant to section 432(f))" and inserting in lieu thereof "private industry council under the Job Training Partnership Act".

(c)(1) Section 432(b)(1)(A) of such act is amended by inserting before the comma at the end thereof the following: ", which may include intensive job search services, including participation in group job search activities".

(2) Section 433(a) of such Act is amended by striking out "unemployed fathers" and inserting in lieu thereof "unemployed parents who are the principal earners (as defined in section 407)".

(3) Section 433 of such Act is amended by adding at the end thereof the following new subsection:

"(i) In planning for activities under this section, the chief executive officer of each State shall make every effort to coordinate such activities with activities provided by the appropriate private industry council and chief elected official or officials under the Job Training Partnership Act.".

EARNINGS DISREGARD

SEC. 503. (a) Section 402(a)(8)(A) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (iii);

(2) in clause (iv), by striking out "already disregarded under the preceding provisions of this paragraph" and inserting in lieu thereof "disregarded under any other clause of this subparagraph"; and

(3) by adding at the end thereof the following new clause:

"(v) may disregard the income of any dependent child applying for or receiving aid to families with dependent children which is derived from a program carried out under the Job Training Partnership Act (as originally enacted), but only in such amounts, and for such period of time (not to exceed six months with respect to earned income) as the Secretary may provide in regulations; and".

(b) Section 402(a)(18) of such Act is amended by inserting ", other than paragraph (8)(A)(v)" after "without application of paragraph (8)".

ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

SEC. 504. The Secretary shall insure that each individual participating in any program established under this Act, or receiving any assistance or benefit under this Act, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not persenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary in carrying out this section.

And the House agree to the same.

That the House recede from its amendment to the title of the Senate bill.

CARL D. PERKINS,
AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
WILLIAM CLAY,
MARIO BIAGGI,
PAUL SIMON,
BALTASAR CORRADA,
HAROLD WASHINGTON,
JOHN N. ERLENBORN,
JAMES M. JEFFORDS,
THOMAS E. PETRI,
MILLICENT FENWICK,
LAWRENCE J. DENARDIS,
Managers on the Part of the House.

ORRIN G. HATCH,
DAN QUAYLE,
PAULA HAWKINS,
EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2036) to provide for a job training program and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The title of the Senate bill is the "Training for Jobs Act."

The title of the House amendment is the "Job Training Partnership Act."

The Senate recedes.

The purpose of the Senate bill is to establish job training programs which emphasize private sector involvement, State and local planning and operation, training rather than income maintenance, and performance rather than process.

The purpose of the House amendment is to increase productivity by improving skills, and preparing youth and unskilled adults for entry into the labor force, enhance skills of unemployed and underemployed and to establish a community-based employment and training system built on a partnership between State and local governments and the private sector.

The conference agreement consolidates and simplifies the statement of purpose.

The House amendment has a separate statement of purpose for Title II.

The Senate bill has no comparable provision.

The House recedes.

The Senate bill defines the following terms: artificial barriers to employment, long-term unemployed, offender, private sector, recipient, subrecipient, supportive services, veteran of the Vietnam era, and youth.

The House amendment does not define these terms.

The House amendment defines the following terms: academic credit, area of substantial unemployment, designated enterprise

zone, economic development organizations and agencies, Federal employment-related programs, institutions of higher education, labor market area, local educational agency, low-income level, post-secondary institutions, public assistance, State educational agency, veteran, vocational education.

The Senate bill does not define these terms.

The conference agreement conforms to the bill those definitions that are applicable to the final version.

The Senate bill provides a list of organizations which qualify as community based organizations.

The House amendment does not.

The House recedes.

The House defines economically disadvantaged to include families whose incomes would have qualified them for cash welfare payments during the six-month period prior to application for the program involved.

The Senate bill does not.

The House recedes.

The Senate bill excludes child support payments for purposes of determining family income.

The House amendment does not.

The House recedes.

The Senate bill specifies that all Food Stamp recipients are economically disadvantaged.

The House amendment has no comparable provision.

The House recedes.

The House amendment defines economically disadvantaged to include foster children on behalf of whom State or local government payments are made.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment specifies that, for purposes of qualifying as economically disadvantaged, handicapped individuals who individually meet the income standards may qualify, regardless of family income.

The Senate bill has no comparable provision.

The Senate recedes with an amendment to change "handicapped individuals" to "handicapped adults."

The Senate bill provides that 5 percent of the amount appropriated for Titles I to III and the Job Corps shall be allotted among the States and be available to the Governor for costs of auditing and administration of Statewide programs.

The House amendment provides that 10 percent of the funds appropriated for Title II shall be available for the Governor's coordination and special services plan, for the State employment and training coordinating council, and for coordinating employment-related education and training programs.

The House recedes with an amendment to conform to the fund allocations in the bill.

The Senate bill provides that 2 percent of the funds allotted shall be allotted to the Commonwealth of Puerto Rico and not more than $5 million among the off-shore territories.

The House amendment uses its basic distribution formula for these areas.

The Conference agreement provides that Puerto Rico shall be considered as a State and reserves not more than $5 million for the off-shore territories.

The Senate bill distributes 50 percent of funds among the States on the basis of the relative number of long-term unemployed and 50 percent of the relative number of economically disadvantaged persons in the labor force.

The House amendment distributes 25 percent of funds among the States on the basis of the relative number of unemployed persons; 25 percent on the basis of the relative number of persons in excess of 4.5 percent of the civilian labor force either within the State or within areas of substantial unemployment in the State; 25 percent on the basis of the number of unemployed persons residing in areas of substantial unemployment; and 25 percent on the basis of relative numbers of adults in families below the low income level.

The Conference agreement provides for distributing one-third of the funds among the States on the basis of the number of persons living in areas of substantial unemployment, one-third on the basis of the relative number of unemployed persons in excess of 4.5 percent of the civilian labor force residing in each State, and one-third on the basis of the relative number of economically disadvantaged within the State.

The Senate bill provides for a minimum allocation of 0.25 percent for any State.

The House amendment has no comparable provision.

The House recedes.

The Senate bill provides for a 90 percent hold-harmless of the share received by any State in the previous year.

The House amendment has no comparable provision.

The House recedes.

The Senate bill provides that 84 percent of the sums allotted to each State shall be sub-allocated to serve delivery areas on the basis of the relative number of economically disadvantaged persons within the service delivery area.

The House amendment provides that suballocations to prime sponsors be made on the same basis as the allocation to the States.

The Conference agreement provides that 78 percent of the sums allocated to each State will be sub-allocated to service delivery areas on the same basis as the allocation to the States.

The Senate bill provides that 3 percent of the funds allotted to the State shall be used for training programs for older persons.

The House amendment has no comparable provision.

The House recedes.

The Senate bill provides that 5 percent of the funds allotted to the State shall be used by the Governor to provide incentive funding for programs exceeding performance criteria.

The House amendment provides that the Secretary shall allocate 5 percent of the amount appropriated for any fiscal year after 1983 to prime sponsors that meet or exceed their performance goals. These incentive funds shall be distributed among prime sponsors meeting these goals in accordance with their basic allocation formula.

The House recedes with an amendment to require Governors to award incentive bonuses in equitable proportion to the degree by which service delivery areas exceed their performance criteria. If no service delivery areas exceed performance criteria, Governors must use these funds for technical assistance to service delivery areas.

The House amendment provides that 5 percent of the funds appropriated for fiscal year 1983 shall be made available to prime sponsors for planning grants and a portion of such funds shall be made available to the Private Industry Council to hire staff.

The Senate bill has no comparable provisions.

The Conference agreement authorizes the Secretary to make grants to PIC's not to exceed $80,000 out of fiscal year 1983 discretionary funds. Fiscal year 1983 formula funds may be used by local governments for planning.

The House amendment provides that 4 percent of the funds available for fiscal year 1984 and thereafter shall be allocated among prime sponsors who raise an equal amount in matching sources from non-Federal funds.

The Senate bill has no comparable provision.

The House recedes.

The House amendment provides that the amounts available for matching grants shall be allocated among prime sponsors in proportion to their basic fund allocation.

The Senate bill has no comparable provision.

The House recedes.

The House amendment provides that 2 percent of the funds shall be allocated by the Secretary among prime sponsors which are consortia in proportion to the basic grants received by such sponsors.

The Senate bill has no comparable provision.

The House recedes.

The House amendment provides that 4 percent of the amount appropriated for fiscal year 1983 shall be made available in order to encourage the formation of consortia which serve substantial portions of labor market areas.

The Senate bill has no comparable provision.

The House recedes.

The Senate bill requires the Secretary to make allotments within 45 days of the date of any appropriation.

The House amendment requires funds to be allocated within 30 days of the appropriation, except for advance funding which shall be allocated no later than March 31.

The House recedes with an amendment requiring allotment within 45 days or by March 31 for appropriations for a program year.

SERVICE DELIVERY AREAS

The Senate bill provides that the Governors shall publish tentative service delivery areas for the State which will meet guidelines specified in the Act. Comments on such tenative areas shall be submitted by interested parties and the Governor will designate final areas after considering such comment. The Governor is required to approve any request from units of local government with a population of 500,000 or more to be a service delivery area and also shall approve any request to be a service delivery area filed jointly by a unit of local government with a population of 250,000 or more and representative business organizations in that local area.

The Governor shall also approve any request which is filed jointly by units of local government and representative business organizations unless the Governor makes specific findings of fact why such units should not be an independent service delivery area. If the Governor denies a request jointly filed by units of general local government and representative business organizations, an appeal may be made to the Secretary.

The House amendment defines prime sponsor (the jurisdiction which is a service delivery area) to be a State; a unit of general local government with a population of 150,000 or more or any consortium of units of general local government which includes such a unit; any consortium of units of local government which have an aggregate population of 150,000 or more and which include a unit which was previously a prime sponsor; any unit of general local government or consortium of such units, regardless of population, which demonstrates that it serves a substantial portion of a labor market and that no eligible unit of government has sub-

mitted an approvable plan for a substantial part of such a labor market area; and any existing concentrated employment program. A prime sponsor under CETA is also eligible for fiscal years 1983 through 1988.

The State qualifies as a prime sponsor for any geographic area which is not within the jurisdiction of any prime sponsor which is a unit or consortium of local governments. The Governor is required to divide the balance of State area into one or more service delivery areas, upon consultation with units of local government within the area.

The Conference agreement provides for the Governor's designation of service delivery areas for the entire state, but provides that the Governor must approve requests filed by local government jurisdictions of 200,000 or more in population, a consortium of local jurisdictions whose populations together are at least 200,000, and rural Consolidated Employment Programs (CEP's). It should be clear, however, that no local jurisdiction is obliged to become a service delivery area even if it is eligible to be so designated. The agreement permits the Governor to approve requests of local jurisdictions, or a consortium of jurisdictions, regardless of population, to be service delivery areas if it is determined that this area represents a substantial portion of the labor market area. Further, the Governor may designate the entire state as a service delivery area where no jurisdiction files a request to be a service delivery area requiring approval. The conferees intend that a subcommittee of the State Job Training Coordinating Council, which meets the standards set for service delivery area private industry councils (PIC's) may be appointed to perform the functions outlined for the local PIC's for the whole state service area. The conferees note that the whole state service delivery area arrangement has worked well in several states. The conferees encourage the Governors to designate service delivery areas to correspond with labor market areas and/or to coordinate with other federal or state program boundaries. It is not intended that the Job Training Partnership Act should establish an arbitrary design of new substate jurisdictions which will not enhance services to citizens. The conferees agree that the Governor should be allowed to structure the service delivery areas in the state to enhance coordination to serve labor market areas and increase the effectiveness of the job training services.

It is also the belief of the conferees, however, that the expertise of local governments not be lost, nor should the population areas become so large as to create an unwieldy delivery system. The conferees, therefore, have provided for the automatic designation of single units of local government of 200,000 or more and consortia of 200,000 or more. These population thresholds are intended to reduce the overall number of administrative units without compromising effective service.

The House amendment provides that applicants to be prime sponsors shall submit applications to the Secretary for designation for a 2-year period, and that the Secretary shall designate such applicants unless they do not qualify under the above criteria.

The Senate bill has no comparable provision.

The Senate recedes with an amendment to conform to the conference agreement on service delivery area designation.

The House amendment provides that in order for two or more previously designated prime sponsors, which are located in a single labor market area, to remain eligible to be designated, such prime sponsors shall establish a joint Private Industry Council which shall serve an area with a population of at least 150,000 or which is a substantial portion of a labor market area. The Private Industry Council shall be appointed by the prime sponsors, with each prime sponsor having representation proportional to its population.

The Senate bill has no comparable provision (but see Sec. 103(f) on page 70).

The House recedes.

The Senate provides that no change in service delivery area may be made later than 4 months before the beginning of the program year or within 2 years of a previous revision.

The House amendment has no comparable provision.

The House recedes.

The Senate bill provides that the Governor shall annually prepare a statement of goals and objectives to guide local planning under this Act and the Wagner-Peyser Act.

The House amendment has no comparable provisions.

The House recedes with an amendment to change "guide" to "assist."

PRIVATE INDUSTRY COUNCIL/LOCAL GOVERNMENT ROLES

The Senate bill provides that the Chairman of the Council shall be a representative of the private sector.

The House amendment provides that the initial chairman of the Council shall be from the private sector.

The Senate bill provides that the Private Industry Council shall prepare the program plan.

The House amendment provides that the Private Industry Council shall have joint responsibility with the prime sponsor for planning activities under the Act.

The Senate bill provides that the PIC shall certify training institutions.

The House amendment provides that no funds may be expended except by joint agreement of the prime sponsor and the PIC.

The Senate bill provides that the plan shall identify the entity which will administer the program and be the sub-recipient of funds from the State.

The House amendment provides that the plan will designate the entity to administer the programs and services and that entity may be a non-profit corporation or may utilize government employees as administrative and planning staff.

The Senate bill sets forth criteria for the selection of the entity to be the grant recipient, including the ability to administer employment and training services, capacity to administer funds and the ability to provide adequate safeguards.

The Senate bill provides that the plan shall be submitted to the Governor jointly by the Private Industry Council and the chief elected official in the service delivery area or their representative if there is more than one such official in the area. If the official does not agree with any or all of the plan, the Private Industry Council shall reconsider the plan. If the disagreement is not resolved after mediation by the Governor, the Governor shall resolve the differences.

The House amendment provides that the plan be developed with the participation of the PIC and be submitted with the approval of the majority of the PIC. If the prime sponsor and the PIC fail to concur on the submission of the plan and the Secretary is unable to resolve the disagreement or the plan is not approved by the Secretary, the Secretary may designate the State or another alternative prime sponsor in the State to develop a plan for the area normally served by the prime sponsor. Any plan submitted by the alternative prime sponsor shall be developed with the participation of and submitted with the approval of the majority of the PIC for that alternate prime sponsor. In the event that no alternate prime sponsor submits such a plan, the Secretary may develop a plan directly or through another appropriate public or private non-profit agency in the area.

The conference agreement is based on the testimony of all parties that an effective job training program requires a true partnership between business and local government. The agreement is designed to achieve that goal.

Business role

The agreement provides that after the PIC is certified by the Governor it shall be eligible to receive a grant of up to $80,000 to enable it to prepare for its responsibilities under the Act and to meet necessary startup costs. The responsibility of the PIC is to provide policy guidance for and exercise oversight over the job training programs in the area in partnership with the local government or governments in the area.

The conferees anticipate a process along the following lines. After the PIC is certified and has its first meeting convened by the chief elected official, it will elect its chairman, provide for operational rules, and select necessary staff to assist it in determining how to exercise its functions. After the PIC has had an opportunity to review the operation of current training programs in the area and to formulate its general policy positions, it will then enter into negotiations with the appropriate local government officials for the agreements specified in the bill. The first such subject of negotiations will concern the method for developing the plan, which may be an agreement to have the PIC or the local government or such other method or institutions specified in the agreement prepare the plan. Further, either as part of the same agreement or in a later one, the PIC and local governments will decide on the grant recipient and administrator of programs in the area. The conference agreement makes plain that these may be the same or separate entities and that either or both may be the PIC, the local government or any other entity or entities provided in the agreement.

The conference agreement also specifies that the PIC may engage in oversight activities and that such activities are not circumscribed by agreements with the local government. Oversight is defined as review, evaluation and monitoring and specifically does not include taking administrative actions—such as termination of contracts—on the basis of oversight findings. In authorizing the Private Industry Council to conduct oversight of program activities, the conferees do not intend to preclude oversight functions also being carried out by local governments. Clearly, local elected officials have a continuing need to know about the efficacy of programs operating in their jurisdictions and may conduct such oversight as they deem necessary.

The agreement also specifies that the PIC shall, in accordance with the plan, prepare and approve a budget for itself, that it may hire staff and that the decision on whether to incorporate is a matter for the sole determination of the PIC.

Appropriate chief elected official

The conference agreement provides that the PIC enter into agreement or agreements with the "appropriate chief elected official." This is self explanatory in the case of a service delivery area comprised of a single jurisdiction; in the case of a multi-jurisdictional area, it is defined as such representative or representatives as are agreed upon by the chief elected officials in the jurisdic-

tions in the area. The conferees anticipate that such officials will be able to agree on one, or at the most, a few such designated representatives in order to facilitate the reaching of the agreements required by the Act.

Plan Submission

The agreement specifies that the plan must be approved by both the PIC and the local elected official or officials and that both must submit the plan to the Governor for approval.

Failure to reach agreement

The need for locally arrived at agreements between the private and public sector is the fundamental premise of this Act. In the remote eventuality that such agreements cannot be reached, it would be impossible to submit a plan and residents of the area could not be served. The conferees do not intend that disadvantaged individuals should be penalized by lack of training opportunities because public and private sector representatives cannot reach agreements. The conferees have, therefore, provided that either party may request the Governor to mediate, and, if no agreement can be reached within an existing service delivery area, the area will be merged into a larger area or subdivided among other areas to that the public and private sector in the new area or areas can have the opportunity to reach the necessary agreements. Such revised areas may be designated without regard to the timetables or other constraints that otherwise apply to service delivery area designation. In providing for this recourse in the event that there is no agreement, the conferees were guided by the principle that there should be no incentive to either party not to reach agreement. The conferees understand that this redesignation may be disruptive to the existing service delivery areas which are affected by the redesignation and strongly urge all parties to use their best efforts to see that this provision need never be utilized.

The Senate bill provides for representatives of units of general local government on the Private Industry Council.

The House amendment does not.

The conference agreement does not include representatives of local government on the Private Industry Council.

The House amendment specifies that rehabilitation agencies shall be represented on the Council.

The Senate bill includes such representatives through the definition of community based organization.

The conference agreement includes rehabilitation agencies on the Council.

The Senate bill specifies that representatives of the private sector shall be persons with substantial management or policy responsibility.

The House amendment has no comparable provisions.

The conference agreement provides that private sector representatives shall be chief executives or chief operating officers or other executives. The conferees intend that the private sector representatives should be influential business leaders in the community.

The Senate bill provides that private sector representatives shall be nominated by general purpose business organizations.

The House amendment provides that they shall be appointed from among individuals recommended by local business organizations.

The Senate amendment provides that private sector representatives shall include representation from small business.

The House amendment provides that, wherever possible, at least ½ of the business representatives shall be representative of small business, including minority business.

The conference agreement provides that private sector representatives shall be nominated by general purpose business organizations. The intent of the conference language is to assure a single slate of nominations which reflects the recommendations of the various business organizations in the community. The agreement requires that the number of nominations be 150 percent of the number of openings for business representatives on the Council in order to assure that the local elected official or officials will have a real choice in the selection of such representatives.

The conferees note that some communities may have locally established business organizations which meet the criteria of general purpose business organizations in the Act. Where there is more than one general purpose organization in the community, they shall coordinate their recommendations.

The Senate bill provides that education representatives shall be nominated by education organizations.

The House amendment provides that all members appointed to the PIC shall be recommended by appropriate organizations.

The House recedes with an amendment to substitute "recommended" for "nominated", to strike the term "general organization" as it applies in this paragraph and to add vocational institutions to the education representatives on the council.

The House amendment provides that the membership of the Council shall reasonably represent the population of the area served.

The Senate bill has no comparable provision.

The conference agreement provides that the nominations and the membership of private sector representatives on the council shall reasonably represent the demographic and industrial composition of the business community.

The Senate bill provides that PIC members shall be appointed by officials of local government with prior experience in administering job training programs, in accordance with an agreement among the units of general local government within the service delivery area.

The House amendment provides that the PIC shall be appointed by the prime sponsor.

The House recedes.

The Senate bill provides that PIC members may be replaced only with the concurrence of the nominating and appointing authorities or in accordance with the by-laws of the PIC.

The House amendment provides that members shall be appointed for fixed terms and serve until their successors are appointed. The prime sponsor may not dissolve the council or remove members of the PIC except for cause and vacancies shall be filled in the same manner as the original appointment.

The conference agreement provides that members shall be appointed for fixed and staggered terms and that any member may be removed for cause in accordance with procedures established by the Council.

The Senate bill provides that the number of members of the PIC shall be determined by agreement of the officials in the units of general local government in the area and in the absence of such agreement by the Governor.

The House amendment, in effect, provides that the number shall be determined by the prime sponsor.

The conference agreement provides that the initial number of members shall be determined by the chief elected official or officials in the area, or in the absence of agreement among such officials, by the governor, and that thereafter the number of members shall be determined by the council.

The Senate bill provides that the Governor shall certify a Private Industry Council when it meets the requirements of the Act.

The House bill has no comparable provisions.

The House recedes.

The House amendment provides that a PIC Council which serves the same area under Title VII of CETA may be designated to serve as the PIC for purposes of this Act.

The Senate bill has no comparable provisions.

The House recedes.

The House amendment provides that a PIC established for this Act shall be eligible to be designated as a planning council for other employment and training programs, operated within designated enterprise zones.

The Senate bill has no comparable provision.

The Senate recedes.

JOB TRAINING PLAN

The Senate bill requires the plan to contain a description of services and programs within the area.

The House amendment has a similar provision, but sets forth requirements for labor market and demographic analyses to be contained in the plan.

The House recedes but the conferees expect that such analyses will be used as a basis for planning. Further, in the case of a consortium, the conferees would like to stress that planning and implementation of the service area plan be done on an integrated basis. The various local jurisdictions comprising a consortium should not divide the available resources to act independently. It is a responsibility of the PIC and local elected officials to ensure that the needs of all parts of the service delivery area are addressed equitably.

The House amendment requires a description of training and employment services provided, including estimated costs per participant and related information.

The Senate bill has no comparable provisions.

The Senate recedes with an amendment to clarify that the costs to be estimated are training costs per participant.

The Senate bill requires procedures for selecting service providers which take into account past performance, fiscal accountability, ability to meet performance standards and which afford an opportunity to appropriate education agencies to provide educational services.

The House amendment requires procedures to select service providers of demonstrated effectiveness unless there is a substantial justification that specific services can be carried out more effectively by the administrative entity; and a statement of the methods and criteria for selection of service providers which provide proper consideration for community based organizations. The House amendment also provides that education agencies be given an opportunity to provide education services unless the prime sponsor can demonstrate that alternative agencies would be more effective or would have greater potential to enhance the participants' continued occupation and career growth.

The Senate recedes with amendment to consolidate language on selection of service providers and not to restrict the definition of "effectiveness" to cost exclusively.

It is the intention of the conferees that in determining "effectiveness", consideration be given to the ability of the service deliver-

er to meet performance goals, the characteristics of participants served, and cost and quality of training provided. Additionally, the conferees intend that the criteria for selection of service deliverers apply to the administrative entity in selecting itself as a deliverer of services.

The House amendment requires assurances that arrangements with employers which include training both at the worksite and in the classroom will provide for agreement on the length of time to be spent in the classroom and at the worksite.

The Senate bill has no comparable provision.

The House recedes.

The House amendment provides for a description of the arrangements for the active involvement of State and local education agencies, public assistance agencies, rehabilitation agencies, economic development organizations and the Employment Service in the delivery of services.

The Senate bill has no comparable provisions.

The House recedes.

The House amendment requires a description of the procedure to consider previously funded agencies which were cost-effective.

The Senate bill has no comparable provision.

The House recedes.

The Senate bill requires a statement of the budget for the program year and any proposed expenditures for the succeeding two program years.

The House amendment provides for a description of the use of funds which will be retained from funds for one fiscal year for use in the succeeding year.

The House recedes.

The Senate bill provides for a statement on expected performance accomplishment in comparison with the previous program year.

The House amendment requires a statement of performance goals established by the prime sponsors which meet the performance standards applicable to the prime sponsor or are the best reasonable attainable goals given local economic conditions, the characteristics of the population to be served and types of services to be provided.

The House recedes.

The Senate bill provides for a statement on fiscal control, accounting, auditing and debt collection procedures.

The House amendment requires a description of record keeping procedures and procedures for monitoring and auditing subgrantees.

The House recedes.

The Senate bill requires a statement on the amount spent on supportive services and, if such amount is in excess of 15 percent, a justification for why such expenditures are necessary.

The House amendment has no comparable provision.

The House recedes with an amendment to require budget to show compliance with Secretary on cost limitation.

The Senate bill requires a report in the plan on activities conducted in the previous program year.

The House amendment has no comparable provision.

The House recedes with an amendment that the plan contain provisions for submitting an annual report.

The House amendment requires assurances that the prime sponsor will comply with the requirement of the Act and of State laws applicable to its activities.

The Senate bill has no comparable provisions.

The House recedes.

The House amendment requires a description of methods of coordinating programs under this Act with related programs.

The Senate bill has no comparable provision.

The Senate recedes with an amendment to mandate coordination in accordance with the Governor's coordination and special services plan.

The House amendment provides for a biennial community job training plan.

The Senate bill provides for an annual plan.

The Senate recedes with an amendment to change biennial to two-program year job training plan.

The Senate bill provides that the PIC shall propose a plan 120 days before the beginning of the program year and provide interested parties an opportunity to comment. The final plan shall be published not later than 80 days before the program year.

The House amendment provides that the prime sponsor shall, 90 days before its biennial plan is submitted to the Secretary, transmit such plan to the PIC, and make such plan available for review and comment to each house of the State legislature, appropriate units of general local government, appropriate education agencies and labor organizations and make the plan reasonably available to the general public.

The Conference agreement retains the time schedule in the Senate bill and other provisions are covered in the Conference agreement on the PIC/local government role.

The House amendment provides for modification of plans to be submitted upon changes in the labor market conditions, funding or other factors.

The Senate bill has no comparable provision.

The Senate recedes.

PLAN APPROVAL

The Senate bill provides that the Governor shall disapprove the plan if he finds that it will not meet performance criteria, effectively serve the economically disadvantaged, does not provide for correction of previous deficiencies, the entity proposed to administer the program does not have the capacity to administer the funds or provide for the protection of funds, there is not equality of access to service for all segments of the disadvantaged community or the plan otherwise fails to carry out the purposes of the Act.

The House amendment provides that the plan shall be reviewed by the State Employment and Training Coordinating Council to determine if the plan is consistent with the Governor's coordination and special services plan and that it shall be returned to the prime sponsor for reconsideration, if not.

Both the recommendations of the coordinating council and the comments of the Governor shall be submitted to the Secretary before the Secretary makes a decision.

The Secretary reviews each plan to determine whether it meets the requirements of the Act, has been approved by the private industry council and whether the performance goals comply with the Act and are adequate and reasonable with respect to the local economic conditions and the purposes of the plan. In determining whether to approve the plan, the Secretary shall take into account the recommendation of the coordinating council and any modification of the plan proposed by the Governor. If the Secretary does not accept such recommendations or modifications, the Secretary shall notify the Governor in writing of the reasons for his decision.

The House amendment provides that the Secretary may disapprove all or any portion of a plan if he determines the use of funds for a subgrant are grossly inefficient or fail to carry out the purposes of the Act, but may not disapprove a portion of a plan solely on the basis of the type or duration of training proposed.

The Senate bill has no comparable provision.

The House amendment provides that the prime sponsor shall have thirty days in order to remedy any defect found in a plan. If the Secretary disapproves a plan a notice of disapproval is transmitted to the prime sponsor, the PIC, and the Governor accompanied by a statement of reasons for the disapproval. No disapproval shall be made without affording an opportunity for a hearing.

The Senate bill has no comparable provision.

The Senate bill provides that any disapproval by the Governor shall be made within 30 days after the plan is submitted. Any disapproval by the Governor may be appealed jointly by the Private Industry Council and the local elected officials to the Secretary.

The House amendment has no comparable provision.

The Conference agreement provides that the plan for each service delivery area shall be submitted to the Governor for approval.

The Governor must approve the plan unless he finds, on the basis of identifiable evidence, that the plan does not meet one or more of five express criteria:

First, in the event that past deficiencies exist which have been substantiated through audits or program evaluations, or where objective measurements of performance have disclosed a failure to meet performance standards, corrective measures have not been taken or are not acceptably underway;

Second, if the entity proposed to administer the program will not actually have sufficient capacity to administer the funds;

Third, if the safeguards for the protection of funds contained in the plan are inadequate;

Fourth, if it can be clearly demonstrated that one or more specific elements of the plan violate one or more specific provisions of the Act or the regulations issued by the Secretary in accordance therewith;

Fifth, if those provisions of the plan concerning coordination of local activities funded under this Act with related program activities do not comply with the criteria established in the Governor's Coordination and Special Services Plan.

In the event the Governor does disapprove the plan on the basis of one or more of these specific criteria, such disapproval must be made within thirty days after the date on which the plan was submitted, or forty-five days after such date in the event a petition for disapproval was properly filed by interested parties. Any disapproval of a plan by the Governor may be appealed to the Secretary of Labor, who shall render a final decision on the appeal within forty-five days after receipt of such appeal.

Interested parties may petition the Governor within 15 days of plan submission for disapproval of the plan if (1) the party can demonstrate that it represents a substantial client interest, (2) the party took appropriate steps to present its views and seek resolution of disputed issues prior to submission of the plan to the Governor, and (3) the request for disapproval is based on a violation of statutory requirements. If the Governor approves the plan, the Governor shall notify the petitioner in writing of such decision and the reasons therefor.

The Conferees note that establishment of this specified authority for the Governor to disapprove plans only on the specific grounds set forth above is not intended to confer upon the State any authority to review discretion with regard to policy-making at the local program level, provided it is exercised in accordance with the provisions of this Act. The Conferees believe that such policy-making responsibility is properly housed at the local level, under the control of the local partnership between chief elected officials and the private sector.

It is the intent of the Conferees that decisions concerning local priorities in relation to such issues as participant mix, training strategies, service deliverers, etc. remain solely within the purview of local decision-makers, as long as such decisions do not violate the provisions of the Act.

The Conferees also wish to make clear that the authority for plan approval by the Governor is not intended to endow the State with any additional capacity to modify, restrict or expand upon the provisions of the Act, nor to affect the implementation of the Act except as provided for therein.

In the case of a state which is a single service delivery area, the Secretary shall exercise the plan approval authority under the same terms and conditions otherwise vested in the Governor.

LIMITATION ON CERTAIN COSTS

Both the Senate bill and the House amendment limit administrative costs to 15 percent of the funds available for the area. The Senate bill includes evaluation among the costs of administration.

The House amendment provides that administrative costs shall not include costs of program support directly related to the provision of training or additional costs attributable to the devleopment of training.

The Senate bill provides for a guarantee that the amount to be spent in the State on supportive services and costs of administration shall not exceed 30 percent of the funds available to the State and that at least 70 percent of the funds be spent on training.

The House amendment provides that not less than 70 percent of the funds expended by any prime sponsor shall be expended for the direct provision of employment and training services. Such expenditures do not include subsistence stipends or administrative costs. Any expenditure for work experience activities which are not combined with relevant skill training and are for a period longer than 6 months shall also not be considered as an expenditure for training.

The House amendment provides that participants be provided with allowances.

The Senate bill has no comparable provision.

The Senate bill provided that 70 percent of the substate allocation had to be expended for direct training services such as remedial and basic education, on-the-job and classroom training, employability assessment, outreach, counseling, and preparation for work. The costs of administration and supportive services together were limited to not more than 30 percent of the allocation. Supportive services were defined as those services which were required to enable an individual to participate in training such as child care, transportation, health care, financial counseling, temporary shelter, meals, and other reasonable expenses determined at the local level. The Senate bill also included an explicit prohibition on wages, stipends, allowances and public service employment.

The House amendment also provided a 70/30 split of training to non-training costs, except that work experience programs up to 6 months in duration, tryout employment for youth, and supportive services were allowable activities under the 70 percent limitation. The 30 percent category included administrative costs and payments and allowances necessary to enable an individual to participate. The House amendment did not authorize or prohibit public service employment.

The conference agreement includes all of the training activities common to both measures as allowable under the 70 percent, as well as 50 percent of the costs of a limited work experience program with a training or education component and 250 hours of youth tryout employment. The costs of administration, supportive services, subsistence wages and allowances, and the remaining 50 percent of the limited work experience program are under a 30 percent limitation. Administrative costs are not to exceed 15 percent of the substate allocation.

Both houses of Congress have recognized the importance of maximizing the amount devoted to direct training activities for eligible participants and have established 70 percent of each substate allocation as a minimum.

The conferees also recognize that many individuals may be prevented from participation in a training program due to the additional expenses incurred from such participation and have provided for a broad range of supportive services and allowances which may be granted to participants on a needs basis. Additionally, some local service areas, due to their peculiar economic conditions or the characteristics of the population they propose to serve, will require some flexibility of the 15 percent non-administrative cost limitation in certain cases. To address these extraordinary needs, the conferees have provided that the Governor, in accordance with his plan approval authority, shall waive the 15 percent limitation on supportive services, wages, and allowances under certain specific conditions. First, the request for a waiver must be initiated by the private industry council (PIC). Second, the waiver request with justifications must be contained in the job training plan for the service delivery area. Third, the service area must demonstrate that the need for the waiver is not due to administrative overages, and fourth, that the supportive services to be provided are not duplicative of services available to the participant without cost from any other public or private source. Finally, one of more of the following conditions must exist in the service delivery area: (1) unemployment is 3 percentage points higher than the national average in the service delivery area, or in those areas of the service delivery area in which the services are to be provided, and, the ratio of private employment to population is less than the national average; (2) the plan proposes to serve a disproportionately high number of participants from groups requiring exceptional supportive service costs, e.g., the handicapped, ex-offenders, single heads of households with dependent children; (3) the cost of providing necessary child care exceeds half of the service delivery area's fifteen percent limit for supportive services, wages and allowances; (4) the cost of providing necessary transportation exceeds one-third of the service delivery area's fifteen percent limit for supportive services, wages and allowances; or (5) a substantial number of enrollees are in training programs of 9 months or more in duration.

It should be noted that the waiver applies only to documented excess costs set out in the job training plan. For example, if the PIC asserts that its child care costs will amount to 9 percent of its funds for supportive services, wages and allowances, it may request a waiver for those costs above 7.5 percent. Further, the waiver may be granted for up to one year. After one year, if it is necessary to do so, the PIC may initiate a new request and with the local government shall submit an adjusted job training plan including the required justifications to support a second one-year waiver.

The purpose of providing this waiver is not to excuse a service delivery area from meeting its training obligation, and the provision shall not be construed to eliminate or modify performance standards set for the service delivery area. The prerequisite conditions described above are intended to preclude its indiscriminate use. The waiver may, however, encourage private industry councils to extend greater service to those who might most benefit from training and who can least afford the extra costs of child care, transportation, etc. The waiver is also meant to relieve some of the economic pressures on service areas in severely depressed or rural parts of our country.

The House amendment provides for the pooling of administrative costs received under any Title of the Act.

The Senate bill has no comparable provision.

The House recedes.

The Senate bill specifies that the Governor or the Governor's designee will chair the Council.

The House amendment requires that the Governor designate a public member of the Council to be chairperson.

Senate recedes with an amendment to require the Governor to designate a "nongovernmental," rather than "public" member as chair person.

The Senate bill specifies that 51 percent of the members of the Council shall be representatives of the private sector; 20 percent shall be representative of elected officials of units of general local government; and the remainder shall include on representative from the State employment service agency, and representatives from education, organized labor, private nonprofit community-based organizations, and other groups interested in job training programs.

The House amendment requires that the membership of the Council be composed as follows: 25 percent from business and industry; 25 percent from units or consortia of units of general local government nominated by chief local elected officials of such units; 25 percent from the State legislature, employment and training-related agencies and programs, and State education groups; and 25 percent from the eligible population and the general public, organized labor, community-based organizations, and local educational agencies.

The House recedes with an amendment requiring one-third of the Council membership to be selected from business and industry, and the remainder of the membership shall be comprised as follows: not less than 20 percent of the total council membership to be selected from each of the following categories: local government officials; State agency representatives; and the general public, organized labor, community-based organization, and local educational agencies.

The House amendment requires the membership of the Council to reasonably represent the population of the State.

The Senate bill has no comparable provision.

The Senate recedes with an understanding that this does not require the establishment of any quotas.

The House amendment requires that representatives of local educational agencies

for the Council be nominated by local educational agencies.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment requires the Council to meet at least five times each year and the meetings will be open to the general public.

The Senate bill has no comparable provision.

The Senate recedes with an amendment deleting the requirement that the Council meet at least 5 times each year.

The House amendment gives the Council authority to obtain the services of professional, technical, and clerical personnel.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment prohibits the Council from directly operating or providing services to eligible participants.

The Senate bill has no comparable provision.

The Senate recedes.

The Senate bill requires the Council to propose service delivery areas, to develop performance standards, and to review and provide written comments on the State plan for the State employment service agency.

The House amendment has no comparable provision.

The House recedes.

The House amendment requires the council to (1) identify the employment and training and vocational education needs throughout the State and the extent to which Federal, State, and local programs and services adequately meet such needs; (2) comment on reports required by section 105(d)(3) of the Vocational Education Act of 1963; (3) review plans of all State agencies providing employment, training, and related services, and provide comments and recommendations to the Governor, to appropriate State officials, and to appropriate Federal agencies; (4) assume the functions of any State coordinating committee for the WIN program.

The Senate bill has no comparable provisions.

The Senate recedes.

The House amendment requires the state to submit a biennial governors' coordination and special services plan to the Secretary which establishes criteria for coordinating activities under this Act with related programs and services.

The Senate bill has no comparable provisions.

The Senate recedes with an amendment to require the Secretary to approve the plan unless he finds the plan to be in violation of specific provisions of this Act, and to specify that coordination criteria established in the plan cannot restrict or modify the provisions of this Act relating to eligibility requirements or selection of service deliverers.

ADULT/YOUTH PROGRAM ACTIVITIES

The Senate bill has a generalized statement of functions for which funds may be used which include any job training activity designed to prepare disadvantaged persons for, and place them in, employment.

The House amendment has detailed statements of the uses of funds for adult training programs and for youth preparatory programs. Individual notes identify uses authorized under the House amendment which would not be included in the general authority of the Senate bill.

The House amendment describes education for employment activities for eligible youths who have not obtained a high school diploma or who have educational deficiencies.

The Senate bill has no comparable provisions.

The House amendment provides for pre-employment skills training for youth aged 14 through 19, with priority given to those youths who do not meet established levels of academic achievement. Pre-employment skill training shall be concentrated on youth aged 14 through 16.

The Senate bill has no comparable provision.

The House amendment provides for entry level employment experience for youth who have completed pre-employment skills training and have not held a regular job for more than 250 hours and are enrolled in secondary school or equivalent institution. Such entry employment experience may be up to 20 hours weekly and not to exceed 500 hours in total.

The Senate bill has no comparable provision.

The House amendment authorizes school-to-work transition assistance for high school youth who plan to enter the fulltime labor market with priority given to seniors in high schools having a predominance of economically disadvantaged students.

The Senate bill has no comparable provision.

The House amendment provides that individuals who are 22 years in age or over be eligible to participate in adult programs.

The Senate bill has no comparable provision.

The House amendment provides that individuals, aged 16 through 22, shall be eligible to participate in youth preparatory programs.

The Senate bill has no comparable provision.

The House amendment provides that youths, aged 14, 15, shall be eligible to participate in pre-employment skill training programs.

The Senate bill has no comparable provision.

The conference agreement provides that the funds available under this title may be used to provide eligible adults and youth with the same activities. Specific youth programs are authorized as an option to the general activities which provide model programs developed on the basis of experience in previous youth demonstration programs. Nothing in this optional list of programs should be construed as mandatory or as limiting local flexibility to adapt the programs to local conditions to meet the needs of the service delivery area.

The House amendment authorizes the use of local funds for the development of labor market information.

The Senate bill does not.

The Senate recedes with an amendment to include this section with the Labor Market Information section.

The Senate bill authorizes supportive services to enable persons to retain employment for not more than 6 months.

The House amendment does not specify that supportive services may be used to assist participants in retaining employment. However, follow-up services are authorized.

The House recedes. The conferees understand that supportive services as distinct from follow-up activities, are subject to the thirty percent limitation.

The Senate bill provides that payments to employers for on-the-job training may average 50 percent of the wages paid by the employer to participants in such training.

The House amendment provides that payments for on-the-job training to employers, organized for profit, shall not exceed the costs of of such training including the lower productivity of the participants, and that the length of time for which payments may be made shall not exceed the normal period for the acquisition of skills for which the training is provided.

The House recedes.

The House amendment provides for upgrading and retraining.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment authorizes work experience.

The Senate bill does not.

The Senate recedes with an amendment to count fifty percent of work experience activities that are coupled with related skill training and limited to six months within the seventy percent limitation on the use of funds.

Clarification of employment generating activities.

The House recedes with an amendment to assure that employment generating services are not to be used as a substitute for economic development activities or for funds available for similar activities under other Federal programs.

The House amendment authorizes apprenticeship programs.

The Senate bill does not.

The Senate recedes with an amendment to authorize pre-apprenticeship programs.

The House amendment authorizes dissemination of information on program activities to employers.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment authorizes follow-up services with participants placed in unsubsidized employment.

The Senate bill authorizes supportive services to enable persons to retain employment.

The Senate recedes.

The House amendment authorizes that employment bonuses be paid for retaining trainees for at least six months beyond the training period.

The Senate bill has no comparable provision.

The House recedes.

The House amendment provides that, to the extent feasible, training programs be conducted with a commitment by an employer or a group of employers to employ the individual upon a successful completion of training.

The Senate bill has no comparable requirement.

The House recedes with an amendment to include customized training as one of the eligible activities under the program.

The House amendment authorizes tryout employment at private-for-profit work sites and public and private nonprofit work sites when for-profit work sites are not available. The vacancy may not be refilled if the prior participant is not hired. Compensation in lieu of wages shall be paid by the prime sponsor, but not for exceeding 250 hours.

The Senate bill has no comparable provision.

The Senate recedes with an amendment to consider compensation for tryout employment as a training expense of the employer retains the youth for an equal length of time beyond the tryout period.

The Senate bill authorizes a loan fund to be used by economically disadvantaged participants to provide the expenses for basic necessities.

The House amendment has no comparable provision.

The Senate recedes.

The Senate bill prohibits the use of funds for allowances, stipends, wages or public service employment.

The House amendment authorizes allowances and wages as detailed in the notes below.

The House recedes with an amendment to prohibit public service employment under this Act and to delete the prohibition on wages, allowances and stipends as specified in the waiver provision.

The House amendment provides for subsistance allowances based on family income, but not to exceed the minimum wage; participation cost stipends; and lump sum payments or other rewards for completion of training or other constructive attainments.

The Senate recedes with an amendment to base allowances on locally developed needs based formulas.

The House amendment provides that a trainee shall receive no allowances for hours in which he failed to participate without good cause. No comparable Senate provision.

The Senate recedes with an amendment to specify that a trainee shall not receive allowances for training activities in which the trainee fails to participate without good cause.

The House amendment provides that individuals employed shall be paid wages which shall not be less than the higher of the Federal minimum wage, the minimum wage under the applicable State or local minimum wage law, or the prevailing rates of pay individuals employed in similar occupations by the same employer. No comparable Senate provision.

The Senate recedes.

The House amendment provides that stipends and allowances shall not be considered income for the purposes of determining eligibility for income transfer programs. No comparable Senate provision.

The House amendment provides that earnings and allowances received by any youth participating in a program under the Act shall be disregarded in determining the eligibility of the youth's family for, and the amounts of benefits based on needs under, any Federal or federally assisted programs. No comparable Senate provision.

The Senate recedes with an amendment to limit this provision relating to allowances to programs not under the Social Security Act. The Conference agreement also provides for a limited disregard of allowances provided under this Act under the AFDC program.

The House amendment provides that all individuals participating in training shall be eligible to receive allowances, but not for a period to exceed 104 weeks in any 5-year period. No comparable Senate provision.

The House recedes.

The House amendment provides that no individual may participate in a program for more than 30 months in any 5-year period.

The House recedes.

The House amendment limits eligibility to those residing in the prime sponsor's area, except in the case of two or more prime sponsors operating with a joint private industry council in which case residents in any such prime sponsor area shall be eligible.

The Senate bill has no comparable provision.

The Senate recedes with an amendment to permit the local job training plan to provide for a limited waiver of the residency requirement.

SERVICE PRIORITIES

The Senate bill provides that at least 50 percent of the funds excluding summer youth shall be used for persons who have not attained age 25.

The House amendment provides that 50 percent of the funds including summer youth shall be used for youth under the age of 22.

The House recedes with an amendment to exclude the summer youth programs from the division of funds between adult and youth programs. The summer youth program is separately authorized as Part B. At least forty percent of the funds allocated under Part A shall be used for eligible youth under the age of 22. This percentage may be adjusted by the Senate adjustment factor. It is clearly not the intent of the conferees to reduce support for youth participation in the programs under this title. By accepting the lower age limit definition from the House amendment and removing the summer youth programs from the percentage split of funds, as in the Senate bill, the conferees believe that at least the current level of support for all youth programs will be maintained. Additionally, the conferees recognize that individuals aged 22 through 25 face special employment barriers in the labor force, and therefore encourage close examination of the needs of this age cohort in the development of programs at the service delivery level.

The House amendment provides that 15 percent of the funds available for adults may be used for services to youth and 15 percent of the funds available for youth may be used for adults.

The Senate bill has no comparable provision.

The House recedes.

The Senate bill required for proportionate service to recipients of AFDC and eligible school drop-outs.

The House amendment has no comparable provision.

The House recedes with an amendment to serve AFDC recipients and high school dropouts on an equitable basis taking into account their proportion to the eligible population based on the best available data.

The Senate bill provides that 10 percent of the funds may be used for persons who are not economically disadvantaged but have other labor market disadvantages.

The House amendment specifices that 10 percent of the participants may be persons who are not economically disadvantaged, if they have other barriers to employment.

The Senate recedes with an amendment to include handicapped who do not meet the income eligibility criteria in the ten percent income eligibility "window".

The Senate amendment provides that, except for handicapped workers and dislocated workers, persons qualifying as not economically disadvantaged may not have individual incomes in excess of 250 percent of the income level for the economically disadvantaged.

The House amendment has no comparable provision.

The Senate recedes.

SERVICE DELIVERY

The Senate bill requires that primary consideration in determining service delivery organizations shall be the cost effectiveness of the agency in delivering comparable services.

The House amendment provides that funds not be used to duplicate services or facilities available in the area from Federal, State or local resources unless the prime sponsor demonstrates that other services or facilities would be more effective or more likely to achieve the performance goals.

The Conference agreement requires that in selecting service deliverers, primary consideration should be given to the effectiveness of the organization based on demonstrated performance and that proper consideration should be given to CBOs. In determining effectiveness, the administrative entity should take into account the likelihood of meeting performance goals, the characteristics of participants and the quality and cost of training.

The Senate bill provides that no organization shall be used to provide occupation skills training unless it has been certified by the private industry council.

The House amendment has no comparable provision.

The House recedes with an amendment that no occupational skills training program shall be funded unless the level of skill provided is acceptable to employers in the area in accordance with guidelines established by the PIC.

It is the manager's intent that the criteria for selecting service providers be applied equally to administrative entities who deliver services as well as those service providers under contract to the administrative entity.

These provisions are not intended to preclude the selection of new service providers.

The Senate bill provides that all training agreements shall contain standards on content quality, duration and results of training.

The House amendment has no comparable provision.

The Senate recedes. However, it is assumed that all training agreements will meet certain standards for quality and content in accordance with guidelines established by the private industry council. It was not intended, however, that such standards be negotiated for each separate training contract entered into by the administrative entity for the service area for the same type of services.

The Senate bill provides that the ratio of public sector to private sector participants in on-the-job training not exceed the ratio of public sector to private sector employment in the area.

The House amendment has no comparable provisions.

The House recedes.

The Senate bill provides that commercially available training packages may be purchased for off-the-shelf prices, if the package is competitively purchased.

The House amendment has no comparable provision.

The House recedes.

STATE PROGRAMS

The Senate bill provides that funds available to the Governor may be used for developing linkages between programs funded under this Act and related programs.

The House amendment provides that funds may be used for State-wide programs and to provide for joint funding of activities under this Act and related programs.

Both the Senate and House provisions are accepted.

The House amendment provides for the use of funds to foster the State Occupational Information Coordinating Committee.

The Senate bill has no comparable provision.

The House recedes. Funds for the State Occupational information coordinating committee are covered in the Labor Market Information part of the legislation.

The Senate bill provides for the use of funds for developing a management information system and analyzing reports from that system.

The House amendment has no comparable provision.

The Senate recedes.

The House amendment provides for carrying out special model training and employment programs.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment provides for assistance for special programs designed to meet the needs of rural areas.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment provides for training and employment opportunities in the conservation and efficient use of energy.

The Senate bill has no comparable provision.

The Senate recedes with an amendment to strike the words "and employment."

The House amendment provides for industry-wide training.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment provides for training for the delivery staffs of local prime sponsors and private industry councils.

The Senate bill has no comparable provision.

The Senate recedes.

The Senate bill provides that there shall be State training report which demonstrates the State's fiscal responsibility, includes a statement of goals and objectives, performance standards and information on types of activities to be funded.

The House amendment has no comparable provisions.

The Senate recedes.

Both bills provide for education and training coordination grants. The grants under the Senate bill may be used only to provide services.

Funds under the House amendment may be used to provide assistance in making cooperative arrangements for information, curriculum material, technical assistance and other services to develop and sustain the capacity to provide community employment and training programs.

Both bills contain provisions for matching grants for the improvement of services to individuals under this Act. The Senate bill provides these grants for education and training service; the House bill for vocational services.

The Senate bill requires that the agreements are negotiated by the designee of the State agency as part of the plan for the service delivery area. The House amendment requires that the agreements be between the State agency or agencies and the prime sponsor, and (where appropriate) local education agencies.

In the Senate bill funds available under the agreements may be used to provide education, training and related services.

The House amendment allows for vocational education and related services.

The Senate bill provides these services to participants under the title; the House amendment to participants under the whole Act.

The House amendment provides for amendment funds to revert to the Governor if no joint agreements are reached. The Senate bill has no similar provisions.

The Senate bill requires that funds be allocated to service delivery areas pursuant to the substate allocation formula.

The House amendment does not.

The conferees have agreed to combine the two percent and six percent setasides into a single grant of eight percent of Title II appropriations for coordination with State education and training agencies. Within this single setaside, 80 percent of the funds must be used for services to participants, while 20 percent of the funds may be used for technical assistance for activities such as professional development, job placement, counseling and curriculum development.

The 80 percent portion must be matched. The conferees intend that this matching requirement can be satisfied by a cash contribution or by contributions of equipment, services or supplies funded from other sources which are directly used to provide services to participants. If no joint agreements are reached, these funds revert to the Governor.

The agreement also provides that the range of activities includes education, training, including vocational services, and related services as part of the matching grant. Additionally, in negotiating agreements between the State agency or agencies and the service delivery area, local education agencies where appropriate will participate in the negotiation.

At least seventy-five percent of the matching funds must be used to serve participants eligible under Title II. The conferees intend that 25 percent of these funds may be used to serve participants under the Act, so that in states where there are high numbers of dislocated workers there are sufficient services for those in need of assistance.

Finally, the Conference agreement provides that the 80 percent matching funds for services to participants are to be expended pursuant to agreements between appropriate education agencies and service delivery areas, and not allocated to substate areas by formula.

The Senate bill authorizes the Governor to provide job training programs developed with service delivery areas which are designed to assure training and placement of older individuals in employment opportunities with private business concerns.

The House amendment requires that the Governor's activities include the expenditures of an adequate portion of funds to promote, select, and train eligible older workers.

The House recedes.

The Senate bill allows the Governor to enter into agreements with public agencies, nonprofit private organizations, and private business concerns to provide job training programs to older workers. Consideration shall be given to growth industries and jobs reflecting the use of new technological skills. The Senate bill defines an eligible older worker as an individual who is disadvantaged and is 55 years of age or older.

The House amendment has no comparable provisions.

The House recedes.

The Senate bill assures that nothing in the Act precludes the adoption of State implementing legislation consistent with the Act.

The House amendment has no similar provision.

The House recedes.

FEDERALLY ADMINISTERED PROGRAM

The Senate bill includes American Samoans living in Hawaii as eligible participants.

The House amendment does not.

The Senate recedes.

The conferees are concerned with the unique and special employment problems facing the 240,000 American Samoans residing in their homeland, in the State of Hawaii and in the Continental United States.

The poverty among this population is extreme. Half do not have a high school education. Unemployment is well above the national average. Less than one-third are fluent in English.

As a result Samoan families report unacceptable rates of alcoholism, violent crimes, and depression. The conferees believe the United States has a special responsibility for the Samoan people that grows out of the treaties of friendship and commerce negotiated in the last century and the trust relationship created when the islands were ceded to the United States in the early 1900s.

In order that the Congress can be better informed on how best to meet the employment and training needs of the Samoan peoples, the Secretary of Labor is instructed to transmit a Report to the Congress no later than October 1, 1983, which details the dimensions of unemployment and poverty among American Samoans and recommends specific actions that can be taken to carry out our historic responsibilities to these peoples.

The House amendment requires that arrangements be made with prime sponsors and organizations to carry out the responsibilites of this section. The Senate bill speaks only to organizations.

The Senate recedes with an amendment changing "prime sponsors" to "administrative entities."

The House amendment requires the Secretary to consult with representatives of Indians and other Native Americans prior to the promulgation of rules, regulations and performance standards relating to Native American programs.

The Senate bill contains no similar provision.

The Senate recedes.

The House amendment requires the Secretary to provide technical assistance as necessary.

The Senate bill contains no similar provision.

The Senate recedes.

The House amendment establishes an office of farmworker programs within the Department of Labor to be staffed with personnel experienced in farmworker programs to select, administer, monitor and evaluate programs.

The Senate bill has no comparable provisions.

The Senate recedes with an amendment to make the administrative structure of the Migrant and Seasonal Farm Worker program similar to the Native American program.

The Senate bill includes programs and activities carried out by recipients or subrecipients under other provisions of the Act as a means by which the employment and training needs of migrants and seasonal farmworkers can be met.

The House amendment does not.

The Senate recedes.

The Senate bill requires the Secretary to use standard competitive government procurement policies in awarding grants for services.

The House amendment requires the Secretary to use procedures consistent with standard competitive government procurement policies in awarding grants or contracts.

The Senate recedes.

The House amendment approves designation of grantees for a two year period.

The Senate bill has no similar provision.

The Senate recedes.

The Senate bill includes employment and training programs in newly developing agricultural occupations and related assistance and supportive services.

The House amendment authorizes programs and activities that enable farmworkers and their dependents to (1) obtain or retain employment, (2) participate in other program activities that lead to placement in unsubsidized agricultural or nonagricultural employment, (3) participate in activities leading to stabilization in agricultural employment, and (4) improve their well-being.

The Senate recedes with an amendment to delete "improving their well-being" and

substitute "shall include related assistance and supportive services."

The Senate bill requires the Secretary to consult with State and local officials and allows the Secretary to enter into agreements with such officials in the administration and operation of programs under this part.

The House amendment requires recipients of funds to establish performance goals that comply with performance standards established by the Secretary.

Senate recedes with an amendment to conform with the conference agreement regarding performance standards.

The House amendment does not preclude assistance to farmworkers under any other provisions of the Act.

The Senate bill has no similar provision.

The Senate recedes.

The Senate bill has a statement of findings and purpose for veterans' employment programs. The House amendment does not.

The Senate recedes.

The Senate bill authorizes programs to meet the employment and training needs of service disabled veterans, Vietnam era veterans and recently separated veterans.

The House amendment emphasizes the needs of disabled veterans, Vietnam era veterans and recently separated veterans but is not limited to such veterans.

The House recedes.

The Senate bill authorizes activities to enhance services by other service providers, employment and training services not adequately provided by other public providers and outreach and public information activities.

The House amendment specifically authorizes on-the-job training, employability development, job placement activities, and pre-separation counseling coordinated with other Veterans programs.

The House recedes.

The Senate bill requires the Assistant Secretary for Veterans' Employment to coordinate programs under this part with programs under the Administrator of Veterans Affairs.

The House amendment requires the Assistant Secretary to encourage cooperative agreements with business, education, nonprofit organizations, organized labor, etc. to maximize use of existing programs.

The House recedes.

The Senate bill requires maintenance of effort of services to Veterans for other programs and activities under this Act or other law.

There is no comparable House provision.

The Senate recedes.

The House amendment lists eligible areas of research; the Senate bill has no such listing.

The Senate recedes with an amendment authorizing, but not mandating, the Secretary to establish a program.

The Senate bill authorizes experimental, developmental and demonstration projects in changing demographics of the workforce, civilian manpower needs on military installations and in the private sector in addition to areas cited in the House amendment. The Secretary may pay no more than 60 percent of the costs of projects developed in conjunction with the Secretary of Defense.

The House amendment includes pilot projects; the Senate bill authorizes pilot projects as a separate section (Sec. 233).

The House recedes.

The House amendment requires the Secretary to conduct comparisons of program effectiveness among prime sponsors as well as between prime sponsors and programs conducted by the Secretary and requires the Secretary to arrange for obtaining opinions of participants. No comparable Senate provision.

The House recedes.

The Senate bill requires the Secretary to use statistical sampling techniques to the maximum extent possible; no comparable House provision.

The House recedes.

The Senate bill specifies elements to be included in the Secretary's annual report; the House amendment does not.

The House recedes.

COMMENTS

The Senate bill authorizes pilot programs for target groups including handicapped and displaced homemakers. (The House amendment authorizes pilot programs under Sec. 442(b) above.) The Senate bill limits such pilot projects to 3 years and requires the Secretary to give special consideration to community-based organizations, trade associations and labor organizations. The House amendment contains no similar provisions.

The House recedes with an amendment clarifying that the three year limitation is not retroactive.

The House amendment authorizes nationally administered multistate employment and training programs, including programs for target populations, education-private sector linkage programs, programs for older workers, programs to eliminate skill shortages, and career intern programs for youth. The House amendment has no limit on duration of such activities.

The Senate bill has no comparable provisions.

The Senate recedes with an amendment that specifies that funds available under this section may only be used for programs which are most appropriately administered at the national level and which are operated in more than one State. The amendment gives example of the types of programs which are most appropriately administered at the national level.

Both the Senate bill and the House amendment authorize the Secretary to provide training and technical assistance. The House amendment includes training for job skill teachers and technical assistance for housing for migrant and seasonal farmworkers. The House amendment also requires the establishment of a national clearinghouse for exemplary program information. The Senate bill has no comparable provision.

The conferees agreed to accept the provision for technical assistance for housing for migrant and seasonal farmworkers with an amendment limiting such technical assistance for "training programs."

This amendment does not preclude the continuation of the existing programs through the transition year.

The House amendment requires the establishment of a national clearinghouse for exemplary program information.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment authorizes such activities to include the use of training and technical assistance capabilities at the State and local levels.

The Senate bill contains no comparable provision.

The Senate recedes.

The House amendment establishes an Office of Management Assistance to provide management assistance on a reimbursable or nonreimbursable basis to prime sponsors. The Senate bill has no comparable provision.

The conferees view the authority for the Secretary to provide training and technical assistance as sufficient to cover the purpose of the management assistance functions.

Both the House amendment and Senate bill recognized the necessity for training and technical assistance to be an ongoing federal responsibility lodged with the Secretary of Labor. This responsibility is in no way vitiated by the increased role which the conferees expect the States to play in planning and managing this program. Instead, this shift draws attention to the fact that, in executing his duties in the area of training and technical assistance, the Secretary must work in close concert with the States.

The conferees recognize that the provision of training and technical assistance involves costs, and therefore has authorized funds for the Secretary of Labor for this purpose. The conferees intend that these funds be fully utilized to have the maximum impact on promoting good management practices in the States.

LABOR MARKET INFORMATION

The House amendment states the purpose of the labor market information program is to meet the information needs of organizations in planning and delivering services under this legislation.

The Senate bill contains no comparable provision.

The House recedes.

Both the Senate bill and the House amendment authorize a comprehensive labor market information program.

The House amendment further specifies that funds available under the Vocational Education Act, Wagner-Peyser Act, and Paperwork Reduction Act may be made available to assist this program.

The Senate bill contains no comparable provision.

The Senate recedes.

The House amendment requires improvements in the accuracy of the local area unemployment statistics program.

The Senate bill contains no comparable provision.

The House recedes.

The House amendment mandates maintaining the occupational employment statistics program, the dictionary of occupational titles, economic hardship measures, household living budget standards, and earnings and income reports.

The Senate bill contains no comparable provisions. The conference agreement requires maintaining the occupational employment statistics program, the dictionary of occupational titles, and an annual report on earnings and income, and authorizes development of economic hardship measures and household living standard budget data.

The House amendment requires the Secretary to develop statistical data on the closing of mines, plants or facilities employing at least 50 workers and publish an annual report.

The Senate bill contains no such provision.

The Senate recedes with an amendment to require the Department of Labor to compile and publish data from the ETA 235 report.

Both the Senate bill and the House amendment establish the same Federal responsibilities for reviewing and coordinating labor market information. The Senate bill, unlike the House amendment, provides that the Secretary shall utilize the National Occupational Information Coordinating Committee in carrying out coordination responsibilities.

The House amendment contains no comparable provision.

The House recedes.

The House amendment sets forth specific provisions to be carried out under this Act by the National Occupational Information

Coordinating Committee (NOICC) established under the Vocational Education Act.

The Senate bill contains no comparable provision.

The conference agreement authorizes not more than $5 million to be reserved for NOICC.

The House amendment (a) provides that not less than 75 percent of the amount transferred to NOICC shall be used for State Occupational Information Coordinating Committees, (b) expands NOICC's membership to include the Assistant Secretary of Commerce for Economic Development and the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, (c) details occupational information responsibilities for NOICC, and (d) provides that funds available under this Act, the Vocational Education Act, and the Career Education Act may be used together to carry out NOICC's responsibilities.

The Senate bill contains no comparable provisions.

The Senate recedes.

The House amendment requires a nationwide job bank and matching program, with the additional provision that occupational information shall be developed projecting jobs on regional, state, local, and other appropriate bases, as well as labor supply information by occupation.

The Senate bill contains no comparable provision.

The conference agreement authorizes such program.

Both the Senate bill and the House amendment contain similar authorizations for state labor market information programs, including the provision that the Governor designate an organizational unit to oversee and manage a statewide comprehensive labor market and occupational information system.

The Senate bill states that the Governor shall designate "the state occupational information coordinating committee or another organizational unit" for such function.

The House amendment has no comparable provision.

The House recedes.

The Senate bill provides that a state may combine or alter Federal administrative management information requirements if the Governor so notifies the head of each responsible federal and state agency.

The House amendment contains no comparable provision.

The House recedes with amendments to delete the authority for the States to alter such requirements.

Under the Senate bill, any disapproval by a federal agency head may be appealed to the Director of the Office of Management and Budget for a decision within 60 days of that appeal. The House amendment contains no comparable provision. The Senate recedes.

The Senate bill provides that, beginning with fiscal year 1985, appropriations shall be available for obligation only on a program year basis. The program year would begin on July 1. The House amendment contains no comparable provision, but continues the existing law's authorization for advance appropriations to be made in the preceding year for obligation in the following fiscal year.

The House amendment, but not the Senate bill, retains the existing law's provision that appropriated funds not obligated prior to the end of a fiscal year remain available for obligation during the succeeding fiscal year.

The House recedes.

The House amendment continues the existing law's provision that the proceeds of income generating activities may be retained by a recipient to carry out its program after the recipient is no longer receiving financial assistance under this Act.

The Senate bill contains no comparable provision.

The Senate recedes.

DISTRIBUTION OF FUNDS AMONG PROGRAMS

	Senate bill	House amendment
State and local programs	78 percent of appropriations [1]	Such sums appropriation.
National programs	22 percent of appropriations [1]	Such sums appropriation.
Job Corps	66 percent thereof (14.52 percent of overall funds) except for fiscal year 1983 sufficient to provide for funding of fiscal year 1982 level.	Such sums appropriation except $650,000,000 for fiscal year 1983.
Native American programs	10.5 percent thereof (2.31 percent of overall funds)	Amount equal to 2.7 percent of funds for state and local programs.
Migrant and seasonal farmworker programs	10 percent thereof (2.2 percent of overall funds)	Amount equal to 2.8 percent of funds for state and local programs.
Veterans employment programs	2 percent thereof (0.44 percent of overall funds)	Amount equal to 0.4 percent of funds for state and local programs.
Costs of administration, research, evaluation, pilot projects, technical assistance, labor market information.	11.5 percent thereof (2.53 percent of overall funds)	Such sums appropriation.
National Commission for Employment Policy	(0.05 percent of overall funds)	($2 million reserved).

[1] For the Senate bill, references to appropriations and overall funds in this chart do not include title V—Dislocated workers, or title VII—Summer Youth Program.

The Conference agreement provides that not more than 7 percent of the total appropriation (other than for dislocated workers) shall be for national programs (exclusive of the Job Corps) and that of that amount 5 percent shall be for veterans programs and $2 million for the National Commission for Employment Policy.

The Conference further provides that an amount equal to 3.3 percent of the amount available for title I shall be reserved for Indian and Native American programs and that 3.2 percent of that amount shall be reserved for Migrant and Seasonal Farmworker program.

For Job Corps, $618 million is authorized for fiscal year 1983 and such sums thereafter. There is a "such sums" authorization for the summer youth program.

The House amendment authorizes appropriations for the Job Corps of $650,000,000 for fiscal year 1983 and such sums as may be necessary for each succeeding fiscal year.

The Senate bill provides that, out of the set-aside for national job training programs of 22 percent of each year's total appropriation for the Act, 66 percent thereof shall be available for the Job Corps. For fiscal year 1983, the Senate bill further authorizes appropriation of such sums as may be necessary to ensure that the amount available for the Job Corps in fiscal year 1983 is at least equal to the amount available in fiscal year 1982.

The Senate recedes with an amendment to authorize appropriations of $618 million for Job Corps in fiscal year 1983.

PERFORMANCE STANDARDS

The Senate bill provides that the Secretary (with respect to financial assistance for title II-D) and the Governor (with respect to performance incentives and technical assistance funds) shall publish for comment a plan for use of such funds. After considering comments, the final plan shall be published.

The House amendment provides that the Secretary shall provide notice to and consult with the appropriate Governor and prime sponsor concerning activities to be funded by the Secretary, and that the Governor shall provide notice to and consult with the appropriate prime sponsor concerning activities to be funded by the Governor within such prime sponsor's area.

The Senate recedes.

Both the Senate bill and the House amendment provide for performance criteria.

The Senate bill states the finding of Congress that job training is an investment in human capital and that the criteria for measuring the return on investment should be based on the increased earnings of participants and reductions in cash welfare payments. The House amendment sets forth no Congressional findings.

The House recedes with an amendment to modify the overall criteria as set forth in the conference agreement.

The House amendment requires the Secretary to establish performance criteria within six months after the date of enactment.

The Senate bill provides that the Secretary shall prescribe standards to measure the results of participation in programs, but sets no deadline for the issuance of such standards.

The Senate recedes with an amendment to indicate that these are the initial performance standards.

Under the Senate bill the Secretary's standards shall include the appropriate preprogram base period, post-program follow-up, and cost-effective methods for obtaining data. The House amendment does not specify these process requirements.

The Senate bill provides that the Secretary shall prescribe standards relating gross program expenditures to total earnings gains and reductions in cash welfare payments to participants.

With respect to prime sponsors, the House amendment provides that national performance criteria shall be based on appropriate factors including placement and retention in unsubsidized employment, earnings gains, and reduction in the number of welfare recipients.

The conferees agree that the job training program must be performance driven rather than process driven. There are two overall goals of this program for disadvantaged adults under this Act: Increased employment and earnings, and reduced welfare dependency. The Secretary shall determine underlying measurable performance standards that contribute to the achievement of the two overall program goals. Program expenditures can be related to the accomplishment of the objectives measured by these performance standards. Measureable performance standards are to be established for use in the first program year (July 1, 1984

to June 30, 1985). The Secretary reports to the Congress regarding the performance standards and modifications thereto. The Governor of a State may adjust the performance standards within given parameters established by the Secretary. The adjustments are made to take into account the impact on performance resulting from such factors as local economic conditions, and geographic and demographic differences and influences. The conferees also agree that separate performance standards measuring placement and retention in unsubsidized employment are appropriate for the dislocated workers program under this Act.

The Senate bill provides that performance criteria for youth may be developed by local program administrators based on employment competencies recognized by the Private Industry Council and placement and retention in employment. These criteria and competencies are to be reviewed for adequacy by the Governor and the Secretary.

The House amendment provides that the Secretary shall designate additional factors for evaluating youth programs which shall be attainment of employability competencies, school completion and enrollment in training programs or apprenticeships or the military.

The Senate recedes with an amendment to clarify that the employment competencies are recognized by the private industry council.

The Senate bill provides that the Secretary shall prescribe variations in performance criteria for Native American and Migrant and Seasonal Farmworker Programs.

The House amendment provides for the Secretary to establish performance criteria appropriate to State programs displaced workers programs under title III, and Native American and Migrant and Seasonal Farmworker Programs under title IV-A.

The Senate recedes with an amendment to agree that there should be separate standards for dislocated workers programs and state programs.

The Senate bill provides that the Governor may prescribe variations in the standards based on specific economic factors in the state and areas within the state.

The House amendment provides that the Secretary shall determine the adequacy of proposed performance goals on the basis of minimum performance standards designed to measure outcomes. Based on the national performance criteria, the minimum standards approved by the Secretary shall reflect variations in local conditions and employment barriers. In addition, the Secretary may modify the applicability of any standard for any prime sponsor demonstrating exceptional hardship.

Conference agreement conforms to the agreement on performance standards.

The Senate bill requires the annual report for each service delivery area to specify the extent to which the program met performance standards.

The House amendment has no comparable provision.

The House recedes.

Both the Senate bill and the House amendment provide for technical assistance to programs failing to meet performance standards.

Under the Senate bill, the Governor has the responsibility, and under the House amendment the Secretary has the responsibility, to provide such assistance. In case of failure to meet performance criteria for two consecutive years, the Senate bill requires the Governor to impose a reorganization plan, and authorizes the Governor to select an alternate administrative entity. The House amendment requires the Secretary to designate the State or other alternate prime sponsor in such circumstance.

The House recedes.

The Senate bill provides that no change in administative entity can be made without an opportunity for a hearing.

The House amendment has no comparable provision.

The House recedes.

ADMINISTRATION AND MONITORING PROVISIONS

Both the Senate bill and the House amendment authorize the Secretary to investigate matters relating to compliance. The Senate bill, but not the House amendment, explicitly authorizes the Secretary to monitor all recipients and subrecipients, and in conducting investigations to examine records and question employees.

The House recedes with an amendment to authorize the Secretary to take such emergency action as is necessary to protect Federal funds.

The Senate bill provides that each State establish fiscal control and full accounting procedures. The Director of the Office of Management and Budget, in consultation with the Comptroller General, shall establish guidance for audits, including a review of State procedures.

The House amendment provides that the Secretary shall establish standards for adequate accounting, monitoring, and cost management systems and procedures for recipients to assure against program abuses.

The Senate bill requires each State to audit each recipient and subrecipient every two years, with exemptions by the Secretary.

The House amendment authorizes the Secretary to require prime sponsors to participate in unified audit programs.

The conference agreement adopts the Senate provision with an amendment authorizing the Governor to issue notice of intent to revoke plan approval in cases of substantial violations of the Act or regulations. Such notice is subject to the same appeal procedures as the Governor's plan approval.

The House amendment retains the existing law's provisions that each recipient shall be responsible for allocation of funds, eligibility of participants, and actions to prevent misuse by subcontractors.

The Senate bill has no comparable provision.

The Senate recedes with an amendment to insert "Each recipient of funds under this Act" in lieu of "Each recipient receiving funds directly from the Secretary", to insert "Such recipients of funds" in lieu of "Prime sponsors", and to allow recipients of funds to delegate responsibility for eligiblility determination under criteria adequate to safeguard federal funds, if such criteria have not been disapproved by the Governor in accordance with the provisions for plan approval under this Act.

The Senate bill requires the Comptroller General to evaluate recipients and subrecipients on a selective basis.

The House amendment has no comparable provision.

The House recedes.

The House amendment provides that the Secretary shall have the authority, in cases of noncompliance, to revoke recipients' plans, to terminate financial assistance, and order sanctions or corrective actions.

The Senate bill has no comparable provision.

The House recedes.

The Senate bill and the House amendment contain similar authority when funds have been misspent to withhold future funding and require repayment.

The House amendment, but not the Senate bill, provides that in determining whether to impose sanctions against a prime sponsor for violations by a subgrantee of such prime sponsor, the Secretary may waive the imposition of sactions against a prime sponsor which has adhered to an appropriate system for the award and monitoring of contracts, entered into a clear and unambiguous contract with the subgrantee, acted with due diligence to monitor its implementation, and taken prompt corrective actions. The Secretary is authorized to impose sanctions directly against the subgrantee.

The Conference agreement provides that the Secretary may withhold that amount of misspent funds from a recipient's future funding, if notice and opportunity for a hearing are provided. The Secretary may also require recipients to repay misspent funds resulting from willful disregard of this Act or gross neligence from sources other than under this Act, if notice and opportunity for a hearing are provided.

The Conference Agreement also provides that in determining whether to impose sanctions against a recipient of funds for violations by a subgrantee of such recipient, the Secretary may waive the imposition of sanctions against a recipient of funds which has adhered to an appropriate system for the award and monitoring of contracts, entered into a clear and unambiguous contract with the subgrantee, acted with due diligence to monitor its implementation, and taken prompt corrective actions. The Secretary is authorized to impose sanctions directly against the subgrantee. With the exception of this provision, the responsibility and full liability of recipients of funds is not reduced.

The House amendment authorizes the Secretary, in emergency situations, to immediately suspend financial assistance, followed by a hearing within 30 days.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment requires the Secretary to take corrective actions within 30 days of determining that any recipient has discharged or discriminated against any person in the administration of the program or against any person who has filed a complaint or testified in any proceeding, or has unlawfully denied benefits, or (2) discriminated or failed to provide opportunities at levels of skill and remuneration commensurate with the participant's capabilities or potential capabilities.

The Senate bill has no comparable provision.

The conference agreement provides for such corrective actions within 30 days of determining that any recipient has discharged or discriminated against any person in the administration of the program or against any person who has filed a compliant or testified in any proceeding or has unlawfully denied benefits.

The House amendment authorizes the Secretary to utilize the services of State and local agencies in carrying out this section.

The Senate bill has no comparable provision.

The House recedes.

The House amendment provides that the existence of remedies under this section shall not preclude any person alleging violations by a prime sponsor or other recipient from instituting or pursuing other remedies authorized under Federal, State or local law.

The Senate bill has no comparable provision.

The Senate recedes with an amendment providing that the remedies provided under this Act are not exclusive.

The House amendment retains the existing law's requirements for bonding of officers, directors, agents, and employees of recipients.

The Senate bill has no comparable provision.

The Senate recedes.

The Senate bill requires recipients to keep records sufficient to trace funds adequately.

The House amendment provides that each recipient keep such records as the Secretary requires with regard to each employee and each participant.

The House recedes.

The Senate bill provides that reports shall not be required more often than quarterly unless specifically requested by the Congress or a Congressional Committee.

The House amendment requires reports not less frequently than quarterly.

The House amendment further requires an annual report on program activities and participant characteristics, as well as a cost-benefit evaluation of programs.

House recedes with an amendment that reports required by the Secretary shall be uniform in content and form as required by the Secretary.

The Senate bill provides investigative authority to the Secretary, requiring investigations in several States each fiscal year.

The Senate bill also authorizes the Comptroller General to investigate use of funds by recipients.

The House amendment does not contain comparable provisions.

The House recedes.

The Senate bill provides that each State shall make reports concerning its operations and expenditures as prescribed by the Secretary. and shall maintain a management information system for data on statewide and service delivery bases.

The House amendment has no comparable provision.

The House recedes with an amendment to require each State's report to the Secretary to include data on participant characteristics and cost/benefit analyses of programs.

The House amendment requires each contractor or grantee under the Act to establish grievance procedures for interested parties which mandate hearings within 30 days, and decisions within 60 days, from the date a grievance is filed.

The Secretary is authorized to investigate and determine the validity of grievances left unresolved by such grievance procedures or other complaints alleging violations of the Act.

The Senate bill has no comparable provisions.

The Senate recedes with amendment to insert "final decision" in lieu of "resolution" in House language.

The Senate bill provides access to administrative hearings for an applicant for assistance dissatisfied with the Secretary's decisions concerning the award of financial assistance to, or the imposition of sanctions or corrective actions on, such applicant. The burden of proof in such hearings rests with the applicant. The decision of the administrative law judge (ALJ) becomes final unless exception to such decision is filed with the Secretary and accepted for review within 30 days. In the case of exceptions accepted for review by the Secretary, the decision of the ALJ becomes final unless modified by the Secretary within 180 days of the date such exceptions are filed.

The House amendment prevents the Secretary from revoking assistance or instituting corrective actions or sanctions against a recipient of funds until notice and an opportunity to informally resolve the alleged problems on which such proposed actions by the Secretary are based.

The House recedes with an amendment to strike the Senate language imposing burden of proof on the applicant for assistance.

The Senate bill authorizes the Secretary to prescribe appropriate rules and regulations, including adjustments authorized under the Intergovernmental Cooperation Act of 1968, which shall be published in the Federal Register and transmitted to Congress at least 30 days prior to their effective date.

The House amendment has no comparable provision.

The House recedes.

The Senate bill provides specific authority for the Secretary to contract or expend funds to meet the purposes of the Act.

The House amendment has no comparable provision.

The House recedes.

In the House amendment, allocations are based on the latest available data and estimates. The Secretary is required to publish in the Federal Register the proposed allocation to prime sponsors for funds allocated by formula.

The Senate bill has no comparable provision.

The Senate recedes with an amendment that 1980 census data (or later data) be used for determining the number of economically disadvantaged and low income persons.

The House amendment requires that the Secretary publish for comment a utilization plan for discretionary funds not less than 30 days prior to allocation of the funds. If a formula is used for distribution purposes, the formula and the proposed amounts to be distributed shall be published for comment at least 30 days prior to allocation. Consideration of comments must be made prior to final publication in both instances.

The Senate bill requires the Secretary and the Governor to provide a prior opportunity for comment to any entity administering a program under Title I of the bill concerning the making of grants, contracts, or agreements affecting the delivery of employment and training services in the service delivery area of such administrative entity.

The Senate recedes with an amendment eliminating the requirement that the Secretary solicit comments on the utilization plan for discretionary funds.

The House amendment provides for reallocation of unobligated funds by the Secretary to the extent that it can be determined that such funds will not be used in a reasonable period of time. Thirty days advance notice of reallocation must be given to allow for comment. Notification must be given to the Governor and prime sponsor regarding final decision to reallocate funds. Decisions shall be published. Priority for reallocation shall be given first to other prime sponsor areas in the same state, and then to prime sponsor areas in other states.

The Senate bill has no comparable provision.

The House recedes.

The House amendment requires that the Secretary shall establish a date for the submission of plans by March 31 of the year preceding the fiscal year the plan takes effect. Complete and final regulations and application material shall be made available by May 15 of such year. If the May 15 date is not met, the submission date for plans is to be extended. No additional regulations, guidelines or interpretations that would affect approval or disapproval of a plan shall be issued between May 15 and the date for plan submission. If a plan change is required, at least 90 days shall be allowed for the submission of the plan change.

The Senate bill does not have comparable provisions.

The Senate recedes with an amendment requiring the Secretary to issue regulations or modifications to regulations applicable to a program year no later than 120 days before the beginning of the program year.

The Senate bill authorizes the Secretary to use, to the extent appropriate, and with consent, other public and private organizational and local, State or Federal agencies' resources and facilities.

The House amendment has no comparable provision.

The Senate recedes.

The Senate bill provides that programs and activities funded or assisted under this Act are considered as programs and activities receiving Federal financial assistance for the purposes of applying prohibitions against discrimination on the basis of age, handicap, sex, race, color or national origin. No comparable House provision. The House recedes. Additionally, no person on the basis of sex, religion or political affiliation or belief shall be excluded from participation in, denied the benefits of or subjected to discrimination in the provision of services.

The Senate bill provides that no person on the basis of sex, religion or political affiliation or belief shall be excluded from participating in, denied the benefits of or subjected to discrimination in the provision of services.

The House amendment provides that no individual shall be excluded from participation, denied the benefits of, subjected to discrimination under or denied employment in programs under this Act on the basis of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

The Senate recedes.

The Senate bill allows participation in the programs under this Act by citizens, nationals, lawfully admitted refugees, and parolees and other persons authorized to work in the United States.

The House amendment has no similar provision.

The House recedes.

The House amendment prohibits employment in the construction, operation or maintenance of facilities used for sectarian instruction or religious worship.

The Senate bill has no similar provisions.

The Senate recedes.

The House amendment prohibits discrimination against individuals solely because of their status as participants in activities under this Act.

The Senate bill has no similar provision.

The Senate recedes.

The Senate bill permits contractors subject to affirmative action obligations under Executive Order 11246 to establish or participate in training programs for eligible participants under this Act designed to assist in the training and placement of eligible participants. If such programs, as established and implemented, meet the criteria established in the Senate bill as well as criteria established for such programs by the Office of Federal Contract Compliance Programs, the contractor may maintain an abbreviated affirmative action plan and the successful performance of such contractor's training program shall create a presumption of good faith effort by such contractor to meet affirmative action obligations.

The House amendment has no similar provision.

The House recedes with amendments to clarify the description of the training program, to clarify the presumption of good faith, to define successful performance and to clarify the authority of the Secretary.

The conference intends that the short form affirmative action plan to be developed by the Director of the Office of Federal Contract Compliance shall contain, in usable form, the relevant information required by the current regulations implementing Executive Order 11246. At a minimum this information should cover (1) a statement of the contractor's equal employment opportunity policy, (2) a work force analysis, (3) an utilization analysis, (4) the contractor's goals and timetables for any underutilization found pursuant to the utilization analysis, and (5) a description of the contractor's procedures for implementing its affirmative action obligations.

The Senate bill requires the Secretary to notify recipients or subrecipients of funds if they fail to comply with the nondiscrimination provisions. If within 60 days of notification the recipient or subrecipient fails or refuses to comply, the Secretary may: (1) refer the matter to the Attorney General for civil action in any appropriate district court, (2) exercise the powers provided under the appropriate laws, or (3) take other action as may be provided by law. Under Job Corps, the members shall be considered as the beneficiaries of Federal financial assistance.

The House amendment has no similar provisions. (Discrimination provisions are enforced in the same manner as other provisions of the Act.)

The House recedes.

The Senate bill provides judicial review for applicants for and recipients of financial assistance.

The House amendment also provides judicial review to any interested person.

The House recedes with an amendment to conform House provisions concerning Secretary's findings of fact and scope of appellate review to Senate structure.

The Senate bill provides that the conditions of training and training-related employment shall be consistent with applicable state and Federal law. The House amendment has no comparable provision.

The House recedes.

The Senate bill provides persons in on-the-job training shall be compensated at the same rate, including increases, as similarly situated employees or trainees and in accordance with applicable state and Federal law.

The House amendment requires that individuals in on-the-job training shall be compensated at rates, including increases, that are considered reasonable through regulation of the Secretary when such factors as industry, geographic region, skill requirements and individual proficiency are considered. In no event shall the compensation be less than the higher of the rate of the Federal minimum wage as established under the Fair Labor Standards Act or the applicable state or local minimum wage law.

The Senate recedes with an amendment deleting the references to industry, geographical region, skill requirements and individual proficiency.

The House amendment provides that existing Federal and state health standards must apply to program participants and when an individual engages in activity which is not covered by OSHA, the Secretary shall prescribe the necessary regulation.

The Senate bill contains no comparable provision except that conditions shall be consistent with applicable Federal and state law.

The Senate recedes.

The House amendment specifies that worker's compensation benefits shall be available to program participants in situations where a state law applies. Where state law does not apply, each recipient of funds shall secure insurance for injuries suffered in accordance with the regulations prescribed by the Secretary.

The Senate bill contains no similar provision except as above.

The Senate recedes.

The House amendment contains provisions mandating that all individuals employed in subsidized jobs shall be provided benefits and working conditions at the same level and extent as other employees working the same amount of time and doing the same type of work.

The Senate bill contains no comparable provision.

The Senate recedes.

The House amendment provides that no funds under the Act may be contributed to retirement plans.

The Senate bill contains no comparable provision.

The Senate recedes with an amendment to provide that no funds under the Act may be contributed to retirement plans on behalf of participants.

The House amendment provides that no program shall impair collective bargaining agreements, and that programs inconsistent with the terms of a collective bargaining agreement must receive the written concurrence of the concerned labor organization.

The Senate bill contains no similar provision.

The Senate recedes with an amendment to require the concurrence of the employer also.

The House amendment provides that no participant shall be employed at a job opening arising from the layoff of an individual not supported under the Act or when any other individual not supported under this Act has been laid off from an equivalent job.

The Senate bill contains no similar provision.

The Senate recedes.

The House amendment provides that no jobs shall be created in a promotional line that will infringe upon employment opportunities of individuals employed in jobs not subsidized under the Act.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment provides that no jobs shall be substituted for existing Federally assisted jobs.

The Senate bill contains no similar provisions.

The House recedes.

The House amendment provides that recipients of funds must assure the Secretary that no funds will be used to assist, promote, or deter union organizing.

The Senate bill contains no similar provisions.

The Senate recedes.

The House amendment provides that labor organizations representing employees engaged in work or training similar to those prepared under the Act be given an opportunity to submit comments on job training proposals to the applicant and to the Secretary.

The Senate bill contains no similar provision.

The Senate recedes.

The House amendment provides that Davis-Bacon standards concerning comparable wage rates shall apply to construction work financed under the Act.

The Senate bill has no comparable provision.

The Senate recedes with an amendment specifying that bona fide trainees in a training program under the Act are not subject to this provision, though they are subject to the requirement for equal treatment for similarly situated employees.

The House amendment mandates that prime sponsors shall provide employment and training for those who can benefit from, and are most in need of, such opportunities and shall make every effort to provide equitable services among significant segments of the eligible population.

The Senate bill has no similar provision.

The Senate recedes with an amendment to require that efforts to provide equitable services among substantial segments of the eligible population shall be made. It is not the intent of the conferees that quotas be established by the inclusion of this language.

The House amendment provides that funds under this Act shall only be used for activities in addition to those which would otherwise be available in the absence of such funds.

The Senate bill has no similar provision.

The Senate recedes.

The House amendment provides that no funds shall be used to relocate establishments or locate new branches, subsidiaries, or affiliates unless the Secretary determines that such action will not result in an increase in unemployment in the area of original location or in any other area.

The Senate bill has no similar provision.

The Senate recedes with an amendment to strike language relating to location of new branches, subsidiaries or affiliates so that the prohibition relates only to relocation.

The House amendment provides that training shall only be for occupations for which there is a demand in the area served or in any other area in which the participant is willing to relocate. Priority shall be given to training in occupations in sectors of the economy which have a high potential for sustained demand or growth (according to results of labor market analysis made under section 104(b)(2)(A).)

The Senate bill has no similar provision.

The Senate recedes with an amendment deleting "priority" and authorizing that "consideration may" be given to training in occupations in sectors of the economy which have a high potential for sustained demand or growth.

The House amendment provides that all programs, to the maximum extent feasible shall contribute to occupational development, upward mobility, development of new careers, and overcoming sex-sterotyping (including training in occupations traditionally filled by the other sex).

The Senate bill has no similar provision.

The Senate recedes with an amendment deleting "to the maximum extent feasible" and requiring that efforts be made to develop programs which contribute to occupational development, upward mobility, development of new careers, and overcoming sex-stereotyping in occupations traditional for the other sex.

The House amendment provides that no member of any council shall cast a vote on any matter which has a direct bearing on any services to be provided by that member (or organization that member represents) or vote on any matter which would financially benefit the member or affiliated organization.

The Senate bill has no similar provision.

The Senate recedes with an amendment providing that no member of any council shall cast a vote on the provision of services by that member (or any organization which that member directly represents) or vote on any matter which provide direct financial benefit to that member.

The House amendment prohibits use of Federal assistance for the payment of a fee for the placement or referral of any individual in a training or employment program.

The Senate bill has no similar provision.

The Senate recedes with an amendment specifying that individuals may not be charged a fee for placement or referral to a training or employment program.

The House amendment restricts eligibility for obtaining subsidized private, for profit employment to economically disadvantaged youths, aged 16 to 21 inclusive.

The Senate bill has no similar provision.

The Senate recedes.

TRANSITION

The Conferees consider it essential that there be an effective transition from current law to the new program under this Act and they have included a number of provisions to facilitate such a transition including flexibility in the time requirements and other provisions applicable to local planning. They recognize, however, that it will take the coordinated efforts of the Secretary, the Governors, of local officials and of the business community to turn that expectation into a reality.

The Conference agreement provides, in general, that the provisions of current law will remain in effect through FY 1983 but authorizes activities to promote the transition during that period. Further, it sets time limits for the Secretary's rulemaking to ensure that the other parties will have time to carry out their functions.

The Senate bill authorizes the Secretary to use funds to provide financial assistance according to existing CETA provisions, to the extent necessary to provide for the orderly transition of programs carried out under CETA.

The House amendment contains a similar provision, however, the word "shall" is substituted for the word "may".

The conference agreement provides that the Secretary shall use funds to provide financial assistance during fiscal year 1983 under the provisions of CETA.

The Senate bill allows the Secretary to waive the application of any requirement of law relating to rulemaking that the Secretary deems necessary to carry out the transition provisions.

The House amendment does not contain a similar provision.

The House recedes with an amendment that specifies that the requirements relating to publishing a proposed rule and providing for an opportunity for comment may not be waived.

The House amendment provides that the Commission established by Title V of CETA shall be authorized until September 30, 1983, when the property and records of such Commission shall be transferred to the commission established by Part E of Title IV of this Act.

The Senate bill contains no similar provision.

The Senate recedes.

The Senate bill authorizes the Secretary to withhold funds otherwise payable to a recipient under this Act to satisfy debts to the Government under CETA.

The House amendment contains no similar provision.

The Senate recedes.

The House amendment notes that no provisions in this subsection shall prohibit the prime sponsor from implementing the provisions of this Act prior to the expiration of the Secretary's transition authority.

The Senate bill contains no similar provision.

The Senate recedes with an amendment that makes clear that prime sponsors, Governors and other recipients of funds may use funds during the transition year to consolidate program activities, establish uniform eligibility criteria consistent with the new law for new enrollees and prepare for or plan for activities authorized under the new law or to prepare for an orderly transition.

The Conferees also intend that the transition from national programs under the Comprehensive Employment and Training Act to those authorized under this Act be conducted in a manner as nondisruptive as possible. Therefore, the Conferees intend that the F.Y. 1983 program year be utilized fully as a transition period, and that changes in current programmatic requirements, contracting procedures and grant periods be minimized, so that orderly preparation and planning for new activities can take place.

The Senate bill provides that all orders, rules, permits, regulations, grants, licenses, and privileges issued under CETA on or before the effective date of this Act or September 30, 1982 shall remain in effect until modified or revoked by the Secretary, the courts, or other law.

The House amendment contains no similar amendment.

The House recedes.

The House amendment requires the Secretary to publish a full set of proposed regulations to carry out this Act not later than March 1, 1983.

The Senate bill contains no similar provisions.

The Senate recedes with an amendment requiring that rules necessary for the final designation of service delivery areas shall be published in final form by January 1, 1983, those necessary for the appointment and certification of the PIC by Jan. 15, 1983, and all other regulations by March 15. Amendments to such regulations that would affect the legal validity of the certified PIC's could not become effective before the end of the first 2 program-year planning cycle.

The Senate bill mandates that the provisions of this Act shall not affect administrative or judicial proceedings begun before September 30, 1984 under CETA.

The House amendment contains no similar provisions.

The House recedes.

The House amendment provides that real or personal property acquired by prime sponsors under CETA which are not transferred to prime sponsors under this Act by September 30, 1982 shall revert to the United States.

The Senate bill contains no similar provisions.

The Senate recedes with an amendment specifying that such property shall be transferred to the administrative entity for the appropriate service delivery area.

The House amendment provides that funds for fiscal year 1982 under CETA, which were not obligated during 1982, shall remain available for obligation by the prime sponsor for the area under this Act, for fiscal year 1983. No reduction in appropriations to the prime sponsor for fiscal year 1983 shall be made on account of this carryover.

The Senate bill contains no similar provisions.

The Senate recedes.

The Senate bill provides that, upon implementation of this Act by the Secretary, no funds shall be spent for federal or state advisory councils under Wagner-Peyser, or for labor market advisory councils under Title IV of the Social Security Act.

The House amendment contains no similar provisions.

The Senate recedes.

The House amendment establishes that the amendments to the WIN program & Wagner-Peyser Act shall be effective October 1, 1982. However, the bill allows the Secretary to use the authority contained in existing law during FY 1983.

The Senate bill contains no similar provisions.

The Senate recedes with an amendment providing that the effective date shall be Oct. 1, 1983.

The Senate bill provides that any agent of the government working under the provisions of this Act who engages in criminal activity involving the funds, personnel, or materials provided under this Act, shall be fined not more than $10,000 or imprisoned for two years, or both, unless the amount of funds embezzled or stolen is less than $100 in which case the maximum penalty is a $1,000 fine or one year imprisonment, or both.

The House amendment contains no similar provisions but does not repeal the current provisions of the Federal criminal code.

The House recedes with an amendment including related provisions of the criminal code.

The Senate bill provides for criminal penalty of a $5,000 fine or one year in prison, or both to any person who willfully instructs or impedes an investigation by Federal authorities under the Training for Jobs Act.

The House amendment contains no similar provisions except as above.

The House recedes.

The Senate bill provides that all references to CETA in other statutes shall be deemed to refer to the Training for Jobs Act once this legislation is enacted.

The House amendment contains no similar provision.

The House recedes with an amendment to provide that references to CETA in other statutes shall be deemed to refer to the Job Training Partnership Act.

The Senate bill repeals section 5(b) of the CETA Amendments of 1978, section 11(a) of the Wagner-Peyser Act, and all provisions of CETA except title IV-B (Job Corps) and title V (National Commission on Employment Policy).

The House amendment repeals all provisions of CETA.

The Senate recedes.

JOB CORPS

The Senate bill extends current authority for the Job Corps (CETA, title IV-B), making only technical and conforming changes to accommodate the repeal and replacement of related provisions of CETA.

The provisions of the House amendment reauthorizing the Job Corps make similar technical and conforming changes.

The House amendment adds language to the statement of purpose emphasizing that the Job Corps is to remain a distinct national program.

The Senate recedes.

The Senate bill maintains the existing age limitations for Job Corps eligibility of 14 through 21, inclusive.

The House amendment establishes new age limitations of 16 through 25, inclusive, except that the Secretary is authorized to promulgate regulations to permit nonresidential services for 14 and 15 year old youth and to allow for the participation of young adults aged 22 through 24, inclusive, according to their different needs and characteristics.

The House recedes with an amendment to authorize one or more pilot projects to determine the value of Job Corps participa-

tion for young adults ages 22 to 24, inclusive.

The House amendment adds prime sponsors to the list of agencies deemed especially appropriate for the screening and selection of Job Corps applicants, and it authorizes the Secretary to reimburse individuals or organizations for the cost of proper recruitment, screening and selection of participants.

The Senate bill contains no similar provisions.

The Senate recedes.

The Senate bill maintains the existing limitation on the duration of Job Corps participation of two years.

The House amendment allows an exception to this two year limitation for individuals enrolled in advanced career training programs authorized under section 428 of the House amendment.

The Senate recedes.

The Senate bill extends existing provisions which permit Job Corps centers to be either residential or nonresidential in character.

The House amendment requires all centers to be residential in nature, although they could have nonresidential components.

The House recedes with an amendment to require that aggregate nonresidential enrollment cannot exceed ten percent of the total Job Corps enrollment in any fiscal year. The Conferees believe it is important to emphasize that the purpose of this nonresidential limitation is not to diminish existing nonresidential activities, but only to ensure that the overall residential character of the program is maintained.

The Conferees recognize that Job Corps, in recruiting and training youth of similar economic and age characteristics, also serve youth of widely varying learning capacities, frequently creating the need for flexible training strategies. Some specially developed Job Corps programs require unique facilities, training sites and supportive services which are not typically available at Job Corps Centers.

The Conferees therefore recognize the value of existing Job Corps satellite programs, which are already limited in number and capabity, and therefore note that these programs should not be affected by the 10 percent nonresidential limitation.

The House amendment requires each Job Corps Center Director or his designee to serve as liaison officer to the various State and local employment and training councils authorized under other provisions of the bill, for the purpose of improving coordination.

The Senate bill has no comparable provision.

The House recedes.

The House amendment authorizes the establishment of advanced career training programs in which corps members who have attained a high school diploma or its equivalent and demonstrated special ability, commitment and direction can continue their participation for an additional year in postsecondary programs or intensive, company-sponsored training programs which include work-site internships.

The Senate bill has no separate authorization for such programs, but would permit advanced career training activities.

The Senate recedes with an amendment to permit the reduction of Job Corps payments for participants in ACT programs by the amounts which such participants receive through any education grant-in-aid program.

The Senate bill extends current authority for the payment of allowance and support stipends during participation.

The House amendment makes these payments mandatory.

The Senate recedes.

The Senate bill maintains the current maximum monthly allowance limitations of $60 for the first six months of participation and $100 thereafter, as well as the current readjustment allowance limitation of $100 for each month of satisfactory participation.

The House amendment raises such limits to $70, $125, and $125, respectively, and it indexes these limitations to the cost of living.

The Senate recedes with an amendment to raise participation and readjustment allowance maximums to $65, $110 and $110 respectively, and to strike indexing.

The House amendment authorizes the development of special activities to disseminate information gained from Job Corps experience which may be of use in the innovation and improvement of related programs.

The Senate bill has no comparable provision specifically authorizing such activities.

The Senate recedes.

The House amendment authorizes the development of Job Corps programs to field test selected education and training activities.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment authorizes the Secretary to arrange for pilot programs with the Secretary of Defense to prepare youth to qualify for military service, and to expand such activities into permanent programs if the Secretary of Defense agrees to provide 90 percent of the cost of such programs.

The Senate bill has no separate provision for pre-military programs, but would permit such activities.

The Senate recedes with an amendment to require that if pilot projects to prepare youth to qualify for military service are to become permanent programs, DOD must provide not less than 50 percent of the cost of such programs, and must reimburse the Job Corps an amount proportionate to the percentage of successful placements in armed services in excess of 50 percent.

The House amendment authorizes pilot projects to determine whether Center operation by community-based organizations of demonstrated effectiveness can improve community participation in Job Corps.

The Senate bill has no similar provision.

The Senate recedes.

The House amendment authorizes the Secretary to accept charitable donations of cash or other assistance on behalf of the Job Corps or individual Job Corps Centers.

The Senate bill has no comparable provision.

The Senate recedes.

National Commission for Employment Policy

The Senate bill retains the provisions of Title V of CETA relating to the National Commission for Employment Policy (NCEP) with the following amendments: the Commission is composed of 15 members including federal agency heads as non-voting members and a representative of the National Advisory Council on Vocational Education and 9 members appointed by the President who are representative of labor, industry, commerce, education, etc. Of the Members first taking office 3 shall serve for 1 year; 3 shall serve for 2 years and 3 shall serve for 3 years. The Senate bill also allows the Chairman of the NCEP to increase from 3 to 6 the number of staff who can be appointed without regard to civil service rules and regulations.

The House amendment reconstitutes the National Commission for Employment Policy as a nongovernmental independent agency (National Commission on Employment and Productivity) comprised of 19 members, 15 of whom shall be appointed by the President. Two members shall be appointed by and serve at the pleasure of, the Speaker of the House and 2 members shall be appointed by and serve at the pleasure of the Majority Leader of the Senate. Of such members first taking office 5 shall serve for 1 year; 5 shall serve for 2 years and 5 shall serve for 3 years.

The Senate recedes with an amendment to change the name to National Commission for Employment Policy; reduce membership to 15, eliminating congressional appointees; include one representative from National Advisory Council on Vocational Education; and increase limitation to five for additional professional personnel not subject to title V of the United States Code.

Wagner-Peyser

The Senate bill defines service delivery area the same as in the Training for Jobs Act.

The House amendment has no comparable provision.

The Senate recedes.

The Senate bill provides for forward funding on a program year basis.

The House amendment has no comparable provision.

The House recedes.

The application of the formula in the Senate bill is first effective for fiscal year 1983.

The House amendment's formula provisions with respect to Wagner-Peyser funds are first effective for fiscal year 1984.

The Senate recedes.

The Senate bill provides that Guam and the Virgin Islands shall receive the same allotment percentage as they did in fiscal year 1982.

The House amendment has no comparable provision.

The House recedes.

The Senate bill distributes funds on the basis of the relative number of persons in the labor force.

The House amendment distributes funds 50% on the basis of the relative number of persons in the labor force and 50% on the basis of the relative number of unemployed.

The conference agreement provides that two-thirds of funds are distributed on the basis of relative number of civilians in the labor force and one-third on the basis of relative number of unemployed individuals

The Senate bill provides that, after the application of the factors in the formula, any State which would otherwise receive a lower allocation must have its allocation raised to 90 percent of its percentage share for the preceding year.

The House amendment provides that, prior to application of the formula factors, each State will first receive 90 percent of its percentage share for the preceding year, but not to exceed 90 percent of the amount of its allocation for fiscal year 1983.

The House recedes.

The House amendment provides that no state shall receive a total allocation which is less than 0.28 percent of the total amount available for allocation. The Senate bill has no comparable provision.

The Senate recedes.

The House amendment directs the Secretary to reserve an amount not to exceed 3 percent of the sums available for allocation to assure that each state (including the District of Columbia) will have a total allocation sufficient to provide staff and other resources necessary to carry out employment service activities on a statewide basis.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment directs the Secretary to provide preliminary planning estimates not later than May 15 of fiscal year 1983 and each succeeding fiscal year and provide final planning estimates showing each State's projected allocation for the following fiscal year not later than July 15 of each such fiscal year.

The Senate bill has no comparable provision.

The conference agreement provides for preliminary planning activities by March 15 and final planning estimates by May 15 prior to each program year.

The Senate bill provides that 25 percent of the funds shall be retained at the State level.

The House amendment has no comparable provision.

The Senate recedes.

The Senate bill provides that no more than 10 percent of each State's 25 percent may be used for the cost of auditing activities and other administrative activities and the remainder for statewise activities.

The House amendment has no comparable provision.

The Senate recedes.

The Senate bill provides for the suballocation of the remainder of the funds to service delivery areas in accordance with the relative number of persons in the labor force.

The House amendment has no comparable provision.

The Senate recedes.

The Senate bill requires the PIC established under the Training for Jobs Act, in consultation with the State employment security agency, to prepare a plan for the service delivery area. If there is no PIC, the plan shall be prepared in cooperation with an official designated by the Governor.

The House amendment provides for local components of the employment service plan to be jointly developed by prime sponsors and the State employment service and transmitted to the SETCC for certification that the plan is consistent with the Governor's coordination and special services plan under the Job Training Partnership Act. The Governor may review and propose modifications in the plan submitted to the Secretary.

The Senate recedes with an amendment to strengthen joint planning at the local level.

The Senate bill prohibits the use of funds under the Wagner-Peyser Act for advertising in newspapers for jobs paying more than twice the minimum wage.

No comparable House provision.

The House recedes with an amendment to require reporting on advertising and justification for advertising for high-paying jobs.

The Senate bill does not prohibit referral of any applicant to private agencies as long as applicant is not charged a fee.

No comparable House provision.

The House recedes.

The Senate bill requires the States to establish fiscal control and fund accounting provisions.

The House amendment has no comparable provision.

The House recedes.

DISLOCATED WORKERS

The House amendment contains a statement of purpose for the displaced worker program.

The Senate bill does not.

The House recedes.

The House amendment provides that 25 percent of the funds shall not be subject to the allocation formula.

The Senate bill has no comparable provision.

The Senate recedes.

The Senate bill provides that the funds appropriated shall be allocated among the states on the basis of the relative number of long term unemployed persons within the state. (Long term unemployed is defined as unemployed for 15 weeks or longer).

The House amendment provides that the remainder of the funds shall be allocated ⅓ on the basis of the relative number of unemployed persons; ⅓ on the basis of the relative number of excess unemployed persons defined as those in excess of the 4.5 percent of the labor force; and the other ⅓ on the basis of the relative number of unemployed for 15 weeks or more.

The Senate recedes.

The House amendment provides that the funds not subject to the allocation formula, shall be used for providing assistance to individuals affected by mass layoffs, natural disasters, federal government actions or for those who reside in areas of high unemployment. These funds shall be distributed on the basis of applications submitted by States. No comparable Senate provision.

The Senate recedes.

The Senate bill provides that the Secretary may reallocate amounts which he determines that the State will not be able to use.

The House amendment has no comparable provision.

The House recedes with an amendment to require the Secretary to determine that the state will not be able to "obligate" such amount within "one year of allotment."

The Senate bill requires the state to establish procedures to identify substantial groups of workers who qualify as dislocated workers.

The House amendment defines eligible participants on an individual basis.

Both the Senate and House provisions are accepted.

The Senate bill provides that the state (1) may provide for the use of private industry councils to assist in making the identification of dislocated workers; (2) shall determine what job opportunities exists within the labor market or outside the labor market area for which such workers could be retrained; and (3) shall determine whether training opportunities for such employment opportunities exist or can be provided within the area.

The House amendment has no comparable provisions.

The House recedes.

The Senate bill provides for the dissemination of information concerning training opportunities to dislocated workers and provides that the acceptance of training for such opportunities shall be deemed to be acceptance of approved training within the meaning of federal laws relating to unemployment benefits.

The House amendment has no comparable provision.

The House recedes.

The House amendment authorizes the use of funds for pre-lay-off assistance.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment specifies that relocation assistance may be provided if the State determines the participant cannot obtain employment within the commuting area and that the participant has secured employment in a relocation area in a state.

The Senate bill has no comparable provision.

The Senate recedes.

The House amendment provides that participants be provided with allowances.

The Senate bill has no comparable provision.

The Senate bill provides that not more than 30 percent of the funds available in a state shall be available for supportive services and costs of administration.

The House amendment has no comparable provision.

The Senate bill prohibits the use of federal funds for paying wages, allowances or stipends.

The House amendment has no comparable provision.

The conference agreement provides that the 70/30 split of training to non-training costs applies only to the federal funds allocated to each state according to the formula set forth in the Act. In no case, however, will the 70/30 limitations apply to more than 50 percent of the total funds available to the state dislocated worker program.

Both bills provide for an equal match from non-federal sources. The Senate bill provides that the match requirement shall be reduced in accordance with a formula for States with a higher than average rate of unemployment.

The House amendment provides that the Secretary shall issue regulations for reductions in the State match if the State's unemployment is higher than the national average for 3 consecutive months.

The House recedes.

The House amendment provides that unemployment insurance benefits paid to an individual who is an eligible participant shall be counted as funds expended from non-federal sources as required by the matching provision.

The Senate bill has no comparable provision.

The Senate recedes with an amendment to provide that Federal unemployment insurance benefits may be used for not more than half of the non-Federal match.

The Senate bill requires that every State shall give an opportunity for applicants to apply for funding of locally-developed projects.

The House amendment provides that no program under the Title may be operated unless the operation of such program is approved by the prime sponsor and a majority of the private industry council for that area.

The Senate recedes with an amendment to include a time limit for consideration of proposed program and to require justification in case of failure to meet timetable.

The House amendment provides for the written concurrence of a labor organization where any activity will modify the terms of a collective bargaining agreement.

The Senate bill has no comparable provision.

The House recedes, in view of the general provision applicable to the entire Act providing that any activity inconsistent with a collective bargaining agreement must receive the written concurrence of the labor organization and the employer concerned.

The House amendment provides for the coordination of displaced worker programs with related federal, state and local programs.

The Senate bill has no comparable provision.

The Senate recedes with an amendment to conform to state coordination plan.

The Senate bill provides that the PIC may be used for planning, or advising on, programs under the Vocational Education Act of 1963, the Rehabilitation Act of 1973, or any other Federal law relating to employment or training.

The House amendment has no comparable provision.

The Senate recedes.

The Senate bill permits the Governor to combine two or more advisory councils whose functions relate to employment or training or use one council to perform the functions of two or more such councils.

The House amendment has no comparable provision.

The Senate recedes.

The Senate bill requires the Governor to give public notice of intention to merge or expand the use of an advisory council.

The House amendment has no comparable provision.

The Senate recedes.

The Senate bill amends the Act of May 21, 1920 (commonly known as the Economy Act) so that provisions dealing with purchase of supplies, equipment or services by one government bureau or department from another would apply to any State agency receiving Federal financial assistance for job training or related programs.

The House amendment has no comparable provision.

The Senate recedes.

The Senate bill amends the Act of May 21, 1920 (commonly known as the Economy Act) to authorize each State agency to contract with any other State agency to perform federally funded job training services, if the Governor determines this will promote efficiency.

The House amendment has no comparable provision.

The Senate recedes.

SUMMER YOUTH

The Senate bill authorizes such sums as may be necessary for a summer youth employment and training program.

The House amendment authorizes summer employment and training programs as a permissible activity under the general employment and training program for the economically disadvantaged.

The House recedes with an amendment to assure that summer youth programs are consistent with the conference agreement regarding adult/youth activities.

The Senate bill provides for a formula distribution of the funds among States, service delivery areas and Native American programs.

The House amendment has no comparable provision.

The House recedes.

The Senate bill provides a list of allowable activities for the Summer Youth program.

The House amendment has no comparable provision.

The House recedes.

The Senate bill specifies that eligible participants shall be under the age of 22.

The House amendment specifies in section 261(a) that eligible participants shall be aged 16 through 21 and section 261(c) permits eligible youth aged 14 or 15 to participate, if appropriate, and set forth in the community job training plan.

The Senate recedes.

The Senate bill amends the Community Services Block Grant Act to provide the Secretary of Health and Human Services with the authority to designate another public or private nonprofit agency to administer community action programs in any case in which a community action agency is denied refunding or is terminated for cause.

The House amendment has no comparable provision.

The Senate recedes.

The House amends the WIN program to: (1) utilize the services of the PIC to identify and provide advice on the types of jobs available or likely to become available instead of the Labor Market Advisory Council; (2) require intensive job search assistance for AFDC recipients, and (3) require coordination of WIN activities with activities provided by the prime sponsor under the Job Training Partnership Act.

The Senate bill has no comparable provision.

The Senate recedes with amendments authorizing, instead of requiring, intensive job search assistance including group job search activities.

The House amendment insures that each individual participating in any program established under this Act, or receiving any assistance or benefit under this Act, has not violated section 3 of the Military Selective Service act by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary in carrying out this section.

The Senate bill has no comparable provision.

The Senate recedes.

CARL D. PERKINS,
AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
WILLIAM CLAY,
MARIO BIAGGI,
PAUL SIMON,
BALTASAR CORRADA,
HAROLD WASHINGTON,
JOHN N. ERLENBORN,
JAMES M. JEFFORDS,
THOMAS E. PETRI,
MILLICENT FENWICK,
LAWRENCE J. DENARDIS,
Managers on the Part of the House.

ORRIN G. HATCH,
DAN QUAYLE,
PAULA HAWKINS,
EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 2852, SALLIE MAE TECHNICAL AMENDMENTS ACT OF 1982

Mr. PERKINS submitted the following conference report and statement on the Senate bill (S. 2852) to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-1984, and 1984-1985, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-887)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2852) to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-1984, and 1984-1985, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Student Financial Assistance Technical Amendments Act of 1982".

MAXIMUM PELL GRANT

SEC. 2. Notwithstanding section 411(a)(2) of the Higher Education Act of 1965, the maximum Pell Grant a student may receive for academic year 1983-1984 under such Act shall be $1,800 or 50 percent of the cost of attendance (as defined under section 3 of this Act for academic year 1982-1983) at the institution at which the student is in attendance.

COST OF ATTENDANCE

SEC. 3. Notwithstanding any other provision of law, the cost of attendance criteria used for calculating eligibility for and the amount of Pell Grants for academic years 1983-1984 and 1984-1985 shall be the same as those criteria in effect for academic year 1982-1983.

SEPARATION OF PELL GRANT FAMILY CONTRIBUTION SCHEDULE FROM CAMPUS-BASED PROGRAMS

SEC. 4. The Secretary of Education shall establish or approve separate systems of need analysis for academic year 1983-1984 and for academic year 1984-1985 for the programs authorized under subpart 2 of part A, part C, and part E of title IV of the Higher Education Act of 1965.

PELL GRANT FAMILY CONTRIBUTION SCHEDULE FOR ACADEMIC YEAR 1983-1984

SEC. 5. (a) Except as provided in subsections (b) and (c), the family contribution schedule for academic year 1982-1983 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such grants for the academic year 1983-1984.

(b) Each of the amounts allowed as an offset for family size for dependent and independent students in the family contribution schedule for academic year 1983-1984 shall be computed by increasing the comparable amount (for the same family size) in the family contribution schedule for academic year 1982-1983 by 7.3 percent, and rounding the result to the nearest $100.

(c) For purposes of subsection (a), the family contribution schedule for academic year 1982-1983 shall be modified by the Secretary of Education for use for academic year 1983-1984—

(1) to reflect the most recent and relevant data, and

(2) to comply with section 482(b)(3) of the Higher Education Act of 1965 with respect to the treatment of payments under title 38 of the United States Code.

(d) The modified family contribution schedule under this section shall be published in the Federal Register not later than 15 days after the date of enactment of this Act.

PELL GRANT FAMILY CONTRIBUTION SCHEDULE FOR ACADEMIC YEAR 1984-1985

SEC. 6. (a)(1) Except as provided in subsection (b), the family contribution schedule for academic year 1984-1985 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be established by the Secretary of Education, if the Secretary publishes a proposed schedule in the Federal Register by April 1, 1983, and submits it to the President of the Senate and the Speaker of the House of Representatives on the date of such publication.

(2) The proposed schedule shall be subject to public comment for 30 days. The Secretary shall publish and submit to the President of the Senate and the Speaker of the House of Representatives a final family contribution schedule not later than May 15, 1983, for the academic year 1984-1985.

(3) If the Secretary does not so publish and submit such schedule as required by paragraphs (1) and (2), the family contribution schedule in effect for academic year 1983-1984 shall be the family contribution schedule for academic year 1984-1985, except as

provided in subsections (c) and (d) of this section.

(b) If the Secretary publishes and submits the final family contribution schedule as required by subsection (a) such schedule shall take effect unless, on or before June 15, 1983, either House of Congress adopts a resolution of disapproval of such schedule. In such event, the Secretary shall publish a new proposed family contribution schedule in the Federal Register and submit it to the President of the Senate and the Speaker of the House of Representatives not later than 15 days after the date of the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House of Congress in connection with such resolution. Such new schedule shall be effective (for academic year 1984–1985) on July 1, 1983, unless, prior to that date, either House of Congress adopts a resolution of disapproval of such new schedule. If the new schedule is also disapproved, the family contribution schedule in effect for academic year 1983–1984 shall be the family contribution for academic year 1984–1985, except as provided in subsections (c) and (d) of this section.

(c)(1) Each of the amounts allowed as an offset for family size for dependent and independent students in the family contribution schedule for academic year 1984–1985 shall be computed by increasing (or decreasing) the comparable amount (for the same family size) in the family contribution schedule for academic year 1983–1984 (as set by section 5(b) of this Act) by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor, and rounding the result to the nearest $100.

(2) For purposes of paragraph (1) of this subsection, the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers is the change, expressed as a percent, between the arithmetic mean of such Index for the period from October 1, 1981, through September 30, 1982, and the arithmetic mean of such Index for the period from October 1, 1982, through September 30, 1983.

(3) The Secretary of Education shall publish in the Federal Register the changes in amounts allowed as an offset for family size as a consequence of the requirements of this subsection immediately after publication by the Secretary of Labor of the Consumer Price Index for September 1983.

(d) If, under subsection (a) or (b), the family contribution schedule for academic year 1983–1984 is required to be the family contribution schedule for academic year 1984–1985, the family contribution schedule for academic year 1983–1984 shall be modified by the Secretary of Education for use for academic year 1984–1985 to reflect the most recent and relevant data.

(e) The modified family contribution schedule under this section shall be published in the Federal Register not later than July 15, 1983.

VETERANS ELIGIBILITY FOR PELL GRANTS FOR ACADEMIC YEAR 1982–1983

SEC. 7. Notwithstanding any other provisions of law, such sums as may be necessary not to exceed $30,000,000 of the amount appropriated by Public Law 97–257 for Pell Grants shall be available for the purpose of restoring eligibility for Pell Grants to individuals adversely affected by the modification, pursuant to paragraphs (4) and (5) of section 124 of Public Law 97–92, of the family contribution schedule with respect to the treatment of payments under title 38, United States Code, to such individuals. For the purposes of determining eligibility and amount of Pell Grant awards under this section, only one-third of the benefits received under such title 38 shall be considered as student financial assistance. The Secretary of Education shall take such steps as may be necessary to notify such individuals of restored eligibility and to make appropriate allocations of the reserved sum.

LINEAR REDUCTION OF PELL GRANTS

SEC. 8. (a) Section 411(b)(3)(B) of the Higher Education Act of 1965 is amended to read as follows:

"(B)(i) If, for any period of any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (a)(2)(B)(i), the amount paid with respect to each entitlement shall be—

"(I) the full amount for any student whose expected family contribution is $200 or less, or

"(II) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

"(ii) Any schedule established by the Secretary for the purpose of division (i) of this subparagraph shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.".

(b) The amendment made by subsection (a) of this section shall be effective with respect to the computation of Pell Grants under section 411 of the Higher Education Act of 1965 for academic year 1983–1984 and for succeeding academic years.

GUARANTEED STUDENT LOAN FAMILY CONTRIBUTION SCHEDULE FOR THE PERIOD JULY 1, 1983, THROUGH JUNE 30, 1984

SEC. 9. (a) Except as provided in subsections (b) and (c), the family contribution schedule for the period of instruction from July 1, 1983, through June 30, 1984, for loans made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such loans for the period of instruction from July 1, 1982, through June 30, 1983.

(b) For purposes of subsection (a), the family contribution schedule for the period of instruction from July 1, 1982, through June 30, 1983, shall be modified by the Secretary of Education for use for the period of instruction from July 1, 1983, through June 30, 1984, to reflect the most recent and relevant data.

(c) The modified family contribution schedule under this section shall be submitted not later than April 1, 1983, and shall otherwise be subject to the provisions of section 482(a) of the Higher Education Act of 1965.

SUPPLEMENTAL EDUCATION OPPORTUNITY GRANT APPORTIONMENT FOR FISCAL YEARS 1983, 1984, AND 1985

SEC. 10. Notwithstanding section 413D(a) of the Higher Education Act of 1965, if in fiscal year 1983, fiscal year 1984, or fiscal year 1985 the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1981, the Secretary shall apportion the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 413A(b) for the fiscal year 1981.

COLLEGE WORK-STUDY ALLOTMENT FOR FISCAL YEARS 1983, 1984, AND 1985

SEC. 11. Notwithstanding subsections (a), (b), (c), and (e) of section 442 of the Higher Education Act of 1965, if in fiscal year 1983, fiscal year 1984, or fiscal year 1985 the sums appropriated pursuant to section 441(b) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1981, the Secretary shall allot the sums appropriated pursuant to section 441(b) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's allotment bears the same ratio to the total amount appropriated as that State's allotment in fiscal year 1981 bears to the total amount appropriated pursuant to section 441(b) for the fiscal year 1981.

NATIONAL DIRECT STUDENT LOAN APPORTIONMENT FOR FISCAL YEARS 1983, 1984, AND 1985

SEC. 12. Notwithstanding subsections (a) and (b) of section 462 of the Higher Education Act of 1965, if in fiscal year 1983, fiscal year 1984, or fiscal year 1985 the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1981, the Secretary shall apportion the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 461(b)(1) for the fiscal year 1981.

LOAN REPAYMENT DISCLOSURE

SEC. 13. (a)(1) Section 433A of the Higher Education Act of 1965 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsections:

"(b) Each eligible lender shall enter into an agreement with the Secretary under which the eligible lender will, prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the student borrower the information required under this subsection. The disclosures required by this subsection shall include—

"(1) the itemization of and the total of amounts financed, calculated by adding all amounts borrowed by the student borrower under this part, and subtracting all charges, including any origination fee or insurance premium, paid by the student borrower;

"(2) the dollar cost to the student borrower of the amount borrowed;

"(3) the dollar amount of total scheduled payments, calculated by adding the amounts in clauses (1) and (2); and

"(4) the repayment schedule of the student borrower, including the number, amounts, and frequency of payments.

"(c) The loan information required by this section shall be made available in a conspicuous form either in the note or other written evidence of the loan or in another written form signed by the borrower.".

(2) The second sentence of such section is amended—

(A) by striking out "section" and inserting in lieu thereof "subsection"; and

(B) by redesignating clauses (5) through (7) as clauses (6) through (8), respectively, and by inserting after clause (4) the following new clause:

"(5) the amount of any other charges, including the origination fee, and the rate of

the insurance premium charged to the student by the lender;".

(b)(1) Section 463A of the Higher Education Act of 1965 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsections:

"(b) Each institution of higher education, in order to carry out the provisions of section 463(a)(8), shall, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. The disclosures required by this subsection shall include—

"(1) the itemization of and the total of amounts financed, calculated by adding all amounts borrowed by the student borrower under this part, and subtracting all charges, including any origination fee or insurance premium, paid by the student borrower;

"(2) the dollar cost to the student borrower of the amount borrowed;

"(3) the dollar amount of total scheduled payments, calculated by adding the amounts in clauses (1) and (2); and

"(4) the repayment schedule of the student borrower, including the number, amounts, and frequency of payments.

"(c) The loan information required by this section shall be made available in a conspicuous form either in the note or other written evidence of the loan or in another written form signed by the borrower.".

(2)(A) The first sentence of such section is amended by striking out "section 463(a)(7)" and inserting in lieu thereof "section 463(a)(8)".

(B) The second sentence of such section is amended—

(A) by striking out "section" and inserting in lieu thereof "subsection"; and

(B) by redesignating clauses (5) through (7) as clauses (6) through (8), respectively, and by inserting after clause (4) the following new clause:

"(5) the amount of any other charges, including the origination fee, and the rate of the insurance premium charged to the student by the lender;".

STUDENT LOAN MARKETING ASSOCIATION

SEC. 14. (a) The last sentence of section 439(l) of the Higher Education Act of 1965 is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1984".

(b) Section 439(o) is amended by adding at the end thereof the following new paragraph:

"(5) The authority of the Association to make loans under this section shall terminate on August 1, 1983.".

HIGHER EDUCATION SURVEY DATA

SEC. 15. The National Center for Education Statistics shall collect and publish for academic years 1982 through 1985, tuition and fees data, and room and board charges for institutions of higher education included in the Higher Education General Information Survey. The surveys required by this section shall be consistent with prior surveys of data described in this section. The results of such surveys shall be stated so as to display such data by congressional district.

And the House agree to the same.

CARL D. PERKINS,
PAUL SIMON,
WILLIAM D. FORD,
IKE ANDREWS,
PETER PEYSER,
TED WEISS,
JOSEPH M. GAYDOS,
DENNIS E. ECKART,
JOHN N. ERLENBORN,
TOM COLEMAN,
ARLEN ERDAHL,
LAWRENCE J. DENARDIS,
WENDELL BAILEY,
Managers on the Part of the House.

ORRIN HATCH,
ROBERT T. STAFFORD,
JOHN P. EAST,
DAN QUAYLE,
LOWELL WEICKER, Jr.,
JEREMIAH DENTON,
CLAIBORNE PELL,
EDWARD M. KENNEDY,
JENNINGS RANDOLPH,
TOM EAGLETON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2852) to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-1984, and 1984-1985, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

(1) The Senate bill is titled the "Sallie Mae Technical Amendments Act of 1982." The House bill contains no title. The House recedes with an amendment titling the Act the "Student Financial Assistance Technical Amendments Act of 1982."

(2) The Senate bill establishes a maximum grant of $1800 or 50% of the cost of attendance. The House amendment limits the maximum grant to $1800 or 50% of the cost of attendance. The House recedes.

(3) The Senate bill and the House amendment direct the Secretary of Education to establish separate systems of need analysis for academic years 1983-1984 and 1984-1985. The provisions differ in the title of the Section. The House amendment uses the term "separation." The Senate bill uses the term "decoupling." The Senate recedes.

(4) The Senate bill and the House amendment provide that the cost of attendance criteria used for calculating eligibility for the amount of Pell Grants for academic years 1983-1984 and 1984-1985 shall be the same as those criteria used for academic year 1982-1983. The Senate recedes.

(5) The Senate bill and the House amendment establish the Pell Grant Family Contribution Schedule for 1982-83 with appropriate updating, as the Family Contribution Schedule for 1983-1984. The Senate bill, but not the House amendment, clarifies the offset for family size for "dependent and independent students." The House recedes. The Senate bill does not require the publication of the modified Family Contribution Schedule. The House amendment specifies that the 1983-84 schedule must be published in the Federal Register not later than 15 days after enactment of the act. The Senate recedes.

(6) The Senate bill and the House amendment establish the 1983-84 Family Contribution Schedule with appropriate updating, as the 1984-85 Family Contribution Schedule if the Secretary fails to publish and submit the schedule as required by law. The Senate bill establishes the following timetable for submission and publication of the proposed and final Family Contribution Schedule for 1984-85: (a) the proposed schedule must be submitted and published by March 1, 1983; (b) the final schedule must be published and submitted by April 15, 1983; (c) any disapproval resolution must be forwarded by June 1, 1983. The House amendment establishes the following schedule for proposing and submitting the Family Contribution Schedule: (a) the proposed regulation must be published and submitted by April 1, 1983; (b) the final regulations must be published and submitted by May 15, 1983; (c) any disapproval resolution must be forwarded by July 1, 1983. The Senate recedes with an amendment that a disapproval resolution must be adopted by June 15, 1983.

The House amendment, but not the Senate bill, provides that the Consumer Price Index used for updating the offset for family size is the Consumer Price Index for Wage Earners and Clerical Workers. The Senate bill uses the months of April, May and June for purposes of computing the Consumer Price Index. The House amendment uses October through September for the purpose of computing the Consumer Price Index. The Senate recedes.

The Senate bill instructs the Secretary to publish the change in amounts allowable for family size offset on the basis of the Secretary of Labor's Consumer Price Index for June 1983. The House amendment instructs the Secretary to publish the change in amounts allowable for family size offset on the basis of the Secretary of Labor's Consumer Price Index for September 1983. The Senate recedes.

(7) The Senate bill and the House amendment privide for a linear reduction formula, to be established by the Secretary, if there are insufficient appropriations to fully fund all awards. There will be no reduction of awards if the student's expected family contribution is less than $200. The House amendment, but not the Senate bill, states that linear reduction becomes effective with computation of awards for the 1983-1984 academic year. The Senate recedes.

(8) The Senate bill, but not the House amendment, contains a two year extension of the waiver of Federal credit priority under the Bankruptcy Act for Sallie Mae. The House recedes.

The conferees believe that a thorough process of review and oversight of the Student Loan Marketing Association specifically and secondary markets generally is warranted, and provide for a two year, rather than a permanent, extension of the Federal credit priority waiver. A two year extension will allow for a complete review of secondary market activities following the report of the General Accounting Office on secondary market and state guaranty agency activities which the conferees will request. This will also give the authorizing committees ample opportunity to consider the complex issues of secondary markets and loan guarantees outside the process of reauthorizing other programs under the Higher Education Act.

(9) The Senate bill but not the House amendment directs the National Center for Education Statistics to collect and publish cost-of-attendance information for academic years 1982 through 1985. The House recedes with an amendment that the data be displayed by Congressional district.

(10) The House amendment, but not the Senate bill, restores eligibility for Pell Grants to veterans receiving GI bill benefits who were made ineligible for provisions of P.L. 97-92 (the Third Continuing Resolution). $30 million of the monies appropriated for Pell Grants by the supplemental (P.L. 97-257) is set aside for that purpose. The Senate recedes with an amendment specifying that in recalculating veteran eligibility, one-third of the veterans' education

benefits will be counted as student financial assistance.

(11) The Senate bill, but not the House amendment, provides reduction language for awards under the Supplemental Educational Opportunity Grants program if the amount appropriated for the program is less than the 1981 appropriation level. The House recedes with a technical amendment.

(12) The Senate bill but not the House amendment establishes reduction language for awards under the College Work Study program if the amount appropriated for the program is less than the 1981 appropriation level. The House recedes with a technical amendment.

(13) The Senate bill, but not the House amendment, establishes reduction language for awards under the National Direct Student Loan program if the amount appropriated is less than the 1981 appropriation level. The House recedes with a technical amendment.

(14) The Senate bill but not the House amendment requires that students be given information about student loans. This information includes: (a) the itemization of the total amount financed; (b) the dollar cost to the student borrower of the amount borrowed; (c) the dollar amount of scheduled repayments; (d) the repayment schedule, including the number, amounts, and frequency of payment. The House recedes with an amendment requiring disclosure to the student of all the information required under the provision.

(15) The Senate bill, but not the House amendment, establishes the Family Contribution Schedule for the Guaranteed Student Loan program for 1983-84. The Secretary of Education is instructed to publish the 1982-83 modified Guaranteed Student Loan Family Contribution Schedule, modified to include recent and relevant data for the 1982-83 school year no later than March 1, 1983. The House recedes with an amendment that the Secretary must submit and publish the Schedule by April 1, 1983.

(16) The Senate bill, but not the House amendment, contained a provision extending student loan consolidation authority to the state guarantee agencies. The Senate recedes with an amendment terminating authority to consolidate student loans on August 1, 1983. The intention of the conferees is to consider comprehensive student loan consolidation legislation prior to that time, taking into account the recommendations of a General Accounting Office study. The conferees do not expect by this act that the Student Loan Marketing Association's (Sallie Mae) consolidation authority will lapse, but rather they feel it is important to obtain more information before expanding the authority of the states or continuing Sallie Mae's authority in this area.

VETERANS ELIGIBILITY FOR ACADEMIC YEAR 1982-1983

The conferees intend that the Secretary of Education allocate funds appropriated for the Pell Grant program under the appropriations supplemental (Public Law 97-257) to ensure that those students who are eligible for maximum awards receive $1800 grants. He is further directed to use any remaining funds under the Act—up to a maximum of $30 million—to provide for Pell Grant awards for veterans who were adversely affected by the mandates of the Third Continuing Resolution (Public Law 97-92) which altered the way veterans' education benefits were counted in determining eligibility for Pell Grants. It is the intention of the conferees that veterans be eligible and receive, to the extent possible, the same amount of Pell Grant awards as they would have received had the changes not been enacted.

However, the conferees understand that the Secretary may not be able to monitor exactly when $30 million is expended and will not be held liable if that amount is exceeded because of monitoring difficulties.

In order to facilitate the processing and delivery of Pell Grant awards to veterans, the conferees intend that one-third of veterans' educational benefits be regarded as student financial assistance. The remaining two-thirds of the benefits are to be disregarded, in determination of eligibility for and amount of Pell Grant awards.

The conferees intend that in considering veterans' educational benefits as student financial assistance, no Pell Grant shall exceed the difference between the cost of attendance at the institution at which the student is in attendance, and the sum of the expected contribution and one-third the amount paid to the student under chapters 34 and 35 of Title 38, United States Code. If, with respect to any student, it is determined that the amount of a Pell Grant plus the amount of the expected family contribution, and one-third the amount paid the student under chapters 34 and 35 of Title 38, United States Code, exceeds the cost of attendance for the 1982-83 academic year, the amount of the Pell Grant shall be reduced until the combination of expected family contribution, the amount of the Pell Grant, and one-third of the amount paid the student in veterans' education benefits, does not exceed the cost of attendance at such institution.

DEVELOPMENT OF FINANCIAL AID FORMS

The Family Contribution Schedule not only establishes the parameters for determining Pell Grant eligibility, it also contains information essential to structuring the common data elements of the application forms used in the Multiple Data Entry [MDE] system. The conferees recognize that, because of the lack of early resolution on the matter of the Family Contribution Schedule, student aid forms for 1983-84 will not reach the hands of students and their families until January or February of the coming year—months later than the delivery schedule of years past.

The conferees are concerned that the undue delay in the production and delivery of these forms and accompanying instructions and information will have an adverse effect on the ability of students and their families to make reasonable and timely decisions about college attendance.

The conferees continue to support the Multiple Data Entry process, through which a student may receive consideration for Federal, state, and institutional financial aid by completing a single common form. The conferees support the inclusion, on the MDE aid application forms, of a notice to students which announces the availability of a free Federal application form. The conferences expect the Secretary to enter into contracts with the MDE services which provide for the inclusion, on the MDE aid application forms, of an option by which a student may apply for Federal aid only (except for State Student Incentive Grants) without paying a fee, and for the MDE services to be reimbursed for services for which the Secretary contracts.

Therefore, the conferees direct the Secretary of Education to take whatever steps are necessary to finalize the development of the single common application form and to deliver such form to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives no later than October 15, 1982 for Congressional review. The conferees are in agreement that, because of delays preceding this action that have transpired to date, Congress must exercise this review and approval procedure as quickly as possible.

If the Secretary submits a form with which the Congress finds objection, the objections will be stated and the Secretary will be required to deliver another form for review within 15 days of the receipt of the objections of the Congress.

GENERAL ACCOUNTING OFFICE (GAO) REPORT

The conferees request the General Accounting Office (GAO) to conduct an extensive review of the Student Loan Marketing Association's (SLMA) legislative authority and its program operations, as well as a more narrow, interim study. The interim study is to be completed within six months. The Conferees hope that these reports will advise them as to possible modifications to the existing loan consolidation authority of SLMA and the feasibility of extending such authority to state guarantee agencies.

With respect to the GAO interim report, the conferees are asking that it address the following specific issues:

(1) The need for legislative change in the current authority under which Sallie Mae consolidates loans, specifically addressing whether or not Sallie Mae has the capability, when consolidating loans, to average varying interest rates of such consolidated loans which may include NDSL loans carrying interest rates of three percent to five percent;

(2) The capability of state loan guarantee agencies to consolidate student loans, and the capability of state agencies to average varying interest rates of such loans, which may include NDSL loans carrying interest rates of three percent or five percent;

(3) The potential savings to the federal government realized by expansion of loan consolidation authority to state guarantee agencies, in view of the provisions of Section 438(b)(2)(D)(i) of the Higher Education Act which establish a special allowance differential;

(4) The difficulties for state guarantee agencies which have arisen or could arise because Sallie Mae's authority under Section 439(d)(1)(A) to set exclusively the terms and conditions under which the Association may purchase, repurchase, service, sell or resell, offer participation, or pooled interests or otherwise deal in student loans, any compelling reasons for such exclusive authority to be given to the Association, and whether or not such authority should be amended to give state agencies, institutions, organizations or lenders equal standing in setting terms, as is provided in Section 439(o)(1)(B);

(5) The effect of the amendment contained in the Omnibus Budget Reconciliation Act of 1981 which changed Sallie Mae's authority to make direct loans in areas where the Department of Education, in consultation with and agreement of the state agency, determined that loan demand was not being met by commercial lenders, to authority for Sallie Mae to insure Guaranteed Student Loans in states where the Department determines that loan demand is not being met by the established state agency. Specifically, the Committee is concerned whether, under present law and current operating policy, Sallie Mae has the capacity to so limit state agency loan activities as to reduce the ability of a state agency to meet effectively loan demand in that state; and

(6) The need for a minimum aggregate loan size under the consolidation provisions, as they apply to Sallie Mae and state guarantee agencies, and if so, what limits are appropriate.

(7) The capacity of Sallie Mae and state loan guarantee agencies to consolidate stu-

dent loans under the program restrictions offered by Senator Stafford in the alternative proposal presented during the Conference, and the savings to the federal government which would be realized by such restrictions.

Based on the information contained in this interim report from GAO, the full intention of the conferees is to make statutory changes in Sallie Mae's existing authority and to seriously consider the expansion of loan consolidation authority to state agencies, if appropriate and necessary to facilitate students' need under the loan program.

With respect to the more extensive GAO report on Sallie Mae, the conferees request that the report be completed and submitted to the Congress by December 31, 1983. That report shall focus on the evolution of Sallie Mae, from the original authority under which it was established, through the most recent amendments contained in the Omnibus Budget Reconciliation Act. The conferees are particularly interested in an analysis of whether Sallie Mae's original purpose, to provide additional capital for student loans from the private sector, has, through legislative changes or policy redirection, been significantly eroded or altered, and whether or not Sallie Mae lessened its commitment to act as a secondary market in favor of its ability to serve as a direct lender or guarantor.

LOAN DISCLOSURE

The Senate bill included language adopting modified provisions addressed to truth-in-lending for student loans. The House amendment contained no such provisions. The conferees believe that truth-in-lending provisions are essential to protecting the rights of student borrowers in the National Direct Student Loan (NDSL) and Guaranteed Student Loan (GSL) programs. The conferees have adopted these amendments to the Higher Education Act of 1965 to assure that student borrowers are protected, and not necessarily because they support pending legislation to exempt student loans from the provisions of the Truth-in-Lending Act. The House conferees oppose any such exemption affecting student loans.

Finally, it has come to the attention of the conferees that at least one state secondary market is considering proposed regulations to terminate all loan purchase commitments to (1) participating lenders on loans made to students attending an institution where the aggregate GSL default rate exceeds 15 percent and (2) participating lenders whose GSL portfolio indicates a default rate exceeding ten percent. The conferees urge the states to proceed with extreme caution in this matter, and the conferees express their own interest in learning more about this situation.

CARL D. PERKINS,
PAUL SIMON,
WILLIAM D. FORD,
IKE ANDREWS,
PETER PEYSER,
TED WEISS,
JOSEPH M. GAYDOS,
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CLAIBORNE PELL,
EDWARD M. KENNEDY,
JENNINGS RANDOLPH,
TOM EAGLETON,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. TAYLOR (at the request of Mr. MICHEL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. OBEY, for 60 minutes, on September 28, 1982.

(The following Members (at the request of Mr. MOLINARI) to revise and extend their remarks and include extraneous material:)

Mr. NELLIGAN, for 10 minutes, today.

Mr. MARTIN of North Carolina, for 5 minutes, today.

Mr. CLAUSEN, for 60 minutes on Friday, October 1.

Mr. PARRIS, for 5 minutes, today.

(The following Members (at the request of Mr. LOWRY of Washington) to revise and extend their remarks and include extraneous material:)

Mr. GORE, for 20 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes, on September 29.

Mr. PEPPER, for 60 minutes, on September 29.

Mr. GAYDOS, for 60 minutes, on September 30.

Mr. JONES of Tennessee, for 60 minutes, on September 30.

(The following Member (at the request of Mrs. BOGGS) to revise and extend his remarks and include extraneous material:)

Mr. WEAVER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HUGHES, during consideration of H.R. 3252, Coastal Barrier Resources Act, today.

Mr. OBERSTAR, to revise and extend his remarks in favor of H.R. 3252, Barrier Island Resources System Act.

(The following Members (at the request of Mr. MOLINARI) and to include extraneous matter:)

Mr. NELLIGAN.
Mr. COLLINS of Texas.
Mr. DOUGHERTY in two instances.
Mr. BROWN of Ohio in two instances.
Mr. CARMAN.
Mr. FRENZEL.
Mr. WHITEHURST.
Mr. COURTER.
Mr. DREIER.
Mr. PORTER.
Mr. DERWINSKI in two instances.
Mr. PARRIS.
Mrs. HECKLER in two instances.
Mr. OXLEY.
Mr. MCKINNEY.
Mrs. ROUKEMA.
Mr. HILER.
Mr. MCCLOSKEY.
Mr. MARKS.
Mr. BROYHILL in two instances.
Mr. ERLENBORN in three instances.
Mr. HYDE.
Mr. NAPIER in two instances.
Mr. GUNDERSON.

(The following Members (at the request of Mr. LOWRY of Washington) and to include extraneous matter:)

Mr. HALL of Ohio.
Mr. RODINO in two instances.
Mr. MOFFETT in two instances.
Mr. BARNES in three instances.
Mr. STARK in five instances.
Mr. MAZZOLI in two instances.
Mr. DONNELLY in two instances.
Mr. WALGREN in two instances.
Mr. NICHOLS.
Mr. HAMILTON.
Mr. PHILLIP BURTON.
Mr. COELHO.
Mr. FLORIO in two instances.
Mr. DERRICK.
Mr. MINETA.
Mr. ROEMER.
Mr. MARKEY in two instances.
Mr. BOLAND in two instances.
Mr. LUNDINE.
Mr. FASCELL in eight instances.
Mr. SOLARZ in two instances.
Mr. MOTTL in two instances.
Mr. DYSON.
Mr. MILLER of California.
Mr. MOAKLEY.
Mr. DINGELL.
Mr. HOYER.
Mr. FORD of Tennessee.
Mr. CLAY.
Mr. RATCHFORD.
Ms. OAKAR.
Mr. AKAKA.
Mr. EDGAR.
Ms. FERRARO in two instances.
Mr. SIMON in two instances.
Mr. STUMP.
Mr. MCHUGH.
Mr. ASPIN.
Mr. GORE.
Mr. FRANK.
Mr. HUBBARD.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 178. Joint resolution to authorize and request the President to proclaim the second week in April of 1983 as "National Medical Laboratory Week"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 907. An act to amend sections 351 and 1751 of title 18 of the United States Code to provide penalties for crimes against Cabinet officers, Supreme Court Justices, and Presidential staff members, and for other purposes;

S. 2271. An act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1983, and for other purposes; and

S. 2405. An act to further amend the boundary of the Cibola National Forest to allow an exchange of lands with the city of Albuquerque, N. Mex.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3589. An act to authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, and for other purposes;

H.R. 4347. An act to authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power;

H.R. 5081. An act to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the U.S. Forest Service;

H.R. 7065. An act to amend the Community Service Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for other purposes; and

H.J. Res. 496. Joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week."

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on September 24, 1982 present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 520. An act to provide for a temporary increase in the public debt limit.

ADJOURNMENT

Mrs. BOGGS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 46 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 29, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4845. A letter from the Acting General Counsel, General Accounting Office, transmitting a report on the status of budget authority that was proposed for rescission in the message from the President dated July 16, 1982, rescission proposal R82-28, for which Congress failed to pass a rescission bill, pursuant to section 1011(3) of the Impoundment Control Act; to the Commmittee on Appropriations.

4846. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense articles to Portugal (Transmittal No. 82-85), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4847. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the discovery and emergency disposal of suspected chemical agent munitions, pursuant to Public Law 91-121 and Public Law 91-441; to the Committee on Armed Services.

4848. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's intention to study the conversion from in-house operation to commercial contract of various functions at sundry locations, pursuant to Public Law 96-342; to the Committee on Armed Services.

4849. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to convert to contractor performance the insect and rodent control function at the naval shipyard, Norfolk, Va. pursuant to Public Law 96-342; to the Committee on Armed Services.

4850. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to convert to contract performance the physical inventory function at the Naval Supply Center, Oakland, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4851. A communication from the President of the United States, transmitting a report on progress toward conclusion of a negotiated solution of the Cyprus problem, pursuant to section 620C(c) of the Foreign Assistance Act of 1961, as amended (H. Doc. No. 97-242); to the Committee on Foreign Affairs and ordered to be printed.

4852. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles and services to Portugal (Transmittal No. 82-85), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4853. A letter from the Deputy Assistant Secretary of Defense, transmitting notice of a proposed new system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4854. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4855. A letter from the Inspector General, Department of Health and Human Services, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(0); to the Committee on Government Operations.

4856. A letter from the Secretary, the Trust Committee, Ninth Farm Credit District, Wichita, Kans., transmitting the annual report on the financial status of the Trust Committee's retirement system for the year ending February 28, 1982, pursuant to section 121(a) of Public Law 95-595; to the Committee on Government Operations.

4857. A letter from the Comptroller General of the United States, transmitting a report of the Disabled American Veterans national headquarters' financial statements for the year ended December 31, 1981 (GAO/AFMD-82-104, September 23, 1982); to the Committee on the Judiciary.

4858. A letter from the Secretary of Housing and Urban Development, transmitting draft of proposed legislation to amend provisions of the Bankruptcy Code governing the powers of a bankruptcy court and the effect of automatic stays as they relate to certain multifamily mortgages insured or held by the Secretary of Housing and Urban Development or by the Secretary of Agriculture, and for other purposes; to the Committee on the Judiciary.

4859. A letter from the adjutant general, Veterans of Foreign Wars of the United States, transmitting a report on the audit of the books of the organization's quartermaster general for the year ended August 31, 1982, pursuant to section 3 of Public Law 88-504; to the Committee on the Judiciary.

4860. A letter from the Secretary of Commerce, transmitting the biennial report of the Office of Coastal Zone Management for the fiscal years 1980 and 1981, pursuant to section 316 of the Coastal Zone Management Act of 1972, as amended; to the Committee on Merchant Marine and Fisheries.

4861. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on the American Samoa water resources study, pursuant to section 106 of the River and Harbor Act of 1970 and section 143 of the Water Resources Development Act of 1976; to the Committee on Public Works and Transportation.

4862. A letter from the Executive Secretary, Office of the Secretary of Defense, transmitting a report on the Department of Defense procurement from small and other business firms from October 1981 through May 1982, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

4863. A letter from the Inspector General, Department of Health and Human Services, transmitting a report on the development of a "Health Provider Fraud Technical Assistance Series"; the initial publication is a dental investigative guide by the State Fraud Division; jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on September 23, 1982, the following reports were filed on September 26, 1982]

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5455. A bill to amend the act of

July 2, 1962, to authorize intrastate quarantines under extraordinary emergency conditions; with an amendment (Rept. No. 97-872). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5456. A bill to amend the Plant Quarantine Act of August 20, 1912, as amended, to eliminate certain unnecessary regulatory requirements. (Rept. No. 97-873). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 6142. A bill to require the Commodity Credit Corporation to dispose of Government-owned stocks of agricultural commodities; with amendments (Rept. No. 97-874). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 6679. A bill to authorize civil penalties for violations of various laws for preventing the introduction and dissemination of livestock and poultry diseases, plant diseases, and plant pests; with amendments (Rept. No. 97-875). Referred to the Committee of the whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 6865. A bill to amend the Perishable Agricultural Commodities Act, 1930, to require the Secretary of Agriculture to accept the payment of monetary penalties for certain admitted and infrequent violations involving misrepresentation under such act, and for other purposes; with an amendment (Rept. No. 97-876). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 7005. A bill to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes; with an amendment (Rept. No. 97-877). Referred to the Committee of the Whole House on the State of the Union.

[Submitted September 28, 1982]

Mr. BROOKS: Committee on Government Operations. H.R. 7096. A bill to require the Director of the Office of Management and Budget to prepare an annual report consolidating the available data on the geographic distribution of Federal funds, and for other purposes; with an amendment (Rept. No. 97-878). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 7173. A bill to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations (Rept. No. 97-879). Referred to the Committee of the Whole House on the State of the Union.

Mr. BRINKLEY: Committee of conference. Conference report on S. 2586 (Rept. No. 97-880). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5162. A bill directing the Secretary of the Interior to prepare and submit a state of the parks report to Congress; with an amendment (Rept. No. 97-881). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3787. A bill to amend sections 10 and 11 of the act of October 21, 1970 (Public Law 91-479; 16 U.S.C. 460x), entitled "An Act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes"; with an amendment (Rept. No. 97-882). Referred to the Committee of the Whole House on the States of the Union.

Mr. HUGHES: Committee on the Judiciary. H.R. 7140. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to improve forfeiture provisions and strengthen penalties for controlled substances offenses, and for other purposes (Rept. No. 97-883, Pt. I). Ordered to be printed.

Mr. UDALL: Committee of Conference. Conference report on H.R. 2330 (Rept. No. 97-884). Ordered to be printed.

Mr. PERKINS: Committee on Education and Labor. H.R. 7102. A bill to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes (Rept. No. 97-885). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 601. A resolution providing for the consideration of H.R. 3809, a bill to provide for repositories for the disposal of high-level radioactive waste, transuranic waste, and spent nuclear fuel, to amend provisions of the Atomic Energy Act of 1954 relating to low-level waste, to modify the Price-Anderson provisions of the Atomic Energy Act of 1954 and certain other provisions pertaining to facility licensing and safety, and for other purposes (Rept. No. 97-886). Referred to the House Calendar.

Mr. PERKINS: Committee of Conference. Conference report on S. 2852 (Rept. No. 97-887). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. S. 2355. An act to amend the Communications Act of 1934 to provide that persons with impaired hearing are insured reasonable access to telephone service; with amendments (Rept. No. 97-888). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee of Conference. Conference report on S. 2036 (Rept. No. 97-889). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RODINO (for himself, Mr. FISH, Mr. BROOKS, Mr. KASTENMEIER, Mr. EDWARDS of California, Mr. CONYERS, Mr. SEIBERLING, Mr. MAZZOLI, Mr. HUGHES, Mr. SYNAR, Mrs. SCHROEDER, Mr. GLICKMAN, Mr. WASHINGTON, Mr. FRANK, Mr. CROCKETT, Mr. MCCLORY, Mr. RAILSBACK, Mr. BUTLER, Mr. MOORHEAD, Mr. HYDE, Mr. SAWYER, Mr. LUNGREN, Mr. MCCOLLUM, Mr. SHAW, Mr. FOUNTAIN, Mr. PEPPER, Mr. FASCELL, Mr. ROSENTHAL, Mr. UDALL, Mr. LONG of Maryland, Mr. MINISH, Mr. HORTON, Mr. BROWN of California, Mr. FORD of Michigan, Mr. HOWARD, Mrs. HECKLER, Mr. HAMMERSCHMIDT, Mr. BIAGGI, Mr. FAUNTROY, Mr. MITCHELL of Maryland, Mr. FRENZEL, Mr. GINN, Mr. LEHMAN, Mr. MITCHELL of New York, Mr. STARK, Mr. BEARD, Mr. OTTINGER, Mr. GILMAN, Mr. EDGAR, Mr. WIRTH, Mr. HARKIN, Mr. MINETA, Mr. MOFFETT, Mr. SANTINI, Mrs. FENWICK, Mr. GRADISON, Mr. WAXMAN, Mr. MARKEY, Mr. VENTO, Ms. MIKULSKI, Mr. LEACH of Iowa, Mr. MARRIOTT, Mr. BONER of Tennessee, Mr. FAZIO, Mr. PORTER, Mr. DYSON, Mr. FOGLIETTA, Mr. GEJDENSON, Mr. SCHUMER, Mrs. KENNELLY, Mr. LOWERY of California, Mr. COATS, Mr. DUNN, Mr. WORTLEY, Mr. SMITH of New Jersey, and Mr. MICA):

H.R. 7191. A bill to provide additional protections and assistance to victims and witnesses in Federal cases; to the Committee on the Judiciary.

By Mr. PHILLIP BURTON:

H.R. 7192. A bill to appropriate funds for basic scientific and medical research on acquired immune disorders and related opportunistic infections; to the Committee on Appropriations.

H.R. 7193. A bill to appropriate funds for epidemiological and medical research on acquired immune disorders and related opportunistic infections; to the Committee on Appropriations.

By Mr. DAUB:

H.R. 7194. A bill to amend title II of the Social Security Act to provide that a monthly insurance benefit thereunder shall be paid for the month in which the recipient dies and that such benefit shall be payable for such month only to the extent proportionate to the number of days in such month preceding the date of the recipient's death; to the Committee on Ways and Means.

By Mr. DELLUMS:

H.R. 7195. A bill to amend the District of Columbia Stadium Act of 1957 to require the Secretary of the Interior to convey to the government of the District of Columbia all right, title, and interest to the Robert F. Kennedy Memorial Stadium vested in the United States; to the Committee on the District of Columbia.

By Mr. FISH:

H.R. 7196. A bill to amend the Internal Revenue Code of 1954, with respect to excluding from recapture investment tax credit used to fund tax credit employee stock ownership plans and to permit recovery by such plans of previously recaptured investment tax credit; to the Committee on Ways and Means.

By Mr. FRENZEL:

H.R. 7197. A bill to provide limitations on certain export restrictions imposed by the United States; to the Committee on Foreign Affairs.

By Mr. HAMMERSCHMIDT:

H.R. 7198. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. JACOBS:

H.R. 7199. A bill to amend the Federal Reserve Act to prohibit any officer or employee of the United States from purchasing the currency of certain foreign governments; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KRAMER:

H.R. 7200. A bill entitled: "Equal Rights Act of 1982"; to the Committee on the Judiciary.

By Mr. LIVINGSTON (for himself, Mrs. BOGGS, Mr. MOORE, Mr. HUCKABY, and Mr. TAUZIN):

H.R. 7201. A bill to provide for the minting of silver dollars to support the 1984 Louisiana World Exposition; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STUMP:

H.R. 7202. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. BLANCHARD:

H.J. Res. 610. Joint resolution to extend the Defense Production Act of 1950; to the Committee on Banking, Finance and Urban Affairs.

By Mr. COATS:

H.J. Res. 611. Joint resolution proposing an amendment to the Constitution of the United States with respect to prayer or

other religious activity in public schools; to the Committee on the Judiciary.

By Mr. GONZALEZ (for himself, Mr. ST GERMAIN, and Mr. STANTON of Ohio):

H.J. Res. 612. Joint resolution to provide for the temporary extension of certain insurance programs relating to housing and community development, and for other programs; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LENT (for himself, Mr. FLORIO, Mr. ANDERSON, Mr. CLAUSEN, and Mr. LEHMAN):

H.J. Res. 613. Joint resolution to congratulate the American Public Transit Association on a century of service to the transit industry; to the Committee on Post Office and Civil Service.

By Mr. GOODLING:

H. Con. Res. 413. Concurrent resolution urging the President to provide as expeditiously as possible for the burial of an unknown soldier from the Vietnam era at Arlington National Cemetery as directed by the National Cemeteries Act of 1973; to the Committee on Veterans' Affairs.

By Mr. OBEY (for himself, Mr. BETHUNE, Mr. GEPHARDT, Mr. EDWARDS of Oklahoma, Mr. MURTHA, and Mr. PETRI):

H. Res. 602. Resolution to amend the Rules of the House of Representatives to establish an effective and durable budget process in the House of Representatives, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

490. By the SPEAKER: A memorial of the Legislature of the State of California, relative to Federal funding of public library services; to the Committee on Education and Labor.

491. Also, a memorial of the Legislature of the State of California, relative to Federal student assistance; to the Committee on Education and Labor.

492. Also, a memorial of the Legislature of the Commonwealth of Pennsylvania, relative to increases in natural gas prices; to the Committee on Energy and Commerce.

493. Also, a memorial of the Legislature of the State of California, relative to ocean and coastal resources; to the Committee on Merchant Marine and Fisheries.

494. Also, a memorial of the Legislature of the State of California, relative to tuna fishing, to the Committee on Merchant Marine and Fisheries.

495. Also, a memorial of the Legislature of the State of California, relative to water quality standards; to the Committee on Public Works and Transportation.

496. Also, a memorial of the Legislature of the State of California, relative to veterans' burial benefits; to the Committee on Veterans' Affairs.

497. Also, a memorial of the Legislature of the State of California, relative to encouraging contributions of sophisticated technology to schools; to the Committee on Ways and Means.

498. Also, Legislature of the State of California, relative to social security survivor's benefits; to the Committee on Ways and Means.

499. Also, a memorial of the Legislature of the State of California, relative to veterans' benefits; to the Committee on Ways and Means.

500. Also, a memorial of the Legislature of the State of California, relative to multiemployer trusts; jointly, to the Committees on Education and Labor and Ways and Means.

501. Also, a memorial of the Legislature of the State of California, relative to encouraging contributions of sophisticated technology to schools; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON:

H.R. 7203. A bill for the relief of Dalila Barrinuevo; to the Committee on the Judiciary.

By Mr. QUILLEN:

H.R. 7204. A bill for the relief of Clemente Diaz Ibarra; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 375: Mr. DORGAN of North Dakota.

H.R. 385: Mr. QUILLEN and Mr. JONES of North Carolina.

H.R. 808: Mr. GAYDOS, Mr. MARKS, and Mr. NELLIGAN.

H.R. 3526: Mr. RINALDO.

H.R. 4066: Mr. GUARINI.

H.R. 4147: Mr. FRANK.

H.R. 4657: Mr. MONTGOMERY.

H.R. 5471: Mr. BADHAM, Mr. FRENZEL, Mr. HUGHES, Mr. JEFFRIES, Mr. KINDNESS, Mr. RUDD, Mr. SOLOMON, Mr. DORNAN of California, Mr. HYDE, and Mr. LAGOMARSINO.

H.R. 5743: Mr. ROBERT W. DANIEL, Jr. and Mr. WASHINGTON.

H.R. 5828: Mr. GEJDENSON.

H.R. 5918: Mr. YOUNG of Florida, Mr. PORTER, and Mr. MCCOLLUM.

H.R. 6036: Mr. MINETA, Mr. SCHEUER, Mr. FARY, Mr. DOWDY, and Mr. HYDE.

H.R. 6054: Mr. JAMES K. COYNE and Mr. ROBERTS of South Dakota.

H.R. 6135: Mr. SIMON, Mr. BEVILL, Mr. ASPIN, Mr. ROSE, and Mr. WEBER of Ohio.

H.R. 6348: Mr. JACOBS.

H.R. 6527: Mr. FITHIAN.

H.R. 6538: Mr. SAWYER, Mr. DAUB, Mr. SPENCE, Mr. MADIGAN, Mr. BLILEY, Mr. LIVINGSTON, Mr. TAUZIN, Mr. WHITTAKER, Mr. FOUNTAIN, Mr. ATKINSON, Mr. CLINGER, Mr. CONTE, Mr. MCKINNEY, Mr. MARRIOTT, Mr. MCCOLLUM, Mr. EDWARDS of Alabama, Mr. JAMES K. COYNE, Mr. NELLIGAN, Mr. PASHAYAN, Mr. BURGENER, Mr. MINETA, Mr. MATSUI, Mr. HUTTO, Mr. ROYBAL, Mr. CARNEY, Mr. GRAMM, and Mr. DAN DANIEL.

H.R. 6576: Mr. OXLEY and Mr. DREIER.

H.R. 6654: Mr. MCCOLLUM.

H.R. 6690: Mr. PORTER.

H.R. 6886: Mr. GUARINI.

H.R. 6915: Mr. PANETTA and Mr. WEAVER.

H.R. 6970: Mr. PORTER, Mr. HARKIN, and Mr. GUARINI.

H.R. 6971: Mr. LEACH of Iowa, Mr. DWYER, Mr. LEHMAN, Mr. JACOBS, and Mr. GILMAN.

H.R. 6979: Mr. ANNUNZIO, Mrs. ASHBROOK, Mr. BROOKS, Mr. PHILLIP BURTON, Mr. D'AMOURS, Mr. DELLUMS, Mr. DICKS, Mr. GUARINI, Mr. HALL of Ohio, Mr. HEFTEL, Mr. KILDEE, Mr. LONG of Maryland, Mr. LOWRY of Washington, Mr. MAVROULES, Mr. MOAKLEY, Mr. NICHOLS, Ms. OAKAR, Mr. PEASE, Mr. PRICE, Mr. RINALDO, Mr. WILLIAMS of Ohio, Mr. YOUNG of Missouri, and Mr. STARK.

H.R. 6989: Mr. GINGRICH.

H.R. 7036: Mr. HUGHES.

H.R. 7043: Mr. CORCORAN, Mrs. MARTIN of Illinois, Mr. JEFFRIES, and Mr. ROGERS.

H.R. 7091: Mr. HUGHES.

H.R. 7097: Mr. DASCHLE, Mr. LUKEN, Mr. MITCHELL of New York, Mr. SAM B. HALL, Jr., Mr. ERDAHL, Mr. ROE, Mr. MARLENEE, Mr. LATTA, Mr. FROST, Mr. BIAGGI, Mr. BONIOR of Michigan, Mr. FRENZEL, Mr. VENTO, Mr. ZABLOCKI, Mr. DONNELLY, Mr. HUGHES, Mr. WILLIAMS of Montana, Mr. D'AMOURS, Mr. TAUZIN, Mr. WILLIAMS of Ohio, Mr. LOEFFLER, Mr. MOTTL, Mr. HEFNER, Mr. HALL of Ohio, Mr. FLORIO, Mr. WYLIE, Mr. FISH, Mr. SIMON, Mr. RINALDO, Mr. STOKES, Mrs. CHISHOLM, and Mr. WYDEN.

H.R. 7108: Mr. ROSE, Mr. TAUZIN, Mr. PETRI, Mr. STOKES, and Mrs. ROUKEMA.

H.R. 7117: Mr. HENDON.

H.R. 7155: Mr. LEHMAN and Mr. PEPPER.

H.R. 7181: Mr. CAMPBELL, Mr. ROBERTS of South Dakota, Mr. KINDNESS, and Mr. HOWARD.

H.R. 7182: Mr. LAGOMARSINO, Mr. ROBERTS of South Dakota, Mr. KINDNESS, and Mr. PETRI.

H.J. Res. 144: Mr. FASCELL.

H.J. Res. 172: Mr. ST GERMAIN.

H.J. Res. 460: Mr. RAHALL, Mr. PERKINS, Mr. NELLIGAN, Mr. ROSE, and Mr. BLILEY.

H.J. Res. 533: Mr. VOLKMER.

H.J. Res. 537: Mr. ALBOSTA, Mr. BADHAM, Mr. BARNES, Mr. BLILEY, Mr. BONIOR of Michigan, Mr. PHILLIP BURTON, Mr. BUTLER, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. CONYERS, Mr. DOWNEY, Mr. DE LUGO, Mr. EDGAR, Ms. FERRARO, Mr. GEJDENSON, Mr. GREEN, Mr. HARTNETT, Mr. HEFTEL, Mr. HOLLAND, Mr. KAZEN, Mr. LANTOS, Mr. LONG of Louisiana, Mr. MARKS, Mr. MICA, Mr. MILLER of California, Mr. MURTHA, Mr. PASHAYAN, Mr. ROBINSON, Mr. ROEMER, Mr. ROSE, Mr. ROSTENKOWSKI, Mr. SANTINI, Mr. SCHUMER, Mr. SOLOMON, Mr. SPENCE, Mr. VANDER JAGT, Mr. WAMPLER, Mr. WHITLEY, Mr. ZABLOCKI, Mr. DICKS, Mr. GIBBONS, Mr. SMITH of New Jersey, Mr. STARK, Mr. PICKLE, and Mr. EVANS of Delaware.

H.J. Res. 565: Mr. FOUNTAIN, Mr. GUARINI, Mr. LONG of Maryland, Mr. MARKEY, Mr. LANTOS, Mr. MURPHY, Mr. OBERSTAR, Mr. DOWDY, Mr. SUNIA, Mr. WALGREN, Mr. WON PAT, Mr. DOWNEY, Mr. ZEFERETTI, Mr. MARRIOTT, Mr. NEAL, Mr. ASPIN, Mr. WYDEN, Mr. BEVILL, Mr. SKELTON, Mr. WHITTEN, Mr. BETHUNE, Mr. UDALL, Mr. SEIBERLING, Mr. ANDREWS, Mr. BIAGGI, Mr. EDWARDS, of Oklahoma, Mr. LAFALCE, Mr. FOGLIETTA, Mr. MINETA, Mr. ALBOSTA, Mr. MAZZOLI, Mr. NICHOLS, Ms. FERRARO, Mr. WOLPE, Mr. DAUB, Mr. BARNARD, Mr. FRENZEL, and Mr. RITTER.

H.J. Res. 583: Mr. MARTIN of New York, Mr. TAUZIN, Mr. GINN, Mr. BEARD, Mr. DYSON, Mr. DICKINSON, Mr. DOWDY, Mr. GILMAN, Mr. WHITTEN, Mr. MONTGOMERY, Mr. VOLKMER, Mr. GORE, Mr. CARNEY, Mr. EDWARDS of Alabama, Mr. BEVILL, Mr. EMERSON, Mr. MARRIOTT, Mr. DENARDIS, Mr. ROEMER, Mr. GINGRICH, Mr. MOORE, Mr. JEFFORDS, Mrs. SNOWE, Mr. FUQUA, and Mr. WHITLEY.

H.J. Res. 586: Mr. HUGHES, Mr. KAZEN, Mr. KRAMER, Mr. PICKLE, and Mr. HENDON.

H.J. Res. 588: Mr. ADDABBO, Mr. AKAKA, Mr. ALBOSTA, Mr. ALEXANDER, Mr. ANDERSON, Mr. ANTHONY, Mrs. ASHBROOK, Mr. ATKINSON, Mr. BAILEY of Pennsylvania, Mr. BARNES, Mr. BENEDICT, Mr. BEREUTER, Mr. BETHUNE, Mr. BIAGGI, Mr. BINGHAM, Mr. BLILEY, Mr. BOLAND, Mr. BREAUX, Mr. BRODHEAD, Mr. BROWN of California, Mr. BROWN of Colorado, Mr. JOHN L. BURTON, Mr. BUTLER, Mr. CAMPBELL, Mr. CARMAN, Mr. CHENEY, Mrs. CHISHOLM, Mr. CLAY, Mr. CLINGER, Mr. COATS, Mr. CONYERS, Mr. COR-

CORAN, Mr. CORRADA, Mr. COURTER, Mr. JAMES K. COYNE, Mr. CRAIG, Mr. DAN DANIEL, Mr. DANNEMEYER, Mr. DAUB, Mr. DAVIS, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DENARDIS, Mr. DERRICK, Mr. DICKINSON, Mr. DICKS, Mr. DINGELL, Mr. DORNAN of California, Mr. DOWDY, Mr. DOWNEY, Mr. DUNCAN, Mr. DUNN, Mr. DYMALLY, Mr. EDWARDS of California, Mr. EDWARDS of Oklahoma, Mr. EMERSON, Mr. ENGLISH, Mr. ERTEL, Mr. EVANS of Iowa, Mr. FAUNTROY, Mr. FAZIO, Mrs. FENWICK, Ms. FIEDLER, Mr. FINDLEY, Mr. FISH, Mr. FITHIAN, Mr. FLORIO, Mr. FORD of Tennessee, Mr. FORD of Michigan, Mr. FORSYTHE, Mr. FOUNTAIN, Mr. FRANK, Mr. FRENZEL, Mr. FROST, Mr. GILMAN, Mr. GINGRICH, Mr. GOLDWATER, Mr. GREGG, Mr. GREEN, Mr. GRISHAM, Mr. GUARINI, Mr. GUNDERSON, Mr. HAGEDORN, Mr. SAM B. HALL, Jr., Mr. HAMMERSCHMIDT, Mr. HANSEN of Idaho, Mr. HANSEN of Utah, Mr. HARTNETT, Mr. HATCHER, Mrs. HECKLER, Mr. HEFNER, Mr. HEFTEL, Mr. HILER, Mrs. HOLT, Mr. HOPKINS, Mr. HORTON, Mr. HOWARD, Mr. HOYER, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. HUNTER, Mr. HYDE, Mr. JACOBS, Mr. JEFFORDS, Mr. JENKINS, Mr. JONES of Tennessee, Mr. JONES of North Carolina, Mr. KEMP, Mrs. KENNELLY, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. LATTA, Mr. LEBOUTILLIER, Mr. LEE, Mr. LEHMAN, Mr. LELAND, Mr. LENT, Mr. LEWIS, Mr. LIVINGSTON, Mr. LOEFFLER, Mr. LOWERY of California, Mr. LOWRY of Washington, Mr. LUJAN, Mr. LUKEN, Mr. MCCOLLUM, Mr. MCDADE, Mr. MCGRATH, Mr. MADIGAN, Mr. MARKEY, Mr. MARKS, Mr. MARTIN of New York, Mrs. MARTIN of Illinois, Mr. MARTINEZ, Mr. MATSUI, Mr. MAVROULES, Mr. MAZZOLI, Mr. MICHEL, Ms. MIKULSKI, Mr. MILLER of California, Mr. MINETA, Mr. MINISH, Mr. MITCHELL of New York, Mr. MOAKLEY, Mr. MOLINARI, Mr. MOORE, Mr. MOORHEAD, Mr. MORRISON, Mr. MOTTL, Mr. MYERS, Mr. NAPIER, Mr. NELLIGAN, Mr. NELSON, Mr. NICHOLS, Ms. OAKAR, Mr. OBERSTAR, Mr. O'BRIEN, Mr. PANETTA, Mr. PARRIS, Mr. PATMAN, Mr. PEPPER, Mr. PEYSER, Mr. PORTER, Mr. PRICE, Mr. PRITCHARD, Mr. PURSELL, Mr. QUILLEN, Mr. RAHALL, Mr. RATCHFORD, Mr. REGULA, Mr. RITTER, Mr. ROBERTS of South Dakota, Mr. ROBERTS of Kansas, Mr. ROBINSON, Mr. RODINO, Mr. ROE, Mr. ROEMER, Mr. ROGERS, Mr. ROSENTHAL, Mr. ROUSSELOT, Mr. SABO, Mr. ST GERMAIN, Mr. SANTINI, Mr. SCHEUER, Mrs. SCHNEIDER, Mr. SHELBY, Mr. SHUMWAY, Mr. SILJANDER, Mr. SIMON, Mr. SKEEN, Mr. SKELTON, Mr. SMITH of Alabama, Mr. SMITH of New Jersey, Mr. SMITH of Iowa, Mrs. SNOWE, Mr. SNYDER, Mr. SOLARZ, Mr. SOLOMON, Mr. STANGELAND, Mr. STATON of West Virginia, Mr. STENHOLM, Mr. STOKES, Mr. SYNAR, Mr. TAUKE, Mr. TAUZIN, Mr. VOLKMER, Mr. WALKER, Mr. WASHINGTON, Mr. WAXMAN, Mr. WEAVER, Mr. WEBER of Ohio, Mr. WEBER of Minnesota, Mr. WEISS, Mr. WHITEHURST, Mr. WHITLEY, Mr. WHITTAKER, Mr. WILLIAMS of Ohio, Mr. WIRTH, Mr. WOLF, Mr. WON PAT, Mr. WORTLEY, Mr. WYDEN, Mr. WYLIE, and Mr. YOUNG of Alaska.

H.J. Res. 592: Mr. FISH, Mr. SIMON, Mr. GILMAN, Ms. MIKULSKI, Mr. HARTNETT, Mr. HOPKINS, Mr. HORTON, and Mr. MCDADE.

H.J. Res. 594: Mr. ADDABBO, Mr. AKAKA, Mr. ALBOSTA, Mr. ANDERSON, Mrs. ASHBROOK, Mr. ASPIN, Mr. BAILEY of Missouri, Mr. BAILEY of Pennsylvania, Mr. BARNARD, Mr. BEARD, Mr. BEILENSON, Mr. BEREUTER, Mr. BETHUNE, Mr. BEVILL, Mr. BINGHAM, Mr. BLILEY, Mr. BONER of Tennessee, Mr. BONKER, Mrs. BOUQUARD, Mr. BRINKLEY, Mr. BRODHEAD, Mr. BROWN of California, Mr. BROWN of Colorado, Mr. BROWN of Ohio, Mr. BURGENER, Mr. JOHN L. BURTON, Mrs. BYRON, Mr. CAMPBELL, Mr. CARMAN, Mr. CARNEY, Mr. CHAPPELL, Mr. CHAPPIE, Mrs. CHISHOLM, Mr. COATS, Mr. COELHO, Mr. CONABLE, Mr. CONYERS, Mr. JAMES K. COYNE, Mr. CRAIG, Mr. D'AMOURS, Mr. ROBERT W. DANIEL, Jr., Mr. DANNEMEYER, Mr. DASCHLE, Mr. DAUB, Mr. DAVIS, Mr. DE LA GARZA, Mr. DERRICK, Mr. DINGELL, Mr. DIXON, Mr. DORNAN of California, Mr. DOWDY, Mr. DUNN, Mr. DYMALLY, Mr. DYSON, Mr. EDGAR, Mr. EDWARDS of Oklahoma, Mr. EMERSON, Mr. ERDAHL, Mr. ERTEL, Mr. EVANS of Iowa, Mr. FARY, Mr. FASCELL, Mr. FAUNTROY, Mr. FAZIO, Mrs. FENWICK, Ms. FERRARO, Ms. FIEDLER, Mr. FIELDS, Mr. FINDLEY, Mr. FISH, Mr. FITHIAN, Mr. FLIPPO, Mr. FLORIO, Mr. FOGLIETTA, Mr. FOLEY, Mr. FORD of Tennessee, Mr. FRANK, Mr. FRENZEL, Mr. FROST, Mr. FUQUA, Mr. GARCIA, Mr. GEJDENSON, Mr. GEPHARDT, Mr. GILMAN, Mr. GINN, Mr. GOLDWATER, Mr. GOODLING, Mr. GRAY, Mr. GREGG, Mr. GUARINI, Mr. HAGEDORN, Mr. HAMMERSCHMIDT, Mr. HANCE, Mr. HANSEN of Idaho Mr. HARTNETT, Mr. HEFNER, Mr. HEFTEL, Mr. HENDON, Mr. HIGHTOWER, Mr. HILER, Mrs. HOLT, Mr. HORTON, Mr. HOYER, Mr. HUGHES, Mr. HUTTO, Mr. HYDE, Mr. JEFFRIES, Mr. JENKINS, Mr. JONES of North Carolina, Mr. JOHNSTON, Mr. KASTENMEIER, Mr. KEMP, Mrs. KENNELLY, Mr. KOGOVSEK, Mr. KRAMER, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEACH of Iowa, Mr. LEBOUTILLIER, Mr. LEHMAN, Mr. LELAND, Mr. LENT, Mr. LEWIS, Mr. LOEFFLER, Mr. LONG of Maryland, Mr. LOWERY of California, Mr. MCCLORY, Mr. MCCOLLUM, Mr. MCCURDY, Mr. MCDONALD, Mr. MCEWEN, Mr. MCGRATH, Mr. MCHUGH, Mr. MCKINNEY, Mr. MADIGAN, Mr. MARKEY, Mr. MARKS, Mr. MARRIOTT, Mr. MARTIN of New York, Mr. MARTIN of North Carolina, Mr. MARTINEZ, Mr. MATSUI, Mr. MATTOX, Mr. MAVROULES, Mr. MAZZOLI, Mr. MICA, Mr. MICHEL, Ms. MIKULSKI, Mr. MILLER of California, Mr. MILLER of Ohio, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOFFETT, Mr. MOLINARI, Mr. MOLLOHAN, Mr. MOORE, Mr. MOORHEAD, Mr. MORRISON, Mr. MOTTL, Mr. MURPHY, Mr. MURTHA, Mr. MYERS, Mr. NEAL, Mr. NELSON, Ms. OAKAR, Mr. OBERSTAR, Mr. O'BRIEN, Mr. OTTINGER, Mr. OXLEY, Mr. PANETTA, Mr. PARRIS, Mr. PATTERSON, Mr. PEPPER, Mr. PEYSER, Mr. PORTER, Mr. PRITCHARD, Mr. RAHALL, Mr. RANGEL, Mr. RATCHFORD, Mr. RHODES, Mr. ROBERTS of Kansas, Mr. ROBERTS of South Dakota, Mr. ROBINSON, Mr. RODINO, Mr. ROE, Mr. ROGERS, Mr. ROSENTHAL, Mrs. ROUKEMA, Mr. ROUSSELOT, Mr. RUDD, Mr. SANTINI, Mr. SAWYER, Mr. SCHEUER, Mrs. SCHNEIDER, Mr. SEIBERLING, Mr. SHAW, Mr. SHUMWAY, Mr. SILJANDER, Mr. SIMON, Mr. SKEEN, Mr. SKELTON, Mr. SMITH of Alabama, Mr. SMITH of Iowa, Mr. SMITH of New Jersey, Mr. SMITH of Oregon, Mr. SNYDER, Mr. SOLARZ, Mr. SPENCE, Mr. STANGELAND, Mr. STATON of West Virginia, Mr. STENHOLM, Mr. STRATTON, Mr. STUDDS, Mr. STUMP, Mr. SUNIA, Mr. SYNAR, Mr. TAUKE, Mr. TAUZIN, Mr. UDALL, Mr. VENTO, Mr. WALGREN, Mr. WALKER, Mr. WATKINS, Mr. WAXMAN, Mr. WEAVER, Mr. WEBER of Ohio, Mr. WEISS, Mr. WHITEHURST, Mr. WHITTAKER, Mr. WIRTH, Mr. WOLF, Mr. WOLPE, Mr. WON PAT, Mr. WORTLEY, Mr. WRIGHT, Mr. WYDEN, Mr. WYLIE, Mr. YATRON, and Mr. ZEFERETTI.

H.J. Res. 598: Mr. HAMMERSCHMIDT, Mr. WEISS, Mr. TAUZIN, Mr. BAILEY of Pennsylvania, Mr. ST GERMAIN, Mr. GRADISON, Mr. BROWN of California, Mr. SANTINI, Mr. LAGOMARSINO, Mr. DUNN, Mr. RUDD, Mr. ROE, Mr. FROST, Mr. STARK, Mr. FAUNTROY, Mr. SUNIA, Mr. FASCELL, Mr. SYNAR, Mr. HANSEN of Utah, Mr. WHITEHURST, Mr. WYLIE, Mr. BARNES, Ms. OAKER, Mr. FRENZEL, Mr. EDGAR, Mr. SCHEUER, Mr. WINN, Mr. MARTINEZ, Mrs. HECKLER, Mr. VENTO, Mr. STOKES, Mr. HUGHES, Mr. MATSUI, Mr. FORD of Tennessee, Mr. MARRIOTT, and Mr. MONTGOMERY.

H.J. Res. 602: Mr. PEYSER, Mr. HAMILTON, Mr. ENGLISH, Mr. RITTER, Mr. UDALL, Mr. MCCLOSKEY, and Mr. GINGRICH.

H.J. Res. 607: Mr. VENTO, Mr. JEFFORDS, Mr. HUGHES, and Mr. BONIOR of Michigan.

H. Con. Res. 378: Mr. STARK.

H. Con. Res. 384: Mr. FOLEY, Mr. WAMPLER, Mr. JONES of Tennessee, Mr. GLICKMAN, Mr. COELHO, Mr. BROWN of California, Mr. DE LA GARZA, Mr. HERTEL, Mr. SEIBERLING, Mr. MINISH, Mr. CRAIG, Mr. JACOBS, Mr. MOFFETT, Mr. TAUKE, Mr. SMITH of New Jersey, and Mr. DOWDY.

H. Con. Res. 404: Mr. FORD of Michigan.

H. Con. Res. 411: Mr. BLILEY, Mr. CHAPPELL, Ms. FIEDLER, Mr. HENDON, Mr. KEMP, Mr. SCHULZE, Mr. SMITH of Oregon, Mr. LAGOMARSINO, Mr. LUNGREN, Mr. MOORHEAD, Mr. CLAUSEN, Mr. PASHAYAN, Mr. CHAPPIE, Mr. KRAMER, Mr. HAGEDORN, Mr. DANNEMEYER, Mr. NELLIGAN, Mr. SMITH of Alabama, Mr. MORRISON, Mr. SHUMWAY, Mr. ERDAHL, Mr. SILJANDER, Mr. PHILIP M. CRANE, Mr. HUNTER, Mr. WEBER of Minnesota, Mr. MCDONALD, Mr. EDWARDS of Oklahoma, and Mr. O'BRIEN.

H. Res. 506: Mr. MCKINNEY.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 7058: Mr. WEAVER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

627. By the SPEAKER: Petition of the Tenant's Association, New York City Public Housing, New York, N.Y., relative to proposed rent increases; to the Committee on Banking, Finance and Urban Affairs.

628. Also, petition of Concerned Citizens, San Francisco, Calif., relative to the President; to the Committee on the Judiciary.

629. Also, petition of board of supervisors, county of Sacramento, Sacramento, Calif., relative to interfund loans and transfers—social security; to the Committee on Ways and Means.

630. Also, petition of city council of Maple Heights, Ohio, relative to the social security system; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3809

By Mr. BREAUX:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—Page 21, line 24, strike out: "No such activity shall be considered to be a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act." and substitute: "No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act."

—Page 27, line 1, strike out: "No such activity shall be considered to be a major Federal action under section 102(2)(C) of the Na-

tional Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act" and insert in lieu thereof the following: "No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act."

—Page 31, in line 3, strike out:

"(B) No recommendation of a site by the President under this subsection shall be considered a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act." and insert in lieu thereof the following:

"(B) No recommendation of a site by the President under this subsection shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act."

—Page 64, line 3, strike out:

"(c) ENVIRONMENTAL IMPACT STATEMENT.—The promulgation of standards or criteria in accordance with the provisions of this section shall not be considered a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.", and insert in lieu thereof the following:

"(C) ENVIRONMENTAL IMPACT STATEMENT.—The promulgation of standards of criteria in accordance with the provisions of this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act."

—Page 72, line 20, strike out:

"(ii) except as provided in subsection (e), be considered a major Federal action requiring preparation of an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if such facility is already being used, or has been previously used, for such storage or for any similar purpose;", and insert in lieu thereof the following:

"(ii) except as provided in subsection (e) require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), if such facility is already being used, or has previously been used, for such storage or for any similar purpose;".

—Page 92, line 18, strike out "Preparation and submission to the Congress of the proposal required in this section shall not be considered a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C))." and insert in lieu thereof the following: "Preparation and submission to the Congress of the proposal required in this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).".

—Page 137, line 3, strike out "and shall not be deemed a major Federal action requiring preparation of an environmental impact statement within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)", and insert in lieu thereof the following:", and shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C))".

By Mr. BROYHILL:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—Page 35, beginning on line 19, strike out section 115 in its entirety and insert in lieu thereof the following:

REVIEW OF REPOSITORY SITE SELECTION

SEC. 115. (a) IN GENERAL.—The designation of a site as suitable for application for a construction authorization for a repository shall be effective at the end of the 60-day period beginning on the date that the President recommends such site to the Congress under section 114, unless the Governor of the State in which such site is located, or the governing body of an Indian tribe on whose reservation such site is located, as the case may be, submits to the Congress a notice of disapproval under section 116 or 118. If any such notice of disapproval is submitted, the designation of such site shall not be effective except as provided under subsection (b).

(b) CONGRESSIONAL REVIEW OF SITES.—If any notice of disapproval of a repository site designation is submitted to the Congress under section 116 or 118 after a recommendation for approval of such site is made by the President under section 114, the designation of such site as suitable for license application as a repository shall be effective upon the expiration of the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval unless, during such period, both Houses of Congress pass a resolution in accordance with this subsection disapproving such site designation, which resolution is thereafter approved.

(c) DEFINITION.—For purposes of this subsection, the term "resolution under this section" means a joint resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That the Congress hereby approves the notice of disapproval submitted by regarding the disapproval of the site at for a repository for the disposal of high-level radioactive waste and spent nuclear fuel.". The first blank space in such resolution shall be filled with the designation of the State Governor or Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the geographic location of the proposed repository site involved.

(d) PROCEDURES APPLICABLE TO THE SENATE.—(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions under this section, and such provisions supersede other rules of the Senate only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(2)(A) Not later than the first day of session following the day on which any notice of disapproval of a repository site selection is submitted to the Congress under section 116 or 118, a resolution under this section shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

(B) Upon introduction, a resolution under this section shall be referred to the appropriate committee or committees of the Senate by the President of the Senate, and all such resolutions with respect to the same repository site shall be referred to the same committee or committees. Upon the expiration of 45 calendar days of continuous session after the introduction of the first resolution under this section with respect to any site, each committee to which such resolution was referred shall make its recommendations to the Senate.

(3) If any committee to which is referred a resolution introduced under paragraph (2)(A), or, in the absence of such a resolution, any other resolution under this section introduced with respect to the site involved, has not reported such resolution at the end of 45 days of continuous session of Congress after introduction of such resolution, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the Senate.

(4)(A) When each committee to which a resolution under this section has been referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in paragraph (3), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on a resolution under this section and on all debatable motions and appeals in connection with such resolution, shall be limited to not more Members opposing such resolution. A motion further to limit debate shall be in order and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business, and a motion to recommit such resolution shall not be in order. A motion to reconsider the vote by which such resolution is agreed to or disagreed to shall not be in order.

(C) Immediately following the conclusion of the debate on a resolution under this section and single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on final approval of such resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution under this section shall be decided without debate.

(5) If the Senate receives from the House a resolution under this section with respect to any site, then the following procedure shall apply:

(A) The resolution of the House with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the Sentate with respect to such site—

(i) the procedure with respect to that or other resolutions of the Senate with respect to such site shall be the same as if no resolution from the House with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the Senate with respect to such site, a resolution from the House with respect to such site where the text is identical shall be automatically substitutated for the resolution of the Senate.

(e) PROCEDURES APPLICABLE TO THE HOUSE OF REPRESENTATIVES.—(1) The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House, but applicable only with respect to the procedure to the followed in the House in the case of resolutions under this section and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the House to changes the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) Resolutions of repository siting approval shall, upon introduction, be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the Senate shall be held at the Speaker's table.

(3) Upon the expiration of 45 days of continuous session after the introduction of the first resolution under this section with respect to any site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(4) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution under this section after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(5) If the House receives from the Senate a resolution under this section with respect to any site, then the following procedure shall apply:

(A) The resolution of the Senate with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the House with respect to such site—

(i) the procedure with respect to that or other resolutions of the House with respect to such site shall be the same as if no resolution from the Senate with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the House with respect to such site, a resolution from the Senate with respect to such site where the text is identical shall be automatically substituted for the resolution of the House.

(f) COMPUTATION OF DAYS.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subsection (c) and the 45-day period referred to in subsections (d) and (e).

(g) INFORMATION PROVIDED TO CONGRESS.—In considering any notice of disapproval submitted to the Congress under section 116 or 118, the Congress may obtain any comments of the Commission with respect to such notice of disapproval. The provision of such comments by the Commission shall not be construed as binding the Commission with respect to any licensing or authorization action concerning the repository involved.

Page 30, line 17, strike out "and legislature".

Page 44, line 10, strike out "and legislature".

Page 44, line 11, strike out "jointly".

Page 44, line 15, strike out "and legislature".

Page 44, line 19, strike out "and legislature".

Page 44, line 21, strike out "and legislature".

Page 45, line 5, strike out "and legislature".

Page 45, line 7, strike out "and legislature".

—Page 35, beginning on line 19, strike out section 115 in its entirety and insert in lieu thereof the following:

REVIEW OF REPOSITORY SITE SELECTION

SEC. 115. (a) IN GENERAL.—The designation of a site as suitable for application for a construction authorization for a repository shall be effective at the end of the 60-day period beginning on the date that the President recommends such site to the Congress under section 114, unless the Governor of the State in which such site is located, or the governing body of an Indian tribe on whose reservation such site is located, as the case may be, submits to the Congress a notice of disapproval under section 116 or 118. If any such notice of disapproval is submitted, the designation of such site shall not be effective except as provided under subsection (b).

(b) CONGRESSIONAL REVIEW OF SITES.—If any notice of disapproval of a repository site designation is submitted to the Congress under section 116 or 118 after a recommendation for approval of such site is made by the President under section 114, the designation of such site as suitable for license application as a repository shall be effective upon the expiration of the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval unless, during such period, either House of the Congress passes a resolution in accordance with this subsection disapproving such site designation.

(c) DEFINITION.—For purposes of this subsection, the term "resolution under this section" means a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That the ——— hereby approves the notice of disapproval submitted by ——— regarding the disapproval of the site at ——— for a repository for the disposal of high-level radioactive waste and spent nuclear fuel.". The first blank space in such resolution shall be filled with the designation of the appropriate House of the Congress; the second blank space in such resolution shall be filled with the designation of the State Governor or Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the geographic location of the proposed repository site involved.

(d) PROCEDURES APPLICABLE TO THE SENATE.—(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions under this section, and such provisons supersede other rules of the Senate only to the same extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(2)(A) Not later than the first day of session following the day on which any notice of disapproval of a repository site selection is submitted to the Congress under section 116 or 118, a resolution under this section shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

(B) Upon introduction, a resolution under this section shall be referred to the appropriate committee or committees of the Senate by the President of the Senate, and all such resolutions with respect to the same repository site shall be referred to the same committee or committees. Upon the expiration of 60 calendar days of continuous session after the introduction of the first resolution under this section with respect to any site, each committee to which such resolution was referred shall make its recommendations to the Senate.

(3) If any committee to which is referred a resolution introduced under paragraph (2)(A), or, in the absence of such a resolution, any other resolution under this section introduced with respect to the site involved, has not reported such resolution at the end of 45 days of continuous session of Congress after introduction of such resolution, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the Senate.

(4)(A) When each committee to which a resolution under this section has been referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in paragraph (3), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on a resolution under this section and on all debatable motions and appeals in connection with such resolution, shall be limited to not more than 10 hours, which shall be divided equally between Members favoring and Members opposing

such resolution. A motion further to limit debate shall be in order and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business, and a motion to recommit such resolution shall not be in order. A motion to reconsider the vote by which such resolution is agreed to or disagreed to shall not be in order.

(C) Immediately following the conclusion of the debate on a resolution under this section and a single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on final approval of such resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution under this section shall be decided without debate.

(e) PROCEDURES APPLICABLE TO THE HOUSE OF REPRESENTATIVES.—(1) The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of resolutions under this section and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) Resolutions of repository siting approval shall, upon introduction, be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the Senate shall be held at the Speaker's table.

(3) Upon the expiration of 45 days of continuous session after the introduction of the first resolution under this section with respect to any site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(4) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution under this section after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(f) COMPUTATION OF DAYS.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subsection (c) and the 45-day period referred to in subsections (d) and (e).

(g) INFORMATION PROVIDED TO CONGRESS.—In considering any notice of disapproval submitted to the Congress under section 116 or 118, the Congress may obtain any comments of the Commission with respect to such notice of disapproval. The provision of such comments by the Commission shall not be construed as binding the Commission with respect to any licensing or authorization action concerning the repository involved.

Page 30, line 17, strike out "and legislature".

Page 44, line 10, strike out "and legislature".

Page 44, line 11, strike out "jointly".

Page 44, line 15, strike out "and legislature".

Page 44, line 19, strike out "and legislature".

Page 44, line 21, strike out "and legislature".

Page 45, line 5, strike out "and legislature".

Page 45, line 7, strike out "and legislature".

By Mr. DERRICK:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—Page 72, line 3, strike out "1,700" and insert in lieu thereof "1,900".

Page 76, strike out line 10 through line 17 (and redesignate the subsequent subsections accordingly).

Page 66, line 13, strike out "1,700" and insert in lieu thereof "1,900".

Page 67, line 5, strike out "1,700" and insert in lieu thereof "1,900".

Page 82, line 24, strike out "(g)" and insert in lieu thereof "(f)".

Page 118, line 2, strike out "135(g)" and insert in lieu thereof "135(f)".

By Mr. DINGELL:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—Page 2, after line 16 insert the following new paragraph (and redesignate the subsequent paragraphs accordingly):

(15) The term "low-level radioactive waste" means radioactive material that—

(A) is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or by-product material as defined in section 11e.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

Page 11, line 21, strike out "subsection (a)" and insert in lieu thereof "paragraph (1)".

Page 21, line 22, strike out "subsection" in the first sentence and insert in lieu thereof "section".

Page 36, line 10, strike out "PETITIONS" and insert in lieu thereof "DISAPPROVAL".

Page 36, line 22, strike out "PETITIONS" and insert in lieu thereof "DISAPPROVAL".

Page 41, line 5, strike out "section" and insert in lieu thereof "subsection".

Page 72, line 3, strike out "102" in the first sentence and insert in lieu thereof "101".

Page 100, line 18, strike out "all" and all that follows through "title" on line 22 and insert in lieu thereof the following: "the Secretary shall use the guidelines issued under section 112(a) with respect to population factors for purposes of selecting a site for a test and evaluation facility".

Page 102, line 9, strike out "218" in the first sentence and insert in lieu thereof "217".

Page 103, line 1, strike out "218" and insert in lieu thereof "217".

Page 108, line 2, strike out "212" and insert in lieu thereof "214".

Page 108, line 17, strike out "each" and insert in lieu thereof "the".

Page 111, line 16, strike out "the site" and insert in lieu thereof "any site".

Page 113, line 8, strike out "217" and insert in lieu thereof "218".

Page 114, line 3, strike out "section 217(a)" in the second sentence and insert in lieu thereof "subsection (a)".

Page 119, line 18, strike out "test and evaluation" before "facility".

Page 122, line 21, strike out "siting" and insert in lieu thereof "site".

Page 137, line 9, strike out "102" in the first sentence and insert in lieu thereof "101".

By Mr. FUQUA:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—Page 114, line 8, after the word "is" strike out "not".

By Mr. LOTT:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—The sentence beginning on page 16, line 24, and ending on page 17, line 4, is amended to read as follows: "Such guidelines shall specify population factors that will disqualify any site from development as a repository if any such site would be located (1) in a highly populated area; or (2) adjacent to an area 1 mile by 1 mile having a population of not less than 1,000 individuals.".

By Mr. LUNDINE:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—Page 73, strike line 8, and insert in lieu thereof the following: "operated by such person or at any site owned by the Federal Government on the date of enactment of this Act".

—Page 66, strike lines 11 through 18,

Page 67, strike lines 1 through 10,

Beginning on page 72, strike section 135, 136, and 137,

Page 94, strike lines 21 through 24,

Page 117, strike section 218(c)(2),

Page 118, strike section 218(e),

Page 138, line 6, strike the words "under section 137(a)".

Redesignate sections accordingly.

By Mr. LUJAN:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—Page 79, beginning on line 21, strike out section 135(f)(3) in its entirety and insert in lieu thereof the following:

(3)(A) If any notice of disapproval is submitted to the Congress under paragraph (2), the proposed provision of 300 or more metric tons of storage capacity at the site involved shall be approved unless, during the first period of 90 calendar days of the Congress following the date of the receipt by the Congress of such notice of disapproval, either House of Congress passes a resolution in accordance with this subsection disapproving such proposed provision of storage capacity in accordance with the procedures established in this paragraph. For purposes of this paragraph, the term "resolution" means a resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the notice of disapproval regarding the disapproval of the provision of 300 or more metric tons of spent nuclear fuel storage capacity at the site located at ——— , with respect to which a notice of disapproval was submitted by ——— ——— on ———.". The first blank space in such resolution shall be filled with the geographic location of the site involved; the second blank space in such resolution shall be filled with the designation of the

State Governor and legislature or Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the date of submission of such notice of disapproval.

(B)(i) The provisions of this subparagraph are enacted by the Congress—

(I) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions under this paragraph, and such provisions supersede other rules of the Senate only to the extent that they are inconsistent with such other rules; and

(II) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(ii)(I) Not later than the first day of session following the day on which any notice of disapproval under paragraph (2) is submitted to the Congress, a resolution under this paragraph shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

(II) Upon introduction, a resolution under this paragraph shall be referred to the appropriate committee or committees of the Senate by the President of the Senate, and all such resolutions with respect to the same storage capacity shall be referred to the same committee or committees. Upon the expiration of 45 calendar days of continuous session after the introduction of the first resolution under this section with respect to any site, each committee to which such resolution was referred shall make its recommendations to the Senate.

(iii) If any committee to which is referred a resolution introduced under this paragraph, or, in the absence of such a resolution, any other resolution under this paragraph introduced with respect to the capacity involved, has not reported such resolution at the end of 45 days of continuous session of Congress after introduction of such resolution, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the Senate.

(iv)(I) When each committee to which a resolution under this paragraph has been referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in clause (iii), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

(II) Debate on a resolution under this paragraph and on all debatable motions and appeals in connection with such resolution, shall be limited to not more than 10 hours, which shall be divided equally between Members favoring and Members opposing such resolution. A motion further to limit debate shall be in order and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business, and a motion to recommit such resolution shall not be in order. A motion to reconsider the vote by which such resolution is agreed to or disagreed to shall not be in order.

(III) Immediately following the conclusion of the debate on a resolution under this paragraph and a single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on final approval of such resolution shall occur.

(IV) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution under this paragraph shall be decided without debate.

(C)(i) The provisions of this subparagraph are enacted by the Congress—

(I) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of resolutions under this paragraph and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules; and

(II) with full recognition of the constitutional right of the House to changes the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(ii) Resolutions under this paragraph shall, upon introduction, be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the Senate shall be held at the Speaker's table.

(iii) Upon the expiration of 45 days of continuous session after the introduction of the first resolution under this paragraph with respect to any site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(iv) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution under this section after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(D) For purposes of this paragraph—

(i) continuity of session of Congress is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in this paragraph and the 45-day period referred to in this paragraph.

By Mr. MARKEY:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—Strike out sections 101 and 102 and insert in lieu thereof the following (and conform the table of contents in section 1 accordingly):

APPLICABILITY

SEC. 106 (a) ESTABLISHMENT OF REPOSITORIES.—Any repository required to be licensed under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842) shall be established in accordance with the procedures set forth in this Act.

(b) AUTHORITY OF COMMISSION.—Nothing in this Act shall be construed to expand or contract the licensing authority of the Nuclear Regulatory Commission with respect to any atomic energy defense activity under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.). The Commission shall not have any authority over the production or handling of any high-level radioactive waste or spent nuclear fuel resulting from any atomic energy defense activity prior to its delivery to a repository, except as otherwise provided in any other provision of law.

In section 1, after paragraph (15), insert the following new paragraph (and redesignate the following paragraphs accordingly):

(16) The term "person" includes any governmental entity.

In section 111(a)(3), strike out "civilian".

—In section 114(a)(3), strike out "and legislature" and insert in lieu thereof "or legislature".

In section 115(a), strike out "and legislature" and insert in lieu thereof "or legislature".

In section 115(b), strike out "and legislature" and insert in lieu thereof "or legislature".

In section 116(a)(1), strike out "and legislature" in the first sentence and insert in lieu thereof "or legislature".

In section 116(a)(1), strike out "jointly" in the first sentence.

In section 116(a)(1), strike out "and legislature" in the second sentence and insert in lieu thereof "or legislature".

In section 116(a)(2), strike out "and legislature" in the first sentence and insert in lieu thereof "or legislature".

In section 116(a)(2), strike out "and legislature" in the second sentence and insert in lieu thereof "or legislature".

In section 116(a)(2), strike out "and legislature" in the last sentence and insert in lieu thereof "or legislature".

In section 135(f)(2)(A), strike out "and legislature" in the first sentence and insert in lieu thereof "or legislature".

In section 135(f)(2)(A), strike out "and legislature" in the last sentence and insert in lieu thereof "or legislature".

In section 135(f)(2)(B), strike out "and legislature" in the first sentence and insert in lieu thereof "or legislature".

In section 135(f)(2)(B), strike out "jointly" in the first sentence.

In section 135(f)(2)(B), strike out "and legislature" in the last sentence and insert in lieu thereof "or legislature".

—In section 219(a), strike out "75 percent of the expenses incurred by such State or Indian tribe" in the second sentence and insert in lieu thereof the following: "90 percent of the expenses incurred by such State or 100 percent of the expenses incurred by such Indian tribe, as the case may be,".

—In section 2(19), strike out the hyphen and all that follows through "(B)".

In section 2, strike out paragraph (20) (and redesignate the subsequent paragraphs accordingly).

In section 2, strike out paragraph (25) (and redesignate the subsequent paragraphs accordingly).

Strike out section 211 (and redesignate the subsequent sections, and conform the table of contents in section 1, accordingly).

Strike out section 213 (and redesignate the subsequent sections, and conform the table of contents in section 1, accordingly).

Strike out section 214 (and redesignate the subsequent sections, and conform the table of contents in section 1, accordingly).

Strike out section 215 (and redesignate the subsequent sections, and conform the table of contents in section 1, accordingly).

Strike out section 217 (and redesignate the subsequent sections, and conform the table of contents in section 1, accordingly).

In section 218(a), strike out "evaluated under section 214" in the second sentence.

Strike out section 219 (and redesignate the subsequent sections, and conform the table of contents in section 1, accordingly).

In section 301(a)(1), strike out "a test and evaluation facility and".

In section 301(a), strike out paragraph (4) (and redesignate the subsequent paragraphs accordingly).

In section 301(a)(11), strike out "a test and evaluation facility and".

In section 302(d)(1), strike out "or test and evaluation facility".

In section 301(d)(4), strike out "or to be used in a test and evaluation facility".

In section 301(d)(5), strike out "or a test and evaluation facility site".

In section 301(d)(5), strike out "or test and evaluation facility" the second place it appears.

In section 301(d)(6), strike out "116, 118, and 219" and insert in lieu thereof "116 and 118".

In section 301, strike out "and one test and evaluation facility" in the third sentence.

—In section 213(a), strike out "Not" and insert in lieu thereof the following: "If the Secretary determines under section 217(a) that development of a test and evaluation facility is advisable under this Act, not".

In section 213(b), strike out "Not" and insert in lieu thereof the following: "If the Secretary determines under section 217(a) that development of a test and evaluation facility is advisable under this Act, not".

In section 214(a), strike out "Not" and insert in lieu thereof the following: "If the Secretary determines under section 217(a) that development of a test and evaluation facility is advisable under this Act, not".

In section 217(a), strike out "Not" and insert in lieu thereof the following: "As soon as practicable following the date of the enactment of this Act, the Secretary shall determine whether the development of a test and evaluation facility is advisable under this Act. If the Secretary determines that development of such facility is advisable, not".

In section 217(c), strike out "Not" and insert in lieu thereof the following: "If the Secretary determines under subsection (a) that development of a test and evaluation facility is advisable under this Act, not".

In section 217(f), strike out "Not" and insert in lieu thereof the following: "If the Secretary determines under subsection (a) that development of a test and evaluation facility is advisable under this Act, not".

—In section 217(f), strike out paragraph (2) and insert in lieu thereof the following:

(2) The test and evaluation facility developed under this title shall be subject to licensing under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842). Any receipt, possession, or use of radioactive material at a test and evaluation facility shall be subject to licensing by the Commission under section 202 of such Act.

—In section 217(h)(1), strike out "If" and all that follows through " the" and insert in lieu thereof "The".

In section 217(h)(1), strike out "such" and insert in lieu there of "the test and evaluation".

In section 217(h)(2), strike out "If" and all that follows through ", the" and insert in lieu thereof "The".

In section 306(a), strike out "Not" and all that follows and insert in lieu thereof the following: "No test and evaluation facility may be located at any candidate site or repository site.".

In section 306(b), strike out paragraph (1).

In section 306(2), strike out the paragraph designation.

In section 306(b), strike out paragraph (3).

—In section 213(b), strike out the third sentence.

—In section 112(b)(1)(A), strike out the fourth and fifth sentences and insert in lieu thereof the following: "Each recommendation of a candidate site under this subsection shall include a detailed statement of the basis for such recommendation.".

In section 112(b)(1), strike out subparagraph (B) (and redesignate the subsequent subparagraph accordingly).

In section 112(b)(2), strike out "assessment described in paragraph (1)" in the last sentence and insert in lieu thereof "impact statement".

In section 112(e), strike out "Except as otherwise provided in this subsection, each" and insert in lieu thereof "Each".

In section 113(b)(1), insert the following new subparagraph before subparagraph (A) (and redesignate the subsequent subparagraphs accordingly):

(A) an environmental impact statement, prepared in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), of the site characterization activities planned for such candidate site and a discussion of alternative activities relating to site characterization that may be undertaken to avoid any adverse impacts, the issuance of which environmental impact statement shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119;

In section 113(b)(2), insert "and environmental impact statement" after "plan" each place it appears.

In section 113, strike out subsection (d) and insert in lieu thereof the following:

(d) PRELIMINARY ACTIVITIES.—Except as otherwise provided in this section, (1) each activity of the Secretary under this section that is in compliance with the provisions of subsection (c) shall be considered a preliminary decisionmaking activity; and (2) no such activity shall be considered to be a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

In section 119(a)(1)(E), strike out "112(b)(1) or".

—In section 117(c), insert after the fourth sentence the following new sentence: "Such report shall include a detailed statement of the plans and estimated schedule of the Secretary for completion of such written agreement."

In section 215(b), strike out the first sentence and insert in lieu thereof the following: "not later than 60 days after identification of any site under 213, the Secretary shall initiate negotiations with the Governor of the State in which such site is located, or the governing body of the Indian tribe on whose reservation such site is located, as the case may be, to develop a binding written agreement setting forth, but not limited to, the procedures under which the requirements of subsection (a) shall be carried out. Such written agreement shall be completed not later than 6 months after the identification of such site. In any case in which such written agreement is not completed by the expiration of such 6-month period, the Secretary shall submit to the Congress within 30 days a detailed statement of the reasons for such failure to complete such written agreement, together with the plans and estimated schedule of the Secretary for completion of such written agreement.".

—In section 112(b), strike out "such sites shall be recommended by the Secretary" in the second sentence and insert in lieu thereof the following: "The Secretary shall plan to recommend such sites".

In section 112(b), insert "plan to" before "recommend" in the third sentence.

In section 114(a)(2)(A), strike out the paragraph designation.

In section 114(a)(2)(A), insert "plan to" before "submit" in the first sentence.

In section 114(a)(2), strike out subparagraph (B).

By Mr. MARRIOTT:

(Amendment to the amendment in the nature of a substitute (Text of H.R. 7187).)

—Page 16, line 24, insert after the period the following new sentence: "Such guidelines shall take into consideration the proximity to sites where high-level radioactive waste is generated or temporarily stored and the transportation and safety factors involved in moving such waste to a repository.".

—Page 23, beginning on line 1, strike out "at not less than 3 candidate sites approved under section 112" and insert in lieu thereof the following: "beginning with 3 candidate sites that have been approved under section 112 and are located in at least 2 different geologic media".

—Page 24, line 7, insert "and for the mitigation of any significant adverse environmental impacts caused by site characterization activities" after "candidate site".

Page 26, after line 22, insert the following new paragraph:

(4) If a site is determined to be unsuitable for application for a construction authorization for a repository, the Secretary shall take reasonable and necessary steps to reclaim the site and to mitigate any significant adverse environmental impacts caused by site characterization activities.

By Mr. PETRI:

(Amendment to the amendment in the nature of substitute (text of H.R. 7187)).

—In section 115, strike out subsection (a) (and redesignate subsection (b) as subsection (a)).

In section 115(a), as so redesignated, strike out "PETITIONS" and insert in lieu thereof "DISAPPROVAL".

In section 115, strike out subsections (c) through (f) (and redesignate subsection (g) as subsection (b)).

In section 135(f)(3)(A), strike out "and subsections (d) through (f) of section 115" in the first sentence.

In section 135(f)(3), strike out subparagraph (B) and insert in lieu thereof the following:

(B)(i) The provisions of this subparagraph are enacted by the Congress—

(I) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a resolution under this paragraph, and such provisions supersede other rules of the

Senate only to the extent that they are inconsistent with such other rules; and

(II) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(ii)(I) Not later than the first day of session following the day on which any notice of disapproval is submitted to the Congress under paragraph (2), a resolution shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

(II) Upon introduction, a resolution shall be referred to the appropriate committee or committees of the Senate by the President of the Senate, and all such resolutions with respect to the same Federal site shall be referred to the same committee or committees. Upon the expiration of 60 calendar days of continuous session after the introduction of the first resolution of with respect to any Federal site, each committee to which such resolution was referred shall make its recommendations to the Senate.

(iii) If any committee to which is referred a resolution introduced under clause (ii)(I), or, in the absence of such a resolution, any other resolution with respect to the Federal site involved, has not reported such resolution at the end of 60 days of continuous session of Congress after introduction of such resolution, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the Senate.

(iv)(I) When each committee to which a resolution has been referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in clause (iii), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

(II) Debate on a resolution, and on all debatable motions and appeals in connection with such resolution, shall be limited to not more than 10 hours, which shall be divided equally between Members favoring and Members opposing such resolution. A motion further to limit debate shall be in order and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business, and a motion to recommit such resolution shall not be in order. A motion to reconsider the vote by which such resolution is agreed to or disagreed to shall not be in order.

(III) Immediately following the conclusion of the debate on a resolution, and a single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on final approval of such resolution shall occur.

(IV) Appeals from the decisions of Chair relating to the application of the rules of the Senate to the procedure relating to a resolution shall be decided without debate.

(v) If the Senate receives from the House a resolution of with respect to any Federal site, then the following procedure shall apply:

(I) The resolution of the House with respect to such site shall not be referred to a committee.

(II) With respect to the resolution of the Senate with respect to such site—

(a) the procedure with respect to that or other resolutions of the Senate with respect to such site shall be the same as if no resolution from the House with respect to such site had been received; but

(b) on any vote on final passage of a resolution of the Senate with respect to such site, a resolution from the House with respect to such site where the text is identical shall be automatically substituted for the resolution of the Senate.

(C)(i) The provisions of this subparagraph are enacted by the Congress—

(I) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of resolutions under this paragraph, and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules; and

(II) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(ii) Resolutions shall, upon introduction, be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the Senate shall be held at the Speaker's table.

(iii) Upon the expiration of 60 days of continuous session after the introduction of the first resolution with respect to any Federal site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(iv) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution to adoption without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(v) If the House receives from the Senate a resolution with respect to any Federal site, then the following procedure shall apply:

(I) The resolution of the Senate with respect to such site shall not be referred to a committee.

(II) With respect to the resolution of the House with respect to such site—

(a) the procedure with respect to that or other resolutions of the House with respect to such site shall be the same as if no resolution from the Senate with respect to such site had been received; but

(b) on any vote on final passage of a resolution of the House with respect to such site, a resolution from the Senate with respect to such site where the text is identical shall be automatically substituted for the resolution of the House.

(D) For purposes of this paragraph—

(i) continuity of session of Congress is broken only by an adjournment sine die; and

(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subparagraph (A) and the 60-day period referred to in subparagraphs (B) and (C).

In section 116(b)(2)(B), insert at the end thereof the following new sentences: "The Secretary may enter into a tentative agreement with any State under this subparagraph at any time following the approval of a candidate site in such State under section 112(c). Any such tentative agreement shall set forth the amount of assistance to be provided to such State under this paragraph if a construction authorization for a repository is granted with respect to the site in such State, and the procedures to be followed in providing such assistance. Any such tentative agreement shall become binding upon the Secretary upon the granting of such construction authorization.".

In section 118(b)(2)(B), insert at the end thereof the following new sentences: "The Secretary may enter into a tentative agreement with any Indian tribe under this subparagraph at any time following the approval of a candidate site in on the reservation of such Indian tribe under section 112(c). Any such tentative agreement shall set forth the amount of assistance to be provided to such Indian tribe under this paragraph if a construction authorization for a repository is granted with respect to the site on the reservation of such Indian tribe, and the procedures to be followed in providing such assistance. Any such tentative agreement shall become binding upon the Secretary upon the granting of such construction authorization.".

By Mr. RAHALL:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—Section 151 is amended by adding the following at the end thereof:

"(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site."

By Mr. RODINO:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—On page 61, line 5, strike out the entire subsection through line 8.

By Mr. STRATTON:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—Page 10, after line 25, insert the following new section:

APPLICABILITY

SEC. 8. (a) ATOMIC ENERGY DEFENSE ACTIVITIES.—Subject to the provisions of subsection (c), the provisions of this Act shall not apply with respect to any atomic energy de-

fense activity or to any facility used in connection with any such activity.

(b) EVALUATION BY PRESIDENT.—(1) Not later than 2 years after the date of the enactment of this Act, the President shall evaluate the use of disposal capacity at one or more repositories to be developed under subtitle A of title I for the disposal of high-level radioactive waste resulting from atomic energy defense activities. Such evaluation shall take into consideration factors relating to cost, efficiency, health and safety, regulation, transportation, public acceptability, and national security.

(2) Unless the President finds, after conducting the evaluation required in paragraph (1), that the development of a repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only is required, taking into account all of the factors described in such subsection, the Secretary shall proceed promptly with arrangement for the use of one or more of the repositories to be developed under subtitle A of title I for the disposal of such waste.

(3) Any repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only shall (A) be subject to licensing under section 202 of the Energy Reorganization Act of 1973 (42 U.S.C. 5842); and (B) comply with all requirements of the Commission for the siting, development, construction, and operation of a repository.

(c) APPLICABILITY TO CERTAIN REPOSITORIES.—The provisions of this Act shall apply with respect to any repository not used exclusively for the disposal of high-level radioactive waste or spent nuclear fuel resulting from atomic energy defense activities, research and development activities of the Secretary, or both.

On page 11, strike out line 5 and all that follows through line 15 on page 12 (and redesignate the following section accordingly).

On page 12, line 20, strike out "section 101" and insert in lieu thereof "section 8".

On page 72, beginning on line 2, strike out "section 102" and insert in lieu thereof "section 8".

On page 98, strike out lines 22 through 25 and insert in lieu thereof the following:

SEC. 212. The provisions of this title are subject to section 8 and shall not apply to facilities that are used for the disposal of high-level radioactive waste, low-level radioative waste, transuranic waste, or spent nuclear fuel resulting from atomic energy defense activities.

On page 137, beginning on line 8, strike out "section 102" and insert in lieu thereof "section 8".

Conform the table of contents on page 2 accordingly.

By Mr. SWIFT:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—(Amending section 306(b) of the text of H.R. 7187) at page 141, line 24, strike all after "repositories;" through the end of line 3 on page 142 and insert in lieu thereof the following: "and (B) the Secretary may not commence construction or excavation of any Test and Evaluation Facility prior to issuance by the Commission of a construction authorization for a repository at the site involved.".

By Mr. UDALL:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—Strike out section 141 and insert in lieu thereof the following:

MONITORED RETRIEVABLE STORAGE

SEC. 141. (a) FINDINGS.—The Congress finds that—

(1) the executive branch and the Congress should proceed as expeditiously as possible to consider fully a proposal for construction of one or more monitored retrievable storage facilities to provide long-term storage of high-level radioactive waste and spent nuclear fuel;

(2) the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities have the primary responsibility to provide for, and the responsibility to pay the costs of, the long-term storage of such waste and spent fuel until such waste and spent fuel is accepted by the Secretary in accordance with the provisions of this title; and

(3) disposal of high-level radioactive waste and spent nuclear fuel in a repository developed under this Act should proceed regardless of any construction of a monitored retrievable storage facility pursuant to this section.

(b) SUBMISSION OF PROPOSAL BY SECRETARY.—(1) Not later than 5 years after the date of the enactment of this Act, the Secretary shall complete a detailed study of the need for and feasibility of, and shall submit to the Congress a proposal for, the construction of one or more monitored retrievable storage facilities for high-level radioactive waste and spent nuclear fuel. Each such facility shall be designed—

(A) to accommodate spent nuclear fuel and high-level radioactive waste resulting from civilian nuclear activities;

(B) to permit continuous monitoring, management, and maintenance of such spent fuel and waste for the foreseeable future;

(C) to provide for the ready retrieval of such spent fuel and waste for further processing or disposal; and

(D) to safely store such spent fuel and waste as long as may be necessary by maintaining such facility through appropriate means, including any required replacement of such facility.

(2) Such proposal shall include—

(A) the establishment of a Federal program for the siting, development, construction, and operation of facilities capable of safely storing high-level radioactive waste and spent nuclear fuel, which facilities are to be licensed by the Commission;

(B) a plan for the funding of the construction and operation of such facilities, which plan shall provide that the costs of such activities shall be borne by the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities;

(C) site-specific designs, specifications, and cost estimates sufficient to (i) solicit bids for the construction of the first such facility; (ii) support congressional authorization of the construction of such facility; and (iii) enable completion and operation of such facility as soon as practicable following congressional authorization of such facility; and

(D) a plan for integrating facilities constructed pursuant to this section with other storage and disposal facilities authorized in this Act.

(3) In formulating such proposal, the Secretary shall consult with the Commission and the Administrator, and shall submit their comments on such proposal to the Congress at the time such proposal is submitted.

(4) Nothing in this subsection shall be construed to authorize the Secretary to select a specific site for the location of a monitored retrievable storage facility.

(c) ENVIRONMENTAL IMPACT STATEMENTS.—(1) Preparation and submission to the Congress of the proposal required in this section shall not be considered a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare, in accordance with regulations issued by the Secretary implementing such Act, an environmental assessment with respect to such proposal. Such environmental assessment shall be based upon available information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such proposal is submitted.

(2) The requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply with respect to the construction of any monitored retrievable storage facility developed pursuant to this section.

(d) LICENSING.—Any monitored retrievable storage facility developed pursuant to this section shall be subject to licensing under section 202(3) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842(3)).

(e) IMPACT ASSISTANCE.—(1) Upon receipt by the Secretary of congressional authorization to construct a facility described in subsection (b), the Secretary shall commence making annual impact aid payments to appropriate units of general local government in order to mitigate any social or economic impacts resulting from the construction and subsequent operation of any such facility within the jurisdictional boundaries of any such unit.

(2) Payments made available to units of general local government under this subsection shall be—

(A) allocated in a fair and equitable manner, with priority given to units of general local government determined by the Secretary to be most severely affected; and

(B) utilized by units of general local government only for planning, construction, maintenance, and provision of public services related to the siting of such facility.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines are necessary to ensure achievement of the purposes of this subsection. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(4) Such payments shall be made available entirely from funds held in the Interim Storage Fund established in section 137(c) and shall be available only to the extent provided in advance in appropriation Acts.

(5) The Secretary may consult with appropriate units of general local government in advance of commencement of construction of any such facility in an effort to determine the level of payments each such unit is eligible to receive under this subsection.

(f) LIMITATIONS.—(1) No monitored retrievable storage facility developed pursuant to this section may be constructed in any State in which there is located any site approved for site characterization under section 112. No repository may be developed under this Act in any State in which there is located any monitored retrievable storage facility developed pursuant to this section.

(2) No monitored retrievable storage facility developed pursuant to this section may be constructed unless the Congress by law specifically authorizes such construction and thereafter approves appropriations for such construction.

By Mr. WEAVER:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—Add to title III a new section:

SEC. 301. Special nuclear material, as defined in section 11aa. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)), produced in facilities licensed under section 103 or 104 of such Act, may not be transferred, reproc-

essed, used, or otherwise made available to any instrumentality of the United States or any other person for nuclear explosive purposes. This section shall not apply to special nuclear material exports covered by other applicable provisions of the law. Any violation of the prohibition established in this section shall be enforceable in the same manner as a violation of section 57 of the Atomic Energy Act of 1954 (42 U.S.C. 2077).

By Mr. WIRTH:

(Amendment to the amendment in the nature of a substitute (text of H.R. 7187).)

—Strike out the fourth sentence of 112(a) (page 16, line 24, after the period through the period on page 17, line 4) and substitute: "Such guidelines shall specify population factors that will disqualify any site from development as a repository if any surface facility of such repository would be located in a highly populated area."

Page 100, strike out the sentence beginning on line 12.

—Page 65, strike out line 8 and all that follows down through line 14 and substitute: "The Secretary may not develop a repository at any site unless the Secretary determines that such development, and the construction and operation of such repository, will not require any purchase or other acquisition of water rights that will have a significant adverse effect on the present or future development of the area in which such site is located.".

H.R. 6978

By Mr. SENSENBRENNER:

—Page 16, strike out line 4 and all that follows through the matter immediately preceding line 6 on page 24.

Page 24, line 6, strike out "SEC. 15." and insert in lieu thereof "SEC. 13.".

Page 24, line 15, strike out "SEC. 16." and insert in lieu thereof "SEC. 14.".

Page 25, line 8, strike out "SEC. 17." and insert in lieu thereof "SEC. 15.".

Page 25, line 11, strike out "SEC. 18." and insert in lieu thereof "SEC. 16.".

Page 25, line 15, strike out "SEC. 19." and insert in lieu thereof "SEC. 17.".

Page 25, line 18, strike out "SEC. 20." and insert in lieu thereof "SEC. 18.".

Page 26, line 13, strike out "SEC. 21." and insert in lieu thereof "SEC. 19.".

Page 26, line 16, strike out "SEC. 22." and insert in lieu thereof "SEC. 20".

Page 26, line 21, strike out "SEC. 23." and insert in lieu thereof "SEC. 21.".

Page 26, line 24, strike out "SEC. 24." and insert in lieu thereof "SEC. 22.".

Page 27, line 7, strike out "SEC. 25." and insert in lieu thereof "SEC. 23.".

Page 27, line 10, strike out "SEC. 26." and insert in lieu thereof "SEC. 24.".

Page 34, line 20, strike out "SEC. 27." and insert in lieu thereof "SEC. 25.".

Page 34, line 23, strike out "SEC. 28." and insert in lieu thereof "SEC. 26.".

Page 35, line 16, strike out "SEC. 29." and insert in lieu thereof "SEC. 27.".

Page 36, line 7, strike out "SEC. 30." and insert in lieu thereof "SEC. 28.".

Page 37, line 1, strike out "SEC. 31." and insert in lieu thereof "SEC. 29.".

Page 37, line 6, strike out "SEC. 32." and insert in lieu thereof "SEC. 30.".

Page 37, line 9, strike out "SEC. 33." and insert in lieu thereof "SEC. 31.".

Page 44, line 20, strike out "SEC. 34." and insert in lieu thereof "SEC. 32.".

Page 44, line 23, strike out "SEC. 35." and insert in lieu thereof "SEC. 33.".

Page 45, line 1, strike out "SEC. 36." and insert in lieu thereof "SEC. 34.".

Page 45, line 5, strike out "SEC. 37." and insert in lieu thereof "SEC. 35.".

Page 45, line 8, strike out "SEC. 38." and insert in lieu thereof "SEC. 36.".

Page 46, line 1, strike out "SEC. 39." and insert in lieu thereof "SEC. 37.".

Page 46, line 6, strike out "SEC. 40." and insert in lieu thereof "SEC. 38.".

Page 46, line 9, strike out "SEC. 41." and insert in lieu thereof "SEC. 39.".

Page 47, line 14, strike out "SEC. 42." and insert in lieu thereof "SEC. 40.".

Page 47, line 17, strike out "SEC. 43." and insert in lieu thereof "SEC. 41.".

Page 48, line 10, strike out "SEC. 44." and insert in lieu thereof "SEC. 42.".

Page 48, line 13, strike out "SEC. 45." and insert in lieu thereof "SEC. 43.".

Page 48, line 21, strike out "SEC. 46." and insert in lieu thereof "SEC. 44.".

Page 49, line 15, strike out "SEC. 47." and insert in lieu thereof "SEC. 45.".

Page 49, line 18, strike out "SEC. 48." and insert in lieu thereof "SEC. 46.".

Page 50, line 20, strike out "SEC. 49." and insert in lieu thereof "SEC. 47.".

Page 50, line 21, strike out "section 48(a)" and insert in lieu thereof "section 46(a)".

Page 51, beginning on line 8, strike out "section 48(a)" and insert in lieu thereof "section 46(a)".

Page 51, line 11, strike out "section 50(c)" and insert in lieu thereof "section 48(c)

Page 52, line 14, strike out "SEC. 50." and insert in lieu thereof "SEC. 48.".

Page 52, line 20, strike out "section 48(a)" and insert in lieu thereof "section 46(a)".

Page 53, line 9, strike out "section 48(a)" and insert in lieu thereof "section 46(a)".

Page 53, line 14, strike out "section 48(a)" and insert in lieu thereof "section 46(a)".

Page 53, line 21, strike out "Section 48(b)" and "section 49(d)" and insert in lieu thereof "Section 46(b) and section 47(d)".

Page 54, line 4, strike out "SEC. 51." and insert in lieu thereof "SEC. 49.".

Page 54, line 9, strike out "Sec. 52." and insert in lieu thereof "SEC. 50.".

Page 55, line 21, strike out "SEC. 53." and insert in lieu thereof "SEC. 51.".

H.R. 7144

By Mr. FAUNTROY:

—Beginning on page 22, strike out line 12 and all that follows through line 14 on page 23.

EXTENSIONS OF REMARKS

NATIONAL ITALIAN-AMERICAN CONFERENCE REMARKS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. FLORIO. Mr. Speaker, as an American of Italian heritage I would like to recognize the Third Biennial Conference of the National Italian American Foundation, which was held earlier this month. The foundation and the conference are dedicated to awareness of ethnic identities.

The Italian-American community, which makes up the largest ethnic majority in New Jersey, plays a significant role in New Jersey and national affairs. The Third Biennial Conference of the National American Foundation was an unquestionably successful event. I would like to submit, for the RECORD, the opening address to the Third Biennial Conference by its general chairman, Benjamin J. Palumbo, further explaining the role of the conference and of Italian Americans in our society.

The remarks follow:

OPENING ADDRESS OF BENJAMIN L. PALUMBO, GENERAL CHAIRMAN OF THE THIRD BIENNIAL CONFERENCE OF THE NATIONAL ITALIAN AMERICAN FOUNDATION, SEPTEMBER 9, 1982

ITALIAN AMERICANS AND THE FUTURE OF AMERICAN DEMOCRACY

Welcome to the Third Biennial Conference of the National Italian American Foundation.

First let me pay tribute to the Foundation's hardworking and dedicated staff for the splendid support which they have given to this Conference. I would like them all to stand for a round of applause.

I would like also to thank my co-chairs Lucy Falcone and Bob DiPietro for their magnificent efforts in this undertaking. All this could not have happened without them. You'll be hearing more from them later.

In this room are several hundred United States citizens. United States citizens who have chosen to call themselves Italian-Americans.

I would like to take a few moments to share with you my thoughts about why we have chosen to do so. And also to deal with the significance of this conference.

To do that we must come face to face with a reality about the United States. And that reality is that the United States was not merely born in revolution but continues to this day to be a revolutionary society.

What is meant by this? How does it affect us? What obligations does it place on us?

Let us begin at the beginning.

Two hundred and six years ago in Massachusetts—"by the rude bridge that arched the flood"—the "shot heard round the world" was fired. Thus was begun the revolution from which was born our country.

It was a revolution of blood and fire. But it was also one of ideas . . . and ideals.

The words given by Phillip Mazzei to his friend Thomas Jefferson went to the heart of our Declaration of Independence: "All men are created equal." Two centuries after the last echo of the last shot fired in that revolution faded away, those words still echo round this world.

In the U.S., the power of that ideal of equality and freedom has inspired multiple and continuous revolutions.

The most obvious was the struggle against slavery called the Civil War. But there have been others, seemingly more prosaic, but resulting in enormous changes nevertheless.

Many have occurred within the lifetimes of most of the people in this room. Indeed, some are still underway.

But because they have been largely gradual and peaceful, and because our citizens still remain largely isolated behind huge oceans, most have ben unable to contrast these upheavals with lifestyles elsewhere and thereby fully grasp their significance.

Yet these revolutions have changed forever the old static relationships of man to society, just as dramatically as the Revolution of '76 changed forever the relationship of Americans to the British crown.

Let us examine some of these revolutions.

One was that of "rising expectations." It was given force by the sacrifices demanded in World War II. One of its early manifestations was the GI Bill of Rights. Until its passage higher education had been mostly the preserve of the privileged. After the GI Bill, millions whose education would have ended with high school, went on to colleges and universities. In doing so they created the climate which led to acceptance of the unprecedented notion of higher education for all capable of handling it. We have become the most educated society in the world because this revolutionary idea became the accepted norm.

Another example was the advent of post World War II prosperity. It put America on wheels; built vast highway networks; and opened huge tracts of land for development. It lead to acceptance of the idea that the American dream of a single family home with a car, or two, in the driveway, could and should become reality. The pursuit of that dream made us the most mobile society the world has ever known, resulting in tumultous mass migrations from South to North, farm to city, city to suburb, and now East to West.

In the early '50s, while this material revolution was in progress, the Supreme Court of the United States rightly struck down the laws segregating the races.

This was a momentous and overdue decision. Suddenly whites and blacks found their dialogue of the deaf was over and that they had to know and understand each other in the aftermath of this decision. Black, White, Brown, Red, and Yellow Americans are even now trying to sort out their relations, with the end of this process still not in sight.

In the '60s, Angelo Roncalli, otherwise known as John XXIII, dramatically changed the outlook of the Catholic Church. In so doing, he altered the way American Catholics relate to their fellow citizens of all persuasions; and vice versa. For most of us in this room that has had special meaning.

In the '60s and '70s began the stirrings of the Women's Movement. It was a natural and inevitable outgrowth of several powerful factors: WWII which placed millions of women in the work force; the post war boom which required a workforce far larger than the male segment of our society alone could provide; the availability of higher education without restrictions as to its end use; and the commitment against discrimination, made to Blacks, whose application to the problem of discrimination against women could hardly be denied. The ramifications of this movement are no where near being played out as everyone here is surely aware.

Still another decision of the Supreme Court caused a veritable earthquake in the political and social landscapes. In what may have been its most momentous decision of this century, the Court entered the "thicket" of legislative reapportionment and congressional redistricting and breathed life into the phrase "one man, one vote". State legislatures, the Congress, and their constituencies have not been the same since. And adjustments in political power parelleling population shifts guarantee major changes every 10 years in the politics of the U.S.

The late 60's, 70's, and into the 80's has witnessed the breakdown of the traditional political parties. Republicans and Democrats still vie for victory, but the old automatic voting patterns have weakened, the number of independents has grown, turnouts in elections have continued to decline, acceptable definitions of the terms Democrat and Republican appear elusive, and the rise of one-issue groups armed with money and manpower is steering the nation's political system into unchartered waters.

While all this turmoil was taking place the great technological leap began. Epitomized by television—soon to pale by comparison to the computer age—it spread rapidly across the land. Night after night it beamed the same shows, the same news, and the same sports into every corner of America, putting a veneer of homogenization on what was thought by some to have been the dawning of the age of the melting pot.

But, ladies and gentlemen, something went awry; the melting pot didn't melt.

It is true these revolutions had set people adrift, separating them from old familiar ties and associations. But what was not waiting for these countless millions was the warm embrace of an alternative American culture. Instead, there was a void. And suddenly the most frequently asked question of the 70's was—"who am I?"

The answer to this question was bewildering for many, easier for some. Blacks, for example, answered by asserting their right to be both Black and American. And ethnics by asserting their right to be both ethnic and American.

In these reactions was a powerful truth: there is no agreement on the description of the typical American. For there is no typical American. There are, quite simply, many kinds of Americans.

That truth gives us the answer to the question of why we choose to describe ourselves as Italian Americans. In a rootless society, constantly on the move, filled with

lonely people loosened from their moorings striving to identify themselves, our declaration of common heritage gives us a certain sense of self, and helps fill that void. Most important, it frees us from the frustrations of excessive introspection and allows us to concentrate on the enormous problems around us.

This country needs that kind of citizen. It needs citizens able to withstand the constant buffeting of the winds of change. It needs citizens able and willing to look clearly at the world, examine its problems intelligently, and support rational sound solutions. Rootlessness exacerbates this need; but the existence of people with a sense of self helps fulfill it.

And therein lies both the significance of this Conference and the answer to the question of our obligations as Italian American members of a revolutionary society.

Today armed with our sense of self, we can and must embrace this opportunity to contribute to the well-being of our country, which has contributed the opportunity for well-being to us. An opportunity which began when our immigrant ancestors arrived, in the words of the song by writer Neil Sedaka "to live in the light of the beacon of liberty."

The contribution which this Conference represents will find its expression in you. For it is our goal that the several hundred Italian Americans—and their guests and friends—who have come to partake of our efforts will leave here better informed about some of the important issues of our times.

This Conference was not meant to be a meaningless exercise. We have not sought an occasion for smugness; for patting ourselves on our backs in congratulations of our impressive heritage.

To do that would have been to invite you to ignore the future in favor of the past. That would have been grossly inconsistent with our heritage. Our immigrant ancestors came to these shores to secure the future not to celebrate the past. And most assuredly that is our intent today.

For we have planned this Conference with, above all, a concern for the future. Specifically, for the future of our American democracy. A future which is utterly dependent on the quality of the country's political debate which, in turn, rises or falls on the existence of an informed and interested electorate.

Through your participation in workshops on the family, education, contemporary politics, and international relations we intend to make our contribution to the existence of an informed and interested electorate and thereby to help strengthen American democracy.

We ask all of you to take very seriously the warning of the great revolutionary Thomas Jefferson, who told us that "if a nation expects to be ignorant and free . . . it expects what never was and never will be."

And be guided, we beg you, by the spirit of the great Italian revolutionary Guiseppe Mazzini who wrote "Three things are sacred, tradition, progress, association—the immense voice of God which the centuries transmit to me through the universal tradition of humanity . . . tells me that the Family, the Nation, and Humanity are the three spheres within which the individual has to labor for the common end . . . "

I submit to you we have a sense of ourselves. That we are here because our immigrant ancestors were concerned with the future, and we can be no less concerned.

And that the Jeffersonian and Mazzinian ideals, forged in the crucible of the American and Italian struggles for independence and liberty, are what this Conference, and we, are all about.

Thank you.●

IN APPRECIATION OF THE ALLEGHENY COUNTY FIRE ACADEMY

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. WALGREN. Mr. Speaker, I want to pay a special tribute to the Allegheny County Bureau of Fire Training's School and Academy on completion of its 12th year of operation. This academy is a prime example of what can be accomplished with cooperation between the Federal and local governments.

We all should be aware of the fact that fire is one of the most devastating killers we encounter today. The annual deaths from fire roughly equal two jumbo jets crashing in mid-air every month. The fire death rate is 20 times that of tornadoes, hurricanes, and floods combined. By ones and twos in their homes, or in the great catastrophes that seem to be happening as frequently as ever, we lose more than 8,000 people a year to fire. Over 300,000 people are injured each year, with many scarred permanently, and more than $5 billion in property is lost. So much of this could be stopped if we had proper and adequate fire training and prevention programs. The very best of such training is available in Allegheny County.

Established in 1970 by the Allegheny County Commissioners, the academy, situated in the north hills of Pittsburgh, has as its purpose the training—at no expense to the student—of volunteer, paid, industrial and security firemen in the latest firefighting techniques. The training at the academy emphasizes the modern dangers resulting from fires involving plastics and other hazardous materials. In addition, the academy teaches fundamentals of firefighting, advanced firefighting, cardiopulmonary resuscitation (CPR), and first aid.

The academy serves Allegheny County by opening its facility to volunteer fire companies so they can broaden their experience with structural and vehicular rescue techniques; the academy serves the Nation by conducting seminars and providing facilities for the International Society of Fire Service Instructors, the National Fire Protection Association, and the Pennsylvania Association of Arson Investigators; the academy serves private industry by training many industrial/private brigades such as those serving PPG industries and the major hotels in Pittsburgh. In all, the Allegheny County Fire Academy leads the Nation in expertise for training firefighters from all parts of the country in the most modern techniques. In addition, it develops programs for all phases of firefighting and presents fire prevention courses and seminars for some 30,000 volunteers from 254 fire companies.

As chairman of the Science Subcommittee which has jurisdiction over the U.S. Fire Academy, I understand the crucial need for effective fire training. Local firefighters from across the Nation joined my fight to save the USFA, for we all realize that while firefighting is a local function, it deserves the full support and cooperation of the National Government.

I want to congratulate and commend the fine young men and women who are graduating from the Allegheny County Fire Academy this fall, and wish them the best of luck as they pursue their careers in service to us all.●

WHAT TWO SUMMERS HAVE WROUGHT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. STARK. Mr. Speaker, as we prepare to recess, it is a good time to step back and see where we stand after 2 years of the Reagan administration.

Recently, Mr. J. W. Anderson, a staff writer for the Washington Post, wrote an informative column entitled, "What Two Summers Have Wrought."

The column does an excellent job of describing the changing priorities of the Federal budget, the changing burden of taxation—and the awesome deficits facing us in the years to come.

The article follows:

[From the Washington Post, Sept. 14, 1982]

WHAT TWO SUMMERS HAVE WROUGHT

Each summer since President Reagan came to Washington, there has been a tremendous struggle over federal taxes and spending. Now that the second summer's work has been signed into law, it's possible to take stock of the profound changes overtaking the basic pattern of the budget.

The comparison begins with the fiscal year 1980, the last full year before Reagan took control. The following numbers for fiscal year 1983, the year that starts on Oct. 1, come from the Congressional Budget Office's most recent revision of its Economic and Budget Outlook, Published this month.

In spending policy, the changes are the ones that you would expect. But the magnitude of those changes is dramatic. Here are a few numbers, representing percentages of total spending (excluding interest on the national debt) by several major categories.

[In percent]

	1980	1983
Defense	26.5	32.1
Income security	37.7	40.1
Health	10.8	11.7
Everything else	25.0	16.1
Total spending	100.0	100.0

Interest is not included in this definition of spending because it is set by the commercial interest rates rather than by policy and including it would obscure the view of the purposeful decisions that the president and Congress are making.

These figures reflect, not the budget that Reagan originally proposed in February, but the budget as Congress has revised it over the past seven months. Under the original Reagan budget, the allocation to defense would be somewhat higher.

Nearly two-thirds of income security spending is Social Security. Most of the rest is other pensions, and unemployment compensation. Food stamps and several other welfare programs, small by comparision, are also in there. Similarly, about two-thirds of the spending on health goes to Medicare for the elderly, and most of the rest is Medicaid for the poor.

It's worth noting that about half of federal spending is now pensions plus various smaller income support programs and medical benefits attached to them. These categories, with defense, were three-fourths of the budget as the Carter presidency ended. Now they are five-sixths of it.

The two tax bills of the past two summers have shifted the balance among the various sources. The numbers below represent percentages of federal revenues.

[In percent]

	1980	1983
Personal income taxes	46.9	47.1
Corporate income taxes	12.4	7.4
Social insurance taxes	30.9	34.3
Excise taxes	4.7	6.0
Other revenues	5.0	5.2
Total revenues	100.0	100.0

Despite two large cuts in income tax rates, and a third coming next July, the share of federal revenues raised by the personal income tax will be almost exactly the same next year as it was in the Carter years. The striking drop has come in corporate taxes. It is being offset chiefly by the rise in social insurance taxes. Most of that is the Social Security payroll tax.

Politicians and economists are currently discussing the flat income tax and whether the country should nove toward it. That little table above is a reminder that the country is, in fact, moving toward it rapidly. The personal income tax is at present progressive—meaning that people with higher incomes pay larger shares of their income than the poor. But the Social Security tax is regressive. It's a flat tax on earnings up to $32,400 a year, with no exemptions and no deductions.

Taken together, the personal income tax and the Social Security tax form a structure that is still probably mildly progressive—but only very mildly.

So far we've been talking about the changing allocations within the budget. That leads to another crucial question: how big is the budget under Reagan's guidance?

The best way to judge it is in relation to the size of the whole economy. The numbers below express total spending—this time including interest payments—and tax revenues as percentages of the gross national product.

[By fiscal years, in percent]

	1980	1981	1982	1983
Outlays	22.4	22.9	24.2	23.7
Revenues	20.1	20.9	20.5	19.0
Deficit	2.3	2.0	3.7	4.7

Far from declining, the first Reagan budget in 1982 rose sharply in relation to the size of the economy. It wasn't wholly due to the recession. It resulted, in roughly equal importance, from rising defense spending, rising interest costs and rising spending on income security and health. In 1983, according to the CBO estimates I am using here, spending will finally begin to turn downward as a percentage of GNP—although slowly.

In contrast, the Reagan policy on taxes took effect immediately and sharply. Federal revenues, as a share of GNP, were rising when Reagan took office. But, following the 1981 tax cut, they began dropping, and, as the table shows, the drop accelerates rapidly as the government goes into the coming year.

Those figures for 1983, by the way, assume moderately good economic growth next year. They are based on the CBO's forcast of recovery from the recession with no increase in inflation.

If those numbers for 1983 turn out to be correct, and revenues are 19 percent of GNP, Reagan will have lowered the tax burden to the level of the middle 1970s—the Ford era. It will still be larger in proportion to the whole economy than it was in the Nixon period, or in the early 1960s before Vietnam.

As for spending, at 23.7 percent of GNP it will be lower than this year but higher than any other year since World War II, and a good deal higher than in the Carter years. At 4.7 percent of GNP, the deficit will also be higher than any since World War II.

So far, Reagan and Congress have done most of the cutting in the small spending programs that are weakly defended, like welfare and food stamps, rather than in the big ones like Social Security that serve very large numbers of people. To close the deficit by cutting spending, as Reagan keeps promising, is impossible without heavy reductions in at least two of the three largest groups of programs—defense, health care or the pensions. If that seems unlikely to you, there are only two possibilities. Either the deficit stays at the present very high levels, or there must be further tax increases.●

COMPREHENSIVE VICTIM AND WITNESS PROTECTION AND ASSISTANCE ACT OF 1982

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. RODINO. Mr. Speaker, today I am introducing, together with the gentleman from New York, Mr. FISH, and over 70 of our colleagues, the Comprehensive Victim and Witness Protection and Assistance Act of 1982. This legislation will provide additional protection and assistance to victims of, and witnesses to, crime.

The legislation addresses concerns that victims have about personal safety reimbursement for financial loss resulting from the offense, and fair treatment by the criminal justice system.

PERSONAL SAFETY

The bill takes three steps to provide greater protection for the physical safety of witnesses. First, it clarifies and strengthens present Federal offenses prohibiting the use of force or threats to intimidate or retaliate against victims and witnesses. Second, it authorizes a Federal prosecutor to obtain a protective order preventing harassment of victims and witnesses. Finally, the legislation requires that there be an explicit condition of every release on bail that the person released not commit a victim or witness intimidation or retaliation offense.

FINANCIAL REIMBURSEMENT

One of the goals of our criminal justice system should be to restore the victim to the victim's financial status quo before the offense—to make the victim financially whole. The person who should bear the principal responsibility for doing this is the offender. The legislation addresses the financial needs of victims by encouraging greater use of restitution as a criminal penalty for all offenses defined in title 18 of the United States Code. Procedures are spelled out for determining in a particular case whether restitution is an appropriate penalty and, if so, what the amount of the restitution should be. In addition, the bill directs the Attorney General to report to Congress within a year on the need for legislation to assure that a Federal felon will not derive profit from books, articles, movies and the like about the offense.

FAIR TREATMENT

The bill contains two provisions intended to insure that victims and witnesses receive better treatment by the Federal criminal justice system. First, the bill requires that a Federal judge receive, before sentencing a convicted defendant, information about the impact of the crime upon the victim. The bill also directs the Attorney General, within 9 months, to formulate and implement guidelines insuring that victims and witnesses will be fairly treated at all stages of the Federal criminal justice process. These guidelines are to encompass such matters as seeing to it that victims and witnesses receive prompt notification of the scheduling of hearings and trials and that property held for evidentiary purposes is returned as promptly as possible.

Mr. Speaker, Bertram Gross noted in an article in the Nation that crime victims frequently endure triple jeopardy.

The victim suffers at the hands of the burglar, mugger . . . or arson profiteer, he suffers when he loses wages (or even his job) because of the time he must spend in court, and he suffers a third time if his cooperation with the authorities brings retaliation by the accused.

This legislation addresses each of these problems. I urge my colleagues to support it.●

PERSONAL EXPLANATION

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. DERRICK. Mr. Speaker, unfortunately, I was unavoidably detained and was unable to vote on the House floor September 22, 1982. Had I been there I would have cast my vote in the following manner:

Rollcall No. 355: Florio amendment to Senate Joint Resolution 250, a joint resolution to resolve the railway labor-management dispute—Nay.

Rollcall No. 356: Passage of Senate Joint Resolution 250—Yea.

Although I regret that Congress had to intervene in a labor-management dispute, my prime concern was with the potential affects a strike would have had on an already suffering economy.●

EPA'S DRIVE TO LOOSEN SOME RULES ANGERS FIRMS THAT HAVE COMPLIED

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. MINETA. Mr. Speaker, as we have discussed often, the Reagan administration is in the process of radically retreating on many of the important regulatory functions of the Federal Government.

One curious and perverse effect of this retreat is the impact upon those well managed and public minded businesses which have gone ahead and made often sizable investments in new plants and equipment to conform to Federal regulation.

As regulations are modified, withdrawn or simply not enforced, these firms are penalized relative to those firms which have failed to bring their facilities into compliance.

This is one more example of the unfair and harmful side effects of the "regulatory reform" movement. Once again we are reminded that broad general theories of Government are no substitute for careful and thoughtful attention to detail, and an understanding of all impacts of a governmental action.

Following is an article from the Wall Street Journal of September 23, 1982, which discusses this growing problem in a clear and well reasoned manner. I urge my colleagues to read this article and consider its implications carefully.

EPA'S DRIVE TO LOOSEN SOME RULES ANGERS FIRMS THAT HAVE COMPLIED

(By Andy Pasztor)

For Bacardi Corp., the situation is hard to swallow. The world's largest rum producer fears it may be penalized for complying too readily with federal environmental laws.

Under pressure from the U.S. Environmental Protection Agency, the company has spent more than $10 million since 1979 to clean up water pollution from two distilleries in Puerto Rico. Bacardi built a sophisticated and unique treatment plant on the condition that the government would require the rest of the industry to meet equally stringent anti-pollution standards.

But now, as part of the Reagan administrations's overall effort to ease regulation, the EPA is considering changes that would permit the company's major competitors, located in Puerto Rico and the Virgin Islands, to continue dumping large amounts of molasses residue into the Caribbean. Bacardi executives are discovering, much to their dismay, that some of the proposals would place them at a competitive disadvantage with smaller firms that steadfastly refused to invest in modern pollution-control equipment.

REWARDING NONCOMPLIANCE

Similar complaints are heard in other industries, such as oil refiners, steel makers and companies that dispose of hazardous chemical wastes. These critics assert that loosening environmental rules can backfire—especially if some of the leading companies in an industry have made huge investments to comply with existing standards.

"Without firm scientific evidence, the agency is rewarding those companies that failed to comply" with the regulations, says Clement B. Malin, government relations manager for Texaco Inc.

"It's becoming a big, often very difficult problem for the agency to grapple with," concedes an EPA official. "We face it all the time, but few people are ready to talk about it publicly."

In fact, the administration risks alienating some of its natural allies in the business community. Says William K. Reilly, president of the Conservation Foundation, a Washington-based environmental group: "Above everything else, industry wants and needs predictable regulations that won't change after investment decisions are made."

The rum industry started bickering with the EPA in the early 1970s. The agency decided that effluent from distilleries could damage fish and other aquatic life in the Caribbean. The companies challenged the scientific validity of the findings, and years of expensive but inconclusive legal battles ensued. Finally, in 1979, during the Carter administration, both sides believed they had found a way to solve the problem.

Bacardi, Virgin Island Rum Industries Ltd., (a Rapid-American Corp. unit) and Puerto Rico Distillers Inc. (a Seagram Co. unit) agreed to curtail sharply the amount of pollution they spewed into the sea. In return, the EPA dropped some of its tougher demands and set basically the same anti-pollution standards for each of the companies. The arrangement appeared to be working until last year, when Bacardi's competitors thought they could negotiate a more favorable deal with Mr. Reagan's appointees at the EPA.

Richard Schifter, an attorney for Virgin Island Rum Industries, made a personal appeal in December to John Daniel, chief of staff for EPA Administrator Anne Gorsuch, asking that the standards be revised. The company claims it may be forced to shut down permanently and to lay off approximately 70 workers if the agency requires it to build a $4 million treatment facility. If that happens, the islands' government worries it may lose nearly 20 percent of its annual local tax revenue.

BACARDI BATTLES BACK

Puerto Rico Distillers argues that adverse economic conditions—including unemployment at more than 20 percent—make it difficult to pass on extra costs to customers. "It makes little sense to impose massive costs for treatment," complains Gov. Carlos Romero-Barcelo, "when this investment may not enhance the quality of the environment." Unlike Bacardi, neither company so far has started construction of facilities required by the three-year-old compromise.

In April, the EPA announced a formal reevaluation of the rum industry, including a new analysis of company arguments that pollution from the plants can be assimilated by the sea without appreciable environmental damage. Allowing such dumping could reverse nearly a decade of federal water policies and set an important precedent for dozens of other industries.

Not surprisingly, Bacardi, which produces four times more rum than its largest U.S. competitor, takes a dim view of the agency's latest position. In an official filing with the EPA, Bacardi's attorneys warn the Reagan administration against trying to assign "extra environmental costs to whatever producer is currently more successful in the marketplace."

OTHER CASES

There already are several other instances where the EPA is under fire for allegedly doing exactly that:

In an unusual move, Texaco, Exxon Corp. and several other large companies sharply criticized an EPA proposal last month to allow certain small oil refineries to use more lead in gasoline than the rest of the industry. An Exxon official charged that the government would penalize companies that already had made substantial investments to modernize facilities while "subsidizing certain favored" companies that resisted complying with clean-air laws. The agency argues that the overall effect of the new rules would be cleaner air and more competition among refiners.

The administration's long-awaited standards for landfills that dispose of hazardous wastes stirred similar opposition. By giving many landfill operators several years to comply with strict health and monitoring requirements, critics contend, the EPA is providing a "new loophole" for companies that haven't invested in up-to-date equipment. A coalition of companies claims the new rules amount to preferential treatment and extra profits for certain operators.

In the past few months, the EPA also received complaints from steel companies worried that regulatory decisions could undercut their competitiveness. Specifically, the agency must decide whether to grant clean-air waivers to steel producers based on their previous and proposed investment in anti-pollution equipment.

On the rum issue, the political crossfire around the regulators is intense. Interior

Department officials and the U.S. trade representative, William Brock, for instance, urged the EPA to ease its standards because of changed economic circumstances. Mr. Brock and others believe higher pollution-control costs could make it difficult for companies operating in Puerto Rico and the Virgin Islands to compete with other Caribbean rum distillers. Non-U.S. distillers also stand to benefit from administration proposals to eliminate all duties on Caribbean rum.

Before revising clean-water guidelines for rum makers, EPA officials must analyze a 10-inch stack of comments and technical reports submitted by the companies. A final decision isn't expected until next spring.●

BIG SPENDER IN THE WHITE HOUSE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. STARK. Mr. Speaker, the President's recent unsuccessful veto of the supplemental appropriations bill was an event right out of "Alice in Wonderland." It seemed like a scene from 1984, with its doublespeak rhetoric of "budget busting," when in fact and truth the bill was more than $1 billion less than the President asked for.

The fact is that the President is the biggest deficit spender of all time. During his time in office, the national debt will climb from about $1 trillion to $1.7 trillion.

I would like to include in the RECORD at this point an excellent column from the September 18 National Journal, entitled "Big Spender." The column does an excellent job of explaining the deficit and budget problems we face because of the folly of last year's massive "trickle-down" tax cut.

BIG SPENDER

(By Dick Kirschten)

When Congress approved a supplemental appropriations bill that would cost nearly $2 billion less than the Administration had asked for, President Reagan vetoed it. He said it was a "budget buster" because it included too much money for social programs and not enough for the military.

And when the House overrode the veto by a lopsided margin, the President told an airport crowd in Ogden, Utah that "the big spenders won."

The next day, when the Republican-controlled Senate followed suit, several of the 21 GOP Senators who broke party ranks to help override the veto had harsh words for Reagan and Office of Management and Budget (OMB) director Dave Stockman.

"By no responsible account can this be called a budget buster, as it has been characterized by the bean counters at OMB," said Senate Appropriations Committee chairman Mark O. Hatfield, R-Ore. "I've swallowed hard many times, I've held my nose on many occasions," Hatfield continued, "but there comes a time when conscience and principle transcend loyalty to one's party and one's President."

Sen. Mark Andrews, R-N.D., declared: "I'm getting sick and tired of David Stockman and his mirror acts. . . . He's not serving the nation well, he's not serving the President well, he's not serving his party well."

For all of Reagan's rhetoric about reducing the size of the federal government and his professional abhorrence of deficit spending, his credibility is being challenged by the budget figures that have resulted from the performance of the economy and the policies enacted since he has been in office.

In March 1981, Reagan had predicted that by 1984 he would bring the federal budget into balance and reduce total federal outlays to less than 20 per cent of the gross national product. A year and a half later, he is staring at monumental continuing deficits and a federal establishment that threatens to lumber on for several years at a level closer to 23 per cent of GNP. The latest projections by the Congressional Budget Office (CBO), expressed as a percentage of GNP, show that Reagan's planned expenditures will exceed expected revenues through 1985.

[In percent]

	1982	1983	1984	1985
Revenues	20.4	19.0	18.9	18.9
Outlays	24.1	23.7	23.1	22.7
Deficit	3.7	4.7	4.2	3.8

In short, quicker than you can say Jimmy Carter, Reagan has set aside the rhetorical question he propounded less than two years ago in his inaugural address. At that time, he lamented that "great as our tax burden is, it has not kept pace with public spending. For decades we have piled deficit upon deficit. . . . You and I, as individuals, can, by borrowing, live beyond our means for only a limited period of time. Why should we think that collectively, as a nation, we are not bound by the same limitation?"

Since then, Reagan has placed a higher priority on building up what he perceives as the nation's lagging defenses than on living within the national means. The CBO estimates that the federal debt, which recently went over the $1 trillion mark, will reach almost $1.7 trillion by the end of fiscal 1985. As Reagan boosts national defense spending from $189 billion in 1982 to $281 billion in 1985, the annual interest payment on the national debt will climb from $100 billion to $139 billion.

Against this backdrop, it is no wonder that nerves get frayed in Congress when Reagan goes out on the hustings and points his finger at the "big spenders" on Capitol Hill. His own program, which he has been remarkably successful in persuading Congress to enact, has increased the size of the federal government, relative to GNP, to a level higher than in any of the four years of the Carter Administration.

Even with the tax increases enacted with Reagan's support earlier this summer, the CBO projects continuing deficits in the $150 billion to $160 billion range for 1983-85. During the Carter years, the federal deficit ranged from a low of about $30 billion to a high of close to $60 billion.

If Reagan is to make good on his rhetorical commitment to "fiscal responsibility," he will have to take bold action to bring the government's spending more into line with its income. In the view of most budget analysts, that can be done only through a combination of measures that the President thus far has been reluctant to embrace: a reduction in the growth of defense spending, cutbacks in politically popular entitlement programs, including social security and federal health care benefits, and further increases in taxes. The remainder of the nonmilitary budget already has borne deep cuts.

John L. Palmer and Gregory B. Mills, who analyzed budget policy in the Urban Institute's recent report, The Reagan Experiment, suggest two other alternatives frequently grasped by Presidents facing tough budget decisions. They warn that "the extreme political difficulty of the choices involved will continue to result in considerable pressure both to engage in unrealistic [economic] forecasting to postpone the painful reckoning and to tolerate substantial, continuing deficits."

Along that line, a veteran Reagan watcher, Los Angeles attorney Douglas Hallett, warned in The Wall Street Journal on Sept. 8 that the President does not "mean his rhetoric to be taken literally and does not want to be challenged to act upon it."

For conservatives who were angered over Reagan's endorsement of the $98.3 billion in new taxes enacted in August, Hallett recalled that Reagan "entered California's state capitol 15 years ago promising to 'cut, squeeze and trim' until state outlays matched resources. But within a few months, he had passively offered up the largest and most progressive income tax increase in the history of state government. Only four years later did budget pressures caused by rising welfare and Medi-Cal costs finally force Gov. Reagan to confront the spending side of the ledger."

In Washington, thus far, Reagan has cut taxes more than he has raised them. But, on the outlay side of the ledger, he should be careful whom he calls a big spender.●

TRIBUTE TO JOSEPH GAFFNEY, A PHILANTHROPIC INDIVIDUAL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. FLORIO. Mr. Speaker, I rise to express my gratitude to a rare individual, Mr. Joseph Gaffney of Deptford Township, N.J. I believe we should make note of those individuals in our community who seek to alleviate the conditions of the less fortunate.

Joe was involved for some time in securing food and clothing from various sources in order to give these items to needy individuals. Unfortunately, Joe has had to give up his one-man benevolent venture because of the aggravation of a back ailment and substantial damage done to his car which resulted from an automotive accident.

Joe's activities are a first-rate example of a compassion and concern which is taken to a unique degree. Despite being hampered by his chronic back ailment and a limited source of income, Joe strived to insure that needy people received comforts of life which would make their lives easier. He received no compensation of any kind for his efforts. In fact, he paid for all the bills he incurred in his effort to locate and distribute the foodstuffs and clothing.

His efforts were noted recently by the Gloucester County Times in the following newspaper article. Every citizen who is dedicated to the principal of helping others thanks Joe Gaffney and other selfless citizens like him. The article follows:

NO SHAM—DESPITE HIS ILLS, DEPTFORD MAN IS ALWAYS READY TO HELP OTHERS

(By Kevin Gonzalez)

DEPTFORD TOWNSHIP.—For a man beset with enough problems to test the patience of Job, Joe Gaffney is well qualified to be constantly singing the blues. But he doesn't. Despite whatever catastrophe befalls him, he has the capacity to laugh it off. "Oh boy!" he says with a chuckle and shakes his head as he details yet another problem.

And as if that isn't hard enough to fathom, there's something else that's puzzling. Joe always has the time and energy to help others worse off than himself. His bad luck never puts a hammerlock on his ability to care. His wife, Violet, might be in the hospital, his car may be kaput, his ailing back will ache fiercely, he might be wondering how he'll pay his bills, and he just mutters, "Murphy's Law!" and keeps on plugging away for the benefit of others.

But it appears some people just can't buy that. They're convinced he's a phony, that his chronic Good Samaritanism is a sham.

And that's just not true.

The controversy concerns his free food program. About a year ago, he and a neighbor, Charlie Patton, began an ambitious volunteer program to get free food for Gloucester County senior citizens. They have served as the channel for tons of fruit, vegetables, bread and chickens for folks who otherwise wouldn't have been able to get them.

Armed with good intentions, a phone directory, and the belief that people are basically generous, they began their campaign. Sometimes, the businesses and farms they called were skeptical and refused assistance. Some were not and gave what they could.

They kept a low profile. When I first wrote about what they were doing, they refused to have their names printed. So I called them "a couple of middle-aged whippersnappers," a nickname given to them by a farmer who was giving them produce. They didn't want other people to think they were in it for the publicity.

Patton had to quit because of major surgery: Gaffney, 49, continued despite his back injury that is serious enough to keep him from working. His sole income is from Social Security and VA disability.

But now it's time for their story to go public for reasons of self-defense. Certain individuals are positive Gaffney is making money off this enterprise. They have reported him to the local Social Security office, which has sent out investigators to check on this alleged unreported income.

The case is closed, according to Gerard Nolan, branch manager of the Social Security office in Glassboro. No wrong-doing was found.

I did my own investigation and agree with Nolan. First, I asked myself a few questions since I have, on at least three occasions, made substantial deliveries of food to the Gloucester County Office on Aging in Woodbury when Joe's car had broken down. The food was distributed from there to the five senior citizens nutrition centers in the county.

Did I see any money changing hands? No. Did I hear of any financial transactions? No.

Margaret "Peg" Mendoza, director of the department, wrote a letter commending Joe and Charlie. They "have been working very diligently at their own expense" she wrote and "their dedication is admired and respected by the staff of the department as well as the seniors of Gloucester County."

Joe also donated items for the Thanksgiving and Christmas food basket program run by Gloucester County Sheriff George Small. "Joe has always been extremely helpful to us," said Small. "He never sold five cents worth of food. He never even suggested it. Anyone who would say that about him I would think is certainly out of line."

Joe and Charlie also found time last Christmas to get gift items for a couple of hundred patients in the VA Hospital in Coatesville, Pa. Bob Adams, chief of volunteer services there, recalls Joe quite favorably. "He's the kind of guy who will help if he can," he said. The gifts, he added, were free; nobody made any money.

Edith Zimmerman of Washington Township, a farmer who has been supplying the program with free beans and corn a couple of times a week, said this about him: "He's not selling nothing. He's giving it away." That's why she's willing to help him.

"He's just a disabled guy who's doing what he can to help others," she added.

Maryville Director Jeanne C. Barber was the most eloquent on Joe's behalf. Joe managed to include the alcoholic rehabilitation center on his list of places to help with free food.

"He never took any money," she said. "He's not getting paid. He paid for his gas and his phone bills out of his own pocket."

She knows about his problems and understands why he does what he does. "He's disabled but he wants to feel productive," said Ms. Barber. "There's a human need to do good and he's doing what he can to respond to that." She also feels the more he worries about others, the less time he has to ponder about his own problems.

Yes, Joe does limp around with the help of a cane, a cervical collar and a back brace. But his heart and compassion are unimpaired. He is unabashedly sentimental and quickly moved to tears when he hears about someone else's troubles.

There were times when the program cost him so much he couldn't afford to buy food for his family. His own refrigerator was bare but he didn't touch any of the food he got for others.

Joe has been forced to give up on the project because a recent auto accident aggravated his ailment and caused expensive damage to his car. Ms. Barber has taken it over.

"I'd like to see him get a break," she said. "He's been a real blessing to us. Just about all our sources for food had dried up and then Joe came along. I'm certain God sent him to us."●

DRUNK DRIVING

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. MAZZOLI. Mr. Speaker, I would like to commend to the attention of my colleagues the following excerpts from Elinor Brecher's September 5 piece on drunk driving from the Courier-Journal magazine.

On Thursday the House Public Works and Transportation Committee moved to extract the antidrunk driving provision from H.R. 6211, the Surface Transportation Act, and bring it to the floor separately.

H.R. 6170, which seeks to reward States which take effective steps to combat drunk driving with grants for highway construction, could be on the floor for a vote today or tomorrow. I hope my colleagues will be able to support this worthwhile legislation.

The excerpts follow:

WHEN YOU LOSE A CHILD THAT'S A HORSE OF A DIFFERENT COLOR—BUDDY, THAT HURTS

After Nancy Wilder Brown died, her colleagues and friends at the Spouse Abuse Center in Louisville compiled an album for her 4-year-old son, Penn. The green, leatherette book contains affectionate remembrances and pictures of a vibrant young woman with a mischievous grin. Her friends called her sweet, vivacious, lively, full of dreams, unique, special. One woman said, "Nancy Wilder Brown made a difference."

A year ago, Jerry R. Willoughby of Louisville made a difference, too. He got drunk and killed Nancy Brown in a car wreck. Willoughby, 29, pleaded guilty to reckless homicide and public intoxication during a recess in his trial, after hearing some of the evidence. He admitted to having drunk a pint of liquor and two beers.

Even so, the screening division of the commonwealth's attorney's office believed the case was too weak to take before a grand jury. It was pouring rain on the day of the crash; there were no witnesses; the damage to Mrs. Brown's car indicated little speed, and Willoughby—who told police he tried to stop—was never given a Breathalyzer test to determine if he was drunk. Nonetheless, police took the case before the grand jury on a direct submission of evidence, and Willoughby was indicted.

Tommy Wilder kept his composure through most of the trial, but he fled in tears as a doctor described his daughter's injuries: teeth broken off at the gumline, left shoulder crushed, heart punctured, skull pulverized.

"When you lose a child," said Wilder, a restaurant owner, "that's a horse of a different color, Buddy, that hurts."

In March, Jerry Willoughby was sentenced to a year in prison. The clergyman who accompanied him to the sentencing asked Jefferson Circuit Judge George Kunzman for leniency. The Wilders said Kunzman replied, "Father, I don't think you did your homework. You're only going to lose him for a few months. These people won't ever see their daughter again."

Jerry Willoughby was released on "shock probation" May 24, two months after he was sentenced.

MILLER AND HIS WIFE "DON'T THINK WE CAN EVER HAVE CHILDREN AGAIN. WE DON'T WANT TO TAKE THE CHANCE"

John Randolph Reed could be anybody's neighbor. Until last fall, he was earning $30,000 a year as a salesman with a large, national company. He is neat, polite, articulate and the father of a little girl.

He also killed a baby after he got behind the wheel of a car drunk.

About dusk one day last September, Steven and Sandra Miller of Evansville were riding their bicycles. Their only child, Nat-

alie, 1, was strapped into an infant carrier on her father's bike. Reed drove his company-owned car into the two bikes from behind, knocking both parents off and injuring them severely.

The bikes hung up under the car. Charles Andrus, the Vandenberg County prosecutor who handled the case, said Natalie was dragged nearly one-half mile under the car. She died five hours later of massive head injuries.

Andrus said Reed, 32, testified that he heard what sounded like the bump of hitting a chuck hole. He was stopped by a motorist who saw the bikes under the car. He told the court he had amnesia and said he wasn't intoxicated, having had only two or three beers.

An Evansville jury took 30 minutes to convict Reed, who had two prior drunken-driving arrests of manslaughter. He is serving two years at the Indiana State Farm in Greencastle. Judge Maurice O'Connor further ordered that when he is released, Reed be on six years' probation and for eight years be forbidden to drive or drink. Reed was ordered to make a public statement at his sentencing that he killed Natalie because he was drunk and to complete an Alcoholics Anonymous program.

Steve Miller, who is vice president of the Evansville chapter of AIM (Against Intoxicated Motorists), which plans to lobby for tougher drunken-driver laws, continues to be hobbled by his injuries. His left leg is still in a cast. His wife, a nurse who has returned to work part time, said he is using electronic equipment to stimulate bone growth in the leg, which refuses to heal. He has not been able to return to this job.

Miller said he and wife "don't think we can ever have children again. We don't want to take the chance."

"I DON'T KNOW WHETHER I'LL EVER ACCEPT IT—I SEE IT EVERY NIGHT WHEN I TAKE THE [ARTIFICIAL] LEG OFF"

Humor seems to have all but deserted the woman in the wheelchair. There are few smiles, and when they come, they last only a second. Her voice is soft and controlled but edged with bitterness and anger, the voice of a person who admits she has not learned to cope with her fate.

"I don't know whether I'll ever accept it. I see it every night when I take the [artificial] leg off."

Mary, 46, is a nurse in Louisville and the mother of 10 children. On Dec. 16, 1980, her car was hit from the rear by a small car on Dixie Highway in Muldraugh, Ky. As she stood between the two cars examining the minimal damage, a soldier from Fort Knox sped over a hill. His car slid 138 feet then slammed into the small car at an estimated 70 to 75 miles per hour, pushing the three cars about 25 feet. Mary was crushed between the two stationary vehicles.

That night at Louisville's University Hospital, her right leg was amputated at the knee. She remained hospitalized until the following August. Between then and now, there have been numerous shorter hospital stays, one to close a colostomy. She expects to undergo a total replacement of her left hip, so she can get out of her wheelchair and walk again. She is a mass of scars from the midriff down, from skin grafts.

The police report indicates unsafe speed, driver inattention and alcohol involvement. He was neither cited nor charged by police nor disciplined by the Army. He has since been transferred to another base.

"The only thing that kept me sane in the beginning was knowing he'd have to pay for it eventually, one way or another," Mary said.●

MAN OF THE YEAR: BEN DE LEON

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. PATTERSON. Mr. Speaker, I am pleased to recognize the accomplishments and abilities of Ben de Leon, an outstanding citizen in my 38th Congressional District in California and a very deserving recipient of the "Man of the Year Award" for 1982. This award, as bestowed by the selection committee of Tiempo Sobre el Tiempro (Time and Time Again), will soon be presented to Ben during the group's fourth annual recognition awards ceremony.

For many years, I have observed Ben's professional career in public service as the veteran service officer for Orange County, a position he held for 11 years until his retirement in March. His promotion from the ranks of the veteran service office to head of the department made him the first Mexican-American ever to be appointed to the position of director of a department in the county of Orange. His total service within the department and for the county amounts to an impressive 36 years.

Ben ran his department with a firm commitment to handling all requests from veterans and their dependents with courtesy, empathy, and dispatch. I also recall that Ben did not confine his genuine concern for others to a "9-to-5" work schedule. He took his work beyond the doors of the VSO by actively participating in organizations like the American Red Cross, and its committee on service to military families.

Ben dedicated still more time and service to Orange County veterans in his role as a member of Santa Ana College's education advisory committee. There he offered guidance and support to veterans by encouraging self-advancement through education. Perhaps this commitment grew from his own experience as a veteran of 4 years of military service as a second lieutenant in the U.S. Army Infantry, ETO, during World War II. Whatever his reason, Ben has been an unfailing source of compassion and support for all veterans in our community.

The list of his other voluntary and professional commitments is long and equally noteworthy. Rather than list them, I would like to cite just one example as a highlight to his fine career. This was a special citation which he received from former Congressman Olin Teague when Mr. Teague was chairman of the House Committee on Veterans' Affairs. Ben de Leon was honored for his "outstanding and dedicated service to the veterans and dependents of Orange County," Mr. Speaker, it is with a shared sense of pride that I join my community in honoring the dedicated career of Ben de Leon, Man of the Year for 1982.●

SOVIET AND EAST EUROPEAN STUDIES BILL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. HAMILTON. Mr. Speaker, I am introducing today along with my colleague from Illinois, Congressman PAUL SIMON, a bill to encourage the maintenance and development of American expertise on the Soviet Union and its East European allies.

This legislation is necessary because private and public funding for foreign languages and area studies has been dropping steadily since the 1960's, posing potentially serious problems for the conduct of effective foreign policies toward these areas. We are, in short, fast entering a period in which we will not have the specialists to analyze important developments in the Soviet Union and Eastern Europe.

At current rates of replacement, in just a decade, half of the recognized academic experts in the field will be dead or retired. A study of the languages is a precondition for advance research. But between 1972 and 1980, American college enrollments in Russian language courses declined by one third, and secondary school enrollments fell by over 70 percent during the 1970's. By 1975–76 university centers of advance research on the U.S.S.R. and Eastern Europe had suffered a 64-percent reduction of budgets from the 1965–72 average, and the decline has continued. Overall support for Soviet bloc studies at American universities and research institutes is projected to decline 28 percent from 1980 to 1982.

We need to be able to develop reliable knowledge about our primary international adversary. Much of our national security policy is based on our perception of the capacities and the intentions of the Soviet Union. We need, therefore, to make informed judgments about the increasing complexities of Soviet and Eastern European society. There will soon be a new generation of leaders in the whole area, and this will increase the need for expert analysis.

The Soviet Union has been building up its capability for data collection and assessment at the same time as ours has been deteriorating. "Americanistics" is a major preoccupation of dozens of Soviet universities. No U.S. institution can match the resources of

the roughly 400 employees of the Institute for the Study of the U.S.A. and Canada.

Mr. Speaker, there is still in place a sufficient body of expertise so that if we act now, we can educate a new generation of students to meet our need for competent analysis and research. The present generation of specialists was largely educated in the 20 years after World War II, when universities, private foundations, business, and Government joined to support Soviet bloc studies. In the last 15 years, as funds have dried up, fewer and fewer gifted graduate students have entered the field. But this decline can still be reversed.

The bill I am introducing would set up a special endowment of $50 million for Soviet and East European studies. The program will be self-sustaining, after the initial appropriation, with interest from the $50 million supporting the studies. No further appropriations will be required.

A copy of the legislation follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION. 1. This Act may be cited as the "Soviet-Bloc Research and Training Act of 1982".

FINDINGS AND DECLARATIONS

SEC. 2. The Congress finds and declares that—

(1) factual knowledge, independently verified, about Soviet-bloc countries is of the utmost importance for the national security of the United States, for the furtherance of our national interests in the conduct of foreign relations, and for the prudent management of our domestic affairs;

(2) the development and maintenance of knowledge about Soviet-bloc countries depends upon the national capability for advanced research by highly trained and experienced specialists, available for service in and out of Government;

(3) certain essential functions are necessary to ensure the existence of that knowledge and the capability to sustain it, including—

(A) graduate training;

(B) advanced research;

(C) public dissemination of research data, methods, and findings;

(D) contact and collaboration among Government and private specialists and the facilitation of research based on the extensive data holdings of the United States Government; and

(E) first-hand experience of Soviet-bloc countries by American specialists including on-site conduct of advanced training and research to the extent practicable:

(4) three existing institutions already organized to conduct the functions described in this section on a national scale are the National Council for Soviet and East European Research, the Woodrow Wilson International Center for Scholars, and the International Research and Exchanges Board of American Council of Learned Societies; and

(5) it is in the national interest for the United States Government to supplement the support for the functions described in the section furnished by local, State, regional, and private agencies, organizations, and individuals, and thereby to stabilize the conduct of these functions on a national scale, consistently, and on a long range basis.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "Board" means the International Research and Exchanges Board organized in 1968 by the American Council of Learned Societies and the Social Science Research Council;

(2) the term "Center" means the Woodrow Wilson International Center for Scholars of the Smithsonian Institution;

(3) the term "Fund" means the Soviet-Bloc Research and Training Fund established by section 4;

(4) the term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965;

(5) the term "National Council" means the National Council for Soviet and East European Research, a not-for-profit corporation organized under the laws of the District of Columbia in 1978; and

(6) the term "Secretary" means the Secretary of the Treasury.

ESTABLISHMENT OF THE SOVIET-BLOC RESEARCH AND TRAINING FUND

SEC. 4. There is established in the Treasury of the United States a trust fund to be known as the Soviet-Bloc Research and Training Fund. The Fund shall consist of—

(1) amounts appropriated to it under section 5; and

(2) interest and proceeds credited to it under section (8)(c).

AUTHORIZATION OF APPROPRIATIONS FOR THE FUND

SEC. 5. There are authorized to be appropriated to the Fund, without fiscal year limitation, $50,000,000.

PAYMENTS FROM THE FUND; USES OF PAYMENTS

SEC. 6. (a) The interest on any obligations held in the Fund shall be available, as provided in advance by appropriations Acts, for payments to the National Council for use in accordance with this section.

(b)(1) One part of the payments made in each fiscal year shall be used by the National Council to—

(A) develop and conduct a research agenda of a national research program at the postdoctoral or equivalent level in the field of Soviet and East European studies to be designed in consultation with officials of the United States Government designated by the Secretary of State;

(B) disseminate information about the research program described in subparagraph (A) and solicit proposals for research contracts from American institutions of higher education and not-for-profit corporations, which contracts shall contain shared-cost provisions; and

(C) award contracts for such research projects as the Board of Trustees of the National Council determines will best serve to carry out the purposes of this Act after reviewing the proposals submitted under subparagraph (B).

(2) One part of the payments made in each fiscal year shall be used by the National Council to—

(A) establish and carry out a program of graduate, postdoctoral, and teaching fellowships for advanced training in Soviet studies and related studies conducted (i) at American institutions of higher education, and (ii) on a shared-cost basis;

(B) disseminate information on the fellowship program described in subparagraph (A) and solicit applications for fellowships from qualified institutions of higher education and qualified individuals;

(C) award such fellowships as the Board of Trustees of the National Council determines will best serve to carry out the purposes of this Act after reviewing applications submitted under subparagraph (B); and

(D) disseminate research, data, and findings on Soviet studies and related fields in such a manner and to such extent as the Board of Trustees of the National Council determines will best serve to carry out the purposes of this Act.

(3) One part of such payments made in each fiscal year to the National Council shall be used for payments to the Center to—

(A) provide fellowship support and research facilities in the District of Columbia for American specialists in the field of Soviet studies to conduct advanced research with particular emphasis upon the use of data on Soviet-bloc countries; and

(B) conduct seminars, conferences, and other similar workshops designed to facilitate research collaboration between Government and private specialists in the field of Soviet and East European studies.

(4) One part of such payments made in each fiscal year to the National Council shall be used for payments to the Board to conduct specialized programs in advanced training and research on a reciprocal basis in the Union of Soviet Socialists Republics and the nations of Eastern Europe designed to facilitate access for American specialists to research institutes, personnel, archives, documentation, and other research and training resources located in the Union of Soviet Socialist Republics and such nations.

(C)(1) Payments to the National Council under this Act shall be made as soon after approval of the application as practicable.

(2) Payments to the National Council under this Act may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

APPLICATIONS

SEC. 7. (a) The National Council shall prepare and submit an application to the Secretary once each fiscal year. Each such application shall—

(1) provide a description of the purposes for which the payments will be used in accordance with section 6; and

(2) provide such fiscal control and such accounting procedures as may be necessary (A) to insure a proper accounting of Federal funds paid to the applicant under this Act, and (B) to insure the verification of the costs of the continuing education program furnished by the applicant.

(b) The Secretary shall expeditiously approve any application that meets the requirements of this section.

MANAGEMENT OF THE FUND

SEC. 8. (a) It shall be the duty of the Secretary to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are extended to

authorize the issuance at par of special obligations exclusively to the Fund. Such special obligation shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligation shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(b) Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accured interest.

(c) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

REPORT

SEC. 9. The National Council shall prepare and submit to the President and the Congress at the end of each fiscal year in which the National Council receives assistance under this Act a report of the activities of the National Council, and the activities of the Board and the Center, supported by assistance under this Act, together with such recommendations as the National Council deems advisable.●

AN ESTIMATE FOR CLINCH RIVER BREEDER REACTOR

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. PORTER. Mr. Speaker, I would like to draw my colleagues' attention to an interim report by the General Accounting Office (GAO) on a revised cost estimate for the Clinch River breeder reactor. The report is a result of a request by Representative JOHN DINGELL, the chairman of the Subcommittee on Oversight and Investigation of the Committee on Energy and Commerce.

In the report, the GAO analyzed such factors as inflation rates, offsets, contingencies, and the costs of plutonium. The GAO interim estimate of the cost of the Clinch River project totals an appalling $8.8 billion. The Department of Energy has been reporting the cost to be only $3.65 billion.

Mr. Speaker, I must remind my colleagues that the original estimate for the reactor was $699 million. Now, I understand that we have experienced a decade of inflation since the project was conceived. But a jump in cost from $699 million to $8.8 billion is a 1,300-percent increase. And I understand the staff of the subcommittee, after discussions with the GAO auditors, believe the GAO final estimate may be as high as $11 billion.

The GAO has looked at the DOE process for estimating the costs of the Clinch River reactor and found that some of the basic assumptions have proven to be incorrect. In addition, the GAO found that three items—the cost of plutonium to fuel the reactor, the estimated revenue from the sale of electricity, and the construction contingencies—could all cause an understatement of the estimate.

With regard to the cost of plutonium to fuel the reactor, the DOE has estimated the cost to be $10 million for the demonstration period. However, the GAO states that, depending on whether the fuel comes from existing stockpiles or is produced in the future, its value could range from $143 million to $1.2 billion.

On the subject of the sale of electricity produced from the reactor, the GAO found the revenue projects may be overstated for a variety of reasons. One reason is the DOE is planning on sale of the electricity from the reactor to the Tennessee Valley Authority (TVA). However, the TVA is currently capable of generating more electricity than needed and the GAO found that it was likely the same capacity would continue into the life of the Clinch River project.

As to the allowance for construction contingencies, the GAO has found the estimates to be too low when compared with the actual experience of the nuclear industry. The Clinch River project includes an estimated contingency of 9.2 percent of the contruction cost estimate. After reviewing the actual contingencies of three TVA nuclear powerplants (21 percent, 16 percent, and 22 percent), the GAO believes the contingency should be much higher. And, I might add, the breeder technology is still unproven; even as a layman, I would suggest the potential for construction contingencies would be, at the very least, closer to that of a conventional nuclear plant. How can we expect an untried technology to experience few construction setbacks given our past experience with construction delays in conventional nuclear plants?

Separate from the items included in the DOE estimate that could cause an understatement of the true costs of the project, GAO has found many items, which are costs, were not included in the estimate. Three such items include salaries of the employees assigned to the project, the imputed interest of Federal funds used for the project, and the costs to decommission the plant at the end of its life. All of these are very real costs which have not been calculated.

First, the GAO has said the costs of salaries could range from $20 to $30 million through the year 1994. Second, the cumulative imputed interest on the project over the same time period may be as much as $3.9 billion. (Imputed interest is the amount lost to the Federal Government when the Treasury must borrow to meet its demands.) Third, the GAO points out that the costs to decommission the plant at the end of its reactor life are not being considered because the DOE is planning to sell the reactor to the TVA. The GAO suggests that the Congress should consider the costs involved to the Federal Government if the TVA decides to not purchase Clinch River at the end of its life.

These numbers tell it better than I can. When totaled, the Clinch River breeder reactor could cost the Federal Government—the U.S. taxpayer—as much as $8.8 billion. I must point out that this is an interim report and the final figures could be very different. However, I strongly urge all Members of Congress to review both the interim document and the final very carefully. I am certain given these new estimates we will finally be able to put the Clinch River project to rest before the Congress wastes any more money on this boondoggle.●

A TRIBUTE TO MAYOR JOHN T. HALLAHAN

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. CARMAN. Mr. Speaker, I would like to pay special tribute to the mayor of Farmingdale, Mr. John T. Hallahan; the Board of Trustees of the Village of Farmingdale, Mr. Willis B. Carman, Jr., Mr. Rocco Posillico, Mr. Fred Rathgeber, and Mr. Pat Romanelli; and the village of Farmingdale attorney, Mr. Jack E. Gillies for their continued efforts and leadership on behalf of senior citizens. I am pleased to announce to my colleagues that through their continued dedication to insuring happy retirements for seniors, the Farmingdale Housing Development Corp. has received funding to build an 80 unit apartment complex for seniors at Main and Weiden Streets in Farmingdale, N.Y., from the Department of Housing and Urban Development. I would also like to note the efforts of Rabbi Paul Teicher of the Farmingdale Jewish Center, Rev. Ralph J. Morgan of the Farmingdale United Methodist Church, Rev. Donald R. Shane of St. Kilian's Roman Catholic Church, Rev. Albert H. Palmer of St. Thomas Episcopal Church, and Rev. James R. Corgee of St. Luke's Lutheran Church in securing this senior housing unit. As a lifelong resident of Farmingdale and as a member of the Select Committee on

Aging, I take special joy in commending my friends on their successful efforts to have senior citizen housing in Farmingdale.●

CHARLES J. BONAPARTE 22D ANNUAL CEREMONY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. BIAGGI. Mr. Speaker, on Friday, June 11, 1982, at 11:30 o'clock, at the Charles J. Bonaparte Auditorium of the J. Edgar Hoover Federal Bureau of Investigation Building, there was held the 22d annual Charles J. Bonaparte ceremony. The first annual ceremony took place on June 22, 1961, at the Great Hall of the Department of Justice. The ceremony was sponsored by the Italian Historical Society of America and, on that occasion, the principal speaker, was 64th Attorney General of the United States, the Honorable Robert F. Kennedy. The speakers on that occasion included the director of the Italian historical Society of America, Mr. John N. LaCorte, who spearheaded the drive to honor Attorney General Bonaparte, and to make his good works and contributions better known. The presiding officer at that inaugural ceremony was the Honorable Edward D. Re, who then served in the Kennedy administration as Chairman of the Foreign Claims Settlement Commission of the United States. On that occasion, on behalf of the Italian Historical Society of America, a monument to honor the memory of Charles J. Bonaparte was placed at the Ninth Street and Pennsylvania Avenue entrance to the Department of Justice Building. All of us owe a debt of gratitude to John LaCorte and the Italian Historical Society for having continued these annual ceremonies.

This most recent ceremony was particularly impressive. The speakers on this occasion included the Honorable Rudolph W. Giuliani, Associate Attorney General of the United States, the Honorable William H. Webster, Director of the Federal Bureau of Investigation, Dr. Philip Guarino, director of the Washington, D.C. Chapter of the Italian Historical Society, and the Honorable Edward D. Re, chief judge of the U.S. Court of International Trade. The distinguished audience included the Honorable ROBERT MCCLORY, Congressman from Illinois, the Honorable Howard T. Markey, chief judge of the U.S. Court of Customs and Patents Appeals, the Honorable William H. Webster, Director of the Federal Bureau of Investigation, the Honorable Kevin D. Rooney, Assistant Attorney General for Administration, the Honorable Albert Angrisani, Assistant Secretary for Employment and Training of the U.S. Department of Labor, the Honorable Alfred R. DeAngelus, Assistant Commissioner of the U.S. Customs Service, the Honorable Donald Senese, Assistant Secretary for Education Research and Improvement of the Department of Education, and the Honorable Fred Villella, Associate Diretor of Training and Education of the Federal Emergency Management Administration.

I am happy to state that I have been honored on these ceremonies on prior occasions.

I wish to insert into the RECORD the speech by Associate Attorney General Rudolph W. Giuliani who, on the June 11, 1982, ceremony, on behalf of Attorney General William French Smith, presented special awards to Chief Judge Edward D. Re and to Mr. John N. LaCorte, the founder and director of the Italian Historical Society of America.

SPEECH OF ASSOCIATE ATTORNEY GENERAL RUDOLPH W. GIULIANI

Congressman McClory, Judge Webster, Mr. LaCorte, Chief Judge Re, distinguished guests and friends. It is an honor to be here today, as the representative of the Attorney General, at the Italian Historical Society's Annual Charles J. Bonaparte Ceremony. This is the twenty-second consecutive year in which we celebrate the contributions of Charles J. Bonaparte, whose accomplishments have been outlined this morning.

Bonaparte served in law enforcement at the turn of the century, a period which, in retrospect, seems now to have been a simpler day. The nation, of course, faced difficult problems then. It found itself in a period of transition, as vast numbers of immigrants entered our shores, as society continued its movement away from the rural areas and into large cities. But certainly, in 1906, America did not face the pervasive drug problem we face today. It did not face the frightening and widespread epidemic of violent crime we face today. It did not face today's immigration problems, which are so vastly different from those presented in the still-undeveloped America of 1906.

Why are American's crime problems so much more grave than those we faced at the turn of the century? Can it be said that our society today is more underprivileged than in 1906? That the gap between rich and poor is greater today than in 1906? In short, can it be said, as many have said for the past 20 years, that poverty and deprivation are the primary causes of crime?

In my view, history and experience require that we answer those questions with a firm "no." Americans are far more affluent today than in the day of Charles J. Bonaparte. Although economic problems persist, we are today more materially secure, at all levels of society, than we ever have been. Clearly, history refutes the notion that today's crime problems are surely the products of poverty, deprivation.

What, then, is the cause of our current crime problems? Ultimately, in my view, the pervasiveness of crime in our society stems from a breakdown in respect for and voluntary adherence to the rule of law.

When the majority in a society has respect for the rule of law, government can contain crime by using the force of legal sanctions against the small number with no respect for the law. But when large numbers demonstrate disrespect for the rule of law, the threat of the force of law can no longer adequately deal with the problem.

When public corruption has infected the highest echelons of our government, and the response among some national leaders is to spend more effort examining the tactics of the investigators and the prosecutors, and not the state of affairs that led to such corruption, then the example set by our leaders undermines, rather than underscores, the need for all to be governed by the rule of law.

What, then, is the cause for the apparent breakdown in respect for law?

Clearly when we compare our present economic and social conditions with the conditions at the turn of the century, the major difference is that certain institutions had a much greater share in shaping human development then as opposed to now. The institutions of which I speak are the family, the neighborhood, the town, the church and the school.

Over the past three-quarters of a century, the effect of such institutions has receded, in some cases dramatically. More particularly, these institutions, which taught values in early stages of development, which imbued respect for the law early and reinforced it often, no longer have the same force in our society as they once had. This has left a vacuum that government alone cannot, and should not, fill.

We do not have in this nation, nor do we want to have, a pervasive government. Two hundred years ago we devised a form of limited government, limited by checks and balances among the branches of the federal government, limited by the principle of federalism in the relationship between the federal government and the states, and limited by a Constitution which derives solely from powers ceded by the people and by a Bill of Rights enacted to protect the individual from the exercise of pervasive and arbitrary government.

Without such limitations in law, government could, in theory and in practice, step in and fill the vacuum left by the deterioration of families, churches and schools as the teachers of values. In some Communist governments, the state begins mind control and behavior modification when its citizens are still very young and inculcates the values it wants to teach at very early stages of development. This is certainly the most effective and efficient way to teach such values.

But we do not want such a pervasive government. It would offend our laws and tradition, and in the long run it would not work.

If we do not want pervasive authoritarian government, then we must recognize that government does not have the power, or the mechanisms, for solving this entire problem. We will begin to renew our national respect for the rule of law only when we begin to rebuild the important institutions, outside of government, which mold young Americans and reinforce the values so critical to productive participation in society.

No institution is more crucial to this process than the family. The values taught within the family structure play a primary role in developing character. All of us here who abide by the rule of law do so not for fear of punishment but because we were taught the value of voluntary adherence to law by our parents, and then later by our teachers, clergymen and others. They taught by example; they taught by directive; and their lessons ran deep. Without doubt, the command of law in a free society is an empty one unless it is given substance

by the willingness of the people to support it. Without doubt, the willingness of the people to support and respect the law can only be instilled by the fundamental lessons learned within American families.

The recommendation of a day to honor the American family comes at an important time in our history. At no time has the American family been under such attack, in theory and in practice. Efforts such a the one recommended by the Italian historical society, to set aside a day as American Family Day, will help rebuild the American family. These efforts must be applauded by all Americans. More laws, more police, more judges, more prisons, longer sentences may help to control the problem of crime and disrespect for law in our society. But ultimately such measures will have far less effect than rebuilding the primary teachers of values—the family, the school and the church.

We can be fiercely proud of the legal and social system we have inherited from the time of Bonaparte and even earlier. But that pride should not even for a moment delay us in the task of improving our system even more. It should not deter us from coming to the rescue of the rule of law.

And that is by no means work merely for lawyers or policemen or judges. That is not just work for government officials—although they must, more than anyone else, set an example. That is work for citizens, for parents, for teachers, for all who derive benefit from our laws. They must understand the importance of the rule of law as the fundamental underpinning of our society, our government and our civilization. They must treat it as something special and essential. And as parents, teachers, churchgoers and neighbors, they must live by the rule of law and promote respect for it as a vital and sacred precept.

AWARD FOR CHIEF JUDGE EDWARD D. RE

It is also with distinct pleasure that I present a Special Commendation Award to Judge Edward Re, the Chief Judge of the United States Court of International Trade.

Judge Re's accomplishments are truly outstanding. Chief Judge Re is a noted educator, scholar and distinguished public servant. He has been in government service since 1961, serving first as Chairman of the Foreign Claims Settlement Commission of the United States by appointment of Presidents Kennedy and Johnson, and later as Assistant Secretary of State for Educational and Cultural Affairs by appointment of President Johnson. In 1968 President Johnson appointed him a Judge of the United States Customs Court and in 1977, he became Chief Judge of that Court. In 1980 he became the first Chief Judge of the United States Court of International Trade, the successor court to the United States Customs Court.

Judge Re is a Distinguished Professor of Law at St. John's University and holds the Martin Distinguished Visiting Professorship at New York Law School. He was a member of the board of higher education of the City of New York from 1958 until 1969 and once again is a member of that board. He is truly a prolific writer and has authored several of the leading case books used in law schools throughout the country on the subjects of remedies, equity and advocacy.

And this morning the Attorney General wishes to honor Judge Re for his contributions to the Charles J. Bonaparte ceremony. Judge Re chaired the first Bonaparte ceremony on June 22, 1961 at which Attorney General Robert F. Kennedy spoke. Judge Re has returned each year since then to honor Bonaparte's memory and to celebrate Bonaparte's accomplishments as Attorney General.

Judge Re, on behalf of Attorney General Smith, I present you with this Special Commendation Award in recognition of your untiring efforts. Your work has helped bring honor to the Department of Justice as we commemorate each year the contribution of Charles J. Bonaparte.

AWARD FOR JOHN N. LA CORTE

It is my distinct pleasure this morning to present to Mr. John La Corte, on behalf of the Attorney General, this Special Commendation Award. This award is presented in recognition of Mr. La Corte's many contributions over more than two decades to causes of tremendous significance to the Department of Justice.

More than twenty-one years ago, Mr. La Corte conceived the idea of honoring Charles J. Bonaparte, the 46th Attorney General of the United States. By the early 1960's, Bonaparte's contributions as a civil service reformer and in other areas had already been recognized by several historical groups. But no one before Mr. La Corte had ever chosen to study and acknowledge Bonaparte's contributions to law enforcement, including, of course, his founding of the investigative arm of the Department of Justice which later became the Federal Bureau of Investigation.

And so, 21 years ago this month, Mr. La Corte stood at the entrance to the Department of Justice at 9th and Pennsylvania. He stood there with Robert F. Kennedy, our 64th Attorney General. And they placed and dedicated a monument to Charles J. Bonaparte in recognition of Bonaparte's contributions to the Department of Justice and to law enforcement.

And every year since 1961, Mr. La Corte, at his own expense and on his own time, has made the trip to Washington to honor Bonaparte.

Mr. La Corte, on behalf of William French Smith, the 74th Attorney General of the United States, I formally thank you for your untiring efforts in bringing honor and recognition to Charles J. Bonaparte and all that Bonaparte stood for. Your efforts are a model for all concerned citizens. Your work has brought honor not only to Bonaparte and his memory, but the Department of Justice as a whole over the course of two decades. We thank you heartily and I present you with this Special Commendation Award as a symbol of our appreciation.●

A RESOLUTION TO AID LEBANON

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. McKINNEY. Mr. Speaker, the recent events in Beirut can only be looked upon with deep sorrow and remorse. The tragic events make it still clearer the need for nations to work together to bring about peaceful negotiation and an end to violence in the Middle East. In this vein, it is more apparent than ever before the need for the United States and Israel to take the lead in encouraging an international effort to help rebuild Lebanon and provide emergency aid to the innocent victims.

The Jewish Federation of Greater Bridgeport has formulated a resolution which I believe correctly expresses the proper course to follow in alleviating human suffering within southern Lebanon whenever it is within their power to do so. I have asked that it be printed in the CONGRESSIONAL RECORD and I commend it to all my colleagues, the administration, and any other interested parties. The Jewish Federation of Greater Bridgeport's resolution follows.

Whereas, there has been military activity conducted between and among various persons and parties within Lebanon at various times since 1975 and, more recently, during much of the period from June 5, 1982 until June, 1982, and

Whereas, as a result of the said military activity, there has been extensive suffering among Lebanese civilians residing in southern Lebanon, and

Whereas, both the United States of America and the State of Israel recognize in general a moral obligation to alleviate human suffering in the world whenever it is within their power practicably to do so: It is hereby

Resolved, That the respective governments of the United States of America and the State of Israel should undertake in coordination with each other to make a prompt and reasonable effort to alleviate human suffering within southern Lebanon, including the providing of food, water, shelter and medical assistance to civilians who are in need of food, water, shelter or medical assistance as a result of said military activities.●

ARTIFICIAL FAMINE IN UKRAINE (1932-33)

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. BROWN of Ohio. Mr. Speaker, this year, 1982, commemorates a very tragic anniversary in the continuing quest for human rights. Fifty years ago, Stalin and his Commujist Russian followers imposed an artificial famine on the rich farmland known as the Ukraine. On Saturday, October 2, ceremonies will be held in Cleveland, Ohio, to remember the atrocities committed and the suffering of millions of people. The following is a history of the famine prepared by George Kulchycky, professor of history at Youngstown State University.

Shaking clear from the centuries old Russian occupation of the czarist regime, the Ukrainians established their independence on January 22, 1918. The immediate invasion of the newly formed state by Russian Commujists initiated a fierce struggle between the two and precluded the failure of the Ukrainian Republic in November 1920. Yet in its struggle with the Ukrainian nation, communism was

forced to temporarily abandon some of its goals. The resistance of the Ukrainian peasantry to russification and to land collectivization forced Lenin to adopt the new economic policy known also as Ukrainization in Ukraine. But this attempt to placate the Ukrainians ultimately yielded to the Russians a policy which would have dire consequences for the Ukrainians. By this experience, the Russians learned to use famine as an instrument of policy, the first of which they initiated in Ukraine, the breadbasket of Europe, in 1921.

After Lenin's death it was up to Stalin to continue the communization and subjugation of Ukraine. This he achieved in a manner unprecedented in history. He rendered the Ukrainian nation headless by first destroying its intellectuals, politicians, and church hierarchy. Having achieved this, he proceeded to implement collectivization and industrialization of the Soviet Union at the expense of the Ukrainian peasantry.

Using the experience of the famine of 1921-22, Stalin projected it into 1932-33. The official policy of Moscow was clearly reflected and expressed in the decrees of the Communist Party and men like Stalin, Kosior, Postyshev, Molotov, and others. One can conclude very clearly, and quickly that in a planned economy as the Soviet Union had, the resulting disaster in Ukraine was indeed a planned, artificial famine—a Ukrainian holocaust.

While obtaining agricultural goods and money for his projected industrialization of Russia, Stalin consciously plotted the destruction of the Ukrainian peasants. Significantly, the attack had an anti-Ukrainian character in that it encompassed only the Ukrainian villages and was not aimed at the rich or "class enemies" of communism. Cities in Ukraine, occupied by the Russians, did not experience the subsequent horrors. Only the Ukrainian village suffered. Its losses numbered over 7 million dead.

The height of this manmade famine occurred in 1932-33 and was methodically carried out by Moscow. On the pretext of creating collective farms, peasants were dispossessed of their property. Those who objected were beaten, robbed, deported, or killed. In order to pay for the industrial equipment, all grain, including next year's planting seed, was confiscated from the peasantry. "Red Broom" brigades swept through the villages seeking "stolen grain." Special instruments were used by these henchmen to discover the "hiding places" which in the end yielded mere ounces of food. Stoves were destroyed, walls torn apart and roofs made irreparable on the threshold of winter. Special units made up of secret policemen and hardened criminals took whatever they chose. Lawlessness was sanctified by decree. Whole families were thrown out of their homes and forced to live in holes like mice on the fields. Those suspected of stealing food were shot as pilferers even if the crime was as innocent as gleaning. As food became impossible to obtain, "Torgsen" state stores were set up to wrest even the family heirlooms from the poor starving wretches. Those wishing to survive and strong enough to travel, attempted to escape the village only to find that escape was futile. And as this happened the state decreed that no one was to know of the crime. Western humanitarian organizations wishing to give aid to the rumored victims were told that no aid was needed. Newsmen were not allowed into the country. Ukraine was efficiently blockaded internally and externally.

Death on the streets was common. So was suicide, murder, kidnaping, and cannibalism. Thus, Stalin achieved his objectives. He humbled the Ukrainian village and its desire for freedom. He collectivized the land and destroyed his purported Kulak or Kurkul "class enemies." He industrialized Russia by paying for it with Ukrainian blood and bread.

Never before in the history of mankind, let alone in the richest agriculture area of Europe, Ukraine, had man suffered such mass privation and destruction. It is estimated that Ukraine lost at least 7 million people during this holocaust. Mr. Skrypnyk, a leading Ukrainian Communist, who in despair shot himself in 1933, said that 8 million died. The head of the secret police, V. Balytsky maintained that the figure was 9 million, while J. Stalin testified to W. Churchill that the famine dead numbered 10 million people.

Ukraine, where millions of those unfortunates died, today is systematically colonized by the Russians. The genocide of the Ukrainian nation begun in 1921 and 1932-33 continues in the form of Russification.

The victims' cries reach across the years. The question is, "Will we listen?"●

THE 75TH ANNIVERSARY OF CLAREMONT, CALIF.

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. DREIER. Mr. Speaker, I would like to take a moment to pay tribute to the city of Claremont, Calif., which will celebrate the 75th anniversary of its incorporation on October 9, 1982. The people of Claremont have built a city that is unique among southern California's many cities, and I join them in commemorating this important event.

The first settlers came to Claremont in the early 1880's, attracted by the frantic railroad rate wars of the period and the land boom in southern California. By the end of the decade, a second influx of settlers arrived; this group of hearty Congregationalists, many of them from New England, were singleminded in their determination to make their new home a place of beauty and culture. Governed by the traditional New England town meeting, they organized volunteer labor groups to plant trees throughout the city, while citizen committees took responsibility for everything from street construction to the management of the newly formed school system.

By the turn of the century, however, Claremont's growth made it apparent that the city could be better managed by a formal city government, rather than the democratic but unwieldy Claremont Town Meeting. True to Claremont's commitment to community participation, it took several years of debate before the town voted, in 1907, to incorporate as a general law city.

Incorporation was a crucial turning point in Claremont's histkry because it set the stage for the residential and commercial expansion of the 1920's, and led to the development of guidelines for Claremont's future growth. In making this transition, however, the people of Claremont never forgot the importance of community involvement. Town meetings continued in the years immediately following the incorporation; and community participation, whether in the form of formal public hearings or informal local meetings, has helped guide Claremont's growth in the 75 years since then. Residents of Claremont can take pride in a superlative school system, well-kept neighborhoods, an efficient local government, and a level of community involvement matched by few other cities—all made possible by the long-standing commitment of the people of Claremont to their city.

The 75th anniversary of Claremont's incorporation is indeed an important event. It is both a recognition of the accomplishments of the past and a reaffirmation of Claremont's dedication to preserve its close-knit community and unique lifestyle. I am proud to know the people of Claremont and to represent them in this Congress. I join them in celebrating this festive occasion and wish them the best of luck in years to come.●

THE INTER-AMERICAN FOUNDATION IS HELPING OUT

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. BARNES. Mr. Speaker, I would like to share with my colleagues an article on the Inter-American Foundation and its accomplishments in the Dominican Republic as viewed by a member of the Foundation's Advisory Board, Harry McPherson. The article entitled "Helping Out" originally appeared in the newsletter of Mr. McPherson's law firm.

In 1969, the Congress, recognizing that "the future of freedom, security, and economic development in the Western Hemisphere rests on the realization that man is the foundation of all human progress", created the Inter-American Foundation to provide support for development projects designed to capitalize on this human resource.

In order to accomplish this, the Congress clearly outlined the purpose and mandate of the Foundation:

First, to strengthen the bonds of friendship and understanding among the peoples of this hemisphere;

Second, to support self-help efforts designed to enlarge the opportunties for individual development;

Third, to stimulate and assist effective and ever wider participation of the people in the development process; and

Fourth, to encourage the establishment and growth of democratic institutions, private and governmental, appropriate to requirements of the individual sovereign nations of this hemisphere.

The purpose of Congress in creating the Foundation was to reflect the true strength of the American people. Nowadays we hear that the strength of our Nation comes from guns and bullets and our ability to support friendly regimes throughout Latin America. But this narrow view ignores our real strength, which comes from the idea that communities of people can identify their problems and goals, and can organize themselves to address those problems and meet those goals. This is exactly what the American people have demonstrated throughout history, and this is what the IAF is helping people to do throughout our hemisphere. It is democracy—the American idea—in action.

The accomplishments of the IAF under the leadership of its first two Presidents and its active board of directors are widely recognized in Congress, as recognized by the strong bipartisan support that the Foundation has received over the years.

With limited resources and limited personnel, the Inter-American Foundation has been able to make a difference in the lives of thousands of poor people throughout Latin America and the Caribbean by providing, as Mr. McPherson argues:

> . . . an element of hope that some of the people who could normally look to lives of heart-crushing deprivation will find a way to care for themselves and their families, gain self-respect and show the way to others.

I want to share with my colleagues Mr. McPherson's description of a few small ways in which the IAF has been able to make a difference. And this difference in the nature of official development assistance was mandated by Congress, and its most important component is the recognition that the people themselves should be the initiators of and full participants in their development process. The IAF believes that "a sense of self-help among the people for whom the projects are mounted * * * is about as important as the end product itself."

The article follows:

HELPING OUT

(By Harry McPherson)

Several years ago I traveled with our friend and client Peter Jones (Vice President for Law of Levi Strauss Co.) to South America, to examine some of the projects sponsored there by the Inter-American Foundation. Peter is Chairman of the Foundation, and I am a member of its advisory council.

One result of that trip was a Post article on the gamines—street urchins—of Bogota, and the priest who is saving many lives among them. Some of you may recall that article.

Last week, my wife and I joined Peter Jones and other IAF board members and staff on a visit to the Foundation's projects in the Dominican Republic. What we saw there strengthened our belief that efforts such as the IAF's have a powerful impact on the lives of those with whom they work; and that much can be learned from IAF's experience about how to help deperately poor people help themselves.

The macro-economics of the Dominican Republic are familiar to every observer of the Caribbean and Central American scene: per capita income about $1,000; enormous disparities between what the top 10 percent control and receive, and what the bottom 60 percent have; heavy reliance on a single crop—in this case sugar, for which the world price has fallen in the past year from 36 cents per pound to 6 cents.

But within such an unjust and depressing scene, there are elements of hope—not that conditions will change on a massive scale during this or perhaps any generation, but that some people who could normally look only to lives of heart-crushing deprivation will find a way to care for themselves and their families, gain self-respect, and show the way to others. The two factors that make this possible are external assistance rendered with care and prudence, as the IAF renders it, and the ambition to improve their condition that remains in most men and women even when circumstances threaten to crush it.

Here are a few of the projects we saw that illustrates those factors at work:

Tiny manufacturing shops in the barrios of Santo Domingo, for whom IAF provides small grants for equipment and the wherewithal for training in bookkeeping, inventory control, purchasing and marketing. Last year a fellow who makes children's shoes was able to buy some lasts and tools, and now, in a shop about the size of our eleventh floor conference room, employs eight or nine workers. Some of them are ten or twelve years old, and they sit gluing together cheap black shoes in conditions that would make OSHA and the unions here raise the roof in protest. But the alternative is worse—joining the workless people outside the sewer-run streets.

Another fellow makes handbags, a woman makes shirts in a spic-and-span room (attaching "Made in Miami" labels to them) outside of which a handful of men split a bottle of rum. Another woman, an ebullient artist, has trained a dozen women to make excellent decorative pillows, dolls and party masks. Some of the women were prostitutes, some simply trying to hold families together in paper shacks near the river, but all had a natural gift for color and design, and after many interviews and tests were taken on for training. Outside that shop were tin-roofed hovels, naked children, dogs whose bones seemed almost outside their skins.

Thirty carpenters and woodworkers have joined in a cooperative to buy wood more cheaply and to market their furniture more profitably. We saw one fellow, covered with sawdust and working on a rickety bench, use a router on the back of a rocker with a quick skill that Jim Verner would envy. The coop tried to sell its products in New York, but without much success. They need marketing and design help to reach better stores.

On a hillside near the giant sugar mill outside Santo Domingo, twenty families live in row apartments which they built themselves, using simple machinery provided by IAF. The work was done over the last two years, on weekends after the blistering, suffocating days in the mill. The apartments are of cinder block, contain a living room, two bedrooms, and a small kitchen, and altogether are about the size of Gene Liipfert's office. They do have power outlets and bottled gas. They cost $3,000 each to build, and the residents pay $25 per month to live their. In time they will own them. Desperate, you'd say, until you saw how people around them live, and until you saw the residents in their Sunday best, meeting us. There were lovely women among them, and their faces were shining, proud and serious.

In the country, per capita income is probably half the national average. People live in wretched barren shacks without sanitation or potable water. They cut cane, some of them, although the work is so arduous and dangerous that only Haitians, who cross the border to escape even worse conditions, can be counted on to do it. IAF funds some farmer cooperatives which attract savings, make loans, and run a few stores for their campesino members. Nervously, we accepted an invitation to lunch on goat meat and plaintains in a bar which the coop bought in order to control its noise on the weekends. The food was fine and so was the iced Dominican beer, and the hospitality was best of all.

In the arroyos between the sugar fields, cane cutters grow rice. The government owns the sugar fields—dictator Trujillo simply took them from the campesinos—and apparently doesn't concern itself with the rice. Under the charismatic leadership of a stocky teacher-poet, himself a campesino,

two or three hundred people have formed an association. IAF provided them with $30,000, with which the cutters built a cinderblock millhouse, bought a rice-milling machine, and also built a meeting hall in which they have classes in farming and marketing. For us a group of them played tremendous thumping music that is clearly African. Probably for the first time in their lives, these people have a sense of community, of possibility, coming together out of their forlorn hovels to try to control jointly some of the forces that overmatch them individually.

There is more to be told, but enough for now—you get the idea: a small American aid program that intervenes when some very poor Latin Americans show the will and the capacity to better their lives; that provides what they cannot hope to acquire for themselves, equipment [1] and basic management training; that has seen many such endeavors fail because of the carelessness, mendacity, or simply volitional fatigue of its participants or leaders; that nevertheless relies on the never quite exhausted resources of the human spirit to try again, and sometimes succeeds greatly. It is a minute effort, given the enormity of Latin America and her human problems, but it is quite inspiring in a time when such efforts are out of fashion.●

COMMEMORATING THE ROLE OF THE SCHOOL NURSE

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. OXLEY. Mr. Speaker, in recognition of the October 4 observance of National Child Health Day, I would like to pay special tribute to the services of school nurses in promoting the health of children in our Nation's schools.

School nurses strengthen and facilitate the educational process by improving and protecting the health status of children and by identifying and assisting in the removal or modification of health-related barriers to the learning process for individual children. The major focus of school nursing services is the prevention of illness and disability, and the early detection and correction of health problems. The school nurse is especially prepared and uniquely qualified in the areas of preventive health, health assessment, and referral procedures.

The important function served by the nurses in our schools cannot be understated. I ask my colleagues to join me in saluting them.●

[1] I leave for another time a description of "alternative technology," a rather clumsy phrase from the lexicon of development. What it means is that the people being assisted are invited to help come up with simple, inexpensive variations on the kind of tools we use routinely in building and manufacturing. Seeing photographs of one dramatic town-rebuilding project sponsored by IAF, I suggested to the Dominican who had organized the project that a Chinook helicopter would make short work of moving supplies to the site. But that is just what IAF can neither afford, nor what it seeks to accomplish: a sense of self-help among people for whom the project is mounted. That sense, IAF believes, is about as important as the end product itself.

THE DEFENSE AUTHORIZATION ACT IS A GREAT PLUS FOR ALLIED ARMAMENTS COOPERATION, BUT • • •

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. WHITEHURST. Mr. Speaker, in the September 1982, Europe/America Letter, an international defense policy briefing for senior defense managers in Europe and North America, there was a thoughtful and cogent article by Thomas A. Callaghan, Jr. As a defense marketing executive, Dr. Callaghan played important roles in the British acceptance of the Skynet military communications satellite and the U.S. Marine Corps procurement of the Harrier aircraft from the United Kingdom.

In addition, the Callaghan Report of 1974 for the U.S. Department of State has long been recognized as the core document in the establishment of U.S. policy on a transatlantic defense industrial "Two-Way Street." A lecturer, writer, and consultant, Dr. Callaghan is currently associated with the Center for Strategic and International Studies at Georgetown University.

I am pleased to share Dr. Callaghan's thoughtful commentary with my colleagues, because I believe it raises a number of essential questions which we in the Congress, and more important, the administration, should address and pursue vigorously, in order to help insure the continued viability of NATO.

Thank you, Mr. Speaker.

THE DEFENSE AUTHORIZATION ACT IS A GREAT PLUS FOR ALLIED ARMAMENTS COOPERATION, BUT • • •

(By Thomas A. Callaghan, Jr.)

The Defense Authorization Act, 1983, passed the Congress last month. It repealed virtually all of last December's "anti-cooperation" amendments. It rejected or nullified a large new crop of "Buy American" proposals. It contained more positive support for allied armaments cooperation than any thing the congress has yet done, including the Culver-Nunn Amendments of six years ago. So the ball is now in the President's court! But—it's not yet clear what (if anything) the Reagan administration will do about this congressional windfall. More about that later.

The Authorization Act disposed of the "anti-cooperation" amendments by:

Repealing the prohibition against procuring weapons or equipment containing specialty metals produced outside the United States.

Repealing the prohibition against procuring chemical warfare protective clothing produced abroad.

Amending the administrative use vehicle provision enacted last year so as to honor both the US/FRG AWACS Offset Agreement and the government Procurement code of the Multilateral Trade Agreements. This was done by requiring competitive bidding for such vehicles, except where there were prior agreements with Germany, Italy, and the United Kingdom, and where the vehicles procured will be standardized with those of the host country.

Authorizing $9,654,000 for the prefull-scale development by the McDonnell Douglas/British Aerospace team of the British HAWK for the Navy's undergraduate jet pilot training system (VTXTS)-for which the Appropriations Act denied funding last year.

The House-Senate Conference which produced the final version of the Defense Authorization Act went even further than the House of Representatives (see August Issue) in blunting the impact of the remaining "Buy American" proposals. Specifically, the conferees:

Eliminated what congressmen had dubbed the "Dan Flood Memorial Amendment" (recalling the legislative antics of the late, dapper, feisty representative from Pennsylvania's anthracite coal counties) which would have required the Pentagon to procure American coal for U.S. bases in Europe, regardless of cost.

Sustained a prohibition against leasing T-5 Replacement Tankers which have a main propulsion system, or any other major component, not built in the United States. In an unguarded moment, the sponsor of this amendment—Representative Les Aspin (Democrat, Wisconisn)—characterized it as a "Let's-get-Aspin-reelected-in-Beloit [Wisconsin] amendment." The conferees obliged, but then mooted the amendment by making the prohibition inapplicable to any lease resulting from a Request for Proposal (RFP) circulated before 1 July 1982.

Amended the United States Code to authorize an exception to the prohibition against constructing a naval vessel (or its hull or superstructure) in a foreign shipyard, providing (1) the President determines it to be in the national interest to do so, (2) notifies the Congress of such determination, and (3) no contract is agreed until 30 days after such notice.

Required the Secretary of Defense to inform the Congress of a procurement which would make the United States dependent upon a foreign manufacturer for essential equipment, but without the requirement for a 30-day delay in procurement.

Two of the provisions showed the continuing congressional concern over the appropriate balance between American commitments to Europe and elsewhere, and the need for still greater allied burden-sharing. Thus the Congress:

Authorized only $15.0 million of the $31.0 million requested by DoD for prepositioning additional material in Belgium and the Netherlands (i.e., POMCUS Sets 5 and 6, for which funds had been denied last year). But in taking this halfstep, the conferees again expressed their apprehension lest such additional prepositioning (1) affect the ability of the United States to respond to contingencies outside the NATO area, or (2) degrade the overall readiness of the National Guard and Reserve Forces, which also need this equipment.

Required still a third and more detailed report from the Secretary of Defense on allied contributions to the common defense; reinstated a provision dropped last year expressing the sense of the Congress that the NATO allies and Japan should increase

their contributions to a level more commensurate with their economic resources; and called upon the President to seek greater allied acceptance of their international security responsibilities, and greater allied contributions to the common defense.

In several program areas, the Congress showed positive support for much greater allied armaments cooperation. The House-Senate conferees:

Increased the budget request from $677.1 million for the procurement of 18 McDonnell Douglas/British Aerospace jet V/STOL Harrier aircraft (AV8Bs) to $779.0 million for 21 AV8Bs.

Approved the $13.994 million requested for the Navy's ARAPAHO Project exploring the antisubmarine potential of the helicopter/container-ship combination, and then added $4.0 million to explore other potential applications, including the British Falkland Islands container ship deployment of the Harrier.

Expanded the authority of the Secretary of Defense to enter into cooperative military airlift agreements (i.e., allied cargo and American airlift) with the NATO, ANZUS, and other allies.

Added $50.0 million to the $98.9 million requested for the procurement of the British Aerospace Rapier air defense missile system—with the additional sum to be used to procure and deploy in Europe either the Rapier, or the Franco-German Roland, or the French Crotale, for the defense of American air bases on the continent.

Declared that a timely and comprehensive NATO conventional force modernization program is necessary and urgent—and directed the Secretary of Defense to submit a report to the Congress next year on the potential advancements in conventional weapons and munitions affecting NATO's warfighting capabilities in an air-land battle. The SecDef report is to include a comprehensive program for the development and production of (1) a second-echelon interdiction capability, and (2) a counter-air weapon capability. The conferees required that "both programs should entail plans for subsequent European participation through co-development and coproduction agreements."

Lastly, the Congress enacted a revised Roth-Glenn-Nunn Amendment on NATO Defense Industrial Cooperation. Originally pointed at the NATO Summit, the Roth-Glenn-Nunn Amendment passed the Senate last May by a roll call vote of 87-1. The complete text of the revised amendment appears at the end of this article. The amendment calls upon the President to propose to allied heads of government that they agree:

To create—at acceptable costs—a credible, collective, conventional force for the defense of the North Atlantic Treaty area;

To establish a cooperative defense-industrial effort within Europe, and between Europe and North American, that would provide a larger production base while eliminating unnecessary duplication of effort;

To share more equitably and efficiently the financial burdens, as well as the economic benefits (including jobs, technology, and trade) of NATO defense; and

To intensify consultations promptly for the early achievement of these objectives.

All in all, this year's Defense Authorization Act is a remarkable declaration of congressional support for the North Atlantic Alliance, and for still greater allied cooperation. Remarkable, *but*, unremarked—by the media here, in Canada, or in Europe; by the Reagan administration; by the Canadian or European governments. *But*, because it is so remarkable and so unremarkable—particularly at a time of severe trans atlantic stress—many questions remain. Among them:

Will the secretaries of Defense and State, and the National Security Advisor, recommend to the President that he act upon the 87-1 constitutional advice of the Senate (augmented by the approval of the House of Representatives), and implement the Roth-Glenn-Nunn Amendment?

Will the Secretary of Defense put somebody in charge of allied cooperation? Full-time? At the assistant secretary level? With adequate authority and staff?

Will the Department of Defense recognize that armaments cooperation is a governmental (and not just an industrial) responsibility and function? That industry-to-industry agreements alone will never produce a credible conventional deterrent?

Will the Pentagon take timely action now to oppose the lobbying effort already underway to reimpose the "anti-cooperation" riders, and other "Buy American" proposals, in this year's Defense Appropriations bill?

The full text of the Roth-Glenn-Nunn Amendment on NATO Defense Industrial Cooperation follows:

Sec. 1122. (a) The Congress finds that—

(1) the United States remains firmly committed to cooperating closely with its North Atlantic Treaty Organization (hereinafter in this section referred to as "NATO") allies in protecting liberty and maintaining world peace;

(2) the financial burden of providing for the defense of Western Europe and for the protection of the interests of NATO member countries in areas outside the NATO treaty area has reached such proportions that new cooperative approaches among the United States and its NATO allies are required to achieve and maintain an adequate collective defense at acceptable costs;

(3) the need for a credible conventional deterrent in Western Europe has long been recognized in theory but has never been fully addressed in practice;

(4) a more equitable sharing by NATO member countries of both the burdens and the technological and economic benefits of the common defense would do much to reinvigorate the North Atlantic Treaty Organization alliance with a restored sense of unity and common purpose;

(5) a decision to coordinate more effectively the enormous technological, industrial, and economic resources of NATO member countries will not only increase the efficiency and effectiveness of NATO military expenditures but also provide inducement for the Soviet Union to enter into a meaningful arms reduction agreement so that both Warsaw Pact countries and NATO member countries can devote more of their energies and resources to peaceful and economically more beneficial pursuits.

(b) It is the sense of the Congress that the President should propose to the heads of government of the NATO member countries that the NATO allies of the United States join the United States in agreeing—

(1) to coordinate more effectively their defense efforts and resources to create, at acceptable costs, a credible, collective, conventional force for the defense of the North Atlantic Treaty area;

(2) to establish a cooperative defense-industrial effort within Western Europe and between Western Europe and North America that would increase the efficiency and effectiveness of NATO expenditures by providing a larger production base while eliminating unnecessary duplication of defense-industrial efforts;

(3) to share more equitably and efficiently the financial burdens, as well as the economic benefits (including jobs, technology, and trade) of NATO defense; and

(4) to intensify consultations promptly for the early achievement of the objectives described in clauses (1) through (3).●

JEWS IN THE U.S.S.R.

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, in May of last year, as part of the congressional vigil on Soviet Jewry, I spoke of the plight of Eitan and Alexandra Finkelshtein and their young daughter Miriam.

I am greatly distressed that, as I participate in the vigil again this year, this courageous family still suffers at the hands of the Soviet Government.

Eitan Finkelshtein, a member of the Lithuanian Helsinki monitoring group, has been trying to emigrate to Israel since 1971. He has not only been denied an exit visa but he has not been allowed to work in his professional field, physics, since he first applied for an exit visa.

The Finkelshteins are reported to be under constant surveillance, their telephone conversations monitored and interrupted and their mail cut off.

Eitan has been active in the human rights movement and is a contributor to the journal, "Jews in the U.S.S.R."

Because of his concerns for human rights, because of his own desire to exercise the right to emigrate to Israel, Eitan Finkelshtein has lost his profession, been fired from even short-term menial jobs, and he and his family must live in virtual isolation.

This gross violation of human rights is the concern of all persons of good will the world over.

I strongly urge the Soviet Government to end its harassment of the Finkelshtein family immediately and allow them to immigrate to Israel.

Whenever the free movement of people is denied, wherever the human spirit and free expression are restricted, in each instance that human dignity is degraded, then it is our obligation to speak out and to call attention to these violations of basic justice.●

FIGHTING INFLATION IS PAINFUL—AND WE NEED TO FIND SOME BETTER IDEAS

HON. FORTNEY H. (PETE) STARK
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. STARK. Mr. Speaker, recently, the Washington Post business section carried an insightful editorial entitled "Fighting Inflation Is Painful."

Basically, the message of the column is that voters should never, ever trust politicians who promise to end both inflation and unemployment. But what is interesting is that this administration has apparently completely forgotten the human suffering of unemployment and has no suggestion or idea of how to get unemployment down to some less tragic level. There must be some more happy medium—some level of moderation.

I believe a wise administration would seek to find the bottlenecks in society which are particularly inflationary—health care, highly trained technician skills, alternative energy forms—and concentrate on removing those bottlenecks so that we can move toward more jobs without returning to the days of double-digit inflation. Clearly, we need some better ideas than those of President Hoover and President Reagan.

The article follows:

FIGHTING INFLATION IS PAINFUL
(By Caroline Atkinson)

When President Reagan took office, he promised that his economic program could simultaneously cure inflation, create new jobs and hasten economic growth.

Few experts believed him then. The present deep recession, which has continued for much longer than expected either by the administration or by most private economists, has demonstrated that fighting inflation is indeed not painless. Some economists believe that continued losses in output and employment are inevitable if economic policy remains focused on slowing inflation.

Is the pain unavoidable? And is it worth the prize of lower inflation?

The main argument in favor of concentrating policy almost exclusively on fighting inflation has been that long-term growth and prosperity cannot be achieved without a significantly slower rate of inflation.

At the end of the 1970s, the gradual acceleration in inflation that had been present for 15 years turned into a rapid and apparently uncontrollable acceleration of price increases. Policymakers, particularly at the Federal Reserve, became concerned that inflation was feeding on itself and seriously distorting the workings of the economy.

Moreover, it was clear that rapid, double-digit inflation was extremely unpopular politically.

As Brookings Institution economist Martin Neil Baily pointed out this week, however, the political debate about fighting inflation was very unrealistic. Carter talked of reducing inflation, but did not describe how. Reagan promised that tight money would do the trick, but at no cost to the economy.

If the costs had been laid out more clearly, the political momentum in favor of curbing inflation may have been less. These also may have been a more vigorous attempt to find other ways of doing it.

Reagan officials often have rejected the notion of a trade-off between inflation and unemployment, whereby lower inflation must be bought at the cost of higher unemployment, and low unemployment leads to faster inflation.

But the present notable success in reducing inflation has resulted in large part from recession. Severely depressed markets have cut some commodity prices, and have forced manufacturers and retailers to hold down their prices.

For any inflation gain to be long lasting, it must feed through to wages. If labor costs continue to rise rapidly, then eventually businesses have to push up prices to cover them if they are to survive. Wage inflation has apparently moderated somewhat during the recession. High and rising unemployment has pushed workers into accepting smaller wage increases than they otherwise would.

Administration officials now say that the predicted economic recovery will be unusual—it will not trigger faster inflation, and will therefore represent a break with the past. But the predictions of economic growth without much speeding up of price rises again depend to a great extent on the fact that only a very weak recovery is forecast. Unemployment is likely to stay extraordinarily high.

Claims that government could achieve much lower inflation with little cost in terms of unemployment rested in some cases on the "rational expectations" view that if wage and price setters only knew in advance that monetary policy would put a lid on the economy, they would tailor their wage and price demands so as to stay in jobs or in business. Inflation would slow with no pain.

The experience of the past three years makes it clear that this is not how things work. The nation's total output is now almost exactly the same as it was three years ago. Without the two recessions since 1979, real Gross National Product might be 9 percent higher than it is. At this huge cost in lost output, gains have been made against inflation—but they are small. The underlying rate of increase in prices is now about 6 percent or 7 percent, down from 8 percent or 9 percent.

Many economists were more realistic than the president about the costs of reducing inflation, but still believed that it was worth it. Martin Feldstein, Reagan's nominee for chairman of the Council of Economic Advisers, said last year, "I think stretching out the recession into 1982 is the only way that we're going to really change inflationary psychology, shake up labor markets, begin to get progress on the wages front."

What concerns others is that far from being put through a once-for-all wringer, where inflation is beaten down so that normal rapid growth in employment and output may take place thereafter, the economy is likely to be constricted for many years if policymakers continue to focus on fighting inflation.

"Suppose you get inflation down close enough to zero that the authorities declare victory," but they then decide that unemployment must stay high—perhaps as high as 9 percent—in order to preserve the inflation gains, suggested economist James Tobin recently. Will that be acceptable?●

CONTRACT SANCTITY BILLS

HON. BILL FRENZEL
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. FRENZEL. Mr. Speaker, this year there have been many "contract sanctity" bills which would permit contracts for agricultural products to be honored regardless as to whether a foreign policy restriction would be made that would nullify existing contracts to other countries. These bills would also permit contracts made through foreign subsidiaries to be honored.

Today I have introduced a bill which would permit contracts for all agricultural products and for all manufactured goods to be honored in the event that any restriction is imposed on the export of any item to an offending country.

Obviously, this bill is directed at the export controls imposed on December 30, 1981, and June 22, 1982, which forbid the transfer of any U.S. technology for the Soviet Union's gas pipeline to Western Europe. Both of these decisions, particularly the latter which extended the controls to foreign subsidiaries and licensees of U.S. companies have and will continue to have disastrous effects. They are disrupting our relationships with our European allies. Many companies in my area have been affected by the embargo. Cancellation of contracts already threatens costly legal battles, loss of employment will occur, and U.S. companies will once again be labeled unreliable suppliers. The greatest irony of all is that the pipeline decisions may not even result in a couple months delay in the start of pipeline construction.

Generally, embargoes never work. Further we cannot impose our laws and regulations on other countries without risking permanent damage to our relationships with some of our most important allies. Our allies have a right to regulate commercial operations within their boundaries regardless of who owns them. I can guess what the U.S. reaction would be had the restrictions been made on foreign-owned operations in the United States.

Mr. Speaker, we have made a very embarrassing error that could result in serious impairment of our relationship with the Europeans. We have caused needless distress, unemployment, and general economic hardship to our constituent companies, who continue their pleas that this nonsense be stopped.

I do not condone what the Soviets have done in Poland, nor in Afghanistan. Nonetheless, the record is clear that embargoes are not useful policies for dealing with foreign policy crises. I

am greatly concerned that the anxiety caused by this fatally flawed policy does not seem to be reaching the President. I believe that it is shared by many of his top officials in the Government, yet it does not seem to be reaching our top decisionmaker.

I hope my bill, and others like it, will somehow send a message that this ill-conceived policy is receiving a great deal of concern at the local level at a time when the country's economy demands that we look for new ways to maintain and increase employment rather than to encourage further job losses.●

PERSONAL EXPLANATION

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mrs. ROUKEMA. Mr. Speaker, I was unable to vote on the House floor on September 24, 1982, during consideration of House Resolution 581, the House Historian bill and H.R. 6173, the health planning block grant bill.

Had I been present, I would have voted "nay" on House Resolution 581 (roll call No. 370) and "yea" on H.R. 6173 (roll call No. 371)●

AS WE SEE IT

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. DONNELLY. Mr. Speaker, I would like to call my colleagues' attention to an article that appeared in the Stars and Stripes, a national veterans publication. It was written by the national legislative director of AMVETS, Mr. Gabriel P. Brinsky. It concerns an important issue of justice that has been placed before this body for consideration. Although it is very late in this Congress, I hope that some means can be found to bring this issue to the floor before we declare our business completed for this year.

[From the Stars and Stripes, Sept. 23, 1982]

CORPORAL WLADYSLAW STANISZEWSKI, AMERICAN

Frank Staniszewski, a Polish national, married Rosina from Scotland. A son, Wladyslaw, was born to them in Scotland.

Thus, begins the story.

In 1963 they migrated to the United States. They followed a dream, a dream they wanted their son to share.

It was a happy day in 1970 when, with upraised hands, they pledged solemnly and with dignity, allegiance to their flag.

Their chests swelled with humility and thanks as they swore to uphold the Constitution of the United States.

They bristled with hidden exultant pride at the thought that this was now their country, and the country of their beloved son.

Wladyslaw also loved this land, no less than his parents. Yet, he was not to join with them in becoming a American citizen. He wasn't to live long enough to take the oath of citizenship.

But he did take an oath. In 1967 he swore to defend the United States against its enemies. He became a Marine and served his country in time of need.

More than that, he made the supreme sacrifice by giving his life in battle in Vietnam.

The Staniszewski's gave their only son in the service of this country and have asked for nothing in return. But they do feel that the country should grant him citizenship as an expression of its appreciation.

They believe that this is what he would have wanted. They believe that he will rest more peacefully.

It seems a reasonable enough request. It would appear that it is the least the Nation should do for someone who offers a life in its defense.

Not so. Like the wheels of justice, the legislative gristmill churns in mysterious fashion.

H.R. 4086 to confer citizenship posthumously has been introduced in the 97th Congress by Congressman Brian Donnelly (D-MA). There are seventy co-sponsors of the bill which is currently in the Sub-Committee of Immigration, Refugees, and International Law of the Judiciary Committee of the House.

Since special bills are being continuously introduced and enacted by the Congress granting various kinds of preferential status to aliens leading to citizenship, it is difficult to comprehend why there should be any difficulty in this case.

But there is a problem. The bill is bogged down in the Sub-Committee. The stumbling block appears to be a legal precedent that a seven year residence is required before one can become a citizen.

Apparently, as asinine as this may appear, it is sufficient to stall the bill in the Sub-Committee.

Strange, considering that we have no difficulty enacting special bills to allow illegal aliens to remain in the country to eventually become citizens . . . or to grant amnesties to illegal aliens . . . or to accord a change in alien status because of one's profession or background. They all reap the benefits which accrue by becoming a citizen. Yet, generally, they have not served in the U.S. Armed Forces.

It is enigmatic that one who dies for the country cannot obtain what is readily available to aliens, many of whom are illegally in the country.

Granted, the Congress must act within legislative restraints. Nonetheless, it is endowed with authority to act in behalf of the people to grant equitable relief where none is provided by current statutes.

The Congress is not without direction in this case. The will of the people and the legislature is clear from the course followed in World War II when those who served were granted American citizenship.

Time is running out. It is inexcusable to procrastinate when it should be obvious to all that anyone who offers his life in the service of the country is an American. Congress should have no difficulty in declaring it so.

It may take seven years of residence to become an American citizen, but it takes only a moment in battle to earn it. Wladyslaw earned his citizenship. He did it the hard way. He died in the service of his country.

The Congress should have no problem in immediately enacting H.R. 4086. Any delay can only serve to adversely reflect upon the memories of those who consecrate our hallowed grounds.

This Nation will be indebted eternally to Corporal Wladyslaw Staniszewski, American.●

TRIBUTE TO LT. GEN. HAROLD F. HARDIN, JR.

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. NICHOLS. Mr. Speaker, I take this opportunity to pay tribute to a most distinguished gentleman and military leader, the deputy commanding general for material readiness of the U.S. Army Materiel Development and Readiness Command, Lt. Gen. Harold F. Hardin, Jr. General Hardin will retire from the U.S. Army at the end of October after serving faithfully and honorably for over 30 years. General Hardin has been in his current position since June 1979. This was his sixth assignment with the U.S. Army Materiel Development and Readiness Command. He served as deputy director of requirements and procurement in 1973 and later returned as the director of that activity from September 1975 to February 1977. From 1977 to June 1979, he commanded the U.S. Army Tank-Automotive Materiel Readiness Command in Warren, Mich.

From the time he enlisted in 1945, he relentlessly pursued a long and outstanding career of dedicated service to his country. He was educated at the Loyola University of Los Angeles, the Babson Institute, and the senior military war colleges. General Hardin has had a wide variety of military assignments including wartime service as an infantryman in Korea and as an ordnance officer in Vietnam. He has served in Germany and in Washington with the Army staff and the Joint Chiefs of Staff. He has also commanded the 801st Maintenance Battalion of the 101st Airborne Division and the 2d Infantry Division Support Command in Korea.

As a member of the House Armed Services Committee I have witnessed on many occasions General Hardin's great leadership and management capability. During General Hardin's current tour he has expertly organized the management of conventional ammunition and test, measurement and diagnostic equipment. He was appointed as the U.S. Army executive director for those two activities.

General Hardin's greatest attribute was his continual concern for responsive support to the American soldier, an ideal which guided his daily actions and life. I applaud General Hardin for

his long, loyal, and brilliant career and salute him as a distinguished military officer of the U.S. Army.●

NATIONAL "WRITE YOUR CONGRESSMAN" CLUB, INC.

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. COLLINS of Texas. Mr. Speaker, in the course of national debate in recent weeks we have heard much talk about the differences between lobbyists for special interest and genuine letters from a concerned citizenry. Some in Washington would prefer less mail from home, while other like myself prefer to hear from the voters.

One of the finest organizations in America encouraging citizens to express their own opinions to their Government officials is the National "Write Your Congressman" Club, Inc., headquartered in my hometown of Dallas, Tex. It is a unique organization, founded 21 years ago, which researches legislation and presents both sides of national issues to their members.

The National "Write Your Congressman" Club, Inc., is unique in that it is not a lobby and does not show partiality toward candidates running for office. They present unbiased debate covering both sides of major, national issues. They also send their members the voting record of their Congressmen, which is also unbiased as it shows the vote as: Y—Yes, N—Nay, O—Did not vote.

Once a month the club sends their members the well-known opinion ballot covering documented debate on both sides of national issues, a preaddressed envelope to their Congressman, Senator, or the President, and a legislative letter.

Once a month they conduct a national poll among their members on three current national subjects and advise Congress as well as their members the results of those polls.

Most of their members are business and professional people who use the club's service to learn what they should write about and to whom they should write when the issues are active.

Ballots are directed to the Representatives some months, to the Senators some months, and other months to the President or a congressional committee. The most recent ballots cover such subjects as:

Should Congress continue to support President Reagan's economic program?

What should Congress do about high unemployment?

Should defense spending be cut back?

Should Congress pass a resolution calling for a freeze on the production of nuclear weapons?

Should Congress repeal section 14(b) of the Taft-Hartley Act?

Should Congress raise taxes or cut spending to lower the Federal deficit?

Should Congress approve a constitutional amendment that would permit prayer in public schools?

Should Congress approve the proposed constitutional amendment to balance the Federal budget?

Should Congress adopt the President's immigration proposals?

Should Congress repeal the Davis-Bacon Act?

Should the United States go back to the gold standard?

Should our Government put restrictions on imports that cause unemployment?

David N. Adamson, the President and founder of the club, spent 23 years in chamber of commerce work prior to 1961 when he organized the club.

I am proud to see it has a Christian businessman as its leader who believes busy people should speak up on national issues after they have read both sides. The club's material is well accepted by professional and business men and women as a welcome timesaver for busy people.

They simply "tell it like it is" to those of us in Congress who need to know what key people think.●

EDUCATOR HONORED FOR 30 YEARS OF SERVICE

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. DOUGHERTY. Mr. Speaker, Mr. John E. Jannuzi, superintendent of the Scotland School for Veterans Children in Scotland, Pa., will soon be retiring after 30 years of continuous service to the educational system. Mr. Jannuzi will be honored by the school administration, faculty, and students on October 2, 1982, and I would like to take this opportunity to extend my congratulations and best wishes to Mr. Jannuzi.

Mr. Jannuzi began his professional career in 1952 at the Scotland School for Veterans Children as a teacher of mathematics, science, and social studies. Later, he was promoted to principal and soon after appointed to the position of assistant superintendent. Since 1978, Mr. Jannuzi has been superintendent of the Scotland school. Additionally, throughout his many years there, Mr. Jannuzi has devoted countless hours serving as coach to both the football and basketball teams as well as acting as the athletic director.

It is indeed rare to encounter an individual who possesses the high level of concern and commitment to his profession found in Mr. Jannuzi. Because of this, I join with my colleagues today in honoring the life's work of an outstanding educator. Congratulations and best wishes to Mr. John E. Jannuzi, an individual of whom we can all be proud.●

VIETNAM WAR POETRY

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mrs. HECKLER. Mr. Speaker, The Vietnam war lingers on in all our memories, and particularly those of the brave servicemen who fought in Southeast Asia. As a ranking member of the House Committee on Veterans' Affairs, I have had the opportunity to speak personally with and hear testimony from many Vietnam veterans. They express their feelings about the war and the images of living the war every day in many different ways.

One veteran I met at a ceremony in Newton, Mass., has written a series of poems about his experiences, and I would like to share some of his poetry with my colleagues here today. Ronald Burdett, president of the Vietnam Combat Veterans Combined Armed Forces of Worcester, expresses not only the experience of Southeast Asia, but also the deep hardships encountered when our soldiers came home.

As these poems bear out, our commitment, as Members of Congress, to these soldiers has not yet been fulfilled, and we must continue our efforts to help in every way.

So They Can Rest

Here we are among the rest
Came to fight for America's best
This fight we wage without a gun
These words we sing a mother has sung
Please help our children who gave their best
To come home now so they can rest
It was off to war that we were sent
Right or wrong with vision we went
A people's rights were being withheld
With faith and strength to old Glory we held
So join with us who will not rest
And help us grant that mother's request
Please help our children who gave their best
To come home now so they can rest

To come home from there
We could not wait
Once we were here
We had to wait
And wait we did for
Jobs and schools
There was always a list
And although now last, never first
Never first, except to go
And go we did with heads held high
For America we stood straight and strong
Now we stand with heads not high, and hands that shake

We need your help
We can't see straight
The books we read
Say we weren't right
The people now ask
Are they alright?
We answered your call
And now we ask
Please answer ours
Now at last . . .

VIETNAM THE SUM OF IT ALL

We gather to honor the efforts of a lot of young men and women,

Some who have returned!

Some who have not!

Some alive, some not!

Some crippled for life!

And others with no visible scars but scars just the same!

Some whose children were left parentless and some whose parents were left childless!

So let us grieve with our hearts for those who have died and let us prove with our hearts that they, both living and dead did not give in vain for to do any less would be dishonorable and that is the, "Sum of It All".●

A TRIBUTE TO JOSEPH W. ALBENSI

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. COURTER. Mr. Speaker, I rise to pay tribute to the late Joseph W. Albensi, Sr., who died on Friday, June 25, 1982, after a brief illness. As the police chief of Rockaway Township, N.J., for over 6 years, Mr. Albensi's death is a great loss to his hometown.

Chief Albensi was a member of the Rockaway Township Police Force for nearly 30 years before he was singled out to be sworn in as its chief on October 8, 1975. He was a man of uncommon humility and compassion for his fellow man. He was the rare sort of individual who was always giving.

Joseph Albensi leaves behind him a history of accomplishments in addition to his outstanding record on the Rockaway Township Police Force. In World War II he served in the Army and was awarded the Bronze Star and the Purple Heart with clusters. Chief Albensi was also a 3d and 4th degree member of the Knights of Columbus Council 514, the Rockaway Club, and the American Legion Post 344.

I share in the grief that his family must feel at the loss of this exceptional human being. And, in conclusion, I would like to add that I am truly honored to have had an individual of this caliber in my home district, and I know that his presence will be sorely missed by all who knew him.●

THE DAY MY FATHER LOST HIS SMILE

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. PERKINS. Mr. Speaker, within a few days, the Bureau of Labor Statistics will report on the employment situation for the current month, and hardly any of the economists expect the unemployment rate to fall below the 9.8 percent rate for August. There is every likelihood that it might even go up.

No matter what administration is in power, it is always more comfortable for officials to talk about unemployment rates than about unemployed people.

But even to discuss the jobless people numbers—10 million or 11 million—is to cloak the real, human situation in terms that the ordinary citizens finds hard to comprehend.

I hope this Congress never forgets that unemployment is an economic disaster to the individual human being who loses his job. And it is a personal trauma to one who finds himself rejected and unneeded as the workaday world moves on without him.

Dan Martin, managing editor of the Battle Creek (Mich.) Enquirer and News, guest columnist in a recent issue of USA Today, dwelt upon the human tragedy of unemployment. I ask that the column be inserted in the RECORD.

The article follows:

THE DAY MY FATHER LOST HIS SMILE

(By Dan Martin)

BATTLE CREEK, MICH.—At 10 a.m., the little community of Stirrat, W. Va., belonged to the wash flapping on the clotheslines. Children were in school, women were doing their housework and any men at home were still in bed, since they worked the "hoot owl" shift and had gotten off work in the wee hours of the morning.

My mother was sweeping the front porch when she glanced up the hollow and saw a tiny figure in the distance, walking down the railroad track. Even that far away, she could tell it was Dad and her heart skipped. Why wasn't he at the coal mine?

She told me later how she watched him grow as he neared, his steps slow and uneven as he moved from railroad tie to railroad tie. The sun flashed off the aluminium lunch bucket in his hand. His head was down, his blue eyes focused on his feet.

After 28 years of working at the same mine, he had been laid off.

My father is dead now. Often when I think of him, I see that small figure walking down the railroad track in my mind.

It was the first time I had seen him vulnerable; the first time he didn't have the world firmly in his grasp. He had lost his job. He was out of work.

In West Virginia's coal mines during the 1950s, when most miners did, indeed, owe their souls to the company stores, losing one's job was a catastrophe.

My father's shoulders drooped. He seemed to shrink. His smile went away. People couldn't meet our eyes. Enemies were friendly.

My dad was like those unemployed people that President Reagan regards as statistical casualties in the battle against inflation.

They are in Stirrat, W. Va., Rockford, Ill., Ashland, Ky.

They have seen the guts ripped out of their lives because they've lost the security their jobs gave them and their families. My father later told me that it was like being suddenly naked in a crowd of strangers.

Dad found a job in another mine several months later. We had to move to another town and our lives adjusted.

But I'll never forget that moment when we learned that our fate wasn't ours to control. I've always wished that somehow I could have shared that walk down the railroad track with my father. It must have been sheer agony for him to bring home such news.

He is proof that President Reagan's statistics feel pain. They shed tears. And their numbers are growing.●

TRIBUTE TO TWO PENNSYLVANIA SCOUTS

HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. NELLIGAN. Mr. Speaker, I join my colleagues today in honoring two outstanding boy scouts from the 11th District of Pennsylvania, which I am privileged to represent. These scouts have achieved highest scouting honors, by being named eagle scouts.

Robert Benish, Jr., 18, son of Robert and Nancy Benish of Exeter, Pa., distributed fire safety information to 2,600 homes in Exeter as his eagle award project. He is a graduate of Wyoming Area High School and will begin service with the U.S. Navy this fall.

Joseph Petri, 15, son of Joseph and Henrietta Petri, of Kingston, Pa., conducted a blood drive for his award project. Joseph is a sophomore at Valley West High School.

I commend Troop 311 and 154, their leaders and their scoutmasters, William Daileda and Edward Transue, for encouraging their achievement of this outstanding goal, and I join their parents and friends in wishing Robert and Joseph equal success in the future.●

STATE VETO AND NUCLEAR WASTE—A QUESTION OF BALANCE

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. BROYHILL. Mr. Speaker, Tomorrow the full house will begin considering H.R. 7187, the Nuclear Waste Policy Act of 1982.

I want to inform Members that I intend to join in offering two amendments to H.R. 7187 relating to the issue of the State veto of waste repositories, and one amendment relating to State participation in the spent fuel storage program:

The first amendment will be the "Broyhill-Moorhead No. 1" amendment providing a "two-House sustain" State veto over waste repositories. In other words, a Governor of a State can veto the President's repository site selection if and only if two Houses of Congress vote to sustain the Governor's objection under expedited procedures.

The second amendment, which will be offered only if the first amendment fails, will be the "Broyhill-Moorhead No. 2" amendment providing a "one-House sustain" State veto over waste repositories. In other words, the Governor's veto of the President's site selection would stand only if sustained by the vote of at least one House of Congress. This amendment would be virtually identical to the State veto provision passed by the House in 1980 and the Senate in 1982.

These two amendments should be contrasted with the "two-House override" State veto in H.R. 7187 currently. This provision would require that unless two Houses of Congress vote tk override a State veto and the President signs a joint override resolution, the Governor's veto of the President's waste repository selection would be absolute.

The third amendment will be the "Lujan-Broyhill" amendment providing a "one-House sustain" State veto over interim spent fuel storage of 300 or more metric tons at existing Federal facilities. Although this language was in neither the Energy and Commerce nor Interior Committee-reported bills, Mr. DERRICK, other interested Members, and I agreed to include it as part of a good faith, consensus compromise on the interim spent fuel storage program.

For the interest of all Members, I insert a copy of my letters to the Committee on Rules and my testimony in the RECORD at this point.

I. STATEMENT OF HON. JAMES T. BROYHILL BEFORE THE COMMITTEE ON RULES SEPTEMBER 28, 1982

H.R. 7187—NUCLEAR WASTE

Mr. Chairman, I appreciate the opportunity to appear today, and I commend you and the members of this committee for moving this critical legislation forward in an orderly fashion during these last hectic days before recess.

I have asked CARLOS MOORHEAD to join me at the table. Mr. MOORHEAD wears two hats today; he speaks on the State veto issue not only as the ranking member of the Energy Conservation and Power subcommittee, but just as importantly as the ranking member of the Judiciary Committee's Subcommittee on Administrative law and Governmental Relations, which has dealt extensively with sorting out the responsibilities of Federal and State Governments regarding all Federal regulations and programs.

I will also be speaking in behalf of MANNY LUJAN, who is a principal sponsor of the spent fuel storage State veto amendment, but whose airline connections from New Mexico have prevented him from arriving in time for today's hearing. As the other principl sponsor of his amendment, I will be glad to answer questions about our amendment.

I have asked the clerk to distribute to all of you copies of the two letters we have sent to you requesting that three amendments be made in order for the floor regarding the State veto issue.

Let me first address what I would call the "minor" amendment, and any misunderstanding among the Members concerning its source.

A week ago, Mr. UDALL, Mr. DERRICK, and I sat down to try to develop a compromise on interim spent fuel storage that would address the concerns of the good people of South Carolina while at the same time providing "last resort" relief to those utilities—including some in South Carolina—who face plant shutdowns in the next few years unless they can find expanded offsite storage. We met in good faith and respect for several hours in MO UDALL's office, and when we walked out, we had a consensus compromise we all could live with. It is important to note that this compromise included several provisions that neither of the two committees of jurisdiction—Interior or Energy and Commerce—had included in their reported bills.

One of the key "out of scope" provisions was an opportunity for a State veto of the use of existing Federal facilities for spent fuel storage. Frankly, I believe the use of existing Federal facilities for spent fuel storage—already existing facilities which have been in use for same or similar purposes, such as defense waste programs—should not be subject to a State veto. Apparently, over 120 members of the Interior, Energy, and Commerce, and Armed Services Committees agreed, because the issue never came up in these committees.

However, Mr. DERRICK just as strongly believed that a State veto should apply—specifically, a one-House override. As a compromise which also resulted in adopting several other out-of-scope restrictions on the program, we agreed on a "one-House sustain" State veto.

Mr. Chairman, I understand your concern about legislative vetos. But Mr. DERRICK and I in good faith are not seeking a legislative veto of Federal action; we are trying to provide a balanced, effective State veto mechanism. It the "two-House override" veto of spent fuel storage in the bill is permitted to stand, in my opinion, the compromise program we have adopted will never get off the ground and will be perceived as no alternative at all to the Senate AFR's program.

For this reason, Mr. LUJAN, Mr. MOORHEAD, and I would like the opportunity to offer the Derrick-Broyhill compromise language as a floor amendment. I would hope such an amendment would be acceptable to the sponsors of the bill as a good faith and hard-bargained compromise. In the alternative, I recognize this committee's legislative jurisdiction and would hope that you would consider inserting the Derrick-Broyhill compromise language back in the bill as a Rules Committee amendment.

Mr. Chairman, the two "major" amendments we seek to offer would affect the State review of the President's selection of the permanent repository site. I believe the issues are adequately outlined in Mr. Moorhead's and my letter, but I would just like to suggest one overall point to you:

Nuclear waste is possibly the most sensitive issue our federalist system of Government has ever grappled with. The issue is measured not in years, but thousands of years. The concept of a balancing of interests between the States and the Federal Government is inherent in our Constitution, but the way we apply it to nuclear waste disposal will be unique in our constitutional history. The idea of a State veto taking effect only if sustained by the Congress was first put forward as a compromise on the nuclear waste issue, if I remember correctly, by Senator Javits in the Senate.

Over the past several years, first the Senate and then the House have confirmed this compromise in decisive votes. In none of the debates, as I recall, was the issue portrayed as a conflict between the Congress and executive branch over "legislative veto." Rather, the issue has always been framed as a great compromise between, on the one hand, the urgent and preemptive national need for a permanent nuclear waste repository and, on the other hand, the just-as-urgent need of the States to play a cooperative role in the siting of such a repository.

I would hope the Members would consider very carefully the impact the "two-House override" now in the bill would have on this delicate balance—not the impact on current interest groups. But the impact on future generations on Americans who might be left holding the bag on nuclear waste if this Congress unbalances the delicate equation needed between the Federal Government and States in order to site, license, and operate a permanent nuclear waste repository by the end of this century.

II: BROYHILL-MOORHEAD: STATE VETO OVER NUCLEAR WASTE REPOSITORY

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 27, 1982.

Hon. RICHARD BOLLING,
Chairman, Committee on Rules,
The Capitol, Washington, D.C.

DEAR MR. CHAIRMAN: When you consider a Rule for H.R. 7187, the Nuclear Waste Policy Act of 1982, we respectfully request that it provide that it shall be in order for us to offer the attached two amendments regarding the State veto sections of the bill.

Our first amendment would provide the identical "one-House sustain" State veto provision regarding permanent waste repositories adopted by the Full House when it passed comprehensive nuclear waste legislation in 1980 and by the Committee on Energy and Commerce when it reported H.R. 6598 in 1982, except that our amendment would not affect any expedited procedures recommended by the Committee on Rules and included in the bill to assure a swift opportunity for Congressional review of a State objection to such a repository. This "one House sustain" is also virtually identical to the State veto provisions in S. 1662 as already approved by the Senate.

Under this amendment, a State objection to the President's selection of a repository site would veto the President's selection if one House of Congress sustains the State's objection.

Our "one-House sustain" State veto strikes a careful balance between the urgent preemptive national need for a nuclear waste repository and the need for State participation in the selection of a repository

site. In addition, the "one-House sustain" Congressional review procedure does not raise issues regarding the constitutionality of a legislative veto, since such a Congressional review is strictly limited to a State petition objecting to a repository, and does not affect a Federal executive or independent agency action.

Our second amendment would be identical to the first amendment, except that two Houses of Congress would be required to sustain a State objection in order for the State to veto the President's repository site selection.

For these reasons, we respectfully request that you grant a "modified-closed" rule providing that it shall be in order for us to offer these two amendments. In addition, we respectfully request that it also be in order for us to offer such amendments as may be accepted during Floor consideration by the original sponsors of the bill before you. We also request that, in the event any amendments are made in order to be offered by Members other than those amendments acceptable to the original sponsors of the bill before you, it shall be in order for us to offer no more than one amendment to each such unacceptable amendment.

Mr. Chairman, we appreciate your consideration of this request and your personal and tireless leadership in guiding this critical legislation to the Floor.

Sincerely,

JAMES T. BROYHILL,
Ranking Minority Member,
Committee on Energy and Commerce.
CARLOS J. MOORHEAD,
Ranking Minority Member, Subcommittee on Energy Conservation and Power; Ranking Minority Member, Subcommittee on Administrative Law and Governmental Relations.

III. LUJAN-BROYHILL-MOORHEAD; STATE VETO OVER SPENT FUEL STORAGE

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 27, 1982.

Hon. RICHARD BOLLING,
Chairman, Committee on Rules,
The Capitol, Washington, D.C.

DEAR MR. CHAIRMAN: When you consider a Rule for H.R. 7187, the Nuclear Waste Policy Act of 1982, we respectfully request that it provide that it shall be in order for us to offer the attached amendment regarding the State veto section relating to interim spent fuel storage in the bill.

Our amendment would provide a State veto mechanism regarding the provision of spent fuel storage at any existing Federal facility or Federal site under the spent fuel storage program in the bill. Specifically, our amendment would provide the identical "one-House sustain" State veto mechanism agreed to by Mr. BROYHILL and Mr. DERRICK in their consensus compromise on spent fuel storage. Under this amendment, a State objection to the provision of 300 or more metric tons of spent fuel storage capacity at any one existing Federal facility or Federal site would veto such storage capacity if one House of Congress sustains the objection. This amendment would not affect any expedited procedures recommended by the Committee on Rules and included in the bill.

Neither the Committee on Energy and Commerce nor the Committee on Interior and Insular Affairs provided any State veto mechanism whatsoever for interim spent fuel storage in their nuclear waste bills as reported. However, as a critical part of an overall compromise on the entire spent fuel storage program between ourselves, Mr. DERRICK and other interested Members, we all agreed to specifically include a "one-House sustain" State veto mechanism for spent fuel storage. This agreement is a carefully crafted balance between absolute Federal preemption of the siting of spent fuel storage at existing Federal facilities, and a State veto which could only be overriden by the vote of two Houses of Congress and the signature of the President.

We regret that the bill before you rejects the careful balance and good faith compromise we have achieved. Instead, the bill before you would effectively prevent any urgently needed fuel storage at existing Federal facilities, as established in this bill, unless two Houses of Congress and the President affirmatively acted to override a State veto of such storage. Both the Senate and the House Committees have agreed that a comprehensive nuclear waste policy should provide for "last resort" interim storage of utilities' spent fuel, but unfortunately the "two-House override" State veto mechanism in the bill before you would render this consensus approach effectively useless.

For these reasons, we respectfully request that you grant a "modified-closed" rule providing that it shall be in order for us to offer this amendment. In addition, we respectfully request that it also be in order for us to offer such amendments as may be accepted during Floor consideration by the original sponsors of the bill before you. We also request that, in the event any amendments are made in order to be offered by Members other than those amendments acceptable to the original sponsors of the bill before you, it shall be in order for us to offer no more than one amendment to each such unacceptable amendment.

Mr. Chairman, we appreciate your consideration of this request and your personal and tireless leadership in guiding this critical legislation to the Floor.

Sincerely,

JIM T. BROYHILL,
Ranking Minority Member,
Committee on Energy and Commerce.
MANUEL LUJAN, Jr.,
Ranking Minority Member, Committee on Interior and Insular Affairs.
CARLOS J. MOORHEAD,
Ranking Minority Member, Subcommittee on Energy Conservation and Power; Ranking Minority Member, Subcommittee on Administrative Law and Governmental Relations.

IV. "ONE-HOUSE SUSTAIN" STATE VETO—TALKING POINTS

CONSTITUTIONALITY OF LEGISLATIVE VETO

"One-House sustain" State veto takes effect only if one House votes to sustain it. "One-House sustain" is identical to 1980 House-passed, 1982 Energy and Commerce Committee and Science Committee-reported bills, and 1982 Senate-passed bill.

Nuclear waste bill does not provide for a "legislative veto"—no Congressional veto of Federal Executive Branch action is involved. Nuclear waste veto simply requires Congress to sustain State objection to repository site selection.

Issues still undecided by Supreme Court. Congress must not defer its legislative powers prior to Supreme Court decision. (See attached for specific arguments re: constitutionality of State veto.)

PUBLIC POLICY

For 30 years, Federal government has had preemptive role in regulating pubic health and safety of nuclear power.

If "Two-House override" is included, permanent repository will never be sited because of opposition by all States. Permanent repository is too important to leave to parochial interests. (Quote Mr. Bolling.)

"One-House sustain" is compromise between "Two-House override" and "Two-House sustain."

ARGUMENTS IN FAVOR ONE-HOUSE TO SUSTAIN STATE OBJECTIONS

1. Both the United States Senate and the Speaker of the U.S. House of Representatives have filed a joint amicus curiae brief in support of the legislative veto in the case Consumer Energy Council of America, et. al., Petitioners v. Federal Energy Regulatory Commission.

2. For over a century and a half, the courts have accorded to Congress broad discretion to fashion institutional arrangements for effectuation of the powers delegated to the central government under the Necessary and Proper Clause (Art. I, Sec. 8, cl. 18)

3. The Supreme Court in Atkins, as in ICC v. Bremson and Pressler v. Simon, found the Necessary and Proper Clause to authorize Congress to employ a flexible interactive effort of several branches.

4. Nearly 200 separate pieces of legislation have been passed over the years containing congressional vetoes. (See Congressional Research Services, 1978 Congressional Acts Authorizing Prior Review Approval or Disapproval of Proposed Executive Actions issued 1979 at v-vi, Surveying statutes from 1932 to 1978 and finding 214 legislative review provisions in 159 statutes.)

5. Both the Senate and House passed comprehensive nuclear waste legislation in the 96th Congress which contained the requirement that a state objection be sustained by a majority vote of one House of Congress. In the 97th Congress, the Senate-passed bill, S. 1662, contains such a provision as does the Energy and Commerce Committee (H.R. 6598) and the Science and Technology Committee (H.R. 5016) reported bills.

6. The one-House vote to sustain state objections in the proper balance between the Federal Government and State Governments.

7. Congress by passing nuclear waste legislation is mandating that a permanent repository be constructed as a national program. States should be required to convince one House of Congress in order to change the status quo and block a Federally mandated project.

8. Since defense waste facilities are also subject to same Congressional review procedures, it would be inappropriate to apply the two-House Congressional review mechanism.

9. It makes no sense for Congress to pass nuclear waste legislation mandating that a permanent repository be constructed, but require that another law be passed in future to override state objections as under the two-House override provisions.

10. The one-House sustain provision is not a direct legislative veto of an executive action, but rather an override of a state objection.●

TECHNOLOGY TO AID THE DISABLED

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. WALGREN. Mr. Speaker, I would like to invite my distinguished colleagues to an exhibit on technology to aid the disabled scheduled to take place on Wednesday, September 29, 1982, in 1202 Dirksen Senate Office Building, from 1 p.m. to 6:30 p.m., sponsored by the Capitol Conference on Technology and Handicapped People. The exhibit will follow a joint hearing being held by the Science, Research and Technology Subcommittee, which I chair, of the House Science and Technology Committee, chaired by my colleague from Florida, Congressman DON FUQUA, and the Senate Committee on Labor and Human Resources, chaired by Senator ORRIN G. HATCH from Utah. The hearing will be held from 9 a.m. to 1:30 p.m., in room 2318 Rayburn House Office Building, and will review the recent Office of Technology Assessment report, "Technology and Handicapped People." The public is cordially invited to attend both the hearing and the exhibit.●

NEW FEDERALISM AND CHILDREN

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. MOFFETT. Mr. Speaker, I am today presenting two statements from witnesses at the forum on the effects of the New Federalism on the children of Connecticut. The first statement was presented by Mr. Ed D'Antonio, director of the WIC program at the New Britain General Hospital. Ms. Susan Sponheimer, head social worker at the Stamford Child Day Care Center, presented the succeeding remarks.

STATEMENT OF ED J. D'ANTONIO

Good morning, Congressman Moffett, Congressman Miller, Congresswomen Kennelly ladies and gentlemen. My name is Ed J. D'Antonio, WIC Director for New Britain General Hospital. The emphasis of this presentation will be to explicate the impact of President Reagan's cuts in the Special Supplemental Food Program (WIC) at the State and Local levels. Currently, the State of Connecticut has 39,000 participants being served per month. Enumerated below will be the transactions the State Health Department would have to implement depending upon what Congress decides as the fiscal year 1982-83 funding level for WIC. The Connecticut WIC Program is allocated presently $16,910 million. If Connecticut receives the same funding level from USDA, the ramifications due to inflation would be:

1. 2,500 participants would be lost per month.

2. A 13 percent cut at the local level would create a $300,000 reduction from their total budget.

3. Between 25-30 employees would have to be let go at the local level.

Furthermore, if Connecticut is allocated $16 million, we would be serving 34,700 participants per month. In addition, the following results would occur:

1. 4,300 participants would be lost per month.

2. A 19 percent cut at the local level would reduce $500,000 from their total budget.

3. Between 30-40 employees at the local level would have to be let go.

The aforementioned figures are frightening when you are cognizant that thousands of needy Connecticut residents will have to be turned away because of budgetary reasons.

What the New Britain General Hospital WIC Program, which encompasses a four town region i.e. New Britain, Berlin/Kensington, Plainville and Southington, would have to implement if the fiscal year 1982-83 budget would be $16 million, is as follows:

1. A waiting list would be implemented commencing with three-year-olds and up; presently, we have a caseload of 1,030 participants per month; if established, our caseload would drop to 700 participants per month.

2. Averaging 101 participants being added per month, if a waiting list were instituted, a reduction in new adds would be 50 participants per month. In addition, our caseload would suffer drastically with our high monthly turnover rate.

3. One staff person, the Office Assistant, would have to be let go, creating problems with office procedures and various areas of Federal compliance.

4. The serious effort to make WIC different from Food Stamps will vanish if there is no time available for nutrition counseling and nutrition education.

We are aware that Congress is working arduously to reduce the National budget deficit, however by voting against WIC to receive increases in their fiscal year 1982-83 funding level for $1.033 billion to maintain the present 2.3 million participants being served per month, will not lessen the deficit. The Special Supplemental Food Program (WIC) has proven to be cost effective. A recent Harvard Study indicated that WIC is assisting to alleviate the incidents of low-birth weight and other health related problems among newborns. The Harvard University School of Public Health study revealed that for each $1 spent on pregnant women in the WIC Program resulted in an estimated $3 savings in hospitalization costs for low-birth weight babies. In addition, the Special Supplemental Food Program (WIC) must be examined even beyond the perinatal period. Imagine the amount of monies the Federal Government would have to spend on those pregnant mothers and babies that were removed from WIC because of the budget cuts. Evidence has indicated that malnutrition during pregnancy and early childhood results in life-long problems i.e. brain damage from malnutrition being irreversible, language and learning disabilities along with behavorial problems.

In conclusion, let's remember to be "penny wise not pound foolish".

STATEMENT OF MS. SUSAN SPONHEIMER

Now that approximately 56% of the mothers of children 3 to 5 years old are working, day care centers have become an essential part of the community. When a child enters a day care center at the age of 2.9 months, it's usually his first experience within the educational system. This experience helps shape his attitude towards school for the rest of his life. Parents no longer want custodial care for their children, they want quality care. Parents want teachers who understand early-childhood development. It's important for these teachers to be educated so they know why a child must learn to string beads before he can hold a pencil, or why a child must learn to differentiate between shapes before he can learn the letters of the alphabet. Parents want educated and knowledgeable teachers. But how do day care centers hire these teachers when the salaries being offered are so low. In the State Funded Programs a first year teacher with a degree in early childhood education earns $8,832 annually. Everyone wants quality care for their children but how do you acquire it when the salaries are so low. Teachers can no longer go home at night and work on lesson plans. They have to go on to second jobs in order to support themselves.

Day Care Programs in our State provide many services for the population they serve. Day Care Centers are not babysitting services. They are places children learn preacademic skills, self-help skills and socialization skills. All these skills necessary to make a smooth transition into the elementary school system. Teachers and administrative staff help parents to understand the developmental norms of their children. The staff helps parents understand a child can not learn something until he is developmentally ready.

State funded programs such as ours in Stamford are essential to the single working parent, a parent who is making $10,000 annually and raising 2 children alone can not afford $35 to $60 a week in a private day care center. However, if we were to lose our Title XX funding we would have to withdraw 32 children from our day care center program and 14 children in our family day care homes. We would lose 9 teachers aides, our 3 Family Day Care Homes and 1 office aide.

If we were to lose our Title XX funding approximately 46 families would lose affordable day care.

With unemployment so high there is a large amount of stress placed on the family. This stressful situation can cause parents to abuse their children. The Head Start programs and the Day Care Programs work closely with the Department of Children & Youth Services to help families in this situation. It's important to get an abused child out of the home and into a day care setting. It puts the child in a secure environment. A place where a positive self-attitude is stressed. The child has a daily contact with someone who will take the appropriate measures if further signs of abuse or neglect are seen.

By having the child in a day care center or Head Start program it may relieve some of the stress the parent may feel as a result of constantly being with the child. It also gives the parent time to go out and look for a job. A characteristic that may be seen in an abuse parent is one of isolation. Head Start and Day Care Programs through their Parent Involvement components can help dissolve this feeling of isolation. Parents are encouraged to come to P.T.A. meetings and meet the other parents. They are encouraged to take an active part in their child's educational experience whether by volunteering in the classroom or by working on fund raising projects.

Children's health is a very important part of both the Head Start and the Day Care Programs. For both programs the children must have had a recent physical and their immunizations must be up-to-date before enrollment. Immediate action is taken if the Health Coordinator finds a child who has fallen behind or has never had an immunization.

The following screenings are performed on the children who are enrolled in the Head Start Programs: Visual Acuity, Hematocrit, Blood Lead, Hearing, Stabbismus, Height and Weight Measurements and Dental Screening and Assessment. If a problem is detected as a result of a screening and further treatment is necessary, sometimes Head Start must pay the bill. A problem that some of our Head Start parents who are working for minimum wage are facing today is that they no longer have their Title 19 medical cards therefore, they are responsible for their families' medical bills. These parents may have medical insurance, but paying the one hundred deductable before they get the 80% reimbursement may literally mean taking food out of their children's mouths. They are definitely in need of Head Start helping them pay the medicaid bill. Many of the parents of children in the Head Start program do not have regular physicians for their children. They take them to the emergency room when they are sick or to the clinic to get their shots. There is no continuity to their medical care. Often times the children have never seen a dentist. It's part of the Health Coordinator's job to link these families with physicians and dentists who can provide ongoing care for their children. Our handicapped budget at Head Start is small, yet with it we are expected to pay for a part-time handicapped coordinator, an aide, some screenings, equipment and some transportation. The Head Start program is mandate to provide 10% of its spaces to handicapped children. The small budget we receive has got to be spread a long way.

In the Head Start Program with funding from the Child Nutrition program we are able to provide the children with breakfast and lunch. We have a nutritionist who plans these meals so we know they are well-balanced. Some of the children do not receive a well balanced diet at home. This shows up on our screenings when their hematocrit is low. By providing the children with breakfast and lunch we are assured that they are getting an appropriate amount of iron in their diet. If we could not have our food program there would be nothing to ensure that these children would get the appropriate kinds of food twice a day.

In this country when there is trouble with the economy it is the children's programs that are cut first. There has been a large amount of talk about saving programs for children but what we really need is to see some action, not just talk.●

REQUEST OF DR. AND MRS. DAVID SAN TO LEAVE THE SOVIET UNION

HON. BUDDY ROEMER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. ROEMER. Mr. Speaker, I wish to take this opportunity to bring to the attention of my friends in this body the case of Dr. and Mrs. David San of the Ukraine, U.S.S.R. Dr. and Mrs. San have been waiting now for over 2 years to receive permission to leave the Soviet Union. This permission has not been forthcoming, because Dr. San has periodically been called upon to examine the physical fitness of recruits for military service. While the Russian Government routinely refuses exit visas to those of its citizens who may have had access to classified information, Dr. San himself has never even served in the Russian Army, which clearly demonstrates the dubious basis for this refusal.

The right to lead a decent and humane life is one of the fundamental human rights. If, however, a state takes it upon itself to deny this right, it ought not to obstruct people from seeking happiness elsewhere. It is for this reason I call upon the Soviet Union to honor the request of Dr. and Mrs. David San to leave that country.●

THE YAMAL PIPELINE AND THE STRATEGIC TRADE ACT OF 1982, H.R. 6880

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mrs. BYRON. Mr. Speaker, I have come before the House on numerous occasions recently to discuss the hazards of technology transfer to the Soviet bloc. Too often in the past we have observed civilian sector exports from the United States being diverted in the Soviet Union for military purposes. That is why I planned to offer an amendment to this legislation, H.R. 6838, and have introduced the Strategic Trade Act of 1982, H.R. 6880.

The amendment I planned to offer provided for a 30-day period within which the President may make a declaration to Congress that certain technologies may be used to produce or improve military hardware by the Soviet Union. During this period, the executive department, and particularly the Department of Defense, would have had a chance to review the technologies implicit in this sale of equipment. If the President found that particular technologies could be used for military purposes, then the President had the opportunity to certify this finding to Congress and restrict the export of such technologies on the grounds of national security. This action is based on a completely distinct consideration from the foreign policy controls that the House appears to be ready to erase by supporting H.R. 6838.

I firmly believe that we should allow a few days for our engineers and scientists to review the military implications of this technology. Technical review procedures are not new, and they must be initiated so transfers or diversions of U.S. technology will not result in military benefits to our adversaries. In addition, the review I sought was intended to assess the risk that the technology could be used to produce or improve the military capabilities of the Soviet Union. While there is a reasonable argument that the export of any technology allows Soviet engineers to work on military projects rather than civilian ones, the controls that I foresaw were not based on this economic diversion argument. In effect, the specific provisions of my amendment would have allowed the President to carve out certain technologies that should not be exported for national security purposes, while allowing other nonmilitary significant exports to proceed.

The pipeline sanctions imposed by the President stem from the Export Administration Act. In this particular case, the foreign policy controls of section 6 of the act were imposed. My amendment would have allowed a review of the proposed exports on the grounds of national security, along the lines of section 5 of the act.

The pipeline will take years to complete, with or without the U.S. technology. I believe that a 30-day engineering review of the pipeline technology is not too much to expect in light of the scale of the entire project. All the emphasis has been on the foreign policy implications of the sale. We should at least make an effort to look at the national security implications.

But more to the point, the whole Export Administration Act, which must be reauthorized by September of next year, needs to have a thorough and complete reemphasis. Examples of unfortunate trade relations with the Soviets are frequent, wherein civilian sector exports are diverted to military use in the Soviet Union. My bill, H.R. 6880, the Strategic Trade Act of 1982, would attempt to place a greater emphasis on military engineering review procedures than now exists.

As an example of a particular area, need I point out that it took 10 years to develop the technology embodied in the pipeline turbines? The blade contours, the positioning of the cooling passages, the design of attachments and the alloys themselves are all possible areas of turbine technology that could benefit the Soviets in making military turbine engines. I point out that the most impressive Soviet fighter aircraft, the Mig-25, is known to suffer seriously from unreliability in its jet turbine engines. Turbines are also used to power military warships. How much of this technology will be used to benefit the Soviet naval modernization efforts, the most aggressive military shipbuilding program on

Earth? And, finally, there is the use of computer-aided controls that will be incorporated into the pipeline. In my estimation, there are just too many key technologies in the pipeline sale not to allow a final engineering review.

Two years ago a Swedish company used U.S.-manufactured electronic components to build a sophisticated air traffic control system. The U.S. components were legally exported to the Swedish company. The problem lies in where they installed the air traffic control system: Moscow Airport. We are still uncertain how much benefit this system provides the Soviets, considering that air traffic control systems have military counterparts, such as detection and acquisition radars that are used to provide early warning and tracking of aircraft and missiles.

Consider the well-known case of the ball bearing grinders exported to the Soviets in the early seventies after nearly 10 years of continuous requests by the Soviets. It is the precision ball bearings produced for the Soviets by U.S. equipment that makes the Soviet missiles so accurate, thereby resulting in the U.S. expenditure of millions of dollars for a survivable basing mode for the MX missile.

Finally, consider the most recent event, where the Soviet Union returned for repair equipment easily used for reconnaissance and photographic enhancement efforts. The equipment was made by a U.S. company, bought and shipped to an English company, and then sold to the Soviet Union. Now it is back in the United States to be fixed. As the Commerce Department official said upon learning of the situation, "How the hell did it get to Russia in the first place?"

Civilian sector goods being exported, only to find that they were diverted to military applications in the Soviet Union, have led me to believe that closer review of exports by military analysts is necessary to preserve our national security. Technology once lost cannot be regained. It is one thing to send a message to the Soviets that we are willing to trade with them, it is quite another to send them militarily significant technology.

H.R. 6838 requires improvement and should, therefore, not be supported as a Suspension Calendar item.

H.R. 6880, the Strategic Trade Act of 1982, can still be cosponsored in this Congress. If you are concerned with a balanced approach to exporting, the enhancement of United States and Allied economies, and for our mutual national securities, I urge cosponsorship of H.R. 6880.

I am convinced that this Nation must closely control the flow of technology into the hands of our strategic enemies, lest we find ourselves in the absurd position of defending ourselves against our own devices.●

100 YEARS OF SERVICE

HON. JOHN HILER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. HILER. Mr. Speaker, on the evening of October 16, the Hungarian-American community in South Bend, Ind., will be celebrating the 100th anniversary of their arrival in northern Indiana.

Hungarian-Americans first traveled to this country for many of the same reasons our forefathers left their homelands in the 17th and 18th centuries—in search of social and economic opportunities, and the freedom to pursue them. Their industriousness, energy, and selfless dedication to South Bend and our Nation have helped make the community one of the most important in the Midwestern United States.

Many Hungarian-Americans in South Bend have experienced the tragedy of oppression in their own homeland, Mr. Speaker, and have a special appreciation of the personal and economic freedom we so easily take for granted.

They have thanked their new homeland by their steadfast dedication and contributions to our free enterprise system, contributions to the community, and personal sacrifice during our Nation's times of crisis—many Hungarians have died for our country on the battlefield.

Mr. Speaker, I am proud to be associated with the Hungarian community in South Bend, and ask my colleagues to join me in a well-deserved salute and "thank you" on their centennial.●

CONTINUING HUMAN RIGHTS VIOLATIONS IN PARAGUAY

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. HALL of Ohio. Mr. Speaker, most of the recent concern about violations of internationally recognized human rights in this hemisphere has focused on Central America. Today, however, I would like to draw the attention of my colleagues to the situation in the South American nation of Paraguay.

Unfortunately, there is very little coverage in the U.S. media of developments in Paraguay. On occasion, there is mention of the mysterious activities of Nazi exiles allegedly hiding in Paraguay. In addition, former Nicaraguan dictator Anastasio Somoza fled to Paraguay, where he was assassinated in September 1980.

We hear little about political developments in Paraguay because the country has been ruled continuously since 1954 by Gen. Alfredo Stroessner. He has been reelected to the presidency every 5 years since he took power in a military coup that year. Every three months, Stroessner renews the national state of siege under which he rules Paraguay. It is not clear why Paraguay must be governed under state of siege conditions.

In June, 1979, Representative Tom Harkin and Senators Alan Cranston, Mark Hatfield and Edward Kennedy joined with me to cosponsor a Symposium on Paraquay. Representatives of the four principal opposition parties to the Stroessner regime had intended to come to Washington to discuss the political and human rights situation in their country in an open forum.

We were forced to cancel the Symposium when leaders of the three opposition parties still in Paraguay sent word to us through the Washington Office on Latin America that they could not leave Paraguay. They stated that the deterioration of the human rights situation in Paraguay at that time made it clear that they could not leave and return to Paraguay without incident. Although representatives from the three opposition parties still in Paraguay, the Christian Democrats, the Febreristas, and the Authentic Radical Liberals, were unable to attend, representatives from the Argentina-based Popular Colorado Movement (MOPOCO) Party came to Washington to discuss the state of affairs in Paraguay.

In February 1979, all four parties signed the National Agreement (Acuerdo Nacional) in which they pledged themselves to work together toward democracy. Their efforts have been consistently frustrated by the Stroessner government.

Most recently, on September 11, 1982, 11 individuals—either former political party leaders or trade union leaders—tried to return home to Asuncion, Paraguay from Buenos Aires, Argentina. Representatives from all four National Agreement parties were included in this group.

Paraguay is preparing for presidential elections next year, and these political and labor leaders hoped to be able to participate in the candidate selection processes. However, all 11 were immediately turned back at the airport and forced to return to exile. Some of these individuals have been in exile for over two decades already.

The individuals denied entry on September 11 were: Col. Enrique Jimenez (retired), Dr. Faustino Centurion, Dr. Miguel Angel Gonzalez Casabianca, Dr. Andres Gomez Galeano, Dr. Guido Arce Bazan, Licenciado Luis Alfonso Resck, Professor Herminio Gimenez, Dr. Arnaldo Valdovinos, Sr. Julio Etcheverry Espinola, and Sr. Ricardo Esperanza Leiva.

The denial of the right of these people to live in their own country now has been compounded by the denial of their right to participate in the political process. It should be noted that they are among the over 1 million Paraguayans who live in exile from their country.

The "business as usual" state of political affairs in Paraguay was capped last week with the nomination of Alfredo Stroessner as the presidential candidate of the Colorado Party. The election this year will determine Paraguay's President for the 1983-88 period. There is presently little doubt who the winner will be.

While the Stroessner government continues to make a mockery of the democratic process in Paraguay, courageous Paraguayans both inside and outside of Paraguay are working steadily for the advancement of the dream of a truly free and democratic Paraguay. We in this country who share their commitment to freedom and democratic principles must not permit their efforts to be ignored.

In order to bring my colleagues up-to-date on the situation in Paraguay, the Washington Office on Latin America's Human Rights Country Report on Paraguay, released in August 1982, follows:

PARAGUAY

Paraguay is a predominantly agricultural country with a population of three million. Army General Alfredo Stroessner has been re-elected to the presidency every five years since he took power in a 1954 military coup. Like most of his predecessors since 1929, Stroessner governs under a state of siege decree that is renewed every three months.

Violations of political and civil rights are cyclical. There was an unusually strong downturn in 1977-79, but since early 1980 there have been three sharp waves of repression, and in 1982 the incidence of reported torture returned to its previous high level. Problems of land tenure and economic freedom increased throughout the late 1970's and early 1980's, as rapid economic growth and rising land values collided with the traditional structures of political favoratism and corruption.

1. Respect for the Integrity of the Person, Including Freedom from:

a. Torture.

b. Cruel, Inhuman or Degrading Treatment or Punishment.

The 1967 Constitution guarantees the full range of political rights enumerated in the United Nations Declaration of Human Rights and other international instruments. In practice, physical and psychological abuse are regularly applied with impunity in local police stations, and in such central posts as the police Department of Investigations and the military Security Guard headquarters.

The most common abuses are beatings with blunt instruments and whips, including blows to sensitive parts of the body; forced standing for long periods; withholding food and medical care; lengthy isolation; and threats or false reports regarding the prisoners' friends and family members. The use of water and electric torture in political cases appeared to have abated in the late 1970's, although it was still used to extract confessions from "common delinquents."

Torture reports increased again with a roundup of alleged Communists in Asuncion and rural areas in early 1982. Several newly indicted prisoners told a judge in June and July that they had been physically abused, and in June a lawyer was personally beaten and threatened by Chief of Investigations Pastor Coronel after asking the court to assign a physician to examine a pregnant woman who had allegedly been tortured.

c. Disappearences.

d. Arbitrary Arrest and Imprisonment.

Long-term, calculated disappearences are less prevalent in Paraguay than in neighboring Argentina, however, Amnesty International is still seeking information on 27 people detained in the mid-1970's whose whereabouts have never been explained or investigated, and many Paraguayans "disappeared" in Argentina are believed to have been secretly returned to Paraguayan custody.

Most reported disappearences are a result of the authorities' refusal to account for the cause and procedures of detention, or to bring the detainees to trail as Paraguayan law requires. Habeas corpus inquiries are now generally answered with acknowledgement that the prisoner is held under Article 79 of the Constitution, which permits quarterly declarations of the "state of siege."

Article 79 requires regulation of the state of siege by the Parliament, a condition that has never been fulfilled. Recent state of siege decrees have been limited to the Asuncion area, but in practice detainees are often transferred from the interior to evade this condition. Thus most state of siege detentions are unconstitutional, but they are never challenged by the courts. Arbitrary detention remains the single most prevelant factor inhibiting political and civil liberties. Preventive and punitive arrests, and the prohibition of free assembly, are entirely unrestricted by any reference to political, criminal or civil law.

There is a high turnover of state of siege detainees—many are released eventually or brought to trial. However, in mid-July, eight people were known to be held under the state of siege in Security Guard headquarters. Two had completed judicial sentences in 1974 and 1977 respectively, and the others have been detained without trail for months or years. Others are held in the Department of Investigations and local precincts, usually for personal grievances with people in power rather than for political or common criminal cause.

Local prison conditions are poor to very bad, and there are occasional reports of prisoners held in extremely inhuman conditions. Those brought to trial are transferred to the Tacumba National Penitentiary (for men) or the House of Good Shephard (for women), where conditions are better and the International Committee of the Red Cross is normally allowed access. Juvenile and mentally retarded prisioners are often placed in adult facilities. It was recently reported that an old facility near Emboscada, used to house political prisoners in 1976-78, had been reopended for "criminal recidivists" whom the government did not want to bring to trial.

e. Denial of Fair Public Trial.

The 1967 Constitution provides for public trial under the modern advocacy system of justice, but the 1980 Code of Penal Procedure is based on the "inquisitorial" system in which the judge is charged with finding the truth in closed hearings. The two principles have never been made compatible by Parliament or the Supreme Court, so the question of public trial remains entirely at the discretion of the presiding judge.

The Constitution guarantees judicial independence and prohibits partisan political activity by judges, but it also establishes that judges are named by the president for a five-year term coinciding with his. In practice judges play a prominent partisan role.

Professionally competent, politically independent legal counsel is widely available, and in the late 1970's lawyer access to detained clients increased significantly. The increasingly frequent invocation of the state of siege, however, has reduced that access, and the intimidation of the lawyers has increased.

There are no jury trials. Most legal procedures are based on written submissions.

The key element of judgment, however, is the police report—affirmed in 1977 and 1978 court decisions as definitive evidence, even when it includes illegally obtained materials, testimony or confessions. Full judicial acquittals are rare, and almost unknown in political cases. Often the defendants are released without verdict by executive or judicial order. These cases remain pending, and civil rights, including identification and travel documents and the rights to employment and property ownership are not fully restored.

Judicial delays and noncompliance with judicial orders are often attributed to heavy dockets and bureaucractic inefficiency. In 1980 the number of judges was increased, and in 1982 a modern Palace of Justice—built with concessional financing from the South African government—was inaugurated, but there has not been a corresponding increase in judicial efficiency.

f. Invasion of the Home

The Constitution limits search and seizure procedures, but in practice the police regularly conduct raids without warrants. Confiscated property often remains in the possession of the officials themselves, and is sometimes introduced as evidence or displayed to the press to justify waves of arrests. When personal property or private correspondance is used as evidence, the courts neither question the legality of the circumstances in which they were obtained, nor demand a logical connection between the materials and the alleged violation of law.

Systematic property invasions regularly accompany waves of mass arrests. Block by block or farm by farm, access is cut off and the police, soldiers or local militia ransack each home in turn. In rural land tenure disputes, local officials frequently invade homes and destroy farm installations. Peasant owners who resist the action, or sometimes even when they do not, have been summarily executed.

2. Respect for Civil and Political Liberties, Including:

a. Freedom of Speech, Press, Religion and Assembly.

Freedom of speech is most heavily inhibited by the presence of political informers (called Pyraques) in each neighborhood, school, professional or trade association, and voluntary agency. Political gossip is marketable commodity.

Increased competition in the daily press since 1977 has led to coverage of some issues previously considered off limits: official corruption, low level police abuse, challenges to economic and fiscal policy, land tenure, the treatment of ethnic groups, etc. Waves of repression are often accompanied by orders

to publish only official reports, and the activities of high military officials remain off limits. The Febrerista Party has been negotiating with the government to reopen its weekly paper, *El Pueblo*, closed since 1980. The independant weekly *La Republica* was closed in December 1981, after publishing six issues. Radio and television are heavily self-censored.

In 1981 six journalists were detained for varying periods. One went into exile after learning that the police were seeking him. Argentine reporter Hernando Sevilla remains in incommunicado detention since his February 1981 arrest.

Augusto Roa Bastos, the country's most famous author, was expelled in June 1982. A few days later the police confiscated all copies of a new book of poems by a younger associate of Roa Bastos, former political prisoner Jorge Canese.

A test of academic freedom was avoided with the release on December 30, 1981 of student activist Perla Yore. She was charged with subversion for possessing books the police considered offensive, although Paraguayan law does not forbid the ownership of books for personal use.

Except for infrequent manifestations of anti-Semitism, freedom of worship and religious affiliation is generally respected. Like all voluntary associations, however, both Protestant and Catholic churches are subject to infiltration and suppression of activities related to social concerns. Bishops and priests are often rebuked or threatened for referring to land tenure and human rights problems, and church-sponsored community organizations are a common target for sweep arrests.

The Paraguayan Labor Federation (CPT) has been divided since March 1981 when a government-managed change of leadership ended several years of increased constituency participation. Massive layoffs in the textile and garment industry have led to charges of unconcern against the CPT, peasant farmers and agricultural workers remain unrepresented, and local attempts at organization have been systematically suppressed. Strikes are forbidden, but within that limitation a few independent trade unions, inside and outside the CPT, have developed an active and innovative style of collective bargaining.

Freedom of assembly is routinely restricted under the state of siege, and in some rural and urban areas by the presence of political informers and heavyhanded police and party authorities.

b. Freedom of Movement Within the Country, Foreign Travel, Emigration and Repatriation.

Since the September 1980 assassination of Nicaraguan ex-dictator Anastasio Somoza, the previously lax system of internal documentation has been tightened, and there are sporadic sweep identification checks. The government has established a program to issue identity cards to all Paraguayans, but ex-prisoners and government critics are often denied identity cards or passports, or their cards are specially marked for police recognition.

Self-exiled Paraguayans (estimated at over a million, compared to the in-country population of three million) have been increasingly free to return in the past few years. They include political dissidents as well as economically motivated exiles responding to the recent economic growth in Paraguay and reduced opportunities elsewhere.

The "confinement" or internal exile of political opponents was used less frequently in 1981 and 1982 than in previous years, but there has been a corresponding increase in the expulsion of prominent critics. The president of the opposition Christian Democratic Party was expelled in June 1981, longtime political prisoner Saturnina Almada in May 1982, and author Augusto Roa Bastos in June 1982.

c. Freedom to Participate in the Political Process.

There is a general apathy toward elections. Voting is considered a routine chore to be performed for the sake of approval from local authorities. Private voting booths are available, but their use is discouraged by authority and peer pressure in many low-income precincts. In some localities, Colorado Party leadership is heavily contested and intra-party violence is common. The outcome of presidential and legislative elections is never in doubt, and the sporadic fraud is largely attributable to efforts by local party leaders to outdo one another in bringing in the Stroessner vote.

The campaign is now in full swing for the February 1983 elections. This year for the first time the Colorado Party has delayed naming General Stroessner as its presidential candidate. There are no serious alternatives, and the delay is generally attributed to questions about his health and advance age. He will probably be nominated before long, and elected with something close to the 89% majority he received in 1978.

By prior arrangement, the opposition parties that participate in elections are awarded one third of the seats in Parliament, based on their share of the opposition vote. This system has contributed to dissension within the opposition. The Febrerista Party, approved by the government-controlled Board of Elections has abstained for the past three elections but is now debating the possibility of returning to token participation in Parliament (since the division of parliamentary representation was established in 1967, not one substantive piece of legislation introduced by opposition members has been enacted). The Christian Democratic Party has unsuccessfully sought Election Board recognition since 1965.

The once powerful Liberal Party is now divided into half a dozen factions, and the fragmentation continues as party leaders jockey for top places on the parliamentary slates. Two liberal groups are currently the only participating opposition parties, while a third—the Authentic Radical Liberal Party, which claims a majority of the Liberal constituency—is officially excluded and refuses to seek recognition. The National Accord, a coalition of non-participating parties, gathered wide popular support after its inception in 1978 but has lost momentum in the past year.

3. Government Attitude and Record Regarding International and Non-governmental Investigation of Alleged Violations of Human Rights.

The government responds to inquiries from international bodies, including the Inter-American Human Rights Commission. Despite repeated commitments since 1978, the government has not yet scheduled an on-site visit by the IAHRC. Paraguay has signed, but not ratified the American Convention on Human Rights.

4. Economic and Social Circumstances.

For several years Paraguay has sustained consistent economic growth, due to construction of a mammoth hydroelectric project at Itaipu. The project has stimulated the Paraguayan construction industry, banking institutions, and related enterprises. Large fortunes have been created, along with high and unfulfilled expectations among skilled and unskilled workers. The new affluence has collided with the traditional political and economic structure of favoritism and corruption, obstructing efforts to establish a viable system of personal and corporate taxes and to develop local industry.

Similar pressures have arisen in the agricultural sector. Land values are rising as a result of new industrial opportunities in the Itaipu area, and also because of such rural infrastructure projects as highways, utilities, agricultural storage and marketing facilities. Agricultural industrialization in Brazil has also led to a large influx of Brazilian peasants and landowners in Paraguay. The traditionally underpopulated rural areas are now very much in demand and the long-time occupants, including peasant farmers and forest Indians, are being massively and often violently evicted.

These rising expectations and population shifts are the source of frustration and resentment at the low and middle income levels, and growing nervousness among the traditional and newly established holders of political and economic power. Following the long-accepted pattern, the resulting clash of interests is officially interpreted as political subversion and used to justify repressive action at the local level and from the central government.●

WEAPONS BAN

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. MOAKLEY. Mr. Speaker, last week I, along with several of my colleagues, introduced a joint resolution calling on the President to engage in negotiations aimed at banning weapons of any kind from space. It is my hope that this resolution will help stimulate dialog on a topic that has been brushed aside as being a premature issue. It is imperative that Congress immediately begin to discuss and debate the issue of the weaponization of space before we are forced to deal with weapons in space and nations unwilling to negotiate their removal. An arms race in space will benefit no nation. It will only increase tensions and add to the probability of a nuclear war.

Eugene J. Carroll, Jr., a retired rear admiral of the U.S. Navy, and, at present, deputy director of the Center for Defense Information here in Washington, D.C.—has written an excellent article for the Los Angeles Herald Examiner dealing with the weaponization of space which I would like to include in the RECORD for the benefit of all my colleagues.

[From the Los Angeles Herald Examiner, August 6, 1982]

WAR IN SPACE: THE U.S. HAS NOTHING TO GAIN

(By Eugene J. Carroll, Jr.)

Secretary of Defense Caspar Weinberger recently issued marching orders to the U.S. armed services for the next five years. Although his 135-page document was titled "Defense Planning Guidance," there was very little in it which related to the defense of the territory and the citizens of the United States. Instead, the guidance provided a blueprint for offensive measures to "open major new areas of military competition with the Soviet Union." It constituted declaration of a form of military and economic war against the Russians.

The most widely publicized, and controversial, part of the document were plans to prepare for a protracted nuclear war. Perhaps because of the strong reaction to this radical proposal, very little attention was given to equally aggressive language which described plans to expand U.S. military programs in space. We are to undertake programs in space to enhance the effectiveness of U.S. and allied military forces in preparing for and waging war. We will deny the use of space to opposing forces. And we will accelerate areas of technology offering significant military advantage to enhance U.S. military power.

The Weinberger plan directs this unconstrained race to militarize space in the apparent belief that U.S. technology will gain America some measure of military superiority over the Soviet Union and at the same time increase the strains in the already shaky Russian economy. We will challenge them with particle beams and chemical lasers, anti-satellite and satellite defense systems, swarm jets and devices yet to be imagined in order to gain military superiority in space.

Is this necessary? Is this wise? The first problem the space plan creates is the need to reduce or abandon some part of our current military programs in order to fund major initiatives in space. Mr. Reagan's military budget envisions spending $400 billion in 1987, but even that monstrous sum cannot fund exotic new weapons in space without cutting back on planned increases in earthbound systems. Will the new systems in space add more to our security than the capabilities given up on earth will subtract?

The second, and fatal, flaw of an arms race in space is that neither side will permit the other to gain any significant advantage there. Tests of new systems in space will be carefully monitored and each emerging threat will be countered by the other side. The complexity and fragility of any conceivable space-based weapons system will make it highly vulnerable to destruction by a wide variety of earth and space-based systems. The years required to develop, test and deploy reliable space weapons guarantee that the opposition will have adequate time to devise and deploy comparatively inexpensive, highly effective countermeasures.

The predictable products of a military race in space will be pollution and waste. We will load up space with orbiting garbage, dangerous platforms hovering overhead eternally, adding nothing except a new dimension to the mutual fear and distrust which already make rational relations impossible between the United States and the Soviet Union. In the process, we will waste national treasures of talent, time and resources needed to attack the real problems of the world—disease, starvation, overpopulation.

Is there a sensible alternative to a destructive race to militarize space? Fortunately, yes, and one that can be readily adopted. The United States, the Soviet Union and 87 other nations have signed and are complying with an outerspace treaty in which, in Article IV, they agree "not to place in orbit around earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction." A proposal by President Reagan to expand that language to prohibit all weapons, offensive or defensive, in space probably would be received with enthusiasm by every nation in the world. The Soviet Union certainly has strong economic reasons to support an end to a space race, and compliance could be verified readily through existing ground surveillance stations and reconnaissance satellites.

An initiative by President Reagan to demilitarize space would add credence to his other arms-limitation proposals and help restore the image of the United States as a nation truly dedicated to the cause of world peace.●

CONGRESSMAN CONTE RECEIVES GEORGETOWN UNIVERSITY AWARD

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. RODINO. Mr. Speaker, I want to take this opportunity to congratulate my friend, SILVIO CONTE, on receiving the very distinguished President's Medal of Merit from Georgetown University.

It is fitting that the university should bestow its highest honor on Congressman CONTE in recognition of his efforts to establish Georgetown's new Intercultural Center, a school that is dedicated to breaching the gaps in our understanding of other peoples. As a member of the House Appropriations Committee, SILVIO CONTE has been a champion of programs that promote international cooperation through education and humanitarian projects. His countless contributions to world peace have long been admired by his colleagues in the House, and I am delighted that Georgetown University has so recognized his dedication and leadership in this area.

Georgetown University president, Rev. Timothy S. Healy, presented the President's Medal of Merit to Congressman CONTE during the dedication of the Intercultural Center last week. The citation honoring our friend from Massachusetts is a poignant reflection on his work in Congress, and I ask that it be included in the RECORD as follows:

CITATION FOR PRESENTATION OF THE PRESIDENT'S MEDAL

SILVIO O. CONTE

As Ben Jonson characterized Shakespeare as the "soul of the age," Georgetown University recognizes United States Representative from the First District of Massachusetts, SILVIO O. CONTE the "soul of the age," a unique political statesman possessing Shakespearian qualities in the noble art of government.

Arriving in Congress 23 years ago, the Congressman quickly established himself as both a trusted team player and a thinker, with the independence of the people of his native Berkshires. He has dedicated himself to improving the quality of our human and natural resources and nurturing respect for our system of government. He has been devoted to the needy, especially to those in need of our medical care, or access to higher education.

"Hear him debate of commonwealth affairs, you would say it hath been in all his study." (Henry V, I i.e.). The press calls him a "rare appropriations surgeon with priorities." On the floor of the House of Representatives, Mr. CONTE imparts passion and humor. For example, he described federal peach subsidies as "a pit to the consumer, but a plum to the purveyors of fuzzy fruit"; he described beekeeper federal indemnity programs as "a honey-coated program where taxpayers are stung by deceased pollinators." As Shakespeare would say: "From the crown of his head to the sole of his foot, he is all mirth" (Much Ado About Nothing, II, ii) and "uses his folly like a stalking horse and under presentation of that he shoots his wit." (As You Like It, V, iv)

Mr. CONTE has had more amendments adopted on the floor of the House of Representatives than any other Member of Congress, due in large part to his persuasive wit and argument. Many a national park has been preserved by his stance against an ill-conceived water project.

As Shakespeare often leaves his audience with the vision of harmony between all ranks and interests, so have the efforts of SILVIO O. CONTE striven for harmony in Government.

Government, though high and low and lower
Put into parts, doth keep in one consent
Congressing in a full and natural close,
Like Music, (Henry VI, I, ii)

Therefore Georgetown recognizes the greatness of this leader and confers with pride the President's Medal of Merit to SILVIO O. CONTE, Republican Member of Congress serving continuously the Republic and the First District of Massachusetts since January 1959.●

OCEAN INCINERATION AMENDMENT TO H.R. 5723

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. McCLOSKEY. Mr. Speaker, in order to clarify the legislative history of the rather unique language contained in this year's maritime authorization bill, H.R. 5723, the following facts led to the following compromise language contained in the bill we enact today:

SEC. 4. The Merchant Marine Act, 1920 (41 Stat 988), as amended (46 U.S.C. 861 et seq.), is amended by adding at the end of section 27: "For the purposes of this section, after December 31, 1983, or after such time

as an appropriate vessel has been constructed and documented as a vessel of the United States, the transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(5)), from a point in the United States for the purpose of the incineration at sea of that waste shall be deemed to be transportation by water of merchandise between points in the United States; *Provided, however,* That the provisions of this sentence shall not apply to this transportation when performed by a foreign-flag ocean incineration vessel, owned by or under construction for a corporation wholly owned by a citizen of the United States on May 1, 1982; the term "citizen of the United States," as used in this proviso, means a corporation as defined in section 2(a) and 2(b) of the Shipping Act, 1916 (46 U.S.C. 802(a) and (b)). The incineration equipment on these vessels shall meet all current United States Coast Guard and Environmental Protection Agency standards. These vessels shall, in addition to any other inspections by the flag state, be inspected by the United States Coast Guard, including drydock inspections and internal examinations of tanks and void spaces, as would be required of a vessel of the United States. Satisfactory inspection shall be certified in writing by the Secretary of Transportation. Such inspections may occur concurrently with any inspections required by the flag state or subsequent to but no more than one year after the initial issuance or the next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making such inspections, the Coast Guard shall refer to the conditions established by the initial flag state certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of an equivalent fitting, material, appliance, apparatus, or equipment other than that required for vessels of the United States if the Coast Guard has been satisfied that fitting, material, appliance, apparatus, or equipment is at least as effective as that required for vessels of the United States."

A number of years ago, our Government became interested in disposing of highly toxic wastes by incineration at sea, where the prevailing winds would not add to the air pollution in the continental United States. Both the Environmental Protection Agency and the Coast Guard cooperated in permitting a pioneer incineration ship, the *Vulcanus,* to transport highly toxic wastes outside American coastal waters. The *Vulcanus* established the standard of performance on which the EPA's 99.9 percent efficiency standard for ocean incineration is based.

With the success of the *Vulcanus* in recent years, its parent company, Waste Management, Inc. of Oak Brook, Ill., invested $15 million in an improved incineration ship, the *Vulcanus II,* which was launched last month in Germany and will enter service in November.

The *Vulcanus* was purchased by her American owners in 1980 and the contract to build the *Vulcanus II* was let prior to the time our committee began to consider the question of placing ocean incineration under the Jones Act. This committee is in full agreement that it is only equitable that these ships be grandfathered and that the very substantial investment made by an American company not be impaired.

At the same time, the committee is very aware of the fact that ocean incineration sips will be transporting the most highly toxic materials developed by modern chemistry. We must insure that all such vessels, regardless of flag, are maintained in a very high state of repair and meet all U.S.-mandated standards for ocean incineration. This can only be insured by insisting that all such vessels, even though they be under foreign flag, be inspected regularly by the U.S. Coast Guard.

To provide this assurance, this amendment provides that the ocean incineration ships meet all U.S. Coast Guard and EPA regulations for ocean incineration on a continuing basis, be inspected by the Coast Guard on the same schedule that applies to U.S.-flag vessels and that the Coast Guard be satisfied that any foreign-made components on the ships be at least as effective as those required by the Coast Guard for U.S.-built ships.

The new *Vulcanus II* has been constructed in close cooperation with the U.S. Coast Guard and meets all U.S. and international standards for ocean incineration vessels, both those currently in effect and those under consideration in the International Maritime Organization. The existing *Vulcanus,* while presently holding a U.S. Coast Guard certificate for foreign-flag vessels entering U.S. ports to load hazardous substances, is an old ship whose international certification expires within a year. Thus, for the *Vulcanus* to pass the rigorous Coast Guard inspection mandated by this amendment, she will have to be substantially rebuilt.

The owners have assured the committee that they intend to perform whatever repairs or rebuilding may be required to make the *Vulcanus* as safe as any ship built today regardless of cost in order to continue serving the waste disposal requirements of U.S. industry and the U.S. Government.

If the *Vulcanus* or *Vulcanus II* should at any time fail to pass their Coast Guard inspections, they will be precluded from transporting waste from U.S. ports for incineration at sea until such time as the defects are corrected and reinspected by the Coast Guard.

Until such time as U.S.-built ocean incineration ships enter service and are certified by EPA and the Coast Guard, the *Vulcanus* and *Vulcanus II* will continue to be the only ships available to perform this essential service. This amendment is intended to grandfather the continued operations of the *Vulcanus,* now and after rebuilding, and *Vulcanus II* under reasonable standards of safety and has been carefully worked out by the committee on a bipartisan basis to insure the continued availability of ocean incineration ships while fully protecting the marine environment.●

MARYLANDER ADDRESSES PRESIDENT ON CURRENT ECONOMIC SITUATION

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. DYSON. Mr. Speaker, I would like to take this opportunity to submit this letter from one of my constituents expressing his views of our current economic situation:

WALDORF, MD.,
July 24, 1982.

Hon. RONALD REAGAN,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: The inflation of the '70s was touched off by a huge boost in OPEC oil prices. It was aggravated by the unhinging of gold from the dollar. It was fueled by increasing investment in speculative and nonproductive tax avoidance ventures. It gained additional impetus as nonreserve lending ballooned in the world money market, a money market in which all Americans participate, willing or not.

The Monetary Reform Act of 1980 was designed to use the Volcker-led Federal Reserve System as a battering ram—to fight inflation by using high interest rates to reduce consumption.

Inflation has come down, but at a cost which becomes more evident with each day's financial page.

The economic landscape is littered with closed factories, bankrupt farms and long unemployment lines. Steel production has dropped 30 million tons since the Fed's tight money policy was enacted, to levels of the Great Depression. (Imports during that time rose less than one million tons.) Business failures during the first half of 1982 exceeded the total for all of 1980. And interest now gobbles up two-thirds of the average corporation's cash flow dollar.

Some say we could lower interest rates by balancing the Federal budget, either through increased taxes or decreased spending. There is a fatal flaw in the reasoning that leads to that conclusion.

The flaw is that you must assume that somehow government revenues, either borrowed or raised by taxation, do not circulate.

In fact, they do. Nearly all government revenues received are almost immediately disbursed—either to people in the form of salaries or entitlements, or to companies for goods or services purchased by the government.

Suppose the government is borrowing money at 12 percent from my local bank, and Congress decides to reduce the Federal Debt at that bank by raising my taxes five dollars. I am a businessman and need the five dollars for operating capital, so I go to the bank and borrow the money. At 15 percent. If I am a consumer, I have five dollars less to apply toward my 18 percent loan with the same bank. Or, I have five dollars less to put in savings at that same bank,

thus reducing money available for credit by the same amount the government increased it.

No wonder bankers and money market managers love to see the government raise taxes!

Now let's look at a reduction in expenditures.

I am a businessman who makes a five dollar black box which I sell to the government. Once again Congress decides to reduce the Federal Debt at my local bank—this time by not buying my black box. I must sell that box to stay in business. I find a customer. The customer becomes the consumer in the previous example.

If I am selling a service, the same argument applies.

Those persons receiving entitlements whose income remains discretionary, or above subsistence level, after expenditures are reduced, fall into the category of the consumer in the first example. Those persons whose income drops below subsistence level must seek other sources of income to maintain their standard of living. By doing so, they invariably put pressure on the credit market.

Do business failures relieve pressure on the credit market?

Usually a business does not collapse unless its liabilities are greater than its assets. Even if that is not always true, the people receiving income from the failed business put pressure on the credit market in order to maintain their standard of living.

Of course, tight money will finally win the battle against price inflation of the service and speculative sectors. That will happen as the economy folds in on itself and massive deflation takes place.

It seems like the only way a tight money regime can lead to low single-digit interest rates, without total economic collapse, is by people making a conscious choice to lower their standard of living below subsistence level. That means choosing to starve. That may be Paul Volcker's America, but it certainly isn't mine.

I am not suggesting we go back to low interest credit throughout the economy and higher government deficits. We know that this leads to inflation as the goods-producing sector is gradually overwhelmed by the service and speculative sectors of the economy. With our credit and tax system as it currently is, the latter are more profitable, although inflationary.

Tight money throughout the system cures inflation by killing the economy. Loose money throughout the system eventually leads to inflation.

What should we do?

First and foremost, we as Americans, through our government, must cut the cords which bind our financial system to the world money markets. Americans should determine the cost of credit to the goods-producing sector of the American economy, not other nations, or banks of other nations.

Congress can do this by "federalizing" the Federal Reserve System, and, in effect, making it the "Third Bank of the United States." The bank would be given powers to regulate transactions with off-shore banks and other nations. For the purpose of international trade, we should go to a gold reserve-based monetary system.

Domestically, we must see that the goods-producing sector of the economy is "de-Volckerized." To do this, gold-backed U.S. Treasury currency notes must be issued by the National bank to the private banking system at a nominal discount rate. These funds will then be loaned out under guidelines laid out by Congress and under general supervision of the Secretary of the Treasury. The loans will in principle be limited to capital goods-producing and high-technology categories of industrial and agricultural production.

The government should sponsor one or two projects which develop the basic economic infrastructure of the nation. Examples of this sort of thing are the Interstate Highway system and the Atoms-for-Peace Program fostered by the Eisenhower Administration. We should have a modern equivalent of that program. Our nuclear energy industry is dying on the vine. Construction has halted on three reactors in Washington State due to high interest rates. That should not be allowed to happen. And more should be built. Perhaps some thought should be given toward rebuilding our rail system to accommodate high-speed trains (use for steel produced by a revitalized steel industry) or we should consider the NAWAPA Project first supported by Texas Congressman Jim Wright in the middle '60s.

Third world debt should be rescheduled on a long-term basis and backed by gold-based bonds through a new International Bank much like our new National Bank. This would be done through the cooperation of our major trading partners. The new funds generated can then be used by Third World nations to purchase capital goods from industrialized nations with the view toward developing their own economies from consumer-oriented to producer-oriented.

Our tax structure should be restructured to make investment in the capital goods-producing and high-technology sector more profitable than the speculative and service sector—Charter investment banks, where deposits earn tax-free interest and the money is loaned to high-technology and capital goods-producing companies. Allow tax-free reinvestment of dividends in companies like I.B.M., U.S. Steel and their smaller competitors; companies such as Resorts International and McDonalds can fend for themselves in the open market. And so can I.B.M. or U.S. Steel if they want to use borrowed funds to acquire other companies, buy non-commercial property, or otherwise indulge in speculation. The exemption for interest on residential housing should be lowered through time. A multitude of changes will come to mind once the objective is understood.

Reforms of this type produced a budget surplus from 1866 through 1879.

These reforms reflect the philosophy of what is called the "American System" of economics. This system was developed by Alexander Hamilton and initiated by George Washington during his first term as president. It continued intermittently in use into the Jackson Administration, when it was abandoned. It was resurrected by Lincoln and then faded away in the late 1870s. It was last used in this country just prior to and during World War II (along with the onerous price controls, wage controls and rationing which would not be needed in peace time).

And, the American System is closely studied to this day in Japan where, I might add, the groundwork for its use was laid by General Douglas MacArthur.

The American System of Economics is also implied in this country by the "supply side" economists. They say we should not promote unproductive investment. Hamilton and Washington said to promote productive investment. They were perhaps the quintessential supply-siders.

Our economy is in distress. Why not use the "American System" to rescue it?

Sincerely,

JOE B. COPE.●

SCOREKEEPING REPORT ON THE SURFACE TRANSPORTATION BILL AND NUCLEAR WASTE DISPOSAL BILL

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. ASPIN. Mr. Speaker, today I am introducing into the RECORD a cost analysis of two spending bills scheduled for consideration this week, the surface transportation bill and the nuclear waste disposal bill. A third spending bill, the District of Columbia appropriations bill, is also scheduled for this week. The cost analysis of that bill appeared in the RECORD last week. These analyses have been prepared by the staff of the Budget Committee as part of the official congressional scorekeeping system using figures provided by the Congressional Budget Office.

The surface transportation bill provides direct spending which is below the 302(b) subdivision for this bill that the Public Works and Transportation Committee filed with the House. Despite this, however, the full committee is over the total amount of discretionary budget authority allocated to it pursuant to the first budget resolution. This is because the budget resolution assumed the committee would report out certain new user fees—offsets to budget authority and outlays—but the committee has yet to do so. Consequently, the bill will be subject to deferred enrollment if it comes back from conference as now drafted before October 1.

The bill also contains a revenue section that continues taxes supporting the highway trust fund beyond 1984, when they would otherwise expire, and also slightly reduces revenues for fiscal year 1983. The current level of fiscal year 1983 revenues is below the revenue floor that becomes effective automatically on October 1, 1982. Therefore, the revenue loss provision of this bill will subject it to a point of order for breaching the revenue floor if it comes back from conference as now drafted on or after October 1.

The nuclear waste disposal bill would enact user fees at the same level assumed in the first budget resolution. The amounts cannot be compared to a 302(b) subdivision because the Energy and Commerce Committee has not filed that subdivision, as the budget resolution requires. Under such conditions, direct spending bills would be

subject to a point of order, but this sanction does not apply to bills, such as this one, that save money. Even with this bill, the full Energy and Commerce Committee is over its target for discretionary budget authority because it has not yet reported other user fees that are assumed in the budget resolution.

EARLY WARNING SUMMARY—H.R. 97-6598, NUCLEAR WASTE POLICY ACT

Floor action: Tentatively scheduled for Wednesday, September 29,

Scorekeeping: The functional totals included in the First Budget Resolution conference report are allocated to the appropriate House committees in accordance with Section 302(a) of the Budget Act. Each committee then divides the 302(a) allocation among its subcommittees or programs and reports *its* subdivisions back to the House in a 302*(b)* report. It is this 302(b) report that the House Budget Committee uses to "score" a spending bill. The Energy and Commerce Committee has not filed a 302(b) subdivision report as required by law so the cost analysis compares with the 302(a) allocation and with Budget Resolution assumptions.

Scoring of this bill: Using the 302(b) report, the Budget Committee makes several comparisons to determine whether or not a spending bill is within the targets of the First Budget Resolution. Many of these comparisons are for informational purposes only; the only procedural sanction is deferred enrollment, which causes a conference report to be held at the desk if the discretionary budget authority exceeds its target.

(1) Program assumptions: This bill is *within* the program assumptions in the budget resolution.

(2) Overall committee total: While this bill conforms with Resolution assumptions, the Committee has not yet achieved its targets because other user fee legislation is also assumed.

For additional details see the attached early warning report.

EARLY WARNING ADDITIONAL DETAIL—HOUSE BUDGET COMMITTEE

Bill: H.R. 6598, Nuclear Waste Policy Act.

STAFF ANALYSIS

Committees:[1] Energy and Commerce, Interior and Insular Affairs, and Science and Technology.

Subcommittees: Energy Conservation and Power (E&C), Energy and Environment (Interior), and Energy Research and Production (S&T).

Chairmen: Messrs. Dingell (Michigan), Udall (Arizona) and Fuqua (Florida).

Ranking Minority Members: Messrs. Broyhill (North Carolina), Lujan (New Mexico) and Winn (Kansas).

Scheduled: Tentatively for Wednesday, subject to rule being granted.

I. Description of bill

This bill establishes a program by which the Secretary of Energy could receive nuclear wastes from private industry, and charge a fee for disposing of them. The fees levied would go into one of two funds, and appropriations would be required before any monies could be obligated and spent. The money could be spent on building and operating facilities for waste disposal, as well as to give assistance grants to states that participated in the program. The final bill to be voted on was not available at this writing; however, the financial issues relevant to the Budget Resolution do not seem to be in question at this time.

II. Comparison with subcommittee and full committee allocations

Pursuant to the Budget Act and HBC scorekeeping, the Energy and Commerce Committee has *two* targets: one for the program subdivision submitted by the Committee in their 302(b) allocation and one for the full Committee total. These are targets for Committee action on direct spending bills this year. The Committee has not filed a 302(b) subdivision as required by law so the numbers below come from the 302(a) total allocation.

This bill provides the *authority* to levy fees for nuclear waste disposal, which are estimated to total $300 million in fiscal year 1983. This equals the amount of fees assumed in the First Budget Resolution. The bill also *authorizes* appropriations for programs, which are not scored as budget authority. They will be scored as budget authority when appropriated, and would be scored against the allocation of the Appropriations Committee.

The summary table shows where the bill stands relative to the Committee total.

III. Summary table (In millions of dollars)

(The amounts shown below are only for discretionary 1983 spending by the Energy and Commerce Committee)

Full Committee (302(a))

1. Amount in bill	−300
2. Prior action	.....
3. Total action to date	−300
4. Target	−387
5. Over (+)/under (−)	+87
6. Amounts assumed but not yet considered	−87
7. Over (+)/under (−)	.....

IV. Explanation of over/under

As stated, this bill is equal to the program assumption underlying the 302(a) allocation to the Energy and Commerce Committee. The Committee is over its total target by $87 million because other user fee legislation assumed in the Resolution has not yet been reported.

VI. Definitions of terms in summary table, section III

Line 1. Discretionary amounts in bill: fiscal year 1983 budget authority in H.R. 6598.

Line 2. Prior action: the fiscal year 1983 budget authority and outlays for this committee that were provided in prior bills this session.

Line 3. Total action to date: line 1 plus line 2.

Line 4. 302 target: the target for discretionary budget authority for the Energy and Commerce Committee pursuant to the Budget Act.

Line 5. Over(+)/Under(−): line 3 minus line 4.

Line 6. Amounts assumed but not yet considered: these are amounts assumed in the fiscal year 1983 budget resolution for which legislation has not yet been considered by the Energy and Commerce Committee.

Line 7. Over(+)/Under(−): line 5 plus line 6.

EARLY WARNING SUMMARY—H.R. 6211, SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Floor action: Scheduled for Wednesday, September 29 or later in the week.

Scorekeeping: The functional totals included in the First Budget Resolution conference report are allocated to the appropriate House committees in accordance with Section 302(a) of the Budget Act. Each committee then divides the 302(a) allocation among its subcommittees or programs and reports *its* subdivisions back to the House in a 302(b) report. It is this 302(b) report that the House Budget Committee uses to "score" a spending bill.

Scoring of this bill: Using the 302(b) report, the Budget Committee makes several comparisons to determine whether or not a spending bill is within the targets of the First Budget Resolution. Many of these comparisons are for informational purposes only; the only procedural sanction is deferred enrollment which causes a conference report to be held at the desk if the budget authority exceeds either its target for the 302(b) subdivision or the allocation for the entire committee.

(1) Program subdivision (302(b)): The bill is *under* the budget authority total for the program subdivision by $4 million and thus not subject to delayed enrollment under this provision.

(2) Overall committee total: The bill is *over* the full committee's total by $366 million and thus would be subject to the deferred enrollment provisions of the budget resolution. This bill, plus prior action, breaches the full Committee total because the Committee has not yet made user fee savings assumed in the budget resolution.

For additional details see the attached early warning report.

EARLY WARNING ADDITIONAL DETAIL, HOUSE BUDGET COMMITTEE

Bill: H.R. 6211, Surface Transportation Assistance Act of 1982

STAFF ANALYSIS

Committee: Public Works and Transportation

Subcommittee: Surface Transportation

Chairman: Mr. Anderson (California)

Ranking Minority Member: Mr. Shuster (Pennsylvania)

Scheduled: Wednesday, September 29 or later in week

I. Description of bill

This bill provides or authorizes funding for highway construction and improvement and highway safety and authorizes appropriations for public mass transportation programs.

II. Comparison with subcommittee and full committee allocations

Pursuant to the Budget Act and HBC scorekeeping, the Public Works Committee has *two* targets: one for the program subdivision submitted by the Public Works Committee in their 302(b) allocation and one for the full Committee total. These are targets for Committee action on direct spending bills this year.

This bill provides contract authority, which under the Budget Act is scored as budget authority. It also authorizes appropriations for programs, which is not scored as budget authority. It will be scored as budget authority when appropriated, and would be scored against the allocation of the Appropriations Committee.

[1] The Armed Services, Merchant Marine and Fisheries and Judiciary Committees have also had referrals on parts of this bill.

If either the program subdivision or the total Committee allocation is breached by this bill, it will be subject to deferred enrollment. The summary table below shows that the bill is under its subdivision allocation, but exceeds the Committee total.

III. Summary table (in millions of dollars)

The amounts shown below are only for discretionary 1983 spending by this committee

	Subdivision (302(b))	Full Committee (302(a))
1. Amount in bill[1]	4,708	4,708
2. Prior action		600
3. Total action to date	4,708	5,308
4. Target	4,712	4,942
5. Over(+)/under(−)	−4	+366
6. Amounts assumed but not yet considered		−370
7. Over(+)/under(−)	−4	−4

[1] Committee amendment.

IV. Explanation of over/under

As stated, this bill is under the program subdivision as submitted in the 302(b) report of the Public Works Committee. However, this bill, considered with prior action, breaches the Public Works total for direct spending.

The ADAP section of the tax bill, passed earlier by Congress, provided $600 million in contract authority for airport development. This amount is shown in line 2 of the "Full Committee" table above.

The budget resolution also assumed that the Public Works Committee would make $370 million in savings through user fees. The Committee, to date, has not done so, and the amount of assumed savings is shown in line 6 of the "Full Committee" column.

Enactment of these assumed savings would free the bill from deferred enrollment. Line 7 shows that the Committee would be $4 million under its allocation if user fee savings were made. Pending that, the bill breaches, by the amount shown in line 5, the full committee allocation and therefore is subject to deferred enrollment.

VI. Revenue effect

H.R. 7092, the Highway Trust Fund bill, would extend for one year, through September 30, 1985, the Highway Trust Funds and its related excise taxes on diesel and special motor fuels, trucks and trailers, truck parts and accessories, tires and tubes, gasoline, and highway motor vehicles. The bill extends for two years the present excise tax exemption for fuel used by qualified taxi cabs. It also transfers the Highway Trust provisions into the Internal Revenue Code. The bill is intended to be offered as Title V to H.R. 6211.

The fiscal year revenue impact is a $2 million revenue loss due to the taxi cab exemption. The revenue gain would not be realized until fiscal year 1985. Because the Tax Equity and Fiscal Responsibility Act of 1982 raised only $17,959 million in fiscal year 1983, whereas the revenue increase target of the First Concurrent Resolution was $20,900 million, current law revenues are already $2,941 million below the revenue floor of $665,900 million of the Resolution. H.R. 7092 would further reduce revenues below the floor.

VII. Definitions of terms in summary table, section III

Line 1. Discretionary amounts in bill: discretionary fiscal year 1983 contract authority in H.R. 6211.

Line 2. Prior action: the fiscal year 1983 budget authority and outlays for this committee that were appropriated in prior bills this session.

Line 3. Total action to date: line 1 plus line 2.

Line 4. 302 target: the target for discretionary budget authority set by the Public Works Committee pursuant to the Budget Act.

Line 5. Over(+)/Under(−): line 3 minus line 4.

Line 6. Amounts assumed but not yet considered: these are amounts assumed in the fiscal year 1983 budget resolution for which legislation has not yet been considered by the Public Works Committee.

Line 7. Over(+)/Under(−): line 5 plus line 6.●

THE USE OF FEDERAL FUNDS TO "PROPAGANDIZE"

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. HUBBARD. Mr. Speaker, I would like to take this opportunity to share an excellent letter from one of my fellow Kentuckians, attorney Fred M. Goldberg of Louisville, Ky. Mr. Goldberg enclosed a copy of the cover sheet from the U.S. Environmental Protection Agency's "impact statement" with regard to wastewater facilities for the Mill Creek area of Jefferson County, Ky. Mr. Goldberg strongly resents and opposes the use of Federal funds to propagandize the conclusions as made by EPA. I feel that my colleagues will be interested to read his comments, and I would like to share his letter at this time. The letter follows:

GOLDBERG & SIMPSON, P.S.C.,
Louisville, Ky., September 1, 1982.

Hon. CARROLL HUBBARD,
U.S. House of Representatives,
Washington, D.C.

DEAR CARROLL: In am addressing this letter to you as a private citizen. Enclosed you will find the cover sheet from the United States Environmental Protection Agency Environmental Impact of the Mill Creek area of Jefferson County, Kentucky. This study covers wastewater facilities.

Regardless the position of E.P.A., which we find somewhat faulty in assumptions and conclusions reached by them, I am much more concerned about the publication of a statement in final draft form by a Federal agency and its use to solicit comment prior to action which bears a cover which I deem to be tantamount to an editorial page. In addition, the various chapters in the statement are each introduced by a similar cover sheet.

Frankly, it makes little difference to me that some of the articles are pro and some are con. I am not here criticizing the conclusions reached by the E.P.A. I simply position that Federal funds should not be spent by Federal agencies to propagandize their conclusions.

I would hope that you would agree!

Very truly yours,

FRED M. GOLDBERG.●

NATURAL GAS PRICES SHOULD BE FALLING AS DEMAND FALLS

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. BROWN of Ohio. Mr. Speaker, in each day's mail you and I receive an increasing amount of letters from constituents and colleagues alike angry at the sharply increasing price of natural gas.

Why should natural gas prices be rising, as they are, when the supply is in surplus and demand is down? The simple answer is that they should not be, except for us. It was Congress, in 1978, which passed the Natural Gas Policy Act which not only allows the automatic passthrough of natural gas prices, but also encourages the payment of very high prices to certain favored sources of natural gas such as: Algerian LNG at $7.18; deep gas (produced below 15,000 feet) once selling at $8 and $9, still high-priced at $5 and $6; Canadian gas at $4.94; and Alaskan gas (someday?) at $18 per 1,000 cubic feet.

It is not difficult to imagine why producers like high prices, especially when they are higher than the market can support. But why would pipelines agree to these terms?

The short answer is because they do not pay them, they pass them on. A somewhat longer answer is that pipelines have been willing to sign contracts at almost any prices in order to attach new reserves because: First, the pipelines are motivated never to be caught short again, second, they do not pay the costs themselves, and third, they did not foresee conservation and fuel-switching (induced by high prices) taking away their markets.

The pipelines, some of them at any rate, are trying to renegotiate their contracts. But in our subcommittee's hearings, so ably chaired by our colleague from Indiana (Mr. SHARP), we have learned that this process can, and is, taking years. No other market can tolerate such unresponsiveness. Nor can natural gas consumers, both residential and industrial.

In the oil market, for example, the 9.7 percent decline in price we have witnessed over the past year has been because consumers do not value oil per se as much as they once did. And so, producers, from OPEC to Texas, and virtually all refiners are cutting prices to hold their markets. We should be witnessing the same price cutting in

today's market for natural gas, but we are not. Yes, there is some downward pressure on new wellhead prices, but the prices paid by our constituents escalate, by the script of the NGPA, completely oblivious to the decline in demand which follows each price increase.

We in Congress may protest by standing against the Alaskan natural gas pipeline waiver package, or by intervening in every Federal Energy Regulatory Commission proceeding available (for example, against Columbia's purchased gas adjustment case and the Panhandle-Trunkline LNG contract) as I have done, or we can dash off letters of our concern to everyone from the Chairman of FERC to the President, as we all have done at one time or another.

But let me suggest that we employ that authority that only we in Congress have. And that is: Let us change the law which not only encourages excessive prices to be paid by pipelines, but also insulates them from managing the costly consequences of failing to acquire inventory at prices the market will bear. Only then will prices come down.

So when your constituents ask what can you really do to hold down gas prices, you, as a legislator, can answer that you support H.R. 7122.

H.R. 7122 is intended to create, for the first time, the ability for pipelines to reduce an oversupply of gas in such a way that the price to the consumer is reduced accordingly. The bill would grant pipelines the contract right to reduce their "take or pay" levels in each gas supply contract to a 50-percent level, starting with their most expensive source first and working down. It also frees the gas not taken to be bought by anyone—another pipeline, an industrial user, a local distributor, or perhaps most likely the intrastate systems in Texas and Louisiana which face a deficit of gas.

The producer can be sure of being able to transport the freed-up gas to a second buyer since the bill provides him with a contractual right (the bill does not attempt to transform pipelines to common carrier status) to make the first pipeline provide or arrange transportation to the seond buyer. But the bill doesn't punish the first pipeline for this service, it allows the pipeline to earn and retain a $0.05 per mcf charge above the cost of transportation. Under current FERC regulations, a pipeline transporting gas on behalf of another may only receive $0.01 per mcf and must credit back any earnings to its customers. The lack of such transportation incentive has only resulted in cheap gas being shut-in or flared because it was not under contract to a pipeline that needed it.

The general theme of the bill, then, is to provide pipelines with the legal contractual ability to liquidate their inventory of over-priced gas so that their customers may benefit from declining prices whenever the pipeline system has more current supply than current demand. Additionally, it allows producers to resell this gas (most probably at a discount) to other buyers and to be able to transport it to another market where demand may be greater than supply.

In a manner of speaking, this bill enables interstate pipelines to better manage their inventories of gas and to split the cost of maintaining an extra measure of reserves with the producers or with other buyers.

According to a recent study prepared by the U.S. Department of Energy, inventory management based on reducing the highest cost gas first can result in a significant decline in gas rates. And that is what we need to do, and do it soon.

If you wish to cosponsor H.R. 7122, please call Mike Boland or Linda Stuntz of my staff at extension 5-3641 or 6-3400.

Thank you Mr. Speaker.●

COMPREHENSIVE VICTIM AND WITNESS PROTECTION AND ASSISTANCE ACT OF 1982

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. MARKEY. Mr. Speaker, I want to express my strong support for the Comprehensive Victim and Witness Protection and Assistance Act of 1982. On Wednesday, September, 29, the Judiciary Committee will hold a markup session for this bill. It will reach the floor of the House for our consideration on Thursday, September 30. The Senate recently passed this bill and I urge my colleagues to join with me in strongly supporting this legislation. While we have always recognized the need to protect the criminal from unfair and unjust treatment, this bill takes a significant step forward in recognizing the need to defend the rights of victims and witnesses. Developed in consultation with the National Organization for Victim Assistance, the American Bar Association, the American Civil Liberties Union, and the Justice Department, this bill will improve the treatment of crime victims and witnesses by the Federal criminal justice system.

As criminal activity has escalated over the past decade, the American people have increasingly become prisoners in their own homes. Many of our elderly are afraid to go out alone. Parents are afraid to let their children go out and play. Our citizens will begin to turn a blind eye toward crime because, "It's not worth the trouble." Fear encumbers our attitudes and prevents us from exercising the freedoms we have been granted. This must not continue. This bill, H.R. 7191, will change that. Congress must realize that the criminal is not the only one involved in crime. Victims and witnesses also need the protection of the law after a crime has been committed. The Comprehensive Victim and Witness Protection and Assistance Act of 1982 accomplishes this task in three areas: personal safety, fair treatment, and restitution.

In terms of personal safety, the bill clarifies and strengthens present Federal offenses that prohibit intimidation, retaliation and harassment, making it an explicit condition of every release on bail that the person released not commit a victim or witness intimidation or retaliation offense.

The fair treatment section of the bill guarantees that victims and witnesses receive prompt notification of the scheduling of hearings and trials and that property held for evidence is returned as promptly as possible.

Restitution provisions of the bill attempt to restore the victim to the financial status quo before the offense. The bill also instructs the Attorney General to report to the Congress on the need to assure that a Federal felon will not derive profit from books, articles, and movies about the offense.

Once, again, I urge my colleagues to join with me in support of H.R. 7191, the Comprehensive Victim and Witness Protection and Assistance Act of 1982. This bill protects the rights of the victims and witnesses who have, until now, gone unnoticed and unprotected.●

TRIBUTE TO MILTON ELSBERG

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. MARKS. Mr. Speaker, I rise today to pay tribute to the most extraordinary man I have ever known and to inform you and my colleagues about this marvelous human being.

Milton Elsberg, my friend, reaches the age of 70 years on the 29th of this month—70 years young in his case is truly an appropriate statement. My friend, Milton, has added as much happiness to the lives of others as is humanly possible, and at the same time, has involved himself in this community's affairs as well as the affairs of the Nation. He has befriended the proverbial "man on the street" as well as this country's outstanding statesmen—finding himself comfortable on all levels.

Milton Elsberg was born on September 29, 1912, in Baltimore, Md., the second of three sons.

After graduating from high school in Baltimore, he completed premed studies and received a degree in pharmacy from the University of Maryland in 1931.

Milton came to Washington in 1935 to work as a pharmacist in the National Press Pharmacy. Within approximately 3 months he became manager of the Southern Drug Co. where he remained until 1937. While there, he formed a partnership with the late Robert Gerber, and in 1938 they opened their first store which they named Community Drugs in Arlington, Va. This store was the first of a chain of what was to become known as Drug Fair stores which eventually became one of America's outstanding drug chains, totaling over 170 stores. When the company was sold in 1981, Milton was then the head of that chain of stores and one of America's outstanding business leaders.

Being as lucky in love as he is on the golf course, his favorite pastime—golf, that is, he married lovely Rita Kahn in 1936. Their child, Stuart, a graduate of Cornell University and Georgetown University Law School, with his wife, Margery, are the parents of three wonderful children, Andrew, Jonathan, and Daniel Elsberg. They have given to Milton a great deal of happiness, and he, as would be expected, has returned it in kind.

The list of honors Milton Elsberg has received over the course of time are too numerous to list here, but if I may, I would like to inform my colleagues of a few that I believe are representative of the type of person Milton is. He has received the "Man of the Year" award from the brotherhood of the Washington Hebrew Congregation, been twice honored by the Anti-Defamation League of B'nai B'rith, received the "American Marketing Man of the Year" award from the American Marketing Association as well as the Advertising Club Award of Achievement, and has been the honoree of one of America's greatest universities, Brandeis University.

His involvement in the life of the community, both local and national, has been extraordinary, and I mention now just a few. He has served on the board of directors of the National Conference of Christians and Jews. He has been a trustee of the Boys' Club of Greater Washington. He has served on the National Board of Trustees and has been chairman of the drive of the Eleanor Roosevelt Institution for Cancer Research. He has served on the board of directors of Boys' Club, Metropolitan Police, Washington, D.C. He has given his time to the board of trustees of the United Jewish Appeal of Greater Washington, Inc. He served with distinction on the board of the Junior Citizen Corps, been on the President's Council of Brandeis University, and has served as chairman of the Washington area U.S. Savings Bond Campaign. Milton has also served on the board of directors of the ADS Merchandising Corp. as well as the National Association of Chain Drug Stores & Affiliated Drug Stores. He presently serves on the Executive Committee of the board of directors of the Riggs National Bank.

My colleagues, with all of his many involvements and many awards and many distinctions, Milton Elsberg has remained and is a compassionate, thoughtful, loving, and lovable human being whose friends, both here and throughout the country, are thankful of God's blessing in providing us all the friendship and love of Milton Elsberg.●

OCTOBER 3, 1982, PULASKI DAY—A COMMEMORATION OF THE STRUGGLE FOR LIBERTY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. SOLARZ. Mr. Speaker, this Sunday, October 3, 1982, the Polish American community in New York City will pause to celebrate Pulaski Day in honor of the great Revolutionary War hero, General Casimir Pulaski.

Casimir Pulaski was born in 1748 and at 29 he left his beloved Polish homeland to journey across a treacherous ocean to join the bold bid of the American colonies to win freedom and independence from Great Britain. This young man committed his talents, personal fortune, and ultimately his life on behalf of a nation not his own, but one whose quest for liberty matched his own idealism and love of freedom. From 1777-79 he served General Washington and the Continental Army by training recruits, organizing a cavalry and fighting valiantly at the battles of Brandywine, Germantown, and Savannah. He was mortally wounded at Savannah and died in 1779 without having lived to see this Nation achieve peace and independence. On Sunday, we will pause to acknowledge the tremendous debt which this nation owes to Casimir Pulaski and the Polish Nation which produced such an outstanding man.

My district in Greenpoint has a large and active Polish American community and I am proud that this year I will be able to be with them to celebrate the memory of this great Polish American patriot and to also pay tribute to those who continue the struggle for freedom and liberty in Poland today. In my mind it is most appropriate that a celebration of an American Revolutionary War hero should be linked with special recognition of modern Polish patriots in whom the love of freedom and liberty continues to burn as brightly as it did in the breast of Casimir Pulaski. These present day heroes are willing to risk their lives and liberty to win greater freedom for their countrymen.

A resolution introduced by Senator Thomas Bartosiewicz, who represents the Greenpoint community in the New York State Legislature, aptly describes the links between General Pulaski and today's Polish nationalists who fight under the banner of Solidarity, and I ask that it be reprinted in today's RECORD.

Mr. Speaker, I hope that this celebration of Pulaski day will remind us, not only of our debt to Casimir Pulaski, and to other Polish Americans who have labored to make this nation great, but also rekindle the gratitude that we owe to those who continue the struggle for freedom in Poland today.

MEMORIALIZING GOVERNOR CAREY TO PROCLAIM OCTOBER 3, 1982, AS BRIG. GEN. CASIMIR PULASKI DAY

Whereas it is the sense of this Legislative Body that homage and respect to the memory and achievements of Brigadier General Casimir Pulaski, who came to our shores on July twenty-third, seventeen hundred seventy-seven to offer his heart and his hand in our struggle for independence, ought to be perpetuated and memorialized; and

Whereas it is, moreover, our just circumspection that in light of the current and tragic imposition of martial law in the Beloved Nation of Poland, the celebration of Brigadier General Casimir Pulaski's enduring contribution to our own most treasured nation must necessarily display a more meaningful significance; and

Whereas this hero of the American Revolution, who was born in Podolia, Poland on March fourth, seventeen hundred forty-eight, did join with General Washington at Philadelphia, Pennsylvania and thereafter devoted himself with great resolve and effect to the bolstering up and reorganization of our then sadly tried soldiers, distinguishing himself at Brandywine and Germantown, Pennsylvania and Savannah, Georgia; and

Whereas Brigadier General Pulaski was instrumental in organizing the famous Pulaski Legion at his own expense of fifty thousand dollars and was known as the father of American cavalry; and

Whereas Congress saw fit in seventeen hundred seventy-eight to appoint him Brigadier General, and he served in that high military capacity with singular devotion and distinction; and

Whereas he was the only American officer of alien citizenship to give his life for this country and for our freedom and liberty when he was mortally wounded at the battle of Savannah, Georgia on October ninth, seventeen hundred seventy-nine and died October eleventh, seventeen hundred seventy-nine at the age of thirty-one; and

Whereas, the most beloved Country of Poland has been under communist rule for the past thirty-six years; the historical ratinale for this imposition is, itself, most questionable: having fought so bravely

against the Nazi hordes, Poland, as its history so tragically indicates, was an abandoned pawn in the power struggle ensuing subsequent to the end of World War II; and

Whereas, there is, moreover, an ironic, and until recently unnoted, awakening of nationalism within the Polish nation: as cited by the distinguished executive director of the American Institute of Polish Culture, Mr. Alexander T. Jordan, the constant censorship and relentless suppression of freedom on a daily and topical basis, has resulted in the renaissance of Polish nationalism directly responsible to the inspiring, albeit enforced, proclivity of Polish intellectuals and historians to re-examine the valiant history of their beloved nation; such re-examination has, moreover, rekindled the flame of true patriotism; indeed, what nation on earth could catalogue or produce a record of resistance to oppression even remotely comparable to that of Poland who sent to our own shores, in time of our greatest need, the brave and valiant general, Casimir Pulaski; and

Whereas, in this same regard, what nation, in all of Europe, has so valiantly, throughout its history, resisted the onslaughts of Russian aggrandizement and oppression; the beloved Country of Poland is no stranger to the callous designs of its eastern Neighbor who has long sought to digest Her fertile fields and green plains, who has long schemed to enslave Her valiant people, and who has labored, so fruitlessly, to destroy Her Christian faith, and in doing so, Her Occidental allegiances; and

Whereas it is, moreover, most apparent that like the mythological Phoenix, that lone and beautiful bird who rose to glory, so also, will the Polish eagle of freedom reassert its immortal and eternal claim to nationhood as it is so clearly manifested in the Solidarity Movement; and

Whereas the Soviet oppression of the Polish nation is relentless and dualistic: not only has it effected the abrogation and denial of personal liberty, but also, through ineptitude and indifference, through a haphazard, ill-managed, and ill-conceived forced industrialization, it has accomplished the disruption of the Polish economy as manifested in the scarcity of basic food and, indeed, the lack of simple necessities for even a modest standard of living; and

Whereas the renaissance of Polish nationalism is ubiquitous throughout that beloved nation; there has emerged a new unity of purpose, a spirit of national will unparalleled in the history of that beloved nation; it is this spirit of unity and purpose, this identification of nationhood, which cries out for our recognition and concern; and

Whereas it is, moreover, the sense and collective circumspection of this Legislative Body that we address this budding declaration for nationhood, that this most treasured nation of thirty-five million, beloved Poland, with millions more constituting the citizenry of our own America, many of whom since the very beginning of our nation have so bravely given their lives, as Brigadier General Pulaski did, in the cause of liberty, not be abandoned; now, therefore, be it

Resolved, That this Legislative Body respectfully memorializes the Governor of the State of New york to proclaim October third, nineteen hundred eighty-two as "Pulaski Day" in memory of the valiant death and martyrdom of this great hero of the American Revolution whose heroic deeds ought to be perpetuated in the memory of all peoples of this great nation and to urge all citizens of the State of New York to display the National Emblem and conduct proper exercises in commemoration of the heroism of Brigadier General Casimir Pulaski, and to observe the day in schools, churches and other places with appropriate ceremonies in honor of Brigadier General Casimir Pulaski and in compassionate recognition of the current crisis in the Beloved Country of Poland; and be it further

Resolved, That a copy of this Resolution, suitably engrossed, be transmitted to The Honorable Hugh L. Carey, Governor of the State of New York.●

NEGOTIATIONS IN EL SALVADOR?

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. BARNES. Mr. Speaker, a recent editorial in the Los Angeles Times suggests that there may finally be hope for a negotiated settlement of the conflict in El Salvador. As one who has long argued that negotiations are the only way out, both for us and for the Salvadorans, I hope the optimism of the Los Angeles Times turns out be justified. As the editorial says:

Negotiations are the only realistic way to end El Salvador's three-year-old civil war, which is stalemated both militarily and politically. Neither side, the government of the guerrillas, has the political support or the military strength to overcome the other. The choice is between prolonged warfare and dialogue leading to an accommodation among the various factions.

The complete text of the editorial follows:

EL SALVADOR: FINALLY, HOPE

It is too early to tell whether an indirect "dialogue" that has begun between the government of El Salvador and the insurgent groups fighting it might lead to a peaceful settlement of the civil war there. But it is a hopeful development, and should be pursued with whatever assistance the United States can provide.

The initial step toward this dialogue was taken when El Salvador's interim president, Alvaro Magana, said he hoped to establish a commission that would study the possibility of opening negotiations with leftist guerrillas and their political support groups.

Since then, there have been contacts between Magana and a key leader of the principal political opposition group, the Democratic Revolutionary Front, with the government of Costa Rica acting as the intermediary. It has been reported that the Reagan Administration quietly encouraged this indirect contact.

Magana publicly denies that he received any peace proposals from the guerrillas, and the U.S. State Department insists that the Administration's position on negotiations to end the Salvadoran war is unchanged. But both Magana and U.S. officials have to be careful in exploring possible negotiations. There are conservative forces in El Salvador that want a military solution to that country's crisis, no matter how bloody. Some of those forces are represented in the government, and might try to sabotage any peace efforts.

The Salvadoran right wing is already angry about a speech delivered last month by Thomas O. Enders, the assistant secretary of state for inter-American affairs, calling for a "reconciliation" between the warring factions in El Salvador.

Although State Department spokesmen insist that Enders' speech only reiterated U.S policy in El Salvador, it represented a distinct change in tone from previous U.S statements about Central America. Under its new secretary of state, George P. Shultz, the Reagan Administration is taking a calmer and more constructive view of the Central American situation than under Gen. Alexander M. Haig Jr., who saw it as a standoff between this country and the Soviet Union.

Negotiations are the only realistic way to end El Salvador's three-year-old civil war, which is stalemated both militarily and politically. Neither side, the government or the guerrillas, has the political support or the military strength to overcome the other. The choice is between prolonged warfare and dialogue leading to an accommodation among the various factions.●

CHANCELLOR JOSEPH S. MURPHY'S ADDRESS AT LaGUARDIA COMMUNITY COLLEGE

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Ms. FERRARO. Mr. Speaker, on September 12, I was honored to receive the LaGuardia Community College President's Medal for Community Service.

The commencement address at that ceremony was delivered by Chancellor Joseph S. Murphy of the City University of New York. Chancellor Murphy gave what I consider to be an insightful and realistic speech on the policies of the Reagan administration.

At this time, I would like to enclose this address in the RECORD for my colleagues to read.

Thank you.

COMMENCEMENT ADDRESS BY CHANCELLOR-DESIGNATE JOSEPH S. MURPHY

Members of the Board of Trustees of The City University of New York, Borough President Manes, Congresswoman Ferraro, Assemblyman Lafayette, Assemblyman Wilson, honored clergy, community leaders, President Shenker, distinguished faculty members, parents and graduates.

I have thought long and deeply as to an appropriate gift for the commencing class at LaGuardia Community College this afternoon, and have concluded that the greatest I can give you is a brief and succinct commencement address. And this I promise you.

As September graduates, you have the unusual distinction of being the only class in the history of this college to graduate on the 100th anniversary of the birth of the great man for whom the institution was named. Fiorello LaGuardia shares with many Americans two things. First, he came to New York from elsewhere. And second, his parents came to America from elsewhere. Total dedication to the working people of the city, the people who make the

city work, the people provide the drama, the energy, the productivity, the imagination that make New York City the most important city in the world, was the hallmark of the man after whom this institution is named. His legacy, our legacy, stands for what is the very best in America today, and his principles—for what is the very best in America today, and his principles—now under severe attack by those who do not understand that work and sacrifice are the underpinnings of the creation of culture and civilization—must be our principles.

In the life he led, Fiorello LaGuardia teaches us something else, equally important to us today. He shows us that he did not forget from whence he came. Many of you here today see yourselves on the threshold of jobs and upward social mobility, of moving from the neighborhoods in which you spent your childhood into a more affluent world. Those of you who have profited from the sacrifices made by your parents and others, as well as from the sacrifices you yourselves have made by working long, conscientiously and hard, must never forget that behind you is another generation.

Fiorello LaGuardia never forgot that he was not born with a silver spoon in his mouth. He dedicated his life to the advancement and progress of those who came after him. Your own self-esteem as individual human beings, and the pleasure you take of making it successfully in American life, must always be measured against the enormous responsibility that all of us bear. There are, I suppose, two kinds of people who come from these streets, from working class neighborhoods, from urban decay, from ghettos: those who make it and cannot remember what it was like, and those who make it but cannot forget. I hope that you will be among those who can never forget. For then you will know that you do not live your life for yourself alone. And your life will be enriched by the knowledge that you've contributed in a significant way not only to your own children, but to everyone's children that come after you.

We are faced today with a concerted effort by a national administration to break us apart, to stir up an awareness of meaningless differences among us, to encourage us to overlook the fact that we are all working people and that our destiny and progress in America depends upon our mutual cooperation, understanding, affection and respect for each other. This administration, increasingly, has given safe passage into national debate and into social policy to some of the worst elements of American life. The strategy represents no less than a head-on attack on the interests of working people in America. The fact that we have ten million people unemployed in the richest nation on earth and that we are financing an obscenely huge military budget by taking money from poor people, unemployed people, working people, Black, White, Hispanic, Asian and other peoples who are struggling to make it in America, is no accident. It is a conscious attempt to respond to a particular constituency whose solitary commitment is to enhance the position of class, privilege and wealth in America. Under this administration, taking from the poor and giving to the rich—A kind of grotesque inversion of the Robin Hood story—has become a cornerstone of national policy. This policy cannot be sustained for long. For it contributes to the dehumanization of our people and in so doing, corrupts and diminishes us all.

It is not, nor has it been my intention, to make a political speech. I do not consider that the present attack on the American working people is a political issue. I take it to be a cosmic and moral issue of great importance. We have struggled in this nation for fifty years to establish the principle that a fundamental responsibility of our government is enhancing the conditions of life for all of our people. It has a responsibility to provide education, health, housing and opportunity. Any effort to diminish that commitment is an attack upon us all. And indeed, when we consider what is to be done in the face of this attack, it is clearly against our interests to be divided upon the basis of considerations that are fundamentally irrelevant. And it is clealry within the interests of those who would make that attack upon us to keep us divided.

Today, the graduates and I share the hopes and fears of new beginnings. I would also like to share with them my conviction that one cannot live one's life for one's self alone. My new beginning is important to me personally because it means being a part of something that dramatically changes and enhances peoples lives. Wherever your careers should take you, I urge you to enrich your lives with an active concern for social responsibility and justice.●

JULY 4 HOLIDAY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. FRANK. Mr. Speaker, I wish to share with my colleagues a letter I recently received from Mr. George Buchan of Natick, Mass., concerning the importance of July 4 in our national heritage. Mr. Buchan is a 79-year-old man who has worked for many years promoting the most important civil holiday in our Nation. As Mr. Buchan's letter states, many people are unaware of the role July 4 plays among out national holidays. My legislation, House Concurrent Resolution 353, would require the President to issue a proclamation designating July 4 of each year as our principal national permanent legal holiday.

I urge my colleagues to support this bill and consider Mr. Buchan's letter. The letter follows:

NATICK, MASS.,
September 8, 1982.

Hon. BARNEY FRANK,
House of Representatives,
Washington, D.C.

DEAR MR. FRANK: I realize Congress is quite busy and has more important business to work on. But I believe the birthday of this wonderful country, that makes it possible to enjoy the way other folks can not live, deserves the highest honor of any holiday. I'd like to ask some questions, not to be fresh but to point out that many folks I talk with don't know July 4 was not our first national holiday. I'd like to ask the Congressmen: How many of them, before going into Congress, knew we didn't have a national holiday on July 4?

I'd like them to conduct a poll in their States asking: Have we a National Holiday? What date? Should July 4 be kindly honored by Congress by passing your legislation making it our first national legal holiday and having the President issue a proclamation each year.

It won't cost anyone a cent. It won't change the way it's celebrated. It will only pay the highest honor to the most important date in our history—July 4—the birthday of the home of all real Americans. "America We're for You."

Sincerely,

GEORGE BUCHAN, Sr.●

NUCLEAR WASTE: LET US HAVE MORE THAN A 10-PERCENT SOLUTION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. MARKEY. Mr. Speaker, for the past 6 years, I have worked to help fashion a national nuclear waste policy. And for the 30-year life of the nuclear power industry, representatives across this country have attempted to "solve" the nuclear waste problem. We have come to realize that we will not solve the problem. Our best hope is to "deal" with it—responsively, comprehensively, and permanently. We must not be misled by the special interests and parochial concerns of the domestic nuclear power industry or any other group which stands to gain from the policy. It is the American people who need our protection and concern, for their health, safety, and their pocketbooks.

In the past weeks, under the guise of creating a consensus bill merging the different notions of the seven major legislative committees who had some claim on the subject matter or other committee's treatment of the subject matter, Chairmen UDALL, DINGELL, and OTTINGER have made some rather encouraging gains from the dismal products of their respective legislative bodies. However, before the Nation can rest comfortably with a national rather than utility nuclear waste bill, the product of the reconciliation process needs some additional work.

Today, the Committee on Rules under the leadership of Chairman BOLLING agreed to allow 36 separate amendments to the reconciled bill, H.R. 7187. The amendments are to be printed in today's RECORD. But the portion of the RECORD which allows for the printing of amendments does not permit accompanying text explaining those amendments. The following text explains the 12 amendments which I have had printed and intend to offer, along with synopsis of an amendment which will be offered by Mr. LUNDINE, under the rule, for which I have particular concern.

MILITARY WASTES

As introduced H.R. 7178 applies only selectively to military high level radioactive

wastes. Yet these wastes account for about 90 percent—by volume—of the Nation's accumulation of radioactive material. This amendment recognizes that all wastes in the possession of the Federal Government are, in fact, DOE wastes and applies the provisions of the act equally to all high level radioactive wastes.

The amendment does not expand the NRC's licensing authority and allows the fullest discretion with the military to protect national security information.

GOVERNOR OR STATE LEGISLATURE AMENDMENT

Requiring the Governor and the State Legislature to act jointly to submit a notice of disapproval to Congress regarding a siting decision could be a nearly impossible task for some states. Many state legislatures meet only once a year or once every other year for a short period of time. Given that the state has only 60 days in which to object to a siting decision, the bill should state that either the governor or the state legislature could submit the state's objection. This amendment is supported by the National Governors' Association and the National Conference of State Legislators.

STATE AND TRIBE T&E PAYMENTS

With respect to reimbursement under the final repository title, states are to be given 90 percent and Indian Tribes are to be given 100 percent of the costs incurred for activities including reviewing DOE activities, testing and evaluating such activities, providing information to states, etc. Under the Test & Evaluation title, states and Indian tribes would each be reimbursed only 75 percent for the same activities. This amendment brings the reimbursement levels up to the levels provided for in the permanent repository section.

Since final disposal of high-level radioactive materials is considered a "federal responsibility," and the T&E facility is promoted as helping to achieve that end, there is little justification for requiring a specific state or Indian Tribe to contribute 25 percent of the incurred costs. In effect, that state or Indian Tribe will be required to subsidize all other states and Tribes insofar as T&E activities are concerned.

DELETE T&E FACILITY

This amendment deletes the entire Test and Evaluation title of H.R. 7187. Although many of the premises behind the T&E facility seem sound and logical, its existence will detract from the commitment to establish a deep geological repository program and delete funds for such program. If we accept the premise that the benign disposal of highly radioactive waste in deep geological media is an application of existing technology, then the T&E facility only sidetracks our goal of pursuing that option.

MAKE TEST AND EVALUATION FACILITY DISCRETIONARY

This amendment changes the development of a T&E facility from an obligation to a discretionary act on the part of the Secretary of Energy. The amendment provides that as soon as practicable, the Secretary will determine whether establishing a T&E facility is advisable. Given the limited resources of the program for deep geological repositories and the relatively advanced stage of current site characterization activities in several states, this amendment will allow the Secretary the discretion necessary to conserve resources and pursue the ultimate goal of disposal rather than an intermediate step of pursuing the T&E facility simultaneously.

T&E LICENSING

Under Section 202 of the Energy Reorganization Act of 1974, the Nuclear Regulatory Commission (NRC) is vested with the authority to issue regulations, standards, and licenses for sites holding high-level radioactive wastes. This amendment extends the requirement of licensing to the T&E facility as it was previously extended to include both civilian and military repositories.

T&E COLOCATION WITH PERMANENT REPOSITORY

This amendment prohibits the co-location of the T&E facility and a final repository. Because final repositories need to obtain NRC construction licenses and licenses to possess, hold or transport high-level radioactive wastes, but T&E facilities are not burdened by either requirement, it would be inappropriate to allow the co-location of licensed and unlicensed activities.

LICENSING T&E RECEIPT, POSSESSION OR USE OF RADIOACTIVE MATERIAL

Under Section 202 of the Energy Reorganization Act of 1974, the Nuclear Regulatory Commission (NRC) is vested with the authority to issue regulations, standards and licenses for the receipt, possession or use of radioactive materials in order to protect the public health and safety. This amendment requires that a license be obtained for such activities at the proposed T&E facility.

DELETE T&E POPULATION LIMIT

The population criteria set out for permanent repositories are inconsistent with an arbitrary population limitation set out for T&E facilities. The same rules should apply to final repositories and the T&E facility. This amendment strikes the population limit from the T&E title of the bill.

ENVIRONMENTAL IMPACT STATEMENT AND JUDICIAL REVIEW

The amendment restores existing law as required by the National Environmental Policy Act (NEPA) which would require an environmental impact statement at this stage of the development of repository candidate sites. Considering the fact that each site characterization activity will cost about $100 million to complete, that kind of expenditure seems to merit a full environmental review as now provided for in NEPA.

GOOD FAITH BARGAINING

This amendment changes the language relating to the bargaining between state and DOE officials concerning the contract for support of state activities within regard to the siting of a T&E facility within its borders. The amendment requires negotiations to develop a written agreement or to inform Congressional Committees why such agreement has not been completed. The inclusion of this provision will avoid the difficulties presently occurring between DOE and repository states regarding the access to information and allegations of bad faith.

SCHEDULE OF TARGETS

As drawn H.R. 7187 obligates the Secretary of Energy to recommend candidate sites for a permanent repository on a predetermined schedule. The amendment would change that obligation to a goal. The schedule would require the nomination and selection process to coincide with the political primary schedule in potential repository states. The goal of selecting a final repository is a national priority and should not be affected by the political process.●

DESTRUCTIVE TREND IN OUR EDUCATIONAL SYSTEM

HON. DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. AKAKA. Mr. Speaker, in May 1982, the National Academies of Sciences and Engineering held a national convocation to consider the state of precollege education in mathematics and science in the United States. The report of that convocation is now available; its findings are indeed disturbing. I call on my colleagues to obtain a copy of the report "Science and Mathematics in the Schools: Report of a Convocation" published by the National Academies of Science and Engineering.

One of the major objectives of this convocation was to focus public attention on the 20-year erosion of mathematics and science education in the United States. The importance of this issue to the future of our Nation cannot be overstated, for it has become increasingly clear that we are in the process of raising a generation of Americans who lack the education to participate in the world of technology. The sad fact is that we are in the process of raising a generation of people who are technologically illiterate.

The findings of this convocation should be enough to generate a very real concern among our Nation's leaders, for our Nation is only as strong and capable as her people are educated and competent. This is especially true in the field of high technology—a body of knowledge which is critically important to all nations in the 20th century. According to the convocation report, there is evidence that the condition of precollege science and mathematics is not healthy; some of this evidence is quantitative while some is qualitative. Scholastic aptitude test scores have declined; the number of students taking math and science courses has declined; a decline in the level of interest in math and science bears witness to a profound weakness in the teaching of science and mathematics in our schools.

What we are doing in this country is very simple: We are laying the groundwork for the collapse of American technology and expertise in the years to come.

I urge my colleagues to study carefully the recent report put out by the National Academies of Sciences and Engineering. And then, I urge my colleagues to join hands in an effort to reverse this destructive trend in our educational system.

I ask that comments from speakers at the May convocation be inserted in

the RECORD immediately following my remarks.●

THE TRUE FACTS ABOUT THE BROYHILL SUBSTITUTE

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. BROYHILL. Mr. Speaker, today I am inserting material in the CONGRESSIONAL RECORD to correct certain inaccurate and misleading statements which have been made about the substitute which I intend to offer for the Luken-Lee amendment to H.R. 6995, the FTC Authorization Act of 1982.

A recent "Dear Colleague" referred to the position taken by the administration in a letter from Dave Stockman on the Broyhill substitute without affording Members an opportunity to read the entire letter.

In order that my colleagues have the true facts on the Broyhill substitute, I am inserting in the CONGRESSIONAL RECORD the complete text of the letter from Dave Stockman, Director of the Office of Management and Budget, indicating the administration's support for the Broyhill substitute.

I am also inserting in the RECORD a letter which I have received today from Vice President Bush in support of the Broyhill substitute to the Luken-Lee amendment.

I urge my colleagues to support the Broyhill substitute when it is considered on the House floor.

The material follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 21, 1982.

Hon. JAMES T. BROYHILL,
House of Representatives,
Washington, D.C.

DEAR JIM: The President has asked me to respond to your letter of September 16, 1982, requesting the Administration's position on your amendment to H.R. 6995, the Federal Trade Commission Authorization Act of 1982.

Our understanding is that your amendment would substantially restrict the FTC's jurisdiction over certain state-licensed professionals, while preserving FTC authority over anticompetitive agreements among professionals. In particular, the amendment prohibits the FTC from using its authority under Sections 5 or 18 of the Federal Trade Commission Act to prohibit unfair acts or practices engaged in by professionals in a particular state, if this will result in the invalidation, in whole or in part, of any law of the state establishing training, education, or experience requirements for the licensure of professionals, or the tasks or duties which may be performed by professionals. This prohibition will not apply if the Commission finds that the law in question authorizes or prescribes commercial or business acts or practices and adversely affects or is likely to adversely affect competition. A Commission finding in this regard will have to take into account the benefits to public health, safety, and welfare of the state law in question. In addition, the FTC will be prohibited from finding a method of competition to be unfair under its antitrust authority where the method of competition is prescribed by a state according to the State Action Doctrine.

The Administration supports this compromise amendment. We believe it strikes a reasonable balance between total elimination of FTC jurisdiction over business practices of professionals—even practices found to be deceptive or anticompetitive—and current law, which contains no restrictions on the FTC's authority regarding the professions.

Your compromise would be consistent with the Administration's policies of assuring vigorous market competition while eliminating Federal intrusion into matters best reserved to the states.

The Administration appreciates the opportunity to comment on your amendment.

Sincerely,

DAVID A. STOCKMAN,
Director.

THE VICE PRESIDENT,
Washington, September 27, 1982.

Hon. JAMES T. BROYHILL,
U.S. House of Representatives,
Washington, D.C.

DEAR JIM: I am writing to reaffirm and reemphasize the Administration's support of your compromise "professions" amendment to the Federal Trade Commission Authorization Act, H.R. 6995.

Your amendment strikes a sound balance between legitimate state interests and enforcement of federal antitrust and consumer protection laws. Moreover, your amendment, if enacted, would constitute an important step in our program of regulatory relief to assure fully competitive markets. Finally, your amendment represents sound public policy and is consistent with the philosophy of this Administration to treat all Americans equally under the law.

Best regards.

Sincerely,

GEORGE BUSH.●

THE NEED FOR ARMS CONTROL

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Ms. OAKAR. Mr. Speaker, as I have said many times, we not only need a nuclear freeze, but an arms freeze. Our country is known as the arms merchant of the world. We must bear responsibility when innocent people are victimized through the use of American weapons. When will this Congress and the President have the moral courage to quit exploiting these countries and say that we as a superpower stand for peace. No more arms. The following article by Evans and Novak illustrates the "catch 22" situation in which we have placed ourselves. This absurd policy surely does not enhance peace, but only encourages violence.

AND ANOTHER ROUND OF ARMS FOR EVERYBODY

(By Rowland Evans and Robert Novak)

Unwilling to punish Israel, President Reagan is turning toward fatter arms deliveries to pro-American Arab states as proof of evenhandedness in the Mideast and as a restraint against future Israeli adventures.

The move is certain to provoke Israel and likely to encounter resistance in Congress, but Reagan has no other options. Otherwise, Arab countries such as Egypt, Jordan and the Persian Gulf states will conclude that American impotence in curbing Israel's bloody Lebanon operations puts the U.S. in Israel's hip pocket.

The first signal of the post-Lebanon policy switch is the decision to give the tiny Gulf state of Bahrain its own air force. Jordan will soon be ticketed for new aircraft and a mobile air defense system. In Egypt, President Hosni Mubarak privately warns the United States that some measure of arms balance in the Middle East is essential to prevent new runaway military operations by Israel (described to intimates by Reagan as "David" transformed into "Goliath").

The turn to bigger arms shipments for the Arabs is dictated by the president's refusal even to consider punitive measures against Israel. Reagan has ruled out any administration support for cutting the nearly $3 billion in annual economic and military aid to Israel. White House insiders angrily deny published reports that Reagan wants to maneuver Begin out of office.

Thus, the only remaining way to signal U.S. support to Washington's Arab allies lies in building up their puny military establishments. That neatly fits Pentagon strategic thinking going back to the early Persian Gulf crisis following the Islamic revolution in Iran. The Defense Intelligence Agency has warned for months that anti-U.S. sentiment born out of the Palestinian issue threatens to wreck the Rapid Deployment Force; more arms for Arabs could soften that mood.

Policy-makers agree that an overt crackdown on Begin would better convince the Arabs that the United States is a reliable mediator between Israel and the Arabs. But with that ruled out, one high official asked us, "What else is left but military aid?"

The $180 million cash-and-carry arms package for Bahrain, which went to a skeptical Congress last Friday, will be followed by a larger arms package for Jordan. King Hussein is ready to accept the Reagan Palestinian peace plan if other Arab states agree and if Begin can be talked out of his outright rejection.

The most important arms aid under Pentagon study is destined for Egypt, the only Arab country that has signed a peace treaty with Israel. The Lebanon crisis dangerously undermined Mubarak, forcing him to withdraw his ambassador to Tel Aviv. Last week, nearly 200 right-wing Moslem extremists were arrested and jailed for plotting Mubarak's overthrow as an American ally and an Israeli treaty partner.

Visiting Cairo early this month, Defense Secretary Caspar Weinberger got an earful from Mubarak and Defense Minister Abu Ghazala. He was told Egypt's military needs must be met, both to compensate for Israel's awesome might and to strengthen Egypt's role as protector of Somalia and the Sudan against Soviet-backed Ethiopia and Libya.

The question now is whether pre-election congressional sentiment for Israel, remarkably intact despite the Beirut massacre, will

remain that way in the new Congress. Sen. Robert Kasten, the conservative Republican chairman of the Senate Appropriations subcommittee on foreign aid, was ready last week to add $425 million to Reagan's Israeli aid request. One reason: the prospect of higher Arab arms sales.

Kasten was supported by at least five of the subcommittee's nine members. State Department officials, belatedly learning details of the bill, intervened. Headlines trumpeting a half-billion-dollar aid increase for Israel but no increase for Arab states, they suggested, would seem a reward for Israel at a time when the president was begging Begin to behave. Kasten agreed to delay the vote.

Aid for Israel therefore will stay at current levels for now. But the portent of Kasten's aborted move was clear: the new plan to increase Arab arms aid may prove yet again the intractability of the Middle East for an American president.●

HUMAN RIGHTS SHOULD BE TOPIC OF SHULTZ/GROMYKO TALKS

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mrs. HECKLER. Mr. Speaker, today U.S. Secretary of State George Shultz is meeting for the first time with his Soviet counterpart, Foreign Minister Andrei Gromyko. Yesterday, I sent a telegram to Secretary Shultz, urging him to discuss the plight of Soviet Jews and other minorities during this meeting.

Throughout my years in Congress, I have spoken out for the rights of Jews and other oppressed minorities in the Soviet Union. Today, there is special urgency, because emigration totals for Soviet Jews have declined from 51,320 in 1979 to 9,447 in 1981. Through August 1982 emigration totals are only slightly more than 2,000. Those denied permission to emigrate, the refuseniks, are harassed and subjected to persecution for their actions.

We cannot give up on these people, whose only crime is seeking freedom. We must redouble our efforts here in Congress and constantly urge administration officials to maintain pressure on the Soviet Union to live up to its responsibilities under the Helsinki Accords.

Following is the text of my message to Secretary Shultz:

Hon. GEORGE SHULTZ,
Secretary of State,
Washington, D.C.

MR. SECRETARY: In your meeting with Soviet Foreign Minister Gromyko on Tuesday, I respectfully urge you to raise the issue of continuing Soviet violations of human rights of Jews and other minorities. As a signatory of the Helsinki Final Act, the Soviet Union pledged to honor religious, cultural, and emigration rights. Yet levels of harassment and persecution have increased dramatically in recent years, while emigration totals for June, 1982 reflect a 95% decrease from the same month in 1979.

Particularly deplorable examples of unfair treatment include "Refusenik" Ida Nudel, who was banished to Siberia for four years for seeking to emigrate. She has now been threatened with arrest and exile if she returns to her home in Moscow. Prisoner of Conscience Anatoly Shcharansky is currently serving a 13-year prison sentence for actively upholding the requirements of the Helsinki Accords by working for human rights. His family has had no word of his condition since January.

We must maintain pressure on the Soviet Union for the sake of these people and thousands like them.

MARGARET M. HECKLER,
Member of Congress.●

THE TRAGIC SITUATION IN LEBANON

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. DOUGHERTY. Mr. Speaker, I am deeply saddened and gravely concerned over the continuing tragedy in the Middle East. It is with a sense of urgency and a sense of inadequacy that I see the possibility of peace slipping from our grasp and the possibility of greater tragedy rapidly approaching like a chilling wind of winter. What has happened to sound judgment; a sense of decency; a sense of fairness; a recognition of fact over emotion; a moment of opportunity gained and then lost? I feel compelled to publicly state my views on the tragic situation in Lebanon.

I have visited Egypt and Israel twice since going to Congress—first in the summer of 1979 and again in July of last year. I have stood on the Golan Heights and looked down on the Syrian town of Kunetra; I have stood on the mountain tops in Judea and Samaria and looked down into the Valley of the Jordan River and back to the invasion route from Amman through Jericho to Jerusalem; I have diven along the Lebanese border in Metulla and stood at the observation post and watched as the PLO fired artillery shells on a Lebanese Christian village; I have been to Etzion in the Sinai and the new Israeli airbases in the Negev; and I have walked the streets of Jerusalem—both the new city and the old city.

During these travels, I have spoken with Prime Minister Begin, Shimon Peres, Abba Eban, President Mubarak of Egypt, Ambassador Lewis, the U.S. Consul in Jerusalem, officers of the Israeli defense forces, Major Saad Haddad of the Lebanese Christian forces and many others.

I have in the past stated publicly my support for the recognition, by the United States, of Jerusalem as the Capital of Israel; my support for the bombing of the Iraqi reactor; and other activities by the Israeli Government. I supported the Israeli move into Lebanon and expressed publicly my reservations about the Reagan Middle East Initiative, particularly as it related to the role that Jordan would play and the future of Jerusalem. Recently, I hosted a meeting between leaders of Jewish organizations in Philadelphia and Vice President Bush to further discuss the President's proposals.

Perhaps, I am viewed as being too pro-Israel. But the fact of the matter is that someone, with some degree of experience and commonsense, must address this onslaught in the media of reporting which, at best, is devastatingly unprofessional and at worst, outright bigotry.

In all honesty, I must also be said, that certain actions by the Begin government have made this task much more difficult.

Let me, if I may, try and crystallize some basic and key points that are necessary, I believe, to an understanding of this tragedy. These points are so simple that one would think that they need not be stated—and yet stated they must be, because the simple truth has been buried in an avalanche of emotion and political opportunism.

The Israeli move into Lebanon was necessary for the security of Israel and for the well-being of the Lebanese people.

Lebanon was and is an occupied country, occupied first by the PLO and then by the Syrians.

Lebanon has had a history of bloodshed between Christians and Moslems dating back many years, and has regrettably seen years of civil war.

Lebanese and Palestinians are not one people.

During the attack on Beirut, we were subjected to reports of overwhelming numbers of civilian casualties. Who was the source of the numbers of casualties? In many instances it was Syria and/or the PLO. Are we so naive as to believe that their reports would be any more honest than the reports made by North Vietnam during our attacks on Hanoi and other targets?

Did alleged casualty figures in Sidon and Tyre actually prove correct when an opportunity existed to factually evaluate the matter? We don't know—because that is not news. Have you ever heard CBS say, "We made a mistake last night. We reported that so-and-so said something, but in fact they did not say that at all."

Who really is responsible for the death of innocent civilians—the forces that put gun emplacements and ammunition dumps in the basements of civilian dwellings and force the inhabitants to stay there, or the pilot who drops the bomb needed to destroy the gun emplacement and ammunition

dump in order to save lives and end the conflict?

Aggressors and terrorists throughout history have used civilians as instruments in their aggression. But nowhere on "Nightline" or "CBS Evening News" did I see in-depth report of these activities of the PLO which, de facto, caused the death of innocent civilians. Only pictures of Israeli fighter aircraft and PLO casualty reports.

In this most recent incident, the senseless slaughter of refugees, we find, once again, emotion overwhelming objectivity; reaction rather than response; blindness rather than reason. Make no mistake—the wanton slaughter of innocent human beings is an indictment of all humanity. Let us try and put into perspective this human tragedy despite the perceptions created by the media in its rush to be the first bearer of the news.

The Israeli Army is a professional army in the finest sense of the word and not given to the slaughter of civilians. The units were not haggard and suffering from combat fatigue like some American units were in Vietnam. And yet we heard on the evening news that the attackers included "Israeli commandos" and that the Christian units were commanded by "Israeli officers." Is that reasonable to believe? Can that be factually proven? The answer to both questions is, "No." And yet, our networks saw fit to create that perception. Somewhere along the circuit, the point that was never emphasized was that the Palestinians were killed by Christian soldiers, not Israelis.

We are told that Israelis fired flares, which facilitated the killings. Is is possible that at night, with firing taking place, the Israelis were concerned as to whether or not they might be under attack? Have you ever been out in the countryside in pitch darkness and heard noises and wondered what was going on and where? Did the slaughter actually take 3 days or was it done in one night? We really do not know and will not know until the matter is fully investigated. Were the Christians fired on from the camps, and if so, where did the refugees get the guns? Is it inconceivable to believe that the PLO could have initiated the firings on the Christians hoping for an incident to further isolate the Christians and the Israelis? We don't know—but the media has exercised its judgment by creating in the public conscience the perception that the Israehis were responsible for this slaughter.

This same media saw fit to advance the idea that the Israelis were responsible for the assassination of President-elect Gemayel of Lebanon. I find it impossible to believe anything transmitted over the airwaves without challenge. On cable news, former Senator Abourezk went unchallenged when he stated that since the party headquarters bombed were in territory controlled by the Israelis, the only ones who could have murdered Gemayel were Israelis. How ridiculous—and yet how much a part of the pattern of perception that the American public is receiving every evening. And then, to see Yasir Arafat on the news crying over the TV shots of victims from his headquarters in Damascus, Saying, "It is unbelievable that this could happen in this Century." And yet no comment by the networks, no hesitation about broadcasting that shot, nobody remembering that this same man was the butcher of Munich.

Israel won a great military victory and now faces an even greater political defeat. For those of us who care about Israel, it is time that we recognize the forces that are against us and use our resources to meet this onslaught. The Government of Israel must recognize the reality of this situation and respond—rather than react—to the attacks being made.

The fact that the President of Israel, rather than the Prime Minister, called for an immediate investigation of the refugee incident does not do justice to the position of Israel. The emotional reaction of the Prime Minister, however justified, does not provide Israel the same political position that a reasoned, controlled, objective response would have. By these comments, I mean in no way to be critical of Prime Minister Begin. I do not believe that it is proper for any American political leader in any way to become involved in the internal politics of another country.

We are at a most serious, sensitive and uncertain time in the life of Israel. It is most important that we reaffirm our behief that the future of Israel and the future of America are as one. We need each other. We can never allow the cause of Israeh to become solehy the cause of the Jewish American commujity. It is time to reaffirm the truth; to call for objectivity and fairness in reporting; to return to reason. It is most important to replace rash, pubhic words, with quiet, private actions.●

CHINA SHOWS FOLLY OF U.S. EDUCATION POLICY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. SIMON. Mr. Speaker, we can learn from others.

Our friends in China offer an example of why the present policy of deemphasizing education is a policy of folly.

The Congressional Research Service has put together a paper titled, "United States Supply and Demand of Scientists and Engineers: Effects on Defense Research and Technology."

It is edited by Edith F. Cooper.

The paper is worth reading, but particularly the few paragraphs about China which I am inserting in the RECORD:

B. CHINA

Information about college graduates in science and engineering in the People's Republic of China (PRC) is not available, according to spokesmen at the PRC Embasssy. It is known, however, that China has been a technologically underdeveloped country and has only recently begun to develop a technological capability. Edward Teller, a physicist and senior research fellow at the Hoover Institute, has discussed that the historical roots of China's underdeveloped status go back many centuries. The Chinese civilization was the first to make substantial progress in technology—"it developed printing, gunpowder, and rockets;" . . . revolutionized European agriculture by inventing "a harness designed so that horses could draw plows;" it also "developed the magnetic compass for navigation. Five hundred years ago," Teller states, "China was on its way to explore and enrich the world. Then a change occured." In 1448, an imperial edict declared that China, the technological leader of that time, would "concentrate on traditional subjects—Confusion philosophy, calligraphy, and ceramics." As a result, "four hundred years later, when the West made contact, China had turned into a technologically underdeveloped country." Teller defines this situation as the "China Syndrome"—"the event begins with a rejection of science and technology; the effects are that the standard of living for the average man deteriorates and the nation becomes defenseless." He believes that the United States is experiencing this syndrome.

In addition, Paul D. Hurd, Professor emeritus in the School of Education at Stanford University in his as yet unpublished study, "Science Education in the People's Republic of China," reports that during the period of the Chinese Cultural Revolution, 1966-1976, an "anti-intellectual" system of belief existed. In order to "restore educational and scientific vigor," he states, "new educational and science policies were announced in late 1977 and in 1978. The new policies called for rapid developments in scientific research, technology, and industrialization and a national reformulation of school and college science curricula that will make them supportive of national interest." Dr Hurd also notes that the Chinese Constitution was rewritten and adopted, in 1978, to include policies concerning scientific education. Articles 12 and 13 in the constitution declares specifically:

Article 12: The state devotes major efforts to developing science, expands scientific research, promotes technical innovation and technical revolution and adopts advanced techniques whenever possible in all departments of the national economy. . . .

Article 13: The state devotes major efforts to developing education in order to raise the cultural and scientific level of the whole nation. . . .●

THE TRUE FACTS ABOUT THE BROYHILL SUBSTITUTE

HON. JAMES T. BROYHILL
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. BROYHILL. Mr. Speaker, recently, several inaccurate and misleading "Dear Colleagues" have been circulated about the substitute which I intend to offer for the Luken-Lee amendment to H.R. 6995, the FTC Authorization Act of 1982.

In order to set the record straight, I am inserting a series of remarks in the CONGRESSIONAL RECORD to correct these inaccurate statements and to see that my colleagues have the true facts on the Broyhill substitute.

The statement has been made that the Broyhill substitute "would give the Federal Trade Commission its largest expansion of regulatory authority since the Magnuson-Moss Warranty Act of 1975."

Here are the true facts:

The substitute does not expand the FTC's regulatory authority over professionals. The U.S. Supreme Court has long since held that professionals are subject to the antitrust laws, *Goldfarb* v. *Virginia State Bar,* 421 U.S. 773 (1975), and there is no question that as individuals they are subject to the consumer protection laws. There are currently no statutory restrictions on the Commission's authority in this area. To eliminate this potential for abuse, the substitute imposes strict limits on the Commission when it intrudes into the State regulation of professionals.

The substitute actually puts professionals in a better position than they are presently in. Not only does it set out legal boundaries for the FTC, but it also will clarify its role to the benefit of those subject to the FTC's jurisdiction.

Second, the statement has been made that the Broyhill substitute would "enable the Commission to override and invalidate State laws, thereby legitimizing a power the agency has simply assumed up to now."

Here are the true facts:

The substitute does not give the Commission new authority to preempt State laws. It is precisely because the FTC has the broad ability, as determined by the courts, to preempt conflicting State laws that I have fashioned a substitute which substantially restricts the preemptive authority of the FTC.

It is firmly established in a case law that FTC regulations may supersede State statutes and regulations. *Katherine Gibbs School* v. *FTC,* 612 F.2d 658 (1979). To avoid overreaching by the Commission, the substitute precludes the Commission from second guessing State judgments on licensing, education and quality of care issues. This preserves the traditional role of the States in regulating professionals.

Specific findings must be made by the Commission prior to proceeding pursuant to its consumer protection authority under the substitute. it must be shown that a professional commercial or business practice which is anticompetitive is at issue. The interest of the State in protecting the quality of care must be carefully weighed in the Commission's decision to proceed. To insure consideration of the State's concerns, the substitute guarantees State participation in the FTC's proceeding.

Under the Luken-Lee amendment the FTC would be powerless to halt illegal, unfair, deceptive or anticompetitive activities. The argument that the professions under the exemption are still subject to Justice Department and State enforcement is without merit.

The National Association of Attorneys General, of which the attorney general of North Carolina is a member, adopted a resolution in opposition to the Luken-Lee amendment in part because the FTC is uniquely equipped and has developed an expertise in evaluating anticompetitive activities of professionals. Moreover, the Justice Department has no authority to enforce the consumer protection laws and their antitrust jurisdiction is narrower in scope than that of the FTC.

Given the letter from the attorney general of North Carolina being circulated by the proponents of the Luken-Lee amendment, I have attached a copy of the association's resolution opposing the Luken-Lee amendment for the review of all Members.

I urge your support for the Broyhill substitute when it is considered on the House Floor.

RESOLUTION CONCERNING S. 2499 AND H.R. 3722

Whereas the Congress of the United States is considering legislation, S. 2499 and H.R. 3722, which would reauthorize the Federal Trade Commission but would remove the professions from antitrust and consumer protection scrutiny by the Commission; and

Whereas the antitrust laws establish a regime of competition as the fundamental principle governing commerce in this country; and

Whereas the Supreme Court of the United States has previously ruled that the professions, in ordering their business affairs, are subject to the rule of competition embodied in the antitrust and consumer protection laws, like other trades and occupations; and

Whereas the Commission is uniquely equipped to evaluate the activities of professionals and their associations for potential anticompetitive effects and potential unfair or deceptive acts or practices and has developed great expertise in doing so; and

Whereas, removal of the Commission's authority to scrutinize such activities would severely hinder efforts to inject competition into the professions and reduce costs: Now, therefore, be it

Resolved that the National Association of Attorneys General:

1. Opposes the enactment of any limitations on the ability of the Commission to enforce the Federal Trade Commission Act with respect to the professions, particularly S. 2499 and H.R. 3722; and

2. Authorizes the General Counsel to communicate the views of this Association to the United States Congress and the appropriate members of the Administration.●

CONGRESSIONAL VIGIL FOR SOVIET JEWRY

HON. BRIAN J. DONNELLY
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. DONNELLY. Mr. Speaker, I am honored to participate today in the congressional vigil for Soviet Jewry. This morning a troubling news account caught my eye. Ida Milgrom, the mother of imprisoned dissident Anatoly Shcharansky, has informed Western reporters that her son is engaged in a hunger strike to protest his desperate situation. It is indeed tragic that Shcharansky has become so disheartened by his brutal imprisonment that he is moved to undertake a hunger strike. The Soviets have not succeeded in breaking this brave man's spirit, although they have resorted to cowardly sanctions against him and his family. Shcharansky was placed into solitary confinement last year. His health has suffered greatly because of the inhuman prison conditions the Soviet authorities have subjected him to.

I call upon the Soviet authorities to release Anatoly Shcharansky from unjust imprisonment, and permit he and his family to leave the Soviet Union. The continued imprisonment of this Prisoner of Conscience demonstrates how terrified the Soviet Government is of legitimate dissent and independent thought. The international community must voice its outrage at the mistreatment of Shcharansky, and renew its call for his immediate release from Soviet prison.●

H.R. 6046—A STEP BACKWARD

HON. STAN LUNDINE
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. LUNDINE. Mr. Speaker, it has recently been brought to my attention that H.R. 6046, the Extradition Reform Act of 1982, may soon be scheduled for floor consideration. While I respect the intent of this legislation, to facilitate the surrender of terrorists, I strongly believe that H.R.

6046 proposes to accomplish this goal through the subordination of another national goal: Our longstanding tradition of providing refuge to political opponents of authoritarian regimes. In its present form, H.R. 6046 is so overbroad that its passage would surely result in grave repercussions for those individuals who have sought refuge within the United States from the tyrannical regime they have been forced to abandon.

Several of the most abhorrent provisions in this legislation include: The erosion of judicial review, and the expansion of executive power; the elimination of constitutional recourse through habeas corpus for U.S. citizens and foreigners alike; the prevention of courts from examining evidence of extenuating circumstances surrounding the charges lodged against the accused; and the inadmissability of evidence demonstrating that the requesting regime has inhumane, or unjust, methods of interrogation, trial, and punishment. Moreover, H.R. 6046 stipulates that the U.S. Attorney General must provide legal representation for foreign governments submitting extradition requests.

I am certain that my colleagues will agree that further consideration of this proposal is essential to the passage of a fair and reasonable act. I urge that in the haste to complete congressional business, we do not neglect our responsibility to the American people by prematurely scheduling this bill for floor consideration. It is imperative that we carefully consider all of the issues involved prior to any decision. Mr. Speaker, I remain emphatically opposed to the present version of this legislation. I believe that after careful consideration, the majority of my colleagues will join in my dissent.●

CUTTING WASTE

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. EDGAR. Mr. Speaker, I would like to bring to the attention of the Members some recent editorials from various parts of the country which argue for cutting funding for the Tennessee-Tombigbee navigation project in Mississippi and Alabama. Opinions expressed in Norman, Okla.; Tucson, Ariz.; and Gulfport, Miss., all condemn this wasteful and enormously expensive project. I have joined 17 of my collealgues in a letter to the leadership asking that a vote on energy and water appropriations and controversial projects like Tenn-Tom and the Clinch River breeder reactor be scheduled for this week. I believe that our constituents have a right to know where we stand on these projects before we return home for the election break.

The editorials follow:

[From the Norman Transcript, Sept. 23, 1982]

CUTTING WASTE

The exercise in fiscal restraint we've witnessed at the federal level over the past two years has been uneven where political considerations have intruded. At times this has worked for the good of a great many people or even the nation as a whole. However, there have been some glaring exceptions to the congressional concern about spending which serve no discernible purpose other than the security of a few political careers. Two such spending items that appear to have no equals are the multi-billion-dollar Tennessee Tombigbee (Tenn-Tom) Waterway and Clinch River Breeder Reactor projects.

Congress had an opportunity a year ago to end both of these projects and literally save billions over the next few years, but they both survived by narrow margins in the House. House members will have another opportunity to eliminate these high-priced pork barrels within the next few weeks. Because Congress is behind schedule on all major budget items, however, there is little time for much public debate on the projects. In fact, there is a possibility that the Tenn-Tom spending will be included in a continuing resolution, rather than considered separately.

That, of course, would be to the liking of the waterway's proponents. The most influential proponent is Republican majority leader, Sen. Howard Baker of Tennessee, in whose state both of these projects are located. The Reagan administration went to bat for the projects last year. With growing budget pressures this year, however, opponents have new hope for ending this waste.

Tenn-Tom is a 450-mile waterway project that would link the coal region of southern Tennessee with the port of Mobile on the Gulf of Mexico. It is known by opponents as "a clone of the Mississippi River." Government studies have shown that the project would carry only negligible amounts of coal because of competition from barge shippers on the Mississippi and from railroads. It is not cost-effective and could not survive in the free market. Yet Congress is considering sinking another $189 million into the project this year. The probable cost is $4 billion and, since the project is only about 25 percent complete, about $3 billion could be saved by ending it now.

The Clinch River Breeder Reactor debate turns on the issues of safety and nuclear proliferation, as well as waste. The Department of Energy's own research advisory board has recommended delaying this $3-billion-plus project. But here, as with Tenn-Tom, narrow political considerations have worked to defeat the best advice.

[From the Arizona Daily Star, Sept. 18, 1982]

DIE, MONSTER, DIE

The Blob cometh. Its nasty, ugly billion-dollar mass is oozing, bubbling, rolling toward the Gulf of Mexico, devouring land and dollars.

The Blob is the Tennessee-Tombigbee Waterway Project.

Congress could save the nation from this horrible monster. By commanding the death of The Blob, Congress would also save you, dear taxpayer, more than $3 billion, $189 million next year alone. Nobody but a handful of politicians would miss The Blob.

Never in history has so much federal money been pledged to the benefit of so few as it has for the Tenn-Tom Blob. The 450-mile-long system of dams, locks and channels is supposed to make the Tombigbee River navigable from the Tennessee River to the Gulf of Mexico at Mobile, Ala.

The waterway won't generate any electric power and it won't protect anyone from floods.

The Blob will carry coal and other selected goods from Tennessee to the export docks at Mobile. That's all. To finish it, the Corps of Engineers plans to move more earth than was necessary to build the Panama Canal.

Blob boosters say it will be a cheaper way to move freight than barging it down the Mississippi River or shipping it by rail. Mississippi barge operators, the railroads and even some of the Tennessee coal mines take exception to the claim that The Blob will be cheaper. Not even the friendliest analysts says that the Tenn-Tom Blob will make enough money to keep it operating, let alone repay federal taxpayers for its construction.

President Reagan said last year that those who own the Tenn-Tom Blob should charge tolls to help repay the federal cost. If they do, most shippers will likely shun The Blob.

Not even the worst corporate management would invest in such a bum venture.

Sen. Howard Baker, Tennessee Republican and Senate majority leader, would be aggravated if Reagan were to oppose his pet monster. Baker sees The Blob as a boon for Tennessee, creating lots of temporary employment—at least enough to win him some votes. There are more Blob lovers in the congressional delegations of Mississippi and Alabama.

In 1960 the Corps of Engineers said it would cost $323 million to build Tenn-Tom. So far, the corps has spent $1.2 billion and the wateway is only one-fourth complete—from Demopolis, Ala., where the Tombigbee naturally widens, northwest to Columbus, Miss. The corps has brought up more than 84,000 acres of bottomland wildlife habitat and 19,000 acres of rich farmland. The monster requires huge tracts of land to satisfy its appetite.

The appropriation for the Tenn-Tom Blob is tied up in a bundle with appropriation for other water projects, like the Central Arizona Project. But the House Energy and Water Development Appropriations Subcommittee appears to be sitting on the appropriations bill until the last minute before the Nov. 2 general elections. Then it might move to push it through without incisive debate.

It's true that $189 million isn't much money, not compared to a $100 billion national debt next year. But the Tenn-Tom Waterway is a pork barrel monster. It must die.

[From the Gulfport (Miss.) Daily Herald; Sept. 12, 1982]

DISMANTLE THE TENN-TOM AND ELIMINATE UNEMPLOYMENT

(By Robert McHugh)

The lounge that constitutes the 19th hole at the Broadwater Beach Hotel's Sea Course is a pleasant watering hole where folks along the Coast congregate from time to time to discuss public affairs after an afternoon of digging divots and missing three-foot putts.

The wisdom one can collect there is infinite, if somewhat faulty. If Ronald Reagan dropped in on an off afternoon, he would find more than one potential statesman ready to tell him how to run the country.

Newspaper editors, for example, are offered in that agreeable retreat more instruction than they need in the proper practice of their trade.

On a few occasions, I have been bold enough to express opinions from this platform that deviated from accepted notions to the extent that I earned the sobriquet "The Communist." I suppose that is because I voiced opinions that could be described as left of Barry Goldwater or I was un-Mississippian enough to acknowledge that the North won the Civil War. Pardon me, I mean the War Between the States.

I have also advanced the idea that the Tennessee/Tombigbee Waterway, a useless scar on the soil of the South, is a monumental waste of public money.

Today, "The Communist" strikes again. I don't care how many temporary jobs it will create up around Corinth, this canal is one of the biggest boondoggles in U.S. history.

Its meager benefits to Mississippi notwithstanding, this 450-mile water-filled ditch represents nothing more than a raid on the national treasury by a group of powerful Southern congressmen. Sen. John Stennis included.

When completed, with its locks and dams, it is supposed to open a new, less costly route for coal barges to the Gulf of Mexico. Many potential users, however, have said more than once that there are too many twists and turns in the canal to accommodate long strings of barges, and the Mississippi River and southeastern railroads are serving their needs adquately.

So what good is it? It has no flood control or hydro-electric power generating benefits.

Let us examine the record. In 1960, the U.S. Army Corps of Engineers said Tenn-Tom, as it is affectionately called, would cost $323 million. Nineteen years later, the cost estimate had somehow grown to $1.8 billion. There are those who now reckon the ultimate cost at up to $4 billion.

The big ditch is now about one-fourth completed, thanks to the power of Southern congressmen. They now claim that the project has gone too far to abandon, despite valid reasons for giving it up advanced by so many. Chief among those reasons is the estimate by independent analysis that, if finished, Tenn-Tom will lose about 77 cents for each dollar that went into its construction.

Being no engineer, I don't know what could be done with the portion of the canal that has been completed if construction were to be stopped. Maybe, however, Mississippi's high unemployment rate could be reduced by hiring people in fill it in.

That probably would not cost as much as the $3 billion or so that would be saved by sending the bull-dozers of the Corps of Engineers some place else where they are needed.

I mention this matter because Senate Majority Leader Howard Baker of Tennessee and congressmen from contiguous states are getting ready to push for another $189 million to continue the project.

It is clever the way they appropriate such small sums of money in piece-meal fashion. But to paraphrase the late Sen. Everett Dirksen, it is 189 million here and 189 million there, and after while it begins to add up.

I say this appropriation should be voted down and there I rest my case.

And if the House Un-Mississippian Activities Committee of the Sea Course Lounge wants to call me to judgment, I will not cravenly take the 5th Amendment. I will instead plead *nolo contendere,* not because my cause is unjust, but because there are some people you just can't argue with.●

H.R. 6046

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. CLAY. Mr. Speaker, I wish to take this opportunity to advise the House leadership of my stringent opposition to the Extradition Act of 1982, H.R. 6046.

One of our country's greatest strengths lies in our Government's commitment to uphold and protect the human rights of all individuals. The extradition bill now pending on the House Union Calendar threatens to undermine the integrity of our Nation's most precious doctrine.

Historically, the United States has been a refuge to which opponents of authoritarian governments could flee without fear of being returned to stand trial for political offenses. The extradition bill would end this opportunity and individuals charged with political crimes would be stripped of their legal defenses. Furthermore, enactment of H.R. 6046 would seriously erode our constitutional system of checks and balances. The proposed legislation will expand the powers of the executive branch by granting the Secretary of State sole authority to determine whether an extradition request is politically motivated. At the same time, the authority of the courts would be seriously reduced by prohibiting their review of the extradition demands of foreign governments.

Mr. Speaker, under the existing law, no U.S. court will allow an individual to be extradited if it can be shown that he is really being sought for an "offense of a political character." The current legislative proposal would destroy this valuable defense and the courts would no longer act to insure that no extradition demand is part of a foreign government's effort to suppress political dissent. Our Government must not permit repressive foreign governments to abridge the constitutional and human rights of persons living in our Nation. There is no need to consider a law of this nature. I respectfully urge the leadership of this body to refuse further action on this ill conceived legislative venture and to sanction our Nation's role as a refuge for victims of political oppression.●

LT. GEN. CHARLES C. BLANTON

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. GONZALEZ. Mr. Speaker, I take this opportunity to salute Air Force Lt. Gen. Charles C. Blanton, who will retire effective November 1.

General Blanton exemplifies the best in our military services. He has risen from a second lieutenant, working in an obscure base finance office, to become the Deputy Chief of Staff for Plans and Evaluation. Most of us in the Congress came to know General Blanton through his very able service as director of legislative liaison for the Air Force.

I suppose that most of us got to know General Blanton in the way that I did: There was a problem, and his job was to provide information and get matters ironed out. I never saw General Blanton ruffled, never knew him to be without the facts, never knew him to evade the truth, and never knew him to be anything less than patient, courteous, and eloquent in behalf of his department.

General Blanton spent a great deal of time with me, largely because the Air Force has considerable activity in my congressional district. The problems that we discussed could be as small as the complaint of an employee or enlisted person, or as big as the question of the MX missile or the B-1 bomber program. No matter what the situation was, be it a phone call or a visit with the Secretary, General Blanton either had, or would soon get, the information needed and the action that was appropriate. I never met a liaison man who was better at the job than Chuck Blanton.

General Blanton has held any number of jobs for the Air Force, most often in its finance and administrative operations. He is the kind of staff man who is indispensable to getting a military mission accomplished. Napoleon observed that "an army moves on its stomach" and nothing could be more true than that. What he meant was that no military force, however brave and proud it might be, however superior its arms, could not be effective unless it had staff people who could be certain that everything moved where it had to, when it had to, and that everything required had been bought and paid for. General Blanton is what you might call an officer's officer—the kind of quiet manager who does not gain public fame, perhaps not even much fame within the service—but who makes the service work.

General Blanton has served with exceptional talent and distinction. He is a man who merits the highest kind of praise.

I do not like to see an officer as fine as General Blanton is, come to retirement. It is hard to lose an officer of such skill, integrity, and industry as this. We are fortunate to have had the benefit of his services and skills. I know that he will be a great success in his future endeavors. For the moment, however, let me simply use this means to express my own thanks for his service, and wish him well. General Blanton, I—and I am sure all who know you—salute you.●

REPEAL WITHHOLDING TAX ON INTEREST AND DIVIDENDS

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. STUMP. Mr. Speaker, today I am introducing a bill to repeal the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 which imposed a 10-percent withholding tax on interest and dividends.

One of the most encouraging signs of economic recovery is rising savings rates. Withholding will have several adverse effects on this trend. The saver will obviously lose the use of the withheld income throughout the year. This will also cost an estimated $1 billion in lost tax revenue due to foregone taxable earnings on the withheld funds. More than 50,000 banks, savings and loans, credit unions, mutual funds, securities brokers, insurance companies, and dividend-paying corporations will incur over $1 billion in startup costs plus significant annual operating expenses to implement the withholding system. This only diverts more investment potential from private production to government waste.

The great majority of our citizens properly report and pay taxes on this income. Penalizing all Americans who save and invest, to force compliance by a few, is counter to our efforts of the past 2 years to encourage saving and capital formation in the private sector.

Mr. Speaker, these withholding provisions were a major part of my decision to vote against the tax bill. I do not believe increasing taxes is the proper way to revitalize our economy.

One of the arguments used favoring passage of the tax bill was the importance of revenue-raising provisions to obtain the spending cuts compromise within the first budget resolution. It should now be apparent to everyone that the House is not willing to live up to the spending cuts part of that bargain. The recent override of President Reagan's veto of a budget-busting supplemental appropriation, and passage of a billion dollar Department of Labor supplemental appropriation clearly reveals the majority's true intentions regarding Federal spending. These actions speak much louder than the rhetoric of the born again balanced budget advocates during the tax bill debate.

This being the case, it is unconscionable to increase the tax burden of Americans by withholding tax on interest and dividend income. Therefore, the bill I am introducing would repeal the withholding of tax from interest and dividends immediately.●

IN OPPOSITION TO REPRESENTATIVE WILLIAM J. HUGHES' H.R. 6046, THE EXTRADITION ACT OF 1982

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. MITCHELL of Maryland. Mr. Speaker, I rise to express my concern about H.R. 6046, the Extradition Act of 1982.

Primarily, Congressman HUGHES' measure would allow the brutal dictatorships of South Africa, the Philippines, El Salvador, Taiwan, and other countries to obtain the extradition of political opponents residing in the United States. The violently repressive natures of these regimes have been well documented. For instance, according to the American Civil Liberties Union's "Report on Human Rights in El Salvador," 8,000 civilians were killed by government forces in 1980. The report also accuses paramilitary forces of committing grisly and heinous acts of torture against the El Salvadoran people:

> The brutality involved in the killings of health workers and patients and the accompanying torture suggest that this is a deliberate tactic aimed at striking terror into the hearts of others. Victims had been decapitated, emasculated, or found with the initials "EM" which stands for Esquadron de la Muerte (Death Squad), in their flesh.

My colleague's bill, would allow persons currently protected from extradition by American law: Critics of foreign regimes, former freedom fighters against authoritarian rule, and former officials or regimes the United States once supported, to be arrested and imprisoned solely on the basis of a foreign government's accusation, unsupported by evidence. These individuals would be denied the benefit of judicial review since U.S. courts would not be able to inquire whether or not the request for extradition was really a pretense for persecution. In addition, the defendant would be unable to present evidence to the courts indicating that the request for extradition should be annulled because of the foreign government's past human rights violations. The regime's human rights record would be determined by the Department of State, which is currently sympathetic toward rightwing dictatorships.

Traditionally, the United States has been a haven to the politically repressed. The Extradition Act of 1982 would force the United States to renege on its promise to provide shelter for the persecuted. Furthermore, the passage of this measure would associate the United States with those authoritarian governments which have mongralized and defied political freedoms.

For these and other reasons, I would urge that H.R. 6046, not be scheduled for consideration in the House. However, if it is debated, I intend to support all amendments designed to eliminate the deficiencies within Congressman HUGHES' initiative.●

KNOTTING REGULATORY KNOTS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. DINGELL. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

KNOTTING REGULATORY KNOTS

Concern about overregulation of business by government has become something of a motherhood issue of late, with Democrats and Republicans, liberals and conservatives, all saying that regulation should be reduced. For that reason proposals to "reform" regulating are chugging toward enactment on Capitol Hill; but they are taking a very tortuous course.

Congress is on the verge of enacting legislation that will tie up the regulators in the very same kind of knots the regulators are often charged with tying business into. A "reform" bill has passed the Senate and is now pending in the House.

According to one analysis of the House version, it could impose on virtually all agencies of government a 32-step process for promulgating a regulation.

It increases substantially the power of the Office of Management and Budget over regulation-writing by those agencies. One consequence of that will be reduced public participation in rule-making as the OMB, under all administrations, is a relatively secretive operation.

The pending regulation also puts an even heavier emphasis on cost-benefit analyses in weighing the advisability of possible regulations. While the consequences, both good and bad, of any regulation obviously ought to be weighed before promulgation, too great a reliance on cost-benefit studies could be harmful to the public interest.

In many areas any kind of precise calculation is hard to make. How, for example, in evaluating automobile safety standards does one value human life? In addition, even in areas where such analyses are possible, agencies are often compelled to rely on industry figures of costs, which can be inflated by industry to sabotage a proposed regulation.

Finally, in attempting the kind of omnibus "reform" of regulating that is being pro-

posed, by trying to apply the same standards to diverse federal agencies, Congress may unwittingly prevent agencies from following the mandates given them by Congress in earlier legislation.

The business lobby in Washington is working overtime to see some "regulatory reform" enacted soon. Before bowing to this pressure, the Democratic leadership in the House must ponder the possiblity that such "reform" is, in fact, a back-door way of eviscerating the environmental standards, health protections and consumer safeguards now on the books.●

A TRIBUTE TO CORWIN EMERSON RILEY

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. MOTTL. Mr. Speaker, I take this opportunity to pay tribute to Mr. Corwin Emerson Riley, one of the most successful salesmen in the country. He is the current president of the Kirby Vacuum Cleaner Co. in Cleveland, Ohio.

Corwin Riley has been a distributor for 53 years and has promoted 44 other distributors. He is an inspiration and great motivating force to others in his field and has trained great numbers of salesmen.

Corwin was born in 1907 and spent his childhood in the rural atmosphere of Hinkley, Ohio. He is married to Arlene Riley and is the proud father of three children—Denise, Diann, and Richard, and grandfather of four.

He has a long and impressive record of service to the community as well. During 1928, Corwin was the scoutmaster of the Parma Boy Scout Troop. He served as the president of the North Royalton Chamber of Commerce for 2 years, and president of the Civil Service Commission for 10 years. He was also the campaign chairman of the Cuyahoga County March of Dimes and Police Athletic League. In addition, he was one of the founding fathers of Parma Community Hospital.

Currently, he is a member of the Volunteers of America. He is on the disbursement committee of Blue Coats and is cochairman of the Cuyahoga Police Chiefs Association—Crime Stoppers.

On a personal level, I want Corwin Riley to know how much I have appreciated his friendship. He is truly an inspiration to all who meet and know him. I salute him for a brilliant career fueled by remarkable energy and wish him the best of luck in the future. Cleveland is indeed proud of this exceptional man who has lived in and served the area so well.●

AWAY-FROM-REACTOR (AFR) STORAGE: THE MOST EXPENSIVE OPTION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. MARKEY. Mr. Speaker, an issue of great public concern for the next several decades and beyond is the issue of interim storage of high-level radioactive waste from nuclear powerplants and other sources. Legislation now pending before Congress includes provisions for away-from-reactor (AFR) storage that is sponsored and subsidized by the Federal Government.

I have consistently argued that AFR's are not a viable strategy for dealing with our country's radioactive waste storage problem. The creation of a Federal interim storage site would greatly reduce the incentive for establishing a permanent repository and would greatly increase the near-term risks to the public from the additional transportation and handling of the wastes that AFR's would involve.

But most significantly, a federally sponsored AFR would offer a bailout to nuclear utilities when the technology already exists for them to solve their temporary problems onsite. The most recent innovation in this area is dry cask storage. A memorandum that I received today from the Library of Congress' Congressional Research Service, reveals yet another important advantage of dry cask storage over AFR's, it is at least three times cheaper. I would like to share with my colleagues the following memo:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., September 28, 1982.

To: Subcommittee on Oversight and Special Investigations, House Committee on Interior and Insular Affairs.

From: Carl E. Behrens, Specialist in Energy Policy, Environment and Natural Resources Policy Division.

Subject: Cost estimates of storage of commercial spent fuel.

Several estimates have been made in recent years that may help in evaluating the relative cost of storing spent nuclear fuel in Away-From-Reactor facilities and onsite:

1. A DOE study issued on October 1980,[1] in pursuit of the Carter Administration policy that DOE take title to spent fuel and charge a one-time fee for temporary storage and ultimate disposal, proposed a fee of $137 per kilogram of uranium for storage at a Federal AFR facility until a final repository was operable. (It noted that "much spent fuel will require AFR storage after permanent disposal of spent fuel is available." The cost of that storage was included in the disposal fee, which totaled $234 per kg.) This estimate was based on an AFR facility capable of handling and storing 5,000 metric tonnes U. A copy of this study is attached.

2. A November 1981 study by E. R. Johnson Associates for DOE estimated that dry storage of spent fuel on site in casks would cost approximately $120 per kg.[2] The study reviews a number of dry storage options. Selected pages from this report are attached.

3. TVA has been investigating the potential of a large dry-storage facility for spent fuel. An article in the May 24, 1982, issue of Nuclear Fuel reported that a demonstration facility would cost $210 per kg. and a 1,300-tonne facility would cost $67 per kg. I was unable to reach the source for the Nuclear Fuel article, but the TVA office here in Washington indicated to me that the numbers in the article were probably reliable. A copy of the article is enclosed for your information.

In addition to these attachments, I am enclosing copies of testimony before the Energy and Environment Subcommittee and the Senate Energy Committee by Administration witnesses stating their opposition to Federal AFR facilities.

I hope this information meets your requirements. If you have further questions, please call me at 287-7241.●

[1] U.S. Department of Energy. Department of Energy report on fee for spent nuclear fuel storage and disposal services (DOE/SR-0006 UC-85). October 1980, p. 14.

[2] E. R. Johnson Associates, Inc. A preliminary assessment of alternative dry storage methods for the storage of commercial spent nuclear fuel. U.S. Department of Energy (DOE/ET/47929-1). November 1981. p. 2.

MAINTAINING ACCESS TO EDUCATION

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. GUNDERSON. Mr. Speaker, as representatives of the American people, it is our duty and responsibility to look to the future as we deal with the issues of the Nation.

The very future of the United States is directly dependent upon the quality and scope of education provided for American young people today.

While we cannot bankrupt this country financially, we in Congress must also guard against bankrupting it intellectually by denying access to higher education.

In that regard, this Congress has taken the necessary steps to aid in providing financial assistance to those who are in need, while restoring the programs to their original intent.

Two actions taken by this House in recent weeks indicate the dedication of this Congress to preserving educational opportunities.

With the additional funds provided in the supplemental appropriations bill total student financial aid funding for fiscal year 1982 was increased by $306.2 million over fiscal year 1981. Among other things, the supplemental increased Pell grant funding by $140 million for the 1982-83 academic year,

and student educational opportunity grants by $77 million.

The House also approved the Pell grant family amendments which eliminate the consistent delays in processing applications for students applying for Pell grants.

In the course of our efforts to maintain the integrity of the student financial aid program, I was encouraged to read an account of the major programs in a college newspaper in western Wisconsin. An editorial in a recent issue of the Viterbo College Lumen effectively summarized the various programs and our efforts for its readers.

For the benefit of my colleagues, I have reprinted here the entire editorial:

CONCERNS OVER EDUCATION FUNDING

There has been much concern lately on the governmental education funds. There is a growing fear that cuts in these funds will jeapordize student's chances of going to, and continuing in higher education.

It is true that student financial assistance programs have undergone considerable change in the past two years. There have been some reductions. Most of the changes, however, reflect an effort to return the aid programs to their original purpose, which was to help students cover the cost of a college education—not to carry the whole burden. A successful return to original intent will help ensure the survival of these aid programs for future students.

The Pell Grant Program is one of the best known of the federal student aid programs. Formerly called the Basic Educational Opportunity Grant, Pell is often the first source of aid in a package which may be composed of other federal and non-federal sources. In the 1982-83 school year, 2.55 million students share $2,279,040,000 in Pell Grants.

The Supplemental Educational Opportunity Grant provides another mechanism for making awards to students. SEOG is different from the Pell Grant in that it is managed by the financial aid administrator of each participating college. Each school receives a set amount of money from the department and when that money is gone, there are no more SEOG funds for the year.

In 1982-83 the Department of Education will provide 440,000 students with $278,400,000 in Supplemental Education Opportunity Grants. Students will get up to $2,000 a year under this program.

Grant programs are designed to help the most needy students get a college education. The Pell Grant, in particular, is targeted to help those students whose families earn less than $12,000 per year. Grant aid is not meant to cover all college costs but is expected to be combined with a reasonable contribution from the student's family and individual self-help, generaly in the form of loans, private scholarships, and work.

Another type of student financial assistance is the College Work-Study Program. Designed to provide on- or off-campus jobs for undergraduate and graduate students who need financial assistance, work-study is usually managed by the college financial aid administrator. Some 950,000 students will receive $528 million under this program in 1982-83.

A great deal of publicity has been generated lately on federal student loans, particularly the National Direct Student Loan Program. Although all colleges do not participate in the NDSL program, 3,340 of them do. This program makes available low interest (five percent) loans that students must begin repaying six months after completing school (either by graduating, leaving, or dropping below half-time status). Up to 10 years is allowed to repay the loan. Application is made to a school's financial aid administrator who manages the loan fund. The fund is a revolving account, designed to allow a school to continually make new loans as existing loans are repaid. About 800,000 students will receive NDSLs in 1982-83; 10,000 more than in 1981-82.

Recently, Secretary of Education T. H. Bell signed a regulation which provides incentives for an institution to reduce the default rate of its NDSL program fund. A college which has a default rate over 25 percent is asked to turn responsibility for collecting the debt over to the federal government. If an institution is not prepared to do this, and the default rate remains 25 percent or more, the federal government will cut off NDSL funding.

The Guaranteed Student Loan Program, much in the news lately, makes available low interest loans to students, with the federal government paying the interest while a student is in school. These loans are made by a lender (such as a bank, credit union, or savings and loan association) and insured by either the federal government or a State Guarantee Agency. This, the largest student aid program, will make available over $9.5 billion in loans during the 1982-83 school year.

As the economy continues to recover, we can expect a continued lowering of interest rates, thus easing student repayment costs and reducing federal expenditures. In addition, the Reagan Administration has embarked on a major initiative to collect delinquent and defaulted loans under the National Direct and Guaranteed Student Loan Programs. It is anticipated that $80 million will be collected in 1983. Congress has been asked to allow funds collected on delinquent loans to be recycled in the loan programs; under present law, such funds are returned to the treasury. Returning money to the loan funds would make more money available to future college students.●

IN MEMORY OF WILLIAM T. FAUNTROY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. RODINO. Mr. Speaker, the Washington community recently lost one of its most respected citizens, with the death of William T. Fauntroy, who was the father of Congressman WALTER FAUNTROY. I want to pay tribute to this fine man.

As a dedicated worker in the U.S. Patent Office for 44 years, a church vocalist and musician, a standout center fielder for several semipro baseball teams, a track star who was one of the first to cross the color line in that sport, and as an active member of the New Bethel Baptist Church, William Fauntroy was greathy admired by the people of the District of Columbia.

On Father's Day in 1971 the New Bethel Baptist Church honored him as Father of the Year in recognition of his devotion to his family and his faith.

A man of courage and love, William Fauntroy lived a full life until his death at age 79. The entire Washington community feels the loss of his passing.●

LATIN AMERICA AND THE UNITED STATES: PERMANENT COMMITMENT OR TEMPORARY DISCORD?

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. BARNES. Mr. Speaker, in Juhy the Secretary General of the Organization of American States, Alejandro Orfila, addressed the issue of inter-American relations after the Falklands crisis in an address to the Foreign Policy Association. In this careful and balanced analysis, Ambassador Orfila discusses the issues that we face in our hemisphere and calls for "a recommitment of political will" to deal with them. He proposes a summit meeting of the 31 nations of the inter-American system to point us toward new arrangements and commitments for dealing with our common problems. I hope all my colleagues will give the speech, which follows, their careful attention.

LATIN AMERICA AND THE UNITED STATES: PERMANENT COMMITMENT OR TEMPORARY DISCORD?

This is both an opportune and logical occasion in which to reflect upon the future of the inter-American system and of the Organization of American States. I thank Leonard Marks and the directors of the Foreign Policy Association for inviting me to speak to you at a moment which may constitute a crucial turning point for the history of the American region.

For over nine decades the nations of this Hemisphere have had a formal regional association. Under this we are committed to:

Foster the cause of regional peace and friendship;

Safeguard the practice of non-intervention;

Recognize juridicial equality of all 31 OAS member countries;

Promote democracy and human rights; and,

Achieve integral human development: political, economic, cultural, technical and moral—of all OAS states.

Our American community has built up a complex regional relationship on the basis of mutual adherence to these interlocking principles. None of these principles takes precedence over the other. This is the binding force of our association with each other. Through this relationship we have achieved much together, including a generation of relative international peace in this Hemisphere.

Our regional institution is a product of the vision of many learned statesmen over several decades. It is a unique and multi-

purpose forum for dialogue in which the position of each one of its members is able to be heard. At this crucial moment in our history, the overriding mission of the OAS is once more as a forum for the exchange of ideas, the consideration of different positions and—in an atmosphere of hemispheric brotherhood and mutual respect—to arrive at solutions which are in the overall interest of the entire Hemisphere. OAS members need each other now more than ever before in their long history together.

It is undeniable, however, that for almost a decade now the traditional association between the nations of the Americas has not been as deep or as pervasive as before. We have permitted drift and indecision to take precedence over our underlying commitment to the principles we cherish.

At present we are living through the after effects of the failure to resolve the long-standing dispute over the Malvinas islands. For the first time in generations our Hemisphere has seen the unwarranted introduction of extra-continental military force into its midst.

These tragic events have severely compounded the stresses and strains already unsettling the traditional regional relationship. It is this profoundly serious situation—and not the recent violence in the South Atlantic—which compels us to re-examine where we go from here.

At this juncture in history, I suggest, we confront two extremist views about the future of the American Family of Nations:

On the one side are the doom-sayers. They forecast the gradual demise of the regional system, with eventual exclusion of the United States from it.

On the other side, however, are the oversimplifiers. Despite the Malvinas, they believe, nothing has happened and after the discords of the present, harmony will be automatically restored.

Neither of these extremes, in my view, is correct. The chronic problems undermining Hemispheric harmony will not disappear simply because the sounds of battle in the icy waters of the Atlantic are stilled.

Yet why should we concentrate only on temporary negative features of the hemispheric picture? We have been tested many times before in this region and not found wanting—even if few other crises were as dramatic as the Malvinas. In many previous instance OAS members rose above temporary discords by working together so as to strengthen their basic commitments to each other. We have witnessed this capacity at work in varied ways:

At an early moment in OSA history the Inter-American Peace Commission was formed to fill a region vacuun in dispute settlement. It carried out this task forcefully until the Charter reform of 1967.

In 1958—following a decade of Latin American misgivings about U.S. economic policies—the region moved into new paths of economic cooperation. This occurred when the Inter-American Development Bank was created within the OAS forum.

In the early 1960's turmoil in the Caribbean helped launch the ambitious response of the Alliance for Progress.

Following the regional tensions created by actions in the Dominican Republic in 1965, a Meeting of Presidents was held at Punta del Este in 1967. This opened the doors to nearly a decade of sustained cooperation in education, technology, science and culture.

In the 1970's concern about abuses of human rights led to ratification of the American Convention of Human Rights. This reversed a decade of inaction on this important instrument.

These are the lessons of our past history together. They demonstrate that the nations of the Americas can find solutions to the dilemmas which confront them at any given point in time. However, experience also attests that OAS States only discover new answers as they deal with each other on the basis of mutual respect and with mutual understanding.

As we examine the future of the regional association after the Malvinas, then, we should have confidence that we can again find new avenues of opportunity. This is the principal insight to be drawn from the course of hemispheric history.

Now, though, we stand once more at a historical crossroads. It is marked by a dual sign: One post indicates the dangers in which we find ourselves; the other points the way towards pivotal circumstances which may well offer a historic opportunity for renewing or for perfecting the regional relationship.

We can choose either path. Shall we continue to permit the drift and decline of the past decade to continue? Will we, on the contrary, use the violent shock of the Malvinas as a catalyst—a powerful force urging us on to address the urgent problems we have neglected for too long? These are the fundamental questions before us.

But what are the most pressing issues today? To answer this we must first recognize that the Western Hemisphere has been transformed in unique ways since the end of the Second World War:

We have inherited a generation and more of regional international peace. Until the recent strife, the mark of this region was the prolonged absence of international conflict. The dispute between Honduras and El Salvador was the major exception—with their Peace Treaty deposited at the OAS in 1980.

We have witnessed an unprecedented period of economic growth. Twenty years ago, Latin America's outlook differed from the present. Its population was heavily rural, and underemployment was a universal phenomenon. Public and private institutions for providing health, education, and social services were weak, banking and financial systems, limited. In various countries industrialization was only in beginning stages. This restrictive economic pattern no longer exists, except in some smaller countries and in specific sub-regions.

But this is only the successful part of the hemispheric story. The Malvinas dispute reminds us of other unresolved geopolitical and territorial disputes which could erupt into armed turmoil. At the same time the current hemispheric development agenda is a different one than yesterday. It is an agenda, moreover, whose dimensions are clear but for which the response remains uncertain.

As we look towards the full dimensions of our contemporary agenda, let us not overlook the costs of war—the millions of dollars wasted, the untold human suffering, the lives lost, the property destroyed. Events in the South Atlantic have burned these realities into our minds.

But at the same time let us also reflect upon the benefits of peace. We do recognize these. But are we willing to pay any price, to act in concert, to honor any commitments to regional harmony, to seize opportunities at hand, so that these benefits can become permanent?

For centuries peace was defined as the absence of war or the tranquility of public order. It now has broader dimensions for contemporary societies: peace is inderstood as the mutual determination to promote development. This means, above all, that the benefits of progress must be shared more equitably with all nations and with all societies. For the Americas this particularly requires that we strive to limit the injustices which force millions of persons to survive on the margin of society.

Our regional association enables us within the OAS framework of multilateral cooperation to pursue peace. Decisions within this forum are taken on the basis of equality, freindship and consensus. This means we must engage each other in dialogue and with an attitude of mutal respect and comprehension.

Within this OAS forum we are reminded constantly that peace has many dimensions. As we have tradtionally accepted, it involves restraining the forces of war or armed threats to international order. But it also requires dealing with the fundamental conditions of development, with the pressures which can lead to international conflict between one nation and another.

A decade or two ago the Hemisphere's development agenda was readily apparent. We had to expand sanitation and health services, establish educational systems and provide for basic social welfare. These issues remain but they are being dealt with on a systematic and sustained basis.

At present we confront a new series of questions which impede efforts to achieve integral human development in this Hemisphere. The challenges at hand include:

Determining measures to provide greater supplies of energy for development purposes.

Helping Latin America fulfill its untapped potential for food production.

Accelerating the process of employment generation so that millions of persons may not be without work.

Discovering newer instruments of international financial cooperation, thereby not saddling OAS members with excessive difficulties in servicing debt burdens.

Opening up new channels for international trade and commerce.

This is the existing development agenda on which action has been limited for too long. Those who champion the cause of peace have no recourse but to renew the dialogue between the North and South in the Americas so as to address its full dimensions.

A renewal of the regional dialogue must be designed to promote mutual comprehension of each other and of our primary concerns. For the United States this implies seeing Latin America not only as a source of raw materials and energy but as a major actor in world diplomacy and as a creative and dynamic force for the international economy. Latin America and the Caribbean, on the contrary, must acquire more comprehensive insights into the global responsibilities of the United States, as well as a greater sensitivity to the political dynamics of its democratic culture. With an improved mutual understanding neither party within this relationship will come to expect either too much or too little from the other.

Failure to ground the regional dialogue in mutual comprehension is the primary source of the prolonged and fundamental strains existing in the Hemispheric relationship. As a consequence, when disputes erupt Latin America and the United States frequently find themselves talking past each other like two ships passing blindly in the

night. Unless we reverse this pattern of events the strains will continue to grow in intensity and dimension.

To re-establish the regional dialogue on firm ground means making one thing clear: the cause of Hemispheric peace can never be served by separating the United States from the OAS. Latin America and the Caribbean do require greater coordination of their own views and policies before presenting them to the OAS forum. But there are major regional issues which can only be addressed by all hemispheric nations together. This can be done only through the OAS forum. In fact, so true is this that were the OAS not to exist, a similar institution would have to be created to carry out its work for peace.

But if we recognize this truth we must equally accept a parallel one: Our countries have a basic underlying friendship. Yet from time to time the United States has basic underlying friendship. Yet from time to time the United States has difficulty in determining whether it wishes to be with and not merely for the American Hemisphere. At these moments its own uncertainities about its regional commitments cause uncertainty and anxiety in this region.

Beyond this, no one can deny that the regional system has prospered as its members have taken an abiding and deep interst in each other's fortunes. This was reflected during the diplomatic success of the Good Neighbor period, in the cooperative measures taken during the Second World War and during the Alliance for Progress. When we limit or reduce this interest in each other, we imperil the pursuit of freedom and justice among the American community of nations.

After the tragedy of the Malvinas we now possess an extraordinary opportunity to redirect our regional association into more open and harmonious channels. This will require a recommitment of political will to the hemispheric common good rather than merely to national self-interests. Such a recommitment of political will, however, can only take place at the highest governmental levels.

For this reason I believe it essential that we enforce and act upon the recommendation of Presidents Luis Herrera Campins of Venezuela and Gregorio Alvarez of Uruguay for a meeting of OAS heads-of-state in the immediate future. Will anything less than a meeting at this level be adequate, given the insistent challenges standing before the American nations at this moment?

From previous experience we know that such a meeting must be preceded first by a conference of OAS foreign ministers and other Cabinet members. Their task would be to set the agenda for the presidential meeting. It is these ministers who must transform the unwidely concerns of the present into an orderly agenda for decisions by the heads-of-state. As happened for the meetings of OAS presidents in 1954 and in 1967 and for the signing ceremonies for the Panama Canal in 1979, the services of the OAS Secretariat are available to assist in whatever way requested.

There is a constant ebb and flow in the growth and progress of the hemispheric association. Its formidable strength has been proven time and again during the course of our uneven history together. But one feature stands out in our relationship: the belief of OAS nations and peoples that, despite all their differences, they need each other. At times this conviction is weak and clouded by harsh rhetoric. But it is nonetheless always present. We are now pressed by the demands of history to infuse new life into this conviction by a frank and honest and yet friendly dialogue at the highest levels of our societies.

Few are unaware that the American region possesses the natural resources, the cultural riches, and the political will to become a shining model of harmony for mankind. It has demonstrated a consistent ability to overcome the differences which divide it. Despite the discords of the present, its record of achievement is clear in many spheres.

Only those without vision, then, believe the present is a time for doomsaying or for standing still. Have we any serious choice but to work together once more so as to transcend the problems of the present? Let us, rather, cooperate in seeking to move towards fulfilling the sterling ideals held out for us by a Bolivar, a Jefferson, and a San Martin: an America that is and remains the last, best hope for a manking searching for universal peace and for a genuine international path leading to cooperation among the peoples of this planet.●

DELTA-THON '82

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. MILLER of California. Mr. Speaker, on Sunday, October 3, 1982, a major East Contra Costa County community run, Delta-Thon '82 will be sponsored to foster good will and community spirit and to demonstrate support for East Contra Costa County's nonprofit service agencies.

This year, the three agencies selected from among more than 20 applicants to receive the proceeds from the event are Reach Project, Inc. of Antioch, Pittsburgh Food Pantry of Pittsburg, and Liberty Area Child Care Committee, Inc. of Brentwood.

Reach Project is a 13-year-old community-based program for the prevention of juvenile deliquency, drug, and alcohol abuse. The Pittsburgh Food Pantry has been providing food to needy families for the last 8 years. The Liberty Area Child Care Committee has served working parents for nearly a decade by delivering preschool nursery and compensatory education programs for their children. Each are widely recognized for their dedicated service to the community.

I wish to commend the California Delta Newspapers, Inc., for sponsoring Delta-Thon '82 and join the participants in saluting its importance for East Contra Costa.●

THE GIANNETTI BROTHERS PRESERVE THE NATION'S PAST

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. HOYER. Mr. Speaker, despite the trends toward chrome and plastic that have been overtaking our society in recent years, a goodly number of Americans cherish the craftsmanship of our bygone eras—craftmanship that still can be seen in our historic homes, our antique furniture, and our vintage automobiles.

But in order to maintain such treasures of the past we must continue to produce the kind of men and women who are willing and able to keep these traditions alive. In Prince George's County, Md., we are indeed fortunate to have two such Americans, John and Bob Giannetti of Giannetti Studios.

They are the most recent recipients of the legacy of craftmanship handed to them by their father, Gregory. An Italian immigrant, Gregory Giannetti worked for several ornamental sculpture companies before opening Giannetti Studios in 1935. Since the mid-18th century, the Giannetti family has passed the exacting, hand-worked tradition of molding and sculpting plaster and wood into beautiful rococo designs to succeeding generations.

Bob and John Giannetti are the latest to continue this fine work. Their remarkable skill in what has become almost a lost art reflects the tremendous pride they have in their work and the profound respect they have for the historical tradition of their craft.

Many of the intricate moldings surrounding the doors and windows of homes and government buildings of the last century are eroding away. So too are the interior moldings at the base and upper edge of walls. They are the remnants of an era when hand built moldings were the rule, and they have become the sources for thousands of newer models that are much in demand as millions of Americans seek to copy the past. In fact, the Giannetti brothers have created a new moldmaking process that works particularly well with exact reproductions.

The exquisite results of the Giannettis' talents can be found in homes and Government buildings throughout the Washington area. The seals for many Federal agencies, particularly the popular American Eagle, were designed and executed by the Giannettis. The restoration of Ford's Theater to its exact condition on the day of President Lincoln's assassination is one of the Giannettis most famed contribu-

tions to the preservation of historic Washington.

Not only have the Giannetti brothers worked their wonders on historic sites in the District of Columbia, they have restored many elegant homes and mansions in Prince George's County. One of their most difficult projects was the restoration of the ceiling in the Grand Salon of the Calvert Mansion in Riverdale. To execute the job, they had to remove the entire ceiling, reproduce the ornamentation and then replace everything.

The Giannettis have also constructed a beautiful 18-foot statue of the Madonna, which is now on the front of St. Mary's Church in Lanham. Other restoration projects include Mattaponi, a 16th century home in Croom, Maryland; Woodlawn, a 19th century home in Largo; Beal's Pleasure in Landover, dating from the late 1700s; and Content, a 19th century home in Upper Marlboro.

Indeed, their impressive body of work has gained them national prominence, including the demonstration of their art on public television, and a major article in Historic Preservation Magazine.

Mr. Speaker, artists such as John and Bob Giannetti deserve our praise, our support and our recognition. With their outstanding workmanship, we can remain confident that the artistry of the past remains with us, which can only bring continuity to our lives as we approach the new wonders of the 21st century.●

BANKING BILL S. 2879

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. PARRIS. Mr. Speaker, I rise in opposition to the motion to go to conference with the Senate on the bill S. 2879

I do so with a deep sense of disappointment. I am disappointed that the leadership and the Chairman of the Banking Committee has chosen not to bring this bill before the Banking, Finance and Urban Affairs Committee for full committee hearings and markup and thereby to permit the committee to work its will.

This is the second time that the 97th Congress leadership has pursued a course of action which denies the Members an opportunity to express their views on significant legislation affecting the Nation's economy. The first instance was on the recent tax bill when the leadership sought to attach a partisan label on that legislation. In this instance, the leadership is demonstrating their lack of confidence in their own Members' ability to discharge their legislative responsibilities in a prompt and efficient manner.

I have not yet taken a final position on H.R. 6267 and S. 2879. I will therefore closely review the product of the conference committee. Clearly something must be done to assist our ailing thrift institutions. It is unfortunate, however, that the House leadership has chosen to utilize this procedure on legislation that will revoluntionize the delivery of financial services in this Nation for years to come.●

GERALD H. GORDON—CHAMPION OF THE FOURTH ESTATE

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. MOTTL. Mr. Speaker, all of my colleagues are aware of the value newspapers hold for our Nation. We do not agree with their editorial positions all the time and they may not print stories from quite the same perspective we would like but they provide a service that is essential to the operation of this, the world's greatest democracy.

It is in the truest spirit of the rights and freedoms inscribed in our Constitution that Gerald H. Gordon pursues a tireless course of publishing the truth for readers in northeast Ohio.

Northeast Ohio, including Greater Cleveland, is a tough market for newspapers just like it is for other businesses these days. Recently we witnessed the closing of the Cleveland Press after more than 100 years of operation. The combination of increased costs, fewer advertisers, and competing electronic media have been too much for a number of long-existing newspapers to survive during the recession. Gordon's track record of success with the suburban weekly chain—Sun newspapers—attracted the attention of the Press when it was already drowning in a sea of red ink, but even his talents during a short tenure with the fading daily could not avert the inevitable.

Gordon has been back with Sun newspapers as the division manager of the Ohio Division of Post Corp. The fine editorial product which is a hallmark of Sun newspapers has been enhanced with his assistance.

Gordon realized that suburban residents know their concerns are front page news. Trained, professional reporters give individual suburban communities full-time comprehensive attention.

The talent Gordon has shown in dealing with the editorial product spills over into every facet of the operation including advertising, printing, marketing, and circulation.

It's rare to have a mixture in one individual of streetwise instincts combined with scholarly training as evidenced by Gordon's impressive academic degrees.

That is the chemistry of success for Gordon and all those served by Sun newspapers.●

CONGRATULATIONS TO ROSEMONT, ILL.

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. HYDE. Mr. Speaker, Rosemont, Ill., a small community of 5,000 persons in my district, has once again utilized its prime location—surrounding Chicago's O'Hare International Airport—to further its business and economic development, even in these recessionary times. Making conventions and meetings a top industry, Rosemont has been able to keep property taxes among the lowest in the State.

Congratulations are due once again to the community of Rosemont and its mayor, Donald E. Stephens, on the occasion of the topping off of the new Westin Hotel-Rosemont. Westin is also to be congratulated for recognizing that Rosemont is an excellent place to locate its new 12-story, 550-room luxury hotel which is due for completion in January 1984. The success of the hotel will generate revenues for the village of Rosemont and create more than 500 new jobs when it opens.

The marriage of Rosemont and Westin is one which will contribute to the business and economic development of both concerns. Best of luck.●

PEYSER RESPONDS TO THE PRESIDENT

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. McHUGH. Mr. Speaker, on Saturday our colleague PETER PEYSER was given the opportunity to respond to the President's weekly radio broadcast.

I would like to commend the gentleman from New York for his timely remarks and respectfully offer them to my colleagues for their review.

RESPONSE BY CONGRESSMAN PETER A. PEYSER (D-NY) TO PRESIDENT REAGAN'S SATURDAY RADIO MESSAGE, SEPTEMBER 25, 1982

It's unbelievable that President Reagan can brag about the worst economic catastrophe since the Great Depression. Today, we

suffer from the highest unemployment rate and the worst rate of business bankruptcy in 40 years. The President asked us to celebrate the decline in inflation rate. Of course prices aren't rising as fast as they were. No one is buying anything. The sad fact is that prices always slow down when you are entering a depression. Look at what happened in the early 1930s. In 1930, the inflation rate was 0.

This is Congressman Peter Peyser. I have served for 10 years in the Congress. I have been given the opportunity by the Democratic leadership in the Congress to respond to the President on his statements of the past 2 days. We have just heard the President say that he has licked the problem of inflation. I say the President has not talked with any people who are faced with the problem of feeding a family.

The President says that his administration is supporting job training for permanent jobs in the private sector. This is a program instituted by Democrats and passed by Democrats in the House. But the simple fact is that this program does not create one new job. The democrats did pass 2 programs. One that created 220,000 jobs rebuilding roads and bridges in our country. We passed legislation that would put 700,000 people back to work in the building trades, building new homes, homes that people could afford to buy. But you, Mr. President, said no to both of these programs and have stopped them dead in their tracks.

Unfortunately, Mr. President, it is clear that people in your administration are wearing blinders and literally do not see or understand what is going on in our country. To your people in the White House and the Republican Party, 10 million unemployed is an interesting statistic. To Democrats in the Congress, it means 10 million heartaches, 10 million broken dreams and 10 million reasons why we ought to do something about it now.

On Friday, the President said the White House was a bully pulpit. In the first place, Mr. President, I don't think the American people elected you to be in a pulpit or to decide what is morally right or wrong for us as individuals. Mr. President, you were elected because the people believed you were dedicated to get this country on the road to peace and prosperity. Your administration, up to this point, has done neither.

Mr. President, it has been announced that you are lighting a candle today in the White House to support a school prayer rally. Yet, when over one-quarter of a million Americans came to Washington a few months back asking for some answers from you to the problems of unemployment, you left town to go to Camp David. With preliminary reports from the Labor Department indicating that unemployment will exceed 10 percent in the month of September, I say if any candles are lit they should be lit for the unemployed.

Mr. President, if you want to know what the public thinks of your programs, just look at the way the Congress is voting, even the Republicans, with the election just 5 weeks away. If we had elections every two months, this country might be back on the road to recovery.

The American people are speaking more clearly today than ever before in recent years. They are telling those of us in the Congress who are back home they want to get this country moving again. They want us to take the kind of actions that treat all people fairly without favoring a special few. I just wish that the people who are talking to us would make a phone call to you, Mr. President, in the White House and let you know that they don't want their Government to sit still and just wait for something to happen. This country is too good and strong for that. Let's move it ahead and let's really work together with the Congress.●

CHILD NUTRITION—STILL A NATIONAL PRIORITY

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. MARKEY. Mr. Speaker, I rise in support of House Concurrent Resolution 384, the child nutrition bill which has been reported unanimously out of the House Education and Labor Committee. This bill states the sense of Congress that Federal involvement in child nutrition should continue uncut.

It is unconscionable that anyone can believe that by reducing the number of children able to participate in school lunch and breakfast programs, the United States will be better off.

Reduced Federal support for child nutrition programs has already meant higher prices, a 20- to 50-percent drop in participation by the schools, and inadequate nutrition standards for large numbers of our Nation's children. Budget reductions affecting child nutrition programs have caused 1,500 schools, thus far, to drop out of the school lunch program, removing 3 million children from the program.

To suggest, as the administration does, that either a local district or State government could assume responsibility is ridiculous. We know that this is impossible in most States now. For example, neither local nor State governments have increased their proportionate share of the financial burden of the child nutrition programs as the Congress has continued to make cuts.

Under President Reagan's "new federalism" initiative, all of the child nutrition programs would be turned back to the States in fiscal year 1988. There will be no Federal child nutrition programs or standards, no Federal guarantee that States will enact their own child nutrition programs, and no Federal support for child nutrition. Thus, as proposed, "new federalism" could mean that a needy child living in a State with an adequate tax base would have a better chance of receiving a nutritious school meal than a poor child living in a State with less revenues. Just as a person's national security needs do not vary from State to State, a child's nutrition needs do not vary according to the State he/she resides in either.

Today, the Federal commitment to child nutrition, which began in 1946 with the School Lunch Act, needs our reaffirmation of support. Federal nutrition programs have served our Nation well, reducing infant morality, promoting health, aiding children to grow, develop, and learn in school and to succeed in the job market.

As the preamble to the resolution states, these programs are intended to aid the child "to become a productive and contributing resident of the United States." I, for one, would like to aid in this goal.●

THE DEATH OF ALLYN COX

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. BOLAND. Mr. Speaker, on Sunday, September 26, 1982, the world lost one of its premier artists, Allyn Cox, who died at the age of 86. He has left a rich legacy of murals and paintings on the walls of magnificent public buildings throughout the Nation. Perhaps his best known works are those which adorn the U.S. Capitol. Millions of visitors each year marvel at the skill, sensitivity, and patriotism with which Allyn Cox has chronicled the history of our great country.

Since 1953 when he was commissioned to complete the Rotunda frieze begun by Constantino Brumidi, Mr. Cox has undertaken numerous other Capitol projects including the restoration of Brumidi's Apotheosis of George Washington, and most recently, the painting of historical murals in Capitol Hall and Great Experiment Hall on the House side of this building. Over the years, many of us had the opportunity to become acquainted with Mr. Cox. I am sure that all those who met him will agree with me that he was without parallel as a craftsman, an artist, and a gentleman.

As he worked quietly and deliberately on scaffolds above the Capitol hallways, he was continually complimented on his work. Despite his many years as the subject of such compliments and despite the great esteem in which he was held by fellow artists the world over, he responded always with the humble appreciation known only to those who are truly dedicated to their work and who view each of life's tasks as an opportunity to reach higher levels of accomplishment.

On September 21, 1982, Mr. Cox was honored at the dedication of his most recent works in Capitol Hall and Great

Experiment Hall. The dedication ceremonies, attended by the Speaker of the House, the majority leader of the Senate, and a number of Members of Congress and other dignitaries, were a fitting tribute to Mr. Cox and an expression of the admiration which so many individuals had for him and his work. In depicting the great moments of America's past, he insured that future generations of Americans will appreciate and understand the lives and events which made this Nation great. In so doing, he made a unique and invaluable contribution to the preservation of freedom and democracy. I join the Members of the House in mourning the death of Allyn Cox, and I extend my sympathy to his family.●

ART APPRECIATION ENCOURAGED

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. MITCHELL of Maryland. Mr. Speaker, I am extremely proud to share an acknowledgement of the fine work of the Pierians, Inc., a group dedicated to the promotion and encouragement of the study and enjoyment of fine arts. This organization, founded in Baltimore City some 25 years ago by Ms. Annette Colbert Johnson, has requested that the mayor of Baltimore City proclaim October 16, 1982, as "the National Pierians Day." This is the day of the organization's first national assembly.

I want all of my colleagues to share my pride in the Pierians. In the Seventh District of Maryland, which I represent, this organization has enlightened both adults and young people with respect to a deep appreciation for the enrichments offered by cultural arts. The Pierians' dedication to the principles of community services and self development through the fine arts is clearly demonstrated in their daily works.

Among other community activities, the Pierians award art scholarships and work closely with universities, colleges, public schools, and local museums. Such activities cultivate in our youth a sincere appreciation and enjoyment from the arts.

All too often, most of us get so absorbed in our daily activities that we forget that the arts represent extremely wholesome outlets for the entire family. Moreover, many of us continue to overlook the many museums, plays, and exhibits, and turn to more costly forms of spending our limited leisure time. Hopefully, through the works of groups such as the Pierians, we will not ignore those simple, yet beautiful events our arts community has to offer, and will encourage our families to seek the enjoyment of such outlets.●

APPLAUSE FOR DEAN OF FLORIDA STATE THEATRE

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. FUQUA. Mr. Speaker, Florida State University in Tallahassee, Fla., will celebrate its homecoming the weekend of October 9 by honoring a man who for 25 years has directed the school's theatre program to a place of national prominence.

Richard Fallon, dean emeritus of the Florida State University Theatre Department and the Burt Reynolds Professor of Professional and Regional Theatre, took over the leadership of a small program within the Speech Department and elevated it to its present position as one of the most respected college theatre programs in the Nation.

During that period Dean Fallon has directed, coached, and befriended many young actors and actresses—the most notable of whom was Burt Reynolds, then a football player for the Florida State University Seminoles.

During Reynolds' meteoric rise to stardom, he has maintained close ties with Florida State University and with Richard Fallon—ties which culminated last year in his endowment of the FSU theatre program with $600,000, matched by the state with $400,000 under Florida's eminent scholars program.

The Burt Reynolds Chair is designed to assist in developing the professional theatre programs established by the university—including the Asolo State Theater in Sarasota, the Jekyll Island Music Theatre in Georgia and the Burt Reynolds Dinner Theatre in Jupiter, where FSU operates the actor apprentice program.

Though I am no actor myself, nor even a theatrical man, I think it appropriate to salute both Dean Richard Fallon and Burt Reynolds with the words of Shakespeare:

"I would applaud thee to the very echo, that should applaud again."●

COACH EDDIE ROBINSON OF GRAMBLING—A WINNER ON AND OFF THE FIELD

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. HUCKABY. Mr. Speaker, it is with a great deal of pride that I pay tribute today to a great coach and a great American—Eddie Robinson of Grambling State University.

He become a bona fide legend Saturday night when he coached his Tigers to a 43-21 victory, giving him his 300th career win. Only three other coaches in football history have accomplished this feat—Paul Bryant of Alabama, Amos Alonzo Stagg, and Glenn Warner. Only Bryant is still active.

Coach Robinson's record now stands at 300 wins, 98 losses, and 13 ties in 41 seasons as Grambling's football general.

But those of us who know Coach Robinson realize there is more to the story than that. While he has been successful in molding winning football teams, he has been even more successful in molding character and making sure his players get a good education. This has always been his top priority.

More than 90 percent of his players have graduated, a statistic he is more proud of than the 300 wins he has chalked up as coach. And more than 250 Grambling athletes have gone on to play professional sports.

Those who did not make it to the pros left Grambling well qualified for other endeavors, having benefited from the valuable lessons Coach Robinson taught them about life on and off the football field.

He taught them about teamwork, about discipline, about perfection, about the importance of attending classes and getting a college degree, about being competitive, about being gracious in victory and defeat, and about perseverance. As I said, molding character.

Coach Robinson also gives all of us a lesson in modesty. He attributes his success to good coaches, the administration at the university, and to good players.

True, Grambling has been blessed with all of these. Ralph Waldo Emerson Jones was president of Grambling in 1941 and brought Eddie Robinson to the university. President Jones, known as "Prez" to those of us who knew and loved him, died earlier this year. He was a legend in his own right and played a major role in making Grambling the fine university it is today.

And Collie Nicholson, sports director at Grambling for 31 years before his retirement, made significant contributions as well.

Jones and Nicholson worked closely with Coach Robinson in developing Grambling's football program and backed up the tough requirements he placed on his athletes.

It is a rare love affair that exists between Robinson and Grambling, which is comprised of 4,000 students, and those of us who support the uni-

versity. We all know that Coach Robinson had many opportunities to move to bigger universities and more money. But he chose to remain at Grambling, and for this we are grateful.

The recognition, the accolades, the honors which will come his way, the phone call from President Reagan—they are all richly deserved. He has already served as president of both the American Football Coaches Association and the National Association of Intercollegiate Athletics. The American Football Coaches Association has honored him with its highest award—the Alonzo Stagg Trophy. And, in 1966, the Football Writers of America cited him as "the man who made the biggest contribution to college-division football during the last 25 years."

I certainly am proud to represent Grambling in Congress and to have Coach Robinson as a constituent. He has done so much for so many—and for Grambling. He has brought himself and the university not only national, but international recognition. The Tigers have played in Yankee Stadium, the Los Angeles Coliseum, and in Tokyo twice.

And on top of all this—No. 300. It is the icing on the cake. Congratulations, Coach Robinson.

MEMPHIS COMMUNITY SALUTES FOGELMAN FAMILY

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. FORD of Tennessee. Mr. Speaker, it is a pleasure for me to take this opportunity to recognize the outstanding accomplishments and contributions of one of my district's most distinguished families as they receive the prized B'nai B'rith International Family Award. This award will be presented to the Fogelman family on Wednesday evening, October 6, 1982, at the Peabody Hotel, Memphis, Tenn., before the most eminent representatives of the Memphis religious, business, and political communities.

For over 40 years, the Fogelman family has provided exemplary leadership and outstanding philanthropic support to the Memphis community.

Morris Fogelman, a retired real estate and insurance businessman, has been a Memphis resident since emigrating from Poland as a youth. In 1940 he launched the Fogelman family real estate and insurance business, a highly successful enterprise.

Morris Fogelman's deep sense of religious commitment has been realized through his deeds. Active in the Memphis Jewish community all his life, he has held leadership roles in the Memphis Jewish Community Center, Memphis Jewish Federation, several congregations and a host of other philanthropic causes. He has maintained a lifelong relationship with B'nai B'rith—joining Aleph Zadik Aleph, the boys' component of the B'nai B'rith Youth Organization, as a youth, and continuing his association as a member and president of B'nai B'rith's Sam Schloss Lodge in Memphis. He served on the B'nai B'rith Youth Commission, and was recently appointed to B'nai B'rith's top governing body, the international board of governors.

Fogelman and his wife, Mollye, have instilled in their children—Robert, Avron and Gail—an equal sense of philanthropy and community responsibility.

Robert is president of Fogelman Investment Co. He has served as chairman of the board of trustees of the Memphis Academy of the Arts and St. Mary's Episcopal School for Girls. Like his father, Robert supports the Memphis Jewish Federation. He has also participated on the board of trustees of the city of Memphis Arts and Science Commission, the Tennessee Performing Arts Center and Southwestern at Memphis.

Avron, president of Fogelman Properties, is also the current chairman of the board of Mud Island—one of the most modern leisure parks in the United States. Like this father, he, too, has served as president of B'nai B'rith's Sam Schloss Lodge in Memphis, and he is an active supporter of the Memphis Jewish Federation and is a member of their board of directors. He is a past president of the Memphis Apartment Association, past chairman of the Memphis and Shelby County Planning Commisson, and has been on the board of directors of the National Conference of Christians and Jews and Future Memphis.

Robert and Avron have together taken a significant role in shaping the future of youth by aiding the Fogelman College of Business and Economics at Memphis State University, dedicated in their honor in 1980. They also established the Morris S. Fogelman chair in real estate in 1972.

The Fogelmans further enliven the city of Memphis through ownership of the Memphis Chicks baseball team.

Mr. Speaker, I am proud to have known the fine members of the Fogelman family for many years and commend B'nai B'rith International for bestowing this much deserved award.●

ECONOMIC SANCTIONS DO NOT WORK

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. SIMON. Mr. Speaker, in the recent edition of World Press Review is an article by John Plender, reprinting an article which appeared in the Economist, a British publication, on the topic "Can Anti-Soviet Sanctions Work?"

Among the points mentioned in the article are these two which we should not lose sight of:

First, trade accounts for only 1½ to 2 percent of the Soviet Union gross national product so that when we impose trade sanctions, even if they are effective, they can have but limited impact.

Second, he points out that the United States is more willing than most countries to use economic measures as an instrument of foreign policy since exports amount to about 9.9 percent of our gross national product, a much lower percentage than in the Western European countries.

The article is a thoughtful discussion of this issue which I am inserting in the RECORD at this point.

CAN ANTI-SOVIET SANCTIONS WORK?

(By John Plender)

(John Plender writes for the newsmagazine "The Economist" of London, from which this is excerpted.)

"Commerce is the cure for destructive prejudices; and it is almost a geneal rule that where there is civilized behavior there is trade, and wherever there is trade there is civilized behavior." This assertion by the French 18th-century political theorist Montesquieu was, in the best of times, a great oversimplification. Today, in the context of East-West relations, it looks more like a joke. After the dramatic expansion of East-West trade that flowed from détente, why have hopes for political gains for the West come to so little?

Détente was not primarily about economics, but the participants identified specific interests that touched on their economic objectives. For the Soviet Union access to Western capital, technology, and grain appeared to offer an opportunity to narrow the gap between the economic performance of West and East. The U.S. stood to gain relatively little economically from increased trade with the Soviet Union, but it saw in the Soviet need for trade an opportunity to exercise political leverage.

The advocates of détente were not clear on precisely how trade was going to exert a restraining influence on the Soviet power structure. The Soviet Union reaped its gains from trade at low political cost to itself. Even when the West raised the cost of Soviet adventurism after the invasion of Afghanistan, there was little evidence of restraint. Disillusionment deepened when Gen. Jaruzelski, with Soviet support, abruptly cut short Poland's experiment with reform.

Soviet bloc countries now owe the West around $80 billion, with Poland responsible for nearly $30 billion of that figure. In the long run the only way the Soviet bloc can meet the debt-servicing obligation on this millstone is to run down its reserves, borrow more from the West, or earn surpluses on its hard-currency balance of payments. But its reserves are inadequate and Western bankers too panicky to lend more money.

The West's trade relations with Eastern Europe are bound to run down over the coming decade. Private banks may resume

lending to the more credit-worthy countries such as Hungary and Czechoslovakia, but the financial problems of Poland, and perhaps Rumania, will take years to resolve. In a deteriorating East-West political climate prospects for trade in Eastern Europe are dismal. The focus of the West's political concerns in economic relations with the East will therefore shift to the Soviet Union.

The notion of pulling the economic rug from underneath Marxist-Leninist ideologies has an obvious appeal for Western capitalists. In the case of the Soviet Union, however, the rug is smaller than a prayer mat: trade accounts for only 1.5 to 2 per cent of its gross national product. That is not to say that the Soviets are invulnerable for they have severe problems. After high growth during the forced industrialization of the 1950s and a gradual deceleration in the 1960s and 1970s, the world's second largest economy is suffering from hardened arteries.

Soviet planners pulled off the trick of rapid industrialization but they are having increasing difficulty controlling and directing a more complex modern economy. Soviet-style central planning is more effective at promoting quantity than quality, at encouraging risk avoidance than innovation. There is a lack of competition and of flexibility in wage and price systems, and the planners are remote from those who work on research and development and from consumers.

The Soviet Union is the world's biggest oil producer, but the Russians are living off capital: oil exports provide more than half the country's hard-currency revenue. While experts cannot agree on when Soviet oil production will reach a peak, most of them agree that oil exports to the West will decline in the 1980s. On top of all this, the markets in gold and diamonds are down and the real price of oil has fallen sharply over the past two years. American sanctions since Afghanistan and Poland have been an irritant. The Council for Mutual Economic Assistance (Comecon) is becoming a burden.

Most Western analysts expect the Soviet Union to enjoy some economic growth in the 1980s, but the growth will be paltry. The Soviet Union has vast raw material resources that will, in the medium term, bail it out just as they did after the balance-of-payments crisis in 1975 when a shocking harvest coincided with world recession and a fall in the gold price. But the country is unable to feed itself, and it is more financially embarrassed than in any peacetime year since the 1930s.

The U.S. has traditionally been more ready than most countries to use economic measures as an instrument of foreign policy because it can afford to do so. Exports amounted to 9.9 percent of its gross national product in 1980—a far lower percentage than for the Western European allies. Also, American military, political, and economic clout is such that the threat of retaliation does not cause much loss of sleep.

Attitudes in Western Europe to the use of economic measures for foreign policy objectives are different from those in the U.S. West Germany has the Warsaw Pact powers on its doorstep and its links with East Germany. Britain has less to lose politically than West Germany, but since Afghanistan it has become increasingly wary about leading the Western European pack—witness its less than speedy response to martial law in Poland. The French are skeptical about the effectiveness of sanctions, with good historic reason: the Napoleonic economic blockade of Britain did not work.

The response to martial law in Poland last December does not rate as one of the Western Alliance's more harmonious achievements. While general agreement was reached on measures to be taken against Poland, Western Europeans complain that there was a lack of consultation over President Reagan's measures against the Soviets. The outcome has been disagreeable.

The row between the U.S. and Western Europe over Gen. Jaruzelski's imposition of martial law in Poland underlined the practical obstacles to consensus. NATO contingency plans produced a set of measures ready for use as the need arose. But the trouble with contingency planning is that it takes place when the political temperature is below crisis level, so it is harder for the participants to confront unpalatable or unevenly distributed costs than it is when the threats finally materialize and opinion is aroused.

The West's contingency plans for Poland did not fail completely. Part of their purpose was to deter Soviet intervention, and while the decision about which measures to invoke was deferred until the main event, the list of sanctions was sufficiently tough to amount to a credible deterrent. West Germany and France gave clear hints that the future of the Siberian gas pipeline to Europe could no longer be guaranteed in the event of Soviet intervention.

Assuming that the $15-billion Siberian project goes ahead as planned, Western Europe's vulnerability will increase sharply. West Germany and France will both depend on the Soviets for 30 per cent of their gas supplies by 1990. The Soviet Union would be unlikely to turn off the tap for unmistakably political reasons except in circumstances of extreme tension, but the Russians have used the "oil weapon" in the past—against Cuba, for example, when their relations with Fidel Castro deteriorated in 1967.

The U.S. has been working to drum up alternative sources of energy to the pipeline. Its proposals include increased American coal exports, but to the Germans and French such alternatives appear not to match the deal offered by the Russians. The reluctance to look sympathetically at any American alternative was largely brought on by America's decision to lift its grain embargo against the Soviets.

American politicians are judged on their ability to deliver the goods to their constituencies. No politician with all the farmers of, say, Iowa in his constituency would care to display too anti-Soviet an attitude, because sales to the Soviet bloc accounted for 8 per cent of American feedgrain exports in 1980, even after the partial embargo over Afghanistan. American farmers need those sales badly. When President Reagan lifted the grain embargo his excuse that it had become ineffective carried little conviction in Europe.

Now, with the Soviet economy slowing down, its oil production reaching a peak, and its balance of payments under strain, a window of opportunity is opening for the West. Why not, runs the argument of U.S. Secretary of Defense Weinberger, impose a harsher choice on the Russians between guns and butter by denying them technology and credit?

Mr. Weinberger's view does not command much support in Western Europe, where officials argue that the Soviet economy is too big and complex to permit Western countries to exert economic pressure with the limited means at their disposal. They also question whether sanction could ever push Soviet leaders to consider reform when this poses political risks. And they worry that the denial of technology, which would make it much harder for the Soviet Union to develop its energy resources, would make the Soviet bear more dangerous.

The most starting feature of the American policy debate after martial law was the hawks' powerful argument that the U.S. should declare Poland in default on its debts. Secretary of State Haig and Secretary of the Treasury Regan beat off the pro-default lobby on the ground that default would release Gen. Jaruzelski from the pressure of debt service and have the opposite effect from the one intended. The possibility of a politically motivated declaration of default is, as far as the Pentagon is concerned, deferred, not canceled, in the absence of change.

For the West credit is a subsidiary issue. The real question is whether it is in the Western interest to help the Soviet Union develop its huge but increasingly high-cost energy reserves in Siberia. It is a major economic interest of the Europeans that Soviet energy resources should be developed since this will put a brake on the pressure for increased oil prices as Eastern European countries come increasingly into the market. The U.S. is less interested because it is dependent on external supplies for only 20 percent of its energy.

It is not difficult to identify the West's economic interests in Eastern Europe. The objective must be to rescue the financial chestnuts from the fire but to avoid easing the Soviet Union's financial burden in Eastern Europe while doing so.

The debt problems of Eastern European countries take two forms—liquidity crises, when countries are temporarily unable to generate enough foreign exchange or domestic savings (because of crop failure, for example), and fundamental overindebtedness, which arises where a country has used past borrowings imprudently and cannot meet even its interest obligations. Further borrowing helps a country with a liquidity crisis but it exacerbates the problems of countries that are fundamentally overindebted. The remedy is an adjustment program, usually under the auspices of the International Monetary Fund, that may involve rescheduling of the debt.

Poland is fundamentally overindebted. Hungary has a liquidity crisis brought on by a loss of confidence in panic-stricken Western banks rather than by gross economic mismanagement. The remaining countries of Eastern Europe stand between them.

There is nothing novel about the present tensions in the West over East-West economic relations, but the background has changed. The world has become a more dangerous place, and the balance of economic power between the U.S. and Europe has altered in favor of the Europeans. The combined gross domestic product of the European NATO partners is now roughly equal to that of the U.S. It is now both more impor-

tant to establish a common policy toward the Soviet Union and much harder to do so.

Conventional wisdom has, in the past, suggested that the U.S. can bring only limited economic pressure to bear on the Soviet Union on its own, because most of the economic levers are in European hands. That underestimates the potential of American leverage. Apart from their grain power, the Americans retain a vicarious hold on European trade with the East through technology licensing agreements.

The same is true, to an even greater extent, of debt. The Soviet bloc's huge accumulation of debt may be owed only in small part to American creditors, but the interlinking of loans through cross-default clauses means that the Americans enjoy disproportionate leverage over both the Soviet bloc and its fellow creditors in the West. They can enlarge the economic offensive against the Soviet bloc unilaterally, and substantially at Western Europe's expense. The challenge to Western diplomacy is formidable.●

SENATE—*Wednesday, September 29, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 8:20 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Loving Heavenly Father, it is so easy for us to forget Thee, to live each day as though Thou are nonexistent. We profess faith, but practice atheism. Many of us were reared in homes where prayer and Bible reading were a daily part of family life. We have memories of Godly fathers and mothers who took Thee seriously and lived accordingly.

But many of us have forgotten, or simply ceased to care. We rarely if ever pray, and then only in a moment of crisis, as we use an escape hatch. Some of us do not even believe in prayer anymore, so why should we bother? Gracious Father, give to those who could not care less or who no longer believe, an awareness of the awful poverty of a prayerless life. Woo them back to Thyself, that they may find in Thee and in prayer the resource indispensable to a quality of life which comes no other way.

We pray in the name of Him who spent much time in prayer to His Heavenly Father. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. STEVENS. Mr. President, I thank the Chair.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

CONTINUING APPROPRIATIONS, 1983

Mr. STEVENS. Mr. President, it is the desire of the leadership on both sides that Members who have amendments they intend to offer or are thinking about offering to the continuing resolution should come to the floor, confer with the leadership and see if it is possible to obtain time agreements on such amendments.

We have urged restraint on the part of all Senators with respect to the offering of amendments, and I am most pleased to thank those who have already indicated that they will not pursue amendments in order to facilitate the action of the Senate on this bill today.

It is our hope that the bill will be sent to the House today and that the conference can commence so that the bill can be delivered to the President tomorrow prior to the beginning of the new fiscal year.

That is a tall order, I am sure, but I do ask on behalf of the majority leader for the cooperation of the Members of the Senate to let us try to define the scope of the problem that we are about to tackle.

THE ALASKA RAILROAD

Mr. President, I see the distinguished Senator from Ohio in the Chamber. I am compelled to voice my hope that the omnibus rail bill may be considered by the Senate before we recess. I do hope that he will be able to complete his review of the railroad bill. I had a series of visits in my office yesterday from labor union leaders and people who are interested in that bill. It is a vital bill to the Nation; it is most essential to my State.

The Congress for some time, and now the administration, has indicated that it does not believe the Alaska railroad should be operated as a Federal entity. My State has been involved in a series of negotiations with Congress and the administration to take over the operation of that railroad. We hope to take over the operation of the railroad on the basis that the transfer does not discriminate against Alaska as the owner of the railroad. We intend, if at all possible, to get that railroad into private ownership as quickly as we can. We have been working now for a long time on the bill. It just so happens that the House bill is being held at the desk and it does take unanimous consent to take it off the desk.

I am hopeful that the Senator from Ohio will see his way clear to permit full consideration of the bill today so that we can continue negotiations with the House.

As I have indicated, it is a matter of extreme urgency to my State. The Alaska railroad serves two of the most strategically important military bases in the country, Fort Wainwright and Eielson Air Force Base. It is the railroad that is taking a considerable portion of the supplies to Fairbanks where they go up the road to the North Slope operations, to Prudhoe Bay and the exploration activities that are taking place in northern Alaska. It is the only railroad facility we have to start exporting coal from Alaska. We have half the coal of the United States in our State. We are now in the position where the production and exportation of that coal can commence to the benefit of the whole economy.

I am certain that there are questions about some of the provisions, and we would be pleased to discuss them, but I do hope we are not forced into a situation where that bill will not even be able to be considered until after the postelection session because of the Senate's unique parliamentary situation.

Mr. President, I expect that today will be a very late day. We have a list of over 50 amendments which may be offered to the continuing resolution. It is going to be most important that we attempt to shorten the time on these amendments to the maximum extent possible. Hopefully, later on today, we will be discussing with the minority leader the prospect of putting some amendments back to back so that we might have some shortened rollcalls in order to expedite consideration of this bill.

I see the Senator from Ohio is on his feet. I did address a subject of concern to both of us. If he would like me to yield, I will be happy to do so.

Mr. METZENBAUM. Mr. President, I would appreciate it if the acting majority leader would yield to me.

Mr. STEVENS. I yield.

Mr. METZENBAUM. Let me first comment on the question of amendments to the pending continuing resolution.

The Senator from Ohio has an amendment and is prepared to go forward with it immediately after the conclusion of morning business, if that be the will of the leadership on both sides. I do expect the matter will not be debated lengthily, and I am prepared to put it to a vote at an agreed upon time as determined by the leadership of the majority and minority.

With respect to the Alaska Railroad——

Mr. STEVENS. Before the Senator addresses the railroad question, has the Senator a time limitation on his amendment?

Mr. METZENBAUM. No. As a matter of fact, I indicated publicly on the floor of the Senate my willingness

to agree to a time limit. When the chairman of the Appropriations Committee spoke out with respect to those limitations, he did not include that. I do not know exactly why he did not, but I am still willing to agree to a time limitation.

Mr. STEVENS. It is my memory that we did agree to limitations on those amendments on which there was no objection on either side. We do have time agreements on a number of amendments, and we requested those people who had the time agreements to be here this morning to proceed with them.

The problem is that we do not have the amendment of the Senator from Ohio cleared as far as a time agreement is concerned. I hope that he would not offer that until we are able to get a time limit because there may be others who will want to debate that at length. We are trying to get an agreement to limit the time on the Senator's amendment. We are not prepared yet to enter into a time agreement on the Senator's amendment.

Mr. METZENBAUM. I am perfectly willing to call the amendment up, speak briefly, and let the opposition speak to it, all in accordance with my rights as a Senator to offer an amendment, and then ask for the yeas and nays, or, assuming that it would not be accepted with or without a time agreement, go forward with it. I do not want to just sit back with the amendment because I consider it to be of major importance. The unemployment benefits extension is a matter that has been discussed previously. It is a matter that I think most Members of the body agree with.

So I say that I expect to call it up early, but I do not intend to speak to it at length; and I doubt very much that any Member of the majority would be inclined to speak to it at length. If the majority leader could find out from those on his side exactly what their position is and when they would like to go forward with it, the Senator from Ohio will try to be as cooperative as possible.

With respect to the matter of the Alaska Railroad, there are two parts to that bill. As a matter of fact, as it comes to the Senate, there is only one part to it, and it has to do with the State of Alaska being given the Alaska Railroad, which I am told—I cannot vouch for the accuracy of the figure—has a value of approximately a half-billion dollars. I am not prepared to debate whether that figure is $100 million high or $100 million low or whatever the facts may be.

I am also told that the bill that passed the House is a somewhat different measure. That measure provides that the State of Alaska would pay 75 percent of the value, and there is an adjective describing the manner in which that value is determined, but I do not recollect it at the moment. That is possibly a horse of a totally different color. It is a question of whether the State does or does not pay for it.

The further fact is that the House measure provides a certain number of provisions in which the railroad unions are interested. I have advised the members of the railroad unions—or, rather, the leadership of those railroad unions with whom I have spoken—that I am not willing to pay the price of giving away the Alaska Railroad to Alaska simply in order to get to their amendments.

On the other hand, I advise the Senator from Alaska that if he or his staff wish to discuss the subject, I am not adverse to doing that. But my fundamental position is that we should not give away the property of the Federal Government, regardless of what other provisions are contained in the bill that has that in it.

Again I emphasize that the Senate bill does not have those other provisions in it.

Mr. STEVENS. Mr. President, the Senator from Ohio is entitled to his opinion, and I would be happy to debate the matter with him if he would permit the bill to come up for debate.

As a practical matter, there is no giveaway in this railroad. The railroad is a Federal property. It is vital to the military bases in our State. The Federal Government has operated it from the beginning.

It is a railroad that, by definition, is not one that is of interest to the private sector because the railroad has no value as an operating railroad. It is losing money. It has a deferred maintenance cost which is staggering. It needs modernization. It needs coal-handling facilities. It has liabilities to employees.

My State has agreed with the Federal Government, in negotiations, to assume these liabilities, which more than offset the liquidation value. I think that is the phrase the Senator from Ohio was looking for. The net liquidation value is the value a purchaser would pay for the assets individually at an auction.

I am certain that the railroad cars and the tracks could be sold to a foreign purchaser who would take a complete railroad to another country, a country in which subsidies of railroads are still in vogue. Unfortunately, in this country they are not.

I am sure that if the Senator from Ohio would study it, he would find that the Conrail properties were turned over to other States and local subdivisions and nonprofit corporations in terms much more generous than those involved here.

As a practical matter, I think the Senator from Ohio is speaking for only one person from the State of Alaska, an extreme environmentalist. To stand behind the concept that he is dealing with this bill on the basis of whether or not there is a giveaway, in my opinion, puts the Senator from Ohio in a very strange position. I am having some studies done now that deal with the amount of trade that originates in the State of Ohio that goes either to the pipeline area, the oil and gas area of my State, or to the military reservations.

On the trip I will soon take through the State of Ohio, I intend to try to visit the labor unions and the chambers of commerce and other entities and explain to them why those manufactured products of the State of Ohio will have to come to a halt soon, because there will be no way to get them to their destinations in my State.

I also intend to talk to the people in the State of Ohio, who are now paying higher gas bills, to see whether they understand that the lawsuit of the Senator from Ohio against the Alaska Natural Gas Pipeline is the disquieting factor that has prevented, to date, any further negotiations concerning the financing of the largest pipeline in the United States, notwithstanding the fact that the Soviet pipeline, which was planned after our pipeline and is a longer pipeline, is going ahead on the basis of our Western European allies buying Soviet gas. We are not even in a position to deliver our gas to the south 48 when it is needed, because the Senator from Ohio has the luxury, as a Senator, of filing a suit against a pipeline that Congress has approved overwhelmingly.

I think it is time the people of Ohio knew what is going on in the Senate. I assure Senators that the people of Alaska know what is going on, and they have asked me to take a small trip through the State of Ohio. That trip through the State of Ohio is going to be more extended if the Alaska Railroad bill is not completed before the time of the recess. As a matter of fact, I am seriously thinking about not going back to Alaska at all but spending all my time during the recess in the State of Ohio, so that the people of Ohio can understand that they have sent to the Senate a Senator who thinks he is the third Senator from Alaska and not a Senator from Ohio.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. MATTINGLY). The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, if no Senator asks me to yield time, I will yield my time back.

I yield back my time.

CONTINUING APPROPRIATIONS, 1983

Mr. STEVENS. Mr. President, I call up the Exon impact aid amendment, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk must report the pending business at this time. Will the Senator withhold, please?

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 599) making continuing appropriations for the fiscal year 1983, and for other purposes.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, the time is not running against this amendment, is it?

The PRESIDING OFFICER. The committee amendments have not been disposed of, so no floor amendment is in order at this point.

Mr. STEVENS. Then, I suggest the absence of a quorum, without calling up that amendment, and I ask that it be put aside.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The first committee amendment to House Joint Resolution 599.

Mr. HATFIELD. Mr. President, the Senate now has before it House Joint Resolution 599, the continuing resolution reported from the Committee on Appropriations. The resolution covers all 13 regular appropriations bills, and it expires December 22, 1982.

I do not relish bringing this measure to the Senate floor. As my colleagues know, it has been one of my primary concerns as chairman of the Appropriations Committee to move the regular bills on a timely basis and avoid the necessity of continuing resolutions. But again this year circumstances beyond the control of the Appropriations Committee have prohibited our consideration of regular bills until very late in the year.

Prolonged struggles over the budget and tax bills, the reconciliation bill, the debt limit bill, the several versions of the urgent supplemental, and the veto of the regular supplemental have consumed virtually the entire congressional calendar this year.

Even though our committee has resorted to reporting original Senate appropriations bills, and we have reported a total of nine bills, the Sentate has only passed three bills to date, HUD, military construction, and agriculture.

So this resolution is necessary to provide spending authority beyond midnight September 30 to allow the Government to continue to function until such time as we can return in a post-election session to conclude our work on the regular bills.

I regret the need to do that, but I am gratified by the President's support for such a session.

There is much to be done on this measure, and we must get to conference quickly, so I will not detain the Senate much longer with these remarks.

Before closing, however, I do want to emphasize to my colleagues that this is a temporary, stopgap funding measure. It will expire in a little less than 2 months, and we will have ample opportunity to consider a wide variety of issues of concern to Members when we work on our regular bills.

I, therefore, will have to oppose most all amendments which are not of some emergency nature and necessary prior to October 1.

Finally, Mr. President, I ask that a brief summary of the spending rates for the bills covered in this continuing resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Agriculture, Commerce, D.C., Transportation, Treasury—Lower of House or Senate bill (reported bills deemed passed).

Labor-HHS-Education, Interior—"rate to maintain current operating levels".

Defense, Legislative—rate of Senate bill.

Foreign Operations, Energy and Water—current rate.

Military Construction—House or Senate rate, whichever is lower, at project and activity level.

HUD—rate of Senate bill for full year.

Mr. PROXMIRE. Mr. President, the continuing resolution before us today is simple in concept but complicated in execution. The concept, of course, is that the resolution extends the operations of the Federal Government at the current 1982 rate or, in the alternative, at the rates contained in House or Senate appropriations bills for fiscal year 1983 until we can pass those bills, hopefully later this year.

Because it is a stopgap measure, the resolution as reported from the Senate Appropriations Committee expires on December 22. Because it is a stopgap resolution, it cannot address in specific terms all of the problems that can easily arise pending enactment of the regular appropriations bill. However, because it is human nature to try to deal with the major difficulties that can be expected between now and December 22 when the resolution expires, the Appropriations Committee has approved 47 separate sections which cover everything from air controllers' pay through FBI fingerprint processing.

I suspect that there will be many floor amendments introduced that will focus on other problems, but I hope we will keep in mind the fact that the Government comes to a standstill at midnight Thursday if we do not pass this resolution through the Congress and that we must go to conference and then gain House and Senate approval of a conference report after the resolution leaves the Senate for the first time.

It is imperative that we keep amendments to a minimum, and that we show a willingness to limit sharply our discussion of those amendments so that we can get the resolution off the floor and into conference as soon as possible.

Let me conclude by repeating that this is a stopgap resolution, that it cannot hope to address in detail the many issues that will be dealt with in the 13 regular appropriations bills, and that speed is of the essence. If we can keep these facts in mind as we proceed with the resolution, I believe we can accomplish the very difficult job of seeing it enacted into law by midnight Thursday.

Mr. SCHMITT. Mr. President, I am glad to provide some explanation of the recommendations our committee made to deal with matters in the continuing resolution that relates to the Labor-HHS-Education Subcommittee.

Our resolution adopts House language which provides for maintaining current operating levels for Labor-HHS-Education.

Current operating levels are somewhat different than the normally used "current rate" terminology. Under current operating levels, funding is based on program performance rather than on particular overall funding levels. The performance achieved in the old fiscal year is brought forward at the cost required in the new fiscal year to continue the same level of activity, but at no greater cost than the authorization level. This approach may result in decreases if a program is being phased down or out under congressional directive.

We wish to make clear that this terminology—current operating levels—should not be interpreted to require reductions in ongoing program activity or staffing levels that the Congress has approved for the preceding fiscal year. We also wish to stress that current operating levels shall not be interpreted to reduce fiscal year funding because agencies have failed to build up program activity, including staffing, to the levels prescribed by Congress in fiscal year 1982.

The committee amendments for Labor-HHS-Education provide:

The full authorization, $296.5 million, for the jobs for the elderly program. This is $19.4 million above the fiscal year 1982 level.

For childhood immunization, $39 million, or $4.4 million above the 1982 level. The recommendation includes the maximum amount allowable—$32 million—for grants. This is one of the most effective disease prevention programs we have in this country.

The $64.4 million is the same level as in fiscal year 1982, to keep the health planning program going. Also included is bill language to make certain the Senate health planning agencies continue to be funded and that the States are not penalized 25 percent of their public health service grant money while the State agencies move to meet the requirements of the law.

For family medicine residencies, $34 million, some $7 million more than provided in fiscal year 1982. This training program is particularly important for our underserved rural areas.

For nursing research grants, $5 million, $1.6 million more than the fiscal year 1982 level for this program. This increase will bring the funding level for nursing research grants to the level this program received in fiscal years 1980 and 1981.

Bill language to make it clear that in addition to the funds provided by the resolution, $45 million is available by transfer under the provision of the recent Reconciliation Act for use in conducting money-saving audits of medicare claims.

Bill language to protect the Treasury from payment of almost half a billion dollars to States seeking repayment for prior year claims going back to the 1950's.

Bill language to extend the time period for public comment and Congressional oversight of proposed nursing home survey and certification regulations by an additional 120 days.

For the Runaway Youth program, $18 million, an increase of $7.5 million over the fiscal year 1982 level. This represents a program increase of about 75 percent for the runaway and homeless youth program, which works to re-unite runaway children and their families.

Bill language to extend for 1 year the requirement that 90 percent of community services block grant funds be passed through from the States to the local community action agencies.

Bill language to make already appropriated funds available for close-out activities of the Community Services Administration.

Bill language to eliminate the requirement to make preliminary impact aid payments to school districts during the first 30 days of the fiscal year, except in hardship cases. This language is necessary to allow time, for the agency to learn what its final fiscal year 1983 appropriation level will be. Similar language was included in the current continuing resolution for fiscal year 1982.

For vocational education basic grants, $50 million, in addition to the amount that would be provided under the continuing resolution. This would be used specifically for training and retraining youth and adults to be employable in the changing job market of the 1980's.

For funding the Chappie James Aerospace Science and Health Education Center in Alabama, $9 million.

Mr. President, the committee approved a good package for the Labor-HHS-Education portion of this continuing resolution, and I would hope that it can be adopted without amendment.

CONTINUING APPROPRIATIONS BILL SUPPORTS STRONG INLAND WATERWAY SYSTEMS

Mr. SASSER. Mr. President, I would like to bring to the attention of my colleagues the energy and water development portion of the continuing resolution for 1983 being considered today. This section is very important in that it provides for continued operations and maintenance of water projects at the existing fiscal year 1982 levels.

As you will recall, the administration's proposed budget for 1983 reduced by $150 million the Corps of Engineers' budget for operation and maintenance of water projects on our Nation's inland waterway systems. The administration's reason for the $150 million reduction was based on the premise that legislation would be enacted this Congress to recover 100 percent of the operation and maintenance and capital improvement cost for commercial users of the inland waterway system. The administration's bill has met with great opposition and has been debated for months with no result in either the House or Senate. The fact remains that our waterway systems continue to be neglected and consequently slip further into a dreadful state of disrepair. I am particularly concerned about those projects important to the movement of coal.

Eight hundred and fifteen million tons of coal were mined in the United States last year and nearly 90 percent of this coal was transported on the inland surface transportation system from mines to electric utilities and ports for overseas shipment. If this country is to accomplish energy independence, the growth of the coal and waterway systems must be improved to arrest further deterioration, and to expand capacity to accommodate increased coal shipments.

A 5-year lapse in funding has already contributed to the reduction in safety, capacity, and efficiency of the inland waterway systems on the Ohio, Mississippi, Monongahela, Kanawha, and Black Warrior Rivers.

Restoration of the $150 million reduction in the corps' budget for fiscal year 1983 was strongly supported in the House. I would urge Chairman HATFIELD and Senator JOHNSTON, the ranking minority member on the Energy and Water Development Subcommittee, to support full funding for the corps as essential to both the maintenance of our inland waterways and the transport of coal.

Mr. KASTEN. Mr. President, I would like to ask the distinguished subcommittee chairman a question in order to clarify the impact of the continuing resolution on the authority of the Federal Trade Commission.

Mr. WEICKER. I would be glad to answer the Senator's question.

Mr. KASTEN. Mr. President, on September 22, when the Appropriations Committee considered H.R. 6957, the State, Justice, Commerce appropriations bill, I offered, and the committee accepted, an amendment designed to extend the effectiveness of certain expiring provisions of the FTC Improvements Act of 1980. These provisions place certain limitations on the FTC's authority with respect to paying public intervenor funding, Improvements Act, section 10; commercial advertising, section 11; trademarks, section 18; agricultural cooperatives, section 20; and rulemaking, section 21, establishing legislative veto procedures. These limitations are scheduled to expire on September 30, so they must be extended in order to maintain the status quo while new FTC authorization legislation is being finalized.

The House Appropriations Committee has reported H.R. 6957, but without any continued limitations of the kind contained in the Senate bill.

Am I correct that the continuing resolution will operate to make any amendment effective for the duration of the resolution?

Mr. WEICKER. Yes, the Senator is correct. The relevant provision of the continuing resolution's section 101(a)(3). Since with your amendment, the Senate appropriation bill contains authority for the FTC that is more restrictive than under the House bill, the Senate provision would become effective under the continuing resolution. The expiring provisions of the Improvements Act that you mention would be extended for the duration of the resolution.

Mr. KASTEN. I thank the Senator.

Mr. CHILES. Mr. President, I have heard speculation that some language in this continuing resolution might affect the laudable efforts of the Congress and the administration to reduce unnecessary paperwork and regulatory burdens on the public. I wish to state in unambiguous terms that one basis

for our actions regarding the continuing resolution is that it will have no such effect. As one of the primary sponsors of the Paperwork Reduction Act of 1980, I cannot imagine that Congress would intend to affect key provisions of that act by any vague or unexamined language in a continuing resolution. I would like to know if the chairman agrees with me in this regard.

Mr. HATFIELD. I absolutely agree. As a member of the Paperwork Commission whose report led to enactment of the 1980 act, I have followed the administration's efforts to reduce regulatory paperwork closely, and know that these efforts have very strong support in the Congress. This continuing resolution will not undermine the Executive Office's oversight of regulatory paperwork in any way. If anyone means to call retreat in the battle against overregulation and excessive paperwork, it would take explicit statutory language explicitly agreed to by both Houses and the President. Certainly nothing in the continuing resolution would do this.

Mr. ABDNOR. I would like to interject that the Executive Office of the President also oversees regulatory policy under Executive Order 12291. This order was signed by President Reagan, but Presidents Carter and Ford had similar Executive orders during their administrations. Am I correct that Executive oversight under the Executive order as well as the Paperwork Act would continue under this continuing resolution?

Mr. HATFIELD. The Senator is correct. What I have just said applies equally to the Executive order. General oversight of regulation is part of the President's constitutional responsibility to see that the laws are faithfully executed. Regulation has become such a large part of the work of the executive branch that, as the Senator points out, recent Presidents of both parties have found it necessary to exercise a degree of central oversight of the process. We were aware of this practice when we passed the Laxalt-Leahy regulatory reform bill unanimously earlier this term, which adopts many of the policies and procedures of President Reagan's Executive order. We could hardly intend to reverse ourselves on this critical issue today in providing funds for the executive branch to keep operating for a few more months. So let me reiterate that nothing in the continuing resolution may be interpreted as affecting in any way the customary management of regulatory or paperwork-reduction policies.

COMMITTEE AMENDMENTS

Mr. HATFIELD. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, with the exception of the following committee amendments: On page 33, lines 3 through 13; on page 35, lines 14 through 24; on page 26, line 18 through page 27, line 7; that portion of the committee amendment beginning on page 13, line 5 through page 14, line 25.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I know of no objection to this. May I ask the chairman if he knows whether or not Mr. PROXMIRE will be agreeable? I have no objection.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, will the chairman of the Appropriations Committee be good enough to advise whether the committee amendments include the McClure amendment?

Mr. HATFIELD. The exemption is the second one I enunciated, which will then provide Senator MCCLURE an opportunity to withdraw his amendment that he offered and which was adopted by the committee a little bit later during the day.

Mr. METZENBAUM. It will provide him an opportunity to do that?

Mr. HATFIELD. The FTC—it is the FTC issue as it relates to professional groups. That was adopted by the committee, and now Senator MCCLURE will move to strike that amendent that he had offered in committee so as to keep that issue off this bill. That is the result of his action that he plans to take. That is why we included it in the exceptions from the adoption of the committee amendments en bloc.

Mr. METZENBAUM. With that assurance of the chairman of the Appropriations Committee that Senator MCCLURE's amendment will be withdrawn, I have no objection.

The PRESIDING OFFICER. Without objection, the committee amendments so identified are agreed to en bloc.

The committee amendments agreed to follow:

On page 2, strike line 13, through and including line 16;

On page 3, line 16, after "House", insert "or the Senate";

On page 3, line 16, strike "the", and insert "that";

On page 3, line 20, strike "the", and insert "one";

On page 3, line 22, strike "the", and insert "that";

On page 3, line 24, strike "the", and insert "that";

On page 4, line 20, strike "activities", and insert the following: "activities, including those activities conducted pursuant to section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended,"

On page 5, line 4, strike "Such", through and including page 6, line 25, and insert the following:

"Notwithstanding any other provision of this joint resolution, except section 102, such amounts as may be necessary for continuing projects and activities under the terms and conditions and to the extent and in the manner as provided in the Department of Defense Appropriations Act, 1983, (S. 2951) as reported to the Senate on September 23, 1982."

On page 7, line 7, strike "Such", through and including "authority," on line 12, and insert the following:

"Such amounts as may be necessary for continuing projects and activities (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 1982 and for which appropriations, funds, or other authority would be available in the Foreign Assistance Appropriations Act, 1983, under the current terms and conditions and at a rate for operations of the current rate."

On page 7, line 25, strike ": Provided", through and including Act." on page 8, line 14, and insert the following:

"Such amounts as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in S. 2939, entitled the Legislative Branch Appropriation Act, 1983, as reported September 22, 1982, and the provisions of S. 2939 shall be effective as if enacted into law."

On page 9, line 2, after "Act", insert the following:

"*Provided*, That whenever the amount which would be made available or the authority which would be granted in this subsection is different from that which would be available or granted under such Act for each pertinent project or activity, as reported to the Senate on September 22, 1983, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority.

"(g) Notwithstanding any other provision of this joint resolution such amounts as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in H.R. 6956, entitled the HUD-Independent Agencies Appropriations Act, 1983, as reported September 16, 1982, to the Senate and the provisions of H.R. 6956 shall be effective as if enacted into law.

"(h) Such amounts as may be necessary for continuing activities which were conducted in fiscal year 1982, for which provision was made in the Energy and Water Development Act, 1982, at the current rate of operations: *Provided*, That no appropriation, fund or authority made available by this joint resolution or any other Act may be used directly or indirectly to significantly alter, modify, dismantle, or otherwise change the normal operation and maintenance required for any civil works project under Department of Defense—Civil, Department of the Army, Corps of Engineers—Civil, Operation and Maintenance, General, and the operation and maintenance activities funded in Flood Control, Mississippi River and Tributaries: Provided further, That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1982: Provided further, That no appropriation, fund or authority made available to the Department of Energy by this joint resolution or any other Act, shall be used for any action which would result in a significant reduction of the employment levels for any program or activity below the employment levels in effect on September 30, 1982."

On page 10, line 22, strike "February 28, 1983", and insert "December 22, 1982";

On page 12, strike line 3, through and including line 15;

On page 12, line 16, strike "108", and insert "107";

On page 12, line 22, strike "109", and insert "108";

On page 16, line 7, strike "112", and insert "110";

On page 16, line 8, after "resolution", insert "except section 102";

On page 16, line 8, strike "moneys", through and including "Acquisition" on page 17, line 1, and insert the following:

"for acquisition of strategic and critical materials and for transportation and other incidental expenses related to such acquisitions, $320,000,000, which shall be derived from moneys received in the National Defense Stockpile Transaction Fund established by section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), as amended by Public Law 97-35 (95 Stat. 381), and shall remain available until expended: Provided, That of this amount $200,000,000 shall be obligated for the purchase of domestic copper mined and smelted in the United States after September 30, 1982."

On page 17, line 12, strike "113", and insert "111";

On page 17, line 18, after "House", insert "or the Senate";

On page 17, strike line 20, through and incuding page 18, line 7;

On page 18, line 8, strike "115", and insert "112";

On page 18, line 17, strike "116", and insert "113";

On page 18, line 22, strike "117", and insert "114";

On page 19, strike line 1, through and including line 4;

On page 19, line 5, strike "119", and insert "115";

On page 19, line 13, after "3109", and insert the following:

": *Provided*, that except for funds obligated or expended for planning, administration, and management expenses, and architectural or other consulting services, no funds herein appropriated shall be available for expenditure until such time as the Chancellor of the Smithsonian Institution certifies that all required matching funds are actually on hand or available through legally binding pledges."

On page 19, line 21, strike "120", and insert "116";

On page 20, line 3, strike "121", and insert "117";

On page 20, line 3, strike "(4)";

On page 20, line 6, strike "$14,000,000", and insert "$11,000,000";

On page 20, line 10, strike "122", and insert "118";

On page 20, line 10, strike "Notwithstanding", through and including "1981." on line 15, and insert the following:

"Notwithstanding section 101 of this joint resolution, none of the sums provided by this joint resolution for the Legal Services Corporation shall be expended to provide legal assistance for or on behalf of any alien unless the alien is a resident of the United States and is—

"(1) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a) (15), (20));

"(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

"(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

"(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)).

an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of section 1007(b)(11) of the Legal Services Corporation Act, to be an alien described in subparagraph (C) of such section: Provided further, That none of the funds appropriated in this Act shall be used by the Legal Services Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that any recipient organized primarily for the purpose of providing legal assistance to eligible clients is governed by a body at least 60 per centum of whose membership consists of attorneys who are admitted to practice in the State in which the legal assistance is to be provided and who are appointed to terms of office on the governing body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the recipient is to provide legal assistance. Any such attorney, while serving on such board, shall not receive compensation from a recipient: Provided further, That none of the funds appropriated in this Act shall be expended by the Corporation to participate in litigation unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in litigation in which the interpretation of this title or a regulation promulgated under this title is an issue, and shall not participate on behalf of any client other than itself: Provided further, That none of the funds appropriated in this Act shall be available to any recipient to be used—

"(A) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except where legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case which directly involves the client's legal rights and responsibilities, or

"(B) to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this subsection shall not preclude such funds from being used in connection with communications made in response to any Federal, State, or local official, upon the formal request of such official: *Provided further*, That none of the funds appropriated in this Act shall be used to bring a class action suit against the Federal government or any State or local government except in accordance with policies or regulations adopted by the Board of Directors of the Legal Services Corporation."

On page 24, line 1, strike "$123", and insert "119";

On page 24, strike line 7, through and including page 25, line 2;

On page 25, line 3, strike "125", and insert "120";

On page 25, line 3, strike "$70,122,000", and insert "amounts";

On page 25, line 6, strike "$60,415,000", and insert "$80,886,000";

On page 25, line 7, strike "$2,620,000", and insert "$3,147,000";

On page 25, line 9, strike "7,087,000", and insert "$8,630,000";

On page 25, line 11, strike "126", and insert "121";

On page 25, line 22, strike "127", and insert "122";

On page 26, after line 2, insert the following:

SEC. 123. Notwithstanding any other provision of this joint resolution except section 102, funds shall be available for the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), at the rate and under the terms and conditions provided for in H.R. 7072 as reported to the Senate on September 22, 1982.

SEC. 124. Notwithstanding any other provision of law or this joint resolution, except section 102, an amount for those International Financial Institutions referred to in title I of Public Law 97-121, the Foreign Assistance and Related Program Appropriations Act, 1982, as is equal to the total for such institutions in that title, may be allocated by the President among those institutions in a manner which does not exceed the limits established in authorizing legislation.

SEC. 126. Notwithstanding any other provision of this joint resolution, except section 102, and notwithstanding any other provision of law for payments to air carriers of so much of the compensation fixed and determined by the Civil Aeronautics Board under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Board, $48,400,000 is appropriated to remain available until expended, and such amounts as may be necessary to liquidate obligations incurred prior to September 30, 1982, under 49 U.S.C. 1376 and 1389: *Provided*, That notwithstanding any other provision of law, none of the funds hereafter appropriated by this joint resolution or any other Act shall be expended under section 406 (49 U.S.C. 1376) for services provided after September 30, 1982: *Provided further*, That, notwithstanding any other provision of law or of the previous provision of this paragraph, payments shall be made from funds appropriated herein and in accordance with the provisions of this paragraph to carriers providing, as of September 30, 1982, services covered by rates fixed under section 406 of the Federal Aviation Act (excluding services covered by payments under section 419(a)(7) and services in the State of Alaska): *Provided further*, That, notwithstanding any other provision of law, such payments shall be based upon orders applicable to such carriers as of July 1, 1982, but shall not exceed $13,500,000 in the aggregate: *Provided further*, That, notwithstanding any other provision of law, to the extent necessary to meet this limitation, such payments shall be reduced by a per-

centage which is the same for all carriers eligible for such payments: *Provided further*, That nothing in this joint resolution shall be deemed to prevent the Board from granting an application under section 419(a)(11)(A) (49 U.S.C. 1389) pertaining to a carrier receiving compensation under this joint resolution, in which event the standards and procedures set forth in section 419(a)(11)(A) shall apply.

SEC. 127. (a) Sections 308(g) and 308a(c) of title 37, United States Code, are amended by striking out "September 30, 1982" and inserting in lieu thereof "March 31, 1983".

(b)(1) Section 301b(e) of title 37, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) During the period beginning on October 14, 1981, and ending on March 31, 1983, only agreements executed by officers of the Navy or Marine Corps may be accepted under this section.

"(3) During the period beginning on October 1, 1982, and ending on March 31, 1983, only an agreement—

"(A) that is executed by an officer who—

"(i) has at least six but less than eleven years of active duty;

"(ii) has completed the minimum service required for aviation training; and

"(iii) has not previously been paid special pay authorized by this section; and

"(B) that requires the officer to remain on active duty in aviation service for either three or four years;

may be accepted under this section. An officer from which an agreement is accepted during such period may be paid an amount not to exceed $4,000 for each year covered by that agreement if that officer agrees to remain on active duty for three years or an amount not to exceed $6,000 for each year covered by that agreement if that officer agrees to remain on active duty for four years. An agreement that requires an officer to remain on active duty in aviation service for six years may also be accepted during such period if the officer meets the requirements of clause (A) of this paragraph and such officer has completed less than seven years of active duty. An officer from whom such an agreement is accepted may be paid an amount not to exceed $6,000 for each year covered by the agreement.

"(4) An officer may not receive incentive pay under section 301 of this title for the performance of hazardous duty for any period of service which the officer is obligated to serve pursuant to an agreement entered into under this section.".

(2) Section 301b(f) of title 37, United States Code, is amended by striking out "September 30, 1982" and inserting in lieu thereof "March 31, 1983".

(3) The amendment made by subsections (a) and (b) shall take effect on October 1, 1982.

(4)(A) it is the sense of the Congress that eligibility for special pay for aviation career officers under section 301b of title 37, United States Code, should be made available only to officers who will likely be induced to remain on active duty in aviation service by receipt of the special pay.

(B) The Secretary of the Navy shall submit to the Congress not later than July 1, 1983, a written report, approved by the Secretary of Defense, on the payment of special pay for aviation career officers under section 301b of title 37, United States Code, since October 1, 1982. Such report shall include—

(i) a list of the specific aviation specialties by aircraft type determined to be critical for purposes of the payment of special pay under such section since October 1, 1982;

(ii) the number of officers within each critical aviation speciality who received the special pay under such section since October 1, 1982, by grade, years of prior active service, and amounts of special pay received under such section;

(iii) an explanation and justification for the Secretary's designation of an aviation speciality as "critical" and for the payment of special pay under section 301b of such title to officers who have more than eight years of prior active service and who are serving in pay grade O-4 or above, if payment of such pay was made to such officers; and

(iv) an evaluation of the progress made since October 1, 1982, toward eliminating shortages of aviators in the aviation specialties designated by the Secretary as critical.

SEC. 128. Notwithstanding any other provision of this joint resolution, there are appropriated $296,500,000 to carry out title V of the Older Americans Act of 1965, of which not more than $65,230,000 shall be for grants to States under paragraph (3) of section 506(a) of such Act.

SEC. 129. Notwithstanding any other provision of this joint resolution, there are appropriated $39,000,000 for fiscal year 1983 to carry out section 317(j)(1) of the Public Health Service Act, relating to preventive health service programs to immunize children against immunizable diseases.

SEC. 130. (a) Notwithstanding any other provision of this joint resolution, there are appropriated $64,432,000 to carry out title XV of the Public Health Service Act.

(b) Notwithstanding any other provision of law, no funds appropriated by this joint resolution or any other Act for fiscal year 1983 for any allotment, grant, loan, or loan guarantee under the Public Health Service Act or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 shall be subject to reduction under section 1521(d)(2) of the Public Health Service Act during the period beginning on October 1, 1982, and ending on the date specified in clause (c) of section 102.

SEC. 131. Notwithstanding any other provision of this joint resolution, there are appropriated $34,000,000 to carry out section 786 of the Public Health Service Act.

SEC. 132. Amounts appropriated under section 101(b) of this joint resolution (including amounts transferred from the Federal Hospital Insurance Trust Fund or the Federal Supplementary Insurance Trust Fund) shall be in addition to the $45,000,000 transferred from those trust funds for fiscal year 1983 under section 118 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 134. Notwithstanding any other provision of this joint resolution, there are appropriated $18,000,000 for fiscal year 1983 to carry out the Runaway and Homeless Youth Act.

SEC. 135. Notwithstanding any other provision of law, of the funds appropriated for fiscal year 1983 to carry out the Community Services Block Grant Act of 1981, not more than 10 per centum of the funds allotted to each State under section 674 of such Act shall be used for purposes other than to make grants to eligible entities as defined in section 673(1) of such Act or to organizations serving seasonal and migrants farmworkers or to designated limited purpose agencies which meet the requirements of section 673(1) of such Act.

SEC. 136. Notwithstanding any other provision of this joint resolution, unobligated funds from fiscal year 1982 appropriations provided for closeout activities of the Community Services Administration are to remain available through September 30, 1983.

SEC. 137. Notwithstanding any other provision of this joint resolution, none of the appropriations and funds made available and none of the authority granted pursuant to this joint resolution shall be available for payments under section 5(b)(2) of Public Law 87-874, except to the extent necessary to avoid undue hardship.

SEC. 138. Notwithstanding any other provision of this joint resolution, there are appropriated $50,000,000 to carry out subpart 2 of part A of the Vocational Education Act of 1963, which is in addition to amounts appropriated under this joint resolution.

SEC. 139. Notwithstanding any other provision of this joint resolution or section 512(b) of the Omnibus Budget Reconciliation Act of 1981, there are appropriated $9,000,000 for fiscal year 1983 to carry out subpart 2 of part H of title XIII of the Education Amendments of 1980 and section 528(5) of the Omnibus Education Reconciliation Act of 1981, which shall remain available for obligation until September 30, 1988.

SEC. 140. Notwithstanding any other provision of this joint resolution, there is hereby appropriated $5,000,000 under title III of the United States Public Health Service Act for Nursing Research activities.

SEC. 141. Section 93 of title 14, United States Code, is amended by (1) striking out "and" at the end of subsection (p); (2) striking out the period at the end of subsection (q) and inserting in lieu thereof "; and"; and (3) adding at the end thereof the following new subsection: "(r) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities.".

SEC. 143. Notwithstanding any other provision of this joint resolution, except section 102, funds shall be available for the United States Travel and Tourism Administration at an annual rate of $7,600,000: Provided, That the number of offices in foreign countries and the number of employees assigned to such offices in foreign countries, and obligations for the activities of such office in foreign countries, shall not be less than the numbers and amounts for fiscal year 1982.

SEC. 144. Notwithstanding any other provision of this joint resolution, the head of any department or agency of the Federal Government in carrying out any loan guarantee or insurance program shall enter into commitments to guarantee or insure loans pursuant to such program in the full amount provided by law subject only to (1) the availability of qualified applicants for such guarantee or insurance, and (2) limitations contained in appropriation Acts.

SEC. 145. No change in the regulations subject to the moratorium required by section 135 of Public Law 97-248 shall be promulgated in final form until one hundred and twenty days after the expiration of the moratorium, during which period the Department of Health and Human Services shall seek public review and comment on any such proposed regulations and consult with the appropriate Committee of Congress.

SEC. 146. (a) Notwithstanding any other provision of law to the contrary, the Secretary of Agriculture shall have the authority to conduct boundary surveys of National Forest System lands.

(b) The Secretary of Agriculture should jointly develop with the Secretary of the In-

terior, within one hundred and eighty days of enactment of this section, procedures to conduct boundary surveys of National Forest System lands.

(c) So much of the personnel, properties, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available, in connection with the performance by the Department of the Interior of boundary surveys of National Forest System lands as the Director of the Office of Management and Budget shall determine, shall be transferred within one hundred and twenty days of enactment of this section to the appropriate agency, or component, of the Department of Agriculture, except that no such unexpected balances transferred shall be used for the purposes other than those for which the appropriation was originally made.

SEC. 147. Notwithstanding any other provision of this joint resolution or any other provision of law, appropriations for urban and nonurban formula grants authorized by the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq.) shall be apportioned and allocated using data from the 1980 decennial census.

SEC. 148. Notwithstanding any other provision of this joint resolution, for necessary expenses for the National Oceanic and Atmospheric Administration (NOAA) to operate the civilian land remote sensing satellite system (LANDSAT), $13,555,000 above the rate provided by section 101(a) of this joint resolution, shall remain available until expended.

SEC. 149. Of the amounts appropriated to the Department of State for the purposes of "Contributions for International Peacekeeping Activities" not more than $50,000,000 shall be available for expenses necessary for contributions to a United Nations Transition Assistance Group, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 or any other provision of law: Provided, That none of these funds shall be obligated or expended for contributions to the United Nations Transition Assistance Group unless the President determines and reports to the Congress that adequate agreement has been achieved among the parties to the Namibia dispute concerning implementation of United Nations Security Council Resolution 435 for the independence of Namibia.

SEC. 150. Notwithstanding any other provisions of this joint resolution, $365,000 shall be made available for the National Security Council, effective October 1, 1982, for the operations of the President's Foreign Intelligence Advisory Board and the President's Intelligence Oversight Board.

SEC. 151. $5,200,000 of the funds appropriated to the National Endowment for the Humanities for "Salaries and expenses" in Public Law 97-100 are hereby transferred to "Matching Grants" for the purposes of section 7(h) of the National Foundation on the Arts and the Humanities Act of 1965, as amended. Such funds shall remain available until September 30, 1984.

SEC. 152. (a) Section 4109 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding subsection (a)(1) of this section, the Administrator, Federal Aviation Administration, may pay an individual training to be an air traffic controller of such Administration, during the period of such training, at the applicable rate of basic pay for the hours of training officially ordered or approved in excess of forty hours in an administrative workweek.".

(b) Section 5532 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any other provision of law, the retired or retainer pay of a former member of a uniformed service shall not be reduced while such former member is temporarily employed, during the period described in paragraph (2) or any portion thereof, under the administrative authority of the Administrator, Federal Aviation Administration, to perform duties in the operation of the air traffic control system or to train others to perform such duties.

"(2) The provisions of paragraph (1) of this subsection shall be in effect for any period ending not later than December 31, 1984, during which the Administrator, Federal Aviation Administration, determines that there is an unusual shortage of air traffic controllers performing duties under the administrative authority of such Administrator.".

(c)(1) Chapter 55 of title 5, United States Code, is amended by inserting after section 5546 the following new section:

"§ 5546a. Differential pay for certain employees of the Federal Aviation Administration

"(a) The Administrator of the Federal Aviation Administration (hereafter in this section referred to as the 'Administrator') may pay premium pay at the rate of 5 per centum of the applicable rate of basic pay to—

"(1) any employee of the Federal Aviation Administration who is—

"(A) occupying a position in the air traffic controller series classified not lower than GS-9 and located in an air traffic control center or terminal or in a flight service station;

"(B) assigned to a position classified not lower than GS-09 or WG-10 located in an airway facilities sector; or

"(C) assigned to a flight inspection crewmember position classified not lower than GS-11 located in a flight inspection field office,

the duties of whose position are determined by the Administrator to be directly involved in or responsible for the operation and maintenance of the air traffic control system; and

"(2) any employee of the Federal Aviation Administration who is assigned to a flight test pilot position classified not lower than GS-12 located in a region or center, the duties of whose position are determined by the Administrator to be unusually taxing, physically or mentally, and to be critical to the advancement of aviation safety.

"(b) The premium pay payable under any subsection of this section is in addition to basic pay and to premium pay payable under any other subsection of this section and any other provision of this subchapter.".

(2) The analysis of chapter 55 of such title is amended by inserting after the item relating to section 5546 the following new item:

"5546a. Differential pay for certain employees of the Federal Aviation Administration.".

(d) Section 5546a of title 5, United States Code (as added by section 152(c) of this joint resolution), is amended by adding at the end thereof the following new subsections:

"(c)(1) The Administrator may pay premium pay to any employee of the Federal Aviation Administration who—

"(A) is an air traffic controller located in an air traffic control center or terminal;

"(B) is not required as a condition of employment to be certified by the Administrator as proficient and medically qualified to perform duties including the separation and control of air traffic; and

"(C) is so certified.

"(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 1.6 per centum of the applicable rate of basic pay for so long as such employee is so certified.

"(d)(1) The Administrator may pay premium pay to any air traffic controller of the Federal Aviation Administration who is assigned by the Administrator to provide on-the-job training to another air traffic controller while such other air traffic controller is directly involved in the separation and control of live air traffic.

"(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 10 per centum of the applicable hourly rate of basic pay times the number of hours and portion of an hour during which the air traffic controller of the Federal Aviation Administration provides on-the-job training.

"(e)(1) The Administrator may pay premium pay to any air traffic controller or flight service station specialist of the Federal Aviation Administration who, while working a regularly scheduled eight-hour period of service, is required by his supervisor to work during the fourth through sixth hour of such period without a break of thirty minutes for a meal.

"(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 50 per centum of one-half of the applicable hourly rate of basic pay.

"(f)(1) The Administrator shall prescribe standards for determining which air traffic controllers and other employees of the Federal Aviation Administration are to be paid premium pay under this section.

"(2) The Administrator may prescribe such rules as he determines are necessary to carry out the provisions of this section.".

(e) Section 5547 of title 5, United States Code, is amended by adding at the end thereof the following: "The first sentence of this section shall not apply to any employee of the Federal Aviation Administration who is paid premium pay under section 5546a of this title.".

(f) Section 8339(e) of title 5, United States Code, is amended by inserting before the period "unless such employee has received, pursuant to section 8342 of this title, payment of the lump-sum credit attributable to deductions under section 8334(a) of this title during any period of employment as an air traffic controller and such employee has not deposited in the Fund the amount received, with interest, pursuant to section 8334(d) of this title".

(g) Section 8344 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(h)(1) Subject to paragraph (2) of this subsection, subsections (a), (b), (c), and (d) of this section shall not apply to any annuitant receiving an annuity from the Fund while such annuitant is employed, during any period described in section 5532(f)(2) of this title or any portion thereof, under the administrative authority of the Administrator, Federal Aviation Administration, to perform duties in the operation of the air traffic control system or to train other individuals to perform such duties.

"(2) Paragraph (1) of this subsection shall apply only in the case of any annuitant receiving an annuity from the Fund who,

before August 3, 1981, applied for retirement or separated from the service while being entitled to an annuity under this chapter.".

(h)(1) The amendments made by subsections 152 (b), (c), (e), and (g) of this joint resolution shall take effect at 5 o'clock ante meridian eastern daylight time, August 3, 1981.

(2) The amendments made by the subsection 152(a) and subsection 152(d) of this joint resolution shall take effect on the first day of the first applicable pay period beginning after the date of the enactment of this joint resolution.

(3) The amendment made by subsection 152(f) of this joint resolution shall take effect on the date of the enactment of this joint resolution.

Mr. HATFIELD. Mr. President, I further ask unanimous consent that the resolution, as amended, be considered as original text for the purpose of further amendment, with the understanding that no points of order be considered waived by reason thereof, and that the excepted committee amendments may be temporarily laid aside by agreement of the floor managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, let me just sort of explain briefly what the status of the situation is. We have some 40 amendments that have been announced, not necessarily has it been indicated that each and every one of them will be offered.

I had indicated earlier yesterday that, in order to comply with the requirements of paperwork and the necessity of a conference, it will be vital that we complete the action on this continuing resolution by noon today in order that we can complete the full process and have an opportunity for the President to act upon it by midnight tomorrow night, Thursday night. There is no order of amendments that will be offered. Any Senator seeking and getting recognition will, of course, have an opportunity to raise his amendment.

I would also announce that last night before adjournment we had secured a unanimous-consent agreement on six amendments that have been announced as expected to be offered. There is an amendment dealing with Clinch River and an amendment dealing with land disposal, both being offered by Senator BUMPERS and the Clinch River by Senator BUMPERS and Senator HUMPHREY. Then there is an impact aid amendment by Senator EXON and a hydroelectric amendment by Senator SASSER and a District of Columbia appropriations amendment by Senator SARBANES. No other time agreements have been achieved.

I would hope, as Senators now are ready to offer amendments, that perhaps we could enter upon a time agreement.

Mr. METZENBAUM. No problem with this Senator.

Mr. HATFIELD. Will the Senator indicate what time he would like?

Mr. METZENBAUM. The same time I had indicated yesterday, 40 minutes. I am prepared to go forward. I have been prepared to go forward since 8:20 this morning. I am willing to make my opening remarks and reserve to the opposition such time as they need at a specific time and I am willing to agree upon a time certain as to when a rollcall vote will be taken.

Mr. HATFIELD. Mr. President, I will yield the floor and we will, in the meantime, try to work out a time agreement as offered by the Senator from Ohio of 40 minutes equally divided. I will try to make contact with the other side of the issue and see if we can reach that agreement.

Mr. METZENBAUM. If the Senator from Oregon has no strong objection, I am prepared to go forward now. I will speak briefly and I will still be willing to agree to the time limitation. In fact, I am willing to say to the Senator from Oregon that I am willing to be totally cooperative. I might just as well get my amendment up. I am willing to agree to a unanimous consent to set it aside once it is called up and reserve its position on the calendar.

Mr. HATFIELD. Mr. President, with the approval of the minority, I ask unanimous consent to temporarily set aside the excepted committee amendments in order that Senators may offer amendments.

Mr. METZENBAUM. Reserving the right to object, and I do not intend to object, I thought the committee amendments had been adopted.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

Mr. METZENBAUM. Mr. President, if I have the floor, I yield to the minority leader.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. HATFIELD. Mr. President, I am happy to yield to the distinguished minority leader.

Mr. ROBERT C. BYRD. I thank the Senator.

The chairman is proceeding in an orderly manner. He has proceeded to get consent en bloc for most of the committee amendments. Certain committee amendments were excepted from that en bloc agreement. Now before the Senate are those excepted committee amendments. Amendments from the floor are not in order until the committee amendments have been adopted or disposed of. So there are four or five committee amendments that have been excepted from being accepted en bloc.

So I say to the distinguished Senator from Ohio that those are the amendments that are now before the Senate. They must be disposed of before amendments from the floor may be offered unless the amendments from the floor are to those amendments or unless unanimous consent is given to set those aside to allow amendments from the floor. That is what the Senator from Oregon is trying to do.

Mr. METZENBAUM. I thank the Senator. I have no objection.

Mr. HATFIELD. Mr. President, let me make one clarification. I was attempting to clear the deck for the Senator from Ohio to offer his amendment.

Mr. METZENBAUM. I thank the Senator.

Mr. HATFIELD. I really misspoke in asking for unanimous consent because, under the previous unanimous-consent agreement, it is with the approval of the floor managers that we set aside these excepted committee amendments. The Senator from West Virginia and I, as comanagers of this bill, have agreed to set them aside, so that the deck is now clear for the Senator from Ohio to raise his amendment. In the meantime, I will try to work out a unanimous-consent agreement on a time limitation.

Mr. METZENBAUM. I thank the Senator from Oregon.

The PRESIDING OFFICER. Without objection, the committee amendments are temporarily set aside.

The Senator from Ohio.

AMENDMENT NO. 3621

Mr. METZENBAUM. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM), for himself and others, proposes an amendment numbered 3621.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . (a) Notwithstanding any other provision of law, the provisions of subtitle A of title VI of the Tax Equity and Fiscal Responsibility Act of 1982, establishing a Federal supplemental benefits program of unemployment compensation benefits shall remain in effect, and an individual's period of eligibility shall continue, without regard to any provision in such Act relating to termination of such Federal supplemental benefit program, or to the end of such period of eligibility, until the national seasonally adjusted total rate of unemployment is less than 8.7 percent.

(b)(1) Notwithstanding the provisions of section 2402(b) of the Omnibus Budget Reconciliation Act of 1981 the amendments made by subsection (a) of section 2402 of such Act shall not be effective for determining whether there are State "on" or "off" indicators for weeks beginning on or after June 1, 1982, and before the month following the first month thereafter for which the national seasonally adjusted total rate of unemployment is less than 8.7 percent.

(2) For purposes of making such determinations described in paragraph (1), the rate of insured unemployment for all weeks shall be calculated in the same manner as it is calculated for the particular week with respect to which the determination of an "on" or "off" indicator is being made.

(c) Section 2403(b) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "September 25, 1982" and inserting in lieu thereof "the national seasonally adjusted total rate of unemployment is less than 8.7 percent for at least one month occurring after September 1982".

(d) For purposes of determining whether there are State "on" or "off" indicators for weeks beginning on or after June 1, 1982, and before the month following the first month thereafter for which the national seasonally adjusted total rate of unemployment is less than 8.7 percent, paragraph (1) of section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970 shall be applied as if such paragraph did not contain subparagraph (A) thereof.

(e) In the case of any State with respect to which the Secretary of Labor has determined that State legislation is required in order to amend its State unemployment compensation law so as to include any requirements imposed by this section with respect to extended compensation, such State's unemployment compensation law shall not be determined to be out of compliance under section 3304(c) of the Internal Revenue Code by reason of a failure to contain any such requirement for any period prior to the end of the first session of the State legislature which begins after the date of the enactment of this Act, or which began prior to the date of the enactment of this Act and remained in session for at least twenty-five calendar days after such date of enactment. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

(f) Nothing contained in the preceding provisions of this section (or any amendments made thereby) does or shall be construed to authorize or require payment of unemployment compensation to any individual for any week prior to the first week which begins after the date this section becomes law, if such compensation would not have been payable to such individual without regard to the preceding provisions of this section.

Mr. METZENBAUM. Mr. President, this is not a new subject for the Senate. It is a subject that has to do with the extension of unemployment benefits. Unemployment benefits come in three different categories: We have the 26 weeks of unemployment benefits that each State provides, we have an extended benefit program that is federally funded for 13 weeks, and we then have an additional 10 weeks, over and above the 39 weeks, that was provided by the tax conferees pursuant to the resolution or the amendment that this Senator offered on the floor of the Senate and that was adopted by a vote of 84 to 13.

The 10-week period is taken care of. The intervening 13-week period, however, is a problem. The amendment that was offered on the floor of the Senate directed the conferees to provide a correction for this problem as well and the tax conferees, in their haste, did not do so.

As a consequence, approximately 30 States will trigger off with respect to that 13 weeks of unemployment compensation. Now we are talking about States with persistently high unemployment—Alabama, Arkansas, Delaware, Indiana, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, Vermont, Alaska, Arizona, California, Illinois, Iowa, Kansas, Kentucky, Louisiana, Michigan, Montana, New Mexico, North Carolina, Ohio, Oregon, Tennessee, Utah, the Virgin Islands, Wisconsin, and by some estimates, Mississippi and West Virginia.

Now what we are talking about here has to do with a thing called triggering. Last year the extended benefit program was affected by one of those amendments that did not gain a lot of attention, but under the reconciliation bill it substantially changed the extended benefits program for unemployment compensation.

Many of the Senators supported that which was then described as supply-side economics. And it was assumed that supply-side economics would produce real growth of 4.2 percent in fiscal year 1982 and 5 percent in fiscal year 1983. It assumed that unemployment rates would decline from 7.2 percent in fiscal year 1982 to 6.4 percent in fiscal year 1983. As a matter of fact, it was about February 1981 that the Secretary of the Treasury was quoted as saying that unemployment at that point is 7.8 percent and it will gradually decline.

Well, Mr. President, you do not need this Senator to say to you or to the Members of the Senate what has in fact happened. What has actually happened is that the economy has gone into chaos and we now have an unemployment rate that was last reported at 9.8 percent and, according to some predictions, will exceed 10 percent when the September figures are out.

In July and August the Department of Labor reported national unemployment at 9.8 percent. It is particularly acute in the Northeast and Midwest. In my own State of Ohio, the announced figure was 12.2 percent, but the indications are that it will be up over 14 percent when the next reports are made.

I do not have to say to the Members of the Senate or the people in this country that bankruptcies are at the highest level in 50 years and in the first 6 months there were as many bankruptcies filed in this country as there were in all of last year. So we do indeed have chaotic conditions in the economy.

What we are talking about in this instance is to say, "Well, now, look, there was an intention to give 26 weeks and 13 weeks, but what happened is that there was this triggering provision and the triggering provision relates not to actual unemployment but it relates to a thing called the IUR, the insured unemployment rate."

The budget cuts changed that figure in two ways: People who have exhausted their regular unemployment benefits are no longer counted as unemployed in calculating the insured unemployment rate, or the so-called IUR. Therefore, many States will be actually triggering off that 13-week extended benefit program at the time when they need it the most, at a time of record levels of unemployment. But when you add to it the fact that the trigger levels were also increased, then the problem becomes even that much more acute.

Previously a State would trigger for the extended benefits program if the IUR was 4 percent and 120 percent higher than the average of the previous 2 years. Under reconciliation, the trigger level was lifted to 5 percent. Combined with the other change to exclude those who have exhausted their benefits, this change is expected to trigger a number of States off the 13-week extended benefit program by the end of this year, some in September, some possibly in October.

What does our amendment actually do? It suspends the changes made in last year's reconciliation bill dealing with counting those who have exhausted their regular unemployment benefits until the national unemployment rate declines to 8.7 percent.

Why do we use 8.7 percent? We use 8.7 percent because that is the assumed unemployment rate that was made in the first budget resolution for fiscal year 1983.

If Congress believes that unemployment will decline to that level, surely we can afford to maintain the extended benefits program until it actually reaches that level.

By the same token, if the unemployment level does not decline to at least 8.7 percent, we need the extended benefits program even more.

The second part of this amendment would suspend the changes made last year in the trigger. Those changes are due to take effect on September 25, and a number of States will trigger off the extended benefits program as of that date. Of course, that date has already passed by.

The third part of this amendment modifies the Federal supplemental benefits program recently adopted in the tax legislation to key it to the rate of unemployment. As passed last month, the new FSB program will only last until March 31, 1983. Many people felt that date was selected to get us past the politically sensitive election period.

Whatever the reason, we certainly have to anticipate that it may go beyond March of 1983.

I believe it makes more sense to tie such a program to the rate of unemployment rather than to a calendar date. As a result, this amendment would terminate the FSB program only when unemployment drops below 8.7 percent.

Some will question how much this amendment will cost. According to CBO, the net cost to Government would be only $430 million in fiscal year 1983. Although the cost of the changes would be higher as far as unemployment costs are concerned, there is a major offset to the Government because of the cost that would otherwise be incurred for welfare, food stamps, and other similar programs.

Therefore, I think it is reasonable to assume that we are talking about a figure probably less than half of that $430 million figure.

This cost estimate also assumes the same rate of unemployment as was assumed in the budget for fiscal year 1983. If the cost of the program should be higher, it would be due to a failure of the economy and a failure of the projections as made by the Budget Committee to become the reality. That certainly is not the fault of the unemployed in this country.

Mr. President, unless our amendment is passed, unemployment benefits will be reduced by 13 weeks in almost every State between now and the end of calendar 1982. That means the unemployed in many of the States will receive only 36 weeks or less of total unemployment compensation benefits compared to the 49 weeks of benefits provided in past recessions.

Mr. President, my amendment is cosponsored by Senator ROBERT C. BYRD, Senator EAGLETON, Senator PRYOR, Senator LEAHY, Senator FORD, Senator INOUYE, Senator TSONGAS, Senator SASSER, Senator DIXON, Senator HUDDLESTON, Senator JOHNSTON, Senator HOLLINGS, Senator BURDICK, Senator BRADLEY, Senator BAUCUS, Senator LEVIN, Senator RANDOLPH, Senator DECONCINI, Senator MATSUNAGA, Senator KENNEDY, Senator BUMPERS, Senator SARBANES, Senator CANNON, Senator HEFLIN, Senator PROXMIRE, Senator EXON, Senator HART, Senator JACKSON, Senator PELL, and Senator RIEGLE.

Mr. DIXON. Mr. President, I rise as an original cosponsor of this amendment, and as one who has made many statements on this subject before this body. We must address this issue of trigger rates, which increased on September 26 of this year, making many States, such as Illinois, lose the extended benefits program. We can ill afford to abandon the unemployed in times such as these.

On September 14, when the substance of this amendment was introduced as S. 2904, I made a formal statement. I would ask that my colleagues refer to that statement which appeared in the CONGRESSIONAL RECORD on page S11451.

Last night, during the President's news conference, he made several references to the unemployment level in this country and yet refused to take responsibility for the suffering that has taken place, and is now being exacerbated by the increased trigger for extended unemployment benefits.

Discussing the number of people who are currently working, the President said the following:

> This coming month, when the figures are released, we think that August has been in a kind of doldrums and it may show a dip. But that'll be a glitch. It won't be down lower than what it's been for the last several months.

I need not explain to anyone here that we are now at the highest level of unemployment since the Depression, and continuing upward. The President seems to think that the unemployment compensation system is adequate to help those who are out of work. But ask the worker who has exhausted all benefits. Ask the worker who, until last week, was receiving benefits, and now will receive 13 weeks less than he would have, because his State no longer qualifies for extended benefits. Ask the worker, who, on November 20, will exhaust all benefits afforded him under the Federal supplemental benefits program.

Not 5 minutes after the conclusion of the President's press conference, my office had a call from an Illinois constituent who has been unemployed for a year. He resented the President's reference to the expected 10-percent unemployment level being termed a "glitch". According to the dictionary, that term means a mishap, err, or malfunctioning. This is no mishap. Unemployment is a logical result of the policies that this administration advocates. Our economy is indeed malfunctioning, and one way to address it, is to address the glitch in the unemployment compensation formula for extended benefits.

I urge my colleagues to adopt this amendment.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, I repeat what I said earlier. I am prenents of the amendment. I am prepared to agree to any unanimous-consent request which is reasonable with respect to the opposition appearing on the floor to oppose this amendment. I am also willing to agree for a time certain as to when the vote will be taken in connection with this amendment.

Mr. HATFIELD. Mr. President, did the Senator from Ohio ask unanimous consent to temporarily set aside his amendment?

Mr. METZENBAUM. No; I did not.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the amendment offered by the Senator from Ohio be temporarily laid aside in order to take up another amendment, with the expectation that we would return to the amendment of the Senator from Ohio around 10:30 a.m.

Mr. METZENBAUM. With the understanding that we will return to the amendment of the Senator from Ohio immediately following the disposition of the next amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I would ask that the leadership be informed and a hotline put out to alert Senators to offer amendments, those who plan to offer amendments, so that we will not lose time waiting for more Senators to arrive on the floor. The floor is open for amendments.

We have contacted, at this time, Senators who have entered upon a time agreement to take up their amendments. If we are to finish this bill by noon, as my hope is even now, we are going to have to move these amendments along. We cannot delay with long periods between amendments waiting for Senators to arrive.

I hope the Senator from Wisconsin will join me in saying that if we have to wait an inordinate period of time for Senators to come and offer amendments, we should go ahead and ask for third reading.

Mr. PROXMIRE. Mr. President, I am delighted to join my good friend from Oregon. He happens to be right on this. All of us recognize that we have to act on this resolution very promptly, because it has to go to conference, has to pass the House, has to pass the Senate—the conference report does. That is going to take time. If we are going to comply with the absolute requirements—after all, the continuing resolution that is in effect now expires tomorrow night at midnight.

For that reason, we are really working under the gun, and I think the time estimate of the manager of the bill is absolutely correct. We should finish this bill by noon or as close to noon as possible if we are going to have a fighting chance to meet our responsibilities.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I had hoped to bring up an amendment to this resolution which would extend the current ceiling on Senate employment so as to avoid the need for constructing yet another Senate Office Building. I felt that I might miss my opportunity to raise this issue if the legislative appropriations accounts are funded for a full year, as the House version of the continuing resolution would do, rather than for 3 months pursuant to the Senate version. However, if I can receive assurance that there will be no objection to considering this amendment in December when we act on a further continuing resolution, and that no point of order will be raised inasmuch as at that time, as I understand it, there is a possibility that the legislative part of the continuing resolution would have been continued for a year in this measure—perhaps that will happen in conference. If no point of order would be made against my introducing such an amendment in December, then I shall be glad to withhold at this time.

Mr. HATFIELD. Mr. President, I very happily respond to the Senator from Wisconsin by assuring him that as far as I am concerned, there would be no point of order raised. I can only speak for myself on that question, but I certainly would not raise a point of order.

The Senator knows I happen to oppose his position on this issue, but, at the same time, I respect the Senator's proper and appropriate right to raise this issue. I appreciate very much his willingness to postpone the raising of the issue until we get into the bills themselves, rather than on the continuing resolution.

I shall do everything I can possibly do to help him in getting this issue raised at that time that he selects on that bill in order for there to be full and open discussion on it. He has that right and I shall certainly do everything I can to help him secure that right.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from Oregon. With that assurance, I shall not press the amendment on the resolution today, but I do intend to offer it when we come back in December.

FOUR PERCENT CAP ON BLUE-COLLAR PAY

Mr. ABDNOR. I would like to make absolutely clear that the withdrawal of the committee's amendment merely restores the provision of the House-passed joint resolution applying a 4-percent pay cap to Federal blue-collar workers.

Mr. HATFIELD. Yes, this action would restore to the joint resolution a provision in the House-passed version. This language, which has appeared in similar form in previous continuing resolutions, and was included in the President's budget, would simply insure that the budget target of a 4-percent Federal pay raise would apply equitably to all Federal employees. I might add that, as you know, this provision is identical to one which is in both the House and Senate reported Treasury-Postal Service appropriations bills for fiscal year 1983.

Mr. ABDNOR. And it is my understanding that this provision for a 4-percent cap specifies that Federal blue-collar employees would not receive an amount, due to wage survey adjustments, that exceeds the overall average percentage of the Federal white-collar adjustment for fiscal year 1983?

Mr. HATFIELD. The Senator is absolutely correct.

EXCEPTED COMMITTEE AMENDMENT WITHDRAWN

Mr. HATFIELD. Mr. President, I ask unanimous consent, with the approval of the ranking minority member, that the committee amendment beginning on page 13, line 5, through page 14, line 25 be withdrawn.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATFIELD. Mr. President, let me explain that.

The House had placed in the continuing resolution a 4-percent cap on certain employees in the Federal Government, and we had deleted that in the committee until we could seek and obtain further information. That was only the reason the committee deleted that provision. We deleted it, and we have since received additional information. Therefore, we feel that we can concur with the House and withdraw that deletion, thereby restoring the House language.

I thank the Chair, and I thank the Senator from Wisconsin for handling that matter.

That leaves us with about four committee amendments that are still excepted on the basis of requests from individual Senators.

Mr. President, on behalf of the leadership we will set aside the remaining committee amendments in order that Senators may offer amendments.

Mr. President, at this point, with the concurrence of the Senators on the floor, Senator HUMPHREY and Senator BUMPERS, I ask unanimous consent that we have a modified time agreement on the Clinch River breeder reactor amendment to one-half hour time equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1309

(Purpose: To terminate funding of the Clinch River breeder reactor project)

Mr. HUMPHREY. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Hampshire (Mr. HUMPHREY) for himself and Mr. BUMPERS, proposes an unprinted amendment numbered 1309.

At an appropriate place, add the following section:

SEC. ——. Notwithstanding any other provision of this joint resolution, no funds made available by this joint resolution shall be available for the Clinch River Breeder Reactor Project.

Mr. HUMPHREY. Mr. President, in the interest of time, and I am aware as is Senator BUMPERS that time is of the essence this morning, I will be brief in my remarks. I think Senators have heard the arguments before, but the high points bear reiteration.

First of all, this is not an antinuclear amendment. The Senator from New Hampshire supports nuclear power. The issue under discussion and consideration this morning is the issue of waste. I am not talking about nuclear waste; I am talking about waste of money, waste of taxpayer's money.

The Clinch River breeder demonstration project is involved in a stupendous cost overrun. It was originally estimated to cost $600 million, which is no small piece of change in itself, but today after six reestimates on the part of the Department of Energy and predecessor agencies, the cost is estimated to be $3.6 billion, an additional $3 billion. To make matters worse, the General Accounting Office in a report issued just last week indicates that the true costs, including interest expense to the taxpayers, are really much closer to $9 billion—$9 billion for one plant.

It is bad enough that the program has suffered such a huge cost overrun, but to make matters worse we do not even need it. We do not need this demonstration project for the reason that we have something better in the way of nuclear technology. And just what is that? Namely, light water reactors of the kind being used today.

Even by the Department of Energy's own studies, breeder reactors will be unable to compete economically with light water reactors for decades to come, in other words, until well after the turn of the century, the time frame of 2020 to 2030.

The chief advantage of breeder reactors, of course, is that they create their own fuel. But it happens that fuel costs are a very small part of the lifetime cost of the nuclear plant. The capital costs of breeder reactors are very much higher and because uranium is relatively inexpensive and abundant and is forecast to be abundant and relatively inexpensive for several more decades, light water reactors, the kind of reactors we are using today, are much more economical.

Mr. President, no utility in this country is going to commercialize breeder reactors in this century; there-

fore, it makes no sense for us to be building a demonstration project.

Historically, demonstration projects have been built when a technology is on the threshold of commercialization. But this one is not. It is decades away from commercialization and it makes no sense for us to continue with this project. Even the utilities themselves in a way have acknowledged this. Originally, they agreed to participate and to share the cost with the taxpayers 50-50. They long ago pulled out of that agreement. Their total participation so far has been something on the order of 4 or 5 percent and they intend to make no further contribution.

So they are not willing to invest their money. Why should Congress invest the money of our taxpayers in this project which makes no economic sense and which has suffered such a huge cost overrun?

Mr. President, I believe at this point I will yield to ny colleague from Arkansas and I may wish to raise a few other points after he has spoken but if he is ready I will yield the floor at this time.

Mr. BUMPERS. Mr. President, I ask the distinguished floor manager, are there any speakers here or coming on the other side of this issue?

Mr. HATFIELD. The majority leader is on his way to the floor to speak for at least part of his 15 minutes.

Mr. BUMPERS. Fine.

Mr. President, I have been opposed to the Clinch River breeder ever since I have been in Congress. I think I voted for it for the first year I was here. But since that time the whole idea for the project has degenerated unbelievably.

First, the CRBR represents an obsolete technology. The best physicists in this country say that if we go through with the project the earliest possible completion date will be 1990, and by that time the technology will be 16 years out of date. Any Senator who votes for this ought to vote for it in the certain knowledge that it is not going to be completed until 1990, that the cost almost certainly will be what GAO said last week it will be, $8.8 billion or more, and we will have a technological turkey on our hands when it is completed.

Second, a lot is said about the French, the Japanese, the English, the German, and the Soviet breeder programs. Every one of those nations has put their breeder reactors on the back burner. They all have them. The French were going to develop three breeder commercial projects immediately after they finished the Super Phoenix, and all three of them have been postponed and put on the back burner for very good reasons. Why should we emulate the worst of what other countries do? If we are going to emulate something, let us emulate something that has been successful.

Third, we are starting down the road of a plutonium economy. The Clinch River breeder, if completed during its lifetime, will manufacture enough plutonium to make 1 million nuclear weapons the size of the ones we dropped on Japan in World War II.

Fourth, one of the main claims initially made for the breeder was that we were going to need the plutonium to fuel our light water reactors, that uranium was running out. Now enriched uranium has dropped from $40 a gram to $17. There is a glut on the market. There have been new finds in Australia and big new finds in Canada. We have more than enough uranium to run us well past the year 2025, and yet this reactor cannot possibly be commercialized effectively before the year 2020 according to every sensible person who has examined it.

Fifth, the GAO says that the DOE has grossly overstated the amount of electricity they are going to sell from this reactor.

Sixth, the promise in 1971 from the nuclear power industry and the utilities of this country was, "We will put up half the money," but the utilities signed a firm contract that they would not put up more than $257 million. That was back when we were expecting this thing to cost about $500 million. Now they have put up about $150 million. The cost has gone from $500 million to $8.8 billion and the nuclear power industry and utilities of this country say, "Count us out; we are not putting another dime in it."

And I ask my colleagues, if they do not think any more of the Clinch River project than that, why should we?

Seven. Other projects are a better use of money. For example, I have been trying to get money to retrofit the dams on the Arkansas River. It is a travesty that those 17 dams were not outfitted with generators when they were built. But even today you can outfit every dam on the Arkansas River with generators at a cost of $2,200 per megawatt, and with virtually no annual operating costs. Just open the floodgates and let the water through. Providing the facilities to generate this electricity at a cost of $2,200 per megawatt, or 1,000 kilowatts, will cost $20,000 in capital costs.

Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. We are trying to keep this total debate to 30 minutes, but there has been no agreement to that effect, has there?

The PRESIDING OFFICER. There has been an agreement to that effect.

Mr. BUMPERS. How much time do the proponents of the amendment have?

The PRESIDING OFFICER. The proponents have 15 minutes.

Mr. BUMPERS. How much time do we have remaining?

The PRESIDING OFFICER. Six minutes and 15 seconds.

Mr. BUMPERS. Mr. President, it is a fine thing to support pork barrel projects on occasion. I do not have any objection to politicians around here getting something for their home districts—within limits. But this goes far beyond the bounds of reason, far beyond the bounds of anything that you can explain to your constituents back home.

Just yesterday the generators for this reactor were tested and failed. It is an outmoded technology. So I am pleading with my colleagues to listen to what the physicists in this country say: "Do not build this outmoded technology."

I am agreeing with the National Taxpayers' Union—the Heritage Foundation, the Hoover Institute, and many other groups in opposing this project. The coalition opposing the CRBR is one of the most pervasive across-the-board coalitions I have ever been associated with. Almost everybody in America is opposed to this, and I hope my colleagues will be, too.

I yield the floor, Mr. President.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I yield myself—I ask the manager to yield me 5 minutes.

Mr. HATFIELD. I would be very happy to yield the Senator 5 minutes.

Mr. McCLURE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Under the unanimous-consent agreement who controls the time?

The PRESIDING OFFICER. The proponents of the amendment and the manager of the bill.

Mr. McCLURE. In this instance the manager of the bill supports the amendment, does he not?

Mr. HATFIELD. Mr. President, I will be very happy to yield whatever time—if the Senator from Idaho is concerned——

Mr. McCLURE. I might make an inquiry of the Senator from Oregon.

Mr. BAKER. Mr. President, the manager of the bill is the chairman of the committee, and I think that is a good way to leave it. I wonder if he will yield me 5 minutes?

Mr. HATFIELD. I would be happy to yield 5 minutes.

Mr. BAKER. Mr. President, I can recall back in the days of the Joint Committee on Atomic Energy when a decision was made to go forward with the prototype breeder reactor, and there was a great debate at that time

on whether it was going to be a thermal breeder or a fast neutron breeder, to tell you the truth, my preference at that time was that it should be a thermal breeder.

One of the reasons for my view was that I thought a thermal breeder would be in Tennessee and the fast breeder would not. But I was convinced even then, as I am now, that the United States must explore the avenues for the production of power in the next century. I believed that advanced reactors and breeder reactors must be demonstrated as feasible or unfeasible, not only in terms of their technical experience, but also in terms of their desirability from the commercial standpoint, well in advance of the time that we might need them. And I gave way in that debate and supported the sodium-cooled breeder.

My point, Mr. President, is this: That project was not conceived as a Tennessee project. Indeed at that time it was assumed that the plant would be built some place else, because the development work had not been done in my State, and it certainly was not a boon to the State of Tennessee when the decision was made to go forward with the prototype fast neutron breeder.

Later, Mr. President, after that decision had been made by Congress, a decision was made on the basis of many other factors, one of which involved me. The considerations were that a demonstration project ought to be in a location not only where it could have access to the high technology that was necessary to build the system, but also where it could demonstrate the economic feasibility of the plant itself by feeding that power into a nearby major power grid. The planners also wanted to find a way, I believe, to locate the facility in a manner that would demonstrate the licenseability of the facility.

I suspect that other factors included proximity of the plant to hydroelectric power, to steam-generated electricity, and to nuclear power from conventional reactors. Finally, however, the object was a demonstration of the feasibility of a breeder system.

But I did not make that decision. As I recall, I had nothing to do with making that decision. I was delighted when the choice was made, and the location chosen was in Tennessee. But my point, Mr. President, is it certainly was not conceived as a Tennessee project; it is not a Tennessee project. It is a national project of major importance and, indeed, most of the money that has been appropriated by Congress and spent has been spent outside of Tennessee in the procurement of equipment and fabrication of the elements that will go into construction of this facility.

So much for pork. I have always been amazed at those who say that this is a Tennessee project, because while components will be shipped to my State and assembled there and the construction of the demonstration plant will occur there, the major portion of the benefit will go to areas outside Tennessee, many of them very distant from Tennessee.

Mr. President, as you and my distinguished colleagues know, I would have greatly preferred that not only this, but many other similar amendments which our distinguished colleagues fervently want to offer on this interim funding measure, be deferred and handled in the normal, regular appropriations process. But that has not been possible, and I would say to my distinguished colleagues, the Senators from Arkansas (Mr. BUMPERS) and from New Hampshire (Mr. HUMPHREY), it is no fault of theirs that the Senate was not prepared to deal with the issue of the Clinch River project in the normal order of an Energy and Water Appropriations bill. The plain fact is, the House of Representatives has still, to this day, only given us four appropriations bills of any kind. The fact that we are here, at this late date, now having to deal with one or another measure that almost every Member of this body feels is vital and essential in one way or another is testimony to an appropriations process that has broken down.

So, Mr. President, my plea has been that this measure is better dealt with not on this interim funding measure, but on the regular Energy and Water Appropriations bill which the distinguished chairman of the Appropriations Committee, Mr. HATFIELD, assures me will be available for our consideration a little over 2 months from now. But since my pleas have thus far fallen on deaf ears, and because of the urgency which I understand my distinguished colleagues who have offered this amendment feel, I am prepared to dispose of this issue, I trust once and for all, at this time. I would only add then a few comments, and I will be brief.

Mr. President, I am convinced that we need to go forward with this project not only because we have persisted in the development of it for such a long time, and invested a great deal of money. That is a consideration, I wonder what we are going to do about the $1 billion plus we have already spent.

Are we just going to apologize and say we made a mistake, and we should not do that, or are we going to go ahead and finish it? Mr. President, it will take an expenditure, by the U.S. Government, to finish the Clinch River breeder reactor, this first-of-a-kind, engineering development facility. That investment, by any remotely normal cost accounting procedure, will be an additional $2.3 to $2.6 billion, depending on whether you care to believe the latest estimate of the Department of Energy, or the estimate of the General Accounting Office. The most conservative profit and loss assumptions for an operating, electricity-producing powerplant insure at least half that amount will be recovered by the $8 billion minimum sales of electricity over the project lifetime.

But that, Mr. President, is not the final determinant, in my judgment. The final decision ought to be made on the same basis as the original decision: Does the United States of America need to demonstrate the feasibility by a prototype breeder reactor to be available to this country and to the world, to the free world, if we need it at the turn of the century? That is the real issue.

Mr. President, if we were deciding at this time that we are going to elect, we are going to opt for a plutonium cycle power system fueled by a series of breeder reactors around the country, if we were called to make that decision at this time, I would, perhaps, vote no. We should not make that decision at this time. But that is not what we are doing. What we are doing is making one entry in that sweepstake. We are making one bet on the necessity for having this system at the turn of the century.

The Soviet Union has three, the Germans, the Japanese, and the British are entered, the French have two—almost every advanced nation in the world has some prototype entry into the breeder technology. I think it would be foolhardy in the exteme, Mr. President, for the United States to withdraw from that competition and cancel its hedge against the necessity for this system in the future.

Mr. President, I for one do not believe that any government or any private entity has ever regretted an investment in long-term, high technology research and development. There is almost universal agreement in this country that failure to keep pace with technology in basic industries is at the root of many of our economic problems today. And yet here we are, once again, considering the wisdom of throwing away the single, proven technology that we know today can put a ceiling on the price of electricity forever at a price that is less than half the current cost of generating electricity from oil. No other inexhaustible energy system is yet close to that achievement.

Many of my colleagues therefore agree with those of us who believe the advanced breeder reactor technology must be preserved, but question whether this reactor, the Clinch River breeder reactor, is technologically adequate. My distinguished colleagues, I for one am not equipped to make that final judgment, and I suspect that few of us here today are. I do not believe

the GAO even is necessarily equipped to make that judgment, but they have asked that question of a good many experts who are. And the General Accounting Office, which has had much to say about CRBR, some good, some not so good, simply says:

No one we talked with was able to provide us with any specific facts indicating that components or design features were obsolete.

Mr. President, we lost 5 years in a construction and licensing hiatus on this project, a hiatus which was finally broken by the favorable August 5 decision by the NRC. We are ready to proceed, and I would urge my distinguished colleagues to finish what we have begun. Let us not leave the landscape strewn with the relics of incomplete ideas. Let us have the courage today to say, once and for all, we will put a ceiling on the price of one form of energy, electrical energy, for the indefinite future.

I urge my colleagues to reject the amendment before us.

Mr. BUMPERS. Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes, 47 seconds.

Mr. BUMPERS. First of all, I want to say there is not a man in this body for whom I have more respect than the distinguished majority leader, nor is there a State with which I have a closer affinity than my own State of Arkansas with the exception of Tennessee.

I am happy to see any project go in Tennessee, except this one. I have absolutely no quarrel with Tennessee being the location for our first fusion commercial demonstration.

But I want everybody to bear in mind that we have spent more than $1 billion already, and just last week they took a bulldozer down there and started clearing a site. That billion dollars was mostly for R&D and we have gotten the benefit of that, but most of what we have gotten are things that will not work, rather than the things that will work.

I want to quote what Edward Teller said. He does not happen to be one of my favorite people. But he has called the project "inconsistent with badly needed economy in the Government" and "technically obsolescent."

David Stockman—maybe not the best fellow in the world to quote anymore—when he was in the House of Representatives, sent out a "Dear Colleague" letter that says Clinch River is "incompatible" with the free enterprise system.

Secretary Edwards testified before the Energy Committee, on which I sit, that this administration's energy policy will be only to put Federal dollars in long-term, high-risk technology. There is nothing high risk about this. The French and the British and the Japanese and the Soviets have them. Every one of them have put their technology on the back burner because of cost overruns and inefficiencies.

This technology is not long term, and it is not going to ever be competitive with light water reactors, coal-fired reactors, hydropower, or any other power I know anything about.

This project was started because we thought we were going to need the technology to meet a 7-percent annual increase in energy demand. That demand is now between 1 and 2 percent, where it has been for 3 years. We do not need the Clinch River project, and we certainly do not need it at a cost of $8 billion and $20 million per megawatt.

I plead with my colleagues to do your duty and do the sensible thing and stop this project before it gets started.

I yield the floor.

Mr. McCLURE. Mr. President, will the Senator from Oregon yield 5 minutes to the Senator from Idaho?

Mr. HATFIELD. Yes.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. I thank the Senator for yielding this time. I appreciate the statement by my colleague from Tennessee, because I am afraid the opponents of the Clinch River breeder have succeeded in erecting a number of factual barriers—and I use that term loosely—by talking about obsolete technology. As a matter of fact, that is simply not supported by the evidence. As a matter of fact, repeated assessments by the General Accounting Office and most recently supported by their July 12 report—that is July 12, 1982, have found that:

Among a wide range of knowledgeable industry, Government, and private individuals. No one we talked with was able to provide us with any specific facts indicating the components or design features were obsolete.

That is from the GAO and not from JIM McCLURE.

I would suggest, also, that the cost overrun questions are greatly inflated. Again, the opponents of the Clinch River breeder reactor have come up with false and phony and rigged figures and then repeat them. The fact of the matter is that if you look at the design costs of the plant at the time they were designed, what they were intended to do, and apply the inflation factor to it that is inherent in society generally, the Clinch River breeder has suffered no more than any other and, as a matter of fact, it is lower than the inflated costs that are attached to general construction activity. So that the cost overrun question simply is not supported by the facts.

Those who have talked about an $8 billion cost are using inflated and phony figures and I do not think they know that. I am sorry that they do not know about it, but they have included such matters as including the cost of plutonium fuel—I wonder if the Senator from Arkansas knew that—when, as a matter of fact, we already own it. We do not have to buy any. We already own it.

They have ignored the fact that there will be $200 billion worth of fuel produced by this plant during its operation and that is not credited at all. So they use a phony fuel cost and ignore a real fuel benefit in the assessment of the economic value of the cost of this program.

Mr. President, I do not know exactly how to compete with the kinds of accusations that have been made in the very limited time available to us this morning.

Before turning to the substance of the amendment, I want to state at the outset that I fully respect the good intentions of the cosponsors and declared supporters of this amendment. The Clinch River project has remained a controversial project ever since President Carter publicly targeted it for termination less than 1 month after his inauguration in 1977. Despite the best efforts of the Carter administration and its congressional supporters over the succeeding 4 years, the project is proceeding apace today. I am sure that thousands of Americans, as well as this Senator, took great pride in the newspaper pictures in the last few days of construction work finally underway at the site in Tennessee. Perhaps a few others, including the supporters of this amendment, were saddened by those pictures. In any event, I want to assure my possibly disappointed colleagues as we begin this debate, that this Senator approaches the debate as a legitimate and healthy exercise of the legislative process in fashioning our Nation's energy policy and future. Needless to say, I am convinced that our energy policy and future will be best served and assured by defeat of the amendment and continuation of the Clinch River project. Let me now turn to the substance of the amendment.

Mr. President, this amendment deletes funding for the Clinch River breeder reactor project. The liquid metal fast breeder reactor represents the only known technology capable of supplying our electrical energy needs for the indefinite future at a cost which approaches the current cost of electricity generation. We therefore believe it is essential that such amendments be defeated in order to preserve the advanced breeder reactor option for this country.

For 5 years, the Clinch River breeder project has been attacked with a variety of arguments for its termination. Each year, Congress has repulsed these arguments, and the plant today stands with 70 percent of components

completed or on order and onsite construction finally begun, pursuant to the favorable August 5 decision of the Nuclear Regulatory Commission. The arguments against completing this essential research and development facility are no more valid today than they have been in previous years. The American breeder reactor program is today at the point where the sensible next step is the engineering demonstration of a first large-scale breeder reactor electric powerplant. The CRBR is therefore appropriate and prudent in a carefully timed, conservatively paced engineering development program.

The Clinch River breeder reactor is not technologically outmoded or inherently unsafe, as some have argued. Repeated assessments by the General Accounting Office, most recently supported by their July 12 report, have found that among "a wide range of knowledgeable industry, government, and private individuals * * *. No one we talked with was able to provide us with any specific facts indicating that components or design features were obsolete."

The continued keen interest of French, British, Japanese, and German breeder experts in aspects of the CRBR design makes clear that the technology is current, with a number of important design refinements and a fundamental advance in the core configuration developed in the past 4 years. In short, the Clinch River reactor is meant to be a technology development and demonstration facility, and the current design achieves that objective.

Those who attack the project costs often do not mention that the final cost estimate for CRBR in early 1974, before contracts were let, was $1.7 billion. Inflation has doubled all prices since 1974, so it is quite remarkable that the most recent cost estimate of $3.6 billion exceeds inflation by only a few percentage points. Terminating the CRBR project today would leave us with nothing to show for a $1.3 billion investment. The completion costs, on the other hand, will be substantially recovered, even under the most conservative profit-and-loss assumptions, by the $8 billion revenues from the sale of electricity over the life of the project. Meanwhile, in the shorter term, the project objectives as a research, development, and demonstration activity will be fulfilled.

The recent GAO interim report on project costs, contrary to impressions created in the media, substantially confirms and supports the $3.6 billion DOE cost estimate. Exaggerated claims of project costs exceeding $8 billion can be largely attributed to imputed interest on Federal debt, a factor which GAO notes is not normally associated with cost estimates for this or any other Federal expenditure.

To those who argue that the nuclear industry should fund this project beyond their already substantial contributions, it must be pointed out that CRBR is subject to a licensing process which has never been completed for a breeder reactor, and which will undoubtedly be longer than that for conventional light-water reactors. With the confused Federal policies of the last few years, the evolutionary licensing procedure that attaches to this new technology, and the precommercial scale of this technology demonstration facility, the private sector should not be expected to increase its contributions to this project. It is clearly a proper role for the Federal Government to complete the development of such new technologies to the point where a commercialization decision can be made by the utilities.

The suggestion that the United States might purchase French breeder technology does not recognize the problems that would be incurred in licensing the French breeder, which at this time would not meet U.S. standards. It is questionable whether the French would want to subject their technology to U.S. licensing standards because of potential upgrading and disruption in their own licensing and construction schedule that could result from U.S. scrutiny.

The international community has made its position clear on breeder reactor technology development. The international fuel cycle evaluation program in 1980 strongly supported rapid development of breeder technology, citing lower radiation exposure, less thermal pollution, and less waste for disposal. The LMFBR technology was judged to be no more prone to proliferation risk than other nuclear power reactor technology. The United States has repeatedly reaffirmed the necessity to maintain the liquid metal fast breeder reactor option.

In view of the commitment this Nation has made and will continue to make in the LMFBR program, it would be sheer folly not to proceed, as has each of the major advanced industrial nations, with the construction of a technology demonstration facility in concert with our basic LMFBR program. The reason is plain: both proponents and opponents agree that breeder reactors today, without the cost benefit gained by replication of a standardized plant, can generate electricity at a cost half the present cost of oil-generated electricity. No other inexhaustible energy system comes close to this achievement.

Let me now address more specifically the issues related to this amendment.

BREEDER REACTORS USE RESOURCES 60 TIMES MORE EFFICIENTLY

Less than 1 percent of naturally occurring uranium is usable as fuel in today's nuclear powerplants. However, in breeders, the unusable constituent of uranium can be used not only to generate electricity, but to produce additional nuclear fuel which can then be used in other nuclear reactors. The energy value of the uranium already mined and above ground is roughly equal to our total unmined coal resources or at least three times the OPEC oil reserves.

Scientists recognize the monumental implications this technology has for our fuel supply and have been working on breeders for over 30 years. In fact, America's first nuclear-generated electricity was produced on a breeder reactor.

ECONOMIC GROWTH REQUIRES ADEQUATE ENERGY

Because of its convenience and versatility, our country is relying more and more heavily on electricity to provide its power. As the economy recovers and grows over the next few years, electric power demand will increase as well.

According to the Electric Power Research Institute, a modest annual growth rate of 3 percent will require the United States to double its entire electric power capacity in 25 years—that is twice as many powerplants; this does not even take into account replacement power needs for retiring plants or substitutes for inefficient oil-fired plants.

An electricity shortfall could be the limiting factor in the Nation's economic growth.

DOMESTIC COAL AND URANIUM WILL SUPPLY THE BULK OF OUR ELECTRIC NEEDS

To break the stranglehold foreign oil exporting countries have on the United States, we will have to step up the use of domestic resources to generate electricity. Utilities today have two choices—coal and uranium. Few countries have even one abundant energy source within their borders. We are blessed with two. However, both have limitations, and both are finite resources.

While coal will inevitably remain our major fuel for electric power, there are both economic and fuel supply dangers in relying solely on a single source for all our electricity needs. In addition, the environmental effects of burning too much coal could be severe.

Nuclear power is the partner—and the competitor—that coal needs. Prudence demands that we use our domestic uranium resources wisely. The nuclear breeder technology will enable us to extend our finite resources from decades to centuries.

CLINCH RIVER: THE NEXT LOGICAL STEP IN OUR NATIONAL BREEDER PROGRAM

The Nation is now approaching midpoint in the development of breeder technology. Hundreds of millions of dollars have been invested in building a base of technology upon which a breeder demonstration plant can be built. The Clinch River breeder reac-

tor is the next step which is needed to demonstrate the performance, reliability, environmental acceptability and licensability of such a plant in an actual utility system.

A total of 753 utilities have pledged $257 million to the project—the largest Government/industry/utility partnership in the history of this country.

Plant design is more than 85 percent complete.

Nearly $660 million worth of equipment is either complete or on order.

It is a prudent scaleup of technology. At 375 MW(e), Clinch River is 2½ times the size of the fast flux test facility (FFTF), the current U.S. breeder test plant, and roughly 2½ times smaller than the next generation breeder—a logical intermediate step toward the ability to build commercial size plants.

CLINCH RIVER IS TECHNOLOGICALLY SUPERIOR

Allegations that the project is technologically obsolete have never been substantiated. In fact, the Clinch River design is the most advanced in the world, incorporating features and innovations no other nation can claim, including an advanced core design and upgraded shutdown systems and safety features.

Thirteen independent Government reviews since 1975 have confirmed Clinch River's technical merits.

Seventeen world-reknowned scientists have reaffirmed the plants technical accomplishments.

The abundant flexibility in the reactor provides the opportunity for U.S. leadership in demonstrating the practicality of various fuel cycles.

THE PLANT IS READY TO BE BUILT

After 10 years of development, the Clinch River plant is ready to break ground. About 3,500 persons in 29 States and the District of Columbia are presently employed on Clinch River. Plant design is more than 85 percent complete, with nearly $660 million worth of equipment either complete or on order. Of the total plant cost estimate of $3.6 billion, $1.2 billion has already been spent. In August, the NRC granted the project permission to begin limited construction activities.

Contrary to what many have said, termination of the plant will not necessarily save money. If canceled, the cost to the taxpayers would be $1.4 billion—with nothing to show for it. On the other hand, completion costs of $2.4 billion—comparable to the bill we pay for imported oil every few weeks—would be partially offset by net revenue from the already contracted for sale of electricity from the plant—a net cash flow into the Federal Treasury. Cancellation of the project would also jeopardize the possibility of any future joint venture between government and private industry.

Breeder technology is the only developmental energy technology today that can be assured to produce large amounts of power in the first quarter of the next century. Without operating Clinch River, the utility industry will not risk tight capital on a technology that has not benefited from proven hands-on experience.

CLINCH RIVER HAS HAD STRONG SUPPORT—WITH THE ADMINISTRATION

The Reagan administration supports Clinch River and, accordingly, requested $252.5 million in the DOE fiscal year 1983 authorization bill for its continuation. David Stockman, Director of OMB, reiterated this support in a letter to DOE Secretary Edwards. Mr. Stockman left no doubt that the administration strongly believes the project is compatible with President Reagan's free-market approach to energy. He said that:

The Clinch River Breeder Reactor should be constructed and operated—not as a commercialization activity or as an economical power generator—but rather as the logical next step in breeder research and development.

IN CONGRESS

The Congress has repeatedly endorsed the project. The House, in considering its fiscal year 1980 DOE authorization bill (H.R. 3000) on July 26, 1979, overwhelmingly rejected, 237 to 182, an attempt to kill CRBR. Similarly, on September 27, 1979, when the full Senate was given the opportunity to vote on a proposal by Senator DALE BUMPERS to delete CRBR funding from a continuing appropriations resolution (H.J. Res. 404), it was tabled by a significant 64 to 33 margin. More recently, both House and Senate versions of the Omnibus Reconciliation Act of 1981 included authorization to continue funding of the Clinch River breeder reactor project. Furthermore, in action on the fiscal year 1982 energy and water development appropriations bill, the full House voted 206 to 186 against an amendment offered by Representative LAWRENCE COUGHLIN to delete funds for the Clinch River project and the Senate voted 48 to 46 in opposition to a Humphrey/Bumpers amendment to discontinue funds.

FROM INDEPENDENT EVALUATION GROUPS

In addition, virtually all Government or private studies have concluded that this Nation should pursue the breeder as a viable energy option. Most recently, in a July 12, 1982, report, the Government's General Accounting Office reiterated its belief that the Clinch River project is the next logical step in the Nation's breeder program. Failure to construct Clinch River, it said, would "foreclose on the long-term future of a major energy option—nuclear fission * * *."

OTHER COUNTRIES ARE COMMITTED TO THE BREEDER

Other countries are adopting breeder technology much faster than we are. England, France, and the Soviet Union have been operating prototype breeder reactors since the mid-1960's, and a year ago the Soviets began operating a breeder twice as big as the Clinch River plant. Germany and Japan are planning to bring their first breeders into operation during the 1980's.

To walk away from Clinch River would be a clear signal to other nations that we are not serious about pursuing increased energy production to reduce worldwide shortages as well as our own perilous and costly dependence on foreign energy sources. It would also seriously jeopardize our leadership position in the peaceful uses of nuclear energy.

CLINCH RIVER: AN ENERGY SOLUTION

By building the Clinch River breeder reactor and assuring that the breeder will be proven and available when needed, we can hand down to the next generation not another energy problem, but an energy solution—an energy source to replace those our own generation has consumed.

Wise decisions today can enrich the lives of all Americans who follow us.

It may be, Mr. President, that all of this debate is irrelevant, that everybody has already made up their minds and they are going to vote however they wish to vote and all the record is for is for a historic reference point to the vote that was already taken, to ratify attitudes that are already in place.

The fact of the matter is exactly as the Senator from Tennessee has suggested, and that is if the United States is to develop technology, if we are going to be able to compete at the end of this century and the beginning of the next century, we must develop that technology now. We cannot wait until events have outstripped us, have left us behind.

The French obviously are doing a great deal more than we are. There are those who say if we need a breeder reactor we can always buy one from the French. Tell that to the worker in Youngstown, Ohio, who will be out of work because he does not have the opportunity to compete. Tell that to the workers across this country that will see the technology installed in this country that was developed in another country because we refused to participate in the development of the new technology that will be applied at some time in the future.

But, besides that, Mr. President, what happens to our licensing and our safety requirements if we try to install something that was developed by someone else under a very different regime of safety and control of the components than we have in this country?

Mr. President, I think it is obvious that if we are to stay where we are as a competing industrial nation we must

be able to continue to develop the technologies that will be applied in the future. That is why to make any current analysis, as the Senator from Arkansas did, and say this costs more for electricity than some other method of producing electricity, simply ignores the fact that we are in a demonstration program. We are not in a commercial program. As a matter of fact, we are trying to move the technology forward so that we will have option to exercise that at a future date, an option that we do not at this time have.

Mr. President, I thank the Senator for yielding. I do not want to take all of the time that is available to the opponents of the amendment. I just urge my colleagues, who have had any opportunity to study the issues at all and look at the facts as they really are, not to accept as gospel the facts that are thrown out by the opponents when, as a matter of fact, they are not factual at all. They are myths and they are propaganda. They are misleading and they are calculated to mislead.

Mr. PROXMIRE. Mr. President, will the Senator from New Hampshire yield one-half minute to me?

Mr. HUMPHREY. I yield 30 seconds to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I rise in support of the Humphrey-Bumpers amendment.

What is wrong with the Clinch River breeder reactor? Practically everything. It is technologically obsolete and economically illogical. Even worse, it greatly increases the risk of nuclear proliferation.

And there is nothing about Clinch which warrants this risk. The entire breeder reactor program was designed to respond to anticipated shortages of the uranium needed to fuel conventional nuclear reactors. But the shortages have not occurred and neither have the high prices that were supposed to make Clinch competitive with conventional nuclear power. Instead, the first time this plant might be competitive is in the year 2040, yes 2040.

Despite the fact that the final cost of Clinch will be close to $10 billion and not the $400 million originally promised, industry's contribution will remain frozen at $275 million. The utilities know a bad project when they see one.

Even the Department of Energy's own advisers do not consider Clinch a top priority. Their Energy Research Advisory Board rated Clinch near the bottom of its project class.

And if this were not enough, according to Dr. Ted Taylor, former Deputy Director of the Defense Atomic Support Agency, one bomb dropped on an operating breeder reactor could release as much of two of the most dangerous radio isotopes as detonating every nuclear warhead now existing.

And breeder reactors increase the risk of nuclear proliferation by increasing the amount of plutonium available for diversion into bombmaking. Is the program worth these risks? Of course not.

Mr. President, going forward with this plant does not make any sense. All of the other countries experimenting with breeders are pulling back from the technology. The enormous expense is not worth the risk.

A recent Wall Street Journal editorial says it best, "There is no need and no excuse for new subsidies for its development in the midst of a budget emergency."

I urge my colleagues to support the Bumpers-Humphrey amendment.

I thank my good friend.

Mr. HUMPHREY. Mr. President, the essential point in this debate is that breeder reactors will not be commercially attractive until well after the year 2020. I am using the words of the GAO in this instance—"well after the year 2020."

So there is no point at this juncture in spending all of this money on demonstrating a breeder reactor. We do not need it. That is the essential point.

And I say to my colleagues that you do not need to take it from me, because the Energy Research Advisory Board, which is appointed by the Secretary of Energy, had the following to say about the Clinch River breeder reactor:

> The Energy Research Advisory Board believes that the construction of a breeder reactor demonstration at this time is not an urgent priority and, thus, under current budget constraints, recommends that such a demonstration be delayed until a future time.

That is a body of advisers appointed by the Secretary of Energy. So the Department of Energy is going against its own advisory board. We do not need this demonstration project at this time.

Let me also make it clear that if we zero out Clinch River that does not zero out our efforts in the area of breeder reactor research. The bulk of the program goes forward. In fiscal year 1983, under the House appropriations, at least, Clinch River is $227 million. The total for breeder reactor research is $539 million. Even if we zero out Clinch River, the bulk of the breeder reactor research program remains in place.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Wall Street Journal this past Monday supporting the point of view of the opponents of the Clinch River breeder reactor and an editorial in the Washington Times, also published this past Monday.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 27, 1982]

SCUTTLING CLINCH RIVER

Construction crews broke ground last Wednesday for the long-delayed Clinch River breeder reactor near Oak Ridge, Tenn. If some members of Congress get their way, however, that may be as far as the project will ever get.

Sens. Gordon Humphreys and Dale Bumpers plan to introduce an amendment tomorrow to the continuing budget resolution that would terminate funding for the nuclear reactor. Supporters of the amendment think they have a good chance at passage because the last crucial Senate test of the program last year won by only a two-vote margin after Majority Leader Howard Baker lobbied intensely for this big investment in his home state. Since then, several conservative senators, who are normally supporters of nuclear power, have apparently turned around on Clinch River.

One big reason is acceptance of the simple view that government should get out of the energy business. The success of oil deregulation attests to the fact that market forces can easily cope with our energy demands without government intrusion and no good purpose would be served by further massive federal subsidization of any energy project, even nuclear power. This was, in fact, the Reagan administration's initial view on Clinch River until the White House acquiesced to gain Sen. Baker's support in the budget and tax fights on Capitol Hill last year.

Another concern is money. Only last week the General Accounting Office concluded that the cost of the project could exceed $8 billion, more than twice the administration's current estimate. The cost totals of the 11-year-old program have already been revised six times, and critics now say the total could rise to more than $10 billion if the reactor encounters any construction delays and suffers escalation costs.

It's also becoming clearer to many that the only reason the federal government is so enmeshed in the project is that breeder technology isn't economical and the private energy sector doesn't want to waste its own money. At least one study projects that given the availability of relatively cheap uranium fuel, breeder reactors won't be economical until the year 2030 or beyond.

Besides these concerns, there is also the haunting worry about nuclear proliferation. Breeder technology provides an easy means of acquiring weapons grade plutonium. American support of such an uneconomic nuclear technology could encourage other countries to pursue their own breeder programs with more than just electricity production in mind.

It makes no sense, especially in light of current budgetary constraints, to sink billions of federal dollars into a nuclear project that won't be economical for at least 50 years. The Senate could do us all a favor by sinking the Clinch River reactor.

[From the Washington Times, Sept. 27, 1982]

"PLUTONIUM PORK BARREL"

Congressional proponents of nuclear power can vote against the Clinch River breeder reactor with a clear conscience.

They will not be reneging on the nuclear commitment as some Senate leaders imply. They will be voting against government waste; against what Sen. Gordon Humphrey

aptly describes as a "plutonium pork barrel."

The issue is not nuclear power anyway. It isn't even breeder reactors. The issue is whether we can afford to spend more than three billion dollars so Oak Ridge, Tenn., can advertise itself as the "capital of nuclear research and development."

Being for nuclear power has never meant being for inefficient nuclear power. Nuclear proponents have never been so rigid as those obsessed with wind and solar alternatives.

The idea has been to find the most economical and dependable source of energy. Even the most avid proponents favor nuclear power only when it meets that test. They gladly would switch allegiance to wind, solar or spit power if anyone could be shown to be more efficient.

Whatever the Clinch River project becomes, it will not become that. The Department of Energy's own research board has recommended deferring construction "because of its low urgency, low economic potential and low benefit-to-cost ratio."

The House Energy Subcommittee estimates the projected start-up cost of $3.6 billion, which already makes the reactor functionally ridiculous, will be more like $6.5 billion. Others such as Senator Humphrey believe it will be closer to $10 billion once you add "incidentials" like interest payments.

As for dependability, nobody is quite certain—which tells you something right there. Breeder reactors still are in their experimental stage; and although safety is not necessarily in question, shut-down time and hours-on-line definitely are.

About all one can say for sure about Clinch River is that when and if it is completed, it will be obsolete. Reactors now being planned in France and Germany are more advanced. The technology behind the Clinch River reactor is a decade old and getting older.

That brings us to a perfectly reasonable suggestion. Let Congress abandon the Clinch River embarrassment and save part of its tremendous budget for further research in breeder reactors and their like.

Then, when we need a truly fuel-efficient, reliable, cost-effective source of nuclear energy, we might have one—instead of another decimal point in the national debt.

Mr. HUMPHREY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 11 seconds remaining.

Mr. HART. Will the Senator yield 6 seconds?

The PRESIDING OFFICER. The Senator now has no time remaining. The opponents of the amendment have 5 minutes remaining.

Mr. JOHNSTON. Will the Senator yield 1 minute?

Mr. HATFIELD. I yield.

Mr. JOHNSTON. What is involved here is not phony cost estimates, but the question involved here is whether the United States wants to lose its edge technologically in one of the emerging fields. The United States has been the leader since the early days of atomic energy in the atomic area. We are the greatest exporter of not only nuclear fuel but nuclear components.

The question involved here is, Do we want to try to keep whatever edge is left of nuclear excellence? If we do, then we ought to go ahead with a project which is over one-third complete, the components are over 70 percent complete, and the technology is not obsolescent. The technology is the latest in the state of the art.

Mr. President, I think it would be silly for this country, over 33 percent into this project, to cease and desist and voluntarily lose our excellence, our edge, in this most important technology that we have today.

Mr. HART. Mr. President, the Clinch River breeder reactor has shown a remarkable ability to sustain itself in the Federal budget. Today, however, a series of overwhelming forces—astronomical cost overruns, decreasing growth in demand for electricity, and unfavorable economics—will justify a Senate vote to eliminate this project once and for all.

The estimated costs for building the Clinch River breeder reactor have skyrocketed, anywhere from fourfold to thirteenfold, depending on the estimates. The cost overruns on this project exceed those that plaque many of our weapons systems. In fact, the Federal Government has already spent $1.2 billion on the project, yet not one piling has been sunk or 1 ounce of concrete poured.

The original 1971 cost estimate for the Clinch River breeder reactor was $400 million—or $960 million in today's dollars. An industry consortium of 753 utilities pledged to contribute $257 million—or $600 million in today's dollars. Its share, at that time, represented more than 50 percent of the total estimated cost.

During the past 10 years, DOE estimates of the project's cost have risen to $3.6 billion. But the General Accounting Office (GAO), in a report released last week, disputes the DOE figure as too low. It estimates the cost at between $8 and $10 billion, figures that include several essential elements missing from the DOE estimates: the cost of the plutonium fuel for the reactor, the imputed interest to the Federal Government for financing, and the staff time used on the project.

Yet, despite the massive increases in the project's cost, the industry's dollar contribution has remained the same. Consequently, instead of sharing 50 percent of the cost, the industry now will share less than 10 percent, should the project go forward.

If, as originally intended, this project will demonstrate the commercial viability of breeder reactors, why should the private sector not continue to bear its original 50-percent share of the costs? It should—if it truly believes in the commercial viability of breeder reactors. But, apparently, the private sector has its doubts: Early on, it secured an agreement that the Federal Government would pay for all costs exceeding the original 1971 estimate.

Others also have doubted whether breeder reactors, in general, and the Clinch River breeder reactor, in particular, could pass muster in the free market. Our current Budget Director, David Stockman once described Clinch River as "incompatible with our free-market approach to energy policy * * *. The breeder cannot compete with existing nuclear technologies within the timeframe contemplated by its advocates without continuing massive subsidies." Stockman wrote that in 1977. And, as the estimated costs have spiraled, Clinch River has become even more "incompatible" with free market principles.

The spiraling costs alone would not justify terminating the Clinch River breeder reactor if the project reaped countervailing economic benefits. But, breeder reactors do not make economic sense today. And, according to study after study, they will not make economic sense until well into the next century, if ever.

The reason is as simple as the law of supply and demand. Breeder reactors use plutonium—the raw material of nuclear weapons—to boil water and produce the steam that turns the turbines to generate electricity. Plutonium is an extremely expensive reactor fuel, extracted by a highly technical process from the spent uranium fuel rods discharged from conventional nuclear power reactors. The GAO estimates the plutonium fuel for the Clinch River breeder reactor could cost from $23 to $200 per gram. Thus, to supply Clinch River with the 6.2 million grams of plutonium required to fuel it for 5 years will cost between $143 million and $1.2 billion.

Because breeder reactors can use the plutonium "left over" from conventional reactor fuel and produce—or "breed"—more fuel than they consume, many experts a decade ago saw them as the ideal way to extend our supposedly scarce uranium resources. But using plutonium in breeder reactors to generate electricity is like feeding cream to a cow to get milk. Only when the price of oats or hay exceeds the cost of producing cream would it make economic sense. Similarly, only when the price of uranium exceeds the cost of producing plutonium would breeder reactors make economic sense.

Today, the price of uranium would have to increase tenfold, from its current level of $17 per pound, for breeder reactors to become economically justifiable. Yet, the proven uranium reserves in this country have doubled over the past 10 years. At the same time, the projected demand for uranium has drastically decreased as the growth in demand for nuclear power has declined. Consequently, the domestic uranium industry has tumbled into a severe depression that has thrown out of work virtually half of

the Nation's 22,000 uranium miners—many in my own State of Colorado. The domestic uranium industry has even persuaded the Congress to restrict imports of less expensive foreign uranium as a step toward restoring its economic health. Why should we now spend billions of dollars to develop an alternative to uranium fuel, when the domestic uranium industry verges on collapse?

If current economics do not justify use of the breeder as a "uranium insurance policy," then adoption of alternative technology to the breeder reactor will make it even more economically unjustifiable. Back-fittable technology currently under development by the nuclear industry and the DOE could increase by 15 percent the uranium efficiency of existing nuclear powerplants. This technology could save ratepayers $12.7 billion through the year 2000, according to the GAO.

In addition to the uranium savings that would result from back-fitting existing reactors, we can further reduce uranium consumption by up to 40 percent with a new generation of uranium-efficient, advanced converter reactors. A full-scale effort to develop these reactors as an alternative to breeder reactors would not only significantly extend our uranium resources but also give us a highly competitive, proliferation-resistant technology with which to capture our former share of the international nuclear market.

If, as many suggest, breeder reactors are the nuclear equivalent of the supersonic transport and the Concorde jets, then uranium efficient, advanced reactors are the nuclear equivalent of the Boeing 757 and 767. If the administration truly wanted to help the failing domestic nuclear industry, it would reject the economic chicanery of those supporting the Clinch River breeder reactor and instead promote uranium-efficient advanced reactors, a product that can survive in the free market.

We have all heard the argument that breeder reactors will increase the risk of nuclear proliferation by leading us into a plutonium economy in which tons of weapons-grade material move in international commerce each year. This grim prospect alone should clinch the case against the Clinch River breeder reactor. But if it does not, economics should. In a period of severe budget austerity, declining growth in electricity demand, and abundant supplies of and decreasing demand for uranium, we should terminate now the Clinch River breeder reactor, once and for all.

Mr. HOLLINGS. Mr. President, I rise in support of the amendment of the Senators from New Hampshire and Arkansas.

Mr. President, I have long been a proponent of the development of nuclear energy in this country. However, I cannot support the construction of the Clinch River breeder reactor. Despite the efforts made by the Department of Energy and Westinghouse to improve the technology, this project is not the best buy for the money.

Mr. President, in a day and age of fiscal constraint when the Members of this body are being asked to make difficult reductions in a broad array of projects and programs, we cannot afford to fund this project. To do so will take funds away from other much-needed energy projects and other discretionary spending programs. How can the Members of this body ever reduce Federal spending and balance the budget if sacred cows exist?

Mr. President, as difficult as this decision is, I feel that the arguments against the construction of this project are valid and that the funding for the Clinch River breeder reactor must be terminated.

Mr. President, at this time, I would ask that a list of arguments against the Clinch River breeder reactor be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARGUMENTS AGAINST THE CONSTRUCTION OF THE CLINCH RIVER BREEDER

ECONOMIC AND BUDGETARY ARGUMENTS

1. It is always argued that France and the Soviet Union are building large prototype breeder reactors for operation in the early 1980's. However, it should be noted that the French recently revealed that the cost of electricity from the world's first breeder of commercial size—the much touted Super Phoenix—is almost twice the cost of electricity from conventional reactors.

2. There are fundamental economic questions concerning CRBR. Last year, the House Science and Technology Committee, primarily on economic grounds, decided not to include the Clinch River breeder reactor in the DOE authorization. I might also reference a letter written by David Stockman in September 1977 that stated "early commericalization of the breeder will result in large economic losses to society in addition to a lengthy list of non-monetary risks in the safety, environmental and international relations proliferation areas. Therefore, no further subsidization of the Clinch River project, an integral step in the early commericalization program, can be justified."

3. An important element in the decision to build or not to build CRBR rests on the demand for electricity and the availability of uranium resources. While there is considerable debate as to future U.S. electrical demand, there is a surplus of uranium. In addition, if uranium were to become scarce, utilities would opt to use reprocessed spent fuel before going to the breeder technology because of the more favorable economics of the once-through light water reactor cycle.

4. Current DOE data show sufficient natural uranium to fuel the light water reactor industry well past the year 2020 and that the breeder may not be economical until after the year 2025.

5. The President's Report of Federal Energy R&D Priorities issued in November 1981 by the Energy Research Advisory Board concluded that "the construction of a breeder reactor demonstration at this time is not an urgent priority and thus, under current budget constraints, recommended that such a demonstration be delayed until a future time."

6. On September 23, 1982, the GAO issued an interim report on the total cost estimate of the CRBR. The GAO revised the Department of Energy September 1982 estimate of $3.6 billion to $8.8 billion. The main reasons for this dramatic increase were that DOE underestimated the cost of plutonium and did not include the cost of imputed interest. Whereas the later component, usually is not normally associated with cost estimates, it does reflect the true cost of the project including the cost of Treasury borrowing.

The report also noted that additional expenses above the $8.8 billion level will be incurred for decommissioning, technical support and testing, and construction contingencies.

7. Through fiscal year 1981, $1.148 billion has been expended for the CRBR. The majority of these expenditures have been for the design, fabrication, and purchase of a nuclear steam supply system. Only recently was a site-clearing permit granted and to date no construction has been commenced. If the CRBR is not terminated at this point, you will be beyond the point of no return and will find the same arguments existing for the CRBR as the Tennessee-Tombigbee Waterway.

8. In 1973, the CRBR was estimated to cost $422 million; in 1976, $699 million; in 1981, $3.3 billion. In September of 1982, the DOE cost estimate is $3.6 billion and the GAO cost estimate is $8.8 billion. However, the level of utility participation, despite the ever increasing cost of the CRBR, remains at $257 million—the same level as in 1973! If the economics supported the CRBR, so would the utilities.

TECHNICAL ARGUMENTS

1. In May 1982, the GAO issued a report that was critical of the Department of Energy's failure to conduct complete and thorough tests of the steam generator design to be used in the CRBR. "Steam generators for liquid metal fast breeder reactors have had a history of serious technical problems. Small breeder reactors in this country and demonstration breeder reactors in foreign countries have experienced steam generator failures. Steam generators for the CRBR have also experienced a number of problems during their development."

2. Numerous articles have surfaced the "technical" flaws of the CRBR. A Reader's Digest article described CRBR as "Senator Baker's 'Costly Technological Turkey' "; the N.Y. Times refers to the project as a "costly, ill-conceived technological turkey"; and the Wall Street Journal calls it a "white elephant recognized as uneconomic even by the nuclear industry."

3. A broad array of Congressional and scientific critics argue that CRBR is rapidly becoming technically obsolete. Besides the problem with the steam generators, the use of liquid sodium to cool the reactor's core has created additional problems because sodium burns when it mixes with air. Sophisticated techniques are required to remove and replace fuels without opening the reactor up.

4. Constuction of the CRBR would lock the U.S. into the LMFBR before we have thoroughly researched other possible breeder technologies. To quote Dr. Schlesinger, the "commercialization of the LMFBR should be deferred and the construction of the Clinch River breeder cancelled. The

Clinch River Breeder Reactor cannot be justified solely as a R&D project. To proceed now requires being fairly confident this type of breeder is going to be used as the next large source of energy and that it will be needed in the early 1990's. There are now serious doubts that this scenario is appropriate."

5. Critics also argue that the haste to build the CRBR and to quickly secure a technology that may be needed in the future is premature and wasteful. It also would divert attention and resources from safer, more economical alternatives—other forms of energy, or just better nuclear strategies.

6. It is often stated in editorials in support of the CRBR that the GAO and the National Academy of Sciences Support the construction of the Breeder . . . and that is true. However, to support the breeder is not to support the CRBR. Let me quote, therefore, from the GAO and the National Academy of Sciences reports:

[GAO Report of Sept. 22, 1980]

"If Congress wishes to maintain a nuclear option or if it wishes to commit to nuclear power as a long-term energy source, GAO recommends that it require DOE to demonstrate the viability of the LMFBR technology by mandating the construction of a breeder reactor facility. However, in making this recommendation, GAO wants to emphasize that it is not necessarily advocating the completion of the Clinch River project as the only means of moving the program forward. The only resolution to the impasses may be to move ahead with a larger, more recently designed facility instead of the Clinch River project."

National Academy of Sciences Energy in Transition 1985-2000 "Development of the LMFBR should continue, but without immediate commitment to construction of prototype reactors. The Committee on Nuclear and Alternative Energy Systems was divided on the issue of whether to recommend the construction of the Clinch River breeder reactor as part of this development program. . . . A majority of the committee considered the Clinch River Breeder undesirable or unnecessary for reasons that varied within the majority, including inappropriateness of its design as a developmental facility, its incompatibility with President Carter's antiproliferation policies, and its possible contribution toward committing the U.S. to commercialization of the LMFBR. A minority considered it necesssary, as a technological step that is well short of commitment to commercialization, but necessary if early commercialization turned out to be desirable."

7. I would like to quote from a telegram that Dr. Edward Teller sent to Congresswoman Schneider after she successfully defeated the authorization of the CRBR in the House Science and Technology Committee in 1981:

"I continue to urge congressional support and encouragement of the American nuclear power program, as it continues its development into one of the most secure, safe, and economical portions of national energy supply. However, Clinch River is technically obsolescent, and its small scale and large cost make it thoroughly inconsistent with badly needed economy in government."

Mr. President, based on the arguments that exist, I have no choice but to oppose the construction of this project. However, I would be remiss if I did not say the cost estimate for this project should also include the cost of the Barnwell facility. Since it is clear in my mind that the sole reason this administration wants to complete Barnwell is to provide the fuel for the Clinch River breeder.

CLINCH RIVER: UNSAFE AND UNWISE

Mr. MITCHELL. Mr. President, I rise to support a long overdue and essential measure to eliminate funds for the Clinch River breeder reactor (CRBR).

In the late 1960's and early 1970's, when plans for the CRBR project were first conceived, a breeder reactor offered a special appeal because it would have the capacity to produce fuel while generating electricity; each successive breeder would be able to produce more fuel for the next reactor.

Clinch River seemed even more appealing due to fears that the price of uranium—the fuel of nuclear reactors—would skyrocket in the 1980's; that electricity demand would continue to grow rapidly through the last quarter of this century; and that nuclear power would account for much of that electricity growth.

In essence, the breeder in 1971 promised an inexhaustible source of energy as our Nation headed into decades of electricity growth and energy insecurity.

Today, that promise has faded: the economic assumptions which gave rise to Clinch River in the early 1970's are contrary to the economic realities of 1982.

Electricity demand has not increased as projected. The annual electric growth rate of 7 percent between 1960 and 1973 has steadily decreased to a current annual rate of 3 percent.

Instead of steadily rising in price and becoming more scarce, uranium has decreased in price and become more abundant with the discovery of new reserves in the United States, Canada, and Australia. While uranium prices have dropped from about $40 to $20 per pound, numerous studies estimate that a breeder reactor would not be economical until the price of uranium reaches $165 per pound.

And nuclear power has not contributed to electricity growth as predicted. The Energy Information Administration now predicts that nuclear power will contribute 145 to 185 gigawatts of electricity in the year 2000, less than 15 percent of the previously projected 1200 gigawatts.

Clearly, these figures indicate that the economic basis for Clinch River has virtually disappeared.

While the promise of Clinch River has faded, its cost has not.

In 1971, the Atomic Energy Commission and a consortium of utilities agreed to become partners in the Clinch River project. The original estimate for CRBR then was $400 million. The estimate rose to $700 million in 1972. Eleven years later, the new Department of Energy estimate for the project is $3.57 billion. The cost of Clinch River has increased seven-fold, even though ground was just broken at the site last week.

One easily wonders how rapidly the overruns will accrue if construction begins in earnest. That question was recently answered by a General Accounting Office report which concluded that the Clinch River breeder reactor could cost $8.8 billion, more than twice the current administration estimate.

The cost overruns also provide evidence of why the private sector chose to sharply limit its contribution to the CRBR project. After establishing a partnership with the AEC in 1971, the consortium of utilities backed down from its full commitment a year later. In 1971, the Federal Government assumed all cost overruns with utility contributions frozen at $257 million.

To date, the consortium of utilities have committed only about $122 million. Of the total DOE cost estimate of $3.57 billion, American taxpayers will bear over 90 percent of the cost. The private sector will pay only 7.2 percent of the projected total cost.

What the private sector has deemed too costly, unprofitable, and not worthy of further investment, the Federal Government has continued to subsidize. The private sector's actions in regard to CRBR clearly indicate that Federal support for CRBR is poor public policy; that it runs counter to the free market; and it makes no economic sense.

But Clinch River is not merely an economic or energy issue. The project would also seriously increase nuclear proliferation risks. Breeder technology provides an easy means of acquiring plutonium, the stuff of nuclear bombs. Only 12 pounds of plutonium are required to manufacture an atomic bomb of the size that destroyed Nagasaki.

Breeder technology promises to hasten all the concomitant problems associated with the development of a plutonium economy—of large quantities of plutonium being transported, processed, and stored.

As The New York Times has stated,

No effective international control of separated plutonium seems possible. The use of plutonium as reactor fuel would widely distribute the substance employed as a nuclear explosive—and which could be made into bombs in a few hours by governments or terrorists.

Furthermore, our development of a breeder reactor can only serve to encourage other nations to start their own breeder programs. Where we might provide adequate safeguards against the abuse of the breeder in this country, we might not be able to feel such assurance when other na-

tions build their own breeders for their own purposes.

Far from securing our long-term energy needs and fulfilling the promise of endless energy, Clinch River would promise to have the immediate effect of providing us with lasting proliferation risks.

As a member of the Senate Subcommittee on Nuclear Regulation, I have been extremely concerned and involved with issues of nuclear safety. The arguments over CRBR have traditionally centered on breeder technology, breeder economics, and nuclear proliferation risks. But there is a significant safety issue to Clinch River which also must be included in the arguments against the project. Take, for example, this assessment from an article in the summer 1982 Amicus Journal:

> While the present generation of nuclear power plants is plagued with unresolved safety problems, breeders are potentially more dangerous. With a tightly-packed plutonium core and an accelerated rate of fission required for "breeding" more fuel, an accident at a breeder reactor might result in an atomic explosion. In addition, breeders are cooled not by water, instead by highly volatile sodium. Recently in France, the Phenix demonstration breeder reactor was forced to shut down due to sodium leakage, resulting fires, and fear of a hydrogen gas explosion. Two earlier experimental breeders in the United States, the EBR-1 in Idaho and Fermi-1 near Detroit, experienced partial fuel meltdowns and have since been shut down.

Finally, Clinch River must be viewed in comparison with other competing national priorities. In a time of fiscal restraint, pouring money into an unnecessary, unsafe $8.8 billion project represents a misuse of the taxpayers' dollars. Our necessary national commitments are many; each presses its own security, environmental, human, economic or social needs. But Clinch River continues to receive a substantial share of Federal energy funds. Continued Federal support for this project only prohibits our turning more of our attention and resources toward more urgent tasks.

Clinch River is far too costly, obsolete, unnecessary and unsafe. We should face up to that fact right now, and eliminate for good the flow of funds to this project.

Mr. EAGLETON. Mr. President, I rise in support of the amendment being offered today by Senator BUMPERS to delete funding for the Clinch River breeder reactor.

Mr. President, many of those present today supported the Clinch River project when it was first funded 10 years ago. Under the circumstances at the time, the project made sense. We perceived a need for a nuclear reactor that could make efficient use of uranium which we thought would be in scarce and expensive supply before the turn of the century. The breeder reactor was an attractive answer to that need. It was to be completed in 1979 at a cost of $700 million and would not only use uranium more efficiently, but it would also produce or "breed" more fuel than it used.

For better or for worse, time has not been good to the project's development or to the premises on which the project's proposal was based. It has been with growing dismay and later disgust that Clinch River's early supporters have watched the completion date and cost estimate lurch from one revision to another.

The Clinch River facility is now expected to being "demonstrating" breeder technology in the early 1990's—11 years late. The minimum completion cost, according to the General Accounting Office, is estimated to be $8.8 billion—$8.1 billion over budget.

Putting aside these glaring testiments to how any enterprise ought not to be run, let us analyze the initial grounds for proposing the concept of a breeder reactor.

As I previously stated, Mr. President, the beauty of the breeder reactor is its efficient use of uranium and its ability to produce more nuclear fuel than it consumes. In the early 1970's, energy gurus predicted a severe shortage and price escalation of uranium based on three assumptions: First. The U.S. would experience a 7-percent electrical demand annual growth rate; Second, over 1,000 new nuclear plants would generate the additional electricity by the turn of the century (thereby depleting our uranium reserves); and Third, reserves of uranium in the U.S. would total 1.7 million—enough to fuel 340 reactors.

All three assumptions have turned out to be false: First, U.S. electrical demand growth has, in fact, slowed to 3 percent per year recently and has actually declined 1.9 percent in 1982. Projections are for 2 percent annual growth in the future; Second, accordingly, 60 U.S. nuclear plant proposals have been cancelled since 1975 and DOE expects no more than 165 operating reactors by the year 2000; and Third, currently, there is a glut of uranium on the market and estimates of uranium reserves have more than doubled since 1974.

In the early 1970's, we assumed that future high uranium prices would make electricity generated by expensive breeder reactors more economical than electricity generated by current light water reactors. This assumption, of course, is no longer valid. Uranium is and will be plentiful and the price of the fuel has declined 59 percent since 1974. The breeder reactor will not be economical for a long time to come.

In the words of Frank von Hippel, senior research physicist at Princeton University and chairman of the Federation of American Scientists:

> At foreseeable uranium prices, the breeder cannot compete economically with ordinary power plants . . . it may be a century before the price of uranium can be expected to reach the level that would make breeder reactors economical.

Mr. von Hippel has joined a growing body of concerned scientists, labor unions, environmentalists, religious bodies, business-oriented and consumer-oriented interest groups that view the Clinch River project as a flagrant violation of the trust that taxpayers have placed in Government to spend tax dollars in a prudent and beneficial manner.

It is ironic if not hypocritical that the Republican administration, which has focused on terminating or crippling Government programs they perceive as wasteful or useless, now blindly disregards this $8.8 billion travesty being foisted on the American public.

Mr. President, I suggest that in place of giving, in effect, a blank check to the breeder reactor in Tennessee, the Senate consider reinstating past funding levels for the many fine programs the administration has cut. We could start by eliminating the administration's 1982 cuts of $1.5 billion for medicare, $2 billion in Government unemployment programs, $600 million in student aid, $1.1 billion in low income energy assistance, $1.6 billion in the food stamp program, and $256 million in weatherization funds. We could do all of this and still not come close to the $9 billion that will be spent on the Clinch River folly.

Finally, Mr. President, I would like to point out that this debate is not a debate about the nuclear industry, per se, nor will the vote be a referendum on the merits of nuclear power. Individuals from both sides of the nuclear issue have joined forces to put an end to what has been a very expensive instance of pork barrel politics.

It is time to drop this "technological turkey" and get on the serious business of strengthening the U.S. energy base through the promotion of alternative energy systems, energy conservation and by shoring up our current coal and nuclear industries.

We have already wasted $1.2 billion on Clinch River; I see no reason to squander another $7.6 billion. The project will only become more wasteful and obsolete.

I urge my colleagues to vote for Senator BUMPER's amendment and against continued funding for the Clinch River breeder reactor.

Mr. DECONCINI. Mr. President, this is the time to make a tough but realistic decision regarding the Clinch River breeder reactor project in Tennessee.

I originally supported the committee's funding of the Clinch River breeder reactor in earlier years. The promise of an electric power plant designed to produce more nuclear fuel than it consumes, leading to unlimited

future energy supplies is a worthy one. That promise justified in my mind the investment of public moneys for a research and development project.

However, we must base our decisions on available information and continuous reassessment of the costs, risks, and potential benefits. With the limited funds we have to work with, we have to decide what is practical and what is not.

I recommended to the committee last year that it eliminate the requested $228 million budgeted for the Clinch River project and designate less than half of that sum, approximately $111 million to solar and renewable resources programs. Unfortunately that did not happen. The transfer of Clinch River funds to solar programs is still a good idea, and I hope we will consider that possibility in our fiscal year 1983 bill.

Mr. President, as my colleagues consider the arguments made both in favor and in opposition to continuing the project, I would have them take a good hard look at the one single overriding factor that has changed my mind—cost. Last year the project costs were estimated at more than $3.2 billion—a 450 percent increase from the original $669 million. This year we hear $5.3 billion, and the ground has still not been broken.

The question is not on the breeder technology but on the economics and planning of this particular project. The issue is not only $180 million last year, but $237 million in 1983. Hundreds of millions of dollars in 1984, hundreds of millions of dollars in 1985, hundreds of millions of dollars in 1986, and so on, and so forth. We all know further increases in these estimates are inevitable. Next year it will be $9 billion. Also, even if this 375 megawatt project is completed by 1990 (again, construction has not yet started) there will still be a demand for a 1,000 megawatt demonstration plant, as the next stage of development. This will take another decade, and certainly billions more with no guarantee of private sector support.

Mr. President, for a small fraction of this cost and with much greater private investment we can firmly establish a solar and renewable energy industry in this country. We can attain, with a fraction of these costs, renewable resources sufficient to meet the 1 to 3 percent growth in electricity demand through the 1980's and 1990's.

This technology has promise and we should continue our R & D programs. However, I believe the time has come to simply stop the CRBR project and sincerely demonstrate to the American people that we are serious in our efforts to end the waste of public funds.

● Mr. RIEGLE. Mr. President, I rise in support of the Bumpers-Humphrey amendment to terminate all Federal funding for the Clinch River breeder reactor. This multibillion-dollar expenditure of taxpayers' dollars is one the Nation can ill afford at this time. In the face of staggering budget deficits when we are told by the administration that we cannot afford food stamps, remedial education, aid to cities, and portions of the civilian space program, how can we be asked to spend from $2.3 to $7.5 billion to complete a nuclear facility which will not be useful for another 30 years? The basic assumptions which served to justify this project in the early seventies are no longer valid. First, uranium resources are not being depleted, in fact, uranium is the only energy resource which has decreased in price since the 1975 oil embargo due to abundant supplies. Second, the future demand for electricity from nuclear sources are currently projected to be at least 10 times less than estimates used in justifing the Clinch River facility.

As a former colleague of mine from Michigan wrote in 1977:

> We will be forcing a product on the market before its time. During the next three decades the breeder will not be the least cost alternative for generating electricity, yet it will be the one given the overwhelming competitive advantage by virtue of having been selected as the governments choice. The result of this premature commercialization will be billions of dollars in irretrievable loss to the economy.

Now, OMB Director Stockman, speaking for the administration, states:

> The Clinch River Breeder Reactor should be constructed and operated—not as a commercialization activity or as an economical power generator—but rather as the logical next step in breeder research and development.

Very little has changed in the facility's design during the 5 years between these statements except that the price of the facility has risen and the price of uranium has dropped. The administration further states that the Government should provide this vital research and development to the capital poor utility industry. I strongly urge Senators to exercise fiscal responsibility on the Clinch River project and delete it from the Federal budget.●

● Mr. DODD. Mr. President, It is rare that I have the chance to quote from a Heritage Foundation report in support of my position. But on the issue of the Clinch River breeder reactor, the Heritage Foundation is right: "The Clinch River breeder reactor may be the SST of the 1980's."

Congress at least had the sense never to get involved with funding the SST. Unfortunately, since the 1970's we have continued to meddle with the fate of the Clinch River breeder reactor—and have continued this project's livelihood long after it should have ground to a halt.

The Clinch River breeder reactor was authorized in 1970 in the hopes of producing an inexhaustible nuclear energy source. Unlike conventional nuclear reactors, breeder reactors produce fuel while generating electricity and were believed to be this country's best hope for producing economical, clean energy.

But more than a decade later, the Clinch River breeder reactor has yet to produce anything but mounting cost overruns. Congress has already poured close to $1.2 billion into the project—yet Clinch River's groundbreaking occurred only last week. Meanwhile, costs for the reactor have soared from the originally estimated $699 million to $3.57 billion. The Government's share of the liability has increased to $3.3 billion—eight times the original estimate. Worst of all, in 1975 the U.S. Government agreed to pick up all cost overruns for the project—while limiting utilities' contributions.

As costs for the Clinch River breeder reactor have escalated, arguments for its usefulness have diminished. The originally predicted shortage of nuclear fuel has never materialized. In fact, no new reactors have been ordered since 1978—and contracts for others have been deferred or cut. The country's electricity use appears to now be on the downswing. The Department of Energy's own research board last year recommended deferring construction of Clinch River because of lack of demand for the project; the Congressional Budget Office concluded that the future need for breeder reactors appear at best to be unclear.

Mr. President, I would urge my colleagues to vote no against continued funding for the Clinch River breeder reactor. I would also like to submit for reproduction in the RECORD the following editorial from Connecticut's Hartford Courant. I believe this editorial cogently outlines arguments against continuing funding for the Clinch River breeder reactor.

The article follows:

[From the Hartford (Conn.) Courant, Aug. 18, 1982]

NO NEED FOR THE "BREEDER"

No target for federal budget cutting could be more obvious than the Clinch River Breeder Reactor in Tennessee.

The breeder, which would take about $3.2 billion to build, is already considerd a white elephant by some nuclear experts. It would create a slew of new safety problems, and no compelling case has been made that it's a necessity.

In fact, the General Accounting Office last month issued a report that said the priority given the project by the administration "might be misplaced, especially at a time of extreme fiscal constraint."

Commercial breeders, which would produce more nuclear fuel than they consume are not likely to be deployed for at least a half century. Why, then, the sense of urgency to provide federal money to subsidize a plant that should be paid for by private industry anyway?

On its third try, the administration finally got the Nuclear Regulatory Commission to agree to permit a speedup of construction for the plant. The NRC has said the Energy Department could bypass normal licensing requirements and begin initial construction at Oak Ridge almost immediately.

Congress, which this summer must decide whether to appropriate about $253 million for the project in fiscal 1983, should not be so hasty to support the breeder.

If it were built, the plant would open up a whole new range of problems that President Carter tried to forestall with his opposition. Among them are the increased threat of terrorism and the possible diversion of the plant's radioactive plutonium product to refashion for use in nuclear weapons.

Congress still has the opportunity to nip potential nuclear problems in the bud, while snipping some conspicuous fat from the federal budget. It should vote no on funding for Clinch River.●

Mr. SPECTER. Mr. President, after studying this matter at length, it is my judgment that the Clinch River breeder project should not be halted after the Federal Government has already invested $1.3 billion. At this juncture, 70 percent of the components are completed or are on order. If we were to start anew, my conclusion might well be different.

As I see it, there is no doubt about the absolute necessity to develop energy resources in as many diverse ways as practicable. We have already learned a bitter lesson on reliance on OPEC oil. While I recognize the weight of the arguments on the other side, I am persuaded that this project represents the state-of-the-art on an important energy alternative, so that our substantial investment should not now be abandoned.

Mr. TSONGAS. Mr. President, the Senate once again finds itself considering the Clinch River breeder reactor project. Unlike many other projects, the case against the CRBR gets stronger with time. Each time the Congress debates this matter, each time the media goes over the facts, the political support for this project weakens. The facts are simple:

The rationale for Clinch River has completely vanished. The annual growth in demand for electricity has dropped from 7 to 1 percent per year. New orders for nuclear reactors have ceased and many reactors under construction have been canceled.

The supply of uranium has increased and the price of uranium has dropped. There is also increasing evidence that light water reactors can be made more efficient in their use of uranium, stretching uranium resources even further. Because of these developments, the breeder will not be needed for 40 to 50 years, and probably will not be economical even longer than that.

The costs of CRBR have risen out-of-sight and are way beyond any projected benefits claimed by proponents. Initially conceived as a $400 million project with private sector cost sharing, the cost has risen to an astounding $8.8 billion, according to the latest GAO report. Even this does not include the cost for facilities that will be needed for reprocessing wastes and does not anticipate future delays and cost overruns. Meanwhile, industry's commitment to share the costs has been frozen at $257 million. This makes it very clear that the private sector sees little value in the project. While this administration is leaving so many other technologies, like solar, conservation, and fossil fuels to the private sector, it is inconsistent to continue enormous Federal support for Clinch River.

Clinch River raises other concerns more serious than merely the cost to the Federal Government. Clinch River will generate large amounts of plutonium which can be used in nuclear weapons. The commitment to a pultonium economy represented by Clinch River would lead us to a global situation where it will be nearly impossible to slow the proliferation of nuclear weapons.

In addition, the Clinch River design utilizing a "loop" type of reactor vessel is out of date. Foreign experience, often held up by proponents as a reason for us to push ahead if we want to be competitive, have experienced huge cost overruns, extensive delays, and technical difficulties. The fast breeder would appear the SST of the 1980's.

Even many of those who are enthusiastic about nuclear power and breeders have withdrawn their support of Clinch River. They see safety and reliability improvements to the light water reactor and continued research on alternate breeder cycles to be far more advantageous.

To summarize the case against Clinch River, we do not need it, it is not economical, we cannot afford it, and it presents serious proliferation risks. I believe that Clinch River will never be completed. Eventually, the President and Congress will recognize it as a technological turkey. The question before us today is whether we waste any more money on it before we call it quits on a $8.8 billion boondoggle.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. McCLURE. How much time remains?

The PRESIDING OFFICER. Three minutes twenty seconds.

Mr. McCLURE. I yield to the Senator from Tennessee.

Mr. SASSER. I thank the Senator for yielding.

Mr. McCLURE. Will the Senator from Oregon yield time?

Mr. HATFIELD. I yield 1 minute to the Senator.

Mr. SASSER. Mr. President, I rise in opposition to the Bumpers-Humphrey amendment to the continuing appropriations resolution, H.R. 599.

This amendment would eliminate funding for a demonstration project that is already one-third of the way completed. This amendment would, in essence, waste the nearly $1.3 billion already invested in the Clinch River breeder reactor project. The Clinch River breeder reactor is a necessary and vital first step in insuring our Nation's future energy independence. I am opposed to this amendment to the continuing resolution, and I strongly urge my colleagues to join me and continue funding for this vital energy project.

Mr. President, this amendment has no place in our present consideration of the continuing resolution. The Clinch River breeder reactor project is an important national energy project, but only one of many projects included in the continuing resolution. To debate the continued funding of the Clinch River project within the context of this continuing resolution is an unfair attempt to single out and eliminate current investment in the Clinch River breeder reactor project.

The estimated costs of completing the Clinch River breeder reactor project is $3.2 billion. Nearly $1.3 billion has already been invested in this project. Abandoning our efforts on the Clinch River project now would, in effect, waste the tremendous amount of human resources and funds that have been invested in the project.

Mr. President, I urge my colleagues not to turn their backs on the Clinch River project. To accept this amendment to eliminate funding would put an end to the efforts of more than 3,200 people over a 30-State region and the District of Columbia who have worked long and hard on the design, fabrication, and testing of the Clinch River breeder reactor project.

This amendment would write off the $135.1 million that has already been contributed by the private utilities industry to develop and support the Clinch River breeder reactor; 753 private utilities have pledged a total of $257 million to date to support this demonstration project in the hopes that they will eventually be able to assume complete control for the development of this technology.

Mr. President, opponents of the Clinch River breeder reactor unfairly cite bloated and deceptive cost estimates in seeking to eliminate its continued funding.

Mr. President, many of the criticisms and misperceptions surrounding the continued funding of the Clinch River breeder reactor can be attributed to findings and estimates which

were recently published in the General Accounting Office report on the Clinch River project. The GAO report included an analysis of such cost factors as imputed interest, offsets, contingencies, and plutonium costs. These factors represent cost estimates not normally included in Federal projects. The inclusion of the inputed interest estimate alone attributes an excess of $3 billion being added to the total cost of the Clinch River project.

But the $5 billion cost overrun cited in the GAO report is wholly inconsistent with its statement which "found no reason to question the accuracy of many of the costs included in the Clinch River breeder reactor project's total cost estimate." The effect of the addition of these other extraneous factors in the GAO report grossly distorts the more accurate cost estimate of $3.2 billion for completion of the Clinch River breeder reactor project.

Mr. President, the Clinch River breeder reactor project is not a commercial project. It is a demonstration research and development project. Given the opportunity, the completion of the Clinch River breeder reactor could demonstrate for once and for all the technical performance, realiability, and economic feasibility of a liquid metal fast breeder reactor for meeting future energy demand. It would also help confirm the value of conserving our important renewable natural reserves of coal and uranium.

We must not now abandon our decade-long effort to gain energy independence. Unless we take positive steps now to assure our Nation's energy future, foreign oil and ever-depleting natural resources will cast a long and gloomy shadow over our Nation's future energy policies.

To abandon the Clinch River breeder reactor project now would be crippling blow to the U.S. breeder program. It would destroy the value of our present technological investment. It would demoralize and reduce the technical manpower teams presently pursuing breeder development. It would signal to the world that the United States no longer is committed to maintaining its role as a serious contributor to technical advancement in the nuclear field.

Mr. President, we do not have the energy resources by which we can remain infinitely independent.

We do have the technology by which we can now move toward energy independence.

It has been the sense of the last several Congresses to support the continued funding of the Clinch River breeder reactor project. We should not turn off funds on this project at this point.

I am opposed to this amendment to the continuing resolution, and I strongly urge my colleagues to join me and continue funding for this vital technology.

Mr. HATFIELD. Mr. President, if there is no one else who wishes to speak against the amendment I am willing to yield back the remainder of my time.

Mr. McCLURE. Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes, eight seconds.

Mr. HATFIELD. I am happy to yield 1 minute to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding. I just want to underscore one thing that people ought to keep in mind. That is the benefit of the Clinch River breeder as measured today ought to be in terms of the difference between the completed cost and the cost to cancel. There are components on order, not just the money which has already been spent, not just the money which would be wasted with respect to all of the reactor vessels, all the components, the sodium pumps, and all the rest that are already on hand. But what would it cost us to cancel the program by canceling the contracts that are already in being and pay off the contractors that already have contractual obligations with the United States for the furnishing of equipment, supplies, and construction? Compare that cost to the value of completing it. That cost gap is very, very small.

If people will focus on that for a moment there would be no debate. Really, there would be no argument.

Basically, what the Senator from Louisiana has said is exactly correct. It is a question of whether or not the United States wants to remain with the technological advancement it now has.

Mr. HATFIELD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from New Hampshire. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I further announce that, if present and voting, the Senator from Montana (Mr. BAUCUS), and the Senator from Massachusetts (Mr. KENNEDY) would each vote "yea."

The PRESIDING OFFICER (Mr. ABDNOR). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 48, nays 49, as follows:

[Rollcall Vote No. 365 Leg.]

YEAS—48

Armstrong	Biden	Bradley
Bentsen	Boschwitz	Bumpers
Byrd, Harry F., Jr.	Hart	Nunn
Byrd, Robert C.	Hatfield	Pell
Chafee	Hawkins	Percy
Chiles	Hollings	Proxmire
Cohen	Humphrey	Pryor
Cranston	Jepsen	Quayle
DeConcini	Kassebaum	Randolph
Dixon	Leahy	Riegle
Dodd	Levin	Roth
Durenberger	Lugar	Rudman
Eagleton	Melcher	Sarbanes
Exon	Metzenbaum	Stafford
Glenn	Mitchell	Tsongas
Goldwater	Moynihan	
	Nickles	

NAYS—49

Abdnor	Grassley	Packwood
Andrews	Hatch	Pressler
Baker	Hayakawa	Sasser
Boren	Heflin	Schmitt
Brady	Heinz	Simpson
Burdick	Helms	Specter
Cannon	Huddleston	Stennis
Cochran	Inouye	Stevens
D'Amato	Jackson	Symms
Danforth	Johnston	Thurmond
Denton	Kasten	Tower
Dole	Laxalt	Wallop
Domenici	Long	Warner
East	Mathias	Weicker
Ford	Mattingly	Zorinsky
Garn	McClure	
Gorton	Murkowski	

NOT VOTING—3

Baucus	Kennedy	Matsunaga

So the amendment (UP No. 1309) was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from Ohio.

UP AMENDMENT NO. 1310

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration. It is an amendment to my amendment.

The PRESIDING OFFICER. The Senate will be in order.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1310.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "Notwithstanding", and insert in lieu thereof the following:

"any other provision of law, the provisions of subtitle A of title VI of the Tax Equity and Fiscal Responsibility Act of 1982, establishing a Federal supplemental benefits program of unemployment compensation benefits shall remain in effect, and an individual's period of eligibility shall continue, without regard to any provision in such Act relating to termination of such Federal supplemental benefit program, or to the end of such period of eligibility, until the national

seasonally adjusted total rate of unemployment is less than or equal to 6.7 percent.

"(b)(1) Notwithstanding the provisions of section 2402(b) of the Omnibus Budget Reconciliation Act of 1981 the amendments made by subsection (a) of section 2402 of such Act shall not be effective for determining whether there are State "on" or "off" indicators for weeks beginning on or after June 1, 1982, and before the month following the first month thereafter for which the national seasonally adjusted total rate of unemployment is less than 8.7 percent.

"(2) For purposes of making such determinations described in paragraph (1), the rate of insured unemployement for all weeks shall be calculated in the same manner as it is calculated for the particular week with respect to which the determination of an "on" or "off" indicator is being made.

"(c) Section 2403(b) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "September 25, 1982" and inserting in lieu thereof "the national seasonally adjusted total rate of unemployment is less than 8.7 percent for at least one month occuring after September 1982".

"(d) For purposes of determining whether there are State "on" or "off" indicators for weeks beginning on or after June 1, 1982, and before the month following the first month thereafter for which the national seasonally adjusted total rate of unemployment is less than 8.7 percent, paragraph (1) of section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970 shall be applied as if such paragraph did not contain subparagraph (A) thereof.

"(e) In the case of any State with respect to which the Secretary of Labor has determined that State legislation is required in order to amend its State unemployment compensation law so as to include any requirements imposed by this section with respect to extended compensation, such State's unemployment compensation law shall not be determined to be out of compliance under section 3304(c) of the Internal Revenue Code by reason of a failure to contain any such requirement for any period prior to the end of the first session of the State legislature which begins after the date of the enactment of this Act, or which began prior to the date of the enactment of this Act and remained in session for at least twenty-five calendar days after such date of enactment. For purposes of the preceding sentence, the term 'session' means a regular, special, budget, or other session of a State legislature.

"(f) Nothing contained in the preceding provisions of this section (or any amendments made thereby) does or shall be construed to authorize or require payment of unemployment compensation to any individual for any week prior to the first week which begins after the date this section becomes law, if such compensation would not have been payable to such individual without regard to the preceding provisions of this section."

Mr. METZENBAUM. Mr. President, my perfecting amendment is cosponsored by Senator ROBERT C. BYRD, Senator EAGLETON, Senator PRYOR, Senator LEAHY, Senator FORD, Senator INOUYE, Senator TSONGAS, Senator SASSER, Senator DIXON, Senator HUDDLESTON, Senator JOHNSTON, Senator HOLLINGS, Senator BURDICK, Senator BRADLEY, Senator BAUCUS, Senator LEVIN, Senator RANDOLPH, Senator DECONCINI, Senator MATSUNAGA, Senator KENNEDY, Senator BUMPERS, Senator SARBANES, Senator CANNON, Senator HEFLIN, Senator PROXMIRE, Senator EXON, Senator HART, Senator JACKSON, Senator PELL, and Senator RIEGLE.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Those Members wishing to converse will please retire to the cloakroom.

Mr. METZENBAUM. Mr. President, I send to the desk a substitute to the amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is not in order. It does not take priority over the second-degree perfecting amendment.

Mr. METZENBAUM. I am sorry?

The PRESIDING OFFICER. This amendment is not in order. It does not take priority over the second-degree perfecting amendment.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, the Senator from Ohio addressed himself to this issue at an earlier point today. We have been awaiting a member of the majority, the chairman of the Finance Committee, who wants to speak on the amendment, and some Members on this side of the aisle want to speak on the amendment. The Senator from Ohio is prepared to go to a vote when everybody who wishes to speak have concluded their remarks.

I yield to the Senator from Kansas, if he seeks recognition.

Mr. DOLE. I am just standing here.

Mr. METZENBAUM. I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senate will be in order. Senators who are conversing will please retire to the cloakroom. The Senate will be in order, or we will not continue.

Mr. RIEGLE. Mr. President, I rise as a cosponsor of the amendment and in support of the amendment. I shall make a few brief comments about it so that we can expedite the business of the Senate today. The amendment at the desk, offered by the Senator from Ohio and other cosponsors, deals with some of the critical problems relating to the unemployment compensation program. The amendment deals with three serious problems.

The first one, and perhaps the most important, is the trigger problem, whereby, under existing law, 29 States with high unemployment problems have triggered off or are due to trigger off the current 13 weeks of extended benefits.

While States then will be getting a replacement set of Federal supplemental benefits of either 6, 8, or 10 weeks they will lose the important 13 weeks of extended benefits.

I do not think this is what Congress intends. I know in the State of Michigan, where we now have over 700,000 people out of work and where we have had unemployment above 10 percent for 32 consecutive months, we face the prospect in October of the extended 13 weeks of benefits triggering off at the very time we need them the most.

This legislation would correct that trigger problem so that we would not lose the 13 weeks of extended benefits at such a critical time.

It also deals with the question of the recently enacted emergency Federal Supplemental Benefits, the 6-, 8-, or 10-week extension, by providing that they not arbitrarily end in March of next year. We feel is is much sounder to have an absolute way of being sure that come that date, if unemployment still is high in the country, the benefits would continue. Therefore, we establish a trigger level that would allow the program to continue so long as we are having extremely high unemployment rates.

The other item refers to restoring the pre-Reconciliation Act method of calculating how the insured unemployment rate trigger is established by including unemployed workers who are drawing benefits in that calculation.

So I think Members will find that in most States of the country this package of amendments will be very helpful to those States. It is certainly true in the State of Michigan and it is true, as I say, for at least 29 States.

I hope that the Senate will take this step. I think it is one that we will end up finding is a great help to unemployed workers in this country.

Mr. DOLE. Mr. President, are there other requests for time on the amendment?

Mr. HATFIELD. There is no time agreement.

Mr. DOLE. No time agreement?

Mr. METZENBAUM. Senator LEVIN indicated he might wish to speak. I do not see him on the floor. Whenever the majority is ready to vote, I am.

Mr. DOLE. Mr. President, as I understand the Metzenbaum amendment, it will rollcall back important unemployment compensation reforms enacted in the Omnibus Reconciliation Act of 1981. It will do a number of

things that in our view would just be a giant step backward.

In this Chamber all of us had an opportunity to vote for unemployment compensation, about 2 billion dollars' worth, when we passed the Tax Reform Act. And I regret the distinguished Senator from Ohio and the Senator from Michigan did not vote for the unemployed workers in their States in Michigan and in Ohio. That was a $2-billion program 6 weeks, 8 weeks, and 10 weeks, without any State costs; total Federal costs. It was worked out in the conference with members of organized labor, with the House conferees and the Senate conferees. It came back to the floor, and we thought that everyone would support that provision and support the restoration.

Now to come back with a $3.4 billion unemployment compensation bill as I understand the price tag in the last day of the session in the view of this Senator is not a responsible thing to do.

So while I have no quarrel with those who now want to rewrite the act, it is obvious that this is legislation on an appropriations bill.

I have great regard for the Senator from Ohio, the sponsor of this amendment. The cost estimates range from $559 million if the program is in effect until March 31 to $3.1 billion if the program is in effect for 1 full fiscal year. It is going to have a large Federal budget impact and also the State trust funds would be adversely affected.

We did take, as I have indicated, steps in the tax bill through increases in the tax rate and wage base to make the State and Federal programs solvent.

So it just seems to me that this amendment would simply undo those efforts and plunge many State programs back into a barring status. We have also made special efforts to alleviate the problem in the State of Michigan and we believe that we have accommodated some of the concerns as far as interest rates and some of the other concerns that the Governor and the legislative leaders in that State called to our attention.

So I just suggest, Mr. President, without belaboring the point that we did make an effort to help the unemployed. There is a program that every State will benefit from, every unemployed worker will benefit from. It is a Federal supplemental program. It will be 6 weeks, 8 weeks, or 10 weeks in the States depending on the circumstances. It is a $1.9 to $2 billion program. And in my view that was a very good provision. It was part of the tax bill and perhaps for other reasons Members could not support that provision.

But I just suggest that this comes a little late and I would hope that either we table the amendment or defeat it on an up or down vote. I have not yet determined on what the Senator from Ohio wishes on that score.

Mr. METZENBAUM. I hope we have an up and down vote. I am patiently waiting for everyone to come and have a chance. I tried to keep the remarks limited.

It is correct. Senator LEVIN is on the way over for brief remarks. But I would like to just respond.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. ROBERT C. BYRD. Mr. President, in August, the Congress enacted the Tax Equity and Fiscal Responsibility Act of 1982. That bill contained a provision that establishes a supplemental unemployment benefits program to provide additional weeks of benefits for the unemployed who cannot find work. Under that measure, the unemployed who exhaust other benefits will receive 10 weeks of supplemental benefits if they live in States that have been eligible for the extended benefits program at some point since June 1 of this year; they will receive 8 weeks in States with moderately high unemployment; and they will receive 6 weeks in all other States.

However, Mr. President, this provision leaves two very distressing and very substantial problems with the unemployment insurance system, as the Senator from Ohio has so capably pointed out.

First, the extended benefits program—the permanent program that is intended to serve as the middle tier of benefits—was altered in two fundamental respects by the Reconciliation Act of 1981, which make it more difficult for States to gain and maintain eligibility for the extended benefits program.

The second problem that has developed has to do with the nature of the supplemental benefits program that was enacted as a part of the tax bill. As I noted previously, that program will provide additional weeks of benefits to unemployed workers, but it will end abruptly on March 31 of next year, regardless of what has happened to the unemployment rate in the Nation as a whole or in any individual State.

The combined effect of the 1981 Reconciliation Act changes in the extended benefits program, and the abrupt halt in the supplemental benefits program adopted as a part of this year's Tax Act, is likely to be catastrophic for the unemployed in this Nation.

Already, the unemployed in 14 States have lost eligibility for the extended benefits program, despite the fact that the unemployment rates in those States remain very high. Between now and the end of this year, the Congressional Budget Office projects that all but seven or eight States will lose eligibility for extended benefits as the final 1981 Reconciliation Act change takes effect. Practically speaking, Mr. President, the extended benefits program will cease to exist in all but a handful of States. That simply must not be allowed to happen while unemployment remains at record levels.

If the extended benefits problems are not remedied, and if the supplemental benefits program is allowed to end precipitously on March 31 of the coming year, the unemployed in all but four or five States will be eligible for a maximum of 26 weeks of regular unemployment insurance past that point. They will be eligible for fewer weeks of unemployment insurance than were available in each of the last two much milder recessions—and fewer weeks than they were eligible to receive in the great majority of States as recently as a month or two ago.

The Congress must not allow this to occur.

We all are very familiar with our current tragically high national unemployment rate, Mr. President. Last month it was 9.8 percent—the highest rate in over 40 years, since before World War II; 11 million Americans were out of work—and this does not even count those unemployed workers who are so discouraged that they have ceased to look for work because they simply cannot find jobs, nor millions who have been forced to work part-time or reduce the hours they work because full-time work is not available to them.

In my own State of West Virginia, the most recent Department of Labor statistics show that over 109,000 people are unemployed and the unemployment rate is 13.7 percent. Mining and steel have record unemployment. Other industries and their employees are suffering similarly.

Under these circumstances, it makes no sense to reduce unemployment benefits.

I believe we have a very, very serious obligation to try to assist the unemployed of this Nation to contend with their plight, even as we seek to take steps to reinvigorate our economy. We must not allow the terrible burdens of this recession to fall on the backs of those who have invested their labor in making our Nation great—and who, more than anything else, badly want to return to work.

It is for these reasons, Mr. President, that I am cosponsoring the amendment being offered by the Senator from Ohio. I believe this amendment properly addresses the problems I have described, and does so in the most responsible fashion.

As the distinguished Senator from Ohio noted in his remarks, the amend-

ment will postpone the two changes in the determination of State eligibility for the extended benefits program until the national unemployment rate falls below 8.7 percent. The administration projects that this will occur before the end of the first calendar quarter of 1983. As a result, those States with continuing high unemployment will retain eligibility for participation in extended benefits.

In addition, the amendment will set expiration of the supplemental benefits program adopted as a part of the tax bill at the same time: When national unemployment drops to or below 8.7 percent.

As a result, supplemental benefits will remain available in all States for so long as record unemployment persists.

Mr. President, I do not believe this Congress can leave to go home at a time when more Americans are out of work than at any time since 1941 without assuring those Americans and their families that at least we will not cut off those benefits which have been available to them in the past. And I remind the Senate that we are not establishing any new unemployment benefit with this amendment, but only assuring that those that already are established will not be denied to the unemployed.

I have an abiding belief that the American people are caring, compassionate people—and that they want to help, and want their elected representatives in the Congress to help, those who have been buffetted by recessionary forces wholly beyond their control.

This amendment will do just that. I urge each Senator to support it.

Mr. METZENBAUM. I appreciate the support of the minority leader.

I wish to clarify a point with my good friend from Kansas and in doing so I wish to make it clear that I think he approached this problem with good faith and good intentions, but unfortunately, the problem has not been resolved. As a matter of fact, we attempted to remedy this problem several times but we have only been partly successful.

In July, during consideration of the tax bill, I introduced an amendment to prevent a new tax on employers from going into effect until Congress adopted a supplemental benefits program. That amendment failed by only one vote, 49 to 48.

On August 5, I, along with Senators ROBERT C. BYRD, DIXON, and others, offered a sense-of-the-Senate resolution instructing the tax conferees to establish a supplemental benefits program.

Significantly, that resolution also instructed the conferees to make changes in current law to prevent States from triggering off the extended benefits program after June 1, 1982.

The problem arises as follows:

The tax conferees did adopt a modified supplemental benefits program, but they failed to heed the second part of the instruction.

There were three segments to unemployment compensation: The first is the 26 weeks that every unemployed worker becomes entitled to if he or she qualifies. The second has to do with 13 weeks of extended benefits under the Federal law. And the third has to do with the additional 10 weeks that was provided by the tax conferees pursuant to the instructions of the Senate.

Unfortunately, the problem has to do with that 13 weeks that are called Federal supplemental benefits that have been in effect but thery are triggering off as of September 25. About 28 to 30 States either have already triggered off or will trigger off.

The reason they are triggering off is that during the budget reconciliation bill consideration there was included a provision for a lower trigger as to when Federal supplemental benefits would or would not be paid. That trigger relates not to the unemployment in a State but it relates to a thing called the insured unemployment rate, and that falls in the area of 4 or 5 or 6 percent even though the State may have unemployment of 10, 12, or 14 percent. It relates to the question of how many are entitled or how many qualify for unemployment compensation benefits.

Suffice it to say it is that trigger that has created the problem, and it is that trigger we are making an effort to correct.

I would further point out that under the tax conferees' provision, the matter of the entire extended unemployment benefits, the additional 10 weeks they are talking about, would terminate as of a date in March 1983.

Our amendment offered today would change that. It would change it to say that these provisions would no longer be applicable after the unemployment rate has been reduced to 8.7 percent. The 8.7 percent rate we are talking about is the very rate that was in the budget projections and used by Congress in making its determination as it pertains to the budgetary matter.

Therefore, Mr. President, I would sincerely hope that we will have an up or down vote. I have been patiently waiting for all parties to have an opportunity to be heard on this amendment. I think the best indication I can give as to the need for this amendment is the story in yesterday's New York Times indicating that 4,508 people lined up for 296 Long Island jobs, and the jobs were what? From dishwashers to clerks, which indicate just how serious this unemployment problem is. It is equally or more serious in my own State.

Thirty States need this measure. The costs will not be anything such as the chairman of the Committee on Finance indicated. They will be something close to one-half of $450 million. The only way they could rise to a much larger figure is if the unemployment is substantially higher than the budget reconciliation measure originally predicted.

I yield to the Senator from Michigan.

Mr. RIEGLE. Is the Senator from Michigan correct in saying that the defect in the emergency 6-, 8-, or 10-week benefits just passed in the tax increase is that by not correcting the trigger in States like ours, where we are now getting 13 weeks of extended benefits, we are about to lose the 13 weeks, that as we lose these 13 weeks we are only going to gain the 10 weeks on the other side? So, as a matter of fact, we are actually worse off than we were before.

If we lose the 13 and we gain 10 and, in fact, we only gain 10 for a limited period of time, unless the amendment of the Senator from Ohio passes, either way we have been shorted. In other words, the unemployed workers in our States and the 29 States are coming out less well off, less able to cope, than if we had not changed the law at all.

Mr. METZENBAUM. The Senator from Michigan, as usual, is right on target. That is exactly what the situation is.

Mr. RIEGLE. I thank the Senator.

Mr. METZENBAUM. I thank the Senator. I believe the other Senator from Michigan wanted to be heard.

Mr. LEVIN. I have some remarks.

Mr. HEINZ. Mr. President, I thank my colleague from Ohio for introducing this amendment. I assume this is the amendment of which I am a cosponsor, is that correct?

Mr. METZENBAUM. As of the moment the Senator from Pennsylvania is not. But I ask unanimous consent that the Senator from Pennsylvania be named as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. I am delighted to have him as a cosponsor. He has been helpful in this matter throughout the entire proceeding, and I appreciate the fact that he is a cosponsor.

Mr. HEINZ. If the Senator will yield further, Mr. President, it is my understanding that this amendment is very similar to this Senator's bill which has been referred to the Committee on Finance; very similar to Senator BYRD's bill on the same subject; is that correct?

Mr. METZENBAUM. Although the Senator from Ohio is not absolutely familiar with the details of the Senator from Pennsylvania's measure, it is my understanding the Senator from Pennsylvania's measure is either identical or seeks to solve the same prob-

lem, and certainly indicates the same concern for the unemployed.

Mr. HEINZ. My understanding further is that this is very similar to, if not identical, with the amendment that the Senator from Ohio and I have proposed to press forward with when we were considering the tax bill; is that not correct?

Mr. METZENBAUM. The Senator from Pennsylvania is correct. He has been an able helper, worker, coworker, cosponsor, in this entire matter.

Mr. HEINZ. Well, Mr. President, of course I rise in support of this amendment.

On Monday, I made a statement for insertion in the RECORD on this subject. In that statement I pointed out that unless this amendment is adopted, the States which are now experiencing the greatest hardship with unemployment are those States that are most likely either being hurt or going to be hurt when the extended benefit program unexpectedly in States is triggered off by variations in the insured unemployment rate.

In my home State of Pennsylvania at the present time workers who are unemployed are now eligible for the first 26 weeks, the so-called basic benefits of unemployment compensation. They are eligible now under existing conditions for the second 13 weeks, the so-called extended benefits; and, as a result of the action on the tax bill, which I supported, they are entitled to an additional 10 weeks of supplemental benefits which, of course, in States which have had persistent unemployment, such as Ohio or the State of Michigan or my home State of Pennsylvania, are absolutely essential to tiding people over who, through no fault of their own, are unemployed, have no jobs.

It cannot be predicted with certainty when any individual State might trigger off its extended benefits, and it is that way because the way the present law is written it is actually possible to have the so-called insured unemployment rate go down while the actual unemployment rate is going up.

Does that strike some people as a little bit absurd? Of course, it is absurd. There are all kinds of absurd things that work their way into the law from time to time, and sometimes it does not cause the problem. But in this case, Mr. President, the problems we are talking about would be those of tens of thousands of previous hard-working Americans who, through no fault of their own, might wake up on Thanksgiving or on Christmas or on New Year's and find that, lo and behold, they have no more unemployment compensation. They have exhausted their 26 weeks, they are in their 27th week, and no more money in the 28th. They wake up on the 38th week and no more money on the 39th, and no way to pay the rent, no way to pay the mortgage, no way to pay off the car loan, no way to avoid maybe taking the piggy bank of their son or their daughter and having to use that to pay the utility bill.

That, Mr. President, is not what we want to see happen. That is not a prospect we can allow our constituents and our unemployed to face.

So what this amendment does is to correct the problems in counting unemployment, to correct the catch-22 situation where through fluctuations in the insured unemployment rate a State where things are getting worse could end up with the situation of individual people also getting worse, notwithstanding the intent of the Federal unemployment compensation law.

So, Mr. President, I very strongly rise in support of Senator METZENBAUM's amendment and congratulate him for offering it. I am glad he has persisted in it. It is something that he and I have been working for for many months, and I am glad we are going to have an opportunity at long last today to vote and hopefully enact the needed legislation.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, the passage of the Metzenbaum amendment is critical to the Nation in general and for my State of Michigan in particular. Michigan has the highest rate of unemployment in the Nation and yet is about to be cut off from extended benefits.

I am wondering if anybody in this body can justify that. The State with the highest rate of unemployment about to be cut off from extended benefits. And it is no answer to say that a new supplemental program is a cure for it because it is not. It is for a shorter period of time. It is for a period that will run out in March. Also, it is absurd that perhaps 8 or 10 States are receiving both extended benefits and supplemental benefits while Michigan, with the highest unemployment in the country, will be receiving only the supplemental 10-week benefit program.

The Metzenbaum amendment cures this absurdity. First, this amendment will suspend, until the national unemployment rate goes below 8.7 percent, the illogical change which was made in last year's reconciliation bill with respect to the calculation of the insured unemployment rate, the IUR. The insured unemployment rate is the rate used in determining whether a State is eligible for the extended benefits program for weeks 27 through 39 of unemployment. As part of last year's reconciliation bill, the formula by which the IUR was determined was changed so that people who are receiving extended benefits are no longer included in the IUR.

Last year's changes should be at least suspended because it is illogical to have two individuals—one unemployed for 24 weeks and the other for 30 weeks—and to treat one as unemployed for the purpose of the IUR calculation and the other as if he or she were employed. Both are without jobs. Both should be included in the IUR. I have seen first hand the practical effect of this illogic because last year my State of Michigan was knocked off of extended benefits as a result of this new formula even though all during that time Michigan had the highest unemployment rate in the Nation.

Second, this amendment will suspend the change in the level at which a State triggers on to the extended benefits program, thereby keeping it at 5 percent. The change to 6 percent was also part of last year's reconciliation bill, but did not take effect until this week. Michigan has the highest unemployment rate in the Nation—now over 15 percent—but has fallen below the 6-percent IUR trigger in the first half of September and is on the verge of losing its eligibility for extended unemployment benefits. Although having the IUR calculation revert back to the way it was prior to last year's reconciliation bill would be sufficient for Michigan to qualify for extended benefits in October, other States, which are currently experiencing high levels of unemployment, would require keeping the IUR trigger at 5 percent as well in order to qualify for extended benefits.

Third, Mr. President, this amendment would link the duration of the recently passed Federal supplemental benefits program to a specified rate of unemployment instead of the date of March 31. There has been more than a little speculation that the March 31 date was chosen as the time to end the Federal supplemental benefits program because it was not only after the election, but far enough after to avoid the most obvious appearences of its being political without it being so far after as to be too costly or effective, depending on your perspective. The threshold for terminating the supplemental benefits program under this amendment would be 8.7 percent. In 1971, there was a supplemental benefits program in place when unemployment hit 5.5 percent. So the Metzenbaum amendment is the least we can do, and much less than we did in 1971, to give some extra measure of protection for the long-term unemployed.

While I would prefer a threshold level closer to the 1971 level, I realize there is a need to compromise. I am, therefore, pleased to cosponsor the amendment of the Senator from Ohio.

ORDER CHANGING TERMINATION DATE TO DECEMBER 22, 1982

Mr. HATFIELD. Mr. President, in the printed copy of the continuing resolution as reported from the committee, the printed copy does not accurately reflect the House floor action.

On the House floor, the expiration date was changed from February 28, 1983 to December 15, 1982 and our committee changed this date to December 22, 1982. I ask unanimous consent—this has been cleared with the minority side—that this correction be made when the resolution is printed after passage; that is to change the date to the actual date the House gave for the termination period.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that we temporarily set aside the amendment that is now being debated by the Senator from Ohio and others until later in the day, perhaps around 1:30.

Mr. METZENBAUM. At 1:30 or 2 p.m.

Mr. HATFIELD. I would hesitate to ask for a precise time. We may be in the middle of another amendment.

Mr. METZENBAUM. Could we make it at 1:30 p.m. or such time as the matter then pending on the floor has been dispensed with?

Mr. HATFIELD. I would be happy to accommodate the Senator to make it at 1:30 or 2 p.m., depending on the time situation that we are in at that time, or as close to that time as possible.

Mr. METZENBAUM. I thank the chairman of the committee for his consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1311

(Purpose: To fund the Native Hawaiians Study Commission)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1311.

At an appropriate place in the Joint Resolution insert:

"SEC. . Notwithstanding any other provision of this joint resolution, there is appropriated $200,000, to remain available until expended, for necessary expenses to carry out Section 301 of the Native Hawaiians Study Commission Act, Public Law 96-565."

Mr. McCLURE. Mr. President, this amendment provides funds in the amount of $200,000 for the final year of operation of the Native Hawaiians Study Commission. As the Congress last fall was still several weeks away from resolving its 1982 appropriation matters, the Commission's fiscal year 1982 expenses were covered out of the "Unanticipated Needs of the President Fund." However, the White House has informed the committee that they will not be able to make funds available again this year for this congressionally mandated study. Moreover, because of the unique way this was funded last year, there is a question as to whether funds would in fact be available in the continuing resolution as presently drafted.

Mr. President, it is my intention to include funding for the Study Commission when we pass the fiscal year 1983 Interior Appropriation Act. My amendment today will merely allow the Commission to continue its work uninterrupted until the regular bill is passed. I emphasize that this is the second and final year of the Commission, and that the Commission will be submitting its final report to the Congress later this year.

It is my understanding this amendment has been cleared on both sides of the aisle and I urge its adoption.

Mr. MATSUNAGA. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Idaho (Mr. McCLURE) to provide funds for the Native Hawaiians Study Commission.

The nine-member study commission was created by Congress to study the culture, needs and concerns of Native Hawaiians, and to report back to the Congress on its findings and recommendations. The Commission was appointed by President Reagan in September 1981 and, just last week published its preliminary report. A final report is due in June 1983 after public comments on the draft have been received and considered.

Under the law, enacted in December 1980, the Commission's initial meetings were to be funded by the Senate contingent fund, which was to be reimbursed when the regular appropriations bill passed. However, the Commissioners were not appointed and did not hold their first meeting until nearly the end of fiscal year 1981, after the Interior Department appropriations bill for fiscal year 1982 had already been considered. Subsequently, the administration provided funds for the Study Commission's first meetings and a series of public hearings from the White House Unanticipated Needs Fund.

The amendment offered by Senator McCLURE would not extend the Study Commission's reporting deadline but would merely fund its second year of operations. The Study Commission's most important activity will be the consideration of public comments on its draft report and the preparation of a final report to the Congress.

Mr. President, it is expected that the Commission's draft report will generate substantial public comment, and that the Commission's final recommendations will merit the full and most serious consideration by Congress. The passage of the McClure amendment would enable this process to continue, as authorized by the Congress. I commend the Senator from Idaho for exercising his responsibility as chairman of the Committee on Energy and Natural Resources by offering his amendment, and I urge that it be adopted.

Mr. INOUYE. Mr. President, I join my distinguished colleague from Idaho in supporting this measure. I hope that my colleagues will support it.

Mr. HATFIELD. Mr. President, this is one of those exceptions to the general policy the managers are attempting to follow in resisting each and all amendments to this continuing resolution. That is, this does comply with the exception because of the date of termination of this commission that the Senator from Idaho seeks to extend. Therefore, on behalf of the managers of the bill, I accept the amendment and ask for its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (UP No. 1311) was agreed to.

TRANSFER OF LARAMIE ENERGY TECHNOLOGY CENTER TO THE UNIVERSITY OF WYOMING

Mr. WALLOP. Mr. President, Senator SIMPSON and myself intended to offer an amendment to the pending continuing resolution to provide the basis for a transfer of the Laramie Energy Technology Center at Laramie, Wyo. to the University of Wyoming. To that effect, the Wyoming Congressional Delegation sent a letter for consideration of the Senate Appropriations Committee, which I would like to read into the RECORD at this point.

COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, D.C., September 21, 1982.

Hon. MARK O. HATFIELD,
Chairman, Senate Committee on Appropriations, Washington, D.C.

DEAR MR. CHAIRMAN: The Wyoming Congressional Delegation is intent upon assuring the future of the Laramie Energy Technology Center (LETC), and submits the attached amendment, requesting that it or something to the same effect be included in the pending Continuing Resolution.

The amendment transfers the LETC facilities, except the Anvils Point property, to the University of Wyoming upon the execution of a cooperative agreement with the Department of Energy. The amendment is intended further to secure funding and staffing of the Center at 1982 levels during the transition period. We envision this transition period to cover negotiations and a reasonable period after the cooperative agreement is signed.

The University is in the midst of negotiations with the Department of Energy to frame a cooperative agreement. These negotiations began nearly seven months ago,

when the University's Trustees passed a Resolution finding that (1) there presently exists a highly productive collaboration between researchers at the University and the LETC; (2) these collaborative research programs are critical to the State of Wyoming; and (3) the continued and essential research mission of the LETC could best be discharged, and the needs of the State met at the same time, if the Center were administered as a program of the University of Wyoming.

We wholeheartedly support the University's conclusions, and submit the attached amendment to expedite and facilitate such a transfer. Your support and assistance in this endeavor will be much appreciated.

Sincerely,

MALCOLM WALLOP,
Senator.
ALAN K. SIMPSON,
Senator.
DICK CHENEY,
Member of Congress.

TRANSFER OF LARAMIE ENERGY TECHNOLOGY CENTER

Funds appropriated by this and subsequent Acts for fossil energy research and development activities may be used by the Secretary of Energy to enter into arrangements with the University of Wyoming, or any nonprofit corporation controlled by the University, for the purpose of encouraging and supporting research and development activities in the oil shale, underground coal conversion, and tar sand programs. In addition, the Secretary, subject to any reasonable terms and conditions which the Secretary may impose and upon execution of a cooperative agreement with the University or such nonprofit corporation, shall transfer in fee simple to the University or such nonprofit corporation all of the Government's right, title, and interest in and to the land, buildings, improvements, fixtures, equipment, and furnishings in the Secretary's custody of the Laramie Energy Technology Center at Laramie, Wyoming (including leasehold interests, buildings, improvements, fixtures, equipment, and furnishings in the Secretary's custody on land not owned by the Government but which is a part of the Center, where the Secretary determines that such transfer is integral to the future activities of the University). Pending transfer of the Center, the Secretary shall use funds appropriated by this and subsequent Acts for fossil energy research and development activities to maintain the Center at 1982 staffing and project levels.

Mr. WALLOP. The Laramie Energy Technology Center is one of several energy technology centers caught in the budget cuts of the Department of Energy. The administration, however, has made it clear that the center's value is not at question and has been very supportive of transferring both ownership and operation of the center to the University of Wyoming. My amendment would grant the necessary authority and moneys to do just that.

However, in light of the committee's support and assurance that the amendment will be included in either the Interior Appropriations Act for 1983, or a further continuing resolution, if one, heaven forbid, is necessary, the Wyoming delegation will not press to amend the pending resolution at this time.

On behalf of the Wyoming delegation, I wish to thank Senator MCCLURE and the Appropriations Committee for their cooperation and support on this matter. The Laramie Energy Technology Center will be a great addition to the University of Wyoming, to the State and the Nation as well.

Mr. MCCLURE. Mr. President, I thank the distinguished Senator from Wyoming and concur that I support transferring LETC to the university and intend to include this amendment in either the 1983 Interior Appropriations Act or a further continuing resolution for fiscal year 1983. Pending the transfer, the Appropriations' Subcommittee on Interior and Related Agencies will maintain the center at 1982 levels and will further provide for some assistance during a reasonable transition period after the transfer is consummated. I might mention that the same is true for the transfer of the Grand Forks and Bartlesville Energy Technology Centers from the control of the Department of Energy to other public or private entities.

UP AMENDMENT NO. 1312

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) for himself and Mr. ROBERT C. BYRD, proposes an unprinted amendment numbered 1312.

Mr. HEINZ. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

"SEC. —. Title IV of the Tariff Act of 1930 (19 U.S.C. 1401 *et seq*) is amended by adding after section 625 the following new section:

"SEC. 626. (a) In order to monitor and enforce export measures required by a foreign government or customs union, pursuant to an international arrangement with the United States, the Secretary of the Treasury may, upon receipt of a request by the President of the United States and by a foreign government or customs union, require the presentation of a valid export license or other documents issued by such foreign government or customs union as a condition for entry into the United States of steel mill products specified in the request. The Secretary may provide by regulation for the terms and conditions under which such merchandise attempted to be entered without an accompanying valid export license or other documents may be denied entry into the United States.

(b) This section applies only to requests received by the Secretary of the Treasury prior to January 1, 1983, and for the duration of the arrangements."

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, is there an amendment pending?

Mr. HATFIELD. Mr. President, on behalf of the managers, I would indicate our approval of laying aside temporarily the committee amendments in order that the Senator from Pennsylvania may proceed.

The PRESIDING OFFICER. Without objection the committee amendments are temporarily laid aside.

Mr. HEINZ. If the Senator would withhold, I was about to announce that this is an amendment sponsored by myself and the distinguished minority leader.

Mr. ROBERT C. BYRD. I have no objection.

Mr. HEINZ. This amendment is a technical correction that the Department of Commerce has asked for. The appropriate people on the Finance Committee have been consulted. I am a member of the Finance Committee also.

Mr. President, the purpose of this amendment is to clarify the Government's authority to monitor imports pursuant to an international agreement between the United States and a foreign country or customs union, and to deny such products entry if they lack the necessary documents issued by the foreign instrumentality.

The amendment is narrowly circumscribed. It applies only to any agreement on steel mill products that is arrived at between now and January 1, 1983, and it can only be activated at the request of the President and a foreign instrumentality. Its intent is simply to permit any steel agreement that might ultimately be negotiated to be implemented effectively. It has no other ramifications.

Mr. President, this amendment has the support of the Commerce Department and the U.S. Trade Representative has no objection to it. I ask unanimous consent to have a letter from Secretary Baldrige printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF COMMERCE,
Washington, D.C., September 29, 1982.

Hon. JOHN HEINZ,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HEINZ: I understand that you shortly will be introducing an amendment to the Tariff Act of 1930 which would under limited circumstances permit the Secretary of the Treasury to require the presentation of a valid export license issued by a foreign government as a condition of entry into the United States of certain steel mill products (copy attached). I support this amendment.

This amendment would facilitate the implementation and enforcement of an arrangement on steel with the European Community in settlement of the pending antidumping and countervailing duty cases. The proposed provision, narrow as it is in prod-

uct coverage, duration and prerequisities for application, make it consistent with this Administration's policy and approach to our efforts to resolve the steel trade issue.

Sincerely,

MALCOLM BALDRIGE,
Secretary of Commerce.

Mr. HEINZ. Mr. President, I move adoption of the amendment.

Mr. HATFIELD. Mr. President, on behalf of the leadership, we understand this is another exception and we accept the amendment.

Mr. ROBERT C. BYRD. Mr. President, I rise in support of this amendment offered by Senator HEINZ, and cosponsorer by me. It addresses one of the most serious problems the U.S. steel industry may well face down the road if and when we can reach agreement with the Western European countries on limiting their steel exports to the United States. Subsidized steel exports from other countries merely export their unemployment to this country at a time when we do not need this kind of help. Our own steel industry, reeling from the effects of the administration's economic policies and their numbing impact on demand for steel generally, needs all the help it can get in dealing with unfair foreign competition from subsidized and dumped steel exports.

This amendment will authorize the Secretary of the Treasury to assist the Europeans in administering any steel export limitation agreements we may be able to reach with them. He will be able to do this by requiring certification on all steel exports to the United States that they are in compliance with the limitations mutually agreed upon by us and the Europeans.

Since European policing arrangements are notoriously loose, this amendment is both wise and necessary if we are to be able to adequately enforce limitation agreements we may be able to reach.

Last week, I was successful in securing language in the report on the fiscal year 1983 State, Justice, Commerce Appropriations bill relating to our problems with steel importers. It directs the Secretary of Commerce, in concert with the U.S. Trade Representative, to vigorously pursue investigations of the unfair subsidizations by foreign governments of their steel industries. I intend to continue doing everything in my power to bring an end to this flood of unfair subsidized steel coming into this country and hurting our steel industry and the many American families who depend on its health for their economic well-being.

In my own State of West Virginia, we know all too well what unfair foreign competition has done to the domestic steel industry. Plant closings, layoffs of employees at plants that stay open, lost business, and lost capacity to ever come back, all have a chilling and lasting impact on the State and its economy. I support this amendment because it represents a step toward ending the entry into this country of unfairly subsidized steel.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

The amendment (UP 1312) was agreed to.

Mr. HEINZ. I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I thank all Members for their cooperation.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I was called away from the floor briefly, and I have not had an opportunity to inquire of Members as to the further course of this measure. May I inquire of the distinguished manager of the bill, the chairman of the Committee on Appropriations (Mr. HATFIELD), what he sees in prospect and what his ideas or suggestions may be as to how we should proceed?

Mr. HATFIELD. Mr. President, I am happy to respond by indicating that we have spent 40 minutes this morning, first of all, in quorum calls, waiting for Senators to come to the floor. We have wasted that much time because Senators have been very reluctant to call up amendments or have not found it important enough to be here to do so. As a consequence, we have about 17 amendments that we know of on our side that Senators have indicated some interest in handling.

We have set aside temporarily four committee amendments that will have to be acted on, that we excepted when we adopted the committee amendments en bloc. We have set aside temporarily an amendment by the Senator from Ohio that we shall take up at 1:30 or 2, when other Members return to vote on it. Consequently, we are waiting, as we have been in this quorum call for about 8 minutes, for some Senator to appear on the floor.

The majority leader, I understand, has put out on the hotline that if we have an inordinate delay, we shall move to complete the bill. I hope that Senators who do have amendments will understand that we cannot waste this time if they are serious about proposing their amendments.

Mr. BAKER. Mr. President, I thank the Senator. I have spoken frequently with the minority leader on how on Earth we are going to get this bill moved. I ask now with some hesitation, but I must ask, if the minority leader can give some idea about any amendments he sees on his side and how many, indeed, may be offered.

Mr. ROBERT C. BYRD. Mr. President, in response to the majority leader's question, I have been, throughout the morning, attempting to get some reading on my side of the remaining amendments. Some Senators have indicated that they are willing not to call up their amendments. Mr. DECONCINI has indicated that he has three amendments which he will not call up if a certain amendment is not called up on the other side of the aisle. I hope that Senators will come to the floor and call up their amendments so we can dispose of this measure by 4 p.m. or earlier.

Mr. BAKER. Mr. President, I thank the minority leader.

I have no desire whatever to be precipitate. I certainly have no desire to cut off any Senator from offering any amendment—I am not sure I can do that—or to take any step that would work to preclude the Senate's consideration of this measure. But I repeat that it is absolutely urgent that we finish this measure, do it today, and do it this afternoon.

I am very pleased to hear the Senator from West Virginia, the minority leader (Mr. ROBERT C. BYRD), suggest the possibility of 4 p.m. I would be encouraged then to seek a unanimous-consent order that passage on this measure occur at 3 o'clock or 4 o'clock this afternoon. I shall not put that request at this time, since there are only a handful of Senators on the floor, but I am going to run my hotline, Mr. President, as the minority leader has already inquired through his cloakroom, I believe. Senators should know, now, if this thing bogs down, I am going to make an effort to conclude it.

I understand the Senator from Colorado is on the floor and perhaps has an amendment that will not take much time. I am surprised that the Senator from North Carolina (Mr. HELMS) will be here shortly. There are no doubt others who want to come to the floor.

I think I must say that fair warning is fair warning. If we have other delays such as we are having now in quorum calls, with nothing going on, I intend to ask the Chair to advance the bill to third reading. That is not a threat; it is simply a statement of fact. I hope Senators will come to the floor and offer their amendments if they are going to do that and, if they are not going to do that, let us know. I

hope they will agree to a unanimous-consent request that I shall put at 12 o'clock to establish 4 this afternoon as a time certain for passage.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished majority leader will yield, does he know whether or not Mr. HELMS intends to call up his amendment?

Mr. BAKER. I do not.

Mr. ROBERT C. BYRD. I urge that both sides do their very best to get Senators on both sides to the floor so we can call up amendments, because I would like very much to see this bill disposed of by 4 p.m.

Mr. BAKER. Mr. President, I am advised by Members on both sides that as far as they are concerned, they are ready to go now. I guess we had better wait a little, but that is an encouraging reaction.

Mr. President, I see the Senator from Colorado (Mr. ARMSTRONG) on the floor. I assume he is ready to call up his amendment.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, before we proceed, would the Senator from Oregon permit me to do two pieces of routine business that have been cleared on both sides, I believe?

Mr. HATFIELD. Yes, I yield, Mr. President.

APPOINTMENT OF ADDITIONAL CONFEREES—H.R. 5890

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Texas (Mr. TOWER) and the Senator from Kentucky (Mr. FORD) be added as conferees to H.R. 5890 solely for the purpose of considering section 5.

The PRESIDING OFFICER. Without objection, it is so ordered.

MISSING CHILDREN ACT

APPOINTMENT OF CONFEREES

Mr. BAKER. Mr. President, I am advised that we are in a position to go forward now with the missing children's bill. If there is no objection from the minority leader or other Members, Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 6976, the missing children's bill.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. Let me yield first to the minority leader.

Mr. ROBERT C. BYRD. Reserving the right to object, Mr. President, I think this can be done by unanimous consent.

Mr. BAKER. I thank the Senator.

I ask unanimous consent that on H.R. 6976, the Senate insist on its amendment and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

There being no objection, the Presiding Officer (Mr. ABDNOR) appointed Mr. THURMOND, Mr. HATCH, Mr. SPECTER, Mrs. HAWKINS, Mr. BIDEN, Mr. DECONCINI, and Mr. HEFLIN conferees on the part of the Senate.

Mr. BAKER. I thank the Senator from West Virginia. I thank the Senator from Oregon for permitting me to proceed on these matters.

CONTINUING APPROPRIATIONS, 1983

The Senate continued with consideration of the continuing resolution.

Mr. BAKER. Mr. President, once again, I shall put out a hotline on my side, indicating that at 12 p.m. or thereabouts, depending on when I can regain the floor, I shall make a unanimous-consent request to pass this measure by 4 p.m., or not later than 4 p.m. I hope it will not be objected to.

UP AMENDMENT NO. 1313

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1313:

On page 13, line 4, strike the period and add the following: "; *Provided*, That notwithstanding any other provisions of this Joint Resolution, no other funds shall be available for the Water Resources Council."

Mr. ARMSTRONG. Mr. President, the amendment I am offering would eliminate any funds in this resolution for the Water Resources Council. The Water Resources Council will essentially be closed down by the end of this fiscal year and it is appropriate to zero out the funding in this resolution.

The Water Resources Council was established in 1965 under the Water Resources Planning Act. The WRC is chaired by the Secretary of Interior and the other seven members are the Secretaries of HUD, Commerce, Army, Agriculture, Transportation, EPA, and Energy. The staff of the WRC reports to and serves the Council members and chairman.

Authority for WRC appropriations expired at the end of fiscal year 1979. In fiscal year 1982, Congress provided $685,000 for salaries and expenses of the staff and $3.2 million for the orderly conclusion of ongoing studies.

The orderly termination or transfer of WRC activities should be completed by September 30. For example, WRC's work plan for the water assessment, flood plain management, and State planning grants has been completed. WRC responsibilities for the unified national program for flood plain management has been transferred to the Federal Emergency Management Agency. The study of North Carolina's Cape Fear will be managed by the Department of Agriculture to completion next year and the Department of Commerce will manage to completion the Columbia River Estuary study.

The staff of 65 has been reduced down to 7, who will be in place by the end of this month, and I understand the Department of the Interior is working closely with this remaining staff to identify other positions for them.

With the President's Cabinet Council on Natural Resources and the Environment, the administration has an effective repacement for the WRC. The Cabinet Council has elevated Federal decisionmaking on water policy, is simpler, cheaper, and more effective.

Senate language in the joint resolution would have the effect of funding the WRC, which in essence no longer exists, at 1982 levels. The fiscal year 1982 levels, coupled with the carryover of unobligated balances from previous fiscal years, amounts to approximately $5 million on an annual basis. Even though the joint resolution covers a much shorter period of time, it makes no sense to continue appropriations for the WRC and this amendment eliminates such funding.

The point of this amendment, Mr. President, is simply to say, the function having concluded, let us stop spending the money for it.

I offer this amendment at the suggestion of the Department of the Interior and the suggestion of the Secretary who is, in fact, the chairman of the Water Resources Council. I urge its adoption.

Mr. HATFIELD. Mr. President, I should like to ask the Senator from Colorado if, on this matter, he has any comment from the authorizing committee chairman (Mr. STAFFORD), or from Senator ABDNOR, who is chairman of the corresponding subcommittee?

Mr. ARMSTRONG. No, I respond to the Senator that I have not discussed it with them. I shall be happy to do so and set it aside pending that.

My understanding is that the original contemplation was for the termination of it on September 30, and so this would be consistent with that action, but I will be happy to lay it aside and check those signals if the chairman so suggests.

Mr. HATFIELD. Mr. President, it is a matter that I think would be appropriate to check with the authorizing committees, because in effect this is a question of legislation that does affect their committees and the legislation on this vehicle.

I should indicate to the Senator from Colorado that this matter will be

in conference and will have to be worked out with Chairman BEVILL of the House committee, and also I would make as record the fact that the administration could, if they object to the continuation of the agency, send up a rescission or a deferral, so we are not closing out the possiblities.

I do not differ with the Senator's objective, but out of the general policy that we have set up, I am trying to resist as many amendments as possible to this continuing resolution because we will, very frankly, make very little effort in the conference to hang onto them. I just want to lay that out to Senators right now, if they are successful with their amendments. We are going to have to get this completed before midnight tomorrow night, and I am not going to fight on an amendment that is going to bog down the process of keeping this Government going. I am being very honest. This may not be in the tradition, and I know that we are under some obligation to represent the body of the Senate when we go to conference. But, on the other hand, we are to represent the needs of the people of this Nation that transcend any institution of Government, and to keep this Government going. That is the only point I am making.

I do want to say very clearly that there will be a lot of slippage, maybe even before we get to the Rotunda when we go over to the conference with the House, on those amendments that are irrelevant to this continuing resolution and that can be handled on the bill during the lame-duck session.

With that in mind, I ask unanimous consent to temporarily lay aside the amendment of the Senator from Colorado in order that we may be able to move ahead with some other amendments that are pending.

Mr. ARMSTRONG. Mr. President, I have no objection to that if I may reserve my right to object momentarily just to make an observation.

First, I am sure the Senator was not suggesting that this amendment constitutes legislation on an appropriations bill. It is a classic limitation on spending and is from a procedural standpoint and spirit completely consistent with the purpose of the continuing legislation.

Mr. HATFIELD. I say to the Senator that this is the first time I have had an opportunity to express this thought that I have had welling up about Senators offering amendments that really are not at all necessary to offer.

Mr. ARMSTRONG. I understand.

Mr. HATFIELD. I am not suggesting that the Senator's amendment is not necessary at all. I am just saying that as chairman of this committee I am trying to get the continuing resolution through to keep the activities of Government running. I am just resisting generally the offering of amendments, and I do know that there are some exceptions to this; we have noted those exceptions, and we will continue to note them on a case-by-case basis.

Mr. ARMSTRONG. Mr. President, I just want to conclude my thoughts on this and then I will be happy to lay it aside. I understand completely what the chairman is saying about being unwilling to labor and die over amendments at this point. I would not encourage him to do so on this amendment. If it is a problem for him, let us vote it down, or if he is desirous of taking it and it is a problem for Chairman BEVILL in the House, I would be happy to have him concede it. I honestly cannot see why, if the Department says they do not need the money and prefers not to spend it and would like to put these seven people to work on other tasks, that would pose a problem for anybody. It is simply proportionate to the task before us. It is not important enough to fight over, and I certainly have no intention of doing so. It seems to me that the straightforward thing to do is simply adopt the amendment and then, if there is a problem with our colleagues in the House, we ought to back off and argue when there is more time to do so. Certainly I do not want to elevate this issue to anything more than that.

Mr. HATFIELD. Let me say that I would be very happy to comply with the Senator's amendment and suggest we adopt the amendment.

Mr. ABDNOR. Mr. President, I wish to comment on the amendment offered by my friend, the Senator from Colorado (Mr. ARMSTRONG). As chairman of the Subcommittee on Water Resources, which oversees the work of the Water Resources Council, I am opposed to this amendment.

The Water Resources Council has certain statutory responsibilities, such as the preparation of national water assessments, as well as overseeing the principles and standards by which agencies analyze federally funded water resources development projects. Those responsibilities will not vanish with this amendment. They remain in full force.

I recognize that staff work on these responsibilities could be parceled among various departments. But I am convinced that these responsibilities should—and must—be supported by a core staff, however, small, at the Council itself. It is simply unrealistic to think one department should be doing the backup work for another. It makes far better sense to provide a core staff—currently seven persons—to facilitate this coordination and the work of the Council.

For 16 months, S. 1095 has been on the Senate Calendar. That bill would amend the Water Resources Planning Act, replacing the existing Council with a National Board on Water Policy to coordinate Federal water resources development efforts and to work more closely with the States. That bill has never been debated on the floor, despite promises over a year ago of an early resolution on the issue.

To eliminate any funding for the Council, without addressing the authorization of an alternative approach, would be wrong. It would be detrimental to our national water resources effort.

Mr. President, I urge that the Senate maintain the modest level of funding for the WRC, funding that will provide the Congress with the time it needs to work its will on the issue of coordinating more effectively our Federal water resources development effort.

Mr. President, while I will not object to the Senator from Colorado's amendment today, this issue should be considered fully in conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1313) was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ARMSTRONG. Mr. President, let me say that if the chairman has a problem with the amendment in conference, it certainly is not an item that I expect he should hang out for. I would be surprised if he did have that problem, but if he does he should let it fall by the wayside.

Mr. HATFIELD. I appreciate the comment of the Senator.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

UP AMENDMENT 1314

(Purpose: To amend the Tariff Schedules of the United States to provide duty-free treatment for imported steam)

Mr. COHEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Maine (Mr. COHEN) proposes an unprinted amendment numbered 1314.

Mr. COHEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution, insert the following:

SEC. . (a) Subpart J of part I of schedule 5 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by insert-

ing after item 522.51 the following new item:

"522.53 Steam ..... Free ..... Free".

(b) The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date which is fifteen days after the date of enactment of this Act.

Mr. COHEN. Mr. President, I rise today to offer an amendment to House Joint Resolution 599, the continuing appropriations for fiscal year 1983 resolution. My proposal would amend the Tariff Schedules of the United States to permit imported steam to enter the United States duty free.

The need for this amendment has risen from the experience that Fraser, Inc., a pulp and paper manufacturer in the far northern reaches of the State of Maine, has encountered in meeting the demands of the energy crisis.

A short time ago, this country was caught in the midst of a serious energy crisis which imposed enormous costs on the American people—in higher inflation, reduced economic growth, and higher unemployment. We have learned a great deal since the oil embargo of 1973, and the United States is now some 15 percent more energy efficient than it was 10 years ago.

Each industry has responded to spiralling energy costs differently. Some have met the energy crisis most aggressively, by employing energy conservation tactics and tapping alternative sources to reduce costs. Others, however, have been reluctant to invest in energy conservation improvements and alternative energy sources, in part because of economic uncertainty associated with this past year's economic difficulties.

Fraser, Inc., has met the energy crisis head on and with great success. The firm operates a paper-producing plant in Madawaska, Maine, and a pulp-producing plant right across the St. John River in Edmunston, New Brunswick. Producing pulp and paper, as you know, requires enormous amounts of energy.

The increasing price of industrial fuel oil and the continued dependence on this energy source from a volatile part of the world has prompted Fraser to undertake a major oil reduction program. It has done so in an effort to cut production costs and increase the company's competitiveness in North American paper markets.

Fraser's ambitious and innovative oil reduction program has continued to bring real savings to the company as energy prices have continued to rise. As a result, last year Fraser generated approximately 25 percent of its total energy requirements through renewable resources, resulting in savings to the company of $13.8 million.

In the same year, Fraser reported using 32 percent less energy per unit of production than in 1972. This is one of the highest savings rates for the industry.

In addition, Fraser has undertaken a 2-year, $53 million program to reduce oil consumption by 400,000 barrels of oil annually. The residual steam from the pulp process in Edmundston will be tapped to supply electricity for the paper drying process at the Madawaska plant.

This fall, Fraser, Inc., will complete construction of a pipeline across the St. John River to transport the steam from the Edmundston plant to the Madawaska plant. A parallel pipeline will return the condensate to Edmundston to be reused in the steammaking process.

With steam production at capacity, Fraser expects to raise the Edmundston-Madawaska complex's self-sufficiency in thermal energy to 80 percent, up from the current 27 percent. This will result in a direct saving of approximately 400,000 barrels of industrial fuel oil annually.

Before proceeding with this project, Fraser received approval and construction permits from nine Canadian Federal and Provincial agencies and seven U.S. Federal and State agencies. Although this project is ahead of schedule and fuel savings are expected to be realized this fall, a recent development has cast doubt on the projected economic benefits for the company.

The U.S. Customs Service has notified Fraser that a duty of as much as $1 million per year could be levied on the steam. Although steam is not specifically provided for in the Tariff Schedules of the United States, Customs has held that steam is classified under the Tariff Schedules as a mineral substance. The item number is 523.91, which has a duty rate of 6.5 percent ad valorem. A Federal duty of up to $1 million levied on the steam essentially removes the economic incentive for Fraser to proceed with its alternative energy scheme. At the same time, it sends an improper message to the industrial sector. The Federal Government should encourage, rather than discourage, private investment in alternative energy development.

The amendment I am offering today will change the Tariff Schedules of the United States to permit imported steam to enter the United States duty-free. The Department of Commerce and the Office of the U.S. Trade Representative have agreed that imported steam should not be subject to a duty and support my amendment.

Companion legislation has been introduced in the House of Representatives by my colleague from Maine, Congresswoman OLYMPIA SNOWE. Her bill is now being considering by the House Ways and Means Committee. The U.S. Trade Representative has sent a letter to the House Ways and Means Committee expressing his support of this legislation. Senator DOLE had agreed to accept this measure as an amendment to the debt ceiling bill but, as you know, that measure was stripped of all amendments.

The economy of Aroostock County, the largest county east of the Mississippi River, is wholly dependent on two base industries, potato farming and processing and forest products. In recent years, these two industries have suffered greatly from national economic conditions and increased foreign competition.

The unemployment rate in the county, as it is known by Maine residents, exceeds 15 percent. Yet, Fraser has continued to be a reliable employer and important contributor to the State's economy. In the Madawaska plant alone, 1,000 Maine residents are employed.

The substantial savings Fraser would realize by this amendment will encourage the company to make future investments on the U.S. side of the border. This savings will benefit the U.S. economy, as well; rather than sending U.S. money to Venezuela or the Middle East to pay for oil supplies, it can be used at home.

I see no purpose in depriving one of our Nation's pulp and paper producers of the savings it rightly deserves by levying a duty on an item that will cause no harm to another American firm, nor do I believe that we should penalize American firms for undertaking alternative energy investments.

Mr. HATFIELD. Mr. President, I understand the problem the Senator from Maine presents to us. It has a time factor involved, and on the basis that he has presented the amendment we will accept it.

The amendment (UP No. 1314) was agreed to.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 1315

(Purpose: To provide that such funds as may be necessary out of money appropriated to the Federal Election Commission be used by the Commission to write regulations regarding use of union dues for political purposes)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1315.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. ROBERT C. BYRD. Mr. President, I object. I would like to hear the rest of the amendment.

The bill clerk resumed and concluded reading the amendment.

The text of the amendment is a follows:

At the appropriate place insert the following:

SEC. . Notwithstanding any other provision of law, of the sums appropriated to the Federal Election Commission to carry out its functions under the Federal Election Campaign Act of 1971 and under chapters 95 and 96 of the Internal Revenue Code of 1954 (26 U.S.C.), such sums as may be necessary shall be used by the Commission to prepare and implement regulations applying section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b), in a manner consistent with the decisions of the United States Supreme Court holding that dues, fees, and other monies required as a condition of employment may not be used by a labor organization on behalf of political candidates or for other political and ideological purposes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I hope Senators will listen to the request I am about to make. I believe it is satisfactory to the distinguished Senator from North Carolina, and I hope it is satisfactory to the managers on the minority side.

The PRESIDING OFFICER (Mrs. KASSEBAUM). The Senate will be in order.

Mr. BAKER. Madam President, I hope Senators will give me their attention for a moment.

I believe that what I am about to do will materially expedite the proceedings of the Senate. As I say, the request I am about to make has been cleared with the Senator from North Carolina. I have advised the minority leader of the content of the request I am about to make, as well as the chairman of the committee, and I want all Senators to listen.

I ask unanimous consent that on the pending amendment by the Senator from North Carolina (Mr. HELMS), there be a 30-minute time limitation, equally divided, with the further proviso that at any time after the expiration of the time allocated to the Senator from North Carolina, the Senator from Oregon will be recognized for the purpose of making a tabling motion against the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Madam President, reserving the right to object, will the distinguished majority leader put in a quorum call?

Mr. HELMS. Madam President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, still reserving the right to object, I will not object if it is clearly understood that there will be no more than 30 minutes to be equally divided and at the close of 30 minutes there will be a motion to table and that there be no more such amendments offered, with one final condition that at the end of the 30 minutes this amendment be set aside and the tabling motion occur at 2 p.m.

Mr. BAKER. Madam President, I do not think I have any problem with that. But to make it absolutely clear I suggest to the minority leader that the way I framed the request earlier it would not be at the end of the 30 minutes; it would be at any time after the expiration of the 15 minutes allocated to the distinguished Senator from North Carolina but it might come earlier than 30 minutes but in any event I will check to make sure that there is no problem with stacking the vote until 2 p.m.

It will take me just a moment to do that. In the meantime, Madam President, once more I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Madam President, let me renew my request now. Am I correct that the Helms amendment is the pending question?

The PRESIDING OFFICER. That is correct.

UNANIMOUS-CONSENT AGREEMENT ON HELMS AMENDMENT

Mr. BAKER. I ask unanimous consent, Madam President, that on the Helms amendment there be a time limitation of 30 minutes to be equally divided with control of the time in the usual form.

I further ask unanimous consent, Madam President, that at the expiration or yielding back of the time allocated to the proponents of the amendment that the Senator from Oregon (Mr. HATFIELD) be recognized for the purpose of making a tabling motion.

I further ask unanimous consent, Madam President, that the vote, if any, that is ordered on the tabling motion and/or on the amendment be postponed and occur at 2 p.m. this afternoon.

I further ask unanimous consent, Madam President, that no other amendment dealing with this subject matter will be in order on this bill.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Madam President, reserving the right to object, I understand, too, that no amendment in the second degree would be offered.

Mr. BAKER. I do not believe we have discussed that. I add that to my request, Madam President.

Mr. ROBERT C. BYRD. Further reserving the right to object, Madam President——

Mr. METZENBAUM. Madam President, reserving the right to object—and I do not intend to object—may we have an understanding that the Metzenbaum amendment will be brought to a vote immediately prior to the Helms amendment?

Mr. HATFIELD. No, that is not part of the agreement.

Mr. BAKER. I am afraid I cannot do that. It is my understanding that shortly after this we will get a vote on Metzenbaum, perhaps before, and I assure the Senate I will try to expedite that if I can.

Mr. METZENBAUM. I want to indicate to the majority leader that he is always very fair in these matters, but some Members, I understand, will leave at about 3 p.m., and I would very much like to give them an opportunity to vote on my amendment.

Mr. BAKER. I would like to have final passage before 3 p.m.

I now put the request.

Mr. ROBERT C. BYRD. Madam President, will the majority leader indulge me by putting the request again.

Mr. BAKER. Madam President, I ask unanimous consent that on the pending Helms amendment there be a time limitation of 30 minutes to be equally divided, and control of the time be in the usual form which, I interpret to mean, that control for the amendment will be under the auspices of the Senator from North Carolina; the time in opposition controlled by the minority leader or his designee.

Madam President, I further ask unanimous consent that after the expiration of the time on the amendment for the proponents or the yielding back of the time, that the Senator from Oregon (Mr. HATFIELD) may, if he wishes, be recognized for the purpose of making a tabling motion which, parenthetically, he could do

without this order, but to make it clear that that is provided for.

I further ask unanimous consent that no second-degree amendment to this amendment will be in order.

I further ask unanimous consent that no other amendment on this subject matter will be offered to this bill.

Finally, that the vote on or in relation to this measure occur at 2 p.m. this afternoon.

Mr. ROBERT C. BYRD. Madam President, reserving the right to object, do we have the understanding that if the amendment is not tabled, which I hope it will be tabled, that that is the end of the agreement then, and that then second-degree amendments would be in order if it is not tabled?

What I am saying is that no second-degree amendment would be in order prior to the tabling motion.

Mr. BAKER. All right. Does the Senator from North Carolina have any objection to that?

Mr. HELMS. Madam President, I have a problem with a one-way street on that. I want to be as cooperative with the leadership as I possible can. So either we have a second-degree amendment or not.

Mr. ROBERT C. BYRD. Mr. President, I will not insist on that. I would simply say if this amendment is adopted this bill will not pass today, and I am as desirous as the majority leader in getting this matter disposed of as soon as possible.

Under the request that has been made by the distinguished majority leader, a tabling vote would be guaranteed at 2 p.m., am I correct?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Hearing no objection to the unanimous-consent request of the majority leader, it is so ordered.

Mr. BAKER. Madam President, I thank the Senator from North Carolina for his characteristic and unfailing cooperation and I thank the minority leader for his efforts in arriving at this agreement. I am very hopeful it will expedite final passage.

I indicated earlier that at 12 o'clock I would make a unanimous-consent request for a 4 p.m. time for final passage. I will withhold that request for the time being, but I intend to make it shortly after the debate on the Helms amendment.

Mr. ROBERT C. BYRD. Madam President, do I understand that if the tabling motion fails a vote would not immediately occur on the Helms amendment up or down?

Mr. BAKER. I agree with the interpretation of the minority leader. If the tabling motion fails——

The PRESIDING OFFICER. Time will have expired and there would be no further time for debate.

Mr. BAKER. There would be no further time for debate on this matter at that time. I believe that is correct.

Mr. ROBERT C. BYRD. Will the majority leader amend his request so that if the tabling motion fails then a vote up or down on the amendment would not immediately occur and that debate would be in order?

Mr. HELMS. Madam President, I have no dog in that fight. That would be a question to be decided by the majority leader and minority leader. Obviously, I would like to have a vote. I do not want to do anything that would be perceived as not being accommodating to the consideration of this amendment.

Mr. BAKER. Madam President, I really hope we will not do that. I think we have a good agreement. Let me say this to the minority leader, I am perfectly willing to work with him and with the Senator from North Carolina and the managers of the bill on both sides to move this matter along. But I am very much afraid that we are going to lose what we have if we do not go ahead with it on this basis.

I hope the minority leader would not insist on that additional condition and that we could proceed with it as it is.

Mr. ROBERT C. BYRD. Then, Madam President, amendments in the second degree would be in order in that event. In the event the tabling motion should fail, amendments in the second degree would be in order.

The PRESIDING OFFICER. Amendments in the second degree are precluded, and that was part of the agreement.

Mr. BAKER. Madam President, I understand there is no requirement for any modification of the request. Has the request been granted?

The PRESIDING OFFICER. It has been granted.

Mr. BAKER. I thank the Chair. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair for recognizing me.

Madam President, I will be as brief as possible. This amendment is as simple and as straightforward as the Senator from North Carolina knows how to make it. It will simply require the Federal Election Commission to use money from this continuing resolution to prepare and implement regulations to enforce court decisions that have held or will hold that dues, fees, or other moneys required as a condition of employment may not be used by a labor organization on behalf of political candidates or for other political or ideological purposes. Let me emphasize that what we are addressing with this amendment are mandatory dues—not voluntary dues.

So, at issue, Madam President, is the political freedom of the American workers all across this country of every political persuasion who are now required by law to pay money to a union as a condition of employment—money that, in turn, is used by the union to support political candidates or causes the workers might oppose.

Now, let me emphasize, Madam President, that this amendment creates no new law. Rather, it will require the FEC to make regulations in accordance with the prevailing constitutional interpretation of the courts—as articulated in Abood against Detroit Board of Education and School Committee of Greenfield against Greenfield Education Association—that the use of forced dues, mandatory dues, for political purposes abridges the first amendment rights of dissenting workers.

In spite of the deluge of so-called campaign spending reforms of years past, the Federal Election Campaign Act still grants to organized labor a special privilege enjoyed by no other organization—the right to take money from American workers—against their will—and use it to support political causes and candidates the workers often oppose.

Organized labor PAC's do not contribute to political candidates the same way business and citizen political action committees do. Business and citizen PAC's rely exclusively on voluntary contributions. But the bulk of organized labor's financial support is in the form of unreported, indirect in-kind expenditures, the vast majority of which come from workers who risk losing their jobs if they refuse to pay their union dues. The practice of forced-dues politicking represents an infringement on workers' constitutional rights and a dire threat to the integrity of the American political process.

Although the Federal Election Campaign Act gives the appearance of restricting the abuse of compulsory union dues for political purposes, the appearance is only an illusion. While the law does prohibit the use of compulsory dues for direct, cash contributions to political candidates, it does allow labor unions to use compulsory dues money for partisan communications to their members and their families; voter registration and get-out-the-vote drives; and the establishment, administration, and solicitation of contributions to a political action committee.

While official statistics for total in-kind spending are not reported and therefore not available, the widely respected and authoritative labor columnist Victor Riesel has estimated that big labor spent $100 million on in-kind political activity in 1 election year—a figure other experts consider too conservative. Conservative or not, it is, for sure, a figure no other organization in America can match.

I have done my best to bring this problem before the Senate. But I recognize the friends of big labor are powerful, and have managed to keep the Senate from addressing this issue. My bill to prohibit the use of compulsory union dues for political purposes has been bottled up in committee. The FEC authorization bill, to which I had intended to offer my bill as an amendment has not been brought before the Senate.

The FEC authorization bill is on the calendar. It has been on the calendar since the latter part of May. So unless I use this vehicle, Madam President, the probability is great that the Senate will not consider legislation to correct the obvious abuse by organized labor of compulsory, mandatory union dues for political purposes.

A lot of Americans, Madam President, just do not believe that is fair. With each day the Senate has delayed, the political freedoms of many, many American workers have remained in jeopardy.

Fortunately, Madam President, unlike the U.S. Senate, the courts of the United States have not sat in silence on this issue. The courts, including the U.S. Supreme Court, have considered this issue. And in every instance they have ruled in favor of the political freedom of American workers.

The leading case, Madam President, is Abood against Detroit Board of Education, decided in 1977 by the U.S. Supreme Court. Dr. Abood and other teachers in the Detroit school system challenged the constitutionality of a Michigan law authorizing a system of union representation for local government employees that specifically permitted a union and the local government employer to agree to an agency shop arrangement, whereby every employee represented by the union—even though not a union member—had to pay to the union, as a condition of employment, a service fee equal in amount to union dues.

Dr. Abood and his fellow teachers objected to the use of their agency shop fees by the union for political purposes with which the teachers did not agree. The Court held such spending of forced dues money unconstitutional, and ruled that the first amendment of the Constitution prohibits labor unions from requiring any worker to contribute money as a condition of employment to support an ideological cause he or she may oppose.

Following the Supreme Court's landmark decision in Abood, courts in numerous lawsuits across the country have ruled in favor of dissenting workers' suing unions to recover compulsory dues spent on nonbargaining purposes.

Often, however, even with the unconstitutionality of forced-dues politicking clearly established, workers have been forced to seek reimbursement of their money through a tedious union rebate system.

Because the rebate systems are administered by the very union officials who have a vested interest in forced-dues politicking, the Massachusetts Supreme Court, in School Committee of Greenfield against Greenfield Education Association, ruled that independent workers cannot be forced to negotiate complicated, union-related procedures before going to court to recover their money.

Since the union has failed to challenge the decision, the ruling that the union rebate systems are unconstitutionally inadequate stands as the law of the land.

Despite these decisions and the building precedent in the judiciary against the abridgement of first amendment freedoms by forced-dues politicking, union officials continue to pour hundreds of millions of compulsory dues dollars into political operations virtually unchecked.

The abuse of compulsory union dues for political purposes continues to this day, Madam President.

The purpose of my amendment is to put some teeth into court decisions protecting the first amendment rights of dissenting workers by requiring the FEC to prepare and implement regulations to enforce court declared limitations on the use of compulsory union dues for political purposes.

Madam President, 2 days ago the Federal Court for the District of New Jersey, sitting in Trenton, N.J., handed down a decision that is particularly relevant to the pending amendment.

In the consolidated cases of Robinson against State of New Jersey and Antonacci against State of New Jersey, the court held that the unions involved violated the first amendment rights of dissenting workers by using dues that had been paid under compulsion, mandatory union dues, for political purposes.

The court further held, Madam President, that the 5th and 14th amendment due process rights of workers must be taken into consideration before a union can take money from them and use it for political purposes. This was 2 days ago. The court ordered the State of New Jersey to establish an adequate due process system to protect the first amendment rights of workers.

Is it not clear, Madam President, that Government action, action by this Congress, is essential to protect the constitutional rights of American workers?

A great deal is said about constitutional rights on this floor. We will see on this motion to table where Senators really stand.

This amendment, let me say in conclusion, will simply require the Federal Election Commission to establish constitutional protections such as those ordered just 2 days ago by the Federal court in New Jersey.

I thank the Chair and I reserve the remainder of my time.

Mr. HATFIELD. Madam President, according to my inquiries, there are no speakers on this side.

Are there other speakers, may I inquire, on the proponent's side?

Mr. HELMS. Madam President, I will say to my friend from Oregon I know of none.

Mr. HATFIELD. I wonder if the Senator will be willing to yield back his time.

Mr. GOLDWATER. I would like to ask a question of the Senator.

Mr. HELMS. I am delighted to entertain questions from the able Senator.

Mr. GOLDWATER. Madam President, this is not a new subject. I think I have introduced during my 30 years here about four different bills that would accomplish this. I need my memory refreshed.

It seems to me that a number of years ago, either through a court decision or a labor decision, a decision was reached that all political funds expended by a union would be voluntary. Am I right in that?

Mr. HELMS. The Senator will forgive me, but I wanted to check to be certain before responding. The Senator is correct. This applied to contributions by labor union PAC's to political candidates. By law, such contributions must be voluntary.

Mr. GOLDWATER. There was no decision made by either the courts or the labor unions that if a member of the union was a Democrat and his money went into a political fund, that money would not be used against the Democratic candidates?

Mr. HELMS. Again let me check to be certain to respond accurately to my friend.

I am unaware of such a decision. So far as I know there is no decision involving anything but PAC contributions to candidates.

Mr. GOLDWATER. I am rather confused on that. As I say, I tried to do this many, many times. It was always ruled unconstitutional after that decision was reached, by whoever reached it. I think it would be wise if the Senator and his staff had a clearer indication of just what did happen. I am sure there are some Members on this floor whose memories are better than mine, even though I served as vice chairman of the Labor Committee for 12 years. That still sticks in my craw, that they are prohibited from using money that goes into the dues funds for any political purposes.

Mr. HELMS. The Senator will bear in mind, I am sure, that all this amendment proposes is to require the

Federal Election Commission to prepare and implement regulations to enforce court decisions. That is all it does.

The FEC has not done this, and perhaps may consider it does not have the congressional mandate to do it. I simply propose that the FEC be instructed to prepare and implement such regulations. That is all the amendment does. It affects only mandatory dues. It does not affect voluntary dues at all.

Mr. GOLDWATER. I thank the Senator.

Mr. HELMS. I thank the Senator.

Mr. HATFIELD. Madam President, I am ready to yield back the remaining time on the opponents side if the proponent of the measure is willing to yield back the time on the proponents side.

Mr. HELMS. I yield back my time, Madam President.

Mr. HATFIELD. Madam President, I move to lay the Helms amendment on the table. I believe the unanimous-consent agreement—I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Madam President, I believe the unanimous-consent agreement is that this vote will occur at 2 p.m.

The PRESIDING OFFICER. That is correct.

Mr. DANFORTH. A parliamentary inquiry, Madam President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. Are further amendments now in order?

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Ohio (Mr. METZENBAUM).

Mr. DANFORTH. Madam President, I ask unanimous consent that it may be in order to call up an amendment.

The PRESIDING OFFICER. Is there an objection? Hearing no objection, it is so ordered.

UP AMENDMENT NO. 1316

(Purpose: To express the sense of the Senate that the President of the United States should submit to Congress a clear and comprehensive report on the administration's policy for minimizing the risk of nuclear war)

Mr. DANFORTH. Madam President, I send an amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) for himself, Mr. ANDREWS, Mr. BRADLEY, Mr. BUMPERS, Mr. CHAFEE, Mr. DIXON, Mr. DURENBERGER, Mr. GORTON, Mrs. KASSEBAUM, Mr. LEVIN, Mr. PROXMIRE, Mr. RANDOLPH, Mr. STAFFORD, Mr. LEAHY, Mr. SARBANES, Mr. PELL, Mr. HART, Mr. HATFIELD and Mr. CRANSTON, proposes an unprinted amendment numbered 1316.

At the end of the bill, add the following section: "Since the growing threat of nuclear annihilation poses the most important moral issue in human history;

"Since nearly half of President Reagan's term in office has expired, and considerable time has elapsed since the President proposed the prohibition of U.S. and Soviet theater nuclear forces in Europe and the substantial reduction of U.S. and Soviet strategic force levels;

"Since ten years have elapsed since the SALT I agreements, including the ABM Treaty, went into effect, eight years since the signing of the Threshold Test Ban Treaty, six years since the signing of the Peaceful Nuclear Explosion Treaty, and three years since the signing of SALT II, the last three having never been ratified;

"Since the change in leadership at the Department of State presents a highly appropriate occasion for the Administration to clarify its nuclear weapons policies in light of recent actions which have caused anxiety at home and abroad, including:

"(1) The relaxation of export restrictions affecting nuclear fuel cycles and reprocessing technology;

"(2) The characterization of SALT I and II as 'fundamentally flawed' and the suggested development of ballistic missile defenses in violation of the ABM Treaty;

"(3) The proposal to renegotiate the Threshold Test Ban Teaty and the Peaceful Nuclear Explosion Treaty;

"(4) The indefinite suspension of negotiations on a comphrehensive test ban treaty;

"(5) The formulation of a defense guidance paper which has raised questions whether United States nuclear policy contemplates limited or protracted nuclear war and whether any circumstances justify the first use of nuclear weapons; and

"(6) The reported intention of the Department of Defense to seek 'preclearance' for the use of tactical nuclear weapons; and

"Since the promulgation of a coherent nuclear weapons policy should be the highest responsibility of government, it is the sense of the Senate that the President of the United States should submit to Congress, at the earliest possible date, but no later than December 1, 1982, a comprehensive review of our nuclear weapons policies including where we stand, where we intend to go, and how we intend to treat the agreements that have been signed but not ratified."

Mr. DANFORTH. Madam President, I have discussed this amendment with Senator HATFIELD. The original resolution that is the same as this amendment was sponsored by myself and 18 Members of the Senate, including the chairman and the ranking minority member of the Appropriations Committee. It is a sense-of-the-Senate provision. The operating portion of the amendment states that it is the sense of the Senate that the President of the United States should submit to Congress, at the earliest possible date but no later than December 1, 1982, a comprehensive review of our nuclear weapons policies, including where we stand, where we intend to go, and how we intend to treat the agreements that have been signed but not ratified.

Madam President, it is clear that people all over the world are concerned that governments are not doing enough to reduce the risk of nuclear war. Their concern is understandable, since governments now have the power to destroy—in a matter of hours—the entire creation.

People are growing increasingly less willing to accept mere pronouncements and promises about reducing the risk of nuclear war. A higher standard of performance is being demanded. We expect specific accomplishments to reduce both the number and the spread of nuclear weapons.

New leadership has assumed responsibility of the Department of State. There could not be a more appropriate time for the Senate to ask the President to clarify the administration's nuclear weapons policy, especially in light of recent actions which have created anxiety here and abroad. These include:

Relaxation of nuclear export controls;

Abandonment of negotiations toward a comprehensive test ban treaty;

A request for renegotiation of the threshold and peaceful nuclear explosion treaties;

The repeated suggestion that abrogation of the ABM Treaty might be necessary; and

The possibility that U.S. policy might contemplate limited nuclear war and U.S. first use of nuclear weapons.

The United States has a solemn duty to exercise leadership in the struggle to reduce the risk of nuclear war. We cannot do so in a sea of ambiguity. We need a comprehensive report on U.S. nuclear weapons policy.

Mr. PERCY. Mr. President, I would have preferred that my colleague from Missouri would not have introduced this amendment, since it is not particularly germane to the legislation at hand and a resolution containing identical language which he has submitted is pending before the Foreign Relations Committee. Nevertheless, I am sympathetic to the Senator's intent in pursuing this matter and will support the adoption of the amendment. Given the continuing difficulty that this administration is experiencing in trying to speak with one voice on its arms control and nuclear weapons policy, I, too, feel that it would be useful for the Congress to receive a comprehensive report on where we stand, where we are going, and how we intend to treat the various arms control agreements that have been signed but not ratified.

Each of the arms control and nuclear weapons issues cited in the amendment are, of course, matters of special interest to the Foreign Relations Committee, and each has been the subject of hearings, briefings and extensive correspondence with the administra-

tion. Last November, the committee held a series of hearings on the President's strategic force modernization plan and its implication for U.S. foreign policy and arms control objectives. In April and May, the committee conducted 5 days of hearings and heard from over 25 witnesses on the crucial problem of how best to negotiate significant reductions in U.S. and Soviet strategic weapons inventories. These hearings placed special emphasis on the role that reciprocal U.S. and Soviet restraint vis-a-vis SALT I and SALT II can play in contributing to the success of START. For the first 18 months of this administration, the committee pressed relentlessly to get the administration to complete its review of the Threshold Test Ban (TTB) and Peaceful Nuclear Explosions (PNE) treaties. Following the administration's decisions in July with respect to the Comprehensive Test Ban negotiations and the TTB and PNE treaties, the committee met in executive session with ACDA Director Rostow to clarify the administration's policy on nuclear testing, and again probed this issue during a hearing earlier this month.

Finally, both the Foreign Relations Committee and the Government Affairs Subcommittee on Energy, Nuclear Proliferation, and Government Processes, which I also chair, have actively monitored administration decisionmaking with respect to U.S. nuclear nonproliferation policy, including a hearing by the Foreign Relations Committee that is taking place today.

In supporting this amendment, I do not want to suggest that the administration has not been forthcoming or cooperative in consulting with the Foreign Relations Committee on its arms control policies. To the contrary, the administration has generally responded with dispatch in appearing before our hearings and in replying to written communications. In addition, I would note that on two recent occasions, the President has endeavored to provide a comprehensive statement of his arms control policy and objectives. Mr. President, I ask unanimous consent that the two documents be printed in the RECORD following my remarks, President Reagan's June 17, 1982, speech to the Second U.N. General Assembly Special Session on Disarmament, entitled, "An Agenda for Peace," and a July 26, 1982, message from the President accompanying the 1981 Annual Report of the U.S. Arms Control and Disarmament Agency. The 1981 ACDA report, which is on file in the committee, is being printed by the committee, and I invite all Senators to review it carefully.

Mr. President, with these qualifications in mind, I support the amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESIDENT REAGAN: AGENDA FOR PEACE

I speak today as both a citizen of the United States and of the world. I come with the heartfelt wishes of my people for peace, bearing honest proposals, and looking for genuine progress.

Dag Hammarskjold said 24 years ago this month, "We meet in a time of peace which is no peace." His words are as true today as they were then. More than 100 disputes have disturbed the peace among nations since World War II, and today the threat of nuclear disaster hangs over the lives of all our peoples. The Bible tells us there will be a time for peace, but so far this century mankind has failed to find it.

The United Nations is dedicated to world peace and its charter clearly prohibits the international use of force. Yet the tide of belligerence continues to rise. The charter's influence has weakened even in the 4 years since the first Special Session on Disarmament. We must not only condemn aggression, we must enforce the dictates of our charter and resume the struggle for peace.

The record of history is clear: citizens of the United States resort to force reluctantly and only when they must. Our foreign policy, as President Eisenhower once said, ". . . is not difficult to state. We are for peace, first, last and always, for very simple reasons. We know that it is only in a peaceful atmosphere, a peace with justice, one in which we can be confident, that America can prosper as we have known prosperity in the past."

To those who challenge the truth of those words let me point out that at the end of World War II, we were the only undamaged industrial power in the world. Our military supremacy was unquestioned. We had harnessed the atom and had the ability to unleash its destructive force anywhere in the world. In short, we could have achieved world domination but that was contrary to the character of our people.

Instead, we wrote a new chapter in the history of mankind. We used our power and wealth to rebuild the war-ravaged economies of the world, both East and West, including those nations who had been our enemies. We took the initiative in creating such international institutions as this United Nations, where leaders of goodwill could come together to build bridges for peace and prosperity.

America has no territorial ambitions, we occupy no countries, and we have built no walls to lock our people in. Our commitment to self-determination, freedom, and peace is the very soul of America. That commitment is as strong today as it ever was.

The United States has fought four wars in my lifetime. In each we struggled to defend freedom and democracy. We were never the aggressors. America's strength and, yes, her military power have been a force for peace, not conquest; for democracy, not despotism; for freedom, not tyranny.

Watching, as I have, succeeding generations of American youth bleed their lives into far-flung battlefields to protect our ideals and secure the rule of law, I have known how important it is to deter conflict. But since coming to the Presidency, the enormity of the responsibility of this office has made my commitment even deeper. I believe that responsibility is shared by all of us here today.

On our recent trip to Europe, my wife Nancy told me of a bronze statue, 22 feet high, that she saw on a cliff on the coast of France. The beach at the base of that cliff is called Saint Laurent, but countless American families have it written in the flyleaf of their Bibles and know it as Omaha Beach. The pastoral quiet of that French countryside is in marked contrast to the bloody violence that took place there on a June day 38 years ago when the allies stormed the Continent. At the end of just 1 day of battle, 10,500 Americans were wounded, missing, or killed in what became known as the Normandy landing.

The statue atop that cliff is called "The Spirit of American Youth Rising From the Waves." Its image of sacrifice is almost too powerful to describe. The pain of war is still vivid in our national memory. It sends me to this special session of the United Nations eager to comply with the plea of Pope Paul VI when he spoke in this chamber nearly 17 years ago. "If you want to be brothers," His Holiness said, "let the arms fall from your hands."

We Americans yearn to let them go. But we need more than mere words, more than empty promises, before we can proceed. We look around the world and see rampant conflict and aggression. There are many sources of this conflict—expansionist ambitions, local rivalries, the striving to obtain justice and security. We must all work to resolve such discords by peaceful means and to prevent them from escalation.

THE SOVIET RECORD

In the nuclear era, the major powers bear a special responsibility to ease these sources of conflict and to refrain from aggression. And that's why we're so deeply concerned by Soviet conduct. Since World War II, the record of tyranny has included Soviet violation of the Yalta agreements leading to domination of Eastern Europe, symbolized by the Berlin Wall—a grim, gray monument to repression that I visited just a week ago. It includes the takeovers of Czechoslovakia, Hungary, and Afghanistan and the ruthless repression of the proud people of Poland. Soviet-sponsored guerrillas and terrorists are at work in Central and South America, in Africa, the Middle East, in the Caribbean, and in Europe, violating human rights and unnerving the world with violence. Communist atrocities in Southeast Asia, Afghanistan, and elsewhere continue to shock the free world as refugees escape to tell of their horror.

The decade of so-called detente witnessed the most massive Soviet buildup of military power in history. They increased their defense spending by 40% while American defense spending actually declined in the same real terms. Soviet aggression and support for violence around the world have eroded the confidence needed for arms negotiations. While we exercised unilateral restraint they forged ahead and today possess nuclear and conventional forces far in excess of an adequate deterrent capability.

Soviet oppression is not limited to the countries they invade. At the very time the Soviet Union is trying to manipulate the peace movement in the West, it is stifling a budding peace movement at home. In Moscow, banners are scuttled, buttons are snatched, and demonstrators are arrested when even a few people dare to speak about their fears.

Eleanor Roosevelt, one of our first ambassadors to this body, reminded us that the high-sounding words of tyrants stand in bleak contradiction to their deeds. "Their

promises," she said, "are in deep contrast to their performances."

U.S. LEADERSHIP IN DISARMAMENT AND ARMS CONTROL PROPOSALS

My countrymen learned a bitter lesson in this century: The scourge of tyranny cannot be stopped with words alone. So we have embarked on an effort to renew our strength that had fallen dangerously low. We refuse to become weaker while potential adversaries remain committed to their imperialist adventures.

My people have sent me here today to speak for them as citizens of the world, which they truly are, for we Americans are drawn from every nationality represented in this chamber today. We understand that men and women of every race and creed can and must work together for peace. We stand ready to take the next steps down the road of cooperation through verifiable arms reduction. Agreements on arms control and disarmament can be useful in reinforcing peace; but they're not magic. We should not confuse the signing of agreements with the solving of problems. Simply collecting agreements will not bring peace. Agreements genuinely reinforce peace only when they are kept. Otherwise we are building a paper castle that will be blown away by the winds of war. Let me repeat, we need deeds, not words, to convince us of Soviet sincerity should they choose to join us on this path.

Since the end of World War II, the United States has been the leader in serious disarmament and arms control proposals.

In 1946, in what became known as the Baruch Plan, the United States submitted a proposal for control of nuclear weapons and nuclear energy by an international authority. The Soviets rejected this plan.

In 1955, President Eisenhower made his "open skies" proposal, under which the United States and the Soviet Union would have exchanged blueprints of military establishments and provided for aerial reconnaissance. The Soviets rejected this plan.

In 1963, the Limited Test Ban Treaty came into force. This treaty ended nuclear weapons testing in the atmosphere, outer space, or under water by participating nations.

In 1970, the Treaty on the Non-Proliferation of Nuclear Weapons took effect. The United States played a major role in this key effort to prevent the spread of nuclear explosives and to provide for international safeguards on civil nuclear activities. My country remains deeply committed to those objectives today and to strengthening the nonproliferation framework. This is essential to international security.

In the early 1970s, again at U.S. urging, agreements were reached between the United States and the U.S.S.R. providing for ceilings on some categories of weapons. They could have been more meaningful if Soviet actions had shown restraint and commitment to stability at lower levels of force.

AN AGENDA FOR PEACE

The United Nations designated the 1970s as the First Disarmament Decade, but good intentions were not enough. In reality, that 10-year period included an unprecedented buildup in military weapons and the flaring of aggression and use of force in almost every region of the world. We are now in the Second Disarmament Decade. The task at hand is to assure civilized behavior among nations, to unite behind an agenda for peace.

Over the past 7 months, the United States has put forward a broad-based comprehensive series of proposals to reduce the risk of war. We have proposed four major points as an agenda for peace:

Elimination of land-based intermediate-range missiles;

A one-third reduction in strategic ballistic missile warheads;

A substantial reduction in NATO and Warsaw Pact ground and air forces; and

New safeguards to reduce the risk of accidental war.

We urge the Soviet Union today to join with us in this quest. We must act not for ourselves alone but for all mankind.

On November 18 of last year, I announced U.S. objectives in arms control agreements: They must be equitable and militarily significant, they must stabilize forces at lower levels, and they must be verifiable.

The United States and its allies have made specific, reasonable, and equitable proposals. In February, our negotiating team in Geneva offered the Soviet Union a draft treaty on intermediate range nuclear forces. We offered to cancel deployment of our Pershing II ballistic missiles and ground-launched cruise missiles in exchange for Soviet elimination of their SS-20, SS-4, and SS-5 missiles. This proposal would eliminate with one stroke those systems about which both sides have expressed the greatest concern.

The United States is also looking forward to begining negotiations on strategic arms reductions with the Soviet Union in less than 2 weeks. We will work hard to make these talks an opportunity for real progress in our quest for peace.

On May 9, I announced a phased approach to the reduction of strategic arms. In a first phase, the number of ballistic missile warheads on each side would be reduced to about 5,000. No more than half the remaining warheads would be on land-based missiles. All ballistic missiles would be reduced to an equal level at about one-half the current U.S. number.

In the second phase, we would reduce each side's overall destructive power to equal levels, including a mutual ceiling on ballistic missile throw-weight below the current U.S. level. We are also prepared to discuss other elements of the strategic balance.

Before I returned from Europe last week, I met in Bonn with the leaders of the North Atlantic Treaty Organization. We agreed to introduce a major new Western initiative for the Vienna negotiations on mutual balanced force reductions. Our approach calls for common collective ceilings for both NATO and the Warsaw Treaty Organization. After 7 years, there would be a total of 700,000 ground forces and 900,000 ground and air force personnel combined. It also includes a package of associated measures to encourage cooperation and verify compliance.

We urge the Soviet Union and members of the Warsaw Pact to view our Western proposal as a means to reach agreement in Vienna after 9 long years of inconclusive talks. We also urge them to implement the 1975 Helsinki agreement on security and cooperation in Europe.

Let me stress that for agreements to work, both sides must be able to verify compliance. The building of mutual confidence in compliance can only be achieved through greater openness. I encourage the Special Session on Disarmament to endorse the importance of these principles in arms control agreements.

I have instructed our representatives at the 40-nation Committee on Disarmament to renew emphasis on verification and compliance. Based on a U.S. proposal, a committee has been formed to examine these issues as they relate to restrictions on nuclear testing. We are also pressing the need for effective verification provisions in agreements banning chemical weapons.

The use of chemical and biological weapons has long been viewed with revulsion by civilized nations. No peacemaking institution can ignore the use of these dread weapons and still live up to its mission. The need for a truly effective and verifiable chemical weapons agreement has been highlighted by recent events. The Soviet Union and their allies are violating the Geneva Protocol of 1925, related rules of international law, and the 1972 Biological Weapons Convention. There is conclusive evidence that the Soviet Government has provided toxins for use in Laos and Kampuchea and are themselves using chemical weapons against freedom fighters in Afghanistan.

We have repeatedly protested to the Soviet Government, as well as the governments of Laos and Vietnam, their use of chemical and toxin weapons. We call upon them now to grant full and free access to their countries or to territories they control so that U.N. experts can conduct an effective, independent investigation to verify cessation of these horrors.

Evidence of noncompliance with existing arms control agreements underscores the need to approach negotiation of any new agreements with care. The democracies of the West are open societies. Information on our defenses is available to our citizens, our elected officials, and the world. We do not hesitate to inform potential adversaries of our military forces and ask in return for the same information concerning theirs. The amount and type of military spending by a country are important for the world to know, as a measure of its intentions, and the threat that country may pose to its neighbors. The Soviet Union and other closed societies go to extraordinary lengths to hide their true military spending not only from other nations but from their own people. This practice contributes to distrust and fear about their intentions.

Today, the United States proposes an international conference on military expenditures to build on the work of this body in developing a common system for accounting and reporting. We urge the Soviet Union, in particular, to join this effort in good faith, to revise the universally discredited official figures it publishes, and to join with us in giving the world a true account of the resources we allocate to our armed forces.

Last Friday in Berlin, I said that I would leave no stone unturned in the effort to reinforce peace and lessen the risk of war. It's been clear to me that steps should be taken to improve mutual communication and confidence and lessen the likelihood of misinterpretation.

I have, therefore, directed the exploration of ways to increase understanding and communication between the United States and the Soviet Union in times of peace and of crisis. We will approach the Soviet Union with proposals for reciprocal exchanges in such areas as advance notification of major strategic exercises that otherwise might be misinterpreted; advance notification of ICBM [intercontinental ballistic missile] launches within, as well as beyond, national boundaries; and an expanded exchange of strategic forces data.

While substantial information on U.S. activities and forces in these areas already is provided, I believe that jointly and regularly sharing information would represent a qualitative improvement in the strategic nuclear environment and would help reduce the chance of misunderstandings. I call upon the Soviet Union to join the United States in exploring these possibilities to build confidence, and I ask for your support of our efforts.

CALL FOR INTERNATIONAL SUPPORT

One of the major items before this conference is the development of a comprehensive program of disarmament. We support the effort to chart a course of realistic and effective measures in the quest for peace. I have come to this hall to call for international recommitment to the basic tenet of the U.N. Charter—that all members practice tolerance and live together in peace as good neighbors under the rule of law, forsaking armed force as a means of settling disputes between nations. America urges you to support the agenda for peace that I have outlined today. We ask you to reinforce the bilateral and multilateral arms control negotiations between members of NATO and the Warsaw Pact and to rededicate yourselves to maintaining international peace and security and removing threats to peace.

We, who have signed the U.N. Charter, have pledged to refrain from the threat or use of force against the territory or independence of any state. In these times when more and more lawless acts are going unpunished—as some members of this very body show a growing disregard for the U.N. Charter—the peace-loving nations of the world must condemn aggression and pledge again to act in a way that is worthy of the ideals that we have endorsed. Let us finally make the charter live.

In late spring, 37 years ago, representatives of 50 nations gathered on the other side of this continent, in the San Francisco Opera House. The League of Nations had crumbled and World War II still raged, but those men and nations were determined to find peace. The result was this charter for peace that is the framework of the United Nations.

President Harry Truman spoke of the revival of an old faith—the everlasting moral force of justice prompting that U.N. conference. Such a force remains strong in America and in other countries where speech is free and citizens have the right to gather and make their opinions known.

President Truman said, "If we should pay merely lip service to inspiring ideals, and later do violence to simple justice, we would draw down upon us the bitter wrath of generations yet unborn." Those words of Harry Truman have special meaning for us today as we live with the potential to destroy civilizaton.

"We must learn to live together in peace," he said. "We must build a new world—a far better world."

What a better world it would be if the guns were silent; if neighbor no longer encroached on neighbor and all peoples were free to reap the rewards of their toil and determine their own destiny and system of government—whatever their choice.

During my recent audience with His Holiness Pope John Paul II, I gave him the pledge of the American people to do everything possible for peace and arms reduction. The American people believe forging real and lasting peace to be their sacred trust.

Let us never forget that such a peace would be a terrible hoax if the world were no longer blessed with freedom and respect for human rights. The United Nations, Hammarskjold said, was born out of the cataclysms of war. It should justify the sacrifices of all those who have died for freedom and justice. "It is our duty to the past," Hammarskjold said, "and it is our duty to the future, so to serve both our nations and the world."

As both patriots of our nations and the hope of all the world, let those of us assembled here in the name of peace deepen our understandings, renew our commitment to the rule of law, and take new and bolder steps to calm an uneasy world. Can any delegate here deny that in so doing he would be doing what the people—the rank and file of his own country or her own country—want him or her to do?

Isn't it time for us to really represent the deepest, most heartfelt yearnings of all of our people? Let no nation abuse this common longing to be free of fear. We must not manipulate our people by playing upon their nightmares; we must serve mankind through genuine disarmament. With God's help we can secure life and freedom for generations to come.

ANNUAL REPORT OF THE ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT—PM 158

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to you the 1981 Annual Report of the U.S. Arms Control and Disarmament Agency. I believe that this report, the first submitted by my administration and the 21st submitted since the creation of the Agency, marks a real coming of age and maturity in our approach to arms control and disarmament.

In 1981, we began the first in a series of negotiations with the Soviet Union to reduce the threat of nuclear war. The Intermediate-Range Nuclear Force (INF) talks, begun by Ambassador Paul H. Nitze's team in November, are a model for future negotiations with the Soviet Union.

It is our intention to deal with the most potentially destructive and politically destabilizing weapons first. In the INF talks, begun in Geneva, we are seeking to have the Soviet Union dismantle its intermediate-range nuclear weapons in exchange for our pledge not to deploy Pershing II and Cruise missiles as requested by the North Atlantic Treaty Organization in December 1979.

Subsequently, in the period to be included in next year's annual report, we have undertaken major new initiatives in the Strategic Arms Reductions Talks (START), and in seeking reductions in conventional arsenals in the negotiations on Mutual and Balanced Force Reductions (MBFR). These and other important arms control initiatives of my administration are reviewed in my address of June 17, 1982, to the United Nations' Special Session on Disarmament, provided for your further information in an annex to the attached annual report.

Rather than seeking upper limits in arms control treaties, we seek to bring about real arms control through negotiated reductions. We are dedicated to reducing the threat of nuclear war by gradually reducing nuclear arsenals so that only those weapons which can reasonably guarantee mutual deterrence remain.

I am firmly convinced that the road we are following is both rational and realistic. We have analyzed the Soviet approach to military strategy and the threat posed by Soviet forces. We have concluded that arms control must play a vital role in the conduct of our foreign policy and as a complement to our policy of deterrence.

We are committed to deterrence. We shall stand by our Allies and friends, and we shall consult with them regularly as we go about the business of reestablishing our conventional and nuclear deterrent forces. Deterrence has worked in Europe for more than 35 years.

As you read through this 1981 Annual Report, I hope you will find, as I did, that the measured and considered approach to arms control, made possible by an exhaustive review and analysis, has, for the first time, resulted in a well considered program to reverse the trends of the past and bring about lasting peace.

We intend to pursue arms control and disarmament through agreements that are understandable, verifiable, and equitable. I am certain that I shall be able to call your attention to similar progress in future annual reports.

RONALD REAGAN.

THE WHITE HOUSE, *July 26, 1982.*

Mr. HATFIELD. Madam President, as a cosponsor of the sense-of-the-Senate resolution described by the Senator from Missouri, I think it is very timely and we are willing to accept that.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1316) was agreed to.

Mr. DANFORTH. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. HATFIELD. Madam President, we are just about ready to go to the amendment of the Senator from Ohio, which is pending. Let me say to the Senator from Ohio that the Senator from Kansas (Mr. DOLE) has studied his amendment. I believe there will be a very brief summarization by the Senator from Kansas. Then we may dispose of the amendment of the Senator from Ohio, on which the yeas and nays have been ordered.

Mr. METZENBAUM. The yeas and nays have been ordered, Madam President. I do not think I can convince anybody else who is not already convinced. I am ready to vote as soon as the Senator from Oregon is ready to put the question and as soon as the Senator from Kansas is ready to present his statement.

Mr. HATFIELD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUMPHREY). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the pending Metzenbaum amendment be temporarily laid aside so that we can proceed with some technical amendments.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1317

(Purpose: To make technical corrections)

Mr. HATFIELD. Mr. President, I send to the desk a technical amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 1317.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, line 24, strike out "Education" and insert in lieu thereof: "Budget".

On page 36, line 17, after "Sec. 145." insert: "Notwithstanding any other provision of law or this joint resolution".

On page 36, line 23, strike out "Committee" and insert in lieu thereof: "Committees".

On page 7, line 16, strike all after "authority" through "1983" on line 17 and insert in lieu thereof "have been requested for Foreign Assistance and Related Programs for fiscal year 1983".

On page 26, line 8, strike out all following: "7072" through "22," on line 9 and insert in lieu thereof: "as passed the Senate on September 29,"

Mr. HATFIELD. Mr. President, this amendment will correct some noncontroversial technical errors in the continuing resolution. The change on page 34 corrects a public law title citation; the changes on page 36 clarify the intent of section 145 that the nursing home regulation moratorium be extended for an additional 120 days; the change on page 7 corrects the citation for the foreign operations programs; and, finally, the change on page 26 updates the reference for the WIC program to reflect the Senate floor amendment adopted yesterday.

This amendment has been cleared by the manager for the minority, and I ask for its adoption.

The PRESIDING OFFICER. Without objection, the amendment (UP No. 1317) is agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily set aside the Metzenbaum amendment so that we can handle an amendment by the Senator from Illinois.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1318

Mr. PERCY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1318:

On page 7, line 21, delete the words "or any other provision of law".

Mr. PERCY. Mr. President, this amendment involves the distinguished chairman of the Subcommittee on Foreign Operations of the Committee on Appropriations, Senator KASTEN. I believe a message has been sent to him.

This amendment strikes the waiver on any other provisions of law from the continuing resolution for foreign operations. I move to strike this section because I believe the basic guidelines set forth in law for the operation of foreign assistance programs should not be waived. We have no idea what the consequences could be if that provision is not removed.

Mr. President, I have discussed this matter with Senator KASTEN, and I understand that with the deletion of this phrase, the funds provided for in this continuing resolution are consistent with the levels and conditions set forth in authorizing legislation in last year's appropriations bill.

I believe, also, that Senator KASTEN has discussed this matter with the chairman of the Appropriations Committee, Senator HATFIELD. I ask whether my understanding is correct.

Mr. HATFIELD. Mr. President, the Senator from Illinois is correct.

The amendment offered by the distinguished chairman of the Foreign Relations Committee would strike language inserted by the House, expanding the continuing resolution language which waives certain sections of law so that funds can go forward in the absence of an authorization.

The basic language has appeared in every continuing resolution, at least for the past 10 years, according to my information.

However, I agree with the chairman that the additional language added by the House is not necessary. Therefore, I support his amendment.

This has been cleared by the minority side as well. On behalf of the committee, we accept the amendment.

Mr. PERCY. Mr. President, I very much appreciate the fact that not only the chairman of the Appropriations Committee but also the chairman of the Foreign Operations Subcommittee can accept this amendment. I hope the managers of the bill will be able to prevail on the House conferees to accept the Senate position and delete this phrase from the conference report.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1318) was agreed to.

Mr. PERCY. I thank my distinguished colleague.

Mr. METZENBAUM. Mr. President, what is the pending order?

The PRESIDING OFFICER. The question occurs on the amendments of the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am ready to vote, and I know of no reason why we should not go forward with the vote. I am not willing to set it aside any further.

Mr. HATFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on the printed amendment No. 1310.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Metzenbaum amendment be temporarily laid aside for the purpose of calling up another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1319

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes unprinted amendment numbered 1319.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

That, for the purposes of the Immigration and Nationality Act, Tessie and Enrique Marfori shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

Mr. PROXMIRE. Mr. President, this amendment has already passed the Senate and is a noncontroversial matter.

I am attaching this amendment to House Joint Resolution 599 to help Mrs. Tessie Marfori and her young son, Ricky, of Madison, Wis. Mrs. Marfori and her son were paroled into the United States in 1973 to be with her husband who was undergoing treatment for cancer. As the brother of an American citizen, he was a prospective fifth preference immigrant but died in 1979 before a quota number became available for him. Had the Marforis been from any other country than the Philippines, a fifth preference number would have become available to him prior to his death and second preference numbers for his wife and child would have followed.

Mrs. Marfori and Ricky have remained here since her husband's death and they would very much like to stay here permanently. Mrs. Marfori has pursued her education at night while working full time and is now a certified public accountant. She is enrolled at the University of Wisconsin working toward a graduate degree in accounting. Ricky was a toddler when he came to the United States and has no recollection of his life in the Philippines. He speaks only English. They are both exceptional people and have the attributes which would make them exemplary American citizens.

Had Mrs. Marfori entered the United States by some other means, legal or illegal, she would now be eligible to apply for relief under section 244 of the Immigration and Nationality Act. Since, because of her parole, she is excludable and not deportable, this relief is denied her. She would not qualify for any amnesty proposal as yet presented to the Congress because she is not deportable and is not an illegal alien. I find myself in the position of considering legislation which would offer amnesty to perhaps millions of aliens who have entered the United States illegally, remained here illegally and worked here illegally while the Marforis who have never been out of legal status are prohibited from adjustment of status.

Because there was no way under existing or proposed law to resolve the Marfori immigration difficulties, I introduced S. 191 in January of 1981 and the bill was passed by the Senate on October 27, 1981. The bill was referred to the House Judiciary Committee which reported the bill favorably in May of this year. The bill has not passed the House because of the objection of a House Member to the bill which he felt was similar in nature to another bill to which he was objecting. It is my understanding that the House Member has agreed to withdraw his objections should I reintroduce the bill next year.

While I had planned to reintroduce the bill if reelected to the Senate, I have recently been advised that Ricky Marfori has been stricken with a severe skin disorder which his doctor has diagnosed as stress-related. His uncertainty as to whether he will be forced to give up the only country he has ever known has been more of a burden than this 11-year-old can handle. In view of Ricky's serious medical problems, I would hope that the Senate, which has already passed the identical bill during the last session, will also accept the bill as an amendment to House Joint Resolution 599.

Mr. President, this passed the Senate as a bill. It passed the Senate Judiciary Committee as a bill. It is for the relief of an immigrant, a very worthy person, who came here from the Philippines who on a technicality, strictly technical, would have been forced to leave the country otherwise.

It is my understanding that the House of Representatives will be happy to accept this. There is no objection now in the House of Representatives. They are fully aware of this.

I discussed this with the manager of the bill, and he has no objection.

As I say it has already passed the Senate without objection.

Mr. HATFIELD. Mr. President, I think this is an excellent amendment, and I support the efforts of the Senator from Wisconsin and commend him for his humanitarian concern. I agree to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (UP No. 1319) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, again I ask unanimous consent to temporarily lay aside the Metzenbaum amendment in order to proceed with another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that on the next amendment, which will be the first excepted committee amendment, there be a time agreement that has been cleared with both sides of the aisle, Senator BRADLEY and Senator SCHMITT, of 20 minutes equally divided.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Oregon?

Mr. HEINZ. Mr. President, reserving the right to object, and I shall not object, it is the Senator's understanding that the Senator from Oregon will offer this amendment in just a few seconds and at that point a point of order could be made against the amendment.

My question is, Would it be in order to reserve the right to make a point of order so that we might debate the substance of the amendment?

The PRESIDING OFFICER. Will the Senator from Pennsylvania restate his inquiry.

Mr. HEINZ. In a few seconds, the Senator from Oregon (Mr. HATFIELD) will offer the committee amendment to section 133. At that point under the parliamentary procedure it would be in order to make a point of order. But the Senator's question is, Would it be in order if the Senator reserved a point of order against the amendment to enter into debate on the amendment and make the point of order at some point later in the debate?

The PRESIDING OFFICER. The point of order would only be in order at the conclusion of the debate in any event.

Mr. HEINZ. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXCEPTED COMMITTEE AMENDMENT—PAGE 33, LINES 3 THROUGH 13

Mr. HATFIELD. Mr. President, I ask that the Chair lay before the Senate the committee amendment on page 33, lines 3 through 13.

The PRESIDING OFFICER. The committee amendment will be stated.

The legislative clerk read as follows:

On page 33, beginning with line 3, insert the following new section:

SEC. 133. Notwithstanding section 306 of Public Law 96-272 or section 1132 of the Social Security Act, no payment shall be made, in or with respect to any fiscal year, under this or any other Act, and no court shall award or enforce any payment from amounts appropriated by this or any other Act, to reimburse State or local expenditures made prior to October 1, 1978, under

title I, IV, X, XIV, XVI, XIX, or XX of the Social Security Act, unless a request for reimbursement had been officially transmitted to the Federal Government by the State within one year after the fiscal year in which the expenditure occurred.

The PRESIDING OFFICER. Is there objection to the time limitation of 20 minutes? Without objection, it is so ordered.

Who yields time?

Mr. HEINZ. Mr. President, the time is under control in this instance, as I understand the unanimous-consent agreement, jointly between the Senator from New Jersey and the Senator from Oregon. I appreciate the Senator from New Jersey yielding me 4 minutes.

The PRESIDING OFFICER. By unanimous-consent request.

Mr. HEINZ. I request that the Senator from New Jersey yield me 4 minutes.

Mr. BRADLEY. I yield 4 minutes.

Mr. HEINZ. I thank my colleague from New Jersey.

I rise because I strongly oppose the committee amendment, section 133 of this bill, and I join with Senator BRADLEY, Senator MOYNIHAN, and my other colleagues to see to it that we strike this amendment from the bill.

It is my intention at the conclusion of the period of debate to offer and make a point against this amendment because it is clearly legislation on an appropriations bill.

I must say to my good friend from Oregon, Senator HATFIELD, who has steadfastly been down in the well time after time saying we must not legislate on appropriations bills, that this is a great example, this committee amendment which he has offered, of legislation on an appropriations bill, and I do not think he would deny that.

But apart from the parliamentary situation, Mr. President, frankly this amendment, whether it is legislation on an appropriations bill or not, is bad legislation. What the committee amendment would do is to extinguish the right of States to be paid money that they are owed by the Federal Government.

I know that our credibility is sometimes called into question, especially after we pass a $1.1 trillion debt ceiling bill. But in this instance we are talking about money that the Federal Government owes the States, some $382 million, that represents the Federal matching share of certain social security programs, AFDC, medicare, social services.

I do not think we should begin to give people the idea that the Federal Government is going to welch on any part of its commitments under the Social Security Act programs.

Mr. President, the other point I would make is that the Federal Government has been ordered not once but twice to pay this money, first by a Federal district court and now by a Federal appeals court, and to date the Department of Health and Human Services has refused to honor that court order, and they point to this kind of legislation on this appropriations bill.

Mr. President, the only point that will be served by the Appropriations Committee continuing to put this kind of language in is that the will of the court, the determination of law, is simply going to be avoided. Now, it is going to end sometime, we all know that, and I say the time to end this absolutely absurd deprivation—really a contractual authority that the Federal Government is now trying to break, to welch on—that now is the time for us to face up to that and end it.

Mr. President, I oppose the committee amendment, section 133 of this bill, and join with my distinguished colleague from New York in an amendment to strike this provision.

This committee amendment would permanently extinguish the rights of States to be paid money they are owed by the Federal Government. The money, $382 million, represents the Federal share of matching funds for certain social security programs—AFDC, medicaid, social services.

Mr. President, in 1980, I was a conferee on a bill—child welfare and adoption assistance, Public Law 96-272—which established a deadline by which the States were to have filed for Federal matching claims from fiscal year 1978 and prior years. That deadline was later exended by HHS regulation.

The States complied with the deadline, filing a total of $382 million in claims.

But, the Department of HHS refused to pay those claims, asserting that appropriations language prevented them from doing so.

So the States took HHS to court. And the States won. In July 1982, the Federal appeals court unanimously ruled that the law requires the claims to be processed and paid by HHS from fiscal year 1981 appropriations. On September 22, 1982, the court refused HHS request for a rehearing.

The Federal courts were the arbiter on this controversy. The issue has been put to rest by the courts, and HHS must pay the claims.

But now, as a result of an amendment offered at the behest of HHS and OMB, the issue is reopened. This last-ditch effort by HHS, one that I consider to be an underhanded method, will override the bill we passed in 1980. It will override the Federal courts' decision. It will change the rules after the game is over—a change that will cost the States $382 million.

Mr. President, this unprecedented provision repudiates the basic Federal-State agreement at the heart of social security matching programs: The States right to reimbursement of their Federal share of funds States spent in reliance on congressional promise of Federal matching. This not only is outrageously unfair in this particular instance, but this sets a very dangerous precedent for future relations between the Federal Government and the States. And the real losers will be the beneficiaries.

Mr. President, the appropriations process, and particularly the stopgap continuing resolution, must not be abused as a vehicle to rush through a change in substantive law. Section 133 has had no consideration by any committees. Nonetheless, the committee report states that:

> The committee recommends this section of the bill to clarify the congressional intent . . . that the claims in question are to be paid only if they had been formally filed with HHS within 1 year after the fiscal year in which the expenditure occurred.

On what grounds can the Appropriations Committee, without any consideration of this issue, make such a clarification of congressional intent?

The States have received no notice of this rule change. The amendment was slipped in very quietly—no notice and no opportunity for the States to be heard. This is clearly a violation of the constitutional protection of due process and protection of vested rights. We simply cannot allow this to happen.

Finally, Mr. President, I would like to respond to the argument that this money would have to come from fiscal year 1982 or fiscal year 1983 appropriations. It is my understanding that the court decision said the funding should come from fiscal year 1981 appropriations. It is my further understanding that that money has been set aside for this and only this purpose. That money should be paid to the States to which it is owed.

Let me summarize, Mr. President, by saying that the Congress established a filing deadline. The States complied. The States have a legal right to the processing and payment of their allowable claims. There is no justifiable reason for extinguishing these claims. We cannot allow such an amendment to slip by us unnoticed—with no action to remedy the inequities it creates.

I submit a table showing States with retroactive social security claims.

The table follows:

States with retroactive social security claims

California [1]	111,135,771
Connecticut [1]	4,194,415
Illinois [1]	14,481,468
Maryland	1,342,551
Michigan [1]	5,580,252
New Jersey [1]	53,910,956
New York [1]	127,603,194
Oklahoma [1]	2,056,102
Pennsylvania [1]	59,783,738
Wisconsin [1]	2,248,216
Florida	300,000
Georgia	110,000
Tennessee	2,000,000

Kansas	200,000
North Carolina	1,700,000
Kentucky	362,000
Ohio	500,000
Massachusetts [1]	25,000,000
Washington	440,000
Missouri	5,700,000

[1] Involved in court suit (10 States).

Mr. BRADLEY. Mr. President, how much time remains?

The PRESIDING OFFICER. The opponents have 7 minutes.

Mr. BRADLEY. I yield 2 minutes to the Senator from New York.

Mr. MOYNIHAN. I thank my friend from New Jersey. I rise here in the company of my friend and neighbor from Pennsylvania.

I would join in the amendment to delete section 133 from the resolution as reported by the Appropriations Committee.

Section 133 would permanently extinguish the rights of States to funds already earned under AFDC, medicaid, and other social security programs. It is an effort by OMB to override both a carefully considered action of the Congress 2 years ago and a very recent decision of a Federal appeals court.

Section 133 was added at OMB's request at the last minute in committee, and is not contained in the continuing resolution reported by the House. No notice of this move was given to any of the affected interests, including the States that spend their own funds in reliance on the promise of Federal reimbursement. There were no hearings or any other opportunity for Members of Congress to consider the full impact of this provision.

The issue involves claims filed by many States for reimbursement of their expenditures under matching fund programs. The claims are for periods up to and including fiscal 1978. Almost all involve expenditures in the 1970's. Some $382 million in claims are at stake, including $128 million submitted by the State of New York.

All of these claims were duly filed within the time limit prescribed by Congress in 1980 in section 306 of Public Law 96-272. We adopted section 306—which was reported from the Senate Finance Committee after hearings, and which I sponsored together with Senators HATFIELD, BRADLEY, TSONGAS, and others—in order once and for all to set time limits for the filing of State matching fund claims and to put a stop to efforts to insert such limitations in appropriations bills. In order to be fair to the States, which had never previously been subject to any deadlines for filing such claims, section 306 allowed any claims existing at the time of its passage in June 1980 to be filed by January 1, 1981, later extended by an HHS rule to May 15, 1981. The States concurred in this reform of claims filing procedures—and it is important to emphasize that the States did not deserve any blame for the filing of prior-period claims, which can result from court decisions, audits, changes in HHS rules and interpretations, and other causes beyond the States' control.

Section 306 passed both Houses overwhelmingly, and was explicitly supported on the Senate floor by both ranking members of the Senate Finance Committee, Senators DOLE and LONG, and the chairman of the Senate Appropriations Committee, Senator Magnuson.

Despite the passage of section 306, HHS nevertheless refused to process claims that were properly filed by this statutory deadline, claiming that no funds have been appropriated to pay them. A recent decision of the U.S. Court of Appeals for the District of Columbia Circuit—reaffirmed by that court only last Thursday—held that the claims are payable out of any unexpended balances of fiscal 1981 appropriated funds, to the extent they are otherwise allowable on their own merits. The court ruled that HHS should begin processing the claims, and it sent the case back to the lower court to determine the amount of 1981 funds remaining available to pay them. No payment has yet been ordered—that must await processing of the claims on their merits by HHS. Payment of the allowable claims would be from unexpended 1981 balances.

Section 133 of the continuing appropriations resolution would extinguish all legal rights of the States to reimbursement of these claims. This maneuver would nullify our carefully considered action in adopting section 306 in 1980, which was a just and fair resolution of the issue of prior-period claims, and on which the States properly relied in filing these claims. Section 133 is a misuse of the appropriations process, and particularly of a continuing resolution. The Congress should not allow itself to become a party to attaching such a provision to an urgent appropriations measure at the last minute, and in the process simply wipe out vested legal rights without any process and with no consideration of the merits of the States' claims. It is hard to imagine an action that would be more destructive of Federal-State relations than summarily to extinguish entitlements after they have been earned and disbursed.

Accordingly, I favor removing section 133 from the resolution.

Mr. President, there is an elemental matter at issue here. The Federal Government owes these moneys to 20 States, much of it to 10 States only. They are moneys reimbursing outlays under the Social Security Act. I feel I have been dealing with this question from the time I came to the Senate.

What possibly is in the mind of the Department of Health and Human Services to think it can extinguish legal valid claims? We have passed legislation designed to speed up the submission of claims under the Social Security Act, which is a joint Federal and State activity, and local in many cases as well. There is a certain amount of paperwork that slows down a claim as it makes its way through the system. It has been doing so perhaps too slowly. The matters are often litigated at local levels, also slowing the process but insuring validity. We passed that legislation and it is in place. But there can be no question of the validity of these older claims, and it is beyond my imagining that the Senate would seek to extinguish them. If so, the whole Federal-State relationship is clouded, for the integrity of our Government is involved.

The PRESIDING OFFICER. Who yields time?

Mr. BRADLEY. Mr. President, how much time remains?

The PRESIDING OFFICER. Four minutes and forty-four seconds.

Mr. BRADLEY. I yield myself 2 minutes, Mr. President.

Mr. President, this amendment is clearly legislating on an appropriations bill. It amends the Social Security Act in seven different titles. Nowhere else in this continuing resolution do we amend the Social Security Act.

This is the legitimate province of the committee of jurisdiction, which is the Committee on Finance, not the Appropriations Committee. All legislation changing the Social Security Act should be accomplished in the Committee on Finance, not on a continuing resolution that will forever alter the Social Security Act.

If the administration or the proponents of this amendment or wherever it originated, I do not know, if they want to prohibit payments of legitimate State and local claims for reimbursement under the Social Security Act let them do that by coming to the Committee on Finance, making a case and convincing that committee, particularly when what is involved are the legitimate claims of 10 States to date, and potentially 20 States in the next year.

Mr. President, not only is the payment of these claims consistent with the Federal law passed in 1980 but it is also consistent with several rulings of the court of appeals. So, Mr. President, I argue this is a very simple case of whether we are going to amend the Social Security Act in seven titles on a continuing resolution that will forever change the nature of that act.

I hope the Senate will not take that step. I reserve the remainder of my time.

Mr. HATFIELD. Mr. President, I am ready to yield back the time.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. HATFIELD. I will be happy to yield 2 minutes.

Mr. SCHMITT. Mr. President, will the Senator make it 4?

Mr. HATFIELD. Four minutes.

Mr. SCHMITT. Mr. President, these claims, that are being referenced by the discussions of my colleagues just preceding, may or may not be valid claims. There is argument, obviously, over that issue. The committee amendment is an amendment recommended by the Secretary of Health and Human Services. It is a fairly complex issue.

However, what is important is that we make clear to the courts that Congress has already expressed its will on this issue. I think it is important before going into any details to recognize that these claims, prior year claims, could go as high as $561 million, according to current estimates. The Members of this body should understand that there is clearly a choice in the present budgetary climate between paying these dubious back claims and funding the vital and unfortunately vulnerable health and education program in this bill and in the future bill to be enacted after the continuing resolution has run its course.

The reason for this is that there is a choice of paying that cost that would count against the labor, health, human services, and education discretionary ceiling for fiscal year 1983, and we are already at that ceiling based on all estimates. Thus, you must make a choice. Do you want to fund these dubious claims going back into the 1950's or do you want to pay for them by cutting discretionary programs, including job training, disease prevention, the National Institutes of Health, mental health research, nurse training, elementary and secondary education, handicapped education, vocational rehabilitation, and the like? The list, of course, is long. Taking over $500 million out of the discretionary total available to this subcommittee would, to say the least, be catastrophic on many of these programs. I think the answer is no.

There is in place a law that allows repayment in certain cases. Where recent claims have been filed, the law is very clear about the procedures that must be followed in order to file these claims. Congress has spoken in the past and I think we should be consistent with that statement by the Congress.

Mr. President, the committee has recommended an amendment at the request of Secretary Schweiker. This is a fairly complex amendment which will make clear to the courts an issue on which Congress has already expressed its will.

Before 1980, States could at any time submit prior year claims for services rendered under AFDC, medicaid, child support enforcement and social services. These claims could come from services rendered in any prior year. Some of these claims are suspect and may represent services authorized by States which were shifted to the Federal Government after the fact.

The continuing resolution for fiscal year 1981, in an attempt to limit the U.S. Treasury's exposure, prohibited payment of prior year claims for expenditures before October 1, 1978. Later in 1980, Congress passed a conflicting statute which "Held harmless" States that submitted prior year claims to HHS by May 15, 1981. Litigation arose because of these conflicting statutes with 10 States claiming nearly $400 million in prior year claims. The district court decided in favor of the States.

The continuing resolution for fiscal year 1982—December 15, 1981—specifically referenced language which would disallow payments for prior year claims before the October 1, 1978, date. The court of appeals disregarded that language in a July 27, 1982 decision. A reconsideration by the appeals court was requested and denied September 22, which means that the Department has 30 days to appeal to the Supreme Court, or the district court may order the Government to pay these claims—unless this amendment is adopted.

The committee amendment will make clear the intent of Congress that the Treasury not pay claims for services rendered before October 1, 1978.

Mr. HEINZ. Mr. President, will the Senator from New Mexico yield for a question?

Mr. SCHMITT. Yes; I am happy to yield to the Senator on his time.

Mr. HEINZ. Will the Senator yield 30 seconds of his time for a question?

Mr. SCHMITT. Yes; I yield 30 seconds.

Mr. HEINZ. The question I would propound to the Senator from New Mexico is this: He has made the point that almost $500 million would have to come out of the discretionary pot this year. Now, I would like to know why it would not be possible, as I would urge, that a repayment schedule could be worked out. These claims have been in the mill for 3, 4, 5 years. Why can we not work out a repayment schedule so it does not cause that problem?

Mr. SCHMITT. The Senator knows whether you pay it this year or some other year it is going to come out of the same pot. I think that might be worth discussing between now and when we have another opportunity to debate this.

But, right now, we are up against a situation where, if the Congress does not reiterate its past actions and make it very clear to the courts that we meant what we said and that the appeals court ignored what we said, we are going to be out of a very large number of bucks. And those bucks, somehow or other, are going to have to be coughed up, whether it is this year or next year or the next year. And it is going to come from the discretionary levels that the Appropriations Committee has allowed for labor, health, and education programs.

I am sympathetic where these claims may be valid. But I still have another problem. I have to fund the present needs of our people rather than the past ones, if this is the choice that I am faced with.

Now, the Senate obviously can work its will once again, as it has in the past, and I am sure it will.

Mr. HEINZ. Will the Senator yield for 10 seconds? I just think that a repayment schedule would solve all of those problems. So I just cannot agree with the Senator's conclusion, but I thank him for yielding.

Mr. SCHMITT. Mr. President, I reserve the remainder of my time.

Mr. BRADLEY. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from New Jersey has 2 minutes and 44 seconds remaining and the chairman has 4 minutes and 51 seconds remaining.

Mr. BRADLEY. I yield myself 1 minute.

Mr. President, the following States would be affected by this amendment and end up unable to recoup their reimbursable expenses: California, Connecticut, Illinois, Maryland, Michigan, New York, Oklahoma, Pennsylvania, and Wisconsin. Ten other States will have claims within the next year. Those are: Florida, Georgia, Tennessee, Kansas, North Carolina, Kentucky, Ohio, Massachusetts, Washington, and Missouri.

Those 20 States, Mr. President, would all lose money if we agreed to what this amendment does, which is in and of itself unacceptable.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. BRADLEY. I yield myself 45 more seconds. Let me remind the Senate that the continuing resolution coming out of the Appropriations Committee amends seven titles of the Social Security Act and supersedes a valid judgment of the U.S. Court of Appeals.

Mr. President, if the administration, or whoever is the proponent of this amendment, wants to change the Social Security Act, let them come to the Finance Committee and make the argument and let the committee deliberate and make the judgment. Do not try to rush it through on a continuing resolution that will forever change this act.

Mr. President, I reserve the remainder of my time.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. SCHMITT. Mr. President, I ask unanimous consent, while the parties discuss this further and there may be an agreement possible, that we have a quorum called not to be charged against either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Bradley-Heinz amendment now pending be temporarily set aside in order that we may proceed to the rollcall vote on the pending Metzenbaum amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the yeas and nays have been ordered.

I would also alert the Senate that immediately following this vote there will be a vote on the Helms amendment, by unanimous consent.

VOTE ON UP AMENDMENT NO. 1310

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio, unprinted amendment No. 1310, to amendment No. 3621. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. LONG (when his name was called). Mr. President, on this vote I have a live pair with the Senator from Massachusetts (Mr. KENNEDY). If he were present, he would vote "aye." If I were at liberty to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY), is necessarily absent.

The PRESIDING OFFICER (Mr. MATTINGLY). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 366 Leg.]

YEAS—47

Baucus	Exon	Mitchell
Bentsen	Ford	Moynihan
Biden	Glenn	Nunn
Boren	Hart	Pell
Bradley	Heflin	Proxmire
Bumpers	Heinz	Pryor
Burdick	Hollings	Randolph
Byrd, Robert C.	Huddleston	Riegle
Cannon	Inouye	Sarbanes
Chafee	Jackson	Sasser
Cranston	Johnston	Specter
DeConcini	Leahy	Stafford
Dixon	Levin	Stennis
Dodd	Mathias	Tsongas
Durenberger	Matsunaga	Weicker
Eagleton	Melcher	

NAYS—51

Abdnor	Goldwater	Nickles
Andrews	Gorton	Packwood
Armstrong	Grassley	Percy
Baker	Hatch	Pressler
Boschwitz	Hatfield	Quayle
Brady	Hawkins	Roth
Byrd, Harry F., Jr.	Hayakawa	Rudman
Chiles	Helms	Schmitt
Cochran	Humphrey	Simpson
Cohen	Jepsen	Stevens
D'Amato	Kassebaum	Symms
Danforth	Kasten	Thurmond
Denton	Laxalt	Tower
Dole	Lugar	Wallop
Domenici	Mattingly	Warner
East	McClure	Zorinsky
Garn	Metzenbaum	
	Murkowski	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Long, against.

NOT VOTING—1

Kennedy

So Mr. METZENBAUM's amendment (UP No. 1310) to amendment No. 3621 was rejected.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOLE. I move to lay that motion on the table.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, parliamentary inquiry. Is the rollcall vote just ordered on the motion to table the motion to reconsider?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY), would vote "nay".

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 367 Leg.]

YEAS—50

Abdnor	Garn	Murkowski
Andrews	Goldwater	Nickles
Armstrong	Gorton	Packwood
Baker	Grassley	Percy
Boschwitz	Hatch	Pressler
Brady	Hatfield	Quayle
Byrd, Harry F., Jr.	Hawkins	Roth
Chiles	Hayakawa	Rudman
Cochran	Helms	Schmitt
Cohen	Humphrey	Simpson
D'Amato	Jepsen	Stevens
Danforth	Kassebaum	Symms
Denton	Kasten	Thurmond
Dole	Laxalt	Tower
Domenici	Lugar	Wallop
East	Mattingly	Warner
	McClure	Zorinsky

NAYS—48

Baucus	Exon	Metzenbaum
Bentsen	Ford	Mitchell
Biden	Glenn	Moynihan
Boren	Hart	Nunn
Bradley	Heflin	Pell
Bumpers	Heinz	Proxmire
Burdick	Hollings	Pryor
Byrd, Robert C.	Huddleston	Randolph
Cannon	Inouye	Riegle
Chafee	Jackson	Sarbanes
Cranston	Johnston	Sasser
DeConcini	Leahy	Specter
Dixon	Levin	Stafford
Dodd	Mathias	Stennis
Durenberger	Matsunaga	Tsongas
Eagleton	Melcher	Weicker

NOT VOTING—2

Kennedy Long

So the motion to lay on the table the motion to reconsider the vote by which the amendment was rejected was agreed to.

Mr. BAKER. Mr. President, I yield to the Senator from Oregon.

AMENDMENT NO. 3621

Mr. HATFIELD. Mr. President, may I inquire of the Chair if the pending matter now is the Metzenbaum amendment in the first degree; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. And the yeas and nays have been ordered on that?

The PRESIDING OFFICER. They have been ordered.

Mr. HATFIELD. Mr. President, with the consent of the author of the amendment I ask unanimous consent that the yeas and nays on the Metzenbaum amendment in the first degree be vitiated.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Oregon?

Mr. METZENBAUM. The Senate has spoken twice on this matter. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 3621) was rejected.

MOTION TO TABLE AMENDMENT NO. 1315

Mr. BAKER. Mr. President, what is the question before the Senate now?

The PRESIDING OFFICER. The question before the Senate is the motion to lay on the table the amendment of the Senator from North Carolina.

Mr. BAKER. Have the yeas and nays been ordered?

The PRESIDING OFFICER. Yes, they have been ordered.

Mr. BAKER. I thank the Chair.

Mr. FORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. As I understand it, the next vote will be on the motion to lay on the table the amendment of the

distinguished Senator from North Carolina (Mr. HELMS).

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina.

On this motion, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators wishing to vote?

The result was announced—yeas 62, nays 37, as follows:

[Rollcall Vote No. 368 Leg.]

YEAS—62

Baucus	Ford	Moynihan
Bentsen	Glenn	Murkowski
Biden	Gorton	Nunn
Boren	Hart	Packwood
Bradley	Hatfield	Pell
Brady	Heflin	Percy
Bumpers	Heinz	Proxmire
Burdick	Hollings	Pryor
Byrd, Robert C.	Huddleston	Randolph
Cannon	Inouye	Riegle
Chafee	Jackson	Roth
Chiles	Johnston	Sarbanes
Cranston	Kassebaum	Sasser
D'Amato	Leahy	Specter
Danforth	Levin	Stafford
DeConcini	Long	Stennis
Dixon	Mathias	Stevens
Dodd	Matsunaga	Tsongas
Durenberger	Melcher	Weicker
Eagleton	Metzenbaum	Zorinsky
Exon	Mitchell	

NAYS—37

Abdnor	Garn	McClure
Andrews	Goldwater	Nickles
Armstrong	Grassley	Pressler
Baker	Hatch	Quayle
Boschwitz	Hawkins	Rudman
Byrd, Harry F., Jr.	Hayakawa	Schmitt
	Helms	Simpson
Cochran	Humphrey	Symms
Cohen	Jepsen	Thurmond
Denton	Kasten	Tower
Dole	Laxalt	Wallop
Domenici	Lugar	Warner
East	Mattingly	

NOT VOTING—1

Kennedy

So the motion to lay on the table UP amendment No. 1315 was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the distinguished Senator from North Carolina (Mr. HELMS) may be recognized for not more than 1 minute to introduce a distinguished visitor to the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

VISIT TO THE SENATE BY SIR JULIAN AMERY, A MEMBER OF THE HOUSE OF COMMONS

Mr. HELMS. Mr. President, I thank the distinguished majority leader.

I know all Senators will join me in welcoming a very good friend, Sir Julian Amery, a Member of the House of Commons. He has been a Member of Parliament for many years, and has served as Air Minister, Minister of State, and other cabinet-level posts. He is a man of extensive diplomatic and military experience in Africa, the Middle East, and China. He was Winston Churchill's personal liaison to Chiang Kai-shek, and he was deeply involved in the Balkans after World War II.

Fellow Senators, I am delighted to present Sir Julian Amery.

[Applause, Senators rising.]

Mr. BAKER. Mr. President, I yield to the minority leader so that he may make a request.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

Mr. FORD. Mr. President, may we have order so we might be able to hear the leader?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from West Virginia.

SENATOR JENNINGS RANDOLPH CASTS 10,000TH ROLLCALL VOTE

Mr. ROBERT C. BYRD. Mr. President, I take great pride today in announcing to the Senate that my distinguished senior colleague has just cast his 10,000th rollcall vote. He is the only living Member of Congress to have served in the first 100 days of the Roosevelt administration, The fact that he just cast his 10,000th rollcall vote indicates his dedication to duty, his high sense of purpose and his loyal service to his constituents.

I am very pleased to make this announcement.

I now yield to my distinguished colleague on the other side of the aisle, Mr. BAKER.

Mr. BAKER. Mr. President, if I could have the attention of the Senate just for a moment. I think we owe a special debt of gratitude to the distinguished Senator from West Virginia who has just done a historic thing in casting his 10,000th rollcall vote during his service in the House and Senate.

The debt of gratitude we owe to the distinguished Senator from West Virginia is for the sense of continuity he brings to his long service and the marvelous example he sets for all of us on both sides of the aisle by the dedication of his service.

I join with the minority leader in wishing the Senator well on his next 10,000 rollcall votes.

(Applause, Senators rising.)

Mr. ROBERT C. BYRD. Did the Senator wish me to yield to him?

Mr. RANDOLPH. It would be appreciated if I could respond.

Mr. ROBERT C. BYRD. Mr. President, I yield to my very distinguished senior colleague.

Mr. RANDOLPH. Mr. President. I am very grateful for the expressions given by the Democratic and Republican leaders of the Senate, ROBERT C. BYRD and HOWARD BAKER, and for those Members, who have joined in kinship and kindness for a few minutes in this historic Chamber.

I cherish very, very much our Senate membership with all of you, without exception. And I respect your conscience and decisions and your judgments. There are differences within this body on votes that are cast as we come from different States and varying backgrounds. Here, in a real sense, as in the House of Representatives, we are assembled in the forum of the people of this Republic.

I often talk to citizens throughout this country, especially on college and university campuses, urging them to use the ballot in our free elective process. I feel that it is vital to the well-being of this Nation that they study public problems and that they participate in decisionmaking as given to them through the Declaration of Independence and the Constitution.

The Congress as now constituted, is approximately 193 years of age. This is not the occasion for me to discuss the crucial issues before us. Mr. President, I have faith in this country and its future and a belief in its inherent goodness and greatness.

Again, I refer to our legislative career. I am greatful for the dedicated members of our staff and for their assistance to me during House and Senate service. Included are the personnel of the committees of which I have been a member.

The Senate staff—all of them—have been helpful.

Citizens of West Virginia have been understanding of our mutual concerns, even when we have differed on votes I have cast.

The family, including Mary, my devoted wife, our stalwart sons, our wonderful parents, my good sister—they were with me in victory and defeat.

Yes, dear colleagues, I love you all. We can, in understanding, serve in this body in whatever are the years given to us to serve.

America is a good country, peopled by men and women who believe in what we did in our beginning 200 years ago. In remembering the yesteryears,

let us look forward with confidence to the challenging years ahead.

Your tribute shall never be forgotten.

(Applause, Senators rising.)

CONTINUING APPROPRIATIONS, 1983

The Senate resumed consideration of the joint resolution.

Mr. ROBERT C. BYRD. Mr. President, I now would like to ask the distinguished majority leader, if I may, regarding the program for the rest of the day. I would anticipate that he would propose some unanimous-consent requests which would probably answer the question.

Mr. BAKER. I thank the Senator. Mr. President, since about 11 a.m. today, I have been saying that at some point we have got to try to finish this bill and that I would propound a unanimous-consent request for final passage later today. I had planned to do it earlier, but other circumstances intervened that made that appear undesirable. I think we have reached a point now, Mr. President, where we have worked our way through some of these amendments and sort of have an idea of what is still before us.

There is a formidable number of amendments which have been mentioned or identified. I really hope that all of them—most of them—will not be offered.

What I am going to do at this time, Mr. President, is what I notified Senators on this side by hotline I would do, and I believe the minority leader may have done the same.

Mr. President, I ask unanimous consent that final passage on this measure occur at not later than 4 p.m. today.

I further ask unanimous consent, Mr. President, that no regular Marti amentment be in order.

Mr. HOLLINGS. Mr. President, reserving the right to object.

Mr. BAKER. Mr. President I am not totally surprised by that but somewhat surprised. What would it take to satisfy the distinguished Senator from South Carolina?

Mr. HOLLINGS. At least a reasonable time to present an MX amendment. I met with the minority leader earlier this morning and we said we would limit ourselves to 1 hour, a half hour to each side. If the majority leader wants to give me the remaining hour, that will be fine, though I do not know how to gage it.

The second point is with regard to this particular bill being $2.9 billion beyond the budget. It is not within budget bounds.

I was also going to present a B-1 amendment, but I thought in light of the time, I might not raise that even more important question.

I know this Senator could very judiciously use 1 hour of time, and I am sure that many other Senators have a similar feeling about their concerns.

Mr. BAKER. This amendment deals with the MX?

Mr. HOLLINGS. Yes.

Mr. BAKER. I do not mean to bargain, at least not openly, but would the Senator consider 30 minutes instead of 1 hour on that amendment?

Mr. HOLLINGS. I talked earlier with the minority leader and the distinguished chairman of the Appropriations Committee, and also the Senator from Colorado who actually offered a similar amendment within the Armed Services Committee. He said no.

Mr. BAKER. I do not think I could offer an agreement without the distinguished chairman of the Armed Services Committee being here. Who else on the floor has an amendment that they absolutely and positively have to introduce?

Mr. TSONGAS. Mr. President, we had a discussion earlier on the same amendment that came up last year, on cost sharing.

Mr. BAKER. Does the Senator from Massachusetts have a suggestion about a time agreement?

Mr. TSONGAS. We have discussed this and 10 minutes to a side would be adequate.

Mr. BAKER. The Senator from Arizona?

Mr. DECONCINI. One amendment on small business and one on the peso devaluation in Mexico. Twenty minutes for each amendment.

Mr. BAKER. Next, the Senator from Illinois.

Mr. PERCY. An amendment on interstate transfers, which I understand is acceptable to the committee and would not require a rollcall vote. Two minutes would be adquate.

Mr. BAKER. Five minutes equally divided.

The Senator from Missouri?

Mr. DANFORTH. An amendment relating to ADAP, 10 minutes equally divided.

Mr. BAKER. The Senator from New York.

Mr. MOYNIHAN. I have an amendment on medicare. Ten minutes to a side would be more than sufficient.

Mr. BAKER. I thank the Senator.

The Senator from Vermont.

Mr. STAFFORD. Mr. Leader, an amendment extending the Federal Highway Act for 1 year. I believe a half hour equally divided would be adequate.

Mr. BAKER. Now the Senator from Nebraska?

Mr. EXON. I have an amendment on impacted aid.

Mr. ROBERT C. BYRD. Mr. President, we cannot hear Senators when they speak to the majority leader.

Mr. BAKER. I thank the minority leader. Could the Senator give a suggestion on a time limitation?

Mr. EXON. I would say a half hour equally divided.

Mr. ROBERT C. BYRD. I am advised that we already have that agreement. I thank the Senator.

The Senator from Georgia?

Mr. NUNN. I have an amendment which I hope will be agreed to but I would say no more than 10 minutes, equally divided.

Mr. BAKER. Can the Senator identify the subject matter?

Mr. NUNN. This amendment is on the Commission for Biomedical Behavioral Research, extending the time for 3 months. There is no money involved.

Mr. BAKER. The Senator from Arkansas?

Mr. BUMPERS. Senator MCCLURE and I have worked out our differences on an amendment which I am sure will be accepted. It will require no time. I have an amendment in the second degree to the amendment of the Senator from New York, which will take no more than 3 minutes.

Mr. BAKER. Is this the same amendment that we have an agreement of 15 minutes on?

Mr. BUMPERS. Yes.

Mr. BAKER. The Senator from Kentucky.

Mr. FORD. I have an amendment which applies to the procedure whereby we would bill the Sergeant-at-Arms for office expenses. It would require 10 minutes equally divided.

Mr. BAKER. The Senator from Colorado?

Mr. ARMSTRONG. I have an amendment on section 135 of the bill. I would suggest 10 minutes on each side.

Mr. BAKER. Twenty minutes equally divided.

The Senator from Idaho?

Mr. MCCLURE. Mr. President, in addition to the one the Senator from Arkansas mentioned, there is a change in language with respect to another section which will take almost no time, and a possible amendment to be added at the end with respect to a pricing study by the Council of Economic Advisers. That will take no more than 10 minutes equally divided.

Mr. BAKER. The first one would take 5 minutes equally divided?

Mr. MCCLURE. Yes.

Mr. BAKER. The Senator from New York?

Mr. D'AMATO. An amendment on the financial adjustment factor, an extension of time. Ten minutes equally divided.

Mr. BAKER. I thank the Senator.

The Senator from North Dakota.

Mr. ANDREWS. Let me ask the majority leader a question. We have an amendment referencing the transportation bill which has passed the Senate Appropriations Committee. We can doctor up some of the points in it with my colleague from Vermont and my colleague from Illinois if the majority leader can assure me that when

the highway trust fund reenactment comes up tomorrow or the next day we can put the truck width amendment on that bill instead of putting it through here. Will we have time to do that?

Mr. BAKER. Mr. President, I must say I do not know.

Would that be within the jurisdiction of the Public Works Committee?

Mr. ANDREWS. That would be within the jurisdiction of that committee. It would be totally in order on that as an amendment. We could have our vote up or down and we would not have to get into the discussion now.

Mr. BAKER. Mr. President, I see the chairman of the committee here, the chairman of the Environment and Public Works Committee.

As I understand the Senator from North Dakota, he is saying that the amendment, which includes the truck width provision, would not be offered to the continuing resolution if we can assure that he will have that opportunity when the highway extension is offered.

Mr. ANDREWS. That is right. We would then have an up or down vote on that and would not have to take the time of the Senate at this time.

Mr. BAKER. Could I inquire of the chairman?

Mr. STAFFORD. Mr. President, I think my distinguished friend should be aware that a number of our colleagues would be in opposition to the amendment.

Mr. ANDREWS. Let me assure the chairman I am totally aware of the opposition as well as the support for the amendment which exists. It does not matter to this Senator whether the vote comes on that bill on Thursday or Friday or on this bill. I am trying to accommodate the majority leader.

Mr. BAKER. I thank the Senator for his courtesy and cooperation. It is a big help that he is not offering it on the continuing resolution. I will assure him that I will do everything I can within my power to see that the Senator will have time to offer the amendment.

Mr. ANDREWS. I appreciate that.

Mr. BAKER. The Senator from New Mexico.

Mr. DOMENICI. Mr. Leader, I would like to reserve 15 minutes for a colloquy between the distinguished chairman of the committee and the distinguished chairman of the Energy and Natural Resources Committee.

Mr. BAKER. I thank the Senator.

Now, Mr. President, is there another Senator? The Senator from New Mexico.

Mr. SCHMITT. As chairman of the Labor, Health Services, and Education Committee, we have three technical amendments, none of which will take more than 5 minutes apiece, and probably less.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER (Mr. NICKLES). The Senate will be in order.

Mr. BAKER. If Senators will take their seats, I will be able to see and hear them. It would facilitate matters.

The Senator from South Carolina.

Mr. HOLLINGS. I thank the majority leader.

Mr. President, we are willing to cut our time back to a half hour equally divided, 15 minutes to a side. I would withhold trying to get at least 5 minutes for myself and Senator DOMENICI, the chairman of the Budget Committee. I would like for him to have 10 minutes to speak on the budget, this being $2.9 billion over budget.

Mr. BAKER. May I then increase the Schmitt colloquy to 30 minutes equally divided, with the understanding that the Senator and the chairman would have that time?

Mr. HOLLINGS. Is he interested in the subject?

Mr. BAKER. I meant Mr. DOMENICI.

Mr. HOLLINGS. I want to be sure at least to have that 5 minutes, because the distinguished Senator said his section of the budget is one of the toughest.

Mr. BAKER. Mr. President, I ask unanimous consent that the time of the Senator from New Mexico (Mr. DOMENICI)—I include in the 20 minutes 5 minutes allocated to the Senator from South Carolina.

Mr. HOLLINGS. Very good, Mr. President.

Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I ask for myself and the distinguished Senator from North Dakota (Mr. ANDREWS) that we have one colloquy of 5 minutes which takes care of a problem in the Environment and Public Works Committee. We propose to do that immediately, if possible.

Mr. BAKER. Five minutes for a colloquy?

Mr. STAFFORD. Five minutes.

Mr. BUMPERS. Mr. President, will the majority leader yield?

Mr. BAKER. Yes.

Mr. BUMPERS. We have a colloquy between the Senator from Louisiana and the Senator from Alaska (Mr. STEVENS). It has been cleared with Senator JOHNSTON. We are awaiting Mr. STEVENS' agreement, which I hope we shall get. We can simply put it in the RECORD. But in case we do not get that colloquy worked out, it could possibly lead to an amendment.

Mr. BAKER. I understand a minute for a colloquy is what the distinguished Senator from Arkansas wishes?

Mr. BUMPERS. Yes.

Mr. BAKER. I am advised by a notation given me by our cloakroom that the Senator from Connecticut (Mr. WEICKER) will have an Outer Continental Shelf amendment on which he will take 15 minutes equally divided.

I am advised by the distinguished chairman of the committee that there are three remaining committee amendments that he estimates will take 5 minutes each. Is that correct?

Mr. HATFIELD. About 5 minutes each, that is correct.

Mr. BAKER. Mr. President, before that, I am advised now that the distinguished Senator from Alaska (Mr. STEVENS) has two amendments dealing with a reenlistment bonus from defense appropriations; the other he will have to identify. I shall put down 10 minutes on each of them.

Mr. ROBERT C. BYRD. Mr. President, we cannot hear what is going on.

Mr. BAKER. Mr. President, the Senator from Ohio (Mr. GLENN) indicates that he has an amendment on research funding, on which he will take 40 minutes equally divided. Could the Senator reduce that a little?

Mr. GLENN. We are trying to work it out right now.

Mr. BAKER. The Senator wishes 40. I sincerely hope he can take less than that.

Mr. ROBERT C. BYRD. Mr. President, I have an amendment on behalf of Mr. KENNEDY dealing with public service jobs. It was indicated yesterday that he would be willing to take 1 hour equally divided. I am advised that he would be willing to take 30 minutes equally divided.

Mr. BAKER. He will take 30 minutes?

Mr. ROBERT C. BYRD. Equally divided.

Mr. BAKER. I thank the Senator.

I am advised that the distinguished occupant of the chair wishes to reserve an amendment, perhaps in the second degree to the Kennedy amendment. Does the Senator have a time agreement on that?

The PRESIDING OFFICER. In my capacity as the Senator from Oklahoma, I ask 10 minutes equally divided.

Mr. ROBERT C. BYRD. What was the identification?

Mr. BAKER. I shall be glad to address that to the occupant of the chair.

The PRESIDING OFFICER. Further, in my capacity as Senator from Oklahoma, it will be a second-degree amendment to the Kennedy amendment which pertains to Davis-Bacon.

Mr. BAKER. I understood the Chair to say it would be a second-degree amendment he wishes to provide time for to the Kennedy amendment and deals with Davis-Bacon, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. Mr. President, I had a second-degree amendment to the Kennedy amendment dealing with the unemployment rate that would become

effective. I am not sure what would happen to my amendment in view of the proposal of the Senator from Oklahoma. I think they may accept it. I would be glad to make it 10 minutes equally divided.

Mr. BAKER. I thank the Senator.

Mr. President, did the Senator from New York have something?

Mr. MOYNIHAN. The Senator from New York may offer an amendment on the rebuilding of America—a bill I have introduced called rebuilding America.

Mr. BAKER. The whole thing?

Mr. MOYNIHAN. While we are here.

Mr. BAKER. Mr. President, does any other Senator seek recognition? I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I discussed briefly with the Senator from Oregon (Mr. HATFIELD) the International Coffee Agreement, on which I understand there is no problem. I have also discussed it with the distinguished Senator from New York (Mr. MOYNIHAN). We have agreed it is something that must be done by October 1 or the entire agreement we have negotiated with Brazil would have to be renegotiated. Is that an accurate reflection?

Mr. MOYNIHAN. Precisely so.

Mr. BAKER. Mr. President, does any other Senator seek recognition?

May I say that, once again, we have a problem. These are the amendments that I have a list of so that Senators will be aware of the memorandum I am working from if I can read it:

A Hollings amendment dealing with MX, 30 minutes equally divided; a Tsongas amendment—I did not make a notation what it is about, 20 minutes equally divided. It is not Clinch River.

Oh, it is Clinch River. That is why he did not identify it.

Two DeConcini amendments, one dealing with SBA, one dealing with peso devalution, 20 minutes each.

A Percy amendment, 5 minutes equally divided; a Danforth amendment on ADAP, 10 minutes equally divided; a Moynihan amendment on medicare, 20 minutes equally divided; a staff amendment on highways, 30 minutes equally divided; an Exon amendment on impact aid, 30 minutes; a Nunn amendment, 10 minutes; Bumpers on Federal lands, 15 minutes; a Ford amendment on billing, 10 minutes; an Armstrong amendment dealing with allocation of community block grant funds, 20 minutes; a McClure amendment, 5 minutes. I did not get that notation.

Another McClure amendment, 10 minutes; another amendment by Senator D'AMATO, financial adjustment factors, 10 minutes; Mr. DOMENICI, a colloquy, 20 minutes, with 5 minutes of that allocated to the Senator from South Carolina (Mr. HOLLINGS); three technical amendments by Senator Schmitt, 5 minutes each; a Stafford amendment, 5 minutes; a Bumpers colloquy; a Weicker OCS amendment, 15 minutes equally divided; three committee amendments, 5 minutes each; two Stevens amendments, 10 minutes each, one dealing with reenlistment, the other not specified yet; a Kennedy jobs amendment, 30 minutes equally divided; a provision for a Nickles second-degree amendment dealing with Davis-Bacon, 10 minutes equally divided; a provision for a Chaffe Second-degree amendment. I did not get the designation, but it is 10 minutes equally divided. A Moynihan amendment dealing with rebuilding America, 10 minutes. A Dole coffee agreement; and one I cannot read. The one I could not read was the Glenn amendment, 40 minutes equally divided.

I yield to the distinguished chairman of the committee.

Mr. HATFIELD. Mr. President, may I make just one observation? I think it will be very importqant for all the Senators to understand precisely where we are.

After the Senate concludes this continuing resolution, it will take in the neighborhood of 3 hours for the staff to prepare the document to send to the House before we can have a conference. We have between 8 and 9 hours of amendments, not counting any rollcall votes, if they all utilize the full time that has been indicated at this point.

All right, add to that 8 or 9 hours however many rollcalls we have. Then let us assume we have final passage. It is going to take 3 hours to get the document prepared to go to conference.

Let me also inform Senators that once the House and Senate go to conference, it is going to take a number of hours because we have many issues to resolve. It takes between 7 and 8 hours after the conference is concluded for the document to be prepared to return to the respective Houses to vote on the report. It takes 12 hours for the enrolling clerk of the House of Representatives to prepare the document to send to the White House. It is obvious we are not going to finish before midnight tomorrow night.

Now, this is the backup position. We will have a resolution for 1 week, a continuing resolution to extend for 1 week, and all Senators will be back next week because we cannot let this Government come to a halt tomorrow evening at midnight.

I put the Senate on notice that there is no reasonable or human way possible to complete our work with this particular identification of the amendments yet to be finished on this continuing resolution.

So let us just make sure we understand where we are, because the Appropriations Committee cannot bail out the Senate. There is no way in which we can procedurally handle the responsibilities of the House and the Senate by midnight tomorrow night. The only way we can keep this Government going is to have a brief resolution for 1 week, and that means we will have to come back next week to handle that.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, the chairman of the Appropriations Committee states the situation absolutely correctly.

I said in the course of the debate on the debt limit that it looked like we were getting so that we passed two bills every year, one was the budget resolution and the other was the debt limit, because at that time it looked like the debt limit might be loaded up with a full year's agenda of legislative activity, but I was wrong. We pass two bills every year, but one of them is the budget resolution, the other is the continuing resolution making appropriations.

Mr. President, we simply cannot do the country's work this way. We simply must not continue with 40-some-odd amendments that we have, and half of them are amendments that developed since we last took the inventory.

Mr. President, I do not know what we are going to do to try to put this right, and it is too late to do anything this year. However, next year we are going to have to give some careful attention to what independent action the Senate can take to try to move the appropriations process without waiting for the House of Representatives, as this body has done for 200 years. Maybe the Constitution says we cannot do that, but I am not convinced the Constitution says we cannot do that. The Constitution says that we cannot originate revenue bills. I suppose we cannot originate a tax bill, although we would have a hard time convincing RUSSELL LONG and BOB DOLE.

Mr. President, one way or the other, next year we must get our way out of this business of trying to do the appropriations of this country in such a brief time late in the session and against an adjournment deadline. I do not think we have any alternative. If we are going to try to work out these 40 amendments, indeed, we are going to be here next week. If Senators persist in offering those amendments, I intend to leave the floor and call the Speaker and the minority leader of the House and tell them it is not possible for us to finish this bill before midnight and respectfully request them to send us some sort of emergency short-term legislation.

This is a full year's work, and there is no way we can transact that business.

Mr. President, I will not now make a request.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. ROBERT C. BYRD. Mr. President, I hope the distinguished majority leader will proceed to get some of the agreements on some of the amendments, because even if we get a resolution extending the date by 1 week, there can be amendments offered to that measure as well.

I hope that we can proceed with this measure even though it may take us late into the evening or into the morning and then see where we go from there.

I for one am not willing to agree that we have to extend the deadline by 1 week simply because there are several amendments. I hope that the distinguished majority leader will try to get the agreement so far as those amendments are concerned; it will be that much work accomplished.

UNANIMOUS CONSENT AGREEMENT ON CERTAIN AMENDMENTS

Mr. BAKER. Mr. President, let me put the request at this time on the amendments that we have listed.

Mr. President, I ask unanimous consent that on the Hollings amendment dealing with the MX to the continuing resolution presently before the Senate, which language will continue through each of the requests that I make, there be 30 minutes equally divided.

Mr. TOWER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. On an amendment by Mr. TSONGAS dealing with Clinch River, I ask unanimous consent that there be 20 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. On a DeConcini amendment dealing with small business, 20 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. On a DeConcini amendment dealing with peso devaluation, 20 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A Percy amendment dealing with what?

Mr. PERCY. Interstate transfer.

Mr. BAKER. Interstate transfer of what?

Mr. PERCY. Highway funds.

Mr. BAKER. Highway funds, 5 minutes equally divided.

Mr. PERCY. Mr. President, because the Senator from Illinois has to keep a binding engagement in Chicago today, would the majority leader be able to assure the Senator that he would take the amendment—it would take 5 minutes and no rollcall vote—before departure at quarter to 6?

Mr. BAKER. I will do my best.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Was the request granted on PERCY?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A Danforth amendment dealing with ADAP, 10 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A Moynihan amendment dealing with medicare, 20 minutes equally divided.

Mr. MOYNIHAN. Mr. President, can we make that 10 minutes equally divided?

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A Ford amendment on highways, 30 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. An Exon amendment dealing with impact aid, 30 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A Nunn amendment dealing with the language that the Senator spoke of.

Mr. METZENBAUM. What is it?

Mr. MOYNIHAN. Dealing with medical research.

Mr. BAKER. The President's Commission on Biomedical Ethics, 10 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A Bumpers amendment on Federal land, 15 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. Leader, that is resolved. We can just throw that in. The committee will accept it. Senator MCCLURE and I have agreed to that amendment.

Mr. BAKER. I thank the Senator. We will leave it there, and hope that it disappears.

A Ford amendment dealing with billing for office expenses, 10 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. An Armstrong amendment dealing with the allocation of community block grants, 20 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A McClure amendment, 5 minutes——

Mr. McCLURE. That is on clarification of the wilderness withdrawal from mineral exploration, just changing language.

Mr. METZENBAUM. I reserve my right to object until I get a chance to see it.

Mr. BAKER. Very well. Another McClure amendment dealing with a pricing study, 10 minutes equally divided.

Mr. METZENBAUM. Study?

Mr. BAKER. Study.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A D'Amato amendment on financial adjustment factors, 10 minutes equally divided.

Mr. METZENBAUM. I object until I know what that is. I do not know what "financial adjustment factor" is.

Mr. D'AMATO. We have no problem. It has to do with section 8 housing and extending the deadline from October 1.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A DeConcini colloquy, 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Schmitt, three technical amendments, 5 minutes each.

Mr. ROBERT C. BYRD. Mr. President, I reserve the right to object until we can find out what those technical amendments are. Will the majority leader proceed?

Mr. BAKER. Yes. Mr. President, I will come back to that then.

A Stafford amendment, 5 minutes.

Mr. STAFFORD. Five minutes, and it involves a colloquy in which, as chairman of the Committee on Environment and Public Works, I will ask the chairman of the Transportation Subcommittee of the Committee on Appropriations to withdraw some language from the continuing resolution.

Mr. BAKER. Five minutes for a colloquy in favor of the distinguished Senator from Vermont.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A Bumpers colloquy. I do not have a time. One minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A Weicker amendment on the Outer Continental Shelf, 15 minutes, equally divided.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Oklahoma, reserves the right to object.

Mr. BAKER. Three committee amendments, 5 minutes each.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, will the majority leader pass those over for the moment?

Mr. BAKER. Yes.

A Stevens amendment dealing with reenlistment, 10 minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A second Stevens amendment, I will not put at this time, since I do not know the subject matter.

A Glenn amendment dealing with research, 40 minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A Kennedy amendment dealing with jobs, 30 minutes, equally divided.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader pass that one over for now?

Mr. BAKER. Yes. Does the Senator wish me to pass over the second-degree amendments as well?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. A Moynihan amendment dealing with the rebuilding of America, 10 minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A Dole amendment dealing with coffee agreements, 10 minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I will ascertain the description of the other amendments, and I will be back for another sitting. It is my purpose then to ask unanimous consent that only these amendments will be in order.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I would have to object to that request.

Would the distinguished majority leader be willing to try to get a consent order that the rollcall votes for the remainder of the day be 10 minutes each?

Mr. BAKER. Mr. President, I would not like to do that because we have Senators in other parts of the building and, in some cases, off the Hill, temporarily. As we have the votes back-to-back, I would be happy to do that.

Mr. BRADLEY. Mr. President, would it also be in order that on the amendment that is now pending before the Senate, on which we are trying to work out an agreement, if a substitute is offered, there might be a necessity for no more than a 5-minute colloquy? I understand that Senator SCHMITT has 4 minutes remaining on his side, and I have 1 minute remaining on mine. So we can transfer the remaining time.

Mr. BAKER. I have no objection to that; and if the managers of the bill make that request, I am sure it will be granted.

Mr. HOLLINGS. Mr. President, will Senator yield?

Mr. BAKER. I yield.

Mr. HOLLINGS. Will the distinguished Senator from Texas want more time or less time? I did not understand the objection to the time agreement.

Mr. BAKER. I will make an effort to find that out.

Mr. ROBERT C. BYRD. Mr. President, there may be no objection to the time requested on the committee amendments, except to be reminded of what those committee amendments are. Could the clerk do that for us, quickly?

The legislative clerk read as follows:

The pending committee amendment is page 33, lines 3 to 13. The remaining two after that are page 6, line 18, through page 27, line 7; and the final one is page 35, lines 14 through 24.

Mr. ROBERT C. BYRD. Do any of my colleagues want to talk to any of those committee amendments?

Mr. METZENBAUM. I would appreciate clarification as to when the McClure amendment——

Mr. ROBERT C. BYRD. Could we resolve the question I have asked?

Mr. METZENBAUM. I think that is one of these.

Mr. ROBERT C. BYRD. I beg the Senator's pardon.

Mr. BAKER. The three committee amendments are a social security amendment, an FTC amendment which will be withdrawn by the Senator from Idaho, and a highway amendment.

Mr. METZENBAUM. I thank the Senator.

Mr. ROBERT C. BYRD. I have no objection to the majority leader's request on those three amendments.

Mr. BAKER. I renew my request: 5 minutes on each of the three committee amendments as I have just identified them.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask one other question of the majority leader. As the orders now stand, second-degree amendments to the amendments would be without any time whatsoever. Would the majority leader make the request that there would be at least 5 minutes or 10 or some time on the basic amendment allotted to the second-degree amendment?

Mr. BAKER. Mr. President, we suggested but did not get an order for 10 minutes on second-degree amendments.

I ask unanimous consent that on all those first-degree amendments on which time limitations have been granted, the time on any second-degree amendment be limited to one-half of the time granted to the first-degree amendment, to be equally divided and controlled in the usual form.

Mr. ROBERT C. BYRD. And that the second-degree amendment be germane to the first-degree amendment.

Mr. BAKER. And that the second-degree amendment be germane to the first-degree amendment.

Mr. BUMPERS. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. BUMPERS. I asked earlier for 5 minutes for a perfecting amendment, an amendment in the second degree to the amendment of the Senator from New York, and it is not germane to his amendment. All I ask is that one exception, to which the Senator from New York has no objection.

Mr. MOYNIHAN. On the first of the two amendments listed for me, the Senator from Arkansas has a second-degree amendment he would like to offer. It is not germane. He and I have agreed to it. Might that be an exception to the request the majority is propounding?

Mr. BAKER. There is another one which I am sure the distinguished occupant of the chair, the Senator from Oklahoma (Mr. NICKLES) wishes to qualify on the same basis.

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. Reserving the right to object, I have a concern about the second-degree amendment matter.

Mr. ROBERT C. BYRD. To what?

Mr. METZENBAUM. I yield to the Senator. There is no limit as to what may be offered as a second-degree amendment at the present time, and it would just mean that the door would be wide open for nongermane amendments with a limitation of time.

Mr. BAKER. The request I have now put is that the second-degree amendment must be germane to the first-degree amendment, with two exceptions. The first is the Bumpers amendment to the Moynihan amendment, and the second would be the Nickles amendment to the Kennedy amendment. The first would be the Bumpers amendment to the Moynihan amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, let us see where we are. The request that half of the time be allocated for debate on secondary amendments—has that request been granted?

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Oklahoma, would object to that request.

Mr. BAKER. Mr. President, I will not put that request at this time. I will continue to work it out.

As I understand it, what we have is a list of amendments, all in the first degree, on which we have time limitations as of this moment. I inquire of the Chair: In the present status of the unanimous-consent order, what time would be available for the debate on second-degree amendments?

The PRESIDING OFFICER. Under the present circumstance, second-degree amendments would be nondebatable.

Mr. BAKER. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I hope the majority leader is able to get consent with respect to second-degree amendments to those first-degree amendments on which time has been agreed to.

Mr. BAKER. I am happy to do that.

I think the hangup is on the question of two perhaps nongermane amendments, and I recommend that we go ahead and qualify those two and that we provide that second-degree amendments would have half the time of the first-degree amendments and that they must be germane to the first-degree amendments except in those two identified cases.

Mr. ROBERT C. BYRD. Except in those two cases. On the Kennedy amendment there has been no time agreed to on that amendment and so the request with respect to second-degree amendments would not pertain to that amendment.

Mr. BAKER. That is correct, unless we get the time limitation on the Kennedy amendment, in which case it would.

Mr. ROBERT C. BYRD. I wish to reserve the right to object on that one at that point.

If we could just get the agreement with respect to the other amendment, the first-degree amendment that has been entered into with respect to time, if we get consent that with respect to second-degree amendments to those amendments that the second-degree amendment would have to be germane and would be limited in time to half of the time allotted to the first-degree amendment.

Mr. BAKER. Mr. President, I have no personal problem with that, but where we are headed is into a very difficult situation because we are limiting all of these amendments except Kennedy, and it may be that that debate can go on endlessly. I am not prepared to tie down everyone in the Senate with these amendments unless we can get a package put together that looks like it will let us complete this measure.

So, Mr. President, at this time I will not put any further request, and I hope to be able to do that in just a moment.

Mr. SCHMITT. Mr. President, will the majority leader yield one moment?

Mr. BAKER. Yes.

Mr. SCHMITT. It is my understanding that the distinguished minority leader objected to the technical amendments that I would offer. Was that because of not knowing what those amendments were?

Mr. ROBERT C. BYRD. Yes.

Mr. SCHMITT. I am sorry. The staff had been informed, and I apologize that the Senator was not.

Really now because the request of the Senator from Colorado has been granted for his amendment in his own right, there are only two technical amendments. One has to do with continuing the Public Health Service Commission Corps for the duration of this continuing resolution. The other has to do with continuing the current CETA operations until the act that is in conference becomes law and can replace that program.

Mr. STENNIS addressed the Chair.

Mr. BAKER. Mr. President, if the Senator will permit me to put that request then, with that explanation I ask unanimous consent that there be 5 minutes equally divided on each of the two Schmitt amendments as just described.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, with the second McClure amendment I am perfectly willing to agree with the time limit, the one having to do with wilderness land.

Mr. BAKER. Mr. President, I ask unanimous consent that, on the wilderness withdrawal amendment to be offered by the Senator from Idaho, there be a 5-minute time limitation equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I shall be quite brief. I was called from the floor. When the military pay bill is offered here, I might have a very slight modest amendment to offer. I will not say that I will now but I might.

Mr. BAKER. Mr. President, the way the thing stands at this time, we are not precluding other amendments except we are limiting time on those listed and providing, as we have already provided, that time on second-degree amendments would be limited to half the time of the first-degree amendments.

I ask unanimous consent as well that in each of those cases if a point of order is submitted to the Senate or an appeal is taken that the time allocated to that be the same as in the case of second-degree amendments.

Mr. ZORINSKY. Mr. President, would the majority leader care to propound the preclusion of the Radio Marti amendment from being offered?

Mr. BAKER. Yes.

Mr. President, could I first let the Chair consider the request that I just put?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Now, Mr. President, I understand that that is satisfactory to the Senator from Wisconsin (Mr. KASTEN), so I will put it as well.

Mr. President, I ask unanimous consent—no—let me withhold that. The idea at that time was that we were going to get a time certain and that we would wrap the package up, and I could assure the Senator that no Radio Marti amendment will be offered. I think that is still the case, but let me check on that again if I may.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. I hope that I am not imposing on the majority leader by asking this question: Has the request been put and ordered that with respect to the amendments on which time has been agreed that amendments in the second degree thereto would have to be germane and would be limited to half of the time allocated on the basic amendment?

Mr. BAKER. Would the Chair give us the status of this request?

The PRESIDING OFFICER. It is the Chair's understanding that as put by the Senator from West Virginia, the minority leader, that request has not been made or agreed upon.

Mr. BAKER. Mr. President, I was under the impression that we had it. I am willing to put it now. I regret that we do not have an agreement on the Kennedy amendment. But as it stands at this moment there is no restriction on debate on the Kennedy amendment. There would be no requirement that second-degree amendments be germane absent a unanimous-consent agreement. Therefore, the rights of the distinguished occupant of the chair would not be affected.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Could the Chair state if my understanding of that situation is correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

Now, Mr. President, I put that request and so ask unanimous consent.

Mr. President, I failed to say that the Bumpers amendment to the Moynihan amendment is not germane and should qualify notwithstanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, that is a lot of progress, but it is a lot of progress into a thicket. I do not know how we are going to get out of this thicket. But I will desist from making further requests until I can confer with the chairman of the committee and other members.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, what is the pending question and the pending business?

EXCEPTED COMMITTEE AMENDMENT—PAGE 33—BEGINNING ON LINE 3

The PRESIDING OFFICER. The pending question is the committee amendment on page 33 beginning on line 3.

Mr. HATFIELD. All right.

Mr. President, that matter is now ready for resolving, and I yield to the Senator from New Jersey to finish up that business.

Mr. BRADLEY. Mr. President, I yield to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. SCHMITT. Mr. President, I hate to say to my colleagues that we have one small problem. We do not have a copy of the amendment typed in the usual form, but I think if our colleagues will bear with me the group has met that is concerned about the back claims issue. We have reached an agreement within ourselves and also with the Secretary.

Mr. MOYNIHAN. Mr. President, may we have order? This is a matter of importance.

The PRESIDING OFFICER. The Senator is correct.

The Senate will be in order.

The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I submit that agreement as an amendment in the form of a substitute for the committee amendment.

The PRESIDING OFFICER. Do Senators yield back their time on the committee amendment?

Mr. SCHMITT. I believe that we have a unanimous-consent agreement that we can transfer that time at this point.

The PRESIDING OFFICER. The Chair is not aware of such an agreement.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the time remaining to the two sides be allocated to the discussion of this substitute amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New Mexico?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I do not know that I will object, would the distinguished Senator repeat his request? The reason is I have no one sitting here at the minority manager's chair.

Mr. SCHMITT. I understand, and I sympathize with the minority leader.

The request is merely that the time remaining on the discussion of the committee amendment be allotted to the discussion of the substitute which has been agreed to by all parties.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, the pending business is the substitute offered by the Senator from New Mexico, is that correct?

The PRESIDING OFFICER. The clerk will report the substitute.

UP AMENDMENT NO. 1320

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposed an unprinted amendment numbered 1320.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . Notwithstanding the decision of the United States Court of Appeals for the District of Columbia Circuit in Connecticut v. Schweiker (No. 81-2090, July 27, 1982), section 306 of Public Law 96-272, or section 1132 of the Social Security Act, no payment shall be made, in or with respect to any fiscal year prior to fiscal year 1984, under this or any other Act, and no court shall award or enforce any payment (whether or not pursuant to such decision) from amounts appropriated by this or any other Act, to reimburse State or local expenditures made prior to October 1, 1978, under title I, IV, X, XIV, XVI, XIX, or XX of the Social Security Act, unless a request for reimbursement had been officially transmitted to the Federal Government by the State within one year after the fiscal year in which the expenditure occurred. After fiscal year 1983, any payment made to reimburse such State or local expenditures required to be reimbursed by a court decision shall be made in accordance with a schedule, to be established under the Social Security Act, over fiscal year 1984 through 1986.

Mr. SCHMITT. Mr. President, this amendment merely makes it possible for the ongoing litigation involving back claims to proceed without prejudice to any current or future decision. It will, however, preclude the payment for those claims until a decision has been met through the courts, and then further authorizes that if the decisions are adverse to the Government there will be a schedule of payments beginning in fiscal year 1984 through fiscal year 1986.

Mr. BRADLEY. Mr. President, will the Senator yield for two clarifying questions?

Mr. SCHMITT. I would be happy to yield.

Mr. BRADLEY. I think the Senator has said this, but the amendment does not prejudice the court of appeals' decision in Connecticut against Schweiker or any other court decision?

Mr. SCHMITT. It does not in either way.

Mr. BRADLEY. The second, the 1-year reference in the Senator's amendment, as I understand it, is with respect to those claims filed in 1978 which were filed within the 1-year cutoff.

Mr. SCHMITT. In no way would it prejudice those claims as they are already qualified by law.

Mr. BRADLEY. I thank the Senator very much for his cooperation in this matter. I think this is a workable solution and I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, may I thank the Senator from New Mexico? He has been more than gracious.

Mr. SCHMITT. I thank the Senator from New York and also the Senator from Pennsylvania (Mr. HEINZ) who was involved in these discussions. He cannot be with us at this time.

● Mr. DANFORTH. Mr. President, I rise in support of the amendment to strike section 133 from the continuing appropriations bill. The amendment is concerned with the proper claims of a number of States for reimbursement from the Federal Government for State or local expenditures under medicaid, AFDC, and other social security programs. This issue of reimbursing the States for their just and lawful claims has been debated on the floor of the Senate several times. I thought this matter was settled in 1979 when we debated the Adoption Assistance and Child Welfare Act. The money at issue is owed to about 20 States, of whom Missouri is one, for programs, such as medicaid, which involve Federal matching funds. The State claims in dispute are for expenditures made before October 1, 1978.

The Department of Health and Human Services does not want to pay these old claims, and section 133 retrospectively sets such a strict limit on filing those claims that they will not be paid. This is so even though the U.S. Court of Appeals in the District of Columbia, in a July 1982 decision, held that HHS is liable for the claims.

Clearly what we are talking about here is retroactively nullifying a previous congressional appropriation, extinguishing vested legal rights, and permanently denying reimbursement to States for entitlement funds already earned. Again, these matching fund claims involve moneys that States spent subject to the Federal Government's promise of reimbursement. My own State of Missouri has reimbursement claims totaling $7.3 million—in effect we have been extending a $7.3 million interest-free loan to the Federal Government. We are not talking about extraordinary expenditures or unusual claiming practices. We are only talking about claims which the U.S. Court of Appeals has ordered HHS to process, to the extent allowable, from unexpended 1981 funds, on their own merits. Following the court's ruling, I understand that HHS did, in fact, review Missouri's $7.3 million worth of claims on their merits, found that the State of Missouri had taken every step required by law to submit and preserve their claims, and had begun to process the grant award to the State.

We have spoken of the effect of section 133 on pre-1978 claims. But I am concerned this section also effects the routine claims process in future years, for each and every State. This section seem to cut in half the time States will have to process and file claims.

Section 133 repudiates the basic Federal/State partnership at the heart of these social security programs. Reversal of such a carefully considered congressional policy should not be made in a last minute rider to a stop-gap funding bill. I urge my colleagues to support the amendment to strike this section.●

Mr. BRADY. Mr. President; I rise in opposition to the committee amendment which adds section 133 to the continuing appropriations resolution. If allowed to stand, section 133 would permit the Federal Government to refuse to pay just debts owed to the States for reimbursement of expenses incurred under various titles of the Social Security Act. I consider section 133 to be a clear case of changing the rules in midstream, and an affront to the judicial process, which has upheld the claims of the States. It deserves to be removed from the continuing resolution.

At stake here is the disbursement of some $382 million owed to the States by the Federal Government in payment for "prior-period" claims under medicaid, AFDC, child welfare, SSI, and other Social Security Act programs. The States have already spent the money, and are now petitioning the Federal Government to pay its share under matching fund programs.

The dispute is over whether these claims for payment were filed in a timely fashion, not whether the States have a right to reimbursement.

The fact is that the operative law is Public Law 96-272. That bill contains section 306, which sets a 2-year filing limit on prior-period claims, but permitted any claims in existence at the time of the bill's passage to be filed by January 1, 1981. Later regulations from the Department of Health and Human Services extended this filing period to May 15, 1981. This section was enacted as a result of a compromise between the Congress and the States, and represents a sensible solution to the conflict between the need for prompt filing of claims, and the unfairness of cutting off valid claims that had never before been subject to filing deadlines.

The Congress did consider a more restrictive solution to this problem. The 1980 HHS appropriations bill contained language that would have allowed claims to be paid to the States only if filed within 1 year of expenditure.

That language, however, was never enacted into law, since the 1980 HHS appropriations was never cleared by Congress, but rather replaced by a continuing resolution. It is clear that Congress intended to act differently if it had passed the 1980 HHS appropriations, but the fact that it did not do so left the provisions of Public Law 96-272 intact.

This was made completely clear by the unanimous decision of the U.S. Court of Appeals for the District of Columbia Circuit, earlier this year. The Department of Health and Human Services has been refusing to process claims, stating that as they had not been filed within a year of expenditure, it was the intent of Congress that they not be paid. The States involved countered with a lawsuit that asserted their right to reimbursement under the terms of Public Law 96-272. The court's opinion was that the States were indeed correct in their assertions, that the claims had been filed in a timely manner, and to the extent allowable on their own merits, should be paid.

What section 133 does is to upset this ruling. It changes the rules after the fact. It says that Congress actually meant to do something different from what it actually did, and so should not be held accountable for its actions. This is blatantly unfair to the States, which had acted in good faith, and in reliance upon existing laws and procedures.

If section 133 is adopted, my own State of New Jersey stands to lose at least $40 million in substantiated claims. None of these claims is outrageously old. They all date from the 1970's and were filed in accordance with Public Law 96-272. They represent just claims which the Federal Government has an obligation to pay under the statutory entitlements provisions of the Social Security Act.

I am a fiscal conservative, and I have voted on numerous occasions to reduce the growth of Federal spending. But I think it is very unfair for the Federal Government to try retroactively to save money and deprive financially strapped States of funds to which they are rightfully entitled.

I urge my colleagues to delete section 133, and allow the decision of the court of appeals to stand.

Mr. DOLE. Mr. President, the Senator from Kansas wishes to express his support for the compromise worked out with respect to payment of prior year claims under the Social Security Act programs.

The agreement which prohibits payments for these claims during fiscal year 1983, does not in any way attempt to prejudice the pending court cases, nor does it attempt to change the policy set by the Senate Finance Committee, and the Senate in 1979. Nor does it question the validity of the claims. While recognizing the concern of the Department of Health and Human Services and the concern of the Appropriations Committee regarding the expenditure of funds, this Senator does not wish to prohibit the States from realizing the payments in the future for legitimate claims, if the courts so find.

This compromise leaves the decision with respect to scheduling of outyear payments, if they are to be made, to the Senate Finance Committee. This is reasonable given our responsibility for these programs.

COMPROMISE AMENDMENT FOR SEC. 133 OF CONTINUING RESOLUTION

Mr. HEINZ. Mr. President, I support this compromise amendment section 133 of the fiscal year 1983 continuing appropriations.

Mr. President, this amendment is intended to provide that any back claims owed to the States will not be paid until fiscal year 1984. Payments will then be made according to a schedule, to be established by the Senate Finance Committee. The schedule will cover a period of 3 years, from fiscal year 1984 through fiscal year 1986.

Mr. President, it is our understanding that the pre-1978 claims will be paid, if allowable, out of fiscal year 1984 through fiscal year 1986.

This amendment is not intended to prejudice in any way, any court cases involving this matter; nor is this amendment intended in any way to raise a question about the validity of any of the pre-1978 claims filed by the States.

Mr. President, it is our expectation that HHS will process these claims on a current basis.

I thank the distinguished Senator from New Mexico for his cooperation in working out this compromise amendment.

● Mr. D'AMATO. Mr. President, I rise in support of efforts to delete section 133 of the continuing resolution. This provision would block reimbursement to States for prior period payments made by the States for medicaid, AFDC, SSI, child welfare, and other social service and health programs authorized under the Social Security Act. These funds were expended by the States with the clear understanding that they would be reimbursed for the Federal matching portion of these programs.

Prior to 1980, no time restriction exists with respect to the period within which the States had to file reimbursement claims. In June 1980, Congress established a 2-year funding limit on such claims, but recognized the validity of existing claims, provided they were filed during the first part of 1981.

Nevertheless, the Department of Health and Human Services maintained that language contained in several appropriations bills prevented it from reimbursing the States. Recently, a number of States, including New York, filed suit with the U.S. Court of Appeals in the District of Columbia in an attempt to resolve this dispute. The court found that the Department was indeed responsible for providing these funds to the States, and should make payments from available fiscal year 1981 funds. Despite this decision, these claims have yet to be processed.

Adoption of the continung resolution, in its present form would effectively eliminate the ability of the States to recover these funds—payments which they are entitled to receive.

It is both inappropriate and unfair to adopt this language as part of an appropriations measure which has been designed to provide stop-gap funding for the Federal Government until regular appropriations bills can be approved.

Therefore, I urge you to delete the section from the pending legislation.●

Mr. SCHMITT. I yield back the remainder of my time.

Mr. BRADLEY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the second-degree amendment of the Senator from New Mexico.

The amendment (UP No. 1320) was agreed to.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the committee amendment, as amended, was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCEPTED COMMITTEE AMENDMENTS ON PAGE 26, LINE 18 THROUGH PAGE 27, LINE 7

The PRESIDING OFFICER. The question recurs on the first excepted committee amendment on page 26, line 18.

Mr. SCHMITT. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the excepted committee amendment on page 26, beginning on line 18. The clerk will report.

The legislative clerk read as follows:

The excepted committee amendment beginning at page 26, line 18 through page 27, line 7 is as follows:

SEC. 125. Notwithstanding any other provision of law except section 209(g) of the Highway Revenue Act of 1956 or any other provision of this joint resolution, the authorizations, apportionments, and the obligation limitation for the Federal-aid highways program made available for obligation in fiscal year 1982 shall apply for fiscal year 1983 in the same manner and to the same extent as enacted for fiscal year 1982: *Provided*, That the interstate cost estimate and the authorization for the one-half of 1 per centum minimum apportionment in effect for fiscal year 1983 shall apply for fiscal year 1984 in the same manner and to the same extent as enacted for fiscal year 1983: *Provided further*, That the interstate system authorization enacted in section 108(b) of the Federal-aid Highway Act of 1956 as amended for fiscal year 1984 shall not be affected by this section.

Mr. STAFFORD. Mr. President, I rise to request that the committee amendment on page 26, lines 18 through 25, and on page 27, lines 1 through 7 be withdrawn, and I bring that to the attention of my distinguished friend, the chairman of the subcommitttee involved in the Appropriations Committee, Senator ANDREWS.

Mr. President, the Federal-aid highway program is unique. This program is funded from the Highway Trust Fund established pursuant to the Highway Revenue Act of 1956. The Committee on Environment and Public Works, under the rules of the Senate, has jurisdiction over the Federal-aid highway program. The programs authorized by the committee under title 23, United States Code, provide contract authority to the Federal Highway Administration without the necessity of an appropriation first being made. Thus, the Committee on Environment and Public Works is both the authorizing committee and the committee with spending jurisdiction over this program.

Mr. ANDREWS. Mr. President, will my colleague yield? I can understand the objections of the Senator from Vermont and I agree that an authorization bill is the best place to set forth a comprehensive extension of the highway program. I must point out, however, that we are not in the best of circumstances and if this provision is not made in the continuing resolution the lack of most highway authorizations, and an interstate cost estimate will mean a halt to most of the Federal highway funds on October 1 of this year.

Can the Senator from Vermont, as chairman of the key committee, give me assurances that this will not happen?

Mr. STAFFORD. The distinguished Senator is correct that authorizations for this program expire on October 1, 1982. States are, however, carrying forward approximately $6 billion in unobligated authorizations from previous years which will remain available to them. I am well aware that the amounts being carried forward vary among the States and among the various highway categories. However, because of spending safeguards which have been placed on the Highway Trust Fund, without at least a simple 1-year extension of the trust fund, we are restricted in the amount which can be authorized in fiscal year 1983 without invoking the Byrd amendment.

Mr. ANDREWS. Mr. President, could I address the Senator from Vermont and ask him if he is expecting the highway bill to become law before October 1? If not October 1, can the Senator provide any estimate of when we will have these authorizations essential to getting 1983 funds out to the States?

Mr. STAFFORD. I would reply to my good friend, Mr. Chairman, that the extension of the highway trust fund is within the jurisdiction of the Senate Finance and House Ways and Means Committees. I am pleased that the Senate Finance Committee recognized the urgency of a simple, 1-year extension and reported such legislation out of committee. I am hopeful that the full Senate will expeditiously consider this legislation.

The Senate Environment and Public Works Committee has prepared an amendment in the nature of a substitute to S. 2574, the Federal-Aid Highway Act of 1982. This amendment would provide authorizations to continue the highway program in fiscal year 1983 along the lines of the fiscal 1982 program.

Mr. President, this program is vitally important to every State, and the distinguished Senator from North Dakota (Mr. ANDREWS) has my assurance that I will do everything possible, within the parameters of the funds available from the highway trust fund, to see that this program does not experience any disruptions.

Mr. ANDREWS. The one-half of 1 percent minimum interstate provision is an important source of interstate funds for some 17 States. In some cases it is the only source of interstate funds for those States. Do we have any assurances that this provision will continue to be included as part of the interstate program?

Mr. STAFFORD. I can assure the distinguished Senator that I have been vitally interested in the one-half percent apportionment for the interstate construction program for many years, with my own State being a one-half percent minimum State. In addition, nine of those States are represented in the Senate Environment and Public Works Committee. I will do everything I can to assure the continuation of this provision, and I believe it will be a part of any 1-year simple extension of the highway program that we may pass.

Mr. ANDREWS. Mr. President, we then have no objection to the request, and I move to withdraw the amendment.

● Mr. SYMMS. Mr. President, I am in full agreement with Senator STAFFORD, who so ably chairs the Committee on Environment and Public Works, that the authorization of the Federal-aid highway program should remain within the jurisdiction of the Environment and Public Works Committee.

I share the very real concern of Senator ANDREWS, chairman of the Transportation Subcommittee of the full Committee on Appropriations, that the highway program continue uninterrupted into fiscal year 1983. This is of critical importance to each and every State. However, it is my firm

belief that the program authorization should not be done through a continuing resolution; instead authorization of an extension of the highway program should stay within the existing jurisdiction of the Environment and Public Works Committee, which functions as both the authorizing and spending committee for this very complicated and essential program.

The necessary, first step is a simple, 1-year extension of the highway trust fund, and the Environment and Public Works Committee has been working closely with the Finance Committee, which has jurisdiction, on this. Without the trust fund extension, fiscal year 1983 authorizations will have to be severely curtailed in order not to trigger the Byrd amendment. Legislation with the trust fund extension has now been reported out of committee, and I appreciate the Finance Committee's responsiveness on this urgent matter.

Concurrently, the Environment and Public Works Committee has been preparing an amendment in the nature of a substitute to S. 2574. This amendment is a simple, 1-year bill with program authorizations. I am hopeful that these two efforts—the trust fund extension and the 1-year bill—will meet with acceptance by the full Senate as soon as possible.

Authorizations for the Federal-aid highway program are due to expire on October 1. Given the short time available, I understand Senator ANDREWS' concern that the program be continued. With passage of both the trust fund extension and the 1-year highway bill, I believe States will have available to them the authorizations they so much need to continue the highway program nationwide.●

Mr. RANDOLPH. Mr. President, I support fully the statement of Senator STAFFORD, chairman of the Committee on Environment and Public Works, with respect to section 125 of the Senate-reported version of the continuing resolution. This provision, if included in the final bill, would reauthorize the Federal-aid highway program for fiscal year 1983.

I appreciate the efforts of Senator ANDREWS, chairman of the Transportation Subcommittee of the Appropriations Committee, to continue the highway program; but this program, authorized by Federal-Aid Highway Acts and codified in title 23 of the United States Code, is under the jurisdiction of the Committee on Environment and Public Works as both the authorizing and spending committee. This program is unique in that it authorizes contract authority from the highway trust fund, thus requiring no appropriations prior to an obligation of the United States for highway projects.

The Committee on Environment and Public Works is moving as expeditiously as possible to consider legislation which will extend the highway program for 1 year and has asked the Senate Finance Committee to authorize a 1-year extension of the highway trust fund to accommodate the program authorization.

The language which the Appropriations Committee has included would be impacted by the so-called Byrd amendment which prohibits deficit financing by the highway trust fund. Only $6.5 billion of new authorizations could be apportioned and available for obligation in fiscal year 1983 under the Byrd amendment. This is substantially lower than the authorizations extended by section 125.

I again commend the committee and Senator ANDREWS for the concern demonstrated by inclusion of this provision. I assure you that the Committee on Environment and Public Works will make every effort possible to continue this vital program in fiscal year 1983.

The PRESIDING OFFICER. Is there objection to the request to withdraw the amendment? Without objection, the amendment is withdrawn.

Several Senators addressed the Chair.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 35, LINES 14 THROUGH 24

The PRESIDING OFFICER. The clerk will report the last excepted amendment.

The legislative clerk read as follows:

On page 35, lines 14 through 24 add new language:

SEC. 142. None of the funds appropriated under this joint resolution may be used by the Federal Trade Commission for the purpose of investigating, issuing any order concerning, promulgating any rule or regulation with respect to, or taking any other action (other than one that is already the subject of litigation in the courts of the United States on or before the date of enactment of this Resolution) against any State licensed and regulated profession (as that term would apply under the definition in 29 U.S.C. 152(12)) of the local, State or national nonprofit membership associations thereof.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The pending amendment is the committee amendment on page 35 beginning with line 14 amending the functions of the Federal Trade Commission.

Mr. SCHMITT. Mr. President, I ask unanimous consent that we lay that amendment temporarily aside, and I yield to the Senator from Illinois.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Illinois.

UP AMENDMENT NO. 1321

Mr. PERCY. I thank my distinguished colleague. I send to the desk an amendment on behalf of myself and my colleague, Senator DIXON.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Illinois (Mr. PERCY) for himself and Mr. DIXON proposes an unprinted amendment numbered 1321.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add the following new section:

Notwithstanding any other provision of this joint resolution there is appropriated $518 million, to remain available until expended, for Department of Transportation Interstate Transfer grants-Highways, and $365 million, to remain available until expended, for Department of Transportation Interstate Transfer grants-Transit: *Provided*, That allocations of these funds shall be distributed in accordance with House Report 97-783 or Senate Report 97-567, whichever is higher.

Mr. PERCY. I offer an amendment relating to the interstate transfer appropriations in the continuing resolution. The amendment reduces the fiscal year 1982 interstate transfers by $142 million and accommodates the allocations for fiscal year 1983 funds recommended by the House and by the Senate. The amendment establishes that the allocations—or earmarkings—in the House and Senate committee reports will apply.

This amendment is of great concern to my distinguished colleague from Illinois, the Illinois congressional delegation, and the Governor of Illinois, all of whom have worked so diligently on its behalf.

The interstate transfer program permits local governments to withdraw controversial, unbuilt segments of the Interstate Highway System and to use the funds freed by this move for substitute highway and transit projects. Not building the Crosstown Expressway in northeastern Illinois made the Chicago metropolitan area eligible for approximately $2 billion in interstate transfer funds. Illinois' unfunded transfer balance represents nearly 35 percent of the Nation's unfunded balance, more than any other State.

Mr. President, recognizing Illinois' large share of the unfunded balance, the House reported a fiscal year 1983 transportation appropriations bill that provided Illinois with nearly 24 percent of the total funds appropriated under this program. While my colleagues would consider this an extremely generous amount for a single State, I would note that it still falls short of Illinois' fair share of the unfunded transfer balance.

The House appropriated a total of $865 million for the interstate transfer program, earmarking $150 million for Illinois highway projects of the total $500 million in highway funding and

earmarking $51 million for Illinois transit projects of the total $365 million provided by the committee for all transit projects.

Mr. President, the Senate Appropriations Committee, however, provided Illinois with considerably less funding. The Senate appropriates a total of $600 million for the program, earmarking $15 million for Illinois transit projects and $51 million for Illinois highway projects. The committee appropriated totals of $225 million and $375 million for transit and highway projects respectively. To some extent, this reduction in Illinois funding is a reflection of the total reduction in interstate transfer funding by the Senate. But, in my judgment, Illinois has borne more than its fair share of the $265 million reduction from the House figures by the Senate. Of the total $265 million reduction by the Senate in the interstate transfer funds recommended by the House, Illinois received more than half of the reduction by the Senate. We received 23.8 percent of the funds earmarked by the House, but in the Senate we only received 11 percent of the funding.

Mr. ANDREWS. Mr. President, we can have no objection to accepting the amendment. We are put in the position of having to accept the amendment because the administration put a hold on the regular transportation appropriations bill, and not being able to move that bill, an injustice would be done to the State of Illinois and several other States if this amendment were not adopted, so we must accept the amendment.

Mr. PERCY. I thank my distinguished colleague very much indeed on behalf of all of those States affected by this amendment, particularly Massachusetts, New Jersey, Ohio, and Colorado.

Senator DIXON, who cosponsored the amendment, was instrumental in pressing for its adoption and certainly appreciates the accomodation by the Senator from North Dakota. Indeed, the Governor of Illinois and the entire congressional delegation deserve praise for their support, and appreciate your accepting the amendment.

Mr. ANDREWS. I might point out that not only has the senior Senator from Illinois approached us on this but the junior Senator from Illinois (Mr. DIXON) has been very instrumental in this fight as has the Governor of Illinois in repeated contacts with myself and our staff. We understand the problem. We could have achieved it in conference on the appropriations bill, but I understand we are not going to have a conference on the regular bill and the solution which is now being offered by Senator PERCY, along with Senator DIXON, is one that meets the need.

Mr. PERCY. I thank my distinguished colleague.

Mr. DIXON. Mr. President, I am pleased to offer, along with my distinguished colleague from Illinois, Senator PERCY, an amendment to preserve interstate transfer allocations as included in the fiscal year 1983 Department of Transportation appropriations bill recently passed by the House of Representatives.

The amendment also protects Senate allocations of interstate transfer funds, where those levels are greater than the House levels,

The net result of this amendment is to hurt no one who was expecting to receive funds under the program, and to provide an overall funding level below the 1982 level, while restoring funds to those areas that would otherwise lose money.

Illinois is one of the States that would otherwise be severely disadvantaged, and I appreciate the efforts and leadership of Senator ANDREWS, chairman of the Appropriations Transportation Subcommittee, and of Senator CHILES, the distinguished ranking member, in addressing Illinois' problems under the interstate transfer program.

Illinois currently is entitled to $1.9 billion in interstate transfer funds, as the result of agreements reached between the State of Illinois and the city of Chicago not to build the Crosstown Expressway. The Department of Transportation has approved those agreements. Illinois has approximately 35 percent of the outstanding interstate transfer balances, but has received far less than that percentage in past appropriations bills. The amendment Senator PERCY and I are offering today will not provide Illinois with the amount to which it is equitably entitled, however, it does take a step in that direction. It does provide Illinois with a fairer share of interstate transfer funds while not affecting allocations to other areas entitled to interstate transfer money.

I again thank my distinguished colleagues Senator ANDREWS and Senator CHILES for their willingness to accept this amendment and for their attention to my many requests on behalf of my State. I thank them for their courtesy and I hope the Senate will see fit to quickly adopt this amendment.

The PRESIDING OFFICER (Mr. HAYAKAWA). Is all time yielded back? All time having been yielded back, the question is on agreeing to the amendment of the Senator from Illinois (Mr. PERCY).

The amendment (UP No. 1321) was agreed to.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1322

(Purpose: To oppose institution of a means test in the medicare program)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to laying aside the remaining committee amendment?

Mr. SCHMITT. Mr. President, I ask unanimous consent that we temporarily set aside the pending committee amendment so the amendment of the Senator from New York can be considered. I believe it is also under a time agreement.

Mr. MOYNIHAN. The Senator is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN), for himself, Mr. HART, Mr. BAUCUS, Mr. KENNEDY, Mr. LONG, Mr. FORD, Mr. HEINZ, Mr. BIDEN, Mr. METZENBAUM, Mr. RANDOLPH, Mr. BRADLEY, Mr. PRESSLER, Mr. CANNON, Mr. SARBANES, Mr. PERCY, Mr. BUMPERS, Mr. RIEGLE, Mr. BENTSEN, and Mr. ROBERT C. BYRD, proposes an unprinted amendment numbered 1322.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following new section:

Since the United States Congress established the Social Security system in 1935 to provide for the general welfare by establishing a system of Federal old-age benefits; and

Since Medicare was made part of the Social Security system by Act of Congress in 1965 to provide for the general welfare through a system of health benefits for the aged; and

Since Medicare is an insurance program in which working Americans contribute their Social Security payroll taxes and in which the elderly and disabled pay health insurance premiums in order to receive health benefits promised under this insurance plan; and

Since proposals to limit eligibility for Medicare health benefits to lower-income persons would profoundly alter the character of health insurance for the aged and disabled by removing the insurance principle from the Medicare program;

It is the Sense of the Senate that the Congress should reject any proposal to impose a "means test" on eligibility for the Medicare program or benefits provided by the Medicare program.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays on this matter.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, if the managers of the bill would be willing to accept the amendment, which

has 18 Senators as cosponsors, I would be happy to vitiate the call for the yeas and nays.

Mr. SCHMITT. I understand that, but we have not had a chance to review the amendment.

Mr. MOYNIHAN. Of course.

Mr. President, 1 week ago or 2 weeks ago, more exactly, the Washington Post reported that a measure to impose a means test on the medicare program is under consideration in the White House. The next day the New York Times reported the same thing. "U.S. officials study a means test for medicare benefits for elderly."

Mr. President, this would be an extraordinary departure from our social security policy and program.

I have received letters from unions and senior citizen groups asking that this not be done. The Save Our Security Coalition and the National Council of Senior Citizens wrote, as did the AFL-CIO, ASFCME, the Communication Workers of America, the ILGWU, the UAW and the Service Employees Union. The Secretary of Health and Human Services, our former colleague, Secretary Schweiker, in testimony before the House Energy and Commerce Committee's Subcommittee on Oversight and Intelligence acknowledged that in the White House and in the Office of Management and Budget they are considering establishing a means test to be eligible for medicare, a requirement to prove wealth or absence thereof. He was asked his position, said he is opposed, and he told Representative GORE, "I would feel pretty confident I can win this argument." I think, Mr. President, we ought to help him do so by resolving here in the Senate that he ought.

Mr. President, I ask unanimous consent that the exchange between Representative GORE and Secretary Schweiker, the two articles from the New York Times and the Washington Post, and other relevant documents be printed to the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. GORE. The gentleman's time has expired. The Chair recognizes himself for five minutes.

Mr. Secretary, we have a long list of topics to discuss with you, but I would like to discuss a matter that is on the minds of an awful lot of people after yesterday's reports. It has been reported that this administration and the Office of Management and Budget in particular is considering a means test for Medicare. Do you support a means test for Medicare?

Chairman SCHWEIKER. Mr. Chairman, first let me say that, as you quite correctly said, the story that you saw in the paper did not originate in our department. Our department has not had such a means test under consideration. I would personally be opposed to a means test for Medicare.

Mr. GORE. Do you think this is something—well, you referred earlier to another point at which you disagreed with OMB, but on that occasion OMB won the argument. Is this an argument that we ought to anticipate will continue and bubble up in a form that the Congress will have to prevent the administration from doing?

Chairman SCHWEIKER. Mr. Chairman, no doubt at some point it certainly will bubble up in some way. I would feel pretty confident that I can win this argument.

[From the New York Times, Sept. 19, 1982]

U.S. OFFICIALS STUDY A MEANS TEST FOR MEDICARE BENEFITS FOR ELDERLY

(By Robert Pear)

WASHINGTON.—Federal officials said today that the Office of Management and Budget was studying proposals to trim the cost of the Medicare program by requiring elderly people to demonstrate financial need as a condition of receiving benefits.

The officials acknowledged that the introduction of a "means test" would represent a significant change, making Medicare less of an insurance program for the elderly and more of an income assistance program like Medicaid.

Lyndon K. Allin, deputy press secretary at the White House, said he knew of "no plans under consideration at the White House involving a means test for Medicare."

Senior White House officials have said they were deliberately keeping themselves uninformed about details of the proposals for Medicare, Social Security and other benefit programs because they did not want to move toward decisions on such controversial issues before the Nov. 2 elections.

About 26 million elderly and three million disabled Americans are enrolled in Medicare. Its cost, about $50 billion this year, is expected to reach almost $100 billion in 1987 if the law continues unchanged.

Government data indicate that the average Medicare benefit for a recipient this year is about $2,500. Medicare pays for most in-patient hospital care, skilled care in nursing homes, home health care and other medical costs after certain deductions. For the optional insurance that covers physician services, and elderly person must pay a premium of $12.20 a month.

The idea of a means test for Medicare arose in planning for the 1984 budget that President Reagan must submit to Congress in January. He is looking for Medicare savings of $4 billion to $6 billion for the 1984 fiscal year, according to officials of the budget office. That would be in addition to the $2.8 billion in savings achieved by Congress through changes in hospital reimbursement and other Medicare cuts that take effect in fiscal year 1983, which starts Oct. 1.

Donald W. Moran, executive associate director of the budget office, and Randy Teach, a senior official of the Federal Health Care Financing Administration, which supervises Medicare and Medicaid, confirmed that there had been discussions of a means tests for Medicare.

"Obviously, it's politically horrific, but we ought to think about the possibilities," Mr. Moran said, adding that no decisions had been made.

Lynn Etheredge, an economist involved in the discussions at the Office of Management and Budget, said a means tests was a way of directing benefits to people who needed them most. He noted the large savings being sought in 1984 and said: "When one starts making those kinds of reductions, I think it is necessary to start thinking about means testing. Otherwise you really do wind up hurting the poor very badly."

Mr. Etheredge, an expert on the financing of health care, resigned last week after more than 10 years on the staff of the budget office. He said he wanted to seek an academic position and had "a lack of enthusiasm" for the next round of budget reductions.

Eugene Eidenberg, director of the Democratic National Committee, said that if the Administration was serious about a means test for Medicare, it would generate a "firestorm of reaction." He predicted that Republicans would disavow the proposal but that Democrats nevertheless "will campaign on the issue."

'FURTHER FUEL ON THE FIRE'

"Social Security is already a white-hot issue," Mr. Eidenberg said. "This throws further fuel on the fire."

Mr. Moran of the budget office, using a similar metaphor, said he did not want to discuss the proposal because "any further discussion is just going to pour gasoline on a match."

Since a means test would make Medicare more similar to Medicaid, the medical assistance program for the poor, some Administration officials have suggested that the proposal might be described as an expansion of Medicaid to include more of the elderly, rather than a cutback in Medicare. As part of his "new federalism" initiative, President Reagan has proposed that the Federal Government pay Medicaid costs now borne by the states.

Michael D. Bromberg, executive director of the Federation of American Hospitals, a trade association, said Reagan Administration officials had discussed with him the idea of a means test for Medicare. He said it might be difficult for the Administration to propose such a test because it would affect "the same population group" as would changes in Social Security.

PANEL STUDYING SOCIAL SECURITY

President Reagan has established a 15-member commission under Alan Greenspan, the economist, to recommend a bipartisan solution to the long-term financial problems of the Social Security system. The commission, which includes seven members of Congress, must submit its report by the end of the year.

In the budget submitted to Congress in February, President Reagan said there was an urgent need to trim the Medicare program because otherwise "the Medicare hospital insurance trust fund will see expenditures exceeding income in 1985 and will be exhausted by the early 1990's."

Some Democrats disagree with that forecast. But in any event, Administration officials said, the problems of the Medicare trust fund would probably become worse if there was a transfer of money from the Medicare fund to the Social Security trust fund, which finances old age and survivors insurance benefits. Congress has authorized such "interfund borrowing."

Mr. Teach of the Health Care Financing Office said the Office of Management and Budget "has been talking about a means-tested system" for Medicare as one of several options. Edwin L. Dale Jr., a spokesman for the budget office, said he would not call it a "means test" but preferred to describe it as a "layering of benefits according to your income."

WOULD STILL PAY HIGH EXPENSES

Under one proposal, Mr. Etheredge said, the Government would still protect the elderly by paying the cost of hospital and

physician services above a specified amount, perhaps $3,000 or $4,000. The elderly could buy coverage for medical expenses below that amount, he said. Those with income above a certain level would have to pay the full cost of such insurance, while the Government would subsidize the coverage of those who could demonstrate financial need.

Under this arrangement, he said, elderly people would be automatically entitled to the portion of Medicare financed through Social Security payroll tax contributions. But the portion of the program financed with general revenues would be subject to a means test.

Dr. Robert J. Rubin, an Assistant Secretary of Health and Human Services, said he doubted that a means test would save much money because the median income of Medicare beneficiaries was only about $15,000 a year.

Other Federal officials said it was not easy to verify the income of elderly people. Large numbers of the elderly file no tax returns, either because they have small incomes or because they receive income, such as Social Security benefits, that is not subject to income tax.

[From the Washington Post, Sept. 18, 1982]

U.S. EYES MEANS TEST AS WAY TO RESTRICT MEDICARE BENEFITS

(By Spencer Rich)

Proposals to use a means test in Medicare and deny some or most Medicare benefits to higher income elderly persons are under study by the Reagan administration.

Sources stressed that consideration of a means test, never before applied to any major Social Security program, is only in the preliminary stage and may be junked before it gets very far. No decisions have been made, and the idea is just being weighed to see how much it could save for the $55 billion program.

But any plan to use a means test would breach the deeply embedded principle of automatic entitlement to rights earned by paying the Social Security payroll tax and would run into a firestorm of opposition. The AFL-CIO, American Association of Retired Persons and Save Our Security Coalition said yesterday that they would go all-out against the plan.

White House and Office of Management and Budget officials are aware of the potential opposition and are wary of stirring it up. But they are eager to find ways to cut the giant program, both to strengthen its shaky funding and to hold down government spending generally. Two proposals are under study:

Setting some income cutoff for the elderly, perhaps $30,000 a year, and denying regular Medicare benefits to those over the cutoff. These people, however, would be given a new "catastrophic insurance" guarantee under which, once an individual with heavy medical bills had paid $2,500 or $3,000 out of his own pocket, the government would pay the rest.

One problem with this idea, according to a government expert, is that very few elderly people have income that high, so in order to get any real money out of this approach, the cutoff would have to be much lower than $30,000. In that case, large numbers of people of rather moderate income (instead of just a handful of wealthy) would be subjected to a means test and have large out-of-pocket medical bills.

The administration is trying to find out how low the cutoff would have to be to realize large savings. If it's too low, said one administration source, it would be both unfair and "political craziness to try to do it."

Increasing the amount most Medicare patients must pay out-of-pocket for days in the hospital, but allowing low-income people to escape the extra charges. At present, a Medicare beneficiary pays $260 for his first day in the hospital, then gets free hospital care through the 60th day.

When Congress created Social Security in 1935, it decided against making it a charity program, said former secretary of health, education, and welfare Wilbur J. Cohen, who served as research aide in 1934 to one of the chief planners of the act.

"The idea was to forestall poverty and dependency, not to take care of people by welfare after they became poor," Cohen said yesterday.

By giving people benefits to which they contribute by paying payroll taxes, and then making them automatically entitled to benefits, Social Security provides real security; having to ask for welfare and prove you need it isn't the same kind of security at all, he said.

SOS COALITION OPPOSES MEANS TEST FOR MEDICARE

The Save Our Security coalition today threw its full weight behind a sense-of-the-Senate resolution, introduced by Senator Daniel Patrick Moynihan (D-N.Y.), in opposition to the use of any "means test" for Medicare beneficiaries.

The statement in support of S. Res. 472 was issued by two former Secretaries of Health, Education and Welfare—Wilbur J. Cohen, who held that post in the Johnson Administration, and Arthur Flemming, who headed the Department under President Eisenhower.

Cohen chairs the SOS coalition, which is composed of more than 100 organizations with a combined membership of nearly 40 million adult Americans, divided almost equally between contributors to, and beneficiaries of, social security. Flemming chairs the SOS Advisory Committee.

The SOS statement declared:

"The introduction of a means test to determine whether or not people will receive Medicare benefits is wrong and would undermine the contributory concept on which the entire social security system is based. Such a move would destroy public confidence in the system, because it would require all workers to continue contributing to Medicare, but would make its benefits available primarily to one class of people—those with low incomes.

"Any reliance on an income test would result in a vastly increased amount of paper work, a larger bureaucracy, and a welfare-type system to replace one in which benefits are made available as a matter of right. Workers and their families build their entitlement on the basis of work and contributions, and there is no justification for tampering with this successful formula.

"We applaud Senator Moynihan's action in seeking to preserve the character of social security in general, and Medicare in particular, so that this system will continue to serve all elderly or disabled Americans and their dependents.

"We call on the Senate to ratify this resolution, so that the American people will be reassured that there will be no attempt to erode these critically important benefits."

NATIONAL COUNCIL OF SENIOR CITIZENS,
Washington, D.C., September 24, 1982.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR MOYNIHAN: The National Council of Senior Citizens, representing over four million elderly persons, most of whom are Medicare beneficiaries, applauds your sponsoring of S. Res. 472, opposing a Medicare means test. We believe that a means test would destroy not only the health care protection of the elderly and disabled, but also the Medicare program itself.

We believe that to impose a means test on Medicare eligibility or benefit levels can only be regarded as a deliberate destruction of Medicare's fundamental principles for questionable economic savings. In addition, we consider it a heartless limitation of health care protection for the population in greatest need of health care services.

Older people already pay 20 percent of their incomes toward health care because of Medicare's limitations. The National Council of Senior Citizens, therefore, believes that there is positively no acceptable rationale for further burdening these citizens. To have them pay even more out of their own limited incomes, or worse, to force them to sacrifice their health through a means test, is contemptible public policy.

Therefore we urge your Senate colleagues to join you in opposing a Medicare means test by supporting S. Res. 472, and to look for Medicare program savings through legitimate and equitable industry-wide health care cost containment.

Sincerely,

WILLIAM R. HUTTON,
Executive Director.

COMMUNICATIONS WORKERS OF AMERICA,
Washington, D.C., September 24, 1982.

Hon. DANIEL PATRICK MOYNIHAN,
Russell Senate Office Building, Washington, D.C.

DEAR SENATOR MOYNIHAN: The Communications Workers of America strongly supports legislation you have authored, Senate Resolution 472, which expresses opposition to any proposal that would deny eligibility for participation in the Federal medicare program.

Along this line, the Union has been disturbed to learn that the Office of Management and Budget is studying the idea of imposing a "means test" to limit the protection offered by the medicare portion of the social security system. Such as assault on this essential program could result in reducing assistance to thousands of aged, blind and disabled older Americans.

The late Senator Hubert Humphrey once observed that one of the basic measures of a decent society is how it treats those who are in the "twilight of life." By its recent admission that it is studying the use of a "means test," this Administration, however, stands prepared to tolerate a larger human deficit among the elderly, sacrificing their needs upon the alter of the budget deficit. While "survival of the fittest" may serve as the law of the jungle, it has no place in our nation's social policy.

From a different viewpoint, CWA firmly believes that the "means test" proposal is a backdoor attack on the Federal social security system. Adoption of such an idea could be a first step toward applying the budget meat axe to the social security program before the National Commission on Social

Security Reform has issued its report on this subject.

In conclusion, CWA urges Senators to support the Moynihan legislation when it comes before the Senate for debate and vote next week as an amendment to H.J. Resolution 599, the continuing resolution. On behalf of our more than 650,000 members in 45 states, we are convinced that adoption of this legislation will not only maintain the well-being of our nation's senior citizens but will also assist in preserving the historic compact that binds the social security system to the American people.

Sincerely,

JAMES B. BOOE,
Executive Vice President.

ILGWU,
New York, N.Y., September 24, 1982.

Hon. DANIEL PATRICK MOYNIHAN,
442 Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MOYNIHAN: As President of the International Ladies' Garment Workers' Union I would like to express our strong support for S. Res. 472 opposing the imposition of a means test on eligibility for Medicare benefits.

The Medicare program is part of a compact between older Americans and their government. As workers, today's elderly paid their Social Security taxes with the promise of a secure income in their later years. With the inclusion of Medicare into the Social Security system in 1966, these same individuals added a pledge of a portion of their earnings (through the Social Security tax) to the provision of health care services. Older Americans have thus earned the right to the fullest coverage available under the Medicare program.

Any proposal such as the current one by the Office of Management and Budget, to subject Medicare to a means test is a shameless attack on our aged. The effects on the nation's elderly would be financially, physically and psychologically devastating.

Health care costs rose, according to the Bureau of Labor Statistics, by 12.5 percent in 1981. This is the largest increase since the government began reporting on medical costs in 1935 (NYT, 7/27/82). "Total per capita health care costs not paid for by Medicare have also grown as a percentage of the elderly's income over the past decade, from 16.8% of total income in 1970 to 19.1% in 1980, to the point where such expenses now approach pre-Medicare levels." (Senate Special Committee on Aging—Information Paper. April, 1982) Private insurance to supplement Medicare pays only 6.6% of the elderly's health care expenditures, and the premium rates for these policies have seen staggering increases, some more than doubling over the last decade.

As described by the OMB the proposal under consideration would have the government continue to pay for hospital and physician services to the elderly above a certain amount (suggested to be $3,000 or $4,000 a year). Older people would then apparently be able to buy coverage below this specified amount. Those individuals with incomes above a certain level would have to pay for the entire cost of such insurance and the government would subsidize the coverage of those who could demonstrate financial need. We have seen the effects of the requirements for "demonstration of financial need" all too often amongst our retired garment workers. Living on fixed incomes, they rely on their life savings as a source of independence and pride symbolizing years of hard work and contribution to the American economy. When help is needed, merely to ask for it can challenge the pride and provoke great fears of dependency in any older person. Yet they will apply for Medicaid, for SSI, only to be subject to their means tests, to long application procedures and interviews, and in the end to "fall through the cracks" being told they have "too much money" to qualify. As a 92 year old, widowed retiree, with no family said: "My savings are gone. I want to stay in my home and take care of myself but I need a little help."

This proposal, in short, would further reduce the already decreased scope of Medicare benefits by limiting access to the program. It is an attempt to render the elderly a "class divided" by the use of categorical eligibility restrictions.

President Reagan is reported to be looking for an additional 4 billion dollars in savings in the Medicare program for 1984. This is in addition to the billions already "saved" over the last two years. The OMB would have us believe that this proposal would not be a cutback in Medicare but an expansion of Medicaid because Medicaid eligibility is already determined by a means test.

The ILGWU and the labor movement are outraged at this calculated attempt to once again balance the budget on the backs of America's elderly. We hope the Senate of the United States, as an important part of Congress, will completely repudiate such a heartless attack on our aged.

Respectfully yours,

SOL C. CHAIKIN,
President, and as Chairman, AFL–CIO Committee on Social Security.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., September 23, 1982.

Hon. PATRICK MOYNIHAN,
442 Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MOYNIHAN: The AFL–CIO strongly supports the resolution opposing Medicare means testing which you introduced on September 21st with Senator Kennedy.

Medicare beneficiaries have paid for their health insurance protection through social security payroll taxes. Means testing is a punitive proposal that would involve complicated forms and arbitrary eligibility determinations that would put senior citizens in the same category as welfare recipients and force many to purchase private health insurance out of their meager monthly benefits. Older Americans would be faced with a cruel choice between food, fuel and health care, a choice nobody should be forced to make.

We consider the means testing proposal to be another example of the Administration's willingness to slash beneficiary services rather than look for legitimate ways of reducing medical care costs. Means testing ignores the basic defects in our medical care system and would provide no incentive for the real decision makers, namely the providers and suppliers of health services, to control soaring doctor fees and hospital charges.

Sincerely,

RAY DENISON,
Director Department of Legislation.

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES,
Washington, D.C., September 24, 1982.

Hon. DANIEL P. MOYNIHAN,
442 Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MOYNIHAN: On behalf of AFSCME's one million members, I want to let you know of our strong support for S. Res. 472.

This resolution, which you introduced along with Senator Kennedy, expresses our strong opposition to means test for Medicare. A means test would not only jeopardize the integrity of the Medicare program, but would also be a betrayal to the 28 million senior citizens and disabled who rely on Medicare.

We firmly believe that something must be done to control the rapidly escalating costs of health care delivery. However, the only effective and equitable solution is for Congress to enact a viable comprehensive cost-containment proposal.

Again, we strongly support S. Res. 472.

Sincerely,

GERALD W. MCENTEE,
International President.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,
Washington, D.C., September 24, 1982.

DEAR SENATOR: The UAW strongly opposes any move to make Medicare a "means-tested" program. Recent reports indicate such a proposal is under consideration by the Administration.

Senator MOYNIHAN has proposed a "sense of the Senate" resolution that would place the Senate firmly on record against a "means test" to determine eligibility for participation in the Medicare program or for the benefits of that program.

The UAW urges that the Senate adopt the Moynihan resolution to send the Administration an unmistakable message that any proposal to establish a "means test" for Medicare is absolutely unacceptable.

We understand that Senator MOYHIHAN will offer his resolution as an amendment on the Senate floor next week. We hope you will support the Moynihan amendment.

Your consideration of the UAW position on this issue will be appreciated.

Sincerely,

DICK WARDEN,
Legislative Director.

SERVICE EMPLOYEES INTERNATIONAL UNION, AFL–CIO/CLC, LEGISLATIVE DEPARTMENT,
Washington, D.C., September 28, 1982.

DEAR SENATOR MOYNIHAN: On behalf of the Service Employees International Union's 700,000 members, including 250,000 health care workers, I would like to let you know of our strong support for your resolution opposing institution of a means test in the Medicare program.

A means test would not only jeopardize the integrity of the Medicare program, but would constitute a breach of faith with the 28 million senior citizens and disabled Americans who now depend on the program, and no less with the millions more who expect to rely on Medicare when they retire or should they fall disabled.

We believe that something must be done to control the spiraling costs of health care. We are, however, firm in our opposition to doing so through imposing a means text on Medicare. Indeed, we continue to think that the only effective and equitable solution is

comprehensive cost containment legislation. Limiting Medicare eligibility or benefits only to the poorest Americans is not a just or effective substitute.

Again, we strongly support your efforts.

Sincerely,

JOHN J. SWEENEY,
International President.

Mr. MOYNIHAN. I yield to the Senator from Colorado, who joins me as an original cosponsor in this matter.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. Mr. President, I am pleased to join with our colleague from New York, who, together with this Senator, recognized immediately the implications of this trial balloon and spoke out publicly.

In fact, Mr. President, when the first indications of an OMB proposal for a means test surfaced, Congressman PETER PEYSER and I introduced a joint resolution in opposition to such a proposal. Hopefully both resolutions will result in Congress heading off this unwise idea.

We all know, or anyone who has taken the trouble to study the history of the medicare system knows, it is an insurance program. The net effect, in practical terms, of imposing a means test is to transform it into a welfare program in the worst sense of the word.

It would require, in effect, every retired person or every senior citizen in this country registering his or her income level and dependency to qualify for medicare. That would constitute a complete revolution in the medicare system. It would place every retired person and every senior citizen on notice that that individual would have to notify the Federal Government of a need for Federal assistance.

That is not what the Congress intended. That is not what the law contemplates. That would completely revolutionize the system. It would embarrass every senior citizen in this country unnecessarily. For those reasons, if for no others, this resolution should be adopted. But, we must send a signal not only to the administration or anyone else in the executive branch who might be contemplating this very unwise idea, perhaps illegal idea, but more importantly to every retired person and senior citizen that the Senate of the United States and the Congress of the United States will not see a fundamental insurance program transformed into a welfare program.

So I strongly support the resolution. I wholeheartedly commend the Senator from New York for his recognition of its implications. And I think the Senate should speak out strongly and uniformly against this proposal.

Mr. MOYNIHAN. Mr. President, I appreciate the remarks of the Senator from Colorado, but I must insist that we came together to the floor and we feel very firmly that social security is social insurance not welfare.

I reserve such time as I have remaining.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. SCHMITT. I yield 4 minutes to the Senator from Kansas.

Mr. DOLE. The Senator from Kansas will just take a minute. I do not have any quarrel with the resolution, primarily because I have not seen it. Maybe I will take a look at it.

I do not know of anybody in the administration who is talking about a means test, but maybe if somebody says there is and somebody repeats that somebody says there is, pretty soon it will be a fact.

I have heard what Secretary Schweiker has said in the House hearing. But I do not think we ought to try to deceive people who receive medicare or anything else. The system is about to go broke and the funds are going to be depleted in the hospital fund one of these days. We are already about to break up social security and the disability fund. So it is easy to stand up and say we are never going to do anything except keep draining out the money. I do not suggest that has been the intent of this amendment. But I do agree with Secretary Schweiker that is not under active consideration.

It would come to the Senate Finance Committee. As far as this Senator knows, no one in the administration has discused it with anyone on the Senate Finance Committee, unless they have discussed it with the distinguished Senator from Colorado.

Mr. ARMSTRONG. I have not read the resolution, either.

Mr. DOLE. The Senator has not read the resolution, either. So I think we all would agree it probably does not belong on an appropriations bill. But I think if, in fact, we want to send a signal to anybody at this time, I think this may be a good way to do it.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, again, echoing the Senator's remarks, the committee would have no objection to accepting this amendment. I think it is important, however, to recognize that the Secretary of Health and Human Services, Mr. Schweiker, has said specifically and publicly that he personally opposes the means testing for medicare, that no senior Department official has been involved in considering means testing for medicare and that he personally feels that in any policy debate within the administration his view on this subject would prevail.

Of course, as the Senator from Kansas has indicated, times change. We sometimes have to discuss things that at one point we do not think we are going to discuss. But certainly at this time, all of us are in agreement that it is not appropriate to discuss means testing.

I think the amendment can be accepted by the committee. If the Senator from New York will allow us, we will vitiate the order for the yeas and nays.

Mr. MOYNIHAN. I have to report that my colleague from Colorado, who was not on the floor when I agreed to that, feels that we should have a 10-minute rollcall vote.

MEDICARE MEANS TESTING

Mr. BAUCUS. Mr. President, I strongly support this resolution, and I am pleased to cosponsor it. Adopting a means test to determine eligibility for medicare benefits would be a fundamental and inappropriate change in the medicare health insurance program. It would constitute a broken promise to America's 25 million elderly and disabled who rely on the protection that medicare affords. Offering this proposal demonstrates the bankruptcy of this administration's policy toward the most vulnerable members of society.

Mr. President, I do not need to explain to my colleagues that medicare is first and foremost an insurance program. Working Americans contribute their payroll taxes so that they will become eligible for hospital benefits when they retire or become disabled. Elderly and disabled medicare recipients pay monthly health insurance premiums for the coverage they receive under medicare part B for physicians' services.

The administration wants to convert this insurance program into a welfare program for one reason—the administration wants to halt any increase in Federal outlays for health care. However, this administration does not favor hospital cost containment to hold down spiraling health costs. This administration does not favor putting real restraints on the rate of increase in physicians' fees.

To see what action the Reagan administration favors instead, we need only look at what the administration has sent to the Congress for the past 2 years—proposal after proposal to increase beneficiary cost sharing; proposal after proposal to dilute medicare benefits; proposal after proposal ostensibly affecting doctors and hospitals, but constituting instead cost shifting to America's senior citizens.

There is no question about the administration's medicare goals. The administration wants to put a "cap" on Federal medicare outlays, and it wants to use "vouchers" or "cost sharing," or "means tests" to disguise its basic rejection of the medicare program. These terms are only code words meant to hide its goal—that they want us to turn back the clock on the access to quality health care that medicare provides; and turn our backs on the

health care needs of a vulnerable segment of American society.

Mr. President, I look forward to working with my colleagues to take steps to control health care costs, to improve medicare administration, to promote a more effective and competitive health care system. But, I will not break the promise made to the elderly by Congress in 1965 by supporting a medicare means test. I urge my colleagues to put the Senate on record on this issue; we should support this resolution and reject the proposal of a means test for medicare eligibility or benefits.

MEANS-TESTING MEDICARE

Mr. KENNEDY. Mr. President, I am strongly opposed to any means test in medicare. For nearly 2 years the senior citizens of this country have had to live in fear—fear that the two fundamental programs that provide security in their old age—social security and medicare—will be dismantled. To a large extent, we have been successful in turning back the administration's assaults against these critical programs. But so long as the administration persists in its course, no senior citizen can feel secure that their retirement years will be immune from reduction in social security benefits or the ravaging costs of health care. It is unconscionable to subject the elderly of America to such uncertainty and anguish.

Early in their first year, the administration proposed massive reductions in social security that would cost recipients more than $80 billion and cut benefits by 23 percent. That proposal was dramatically and unanimously rejected by the Senate.

But no lesson was learned. The very next year, the Republican controlled Senate Budget Committee adopted a budget resolution which was endorsed by the President calling for a $40 billion budget cut in social security over 3 years—a $1,000 reduction for every recipient. This proposal was hastily withdrawn in the face of immediate efforts by Senator RIEGLE and me to bring the proposal to a Senate vote.

The administration's record on medicare has been just as appalling. In its budget for fiscal year 1983, the administration proposed to slash an incredible $15 billion from medicare over 3 years—most of which would have come directly out of the pockets of the elderly and disabled. Some of the proposed reductions were rejected by Congress—but the bill recently enacted still contains billions of dollars in cuts which will mean substantial new out-of-pocket costs for the elderly, the disabled and for the working people of America.

Now we learn that the administration is considering proposals to means test medicare.

These proposals are completely contrary to the basic premise of medicare, to protect all of the elderly and the disabled from the high costs of health care. It is a betrayal of the Government's commitment to the senior citizens of America, who have contributed so much to this country.

The proposal to means test medicare is nothing more than a transparent attempt to shift more and more of the costs of medicare onto the backs of the elderly. Older Americans already pay a substantial percentage of their limited resources for health care costs. In fact, medicare pays only 45 percent of the costs of health care for the average elderly American. Our senior citizens pay an average of over $1,400 per year for health care costs not covered by medicare—nearly 20 percent of their income. There is simply no justification for shifting even more of the costs to the elderly. We will never contain the skyrocketing costs of medicare and health care until Congress attacks the problem directly—by reforming our outmoded system of reimbursement, which provides incentives to increase, not limit costs. We should not ask the elderly to pay the price of our failure.

When medicare was enacted in 1965, it was based on insurance principles. Workers and their employers pay into medicare during their working years in order to guarantee that their basic health care costs will be met when they reach age 65 or become disabled. Means testing medicare is a betrayal of this basic trust, and an affront to the 29 million elderly and disabled Americans who rely on medicare.

Social security and medicare are the twin pillars of our national commitment to assure the quality of life for the millions of senior citizens who have worked and sacrificed to make our Nation strong. The administration has repeatedly attacked the foundations of this system, first through its unwarranted proposals to dismantle the protection of social security and now through its unconscionable attempts to destroy medicare.

I urge my colleagues to join with us in supporting this amendment.

Mr. President, I ask unanimous consent to have certain related material placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 22, 1982]

MEDICARE'S FOR EVERYONE

As the administration casts about for ways to lighten the federal budget, its attention is naturally drawn to the Medicare program which, next year, will spend over $50 billion on health care services. Since there is no miracle cure for the high cost of modern medicine as applied to a fast-growing population of elderly, the only way to get quick and big savings is to make retirees pay more of their own medical bills.

Medical care, however, has become so expensive that most elderly and disabled people already find it a strain to cover the part of medical costs that isn't covered by Medicare. The very poor can also get help from the Medicaid program, but most people can't qualify unless they have used up almost all of their savings on medical bills. This has led budget planners to think about schemes that would deny full coverage to people with relatively high incomes—in other words, introduce a "means test."

Health and Human Services Secretary Richard Schweiker, however, told a congressional panel this week that he opposes such an idea and will strongly advise the White House not to propose it. That's good advice. There are many practical difficulties with this approach, not the least of which is that to make a proposal politically acceptable, the income limit would have to be set so high that it wouldn't save much money.

But it's not the practical difficulties that should give the administration pause. It should look instead at why a lower limit, or any limit at all, would meet with huge political resistance. Most people, with good reason, don't look at Social Security and Medicare as gifts dispensed by a beneficent government. They look at universal retirement and health insurance as basic services that government should provide its citizens in return for the taxes they pay. True, many people could save up to buy health insurance for their old age—though they'd pay more for it than Medicare does because of the high overhead on privately marketed plans. But many others—no matter what their prior earnings—would fall between the cracks.

There are numerous hazards that can't be planned for—unemployment, divorce, desertion, competing money demands for a child's education or a parent's care. Most threatening is the substantial risk that, just when health coverage is needed most, a private insurer will decide that a person is no longer a "good risk." Full insurance is something that only government can provide. That's why, when the White House reviews its Medicare options, a means test should be ruled out.

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES,
Washington, D.C., September 24, 1982.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR KENNEDY: On behalf of AFSCME's one million members, I want to let you know of our strong support for S. Res. 472

This resolution, which you introduced along with Senator Moynihan, expresses our strong opposition to a means test for medicare. A means test would not only jeopardize the integrity of the Medicare program, but would also be a betrayal to the 28 million senior citizens and disabled who rely on Medicare.

We firmly believe that something must be done to control the rapidly escalating costs of health care delivery. However, the only effective and equitable solution is for Congress to enact a viable comprehensive cost-containment proposal.

Again, we strongly support S. Res. 472.

Sincerely,

GERALD W. MCENTEE,
International President.

SEPTEMBER 23, 1982.

Hon. PATRICK MOYNIHAN,
Russell Senate Office Building, U.S. Senate, Washington, D.C.

DEAR SENATOR MOYNIHAN: The AFL-CIO strongly supports the resolution opposing Medicare means testing which you introduced on September 21st with Senator Kennedy.

Medicare beneficiaries have paid for their health insurance protection through social security payroll taxes. Means testing is a punitive proposal that would involve complicated forms an arbitrary eligibility determinations that would put senior citizens in the same category as welfare recipients and force many to purchase private health insurance out of their meager monthy benefits. Older Americans would be faced with a cruel choice between food, fuel and health care, a choice nobody should be forced to make.

We consider the means testing proposal to be another example of the Administration's willingness to slash beneficiary services rather than look for legitimate ways of reducing medical care costs. Means testing ignores the basic defects in our medical care system and would provide no incentive for the real decision makers, namely the providers and suppliers of health services, to control soaring doctor fees and hospital charges.

Sincerely,

RAY DENISON,
Director, Department of Legislation.

Mr. GLENN. Mr. President, I am pleased to join Senator MOYNIHAN in cosponsoring a sense-of-the-Senate resolution expressing Congress opposition to any attempt by the administration to impose a means test for medicare beneficiaries.

The medicare program is important in providing for the health care needs of 26 million elderly Americans and 3 million disabled Americans, but it only covers about 45 percent of their health care expenses. Even with medicare, in 1980 the elderly spent an average of $1,435, or 19.1 percent of their income, for health care.

Recently, Congress passed legislation which makes changes in the medicare program that will increase out-of-pocket health care costs for medicare beneficiaries. I opposed these cuts in medicare, and I oppose the administration's latest proposal to require beneficiaries to demonstrate financial need as a condition of receiving medicare benefits.

Rising health care costs—particularly hospital costs and physicians' fees—must be addressed by Congress, and I am hopeful that the Finance Committee will hold hearings on this important issue in the near future. In the meantime, I will continue to oppose cuts in medicare which will increase out-of-pocket health care payments that are already a great burden for many of our Nation's older Americans.

We must not break faith with those who have paid into the social security system and are now entitled to health and retirement benefits, and we must not break faith with workers who are paying into the system for their future benefits.

Mr. DOLE. Mr. President, I yield back any remaining time.

Mr. SCHMITT. Mr. President, the committee yields back its remaining time.

Mr. BUMPERS. Mr. President, did I understand the committee chairman to say he yielded back his remaining time?

Mr. SCHMITT. I did.

UP AMENDMENT NO. 1323

(Purpose: To express the sense of the Senate that October 10, 1982, should be declared "National Peace Day")

Mr. BUMPERS. Mr. President, I send a sense-of-the-Senate resolution to the desk as an amendment in the second degree and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS), for himself and others, proposes an unprinted amendment numbered 1323.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment offered by the Senator from New York, add the following:

NATIONAL PEACE DAY

SEC. . The Senate finds that:

a. Wars are raging in several parts of the world inflicting incalculable loss of human lives and property, with unbearable human suffering and grief; and

b. The presence of huge nuclear arsenals in the world present an ever present threat to the survival of mankind; and

c. Though war in a very troubled and divisive world is an ever present possibility and threat, the United States has been at peace since the end of the Vietnam conflict; and

d. The benefits of peace and the value of life should be ever present in the thoughts of all people; and

e. A day should be set aside for the American people to reflect on the values of peace and the horrors of war; and

f. The President should proclaim a day of peace and call on the people of the country to commemorate it with such ceremonies and activities as are appropriate and in keeping with an expression of gratitude for living in a great, free Nation at peace.

In view of these findings, it is the sense of the Senate that October 10, 1982, should be designated as "National Peace Day" and that the President of the United States should issue a proclamation calling upon Federal, State, and local government agencies, interest groups, organizations, and the people of the United States, to observe that day by engaging in appropriate activities and programs, thereby showing their commitment to peace.

Mr. BUMPERS. Mr. President, this amendment is offered for myself, Mr. TSONGAS, Mr. BRADLEY, Mr. GORTON, Mr. DECONCINI, Mr. SPECTER, Mr. GLENN, Mr. PRESSLER, Mr. SASSER, Mr. HATFIELD, Mr. INOUYE, Mr. STAFFORD, Mr. NUNN, Mr. CHAFEE, Mr. RIEGLE, Mr. WEICKER, Mr. PRYOR, Mr. DANFORTH, Mr. CRANSTON, Mr. MOYNIHAN, Mr. DODD, Mr. HUDDLESTON, Mr. HART, Mr. DIXON, Mr. EXON, Mr. BURDICK, Mr. BAUCUS, Mr. FORD, Mr. HOLLINGS, Mr. JACKSON, Mr. SARBANES, Mr. BIDEN, Mrs. KASSEBAUM, Mr. MATHIAS, Mr. BOSCHWITZ, Mr. RUDMAN, Mr. HAYAKAWA, and Mr. MATSUNAGA.

This amendment calls on the President to proclaim October 10, 1982, as "National Peace Day," calling upon Federal, State, and local government agencies, interest groups, organizations, and the people of the United States to observe that day by engaging in appropriate activities and programs, thereby showing their commitment to peace. I hope the amendment is acceptable.

Mr. SCHMITT. Mr. President, it is an amendment in the second degree.

Mr. BUMPERS. Mr. President, I move adoption of the amendment.

Mr. SCHMITT. If the Senator would withhold, it is an amendment to the amendment of the Senator from New York.

Mr. BUMPERS. He has no objection.

Mr. SCHMITT. With that assurance, I have no objection.

Mr. BUMPERS. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Do Senators yield back their remaining time?

Mr. SCHMITT. I yield back the remainder of my time.

Mr. BUMPERS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment offered by the Senator from Arkansas.

The amendment (UP No. 1323) was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from New York, as amended.

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Michigan (Mr. RIEGLE) is necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) would vote "yea".

The PRESIDING OFFICER (Mr. BRADY). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 70, nays 29, as follows:

[Rollcall Vote No. 369 Leg.]

YEAS—70

Andrews	Boren	Burdick
Baucus	Boschwitz	Byrd, Harry F., Jr.
Bentsen	Bradley	Byrd, Robert C.
Biden	Bumpers	

Cannon	Hayakawa	Packwood
Chafee	Heflin	Pell
Chiles	Heinz	Percy
Cochran	Hollings	Pressler
Cohen	Huddleston	Proxmire
Cranston	Inouye	Pryor
D'Amato	Jackson	Randolph
Danforth	Johnston	Roth
DeConcini	Kassebaum	Sarbanes
Dixon	Kennedy	Sasser
Dodd	Leahy	Schmitt
Dole	Levin	Specter
Durenberger	Long	Stafford
Eagleton	Mathias	Stennis
Exon	Matsunaga	Tsongas
Ford	Melcher	Wallop
Glenn	Metzenbaum	Warner
Hart	Mitchell	Weicker
Hatch	Moynihan	Zorinsky
Hawkins	Nunn	

NAYS—29

Abdnor	Grassley	Murkowski
Armstrong	Hatfield	Nickles
Baker	Helms	Quayle
Brady	Humphrey	Rudman
Denton	Jepsen	Simpson
Domenici	Kasten	Stevens
East	Laxalt	Symms
Garn	Lugar	Thurmond
Goldwater	Mattingly	Tower
Gorton	McClure	

NOT VOTING—1

Riegle

So Mr. MOYNIHAN's amendment (UP No. 1322), as amended, was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, on the motion to reconsider.

Mr. President, I yield to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DENTON. I ask for the yeas and nays on the motion to reconsider.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. METZENBAUM. I move to lay that motion on the table.

Mr. BUMPERS. I move to lay that motion on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. MOYNIHAN. Parliamentary inquiry, Mr. Chairman.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. METZENBAUM. Mr. President, parliamentary inquiry. Was the maker of the motion on the prevailing side?

Mr. FORD. Mr. President, only a few can hear.

Mr. BAKER. No, he was not. I voted no.

Mr. FORD. Mr. President, would Senators get a microphone so the rest of us know what is going on?

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I made the motion to reconsider. I voted no, and I believe that qualifies.

Mr. METZENBAUM. No, it does not. The Senator is not on the prevailing side.

Mr. BAKER. Mr. President, let me say this. The Senator from Alabama wanted an opportunity to speak on this motion to reconsider. I am not sure whether he lost the floor or not by someone else jumping in and making a motion to table, but that is not the way to treat this. I respectfully urge that we let the Senator make his presentation for 5 or 10 minutes, as he may wish, and then we can have the motion to table.

I ask unanimous consent, Mr. President, that the Senator from Alabama may be recognized for 2 minutes on the question of the motion to reconsider.

Mr. MOYNIHAN. Reserving the right to object, and I will not object, may I say I hope the Senate will agree to this. It is perfectly in order and altogether agreeable to me as the author of the proposal.

Mr. BAKER. I add to the request——

The PRESIDING OFFICER. Is the motion to table withdrawn?

Mr. BAKER. I am sorry?

The PRESIDING OFFICER. Is the motion to table withdrawn?

Mr. METZENBAUM. I made the motion to table, and I will withdraw it.

Mr. BAKER. I thank the Senator.

Mr. BUMPERS. Reserving the right to object, I think it is only appropriate that there be 2 minutes reserved for anybody who might want to comment on that.

Mr. BAKER. Yes, I agree with that.

Mr. President, I make these requests: First, that it be in order for me to make the motion to reconsider; second, that the Senator from Alabama be recognized for 2 minutes to debate the motion and that the distinguished Senator from Arkansas may have 2 minutes to debate the motion.

The PRESIDING OFFICER. Is there objection to the first quarter?

The Chair hears none, and it is so ordered.

Is there objection to the second request?

The Chair hears none, and it is so ordered.

Mr. DENTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DENTON. Mr. President, yesterday, I entered a written objection to a proposition for which there was unanimous agreement sustained today by mistake. I am told that the majority leader, in ignorance of the identity of the amendment offered by my friend from Arkansas, ignored my objection as I entered it yesterday, so unanimous consent should not have been granted.

I do not wish to debate the merits of the proposal of the Senator from Arkansas. I respect his motives; I respect his good will, and I understand the efficacy of peace. I do not know a good bit about this particular occasion which is already set up by others unknown to Members of this body. Tens of thousands of people are set up by those who are foreign to our interests. This is a sucker deal we are falling for, and were we to debate it later I believe that the Senator from Arkansas would respect my views on this matter.

I am not sure whether he would persist, but at least we would remain friends. Yesterday, we had an exchange which was only too brief, and I wish I had a chance to go over it with him more.

The point is I did object to this yesterday, and unknown to the majority leader, when Senator BUMPERS introduced the second-degree amendment, he did not identify it. Therefore, my objection was ignored and unanimous consent was, in my opinion, falsely arrived at.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. DENTON. I yield.

Mr. BAKER. Mr. President, I accept full responsibility for this mixup. I should have asked for an identification of the second-degree amendment. I did not do that. It is my responsibility.

The only apology I can offer is that we were trying desperately to handle more than 40 amendments, together with second-degree amendments, and I simply did not ask for an identification of the second-degree amendment. I regret that.

The Senator from Alabama is absolutely right. He had filed an objection in writing to any unanimous-consent agreement on this proposal. That did not come to my attention simply because I failed to identify what that amendment was. I apologize to the Senator from Alabama.

Mr. BUMPERS. Mr. President, if I may take the majority leader off the hook, either this morning or last evening when I first said I would offer this amendment to the second-degree amendment, the nature of the amendment was identified on the floor. It was not when the majority leader was going through those amendments a few minutes ago. I had already said what the amendment was. It had 35 cosponsors, and it never occurred to me that anything as innocuous as apple pie and motherhood would be objectionable.

Mr. DENTON. Mr. President, I am frankly surprised and disappointed that the substance of Senate Joint Resolution 251, in the form of a second-degree amendment to a Moynihan first-degree amendment to the continuing resolution, has just passed by unanimous consent of this body. Both Senator EAST and I registered written objections to the resolution and also requested in writing that we

be notified in advance in the event of its consideration on the floor as an amendment. Our written objections were filed with the majority leader on the evening of September 28, 1982, and I ask that a copy be included in the RECORD following my statement.

My purpose in placing a hold on the resolution and amendment was to allow the Senate time to examine fully the National Advisory Council of Peace Links, an antinuclear war group based in Washington, D.C., and a behind-the-scenes sponsor of this resolution.

In my capacity as chairman of the Subcommittee on Security and Terrorism, I regularly have access to information that does not normally come to the attention of other Senators. In this connection, I could not help but note that two of the member organizations of the National Advisory Council of Peace Links have been publicly identified as, or linked by the Department of State with, Soviet controlled front organizations. These are the Women Strike for Peace, an affiliate of the Soviet controlled Women's International Democratic Federation, and Women's International League for Peace and Freedom. In addition, I note that other sponsors are the radical left-oriented United States Student Association and the Committee for National Security, which was established by the radical left-oriented Institute for Policy Studies.

Mr. President, the fact of the KGB's involvement in the so-called peace movement is well documented. I therefore ask unanimous consent that documents published by Peace Links and some of its questionable component organizations be placed in the RECORD following my statement. I also ask that two State Department reports dealing with some of these groups, a report by Western Goals on the "Soviet Peace Offensive," and the April 16, 1982, Information Digest also be placed in the RECORD at the same point.

Finally, I ask that a reprint of an article from the Reader's Digest by John Barron, entitled "The KGB's Magical War for 'Peace,'" be placed in the RECORD at this point. Mr. Barron, my colleagues will recall, is the author of the definitive "KGB: The Secret Work of Soviet Secret Agents."

Mr. President, let me again state for the record that my purpose in seeking a delay in the consideration of this measure was to afford us time to give close scrutiny to an organization that, however unwittingly, lends itself to exploitation by the Soviet Union in its campaign to promote unilateral U.S. disarmament.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 28, 1982.

Hon. HOWARD BAKER,
Majority Leader,
U.S. Senate, Washington, D.C.

DEAR HOWARD: Per our conversation, this will confirm the objection to any time agreement to the consideration of the National Peace Day amendment during Senate floor action on H.J. Res. 599, the Continuing Resolution. If any further time agreement is proposed, please notify the undersigned.

Sincerely,

JOHN EAST,
JEREMIAH DENTON.

PEACE LINKS—WOMEN AGAINST NUCLEAR WAR

PEACE IS WOMEN'S VALUES

". . . Women who have been working for their rights are also working for their values: values that put caretaking before missiles, love before glory, the urge to survive over the urge to fight."—Ellen Goodman, Columnist.

PEACE IS PARTICIPATION

". . . Women are a voice for peace. War is archaic and obsolete."—Mary Grefe, Past President, American Association of University Women.

PEACE IS PATRIOTISM

". . . I want people to show their love and patriotism for our country by rallying around the flag of peace."—Betty Bumpers, Founder and President, Peace Links.

WHAT IS PEACE LINKS?

Through their own informal networks and organizations, women have begun expressing to one another the unthinkable dangers confronting our world and the necessity of promoting fundamental human values in the formulation of national security policies.

New voices are raising questions about nuclear weapons and the arms race. Women are measuring values rooted in nurturing and the protection of life against statistics of death and destruction unparalled in the history of the world, and they find that these values grow dim under the shadow of nuclear war.

People concerned about these issues reside in small towns, in the rural south, in the farmbelt and the sunbelt, as well as the cities. They come from traditions where patriotism runs deep and the idea that citizenship brings responsibility is strong. These very traditions are causing them to question the basic assumptions which have led us to the brink of the most horrible cataclysm ever imaginable. While their questions and concerns vary, a common thread runs through them all: "We don't have the answers to such complicated questions about national security and nuclear war, but something is terribly, terribly wrong. Together with our leaders we must find another way."

WHY PEACE LINKS?

Peace Links—Woman Against Nuclear War arose out of the growing concern of middle American women about the danger of nuclear war. Its goal is to foster awareness and increase participation among women and families at the community, state, national, and international levels on the critical issues of nuclear war, the arms race, and the alternative proposals for a world at peace.

Civic and church groups, social and professional associations, schools, garden clubs, Junior Leagues, Jaycettes, and other community groups became the forums for discussing nuclear war concerns. Peace Links became the means for linking these women with organizations from which they could learn about the issues, and for organizing and exercising leadership within their own communities.

Peace Links continues to work through traditional community groups and state chapters to help women learn more about these issues, express their concerns, organize for action, affiliate with other groups, support leaders committed to ending the threat of nuclear war and human destruction, and educate their children toward involvement in the democratic process.

HOW DID PEACE LINKS BEGIN?

Mrs. Betty Bumpers, wife of Senator Dale Bumpers of Arkansas, and a former school teacher and leader of a national immunization campaign, is the founder of Peace Links—Women Against Nuclear War. Betty's personal interest was ignited through conversations with her family and their friends who expressed deep anxiety and concern about nuclear war. Alarmed, Mrs. Bumpers began talking with other mothers and discovered identical experiences. Children six years old and older believed there would be a nuclear war in their lifetimes and that their families would not survive.

On a trip to Arkansas in January, 1982, Betty Bumpers invited 35 women representatives of a wide range of political, social, and religious groups to a meeting in Little Rock, Arkansas. The response was stunning. The women decided to form a statewide coordinating council called "Peace Links". An office was donated by the State Nursing Association, and the Winthrop Rockefeller Foundation granted seed money.

Mrs. Bumpers hosted a statewide meeting on March 2, 1982 for women who wanted to organize their counties. This gathering drew 150 women representing 11 of Arkansas' 75 counties. Since that day, Mrs. Bumpers has spoken to meetings of concerned women in approximately 65 Arkansas counties, as well as to numerous groups in other states.

WHEN IS "PEACEDAY"?

Peaceday is to be a celebration of peace, October 10, 1982. States may organize celebrations as appropriate and timely. Arkansas, for example, the PEACE LINKS model state, plans a variety of celebrations throughout the state. They may encompass family picnics and peace fairs at schools and colleges as a symbol that education is part of the political process. Local, state and national officials and candidates may speak, and bands and the singing of national and state anthems will figure in the celebrations of peace.

On Peaceday 1982 and in subsequent years, the theme tying together all of the peace festivals will be the gathering of families to express their views on the nuclear threat . . . to ask publicly that alternatives to war be developed by local, state, and national leaders . . . to demonstrate that the Flag can be a rallying point for peace no war . . . to share the truth that out of women's fear of nuclear war a movement can grow to help remove the threat of nuclear war to all human life. Peaceday 1983 and 1984 will be times for grassroots women's groups to announce their own alternatives to war.

WHO ARE THE PEACE LINKS WOMEN?

Since Peace Links has become a national effort, plans based upon the Arkansas success are being developed for organizing Peace Links campaigns in 15 states in the

coming months, i.e., Arkansas, West Virginia, North Carolina, Massachusetts, Tennessee, Iowa, Oregon, Michigan, Minnesota, Utah, Missouri, Wisconsin, New Mexico, New Hampshire, Nebraska, and the Washington Metropolitan Area. By the end of 1983 Peace Links plans to be organized in all 50 states.

Prominent women in those states will take active roles in organizing Peace Links activities. Plans at the national level have benefited from the experience and advice of a working National Advisory Council whose members are affiliated with the organizations listed below:

American Association of University Women, Committee for National Security, Educators for Social Responsibility, Forum Institute, General Federation of Women's Clubs, Ground Zero, Women Strike for Peace, National Peace Academy Campaign, Peace Corps Institute, Rural American Women, United States Student Association, Women's Economic Roundtable, Women's International League for Peace & Freedom, Federation of American Scientists.

The Advisory Council assists in the organizational development of Peace Links, assists in the selection of target states, explores opportunities for international activities, and provides support to the state Peace Links campaigns.

YOUR ROLE IN PEACE LINKS

Learn as much as you can about nuclear weapons and the arms build-up, including how public funds are expended upon weapons, and to understand that concern about nuclear weapons is a global issue.

Organize within your civic groups, senior citizens, professional and social organizations, garden clubs, PTA's churches and synagogues to talk about nuclear issues and anxieties, and invite public policymakers to participate in your forums.

Affiliate with organizations which have developed expertise and materials on nuclear issues for the general public.

Link up with at least one human being from Europe, the Soviet Union, Asia, Africa, Canada, or Latin America to better understand that nuclear war affects all people in all countries.

Vote. The United States led the way into the nuclear age with the atom bomb. With the unique access to political decisionmaking which democracy affords, U.S. citizens are empowered to help lead the world out of the nuclear age.

MEDIA REPORTS ON THE PEACE LINKS PROCESS

"The disarmament campaign is directed toward women, Mrs. Bumpers said, because it is the ultimate parenting issue."—New York Times, May 26, 1982.

"Now the considerable talents of Mrs. Betty Bumpers have been turned toward what is surely the number one concern today: the threat of nuclear war and the pressing need for disarmament negotiations. She is spearheading a new movement known as 'Peace Links' . . . not just another big bureau with a hierarchy of authority and command . . . Instead, this is a grassroots network for women committed to the disarmament point of view and wanting to know how they might take part in it."—Senator David Pryor, Congressional Record, May 27, 1982.

"She said that because of their responsibilities as wives and mothers, women have assumed a nurturing role and are more willing to admit that war in today's world is 'obsolete.' And, it is obsolete because any outbreak—however small, in whatever corner of the world—carries the double-edge threat of escalating into a worldwide nuclear catastrophe."—Northwest Arkansas Morning News, May 19, 1982.

ISSUES WOMEN ARE RAISING

How we spend our public money.—This country and others are rapidly converting precious resources needed to meet human problems and develop our civilian economies into arms that we dare not use. People in responsible decision-making roles must be asked how and why the money is being spent.

The risks of getting into nuclear war.—Since our government and others are using public money to fuel the arms race, we are creating a climate in which nuclear war can occur. The possibilities of such a war starting by accident alone are staggering. Hard questions must be asked about contributing further to a propulsion toward extinction.

The Soviet threat.—Both the U.S. and the Soviet Union responses to the highly complex arena of world politics have contributed to nuclear war threats.

How do Russian women feel?—We hope that the women of the Soviet Union, just as all women of the world, share our concern for the future of our children.

Bringing our values to bear upon political leaders.—As mothers and teachers, can we not work together to influence politicians and technical experts to find alternatives to nuclear war?

PEACE LINKS—WOMEN AGAINST NUCLEAR WAR

HOW TO CELEBRATE PEACEDAY 1982

Individuals.—Read a book on the subject of nuclear weaponry or peace.

Have a Peace party and invite your friends over to talk about current issues and what can be done.

Write a letter to the editor, or to your governmental representatives expressing your opinions.

Organize a study group to discuss disarmanent issues.

Propose that your club or church put nuclear war on its agenda.

Encourage your family to become involved in this issue.

Clubs and Churches.—Invite community, religious and government leaders to speak about disarmament issues and proposals.

Sponsor speech, writing, art or music competitions for young people, with peace as the theme.

Encourage other organizations to band together to celebrate Peaceday.

Sponsor out-of-town speakers' or celebrities' travel to your town for Peaceday.

Publish facts and figures about national security for community-wide dissemination.

Communities.—Designate a gathering place for a Peaceday picnic and parade.

Request that all church bells be rung at a specific time.

Have County or City Council proclaim October 10th Peaceday.

Have local, state and national flags presented at the beginning of the celebration.

Involve school and college bands and choruses in providing patriotic music.

WHAT IS PEACE LINKS?

Founded in early 1982 by Betty Bumpers, Peace Links is an organizing effort aimed at stimulating interest in national security issues among traditional women's organizations. Peaceday is an opportunity for families and communities to come together to celebrate peace and security.

PEACEDAY FESTIVAL

Join Us—You could make all the difference!—Oct. 10, 1982. This is the day selected in S.J. Res. 251.

Activities include: Clowns and mimes, strolling musicians, folk singers, dancers, puppet show, bands, jousting tournament. 11 a.m. to 4 p.m. in the Constitution Gardens. Enter at 18th or 19th Streets, or Constitution Ave. Bring your picnic—rain or shine, or hot dogs, hamburgers, soft drinks can be purchased.

At 3 o'clock, churches of all denominations will ring their bells for PEACE.

Speakers: Mayors, Members of Congress, national officials, prominent citizens.

Sponsored by: Peace Links—Women Against Nuclear War.

[From the New York Times, May 26, 1982]

POLITICIANS' WIVES AND "PEACE LINKS"

(By Barbara Gamarekian)

WASHINGTON, May 25.—When Betty Bumpers sat down with friends to put together an organization that would encourage women to get involved in the nuclear arms debate, they puzzled over what to call themselves.

"One woman said, 'We can't use the word peace because it has a bad connotation,'" Mrs. Bumpers recalled. "And I sort of dumbly agreed, 'Yeah, that's right.' And then it hit me, to think that we had reached the point of thinking in this country that the word peace was unacceptable. What the heck, we said, we'll use it anyway."

Mrs. Bumpers, whose husband, Dale, used to be Governor of Arkansas and is now a Democratic Senator from that state, has been on the stump in behalf of disarmament and is an organizer of "Peace Links," a fledgling Washington-based operation that hopes to act as a grass-roots clearinghouse for women, putting them in touch with organizations already working on disarmament.

NUMBERS AREN'T IMPORTANT

"What we want to do is to tap into every woman's organization across the country, from garden clubs to church groups, and have them put nuclear awareness on their agenda," said Mrs. Bumpers, a 57-year-old mother of three. "We want women to know that they shouldn't be put off by the technical vocabulary."

"I don't try to be an expert and remember all the facts and figures myself," she said. "I don't play the numbers game, because the numbers aren't important. All you really have to know is that we already have more than enough nuclear weapons to annihilate each other, that the scientists who developed this weapon say it is a war in which no one wins and that the chance of it happening by accident is increased by every additional warhead that is built."

Mrs. Bumpers, who has recently returned from two months of traveling and speaking on the issue in her home state, said that the comments she received "made me forget to be nervous."

With the help of a grant from the Winthrop Rockefeller Foundation, more than 2,000 women are now involved in the Arkansas pilot program; 32 of the state's 75 counties have coordinators and there is a state headquarters in Little Rock.

The disarmament campaign is directed toward women, Mrs. Bumpers said, because it is the ultimate parenting issue. "Women have been socialized to think about the nurturing aspect. Their young are at jeopardy,

they don't want their children to be the last generation."

PROMINENT VOLUNTEERS

The national effort is just getting off the ground with a Washington office and the appointment of Nancy Graham, formerly with the Peace Corps, as national coordinator and some seed money from the Rockefeller Family Fund. There are grant proposals before other foundations, and a number of prominent volunteers: Rosalynn Carter in Georgia; Sharon Rockefeller, wife of Gov. Jay Rockefeller, in West Va.; Barbara Levin, wife of Democratic Senator Carl Levin, in Michigan; Teresa Heinz, wife of Republican Senator John Heinz in Pennsylvania, and Nicola Tsongas, wife of Democratic Senator Paul Tsongas, in Massachusetts.

"It is a difficult thing for politicians' wives to get into, for it can be perceived as a partisan issue," said Mrs. Bumpers. Her own husband, she said, wasn't particularly keen about her early efforts, but has changed his mind.

A rally is planned for October 10th, three weeks before election, Mrs. Bumpers said, adding: "I say to women: Let your political leaders know how you feel. We put them in and we can take them out. Let them find some answers for us."

[From Women's International League for Peace and Freedom, Philadelphia, Pa., Sept. 21, 1982]

WOMEN'S VOTING BLOCK: NOVEMBER, 1982

(Contact: Donna Cooper, Program Director, (215) 563-7110 or Jane Midgley, Legislative Director (202) 546-8644.

The Women's International League for Peace and Freedom, a sixty-seven year old organization, called this press conference to highlight the growing political power of women in this country, especially in the area of opposing the arms race.

Women have always played a leading role in opposing the nuclear arms race. In the sixties, women were instrumental in pushing for an end to above-ground testing of atomic bombs. Women are now leaders in the Nuclear Freeze Campaign and in other peace efforts. When this is combined with women's increased voting power, candidates running for office will have to respond.

Polls and census surveys taken in the last year have shown that for the first time since winning the right to vote 61 years ago, women are voting in a markedly different way than men. Pollsters attribute this difference to women's greater support for women's issues and with a greater support for peace. According to the New York Times, "many public opinion experts believe that the partisan shift in the political views of women originated with distrust of President Reagan and a fear that he was ready to risk a war." (6/30/82)

The statistics also show that women are voting at roughly the same level as men for the first time, and that by 1984 the percentage of women voting would exceed the percentage of men. When these facts are linked to recent results of a poll conducted by Louis Harris showing that 56% of voters say that they would vote against a candidate for Congress this fall, if that candidate wanted to escalate the arms race, it is clear that women's greater commitment to peace can make a significant impact on public policy in the area of disarmament.

According to Yvonne Logan, President of the U.S. Section of the Women's International League for Peace and Freedom, "Our membership has leaped by the thousands since January. This clearly illustrates to us the new sentiment and power among women in the U.S. We believe the strength of the women's vote renewed commitment to peace will determine the outcome of many elections this fall."

The Women's International League is collecting one million signatures from American women in our Stop the Arms Race campaign (STAR). Our members in 90 branches and hundreds of other women are collecting these signatures across the country. This week our members in Missouri, Illinois, Connecticut, Pennsylvania, California, Ohio, Washington, New York, and Massachusetts will be meeting with candidates for election and reelection to get on record their views on peace issues.

We join together with other women leaders to insure that the impact of the women's vote will demonstrate the collective power of women in November and in the future.

THE WOMEN'S VOTE: A NEW POLITICAL FORCE IN AMERICA

(By Louis Harris)

Irrespective of the fate of the Equal Rights Amendment, there is now every indication that one of the major developments of the 1980s will be the full-blown emergence of a powerful new force in American politics.

The undeniable fact is that women and men are voting differently and thinking differently on nearly all of the key issues that are likely to affect the power structure of this country. At the moment, women are inclined to vote Democratic in this fall's race for Congress by a 53-35 percent margin, whereas men are leaning Democratic by a much narrower 47-44 percent. If these percentages hold until the election, it will mean that the Democrats in Congress will owe their enlarged majority almost wholly to the women's vote. If instead women were to vote in a pattern similar to men, the Democrats could be reduced to a margin of no more than 10 or 15 seats in the House of Representatives.

According to the results of a series of nationwide telephone surveys based on samples of approximately 1,250 people and conducted over the past few years, women have now decided to pursue an independent course of thinking on matters that they feel affect their lives and the well-being of the communities in which they live and work. The rise in the number of adult women who work from 36 percent to 53 percent in the last 22 years is a critical element in this new development. Harris studies suggest that as more women work and experience the world firsthand, they have an increased sense of pride in their own capacity to make a contribution to the world around them.

The burgeoning nuclear freeze movement in the United States is a good example. When the Harris Survey recently asked people how concerned they were "that the world will be plunged into a nuclear war," a 51-48 percent majority of men did not say they were "very concerned." But a 59-39 percent majority of women said they were "very concerned."

This result is not unexpected. Women have always expressed more sensitivity and concern about human life than have men. During the Vietnam War, women as a group became disenchanted with the fighting and loss of American lives in Southeast Asia two full years before men did.

In the current economic recession, women are far more worried than men about what the next 12 months will bring:

By 60-37 percent, most women worry that in the next year "more people will be going hungry" in America, compared with a 52-45 percent majority of men.

By 69-27 percent, a majority of women thinks the next year wil find that "more factories will be shutting down," compared with a lower 56-42 percent majority of men.

A 73-23 percent majority of women is convinced that "more people will be losing houses and farms because they can't meet the mortgage payments." A 58-39 percent majority of men share that same apprehension; and

By 63-33 percent, a majority of women is worried that in the next 12 months "there will be even less new housing construction" in the country, while a 52-46 percent majority of men say this will not happen.

Women's opinions differ from men's on a variety of other issues. Women favor federal registration of all handguns by a 70-28 percent margin, compared to a much lower 58-41 percent majority among men. On affirmative action for women and minorities in employment, women favor such federal laws by 72-20 percent, compared with a 64-28 percent majority among men. On strict enforcement of air and water pollution controls as now required by the Clean Air and Clean Water Acts, women favor tight controls by 87-10 percent, compared with 79-18 percent among men.

Women are now much more inclined to think that they are discriminated against in the financial and work marketplace. By 50-38 percent, a plurality of women thinks women are discriminated against in the wages they are paid, while by 49-42 percent men disagree. By 47-41 percent most women think women are discriminated against in getting promoted into managerial jobs, while a 47-43 percent plurality of men disagrees.

Women are now a new force in society. And as they come into their own in the world of employment, they are becoming more political than ever before. Their political weight will be felt increasingly throughout the 1980s, and the chances are good that the struggle over the passage of the ERA will be recorded in history as the turning point.

WAND/APC ENDORSES SECOND WAVE OF CANDIDATES WHO SUPPORT NUCLEAR WEAPONS FREEZE

Boston, Mass.—In an effort to extend the margin of victory for a bilateral verifiable nuclear weapons freeze in the next session of Congress, Women's Action for Nuclear Disarmament has endorsed a second group of congressional candidates opposed to the escalating nuclear arms race.

The political action committee will support the campaigns of Tom Daschle (1st CD, SD), John Kerry (1st CD, ME), Peter Kostmayer (8th CD, PA), Ruth McFarland (5th CD, OR), and Arnie Miller (5th CD, NY). WAND/PAC has also endorsed the campaign of George Mitchell, who is running for U.S. Senate in the state of Maine.

This second wave of endorsements brings to thirteen the total number of candidates from whom WAND/PAC will raise funds and provide campaign support.

"WAND/PAC selected these candidates because they have a clear record of support for a bilateral, verifiable nuclear weapons freeze," according to network director Diane Aronson. "We narrowed the field to those congressional campaigns where our affiliate

groups can become actively involved within the congressional district."

In addition to its work on political campaigns, WAND/PAC conducts programs of political education for members and affiliate groups, and lobbies members of Congress when nuclear weapons bills are debated.

WAND/PAC had previouly announced its endorsement of seven congressional campaigns, including those of Doug Bosco (1st CD), Lynn Cutler (3d CD, IA), Barney Frank (4th CD, MA), Nicholas Mavroules (6th CD, MA), John Dow (23d CD, NY primary), Claudine Schneider (2d CD, RI), and Frances Farley (2d CD, UT).

WAND/PAC, founded by Dr. Helen Caldicott, has an active network of both women and men working in more than 70 affiliate groups across the country.

"The response to organize in local communities or by congressional district has been overwhelmingly from women," Aronson said. "We believe that one of our real strengths as an organization lies in our ability to mobilize the votes of women around the nuclear weapons issue. We will be especially active in those congressional districts where our members can tip the voting balance in favor of an immediate U.S.-U.S.S.R. freeze."

STATEMENT BY U.S. REPRESENTATIVE PATRICIA SCHROEDER OF COLORADO

Stop the Arms Race Campaign may be the most important campaign ever.

The pursuit of peace has been in the hearts of women for centuries. It's that pursuit that makes us what we are. The right to vote has been with women for years. By our numbers, we've turned that right into a political power not to be ignored by today's government. And now this voting bloc is turning to the issue of nuclear disarmament.

We are doing our homework, raising the issues and publicly asking the questions about our nuclear policy both the Pentagon and this Administration thought too complex for civilians, especially women. This voting bloc is also working to defeat those who think the arms race is winnable or survivable, even if this country goes bankrupt to do it or fights a nuclear war to prove it.

We've got the heart, we've got the mind, and we've got the vote. Let's use them before it's too late!

STATEMENT OF KATHY WILSON, CHAIR, NATIONAL WOMEN'S POLITICAL CAUCUS

The National Women's Political Caucus is pleased to join the Women's International League for Peace and Freedom in heralding what looks to be a new explosion of woman power in this country. The explanations for this phenomenon are many and complex, tied, in no small measure, to the Reagan Administration's insensitivity to concerns of special importance to women—economic equity, legal equality and military equanimity.

The Caucus, for its part, is determined to translate this "people" power into the higher voltage "political" power. We're in the final stretch of our Win With Women '82 campaign, this year's sequel to our ongoing drive to elect women—feminist women—to political office. And this time around, we're devoting special attention to the state legislative races. We've bolstered our involvement on the state level in every area—from recruiting and training viable women candidates, to financing and electing them. We have long known that since we can only rarely change legislators' votes, we have no choice but to change the legislators doing the voting.

As we near the November showdown, our women candidates have behind them the unprecedented strength of a unified bloc of women voters, women who are infuriated that they've been denied the Equal Rights Amendment and afraid that the current administration intends to deny them a lot more. Women have become galvanized by the present assault on their personal and economic lives, and are ready to take their disenchantment to the ballot box.

If we're ever to be truly represented, feminists—men and women, Democrat and Republican—must and will be on the ticket. Equality, equity and peace are going to come around only when lawmakers come around to legislating them, and instead of pleading our case, we must elect people who will make it.

The National Women's Political Caucus is a 60,000 member bipartisan organization working to boost the number of feminist women in elective and appointive office.

WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM—BACKGROUND INFORMATION

The Women's International League for Peace and Freedom (WILPF) was formed in 1915, at the height of World War I. Jane Addams, founder of the revolutionary Hull House social settlement and organizer of the US Women's Peace Party, along with over 1,000 women from the warring nations defied their governments and without official sanction held an International Women's Congress in the Hague, Netherlands. Their intention was to turn the power they had gained through the suffrage movement toward the end of war.

Today, as for the past 65 years, WILPF's goals are the achievement of steps toward world disarmament; the re-ordering of US priorities toward meeting human needs; and equality and justice for all people through elimination of the institutions of racism and sexism.

To reach their goals, WILPF women have marched in the streets for civil rights and against the Vietnam War in the 1960's; held conferences on such issues as chemical warfare in London and community development in New Delhi. WILPF fact-finding delegates have visited the Middle East, Chile, and Nicaragua, and representatives meet regularly with national and international officials.

Wherever women are in the lead of an effective movement for peace and justice, they are likely to be WILPF members. The first women recipients of the Nobel Peace Prize were WILPF founders Jane Addams and Emily Greene Balch. US advisor to the UN Special Session on Disarmament, Kay Camp, was president of WILPF. Now, the women leading the massive demonstrations against the placement of US nuclear missiles in Europe are WILPF members.

One of the women's organizations with non-governmental consultant status at the United Nations, WILPF's international secretary is the head of the UN Conference of Non-Government Organizations. With sections in 25 countries and on every continent, WILPF is one of the largest, oldest, and most active peace advocacy organizations in the world.

In the US, there are WILPF branches in over 100 communities. The national office is located at 1213 Race St., Philadelphia, PA, 19107.

WOMEN FROM EUROPE AND NORTH AMERICA TO DEMONSTRATE IN BRUSSELS NEXT MARCH

Women from Europe and North America will join forces in a massive demonstration at NATO Headquarters to protest the planned deployment of Pershing II and Cruise Missiles in NATO countries. The action, to take place on International Women's Day March 8, 1983, will be the focus of the STAR (Stop The Arms Race) campaign which The Women's International League for Peace and Freedom initiated at United Nations Headquarters on International Women's Day of this year.

Plans for the march in Brussels were launched at a meeting of the executive committee of The Women's International League in Denmark from 21 August to 29 August.

"We are alarmed by the refusal of our governments to heed the popular demand for an end to the nuclear arms race. This is our last opportunity to ward off a whole generation of weapons designed only to destroy human life, We want the NATO deployment plans cancelled as the first step to arms control and disarmament", said Carol Pendell, President of the League.

WOMEN UNITE TO BUILD PRO-PEACE VOTING BLOCK

The Women's International League for Peace and Freedom joined with Congresswomen and women's political organizations in a united effort to build a women's voting block.

According to Yvonne Logan, President of the U.S. Section of the Women's International League, "Our membership has leaped by the thousands since January. This clearly illustrates to us the new sentiment and power among women in the U.S. We believe the strength of the women's vote and women's renewed commitment to peace will determine the outcome of many elections this fall."

Women's Action for Nuclear Disarmanent announced plans to distribute PAC funds to a variety of pro-peace candidates around the United States. The National Women's Political Caucus is in the final stretch of their Win With Women '82 campaign. Kathy Wilson, Chair of the Caucus, stated, "As we near the November showdown, our women candidates have behind them the unprecedented strength of a unified bloc of women voters."

Congresswomen Claudine Schneider (R-RI) and Patricia Schroeder (D-CO), both spoke of the "new political force" of the women's vote and commended the Women's International League Stop the Arms Race (STAR) campaign in bringing women's spirit and power together in a timely fashion to effect the November elections.

Pollster Louis Harris' recent survey showed that 42% of men and only 34% of women in the U.S. gave President Reagan a good to excellent rating. Women have also proven through polls and voting records that their support for women's issues and peace will determine their vote and that their voting turnout will be higher than ever.

SOVIET ACTIVE MEASURES: AN UPDATE

(This report describes Soviet "active measures" which have come to light since the publication of Special Report No. 88, "Soviet Active Measures: Forgery, Disinformation, Political Operations," in October 1981.)

The Soviet Union uses the term "active measures" (aktivnyye meropriyatiya) to

cover a broad range of activities designed to promote Soviet foreign policy goals, including undercutting opponents of the U.S.S.R. Active measures include disinformation, manipulating the media in foreign countries, the use of Communist parties and Communist front groups, and operations to expand Soviet political influence. In contrast to public diplomacy, which all nations practice, Soviet active measures often involve deception and are frequently implemented by clandestine means. Active measures are carried out not only by the KGB but also by the International Department and the International Information Department of the Central Committee of the Communist Party of the Soviet Union.

The active measures discussed in this report are necessarily limited to those that have been publicly exposed. They make clear that these activities take place worldwide. The open societies of many industrialized and developing countries afford the Soviet opportunities to use active measures to influence opinions in favor of Soviet policies and against those of the United States and its allies. It is our hope that this report will increase public awareness and understanding of Soviet active measures and thereby reduce the likelihood that people will be deceived.

FORGERIES

Forgeries are a frequently used active measures technique. Several have come to light in recent months. Their appearance has been timed to influence Western opinion on current sensitive issues. As far as we are aware, only one of these recent forgeries achieved uncritical publication.

Forgeries are usually sent through the mail to journalists, officials, or other persons who might make them available to the media. Forgeries normally do not carry a return address, nor is the sender identified in a way that can be checked. How the document was acquired invariably is vague.

The NATO Information Service Documents. In late October 1981, Spanish journalists living in Brussels received form letters purporting to come from the NATO Information Service. The letters enclosed a publicity packet that had been updated to include Spain as a new member of the alliance. As the Spanish Parliament was still debating Spain's application to join NATO, the letter could impress Spaniards as showing contempt for Spain's democratic institutions. The journalists checked with NATO, and stories in the Spanish press spoke of a forgery designed to influence Spain's domestic debate on NATO.

The President Reagan Letter to the King of Spain. In November 1981, an attempt was made in Madrid to surface a forged letter from President Reagan to the King of Spain. In terms likely to offend Spanish sensitivities, the letter urged the King to join NATO and to crack down on groups such as the "Opus Dei pacifists" and the "left-wing opposition."

After an initial mailing to Spanish journalists failed to obtain publication, the forgery was circulated on November 11 to all delegations (except the U.S. and Spanish) to the Conference of Security and Cooperation in Europe (CSCE), then meeting in Madrid. This time several Madrid newspapers ran stories that exposed the letter as a fabrication probably of Soviet origin.

The Clark-Stearns Letter. In January 1982, a forged letter and an accompanying research analysis dated September 23, 1981, from Judge William Clark, then Deputy Secretary of State, to the U.S. Ambassador to Greece, Monteagle Stearns, circulated in Athens. This forgery indicated U.S. support for the conservatives in the October Greek elections and alluded to a possible military coup if Socialist leader Andreas Papandreou won at the polls. On the basis of Embassy assurances that the letter was a fake, it was not initially published. Several weeks later, after copies had been circulated at the CSCE in Madrid, the Athens daily Vrathini published a story describing the letter as of doubtful authenticity and probably attributable to a "third-country" intelligence service.

The Swedish Mailgrams. During the week of November 8, 1981, at least 10 mailgrams—initiated by telephone calls to Western Union—were circulated to journalists in the Washington, D.C. area. Supposedly sent by U.S. Government officials, the mailgrams offered to make available the text of an alleged secret agreement for U.S. use of the Swedish base at Karlskrona for intelligence purposes.

The mailgrams were sent immediately after the furor caused by the grounding of a Soviet submarine in restricted waters off the Karlskrona naval base. Their timing supports the conclusion that the effort was an attempt to offset the bad publicity the Soviets received from the incident.

The Haig-Luns Letter. The April 22, 1982 edition of the Belgian leftist weekly De Nieuwe published a letter supposedly sent in June 1979 by retiring NATO Commander Alexander Haig to NATO Secretary General Joseph Luns. Both NATO and U.S. officials branded the letter a fabrication.

The forged letter discussed a possible nuclear first strike and called for "action of a sensitive nature" to "jolt the faint hearted in Europe" opposed to intermediate-range nuclear force modernization. The timing of the false letter was related to the many antinuclear demonstrations which took place in Europe in the spring of 1982. The letter appeared again in the Luxembourg Communist Party newspaper, Zeitung, on May 10.

The Department of Commerce Document. In late May 1982, just before the Versailles economic summit, an alleged U.S. Government document dated February 18, 1982 circulated in Brussels. Purporting to be the recommendations of a working group on strategic economic policy chaired by the Secretary of Commerce, the document twisted U.S. policy on sensitive trade issues in a way likely to stimulate friction between the United States and its European allies. Several journalists brought the matter to the attention of U.S. officials, who promptly branded it a forgery. As far as we are aware, the media have not reported the fabricated document.

MEDIA MANIPULATION DISINFORMATION

The purpose of disinformation efforts is to gain public acceptance for something that is not true. Since Soviet media lack credibility, the goal is to achieve publication of false news in reputable non-Communist media. Soviet media, such as TASS or Radio Moscow, are then able to cite credible sources in replaying a story in the hope that it will be picked up by other non-Communist media. Disinformation also is frequently placed in pro-Soviet news outlets outside the Eastern bloc in the hope that it will be replayed by independent media or simply gain acceptance through repetition.

Angola/Zaire/South Africa. One Soviet campaign has been to discredit U.S. policy in southern Africa—in particular, the credibility of U.S. efforts to solve the Namibia problem—by media stories that the United States is trying to oust the Government of Angola. A number of recent examples illustrate this effort.

On September 15 and 23-24, 1981, the Portugal Hoje of Lisbon, a paper close to the Socialist Party, published reports that U.S., Zairian, and South African representatives had met secretly to conspire against the Angolan regime. The source for the story, an Angolan traveling to Lisbon, claimed he had stolen Zairian documents as proof, but he never made the documents available. Both Zaire and the United States denied the allegations. TASS promptly picked up the Hoje story, and in turn it was replayed in a number of African papers, including the Jornal de Angola.

On December 22, 1981, Diario de Lisboa, a pro-Communist paper, reported that the United States was supporting "2,000 specially trained gunmen" based in Zaire to attack Angola. The State Department denied the story December 24, but TASS nonetheless picked it up. In turn, a number of African papers and radio stations and the Flemish Socialist daily De Morgen replayed the allegations on the basis of the TASS account.

A similar story was carried in the April 17, 1982 Congolese newspaper *Etumba*, which alleged a meeting in 1981 between the United States, South Africa, and others to plot against Angola. The U.S. Embassy in Brazzaville promptly denied the report.

The Seychelles Coup Attempt. A day after the November 25, 1981 attempt by a group of mercenaries to overthrow the Government of the Seychelles, Soviet news reports were implying that the CIA was responsible. In keeping with frequent Soviet practice, these accusations were attributed to unnamed, and therefore unverifiable, "African radio commentaries." Despite a statement by Seychelles President France Albert René on December 2 that his government had no indication of any foreign involvement other than South African, Soviet media continued to accuse the United States. In December, several African newspapers (among them the *Nairobi Nation and Lagos Daily Times*, the leading dailies in Kenya and Nigeria, respectively) repeated the story. Soviet media then replayed the allegations, citing the African papers as sources.

The Pakistani Mosquitoes. In the wake of compelling evidence that the Soviets are using chemical weapons in Afghanistan and supplying mycotoxins for use in Laos and Kampuchea, Moscow has launched a disinformation effort focused on Pakistan. The February 2, 1982 *Literaturnaya Gazeta* alleged that the antimalaria program of Pakistan Malaria Research Center in Lahore was a CIA-financed effort to breed special mosquitoes "which infect their victims with deadly viruses as part of U.S plans to introduce biological warfare into Afghanistan." In fact, the Pakistan Malaria Research Center has been conducting antimalaria research for 20 years. Much of the funding comes from the U.S. National Institutes of Health and AID through a contract with the Unversity of Maryland. The State Department promptly labeled the Soviet charges "utterly baseless."

The American Center Director Dr. David Nalin told the Baltimore Sun on February 9, 1982 that the allegations were a Soviet disinformation effort to counter U.S. "yellow rain" charges. Nonetheless, TASS continued to carry the false stories, which were replayed not only by regular disinformation outlets, such as Bombay's Blitz and the New Delhi Patriot, but also by independent

newspapers not usually associated with Soviet propaganda, such as the influential Times of India and Pakistani daily Jang, and the Muslim News of Capetown, South Africa.

A Moscow-funded Greek Newspaper? Another way to exert media influence is by secretly subsidizing a newspaper. This may have occurred recently in Greece. In May 1982, the Athens daily Messimvrini charged that a new large circulation daily, To Ethnos, had begun publication in September 1981 thanks to a secret Soviet subsidy of $1.8 million; Messimvrini alleged that covert payments were continuing. The Greek Government has ordered an investigation.

Military Base Hoaxes. A disinformation staple is to float false stories about U.S. military cooperation. Recent examples from Soviet and Communist media have included false stories that the United States has or intends to establish bases on the Honduran island of Amapala, the Colombian island of San Andres, and in the Comoros Islands off the east coast of Africa. Although these have not gained credence, one relating to Pakistan attracted more attention. As a result, the Pakistan Foreign Ministry on December 10, 1981 found it necessary to deny Radio Moscow's assertion that the United States would seek military bases in Pakistan during a visit by Secretary of State Haig. Among other things, the Radio Moscow account falsely asserted that Indian Foreign Minister Rao had claimed in the Indian Parliament that Pakistan had agreed to provide bases for the U.S. Rapid Deployment Force.

FRONT GROUPS/PRO-MOSCOW COMMUNIST PARTIES

Front groups are nominally independent organizations that are controlled by the Soviets, usually through the International Department of the Central Committee of the CPSU.[1] These organizations have long sought to build support for Soviet foreign policy goals. In recent months the main thrust of front activity has been to try to see that the peace movement in Western Europe and the United States is directed solely against U.S. policy and that it avoids any criticism of the Soviet nuclear threat. The 1982 program of the World Peace Council, for example, calls for:

"Further intensification of actions against the dangers of nuclear war and the deployment of new U.S. weapons of mass destruction in Western Europe. . . ."

"National events (demonstrations, seminars, colloquia, etc.) with international participation 'against nuclear arms build-up and the deployment of U.S. missiles in Europe; for peace and detente in Europe.'"

"International meeting of mayors and elected representatives (city councilors, municipalities, etc.) and of peace forces from European towns and regions where new U.S. nuclear missiles are to be deployed. . . ."[2]

Communist parties linked with Moscow have pursued the same path. The impact of the fronts and local Communist groups varies markedly from country to country and is difficult to evaluate. Nevertheless, awareness is increasing that the Communists and their supporters are attempting to channel the peace and antinuclear movements to serve Moscow's purpose. This has led to friction within the movement in some countries.

In West Germany, after efforts by the German Communist Party (DKP) in early April 1982 produced anti-U.S. slogans without mentioning the Soviet nuclear arsenal as a threat to peace, Petra Kelly, a prominent leader of the Environment Party (the "Greens") publicly criticized the Communists. She repeated this criticism when interviewed on CBS Television during President Reagan's visit to Bonn. Similarly, in Austria, the original platform adopted by the organizers of a peace march on May 15 under pressure from pro-Moscow Communists avoided criticism of Soviet atomic weapons. The non-Communists later regrouped; as a result, the Austrian Youth Council issued a less one-sided platform.

POLITICAL INFLUENCE OPERATIONS

Political influence operations, especially those using agents of influence, are harder to detect than other active measures. In these operations, individuals disguise their KGB connection while taking an active role in public affairs. Exposure, when it occurs, is frequently the result of an espionage investigation. The scale of improper Soviet activities is reflected in the publicized expulsion of 19 Soviet officials involved in espionage and active measures cases from 10 countries during the first 5 months of 1982. Among these were the expulsion of the Soviet military attache from Washington and the uncovering of spy nets in Indonesia and Singapore.

Denmark. In October 1981, the Danish Government expelled Vladimir Merkulov, a KGB officer serving as a second secretary of the Soviet Embassy, for improper conduct, including directing the activities of Danish agent-of-influence Arne Herloev Petersen. An April 17, 1982 Danish Ministry of Justice statement detailed Petersen's work with the KGB.

In the summer of 1981, the Soviets arranged to cover Petersen's expenses for a series of advertisements in which Danish artists expressed support for a Nordic nuclear-weapons-free zone.

Petersen brought foreign policy documents provided by the Soviet Embassy to the North Korean Embassy; on Soviet instructions he misrepresented the documents as coming from an American journalist.

Petersen provided information several times to the Soviet Embassy on the Danish "left wing" and on "progressive" journalists who were not Communist Party members.

Petersen arranged for the printing of a pamphlet attacking British Prime Minister Thatcher. The text was supplied by the Soviet Embassy.

The Ministry of Justice noted that clandestine meetings between Petersen and a succession of three Soviet "diplomats" (of whom Merkulov was the latest) had extended over several years. Petersen specifically was requested by his KGB handlers not to join the Danish Communist Party.

The Danish Government decided not to prosecute Petersen, although it declared that he violated Danish law. In a television interview 2 days after the official statement, the Danish Foreign Minister challenged Petersen to sue for slander so that the full extent of the government's evidence could be made public.

Sweden. Soviet Third Secretary Albert Liepa was expelled in April 1982. According to a Swedish Foreign Ministry spokesman, Liepa had made systematic efforts to collect information on and exert influence over the Latvian exile community in Sweden. Before his assignment to Stockholm, Liepa had been chairman of a committee based in Riga concerned with maintaining "cultural ties" with Latvians living outside the Soviet Union.

SOVIET "ACTIVE MEASURES"—FORGERY, DISINFORMATION, POLITICAL OPERATIONS

(The following paper was prepared by the Department of State in response to requests for information from a number of individuals, private groups, and foreign governments.)

In late 1979, agents of the Soviet Union spread a false rumor that the United States was responsible for the seizure of the Grand Mosque of Mecca.

In 1980, a French journalist was convicted by a French court of law for acting as a Soviet agent of influence since 1959.

In August 1981, the Soviet news agency TASS alleged that the United States was behind the death of Panamanian leader Omar Torrijos.

These are three examples of a stream of Soviet "active measures" that seek to discredit and weaken the United States and other nations. The Soviets use the bland term "active measures" (aktivnyye meropriyatiya) to refer to operations intended to affect other nations' policies, as distinct from espionage and counterintelligence. Soviet "active measures" include:

Written or spoken disinformation;

Efforts to control media in foreign countries;

Use of Communist parties and front organizations;

Clandestine radio broadcasting;

Blackmail, personal and economic; and

Political influence operations.

None of this is to be mistaken for the open accepted public diplomacy in which virtually all nations engage extensively. Public diplomacy includes providing press releases and other information to journalists, open public broadcasting, and a wide variety of official, academic, and cultural exchange programs. By contrast, Soviet "active measures" are frequently undertaken secretly, sometimes violate the laws of other nations, and often involve threats, blackmail, bribes, and exploitation of individuals and groups.

Soviet "active measures" do not always achieve Moscow's objectives. In some cases, Soviet operations have failed because of ineptitude or because targeted individuals or governments have responded effectively. However, Soviet "active measures" have had some success, and they remain a major, if little understood, element of Soviet foreign policy.

The approaches used by Moscow include control of the press in foreign countries; outright and partial forgery of documents; use of rumors, insinuation, altered facts,

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[1] See Foreign Affairs Note, "The World Peace Council, Instrument of Soviet Foreign Policy," Department of State, April 1982. Other well-known international fronts are the International Institute for Peace (IIP), The World Federation of Trade Unions (WFTU), the World Federation of Democratic Youth (WFDY), the International Union of Students (IUS), the Women's International Democratic Federation (WIDF), the International Association of Democratic Lawyers (IADL), the World Federation of Scientific Workers (WFSW), the International Organization of Journalists (IOJ), the Christian Peace Conference (CPC), the International Federation of Resistance Fighters (FIR), and the Women's International League for Peace and Freedom (WILPF).

[2] "World Peace Council: Programme of Action 1982" published by the Information Center of the WPC, Helsinki.

and lies; use of international and local front organizations; clandestine operation of radio stations; exploitation of a nation's academic, political, economic, and media figures as collaborators to influence policies of the nation.

Specific cases of Soviet "active measures" included here are: the Soviet anti-theater nuclear force (TNF) campaign in Europe; the Soviet anti- "neutron bomb" campaign; Soviet activites in support of the liftists in El Salvador; the Soviet campaign against the U.S.-Egypt relationship and the Camp David process.

"Active measures" are closely integrated with legitimate activities and Soviet foreign policy. Decisions on "active measures" in foreign countries are made at the highest level of authority in the U.S.S.R.—in the Politburo of the Communist Party Central Committee—as are all other important decisions of Soviet foreign policy.

The activities are designed and executed by a large and complex bureaucracy in which the KGB and the International Department of the Communist Party of the Soviet Union (CPSU) Central Committee are major elements. The International Information Department of the CPSU Central Committee is also deeply engaged in such activities. Actual operations abroad are carried out by official and quasi-official Soviet representatives, including scholars, students, and journalists, whose official Soviet links are not always apparent. The highly centralized structure of the Soviet state and the state's pervasive control and direction of all elements of society give Soviet leaders impressive free use of party, government, and private citizens in orchestrating "active measures"

The open societies of the industrial democracies and many developng nations, and the ease of access to their news media, often give Soviets open season for "active measures." Many Western and developing countries ignore or downplay Soviet "active measures" until Soviet blunders lead to well-publicized expulsions of diplomats, journalists, or others involved in these activities. The Soviets are adept at making their policies appear to be compatible or parallel with the interests of peace, environmental, and other groups active in Western and developing societies.

By contrast, the Soviet Union denies access to its mass media for foreigners who might criticize Soviet society or the foreign policies of the U.S.S.R.

While the United States remains the primary target, Moscow is devoting increasing resources to "active measures" against the governments of other industrialized countries and countries in the developing world. Moscow seeks to disrupt relations between states, discredit opponents of the U.S.S.R., and undermine foreign leaders, institutions, and values. Soviet tactics adjust to changes in international situations but continue, and in some cases intensify, during periods of reduced tensions.

"ACTIVE MEASURES" TECHNIQUES

The tactics and emphasis of Soviet "active measures" change to meet changed situation. For instance, Soviet use of Marxist-Leninist ideology to appeal to foreign groups often turns out to be an obstacle to the promotion of Soviet goals in some areas; it is now being deemphasized though not completely abandoned. At the same time, some religious themes—notably the Soviet assertion that the Islamic religion occupies a favorable position in the U.S.S.R.—have assumed greater significance, as Moscow courts Islamic countries in Africa and the Middle East.

Similarly, while Soviet-dominated international front groups still are important in Soviet "active measures" abroad, Moscow is broadening its base of support by using more single interest groups and fronts formed for particular purposes to promote its goals.

Soviet "active measures" involve a mix of ingenious and crude techniques. A brief sample of types of activities includes the following.

Efforts to Manipulate the Press in Foreign Countries. Soviet agents frequently insert falsely attributed press material into the media of foreign countries. In one developing country, Soviets used more than two dozen local journalists to plant media items favorable to the U.S.S.R. Soviets have also used the Indian news weekly *Blitz* to publish forgeries, falsely accuse Americans of being CIA personnel or agents, and disseminate Soviet-inspired documents. In another country, the Soviets used local journalists to exercise substantial control over the contents of two major daily newspapers.

Forgeries. Soviet forgeries—completely fabricated or altered versions of actual documents—are produced and circulated to mislead foreign governments, media, and public opinion. Recent Soviet forgeries are better and appear more frequently than in the past. Among forgeries that Soviet agents have produced and distributed are bogus U.S. military manuals and fabricated war plans designed to create tensions between the United States and other countries. In some cases, the Soviets used actual documents passed to the KGB by U.S. Army Sergeant Robert Lee Johnson (who was eventually arrested and convicted as a Soviet agent) as models for style and format in Soviet forgeries. In one case, Soviet agents, seeking to disrupt NATO theater nuclear force modernization, circulated a forged "top secret" letter from Secretary of State Cyrus Vance to another Western foreign minister.

Disinformation. Soviet agents use rumor, insinuation, and distortion of facts to discredit foreign governments and leaders. In late 1979, Soviets agents spread a false rumor that the United States was behind the seizure of the Grand Mosque of Mecca. In another case, Soviet officials "warned" officials of a West European country that the CIA had increased its activities in the country and that a coup was being planned. Sometimes these disinformation campaigns appear in foreign media suborned by the Soviets, enabling Moscow to cite foreign sources for some of the distortions and misstatements that often appear in the Soviet media. A recent and particularly egregious example was the August 1981 TASS allegation that the United States was behind the death of Panamanian General Omar Torrijos.

Control of International and Local Front Organizations. Moscow controls pro-Soviet international front organizations through the International Organizations Section of the International Department of the CPSU Central Committee. Front organizations are more effective than openly pro-Soviet groups because they can attract members from a broad political spectrum. Prominent among these fronts are the World Peace Council, the World Federation of Trade Unions, the World Federation of Democratic Youth, and the Women's International Democratic Federation. Moscow's agents use Soviet "friendship" and cultural societies in many countries to contact people who would not participate in avowedly pro-Soviet or Communist organizations. The function of front, "friendship," and cultural groups is to support Soviet goals and to oppose policies and leaders whose activities do not serve Soviet interests.

To complement organizations known for pro-Soviet bias, the Soviets sometimes help establish and fund ad hoc front groups that do not have histories of close association with the Soviet Union and can attract members from a wide political spectrum.

Clandestine Radio Stations. The Soviet Union operates two clandestine radio stations: the National Voice of Iran (NVOI) and Radio Ba Yi, which broadcast regularly from the Soviet Union to Iran and China. Moscow has never publicly acknowledged that it sponsors the stations, which represent themselves as organs of authentic local "progressive" forces. The broadcasts of both of these Soviet stations illustrate the use of "active measures" in support of Soviet foreign policy goals. For instance, NVOI broadcasts to Iran in 1979–80 consistently urged that the American diplomatic hostages not be released, while Soviet official statements supported the hostages' claim to diplomatic immunity.

Economic Manipulation. The Soviet Union also uses a variety of covert economic maneuvers in "active measures" operations. For example, a Soviet ambassador in a West European country warned a local businessman that his sales to the U.S.S.R. would suffer if he went ahead with plans to provide technical assistance to China. In another industrialized country, Soviet agents sought to increase local concern over the stability of the dollar by driving up the price of gold. This was to be accomplished by manipulating a flow of both true and false information to local businessmen and government leaders. The gambit failed because the Soviet officials who attempted to carry it out did not fully understand the financial aspects of the operation.

Political Influence Operations. Political influence operations are the most important but least understood aspects of Soviet "active measures" activities. These operations seek to exploit contacts with political, economic, and media figures in target countries to secure active collaboration with Moscow. In return for this collaboration, Soviet officials offer inducements tailored to the specific requirements or vulnerabilities of the individual involved. In 1980, Pierre-Charles Pathe, a French journalist, was convicted for acting as a Soviet agent of influence since 1959. His articles—all subtly pushing the Soviet line on a wide range of international issues—were published in a number of important newspapers and journals, sometimes under the pseudonym of Charles Morand. The journalist also published a private newsletter which was regularly sent to many newspapers, members of parliament, and a number of foreign embassies. The Soviets used Pathe over a number of years to try to influence the attitudes of the prominent subscribers to his newsletter and to exploit his broad personal contacts.

In other cases, Soviet officials establish close relationships with political figures in foreign countries and seek to use these contacts in "active measures" operations. Capitalizing on the host government official's ambition, his Soviet contact claims to be a private channel to the Soviet leadership. To play upon his sense of self-importance and to enhance his credibility within his own government, the host government official

may be invited to meetings with high-level Soviet leaders. The Soviets then exploit the local official to pass a mixture of true, distorted, and false information—all calculated to serve Soviet objectives—to the host government.

Use of Academicians and Journalists. Soviet academicians, who often are accepted abroad as legitimate counterparts of their non-Soviet colleagues, frequently engage in "active measures." Unlike their free world counterparts, they must play two roles—their legitimate academic pursuit of knowledge for its own sake and their political activities on behalf of the Kremlin. Soviet academicians are obliged to obey instructions from bodies which plan and control Soviet "active measures" activities. Similarly, Soviet journalists often engage in "active measures" operations in addition to serving as representatives of Soviet news agencies. One KGB officer in an industrialized country used his journalistic cover to pass forgeries, as well as to publish numerous propaganda articles aimed at influencing the media of the host country.

CASE STUDIES

The Soviet Anti-TNF Modernization Campaign in Europe. The Soviet campaign in Europe against NATO TNF modernization is a good illustration of Soviet use of "active measures." After a long and unprecedented buildup of Soviet military strength in Europe, including the deployment of new SS-20 nuclear missiles targeted on Western Europe, the NATO ministers in December 1979 decided to modernize NATO's TNF capabilities. The Soviets immediately began an ongoing, intensive campaign to develop an environment of public opinion opposed to the NATO decision. (Of course, not all opposition to the TNF modernization decision is inspired by the Soviet Union or its "active measures" activities.)

In this campaign, Soviet diplomats in European countries pressured their host governments in many ways. In one European country, the Soviet ambassador met privately with the Minister of Commerce to discuss the supply and price of oil sold by the Soviet Union to that country. During the discussion, the ambassador gave the minister a copy of Leonid Brezhnev's Berlin speech dealing with TNF. He suggested that if the host government would oppose TNF modernization, the Soviet Ministry of Foreign Affairs might persuade the Soviet Ministry of Foreign Trade to grant more favorable oil prices.

Moscow has spurred many front groups to oppose the TNF decision through well-publicized conferences and public demonstrations. To broaden the base of the anti-TNF campaign, front groups have lobbied non-Communist participants, including antinulcear groups, pacifists, environmentalists, and others. In some cases, the activities of these broad front groups have been directed by local Communist parties. Soviets have predictably devoted the greatest resources to these activities in NATO countries where opposition to the TNF modernization decision is strongest.

In the Netherlands, for example, the Communist Party of the Netherlands (CPN) has set up its own front group—Dutch Christians for Socialism. In November 1980, the Dutch "Joint Committee—Stop the Neutron Bomb—Stop the Nuclear Armament Race," which has ties to the CPN, sponsored an international forum against nuclear arms in Amsterdam. The forum succeeded in attracting support from a variety of quarters, which the CPN is exploiting in its campaign to prevent final parliamentary approval of the TNF decision.

The Soviet Campaign Against Enhanced Radiation Weapons (ERW). The Soviets, throughout 1977 and early 1978, carried out one of their largest, most expensive, and best orchestrated "active measures" campaigns against enhanced radiation (neutron) weapons. (Again, not all opposition to the U.S. decision to produce the enhanced radiation weapon is Soviet inspired.)

This Soviet campaign has had two objectives: first, to halt deployment of ERW by NATO; second, to divide NATO, encourage criticism of the United States, and divert Western attention from the growing Soviet military buildup and its threat to Western Europe and the world.

Phase one occurred throughout the summer of 1977. The Soviets staged an intense propaganda blitz against ERW and the United States, involving numerous demonstrations and protests by various "peace councils" and other groups. This phase culminated in a Soviet-proclaimed international "Week of Action."

Phase two began in January 1978 with Soviet propaganda exploitation of a letter from Leonid Brezhnev to Western heads of government warning that production and deployment of ERW constituted a serious threat to detente. A barrage of similar letters from members of the Supreme Soviet went to Western parliamentarians. Soviet trade union officials forwarded parallel messages to Western labor counterparts.

Phase three came in early 1978 with a series of Soviet-planned conferences, under different names and covers, designed to build up the momentum of anti-ERW pressure for the U.N. Special Session on Disarmament of May-June 1978. These meetings and conferences, held throughout February and March, were organized either by the World Peace Council or jointly sponsored with established and recognized independent international groups.

The Soviet campaign succeeded in complicating allied defense planning and focusing criticism on the United States. A top Hungarian Communist Party official wrote that "the political campaign against the neutron bomb was one of the most significant and successful since World War Two." The propaganda campaign did not end in 1978; it was incorporated into the anti-TNF effort. With the recent U.S. decision to proceed with ERW production, the Soviets have begun a new barrage of propaganda and related "active measures."

Soviet "Active Measures" Toward El Salvador. Complementing their overt public support for the leftist insurgency in El Salvador, the Soviets have also engaged in a global "active measures" campaign to sway public opinion. These activities include a broad range of standard techniques, including forgeries, disinformation, attempted manipulation of the press, and use of front groups. The obvious dual purpose has been to increase support for the insurgency while trying to discredit U.S. efforts to assist the Government of El Salvador.

In 1980, Salvadoran leftists met in Havana and formed the United Revolutionary Directorate (DRU), the central political and military planning organization for the insurgents. During the same period, the Salvadoran Revolutionary Democratic Front (FDR) was established with Soviet and Cuban support, to represent the leftist insurgency abroad. The FDR and DRU work closely with Cubans and Soviets, but their collaboration is often covert.

The FDR also supported the establishment of Salvadoran solidarity committees in Western Europe, Latin America, Canada, Australia, and New Zealand. These solidarity committees have disseminated propaganda and organized meetings and demonstrations in support of the insurgents. Such committees, in cooperation with local Communist parties and leftist groups, organized some 70 demonstrations and protests between mid-January and mid-March 1981 in Western Europe, Latin America, Australia, and New Zealand.

The FDR and DRU are careful to conceal the Soviet and Cuban hand in planning and supporting their activities and seek to pass themselves off as a fully independent, indegenous Salvadoran movement. These organizations have had some success in influencing public opinion throughout Latin America and in Western Europe. The effort of the insurgents to gain legitimacy has been buttressed by intense diplomatic activity on their behalf. For example, at the February 1981 nonalignment movement meeting in New Delhi, a 30-man Cuban contingent, cooperating closely with six Soviet diplomats, pressed the conference to condemn U.S. policy in El Salvador.

At another level, the Soviet media have published numerous distortions to erode support for U.S. policy. For example, an article in the December 30, 1980 Pravda falsely stated that U.S. military advisers in El Salvador were involved in punitive actions against noncombatants, including use of napalm and herbicides. In another particularly outrageous distortion, a January 1, 1981 article in the Soviet weekly Literaturnaya Gazeta falsely stated that the United States was preparing to implement the so-called centaur plan for "elimination" of thousands of Salvadorans.

Campaign Against the U.S.-Egyptian Relationship and the Camp David Process. In the Middle East, Moscow has waged an "active measures" campaign to weaken the U.S.-Egyptian relationship, undermine the Camp David peace process, and generally exacerbate tensions. A special feature of Middle East "active measures" activities has been the use of forgeries, including:

A purported speech by a member of the U.S. Administration which insulted Egyptians and called for "a total change of the government and the governmental system in Egypt." This forgery, which surfaced in 1976, was the first of a series of bogus documents produced by the Soviets to complicate U.S.-Egyptian relations.

A forged document, allegedly prepared by the Secretary of State, or one of his close associates, for the President, which used language insulting and offensive to President Sadat and other Egyptians and also to other Arab leaders, including King Khalid of Saudi Arabia. This forgery was delivered anonymously to the Egyptian Embassy in Rome in April 1977.

A series of forged letters and U.S. Government documents, which criticized Sadat's "lack of leadership" and called for a "change of government" in Egypt. These forgeries surfaced in various locations during 1977.

A forged dispatch, allegedly prepared by the U.S. Embassy in Tehran, which suggested that the United States had acquiesced in plans by Iran and Saudi Arabia to overthrow Sadat. This forgery was sent by mail to the Egyptian Embassy in Belgrade in August 1977.

A forged CIA report which criticized Islamic groups as a barrier to U.S. goals in the

Middle East and suggested tactics to suppress, divide, and eliminate these groups. This forgery surfaced in the January 1979 issue of the Cairo-based magazine Al-Dawa.

A forged letter from U.S. Ambassador to Egypt Herman F. Eilts, which declared that, because Sadat was not prepared to serve U.S. interests, "we must repudiate him and get rid of him without hesitation." This forgery surfaced in the October 1, 1979 issue of the Syrian newspaper Al-Ba'th.

CONCLUSION

The Soviet Union continues to make extensive use of "active measures" to achieve its foreign policy objectives, to frustrate those of other countries, and to undermine leadership in many nations. On the basis of the historical record, there is every reason to believe that the Soviet leadership will continue to make heavy investments of money and manpower in meddlesome and disruptive operations around the world.

While Soviet "active measures" can be exposed, as they have often been in the past, the Soviets are becoming more sophiticated, especially in forgeries and political influence operations. Unless the targets of Soviet "active measrues" take effective action to counter to trouble both industrialized and developing countries.

THE KGB'S—MAGICAL WAR FOR "PEACE"

(By John Barron)

It has spread like a raging fever throughout the world. From Bonn to Istanbul, Lima to New York, millions upon millions of people have joined in the nuclear-freeze movement. It is a movement largely made up of patriotic, sensible people who earnestly believe that they are doing what they must to prevent nuclear war. But it is also a movement that has been penetrated, manipulated and distorted to an amazing degree by people who have but one aim—to promote communist tyranny by weakening the United States. Here, in an exclusive report, Reader's Digest Senior Editor John Barron, author of the bestseller "KGB: The Secret Work of Soviet Secret Agents," authenticates in detail how the Kremlin, through secrecy, forgery, terrorism and fear, has played upon mankind's longing for peace to further its own strategic objectives.

In the old Lubyanka Prison on Dzerzhinsky Square in Moscow, the screams of the tortured and the pleas of the doomed are heard no more. Drunken executioners no longer ram pistols into backs of heads and blow out the faces of "enemies of the people." No longer must cleaning crews come every few hours to wash blood from the stone walls, swab gore off the oak floors and cart away former comrades' remains.

Today the Communist Party torturers and executioners perform their duties elsewhere, and Lubyanka, whose name still kindles fear in Russians, has undergone a reincarnation. Unknown to the general public, its cells, torture chambers and execution cellars have been remodeled into offices and made part of the "Center"—the headquarters of the Committee for State Security, or KGB.

Sitting in a mahogany-paneled office on the third floor for Lubyanka is the new KGB chairman, Vitaly Fedorchuk. He must still concern himself, first of all, with the continuing subjugation of the Soviet people on behalf of the Party. He and his deputies must still supervise some 5000 KGB officers abroad who daily endeavor to steal the scientific, military and state secrets of other nations. But today, as never before, the KGB leadership is preoccupied with prosecution of what the Russians call Active Measures.

As a result of a disastrous DGB loss, the West has gained encyclopedic, inside knowledge of how the Soviet Union conceives and conducts Active Measures. In Late 1979 Maj. Stanislav Aleksandrovich Levchenko escaped from Japan to the United States, and he turned out to be one of the most important officers ever to flee the KGB. Levchenko had worked at the Center as well as in front organizations in Moscow. At the time of his escape he was Active Measures Officer at the KGB's Tokyo Residency. From his unique background, he disclosed strategy, tactics and myriad examples of Active Measures, while unmasking Soviet fronts and key KGB operatives.

"Few people who understand the reality of the Soviet Union will knowingly support it or its policies," Levchenko states. "So by Active Measures, the KGB distorts or inverts reality. The trick is to make people support Soviet policy unwittingly by convincing them they are supporting something else. Almost everybody wants peace and fears war. Therefore, by every conceivable means, the KGB plans and coordinates campaigns to persuade the public that whatever America does endangers peace and that whatever the Soviet Union proposes furthers peace. To be for America is to be for war; to be for the Soviets is to be for peace. That's the art of Active Measures, a sort of made-in-Moscow black magic. It is tragic to see how well it works."

Today, the KGB is concentrating on one of the largest Active Measures campaigns mounted since World War II. Its objective is to secure military superiority for the Soviet Union by persuanding the United States to abandon new weapons systems that both American political parties and numerous strategists judge essential to Western military security. The name of the campaign is "nuclear freeze."

This worldwide campaign thus far has been remarkably successful, for the KGB has induced millions upon millions of honorable, patriotic and sensible people who detest communist tyranny to make common cause with the Soviet Union. Most of these millions earnestly believe they are doing what they must to spare mankind the calamity of nuclear war. In appealing to their admirable motivations, the Soviet Active Measures apparatus follows a strategy not unlike that of cigarette advertisers. Tobacco companies do not ask people to consider thoughtfully the fundamental issue of whether the pleasures of cigarette addiction offset indisputable perils to health. Rather, by simple slogans and alluring illustrations, they evade the issue. Similarly Active Measures, by holding out the allure of peace through simple slogans and simplistic proposals, try to evade the fundamental and extremely complex issue of arms limitation. And, as Levchenko suggests, they try to persuade everybody that the way to peace lies down the path the Russians are pointing to.

FABRICATIONS AND FRONTS

IN THE SOVIET LEXICON. Active Measures include both overt and covert propaganda, manipulation of international front organizations, forgeries, fabrications and deceptions, acts of sabotage or terrorism committed for psychological effect, and the use of Agents of Influence.[1]

The KGB has concocted more than 150 forgeries of official U.S. documents and correspondence portraying American leaders as treacherous and the United States as an unreliable, warmongering nation. One of the most damaging was a fabrication titled U.S. Army Field Manual FM30-31B and classified, by the KGB, top secret. Field manuals FM30-31 and FM30-31A did exist; FM 30-31B was entirely a Soviet creation. Over the forged signature of Gen. William Westmoreland, the manual detailed procedures to be followed by U.S. military personnel in friendly foreign countries. These fictitious instructions told U.S. military forces or advisers how to interfere in internal political affairs and, in certain circumstances, how to incite ultra-leftist groups to violence so as to provoke the host government into militant anti-communist actions.

The KGB forgery proved invaluable after terrorists from the radical leftist Red Brigades murdered Aldo Moro, president of the Italian Christian Democratic Party, in March 1978. Although Moro's murder constituted a grievous loss to the United States, Radio Moscow began broadcasting charges that he had been assassinated by the CIA. Initially, few people paid any attention to the totally undocumented allegation. Then, according to Congressional testimony, Cuban intelligence officer Luis Gonzalez Verdecia offered a Spanish newspaper the forged Army manual along with an analysis by Fernando Gonzalez, a Spanish communist who dealt with the KGB. In his article Gonzalez cited the manual to support claims that the United States was involved with various Western European terrorist groups, including the Red Brigades.

The leftist Spanish magazine El Triunfo published both Gonzalez's article and parts of the forgery on September 23, 1978. Immediately, Italian and other European newspapers replayed the Spanish story. Soviet propagandists now set up a new hue and cry, citing the articles in the non-communist European press as "evidence" that the CIA had assassinated Moro and that the United States was the actual sponsor of left-wing terrorists all around the world.

Soon, the press in 20 countries published the allegations against the CIA along with the forged manual or excerpts from it. In the minds of millions, the KGB had succeeded in inverting reality.

In all nations the KGB attempts to recruit agents—within the political system, press, religion, labor, the academic world—who can help shape public attitudes and policies to Soviet interests. Pierre-Charles Pathé, a French journalist, was an archetypical Agent of Influence until his arrest in 1979. KGB officers, working in Paris under diplomatic cover, regularly supplied him with data that he transformed into articles or passed along to other journalists as his own research and thought. For nearly 20 years Pathé initiated more than 100 articles on Latin America, China, NATO, the CIA and other topics, all in tune with KGB goals. With KGB funds, he published a newsletter read by leaders in government and industry. A French court judged Pathé's actions so potentially damaging to France's military, political and essential economic interests that it sentenced him to five years' imprisonment.

[1] The classic Soviet espionage agent steals secrets. An Agent of Influence strives to affect the public opinion and policies of other nations in the interests of the Soviet Union. His or her advocacy may be open or concealed, direct or subtle. Always, though, the Agent of Influence pretends that he or she is acting out of personal conviction rather than under Soviet guidance.

The Soviets also discreetly encourage terrorism as a form of Active Measures. At a school where KGB personnel formerly trained, near the village of Balashikha, east of Moscow, officers of Department V, responsible for sabotage and assassination, bring in contingents of 100 or so young people each year from the Middle East, Africa and Latin America to be taught terrorism. The majority of trainees return to their homelands without specific missions, the KGB calculating that the Soviet Union benefits from any mayhem committed in the Third World. But a few are recruited to be KGB agents within the terrorist movements back home. And the best and most ideologically reliable are recruited to serve the KGB independently.

Beyond these types of Active Measures for which it is exclusively responsible, the KGB assists the International Department of the Central Committee in maintaining an interlocking web of front organizations. While all are controlled from Moscow, they are not popularly perceived as subversive. The most important fronts in the current "peace" campaign are the World Peace Council (WPC) and the Institute for the U.S.A. and Canada.

FACADE OF PEACE

The World Peace Council emerged in Paris in 1950 to foment "Ban the Bomb" propaganda at a time when the Soviets had not succeeded in arming themselves with nuclear weapons. Expelled from France for subversion in 1951, the WPC took refuge in Prague until 1954, when it moved to Vienna. The Austrians also evicted the ground because of subversive activities in 1957, but the WPC retained a European outpost in Vienna through a branch titled the International Institute for Peace. In 1968 the WPC established headquarters in Helsinki to orchestrate the global propaganda campaign to compel withdrawal of Amercian forces from Vietnam.

The president of the council is Indian communist Romesh Chandra, who long has been a controlled and witting Soviet agent. Intelligent, vain and arrogant, Chandra is almost embarrassing in his slavish adherence to Soviet dictates and his paeans to all things Soviet. "The Soviet Union invariably supports the peace movement," Chandra said a few years ago. "The World Peace Council in its turn positively reacts to all Soviet initiatives in international affairs."

Nevertheless, the Russians supervise Chandra closely by assigning both International Department and KGB representatives to the permanent secretariat of the WPC in Helsinki. The public record amply demonstrates the totality of Soviet control. In its 32 years of existence, the WPC has not deviated from the Kremlin's line of the moment. It did not raise its voice against Soviet suppression of Polish and East German workers in 1953, Soviet slaughter of Hungarians in 1956, Soviet abrogation of the nuclear-test moratorium in 1961, the clandestine emplacement of nuclear missiles in Cuba in 1962, the invasion of Czechoslovakia in 1968, the projection of Soviet military power in Angola, Ethiopia and Yemen. The WPC has failed to criticize a single Soviet armament program; only those of the West. And it endorsed the Soviet invasion of Afghanistan.

WPC finances further reflect Soviet control. Huge sums are necessary to maintain the offices and staff in Helsinki, Vienna and, since 1977, Geneva; to pay for continual global travel by WPC officials; to publish and distribute around the world monthly periodicals in English, French, German and Spanish; to finance international assemblies for which hundreds of delegates are provided transportation, food and lodging. Yet the World Peace Council has no visible means of support. Virtually all its money comes clandestinely from the Soviet Union.

Even so, many people, including diplomats, politicians, scientists and journalists, choose not to see the WPC for what it is. The United Nations officially recognizes the WPC as a "non-governmental organization" and joins it in discussions of issues such as disarmament and colonialism. The national peace committees with which the WPC maintains both open and secret ties in more than 100 nations rarely are stigmatized in the press as puppets of the Politburo.

Given the facade of an earnest institution that unites sincere men and women from all parts of the world in the quest for peace, given the expertise of KBG and International Department specialists in Active Measures and propaganda, given virtually limitless funds, the World Peace Council frequently rallies millions of non-communists to communist causes.

COORDINATED EFFORT

Another front, the Institute for the U.S.A. and Canada, affords disguised Soviet operatives entrée into much higher levels of American society than does the WPC. Its director, Georgi Arbatov, an intimate of former KGB chairman Yuri Andropov, has in recent years been a regular commuter to the United States, where he hobnobs with prominent politicians and preaches the gospel of disarmament on national television.

Fully a third of the Institute's staff are regular officers of the KBG; one of its deputy directors is Radomir Georgovich Bogdanov, a senior KGB colonel, who has been subverting foreigners for a quarter century. He labored more than a decade to recruit English-speaking leaders in India and did so well that the KGB promoted him to Resident in New Delhi. As such, he helped develop Romesh Chandra into an Agent of Influence in the 1960s and has worked with him intermittently ever since.

In the mid-1970s the KGB assigned Bogdanov to the Institute and to American targets. His pose as a scholar and disarmament specialist questing for peace and understanding earns him access to U.S. politicans and academicians who genuinely do desire peace and understanding. Bogdanov has turned up at disarmament conferences—in Washington, New York and Europe—peddling the Soviet line and hunting for Americans who can be seduced into following it.

The KGB also assists the International Department in sustaining foreign communist parties. Many of the parties survive only through secret Soviet subsidies, often delivered by the KGB. The Russians, for example, long have smuggled between $1 million and $2 million annually to the Communist Party U.S.A.

The U.S.S.R. spends millions on the foreign parties because, even if bedraggled and numerically small, they still contribute significantly to Active Measures. Their members can be counted upon to circulate pamphlets and promulgate Soviet themes that subsequently creep into respectable discourse. Members elected to democratic parliaments can insert these themes into the reportage of the non-communist press by echoing them in official debates. The parties constitute a ready reservoir of disciplined demonstrators who can take to the streets simultaneously in cities throughout the world to foster an illusion of spontaneous concern. They provide the indefatigable cadre of planners, organizers and agitators who help stage mass demonstrations that attract non-communists.

The vast Soviet Active Measures apparatus—the overt propaganda organs, foreign communist parties, international fronts, KGB Residencies around the world, the factories of forgery and disinformation, the Agents of Influence—is well coordinated and disciplined and can respond to commands rapidly and flexibly. When the KGB or International Department senses opportunity, a detailed operational plan is submitted to the Politburo. Once the Politburo approves, everybody from Brezhnev on down pitches in. The basic themes and subthemes of the campaign then are massively and thunderously propagated, like some primitive chant, to drown out reasoned debate or dissent.

NEUTRON BOMB, MOSCOW BOMBAST

The Soviets' current peace campaign began five years ago in reaction to the enhanced-radiation warhead (ERW), which soon was mislabeled the neutron bomb. The ERW was born of the most realistic considerations. By 1976 the Soviet Union and its satellites had deployed some 20,000 battle tanks against West Germany.

NATO, with only some 7000 tanks and numerically inferior ground forces, could be sure of repelling an onslaught by Soviet armor only through the use of tactical nuclear weapons. However, the smallest of the nuclear weapons then stored in Europe had a destructive force roughly equivalent to that of the bomb dropped on Hiroshima. The blast and heat from such a weapon would wipe out not only Soviet invaders but everybody and everything within a four-mile radius of the detonation point. Radiation would kill men, women and children within an even wider area.

Through their hydra-headed propaganda apparatus, the Russians were able to say, and in effect continue to say, to the West Germans: If there is war, that is, if we attack you, the Americans will lay waste to your country and people. Since defense is impossible without annihilation, you should quit NATO, cease being pawns of the Americans and come to peaceful and profitable terms with us.

The Russians' most imminent objective in arraying armor on West German borders in such profligate numbers was to reinforce this argument; not to attack, but to intimidate and fragment by threat.

The United States developed the ERW solely to neutralize this threat. Fired from a howitzer or short-range missile, the ERW obliterates everything within a radius of about 120 yards, inflicting no physical damage beyond. It releases neutrons, which flash through the thickest armor with the ease of light passing through a window. The neutrons instantly kill tank crews, soldiers and anybody else in a radius of 500 yards, and cause death within hours or days to all inside a radius of one mile. The radiation effects dissipate quickly, though, and the area affected may safely be entered only hours later.

After technological breakthroughs in the mid-1970s made production of an ERW feasible, military strategies advanced the following arguments: The ERW would render the 20,000 communist tanks menacing NATO by and large useless, militarily and politically. The ERW could wipe out the

crews of entire communist armored divisions, while causing minimal civilian casualties and physical devastation. In other words, NATO could defend Western Europe without destroying much of the area and its population.

Accordingly, President Gerald Ford in April 1976 approved the enhanced-radiation warhead. But in June 1977 President Jimmy Carter announced that he would delay final decision until November.

Now the Russians had time and opportunity to initiate a worldwide campaign to pressure President Carter to do as they wished. In little more than a month, the Politburo, the International Department of the Central Committee, the KGB, their worldwide web of agents and front groups, and the Soviet press were ready. They began July 9, 1977, with a cry from TASS aimed at Carter himself: "How can one pose as a champion of human rights and at the same time brandish the neutron bomb, which threatens the lives of millions of people?" The Kremlin then warned the world that the neutron bomb can "only bring the world closer to nuclear holocaust."

Throughout July the Soviet press and radio, in an ever-rising chorus, sounded variations of this refrain: The ghastly new American weapon, the neutron bomb, threatens mankind with nuclear extinction. To be for the neutron bomb is to be for war. To oppose the neutron bomb is to be for peace.

Faithfully, the state-controlled media of Eastern Europe and the newspapers of communist parties in Western Europe echoed the bombast emanating from Moscow.

ORCHESTRATED PROTEST

Initially, the Active Measures against the ERW were mostly overt and the propaganda was traceable to communist sources. But in August the campaign advanced into semicovert and clandestine phases. The World Peace Council proclaimed August 6–13, 1977, a Week of Action, and its front groups, abetted by the KGB and local communist parties, promoted public demonstrations whose Soviet sponsorship was less perceptible. That week crowds, pleading in the name of humanity against the "killer neutron bomb," demonstrated before U.S. consulates or embassies in Bonn, Stuttgart, Frankfurt and Istanbul. Though subtly directed by Soviet agents, the demonstrators—in Germany and the Netherlands at least—were mostly non-communists attracted by intensive advertising, and motivated by a variety of impulses: anti-Americanism, pacifism, abhorrence of all nuclear weapons and a sincere longing for peace.

Elsewhere, in lands where the ERW never would be used, KGB Residencies did their job by planting disinformation in the local press. One prestigious Latin American newspaper published an antineutron-bomb article attributed to the International Institute for Peace in Vienna, which was not identified as the Soviet front that it is. A small communist claque in Lima dispatched a formal protest to the United Nations. A spate of Soviet-inspired articles appeared in India, Pakistan, Mauritius, Ghana, Ethiopia and Libya.

Concurrently, within its own empire, the Soviet Union beat the propaganda drums in a new crescendo. From East Berlin, Reuters on August 8 reported: "Twenty-eight European and North American Communist parties today joined in an unusual display of public unity to call on the United States to ban production of the neutron bomb." A sturdy worker in Moscow recalled the suffering of World War II; by coincidence, another man 1500 miles away in Uzbekistan spoke almost exactly the same words.

In October, Secretary of Defense Harold Brown announced President Carter would approve production of the ERW only if NATO allies agreed in advance to its deployment on their territories. Western European leaders recognized the ERW as a much safer, more credible deterrent than the nuclear warheads already on their soil, and privately wanted it added to NATO defenses. But by temporizing and publicly shifting the burden of decision to them, Carter exposed Allied leaders as well as himself to intensified pressures.

Accurately assessing Carter as a devoted Baptist, the Russians played upon his deep religious faith. In a dispatch quoted by the American press, TASS reported: "Soviet Baptist leaders today condemned production of the neutron bomb as 'contrary to the teachings of Christ' and urged fellow Baptists in the United States to raise their voices in defense of peace." As President and Mrs. Carter worshiped at the First Baptist Church in Washington on Sunday, October 16, 1977, six outsiders disrupted the service with shouts against the neutron bomb. And on two more occasions, protesters harassed the Carters at church.

In January 1978 Brezhnev sent letters to the heads of all Western governments asserting that the neutron bomb would "pose a grave threat to détente." Western members of parliament received similar letters from members of the Supreme Soviet and Soviet trade union leaders.

Emboldened by the initial furor the Active Measures campaign had incited, the KGB and International Department moved on the U.S. Congress. American communists, joined by non-communists, formed a National Committee to welcome Romesh Chandra and the World Peace Council presidential bureau to a "Dialogue for Disarmament and Détente" held in Washington from January 25 to 28. U.S. Rep. John Conyers, Jr., heartily greeted the group. "You have joined us to give us courage and inspiration in our fight for disarmament and against the neutron bomb," he said.

The KGB provided the star of this show at the Capitol. Reporting the proceedings, which included a luncheon in the House of Representatives, the communist Daily World said: "Every now and then one of the speakers would strike an emotional chord that was both personal and political, a human plea that sank deeply into the listeners. One such speaker was Radomir Bogdanov of the Soviet Academy of Sciences." The Daily World neglected to mention that Bogdanov is a KGB officer.

Having given "courage and inspiration" to U.S. Congressmen, agent Chandra and Colonel Bogdanov proceeded to New York where the WPC group had "long and fruitful discussions" with U.N. Secretary-General Kurt Waldheim.

In late February, 126 representatives of peace groups from 50 nations gathered in Geneva to denounce the neutron bomb. They attracted attention from an uncritical press that did not ask who was paying for this extravaganza allegedly sponsored by a heretofore unknown outfit calling itself the Special Nongovernmental Organizations Committee on Disarmament. The actual organizers and sponsors were the World Peace Council, its Swiss allies and Eastern European "diplomats" accredited to the United Nations in Geneva. The presiding officer was the ubiquitous agent Chandra.

On March 19, in a rally organized primarily by the Dutch Communist Party, some 40,000 demonstrators, drawn from throughout Europe at considerable expense to the rally's sponsors, marched through Amsterdam inveighing against the horrors of the neutron bomb and the nuclear holocaust it surely would precipitate. The protest, part of the International Forum Against the Neutron Bomb, doubtless constituted evidence to many that the neutron bomb must be very bad indeed.

AMERICAN RETREAT

Despite the illusion of a worldwide tide of sentiment welling up against the ERW, President Carter's three principal foreign-policy advisers—Secretary of State Cyrus Vance, Secretary of Defense Harold Brown and National Security Adviser Zbigniew Brzezinski—all urged production. So did the Washington Post and the New York Times. Declared the Times: "Ever since the Carter Administration asked Congress last summer for funds to produce enhanced-radiation nuclear warheads, critics ranging from Soviet propagandists to Western cartoonists have had a field day attacking the so-called 'neutron bomb.' The archetypical capitalist weapon, Moscow has called it, a destroyer of people but not property. Grim forecasts of lingering radiation deaths have filled newspaper columns worldwide. Rarely have the relevant questions been asked: Is the neutron weapon really more terrible than other nuclear weapons? And more important, would its deployment make nuclear war more likely?

"The answer to both these questions is almost certainly 'No.'. . . Neutron weapons in Western hands would significantly complicate Soviet tactical planning: If its tanks were to attack in mass, they would be highly vulnerable. If they were to disperse, they would be easier targets for conventional precision-guided anti-tank weapons. . . ."

Such logic was unavailing. On April 7, 1978, President Carter announced the ERW's cancellation. The communists gloated. "The political campaign against the neutron bomb was one of the most significant and successful since World War II," boasted Janos Berecz, chief of the Hungarian Communist Party's International Department. And Leonid Brezhnev himself decorated Soviet Ambassador Aleksandr Yosipovich Romanov for his services in inciting the Dutch demonstrations.

In unilaterally abandoning plans to produce the enhanced-radiation warhead, the United States secured no reciprocal or compensatory concessions from the Soviet Union. Abandonment gained no good will from those people endemically hostile to the plan or those convinced that it had pushed the world to the precipice of nuclear war by developing a ghastly new weapon.

By arming NATO with the enhanced-radiation warhead, the United States had intended to demonstrate to friends that it possessed the will and capacity to participate effectively in their defense. By vacillating, then capitulating before the pressures of Soviet Active Measures, the United States showed itself to be irresolute and, in the eyes of many friends, witless.

The retreat especially frightened Europeans threatened by the Soviets' newest weapon of mass destruction, the SS-20 missile. The SS-20 is an accurate, mobile weapon that can be concealed from detection by space satellites and reconnaissance aircraft. In 1977 the Russians had begun deploying the first of 315 of these missiles,

each with three nuclear warheads that can be directed at separate targets. Thus the Soviet Union now had an intimidating new force, which within 15 minutes from launch could obliterate 945 European targets—including every sizable city from Oslo to Lisbon, from Glasgow to Istanbul.

At the insistence of the Western Europeans and particularly West German Chancellor Schmidt, the Carter Administration finally agreed to emplace, under joint U.S.-NATO control, 572 Pershing II and cruise missiles as a counterpoise to the SS-20s. Unlike the old missiles they would replace, the intermediate-range Pershing II and cruise missiles could reach Moscow and other cities in the western Soviet Union. Both are mobile, can be hidden and could probably survive a surprise attack. Unlike the SS-20, the new American missiles would be armed only with a single warhead.

NATO strategists reasoned that the 572 warheads would suffice to void the threat of the SS-20 by convincing the Russians that attack upon Western Europe automatically would bring a catastrophic counterattack. The balance of nuclear terror, which has kept peace in Europe for more than three decades, would be restored; neither side could credibly threaten the other with nuclear assault. NATO ministers in December 1979 overwhelmingly approved deployment of the modern missiles, and the United States promised to put them in place by late 1983.

Throughout the 1980 Presidential campaign, candidate Ronald Reagan declared that, if elected, he would restore American military power to the degree necessary to deter Soviet intimidation or attack. A few days after Reagan won, the Soviet Union instigated the great new Active Measures campaign to prevent NATO from countering the SS-20s and to reverse the American election results by nullifying the rearmament program implicitly mandated by the voters. After the success of the anti-neutron-bomb campaign, their expectations were high.

NUCLEAR FREEZE

On February 23, 1981, Leonid Brezhnev, addressing the 26th Communist Party Congress, issued an official call for a nuclear freeze—an immediate cessation of development of any new weapons system.

Such a moratorium would achieve the fundamental Soviet objective of aborting American production and deployment of the enhanced-radiation warhead (re-initiated by Reagan), the mobile MX, Pershing II and cruise missiles, and a new manned bomber, the B-1. It would leave Western Europe vulnerable to the relentlessly expanding communist forces—now including an astonishing 42,500 tanks and 315 deadly SS-20 missiles. It would leave the United States with a fleet of old, obsolete strategic bombers unlikely to penetrate Soviet air defenses and with an aging force of fixed land-based missiles vulnerable to a first strike by gigantic new Soviet missiles.

Instantly the KGB, the International Department and the immense Active Measures apparatus heeded Brezhnev's call. With the World Peace Council, its foreign affiliates and local communist parties again the principal organizers, a new series of mass demonstrations occurred in Europe. An estimated 250,000 people marched in Bonn, protesting against any new missiles or nuclear weapons. Soviet fronts helped assemble a throng estimated at 350,000 in Amsterdam, a reported 400,000 in Madrid and 200,000 in Athens.

The KGB all along played its traditional part. Dutch authorities in April 1981 expelled KGB officer Vadim Leonov who, in the guise of a TASS correspondent, associated closely with leaders of the Dutch peace movement. Leonov made a number of professional mistakes, including a drunken boast to a Dutch counterintelligence source. "If Moscow decides that 50,000 demonstrators must take to the streets in the Netherlands, then they take to the streets. Do you know how you can get 50,000 demonstrators at a certain place within a week? A message through my channels is sufficient," Leonov bragged. In November Norway expelled KGB officer Stanislav Chebotek for offering bribes to those Norwegians who would write letters to newspapers denouncing NATO and the proposed missiles for Europe.

In January 1982 Portugal ousted two KGB officers, Yuri Babaints and Mikhail Morozov, for attempting to incite riots against NATO. That same month the Portuguese also denied visas to Soviet Peace Committee representatives who wanted to join a communist-sponsored demonstration against NATO and the missiles on grounds that they were Soviet subversives. The Portuguese Socialist Party boycotted the Lisbon march, deriding it as a "reflection of the diplomatic and military logic of the Soviet bloc."

However, the march of about 50,000 people proceeded—with U.S. Congressman Gus Savage as one of its leaders. In a newsletter to constituents, Savage boasted of his participation in activities of the World Peace Council, which he described as "the largest non-governmental peace organization in the world."

All the while the KGB was manufacturing a spate of forged documents intended to buttress the theme that American rather than Soviet nuclear weapons most imperil Western Europe. It succeeded in circulating in Great Britain, the Netherlands, Norway, Belgium, Malta, Greece and France a pamphlet entitled "Top Secret Documents . . . on U.S. Forces Headquarters in Europe . . . Holocaust Again for Europe." The contents consisted of alterations and fabrications based upon authentic military-contingency plans stolen by a KGB agent, Sgt. Robert Lee Johnson, from the Armed Forces Courier Center vault at Orly Field in 1962. The fabrications purported to show that the United States planned to blow up much of Europe with nuclear weapons to save itself.

Reproducing a standard, unclassified U.S. government map of Austria, the KGB labeled it top secret and marked targets on it. Both the Austrian communist newspaper Volksstimme and Komsomolskaya Pravda in Moscow published stories alleging that the map proved the United States planned to destroy Austrian cities and installations with nuclear bombs.

In Denmark, writer Arne Herlov Petersen, a KGB agent since 1970, helped organize a propaganda drive advocating a Nordic Nuclear Weapon Free Zone, i.e., stripping the northern flank of NATO of all nuclear defenses. As part of this effort, he composed an advertisement signed by 150 Danish artists and intellectuals and bought newspaper space with KGB money. In the summer of 1981 Petersen sponsored a peace march from Oslo to Paris, and he also published under his own name propaganda tracts written by the KGB.

Danish counterintelligence officers witnessed 23 clandestine meetings between Petersen and Maj. Vladimir Dmitriyevich Merkulov, Active Measures officer at the KGB Residency in Copenhagen. Finally, in October 1981, they arrested Petersen as a Soviet agent. Merkulov, who had been active in the Danish Cooperation Committee for Peace and Security, a communist-dominated subsidiary of the World Peace Council, was expelled.

THE U.S. MOVEMENT

While the Soviet-inspired demonstrations against NATO and the new missiles raged across Europe, protests in America initially were scant and inconsequential. But on March 20, 1981, less than one month after Brezhnev called for a nuclear freeze, the first national strategy conference of the American Nuclear Freeze Campaign convened for three days in a meeting hall at Georgetown University in Washington. The topics of the skills-sharing workshops suggest just how farsighted and well considered the planning was. Working sessions were conducted to teach activists about: "Congressional District/Petitions Approach; Referendum/State Legislator Approach; Organizing Around Nuclear Weapon Facilities; How to Approach Middle-America—Small Group and One-to-One Techniques; Media; Reaching and Activating National Organizations (Including Your Own); Working with the Religious Community; Working with the Medical and Scientic Community; Working with Groups with a Human Needs Agenda."

Virtually the entire blueprint for the nuclear-freeze campaign that followed was drawn in comprehensive detail. Speakers stressed that the beauty of the nuclear freeze derives from its simplicity. It would enable all people sincerely concerned about the danger of nuclear war to answer for themselves the question, "What can I do?"

According to a "peace" movement newspaper, the organizers at Georgetown comprised "between 275 and 300 predominantly white middle-class people from 33 states, Great Britain and the Soviet Union." Records available today identify only two of the invited Soviet guests. One was Oleg Bogdanov, an International Department specialist in Active Measures, who flew in from Moscow. The other was Yuri S. Kapralov, who represents himself as a counselor at the Soviet embassy in Washington. Kapralov was not merely an observer. He mingled with disarmament proponents, urging them on in their efforts to abort new American weapons. He was an official member of the discussion panel, and, as one listener put it, his statements were "very impressive."

But Yuri Kapralov did not speak just for himself. Kapralov is a KGB officer who, ever since arriving in the United States in 1978, has dedicated himself to penetrating the peace movement. Thus, little more than two miles from the White House, the KGB helped organize and inaugurate the American "nuclear freeze" campaign. While many civic and church groups of unassailable repute were to join in advocating the "freeze," in terms of the strategy and organization of the drive, this little-noted conference at Georgetown was a seminal meeting.

KGB officer Kapralov subsequently showed up at other American forums advocating peace and disarmament. According to press accounts he received some of the loudest applause given speakers by about 800 Harvard students and faculty members, and the Boston Globe termed him "one of the most effective speakers." Blaming the arms race on the United States, Kapralov said,

"It's funny that when our leaders talk very clearly about their desire for peace, some of your people just discredit it as transparent propaganda. We would prefer that you leaders would talk as clearly and as forcefully for peace and arms control as ours." More applause.

When Brezhnev called for a nuclear freeze, he adjured scientists to join in warning the public of the horrors of nuclear war. On March 20, the same day the Nuclear Freeze Campaign strategy conference began at Georgetown University, a new outfit, titled International Physicians for the Prevention of Nuclear War, held its first annual conference. The Soviet delegation to the meeting in Virginia included Brezhnev's personal physician, Evgenny Chazov. But the head of the delegation was not a physician at all. He was none other than Georgi Arbatov, the International Department operative, one of the masterminds of the Active Measures campaign.

The cold war was entirely the fault of the United States, according to Arbatov. America started it by dropping an atomic bomb on Hiroshima. The Russians have always believed, declared Arbatov, that the first atomic bomb was aimed as much at them as at the Japanese. New weapons will not enhance the security of anyone, Arbatov argued. America should spend its money on the needy, the underfed, the starving; not on arms. According to the Toronto Star, the assembly rewarded Arbatov with "thunderous applause."

Following the Georgetown and Virginia conferences, the U.S. Peace Council arranged for a World Peace Council delegation, with Romesh Chandra at the forefront, to tour American cities. The appearance most beneficial to them was on Capitol Hill where, in May, Representatives John Conyers, Jr., Don Edwards, Mervyn Dymally, George Crockett, Jr., Ted Weiss and Mickey Leland invited colleagues to meet and listen to the WPC delegates. Whether or not the delegation's lobbying in behalf of Soviet interests affected any of the Congressmen, the codial welcome Chandra and his colleagues received at the Capitol lent them a useful measure of respectability as bona-fide seekers of peace.

Continuing organizational efforts orchestrated from Moscow resulted in a series of conferences at which assorted peace and allied special-interest groups planned specific actions. The strategy that emerged envisioned a rising furor of demonstrations, agitation and propaganda against the European missiles and new U.S. weapons and in favor of the nuclear freeze proposed by Brezhnev. Various leaders repeatedly emphasized the necessity of rounding up "newly aroused individuals and constituencies" so, as one put it, "the demonstrations would not appear to be a primarily 'peace movement' event."

OTHER GOALS OF "PEACE"

The idea of a nuclear freeze was not new in the United States. It had been advanced two years earlier at a convention of the Mobilization for Survival (MFS), composed of three dozen or so organizations, including the U.S. Communist Party, the U.S. Peace Council, and Women Strike for Peace. One energetic leader of the Mobilization for Survival is Terry Provance, a World Peace Council activist who in 1979 participated in the founding meeting of its American branch, the U.S. Peace Council. Provance earlier led the campaign against the B-1 bomber and then became coordinator of the disarmament program of the American Friends Service Committee.

When the freeze campaign revived in 1981, MFS sponsored a strategy conference attended by representatives of some 46 peace and disarmament factions and held in Nyack, N.Y., the weekend of October 23 to 25. Provance, who had spoken at a disarmament rally in West Germany earlier in the year, discussed plans for high-profile Europeans active in the disarmament movement to come to the United States in ensuing months to stimulate the American movement. Conference participants were told that the months ahead would be "a key time to organize local public meetings and/or demonstrations," demanding a "suspension of all U.S. plans to deploy Pershing II and cruise missiles."

The action agenda adopted called for support of the nuclear freeze, solidarity with the European peace movement, "creative, dramatic actions" against large corporations, propaganda against both nuclear arms and nuclear power, and attempts to attract more followers by blaming social ills on "the military budget."

Two weeks later agent Chandra flew to New York to confer with American communist leaders and attend a conference of the U.S. Peace Council, which attracted representatives from a mélange of peace, religious and radical organizations. Chandra and Achim Maske of the West German peace movement both implored the Americans to redouble agitation to block the Pershing II and cruise missiles. As a pattern for their lobbying, Chandra commended recent pronouncements of Brezhnev's.

Congressman Savage spoke about how to induct blacks and other minorities into the disarmament drive. Congressman Conyers exhorted the activists to rally behind efforts to transfer funds from the defense budget to welfare programs. The executive director of the U.S. Peace Council, Michael Myerson, a longtime communist functionary, asserted that the U.S.Peace Council had a unique responsibility to fuse the cause of disarmament with that of the Palestine Liberation Organization and guerrillas in El Salvador, Guatemala, Chile and South Africa.

On November 15, 1981, the day the U.S. Peace Council gathering ended, the Riverside Church in New York opened a conference on "The Arms Race and Us." Serving as host and hostess were the Rev. William Sloan Coffin and Cora Weiss, whom he engaged as the Riverside Church disarmament-program director.

During the Vietnam war Weiss was a leader of Women Strike for Peace. A Congressional study characterized Women Strike for Peace as "a pro-Hanoi organization" which from its inception "has enjoyed the complete support of the Communist Party." Even while the fighting continued. Weiss traveled to both Hanoi and Paris to consult with the North Vietnamese. Subsequently she became a director of Friendshipment, established to funnel American aid to Vietnam after the communist victory. In 1976, she joined a coalition formed to stage anti-government demonstrations during the bicentennial celebrations. Weiss also has helped sponsor the Center for Cuban Studies, a group to which Fidel Castro personally expressed his appreciation on its tenth anniversary.

About 500 disarmament proponents from around the nation attended the conference Weiss organized. A prominent new performer on the disarmament scene, Australian-born pediatrician Helen Caldicott, did her best to instill fear and loathing. "We are on the brink of extinction," she warned. While Caldicott had no criticism of Soviet weapons, she likened the christening of a U.S. Trident submarine to christening "Auschwitz," to "a gas oven full of Jews burning up."

Caldicott, who now devotes herself fully to running another peace lobby, Physicians for Social Responsibility, did sound one positive note. She had just toured Europe, whipping up support for the freeze. "It was a wonderful feeling to be over there," she said, because "the fear was palpable but realistic." By contrast, she lamented, "the Americans seem to have no panic. Why?" Caldicott concluded by quoting an ecclesiastical appeal for unilateral American disarmament.

Surely her words heartened KGB officer Kapralov, who came up from the Washington Residency to participate in the start of the Riverside Church Disarmament Program.

Mobilization for Survival convened its climatic strategy session early last December on the campus of the University of Wisconsin in Milwaukee. Some of the MFS leaders were frank in their statements of tactics, strategy and goals. A staff organizer from Boston, Leslie Cagan, said that current expediency necessitates a coalition that "makes it easier to call up more people to demonstrate." Construction of a coalition with "diversity of composition," she explained, requires "a common enemy as well as a common vision." As useful enemies, Cagan cited President Reagan, "our military-industrial complex, racism and sexism."

Mel King, a Massachusetts state legislator active in both the World Peace Council and the U.S. Peace Council, demanded a more militant spirit. "We've been too damn nice," he declared. "It's time we stopped just getting mad and started getting even."

In workshops, allies of the revolutionary Weather Underground lobbied for terrorism in general, "direct action" and "armed propaganda" against installations involved in production of nuclear power and weapons. Lauded as "genuine people's leaders" were two convicts: Puerto Rican Rafael Cancel Miranda, one of the four terrorists who shot up the House of Representatives, wounding five Congressmen, and American Indian Movement leader Leonard Peltier, who killed two FBI agents from ambush.

The business of the conference included the practical planning of 1982 demonstrations at air bases, missile sites and defense plants; the formation of task forces to write letters to newspapers and importune elected officials in behalf of the nuclear freeze and against major American weapons systems. The Rev. Robert Moore, an MFS national staff member and a leader in the Nuclear Freeze Campaign, together with staff organizer Paul Mayer, stressed the advantages of bringing the campaign to a climax during the U.N. Special Session on Disarmament beginning in June.

INVERTED REALITY

The World Peace Council in the December 1981 issue of Peace Courier happily reported that its U.S. Peace Council was progressing well in collecting signatures on petitions advocating the nuclear freeze, promoting a California referendum on the freeze, and advertising the Jobs for Peace Campaign, another plan to divert money from defense to welfare.

The World Peace Council, its parent, the International Department, the KGB and

the Politburo all had ample grounds to be pleased. Like the simple slogans of past Soviet Active Measures, nuclear freeze appealed to many Americans who honestly desired to do something about the transcendent issue of war and peace. From the East Coast to the West Coast, town councils and county boards of supervisors paused in their deliberations about zoning, sewage systems and school budgets to pass resolutions favoring the nuclear freeze. Nearly 600,000 Californians petitioned for a referendum to accord their state in favor of the freeze. Prominent religious leaders, educators, scientists, artists, entertainers and other public figures endorsed the nuclear freeze. Helen Caldicott's Physicians for Social responsibility toiled tirelessly to scare people by pointing to the obvious—wherever detonated, a nuclear bomb would wreak horrendous havoc.

On March 10, 1982, Senators Edward Kennedy and Mark Hatfield introduced a resolution demanding an immediate nuclear freeze, and in the House of Representatives, a parallel resolution was introduced. Even if adopted, the resolutions would be binding upon no one. But they did significantly augment the Soviet campaign to prevent the United States from producing the weapons that would ensure a balance of strategic power.

Meanwhile, on orders from the Center at Lubyanka, the KGB Residency in New York concentrated much of its manpower upon the freeze campaign. U.S. counterintelligence identified more than 20 Soviet agents endeavoring to influence elements of the peace movement, particularly leaders in religion, labor and science.

Typical of them are KGB officers Sergei Paramonov, Vladimir Shustov and Sergei Divilkovsky, all of whom masquerade as diplomats at the U.N. Paramonov, who participated in the inaugural meeting of the Riverside Church disarmament program, courts wives of clergymen and other women in the peace movement. A charming professional, he entices the naïve with free trips to Moscow, suggesting they can "reduce misunderstandings" between America and Russia. Shustov and Divilkovsky have made numerous visits to Riverside Church. And they have shown up at other churches and meetings of prestigious organizations concerned with peace.

The Soviets supplemented the labors of their New York and Washington residencies by sending people from the Center into the United States on temporary assignments. Even before the freeze movement materialized, a Soviet delegation including KGB officer Andrei Afanasyevich Kokoshin toured the United States, visiting Americans who were to be prominent in the campaign. Another delegation led by Nikolai Mostovets, who heads the North American section of the International Department, plotted strategy with the U.S. Peace Council.

Of the Soviets who applied for visas to attend a disarmament conference sponsored by the National Academy of Sciences in Washington in January 1982, roughly half were known intelligence officers. The State Department refused entry to most of them. Nevertheless, of those who came, almost half were co-opted KGB agents or International Department operatives. One of the Soviet "scientists" was Vitaly Zhurkin who, back in the 1960s, when agent Chandra was being groomed in New Delhi, used to give money and orders to the Indian Communist Party.

In anticipation of a massive nuclear-freeze rally on June 12, 1982, emissaries from 13 Soviet international fronts flooded into New York City. They joined more than 700,000 Americans who paraded and spoke out for peace.

The following week the Soviet Union staged a terrifying rehearsal of a surprise nuclear attack on the United States and Western Europe. In a span of seven hours, they fired land and sea-based missiles designed to kill American satellites, destroy U.S. retaliatory power, obliterate American cities and wipe out Europe. The firings, over Soviet territory and waters, exactly duplicated wartime distances and trajectories, and produced shock among those monitoring them in Washington. Never before had there been such a realistic and comprehensive practice for starting a nuclear war.

There has been no great outcry against these ominous Soviet preparations. Neither has there been any outcry against, the relentless Soviet buildup of offensive nuclear weapons.

In Europe demonstrators did not protest against the 315 new Russian missiles that can incinerate all European cities in 20 minutes. Instead, they protested against the 572 weapons that NATO *plans* to emplace to defend Western Europe. In America the demonstrators did not protest against the 1400 intercontinental missiles aimed at America, many of which are designed to annihilate U.S. missiles in a first strike. Instead, they demonstrated against *projected* American missiles, bombers and submarines whose deployment would more than anything else ensure that the Soviets never will dare launch the kind of surprise attack for which they practiced last June.

While the demonstrations proceeded in Europe and the United States, seven young European tourists—a Belgian, two Spaniards, two Frenchmen and two Italians—attempted a tiny demonstration in Moscow. On April 19, 1982, in Red Square, they unfurled a banner saying in Russian, "Bread, Life and Disarmament." Instantly, the KGB seized them and carted them to jail before they could pass out a single leaflet in behalf of peace. On August 8, 1982, the Associated Press reported from Moscow: "A cofounder of Moscow's only independent disarmament group is being administered depressant drugs against his will in the psychiatric hospital where he is being held, his wife said today." And at Harvard, students and faculty reserved some of their loudest applause for a spokesman from the KGB, a man from the Lubyanka Center.

Once again, the KGB had succeeded in inverting reality.

U.S. Disarmament Organizations

The disarmament campaign against the U.S. and NATO alliance continues to escalate its activities in the U.S. and Europe targeted on the United Nations Second Special Session on Disarmament (SSD–II) to be held in New York, June 9 to July 7, 1982.

The aim of the European disarmament groups is to stop U.S. and NATO deployment of intermediate range Pershing II missiles, cruise missiles, and neutron warheads. The principal organizing tool of the U.S. disarmament movement is the "nuclear freeze" campaign that would stop development and deployment of any new U.S. strategic weapon including the MX missile, Trident submarine and B–1 bomber which previously were the targets of separate opposition campaigns.

It is noted that the World Peace Council (WPC), the principal Soviet covert action front, has been conducting campaigns to block NATO deployment of Pershing II and cruise missiles and the neutron warheads since 1977; and that many European disarmament groups are supporting the March 1982 Brezhnev proposal for a nuclear freeze in Europe.

A "nuclear freeze" in Europe would accomplish the Soviet goal of blocking NATO deployments. Aside from questions of checking compliance, a European "nuclear freeze" would leave the USSR with both a decisive edge in conventional forces in Europe and with 300 mobile SS–20 missiles carrying 900 warheads whose range, even if based on the Asiatic side of the Ural Mountains, could reach NATO forces and U.S. bases as distant as England, Spain, Portugal, Greece and Turkey as well as countries in the Middle East and North Africa.

It is also noted that while "nuclear freeze" proposals have been proposed for decades, including one proposed in 1980 by Randall Forsbert, director of the Institute for Defense and Disarmament Studies (IDDS), the disarmament organizations which have links to the WPC and other Soviet covert action fronts commenced the major National Campaign for a Nuclear Weapons Freeze at a meeting in Washington, D.C., in March 1981, not long after an expression of support for a nuclear weapons "moratorium" by Soviet President Leonid Brezhnev in his address to the 26th Congress of Communist Party of the Soviet Union (CPSU).

In the context of the local demonstrations against nuclear weapons-related facilities; the "nuclear freeze" initiatives being brought before town meetings, city councils, state legislatures and Congress; and organizing for the June 12 demonstration in New York, the following directory has been compiled of some of the key organizations and groups involved in disarmament, together with characterizations.

American Committee on East-West Accord (ACEWA)—227 Massachusetts Avenue, NE, Washington, DC 20002 [202/546–1700] is incorporated as a tax-exempt "independent educational organization" and says it is "aimed at improving East-West relations, with special focus on U.S.-Soviet relations." ACEWA and its leaders have consistently urged U.S. trade, foreign policy and arms control concessions to the USSR in order to promote "detente."

ACEWA's co-chairmen are Seymour Melman, 74, also co-chairman of SANE and who provided a strident attack on the concept of U.S. defense at a March 28, 1982, citizen conference sponsored by Rep. Ted Weiss [D–NY]; and George F. Kennan, architect of the strategy of "containment" (the corollary of which meant that the U.S. would refrain from contesting Soviet control of Eastern Europe) and who is presently organizing a campaign for a U.S. policy to never be the first to use nuclear weapons in any conflict. Another Kennan proposal being currently promoted by ACEWA is for the U.S. to immediately reduce its number of nuclear weapons by 50%.

ACEWA's co-directors are Jeanne Mattison and Carl M. Marcy, for 20 years chief of staff of the Senate Foreign Relations Committee and then a Ford Administration member of the General Advisory Committee on Arms Control. In 1976, Marcy was editor-in-chief of the Center for International Policy (CIP), and a member of the CIP board of advisers.

ACEWA's newsletter, East-West Outlook, edited by Marcy, carries articles promoting the extreme view standard among radical disarmament groups that any use of nuclear

weapons will bring total extinction of all life on earth and that it is therefore the responsibility of Americans to take the initiative in getting rid of nuclear weapons.

ACEWA's influence in the business and academic community is shown in a report on U.S. peace organizations prepared for potential donors dated February 22, 1982, by Ann B. Zill of the Stewart Mott Foundation. Zill wrote:

"In the late April to early May period, the committee will have its annual meeting at some point when George Kennan, [John] Kenneth Galbraith, Don Kendall (Pepsi Cola) and Bob Schmidt (Control Data) can all attend. They will again discuss the * * * Kennan proposal and will hear from some high ranking government official, possibly off the record. The Committee does have to be careful about taking positions that would cause its conservative members to resign."

The Zill report noted that ACEWA had received two years' funding from the Ford Foundation for a series of meetings with all the former ambassadors to the Soviet Union, but curiously "these probably won't be publicized."

Another current ACEWA project is the production of 60-second radio spots for broadcast during morning and evening "drive-time" periods. Zill reported these will vary in approach "from a soft sell approach (we all have common interests, don't we) to hard sell (do you know the Soviets have two aircrafts to [our] 14)." Mark Lewis, formerly with the U.S. Information Agency (USIA), Zill reported was working on the radio spots and "monies have been received to date from the Rockefeller Brothers and the Ruth Mott Fund."

In its newsletter, East-West Outlook, [March-April 1982, Vol. 5, No. 2], ACEWA boasts that among the 350 endorsers of the Kennedy-Hatfield nuclear freeze resolution introduced in the Senate on March 10, 1982, are the following influential ACEWA members:

George Ball, Senior Managing Director, Lehman Brothers and former Under Secretary of State; Hodding Carter, III, Public Broadcasting System, and former Assistant Secretary of State; Bernard T. Feld, chairman of the executive committee of the Pugwash Conferences, Professor of Physics, M.I.T. and editor, The Bulletin of the Atomic Scientists; Joseph Filner, Noblenet International; Roger Fisher, Professor of Law, Harvard Law School, and former consultant to the Assistant Secretary of Defense for National Security; J. William Fullbright, former chairman, Senate Committee on Foreign Relations; Marshall Goldman, associate director, Russian Research Center and Professor of Economics, Wellesley College; Jerome Grossman, president, Council for a Liveable World; W. Averell Harriman, former U.S. Ambassador to the Soviet Union; Rev. Theodore Hesburgh, S.J., president, University of Notre Dame; Stanley Hoffman, Professor of Government and chairman, Center for European Studies, Harvard University; Townsend Hoopes, former Under Secretary of the Air Force; George F. Kennan, professor emeritus, Institute for Advance Studies, Princeton, and former U.S. Ambassador to the Soviet Union and Yugoslavia; George Kistiakowsky, professor emeritus of chemistry, Harvard University, and former Science Advisor to Presidents Eisenhower, Kennedy and Johnson; Philip Klutznick, Former Secretary of Commerce; Wassily Leontief, Professor of Economics, New York University and Nobel Laureate; David Linebaugh, Foreign Service Officer (ret.), and former Deputy Assistant Director of the U.S. Arms Control and Disarmament Agency; Dr. Bernard Lown, Professor of Cardiology, Harvard School of Public Health and co-president, International Physicians for the Prevention of Nuclear War (IPPNW); Carl Marcy, co-director, ACEWA; George McGovern, former U.S. Senator; Donald McHenry, professor, School of Foreign Service, Georgetown University, and former U.S. Ambassador to the United Nations; Dr. Avery Post, president, United Church of Christ; George Rathjens, Professor of Political Science, M.I.T., and former director of Weapons Systems Evaluation Division, Institute for Defense Analyses (IDA); Harrison Salisbury, Soviet Scholar and Author; Erwin A. Salk, attorney; Herbert Scoville, Jr., former Deputy Director for Research and Assistant Director of Scientific Intelligence, Central Intelligence Agency, and Assistant Director, U.S. Arms Control and Disarmament Agency; J. David Singer, Professor of National Security Studies, The Brookings Institution; Jeremy J. Stone, director, Federation of American Scientists; William P. Thompson, Stated Clerk, General Assembly, United Presbyterian Church in the U.S.A.; Jerome B. Wiesner, past president, M.I.T., and Science Adviser to President Kennedy; Adam Yarmolinsky, former counselor to the U.S. Arms Control and Disarmament Agency; Herbert F. York, former U.S. negotiator for the Comprehensive Test Ban.

American Friends Service Committee (AFSC)—1501 Cherry Street, Philadelphia, PA 19102 [215/242-7000] was formed in 1917 by a group of fourteen socialist Quakers to aid draft resisters. AFSC has been penetrated and used by Communists since the early 1920s when it sent Jessica Smith, later married to Harold Ware and John Abt (since the 1950s CPUSA general counsel and a member of the CPUSA Political Committee) to the Soviet Union to determine famine relief needs in Russia exacerbated by Civil war and the collectivization of farmland.

Since the 1960's, the AFSC has supported revolutionary terrorist groups such as the Vietcong, Palestine Liberation Organization (PLO), and the Central American Castroite groups. The theory behind AFSC's support of terrorist "national liberation movements" was outlined by Jim Bristol in a pamphlet published by AFSC in 1972 and continuously reprinted entitled "Non-violence: Not First for Export." Because of AFSC's leadership role in organizing not only support for terrorist revolutionary groups, but in the present disarmament campaign initiated through the USSR's covert action apparatus for political warfare, a closer look at AFSC's apology for terrorist violence is appropriate.

In the AFSC pamphlet, Bristol presents the totalitarian revolutionary goal in the most glowing terms as a utopia:

"a human society where the worth of the individual will be recognized and each person treated with respect. * * * Land reform measures will be enacted * * *. Education will be provided for every member of the society; * * *. There will be employment for all. Discrimination because of race, colour or creed will end. Universal medical care will be provided."

AFSC's pamphlet asserts that the U.S. and other Free World countries are guilty of a bizarre "terrorism" which it calls the "violence of the status quo" and irrationally defines this in the broadest possible terms not only as every possible social ill, but also personal or social discomfort. In the words of the pamphlet, this "violence of the status quo" is:

"the agony of millions who in varying degrees suffer hunger, poverty, ill-health, lack of education, non-acceptance by their fellow men. It is compounded of slights and insults, of rampant injustice, of exploitation, of police brutality, of a thousand indignities from dawn to dusk and through the night.

While most would define terrorism as "a violent attack on a non-combatant segment of the community for the purpose of intimidation, to achieve a political or military objective," AFSC's pamphlet excuses terrorism in the following terms:

"terrorism * * * repeatedly * * * is used to signify violent action on the part of oppressed peoples in Asia, Africa, Latin America or within the black ghettos of America, as they take up the weapons of violence in a desperate effort to wrest for themselves the freedom and justice denied them by the systems that presently control their lives. What is so easily (one suspects, often deliberately) overlooked is the fact that the regimes rebelled against are the incarnation of a greater violence than any used in the struggle against them.

* * * before we deplore terrorism, it is essential for us to recognize whose 'terrorism' came first * * *. It is easy to recognize the violence of the revolutionary when he strikes out against the inequities and cruelties of the established order. What millions of middle-class and other non-poor fail to realize is that they are themselves accomplices each day in meting out inhuman, all-pervading violence upon their fellows."

After this apology for the concept of class warfare, which makes "permissible" terrorist attacks on civilians since they are part of the "oppressive class," the AFSC pamphlet says that U.S. activists should not concern themselves with what sort of violent tactics revolutionaries utilize to achieve their ends. Instead, they should work to disarm the U.S. and for economic warfare against the U.S.'s "oppressive" allies. In its words:

"Instead of trying to devise nonviolent strategy and tactics for revolutionaries in other lands, we will bend every effort to defuse militarism in our own land and to secure the withdrawal of American economic investment in oppressive regimes in other parts of the world."

Following these justifications of terrorist violence by Third World "national liberation movements" in the U.S. and in foreign countries, the AFSC pamphlet concludes with a call for revolution in the U.S., saying:

"Revolution then is needed first and foremost in the United States, thoroughgoing revolution, not a mild pallative."

Similar sentiments were expressed in an article in the March 1982 issue of Fellowship by Russell Johnson, Senior Program Associate of the N.E. Regional Office of the AFSC, and for many years its Peace Secretary. Describing his visits to Poland (1959), North Vietnam (1967), and Cuba (1969), he determined the North Vietnamese were "heroic people, small in stature, but magnificent in spirit * * * united * * * in a struggle to free their country from foreign domination;" and wrote that the fear of communism by "the dominant interests in the United States * * * has little to do with issues of democracy and human rights, but much to do with private property and with access to mineral and petroleum resources and to cheap land and labor. Any nationalization of a country's wealth threatens these private, privileged interests."

Johnson also cited a Cuban telling him in 1969, "If you North Americans could go back to your own country and work to disarm it and to end its counter-revolutionary activity, then maybe we wouldn't have to carry weapons here in Cuba."

As a result of AFSC support for the Vietcong, the Philadelphia Meeting of the Society of Friends withdrew financial support from the AFSC.

The AFSC worked in collaboration with the World Peace Council against U.S. aid to South Vietnam, sending "observers" to participate in WPC meetings. AFSC's six key program areas are disarmament, headed by WPC activist Terry Provance and human rights; global justice (targeting South Korea and Central America); the Middle East (where AFSC supports the cause of the terrorist Palestine Liberation Organization (PLO); southern Africa (where AFSC supports the pro-Soviet terrorist movements in Namibia and South Africa); Indochina (supporting the pro-Soviet Hanoi government in Vietnam and its puppet regime in Cambodia); and opposing registration for a military draft.

The director of the AFSC's Disarmament Program since the revival of the international disarmament campaign in the mid-1970s has been Terry Provance, a WPC activist and founding member of the U.S. Peace Council (USPC) who is also a leader of the Mobilization for Survival (MFS) and is active with the World Information Service on Energy (WISE). Accompanied by two foreign communist WPC activists, Nico Schouten, leader of the Netherlands "Ban the Neutron Bomb" organization, and East German Peace Council head Walter Rumpel, Provance addressed a MFS rally at the U.S. Capitol on October 29, 1979. A civil disobedience demonstration at the Department of Energy followed. On April 4, 1981, Provance spoke at a WPC-initiated anti-NATO rally in Bonn, FRG.

AFSC operates a lobbying arm, the Friends Committee on National Legislation (FCNL) headed by Ed Snyder, who has played a key role in developing strategy for pressure on Congress against the U.S. defense budget, and particularly against development or deployment of new weapons systems.

Another AFSC project, the National Action/Research on the Military/Industrial Complex (NARMIC), serves as the AFSC's "intelligence-gathering arm." NARMIC works closely with the Institute for Policy Studies (IPS), the North American Congress on Latin America (NACLA), a pro-Cuba research group, and other anti-defense and disarmament research organizations.

Arms Control Association (ACA)—operating from 11 Dupont Circle, 9th Floor, Washington, DC 20036 [202-797-6450], with a 1982 budget of some $200,000, wields considerable influence through its "educational" programs that include 25 or more briefings annually. According to a report dated 2/22/82 by Ann Zill of the Stewart Mott Foundation, ACA briefings are attended yearly by between 700 and 1,000 "academic and diplomatic people, government personnel and afficiandos [sic]."

ACA's leaders include William Kincaid and former CIA official Herbert "Pete" Scoville. Scoville served as the CIA's Assistant Director of Scientific Intelligence and as Deputy Director for Research, and later was Assistant Director of the U.S. Arms Control and Disarmament Agency. He has been active with the Institute for Policy Studies (IPS) since the 1960s in anti-NATO and disarmament projects, and is an advisor to the Center for Defense Information (CDI). In January 1978, Scoville participated in the Washington, D.C., meetings of the WPC Bureau.

For 1982, ACA is sending "editorial advisories" to 1,000 U.S. newspapers on three issues: "How can a nuclear war start? What would the effects be? And how can one be prevented?" Prevention according to ACA means arms control agreements such as the rejected SALT-II treaty in which the U.S. sends "signals" of peaceful intent to the USSR through major concessions.

Business Executives Move For New National Priorities (Bem)—was founded in 1967 as Business Executives Move for Peace in Vietnam by Henry Niles, then chairman of the of board of Baltimore Life Insurance Company and father-in-law of New Left theoretician Staughton Lynd. BEM's most active West Coast figure is Harold Willens of Los Angeles who is chairman of the Citizens for a Bilateral Nuclear Weapons Freeze effort to put the "nuclear freeze" proposal on the 1982 California ballot. BEM's name and targeting was changed in 1975, following the Communist conquest of South Vietnam, Laos and Cambodia.

BEM attempts to mobilize businessmen who have commercial dealings with the Soviet Union and Warsaw Pact states for political action in favor of "detente," against U.S. defense modernization, and for a foreign policy of "non-intervention" against Soviet aggression.

Campaign for Nuclear Disarmament (CND)—is the largest "ban the bomb" movement in Great Britain formed as part of the drive for a nuclear test ban treaty in the late 1950s and early 1960s. As of 1982, seven members of the CND national committee were publicly known members of the British Communist Party. With strong backing from the left wing of the British Labour Party, the CND has revived as a key element in the present anti-NATO and anti-U.S. disarmament drive.

Center for Defense Information (CDI)—operating from Capitol Gallery, West Wing #303, 600 Maryland Avenue, SW, Washington, DC [202/484-0490] was formed in 1973 as a spin-off project from the Institute for Policy Studies (IPS), a Washington-based, internationally active revolutionary think-tank. CDI operates under the tax-exemption of the Fund for Peace (FFP). CDI's continuing relationship with IPS includes not only collaboration between LaRocque and IPS cofounder Richard Barnet and the CDI retention among its advisers of longtime IPS fellow Earl C. Ravenal but also former CDI staffer William Arkin's move to head IPS's Arms Race and Nuclear Weapons Project.

CDI members include former military officers, intelligence officers and academics who share attitudes of harsh antagonism towards the U.S. national defense, the NATO alliance and American foreign policy.

CDI's former military officers are frequently quoted by the Soviet propaganda organs to legitimize their attacks on NATO and U.S. defense forces as trigger-happy dangers to peace.

Although CDI states it "supports a strong defense but opposes excessive expenditures or forces," it has opposed every major U.S. weapons system developed during the past decade—from the B-1 bomber and Trident submarine to cruise missiles and neutron warheads—as upsetting the U.S.-Soviet strategic balance while at the same time offering apologies and minimizing the Soviet military build up.

In 1979, in cooperation with the Members of Congress for Peace Through Law Education Fund, CDI financed a 27-minute film, "War Without Winners," to promote the disarmament lobby's claim that "there is no defense against nuclear war," on which basis they also oppose civil defense programs, anti-ballistic missile defenses and development of satellite-based beam weapons. The film was produced by Harold Willens, chairman of the board of the Factory Equipment Corporation, CDI advisor, and a leader of Businessmen Move for New National Priorities (BEM); and its director was Haskell Wexler, the revolutionary film director who in 1975 produced a propaganda film for the terrorist Weather Underground Organization consisting of interviews with five fugitive leaders including Kathy Boudin.

The CDI film project director was its senior staff member Arthur L. Kanegis, now CDI's media director. Late in March 1982, Kanegis, of the Georgetown Center for Strategic and International Studies, was interviewed for National Public Radio's "All Things Considered" news show disputing evidence of Soviet use of nerve gas and biological toxins in Afghanistan and Cambodia.

CDI's newsletter, Defense Monitor, publishes carefully selected data that consistently presents the USSR as a weak opponent. For example, a recent issue (Vol. XI Number 1, 1982) asserts "there is no evidence to support the notion of growing Soviet 'geopolitical momentum'" and points to setbacks (some since reversed) in Egypt, Somalia, Guinea, Bangladesh and India without noting gains in Angola, Mozambique, Ethiopia, South Yemen, Vietnam, Cambodia, Laos, Nicaragua, Grenada, Syria, Eraq, Libya, etc. CDI also has ignored the implications of the unprecedented joint visit to India of Soviet Defense Minister Marshal Dimitri Ustinov (who had never before traveled outside the USSR or Warsaw Pact countries) and Admiral Gorsakov, the chief of the Soviet fleet.

According to the Zill report (2/22/82), CDI's current plans include "hosting, along with the Washington Interreligious Staff Council, a two-day conference for 100 religious leaders" to be presented with CDI's view of the military balance by 1990; Soviet military capacity and limitation; and the future of arms control. The speakers were to include "a representative of Eugene Rostow, Senator Warner and Representatives Les Aspin and Ron Dellums."

Indications that CDI, in its consistent pattern of attacking the U.S. military while offering excuses for the Soviet build-up, may be serving as a "center for defense disinformation" include not only Gene LaRocque's 1975 claims of U.S. violations with nuclear weapons off-loading agreements with Japan and his stay at the Institute of the U.S.A. and Canada in Moscow, but his more recent overt collaboration with the World Peace Council's "generals and admirals for peace" grouping including Nino Pasti and Gert Bastian. In this light, the Zill report stated:

"On June 15 and 16, 1982, during the UN Special Session on Disarmament, CDI will host a conference of retired military officers from NATO and Warsaw Pact countries to discuss how a nuclear war would be fought/avoided, a first-time ever event. Hyman Rickover will be approached about participating.".

Center for Development Policy (CDP)—418 10th Street, SW, Washington, DC 20003 [202/547-6406] is directed by Lindsay Mattison, who formerly served on the staff of

Business Executives Move for Peace in Vietnam (BEM) and as co-director of the CDI's sister project, the Center for International Policy (CIP) where in 1976 his colleagues (CIP staff, advisers and consultants) included Susan Weber, then editor of an IPS publication who had previously spent five years working for Soviet Life, an official Soviet propaganda publication whose American staff are registered individually as Soviet agents under the provisions of the Foreign Agents Registration Act; Richard Barnet, IPS; Orlando Letelier, IPS; David Aaron, Senate Intelligence Committee, aide to Senator Walter Mondale and eventually President Carter's Assistant National Security Advisor; Anthony Lake, Barbara Watson and Joseph Nye, all of whom were appointed top Carter State Department officials in 1977; and William G. Miller, staff director of the Senate Intelligence Committee.

CDP attacks U.S. investment and development in Third World countries as exploitation. CDP particularly opposes development of nuclear energy in countries allied with the U.S., and its 1982 prime targets include the Philippines, Taiwan, Guatemala and Pakistan. In the disarmament field, it links nuclear power to nuclear weapons.

According to the Zill report, CDP works with U.S. groups including the Washington Office on Latin America (WOLA), Americans for Democratic Action (ADA), World Information Service on Energy (WISE), Nuclear Information and Resource Service (NIRS), and Ralph Nader's Critical Mass. In its anti-Taiwan efforts, Zill reported CDP "deals with the expatriot community and Members of Congress like [Senator Edward] Kennedy and [Representative Steve] Solarz."

Center for International Policy (CIP)—based at 120 Maryland Avenue, NE, Washington, DC 20002 [202/544-4666] is one of the projects spun-off from the Institute for Policy Studies in the mid 1970's and operating under the tax-exempt aegis of the Fund for Peace (FFP). CIP's bias was shown in its 1976 statement showing its opposition to all U.S.-supported opposition to Soviet aggression. Said CIP:

"Intervention in the domestic affairs of Chile, military and economic support of dictatorships in Greece, Korea, Brazil and elsewhere, and an effort to involve the U.S. in Angola—these are but a few of the actions undertaken or proposed by the American government in the name of U.S. national interests. . . .

"The American citizen has little opportunity to play a role in such policy determinations. Yet it is the ordinary citizen who pays the price of foreign policy failures—in blood, in economic hardship, and in higher taxes. . . ."

CIP called its role an effort "to develop public articipation in the formulation of public policy;" and said it works toward this goal through "a network of journalists, former diplomats, and international officials in the United States and abroad" who report to the CIP—a most unusual apparatus for developing "public participation in the formulation of public policy."

In 1976, while FFP president Nicholas Nyari was a delegate to the World Peace Council's "World Conference to End the Arms Race, for Disarmament and Detente" in Helsinki, CIP staffers included Donald L. Ranard, a 30-year career State Department official who had been director of the Office of Korean Affairs at the time of his retirement and is an opponent of South Korea; Lindsay Mattison, formerly with Business Executives Move for Peace in Vietnam (BEM) and the Coalition for New Foreign and Military Policy (CNFMP); Carl M. Marcy, for 20 years chief of staff of the Senate Foreign Relations Committee and then a legislative counsel at the State Department; William Goodfellow, then director of research of the pro-Hanoi Indochina Resource Center and board member of the Campaign for a Democratic Foreign Policy; James Morrell, a founder of the Committee of Concerned Asian Scholars and staffer of the Indochina Resource Center; Mary K. Lynch; Warren Unna, a *Washington Post* reporter for 18 years; and Susan Weber, a former copy editor of *Soviet Life*, an official propaganda publication of the USSR whose American staff, working from the Soviet Embassy, are individually registered as Soviet agents under the provisions of the Foreign Agents Registration Act, and then manager of the Institute for Policy Studies (IPS) publication, *The Elements*.

CIP's 1976 consultants included David Aaron, aide to Senator Walter Mondale and staffer of the Senate Intelligence Committee, Carter Transition Team liaison to the National Security Council and Carter Assistant National Security Advisor; IPS cofounder Richard Barnet; Tom Dine, Senior Analyst for Defense and International Affairs of the Senate Budget Committee; Richard Falk, IADL activist, participant in the WPC's 1969 Stockholm Conference on Vietnam, and a leader of the Lawyers Committee on U.S. Policy towards Vietnam; Anthony Lake, later a top Carter State Department official; William G. Miller, Senate Intelligence Committee staff director; Joseph Nye, later the Carter State Department official responsible for policy on exports of nuclear power technology to the Third World; and Murray Woldman, staff consultant of Members of Congress for Peace through Law (MCPL).

Among CIP's board of advisers were many former officials who subsequently supported the SALT-II treaty and the Nuclear Freeze. The CIP advisers included Tom Asher (husband of Carter ACTION/VISTA assistant director Marge Tabankin); William Attwood, president and publisher, Newsday, former U.S. ambassador; Joel I. Brooke, retired partner, Elmo Roper & Associates; Harlan Cleveland, former Assistant Secretary of State for International Affairs, former U.S. ambassador; Benjamin V. Cohen, former adviser to President Franklin Roosevelt; Adrian W. DeWind, former legislative counsel, U.S. Treasury; Arthur J. Goldberg, former U.S. Supreme Court Justice and U.N. Ambassador; Phillip C. Jessup, former U.S. member of the International Court of Justice; Leon H. Keyserling, former chairman of the Economic Advisory Council, more recently active with IPS and its offshoots and with the Democratic Socialist Organizing Committee (DSOC); Wassily Leontief, Nobel laureate in economics; Orlando Letelier, then director of the IPS Transnational Institute, former Allende government U.S. Ambassador and Defense Minister, Soviet agent and source for the Senate Intelligence Committee; Carl M. Marcy; Edwin M. Martin, former U.S. ambassador and U.S. representative to the World Food Conference; Malcolm C. Moos, president emeritus, University of Minnesota; Stewart R. Mott; Joseph Palmer, II, former Director General of the Foreign Service; Stephen R. Paschke, treasurer, Fund for Peace; Chester Ronning, former Canadian ambassador; Terry Sanford, president, Duke University and former governor of North Carolina; Edward Snyder, executive secretary, Friends Committee on National Legislation (FCNL); Harrison M. Symmes, president, Wyndham College, former U.S. ambassador; Barbara Watson, former administrator, Bureau of Security and Consular Affairs, U.S. Department of State (who headed that bureau in the Carter Administration); William Watts, president, Potomac Associates, former staff secretary, National Security Council; Susan Weyerhauser, trustee, FFP; Abraham Wilson, partner, Kadel, Wilson and Potts; Charles W. Yost, senior fellow, Brookings Institution, former U.S. deputy representative to the U.N.

At present, one half of CIP's 1982 $220,000 budget is derived from a $100,000 grant from the Reynolds Foundation and targeted to its Indochina Project, a successor to the former Indochina Resource Center which dissolved at the time Vietnamese spy David Truong was arrested. The project is completing a study of "yellow rain"—Soviet nerve gas supplied to Vietnamese forces and used in Cambodia. But CIP's goal, according to the Zill report, is "to heal the wounds of war and to develop greater understanding between the U.S. and Southeast Asia; to promote an end to the economic embargo; and to work toward diplomatic recognition." CIP argues that a lack of U.S. recognition and aid to Vietnam, Laos and Vietnam-occupied Cambodia is "pushing . . . these countries into the arms of the Soviet Union."

Christian Peace Conference (CPC)—is one of the more influential Soviet-controlled international fronts. The CPC is headquartered in Prague, where its leading body, the All-Christian Peace Assembly (ACPA) meets, but also has a center in East Berlin. The Yearbook on International Communist Affairs (Hoover Institution Press) describes the CPC as "under Soviet domination since 1968" and as operating "in tandem with the WPC." Its role is to bring naive clergymen to the Soviet and WPC propaganda line.

The 1978 CIA report on Soviet propaganda operations to the House Intelligence Committee noted that "Metropolitan Nikodim (USSR) . . . has been President of the CPC since 1969," and that a Hungarian, Dr. Karoly Toth, had replaced another East Bloc member as CPC Secretary-General. The CIA report stated:

"The CPC operates as a surrogate of the World Peace Council and is represented on the WPC's presidential committee and on its council. . . . The CPC strives to maintain close cooperation with such bodies as the World Council of Churches, the Conference of European Churches, the All-African Church Conference, the Berlin Conference of Catholic Christians (East Germany) and Pax Christi International."

The CPC's top official at the United Nations is Philip Oke, who takes a leading role in U.N. Non-Governmental Organization (NGO) activities for disarmament and in support of Soviet-backed terrorist "liberation movements" such as the Palestine Liberation Organization (PLO) and African National Congress (ANC). In the early 1970s, Oke was a leader of a U.S.-East German friendship society. Oke is a member of the U.S. Ad Hoc Committee on USA-USSR Dialogue, Inc. which held a meeting in the U.S. Congress featuring some of 25 "Soviet citizens and several of their U.S. hosts from the cities of Austin, Pasadena and Toledo . . . for questioning on the seven days spent together while visiting in private homes."

The members of the Committee were listed as including: Carol Pendell, president,

International President, WILPF; Rev. Dwain C. Epps, vice-president, executive secretary of the U.N. Headquarters Liaison Office of the World Council of Churches (WCC); Rev. John Moyer, secretary, United Presbyterian Church; Rev. Robert McClean, treasurer, director, Department of Peace and World Order of the Board of Church and Society of the United Methodist Church; Michael Brainerd, Citizen Exchange Corps; Richard Deats, Fellowship of Reconciliation (FOR); Howard Frazier, Promoting Enduring Peace (PEP); Edna McCallion, Church Women United (CWU); Katherine Camp, WILPF; Philip Oke, CPC; Laurama Pixton, AFSC; Joe Byrne Sills, formerly of the United Nations Association; Stephen Thiermann, Friends World Committee for Consultation (FWCC); Delmar Wedel, formerly of the YMCA National Council; Herman Will, FOR; and James Will, Christians Associated for Relations with Eastern Europe.

Christic Institute—operating from 1324 N. Capitol Street, Wastington, DC 20002 [202/797-8106] was formed in 1981 as a public interest litigation group by attorneys and activists, a number of them formerly with the Quixhote Center, who had worked on the Silkwood lawsuit. Its staff includes Daniel Sheehan, a counsel in the Silkwood and Harrisburg 8 cases now handling an anti-MX lawsuit filed in Salt Lake City; Lewis Pitts, a Regional Vice-President of the National Lawyers Guild (NLG) representing Communist Workers Party members in a Greensboro NC, lawsuit; Bill Davis and Wally Kafuboski who went to El Salvador prior to filing an amicus brief in support of a suit by Rep. George Crockett and other Congressmen handled by the Center for Constitutional Rights (CCR). The suit seeks to have U.S. military aid to El Salvador declared an unconstitutional violation of the War Power Act.

Clergy and Laity Concerned (CALC)—with national headquarters at 198 Broadway, Suite 302, New York, NY 10038 [212/964-6730] was formed in 1965 by the National Council of Churches, but first became widely known in 1967 when it co-sponsored a White House demonstration in conjunction with the Mobilization Committee to End the War in Vietnam, a coalition strongly-influenced by communists and found by the House Committee on Internal Security in 1970 to have "operated from its inception with significant international communist support" through the World Peace Council. CALC's former leader, Rev. Richard Fernandez, served on the New Mobe Steering Committee.

In January 1970, CALC described its goals in these terms: "what we are about today is not simply an end to the war in Vietnam, but a struggle against American imperialism and exploitation in just about every corner of the world. . . . Our task is to join those who are angry and who hate the corporate power which the United States presently represents, and to attempt, in our struggle, to liberate not only black, brown, and yellow men in every corner of the world, but more importantly, to help liberate our own nation from its reactionary and exploitative policies."

CALC's present co-director, John Collins, was an endorser of the U.S. Peace Council's November 1981 national conference. On 2/17/82, CALC released an "open letter to Congress" signed by 400 religious activists and leaders opposing U.S. aid to El Salvador. With the AFSC, CALC sponsored a U.S. speaking tour by nine European disarmament leaders. According to the Zill report:

"[CALC] has been most active in the formation and nurturing of the Nuclear Weapons Freeze Campaign, participating on the steering committee and involving a number of the 42 CALC chapters in the Freeze Conferences. . . . There is a new CALC chapter in Amarillo, Texas, (home of Bishop Matthiesen and the Amarillo Pantex Plant, DOE's assembly plant for all war-heads), and it is serving as a center for job references, [and] counseling of the former atomic workers who have left their jobs on principle, and for a conversion study and vigils."

The Zill report noted that CALC's present mailing list had dwindled to 2,000 names from 50,000 during the anti-Vietnam protests until four years ago when CALC hired Liz Broder's direct mail firm to rebuild the list now at 20,000 names.

Other CALC program areas include South Africa and the "politics of food" (CALC provided the initial U.S. coordination for the campaign against the Nestle Corporation's infant formula).

Coalition for a new Foreign and Military Policy (CNFMP)—Based at 120 Maryland Avenue, NE, Washington, DC 20002 [202/546-8400] is a lobbying group and information clearinghouse formed to lobby Congess for termination of U.S. military aid to South Vietnam. Following its success and the conquest of South Vietnam in May 1975, CNFMP underwent a name change and redirection into the new disarmament campaign.

CNFMP states that by a "new" policy, it means one "based on . . . the need to cooperate with nations of highly different political systems." CNFMP's programs call for U.S. recognition and economic aid to communist and pro-Soviet regimes in Vietnam, Cambodia, Laos, Angola. Other programs call for aid to revolutionary and anti-U.S. terrorist movements by a cut off of U.S. aid and economic relations with the Philippines, Thailand, Indonesia, South Africa, El Salvador, Chile, etc. This indicates that CNFMP's phrase "nations of highly different political systems" is code for "communist totalitarian regimes."

CNFMP is a major distributor of propaganda originating from the Institute for Policy Studies (IPS) and Center for Defense Information (CDI), and works closely with the two groups. Steve Daggett, on the IPS staff for three years, in 1981 became CNFMP's Budget Priorities Coordinator.

CNFMP's slogans and projects closely paralled those of the World Peace Council (WPC) and WPC delegations to Washington hold meetings with CNFMP. A number of CNFMP activists participated in the 1979 founding of the U.S. Peace Council.

On 2/26/82, CNFMP sponsored an all-day conference, Nuclear Arms and National Security, on issues for the U.N. Second Special Session on Disarmanment (SSD-II). CNFMP is supporting the "nuclear freeze" campaign, is working with the AFSC's NARMIC on a "Guns versus Butter" slide show, and has hired Liz Broder to build its 12,000-name mailing list to 500,000.

Among the members of the CNFMP's Disarmament Working Group (DWG) are the IPS Militarism and Disarmament Project, NARMIC, Physicians for Social Responsibility (PSR), War Resisters League (WRL) and U.S. Peace Council (USPC). Prior to the formation of the USPC, another CPUSA front, the National Center to Slash Military Spending, participated in the CNFMP/DWG. After formation of the USPC, that front dissolved and recommended its members and supporters become active in both CNFMP and the USPC.

Members of the coalition include the American Friends Service Committee (AFSC), Business Executives Move (BEM), Center for International Policy (CIP), Clergy and Laity Concerned (CALC), SANE, War Resisters League (WRL), Women Strike for Peace (WSP) and the Women's International League for Peace and Freedom (WILPF), as well as several church-related groups.

Committee for National Security (CNS)—1742 N Street, NW, Washington, DC 20036 [202/833-3140], according to IPS, its co-founder and senior fellow, Richard Barnet "Played a major role in organizing" NS "to mobilize broad support for detente to counter the voices calling for a return to confrontation and intervention." Other CNS leaders include Paul Warnke, and IPS trustee and SALT-II negotiator for the Carter Administration; and former CIA Director William Colby.

The Zill report noted Warnke was working with ACEWA on a task force to implement the Kennan proposals on nuclear weapons cuts. CNS has a Global Task Force with Dick Ullman and Gus Speth on population and development issues; and has received funding from the Cos Cob Foundation "for work on the Comprehensive Test Ban Treaty [and] . . . a speakers' bureau to stress that this treaty is a part of the [nuclear] Freeze Campaign."

Zill reported that Nancy Ramsey, former legislative director for WILPF and then coordinator of Americans for SALT before joining CNS, had resigned now that "CNS is off to a good start," has considerable media attention, and is raising a sustaining budget of $300,000 a year.

Council for a liveable world (CLW)— with headquarters at 100 Maryland Avenue, NE, Washington, DC 20002 [202/543-4100], was formed in 1962 by the late Leo Szilard *"to combat the menace of nuclear war."* CLW's major method is to promote U.S. disarmament concessions to the USSR and "non-intervention" against Soviet agression. Szilard, who died in 1964, at a 1961 Pugwash meeting in Vermont, called for establishment of a "U.N. Peace Court" which would have the power to pass a death sentence on any U.S. citizen or official it deemed guilty of violating "peace" and urged it have power to deputize any and all Americans to execute its sentences. CLW's present stance is much lower in profile.

CLW's February 1982 fundraising appeal commences, *"The Reagan Administration is launching a massive escalation of the nuclear arms race."* The letter, signed by George Kistiakowsky, Chief Science Adviser to President Eisenhower, says CLW's chief targets are the MX missile and B-1 bomber, and states, *"We're on Capitol Hill every day, working to re-establish arms control talks, fighting the proliferation of nuclear weapons, lobbying for nuclear arms control agreements."* CLW is also targeting U.S. chemical weapons funding and campaigning for across-the-board defense cuts, with a "media blitz" slated for late May when the Senate will be considering the chemical weapons issue.

Lobbying tactics will include meetings with newspaper editorial boards and Congressional District Office meetings in key states including New York, Illinois and Florida.

On May 11, 1982, CLW and Physicians for Social Responsibility are co-sponsoring a conference on the medical effects of nuclear war in Washington, D.C. The group is in the midst of a 700,000 piece direct mail member-

ship drive to build its list of 15,000. The CLW Education Fund's tax-exempt status is being used for contributions for the National Nuclear Weapons Freeze Clearinghouse in St. Louis pending its own IRS tax-exemption.

The CLW board of directors includes Jerome Grossman, president; Ruth Adams, *Bulletin of the Atomic Scientists;* Michael Allen, attorney; Bernard Feld, MIT; Roger Fisher, Harvard; Maurice Fox, MIT; Jerome Frank, Johns Hopkins; John Kenneth Galbraith; George Kistiakowsky; Adm. John M. Lee (Ret.); Matthew Meselson, Harvard; James Patton, National Farmers Union; Gene Pokorny, *Cambridge Reports;* Charles Price, Univ. of Pennsylvania; Edward Purcell, Harvard; George Rathjens, MIT; Eli Sagan, writer; Herbert Scoville, Jr., ACA; Jane Sharp, Cornell; William E. Tarlow, business executive; Steven Thomas, management consultant; Kosta Tsipis, MIT; Paul C. Warnke, attorney; Jerome B. Wiesner, MIT; John Isaacs, legislative director; Catherine Clark, assist. executive director.

Council on Economic Priorities (CEP)—84 Fifth Avenue, New York, NY 10011 [212/691-8550] is a research group that investigates U.S. defense industries, national defense hardware and planning, and various defense advisory boards. A major 1981 CEP study by Gordon Adams, a member of the SANE Educational Fund board of directors, and 1978 co-editor and co-author with Michael Locker for the Cuba Resource Center (CRC) focused on the access of defense groups to classified information on research and development programs for new weapons. Institute for Policy Studies (IPS) leaders play key roles in CEP funding and direction.

In addition to its in-depth investigations into U.S. defense and its tracking of Defense Department and defense industry personnel, CEP produces materials urging cuts in the defense budget and redirection of defense funds to social programs.

CEP's Military Research Staff is directed by David Gold, who is working on an anti-MX missile book. When that is concluded, his next project will target "the whole nuclear weapons field."

Other CEP projects for 1982 focus on arms sales (directed by Bill Hartung); waste in the defense budget and cost overruns (Gordon Adams); and completion of a study commissioned by the International Association of Machinists (IAM) and CNFMP on the "economic implications of the Reagan build-up" (Robert DeGrasse) recently released. A longer book-length study of the FY 1983 defense budget and "Reagan build-up" is scheduled for release in September 1982, which will attack defense spending as the cause of U.S. economic problems.

European Nuclear Disarmament (END)—with offices on Endsleigh Street in central London, was initiated in 1980 with strong input from the Institute for Policy Studies (IPS), its international arm, the Transnational Institute (TNI), and the Bertrand Russell Peace Foundation, END serves as a primary link between the Western European peace movements including the British CND and Dutch Interchurch Peace Council, the "independent" Yugoslav League for Peace, Independence and Equality of Peoples, and the Easten European movements END leaders admit are "officially supported, state controlled" and "reflect Soviet foreign policy."

END has not formed a separate disarmament organization in competition with existing groups. Instead, according to one of its leaders, Peter D. Jones, a CND activist who started a 4-month U.S. tour in January 1982, END "limits itself to individual and group contacts. Contacts with Eastern Europe vary, but East European signatories have urged Western Europeans to visit eastern countries and talk to people in a mutual exchange of views and ideas." [*WIN,* 1/1/82].

END calls for a "nuclear-free Europe," and supports a "Nordic nuclear free zone" which are also goals of the WPC and USSR.

William Arkin, coordinator of the IPS Arms Race and Nuclear Weapons Project, served as coordinator for the END bi-annual "researchers" conference held in the Netherlands in March. END leaders who have visited the U.S. for speaking and organizing include Mary Kaldor, TNI fellow and former researcher at the Stockholm International Peace Research Institute (SIPRI), who is also on the British Labour Party's Defense Committee; and Dan Smith. END's intellectual guru is British Marxist historian E. P. Thompson.

Federation of American Scientists (FAS)—307 Massachusetts Avenue, NE, Washington, DC 20002 [202/546-3300], was founded in 1945 as the Federation of Atomic Scientists. FAS calls itself "a conscience of the scientific community." FAS membership is overwhelmingly not composed of nuclear specialists, and admits its 5,000 members are "natural and social scientists and engineers concerned with problems of science and society."

Terming itself a "public interest lobby," FAS's long-time director is Jeremy J. Stone, son of I. F. Stone. FAS concern for the "public interest" includes opposing U.S. civil defense while asserting "nuclear war is national suicide." FAS defined its "primary goal" early in 1981 as "making sure that the body politic and the [Reagan] Administration in particular, are under no illusions on this score." FAS has a mailing list of 5,000 and publishes a monthly newsletter, "In the Public Interest."

In October 1981, FAS began promoting a petition drive complimentary to the "nuclear freeze" campaign which within four months had obtained 10,000 signatures; now FAS is seeking donors to underwrite a campaign to obtain one million signatures.

FAS has a 24-member national council which selects nine candidates of which members elect six for annual council openings. Officers include Frank von Hippel, chairman; John Holdren, vice-chairman; George A. Silver, secretary; Robert M. Solow, treasurer; Jeremy J. Stone, director.

Fellowship of Reconciliation (for)—523 North Broadway, Nyack, NY 10960 [914/358-4601] terms itself an association of individuals "who recognize the essential unity of all humanity and have joined together to explore the power of love and truth for resolving human conflict." Contrary to those utopian sentiments, in practice, FOR works in close collaboration with the American Friends Service Committee (AFSC), War Resisters League (WRL) and other allegedly "pacifist" groups which collaborate with the Soviet-controlled WPC, support Soviet-backed Third World terrorist movements, and support unilateral disarmament by the U.S. and the Free World.

FOR's officers include William Walker, chairperson; Daniel Berrigan, Edwin T. Dahlberg, Thich Nhat Hanh, Kay Johnson, Charles L. Lawrence, Robert W. Moon, and Michael Robinson, vice chairpersons; Herman Will, treasurer.

FOR staff include Richard Baggett Deats, executive secretary; Sue Hadley, youth action; Mike Jendrzejcyzk, disarmament; and area development/special projects, Dan B. Ebner. Ebner wrote recently to WIN magazine: "As a Catholic, a pacifist, a feminist and a socialist, I am committed to working for the 'anti-imperialist, anti-racist, anti-sexist, and anti-interventionist movement."

FOR is affiliated with the International Fellowship of Reconciliation (IFOR), based in the Netherlands. Coordinator of the IFOR secretariat is James H. Forest. FOR is taking a leading role in planning demonstrations and support activities targeted on the U.N. SDD-II; and will sponsor a coffee house at 777 U.N. Plaza (Church Center for the U.N.) throughout the SSD-II to serve as a meeting place and literature distribution center.

Ground Zero (GZ)—806 15th Street, Suite 421, Washington, DC 20005 [202/638-7402], was organized early in 1981 by "a small . . . group of individuals concerned with the lack of a national consensus and direction on nuclear war." The group agreed that "a program of public education . . . was a matter of the utmost priority." GZ's endorsers include Physicians for Social Responsibility (PSR), Business Executives Move for New National Priorities (BEM), National Council of Churches (NCC), Arms Control Association (ACA), and Council for a Liveable World (CLW). GZ lists among its individual endorsers former CIA Director William Colby.

With a staff of 13 including 5 regional coordinators, GZ's director is Roger Molander, a 7-year member of the National Security Council under the Nixon, Ford and Carter Administrations; his brother, Earl Molander, is GZ's deputy director. GZ is receiving national media publicity for its April 18-25 "Ground Zero Week" publicizing the damage at the center of a nuclear explosion as an incentive for U.S. return to SALT-II negotiations. Roger Molander has indicated GZ feels the question of Soviet arms essentially is irrelevant and says "the question is how do we get ourselves out?"

GZ spokesmen say they stick to "educational" work [featuring dramatic red and black graphics of mushroom clouds and "run for your life" displays in cooperation with Physicians for Social Responsibility (PSR)] in order to protect their tax-exemption and moderate "middle-ground" image, but admit that "If you understand what nuclear war is about, you're peace oriented."

Institute for Defense and Disarmament Studies (IDDS)—251 Harvard Street, Brookline, MA 02146 [617/734-4216] was formed in January 1980 by Randall Forsberg, 38, a former Harvard Ph.D. candidate and SIPRI peace researcher. IDDS recently received tax-exempt status, and has a staff of 8 full-time and 3 part-time employees. Mrs. Forsberg, IDDS executive director, in 1980 circulated a draft call for a "nuclear freeze." It received minimal support from the major disarmament groups until March 1981, following the Brezhnev speech to the CPSU 26th Congress.

In cooperation with CDI leaders Gene LaRocque and John Kenneth Galbraith, Forsberg was active in disarmament lobbying of delegates to the 1980 Democratic National Convention, taking the position that "for the U.S. to regain nuclear superiority, rather than stopping the arms race, will produce unprecedented danger of first strike by both sides in time of crisis; and is the single greatest danger currently facing the world."

IDDS officers include Patrick Hughes, secretary, and George Sommaripa, treasurer.

The Board of Directors includes individuals from the academic and activist wings of the anti-defense lobby including several individuals and organizations active with the WPC. Board members include Betty Lall, chairperson, U.N. Committee on Disarmament and International Security; Hayward Alker, MIT; Richard Barnet, IPS; Elise Boulding, Dartmouth; Kay Camp, WILPF; Harvey Cox, Harvard; Richard Falk, Princeton; Sanford Gottlieb, New Directions; Robert Johansen, Institute for World Order (IWO), Cheryl Keen; Ann Lakhdhir; Everett Mendelsohn, Harvard; Philip Morrison, MIT; George Rathjens, MIT; Judith Reppy, Cornell; and Brewster Rhoads, director, CNFMP.

Institute for Policy Studies (IPS)—1901 Q Street, NW, Washington, DC 20009 [202/234-9382] is a revolutionary think-tank that has consistently supported policies that facilitate the foreign policy goals of the Soviet Union and weaken the position of the United States. This has been true whether the issue is disarmament (for the West), abolition of nuclear power (for the West), opposition to intelligence agencies (for the West) or support for Soviet-backed revolutionary terrorist groups.

To put its policy recommendations into action, IPS has built networks of contacts among Congressional legislators and their staffs, academics, government officials, and the national media.

In 1978, in an article in National Review, Brian Crozier, director of the London-based Institute for the Study of Conflict, described IPS as the "perfect intellectual front for Soviet activities which would be resisted if they were to originate openly from the KGB."

IPS has been particularly concerned with researching U.S. defense industries and arms sales policies to Free World countries under pressure from Soviet-supported terrorist movements. The director of IPS arms sales research, Michael Klare, is a veteran of the North American Congress on Latin America (NACLA), a Castroite research group that has aided CIA defector Philip Agee, and who worked with the Center for National Security Studies (CNSS), an IPS off-shoot affiliated with the Fund for Peace. Klare has made frequent trips to Havana to "lecture" on U.S. arms policies to "graduate students" at the University of Havana, and has participated in disarmament conferences sponsored by WPC groups.

IPS's Arms Race and Nuclear Weapons Project is directed by William "Bill" Arkin, who is compiling a book of [U.S.] nuclear weapons data with "everything from where the bombs are stored to where weapons delivery systems are cooked up." This is to be kept up-to-date with revisions bi-annually.

Arkin, who formerly worked for the Center for Defense Information, is coordinating an attack on the defense budget by a group including Bertram Gross and longtime IPS activist Richard Kaufman, assistant director and general counsel of the Joint Economic Committee of Congress.

According to the Zill report, Arkin was coordinator of the March 1982 END researchers conference in Holland; briefed END leaders on U.S. weapons developments "which affect Europe, . . . [and] works closely with Stan Norris of CDI and with press people from the Wall Street Journal, The New York Times, The Washington Post and CBS where, at the end of February, 60 Minutes will feature a story of his on Nuclear Weapons in Europe."

In addition to taking a leadership role in the National Nuclear Weapons Freeze Conference, February 19-20, in Denver, and conducting a workshop attacking the impact of military spending on local areas, and writing a pamphlet on nuclear weapons to be distributed by the time of SSD-II, Zill reported that Arkin "is also teaching a course at the Defense Intelligence School called 'Research and Methodology: Effects of Limited Nuclear War in Europe.' "

IPS played a seminal role in the formation, funding and development of networks linking Western ecological and anti-nuclear activists with key disarmament organizers and armaments researchers, including some in Eastern Europe. These groups include the Nuclear Research and Infromation Service (NIRS), the World Information Service on Energy (WISE), and European Nuclear Disarmament (END).

On April 10, 1982, an IPS-sponsored group visiting Moscow for a week of meetings with high-level Soviet officials responsible for disseminating disinformation and propaganda for U.S. consumption, met with U.S. reporters to serve as the unofficial means for floating the possibility that Brezhnev might agree to a New York summit meeting in New York at SSD-II.

The IPS group, led by its principal spokesman, Marcus Raskin, IPS co-founder and senior fellow, included Robert Borosage, IPS director, National Lawyers Guild (NLG) activist and former director of the Center for National Security Studies (CNSS); Minneapolis Mayor Donald M. Fraser; Rt. Rev. Paul Moore, Jr., Episcopal Bishop of New York; New York lawyer Robert S. Potter; and Roger Wilkins, journalist and senior fellow of the Joint Center for political Studies (JCPS) which specializes in "black issues."

The IPS group identified only two of the CPSU Central Committee officials they met—Georgi A. Arbatov, head of the Institute of the U.S.A. and Canada, a "think-tank" that provides research and analysis and also cultivates and develops contacts with Americans at the direction of the KGB and the International Department of the CPSU Central Committee; and Vadim V. Zagladin, first deputy chief of the International Department.

In various U.S. interviews, Borosage has floated such standard Soviet themes as that the USSR is satisfied by "rough parity" with the U.S., that the U.S. is restarting the arms race, that the Soviets want to go back to SALT-II and get U.S. ratification; that if the U.S. starts another round in the arms race, it will seriously hurt the Soviet economy and ordinary Soviet citizen—but they'll still go ahead, so competition is futile; and the threat that the modern U.S. weapons proposed for deployment are "very dangerous . . . and would lead to much more dangerous stages that would make both sides insecure, not more secure."

Borosage took pains to say that the Soviets are "skeptical" of the disarmament movement and "they hadn't expected it. It was much more powerful and widespread than they'd ever imagined."

Institute for World Order (IWO)—World Disarmament Campaign (IWO/WDC)—777 U.N. Plaza, 5th Floor, New York, NY 10017 [212/490-0010] is playing a key role in training disarmament campaign organizers. Eighteen disarmament briefings to which the IWO/WDC invites United Nations correspondents and another 275 New York-based reporters have scheduled prior to SSD-II. To date, on the average, 25 reporters have attended each briefing. Speakers have included Herbert "Pete" Scoville, Robert J. Lifton, IPPNW, and Dr. H. Jack Geiger, PSR. On 2/25/82, the IWO/WDC initiated a two-session "problem-solving theater" in cooperation with all the other leftist and disarmament groups at 777 U.N. Plaza. IWO/WDC coordinator Carolyn Krebs has an information packet distributed free to editors, writers, and media people. Its 35 items have been carefully selected "to avoid a diatribe tone."

IWO plays a role in a number of ways parallel to IPS, but without IPS's emphasis on cultivating activists and supervising the formation of new organizations to serve shifting left campaigns.

The IWO subsidizes a network of 28 scholars both in the U.S. and Europe and has "a network of over 75 to research ways to transform the system of international relations." Many IWO scholars and officers have been closely associated with IPS. Among these are Richard Barnet and Richard Falk, also active with the International Association of Democratic Lawyers (IADL). IWO's 30,000 name mailing list includes 10,000 teachers. It has a staff of 18.

International Association of Democratic Lawyers (IADL)—was described in a CIA Report on Soviet Propaganda Operations prepared at the request of the House Intelligence Committee and published by the committe in 1978, as "one of the most useful Communist front organizations at the service of the Soviet Communist Party."

The report noted that at its 1975 conference in Algiers, "the real and ideological interests of the IADL were covered by the agenda * * * which considered law to be a function in the struggle against imperialism, colonialism, neo-colonialism, racism and apartheid. Under the banner of anti-imperialism, the IADL's thrust * * * was to do battle with the large international companies as a way to gain adherents and backing in the developing world."

The IADL has a Western Hemisphere regional subsidiary, the Association of American Jurists (AAJ), headquartered in Havana. The IADL's major U.S. section is the National Lawyers Guild (NLG), organized in 1936 with the assistance of the Comintern as a Communist Party, U.S.A. (CPUSA) front. The NLG is still controlled by an alliance of "Old Left" CUPUSA members and supporters and other revolutionaries aligned with Cuba and Vietnam. The NLG and the closely related National Conference of Black Lawyers (NCBL) are affiliated with both the IADL and AAJ.

IADL activities parallel the other international Soviet fronts. During the anti-Vietnam period, lawyers active in the IADL's U.S. section, the NLG, and in another CPUSA front, the National Emergency Civil Liberties Committee (NECLC) organized a secondary front, the Lawyers Committee on U.S. Policy towards Vietnam, in which Richard Falk, Richard Barnet and others were active. A parallel can be drawn with the recent formation of the Lawyers Committee on Policy (LCNP).

International physicians for the Prevention of Nuclear War (IPPNW)—635 Huntington Avenue, 2nd Floor, Boston, MA 02115 was formed in 1980 and held its first congress near Washington, DC, in March 1981. Soviet government involvement with IPPNW is overt. Not only do large high-level Soviet delegations attend IPPNW's conferences, but a Soviet government official serves as a co-chairman.

The IPPNW's co-chairmen are Yevgeny Chazov, Soviet Deputy Minister of Health; Sir Douglas Black, president, Royal College

of Physicians; and Bernard Lown, a Harvard School of Public Health cardiologist and sponsor of the U.S.-Cuba Health Exchange (US-CHE), which provided glowing accounts of the Cuban Revolution's medical system, lobbied for an end to the U.S. trade embargo, and arranged for shipment of "drugs and equipment" to Cuba. IPPNW membership overlaps Physicians for Social Responsibility (PSR).

A Soviet delegation of 11 attended IPPNW's first conference and was accompanied by Georgi Arbatov, director of the Institute of the U.S.A. and Canada, an analysis and research apparatus whose staff, according to one recent Soviet defector, is one-third composed of KGB officers assigned to cultivate visiting Americans, feed them disinformation, and scout for individuals who could be used as witting or unwitting Soviet assets.

IPPNW's role was described by Ann Zill of the Stewart Mott Foundation as "to coordinate all the (anti-nuclear) Physicians groups that have sprung up in countries such as Canada, Sweden, Finland, Germany, England, Switzerland, Norway and Australia."

IPPNW's second conference was held at Newham College, Cambridge, England, during the first week of April 1982, and was attended by some 200 physicians. The large Soviet delegation was headed by N. N. Blokhin and Mikhail Milstein. Other participants included H. Jack Geiger, professor of community medicine at City College of New York (NNCY); Bernard Lown; and Horst-Eberhard Richter of West Germany.

Milstein's address reported in Pravda (4/5/82) repeated the standard Soviet threat and propaganda line that "Soviet military doctrine * * * totally rejects the concept of so-called 'limited' nuclear war now put forward by certain Western strategists. * * * any thermonuclear war, whether it begins in Europe or elsewhere * * * would inevitably * * * become a world conflagration."

A Pravda report on the IPPNW meeting (4/4/82) stated:

"The representatives of the USSR and other socialist countries and many Western colleagues note that people can and must remove the threat which hangs over them today. To this end, it is necessary to develop publicity work still more widely among the broad masses of the population and prompt them to wage active struggle to end the arms race."

Pravda mentioned among IPPNW's most active chapters those in the U.S., USSR, Britain, Canada, Hungary, Holland, Finland and Czechoslovakia.

International Union of Students (IUS)—based in Prague, Czechoslovakia, works closely with the Budapest-based World Federation of Democratic Youth (WFDY) as fronts for Soviet covert action targeted against student and youth groups. Dissident radicals supporting "Eurocommunism" and Maoism have been expelled from the IUS, and its publications, statements and resolutions consistently follow Soviet policy and are invariably directed against the U.S. and Western European countries.

June 12 disarmament coalition (J-12 DC)—853 Broadway, Room 2109, New York, NY 10003, the group first appeared in October 1981 as the Campaign for the Special Session on Disarmament (CSSD) and operated from the New York offices of the Mobilization for Survival (MFS).

The purpose of the group is to organize a mass disarmament rally in New York to apply pressure on the U.S. government, particularly with President Reagan slated to personally attend the meeting, for disarmament concessions. Leading groups and individuals in the coalition include Cora Weiss, Riverside Church Disarmament Program; Communist Party, U.S.A. (CPUSA); U.S Peace Council (USPC); Women's International League for Peace and Freedom (WILPF); Women Strike for Peace (WSP); American Friends Service Committee (AFSC); Fellowship of Reconciliation (FOR); Paul Mayer, MFS Religious Task Force; and Norma Becker, War Resisters League (WRL).

Lawyers Committee on Nuclear Policy (LCNP)—777 U.N Plaza, 5th Floor, New York, NY 10017 (212/887-8962), appeared late in 1981 circulating a "statement on the Illegality of Nuclear Weapons" which has no condemnation or even mention of Soviet nuclear weapons and targeting policy, but which is aimed specifically at the United States.

LCNP's positions closely parallel those of the Soviet "peace" fronts. LCNP's officers and initial members of its consultative council include a number of activists from the National Lawyers Guild (NLG), the U.S. section of the Soviet-controlled International Association of Democratic Lawyers (IADL).

On June 4-5, 1982, LCNP and the Geneva-based International Peace Bureau (IPB) headed by Lenin Peace Prize winner Sean MacBride, a vice-president of the WPC-related Continuing Liaison Committee of the World Congress of Peace Forces, will co-sponsor in New York an "International Symposium on Morality and Legality of Nuclear Weapons."

LCNP's co-chairpersons are Martin Popper, an identified CPUSA member who was the NLG's executive secretary during the 1940s and remains active in the New York City NLG chapter and in IADL activities; and Peter Weiss, NLG member, vice-president of the Center for Constitutional Rights (CCR) and president of the board of the Institute for Policy Studies (IPS).

Secretary and executive director is Elliott L. Meyrowitz and LCNP's treasurer is Robert L. Boehm, CCR's chairperson. The consultative council is listed as including Richard Barnet, IPS and formerly active with the Lawyers Committee on U.S. Policy towards Vietnam (LCUSPV) which was founded by activists with the IADL, NLG, and National Emergency Civil Liberties Committee (NECLC), a CPUSA legal action and propaganda front; Ian Brownlie, Oxford University; Francis A. Boyle, University of Illinois; Anthony A. D'Amato, Northwestern University; Robert F. Drinan, Georgetown University and 1968 NLG national vice-president; IADL and LCUSPV activist Richard A. Falk, Princeton University and Institute for World Order (IWO); C. Clyde Ferguson, Jr., Harvard University; Roger Fisher, Harvard University; Ellen Frey-Wouters, City University of New York (CUNY); John H.E. Fried, CUNY emeritus; Ann Fagan Ginger, University of Puget Sound, a veteran NLG "old leftist" and president of the IADL's Havana-based Western Hemisphere affiliate, the Association of American Jurists (AAJ); Bert B. Lockwood, Jr., University of Cincinnati; Sean MacBride, International Peace Bureau; Saul H. Mendlovitz, Rutgers University (Newark), IWO; Arthur S. Miller, George Washington University (emeritus); Lord Philip Noel-Baker; Bert V. A. Roling, Groningen University (Netherlands); John Quigley, Ohio State University, former NLG vice-president; Yoshikazu Sakamoto, University of Tokyo; Sherle R. Schwenninger, IWO; and Burns H. Weston, University of Iowa.

LCNP's rhetoric is the shrill, tired dogma found routinely in proclamations of the Soviet-controlled front organizations. For example:

"Humanity has entered a critical period in its history as a species. Today's nuclear arsenals have the potential for annihilating a large segment of the world's populations, for devastating an contaminating vast areas of the earth's surface, * * * In short, nuclear weapons threaten human survival itself.

LCNP violently attacks U.S. policy-makers as "increasingly contemplating" the use of nuclear weapons and asserts its role is to combat "the Reagan administration's position that the United States must be prepared to intervene, using nuclear capabilities if necessary, to protect U.S. interests wherever threatened [and in] * * * U.S. official policy a dangerous acceptance of the legitimacy and efficacy of using nuclear weapons to reverse international situations considered adverse to U.S. national interests."

Members of Congress for Peace Through Law (MCPL) and Education Fund (MCPL-EF)—201 Massachusetts Avenue, NE, Room 318, Washington, DC 20002 (202/544-4250) describes its general goals as strengthening the power of the U.N., disarmament and "developing a global economy in which every person enjoys the material necessities of life."

MCPL commenced informally in 1959, the brain-child of Marcus Raskin, then on the staff of Rep. Robert Kastenmeier, as a mini-caucus of 12 liberal-left Congressmen to promote some radically utopian changes in U.S. policies, starting with abolition of NATO and disarmament, and including vastly increased social welfare programs. IPS's seminars for Congressmen and staff aides which commenced in 1963 contributed to the expansion and formalization of MCPL as a structured, staffed caucus.

MCPL has been formally staffed since 1966, with Congressmen contributing staff positions and funds. Staff and consultants include Edith B. Wilkie, executive director; June Campagna, executive assistant; and consultants Murray Woldman, Frank Record and Richard Creecy.

In the last Congress, MCPL had 74 members. In 1982, MCPL is concentrating on developing strategies for budget cuts in specific weapons systems, particularly the MX missile and B-1 bomber; and on stopping U.S. aid to El Salvador. MCPL was highly active in drafting one of the nuclear freeze resolutions.

The MCPL-EF was established in 1975 to receive outside contributions. Officers include Rep. John Seiberling, president; and C. Maxwell Stanley, vice-president, whose foundation funds the U.N. Non-Governmental Organization (NGO) apparatus in which Soviet-controlled fronts play key and dominant roles.

Mobilization for Survival (MFS)—with national offices until the close of the U.N. SSD-II in the Church of All Nations, 48 St. Marks Place, New York NY 10003 [212/460-8545] was organized in the fall of 1976 by a handful of U.S. and European WPC activists. MFS made its first formal appearance on April 23, 1977, at a conference in Philadelphia led by individuals active with the WPC, Chicago Peace Council, WILPF, WSP, AFSC, CALC and related groups. These incuded British disarmament activist Peggy Duff of the International Confederation for Disarmament and Peace (ICDP); Sid Peck; Sid Lens; Ron Young, AFSC; Michael Klare; Terry Provance; David McReynolds and Norma Becker.

Sid Peck, a former CPUSA functionary, explained MFS's origins by noting that the WPC, in cooperation with the ICDP and Japan Council Against Atomic and Hydrogen Bombs [the Japanese Communist Party-controlled Gensuikyo] were "working closely with non-governmental organizations the world over to create the maximum impact on the United Nations Special Session on Disarmament in late May 1978."

MFS has been to a considerable extent superceded by the June 12 Disarmament Coalition partly to protect MFS's tax-exempt status and for legal considerations since the J 12 DC is involved in civil disobedience planning. MFS's "educational" role allows it to serve as a communications network for local environmental and anti-nuicear power groups promoting their participation in disarmament activities; and to prepare disarmament information packets for outreach to churches, hospitals and trade unions.

National Lawyers Guild (NLG)—853 Broadway, 17th Floor, New York, NY 10003 (212/260-1360), is the largest U.S. affiliate of the International Association of Democratic Lawyers (IADL), the Soviet-controlled front for lawyers. The NLG was organized with the assistance of the Comintern in 1936 as a legal action front operated by the CPUSA. The NLG remains the principal legal bulwark of the CPUSA, its fronts and controlled unions.

While there are small numbers of Maoists, Trotskyites and independent Marxist "New Leftists" in the organization, the NLG's international positions and real domestic control lies with the supporters of the Soviet and Cuban communist regimes. During the 1970s, the NLG's cooperation with Cuba has escalated markedly.

Major NLG activities include defense of revolutionaries and militant extremists charged with violent crimes, litigation against law enforcement intelligence units, and providing legal advice in advance of demonstrations with civil disobedience—in effect acting as co-conspirators in violating the law.

The NLG has produced a handbook for NLG lawyers involved in mass defense of anti-nuclear demonstrators; and NLG chapters nationwide have been active in providing aid to anti-nuclear power and disarmament demonstrators. The NLG is a member of the J 12 DC.

National Nuclear Weapons Freeze Campaign Clearinghouse (NNWFCC)—4144 Lindell Street, Room 201, St. Louis, MO 63108 [314/533-1169] was set up late in 1981 as the National Nuclear Weapons Freeze Campaign moved into high gear. Pending its own tax exemption, NNWFCC is being funded via the Council for a Liveable World Education Fund.

Coordinator of the Clearinghouse is Randy Kehler, a veteran WRL organizer who went to prison in 1970 for two years as a draft resister, and afterwards led the successful "nuclear freeze" campaign in western Massachusetts prior to his selection to head the coordination center.

The Nuclear Weapons Freeze Campaign (NWFC) was launched at a "National Strategy Conference for a Nuclear Freeze" held in Washington, DC, March 20-22, 1981. Among the key initiators were Cora Weiss, Riverside Church Disarmament Project (RCDP); Women's International League for Peace and Freedom (WILFF) which at that time was still sponsoring presentations and reports to its chapters from those who had attended the WPC's September 1980 World Parliament of the Peoples for Peace in Sofia, Bulgaria; Clergy and Laity concerned (CALC); CNFMP; SANE; the Fellowship of Reconciliation (FOR); War Resisters League (WRL); and MFS Religious Task Force.

The conference followed a call for a nuclear weapons "moratorium" in a speech by Soviet president Brezhnev at the February 1981 26th Congress of the Communist Party of the Soviet Union. Endorsers of the "nuclear freeze" include Mike Myerson, a CPUSA functionary serving as executive secretary of the U.S. Peace Council (USPC). Major organizational support for the campaign is being provided by the AFSC, CALC, WRL and WILPF.

NWFC national executive committee member Currie Burris, national coordinator of the Clergy and Laity Concerned (CALC) "Human Security: Peace and Jobs" program who last year participated in a tour of Europe by leaders of U.S. disarmament groups, is urging the NFC "to develop enough clout to stop the deployment of the Pershing and cruise missiles in Europe. They're scheduled to go on line in 1983 and this would be disastrous for the Freeze Campaign."

Burris also has recommended that U.S. activists take lessons from the Dutch "Stop the Neutron Bomb" organization, which is led by Dutch Communist Party functionary Nico Schouten and is a spin-off from the World Peace Council (WPC).

A more obvious radicalization in orientation of the "nuclear freeze" campaign was in evidence at its February 19-20, 1982, national conference where influential WRL activist David McReynolds, urged opposition to U.S. aid to El Salvador be included in "freeze" campaigning and criticized the NWFC for not challenging "the whole structure of anti-Soviet prejudices. This is something the left should do."

NNWFCC is coordinating many activities in connection with Ground Zero Week, including coordinated press conferences on April 26 backing the "nuclear freeze."

The NWFC national executive committee projects a 3 to 5 year campaign will be needed to obtain U.S. government agreement to a "freeze," and members have expressed their belief that a change in the White House in 1984 would be necessary for victory.

Nuclear Information and Resource Service (NIRS)—1536 16th Street, NW, Washington, DC 20036 (202/483-0045) was established by anti-nuclear activists closely associated with the Institute for Policy Studies in the summer 1978. NIRS was to serve as an information and communications center for environmentalists and anti-nuclear power activists.

In 1980, NIRS described its main project as "building detailed, up-to-date files on skilled people helpful to the anti-nuclear and safe energy movement." NIRS has played a central role in generating support for "nuclear free Pacific" groups and in facilitating contacts between anti-nuclear and disarmament groups in the U.S., Australia, New Zealand, Japan, and Pacific island nations. NIRS has served as the U.S. center for WISE.

NIRS activities have included co-sponsoring a public speech by IPS "senior fellow" Richard Barnet in March 1980, in which he denounced U.S. reaction to the Soviet invasion of Afghanistan as an effort to start a "new Cold War," attacked the U.S. for developing "destabilizing weapons systems * * * not only the Trident, but the MX" and Pershing II and cruise missiles for Europe.

With funding from sources including the Youth Project and Cora and Peter Weiss, via the Fund for Tomorrow, the NIRS budget is some $200,000. Coordinator of the group is Betsy Taylor; and staff includes Mark Hertsgaard of IPS.

Physicians for Social Responsibility (PSR)—P.O. Box 144, Watertown, MA 02172 (617/924-3468) states that in 1961, PSR "acted as a united medical voice in warning of the hazards of atmospheric nuclear testing, significantly contributing to the momentum that led to the Partial Test Ban Treaty of 1963." The present PSR, Inc., organized in 1978 by 10 Boston-area antinuclear health activists, is a "non-profit organization committed to public and professional education on the medical hazards of nuclear weaponry."

PSR works with a variety of groups backing U.S. and Western unilateral disarmament including IPPNW, the Union of Concerned Scientists (UCS), FAS, CDI and IPS in promulgating the most extreme "end of the world" propaganda as the inevitable result unless the U.S. heeds its appeal to reduce tensions with the USSR and ban "all use of nuclear weapons."

Claiming a membership of 10,000 and 101 chapters, PSR president is Helen Caldicott, 43, an Australian pediatrican and disarmament zealot whose shrill hysterical voice had frequently been heard at MFS anti-nuclear rallies. She claims to have been instrumental in persuading Australian trade unions to oppose mining of uranium ore, and reportedly has attempted to persuade top AFL-CIO officials to adopt anti-nuclear policies. In 1981 Caldicott and other "peace activists" visited the USSR. She has given up her position at Harvard Medical School to devote full time to disarmament organizing.

PSR's presentations on the horrors of nuclear war are heavily salted with radical supporters of Soviet-backed Third World terrorist groups, veteran unilateral disarmament proponents and health care professionals associated in the past with such groups as the Medical Committee for Human Rights (MCHR), Medical Aid to Indochina (MAIC), and the U.S.-Cuba Health Exchange (US-CHE).

A presentation on February 13, 1982, by the New York City PSR, P.O. Box 411, Planetarium Station, New York, NY 10024 (212/477-3416) (salaried staff coordinator is Joanne Pomerantz) featured Richard J. Barnet, IPS; Jerome Frank, board member of SANE and CLW and a past president of FAS; Robert J. Lifton, IPPNW activist and US-CHE sponsor; Studs Terkel and Victor W. Sidel, M.D., Professor and Chairman of the Department of Social Medicines Montefiore Hospital and Medical Center of the Albert Einstein College of Medicine, and US-CHE sponsor.

Speaker at other NYC PSR meetings from August 1981 to January 1982 include Michio Kaku, physics department, City College of New York (CCNY), a frequent MFS rally speaker who links his anti-nuclear sentiments to the Hiroshima atomic bombing in which members of his family died; H. Jack Geiger, MD, a founding PSR member and president of IPPNW; Barry Commoner, Citizens Party; and Joe Fahey of Pax Christi and the Manhattan College Peace Studies section on the European Nuclear Disarmament movement.

Among the featured speakers in national PSR presentations have been Kosta Tsipsis, MIT; Gene La Rocque, CDI; John Constable, MD, Harvard; H. Jack Geiger, MD; Howard H. Hiatt, Dean, Harvard School of Public Health.

According to the Zill report, PSR has raised nearly one million dollars. On Veterans Day (November 11, 1982), PSR and the Union of Concerned Scientists (UCS) will attempt to duplicate their 1981 campus seminar successes. PSR has targeted some 15 cities for its grisly presentations.

Riverside Church Disarmament Program (RCDP)—490 Riverside Drive, New York, NY 10027 [212/222-5900] and its director, Cora Weiss, are playing leading roles in the June 12 Disarmament Coalition organizing of a mass demonstration during SSD-II. The Zill report cited Weiss as saying $250,000 will be needed to organize a large, effective protest.

Cora Weiss, formerly active with the Emma Lazarus Clubs and Women Strike for Peace (WSP), played a leadership role in the CPUSA-controlled anti-Vietnam coalitions [New Mobilization Committee, People's Coalition for Peace and Justice (PSPJ)] which collaborated closely with the WPC. She received considerable media attention for her numerous meetings with Vietnamese communist officials in Paris and Hanoi and for her controversial role in the Committee of Liaison and in a project to provide material aid to Hanoi, the Friendshipment/Bach Mai Hospital Fund.

She and her husband, Peter Weiss, president of the IPS board, are officers of the Samuel Rubin Foundation, which provides the major financial support to IPS/TNI, and of the Fund for Tomorrow, a smaller foundation which supports many activist groups spun-off by IPS including WISE.

The RCDP was formed in 1978; its current budget is $137,000. In addition to its major disarmament conference each November. Among the most noted Soviet participant has been Yuri Kapralov, nominally a counsellor at the Soviet Embassy and expert on military and disarmament affairs, who has been serving as Moscow's unofficial "ambassador" to the U.S. disarmament movement. It is noted that the Attorney General's guidelines on FBI security investigations prohibits monitoring of "religious" activities.

During Lent, RCDP sponsored weekly Wednesday night gatherings of disarmament activists who were taught "resistance, dangers of radiation, the European Nuclear Disarmament Movement." In cooperation with the MFS Religious Taskforce led by Paul Mayer, RCDP is co-sponsoring "Peace Sabbath" events (May 28-31) with CALC, FOR, Pax Christi and Sojourners.

SANE—A Citizens Committee for a Sane World—514 C Street, NE, Washington, DC 20002 (202/546-7100) cooperates directly with the WPC, co-sponsoring two Capitol Hill appearances by WPC activists in 1981. SANE and the CNFMP are cooperating in compiling a joint computerized mailing list by Congressional districts, and in a media task force against the Reagan defense budget.

SANE's major 1982 project, co-sponsored with Congress Watch and FRAC is the Fair Budget Action program which will apply pressure in Congressional districts for diverting the defense budget to social programs. The Zill report noted that SANE's 30,000 name mailing list, FRAC's big budget and Congress Watch's 100,000 members should ensure major attention.

SANE played a leading role in a 1975 Chicago National Conference to Slash Military Spending organized by the CPUSA's then head of WPC U.S. activities, Pauline Royce Rosen. (The organization formed from that conference, the National Center to Slash Military Spending, joined CNFMP; but dissolved in 1980 and was superseded by the U.S. Peace Council (USPC)).

SANE executive director is David Cortright, a founder of the U.S. Peace Council, former GI organizer at Fort Bliss, IPS protege of Marcus Raskin, and staffer of the Center for National Security Studies. Cortright has hired Chad Dobson of the Campaign to Stop the MX and moved him from Salt Lake City to the East Coast to help organize the June 12 demonstration.

SANE's board of directors is headed by co-chairman Seymour Melman and William Winpisinger, president of the International Association of Machinists and Aerospace Workers (IAM). Board members include Ramsey Clark, William Davidson, Jerome Frank, Rep. Tom Harkin, Homer Jack, David Livingston, Robert Maslow, Joseph Miller, Michael Moffitt (IPS), Robert Musil, Leon Quat, Marcus Raskin, Rep. Fred Richmond, Alex Rosenberg, Morton Stavis, Edith Tiger, Sr. Mary Luke Tobin, Kosta Tsipis, and Rep. Ted Weiss.

SANE is raising money for a TV spot in favor of the "nuclear freeze" and is in the midst of a one million piece direct mail campaign.

Stanley Foundation, 420 E. Third Street, Muscatine, IA 52761 (319/264-1500) since 1969 has been financing "educational meetings" among U.N. NGO groups and foreign policy conferences in support of detente with Soviet participation. Its meetings, once or twice yearly, have been held generally in the Church Center for the U.N., 777 U.N. Plaza, or in the offices of the Arms Control Association (ACA) in Washington, DC. This NGO Consultation Group established a Steering Committee of 12 to 15 people for which the Zill report was compiled.

Stanley Foundation media programs include a radio program, "Common Ground," 39 30-minute programs broadcast over 50 National Public Radio stations. The foundation also sponsors regional news media conferences for 50 to 60 reporters in the print and electronic media based in cities with a population of 500,000 to one million.

The Zill report noted the Stanley Foundation was planning some 10 conferences this year for up to 50 people—U.N. diplomats, businessman, labor leaders, U.S. government officials and academics—to work on recommendations for changes in U.S. foreign policy. One of these, scheduled for March 26-27, in New York was to bring 50 "Congress people and staffs to learn about * * * the role of the U.N. in arms control."

Union of Concerned Scientists (UCS)—1384 Massachusetts Avenue, Cambridge, MA 02238 (617/547-5552) was established at the Massachusetts Institute of Technology in 1969 in support of the Strategic Arms Limitations Treaty (SALT). The group claims more than 100,000 sponsors nationwide.

The UCS board of directors is chaired by Henry M. Kendall of MIT. Among the board members are Dr. James A. Fay; Dr. Kurt Gottfried; Leonard Meeher; Herbert "Pete" Scoville, former CIA deputy director; and Richard Wright. UCS executive director is Eric E. Van Loon.

In cooperation with PSR and related groups, UCS sponsored 150 campus teach-ins on November 11, 1981. UCS programs were weighted with speakers against U.S. defense and foreign policies and favoring unilateral disarmament, with a token opponent invited to lend credibility to the event. UCS organizer Peter Stein has built a campus network with an "arms project steering committee" that will attempt to expand campus outreach in November.

The Zill report noted UCS intends to become more involved "outside the U.S. with teach-ins in European centers too."

UCS is planning an international meeting of 40 disarmament scientists to be held in New York at Roosevelt University during the second week of SSD-II, and is raising money to fully pay expenses for 15, plus a portion of the expenses for others.

U.S. Peace Council (USPC)—7 E. 15th Street, Room 408, New York, NY 10003 [212/989-1194] was launched as the official U.S. national section of the WPC at a November 1979 conference in Philadelphia.

The CPUSA newspaper Daily World [11/1/79] credited three veteran CPUSA organizers for laying the organizational basis for the WPC by "working for years to establish local committees, organize delegations from the U.S. to international meetings of the WPC, and distribute information about the Peace Council to activists in the United States." Those named include Pauline Royce Rosen, "who coordinated all WPC activities in the U.S. for many years" and led what in effect was a CPUSA front serving as a cover for the WPC, the National Center to Slash Military Spending (NCSMS), which dissolved in 1980 and recommended to its supporters they join the USPC and CNFMP; Sylvia Kushner of the Chicago Peace Council (CPC); and Elsie Monjar of the Los Angeles Peace Council (LAPC).

Among those taking active roles in the USPC founding, speaking or listed as workshop leaders, were Mark Shanahand, CNFMP; Sarah Staggs, CPC; Connecticut Rep. Irving Stolberg; David Cortright, SANE; Rev. William Hogan, CALC; Terry Provance, AFSC; Erica Foldy, CNFMP; Frank Chapman, AFSC; Archie Singham, Nation editorial board; Betsy Sweet, WILPF; Massachusetts Rep. Saundra Graham; New York City Council members Miriam Friedlander and Gilberto Gerena-Valentin; and Ed Vargas, vice-president, Connecticut Federation of Teachers, Hartford, CT.

The published list of USPC sponsors included Canon Frederick B. Williams, president, Council of Churches of Manhattan; Alden Whitman; Edith Villastrigo, director, Washington Office, WSP; Michigan State Senator Jackie Vaughn, III; Fred Stover, U.S. Farmers Association; Rev. Anthony M. Stevens Arroyo, director, CEMI, Pax Christi; Dr. Robert J. Schwartz, chairman, New York SANE; Jack Sangster, Fund for New Priorities in America (FNPA); Ruth Messinger, New York City Council; Maryann Mahaffey, Erma Henderson and Clyde Cleveland, Detroit City Council members; Dr. L. Charles Gray, vice president, Christian Peace Conference; Donna Cooper, Washington, D.C. Peace Center; Illinois Representative Carol Mosely Braun; and Marjorie Boehm, president, U.S. section, WILPF.

In a brochure distributed at its second convention in November 1981, the USPC explained its support for disarmament and Third World revolutionary organizations: "The campaign to stop weapons of mass destruction cannot be separated from support for the peoples of Southern Africa, Asia and the Middle East * * *. The movement to defend and consolidate detente is at the same time a movement to halt the forces that seek to crush struggles for liberation. The demand for jobs and rebuilding the cities of our country is simultaneously a demand to reduce the military budget, from which we must get the billions of dollars needed for that task."

USPC executive director is Michael Myerson, a long-time functionary of the New York State Communist Party.

War Resisters League (WRL)—339 Lafayette Street, New York, NY 10012 [212/228-0450] was founded in 1923 "to support conscientious objectors whose pacifism was secular or political in nature," which primarily meant supporting anarchists, Marxists and communists who object to participating in "imperialist" war, but who did not object to class war and thus were not pacifists. WRL defines itself as supporting "radical pacifism * * * an effort to create a just and peaceful society through nonviolent and lifesupporting methods."

WRL's dual revolutionary slant is indicated in its selection of articles supporting Marxism and "social anarchism * * * socialism without centralism, without a party, and without a government," as its primer on alternative political structures.

A major WRL project since 1967 is WIN magazine, whose synthesis of radical culture and new life styles has included support for revolutionary terrorist groups including the Palestine Liberation Organization (PLO), Irish Republican Army (IRA), Weather Underground, West German Baader-Meinhof gang, etc.

Although WRL claims its relations with the WPC have been strained, David McReynolds and other WRL activists continue to collaborate with the Moscow-line communists in coalitions, including the June 12 Disarmament Coalition.

It is noted that West German news reports, citing annual government internal security surveys of totalitarian organizations, term the German Peace Society/United Military Service Resisters [Deutsche Friedens Gesellschaft/Vereinigte Kriegsdienstgegner] (DFG/VK) (an affiliate of the War Resister League International (WRLI)) a front of the German Communist Party (DKP). The 14-member DFG/VK board, cochaired by Gerd Greune and Klaus Mannhardt, a member of the WPC, also has four DKP members.

Women for Racial and Economic Equality (WREE)—130 E. 16th Street, New York, NY 10003 (212/473-6111), is a CPUSA front which is the U.S. affiliate of the Soviet-controlled Women's International Democratic Federation (WIDF).

Women's International Democratic Federation (WIDF)—based in East Berlin, is so heavily communist in its character that it has nearly lost its former character as a front involving noncommunists. That role, more and more, is being taken by the WILPF which has been so heavily penetrated by communists that last year it was made an affiliate of the World Peace Council, as is the WIDF. During the 1960s, the U.S. WIDF affiliate was Women Strike for Peace (WSP); however in the mid-1970s, the CPUSA established a new women's front, Women for Racial and Economic Equality (WREE), now the official WIDF section.

Women's International League for Peace and Freedom (WILPF)—headquartered at 1213 Race Street, Philadelphia, PA 19107 (215/563-7110) and a Washington legislative office formerly shared with WSP, has been cooperating in WPC and WIDF projects to such an extent that WILPF last year was made a WPC affiliate. WILPF has a tax-exempt "educational" arm, the Jane Adams Peace Association (JAPA). WILPF leaders include Yvonne Logan, president; Liggy Frank, executive director; Betsy Sweet, program director.

The heavy-handed pro-Soviet stance of many WILPF activists includes participation in the WPC and USPC by Disarmament Coordinator Katherine "Kay" Camp; frequent sponsorship of exchange visits with the Soviet Women's Committee; and a call for a campaign against "anti-Sovietism" in the media—defined as any suggestion that the USSR may be responsible for the arms race or pose a threat to the U.S. WILPF's "STAR" petition campaign utilizes an old WPC slogan, "Stop the Arms Race."

Women Strike for Peace (WSP)—145 S. 13th Street, Philadelphia, PA 19107 (215/923-0861), was founded in 1961 as a "national movement of women against the arms race and for the fulfillment of human needs." Virtually its first act was to assign CPUSA member Selma Rein to arrange WSP's affiliation with the WIDF.

WSP's national coordinator is Ethel Taylor, and its national legislative coordinator is Edith Villastrigo. WSP members have comprised a substantial proportion of U.S. delegations to World Peace Congresses. WSP has been working in support of the local "nuclear freeze" initiatives, aiding in Ground Zero and PSR events, and carrying out effective "lobbys by proxy."

The Zill report notes that WSP went to Rep. Millicent Fenwick with 85 proxy cards and asked her to use her influence to hold hearings on Euro-missiles and the Middle East as well as arms control efforts. The three-day hearings by the House Foreign Affairs Committee commenced on 2/27/82.

World Federation of Democratic Youth (WFDY)—based in Budapest, is a Soviet-controlled front that works closely with the IUS and other fronts in promoting Soviet foreign policy goals—whether detente and arms control or support for Third World terrorist movements. The WFDY's World Youth Congresses have served as occasions for introducing young radicals and communists to terrorist leaders. The U.S. WFDY section is the Young Workers Liberation League (YWLL), the youth arm of the Communist Party, U.S.A. (CPUSA).

World Information Service on Energy (WISE)—based in Amsterdam, and with a U.S. address at 1536 16th Street, NW, Washington, DC 20036 [202/387-0818] was formed by anti-nuclear activists and researches in 1978 "to function as an international switchboard for local and national groups around the world who want to exchange information and support one another." In the U.S., WISE has received distribution and other support from Terry Provance, active with the AFSC, USPC and coconvenor of the Mobilization for Survival (MFS) International Task Force.

In June 1981, the WISE council decided to reduce its coverage of disarmament demonstrations and dates except when the links between nuclear power and nuclear arms "are clear." Another group with ties to IPS/TNI—European Nuclear Disarmament (END)—has taken over that function.

World Peace Council (WPC)—based in Helsinki, is the major Soviet-controlled international communist front organization. Operating under the joint control of the International Department of the Central Committee of the Communist Party of the Soviet Union (CPUSU) and the KGB, the WPC has two main functions: to influence public opinion and government policies in non-communist countries along lines favorable to Soviet policy goals, and to provide logistical support to Soviet-supported terrorist groups.

THE SOVIET PEACE OFFENSIVE

(Final Draft of a Western Goals Report in Brief, March 1, 1982)

INTRODUCTION

In a recent television interview, President Reagan commented on the anti-U.S. and anti-NATO disarmament demonstrations that have had thousands of people marching in the capitals of Western Europe this fall in coordination with similar anti-NATO demonstrations organized by the communist regimes in East Germany and other Warsaw Pact countries. Said President Reagan, "Oh, those demonstrations; you could have used newsreels from the Sixties in America. These are all sponsored by a thing called the World Peace Council, which is bought and paid for by the Soviet Union."

In the U.S., disarmament groups related to the World Peace Council (WPC) both directly and through its national affiliate, the U.S. Peace Council (USPC), have commenced on all-out drive against U.S. defense modernization targeted on the United Nations Second Special Session on Disarmament (SSD), to be held in New York, June 9 to July 7, 1982.

The use of internationally active front organizations, cover groups and peace slogans has been a standard tactic of the Communist Party of the Soviet Union (CPSU) since 1921 when Lenin developed the idea of using trade unions, youth groups, social and cooperative organizations as "transmission belts" to spread communism. The development of "popular front" organizations to attract support from non-communists for Soviet goals began in 1934. After the Soviets dissolved the Comintern in 1943, as a sop to Stalin's Western allies, responsibility for control of fronts and foreign communist parties was transferred to the International Department of the Central Committee of the Communist Party of the Soviet Union.

Front groups attempt to conceal the USSR's role in their programs. They are vehicles for Soviet covert action and have become key in developing among both the industrialized West and emerging Third World nations support for the USSR, its interests and policies much greater than could have been achieved by the local communist parties campaigning openly for the same issues.

A Soviet Politburo directive issued in 1949 by Mikhail Suslov, the director of the Kremlin's ideological warfare and propaganda campaigns from the Stalin period until his death from a stroke on January 25, 1982, established the prime targets for recruitment into the "fronts" which appears to still obtain in 1981:

"Particular attention should be devoted to drawing into the peace movement trade unions, women's, youth, cooperative, sport, cultural, education, religious, and other organizations, and also scientists, writers, journalists, cultural workers, parliamentary, and other political and public leaders."

Among the fronts established by the Soviet Union after World War II are the Afro-Asia People's Solidarity Organization (AAPSO); International Association of Democratic Lawyers (IADL); International Federation of Resistance Fighters (FIR); International Organization of Journalists (IOJ); International Union of Students (IUS); Women's International Democratic Federation (WIDF); World Federation of Democratic Youth (WFDY); World Federation of Scientific Workers (WFSW); World Federation of Trade Unions (WFTU); and the World Peace Council (WPC). Another

front of growing importance is the Christian Peace Conference (CPC), which has been under Soviet control since 1968 and operates in tandem with the WPC.

This Western Goals report, prepared in association with the *Informaton Digest*, the authoritative newsletter specializing in investigative reporting on U.S. political and social movements, documents the strong influence if not overt control exerted by the WPC over the U.S. disarmament movement and reports on plans for protests and other activities designed to influence U.S. public opinion in favor of appeasing the Soviet Union.

World Peace Council

Since 1950, when it launched the Stockholm Peace Appeal, the World Peace Council (WPC) has been the Soviet Union's single most important international front organization. The WPC's first Stockholm Peace Appeal sought an absolute ban on the atomic bomb at a time when the Soviet Union's nuclear capability lagged far behind the U.S.

The 1950 Stockholm Appeal declared that "the first government to use the atomic weapon against any country whatsoever would be committing a crime against humanity and should be dealt with as a war criminal." This theme is still being promoted by leaders of the U.S. disarmament drive.

Soviet preparations for the launching of the present disarmament drive can be traced to 1973, when it became clear that the U.S. withdrawal from South Vietnam would ensure North Vietnamese, Pathet Lao and Khmer Rouge success.

Meeting in Sofia, Bulgaria, in February 1974, the World Peace Council set up a new body, the "Conference of Representatives of National Peace Movements," to meet annually and coordinate building up local WPC affiliates, particularly in the non-communist countries. The December 1974 meeting in Prague, Czechoslovakia, of this WPC body, chaired by Romesh Chandra, discussed implementation of the WPC's 1975 "program of action" that included "special efforts * * * to draw new forces into their ranks." [Peace Courier, January 1975, p. 2.]

The Prague WPC meeting issued an appeal entitled "Make Detente Irreversible" which considered disarmament and U.S.-Soviet arms control agreements the key to "reducing tensions." But the WPC's Prague appeal also demonstrated that their goal was to reduce American and NATO military strength which was "provoking tension," and that in its view detente would not be "irreversible" until the West got rid of its nuclear and conventional forces. The WPC appeal explained that detente was necessary because "detente creates more favorable conditions for the waging of the people's struggles * * * The context of detente loosens the grip of imperialism on oppressed nations and on newly independent states dominated by multinational corporations."

Omitting the rhetoric, it means that if the democratic countries of the Free World can be persuaded to give up the weapons that comprise their means of resistance to armed aggression, the Communist aggressors will have won. The tactics of deception, subversion and covert action via agents of influence are certainly not new. They were set out in the 6th Century B.C. by Chinese military strategist Sun Tsu, whose Art of War is a basic text for both the Soviet military and the KGB. Among Sun Tsu's precepts are:

"All warfare is based on deception. Therefore, when capable, feign incapacity; when active, inactivity. Offer the enemy a bait to lure him; * * * When he concentrates, prepare against him; where he is strong, avoid him.

"Anger his general and confuse him. Pretend inferiority and encourage his arrogance. * * * When he is united, divide him.

* * * *

"Generally in war the best policy is to take a state intact; * * * To subdue the enemy without fighting is the acme of skill. Thus, what is of supreme importance in war is to attack the enemy's strategy." [The Art of War, trans. S. B. Griffith, Oxford University Press, 1973]

1975 New Stockholm Campaign.

Disarmament was the subject of four "commissions" of the May 30 to June 2, 1975 WPC Presidential Committee meeting in Stockholm. The topics were:

"1-Ending the arms race and international detente; 2-Disarmament and development (social and economic consequences of the arms race); 3-Dangers of development of new types of weapons (imperialist methods of warfare); 4-Peace and nuclear weaponfree zones as a contribution to ending the arms race." [Peace Courier, June/July, 1975]

Among the signers of the main working paper on disarmament were Howard Parsons (USA), Nobel Peace Prize winner Philip Noel-Baker (UK), Yuri Shvedkov (USSR) and Roger Mayer (France). In addition to representatives of the WPC's national affiliates, international organizations sending representatives to this WPC meeting included the Women's International League for Peace and Freedom (WILPF), the Stockholm International Peace Research Institute (SIPRI), UNESCO and the World Federation of United Nations Associations (WFUNA). According to the WPC, all participants in the Presidential Committee meeting signed the WPC's New Stockholm Appeal petition initiated at the meeting.

The WPC's dual emphasis on supporting revolutionary terrorist movements while promoting Western disarmament was shown in the decision of the WPC Presidential Committee to award its Joliot/Curie Gold Medal simultaneously to the chief of the Palestine Liberation Organization (PLO), Yasir Arafat, and to Bram Fischer, a white Afrikaner member of the South African Communist Party who led the terrorist arm of the African National Congress (ANC) in a sabotage and terrorism campaign in the early 1960s. Fischer died of cancer while serving a life imprisonment term for this terrorist crimes.

The 1975 Stockholm Appeal referred to the victories of North Vietnamese, Pathet Lao and Khmer Rouge in Southeast Asia as "victories for peace and detente" that "have created a new international climate, new hopes, new confidence, new optimism among the peoples." The WPC appeal continued:

"The unity of peace forces has the power to overcome the obstacles which still remain along the road to a new world, from which aggression, exploitation, hunger and poverty will be banished for all time.

"The principal obstacle to making the process of detente irreversible is the arms race.

* * * * *

"The arms race weighs heavily on the shoulders of vast masses of peoples in many countries of the world—who are faced with an ever soaring cost of living, inflation and economic crisis. It robs the peoples of a great part of their wealth and resources.

"Detente has opened up fresh proposals for victories in the struggles for a new international economic order, for the rights of the peoples to the riches of their own soil. It is a weapon in the fight for ending the plunder by monopolies and multi-national corporations.

"The arms race, the stockpiles of weapons in the hands of the imperialists incite and encourage the forces of aggression, militarism and fascism, colonialism and racism; detente is a vital factor for strengthening the efforts in all lands for national independence, justice and social progress.

* * * * *

"World public opinion has greater responsibility and greater power than ever before. It can turn the tide against the armaments profiteers, the cold warriors, the enemies of mankind."

The WPC's "New Stockholm Appeal" closed with a request for collaboration "to all governments and parliaments, all peace and other movements, to political parties, trade unions, women's and youth organizations, to religious, social and cultural bodies which are engaged in endeavors for mankind's advance, to join hands in a great new worldwide offensive against the arms race."

Of course it was tremendously convenient for the WPC that the Communist governments, the Soviet Union's Third World client states, national peace committees, Communist parties, and a network of WPC-allied international communist front organizations already were in place through which outreach to trade union, women's and youth, religious, social and cultural groups could be made.

The 1975 "New Stockholm" campaign placed special emphasis on utilizing scientists for disarmament. The initial meeting to coordinate outreach to scientists was held in Moscow in July 1975, entitled "The Role of Scientists and their Organizations in the Struggle for Disarmament." The meeting was sponsored by the WPC's sister front, the World Federation of Scientific Workers (WFSW) and was attended by some 400 individuals from 62 countries. Soviet party chief Leonid Brezhnev sent a message calling for "practical efforts" to have "political detente complemented and reinforced by military detente," *i.e.*, disarmament; and the WFSW issued an "Appeal to Scientists of the World" that said in part:

"Scientific workers cannot remain indifferent to the use being made of their work. * * * the moral duty of scientific workers, their responsibility before mankind, demands the prevention of the further use of their work for destructive purposes.

"We call on scientific workers of all countries and their organizations to use all their influence to ensure the end of the arms race and the beginning of an era of real disarmament and a secure peace."

As the new disarmament campaign escalated in 1975, the Communist Party, U.S.A.-controlled World Peace Council affiliates then operating in the United States moved to harness the organizational structures built during the anti-Vietnam agitation to the new disarmament campaign.

Before reviewing the WPC's activities in the United States since 1975, it must be emphasized that although the WPC enjoys a measure of "credibility" particularly in Africa and other Third World countries, an examination of the WPC's ostensible support for "peace" shows that its efforts coincide without deviation from support of Soviet international policies and goals,

through backing revolutionary terrorist "national liberation movements" to supporting sweeping Soviet disarmament initiatives that provide neither for international controls nor inspections. Thus the WPC defends Soviet and Warsaw Pact military maneuvers as "peace-keeping" exercises, but denounces U.S. military exercises, such as the summer 1981 U.S. naval exercises in Mediterranean waters near Libya, as "criminal actions."

When two Libyan aircraft that opened fire on U.S. Navy jets were shot down, the WPC declared September 1, 1981, "International Day of Solidarity with the People of the Libyan Arab Jamahiriya" and issued a statement that said in part:

"U.S. imperialism has committed yet another blatant crime using its war machinery and tremendous military build-up thousands of miles away from the U.S.A. in an attempt to intimidate and force into submission those who defend their independence and sovereignity."

Operating under the direction of the CPSU International Department headed by Boris Ponomarev, a secretary of the CPSU Central Committee and candidate member (non-voting) of the Politburo who worked under Suslov's direction for more than thirty years, the WPC increasingly has taken an expanding role in Soviet agitational and propaganda operations.

Since its last major congress, the "World Parliament of Peoples for Peace" held in Sofia, Bulgaria, in September 1980, the WPC's leadership role in mobilizing disarmament protests has expanded both in the U.S. and in other NATO countries.

The WPC's stated goal is to mobilize public pressure to block U.S. plans to modernize NATO's Theater Nuclear Forces (TNF) with medium-range Pershing II and cruise missiles, and to upgrade NATO's antitank capability with enhanced radiation warheads (neutron bombs). Also targeted are U.S. plans to upgrade strategic nuclear forces with MX mobile missiles and the B-1 bomber, the shelving of the unratified SALT-II arms treaty, and U.S. Rapid Deployment Force and naval forces in the Indian Ocean and Persian Gulf area.

WPC "peace" campaigns carried out during 1981 and which are continuing into 1982 include promotion and organization of anti-NATO protests in Western Europe, support for making Europe, the Indian Ocean and other areas "nuclear free zones," and the generation of propaganda against U.S. foreign policies and in favor of Soviet initiatives towards Central America, Indochina, southern Africa, and the Middle East.

Organizationally, the WPC is salted with members of the pro-Soviet communist parties and with reliable pro-Soviet leftists. The WPC's president is Romesh Chandra, 65, who in the 1960s was a member of the Central Committee of the Communist Party of India. In 1978, at the request of Representative John Ashbrook [R-OH], during hearings of the House Intelligence Committee, the Central Intelligence Agency (CIA) prepared a non-classified study of Soviet propaganda operations which the House Intelligence Committee published as part of its hearing, "The CIA and the Media." That report said in part:

"Yet the Kremlin does not rely on Chandra alone to carry out its policies in the WPC. A representative of the Soviet Communist Party has for years sat at Chandra's side, in a background WPC role, but holding ultimate control. This position was held for a number of years by Aleksandr Berkov, but the job was taken over in early 1977 by Igor Belyayev. Berkov and later Belyayev were listed only as one of a number of secretaries in the Secretariat, but they were recognized within the oranization as the final authority, including the power of veto. Berkov, for example, was known to have overruled Chandra on certain decisions involving meetings or other activities and relayed the party line concerning WPC causes and operations."

The study continues:

"Two other Russians playing key roles in the WPC are Vitally Shaposhnikov, who is listed as a Soviet member of the WPC Presidential Committee, and Oleg Kharkharkin who is executive of the Moscow-based Continuing Liaison Committee (CLC) of the World Council of Peace Forces and also vice-chairman of the WPC-affiliated Soviet Peace Committee. Both are officials of the International Department of the Soviet CP Central Committee."

The study said that the International Department "is responsible for major clandestine political activities abroad including the front organizations, foreign Communist parties and activities such as strikes and demonstrations designed to destabilize foreign governments."

In terms of power in Moscow, the report stated that the International Department "stands firmly over the KGB for clandestine political activities," and that in these matters, the KGB may act only on the direction of the International Department.

Most of the WPC leaders are active in the communist parties of their own countries and also lead the local WPC affiliate. These WPC "national peace committees" in turn are run as fronts of the local Moscow-line communist parties which, like the WPC, are directed by the International Department of the CPSU. This provides two mechanisms for ensuring that the resolutions and statements of the local WPC affiliates do not deviate from the line set by the Soviet Communist Party.

WPC coordination of U.S. anti-Vietnam movement

The WPC coordinated international demonstrations against United States military aid to South Vietnam. These demonstrations were held in coordination with major demonstrations in the United States. This was not coincidental as demonstrated by the fact that U.S. anti-Vietnam activists met continually with American WPC officials, many of them known Communist Party members, and traveled abroad to participate in WPC planning meetings.

The WPC's coordination of the U.S. anti-Vietnam demonstrations was thoroughly documented from testimony and scores of exhibits of WPC and Communist Party publications in a series of hearings published by the House Committee on Internal Security between 1970 and 1971 on the New Mobilization Committee to End the War in Vietnam (New Mobe) and its successor, the People's Coalition for Peace and Justice (PCPJ).

For example, the nearly 50 members of the U.S. delegation to the June 1969 "World Assembly for Peace" in East Berlin included members of the Clergy and Laity Concerned (CALC), Women Strike for Peace (WSP), Women's International League for Peace and Freedom (WILPF), various quasi-religious groups including the Methodist Federation for Social Action (MFSA), one of the Communist Party, U.S.A.'s oldest fronts; and local U.S. affiliates of the WPC in San Francisco, Los Angeles and Chicago which were active for two decades before the U.S. Peace Council was organized; and a substantial number of veteran leaders of the Communist Party and its major fronts. These included the two U.S. members of the WPC Presidential Committee, Herbert Aptheker, then the CPUSA's leading theoretician, and Dr. Carlton Goodlett, West Coast treasurer of the New Mobilization Committee; Angie Dickerson, a New York social worker identified in sworn testimony as a CPUSA member, and who was a member of the Organizing Committee for the World Peace Assembly; Rev. Richard Morford, an identified CPUSA member also serving on the Organizing Committee; identified CPUSA veteran Barbara Bick of Women Strike for Peace (WSP) (which immediately on formation affiliated with the Soviet-Controlled WIDF) and who was a highly active leader of New Mobe and the People's Coalition for Peace and Justice (PCPJ); Irving Sarnoff, a leading CPUSA functionary in Los Angeles; Stanley Faulkner, a WPC member active in the International Association of Democratic Lawyers (IADL) and its U.S. affiliate, the National Lawyers Guild (NLG) who later was the attorney for jailed Chilean Communist Party leader Luis Corvalna; and several functionaries of the CPUSA's youth arm, at the time called the W.E.B. DuBois Clubs, Jarvis Tyner, Susan Borenstein and Karen Ackerman.

The WPC-initiated Stockholm Conference on Vietnam Emergency Action Conference, May 16-18, 1969, held to discuss "the problem of immediate material aid for Vietnam as aid to the country in the frontline against U.S. imperialism," as the final statement of the conference's Group on Material and Medical Aid noted, called for a series of demonstrations, boycotts, formation of "research groups" on U.S. companies with defense contracts, encouragement of desertion and draft resistance and a petition drive in support of North Vietnamese (DRV) proposals to the Paris peace talks.

The Emergency Action Conference documents said that in response to "medical and other material requests from the [communist] Vietnamese * * * we urge the formation of new groups everywhere to work continually for medical and material aid, not only to supply immediate needs but to enlist the sympathy and support of countless individuals and to involve new groups of people in support of the Vietnamese people." Shortly afterwards, U.S. activists formed the Medical Aid to Indochina/Bach Mai Hospital Fund which, with leadership provided by Cora Weiss of Women Strike for Peace, provided just such material aid to Hanoi.

The conference documents listed participants as including Hans Goren Franck (Sweden) who acted as the "observer" for Amnesty International at the same time as being a voting delegate for the Swedish Vietnam Committee; Peggy Duff (Britain) of the International Confederation for Disarmament and Peace; the Women's International League for Peace and Freedom (WILPF); and some three dozen American anti-Vietnam leaders including: Sherman Adams, Student Non-Violent Coordinating Committee (SNCC); Mrs. Frances Adler; Mrs. Althea Alexander, Women Strike for Peace (WSP); Mrs. Clara J. Brown, Black American Civil Rights Activists; George Carrano, American Deserters' Committee (ADC); Prof. Noam Chomsky, Resist; Bronson Clark, American Friends Service Committee (AFSC); Mrs. Eleanor Clark; Joseph Crown, Richard Falk and Stanley Swerdlow of the Lawyers Committee on American

Policy Towards Vietnam, set up by lawyers from the National Emergency Civil Liberties Committee (NECLC) and National Lawyers Guide (NLG), the U.S. Section of the Soviet-controlled International Association of Democratic Lawyers (IADL); Mrs. Sarita Fuentes Crown, WSP; Westchester, NY; Prof. William C. Davidon; Bob Eaton, AFSC; Josef Elder; Miss Marion H. Fay; Dr. Carlton B. Goodlett, Committee for International Peace Action; Rev. Thomas Lee Hayes, War Resisters' League (WRL), Clergy and Laymen Concerned about Vietnam (CALC); Mrs. Maria Joles and Miss Shirley Keith, Movement for Disarmament, Peace and Liberty, Paris; Bernhard Knobler; Prof. Gabriel Kolko; Donald McDonough, ADC; Prof. David Marr; Miss Deedee Morse, SANE (National Committee for a Sane Nuclear Policy), observer; Prof. John D. Neilands, chairman, Scientists' Committee on Chemical and Biological Warfare; Prof. Anatol Rapaport; Doris Brin Walker (Roberson), vice-president, NLG, identified CPUSA organizer; Mrs. Beulah Sanders, chairman, Citywide Coordinating Committee of Welfare Groups, New York; Mrs. Amy Sverdlow, WSP; Prof. Franz Schurmann; Nelson Theodore and John Wilson, SNCC.

The Stockholm Conference became one of the WPC's most active subsidiaries. The 31 members of its ruling International Liaison Committee including Romesh Chandra; Alexander Berkov of the Soviet Peace Committee; Peggy Duff; Hans Goren Franck of the Swedish Vietnam Committee; Karoly Toth, the Hungarian head of the Christian Peace Conference; Shirley Keith, American Committee of the French Movement for Disarmament, Peace and Liberty; and CPUSA functionary Irving Sarnoff and Ronald Young, both officially representing the U.S. New Mobilization Committee, met in October 1969 to endorse New Mobe's "Fall Offensive" which culminated with three-days of riots in Washington, D.C. (November 13-15, 1969) in which mobs of club-wielding militants from Students for a Democratic Society (SDS), the SDS Weatherman faction and other revolutionary groups battled police in running street battles along Embassy Row and outside the Department of Justice. The International Liaison Committee named November 15th "International Mobilization Day" and ordered that "all actions on this day of International Mobilization should be centered on the demand of the Vietnam Appeal calling for the immediate, total and unconditional withdrawal of US and allied troops from South Vietnam."

Yet another example of WPC guidance of the U.S. anti-Vietnam movement was provided in the New Mobilization Committee's West Coast newsletter dated February 13, 1970, which reported a meeting in Vancouver, Canada, as follows:

"About 100 Americans from the West Coast, representing about 70 organizations, and a delegation of Canadian peace people met at a conference Feb. 7 and 8 in Vancouver, B.C., called by the World Peace Council to discuss international cooperation to end the war in Vietnam. New Mobe arranged the United States participation. In fact, the meeting was initiated by Carlton Goodlett and Irving Sarnoff at a WPC meeting in Africa last month.

"WPC delegates were Tran Cong Tuong, one of the chief DRV (Democratic Republic of Vietnam) negotiators at the Paris sessions; Ha Huy Oanh, DRV negotiating team; Krishna Menon, India; Pastor Martin Niemoeller, Germany; Romesh Chandra, Secretary-General of the WPC; and A. Ratsifehera, Madagascar.

"The conference endorsed and called for international support to the work stoppage being called on April 15 to protest the war.

"A statement unanimously adopted by the Conference declared that the most urgent need of all people is immediate withdrawal from Vietnam, * * *.

"The Conference * * * endorsed selection of Montreal as site for a Commission of Inquiry into war crimes in Vietnam, projected for summer 1970."

Virtually the same cast of organizations and activists now involved in the World Peace Council-directed disarmament campaign turned up yet again at another in the series of significant WPC meetings involving U.S. anti-Vietnam activists, the "5th Stockholm Conference on Vietnam," March 28-30, 1970. The list of participants published by the WPC's International Liaison Committee included Mrs. Peggy Duff (Britain) and Prof. William C. Davidon (USA), both delegates from the International Confederation for Disarmament and Peace, with Mrs. Duff (in 1977 an initiator of the U.S. Mobilization for Survival) also serving as the official delegate from the War Resisters International and Davidon also representing the American Friends Service Committee as part of the U.S. delegation; Dr. Carlton B. Goodlett (USA), Pastor D. Martin Niemoller (FRG) and Romesh Chandra of the WPC Presidential Committee; representatives of the major Soviet fronts; and "observers" from the World Council of Churches [Mrs. Jane L. Frank (USA)] and the World Student Christian Federation [Mr. Jim Walch (USA)]. [Reprinted in Hearings, House Committee on Internal Security, "National Peace Action Coalition (NPAC) and Peoples Coalition for Peace and Justice (PCPJ)," Part 2, June 15-17, 1971, Committee Exhibit 63, pp. 2199-2211].[1]

As a result of their compilation of evidence, the investigators for the House Committee on Internal Security found that the National Mobilization Committee and its successors, the New Mobilization Committee (New Mobe) and the People's Coalition for Peace and Justice (PCPJ) worked in "a very significant degree of cooperation" with the World Peace Council." [House Committee on Internal Security, Hearings, "National Peace Action Council (NPAC) and People's Coalition for Peace and Justice (PCPJ)," Part 2, June 15-17, 1971, p. 1861].

The participation of U.S. radicals and disarmament activists in the WPC continued throughout the 1970s even though the U.S. pull-out from South Vietnam caused a sharp drop in campus demonstrations. Some 150 Americans attended the October 1973 World Congress of Peace Forces in Moscow.

In more recent years, the U.S. delegations to the WPC's meetings have included a greater proportion of disarmament activists from anti-nuclear, religious and quasi-religious activist organizations.

WPC and pacifism

Genuine pacifists admit that the World Peace Council is merely the creature of Soviet policy; but few of these are willing to expose WPC activists when they appear in disguise as members of other organizations. A recent letter to the editor of the New York Times [January 30, 1982] by Homer A. Jack, head of the World Conference on Religion and Peace, correctly admitted that the WPC was an "instigator" of the anti-missile demonstrations in Western Europe, he wrote:

"The World Peace Council has for more than 30 years faithfully transmitted Soviet foreign policy. Its leaders have regularly been awarded the Lenin Peace Prize (never the Nobel Peace Prize)."

He continued:

"Within the past year, the W.P.C. requested higher status as a 'nongovernmental organization' with the United Nations Economic and Social Council. The latter's committe discovered such close programmatic and financial ties between the World Peace Council and Moscow that the WPC itself, in embarrassment, withdrew its request."

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[1] The U.S. participants in the 5th Stockholm conference on Vietnam included Sherman Adams, Scan-SNCC; Mrs. Althea Alexander, U.S. Soul; Carol Andreas, Detroit New Mobilization Committee; Steve Bloom, Student Mobilization Committee to End the War in Vietnam; John Braxton, Quaker Action Group; Miss Jane Campbell, Youth Caucus, Disciples of Christ Peace Fellowship; Mrs. Joan Campbell, New Mobilization Committee, Detroit Peace Action Council; Miss Nancy Clark, People Against Racism; Miss Judy Clavir, Youth International Party, Berkeley Tribe, New Mobilization; Victor Coleman, White Panther Party (Canada); Prof. William C. Davidon, American Friends Service Committee; Mrs. Angie Dickerson, identified CPUSA member and national chairman of the Committee to Defend the Right of the Black Panther Party to Exist; Prof. Douglas Dowd, New Mobilization; James Forest, then a U.S. member of the WPC Secretariat (in 1954, Forest was chairman of the Communist Party of Missouri and was sentenced to a 5-year federal prison term for violation of the Smith Act); Dr. Carlton B. Goodlett, publisher of the San Francisco Sun Reporter, a CPUSA veteran and leader of the Peace Action Council of Southern California; Lou Gothard, U.S. Soul; Robert Greenblatt, official representative of New Mobe; William Hartzog, American Deserters Committee (Montreal); Bob Haskell, Episcopal Peace Fellowship; Rod Huth, American Deserters Committee (Sweden); Mrs. Marie Jolas, English-speaking committee of the Mouvement pour la Desarmement, la Paix et la Liberte (MDPL); Mrs. Shirley Neith, English-speaking committee of the MDPL; Mrs. Sylvia Kushner, Chicago Peace Council (a veteran CPUSA activist who coordinated deserters in Sweden); Rev. Ray L. Micklethun, University Christian Movement in Cleveland and Clergy and Laity Concerned about Vietnam and listed by the WPC in 1970 as a member of the organization; Mr. Ira Morris, English-speaking committee of the MDPL; Professor J. P. Nielands, Scientists Committee to End Chemical Warfare; Genie Plamondon, White Panther Party; Dean Reed, a U.S. folksinger who has lived in the USSR since the 1960s; Tom Reeves, National Council to Repeal the Draft; Mrs. Pauline Rosen, Women Strike for Peace and the Vietnam Peace Parade Committee (a prominent CPUSA activist who coordinated WPC activities in the New York area for many years); Nancy Kurshan, now a leader of the terrorist Weather Underground Organization's Prairie Fire Organizing Committee (PFOC) then an organizer of the defense committee for the Chicago 8, charged with riot conspiracy at the 1968 Democratic National Convention; Irving Sarnoff, official representative of the New Mobilization Committee to End the War in Vietnam, a leader of the Peace Action Council of Southern California, and a well-known CPUSA member assigned to the "peace movement;" Steve Schmidt, Vietnam Moratorium Committee; Rudy A. Sparinkle, Clergy and Laity Concerned About Vietnam; John Sullivan, New Party; Charles Tryon, "observer, member of the Fellowship of Reconciliation, U.N. Association);" Mrs. Mildred Tryon, "observer, (member of the Fellowship of Reconciliation, U.N. Association and Another Mother for Peace)" which was a section of Women Strike for Peace; Eric Wiel, English-speaking committee of the MDPL; Angela Vinther, Young Socialist Alliance (youth arm of the Trotskyite communist Socialist Workers Party (SWP), U.S. section of the Fourth International); Rolf Von Dorp, American Deserters Committee; and Richard Ward, foreign editor of the "independent" Marxist-Leninist newspaper, The Guardian.

Yet Jack was taken in by the false idea that no one who offers criticisms of the Soviet Union could be doing Moscow's work. The falseness of this idea is seen easily in the exposures in Europe that the "Eurocommunist" parties that have offered criticisms of Soviet policy in Afghanistan and Poland are financed through Soviet-owned banks.

As this report will show later, leaders of the U.S. disarmament movement working in association with the WPC's U.S. section are urging disarmament activists to include some criticisms of the Soviet Union as a tactic to gain spurious "credibility" with the media.

This report will also document that despite its appeals to the religious pacifist organizations in Europe and America, one of the WPC's primary functions is to provide propaganda and other logistical support to the Soviet-backed armed revolutionary movements, many of which utilize terrorism—violent attacks on the non-combatant segment of the community—in order to achieve their political or military goals. No true pacifist could countenance such activities.

The individuals who are giving their support to WPC initiatives on these issues are largely unchanged from the disarmament campaigns of earlier years. A number of them are known or admitted communists; others are prestigious non-communist figures who lend their names to providing a facade of independence and non-alignment. But most of those playing leadership roles with the WPC's various affiliates have public records showing involvement in communist fronts and in support of communist-approved causes.

WPC disarmament offensive

At this time, to the WPC and its U.S. domestic supporters, the interests of the USSR in blocking U.S. defense modernization so that the Soviets can maintain their new strategic lead and continue their arms programs are paramount. A "nuclear freeze" or "nuclear moratorium" has been promoted actively by CPSU Chairman Leonid Brezhnev since the 26th CPSU Party Congress in the spring of 1981. A "nuclear freeze" would benefit the USSR's interests for it would preserve the Soviet strategic advantage.

Disarmament activists had their instructions confirmed on December 12, 1981, by Boris Ponomarev, the veteran head of the CPSU International Department and de facto commander of the Soviet "peace" offensive, in a speech to Soviet and foreign scientists, stating:

"The anti-war movement in Western Europe * * * and in the United States * * * has reached an unprecedented scale. * * * However, the interests of preserving peace calls for further development of the anti-war movement, since no one has cancelled the U.S. giant military programs or Reagan's decision to manufacture neutron weapons * * *."

This Western Goals study documents not only many of the planning meetings held by U.S. disarmament groups during 1981, which, as Boris Ponomarev said, were on "an unprecedented scale," but also outlines that activities of the WPC with U.S. groups since the commencement of the "peace offensive" that coincided with Soviet gains in Southeast Asia and Africa.

Additionally, from the matters discussed at these meetings which often were held in association with WPC activists from Europe, plans being developed for the Soviet Union's 1982 "peace offensive" in the U.S. are detailed.

WPC's 1975 U.S. Tour

The WPC and its sister front groups serve as vehicles for what the Soviet intelligence agencies term "active measures." The term "active measures" involves more than what the U.S. and Western intelligence agencies call "covert action." The Soviet "active measures" include all the possible strategies and tactics of political warfare—efforts to secretly influence events in the non-Communist world along lines favorable to Soviet foreign policy goals.

"Active measures" tactics may range from propaganda and cultivation of journalists, legislators, religious figures and other public opinion makers in the West to the provision of direct and indirect logistical support to terrorist movements for the purpose of destabilizing a government. The Soviet-supported terrorist movements in Italy, West Germany and Turkey, all NATO members, provide such examples, as do the African National Congress (ANC) in South Africa and the Palestine Liberation Organization (PLO) in the Middle East.

The WPC and its sister fronts are particularly active in the U.N. among the nongovernmental organizations (NGOs), and most hold consultative status with various U.N. committees, agencies and organizations.

The WPC often sponsors conferences of "Parliamentarians for Peace" to bring pro-Soviet activists in contact with Western elected officials. In the U.S., the WPC is active both in its own name, through its national affiliate, the USPC, some 40 USPC chapters, and through WPC and USPC activists in other organizations in lobbying Congress.

In September 1975, an eight-member World Peace Council delegation made a speaking tour to New York, Washington, D.C., San Francisco, Los Angeles, Seattle, Detroit, Cleveland, Chicago, South Bend, and Milwaukee. The WPC delegation was headed by Romesh Chandra and included Joseph Cyrankiewicz, from 1947 to 1972 the dictator of Poland; British Labour Party Member of Parliament James Lamond, former mayor of Aberdeen and a leader of the British WPC section; Harald Edelstam, Sweden's Ambassador to the Marxist Allende regime in Chile when it was overthrown in 1973; and Jacov Lomko, editor of *Moscow News*.

The Communist Party, U.S.A. (CPUSA) newspaper *Daily World* [September 30, 1975] reported that during their two-day Washington, D.C. visit, the WPC delegation "will meet with Rep. Paul Findley (R–Ill) and other members of the House International Relations Committee, Members of the Congressional Black Caucus and Senators Charles McC. Mathias (R–Md), Walter Mondale (D–Minn), Thomas McIntyre (D–NH) and others."

On September 30, 1975, the WPC group were guests of honor at a Capitol Hill luncheon hosted by Rep. Phillip Burton [D–CA] and Rep. John Conyers [D–MI] given in the Capitol restaurant. According to a report by Tim Wheeler in the Communist Party, U.S.A. newspaper [*Daily World*, October 1, 1975, p. 3]:

"Senator Charles McC. Mathias (R–Md) welcomed a delegation of the World Peace Council to his office today and proposed that the U.S. take the initiative in efforts to curb the arms race. He suggested that the U.S. halt production of the new Trident nuclear submarine as a gesture of good will.

"Mathias is a member of the Senate Foreign Relations Committee.

"Mathias nodded agreement with a statement by Romesh Chandra, head of the delegation * * * that conditions are favorable for new initiatives to halt the arms race and strengthen U.S.–Soviet detente.

"Mathias responded that 'detente is a procedure' which lays the basis 'for new agreements.'

"He told the delegation about a resolution he had introduced in the Senate calling for ratification of the Vladivostok agreement coupled with a proposal that the U.S. seek further negotiations with the Soviet Union for ceilings on strategic weapons lower than those permitted under the Vladivostok agreement.

"He greeted Chandra's suggestion that parliamentarians from around the world arrange a conference to discuss new initiatives to curb the arms race."

The WPC newsletter Peace Courier [November 1975] reported:

"In Washington, the delegation met with approximately twenty members of the House of Representatives and of the Senate, all of whom were receptive to exploring ways to stop the arms race and strengthen detente. Senator Mathias (Republican of Maryland) for example, suggested that the US halt production of the new Trident nuclear submarine, or eliminate at least one other weapon system as a gesture of goodwill to begin to de-escalate the arms race. (Mathias is a member of the Senate Foreign Relations Committee). He * * * told the delegation about a resolution he had introduced in the Senate along with Senator Edward Kennedy (Democrat of Massachusetts) and Senator Mondale (Democrat of Minnesota), calling for ratification of the Vladivostok Agreement coupled with a proposal that the US seek further negotiations with the Soviet Union for ceilings on strategic weapons even lower than those established under the Vladivostok Agreement.

* * * * *

"The WPC delegates were guests of several members of Congress at a luncheon in the House of Representatives dining room, and at a reception. Among those present were several members of the Congressional Black Caucus including Congressman John Conyers (Democrat, Michigan), Congressman Ronald Dellums (Democrat, California), Congressman Ralph Metcalf (Democrat, Illinois) and others. Congressman Phillip Burton (Democrat, California), House majority leader, joined the luncheon expressing interest in the work of the WPC and in the New Stockholm Movement. The delegation was able to speak with several members of the Senate and House Foreign Relations Committees and the Armed Services Committees."

In Detroit, Chandra and his WPC delegation spoke at a meeting on October 6, 1975, in the Cathedral Church of St. Paul. The list of sponsors of the meeting included Bishop Thomas J. Gumbleton; Recorders Court Judge George W. Crockett, Jr.; Dave Miller, chairman, International Retirees Advisory Committee, United Auto Workers (UAW); Congressman John Conyers, Jr.; Detroit City Council members Maryann Mahaffey, Clyde Cleveland and Erma Henderson; Michigan States Representatives Jackie Vaughn, III, and Perry Bullard; Rev. Richard Devor; Rev. Frederick G. Sampson; and local labor leaders Jordan Sims, president, UAW Local 9611, Joel Block, president, American Federation of State, County and

Municipal Employees (AFSCME) Local 1583; Harry Syverson, president, UAW Local 329; Milton Tamber, president, AFSCME Local 1640; Louis Carreiro, president, UAW Local 935; and Leonard Green, president, UAW Local 78.

Working with the 1975 WPC delegation at various parts of its U.S. tour were Karen Talbot, a former staffer on the CPUSA's West Coast newspaper, *People's World*, who replaced James Forest as the U.S. member of the WPC Secretariat in Helsinki during the 1970s, and currently, although a suburban Washington resident, is the WPC's chief representative at the United Nations in New York; Luther Evans, president of the World Federalist Association who praised the WPC for "helping to make detente irreversible;" Pauline Royce Rosen, a veteran CPUSA activist who coordinated WPC activities in New York; Sylvia Kushner, a CPUSA activist who led the Chicago Peace Council for nearly twenty years; Edith Villastrigo, Washington representative of Women Strike for Peace (WSP); Carlton Goodlett, publisher of the *San Francisco Sun Reporter* and member of the WPC Presidential Committee; the Seattle chapter of the People's Coalition for Peace and Justice (PCPJ) and Rev. Ralph Abernathy, then president of the Southern Christian Leadership Conference (SCLC) and one of the WPC's "Presidents of Honor."

The WPC's courtship of local government officials and religious activists which continues was demonstrated in the delegation's meetings in Washington, D.C., with a "group of church people" including Bishop James T. Matthews of the United Methodist Church, a member of the board of the World Council of Churches (WCC), and Rev. Nelson H. Smith, president of the Progressive Baptist Convention.

That the WPC was targeting U.S. religious leaders and activists was evident from the inclusion in the 1975 delegation of Rev. Richard Andriamanjato, the president of the All-Africa Council of Churches and mayor of Tannanarive, the capital of the Malagasy Republic. As evidence of the WPC's success, the CPUSA press with evident satisfaction quoted Bishop Matthews as describing the U.S. defense budget as "just madness personified."

The WPC's involvement with the Soviet-controlled Communist Party, U.S.A. and disarmament activists from religious groups was also visible in its Cleveland visit whose sponsors were listed [*Daily World*, September 30, 1975, p.11] as "the Greater Cleveland Interchurch Council; the Presbyterian Church of Greater Cleveland; the Cleveland chapter of the WPC; Women Speak Out for Peace and Justice [a Women Strike for Peace affiliate]; Lutheran Metropolitan Ministry; Global Justice Task Force of the Lutheran Church; Student Government, Cleveland State University; Community Advocates Collective and the Communist Party of Ohio."

WPC 1978 Bureau Meeting, Washington, D.C.

The first official meeting of the WPC Bureau in the United States was held January 25–27, 1978, in Washington, D.C., in conjunction with a public conference on Capitol Hill entitled "Dialogue on Disarmament and Detente." The meeting was intended to increase pressure on Congress for ending development of the neutron bomb and other U.S. weapons systems, for major new U.S. concessions in the second round of Strategic Arms Limitations Talks (SALT-II), and to promote maximum U.S. participation in the U.N. Special Session on Disarmament (SSD-I).

The conference was sponsored by a small ad hoc committee whose members and endorsers were listed as including Abraham Feinglass, a member of the WPC Presidium, identified member of the Communist Party, U.S.A., and secretary-treasurer of the Amalgamated Meatcutters and Butcher Workmen's Union (now merged to become the United Food and Commercial Workers Union (UFCW)); Josephine Butler, chairperson of the D.C. Statehood Party, who coordinated arrangements and presided over some sessions and is the head of the local Paul Robeson Friendship Society which supports East Germany; Katherine Camp, International President of the Women's International League for Peace and Freedom (WILPF); David Chaney, vice-president of the Central States Joint Board of the Amalgamated Clothing and Textile Workers Union (ACTWU); Rep. Ronald V. Dellums [D-CA]; Patrick Gorman, chairman, Amalgamated Meatcutters; Charles Hayes, vice-president, Amalgamated Meatcutters and an identified member of the CPUSA; James R. Herman, the new president of Harry Bridges' old International Association of Longshoremen's and Warehousemen's Union (ILWU); Jack O'Dell, also known as Hunter Pitts O'Dell, identified as a secret member of the CPUSA National Committee in the early 1960s who for some thirteen years has been an aide to Rev. Jesse Jackson and is Operation PUSH's International Affairs Director; Sandra "Sandy" Pollack, who began her career as a member of the CPUSA youth group, the Young Workers Liberation League (YWLL) on the first Venceremos Brigade and is now the coordinator of the WPC's U.S. section, the U.S. Peace Council; Irving Stolberg, Connecticut State Legislature; Leon Sverdlove, general president, International Jewelry Workers Union; Edith Villastrigo, legislative director, Women Strike for Peace (WSP); Peggy Martin Smith, Illinois State Legislature and a veteran of the WPC's World Congress of Peace Forces; and William Winpisinger, president, International Association of Machinists and Aerospace Workers (IAM).

Karen Talbot, the WPC's United Nations representative and a veteran member of the WPC Secretariat in Helsinki, said the purpose of the Washington meeting in these terms:

"This is a very crucial moment in the Strategic Arms Limitation Talks. The neutron bomb is in limbo and the U.S. participants in the meeting will raise the question of how to build stronger opposition to this weapon and other weapons of mass destruction."

A luncheon was held for Members of Congress which was attended by Congressmen Philip Burton [D-CA], John Conyers [D-MI], since 1959 a member of the National Lawyers Guild (NLG), the U.S. section of the Soviet-controlled International Association of Democratic Lawyers (IADL) and who is chairman of the House Judiciary Committee's Subcommittee on Crime; Ron Dellums [D-CA], a member of the House Armed Services Committee and its Subcommittee on Research and Development; Don Edwards [D-CA], chairman of the House Judiciary Committee's Subcommittee on Civil and Constitutional Rights and a sharp critic of the U.S. intelligence agencies who in 1980 pressured the Justice Department into dropping espionage indictments against Alfred Stern and Martha Dodd Stern, who fled to Czechoslovakia in the late 1950s to avoid standing trial; and Charles Rangel [D-NY]. The CPUSA press reported that members of the staff of Rep. Abner Mikva [D-IL] attended.

In his remarks to the Congressional luncheon, WPC leader Romesh Chandra boasted that the provisions of the U.S. Code banning the granting of visas to communists and members of communist fronts had been ended by the McGovern Amendment because "the peace movement is strong. Our visit here is an indication of the power of detente. It proves that we can win."

Chandra also said that the WPC Bureau meeting in Washington and their U.S. tour came "a moment of crucial significance for the future, when we can turn the tide, reach out, achieve disarmament and consolidate detente."

Among the estimated 150 U.S. participants in the WPC meeting in Washington was Herbert Scoville of the Center for Defense Information (CDI) and the Arms Control Association (ACA), a former high-level CIA official who has been associated with the disarmament and anti-NATO projects of Washington's Marxist think-tank, the Institute for Policy Studies, since the 1960s.

Also participating was James Zogby, an organizer of the Palestine Human Rights Campaign (PHRC), a support group for the terrorist Palestine Liberation Organization (PLO) whose leader, Yasir Arafat, was awarded the WPC's gold medal; Dorothy Steffens, Women's International League for Peace and Freedom (WILPF); District of Columbia City Council members Hilda Mason and Willy Hardy, members of the D.C. Statehood Party; Saundra Graham, Massachusetts State Assembly; and Roxanne Ortiz of the International Indian Treaty Council (IITC) of the militant, violence-oriented American Indian Movement (AIM), who joined with Jack O'Dell in presenting a report on World Peace Council support for claims by militant Native American groups to total sovereignty over Indian reservation territory.

Many activists attending this WPC conference were well known functionaries of the Communist Party, U.S.A., its youth arm, the Young Workers Liberation League (YMLL), and CPUSA fronts, These included Grace Mora, Charlene Mitchell, Maxine Orris, Susanna Cepeda of Women for Racial and Economic Equality (WREE), a CPUSA front which is affiliated with the Soviet-controlled Women's International Democratic Federation (WIDF), and Carol Pittman of the National Coalition for Economic Justice (NCEJ), a CPUSA front.

Other than "detente" and campaigning against U.S. defense policies, the major focus of the WPC delegation was on providing support to the revolutionary Puerto Rican "independence" movement led by the Castroite communist Puerto Rican Socialist Party (PSP) and spearheaded by several terrorist groups. According to the WPC, U.S. control of the Commonwealth of Puerto Rico is an "obstacle to peace and detente" to be solved by its "demilitarization and decolonization."

Most of the members of the WPC Bureau delegation moved on to attend the WPC's Latin American Peace Conference, held February 2–4, 1978, in Mexico City. However, a small group including Alex Laguma of the terrorist African National Congress (ANC); Aldo Tessio of Argentina; Farouk Massarami of Lebanon; and Australian trade unionist Ernie Botswain toured the U.S. West Coast. And East German representative Manfred Feist went to Detroit to

participate in a meeting of the People's Utility Fight.

Other members of the WPC delegation were Vladimir Bogdanov, deputy director of the Institute of the U.S.A. and Canada, a Moscow "research" center closely linked to the KGB; USSR Supreme Soviet member E. K. Feodorev; British Labour Party MP's James Lamond and Andrew Bennett, Francisco Astray, secretary of the Cuban Committee for Peace and Sovereignty; Elena Gil, Cuban Communist Party Central Committee; Panamanian Peace Council Camilo O. Perez, dean of the law faculty at the University of Panama; and Angolan U.N. Ambassador Eliseo de Figueiredo.

The U.S. State Department refused permission for two individuals accredited at the United Nations to travel to Washington with the World Peace Council group. These were the Vietnamese Ambassador to the U.N., Dinh Thi Binh, who shortly afterwards was expelled from the United States because of his central role in an espionage and agent of influence network operated by David Truong; and Zedhi Terzi, the chief of the Palestine Liberation Organization's U.N. observer group.

However, no attempt was made to deny the group U.S. visas.

WPC 1975-76 Disarmament Conferences

During 1975, the WPC held several meetings to prepare for an "International Forum to End the Arms Race and for Detente." The Forum was held in York, England, in December. The WPC stated the Forum was "an initiative of the Continuing Liaison Council of the World Congress of Peace Forces, decided upon at the last Steering Committee meeting in Moscow last October [1974]." [*Peace Courier*, March 1975]. A number of preparatory committee meetings for the Forum were held, including meetings in Warsaw (September 20-21, 1975) and Paris (October 10-12, 1975).

The Paris working group concentrated on the "economic and social consequences of the arms race and of disarmament" and issued a working paper asserting that "political forces and groups which draw their power from the arms race or profit from it, are making efforts to sow doubt and scepticism about the chances for disarmament." The document supported "peace conversion"—"reconverting industries concerned with arms production and diverting the labour employed in them." [*Peace Courier*, November 1975].

The WPC listed the participating organizations as including the WPC, the WPC's Continuing Liaison Council of the World Congress of Peace Forces; the International Peace Bureau (IPB) [Sean MacBride, winner of both the Lenin and Nobel Peace Prizes, is president of the IPB and a vice president of the Continuing Liaison Council of the World Congress of Peace Forces]; Women's International League for Peace Freedom (WILPF); World Association of World Federalists; International Union of Socialist Youth; Council of European National Youth Committees; and the usual international fronts such as the WIDF, WFDY and IUS.

According to the Institute for Policy Studies, among the activists participating in the activities of the York disarmament conference was Michael Klare, director of the IPS Militarism and Disarmament Project.

Following the York Forum, the Moscow-based Continuing Liaison Council of the World Congress of Peace Forces held a "World Conference to End the Arms Race, for Disarmament and Detente" in Helsinki, September 23-26, 1976. The "Declaration" issued by the conference made a number of statements and called for actions that foreshadowed the slogans and demands that later would be made by the U.S. Mobilization for Survival. In part the "Declaration" read:

"The arms race is a grave danger to present and future generations, * * * Having reached gigantic proportions, it devours man's mind and energy, the fruits of creative labour, and the wealth of nature.

"Vast human and material resources are being concentrated in the field of armaments; new expenditure is added to military budgets; armed forces are reaching levels unjustified in peacetime; the accumulation and development of conventional and nuclear weapons continues; scientific and technological progress is applied to the development and creation of new weapons; opposing military blocs and alliances continue, and numerous military bases and troops are maintained in the territories of other states.

"While in vast geographical areas millions of people die each year from starvation, and while illiteracy, disease, and other consequences of underdevelopment continue to have a mass character, sums now amounting to 300 billion dollars are being spent each year on armaments.

"The arms race is a major cause of inflation; it creates artificial barriers to international cooperation between countries, and contributes to the imbalance of ecology."

The "Declaration" continued by maintaining that for all countries, "the struggle for a better life, for national independence and sovereignty, non-interference in internal affairs, full equality of rights, non-resort to force or threat of force, the right of each people to decide its own destiny, for development, for democracy, for justice, for social progress is inextricably linked with the struggle to end the arms race."

Those familiar with Marxist-Leninist use of language recognize that this statement is larded with the current favorite Communist circumlocution for revolution—the "struggle for social progress." The catalog of "struggles" is typical of the Aesopian "coded" language consistent with Marxist theory that history is "progressing" inexorably towards the communist utopia which will come about when the United States succumbs.

The "Declaration" is quite selective in denouncing as the originators of the "threat to peace" only the "military-industrial complexes, striving for profit" that "instigate the build-up of deadly weapons, produce and provoke the manufacture of ever new weapons of mass destruction and encourage the sale of arms." The USSR's state-owned weapons plants are exempted from criticism.

But what is most significant is the adoption of rhetoric that reaches out to bring the environmental and ecological movements into the disarmament movement.

The conference "declaration" produced a list of demands "as the highest priorities" that included:

That all states and countries should conclude agreements for the creation of nuclear weapon free zones; for the renunciation of the use of nuclear weapons; for the withdrawal of nuclear weapons from the territories of other states; for a comprehensive nuclear weapon test ban; for the reduction and eventual elimination of stockpiles of nuclear armaments and their further production; and for the prohibition of the research, development and manufacture of new types and systems of mass destruction weapons and of new means of delivery of such weapons.

The gradual reconversion of the arms industry for peaceful purposes * * *.

The reduction of military budgets and the use of resources thereby released to solve urgent social problems and render assistance to the people of the developing countries.

* * * * * *

The dismantling of foreign military bases, the withdrawal of foreign troops * * *; the transformation of various regions of the world into zones of peace; * * *.

Orwellian "thought control" was among the WPC's demands that called for "cessation and banning of all forms of propaganda which favors aggression and war and the use of force in the settlement of international disputes."

The "Declaration" closed with a call to the United Nations to convene a General Assembly "special session on disarmament," stating:

"This World Conference emphasizes the urgent need for the convening of a World Disarmament Conference under the auspices of the United Nations. The earliest possible convocation of a special session of the General assembly of the UN devoted to Disarmament would be a step in this direction."

The proceedings of the 1976 Helsinki disarmament conference listed the steering committee responsible for running the meeting as headed by Romesh Chandra, president of the Continuing Liaison Council (CLC) of the World Congress of Peace Forces and Secretary-General of the World Peace Council. The thirteen conference vice-presidents included Arthur Booth (United Kingdom), CLC vice-president and chairman of the International Peace Bureau (IPB); San MacBride (Ireland), CLC vice-president and president of the IPB; Knud Nielsen (Denmark), CLC vice-president and chairman of the Council of the World Association of World Federalists; Y. K. Feodorov (USSR) (substituting for Mikhail Zimyanin, CLC vice-president and president of the Soviet Committee of Support of the World Peace Congress); Pierre Vermylen (Belgium), member of the Bureau of the Socialist Party and Minister of State; Ahti Karjalainen (Finland), MP Centre Party; Mme. Jeanne Martin Cisse (Guinea), Minister of Social Affairs, 1975 recipient of the Lenin Peace Prize; Australian Senator Ruth Coleman; Vilma Espin (Cuba), Cuban Communist Party Central Committee and president of the Cuban Women's Federation; Vasant P. Sathe (India), Congress Party M.P. and chairman of the Lower House of Parliament; Josef Cyrankiewicz (Poland), president of the Polish Peace Committee; Aziz Sherif (Iraq), general secretary, National Council for Peace and Solidarity; and Erma Henderson (USA), member of the Detroit City Council. But the individual primarily responsible for coordinating the conference was its executive secretary, Oleg Kharkhardin (USSR), who is an official of the International Department of the CPSU.

The 29-member Soviet delegation to the conference included both Alexander Berkov and his successor, Igor Belayev, who exercise authority over Romesh Chandra; leaders of the controlling Soviet sections of the major fronts such as AAPSO; Archbishop Vladimir Kotlyarov of the Russian Orthodox Church; and specialists in military affairs such as Vitali Zhurkin, Vasili Emelyanov, Oleg Bykov, Grigori Morozov, Michael Milshtein, Alexander Kalyadin and

Leo Demeyko, all from either the Institute of World Economics and International Relations or the Institute of the U.S.A. and Canada, two Soviet research institutes which have intimate ties to the International Department and the KGB.

The published listing of members of the U.S. delegation included Abe Feinglass, vice-president, Amalgamated Meat Cutters; Donald Ray Hopkins, representative of Congressman Ronald Dellums; Rev. Charles Luther Evans, executive secretary, Baptist General Convention; John H. E. Fried, professor of international law, City University of New York; E. W. Pfeiffer, professor of zoology; Howard Parsons; Nicholas Nyary, president, Fund for Peace (FFP); Terry Provance, American Friends Service Committee (AFSC); Mrs. Erma Henderson, Detroit City Council; Herbert Schiller, professor of communications, University of California, La Lolla; Dr. Archie Singham, professor of political science; Mrs. Loretta Pauker, journalist; Joseph North, a CPUSA Central Committee member; and Mrs. Karen Talbot. Attending as a representative of the official Soviet-bloc Communist theoretical journal, Problems of Peace and Socialism/World Marxist Review, was John Pittman, the CPUSA's official representative to its editorial board.

WPC Anti-Neutron Bomb Campaign

One feature of Soviet propaganda operations is tight coordination combined with media saturation. The WPC's anti-neutron bomb campaign commenced in 1977 after the Washington Post leaked the fact that an enhanced radiation warhead was being secretly developed. The WPC's local affiliates in Holland, West Germany and other European countries set up subsidiary "Stop the Neutron Bomb" fronts to focus on this single issue and attract new supporters.

The Dutch "Stop de neutronen Bom" organization, for example, adopted the WPC's "moral" objections to the antitank warhead as the "perfect capitalist weapon" which "kills people but saves property;" and utilized the WPC's shrill rhetoric that the neutron warhead was part of an American strategy to initiate a nuclear war in Europe. Such facts as the enormous Soviet and Warsaw Pact tank and armored personnel carrier forces, the tremendous numbers of troops maintained by the Soviets and Warsaw Pact countries, and the Soviet deployment of SS-20 missiles were not part of the disarmament agitation.

When President Carter decided not to proceed with U.S. production of neutron warheads, instead of disbanding, the WPC-controlled disarmament groups expanded their focus to NATO and the U.S. generally. The organizational name and slogan retained the "neutron" name as an example of a "winnable" issue but added "Stop the Nuclear Arms Race" to indicate its "ultimate goal." The WPC's campaigns against the Pershing II and cruise missiles were fitted into the shrill rhetorical campaigns by continuing the allegations that all three weapons are indications that the United States hopes to fight a nuclear war in Europe.

U.S. disarmament activists who have been in contact with European organizers look on the WPC-sparked anti-neutron campaign as a guideline for application in the U.S. For example, the coordinator of the Clergy and Laity Concerned (CALC) "Human Security, Peace and Jobs" campaign, Currie Burris, after participating in meetings with disarmament leaders in West Germany, the Netherlands and Great Britain that were sponsored by the American Friends Service Committee (AFSC), wrote [CALC Report, January 1982]:

"Perhaps the most important carry-over from the European experience is this: When the movement in the U.S. is able to address issues that are alive in the media and seriously discussed in Washington, balanced with our ultimate goals, we do our best work.

"* * * And here is the similarity between the 'Stop the Neutron Bomb' and the B-1 and MX Campaigns. By presenting viable alternatives (in addition to ethical arguments) to relevant and 'discussable' issues, you create the climate where you have to be taken seriously; you make winning the debate a possibility.

"This is the connection to the ongoing Freeze Campaign in the United States. * * * as long as the Freeze proposal remains validated as a possible first step to reverse the nuclear arms race, and as popular support grows and broadens to reflect all sectors of the society, the Freeze campaign will have the potential of winning the debate."

A lengthy article in the Rotterdam, Holland, publication *Ons Leger* [October and November, 1981] by J.A.E. Vermaat traced the control of the Dutch Interchurch Peace Council and Christians for Socialism organization to the WPC and the Christian Peace Conference (CPC). Mr. Vermaat wrote that "The contacts are made primarily through the GDR [East Germany] and organizations that are active there, with the CPC being an important intermediary."

The article reported that the whole anti-neutron bomb campaign was initiated at a WPC meeting in East Berlin "in the presence of Nico Schouten, the Netherlands cadre member of the Communist Party of the Netherlands (CPN)."

The "Ban the neutron bomb" organization was set up with consideable organizational assistance of the CPN, and the group began publishing a newsletter, the *N-Bulletin*, involving leaders of the CPC, leftist trade union officials, and political figures. The major anti-neutron conferences and meetings during 1977 and 1978, Vermaat reported, were "partially financed from East European sources."

Citing statements in the *N-Bulletin*, the article revealed that the March 1978 "International Forum" for Disarmament and against the neutron bomb in Amsterdam "was entirely organized by the CPN in close collaboration with East European officials, communist sister parties and the World Peace Council." Furthermore, in May 1978, the Soviet Peace Committee paid for the week-long trip to New York for the first U.N. Special Session on Disarmanent (SSD) of CPN "peace activist" Nico Schouten and two of his collaborators. They returned to Holland by way of East Berlin where they met with East German Peace Council officials for a "debriefing" on their New York sojourn.

Following the May 1978 Special Session on Disarmament and the East Berlin "debriefing," the name of the Dutch organization was expanded to the "Cooperative Association to Stop the Neutron Bomb—Stop the Arms Race."

Vermaat continued:

"It is a little-known fact that although the Communist Party of the Soviet Union (CPSU) is hostile to religion and the campaign against it is unabated * * *, it has long been a central objective of the party to manipulate religious organizations and influence them in such a way that they will support elements of Russian foreign policy.

"It is much less well known that the Russian intelligence service [KGB] within the framework of this policy trains "church workers" who are sent to posts in the countries of the West and the Third World. Two such training centers for "religious agents" are located at Feodosia in the Crimea and at Lvov in the Ukraine.

"Religious workers are trained there who are placed in Switzerland, France, Belgium, Spain, Italy, Portugal and Latin America (the Catholic countries). Those who go to Latin America are schooled in the new theological trends, especially the theology of liberation.

"In Lithuania there is a training center for religious agents who are dispatched to the Anglo-Saxon world, the Federal Republic of Germany, Austria, the Netherlands and Scandanavia (mostly Protestant countries). And from a training center in Constantsa, Romania, workers are sent out to the Middle East.

"This is a matter of training agents by whom priests and preachers can be influenced. The impression must also be created that the Communist peril is quite nonexistent. The East European ecclesiastical functionaries who are willing to exert themselves to that end get full support from their governments in connection with their trips.

"Furthermore, as might be assumed, persons of Netherlands, Belgian, German and English nationality, among others, are trained in the aforementioned institutes, just as is the case with the training of terrorists and cadre workers in various camps."

The article notes the close association between leaders of the Dutch "peace movement" and TASS correspondent Vadim Leonov, who was ordered expelled by the Netherlands government last year; but closes with the warning that the real danger lies in the "leftist parlor intellectuals who draft theories that veil the realities."

"People like Hylke Tromp [director of the Polemological Institute at Groningen], Ben ter Veer, Mienst Jan Faber [Interchurch Peace Council] or Philip Everts," wrote Vermaat, are much more important than the open members of the discredited Communist Party. He closed his articles with the warning, "If we do not understand that, we shall never be able to understand how free countries can fall prey to totalitarian forces."

The WPC-directed anti-neutron bomb campaign, since its infra-structure has remained in place, was able to move again into high gear in August 1981, following President Reagan's announcement that the U.S. would proceed with neutron warhead production.

The WPC's set slogans, "No to neutron bombs and all neutron weapons; No to U.S. Cruise and Pershing II Missiles; Start negotiations;" were immediately pushed to the forefront by the European disarmament coalitions.

In a statement issued after the American announcement that neutron production would proceed, the WPC issued a anti-neutron statement that took direct credit for having forced the Carter Administration to kill plans for neutron warhead production and proclaimed the commencement of a similar campaign, saying in part:

"The WPC condemns in the strongest possible terms the decision by U.S. President Reagan to produce neutron weapons. This action defies overwhelming world public opinion which compelled the former U.S. administration to suspend production of

this inhuman weapon. It is the latest step in the U.S. drive for military superiority and thrust the world even closer to a nuclear catastrophe."

WPC president Romesh Chandra sent a protest message to the White House for use as propaganda that played on WPC claims to represent and control "world public opinion:"

"The World Peace Council with national committees in 137 countries embracing hundreds of millions of people is deeply shocked * * *. The overwhelming majority of humanity has already expressed itself as one voice in condemning these illegal inhuman weapons. * * *

We urge * * * that you respond to the hopes and will of public opinion and rescind your decision to go ahead with production of neutron weapons, enter into immediate Summit negotiations regarding Eurostrategic missiles and return to the SALT process. The World Peace Council intends to exert all possible efforts to further mobilize public opinion to these ends."

The WPC newsletter, *Peace Courier* [September 1981], used cartoon drawings of skeletons and corpses to highlight the WPC's customary hysterical rhetoric. It attacked the neutron warhead as "the brainchild of the horrifying 'limited' nuclear war concept and the 'first strike' doctrine openly espoused by the White House and the U.S. military brass."

It is noted that outside the United States, the World Peace Council customarily uses extreme rhetoric, saving its "moderate" mask for Americans. An example was its claim in the anti-neutron statement:

"It is the weapon par excellence of the aggressor, designed to enable him to take over the intact cities and industries of another country after getting rid of the population."

WPC Religious Targeting

As the Dutch writer, J. A. E. Vermaat correctly noted, the Soviet Union long has attempted to manipulate religious organizations so that they support Soviet foreign policy goals. Through the WPC, Christian Peace Conference (CPC), and also through the World Council of Churches (WCC) in which the state-controlled Soviet bloc religious groups play coordinated and influential roles, the religious community has been made a major target for disarmament recruitment. As this report already noted, the WPC's 1975 U.S. delegation met with a number of religious and quasi-religious groups and leaders. Among the indicators of the WPC's religious targeting was a quote attributed to an anonymous "Dutch Roman Catholic pastor" by the WPC newsletter, "You know as well as I do that nuclear arms are directly against God's will. Stopping nuclear weapons is a fight for Christianity."

It is noted that at the initiative of the Patriarch Pimen of the Russian Orthodox Church, an "International Religious Conference for Peace" will be held in Stockholm in September or October 1982 that will continue disarmament organizing by religious groups targeted at the June U.N. Special Session on Disarmament.

WPC coordination of North American/ European disarmament

There is ample evidence of Soviet coordination of the European and North American disarmament campaigns through the WPC, its national affiliates, local communist parties and front groups.

Three World Peace Council activists—Werner Rumpel, head of the East German Peace Council; Nico Schouten, leader of the Dutch Cooperative Group to Stop the Neutron Bomb; and Terry Provance, head of the AFSC Disarmament Program and co-convenor of the Mobilization for Survival's International Task Force—addressed a demonstration on Capitol Hill sponsored by the Mobilization for Survival (MFS) on October 29, 1979.

Rumpel, introduced by Provance as "my friend," denounced U.S. and NATO plans to deploy the Pershing II and cruise missiles. Schouten said "It is easier to stop this weapon now, before it is deployed." Their U.S. trip followed a WPC disarmament conference in the Hague and coincided with "International Disarmament Week".

After listening to the speakers, some 500 demonstrators marched to the U.S. Department of Energy and conducted "civil disobedience" by blocking entrances.

But the many more recent evidence of WPC control and manipulation of the disarmament campaign include the following:

Continental Meeting of North American Youth for Peace, Detente and Disarmanent, October 23-25, 1981.

Held in Montreal, Canada, October 23-25, 1981, the "Continental Meeting of North American Youth for Peace, Detente and Disarmament" was organized from 671 Danforth Avenue, Suite 301, Toronto, Ontario, Canada.

The meeting was a regional follow-on to the January 1981, "World Forum of Youth and Students for Peace, Detente and Disarmament" in Helsinki, Finland. the "World Forum" was organized by the WPC in conjunction with other Soviet-controlled international fronts including the World Federation of Democratic Youth (WFDY) and International Union of Students (IUS).

The featured speakers at the Continental Meeting in Montreal included officials of the Soviet Committee of Youth Organizations and the youth affiliate of the West German Communist Party. Participants included representatives of the U.S. and Canadian sections of the WPC, the youth groups of the Canadian and U.S. Communist parties, groups dominated by the Canadian and U.S. Communist parties, support groups for Third World revolutionary terrorist groups, and disarmament groups.

The "appeal" issued by the Continental Meeting showed that the U.S. and NATO were the real targets. In part it stated:

"In the last years, numerous protests have been staged in Canada and in the United States by different groups and organizations concerned with peace * * *. Lately, these protests have mounted in the United States and in Canada against United States military intervention in El Salvador; against the production and deployment of the neutron bomb; against the deployment of new nuclear weapons in Europe; against US government support for Apartheid and intervention in Angola; and against the reimposition of the draft in the US.

"In January 1981, the World Forum of Youth and Students for Peace, Detente and Disarmament * * * declared themselves for complete and general disarmament, for an end to the arms race, for the establishment of cooperation in the relations between peoples and countries; and the conversion of war industry into civilian industry to meet human needs.

"The arms race and war preparations, but above all the policies of confrontation of the new U.S. Administration best exemplified by their decision to produce the neutron bomb, stand not only against the national independence of the countries on their way to liberation, but also against the basic interests of the North American people and youth."

The language of the Continental youth appeal closely paralleled not only the slogans of the World Peace Council, but also those of the U.S.-based Mobilization for Survival (MFS) in linking disarmament to social welfare programs, stating:

"The general demands of youth for jobs, education, a meaningful culture, full democracy, racial and national equality, a safe and healthy environment and a peaceful future can only be successful in a world of peace and detente * * *."

Saying that the Continental Meeting was to "follow up the spirit of the Helsinki World Forum," the "appeal" outlined a program of coordinated action as follows:

"We commit ourselves to support and organize mass actions of youth and students of our countries to pressure our respective governments to negotiate the limitations of arms, particularly nuclear arms; for an end to Canada's participation in NATO and NORAD; for declaring Canada a nuclear weapons free zone; to stop U.S. military build up; no MX, Cruise and Pershing missiles, no neutron bomb; to halt U.S. intervention in other countries and reinstitution of the draft and to cut military spending in our countries and transfer these funds to meet human needs."

The workshop on "Detente And Disarmament" addressed by guest speaker Igor Sagyrian of the USSR Committee of Youth Organizations produced five major resolutions, all adopted unanimously, which were incorporated into the action program quoted above.

The workshop entitled "Disarmament in Europe" was addressed by Rainer Butt of the Socialist German Workers' Youth (SDAJ), the youth affiliate of the West German Moscow-line Communist Party (KPD). Not unexpectedly, the resolutions it produced were blatantly pro-Soviet. For example:

"Whereas the militarist forces in Western Europe and North America are pointing to the Warsaw Pact's deployment of SS-20 missiles as justification for their own dangerous plans for medium-range missiles in Western Europe; and

"Whereas these same forces in the United States argue in a similar fashion that the 'Soviet Tank Threat' necessitates the production of the Neutron bomb which, even though a single neutron weapon could kill most of the people in a city the size of Paris, the American generals call an 'anti-tank weapon;' and

"Whereas the SS-20 missile is simply a modernization of the old SS-4 and SS-5 missiles (with technology the Americans have had for years); a modernization that poses no new threat to Western Europe since for every SS-20 deployed, three SS-4 and SS-5 missiles are removed, and as a result the number of Warsaw Pact medium-range warheads has not increased in ten years; and

"Whereas Warsaw Pact medium-range missiles in Europe pose no first strike threat to American forces; while NATO medium-range missiles do in fact pose a first-strike threat to the Soviet Union; and * * *

"Whereas the myths of the SS-20 and Soviet tank threats have been invented by NATO and American military strategists as feeble justification for their own dangerous plans; therefore

"This meeting make known to American military strategists its opinion that the SS-20 missiles and Warsaw Pact tank forces

offer absolutely no justification for their plans to deploy Pershing and Cruise medium range missiles in Europe and to manufacture the neutron bomb."

This resolution passed by 21 in favor to 20 abstentions. The 20 delegates from "pacifist" and other disarmament groups who attended this workshop clearly understood the one-sided nature of the resolution and were reluctant to compromise their "credibility" by voting for it publicly. However, even more significant was the fact that none of these disarmament activists was willing to stand up and vote in opposition to the pro-Soviet resolution. Rather than go on record in opposition to the communists, the 20 delegates abstained.

There were a number of additional resolutions passed unanimously from this workshop. They attacked only the U.S. and NATO for agreeing to deploy cruise and Pershing II missiles, but declined to criticize the USSR and Warsaw Pact for their SS-20s. The neutron bomb was termed "an insane and impossible figment of the Western militarists' imaginations."

Passed unanimously was a declaration that the Continental Meeting was "in solidarity with the European peace movement," and a commitment was made that all groups that participated in the Continental meeting would collaborate more closely with European disarmament organizations. The declaration read:

"In recognition of the importance of this conference, this Continental Meeting [p]resumes that organizations participating in this meeting will in the future cooperate more closely with the peace movement in Europe so that activities are better coordinated."

A proposal for setting up a "central office of North American Youth for Peace movement to enable future coordination between Canadian and international peace movements" was referred to the Continental Meeting continuations committee, as was another resolution that would have committed the meeting to "seek to achieve its aims and goals in a peaceful, non-violent method." Those who follow Lenin's precepts do not rule out the use of "armed struggle" including terrorism, and since the Continental meeting was under communist control, its leaders declined to allow the organization to be limited to non-violent methods.

It is noted that the workshop entitled "Solidarity with the People and Youth of El Salvador" was addressed by Raul Alberto Beneda of the Central Association of Salvadorean University Students (AGEUS) who demanded "pressure on both the Canadian and US governments to stop military and political intervention in El Salvador;" and that they recognize and support the Soviet and Cuban-backed Farabundo Marti National Liberation Front (FMLN) and the Democratic Revolutionary Front (FDR).

Unanimous resolutions passed by the workshop on "Solidarity with the People and Youth of Chile" addressed by Patricio Mason, chairperson of the Canadian Coordinating Committee for Chilean Youth, called for "human rights" organizing in support of a report by an Ad Hoc Committee on Human Rights Violations in Chile prepared for presentation to the U.N. in December 1981. The fourth resolution clearly demonstrated that the so-called Soviet-directed "peace" and disarmament movement in no way is pacifist or opposed to armed violence and terrorism. It read:

"Whereas international solidarity work is crucial to the struggle to overthrow fascism in Chile; and

"Whereas the resistance in Chile has recently come to the conclusion that an armed struggle will eventually be necessary to overthrow the Chilean junta;

"Be it resolved that

"The Chilean solidarity work on the North American continent to increased and that it focus on creating awareness of and support for the eventual armed struggle in Chile."

The U.S. delegation to the Continental Meeting in Montreal was top-heavy with members of the CPUSA's youth arm, the Young Workers Liberation League (YWLL). The U.S. group, all from New York, included Dennis Regier, a YWLL official who officially represented the Soviet-controlled World Federation of Democratic Youth (WFDY); Larry Moskowitz, YWLL Central Committee; Kris Buxenbaum; Luz Rodriguez; Michael Scheinberg; Curtis Lee Pittman; Lourdes Rodriguez of the CPUSA-controlled publication, New World Review; Kevin A. Tyson; and Andrea Hibhman.

WPC's generals and admirals for peace

In the disarmament drive, the World Peace Council and the Soviet media are making heavy use of statements by several former NATO military officers who, following their retirements which ended their ability to influence policy and their access to secret information, have become highly useful "assets" for the Soviet disarmament propaganda machine.

Particularly active have been Gen. Nino Pasti, a former NATO Vice-commander elected in 1976 to the Italian Senate as an "independent" on the Communist Party ticket; Major Gen. Gert Bastian, formerly commander of the 12th Armored Division of the West German Army; and two retired U.S. Rear Admirals who play leading roles at an anti-defense organization, the Center for Defense Information (CDI), CDI director General LaRocque, and his deputy, Eugene Carroll.

Several of these retired military officers including Bastian, Pasti, Johan Kristi of Norway, Francisco da Costa Gomes of Portugal (a WPC vice-president), Georgios Kumanakos of Greece, Von Meyenfeld of the Netherlands and French Admiral Antoine Sanguinetti, signed a memorandum in November addressed to the NATO foreign and defense ministers, the commanders of NATO forces and staff officers attacking the military upgrading agreements, calling for arms negotiations with the USSR and asking European NATO members to break away from alliance with the U.S. and develop better relations with the Warsaw Pact countries.

At a November 1981 press conference in The Hague, Pasti charged that the idea of a "strategic superiority of the Soviet Union and its military build-up" was, as the Soviet press agency TASS reported, a "lie fabricated by the CIA and spread by NATO propaganda."

Pasti said, "I can give the assurance that the most convinced opponent of war is the Soviet Union, who in the last war suffered the gravest trials. This cannot be said of the United States where the idea of war is linked with the profits of certain circles."

Both Nino Pasti and Gert Bastian have made trips to the U.S. during 1981 which have included Capitol Hill speeches to Congressional audiences sponsored by the SANE Educational Fund—Pasti on May 2nd and Bastian on December 2nd.

WPC and Pasti on Capitol Hill

The World Peace Council's May delegation to Washington was not held in isolation with other activities in the Western Hemisphere. Prior to the visit to the U.S. Congress, the WPC Presidential Committee met in Havana. Immediately afterwards, a "Continential Meeting of the National Committees for Peace in Latin America and the Caribbean" was held. After these policy coordination meetings, a WPC delegation went to Washington, D.C., and other U.S. cities to promote Soviet disarmament themes.

WPC-related activities in Washington commenced on Tuesday, May 5, when Representatives John Conyers [D-MI], Ronald Dellums [D-CA] and Patricia Schroeder [D-CO], a member of the House Armed Services Committee Subcommittee on Research and Development and Subcommittee on Readiness, invited their Congressional colleagues and staff to attend a two-hour afternoon "Briefing on European Opposition to the New Generation of Theater Nuclear Weapons," sponsored by SANE and coordinated by SANE staffers Sally Dinsmore and Ed Glennon.

SANE's featured speakers were Italian Senator Nino Pasti and Richard Barnet, cofounder and senior fellow of the Institute for Policy Studies (IPS).

The circular distributed by SANE to Congressional offices announcing the Schroeder-Conyers-Dellums invitation to the "briefing" described Pasti as "formerly NATO's Allied Supreme Vice-Commander for Nuclear Affairs in Europe," and as "an Independent Left member of the Italian Senate" who "has detailed knowledge of NATO strategic and political policies." SANE did not mention that Pasti ran on the Communist Party ticket (which was widely reported in the major American newspapers) or that he was prominent in the World Peace Council (information also readily available in the major news indices of any library). On January 9, 1981, the official East German press agency reported that Pasti was touring the German Democratic Republic (GDR) at the invitation of the GDR Peace Council as a representative of the Italian National Coordinating Committee for Peace.

It is noted that among Pasti's recent activities was participation in the November 1978 "Alternatives to Arms Production" seminar in London held by the WPC and its British section, the All-Britain Peace Liaison Group, where Pasti said, "the Warsaw powers are not aggressive forces; they are purely defensive." During the WPC's February 1979 meeting in East Berlin, Pasti told the Soviet news agency TASS that "the Soviet Union had lately submitted enough constructive proposals on these matters [nuclear disarmament]; it is now up to the West to decide." Also participating in this WPC East Berlin meeting was Nico Schouten, a key leader of the Dutch disarmament movement.

At the Congressional "briefing," the topic assigned to Pasti and Barnet was "the NATO decision to deploy Cruise and Pershing II missiles in Europe, the implications for arms control negotiations, and growing European opposition."

However, SANE Education Fund staffer Bob Musil was able to introduce an additional speaker, British actress Susannah York, who has described her personal feelings about nuclear weapons which led to her becoming an activist with the Campaign for Nuclear Disarmament (CND) in England. She attributed the existence of poverty and hunger to military expenditures and asked whether one should "accept a society in which nice young men come out of universi-

ties and are rewarded for finding ever new ways to destroy and kill." By far the most effective speaker, she left immediately for her New York opening night in Ibsen's play, "Hedda Gabler" in which the protagonist commits suicide rather than face social embarrassment.

The essence of Pasti's remarks was that the United States is militarily superior to the USSR because it has a greater total number of nuclear warheads. Thus, he argued, cruise and Pershing II missiles are not only unnecessary, but might "provoke" the Soviets. The issue of the multi-warhead Soviet SS-20 missiles which could strike targets as far as Iceland and Morocco even if based on the Asiatic side of the Ural mountains was avoided.

Musil and Barnet supported Pasti's claims and credibility by emphasizing Pasti's NATO background (although he retired in 1969) and his position as an "independent" Italian senator.

IPS co-founder Barnet said the purpose of his presentation was "to underline the particular danger they [the cruise and Pershing II] pose to Europe • • • that being • • • highly accurate and a great potential threat to Soviet military targets, as well as civilian targets, there is increasing pressure on the Soviets in a crisis to use their own missiles preemptively." This was merely another version of the old line that the Soviets are merely reacting to American "militarism," and completely ignores the fact demonstrated in Eastern Europe, Korea, Cuba, Southeast Asia, Angola, Ethiopia, Nicaragua, South Yemen and Afghanistan that the Soviet Union is an expansionist, imperial dictatorship that has seized every opportunity given it by American military and policy weakness to increase the territory under its control.

Barnet went on to present the Soviet proposals for a "nuclear moratorium" as reasonable and claimed the anti-NATO demonstrations in Europe were an "independent" reaction to American rejection of Brezhnev's "nuclear freeze" offer and the shelving of the SALT II treaty which would have preserved the USSR's ICBM superiority.

Barnet concluded that unless these U.S. decisions were reversed—the SALT-II treaty ratified and the "nuclear freeze" put into effect, it "is going to preclude possibilities in the future for serious control and reversal of Euromissiles."

Barnet enthusiastically described his meetings with European disarmament activists earlier in the spring.

Pasti returned to Capitol Hill on the following day, this time backed by WPC president Romesh Chandra and six other WPC activists.

The WPC contingent's schedule was coordinated from New York by Sandra Pollock of the U.S. Peace Council (USPC) and in Washington by Young Workers Liberation League (YWLL) veteran and USPC activist Eric L. Metzner. The WPC itinerary included a meeting with the Coalition for a New Foreign and Military Policy (CNFMP) prior to the Capitol Hill appearance, and a reception hosted by SANE's Sally Dinsmore at her home in northwest Washington.

Members of Congress and staff were invited by Congressmen John Conyers [D-MI], Don Edwards [D-CA], Mervyn Dymally [D-CA], George Crockett [D-MI], Ted Weiss [D-NY] and Mickey Leland [D-TX] "to meet members of an international delegation • • • led by Romesh Chandra of India and President of the World Peace Council." According to the invitation, the purpose of the meeting with the WPC leader was to discuss the "global impact of arms spending," the world-wide campaign against South Africa and Namibia (Southwest Africa), and "developments in Central and Latin America" obviously meaning U.S. support for the government of El Salvador against Soviet-backed and armed revolutionary terrorists and pressures applied to the pro-Soviet Sandinista regime in Nicaragua.

Other members of the delegation included Gordon Schaffer, a British Peace Assembly member of the WPC Presidential Committee and a former announcer; Eulia Ipsilanti, president, Greek Actors Union; Ellen Hamerskklag, WPC interpreter, Austria; Guinean Social Development Minister Jeanne-Martine Cisse; and Juan Madero Prietta, Deputy Secretary-General of Mexico's ruling PRI party. A U.S. tour followed.

Groningen Conference

In April 1981, Gert Bastian was a featured participant in a conference in Groningen, The Netherlands, designed to promote further public opposition to the U.S. and NATO by focusing on the maximum possible damage from a full-scale nuclear war on West European territory. The Groningen conference also served to introduce U.S. disarmament activists to leaders of the European demonstrations who described for the 40-member American delegation tactics and strategies successful in building the European demonstrations.

The Groningen meeting was co-sponsored by Admiral LaRocque's Center for Defense Information of Washington, D.C., and the Polemological Institute in Groningen, led by Hylke Tromp.

In the summer of 1981, the WPC published Bastian's Groningen address and his speech to the May 23-24, 1981, WPC-sponsored Nordic Peace Conference in a pamphlet entitled "Nuclear War in Europe?"

Center for Defense Information

The Center for Defense Information (CDI), a project under the tax-exempt sponsorship of the Fund for Peace (FFP) whose president, Nicholas Nyary, participated in the WPC's 1976 disarmament conference, is one of three sister projects which are spin-offs from the Institute for Policy Studies.

These other projects are the Center for National Security Studies (CNSS) which has taken the leading role in lobbying for the total destruction of the capacity of the Central Intelligence Agency for covert action and covert intelligence collection; and the Center for International Policy (CIP) which promotes U.S. policies of "non-intervention" against Soviet-backed aggression. CNSS's founding director, Robert Borosage, has returned to the Institute for Policy Studies, which has been described as the "perfect intellectual front for Soviet activities which would be resisted if they were to originate openly from the KGB." IPS fellow Orlando Letelier, director of the IPS Transnational Institute (TNI) which has offices in Amsterdam, London and Washington, D.C., who also was a leader of the Center for International Policy, was revealed after his death in September 1976 to have been an "agent of influence" for the Soviet KGB working under a Cuban "case officer."

CDI is directed by Rear Adm. (Ret.) Gene R. LaRocque. It recently moved from the townhouse it shared with CNSS and CIP to larger offices near Capitol Hill.

CDI's staff is reported as currently including Rear Adm. (Ret.) Eugene Carroll, deputy director; Major Gen. William T. Fairbourn, USMC (Ret.), associate director; David T. Johnson, research director; Arthur K. Kanegis, media director; Lt. Col. John H. Buchanan, USMC (Ret.); Dr. Robert S. Norris; Stephen D. Goose; Evelyn S. Labriola; Pamela G. Anderson; Richard Fieldhouse; Thomas K. Longstreth; Charlotte Goodwin; Goldia Shaw and Gary Mummert, senior staff; James K. Treires and Sidney R. Katz, consultants; and research interns Thomas Greenberg, Steven Hirsch (Kentucky), Joshua Hornick (UCSC) and Sandy Scott (Yale).

The publications of the CDI and statements of its leaders consistently have opposed each major upgrading in U.S. defense forces, and have opposed U.S. overseas bases and defense treaties with non-communist allies. CDI leaders and publications have been praised and quoted by the Soviet media on those and related issues since CDI's inauguration in 1973.

In the fall of 1975, after causing a crisis in U.S.-Japan relations by telling a subcommittee of the Congressional Joint Committee on Atomic Energy that the U.S. did not honor agreements to off-load atomic weapons from U.S. warships before they entered Japanese harbors, LaRocque went to Moscow as a guest of the Institute of the U.S.A. and Canada, a think-tank with close ties to the KGB. LaRocque later altered his statements on U.S. nuclear weapons and admitted he had no knowledge that the U.S. had ever violated its agreements with Japan in a Moscow interview with the correspondent for the Japanese Communist Party (JCP) newspaper Akahata [10/26/75].

Currently, LaRocque's statement, "If you dummies let us, we'll fight World War III in Europe," is being widely used by the organiziers of demonstrations against "Euromissiles" in the NATO countries. [WIN magazine, 1/1/82].

LaRocque's deputy at CDI, Eugene J. Carroll, another retired U.S. rear admiral, recently was praised on the Moscow Radio Domestic Service program, "International Observers Roundtable" [15 November 81]. Gennady Gerasimov commented:

"When I was in Washington quite recently, I happened to be at the Center for Defense Information where I talked with Rear Adm. Eugene Carroll, retired, codirector of this center. He confirmed again, he stressed that all their calculations show that a nuclear war would inevitably and ineluctably become universal and that a limited nuclear war is impossible and unrealistic. For this reason, incidentally, the rear admiral expressed his support for Leonid Ilich Brezhnev's appeal to the U.S. Administration to give up dreams of attaining military superiority over the Soviet Union. Each of the sides today possesses sufficient potential to destroy each other, even several times over. Thus attempts to secure military advantages are senseless. This was the opinion of this retired rear admiral."

It is noted that according to an article in the journal Kommunist [October 1981] the theoretical organ of the CPSU Central Committee, other disarmanment enthusiasts from the ranks of the West German defense and military structure include Dr. D. Lutz of Hamburg University, retired minister E. Eppler, and retired generals F. Birnstiehl and W. von Baudissin, currently director of the Hamburg University Institute for Peace Research and Security Policy. Their views recently were published in the FRG in a pamphlet entitled "Generals for Peace."

It is also noted that the disarmament lobby continues to use the services of Brig. Gen. Hugh B. Hester, who retired from the

U.S. Army in 1951, and was highly vocal with disarmament and anti-Vietnam groups during the 1960s and 1970s. In September 1981, Gen. Hester circulated to Members of Congress a copy of Leonid Brezhnev's "Peace Program for the 80s" with a letter terming Reagan Administration defense policies "sinister." Hester's effort was sponsored by Promoting Enduring Peace (PEP).

"NATO Missiles: A European Perspective"

Approximately 75 Congressional staff members and disarmament activists attended a 2-hour "conference" in the Dirksen Senate Office Building on December 2, 1981, entitled "NATO Missiles: A European Perspective." The meeting was sponsored by SANE (A Citizens' Organization for a SANE World).

Moderator David Cortright, SANE executive director, said the Capitol Hill conference and subsequent meetings in the U.S. would give Americans the opportunity to hear first-hand reports by "authoritative European experts" and would aid in ending the "myopia in regarding the European peace movement as a creation of the Kremlin."

Cortright introduced the four panelists:

Gen. Gert Bastian, characterized as "a retired West German Commander with first-hand knowledge of the strategic implications involved in NATO's plans;"

Josephine "Jo" Richardson, a British Member of Parliament, co-chairperson of the Campaign for Nuclear Disarmament (CND) and member of the Labour Party's National Executive Committee;

Petra Kelly, "Chairperson and Speaker of the Green Party" of West Germany; and

Karl-Heinz Hansen, described as a "Member of the West German Bundestag since 1969, presently serving on the Defense and Foreign Relations Committees." Cortright told the audience that Hansen recently had been expelled from the FRG's ruling Social Democratic Party (SDP) on account of his opposition to NATO plans to deploy Pershing II missiles in West Germany.

Richardson claimed the British peace movement had arisen completely spontaneously as "a movement of people" and announced with satisfaction that the British Labour Party leadership had gone firmly on record as favoring unilateral disarmament and committed to implementation of unilateral disarmament when they are returned to power. Richardson said the Labour Party would implement unilateral disarmament by dismantling Britain's own nuclear weapons, and closing and dismantling U.S. bases. She attacked President Reagan's "zero option" arms proposal to the USSR as a "a cynical proposal * * * calculated to be unacceptable."

Gen. Bastian told the audience that it is "a fundamental mistake" to view the peace movement as speaking for or serving the interests of the Soviet union. He attacked U.S. Pershing II missiles as "designed [and] intended for nuclear war, not for deterrence"; and said that NATO's nuclear forces did not need upgrading because the total number of Western nuclear warheads was greater than those of the East.

Likewise, Bastian conceded that Warsaw Pact conventional ground forces were larger than those of NATO, but emphasized that NATO troops were better trained. He quoted another West German general as stating NATO could defend Europe without using nuclear weapons.

To illustrate his assertion, Bastian admitted that the USSR had a marked superiority in the number of tanks, but then said these tanks were of World War II vintage [apparently he had never heard of T-64 or T-72 tanks deployed since the late 1960s or the new T-80s being developed], and claimed that the real issue was not the number of tanks the East had, but the number of anti-tank rockets available to each side. Bastian avoided specifying which side had the greater number of anti-tank weapons, but clearly implied that NATO was "guilty" of having the larger number of anti-tank weapons.

Bastian consistently reversed the role of weapons, presenting NATO's defensive anti-tank weapons as "offensive" weapons, and depicting the large Soviet and Warsaw Pact armored divisions as "defensive."

Petra Kelly, who attended college in the U.S. from 1966 to 1970 and was active in the anti-Vietnam movement was the most effective of the West German speakers on account of her idiomatic command of English. She served as Bastian's translator during the question and answer period. Kelly attempted to appear "evenhanded" by critizing the Soviet occupation of Afghanistan, demanding total nuclear and conventional disarmament and calling for dissolution of NATO and the Warsaw Pact.

At a disarmament rally in London on October 24, 1981, Kelly revealed her bias by stating, "the Soviets * * * have a part to play obviously, but it is NATO—not the Warsaw Pact—that is going to introduce a whole new kind of killer technology and quick strike capability. There is no missile gap. NATO is trying to create one."

At various U.S. appearances, she supported the Krefeld Appeal, a petition to ban deployment of Pershing-II and cruise missiles in the FRG that was initiated in November 1980 by the German Peace Union (DFU), the WPC's West German section which is controlled by the Communist Party (DKP).

Kelly described the Green Party's tactic of linking the antinuclear power movement to the disarmament campaign through claims that nuclear power plants turn the possibility of conventional war into a nuclear war. She dismissed as "propaganda of the Reagan Administration" the concept of a "window of vulnerability" due to outmoded U.S. retaliatory strategic weapons that could be destroyed in a Soviet first strike. U.S. criticism of the European disarmament movement, she said, was based on "fear of anti-militarism."

Karl-Heinz Hansen stated that the Soviets have missiles like the SS-20 aimed at the FRG simply because the U.S. and NATO have nuclear weapons stationed on West German soil.

"The Soviet Union is no more expansionist, no more imperialistic in our eyes than the United States," he said; and asserted that Westerners had to discard the concept that military strength enhances national security on the ground that there is "no defense possible" against nuclear weapons. He called FRG agreement making West Germany dependent on Soviet natural gas supplies for much of its home heating needs a "positive" step.

In a brief question and answer period, panelist Ivo J. Spalatin, staff director of the House Foreign Affairs Committee's Subcommittee on International Security and Scientific Affairs, asked whether nuclear parity existed. Bastian reiterated that NATO was superior to the Warsaw Pact in nuclear, naval and air systems; Hansen asserted (despite the historical precedent of the Ardennes strategy in World War II) that tanks were irrelevant and could only be used in very restricted regions of the FRG/GDR border on account of mountainous terrain; and Jo Richardson excused Soviet military superiority saying that the Soviet Union was forced to defend a 25 million kilometer border while the U.S., Europe and People's Republic of China together had a mere 2 million kilometers of border.

Bob Sherman, military staff assistant to Rep. Thomas Downey [D-NY], asked why the four European panelists were concerned with the neutron, Pershing II and cruise theater nuclear forces rather than with "strategic nuclear weapons that could still destroy the world." Bastian replied that it was the responsibility of the Europeans to prove to the U.S. that cruise and Pershing missiles were not acceptable responses to the Soviet SS-20 missiles.

Nordic Press Manipulation by the U.S.S.R.

In the Scandanavian countries, the direct role of Soviet KGB officials with WPC-related disarmament groups has been exposed. In September 1981, Vladimir Merkoulov, Second Secretary of the Soviet Embassy in Copenhagen, described in the Danish press as having "KGB connections," was declared persona non grata and expelled for his activities with disarmament groups.

Merkoulov worked with the Danish Committee for Cooperation and Peace, a coalition of 50 disarmament groups linked with the WPC; and provided, through Danish author Herlov Petersen, $2,000 to buy newspaper ads promoting a "Nordic nuclear free zone."

Merkoulov and Petersen attempted to influence Danish public opinion-makers with lunches and gifts. Petersen has been charged with violating the Danish Espionage Act.

The Swedish newspaper Verdens Gang [11/27/81] reported that two Soviet diplomats were being expelled from Norway. One of them, Soviet First Secretary Stanislaw Chebotok, offered money to several Norwegians to write letters against NATO and nuclear arms to local newspapers. The article stated that Chebotok previously had been expelled from Denmark for similar reasons.

On November 29, 1981, the U.S. Department of State said that a Norwegian newspaper story that under "certain circumstances" the U.S. would attack Norway with nuclear weapons was "disinformation" based on KGB forgeries.

Commenting on the Soviet efforts to manipulate public opinion via the Nordic press, Berlingske Tidende [11/6/81] editorialized:

"The Soviet Embassy's interference in the public debate on Danish security policy is so gross a provocation that it is almost a caricature of reality. The financing of a campaign of advertisements for a nuclear-free zone in the Nordic countries * * * compromises Soviet policy with regard to the Nordic countries * * *. It comes as a confirmation for all those who in the past were unwilling to see or hear that his disguised offer of a Soviet contribution to such a zone was superpower trickery to be used to blind the simple-minded."

Chronology of disarmament organizing

Having outlined the leaderhip role in the international disarmament campaign that the Soviet Union is playing covertly through the KGB and front organizatons lead by the World Peace Council, and having provided examples of the collaboration of leaders of U.S. disarmament groups such as SANE, WILPF, MFS and the CDI with the WPC, this Western Goals report will examine a series of disarmament and re-

lated organizing conferences held during the latter part of 1981.

Focusing on the June 1981 U.N. Second Special Session on Disarmament, this section will examine meetings of the U.N. Non-Governmental Organizations (NGOs), U.S. Peace Council (USPC), Mobilization for Survival (MFS) and campaigns associated with the MFS, and the Women's International Democratic Federation (WIDF). In addition, recent organizing activities by U.S. disarmament groups will be reviewed.

WPC/NGO Conference on Disarmament, August 5–6, 1981

The WPC and other Soviet-controlled international fronts play a very strong role at the United Nations in coordinating the activities of Non-Governmental Organizations (NGOs), particularly on the issues of disarmament, public information and support for Soviet-backed terrorist "national liberation" movements.

WPC planning targeting the second U.N. Special Session on Disarmament moved into high gear with the NGO Urgent Action Conference for Disarmament, August 5–6, 1981, in Geneva, which was organized by the Special NGO Committee on Disarmament co-chaired by WPC president Romesh Chandra.

Under the co-chairmanship of Chandra and Serge Wourgaft, secretary-general of the World Veterans Association, the NGO Urgent Action Conference discussed, as reported by the WPC in the Peace Courier [September 1981]:

"obstacles to disarmament in the light of the new developments in the arms race, especially in nuclear arms, as well as NGO actions to overcome them. It also discussed NGO activities in connection with preparations from the Second Special Session on Disarmament of the UN General Assembly- * * *, the establishment of cooperative relations with concerned organizations outside the NGO community and campaigns for nuclear disarmament * * *."

The WPC report noted that the U.N. NGOs could be used to influence U.S. and European government leaders. A panel of disarmament activists "insisted that urgent measures be taken to stop the drive toward a nuclear catastrophe and emphasized the importance of NGOs in influencing decisionmakers to curb the race." The members of the panel were identified as Nino Pasti; Mrs. Randall Forsberg, executive director of the Institute for Defense and Disarmament Studies (IDDS), formed in January 1980 and based in Brookline, MA; Leopoldo Nilus, World Council of Churches (WCC); Prof. G. A. Trofimenko, USSR; and Prof. Hylke Tromp, Director of the Polemological Institute of the University of Groningen, the Netherlands, cosponsor of the Groningen nuclear war conference.

The Information Digest [9/19/80] reported that in cooperation with leaders of the Center for Defense Information, the IDDS was active lobbying among delegates to the 1980 Democratic National Convention for disarmament, and that it took the position that "for the U.S. to regain nuclear superiority, rather than stopping the arms race, will produce unprecedented danger of first strike by both sides in time of crisis; and is the single greatest danger currently facing the world."

The Information Digest reported:

"The president and executive director of the ISSD is Mrs. Randall "Randy" Forsberg. Officers include Patrick Hughes, secretary, and George Sommaripa, treasurer. The IDDS Board of Directors reflects a spectrum from the academic and activist branches of the anti-defense lobby including several individuals and organizations active with the World Peace Council (WPC). Members of the board include Betty Lall, chairperson, U.N. Committee on Disarmament and International Security, Political Science, Cornell; Hayward Alker, International Relations, MIT; Richard Barnet, Institute for Policy Studies (IPS); Elise Boulding, Sociology, Dartmouth; Kay Camp, international president, Women's International League for Peace and Freedom (WILPF); Harvey Cox, Divinity, Harvard; Richard Falk, International Law, Princeton; Randall Forsberg, ex officio; Sanford Gottlieb, New Directions; Robert Johansen, Institute for World Order (IWO); Cheryl Keen, executive board, COPRED, Coordinator, International Studies, Harvard; Ann Lakhdhir, Westport, CT; Everett Mendelsohn, History of Science, Harvard; Philip Morrison, physics, MIT; George Rathjens, political science, MIT; Judith Reppy, economics, Peace Studies Program, Cornell; and Brewster Rhoads, director, Coalition for a new Foreign and Military Policy (CNFMP)."

Prime among the WPC-led United Nations NGO concerns were "the danger of the deployment of new nuclear medium range missiles in Europe and * * * immediate negotiations on this subject." The NGO disarmament group agreed that their main activity would be to contribute to "the preparations and work of the SSD–2."

Special Session on Disarmament Working Group, October 6, 1981

On October 6, 1981, some 40 representatives of disarmament groups who constituted themselves the ad hoc Special Session on Disarmament Working Group (SSDWG) met in New York City to organize rallies and demonstrations in support of "International Disarmament Week" (October 24–31) and to launch the Campaign for the Second UN Special Session on Disarmament.

The leadership role was taken by representatives of CPUSA fronts, the U.S. affiliates of international Soviet fronts, and of groups that have close ties with Soviet fronts.

These groups included the U.S. Peace Council (USPC); Christian Peace Conference (CPC); Women for Racial and Economic Equality (WREE), a CPUSA front affiliated with the WIDF; Women's International League for Peace and Freedom (WILPF); Women Strike for Peace (WSP); Promoting Enduring Peace (PEP); Riverside Church Disarmament Program; Clergy and Laity Concerned (CALC); the Disarmament Working Group of the Coalition for a New Foreign and Military Policy (CNFMP); Washington (D.C.) Peace Center; War Resisters League (WRL); Fellowship of Reconciliation (FOR); and the American Friends Service Committee (AFSC) present as the Nuclear Freeze Campaign.

Other groups in the SSDWG included the All-African People's Revolutionary Party (AAPRP); Children's Campaign for Nuclear Disarmament (CCND); Coalition for a People's Alternative (CPA); Democratic Socialist Organizing Committee (DSOC); National Association of Social Workers (NASW); the SHAD Alliance (New York City & Long Island chapters); SEA Alliance (New Jersey); Unitarian Universalist Association; World Conference on Religion & Peace; and the Mobilization for Survival (MFS) New York and Boston offices and the MFS International and Religious task forces.

A Staff Search Committee was established; an office set up in the New York MFS offices at the Church of All Nations on St. Marks Place; and Ken Caldeira was hired as staff coordinator. A larger "outreach" meeting was planned for Halloween, the last day of "International Disarmament Week."

World Congress of Women, October 8–13, 1981

Coordination of women's groups in campaigns to generate public pressure against U.S. arms modernization and deployment of the Pershing II and cruise missiles in Western Europe—or at least a facsimile of general public opposition—was the theme of the World Congress of Women, held in Prague, Czechoslovakia, October 8–13, 1981, organized by the Women's International Democratic Federation (WIDF), a Soviet-controlled front which acts as a virtual "women's auxiliary" to the World Peace Council.

Among those addressing the WIDF meeting were Czechoslovakian president Gustav Husak; Romesh Chandra, WPC president who is also vice-president of the U.N.'s Non-Governmental Organizations structure; Soviet Women's Committee president Valentina N. Tereshkova; U.N. Assistant Secretary-General Leticia Shahani; and Venache Soranger of Norway, one of the initiators of the Peace March '81 with the slogan, "Europe Free of Nuclear Weapons."

The WIDF Congress was opened by the WIDF's long-term president, Freda Brown of Australia, who emphasized the WIDF's propaganda function, reminding the delegates that women "represent an important part of this world public opinion, and we are here to search for ways to consolidate our activities and all our actions."

The U.S. delegation was organized by the CPUSA's women's front, Women for Racial Equality (WREE). The U.S. delegation met with Olga Chechetkina, a vice-president of the Soviet Women's Committee, who urged U.S. women to "fight to prevent war, to return to detente." She said, "Every time the U.S. President opens his mouth it is to pronounce a new escalation of the arms race."

The WIDF World Congress of Women issued its customary "appeal" addressed to "the women of the world" couched in language clearly aimed at the West, not at the USSR. The "appeal" asserted that the "arms race" has been "instigated by governments aspiring to military supremacy [and] by those who make fantastic profits from the deadly arms race;" and continued:

"The deployment of new missiles in Western Europe and the production of the neutron bomb will lead to a qualitatively new and more dangerous round in the arms race. Time is running out.

"* * * As a first step, it is necessary to ban the neutron weapon, to stop the buildup of nuclear weapons in Europe and start serious negotiations * * *.

* * * * *

"We alert and call upon the women of the world to use all possible means—letters, resolutions of meetings and demonstrations, petitions, marches, appeals—to demand that leaders of states and governments take practical measures. * * *"

The WIDF, for all its strident rhetoric depicting imminent nuclear war unless the U.S. and NATO allies immediately proceed to disarm, in the same manner as did the Continental Youth Meeting emphasized that it was not a pacifist organization, and that it supports armed revolutionary "national liberation struggles."

The "appeal" denounced "acts of aggression * * * perpetrated against * * * people who struggle for their inalienable rights to self-determination, national independence and social progress." It went on to say that "all forms of injustice, racial and colonial oppression and suppression of peoples must be wiped from the face of the earth." There was no suggestion in the WIDF appeal that that should take place without violence.

It also is noted that in a report on the WIDF Women's Congress by WREE activist Margo Nikitas in the World Magazine supplement to the CPUSA newspaper Daily World, [11/12/81], Soviet Women's Committee vice-president Chechetkina was quoted as having drawn "an important distinction between the Soviet people's revolutionary struggle to liberate themselves and the experience of war. 'We made a revolution and it caused sacrifices, but we knew what it was for.'"

MFS Nuclear Weapons Facilities Task Force Conference, October 23-25, 1981

Some 46 national and local disarmament organizers representing U.S. and Canadian groups participated in the national conference of the Mobilization for Survival (MFS) Nuclear Weapons Facilities Task Force, October 23-25, 1981, in Nyack, NY, the headquarters of the Fellowship of Reconciliation (FOR).

Among the "breakthroughs and opportunities in local organizing efforts around weapons facilities and disarmament issues" enumerated were the "challenge of keeping new constituencies involved" in disarmament following the U.S. decision to cancel planned land-basing of the MX missile in Utah and Nevada; expansion of support for the AFSC's "Nuclear Freeze" moratorium campaign; a Public Broadcasting System documentary expose of nuclear weapons storage sites at U.S. Navy facilities in the San Francisco Bay area that resulted in "escalating local concern;" the commencement of a program of "disarmament/peace education" classes in every Catholic high school in Washington, DC; a Boston conference to link the existence of urban decay, tightening of welfare programs, cuts in government housing programs, and so forth with the "military budget;" and local media exposures of neutron bomb storage at Seneca, NY, and Pantex's weapons production facilities in Amarillo, Texas.

Additional local organizing opportunities were viewed as including the Administration's announcement that it would build the very low frequency ELF Trident communications system in Wisconsin, the expanding efforts to bring scientists and physicians into disarmament activities through Physicians for Social Responsibility (PSR) and International Physicians for the Prevention of Nuclear War (IPPNW) together with successes in involving religious leaders and groups.

The first conference of International Physicians for the Prevention of Nuclear War was held in Airlie, Virginia, in March 1981, and was attended by a Soviet delegation headed by Georgy Arbatov, head of the Institute of the U.S.A. and Canada. The Information Digest [4/10/81], in an article entitled "Soviets Participate in U.S. Anti-Nuke Conference," reported:

"The first congress of International Physicians for the Prevention of Nuclear War (IPPNW) closed at Airlie, VA, on March 21, 1981, after five days of speeches emphasizing the horrors of nuclear war, the "destabilizing" dangers of U.S. development of new weapons and the desirability of cooperation with the Soviets.

"IPPNW president Barnard Lown, a Harvard cardiologist, stated the IPPNW physicians were not politicians; but the meetings closed with the presentation of its lengthy conclusions to the Soviet Embassy in Washington and to the U.S. Department of State.

"At a Washington press conference following the meetings, Jack Geiger, City University of New York, summarized IPPNW's argument as that in the event of a nuclear conflict, "The survivors will get no medical care. * * * the survivors will become the dead." Perhaps in a gesture to the large Soviet contingent and to its head and conference cochairman, Deputy Minister of Health Yevgeny Chazov, Geiger commented, "Russian flesh burns at precisely the same rate as American flesh."

"The Soviet delegation clearly saw the IPPNW conference as the occasion for continuing Moscow's campaign of direct appeals via television to the U.S. public against Administration plans for rebuilding U.S. military strength. And Chazov flatly said he wanted one hour on a major commercial network news program since his IPPNW speech had been broadcast over Soviet television.

"These efforts by high-level Soviet officials to gain access to U.S. television were also carried out by another IPPNW participant, Georgy A. Arbatov, just promoted to full membership on the Central Committee of the Communist Party of the Soviet Union (CPSU) and director of the Institute of the U.S.A. and Canada, a Moscow political and economic research entity closely linked to the KGB. Arbatov's speech was a concise summation of the major Soviet propaganda lines, starting with a claim that the United States started the Cold War "with the explosion of the first nuclear bomb in Hiroshima." He warned:

"'The arms race is a major source of bad relations. This has killed the dictum, 'If you want peace, prepare for war.' If you follow that, it will make war inevitable.'"

"Arbatov also attacked U.S. defensive weapons as unable to provide security and called for the U.S. to continue arms control and trust in the Soviet Union, saying:

"'Another dictum was killed—that you can buy security with dollars spent on weapons, offensive or defensive. * * * There exists also a belief that to have arms control you need mutual trust, mutual confidence first; but you can't have trust and confidence nowadays without arms control.'"

"The Soviet official's second thesis was that the cost of modern weapons prevents governments from carrying out social welfare programs. With reference to The Lean Years by Richard Barnet, Arbatov said:

"'The arms race itself has cost a lot * * * in terms of human life of those who died earlier because they were underfed and undertreated. What I want to stress is that this problem will be worse. As an economist I can assure you that all of us, the whole world, are entering not fat, but lean years. * * * The arms race more and more becomes a luxury which in reality we cannot afford.'"

The article quoted Arbatov's third key point as the fact that no nuclear war had taken place was "not due to wise statesmanship as much as to sheer luck. We cannot stretch this luck." The Information Digest report continued:

"Arbatov concluded with a summary of 'lessons of history' that the Soviets would like Americans to accept and a rationale for preventing U.S. development and deployment of "destabilizing" new weapons like cruise and MX missiles, with, of course, no mention of the multiplicity of new generations of Soviet missiles, nuclear submarines or their Backfire bomber:

"'One, you cannot win in a nuclear arms race. This is a stupid notion. You open the bottles and the genie comes out, the dangers and instabilities increase. We have experienced this with MIRVs; the same can happen with Cruise missiles and MX. So it is better to prevent the birth of new weapons rather than struggle with their consequences."

"Arbatov's second point was a variation on the 'better red than dead' theme:

"'Forces are at work to undermine deterrence, but the only way you can go from it is towards arms control and detente, not towards improving 'deterrence' or limited warfare. The nuclear arms race has tremendous political and moral consequences. * * * nothing can justify such sacrifice as the loss of the whole of humanity. It's absolutely irresponsible.'"

"As for the MX, Arbatov shrugged, 'so to kill them one has to send more than one warhead for each. It means that we shall have to put into motion thousands of warheads. What is the difference between this decision and the decision to start an all-out nuclear war?' Certainly it was not in the interest of a Soviet official to point out that Soviet first-strike warheads absorbed on remote desert sites or on sea targets reduce the number available for targeting against heavily populated industrial areas.

The Information Digest report observed that "When summarized by the Soviet news agency TASS [in English, 3/22/81], the similarity in content of Arbatov's remarks to the materials produced by the Mobilization for Survival (MFS), Coalition for a New Foreign and Military Policy (CNFMP), U.S. Peace Council (USPC), et al., is striking."

The TASS report said:

"the arms race is a heavy burden on the economy, * * * vast manpower and material resources are squandered on the arms race, * * * it heavily taxes the energy and efforts of society. The arms race constitutes a mortal threat to mankind. * * * One cannot hope for luck any longer * * * the arms race has assumed unprecedented scope and the situation is becoming ever more dangerous. * * * This is why the main efforts must be aimed at establishing the control over armaments and consolidation of detente which is the most important condition for ensuring international security."

According to the confidential in-house minutes of the Nyack conference circulated to participants, under the general topic, "strategy," the Nuclear Weapons Facilities (NWF) Task Force conference focused on:

"Second UN Special Session on Disarmament, Congressional Campaigns, Economic Priorities and Budget Shifts, Weapons Storage and Development, Weapons Systems, Links with International Movements, Department of Energy, Civil Defense, Anti-Corporate, World Council of Churches Hearing, American Association for the Advancement of Science."

An agenda for 1981-82 was adopted which included the following points:

Support European Disarmament Effort.—Conference participants agreed to generate local press interest in the World Council of Churches (WCC) International Public Hearing on Nuclear Weapons and Disarmament, held November 23-27, 1981, in Amsterdam.

Materials on the Amsterdam meeting were distributed by the Nuclear Weapons Facilities Task Force co-convenors, Pam Solo and Mike Jendrzejczyk. Solo was an organizer of the American Friends Service Committee (AFSC) project against the Rocky Flats, CO, nuclear weapons plant from which the MFS's Nuclear Weapons Facilities Task Force developed. Jendrzejczyk is on FOR's staff. The AFSC and FOR jointly sponsor their own Nuclear Weapons Facilities Project which Solo and Jendrezejczyk coordinated and which forms the core of the MFS NWF Task Force.

Leaders of both the AFSC and FOR have participated in World Peace Council activities since the anti-Vietnam days, and neither organization, despite its claimed "pacifist" orientation, has offered strong condemnations of armed revolutionary movements that utilize terrorism.

The NWF Task Force approved a message of solidarity to the "Dutch Disarmament Movement" to be read on November 21 at an Amsterdam rally which said in part:

"We of the Nuclear Weapons Facilities Task Force * * * seek to reverse the arms race and join with you today in demanding that the U.S. government stop its planned deployment of the cruise and Pershing II missiles in Europe. We demand that the U.S. government make meaningful progress in arms control talks with the Soviet Union. Recognizing our government's responsibility for the escalation of the arms race, we are determined to struggle with you for a world without nuclear weapons and war."

It is noted that among the 15-member U.S. delegation to the WCC's Amsterdam conference were a number of MFS/NWF Task Force organizers and leading U.S. disarmament activists including Rev. William Sloan Coffin of Riverside Church in New York City and the director of the Riverside Disarmament Program, Cora Weiss.

Also attending were Randy Forsberg, IDDS; Pam Solo, AFSC; Prof. Ed Mendelsohn, Harvard University; Judit Lipton of PSR; and Robert Alpern, United Methodist Church. "Testimony" was prepared for the Amsterdam meeting by both the AFSC/FOR NWF Project and by the MFS NWF Task Force.

The MFS/NWF Task Force noted that the Amsterdam meeting was scheduled "on the weekend before Haig and Gromyko begin talks on theater weapons reductions in Europe (Nov. 28-29)."

Reminding organizers this was "a key time to send letters to the editor, organize local public meetings and/or demonstrations," the NWF Task Force provided an abrupt directive on what the content of the letters should say:

"Call for suspension of all US plans to deploy Pershing II and cruise missiles and urge Congressional representatives to cosponsor Cong. Ted Weiss's resolution (H. Res. 153) calling for hearings."

NWF organizers were instructed to contact Gene Carroll at the Coalition for a New Foreign and Military Policy (CNFMP) in Washington, DC, for additional information. Eugene J. Carroll, a bearded graduate of Lock Haven State College in Pennsylvania, served as executive director of the Commonwealth Association of Students before becoming an organizer with the Amalgamated Clothing and Textile Workers Union's J.P. Stevens Consumer Boycott Campaign. He joined CNFMP in January 1980, and serves as its disarmament coordinator.

Circulate AAAS Open Letter.—The NWF meeting noted that an "Open Letter to the American People" would be circulated by the AFSC/FOR NWF Project during December 1981 and would be released at the Washington, DC, conference of the American Association for the Advancement of Science (AAAS) [January 3-8, 1982]. Over the signatures of "prominent" scientists, the letter calls for "opposition to Pres. Reagan's domestic and foreign policies" and propose "cuts in military spending and a call to Reagan and Breshnev [sic] to go to the UN Special Session to announce a freeze."

Focus on Economic Issues/Congressional Candidates.—During January 1982, taskforce groups will support Congressional Black Caucus calls for an "alternative" Fiscal Year 1983 budget with cuts in Department of Energy weapons programs and in the MX program. Local "hearings" will be organized against social welfare program cuts. These activities will be coordinated by Steve Daggett, an Institute for Policy Studies (IPS) research associate, of the Coalition for a New Foreign and Military Policy (CNFMP), the lobbying arm of the WPC-related disarmament movement.

CNFMP, NETWORK, and the National Freeze Campaign plan to develop and circulate a questionnaire "that can be used to get Congressional candidates to take positions on * * * especially the freeze, military spending, new weapons systems and budget cuts" will be ready for circulation. The Council for a Liveable World (CLW) office in Boston had prepared an extensive questionnaire for Senate candidates.

Anti-Corporate Actions/Outreach in the Religious Community.—Will focus on raising "peace conversion," health, nuclear safety and "moral" issues at the annual stockholders meetings of major corporations producing U.S. nuclear weapons. Actions will commence in January 1982 at the Bendix Corp. meeting and include plans for "creative, dramatic actions" at the February Rockwell International annual meeting in Pittsburgh. The anti-corporate actions are being coordinated by Valerie Heinonen of the Interfatih Center on Corporate Responsibility (ICCR).

UN Special Session on Disarmament—II.—Terry Provance, director of the AFSC's Disarmament Program, co-convenor of the MFS International Task Force and WPC activist, informed the MFS Nuclear Weapons Facilities Task Force conference that "high-profile Europeans active in the disarmament movement" will be coming to the U.S. in the months preceding the SSD-II. Their tours will be coordinated by Provance from the AFSC's Philadelphia offices, and by Linda Bullard of Clergy and Laity Concerned (CALC).

As was the case at the MFS fourth national convention in Pittsburgh in January 1981, there was tension between local organizers who prefer smaller demonstrations on a local or regional basis, and national leaders focusing on New York or Washington mass actions. The primary concern of local organizers in the West and Midwest was that SSD-II demonstrations "be organized in such a way as to draw in many of the newly aroused individuals and constituencies, and not be a primarily 'peace movement' event." A follow-up meeting to consider those issues in relationship to the SSD-II was scheduled for October 31, 1981.

Citizens Hearing on Nuclear Weapons Production.—The NWF Task Force conference strongly supported plans by anti-nuclear groups in Amarillo, TX, to host a national and regional event against Pantex that will be modeled on the Citizens Hearing for Radiation Victims. Weapons production will be linked to "hazards of weapons production at other facilities, nuclear war planning, conversion and proliferation." Organizers considered as aids to their plan the fall anti-nuclear weapons statement by Bishop Matthieson and an environmental impact statement on Pantex due to be released in the fall of 1982. Target dates for the "hearings" coincide with the August 6-9, 1982, Hiroshima/Nagaskai anniversary.

Department of Energy.—According to the NWF, "Administration plans and proposals are underway for the militarizing of nuclear power and waste storage, using civilian reactor wastes for nuclear weapons, expanding plutonium production, and abolishing/reorganizing the DOE and replacing it with an agency like the old AEC. This will be a major focus for concern and coordinated organizing for the coming year."

Organizations offering resources and coordination in this program include the Environmental Policy Center (EPC), Natural Resources Defense Council (NRDC), and the FOR/AFSC NWF Project.

The participants in the Nyack conference of the MFS Nuclear Weapons Facilities Task Force were listed as including:

Pam Solo, AFSC/NWF Project, 1600 Lafayette Street, Denver, CO 80218 [303/832-4508].

Mike Jendrzejczyk, FOR/NWF Project, Box 271, Nyack, NY 10960 [916/358-4601].

Robert Alvarez, EPC, 317 Pennsylvania Ave., SE, Washington, DC 20003 [202/547-5330].

Thomas E. Boudreau, AFSC, 141 Chaffee Avenue, Syracuse, NY 13207 [315/469-5231].

Eugene T. Carroll, CNFMP, 120 Maryland Ave., NE, Washington, DC 20002 [202/546-8400].

Roger Carroll, Box 283, Omaha, NE 68101 [402/558-8092].

Carol Coston, NETWORK, 806 Rhode Island Avenue, NE, Washington, DC 20012 [202/526-4070].

Ernie Davies, People for Peace, Rt. 1, Box 42, Langsville, OH 45741 [614/742-2090].

Chad Dobson, National Campaign to Stop MX, 305 Massachusetts Ave., NE, Washington, DC 20002 [202/546-2660].

Gary McGhee Dobson, Concord Naval Weapons Station Task Force, Mt. Diablo Peace Center, 65 Eckley Lane, Walnut Creek, CA 94596 [415/933-7850].

Shelley Douglass, Trident/Ground Zero, 11284 Seabeck Highway, NW, Bremerton, WA 98310 [206/692-70].

Harriet Dow, 483 State Street, Albany, NY 12203 [518/449-2985].

David Goodman, AFSC National Action/Research on the Military-Industrial Complex (NARMIC), 1501 Cherry Street, Philadelphia, PA 19102 [215/241-7172].

Janet C. Gordon, Citizens' Call, 126 S. 1400 West, Cedar City, UT 84720 [801/586-6674].

Duane Grady, Iowa Peace Network, 4211 Grand Avenue, Des Moines, IA 50312 [515/274-4851].

Katie W. Green, Worcester County Coalition for Disarmament, P.O. Box 12, Princeton, MA 01541 [617/464-2084].

Bill Hartung, Council on Economic Priorities (CEP), 84 Fifth Avenue, New York, NY 10011 [212/691-8550].

Valerie Heinonen, ICCR Militarism Program, 475 Riverside Drive, Rm. 566, New York, NY 10115 [212/870-2317].

Carla B. Johnson, Civil Defense Awareness, 86 Wendell Street, Cambridge, MA 02138 [617/354-5811].

Tom Joyce, Cruise Missile Conversion Project, 730 Bathurst St., Toronto, Ontario M5S 2R4, Canada [416/532-6720]. NOTE: David Collins was the Project's delegate to the Continental Meeting in Montreal.

Marcia Lehman, Concord Naval Weapons Station Task Force, Mt. Diablo Peace Center, 65 Eckley Lane, Walnut Creek, CA 94596.

Dawn Longnecker, Sojourners, 1309 L Street, NW, Washington, DC [202/737-2525].

Lee Mason, Wall Street Action, 35 Claremont Avenue, New York, NY 10027.

Bob Staley Mays, AFSC Cruise Missile Project, 821 Euclid Avenue, Syracuse, NY 13210 [315/475-4822].

M. Louise McNeilly, Knolls Action Project, 417 Manning Blvd., Albany, NY 12206 [518/489-6742].

Dana Mills Powell, Sojourners, 1309 L Street, NW, Washington, DC [202/737-2525].

Terry Provance, AFSC Disarmament Program, 1501 Cherry Street, Philadelphia, PA 19102 [215/241-7177], WPC activist and a USPC founder, with Kay Camp of WILPF co-head of the MFS International Taskforce.

Jim Rice, 5915 16th Street, NW, Washington, DC [202/882-6314].

Mark Roberts, Greenpeace, 2077 R Street, NW, Washington, DC 20036 [202/332-40421.

Cindy Sagen, 6311 Thornhill Drive, Oakland, CA 94611 [415/339-8759].

Charles Scheiner, Westchester County Peace Action Coalition (WESPAC), 255 Grove Street, White Plains, NY 10601 [914/428-7299].

Steven Schroeder, Northwest Texas Clergy and Laity Concerned (CALC), 3500 S. Bowie, Amarillo, TX 79109 [906/359-9483].

Verden Seybold, AFSC Cruise Missile Project, 821 Euclid Avenue, Syracuse, NY 13210 [315/475-4822].

Craig Simpson, 201 Pine, SE, Albuquerque, NM 87106 [505/243-6169].

Tess Sneesby, Worcester Connection, 21 Crown Street, Worcester, MA [617/756-1038].

Jenny Sprecher, Stop Project ELF, 1148 Williamson Street, Madison, WI 53703 [608/256-0870].

Sara Stage, Dogwood Alliance, 303 Fern St., Little Rock, AR 72205 [501/374-9412].

John Stauber, Stop Project ELF, 1148 Williamson Street, Madison, WI 53703 [608/256-0870].

Mary Stuckey, AFSC, 915 Salem Avenue, Dayton, OH 45406 [513/278-4225].

Marj Swann, Committee for Non-Violent Action (CNVA), RFD #1, Voluntown, CT 06384 [203/376-9970].

Nancy Sylvester, NETWORK, 806 Rhode Island Avenue, NE, Washington, DC 20012 [202/526-4070].

Betsy Taylor, Nuclear Information and Research Service (NIRS), 1536 16th Street, NW, Washington, DC 20036 [202/483-0045].

Chet Tchozewski, AFSC/Rocky Flats Project, 1660 Lafayette Street, Denver, CO, 80218 [303/832-4508].

Edwina Vogen, 1145 East 6th Street, Tucson, AZ 85719 [602/792-3517].

Betty Wheeler, PEAC, 1008 S. Madison, Amarillo, TX 79101 [906/376-8903].

Ron Young, AFSC, 1501 Cherry Street, Philadelphia, PA 19102 [215/241-7177].

Launching of the Campaign for the SSD, October 31, 1981

A meeting to launch the Campaign for the Second Special Session on Disarmament (CSSD) organized by the Special Session on Disarmament Working Group (SSDWG) was held on Halloween, the last day of "International Disarmament Week," at Riverside Church in New York City.

The meeting was attended by nearly 200 representatives from 72 groups, including the Communist Party, U.S.A. (CPUSA); the U.S. Peace Council (USPC); the Trotskyite communist Socialist Workers Party (SWP), the U.S. section of the Brussels-based Fourth International; Workers World Party (WWP), a strident supporter of Cuba, North Korea and Soviet-supported revolutionary terrorist groups that has earned a reputation for street confrontations with police; the WWP-controlled People's Anti-War Movement (PAM); the Coalition for a People's Alternative (CPA), a revolutionary "party-building" formation including the Castroite Puerto Rican Socialist Party (PSP) and American Indian Movement (AIM) organized by Arthur Kinoy of the National Lawyers Guild (NLG) and Center for Constitutional Rights (CCR); Vieques Support Network, that backs PSP causes aimed at making Puerto Rico the next Cuba in the Caribbean; All-African People's Revolutionary Party (AAPRP); and the National Lawyers Guild (NLG).

Also participating were representatives of the American Muslim Mission; AFSC and AFSC Nuclear Freeze Campaign; Catholic Peace Fellowship (CPC); Church Women United (CWU); Clergy and Laity Concerned (CALC); Coalition for a New Foreign and Military Policy (CNFMP); Committee for Marxist Education (CME); Center for Defense Information (CDI); Democratic Socialist Organizing Committee (DSOC); Educators for World Peace; Frente de Informacion y Solidaridad de America Latina (FISAL); The Guardian; WIN Magazine; Greenpeace; Intermedia; Jewish Peace Fellowship (JPF); International Association of Machinists and Aerospace Workers (IAM); Lawyers Committee on Nuclear Policy (LCNP); Mobilization for Survival (MFS); National Association of Women Religious (NAWR); National Conference of Black Churchmen (NBC); New Activist Group; NY Public Interest Research Group (NYPIRG); Pax Christi; PEN American Center; Riverside Church Disarmament Program; SHAD Alliance; Socialist Party; UAW Local 259; United Church of Christ (UCC); Lutheran Church; Presbyterian Church; U.N. NGO Center, Geneva; United Federation of Teachers (UFT), Committee for a Nuclear Freeze; War Resisters League (WRL); Women's International League for Peace and Freedom (WILPF); Women Strike for Peace (WSP); and the strongly CPUSA-influenced Westchester County Peace Action Coalition (WESPAC).

At the Riverside organizing meeting, the representative of the Geneva NGO Special Committee on Disarmament, James Avery, brought the message that the European activists would like to see "significant opposition to the arms race" develop in the U.S. similar to the mass demonstrations in Europe.

There was consensus that although the disarmament activists agreed that the real blame for the "arms race" lay on the U.S., some criticism would have to be made of the Soviet Union in order to maintain a facade of "credibility" with the media and U.S. public. It was explained that it is necessary to develop this spurious "credibility," based on mild criticism of Soviet armaments and policies because it would provide them with a platform for a media campaign to convince Americans that there really is nothing to be feared from Moscow.

This opportunistic consensus was expressed concisely by Dick Greenwood, special assistant to IAM president William Winpisinger, who said that because of the "myth of the 'red hordes'" and "deep-seated prejudice" against the USSR:

"We cannot simply address one character in the cast; we have to address ourselves to both the U.S. and USSR. * * * This is the only approach that will give us credibility to reach the myth of the Soviet threat."

After speeches from Fehmi Alem of the U.N. Center for Disarmament; Rev. Timothy Mitchell of the National Conference of Black Churchmen; and WESPAC coordinator Connie Hogarth of WILPF; five workshop discussions were held on the topics of civil disobedience, religious, international, public education and cultural programs for the SSD-II demonstration and rally.

It is noted that among the key organizers of the CSSD are veterans of the anti-Vietnam coalitions such as the People's Coalition for Peace and Justice (PCPJ) including Norma Becker, WRL; Paul Mayer, a former Catholic priest who heads the MFS Religious Taskforce; David McReynolds, WRL; Connie Hogarth, WILPF; and Cora Weiss, head of the Riverside Church Disarmament Program.

A formal campaign structure was established of a Coordinating Committee (CC) of representatives of participating organizations and which was given authority to select a Steering Committee; and a series of task forces.

Based temporarily in the cramped offices of the New York MFS chapter (which is also serving temporarily as the MFS National Office until the UN SSD-II demonstrations are completed) in the Church of All Nations, the task forces of the CSSD include:

Cultural/Demonstration.—Contact: Kathy Engel [212/924-4525]. The first meeting was held on November 7, 1981, in Riverside Church and was co-chaired by Norma Becker, a veteran organizer of anti-Vietnam mass demonstrations; and Cora Weiss. The group agreed that there should be a full day of protests and "cultural events" on the weekend of June 12-13, 1982, and that there should be a march, possibly from Dag Hammarskjold Plaza, along 42nd Street, led by children. Various demonstration sites were proposed including Times Square, Fifth Avenue and Central Park.

Civil Disobedience.—Contacts: John Miller [212/624-8337], New York Local, WRL; Nora Lumley, NY MFS [212/673-1808]; and Debbie Wilber, WESPAC. Meetings of this task force on October 30 and November 21 proposed that a major civil disobedience action or set of actions should take place on Monday, June 14 (Flag Day), the first working day after the mass march. Organizers emphasized that civil disobedience actions "should be directed at altering U.S. policy" although they could be "critical of many nations." Potential targets of civil disobedience actions proposed included the U.N. missions of the nuclear powers as well as the missions, trade offices and national airlines of the "borderline nuclear and major arms exporting countries," and the "offices of arms producing corporations."

The Civil Disobedience task force said it was seeking additional ideas and broader participation "as we build for the largest outpouring of disarmament sentiment this nation, and possibly the world, has ever seen."

Public Education.—Contacts: Andrea Tarantino [212/678-4640] and Susan Blake

[516/798-0778]. At its first meeting on November 21, 1981, the task force decided to promote a variety of disarmament strategies in order to "help develop greater cooperation within the disarmament movement and better serve the needs of public education and the Campaign." Four working groups were set up to get materials, produce packets for local organizers, operate a film and speakers bureau, and encourage "cultural participation."

International.—Contact: Dave McReynolds, WRL [212/228-0450]. Meeting in the WRL's Lafayette Street offices on December 6, 1981, the task force, with Terry Provance of AFSC and members of CALC taking leading roles, sketched its role as coordinating visits by foreign disarmament delegations, arranging U.S. tours, and "acting as a liaison between the international peace movement and the American peace movement."

A key project is to be supporting a conference to coincide with the opening of the SSD-II sponsored by the International Federation for Disarmament and Peace (IFPD). Endorsers of the IFDP conference include several of the Soviet-controlled NGO's.

Religious.—Contact: Paul Mayer [212/858-6882]. Efforts concentrate on publicizing the disarmament campaign among religious groups, leaders and congregations. Outreach to black ministers focuses on efforts to link poverty and federal cuts in social welfare spending to the "arms race." An "Interreligious Convocation" will be held in New York in association with SSD-II as for the first SSD; and an "international religious conference" of "religious activists and religious leaders" is planned to "develop strategy towards building a massive international religious movement" for disarmament.

Media.—Contact: Ginny Newsom [212/496-0713].

Fundraising.—Contact: Ken Caldeira [212/673-1808].

Outreach.—contact: Tom LeLuca [212/673-1808].

Organizers emphasize that in order to bring the members of the new constituencies who have been working on anti-MX and ecological anti-nuclear projects with the MFS in the Midwest and Southwest to the SSD-II demonstrations, the Campaign's "coordination" with MFS must be emphasized.

It is noted that CSSD organizers report that the campaign has been promoted as "in association with" the MFS for fundraising purposes; and that the $5,000 seed money to open the office in New York used by National MFS was provided by Nora Lumley who borrowed it from an anonymous "sympathetic friend."

Convocations on the Threat of Nuclear War, November 11, 1981

Veterans Day was used to provide symbolism for a "teach-in" campaign of "Convocations on the Threat of Nuclear War."

Sponsored primarily by the Union of Concerned Scientists (UCS) and three months in the planning, the campaign was able to mount activities on some 150 college campuses. In general, the format was a "teach-in" in which several thousand students and off-campus activists participated on the threat of nuclear war. The "teach-in" presentations were used to publicize demands for nuclear arms reductions that were virtually identical with the list of demands produced at the WPC's 1976 disarmament conference. They included:

A comprehensive U.S.-Soviet ban on nuclear weapons tests;

Limits on flight testing of new missile systems;

Substantial and verifiable reductions in the numbers of existing U.S. and Soviet nuclear missiles;

An intensive U.S.-Soviet effort to halt the proliferation of nuclear weaponry and to encourage similar weapons reductions by other nuclear powers.

The Union of Concerned Scientists (UCS), with offices in Cambridge, MA, and in Washington, DC, was established at the Massachusetts Institute of Technology (MIT) in 1969 in support of the Strategic Arms Limitation Treaty (SALT). UCS claims more than 100,000 sponsors nationwide.

The UCS board of directors is chaired by Dr. Henry Kendall of MIT and includes Dr. James A. Fay; Dr. Kurt Gottfried; Leonard Meeher; Dr. Herbert "Pete" Scoville, a former CIA Deputy Director; and Richard Wright. UCS executive director is Eric E. Van Loon.

A number of UCS leaders are also active with the Bulletin of the Atomic scientists, founded in 1945 as an anti-A-bomb, pro-disarmament outlet. Its editor-in-chief is Bernard T. Feld, active with the Institute for Policy Studies (IPS) anti-NATO and disarmament programs during the 1960s.

Coinciding with the UCS teach-in convocations, the Bulletin of the Atomic Scientists published a 252-page book [$4.95] with articles by individuals active with the Pugwash conferences, Physicians for Social Responsibility (PSR), the Arms Control Association (ACA), UCS, International Physicians for the Prevention of Nuclear War (IPPNW) and related groups compiled as a handbook "on the ultimate medical emergency—nuclear war."

Contributors to the volume, entitled the Final Epidemic, include Herbert L. Abrams; Helen M. Caldicott; Bernard T. Feld; John Kenneth Galbraith; H. Jack Geiger; George B. Kistiakowski; Robert Jay Lifton; Bernard Lown; Joseph Rotblat; Herbert Scoville, Jr.; Victor W. Seidel and Kosta Tsipis.

It is noted that the December 1981 issue of Scientific American, a regular outlet for technologically-oriented prodisarmament articles, features an article by Tsipis, associate director of the MIT Physics Department's Program in Science and Technology for International Security and frequent writer on "the role of science and technology in formulation of national-defense policy."

The Tsipis article is an attack on "a small group of people in the U.S. Congress, the Department of Defense and the aerospace industry [who] have contended that high-energy lasers have the potential for destroying intercontinental ballistic missiles in flight * * * [and] that the USSR has already mounted a large effort to develop lasers as antimissile weapons." His argument is "technological obstacles are insurmountable."

Members of the publication's board of directors include Ezra Sensibar; Aaron Adler; R. Stephen Berry; Charles S. Dennison; Bernard T. Feld; Helmut Fritzsche; Robert Gomer; Henry W. Kendall; Walsh McDermott; Donald H. Miller Jr; Victor Rabinowitch; Stuart Rice; William Swartz; Bernard Weissbourd; Herbert F. York and Hans Zeisel.

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Joining UCS in this effort is the National Campaign to Stop the MX (NCSMX), operating from offices on Massachusetts Avenue, NE., in Washington, not far from Capitol Hill. NCSMX's staff include Chad Dobson, coordinator; and Michael Mawby, legislative director.

The members of the NCSMX advisory council include Dr. Helen Caldicott; Dr. Arthur Macy Cox; Col. James A. Donovan, USMC (Ret.); Rear Adm. Henry E. Eccles, USN (Ret.); Maj. Gen. William T. Fairbourn, USMC (Ret.); Dr. Bernard T. Feld; Randall Forsberg; Dr. George B. Kistiakowsky; Vice Adm. John M. Lee, USN (Ret.); Dr. Linus Pauling; Dr. Earl Ravenal; Dr. Carl Sagan; Dr. Herbert Scoville, Jr.; Dr. Benjamin Spock; Dr. George Wald and Dr. Jerome B. Wiesner.

NCSMX has distributed a brochure by the National Action/Research on the Military-Industrial Complex (NARMIC), an AFSC project, that provides details on MX missile prime, associate and sub-contractors. The brochure credits its information on MX contracts and a map showing where these contractors are located to the Council on Economic Priorities (CEP).

It is noted that an article in the official Soviet government newspaper Izvestia on November 26, 1981, by its chief Washington correspondent M. Sturua singled out five Americans as among those who look at the U.S. defense program "without bias." Said Izvestia, "They include Dr. Helen Caldicott, head of the 'Physicians for Social Responsibility' organization; Henry Kendall, MIT professor and leader of the 'Union of Concerned Scientists;' Marshall Shulman, former U.S. State Department executive and professor at Columbia University; Paul Warnke, former head of the U.S. Arms Control and Disarmament Agency; Rear Admiral LaRocque, head of the Information Center on Military Problems [sic-CDI] and certain others."

Among the major campus "teach-in" meetings was one attended by some 800 students at Harvard University. Speakers included Paul Warnke, a leader of the Committee on National Security (CNS), initiated early in 1980 after the Soviet invasion of Afghanistan by IPS leader Richard Barnet "to mobilize broad support for detente to counter the voices calling for a return to confrontation and intervention." Among the better known CNS members is William Colby, former director of the Central Intelligence Agency.

Also speaking was Stephen Meyer, a MIT political science professor described as a consultant to U.S. military and intelligence agencies. But the most enthusiastic applause was awarded the performance of Yuri Kapralov, the high ranking Counselor of the Soviet Embassy in Washington who has become Moscow's virtual "ambassador" to the U.S. disarmament movement.

U.S. Peace Council Conference, November 13-15, 1981

The second national conference of the U.S. Peace Council (USPC) was held in New York City, November 13-15, 1981, at the Martin Luther King Labor Center. The USPC meeting coincided with another major disarmament conference in New York City that appealed to much of the same

constituency. This was the fourth annual Riverside Church Disarmament Program conference, "The Arms Race and the U.S."

Following a November 9, 1981, press conference in Aden, the capital of the pro-Soviet People's Democratic Republic of Yemen (PDRY), to announce a February 1982 WPC-sponsored meeting in support of the Palestine Liberation Organization (PLO), WPC president Romesh Chandra flew to New York in advance of the USPC meeting to hold meetings with a variety of "peace activists" and United Nations officials.

At the November 13 rally held in the auditorium of the Ethnical Culture Society which opened the USPC proceedings, Chandra told the U.S. "peace activists" that it was in their power to ban the prospect of nuclear war. Rep. John Conyers [D-MI], who spoke at the USPC's founding convention in November 1979 and had participated in the WPC's January 1978 Washington meeting, said activists should work for passage of the Transfer Amendment to remove funds from the U.S. defense budget and transfer them to social welfare programs.

In addition to Chandra and the rally co-chairs, New York City Councilman Gilberto Gerena Valentin (South Bronx) [Gil Gerena, business agent of Local 6, Hotel and Restaurant Workers, in 1950 was a member of the U.S. Youth Sponsoring Committee for the WPC's first "World Peace Appeal"] and Massachusetts State Representative Saundra Graham who is a member of the WPC presidium, the primary foreign speaker was Achim Maske of the West German disarmament movement who was introduced as the coordinator of recent mass anti-NATO demonstrations in Bonn. Maske said his disarmament movement to prevent NATO from stationing Pershing II and cruise missiles in Europe was supported by five million FRG citizens who had signed the Krefeld petition to that effect.

Both Maske and Chandra emphasized the importance of U.S./Soviet theater nuclear force negotiations and praised proposals made by Soviet President and CPSU chief Leonid Brezhnev in an interview with the West German magazine, Der Spiegel.

In addresses at subsequent USPC conference proceedings, USPC executive director Mike Myerson, who has been a CPUSA functionary since his student days some twenty years ago, emphasized the USPC and WPC's "unique responsibility" of merging the fight for Western disarmament with provision of support to the Soviet backed armed revolutionary organizations in the Third World. "Solidarity work" with revolutionary groups in El Salvador, Guatemala, Chile, South Africa and the PLO was mentioned.

Werner Rumpel, secretary-general of the GDR Peace Council, "good friend" of MFS organizer Terry Provance, and who had just led an anti-NATO demonstration in East Germany, joined in urging the USPC to redouble efforts against the cruise and Pershing II missiles.

Rep. Gus Savage [D-IL] stressed the need to bring black and other minority groups into the disarmament movement. Unison Whiteman, foreign minister for the Provisional Revolutionary Government of Grenada, used the USPC conference to urge support for a "summit conference" of Cuba, Nicaragua, Grenada, the Farabundo Marti National Liberation Front of El Salvador (FMLN) and the U.S.

Among the endorsers of the USPC conference were John Collins, co-director, Clergy and Laity Concerned (CALC); Cecelia Vega, Casa El Salvador; Arnaldo Alonzo, president, Casa de las Americas; Seth Adler, national coordinator, Jobs With Peace Campaign; Jose Alberto Alvarez, Political Committee, Puerto Rican Socialist Party (PSP); David Cortright, executive director, SANE; Todd Ensign of the anti-draft Citizen Soldier; Dr. Carlton Goodlett, WPC; Massachusetts State Representative Saundra Graham, a WPC vice-president.

Also Mel King, Massachusetts State Representative and veteran WPC activist; Michigan State Representative and WPC activist Perry Bullard; Theresa Cropper, assistant to Rev. Jesse Jackson, Operation PUSH; Detroit City Councilwoman Maryann Mahaffey, another WPC and USPC veteran; Lennox Hinds, International Association of Democratic Lawyers (IADL); Berkeley mayor Gus Newport; Hope Stevens, National Conference of Black Lawyers (NCBL), a U.S. affiliate of the IADL; Connie Hogarth, WESPAC; Abdeen Jabara, co-chair of the Middle East Subcommittee of the IADL's major U.S. affiliate, the National Lawyers Guild (NLG), and who organized two key PLO-support groups, the Association of Arab-American University Graduates (AAUG) and Palestine Human Rights Campaign (PHRC); Vivien Myerson, executive board, WILPF; Pete Seeger; Edith Tiger, executive director, National Emergency Civil Liberties Committee (NECLC), a CPUSA legal action group which has been active in the campaigns against the U.S. intelligence and internal security agencies; Michigan State Representative and WPC activist Jackie Vaughn, III; Rep. Harold Washington [D-IL]; Rev. Robert A. White, Reformed Church in America; Charles F. Williams, Midwest legislative director, IAM; and James Zogby, PHRC.

Riverside Church Disarmament Program, November 15-16, 1981

Some 500 people, many of them from the smaller Midwestern and Eastern cities who had been drawn into the disarmament campaign via environmentalist anti-nuclear power concerns, participated in the Riverside Church Disarmament Program conference, "The Arms Race and the U.S." held November 15-16, 1981. Organized by Cora Weiss and hosted by Rev. William Sloan Coffin, speakers attacked U.S. "interventionist policies" and repeatedly warned, as had the USPC leaders, that all out efforts must be made because "we're on the brink of extinction."

Under a banner reading "Protest and Live," speakers compared U.S. Trident submarines to an "Auschwitz," denounced uranium mining companies for hiring ("exploiting") American Indians and Australian aborigines, and asserted that the existence of U.S. defense forces and the NATO Alliance was "justifying further oppression against the peoples of Eastern Europe and in the USSR."

Richard Barnet, co-founder and "senior fellow" of the Institute for Policy Studies (IPS), a Washington-based internationally active revolutionary think-tank that has been called the "perfect intellectual front for Soviet activities which would be resisted if they were to originate openly from the KGB," supported the "nuclear moratorium" proposals being offered by the USSR.

Barnet termed the "nuclear freeze" "a negotiated hiatus" in nuclear arms deployment, although this would leave the USSR with 200 SS-20s armed with multiple warheads deployed against NATO countries. Barnet sought to present himself as a "moderate" saying that while he favored negotiated US/Soviet arms reductions, "I do not favor unilateral disarmament."

Cora Weiss said a key concrete goal was that the U.S. adopt a formal policy and make a public commitment never to be the first to use any form of nuclear weapons in a conflict. The themes were trust, detente and cooperation with the Soviet Union.

Curiously for a conference designed to instruct new recruits to the disarmament campaigns, old-fashioned "movement" paranoia was directed against some of the "new people" diligently taking notes during speeches and workshops, with Cora Weiss startling and bewildering the group by glaring at notetakers and snaping, "I see the CIA is present."

Many Riverside Church Disarmament Program speakers have been drawn from the IPS disarmament networks and have traveled to Europe to develop coordination between U.S. and European anti-NATO groups. Among these are Cora Weiss; Dick Barnet; SANE executive director David Cortright; IPS Disarmament Program head Michael Klare; Pete Scoville; and CDI director Gene LaRocque.

Smugly informing audience neophytes of his "importance" in the international disarmament campaign by noting he had just returned from participating in disarmament demonstrations in West Germany, Michael Klare warned against the U.S. "war build-up" and said that the Reagan Administration "is contemplating another Vietnam" in Central America.

Klare has taken an active role in the U.S. disarmament campaign and serves as a "resource person" for a variety of groups including the Castroite research organization, the North American Congress on Latin America (NACLA) that helped CIA-defector Philip Agee produce his first expose. The Information Digest of October 16, 1981, provided the following report on Klare's activities:

"On September 30, 1981, Michael T. Klare, a "fellow" of the Institute for Policy Studies (IPS) and director of the IPS Militarism and Disarmament Project, spoke to a public lunchtime seminar on his experiences as a reporter covering the NATO autumn military maneuvers. These were Reforger (Return of Forces to Germany) from the U.S.; Certain Encounter in Hesse, Federal Republic of Germany; and Display Determination, deploying from Naples, Italy.

"* * * Klare's contacts range from the North American Congress on Latin America (NACLA) through the Center for National Security Studies (CNSS) and its sister project, the Center for International Policy (CIP), to the War Resisters League (WRL), Mobilization for Survival (MFS) and the World Peace Council (WPC).

"According to both Klare and the Pentagon, he attended the maneuvers for The Nation, a weekly publication closely associated with IPS and which has consistently promoted lines favorable to Soviet foreign policy goals.

"At the IPS seminar, Klare called the NATO maneuvers 'possibly the largest dress rehearsal for war ever held.' He told his small audience of his travels in the Hesse area of West Germany, his observations of amphibious landings in Sardinia, and the day-and-a-half spent aboard the carrier *Nimitz*. Klare did not discuss several other activities in which he was observed by other journalists covering the maneuvers including his visit to NATO headquarters in Brussels, his attendance at a luncheon with Dr.

Joseph Luns, or his monitoring a press conference given by General Bernard Rogers at SHAPE headquarters.

"* * * He assessed the morale and competence of U.S. troops as 'mixed' to 'fairly good;' but said nothing of the forces of other NATO members. He characterized the U.S. forces as over-dependent on the technological aspects of modern warfare.

"Klare implied that the simulated Soviet nerve gas attack was merely a ploy to dramatize the U.S. military's desire for an enhanced chemical warfare capability. Overall, Klare felt that the NATO scenario of a Soviet attack that would commence from a 'stand still' was unrealistic, as was the entire program of the maneuvers.

"Klare found no need for any increase in U.S. military capabilities for conventional warfare, saying that 'person for person, tank for tank, the U.S. is superior to the Soviets.'

"Although Klare acknowledged problems in the U.S Armed Forces regarding illiteracy, drugs and alcohol, he stated that unnamed 'informed sources' had told him that alcoholism was a far greater problem among Soviet soldiers.

* * * * *

"Regarding the peace and disarmament movement in Europe, Klare said that "Europe is on the move;" and added, without elaboration, that he had gone to Hamburg for a day to attend a conference on the effects of nuclear weapons during the NATO maneuver period.

"This was not Klare's first experience in reporting on U.S. military maneuvers. In 1980, Klare was among the reporters and photographers covering the "Gallant Eagle" exercises in the Mojave Desert of southern California. In an article that followed entitled "Firedrill for the Carter Doctrine," published in the August 1980 issue of Mother Jones, the magazine of the Foundation for National Progress (FNP) which stated in its 1976 financial report, "FNP was formed in 1975 to carry out on the West Coast the charitable and educational activities of the Institute for Policy Studies," * * * Klare provided a wealth of military detail and such comments as:

"'A desert war will be far more deadly than most Americans can imagine. As one officer at Gallant Eagle said, 'I hope America knows what the hell it's getting into.'"

"Klare's article concluded with another quotation, this one from an unnamed, presumably American, colonel, that "I sure as hell don't want to get killed because some Americans aren't willing to drive below 55 miles per hour."

"Klare's message was clearly intended to plant the ideas that U.S. interests in Persian Gulf oil are based on the greedy self-indulgence of American consumers, and that a conventional war in the desert will cost too may American lives to be a viable option.

"Michael Klare, a founder and former staff member of the North American Congress on Latin America (NACLA), established himself as an authority on the U.S. military and defense industry when his book, 'War Without End: American Planning for the Next Vietnams.' [Alfred A. Knopf] was published in 1972. Prior to the publication of this volume, Klare has had articles published in the Nation, Commonweal and other journals.

"Subsequently, Klare has had articles published in Harpers; WIN Magazine, a publication associated with the War Resisters League (WRL) which has supported the use of revolutionary violence and terrorism by the Vietcong, Irish Republican Army (IRA), Baader-Meinhof gang and Weather Underground Organization; Inquiry; The Progressive; The Bulletin of the Atomic Scientists; Race and Class, a publication of IPS's London subsidiary; The Nation; MERIP Reports, the publication of an IPS spin-off called the Middle East Research and Information Project which supports Middle Eastern pro-Soviet communist parties and terrorist movements attempting to destabilize such countries as Oman, Egypt, Morocco, Lebanon, Saudi Arabia, Iran and Israel; and the Latin America and Empire Report published by NACLA.

"It should be noted that in its founding statement, NACLA said it sought as members those "who not only favor revolutionary change in Latin America, but also take a revolutionary position toward their own society." In the British edition of his book, "Inside the Company: CIA Diary," Philip Agee credited members of the Cuban Communist party, research facilities of the Cuban government in Havana, and three staffers of NACLA for having obtained "vital research materials" used in his attack on the CIA.

"According to Transnational Link [Vol. II, No. 1, Jan./Feb. 1976, p. 8], a newsletter of the Institute for Policy Studies' international subsidiary, the Transnational Institute (TNI), Klare was also an Associate of the Center for National Security Studies (CNSS), the organization established by IPS which has been the major lobbyist in Congress for laws to abolish U.S. intelligence covert action operations and the use of human intelligence sources.

"This IPS/TNI newsletter also reported that Klare was a visiting fellow at CNSS's sister project, the Center for International Policy (CIP), and that he gave speeches on the U.S. arms exports and counter-insurgency programs at, among other places, the University of Havana.

"In 1977, based on interviews with Ernest Prokosh of the American Friends Service Committee (AFSC), the Information Digest [12/9/77] reported that Klare had lectured in Europe to World Peace Council disarmament groups and had taken a leading role in protesting the sale of Cessna aircraft to Rhodesia.

* * * * *

"At about this time, CNSS distributed as a "National Security Reprint" a pamphlet entitled "Exporting the Tools of Repression" that Klare had written while still a NACLA staffer with a Nancy Stein, a former member of the SDS Weatherman faction and veteran of the Venceremos Brigade journeys to Cuba.

"Klare's activist role in the militant peace movement was expressed plainly in his article, "Confront the Arms Merchants," published in WIN Magazine [10/5/78]. In it, Klare catalogued various defense contractor conventions targeted for protest and disruption and in conclusion wrote, "For many activists, however, it is simply the inherent immorality of the events themselves that renders the arms bazaars an appropriate occasion for protest."

"Michael Klare, 38, was educated at Columbia University and holds bachelor's and masters degrees from that institution. He also studied at Yale University.

"In the Bill of Rights Journal [December 1976], the publication of the National Emergency Civil Liberties Committee (NECLC), an organization cited as a legal action and propaganda front of the Communist Party, U.S.A. (CPUSA), a full-page advertisement headed "In Memory of Mildred Klare" stated, "We honor the dedication and devotion of her husband Charlie, and her children, Mike, Karl and Jane." It is noted that the 1953 Annual Report of the House Committee on Un-American Activities [p. 56] reported that Charles Klare, Office of Secretary of the Brewery Workers Joint Board, had been identified as a member of the Communist Party, U.S.A., and had taken the 5th Amendment when questioned about his CPUSA activities.

While members of the audience wielded six-inch circular placards painted with the "ban the bomb" insignia of the British Campaign for Nuclear Disarmament (CND), Australian-born pediatrician Helen Caldicott, who recently gave up her Boston medical practice to devote full time to working for Physicians for Social Responsibility (PSR), described in breathless and glowing terms her recent visit to the Soviet Union with Rev. Coffin. In tones of awe and discovery, Caldicott announced, "The Russian people are the sons and daughters of God."

Caldicott commenced a catalogue of all possible ills—from mass extermination of all life to epidemics and starvation for survivors—that the disarmament movement believes would result from any use of any nuclear weapon, and asserted that U.S. nuclear weapons were "immoral."

National Conference of Catholic Bishops, November 16–21, 1981

One of a trio of themes adopted by the National Conference of Catholic Bishops meeting in Washington, DC, November 16–21, 1981, was full-fledged opposition to nuclear weapons. While this opposition was enuncuated by Archbishop John R. Roach, the lobbying for the anti-nuclear weapons position was managed by Pax Christi, which has had members participating in WPC disarmament activities, and the New York-based Intercommunity Center for Justice and Peace.

In the weeks that followed the Catholic bishops' statement, both the United Presbyterian Church and the American Baptist Church issued statements calling for "a freeze on nuclear weapons production." These U.S. religious initiatives are seen as providing valuable assistance to Patriarch Pimen of the Russian Orthodox Church who is sponsoring a religious peace conference in Moscow this summer that will include not only Christians, but also Buddhists, Hindus, Jews, and Moslems.

Plans also have been announced for a Christian Peace Conference in Uppsala, Sweden, in September or October 1982, at which Patriarch Pimen will be a major organizer with Archbishop Olaf Sundby of Stockholm.

Mobilization for Survival National Conference, December 4–6, 1981

The Mobilization for Survival (MFS) held its fifth national Conference at the University of Wisconsin campus in Milwaukee, December 4–6, 1981.

The Mobilization for Survival was formed by organizers long active with the World Peace Council in direct response to the WPC's plans to create the maximum impact on the first United Nations Special Session on Disarmament.

The Information Digest of July 29, 1977 reported that the MFS made its formal debut on April 23, 1977, at a conference in Philadelphia attended by individuals associated with the Chicago Peace Council, Women Strike for Peace, WILPF, Institute for Policy Studies (IPS), American Friends

Service Committee (AFSC), Clergy and Laity Concerned (CALC), NACLA, the CPUSA and related groups. The report cited an article by Sid Peck, former member of the CPUSA's Wisconsin State Committee who has been a leader of the Chicago Peace Council, New Mobilization Committee and People's Coalition for Peace and Justice (PCPJ), emphasizing that with its "New Stockholm Appeal," the WPC, in cooperation with the International Confederation for Disarmament and Peace (ICDP) and Japan Council Against Atomic and Hydrogen Bombs were "working closely with nongovernmental organizations the world over to create the maximum impact on the United Nations Special Session on Disarmament in late May 1978."

The report revealed that Peck and his associate, Sid Lens, another veteran Chicago Peace Council activist who had also formerly been a leader of a Marxist-Leninist revolutionary party, had organized a meeting of leading "peace activists" in Boston during the 1976 Thanksgiving weekend. AFSC "national peace secretary" Ron Young, another WPC veteran, arranged for Peggy Duff, a leader of the ICDP and WPC activist, to come from Britain to address the Boston organizing group on the "historic importance" of the U.N. SSD. Additional MFS founding leaders included Michael Klare, Terry Provance, David McReynolds and Norma Becker.

Terry Provance has been a "peace movement" organizer for more than a decade. In the early 1970s, he was an organizer for the Harrisburg Defense Committee, the propaganda group organized to support Eqbal Ahmad of the Institute for Policy Studies, Daniel and Philip Berrigan, Elizabeth McAllister and their co-defendants charged with conspiracy to kidnap Secretary of State Kissinger. Afterwards, Provance worked with the defense committee for Daniel Ellsberg who stole and disseminated secret Defense Department documents that included clear texts of U.S. diplomatic cables transmitted in code and intelligence reports revealing the sources of information; and with a group formed following the appeals of the WPC's 5th Stockholm Conference, Medical Aid for Indochina (MAIC), that sent material aid to the communist forces in Vietnam.

Apparently having proved his organizational skills and ideological dedication, Provance was made director of the American Friends Service Committee's "National Peace Campaign—Stop the B-1 Bomber" in 1973. As a leading "peace activist" and "fighter for peace," Provance's statements began to figure prominently in articles in the CPUSA press that urged U.S. disarmament, dismantling of NATO, and expanding "political detente" to "military detente." In conducting the "Stop the B-1 Bomber" campaign, Provance worked closely with the Coalition for a New Foreign and Military Policy (CNFMP), which was founded as the Coalition to Stop Funding the War, the lobbying arm of the anti-Vietnam coalitions.

In September 1976, Provance was a member of the U.S. delegation to the WPC's "World Conference to End the Arms Race, for Disarmament and Detente" in Helsinki which was discussed earlier. Once the B-1 bomber program was killed by President Carter, Provance became the AFSC's disarmament coordinator.

Provance's WPC activities have continued and include his participation with his "friend," East German Peace Council chief Walter Rumpel and Dutch Communist party activist Nico Schouten in an October 30, 1979, Washington, D.C. rally and demonstration; and his sponsoring the November 1979 formation of the U.S. Peace Council in 1979 at which he led a workshop, "New Weapons," with James Jackson, a member of the CPUSA Political Committee and the WPC Presidential Committee, and Rev. William Hogan of the Chicago Peace Council and Clergy and Laity Concerned (CALC).

Provance, as co-convenor of the Mobilization for Survival International Task Force and a coordinator of the anti-nuclear World Information Service on Energy (WISE), was a featured speaker on April 4, 1981, at an anti-NATO protest in Bonn, West Germany, organized by the Communist Party and the WPC.

As the Information Digest [April 10, 1981] reported:

"Members of the West German disarmament movement organized a demonstration that attracted some 15,000 activists in Bonn on April 4, 1981, to protest the meeting of the NATO Nuclear Planning Group addressed by U.S. Defense Secretary Weinberger.

"The demonstration brought into sharp focus the collaboration between leaders of the U.S. Mobilization for Survival (MFS) and the communist-dominated anti-NATO "peace movement" in the Federal Republic of Germany, with the connecting link apparently both the international Soviet-controlled communist fronts led by the World Peace Council (WPC) and the international anti-nuclear power groups coordinated through the Amsterdam-based World Information Service on Energy (WISE) and associated in varying degrees with the Institute for Policy Studies (IPS) and its Transnational Institute (TNI).

"Under the slogan, 'Gegen die atomare Bedrohung-Nein zu Atomraketen und Neutronenbomben,' [Against the atomic menace—No to nuclear missiles and neutron bombs'], protesters marched with placards and mock-U.S. flags with the stars replaced by missiles. Sit-ins were staged by several protest groups, but few arrests were reported. The particular target of the protests were U.S.-backed plans to strengthen NATO with modern Pershing II and cruise missiles.

"Following the demonstration, a rally was held. Among the featured speakers was Nino Pasti, a former Deputy Commander of NATO and Italian Army general who gained considerable notoriety some years ago when he resigned his commission and ran successfully for the Italian Senate on the Communist Party of Italy ticket. . . .

"Joining Pasti in addressing the rally were Prof. Karl Bechert and Terry Provance, coleader of the Mobilization for Survival (MFS) International Taskforce, director of the American Friends Service Committee (AFSC) Disarmament Program and organizer of WISE's U.S. network.

"The sponsors of the Bonn protest listed on leaflets circulated in Bonn showed the heavy penetration of the West German "peace movement" by Soviet-line communists working directly in the Deutsche Kommunistische Partei (DKP) and in fronts affiliated to the network of international Soviet fronts.

"Rally sponsors included the German Communist Party (DKP); the German Peace Union (DFU), the DKP-controlled WPC affiliate; the German Peace Society/United Military Service Resisters (DFG/VK), a joint front of the DKP and War Resisters League International; the Democratic Women's Initiative (DF), the DKP-controlled affiliate of the Women's International Democratic Federation (WIDF); the Socialist German Worker Youth (SDAJ), the DKP youth group; the Marxist Student Union-Spartakus (MSB-S), a hard-line Marxist-Leninist group formed by the ultra-orthodox communists formerly active in the German SDS (the Socialist German Student League); the DKP-dominated League of Persons Persecuted under the Nazi Regime/League of Anti-Fascists (VVN/BdA); and the Association of Democratic Lawyers (VDJ), the affiliate of the International Association of Democratic Lawyers (IADL).

"Additional sponsors of the rally included radical university student groups which in coalition control the student government of more than 25 of the 34 principal West German higher learning institutions; the environmentalist Green Party; Protestant and Catholic student groups; two revolutionary bookstores * * * and several divisions of the highly radicalized youth division of the ruling West German Social Democratic Party (SPD).

Under the slogan, "Take Root in Struggle," the conference call described the role of the coalition:

"The uniqueness of the Mobilization for Survival lies in our commitment to linking—linking organizations, linking issues and linking people in a community of struggle. With the imminent return of the draft and start-up of Three Mile Island I, with massive budget cuts, escalating racism and oppression of women, gay men and lesbians, and with more and more terrifying moves toward intervention (complete with nuclear ultimatums), it is clear that the Mobilization for Survival a vital link in building a united movement.

* * * * *

"Our strength as a coalition of national and local groups rests in our ability to develop strategies and help carry out projects that promote organizational, political and personal growth. We must rekindle past ties while opening up the possibility of lasting links with new and diverse groups * * *."

MFS's rekindling of past ties is merely a reassembling of the Communist Party, U.S.A. dominated anti-Vietnam coalitions which operated in collaboration with the World Peace Council during the years from 1966 through 1975 in such incarnations as the National and New Mobilization committees and the People's Coalition for Peace and Justice (PCPJ). Among the three dozen national organizations comprising the MFS are the CPUSA and three of its outright fronts, the U.S. Peace Council (USPC), Women for Racial and Economic Equality (WREE), and the Southern Organizing Committee for Racial and Economic Justice (SOCESJ) founded and led by Anne Braden, the CPUSA's principal Southern organizer in the civil rights movement.

Other MFS national affiliates include the All-African People's Revolutionary Party (AAPRP); American Friends Service Committee (AFSC); Clergy and Laity Concerned (CALC); Fellowship of Reconciliation (FOR); Gray Panthers; National Assembly of Women Religious (NAR); New American Movement (NAM); People's Alliance [Coalition for a People's Alternative]; War Resisters League (WRL); two groups thoroughly penetrated by CPUSA activists, the Women's International League for Peace and Freedom (WILPF) and Women Strike for Peace (WSP); and the Connecticut-based Promoting Enduring Peace (PEP) headed by Howard Frazier that spends considerable

amounts on publishing monthly ads in the New York Times backing detente, disarmament and "peace conversion" of defense industries and arranges tours of the Soviet Union for "peace activists" from WILPF and similar groups. As previously noted, leaders of AFSC, CALC, FOR, WILPF and WSP have been participating in World Peace Council activities since the anti-Vietnam campaigns of the late 1960s.

Rev. Bob Moore, a member of the MFS national staff for three and a half years who is now organizing in Wisconsin, opened his keynote address by dedicating his remarks to the disarmament saboteurs, the "GE-5."

It should be noted that the "GE-5"—William Hartman, Janice Hill, Roger Ludwig, Robert M. Smith and Thelma Stroudt—are members of the Brandywine Peace Community of Media, Pennsylvania, who on October 29, 1981, entered the Philadelphia headquarters of the General Electric Re-Entry Division, entered restricted areas and poured blood on the locked door of the Advanced Manufacturing Engineering Laboratory. They were arrested and charged with burglary and criminal conspiracy and criminal trespass (felonies), and criminal mischief, a misdemeanor.

The group demanded GE end production of Mark-12A warheads for Minuteman III and MX missiles, continuing the action of the Berrigan brothers and other members of the "Plowshares 8" convicted on felony charges early in 1981 for their illegal entry and destruction of property at the GE Reentry Division plant in suburban King-of-Prussia, PA.

Moore termed organizing protests to coincide with the June 7 to July 9, 1982 U.N. Special Session on Disarmament "our greatest challenge" because it would offer a major opportunity to influence and affect U.S. military and defense policy toward disarmament. He called on MFS activists to begin organizing task forces and delegations to visit Congressmen and Senators, to begin letter-writing campaigns to newspapers, elected officials and the President in order to influence the postures the U.S. government will take into the SSD-II.

A number of international guests and observers were present, and were introduced in an offhand manner. A Japanese peace delegation was headed by Von Gyoton N. Sato, who was highly active in workshops and strategy caucuses for the SSD-II. However, his associate and a woman interpreter were not even introduced by name to the MFS convention. Also introduced briefly was a man identified as "a leader in the AICD, the primary peace group in Australia," who was not seen again in the MFS plenaries.

Moore's remarks were followed by entertainment which featured folksinger Judy Gorman-Jacobs who offered samples of her original lyrics containing assorted anti-Reagan sentiments like "If silence were golden, Ronnie, you couldn't earn a dime."

Leslie Cagan, the MFS staff organizer in Boston, opened the Saturday morning proceedings with a pep talk explaining the purpose of the MFS which revealed that it was to serve as a basis for de facto party-building. But, said Cagan, at present it was "expedient to be a coalition" because it "makes it easier to call out more people to demonstrate."

Cagan said that the members of the MFS coalition must be drawn into a permanent organization for the purpose of restructuring society. According to Cagan, the three "basic realities" to be fought to achieve "social change" were "capitalism, racism and sexism." She explained that one tactic in the restructuring of society is to redirect federal funds away from the "arms budget" into social programs.

This could be accomplished, said Cagan, by working to build a "broad mass movement" (not necessarily of large numbers of people, but rather with a wide "diversity of composition" with Native Americans, blacks and other minority groups), and working for "changes in the basic structures of our country's institutions." She explained that "if you want to stop the arms race, you have to check into U.S. foreign policy and U.S. military postures;" and if stopping the construction of nuclear powerplants is the goal, "you have to address the fundamental questions of energy."

Cagan explained that to build a successful broad coalition, they needed "a common enemy as well as a common vision," and that these enemies included President Reagan, the "new expression" of the right, "our military-industrial complex, racism and sexism." While asserting that the "common vision" of the MFS coalition "must go beyond defeat of the enemy," she avoided any too clear indication of what form she thought the utopia would take.

The agenda of workshops and their leaders included:

Special Session on Disarmament.—Ken Caldeira, Leslie Cagan and Dave McReynolds.

Nuclear Freeze.—George Wagner.

Jobs with Peace.—Frank Clemente.

Draft.—Bob Brown, Matt Meyers.

Energy Strategies and Nuclear Power.—John Rosenstock, Abalone Alliance; Linda Lotz.

U.S. Foreign Policy and Imperialism.—Holly Sklar.

Repression.—Jim Coben, Campaign for Political Rights (CPR) field organizer.

The [Save the] Heartland Proposal.—Scott Meyers, National Committee to Support the Marion Brothers.

National People's Congress.—Arthur Mitchell, Gray Panthers (NPC coordinator).

Meeting Human Needs.—Hon. Mel King, Massachusetts State Legislature, a veteran WPC and USPC activist.

Corporate and Military Development in Wisconsin.—Leslie Byster, John Stauber.

The Spector of the "Soviet Threat".—Sidney Lens, MFS co-founder, veteran WPC activist.

Afternoon proceedings opened speeches by folksinger Holly Near and Massachusetts State Representative Mel King. Near, who mentioned she had traveled to North Vietnam and the Philippines, emphasized the usefulness of music and "cultural activities" in making ideas for radical change "acceptable." She pointed out that political rallies should be exciting and that a musical program can be central to a successful rally.

Mel King, active with both the WPC and USPC, gave a militant speech, saying "we've been too damn nice * * * [and] always on the defensive. * * * It's time we stopped just getting mad and started getting even." King urged MFS to "develop a game plan to which they must react." He urged especially that "foreigners be brought in" to appear on U.S. radio and television talk shows and speak to U.S. groups so that Americans "understand the ravages of war and that the people of these countries do not want war."

Strategy sessions followed to develop tactics on the major MFS projects—the Special Session on Disarmament, Nuclear Freeze Campaign, Jobs with Peace, the Draft, Energy Strategies and Nuclear Power, Repression, U.S. Foreign Policy and Imperialism, the Heartland Proposal, National People's Congress, Meeting Human Needs, and Political Organizing through Culture.

As expected after the major fall organizing meetings that had set up the Campaign for the Second Special Session on Disarmament in association with the MFS, SSD-II will be the major focus of MFS activity during the first half of 1982.

Petitions, lobbying of Senators and Congressmen through visits to their local offices and letter writing campaigns are to begin at the New Year. The purpose, said MFS leaders, is to generate sufficient pressure to force President Reagan to attend the U.N. SSD, and to affect the composition and instructions of the U.S. delegation to the SSD.

Regarding the Presidentially appointed U.S. delegation to the SSD-II, MFS will demand that "responsible" [prodisarmament] people be appointed, that the U.S. delegation work on proposals to ban military intervention and to set dates for a nuclear-free world under the slogan "stop producing, start reducing;" and that the delegation accept the concept that "inner-city development is impossible as long as funds are being spent on arms."

A tentative calendar of SSD-II events was offered:

May 28-30—"Choose Life" Weekend.

June 4-6—International symposium on "Nuclear Weapons: A Crime Against Humanity."

June 7—Convergence of the World Peace March, "an interfaith project initiated by the Nipponzan Myohoji Buddhist monks," coordinated by the MFS Religious Task Force.

June 8-9—Briefing Assembly or rally with cultural events.

June 10-11—International Interreligious Convocation coordinated by the MFS Religious Task Force; submission of petitions.

June 12—Mass Demonstration, civil disobedience ("the greatest ever.")

The Nuclear Freeze Campaign initiated and coordinated by the AFSC and FOR will hold a national organizing conference in Denver in February 1982. The MFS activists were informed that the Freeze campaign is directed by "international leaders" in a general decision-making committee of 40 people and that there is an "emergency decision" group of 7. The project leaders did not name them to the MFS participants.

Nuclear Freeze leaders including Dan Ebner of FOR said that a moratorium on construction of nuclear weapons was the first step in gaining broad U.S. public acceptance for disarmament because the public will not feel that a "moratorium" would endanger national security. Ebner emphasized that "Freeze is only the first step toward total disarmament, and it's only to be used as a tool towards that end."

Noting that a multitude of coalitions have been formed since MFS appeared in 1977, and with many MFS members raising criticisms of the heavy-handed domination of the People's Anti-War Mobilization (PAM) and its All-People's Congress (APC) by the Workers World Party (WWP), a militant Marxist-Leninist cadre that split away from Trotskyism early in the 1960s and has aligned itself with the pro-Soviet regimes in North Korea, Cuba, Ethiopia and Angola, MFS decided to continue support for the New York based National People's Congress.

NPC coordinator Arthur Mitchell of the Gray Panthers described the coalition as a clearinghouse for seeking issues around

which to rally left groups and community groups and "build a movement to reorder our priorities in favor of peace and human needs." NPC will hold a People's Congress in Washington, DC, April 17-25, 1982.

Among the NPC's supporting organizations are Women Strike for Peace (WSP), Women's International League for Peace and Freedom (WILPF), SHAD Alliance, Riverside Church Disarmament Program, New York Anti-Klan Network, New Alliance Party, National Conference of Black Lawyers (NCBL), the CPUSA-controlled National Coalition for Economic Justice (NCEJ), National Anti-Racist Organizing Committee (NAROC), Interreligious Foundation for Community Organization (IFCO), Gray Panthers, Democrats for New Politics, Coalition for a People's Alternative (CPA), Citizens Party, the Coalition Against Registration and the Draft (CARD), and American Indian Movement (AIM).

The NPC asked MFS to coordinate the election of "people's candidates" to its Washington meeting, provide ideas for drafts of legislation which would be introduced by Rep. John Conyers [D-MI], and to work out details of sending a group to Moscow to work out with "representatives of the Soviet people" a "People's Disarmament Treaty" which would be ratified at the April "People's Congress."

In discussion it was noted that a caucus formed by representatives of a number of groups close to the WPC and CPUSA including the Puerto Rican Socialist Party (PSP), USPC, WRL, CPA, MFS, NAROC, SANE and the Progressive Student Network (PSN) had failed in efforts to wrest control of the PAM from the WWP. According to MFS organizers, on September 12, 1981, 90 representatives of this caucus met in New York and formed the Ad Hoc Coalition Against Reagan's Policy (ACARP) which was considering calling for a mass mobilization this spring in competition with demonstrations planned by WWP and PAM. ACARP groups are also active in the SSD-II campaign.

In leading both the SSD-II caucus and the Collective Strategy caucus, Paul Mayer repeatedly made the point that the SSD-II would be an opportunity for gaining the maximum amount of media coverage through which the U.S. public could be "sensitized" to the disarmament campaign.

Wearing, perhaps symbolicly, a bright red shirt, Mayer said that outside of SSD-II organizing, the major MFS emphasis would be on the "Nuclear Free Heartland" campaign. Discussion included a note that SANE and the National Campaign to Stop the MX were already gearing up to block deployment of MX in refurbished Minuteman silos. Other aspects of this campaign will involve supporting efforts to defeat Rep. John Ashbrook [R-OH] who is planning to run against Sen. Howard Metzenbaum and demonstrations against nuclear power plants.

Organizers explained that St. Louis was selected as a target for economic organizing because it is "world headquarters of the two largest military corporations in the world, General Dynamics and McDonnell Douglas, plus Monsanto, Emerson Electric and branches of IBM, Rockwell, Sperry and Honeywell; 1 of 7 jobs in St. Louis depends on military spending."

A major focus of demonstrations will be the Strategic Air Command (SAC) headquarters in Omaha; Whiteman Air Force Base in Missouri at which Minuteman missiles are based; the Bendix nuclear weapons facility in Kansas City; Honeywell's Minnesota facilities; and the submarine communications system Project ELF in Michigan and Wisconsin.

The Heartland project's additional focus on "political repression" as represented by the Marion federal prison in Illinois has brought into the MFS's programs groups closely associated with the terrorist Weather Underground Organization and its overt arm, the Prairie Fire Organizing Committee (PFOC),

Praising Puerto Rican terrorist Raphael Candel Miranda, American Indian Movement (AIM) activist Leonard Peltier (convicted of the ambush murders of two FBI agents), and Republic of New Africa (RNA) leader Imari Obadele (Richard Henry) as "genuine people's leaders," the Mobilization to Save the Heartland, whose address is in care of the National Committee to Support the Marion Brothers in St. Louis, said their jailing "testifies to Marion's key place in the government's attempt to take away our rights and freedoms."

PFOC members attended the MFS conference and distributed their theoretical journal, Breakthrough, and literature of the terrorist FALN's "overt arm," the Movimiento de Liberacion Nacional (MLN).

While WUO/PFOC members lobbied MFS conference participants in support of terrorist violence, and while key MFS leaders praised sabotage against nuclear-related installations as "direct action" and "civil disobedience," organizers from the Campaign for Political Rights (CPR), formerly the Campaign to Stop Government Spying, were active in MFS workshops and at literature tables warning anti-nuclear activists to take "security precautions" against "bugs, taps and infiltrators."

However, several MFS conference participants from proabortion "reproductive rights" groups were heard to comment that as far as they were concerned, MFS's real "infiltrator" problems are certain Catholic and other religious activists who oppose nuclear power and nuclear weapons as an aspect of their "right to life" beliefs and who oppose abortion.

The MFS "audio-visual" program included the complete 3-hour showing of the Philip Agee anti-CIA documentary, "On Company Business;" "The Intelligence Network;" "Paul Jacobs and the Nuclear Gang;" a CDI film called "War Without Winners," and a film in support of the Puerto Rican revolutionary movement.

Among the groups with members participating in the NFS conference in Milwaukee were:

Abalone Alliance; Alliance for Survival; American Friends Service Committee (AFSC); Catholic Peace Fellowship (CPF); Catholic Worker (Des Moines, Iowa); Center for Defense Information (CDI); Clergy and Laity Concerned (CALC); Coalition for Nuclear Disarmament (CND); Coalition for a New Foreign and Military Policy (CNFMP); Fellowship of Reconciliation (FOR); Friends of the Earth (FOE); Gray Panthers; Greenpeace, Great Lakes (Chicago) chapter; National People's Congress (NPC); New American Movement (NAM); New Movement in Solidarity with Puerto Rican Independence (a front of the WUO/PFOC); Nuclear Information and Resource Service (NIRS).

Also Pax Christi; People's Anti-War Mobilization (PAM); Prairie Fire Organizing Committee (PFOC); SANE; Sierra Club; Socialist Party (SP); Socialist Workers Party (SWP); U.S. Peace Council (USPC); War Resisters League (WRL); WIN Magazine; Women's International League for Peace and Freedom (WILPF); Women Strike for Peace (WSP); Workers World Party (WWP); World Information Service on Energy (WISE).

Update on U.S. organizing

The United Nations Second Special Session on Disarmament (SSD-II) scheduled to be held in New York June 7 to July 9, 1982, will be the primary organizing focus and international podium for the Soviet-directed disarmament offensive during the first half of this year.

The first Special Session on Disarmament (SSD-I), held in May 1978, was little noticed either by the Western governments or media and very little of the 129-paragraph Final Document produced by SSD-I has been implemented. However, SSD-I did establish a 40-member U.N. Committee on Disarmament (CD) which has a staff based in Geneva and which implemented the SSD-I Final Document's call for a SSD-II.

Taking part in SSD-II will be the 156 U.N. Member States, "observer" delegations from non-U.N. members and from U.N.-backed "national liberation" movements, representatives from a variety of U.N. agencies and intergovernmental organizations, and many of the U.N.-affiliated non-governmental organizations (NGOs).

Sidney Peck has been appointed Director of International Relations for the United Nations NGO organization. Peck is responsible for coordination of the demonstrations targeted on SSD-II that are designed to affect public opinion in America and Western Europe, and it is the WPC, which holds the vice-presidency of the U.N. NGO organization, that will provide the bodies for those demonstrations. Peck, a former Wisconsin CPUSA functionary, was a leader of the Chicago Peace Council before moving to Boston in the mid-1970s. He has been active with the WPC and was a co-founder of the Mobilization for Survival which was formed to generate support for the first SSD.

Peck's boss in his new U.N. NGO post is Sean MacBride, the Lenin Peace Prize winner who is a vice-president of the Moscow-based Continuing Liaison Committee of the World Congress of Peace Forces.

At this time a 78-nation Preparatory Committee chaired by Ambassador Oluyemi Adeniji of Nigeria has drawn up a 14-point agenda which includes discussion of a "World Disarmament Campaign" and a "World Disarmament Conference." Prior to SSD's convening, the Preparatory Committee will meet in New York (April 26-May 14) as will a Disarmament Commission (May 17-June 4).

With these U.N. activities as focal points, U.S. disarmament groups, many of them associated with the World Peace Council (WPC) and its U.S. affiliate, the U.S. Peace Council (USPC), are developing their organizing plans that will culminate with a mass rally in New York on Saturday, June 12, 1982. As a report on the November USPC conference in New York and its workshop on "Disarmament and Detente" in the WPC newsletter Peace Courier [December 1981] noted:

"As a target for activities during the next six months, the workshop projected massive activities by peace forces in support of the United Nations Special Session on Disarmament to be held next June.

" 'There is need to impose pressure on Washington to return to policies of detente,' it was emphasized."

The WPC reported that the USPC was making progress with programs including

the Jobs for Peace Campaign, the California Statewide Peace Electoral Action Campaign (SPEAC), and "in collecting signatures on petitions for a nuclear freeze."

It will be recalled that WPC president Romesh Chandra attended the USPC conference. During his New York visit Chandra met with leaders of the Communist Party, U.S.A. (CPUSA), assorted U.S. "peace activists," and high-level U.N. officials. The WPC delegation met with the President of the U.N. General Assembly, Ambassador Issmat Kittani; U.N. Secretary General Kurt Waldheim; the Chairman of the U.N. Special Committee Against Apartheid, Ambassador Alhaji Yusuf Maitama-Sule; and Chandra spoke before a meeting of the Special Committee Against Apartheid.

The WPC reported on the delegation as a successful part of its "framework of increased cooperation with the United Nations," and made no mention of its failure to obtain higher status with the U.N. Economic and Social council. Regarding SSD–II, the WPC reported:

"The preparations for the Special Second Session of the United Nations on Disarmament * * * were of special interest to the delegation. Meetings were held with Mr. Csillag, officer responsible for the SSD II preparatory committee and Mr. Martenson of the U.N. Disarmament Centre, as well as with Mr. Virginia Saurweim [sic], NGO officer. Discussions centered around the preparations for the SSD II, the role of the non-governmental organizations and the contribution of the World Peace Council."

Serving as a highly visible "asset" to the WPC and USPC efforts to, in the words of the Peace Courier, "involve all the nationally and racially oppressed in the peace movement" is Rep. Gus Savage [D–IL]. Rep. Savage was formerly the editor and publisher of a black community newspaper in Chicago and was an active member of the National Newspaper Publishers Association (NNPA) led by Carlton Goodlet, a member of the WPC's Presidential Committee and identified CPUSA member.

Following his leadership role in the USPC's November conference, Rep. Savage led a January 16, 1982 disarmament march in Lisbon, Portugal, in which 50,000 people participated.

The march protested U.S. and NATO plans to deploy Pershing II and cruise missiles in Europe. The main organizers of the march were the Portuguese Communist Party and the Communist-controlled trade unions with the local WPC affiliate. The Portuguese Socialist Party refused to participate and publicly denounced the march as merely a "reflection of the diplomatic and military logic of the Soviet bloc."

When asked about his involvement in the march at a press conference, Rep. Savage was quoted as saying, "I'm more concerned with the concrete objectives of the march than with who supports it."

Rep. Savage's constituent newsletter, dated December 1981 but mailed in January 1982, reported:

"The World Peace Council, the largest non-governmental peace organization in the world, has invited Congressman Gus Savage to address the 35th annual meeting of the Council's Bureau in Copenhagen, Jan. 6–8 [1982].

"The invitation came personally from Romesh Chandra, president of the Council, in New York City on Nov. 14, to be the keynote speaker for the Second National Conference of the U.S. Peace Council. * * *

"The invitation was extended by Chandra because he was impressed with Savage's oratory and his fight against neo-colonialism. While in Congress less than one year, battles for peace, justice, and programs that benefit school children, college students, the elderly and the handicapped have been his major concern.

"In Copenhagen, Savage addressed the 30-member Bureau of the World Peace Council and members of its Presidential Committee both of which consist of members of parliaments and leaders of peace movements, trade unions and political parties.

"The Bureau is the executive branch of the Council. The Presidential Committee, a larger body, consists of 120 members. It is known as The Presidium in Europe.

"An invitation was also received to address this group as part of a dialogue on what the Council perceives as a new danger of war based on the arms buildup of major world powers.

"The World Peace Council has national movements in 130 countries. It has an ongoing relationship with the United Nations in that the UN has a subdivision comprised of non-governmental organizations. The vice-presidency of this body is held by the World Peace Council.

"A series of other meetings will be held in Copenhagen in addition to the Bureau's three-day session. Among these will be a meeting of 20 retired generals of the North Atlantic Treaty Organization, and meetings of Danish political parties and trade unions."

According to a Portuguese intelligence source, the Soviet Peace Committee delegation was denied entry visas to participate in the demonstration.

On January 22, 1982, the Portuguese government declared persona non grata two Soviet "diplomats" from the USSR's Lisbon Embassy, press attache Yuri A. Babaints and attache Mikhail M. Morozov, for "engaging in activities which exceed their diplomatic status" involving the anti-NATO demonstrations.

U.S. SSD–II Preparations

While many U.S. disarmament groups will hold "building actions" to gain support for the June 12th mass demonstration in New York, the group most advanced in its plans is the U.S. section of the Women's International League for Peace and Freedom (WILPF). Formed by pacifist socialists opposed to World War I and rearmament, WILPF has been a target for penetration by pro-Soviet "peace activists" and has moved away from genuine pacifism and into support for revolutionary "national liberation movements" utilizing terrorism and "armed struggle."

WILPF's disarmament campaign coordinator is Kay Camp, who is also a co-convenor of the Mobilization for Survival's (MFS) International Task Force. A former U.S. and international WILPF president, Camp has been involved with WPC activities for many years. WILPF's international headquarters are in Geneva, Switzerland. WILPF's longtime secretary general is Edith Ballentyne and the current international president is Carol Pendell of the U.S.

WILPF for many years has been thoroughly penetrated by members and supporters of the Moscow-line Communist Party, U.S.A. (CPUSA) and partisan radicals who look to various Soviet-backed terrorist "national liberation movements" as models of a future revolutionary utopia. WILPF works intimately with two major Soviet-controlled international fronts, the World Peace Council (WPC) and the Women's International Democratic Federation (WIDF). WILPF was recently reported to have been awarded a seat on the WPC Presidential Committee.

For the past twenty years, WILPF has been participating in guided tours of the USSR and holding direct meetings with the Soviet Women's Committee; thus it was less than surprising that WILPF is urging its members to participate in a "mis-accuracy in media" campaign. Whenever WILPF members see a newspaper article reference to Soviet aggression or the Soviet military build-up, WILPF members have been instructed to call the reporter and editor, politely explain that "Soviet threat" concepts are examples of "biased thinking," and ask for "corrective" action.

On March 8, International Women's Day, WILPF will commence its "Stop the Arms Race" (STAR) campaign, using a slogan common to both the WPC and MFS, using Madison Avenue-style publicity, STAR will seek to generate public support and interest for the goals of SSD–II. In the STAR campaign, WILPF will utilize both national and local media. At present, material for use as "public service messages" on radio, television and in newspapers is being prepared.

Other groups are not so well organized. The Mobilization for Survival (MFS), for example, has only in mid-January commenced a serious fund raising campaign using a newly-formed tax-deductible group, the Survival Education Fund (SEF), and a shrill letter signed by Dr. Benjamin Spock seeking both money and signatures for the "People's Petition Campaign to Ban the Neutron Bomb."

It is noted that MFS and Dr. Spock apparently are the first to launch a "people's petition" campaign following the U.N. General Assembly's recent adoption of a resolution supporting such petition drives offered by those bastions of independent democratic government, Bulgaria and Mongolia. According to Disarmament Times, [Vol. 4, No. 6], the petition campaigns "will give every person, however humble, a chance to get into the disarmament action."

An inhibiting factor against the Soviet "peace" offensive has resulted from President Reagan's statement that "the World Peace Council is * * * bought and paid for by the Soviet Union," which brought in response a letter from Homer Jack, secretary-general of the World Conference on Religion and Peace, published in the New York Times [January 30, 1982] concurring that "the World Peace Council has for more than 30 years faithfully transmitted Soviet foreign policy."

Organizing by some 150 U.S. activists to focus attention on the U.N. Second Special Session on Disarmament (SSD–II) continues to escalate and includes planning for events that range from a religious convocation through a peace march and assembly to civil disobedience.

June 12 Disarmament Coalition

Nearly 300 disarmament activists representing 90 groups met in New York, January 29–30, 1982, to plan for two weeks of disarmament activities that will "officially" conclude on June 12 with a peace march and rally. Two days later, an "unofficial" action including civil disobedience will take place with "peace delegations" attempting to disrupt the U.S. Mission to the United Nations and possibly the U.N. missions of the other nuclear powers. Organizers of this June 14 event are hoping that many of the delegates to SSD–II will be involved in the civil disobedience.

The meeting was called by the Campaign for the Special Session on Disarmament (CSSD) which was formed last October in conjunction with the Mobilization for Survival. However, CSSD leaders have made a tactical decision not to involve MFS organizationally with "civil disobedience" lawbreaking. CSSD moved out of the New York MFS offices on St. Marks Place and is now just off Union Square at 853 Broadway, Room 2109, New York, NY 10003.

(NOTE.—It will be recalled that prior to disruptions and civil disobedience at the Washington Mayday 1971 demonstrations, the ultra-militant groups in the People's Coalition for Peace and Justice withdrew, with the blessing of PCPJ leaders, into a separate entity, the Mayday Collective. This tactic was to enable the leaders of "respectable" disarmament groups to create an illusion of separation between themselves and the militants.)

At this meeting, the CSSD was reorganized into the June 12th Disarmament Coalition (J-12 DC) whose members include the Communist Party, U.S.A. (CPUSA); War Resisters League (WRL); American Friends Service Committee (AFSC); Nuclear Freeze Campaign; Fellowship of Reconciliation (FOR); Women Strike for Peace (WSP); Women's International League for Peace and Freedom (WILPF); Riverside Church Disarmament Campaign; Workers World Party (WWP); Greenpeace; National Black United Front (NBUF); All African People's Revolutionary Party (AAPRP); National Black Independent Political Party (NBIPP); MFS and other groups. The principal J-12 CD organizers are Leslie Cagan and Bruce Cronin.

The meeting accepted proposals that the two main themes of the SSD-II demonstrations will be to reverse and freeze the nuclear arms race and redirect resources from defense spending to "fund human needs." Other demands, made by backers of Third World support groups, will be discussed at a February 17 meeting in Philadelphia.

A dispute developed during the conference as to how much blame for the "arms race" should be assigned to the Soviet Union. Moderates urged both "superpowers" be blamed equally. Acting as a "left stalking house," the CPUSA caucus urged no criticisms of the Soviet Union. Thus a "compromise" consensus was adopted which focused on the "guilt" of the U.S., stating "As people of the U.S., our primary responsibility is to work for the reversal of U.S. nuclear arms policy."

The Marxist-Leninist and "anti-imperialist" groups present won their demand that the disarmament demonstration offer support for Third World revolutionary movements and terrorist groups by demanding an end to "U.S. intervention."

As a concession to keeping public attention focused on disarmament, this was considered already covered by the "Stop the Arms Race" theme.

European Involvement

To assist in organizing for SSD-II, AFSC and CALC are co-sponsoring a U.S. tour by 9 Western European disarmament activists. With a $49,600 price tag, and a $5,000 planning grant from the New World Foundation, the tour will finance the Western European activists who will work in pairs or small groups visiting 39 U.S. cities between March 20 and April 4, 1982. Their agenda will include meetings with local peace activists, the academic and religious communities and the media, and speaking at public meetings. In some cities where local organizers already have a campus project underway, separate meetings may be held with students.

Those making the tour are to include:

Rev. Enrico Chiavacci (Italy), a member of Pax Christi; leader of Pax Christi Italia; and Professor of Social Ethics at the Theological Institute of Florence.

Rev. Volkmar Delle (West Germany), "one of the principal organizers of the Bonn disarmament rally attended by over 250,000 in October 1981," director of Action/Reconciliation "which was founded in 1955 to do service in countries most affected by Nazism—Israel, Poland, France, U.S.A., etc.;" minister in the Protestant Episcopal Church.

Rev. Laurens Hogebrink (Holland), Executive Board Member, Dutch Interchurch Peace council (IKV); member of the staff of the Department of Church and Society of the Netherlands Reformed Church since 1969; "played a major role in organizing the November 1981 Amsterdam disarmament rally attended by 300,000. He supports efforts by individual countries to become nuclear weapon-free, regarding the denuclearization of Europe as a significant first step to world disarmament."

Petra Karin Kelly (West Germany), chairperson, Green Party; "active for the past ten years in Europe's anti-nuclear/anti-war and feminist movements."

Msgr. Bruce Kent (Great Britain), "General Secretary of the Campaign for Nuclear Disarmament (CND), ex-chairperson of War on Want; previously CND's Chairperson for three years. * * * CND was one of the sponsors of the London disarmament rally in October 1981 attended by 250,000, and calls for unilateral nuclear disarmament as an initial goal. Msgr. Kent has been chaplain to London University, a fulltime worker for Pax Christi * * *."

Toni Liversage (Denmark), "one of the founders of 'No to Nuclear Weapons;' participated in the Easter marches of the early 60's, which opposed atmospheric nuclear testing; an organizer of the Copenhagen to Paris peace march in the spring of 1981 * * *, author and active feminist."

Joan Ruddock (Great Britain), "chairperson of the Campaign for Nuclear Disarmament (CND), * * * a co-founder of the Newbury Campaign against Cruise Missiles, * * * active in the women's movement and at all levels of Labour Party politics since 1970."

Sienie Strikwerda (Holland), "former chairperson of the Christian Women's Organization of the Netherlands; active in Holland's Women for Peace and Women Against Nuclear Weapons, groups which helped to organize the disarmament rally of 350,000 in Amsterdam in November 1981 * * * on the board of * * * the Dutch Broadcasting Company."

Rev. Andreas Zumach (West Germany), "principal organizer for Action/Reconciliation (A/R); responsible for * * * their relations with peace movements in other countries. Rev. Zumach was an A/R volunteer in the U.S. from 1973 to 1975, with both the Disciplies of Christ and the United Farm Workers. Presently a full-time A/R staff person, Rev. Zumach was one of the coordinators of the Bonn disarmament rally in October 1981, attended by over 250,000."

The upcoming CALC/AFSC sponsored event is seen as an extension of the European tour they co-sponsored in November 1981.

The AFSC organizers responsible for coordinating the tour are Linda Bullard and Terry Provance. CALC's coordinators of the tour are Diane Becker and Currie Burris.

Among the organization building towards SSD-II is Ground Zero (GZ), with offices at 806 15th Street, Suite 421, Washington, D.C. 20005 [202/638-7402]. Organized early in 1981 by "a small bipartisan group of individuals concerned with the lack of a national consensus and direction on nuclear war and believed that a program of public education * * * was a matter of the utmost priority," GZ's endorsers include Physicians for Social Responsibility (PSR), Business Executives Move for New National Priorities (BEM), National Council of Churches (NCC), Arms Control Association (ACA), and Council for a Liveable World. GZ lists among its individual endorsers former CIA Director William Colby.

With a staff of 13 including 5 regional coordinators, GZ's director is Dr. Roger Molander, a 7-year member of the National Security Council under the Nixon, Ford and Carter Administrations; deputy director is Dr. Earl Molander. GZ is promoting "Ground Zero Week" from April 18-25, as a "time for all of us to learn more about nuclear war."

GZ literature says the question is not who is to blame for the arms race, "the question is how do we get ourselves out?"

While insisting that it is merely educational and does not suggest any solutions for ending the arms race, GZ spokesmen admit that "If you understand what nuclear war is about, you're peace oriented."

CONCLUSION

From analysis of the material used to produce this report, it is apparent that the Soviet Union, through the World Peace Council and other organizations under Soviet control, is conducting a major "covert action" offensive in Europe and America to prevent or delay implementation of U.S. and NATO defense policies.

At the same time, other items on the Soviet agenda in which the WPC plays a key role—including the destabilization of Namibia and South Africa, the lifting of the U.S. economic blockade of Cuba; the destabilization of Central America; and support for Puerto Rican revolutionaries—are being very actively promoted by domestic special interest groups. These groups work openly in close collaboration and coordination with revolutionary and terrorist movements backed by the USSR, its satellites and client states and which they and the WPC call "national liberation movements."

Furthermore, as in the 1960s and 1970s, efforts are being made by WPC-related U.S. groups to generate support for these various causes that further Soviet policy goals among the economically and socially disadvantaged, suggesting that "militarism," "interventionsim" and "colonialism" removes funds that otherwise would be spent to expand social welfare programs.

Additionally, WPC leaders with the appropriate credentials are making appeals to "opinion-makers" in the U.S. labor movement and the academic, scientific and religious communities seeking to exploit any and all sentiments against U.S. policies and direct them into the disarmament campaign.

As the chief of the Soviet disarmament offensive recently remarked, the European response to the disarmament campaign has been "unprecedented." This appears to be a result of a combination of factors including the genuine hopes of citizens of the Western nations for peace, the ignorance of the general public about the security implications of Soviet "peace" proposals, the

decade of "detente" policies in which Western political leaders and public opinion makers emphasized appeasement of the USSR to the virtual exclusion of security issues, traditional European anti-Americanism, fear of the USSR leading to appeasement sentiment, and a lack of initiative, planning and effective public outreach for many years on the part of NATO governments.

The engine driving the movement is a massive Soviet "covert action" apparatus which includes the use of influential Western "assets" developed by the Soviet KGB and GRU intelligence services, and manipulation of public opinion through the activities of the network of international front groups and local communist parties.

In Europe, evidence clearly indicates direct covert Soviet assistance to the disarmament campaign against NATO in terms of financing, theme content and logistical assistance. In the U.S., known Soviet involvement in the disarmament campaign ranges from the activities of key Soviet officials like Yury Kapralov through the flow of delegations of WPC activists who often use identifications other than the WPC to strong Soviet surrogate and client assistance to U.S. groups carrying out propaganda and agitational activities.

The anti-Vietnam movement of the 1960s was able to use the military draft as an issue to attract considerable support from college students (some of whom, fifteen years later, remain active dissidents and sympathizers). The 1981-82 disarmament drive is focusing on utilization of currents among the religious community's supporters of "liberation theology" including "Christian socialism" and utopian pacifism to recruit religious leaders, religious organizations and congregations into the disarmament campaign where they can provide the numbers at demonstrations to influence public opinion and U.S. policy.

The presently available evidence indicates that in preparation for a major demonstration on June 12 at the U.N. Special Session on Disarmament in New York, there will be a massive media campaign aimed at disseminating disinformation and at publicizing the goals of disarmament activists. Activities preliminary to the SSD demonstration will include mass propaganda mailings, political pressure campaigns related to the 1982 primaries, local "building" demonstrations, a convocation of religious leaders, seminars for academics, etc.

Civil disobedience actions targeting nuclear weapons facilities are being planned, as are "peace delegations" to the U.N. missions of nuclear powers that will also involve civil disobedience.

Available evidence indicates that the organizational effort being made for these various activities is adequate and effective. While in mid-February there are no indications of any great popular support for these demonstrations, a leader of the disarmament movement has estimated that at least 150 organizers are working full-time on SSD-II activities.

Information developed indicates that it is the aim of the organizations providing leadership to the U.S. disarmament campaign to coalesce the various constituency groups by the early summer of 1982 in order to more readily coordinate their activities with the WPC-led European "peace" movement for the massive support of Soviet initiatives at SSD-II.

The PRESIDING OFFICER (Mr. QUAYLE). Does the Senator yield back the remainder of his time?

Mr. BUMPERS. Yes.

Mr. MOYNIHAN. Mr. President, I ask the distinguished Senator if the yeas and nays would still be necessary.

The PRESIDING OFFICER. The yeas and nays have been ordered on the motion to reconsider.

Mr. BAKER. Mr. President, since the Senator will not insist on the yeas and nays, I ask unanimous consent that the order for the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MOYNIHAN. Mr. President, I move to lay on the table the motion to reconsider.

The motion was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will not take umbrage, but the Senator from Nebraska has clearly asked to be recognized. I hope we will go by the rules and recognize a Senator who first asks to be recognized. I hope there is no pecking order at the desk.

The PRESIDING OFFICER. The Chair informs the distinguished Democratic leader that he was going by whom he had heard first.

Mr. EXON. Mr. President, it is impossible for the Senator from Nebraska to hear anything that is going on in the Senate. That makes it most difficult to discharge my duty.

The PRESIDING OFFICER. The Senate will be in order. Will the Senate be in order? Senators standing in the aisle conversing will please take seats or retire from the Chamber.

Is there an objection to setting aside the committee amendments?

Mr. EXON. Mr. President, reserving the right to object——

Mr. HATFIELD. Mr. President, there is no requirement for unanimous consent to set aside committee amendments. Committee amendments may be set aside purely on the basis of the recommendation of the leadership. The leadership does approve the setting aside of the committee amendments in order that the Chair may recognize a Senator to take up some other amendment.

The PRESIDING OFFICER. The Senator is saying that it is not necessary to make a request to set aside a committee amendment?

Mr. HATFIELD. Exactly. We do not have to have a unanimous-consent request. The Chair has only to ask the managers of the bill to set aside the committee amendments. That was in the original unanimous-consent agreement.

The PRESIDING OFFICER. The Senate will be in order.

The Chair states to the distinguished manager of the bill that he was informed by the Parliamentarian that unanimous consent would have to be obtained. Is the Senator saying that unanimous consent has been obtained?

Mr. HATFIELD. Mr. President, the Parliamentarian is in error.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Oregon is correct. The previous order was entered to that effect. Otherwise, the Parliamentarian would have been correct.

Mr. HATFIELD. We have agreed to set aside the committee amendments in order that the Chair may recognize any Senator for the purpose of raising an amendment.

The PRESIDING OFFICER. The Chair will stand corrected. The Parliamentarian made a mistake.

Who seeks recognition?

Mr. EXON. Mr. President——

UP AMENDMENT NO. 1324

(Purpose: To extend the financing adjustment factor for an additional 3 months)

Mr. D'AMATO. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The Chair heard the Senator from New York first.

Mr. HATFIELD. Mr. President, will the Senator yield for a moment?

Mr. D'AMATO. I yield.

Mr. HATFIELD. Mr. President, I should like to say, especially for the benefit of the Senator from Nebraska, that early on, the minority leader reminded the Chair that there is no particular order of procedure, that whatever Senator can get the floor is recognized first.

I had hoped, especially after we obtained these unanimous-consent agreements, that we could develop an order of procedure so that a Senator would have a little idea of when he could be expected to have his amendment called up. Inasmuch as we do not have that particular procedure, I apologize to the Senator from Nebraska, because he has been here since early this morning, hoping to be recognized. I had hoped we could follow an orderly procedure.

The PRESIDING OFFICER. The Chair states to the distinguished manager that if he is still the Presiding Officer, he will recognize the Senator from Nebraska after the amendment

of the Senator from New York is disposed of.

Mr. HATFIELD. I only say that that is because of the generosity of the Chair, rather than because of any orderly procedure.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO), for himself, Mr. PACKWOOD, and Mr. DODD, proposes an unprinted amendment numbered 1324.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution insert a new section—"Section ——, that any amount remaining on September 30, 1982, from the contract authority and budget authority made available for use as provided in the third proviso under the heading, 'Annual Contributions for Assisted Housing (Recession)', in the Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216), shall remain available for obligation in accordance with the terms of such proviso, except that the Agreement to enter into a Housing Assistance Payments Contract shall not be required to include a provision requiring that construction must be in progress prior to January 1, 1983: *Provided*, that none of the amounts available for obligation in accordance with the foregoing shall be subject to the provisions of section 5(c)(2) and (3) and the fourth sentence of section 5(c)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439)."

The PRESIDING OFFICER. There will be order in the Senate, whether Senators like it or not. The Senate will please come to order. Senators who desire to converse will please retire from the Chamber. Staff in the rear of the Chamber will please keep conversations to a minimum or none at all.

The Senator from New York.

Mr. D'AMATO. Mr. President, I offer an amendment to the continuing resolution which would enable many new and substantially rehabilitated housing units to go forward, without any additional appropriation, by merely extending a HUD regulatory deadline from October 1 to January 1.

The amendment would extend the financing adjustment factor, known as the FAF, an additional 3 months. A FAF is merely an adjustment intended to make up for the difference in interst rates and rental housing costs from the time the units were actually authorized by Congress and the present.

This adjustment was made without any additional appropriation, when Congress redirected some fiscal year 1982, section 8, housing funds into clearing out the existing pipeline at HUD, during consideration of the fiscal year 1982, urgent supplemental.

The money being used to finance the pipeline is money that is already considered spent by all budget accounts. It has been appropriated through fiscal year 1982 and is already obligated into contract authority.

Due to administrative delays in the release of these funds, our State housing agencies are facing an October 1 deadline that they cannot possibly meet for most of their outstanding projects.

In my State of New York, we have over 675 units of existing contract authority which are at risk if this deadline is not extended. The statewide rental vacancy rate in New York is dangerously low and our critical situation is shared by many States across the country. It is my understanding that there are approximately 30,000 units outstanding nationwide.

I feel we have an obligation to those State agencies which have packaged proposals, signed contracts with developers and in some cases already issued bonds for the mortgage, to extend this FAF another few months to give them a chance to get their projects to the groundbreaking stage.

I understand that my amendment has the support of the distinguished chairman of the full committee, Senator HATFIELD, and the HUD subcommittee, Senator GARN as well as the ranking minority member of the subcommittee, Senator HUDDLESTON and I appreciate their cooperation and support.

While I share the view of many of my colleagues that our Nation's housing problems required a serious and comprehensive review, here is one way we can, at no additional cost, adhere to our commitment to housing the people of our Nation.

Mr. HUDDLESTON. Mr. President, as ranking member of the Senate Appropriations Subcommittee on HUD-Independent Agencies, I am pleased to support the amendment offered by the Senator from New York (Mr. D'AMATO) extending the construction deadline for financing adjustment factor (FAF)-eligible housing projects from October 1, 1982, to January 1, 1983.

There was a comparable provision in the Senate version of H.R. 6956, the Department of Housing and Urban Development-Independent Agencies appropriation bill for fiscal 1983, but it failed in conference, principally because it was part of a more extensive amendment which failed.

In the urgent supplemental appropriation bill for fiscal 1982 (Public Law 97-216), Congress assumed the availability of $5 billion in recaptures and provided an additional $1.75 billion of fiscal 1982 funds to finance a revised financing adjustment factor and cost amendments for section 8 projects in order to try to clear the pipeline of projects which had been previously approved but had not gone to construction. Projects utilizing the revised FAF and cost amendments were to be under construction by October 1, 1982. Unfortunately, the urgent supplemental bill did not become law until July 18, and the FAF provisions had to be further clarified in the regular supplemental appropriations bill (H.R. 6863—Public Law 97-257) which became law on September 10.

HUD has estimated that some 300,000 housing units have been approved but have not gone to construction. Many of these projects are viable and ready to move, especially with the revised FAF and contract amendment provisions, but some—perhaps up to 10 percent—will not be able to meet the October 1 deadline. These projects can provide more units for needy families and individuals and spur the construction sector of our economy. A few more weeks may make the difference in whether or not a project will ever be built.

In view of this situation, it seems only reasonable to me to extend the construction deadline for a limited period in order to encourage the completion of these previously approved pipeline projects.

Mr. D'AMATO. Mr. President, this amendment has been cleared with both managers of the bill, and I ask unanimous consent that it be adopted.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. D'AMATO. Yes.

Mr. HATFIELD. I yield back my time.

The PRESIDING OFFICER. The Senator has requested unanimous consent that the amendment (UP No. 1324) be agreed to. Is there objection? The Chair hears none, and it is so ordered.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1325

(Purpose: To provide for the continuation of preliminary payments to local education agencies in areas affected by Federal activity)

Mr. EXON. Mr. President, I have an unprinted amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. EXON) for himself and Mr. HUDDLESTON, Mr. RANDOLPH, Mr. BENTSEN, Mr. NUNN, Mr. EAGLETON, Mr. ZORINSKY, Mr. WARNER, Mr. SARBANES, Mr. TOWER, Mr. HUMPHREY, Mr. DECONCINI, Mr. SASSER, Mr. PELL, Mr. BAUCUS, Mr. FORD, Mr. NICKLES, and Mr.

HOLLINGS, proposes an unprinted amendment numbered 1325.

Mr. EXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 34, strike out lines 8 through 13, and insert in lieu thereof the following:

SEC. 137. Notwithstanding section 5(b)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress), not later than thirty days after the beginning of the fiscal year, the Secretary of Education shall, on the basis of any application for preliminary payment from any local educational agency which was eligible for a payment during the preceding fiscal year on the basis of entitlements established under section 2 or 3 of such Act, make to such agency a payment of not less than—

(1) in the case of a local educational agency described in section 3(d)(1)(A) of such Act, 75 per centum of the amount that such agency received during such preceding fiscal year; and

(2) in the case of any other local educational agency, 50 per centum of the amount that such agency received during such preceding fiscal year.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

The present occupant of the Chair has the full cooperation and understanding of the Senator from Nebraska as does my friend from Oregon, the distinguished chairman of the committee.

The Senator from Nebraska has been here since 9:30 a.m. but I have not sought recognition all of that time and not received it. The facts of the matter are since 9:30 a.m. this morning the Senator from Nebraska has been patiently, and I emphasize patiently, trying to work out some kind of an arrangement, an understanding to expedite the amendment that I think vitally important.

I have been unsuccessful in that, and I was here because I think this is a vitally important amendment and I hope that those in the Chamber will listen and those who are in their offices will listen to my words for a little bit, and then I shall ask for a rollcall vote on this amendment.

Mr. President, the amendment I am offering deals with preliminary 1983 payments to federally impacted school districts. I regret that I must offer this amendment, for I understand the need to pass this continuing resolution expeditiously. However, unlike many other amendments which are now being offered, which have really nothing to do with the continuing resolution, my amendment deals specifically with section 137 of the continuing resolution.

To the best of my knowledge every impacted school district is supporting this amendment and are convinced that it is necessary.

The reason for this amendment is because of the inadequacy of section 137 of the continuing resolution. This section, as now written, prohibits preliminary payments to impacted school districts except in cases of undue hardships. Undue hardships is a term which is not defined in the continuing resolution, nor does the Department of Education have a set of standards for what constitutes undue hardship. Without amending the continuing resolution, I believe it is safe to assume that schools could virtually have to cease operation before they could claim undue hardship and be assured of any preliminary payment.

Mr. President, the impact aid program is not a new one. It has been in existence for several decades, and preliminary payments have been made under the authorizing legislation during the entire history of the program up until last year. Preliminary payments are necessary because school districts need these funds for cash flow purposes. In many cases, impact aid makes up a sizable percentage of a school district's budget, and impacted districts this year are in generally worse condition than they have been in past years because of the substantial cuts which Congress made in the impact aid program for 1982.

Our amendment is a simple one. It closely follows the authorizing legislation requiring the Department of Education to make the payment to impacted school districts equal to 75 percent of the 1982 level. This applies to districts which have at least 20 percent federally connected students, including both A and B categories. For those districts which have less than 20 percent impaction, our amendment provides for a 50-percent preliminary payment.

Mr. President, let me briefly say what this amendment does not do. It does not add to appropriations above 1982 levels; it does not take away the flexibility of the Appropriations Committee to make changes in the impact aid distribution formula. If our amendment is passed, something between 25 and 50 percent of all impacted aid moneys, or between $100 and $200 million, would still be available to the Appropriations Committee for changes in the impact aid distribution formula in the regular appropriations bill.

Mr. President, I believe it is important to note that the members of the Appropriations Committee with whom I have talked also acknowledge the need for a change or clarification to section 137. I understand it is the intention of some Members to write to the Department of Education to inform the Department that it should make substantial preliminary payments to impacted districts. If this is the case, I suggest that we adopt this amendment and do the job right, by law, rather than relying on letters from individual Senators or conversations that individual Senators may have with the bureaucracy which obviously are not binding.

Last, without adoption of our amendment, I believe it is entirely possible, if not likely, that the Office of Management and Budget will direct the Department of Education to make as few preliminary payments as possible, igniting a bureaucratic furor, and that concerted effort will be made on the regular appropriations bill to eliminate entirely funding for B category students. In my opinion, this would be a serious error; Congress has already cut the impact aid program substantially, and the Reconciliation Act of 1981 also calls for a phaseout of B students. I suggest it would be inappropriate to advance that schedule in view of the fact that the impact aid program is subject to reauthorization in any case next year. Simply stated, a vote against our amendment is a vote against assuring that preliminary payments will be made to impacted districts, and it is a vote against B category students which have already been placed on a phaseout schedule by Congress.

Mr. President, I reserve the remainder of my time.

Mr. NICKLES. Mr. President, will the Senator yield?

Mr. EXON. Mr. President, I am glad to yield to my friend from Oklahoma.

Mr. NICKLES. I thank the Senator.

Mr. President, I rise in support of this amendment by my good friend from Nebraska.

I support this amendment to strike the provision barring preliminary payments of impact aid funds to affected school districts. In its place, Congress will require that preliminary payments of impact aid be made to all school districts that received funds in 1982. To districts that are at least 20 percent impacted, a preliminary payment of 75 percent of their 1982 funding level will be made. To all other impacted school districts, a preliminary payment of 50 percent will be required.

This small change in the continuing resolution is very significant to my State and others which have large areas of Federal land. These school districts begin the planning and budgeting process for the coming school year in July of each year. Most of the time, they have no idea how much impact aid money to budget with because Congress has not acted on appropriations measures. In fact, some districts in my State report not knowing how much impact aid money will be coming to their district even after the relevant school year has closed. Obviously, this causes a serious problem for school districts in their planning stages.

Withholding of prepayments has also caused a serious cash flow for impacted school districts. Last year, most

school districts in my State did not receive any impact aid money at all until March of this year, 7 months into the school year. This payment ranged from 50 to 70 percent of their total entitlement. Second payments were not made until after the school year had already concluded. Final payments have not yet been received in some cases.

With the continuing resolution's bar on preliminary payments for this school year, the inefficent cycle is starting all over again. The schools have already made their budgeting decisions, their school year is underway, and the bills coming in must be paid. Again, however, no impact aid money has been received. They do not know how much they will receive or when they will receive it.

The amendment we are considering today would begin to remedy this disruptive cycle. Schools would receive 50 to 75 percent of the total amount of impact aid money that they received last year by November 1 of this year, at least in time to assist in some of the cash flow problems. If, despite my opposition, Congress would reduce the level of funds for the impact aid program, adjustments could be made in the remaining payments.

I hope that my colleagues will vote for this amendment as a measure of sensitivity to school districts which have had their fiscal cycles disrupted by the inability of Congress to get appropriations bills enacted in a timely manner.

I thank the Senator from Nebraska.

Mr. EXON. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield 2 minutes to the Senator to speak on this amendment.

Mr. ABDNOR. I thank the distinguished chairman for yielding me time.

Mr. President, I must oppose this amendment and I would like to point out that it is a very complicated program we are talking about when it comes to impact aid.

For instance, a few moments ago my colleague from Oklahoma, who strongly endorses the Exon amendment. I think hardly realizes what he is doing when he endorses it. His State happens to be heavily covered with "A" students. In fact, Oklahoma has more super "A" districts than any other State in the the Nation. In the long run, the Senator's State could conceivable suffer considerable damage. Allow me to explain the intent of the preliminary payment provision approved by the committee.

First, let me emphasize that my committee colleagues and I included the same type of provision we did in last year's first continuing resolution. We did so in order to be able to devote considerable time to study this program and to come up with some sound recommendations for revamping and reprioritizing the limited funds available so that we might address adequately those school districts in most desperate need.

There are some districts that are facing very, very serious financial circumstances and the proposal contained in the continuing resolution takes care of those as it did last year by providing for prepayments to the districts which are in dire need at this time.

I simply wish to point out that the districts with "A" students, are the school districts experiencing extremely serious cash flow situations. They have been losing real dollars, their impact aid payments have been dropping in total amount every year since 1980. Also, districts which have enrolled an increased number of "A" students are not being compensated one dime for the increased numbers of "A" children they are responsible for educating.

For instance, many super "A" districts which rely almost totally on Federal impact aid moneys to make up for the lack of a tax base due to substantial Federal land holdings, such as districts impacted heavily with Native American children residing on reservation land, are unable to tax well over 50 percent of the land within their districts. Native American children often comprise well over 70 percent of the total student enrollment in these very seriously impacted districts.

In fiscal year 1981, these districts lost 5 percent of what they received in fiscal year 1980. I have learned that in fiscal year 1982 the Department expects them to receive only 86.4 percent of what they received in fiscal year 1981.

This committee wanted an opportunity to study and give serious consideration to what might be done to alleviate the serious financial burden imposed on these school districts. The Exon amendment is likely to take this opportunity away from us.

When you put the proposal of the Senator from Nebraska up to the light you will see that it would require that preliminary payments of 75 percent of the previous year's payments for both A and B students be made to super A districts, and 50 percent of the previous year's payment be made to all others, regardless of the severity of the financial burden imposed.

Now that sounds fine. School districts are going to get their money ahead of time. But the Exon amendment requires that a vast amount of the total level of appropriations, available to be expended during the first 30 days of the new fiscal year. Therefore if we do find it necessary to make some corrections and revise the current allocation formula the committee will be unable to do it.

I think the proposed amendment is bad legislation. I hate to see substantive amendments like this come up on short notice without ample opportunity for the Members of this body to see what is actually entailed, particularly before we know what direction Congress will take for the remainder of fiscal year 1983. It removes from the committee's hands completely an opportunity to do what we think is right in the handling of impact aid funds. The education of a great number of children, many of them Native American children, is at stake.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT. Mr. President, on behalf of the committee I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. SCHMITT. The Senator from South Dakota has indicated the depth of some of the concerns about this amendment. Those concerns are shared in a general way by the committee.

The Senator's amendment would eliminate the flexibility we need in order to make changes in the program as it is presently structured, as almost everybody believes changes must be made.

The reason for that is that the current situation is one in which in the first 30 days of the fiscal year a great deal of money can be allocated on request to the various States, and we run the danger that when we finally come to an agreement later this year on the appropriate formula change—and it is a different mix than currently exists or might exist under this legislation—some districts may end up having been overpaid, requiring school districts to pay back funds later in the year.

The amendment would not insure that payments would be made any more quickly. It would simply be a matter of processing more payments. The Department has assured us that any preliminary hardship payments will be made as required under the provisions of the committee amendment.

It would be my hope that the Senator would not persist. We have worked on this problem most of the day trying to reach an accommodation with him. The results have not been entirely satisfactory.

However, it would be my recommendation to my colleagues that the committee accept the amendment. We will try to work out any problems in conference, and that may be the place where things have to be done anyway on this issue.

Mr. PRESSLER. Mr. President, will my colleague yield?

Mr. SCHMITT. I would be happy to yield to the Senator from South Dakota 2 minutes.

Mr. PRESSLER. Mr. President, there are some 8,000 students within category A impacted districts in my home State of South Dakota. These students are either residing on Indian land or have parents who work and live on Federal property. South Dakota also has over 5,000 category B students whose parents work or live on Federal property. Federal funding is critical to the survival of their schools. It is therefore necessary that our impacted schools receive preliminary payments under this continuing resolution. Without them these districts will not have proper cash flow and will be forced to borrow money while awaiting Federal payments. However, I have been assured that the committee language will prevent undue hardship to these schools.

As I understand it, the Exon amendment would endanger payments to category A schools in South Dakota; is that correct?

Mr. SCHMITT. I believe, if I am correct, it has the potential later in the year of endangering payments to A students in a number of States, not just South Dakota.

Mr. PRESSLER. My State has 49 districts which receive impact aid funding. There are some 8,000 students within category A impacted districts and over 5,000 students within category B districts. But what we are talking about here is giving the committee flexibility rather than locking them in with the language proposed in the Exon amendment. Is that correct?

Mr. SCHMITT. The committee would much prefer, of course, the language that is in the resolution before us. We believe it does provide flexibility to reconsider the existing formula so that where, in a climate of reduced funding, the priority students can be served. The Senator from Nebraska is suggesting a different mix and that we not preclude the early payments in the first 30-day window of the fiscal year as the committee would do. I have indicated I am willing to go to conference on that issue. We know we may have some difficulties with the House on this, but that is probably where we will end up having to resolve it anyway.

Mr. PRESSLER. For clarification, you do predict that the House conferees will have a negative reaction to this amendment?

The PRESIDING OFFICER. The time yielded has expired.

Mr. SCHMITT. In response to the question, on my time, of the Senator from South Dakota I would say the House has no provision, and may have difficulty with the Exon proposal.

If the Senator is willing to yield back his time, Mr. President, I yield back my time, and I recommend to the chairman of the full committee that we accept the amendment.

Mr. PRESSLER. Mr. President, I oppose the Exon amendment to the continuing appropriations resolution, House Joint Resolution 599. I oppose the amendment because it would set fixed percentages for the preliminary payments which are to be made to impacted school districts. We must assure flexibility in the making of these payments. Under the committee's language the preliminary payments would be made to avoid undue hardship, and I support that language.

My State of South Dakota has 49 school districts which receive impact aid funding. Federal funding is essential to these schools. While the allocation formulas may need to be reevaluated, this resolution is not an appropriate measure for taking such action. During the past 8 years, I have fought hard to assure that impacted schools are assured their funding and I will continue that fight.

I appreciate having the opportunity to work with Senator ABDNOR and Senator SCHMITT in attempting to clarify the committee report language.

The PRESIDING OFFICER. Does the Senator from Nebraska yield time?

Mr. EXON. How much time do I have?

The PRESIDING OFFICER. The Senator has 7 minutes and 50 seconds.

Mr. EXON. I am about to yield back with the understanding that the Exon amendment will be accepted.

I have been trying without success all day to explain the amendment to my two friends from South Dakota. It so happens that our States are next to each other and they are not dissimilarly treated in any way, shape or form.

The statement has been made that the Exon amendment does harm to B students. That is not a fact of life. There is nothing in the amendment that says it hurts the B students. It helps both A and B students because it makes sure that the schools that are impacted get their money, rather than leaving it up in the air, as the committee language would do.

Another thing that I want to correct, Mr. President, is there is no change as to how much money goes to either A or B students in the Exon amendment, as some on that side of the aisle seem to believe. Where they come up with these fairy tales I do not understand. I wish they would spell them out.

Mr. SCHMITT. Will the Senator yield, Mr. President?

Mr. EXON. I will yield in a moment.

I simply say this does not have any more to do with appropriations. It merely provides that the money will be up front to meet the cash needs of the impacted schools, many of which are in dire straits financially these days.

Also, Mr. President, I certainly said in my opening remarks that if the Appropriations Committee in their normal processes wish to make some changes in the impacted aid later on with the regular appropriations bill, there would still be between $100 million and $200 million with which they could work.

I think this is not an amendment that straps anyone, except that it assures that the schools in impacted areas will get their money.

Mr. President, I ask unanimous consent that Senator MELCHER be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I am pleased to be a cosponsor of the Exon amendment which will help assure continued Federal support for school districts in the country that are impacted by Federal activities. These school districts rely on aid from the Federal Government to finance the education of children in the area. Unfortunately, the continuing resolution, as it is now written, will leave these districts in limbo for another 3 months until Congress decides what payments, if any, will be provided.

Section 137 of the continuing resolution now provides that preliminary payments would only be allowed for school districts where a delay in payment would cause undue hardship. It is difficult to determine what constitutes undue hardship. This language virtually assures that no payments will go to most school districts that are federally impacted for several more months.

I believe that most school districts in the country which are impacted by Federal activities will face undue hardship if payments are not forthcoming from the Department of Education. The impact aid program is not forward-funded. The school districts are counting on this funding for a school year that has already begun. How can teachers and administrators be expected to provide an adequate education for the children if they still do not know if sufficient funds will be available to pay the bills?

Federally impacted schools cannot be left hanging every year while Congress waits to decide what funding will be provided. The school year is already a month old; teachers have been hired, books have been purchased; supplies are on hand. Some districts receive a high percentage of their operating funds from the Federal impact aid program and face the possibility of discontinuing operations if payments are eliminated or delayed for several months.

If we delay these payments until the regular Labor-HHS-Education appropriations bill is enacted, some districts may not receive their Federal funding

until next spring. Judging from our record of the past few years, it is highly unlikely that the Labor-HHS-Education appropriations bill will be passed. It is more likely that education programs will continue to be funded under a continuing resolution. By delaying the payments another 3 months, we will be doing a disservice to the superintendents, teachers, and other personnel who are asked to work under such uncertain conditions. Even now we see that the final fiscal year 1982 payment has not yet been made to school districts even though the 1981-82 school year is just a memory.

I believe the Exon amendment provides a reasonable means of distributing preliminary payments based on the level of Federal impaction. This amendment would permit partial payments while allowing the necessary flexibility for further adjustments when, and if, the regular fiscal year 1983 Labor-HHS-Education appropriations bill is passed by Congress. I urge my colleagues to support this amendment.

Mr. TOWER. Mr. President, I am pleased to support the amendment offered by my colleague, the Senator from Nebraska, which would assure the availability of vital preliminary payments for those school districts heavily affected by a high concentration of families who live or work on Federal property.

Federal impact aid is not a recently created Federal subsidy, nor is its overall purpose to provide "nice to have" social programs for these districts. To the contrary, Federal assistance has for 150 years been provided to compensate States for the additional costs of basic educational services which they incur from education of dependents of military personnel—a burden imposed on States by the Federal Government. The Federal Government assigns military personnel to various locations throughout the country, where the children of these military personnel utilize the educational facilities of the public school districts in which their parents reside. Military installations do not contribute to the local property tax bases, and personnel living on these installations do not pay residential taxes. Thus, impact aid payments allow school districts, which depend heavily on property taxes for their operation, to supplement this "lost" revenue and thus provide a quality education for all of their students.

Federally impacted school districts have already experienced severe financial hardships from recent budgetary reductions. Furthermore, for many of the districts that assumed their share of cuts in fiscal year 1982, those funds that were actually appropriated have not yet been paid in full for last year. Texas, which this year experienced an $11.2 million reduction over the 1981 level of $31.8 million in impact aid payments, and is still owed almost $2.9 million of 1982 appropriated funds, is a good example of the cash flow problems which many States will face if they are unable to obtain preliminary payments for the upcoming school year. In my view, the Federal Government has a commitment to compensate school districts for the costs of educating these children. Steps must be taken immediately to alleviate the critical cash flow problem now facing federally impacted districts, and I believe the amendment offered by my colleague will allow the Federal Government to meet its responsibility in this regard in an equitable and even-handed fashion.

Therefore, I would like to urge adoption of this measure by the Senate.

Mr. BENTSEN. Mr. President, I join my colleague, Senator EXON, as a cosponsor of the pending amendment to insure the timely distribution of funds to school districts participating in the impact aid program. Failure to pass this amendment will cause unnecessary disruption of local budgetary processes, and if last year is any indication, will result in reduced programing, deferral of necessary maintenance to school facilities, and chaos in fiscal planning for the school year. In my own State of Texas, impact aid funding was reduced by $11 million dollars last year, a cut of almost 40 percent. Yet, impact aid constitutes one-fifth to one-half the budgets of schools at Fort Sam Houston, Lackland Air Force Base, Randolph Field, Killeen, and Del Valle. Superintendents of these districts, while concerned about the reduced level of Federal support, are even more distressed that the continuing resolution now before us would permit major delays in the transfer of funds.

Last year, appropriated moneys were held by the Federal Government until the end of March, when the school year was 80 percent complete. Mr. President, it would be inexcusable to place these districts in that position again, when such a large portion of their budget is linked to Federal support. Passage of this amendment will simply reinstate the procedure used in previous years by permitting the allocation of up to 75 percent of available funds to school districts whose student population is substantially impacted by Federal military and civilian employee families, and 50 percent of available funds to those districts with less than 20 percent impact aid eligible student populations.

Mr. President, this amendment is nothing more than an effort to allow affected districts to manage their budgets and their programs in a prudent, efficient manner. I urge my colleagues to join with me in voting for improved management of Federal dollars.

Mr. EXON. I am ready to yield back the remainder of my time if they are on that side.

Mr. HATFIELD. Mr. President, I would say on the recommendation of the subcommittee chairman, that the leadership of the bill is willing to accept the amendment of the Senator from Nebraska.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HATFIELD. I yield back the time remaining.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Nebraska.

The amendment (UP No. 1325) was agreed to.

UP AMENDMENT NO. 1326

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 1326.

At the appropriate place in the resolution, insert:

SEC. . All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of carrying on normal operations are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

Mr. HATFIELD. Mr. President, this is purely boilerplate language that is offered on behalf of the committee. I ask for its immediate adoption. It has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon (Mr. HATFIELD).

The amendment (UP No. 1326) was agreed to.

COMMITTEE AMENDMENT—PAGE 35, LINES 14-24

Mr. HATFIELD. Mr. President, I wish to make an inquiry of the Chair. I believe there is only one committee amendment remaining to be acted upon and that has to do with the FTC.

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Mr. President, at this time I yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, the committee amendment referred to that is pending is an amendment that I offered in committee and which was adopted after debate in the committee. It is since been the subject of further consideration. In order to try to expedite consideration of this bill dealing with the Federal Trade Commission and other matters that are before the Senate in connection with this bill, I am prepared to ask the committee to withdraw the committee amendment.

But, Mr. President, before doing that, I wish to state that this is the so-called FTC regulation of professionals amendment. I do not intend to debate that issue or the merits of the amendment, but I do want to indicate that the chairman of the Commerce Committee has agreed that we will get a vote on this issue, either on the FTC authorization bill itself or on the appropriations bill.

I would add to that, Mr. President, my understanding that if those two measures do not come up it may be added as an amendment to the next continuing resolution, so that we will have an opportunity for the Senate to resolve this issue before we get to the end of this session this year. And I have those assurances from the Senator from Oregon (Mr. PACKWOOD), as well as others who are interested in this. The other Members who are interested in this matter have been consulted, as well, and they are not in disagreement with this process.

Therefore, Mr. President, I say to the chairman of the Appropriations Committee, the Senator from Oregon (Mr. HATFIELD), that I request that the committee amendment be withdrawn.

Mr. HATFIELD. Mr. President, this is in agreement with both sides of the aisle. This removes one of the controversial issues so that we may expedite the handling of the continuing resolution. I appreciate very much the Senator from Idaho being willing to move to withdraw the committee amendment.

The PRESIDING OFFICER. Is there objection? Hearing no objection, the amendment is withdrawn.

UP AMENDMENT NO. 1327

Mr. McCLURE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) for himself and Mr. BUMPERS proposes an unprinted amendment numbered 1327.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On pages 15 and 16 strike all of Section 109 and insert the following in lieu thereof:

"Sec. 109. Except as expressly provided for by law, none of the funds provided in this joint resolution shall be obligated to dispose, except by exchange, of any Federal land tract or lands with national environmental or economic value until such time as the General Services Administration, the Property Review Board, or other agencies as required under Executive Order 12348 has specifically identified them as no longer being needed by the Federal government; inventoried them as to their public benefit values; provided opportunity for public review and discussion of the property proposed for disposal; and provided 30 days advance notice of the property proposed for disposal and of the plans for carrying out such disposal to the Congressional delegation of the State or States in which the tract proposed for sale is located and to the appropriate Congressional Committees for immediate printing in the Congressional Record: *Provided*, That neither the Act of July 31, 1958 as amended (72 Stat. 438, as amended; 7 U.S.C.1012 a;16U.S.C.478 a) Nor the Act of June 14, 1926, as amended (43 U.S.C. 869 et. seq.) shall be subject to the provisions of this section."

Mr. McCLURE. Mr. President, I would identify this for the Senate and those that may be listening as the amendment dealing with the sale of public land, upon which Senator BUMPERS had earlier suggested that he and I would have an amendment agreed upon. This language has been agreed upon. I do not think there is any objection to it. It is clarification language that was inserted in the committee during the committee meeting.

Mr. President, this amendment is an attempt to accommodate a number of suggestions we have received during the past day or so. Specifically, it does the following:

First, inserts the phrase "Except as expressly provided for by law" at the beginning of the section. This insertion clarifies our intention that this section not be an impediment to completing land sales or land exchanges specifically identified in earlier legislation, such as is the case in Mount St. Helens. It is not our intention in this section to overturn existing land exchange or land disposal procedures but rather to restate in law the ground rules for the surplus property disposal program.

Second, specifies in another manner that land exchanges are not subject to those procedures. We hope land exchanges will continue to receive high priority as a method of consolidating Federal land ownership and of implementing our "Good Neighbor" policy.

Third, we have removed reference to real estate holdings to permit GSA to continue its regular real property acquisition and disposal function.

Fourth, we have exempted the so-called Townsite Act from the provisions of this section.

Fifth, we have removed any size limitations on the proposal. This means that any non-exchange lands disposal will be subject to the provisions of this amendment, including congressional ratification.

We do not intend to stop the surplus lands disposal program with this amendment. The Federal agencies involved should continue to identify potential parcels for disposal and should carry out the other steps identified as being required prior to disposal.

Mr. President, I ask unanimous consent that a statement of Assistant Secretary Garrey E. Carruthers be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF GARREY E. CARRUTHERS

I appreciate the opportunity to appear today to provide some facts and to share some issues we face in the Department of the Interior's efforts to facilitate the President's asset management initiative. Perhaps it is only the season of the year, but unfortunately this initiative has become awash with misinformation. We truly believe that anyone who has a willingness to listen and to learn will find reason to support this initiative because it represents a common sense idea whose time has come. The citizens of this country should not be denied the obvious benefits of this initiative.

The objectives of the President's initiative are three-fold: One, to sell excess Federal property and some public lands for higher and better use, two, to cut the cost of government by eliminating unnecessary management of lands and real property in excess of Federal needs, and three, to pay off some of the national debt.

These objectives should not be viewed as overly complex or threatening. It is an asset management initiative. It is not a privatization program.

The great difference in these two concepts is best illustrated by the asset management criteria for public lands. Without review or qualification of any kind, land within the National Park System, land within the Wildlife Refuge System, and Indian Trust Lands will not be considered for sale under asset management.

Asset management criteria will apply to lands currently managed by the Bureau of Land Management and those lands which become subject to BLM administration as a result of withdrawal revocations. All BLM lands under asset management will be assigned to one of three categories, as follows: Category I lands and mineral resources which will be retained in Federal ownership and will not be considered for sale or transfer. Category II lands and mineral resources which will be available for sale or transfer. Category III lands and mineral resources which will require further study in order to determine whether they should be placed in Category I or II.

Land and mineral resources in Category I contain environmental and/or economic assets of national significance. I repeat, the Federal policy will be to retain these lands in the Federal system.

Public lands currently designated as national environmental assets in Category I include: Wilderness areas, wilderness study areas, national conservation areas, wild and scenic rivers, national or historic trails, natural or research natural areas, designated areas for cultural or natural history, designated areas of critical environmental concern, and wild horse ranges.

Currently designated mineral resources with national economic significance which will be placed in Category I include: Known recoverable coal resource areas, known geologic structures (oil and gas), the Outer Continental Shelf, known geothermal resource areas, areas identified to have nationally significant oil shale deposits, designated tar sands areas, and known potash, sodium and phosphate areas.

Further classes of lands, minerals, or other resources with economic or environmental assets of possible national significance may be included as Category I and as

further studies of Category III lands are completed.

Category II are Lands and Mineral Resources Designated for Sale or Transfer.—Public lands which are likely to be placed in Category II include: lands proximate to cities, towns, or development areas not under application for recreation or other public purposes; scattered non-urban tracts so located as to make effective and efficient management impractical; lands designated for agricultural, commercial, or industrial development as the highest value or otherwise most appropriate use; and other types of lands and minerals identified for sale in an existing land use plan.

Additional lands may be included in Category II as further studies of Category III lands are completed.

Category III are Lands and Mineral Resources Requiring Further Study—Lands and mineral resources in Category III include those lands, minerals, and other resources requiring further study in order to determine whether they should be placed in Category I or Category II.

When these criteria are applied to the 540 million acres under management of DOI, this means that 397 million acres (approximately 74 percent) have been exempted from inventory or sale under asset management, either as parks, refuges, Indian trust lands, or the Category I BLM lands. Approximately 2.7 million acres of public land, or one-half of 1 percent, of total DOI acreage have been identified for disposal in existing land use plans and therefore placed in Category II. This later categorization was based on the BLM's preliminary inventory of public lands which was released in June. These 2.7 million acres of public lands were given a rough fair market value of $2 billion (surface estate only). BLM District Managers also identified an additional 1.7 million acres of potential transfer areas, which would require amendments to land use plans. The rough estimate of fair market value on these lands was $440 million (surface estate only).

These preliminary figures on BLM lands were prepared in a very short timeframe and—even though these lands were identified through the land use planning process—further planning, inventory work, environmental and cultural clearances, including notification of State and local governments and determination of consistency with State and local plans are required before any BLM land is sold under asset management.

Public Participation and Consistency With State and Local Plans and Zoning.—Public participation and State and local government consultation and coordination are an integral part of asset management as applied to DOI-managed public lands. The land use planning process requires formal participation opportunities for both local citizens and State and local governments. Each land use plan must be as consistent as practicable under Federal law with State and local plans where they exist. The BLM coordinates with State and local governments to assure that they have been given an opportunity to review the BLM land use plans. It is through these land use plans that sale lands will be identified. Also, the formal sale procedures require that State and local government officials with zoning, administrative, or public services responsibilities in the geographic area where public lands are located must be notified not less than 60 days prior to the sale. This comment period provides sufficient time to assure consistency with local plans and time to either amend or vacate the sale.

Sale Authority under the Federal Land Policy and Management Act.—It is important to point out that adequate authority is provided in the Federal Land Policy and Management Act of 1976 to accommodate the asset management initiative for public lands administered by the Bureau of Land Management. This Act authorizes the Secretary to sell tracts of public lands. Section 203 provides that a tract of public land may be sold where, as a result of the land use planning required under Section 202, the Secretary determines that the sale meets the following criteria: One, due to the location or other characteristics, the tract is difficult and uneconomic to manage as part of the public lands, or two, the tract was acquired for a specific purpose and the tract is no longer required for that or any other Federal purposes, or three, disposal of the tract will serve important public objectives, including but not limited to, expansion of communities and economic development, and which outweight other public objectives and values, including but not limited to, recreation and scenic values, which would be served by maintaining the tract in Federal ownership.

Section 207 prohibits conveyance of any land by FLPMA whether by sale, exchange, or donation, to any person who is not a citizen of the United States or to any corporation not subject to the laws of any State or the United States.

Section 209 provides for the retention by the United States of all minerals except under certain circumstances when the minerals are conveyed along with the lands.

Section 210 requires at least 60 days notice to State and local officials of any intention to sell public lands without their jurisdictions.

If the Secretary decides to sell any tract of land larger than 2,500 acres, Congress must be notified. Congress then has 90 days to disapprove the sale by concurrent resolution. If the sale is made, under the FLPMA provisions it must be for fair market value as determined by the Secretary and may be conducted under competitive bidding or negotiated sale precedures.

Real Property.—On March 26, 1982, 1 month after the President signed Executive Order 12348, the Department of the Interior began a three-phased utilization review of its real property holdings. The reviews were to be conducted in the following manner:

Phase I.—The Bureaus were to identify all real property tentatively scheduled to become excess to program needs between now and the end of Fiscal Year 1983 (September 1983). This list included all property in the process of being declared excess to program needs as well as property that would not be needed or supported at proposed FY 1983 program funding levels.

This phase of the inventory was completed in late April and sent to the Property Review Board. Twenty-five separate properties were identified for disposal by the General Services Administration.

Phase II.—The Bureaus were to review and identify *all* contiguous parcels of real property, both improved and unimproved, that are located all or in part, in or within 10 miles of the corporate limits of a community with a population of 25,000 or more.

Several categories of real property were, and still are, specifically exempted from review and reporting.

The National Park Service did not report any lands within the National Park System other than acquired lands being held for exchange purposes and any administrative sites located outside the boundaries of a National Park Unit that met the selection criteria.

The Fish and Wildlife Service did not report any lands within the National Wildlife Refuge System other than administrative sites or other holdings located outside the boundaries of a National Wildlife Refuge Unit that met the selection criteria.

The Bureau of Indian Affairs did not report any lands held in trust for Native Americans.

The Bureau of Land Management excluded from this review all unimproved public land.

Also excluded from review were those lands either presently proposed for wilderness status or already designated as a wilderness area.

This inventory was completed late in May. We are still in the process of establishing complete review criteria for the more than 400 parcels identified.

Phase III.—The Bureaus were to review all remaining real property under their management and classify each parcel and report those which are not being utilized, are underutilized, or are not being put to optimum use.

These reviews are still in progress, and should be completed by late November 1982. The utilization review guidelines are an amended version of those which have been used for the past several years. The amendments simply expand upon the existing criteria by making them more specific and detailed. Our aim here was to improve the quality of the data submitted.

This, then, is asset management, an initiative designed to: Dispose of excess improved real estate; dispose of unneeded public lands, consistent with planning system objectives; apply the proceeds from these sales to the Federal budget deficit; and do a better job of managing the lands that remain in Federal ownership.

This is an exciting prospect, and we are anxious to move forward.

Mr. DOMENICI. Mr. President, I wish to explore with the chairman of the Interior Subcommittee the background regarding a provision in the resolution impacting on land exchanges between the Federal Government and other entities. It is my understanding that the committee has recommended some technical amendments to insure that section 109 of House Joint Resolution 599 is deemed not to apply to land exchanges. And I wonder if the Senator from Idaho could tell me if that is the case.

Mr. McCLURE. I would answer my good friend from New Mexico that he is correct. It is the feeling of the committee that the new language exempts land exchanges which are processed under laws passed by the Congress regulations. I know several of the Members of the Senate were concerned with section 109 and its implication to land exchanges and I assure my friends that it was never the intention of the committee to interfere with land exchanges.

Mr. DOMENICI. I thank the Interior Appropriations Subcommittee chairman for this information. I would

take this moment to point out that Senator McCLURE, who is also chairman of the Energy and Natural Resources Committee, is one of the foremost experts we have in Congress today on policy matters that impact on our public lands. I was certain that the Senator from Idaho would explain this provision to my satisfaction and I appreciate his patience and assistance on this matter. I and several other Members are very interested in several land exchanges that are currently ongoing and again I thank my good friend from Idaho.

Mr. BUMPERS. Mr. President, I just came in to say that the Senator did indeed have my authorization on this.

Mr. HATFIELD. Mr. President, the managers of the bill support this action. Again, we commend the Senators for resolving this issue in such an amicable fashion. I ask for the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho (Mr. McCLURE).

The amendment (UP No. 1327) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1328

(Purpose: To extend the application of the International Coffee Agreement Act of 1980 for 1 year)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself, Mr. MOYNIHAN, and Mr. D'AMATO, proposes an unprinted amendment numbered 1328.

At the appropriate place in the bill, insert the following:

SEC. . Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out "October 1, 1982" and inserting in lieu thereof "October 1, 1983".

Mr. DOLE. Mr. President, as far as the Senator from Kansas knows, there is no objection to this amendment. I discussed it with the distinguished Senator from New York, Senator MOYNIHAN. Ambassador Brock of the USTR, called me earlier today and indicated that unless we act on the International Agreement Act it will expire Friday morning at 12:01. Unless extended, the United States will no longer be able to carry out its obligations under the international coffee agreement which was successfully renegotiated this past weekend.

The agreement requires coffee importing and exporting nations to regulate the amount of coffee in international trade and to control world prices within an agreed range. If the United States cannot control unauthorized imports, this will encourage exports outside the quantitative limitations in the agreement and would effectively impair it. As has happened in the past, I think the result would be most consumers would be again subjected to the wild price fluctuation in this important commodity.

It is my understanding, according to Ambassador Brock, that we have just ended a long series of negotiations with the country of Brazil and that unless this agreement can be added to the continuing resolution there may not be any other opportunity before the expiration on Friday morning at 12:01 a.m.

Mr. President, the Coffee Agreement Act expires this Thursday night at midnight. As a result, on Friday morning the United States will no longer be able to implement its responsibilities under the International Coffee Agreement. This agreement represents an attempt by virtually all the coffee importing and exporting nations of the world to avoid extreme fluctuations in world coffee prices.

The United States has been a participant in such agreements since 1962 but it has only been in recent years that they have begun to function effectively. Over the past weekend negotiations were successfully concluded extending the international agreement currently in effect for another 6 years. This extension, as the previous agreement did, provides for the exporting nations of the world to restrain exports as prices fall and to increase exports as prices rise. In addition, they are required to establish a stockpile of coffee to insure regular and adequate supplies.

The importing nations, including the United States, on their part have agreed to except only coffee accompanied by proper documentation. This insures that the exporting nations act within the scope of the agreement. Without an extension of the implementing legislation the United States will not be able to deny entry to any unauthorized coffee imports. As a result we risk upsetting the entire International Coffee Agreement and subjecting consumers to wild fluctuations in coffee prices.

Mr. President, I urge my colleagues to extend the implementing authority for 1 year.

Mr. HATFIELD. Mr. President, this is one of those cases of an expiration problem. I only wish to use this occasion not to be critical of this action, because it is an appropriate action the Senator is taking, but I wish to make the comment that I think we have had an extraordinary number of bailout amendments from the agencies downtown that have not somehow had a filing system that has indicated to them when these expirations are going to occur. I think we have had an extraordinary number of such requests that are absolutely required.

But I hope somehow out of this experience these agencies will become a little more alert to these expiration dates that are occurring on matters and agreements, and so forth, that they are responsible for.

I only use this occasion not to in any way be supercritical of this one, because it is only one of many, but merely to alert the agencies downtown that, frankly, using this appropriations process again is one of the problems that bogs it down for these things that should have been taken care of and planned for before this 11th hour.

With that little admonition to the agencies downtown, I am happy to receive and accept this amendment and carry it to conference.

Mr. DOLE. Mr. President, if the Senator will yield, I certainly share the views expressed by the distinguished chairman of the Appropriations Committee. I know the frustration of everybody trying to get on board when we should have passed this probably yesterday. There are still 30 to 40 amendments, I understand, pending. Many of them are November amendments, election amendments. This happens to be one of those that is necessary. I hope we can go out early tonight and come back next week and finish all the preelection elements.

Mr. HATFIELD. I thank the Senator for his observation.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas (Mr. DOLE).

The amendment (UP No. 1328) was agreed to.

UP AMENDMENT NO. 1329

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG), for himself and Mr. DENTON proposes an unprinted amendment numbered 1329.

On page 34, line 2, insert the following:

"Provided however, that the provision shall not apply in those States which have submitted an application to the Secretary for fiscal year prior to October 1, 1982 or which were operating their own program at some time during fiscal year 1982."

Mr. ARMSTRONG. Mr. President, this amendment has been extensively, although not exhaustively, shopped around. I know of no particular controversy about it, but I will take just a moment to explain it so that Senators understand the purpose.

It addresses itself to the distribution of community block grant funds for fiscal year 1983. The current law provides that States which receive such grants must pass through 90 percent of community services block grant money to eligible entities in the State. In fiscal year 1982, this distribution was made through community action agencies, and for fiscal year 1983 the distribution could be made to political entities as well. That is to say counties, municipalities, and so on, which had submitted a plan for distribution prior to the 1983 funding to the Office of Community Services in the Department of HHS.

Section 135 of the continuing resolution has the effect of eliminating this 1983 provision so that all funds could continue to go to the CAA, not to other political entities as allowed in current law.

In the case of my own State, the effect is to preempt some 9 months of work which has gone into preparing for the new system on October 1, work which has been the effort of local officials, counties, municipalities, and so on. I believe there are other States which have a similar problem and that the amendment which I have offered will permit those who are prepared to transition to the new system to go ahead and do so.

With that word of explanation, Mr. President, I urge the adoption of the amendment and reserve the remainder of my time.

● Mr. DENTON. Mr. President, as chairman of the Aging, Family, and Human Services Subcommittee, which authorizes the community services block grant, I rise in strong support of the amendment offered by my distinguished colleague from Colorado, Mr. ARMSTRONG.

Section 135 of the continuing resolution is absolutely contrary to the authorization language for the block grant as contained in the Reconciliation Act passed last year, an act we labored long and hard to draft. Mr. President, I object to this practice of legislating on appropriations bills because it usurps the responsibility of the authorizing committees.

Section 135 of the continuing resolution mandates that States pass through 90 percent of their block grant allotment directly to already existing community action agencies for fiscal year 1983. However, the Community Services Block Grant Act, as passed by Congress as part of reconciliation last year, requires the 90 percent pass through to existing agencies for fiscal year 1982 only. After fiscal year 1982, the Reconciliation Act instructs States to pass money through to cities and counties for use at that level, or for local officials to pass through to private, nonprofit organizations. If the local officials want to pass the money on to existing community action agencies they are perfectly free to do so. They are not, however, required to do so.

States should have the flexibility, within the statute, to determine who are the most appropriate recipients of CSBG funds. Block grants were created for the purpose of returning to the States and localities the authority to determine local priorities. Enacting this kind of provision over a year after passage of the reconciliation bill and at the absolute 11th hour constitutes a breach of faith with the States and undermines the intent of block grant legislation.

I understand that section 135 was included in the resolution because some of the States whose programs are currently being administered by HHS need more time before assuming the block grant.

If that is the case, the Senator's amendment addresses the concern of those States who need more time before assuming the block grant, and indeed grants them more time. Simultaneously, those States that are prepared and who have planned ahead in good faith and drafted laws that comport with the Reconciliation Act can proceed with their plans without delay.

This amendment has the administration's support and changes the appropriations language to more accurately reflect the intent of Congress when it authorized the CSBG last year. I urge its adoption.●

Mr. HATCH. Mr. President, I wholeheartedly support Senator ARMSTRONG's amendment. Friday, the first of October, is the date according to the Omnibus Reconciliation Act of 1981 by which the States must assume administration of the community services block grant. Accordingly, most States have made the necessary preparations and are already administering this block grant, or are prepared to do so. It is an extraordinary hour to be changing the rules of the game for these States, but that is precisely what a provision of this continuing resolution purports to do. This provision would require the States to hand over all community services moneys to the existing community action programs, even though some States have already made other arrangements. Nineteen States have actually passed laws apportioning community services moneys, and these laws will be superseded. My own State of Utah has passed a law that would use the counties to administer the community action programs. Utah's counties are poised to assume their duties. Are these preparations to be vitiated by some last-minute whimsy of the Congress?

It cannot be good policy to grant prolonged entitlements to providers. Since when are these the primary objects of our social programs? It is the people served who we should be caring about. Just last Friday, we had to hold at the desk and summarily pass H.R. 7065 to relieve an unconscionable situation in Sacramento County, Calif. During the crush of last year's reconciliation conference on the community service block grants, the House Members pushed through a provision similar to the one included in this continuing resolution. Last year's provision required that existing community action agencies get the community services money for fiscal year 1982. Unfortunately, no provision was made for corruption, inefficiencies or even malfeasance on the part of individual community action agencies. When the Sacramento CAP agency had to be defunded for gross corruption, there was no way for HHS to get community services money to Sacramento County. We had to pass H.R. 7065 to remedy this situation.

I cannot see that there is anything sacrosanct about individual community action programs. These are nonprofit private organizations, some of which have done well and some of which have not done well—except perhaps for themselves.

We enacted the community services block grant explicitly to give the States some flexibility in administering community services programs. This block grant is still the law, and there has been no effort to repeal it, and thus I presume that it is still the official will of the Congress to give the States this flexibility. Thus, I can see no good purpose to this obscure provision whose meaning cannot even be ascertained unless the cross references are checked—for this obscure provision denies all flexibility to the States for another year. This is sheer hipocracy. It is not as if there is a revolution in the offing. The States have decided that almost all the grantees will be the existing community action agencies. It is only a few States that are trying another approach, and most of these States are still relying on the CAP agencies to a considerable degree.

I do realize that several States have had legitimate difficulties in gearing up to assume control of the community services block grant. For this reason, some Senators have supported the "hold harmless" provision. Relief should be provided these few States. And, even though I usually do not approve of legislating on an appropriations bill, I am willing to see this relief provided.

Senator ARMSTRONG's amendment performs this task nicely—and with efficiency. States that are not ready to go on Friday will be held to the "hold harmless" provision, but the other States which have made their plans will be allowed to fulfill these plans. They will not be interfered with. No State laws will be overturned, and the

Congress will have kept faith with the States and the needy people whom the States must serve.

Mr. WALLOP. Mr. President, House Joint Resolution 599, as reported by the Senate Appropriations Committee, contains language on the funding for the community service program which frustrates the intent of the community services block grant.

Last year, the Congress approved necessary revisions in the community services program. In brief, we decided that the States should have more control over the program. Community services is one of the last remnants of the war on poverty. The program has been neither an unqualified success nor a total failure. Community services deserves to be continued, but control over the program should reside with the States. Over the past two decades, the States have significantly improved their administrative capabilities. The States have the expertise to respond to the problems of the low-income population. That is the rationale for turning community services into a block grant controlled by the States.

When we adopted the block grant last year, it was recognized that the States could not immediately accept responsibility for community services. The legislation contained a provision to require continued funding of community action agencies for 1 year. At the end of fiscal year 1982, the States would have developed a State plan and distribute the antipoverty funds according to the State plan.

The continuing resolution now requires the States to fund the community action agencies for 1 more year. This would be mandated for the States despite the fact that some States have developed their plans and are ready to proceed with their own program. In my own State of Wyoming, we have only two community action agencies which service only one-third of the counties in the State. The new State plan, on the other hand, would distribute the funds to all 23 Wyoming counties. However, the language in the continuing resolution would prohibit the State plan from going into effect. Many people will not receive assistance through community services. The Armstrong amendment corrects this problem by allowing those States with State plans to implement the plans. Those States who have not developed the plans would continue to fund the community action agencies. This is a sensible solution, and I urge adoption of the amendment.

Mr. HATFIELD. Mr. President, as manager of this joint resolution, I will, for the sake of time, agree to the Armstrong amendment of community action agencies, but wish to indicate that we may need to revisit this issue in conference in order to make possible modifications. We have not had ample time to study the full impact of this provision which seems to favor only a few States, including some that were out of compliance with the original law.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, I yield to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, I appreciate the efforts of the Senator from Colorado in bringing this particular issue to the attention of the committee. I think he clearly understands the intent of the committee amendment. I would be happy to recommend to the committee and to the Senate that we accept this amendment and take it to conference.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. I have no objection.

Mr. McCLURE. Mr. President, I yield back the remainder of our time.

Mr. ARMSTRONG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (UP No. 1329) was agreed to.

Mr. ARMSTRONG. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1330

Mr. McCLURE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), for himself and Mr. Jackson, proposes an unprinted amendment numbered 1330.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, strike lines 11 though 21 and insert the following in lieu thereof:

"SEC. 121. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 4(d)(1) of Public Law 96-312 and section 603 of Public Law 94-579, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statewide or other act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, none of the funds provided in this Joint Resolution shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oilshale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-Sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas."

The PRESIDING OFFICER. Will the Senate please come to order? Those Senators desiring to chat will please do so outside the Chamber.

Mr. McCLURE. Mr. President, the distinguished Senator from Washington (Mr. JACKSON) is a cosponsor of this amendment which further clarifies the intent of the Senate that, for the life of this joint resolution, no permits or leases pertaining to exploration for or development of a variety of resources on wilderness or proposed wilderness lands will be issued. The amendment strikes the language now contained in section 121 of House Joint Resolution 599 and inserts language which virtually reflects the language contained in S. 2801 now being considered by the Energy and Natural Resources Committee.

More specifically, it provides that such permits and leases will be prohibited except in those few cases where the Congress has made limited, specific provision for other activities within designated wilderness or wilderness study areas; on land which the Congress has specifically released for multiple use management; on Bureau of Land Management wilderness study area lands; and on lands within the State of Alaska. Further, my amendment makes it clear that, in addition to oil, gas, coal and geothermal, oilshale, phosphate, potassium, sulphur and gilsonite exploration and development will be prohibited for the duration of this joint resolution.

Mr. President, this amendment reflects the desire of the administration to maintain a moratorium on exploration and development in wilderness and proposed wilderness areas until Congress acts on this matter during this Congress. It is my understanding that there is no objection on either side of the aisle and I urge its adoption.

Mr. President, I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I would like to express my strong support for the clarifying amendment offered by the Senator from Idaho dealing with the prohibition on oil and gas leasing in wilderness and wilderness candidate areas.

As my colleagues know, I have introduced legislation in the Senate, S. 2801, which addresses this question. In the Senate 54 Members, 20 Republicans and 34 Democrats, are now cosponsors of this legislation. By any measure, S. 2801 enjoys a degree of wide bipartisan support almost unprecedented for a bill of this type. I

am pleased that a majority of our colleagues in the Senate share my view that S. 2801 represents a balanced and reasonable response to Secretary Watt's insistence that wilderness and wilderness candidate areas will be available for leasing absent any specific congressional direction to the contrary. This amendment simply conforms the language of this resolution to that contained in S. 2801 with regard to the minerals involved, and the lands on which leasing is and is not permitted between now and December 15.

Of course, the provision in the bill before us today is short term. Its leasing prohibition lasts only until December 15. As such, it does not contain the additional exploration provisions or the so-called unlock provisions of S. 2801. In short, the matter before us today should in no way be viewed as a substitute for S. 2801, and I will continue to do what I can to give the Senate an opportunity to act on this measure before the end of the year.

Nevertheless, this provision in the continuing resolution is important. It makes it clear that leasing activities will not take place in these areas during, and at least slightly beyond, the upcoming congressional recess. Hopefully, this will give us ample time to act on a permanent solution this year.

Mr. President, I would like to commend Congressman SID YATES, chairman of the House Interior Appropriations Subcommittee, for his diligent efforts in helping to insure that this language was included in the House-passed bill. I would also like to express my appreciation to the chairman of the Senate Appropriations Committee, Mr. HATFIELD, the chairman of the Senate Interior Appropriations Subcommittee, Mr. MCCLURE, and the other members of the Senate Appropriations Committee for agreeing to retain the language from the House-passed bill and modifying the language in this manner.

In closing, Mr. President, let me say that I think it is very significant that one committee of the Senate, and the Senate itself, have now gone on record in support of this concept—even if for a relatively limited period of time. I am confident that these actions will give us the momentum we need to enact S. 2801 this year.

Mr. MCCLURE. Mr. President, I ask unanimous consent that the Senator from Montana (Mr. MELCHER) be added as a cosponsor to the amendment.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I know of no objection on our side.

THE PRESIDING OFFICER. Who yields time?

Mr. MCCLURE. Mr. President, I yield back the remainder of my time on the amendment.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

THE PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (UP No. 1330) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MCCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1331

(Purpose: To provide for an orderly transition to the new Job Training Partnership Act)

Mr. SCHMITT. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an unprinted amendment numbered 1331.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution add the following new section:

SEC. ——. Notwithstanding any other provisions of this joint resolution, except Section 102, amounts which are available by Section 101 for continuing activities conducted in 1982 under the Comprehensive Employment and Training Act of 1973, as amended, are hereby also made available to continue those activities under the provisions of S. 2036 as reported by the Committee on Conference.

The PRESIDING OFFICER. Will the Senate please be in order? Will those Senators wanting to conduct conversations please retire to the cloakrooms?

(Mr. GORTON assumed the chair.)

Mr. SCHMITT. Mr. President, I offer an amendment of a technical nature which would resolve any question concerning the use of continuing resolution funding as it relates to the new jobs training legislation being reported out of the conference committee.

Normally, an agency cannot obligate funds under new legislative authority under the terms and conditions of a continuing resolution. This amendment would allow the Department of Labor to continue those activities carried out in 1982 under CETA legislative authority in the event that the conference committee reports a jobs training bill and the President signs the bill into law before the expiration of this joint resolution. The new jobs training legislation provides for a transition that would allow funds appropriated in 1983 to be used to maintain those activities carried out under CETA in 1982. No new programs or activities authorized under the new legislation could be funded by this continuing resolution.

This amendment therefore guarantees continuation of Labor Department employment and training programs providing services for in excess of 1 million unemployed people. With passage of the new Job Training Partnership Act, which the President has indicated he will sign, we will have a significantly strengthened Federal effort to assist the unemployed.

Mr. President, I urge adoption of this amendment.

Mr. DOMENICI. Mr. President, I do have one question. This is to be at what level?

Mr. SCHMITT. Mr. President, under the terms of the amendment and the terms that I understand the language of the continuing resolution will be interpreted as representing, this would be at the current level of enrollees.

We are trying to get from the Office of Management and Budget just what that means in numbers. They are reluctant to give us that information because every agency has a different way of calculating it. We are going to continue a diligent effort to try to understand that. The effect of current operating level language, which we have in the resolution, we interpret as being to maintain the current level of enrollees in the program until new legislation is enacted.

Mr. QUAYLE. Will the Senator yield?

Mr. SCHMITT. I am happy to yield to the Senator from Indiana.

Mr. QUAYLE. I thank the Senator for yielding.

A point of clarification. It is my understanding that with respect to training activities under CETA or its successor legislation, which has been reported out of the conference committee and which has the support of the administration—and which in all probability will pass the Congress and be signed into law—that that amount would be $3.7 billion.

Current operating levels in 1982 were conducted both on the amount appropriated for fiscal year 1982 and the amounts that were deferred from 1981 and 1982. Furthermore, it is my understanding that the interpretation of the continuing resolution at $3.7 billion is shared by the House Appropriations Committee and the House and Senate Budget Committees.

I am wondering, can the Senator tell us, is that his interpretation of the continuing resolution, that it is at $3.7 billion as interpreted by the House Appropriations Committee and the

House and Senate Budget Committees?

Mr. SCHMITT. No. I am sorry. I cannot say that because we do not know what that level is. It could be more and it could be less. That is the reason I answered my distinguished colleague from New Mexico the way I did, in that we would expect for the duration of the continuing resolution until the enactment of the law, in which the Senator is so deeply involved, it would be to maintain the current level of enrollees. I hesitate to say what the dollar figure is.

Mr. QUAYLE. I am wondering, why the confusion? What is the confusion?

We have a $3.7 billion figure from the Senate Budget Committee. We had the dialog before on what the outlays were going to be. We have it from the House Appropriations Committee. We have it from the House and Senate Budget Committees——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. QUAYLE. Mr. President, I ask unanimous consent that the Senator be yielded 5 additional minutes.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. QUAYLE. There seems to be some confusion. I know that it is only for 60 days, but I really have a hard time understanding what the confusion is. At least I thought it was agreed to be the $3.7 billion figure. If it is not, I wonder what the Senator from Indiana would have to do to get it up to where we had it in the budget resolution, what would be necessary, rather than continuing and leaving this rather vague.

Mr. SCHMITT. I do not think that maintaining the current level of enrollees is vague. The bill that is under consideration in the conference committee is not vague, as I understand it. It is just that the Appropriations Committee of the Senate has certain independence in formulating what they think the cost will be in this bill for fiscal year 1983. I am not willing at this point, without having done the analysis and gone through the regular bill process, to tell the Senator what that level is going to be. It is obviously going to be in that vicinity. Whether it is more or less, I do not know. I am not in a position to make any commitment.

Mr. QUAYLE. In the vicinity of $3.7 billion?

Mr. SCHMITT. Obviously, that is the general ball park in which the Congress is aiming the new legislation, but at this point we are merely trying to make sure that there is no hiatus in the CETA program between now and the final signature of the President on that legislation.

Mr. QUAYLE. Mr. President, I do not want any hiatus on the funding level because we have had this ongoing fight as to what the funding level is going to be. It was very clear in the budget resolution that the Senate voted on, that the funding level was going to be $3.7 billion. If that is not the case in this continuing resolution, then I would like to be in a position to try to correct that situation if it is anything less.

Mr. SCHMITT. I can tell the Senator two things: One is that the Appropriations Committee is not bound by any specific decision made in the budget resolution. We are bound by the allocations that come from the crosswalk and by the determinations within the committee of the priorities for funding. In this case, we are trying to make sure that there is no hiatus until the Senator's bill is enacted, until the House and Senate have had a chance to work their will on a regular appropriations bill. The House has not, as I understand it, reported out their regular bill. We do not know where they are going to come down on the CETA program. That is a matter for the appropriations process to take care of during the course of the next 60 to 90 days, and we will do that.

What the final number will be, I cannot tell the Senator.

Mr. QUAYLE. What does the Senator's amendment do?

Mr. SCHMITT. It merely provides for continuation of the CETA program at the current level of enrollees for the period of the continuing resolution or until the enactment of the law that is currently in conference, the New Job Training Partnership Act.

Mr. QUAYLE. When the Senator talks about the current enrollees, in other words, he is talking about basically at current funding plus——

Mr. SCHMITT. Current funding levels.

Mr. QUAYLE. Current funding levels, which would include the carryforwards to maintain these programs; is that correct?

Mr. SCHMITT. I do not know what the Senator means by carryforwards. Current operating levels is the language that we have adopted, the House has adopted and we have accepted for the period of this continuing resolution.

Mr. QUAYLE. I want to make sure, when the Senator talks about current levels, he is talking about what is needed to fund those programs and to fund the successor of CETA, which will be the Jobs Training Partnership Act, and that will include the funding which includes the carryforward.

Now, that is the current funding. We will not talk about a figure. I just want to know conceptually what we are talking about.

Mr. SCHMITT. Again, what we are dealing with is the level of effort currently in progress in terms of enrollees and staff. As we deal with the regular appropriations bill and when the new Job Training Act becomes law, then the process of determining what is going to be the actual level of funding will continue. We cannot make that determination in this continuing resolution because that act has not been enacted. Currently we must work under the existing CETA authorization.

Mr. QUAYLE. I certainly appreciate the explanation. I realize I am not going to get any more specifics from the Senator.

Mr. SCHMITT. I am sorry. I do not have any more to give the Senator.

Mr. QUAYLE. He does not have any more to give me, but I will just try to summarize.

It seems to me we are on record that we are going to retain the funding at current levels. "Current levels" means funding to have these programs go forward.

Furthermore, Mr. President, the current levels to allow these programs to go forward include the carryforward funding, and in the interpretation of this Senator that would be $3.7 billion.

I know the Senator from New Mexico is not committing, and I do not want to ask for his commitment, to a certain level but certainly my interpretation of that right now would be the $3.7 billion.

I thank the Senator from New Mexico, who has been a stalwart in employment training programs.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PROXMIRE. Mr. President, we have no objection to the amendment. I yield back the remainder of our time.

The PRESIDING OFFICER. Is all time yielded back?

The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (UP No. 1331) was agreed to.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

STATUS OF AMENDMENTS

Mr. BAKER. Mr. President, I have what I hope is very good news indeed, and that is the prospect that we may be able to reduce the number of amendments and obtain reduced time for debate on those remaining amendments. I think it offers the prospect that we can finish this bill tonight. It is the first hopeful sign I have seen in a long time. I am prepared to ask the Senate to remain in for a while to try to do that.

Mr. President, in particular, two of these amendments have not yet been worked out, but a great number have and I want to put the request now for those amendments on which agreements have been arranged, I believe.

Before I do this, Mr. President, there will be a long list of these amendments. First, I ask unanimous consent that the distinguished manager of the bill, the chairman of the Appropriations Committee, may be authorized by the Senate to arrange the sequence in which the amendments will be presented.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I will not object. The distinguished chairman is very fair, but I think that this should be done only by unanimous consent because it goes contrary to the rules. As long as it is done by unanimous consent, of course, that is all right; I have on objection, because as I say, the chairman is very fair. Generally he alternates and we have no complaint.

The PRESIDING OFFICER (Mr. QUAYLE). Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I am going to make a series of requests that will have time limitations, and I would like the following language to apply:

Mr. President, I ask unanimous consent that in each case the time shall be equally divided, with control of the time in the usual form, and in the case of a Hollings MX amendment, a Kennedy amendment, and a Nickles second-degree amendment on Davis-Bacon the vote will be on or in relation to those amendments.

Mr. President, let me complete the unanimous-consent request. Mr. President, I ask unanimous consent that on a DeConcini Small Business amendment, there be a time limitation of 10 minutes; on a second DeConcini amendment on peso devaluation, 10 minutes; on a Danforth ADAP amendment, 10 minutes; on a Nunn biomedical amendment, 2 minutes; on a Ford billing amendment, 2 minutes; on a McClure pricing study, 10 minutes; on three Schmitt amendments——

Mr. SCHMITT. We have done all but one.

Mr. BAKER. One Schmitt amendment.

Will the Senator take less than 5 minutes?

Mr. SCHMIDT. Five minutes.

Mr. BAKER. One amendment by Mr. SCHMIDT, 5 minutes; a Bumpers colloquy, 1 minute; a Weicker Outer Continental Shelf amendment—I will omit that one for a moment, Mr. President; a Stevens reenlistment amendment, 10 minutes; a Glenn research amendment, 30 minutes; Mr. President, on the Kennedy amendment, I am told that the distinguished Senator from Massachusetts is agreeable to 30 minutes equally divided.

The Senator from Oklahoma has a second-degree amendment dealing with Davis-Bacon, and it is my hope that he will come to the floor and that we can get 10 minutes on that amendment, equally divided, with the understanding that a tabling motion will be in order against the Nickles amendment in the second degree and/or against the Kennedy amendment.

I will not now make that request, since I have not fully cleared it, but I hope the Senator from Oklahoma can hear me, wherever he is, and come to the floor.

There is a Moynihan "Rebuilding America" amendment, 10 minutes. That must be a record.

Mr. MOYNIHAN. Two minutes.

Mr. BAKER. Two minutes.

There is a Domenici colloquy on the budget question, 15 minutes, with 5 of it available to the distinguished Senator from South Carolina, the ranking minority member of the committee.

Mr. President, against the caveats I have put earlier as to control and other circumstances, I make that request at this time.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—and I do not think I will object—I just want to be sure that with respect to each amendment that has been listed by the majority leader, and for the moment he has not listed the Kennedy amendment of the Nickles amendment——

Mr. BAKER. Or the Hollings amendment or the Weicker amendment.

Mr. ROBERT C. BYRD. Or the Hollings amendment or the Weicker amendment.

That any amendment in the second degree would have to be germane, and the time on any second-degree amendment would be half the time allotted to the amendment in the first degree.

Mr. BAKER. That was included in the previous request, and I reiterate that request from the previous request, as the minority leader has described. I add that any point of order submitted or appeal from the ruling of the Chair shall have the same time, if debate is in order, as that for second-degree amendments.

Mr. STENNIS. Where does that leave the MX amendment?

Mr. BAKER. I have not yet dealt with that. I hope we can get a 30-minute limitation on or in relation to that amendment.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, I think the majority leader said all first-degree amendments must be germane.

Mr. BAKER. Second-degree amendments, with the objection of the Nickles amendment on Davis-Bacon, which is not now part of this request. So the request would be that second-degree amendments must be germane to the first-degree amendments to which they are offered.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? The Chair hears none, and it is so ordered.

Mr. BAKER. I thank all Senators.

Mr. President, I think this truly does give us a chance to finish this matter tonight, and I urge all Senators to do that.

That leaves us with the Hollings amendment on MX. I urge that the Senator from Texas, the chairman of the Armed Services Committee, indicate his wishes to us as soon as possible.

As to the Kennedy amendment, I once again urge the Senator from Oklahoma (Mr. NICKLES) to communicate with us in that respect.

As to the Weicker amendment, I will make an effort to contact the Senator from Connecticut to ascertain that situation.

Mr. President, I will return in a moment to see if our luck holds and if we can get agreements on those matters as well.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Inasmuch as no committees are meeting at this time, would it be possible to get 10 minutes on rollcall votes? It is hoped that many of these amendments would not require rollcall votes.

Mr. BAKER. Mr. President, I very much hope that Members will have voice votes when possible. Rollcall votes, as we know, consume a great amount of time.

If the Senator will give me a moment, I will try to clear the request for a 10-minute rollcall vote.

Mr. HATFIELD. Mr. President, I see that the Senator from New York is very anxious to get to rebuilding America. Can he be recognized at this time to offer his amendment?

The PRESIDING OFFICER. The Senator from New York.

UP AMENDMENT NO. 1332

(Purpose: To postpone the effective date of increases in rent contributions by tenants in public housing)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York, (Mr. MOYNIHAN), for himself and Mr. RIEGLE, proposes an unprinted amendment numbered 1332.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

"*Provided further*, That no funds provided under this joint resolution shall be used to enforce the regulations which took effect on August 1, 1982, increasing rents or rent contributions for the housing assistance programs under the United States Housing Act of 1937, prior to the expiration of 90 days after the date of enactment of this joint resolution.

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order?

The Senate will please come to order, so that we can take care of the pending business. The Senator from New York has a right to be heard. Those people at the rear of the Chamber will please cease conversation.

The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I have reduced dramatically the scope of this amendment, and what remains, in the spirit of the Chamber at this point, is simply to put into this bill the measure we adopted on Friday in the Department of Housing and Urban Development appropriations bill. My amendment would postpone for 90 days the effect of HUD regulations that raise the percent of income required to be paid as rent by persons in public assisted housing.

The Senator from Utah was gracious in accepting the amendment. Unfortunately, it has been dropped in conference as a result of the conference committee dynamics. This simply restores it.

Mr. HUDDLESTON. Mr. President, as ranking member of the Senate Appropriations Subcommittee on HUD-Independent Agencies, I am pleased to support the amendment offered by the Senator from New York (Mr. MOYNIHAN) postponing for 90 days the effective date of tenant contribution regulations. A comparable amendment was included in the Senate version of H.R. 6956, the fiscal 1983 HUD-independent agencies appropriation bill.

Mr. President, the increase in tenant contributions were requested by the administration and authorized by Congress. There is widespread feeling that tenant contributions must be increased if our housing programs are to remain viable. The regulations which were issued on August 1 have, however, caused considerable controversy. A number of housing authorities believe they will result in massive relocations and detrimental changes in the populations of their projects. Because of the many questions which have been raised regarding the regulations, a short delay so that they could be reviewed and their implications fully evaluated would seem only prudent.

Mr. GARN. Mr. President, on Friday, when we passed the HUD appropriations bill, I said to the Senator from New York that although I disagreed with the philosophy behind his amendment and the policy decision, I would accept it on the HUD appropriations bill because it had a 90-day limitation.

In the conference it was dropped, not necessarily intentionally. In the conference, we were dealing with packages of "House recedes" and "Senate recedes," and it was dropped as part of another series of amendments.

Therefore, I have no objection to making the same offer to the Senator from New York now, that because of the 90-day limitation, even though we have a disagreement on the principle, I advise the distinguished chairman of the committee that, once again, I will not object to accepting it on that basis.

Mr. MOYNIHAN. I thank the Senator for his gracious statement.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, we will accept the amendment, on the recommendation of the subcommittee chairman.

I yield back the remainder of my time.

Mr. MOYNIHAN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1332) was agreed to.

Mr. MOYNIHAN. I thank the distinguished chairman.

Mr. HATFIELD. Mr. President, I yield to the distinguished Senator from New Mexico to offer his amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

UP AMENDMENT NO. 1333

(Purpose: To prohibit phase-down of the Public Health Service Commissioned Corps)

Mr. SCHMITT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an unprinted amendment numbered 1333.

Mr. SCHMITT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. None of the funds provided in this or any other act shall be used to implement an apportionment and staffing plan to specifically phase down the Public Health Service Commissioned Corps.

Mr. SCHMITT. Mr. President, the purpose of this amendment is to insure that the Office of Management and Budget does not begin to phase down the Public Health Service Commissioned Corps. This is a consistent position that Congress has taken, and this merely continues that position in the continuing resolution.

This same amendment was included in the urgent supplemental. It was the intent of Congress that the continuing resolution continue the restriction contained in the urgent supplemental. The General Accounting Office, however, suggested the restriction might not carry over into the continuing resolution. I am not sure I agree, but in response to that view, I offer the amendment again to insure that any change in the Corps not occur through an OMB phasedown.

The Commissioned Corps of the Public Health Service is a statutory uniformed service which has been in existence for approximately 100 years. The Corps comprises some 7,200 health care professionals, including 2,600 physicians staffing a variety of programs such as the Indian Health Service and the Epidemic Intelligence Service. Other agencies such as the National Institutes of Health, the Coast Guard, the Environmental Protection Agency, the Food and Drug Administration, and the Bureau of Prisons also use Corps staff. The Corps provides an experienced, skilled cadre of public health professionals who take special pride in being part of the Corps.

The amendment relating to the Corps was made necessary by a recent OMB directive furthering efforts to restrict the size and use of the Commissioned Corps and to hamper it in carrying out its mission.

In particular, OMB's proposal would permit only new physician entries into the Corps for the Indian Health Service and the other agencies of HHS which depend upon the Corps for personnel.

The OMB directive would eliminate the recruitment of an array of other health professionals—nurses, dentists, social workers, medical technicians and physicians' assistants—who are necessary to the Corps to carry out its mission.

While language to prohibit a phasedown appears fairly restrictive, it is necessary to insure that OMB's most recent directive, which appears to be a culmination of past efforts in this direction, is not implemented. However, we do not intend to tie the Secretary's hands in his efforts to manage the Commissioned Corps in an efficient way. The language of my amendment would still allow the Secretary of HHS the discretion and flexibility to structure the Commissioned Corps so as to improve its effectiveness—and this is

our intention. Our approach is based on the sound principle that specific staffing decisions regarding the Corps should be made in the Department and based on program rationale rather than through arbitrary directives from OMB.

The General Accounting Office, however, suggested that the restriction might not carry over into the continuing resolution. That is why it was not included in the bill as reported.

I am not sure I agree with this interpretation, but in view of the GAO's opinion this amendment is offered again to insure that no change in the Corps can occur during the period of the operative time of this resolution.

I hope that there will be no opposition to this amendment, and I move its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. I am ready to yield back the remainder of my time.

Mr. SCHMITT. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (UP No. 1333) was agreed to.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we are making rather rapid progress, and I wish to have any Senator hearing this in his office who has an amendment upon which we have arrived at a unanimous-consent time agreement to please make his way to the Chamber in order that we may continue this marvelous progress.

Mr. President, we are waiting at this moment for the arrival of Senators who have amendments on which there have been unanimous-consent agreements and I ask the leadership to put a hotline out to all Senators who have such amendments to urge them to come to the Chamber. That does not include the MX, nor the Kennedy amendment, nor those that have not been agreed to, but we now are ready to take up all of those on which we have made an agreement.

Mr. BAKER. Mr. President, I say to the Senator that I am happy to do that and I urge Senators to come to the Chamber and ask our cloakrooms to put out a hotline to that effect.

TIME LIMITATION AGREMEENT

Mr. BAKER. Mr. President, if I may have the attention of the manager and the minority leader, I am advised by the distinguished junior Senator from Oklahoma that the request that I outlined earlier is agreeable to him, that is to say, 30 minutes on the Kennedy amendment equally divided and then a vote to occur or in relation to the Kennedy amendment; 10 minutes equally divided on the second-degree amendment to be offered by the Senator from Oklahoma (Mr. NICKLES), after which a vote on or in relation to the Nickles amendment would occur, with the understanding that the Nickles amendment is a Davis-Bacon amendment and, therefore, would not have to be germane to the Kennedy amendment.

Mr. ROBERT C. BYRD. Mr. President, would it be possible for us to agree that that would be the only Davis-Bacon amendment that would be offered?

Mr. BAKER. Yes, Mr. President, I am happy to include that and I so ask unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I have no objection. I have cleared this with Senator Kennedy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair and thank all Senators.

Mr. HATFIELD. Mr. President, I now yield to the Senator from Alaska (Mr. STEVENS) who has a reenlistment bonus amendment on which a 10-minute time agreement has been reached.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

UP AMENDMENT NO. 1334

(Purpose: To delete authority to pay certain Department of Defense bonuses, which are unbudgeted for fiscal year 1983)

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1334.

On page 28, delete lines 22 through 24; on page 29, delete lines 1 through 25; on page 30, delete lines 1 through 24; and on page 31, delete lines 1 through 20.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, in its markup on the continuing resolution, the Appropriations Committee responded to a request from the Armed Services Committee to amend the continuing resolution and provide a temporary extension of authority for certain military bonus payments. I offered the language transmitted by the Armed Services Committee so that there would be no expiration of authority for these bonuses. This all occurred rather quickly. The request did not reach me until the committee was already in the process of marking up the continuing resolution and there was little opportunity to analyze the language sent over by the Armed Services Committee.

I have learned since, however, that the language involves more than a simple extension of existing authority. A part of the language would authorize new and unbudgeted aviation officer continuation bonuses. This proposed new bonus authority, I understand, is in the military pay bill reported in the Senate but has not been considered yet by the full Senate. Nor has it been considered by the House of Representatives.

I do not think it is advisable to establish a new unbudgeted and unauthorized program in the continuing resolution, Mr. President. There is no reason that a program of this nature should not be considered in the normal authorization and funding processes of Congress. Perhaps, if there is more time, we will also have some indication from the administration itself whether it will support this program with a budget request.

Accordingly, Mr. President, this amendment strikes subsection (b) of section 127, beginning on page 28, line 22 and continuing to the bottom of page 31. In effect, only the opening paragraph of section 127 would remain. That is the paragraph that extends current authority for existing bonuses until March 31, 1983.

Mr. STENNIS. Mr. President, I was called from the Chamber. Will the Senator from Alaska repeat the question?

Mr. STEVENS. Certainly. As my good friend from Mississippi will recall, I offered an amendment in committee to extend the authorization for existing bonus payments for the military. It was my understanding then that we were extending existing authority for bonuses budgeted in fiscal year 1983. I found, however, that a portion of the amendment goes beyond existing authority to authorize a bonus not yet considered by the full Senate, nor funded for fiscal year 1983. Authorizing this bonus was not our intent, and this amendment deletes from the amendment offered in committee that particular portion of the language. This makes the continuing resolution consistent with previously passed authorization bills.

Mr. STENNIS. I see. I thank the Senator.

I do not have any objection, of course, to an amendment of that kind. In fact I support it.

Mr. STEVENS. I thank the Senator.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. HATFIELD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1334) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATO TROOP COMMITMENTS

Mr. STEVENS. Mr. President, I am aware the administration as a whole and the Defense Department in particular have problems with the committee's revisions in U.S. troop strength in Europe. I have talked to the President directly on this issue and corresponded with him, and I have assured him that there will be ample opportunity to debate this issue when we take up the regular defense appropriations bill for fiscal year 1983.

There is no need to debate this issue or try to amend the committee position during consideration of the continuing resolution. The committee instructions on holding U.S. troop strength in Europe to the level that existed at the start of fiscal year 1981 applied to 1983 end strength. That is, the actual numbers of personnel in Europe at the end of the 1983 fiscal year, September 30, 1983.

The Department of Defense will not be required to make any change one way or the other in European forces as a result of this continuing resolution as it has been reported in the Senate. Troop strength in the first few months of the fiscal year need have no bearing on whatever end strength restriction Congress eventually adopts.

For my part, I would like to assure the Senate and the administration that there will be every opportunity to debate this issue when we take up the regular defense appropriation bill. If it is the will of the Senate, the committee recommendations can be amended at that time. As I said yesterday in a floor statement, I do not intend to back off the position established by the committee after a 12-to-1 supporting vote of the Defense Appropriations Subcommittee. The thrust of our recommendation is to halt the growth of U.S. troops in Europe and to expect more participation from our allies in the defense of Europe. It is a sound position, and I hope the President will be able to review the merits of that position before Congress returns from the election recess.

Meanwhile, Mr. President, I am confident we can safely pass over this issue so far as the continuing resolution is concerned without foreclosing any subsequent changes the Senate might wish to consider.

RAPID DEPLOYMENT FORCE

Mr. President, on another matter concerning the Senate reported defense appropriations bill, I recognize the committee's recommended restriction on the establishment of a unified command for Southwest Asia has raised concern in the Defense Department and among some Members of Congress. It would not be my intention to establish that prohibition permanently through a continuing resolution. I agree that there should be ample opportunity to debate this issue, and that opportunity will certainly be available when we take up the regular defense appropriation bill for fiscal year 1983.

This restriction on the Rapid Deployment Force organization is not an issue that needs to be dealt with in the context of the continuing resolution. The Department does not plan to establish any unified command until January 1983. Thus, the restriction in the reported defense appropriation bill, which would be adopted as part of the continuing resolution, will not have any impact until the Congress reconvenes late in November, at which time the issue can be raised and dealt with.

I personally feel quite strongly that the prohibition is a good idea because it gives Congress time to consider whether another military bureaucracy is really necessary. But, as I said, that question can be debated fully when Congress returns after the election recess.

MULTIPLE LAUNCH ROCKET SYSTEM

Mr. BUMPERS. Mr. President, on behalf of Senator PRYOR and myself, I would like to ask the distinguished chairman of the Defense Appropriations Subcommittee what his understanding is concerning the status of the multiple launch rocket system—MLRS—program during the period that the continuing resolution is in effect.

Mr. STEVENS. Mr. President, I see no need to address the multiple launch rocket system issue in the continuing resolution. The committee recommendation on the regular defense appropriation bill as reported to the Senate does include instructions and funding for a second production source for MLRS. However, I would not expect the Army to take any action or make any commitment on any program change until Congress completes action on a specific appropriation for this program. If it chooses, the Army could go ahead and prepare the paperwork on a competitive source so long as no request for proposal—RFP—is issued and no obligation or commitment of funds is made. Meanwhile, the bill provides funding for continuing production of more than 23,000 missiles and 72 launchers, which can continue under terms of the Senate reported continuing resolution. I should note further that there is likewise no authority for the Army to enter multiyear procurement for MLRS. That, of course, would also have to await a final congressional approval.

Mr. BUMPERS. Thank you for your response. That concurs with my understanding of the situation. I would like to ask my distinguished colleague from Arkansas if the chairman's response conforms also with his view that no action will occur during the time that the continuing resolution is in effect that would prejudice the outcome of this important issue before the fiscal year 1983 defense appropriation bill is considered on the floor of the Senate.

Mr. PRYOR. Yes; that is also my understanding. Moreover, the chairman's response is totally consistent with the position that the Army has outlined in Under Secretary Ambrose's letter of September 28, in response to our joint inquiry to him on this matter. I ask unanimous consent that both letters be inserted in the RECORD, at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection it is so ordered.

(See Exhibit 1.)

Mr. PRYOR. Let me just say that the decision reached by the Appropriations Committee which would preclude the Army from pursuing a multiyear procurement strategy for the MLRS, even if it is the most cost-effective means of acquiring this important weapons system, is unacceptable; and my distinguished colleague from Arkansas and I will fight during consideration of the fiscal year 1983 defense appropriation bill to see that this decision is reversed, and that the Army will be allowed to proceed with its original, well-conceived and, to date, well-implemented procurement plan for the MLRS.

Mr. BUMPERS. I agree with everything that my distinguished colleague has just stated. The decision of the Appropriations Committee should be overturned. But, with the assurances we have just received from the chairman of the Defense Appropriations Subcommittee and the Under Secretary of the Army that no actions will be taken which will affect the outcome of the issue during the time the continuing resolution is in effect, we will withhold an amendment on this issue until the defense appropriation bill comes to the floor.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., September 28, 1982.

Hon. JAMES R. AMBROSE,
Under Secretary of the Army, Department of the Army, Washington, D.C.

DEAR SECRETARY AMBROSE: We want to thank you for your letter of September 21, reaffirming the Army's strong preference for pursuing a multiyear procurement strategy for the Multiple Launch Rocket System (MLRS), with the threat of a second source competition. We agree totally with the Army's assessment that a directed second source would not be a sound business decision from the perspective of the Congress, the Army, or the country.

We are concerned about what could happen to the MLRS program during the

period that the Fiscal Year 1983 Continuing Resolution will be in effect, and are seeking assurances that the Army will take no actions that could prejudice the outcome of the multiyear versus second source procurement debate until the issue is considered and resolved by the full Senate and the House.

In particular, we would like the Army to confirm our understanding that:

1. During the period of the Continuing Resolution, the Army will proceed on schedule with its evaluation of the multiyear procurement option for the MLRS; and

2. The Army will obligate no funds for the purpose of facilitizing or providing other support to a potential second source producer or conducting a second source competition during the period of the Continuing Resolution.

Because the Continuing Resolution will come before the Senate today for consideration, we hope that you can give this matter your most prompt attention, and provide us with a reply at the earliest possible time.

Thank you again for your cooperation on this important issue. We look forward to hearing from you.

Sincerely,

DALE BUMPERS,
DAVID PRYOR.

DEPARTMENT OF THE ARMY,
OFFICE OF THE UNDER SECRETARY
Washington, D.C., September 28, 1982.

Hon. DAVID PRYOR,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PRYOR: Thank you for our letter of September 28, supporting the Army's procurement strategy for the Multiple Launch Rocket System (MLRS). I have concluded that the multiyear procurement strategy, with the potential for a second source competition, is the best approach.

The Fiscal Year 1983 Continuing Resolution Authority should have no impact on the MLRS program, because contract award is not planned to occur until the 3rd Quarter of Fiscal Year 1983. I assure you that, during the period of the Continuing Resolution Authority, unless otherwise required by law:

1. The Army intends to proceed with its evaluation of the multiyear procurement option for the MLRS; and

2. The Army does not intend to obligate any funds for the purpose of facilitizing or providing other support to a potential second source producer or conducting a second source competition.

Sincerely,

JAMES R. AMBROSE,
Under Secretary of the Army.

Mr. HATFIELD. I would now like to yield to the Senator from Georgia.

UP AMENDMENT NO. 1335

Purpose: To extend the period for which funds appropriated for the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research are available.)

Mr. NUNN. Mr President, I have an amendment I just sent to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes an unprinted amendment numbered 1335.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution, insert the following:

SEC. . Notwithstanding section 1804 of the Public Health Service Act, funds provided for the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research by the Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216) shall remain available until March 31, 1983.

Mr. NUNN. Mr. President, the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research has been a valuable and productive resource for the Congress and other governmental organizations faced with many difficult ethical questions. This Commission, established by Public Law 95-622, has studied a number of important health care and research issues affecting the lives of our citizens. The Commission recommended a definition of death which has been adopted by seven States and the District of Columbia. Its statement on the necessity of protecting human research subjects from research risks was the basis for the establishment of an ad hoc committee within the Vice President's Deregulatory Task Force to study regulations affecting research. The Commission has also studied the issue of compensating individuals for injuries resulting from research.

Mr. President, under the terms of Public Law 95-622, the Commission is scheduled for termination on December 31, 1982. However, the Chairman of the Commission has requested a 3-month extension, without additional appropriations, which would delay the termination date until March 31, 1983. This additional time will enable the Commission to close down its operation and publish the remainder of its reports.

Mr. President, four new Commissioners were appointed in July and participated in their first Commission meeting in August. The Commission is in the process of completing work on six new reports, which must be approved and published before the termination date. The 3-month extension will be used to finish these projects.

Mr. President, with the tremendous advances in medical research and the unprecedented ethical dilemmas facing us today, I feel that the work of this Commission is a valuable asset to our work here in the Senate and urge my colleagues to accept this request for an additional 3 months.

I hope the committee can accept the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I would be very happy to accept the amendment on the recommendation of the subcommittee chairman, Mr. SCHMITT. I yield back the remainder of my time.

Mr. NUNN. I yield back my time.

The PRESIDING OFFICER (Mr. ARMSTRONG). All time having been yielded back, the question is on agreeing to the amendment of the Senator from Georgia.

The amendment (UP No. 1335) was agreed to.

Mr. HATFIELD. Mr. President, I would like to yield to the Senator from Kentucky for an amendment.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

UP AMENDMENT NO. 1336

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an unprinted amendment numbered 1336.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . For the calendar year ending December 31, 1982, the Sergeant at Arms and Doorkeeper of the Senate is authorized to pay certain telephone mileage charges for GSA-FTS lines furnished to a Senator in official office space in the state that Senator represents. These payments are to be limited to charges caused by the increase in the mileage tariff. Payment to be made upon certification and documentation by each Senator of the amount involved.

Mr. FORD. Mr. President, very briefly the Telpak tariff permitted GSA to obtain lower rates on volume purchases of telephone lines. That has been dispensed with. It was not factored into the 1982 budget. This amendment merely allows it.

The PRESIDING OFFICER. If the Senator will suspend for just a moment, the Chair will ask the Senate to be in order.

Mr. FORD. It allows the Senate offices to substantiate the additional charges and authorizes the payment of these charges without any damage to the budget, without any additional monetary funds required. It is just a perfecting amendment to allow the offices which make those charges to substantiate the charges in order to be reimbursed.

Mr. HATFIELD. I have just been informed that the chairman of the Legislative Subcommittee of the Appropriations Committee, Mr. MATTINGLY, of Georgia, is on his way to the floor to make a comment and to ask a ques-

tion on this. He is concerned about it. I wonder if the Senator would be willing to set aside this amendment temporarily until he can arrive on the floor?

Mr. FORD. I will say to the chairman it would be perfectly all right with me to do that. However, I informed a caller who had some question about it and he said to come to the floor and carry out my amendment, so I came on. I would be glad to set it aside.

Mr. HATFIELD. If we will just temporarily for a minute set it aside, and let me confirm that the Senator is on his way.

Mr. President, we had a time for the Senator from Connecticut (Mr. WEICKER) to offer an amendment in lieu of an amendment. Mr. WEICKER is present on the floor for a colloquy, I believe, in offering his amendment.

Mr. ROBERT C. BYRD. Mr. President, I have been consulting with the distinguished Senator from South Carolina (Mr. HOLLINGS). The majority leader tells me he has to make one telephone call before we can proceed with this agreement. May I say to the distinguished Senator from South Carolina (Mr. HOLLINGS) before we can enter into an agreement the majority leader has to make one call. So if the Senator will indulge me——

Mr. HOLLINGS. Yes.

Mr. HATFIELD. Mr. President, I yield to the Senator fom Connecticut.

UP AMENDMENT NO. 1337

(Purpose: To provide for review of Secretary Watt's 5-year OCS leasing program)

Mr. WEICKER, Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. Is there objection to laying aside the amendment of the Senator from Kentucky? Hearing none, it is so ordered.

The clerk will report the amendment of the Senator from Connecticut.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 1337.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

FINDINGS

Sec. (a) Lease sales for oil and gas development of the Outer Continental Shelf (OCS) should be expanded from the level of lease offerings in previous years so as to provide for additional domestic oil and gas supplies for the Nation.

(b) The Outer Continental Shelf is a national resource of immense size and value and should be developed with a proper regard for the environment the ability of the states, local governments and the public to meaningfully represent their interests in the Federal OCS program, and the public's receipt of a fair market value for the OCS lands.

PLAN REVIEW

Sec. (a) Beginning on the date of enactment of this section, the Secretary of the Interior shall cease, for a period of 8 months, implementation of the 5-year plan he adopted on July 21, 1982, for the Outer Continental Shelf leasing program.

(b) During this period the Secretary of the Interior shall review the program which he adopted and revise it in order to ensure:

(1) That the program will achieve the goal of receipt by the public of fair market value for the oil and gas resources of the leased OCS lands;

(2) ensure that affected coastal States, local governments and the public have their concerns addressed effectively in the leasing process, including consideration of whether the streamlined leasing procedures of the program adequately ensure that affected coastal states, local governments and the public have adequate and timely information on which to base their comments on individual proposed or actual lease sales, and is pursuant to section 307 of the Coastal Zone Management Act (16 U.S.C. 1456) and section 18 of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1344); and

(3) ensure that environmental concerns are adequately considered in the program, including but not limited to, the magnitude and timing of offerings are consistent with the ability to collect and analyze data necessary for assessing the impact of OCS activities on the environment.

(c) Any such revision shall be subject to the same requirements as a revision under 43 U.S.C. 1344(e).

(d) Leasing of the OCS shall be permitted to continue during such period, except that those elements of the 5-year OCS leasing program adopted on July 21, 1982, which provide for—

(1) area-wide consideration for leasing, or

(2) streamlining of administrative procedures shall not be further developed or implemented during such 8 month period. Nothing in this subsection shall be deemed to limit the powers of the courts to grant preliminary or permanent relief based on claims put forward on either the program of July 21, 1982, or the previous program or any individual lease sale.

REPORT

Sec. The Secretary of the Interior shall submit to the Congress at the expiration of such period a report on his review and revisions of the program pursuant to section (b), including an explanation of how the revised program carries out the principles enumerated in section 18 of the OCS Lands Act Amendments of 1978.

Mr. WEICKER. Mr. President, it was my intention at this time to have before the Senate an amendment that expresses my deep concern over the revised 5-year Outer Continental Shelf oil and gas leasing program developed and approved by the Secretary of the Interior James Watt.

This is because there are several aspects of the 5-year OCS program that worry me.

The first is that the magnitude and timing of OCS leasing may significantly impair our ability to assess the potential for and prevent significant deterioration of the environment. There are tremendous gaps in both our knowledge about the OCS, especially in frontier areas, and the technology necessary to limit, cap off, and clean up an oilspill or blowout. Under the 5-year OCS program these gaps will be exasperated by the areawide leasing schedule. It is vital that the collection and analyses of environmental data and oil and gas exploration and development technologies are commensurate with the magnitude and timing of the leasing.

I am also worried that the affected coastal States, local governments and the public will not have their concerns adequately addressed under the 5-year OCS program. It is important that under the streamlined leasing procedures of the program there is provided adequate and timely information with which affected coastal States, local governments and the public can use to base their comments on individual proposed or actual lease sales.

Another aspect of the 5-year OCS program that bothers me is that the method for determining fair market value for the oil and gas resources of the leased OCS lands has not been finalized. It is important that we assure the public that they will be receiving fair value when the Federal Government leases public lands that are held in trust. The method should be one that insures this and be completely worked out prior to implementing the 5-year OCS program.

These concerns were expressed during the Energy Conservation and Supply Subcommittee's lengthy hearing with Secretary Watt and in subsequent meetings by staff with high level Interior staff.

These concerns are also the reason why I, along with my colleagues—Senators HOLLINGS, MATHIAS, COHEN, CRANSTON, GORTON, MITCHELL, TSONGAS, JACKSON, STAFFORD, KENNEDY, and MATSUNAGA drafted an amendment that would suspend the 5-year OCS program for 8 months and require the Secretary to revise the program so that it addresses our congressional concerns. We have also received support from many other Senators.

However, in deference to my colleagues on the Appropriations Committee, I am withdrawing this amendment.

In closing, I wish to again thank my colleagues for their assistance in insuring that OCS leasing will be done prudently and that the 5-year OCS program is well thought out.

Mr. President, I have in the course of the past several days, personally talked to the Secretary of the Interior, and have received the following letter from him which I would like to read at this point in the record:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 29, 1982.

Hon. LOWELL P. WEICKER, Jr.,
Chairman, Subcommittee on Energy Conservation and Supply, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I appreciate the opportunity to further amplify our many discussions regarding the 5-year Outer Continental Shelf leasing program in which you have shown a strong and abiding interest in the development of the program.

We will, pursuant to our several conversations, and our participation in the recent hearing of your Energy Subcommittee, work closely with you to assure:

(1) That the new plan will achieve the goal of receipt by the public of fair market value for the oil and gas resources of the OCS leased lands;

(2) That affected coastal states, local governments, and the public have their concerns addressed effectively in the leasing process; and

(3) That environmental concerns are adequately considered in the program.

In addition, we will continue to intensify our consultations with the several states to assure that we are assessing the relationship of the OCS program and the states' coastal zone management requirements.

As you are aware from our several contacts on this vital issue, the OCS Lands Act requires this Department to continually review the adequacy of the leasing program, "consistent with economic, social, and environmental values of the renewable and nonrenewable resources contained in OCS." We recognize that concerns have been expressed by you and your colleagues with relation to the new plan, particularly with regard to provisions for area-wide consideration for leasing and for expedited administrative procedures. The Department pledges to conduct an immediate review of these critical issues in close consultation with you and your colleagues.

I appreciate your continuing interest and constructive comments on the program.

Sincerely,

JAMES G. WATT,
Secretary.

Mr. President, in light of these assurances, which falls short of the ideal solution to a flawed program and should be corrected by some mandatory legislation, and also recognizing that the time before the Senate is short and the fact that the bill, before it should be made as clean as possible, it is now my intention to pull down the amendment.

I feel that the Senate of the United States should take a far more active role in the Department of the Interior's OCS program than has been the case to this point. I can assure my colleagues and the Secretary that both the Energy and Natural Resources Committee and, in particular, my subcommittee with jurisdiction over the OCS, will do just that.

For the interim, and I repeat interim, I feel that the point has been made with the Secretary that we are not happy with his OCS program, and that at this time, rather than try to legislate the matter, we will see if an understanding between our committee and his officer has been reached.

Therefore, I ask unanimous consent that I am permitted at this time to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. STAFFORD. Mr. President, I would like to take this opportunity to make an observation regarding the Senator from Connecticut and his contribution to environmental protection.

There are some environmental issues on which it is easy to find allies. Some problems are shared and often they have large constituencies, so it is politically popular to favor their legislative solutions.

All too often, however, this is not the case. A problem may have no constituency. Or the solution may be one which burdens one industry or another of some powerful interest group. When that happens, allies are hard to find. It is on those occasions that we count our friends.

I want to say that one of those friends has been the Senator from Connecticut.

Last week when the Senate was considering the HUD-independent agencies bill, it seemed the risk of a floor amendment blocking the inspection and maintenance program of the Clean Air Act was a very real threat. I said that I would refuse to enter into a unanimous-consent agreement which did not specifically preclude consideration of amendments to the Clean Air Act or relating to its enforcement.

When I sought allies in this somewhat unpopular position I found one, as usual, in the Senator from Connecticut.

Last year when a few of us sought to publicly brand a bill which would cripple the Clean Air Act for what it was, the request was sensitive because some members of our own party were sponsors of the bill. But one Senator who was not only willing to speak out, but to do so in the clearest terms, was the Senator from Connecticut.

Whenever it has counted, the Senator from Connecticut has been there.

That has been true even when there was no political payoff. Unlike the rest of us who work on environmental issues, he receives little if any, publicity for his efforts. What he has done here is an example.

I doubt that tomorrow there will be any mention in the press of what the Senator has done to protect offshore areas. There was no publicity when he restored funds for acid rain research, or ocean pollution research, or the land and water conservation fund. Nor when he saved the sea grant program. Nor when he prohibited ocean dumping of nuclear waste.

For reasons we all understand, there is no public relations reward for helping seals or sea turtles. There are few, if any votes to be found in preserving the sea tuna population or the Indies manatee.

He receives little attention for these or other efforts because they are not necessarily politically popular or expedient. Instead, they are mundane but nonetheless important tasks to protect resources where there are no voters.

Nor are these actions which show up in polls which purport to show whether a Senator is good or bad on the environment. In short, they are quite literally thankless tasks which somebody must perform.

That somebody, at least in the Senate, is the Senator from Connecticut, for which I would like to express my personal appreciation.

Mr. BAKER. Yes; I thank the distinguished manager of the bill.

Mr. President, I am happy to say that I have now cleared the Hollings amendment on our side. I wish to put the request at this time, as I understand it, for the consideration of the minority leader, the managers, and other Members.

Mr. President, I ask unanimous consent that on the Hollings amendment there be a time limitation of 30 minutes, to be equally divided; that at the expiration of that time, or on the yielding back of that time, a vote occur on or in relation to the Hollings amendment. Mr. President, I further ask unanimous consent that, if a tabling motion is made against the Hollings amendment and the tabling motion does not prevail, the Senator from Texas (Mr. TOWER) be recognized to offer a second-degree amendment to the Hollings amendment.

I further ask unanimous consent that if that second-degree Tower amendment fails, the Senator from Texas be authorized to offer a second second-degree amendment to the Hollings amendment.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I do not think I will object, it is my understanding that the two second-degree amendments referred to by the distinguished majority leader will be 15 minutes each.

Mr. BAKER. Yes; under the umbrella language, they would be 15 minutes each.

Mr. ROBERT C. BYRD. And it is also my understanding that they would be germane to the first-degree amendment.

Mr. BAKER. The Senator is correct.

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, the request of the majority leader is agreed to.

Mr. BAKER. I thank the Chair and I thank the minority leader.

Mr. President, is there not an order already entered on the Kennedy amendment and the Nickles second-degree amendment?

The PRESIDING OFFICER. An order has been entered with respect to that amendment.

Mr. HATFIELD. Mr. President, we are still waiting for the Senator from Georgia to arrive in order to finish up the amendment of the Senator from Kentucky. In the meantime, I would like to yield to the Senator from Idaho for an amendment with a 10-minute time limitation.

Mr. FORD. Mr. President, would it be in order to ask unanimous consent that my amendment be temporarily set aside so that we might take up the amendment of the Senator from Idaho?

Mr. HATFIELD. That is correct. Mr. President, I ask unanimous consent to temporarily set aside the amendment of the Senator from Kentucky.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I wish to alert the Senator from South Carolina that, as soon as the amendment of the Senator from Idaho is handled with a 10-minute time limitation, which may not all be used, I would expect to finish up with the amendment of the Senator from Kentucky and then go to the Senator from South Carolina for his MX missile amendment.

UP AMENDMENT NO. 1338

(Purpose: To prohibit expenditures for the purposes of conducting studies of the hydroelectric pricing policies of the Federal public power authorities leading to the possibility of shifting from a cost to a market rate method of pricing)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE), for himself, Mr. GORTON, Mr. JACKSON, Mr. HATFIELD, Mr. SASSER, Mr. BAUCUS, and Mr. PACKWOOD, proposes an unprinted amendment numbered 1338.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. . None of the funds appropriated under this joint resolution or any other provisions of law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" method for the pricing of hydroelectric power by the six federal public power authorities, or other agencies or authorities of the federal government.

Mr. McCLURE. Mr. President, I offer this amendment on behalf of myself, the Senators from Washington, Senators GORTON and JACKSON; the Senator from Oregon, Senator HATFIELD; and the Senator from Tennessee, Senator SASSER.

Mr. President, there has been a good deal of play in the press of late about a study which is currently being conducted by a member of the staff of the Council of Economic Advisers of the hydroelectric power pricing policies of the Federal public power authorities and other agencies of the Federal Government. The purpose of the study, as I understand it, is to look to the possibility of raising revenue for the Federal Government by increasing the price of the power sold by these marketing agencies. I further understand that it is the position of those conducting the study that it is in keeping with the earlier direction of the Congress to explore methods of raising revenue by the Federal Government.

Mr. President, I at no time recall that it was our intention or direction to anyone that the pricing policies and methods of TVA, BPA, or the other Federal power marketing agencies be tampered with as a source of new revenue by shifting to a market price method of pricing as opposed to the cost method currently required. I do not consider such an important and fundamental shift in policy to be an appropriate subject of such study without the full knowledge and involvement of the Congress, which is still—or so I think—the policymaking branch of government. I am, frankly, very surprised and disappointed that our knowledge of this study came from the press, particularly in light of the serious and unsettled situation which currently exists regarding power rates in the part of the country from which Senators such as the distinguished chairman of the Appropriations Committee and the Chairman of the Energy and Natural Resources Committee come.

There has been some discussion, I know, of addressing this matter through a colloquy, but I feel so strongly about it that I do not think that will do. Accordingly, I offer this amendment to cut off funds for this study.

Mr. SASSER. Mr. President, the amendment that Senator McCLURE and I are offering today to the continuing appropriations bill simply prohibits funds from being spent for the purposes of continuing a current administration study of the hydroelectric power pricing policies of various public authorities throughout the country, including the Tennessee Valley Authority, the five public power marketing authorities, including the Bonneville Public Power Authority, and the Corps of Engineers.

Currently, the administration is conducting a rather clandestine study of the hydroelectric power pricing policies of these agencies in order to consider the possibility of increasing the price of power marketed by the Federal Government.

They are pressing ahead with this study which administration officials acknowledge will not be released until after the upcoming elections.

They are pressing ahead with this study even though it has already been determined that if federally generated power is not marketed at cost, Federal power costs could increase dramatically in all parts of the country, by at least $400 million in the Tennessee Valley alone, and perhaps as much as 300–400 percent in the jurisdictions of some of the other power marketing agencies that cover the Northwest, the Midwest, and the Southeast.

They are pressing ahead with this study even though representatives of the affected authorities, the TVA, and the Corps of Engineers have not been asked to serve as full-time participants in the study.

They are pressing ahead with the study even though they have not consulted with the congressional committees of jurisdiction. They are pressing ahead with the study even though any study that recommends changing public power pricing policies would result in basic and fundamental changes in the public power laws of our country.

In short, the current back-door administration study of public power is just another attempt by the current administration to sharply curtail the effective use of publicly generated power in this country. It is just one more effort by David Stockman to find ways of reducing the bulging budget deficit at the expense of the families and businesses consuming public power.

And what galls me most, Mr. President, is that this study is being done in comparative secrecy and with little regard for the Congress of the United States which has the basic responsibility for enacting and overseeing our public power laws.

Mr. President, I do not believe that the administration should pursue its hydroelectric power study any further. I believe that it should cease this study and request that the duly constituted committees of Congress should look into this matter if necessary. The Congress provides an open and accountable forum for such a study if it is necessary.

That is why I have offered Senate Concurrent Resolution 124 on this matter which I ask be printed in the RECORD at this point in my remarks.

Mr. President, I am joined in my assessment of this study by the American Public Power Association which supports this amendment, and I ask unanimous consent that a letter from the APPA be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN PUBLIC POWER ASSOCIATION,
Washington, D.C., September 24, 1982.
Senator JIM SASSER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SASSER: On behalf of the American Public Power Association, I want to thank you for taking a leading role in focusing attention on the efforts within the Administration to artificially increase the power rates of consumers of Federally-generated power.

Enclosed is a memorandum to all APPA members on this issue. You will note that we have requested these public power systems to contact their own senators and urge them to join with you as co-sponsors of S. Con. Res. 124, and to support your amendment to the Treasury, Postal Appropriations bill. Please let us know how we can be of additional assistance to you on these matters.

Thanks again for your interest in this extremely important matter.

Sincerely yours,

ALEX RADIN.

Mr. SASSER. Finally, Mr. President, I would note that this amendment does not just affect the States served by the Tennessee Valley Authority. It also affects the States served by the five public power authorities throughout the country and the utilities that buy the power from these authorities. I have a fairly complete list of the utilities so affected, but suffice it to say that utilities in more than 34 States are affected by this amendment.

Mr. President, this country has a strong tradition of public power. Public power belongs to all the people. Public power should be produced at cost, not at some other artificial price. If we want to debate the public power philosophy of this country, let us do it in the open light of day and not behind closed doors. Let us not sanction a back-door study that dramatically raises utility rates and which undermines our public power traditions.

I urge passage of this amendment.

Mr. JACKSON. Mr. President, I commend Senator MCCLURE and join with him in sponsoring this amendment to prohibit funding of a Cabinet Council working group study of ratemaking policies of the Federal power marketing administrations.

What is involved here is an administration effort to alter long-established Federal policy that Federal hydroelectric power should be marketed to eligible customers at cost. Cost-based pricing of Federal electric power resources has been reaffirmed many times by the Congress. As recently as 1980, Congress passed major legislation, entitled the Pacific Northwest Electric Power Planning and Conservation Act, in which this policy was specifically reaffirmed. There is no doubt that the law requires cost-based pricing and there is no evidence that the Congress has any inclination to alter that long-standing policy.

The proposal which the Cabinet Council is studying is quite simply an effort to raise additional revenues for the Treasury. It is reported that an administration official familiar with the Cabinet Council study describes the current policy on rates as "quite strange" because power marketing administration rates are "way below the price of marginal power." I simply observe that anyone familiar with utility regulation in the United States knows that it would be quite strange if marginal cost pricing were adopted by the power marketing administrations or, for that matter, by any State utility commission as the basis for pricing power. It was never intended that the Government should profit from the sale of electric power to users.

Such a policy would transform Federal power marketing administrations into profitmaking ventures earning an exorbitant profit at the expense of the consumers served by their customer utilities. It is totally contrary to the existing statutory pricing directives that power produced at these public facilities should be available to the public at the lowest possible cost, consistent with sound business principles. Under these directives, power is sold at rates that cover the cost of construction, interest, operation, and maintenance.

In the Northwest, price increases resulting from a shift from cost-based pricing to marginal cost pricing could cause an immediate 300 percent price increase for residential, commercial, and industrial consumers. It would have a devastating impact on a regional economy already suffering from high unemployment and depressed economic conditions.

Mr. President, I ask unanimous consent that an article from Inside Energy describing the Cabinet Council study be reprinted in the RECORD at the conclusion of my remarks. I also ask that two letters sent by the entire Washington State Congressional delegation to the President and to Interior Secretary James Watt, who chairs the Cabinet Council on Natural Resources, be reprinted in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CABINET COUNCIL WORK GROUP STUDYING RATE, ACCESS POLICIES OF PMAS, TVA

An interagency Cabinet-Council working group has been formed under the leadership of the Council of Economic Advisers to explore the adequacy of rate and access policy for the five federal power-marketing administrations and for the Tennessee Valley Authority, informed sources said this week.

The group plans to submit a report to the Cabinet Council on Natural Resources and Environment in November or December, one key source said. Among the issues to be addressed in that report, the source added, are: 1) efficiency in allocating resources; 2) federal revenue; 3) economies of the regions or sectors served by the power-marketing agencies; and 4) the political acceptability of any changes in the way the agencies operate. The source explained that political acceptability is of concern where industrial or other facilities that have been built specifically to take advantage of lower federal power rates could be hurt by changes in rate policy.

The working group is not studying the possibility of selling the PMAs or TVA to the private sector or of reorganizing them, sources stressed, but instead is focusing on rate and access policies. One reliable source, in explaning the group's mission, said that "The existing [rate] situation is quite strange," with some PMA rates "way below the price of marginal power." The source said that the PMA mandate to simply recover the full cost of producing power through rates is a "very loose mandate as it has been implemented." The source added that TVA's rates are closer to those of investor-owned utilities but still should be studied.

The working group is headed by William Niskanen, a member of the CEA, and staffed by officials from a half-dozen agencies, including DOE, the Federal Energy Regulatory Commission, the Interior Dept.'s Bureau of Reclamation, the Army Corps of Engineers and the Office of Management and Budget. The first organizational meeting of the group was held July 29. At that meeting, Niskanen asked agency officials to provide him in early September with what one source described as "basic, routine information" about policies and procedures for establishing, reviewing and approving rates and for licensing hydroelectricity projects at federal dams. Sources said officials attending the meeting were not fully briefed on the aims of the working group or why CEA was heading it.

But one source said that the idea of a working group stems from a May Cabinet council meeting at which a DOE-led group was authorized to study regulation, competition and efficiency in the electric-utility industry. The DOE-led group is concentrating on investor-owned utilities. It was prompted by concern that the industry is in poor financial condition.

At the May meeting, administration officials expressed interest in more closely monitoring and studying the PMAs and TVA. But a member of the Niskanen group, while agreeing that the two Cabinet council groups are related, asserted that the issues being considered by each are very different.

The five PMAs primarily market low-priced hydro power from federal dams, with the exception of the Bonneville Power Administration, which also is permitted to acquire some nuclear power from Washington Public Power Supply System plants, and the Western Area Power Administration, which also buys some nonhydro supplies to serve load growth in Northern California. The other three PMAs are the Alaska Power Administration, the Southwestern Power Administration and the Southeastern Power Administration. About 68% of the power sold by TVA is coal-fired, with 18% nuclear and 9½% hydro.—*R. Lynn Stevens.*

SEPTEMBER 24, 1982.

The Honorable RONALD REAGAN,
The White House,
Washington, D.C.

OUR DEAR MR. PRESIDENT: We wish to bring to your attention our deep concern about an Administration study of proposals to revise the electric power pricing policies of the Federal Marketing Authorities. After discussing these proposals with Administration officials, we have concluded that they

represent a fundamental threat to the concept of public power and to the economy of the Pacific Northwest.

Under current law the Bonneville Power Administration markets its hydroelectric power at cost to consumers within its jurisdiction. This reflects the public power philosphy, recently reaffirmed by Congress in the Northwest Power Act, that power generated from public facilities not be sold at a profit. Rather the power should be sold at cost with BPA is presently doing. It was never intended that the government should realize a profit from the sale of electrical power to users.

Any proposal to charge ratepayers in the Bonneville marketing area the "market value" or the "marginal rate" for its hydroelectric power would not only provide BPA with a profit, but would mean immediate and dramatic rate increases estimated at up to 300% for BPA's residential, commercial and industrial customers. Such rate hikes would destroy the already depressed economy in Washington State.

In our view, these proposals are ill-advised and would cost the treasury infinitely more than any revenue gained by them, while severely increasing unemployment and business failures in Washington and other states. These increased levels of unemployment and business failures will continue to drain the federal deficit and a balanced federal budget—goals which we all share.

We respectfully request that you consider our bipartisan misgivings about these suggested policy changes and appreciate this opportunity to bring them to your attention.

Yours faithfully,
Henry M. Jackson, U.S.S.; Slade Gorton, U.S.S.; Thomas S. Foley, M.C.; Joel Pritchard, M.C.; Norman D. Dicks, M.C.; Don Bonker, M.C.; Mike Lowry, M.C.; Al Swift, M.C.; Sid Morrison, M.C.

SEPTEMBER 23, 1982.

The Honorable JAMES G. WATT,
Secretary of the Interior,
Washington, D.C.

OUR DEAR MR. SECRETARY: We wish to bring to your attention our deep concern about an Administration study of proposals to revise the electric power pricing policies of the Federal Power Marketing Authorities. After discussing these proposals with Cabinet Council on Natural Resources member William Niskanen, we have concluded that they represent a fundamental threat to the concept of public power and, as such, meet with our complete and bipartisan opposition.

Under current law the Bonneville Power Administration (BPA) markets its hydroelectric power at cost to consumers within its jurisdiction. This reflects the public power philosophy, recently reaffirmed by Congress in the Northwest Power Act, that power generated from public facilities not be sold at a profit. Rather, the power should be sold at cost with BPA recouping the public investment in the production of power which BPA is presently doing. It was never intended that the government should realize a profit from the sales of electrical power to its users.

Any proposal to charge ratepayers in the Bonneville marketing area the "market value" or the "marginal rate" for its hydro power would not only provide BPA with a profit but would mean immediate and dramatic rate increases estimated at up to 300% for BPA's residential, commercial, and industrial customers. Such rate hikes would destroy the already depressed economy in the Northwest. With unemployment running as high as 30% in many areas and with many of our region's industries operating at less than 50% capacity, such a rate increase would be intolerable.

Clearly such an impact on the Northwest economy would cost the Treasury infinitely more than any revenue gains envisioned by the Niskanen study. The policy changes which the Cabinet Council is considering can be expected to produce more layoffs and greatly increased levels of unemployment as businesses and industries in Washington—including those vital to the Nation's defense—deal with the substantial problems caused by the increased power costs. These increased levels of unemployment will continue to drain the Federal Treasury and will prevent reduction of the Federal deficit and a balanced federal budget—goals which all of us share.

In short, the proposals in the Niskanen study are penny wise and pound foolish. We are confident that upon reflection you will agree.

Sincerely yours,
Henry M. Jackson, U.S.S.; Slade Gorton, U.S.S.; Thomas S. Foley, M.C.; Joel Pritchard, M.C.; Norman D. Dicks, M.C.; Don Bonker, M.C.; Mike Lowry, M.C.; Al Swift, M.C.; Sid Morrison, M.C.

Mr. PRESSLER. Mr. President, I rise in support of this amendment to delete any unauthorized studies of hydroelectric power rates and ask to be added as a cosponsor. Any study that has implications as major as this should be authorized by Congress first.

If the Federal policy on hydroelectric power is changed, the effect on electric utility rates in South Dakota and all across the country will be dramatic. Currently, hydroelectric power generated by public power marketing authorities and the Corps of Engineers is sold at cost with the marketing agency recouping the public investment in the project. This policy is in accord with the philosophy that public power belongs to everyone, so it should not be sold at a profit.

The lower cost power generated by public power marketing authorities helps to hold down electric rates for millions of Americans. In my home State of South Dakota, the people receive electric power from several sources, including hydroelectric power generated at the Missouri River dams in South Dakota. The various costs of power are combined and the resulting power is cheaper than it would be if hydroelectric power were not included. South Dakota's power rates could increase dramatically if pricing practices are changed. Reasonably priced hydroelectric power is one of the few benefits South Dakota has ever received from construction of the Missouri River dams, for which 530,000 acres of farmland were sacrificed. Now we learn that the administration is studying ways to increase these rates to create additional revenue. The administration has never been authorized to develop new pricing methods based on a profit margin or other noncost considerations. Before further action is taken, or these studies are conducted, Congress should have a chance to carefully study the matter.

Mr. President, I urge my colleagues to join me in support of this amendment and in opposition to these unauthorized studies.

ADMINISTRATION'S ELECTRIC POWER RATE INCREASE PLAN SHOULD BE STOPPED

● Mr. BAUCUS. Mr. President, as a sponsor of this amendment, I strongly urge my colleagues to join in voting for its adoption. It would prohibit the expenditure of any Federal moneys to promote the administration's power rate increase plan that would impoverish farmers and industrial workers in the Northwest and other parts of the country.

Hydroelectric power generated at Federal projects is the backbone of the economy of much of Montana and the Northwest. Farmers use this electricity to pump water that irrigates their land. Rural residents depend on this electricity, provided through their rural electric cooperatives, to light their homes and power their hospitals. Major industries, such as the forest products and aluminum industries, use electricity to produce their products and employ thousands of workers.

All of these activities are sorely hurting now as the economy has plummeted to postdepression lows. Farmers are subsisting without profits; the aluminum industry and other major portions of our industrial base have laid off thousands of workers; families are losing their homes as wage earners lose jobs while housing expenses soar.

As our economy has deteriorated, electricity rates in the Northwest have skyrocketed. By 1985, Bonneville Power Administration (BPA) rates will have risen 460 percent over the previous 10 years. Rates charged to some customers will have risen by several hundred percent more.

And now, President Reagan and two of his most trusted advisers—OMB Director David Stockman and Secretary of the Interior James Watt—have quietly and without congressional sanction, produced a plan to increase drastically the rates charged for power generated at Federal dams. This plan envisions a several hundred percent increase on top of all the other increases.

The plan began to surface in mid-August and is a blatant attempt to help balance the budget by placing the burden on farmers and industrial employees of the Northwest and other regions. The electricity rate increases required by the plan will only add insult to the injuries of already substantial Bonneville Power Administration rate increases—rate increases that are the

direct result of bungling at the agency, a Federal agency for which President Reagan is responsible.

BPA customers and electric cooperatives in the Northwest have been hit with several abrupt price shocks over the past year. These price shocks are the result of bad BPA planning. First, BPA has refused continually to keep up its repayment schedule for dams that generate power in the Northwest. Now, they are having to play catch-up football by charging their customers more.

Second, BPA's inaccurate power forecasts led to the extremely expensive construction of three WPPSS (Washington Public Power Supply System) nuclear plants whose construction costs BPA has guaranteed through net billing arrangements.

Third, BPA encouraged many cooperatives to participate in two more nuclear plants—WPPSS 4 and 5—that have now become a multi-billion dollar financial disaster. These cooperatives are being hit with all of the BPA rate increases, plus they are threatened with heavy extra responsibilities for their participation in WPPSS 4 and 5.

All of this has left farmers who use BPA power for irrigation with power costs that have doubled, tripled, and quadrupled virtually overnight. At the same time, aluminum workers, such as those at Columbia Falls, Mont., find their jobs threatened as BPA has increased its direct industrial customer rates again and again, with a new rate increase pending at this moment.

As if that were not enough, President Reagan wants to add to this disaster in order to help pay for the tax cuts he pushed through Congress a year ago. The effect is wholly unfair. The burden of reducing the Federal deficit is being dumped on the farmers and industrial workers of the Northwest while the well-to-do are cashing their tax refund checks.

A few weeks ago, I wrote—together with other members of the Montana congressional delegation—to the Federal Energy Regulatory Commission—FERC—to urge that FERC not grant the latest interim industrial rate increase sought by BPA and scheduled to take effect October 1. Today, FERC is meeting to make a determinataion about this BPA rate increase request.

However, yesterday I learned from a briefing by FERC staff that FERC is faced with a devastating series of contractural agreements made by BPA with its customers. Because BPA contracts allow rate increases to take effect at only one particular time of the year, and because Bonneville gave FERC only short notice of its request to increase rates, FERC may be faced with a choice of either granting the request with inadequate information and hearings or not granting any increase for the coming year. FERC. having responsibilities to both the customers and to the Federal Treasury for repayment of BPA's Federal loans, is being forced by BPA to make a quick decision with inadequate information.

Congressman PAT WILLIAMS and I have made it as clear as we can that this interim rate increase should not be approved: It would simply be a reward for Bonneville mismanagement.

Now, added to this climate of continued, large, and frequent rate increases at Bonneville, we have a Reagan-Stockman-Watt proposal that indicates a total lack of understanding of how bad things are in the Northwest. President Reagan should be working to make BPA an efficient, responsive agency; instead he is unveiling a huge rate increase proposal. He should be ordering the Rural Electrification Adminitration to get to work on the problems of WPPSS participating cooperatives; instead he has tried to undermine the entire REA loan program.

I am particularly concerned that all of this seems to stem from the desks of the Office of Management and Budget Director and the Secretary of the Interior—instead of the Secretary of Energy. Just once I would like to see an energy proposal come out of this administration's Department of Energy.

It is David Stockman who has led the effort to terminate fossil fuel research and development, including Montana's MHD program, despite its clear record of success. It was David Stockman who pronounced the President's death wish for REA loans, gasohol research, solar, and conservation work.

Secretary Watt seems to have become involved in this proposal as Chairman of the Cabinet Council on Natural Resources and Environment. It seems that Mr. Stockman wrote to Secretary Edwards in December of 1981 raising the possibility of obtaining more revenues through rate increases for federally generated power. Then in February he wrote to Secretary Watt. He asked that Secretary Watt "work with the Secretary of Energy to develop strategies that will result in the establishment of a rate structure to eliminate this hidden subsidy to power users."

Mr. President, I ask unanimous consent that each of these letters be inserted in the RECORD at the conclusion of my remarks.

On August 13, an article in "Inside Energy" noted that an interagency cabinet council working group had been formed at the White House and was charged with finding ways to increase rates for customers who receive federally generated power.

This working group was reported to be headed by William Niskanen, a member of the Council of Economic Advisers.

I ask that a copy of this article also be included in the RECORD at the conclusion of my remarks.

Mr. Niskanen confirmed this story under close questioning by a number of Congressmen last week. I ask unanimous consent that a UPI report of this meeting also be included in the RECORD at the conclusion of my remarks.

As you can see from this progression of letters, stories, and reports, a Reagan administration team, led by David Stockman with Secretary Watt closely in tow, has indeed been studying a way to change the entire premise of federally generated power. It has done so without any expression of interest or consent from Congress.

Mr. President, David Stockman and the Office of Management and Budget have no special expertise for making this Nation's energy policies. Repeatedly, OMB has sacrificed national energy policy and the welfare of many diverse groups of citizens throughout the country for ill-advised efforts to provide quick fixes for what he sees to be our budget problems.

It is a classic example of delegating power without responsibility. It is the power to harm people without responsibility for the consequences.

Secretary Watt has dabbled in energy policy, agriculture policy, interior policy, and environmental policy. The last place I want to see Secretary Watt involved is with energy and agricultural policies that affect small farmers, homeowners, and industrial workers.

This amendment today would prohibit the expenditure of any moneys to further this plan.

It, combined with the Senate Concurrent Resolution 124, can send an important signal to the White House that President Reagan should be spending his time increasing the efficiency of the Bonneville Power Administration as well as the other Federal power marketing agencies. He should be spending his time improving rural electrification services, and using the thousands of Federal employees at his command to produce a coherent national energy policy.

As long as we have an Energy Department, it should be well run. As long as we have a Secretary of Energy, he should devise and manage our energy policies.

The material follows:

DECEMBER 15, 1981.

HON. JAMES B. EDWARDS,
Secretary of Energy,
Washington, D.C.

DEAR MR. SECRETARY: I have today reviewed and approved the Department of Energy's debt collection action plan submitted under OMS Bulletin No. 81-17, dated April 27, 1981.

However, one item no addressed in your plan which I feel should be pursued concerns the existing power user fees. The cur-

rent rates being charged for federally generated power are structured in part on amortization periods and interest rates which do not reflect the current carrying cost to Treasury of hydro power and other projects.

In view of this, I am requesting that you develop strategies that will result in user fees that will accelerate payment of the debt and eliminate or reduce this implicit subsidy.

As you know, the President has established, as a high priority of the Administration, the goal of collecting an additional $1.5 billion in overdue debts in each of the next three years. The DOD target was established as $35 million of that amount for each of these years, based on its outstanding portfolio of approximately $873 million, of which $115 million was delinquent or in liquidation as of September 30, 1981.

In addition to monitoring the implementation of the debt collection action plan, members of the OMB staff will be happy to work with DOE officials to assist them in achieving the President's goals.

Sincerely,

DAVID A. STOCKMAN, *Director.*

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., February 17, 1982.

Hon. JAMES G. WATT,
Secretary of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: I have today reviewed and approved the Department of the Interior's debt collection action plan submitted under OMB Bulletin No. 81-17, subject to the following addendum:

One issue not addressed in the plan concerns power user fees. The rate structure currently in use for hydroelectric power sales does not reflect the replacement cost of the power, including the current cost to Treasury of carrying the capital investment associated with the project. I ask that you work with the Secretary of Energy to develop strategies that will result in the establishment of a rate structure to eliminate this hidden subsidy to power users. The debt collection plan should be amended to include milestones which accomplish this.

As you know, the President has established, as a high priority of the Administration, the goal of collecting an additional $1.5 billion in overdue debts in each of the next three years. The target for Interior was established as $25 million each year for the next three years, based on its total receivables of over $3 billion, of which about $60 million are delinquent or in default.

In addition to monitoring the implementation of the debt collection action plan, members of the OMB staff will continue to work with Interior officials to ensure that all aspects of debt collection are strengthened to achieve the President's goals.

Sincerely,

DAVID A. STOCKMAN, *Director.*

CABINET COUNCIL WORK GROUP STUDYING RATE, ACCESS POLICIES OF PMA'S, TVA

An interagency Cabinet-council working group has been formed under the leadership of the Council of Economic Advisers to explore the adequacy of rate and access policy for the five federal power-marketing administrations and for the Tennessee Valley Authority, informed sources said this week.

The group plans to submit a report to the Cabinet Council on Natural Resources and Environment in November or December, one key source said. Among the issues to be addressed in that report, the source added, are: 1) efficiency in allocating resources; 2) federal revenue; 3) economies of the regions or sectors served by the power-marketing agencies; and 4) the political acceptability of any changes in the way the agencies operate. The source explained that political acceptability is of concern where industrial or other facilities that have been built specifically to take advantage of lower federal power rates could be hurt by changes in rate policy.

The working group is not studying the possibility of selling the PMAs or TVA to the private sector or of reorganizing them, sources stressed, but instead is focusing on rate and access policies. One reliable source, in explaining the group's mission, said that "The existing [rate] situation is quite strange," with some PMA rates "way below the price of marginal power." The source said that the PMA mandate to simply recover the full cost of producing power through rates is a "very loose mandate as it has been implemented." The source added that TVA's rates are closer to those of investor-owned utilities but still should be studied.

The working group is headed by William Niskanen, a member of the CEA, and staffed by officials from a half-dozen agencies, including DOE, the Federal Energy Regulatory Commission, the Interior Dept's Bureau of Reclamation, the Army Corps of Engineers and the Office of Management and Budget. The first organizational meeting of the group was held July 29. At that meeting, Niskanen asked agency officials to provide him in early September with what one source described as "basic, routine information" about policies and procedures for establishing, reviewing and approving rates and for licensing hydroelectricity projects at federal dams. Sources said officials attending the meeting were not fully briefed on the aims of the working group or why CEA was heading it.

But one source said that the idea of a working group stems from a May Cabinet council meeting at which a DOE-led group was authorized to study regulation, competition and efficiency in the electric-utility industry. The DOE-led group is concentrating on investor-owned utilities. It was prompted by concern that the industry is in poor financial condition.

At the May meeting, administration officials expressed interest in more closely monitoring and studying the PMAs and TVA. But a member of the Niskanen group, while agreeing that the two Cabinet council groups are related, asserted that the issues being considered by each are very different.

The five PMAs primarily market low-priced hydro power from federal dams, with the exception of the Bonneville Power Administration, which also is permitted to acquire some nuclear power from Washington Public Power Supply System plants, and the Western Area Power Administration, which also buys some nonhydro supplies to serve load growth in Northern California. The other three PMAs are the Alaska Power Administration, the Southwestern Power Administration and the Southeastern Power Administration. About 68% of the power sold by TVA is coal-fired, with 18% nuclear and 9½% hydro.—*R. Lynn Stevens*

UPI STORY—SEPTEMBER 23, 1982

WASHINGTON (UPI).—A member of the President's Council of Economic Advisors has confirmed that a proposal is being considered to radically boost rates for federal hydroelectric energy but not solely as a means to balance the federal budget.

William A. Niskanen Jr. was grilled under a bank of television lights by members of Congress, mostly from Washington, Oregon and Tennessee, for two hours Wednesday over the controversial plan that was disclosed earlier this week.

Niskanen did not deny that the rate increase, estimated at 300 percent or more, would help the federal government's sagging revenue brought on by the recession. But he said the main impetus for the plan is a philosophical belief that the current rates do not promote economic efficiency.

"A change in policies might very well have the effect of increasing rates for some users and decreasing rates for other users," he said.

He added that industrial users could be the beneficiaries of the plan, which "may make the consumer better off, not as a consumer, but as a laborer. He has a job as opposed to being unemployed."

Federal power agencies such as the Bonneville Power Administration and the Tennessee Valley Authority sell low-cost hydroelectric power to public and private utilities at rates based on the original cost of building the dams. The administration plan is designed to charge rates at levels reflecting what it would cost to build the dams today.

Rep. Ron Wyden, D-Oreg., charged that Niskanen was advocating "a dramatic shift of goals," including a departure from a consideration of "social goals" in pricing federal hydropower.

Rep. Don Bonker, D-Wash., noted that by 1985 the BPA's rates already will have risen 460 percent over the previous ten years. Any further increases, he said, "are going to have a devastating impact."

Niskanen also acknowledged that the precise administration proposals won't be released until after the November general election because of what he called the "political sensitivity" of the issue.

"You've lifted the lid and are counting the cookies. I don't even like you counting the cookies," said Rep. Albert Gore, D-Tenn., whose district benefits from low rates charged by the TVA.

Mr. HATFIELD. Mr. President, the amendment is acceptable on both sides of the aisle. I am willing to yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Idaho yield back his time?

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Idaho (Mr. MCCLURE).

The amendment (UP No. 1338) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1336

Mr. HATFIELD. Mr. President, let me inquire of the Senator from Kentucky, did the Senator from Kentucky indicate earlier that there had been some communication between himself

and the Senator from Georgia on this question?

Mr. FORD. Mr. President, the Senator was attempting to make some inquiry about it. That was all I knew. I thought it had been cleared and, up until now, was of the opinion it had been cleared.

I say to the distinguished chairman that I would be willing to do anything that would help expedite the procedure here this evening.

Mr. HATFIELD. Mr. President, I believe that we have made every effort in good faith and the Senator has been informed. That has been some half hour ago. I think we might as well move ahead and complete the work on this amendment.

Mr. FORD. I am ready to yield back the remainder of my time on the amendment and ready to take a voice vote.

Mr. HATFIELD. Mr. President, I am going to yield back the remainder of my time. I ask the Senator not to move to reconsider the vote so that in case the Senator from Georgia would like to reconsider it at a later time it would be his right to do so.

Mr. FORD. Mr. President, I would do that to accommodate the chairman.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky (Mr. FORD).

The amendment (UP No. 1336) was agreed to.

Mr. HATFIELD. Mr. President, I yield to the Senator from South Carolina (Mr. HOLLINGS) to present an amendment on which there is a 30-minute time limit.

UP AMENDMENT NO. 1339

(Purpose: To limit funds for production of MX missiles for which Congress has not approved a basing mode)

Mr. HOLLINGS. Mr. President, I thank the distinguished chairman. I am trying to perfect one last portion of the amendment so that it is word for word with the authorizing language. It is being finalized very fast.

I will start by stating that this is an amendment, which will be submitted and reported in due order, that would preclude any obligation or expenditures for procurement of the MX missile until a basing mode has been approved by the Congress.

Mr. President, that is not complicated. On the other hand, I think it is a necessary thing to place in this continuing resolution. We often talk at length about waste, fraud, and abuse in the Pentagon. What has occurred, for example, in the B-1 situation, is a plea that we have already started and expended so much money, similar to the Clinch River breeder, so that it may cost us more money to stop it than to continue with it. That is ridiculous.

These kinds of things should really never occur. We should never be spending money for weapons when we do not have a place to put them.

Now, the final language has been completed. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS), for himself, Mr. EXON, Mr. HART, Mr. DURENBERGER, Mr. LEVIN, and Mr. BUMPERS proposes an unprinted amendment numbered 1339.

On page 7, line 6, strike "." and insert ": *Provided*, That none of the funds appropriated or made available pursuant to this paragraph shall be obligated or expended for procurement of any MX missiles until the President completes his review of alternative MX missile system basing modes and notifies the Congress, in writing, of the basing mode in which the MX missile system will be deployed and thirty days of session of Congress have expired after the receipt by Congress of such notice. For the purpose of determining days of session of Congress under the preceding sentence, there shall be excluded any day on which either House of Congress is not in session, because of an adjournment of more than three days to a day certain or an adjournment sine die.

Mr. HOLLINGS. Mr. President, that is exactly word for word what the Senate and the entire Congress supported in the Defense Authorization Conference agreement. That is the intent of the authors of this particular amendment, that we do not commit ourselves before we know where we are going with this program. We do not disturb the appropriations; we do not disturb the authorization. On the contrary, we carry through the intent of the Senate as expressed on May 13 in a 84-to-8 vote that questioned the wisdom of producing a missile when you do not know how to deploy it and where particular attention was paid to the basing mode. As all of us know, the basing mode has been a hangup for many years in three different administrations. The fact of the matter is we do not have a basing mode now.

I offer this amendment to the MX program to deal specifically with the production of the missile.

My amendment simply states that no funds appropriated for the MX shall be obligated or expended for procurement of any MX missiles for which Congress has not approved a basing mode.

The language of the amendment is already there in the authorizing bill and is a way in which Congress can express its approval or disapproval of MX production.

My amendment does not alter the MX R&D program. We can continue to build and test the R&D missiles and also continue evaluation of potential permanent, survivable basing modes. I want my colleagues to know, I am not touching MX R&D efforts.

Further, I want my colleagues to know that my amendment is far less drastic than the action proposed by the Senate Armed Services Committee last spring in its military procurement authorization bill. That committee proposed, led by its distinguished chairman, Senator TOWER, that no procurement funds be available for the MX program. None. Zero. The Senate concurred in that recommendation by a vote of 84 to 8 on May 13, 1982, when it passed the bill.

My amendment does not go as far. It merely states that procurement funds appropriated for MX cannot be obligated and expended until Congress has approved a basing mode.

The procurement authorization conference agreement provided for approximately $988 million for MX production. Of this amount, $158 million was for MX basing. And $830 million was for the procurement of five MX missiles.

Very wisely, the authorization conferees precluded the DOD from spending the $158 million for basing until such time as the President had decided on a permanent basing mode for the missile and sent his recommendation on basing to the Congress and 30 working days had thence expired. So the basing funds were fenced as one can say. That is exactly what the amendment does here for the missile's production.

But, where does the authorization leave the missile procurement funds? There is no prohibition on the DOD from spending the money. We have effectively said—do not spend money for basing options—but start building the missile. It does not matter if we do not know where to put it.

Well, Mr. President, what happens if the Congress declines to approve the President's proposal for basing. We are in the position of OKing nearly $1 billion for a missile and have nowhere to put it. We have given away our leverage. The next thing you know, DOD will obligate the money and then scream we are committed forever to a program of $50 billion and up on the basis of obligating $830 million for five missiles.

There is absolutely no justifiable reason for allowing production of a missile when you have no idea how you are going to deploy it. Further, it is a new start on a program and only the Appropriations Committee has voted on it and not the full Senate.

Do we buy airplane engines when we do not have any idea what airframe they may go on? No. Have we built our Trident submarines and put them in drydock because we do not have a submarine base for them? No. Did we build the Titan and Minuteman ICBM's and store them because we did not know how to base them? No. So why are we starting to build this missile when we have no idea how to base it?

How many MX basing modes has the DOD brought to the Congress and had thoroughly rejected? Three. Four. Five. Take your pick. We rejected them all. DOD has looked at probably 30 to 50 modes and we still do not have a realistic solution.

But, if somehow the Senate language in the continuing resolution prevails in conference, the Air Force could start obligating MX missile production funds the day after tomorrow. Think of that. The day after tomorrow. No way to base them, but you got to make them.

What do we do if the President sends us a basing plan in a couple of months and we say no dice. They may already be building the missile. And of course, they would be doing that before the R&D testing program is finished.

Mr. President, have you ever heard of concurrency? You know, producing a weapon system before you finish testing it. DOD's track record for concurrency and cost overruns is great. But, of course, a billion or two overrun on the MX would be peanuts compared to its ultimate cost of $40 or $50 billion. So DOD will not worry about concurrency on MX.

MX supporters will cry the President has indicated he will send us a basing mode by December 1. Do you recall last year when Secretary Weinberger said he did not like the old multiple protective shelter system for MX that many of us also did not like too much. He told us he would send up a new basing plan by summer that his great MX panel would work up. So we waited, and waited, and waited.

Finally, in October, it was uncovered. We would use Minuteman silos and we would build a humpty-dumpty airplane that flies around forever or hide the missiles so deep in the ground even the worms cannot find them. So the Congress laughed all these suggestions away and here we are—1 year later—no basing mode. And the President now says December 1 is the key day. Well, I have seen that dense pack—aptly named after the condition of mind of its originator—and I predict we will laugh it away because we know the Soviets will laugh at it and can beat it.

I hear the voices now. Our current ICBM's are vulnerable. We must get going on the MX. We need a 1986 IOC for the MX. Well, the MX is vulnerable and dense pack is vulnerable so we do not need those kind of games.

To begin with, the MX IOC of 1986 only deals with a small number of missiles. We are not looking at a full-up MX system under the most optimistic Air Force plan until 1989 or 1990. And I predict they will never be able to achieve that. Mind you, I am not even talking about the ludicrous dense pack basing mode being touted by some MX supporters. I am talking about any basing mode.

So what is the rush. We are looking at a real IOC of 7 years from now. Withholding the procurement of the missile until we know how it is to be based makes good sense. And delaying the missile procurement funding will not significantly alter the IOC. The Air Force has said maybe up to 1 year—no longer.

We are not exactly hurting as far as strategic capability is concerned. In 1986, we will have our Trident I/Poseidon force, a greatly improved Minuteman, and our B-52's, armed with bombs, SRAM's and cruise missiles. And, finally, our real ace-in-the-hole, if you can believe the Air Force, the B-1. So sliding MX deployment by a few months or a year does not damage our credibility or question our resolve.

If we were really worried about our strategic posture, we would be building two Trident subs a year which I prefer—and build up to 25 of them. But, I see no MX defender pushing up the Trident.

Mr. President, what if a decision is made by Congress that the survivable basing mode for our future ICBM force does not coincide with a missile with the characteristics of the MX. What would we do with the five missiles in the fiscal year 1983 Senate-reported Defense appropriation bill if the Air Force has already started to build them?

The only prudent step for us to take now is to limit the potential of obligating production funds until we know how we can achieve a survivable ICBM capability—be it, the MX, a Trident D-5 derivative, or a smaller mobile missile. Let us keep our options open and tie all MX production money to the very critical task of determining how, if ever, we can continue with a Triad for our strategic offensive forces.

Mr. President, my comments up to now have only addressed the dichotomy of building a missile and having no place to deploy it. Now we know that New Mexico, Wyoming, and Nevada may be prime sites for this wonderful program. I am sure my colleagues from those States can hardly wait to explain to their constitutents how lucky they are.

Mr. President, now is not the time to get a jump start on MX. Let us be cool for once and look at the logic of what we are doing. Let us hold MX production until we know for sure how we can realistically develop a survivable ICBM capability. A survivable capability is the key and the Congress must be a partner with the President in that determination. Let us move in the direction we agreed upon last spring.

Mr. President, before I yield, I ask unanimous consent that a document entitled "Informed Responses to Dense Pack," and three excerpts from the Aerospace Daily, dated March 29 and March 30, 1982, and dated May 28, 1982, all pertaining to this subject matter, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INFORMED RESPONSES TO DENSE PACK

"Packing the MXes closely together virtually assures they will be rendered inoperable by the electromagnetic pulse (EMP) that would be created by detonation of an incoming weapon. At least 5,000 feet, more than twice the distance planned for Dense Pack spacing, would be necessary to protect MXes from the effects of EMP."—Dr. Richard Garwin, Senior IBM consultant, June 1982.

"The Soviets might be able to destroy MX missiles deployed in the Dense Pack formation by sowing the field with nuclear mines timed to explode all at once."—Nierenberg scientific panel report to Defense Secretary Weinberger. Reported in the Washington Post, September 23, 1982.

"The USSR could readily and early on deploy counters to 100 missiles in 100 capsules, from a technological standpoint, in the 1987-1990 period."—Townes panel report to Defense Secretary Weinberger, August 30, 1982.

"Dense Pack is a loser. The Trident with a D5 missile can do everything the MX can do, and better."—Dr. Sidney Drell, Deputy Director, Stanford Linear Accelerator Center, and arms control consultant. Quoted in the Washington Post, September 12, 1982.

"I cannot think of any deployment on land that will be secure, and in my opinion the deployment of MX is a futile expenditure of money. We should maintain the emphasis on submarine and bomber forces; this makes our forces largely invulnerable, and thereby superior to those of the Soviets."—Prof. Hans A. Bethe, Nobel Prize winner, testifying before the Senate Foreign Relations Committee, May 12, 1982.

"The illogic of the Dense Pack concept is reinforced by reports that the Pentagon will also want an anti-ballistic missile defense system to go with it, just in case. If there is one thing that you don't want to do with an anti-ballistic system, it is to bunch your targets close together. That makes it easier for the enemy to saturate the system with attacking missiles."—Admiral Stansfield Turner, former Director, CIA. Quoted in the Omaha World Herald, May 23, 1982.

[From the Aerospace Daily, Mar. 29, 1982]

TOWNES PANEL REPORT ON MX BASING

(Editor's note: Following is a partial text of the executive summary of the Townes panel report on the MX missile program (Daily, March 24, March 25). The remainder of the text will be presented by the Daily in a forthcoming issue.)

Issues connected with MX basing have been examined as extensively as time could allow, and the Committee believes that most aspects of importance have been covered. There is general agreement of the committee members on technical issues and on a number of important recommendations. A brief summary of observations and major recommendations follows:

The most important deficiency of our strategic forces involves command, control, and communications, and hence this area most urgently needs improvement.

The Committee did not discover any evidence of technical or operational factors which would support the view that existing U.S. ICBM silos will not be highly vulnerable in the near future.

The Committee believes there exists no single answer to the ICBM vulnerability problem. Characteristics that the Minuteman (MM) force offered for twenty years—enduring survivability independent of warning, prompt retaliatory capability, very high alert rates, and low operating costs—can no longer be obtained in a single system. The "solution" to the ICBM vulnerability problem must lie within the larger framework of an overall program for our strategic forces.

All Committee members agree that the U.S. should not adopt as a first choice the strategy of striving for a secure retaliatory force by deploying more land-based shelters than the Soviets have ICBM warheads. Although Multiple Protective Shelters (MPS) can extract a substantial price, the Soviet Union can readily compete in a U.S. shelter versus Soviet ICBM warhead race.

The Committee investigated a broad range of ICBM basing options. It finds no practical basing mode for missiles deployed on the land's surface, available at this time, that assures an adequate number of surviving ICBM warheads. There are, however, wide differences in the costs and uncertainties the Soviets would encounter in attempting a disarming attack against the various U.S. weapons and basing modes considered. And the larger problem for the Soviets, dealing with the other legs of the Triad (bombers and SLBMs), is and will remain sufficiently difficult as to inhibit a Soviet disarming attack against the ICBM force.

The most promising approach to providing a new secure ICBM retaliatory force appears to be continuous airborne patrol. The Committee believes that a new aircraft—making use of today's composite material technology and fuel-efficient engines—can be satisfactorily designed for such a mission. The Committee thus recommends that the concept of keeping ICBM's on patrol over oceans and the continental U.S. be pursued to the extent of initiating a program for such an aircraft, and proceeding promptly to concept formulation. Based on initial studies, the fuel-efficency of such an aircraft appears to be sufficiently high, the survivability (including consideration of countermeasures) sufficiently good to call for a prompt and thorough examination of this basing concept in order to make the earliest possible decision for development and deployment. Such an aircraft may also have utility as a command, control, and communications platform. All members support the continued development of the MX missile while the feasibility of the patrol aircraft is being determined.

The submarine force appears to have a high degree of survivability for the foreseeable future and the precision of SLBMs can be improved (approaching that of land-based missiles) to provide a secure force capable of attacking hard targets promptly. The Committee recommends deployment of a larger, more accurate SLBM on the Trident force. The design of a submarine smaller than the Trident should be undertaken as a possible follow-on to Poseidon and an Extremely Low Frequency communication system should be deployed.

However, the possibility that strategic submarines might, in the long run, face some problems of survivability places importance on preserving other types of basing modes and, if it is possible and affordable, on creating new ones. Deployment of ICBM's on "air patrol", described above, is the most promising. The Committee also recommends the prompt and vigorous investigation of: exploiting the fratricide effects among warheads attacking closely-positioned and hardened shelters, deep underground basing, and taking advantage of terrain features such as basing missiles on the south side of, or within, mesas.

Small missiles offer a wider range of basing options than the MX does—in particular certain mobile modes such as helicopter, VTOL aircraft and road/off road. However, since the cost of small missiles per warhead is higher than the cost of the MX missile, and the most promising mode, continuous airborne patrol, is compatible with the larger missile, the potential advantages offered by the small missile are not sufficient to indicate a change from MX to a small ICBM at this time. A research effort on small missile basing is recommended in order to explore and make available any useful modes of deployment.

There is no demonstrated technology or system of sufficient performance to warrant commitment today to a Ballistic Missile Defense (BMD) deployment to defend ICMB's in silos. However, BMD may play a future role in helping secure our retaliatory forces if some promising concepts materialize, and the Committee recommends expanding the current BMD research and development effort.

The Global Positioning System (GPS), which is important for many military missions, provides a unique avenue to improve the accuracy of sea and airborne mobile missile systems, and should be fully deployed.

The Committee does not now recommend the deployment of the full MX/MPS system.

[From the Aerospace Daily, Mar. 30, 1982]

TOWNES PANEL REPORT ON MX BASING

(Editor's note: Following is the remainder of the text of the executive summary of the Townes panel's report on MX basing. The first part was published in the Daily of March 29).

In addition to the above recommendations supported unanimously by members of the Committee, a significant majority of the members of the Committee recommends a commitment now to deploy 100 MX missiles in 100 land-based shelters. They recommend that this deployment provide the further option, if required later, of rapidly deploying additional shelters for deceptive basing of the MX missile. This would be done through selection of an appropriate deployment location and design of the lancher. The option for ballistic missile defense of those shelters would also be preserved.

There are two principal underlying reasons for the recommendation of the majority group: (1) to provide a "hedge"; and (2) to provide an "augmentation" to our present strategic forces.

By providing (through location and design) the option to deploy additional shelters we provide a hedge against the event that proceeding with deployment of the MX missile in that air patrol modes does not prove feasible. In this circumstance it may be appropriate to provide for increased survivability of the MX force by adding more shelters and, should the threat so require, defending them—in the absence of a breakthrough in ballistic missile defense, deceptive basing among multiple shelters, using preferential defense, would be the most effective deployment.

Deploying 100 MX missiles in 100 shelters will rapidly augment our strategic forces by 1000 accurate warheads; such a deployment will strenghten our deterrence of major Soviet aggression against vital U.S. interests abroad. It will also present a much needed stress to the basing posture of Soviet strategic forces and thus provide an inducement for the Soviets either to negotiate significant arms control agreements or to make costly changes to their strategic deployment.

The majority group that recommends proceeding with the deployment of 100 MX missiles in 100 shelters in firmly convinced that it is appropriate to deploy a portion of the U.S. strategic force in such a mode—including the inherent capability for expansion to achieve increased survivability. So long as our submarine forces on patrol, our bomber forces on alert (and our aircraft force on patrol) provide for a secure, highly capable retaliatory force, there should be little or no incentive for the Soviets to attack these 100 shelters.

In sum, we should proceed to provide an augmentation to our strategic forces as soon as possible. But this augmentation should be accomplished in such a way as to provide a hedge—the inherent capability for adding deceptive basing (and defense) if required later. The deployment recommended above provides for both.

A minority of the Committee recommends a different course of action which would not deploy the MX ICBM on land or deploy any part of the MX/MPS system, believing it to be insecure and expensive, and believing that it would foreclose work on better systems by using up the funds available for strategic systems. Their more detailed position follows.

In accordance with its design, the Triad retains other survivable nuclear weapons capable of destructive retaliation even if the Minuteman (MM) ICBM force is largely preempted. But MM is perceived to possess a unique counterforce ability which cannot be matched in the other parts of the Triad. The lack of a counterforce Triad substitute for increasingly vulnerable MM enhances the value to the Soviets of ICBM preemption. Introducing into the Triad a counterforce capability that generally duplicates the MM ICBM would lessen the benefits of Soviet preemption. The D5 Trident missile with its accuracy approaching that achievable in a land-based system, and whose accuracy, like that of other SLBM's is verifiable for all ranges and azimuths, allows this possibility. Even though meticulous analysis does not reveal any reliable way to regain ICBM survivability on the merits of ICBM land-basing along, effective system survivability can be gained by the synergistic effect from arming the Trident submarine with a counterforce SLBM.

From first deployment, such a Trident submarine force presents a counterforce threat not targetable by Soviet ICBM's. Doing this makes increasingly irrelevant the primary Soviet nuclear reliance on a large throw weight/RV potential as a preemptive threat for deterrence.

Survivable systems would promote useful arms control negotiations, with the Soviets no longer motivated to retain large throw-weight and many RV's and the U.S. not reserving an option to reject the ABM Treaty because of a possible need to protect ICBM's.

In view of these considerations, the minority recommends that:

(1) If steps proposed by the full Committee lead to survivable alternative basing, as for instance a patrol plane, BMD, silo relocation, deep underground or something else, then that basing mode, with MX missiles if appropriate, should be deployed. If, however, these modes do not lead to survivable basing, then the MX missile should not be deployed.

(2) If proposals of the full Committee do not lead to an MX land basing mode that is survivable, the Minuteman missiles in the silos should be retained in view of the considerable complication which their existence causes to the planners of any attack on U.S. strategic forces, in particular on the aircraft, and in view of the deterrent effect of the Launch Under Attack (LUA) possibility on an attacker. The in-place Minuteman III missiles can be upgraded for hard target effectiveness and provide up to 1650 RV's. Additional cruise missiles can be added for launch from surface ships, submarines, and aircraft.

AF Details Cost Increases in AIM-7M, DSCS Programs

(Editor's note: Following are parts of the AIM-7M Sparrow and Defense Satellite Communications System portions of Air Force Secretary Verne Orr's March 8 report to Congress on AF programs that have exceeded baseline unit cost by more than 15 percent. The others are the F-15, F-16 and A-10 (Daily, March 25), and AGM-65D (Daily, March 26). For a similar Army report on the Pershing II, see the Daily of March 23.)

AIM-7M SPARROW

Description of breach	Selected acquisition report (SAR) as of—		
	Mar. 31, 1981	Dec. 31, 1981	Percent change
Total program acquisition unit cost (TPAUC):			
Amount (millions)	$1,578.3	$1,700.1	
Units	12,297	10,635	
Unit cost	.128	.160	+25.0
Fiscal year 1982 procurement unit cost:			
Amount (millions)	$238.6	$222.2	
Units	1,560	1,025	
Unit cost	.153	.217	+41.8

REASONS FOR INCREASE

The U.S. Navy is executive agent for this program and is providing a separate report.

Both contractors' proposed prices were higher than expected. Material, labor and inflation rates were higher than budgeted. Furthermore, a Congressional reduction and Navy program restructure in fiscal year 1982-83 resulted in an overall quantity reduction. This action increased unit costs throughout the balance of the program. The higher unit costs forced the Air Force to also cut quantities in fiscal year 1982 and fiscal year 1983, thereby increasing unit costs more.

[From the Aerospace Daily, May 28, 1982]

Perry Questions "Dense Pack" MX Basing Plan

Former Pentagon research director William J. Perry yesterday raised the concern that the "dense pack" basing plan of clustering 100 MX missiles in a relatively small area might be vulnerable to the "pin-down effect"—in which a succession of Soviet missles fired over the deployment area could prevent a retaliatory strike from being launched.

Perry told reporters at a breakfast session in Washington, D.C., that he raised the issue when he was briefed by the Air Force two weeks ago on President Reagan's preferred MX basing plan. Lt. Gen. Kelly H. Burke, Air Force deputy chief of staff for research, development and acquisition, will give him a follow-up briefing today and respond to the concerns, Perry said. Now an adviser on high technology firms, Perry was briefed "as a courtesy," he added.

An advocate of precision guided weapons while he was Carter Administration undersecretary of Defense for research and engineering, Perry said Argentina's ability to inflict casualties on the British fleet with the French Exocet missile would lead him to advocate putting more money in the Navy budget to protect the surface fleet.

He said he agreed with Navy Secretary John Lehman that to defend against PGMs it would be necessary to extend fleet air defense out to attack aircraft.

He said he would favor more F-18 fighters equipped with Advanced Medium Range Air-to-Air Missile (AMRAAM) fire-and-forget missiles to do an F-14 Phoenix type attack without the same range.

He said he would favor spending more on close-in air defenses and on ocean surveillance. For broad ocean areas. he said, he would use satellite coverage. In the Falkland Islands area, he continued, he would rely on high altitude aircraft.

"Yes, we're inadequate now" in funding and what the Navy is able to do, he remarked.

He called the SSN-688 nuclear attack submarines one of the best means of defending carriers and said he would favor increasing the number of attack subs in the fiscal 1983 and 1984 budgets even more than the Reagan Administration did. The Administration is seeking two of the Los Angeles class subs in '83 and three in '84.

Perry said that "whatever the cost," $400 million or $500 million, "the cost of them is small relative to (their) effectiveness."

He said he doesn't think the threat to the U.S surface fleet today is greater than 250 miles but noted that the MRASM (Medium Range Air-to-Surface Missile), which is perhaps two years away from entering the inventory, will operate at ranges of 600 to 700 miles. It's likely that Soviet missiles will also extend the range of the threat, he added.

"Yes, I believe it is" a bad idea for the Navy to cut MRASM, he told a questioner.

Perry said the defense, which is at a disadvantage, has to have some way of attacking the bombers themselves, if not at their bases then at long ranges.

Perry said he would invest far greater sums or tactical aircraft and subs relatve to surface ships but would stick with the present number of 13 large carriers. His emphasis would be in protecting them rather than adding to their number, he added.

Perry said that today with all the basing problems and the Trident II sub-launched missile underway the MX would be "low on my priority."

He said he would rather put the money into anti-submarine warfare, tactical air wings and building up conventional forces. The balance between conventional and nuclear forces "is off" today, he remarked.

The same argument, he continued, would hold against the B-1B strategic bomber. For the same $30 billion, he said, he would rather buy five wings of F-15 and F-16 fighters which would represent "a far greater enhancement of our capability." He maintained that he was "not negative" on the B-1B.

Perry said his response when he was briefed about dense pack for MX was that the Soviets could go from trying to put 20 to 30 warheads on their SS-18 intercontinental missiles to one very big warhead which could take on the whole cluster of missiles in the constricted area. This would eliminate the fratricidal effect of having Soviet warheads aimed so close together they would destroy one another.

The Air Force, he said, is quite aware of the pin-down effect, which he called reverse fractionation. The effect lasts for over a minute per missile fired, he said. The principal threat is radiation, he added.

He said the Air Force was talking about 1500-foot separation of missiles. "Ours was 5000 feet," he added.

Perry was the principal architect of the Carter Administration basing plan calling for shuttling 200 missiles among 4600 shelters scattered in desert valleys in Utah and Nevada.

Another concern he raised was vulnerability to espionage of a system confined to a relatively small area.

Perry said he offered President Carter two choices when he briefed him on the MX in 1979: either the multiple protective shelter (MPS) which Carter picked or increased emphasis on sub-launched ballistic missiles, with the Trident II and more Trident subs, increased numbers of Air Launched Cruise Missiles and standing pat with the land-based Minuteman missile. In time under the latter plan, the Trident II would have replaced the Minuteman, he added. This was called at the time the "common missile" plan.

He said the Reagan Administration interim plan for putting MX missiles in Minuteman silos, which the Senate rejected, was not addressing the problem but "sort of giving up on it."

Perry said he never believed that "we had to go" with the MX and that the second option was viable.

His reason for favoring the MX was a lingering concern that over a long period of time the strategic subs would be vulnerable. He said the subs today and in the foreseeable future have survivability. His concern, he said, is the unknown in the tail end of a sub's life, noting that a sub funded today wouldn't begin its useful life until 1990 and would be in service until about 2010.

The U.S. knows how to attack SLBMs but the economics and engineering are just not feasible today but might be in the future, he added.

Air Force Eyes Stinger-Equipped M113 for Air Base Defense

The Air Force plans to complete this summer its current studies of how to defend its air bases in continental Europe, and one concept under consideration is an Army M113 armored personnel carrier equipped with Stinger missiles and a Gatling gun. The service is prepared to take over air base defense, an Army role, if this turns out to be the best thing to do.

The Air Force declined on Wednesday to discuss air base defense concepts and said they involve ground rather than air attacks (Daily, May 27). The M113-based system was described, however, in fiscal year 1983 budget testimony published recently by the House Appropriations defense subcommit-

tee. Gen. Lew Allen, AF chief of staff, described it as a ground defense system that "would also have some air defense capability."

Air Force Secretary Verne Orr called it the Air Force Mobile Weapon System (MWS), planned to begin technical demonstrations in fiscal year 1983.

Mr. HOLLINGS. Mr. President, I can speak at length on the MX but I know other Members want to address this critical issue. I hope someone will notify others who are interested in this matter to come to the Chamber. I want to yield to other speakers because of the limited time.

I simply emphasize the fact that this has nothing to do with the Arms Limitation Agreement, as we have heard. It does not affect that in any way. Some can misinterpret it and if they wish they will so interpret things of that kind. They are not listening to this debate. There is no chance of actually building and deploying an MX missile at this particular time. The Russians know it, the Congress knows it, the White House knows it, and that is the real problem.

Mr. President, this has nothing to do with the negotiations, the deployment of the missile in the Arms Limitation Agreement.

Due to the particular negotitions that we have had all afternoon on my amendment where we could not get a time agreement unless the other side was free to table and get a perfecting amendment, and so forth to oppose what they had originally supported.

When the chairman of the Armed Services Committee, who led the Armed Services vote to delete all MX production, comes now and opposes the particular amendment that limits production, it tells me that in the interim period, on a continuing resolution, commitments for procurement, are intended to be used and sneaked in on a continuing resolution when they should not be. And the opponents do this when the Senate has not voted on it and no decision has been made with respect to the basing mode.

The way MX production will occur is an abuse on the floor of the Senate when we allow it to happen on a continuing resolution. This amendment is more than appropriate; I think the amendment is absolutely necessary.

I will now yield to the Senator from Colorado, and I ask everyone to present their statements before they move to table.

Mr. HART. Mr. President, what is the time situation?

Mr. HOLLINGS. Mr. President, what is the agreement on this particular amendment?

The PRESIDING OFFICER. The Chair will advise the Senator from South Carolina that under the terms of the time agreement, 30 minutes are allocated to the amendment to be equally divided. If a tabling motion is offered and fails, it will then be in order for the Senator from Texas to offer a second degree amendment on which 15 minutes is allowed, equally divided.

If a tabling motion on that fails, and the amendment fails, a second amendment may be offered under the same time limitation.

Mr. HART. Mr. President, I wish to identify myself very strongly with the position put forward by the Senator from South Carolina. There is in the defense area, more so than in any other area we will deal with this year, no more important policy issue than the issue of the MX missile system. If this amendment fails by virtue of language placed in a continuing resolution, as the Senator from Colorado understands it, the Senate of the United States, and perhaps the Congress of the United States, will go on record as fully supporting additional procurement of the MX missile and funding the basing mode, whatever it is.

We do not know what the basing mode is. Therefore, funding the basing mode seems to make no sense whatsoever, as does procurement of the original set of a half-dozen or so missiles.

Mr. President, I would think that before the Congress of the United States or the Senate of the United States launches this country forward into that era of that new missile, we, at the very least, ought to know where the missile is going to be placed and ought to defer funding of the missile until that decision is made. The decision has not been made.

The basic plan has not even been presented to the Congress. So committing the Congress of the United States in a vehicle such as this, with 30 minutes of debate, is hardly the way to go about doing this Nation's business, and it is certainly not the way to go about making major strategic decisions in the long-range interests of this country.

It may be that the wisest course is to go forward with procurement of the missile. It may be, through some strange set of circumstances, that the dense pack basing mode, the fourth or fifth to come down the pike, makes some sense. Let us leave that aside.

At the very least, it should not be the case that we go forward blindly into the dark on this measure, using this method, using this device or this vehicle to make those major policy decisions.

Mr. President, the course of prudence, wisdom, and caution, even if one supports research and development of this sytem, which I have, is to not use the continuing resolution, not use 30 minutes of debate, to make this major decision of procuring the first set of missiles and giving the Defense Department money for some unknown basing mode. I would urge my colleagues to strongly support this amendment.

I yield back to the Senator from South Carolina.

Mr. HOLLINGS. I yield to the distinguished Senator from Nebraska.

Mr. EXON. Mr. President, I am pleased to be an original cosponsor of the amendment offered by the Senator from South Carolina.

The amendment is simple, straightforward and consistent with the desires of the Congress with regard to production and deployment of the MX missile. This is not a fight regarding whether to produce the MX missile. Production of five MX missiles was approved in the 1983 Defense Authorization bill which is now law.

The Senate Appropriations Committee has followed suit and approved this MX production. However, the Senate has not worked its will on this measure and will not do so until the lameduck session. In the interim, the Senate version of the continuing resolution before us today calls for interim Defense Department funding at the 1983 level approved by the Appropriations Committee last week.

Because of this situation, a potential loophole exists. The expenditure of all MX basing money in fiscal year 1983 is contingent upon submission of a Presidential basing mode decision. This provision is already law. However, there is no similar provision affecting the production of the five MX missiles themselves. This production can proceed as of October 1 under the terms of this continuing resolution.

It makes no sense to this Senator to have MX missile production go "full speed ahead" in the absence of a Presidential basing mode decision. This has always been the intent of the Congress and is the reason why the Senate has consistently taken the lead over the past few years in moving forward a Presidential MX basing mode decision.

The President has pledged to inform Congress of his decision on this matter by December 1—a short 2 months from now. I believe the Hollings amendment is necessary to insure Congressional preorgatives in this area. If the President holds to his decision schedule, there would be virtually no delay in MX production. The MX flight test program can go ahead without interruption—indeed the first flight test is scheduled for January, 1983.

Mr. President, with all of the care which the Senate has taken over the years to link the MX missile to a basing mode decision, we must not at this time lessen our oversight of this most important program.

I urge the adoption of this amendment.

Mr. HOLLINGS. I yield now to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, because this Congress has been unable—for a variety of very real and very legitimate reasons—to pass the appropriations bills necessary to enable the Government to begin the new fiscal year, we are faced with the necessity of passing a continuing resolution. I accept that necessity even though I do not like it. As President Reagan suggested, when he called on us to adopt a resolution that covered as brief a period of time as possible, this is not the best way to run a government or develop a budget.

It makes no sense to operate that way. We are not even "buying a pig in a poke"—we do not have a poke to put this pig in.

Logically, there is no justification for procuring a missile before we know where and how to base it. Procedurally, there is no necessity to make that decision now in a continuing resolution designed simply to "maintain the ongoing operations of the Government." Finally, Mr. President, this decision makes no sense institutionally. When we allow—as this resolution does—new starts to take place because such programs have been approved by a committee of Congress, we abdicate the responsibility of the body. We are turning over our job to the 29 members of the Appropriations Committee. It is not a decision made by 100 Senators or 435 Representatives working together. Rather it is a decision we have turned over to 29 individuals. I respect those individuals, I admire them, but even if I agreed with them, I would never agree to give them that kind of power.

Mr. President, there is no need for us to decide the MX appropriation issue here and now. It is precisely the kind of issue the President has told us needs to be decided in the lameduck session of the Congress. The continuing resolution is to continue the operations of the Government—it is not a place to begin new operations. It is not appropriate, wise or necessary for us to begin the development of this weapon system, perhaps the most potent weapon system ever devised, without being able to debate its merits and consider its implications.

A continuing resolution which covers, as this one does, virtually every governmental function and which must be passed within the space of less than 2 days certainly prevents us from devoting the attention that we should to the wisdom of every program. That is why we traditionally pass legislation which is restricted to "continuing" the functions of the Government. As the Appropriations Committee stated in their report on this legislation, "the continuing resolution is a stop-gap funding measure to maintain the ongoing operations of the Government. . . . It is designed only as a temporary (measure). . . ." The committee goes on to make it clear that "the basic intent of the resolution is to provide a basic level of funding to maintain existing operations and activities until such time as the regular appropriations bill covering these programs can be enacted into law." Finally the committee makes it clear that a continuing resolution ought not do anything which could "foreclose or unduly constrict the scope of decisions which Congress has yet to make on the regular appropriations bills."

But, Mr. President, that is precisely what we are doing in regard to the MX. We may be foreclosing our options; we are constricting our freedom; we are abdicating our responsibility.

Under the terms of the resolution now before us, there is nothing—nothing—to prevent the Department of Defense from starting programs which the full Congress has not yet appropriated funds for. Of course we have considered the desirability of building an MX missile but we are voting for the first time to appropriate dollars to procure five MX missiles. We are voting to procure them even before we know if we have a way to base them that makes sense.

Mr. President, in 1981, the Senate adopted the Cohen-Nunn amendment which put us on record as opposing any nonsurvivable basing mode for the MX. At this point in time, we do not have a survivable basing mode. Until we can judge what the basing mode will be and whether it is even survivable, we should not go ahead and make a commitment to procure five missiles.

Mr. HOLLINGS. Mr. President, I retain the remainder of my time.

Mr. HATFIELD. Mr. President, I yield 3 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. STENNIS. Mr. President, may we have quiet? There are virtually no Members present but this is a highly important matter.

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

The Senator from Texas is recognized for 3 minutes.

Mr. TOWER. Mr. President, it is intended by the sponsors of this amendment that the effect is minimal. Regardless of the degree of proscription that it imposes on the administration in proceeding with the MX program, the psychological impact of this amendment can be enormous. If this amendment is adopted, they will be dancing in the street in Moscow.

We had testimony yesterday before the Armed Services Committee from Ambassador Rowney, who is engaged in the difficult business of trying to negotiate a strategic arms reduction treaty with the Soviet Union. He was very emphatic; it is essential that we continue to demonstrate our will and determination to the Soviets if we are to bring these negotiations to a successful conclusion, and any show of weakness on our part, any chink that appears in our armor would encourage the Soviets to be dilatory and reticent and not come to an agreement because they feel the Congress of the United States may do their work for them.

The Soviets do not regard negotiations on arms limitations as seminars in political stability. They are hard-nosed trading sessions involving systems either deployed or deployable or systems that we intend to deploy.

I can remember when I monitored the SALT II negotiations in Geneva a few years ago, and I had a little discussion with Alexander Shukin, the scientific adviser to the Soviet delegation. I said, "Mr. Shukin, we have given up the B-1. What will you do in return?" He looked at me and said, "Senator, I am neither a pacifist nor a philanthropist."

The START talks are to resume on October 6, and I can think of nothing more calculating to undermine the position of our negotiators in Geneva than the passage of an amendment of this kind.

The PRESIDING OFFICER. The time of the Senator from Texas has expired.

Mr. HATFIELD. Mr. President, I yield 1 minute.

The PRESIDING OFFICER. The Senator is recognized for an additional minute.

Mr. TOWER. On the eve of the resumption of those talks, it will give the Soviets great incentive to avoid consideration of any meaningful proposals offered by the United States, with the firm hope on their part and the expectation that Congress will play around with the MX program until it finally kills it. They will regard this amendment as the harbinger of the death of our effort to modernize our strategic land-based system, our only urgent hard target kill capability. We will have cut off our negotiator at the knees. I can think of nothing more calculating to enhance the prospect of nuclear war than the passage of amendments of this type which will undermine our efforts to secure real arms reduction.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield 4 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, the foremost question in the matter of arms limitation is what the President of the United States is going to be able to do and when is he going to make his move?

May we have quiet, Mr. President? It takes something out of this Chamber.

The PRESIDING OFFICER. If the Senator will suspend, the Chair will——

Mr. STENNIS. I do not want to yield my time.

The PRESIDING OFFICER. The time that is required to obtain order will not be charged to the Senator.

Mr. STENNIS. The whole thing centers around the move to be made by the President of the United States regarding these negotiations which hopefully will lead to some kind of an agreement that will benefit mankind.

We have been working on this matter for 8 years. We had a lot of trouble, genuine trouble, about the basing mode. When I say we, I am talking about the Senate Armed Services Committee. Every member contributed. There was some division on the conclusions, but we put the missiles in and went as far as we could. The problems were with the basing mode. The missile made fine progress, with no impediment or break in the development year after year after year.

It is the single positive thing that the President has to take with him, so to speak, when he sends the negotiators to Geneva and follows it up later with his personal attention. Why create doubt? Why put a fence around this matter and say that we have to wait just a few days now and a few more weeks until the Congress returns?

This is an emergency.

This amendment would require us to wait and put a fence around this matter and go back into that old question of the basing mode.

I do not know of anything more you could do to encourage the other side in these negotiations than to delay and procrastinate, even though there is nothing except good intentions.

We either have to move forward on this matter or cut bait and start over and see what we can do.

I am satisfied that we will never get the Soviet Union to budge 1 inch until we move forward the most we can in this field of weaponry. I am not happy about it. I do not like to spend all this big money—billions here and billions there.

Why come in here and say we will be back in 60 days but we are going to stop this?

The request was cut to five missiles because it is considered stronger to produce the five missiles, complete them if possible, as soon as possible, rather than to have long lead funds for nine missiles. So the Armed Services Committee authorized the money without any strings on it.

Let the President stand foursquare and look them in the eye and say, "Here is the thing we are moving on—no delay, no restriction, no restraint."

Why tie up things when there is no real cause for it? It makes the other side believe there is not a purpose, not a will, not a final intention to see this thing through. I think it will be a grave mistake.

I yield back any time that remains.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. I yield myself 1 minute.

Mr. President, if Senators will look at the Armed Services Committee report on the Department of Defense authorization for fiscal year 1983, they will find out who is helping the Russians and who is enhancing the prospect of nuclear war and who is trying to prove that there is not a will.

Turn to page 66 of the report and you will see the budget request sent to the Armed Services Committee by the President for the MX missile. The Reagan request totaled $1.446 billion. When the committee considered that request of $1,446,400,000, they gave them zero dollars. I repeat, zero dollars by the U.S. Senate Committee on Armed Services.

So the Soviets have been invited to the party and they have had a celebration to enhance the prospect of nuclear war. When? When the Armed Services Committee zeroed MX production. They go to no party under my proposal.

Then, let us look at page 59 of the report and you see the language as to exactly why Armed Services wanted to withhold the funding for the procurement of nine MX missiles in fiscal year 1983. And it was denied without prejudice.

I will save time now, but all my colleagues should read that language in the Armed Services report that the Armed Services Committee would like to shove under the rug. That committee did not enhance nuclear war when it zeroed MX procurement. It did not enhance nuclear war to comfort the enemy or to show we had no will when it reported it to the Senate and when the Senate voted for it, 84 to 8. But my amendment, which cuts no funds, I repeat—no funds—from MX but merely says we do not build what we cannot deploy—now somehow I am inviting a nuclear disaster on the United States.

Now they have this silly dense pack—which more nearly describes the mentality better than the missile—no wonder Gary Trudeau has given up "Doonesbury." We are getting better comics from the Pentagon.

I never heard of such nonsense and ripping and snorting around here. There is an old political adage: When in doubt, do nothing, and stay in doubt all the time, and they have. That is what has happened with this MX missile. That is where MX supporters are—in doubt.

For years, the Congress has been pushing administrations on the MX. We have said: "Do not stand there. Do something."

So they come with a racetrack and they run us all around, with brigadier generals, major generals, four-star generals, and they racetrack us for 3 years. They had a standup basing mode before that one, and then they racetracked it. And now they have dense pack. From racetrack to dense pack. The whole idea is in circles.

It seems that we would learn something in this Congress. Commonsense dictates that this country is in a bad economic situation, and we have to make a sensible decision.

To the credit of the Senate, we have money in the bill for the D-5, Trident II missile. That is the missile with hard-target kill capability that we need and we need more of them. We have a place to put them and there is no debate about it. The Trident has a basing mode. That is all I am trying to get at with this particular amendment. And I also believe the R&D should continue on the missile.

At this time, I will withhold the remainder of my time, because the distinguished Senator from Ohio wants to say a word, and I have only 1 minute remaining.

The PRESIDING OFFICER. The Chair advises the Senator that he has 8 seconds remaining.

Mr. HOLLINGS. Maybe the distinguished Senator from Oregon will yield a minute to the distinguished Senator from Ohio. I just received the message that Senator GLENN wishes to speak.

Mr. HATFIELD. I yield 1 minute to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. I thank the distinguished Senator very much. I am sorry I was late getting to the floor and did not take part in the debate.

The big thing we want out of this is deterrence. That is the problem. It is what makes the Soviets think twice before they think they could launch an attack on the United States. To me, we do not accomplish that in the way of deterrence or going to the big, new missiles for which we cannot even figure out a basing mode. We should have been considering the basing mode all along.

I do not think the efforts we are making now to try to find a basing mode will be any more successful than those we have tried in the past. We would be taking a brand new missile, with a 192,000-pound booster, and putting it in the same old holes, which is what we are doing now, subject to coming up with a basing mode—the same old holes the Soviets have targeted in the past.

What would make sense is a true mobile, which is what we asked the Europeans to accept in the form of the Pershing, which gives the Soviets fits because they do not know where it is going to be when war starts, or something like the Soviet SS-20, which gives us fits because we do not know where it is going to be when war starts. If they put an extra section on the SS-20, it becomes an ICBM, which in turn gives us a real problem because we do not know where to aim.

I will not belabor this; I know that the arguments have been made here.

I fully support doing away with the procurement funding of the MX. I am all for continuing the research on it, because research on guidance systems, on fuel specifics, on weapons for the nose of that missile—all these things have applications to other missile systems. That is the reason why I fully support the research efforts with regard to the MX but not procurement.

I have been briefed on the dense pack proposal, as have other Senators. I do not think that is satisfactory. I believe it is putting our eggs in the wrong basket to depend on that.

The Senator kindly granted me an extra couple of minutes that I did not deserve, according to the procedure under which we are operating. I appreciate this forbearance and I thank him.

Mr. HATFIELD. I yield 2 minutes to the Senator from Utah (Mr. GARN).

Mr. GARN. I thank the distinguished chairman.

Mr. President, I will not take long, and I certainly will not repeat what already has been said.

I support totally the remarks of the distinguished Senator from Texas and the distinguished Senator from Mississippi. They have worked long and hard on this issue.

When I first came to the Senate and was a freshman member of the Armed Services Committee, I continued to support the development of the MX missile. I was very much involved in the basing mode, as I think everyone knows, and I opposed the Carter basing mode because I did not think it was survivable. I did not ever oppose the missile. I did not ever oppose it being placed in my State or in Nevada. I opposed the basing mode any place in this country that I thought was a Rube Goldberg system that simply would not work.

As far back as the summer of 1976, I encouraged President Ford—he could not make a decision on the basing mode before that election—to decide to go forward with the missile, the research and development and eventually the production.

That was not done. The election changed. Then we got into all this hassle over a silly racetrack basing mode.

Congress has been jockeying this around for political reasons and others for a long, long time. The fact remains that while we have been arguing for years about a replacement for Minuteman III, the Soviets have built several new missiles and have four more under research and development. So we are still stuck with the Minuteman III with no replacement.

I am not prepared to argue basing mode one way or the other tonight, but it would be a foolhardy mistake not to go ahead with the production of just five missiles. One very reason that they are so costly is because of continual congressional delays, the starts and the stops.

We are going to have to make a decision on the basing mode soon.

Initially the President said by the summer of 1983 the decision would be made. Congress initially was willing to agree to that. Then they said no. We changed it to December 1, 1982.

So we have accelerated that process and now we are not willing to wait another couple of months to see what the President's recommendation is. We are trying to prejudge that.

I do not know whether dense pack or some other mode is the best way to go. It is a difficult decision, but let us not prejudice it beforehand. Let us not be jockeying around and keep upping the timetable which we have done. It is fine with me to have that report by December 1, but let us be statesmen and let us be willing to wait for that report and then let us argue basing mode in the proper context. But let us proceed with that missile before the Soviets develop another five more and have a 10-to-1 lead on us.

Mr. GLENN. Mr. President, if the Senator will yield for a question, does he have any time remaining?

Mr. GARN. I maybe have 10 or 15 seconds remaining. I am happy to yield for a question.

Mr. GLENN. I wish to ask what the advantage is buying five now if we are going to be stuck in the same old holes and be vulnerable again as when we started the whole program.

Mr. GARN. I think the Senator well knows the five will not be built by December 1 and other decisions are going to be made. Why be prejudiced beforehand. The Senator knows that cannot take place, and they are not going to be built before we get a debate on the basing mode.

Mr. GLENN. We have been unable for the last 6 or 7 years to establish the basing mode. Why are we optimistic now? The only one I heard is the dense pack so far.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HATFIELD. Mr. President, I yield such of my time as he may require to the Senator from Texas.

Mr. TOWER. Mr. President, there seems to be a great predisposition on dense pack before Senators I think have been thoroughly and adequately briefed on the matter.

There have been a lot of developments in terms of the so-called dense-pack proposal that have occurred over the last 2 months. It appears that it may be a survivable and viable system.

I would hope that Senators would not pass judgment on that right away because I do not really think Senators have been informed in depth on this matter, and I would suggest that the appropriate time is when we get into the appropriations on the MX to take the Senate into a closed session and we can talk about it. If Senators want to reject the system then that is fine.

It is not a foregone conclusion that dense pack will be the basing mode. It is trending that way.

Something has been said about what the Armed Services Committee did. The Armed Services Committee zeroed the funding for production to dramatize the need for an early arrival at a basing-mode decision. That objective has been accomplished and the Armed Services Committee of the Senate receded to the House of Representatives on the funding of the production of the MX missile as we thought perhaps we would after we had exercised sufficient leverage to assure us of a timely decision on a basing mode.

The proper time to debate this matter is when we come back in the lame-duck session when we are considering the appropriations on the MX. Why pass this right now on the eve of the resumption of the strategic arms reduction talks with the Russians? This is the very kind of thing that makes our Ambassador's job more difficult in his efforts to try to arrive at some agreement on realistic arms reduction with the Soviet Union.

I would hope that the Senate will not act hastily on this matter. Thirty minutes is hardly enough time to debate an issue of this consequence.

And I do not know where the Senator from Ohio gets the notion that all we are going to do is stuff the silos with these missiles, but the fact is we very often move into production systems before we can be assured of what their full integration would be as is the case with the D-5.

Mr. KENNEDY. Mr. President, I strongly support the amendment offered by Senator HOLLINGS to prohibit funding under the continuing budget resolution for starting up production of the MX missile until the President proposes a permanent basing mode. President Reagan is expected to propose a new basing mode by December 1 of this year. It is fiscally unwise to use our scarce defense resources to procure the new missile before that time or before many key pending issues are resolved.

At this point, we must seriously question whether a new basing mode that would make the MX more survivable can ever be found. Even if one believes in the window of vulnerability—which I do not—it is questionable whether a survivable basing mode can be found on land without breaking with past arms control agreements.

It now seems likely that the new MX basing mode proposed by the Reagan administration will be the dense pack—under which the missiles would be deployed closely together in an effort to deter a first strike. It seems hardly credible that this proposed mode will work, and even those who advocate it acknowledge that it would require building new missile silos and added protection from ballistic missile defenses. That would mean changing the terms of SALT II and the long-standing ABM Treaty—and perhaps a whole new arms race in destabilizing offensive and defensive nuclear weapons systems.

Mr. President, I believe that none of these fundamental problems have been resolved by either the administration or the Congress. Until they are, we should refuse to fund production of the MX missile and insist on a full report and recommendations from the President before exercising our own independent judgment.

Mr. BUMPERS. Mr. President, the United States is approaching a watershed decision: Whether to go forward with production of the MX missile. Our decision will determine the nature of our strategic arsenal for the next 15 to 20 years. In my opinion, the MX should not be built for at least three reasons: First, it would add little to the effectiveness of our strategic forces; second, it would undercut existing arms control agreements and the stability of the nuclear balance especially in times of crisis; and third, there are real alternatives that could better perform the mission of deterring a Soviet nuclear attack.

The MX debate has generally been cast in terms of whether a survivable basing mode for the missile can be found. A better first question, however, is why do we need the missile at all? The primary contribution of MX to our nuclear arsenal would be to add more warheads that are promptly targetable against the Soviet Union. But it is hard to make the case that we need the MX because we need substantially more warheads. If the 9,500 warheads we already have aimed at the Soviet Union are not enough for deterrence, commonsense suggests that the proposed 1,000 additional MX warheads will not make a significant difference. There may be some value in keeping pace with the number of Soviet warheads, but the United States is doing so: We have roughly 9,500 now; they have roughly 7,000. In 10 years, we will have roughly 14,000, due to the addition of the Trident submarine and air-launched cruise missiles (each of which I favor); they will have somewhat less. Likewise, there is value in having a prompt ability to knock out Soviet missiles, so that they could not reload and fire again. But the Trident II missile will give us this capability, and will be supplemented by the somewhat slower, but numerous and highly accurate cruise missiles. In short, the positive case for the MX missile is weak.

The negative case against the missile is, however, quite strong. The first issue is whether it could be based on land in any manner that could insure its survivability. For 10 years, we have unsuccessfully sought a survivable basing mode. The Air Force is now suggesting the so-called dense pack or closely spaced basing method. This requires missiles to be deployed close to one another in superhardened shelters. Even a superhardened shelter could not survive a direct hit. The Air Force figures, however, that the blast and radiation effects of a warhead exploding over one silo would destroy or knock other incoming missiles sufficiently off course that other superhardened silos could survive. The question of whether the Air Force's conclusions about these "fratricide effects" are correct is an interesting technical issue that, unfortunately, is not easily susceptible to empirical proof. It is unsatisfactory to let so much depend on such uncertain assumptions, for if the Air Force is wrong we would unwittingly be putting a substantial part of our total strategic force at risk. Moreover, even if the effects are exactly as the Air Force predicts, if the Soviets' computer analyses come up with different conclusions, deploying MX in a dense pack could undercut, rather than enhance, our ability to convince the Soviets that we could respond effectively after absorbing a first strike attack.

Furthermore, it is not clear how U.S. missiles in a closely spaced based configuration could be launched through the nuclear effects created by a Soviet attack. The Air Force calculates that to maintain those effects continuously the Soviets would have to launch a significant portion of their missile inventory. But a more calculated approach by the Soviets—a large attack followed by periodic small repeat attacks—might well create sufficient uncertainty that the United States would not want to launch its missiles promptly, for fear of losing them. Then, however, the rationale for the MX missile—that it provides quick reaction, hard target kill capability—is entirely lost since cruise missiles, for example, would reach the U.S.S.R. as quickly (and more surely).

One idea for improving the survivability of the MX that is getting a lot of attention these days is to build a ballistic missile defense (BMD) system to protect the dense pack field. In order to do this, it would be necessary to make major changes or abrogate the antiballistic missile treaty that we have had with the Soviets since 1972. Such a move would jeopardize the ongoing Strategic Arms Reductions Talks (START), and eliminate one of the few successful instruments we have come up for controlling the madness that is the strategic arms race.

Finally, deploying the MX missile makes the problem of crisis stability much more difficult. The MX, with its 10 warheads, would be an extraordinarily tempting target for the Soviets. They would need only to expend 1 warhead to eliminate 10 of ours. Such an exchange ratio, along with the difficulty of hiding large land-based missiles, is what has created the so-called "window of vulnerability," and deploying 100 MX missiles does little to close it. A far better approach would be for the United States to consider multiplying the number of smaller, single warhead missiles, thereby reducing the Soviet incentive to strike first. The ordinary calculation is that it takes two warheads to kill one missile (because the margin of error is sufficiently large that only by shooting two will there be a high probability of one hitting close enough to destroy the target). If, however, it would take two Soviet warheads to kill only one U.S. warhead, the incentive for them to launch first in a crisis would be substantially undercut. A complementary or alternative approach would be to increase the difficulty of locating U.S. missiles. There are available, technologically feasible, systems which could be built in place of MX, which would probably go a long way toward solving the vulnerability problem. For example, smaller missiles like the D-5 could be based on trucks or in small submarines. Either systems could avoid detection by Soviet satellites, and, by increasing the number of missiles and limiting the number of warheads per missile, either plan would eliminate the Soviet incentive to strike first.

In short, MX should not be built because it would not add to U.S. capability, it would be difficult to utilize under wartime conditions, it would undercut crisis stability, and existing arms control agreements, and there are better alternatives available.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, has all the time expired?

The PRESIDING OFFICER. There remains to the Senator from South Carolina 6 seconds.

Mr. HOLLINGS. All time has expired.

The PRESIDING OFFICER. All time has been yielded back.

The majority leader is recognized.

Mr. BAKER. Mr. President, I move to table the Hollings amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Michigan (Mr. RIEGLE), are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

The PRESIDING OFFICER (Mr. ABDNOR). Is there any other Senator in the Chamber desiring to vote?

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 370 Leg.]

YEAS—50

Abdnor	Gorton	Nickles
Armstrong	Grassley	Packwood
Baker	Hatch	Pressler
Bentsen	Hawkins	Roth
Boschwitz	Hayakawa	Rudman
Brady	Heflin	Sasser
Byrd, Robert C.	Helms	Schmitt
Cannon	Humphrey	Simpson
Cochran	Jackson	Stennis
Cohen	Jepsen	Stevens
D'Amato	Kasten	Symms
DeConcini	Laxalt	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
East	Mattingly	Warner
Garn	McClure	Zorinsky
Goldwater	Murkowski	

NAYS—46

Andrews	Eagleton	Melcher
Baucus	Exon	Metzenbaum
Biden	Ford	Mitchell
Boren	Glenn	Moynihan
Bradley	Hart	Nunn
Bumpers	Hatfield	Pell
Burdick	Heinz	Proxmire
Byrd, Harry F., Jr.	Hollings	Pryor
	Huddleston	Quayle
Chafee	Inouye	Randolph
Chiles	Johnston	Sarbanes
Cranston	Kassebaum	Specter
Danforth	Leahy	Stafford
Dixon	Levin	Tsongas
Dodd	Mathias	Weicker
Durenberger	Matsunaga	

NOT VOTING—4

Denton	Percy
Kennedy	Riegle

So the motion to lay on the table Mr. HOLLINGS' amendment (UP No. 1339) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I would like to give the Senate an update on where we are, if we can have order in the Chamber.

The PRESIDING OFFICER. The Senate will be in order. Will Senators please take their seats?

Mr. HATFIELD. I am sorry, I cannot hear the Chair.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, let me indicate where we are now down to with the known amendments on which we have arrived at time agreements: A 10-minute amendment by the Senator from Missouri (Mr. DANFORTH); a 15-minute colloquy for the Senator from New Mexico (Mr. DOMENICI); and a 30-minute time limitation on a Kennedy amendment. That is on the jobs issue. That has a 10-minute agreement on an amendment to that amendment in the second degree by Mr. NICKLES.

That constitutes about 65 minutes remaining in known amendment time, if the time is all taken, not counting the voting time.

I just want to put the Senate on alert that if there are not other amendments besides these which we have listed, we could conceivably finish this bill by 8:30 or 9 o'clock.

Mr. President, under the unanimous-consent agreement, I now yield the floor to the Senator from Missouri (Mr. DANFORTH) to offer an amendment.

The PRESIDING OFFICER. The Senator from Missouri.

UP AMENDMENT NO. 1340

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 1340.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC.—. Section 508 of the Airport and Airway Improvement Act of 1982 is amended by adding at the end thereof the following new subsection:

"(e) USE OF CERTAIN APPORTIONED FUNDS FOR DISCRETIONARY PURPOSES.—(1) Subject to paragraphs (2) and (3), if the Secretary determines, based upon notice provided under section 509(e) or otherwise, that any of the amounts apportioned under section 507(a) will not be obligated during a fiscal year, the Secretary may obligate during such fiscal year an amount equal to such amounts at his discretion for any of the purposes for which funds are made available under section 505.

"(2) The Secretary may make obligations in accordance with paragraph (1) only if the Secretary determines that the total of obligations for such fiscal year for purposes of section 505 will not exceed the amount authorized for such fiscal year under section 505(a) and if the Secretary determines that sufficient amounts are authorized under section 505(a) for later fiscal years for obligation for such apportioned amounts which were not obligated during such fiscal year and which remain available under section 508(a).

"(3) For purposes of amounts apportioned for fiscal year 1982, the Secretary may make the determinations under paragraphs (1) and (2) on or before October 30, 1982. For purposes of any limitation on obligations imposed by law, amounts obligated in accordance with this subsection on or before October 30, 1982, shall be deemed to have been obligated during fiscal year 1982 to the extent that such amounts, when added to amounts obligated on or after October 1, 1981, and before October 1, 1982, for purposes of section 505, do not exceed $450,000,000.".

Mr. DANFORTH. Mr. President, the Congress mas made available $450 million for ADAP grants in fiscal year 1982—consistent with the Administration budget request. Some of those funds are apportioned to airports and, pursuant to law, may either be obligated in fiscal year 1982 or in either of the following 2 years. Traditionally such funds "carried forward" have not reduced the total amount made available by Congress, because DOT has "replaced" those funds with additional discretionary funds, up to the obligation ceiling established by Congress. This year, however, the administration has interpreted statute to bar that type of compliance with the congressionally established funding levels. It is now expected that under that interpretation only $350 to $400 million of the $450 million made available by Congress will actually be obligated in fiscal year 1982.

The chairman of the House and Senate Aviation Subcommittees—Congressman MINETA and Senator KASSEBAUM—have stated in a letter to Secretary Lewis that legislative intent was clearly that past practice should be continued under the new act. The administration has not been persuaded, however, that the problem can be solved without legislation. I am submitting this letter as further explanation as to why this amendment is necessary.

The attached amendment is proposed, therefore, to permit DOT to obligate the full $450 million requested by the administration and made available by the Congress for fiscal year 1982.

The amendment would specify that DOT may obligate the full $450 million for fiscal year 1982 by enabling DOT to make discretionary grants to

replace unused apportionment funds, so long as total grants for the year do not exceed the governing obligation ceiling. Funds obligated in future years from apportioned funds "carried forward" would be from existing authorized amounts for those future years and would therefore not increase spending.

In addition, if 1982 is expired by the date of enactment of this amendment, any unobligated fiscal year 1982 funds may be obligated during October 1982 and are to be considered as fiscal year 1982 obligations.

The proposed amendment does not increase the amounts authorized by the recently passed ADAP bill, and does not affect future obligation ceilings.

In introducing this amendment, it is my intent that the Department of Transportation would set aside $18 million of such funds for the modernization and expansion of Lambert-St. Louis International Airport. This grant is justified by the special circumstances surrounding the Lambert project—the largest airport improvement project in the Nation.

Five years ago the Department of Transportation made a decision to upgrade Lambert Airport rather than authorize construction of an expensive new regional facility, estimated at $2.5 billion. Consistent with this decision, Lambert officials undertook a major $250 million construction program. However, due to the lapse of the original ADAP law, they have received only limited Federal assistance, and have had to finance most of the project on their own.

Mr. Chairman, I think the chairman would agree that the Lambert project is sui generis, and with new discretionary funds DOT now has an opportunity to honor its partnership in the expansion of Lambert by helping airport officials complete the upgrading of this vital hub in our Nation's air transportation system.

Mr. ANDREWS. I do agree that the Lambert modernization is important to our national air transportation system, and I thank the Senator from Missouri for his work on this amendment.

Mr. President, I ask unanimous consent that a letter from Senator KASSEBAUM and Congressman MINETA to Secretary Lewis be printed in the RECORD.

There being no ojbection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
September 21, 1982.

Hon. DREW LEWIS,
Secretary of Transportation,
Washington, D.C.

DEAR DREW: We are quite concerned that an internal FAA interpretation of some specific sections of the new Airport and Airway Improvement Act of 1982 (Title V, Public Law 97-248, September 3, 1982) might unnecessary result in your obligation substantially less than the full $450 million in FY 1982 grant-in-aid funds as authorized by the new law and as made available under the Fiscal Year 1982 DOT Appropriations Act.

Specifically, the question has been raised as to whether Congress intended that the FY 1982 ADAP obligational ceiling of $450 million would have to be reduced by the amount of FY 1982 sponsor apportionments that will not currently be used (estimated at $50 million) so that ADAP obligations would be reduced to about $400 million before the September 30 end of this fiscal year.

This reduction would appear to be inconsistent with past FAA practice and with our intent in developing the new law. It was our understanding that in recent years FAA has interpreted the ADAP law as enabling FAA to make discretionary grants to replace unused apportioned funds, so long as total grants for the year did not exceed the governing obligation ceiling. In submitting draft legislation for renewal of the program, the Administration did not state that its proposed legislation was intended to limit FAA's ability to make discretionary grants in the place of unused apportionments. No witness at our hearings suggested that such changes would be desirable, and the legislative history of the enacted bill, in which the provisions in question are based on the Administration's proposal, contains no suggestion that a change in prior practice was intended. We can also assure you that we did not intend to make any changes in this area.

While section 508(a) of the new law expressly provides that funds apportioned under sections 507(a) (1), (2) and (4) are to be "available" to sponsors during the fiscal year for which they were first authorized and for the two succeeding fiscal years, we did not intend this "availability" of apportionments to be so absolute as to preclude your currently using that obligational authority for other airport projects if that could be achieved without exceeding the statute's cumulative ceiling on ADAP funding (section 506(a)) or unless expressly prohibited by other statutory provisions.

In fact, a new provision, section 509(e), was added to the statute this year at FAA's request to facilitate FAA's ability to utilize all currently available funds. Section 509(e) authorizes the Secretary to establish a cutoff date for applications for apportionment funds and provides that if an application is not received by the cutoff date, the Secretary may defer approval of the application until the fiscal year immediately following the fiscal year in which the application is submitted. This provision would have served no purpose if we had intended to "freeze" all apportioned funds and to preclude any use of discretionary funds when a sponsor intended to defer use of apportioned funds until a later year. The provision is only needed if FAA has authority to make discretionary grants in place of apportioned funds that are not used in a fiscal year.

When section 507(a)(3), describing the discretionary fund, is considered in conjunction with new section 509(e), there would appear to be authority for FAA to temporarily convert unclaimed apportionments into current discretionary funds so long as those apportionments may be claimed in either of the two succeeding fiscal years.

Under this interpretation, in this current year, FAA could obligate $50 million in unclaimed FY 1982 apportionments before September 30 as discretionary funds so that the $450 million annual ceiling on ADAP obligations could be reached: No more than the total FY 1982 ADAP amount made available would have been obligated. Sponsors that did not claim FY 1982 apportionments currently would, consistent with section 509(e), have access to those apportionments again as of October 1 either under section 506(e)(4) (exemption of sponsor entitlements from effect of fiscal year ceilings) or as a compensating reduction in FY 1983 discretionary funds (if the Appropriations Committees were to explicitly nullify the effect of section 506(e)(4) in the FY 1983 Regular or Supplemental Appropriations Act).

As a practical matter, that $50 million is highly important to airport sponsors during the current year. At a program level of $450 million, all sponsor apportionments have already been reduced by one-third so discretionary funds are more critically needed at more locations to fashion workable projects. Also, since discretionary funds historically are more often distributed to smaller airports, the loss or deferral of that $50 million would impact on a large number of airports.

Finally, we are concerned that a legal interpretation so drastically affecting the historical pattern of operation of the airport grant program would be announced within the last fifteen days of the fiscal year when the legislative language now being interpreted so narrowly by FAA has been reviewed by the Department for more than two years without this issue ever having been raised.

We do hope you can interpret the new statute as we believe the Congress intended so as to obligate the full $450 million during the remaining days of this fiscal year.

Sincerely,

NANCY LANDON KASSEBAUM,
Chairman, Subcommittee on Aviation, Committee on Commerce, Science, and Transportation, U.S. Senate.

NORMAN Y. MINETA,
Chairman, Subcommittee on Aviation, Committee on Public Works and Transportation, U.S. House of Representatives.

Mr. DANFORTH. Mr. President, in summary, this amendment relates to the ADAP fund. Prior to the present time, the practice with respect to the ADAP fund was that those funds which had been apportioned for specific projects and which were not in fact used, became part of the Secretary of Transportation's discretionary fund for use in the construction of airports.

This year when Congress enacted the ADAP statute, inadvertently this practice was altered so that such funds that had not been used up for their apportioned purposes were no longer available for the discretionary fund.

This amendment is simply to return the situation to what it was before the ADAP statute was adopted.

Mr. PROXMIRE. Mr. President, I have no objection to this amendment. I know the distinguished Senator from Missouri has discussed this with the manager of the bill and he has discussed it with me. I think it is a good amendment.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, I fully support Senator DANFORTH's amendment. It will be of great value in several States and, most particularly, will be of considerable help in the home city of both Senator DANFORTH and myself, St. Louis, where the modernization of Lambert International Airport is well underway.

Mr. DANFORTH. Mr. President, I yield back the remainder of my time.

Mr. HATFIELD. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1340) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1336, AS CORRECTED

Mr. HATFIELD. Mr. President, I yield to the Senator from Kentucky for a correction.

Mr. FORD. I thank the Chair.

Mr. President, I did not move to reconsider the vote on my amendment because there was some question about it. We now have it all completed.

I ask unanimous consent that in lieu of unprinted amendment No. 1336 agreed to earlier today, that the Senate adopt the language as it is now written, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

This will be in lieu of the language in the original amendment, and it is agreed to by unanimous consent.

Mr. FORD. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (UP No. 1336), as corrected, is as follows:

At the appropriate place in the Resolution, insert:

SEC. . Notwithstanding any other provision of law, effective for the calendar year ending December 31, 1982, the Sergeant at Arms and Doorkeeper of the Senate is authorized to pay, from funds available to him in the account (within the contingent fund of the Senate) for "Miscellaneous Items", the increase in the mileage tariff rates imposed, effective October 1981, by the General Services Administration for telephone service provided through its Federal Telecommunications System during such calendar year to Senators in the States they represent. If and to the extent that there has been paid, from the Official Office Expense Account of any Senator, an amount which is authorized to be paid under the preceding sentence, then the Sergeant at Arms and Doorkeeper of the Senate shall reimburse such Expense Account of such Senator by a sum equal to such amount, upon certification and documentation (consisting of appropriate data supplied by the General Services Administration) by such Senator. Payments made under this section shall be made upon vouchers approved by the Sergeant at Arms and Doorkeeper of the Senate.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1341

(Purpose: To make a technical correction)

Mr. HATFIELD. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 1341.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 10, strike out "section 665" and insert "subchapter II of chapter 15".

On page 11, line 18, strike out "section 665" and insert "subchapter II of chapter 15".

Mr. HATFIELD. Mr. President, this has been cleared on both sides of the aisle.

What happened is that the President yesterday signed a bill on recodification. We used certain numbers under the old code. What this technical amendment attempts to do is to update the numbering of the sections to comply with the new code signed into law yesterday by the President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1341) was agreed to.

Mr. HATFIELD. Mr. President, I yield to the Senator from Texas for 10 seconds.

Mr. TOWER. Mr. President, I want to commend my distinguished colleague and friend—Senator STEVENS—for his decision to proceed with his subcommittee's markup of the fiscal year 1983 defense appropriations bill—despite the apparent stall tactics being employed by certain members of the House Appropriations Committee. Here we are in the final week of the fiscal year and the House Appropriations Committee has yet to even begin its markup of the defense appropriations bill.

I also want to commend Senator STEVENS for his success in reporting a defense approriations bill which adheres to the budget authority and outlay targets reflected in the first concurrent resolution. although I and many of my colleagues disagree with a number of the positions taken by the Senate Appropriations Committee, I am painfully aware that to comply with the first concurrent resolution—particularly the outlay targets—one must make very difficult choices, and this is an area where reasonable men may differ.

Mr. President, I know many of my colleagues have a number of issues which will have to be addressed by the full Senate when the defense appropriations bill is considered during the lameduck session. It is only because time is short and because it is pointless to debate some of these issues twice that I have decided not to challenge this continuing resolution until the Senate considers this proposed defense appropriations bill in its entirety during the lameduck session.

Mr. HATFIELD. Mr. President, I yield to the Senator from Massachusetts to offer an amendment of the jobs bill, which is the last amendment for the evening. That will be followed by a colloquy and then final passage.

This amendment is a 30-minute amendment, equally divided, with an amendment in the second degree to be offered by the Senator from Oklahoma (Mr. NICKLES), with a 5-minute limitation.

I yield for that purpose now to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent, on the basis of the amendments that have been listed and been called for by the leadership, that after we consider the Kennedy amendments with the second-degree amendment and the Domenici colloquy, no more amendments be in order to the continuing resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent, that, assuming we have three more votes, the last two votes be 10-minute rollcall votes. These will probably be back-to-back votes.

The PRESIDING OFFICER. Does the Senator suggest that we stack the votes?

Mr. HATFIELD. No, Mr. President, I ask unanimous consent that the last two votes be 10-minute rollcalls, back to back.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1342

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) for himself and Mr. ROBERT C. BYRD, Mr. METZENBAUM, Mr. RIEGLE, Mr. EAGLETON, Mr. RANDOLPH, Mr. CRANSTON, Mr. BAUCUS, Mr. CANNON, Mr. DIXON, Mr. INOUYE, Mr. LEVIN, Mr. PELL, Mr. SARBANES, Mr. DODD, Mr. BUMPERS, and Mr. MELCHER, proposes an unprinted amendment numbered 1342

At end of the joint resolution add the following new section:

Sec.—

(a)(1) The Congress finds that—

(A) unemployment has increased to 9.8 per centum on a national basis, varying from a high of 14.3 per centum in the State of Michigan to a low of 4.7 per centum in the State of North Dakota;

(B) unemployment compensation payments have reached an annual rate of over $20,000,000,000;

(C) hundreds of thousands of workers have exhausted the period of time for which they are entitled to draw unemployment compensation;

(D) legislation is now pending to extend that period, which will increase the cost; and

(E) it is deemed to be to the best interest of the unemployed and the Nation that productive and essential work replace unemployment and the resulting payment of unemployment compensation.

(2) In an effort to reduce unemployment cost and the cost of public assistance, to increase the benefit of expenditures, and to put people back to productive work, where the benefits of the efforts will be of value, there is hereby appropriated to the Department of Labor a sum equal to 5 per centum of the latest estimated cost to the Federal Government of unemployment compensation for the current fiscal year, to remain available until December 31, 1982, of which—

(A) 85 per centum shall be available to provide productive jobs for those unemployed in accordance with subsection (b), and

(B) 15 per centum shall be available for the youth employment and training programs of the Department of Labor (92 Stat. 1982).

(b)(1) No individual assisted with funds available in accordance with this subsection—

(A) shall be eligible for unemployment compensation during the period of productive job employment under this subsection; or

(B) shall be paid except upon certification in writing by the supervising official that such job was performed.

(2) Individuals assisted with funds available in accordance with this subsection—

(A) shall be certified as unemployed for at least ten weeks in accordance with criteria established by the Secretary of Labor, with priority given those individuals who are not currently eligible for unemployment compensation and who have prior work experience;

(B) shall be paid at a rate which shall not be less than the highest of (i) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1968, (ii) the minimum wage under the applicable State or local minimum wage law, or (iii) the prevailing rates of pay for individuals employed in similar occupations by the same employer, but in no case shall the annual rate of such wage exceed $10,000; and

(c) subject to paragraph (2)(B), shall be provided benefits and employment conditions comparable to the benefits and conditions provided to other employed in similar occupations by the same employer.

(3)(A) No currently employed worker shall be displaced by any individual employed with funds under this subsection, including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits.

(B) Not more than 15 percent of the funds provided to any eligible entity under this subsection may be used for the cost of administration and not more than 20 percent of such funds may be used for the acquisition of supplies, tool, and equipment.

(4) Funds available in accordance with this subsection may be used for the purpose of providing unemployed individuals with temporary employment for not more than six months in repair, maintenance, and rehabilitation of public facilities and the conservation, rehabilitation, and improvement of public lands, such employment to include (but not be limited to) employment in—

(A) road and street repair,

(B) bridge painting and repair,

(C) repair and rehabilitation of public buildings,

(D) repair and rehabilitation of water systems,

(E) erosion, flood, drought, and storm damage assistance and control,

(F) removal of refuse from drainage ditches, illegal dumping sites, and other public areas,

(G) park and playground rehabilitation,

(H) installation and repair of drainage pipes and catch basins in areas subject to flooding,

(I) stream, lake, and waterfront harbor and port improvement and pollution control,

(J) forestry, nursery, and silverculture operations,

(K) fish culture and habitat maintenance and improvement,

(L) rangeland conservation, rehabilitation, and improvement,

(M) installation of graded ramps for the handicapped, and

(N) energy conservation.

(5) Funds available in accordance with this section shall be allocated as follows:

(A)(i) Eighty-three per centum of the funds available in accordance with this subsection shall be allocated among eligible entities which, during the three months preceding the date of allocation for which satisfactory data are available, had an average rate of unemployment equal to or in excess of 9 per centum for such three months.

(ii) In making such allocation, the Secretary shall allocate 50 per centum of the funds under this subparagraph (A) on the basis of the relative number of unemployed persons, 25 per centum of such funds on the basis of the relative number of unemployed persons residing in areas of substantial unemployment, and 25 per centum of such funds on the basis of the relative excess number of unemployed persons (in excess of 4.5 per centum of the labor force.).

(B) Two per centum of the funds available in accordance with this subsection shall be allocated among Native American tribes, bands, and groups for use in meeting the need for employment and training and related services of such tribes, bands, and groups.

(C)(i) The remainder of the funds available in accordance with this subsection shall be allocated, in the manner described in subparagraph (A)(ii), among eligible entities which are not eligible for an allocation under subparagraph (A) for the purpose of serving a locality—

(I) which has had a large scale loss of jobs caused by the closing of a facility, mass layoffs, natural disasters, or similar circumstances, or

(II) which has experienced a sudden or severe economic dislocation.

(ii) In expending funds from such allocation in the case of an eligible entity serving two or more such localities, the eligible entity shall take into consideration the severity of unemployment in each such locality.

(6)(A) For purposes of this subsection, an eligible entity is—

(i) a unit or consortium of units of general local government with a population of less than one hundred thousand persons which has demonstrated the capacity to operate employment and training programs, or a concentrated employment program grantee (serving a rural area);

(ii) a unit of general local government with a population equaling or exceeding one hundred thousand persons or a consortium including such a unit and other units of general local governments; and

(iii) a State.

(B) A State shall not qualify as an eligible entity with respect to an area served by another eligible entity. A larger unit of general local government shall not qualify as an eligible entity with respect to an area served by a smaller such unit.

(c) The Secretary of Labor shall notify recipients within thirty days after the date of enactment of this joint resolution of the allocation of funds appropriated in this section.

(d) The Secretary of Labor shall promulgate such rules and regulations as may be necessary to carry out the provisions and the purposes of this section not later than thirty days after the date of enactment of this joint resolution.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays now.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. This amendment authorizes $1 billion in fiscal year 1982 funds for the purpose of addressing the most pressing problem facing our Nation today—the highest unemployment rate in 40 years—10.8 million Americans are jobless. Millions more can only find part-time jobs; others are so discouraged they have totally given up the search for work and the situation is much worse for black Americans and for our young people. One in every three Americans can expect to be unemployed some time during the year.

We are painfully aware of the human suffering behind these statistics. Decent, hard-working men and women are losing their savings, their homes, and the chance to send their sons and daughters to college. For the first time in our history, parents expect their children to be less well off than they are.

These men and women have searched the want ads and pounded the payment and still cannot find work.

The fact is that since Ronald Reagan got his job 3 million Americans have lost theirs. It is no longer possible to say that anyone who really wants to work can find a job. The jobs are simply not there.

And, despite the promises of this administration, unemployment grows worse. Last month the unemployment rate stood at 9.8 percent. Next week there is likely to be more bad news. Unemployment will almost certainly go above 10 percent.

No longer is this recession confined to the auto and steel and construction industries. No longer is high unemployment limited to Michigan and Ohio, and Indiana and Oregon.

Every industry and every region of the country is feeling the bite. From Maine to California, from Florida to Washington, unemployment is on the rise. Even Texas is feeling the effects of this recession.

It used to be that workers could count on unemployment benefits to tide them over the worst of a recession. But no longer.

Only 40 percent—less than half—of those 10 million now unemployed are covered by unemployment insurance.

I supported providing additional weeks of unemployment benefits when we voted on that measure a few weeks ago and I am a cosponsor of Senator METZENBAUM's bill to keep States from triggering off the extended benefits program. But these proposals will only benefit a portion of the unemployed—those 40 percent who are eligible for unemployment insurance.

I also joined with Senator QUAYLE in introducing the Training for Jobs Act to provide retraining for the disadvantaged and structurally and I am pleased that our program will be enacted this week.

But that is a training program, not a jobs program. Not one new job will be created. Not one unemployed person will go back to work immediately as a result of that bill. It is a much needed long-term solution for the poor, the young, and displaced workers. And it will take time for that program to show results.

I believe we need a jobs program now to put people back to work now.

I believe that our No. 1 problem—unemployment—can be addressed by putting the jobless to work on another important problem facing the country—rebuilding the decaying infrastructure of our cities and towns.

It is impossible to drive through any city in this country today without noticing the deterioration in our roads and highways and bridges. But the decline in our public infrastructure is not always so visible.

Many of our public schools, parks, and transportation facilities are literally falling apart. Hospitals in the North and airports in the West are in critical need of repair.

These are other examples:

Bridges that are structurally deficient—248,500.

More than 4,000 miles of the Interstate Highway System needs immediate resurfacing or replacement.

Subway and rail systems in urban areas are decaying, making service unreliable.

Half the country's sewer, water, and drainage systems need repair.

One-third of the non-Federal dams are unsafe.

One of every four prisons needs remodeling to relieve overcrowding.

The Democrats on the Senate Budget Committee have just released an excellent report that further documents the decline in our public facilities.

Let us put unemployed to work repairing our roads, rebuilding our bridges, and making our public facilities safe and attractive again.

Our proposal is modest. It would create just 200,000 jobs—less than the number eliminated by Ronald Reagan last year. Less than the jobs created by President Ford when unemployment hit 9 percent in 1975. Less than the 425,000 jobs created in 1977 when unemployment was 7.5 percent.

Our proposal is also very different from the public service employment program created under CETA that has received so much criticism and is no longer a part of the new training bill. This proposal will provide a maximum of 6 months of work to any one individual, not a permanent job. This bill prohibits more than 35 percent of the funds being used for administration and equipment. No job will pay more than $10,000 a year and no individual will earn more than $5,000. Only jobs directly related to the repair and maintenance of public facilities and the improvement of public lands can be funded. No currently employed workers could be displaced.

Critics claim that a $1 billion investment in our infrastructure which needs tens of billions of dollars of work is a waste of money. They argue that to put 200,000 people to work in the face of massive unemployment is only a "spit in the ocean." I agree that this proposal is only a small step, but it is a step in the right direction. We clearly have the work and the manpower—people who desperately need the jobs. Our task is to put those two things together.

This proposal will not bust the budget. Congress saved almost $2 billion—twice the cost of this bill—by passing the supplemental appropriations bill over the President's veto. We believe that there is no better place to apply these savings than putting people back on the payrolls and taking them off the welfare rolls. It is a fact that doing nothing about unemployment costs the Federal, State, and local governments billions of dollars in unemployment benefits and lost revenues. This bill costs only a fraction of the $20 billion now being spent on unemployment benefits.

These jobs will decide whether the unemployed become taxpayers or tax users.

Our economy is in critical condition. It does not help the unemployed to counsel patience. It does not help the unemployed to promise better things to come. It does not help the unemployed to promise a tax cut. But the unemployed can be helped with jobs which mean new hope and dignity and pride for them and their families.

I urge my colleague to accept this amendment.

Mr. President, I understand that there is a half-hour time limitation on this amendment to be equally divided. I do not want to use all that time. If there are Members who want to speak on this briefly, I hope they will indicate that they would like to speak on this issue. Otherwise, I believe that the Members are familiar with this amendment. Over the last few days, I have had a chance to circulate a Dear Colleague letter outlining the substance of the amendment and the importance of it.

Basically, Mr. President, there is a great deal of work that needs to be done in America in some very important areas in rebuilding the infrastructure of this Nation. There are now over 10 million Americans who are ready, willing, and able to do this work. I believe when the unemployment figures come out next Friday, we will see over 10 percent unemployment. Even the President of the United States has recognized that fact. This will mean that well over 10 million men and women in this Nation will be without work.

This chart behind me, Mr. President, indicates in a dramatic way what has happened between July 1981, when we were at 7.2 percent unemployment, and September 1982, when we are now at 9.8 percent.

This measure, Mr. President, is an extremely modest measure. It is a limited measure. It is a program to provide some 200,000 jobs.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senator from Massachusetts is correct. The Senate will be in order.

Mr. KENNEDY. Mr. President, as I say, this measure would provide 200,000 jobs. It would be a temporary measure to meet the problems we are facing with unemployment here, in the United States, at this time.

The administration says it favors a jobs bill, but they are favoring the bill that Senator QUAYLE and I have worked very closely on in recent months and have, in the last day or two, been able to persuade the President of the United States to support. That is a training bill for the poor and the young. It will not go into effect until a year from this October. My jobs bill goes into effect now. This $1 billion is just 5 percent of the $20 billion that we are now spending on unemployment insurance. It is a temporary program. It provides maximum flexibility to local areas to do repairs on roads, on highways, on bridges, on ports, on sewer and water projects, and on soil erosion programs.

It is basically a targeted program, an emergency program. I believe, Mr. President, that we need both programs. We need a temporary program, as this measure is, which is supported by over 60 religious, labor and civil rights groups, and we need the training program, which has been now accepted in conference under the leadership of Senator QUAYLE. That is extremely important. But these are basically different programs to deal with the problem we are facing in dealing with joblessness in our society.

Mr. President, I reserve the remainder of my time.

Mr. QUAYLE. Mr. President, I oppose this amendment. In doing so, I do want to pay tribute to Senator KENNEDY for his work not only on the job training bill, which, as he pointed out, has survived the conference. It is a job training bill, although there is provision for summer jobs, probably about 500,000 or 600,000 summer jobs, in that job training bill. But, as he pointed out, it is primarily a training bill.

What we have before the Senate tonight is CETA public service employment, We have debated CETA public service employment before. We have debated it on this floor, on the budget resolution, and it was overwhelmingly rejected. I believe on that vote on the budget resolution on a similar amendment, 14 were in favor of it. Fourteen Senators favored it at that time, which would have been May 19, 1982.

Mr. President, I do not want to say that consistency is any hallmark of virtue. I am certainly not one to make that kind of statement here tonight as we close up and get ready to go home and face the constituency and the electorate.

What troubles me about this particular proposal is we are talking about 200,000 jobs, supposedly; 200,000 jobs, I guess, at $5 an hour, comes to around, roughly $1 billion. Before we get there, we have to have something taken out for administrative costs. We have to have some overhead in this program. We have to have supplies and materials. What are they going to build all these bridges and roads with, nothing?

You have to pay for some of the fringe benefits; you have to pay for social security. I think by the time you start adding all these things that you have to take out of this, the 200,000 figure really is much, much lower.

Five dollars an hour to build the bridges and the roads? But there is a substitution factor. I think we ought to think of this. This is just going to replace the people now working.

We know how the past CETA public service employment worked. What they did, they would take the money and hire these people and displace other workers. We also know that public service employment is the reason that CETA was in trouble. We know of all the fraud, the abuse and the mismanagement of this kind of approach. It is the one that dragged a good employment training program down and one of the reasons we had problems in revamping the training and employment program that we all so desperately need. Senator KENNEDY was one of the leaders in formulating the new program that will become the employment and training program.

Mr. President, this is not the right time to start talking about CETA public service employment. It has been repudiated. It is not time to start talking about paying somebody $5 an hour to build bridges. It simply is not going to happen. We know that.

Furthermore, there are a lot of questions. Where is this billion dollars going? Is it going to pay for the material? Is it going to pay for the shovels? Is it going to pay for everything else that goes into building these bridges and these roads?

As we talk about a new Government program to the tune of a billion dollars, we all ought to be a little sensitive about the so-called deficit. I have heard on this side of the aisle and that side of the aisle how we have to get the deficit down, we have to reduce that Federal deficit. Everybody agrees. There is disagreement on how to reduce it. Someone will take more out of defense, someone more out of nondefense, but we have to reduce it.

Now is not the time for a new Government program to the tune of $1 billion. If the Congress would pass a billion dollar CETA public service program tonight, what kind of a message is that going to send about Federal fiscal spending to the people on Wall Street or to the people around this Nation? I know what they are going to say—business as usual. There is no way that you are going to get spending under control.

Mr. President, I certainly support the goals of more jobs, more opportunity; this is what we all want, but I certainly do not believe that this amendment that we have before us is the right way to do it. I think it is the wrong way to do it. This amendment was rejected on May 19, 1982, by a vote of 84 to 14. I hope again tonight that it is rejected overwhelmingly.

I reserve the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have a great deal of respect for the knowledge of the Senator from Indiana on the issue of training and the issue of jobs, but he has not accurately described this amendment. He has described a different amendment than the one I offered.

This is not a CETA program. The CETA program funded general public service positions; for example, teachers' aides, hospital assistants, art teachers, dance teachers, musicians, secretaries, firemen and other such jobs.

There is no provision for that, Mr. President, in my amendment. This program would create jobs to rebuild our infrastructure—a significant difference, and the Members ought to understand it.

Second, the jobs in this program are temporary CETA jobs. No individual could work longer than 6 months often were permanent. This is a second significant difference.

Third, this program is targeted towards high unemployment areas and the long-term unemployed. Every month 140,000 individuals exhaust their unemployment compensation. These people could find work in our program. This program is a drop in the bucket; we recognize that. But this program is targeted to those individuals who have been unemployed the longest.

Mr. President, the 3 million men and women who have lost their jobs since Ronald Reagan got his are skilled individuals. They have worked all their lives. These are people who want to work and need to be employed. There are things that need to be done in the country. What we are talking about is putting some 200,000 of those people back to work on construction projects to rebuild our infrastructure.

This amendment, answers another criticism of the Senator from Indiana. This amendment would prohibit substitution. We have provided for that in this amendment. We do not permit the municipalities or the other government entities to substitute these workers for their regular workers.

It is amazing to me to hear those same people say, "Look, we can have a tax credit to employ individuals," and never talk about why what substitution will occur. They never have a problem on substitution in that area. But when you are talking about jobs for the 3 million men and women who have lost their jobs in the last 15 months, all of a sudden you have problems with substitution.

We have dealt with that issue, Mr. President. This is targeted toward the long-term unemployed. It is a temporary program. It reaches men and women in this country who have lost their jobs and who are ready, willing, and able to work.

One final point, Mr. President. On the issue of materials, that is a strawman. We have indicated in this amendment that only 20 percent or less can be used for materials. We have anticipated that issue. It is reasonable to raise the issue on whether these funds will all be used for materials or whether just a portion will be. So we have addressed that particular question.

Finally, Mr. President, we have 20 percent unemployment in the construction industry alone. These are skilled men and women who want to work. We have jobs that need to be done in this country and these workers can do those jobs.

I say let us get people off the unemployment rolls, off the welfare rolls and put them back on the job rolls. That is what this amendment does.

I reserve the remainder of my time.

Mr. NICKLES. Will the Senator from Indiana yield?

Mr. QUAYLE. I will be delighted to yield to my friend from Oklahoma.

Mr. NICKLES. I was trying to do some math, and the Senator might be able to help me. But this bill, as I understand it, would provide 200,000 jobs for 6 months at an estimated cost of about $1 billion?

Mr. QUAYLE. That is the way it has been described to me.

Mr. NICKLES. Trying to compute that through, we have approximately 10 million unemployed people. I do not know how you distinguish this person versus that person, but if all people were able to receive this type of job, I guess the job would max out at $5 an hour and we would basically be talking about 10 million people. If 200,000 people get a job and it cost $1 billion for 6 months, to give 10 million people a job for a full year, we would be talking about a bill that could cost about $100 billion, if my arithmetic is correct. Given the state of our economy, I am real sure we cannot afford the $100 billion. I am sure we cannot afford the $1 billion.

Mr. QUAYLE. I do not think we can afford the $1 billion.

How much time do I have left, Mr. President?

The PRESIDING OFFICER. The Senator has 7 minutes and 15 seconds.

Mr. QUAYLE. I yield such time as I may consume.

I again compliment Senator KENNEDY for his leadership in the discussion we have had on jobs and job training. Mr. President, I do not want to let pass this opportunity to say that those of us who are opposing this amendment are opposed to putting people back to work.

That is nonsense. We are all for putting people back to work. We want more jobs. There is not anybody in this body with any degree of responsibility who is against putting people back to work.

The question is, How are we going to do it? That is the issue before us.

I should like to read a quotation from a rather respected columnist, Joseph Kraft, which appeared in the Washington Post yesterday, "Economic Realism Is Back."

He is talking about the Democratic Party, how they are focusing on jobs and opportunity and economic growth. That is the essence of the article. He names Members in the House of Representatives. Of course, this person does not want to be named, so he does not name him. I read from the article. He says:

One leading Atari Democrat—

They call them "Atari Democrats."

One leading Atari Democrat said privately: "We're for the growth of national income, not its redistribution from rich to poor. If we had our way we wouldn't support the jobs bill."

I will read that again: "We wouldn't support the jobs bill."

We are all for growth. We are for jobs. We are for opportunity. But, as this "Atari Democrat" said, we are not for the so-called jobs bill because this is not going to last; this is not going to be permanent.

We have been through it with CETA public service employment. It has been rejected on this floor overwhelmingly, and it should be rejected tonight and put to bed once and for all, and let us try to fight high interest rates and put our people back to work in lasting, permanent jobs, not some makeshift, temporary jobs that are not meaningful.

That is what we want: we want meaningful jobs, and I believe this "Atari Democrat" summarized it very well: "If we had our way, we wouldn't support the jobs bill." But they did, and I am sure a lot of people tonight are going to support it. I hope they dig deep in their hearts before supporting what I believe to be a very bad amendment.

Mr. KENNEDY. Mr. President, I do not know who the "Atari Democrat" is, but I will read a quotation and then give the author. Here is direct quotation:

I don't like the make-work idea . . . But government could, with actual needed public works, use those public works in times of unemployment. WPA—some people have called it boondoggle and everything else—but, having lived through that era and seen it—no, it was probably one of the social programs that was most practical in those New Deal days. So, if government, instead of inventing these new programs, had a backlog of government projects, and they would say, "Well, now, this is the time to put those things into effect," I think it could be most helpful.

Ronald Reagan, "CBS Morning News" October 23, 1980.

This amendment is patterned after what the President of the United States has recommended. We have a backlog of projects that need to be done. We have skilled unemployed people. Let us take these people off welfare and put them to work.

I yield 1 minute to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the senior Senator from Massachusetts for accepting an amendment which he and I had discussed and which he included in his final amendment dealing with the 9-percent unemployment.

This is very helpful to a whole series of States. It seems to me that when you reach 9-percent unemployment, this legislation should apply.

Mr. President, this Nation is in the throes of a profound economic readjustment:

Adjustment to lower rates of inflation, from an annual rate of about 12.5 percent in 1980, to about 6 percent currently.

Adjustment to lower rates of interest, with a prime rate at about 13 percent, down at least 8 percentage points from the end of 1980.

And we are now, I believe, on our way out of a recession, moving toward a time when we can again experience broad-based, real economic growth in all sectors of the economy and all parts of the country.

Although we are making progress, we have to give full weight to the human costs of these profound adjustments. Unemployment has been a very serious problem. It threatens to become even more serious, as data about to be released next week may show.

Nationally the unemployment rate, as the Senator from Massachusetts points out, was running at a rate of 9.8 percent in August. This means that 11.3 million Americans were unemployed. In some States the unemployment rate is higher, in some States lower. But I think we can all agree that it remains a grave national problem.

We have done much in the past months to help the unemployed. In the recent tax bill about $2 billion was approved to provide Federal supplemental compensation benefits. The

1982 continuing resolution provided $192 million for youth employment, in addition to $3 billion for other jobs programs. There is $45 million in the urgent supplemental, and another $3 billion in the 1983 budget resolution for summer youth programs and job training.

In addition, House-Senate conferees have reached agreement on S. 2036, the Kennedy-Quayle jobs training bill, and the President has announced his support of the conference compromise. I would hope that we could pass that conference report this week. It provides a reauthorization of the basic jobs training programs and authorizes $3.8 billion for the coming fiscal year alone. It is an important bill, and I urge speedy action on it in both bodies.

But I believe we must do more than this. And I therefore support the amendment of the Senator from Massachusetts that would appropriate roughly $1 billion for immediate use in creating a large number of jobs on public projects. This is immediate relief in the form of work for unemployed men and women, in all age groups.

My concern with the amendment of the Senator from Massachusetts, however, was that it did not encompass enough areas suffering from high unemployment. It provided help to States and communities experiencing unemployment at levels in excess of the national average rate of unemployment.

Mr. President, according to the most recent statistics available from the Bureau of Labor Statistics, the unemployment rate in my State and a number of other States is high, yet is below the average. Fully eight States have unemployment rates of 9 percent or above. These include the States of Arkansas, Idaho, Maine, Massachusetts, Nevada, New Hampshire, North Carolina, and Rhode Island.

Therefore, I indicated earlier my intention to offer an amendment to require that the moneys appropriated under the Kennedy amendment be shared among all States having unemployment of 9 percent or more.

I have discussed my amendment with the Senator from Massachusetts, and he has suggested that it be incorporated into his amendment. I am pleased to agree to this in the interest of saving time. I am glad that the Senator has included my provision into this amendment.

I note that this amendment should even be useful to the State of Massachusetts, which I believe is experiencing unemployment at a rate of 9.6 percent.

Mr. President, in summary, I believe that we are emerging slowing from recession. I believe that we have done much this year to provide support for the unemployed. I believe that the Jobs Training Act now in conference will lay the groundwork for the necessary longer term training programs, and that these are absolutely essential. But, I think that the amendment of the Senator from Massachusetts, as he has modified it, would be immediately useful by providing employment now. Nine percent unemployment is high. People should not be denied the chance for work under the Kennedy amendment just because their State or community has an unemployment rate slightly below the national average. Therefore, I urge support of the amendment.

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from Pennsylvania.

Mr. HEINZ. I thank the Senator from Massachusetts for yielding.

Mr. President, I support the Senator's amendment. Much has been said about it not being a perfect amendment. Most amendments here are not perfect.

I commend the sponsors of the amendment for their concern and compassion for the unemployed workers of my State and the other States experiencing high and prolonged unemployment; to be truthful about the effect of this amendment this measure, at best, will assist only 200,000 of the 10 million unemployed, and, since it only provides a set-aside of $150 million, 15 percent of the $1 billion allocated, for tools, equipment, and materials, this measure will not provide sufficient support for States and localities to engage in substantive, public works projects, as the sponsors hope. Therefore, I believe that this amendment is drastically insufficient to accomplish the goals of its sponsors.

However, Mr. President, this amendment does focus its resources on those States that have been hardest hit by the current recession. It also focuses on those individuals who have exhausted their unemployment benefits, or who never qualified for unemployment benefits, but who are unable to find jobs. This amendment, even with its clear insufficiencies, represents an opportunity for at least some of the proud, independent people in my home State of Pennsylvania. It will give some of the people in Pennsylvania a job, and allow them to bring a paycheck home to their families once again.

Mr. President, the idea behind this amendment is a good one. Our infrastructure, sewers, roads, bridges, and mass transit, requires extensive work—work that would put many of our unemployed workers back on the job. In our Senate Finance Committee hearings on the supplemental benefits program, which was recently adopted in the tax bill, there was considerable interest in a greater commitment to rebuilding our infrastructure as one solution to excessive unemployment. Again, I stress that there is a great need for public works projects.

Mr. President, we have the workers and we have sound work. What we lack is adequate Federal resources to embark on this work. I do not think anyone in this body wishes to enlarge the deficit further, so we have got to devise ways to pay for the public infrastructure investment that we need to make. There is not enough time in this session to adequately develop legislation to address this fundamental problem, but, this Senator intends to work cooperatively with other Members of the Senate in the next session to resolve this funding shortfall.

Mr. President, I have endorsed Transportation Secretary Drew Lewis' plan to increase highway, bridge, and mass transit improvements, and to pay for this job creation and necessary investment by increased user fees, so that there would be no effect on the deficit. Along with the distinguished Senator from West Virginia, Senator BYRD, I have introduced legislation to develop our ports. That proposal has revenue component as well.

Whatever the fate of this amendment, I would hope that the Senate will return to the issue of public works improvement in the next session, and how to pay for the needed work.

It seems to me that this is the only alternative we have to address the persistent and troubling problems of our people who are unemployed. For this reason, a number of us sought earlier this year, on the tax bill, an extension of the unemployment compensation benefits, particularly for those States hardest hit. We got some help. We did go from zero weeks of supplemental benefits to 10 weeks; but some wanted 13, others 26, others some number in between. We did not get what we want or what we need.

Earlier today, the Senate, by one vote, rejected another very necessary amendment offered by the distinguished Senator from Ohio (Mr. METZENBAUM) and me, to further address the problem of unemployment compensation. We decided—48 Members of the Senate disagreed—not to do that in the Senate, and I think it was a wrong decision.

This amendment offers about the only remaining hope for our workers who are unemployed and are running out of unemployment compensation benefits.

I hope my colleagues recognize that and overwhelmingly adopt this amendment.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana controls the time.

Mr. QUAYLE. Mr. President, in summary, I certainly do not believe that we should support this amendment. I have a lot of skilled steel work-

ers and auto workers out of a job in the State of Indiana. They do not want any short-term quick fix. They want permanent jobs; they want economic recovery. They want to see interest rates come down. They want to see inflation come down. They do not want any quick fix, $1 billion public service employment.

Go out and talk to some of these people who are out of a job.

In the jobs training bill, we have a dislocated worker program that is going to work, to try to get some new skills for these people. There is no substitute for putting these people back to work now. If you think we are going to be fooled here tonight by some last-minute gimmicks of a short-term, quick-fix approach, I simply beg to differ.

I hope this amendment is overwhelmingly defeated. It is not going to do one thing in putting people back to work on a long-term basis. We should have learned our lesson about these gimmicks and the quick fix.

As this anonymous Atari Democrat says—whoever he or she may be—"If we had our way, we would not support the jobs bill." I certainly hope the U.S. Senate does not support this ill-advised amendment which will only be short term and not do anything for a long-term problem.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I understand that the Senator from Oklahoma is going to offer an amendment when we yield back the remainder of our time. I will take a couple of minutes.

I am a strong supporter of the Quayle-Kennedy bill, but I think it is very important to send the message to the Indiana auto workers that there is only about $100 million in that program, which will be effective a year from now. As the bill was initially proposed, even by the Senator from Indiana, it was only $50 million.

Those who criticize this bill sometimes say it is too low, sometimes they say it is too high; but it is important to understand that we welcome the President coming aboard the youth training bill. There is some money in there for relocations, but it is not a jobs bill. It is a youth-training bill that goes into effect a year from now. This would go into effect now.

The fact is that it is not gimmickry for the largest number of unemployed men and women in this country for more than 30 years. We have important needs in our society. We have skilled men and women. A year ago July, unemployment was 7.2 percent. Now it is about 10 percent. Three million of them have skills, and we have needs in our society.

This is targeted where the needs are, in the construction area. No matter how many times the Senator from Indiana says it is CETA revisited, it is not. It is construction jobs in areas of need in our society.

Mr. President, it is a limited program but we are trying to stem the flow we have seen over the past months with the growing unemployment. We believe it is time to say, at least to 200,000 American men and women, that there are some people who are prepared to realize their skills and energies in our Nation's interest.

I withhold the remainder of my time, or I am prepared to yield it back.

Mr. QUAYLE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. MATTINGLY). The Senator has 2 minutes and 43 seconds remaining.

Mr. QUAYLE. I shall just take 30 seconds.

I guess we are talking about construction jobs again. If we take that $1 billion figure we are talking about paying a construction worker for about 6 months $5,000.

But now we learn there is at least 20 percent for administration costs. So that has to take some out of that.

Again I just cannot see rebuilding the bridges and infrastructure in this Nation paying someone $5 an hour.

I am glad that we have invoked the Indiana auto workers into this debate because there are a lot of them unemployed unfortunately.

I will say again, again, and again that the skilled workers who are out of work through no fault of their own want true economic recovery. They do not want another short-term fix. They want to have a job that is going to put food on the table in the future. They do not want to come in and work for 6 months, to go out and do something that is going to be taken away from them. They want to get training. They want to have opportunities. And they want to look to the future, and I think they are not going to be that receptive to a last-minute quick fix of CETA public service employment which has been repudiated by this Senate and by this Congress in the past, and it should be repudiated again tonight.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. KENNEDY. Mr. President, I only have two final points.

First, the $1 billion in this amendment is within the budget figures. When we overrode the President's budget we saved some $2 billion, and this program takes $1 billion of those savings and uses that amount to create jobs for the unemployed.

The final point is that the Senator from Indiana must be getting a different message from the unemployed in Indiana than I am getting from my constituents in Massachusetts.

I think he will find that the men and women who are unemployed would rather have a job for 6 months than no job at all. They have been listening for a year and they heard again last night that recovery is around the corner. Well, recovery around the corner does not put bread on the table or pay for heating oil for the cold winter or provide schoolchildren with clothes. Recovery around the corner does none of those things.

What we are trying to do is to take a small but measured step to try and deal with those particular needs of the proud men and women who would much rather work than wait for the promise of some economic program to take effect, all they see from these promises is their friends and themselves standing in unemployment lines.

Mr. MITCHELL. Mr. President, I rise in support of the amendment now before the Senate, which would provide $1 billion during the next 6 months for the creation of 200,000 labor-intensive public works jobs.

Mr. President, I believe this program has merit. It has been developed in response to two problems of nationwide impact—the first, our growing unemployment and the second, the substantial deterioration of our roads, bridges, public buildings, and other public facilities.

When this administration came into office, we were promised that a change in budget priorities would improve the national economy and create more jobs. Congress has responded by making major changes in our tax law and by cutting back virtually all domestic Federal programs. Yet, the recovery eludes us and the economy continues to stagnate. In the meantime, businesses have experienced a record number of bankruptcies and over 10 million Americans are out of work, more than at any time in the last 40 years.

All of us still face the challenge of an ailing economy. But we have an opportunity today to help individuals who are out of work and have exhausted their unemployment benefits. The jobs we would provide are of a temporary nature, but they would address one of the fundamental tasks facing our States and localities today; namely, the repair of America's infrastructure.

The deteriorated condition of our roads, bridges, railroads, subways, water, sewer and drainage systems, and other public facilities has received considerable attention by columnists, by the press, and by organizations such as the Associated General Contractors. The cover story in the September 27 edition of U.S. News & World Report says the task of rebuilding America is a $2.5 trillion job.

Finding the resources to undertake such a massive repair effort will be a mammoth task at all levels of government. What we are trying to do today is to take one step in that direction. The $1 billion we are proposing to use is a beginning. With so many of our roads and bridges in serious stages of disrepair, can we afford prolonged delay? With so many people desperate for work and many for a source of income, can we shut the door of opportunity to all of them?

In my State of Maine, over 400 bridges are structurally deficient and 200 do not meet current safety requirements. Work on these structures would surely alleviate some of the serious safety problems which the public faces every day.

In sum, the program is responding to a clearly established need. And it has been designed in a responsible way to provide help where it is most needed and in a short amount of time.

As structured, 83 percent of the funds would be allocated to eligible entities with an average rate of unemployment exceeding the national unemployment rate for 3 months. Two percent of the funds would be allotted to Native Americans, and the remaining 15 percent would be given to localities which do not have the prolonged unemployment decline, but which face a large-scale job loss through natural disasters, mass layoffs, or sudden economic dislocation.

The jobs themselves could not last more than 6 months. Compensation could not exceed $5,000 per individual. Persons currently employed could not be displaced. And priority for the jobs would be given to those who have exhausted their unemployment compensation.

The jobs themselves would be limited to repair and rehabilitation of public facilities and to the conservation and improvement of public lands.

The bulk of the money would be used to pay for these jobs. No more than 15 percent of the funds could meet the cost of administration, and no more than 20 percent of the funds could be used to purchase supplies and equipment.

One final, but no less important, point to make about this initiative is that it is fiscally responsible. When Congress overrode the President's veto of the supplemental appropriations bill earlier this month, it acted to save almost $2 billion beyond what the administration had called for. We are now asking to spend part of that money for a very worthwhile endeavor. We would be putting 200,000 people back to work, giving them a source of income. And we would begin the awesome task of rebuilding our public facilities.

By making this expenditure, we can perhaps save on the losses the Federal Government incurs with such a high unemployment rate. It has been well documented that for each 1 percent rise in the national unemployment rate, the Federal Government loses $25 billion—$19 billion in lost revenue and $6 billion in new expenditures for unemployment compensation and other support programs.

At present, we are paying out in excess of $20 billion annually in unemployment compensation. We are proposing today to use 5 percent of that total to put people back to work, to allow them to earn their payments.

When similar legislation was considered in the House on September 16, most Members of that body voted for some kind of jobs program. The Republican initiative would have cost $1.5 billion. The measure which passed resembled the one before this body today. I therefore believe there is substantial support within the Congress for some kind of public works jobs program and hope my colleagues in the Senate will rally around this measure.

Mr. President, the Nation's economy has suffered these many months from a deep recession. And it appears that the economic indicators to be published shortly will show continued stagnation. The jobs programs before us is a modest initiative which will not work contrary to the recovery. Its funding is not a drain on the taxpayers. And it stands to provide some relief for the unemployed and badly needed repairs to our public infrastructure.

I hope the Senate will adopt it.

Mr. HOLLINGS. Mr. President, I voted to table the Kennedy amendment to House Joint Resolution 599 to appropriate $1 billion for "jobs for infrastructure" because it is not the right response to our unemployment problem.

There are currently 12 million Americans out of work. The Kennedy amendment would provide jobs at the minimum wage to only 75,000 people at the most. To say that this is the answer to the unemployment problem is like giving the patient a sugar pill when he desperately needs a shot of penicillin.

We cannot afford to return to the ineffective make work jobs programs of the past. We must turn to new solutions: We must realize that a budget in the red means interest rates out of sight, and that means millions out of work.

If Americans are to be put back to work, we have to face the problem squarely: We are out of control, and we are not competing. We can get back to work—permanently—only by creating real and permanent jobs, and this will happen only when we put our fiscal house in order.

The Kennedy amendment is a placebo—it promises employment for some. And perhaps some few will be employed. But it is an empty promise for the millions and millions of Americans who are waiting for something more: who are waiting for leadership from their Government, who want real jobs, permanent jobs, in a vital and growing economy.

That is something the Kennedy amendment did not promise, because it could not deliver. We should not tell 12 million unemployed that they will be helped by the Kennedy amendment because they will not be. And that is why I did not support it.

Mr. BAKER. Mr. President, all of us are concerned about the unemployed. All of us want Americans back to work, but we must make sure that the jobs are not "make-work," but jobs that can be translated into meaningful employment. We already have a strong bipartisan bill, The Training for Jobs Act, that was reported out of conference last week. That legislation, drafted in the Senate by the Senator from Indiana (Mr. QUAYLE) and the Senator from Massachusetts (Mr. KENNEDY) sets the Nation on a better course for dealing with the problem of unemployment. The Training for Jobs Act, S. 2036, represents a long-term remedy by providing training—thus, preparation for jobs in the private sector.

Mr. President, this is the approach we should take. We should want to fashion a solution to the Nation's unemployment problem that is permanent, not temporary. Some of our basic industries are declining, consequently, even the most robust recovery imaginable will not reverse all layoff notices. And, Mr. President, jobs exist and are available even in the present economy—a job training program could match people with these jobs.

Therefore, Mr. President, I am opposed to the amendment offered by the Senator from Massachusetts. If we pass this amendment, we would be reverting back to the prior legislative practices of "quick-fix" approaches that have been discredited over the last 20 years. The amendment appropriates $1 billion for 200,000 6-month jobs to repair and maintain streets, bridges, and other types of public facilities. These are not necessarily low-skilled jobs. And if unskilled workers are hired, I do not believe that 6 months of work on a bridge or road will provide the training necessary for productive employment in the private sector. Rather, we will have refurbished public facilities at a high cost and 200,000 people will be out of work once again. Additionally, Mr. President, this amendment, if passed will make only a minute difference in the Nation's unemployment rate. According to Budget Committee estimates, at best this legislation will result in a maximum of 143,000 jobs. This estimate is based on the wage limit of

$5,000 per job, and the 35 percent set aside for administration, supplies, and equipment and the 10 percent for benefits which are also required under the amendment. Even if these jobs were available today, the national unemployment rate would fall only from 9.8 percent to 9.7 percent.

Moveover, Mr. President, passage of this amendment would send a bad signal to the country's financial markets. The expectations of increased spending under current deficit projections would produce economic pessimism that would pose a threat to recovery. Resurgence of high interest rates and further delay in capital investment resulting from such a reaction could even cause a permanent loss of jobs exceeding the temporary increase in employment resulting from this amendment.

Mr. President, the program provided for in the Senator's amendment looks distressingly similar to the CETA program. While the CETA program represented a worthy attempt at battling the Nation's unemployment problem, it has been documented that the public service part of the program did not work. The fact that we have such a strong bipartisan bill is further evidence that the Congress believed that CETA did not work.

Therefore, Mr. President, I urge my colleagues to not be lulled into voting for this election-year amendment.

Mr. QUAYLE. Mr. President, I yield back the remainder of my time.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time.

Mr. HATFIELD. Mr. President, under the unanimous-consent agreement there was a 30-minute time agreement on the Kennedy amendment. That has been now exhausted. The unanimous-consent agreement was then to recognize the Senator from Oklahoma for an amendment in the second degree.

So I yield the floor to the Senator from Oklahoma for that purpose. There is a 10-minute time limitation on his amendment.

Mr. NICKLES. I thank the Senator.

UP AMENDMENT NO. 1343

(Purpose: To amend the Davis-Bacon Act)

Mr. NICKLES. Mr. President, I send a second-degree amendment to the Kennedy amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. NICKLES) proposes an unprinted amendment numbered 1343.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Kennedy amendment insert the following:

DAVIS-BACON AMENDMENTS

SEC. . (a) Subsection (a) of the first section of the Act of March 3, 1931, commonly known as the Davis-Bacon Act (40 U.S.C. 276a (a)) is amended—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end thereof the following new paragraph:

"(2) The Secretary of Labor shall base his determination of the wages prevailing for the corresponding classes of laborers, mechanics, and helpers under paragraph (1) on—

"(A) the wage paid to 50 per centum or more of the corresponding classes of laborers, mechanics, and helpers employed on projects of a character similar to the contract work in the urban or rural civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there; or

"(B) if the same wage is not paid to 50 per centum or more of the laborers, mechanics, and helpers in the corresponding classes, the weighted average of the wages paid to the corresponding classes of laborers, mechanics, and helpers employed on projects of a character similar to the contract work in the urban or rural civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.".

(2) The first section of such Act is further amended by striking out "$2,000" and inserting in lieu thereof "$100,000".

(3)(A) The first section of such Act is further amended—

(i) by striking out "mechanics and/or laborers" in subsection (a)(1) and inserting in lieu thereof "laborers, mechanics, helpers, or any combination thereof";

(ii) by striking out "laborers and mechanics" wherever it appears and inserting in lieu thereof "laborers, mechanics, and helpers";

(iii) by striking out "mechanics and laborers" in subsection (a)(1) and inserting in lieu thereof "laborers, mechanics, and helpers"; and

(iv) by striking out "laborer or mechanic" in subsection (b) and inserting in lieu thereof "laborer, mechanic, or helper".

(B) Section 2 of such Act (40 U.S.C. 276a-1) is amended by striking out "laborer or mechanic" and inserting in lieu thereof "laborer, mechanic, or helper".

(C) Section 3 of such Act (40 U.S.C. 276a-2) is amended by striking out "laborer and mechanics" wherever it appears and inserting in lieu thereof "laborers, mechanics, and helpers".

Mr. NICKLES. Mr. President, today I propose an amendment to the Kennedy jobs bill amendment to reform the Davis-Bacon Act.

Some say it does not really relate to jobs. I tell the Senate it is directly related to jobs and it would be a very, very positive, long-term, stable job stimulus bill.

The bill I am talking about is not to repeal the Davis-Bacon Act as we moved on previously last year, but it is to reform the Davis-Bacon Act and that reform is long overdue.

Mr. President, to refresh your memory, Davis-Bacon is the law passed in 1935 where the Government said basically, "The Department of Labor will determine what the prevailing wage rates are or, if you do a Federal construction project over $2,000, we will tell you what you have to pay your people," not allowing the collective bargaining process to work.

We are actually having Government intervention going in and telling them what the wage rates have to be.

The Reagan administration rightfully realized that some changes in reform were very much needed so they proposed some administrative changes, some very good changes which were just recently thrown out in the district court. Since they were knocked out I think this is important and really tells us in Congress that we are going to have to make some legislative or statutory changes.

So I shall outline briefly what the bill that I have before us would do.

First, and I think it is important for all the Members who represent rural States, it would prohibit the present practice of importing urban wage rates, high big-city wage rates into the rural areas.

I know that, representing an agricultural State and rural State, makes a lot of difference in my State because they are continually bringing in outside or high labor rates into the rural areas and driving up the cost of those projects. It would prohibit that.

It would increase the so-called 30-percent rule to 50 percent or, say, the majority. The way they determine the wage rate classifications today is they take 30 percent. Instead of using the 30 percent of the highest wage rate in a particular locality or location, what it would require is a majority, and actually when one thinks about it, the prevailing wage should be a majority. So it is a commonsense rule.

It would allow helpers—in many States they do not even allow a helper classification—so that the lowest classification they have is not journeyman. It happens to be for the person who may be pushing a wheelbarrow, he will be paid a journeyman rate far in excess of probably what they would pay a person who is just beginning his work process.

All those changes that I have just discussed were proposed by the administration and they were going to make administratively those changes, and so legislation would not be necessary. But since the court threw those out, I might add that now it appears it will be necessary for us to do that.

The fourth and only change that we are making, that is, in addition to the proposal by the administration, is to increase threshold from $2,000 to $100,000. Presently if you do a Government construction contract you have to apply Davis-Bacon rules, regulations, compliance with any contract that is over $2,000. We increase that modestly to $100,000 which would

exempt the small contracts but only those very, very small contracts.

Present law means that if you have a post office in Macon, Ga., the fact of the matter is that you are going to have to pay prevailing wage rates and have that determined by the Department of Labor to tell you what you have to pay your people to do a $5,000 project. We are trying to change that.

This bill will save taxpayers money. It will save something like $3.5 billion over a 5-year period.

I estimate that it will probably save over $1 billion a year, so it could help pay for the so-called Kennedy jobs bill. It will cut spending. Spending is not needed. It will cut waste. We always continually hear people talk about cutting waste. This will cut waste.

This amendment is supported almost across the board by all small business organizations. It is supported by the Chamber of Commerce. It is supported by the National Association of Manufacturers. It is supported by the Farm Bureau. And I hope it will be supported by the Senate tonight.

Mr. KENNEDY. Mr. President, the Senator from Oklahoma and I have discussed this issue before. Last year he tried to repeal Davis-Bacon insofar as military construction contracts are concerned. We had a lengthy debate at that time. We discussed the familiar litany of charges we have heard leveled at Davis-Bacon in this body over the years: That Davis-Bacon is inflationary; that Davis-Bacon increases construction costs; that the Department of Labor does not administer the program properly.

I said then, and I want to repeat now that all of those charges are false. There is absolutely no credible evidence that Davis-Bacon is inflationary or that Davis-Bacon wage rates are set too high. Davis-Bacon requires that Federal contractors pay construction workers the wage rate which is actually prevailing in their community. It is designed to prevent fly-by-night contractors from using cutthroat wage competition to win contracts which they will never be able to complete because they will not be able to hire or retain the highly skilled construction workers who are necessary if large complex construction projects are going to be completed properly and on time.

I am convinced that any amendment to or reduction of Davis-Bacon protection will result in increased overall construction costs and cost overruns.

Mr. President, we defeated the Senator from Oklahoma's Davis-Bacon amendment last year, so he has modified it. The amendment he is offering today looks less offensive instead of trying to repeal Davis-Bacon wholesale, he wants to codify the regulations the Department of Labor has been trying to write for the last 2 years. Of course, that looks innocent enough. He says, "We will just put into law what the Department of Labor is doing by regulation."

Well, every Senator should understand what every construction worker in this country already knows. The Department of Labor's so-called modifications cut the heart out of Davis-Bacon and violate the will of Congress. They constitute repeal in substance, if not form. And that fact cannot be disguised simply because we are not taking the law off the books.

In July Judge Harold Greene of the U.S. district court here in Washington prevented the Department from implementing the very regulations Senator NICKLES wants to codify. We still have to wait for a final ruling in the case, but it is pretty obvious to me that the Department of Labor ought to demonstrate that it understands what we told it to do 50 years ago when we enacted Davis-Bacon before we are asked to substitute their judgment of what is best for the construction workers of this country.

This is not the time or place to be discussing Davis-Bacon. Unemployment in the construction industry is over 20 percent.

Instead of spending our time trying to cut workers, wages, we ought to be taking steps to put the 3 million Americans who have lost their jobs since Ronald Reagan got his job, back to work.

We should reject the amendment offered by the Senator from Oklahoma so we can get to my jobs amendment which begins to address our real problem by putting 200,000 workers back on construction sites.

Mr. NICKLES. Mr. President, ever since the Reagan administration arrived in town, it has set out to control spiraling Federal expenditures. To its credit, the Labor Department chose to deal with the inflationary Davis-Bacon Act through constructive administrative changes. It has been over 1 year since the administration commenced the process of administrative reform of the act, and yet the act and the original regulations still remain intact. I might point out to my colleagues that the administration's fiscal year 1982 budget figures project a savings of $220 million based on their proposed administrative reforms. Fiscal year 1982 is about over and Davis-Bacon relief is still not in sight. In fact I doubt if these administrative reforms will ever be finalized because of the court challenges by the opponents of reform. In July the Federal District Court here in Washington, D.C. imposed a preliminary injunction against the DOL's efforts to change the regulations issued pursuant to the act.

Mr. President, the amendment that I am offering is designed to codify the pending Davis-Bacon regulations proposed by the Reagan administration. I stress that it is essentially codification of the reg changes; it is not a drastic addition or expansion of these regulations.

My amendment is designed to accomplish four things: First, it increases the threshold that governs the application of Davis-Bacon mandated wages. Currently, all direct Federal "construction," "repair," or "alteration" contracts in excess of $2,000 require the application of the Davis-Bacon Act. Likewise, for most federally assisted construction contracts. My amendment increases the $2,000 threshold to $100,000. This change may not be accomplished through the regulatory process, as my colleagues undoubtedly know. A change of this nature requires a change in the statute.

By raising the threshold to $100,000, we will eliminate, on an annual basis, perhaps 15,000 of the 125,000 Federal or federally assisted contracts that require Davis-Bacon applications (source—Federal Procurement Data System). I must point out that in terms of the scope of the Federal construction programs, only about 2 or 3 percent of the dollars spent—far less then $1 billion—will be affected by this change. Local small contractors and their employees will be the principal beneficiaries of an increased threshold. Importation of high urban rates into rural areas would no longer be a problem in these small contract situations. Government paperwork will also be reduced considerably, as the hearings held by Senator PRYOR'S Subcommittee on Federal Spending Practices and Open Government in October 1979 so ably demonstrated. Ample justification exists for increasing the threshold; $2,000 went a lot further in the thirties than it does today. As originally conceived in 1931, small contracts for repair or alteration were exempt from the law. Because of inflation, this is no longer the case. Both the General Accounting Office and the President's Commission on Federal Paperwork have called for an increase in the threshold. All of the parties that have called for repeal of the act would also welcome an increased threshold, as we were told many times in April during hearings conducted by the Senate Labor Subcommittee.

I note that several years ago Senator EXON offered a similar amendment raising the threshold—an amendment that was later so watered down that it bordered on ridiculous when finally accepted by the Senate. Today we again have a chance to make a significant change in the law in response to the justified criticisms leveled at the administration of the Davis-Bacon Act. Should we fail at this time, I suspect that we will be standing here time and time again until finally significant

changes or repeal are enacted by this body.

The second part of my amendment simply adds the term "helpers" whenever the term "laborers and mechanics" appears throughout the act. This change requires the Department of Labor, whenever wage surveys are conducted or wage determinations are issued, to provide for helper classifications in addition to journeymen classifications, but only where helpers are indeed utilized in that locality. In other words the DOL would have to recognize prevailing local practice—as the original act contemplated.

I might point out that the DOL has been utilizing subjourneymen classifications for years in both union and nonunion apprenticeship programs. This nonstatutory arrangement takes into account prevailing local practice in urban areas, but fails to take into account the use of semi-skilled helper classifications commonly utilized in rural areas except in rare circumstances. As a consequence of Labor Department practice, local contractors in the more rural areas frequently are not in a position to bid on Federal or federally assisted projects without substantial disruption to their work force. They may bid of course, but only if they do not use their helper classifications or, alternatively, pay them at the higher journeymen rate. As an ordinary practice, they frequently refuse to bid and outside contractors with an imported work force do the job. This, of course, is contradictory to the goals of the Davis-Bacon Act—to protect local contractors and their employees from displacement by outside contractors and their employees. My amendment will benefit local contractors and their employees by, I reiterate, requiring the DOL to recognize prevailing local practice. I submit that it is past time for the Congress to redirect the DOL bureaucracy back to the original purpose of the act. The Senate can do so by accepting my amendment today.

Morever, the "helper" classification will provide unskilled or partially skilled workers an opportunity to work and become trained to perform a particular task within a craft. This provides more opportunity for underutilized minorities, females, young workers and those, traditionally, limited in the working force. The helper classification will stimulate employment and training opportunities for our Nation's youth, the highest unemployed sector of our work force.

The third provision of my amendment incorporates a statutory definition of "prevailing wage" directly from the administration's proposed regulatory changes. Specifically, prevailing wages would henceforth be determined under a majority rule (50 percent) or, absent a majority, a weighted average.

For example, if the same wages is not paid to an identifiable majority of those employed in a specific classification, this amendment provides that the prevailing wage will be defined as the average of basic hourly rates paid to workers in the classification, weighed by the number employed at each specific rate within that classification.

The fourth and final part of my amendment distinguishes between construction performed in urban and rural subdivisions. This means that, for purposes of determining prevailing wages, projects in metropolitan areas may not be used as a source of data for a wage determination in a rural area, and projects in rural areas may not be used in a source of data for a wage determination for a metropolitan area. So called importation of wage rates would be barred.

These final two changes, the statutory definition of prevailing wage and the bar on importing wage data and issuing determinations, will alleviate the vast majority of the inequities encountered by construction contractors and Federal, State, and county agencies constructing Federal and federally assisted projects.

The CBO estimates that these four changes will result in a reduction in outlays in fiscal year 1983 of $238 million, fiscal year 1984 of $545 million, fiscal year 1985 of $791 million, fiscal year 1986 of $956 million, and fiscal year 1987 of $1,106 million. I ask unanimous consent that their estimates be printed in the RECORD.

We can see that these four Davis-Bacon changes will save substantial sums of tax dollars over the next 5 fiscal years. I offer this amendment solely for the purpose of utilizing this savings for the program espoused by Senator KENNEDY.

There being no objection, the estimates were ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., March 5, 1982.

Hon. DON NICKLES,
Chairman, Subcommittee on Labor, Committee on Labor and Human Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to your request, the Congressional Budget Office has prepared the attached cost estimate for the Davis-Bacon Amendments.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

RAYMOND SCHEPPACH
(For Alice M. Rivlin, Director.)

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, MARCH 5, 1982

1. Bill number: S. .
2. Bill title: Davis-Bacon Amendments
3. Bill status: Draft proposal from Senator Don Nickles
4. Bill purpose: This bill has four objectives. First, it would change the contract dollar threshold level above which the Davis-Bacon Act would be applicable from $2,000 to $250,000. Second, it would mandate the Department of Labor (DOL) to determine wage rates for the helper classification on Davis-Bacon projects. Third, it would change the current DOL practice of making Davis-Bacon wage determinations. Presently, DOL often relies upon the "30 percent rule." In labor markets in which no one wage is paid to a majority of construction workers in a given classification, DOL will make a wage determination based upon the one rate paid to the greatest number of workers in that class, provided such rate is paid to greater than 30 percent of those employed in that class. This bill would define prevailing wage as that rate paid to 50 percent or more of the construction workers in a given class; if one rate is not paid to such a proportion, the bill would require a weighted average of the rates paid to that class be the prevailing wage. Fourth, the bill would require DOL to make more localized Davis-Bacon wage surveys to prevent urban wage rates from influencing wage determinations in more rural locales.
5. Cost estimate:

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986	1987
Threshold change:						
Budget authority		−59.41	−64.29	−69.04	−73.38	−77.30
Estimated outlays		−17.67	−39.26	−52.58	−60.54	−66.99
Helper classification wage determination:						
Budget authority		−622.76	−700.28	−828.85	−934.38	−1,038.05
Estimated outlays		−185.18	−427.63	−631.29	−770.77	−899.69
Modification of prevailing wage determinations:						
Budget authority		−121.20	−131.13	−140.82	−149.67	−157.66
Estimated outlays		−36.03	−80.08	−107.26	−123.46	−136.65
Localized wage surveys:						
Budget authority						
Estimated outlays						
Total:						
Budget authority		−803.37	−895.70	−1,038.71	−1,157.43	−1,273.01
Estimated outlays		−238.88	−546.97	−791.13	−954.77	−1,103.33

6. Basis of estimate: The fiscal impact of the threshold provision was estimated by first determining the amount of federal direct and federally-assisted construction which would be affected by the change. This was done by taking the amount of new defense and civil construction spending as called for in the fiscal year 1983 budget, and inflating it for fiscal years 1984 through 1987 by CBO's deflator for non-residential construction. Against this was applied a distribution of federal construction dollars by total contract amount, obtained from the Federal Procurement Data Center, to determine the volume of federal construction which the bill would exempt from Davis-Bacon jurisdiction. This dollar amount was then distributed by type of construction—building, residential, and heavy and highway construction. DOL estimates of the labor share of total construction costs by type of project were then applied to these dollar volumes. Finally, a GAO estimate of the percentage of federal construction cost increases attributed to Davis-Bacon was multiplied by the estimates of labor's share of total construction costs for the exempted contract threshold levels to derive final estimates.

The fiscal impact of the helper provision was estimated by taking a DOL estimate of the number of journeymen on Davis-Bacon projects in 1982 and inflating it for fiscal years 1983 through 1987 by Data Resources, Inc.'s forecast of increases in contract construction employment. These estimates were then reduced by 7 percent to adjust for those projects which will be exempt from Davis-Bacon due to the threshold modification. There seems to be no standard industry ratio of the numbers of helpers to journeymen. After consulting with several industry and academic sources, it was decided to use an assumed ratio of one helper to five journeymen in order to derive estimates of the number of helpers employed on Davis-Bacon projects in fiscal years 1983 through 1987. An estimate of average annual hours worked in construction was calculated by taking the mean of average construction hours worked per week for the last ten years and multiplying it by the weighted average of weeks worked per year in construction obtained from the March 1981 Current Population Survey. To derive an estimate of the wage dispersion between journeymen and helpers, the 1981 average hourly construction wage was inflated by 7 percent per year, the average rate by which construction wages have been increasing. After contacting several industry sources, it was determined to use 50 percent to represent the proportion of journeymen's wages paid to helpers. The product of the estimated number of helpers, average annual hours worked, and wage gap between journeymen and helpers formed the estimate of savings.

The fiscal impact of the prevailing wage change provision was estimated by first determining the amount of federal construction which would be subject to Davis-Bacon after the threshold change. This was distributed to residential, building, and heavy and highway construction categories. The labor cost component of each of these categories was then estimated using the DOL estimates of labor's share of construction costs. DOL estimates of the percentage increases of construction costs attributable to the use of the "30 percent rule" were then applied to the estimates of labor share to determine final savings estimates.

Because of lack of data, no fiscal impact was able to be calculated for the more localized wage survey provision.

It was assumed that the bill would be effective for all federal construction contracts implemented after October 1, 1982.

The budget authority savings represent the estimated savings of these provisions for new federal construction contracts implemented in a given fiscal year. Because of the length of most construction projects, the actual outlays for a given year's stock of construction contracts spend out over a period of years. Such spend out rates were obtained by the Office of Management and Budget for major types of federal construction.

ALTERNATE ESTIMATE ASSUMING $100,000 THRESHOLD

An alternative set of estimates for a $100,000 threshold level was also calculated. These are displayed below:

[by fiscal year, in millions of dollars]

	1982	1983	1984	1985	1986	1987
Budget authority		−800.29	−893.22	−1,038.53	−1,158.94	−1,276.45
Estimated outlays		−237.96	−545.46	−790.99	−956.02	−1,106.31

These estimates become larger than those for the higher threshold level by fiscal year 1986 because although the savings attributable to the threshold provision are less for the above alternative, the savings stemming from the helper and prevailing wage provisions are greater since more contracts would be subject to these two provisions.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Richard Hendrix (226-2820).

10. Estimate approved by: James L. Blum, Deputy Director for Budget Analysis Division.

Mr. HATFIELD. Mr. President, has all time been yielded back?

The PRESIDING OFFICER. It has not.

Mr. KENNEDY. I am prepared to yield back whatever time I have left.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield back his time?

Mr. NICKLES. How much time do I have?

The PRESIDING OFFICER. Twenty-one seconds.

Mr. NICKLES. I might just make one more comment. My comment would be that we are not cutting wages. We are trying to say that you will maintain the present wages, that you will pay your people full time, and not have the Federal Government come in and mandate wages above what you pay your people.

Mr. HATFIELD. Mr. President, under the unanimous-consent agreement I now move to lay on the table the Nickles amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion by the Senator from Oregon to lay on the table the amendment of the Senator from Oklahoma. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. EXON (After having voted in the negative). Mr. President, I have a live pair with the Senator from Michigan (Mr. RIEGLE). If he were present and voting, he would vote "yea." I have voted "nay." I therefore withdraw my vote.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON), would vote nay.

Mr. CRANSTON. I announce that the Senator from Michigan (Mr. RIEGLE) is necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber desiring to vote?

The result was announced—yeas 52, nays 44, as follows:

[Rollcall Vote No. 371 Leg.]

YEAS—52

Andrews	Ford	Melcher
Baucus	Glenn	Metzenbaum
Biden	Hart	Mitchell
Bradley	Hatfield	Moynihan
Bumpers	Heflin	Murkowski
Burdick	Heinz	Packwood
Byrd, Robert C.	Hollings	Pell
Cannon	Huddleston	Proxmire
Chafee	Inouye	Randolph
Chiles	Jackson	Sarbanes
Cranston	Johnston	Sasser
D'Amato	Kennedy	Specter
Danforth	Leahy	Stafford
DeConcini	Levin	Stevens
Dixon	Long	Tsongas
Dodd	Mathias	Weicker
Durenberger	Matsunaga	
Eagleton	McClure	

NAYS—44

Abdnor	Goldwater	Nunn
Armstrong	Gorton	Pressler
Baker	Grassley	Pryor
Bentsen	Hatch	Quayle
Boren	Hawkins	Roth
Boschwitz	Hayakawa	Rudman
Brady	Helms	Schmitt
Byrd Harry F., Jr.	Humphrey	Simpson
	Jepsen	Stennis
Cochran	Kassebaum	Symms
Cohen	Kasten	Thurmond
Dole	Laxalt	Tower
Domenici	Lugar	Wallop
East	Mattingly	Warner
Garn	Nickles	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Exon, against.

NOT VOTING—3

Denton Percy Riegle

So Mr. HATFIELD's motion to lay on the table Mr. NICKLES' amendment (UP No. 1343) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GOLDWATER. Mr. President, I move to lay on the table the amendment of the Senator from Massachusetts.

Mr. HATFIELD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Massachusetts (Mr. KENNEDY). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Michigan (Mr. RIEGLE) is necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE) would vote "nay".

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 372 Leg.]

YEAS—60

Abdnor	Goldwater	Nickles
Andrews	Gorton	Nunn
Armstrong	Grassley	Packwood
Baker	Hatch	Pressler
Bentsen	Hatfield	Pryor
Boren	Hawkins	Quayle
Boschwitz	Hayakawa	Roth
Brady	Helms	Rudman
Byrd, Harry F., Jr.	Hollings	Schmitt
	Humphrey	Simpson
Chiles	Jepsen	Stafford
Cochran	Johnston	Stennis
Cohen	Kassebaum	Stevens
D'Amato	Kasten	Symms
Danforth	Laxalt	Thurmond
DeConcini	Long	Tower
Dole	Lugar	Wallop
Domenici	Mathias	Warner
East	Mattingly	Zorinsky
Exon	McClure	
Garn	Murkowski	

NAYS—37

Baucus	Cannon	Eagleton
Biden	Chafee	Ford
Bradley	Cranston	Glenn
Bumpers	Dixon	Hart
Burdick	Dodd	Heflin
Byrd, Robert C.	Durenberger	Heinz
Huddleston	Melcher	Sarbanes
Inouye	Metzenbaum	Sasser
Jackson	Mitchell	Specter
Kennedy	Moynihan	Tsongas
Leahy	Pell	Weicker
Levin	Proxmire	
Matsunaga	Randolph	

NOT VOTING—3

Denton Percy Riegle

So the motion to lay on the table Mr. KENNEDY's amendment (UP No. 1342) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, let me indicate to the Senate at this time that, following a brief colloquy with the Senator from New Mexico, we shall have passage, a rollcall vote on passage. I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, I yield to the Senator from New Mexico for the purpose of a colloquy.

Mr. DOMENICI. Mr. President, I thank the distinguished chairman. I wish to discuss House Joint Resolution 599, the joint resolution making continuing appropriations for fiscal 1983. The continuing resolution is, of course, only a temporary measure until the passage of the appropriations bills later this year. As a temporary vehicle, it allows us to continue the current status of most programs with little funding adjustments upward or downward. It is, indeed, temporary. It is not the final word for 1983. There will be adequate time on the final appropriations bill for all Senators to seek consideration of their individual concerns, if there are indeed more concerns than what we have already discussed in the last 3 days.

In the nature of most continuing resolutions, the language of this resolution specifies that the funding for most accounts will be at the House bill level or at the Senate bill level, whichever is lower. In instances where only one House of Congress has a specified bill level, the account is to be funded at the bill level or the current year rate, whichever is lower. There are some exceptions to this general rule of thumb, however. The Interior Subcommittee bill and the Labor, Health, and Human Services are to be funded at current operating rate.

At this point, I seek some clarification—Mr. President, I might tell the Senators I will not be long. Six or seven minutes, I assure them, is about all it will take.

At this point, I ask clarification from the distinguished chairman of the Committee on Appropriations, my good friend from Oregon. I have interpreted the definition of "current operating rate" to mean all entitlements are funded in this resolution at what we anticipate the full year's cost will be and that, with the exception of one or two accounts, the aggregate of all other programs will be frozen at fiscal year 1982 budget authority levels.

I ask my friend, the chairman of the committee, is that a correct characterization of the committee's intent?

Mr. HATFIELD. Mr. President, that is a correct characterization.

Mr. DOMENICI. I thank the Senator. I also note that individual elements of this continuing resolution differ—in some cases substantially—from the allocations made under section 302(b) of the Budget Act by the Committee on Appropriations. I might say at this point that I have a table which I have attached which indicates the 302 allocations that were agreed upon before this resolution and the continuing resolution as it is before us.

We have estimated spending in the normal manner, assuming that the continuing resolution would be in existence for a full year—this is the way we have normally done it. However, in this case, because of the colloquy with the distinguished chairman which occurred on the day the budget resolution passed, we have not seen fit to add the entitlement increases that occurred over the budget resolution estimates. We have given credit to the Appropriations Committee for that and we now have for the Senators' review for the RECORD a chart of each of the functions of Government based upon a continuing resolution priced at the full year cost, and all can see that.

The administration has testified that it will use the 302 allocations as a benchmark for approval or disapproval of individual appropriations bills. I ask the chairman of the committee this question: Is it his intention to abide by the 302(b) allocations when the individual appropriations bills emerge later this year?

Mr. HATFIELD. Let me say to the Senator, "Yes," to answer his question. But I would like to go back for just a second and comment briefly on his observations, made just now.

The Budget Committee's analysis further calculates in all the so-called further requirements which they and the Congressional Budget Office estimate will be necessary later in the year. Some of these will pay costs for the military and food stamp requirements. I recognize that the Budget Committees must try to estimate the full-year impact, but let me reiterate what I have said repeatedly. That is that this is a stopgap measure.

The Committee on Appropriations, resolve is to stay within its 302(b) allocations when it returns to the regular bills in the lameduck session. That is

an unshakable commitment and we will address these further requirements when we work on the fiscal year 1983 supplementals for pay and other urgent items.

Mr. DOMENICI. Let me just say the Senator is correct in these estimates. They show the Senators and, certainly, the distinguished Appropriations Committee is aware of them, where we will have to be to comply with the 302(b) allocations on the individual appropriation bills. We have included the items which are generally accepted as later funding requirements that are going to have to be added over and above the assumption of the continuing resolution.

If we are wrong on some of those, obviously, if they are not spent, we will have money to spend somewhere else. I have looked at them carefully, and my judgment is that they will all be spent. They are in here and identified. Including them, if you continued for the full year, you would be about $2.9 billion over in outlays. I acknowledge you would be significantly less in budget authority, but I would also remind Senators that that budget authority reduction is principally related to budget authority for outyear housing costs.

Mr. HATFIELD. Will the Senator yield at that point?

Mr. DOMENICI. I would be pleased to yield.

The PRESIDING OFFICER. The Senate will be in order.

The Senator will proceed.

Mr. HATFIELD. Mr. President, let me comment. Of the total $2.9 billion figure in outlays which the Budget Committee represents as being over the allocation, $2.5 billion of that amount is made up of savings unallocated to the subcommittees. I want to make that point very clear. I think that shows up in the table the Senator is including in the RECORD. The chairman of the committee, therefore, is talking about $4 million or one-tenth of 1 percent.

I also note that at least one item which the Budget Committee allocates for the transportation subcommittee, namely the reauthorization of the Federal highway program, has been stricken today on the floor, reducing the total budget authority by $3.8 billion.

I hope that my colleagues will not make a rash conclusion that this continuing resolution is in any way a budget buster. It provides our best judgment of emergency funding until the Congress can do its work on the regular bills.

Mr. SCHMITT. Mr. President, will the Senator yield for a comment on one specific item?

Mr. DOMENICI. Sure.

Mr. SCHMITT. In support of the full committee chairman, Senator HATFIELD's comments, we have made the best judgments we can on one of the largest lines in this chart, Labor, Health and Human Services, and Education. We just do not think under the current circumstances and with the data that we have been able to get, which is almost nothing, on what current operating levels means to the various agencies, that you can be this precise in the estimates.

We would estimate, based on our experience with this budget, that the budget authority was about $90 billion and the outlays were about $101 billion, but the limit of error on that estimate, as well as I believe any estimates made at this time, are far in excess of the differences indicated on this table.

So I think we are well aware of what the Senator from New Mexico is raising as an issue. It is certainly the intent of this subcommittee to stay fully within the allocations provided by the full committee. I believe that we would certainly be able to do that provided that the Senate will cooperate. We will certainly be able to do it in committee.

Mr. DOMENICI. Mr. President, let me say to both my distinguished colleague from New Mexico and the chairman: Obviously if I had the intention of coming to the floor and seeking to modify the continuing resolution, they know me well enough to know that I would not be here at 9 o'clock tonight, just before we vote, to offer my approaches to changing it. I do not have any suggestions. I do not think I am suggesting that we are going to end up breaking the budget.

I did not say that yet. I merely said, giving the committee all the credit that we can give them under the budget resolution, and using the exact form that we use to extrapolate a continuing resolution out over a year—parenthetically, we have done that all the time in scorekeeping except once when we wanted to get out of here and we decided to score keep only on the days that we were funding, and so obviously it did not break the budget because it was only part of a year.

There is also one additional scoring procedure we have used. We have adjusted for the entitlement excesses for which the Appropriations Committee is not responsible. Where the entitlements went up in the budget, we said let us take that increase out because the discretionary appropriations should not have to accommodate that increase. When we are finished with all of this, I merely tell Senators that some of the appropriations bills, if carried out on the basis of this resolution, are very, very high over the crosswalk and some are very, very low versus the 302(b) crosswalk.

I am not suggesting that we cannot fix it. I am merely suggesting that the longer we wait to fix it, the harder it will be.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Mr. President, I ask that I have 2 additional minutes. I will be finished.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. DOMENICI. I would like to close this discussion of how this bill compares to the first budget resolution funds. We have done that on an annualized basis. The chart is attached. This resolution expires on December 22. We are not scoring it on 3 months but on the full year. I can state that it is $10.6 billion under this budget authority and on the basis I have just described, no other basis, $2.9 billion over in outlays.

With respect to the credit budget, House Joint Resolution 599 provides $38.2 billion in direct loans, $79.3 billion in primary loan guarantees, and $68.3 billion in secondary loan guarantees. These amounts are $4.3 billion less than the Appropriations Committee's First Budget Resolution crosswalk allocation for direct loans, $1.6 billion more than its allocation for primary loan guarantees, and equal to its allocation for secondary loan guarantees.

I commend the committee for their excellent work on the credit budget. I ask unanimous consent that the tables showing the relationship of the reported bills together with possible later requirements be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HOUSE JOINT RESOLUTION 599, THE CONTINUING RESOLUTION AS REPORTED IN SENATE [1]

[In billions of dollars]

Subcommittee	Continuing resolution plus other requirements [2]		302(b) allocation to subcommittee		Continuing resolution compared to 302(b)	
	BA	O	BA	O	BA	O
Agriculture	24.3	21.8	24.8	22.0	−0.5	−0.2
Commerce/Justice/State/Judiciary	9.0	9.8	9.1	9.9	−0.1	−0.1
Defense	234.6	201.4	238.5	201.3	−3.9	+0.1
District of Columbia	0.5	0.5	0.6	0.6	−0.1	−0.1
Energy and Water Development	12.6	12.7	14.0	13.5	−1.4	−0.8
Foreign Operations	11.1	9.5	11.5	9.6	−0.4	−0.1
HUD/Independent Agencies	47.5	56.9	56.5	56.6	−9.0	+0.3
Interior	7.9	8.6	7.8	8.4	+0.1	+0.2
Labor/HHS/Education	90.7	102.6	90.4	101.4	+0.3	+1.2
Legislative Branch	1.3	1.3	1.4	1.4	−0.1	−0.1
Military Construction	6.3	6.0	7.5	6.1	−1.2	−0.1
Transportation	14.6	19.5	11.8	20.1	+2.8	−0.6
Treasury/Postal Service	11.4	11.1	10.7	10.4	+0.7	+0.7
Subtotal	471.8	461.7	484.6	461.3	−12.8	+0.4
Unallocated to subcommittees	0.6	0.6	−1.6	−1.9	+2.2	+2.5
Total	472.4	462.3	483.0	459.4	−10.6	+2.9

[1] This table has been prepared by the staff of the Senate Budget Committee based on their interpretation of the continuing resolution.

[2] Includes the continuing resolution, prior actions already completed, possible later requirements, and adjustments to keep entitlements at the levels assumed in the first budget resolution.

Mr. DOMENICI. I thank the distinguished chairman for his comments.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, in the short time permitted me, I can only say that this is a budget buster. We need to go back to the public record made on the urgent supplemental when we saved $1.4 billion. In that bill we actually appropriated $1.4 billion less than what the President asked for, and be characterized that as a budget buster. Now we are $2.9 billion over, and there is all kinds of noise about buy now and pay later. I will give you a categorical commitment that when we vote on this, I will not support it.

The time is upon as and we are not within the budget resolution. It is $2.9 billion over, and there is no other way that the distinguished Senators here tonight, can rationalize this.

The gentleman from New Mexico said, "Well you know, you just cannot get the necessary data from the Department."

He never flew that capsule on all of that kind of mishmash, saying he could not get the right data. If he had, he would have missed the Moon and the atmosphere and probably hit the Congress with something like: "We cannot get the data."

We do get the data. We have the same data that the distinguished Senator from New Mexico, the chairman of the committee, has just submitted. It shows that this bill is $2.9 billion over. And they say we should not make rash judgments. Let me say, these are not rash judgments. They are based on these figures that we have. If you notice how the Appropriations Committee did it, it went $400 million over in health and human resources. That committee also had another $2.5 billion here and they put a little asterisk for unallocated savings. And they plead to the body at this particular hour and say, "We will allocate them later."

What does it really matter, now that we are working in this particular manner, that we have been trying to fashion a discipline?

Mr. HATFIELD. Will the Senator yield?

Mr. HOLLINGS. I am not yielding.

They cut the ground out from under us——

Mr. HATFIELD. Does the Senator wish time? I am the only one who controls time.

Mr. HOLLINGS. No, I have my 5 minutes. That was the agreement.

Mr. HATFIELD. That was the time agreement.

Mr. HOLLINGS. I asked for 5 minutes. Ask the distinguished majority leader and ask the desk. I have 5 minutes.

Mr. HATFIELD. The two people controlling the time are Senator DOMENICI and myself. It was a colloquy between Senator DOMENICI and myself.

Mr. HOLLINGS. At that particular time I was given 5 minutes.

The PRESIDING OFFICER. The Journal shows the Senator from South Carolina has 5 minutes.

Mr. HOLLINGS. That is right.

So what we are doing is trying to fashion this discipline and create credibility as well as an impartiality and a confidence in the budget process, the Budget Committee, and more particularly, the members of the committee. But now the Members themselves are going to come whole cloth at this hour and begin explaining, "We are going to do it later," and "we cannot get the figures," and "we just do not know." But if we get the cooperation later out of one committee, then every committee says that, and the entire discipline breaks down.

These are the kinds of dangerous precedents that should not be set, and the Members should know it. If the President wants to call a bill a budget buster for the first time this year, and if this is the way this particular bill reaches him for signature into law, then he will be accurate for the first time on what actually is a budget buster. Senator DOMENICI has found, and I have found, working with CBO—and I have the chart—that this is $2.9 billion over the budget resolution.

I know all the little ideas about "later on we're going to fix it, and we'll allocate it, and I'll give you a firm commitment," and all those other things.

This is what really erodes the confidence in the budget process and the confidence of those in the committee, on both sides of the aisle, as we work on this particular measure.

The PRESIDING OFFICER. No further amendments are in order.

Mr. HATFIELD. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 1 minute and 11 seconds.

Mr. HATFIELD. Mr. President, let us get the record straight.

The Senate Committee on Appropriations has reported four bills for 1983: Agriculture, $1.1 billion under; HUD, $1.7 billion under; Transportation, $0.3 billion under; Treasury, $0.1 billion under.

In other words, we are $2.2 billion under with the four bills we reported.

That is the record, and that is the record we are going to present to the Senate when we get to the bills in the lameduck session as well.

Mr. SCHMITT. Mr. President, will the Senator yield 10 seconds?

Mr. HATFIELD. I do not have any time remaining.

The PRESIDING OFFICER. The Senator has 35 seconds.

Mr. SCHMITT. Mr. President, the Senator from South Carolina does not know what he is talking about, and neither does the OMB. They know what the numbers are in this bill; and if there is a veto based on the numbers, anything close to the ones given in this measure, it will be based on fiction. No one knows the numbers for this continuing resolution.

The Senator from New Mexico said exactly how he got those numbers. We have to take them at face value for what he says. But it has nothing to do with whether or not this continuing resolution busts the budget or not. The Senator from South Carolina does not know. Nobody in this Chamber knows what those totals will be.

Mr. HATFIELD. Mr. President, during the preparation of the committee report accompanying the continuing resolution a few technical and typographical errors were made. To avoid any misunderstandings I ask unanimous consent that the following list of corrections to the report be printed in the RECORD.

There being no objection, the list of corrections ordered to be printed in the RECORD, follows:

CORRECTION TO THE CONTINUING RESOLUTION REPORT (S. REPT. 97-581)

On page 5, the Department referred to in the paragraph on the Pacific Basin is the Department of Health and Human Services.

On page 7, the second line should read: "resolution, the number of institutions participating (4) in the program will re-".

On page 15, in the first line in the paragraph on the Community Services Block Grant, the word "included" should be inserted after "has".

On page 15, in the first line in the paragraph on section 136, the word "has" should be replaced by "recommendation".

On page 16, in the seventh line of the third paragraph under the heading "Vocational Education", the word "reduction" should be replaced by "education".

● Mr. BENTSEN. Mr. President, I appreciate the concerns expressed by Senator ANDREWS regarding the need to assure an extension of current funding levels for the highway program through fiscal year 1983. The importance of avoiding any disruption in the process of improving and maintaining the Federal-aid highway system when the current law expires on September 30, is indisputable. Given the enormity of the program needs, which have been well documented during hearings held in the Committee on Environment and Public Works, it is critical that we make every feasible effort to provide for the continuation of fiscal year 1983 authorizations.

However, the authorization of the Federal-aid highway program has been, and continues to be, within the jurisdiction of the Committee on Environment and Public Works. We are indeed sensitive to the urgency of this situation, and have, therefore, undertaken steps to enable us to complete the legislative process on 1982 high-

way legislation before the recess. A simplified, 1-year extension of the current highway program would be provided under the proposed legislation. We are hopeful that the Senate will be able to consider this bill, and an essential extension to the Highway Trust Fund, during these remaining days.

Again, those of us who are involved with the highway program are most appreciative of Senator ANDREWS' continued support and interest in this program. However, due to the complex nature of the highway program, it is not appropriate to address its funding for fiscal year 1983 within the continuing resolution.●

● Mr. D'AMATO. Mr. President, House Joint Resolution 599, the continuing resolution which we are now debating, states that for the purpose of continuing appropriations for the Department of Transportation and related agencies,

Whenever the amount which would be made available or the authority which would be granted under an act listed in this section as passed by the House as of October 1, 1982, is different from that which would be available or granted under such act as passed by the Senate as of October 1, 1982, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority.

The transportation appropriations bill for fiscal year 1983 as passed by the Senate Appropriations Committee contains language which prohibits the Federal Aviation Administration from reorganizing its regional office structure, or conducting any studies toward that end without the prior approval of the Senate and House Appropriations Committees. Is it the chairman's understanding that the Senate language is the more restrictive and would therefore apply in this continuing resolution?

Mr. ANDREWS. The Senator from New York is absolutely correct. The Senate language would be the operative language in the continuing resolution.

Mr. D'AMATO. I thank my good friend from North Dakota.●

EDUCATION FOR THE HANDICAPPED, VOCATIONAL REHABILITATION, AND DEVELOPMENTAL DISABILITIES

● Mr. WEICKER. Mr. President, because of the uncertainty over the interpretation of "current operating levels" I would like to obtain, for the RECORD, the intent of this language as it relates to three critical programs for the disabled. With regard to the Education for the Handicapped State grants program, Vocational Rehabilitation State grants program, and the activities under Developmental Disabilities Assistance and Bill of Rights Act, what is your understanding of the levels provided for in this continuing resolution?

Mr. SCHMITT. First of all, I would like to assure my good friend from Connecticut that the Appropriations Committee has provided language calling for funding based on "current operating levels" in order to insure that no ground is lost in these vital areas as a result of keeping funding at the fiscal 1982 level during these times of high inflation. It is my full intention that sufficient funds are included in this joint resolution to account for inflation or other economic factors.

For the Education of the Handicapped basic State grants program, I understand that in order to maintain the same level of services for the same number of students served during the previous fiscal year, an increase of approximately $56 million would be required, raising the total amount to $987 million for fiscal 1983 on an annual basis. This increase accounts for a 6-percent inflation factor. With regard to the Vocational Rehabilitation basic State grants program, it is my understanding that an additional $68 million above the fiscal 1982 level would be required, bringing the total to $931 million for fiscal 1983 on an annual basis.

With regard to maintaining the current operating level for developmental disabilities programs, the resolution should raise the funding to an annualized amount of $61,180,000. Since $61,080,000 is the authorized amount for fiscal 1983, a larger increase for the purpose of maintaining current operating levels is not possible.

In addition, let me assure the Senator that should any misunderstanding prevail regarding the levels provided in this continuing resolution, which I fully expect are sufficient to maintain current activities for the disabled, we can revisit these programs when we act to mark up our fiscal year 1983 funding bill for the Departments of Labor/HHS/Education and related agencies—or extend the continuing resolution—early in the lameduck session. I am sure that I can count on the Senator from Connecticut to play an active role in guaranteeing necessary funding levels for all programs affecting the disabled at that time.

Mr. WEICKER. I thank the Senator.●

VOCATIONAL REHABILITATION AND SPECIAL EDUCATION

● Mr. WEICKER. As a matter of clarification, is it the intention of the Appropriations Committee that the funding level for Special Projects (sec. 310-316), and Projects With Industry and Business Opportunities for Handicapped Individuals authorized under the Rehabilitation Act, be continued at least at the same level, and in the same proportion as in fiscal 1982?

Mr. SCHMITT. The Senator is correct.

Mr. WEICKER. Further, is it the intention of the committee that the level of funding for each program and project under the Education of the Handicapped Act continue at least at the same level and in the same proportion as in fiscal 1982?

Mr. SCHMITT. The Senator is correct.

Mr. WEICKER. I thank my colleague for this clarification.●

● Mr. TSONGAS. Mr. President, today I was scheduled to address the 25th annual convention of the Massachusetts State Labor Council, AFL-CIO. However, the Senate is expected to vote today on legislation that is critically important to the labor movement. One amendment being offered by Senator HELMS, to the continuing resolution would restrict the use of union dues for any political purposes. The other being offered by Senator METZENBAUM, attempts to rectify the situation involving unemployment compensation inadequacies.

After conferring with the State and national AFL-CIO labor leaders, I decided that staying in the Senate to vote against the Helms' amendment would better serve the important labor agenda which we all are committed to continuing.

I ask that a copy of my speech be printed in the RECORD.

The speech follows:

STATEMENT OF SENATOR PAUL E. TSONGAS

These are tough times in America. Our Labor Day this month, the 100th anniversary of the nation's tribute to its working men and women, unemployment stood at a disgraceful 9.8 percent. Next month the rate may reach double digits for the first time since World War II, meaning that more than 11 million Americans will be out of work.

The victims are disproportionately blue-collar workers. Among them are auto workers in Detroit, steelworkers in Pennsylvania and construction workers in Massachusetts. Workers in virtually every industry have been hard hit.

Every day brings news of another grim economic reality. Hard times have produced a new generation of American wanderer: jobless workers crisscrossing the nation futilely in search of work. Right now the number of United States citizens living below the poverty line is the highest in 15 years. The persistence of sky-high interest rates is dashing the hopes of millions of Americans to own their own homes or send their children to college. Federal budget deficits are soaring at record-high levels—an estimated $155 million next year alone.

Why is the economy on the skids?

The economists will tell you the reasons are various; no single factor is entirely responsible. They remind me of the story about Harry Truman. He would ask his economists for advice. They would reply, "Well, Mr. President, on the one hand you could do this. On the other hand you could do that." He finally got so mad he said, "All right, dammit, bring me a one-armed economist."

There is no denying that we Democrats are responsible for part of the nation's difficulties. We should recognize that. We have not always been sensitive enough to the importance of reinvestment, productivity and quality in the products we manufacture. But, as bad as the Democrats have been on the economy, Reaganomics has been even

worse. Talking about the Administration's foreign policy the other day, Ed Muskie asked, "If we are not going to hell, then where the hell are we going?" Muskie could have been talking just as well about the current economic policy. It combines larger budgets with tax cuts, producing huge deficits. The result is a mess, and it is showing little sign of getting better.

There is a bright side to the picture, however. Reaganomics has proven to be one of the best salesmen the Democratic Party has ever had. Many of those who strayed from the party have taken a hard look at Reaganomics and come hurrying back. This is especially true of organized labor.

Public opinion polls show that union members are returning home to the Democratic Party. In 1980 only 47 percent of union members voted for the Democratic presidential ticket. Recent polls have found that at least 62 percent of the labor vote is likely to go to Democratic congressional candidates this fall.

Furthermore, union endorsements have been falling more consistently in the Democratic column. And organized labor, more than ever, has been putting its money where its mouth is. Last year the AFL-CIO began funneling more dollars through the Democratic National Committee. The new financial pipeline into Democratic headquarters is strengthening the bonds between labor and the party.

The heightened partisanship is evident, too, in the AFL-CIO plan to vote in December 1983 on endorsing a Democratic presidential candidate. By taking such an early and intense interest in the selection of the Democratic nominee, the AFL-CIO is showing emphatically behind which party's banner it stands.

Clearly, labor is coming home to the Democratic Party—and not a moment too soon. Many Democratic candidates now find the odds stacked against them because of money.

Money has become the nuclear weaponry of American elections. The cost of running a closely contested congressional campaign can consume millions of dollars. To wage a respectable campaign demands heavy investment in television and radio advertising. A well-heeled candidate has the obvious edge.

Republicans in this country, and especially right-wing Republicans, have developed campaign fund-raising into a fine-tuned, high-technology science. The main tools are computers and direct-mail appeals. The latter are often coordinated by political action committees, PACs. A particularly important new source of Republican funds are the corporate and trade association PACs, which are expected to collect more than $65 million for this year's elections.

Dollars are flowing into Republican coffers as never before. The Republican National Committee is sinking $146 million into this year's congressional campaigns, while the Democratic National Committee lags far behind with only $19 million to spend. A number of conservative PACs have raised millions of additional dollars that will bankroll GOP candidates this year. For example, Senator Jesse Helms' National Congressional Club has $8 million to spread among right-wing candidates for Congress. Another PAC, the National Conservative Political Action Committee, has more than $7 million for the same purpose. A third, Fund for a Conservative Majority, has $2 million.

Happily, organized labor is rising to the challenge. Like the conservative fund-raisers, labor is modernizing its campaign apparatus. The AFL-CIO, for example, has computerized its voter lists for a major registration drive. Unions are now using direct-mail and television as campaign devices to maximum effect. Union PACs have been contributing steadily larger sums to congressional candidates. This year the figure is expected to top $14 million.

Of course, money by itself is never decisive. The appeal of the candidates, issues and grass-roots organizing are all important. In these areas I believe the Democratic Party, with the full support of labor, can have the advantage.

Now let me turn to the issue that I think ought to concern the Democratic Party this year. The issue is jobs. That must be the number one item on our agenda. It is a political cliche to say that we must get America back to work. Cliche or not, the proposition holds more than ever: the nation is failing its people, and failing badly, unless it does everything possible to assure that there is a job for every American willing to work. Nothing is more basic. It is part of the convenant that brought my father to this land from Greece and brought your father or forefathers here from some other country.

How can we honor this convenant that is what America is all about?

First, the federal government must commit itself to the vital task of rebuilding the nation's infrastructure. More than two of five bridges in the United States need replacing. More than half of all our roads are in disrepair. The need for water and sewer treatment facilities has exceeded localities' capacity to finance them.

If we permit the public infrastructure to decay, the nation will be the poorer for it—literally. Roads, bridges, water and other public services are essential to our economic well-being.

To keep out infrastructure in good repair will be costly. The tab just to fix what now needs fixing would amount to something between $600 billion and $3 trillion, depending on which estimate you believe. It is an effort that will require a massive Federal involvement. Slogans, stopgaps, and voodoo remedies are no answer. A proposal I offered in the Senate this year could help point the nation toward the kind of long-term commitment that is necessary. Under the proposal, Congress would create a separate Federal budget for capital items like highways, port facilities and subway systems. Once capital items are set apart, they can be financed more rationally over the long haul.

One way or another, the Federal government must act to end the neglect of our infrastructure. By doing so, we not only buttress the economy, we also will put millions of Americans back to work.

Second, we must redirect money into economic growth by scaling down our bloated military budget. The current Administration is calling for a Pentagon budget over the next five years of $1.5 trillion. This staggering figure is twice as much as we spent over the last 10 years and means that the United States will be expanding defense spending at twice the Soviet rate. Expansion at this clip is more than the military can efficiently digest, even as Murray Weidenbaum, the recently departed economic chief in the Reagan Administration, concedes. By matching the Soviets on military spending, we can adequately safeguard American security.

No less than nuclear warheads and submarines, a strong economy is a bulwark of national security. It is not the Soviets who are costing us jobs, but the Japanese. They are beating us in the global competition to produce cars, cameras, motorcycles and a host of other things. In effect, we are fighting on two fronts, the Soviet Union and Japan. Putting all our resources into the first guarantees our demise on the second. The next time you hear someone in the Reagan Administration saber-rattling against the Soviets, ask yourself how that helps put an unemployed auto worker back on the job.

Admittedly, money spent on the military boosts employment. But military dollars create fewer jobs than most other kinds of public spending. Figures compiled by Representative Les Aspin of Washington show that the Department of Defense creates 40,000 jobs per $1 billion at its disposal. However, an extra $1 billion in the public sector would create 76,000 jobs if spent on housing, 100,000 jobs if spent on teachers and 151,000 if spent on retraining youths through the Job Corps.

These figures are revealing. They illustrate how the oversized military budget is robbing the nation of the job-creating investment the economy needs. It is time we fixed this wrong-headed policy.

Third, the nation must do more to guarantee workers full opportunity for retraining. Obviously, a worker whose skills are no longer in demand is a loss to the economy.

We must have financial incentives to assist labor unions and private employers in covering the costs of retraining workers. Rapid technological change may contribute to national output, but it also causes a gap between workers' skills and the employment needs of industry. I believe the Federal government must help in bridging that gap.

In recent months, as the economy has gone from bad to worse, hardship, fear and self-doubt have been chipping away at the American spirit. I understand what hard times can do to a worker, a family, a community. I grew up in Lowell during the forties and fifties, when a proud mill city slid into economic distress. I vividly remember those dark days and want to do everything in my power to keep them from returning again.

Lowell rebounded when new initiatives brought jobs. Jobs are again of the highest priority. With your help we can see to it that there are enough jobs in America for everyone willing to work.●

SECTION 101(h) OF H.J. RES. 599

● Mr. McCLURE. Mr. President, I would like to engage the Senator from Oregon (Mr. HATFIELD) in a brief colloquy regarding section 101(h) of the joint resolution before us today. Specifically, I wish to clarify the intent of the proviso which prohibits the reduction of employees of the Department of Energy below levels in effect on September 30, 1982.

Section 303 of the fiscal year 1982 Supplemental Appropriations Act, Public Law 97-257, provides minimum employment levels for several offices, agencies and activities of the Department of Energy which fall under the jurisdiction of the House and Senate Appropriation Subcommittees on the Department of the Interior and Related Agencies. May I ask the distinguished chairman of the Appropria-

tions Committee, Mr. HATFIELD, if the aforementioned proviso contained in section 101(h) of this joint resolution will alter the personnel levels established in section 303 of the fiscal year 1982 Supplemental Appropriations Act?

Mr. HATFIELD. Mr. President, I can assure the Senator from Idaho that the personnel levels established in section 303 of the 1982 Supplemental Appropriations Act will still be in effect notwithstanding passage of this proviso contained in section 101(h) of House Joint Resolution 599. In addition, let me assure the Senator that this proviso applies only to energy programs within the energy and water appropriations subcommittee and only for the duration of the continuing resolution.

Mr. McCLURE. I am correct, then, that the provisions of section 101(h) of House Joint Resolution 599 will, if signed into law, not supersede the provisions of section 303 of Public Law 97-257?

Mr. HATFIELD. The Senator is correct.

Mr. McCLURE. I thank the Senator for his clarification of this provision.●

UNION STATION

● Mr. STAFFORD. Mr. President, late last year Public Law 97-125 was enacted. That legislation authorized the rehabilitation of Union Station here in Washington. Under that law, the Secretary of the Interior holds responsibility for the building until specifically requested by the Secretary of Transportation to transfer control to the Department of Transportation. No such request has been made, although I would hope and anticipate that it could be accomplished in the very near future, after providing for the necessary continuity for such things as the roof construction work.

In the meantime, the Department of the Interior has taken a position that it no longer will be responsible for the Union Station building as of Friday, the start of the new fiscal year.

That was not the intent of Congress. Nor was that anticipated under Public Law 97-125.

Because the continuing resolution bases the Department of the Interior spending levels on fiscal year 1982 levels, it is clear to me that money exists in this resolution for the Department of the Interior to continue to operate Union Station, until requested to make the transfer to DOT.

I would ask the distinguished floor manager of the resolution if he agrees with my assessment, that the Interior Department should continue to operate the building?

Mr. HATFIELD. The Senator from Vermont (Mr. STAFFORD) is correct. The Department of the Interior should continue to operate Union Station under this resolution until the transfer occurs.●

PREVENTIVE HEALTH PROGRAMS

● Mr. BUMPERS. Mr. President, although we are in a rush to enact this continuing resolution so the Government can continue to operate, I am pleased that a few programs have been dealt with in a way that will insure that their effectiveness is not jeopardized until we can deal with the regular appropriations bill. Two programs of particular importance to me, the maternal and child health block grant program and the childhood immunization program, will continue to operate effectively and I want to commend the chairman of the Labor/HHS Subcommittee, Mr. SCHMITT, for his work in this regard.

Under the Senate version of this bill, the immunization program is to receive $39 million, an increase over last year's level that takes into account the fact that vaccine costs have gone up about 44 percent in the last 2 years and are going up an additional 15 percent this year. Without a significant increase in funding, we would not be able to immunize nearly as many children, and the end result will be an outbreak of several diseases and untold human suffering.

The committee report on this bill also clarifies the issue of whether or not supplemental appropriations bills will be used in determining the "current rate" or "current operating levels." The committee report provides:

> The Committee, in agreeing to the provision in the House-passed resolution for continuing activities under the Department of Labor, Health and Human Services, Education and Related Agencies, based on current operating levels, as defined in this report, intends that such levels reflect all supplementals enacted in fiscal year 1982 (Public Law 97-147; Public Law 97-148; Public Law 97-216; and Public Law 97-257), as well as amounts appropriated in Public Law 97-92, the fiscal year 1982 continuing resolution.

Therefore, the maternal and child health block grant program, which only received $347.5 million in Public Law 97-92, but received an additional $24.5 million in the urgent supplemental appropriations bill will be able to operate at a level of $372 million during the period of this continuing resolution. Even though I believe we should be spending more than the $372 million on this vital program, I am pleased that the program can continue for the next several months without any unnecessary disruptions.●

● Mr. DECONCINI. It is my understanding that the continuing resolution contains the authority and funding necessary to extend the Department of Labor farmworker housing program at current operating levels through the term of the resolution. Is that correct?

Mr. SCHMITT. Yes. That is correct.●

RECONSTRUCTION ASSISTANCE TO ITALY

● Mr. D'AMATO. Mr. President, in response to the devastating earthquake which struck southern Italy in November 1980, and based upon my recommendation, the Subcommittee on Foreign Operations, last year, agreed to provide an additional $10 million in reconstruction assistance to the victims of this tragic natural disaster for use by the Agency for International Development during fiscal year 1982.

Despite the cooperative efforts of private charitable organizations and governmental agencies, a great deal of reconstruction work remains.

It is my understanding, and I would appreciate confirmation by my distinguished colleague, the chairman of the Foreign Operation Subcommittee, that, under the continuing resolution, funds will continue to be available for this purpose.

Mr. KASTEN. Mr. President, according to the provisions of the continuing resolution, funding for activities undertaken by the Agency for International Development including reconstruction assistance for the residents of southern Italy, will continue to be funded at the same level as in fiscal year 1982 until a regular appropriations bill is adopted.●

AGGREGATE FUNDING

● Mr. SCHMITT. Mr. President, I rise to seek a clarification of the report language accompanying House Joint Resolution 599, continuing appropriations for fiscal year 1983. On pages 3 and 4 of the report, reference is made to the determination of aggregate funding levels at the account level, rather than at the level of component activities of individual accounts. It is my understanding that this report language does not apply to the Departments of Labor, Health and Human Services, and Education.

This distinction is important because in the past the Departments of HHS and Education, with the concurrence of our subcommittee, have traditionally arrived at aggregate funding levels by summing amounts determined on a subactivity basis. I strongly believe that this method of determination should continue.

In fiscal year 1982 this issue was the focus of discussion at a meeting attended by officials of the General Accounting Office, departmental policy officials, and staff of the House and Senate Appropriations Committees. The conclusion reached by participants was that the subactivity level would be the level utilized for determination of aggregate funding levels for these departments. I want to assure that this practice continues under this joint resolution, and any extension of it.

Mr. HATFIELD. The Senator is correct that the report language to which he refers was not meant to apply to

those departments covered by the Labor/HHS Subcommittee. Because there was a very real question as to the application of the "Lower of House or Senate" formula at the subaccount level rather than the account level in the eyes of the Comptroller General last year, we wanted to settle this issue for the other subcommittees. For the Labor, HHS Subcommittee, however, since it works with a widely accepted subaccount structure, it is the committee's intent that the exception established last year be continued under this continuing resolution. Thus I agree with the Senator in this matter.●

WIND SHEAR ALERT STANDARDS

● Mr. JOHNSTON. Mr. President, the distinguished Senator from North Dakota should recall the tragedy which occurred in Kenner, La., on July 9 of this year. Pan Am's flight 759 took off in weather conditions that many veteran pilots have since said were too dangerous. Four warnings were given by air controllers prior to the fatal decision of Pan Am's pilot to takeoff that sensors around the airport had detected wind shear. Despite these warnings, the control tower cleared Pan Am flight 759 for takeoff. A few minutes after this clearance from the tower had been given, 153 people were dead in Kenner, La.

Testimony at the NTSB hearing in the aftermath of the Pan Am crash suggested that a wall of water and severe winds crossed the path of Pan Am flight 759 during its critical takeoff stage. The severity of these weather conditions at the time of Pan Am's crash is being determined from a combination of recorded and eyewitness testimonial evidence. It appears that the full nature of the severe weather conditions in the critical take-off stage of Pan Am's flight 759 is unavailable from recorded devices alone.

Mr. President, I wanted to discuss with the distinguished chairman of the Transportation Appropriations Subcommittee an amendment I intend to offer to the regular Transportation appropriations bill. The Senator from North Dakota is aware that our respective staffs have worked out an amendment which I will offer relating to two matters involving aviation safety. I ask that my amendment be printed at the end of this colloquy. I believe both matters are of the highest priority.

First, a study is necessary to identify recommended wind shear alert standards for denying takeoff and landing clearances for commercial and general aviation aircraft. Second, the number of wind shear sensors at Moisant Airport in Kenner, La., should be increased in order to improve the identification and measurement of these dangerous winds.

I would like to ask the chairman of the Transportation Appropriations Subcommittee whether he has reviewed the amendment which I will offer.

Mr. ANDREWS. I would like to assure the Senator from Louisiana that I have reviewed his amendment and that I believe it is an excellent amendment. When the Senate takes up the regular Transportation appropriation bill, I intend to accept his proposed amendment. I have been informed that there are no objections from either side of the aisle to the Senator's amendment.

Mr. JOHNSTON. I thank my distinguished colleague for his endorsement. My amendment would require the Federal Aviation Administration to enter into a contract with the National Academy of Sciences by November 15, 1982. This contract would authorize the National Academy of Sciences to undertake a study for the purpose of identifying recommended wind shear alert standards. The National Academy of Sciences would utilize the services of scientists affiliated with the National Center for Atmospheric Research and the National Oceanic and Atmospheric Administration as well as engineering experts with the National Academy of Engineers in conducting this study. By April 15, 1983, the study and recommended wind shear alert/severe weather condition standards would be forwarded to the FAA Administrator.

I would like to clarify several points about the failure to offer my amendment to this continuing resolution. Does the Federal Aviation Administration now have the legal authority and sufficient budget authority to enter into the contract contemplated by my amendment?

Mr. ANDREWS. I am confident that the Federal Aviation Administration does have authority to enter into such a contract with the National Academy of Sciences. Furthermore, there are adequate resources provided in the continuing resolution for the FAA to obligate the amount contemplated in the amendment by the Senator from Louisiana.

Mr. JOHNSTON. My amendment also calls for doubling the number of wind shear sensors at Moisant Airport in Kenner, La. Does the Federal Aviation Administration have sufficient budget authority to locate additional wind shear sensors at Moisant?

Mr. ANDREWS. Again, I want to assure my colleague from Louisiana that there are sufficient resources in the continuing resolution for this purpose. Furthermore, I expect that this colloquy between the Senator from Louisiana and myself addresses the need for both the study and the additional wind shear sensors. I also believe that this colloquy firmly establishes the intention of this body that the FAA comply with the requirements contained in the Senator's amendment during the period covered by the continuing resolution.

Mr. JOHNSTON. I thank the distinguished Senator from North Dakota. I will appreciate his cooperation and assistance during the period covered by this continuing resolution in insuring that the FAA complies with the directive of my proposed amendment.

Mr. ANDREWS. The Senator from Louisiana has my assurances.

The proposed amendment follows:

On page 8, line 6, insert the following after the word "transportation": ": *Provided further*, That not to exceed $500,000 of the total amount shall be obligated by November 15, 1982 for a contract with the National Academy of Sciences to undertake a study which would identify recommended wind shear alert and severe weather condition standards for denying take-off and landing clearances for commercial and general aviation aircraft and which would be forwarded to the FAA Administrator by April 15, 1983: *Provided further*, That not to exceed $150,000 of the funds provided to the Federal Aviation Administration in this Act shall be available for doubling the number of windshear sensors at Moisant Airport in Kenner, Louisiana".●

Mr. DOLE. Mr. President, the Senator from Kansas wishes to express his support for the compromise worked out with respect to payment of prior year claims under the Social Security Act programs.

The agreement, which prohibits payments for these claims during fiscal year 1983, does not in any way attempt to prejudice the pending court cases, nor does it attempt to change the policy set by the Senate Finance Committee and the Senate floor in 1979. Nor does it question the validity of the claims.

While recognizing the concern of the Department of HHS and the concerns of the Appropriations Committee regarding the expenditure of funds, this Senator does not wish to prohibit the States from realizing the payments in the future for legitimate claims if the courts so find.

This compromise leaves the decision with respect to scheduling of outyear payments, if they are to be made, to the Senate Finance Committee. This is reasonable given our responsibility for these programs.

MULTIPLE LAUNCH ROCKET SYSTEM

Mr. STEVENS. Mr. President, I see no need to address the multiple launch rocket system issue in the continuing resolution. The committee recommendation on the regular defense appropriation bill as reported to the Senate does include instructions and funding for a second production source for MLRS. However, I would not expect the Army to take any action or make any commitment on any program change until Congress completes action on a specific appropriation for this program. If it chooses, the Army could go ahead and prepare the paperwork on a competitive

source so long as no request for proposal is issued and no obligation or commitment of funds is made. Meanwhile, the bill provides funding for continuing production of more than 23,000 missiles and 72 launchers, which can continue under terms of the Senate reported continuing resolution. I should note further that there is likewise no authority for the Army to enter multiyear procurement for MLRS. That, of course, would also have to await a final congressional determination.

RAPID DEPLOYMENT FORCE

Mr. President, I recognize the committee's recommended restriction on the establishment of a unified command for Southwest Asia has raised concern in the Defense Department and among some Members of Congress. It would not be my intention to establish that prohibition permanently through a continuing resolution. I agree that there should be ample opportunity to debate this issue, and that opportunity will certainly be available when we take up the regular defense appropriation bill for fiscal year 1983. This restriction on the Rapid Deployment Force organization is not an issue that needs to be dealt with in the context of the continuing resolution. The Department does not plan to establish any unified command until January 1983. Thus, the restriction in the reported defense appropriation bill, which would be adopted as part of the continuing resolution, will not have any impact until the Congress reconvenes late in November, at which time the issue can be raised and dealt with.

I personally feel quite strongly that the prohibition is a good idea because it gives Congress time to consider whether another military bureaucracy is really necessary. But, as I said, that question can be debated fully when Congress returns after the election recess.

NATO TROOP COMMITMENTS

Mr. President, I am aware the administration as a whole and the Defense Department in particular have problems with the committee's revisions in U.S. troop strength in Europe. I have talked to the President directly on this issue and corresponded with him, and I have assured him that there will be ample opportunity to debate this issue when we take up the regular defense appropriations bill for fiscal year 1983.

There is no need to debate this issue or try to amend the committee position during consideration of the continuing resolution. The committee instructions on holding U.S. troop strength in Europe to the level that existed at the start of fiscal year 1981 applied to 1983 end strength. That is, the actual numbers of personnel in Europe at the end of the 1983 fiscal year, September 30, 1983.

The Department of Defense will not be required to make any change one way or the other in European forces as a result of this continuing resolution as it has been reported in the Senate. Troop strength in the first few months of the fiscal year need have no bearing on whatever end strength restriction Congress eventually adopts.

For my part, I would like to assure the Senate and the administration that there will be every opportunity to debate this issue when we take up the regular defense appropriation bill. If it is the will of the Senate, the committee recommendations can be amended at that time. As I said yesterday in a floor statement, I do not intend to back off the position established by the committee after a 12- to- 1 supporting vote of the Defense Appropriations Subcommittee. The thrust of our recommendation is to halt the growth of U.S. troops in Europe and to expect more participation from our allies in the defense of Europe. It is a sound position, and I hope the President will be able to review the merits of that position before Congress returns from the election recess.

Meanwhile, Mr. President, I am confident we can safely pass over this issue so far as the continuing resolution is concerned without foreclosing any subsequent changes the Senate might wish to consider.

LOW-INCOME ENERGY ASSISTANCE

Mr. EAGLETON. Mr. President, it has come to my attention that the Department of Health and Human Services and the Office of Management and Budget may once again attempt to dole out low-income energy assistance funds on a quarterly basis, totally ignoring the very purpose of the program to target assistance when and where low-income energy funds are most needed.

Mr. President, the chairman of the Labor/HHS/Ed Subcommittee on Appropriations will recall that in the committee report for the fiscal year 1982 appropriations for this program, the following report language was included:

> The Committee urges both the Department and OMB to apportion funds to States under this program in a way that permits States the use of low-income energy funds when they are most needed. The committee believes the Department should behave flexibly in this matter. It is clear, for example, that warmer States will require less money in the early part of the fiscal year than colder States, and the Department may take these factors into consideration when making appointments.

I would like to inquire of the chairman whether or not it is his intent, and the intent of the Senate under this continuing resolution, that the same report language applies to the fiscal year 1983 low-income energy assistance funds contained in this continuing resolution?

Mr. SCHMITT. I assure the Senator from Missouri that it is the intent of the committee that the Department and the OMB apportion funds to States under this program on an accelerated basis where weather conditions in the colder States so warrant.

STATEMENT IN OPPOSITION TO HELMS AMENDMENT

Mr. KENNEDY. Mr. President, I was unavoidably detained in Massachusetts earlier this afternoon in order to attend the funeral of a close personal friend and was therefore unable to debate and vote on the Helms amendment. Had I been in the Senate I would have voted to table the amendment. Moreover, I want the record to reflect my strong opposition to the substance of the Helms amendment.

That amendment represented one more attempt to tamper with the constitutional rights of our citizens; one more attempt to interfere with the constitutional duties of the courts, all for the purpose of promoting the narrow concerns of another right wing special interest—in this case the National Right To Work Committee. The 97th Congress has, time and again, been asked to adopt court tampering special interest legislation. Fortunately we have acted throughout this Congress responsibly. We have defeated the forces of reaction, and I am pleased that, today, we have done so again.

Ever since the Federal Elections Commission was established, Members on both sides of the aisle—and particularly the majority—have regularly complained about the Commission's procedures and regaled us with stories of bureaucratic overreaching and incompetence. I have never subscribed to that view of the Commission's role. I believe in reducing the invidious influence of money in Federal elections. The FEC has helped to maintain the integrity of our national election process and has restored the people's trust in that process. We all know that the Senator from North Carolina has been one of the principal opponents of the FEC and its role over the years.

Yet today we were asked to approve an amendment which would have put the Federal Elections Commission in the business of interpreting the Constitution of the United States. Needless to say the Commission has no such power today. Indeed Congress specially prohibited, and the courts have repeatedly held, that the Commission may not regulate speech or other first amendment rights because only the courts can delineate the scope of our citizens rights in these areas.

In fact the Commission currently lacks the statutory authority to regulate the use of union dues money except in connection with their use on behalf of candidates in Federal elec-

tion campaigns. The Senator from North Carolina said he wanted the Commission to issue regulations interpreting recent court cases in this area.

Those court cases involve, almost exclusively, the rights of State and local employees. At least 16 States have laws which govern the rights of agency fee payers to rebates for that portion of union dues which are used for political purposes. The courts in these States have issued their own decisions. Yet the Helms amendment would have empowered a Federal agency to supersede those State courts. He wanted us to substitute our judgment for that of our State legislators.

It is difficult to imagine a more unprecedented intrusion by the Federal Government in an area reserved to the States.

The Federal Elections Commission has enough to do. In the coming weeks it will be overwhelmed with reports on campaign expenditures, with complaints alleging violations of the act and with requests for expedited advisory opinions. Requiring the Commission to engage in rulemaking at this time in an area unrelated to its primary responsibility was a bad idea.

The Helms amendment represented an attempt to use the Federal Election Commission in order to carry out a one-sided attack on the American labor movement. I am proud to join the overwhelming majority of the Senators who voted to defeat the amendment.

Mr. DECONCINI. Mr. President, I wish to clarify a matter concerning an Indian Health Service program in the continuing resolution with the distinguished floor manager.

I am concerned with continuation of the community health representatives program during the time period of the resolution.

The President in his fiscal year 1983 budget request proposes to eliminate this program and I hope we can emphasize that it is the intent of Congress to continue the CHR program at its present level until the committee makes a definitive decision in its fiscal year 1983 bill.

As the floor manager knows, this is the major field health program for Indian tribes in more than 27 States. Over 500 Alaskan Native and Indian communities depend on this program. It provides 60 percent of the skilled manpower necessary to operate tribal emergency medical services.

For example, without this program, the Navajo Reservation would have no ambulance drivers for their emergency medical system which spans a rural area the size of West Virginia. Other reservations would lose their entire emergency medical service technician and first responder staffs. This would be devastating for these rural reservations where immediate emergency care is crucial to individual survival in accident cases.

Terminating the program would also mean the loss of 1,800 jobs for reservation communities. This would only aggravate the present extremely high unemployment among the Indian people.

This program, which employs persons from the same community, delivers crucial health services to the very young and the elderly and prevents costly hospital care. CHR workers help the elderly maintain a stable home health environment so they can live at home, instead of in nursing homes. They provide health education to families and reinforce vital preventive health programs like the maternal and child health program. The value of the program is clear.

Is it the distinguished floor manager's understanding and intent that the valuable community health representatives program is to be continued by the Indian Health Service at its present level of funding during the term of the continuing resolution?

Mr. HATFIELD. That is correct.

METZENBAUM UNEMPLOYMENT INSURANCE AMENDMENT (UP NO. 3621)

Mr. KENNEDY. Mr. President, I was unavoidably detained in Massachusetts earlier this afternoon. I had a live pair with Senator LONG on the amendment. I was paired for the Metzenbaum amendment.

When the Senate passed the tax bill in August it also voted a 10-week supplemental unemployment benefits that went into effect on September 12.

But that proposal fell short in two critical respects and effectively ignored the sense of the Senate resolution accepted by the Senate on August 5. That resolution instructed the tax conferees to undo the changes made in the extended benefits program last year. The effect of these changes is to eliminate 13 weeks of benefits in at least 30 States.

For that reason, I join with Senator METZENBAUM to offer this amendment.

This amendment contains two significant provisions to deal with the defects in the supplemental benefits program adopted as part of the tax bill:

First, every State that qualified for extended unemployment benefits on June 1 of this year would continue to pay these benefits until unemployment falls below 8.7 percent. Second, in addition the supplemental benefits program would continue until unemployment falls below 8.7 percent.

The cutoff for these programs would be based on the unemployment rate, not an arbitrary date. The rate specified is 8.7 percent which is the rate assumed in the budget resolution for the first quarter next year. In other words, if the unemployment rate meets the 8.7 percent target assumed in the budget resolution, the supplemental benefit programs would trigger off at the same time specified in the tax bill.

The changes in extended benefits would also go into effect. But if unemployment continues high, these programs would continue, as they should.

This amendment would insure that up to 49 weeks of unemployment benefits would be paid until the national unemployment rate drops below 8.7 percent. The tax bill would pay only 36 weeks of supplemental benefits in States between now and March 31.

I believe that the record level of unemployment we are now facing requires that we pay no less than 13 weeks of extended benefits in high unemployment States. The 10-week supplemental benefits program should not be a substitute for the extended benefits program.

I urge my colleagues to support the Metzenbaum amendment.

Mr. LEVIN. Mr. President, I am pleased that the continuing resolution calls for $320 million to be spent from the national defense stockpile transaction fund for strategic materials, $200 million of which will go for the purchase of copper.

This is a much more complex issue than it appears at first glance. This is not an issue of using money from the stockpile fund for the purchase of materials for economic or budgetary purchases for which there is not a certified strategic need. There is currently a certified inventory goal, set by the administration, of 1 million straight tons of copper but currently only 29,000 tons of copper are actually in the strategic stockpile.

This is not an issue of putting blinders on the stockpile fund and requiring that it only address the need for copper. The continuing resolution provides another $120 million for purchasing other materials for which there is a certified strategic need.

And this is not an issue of selling off materials within the stockpile and using the proceeds to help reduce the deficit. The continuing resolution provides that the money come from the stockpile fund to be used solely for materials going into the stockpile for which there is a certified need.

What this provision in the continuing resolution does is provide the Congress with an opportunity to meet a certified strategic need at the same time we put some miners in the United States back to work. I am particularly sensitive to this dual benefit because as a member of the Armed Services Committee I am concerned about the fact that the needs of our strategic stockpile have been neglected in recent years, and because the only copper mine in my State of Michigan will be effectively closed down on October 1 when another 700 workers are laid off. Michigan has endured double digit unemployment for over 30

months and currently has the highest rate of unemployment in the Nation—over 15 percent. This provision of the continuing resolution represents good defense policy and good economics.

There is a clear difference between purchasing materials for the stockpile which serve an economic or budgetary need but for which there is no certified strategic need, and purchasing materials for which there is a certified strategic need and which at the same time meet an economic need. One is a misuse of the stockpile, and the other is plain commonsense. Once an item is included on the list of certified strategic materials, then the rank of that item on the list should not be the sole determinant of what items on the list should be purchased. For example, it would be unwise to purchase an item which is ranked No. 2 on the list of certified strategic materials ahead of an item ranked No. 10 if the No. 2 ranked item is selling at an abnormally high price or if the only source of that item is a country which is making a mockery of human rights, whereas the No. 10 ranked item is selling at bargain prices and is produced in an economically depressed area in the United States.

During the debate on the supplemental appropriation bill last month, an amendment was offered which would have directed that all of the proceeds going into the stockpile fund resulting from the sale of strategic materials for a 15-month period be used for the purchase of copper for the stockpile. I voted against the amendment at that time because it ignored every other need of the strategic stockpile. Also, at that time I was under the impression that the grade of copper purchased for the stockpile was unlikely to include the grade produced in the State with the highest unemployment in the Nation, my State of Michigan. However, recently the copper production facilities in Michigan were modified and as a result mines and miners in Michigan may benefit from the stockpile's purchase of copper.

I, therefore, urge the conferees representing the Senate to hold fast to the Senate position and keep this provision in the conference agreement on the continuing resolution.

Mr. ROBERT C. BYRD. Mr. President, once again we are faced with the necessity of passing a joint resolution to continue the operation of the Federal Government. Only one appropriation bill, the HUD-Independent Agencies for fiscal year 1983, which includes funding for veterans programs, has been sent to the President at this time. Without this continuing resolution the functions of all those agencies not funded in the HUD bill would terminate on September 30, 1982. We witnessed the disruption that such a termination can cause last November when the President vetoed the continuing resolution and temporarily closed Government offices. That disruption in service to the American people was neither efficient nor practical. I sincerely hope that such a situation will not be repeated this year.

Passage of this continuing resolution will permit the ongoing operations of many programs which are important to the people of West Virginia. This resolution provides for continued funding for social security payments, and black lung benefits, as well as assistance to unemployed workers. The resolution also continues operations of the locks and dams on the Monongahela, Ohio, and Kanawha Rivers, a system of waterways essential to the transportation of coal and for other commerce. Construction on the Weirton-Steubenville and East Huntington bridges as well as flood control work on the Tug Fork will continue under this resolution. The Elkins weather station and the Cardinal passenger train are among other items which are supported. The resolution also insures that operations in the Monongahela National Forest and Harpers Ferry National Historical Park, including the police force, will be maintained at current levels.

This joint resolution, which Congress is sending to the President today, will continue all of these important programs and projects until December 22, 1982. Congress will return in November to resume its work on the remaining appropriation measures.

The PRESIDING OFFICER. All time has expired.

The question is on the engrossment of the amendments and the third reading of the joint resoluton.

The amendments were ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 72, nays 26, as follows:

[Rollcall Vote No. 373 Leg.]

YEAS—72

Abdnor	Bumpers	Cochran
Andrews	Burdick	Cohen
Baker	Byrd, Robert C.	D'Amato
Bentsen	Cannon	Danforth
Boschwitz	Chafee	DeConcini
Brady	Chiles	Dixon
Dole	Jackson	Quayle
Domenici	Jepsen	Randolph
Durenberger	Johnston	Rudman
Eagleton	Kassebaum	Sarbanes
Exon	Kasten	Sasser
Ford	Laxalt	Schmitt
Garn	Long	Simpson
Glenn	Lugar	Specter
Gorton	Mathias	Stafford
Grassley	Matsunaga	Stennis
Hatch	Mattingly	Stevens
Hatfield	McClure	Thurmond
Hawkins	Melcher	Tower
Hayakawa	Murkowski	Tsongas
Heinz	Nunn	Wallop
Huddleston	Packwood	Warner
Humphrey	Pressler	Weicker
Inouye	Pryor	Zorinsky

NAYS—26

Armstrong	East	Metzenbaum
Baucus	Goldwater	Mitchell
Biden	Hart	Moynihan
Boren	Heflin	Nickles
Bradley	Helms	Pell
Byrd, Harry F., Jr.	Hollings	Proxmire
	Kennedy	Riegle
Cranston	Leahy	Roth
Dodd	Levin	Symms

NOT VOTING—2

Denton	Percy

So the joint resolution (H.J. Res. 599), as amended, was passed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I now move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes of the two Houses thereon and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. MATTINGLY) appointed Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. MCCLURE, Mr. LAXALT, Mr. GARN, Mr. SCHMITT, Mr. COCHRAN, Mr. ANDREWS, Mr. ABDNOR, Mr. KASTEN, Mr. D'AMATO, Mr. MATTINGLY, Mr. RUDMAN, Mr. SPECTER, Mr. PROXMIRE, Mr. STENNIS, Mr. INOUYE, Mr. HOLLINGS, Mr. EAGLETON, Mr. CHILES, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, and Mr. BURDICK conferees on the part of the Senate.

Mr. BAKER. Mr. President, is the distinguished chairman of the committee finished with the last detail?

Mr. HATFIELD. Yes.

Mr. BAKER. Mr. President, let me take this opportunity to extend my heartiest congratulations to the Senator from Oregon, the chairman of the Appropriations Committee. He, as usual, has done a magnificent job. He has handled a difficult situation in a masterful way, and we on both sides of the aisle have come to expect no less from the Senator from Oregon because of the good work he does on behalf of every Senator.

Even though some Members agreed and some disagreed with the final judgment of the Senate, in my view the important point is that the Senate made decisions and that we finished a bill, an essential bill, in a reasonable period of time and with fair concern for the rights and the obligations and the points of view of every Senator.

Mr. President, I extend my congratulations as well to the distinguished ranking minority member, the Senator from Wisconsin (Mr. PROXMIRE).

Without the assistance of the minority leader it would have been impossible to reach the point we have reached tonight. Once again I find myself in his debt for having made it possible for us to give every Senator his turn at bat and to produce a result, favorable result in my view, in a reasonable period of time.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. I want to congratulate the majority leader for pressing ahead and completing action on this measure.

I know it looked difficult at times, but I have also found it is a little darkest before dawn, and I thank him and commend him.

I also commend the chairman, Mr. HATFIELD, for his characteristic courtesy, understanding and charity toward all. I congratulate Mr. PROXMIRE on his diligence, skill, and good workmanship, and I think the Senate has done well.

Mr. BAKER. Mr. President, I thank the minority leader and I am most grateful to him.

I would add only one final word with respect to the excellent staff on behalf of Senator HATFIELD and Senator PROXMIRE who, indeed, made it possible for us to keep track of this complex matter and to deal with it, I believe, in a rational and realistic way.

Mr. President, I would like now to announce there will be no more record votes today. There is a great volume of work that yet remains to be done, and I would like to inquire of the minority leader about the status of certain measures that we may be able to consider tonight, and others that are in prospect for tomorrow before we get on to the business of routine matters that can be done by unanimous consent.

Mr. HATFIELD. Mr. President, will the Senator yield for one brief response? I want to thank the majority and minority leaders for their generous remarks. I know Senator PROXMIRE and I appreciate very much the support we have had throughout this entire effort of our leadership on both sides of the aisle, Senator BAKER and Senator ROBERT C. BYRD.

We could not have accomplished it without the leadership support.

I want to pay a special tribute to Tom van der Voort and Keith Kennedy, the top staff persons on both sides, because without that type of staff support we would have been without the ability to accomplish this task. So I want to make a special comment concerning our outstanding staff.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I am advised that the conference report on HUD appropriations is here, and the distinguished chairman of the Banking Committee and the chairman of the Subcommittee on Appropriations has advised me he is ready to proceed on that. Do I understand so far as he is concerned that it would not require a record vote?

Mr. GARN. That is correct.

Mr. BAKER. I thank the Senator.

Is the minority leader in position to advise me that we can go forward with the conference report this evening?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the Senator.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES—CONFERENCE REPORT

Mr. BAKER, Mr. President, I submit a report of the committee of conference on H.R. 6956 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, September 29, 1982.)

Mr. GARN. Mr. President, yesterday, the conferees on H.R. 6956 met and resolved the differences between the two passed versions of the bill. While I know that many conferees would have liked to see higher levels of funding for various programs, the budgetary constraints we are under did not allow us that luxury. I do believe, however, that the conferees were able to reach fair and equitable agreement that represents a wholehearted attempt to minimize Federal expenditures in fiscal year 1983.

I would now like to highlight some of the major agreements of the conference and would also ask unanimous consent that a table showing the budget authority total for the conference be included in the RECORD.

HUD—ANNUAL CONTRIBUTIONS

Unfortunately, the conferees were not able to reach an agreement on the items dealing with the assisted housing provisions as contained in the Senate-passed version of the bill. These provisions included 16,000 units of elderly housing, 3,000 units of Indian housing, $1,000,000,000 of modernization funds for public housing and extension of the deadline for financing adjustment from October 1, 1982 to January 1, 1983. Therefore, the conferees deferred funding of the assisted housing programs until such time as an authorization bill is passed.

COMMUNITY DEVELOPMENT GRANTS

The conferees agreed to provide $3,456,000,000 for community developments block grants as proposed by the Senate. In addition, the conferees agreed to delete House language limiting the amount available for the Secretary's discretionary fund to $45,500,000.

URBAN DEVELOPMENT ACTION GRANTS

The conferees agreed to provide $440,000,000 for urban development action grants (UDAG) as proposed by the Senate, rather than $340,000,000 as proposed by the House. In addition, the conferees have indicated their concern with the distribution of UDAG funds among large and small cities and would hope that the authorization committees address this concern. Finally, the conferees have deleted language proposed by the House limiting the amount of new budget authority available for small cities to $10,000,000.

HUD REORGANIZATION

The conferees agreed to bill language which would prohibit HUD from expending funds prior to January 1, 1983, to plan, design, implement or administer any reorganization of the agency without the approval of the Appropriations Committees.

EPA

The conferees agreed to provide $548,613,200 for salaries and expenses. In providing this amount, the conferees provided an additional $10,500,000 for personnel compensation and benefits with the understanding that these funds will provide sufficient funding to preclude any reductions in positions during fiscal year 1983. The conferees have indicated that they expect OMB to increase EPA's fiscal year 1983 employment ceilings accordingly. In the event that additional resources are required, the conferees expect to receive a supplemental request for additional funding.

FEMA—DISASTER RELIEF

The conferees agreed that the balances in the disaster relief fund should be kept commensurate with the obligations of the fund. Therefore, the conferees agreed to provide $130,000,000 for disaster relief as proposed by the Senate. With the amount agreed to by the conferees and an estimated carry over of $531,000,000 from previous years, there will be a total of $661,000,000 available for disaster relief assistance during fiscal year 1983.

NASA

The conferees provided an additional $208,800,000 for a variety of R&D programs in NASA. Two specific add-ons require additional clarification. The conferees earmarked $170,000,000 over the budget request for the development, procurement and modifications needed to support the Centaur upper stage. These additional funds for Centaur consist of $127,000,000 of new BA and $13,000,000 that was included in NASA's fiscal year 1983 budget request and would become available through the cancellation of the IUS kick stages for the Galileo and ISPM missions. Similarly, the $48,000,000 earmarked for aeronautics over the budget request consists of $43,000,000 appropriated for this purpose and $3,000,000 available through cancellation of the kick stages.

On another matter, the conferees included bill language that would take effect upon the enactment into law of subsequent authorization acts. This provision would reduce the amount of funds that could be obligated or expended for space flight operations to the extent that such authorizing acts require additional reimbursement from other agencies above and beyond that contained in NASA's fiscal year 1983 budget request. If, Mr. President, the NASA authorization act for fiscal year 1983 would require DOD to transfer an additional $128,000,000, then $128,000,000 of the funds available in this act for space flight operations would be withheld from obligation or expenditure in anticipation of such funds being made available to NASA by transfer.

NSF

The conferees agreed on bill language which places a cap of $73,400,000 on the funds available for U.S. Antarctic program operations and support. The language also requires a minimum of $9,000,000 for the U.S. Antarctic science program. The conferees were concerned with the rapid growth of the operational support component of this program and instructed OMB to review alternate funding options. I do not intend to continue to recommend increasing operational support for this program if such costs are to be borne solely by NSF.

The bill contains 2 provisions relating to NSF's ocean drilling program. The first provision requires the concurrence of both Appropriations Committees on the potential conversion of Glomar Explorer prior to a decision to proceed. Its purpose is not to eliminate the conversion of Explorer as an option, but to allow NSF to hold open both program options while further review and assessment continues. The second legislative provision requires NSF to obtain committee approval for funds in excess of $12,000,000 for use in connection with the existing program (Glomar Challenger).

VA

The agreements reached on the VA accounts includes the deletion of funding provided by the House for the replacement hospital and the Cleveland clinical addition. The conferees agreed to provide advanced funding for these two projects later in fiscal year 1983 if these projects are included in the VA fiscal year 1984 budget request. The conferees supported the concept of providing funds for these projects in time for the 1983 construction season. It was also agreed that neither the House nor Senate conferees would recommend new projects in the VA's fiscal year 1984 budget as a result of advance funding these two projects.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1983 recommended by the Committee of Conference, with comparisons to the fiscal year 1982 amount, the 1983 budget estimates, and the House and Senate bills for 1983 follow:

New budget (obligational) authority, fiscal year 1982	$46,788,908,200
Budget estimates of new (obligational) authority, fiscal year 1983	46,643,208,000
House bill, fiscal year 1983	47,000,239,000
Senate bill, fiscal year 1983	46,534,317,200
Conference agreement, fiscal year 1983	46,895,408,200
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1982	+106,500,000
Budget estimates of new (obligational) authority, fiscal year 1983	+252,200,200
House bill, fiscal year 1983	−104,830,800
Senate bill, fiscal year 1983	+361,091,000

Mr. President, I would simply like to add, in the interest of time, my thanks to the distinguished minority manager, Senator HUDDLESTON, and his staff, and to Wally Berger, who made it possible for us to produce the first full appropriations bill for all of 1983, removing it from the continuing resolution process; and also to the distinguished chairman of the House subcommittee, Congressman BOLAND.

We are of different political parties, chairmen on each side of the aisle, but he has been incredibly cooperative over the last year and a half in producing a HUD appropriations bill last year and again this year, promptly getting it through the House of Representatives this afternoon so that we could pass it before the end of the year.

I wanted to pay tribute to our House colleagues as well, particularly Congressman BOLAND.

Mr. HUDDLESTON. Mr. President, I will take just a moment to express my appreciation too, to the distinguished Senator from Utah, the chairman of the subcommittee, and to all of the staff, including Carolyn Fuller of my staff, who worked so diligently and, as the Senator from Utah has pointed out, this is the first of the 13 appropriations bills that will have cleared both Houses and been enacted into law.

I think that is something of a milestone, even though we are very late already in the fiscal year.

Mr. President, the conferees on H.R. 6956, the Department of Housing and Urban Development independent agencies appropriations bill for fiscal 1983, met on Tuesday, September 28, and reached a conference agreement on the bill. This is the first of the fiscal 1983 appropriation bills to clear conference, and I am hopeful that it will soon be signed into law.

Because of a lack of authorization and uncertainty over the future of assisted housing, the conferees deferred consideration of this item. Thus, there is no funding for either section 8, public housing construction, a voucher program or any other construction of assisted housing in this bill. Under the subcommittee's 302(b) allotment under the Congressional Budget and Impoundment Control Act, there is, however, room to accommodate a modest program at a later date.

With the deferral of the assisted housing program, two provisions added to H.R. 6956 in the Senate, two provisions which I supported—the extension of the construction date for the financing adjustment factor (FAF) to January 1, 1983, and the so-called Moynihan amendment postponing the implementation of tenant rent increases—failed inclusion in the conference agreement.

Despite the deferral of funding for an assisted housing program, the conferees have, however, recommended funding for a number of HUD programs, as well as for other programs funded by the bill.

For the section 202 housing for the elderly and handicapped program, the conferees recommend a loan limit of $453 million. There are, however, no section 8 unit reservations to be used in conjunction with these funds. Thus, any projects requiring reservations

will have to depend upon recapture or canceled units.

For public housing operating subsidies, the conference recommendation is $1.350 billion, the House figure. This amount, together with a carryover from fiscal 1982, should come close to covering 1983 requirements. Furthermore, the conference bill requires the Department to obligate each public housing authority's allocation to the authority in a timely manner.

The conferees have recommended a limitation of $39.8 billion for the Federal Housing Administration's (FHA) loan guarantee program. This is only slightly below the fiscal 1982 level and reflects the intention that ample mortgage insurance be available should the hoped for revival in the housing industry occur.

The Solar Energy and Energy Conservation Bank is funded at $20 million under the conference recommendations.

The agreement for the community development block grant (CDBG) program is $3.456 billion, the same as the Senate amount and the budget request. The House limit on the Secretary's discretionary fund was deleted.

The urban development action grant (UDAG) program is funded at $440 million, the same as the Senate figure. The entire amount requested for the small cities portion of the program was included.

The conference figure for policy development and research is $18 billion. With this amount, $950,000 is earmarked for the Housing Assistance Council (HAC). Over the years, HAC has provided a number of services to small towns, rural areas, and nonprofit housing development corporations which have generally been overlooked by HUD, and often the Farmers Home Administration. HAC operates a rural housing loan fund which provides predevelopment credit to enable projects in rural and isolated areas to prove feasibility, obtain financing and begin construction. It provides technical assistance through training conferences, seminars, workshops and onsite consultations. And, it conducts an important information program which includes a biweekly newsletter, technical manuals and guides, and analyses of rural housing issues, proposed changes in the operation of housing programs and regulatory changes.

Although the Senate had deleted the House language prohibiting the use of funds to plan or implement a HUD reorganization without the prior approval of the Committee on Appropriations, the conferees agreed that no funds should be used prior to January 1, 1983, to plan, design, implement, or administer a reorganization without the prior approval of the Committee on Appropriations. Hopefully, this will provide sufficient time to work out some of the problems which have arisen in connection with the proposed reorganization.

The conference recommendation for the Environmental Protection Agency is $3,719 billion. This includes an addition over the budget of more than $40 million under the abatement, control and compliance account for the State grants program. Under this account, there is $1.9 million for the National Rural Water Association's State and rural water training and technical assistance program. Under the research and development account, there is $270,000 for a study of phosphate processing as part of the study of waste streams generated during mining operations.

For the Federal payment to the hazardous substance response trust fund, the agreement provides $40 million, and for hazardous response trust fund or Superfund activities, $210 million. Some $10 million will be available to the States for State hazardous waste site surveys.

The conference agreement for the waste water construction grant program is $2.430 billion, of which $30 million would be used for combined sewer overflows into marine bays and estuaries.

For the Federal Emergency Management Agency (FEMA), the conference figure is $549.8 million. Under FEMA's State and local assistance account, the conferees deleted the House limitation of $2 million on earthquake research.

For activities of the U.S. Fire Administration, the Senate recommendation of $3.3 million for firefighting health and safety, arson prevention and control, the national fire data system and fire rescue service management improvement prevailed.

For the research and development activities of the National Aeronautics and Space Administration (NASA), the agreement includes $5.1 billion. This includes an addition over the budget of $5 million for technology transfer and/or technology utilization and an addition of $20 million to support continued work on both the spacecraft and proof of concept for the advanced communications technology program—previously the 30/20 gigahertz program—so that a flight demonstration can be undertaken by the 1987-88 time period.

For the National Science Foundation (NSF), the conference figure is $1.092 billion. Of that amount, $1.060 billion is for research and related activities, $30 million for science and engineering education activities, and $2.2 million for scientific activities overseas.

For the Selective Service System, the recommendation is $22.7 million.

For the medical care account of the Veterans' Administration, the conference figure is $7.5 billion to treat an estimated 1.3 million patients in fiscal 1983 and to cover an estimated 18.3 million outpatient medical and dental appointments. The medical and prosthetic research efforts are funded at $152 million. This account will fund the agent orange studies. For general operating expenses, the conference figure is $689 million.

Mr. President, I certainly wish the assisted housing matter could have been resolved prior to action on this bill, but that was not possible. Nevertheless, I believe we achieved a good conference agreement. I commend the chairman of our subcommittee (Mr. GARN) and his counterpart on the House side (Mr. BOLAND). I urge the Senate to adopt this conference report, the first conference report, on a fiscal 1983 appropriation bill to come before the Senate.

Mr. SIMPSON. Mr. President, I have a floor statement with regard to this conference report. I want to express my appreciation to Senator GARN and Senator HUDDLESTON for their work in the conference report in regard to a facility of the Veterans' Administration that I had serious objections to. But I do not choose to exercise a point of order in regard to it. I appreciate the courtesy and the attention of the floor managers.

Mr. GARN. I thank the Senator from Wyoming.

Mr. SIMPSON. Mr. President, as chairman of the Senate Committee on Veterans' Affairs, I do wish to express my support of the provisions of H.R. 6956 concerning fiscal year 1983 appropriations for the Veterans' Administration. I note that under the conference report, the appropriation for the medical and prosthetic research account has been increased by a total of $15 million above the level of the President's request. This action is consistent with the actions and concerns of the Veterans' Affairs Committee with regard to fiscal year 1983 funding for the VA's very important research efforts in light of the substantial reductions that were made in this account in the fiscal year 1982 appropriations process. I note also that the medical care appropriation has been increased by approximately $17 million, $12.5 million of which is designated for additional nursing support and $4.3 million to maintain a minimum census of 10,000 community nursing home patients.

One item in this bill, however, causes me a great deal of concern. The conference report contains a House provision appropriating $3 million for the design and site preparation phase of a replacement outpatient clinic in Los Angeles, Calif. The rationale for this project, which is estimated to cost a total of $28.5 million, is that, in the long term, new construction is likely to prove far more cost-effective and practical than the present lease arrangement for the Los Angeles outpa-

tient clinic. The Senate version of this bill had recognized these problems, but had stopped short of appropriating the money, suggesting instead that the VA should prepare and submit a budget request at the earliest possible time.

The problem, Mr. President, is that the inclusion of an appropriation for this project is in violation of the provisions of section 5004(a) of title 38, United States Code. Section 5004(a) provides, flatly and unambiguously, that no appropriation may be made for any medical facility construction project which involves a total expenditure of more than $2 million unless both the House and Senate Veterans' Affairs Committees have first adopted a resolution approving such project. As of this date, neither the House nor the Senate Veterans' Affairs Committee has adopted such a resolution. In fact, the VA has made no request, either formal or informal, for the project, and the Senate Veterans' Affairs Committee has before it absolutely no information, whether submitted by the VA or any other source, attempting to justify a project of this nature. A pretty poor way to do business.

Thus, Mr. President, this appropriation is clearly contrary to the provisions of section 5004, and is accordingly subject to a point of order. In the interests of the bill as a whole, and in order that we may move one step closer to having at least one other major regular appropriations bill in place before the start of the new fiscal year, I will not be the one to raise such a point of order.

But I must state most emphatically, Mr. President, that my forbearance from raising this point of order is based in no way upon my embracing of the merits of the project itself. There simply has not been enough information generated on this project to wad a shotgun. It is impossible for us to make any intelligent decision on it—one way or the other. The Veterans' Affairs Committee has no hard data before it confirming that new construction would in fact be more cost-effective than any available form of lease arrangement. The VA has developed no alternative plans of construction, and we have no clear indication that the present outpatient facility can reasonably be replaced for the price of $28 million, the figure upon which the present appropriation is based. This is a most extraordinary situation, and one that causes me very serious personal concern in light of the statutory responsibilities imposed upon the Senate Veterans' Affairs Committee and myself as its chairman.

My decision not to raise a point of order against this bill is based on my support for the bill as a whole. I realize that if a point of order were to be sustained against this bill, it would have to be recommitted to conference committee, and that such a recommitment could have the effect of delaying this bill to the point where it could not possibly be enacted before the start of the fiscal year. The appropriations contained in this bill reflect many desperately needed funding increases for HUD, the Veterans' Administration, and a small army of other independent agencies. I am simply not prepared to hold up this legislation—and thereby consign the broad range of funding for these agencies to the very uncertain future that now seems to await the rest of the Federal budget under the continuing resolution—solely on the basis of this one VA construction project. And I do not enjoy martyrdom.

Rather, Mr. President, I will lend my strong support to this bill, but with the following caveats. First, it will be my expectation that, before a single penny of this $3 million appropriation for design and site preparation is actually spent by the VA, that the VA will submit to both the House and Senate Veterans' Affairs Committees such prospectuses as would ordinarily be appropriate under the provisions of section 5004(b) of title 38; second, that such prospectus will be subject to the same scrutiny as is any prospectus submitted in connection with a project for which appropriations had not yet been made; third, that if adequate justification is not presented for this project, that I will seek expeditious consideration by the Congress a resolution rescinding the funds appropriated in this bill for the Los Angeles clinic; and fourth, that if the prospectus for the design and site preparations phases of this project do meet with the approval of the committee, that further full review of all aspects of the project and its justifications will be undertaken at the time that the VA submits its request for funding of the construction phase of this project. I intend to hew closely to this scenario.

After sharing these serious reservations with my colleagues, Mr. President, I shall support this bill, and I urge my colleagues to do the same.

Mr. GARN. Mr. President, I move adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I ask that the amendments in disagreement be reported.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The assistant legislative clerk read as follows:

The House recedes and concurs in the Senate amendments numbered 6, 16, 26, 27, 30, 38, 42, 45, 51, 52, 53, and 61, which are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

": *Provided*, That the amount payable to each public housing agency shall be obligated at least forty-five days prior to the beginning of the public housing agency's fiscal year: *Provided further*, That payments made as a result of the amounts so obligated will begin during the first month of the public housing agency's fiscal year, and shall be made in a lump sum payment to public housing agencies receiving $15,000 or less, shall be made quarterly to public housing agencies receiving payments over $15,000 and less than $60,000, and shall be made monthly to public housing agencies receiving payments of $60,000 or more: *Provided further*, That funds heretofore provided under this heading in Public Law 97-101 shall remain available for obligation for the fiscal year ending September 30, 1983, and shall be used by the Secretary for fiscal year 1983 requirements in accordance with section 9(a), notwithstanding section 9(d) of the United States Housing Act of 1937, as amended".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 16 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

": *Provided*, That none of the funds made available in this paragraph may be used prior to January 1, 1983 to plan, design, implement or administer any reorganization of the Department without the prior approval of the Committees on Appropriations".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

": *Provided further*, That of the funds appropriated under this head, $8,000,000 shall be made available to the Department of Health and Human Services, upon enactment, and up to an additional $2,000,000 may be made available by the Administrator to the Department for the performance of specific activities in accordance with section 111(c)(4) of Public Law 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980: *Provided further*, That management of all funds made available to the Department shall be consistent with the responsibilities of the Trustee of the Fund, as outlined in section 223(b) of the Act: *Provided further*, That the administrative expenses contained in the first proviso are increased by $4,708,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill,

and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

": *Provided further,* That for purposes of carrying out section 3012 of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6933), as added by Public Law 96-482, $10,000,000, from the funds provided under this head, to remain available until September 30, 1984".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

"ADMINISTRATIVE PROVISION

"With funds appropriated by this Act the Administrator shall cancel, deny, or take any other necessary action to cancel or deny, the registration of any pesticide product containing toxaphene: *Provided further,* That none of the funds appropriated by this Act shall be used for the purpose of granting any registration of any pesticide product containing toxaphene, or for the purpose of approving any amendment to such a registration which would allow the use of such a product: *Provided further,* That this provision shall not apply to the use of toxaphene for the treatment of non-dairy cattle scabies by topical application on an individual basis, as approved by the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, until existing stocks are depleted or for a period of three years after enactment of this Act, whichever comes first: *Provided further,* That the foregoing provisos shall only take effect if the Environmental Protection Agency fails to promulgate a notice of intent to cancel or restrict registration of toxaphene within 60 days after enactment of this Act.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 38 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$154,007,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert:

"$1,796,000,000: *Provided,* That the amount available for obligation or expenditure shall be reduced to the extent subsequent authorizations provide for transfers".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"That $280,000,000 shall be made available for aeronautical research and technology, that $192,000,000 shall be made available for design, development, procurement, and other related requirements of liquid hydrogen-liquid oxygen upper stages (Centaur): *Provided further,*".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 51 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"Provided further, That of the funds appropriated in this Act or in funds appropriated previously to the Foundation, not less than $9,000,000 shall be available for the U.S. Antarctic Research Program and not more than $73,400,000 shall be available for the U.S. Antarctic Program operations and support: *Provided further,* That no funds appropriated in this Act or in funds previously appropriated to the Foundation shall be available for the advanced ocean drilling program without the approval of the Committees on Appropriations and not in excess of $12,000,000 shall be available for the deep sea drilling project without the approval of the Committees on Appropriations.".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 52 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$30,000,000, to remain available until September 30, 1984".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

": *Provided,* That notwithstanding any other provisions of this or any other Act, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board and the Federal Home Loan Banks, the Board of Governors of the Federal Reserve System and the Federal Reserve Banks, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration or any other department, agency or other instrumentality of the Federal Government may provide to the Neighborhood Reinvestment Corporation such funds, services, and facilities as they deem appropriate, with or without reimbursement, to achieve the objectives and to carry out the purposes of the Neighborhood Reinvestment Corporation Act, with the prior approval of the Committees on Appropriations".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 61 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by said amendment, insert: "$407,392,000".

Mr. GARN. Mr. President, I ask unanimous consent that the Senate concur in the amendments of the House to the amendments of the Senate numbered 6, 16, 26, 27, 30, 38, 42, 45, 51, 52, 53, and 61.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I said, I hope inaudibly, to the distinguished managers of the conference report to make it brief. I do not believe I ever heard one more brief than that, and I express my appreciation to them for the way in which they handled the conference report.

ORDER OF BUSINESS

Mr. BAKER. There are a number of other matters, some privileged, that I hope are available, and some of the Senators who are here on the floor may be able to advise me as to whether these measures are available.

Mr. President, I am told that the jobs conference report is here and available. I also believe the banking conference report is here; is that correct?

Mr. GARN. Mr. President, if the Senator will yield, unfortunately, no. We simply physically could not get the legal paperwork put together unless we could stay in later. But it will be available the first thing in the morning and I will be here to take up the matter at the first opportunity.

Mr. BAKER. I thank the Senator.

Another conference report I am advised is completed is the export trading company conference report. Is that conference report available?

Mr. GARN. The export trading company conference report is not available this evening. It will be in the morning.

Mr. BAKER. Mr. President, it looks like there are no other conference reports that we can do this evening.

Mr. President, I have a number of items I would like to identify for the consideration of the minority leader and others to see if there are any we can do tonight on this list, which I doubt. I suggest to Senators that this is the list from which our major activity will probably be drawn tomorrow or the next day. I will be glad to supply a copy of this to the distinguished minority leader and his staff.

Mr. SIMPSON. Mr. President, may I advise the majority leader that the Veterans' Compensation, Education, and Employment Amendments of 1982 is before the Senate now as a privileged matter in lieu of the formal conference report and I believe that could be handled this evening.

Mr. BAKER. Very well.

VETERANS' COMPENSATION, EDUCATION, AND EMPLOYMENT AMENDMENTS OF 1982

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6782.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill amendment of the Senate to the bill (H.R. 6782) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans, and for other purposes.

(The amendment of the House is printed in the RECORD of September 28, 1982, part II.)

Mr. SIMPSON. Mr. President, this measure is before the Senate now as a

privileged matter in lieu of the formal conference report.

SUMMARY

Mr. President, I speak in strong support of H.R. 6782, the proposed Veterans' Compensation, Education and Employment Amendments of 1982. I urge expeditious passage of this bill which is needed to insure that the over 2,300,000 service-connected disabled veterans and the 350,000 survivors of those who gave their lives in service to our country receive the 7.4 percent cost-of-living increase in disability compensation and dependency and indemnity compensation (DIC) on schedule. This legislation is further needed to provide some important improvements in veterans' education and employment programs, as well as in certain other areas concerning such issues as insurance and mobile homes.

This bill is the end result of a process which began with hearings held on July 13 and 28 of this year by the Committee on Veterans' Affairs, which I am privileged to chair. A committee bill was reported by the committee on September 17 and passed by the Senate on September 24. Since that very recent date, the House and Senate Veterans' Affairs Committees have worked with single-minded purpose to come to the very equitable agreement contained in the measure before us today. I have been assured by a spokesman for the VA that if the measure before us is passed today, the disability compensation checks will be mailed on time to our Nation's most deserving veterans, a goal highly supported by all Members of Congress, regardless of party. When this process is delayed it causes unnecessary anguish among the recipients of VA compensation, as well as an expenditure of $0.5 million to cover the costs of mailing retroactive checks. Needless to say, we want to avoid that result on both counts.

The compromise is an equitable one which I am proud to recommend to my colleagues. The provisions of H.R. 6782, as amended in both Chambers, are explained in detail in the explanatory statement which I will ask to have printed in the RECORD at the conclusion of my statement. However, I would like to emphasize several of the most important aspects of the bill.

VETERANS' DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

Mr. President, the Conference Report on the First Concurrent Budget Resolution, which was agreed to on June 22, 1982, reflects the intent of the Congress to provide an across-the-board 7.4 percent cost-of-living allowance (COLA) for all recipients of VA disability compensation and dependency and indemnity compensation (DIC), effective October 1, 1982.

As I am sure you remember all too vividly, this year's budget process was a long and painful one. As it evolved and some of the issues changed, as things are wont to do around this place, the original intent to restrict all COLA's by the administration was abandoned. Restricting a COLA for service-connected veterans when beneficiaries of other Federal benefit programs would receive a full 7.4-percent increase was an untenable decision. Therefore, on June 16, 1982, I recommended to Senate Budget Committee Chairman, PETE DOMENICI, as the budget conference was getting underway, that the Senate agree to a budget which would provide funding for a full 7.4-percent COLA for all VA pension and compensation recipients. I am most pleased that the resulting budget resolution contained my recommendation. After all, it would be intolerable to think that those who have made great personal sacrifices for our Nation would not be compensated at least as well as other Federal beneficiaries.

AMENDMENTS TO VETERANS' EDUCATION AND REHABILITATION PROGRAMS

Title II of the compromise measure concerns improvements to education and rehabilitation programs for veterans administered by the VA. The Administrator requested some legislative changes in reporting requirements with the goal of saving money for the Government or, in some cases, the schools. The committee looked into these suggested changes and found that indeed, several congressionally mandated reports have served their purpose and are no longer needed. Vocational schools have been relieved of the requirement to report on their graduates' employment. Through other means, the Congress and the VA have succeeded in removing major abuses from "the system," so vocational schools may now be granted a reprieve from a burdensome and costly Government requirement. Another example of a measure in this bill to save the Government undue expense is the provision which gives the Administrator of the VA authority to suspend GI bill educational payments at schools where there is a pattern of noncompliance with reporting requirements. If schools do not report on veterans who drop out of school or change their status from full to part time, for example, the VA goes right on paying GI bill benefits which are unwarranted. These overpayments are very difficult to recoup once they are made. Most schools do a very good job at reporting on their veterans' status. But where a few are remiss, and the VA can avoid overpayments by experting its new authority to suspend payments, I believe we are moving toward a solution to the overpayment problem which greatly concerns me and my colleagues on the Veterans' Affairs Committee.

REPEAL OF 1989 TERMINATION DATE FOR GI BILL

Mr. President, for the second year in a row, the Senate has passed a measure to repeal the December 31, 1989, termination date for the GI bill. For the second year, the House has opposed this measure, favoring instead, the passage of a new GI bill to replace the veterans' educational assistance program, VEAP, now in effect for the All Volunteer Force.

A year ago, it was not so clear just which course the Congress should take toward a new GI bill. The Senate agreed that legislation be held back until the administration could study the effects of VEAP and tell the Congress how it assessed its needs. In March, DOD announced that it opposes the passage of a new GI bill at this time, but that it would work to have the 1989 GI bill termination date eliminated because it creates an incentive for highly skilled, valuable career military to leave the service to use their benefits before 1990. Since recruitment for the military is at an all time high, since the caliber of volunteers is increasing, since the participation in VEAP is improving, and since a new GI bill program has never before been initiated in peacetime, even when budgets were expanding instead of shrinking, I had every hope that the House would accept the Senate's proposal to repeal the termination date. Not so. Once again the House is of the opinion that a new GI bill must be passed now, even though it is not currently needed and would be unjustifiably expensive. The Senate's modest proposal to help the military keep its careerists, contained in S. 2913, was not accepted in the compromise effort, to my great regret.

VETERANS' EMPLOYMENT AMENDMENTS

Title III of the proposed bill contains numerous provisions to help the Department of Labor improve upon the administration of veterans' employment programs. It addresses problems which have plagued the Assistant Secretary of Labor for Veterans' Employment (ASVE) since the Congress enacted legislation in 1980 to have the ASVE oversee all DOL programs for veterans. Both the House and Senate committees easily agreed during conference on congressional intent with regard to these programs. This bill as introduced, for instance, would place the Office for Veterans Reemployment Rights under the aegis of the ASVE so that veterans' problems with reemployment would receive closer attention. It would also make clear that the State Directors for Employment Services were intended by Congress to be furnished secretaries who are Federal employees, not State employees. And while the proposed bill clarifies many points with regard to the implementation of the disabled veterans' outreach program (DVOP), both committees had to be satisfied with only general statements of their desire to have that program fully funded. Every

avenue was explored to find a way to congressionally mandate those funds, but none was fruitful. As is noted in the explanatory statement, the best solution appears to be for the Department of Labor to include a line item request in its budget for that particular program. I do trust that the congressional intent on this issue will be considered fully by the Secretary of Labor.

TITLE IV PROVISIONS

In title IV of the proposed measure, it pleases me to point out that the Veterans' Affairs Committees, in concert with the Armed Services Committees, have sought to define the minimum length of service required before veterans may be granted benefits under programs administered by Government agencies other than the VA. We believe this legislation, if enacted, will clear up some inequities and confusion.

One of the most controversial matters addressed by this legislation is the issue of contracting out under OMB circular A-76. Under the conference agreement, contracting out would be permitted within the VA health-care system, but only where there would be no adverse impact on direct patient care, and only where savings of at least 15 percent would result. The conference agreement provisions would also establish restrictive standards for the conduct of studies comparing the cost of contractor performance with the cost of performance in-house by Government employees, and would impose a series of new reporting requirements on the Administrator's contract authority. The conference agreement would not, however, affect any existing VA contract authority.

I strongly believe that the entire Federal Government should be in as cost-effective a manner as possible. This does not mean simply the cheapest manner, nor that we must cut corners simply to save a few dollars, but it does mean that we should pursue the most economical method of performing a given task that is consistent with achieving the important objectives the Government has set for itself. I believe that the VA should not be exempt from this drive toward fiscal responsibility, but I think that it is extremely important to guarantee that no cost-cutting measure is permitted to have any adverse effect on the quality of patient care afforded through the VA medical care system.

This is a point that is worthy of emphasis, My main concern in formulating this provision has been for the health of veterans being treated in the VA medical care system. This provision is not aimed simply at protecting the jobs of Federal workers, for that is a purpose that could be better served through legislation applicable to the Federal Government in general rather than simply to the VA. The provision, therefore, has been designed not to preclude all contracting out, but to permit it under clearly defined circumstances where both of the legitimate governmental interests—that is, cost-effectiveness and protectiveness of the VA health-care system—could reasonably be accommodated.

I believe that the provisions of the Senate bill served these purposes optimally. The comparable House provision would, as a practical matter, have precluded vitually all contracting out. The conference agreement provision reflects the Senate version with certain additional restrictions, the most significant of which are the reporting requirements that I have alluded to earlier. I would simply call my colleagues' attention to the introductory language to this provision, which is retained in substantially unchanged form from the Senate version, where it is reaffirmed that it is the policy of the United States that the Veterans' Administration, in pursuing this goal of cost effectiveness, shall continue to maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans.

Mr. President, despite our successes elsewhere in the proposed bill, I am disappointed by the Senate's failure to reach agreement with the House on Senator THURMOND's amendment to S. 2913, which I cosponsored, and which would have authorized a pilot program to reimburse certain veterans for the reasonable charge of chiropractic services which they received. This amendment was adopted by the Senate on September 24. In conference the House expressed its reluctance to accept this provision because it had not been carefully considered by the House Veterans' Affairs Committee. Not only have I expressed by support for this legislation to Senator THURMOND, and my intention to pursue its reconsideration by the Senate Veterans' Affairs Committee early next year, but the House Veterans' Affairs Committee chairman has given assurances to the Senate committee that the House will conduct hearings on this legislation early next year and will also consider alternatives to insure that the VA utilize its existing authority to provide chiropractic services to veterans.

Mr. President, in conclusion, I wish to sincerely thank the distinguished ranking minority Member from California, Senator CRANSTON, for his invaluable help throughout the entire process of crafting this bill and reaching a very equitable compromise; the remarkable Senator from South Carolina, Senator THURMOND, for his contributions; and each of the other committee members who are cosponsors of this measure.

In addition, I should like to recognize and thank the very able members of the majority staff for their efforts—Tom Harvey, chief counsel and staff director, Julie Susman, Brent Goo, Scott Wallace, Joe Buzhardt, Laurie Altemose, Becky Hucks, Carol DeAngelus, Kay Eckhardt, Lucy Scoville, our editorial director, Harold Carter, and Jim MacRae, as well as members of the capable minority staff—Jonathan Steinberg, Babette Polzer, Ed Scott, Bill Brew, Ingrid Post, and Charlotte Hughes. The hard work and cooperation of my friend and most capable and effective counterpart on the House Veterans' Affairs Committee, G. V. "SONNY" MONTGOMERY, and his very able staff headed by Mack Fleming were essential to the achievement of this equitable compromise.

Mr. President, I am most pleased to have the opportunity to urge my colleagues in the Senate to ratify this carefully crafted measure which contains a much needed cost-of-living increase for our Nation's most deserving veterans. On behalf of the entire committee, I urge the Senate's favorable consideration of this bill.

I ask unanimous consent that the explanatory statement be printed in the RECORD.

There being no objection, the explanatory statement was ordered to be printed in the RECORD, as follows:

H.R. 6782, THE VETERANS' COMPENSATION, EDUCATION, AND EMPLOYMENT AMENDMENTS OF 1982—EXPLANATORY STATEMENT OF HOUSE BILL, SENATE AMENDMENT (S. 2913), AND H.R. 6794, AND THE COMPROMISE AGREEMENT

TITLE I—DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

Part A—Rate Increases

Disability Compensation

Both the House bill and the Senate amendment would amend chapter 11 of title 38, United States Code, to increase by 7.4 percent, effective October 1, 1982, the basic rates of service-connected disability compensation for veterans, the rates payable for certain severe disabilities, and the annual clothing allowance for certain disabled veterans. In accordance with the policy established in section 405 of the Omnibus Budget Reconciliation Act of 1982 (Public Law 97-253), the increased rates are rounded down to the next lower dollar.

Additional Compensation for Dependents

Both the House bill and the Senate amendment would further amend chapter 11 to increase, effective October 1, 1982, the dependents' allowances payable to veterans rated 30-percent or more disabled, with the increased rates rounded down to the next lower dollar. The House bill would increase these allowances by 7.4 percent; the Senate amendment would gererally increase these allowances by that percentage but would also provide for a realignment of the allowances with respect to that portion of the allowance payable on account of children.

The House recedes. The rates under current law, the House bill, the Senate amendment, and the compromise agreement are as follows:

AMOUNT PAYABLE TO 100-PERCENT SERVICE-CONNECTED DISABLED VETERANS

	Current law	House bill	Senate amendment/ compromise agreement
Spouse	$69	$74	$74
First child	47	50	50
Second child	37	40	40
Third child	39	42	40
Each additional child	38	40	40

Dependency and Indemnity Compensation

Both the House bill and the Senate amendment would amend chapter 13 of title 38 to provide, effective October 1, 1982, an increase of 7.4 percent in the rates of dependency and indemnity compensation (DIC) payable to the surviving spouses and children of veterans whose deaths were service connected, with the increased rates rounded down to the next lower dollar.

The compromise agreement contains these provisions.

Repeal of Earlier Rate Adjustment

The Senate amendment, but neither the House bill nor H.R. 6794, the proposed "Veterans' Employment and Education Assistance Act of 1982", as passed by the House on September 20, 1982 (hereinafter referred to as "H.R. 6794"), would provide that the provisions of title I of the Senate amendment supersede the provisions of section 405 of the Omnibus Budget Reconciliation Act of 1982 (Public Law 97-253), which made various adjustments, effective January 1, 1983, in the rates of compensation and DIC. Subsection (a) of section 405 of that Act expressly contemplated the enactment of the legislation embodied in this compromise agreement providing for compensation and DIC increases—to be effective October 1, 1982, and to be computed in the same manner as the increases in the compromise agreement have been computed—with the express intent that these increases supersede the adjustments made in section 405 before they take effect.

The House recedes with an amendment providing that section 405 of Public Law 97-253 is repealed.

Part B—Program Improvements

Compensation Rate Increases for Certain Blinded Veterans

Both the House bill and the Senate amendment would amend section 314 of title 38, effective October 1, 1982, to raise by one full step (from subsection (m) to subsection (n)) the statutory award designation that determines the rates of special monthly compensation payable to veterans who suffer from blindness without light perception in both eyes.

The compromise agreement contains this provision.

The House bill, but not the Senate amendment, would further amend section 314, effective October 1, 1982, to provide payment of special monthly compensation, under subsection (p)(2), at the next higher intermediate rate (not to exceed a specified statutory maximum) to veterans who suffer from both service connected blindness, with 5/200 visual acuity or less, and service-connected anatomical loss or loss of use of one hand or one foot.

The Senate recedes.

Correction of Technical Error with Respect to Certain Survivors' Benefits

Both the House bill and the Senate amendment would amend section 410(b)(1) of title 38 to revise the applicable requirements for benefits at DIC rates for certain survivors of veterans (those who suffered from service-connected disabilities rated totally disabling for specified periods of time but whose deaths are not service connected) so as to provide that the requirement that the veteran had been in receipt of compensation for a service-connected disability rated as total for 10 years prior to death (or for 5 years continuously from the date of discharge) is met if the veteran would have been in receipt of such compensation for such period but for a clear and unmistakable error regarding the award of a total-disability rating. Both the House bill and the Senate amendment would make this amendment effective October 1, 1982, but the Senate amendment would also require the Administrator to make a lump-sum payment after that date to individuals who would have been entitled to benefits prior to that date if the amendments had been effective October 1, 1978.

The compromise agreement contains this provision with the Senate amendment effective date and with technical amendments.

Eligibility for Veterans' Administration Benefits of Senior Reserve Officers' Training Corps Participants Disabled During Certain Training

The House bill, but not the Senate amendment, would amend section 101 of title 38, effective with respect to diseases or injuries incurred or aggravated during duty performed after September 30, 1982, to include within the definition of "active duty for training", annual training duty for a period of fourteen days or more performed by a member of the Senior Reserve Officers' Training Corps (SROTC). The effect of this amendment would be to provide basic eligibility for title 38 benefits based on a period of active duty for training during which the individual suffers a service-connected disability or death. (Such a period of active duty for training is included within the definition of "active military, naval, or air service" (section 101(24)); in turn, the definition of "veteran" section 101(2)), a term used throughout title 38 to denote a basic qualification for benefits eligibility under that title, includes only persons who have served in the "active military, naval, or air service".)

The Senate recedes with an amendment clarifying that the term "active duty for training" includes any period of duty to which the SROTC participant is assigned for the purposes of "field training or practice cruise under chapter 103 of title 10", United States Code. After consultation with Department of Defense and VA officials, the phrase "field training or practice cruise" is used in lieu of the present law (section 403 of title 38) reference to "annual training * * * of fourteen days or more" in order to conform the title 38 terminology to the title 10 terminology. In addition, the compromise agreement would provide, with respect to any death or disability resulting from a disease or injury incurred or aggravated after September 30, 1982, during the SROTC participant's active duty for training, that the eligibility for title 38 benefits would displace any eligibility for Federal workers' compensation benefits pursuant to section 8140 of title 5, United States Code, for that disease or injury. The compromise agreement would also repeal, as being superfluous if this provision in the compromise agreement is enacted, section 403 of title 38, which provides that certain ROTC training is deemed to be active military, naval, or air service for purposes of dependency and indemnity compensation and certain title 38 insurance purposes.

TITLE II—EDUCATIONAL ASSISTANCE

Veterans' Counseling and Outreach Services

Both H.R. 6794 and the Senate amendment would amend subchapter IV of chapter 3 of title 38, United States Code, to repeal the mandatory nature of the veterans' representative program, the so-called "vet-rep" program. H.R. 6794 would repeal section 243 of that subchapter and amend section 242 to permit the Administrator to outstation veterans' benefits counselors at educational institutions and other locations to provide assistance regarding benefits under title 38 and to provide outreach services. The Senate amendment would amend section 243 to delete the existing provisions which relate to the vet-rep program and make it mandatory, and instead to make it discretionary with the Administrator to outstation vet-reps for those purposes.

The House recedes with an amendment deleting the reference to "veterans' representatives" and with other technical amendments.

Repeal of 50-Percent Employment Rule for Vocational Schools

Both H.R. 6794 and the Senate amendment would amend sections 1673(a) and 1723(a) of title 38 to repeal the general requirement that for vocational objective courses to be approved for VA educational assistance purposes the institution offering the course must show that at least one-half of the course graduates obtained employment in the career field for which training was provided.

The compromise agreement contains these provisions.

Technical Amendment Relating to the 85-15 Rule

Both H.R. 6794 and the Senate amendment would make a technical amendment to section 1673(d) of title 38 to clarify that the restriction on the enrollment of veterans in courses where more than 85 percent of the enrollees are in receipt of VA educational assistance applies to high-school level and general-education-diploma training offered (other than through contracts with the Department of Defense) to individuals enrolled in such training at no charge to their entitlements while on active duty.

The compromise agreement contains this provision.

Charge to Entitlement for Pursuit of Independent Study

Both H.R. 6794 and the Senate amendment would amend section 1682(e) of title 38 to clarify that the rate at which entitlement to GI Bill educational benefits is charged for programs composed wholly of independent study shall be at the rate at which benefits are paid but not in excess of the less than half-time rate.

The compromise agreement contains this provision.

Modification of Restrictions on Allowances for Incarcerated Veterans

Both H.R. 6794 and the Senate amendment would amend section 1508 of title 38 to revise the restriction on the payment of vocational rehabilitation subsistence allowance to veterans who have been incarcerated as the result of a conviction of a felony.

H.R. 6794 would repeal the provision in current law that specifies that payment of the subsistence allowance to such veterans who are residing in halfway houses or participating in work-release programs may be made if the Administrator determines that all the living expenses of a veteran are not being defrayed by a Federal, State, or local government. The Senate amendment would provide that the prohibition on the payment of the subsistence allowance to veterans who have been incarcerated for the conviction of a felony does not apply to a veteran residing in a halfway house or participating in a work-release program.

The House recedes.

Both H.R. 6794 and the Senate amendment would amend section 1682(g) of title 38 to revise the manner in which VA educational assistance allowances are calculated for veterans and eligible persons who are incarcerated as the result of a conviction of a felony. H.R. 6794 would repeal the provision in current law that specifies that payment of full educational assistance allowances to those who are residing in a halfway house or participating in a work-release program may be made if the Administrator determines that all the living expenses of the individual are not being defrayed by a Federal, State, or local government. The Senate amendment would provide that the prohibition on the payment of a certain amount of the educational assistance allowance to an individual who has been incarcerated for the conviction of a felony does not apply to those residing in halfway houses or participating in work-release programs.

The House recedes.

Both H.R. 6794 and the Senate amendment would amend section 1780(a) of title 38, relating to the prohibition on payments of VA educational assistance allowances to incarcerated veterans and eligible persons (1) for any course to the extent that tuition and fees for the course are paid under another Federal, State, or local program, and (2) for any course for which no tuition and fees are charged. H.R. 6794 would limit the applicability of the prohibition to veterans and eligible persons incarcerated for the conviction of a felony; the Senate amendment would repeal the prohibition.

The Senate recedes with a technical amendment incorporating this prohibition in section 1682(g) of title 38.

Update of Reference to Another Provision of Law

The Senate amendment, but neither the House bill nor H.R. 6794, would amend section 1652(b) of title 38 to update a reference to another p*hvision of law.

The Senate recedes. The Committees note that this reference would be updated by section 4(38) of H.R. 4623, a technical-amendments bill to amend titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the Code, as passed by the House on July 19, 1982.

Clarification of Class Hour for Purposes of Laboratory and Shop Courses

H.R. 6794, but not the Senate amendment, would amend section 1788(a) of title 38 to shorten the weekly attendance requirements for veterans and eligible persons who are pursuing nondegree vocational programs in order to provide them with a 10-minute period of time at the end of a laboratory or shop course to enable them to go to their next class.

The House recedes.

Clarification of Targeted Delimiting Date Extension Authority

The Senate amendment, but neither the House bill nor H.R. 6794, would amend section 1662(a)(3) of title 38, which provides for delimiting period extensions for the use of GI Bill benefits for the pursuit of secondary education, apprenticeship or other on-job training, or vocational training, so as to clarify Congressional intent with respect to the granting of these so-called "targeted delimiting date extensions" and to extend the period of time during which these extensions are available. Under the Senate amendment, a veteran would be eligible for a targeted delimiting date extension for apprenticeship, other on-job, or vocational training unless the veteran's particular employment and training history is examined and shows that the veteran is not in need of the training in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes. The Senate amendment would extend for one additional year—until December 31, 1984—the period of time during which a veteran may use GI bill educational assistance under the targeted delimiting date extension provision. Also, the Senate amendment would require the Administrator, within 30 days after the date of enactment, to publish, for public review and comment, proposed regulations to implement the new provisions and to publish final regulations within 90 days after the enactment date.

The House recedes with an amendment making the amendment to section 1662(a)(3) effective on January 1, 1982.

Tolling Delimiting Dates by Reason of Drug and Alcohol Conditions

The Senate amendment, but neither the House bill nor H.R. 6794, would amend sections 1503(b)(1), 1662(a), and 1712(b) of title 38 to provide for the tolling (extension) under certain specified circumstances of the eligibility periods for a VA program of vocational rehabilitation, for GI Bill educational assistance, and for educational assistance for the dependents and survivors of certain service-connected disabled veterans where an alcohol or drug dependence or abuse condition for which the individual has received treatment or rehabilitation has prevented the individual from pursuing training.

The Senate recedes.

Authority to Suspend Educational Assistance in Certain Cases

Both H.R. 6794 and the Senate amendment would amend section 1790(b) of title 38 to provide the Administrator with the authority to withhold payment of educational assistance benefits in certain cases. H.R. 6794 would authorize the Administrator to discontinue (including suspend) the benefits of eligible veterans and eligible persons enrolled in a course and disapprove new enrollments in the course when the Administrator finds that the course fails to meet an approval requirement of chapter 36 of title 38 or that the institution offering the course has violated applicable recordkeeping or reporting requirements under chapter 31, 32, 34, 35, or 36, where the Administrator has notified the State approving agency (SAA) and the institution concerned of the violation, and where the Administrator finds that the institution has failed to take corrective action within a reasonable period of time after the notification.

H.R. 6794 would further require that when the Administrator discontinues educational assistance, notice of the discontinuance be given to the affected students together with a statement of the reasons and of the opportunity to be heard thereon. The Senate amendment would authorize the Administrator to suspend educational assistance benefits to eligible veterans and eligible persons enrolled in a course and to disapprove new enrollments in the course when the Administrator has evidence showing that there is a substantial pattern of veterans or eligibile persons receiving educational assistance to which they are not entitled because of the educational institution's noncompliance with or violation of applicable requirements of title 38 relating to course approvals, recordkeeping, and reporting. However, prior to taking that action, the Administrator must give written notice to the SAA and the institution involved; the institution must either have refused to take corrective action or have failed, within 60 days (or other longer, reasonable period determined by the Administrator), to take corrective action; and the Administrator must give no less than a 30-day notice (which could be given within the 60-day period for notice to the SAA and the institution) of the intent to suspend benefits, together with the reasons, to the eligible veterans and eligible persons who would be affected.

The House recedes.

Modification of Reporting Requirement on Default Rates under Educational Loan Program

Both H.R. 6794 and the Senate amendment would amend section 1798(e)(3) of title 38 to revise the specifications for the report to be submitted annually by the Administrator to the Congress on the default rate under the VA's educational loan program. H.R. 6794 would repeal the requirements that the data that must be provided in the report be in maximum feasible detail and that the report provide data on the default experience and default rate at each educational institution. The Senate amendment would repeal any specification as to what data such reports must include.

The Senate recedes.

Administrative Implementation of Certain Department of Defense Educational Assistance Programs

Both H.R. 6794 and the Senate amendment would amend section 1622 of title 38 to authorize the Administrator to utilize the chapter 32 Post-Vietnam Era Veterans' Educational Assistance program (VEAP) fund for the purposes of receiving funds transferred by the Department of Defense for benefits under the DOD-funded educational assistance pilot program established under chapter 107 of title 10, United States Code, pursuant to section 901 of Public Law 96-342, the Department of Defense Authorization Act, 1981, and of disbursing those funds to beneficiaries enrolled in training under that program.

The compromise agreement contains this provision.

Adjustment of Computation of Benefit Payment Rate for Participants Making Lump-Sum Contributions under Chapter 32 Program

Both H.R. 6794 and the Senate amendment would further amend section 1622 to provide that, for purposes of calculating the amount of a VEAP participant's monthly VEAP benefits, lump-sum contributions will be considered to have been made in monthly military pay deductions of $100, rather than $75 as under current law.

The compromise agreement contains this provision.

Period for Enrollment in Chapter 32 Program

H.R. 6794, but not the Senate amendment, would amend section 408(a)(1) of the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94-502) to provide that the enrollment period for participation in VEAP will end on March 30, 1983, unless the President submits to the Congress by January 15, 1983, a recommendation that such period be extended and neither the House nor the Senate disapproves the President's recommendation within 60 days after it is submitted.

The House recedes.

Repeal of 1989 Termination Date

The Senate amendment, but neither the House bill nor H.R. 6794, would repeal section 1662(e) of title 38, which prohibits the provision of any GI Bill educational assistance under chapters 34 and 36 of title 38 after December 31, 1989, and would thus allow all veterans to use their GI Bill benefits during their normal periods of eligibility, which generally expire at the end of the 10-year period following discharge or release from active duty. The Senate amendment would also add a new section 1694 to chapter 34 of title 38 that would require the Secretary of Defense to reimburse the Administrator for all GI Bill educational and training allowances under chapters 34 and 36 after December 31, 1989.

The Senate recedes.

TITLE III—EMPLOYMENT ASSISTANCE

Congressional Findings

Both H.R. 6794 and the Senate amendment contain provisions stating Congressional findings relating to veterans' employment programs. Both the H.R. 6794 and Senate amendment findings state that serious unemployment and underemployment problems exist among disabled and Vietnam-era veterans and that programs to alleviate those problems are a national responsibility. The Senate amendment findings state that because of the special nature of these problems and the national responsibility to meet them, policies and programs need to be effectively and vigorously implemented by the Secretary of Labor through the Assistant Secretary of Labor for Veterans' Employment (ASVE). The H.R. 6794 findings add that such problems also exist among recently-separated veterans and that programs to address the problems can best be administered through a systematic, uniform Federal program to provide funds for veterans employment assistance programs.

The House recedes with an amendment incorporating the findings into a new section 200 of title 38, United States Code, and with technical amendments.

Purpose of Jobs Training Programs

Both H.R. 6794 and the Senate amendment would amend section 2002 of title 38 to clarify Congressional intent regarding veterans' job-training and employment services. Both H.R. 6794 and the Senate amendment would require that regulations be promulgated and administered to provide eligible veterans and eligible persons with the maximum of employment and training opportunities. H.R. 6794 would require that priority be given to eligible veterans and eligible persons in the provision of employment and training services; the Senate amendment would require that priority be given to the needs of disabled and Vietnam-era veterans in the provision of employment and training opportunities.

The House recedes.

Jurisdiction of Assistant Secretary of Labor for Veterans' Employment

Both H.R. 6794 and the Senate amendment would amend title 38 to transfer responsibilities for the administration of the veterans' reemployment rights programs in chapter 43 of title 38 to the Assistant Secretary of Labor for Veterans' Employment (ASVE). H.R. 6794 would amend section 2002A in chapter 41, relating to the establishment of the office and responsibilities of the ASVE, to provide that the Department of Labor officials administering chapter 43 shall be administratively and functionally responsible to the ASVE. The Senate amendment would amend section 2025 in chapter 43, relating to the Secretary's responsibility to render aid to veterans seeking to secure their reemployment rights, to require that the Secretary carry out the provisions of chapter 43 through the ASVE.

The Senate recedes with technical amendments. The Committees note that this compromise agreement does not address the reemployment rights issues posed by H.R. 6788, which the House passed on September 14, 1982, to amend title 38 to clarify the period for which an employer must grant a leave of absence, in order to allow an employee to perform required active duty for training, to an employee who is a member of the National Guard or Reserve. Nevertheless, the Committees do not believe that the 90-day limit that the Labor Department has imposed on that period, based on the Solicitor of Labor's October 8, 1981, interpretation of section 2024 of title 38, is well-founded either as legislative interpretation or application of the pertinent case law. Accordingly, the Committees urge the ASVE, upon assuming the responsibility for the reemployment rights program provided in the compromise agreement, to review the situation and take appropriate action to eliminate this arbitrary limitation.

State and Assistant State Directors for Veterans' Employment

Both H.R. 6794 and the Senate amendment would amend section 2003 of title 38 to restructure that section, to conform statutory titles for veterans' employment representatives to the current titles being used ("State Directors for Veterans' Employment" (SDVE's) and "Assistant State Directors for Veterans' Employment" (Assistant SDVE's)), and to make a series of substantive changes as discussed below.

Both H.R. 6794 and the Senate amendment would require that the full-time clerical support assigned to SDVE's be provided by Federal employees who are appointed in accordance with the provisions of title 5 governing appointments in the competitive service and paid in accordance with chapter 51 and subchapter III of chapter 53 of that title.

The compromise agreement contains this provision.

Both H.R. 3794 and the Senate amendment would modify the two-year residency requirement applicable to the appointment of SDVE's and Assistant SDVE's. H.R. 6794 would authorize the ASVE to appoint any qualified eligible veteran if it is determined that no qualified veteran who meets the two-year residency requirement is available. The Senate amendment, in such cases, would authorize the ASVE, following an unsuccessful good faith search within the State, to appoint a qualified veteran who has been an Assistant SDVE in another State for at least one year.

The Committees were unable to reach agreement on this issue, and the compromise agreement contains neither provision.

Both H.R. 6794 and the Senate amendment would modify the responsibilities of SDVE's and Assistant SDVE's with respect to other Federal and federally-funded employment and training programs. H.R. 6794 would require SDVE's and Assistant SDVE's to be functionally responsible for the supervision of the participation of veterans in such programs and to monitor the programs' implementation and operation to assure that priorities required by law or regulation to be given to eligible veterans, disabled veterans, veterans of the Vietnam era, and eligible persons are provided. The Senate amendment would require SDVE's and Assistant SDVE's to promote the participation of veterans in such programs and to monitor the programs' implementation and operation to ensure that priorities required by law or regulation to be given to eligible veterans, disabled veterans, and Vietnam-era veterans are provided.

The compromise agreement would require SDVE's and Assistant SDVE's to be responsible for promoting and facilitating the participation of veterans in Federal and federally-funded employment and training programs and for directly monitoring the implementation and operation of such programs to ensure that priorities and other special consideration required by law or regulations to be given to eligible veterans, disabled veterans, veterans of the Vietnam era, and eligible persons are provided.

Both H.R. 6794 and the Senate amendment would expand the responsibilities of SDVE's and Assistant SDVE's to include the responsibility to supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of title 38; to ensure that complaints of discrimination filed under such section 2012 are resolved in a timely fashion; working closely with VA officials and cooperating with employers, to identify service-connected disabled veterans who are enrolled in or who have completed programs of vocational rehabilitation under chapter 31 of title 38; and, upon the request of a Federal or State agency or private employer, to assist the agency or employer in identifying and acquiring prosthetic and sensory aids and devices which tend to enchance the employability of disabled veterans.

The compromise agreement contains these provisions.

The Senate amendment, but not H.R. 6794, would further expand the responsibilities of SDVE's and Assistant SDVE's to include cooperating with the directors of VA veterans assistance offices, established under section 242 of title 38, in order to identify and assist veterans who have readjustment problems and who need employment or training assistance.

The House recedes with an amendment including in these responsibilities the task of cooperating with the staff of Vietnam-era veterans readjustment counseling programs conducted under section 612A of title 38—rather than with the directors of section 242 veterans assistance offices—in order to identify and assist veterans who have such problems and need such assistance.

Disabled Veterans' Outreach Program

Both H.R. 6794 and the Senate amendment would make a series of amendments to section 2003A of title 38 that are designed to improve the administration and implemen-

tation of the Disabled Veterans' Outreach Program (DVOP).

Both H.R. 6794 and the Senate amendment would make amendments with respect to the funding of DVOP. H.R. 6794 would require funds appropriated for DVOP to be appropriated from general revenues and specifically set forth in appropriations Acts and to be used only for the purposes specified in the DVOP authority. The Senate amendment would specify that the distribution and use of DVOP funds are subject to the continuing supervision and monitoring of the ASVE and that such funds are not governed by the provisions of any law or regulations that are inconsistent with the DVOP authority.

The House recedes. The Committees urge that the Department of Labor specifically request funding for this program from general revenues rather than from trust funds.

The Senate amendment, but not H.R. 6794, would clarify that funds for DVOP are made available for use in each State, rather than simply made available to each State.

The House recedes.

Both H.R. 6794 and the Senate amendment would authorize the Secretary of Labor, after consultation with the appropriate SDVE, to waive the requirement that at least 25 percent of the DVOP specialists in a State be outstationed in locations other than employment service offices. The Senate amendment would permit such waivers only as long as the percentage of DVOP specialists outstationed nationwide is at least 20 percent.

The House recedes with an amendment requiring consultation with the Administrator of Veterans' Affairs prior to the granting of a waiver.

Both H.R. 6794 and the Senate amendment would make a series of technical and conforming amendments relating to the DVOP authority and would expand the responsibilities of DVOP specialists to include the development of outreach programs—in cooperation with VA vocational rehabilitation staff, institutions of higher learning, and employers—in order to assure that maximum assistance is provided to service-connected disabled veterans enrolled in a program of vocational rehabilitation under chapter 31 of title 38. H.R. 6794 would also require DVOP specialists to carry out this responsibility in cooperation with nondegree-granting institutions (including vocational and technical schools). The Senate amendment would also require that maximum assistance be assured in the cases of service-connected disabled veterans who have completed—as well as to those who are enrolled in—programs of vocational rehabilitation under chapter 31.

The compromise agreement contains these provisions.

The Senate amendment, but not H.R. 6794, would delete a provision relating to the continued employment of DVOP specialists employed in the program when Public Law 96-466 was enacted in 1980 to provide a statutory basis for DVOP.

The House recedes.

Both H.R. 6794 and the Senate amendment would require the ASVE to monitor the appointment of DVOP specialists to ensure that appointments are made in accordance with the provisions of the DVOP authority.

The compromise agreement contains this provision.

H.R. 6794, but not the Senate amendment, would amend subsection (a) of section 2003A to add a new paragraph requiring that the Secretary of Labor carry out functions under the DVOP authority through the ASVE.

The Senate recedes with an amendment that would, instead of adding a new paragraph to subsection (a), amend paragraphs (1) and (3) in which the Secretary is given certain functions with respect to DVOP, to require specifically that the Secretary carry out those functions through the ASVE. The Committees note that subsection (e) of section 2003A currently provides that the Secretary is to administer DVOP through the ASVE.

Estimate of Funds for Administration

Both H.R. 6794 and the Senate amendment would amend section 2006 of title 38 to expand the Secretary's responsibilities for estimating funds needed for the administration of chapter 41 of title 38 and for including that estimate as a special item in the annual budget for the Department of Labor so as to include a requirement that the estimate also include funds needed for the administration of chapters 42 and 43 of title 38.

The compromise agreement contains this provision.

Both H.R. 6794 and the Senate amendment would further amend section 2006 to require that such estimates of funds be approved by the Secretary of Labor only if they are sufficient to support the level of DVOP specialists mandated in section 2003A of title 38. H.R. 6794 would require the ASVE to approve the level of funds estimated; the Senate amendment would require the Secretary of Labor to carry out responsibilities through the ASVE. H.R. 6794 would further require that the budget submission include a separate listing of the proposed number of DVOP specialists and their specific locations.

The compromise agreement contains these provisions except for the requirement that specific DVOP locations be listed.

Both H.R. 6794 and the Senate amendment would further amend section 2006 to restrict the Secretary's authority to divert funds appropriated for the purposes of chapter 41 upon a demonstrated lack of need. H.R. 6794 would authorize such funding diversion after consultation with the ASVE; the Senate amendment would authorize diversion only upon the recommendation of the ASVE.

The House recedes.

Annual Report to Congress

Both H.R. 6794 and the Senate amendment would amend section 2007(c) of title 38 to require that the Secretary's annual report to the Congress on veterans' employment and training initiatives include a report on activities under the DVOP authority in section 2003A of title 38.

The compromise agreement contains this provision.

National Employment and Training Programs for Veterans

H.R. 6794, but not the Senate amendment, would amend chapter 41 of title 38 to add a new section 2009 to require the Secretary of Labor, through the ASVE, to establish and administer a national employment and training assistance program for veterans through grants to qualified recipients. H.R. 6794 would set forth the criteria for selection of grant recipients and require such grantees to enter into cooperative arrangements to make maximum use of existing programs. It would further require the Secretary to ensure maximum effectiveness and efficiency through coordination, in consultation with the Administrator, with other programs conducted under title 38, particularly the readjustment counseling program conducted under section 612A. Coordination would also be required, in the development of on-job-training opportunities, employability development programs, and job placement programs, with other VA and DOL initiatives. The Secretary would be authorized to enter into demonstration programs in cooperation with DOD and the VA to provide pre-separation counseling and job search assistance. Approval or disapproval of grants would be required to be made within 90 days. The Secretary would be authorized (directly or through grant, contract, or cooperative agreement) to furnish technical assistance and conduct research and development projects for the purposes of establishing and carrying out the grant program. Regulations for fiscal controls, accountability, and reporting by the grantee would be required to be prescribed by the Secretary. Finally, an annual report would be required to be submitted no later than January 1 of each year to the Committees on Veterans' Affairs of the House and Senate on the program established and its effectiveness and efficiency, together with legislative recommendations.

The Senate recedes with an amendment. As agreed to by the Committees, the compromise agreement would amend chapter 41 of title 38 to add a new section 2009 entitled "National Veterans' Employment and Training Programs". Under this new section, the Secretary of Labor would be required to administer through the ASVE all national programs, under the Secretary's jurisdiction, for the provision of employment and training services designed to meet the needs of disabled and Vietnam-era veterans; to encourage all such programs and grantees thereunder to enter into cooperative arrangements with private industry and business concerns, educational institutions, trade associations, and labor unions; to ensure maximum effectiveness and efficiency by coordinating and consulting with the Administrator with respect to programs conducted under other provisions of title 38, with particular emphasis on coordination with the VA's readjustment counseling and apprenticeship and other on-job training programs; and to ensure that job placement activities are carried out in coordination and cooperation with appropriate State officials in the public employment service. An annual report would be required to be submitted to the Committees and the Appropriations Committees, by February 1 of each year, on the operation of national programs to meet the needs of disabled and Vietnam-era veterans. The report would include an evaluation of the effectiveness and efficiency of such programs and any recommendations by the Secretary for legislative action.

The Committees note that the Secretary, consistent with the Secretary's statutory functions under title 38, may also, as a matter of discretion, assign to the ASVE responsibility for implementing or monitoring, or both, activities affecting veterans under employment and job-training programs not designed specifically for the benefit of veterans.

Secretary of Labor's Committee on Veterans' Employment

H.R. 6794, but not the Senate amendment, would add a new section 2010 to chapter 41 of title 38 to establish within the Department of Labor an advisory committee

known as the "Secretary's Committee on Veterans' Affairs", which would be required to meet at least quarterly for the purpose of bringing problems and issues relating to veterans' employment to the attention of the Secretary. The Committee would be chaired by the Secretary of Labor and vice-chaired by the ASVE and be composed of representatives of the Secretary of Health and Human Services, the Administrator of Veterans' Affairs, the Director of the Office of Personnel Management, the Chairman of the Equal Employment Opportunity Commission, the Administrator of the Small Business Administration, chartered veterans' organizations having national employment programs, and such other members as may be appointed by the Secretary after consultation with the ASVE.

The Senate recedes with amendments changing the name of the committee to the "Secretary of Labor's Committee on Veterans' Employment", adding the Secretary of Defense to the membership of the committee, and deleting the authority of the Secretary to appoint additional members. The Committees expect that the Secretary of Labor would include in the membership of the Committee as representatives of the Secretary those Department of Labor officials involved with issues relating to veterans' employment (such as the Assistant Secretaries for Employment and Training and for Employment Standards) who the Secretary believes should serve on the Committee.

Persons Eligible for Chapter 42 Employment Training Programs

H.R. 6794, but not the Senate amendment, would amend section 2011 of title 38 to expand the eligibility for coverage under the mandatory listing and affirmative action requirements of chapter 42 so as to include veterans whose disabilities are rated 10- or 20-percent disabling.

The House recedes.

H.R. 6794, but not the Senate amendment, would further amend section 2011 to include within the definition of "disabled veteran" for purposes of chapters 41 and 42 veterans who are not in receipt of VA compensation because they have elected to receive military retirement pay in lieu thereof.

The Senate recedes with an amendment including such veterans in the definition of "special disabled veteran" for the purposes of such chapters only if such veterans are 30-percent or more disabled.

H.R. 6794 and the Senate amendment would further amend section 2011 to clarify the status of the United States Postal Service and the Postal Rate Commission for coverage under certain title 38 provisions. H.R. 6794 would specify that for purposes of section 2012, relating to veterans employment emphasis under Federal contracts, such entities are considered a "department or agency". The Senate amendment would include such entities in both the terms "department or agency" and "department, agency, and instrumentality in the executive branch" for purposes of all provisions of chapter 42, including section 2014, relating to employment within the Federal Government.

The House recedes with technical amendments.

Reports on Veterans' Employment Emphasis Under Federal Contracts

Both H.R. 6794 and the Senate amendment would amend section 2012 of title 38 to require reports by employers having certain contracts with the Federal Government in amounts of $10,000 or more (and certain subcontractors of such contractors) who are required to take affirmative action to employ and advance in employment service-connected disabled veterans rated 30-percent or more disabled and veterans of the Vietnam era. H.R. 6794 would require such an employer to file quarterly with the appropriate SDVE a report showing the total number of the employer's new hires and the number of those hires who are disabled veterans, veterans of the Vietnam era, and other eligible veterans. The Senate amendment would require such employers to file such reports annually with the Secretary of Labor and would require the Secretary to insure that the administration of the reporting requirement is coordinated with other requirements for reports from such contractors.

The House recedes with technical amendments.

Veterans' Employment in the Federal Government

H.R. 6794, but not the Senate amendment, would amend section 2014 of title 38 to permit veterans who believe they were denied an opportunity to participate in a civil service examination because information about that opportunity was not made available to the employment service offices of the United States Employment Service, as required by section 3327 of title 5, United States Code, to file a complaint with the Office of Personnel Management (OPM) and require OPM to investigate these complaints promptly. H.R. 6794 would further require a report on such complaints and on the number of openings listed pursuant to the title 5 requirement to be included in OBM's semi-annual reports on veterans' employment within the Federal Government.

The House recedes. The Committees are concerned as to whether the requirements of section 3327 of title 5 are being implemented in the manner called for by that law, but believe that the imposition of a complaint sanction for veterans may not be clearly warranted at this time. Instead, the Committees request the ASVE, in consultation with the Assistant Secretary of Labor for Employment and Training and the Director of OPM, to prepare and submit to the Committees no later than April 1, 1983, a report on the manner in which section 3327 is being implemented and the impact of such implementation on the provision of maximum employment opportunities for veterans in the Federal Government, as required under section 2014 of title 38.

Repeal of Exemplary Rehabilitation Certificates Program

Both H.R. 6794 and the Senate amendment would amend Public Law 90-83 to repeal the authority in section 6 of that law for the Exemplary Rehabilitation Certificates program.

The compromise agreement contains this repealer.

TITLE IV—MISCELLANEOUS PROVISIONS

Removal of Time Restriction for Filing Insurance Claims; Prohibition of Insurance Proceed Escheating to a State

Both the House bill and the Senate amendment contain provisions that would amend section 770 of title 38, United States Code, to eliminate the 4-year time restriction on the filing of claims for proceeds of insurance under the Servicemen's Group Life Insurance and Veterans' Group Life Insurance programs and to provide that such proceeds may not escheat to a State.

The compromise agreement contains a provision derived from these provisions.

Assignments by Veterans' Administration Insurance Beneficiaries

The Senate amendment, but neither the House bill nor H.R. 6794, would amend chapter 19 of title 38 to provide a limited expansion of the categories of persons to whom assignments of National Service Life Insurance and United States Government Life Insurance proceeds may be made by authorizing, in order to facilitate the resolution of certain disputes between persons claiming those proceeds, certain assignments of the proceeds by one claimant to another.

The Senate recedes.

Burial Flags

The House bill, but not the Senate amendment, would amend section 901 of title 38 to authorize, effective with respect to burials after September 30, 1982, the Administrator to furnish a flag to drape the casket of an individual buried in a national cemetery by virtue of the Administrator's authority under section 1002(6) to approve the burial of certain non-veterans in a national cemetery.

The Senate recedes.

Burial Benefits for Certain Indigent Veterans Whose Remains Are Unclaimed

Both the House bill and the Senate amendment would amend section 902 of title 38 to provide for the restoration of the $300 VA burial benefit in the cases of certain indigent wartime veterans and in the case of certain indigent peace-time veterans who had been discharged as a result of a disability incurred or aggravated in line of duty which was non-compensable at the time of death. The House bill would provide, with respect to deaths occurring after September 30, 1982, that the VA would pay such benefits if the Administrator determines that there is no next of kin or other person claiming the body of the deceased veteran and that there are not available from the veteran's estate, or otherwise, sufficient funds to defray the cost of the burial and funeral of the deceased veteran. The Senate amendment would provide, with respect to burial and funeral expenses incurred after October 1, 1982, that the benefit would be paid in the cases of the same veterans if a State or political subdivision certifies that there is no next of kin or other person claiming the body, the State or political subdivision has assumed responsibility for the burial and funeral expenses, and there are not available, other than from the State or political subdivision, sufficient resources to cover the burial and funeral expenses.

The compromise agreement contains a provision derived from these provisions, effective with respect to funeral and burial expenses incurred after September 30, 1982.

Clarification of Eligibility for Burial Benefits for Certain Veterans Who Die in Contract Nursing Home Facilities

The House bill, but not the Senate amendment, would amend section 903(a) of title 38 to authorize, with respect to deaths occurring after September 30, 1982, the VA to pay burial benefits in the cases of deceased veterans who die in a private nursing home with which the VA had contracted for the veteran's care, regardless of whether the VA was bearing the cost of the veteran's care at the time of death.

The Senate recedes with an amendment limiting the authority to pay the benefits to

those cases in which the VA was bearing the cost of the veteran's nursing home care at the time of the veteran's death—the same policy that had been in effect until the VA General Counsel ruled on March 15, 1982, that no authority existed to make any such payments in cases of veterans who died in private nursing homes.

Superintendents of National Cemeteries Under the Jurisdiction of the Secretary of the Army

The House bill, but not the Senate amendment, would remove a requirement that superintendents of national cemeteries under Department of the Army jurisdiction (that is, Arlington and Soldiers' Home National Cemeteries) be "members of the Armed Forces who have been disabled in the line of duty for field services".

The Senate recedes.

Guaranteed Loans To Refinance Liens on Manufactured Homes and To Purchase Manufactured-Home Lots; Change in Nomenclature

The Senate amendent but neither the House bill nor H.R. 6794, would amend chapter 37 of title 38 to authorize the VA to guarantee loans made to a veteran for the purposes of refinancing a lien on a manufactured home and purchasing a lot for the unit and to change the references to "mobile homes" to "manufactured homes".

The House recedes with technical amendments.

Period for Request of Waiver of Overpayment

Both the Senate amendment and H.R. 6794 would amend section 3102 of title 38 to reduce, from two years to 180 days, the period after the date of notification to the payee of the indebtedness for requesting a waiver of repayment of a debt owed to the VA. The Senate amendment would authorize the Administrator to extend the 180-day period for a reasonable length of time when the individual demonstrates to the satisfaction of the Administrator that notification of the indebtedness was not actually received within a reasonable period after the date of notification. The provision in H.R. 6794 would be effective with respect to notifications of indebtedness made by the Administrator after the date of the enactment; the provision in the Senate amendment would take effect 180 days after the date of enactment.

The House recedes with an amendment providing that the provision would be effective with respect to notifications made after March 31, 1983.

Minimum Active-Duty Service Requirement

The Senate amendment, but neither the House bill nor H.R. 6794, would amend section 3103A of title 38, enacted last year in section 604 of Public Law 97-66, the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981, which generally provides a two-year minimum-service requirement for title 38 and other VA benefits eligibility with respect to persons who entered on active duty after September 7, 1980, to provide generally uniform minimum-service requirements—based on policies parallel to those applicable under section 3103A to title 38 and other VA benefits—for non-title 38/non-VA, Federal benefits based on active-duty service. The Senate amendment would also provide for the suppression of section 977 of title 10, which section 3103A of title 38 as so amended would replace in its entirety.

The House recedes with amendments repealing section 977 of title 10 and—in order to overcome certain misconceptions of the Office of Personnel Management regarding the legal effect of laws other than title 5 on the veterans preference provisions in title 5—clarifying the applicability of this provision to benefits under laws other than title 38, and with other technical amendments.

Limitations on Contracting Out Activities at Veterans' Administration Health-Care Facilities

Both the House bill and the Senate amendment contain provisions that would amend section 5010 of title 38 relating to the operation of VA medical facilities, to restrict the VA's ability—under OMB Circular A-76 or otherwise—to contract with private entities for the performance of activities in the agency's Department of Medicine and Surgery (DM&S). The House bill would require that all activities at a VA medical facility be carried out by Federal employees unless the Administrator, after considering the advice of the Chief Medical Director (CMD), determines that a particular VA facility is not capable of carrying out an activity with Federal employees or that contracting out an activity would enhance the quality of medical care provided to eligible veterans. The limitations in the House bill would not affect the VA's ability to enter into contracts or agreements with other Federal or State governmental entities or with nongovernmental entities for the exchange or sharing of resources. Also, these limitations would not apply to any contract in effect on May 5, 1982, or to any renewal, extension, or modification of such a contract.

The Senate amendment would declare, as the policy of the United States, that the VA shall maintain a comprehensive, nationwide health-care system to provide direct health-care services to eligible veterans and shall provide such services in the most cost-effective manner consistent with carrying out the functions of DM&S. It would preclude the VA from converting any activity at a VA health-care facility determined by the CMD to be a direct-patient care activity or an activity incident to direct care from an activity carried out by the Federal employees to an activity carried out by employees of a contractor. As to activities at such facilities determined by the CMD to be neither direct-patient care activities nor those incident to direct care, the Administrator, after considering the advice of the CMD and the results of a cost-comparison study, would be authorized, in his sole discretion, to enter into contracts to convert such an activity. However, the Administrator could do so only after first determining both that the cost to the government of having the activity performed by a contractor plus the cost of the study would be at least 10 percent lower than the cost to the government of performing the activity in-house and that there would be no reduction in the quality or quantity of health-care services provided to eligible veterans as a result of the contract. The limitations on contracting out in the Senate amendment would not apply to any contract or agreement under existing contracting authorities in chapter 17 of title 38, relating to hospital, nursing-home, domiciliary, and medical care, or in certain other title 38 provisions (including section 5011, relating to sharing agreements between the VA and the Department of Defense, section 5011A, relating to the VA's contract authority in time of armed conflict, and section 5033, relating to the VA's authority to contract for specialized medical resources) and in section 686 (recently codified as section 1535) of title 31, relating to inter-agency contracting. Also, these limitations would not apply to contracts under section 4117 of title 38, relating to the VA's acquisition of scarce medical specialists, in those cases in which the CMD determines that a contract is necessary to obtain services at a VA facility that could not otherwise be provided at such a facility.

The House recedes with an amendment increasing from 10 to 15 percent the minimum cost-saving level required for certain contracting; requiring that that cost-saving level be determined over a five-year period (rather than over the duration of the contract); revising the requirement of a determination regarding the potential impact of the contract on health-care services so as to require a determination that the quantity and quality of health-care services would be maintained or enhanced as a result of the proposed contract; revising the specifications regarding the content of the cost-comparison study to require that, with respect to the cost of VA-employee performance, the study be based to the maximum extent feasible on actual VA cost-factors for the salaries and retirement and other fringe benefits for the VA employees involved (as opposed, for example, to being based on Government-wide or agency-wide experience factors for retirement benefits), and that the study take into account all costs to the government of contracting out, such as severance pay that would result from the separation of displaced VA employees and the costs of awarding and administering the contract and monitoring the contractor's performance. In addition, the provision in the compromise agreement would establish certain requirements for the Administrator to submit information relating to contracting out to the appropriate Committees of the Congress (the Veterans' Affairs and Appropriations Committees). First, the Administrator would be required, prior to the conduct of a cost-comparison study, to provide the Committees with notification of the decision to conduct the study.

Second, following the completion of a cost-comparison study and the making of a decision to convert an activity to contractor performance, the Administrator would be required promptly to provide the Committees with written notice of that decision and a report containing a summary of the study on which the decision is based; certifications that the study itself is available to the Committees and that the requirements described above relating to the cost-savings differential and the impact of conversion on the quality and quantity of health-care are met by the contract; a summary of the information that supports the certification regarding the health-care impact; information—if more than 25 jobs would be affected by the contracting decision—showing the potential economic impact of the contract on the VA employees affected, the local economy, and the federal government; and information on the amount of the contractor's bid and the cost to the government of performing the activity directly and of converting it to contractor performance. Third, the Adminstrator would be required to submit six annual reports, by February 1 of each year, 1984 through 1989, on the extent to which DM&S activities were performed by contractors during the prior fiscal year and the actual cost savings resulting from such contracts.

The provision in the compromise agreement also contains technical amendments.

The Committees note that, in the process of considering entering into any contracts

under the compromise agreement, the Administrator may, if the Administrator wishes, look for guidance to OMB Circular A-76 and the OMB "Cost Comparison Handbook" to the extent that they are consistent with the compromise agreement.

Chiropractic Services

The Senate amendment, but not the House bill, would amend chapter 17 of title 38 to add a new section 630 to provide for the reimbursement (or direct payment) of reasonable charges for chiropractic services, not otherwise covered by available health insurance or other reimbursement, furnished (prior to September 30, 1986) to certain veterans with neuromusculoskeletal conditions of the spine; and would limit the amount payable for such services furnished an individual veteran to $200 per year and total VA expenditures for chiropractic services to $4 million in any fiscal year.

The Senate recedes. The House Committee Chairman has given assurances to the Senate Committee that the House Committee will conduct hearings on this legislation early next year and will also consider alternatives to ensure that the VA utilize its existing authority to provide chiropractic services to veterans.

Correspondence Training

The Senate amendment, but neither the House bill nor H.R. 6794, would provide that funds in the Veterans' Administration readjustment benefits account shall remain available for the payment of GI Bill correspondence training benefits unless the Congress enacts, in a reconciliation bill pursuant to the Congressional Budget Act of 1974, Public Law 93-344, a provision amending section 1786(a)(3) of title 38 so as to restrict such availability. The Senate amendment further provides that this provision would become effective on the day after the effective date of any law enacted after August 19, 1982, that the Administrator determines is inconsistent with this provision.

The Senate recedes.

The Committees are not pressing ahead with this extraordinary provision at this point because it is not clear that it is necessary to take the provision to enactment at this time. The Committees note that they are in total agreement with the thesis underlying the Senate provision that title 38 entitlements should be terminated or otherwise altered only through legislation emanating from the authorizing committees and not through an appropriations measure, as was proposed by the House last year in passing the fiscal year 1982 HUD-Independent Agencies Appropriations Act with a rider terminating correspondence training benefits. This rider was enacted in Public Law 97-101 on December 23, 1981. On May 4, 1982, in section 5 of Public Law 97-174, the Congress enacted legislation expressly designed to supersede that rider and foreclose future such riders.

Nevertheless, on August 10, 1982, the House Appropriations Committee recommended, and on September 15 the House passed, the proposed fiscal year 1983 HUD-Independent Agenices Appropriations Act, H.R. 6956 with a comparable rider. That rider has been struck by the Senate Appropriations Committee in reporting that bill, which was passed by the Senate on September 24. (As of September 28, the status of the rider had not been resolved in the conference on H.R. 6956.)

At the time of the action by the House Appropriations Committee, it was the policy of the House Veterans' Affairs Committee to seek the termination of correspondence training benefits; both the House measure containing reconciliation savings in veterans' benefits and services for fiscal year 1983, H.R. 6956, as well as the House bill (H.R. 6782) provided for the termination of such benefits. However, that Committee expressly receded from that position in resolving differences with the Senate-passed reconciliation measure.

The Committees thus now regard this matter as having been definitively settled between them and as a matter of Congressional policy at this time. They have so informed the Appropriations Committees.

Budget Savings Provision (Not Contained in Compromise Agreement)

The House bill (in title III, entitled "Veterans' Budget Reconciliation Act of 1982"), but not the Senate amendment, contained various cost-saving provisions (relating to a fee for VA home loans, the period of payment of awards and increased awards of disability compensation, dependency and indemnity compensation, and pension, the effective dates of certain compensation and pension dependents' allowance reductions, the rounding down of pension payments, the termination of pension paid to or for certain college-age students, and the termination of GI Bill benefits for correspondence training). These provisions were recommended in response to the reconciliation instructions to the House Veterans' Affairs Committee in section 2(c)(8) of S. Con. Res. 92, 97th Congress, Second Session, the first budget resolution for fiscal year 1983. Following House passage of the House bill on July 30, 1982, the provisions of title III were incorporated in H.R. 6955, a reconciliation bill passed by the House on August 10, and were considered in the context of the conference on H.R. 6955, which was enacted on September 8 as Public Law 97-253, the Omnibus Budget Reconciliation Act of 1982.

The House recedes in light of the actions already taken in Public Law 97-253 by the Congress with respect to the provisions of title III of the House bill.

For a document showing the changes in existing law that the compromise agreement would make see the continued House proceedings of H.R. 6782 from the Congressional Record on September 28, 1982.

Mr. CRANSTON. Mr. President, as the ranking minority member of the Veterans' Affairs Committee, I am delighted to rise and join with the distinguished chairman of the committee (Mr. SIMPSON) in urging the Senate to approve the amendments of the House to the amendments of the Senate to H.R. 6782. The provisions of the House substitute amendment embody a compromise agreed to after extensive negotiations between the two Veterans' Affairs Committees. The compromise agreement, the proposed "Veterans' Compensation, Education, and Employment Amendments of 1982", contains provisions derived from S. 2913 as passed by the Senate last Friday on September 24, 1982, in the nature of a substitute to H.R. 6782. It also contains provisions derived from H.R. 6782, the proposed "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982", as that measure was passed by the House on July 27, 1982, and H.R. 6794, the proposed "Veterans' Employment and Education Assistance Act of 1982", as passed by the House on September 20, 1982. We have conducted the negotiations on this legislation most expeditiously since the pending measure contains certain rate increases that are to become effective on Friday of this week, increases to be included in Treasury checks to be received on November 1.

As the committee's ranking minority member, I believe the pending legislation represents a fair compromise on the differences between the two bodies on this legislation, the basic purposes of which lie at the very heart of veterans' programs—securing fair and just benefits for service-connected disabled veterans. The recognition of the sacrifices made and the hardships endured by our Nation's veterans are best reflected in our commitment to insuring that we meet the needs of those who bear the scars of battle and the dependents and survivors of those who made the supreme sacrifice in service to our country. The needs of veterans who suffer from service-connected disabilities and the survivors of those who have died from service-connected causes must always be our number one priority in dealing with VA programs—a sacred commitment which must be kept as a fundamental part of past national defense efforts.

This bill stands for the proposition that the Congress continues to be dedicated to honoring fully this Nation's debt to those veterans who have given so much of their health and lives so that all of us can live in freedom today.

Mr. President, the Senate's position on the great majority of the matters addressed in the legislation are well represented in the compromise agreement. A number of provisions of the compromise agreement—and one matter regrettably not contained in the agreement—are particularly noteworthy, and I would like to take this opportunity to discuss them.

VA DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASE

Mr. President, title I of the compromise agreement includes increases, effective October 1, 1982, of 7.4 percent in the basic rates of service-connected disability compensation and dependency and indemnity compensation (DIC). Our yardstick for this increase, as has been the Senate's guiding philosophy for 4 years now, has been to provide an increase no less than the increases in social security and VA pension rates that became effective in the preceding June. I am delighted that once again this philosophy has been vindicated in the final legislation.

Thus, the compromise agreement provides for a much needed cost-of-living increase in the rates of compensation for almost 2.3 million service-connected disabled veterans and in the

rates of DIC for almost 350,000 survivors of veterans who died of service-connected causes. It is my understanding that, if the compromise agreement is approved by the Senate today, the VA will be able to program their computers so that the checks issued for the month of October—those received on November 1—will reflect the increases.

The cost of this 7.4-percent adjustment is estimated by the Congressional Budget Office to be $709.1 million in fiscal year 1983, $719.1 million in fiscal year 1984, $726.1 million in fiscal year 1985, $735.3 million in fiscal year 1986, and $743.8 million in fiscal year 1987.

TARGETED DELIMITING DATE EXTENSION AMENDMENTS

Title II of the compromise agreement contains provisions derived from an amendment—Amendment No. 1984—that the distinguished chairman of the committee (Mr. SIMPSON) joined me in introducing on July 21, 1982, and that were contained in section 208 of H.R. 6782 as passed by the Senate last week. This amendment would clarify congressional intent underlying a provision which I authored and which was enacted last year to provide for a 2-year targeted delimiting date extension for certain Vietnam-era veterans.

Mr. President, section 201 of Public Law 97-72, the Veterans' Health Care, Training, and Small Business Loan Act of 1981, which was enacted on November 3, 1981, amended title 38 to provide for a one-time, 2-year extension of the GI bill delimiting period—that is, an extension of the 10-year period following discharge during which a Vietnam-era veteran may use his or her GI bill benefits. This extension was targeted on educationally disadvantaged and unskilled or unemployed Vietnam-era veterans and was designed to permit such veterans an additional period of up to 2 years to pursue vocational objective or apprenticeship training or other on-job training (OJT) programs and, for those without high-school diplomas, to pursue secondary education level courses. As enacted in Public Law 97-72, the extension became effective on January 1, 1982, and under present law will continue until December 31, 1983.

However, the VA's manner of implementing this extension provision with respect to vocational objective or apprenticeship or other OJT programs reduced the determination of whether a veteran is eligible for an extension for such programs to a mechanical process. Under that process, the veteran is automatically found ineligible if any one of three very restrictive and rigid criteria apply. The VA's method of implementation provided no opportunity to permit making individualized determinations of eligibility in the cases of unemployed or underemployed veterans who are clearly in need of training despite the fact that they did not meet the VA's regulatorily imposed criteria. Because of my very deep concern that the VA's implementation was resulting in the denial of an opportunity for using GI bill benefits to a large number of Vietnam-era veterans for whom the Congress had intended that these opportunities be provided, I proposed in amendment No. 1984 a clarification of congressional intent with respect to the targeted delimiting-date extension.

Thus, Mr. President, I am delighted that the compromise agreement contains the provisions I authored in the Senate-passed amendment that would substantially limit the programmatic flexibility given the Administrator to make determinations regarding a Vietnam-era veteran's need for training. It would invalidate the existing regulatory provisions that so narrowly restrict eligibility for the delimiting-date extension. Instead, the provisions in the compromise agreement would establish statutory criteria under which the veteran would be required to be determined eligible unless an examination of the veteran's particular employment and training history showed the veteran not to be in need of an OJT, apprenticeship or vocational program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes.

The provisions of the compromise agreement are, as were the provisions of the amendment I originally offered, designed to permit a veteran to be denied eligibility only after a case-by-case determination and to avoid the use of any arbitrary, automatically disqualifying criteria. In addition, since many of the Vietnam-era veterans for whom this extension was designed have been foreclosed from the opportunity to make appropriate use of their remaining GI bill entitlements, the compromise agreement would extend the eligibility period for 1 additional year—until December 31, 1984.

In addition, I am very pleased that the compromise agreement provision would take effect as of January 1, 1982. The purpose of providing for this retroactive effect is to enable the VA to reconsider, under the new criteria, the eligibility of those to whom eligibility has previously been denied without the necessity of their submitting a new application. I had, by letter of March 17, urged the VA to maintain records on those veterans whose applications had been denied so that those veterans could be contacted in the future in the event that subsequent regulatory or legislative action modified the criteria for eligibility for extensions. The VA advised me on April 8 that a listing would be made, by name and claim number, of those veterans whose applications were denied. This will facilitate these reconsiderations.

Mr. President, I discussed the intent of this provision in considerable detail in my remarks upon initial Senate passage on September 24—pages S12185-89—and wish to call the attention of my colleagues to that discussion which applies fully to the provision in the compromise agreement.

I am delighted and grateful that my concerns were shared by the other body and that it concurred fully in the need for this provision. I believe that, if it is implemented in accordance with congressional intent, it will go a long way toward assisting many Vietnam-era veterans who are still encountering difficulties in readjusting to civilian life.

TOLLING OF ELIGIBILITY ON ACCOUNT OF ALCOHOL AND DRUG CONDITIONS

Mr. President, at the same time that I am delighted that the provisions of amendment No. 1984 dealing with the targeted delimiting date extension have been incorporated in the compromise agreement, I am deeply disappointed that the agreement does not contain certain other provisions derived from that amendment. Those provisions would have provided for an extension—or tolling—of an Vietnam-era veteran's GI bill delimiting or vocational rehabilitation eligibility period when the veteran has been prevented by an alcohol or drug dependence or abuse condition from pursuing a program of education or vocational rehabilitation.

I regret very much that we have been unsuccessful in our third attempt to achieve enactment of provisions along these lines. In 1980, the Senate approved amendments I proposed providing for a similar tolling of the GI bill and vocational rehabilitation periods of eligibility when veterans had been prevented from using their entitlements by virtue of such conditions. Again, last year, the Senate approved similar provisions in the context of the Senate amendments to H.R. 3499—S. 921—which subsequently was enacted as Public Law 97-72. On each occasion, however, as with respect to this bill, we have been unsuccessful in efforts to have the House concur in the amendments. It is particularly unfortunate that we could not convince the House this year since we had modified and limited the provisions very carefully in order to enhance administrability and minimize any abuse.

Nevertheless, I continue to be very concerned that the VA's current practice of denying delimiting date extensions to individuals who have been unable to utilize their VA educational and rehabilition entitlements because of drug or alcohol conditions serves no legitimate purpose. The result is, in my view, totally counterproductive to the goal of helping such individuals

achieve readjustment and rehabilitation goals and resume more fully productive lives.

RESTORATION OF VA BURIAL BENEFITS IN CASES OF CERTAIN INDIGENT VETERANS

Mr. President, a second provision in the compromise agreement that I wish to highlight is derived from a measure I introduced earlier this year—S. 2048—that would restore the $300 burial benefit in the cases of certain indigent veterans whose bodies are not claimed.

I am extremely pleased that Members on both sides of the aisle and in both Houses of Congress shared my very deep concerns that indigent veterans who served during time of war or who were discharged or released from the military for a disability incurred in line of duty should not be denied a decent funeral. Thus, the compromise agreement would provide that in the cases of such deceased veterans, the $300 burial benefit would be restored where there is no next of kin or other person claiming the body of the veteran and sufficient resources to provide for the cost of funeral expenses are not available.

LIMITATION ON CONTRACTING OUT ACTIVITIES IN VA HEALTH-CARE FACILITIES

Mr. President, I am very gratified that the compromise agreement contains a provision, based on a provision in the measure that I first proposed in Committee and that the Senate passed, that places restrictions on the VA's ability to convert an activity in the VA's Department of Medicine and Surgery (DM&S) from one carried out by VA employees to one carried out by employees of a private contractor. The recent heightened emphasis on implementing OMB Circular A-76—which provides for contracting out to private entities the performance of certain functions presently carried out by Government employees—has caused an understandable measure of concern within DM&S and among those concerned about the VA's ability to fulfill its health-care mission. The provision in the compromise agreement, by identifying clearly what DM&S functions may not be converted to contractor performance and by establishing carefully defined bases for the evaluation of other activities for possible conversion, should allay those concerns.

Mr. President, the most important effect of the contracting out provision is that it sets forth, in unequivocal terms, that direct patient-care activities and activities incident to direct-care activities may not be considered for conversion to performance by contractor employees. The decision as to what constitutes either such activity—which, in the last analysis, is a medical decision—is placed where it belongs, with the agency's Chief Medical Director. This result ratifies a March 1980 opinion of the VA's General Counsel that determined that the existence of the specific statutory mandate in title 38, United States Code, that the VA operate a health-care system to serve our Nation's veterans overcomes any administrative directive, such as Circular A-76, relating to contracting out. The adoption of this preclusion of contracting out direct-care activities and activities incident to direct-care activities, together with the finding of Congress in the first section of the provision that it is the policy of the United States that the VA maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans, is designed to reinforce in an unequivocal fashion the importance of the VA health-care system.

Mr. President, as to other activities in DM&S—those not direct health-care or incident to direct-care activities—the provision in the compromise agreement is even stronger than that passed by the Senate. Whereas the Senate-passed provision required that, before contracting out could be considered, there be a determination that the cost to the Federal Government of the contractor performing the activity plus the cost of the cost-comparison study be at least 10 percent less than the cost to the Government of performing the activity in-house, the provision in the compromise agreement requires that the cost be at least 15 percent lower and, in addition, sets forth more specifics as to what should be considered a governmental cost associated with a conversion. Also, whereas the Senate-passed provision required a determination by the Administrator that such a conversion would not result in any decrease in the quality or quantity of health care for eligible veterans, the provision in the compromise agreement requires the Administrator to determine that the quality or quantity of health-care services would be maintained or enhanced by the conversion.

Mr. President, the provision in the compromise agreement also contains various notification and reporting requirements that were not in the Senate-passed provision and which, in my view, improve the provision. These reporting requirements were largely derived from provisions relating to contracting out Department of Defense functions in section 502 of the Department of Defense Authorization Act, 1981, Public Law 96-342, and amendments proposed thereto including provisions in H.R. 7166, the proposed "Uniformed Services Pay Act of 1982." These reporting requirements should better enable the Veterans' Affairs Committees to carry out their oversight responsibilities related to contracting out and thereby insure that any contracting out of DM&S activities take place only in those situations where it is clearly in the Government's best interest and where veterans eligible for VA health care will be best served. This result is very good news to those concerned about the future of DM&S, and I am very grateful to the chairman (Mr. SIMPSON) for his strong cooperation as we have worked with the House committee during the negotiations over this measure to develop a compromise position on this very critical matter.

CORRESPONDENCE TRAINING

Mr. President, the final issue involved in the compromise agreement that I want to address at this time is the provision dealing with GI bill benefits for correspondence training that was contained in section 408 of H.R. 6782 as passed by the Senate.

As members may recall, this provision would have provided that funds in the VA's readjustment benefits account shall remain available for correspondence training unless a restriction on their availability is enacted by means of an amendment to section 1786(a)(3) of title 38 in a reconciliation bill. This provision was based on concerns that a veteran's entitlement—such as entitlement to VA correspondence training benefits—should not be terminated or reduced through appropriations action that purports to withhold the availabiltiy of funds for the payment of such entitlements.

At the time that the Senate considered H.R. 6782, the disposition of a rider contained in the House version of the HUD-Independent Agencies Appropriations Act for fiscal year 1983—H.R. 6956—that would have prohibited the payment of benefits for correspondence training was not known. During negotiations with our counterpart House committee on the compromise agreement, it was reluctantly agreed—despite the fact that both the House and Senate committees fully concurred in the principles underlying the Senate provision—not to press ahead with the extraordinary provision in the Senate amendment because it was not clear that it was necessary to take the provision to enactment at this time.

I, quite frankly, had my reservations about deleting this provision from the compromise agreement. However, I am advised that the House, in the context of negotiations on the appropriations measure, has receded from its appropriations rider prohibiting the payment of correspondence training benefits. I'm delighted with this result and, at this time, want to express may appreciation to the distinguised chairman of the Subcommittee on HUD-Independent Agencies Appropriations (Mr. GARN) and the Subcommittee's ranking minority member (Mr. HUDDLESTON) for insisting on this result and for their assistance and understanding on this issue generally.

CONCLUSION

Mr. President, we have pending before us another example of an excellent bipartisan effort that reflects our commitment to meeting the needs of those who have served this Nation in time of need. The distinguished chairmen of both committees, Senator SIMPSON and Representative MONTGOMERY, deserve congratulations for the development of this measure, as does the ranking minority member (Mr. HAMMERSCHMIDT) of the House Veterans' Affairs Committee. I applaud the excellent cooperative spirit with which they and all other members of the Veterans' Affairs Committees in both bodies approached this legislation and their dedicated efforts and that of their staffs to insure its timely enactment.

In particular, I want to express my deep appreciation for their excellent work and cooperation in reaching the compromise agreement on this measure to staff members of the House committee, Mack Fleming, Frank Stover, Rufus Wilson, Arnold Moon, Charles Peckarsky, Jill Cochran, and Richard Fuller—and especially for the, as always, most capable and most dedicated efforts House Legislative Counsel Bob Cover—as well as to the members of our committee staff, Tom Harvey, Julie Susman, Brent Goo, Scott Wallace, Becky Hucks, Laurie Altemose, and Lucy Scoville. My special thanks, of course, for their work in developing the final text of this legislation, and preparing the joint explanatory statement on it, go to the members of the minority staff, Babette Polzer, Ed Scott, Bill Brew, Jon Steinberg, Ingrid Post, and Charlotte Hughes.

Finally, Mr. President, I want to make special mention of the excellent technical assistance we have received on this bill from the Veteran's Administration, specifically from John Murphy, the General Counsel and Bob Coy, the Deputy General Counsel, from Jim Kane, Bob Dysland, Henry Cohen, Jack Thompson, and Mary Sears of the General Counsel's office, and from June Schaeffer of the Department of Veterans' Benefits. In addition I want also to thank Joe Juarez of the Office of the Assistant Secretary of Labor for Veterans' Employment for his valuable technical assistance.

Mr. President, the compromise agreement now before the Senate is an excellent one, and it has my complete support.

I urge my colleagues to approve it unanimously.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee (Mr. BAKER).

The motion was agreed to.

SENATE AGENDA

Mr. BAKER. Mr. President, I have on my list of things that I would like to ask the Senate to do tomorrow or Friday, if it is necessary to extend these matters into Friday, the following:

Calendar Order No. 603, the highway reauthorization bill; Calendar Order No. 855, the career criminal bill; Calendar Order No. 541, the patent policy bill; and Calendar Order No. 543, CFTC.

There are eight legal services nominations that have been reported by the Committee on Labor and Human Resources. They are nominations to the Legal Services Board of Directors.

Mr. President, there are six executive treaties that I would like to ask to be considered on a single vote but to count for six votes, to be set at a time for the maximum convenience of Senators.

Mr. President, there is Calendar Order No. 599, which is the crime bill; the jobs training bill conference report, which I mentioned earlier; the jobs conference report; and perhaps the shipping bill.

There are two tax bills that have been reported out of the Finance Committee on which I understand there is agreement and that the time required would be very short, one dealing with technical amendments and the other dealing with subchapter S corporations.

There is the banking conference report, which the distinguished chairman of the Banking Committee indicated would not be available until tomorrow; the export trading company conference report, which is in the same status; and the U.S. Customs Service reauthorization, which is S. 2555, I believe.

These are items that have been brought to my attention, Mr. President, that I would hope we can deal with, It is not meant to be an exclusive list, but this is the best I can do at the moment in an effort to try to let Senators know what might be called in the next 2 days.

Mr. HUDDLESTON. Will the Senator yield?

Mr. BAKER. Yes.

Mr. HUDDLESTON. Is it the expectation or intention that they will be called up necessarily in the order listed by the majority leader?

Mr. BAKER. No, it is not. I would try tomorrow with the minority leader to have an arrangement that would suit the convenience of Members on both sides.

Mr. METZENBAUM. Mr. President, I heard the majority leader run down that list. I do not think it is a surprise to him that the Senator from Ohio has some concern about the Patent Office bill and the shipping bill. I would like to recommend to the leader that if he hoped to find time to get to the other bills, that he bring them up before these two because these two will unquestionably involve considerable discussion and debate, et cetera, et cetera, et cetera.

Mr. BAKER. The et cetera, et cetera, et cetera have been known to go on for days.

Mr. DOLE. Will the Senator yield?

Mr. BAKER. I yield.

Mr. DOLE. We are thinking about bringing up the noncontroversial bankruptcy bill.

Mr. METZENBAUM. Et cetera.

Mr. DOLE. Does the Senator have an interest in that?

Mr. METZENBAUM. I certainly do.

Mr. DOLE. A sustained interest?

Mr. METZENBAUM. As the chairman of the Finance Committee knows, and he is my colleague who works with me on the Judiciary Committee, I have made many concessions with respect to that bankruptcy measure, but there is still one very strong sticking point which would make it very difficult of passage.

Mr. DOLE. There is still the possibility for negotiation?

Mr. METZENBAUM. Always, with the chairman of the Finance Committee.

Mr. BAKER. Mr. President, I might also say that another matter that probably will compel the attention of the Senator from Ohio, and I have been advised about this since we began speaking, is that the distinguished Senator from Alaska (Mr. STEVENS) would like to add to that the railroad bill, H.R. 6308.

Mr. METZENBAUM. I hope time will permit us in the next 2 months to finish all of these very important measures.

Mr. BAKER. I thank the Senator.

Mr. President, I am sure the Senator does not intend that to apply to all these items on here. I am also sure that the diligent minority leader and his staff will protect the interests of the Senator from Ohio.

Mr. METZENBAUM. I would say that the matters which the Senator from Ohio has indicated are very important matters which have been placed on the calendar.

Mr. ROBERT C. BYRD. Mr. President, may I respond to the distinguished majority leader? I am sure that the crime bill, on which there is a time agreement, is ready any time the majority wishes to proceed to that bill. Other matters he mentioned are being processed and possibly by tomorrow we can be ready to go with some of them, certainly on the treaties.

Mr. BAKER. I thank the Senator. I recognize and understand the need to check those things. There are clearance processes on both sides.

I would not expect the minority leader to be in a position to agree that all of them would be laid before the Senate tonight. The reason for giving the list tonight was so that the cloakrooms on both sides could be aware of the list as I see it at this time.

May I reiterate, Mr. President, this is not meant to be an exclusive list. Other items may be added. Some items may not be taken up. But, rather, it is a list, the best I can construct at this time, of items that may be dealt with in the course of the next 2 days.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, to extend not past the hour of 10:15 p.m., in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:15 A.M. TOMORROW

Mr. BAKER. Mr. President, I have a great volume of routine business that I would like to invite the attention of the minority leader to. Before I do that, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, the following five Senators be recognized on special orders for not to exceed 15 minutes: Senators RANDOLPH, CRANSTON, SASSER, NUNN, and TSONGAS.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, after the execution of the special orders tomorrow, there be a period for the transaction of routine morning business to extend not longer than 10 minutes, in which Senators may speak for more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION AND DIRECTION FOR THE SECRETARY OF THE SENATE AND CLERK OF THE HOUSE TO TAKE CERTAIN ACTIONS

Mr. BAKER. Mr. President, the first item on my list which is cleared on this side for action by unanimous consent is House Concurrent Resolution 414. I inquire of the minority leader if he is prepared to consider that item at this time.

Mr. ROBERT C. BYRD. Mr. President, that item has been cleared.

Mr. BAKER. I thank the Senator.

I ask the Chair to lay before the Senate House Concurrent Resolution 414.

The PRESIDING OFFICER laid before the Senate the House Concurrent Resolution 414, which was read as follows:

H. CON. RES. 414

Resolved by the House of Representatives (the Senate concurring), That the Secretary of the Senate and the Clerk of the House of Representatives are authorized and directed to prepare and sign official duplicates of the conference papers on the bill (H.R. 5930) to extend the aviation insurance program for five years.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 414) was considered and agreed to.

AMENDMENT OF TITLE 5, UNITED STATES CODE

Mr. BAKER. Mr. President, there is another matter which is cleared here. I hope that we are in a position to take it up. That is H.R. 5145. I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 5154 and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object—I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5145) to amend title 5, United States Code, to provide training opportunities for employees under the Office of the Architect of the Capitol and the Botanic Garden, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 1344

Mr. BAKER. Mr. President, I send to the desk three amendments by the distinguished Senator from Alaska (Mr. STEVENS). I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the amendments.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) for Mr. STEVENS, proposes an unprinted amendment 1344.

Page 3, after line 3, insert the following new section:

SEC. 3. (a) Sections 8332(c)(1)(A), 8332(j)(2)(A), and 8334(j)(1) of title 5, United States Code, as amended by title III of the Omnibus Budget Reconciliation Act of 1982, are each amended by striking out "month" and inserting in lieu thereof "period".

(b) Section 8332(c)(1)(B) of such title 5 (as so amended) is amended to read as follows:

"(B) the service of an individual who first becomes an employee or Member on or after October 1, 1982, shall include credit for—

"(i) each period of military service performed before January 1, 1957, and

(ii) each period of military service performed after December 31, 1956, and before the separation on which the entitlement to annuity under this subchapter is based, only if a deposit (with interest, if any) is made with respect to that period, as provided in section 8334(j) of this title.".

(c) Section 8334(e)(3) of such title 5 (as so amended) is amended by striking out "calendar" the second and third times such term appears and inserting in lieu thereof "fiscal".

(d) Section 8334(h) of such title 5 (as so amended) is amended by striking out "and (d)" and inserting in lieu thereof ", (d), and (j)".

(e)(1) Section 8334(j)(1) of such title 5 (as so amended) is amended by striking out "within 90 days after the effective date of this subsection", and by striking out all that follows "December 1956" and inserting in lieu thereof a period and the following: "The amount of such payments shall be based on such evidence of basic pay for military service as the employee or Member may provide, or if the Office determines sufficient evidence has not been so provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Office under paragraph (4).".

(2) Section 306(g) of the Omnibus Budget Reconciliation Act of 1982 is amended by striking out the period and inserting the following: "; except that any employee or Member who retired after the date of the enactment of this Act and before October 1, 1983, or is entitled to an annuity under chapter 83 of title 5, United States Code, based on a separation from service occurring during such period, or a survivor of such individual, may make a payment under section 8334(j)(1) of title 5, United States Code. Regulations required to be issued under section 8334(j)(1) of title 5, United States Code, shall be issued by the Office of Personnel Management within 90 days after such effective date."

(f) Section 8342(a)(1)(B) of such title 5 (as so amended) is amended by striking out "such position" and inserting in lieu thereof "such a position".

(g) Section 8348(a)(1)(B) of such title 5 is amended by inserting after "title" the fol-

lowing: "and in withholding taxes pursuant to section 3405 of title 26".

(h)(1) Section 301(d)(1) of the Omnibus Budget Reconciliation Act of 1982 is amended by inserting after "such position" the following: ", in accordance with regulations issued by the Office of Personnel Management," and by inserting after the first sentence the following: "For purposes of the preceding sentence, the amount of any increase in any individual's retired or retainer pay which takes effect during any fiscal year shall be determined on the basis of the additional amount such individual receives after the application of the preceding provisions of this section and section 5532(b) and (c) of title 5, United States Code.".

(2) Section 301(d)(4) of such Act is amended by striking out "reduction in" and inserting in lieu thereof "deduction from".

(3) Section 301(d) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary of Commerce, the Secretary of Defense, the Secretary of Health and Human Services, or the Secretary of Transportation, as appropriate, shall furnish such information to employing agencies, the Secretary of the Senate, and the Clerk of the House of Representatives as may be necessary for the administration of this subsection.".

(i) Section 302(c) of such Act is amended in paragraph (1) by striking out ", and shall apply with respect to individuals retiring on or after such date" and in paragraph (3) by inserting after "who" the following: "is separated from employment as a technician on or after October 1, 1982. Such subsection (h) shall also apply to any technician".

(j)(1) Section 303(d)(1) of such Act is amended by striking out "made" and inserting in lieu thereof "for which application is received by either the employing agency or the Office of Personnel Management" and by adding at the end thereof the following: "Notwithstanding the preceding two sentences, the amendments made by subsection (a) shall apply in the case of any deposit for military service under section 8334(j) of title 5, United States Code (as added by section 306(d) of this Act), regardless of whether such military service was performed before or after October 1, 1982.".

(2) Section 8344(a) of such title 5 is amended in the second sentence by inserting after "pay" the following: "unless the individual elects to have such deductions withheld under subparagraph (A)", in subparagraph (A), by inserting before "his annuity" the following: "deductions for the Fund may be withheld from his pay (if the employee so elects), and", and, in the eighth sentence, by inserting after "Fund" the following: "(to the extent deposits or deductions have not otherwise been made)".

(k)(1) Section 307(a) of such Act is amended by inserting after "this Act" the following: "or who is entitled to an annuity based on a separation from service occurring on or before such date of enactment".

(2) Section 307(b) of such Act is amended by striking out "insurance benefits under section 202(a)" and inserting in lieu thereof "or survivors' insurance benefits under section 202" and by inserting after "such old-age" the following: "or survivors'".

(3) Section 307(d)(1) of such Act is amended by striking out "insurance benefits under section 202(a)" and inserting in lieu thereof "or survivors' insurance benefits under section 202".

(l) Section 310(b)(1) of such Act is amended by inserting "pay periods beginning in" before "fiscal years" and by striking out "under the General Schedule" and inserting in lieu thereof "as defined in section 5504(b) of title 5, United States Code".

(m) Section 351 of such Act is amended—

(1) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d),

(2) in subsection (c), as so redesignated—

(A) by striking out "The" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the", and

(B) by adding at the end thereof the following new paragraph:

"(2) The amendments made by this section shall not apply to any employee who is serving a tour of duty at a post of duty in Alaska or Hawaii on the date of the enactment of this Act during—

"(A) such tour of duty, and

"(B) any other consecutive tour of duty following such tour of duty.", and

(3) by striking out "subsections (c) and (d)" in subsection (d), as so redesignated, and inserting in lieu thereof "subsection (c)".

(n) The amendments made by this section shall take effect as of the date of the enactment of the Omnibus Budget Reconciliation Act of 1982.

On page 3, after line 3, insert the following new section:

SEC. .(a) The Office of Personnel Management shall determine the amount by which the Government contribution under section 8906(b) of title 5, United States Code, for the 1983 contract year is less than the Government contribution which would have been determined under such section 8906(b) for such contract year if the Government contribution had been calculated by using the two employee organization plans which in 1981 satisfied the standard set forth in section 8906(a)(3) of such title.

(b) The Government shall pay the amount of the difference determined under subsection (a) to the contingency reserves of all health benefits plans for contract year 1983 in proportion to the estimated number of individuals enrolled in such plans during 1983. Such payments shall be paid by the appropriate agencies (including the Postal Service and the Postal Rate Commission) from the appropriations referred to in section 8906 (f) and (g) of title 5, United States Code, in the same manner as if such payments were Government contributions, and in amounts determined appropriate by the Office of Personnel Management.

On page 3, after line 3, insert the following new section:

SEC. 5. (a) Subparagraph (B) of section 3595(b)(3) of title 5, United States Code, is amended by inserting "(i)" after "entitled" and by inserting after "that position" the following: "or (ii) be detailed by the Office to any vacant Senior Executive Service position for which the Office deems the employee to be qualified in any agency for a period not to exceed 60 days, and be placed in such position by the Office after the period of such detail, unless the head of the agency determines that the career appointee is not qualified for such position.".

(b) Paragraph (3) of section 3595(c) of such title is amended to read as follows:

"(3) in the event the career appointee is not placed under subsection (b)(3) of this section—

"(A) whether the Office of Personnel Management took all reasonable steps to achieve such placement, and

"(B) the decision of any agency under subsection (b)(3)(B) of this section that the career appointee is not qualified to be placed in a position.".

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall apply to an individual who is a career appointee on or after September 30, 1982, except that any individual who is a career appointee on September 30, 1982, and who is described in section 3595(b)(3) of title 5, United States Code, may not be removed before December 15, 1982 due to a reduction in force, unless the removal is under section 3595(b)(4)(A) of such title on the grounds the individual declined a reasonable placement offer.

Mr. METZENBAUM. Mr. President, is the leader in a position to give us a description of those amendments?

Mr. BAKER. No, I am not.

I shall not move to reconsider after the Senator has had a chance to examine them.

Let me go forward with the balance of this procedure. Then if the Senator has any further questions, we can reconsider.

Mr. STEVENS. Mr. President, H.R. 5145 authorizes the Architect of the Capitol to train his employees. The Budget Committee has informed us that there is a very minor indirect authorization of spending which would result from enactment of this legislation. Therefore, to comply with the Budget Act, the committee expects the Architect of the Capitol to absorb any additional costs as a result of this legislation into his current budget.

Mr. President, I have three amendments to this legislation. The first amendment is simply technical amendments to the civil service portion of the Omnibus Reconciliation Act. Most of them are designed to streamline the administration of the changes we made last month.

The second amendment authorizes the Office of Personnel Management to detail to agencies with vacant positions senior executives who are subject to a reduction in force.

The third amendment rechannels certain Government contributions to the Federal employee health benefits program into the contingency reserves of the health carriers.

Mr. President, I ask that a sectional analysis of these changes be printed in the RECORD at this point.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTIONAL ANALYSIS OF AMENDMENTS TO H.R. 5145

The first amendment consists of technical changes to the Omnibus Reconciliation Act of 1982:

Subsection (a) provides for crediting of military service by period of service, as is the case with civilian service, rather than by month.

Subsection (b) clarifies that pre-1957 military service will be creditable for civil service retirement purposes even if the employee chooses not to make a deposit in order to obtain service credit for post-1956 military service.

Subsection (c) amends section 8334(e) to provide that the interest rate charged for each year after 1984 will be based on the average yield of new investments in the previous fiscal year rather that the calendar year. This change is necessary because the accounts of the Retirement Fund are kept on a fiscal year basis. This change will also give sufficient time to determine the new interest rate and get it in place by the beginning of the new calendar year.

Subsection (d) adds the new deposits for military service to the list of deposits that may be made by survivors of employees or Members.

Subsection (e)(1) removes the 90-day requirement by which the Office of Personnel Management must issue regulations from the main body of the section and subsection (e)(2) adds it at the end. It also provides an alternative to computing military base pay for the purpose of an employee's contribution based on his military service to avoid the reduction in his retirement annuity at age 62. The alternative provides that where an employee fails to provide sufficient evidence of his military base pay, an estimate will be used by OPM to compute the pay.

Subsection (e)(2) authorizes an employee who retired after the date of enactment of the Reconciliation Act and before October 1, 1983 to make the requisite payment to the Office of Personnel Management.

Subsection (f) clarifies that an applicant for a refund may satisfy the 31-day separation requirement even if he changes position during the 31-day period, as long as none of the positions are covered by the retirement system.

Subsection (g) provides access to the retirement fund for necessary money to pay administrative expenses for the new program of tax withholding from annuities mandated by the Tax Equity and Fiscal Responsibility Act of 1982.

Subsection (h)(1) gives the Office of Personnel Management regulatory responsibility for the offsetting of civilian pay by the amount of military retired pay cost-of-living adjustments. It also provides that the offsetting reduction in civilian pay will not exceed the increase in military retired pay actually received by the affected employee. In other words, the application of this provision will not require a decrease in the total amount received by an employee from his military retired pay plus his salary.

Subsection (h)(2) clarifies that an employee's rate of pay before the offset would be the rate of pay for such purposes as computing premium pay, annuities and other pay-connected benefits.

Subsection (h)(3) directs the Secretaries of the various Departments paying military retired pay to make available the necessary information for the pay offset to operate

Subsection (i) establishes that the Office of Personnel Management would have access to Social Security and workers' compensation records for disability roll policing purposes for all annuitants, effective October 1, 1982, and not just for records pertaining to annuitants retiring on or after October 1. It also makes clear that the new disability provision for technicians would apply to technicians separated in the future as well as to those separated between December 31, 1979, and October 1, 1982.

Subsection (j)(1) provides for the applicability of existing provisions to refunds for which applications are received by the Office of Personnel Management by September 30, 1982, rather than refunds which are paid by that date. It also makes clear that the new interest rate provisions would apply to all deposits for military service under new section 8334(j), and not just to deposits for military service performed after October 1, 1982.

Subsection (j)(2) allows a reemployed annuitant to have retirement contributions withheld from his paycheck and does not penalize such an annuitant who elects not to make such contributions at that time by charging the interest rate provisions of section 8334 of title 5, United States Code to his unpaid contributions.

Subsection (k)(1) provides that an employee who is entitled to a deferred annuity will come under the catch 62 charge applicable to annuitants.

Subsection (k)(2) provides that the Social Security offset for current annuitants whose annuities are based in part on military service would apply in the case of annuitants receiving Social Security survivors' benefits as well as those receiving old-age benefits.

Subsection (k)(3) amends the definition of "determination month" used in computing the Social Security offset for current annuitants to cover Social Security survivor' benefits as well as old-age benefits.

Subsection (l) provides that the use of the 2,087 pay divisor would apply to pay periods beginning in fiscal years 1984 and 1985, in order to avoid changing pay computation formulas in the middle of a pay period. It also provides that the use of the 2,087 divisor would apply to all annual rate employees who are paid on a biweekly basis, rather than to General Schedule employees alone.

Subsection (m)(1) redesignates certain subsections in Section 351 of the Reconciliation Act. Subsection (m)(2) grandfathers employees currently stationed in Alaska or Hawaii into the old law. Subsection (m)(3) strikes out the special provisions for employees who have already served in those two locations for more than five years.

The second amendment provides the following:

The Omnibus Reconciliation Act of 1981 provided for an intricate placement program of Senior executives who were subject to a reduction in force. This amendment strengthens the placement authority of the Office of Personnel Management.

Subsection (a) amends section 3595 (b)(3) of title 5, United States Code and entitles a Senior Executive Service employee who is scheduled to be separated from his agency due to a reduction in force to be detailed by the Office of Personnel Management to any Senior Executive Service position in government for which the employee appears to be qualified. Such a detail will be for 60 days. After the 60-day period, the employee will be placed in such a position unless the head of the agency to which the employee was detailed determines that the employee is not qualified for such a position.

Subsection (b) amends Section 3595 (c)(3) of such title to give an employee who is determined by an agency to not the qualified for a position an appeal right to the Merit System Protection Board. The employee may appeal the agency's determination that he was not qualified for the position.

Subsection (c) provides that the above amendments apply to a Senior Executive Service employee on the rolls on or after September 30, 1982. If further provides that such an employee may be separated from government as a result of a reduction in force before December 5, 1982.

The third amendment provides for the following:

As a result of the 1982 open season in the Federal Employee Health Benefits Program, one of the employee organizations was replaced by another in the computation to determine the overall government contribution to the program. To stabilize the program, this amendment rechannels the government contributions into the contingency reserves of the health carriers.

Subsection (a) states that the Office of Personnel Management shall determine the difference between the government contribution to the Federal Employee Health Benefits Program for 1983 and what it would have had been had the two employee organizations which were included in the government contribution formula for 1981 were used in the formula for 1983.

Subsection (b) provides that the difference determined under subsection (a) shall be paid into the contingency reserves of all the health plans for 1983 in a proportion to the number of enrollees in each plan. OPM shall determine the amount each agency shall pay from its appropriations for this account.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP 1344) was agreed to .

Mr. BAKER. Mr. President, with the full understanding that the Senator from Ohio is entitled to the right to reconsider the action taken on the amendment and on the bill itself, I ask for third reading.

The PRESIDING OFFICER. The question is on engrossment of the amendment and the third reading of the bill. The bill was ordered to be engrossed and to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 5145), as amended, was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE RESOLUTION 462—COMMITTEE ON FOREIGN RELATIONS DISCHARGED FROM FURTHER CONSIDERATION AND MEASURE REFERRED TO COMMITTEE ON FINANCE

Mr. BAKER. I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of Senate Resolution 462 and ask that that measure be referred to the Committee on Finance.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EFFIGY MOUNDS NATIONAL MONUMENT

Mr. BAKER. Is the minority leader prepared to proceed with Calendar Order No. 814, S. 1661?

Mr. ROBERT C. BYRD. Yes, I am.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate S. 1661, Calendar Order No. 814.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1661) to authorize the Secretary of the Interior to acquire certain lands by exchange for addition to Effigy Mounds National Monument in the State of Iowa, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior is authorized to accept a conveyance of approximately four acres of land adjacent to the Effigy Mounds National Monument in the State of Iowa, and in exchange therefor to convey the grantor, without monetary consideration, approximately three acres of land within the monument, all as described in subsection (b) of this section. Effective upon consummation of the exchange, the land accepted by the Secretary shall become part of Effigy Mounds National Monument, subject to the laws and regulations applicable thereto, and the land conveyed by the Secretary shall cease to be part of the monument and the boundary of the monument is revised accordingly.

(b) The land referred to in subsection (a) which may be accepted by the Secretary is more particularly described as that portion of the southeast quarter of the southeast quarter of section 28 lying south and east of County Road Numbered 561, and the land referred to in subsection (a) which may be conveyed by the Secretary is more particularly described as that portion of the northeast quarter of the northeast quarter of section 33 lying north and west of County Road Numbered 561, all in township 96 north, range 3 west, fourth principal meridian, Allamakee County, Iowa.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE IRISH WILDERNESS

(Note: Later in today's proceedings, the following action was vitiated.)

Mr. BAKER. Mr. President, I ask the minority leader if he is prepared to do so, I am prepared to ask the Chair to lay before the Senate Calender No. 815, S. 1964.

Mr. ROBERT C. BYRD. There is no objection.

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate S. 1964, Calendar Order No. 815.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1964) to designate certain lands in the Mark Twain National Forest, Missouri, which comprise about seventeen thousand five hundred and sixty-two acres, and known as the Irish Wilderness, as a component of the National Wilderness Preservation System.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be known as the Irish Wilderness Act of 1981.

SEC. 2. In furtherance of the purposes of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), the following area as generally depicted on a map appropriately referenced, dated December 1981, is hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System, certain lands in the Mark Twain National Forest, Missouri, which comprise about seventeen thousand five hundred and sixty-two acres, are generally depicted on a map entitled "Irish Wilderness", dated December 1981, and shall be known as the Irish Wilderness.

SEC. 3. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Irish Wilderness area with the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 4. The area designated as wilderness by this Act shall be administered in accordance with the applicable provisions of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), except that any reference in such provisions to the effective date of such Acts shall be deemed to be a reference to the effective date of this Act.

● Mr. EAGLETON. Mr. President, I am pleased that the Senate has considered and passed S. 1964, the Irish Wilderness bill, as part of the Eastern Wilderness System. It is a proud day for Missourians. The Senate has taken a big step in preserving Missouri's crown jewel of wilderness. Since 1973, when the Senate first passed the Eastern Wilderness Act, I have been working with former Senator Symington and Senator DANFORTH in adding these valuable 17,562 acres of Irish Wilderness.

I want to thank the Senate Energy and Natural Resources Committee for holding a hearing this year and for reporting this bill without amendments. Without the chairman's cooperation, Irish Wilderness legislation would not be on the floor today.

Missouri is quite lucky. While wilderness legislation has shrunk and disappeared from many of our States, Missourians have fought to preserve some of its best geology, ecology, and natural beauty in its wilderness areas. Wilderness in Missouri, passed in past sessions of Congress, are Piney Creek, Bell Mountain, Rockpile Mountain, Devils Backbone, Hercules Glades, and Mingo Wilderness. Irish will help to complete Missouri's wilderness system. I am hopeful that later this week, the last parcel in our original wilderness package, Paddy Creek, will also be passed.

Recently the Joplin Globe printed an editorial in support of Irish Wilderness:

In six wilderness areas, covering nearly 50,000 acres, no barbed wire fences divide virgin forests and tall grass prairies. The sounds of wildlife are not drowned out by the echo of power saws or hydraulic mining equipment. There are no neon-lighted hotdog stands in the heart of glades. Nor is the native beauty of the land scarred by roads or utility poles.

I am glad that the 97th session of the Senate has taken the steps to give Irish Wilderness the same protection the other six Missouri areas enjoy. Today is a day that all Missourians and I have waited a long time for, and one that will benefit future generations who will have the opportunity to walk in the pristine beauty of Irish Wilderness.●

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOOSIER NATIONAL FOREST

(Note: Later in today's proceedings, the following action was vitiated.)

Mr. BAKER. Mr. President, I am prepared now to deal with S. 2710, if the minority leader is.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. I thank the Senator.

Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 819, S. 2710.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2710) to establish a wilderness area in the Hoosier National Forest area, Ind.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which has been reported from the Commit-

tee on Energy and Natural Resources with an amendment to strike out all after the enacting clause, and insert the following:

That in furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131), certain lands within the Hoosier National Forest, Indiana which comprise approximately twelve thousand nine hundred and fifty-three acres as generally depicted on a map entitled "Charles C. Deam Wilderness—Proposed", dated April 30, 1982, are hereby designated as wilderness, and therefore as a component of the national wilderness system, and shall be known as the Charles C. Deam Wilderness.

SEC. 2. Subject to valid existing rights, the Charles C. Deam Wilderness as designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 3. Nothing in this Act shall affect the right of public access to cemeteries located within the Charles C. Deam Wilderness, including the Terril Cemetery. The right of access to privately-owned land completely surrounded by national forest lands within the area, designated by this Act as wilderness and to valid occupancies wholly within the areas designated by this Act as wilderness shall be protected in accordance with the provisions of section 5 of the Wilderness Act.

SEC. 4. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest roadless areas in Indiana and the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than Indiana, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Indiana;

(2) with respect to the national forest lands in the State of Indiana which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), that review an evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Indiana reviewed in such final environmental statement and not designated as wilderness by this Act shall be managed for multiple use pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Indiana for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

SEC. 5. As soon as practicable after enactment of this Act, maps and legal descriptions of the Wilderness Area shall be filed with the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and National Resources of the Senate, and such maps and legal descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That corrections of clerical and typographical errors in such legal descriptions and maps may be made.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to establish the Charles C. Deam Wilderness in the Hoosier National Forest, Indiana."

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR PLAQUE HONORING JOSEPH ROSENTHAL

Mr. BAKER. Mr. President, the next item I have is House Joint Resolution 207, if the minority leader is prepared to go to that one.

Mr. ROBERT C. BYRD. No objection.

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 821, House Joint Resolution 207.

The PRESIDING OFFICER. Is there objection?

There being no objection, the joint resolution (H.J. Res. 207) to require the Secretary of the Interior to place a plaque at the U.S. Marine Corps War Memorial honoring Joseph Rosenthal, photographer of the scene depicted by the memorial, was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the point resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

H.R. 7102—HELD AT DESK

Mr. BAKER. Mr. President, I am advised that this request has been cleared. I will state it now for consideration of the minority leader.

I ask unanimous consent that when the Senate receives from the House of Representatives H.R. 7102, migrant and seasonal agricultural workers, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

H.R. 3787—HELD AT DESK

Mr. BAKER. I believe this has been cleared as well, Mr. President.

I ask unanimous consent that H.R. 3787 be held at the desk until the close of business on Thursday, September 30.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I have cleared on this side H.R. 5154, if the minority leader is prepared to proceed with that.

Mr. ROBERT C. BYRD. Mr. President, that item has been cleared.

Mr. BAKER. I thank the minority leader.

TO AMEND THE LANHAM TRADEMARK ACT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate H.R. 5154.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5154) to amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which was read a second time by title.

Mr. HATCH. Mr. President, the purpose of H.R. 5154 is to clarify that portion of the Lanham Act (15 USC § 1051 et seq.) which protects federally registered trademarks from interference by State or territorial legislation. S. 2001, which I introduced on December 16, 1981, is identical to this House version and enjoys the support of my colleagues. This legislation provides that no State or jurisdiction in the United States may require alteration of a federally registered mark, or that component features of a composite mark be displayed in a manner differing from that exhibited in the certificate of registration issued by the U.S. Patent and Trademark Office.

Trademarks play an indipensable role in the operation of all free market economies. A trademark is a form of property acquired when a mark is used

in connection with a particular trade or business. To enhance and strengthen rights acquired through use, Congress enacted the Lanham Act which provides a system of trademark registration administered by the Patent and Trademark Office. In section 45 of the act, Congress expressly stated that the act was intended "to protect registered marks used in commerce from interference by state or territorial legislation."

Notwithstanding this provision in the law, several State commissions have issued onerous and conflicting trademark display regulations which directly interfere with the uniform use of federally registered marks. Litigation challenging these regulations has produced conflicting decisions and has not provided a satisfactory solution. Some courts have found such regulations to be anticompetitive and to result in unconstitutional deprivation of property. Other courts have upheld them.

Thus, trademark owners are confronted with serious uncertainty as to the value of Federal trademark registrations and as to the protectability of their investment in widely used marks. Although the regulations have been primarily directed toward companies engaged in franchising, the implication of the regulations is that States may prevent the uniform use of all trademarks.

In the absence of clarifying legislation, many businesses will be forced to endure unjustifiable hardships and interstate commerce will be seriously impeded. H.R. 5154 will prevent unwarranted interference with the use of federally registered trademarks. In addition, it will make it possible for consumers to identify and obtain desired goods or services by allowing trademark owners to use their marks in the same manner throughout the United States. The legislation will clarify the intent of the Lanham Act; it will enhance and protect the established rights of trademark owners; and it will encourage trademark owners to apply for Federal registration.

Historically, the Congress has been committed to fostering competition as the most effective means of protecting the public interest and, at the same time, promoting an economic system of independent local businesses which can effectively compete with one another. H.R. 5154 is consistent with prior acts of Congress designed to prevent anticompetitive practices and to promote fair competition by independent local businesses.

Therefore, I conclude that the patchwork of conflicting local regulations affecting trademark display conflicts with the intent of the Lanham Act, and presents a serious threat to the owners of federally registered trademarks. The public interest will be protected by enabling trademark owners to use their marks in a uniform manner throughout the United States. It is the traditional right of State and local governments to protect the health, welfare, and safety of their citizens by enacting laws and ordinances designed to protect historic landmarks, scenic beauty, and environmental quality. H.R. 5154 would not conflict with that traditional authority since those worthy interests can be protected without mandating alterations in federally registered trademarks.

To make the limited scope of the bill clear, an amendment has been adopted, recommended by the Patent and Trademark Office, to make it clear that restrictions on a State's power is limited to the display of the franchisee's name "in the mark" itself and not to other uses of trademarks in advertising.

This legislation has the support of the administration, the Patent and Trademark Office, the Department of Justice, the Department of Commerce, the National Association of Real Estate Brokers, the U.S. Trademark Association, the U.S. Patent Law Association, and the International Franchise Association. I am not aware of any opposition to this legislation.

H.R. 5154 is a technical bill which shall be applicable in those instances where governmental agencies have sought to interfere with the uniform display of federally registered trademarks.

I submit certain material related to this legislation.

NEED FOR LEGISLATION—NATURE AND PURPOSE OF TRADEMARK PROTECTION

Section 45 of the Lanham Act defines the term trademark as including "any word, name, symbol or device or any combination thereof adopted and used by a manufacturer or merchant to identify his goods and distinguish them from those manufactured or sold by others". (15 USC § 1127).

Other types of marks including service marks, certification marks and collective marks are also protected under the Lanham Act.[2]

The use of trademarks began at least 3500 years ago when potters' marks were used to identify the source of clay pots. By placing his mark on his pots, an artisan could be identified with the quality of the craftsmanship by all who encountered his work.[3] Trademark rights have long been recognized at common law as a form of property for which protection could be obtained. Today many companies view trademarks as their most valuable assests.

To enhance and strengthen the rights of trademark owners, Congress enacted a series of trademark statutes in 1870, 1881, 1905 and 1920. This legislation was supplanted in 1946 by the Lanham Act which provides a system whereby trademark owners may register their marks with the United States Patent and Trademark Office. A federal registration provides several procedural benefits for the trademark owner, and the registration system provides a means whereby businesses may determine whether a particular mark is available for use. Prior to adopting a new mark businesses generally conduct a search of Patent and Trademark Office records to avoid conflicts with the established rights of others.

Since 1947 when the Lanham Act became effective, the advent of network television, the increased opportunity for use of nationwide advertising, and the evolution of franchising and other innovative business practices have had a significant effect on the manner in which trademarks are used and the need for trademark protection.

To successfully launch new products and to increase sales of existing products, businesses frequently invest substantial sums in advertising designed to create consumer awareness and demand. Invariably, such advertising emphasizes a particular trademark. As consumers become acquainted with a mark through advertising, the owner's rights in the mark are strengthened and the value of the mark is increased.

Before adopting a mark and investing money in advertising, all businesses whether large or small need reasonable assurance that they will be able to use their marks in a uniform manner throughout their trading area. The registration system provided by the Lanham Act is designed to advance that objective. Federal registration is not mandatory, however, and many businesses never apply to register their marks. If uniform use of federally registered marks is precluded by local regulations, many other businesses may conclude that federal trademark registrations are of limited value. This will discourage the filing of trademark applications and will diminish the effectiveness of the Trademark Register as a tool for preventing the adoption of marks which may lead to confusion of the public.

H.R. 5154 will encourage businesses to apply for federal registration by insuring that the owners of such registrations will be permitted to use their marks in interstate commerce without interference by local regulation.

THE IMPORTANT ROLE OF TRADEMARKS IN FREE MARKET ECONOMIES

A fundamental aspect of the law regulating the American economy is the encouragement of competition. This is based on the principle that competition in business is both socially and economically desirable.

The concept of competition as protecting a citizen's economic liberty and freedom is also widely recognized.[4] Without trademarks or other indicia of origin, however, competition between businesses could not exist. As a result, trademarks and service marks are universally recognized and protected as indispensable elements in all free market economies.[5]

In general a trademark functions and is accorded legal protection because it (a) designates a source of origin of a particular product or service, even though the source is to the consumer anonymous; (b) denotes a particular standard of quality which is embodied in the particular service or product; (c) identifies a product or service and distinguishes it from the goods or services of others; (d) symbolizes the good will of its owner and motivates the consumer to purchase the trademarked product or service; (e) represents a substantial advertising investment and is treated as a species of property; or (f) protects the public from confusion and deception, insures that consumers are able to purchase the product or service

Footnotes at end of article.

they want, and enables the courts to fashion a standard of acceptable business conduct.[6]

Consumers place great reliance on trademarks as indicators of the source of desired goods or services and as guarantees of quality. Reputable businesses recognize this fact and endeavor to use their marks in a uniform manner both in advertising and in connection with the sale of goods or services so as to convey source and quality messages to consumers. A failure or inability to use marks uniformly may result in confusion or suspicion in the mind of the consuming public. Regulations which require alterations of trademarks interfere with the rights of trademark owners to convey messages to the public and deprive consumers of the desired information.

Trademarks play an important role in our society and this legislation will preserve and enhance that role, thereby benefiting both trademark owners as well as members of the public.

CONFLICTING TRADEMARK DISPLAY REGULATIONS

In enacting the Lanham Act, Congress specifically stated that it intended "to protect registered marks used in commerce from interference by state or territorial legislation" (15 USC § 1127).[7]

Notwithstanding this provision in the law, several state real estate commissions have issued onerous and conflicting trademark display regulations which directly interfere with the established trademark rights of various real estate businesses and which present a potential threat to the rights of all trademark owners.

The real estate regulations are directed at companies which engage in franchising. Customarily, real estate franchisees are licensed to use the federally registered marks owned by their franchisors. As a general rule, the trade names of the franchisors and franchisees are displayed together in a distinctive design which is used as a composite trademark or service mark on a variety of materials including yard signs, building signs, stationery, brochures and other materials. These marks have been widely used in neighborhoods throughout the United States and have become familiar symbols to millions of Americans.

Although the regulations vary from state to state, they generally include ratio requirements requiring reduction in the size of the franchisor's name relative to that of the franchisee. In some states the franchisee's name and the franchisor's name must be displayed in a 50/50 ratio. Other state regulations have mandated ratios of 66/33 and 33/66, thereby making uniform display impossible.

The ostensible purpose of the regulations is to insure that prospective purchasers realize that they are dealing with independent locally owned franchisees as opposed to a single large corporation. In point of fact, consumers who deal with members of most franchise organizations are dealing with a nationwide network of brokers which provide an array of benefits including assistance with interstate relocations and special financing arrangements. No evidence has ever been produced that any consumer has been confused or that any individual has been harmed as a result of confusion. In transactions as important as the purchase or sale of a home or commercial property, most consumers make an effort to ascertain the identity of those with whom they deal.[8] Moreover, there is evidence that a change in the relative size of trademark components will affect public perception of the nature of such businesses.

Many states have adopted rules which come closer to achieving the objective without interfering with the use of registered trademarks. Colorado, for example, requires "conspicuous disclosure" of the franchisor/franchisee relationship and the fact that each office is "independently owned and operated". This achieves the purported goal of trademark display regulations efficiently without interfering with established trademarks. This rule also distinguishes between advertising for specific properties for sale and institutional advertising by the franchisor. The latter type of advertising is impossible if the identity of each individual franchisee must be disclosed. Other states with "conspicuous disclosure" rules include Georgia, Maryland, New Jersey, Oklahoma and Washington. Certainly such rules are much more effective in achieving the legislative objective while at the same time avoiding the hardships created by trademark display regulations.

CONFLICTING JUDICIAL AND ADMINISTRATIVE DECISIONS ON THE VALIDITY OF TRADEMARK DISPLAY REGULATIONS

Many of the persons and businesses adversely affected by trademark display regulations have initiated litigation in state and federal courts. In most instances, the regulations have been struck down; however, in two states, Alabama and Nevada, they have become final. Litigation is presently pending in other states.

Century 21 Real Estate Corporation and Red Carpet Realty Corp. of America challenged the Nevada Real Estate Commission's 50/50 rule on First Amendment, due process, federal preemption and Commerce Clause grounds. A three judge federal court granted the Commission's motion for summary judgment on all issues. The summary judgment was affirmed without opinion by the Supreme Court.[9] In this case the lower court rules the Lanham Act was not intended to control all aspects of trademark law and that the Nevada regulation did not collide with the policies or provisions of the Act.

At the time, however, neither of the affected parties had obtained a federal registration for the marks in question. A service mark was issued to one of the parties on October 17, 1978, six months after the trial court's decision. The Nevada decision has been followed in one subsequent action under the theory of *res judicata*.[10] Other courts have rejected trademark display regulations as having no rational basis, and have held enactment of such regulations to be beyond the authority of the agency involved and/or an unlawful conspiracy in restraint of trade. At least one court has found that such regulations violate the Fifth and Fourteenth Amendments of the Constitution.[11]

Numerous attorney generals have considered trademark display regulations in their respective states and have held them to be invalid. For example, as early as 1976, the Attorney General of Kansas found that a rule requiring the franchisee's name to precede the franchisor's was invalid.[12] The Louisiana Attorney General issued an opinion declaring the 50/50 ratio section of the rule proposed by the Louisiana Real Estate Commission as violative of due process.[13] Other attorney generals have concurred. Even in Nevada, the location of the first suit involving trademark display regulations, the Attorney General wrote that the real estate franchise system of advertising was not misleading as to the individual identity of each franchisee's office.[14]

ANTICOMPETITIVE ASPECTS OF TRADEMARK DISPLAY REGULATIONS

Real estate brokers and salesmen are licensed by real estate commissions in the various states. The commissions are often composed of non-franchised brokers who are in direct competition with those they regulate. The trademark display regulations promulgated by the real estate commissions apply only to franchised real estate brokers, many of whom have invested substantial sums of money in signs and advertising materials. The regulations require franchised real estate brokers to discontinue using existing signs and advertising materials, and to purchase new ones. Thus, the franchised brokers are not only required to forfeit capital investments by altering the marks under which they have done business, but also they are required to incur extraordinary expenses for new signs and other materials.

This places the franchised real estate brokers at a serious competitive disadvantage. During consideration of a similar bill in the 96th Congress, the anticompetitive aspect of trademark display regulations was acknowledged by the Department of Justice.[15]

Courts which have considered trademark display regulations have also found them to be anticompetitive in nature. In litigation challenging trademark display regulations promulgated by the Real Estate Commission in Mississippi, the court found that the motivation for the adoption of the rules was not protection of the public welfare, but rather protection of the Commissioners and other real estate brokers from competition.[16]

"Trademarks, indeed are the essence of competition."[17]

UNCONSTITUTIONAL ASPECTS OF TRADEMARK DISPLAY REGULATIONS

The right to use a trademark is recognized as a form of property, of which the owner is entitled to the exclusive enjoyment to the extent that it has been actually used.[18] It is the essence of due process that a state cannot affect a person's personal and property rights except after a hearing before a fair and impartial tribunal.[19] Moreover, state regulation affecting fundamental rights can only be upheld under the Fourteenth Amendment if it seeks to promote legitimate state interests in a rational manner.[20]

Trademark display regulations have been held to constitute a deprivation of property without due process and without just compensation in violation of the Fifth and Fourteenth Amendments of the Constitution, and an impairment of the obligation of contracts in violation of Article 1, Section 10, of the Constitution.[21]

There is no rational basis for the regulations promulgated by the various real estate commissions. Less restrictive alternatives for achieving those objectives are available and have been adopted in many states.

H.R. 5154 will provide guarantees against future deprivations of constitutional rights involving trademarks.

ECONOMIC HARDSHIPS CREATED BY TRADEMARK DISPLAY REGULATIONS

The trademark display regulations in the various states have imposed serious hardships on an already troubled real estate industry. The regulations diminish the ability of real estate franchises to compete effectively and injure them in other ways. Franchisees are deprived of a property right in that they are required to alter marks in

which significant good will has been developed. They are deprived of their contractual right to use their franchisor's readily identifiable mark. The regulations increase the cost of doing business by requiring franchisee's to incur the ongoing expense of changing signs, letterhead, advertising materials and sales tools. The regulations constitute an unwarranted interference with federally registered trademarks by prohibiting uniform use of the marks in interstate commerce. This, in turn, hampers efforts to strengthen the mark through uniform use. Although existing trademark display regulations are directed primarily at real estate brokers, they set a dangerous precedent for interference with other marks.

Iris Reeves, owner of a franchised real estate brokerage office in Alabama, estimated that the total cost of complying with the trademark display regulation promulgated in that state will amount to over $27,000.00 for her office alone. As a result of costs incurred in complying with the rules she was forced to close one of her two offices.

Trade associations and bar groups including the United States Trademark Association and the International Franchise Association have expressed concern as to the potential harm presented by trademark display regulations and have formally endorsed the legislation as a means of assuring trademark owners that their valuable rights will not be impaired and diluted.

The public is also adversely affected by the patchwork of regulations requiring trademark alteration since prospective purchasers are deprived of the right to receive source and quality identifying information which is otherwise available where trademark owners are allowed to use their marks uniformly. Trademark infringement, whether deliberate or unintentional, is a common occurrence. Infringers often adopt marks with sufficient similarities to cause confusion and sufficient differences to provide a basis for arguing that there was no deliberate intent to infringe. Variations in the display of well known marks are often earmarks of counterfeiting or infringement. The changes mandated by trademark display regulations may arouse suspicion or confusion in the minds of the public as to the identity, affiliation and reputation of the trademark user.

The federal trademark laws are designed to promote and encourage uniform trademark use, and to discourage activities which would result in confusion among purchasers. Trademark display regulations which require alterations of federally registered marks conflict with federal law and underlying public policy. H.R. 5154 will protect the public interest by permitting uniform trademark use.

STATE AUTHORITY TO PROTECT THE HEALTH, WELFARE AND SAFETY OF CITIZENS

Many states and local communities have laws or ordinances designed to promote scenic beauty, historical preservation and environmental protection. The legislation was carefully drafted so as to avoid any conflict with the traditional state right to regulate such matters. Some communities have adopted ordinances limiting the size of signs on which trademarks or business names may be displayed. Such regulations would not fall within the scope of the legislation since total size dimensions are not claimed as features of federally registered marks.

On the other hand, the relative sizes of components or elements of federally registered marks are protected features. Thus, regulations requiring alteration in the relative size of trademark components are prohibited by the legislation.

Some states have enacted laws requiring inclusion of warnings or other disclosures on product labels. As a general rule, registered trademarks are merely one feature of a label or container. Thus, any disclosures required by state law could be included on product packaging without requiring an alteration of federally registered trademarks. The legislation will not affect state authority to require such warnings or other disclosures.

FEDERAL AUTHORITY TO REGULATE INTERSTATE COMMERCE

The framers of the Constitution recognized that interstate commerce could be most efficiently regulated by the federal government. As a result, under Article 1, Section 8 of the Constitution, Congress was given express authority to "regulate commerce with foreign agents and among the several states and the Indian Tribes". Congressional authority to enact laws pertaining to trademarks is derived from the interstate commerce clause of the Constitution.

H.R. 5154 is consistent with prior legislation relating to trademarks and will serve to ease the regulatory burdens which businesses are called to bear in this country.

The Lanham Act provides a basis for federal question jurisdiction in actions for trademark infringement and unfair competition arising under the Act. (15 USC § 1121). The jurisdiction of the federal courts is not exclusive and state courts have concurrent authority to hear and decide such actions. The legislation will not prevent state courts from continuing to hear such actions, even where federally registered marks are involved, nor will the legislation affect state authority to prohibit acts of trademark infringement or unfair competition.

The regulation will prevent states and territories from enacting legislation or regulations requiring alteration of federally registered marks, thereby preserving Congressional authority to regulate commerce. The legislation will not disturb the authority of states or federal courts to adjudicate actions involving claims of trademark infringement and unfair competition.

LEGISLATIVE HISTORY

Legislation to clarify the intent of the Lanham Act and to prohibit state regulations requiring alteration of federally registered trademarks was introduced in the 96th Congress (S. 1343). The bill was not reported. On December 16, 1981, I introduced, along with Strom Thurmond and Alan Cranston, S. 2001, The Trademark Display Protection Act. The companion bill H.R. 5154 was also introduced in the House of Representatives and was ordered reported by the House Committee on the Judiciary, August 19, 1982 with a recommendation that it be passed by the House. On September 20, 1982, H.R. 5154 passed the House of Representatives and is now awaiting Senate consideration.

ANALYSIS OF S. 2001 AND H.R. 5154

These Acts amend the federal trademark laws to prohibit any state from requiring that a registered mark be altered for use within such state. The bills will protect federally registered marks from undue interference by state and local regulation. Thus, S. 2001/H.R. 5154 prevent state regulatory commissions from meddling with federally registered trademarks by prohibiting states from requiring the display of marks or names associated with a federally registered mark in any manner other than that contemplated by the Certificate of Registration.

These bills will also promote uniform trademark usage and to encourage qualified trademark owners to seek federal registration of their marks. Nothing in this bill is intended to preclude the states from adopting legislation to promote the health, welfare and safety of citizens. For example, nothing in this bill prevents the states from enacting legislation to promote scenic beauty, historical preservation or environmental protection. Nothing in this bill is intended to prevent the state or federal courts from continuing to adjudicate actions for trademark infringement and unfair competition.

On the other hand, the legislation precludes regulations such as those promulgated by various real estate commissions which have resulted in economic hardship and which require the alteration of federally registered marks.

Substantial and effective competition requires that businesses be permitted to identify the source and quality of goods or services through the use of trademarks and service marks. The Lanham Act is designed to enhance the rights of trademark owners by providing a system of federal registration. The issuance of a federal trademark registration confers upon the registrant certain procedural benefits, and the Certificate of Registration constitutes prima facie evidence of the registrant's ownership of the mark and exclusive right to use the mark in commerce in connection with the goods or services specified in the Certificate without condition or limitation except as stated therein. (15 USC § 1057.)

To the extent that trademark owners use their marks in a uniform manner, trademark rights are enhanced and public awareness as to the source and quality of the goods or services is increased. Regulations interfering with the uniform use of federally registered marks deprive registrants of a property right and interfere with the public's right to receive source and quality indicating information.

This clarification of the Lanham Act is necessary because of conflicting judicial administrative decisions concerning the scope of protection to which federally registered marks are entitled. The conflicting judicial decisions and administrative rulings create a climate of uncertainty not only for owners of marks affected by such rulings, but for all trademark owners which use their marks in interstate commerce. The Congress of the United States has authority and responsibility in matters affecting interstate commerce.

The legislation is consistent with previous legislation designed to facilitate and promote commerce among the several states and full and fair competition between business enterprises.

The legislation is consistent with legal precedent recognizing trademarks as a property right subject to the guarantees of the Fifth and Fourteenth Amendments of the Constitution. Without clarifying legislation of this type, doubts will remain as to the efficacy of the system of federal registration embodied in the Lanham Act and the rights of all trademark owners will be jeopardized.

FOOTNOTES

[2] As used herein, the term trademark refers to all four types of marks protected by the Lanham Act.

[3] A historical treatment of trademarks may be found in Schecter, *The Historical Foundations of the Law Relating to Trademarks* (Columbia Legal

Studies, 1925). *See also*, "Report of the Commissioners Appointed to Revise the Statute Relating to Patents, Trade and Other Marks, and Trade and Commercial Names Under Acts of Congress", Approved June 4, 1898 (Government Printing Office, 1902).

[4] "So long as effective freedom of exchange is maintained, the central feature of the market organization of economic activity is that it prevents one person from interfering with another in respect of most of his activities. The consumer is protected from coercion by the seller because of the presence of other sellers with whom he can deal. The seller is protected from coercion by the consumer because of other consumers to whom he can sell . . . And the market does this impersonally and without centralized authority." Friedman, *Capitalism and Freedom*, 14-15 (1962).

[5] "The protection of trademarks is the law's recognition of the psychological function of symbols. If it is true that we live by symbols it is no less true that we purchase goods by them. A trademark is a merchandising short-cut which induces a purchaser to select what he wants. . . . Whatever the means employed, the aim is the same—to convey through the mark, in the minds of potential customers, the desirability of the commodity upon which it appears. Once this is attained, the trademark owner has something of value." *Mishawaka Rubber & Woolen Mfg. Co. v. S.S. Kresge Co.*, 316 U.S. 203, 205 (1942).

[6] Gilson, *Trademark Protection and Practice*, § 1.03 (1974).

[7] *See also*, Trademarks: Hearings on H.R. 102, H.R. 5461 and S. 895 Before the Subcomm. on Trademarks of the House *Comm. on Patents*, 77th Cong., 1st Sess. 128 (1941).

The state-interference provision was the subject of a lengthy debate during the old House Patent Committee hearings on the Lanham Act. *Id.* at 125-29. Chairman Lanham himself participated in the debate which was precipitated by an American Bar Association recommendation that the provision be deleted. One witness, responding to a question from Congressman Lanham, pointed out that the state-interference provision clearly evidenced Congress' intention to preempt the field.

"There is a particular advantage in having it here. As I understand constitutional law, if Congress does not cover a field the State legislatures may enter the field. *Here is a definite statement that it is the purpose of Congress to cover the entire field and take all the rights which Congress may exercise to itself, so that the States may not exercise any of those rights.* And for that reason it is important, it seems to me, to have it." *Id.* at 128 (emphasis added).

No congressman or witness raised any objection to this interpretation.

Mr. Liddy, Chairman of the Committee on Trademarks and Unfair Competition of the Association of the Bar of the City of New York, summed up the debate:

The reasons for the objection to the deletion of the above clause are twofold: First, if the clause now appearing in the bill is deleted by the committee of Congress, the courts in subsequently interpreting the act may construe the deletion as indicating an intention on the part of Congress to permit the States to interfere with registered marks in any way that is not expressly prohibited by other sections of the act. Such an interpretation might, for example, permit the taxing of trademarks by the States or the imposition of other burdens and conditions on the use of registered marks. This would be contrary to the fundamental purposes of the bill. Second, since the concurrent jurisdiction of the State governments over interstate commerce exists only to the extent that such jurisdiction is not exclusively appropriated and exercised by the Federal Government, it is proper that the intention of Congress to exclude the State governments from any interference with the use of registered marks in such commerce should be unequivocally stated in the act. To delete the clause in question would not only remove the appropriate statement of congressional intent, but it would go far toward defeating the purpose of the act by raising the inference that there was no such intent.

Mr. Lanham. Of course, that is reference solely to interstate commerce and not intra-state commerce?

Mr. Liddy. Exactly. *Id.* at 129.

[8] *Charles F. Ryan & Sons v. Lancaster Homes, Inc.*, 254 N.Y. S.2d 473 (N.Y. Sup. Ct. 1964), *aff'd.* 15 N.Y.2d 812 (N.Y. Ct. App. 1965).

[9] *Century 21 Real Estate Corporation v. Real Estate Advisory Comm'n.*, 448 F.Supp. 1237 (D.Nev. 1978); *aff'd without opinion*, 440 U.S. 941, 99 S.Ct. 1415, 59 L.Ed.2d 630 (1979).

[10] *Century 21 Preferred Properties, Inc. v. Alabama Real Estate Comm'n.*, 401 So.2d 764 (1981).

[11] *Century 21 Real Estate of the South, Inc. et al. v. Mississippi Real Estate Comm'n. et al.*, No. 113, 139 (Miss. Dist. Ct. 1981).

[12] "It is entirely possible that this requirement inhibits, interferes with or impedes the advertising programs of national or regional franchisors. . ." 76-291 Op. Kan. Att'y Gen. 4 (16 Sept. 1976).

[13] "There would be a violation of due process if, without a finding of actual deception or interest to deceive, a broker is found guilty of deceptive advertising merely because the ratio between his name and the name or service mark of the franchise does not correspond with the ratio established by the Real Estate Commission." 76-1411 Op. La. Att'y Gen. 3-4 (29 October 1976.)

[14] Letter from Robert List, Nevada Attorney General, by James I. Barnes, III, Deputy Nevada Attorney General, to Angus W. McLeod, Administrator, Nevada Real Estate Division at 12-13 (March 25, 1976).

[15] While regulation of ". . . display and use of trademarks could foster legitimate state interests such as protection of consumers . . . some regulation might impermissibly interfere with or negate protectable tradmark rights and might even have an anticompetitive purpose of effect." Letter of Alan A. Parker, Assistant Attorney General, Office of Legislative Affairs, Department of Justice to the Hon. Peter W. Rodino, Jr., Chairman, Committee on the Judiciary, House of Representatives, at 2 (September 15, 1980).

[16] *Century 21 Real Estate of the South, Inc. et al. v. Mississippi Real Estate Comm'n. et al.*, No. 113,139 (Miss. Dist. Ct. 1981).

[17] S. Rep. No. 1333, 79th Cong. 2d. Sess., *reprinted in* [1946] U.S. Code Cong. & Av. News, 1274,1275.

[18] *Hamilton-Brown Shoe Co. v. Wolfe Bros. & Co.*, 240 U.S. 251 (1916).

[19] *Wall v. Amer. Optometric Ass'n. Inc.*, 379 F.Supp. 175, 188 (N.D.Ga. (three judge court)), *aff'd.*, 419 U.S. 888 (1974).

[20] *Shelton v. Tucker*, 364 U.S. 479 (1960).

[21] *Century 21 Real Estate of the South, Inc. et al. v. Mississippi Real Estate, Comm'n. et al.*, No. 113,139 (Miss. Dist. Ct. 1981).

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5154) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILLS HELD AT DESK

H.J. RES. 588

Mr. BAKER. Mr. President, a request that my notations show has been cleared. I will state it now for the consideration of the minority leader.

Mr. President, I ask unanimous consent that House Joint Resolution 588 be held at the desk until the close of business on Thursday, September 30.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.J. RES. 612

Mr. BAKER. Mr. President, I ask unanimous consent that House Joint Resolution 612 be held at the desk until the close of business Thursday, September 30.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 7173

Mr. BAKER. Mr. President, I ask unanimous consent that H.R. 7173 be held at the desk until the close of business on Thursday, September 30.

The PRESIDING OFFICER. Without objection, it is so ordered.

INSPECTION AND RECEIPTS OF TAX RECORDS BY SELECT COMMITTEE TO STUDY LAW ENFORCEMENT UNDERCOVER ACTIVITIES OF DEPARTMENT OF JUSTICE

Mr. BAKER. Mr. President, another matter that has been cleared according to our notation is a resolution which I am prepared to offer on behalf of Mr. Mathias, for himself and Mr. Huddleston. It does not bear a number, but if the minority leader is prepared to proceed with it, I will offer the resolution.

Mr. ROBERT C. BYRD. Mr. President, Mr. Huddleston is on the floor and is ready to proceed.

Mr. BAKER. Mr. President, I wonder whether the Senator from Kentucky wishes to offer the resolution on behalf of himself and Mr. Mathias.

Mr. HUDDLESTON. I thank the majority leader. I will.

Mr. President, this is in connection with the select committee and is a requirement in order to complete the committee's work in an efficient and thorough manner.

I ask unanimous consent that the Senate proceed to consideration of the resolution.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 485) to authorize the inspection and receipt of tax records by the Select Committee to Study Law Enforcement Undercover Activities of Components of the Department of Justice.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MATHIAS. Mr. President, on March 25, 1982, the Senate adopted Senate Resolution 350, which established the Select Committee To Study Law Enforcement Undercover Activities of Components of the Department of Justice. This select committee, of which I am chairman, is charged with investigating the conduct of law enforcement undercover operations, including the Abscam operation. As part of its Abscam investigation, the committee is attempting to get at the facts about the distribution of funds paid by undercover operatives to public officials as purported bribes. One critical allegation concerns possible sharing of

bribe moneys by the individual working for the FBI as an informant in Abscam.

On advice from the select committee's counsel, the cochairman of the committee (Senator HUDDLESTON) and I have determined that to resolve these questions it is necessary for the committee to inspect and to receive certain tax records of individuals connected with the Abscam operation. Section 6103(f)(3) of the Internal Revenue Code of 1954, as amended, provides that a committee of the Senate has the right to inspect tax returns if the committee has been specifically authorized to do so by resolution of the Senate. This legislation would provide the select committee with such authorization.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 485

Whereas on March 25, 1982, the Senate adopted S. Res. 350, thereby establishing the Select Committee to Study Law Enforcement Undercover Activities of Components of the Department of Justice (hereinafter referred to as the Select Committee) to conduct an investigation and study of activities of components of the Department of Justice in connection with their law enforcement undercover operations generally, and the Abscam operation specifically;

Whereas the Select Committee has received conflicting evidence regarding the distribution of funds paid by undercover operatives of the Government as purported bribes to public officals in the Abscam operation;

Whereas in order to investigate the substance of these disputes it is necessary for the select committee to inspect and to receive tax returns, return information, and tax-related material, held by the Secretary of the Treasury;

Whereas information necessary for such investigation cannot reasonably be obtained from any other source; and

Whereas under subsections 6103(f)(3) and 6103(f)(4)(P) of the Internal Revenue Code of 1954, as amended, a committee of the Senate the right to inspect tax rates if such committee is specifically authorized to investigate tax returns by resolution of the Senate: Now therefor be it

Resolved, That the Select Committee to Study Law Enforcement Undercover Activities of Components of the Department of Justice is authorized, in addition to S. Res. 350, to inspect and to receive for tax years 1979 and 1980 any tax return (including amended returns), return information, or other tax-related material, held by the Secretary of the Treasury, related to ABSCAM defendants Angelo J. Errichetti, Howard L. Criden, and Louis C. Johanson, including any trusts, sole proprietorships, partnerships, corporations, and other business entities, other than publicly held corporations, in which the above named individuals have a beneficial interest, and for tax years 1977 through 1981 any tax return (including amended returns), return information, or other tax-related information, held by the Secretary of the Treasury, related to ABSCAM co-operating witness Melvin Weinberg, his late wife, Cynthia Marie Weinberg, and his present wife, Evelyn Knight or Evelyn Weinberg, including any trusts, sole proprietorships, partnerships, corporations, and other business entities, other than publicly held corporations, in which the above named individuals have a beneficial interest, and any other tax return (including amended returns), return information, or other tax-related material held by the Secretary of the Treasury, related to the above-named individuals that the Select Committee determines may contain information directly relating to its investigation and otherwise not obtainable.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SIXTIETH ANNIVERSARY OF RESERVE OFFICERS ASSOCIATION

Mr. BAKER. Mr. President, the next item on my list is a resolution to be offered by the distinguished President pro tempore of the Senate, for himself and the distinguished Senator from Mississippi (Mr. STENNIS).

Does Senator THURMOND wish to submit the resolution at this time?

Mr. THURMOND. Mr. President, I send the resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 486) expressing the sense of the Senate that the Reserve Officers Association of the United States deserves public recognition upon the sixtieth anniversary of its founding for its dedication to the development of a strong national defense.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. THURMOND. Mr. President, today, I am submitting a sense of the Senate resolution commending the Reserve Officers Association (ROA) on the occasion of ROA's 60th anniversary on October 2, 1982, for its outstanding contribution to the national security of our country.

Mr. President, it was on October 2, 1922, that General of the Armies John J. Pershing addressed several hundred officers assembled in what was then the "New Willard Hotel" in downtown Washington. At this meeting to establish ROA, General Pershing noted that before World War I the number of Reserve officers was practically negligible and, as he said, "there was no conception of even the possibility of such a society.

"But the war brought home to us in a very striking manner the advisability of reasonable precaution," he continued, "completely vindicated the advocates of military training and preliminary organization, and demonstrated beyond question the fallacy of pacifist theories."

General Pershing said that World War I taught the Nation a lesson. On October 2, 1922, he said "that never again shall our untrained boys be compelled to serve their country on the battlefield under leadership of new officers with practically no conception of their duties and responsibilities."

Today, the Reserve Officers Association of the United States is our neighbor on Capitol Hill. Their headquarters is the beautiful Minute Man Memorial Building across Constitution Avenue from the Senate Office Buildings, directly northeast of this Chamber. Members of the ROA come from all over the World. The 125,000 officers on the current rolls represent all branches of the uniformed services. Today, the membership is not confined to reserves. There are also regular officers and retired officers and the ROA can truly lay claim to representing the viewpoint of the officers of America's military forces.

Mr. President, ROA is not an organization which emphasizes the rights and benefits of military officers. The charter which the Congress gave the ROA in 1950 gives it one responsibility and that is "to support a military policy for the United States that will provide adequate national security and to promote the development and execution thereof."

It is that objective that steers ROA's course. When we seemed to be veering away from legislation providing adequate national security, we can be certain that ROA will sound the alarm.

It has contributed significantly in its 60 years to the security of these United States of America. As it opens its second six decades of service to the country, ROA will continue to serve unselfishly in this same cause that protects the freedoms that we enjoy today.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from South Carolina yield?

Mr. THURMOND. I yield.

Mr. ROBERT C. BYRD. It is my understanding that Mr. STENNIS is a cosponsor. Am I correct?

Mr. THURMOND. Senator STENNIS is a cosponsor of the resolution.

Mr. ROBERT C. BYRD. Will the distinguished Senator add my name as a cosponsor?

Mr. THURMOND. I ask unanimous consent that the name of the distinguished minority leader be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I ask the distinguished Senator from South Carolina that my name be added as a cosponsor.

Mr. THURMOND. I ask unanimous consent that the name of the distin-

guished majority leader be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I also ask unanimous consent that the name of the distinguished Senator from Georgia (Mr. MATTINGLY) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 486) with its preamble, reads as follows:

S. RES. 486

Whereas on October 2, 1922, the Reserve Officers Association of the United States was organized in Washington, D.C. at the urging of General of the Armies John J. Pershing, with the objective to support a military policy for the United States that will provide adequate national security and to promote the development and execution thereof; and

Whereas on June 30, 1950, this objective was reaffirmed in a Charter granted to the Reserve Officers Association by the Congress of the United States; and

Whereas for the past 60 years, the Reserve Officers Association has acted as a catalyst between the military, citizen-soldiers, and Congress to educate and insure that the nation's defense remains strong and visible through coordinated efforts on both local and national levels; and

Whereas for the past 60 years, the Reserve Officers Association has not only voiced its position on national security matters, but also influenced the passage of legislation to strengthen this nation's security; and

Whereas the 125,000 members of the Reserve Officers Association are commemorating the 60th Anniversary of the founding of the Reserve Officers Association of the United States: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Reserve Officers Association of the United States is deserving of public recognition and commendation upon the occasion of the sixtieth anniversary of its founding on the second day of October, 1982, and that the people of the United States should observe this date with appropriate programs, ceremonies and activities which pay tribute to the men and women who are members of this organization and to the principles of a strong national security policy to which this organization is dedicated.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECOGNIZING THE CITY OF NITRO, W. VA., AS A LIVING MEMORIAL TO WORLD WAR I

Mr. BAKER. Mr. President, the next item on my list is a resolution that perhaps the minority leader wishes to deal with.

Mr. ROBERT C. BYRD. I thank the majority leader.

Mr. President, I send to the desk a Senate resolution and ask that it be stated.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 487) to recognize the city of Nitro, W. Va., as a living memorial to World War I.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

FROM GUNCOTTON TO NATIONAL PROMINENCE

Mr. ROBERT C. BYRD. Mr. President, there are too few reminders in our Nation of the achievements, the heroism, and the sacrifices of Americans who worked on the home-front and fought in Europe to win what we have come to call World War I. It is my privilege today to introduce legislation which will acknowledge the wholehearted resolve of citizens of a uniquely qualified small city in West Virginia to help fill this historical gap. My resolution, Mr. President, asks that the Senate designate the city of Nitro as a living memorial to our victorious role in the Great War against Imperial Germany, and to those who fought in that war or worked to win it.

The existence of the city of Nitro is a direct result of this too little remembered conflict. On April 6, 1917, the Congress of the United States recognized that a state of war existed between the United States and Germany. In October of that year, appropriations legislation was enacted "for the purchase, manufacture, and test of ammunition for mountain, field, and siege cannon, including experiments in connection therewith, machinery for its manufacture and the necessary storage facilities * * *." A site for one of these plants, known as explosives plant "C", was selected at a point on the east bank of the Great Kanawha River, 16 miles west of Charleston, where the terrain, a navigable stream and railroad provided a feasible site for the manufacture of nitro-cellulose for shells, bombs, torpedoes, and naval guns, During the brief lifetime of this heavily guarded plant, some 30,000 employees lived and labored there, building from scratch an elaborate complex of homes, warehouses, furnaces, and factories for production of the essential war material known as guncotton.

The war ended, the plants closed and most of the people drifted away. A handful, however—attracted by the river and its fishing and water sports, and by the dramatic backdrop of the wild and beautiful Appalachian Mountains—remained. They set out to build a permanent community. Nitro today has some 8,000 inhabitants, many of them descendants of those early citizens. Forty-seven industries, among them some of the Nation's most important, are represented in the area. The people, keenly aware of their city's history, are dedicated to preserving the memory of its significance and their heritage.

There is, indeed, an aura of World War I about Nitro. More than 300 structures, mostly inhabited houses, remain from the original installation. Residents are fond of recounting local incidents and tragedies of the Great War, ranging from the work of the young Clark Cable as a telephone lineman, to the massive influenza epidemic of 1918, which took more than 300 Nitro lives.

Today's citizens of Nitro have contributed their time, talent and money to making their city a living memorial to the Great War. They have collected books, manuscripts, and memorabilia of all kinds. They have renovated a large warehouse beside the river to house research materials and to display wartime military equipment. A search is being made for a suitable World War I warship to moor next to this museum.

On November 11—the World War I Armistice Day before it became Veterans Day—the city of Nitro will dedicate a war memorial park in a ceremony which will officially recognize the city's status as a living memorial to World War I.

All of the surviving West Virginia veterans of the Great War have been invited to attend the event, along with officials from the Department of Defense, the West Virginia National Guard, Veterans of Foreign Wars, American Legion, and State and local governments. The Governor of West Virginia has arranged for the donation of a 75-millimeter field artillery cannon, and a statue of a Doughboy—the World War I infantryman—is being prepared for the occasion. Flags of our World War I allied nations will fly in the park, along with national, State and city flags. There will be a parade, fireworks, speeches to underline the city's commitment to the development of an authentic museum of World War I artifacts and a research library for the benefit of future generations of Americans.

The people of Nitro are hospitable folk. They hope to attract many visitors to their historical sites and exhibits over the years to come. The Kanawha River makes the city accessible by boat from Charleston and Huntington. Scenic roads through the mountains provide pleasant drives from all directions. We, in West Virginia, are proud to add the city of Nitro to the list of places in our State which underscore the importance we attach to our remarkable history.

Mr. President, I hope the Senate will concur in the resolution to designate the city of Nitro a living memorial to World War I.

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 487), with its preamble, reads as follows:

S. RES. 487

Whereas the City of Nitro, West Virginia, was founded during World War I as a result of the Deficiency Appropriation act of October 6, 1917, which authorized funds for the construction of United States Government explosives plants;

Whereas the area topography between Charleston and Huntington, West Virginia, on the Kanawha River, was conducive to the selection of the area, and is conducive to tourism today;

Whereas the extant residual World War I structures heighten the historical significance of the City of Nitro;

Whereas the citizens of the community are working diligently toward dedicating the City of Nitro as a National Memorial to World War I; and

Whereas the City of Nitro will celebrate Veterans Day, November 11, 1982, with parades, fireworks, and appropriate displays: Now, therefore, be it

Resolved, that it is the sense of the Senate that the City of Nitro, West Virginia, be recognized as a living Memorial to World War I.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the Mayor of Nitro, West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VITIATION OF ACTION TAKEN BY THE SENATE

Mr. BAKER. Mr. President, I have been advised that there is a request to vitiate the action on two items that were disposed of in the course of these proceedings, and I will state them now.

I ask unanimous consent that the action taken in adopting Calendar Nos. 815, S. 1964, and 819, S. 2710, be vitiated and that the items be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNATIONAL CARRIAGE OF PERISHABLE FOODSTUFFS ACT

Mr. BAKER. Mr. President, the next item on my list is H.R. 6164, which I am prepared to offer if the minority leader is prepared to consider it.

Mr. ROBERT C. BYRD. Mr. President, that item has been cleared on this side.

Mr. BAKER. Mr. President, I thank the minority leader.

Mr. President, I ask that the Chair lay before the Senate H.R. 6164, Calendar Order No. 579.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6164) to authorize the Secretary of Agriculture to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment To Be Used for Such Carriage (ATP), and for other purposes.

The Senate proceeded to the consideration of the bill.

UP AMENDMENT NO. 1345

(Purpose: To provide for an additional Assistant Secretary of Agriculture to be appointed by the President)

Mr. BAKER. Mr. President, I send to the desk an amendment by the distinguished Senator from Kansas (Mr. DOLE) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) for Mr. DOLE proposes an unprinted amendment numbered 1345.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, after line 9, insert the following new section:

"ASSISTANT SECRETARY OF AGRICULTURE

"SEC. 8. (a) There shall be in the Department of Agriculture, in addition to the Assistant Secretaries now provided for by law, an additional Assistant Secretary of Agriculture who shall be appointed by the President, by and with the advice and consent of the Senate, who shall be responsible for such duties as the Secretary of Agriculture shall prescribe and shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.

"(b) Section 5315 of title 5 of the United States Code is amended by striking out '(6)' following 'Assistant Secretaries of Agriculture' and inserting in lieu thereof '(7)'.

"(c) Section 5316 of title 5 of the United States Code is amended by striking out 'Assistant Secretary of Agriculture for Administration'.

"(d) Section 3 of Reorganization Plan Numbered 2 of 1953 (67 Stat. 633) is repealed.

"(e) This section shall take effect on the date of enactment of this Act except that subsections (c) and (d) of this section shall take effect upon the appointment of a person to fill the successor position created by subsection (a) of this section."

Mr. DOLE. Mr. President, this amendment would authorize the President, with the advice and consent of the Senate, to appoint one additional Assistant Secretary of Agriculture, thus raising from six to seven the number of Presidentially appointed Assistant Secretaries at USDA. The amendment would also delete the authorization for the existing USDA position of Assistant Secretary for Administration. The Assistant Secretary for Administration is now appointed by the Secretary, with the approval of the President, from the rolls of the classified civil service.

This amendment would also set the level of compensation for the new position at level IV of the executive schedule, which is the same level as that of the other six USDA Assistant Secretaries. The position to be deleted is compensated at level V of the executive schedule. The amendment would repeal the provision of Reorganization Plan No. 2 of 1953 relating to the Administrative Assistant Secretary.

This amendment would be effective on the date of its enactment, except that the provision deleting the position of Assistant Secretary for Administration and repealing section 3 of the Reorganization Plan No. 2 of 1953 would be effective upon the appointment of the new Assistant Secretary of Agriculture.

The net effect of this amendment is to convert the position of Assistant Secretary for Administration from one which is appointed by the Secretary from the ranks of the classified civil service to that of a Presidential appointment and to raise the level of compensation from level V to level IV.

Mr. President, the Assistant Secretary for Administration in the Department of Argiculture has responsibility for nine offices in the Department. These include the Board of Contract Appeals, the Office of Administrative Law Judges, the Office of Minority Affairs, the Office of Operations, the Office of Finance and Management, the Office of Personnel, the Office of Administrative Systems, the Office of Information Resources Management, and the Office of Small and Disadvantaged Business Utilization.

The Assistant Secretary for Administration is one of the top policy level officers of the Department of Agriculture, serving as principal adviser to the Secretary on all administrative and related matters. Therefore, the position should be one that is filled by a Presidential appointee.

This amendment would make that possible. It would put the Assistant Secretary for Administration on the same level as all of the other Assistant Secretaries in the Department of Agriculture. The Secretary of Agriculture has requested legislation to do the same thing as this amendment. That legislation was introduced as S. 2787 on July 29, 1982. The Secretary's letter requesting the change, along with supporting materials, was included in the CONGRESSIONAL RECORD on July 30, 1982, at pages 18526-18527.

I urge adoption of the amendment.

Mr. HELMS. Mr. President, the matter that is now pending before the Senate is a bill to authorize the Secretary of Agriculture to implement the agreement on the international carriage of perishable foodstuffs and on the special equipment to be used for

such carriage, commonly known as the ATP, If enacted this bill will be known as the "International Carriage of Perishable Foodstuffs Act."

This bill would delegate to the Secretary of Agriculture authority to implement the ATP through the establishment of a program for the inspection, testing, and certification of the special transportation equipment used by the U.S. companies in transporting perishable foodstuffs in international commerce.

Under the bill, the Secretary would be authorized to designate appropriate organizations to inspect and test equipment used in the international transportation of perishable foodstuffs and to issue certificates of compliance for equipment that meets the standards under the ATP. The Secretary would be authorized to make inspections of facilities and procedures used by, and to require the maintenance of records and the submission of reports by, designated organizations and by persons seeking the certification of equipment. The Secretary would also be authorized to issue regulations to carry out this program.

In addition, the bill would authorize the designated organizations to charge reasonable fees to cover the cost of the inspection and testing of equipment. Similarly, the Secretary would be authorized to assess fees to cover the costs incurred in connection with the issuance of certificates of compliance. With this authority to establish user fees, it is estimated that the enactment of this measure would cost the taxpayers less than $100,000 annually. This minor cost is well worth the benefits to U.S. export trade that will flow from the adoption of this legislation.

Let me recite a little history to put this matter in proper perspective. The ATP was developed at the end of World War II under the auspices of the Economic Commission for Europe, one of the United Nations' regional commissions. The interest of the original conferees, all members of the European Community, who first met in 1950, was to investigate ways to prevent the spoilage of perishable foodstuffs moving in Europe.

With the advent in the mid-1960's of the refrigerated and insulated intermodal freight containers, owned and operated by U.S.-flag carriers and operated within the European commercial market, the United States became interested and started to participate in Economic Commission for Europe meetings regarding the drafting of the ATP.

On November 21, 1976, the ATP came into force, and now has 18 signatories: France, West Germany, Spain, Yugoslavia, Denmark, Austria, Italy, Luxembourg, Sweden, Belgium, the Netherlands, Norway, Finland, the United Kingdom, Bulgaria, the U.S.S.R., the German Democratic Republic, and Morocco.

Notably absent from this list is the United States, despite the fact that on March 20, 1980, the Senate unanimously approved U.S. accession to the ATP treaty. The United States is not yet participating in the ATP, however, since Congress has not yet adopted implementing legislation necessary to authorize the administration to carry out the program.

The primary objective of the ATP is to establish uniform inspection requirements for the transportation equipment that is used to move perishable foodstuffs across national borders. In general, ATP requires that insulated, refrigerated, or heated transportation equipment used to move perishable foodstuffs into nations that are signatories be tested, certified, and marked to insure that such equipment is properly insulated and capable of maintaining a prescribed temperature within the equipment.

The major problem is that under the ATP, signatory nations frequently impose national law on containers belonging to citizens of nonsignatory countries. Although American-owned and operated equipment consistently exceeds the standards and specifications under the ATP, the failure of this country to become a signatory has many times resulted in our equipment being subject to harassment and transportation delays by signatory governments having slight variances with the United States in their specification requirements.

Enactment of this legislation will allow the United States to become a signatory to the ATP and will thus enable U.S. firms to avoid similar problems in the future.

Under the legislation, the authority to administer the program has been delegated to the Department of Agriculture. I believe that Agriculture is the most appropriate agency to administer this program due to its current responsibility for matters relating to the movement of agricultural commodities and its substantial interest in developing and promoting international trade in such commodities. The commodities for which the ATP establishes equipment temperature standards consist primarily of the following: poultry and rabbits; meat and meat products; fish; dairy products; game; and red offal.

Finally, I would just like to point out that this legislation was carefully considered by the Committee on Agriculture, Nutrition, and Forestry, and was unanimously reported to the Senate for adoption. The Senate bill is identical to H.R. 6164 which passed the House of Representatives on May 20 of this year.

I am aware of no opposition to the adoption of this legislation and it is supported by the administration and all segments of the affected industry. For these reasons, I strongly urge the Senate to adopt this necessary legislation.

Mr. HUDDLESTON. Mr. President, I am pleased to join Senator HELMS in supporting H.R. 6164, the International Carriage of Perishable Foodstuffs Act.

In March 1980, the Senate ratified the agreement on the international carriage of perishable foodstuffs. However, in addition to the Senate's approving the agreement, Congress must enact legislation to implement a testing and certification program to insure that U.S. transport equipment complies with the standards set out in the agreement. Enactment of the legislation will enable the United States to actually become signatory of the agreement, as ratified by the Senate. Failure of Congress to act will only prolong the inequities currently experienced by U.S. firms.

Under the agreement, signatory nations can impose restrictions on containers belonging to citizens of nonsignatory countries. Although American-owned and operated equipment consistently exceeds the standards and specifications under the agreement, there have been numerous instances where our equipment has been subjected to harassment and transportation delays by signatory governments having slight variances with the United States in their specification requirements. Enactment of this legislation would alleviate these problems.

The intent of H.R. 6164 is to protect existing trade, promote expansion of trade in perishable foodstuffs, and promote the sale of U.S. manufactured equipment such as temperature-controlled railway cars, trucks, trailers, semitrailers, and intermodal freight containers. This legislation will facilitate the growth of U.S. exports.

I also support the amendment that would upgrade the position of Assistant Secretary for Administration to one requiring Presidential nomination and confirmation by the Senate.

At present, nine offices or agencies of the Department of Agriculture report to the Assistant Secretary for Administration. The Assistant Secretary for Administration is heavily involved in policymaking and plays an important role in implementing management improvement initiatives of the administration. I believe the responsibilities and duties of this position warrant its upgrading.

I urge my colleagues to join me in supporting the provisions of H.R. 6164, as reported by the Committee on Agriculture, Nutrition, and Forestry, and the amendment relating to the additional Assistant Secretary of Agriculture.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (UP No. 1345) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 6164), as amended, was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROTECTION OF CERTAIN AGRICULTURE OFFICIALS

Mr. BAKER. Mr. President, I ask if the minority leader is prepared to consider it I am prepared to ask that the Chair lay before the Senate, Calendar Order No. 836, H.R. 2035.

Mr. ROBERT C. BYRD. There is no objection.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 2035) to authorize certain employees of the U.S. Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection.

The Senate proceeded to the consideration of the bill.

UP AMENDMENT NO. 1346

(Purpose: To improve the quality of table grapes for marketing in the United States)

Mr. BAKER. Mr. President, on behalf of the distinguished Senator from California (Mr. HAYAKAWA) I send an amendment to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. HAYAKAWA, proposes an unprinted amendment numbered 1346.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section:

SEC. 2. The first sentence of section 8e of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608e-1), is amended by inserting "table grapes," after "filberts,".

Mr. HAYAKAWA. Mr. President, the amendment which I am offering consists of the text of S. 505 as reported unanimously by the Committee on Agriculture on September 23. I have been joined by Senators CRANSTON, HUDDLESTON, and LAXALT as cosponsors of this legislation.

The amendment which I offer today is simple and, I believe, noncontroversial. It amends section 8e of the Agricultural Marketing Agreement Act of 1937 to include table grapes among the 13 other imported agricultural commodities required to meet Federal marketing order quality standards. It would close a loophole in current law which permits imported grapes to escape compliance with minimum quality standards applicable to domestic table grapes under Federal marketing orders. However, it would impose no quotas or other restrictions on imported table grapes so long as they are able to meet domestic standards.

Approximately 97 percent of the domestic table grapes come from California with the balance coming from Arizona. All domestic production is subject to minimum quality standards which are either set by the States or by the U.S. Department of Agriculture pursuant to a Federal marketing order. Ironically, imported table grapes do not have to meet any of these quality standards except in special instances, such as transhipment to Canada. Consequently, imported grapes of inferior quality can and are sold on the domestic market thereby eroding consumer confidence in table grapes and lessening demand for all grapes, both foreign and domestic alike. The result is a depressed market for reputable domestic table grape farmers and importers whose grapes meet applicable Federal standards.

My amendment would rectify this situation by extending Federal quality standards to imported table grapes. Specifically, during the period in which a Federal marketing order is in effect—usually the first of May until mid-August—imported table grapes would be required to meet Department of Agriculture standards for size, maturity, grade, and quality—the same standards that domestic table grapes must meet. This will assure that all marketers of table grapes are subject to equal treatment under Federal law.

This legislation is supported by virtually all of the domestic table grape farmers and shippers, as well as such nationwide organizations as the United Fresh Fruit and Vegetable Association, the Food Marketing Institute and the Western Growers Association.

I urge the Senate to adopt this amendment.

Mr. HELMS. Mr. President, H.R. 2035 would authorize certain Department of Agriculture animal health technicians charged with the enforcement of animal quarantine laws, and whose duty area has a high potential for danger and violence, to carry firearms for self-protection. This authority would apply only to those persons designated by the Secretary of Agriculture and the Attorney General.

Animal health technicians of the U.S. Department of Agriculture, commonly known as tick inspectors or river riders, make daily patrols of the United States-Mexican border to prevent the illegal entry of animals into the United States. The inspectors are authorized, pursuant to section 5 of the act of July 2, 1962 (title 21 United States Code section 134d), to stop and inspect, without a warrant, any person or means of conveyance moving into the United States from a foreign country to determine whether such person or means of conveyance is carrying any animal, carcass, product, or article regulated or subject to disposal under any law or regulation administered by the Secretary of Agriculture for the prevention of the introduction or dissemination of any communicable animal disease.

Tick inspectors patrol the river border alone, on horseback, and are exposed to smuggling, cattle rustling, and the movement of illegal aliens along the international border. In addition, reports from Federal, State, and local law enforcement agencies indicate that narcotics smuggling occurs in this patrol area. There have been numerous instances of violence in this area, including the shooting of one tick inspector.

Animals, including racehorses, are smuggled across the river from both countries to avoid inspection and payment of customs fees. These actions subject the animals to seizure by the inspector, and could result in a substantial loss to the smuggler. The threat of loss of valuable livestock by the smuggler creates a high level of hostility toward the inspector. By the same token, the witnessing by a tick inspector of other suspected illegal activity places the inspector in danger. The frequency of these incidents necessitates providing tick inspectors with firearms for their own protection.

Mr. BENTSEN. Mr. President, I thank the Senate leadership and the leadership of the Senate Agriculture Committee for agreeing to bring this bill to the floor in spite of the crowded legislative schedule. This bill, H.R. 2035, will authorize employees of the Department of Agriculture who enforce our Nation's animal quarantine laws to carry firearms for self protection. This bill has already been passed by the House of Representatives and it is identical to legislation which I have introduced in the Senate.

The need for this legislation is pressing. A small band of USDA Animal and Plant Health Inspection Service employees patrols the United States-Mexico border along the Rio Grande River in Texas. They are our first line of defense against tick fever, a livestock disease which could spread througout the Southern United States with potential cost of $1 billion dollars per year to livestock producers. However, the area that they patrol is a smuggler's paradise and has a very heavy flow of illegal traffic in drugs and aliens as well as livestock. A 1978 report prepared for the Department of Agriculture noted that this work environment would be considered combat conditions for a police department operating in a heavily populated urban center.

These tick inspectors now have no authority to carry firearms for self protection. It has been well demonstrated that this authority is badly needed and the administration supports this legislation. As the USDA report on this issue put it these inspectors should be recognized for what they are—law enforcement officers.

Mr. President, the tick inspectors who enforce our animal quarantine laws should be entitled to the same right of protection as other peace officers. I urge that this legislation be quickly passed and signed into law so that these dedicated employees will be accorded this needed protection as soon as possible.

Mr. HUDDLESTON. Mr. President, I am pleased to support H.R. 2035, a bill that would authorize designated employees of the Department of Agriculture who are engaged in the enforcement of animal quarantine laws to carry firearms for self-protection while on duty.

The Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) is responsible for protecting the animal and plant resources of this Nation from diseases and pests. Specifically, employees of APHIS are designated by the Secretary of Agriculture to carry out any law or regulation to perform any function in connection with any Federal or State program, or any program of Puerto Rico, Guam, the Virgin Islands of the United States, or the District of Columbia, for the control, eradication, or prevention of the introduction or dissemination of animal diseases.

The legislation would benefit a small number of APHIS employees located in Texas whose responsibilities consist of surveillance patrols along the Rio Grande River on the Texas/Mexico border, precautionary treatment of animals before they are allowed to leave the quarantine zone, and eradication procedures applied against all infestations of ticks in Texas. Referred to as tick inspectors, these employees patrolling the Texas/Mexico border are patrolling an especially dangerous area.

Federal, State, and local law enforcement agencies have reported that in this area illegal narcotics smuggling occurs in massive proportions, there are numerous incidences of cattle rustling, racehorse smuggling, and movement of illegal aliens. Federal employees working in an environment such as this should be allowed to have some form of protection. I believe this legislation warrants the Senate's approval.

In addition, I support the amendment to the bill that would improve the quality of table grapes for marketing in the United States. This language of the amendment is identical to that contained in S. 505, a bill that I cosponsored and that the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices recently held hearings on.

I urge my colleagues to join me in supporting H.R. 2035 and the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (UP No. 1346) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2035), as amended, was passed.

TITLE AMENDMENT

Mr. BAKER. Mr. President, I send to the desk an amendment to the title and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Amend the title so as to read: "An act to authorize certain employees of the United States Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection and to improve the quality of table grapes for marketing in the United States.".

The amendment was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ARKANSAS FORESTRY COMMISSION

Mr. BAKER. Mr. President, the next item is H.R. 3881, Calendar Order No. 837, which I am prepared to present if the minority leader can clear it.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. I thank the Senator.

Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 837, H.R. 3881.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3881) to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands conveyed to the Arkansas Forestry Commission, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such lands to such Commission.

The Senate proceeded to the consideration of the bill.

Mr. HELMS. Mr. President, H.R. 3881 directs the Secretary of Agriculture to release the condition in the deed conveying a certain tract of land in Arkansas from the United States to the Arkansas Forestry Commission. The condition provides that if the tract ceases to be used for public purposes it will revert to the United States. Under the bill, the condition is to be released only if the commission agrees that: First, the commission will not exchange any portion of the tract involved unless the fair market value of the property to be obtained is approximately equal to that of the parcel to be exchanged; second, after any such exchange the newly acquired property will be used exclusively for public purposes; and third, the commission will not sell or otherwise dispose of any portion of the tract unless the proceeds from the transaction are equal to the fair market value of the interest disposed of and they are deposited in an account open to inspection by the Secretary of Agriculture and are used, if withdrawn from the account, exclusively for public purposes.

In addition, the bill permits the commission, after the release by the Secretary of Agriculture of the condition referred to above, to apply to the Secretary of the Interior to acquire the undivided mineral interests of the United States in the tract in question. The bill directs the Secretary of the Interior to convey such interests upon payment by the commission of a sum necessary to cover administrative costs of the conveyance, plus either: First, $1 if it is determined that the tract has no mineral value and is under no active mineral development or leasing, or second, the fair market value of any mineral interests in the tract.

Under the provisions of the Bankhead-Jones Farm Tenant Act, the Secretary of Agriculture in 1980 conveyed a tract of land in the State of Arkansas to the Arkansas Forestry Commission. Title III of the act authorizes the

Secretary of Agriculture to sell, exchange, lease, or otherwise dispose of Federal land that was acquired under the act for the purpose of land conservation. However, the act requires that the deed conveying these lands must specify that the land be used only for public purposes and if it ceases to be so used, it shall revert to the United States. H.R. 3881 directs the Secretary to release this "public purpose reverter clause" with respect to a portion of the land conveyed to the State of Arkansas in 1980.

The lands conveyed by the Secretary of Agriculture to the Arkansas Forestry Commission are known as the southern Arkansas land utilization project and are located in Nevada and Ouachita Counties, Ark. The project consisted of 19,443 acres and is now the Poison Springs State Forest which is administered by the Arkansas Forestry Commission.

A private party that owns land adjacent to the tract conveyed by the Secretary to the Arkansas Forestry Commission has a need for some 80 acres of land for expanding its production of pine seedlings for reforestation purposes. The commission is interested in exchanging that amount of its acreage for land of equivalent value now owned by the seedling producer. However, such an exchange may not take place unless the reversionary interest of the United States is released.

Such an exchange, involving about 80 acres of the tract conveyed to the commission, would not impair the usefulness of the tract for State forest purposes. Acquisition of the 80-acre parcel, which is particularly well-suited for the production of seedlings, would, however, permit the private owner to assist in fulfilling a need for seedlings for reforestation purposes by other forest landowners in the State of Arkansas. Further, similar valid needs for exchange or other disposition of other portions of the commission tract may arise in the future.

The Department of Agriculture has indicated that there is no objection to enactment of the bill.

The bill (H.R. 3881) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STERLING, CONN., LAND TRANSFER

Mr. BAKER. Mr. President, the next item is H.R. 6422, Calendar Order No. 838, if the minority leader is prepared to clear that.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. Mr. President, then I ask that the Chair lay before the Senate Calendar Order No. 838, H.R. 6422.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6422) to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land previously conveyed to the State of Connecticut.

The Senate proceeded to the consideration of the bill.

Mr. HELMS. Mr. President, H.R. 6422 directs the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land previously conveyed to the State of Connecticut. The release would apply to a 0.93-acre tract which the State of Connecticut plans to transfer to the Ekonk Cemetery, Inc., for use as a cemetery. The condition that will be released requires that the land deeded to the State by the United States be used for public purposes and provides for a reversion of the land to the United States if at any time it ceases to be so used. Under the bill, the release will apply so long as the land is used exclusively as a cemetery, and any proceeds received by the State in return for the transfer of the land in question must be used only for public purposes. The release will not affect the interests of the United States in coal, oil, gas, or other minerals reserved by the United States in the land.

Certain federally owned lands acquired under the Bankhead-Jones Farm Tenant Act of 1935 were conveyed by the Federal Government to the State of Connecticut in 1954 and subsequently were included in the Pachuag State Forest. Section 32 of that act requires that any deed of conveyance made under title III of the act be conditioned on the land being used only for public purposes. Thus, the deed effecting the 1954 transfer contains a condition establishing the right to reversion of ownership to the United States if the land ever ceases being used for public purposes.

For approximately 20 years, the Ekonk Cemetery has been seeking an additional acre of land from the adjacent Pachuag State Forest for use as additional cemetery space. The existing cemetery is now full. The Connecticut Park and Forest Commission is favorably disposed to transfer the acre to the cemetery. However, the State's attorney general has ruled that the "public purposes" clause contained in the deed makes such a transfer impossible. Therefore, this bill is necessary to enable the Secretary of Agriculture to release the State of Connecticut from the deed's reversionary condition for this parcel of 0.93 of an acre.

The Department of Agriculture has indicated that there is no objection to enactment of the bill.

The bill (H.R. 6422) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, I have nominations that are cleared on today's Executive Calendar on this side of the aisle.

I invite the attention of the minority leader to those items appearing on page 5 beginning with Calendar No. 973, Lt. Gen. Charles C. Blanton, for appointment to the grade of lieutenant general on the retired list, continuing through the remainder of the nominations on that page, all the nominations on page 6, the nominations on page 7 beginning with Panama Canal Commission and continuing through the remainder of that page, all the nominations on page 8, page 9, page 10, page 11, page 12, page 13, and all the nominations placed on the Secretary's Desk in the Air Force, Army, Marine Corps, and Navy.

Mr. President, I am prepared to ask the Senate to consider those nominations at this time if all or any part of those nominees can be cleared by the minority leader.

Mr. ROBERT C. BYRD. Mr. President, there is no objection to proceeding with the aforementioned nominations.

Mr. BAKER. I thank the minority leader.

EXECUTIVE SESSION—NOMINATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nominations just identified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations so identified be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

AIR FORCE

Lt. Gen. Charles C. Blanton. U.S. Air Force, (age 52), for appointment to the grade of lieutenant general on the retired

list pursuant to the provisions of title 10, United States Code, section 1370.

NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be admiral

Adm. Harry D. Train, II, [redacted]/1110, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601, and to be Senior Navy Member of the Military Staff Committee of the United Nations in accordance with title 10, United States Code, section 711:

To be vice admiral

Rear Adm. Arthur S. Moreau, Jr., [redacted]/1110, United States Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Edward S. Briggs, [redacted]/1110, U.S. Navy.

MERIT SYSTEMS PROTECTION BOARD

K. William O'Connor, of Virginia, to be Special Counsel of the Merit Systems Protection Board for the remainder of the term expiring June 3, 1986.

THE JUDICIARY

Raymond L. Acosta, of Puerto Rico, to be U.S. District Judge for the District of Puerto Rico.

James C. Fox, of North Carolina, to be United States district judge for the eastern district of North Carolina.

DEPARTMENT OF JUSTICE

Arthur F. Van Court, of California, to be U.S. marshal for the eastern district of California for the term of four years.

PANAMA CANAL COMMISSION

Stephen W. Bosworth, of Michigan, to be a Member of the Board of the Panama Canal Commisison.

AIR FORCE

The following-named officer under the provisions of Title 10, United States Code, Section 601, to be reassigned to a position of importance and responsibility designated by the President under Title 10, United States Code, Section 601:

To be lieutenant general

Lt. Gen. Robert T. Herres, [redacted]FR, U.S. Air Force.

The following-named officer under the provisions of Title 10, United States Code, Section 601, to be assigned to a position of importance and responsibility designated by the President under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. William J. Campbell, [redacted]FR, U.S. Air Force.

The following-named officer under the provisions of Title 10, United States Code, Section 601, to be reassigned to a position of importance and responsibility designated by the President under Title 10, United States Code, Section 601:

To be lieutenant general

Lt. Gen. Larry D. Welch, [redacted]FR, U.S. Air Force.

The following-named officer under the provisions of Title 10, United States Code, Section 8019, for appointment as Chief, Air Force Reserve

To be chief, Air Force Reserve

Maj. Gen. Sloan R. Gill, [redacted]FV, Air Force Reserve.

The following-named officer under the provisions of Title 10, United States Code, Section 601, to be reassigned to a position of importance and responsibility designated by the President under Title 10, United States Code, Section 601:

To be lieutenant general

Lt. Gen. John L. Piotrowski, [redacted]FR, U.S. Air Force.

The following-named officer under the provisions of Title 10, United States Code, Section 601, to be reassigned to a position of importance and responsibility designated by the President under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Robert D. Russ, [redacted]FR, U.S. Air Force.

Lt. Gen. James H. Ahmann, U.S. Air Force, (age 51), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of Title 10, United States Code, Section 1370.

ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. Harold F. Hardin, Jr., [redacted], (Age 54), U.S. Army.

The following-named officer under the provisions of Title 10, United States Code, Section 601, to be assigned to a position of importance and responsibility designated by the President under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Donald M. Babers, [redacted], U.S. Army.

The following-named Army National Guard of the United States officer for appointment to the grade of brigadier general as a Reserve commissioned officer of the Army under the provision of title 10, United States Code, sections 593(a) and 3385:

To be brigadier general

Col. Paul J. Kopsch, [redacted].

The following-named Army National Guard of the United States officer for appointment to the grade of brigadier general as a Reserve commissioned officer of the Army under the provisions of title 10, United States Code, section 593(a) and 3385:

To be brigadier general

Col. Philip B. Finley, [redacted].

The following-named officer for appointment in the Regular Army of the United States to the grade indicated under the provisions of Title 10, United States Code, Sections 611(a) and 624:

To be brigadier general, Chaplain's Corps

Col. Paul O. Forsberg, [redacted], U.S. Army.

The following-named officer under the provisions of Title 10, United States Code, Sections 3036 and 3040, to be appointed as Assistant Surgeon General (Dental), United States Army:

To be Assistant Surgeon General (Dental), U.S. Army

Brig. Gen. Hubert T. Chandler, [redacted] Dental Corps, U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. James B. Vaught, [redacted], (Age 56), U.S. Army.

The following-named officer under the provisions of Title 10, United States Code, Section 601, to be assigned to a position of importance and responsibility designated by the President under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Louis C. Menetrey, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. John Rutherford McGiffert, II, [redacted], (Age 56), U.S. Army.

The following-named officer under the provisions of Title 10, United States Code, Section 601, to be assigned to a position of importance and responsibility designated by the President under Title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Edward Allen Partain, [redacted], U.S. Army.

NAVY

The following-named officer to be placed on the retired list in the grade indicated under provisions of Title 10, United States Code, Section 1370.

To be admiral

Adm. George E. R. Kinnear, II, [redacted]/1310, U. S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370.

To be vice admiral

Vice Adm. John D. Johnson, Jr., [redacted]/1110, U.S. Navy.

The following-named officer, under the provisions of Title 10, United States Code, Section 601, to be assigned to a position of importance and responsibility designated by the President under Title 10, United States Code, section 601:

To be vice admiral

Rear Adm. James A. Sagerholm, [redacted]/1120, U.S. Navy.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Philip Abrams, of Massachusetts, to be an Assistant Secretary of Housing and Urban Development.

DEPARTMENT OF STATE

William Alexander Hewitt, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Jamaica.

Theodore C. Maino, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

Peter Dalton Constable, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zaire.

Robert Bigger Oakley, of Louisiana, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassa-

dor Extraordinary and Plenipotentiary of the United States of America to the Somali Democratic Republic.

Everett Ellis Briggs, of Maine, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Panama.

David Joseph Fischer, of Texas, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

Sharon Erdkamp Ahmad, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

John Blane, of Illinois, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning William J. Rome, and ending John H. Rogerson, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 1982.

Air Force nominations beginning Frederick B. Fishburn, and ending William J. Crielly, Jr., which nominations were received by the Senate and appeared in the Congressional Record of September 13, 1982.

Air Force nominations beginning Carl L. Batton, and ending Jerrold L. Nye, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 1982.

Air Force nominations beginning William J. Crielly, Jr., and ending William C. Wood, which nominations were received by the Senate and appeared in the Congressional Record of September 23, 1982.

Air Force nominations beginning Thomas L. Huff, and ending Donald G. Wright, which nominations were received by the Senate and appeared in the Congressional Record of September 23, 1982.

Air Force nominations beginning Robert W. Baker, and ending Darwin L. Bell, which nominations were received by the Senate and appeared in the Congressional Record of September 27, 1982.

Air Force nominations beginning Michael J. Arganbright, and ending Dick T. Jordan, Jr., which nominations were received by the Senate and appeared in the Congressional Record of September 27, 1982.

Air Force nominations beginning Leonard B. Amick, Jr., and ending William H. Stigelman, Jr., which nominations were received by the Senate and appeared in the Congressional Record of September 27, 1982.

Air Force nominations beginning Walter A. Aichel, and ending Michael J. Zachek, which nominations were received by the Senate and appeared in the Congressional Record of September 27, 1982.

Air Force nominations beginning Michael A. Abair, and ending James H. Wright, which nominations were received by the Senate and appeared in the Congressional Record of September 27, 1982.

Army nominations beginning Irwin Berman, and ending Dale G. Martin, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 1982.

Army nominations beginning Rembert G. Rollison, and ending Jeffrey P. Zervas, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 1982.

Army nominations beginning Larry D. Aaron, and ending David C. Zucker, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 1982.

Army nominations beginning Ralph P. Aaron, and ending Janet F. Zimmerman, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 1982.

Army nominations beginning Thomas A. Rodgers, and ending Jimmy D. Young, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 1982.

Army nominations beginning John A. Duff, and ending Stanley M. Krol, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 1982.

Marine Corps nominations beginning William J. Brooks, and ending Charles R. Jarrett, which nominations were received by the Senate and appeared in the Congressional Record of September 27, 1982.

Navy nominations beginning Craig D. Batchelder, and ending Kermit R. Booher, Jr., which nominations were received by the Senate and appeared in the Congressional Record of September 8, 1982.

Navy nominations beginning Thomas M. Connor, and ending Dana C. Martinez, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 1982.

Navy nominations beginning Milburn M. Anderson, and ending William Randolph Wright, which nominations were received by the Senate and appeared in the Congressional Record of September 27, 1982.

Navy nominations beginning James O. Royder, and ending Oakley F. White, which nominations were received by the Senate and appeared in the Congressional Record of September 27, 1982.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were considered en bloc and confirmed en bloc.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to the several nominations it has considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF CERTAIN TREATIES ON THURSDAY, SEPTEMBER 30, 1982

Mr. BAKER. Mr. President, while we are in executive session, I mentioned earlier that there were a number of treaties that I would like to address to the Senate tomorrow. I would like to put a unanimous-consent request for the consideration of the minority leader if he is prepared to receive it at this time.

Mr. President, I ask unanimous consent that at 1 p.m. on Thursday, September 30, 1982, the Senate proceed to the consideration en bloc of the resolutions of ratification of the following Executive Calendar items: Calendar Orders Nos. 35, 36, 37, 38, 39, and 41.

Mr. President, I ask unanimous consent that all of the above be advanced through their parliamentary stages, up to and including the presentation of the resolutions of ratification.

I ask unanimous consent that all amendments, resolutions and understandings reported by the committee be deemed agreed to, and that it be in order at this time to order the yeas and nays with one show of seconds.

Finally, Mr. President, I ask unanimous consent that one rollcall vote count for six rollcall votes and that following the rollcall vote on the resolutions of ratification, and a motion to table the motion to reconsider, the Senate resume legislative session.

Mr. ROBERT C. BYRD, Mr. President, reserving the right to object, and I will not object, does the majority leader feel there should be 5 minutes to a side for any explanation of the treaties?

Mr. BAKER. Mr. President, I am happy to do that. I ask unanimous consent that at 1 o'clock there be 10 minutes, equally divided in the usual form prior to the vote to count for six votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, since the order provided that it would be in order at this time to ask for the yeas and nays, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

TREATY WITH NEW ZEALAND ON THE DELIMITATION OF MARITIME BOUNDARY BETWEEN THE UNITED STATES AND TOKELAU

The PRESIDING OFFICER. Without objection, the first treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the Resolution of Ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty between the United States of America and New Zealand on the Delimitation of the Maritime Boundary between the United States of America and Tokelau, signed at Tokelau on December 2, 1980.

NAIROBI PROTOCOL ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the Resolution of Ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol to the Agreement on the Importation of Educational, Scientific, and Cultural Materials, adopted at Nairobi on November 26, 1976, and signed by the United States on September 1, 1981.

CONVENTION WITH MEXICO FOR THE RECOVERY AND RETURN OF STOLEN OR EMBEZZLED VEHICLES AND AIRCRAFT

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the Resolution of Ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of a Convention Between the United States of America and the United Mexican States for the Recovery and Return of Stolen or Embezzled Vehicles and Aircraft which was signed at Washington on January 15, 1981.

CONVENTION ON TONNAGE MEASUREMENTS OF SHIPS, 1969

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the Resolution of Ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Convention on Tonnage Measurements of Ships, 1969, which was signed for the United States at London, June 23, 1969, subject to the following understanding:

That in the assessment of tolls for transit of the Panama Canal, the United States will continue to have the right to apply the present Panama Canal tonnage system or to adopt any other basis, in computing tonnages derived from volumes or other measures developed in connection with the said convention.

CONSERVATION OF SALMON IN NORTH ATLANTIC OCEAN

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the Resolution of Ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Convention for the Conservation of Salmon in the North Atlantic Ocean, signed in March 1982 by the United States, Canada, the European Community, Iceland, and Norway.

ESTATE AND GIFT TAX TREATY WITH THE REPUBLIC OF AUSTRIA

The PRESIDING OFFICER. Without objection, the next treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the Resolution of Ratification, which the clerk will state.

The legislative clerk read as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Republic of Austria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Estates, Inheritances, Gifts, and Generation-Skipping Transfers, signed at Vienna on June 21, 1982 (Treaty Document 97-26).

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have one more request that I would like to state for the consideration of the minority leader.

FREEDOM WEEK U.S.A.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 255, Freedom Week U.S.A., October 10, 1982, through October 16, 1982. I am prepared to ask for its immediate consideration, if agreeable to the minority leader.

Mr. ROBERT C. BYRD. I have no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate, Senate Joint Resolution 255.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 255) to designate the week of October 10, 1982, through October 16, 1982, as "Freedom Week U.S.A."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The joint resolution (S.J. Res. 255) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 255

Whereas the Jayceettes is an organization of young women who believe in the brotherhood of mankind and that this brotherhood transcends the sovereignty of nations;

Whereas the Jayceettes believe that government should be of laws rather than men;

Whereas in their right for independence, communities in the United States have established a heritage of freedom by patriotic services;

Whereas the American flag is a symbol of patriotic loyalty and pride in our country;

Whereas Jayceettes is committed to a patriotic recognition of the discovery of America and the founding freedoms of the United States of America; and

Whereas Jayceettes across the Nation will be showing their concern, loyalty, and support for our country by a vivid and patriotic display of pride in America throughout our communities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 10, 1982, through October 16, 1982, is designated "Freedom Week, U.S.A." and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to show their concern, loyalty, and support for our country by a vivid patriotic display of pride and with other appropriate ceremonies.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HUMAN RIGHTS AND EXPORT POLICY

Mr. CRANSTON. Mr. President, I am dismayed at recent reports of the Reagan administration's decisions to sell electric shock batons to two conspicuous violators of basic human rights: South Africa and South Korea. What is especially worrisome about these decisions is that the Reagan administration either did not consult with or simply ignored the recommendations of the Department of State before issuing these two export licenses.

On April 26 of this year, the Department of Commerce approved an export license for 2,500 electric shock batons to South Africa. Section 6 of the Export Administration Act of 1979

requires the Secretary of Commerce to implement foreign policy controls "in consultation with the Secretary of State and such other departments and agencies as the Secretary (of Commerce) considers appropriate." The State Department did not even learn of the final sale until September 17—too late to prevent the shipment of these items and too late even to analyze adequately the foreign policy implications of this action.

The United States has expended considerable diplomatic efforts in the complex and sensitive negotiations to attain independence for Namibia. The administration has repeatedly asserted that the resolution of the Namibia issue is a high priority in Africa. The participation of several key African nations has been and will continue to be essential for the success of these negotiations. Yet the reactions of these states to the sale of the batons to South Africa was apparently given no consideration.

The sale of these instruments reinforces the perception that promoting human rights has taken a back seat to promoting U.S. exports in U.S. foreign policy. In the last 50 years, the South African Government has institutionalized the denial of civil rights to the majority of its citizens. Nearly 50 detainees were found dead in South African prisons before 1977, when the death of student activist Steve Biko provoked worldwide outrage. Following this tragic event, no deaths were reported in South African prisons until this year. Since February, two detainees have been found hanged. Reports from organizations such as Amnesty International chronicle the stories of other detainees who have been tortured.

Given this record, I am dismayed that a security organization within South Africa has been able to buy what essentially are electric cattle prods from the United States. I do not understand how the Department of Commerce could give routine treatment to any application to sell such items to South Africa, especially considering the long history of export controls on U.S. trade with South Africa. That the Department of Commerce could grant a license in such a clear case demonstrates the necessity of including the Secretary of State in the consultation process, as mandated in section 6 of the Export Administration Act. "Administrative inadavertence" is no excuse for failing to consult with the State Department on the sale of such instruments.

With regard to South Korea, I recently joined my colleagues Senator KENNEDY and Senator DOLE to express our deep concern over the administration's decision to license the sale to South Korea of 500 electric shock batons. Because of fears that these batons could be used for the torture and interrogation of South Korean political activists, we asked Commerce Secretary Malcolm Baldrige for his personal review of the decision.

I am deeply troubled by the Reagan administration's willingness to make these instruments available to the South Korean Government, given that Government's history of human right violations and its continued restrictions against political activity and dissent. In addition, this decision was made over the express objections of State Department officials. Instead, the administration followed the Department of Commerce's recommendations to approve an export license. I am pleased that the South Korean Government has since withdrawn its request to buy these batons. This action, however, does not change the fact that the Reagan administration was willing to make the batons available to South Korea.

PHARMACY PROTECTION AND VIOLENT OFFENDER CONTROL ACT

Mr. HATCH. Mr. President, on October 21, 1982, Howard Sudit was brutally murdered in his Avenue Pharmacy in Charleston, S.C., by an armed assailant attempting to obtain controlled substances. Howard was a leading member of the National Association of Retail Druggists' (NARD) Committee on National Legislation and Government Affairs. Only weeks before, he had again urged the passage of violent pharmacy robbery legislation. Howard's plea had gone virtually ignored.

The case of Howard Sudit is hardly unique. Since 1973, robberies of retail pharmacies to obtain controlled substances have increased 160 percent. One in five of these robberies results in death or injury to the pharmacist. More than 2,300 people have died or were injured since 1973 as a result of pharmacy robberies. Ten of these have occurred in my home State of Utah.

This dramatic rise in violence can be attributed in part to an inconsistency in current law. It is a Federal offense to obtain a controlled drug by fraud. It is a Federal offense to obtain a controlled drug by misrepresentation, forgery, or subterfuge. Yet it is not a Federal offense to acquire these drugs by violent methods. The implication is that the violence is of no Federal concern.

That implication is not one we wish to perpetuate. According to the Drug Enforcement Administration, the diversion of legitimate drugs from the retail level is one of three major sources of drug abuse. The other two sources are Southwest Asian heroin and Colombian marijuana and cocaine. The number of pharmacy robberies to obtain controlled substances is increasing at a rate more than three times as rapid as the increase in other robberies.

Legislation is needed to establish Federal penalties for the robbery or attempted robbery of controlled drugs from a pharmacy. I am hopeful that the provisions contained in S. 2572, the Omnibus Violent Crime and Drug Enforcement Act of 1982, will aid in solving the problem. I am already a cosponsor of S. 2572. However, the situation is of such grave concern that I am asking my name to be added as a cosponsor of S. 1025, the Pharmacy Protection and Violent Offender Control Act, a bill that deals specifically with the problem. Only with the establishment of Federal law against violent acquisition of controlled substances will pharmacists cease to live with the constant fear of robbery, injury, and even death.

INTERNATIONAL ATOMIC ENERGY AGENCY

Mr. MATHIAS. Mr. President, today I have written the President of the United States expressing my hope that he instruct the U.S. delegation to return to the next meeting of the International Atomic Energy Agency with new proposals and a renewed commitment to stemming the threat of nuclear proliferation.

It is encouraging to observe the interest the Reagan administration has taken in the IAEA and the obvious importance that is attached to its work. The wide attention attracted to the IAEA by the action of the United States in protesting the rejection of the credentials of the Israeli delegation will remind the world of the vital function of this international agency.

Having made this point in a forceful way, the President can now take new initiatives. In addition, it would be useful for the Secretary of State to inquire of the U.S.S.R. whether it would support new, more effective, international measures by which nuclear proliferation could be detected and restrained. The joint action of the world's two nuclear superpowers would be a major step in the right direction and would be welcomed by people everywhere.

Today we are witnessing both horizontal and vertical nuclear proliferation. More nations are experimenting with nuclear technology, and nuclear technology is ever more sophisticated. Intelligence sources have advised that there are even subnational organizations that are capable of acquiring nuclear devices.

The United States played a leading role in the founding of the IAEA, during the Eisenhower administration, by actively encouraging the participation of other nations, including the Soviet Union. Since that time, support for the IAEA has remained a corner-

stone of American nonproliferation policy. To abandon our leadership now—or even to appear to step back from it—might damage the machinery of nonproliferation beyond repair.

I urge my colleagues to reflect upon the importance of U.S. leadership in nonproliferation affairs, and seek ways to enhance the work of the International Atomic Energy Agency. No task is more urgent, no nation more important than ours to its achievement.

INTEREST AND DIVIDEND WITHHOLDING

Mr. PERCY. Mr. President, the recently enacted tax bill—the Tax Equity and Fiscal Responsibility Act of 1982—contains a controversial section requiring the withholding of interest and dividend income.

The debate on this matter was heated in the Senate and opponents of the provision, including myself, sought to remove it from the legislation. Unfortunately we did not succeed and the Senate chose, by a vote of 48 to 50, to leave this section in the bill.

Since the Congress passed this legislation, I have heard from many constituents who are opposed to withholding. One of the most eloquent and carefully reasoned letters I have received on this came from Mr. George Barnes of Chicago.

Mr. Barnes is an expert on capital markets and a long-time partner in Wayne Hummer & Co. in Chicago, one of the foremost brokerage houses in that city. I have always respected his advice on matters pertaining to capital markets and believe he has made a good case in his letter.

Mr. President, I ask unanimous consent that Mr. Barnes' letter be printed in the RECORD at the close of my remarks.

Mr. Barnes points out in his letter that Congress enacted a withholding provision in 1962 but repealed it before it went into effect. Mr. Barnes was instrumental at that time in bringing about the change in the law, and I commend his letter to my colleagues.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WAYNE HUMMER & CO.
Chicago, Ill., September 3, 1982.

Hon. DONALD T. REGAN,
Secretary of the Treasury,
Washington, D.C.

DEAR DON: The purpose of this letter is to point out the need for immediate repeal of the withholding provisions to provide geater compliance in the recent tax package passed by Congress and to ask for your support. Also, it should be of grave concern to you that the combination of withholding of investment income and the registration of new securities would tie the financial community into knots, in delayed deliveries, paperwork, and confusion with all the various exceptions and exemptions.

It is most unfortunate that it is not fully realized that these provisions could not be more devastating in the Administration's plans to shrink big government and to continue confidence in our tax system. The increase in revenue would be de minimus—if that, and the cost outlays of government and business firms would be beyond our comprehension in shifting tax collections to others.

There is precedent for repeal in that both the House and Senate passed a 20 percent withholding tax in 1962 and then reversed their positions after it was disclosed to the Joint Conference Committee that (1) there was no sizable gap in dividend reporting claimed by the Treasury, (2) over-withholding would result in as many investor filing claims for refunds as those filing tax returns and, (3) taxes would be withheld twice on bonds bought or sold between interest dates. This makes withholding impractical, unworkable and unnecessary.

Withholding does not solve the compliance problem since its provisions apply mainly to presently registered securities and to future issues of fixed interest securities, and do not take into consideration billions and billions of outstanding corporate and government bearer securities which Treasury figures show constitute the largest gap of unreported income. We have been endeavoring to correct this gap for a decade or more through the extension of annual reporting of bearer interest income, the same as dividends. There is a 96.7 percent compliance on bank interest and dividends. Withholding cannot possibly increase this rate of compliance.

It is incredible to provide bonds to be registered in the future since it would not only destroy their marketability to readily buy and sell, but would adversely affect the growth of our economy by restricting capital formation. (It now takes from two to three months for the Federal Reserve Bank to register bonds in our client's name or have them unregistered for sale). It is only feasible to provide that future public issues of debt obligations carry optional registration provisions.

As the former head of a stock exchange firm, you can readily understand how difficult it will be for brokers, banks and others to see if withholding applies—it applies to certain investments and not to others and it applies to certain individuals and not to others. In short, it would create a real administrative monster for all concerned, and the numerous exceptions would drive us crazy. Speaking of closing loopholes, such exceptions would make it possible for a taxpayer to own stock in an unlimited number of corporations or maintain bank accounts returning less than $150.00 each year and entirely escape withholding.

However, I have always maintained that the biggest weakness of withholding is overwithholding. I am not one to ask a client or a shareholder to wait as long as 16 months for his tax refund check, when all the income is needed on which to live. It is equivalent to the taxpayer loaning money to the government or allowing banks to hold it without interest.

Withholding works in Japan because it is optional with the taxpayer, and the income on which the tax has been withheld is not reportable in tax returns. In other words, they favor and encourage capital formation, whereas your new withholding plan works just in reverse. Also, you cannot very well justify withholding on investment income just because there is withholding on wages, with only one withholder. Moreover, the withholding plan on investment income is mandatory regardless of business losses and other deductions. This is not true of wage withholding.

You may not recall that a bi-partisan majority of the 96th Congress voted 401 to 4 against withholding as recently as April 19, 1981. I mention this because hearings as recent as last year should forestall any further extensive public hearings.

I would like to think that the extension of time in the effective date of withholding was changed to July 1, 1983 to give time for the consideration of repeal.

Since taxpayers fear and tremble where income is reported to the IRS, there is no more effective way to provide adequate compliance, and I would hope that, in lieu of withholding, consideration would be given to reporting by institutions when interest coupons are cashed, which I have proposed to the Treasury previously. In a conference with the Treasury staff, acquiescence was given, provided the banks and brokers would agree to it. Bank and broker nominees would welcome this since they now go to the burden and expense of computer reruns to omit such annual reporting of interest to the IRS.

May I hear from you so that I will know that repeal is being given your attention. The sooner that Congress acts, the better to save the government, corporations, brokers and others the gigantic cost of preparing for withholding and shifting part of the load of tax collections to others than government.

Respectfully submitted,

GEORGE E. BARNES,
Senior Partner,
Wayne Hummer & Co.

TAX REFORM

Mr. DECONCINI. Mr. President, I ask unanimous consent that the testimony I gave before the Committee on Finance on September 28, 1982, dealing with tax reform, be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DENNIS DECONCINI BEFORE THE COMMITTEE ON FINANCE

Mr. Chairman, other members of this Committee, thank you for the opportunity you have given me to come before you and state my feelings on the issue of tax reform in general and the viability of a flat-rate system of taxation in particular. Such an approach to a Federal tax policy has been advocated sporadically for many years but in recent months the dissatisfaction with the present Internal Revenue Code has seemed to reach a new high and with it has come piercing cry from the American public to reexamine the entire basis of our system of taxation. The most frequently suggested alternative is the so-called "flat-rate" approach.

As I said when I introduced the first flat-rate tax bill, S. 2147, in the Senate on March 1st of this year, "A complete overhaul of our tax system is long overdue. . . . We must start over on a new patient." Events since that date have only served to reinforce my feeling that our present tax code has become so complicated and tortuous in its application, and so detrimental to spurring the economic recovery we are all

anxiously awaiting, that a serious look must be given to an alternative tax system. Such a system should embody the principles of equity, simplicity and efficiency, and contain within it provisions that enhance rather than stifle our desire to be more productive.

What are we talking about when we say a "flat-rate" tax structure? Simply put, we would subject the tax base to only one tax rate (although some amount of income would doubtless be excluded from tax to provide "low income relief"), and broaden the tax base by repealing many of the tax benefits that subsidize various types of economic activity or provide relief from circumstances that Congress has deemed worthy of granting deductibility status to, such as medical expenses. Although an element of progressivity is built into most flat-rate bills, progressivity as we understand it today, the higher your income the higher the tax rate—would cease. But, for example, if the zero-bracket amount upon which no tax would be paid were set at $10,000, an individual earning $12,000 pays taxes on only 16 percent, that is $2,000, of their income; while a person with a $100,000 income would pay taxes on 90 percent of their income.

In rather summary fashion, I will attempt to summarize the key benefits that I see can be derived from a flat-rate tax structure:

1. Elimination of the marriage penalty (whereby a couple with separate incomes could pay higher income taxes if married than single);

2. Elimination of "bracket creep" whereby taxpayers are hurtled into increasingly high tax brackets without having any increase in real income. Indexation will address this issue, but why do indirectly what is possible to do by simply applying one rate to all income. No longer will the government be able to make up for its deficit financing by allowing ever greater amounts of income to flow into its coffers without having passed a tax increase.

3. The integrity of the system will increase. We'll pick up billions of dollars owed in taxes that go uncollected because of false deductions and income that goes unreported. A flat-rate system should be easy for the IRS to administer and for the taxpayer to honestly try to comply with.

4. A great savings in time and compliance costs would accompany a flat-rate system. It is estimated that $60 billion was spent on tax compliance last year and an inestimable amount of hand wringing and headaches must have accompanied the monetary expense.

5. Accountability of government would increase. The primary purpose of the income tax is to raise revenue, but today's law has become a major, and hidden, way to effect social policy. Many of these policies are quite worthy of support, but wouldn't we be more honest with the taxpayer if we eliminated the "tax expenditure" and replaced it with direct payments that clearly demonstrated the policy choices we were making? The public would certainly be more aware of how their tax dollars were being spent.

6. Added productivity. By reducing the distortion built into the economy by the varied impact of present tax laws, business decisions can be made in an environment that will reward efficiency and profitability.

7. Incentives increase. Clearly if a person can keep 80 cents of the last dollar they earn rather than 50 cents as is the case today with a 50% tax bracket, a person is more likely to make the extra effort and produce more because they will be able to keep more of what they earned. I have always believed that a person has a right to keep the income they earn. Since the strength of that argument does not diminish in my point of view as a person's income rises, a flat-rate tax may even lay claim to being morally superior to a progressive one.

8. Loopholes disappear. Any attempt to eliminate "loopholes" is generally met with fierce opposition by the affected group. However, under a flat-rate structure this problem largely solves itself because tax shelters will not be nearly as attractive if only 15–20 cents of every dollar is exposed to the IRS.

9. Horizontal equity will increase. Because the definition of income will be broadened significantly, it is much more likely that individuals in similar income categories will also be taxed equally. No more bellyaching that the guy next door isn't paying his fair share.

10. Diminish the incentive to extend tax benefits to those in high income brackets. The final key question that has to be answered before talk of a flat-rate tax can be more than that is "What will I pay?" The American taxpayer does not want to see an increase in his tax burden and that is particularly clear to politicans. Where the tax burden will fall has been the subject of numerous studies and numerous results. Under my bill, which presupposes a zero-bracket amount of about $10,000, it is probably safe to say that the poorest households would pay either no tax or significantly less than what they pay today. The middle income brackets may suffer a slight increase in taxes, although I feel that many of the factors inherent in a flat-rate structure would more than offset any slight increase. For example, is it worth it to a taxpayer to pay 3 percent higher taxes if in return the taxpayer: (1) Need not keep detailed records necessarily kept today to justify the taking of tax preferences, (2) need not solicit professional tax preparation assistance with its attendant costs, (3) saves substantial amounts of time that otherwise would have been devoted to tax preparation, (4) achieves a peace of mind concerning the accuracy (read lack of audit probability) of his return, (5) believes other taxpayers are now also paying their fair share and opportunities for cheating have been cut back dramatically, and (6) the taxpayer may have found himself with more money on which to pay tax as a result of a financial and tax environment conducive to rewarding economic activity designed to reward efficiency and production. Answers to such a hypothetical question may vary, but on the whole I don't believe that any income class will ultimately suffer from imposition of a flat-rate tax. Higher income earners will probably on the whole have a reduced tax burden but if a person is presently sheltering extensive amounts of income they may well end up paying more to Uncle Sam in taxes.

The people of this country want tax reform. I believe a flat-rate tax is fair and that it would make the system immeasurably more easy to understand and to comply with. I further believe that with a flat rate of 19 percent beginning in Fiscal Year 1983, we could raise sufficient revenues to bring about a balanced budget within three years thereafter assuming spending levels are kept reasonable. Additionally, it would be my hope that through increased productivity and the additional revenues that could be expected to be derived from the taxation of economic activities that are now a part of a $200 billion underground economy, that the tax rate could be driven down much further by 1990.

The essence of what a good tax system must contain was outlined by former Secretary of the Treasury Mellon with these words:

"The problem of Government is to fix rates which will bring in a maximum amount of revenue to the taxpayer or on business enterprises. A sound tax policy must take into consideration three factors. It must produce sufficient revenue for the Government; it must lessen so far as possible, the burden of taxation on those least able to bear it; and it must also remove those influences which might retard the continued steady development of business and industry on which, in the last analysis, so much of our prosperity depends."

I believe a flat-rate structure meets these criteria and deserves a chance to prove itself.

Thank you.

PROPOSALS TO REDUCE GRAIN SURPLUS AND IMPROVE FARM PRICES

Mr. PRESSLER. Mr. President, our farm economy is in the worst depression since the 1930's. Low farm prices, rising costs of production, and high interest rates are forcing thousands of farmers out of business. If these family farms are to weather the current economic storm, action must be taken now to increase farm prices.

The U.S. Government and farmers have near record grain stocks in storage. This surplus is greatly depressing grain prices. The only way prices will be improved is to reduce that surplus. Recently, farm, small business, religious and other organizations in South Dakota met to discuss the farm crisis. Plans to reduce the surplus were proposed. Among other actions, the South Dakota Farmers Union proposed a mercy food program to increase U.S. food aid to poor nations. The proposal calls for a redirection of our foreign aid programs toward increased levels of food aid.

Currently, the food aid portion of the foreign aid budget and the Public Law 480 share of total U.S. agricultural exports are relatively small. Of the $9 billion spent on U.S. foreign aid programs, only $1.5 billion will be in the form of food aid. The percentage of U.S. total agricultural exports accounted for by Public Law 480 sales fell from 27 percent in 1960 to between 2 and 3 percent in 1981.

In addition to this proposal, the South Dakota Farm Bureau has proposed a 10-step plan to reduce the surplus through increased exports. As a strong supporter of increased agricultural exports, I have sponsored or cosponsored legislation encompassing a number of the Farm Bureau proposals. The current crisis in U.S. agriculture illustrates the need for a strong agricultural export policy if thousands of family farmers are to survive.

After the Farmers Union and Farm Bureau proposals were drafted, South Dakota farm organization leaders met with the Governor of South Dakota and combined portions from each proposal to form one plan. The group then endorsed the plan. These proposals come from farmers and other grassroots Americans who are affected by farm policies. The final plan is the work of a coalition of farm groups and represents the thinking of thousands of South Dakotans.

Mr. President, I ask that copies of the proposals be inserted in the RECORD following my statement. I also urge my colleagues to join me in careful consideration of building support for the proposals as appropriate means to reduce our huge grain surplus and to improve farm prices.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EMERGENCY FARM PROPOSAL

American agriculture is in crisis. Family farmers and ranchers from Maine to California and from Texas to North Dakota have not faced such bleak economic conditions since the worst years of the Great Depression of the 1930's. Year after year of declining prices, rising production costs and sky-high interest rates have eroded the equity of agriculture and now threaten the continued survival of thousands and thousands of our fellow family farmers.

For the past 13 months the average parity level has remained below 60 per cent. United States Department of Agriculture statistics show that the national average price of wheat, for example, declined from $3.94 to $3.29 per bushel from August 1980 to August 1982. During the same period, the national average price of corn fell by fully 25 per cent from $2.92 to $2.19. In some areas, including South Dakota, prices have gone even lower.

The miracle of our family farm agricultural production capacity now threatens to bury us under a mountain of grain. As the result of a grossly inadequate voluntary set-aside program and an excellent growing season, agriculture is faced with record production. Less than a month ago, USDA estimates of an 8.32 billion bushel corn crop, 2.77 billion bushel wheat crop and as well as significant increases for many other commodities resulted in another market collapse.

Although livestock prices are currently higher (as a per cent of parity) than other commodities, agricultural economists predict that disaster level feed grain prices will lead to over-production and major livestock price declines.

A wise man once said that those who refuse to learn the lessons of history are condemned to repeat it. Just as the farm depression of the 1920's became a national and international depression during the 1930's, America's rural depression of 1982 has gone on to engulf the rest of the nation and much of the Free World. For the past two months, U.S. unemployment has climbed to 9.8 per cent—the highest level since 1941. Business failures have reached more that 500 per week—the highest since 1933. The number of commerical bank failures so far in 1982 have more than doubled those of the past year.

Since the current depression began in rural America, we are convinced that the national economy will not begin to recover until there is a significant increase in farm income.

As we approach fall, immediate action is necessary if we are to avert a still greater and perhaps irreparable collapse of our agricultural economy. For that reason we support the following actions:

A MERCY FOOD PROGRAM

The preamble to the International Affairs section of the 1982-83 United States Budget declares that the "foreign policy of the United States is directed toward achieving an environment of peace, international security and economic prosperity in which individual, political and economic freedoms may flourish."

We applaud this noble goal. We believe that one of the best ways in which we can work toward building a better world is through the provision of food aid to the hungry millions of the world's developing nations. We also believe that significantly increased food aid programs would have a definite and positive impact in reducing current U.S. farm commodity surpluses and in increasing market prices.

We, therefore, support the immediate establishment of a temporary emergency Mercy Food Program, which would supply surplus American farm commodities to underdeveloped nations who are not now able to afford to buy the food they need, and assist in construction of adequate storage facilities, to feed their people.

Under this proposed Mercy Food Program, the U.S. government would purchase American farm commodities at current prices, plus storage fees, interest and other costs which would be incurred under the present Commodity Credit Corporation programs. This grain could also come out of the present reserve program.

These commodities would then be turned over to existing religious and other charitable organizations for delivery to recipient nations and peoples. Recipients should include only those nations which are not now able to buy food for themselves. Under no circumstance should such food aid be shipped to nations which are financially able to purchase commodities on the world market.

Religious and other charitable organizations designated to participate in the distribution of commodities included in the Mercy Food Program should receive whatever federal financial aid is required to complete their task.

In the recognition that there are millions of hungry people in the United States who are also deserving of such aid, we recommend that Mercy Food Aid and required funding for distribution also be made available to appropriate domestic charitable organizations.

To be successful in its other goal of improving farm income in the United States, we believe that at a bare minimum, the Mercy Food Program must include at least one fourth of current production carry-over.

Enactment of the Mercy Food Program should not result in any major increase in federal government financial outlays. In fact, potential funding is already in the budget. The current budget provides: $1.3 billion in fiscal 1983 for foreign economic and financial assistance, $1.5 billion in multi-lateral development assistance by the World Bank and regional development banks, $1.7 billion in funding for the Agency for International Development (AID) and $1 billion in funding for the P.L. 480 programs.

We believe that the provision of food aid through these programs would be far more effective than millitary aid in achieving our stated foreign policy objectives. It would also be much more in line with our responsibilities as a Christian nation.

AGRICULTURE FINANCING

We are faced with an immediate farm income crisis which may result in a wave of farm foreclosures greater than at any time since the 1930's.

While we are, at this time, opposed to a blanket moratorium on all farm debts, we do support a case-by-case deferral on principal and interest payments when it can be adequately demonstrated that an individual farmer or rancher is unable to make payments as a result of drought, price or other disaster beyond his control.

We urge that individual borrowers and lenders be totally frank and honest with each other.

OTHER ISSUES AND OPTIONS

Interest Rates—A significant factor in the current depression in America has been at least three years of exorbitant interest rates. We urge official action to reduce interest rates in order to avert a complete collapse of our entire economy.

Exports—It has also been suggested that increased exports will solve the farm income problem. This is a totally inadequate short-term solution. Although exports have increased dramatically during recent years, they have brought little financial benefit to farmers and ranchers.

Farm Program—We are also opposed to the re-opening of the 1982 Farm Program. Such action would be unfair to those who participated in the 1982 set-aside program and would serve to further erode farmer respect and support for such programs. A re-opening of the 1982 Program would make it difficult or impossible to persuade farmers to participate in future set-aside programs.

[News release]

HURON, S.D., September 10, 1982. . . . The South Dakota Farm Bureau proposed a 10 point program designed to correct present deficiencies in net farm income and to chart a course for long range prosperity for America's farmers and ranchers.

The Farm Bureau proposal, adopted by the Board of Directors at a meeting in Huron called for:

1. Passage of "sanctity of contract" legislation. The U.S. must rebuild its image of reliability to foreign buyers. Ensuring that contracts for future delivery of ag exports would be honored for at least 180 days would indicate a strong commitment by the U.S.

2. Adequate funding of the CCC Export Revolving Fund. This method of credit for foreign customers has an excellent record of payment. Because of tight money conditions and present interest rates, many prospective buyers are having difficulty obtaining credit.

3. Allow agricultural exports to qualify for credit from the Export-Import Bank. Presently, business and industry use funds from the Export-Import Bank, and Farm Bureau believes agriculture deserves a percentage of the funds.

4. Appoint the U.S. Secretary of Agriculture as a voting member of the National Advisory Council on International Financial and Monetary Policies. Ag exports are di-

rectly affected by international financial and monetary policies.

5. Retaliation by the federal government against subsidized farm exports from the European Economic Community. American farmers cannot compete with the power of foreign national treasuries.

6. Elimination of U.S. cargo preference laws and agreements, which result in reduced sales of U.S. Ag exports. Potential buyers are looking for the most efficient and economical method of transporting agricultural products.

7. Increased use of the P.L. 480 program and emphasis on barter trnasactions to move U.S. ag commodities into world markets.

8. Announcement of a paid diversion for 1983 crops in the near future. This will shock the markets only if the program is competitive with prices farmers would have received had they planted the crop. The problem we have now is far too much grain in the farmer-held, government-managed reserve.

9. Emphasis on market development, both foreign and domestic, and research and development on expanded and new uses of farm products. This effort needs to be a joint venture between the private and government sectors of the economy.

10. Renewed effort to break the disastrous spend and tax cycle that is stifling the economy. Uncontrolled federal spending continues as the 1983 budget is projected at $827 billion, 26 percent higher than 1981. Entitlement programs now make up 46.5 percent of the federal budget and are the root cause of federal deficits and runaway spending.

To date, budget cuts have been cosmetic. Efforts to finance budget deficits with increased taxation only serve to stifle savings, investment, and economic growth the nation must have to emerge from recession in the short run, and survive as a viable economy in the long run.

OFFICE OF THE GOVERNOR,
STATE OF SOUTH DAKOTA,
September 17, 1982.

HON. LARRY PRESSLER,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR LARRY: Last evening, I met with a group of agricultural leaders from throughout South Dakota to discuss possible approaches to the sagging agricultural economy throughout the Midwest. From that meeting, the group developed a program which they and I plan to pursue as a short term solution to many of the problems facing agriculture. I am enclosing, for your information, a short summary in the form of minutes of the meeting along with the proposal which was developed. I urge your wholehearted support of this proposal along with the efforts of your office to accomplish this program.

Sincerely,

WILLIAM J. JANKLOW.

MEETING SUMMARY, SEPTEMBER 16, 1982,
GOVERNOR'S MANSION, PIERRE, S. DAK.

Representatives of agriculture met at the Governor's Mansion in Pierre on September 16, 1982. Members attending included (see attached list).

Leland Swenson presented the South Dakota Farmers Union Emergency Farm Proposal. Richard Ekstrum presented the South Dakota Farm Bureau's Ten Point Plan designed to correct present deficiencies in net farm income.

SHORT-TERM PLAN

Jerry Hayden, South Dakota Irrigation Association, made a motion that the group endorse Points 2, 3, 5, 7, 8, and 9 of the South Dakota Farm Bureau Plan and also endorse the Mercy Food Plan of the South Dakota Farmers Union, as a short term program to help agriculture. All representatives present voted aye. Chris Hughes of the South Dakota Wheat Producers abstained. (A copy of the combined agricultural program is attached.)

LONG-RANGE PLAN

After lengthy discussion, the group revised Points 1, 4 and 10 of the Farm Bureau Plan. Jerry Hayden of the South Dakota Irrigation Association made a motion to endorse those points of the Farm Bureau Plan as amended as well as the Mercy Food Plan of the Farmers Union to be used as a long term goal of the group. Motion carried. Abstaining from the vote was Leland Swenson of the South Dakota Farmers Union and Chris Hughes of the South Dakota Wheat Producers. (A copy of the long term goals is available from the South Dakota Division of Agricultural Marketing.)

MERCY FOOD PROGRAM

We support the immediate establishment of a temporary emergency Mercy Food Program, which would supply surplus American farm commodities to underdeveloped nations who are not now able to afford to buy the food they need, and assist in construction of adequate storage facilities to feed their people. Under the Mercy Food Program, the U.S. Government would purchase American farm commodities at current prices, plus storage fees, interest and other costs, which would be incurred under the present Commodity Credit Corporation and could include grain which is presently in the reserve program.

These commodities would then be turned over to existing religious and other charitable organizations for delivery to recipient nations and peoples. Recipients should include only those nations which are not now able to buy food for themselves. Under no circumstances should such food aid be shipped to nations which are financially able to purchase commodities on the world market.

Religious and other charitable organizations designed to participate in the distribution of commodities included in the Mercy Food Program should receive whatever federal financial aid is required to complete their task.

To insure that farm income is improved in the United States, we recommend that at a bare minimum, the Mercy Food Program must include at least one-fourth of the current production carryover. And that the following programs be initiated as soon as possible:

Adequate funding of the CCC Export Revolving Fund. This would help alleviate the tight money conditions and present interest rates which are causing many prospective buyers to have difficulty in obtaining credit, and this method for foreign customers has had an excellent record of repayment.

Allow agricultural exports to qualify for credit from the Export/Import Bank. Presently, business and industry use funds from the Export/Import Bank and agriculture deserves a percentage of the funds.

Protection by the federal government against subsidized farm exports from the European Economic Community. American farmers cannot compete with the power of foreign national treasuries.

Increased use of the P.L. 480 Program and emphasis on barter transactions to move U.S. ag commodities into world markets.

Announcement of a paid diversion for 1983 crops in the near future. This would then shock the markets only if the program is competitive with prices farmers would have received, had they planted the crop.

Emphasis on market development, both foreign and domestic, and research and development on expanded and new uses of farm products. This effort should be a joint venture between private and governmental sectors of the economy.

South Dakota Association of Cooperatives, J. D. Lynd, Executive Secretary.

South Dakota Farm Bureau Federation, Richard Ekstrum, President.

South Dakota Farmers Union, Leland Swenson, President.

South Dakota Wheat Producers, Chris Hughes, President.

South Dakota Stockgrowers Association, Ralph Jones, President, Roger Husted, Vice President.

South Dakota Livestock Auction Market Association, Gordon Wilkerson.

South Dakota Pork Producers, Doyce Friedow, Executive Secretary.

South Dakota Irrigation Association, Jerry Hayden, President.

South Dakota Sheepgrowers Association, Ray Clementz.

South Dakota Veterinary Med. Association, Dr. James Bailey, Executive Secretary.

South Dakota Association of Soil and Water Conservation Districts, Bob Gab, President.

South Dakota Livestock Association, Louie Bartels, President.

DEBT COLLECTION BY THE FEDERAL GOVERNMENT

Mr. DECONCINI. Mr. President, as a long-time advocate of more aggressive debt collection activities on the part of the Federal Government, I am pleased to have been a cosponsor of the measure which was passed yesterday. I commend Senator PERCY for introducing this comprehensive legislative package and for guiding it through the Governmental Affairs Committee.

The history of the Federal Government's debt collection activities is a sorry one indeed. Part of the problem has been, of course, that the Government has not been provided with the necessary tools to pursue delinquent debtors. S. 1249 will go a long way toward resolving those problems.

The magnitude of the problem confronting the Federal Government is graphically illustrated in the most recent Office of Management and Budget Debt Collection Report to the Senate Appropriations Committee dated May 30, 1982. That report estimates 1982 delinquencies and defaults on debts owed the Government at $35.7 billion. And the projections for 1983 are even more staggering—$42.2 billion. I respectfully request that the OMB table indicating the agency by agency breakdown of delinquent debts be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DECONCINI. Mr. President, according to the OMB table, projected deliquencies increase from approximately $33.5 billion in 1981 to $42.2 billion in 1983—an increase of 25 percent. While delinquent nontax debt actually declines from $13 billion in 1981 to $12.5 billion in 1983—a decrease of 4 percent—the amount of the outstanding debt owed to the Government is clearly unacceptable. This Nation can simply not afford to write off its bad debts. While some progress has been made, much remains to be done. And it behooves all of us to move forward on our debt collection activities with all deliberate speed. If the Government collected all the debts it is owed, we could reduce the Federal deficit by one-third.

This bill will remove many of the obstacles which have prevented the Government from collecting the debts it is owed. It will enhance the Government's ability to collect its unpaid debts by allowing Federal agencies to refer credit information on delinquent debtors to credit bureaus; by allowing a Federal employee's salary to be offset to satisfy his/her debt obligation to the Government; by allowing Federal agencies to contract with private collection agencies to collect debts; and by allowing the IRS to disclose to another Federal agency information on the outstanding tax liability of a Federal loan applicant. These provisions, among others, will help the Government to more effectively and efficiently collect its debts. It is a good bill. It is long overdue.

EXHIBIT 1

TABLE 1.—GOVERNMENT-WIDE DEBT COLLECTION ACTIVITIES[1]

[In millions of dollars]

	Total Receivables			Collections			Delinquencies/defaults		
	1981 estimate	1982 estimate	1983 estimate	1981 estimate	1982 estimate	1983 estimate	1981 estimate	1982 estimate	1983 estimate
Department or other unit:									
Department of Agriculture	93,886.8	106,762.7	118,058.8	18,317.2	20,235.3	22,820.1	1,975.7	2,047.2	2,065.1
Department of Commerce	1,005.0	947.2	863.6	156.5	141.9	140.3	244.0	213.7	179.7
Department of Defense	2,440.1	2,357.0	2,273.6	4,747.0	4,983.6	5,258.8	266.1	198.3	196.9
Department of Education[2]	9,252.3	9,457.7	9,656.6	733.5	830.9	898.1	2,975.6	3,097.4	3,244.8
Department of Energy[3]	873.1	1,055.0	1,372.2	4,429.0	4,832.4	5,184.6	114.7	87.5	78.7
Department of Health and Human Services	3,252.2	3,045.6	2,745.7	2,582.5	3,278.6	3,724.9	2,000.1	1,848.8	1,621.7
Department of Housing and Urban Development	13,886.7	13,815.1	13,329.2	3,944.1	3,743.7	3,941.3	1,641.0	1,362.4	1,260.8
Department of the Interior	3,280.7	3,398.7	3,462.3	324.7	346.9	366.9	59.5	59.1	58.8
Department of Justice	273.0	160.0	145.3	55.9	50.8	54.1	138.8	25.1	10.6
Department of Labor	6,556.8	8,650.0	10,552.9	323.5	587.4	849.3	305.5	381.1	418.2
Department of State	76.5	57.7	53.2	49.4	28.1	12.9	11.8	9.5	7.9
Department of Transportation	981.5	1,079.0	1,044.9	210.0	222.4	271.6	140.6	132.7	90.8
Department of the Treasury	27,049.7	31,123.6	35,896.2	26,652.7	30,720.7	35,542.2	20,784.0	24,900.9	29,790.6
Agency for International Development	18,120.9	18,261.8	18,396.9	758.8	782.2	809.3	77.4	73.5	74.9
Export-Import Bank	16,196.0	18,168.6	19,861.8	2,660.0	3,168.0	3,654.0	8.9	8.9	8.9
Small Business Administration	9,748.3	11,000.0	11,580.0	1,348.9	1,400.0	1,500.0	1,697.8	1,980.0	2,200.0
United States Railway Association	1,246.8	1,031.4	1,031.4	401.5	223.9	75.0			
Veterans Administration	4,464.7	4,741.5	5,100.3	496.2	551.6	574.9	1,042.4	938.4	863.9
Other Independent Agencies:									
General Services Administration	76.0	76.7	71.3	128.7	153.5	142.5	10.2	9.1	8.3
Interstate Commerce Commission	51.0	39.2	14.2	29.4	11.8	12.4	50.7	39.0	14.0
National Aeronautics & Space Administration	173.2	146.7	129.0	245.8	277.2	185.4	.4	.7	.4
Overseas Private Investment Corporation	97.1	103.3	103.0	20.6	21.9	21.8	11.3	12.1	12.0
Railroad Retirement Board	27.2	32.1	30.8	72.2	71.4	77.4	25.1	30.1	28.6
Total	213,015.6	235,510.6	255,773.2	68,688.1	76,664.2	86,117.8	33,541.6	37,455.5	42,235.6

[1] Estimates were provided September 30,1981. Actual amounts for Fiscal Year 1981 will be published in the Treasury Bulletin for March 1982 and will be available by March 31, 1982. Data was not provided to OMB on loans made by the Treasury Federal Financing Bank and Guaranteed by Defense, Education, Energy, GSA, HUD, Interior, NASA, OPIC, SBA, and Transportation.

[2] The President's budget proposes dismantlement of the Dept. of Education (DEd) effective October 1, 1982. FY 1983 funding for activities currently performed by DEd will be transferred to the Foundation for Education Assistance, the Depts. of Defense, HHS, Treasury, Interior, and Justice, and to other independent agencies.

[3] The President's budget proposes dismantlement of the Dept. of Energy (DOE) effective October 1, 1982. FY 1983 funding for activities currently performed by DOE will be transferred to the Depts. of Commerce, Interior, and Justice and to the Federal Energy Regulatory Commission.

TRIBUTE TO REPRESENTATIVE JOHN J. RHODES

Mr. DECONCINI. Mr. President, in the House of Representatives today has been set aside as a day to honor the distinguished retiring Member of the Arizona delegation, the Hon. JOHN J. RHODES. I am pleased to add my voice to those honoring Representative RHODES today.

Since he was first elected to the U.S. House of Representatives nearly 30 years ago, JOHN RHODES has been a true leader among his colleagues. Arizonans are very proud that JOHN RHODES has represented them so well and faithfully over the years, rising in 1973 to the distinguished position of minority leader of the House, and serving honorably in that difficult and challenging post through the 96th Congress.

During my time here in the Senate, from the other side of the political aisle, and from the other side of the Capitol, I have seen JOHN RHODES and respected him both for his hard work and his integrity. I congratulate him on his years of distinguished service, and I assure him that we will miss him in the House of Representatives.

He will always be a delegate from Arizona in the mind of this Senator.

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35, which would permit Mr. Patrick Donnelly Balestrieri, of the staff of the Committee on Foreign Relations, to participate in a program, jointly sponsored by the Center for Strategic and International Studies of Georgetown University and the Konrad Adenauer Foundation, to be held in Bonn and West Berlin, the Federal Republic of Germany, from September 25 to October 3, 1982.

The committee has determined that participation by Mr. Balestrieri in the program in Bonn and West Berlin is in the interest of the Senate and the United States.

WIND ENERGY TURBINES AT MEDICINE BOW

Mr. WALLOP. Mr. President, the town of Medicine Bow, Wyo., which is famous in western lore as the setting of Owen Wister's "The Virginian," is now also the setting for a brand-new set of wind turbines that are being op-

erated by the Interior Department's Bureau of Reclamation to generate clean electric power from a renewable natural resource, the force provided by the wind.

I was privileged on September 4, 1982, to be present at and participate in the dedication ceremonies for the Medicine Bow wind energy turbines. The two units, one built by Boeing Corp. and the other by United Technology's Hamilton Standard Division, are being operated under identical conditions to provide valuable technical data on the practicality of wind-driven power generation, as well as 6.5 combined megawatts of power. With me at the dedication event was Commissioner of Reclamation Robert N. Broadbent, who delivered some pertinent remarks and read a congratulatory message from Secretary of the Interior James Watt.

Mr. President, to memorialize the significance of the event, I ask unanimous consent that the full text of Commissioner Broadbent's remarks and Secretary Watt's message be printed in the RECORD at this time.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

REMARKS OF ROBERT N. BROADBENT, COMMISSIONER OF RECLAMATION

New Orleans Saints football coach Bum Phillips was once asked about the talent of running back Earl Campbell.

"He might not be in a class by himself," Phillips said, "but whatever class he's in, it doesn't take long to call the roll!"

The same can be said of these two wind turbines.

The Hamilton Standard WTS-4 is the largest wind turbine in the world—in terms of both size and output. With its blade in the upright position, it stands nearly 400 feet above the ground. The tower is made of hollow steel, and the rotors are fabricated of filament-wound fiberglass. Total weight is 791,000 pounds. The blade turns at 30 revolutions per minute, producing 4 megawatts of electricity.

At 350 feet in height, the Boeing MOD-2 is slightly smaller. But it has a longer rotor, which is made of steel. It weighs some 580,000 pounds and faces into the wind, while the Hamilton Standard WTS-4 faces downwind. The rotor of the MOD-2 turns at 17.5 rpm's, producing 2.5 megawatts of power.

Together, the turbines produce enough electricity to meet the needs of about 3,000 homes—9,000 people—or a town about the size of Riverton, Wyoming.

There has already been a lot of interagency cooperation on this project, and we expect there to be a lot more.

Reclamation received a great deal of assistance from the National Aeronautics and Space Administration (NASA) and from the Department of Energy (DOE) in designing, building, and testing these two units. NASA manages DOE's development program for all large wind turbines and provides technical management of the Hamilton Standard unit under an agreement with Reclamation.

Installation of the Boeing unit was arranged through a joint agreement with DOE, NASA, and Reclamation. The unit was purchased under an existing contract which NASA had with Boeing for the development program.

Reclamation got involved in the wind energy business mainly because of our experience in hydroelectric power generation. Every year, Reclamation's 50 hydroelectic powerplants located throughout the 17 Western States generate some 40 billion kilowatt hours of electricity—the equivalent of about 73 million barrels of oil.

When Reclamation began the job of selecting a site for a potential wind farm, we had a long list to narrow down. Records show that—believe it or not—Medicine Bow is only the third windiest spot in the Nation. Livingston, Montana, is a little windier. So is Guadalupe Pass, Texas. But the winds in both those locations are gusty. Medicine Bow has winds that are both strong and steady.

Records also show that here in Medicine Bow, at 200 feet above ground level where the wind generators will operate, the winds average over 20 miles per hour—more than enough for efficient wind-driven power generation. Not only that, the windiest period of the day is between 10:00 a.m. and 10:00 p.m., the hours of heaviest power use.

More reasons Medicine Bow was chosen are that it is close to an existing Federal powerline, it has good access for construction, and the environmental impact is minimal.

We're pleased with the Medicine Bow test site and expect some valuable engineering data—as well as electricity—to be developed here.

Operation of these two machines of different designs at the same site provides the opportunity to compare technology, engineering, operation and maintenance costs, output, and other factors important to Federal agencies and the emerging wind power industry.

Reclamation engineers are interested in the idea of tying wind energy into our existing hydroelectric system. That tie-in should solve the major problem that prevented earlier utility-size development of wind turbines—namely, what to do when the wind stops blowing. With Reclamations's large reservoirs acting as "storage batteries" to back up the wind energy system, we can make full use of windpower when it's available—and we can quickly switch to hydropower if there's no wind.

Even though the start-up of these two units today is significant in itself, this event signals even greater possibilities for the future. We have just completed a study showing that a wind field with a capacity of 100 megawatts and consisting of as many as 40 units could be integrated into the Federal hydropower system with substantial economic benefits and without adverse environmental effects. The energy produced could be marketed at rates that will result in full repayment of costs, plus interest, over a period of 30 years.

Because wind turbines use the wind—which is free—instead of fuel, the cost of windpower will not go up when fuel costs rise. This factor makes wind energy—like hydropower, which also uses no fuel—even more attractive for the future.

Wyoming has always had a deep-seated appreciation for its bountiful natural resources and for efficient management of those resources. And Wyoming is in the forefront of Western States responding to President Reagan's call for the States to take more of a lead in setting priorities for planning and financing future projects. The Wyoming legislature, responding to a call by Governor Herschler, has designated an impressive level of funding for future water resource development in the State. Heeding the Administration's call for cost sharing, the Wyoming legislature has started a water development fund to which $100 million per year in State funds has been pledged for six years, for a total Wyoming cost-sharing component of $600 million earmarked for future Federal projects in the State.

The Administration is greatly encouraged that States, localities, and other non-Federal interests are becoming more involved in planning and financing future water and power projects. With the right level of non-Federal commitment a 100-megawatt wind farm here at Medicine Bow is a real possibility for the future. The benefits to the local community, including new construction jobs and related economic activity, would be considerable.

Over the years, advances in science and technology have enriched our lives and helped us cope with the problems of changing times and changing needs. These two wind turbines mark the beginning of an era in which one more of nature's gifts—the wind—can be harnessed on a large scale to help meet our growing energy needs. Dedicating these units here today is an important event for the town of Medicine Bow, the State of Wyoming, and our Nation. We're proud that the Bureau of Reclamation has had the opportunity to play a part in this historic occasion.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 3, 1982.

Hon. GERALD W. COOK,
Mayor of Medicine Bow,
Medicine Bow, Wyo.

DEAR MAYOR COOK: Medicine Bow, Wyoming—like the West itself—has always been identified with the frontier spirit. The brave men and women who came West during the 1800's exhibited self-reliance and innovation to survive the rigors of the environment and to conserve their often limited resources.

A young inventor named Thomas Edison wrote of these virtues during a summer day back in 1878 when he came to Medicine Bow and southern Wyoming to view an eclipse of the sun. Owen Wister wrote of the frontier spirit in 1885 when he traveled to Medicine Bow to write the classic western novel, "The Virginian."

Today, the people of Medicine Bow find themselves at another frontier—an energy frontier. The dedication on September 4, 1982, of two giant wind turbine generators marks the beginning of a new era in this Nation's drive for energy self-sufficiency.

I would like to offer my congratulations to the people of Medicine Bow, the State of Wyoming, and the Bureau of Reclamation for the role they are playing in the development of wind energy and for the renewal of the frontier spirit that it represents.

Sincerely,

JAMES G. WATT,
Secretary.

THE DEPLOYMENT OF A TEMPORARY MULTINATIONAL PEACEKEEPING FORCE

Mr. THURMOND. Mr. President, today I received a letter from the President of the United States regarding the use of American troops in

Beirut as part of a multinational peacekeeping force.

As you know, this letter is the President's official explanation regarding the use of U.S. troops in Lebanon, as required by the War Powers Act. I ask unanimous consent that the text of the letter be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, September 29, 1982.

Hon. STROM THURMOND,
President Pro Tempore of the Senate, Washington, D.C.

DEAR MR. PRESIDENT: On September 20, 1982, the Government of Lebanon requested the Governments of France, Italy, and the United States to contribute forces to serve as a temporary Multinational Force, the presence of which will facilitate the restoration of Lebanese Government sovereignty and authority, and thereby further the efforts of the Government of Lebanon to assure the safety of persons in the area and bring to an end the violence which has tragically recurred.

In response to this request of the Government of Lebanon, I have authorized the Armed Forces of the United States to participate in this Multinational Force. In accordance with my desire that the Congress be fully informed on this matter, and consistent with the War Powers Resolution, I am hereby providing a report on the deployment and mission of these members of the United States armed forces.

On September 29, approximately 1200 Marines of a Marine Amphibious Unit began to arrive in Beirut. Their mission is to provide an interposition force at agreed locations and thereby provide the multinational presence requested by the Lebanese Government to assist it and the Lebanese Armed Forces. In carrying out this mission, the American force will not engage in combat. It may, however, exercise the right of self-defense and will be equipped accordingly. These forces will operate in close coordination with the Lebanese Armed Forces, as well as with comparably sized French and Italian military contingents in the Multinational Force. Although it is not possible at this time to predict the precise duration of the presence of U.S. forces in Beirut, our agreement with the Government of Lebanon makes clear that they will be needed only for a limited period to meet the urgent requirements posed by the current situation.

I want to emphasize that, as was the case of the deployment of U.S. forces to Lebanon in August as part of the earlier multinational force, there is no intention or expectation that U.S. Armed Forces will become involved in hostilities. They are in Lebanon at the formal request of the Government of Lebanon, and our agreement with the Government of Lebanon expressly rules out any combat responsibilities for the U.S. forces. All armed elements in the area have given assurances that they will refrain from hostilities and will not interfere with the activities of the Multinational Force. Although isolated acts of violence can never be ruled out, all appropriate precautions have been taken to ensure the safety of U.S. military personnel during their temporary deployment in Lebanon.

This deployment of the United States Armed Forces is being undertaken pursuant to the President's constitutional authority with respect to the conduct of foreign relations and as Commander-in-Chief of the United States Armed Forces.

I believe that this step will support the objective of helping to restore the territorial integrity, sovereignty, and political independence of Lebanon. It is part of the continuing efforts of the United States Government to bring lasting peace to that troubled country, which has too long endured the trials of civil strife and armed conflict.

Sincerely,

RONALD REAGAN.

NEED FOR RATIFICATION OF GENOCIDE CONVENTION STILL VERY REAL

Mr. PROXMIRE. Mr. President, since 1967 I have daily urged the Senate to ratify the Convention on the Prevention and Punishment of Genocide. Unfortunately, to this date, we have not done so.

In 1948 the General Assembly of the United Nations unanimously adopted the Genocide Convention; our country signed it immediately, just 2 days after its adoption. In 1949 President Truman then sent the treaty to the Senate for ratification and it has remained in this legislative body, hanging in limbo, ever since. We seem to have forgotten its vital importance today. Although our country has been a leader in promoting international civil and political liberties, it has not joined over 80 other nations which have ratified the treaty in officially condemning the most heinous violation of human rights—the crime of genocide.

Mr. President, all racial, religious, and ethnic groups possess the most fundamental human right—the right to exist. Sadly, however, we cannot help but realize that widespread violence and human carnage threaten world peace today, in 1982. The Genocide Convention was drawn up initially in response to the Nazis' Holocaust; it was designed to prevent another attempt to systematically exterminate a particular group of people. Those who made up the treaty had much foresight, for in 1982, many, many years after World War II, the potential for genocide is still very real. The need for the Genocide Convention has not diminished one iota.

Mr. President, I ask you whether the elimination of an entire group is still pressing enough for our present concern? Of course, it is. The United States has made treaties designed to protect specific species of animals—why can it not ratify a treaty protecting human beings?

The loss of a particular group is an irreplacable loss to all of mankind. Respect for human life is not merely a back burner issue, it is an immediate moral imperative. Today, once again, I should like to reiterate my belief in the very real need for ratification. There can be no question on the need for the Genocide Convention. Our country can no longer stand aside in the fight to prevent this outrageous crime.

CIVIL DEFENSE: AGAINST NUCLEAR WAR—II

Mr. PROXMIRE. Mr. President, if the Nation follows the civil defense plans set out by the Federal Emergency Management Agency, then over 80 percent of the U.S. population will survive a nuclear attack and our society will recover to its prewar stage of economic development in a "relatively few years."

This is the conclusion of the war gamers as they examine the potential destruction from a nuclear exchange. Given these facts, an 80-percent survival rate, then does not the civil defense plan of FEMA make sense? After all, Is not the first obligation of a government the protection of its people?

The 80-percent survival figure, which is found in many political speeches, is based on a number of assumptions about the specific nature of a nuclear exchange. A look at these assumptions give one pause in accepting the scientific accuracy of such claims.

First FEMA assumes the Soviets will engage in an all out attack with no subsequent followup. There would be no attacks over time—obviously an indefensible assumption to start with.

Then FEMA says that the U.S. nuclear powerplants are off limits to Soviet attack. We just tell them they cannot attack our nuclear powerplants—it would upset the analysis. And, of course, any deaths that occur must only be related to immediate effects—no postattack deaths from radiation, burns, bleeding, lack of medical care, weather, floods, or such. No, the FEMA analysis is a pure approach to deaths. And lastly, if the foregoing was not enough, FEMA assumes that all the survivors must have near perfect fallout protection for an indefinite period of time.

Ah, what a perfect world the nuclear planners live in where deaths can be computed without regard to likely situations. No wonder the results look so promising. The old computer saying aptly fits here, "Garbage in, garbage out."

Mr. President, I ask unanimous consent that the second and concluding part of an analysis of the administration's civil defense policies by the Center for Defense Information be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Center for Defense Information]

ANALYSIS OF CIVIL DEFENSE POLICIES—PART II

INDUSTRIAL PROTECTION

The third part of the Reagan civil defense plan is to provide protection for key industries, a portion of which will be military-related. FEMA maintains that "simple items and methods could help assure survival of American industry in the event of nuclear attack." FEMA is making considerable use of tests the Boeing Aerospace Company made in conjunction with the Defense Nuclear Agency. These tests primarily consisted of burying machines, surrounding them with crushable material and plastic and exploding TNT near them.

The FEMA research budget has been greatly expanded to investigate a variety of methods to protect industry. Studies have been initiated to look into the feasibility of protecting factories with anti-ballistic missiles and using mobile oil refineries.

The Boeing study recommends the following techniques: coating machines with corrosion-proofing oil, grease, or paint; wrapping them in burlap or plastic bags; placing them on crushable packing material and covering them with several feet of earth. Workers would dismantle, disperse and bury machinery in phases, as a crisis escalated. Boeing estimated that with no advance preparation other than planning, "much of the U.S. industry could surge to a protected situation within 4 to 6 days." T. K. Jones, now Deputy Defense Undersecretary for Strategic and Theater Nuclear Forces, served as program manager for the tests.

Comment

The Boeing study simulating limited blast effects on a few isolated pieces of equipment does not allow one to extrapolate protection for thousands of complex and interdependent economic facilities, regardless of warning time. The tests do not adequately measure the full range of nuclear weapons effects, such as radiation. It could be months or even years before one could effectively work in targeted areas. Twenty five years after the last test at Bikini Island in the Pacific it remains uninhabitable and will be for at least another twenty years. Even granting that a few machines may survive, whole new factories and economies would have to be built to use them.

STRATIFIED LAYERS OF DECEPTION

Recent public reaction to these civil defense plans has been critical, accenting the obvious logistical difficulties involved without questioning the larger assumptions upon which the program is based. FEMA's plans rely on a mixture of half-truths and "best-case" scenarios. They represent a profound and dangerous disregard for the destructive nature of nuclear weapons and the frailty of modern industrial society.

FEMA asserts that if its plans are adopted, there will be 180 million survivors (80 percent of the population) with society recovering in "a relatively few years." FEMA arrives at these optimistic estimates by breaking down each aspect of its program into "manageable" parts, calculating the "life-saving potential" of each Quantifying that which can be quantified and neglecting the rest, FEMA's cheerful computer models and simple aggregations present a distorted view of nuclear war. After examining FEMA's plans, one local civil defense official concluded that they are little more than "stratified layers of deception."

FEMA assumes a certain kind of nuclear war. The Soviets must attack once and all at once, rather than phase their attacks over time. They must not hit any of the 70 U.S. nuclear power plants. Deaths must be caused by immediate effects only. Survivors must have near-perfect fallout protection as long as necessary after the attack. Deaths caused by disease, starvation, mass fires or firestorms must be "insignificant." Unknown and long-term effects such as ozone depletion must not occur.

While much is known about the effects of a single explosion the consequences of dozens, hundreds or thousands of nuclear weapons detonating are totally unpredictable. The cumulative impact of the incalculable and long-term effects were studied by the Congressional Office of Technology Assessment in its 1979 report, "The Effects of Nuclear War." Its primary conclusion was that: "The effects of a nuclear war that cannot be calculated are at least as important as those for which calculations are attempted."

PLANS FOR A FEW

The least known of FEMA's nuclear war preparations is the Federal Preparedness program. It is designed primarily to protect the leadership and essential functions of the Executive Branch before, during and after a nuclear war. Its central element is Continuity of Government (CoG), a highly classified program involving scores of secret, protected facilities equipped with a variety of advanced data processors, communication and other information systems to carry out detailed nuclear emergency procedures and contingency plans. This system is much more than a series of plans, standby administrators, and record storage centers. It is a government-in-waiting, which constantly practices and refines its nuclear war duties through a series of elaborate tests and exercises.

This government-in-waiting is "authorized" only by old and very broad Congressional acts, such as the Federal Civil Defense Act of 1950. In peacetime, it receives program guidance from the Department of Defense and National Security Council and through a series of executive orders and directives, the most recent of which was President Carter's PD-58, issued in 1980. The CoG program will be fully mobilized only during a presidentially declared emergency. At that time, sweeping emergency authority will be delegated, to impose martial law, seize property, and take other measures in support of the nuclear war effort. Since its inception over 30 years ago, the CoG program has evaded effective Congressional oversight and remains outside of Congressional control. Many are even unaware of its existence. This is especially important to note today because, under the direction of PD-58 and the strong support of the Reagan Administration, the system is undergoing a major expansion in order to play a more central role in U.S. nuclear warfighting strategy.

Currently, the backbone of the program is FEMA's relocation center system which was constructed to support the two primary CoG missions: Presidential Succession and continuity of essential Executive agencies. Federal Relocation Centers (FRCs) are fallout-protected, self-supporting facilities supplied with state-of-the-art computer and communication systems to perform a variety of mobilization functions before, during and after a nuclear war.

Approximately 100 relocation centers are scattered throughout five states in a 350-mile radius around Washington, D.C., known as the Federal Relocation Arc. Most of these facilities are connected by satellite, microwave and high-frequency radio communications, as well as underground cables, to transmit and receive information. Because of the vulnerability and concentration of the fixed sites in the Relocation Arc, FEMA has developed a new decentralized concept as suggested by PD-58. Under this plan, the United States is divided into 10 Regions, each having its own secret bunkers to facilitate presidential succession, maintain federal authority, and direct post-attack recovery.

Many corporations such as AT&T and Exxon also have special facilities for their senior executives.

Presidential succession

A series of recent Presidential Directives, 53, 57, and 58, provide guidance to implement continuity of government plans. PD-53 and 57 relate, respectively, to greater communications "survivability" and mobilization planning. PD-58 was issued in tandem with the highly publicized PD-59, which made explicit the evolutionary shift in U.S. nuclear war-fighting strategies. PD-59 has now been refined and/or superceded by new guidance which asserts that American nuclear forces "must prevail and be able to force the Soviet Union to seek earliest termination of hostilities on terms favorable to the United States." One of the goals of PD-58 is to expand plans for protecting all 16 presidential successors through evacuation and dispersal to many separate protected facilities throughout the United States. Preparations for continuity of government and presidential succession are central to U.S. plans to fight and win nuclear war.

With the exception of the Vice President, FEMA is responsible for protecting all presidential successors. The Presidential Succession Act and the Twenty-Fifth Amendment to the Constitution designates the Speaker of the House and President Pro Tempore of the Senate as next in line after the Vice President, followed by the heads of Executive departments in order of their creation (State, Treasury, Defense, etc.), FEMA has already designed and the White House administers a Central Locator System for keeping track of all successors. Efforts will be made to keep some successors out of Washington at all times. FEMA reportedly has its own surveillance teams to help keep track of the successors. Greater and more "random dispersal" outside of the Federal Relocation Arc is the key to the new plans, which are to completed by the end of the 1980s. Many sites will be needed and FEMA is identifying possible relocation facilities in each of the 10 Regions. The CoG program will also include updates for evacuating and relocating a number of "key" Congressional leaders and Supreme Court Justices.

These plans have been strongly endorsed by the Reagan Administration which in one year has tripled the Federal Preparedness budget to $148 million. Future budget throughout the 1980s will be substantial as the program expands.

Saving the bureaucracy

Thirty-three Executive departments and agencies have been assigned emergency responsibilities before, during and after a nuclear war. Under FEMA guidance, each agency must prepare plans and assign personnel to carry out these responsibilities. The program is designed to preserve the United States government. Currently, essential records are being duplicated and stored

within the Relocation Arc and the 10 Regions.

All 33 departments or agencies have designated "teams" to carry out different categories of emergency responsibilities. Team "A" personnel have "uninterruptable" functions which must be carried out at their offices; Team "B" personnel must relocate to FEMA's "Special Facility" at Mt. Weather near Berryville, Virginia; Team "C" personnel must relocate to their agency's own, secret facility somewhere in the Relocation Arc to await further instructions.

A good deal of the specific guidance which agencies receive from FEMA to carry out their emergency functions come from Federal Preparedness Circulars and the National Plan for Emergency Preparedness, which is undergoing revision. A more detailed and classified nuclear war plan, Federal Emergency Plan D, differs from the National plan in that it contains a set of Presidential Emergency Action Documents. These documents would activate standby organizations, and formally allow for the exercise and delegation of broad emergency powers.

AN UNWINNABLE RACE

Effective protection and national survival in a nuclear war, with today's vast number of nuclear weapons and their destructive power, are impossible. The active pursuit of and belief in a civil defense program of significant size will increase the likelihood of nuclear war. This is especially so in time of crisis. As tension builds, the pressure to demonstrate resolve by preparing for evacuation and leadership dispersal, will grow. Either side's decision to evacuate the cities could trigger the nuclear war it was designed to prevent.

Selling this program to the American public and Congress is a formidable task. Crisis relocation plans are only now being unveiled and are meeting with stiff resistance and outright rejection. These plans are being recognized for what they are, an effort to manipulate and mobilize the American public by diverting attention from the real problem, the dangerous and dynamic nature of the arms race. To initiate a new race, of nuclear war survival, can only lead to catastrophe.

SOVIET CIVIL DEFENSE

In the 1950s, the Soviet Union began efforts to defend its citizens against nuclear weapons. Twice invaded in the twentieth century, it is not suprising that the Soviet Union should be concerned with homeland defense even in the nuclear age. In the 1960s and 70s, a more energetic program, though not a crash effort, was initiated. According to a report published in 1978 by the CIA, the Soviet civil defense program has approximately 100,000 full-time personnel. While costs are unknown, the CIA estimates the Soviet civil defense expenditure per year to be $2 Billion. The CIA computes these costs, as it does military expenditures, by assuming what it would cost the U.S. to do the same with 3/4 representing manpower costs, these estimates are highly inflated. A compulsory civil defense training program exists for all citizens in the Soviet Union—a combination of lectures, films, booklets and practical instruction. According to the CIA. However, the Soviet civil defense program is plagued by "bureaucratic difficulties and apathy."

The Soviet urban evacuation plan is similar to the American plan, moving tens of millions of people from the cities to the country. All of the logistical problems in the U.S. plan would be compounded manyfold in the Soviet Union due to more limited resources and other factors. For instance, the Soviets have a primitive highway system and only 5 percent of the motor vehicles the U.S. does. Most people would have to walk thirty miles a day, carrying the necessary tools and supplies to construct fallout shelters in the country. The bitter climate could make this difficult in winter; mud would present a set of different problems during spring and autumn. It is very doubtful that Soviet food supplies, inadequate in peacetime, could begin to meet wartime needs since sufficient stockpiling is clearly out of the question.

The Administration claims that the Soviets could, in a crisis, blackmail the U.S. by implementing their evacuation plans. To prevent this, the Administration asserts that the U.S. needs to be able to order a counterevacuation.

It is unlikely the Soviets would ever risk such an adventure. Like the U.S., the Soviets have never practiced a large scale evacuation. Even if they did implement their plans, the U.S. would have ample time to alert and ready additional nuclear forces. More submarines could be sent to sea and additional bombers could be placed on alert. Also, missiles could be quickly retargeted.

Although the Administration claims that U.S. civil defense plans would be implemented only after evidence of a Soviet evacuation, in an actual crisis, the U.S. could evacuate first.

It is often claimed that Soviet industry has been planned with civil defense in mind and that an active program of protecting and dispersing machinery exists. In fact, Soviet industry is more concentrated than U.S. industry and, as the CIA notes, the tendency is for new facilities to be placed near existing installations. Little evidence exists that Soviet efforts to harden economic installations or rapidly disperse them would prevent massive damage from an attack designed to destroy the economy.

The Soviets have taken steps to protect a large number of leaders, somewhat similar to U.S. plans. Fixed relocation sites are known to U.S. targeters and are vulnerable to direct attack. The new Weinberger defense document makes explicit that essential to early success in a nuclear war is "decapitation", the destruction of the Soviet leadership in their command posts.

It should be recognized that civil defense in the Soviet Union performs other functions besides trying to limit the effects of a nuclear war. Civil defense is another device to instill and maintain a garrison-state mentality and the belief that the leaders are protecting their people.

LEADERS, PLANES AND GAMES

The President of the United States, as the Commander-in-Chief, is the only person who can authorize the use of nuclear weapons, although this authority may be delegated to subordinates in the chain of command virtually without limitation. This command structure, known as the National Command Authorities (NCA), differs from that of presidential succession and might conflict with it. The NCA is defined as the President and Secretary of Defense or their duly deputized alternates or successors. A highly classified document entitled "The National Command Authority" provides for the transfer of military command authority in general and the use of nuclear weapons in particular. It has been reported that the chain of emergency command in the Reagan Administration runs from the President to Vice President Bush to Defense Secretary Weinberger, to Deputy Defense Secretary Frank Carlucci to the Chairman of the Joint Chiefs of Staff General Vessey.

In the event of a nuclear emergency, the President is to be taken to the National Emergency Airborne Command Post (NEACP) to take charge of U.S. nuclear and conventional forces. NEACPs are specially modified Boeing 747 aircraft, one of which is continuously on alert at Andrews Air Force Base, eleven miles from the White House. If, for any reason, the President cannot reach NEACP in time, it might leave without him. The White House Military Office and the Department of Defense maintain a number of Presidential Emergency Facilities (PEFs), located within a relatively short distance from Washington. From these Emergency Facilities, the President, if possible, would be taken to a landing strip to board NEACP. With aerial refueling NEACP can remain airborne for some 72 hours and, thus, DoD has set up scores of PEFs around the globe. Plans for other members of the NCA are less clear but, in many cases, they would accompany the President.

A ground-mobile presidential command post is being developed which would allow the Commander-in-Chief to roam the interstate highway system in a tractor-trailer packed with communication equipment. It will be disguised as a commercial vehicle, such as a moving van.

Site R, the underground facility which serves as an Alternate National Military Command Center (ANMCC), is located outside of Fort Ritchie, Maryland near Camp David. The primary NMCC, which supports the NCA and the Joint Chiefs of Staff, is located within the Pentagon. A number of FEMA officials will travel to Site R and the Pentagon in the event of a nuclear crisis to assist the military command. However, both the Pentagon and Site R, as well as all fixed sites, are vulnerable to attack.

While FEMA's responsibilities do not extend to protecting the National Command Authorities, the Agency will provide various support services to the President or others aboard NEACP in the event of nuclear war. In addition to maintaining Federal Emergency Plan D and the Presidential Emergency Action Documents, FEMA is also directly involved in NEACP nuclear war procedures, such as supplying damage assessment information and communication support. A FEMA official is to represent the Agency on the plane.

The Reagan Administration tested the Continuity of Government program in the recent world-wide, nuclear command post exercise called "Ivy League". FEMA periodically conducts nuclear war games, ranging from high-level NATO to presidential and presidential successor exercises. "Ivy League" was the first complete nuclear war exercise of the military and civilian command structures and communication systems conducted since 1956. The game's scenario involved a period of intense crisis which escalated out of control, resulting in general nuclear war. All efforts to limit the conflict, including mobilization, failed.

FEMA and the Department of Defense moved over 1,000 civilian and military leaders throughout the world in the exercise, including two Cabinet successors—men who are in line to succeed the President should he die in an attack. The two successors, the Secretaries of Interior and Commerce, along with "core" teams of officials from key Executive departments, ultimately took con-

trol of the nation's remaining civilian and military resources from two of FEMA's underground Regional Facilities in Maynard, Massachusetts and Denton, Texas.

RESOLUTION COMMENDING SENATOR ROBERT C. BYRD

Mr. BOREN. Mr. President, at yesterday's luncheon conference of Senate Democrats, Senator JOHN STENNIS, the distinguished Senator from Mississippi who is the most senior Member of this august body, offered a resolution commending and thanking Senator ROBERT C. BYRD, the Democratic leader.

The resolution appropriately notes that Senator BYRD has provided leadership for and inspired unity among Senate Democrats during the 97th Congress.

I believe that this resolution, which was adopted by acclaim in our conference, is a fitting tribute to Senator BYRD for his tireless efforts in guiding our party at this very important time. I ask unanimous consent that the text of the resolution be printed in full in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION OF THE DEMOCRATIC CONFERENCE OF THE 97TH CONGRESS HONORING ROBERT C. BYRD, DEMOCRATIC LEADER

Whereas, Senator ROBERT C. BYRD has provided leadership for, and inspired unity among Senate Democrats during the 97th Congress, and

Whereas, under Senator ROBERT C. BYRD's leadership, Democrats have proposed legislative initiatives to meet the serious challenges facing our Nation now and in the future, and

Whereas, Senator ROBERT C. BYRD has successfully guided Senate Democrats in their role as the minority party in developing constructive policy alternatives and

Whereas, the participation, fellowship, and cooperation which have marked the Democratic Conference during the 97th Congress are tributes to his dedication: Now, therefore, be it *Resolved*, That the Democratic Conference of the U.S. Senate hereby commends and thanks Senator ROBERT C. BYRD of West Virginia.

MESSAGES FROM THE HOUSE

At 3:57 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 1018) to protect and conserve fish and wildlife resources, and for other purposes, with an amendment; it insists upon its amendment, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as managers of the conference on the part of the House: From the Committee on Merchant Marine and Fisheries: Mr. JONES of North Carolina, Mr. BREAUX, Mr. STUDDS, Mr. HUGHES, Mr. SNYDER, Mr. FORSYTHE, and Mr. EVANS of Delaware; and from the Committee on Public Works and Transportation; Mr. ROE, Mr. EDGAR, Mr. FARY, Mr. CLAUSEN, and Mr. HAMMERSCHMIDT.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. GINN, Mr. BEVILL, Mr. HEFNER, Mr. LONG of Maryland, Mr. ADDABBO, Mr. OBEY, Mr. CHAPPELL, Mr. ALEXANDER, Mr. WHITTEN, Mr. REGULA, Mr. BURGENER, Mr. EDWARDS of Oklahoma, Mr. LOEFFLER, and Mr. CONTE as managers of the conference on the part of the House.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 625. An act to revise the boundary of Voyageurs National Park in the State of Minnesota, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the following bill, with amendments, in which it requests the concurrence of the Senate:

H.R. 6782. An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans, and for other purposes.

The message further announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 2303. An act to designate the New York Bulk and Foreign Mail Center at Jersey City, New Jersey, as the "Michael McDermott Bulk and Foreign Mail Center";

H.R. 3787. An act to amend sections 10 and 11 of the Act of October 21, 1970 (Public Law 91-479; 16 U.S.C. 460x), entitled "An Act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes";

H.R. 4496. An act to grant Federal recognition to the Texas Band of Kickapoo Indians; to clarify the status of the members of the band; to provide trust lands to the band, and for other purposes;

H.R. 5553. An act to provide for the use and disposition of Miami Indians judgment funds in dockets 124-B and 254 before the United States Court of Claims, and for other purposes;

H.R. 5795. An act to provide for the use and distribution of the funds awarded to the Shawnee Tribe of Indians in dockets 64, 335, and 338 by the Indian Claims Commission and docket 64-A by the United States Court of Claims, and for other purposes;

H.R. 5916. An act to declare certain Federal lands acquired for the benefit of Indians to be held in trust for the Tribes of such Indians;

H.R. 5941. An act to designate the building known as the Federal Building and U.S. Courthouse in Greenville, S.C., as the "Clement F. Haynsworth, Jr., Federal Building," the building known as the Quincy Post Office in Quincy, Mass, as the "James A. Burke Post Office," and the U.S. Post Office Building in Portsmouth, Ohio, as the "William H. Harsha U.S. Post Office Building";

H.R. 5949. An act to amend title 17, United States Code (relating to copyrights), and the Communications Act of 1934, with respect to the compulsory licensing of secondary transmissions, limitations on rights to secondary transmissions, and the carriage of broadcast signals;

H.R. 6122. An act to authorize the Twenty-nine Palms Band of Luiseno Mission Indians to lease for 99 years certain lands held in trust for such band;

H.R. 6170. An act to amend title 23, United States Code, to encourage the establishment by States of effective alcohol traffic safety programs and to require the Secretary of Transportation to administer a national driver register to assist State driver licensing officials in electronically exchanging information regarding the motor vehicle driving records of certain individuals;

H.R. 6403. An act to provide for the use and distribution of funds to the Wyandot Tribe of Indians in docket 139 before the Indian Claims Commission and docket 141 before the U.S. Court of Claims, and for other purposes; to the Select Committee on Indian Affairs; and

H.R. 7159. An act to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH; to the Committee on Environment and Public Works.

The message also announced that the House has passed and agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 364. A concurrent resolution regarding the restoration of Olympic records of the late James (Jim) Thorpe; and

H. Con. Res. 409. A concurrent resolution regarding the massacre of Palestinians in Lebanon.

At 6:24 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6976) to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons); agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. EDWARDS of California, Mr. KASTENMEIER, Mrs. SCHROEDER, Mr. WASHINGTON, Mr. SIMON, Mr. SENSENBRENNER, Mr. LUNGREN, and Mr. SHAW as managers of the conference on the part of the House.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2852) to amend section 439 of the Higher Education Act of 1965 to

make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983–84, and 1984–85, and for other purposes.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the House:

H.R. 5121. An act to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes;

H.R. 5162. An act to provide for the protection and management of the National Park System, and for other purposes;

H.R. 6838. An act to amend the Export Administration Act of 1979 to terminate certain export controls imposed on December 30, 1981, and June 22, 1982;

H.R. 7102. An act to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes;

H.R. 7137. An act to increase the authorization of appropriations for certain education programs, and for other purposes; and

H.R. 7166. An act to provide a 4-percent increase in the pay and allowances of members of the uniformed services, to make various adjustments in military personnel and compensation programs, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 384. A concurrent resolution expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes.

At 8:25 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1409) to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Cloan Missouri Basin program, Wyoming, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 2252) to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 13, 23, and 66 to the bill, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 6, 16, 26, 27, 30, 38, 42, 45, 51, 52, 53, and 61 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 239. Joint resolution designating October 16, 1982, as "National Newspaper Carriers Appreciation Day."

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 120. Concurrent resolution to commemorate the 75th anniversary of the Washington Cathedral.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5543. An act to establish an Ocean and Coastal Resources Management and Development Fund from which coastal States shall receive block grants.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 414. A concurrent resolution directing the preparation of duplicate conference papers on H.R. 5930.

At 9:08 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 588. Joint resolution to provide for the designation of the month of October 1982, as "Head Start Awareness Month"; and

H.J. Res. 598. Joint resolution to provide for the designation of the month of October 1982, as "National Spinal Cord Injury Month."

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2303. An act to designate the New York Bulk and Foreign Mail Center at Jersey City, New Jersey, as the "Michael McDermott Bulk and Foreign Mail Center"; to the Committee on Governmental Affairs.

H.R. 4496. An act recognition to the Texas Band of Kickapoo Indians; to clarify the status of the members of the band; to provide trust lands to the band, and for other purposes; to the Select Committee on Indian Affairs.

H.R. 5121. An act to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5162. An act to provide for the protection and management of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5543. An act to establish an Ocean and Coastal Resources Management and Development Fund from which coastal States shall receive block grants; to the Committee on Commerce, Science, and Transportation.

H.R. 5553. An act to provide for the use and disposition of Miami Indians judgment funds in dockets 124–B and 254 before the U.S. Court of Claims, and for other purposes; to the Select Committee on Indian Affairs.

H.R. 5795. An act to provide for the use and distribution of the funds awarded to the Shawnee Tribe of Indians in dockets 64, 335, and 338 by the Indian Claims Commission and Docket 64–A by the U.S. Court of Claims, and for other purposes; to the Select Committee on Indian Affairs.

H.R. 5916. An act to declare certain Federal lands acquired for the benefit of Indians to be held in trust for the tribes of such Indians; to the Select Committee on Indian Affairs.

H.R. 5941. An act to designate the building known as the Federal Building and United States Courthouse in Greenville, South Carolina, as the "Clement F. Haynsworth, Jr., Federal Building", the building known as the Quincy Post Office in Quincy, Massachusetts, as the "James A. Burke Post Office", and the United States Post Office Building in Portsmouth, Ohio, as the "William H. Harsha United States Post Office Building"; to the Committee on Governmental Affairs.

H.R. 6122. An act to authorize the Twenty-nine Palms Band of Luiseno Mission Indians to lease for ninety-nine years certain lands held in trust for such band; to the Select Committee on Indian Affairs.

H.R. 6403. An act to provide for the use and distribution of funds to the Wyandot Tribe of Indians in docket 139 before the Indian Claims Commission and docket 141 before the U.S. Court of Claims, and for other purposes; to the Select Committee on Indian Affairs.

H.R. 6838. An act to amend the Export Administration Act of 1979 to terminate certain export controls imposed on December 30, 1981, and June 22, 1982; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 7137. An act to increase the authorization of appropriations for certain education programs, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 7159. An act to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH; to the Committee on Environment and Public Works.

H.J. Res. 598. Joint resolution to provide for the designation of the month of October

1982, as "National Spinal Cord Injury Month"; to the Committee on the Judiciary.

HOUSE BILLS PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6170. An act to amend title 23, United States Code, to encourage the establishment by States of effective alcohol traffic safety programs and to require the Secretary of Transportation to administer a national driver register to assist State driver licensing officials in electronically exchanging information regarding the motor vehicle driving records of certain individuals; and

H.R. 7166. An act to provide a 4-percent increase in the pay and allowances of members of the uniformed services, to make various adjustments in military personnel and compensation programs, and for other purposes.

HOUSE BILLS AND JOINT RESOLUTION HELD AT THE DESK

The following bill was ordered held at the desk:

H.R. 7102. An act to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes.

The following bills and joint resolutions were ordered held at the desk until the close of business on September 30, 1982:

H.R. 3787. An act to amend sections 10 and 11 of the act of October 21, 1970 (Public Law 91-479; 16 U.S.C. 460x), entitled "An Act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes;

H.R. 7173. An act to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations;

H.J. Res. 588. Joint resolution to provide for the designation of the month of October 1982, as "Head Start Awareness Month"; to the Committee on the Judiciary; and

H.J. Res. 612. Joint resolution to provide for the temporary extension of certain insurance programs relating to housing and community development, and for other purposes.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 364. Concurrent resolution regarding the restoration of Olympic recrds of the late James (Jim) Thorpe; to the Committee on Commerce, Science, and Transporation.

H. Con. Res. 384. Concurrent resolution expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H. Con. Res. 409. Concurrent resolution regarding the massacre of Palestinians in Lebanon; to the Committee on Foreign Relations.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The PRESIDENT pro tempore (Mr. THURMOND) announced that on today, September 29, 1982, he signed the following enrolled bills and joint resolution, which had previously been signed by the Speaker of the House of Representatives:

H.R. 3589. An act to authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, and for other purposes;

H.R. 4347. An act to authorize the Secretary of the Interior to proceed with the development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power; and

H.J. Res. 496. Joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week."

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1197. A resolution adopted by the Southern Governor's Association urging Congress to retain the existing section 24(a) language contained in the Federal Insecticide, Fungicide, and Rodenticide Act; to the Committee on Agriculture, Nutrition, and Forestry.

POM-1198. A resolution adopted by the County Council of Kauai, Hawaii, urging defeat of any effort to reduce the support level assured to our sugar producers; to the Committee on Agriculture, Nutrition, and Forestry.

POM-1199. A resolution adopted by the Southern Governor's Association urging the Congress to enact legislation currently under consideration to allow banking institutions to become equity partners in export trading companies and to promoting and supporting export trading companies; to the Committee on Banking, Housing, and Urban Affairs.

POM-1200. A petition from a citizen of Jefferson, Ky. urging Congress to make our dollar "good as gold" once again by supporting Senate bill 6 to return America's currency to the gold standard; to the Committee on Banking, Housing, and Urban Affairs.

POM-1201. A resolution adopted by the Southern Governor's Association urging every State to support a program to deter drunken drivers; to the Committee on Commerce, Science, and Transportation.

POM-1202. A resolution adopted by the Southern Governor's Association endorsing the efforts of Expo 500 to have Miami, Fla., declared the official site of the 1992 World's Fair; to the Committee on Commerce, Science, and Transportation.

POM-1203. A resolution adopted by the Southern Governor's Association urging the Congress to adopt Outer Continental Shelf receipt-sharing legislation, such as embodied in H.R. 5543 or similar legislation such as the Stevens-Hollings bill in the Senate; to the Committee on Energy and Natural Resources.

POM-1204. A resolution adopted by the Southern Governor's Association urging Congress to consider carefully the energy security impacts of new tax proposals and to place priority on the need to create a more affirmative climate for investment in domestic energy resource development; to the Committee on Energy and Natural Resources.

POM-1205. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION No. 113

"Whereas, Today, more than 20 years into the era of commercial nuclear power, the United States has still not agreed upon a policy and a program for permanent isolation of commercial high-level radioactive waste; and

"Whereas, Nearly all of the waste produced thus far is contained in spent fuel, about 8,000 metric tons (MTU), which is stored at operating reactors; and

"Whereas, By the year 2000, over 70,000 MTU of spent fuel is expected to be generated; and

"Whereas, Most of the high-level radioactive fuel will be in storage, since the 1990's are the earliest that either reprocessing of spent fuel to recover usable elements or direct disposal of the fuel can occur; and

"Whereas, The continued lack of federal repositories for the safe permanent isolation of commercial high-level radioactive waste poses the following problems for the federal policy in this area:

"(a) Some people oppose the further growth of commercial nuclear power until the problem of permanent waste isolation is satisfactorily resolved, and that opposition is likely to grow as long as the problem remains unresolved.

"(b) The lack of an isolation system leaves nuclear utilities with two critical problems: (1) some reactors are running out of spent fuel storage space at reactor sites and may have to shut down beginning in 1986 unless more storage space is available in time and (2) utilities are financially liable for growing inventories of spent fuel and have no idea when or how or at what cost that fuel will be transferred to a permanent repository.

"(c) Repeated federal failure in waste management has created widespread skepticism that the federal government can or will develop a successful waste isolation system and has left little room for further failure; and

"Whereas, California, by statute, has imposed a moratorium on siting of nuclear fission thermal powerplants in this state until there has been developed and the United States through its authorized agency has approved and there exists a demonstrated technology or means for the disposal of high-level, nuclear waste; and

"Whereas, The federal adoption of a plan that will systematically develop and demonstrate technology or means for the disposal of commercial high-level radioactive waste does not, in and of itself, constitute, the federal approval or existence of this technology or means; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take appropriate actions to adopt and implement a plan that will systematically develop and demonstrate technology or means for the disposal of commercial high-level radioac-

tive waste. This plan should include, but not be limited to both in situ and site specific testing and should be offered to the states and other interested parties for full review; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1206. A resolution adopted by the Southern Governors' Association urging Congress to pass an authorization bill for critical inland waterway and port improvement projects and to establish a Federal policy on harbor improvements, maintenance, and operation; to the Committee on environment and Public Works.

POM-1207. A resolution adopted by the Southern Governors' Association supporting a comprehensive plan that recognizes the national scope of the problem of acid rain, seeks to control emissions from all sources that contribute to acid precipitation, and does not impose heavy fiscal penalties on consumers in Southern States; to the Committee on Environment and Public Works.

POM-1208. A resolution adopted by the Southern Governors' Association urging Congress to immediately take measures to curb the unprecedented flooding of foreign textile products on the U.S. market; to the Committee on Finance.

POM-1209. A resolution adopted by the Southern Governors' Association opposing any action by the Federal Government to preempt, either directly or indirectly, sources of State revenues, State tax bases, or State taxation methods; to the Committee on Finance.

POM-1210. A resolution adopted by the Southern Governors' Association urging Congress to clarify the disability review process, to provide safeguards that will protect eligible disability benefit recipients, and to provide fair and just treatment for those whose disability benefits are terminated; to the Committee on Finance.

POM-1211. A resolution adopted by the Southern Governors' Association supporting congressional efforts to systematically address a comprehensive solution to the inadequacies and inequities in the current financing and administration of the Federal-State employment security system; to the Committee on Finance.

POM-1212. A resolution adopted by the Southern Governors' Association requesting the Southern Legislative Conference to work cooperatively and jointly with the SGA in establishing and developing the Association's new office in Washington; to the Committee on Governmental Affairs.

POM-1213. A resolution adopted by the Southern Governors' Association supporting an appropriate Federal role in criminal law enforcement and calling upon Congress to take immediate action to insure the passage of legislation strengthening that role; to the Committee on the Judiciary.

POM-1214. A resolution adopted by the Southern Governors' Association urging Congress to review the insanity defense as it is now employed in the Federal criminal justice system and urging Congress to evaluate the burden of proof in criminal actions with respect to insanity; to the Committee on the Judiciary.

POM-1215. A resolution adopted by the Southern Governors' Association supporting the National Citizens' Crime Prevention Campaign initiated by the Attorney General of the United States through the Office of Justice Assistance Research and Statistics; to the Committee on the Judiciary.

POM-1216. A resolution adopted by the Southern Governors' Association commending Congress and the President for passage of the Voting Rights Act; to the Committee on the Judiciary.

POM-1217. A petition from a citizen of Chandler, Ariz. on the subject of abortion; to the Committee on the Judiciary.

POM-1218. A resolution adopted by the General Synod of the Reformed Church of America opposing abortion as a form of birth control; to the Committee on the Judiciary.

POM-1219. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 125

"Whereas, On Thanksgiving Day, November 25, 1982, a national Children's Peace Day will be held during which children will visit the elected officials throughout the country to awaken the experience of peace within ourselves; and

"Whereas, The children will speak for all of us through the simple act of thanking each official for supporting peace and asking how children can help bring peace to the world; and

"Whereas, The California Legislature supports Children's Peace Day and recognizes that the clarity of a child's point of view can yet lead to peace; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California memorializes the President and the Congress of the United States to note the importance of Children's Peace Day and to join with the children in their efforts to bring peace to the world; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1220. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"ASSEMBLY JOINT RESOLUTION No. 65

"Whereas, Armed conflict between nations and within our society is increasing at an alarming rate, and recent conflicts throughout the world make it necessary to develop new and creative means of managing conflict before it escalates into violence, so that the greatest challenge facing the people of the State of California and this nation is the development of new techniques to resolve and prevent violent conflict; and

"Whereas, The Commission on Proposals for the National Academy of Peace and Conflict Resolution has recommended that a National Academy of Peace and Conflict Resolution be established to increase our nation's capability of responding to national and international conflicts and to protect and preserve the life of the citizens of this nation and the world; and

"Whereas, The resolution of conflicts, whether personal, local, national, or international, can best be accomplished by the use of trained personnel, and the systematic use of trained personnel, in the resolution of international conflicts could save this nation and others countless billions of dollars and untold human suffering; and

"Whereas, The Peace Academy's immediate impact would be symbolic in that it would demonstrate in a visible, tangible form that history's most powerful nation does have a permanent interest in and commitment to peace; and

"Whereas, Far beyond this immediate impact will be the long-range effect of the Peace Academy as it attracts the best and the brightest from our own society and hopefully also from many other nations (until they establish their own Peace Academies), trains them in the rapidly developing social science of Conflict Resolution, and sends them back to join the growing worldwide pool of experts in peacemaking, who will be available to spot and damp down potential explosion points before they can contribute to the worldwide levels of tension, conflict, and violence; and

"Whereas, In this way the closed circle and rising spiral of unresolved conflict, violence, increased tension, and insecurity leading to more conflict can be broken, and that spiral perhaps directed in a downward course leading to lower levels of tension all across world society; and

"Whereas, It has been hypothesized that every international conflict finds much of its base in the internal conflicts within the societies involved, so that Peace Academy graduates and second-generation students and trainees of such graduates will achieve major accomplishments in solving internal societal conflicts and thereby gradually lower the level of tension and conflict in every major society, thus reducing the likelihood of individuals or populations accepting international violence as a solution to their problems; and

"Whereas, Although working for disarmament is important, and to the degree that the existence of our horrible overkill potential augments the levels of international tension which in turn lead to increased conflict and violence, such efforts are an essential contribution to a more stable world; nonetheless, working solely for disarmament can also lead to a focus on treating effects, rather than causes, because the reasons people are willing to have their life's earnings poured into massive "defense" budgets are their feelings of fear and insecurity resulting from worldwide levels of tension, conflict, and violence; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the President and Congress are respectfully memorialized to establish a National Academy of Peace and Conflict Resolution dedicated to training persons in peaceful conflict resolution techniques; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-1221. A resolution adopted by the Council of the City of Schenectady, N.Y. urging Congress to enact necessary legislation to extend the senior aide program for an additional year and in the interim, find a way to permanently finance such a program; to the Committee on Labor and Human Resources.

POM-1222. A resolution adopted by the Southern Governors' Association recognizing the success of the jobs for America's

graduates program and urging Congress to enact legislation providing an effective jobs training program in accord with the principles of restoring greater responsibility and decisionmaking to the States; to the Committee on Labor and Human Resources.

POM-1223. A resolution adopted by the Southern Governors' Association encouraging the Southern Regional Education Board to work with States and other interstate education compacts to establish a means of common testing for teacher certification with interstate reciprocity; to the Committee on Labor and Human Resources.

POM-1224. A resolution adopted by the Improved Benevolent Protective Order Elks of the World relating to compensation for veterans; to the Committee on Veterans' Affairs.

POM-1225. A resolution adopted by the Southern Governors' Association supporting a clear and comprehensive national policy for the management and ultimate disposal of high-level nuclear waste; ordered to lie on the table.

POM-1226. A resolution adopted by the Southern Governors' Association expressing sincere and deep appreciation to Governor Riley for his outstanding leadership of the organization in 1981-82; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COHEN, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2719: A bill entitled "The Mashantucket Pequot Indian Claims Settlement Act" (Rept. No. 97-596).

By Mr. TOWER, from the Committee on Armed Services:

Special Report on Budget Allocations of the Committee on Armed Services (Rept. No. 97-597).

By Mr. COHEN, from the Select Committee on Indian Affairs, without amendment:

S. 2978. An original bill entitled the "Indian Claims Act of 1982."

By Mr. DOLE, from the Committee on Finance, with amendments:

H.R. 6055. An act to revise subchapter 5 of the Internal Revenue Code of 1954 (relating to small business corporations) (Rept. No. 97-640).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 596: A bill for the relief of Dennis L. Dalton and James Edward Dalton (Rept. No. 97-598).

S. 717: A bill for the relief of Carole Joy Maxfield-Raynor and Bruce Sherlock Maxfield-Raynor, wife and husband, and their children: Charlton Bruce Maxfield-Raynor and Maxine Anne Maxfield-Raynor (Rept. No. 97-599).

S. 747: A bill for the relief of Seela Jeremiah Piula (Rept. No. 97-600).

S. 1329: A bill for the relief of Samuel Joseph Edgar (Rept. No. 97-601).

S. 1513. A bill for relief of Cirilo Raagas Costa and Wilma Raagas Costa (Rept. No. 97-602).

S. 2039: A bill for the relief of Margit Liberda and here daughter, Veronika Koszegi (Rept. No. 97-603).

S. 2103: A bill for the relief of Kok Sjen Su and Grace Su, husband and wife (Rept. No. 97-604).

S. 2116: A bill for the relief of Carlos Mebrano Gatson (Rept. No. 97-605).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment:

S. 369: A bill for the relief of Ludina V. Dave (Rept. No. 97-606).

S. 370: A bill for the relief of Cecilia Dagmang (Rept. No. 97-607).

S. 372: A bill for the relief of Doctor Mahmooda Haquani (Rept. No. 97-608).

S. 374: A bill for the relief of Rosita A. Genio (Rept. No. 97-609).

S. 375: A bill for the relief of Irma A. Gunda (Rept. No. 97-610).

S. 377: A bill for the relief of Estrellita Tapang (Rept. No. 97-611).

S. 379: A bill for the relief of Lily T. Pragas (Rept. No. 97-612).

S. 617: A bill for the relief of Mrs. Elsie B. Lawson (Rept. No. 97-613).

S. 1465: A bill for the relief of Kwok Tung Yu (Rept. No. 97-614).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1499: A bill for the relief of Prashant Agarwal (Rept. No. 97-615).

S. 1547: A bill for the relief of Alberto Hernandez Perez (Rept. No. 97-616).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment n the nature of a substitute and an amendment to the title:

S. 642: A bill for the relief of Nesca Nicolas (Rept. No. 97-617).

S. 1636: A bill for the relief of Hae Ok Chung (Rept. No. 97-618).

S. 1838: A bill for the relief of Cesar Noel Orantes (Rept. No. 97-619).

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 273: A bill for the relief of William Vojislav Rankovic, Stanislava Rankovic, husband and wife; and William Rankovic, Junior, and Natalie Rankovic, their children (Rept. No. 97-620).

S. 1470: A bill for the relief of Grietje Rhea Pietens Beumer, Johan Christian Beumer, Cindy Larissa Beumer, and Cedric Grant Beumer (Rept. No. 97-621).

S. 2052: A bill for the relief of Raul M. Melgar Maria Christina Ray de Melgar, Steven Marcelo Melgar and Serrana Ivon Melgar (Rept. No. 97-622).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

H.R. 684: A bill for the relief of Kang Ok Boon (Rept. No. 97-623).

H.R. 825: A bill for the relief of Yick Bong Au Yeung (Rept. No. 97-624).

H.R. 828: A bill for the relief of George G. Barrios, doctor of medicine, his wife Olga T. Cruz, and their children Kurt F. Barrios and Karl S. Barrios (Rept. No. 97-625).

H.R. 1481: A bill for the relief of George Herbert Weston and Mabel Gregson Weston (Rept. No. 97-626).

H.R. 1783: A bill for the relief of Felipe B. Manalo and Maria Monita A. Manalo (Rept. No. 97-627).

H.R. 1826: A bill for the relief of Shinji Oniki (Rept. No. 97-628).

H.R. 1841: A bill for the relief of Isabelita Clima Portilla (Rept. No. 97-629).

H.R. 2193: A bill for the relief of Berendina Antonia Maria van Kleeff (Rept. No. 97-630).

H.R. 2340: A bill for the relief of Theodore Anthony Dominguez (Rept. No. 97-631).

H.R. 2342: A bill for the relief of Maria Cecelia Gabella-Ossa (Rept. No. 97-632).

H.R. 2520: A bill for the relief of Emanuel F. Lenkersdorf (Rept. No. 97-633).

H.R. 3451: A bill for the relief of Danuta Gwozdz (Rept. No. 97-634).

H.R. 3592: A bill for the relief of Uili Tuifua, Talameafoou Tuifua, Heta Tuifua, Sateki Tuifua, Ilaisaane Tuifua, and Ofa Hemooni Tuifua (Rept. No. 97-635).

H.R. 4662: A bill for the relief of Eun Ok Han (Rept. No. 97-636).

H.R. 6811: A bill for the relief of Alejo White and Sonia White (Rept. No. 97-637).

H.R. 5879: A bill to amend the Immigration and Nationality Act to extend for three years the authorization for appropriations for refugee assistance, to make certain improvements in the operation of the program, and for other purposes (Rept. No. 97-638).

H.R. 3963: A bill to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated.

By Mr. COHEN, from the Select Committee on Indian Affairs, with amendments:

H.R. 4001: A bill to authorize the exchange of certain land held in trust by the United States for the Navajo Tribe, and for other purposes.

By Mr. DOMENICI, from the Committee on the Budget, unfavorably without amendment:

S. Res. 470: Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2279.

S. Res. 471: Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6188.

S. Res. 473: Resolution waiving section 402(c) of the Congressional Budget Act of 1974 with respect to the consideration of S. 675.

S. Res. 475: Resolution waiving section 402(c) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4476.

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 476: Resolution waiving section 402(c) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2936.

By Mr. DOMENICI, from the Committee on the Budget, without recommendation without amendment:

S. Res. 480: Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5427.

By Mr. COHEN, from the Select Committee on Indian Affairs, without amendment:

S. Res. 484: An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2719; to the Committee on the Budget.

By Mr. ROTH, from the Committee on Governmental Affairs, with an amendment:

S. 1444: A bill to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Jay Morris, to be Deputy Administrator of the Agency for International Development (Exec. Rept. No. 97-62).

Edward A. Curren, of Maryland, to be Deputy Director of the Peace Corps.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PERCY (by request):

S. 2967. A bill to facilitate the adjudication of certain claims of United States nationals against Iran, to authorize the recovery of costs incurred by the United States in connection with the arbitration of claims of United States nationals against Iran, and for other purposes; to the Committee on Foreign Relations.

By Mr. MATHIAS:

S. 2968. A bill to amend title 5 of the United States Code to provide for an allowance of 4 cents per mile to Federal employees for the use of bicycles while engaged on official business, and for other purposes; to the Committee on Governmental Affairs.

By Mr. METZENBAUM:

S. 2969. A bill to limit the application of the investment tax credit and the accelerated cost recovery system to domestic property; to the Committee on Finance.

By Mr. TSONGAS:

S. 2970. A bill for the relief of Andrew L. Lui and his wife, Julia Lui; to the Committee on the Judiciary.

By Mr. NUNN:

S. 2971. A bill to authorize the establishment of competitive health programs for federal employee organizations; to the Committee on Governmental Affairs.

By Mr. BENTSEN:

S. 2972. A bill to name the building to be constructed in Lufkin, Tex., and leased to the United States as the "Colonel Homer Garrison, Jr., Federal Building"; to the Committee on Environment and Public Works.

By Mr. PERCY:

S. 2973. A bill to amend section 204 of the Federal Property and Administrative Services Act of 1949, as amended, to authorize the deposits of cash proceeds from the disposal of surplus real property into the general fund of the Treasury to be used to retire the national debt of the United States; to the Committee on Governmental Affairs.

By Mr. BENTSEN:

S. 2974. A bill to authorize local improvements to be considered in costsharing calculations on the Lower Rio Grande Valley Basin Flood Control Project; to the Committee on Environment and Public Works.

By Mr. CHAFEE (for himself and Mr. PELL):

S. 2975. A bill to amend title 10, United States Code, to authorize an alternative to the conventional construction of military family housing within the United States, Puerto Rico, and Guam; to the Committee on Armed Services.

By Mr. MATHIAS:

S. 2976. A bill to facilitate the economic adjustment of communities, industries, and workers to civilian-oriented initiatives, projects, and commitments when they have been affected by reductions in defense or aerospace contracts, military facilities, and arms exports which have occurred as a result of the Nation's efforts to pursue an international arms control policy and to realign defense expenditures according to changing national security requirements, and to prevent the ensuing dislocations from contributing to or exacerbating recessionary effects; to the Committee on Governmental Affairs.

By Mr. ROBERT C. BYRD:

S. 2977. A bill to provide for a program to stimulate coal mining and construction jobs through the reclamation of abandoned mine lands; to the Committee on Energy and Natural Resources.

By Mr. COHEN, from the Select Committee on Indian Affairs:

S. 2978. An original bill entitled "The Indian Claims Act of 1982"; placed on the calendar.

By Mr. PRYOR (for himself, Mr. BUMPERS, Mr. SASSER, Mr. BOREN and Mr. SARBANES):

S. 2979. A bill to establish a Federal Grain Storage Insurance Corporation to protect farmers who store grain in certain warehouses against losses caused by the insolvency of such warehouses, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MOYNIHAN:

S. 2980. A bill to amend the Internal Revenue Code to exclude from recapture investment tax credits used to fund tax credit employee stock ownership plans and to permit recovery by such plans of previously recaptured investment tax credits; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2981. A bill to create a Federal offense for the carrying or use of a firearm during the commission of a State felony and to increase the penalties for carrying or using a firearm during the commission of a Federal felony; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 2982. A bill to temporarily suspend the duty on certain menthol feedstocks until June 30, 1986; to the Committee on Finance.

By Mr. THURMOND:

S. 2983. A bill to apply duty-free treatment to tetra amino biphenyl; to the Committee on Finance.

By Mr. D'AMATO (for himself, Mr. ANDREWS, Mr. BRADY, Mr. HEINZ, and Mrs. HAWKINS):

S.J. Res. 256. Joint resolution to congratulate the American Public Transit Association; to the Committee on the Judiciary.

By Mr. WEICKER:

S.J. Res. 257. Joint resolution to designate the month of November 1982 as "National Diabetes Month"; to the Committee on the Judiciary.

By Mr. WEICKER (for himself, Mr. RANDOLPH, Mr. HATCH, Mr. KENNEDY, Mr. STAFFORD, Mr. EAST, Mr. NICKLES, and Mr. MATSUNAGA):

S.J. Res. 258. Joint resolution to authorize and request the President to designate the month of December 1982 as "Naitonal Close-Captioned Television Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COHEN, from the Select Committee on Indian Affairs:

S.J. Res. 484. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2719; to the Committee on the Budget.

By Mr. HUDDLESTON (for himself and Mr. MATHIAS):

S. Res. 485. Resolution to authorize the inspection and receipt of tax records by the Select Committee To Study Law Enforcement Undercover Activities of Components of the Department of Justice; considered and agreed to.

By Mr. THURMOND (for himself, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. BAKER, and Mr. MATTINGLY):

S. Res. 486. Resolution expressing the sense of the Senate that the Reserve Officers Association of the United States deserves public recognition upon the sixtieth anniversary of its founding for its dedication to the development of a strong national defense; considered and agreed to.

By Mr. ROBERT C. BYRD:

S. Res. 487. Resolution to recognize the city of Nitro, W. Va., as a Living Memorial to World War I; considered and agreed to.

By Mr. MATSUNAGA:

S. Res. 488. Resolution expressing the sense of the Senate that the President should initiate talks with the Government of the Soviet Union, and with other governments of countries having a space capability, with a view toward exploring the possibilities for a weapons-free international space station as an alternative to competing armed space stations; to the Committee on Foreign Relations.

By Mr. BAUCUS:

S. Con. Res. 125. Concurrent resolution to declare Montana, "The Official U.S. Gateway to the 1988 Calgary Olympics"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY (by request):

S. 2967. A bill to facilitate the adjudication of certain claims of United States nationals against Iran, to authorize the recovery of costs incurred by the United States in connection with the arbitration of claims of United States nationals against Iran, and for other purposes; to the Committee on Foreign Relations.

IRAN CLAIMS ACT

● Mr. PERCY. Mr. President, by request, I introduce for appropriate reference a bill to facilitate the adjudication of certain claims of U.S. nationals against Iran, to authorize the recovery of costs incurred by the United States in connection with the arbitration of claims of U.S. nationals against Iran, and for other purposes.

This legislation has been requested by Department of State and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a section-by-section analysis of the bill and the letter from the Assistant Secretary of State for Congressional Relations to the President of the Senate dated September 14, 1982.

S. 2967

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Iran Claims Act".

RECEIPT AND DETERMINATION OF CERTAIN CLAIMS

SEC. 2. (a) The Foreign Claims Settlement Commission of the United States is hereby authorized to receive and determine, in accordance with the provisions of title I of the International Claims Settlement Act of 1949, the validity and amounts of claims by nationals of the United States against Iran which fall within—

(1) the jurisdiction of the Iran-United States Claims Tribunal pursuant to the provisions of Article II (1) of the Declaration of the Government of the Democratic and Popular Republic of Algeria concerning the Settlement of Claims by the Government of the United States and the Government of the Islamic Republic of Iran, or

(2) the terms of any agreement providing for the settlement and discharge of such claims by agreement of the Government of the United States to accept a sum en bloc settlement thereof.

In deciding such claims, the Commission shall apply, in the following order, the relevant provisions of the Claims Settlement Agreement, considering the interpretation given thereto by the Iran-United States Claims Tribunal, the terms of any settlement agreement as described in paragraph (2) of this subsection, and applicable principles of international law, justice and equity.

(b) The Commission shall certify to the Secretary of the Treasury any awards determined pursuant to subsection (a) of this section in accordance with section 5 of title I of the International Claims Settlement act of 1949. Such awards shall be paid in accordance with sections 7 and 8 of that title, except that the Secretary of the Treasury is authorized to make payments pursuant to Section 8(e)(1) in the amount of $10,000 or the principal amount of the award, whichever is less.

DEDUCTIONS FROM ARBITRAL AWARDS

SEC. 3. (a) Except as provided in section 4, whenever the Federal Reserve Bank of New York shall receive an amount from the Security Account established pursuant to the Declarations of the Democratic and Popular Republic of Algeria of January 19, 1981, in satisfaction of an award rendered by the Iran-United States Claim Tribunal in favor of a United States national, the Federal Reserve Bank of New York shall deduct from the amount so received an amount equal to two per centum thereof as reimbursement to the United States Government for expenses incurred by the Departments of State and the Treasury, the Federal Reserve Bank of New York, and other agencies in connection with the arbitration of claims of United States nationals against the Islamic Republic of Iran before the Iran-United States Claims Tribunal.

(b) Amounts deducted by the Federal Reserve Bank of New York pursuant to subsection (a) shall be covered into the Treasury to the credit of miscellaneous receipts.

(c) Nothing in this section shall be construed to affect the payment to United States nationals of amounts received by the Federal Reserve Bank of New York in respect of awards by the Iran-United States Claims Tribunal, after deduction of the amounts specified in subsection (a).

(d) This section shall be effective as of June 7, 1982.

EN BLOC SETTLEMENT

SEC. 4. The deduction by the Federal Reserve Bank of New York provided for in section 3(a) of this Act shall not apply in the case of a sum received by the Bank pursuant to an en bloc settlement of any category of claims of United States nationals against Iran when such sum is to be used for payments in satisfaction of awards certified by the Foreign Claims Settlement Commission pursuant to section 2(b) of this Act.

REIMBURSEMENT TO THE FEDERAL RESERVE BANK OF NEW YORK

SEC. 5. The Secretary of the Treasury is hereby authorized to reimburse the Federal Reserve Bank of New York for expenses incurred by the Bank in the performance of fiscal agency agreements relating to the settlement or arbitration of claims pursuant to the Declarations of the Democratic and Popular Republic of Algeria of January 19, 1981.

DEPARTMENT OF STATE,
Washington, D.C., September 14, 1982.

HON. GEORGE BUSH,
President of the Senate.

DEAR MR. PRESIDENT: I transmit herewith a bill to authorize various agencies of the Executive Branch to take certain actions in furtherance of the settlement of claims between United States nationals and the Government of Iran pursuant to the Algiers Accords of January 19, 1981. The proposed legislation would authorize the Foreign Claims Settlement Commission to adjudicate a number of such claims and would permit the Federal Reserve Bank of New York to recover certain costs incurred by the United States Government in connection with the arbitration of other claims before the Iran-United States Claims Tribunal at The Hague. The bill would also authorize the Secretary of the Treasury to reimburse the Federal Reserve Bank of New York for its expenses as fiscal agent of the United States in the implementation of the hostage release agreements. The steps authorized by the proposed legislation will facilitate the claims settlement process contemplated by those agreements.

Under the Algiers Accords which led to the release of the 52 American hostages in Tehran, the United States and Iran agreed among other things to refer certain claims of U.S. nationals against Iran to binding arbitration before a newly created arbitral body, the Iran-United States Claims Tribunal. Some of those claims had been pending in U.S. courts and had been the subject of judicial injunctions and court-ordered attachments. Pursuant to the Accords, once the hostages had been released, the United States revoked the regulatory authority for those attachments and injunctions, thus rendering them null and void. Following an intensive review of the Accords by the Administration, litigation involving claims which might be presented to the Tribunal was suspended by Executive Order No. 12294, issued on February 24, 1981. That action, and steps taken by the previous Administration in implementation of the hostage release agreements, were upheld by the United States Supreme Court in its decision in *Dames & Moore* v. *Regan* on July 2, 1981.

Under the Accords, the Iran-United States Claims Tribunal is charged with deciding the claims of U.S. nationals against Iran arising out of debts, contracts, expropriations or other measures affecting property rights. The Tribunal, whose members include three appointed by the United States, three by Iran, and three third-country arbitrators, has been established at The Hague in the Netherlands and is beginning to adjudicate the several thousand claims filed before it by the January 19, 1982 deadline. The Accords provide that the Tribunal shall decide all cases on the basis of respect for law, and that its decisions shall be final and binding. The Accords also provide that the Tribunal's awards shall be enforceable in the courts of any nation in accordance with its laws.

To help assure payment of awards of the Tribunal in favor of U.S. nationals, some of whom had been successful in obtaining attachments against Iranina assets and property in the United States, a Security Account was also established at a depositary bank of the Netherlands. The Account was funded at an initial level of $1 billion from certain Iranian assets and properties in the United States. Under the Accords, Iran has an obligation to replenish the Security Account whenever payments to successful U.S. claimants cause it to fall below $500 million.

The Accords provide that the claims of U.S. nationals against Iran for less than $250,000 each (the "small" claims) are to be presented to the Tribunal by the Government of United States, while U.S. nationals with claims of $250,000 or more represent themselves directly. Following an extensive registration program, the Department of State filed some 2795 "small" claims with the Tribunal on January 18, 1982. The adjudication of such a large number of "small" claims represents an enormous undertaking for the Tribunal which could delay the disposition of hundreds of "large" claims of U.S. nationals. The United States has proposed to Iran that the small claims be settled through negotiation of a lump-sum settlement. If a satisfactory settlement can be negotiated, the "small" claims would then have to be individually adjudicated. The enclosed draft bill would authorize the Foreign Claims Settlement Commission to decide the small claims thus settled in accordance with the provisions and procedures of the International Claims Settlement Act of 1949, as amended, subject to the provisions of the relevant claims settlement agreements. This explicit authorization is necessary to clarify the Commission's ability to adjudicate the claims under Title I of the International Claims Settlement Act. Payment of the Commission's awards would be made in accordance with the provisions of that Act, except that the Secretary of the Treasury would be authorized to make initial payments in the amount of up to $10,000, as opposed to the lesser amounts currently provided by law.

Any claims of U.S. nationals, whether "large" or "small", which are not settled will be adjudicated by the Tribunal. Under the Claims Settlement Agreement, the expenses of the Tribunal are borne equally by the Governments of the United States and Iran. To date, the Tribunal has been operating on a relatively modest budget, the majority of expenses having been incurred in connnection with organizational matters, the establishment of a Registry, and the hiring of essential staff, including the trans-

lators and interpreters necessary to conduct the proceedings in both English and Farsi. As it proceeds to adjudicate claims and render awards, its operating expenditures and therefore the required U.S. contributions will increase. In addition, the Departments of State and Treasury, the Federal Reserve Bank of New York, and other agencies of the United States Government have incurred direct and indirect expenses in connection with the establishment and organization of the Tribunal. These expenses will also increase as the adjudication of claims goes forward.

In addition to United States contributions to the Tribunal, providng a forum for hearing and deciding the claims of United States nationals, the United States Government provides many valuable services to United States claimants, such as the service of documents and the presentation of positions and supporting legal arguments on major issues of common interest. The proposed legislation would require successful claimants to help bear the costs of these Government services to or on behalf of the claimants.

The bill would permit the Government to recover a portion of its expenses by authorizing the Federal Reserve Bank of New York to deduct an amount equal to two percent of any payment from the Security Account in satisfaction of an award of the Tribunal in favor of a U.S. national. The amounts thus deducted will be covered into the miscellaneous receipts of the Treasury as reimbursement to the Government of the expenses it has incurred in connection with the operations of the Tribunal. The agencies incurring those expenses will not directly benefit from the deduction, but will continue to be responsible for justifying to the Congress appropriations necessary to pay their expenses. The reimbursement will be collected only from those U.S. claimants who avail themselves of the Tribunal, receive a favorable award, and are paid from the Security Account. Claimants who do not benefit from both the Tribunal and the Security Account would not be required to contribute to the reimbursement of the Government. The bill also provides that once the deduction has been made, payments to U.S. claimants will be made directly without further delay or any additional deductions. Pursuant to a directive license issued by the Treasury Department on June 7, the Federal Reserve Bank of New York has been making deductions, and depositing the proceeds into miscellaneous receipts, from accounts received to date in satisfaction of awards of the Tribunal. The bill would ratify this action retroactively.

Finally, the bill includes two technical sections intended (a) to preclude duplicate deductions from payments to claimants with "small" claims which are adjudicated by the Foreign Claims Settlement Commission and (b) to authorize the Secretary of the Treasury to reimburse the Federal Reserve Bank of New York for expenses it has incurred as fiscal agent of the United States in implementation of the Algiers Accords.

The claims settlement process put in motion by the Algiers Accords represents one of the largest and most significant efforts of its type in recent U.S. or international practice. It includes the claims of thousands of U.S. nationals, involving billions of dollars in debts, contracts, investments, and other commercial relationships interrupted by the Islamic Revolution in Iran. The successful and expeditious resolution of those claims remains an important objective of the Administration's foreign policy. This bill would contribute significantly to these ends and I urge its early passage.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposal for the consideration of the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED IRAN CLAIMS ACT

I. INTRODUCTION

The proposed legislation (hereinafter referred to as "the Bill") contains authority for certain actions by the Foreign Claims Settlement Commission, the Department of the Treasury, and the Federal Reserve Bank of New York in implementation of the Algiers Accords of January 19, 1981, which achieved the release of the American hostages from Iran.

Specifically, the Bill authorizes the Foreign Claims Settlement Commission to adjudicate claims by United States nationals against Iran in the event that they are settled by agreement between the United States and Iran. It also authorizes the Secretary of the Treasury to make payments in satisfaction of the Commission's determinations. Finally, it is providing authority and procedures for reimbursement to the United States Government of expenses incurred by the Departments of State and the Treasury, the Federal Reserve Bank of New York and other agencies for the benefit of U.S. nationals who obtain arbitral awards against Iran from the Iran-United States Claims Tribunal.

The Algiers Accords consisted primarily of two "declarations" by the Government of Algeria which were adhered to by the United States and Iran. The first of these (the "General Declaration") provided *inter alia* for the revocation of sanctions, the transfer of certain Iranian financial assets and property, and the nullification of certain claims and attachments through reference to binding arbitration in accordance with the second declaration (the "Claims Settlement Agreement"). The General Declaration also provided for the establishment of a Security Account, funded from transferred Iranian assets at an initial level of $1 billion, to secure the payment of arbitral awards against Iran. Iran is obliged to replenish the Security Account whenever the payment of claims causes it to fall below $500 million. The Claims Settlement Agreement provided for the establishment of an Iran-United States claims Tribunal at The Hague to decide, *inter alia*, claims by nationals of the United States against Iran arising out of debts, contracts, expropriations or other measures affecting property rights. The expenses of the Tribunal are borne equally by the Governments of Iran and the United States.

In accordance with the Claims Settlement Agreement, claims of U.S. nationals against Iran for less than $250,000 each are to be presented to the Tribunal by the United States Government rather than by the claimants themselves. The Bill would authorize the Foreign Claims Settlement Commission and the Department of the Treasury respectively to adjudicate and pay these "small" claims in the event that Iran and the United States agree to settle them rather than to arbitrate them before the Tribunal.

Under implementing agreements signed on August 17, 1981, by the Federal Reserve Bank of New York as Fiscal Agent of the United States, Bank Markazi Iran, Banque Centrale d'Algerie as escrow agent and the Dutch Central Bank and its subsidiary depositary bank, arbitral awards rendered by the Tribunal against Iran in favor of U.S. nationals will be certified for payment by the Tribunal and paid from the Security Account to the Federal Reserve Bank of New York. The bill would authorize the reimbursement to the United States Government of expenses incurred in connection with the Tribunal and the Security Account by deducting two per cent from each amount received from the Security Account for payment to a U.S. national in satisfaction of a Tribunal award.

The question of further distribution of the amounts received by the New York Federal Reserve Bank is not addressed in the relevant agreements. Under the proposed legislation, these amounts will be transmitted directly to the U.S. national in whose favor an award has been made immediately and without any additional deduction.

II. PROVISIONS OF THE BILL

Section 1. Short title

This section states that the Bill may be cited as the "Iran Claims Act".

Section 2. Receipt and determination

This section authorizes the Foreign Claims Settlement Commission of the United States, a component of the Department of Justice, to adjudicate claims of U.S. nationals against Iran in the event that they are settled as between Iran and the United States.

Under the Claims Settlement Agreement, claims of U.S. nationals which are, in the aggregate, for less than $250,000 each (the "small" claims) are to be presented to the Iran-United States Claims Tribunal by the United States Government rather than the claimants themselves. Prior to the January 19, 1982 deadline, some 2,795 small claims were filed by the Department of State with the Tribunal. Arbitration of such a large number of small claims would place a severe burden on the Tribunal. The United States has proposed to Iran that such claims be settled by a lump-sum (or *en bloc*) agreement. If such a settlement were negotiated, the amount received in discharge of the claims thereby settled would be distributed among individual claimants on the basis of adjudication by the Foreign Claims Settlement Commission.

Subsection (a) makes clear the authority of the Commission to adjudicate the claims on the basis of title I of the International Claims Settlement Act of 1949, as amended. More particularly, it would empower the Commission to decide claims to the extent that they come within the jurisdiction of the Iran-United States Claims Tribunal or the terms of any lump-sum agreement. To ensure consistency of result, the Commission is directed to apply the relevant jurisdictional provisions of the Claims Settlement Agreement, giving consideration to interpretations thereof by the Tribunal, as well as the terms of any settlement agreement and the applicable principles of international law, justice and equity. Since the precise nature of a lump-sum settlement cannot be predicted, the Commission's authority is stated in the alternative. In this way, the Commission will be able to adjudi-

cate claims included in a settlement agreement even if such claims are not within the Tribunal's jurisdiction.

Subsection (b) also directs the Commission to certify its awards under section 5 of the International Claims Settlement Act to the Secretary of the Treasury for payment in accordance with the provisions of sections 7 and 8 of that Act. Section 8(e)(1) currently limits the initial payment which the Secretary of the Treasury may make on account of an award to the amount of $1,000 or the principal amount of the award, whichever is less. This subsection authorizes the Secretary of the Treasury to make such payments to successful claimants up to the amount of $10,000 or the principal amount of the award, whichever is less. Payments on the unpaid balance of awards in excess of $10,000 would thereafter be made in accordance with the existing provisions of Section 8(e) of title I of the International Claims Settlement Act, i.e., from time to time on a pro rata basis in the same proportion as the total amount available for distribution bears to the aggregate unpaid balance of principal or interest of all such awards.

Section 3. Deductions from arbitral awards

This section, consisting of four subsections, establishes the basic structure for effecting reimbursement of the expenses incurred by the U.S. Government on behalf of U.S. claimants in connection with the Iran-United States Claims Tribunal and the Security Account. Those expenses include both the U.S. contribution to the Tribunal for its capital and operating expenses (which are borne equally by Iran and the United States) and the U.S. share of the management fees associated with the Security Account, as well as the costs incurred by U.S. Government agencies and the Federal Reserve Bank in connection with U.S. participation in the Tribunal.

Subsection (a) generally directs the Federal Reserve Bank of New York to deduct the reimbursement from each payment received from the Security Account in satisfaction of an arbitral award, including any interest thereon, by the Tribunal in favor of a U.S. claimant. Thus, reimbursement is collected only from those claimants who avail themselves of the Tribunal, receive a favorable award and are paid from the Security Account. Those claimants who do not benefit from both the Tribunal and the Security Account would not be required to contribute to the reimbursement of the Government.

This subsection establishes the amount of the deduction at two percent of the amount received by the Federal Reserve Bank. It is expected that the total amount of Tribunal awards in favor of U.S. nationals will exceed $4 billion and that Iran will fulfill its obligation to replenish the Security Account whenever the balance therein falls below $500 million. The deduction would therefore obtain reimbursement for the United States of at least $80 million. That amount is estimated to be sufficient to meet the anticipated costs, both direct and indirect, of U.S. participation in the Tribunal.

Subsection (b) provides that the amounts deducted for reimbursement to the Government of its expenses shall be covered into the miscellaneous receipts of the Treasury. The agencies incurring expenses for the operations of the Tribunal will not be able to use any of these funds. Rather, the agencies will be responsible for justifying to the Congress appropriations in amounts necessary to pay their expenses.

Subsection (c) makes clear that the authority to make the deductions provided by this section does not otherwise affect the distribution of amounts received by the Federal Reserve Bank in satisfaction of awards by the Tribunal. After the two percent deduction is made, the balance of the award will be transmitted in full and at once to the successful claimant.

Subsection (d) establishes June 7, 1982 as the effective date of this section. On that date, the Treasury Department issued a directive license authorizing the Federal Reserve Bank of New York to deduct two percent of each amount received in satisfaction of an award of the Tribunal and to pay the balance immediately thereafter to the awardee without further deduction or alteration. Monies so deducted have been deposited in the general funds miscellaneous receipts. This subsection is intended to ratify the Treasury Department's action in issuing the directive license.

Section 4. En bloc settlement

Section 4 provides an exception to the requirement for a two percent deduction in the case of any amount received by the Federal Reserve Bank in satisfaction of a settlement of claims of U.S. nationals which are to be adjudicated by the Foreign Claims Settlement Commission. Section 7(b)(2) of the International Claims Settlement Act of 1949, as amended, provides for a five percent deduction from each payment by the Department of the Treasury as reimbursement for U.S. Government expenses. In the absence of the exception provided in this section of the Bill, therefore, U.S. nationals with claims against Iran which were adjudicated by the Foreign Claims Settlement Commission rather than the Tribunal could be subjected to duplicative deductions from their awards—first by the Federal Reserve Bank under the Bill, and second by the Treasury Department under the International Claims Settlement Act.

Section 5. Reimbursement to the Federal Reserve Bank

This section authorizes the Secretary of the Treasury to reimburse the Federal Reserve Bank of New York for its expenses in acting as Fiscal Agent of the United States pursuant to its Fiscal Agency Agreement with the Treasury dated August 14, 1981, in connection with banking arrangements which implement the Algiers Accords. These expenses of the Federal Reserve Bank of New York have been taken into account in the establishment of the level of reimbursement to be deducted from awards under section 3(a) of the Bill. The section is intended to clarify the authority of the Secretary of the Treasury to make such reimbursements in the context of this arbitration, rather than rely on the more general authority of section 1023 of title 31 of the United States Code.●

By Mr. MATHIAS:

S. 2968. A bill to amend title 5 of the United States Code to provide for an allowance of 4 cents per mile to Federal employees for the use of bicycles while engaged on official business, and for other purposes; to the Committee on Governmental Affairs.

REIMBURSEMENT FOR USE OF BICYCLES ON OFFICIAL BUSINESS

● Mr. MATHIAS. Mr. President, I am today introducing legislation that is designed to enable the Government to make use of hundreds of thousands of privately owned vehicles that are quiet, lightweight, easy to maintain, do not pollute, require little storage space, and improve the health of their users. This legislation amends title 5, United States Code, to authorize that Federal employees may be reimbursed, at the rate of 4 cents per mile, when they use their own bicycles on official business. Reimbursement of use of a private automobile is currently authorized at a rate of 20 cents per mile.

In his January 1981 report titled "Actions Needed To Increase Bicycle/Moped Use in the Federal Community," the Comptroller General concluded that—

> Provisions should be made to reimburse Federal employees for official travel by privately owned bicycle or moped. We believe this action would be justified from several points of view which, when taken together, far outweigh the reasoning advanced for excluding these vehicles as authorized modes of travel.

The experience of State and local agencies with similar provisions has been beneficial. The State of California adopted such a policy in 1980, and local governments in California, Kentucky, New Jersey, and Wisconsin have also been reimbursing their employees for the past few years at rates ranging from 4 to 10 cents per mile for bicycle use on official business.

There are distinct advantages to the Government in providing greater flexibility to its local managers by adding the versatile bicycle to the list of vehicles available for reimbursable travel. The Government will be helping to conserve energy and scarce parking space, and to reduce air pollution. As bicycle usage grows, the fitness of Federal employees will be improved. In a few places, governmental business is already employing the bicycle, as for postal deliveries in some cities in Arizona and Florida. As the Federal agencies gain more experience with bicycle use, additional ways of harnessing the bicycle's many advantages will undoubtedly be discovered. I urge my colleagues to join me in supporting this legislation, which in a modest and economical way will benefit both the Government and its employees. Mr. President, I ask unanimous consent that the text of the bill, and portions of the Comptroller General's report, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5704(a) of title 5, United States Code, is amended—

(1) in paragraph (2), by striking out "or";

(2) in paragraph (3), by inserting "or" after "airplane;"; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) 4 cents a mile for the use of a privately owned bicycle or pedal assisted vehicle;".

(b) Section 5707(b)(2) of title 5, United States Code, is amended by striking out "and airplanes" and "and airplane" and inserting in lieu thereof "airplanes, and bicycles and pedal assisted vehicles" and "airplane, and bicycle and pedal assisted vehicle", respectively.

SEC. 2. The amendments made by this Act shall take effect sixty days after date of enactment.

EXCERPTED FROM: REPORT BY THE COMPTROLLER GENERAL OF THE UNITED STATES, ACTIONS NEEDED TO INCREASE BICYCLE/MOPED USE IN THE FEDERAL COMMUNITY (EMD 81-41), JANUARY 19, 1981 (PAGES 32-33)

CONCLUSIONS

We believe provisions should be made to reimburse Federal employees for official travel by privately owned bicycle or moped. We believe this action would be justified from several points of view which, when taken together, far outweigh the reasoning advanced for excluding these vehicles as authorized modes of travel. For instance, our study showed there are definite, definable costs associated with owning and operating a bicycle or moped just as there are for the privately owned vehicles now included. Moreover, the cost data we obtained demonstrates that the costs of owning and operating a bicycle or moped are quite similar to the costs considered in the estabishment of a reimbursement rate for automobiles, motorcycles, and airplanes.

Establishing reimbursement rates can also be justified for other reasons. One is that the failure to include bicycles and mopeds as authorized modes of travel can be viewed as totally at odds with on-going Federal efforts to conserve energy, protect the environment, promote personal health and reduce government operating costs. The potential of bicycles to contribute to these programs was also recognized by the Congress in Section 682 of NECPA.

We believe recognition of the bicycle and moped as authorized modes of travel for Federal employees on official business is a necessary step in efforts to increase the use of these vehicles by those working at and visiting Federal buildings, facilities, and installations. In other words, the Federal government should set an example.

RECOMMENDATION TO THE CONGRESS

We recommend that the Congress amend Sections 5704(a) and 5707(b)(2) of Title 5 of the United States Code to provide for an allowance of 4 cents a mile to Federal employees using their privately owned bicycles while on official business. An 8 cents per mile allowance should also be provided for the use of privately owned mopeds. Language similar to that contained in H.R. 6180 (see app. II) could be used.

These allowances would establish the principle of reimbursement for those using their privately owned bicycles and mopeds for official business. Given the limited cost data, the recommended rates of reimbursement are at the low to mid range of the data available and are consistent with existing precedents set by State and local government entities.

Over time, as more cost experience is gained, GSA should be able to validate and refine cost rates and recommend to the Congress appropriate adjustments to the maximum rates.●

By Mr. METZENBAUM:

S. 2969. A bill to limit the application of the investment tax credit and the accelerated cost recovery system to domestic property; to the Committee on Finance.

FAIR TRADE TAX ACT

● Mr. METZENBAUM. Mr. President, I am today introducing legislation to deny accelerated recovery depreciation deductions and investment tax credits for articles manufactured in foreign countries. This legislation is based on the principle that Americans should not be asked to subsidize through the tax code the purchase of products made abroad.

Today, unemployment is close to 10 percent—a post World War II high. Almost 11 million Americans are without jobs. Millions more have been forced to take part-time jobs or jobs for which they are overqualified.

Unfair foreign competition and this country's dismal record in responding to it are in no small part to blame.

For too long, we in this country have stood idly by and allowed our trading partners to take advantage of us.

We have allowed foreign manufacturers to dump their products in our market below cost.

We have seen foreign governments provide substantial subsidies to export industries.

And we have failed to react in kind when other countries have created arbitrary obstacles to keep our firms out of their markets.

What is worse, we have actually pursued tax policies which have contributed to the Nation's trading problems. Instead of fostering "Buy American" principles, this Government has provided tax credits and accelerated depreciation deductions for purchases of equipment made abroad.

This is wrong.

Providing lucrative tax breaks for foreign manufactured articles violates the very purpose for which these tax breaks were enacted—to help stimulate American industry and American jobs.

Hundreds of American workers lose their jobs every time cars, steel, or manufactured goods are purchased from abroad. Why must we provide additional tax incentives to put more Americans out of work?

There is absolutely no reason to continue this policy. One need only look at the history of the investment tax credit to realize that Congress never intended the ITC to be used to export jobs overseas.

The ITC originated as part of the new economic policy of the early seventies. In 1971, this Nation faced an increasing balance-of-payments deficit, mounting unemployment and growing inflation. President Nixon responded by imposing wage and price controls, levying a surcharge on all imported goods, and initiating the Revenue Act of 1971.

As part of this economic policy, the Nixon administration proposed, and Congress enacted, a job development credit. According to testimony before the Senate Finance Committee by then-Secretary of the Treasury John Connelly the credit was "designed to achieve an immediate response in order to reduce unemployment and improve productivity quickly."

This job development credit was not available to foreign produced goods so long as the President's import surcharge remained in effect. When asked at a Ways and Means Committee hearing if the prohibition should be permanent, George Meany, president of the AFL-CIO responded:

> If you gave an investment credit for the purchase of foreign equipment you would be really to some extent nullifying the whole idea that has been put forth. The idea of the investment credit was to make jobs. If you are going to buy the equipment overseas, it is not going to make jobs here.

This rationale was echoed by the National Electrical Manufactures Association in testimony before the Senate Finance Committee:

> Foreign competitors, based on an array of protective and restrictive import devices in their home markets and a variety of export aids and incentives to penetrate the U.S. market in volume, should not have the benefit of the U.S. tax credit designed explicitly to increase U.S. jobs, U.S. productivity and U.S. competitiveness.

Congress and the administration had the same intention—that of stimulating more American jobs—when they worked together to enact the accelerated cost recovery deductions as part of the economic recovery tax act of 1981.

In testimony before the Senate Finance Committee last year, Treasury Secretary Donald Regan said of this economic proposal to cut corporate taxes:

> Combined with individual rate deductions, accelerated cost recovery will provide the conditions for increased capital formation needed to provide jobs and improve the U.S. competitive position in world markets.

Mr. President, I believe that statement directly supports the notion that ACRS deductions should not be extended to companies making purchases overseas.

This Nation's competitive posture is not improved, nor are enough jobs created to justify the extension of lucrative tax breaks to American firms purchasing foreign-made equipment and machines.

Indeed, what happens to the domestic companies and workers involved in the manufacture of these same machines and equipment? Is not important business lost to them when the companies they supply turn to foreign manufacturers? Is not their very ability to survive, let alone expand to keep pace with foreign competition, seriously jeopardized?

The answer is a plain and simple "yes."

This is foolhardy policy. At a time when we are struggling to balance the budget we can ill-afford the loss of additional revenues to the Treasury which serve such counterproductive purposes. And at a time when unemployment rolls are swelling, and foreign imports are capturing ever-increasing shares of the U.S. market, it is unconscionable to continue to subsidize the export of jobs overseas.

The legislation I am today introducing will help put an end to the practice of subsidizing competition from abroad. It is sensible and fair.

Articles necessary for national security and articles which are only manufactured overseas would be exempt from the provisions of this bill. Furthermore, the bill authorized the President to exempt articles by Executive order if denying the tax benefits would result in a net loss of American jobs or cause plant closings.

By denying the investment tax credit and accelerated depreciation deductions to goods which are manufactured abroad, this bill will return these tax provisions to their original purpose—creating more American jobs.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

This act may be cited as the "Fair Trade Tax Act".

SEC. 2. LIMITATION OF APPLICATION OF INVESTMENT TAX CREDIT TO DOMESTIC PROPERTY.

Paragraph (7) of section 48 (a) of the Internal Revenue Code of 1954 (defining section 38 property) is amended—

(1) by striking out "subparagraph" in subparagraph (A) and inserting in lieu thereof "paragraph",

(2) by striking out subparagraphs (B), (C), and (D), and inserting in lieu thereof the following new subparagraphs:

"(B) EXCEPTIONS. Subparagraph (A) shall not apply to any article or class of articles for a period during which such article or class of articles is—

"(i) necessary for national security or national defense, or

"(ii) only manufactured or produced outside the United States.

"(C) PRESIDENT MAY EXEMPT ARTICLES.—If the President of the United States shall at any time determine after consulting with the Secretary of the Treasury, the Secretary of Labor, the Secretary of Commerce, and the United States Trade Representative, that the application of subparagraph (A) to any article or class of articles would—

"(i) result in a net loss in jobs in the United States, or

"(ii) would threaten the solvency of a significant portion of an industry in the United States,

he may by Executive order specify that subparagraph (A) shall not apply to such article or class of articles for the period specified in such Executive order.

"(D) DETERMINATION BY THE PRESIDENT.—The determination by the President of the United States described in subparagraph (C) way be in response to—

"(i) recommendations by the Secretary of the Treasury, the Secretary of Labor, the Secretary of Commerce, or the United States Trade Representative, or

"(ii) a petition for exemption by a taxpayer.".

SEC. 3. LIMITATION OF APPLICATION OF ACCELERATED COST RECOVERY SYSTEM TO DOMESTIC PROPERTY.

Subsection (e) of section 168 of such Code (relating to accelerated cost recovery system) is amended by adding at the end thereof the following new paragraph:

"(4) PROPERTY COMPLETED ABROAD OR PREDOMINATELY OF FOREIGN ORIGIN.—

"(A) IN GENERAL.—The term 'recovery property' does not mean property if—

"(i) such property was completed outside the United States, or

"(ii) less than 50 percent of the basis of such property is attributable to value added within the United States.

For purposes of this paragraph the term 'United States' includes the Commonwealth of Puerto Rico and the possessions of the United States.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any article or class of articles for a period during which such article or class of articles is—

"(i) necessary for national security or national defense, or

"(ii) only manufactured or produced outside the United States.

"(C) PRESIDENT MAY EXEMPT ARTICLES.—If the President of the United States shall at any time determine after consulting with the Secretary of the Treasury, the Secretary of Labor, the Secretary of Commerce, and the United States Trade Representative, that the application of subparagraph (A) to any article or class of articles would—

"(i) result in a net loss in jobs in the United States, or

"(ii) would threaten the solvency of a significant portion of an industry in the United States,

he may by Executive order specify that subparagraph (A) shall not apply to such article or class of articles for the period specified in such Executive order.

"(D) DETERMINATION BY THE PRESIDENT.—The determination by the President of the United States described in subparagraph (C) may be in response to—

"(i) recommendations by the Secretary of the Treasury, the Secretary of Labor, the Secretary of Commerce, or the United States Trade Representative, or

"(ii) a petition for exemption by a taxpayer.".

SEC. 4. EFFECTIVE DATES.

(a) INVESTMENT TAX CREDIT.—The amendments made by section 2 shall apply to property ordered, constructed, reconstructed, or erected after December 31, 1982 and before December 31, 1989.

(b) ACCELERATED COST RECOVERY SYSTEM.—The amendments made by section 3 shall apply to property placed in service after December 31, 1982 and before December 31, 1989.●

By Mr. NUNN:

S. 2971. A bill to authorize the establishment of competitive health insurance programs for Federal employee organizations; to the Committee on Governmental Affairs.

COMPETITIVE HEALTH PROGRAMS FOR FEDERAL EMPLOYEES

● Mr. NUNN. Mr. President, good health is among our most cherished possessions, and the access to quality medical care is one of the greatest privileges which our Nation affords to its citizens. Unfortunately, the medical care for which we can justifiably be proud is becoming so expensive that it is often out of the reach of the average American. Also keeping pace with the rising cost of health care is the ever increasing cost of health insurance. The security which health insurance offered many working Americans in the past has been dwindling as many service and indemnity companies substantially increased premiums.

Federal employees and annunitants have been particularly hard hit by massive changes in health premium costs and benefit levels. Like many Americans, our Government work force, through the reduced cost-of-living adjustments and additional payroll taxes, is already bearing a large portion of the burden of our efforts to reduce the Federal deficit and restore our economy.

The legislation which I am introducing today addresses only a limited portion of the Federal employees health benefits program. Under present law, any employee organization wishing to offer its own health plan as an option to its members had to submit its application for such a health plan in 1979. This arbitrary cutoff date prevents employee organizations from now providing cost effective alternatives to existing health plans already approved under the program. My legislation would remove that arbitrary barrier by deleting the cutoff date contained in current law. Furthermore, this measure would allow members of the employee group to transfer their enrollment to the new plan within a specified period of time. Such a limited transfer opportunity would be available only to members of the specified employee group and would not cause a disruption in health plans for other Federal employees and annuitants.

One group in particular, the Federal Managers' Association, has been seeking an opportunity to offer a competitive health plan to its members. The Federal Managers' Association is one of the oldest and largest management organizations in the Federal Government. Currently, there are approximately 15,000 members nationwide who represent all the major departments and agencies of the Federal Government.

The lifting of the 1979 closing date only allows the FMA or other employee group to submit their plans to the Office of Personnel Management. OPM still has complete authority to negotiate with the employee group so

that any approved plan would meet OPM minimum requirements relating to benefit levels and premium rates.

Mr. President, the cost of health care is still skyrocketing, despite the abatement of inflation in other areas. The HHS Health Care Financing Administration reports that health care costs rose 15.1 percent in 1981, the second largest increase in the past 15 years. It is generally agreed that more competition is needed in the health care arena to force providers to at least stabilize their fees and costs.

Despite these trends, the Office of Personnel Management seems to prefer closing down competitive avenues for alternative health plans which could save both the Government and the employee money. This preference is exemplified by the open season delays and renegotiations with carriers which resulted in reduced benefits at increased costs, all decided with employee input.

This legislation again gives employee groups the right to offer their own plan and give their members a competitive choice in the costly area of health care benefits. At a time when Federal employees and annuitants are particularly hard hit by decisions affecting their livelihood, the Federal Government should not limit their access to a variety of health plans which offer different benefit levels and premium costs.

I urge the Senate to move expeditiously toward genuine reforms in the Federal employees health benefits program. In the interim, I hope we can take this small step to allow employee groups themselves to offer their members the most cost-effective health plans possible.●

By Mr. BENTSEN:

S. 2972. A bill to name the building to be constructed in Lufkin, Tex., and leased to the United States as the "Col. Homer Garrison, Jr., Federal Building"; to the Committee on Environment and Public Works.

COL. HOMER GARRISON, JR., FEDERAL BUILDING

● Mr. BENTSEN. Mr. President, today I am introducing a bill to name the Federal building to be constructed in Lufkin, Tex., after Col. Homer Garrison, Jr.

Homer Garrison was born in Anderson County, Tex., in 1901. He became a deputy sheriff in Angelina County as a teenager and served in this capacity until 1929. He joined the Texas Highway Patrol when it was created in 1930 and was made captain. After the highway patrol and Texas Rangers merged to become the department of public safety, he was named assistant director of the department. In 1938, Colonel Garrison was made director and chief of the rangers. Under his leadership, the department grew from a modest agency to over 1,000 patrolmen, 62 Texas Rangers, and several other specialty law-enforcement organizations. He died on May 7, 1968, after serving as chief for 30 years.

Homer Garrison was known for backing those who worked for him and for standing behind what he believed to be right, never allowing personal emotion to interfere with a decision. Shortly after his death, the Texas Senate adopted a resolution paying tribute to his leadership, saying: "He exerted greater influence on the direction of law-enforcement than any other man in the Lone Star State". He truly impressed all that met him, leaving a legacy for those who succeed him to forever seek to equal.●

By Mr. PERCY:

S. 2973. A bill to amend section 204 of the Federal Property and Administrative Services Act of 1949, as amended, to authorize the deposits of cash proceeds from the disposal of surplus real property into the general fund of the Treasury to be used to retire the national debt of the United States; to the Committee on Governmental Affairs.

NATIONAL DEBT REDUCTION ACT OF 1982

● Mr. PERCY. Mr. President, I am today introducing the National Debt Reduction Act of 1982. This legislation will direct the proceeds from the sale of surplus Federal lands to go into a special fund in the U.S. Treasury to be used solely to reduce the debt of the United States.

A few months ago, we reached a milestone in American history—the national debt surpassed the $1 trillion mark. This is not a milestone we should be proud of. It should be a signal to the Congress that we must act to stop this dangerous trend, or we may push our economy past the breaking point.

While there are encouraging signs lately on the economic front, it is going to take time to reverse the effects of two decades of reckless spending by the Federal Government. In my own State of Illinois, one worker in eight is unemployed. High interest rates are pushing small businesses into bankruptcy daily and stifling growth and production in others.

In the past, the only solution offered to attack sprawling and unmanageable Government spending was to cut programs—a solution I have generally supported. What I realized last fall was that, up until then, we had almost totally disregarded the most basic financial analysis used in every business large or small, and in most households: the assets/liabilities balance sheet. We had closed our eyes to the fact that our Government has plenty of assets—substantially more assets than debits. Yet, there is no reason why we cannot, or should not, sell properties which we simply do not need to offset part of the national debt.

President Reagan has embraced this idea and moved swiftly and decisively, with my full support, to implement a full-scale surplus property sales program.

I am certain that the administration will be able to raise the $17 billion it anticipates over the next 5 years from surplus land sales. Uncle Sam's attic is brimming with properties it owns, but no longer needs to own. A few examples:

The New York Assay Office consists of 88,000 square feet of office space in the heart of Manhattan's financial district, unused by the Government. It is worth over $8 million.

In Joliet, Ill., 1,300 acres of a 23,000 Army ammunition plant is not used by the military and is worth several million dollars.

Much of the Army's Fort DeRussy on Waikiki Beach is open space, not used for any training. It is here that the administration plans to sell 17 acres of some of the most valuable land in the United States.

The executive branch already has the authority to sell surplus Federal property under the jurisdiction of the General Services Administration. Federal lands administered by the Departments of Interior and Agriculture may be sold under more limited circumstances.

In fiscal year 1983, President Reagan wants to sell about $1 billion in surplus Federal land, all of it under the jurisdiction of the General Services Administration. No public domain lands will be part of this sale. Under the Federal Property and Administrative Services Act, and subsequent amendments in the Land and Water Conservation Act, all proceeds from the sale of nonpublic domain (GSA) lands must go toward the land and water conservation fund in the Treasury.

The bill I am introducing today—The National Debt Reduction Act of 1982—would redirect the proceeds from nonpublic domain land sales to a special fund in the Treasury to be used solely for the retirement of the national debt.

This legislation, if enacted, would not deplete the land and water conservation fund by 1 cent. Under current statute, the land and water conservation fund must receive at least $900 million each year from any of three sources: Off-shore drilling leases, motor boat fuel taxes, and surplus land sales. Currently, the fund is receiving 90 percent of its funding from offshore leases, 5 percent from motor boat taxes, and 5 percent from surplus land sales—about $50 million. The fund would continue to receive this same $900 million each year should the surplus land sales proceeds go to retire the debt because offshore leases would easily make up the difference.

This is a very simple and straightforward proposal. It is a chance for us to take a first step to attack the national debt without reducing funds for new park land, cutting social programs, or raising taxes.

Mr. President, I urge the Senate to act quickly on this needed legislation.

Mr. President, I ask unanimous consent that the text of the bill and a White House press release containing the text of a letter relating to this matter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2973

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Debt Retirement Act of 1982."

SEC. 2. Section 204(a) of the Federal Property and Administrative Services Act of 1946 (63 Stat. 388; 40 U.S.C. 485(a)), is amended to read, as follows:

"(a) Notwithstanding any other provision of law, all cash proceeds under this title from any transfer of excess property to a Federal agency for its use, or from any sale, lease, or other disposition of surplus property, shall be covered into the general fund of the Treasury to be used solely for retirement of the national debt of the United States, except as provided in subsections (b), (c), (d), and (e) of this section.".

[Text of a letter from the President to the Speaker of the House of Representatives and the President of the Senate]

SEPTEMBER 22, 1982.

DEAR MR. SPEAKER: (DEAR MR. PRESIDENT:) I am forwarding for the consideration of the Congress a draft bill entitled the "National Debt Retirement Act of 1982."

As you know, my Administration has recently undertaken a number of policy initiatives with respect to the disposal of surplus Federal real property. For example, on February 25, 1982, I signed Executive Order 12348, establishing the Presidential Property Review Board, which has been given the responsibility for developing Federal property disposal policy to ensure that surplus Federal real property is identified and made available for sale at its fair market value. Proceeds from the sale of surplus real property are to be used to help retire the national debt.

The enclosed legislation eliminates a barrier to using the proceeds of the sale of surplus real property to retire the national debt. Under current law, receipts from the sale of such property are deposited in the Land and Water Conservation Fund of the Department of the Interior. Our proposed legislation amends present law to state that, notwithstanding any other requirement of law, cash proceeds from the sale, lease, or other disposition of such property are to be covered into the general fund of the Treasury. This proposal does not affect the statutory requirement that there be an annual income level of $900 million for the Land and Water Conservation Fund. Revenues from Outer Continental Shelf oil lands will continue to be deposited in the Fund, thus ensuring that the required $900 million annual floor for deposits in the Fund will be met.

Enactment of this draft bill would help put the Federal government on a sounder fiscal footing. Accordingly, I would appreciate prompt favorable consideration of this legislative proposal.

I am sending an identical letter to the President of the Senate. (Speaker of the House of Representatives.)

Sincerely,

RONALD REAGAN.●

By Mr. BENTSEN:

S. 2974. A bill to authorize local improvements to be considered in cost-sharing calculations on the Lower Rio Grande Valley Basin flood control project; to the Committee on Environment and Public Works.

IMPROVEMENTS IN LOWER RIO GRANDE VALLEY BASIN FLOOD CONTROL PROJECT

● Mr. BENTSEN. Mr. President, I am introducing legislation to fairly recognize the efforts of the local authorities in dealing with the serious flood control problems of the Lower Rio Grande Valley. This bill is designed to assure that actions taken by the local authorities are reflected in any subsequent Federal project that may be authorized in that area.

Clearly, no one can now predict whether a Federal water project will be authorized in this area. Congress has not authorized new water resource projects since 1976. Moreover, before new projects are authorized, Congress will surely address the question of cost sharing between Federal and non-Federal interests. Currently, the Corps of Engineers is completing a study of the feasibility of a Federal flood control project in the Lower Rio Grande Valley. For such a project to ultimately be constructed, it must have a favorable benefit/cost ratio, strong local support, congressional construction authorization, and the necessary appropriations. This process will take many years.

In the meantime, the people of the lower valley are compelled to act on their own to respond to the prospect of continued flood damage. Let me say at this point that flooding in the Lower Rio Grande Valley has some unique aspects. Because the land around the river is so flat, there is little runoff. Under severe flooding conditions water can stand across the area for weeks, backing up septic tanks and devastating cropland. I have worked for years to speed the process of determining whether or not this project should get the green light. In spite of my efforts, progress has been slow. Consequently, the local authorities are developing their own flood control efforts. After a several-year delay in obtaining a dredge-and-fill permit under section 404 of the Clean Water Act, the Hidalgo County Drainage District No. 1 is constructing a drainage network in the area.

My bill would instruct the Corps of Engineers to include the costs and benefits of local improvements that are compatible with its ultimate project. This bill does not authorize any Federal funds. It does, however, protect the local investment in the event that a Federal project is authorized and built to control flooding in the Lower Rio Grande Valley.●

By Mr. CHAFEE (for himself and Mr. PELL):

S. 2975. A bill to amend title 10, United States Code, to authorize an alternative to the conventional construction of military family housing within the United States, Puerto Rico, and Guam; to the Committee on Armed Services.

ALTERNATIVE TO CONVENTION CONSTRUCTION OF MILITARY FAMILY HOUSING

● Mr. CHAFEE. Mr. President, on behalf of Senator PELL and myself, I am today introducing legislation which would allow the Secretary of Defense to select an alternative to the conventional construction of military family housing. The alternative would permit the Secretary of Defense to enter into a long-term lease for family housing.

This alternative could provide an attractive and economical method of procuring family housing in certain situations, and I believe we should make this alternative available.

A companion measure has been introduced in the House of Representatives. It is my hope that the Department of Defense and the appropriate committees of Congress will give this measure their early and favorable attention.●

By Mr. MATHIAS:

S. 2976. A bill to facilitate the economic adjustment of communities, industries, and workers to civilian-oriented initiatives, projects, and commitments when they have been affected by reductions in defense or aerospace contracts, military facilities, and arms export which have occurred as a result of the Nation's efforts to pursue an international arms control policy and to realine defense expenditures according to changing national security requirements, and to prevent the ensuing dislocations from contributing to or exacerbating recessionary effects; to the Committee on Governmental Affairs.

DEFENSE ECONOMIC ADJUSTMENT ACT

● Mr. MATHIAS. Mr. President, I am introducing today the Defense Economic Adjustment Act. The purpose of this bill is to plan and provide technical assistance to States and localities which may experience sudden unemployment increases due to loss of defense contracts.

Defense Department decisions on facility locations, employment levels, weapons procurement, and contracts can severely affect a local employment base. The result can be sharp declines in employment which wreak havoc with local economic stability.

The social costs, economic disruptions, and human stress caused by sudden layoffs and shifts in defense spending are substantial. This bill establishes a mechanism to plan for such slowdowns in spending, retrain workers, recycle defense facilities, identify new markets and new products for current defense suppliers, and assure a stable transition to a domestic civilian economy.

Although the defense sector of our national budget is currently programed for real growth, we must be prepared for that time when defense spending slows. The enormous number of military contractors (20,000) and the 400 U.S. military bases located throughout the United States are a sizable segment of our national economy. The spin-off employment of these employers in subcontractors is even greater.

No locality or region can afford to become overly dependent on one part of its employment base. This bill is aimed at those towns and cities where the principal employer is a military base or defense contractor. Should the need for the base or product of a contractor decline, the local economy is caught in the lurch. A diversified, balanced local economic base can insure that this does not occur.

Furthermore, by seeing that new markets, products, and types of employment are assured in the future, this bill makes it easier for national spending decisions to be made without a bias to existing defense suppliers and contractors, whose product or service may no longer be necessary to national needs.

Reindustrialization is a term bandied about these days as a means to move our Nation out of its current recession. This bill would see to it that the meaning of reindustrialization would be clearly defined and a program for getting there was agreed upon.

There are numerous national priorities which beg to be addressed: Our methods of public transportation; our methods of homebuilding; our space program; the health of our citizens; or urban infrastructure—streets, bridges, water and sewer lines; our water and air quality research and technology; new energy conservation and recycling technologies; our merchant ship fleet; and business communication needs.

All of these areas and many more call for priority national attention and the directing of careful thought and a skilled work force. The Defense Economic Adjustment Act is a step in the direction of such economic conversion.●

By Mr. COHEN, from the Select Committee on Indian Affairs:

S. 2978. An original bill entitled the "Indian Claims Settlement Act of 1982"; placed on the calendar.

INDIAN CLAIMS SETTLEMENT ACT OF 1982

Mr. COHEN. Mr. President, I am today reporting legislation to extend the statute of limitations as it pertains to claims of Indian tribes or individuals for monetary damages arising prior to 1966.

Prior to 1966, there was no limitation on the time in which the United States could bring an action for damages either for itself or on behalf of an Indian tribe or an individual. In 1966 the Congress enacted 28 U.S.C. 2415 to establish a time limit of 6 years for claims based on contracts and 3 years for damage claims for most torts. Six years was allowed for trespass or conversion damages affecting lands. There is no time limit on actions to establish the title to, or right of possession of, real or personal property.

In 1972, at the request of the Departments of the Interior and Justice, the statute was amended to extend by 5 years the time in which the United States could bring an action on behalf of an Indian tribe or individual for a claim arising before 1966. In 1977, the statute again was extended by 2½ years to April 1, 1980. In 1980, the statute was extended a third time to December 31, 1982. The 1980 extension directed the Secretary of the Interior, after consultation with the Attorney General, to submit to the Congress legislative proposals to resolve those Indian claims that they believed were not appropriate to resolve by litigation.

Mr. President, to date neither the Department of the Interior nor the Department of Justice has presented the Congress with a single proposal for legislative resolution of any outstanding Indian claim. In September of last year I wrote to the Secretary of the Interior urging compliance with this act in order that the Congress might have adequate time to deal with the complex issues that would arise. I again wrote in December of 1981.

Mr. President, in an effort to stimulate action by the executive branch, the Select Committee on Indian Affairs held oversight hearings on April 1, of this year. This hearing revealed that the Department of the Interior had placed some 17,000 claims on its statute of limitations tracking system and that of these 17,000 claims, only 1,200 remained under active consideration. Many of these claims were disposed of by the simple expedient of deciding that the value of the trespass claim is not as significant as the underlying claim to title to land or a determination that a certain category of trespass such as roadway and utility easements could be considered beneficial to the Indian and therefore to have an offsetting value. The one category of claims the Department was prepared to recommend for legislative solution, that of old-age assistance claims, has never been forwarded to the Congress. The select committee held further hearings on September 16, to determine the current status of progress. Cases which had been referred to Justice for litigation in 1978 and 1979 had been returned to Interior for reconsideration and many of the larger claims simply have not been filed or are still pending decision on litigation.

I do not agree with the conclusion of the Department of the Interior in its communication to this committee on June 25, that legislation to address the old-age assistance category of claims will bring the Government into substantial compliance with the requirements of Public Law 96-217 that the Department of the Interior in consultation with the Department of Justice submit to the Congress legislative proposals to resolve these outstanding Indian claims.

A decision to waive a claim for damages on the grounds that the claim for title to land is not barred does not do justice to either the Indian claimant or the non-Indian who is occupying the land in good faith and under color of title.

A decision to administratively resolve rights-of-way claims in a manner that waives a claim for past damages without notification to the Indian whose claim is affected does not reflect the good faith owed by the trustee. Also, a waiver of past damages on water rights claims and claims for degradation of the environment resulting in destruction of fish stocks will almost certainly adversely affect the bargaining position of the United States and the tribes in attempting to reach settlement of these claims.

I would like to say that in granting these various extensions to the statute, there have been three overriding concerns of the Congress. First, is to assure substantial justice to the Indians in the prosecution of their claims.

Second, is to assure substantial justice to innocent third parties by avoiding unnecessary litigation, particularly where settlements might be achieved or where timely review of the cases would establish that a claim lacked merit.

Third, is to assure that third parties who are not wholly innocent and who have reaped the gains through tortious action will bear the costs of that conduct rather than having the burden fall on the United States.

I feel that the dispositions that have been made by the Department of the Interior and the Department of Justice of these claims falls far short of the intent of Congress in enacting Public Law 96-217.

From the information that has come to this committee through our oversight hearings, our correspondence to the Departments of Interior of Justice, and from concerned Indians, I am

satisfied that none of these three objectives is now being met. I am deeply disturbed that the administration has failed to provide the Congress with a single recommendation for legislative resolution of any of the identified claims.

Mr. President, each time the Congress has extended the statute of limitations, witnesses for the tribes have stressed the potential liability of the United States for failure to diligently prosecute the claims of Indians. Witnesses for the Government have never specifically stated that the United States would in fact be liable to the Indians for failure to bring a trust-related claim, but in each of these extensions the Government witnesses have acknowledged that such liability is a very distinct possibility.

In hearings before the Select Committee on Indian Affairs in December of 1979, I asked the then Associate Solicitor for the Division of Indian Affairs, Hans Walker, whether a suit would lie against the United States as trustee for failure to carry out a fiduciary obligation if it failed to bring an action on behalf of an Indian tribe or individual.

Mr. Walker stated that that was very possible. In hearings before this committee in May of 1977 at the time of that extension, Mr. Krulitz, then Solicitor of the Department of the Interior, when asked the same question responded to the chairman by saying, "I must say that in my mind I think there is a clear exposure and substantial risk of liability in this situation."

Peter Taft, then Assistant Attorney General for Land and Natural Resources, Department of Justice, while not conceding liability, acknowledged that there was no question that the Government would be used. On September 23, 1982, a class action law suit was filed in the U.S. District Court for the District of Columbia seeking declaratory relief against the United States premised on failure of the United States to timely file claims and failure to timely notify claimants. It also seeks mandatory injunction to compel the United States to file remaining claims within the time allowed.

Mr. President, I cannot overstate my frustration with the manner in which the executive branch has handled this problem. It is not just this administration. The problem has been known for 10 years and successive administrations must share the blame. Nevertheless, I am deeply disappointed. To simply allow these claims to lapse—to administratively shove them under the rug—is damaging to the law; it is damaging to the Congress; and ultimately it is damaging to this country. For these reasons I am reporting this bill today.

By Mr. PRYOR (for himself, Mr. BUMPERS, Mr. SASSER, Mr. BOREN, and Mr. SARBANES):

S. 2979. A bill to establish a Federal Grain Storage Insurance Corporation to protect farmers who store grain in certain warehouses against losses caused by the insolvency of such warehouses, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL GRAIN STORAGE INSURANCE ACT OF 1982

Mr. PRYOR. Mr. President, I want to take this opportunity to address the Senate on an issue that has, unfortunately, become a factor in the lives of American farmers. This subject has captured regional and national headlines and has generated discussion at all levels of government and within the agricultural community. Farmers, already plagued by high-interest rates, high fuel costs, and high seed and fertilizer costs, have now been hit by still another problem—bankruptcies and failures of grain elevators.

More than 110 elevators have failed in the United States in recent years, leaving in the lurch at least 3,200 farmers with over $25 million in grain. While the number of occurrences of grain elevators is relatively small compared to business failures in general, few other types of bankruptcies can have such a devastating effect on farmers who, in effect, are innocent bystanders. We have heard far too many stories of financial failure.

On April 7, the 20-year old Coast Trading Co. filed to reorganize under chapter 11 of the Federal Bankruptcy Law. Coast had a 6 State chain of 22 grain elevators, feed mills, barge facilities, and other related services. The debt includes $14 million to secured creditors and $20 million to an estimated 200 unsecured creditors—mostly farmers and local elevators that sold to Coast Trading.

In Stockport, Iowa, an elevator collapsed 2 years ago where too much grain was delivered without receiving a check, too little warehoused grain was secured by a warehouse receipt and too much grain was delivered to be paid for later. This is really a farmer's unsecured loan to the elevator—and then the sudden, unexpected bankruptcy.

In Montana, North Dakota, Kentucky, Louisiana, Missouri and Arkansas similar stories have unfolded.

While it is understood that farmers themselves need to become alert to such danger signals as an elevator that offers a higher price if the farmer agrees to wait a few days, or offers to store grain at a cheaper rate, or even fails to give proper warehouse receipts, the time has come for the Congress to offer the farming community some statutory protection.

More and more State legislatures are recognizing their role and responsibility in developing sound criteria upon which to audit and regulate grain elevators. Additionally as Paul Hughes, a constituent of mine, said recently in the Delta Farm Press, "As long as you make it possible for someone to succeed, then it also will be possible for them to fail." However, State and Federal governments must not ignore this critical situation and it is important for the Congress and the State legislatures to take seriously the duties of government in these situations.

Legislative reforms are under consideration that would change bankruptcy laws, increase oversight of warehouse operations by the Federal Government, and insure farmers against losses.

For farmers and other individuals and businesses caught with assets in a bankrupt elevator, the issue can be extremely frustrating. Those with warehouse receipts, or in some cases, scale tickets marked for storage, will be among a preferred group of creditors and generally have a good chance of recovering a large percentage of the loss. But farmers who have sold grain to a failing elevator under a deferred-payment arrangment fall into a nonpreferred class of general creditors and may recover little of their loss. And, in either case, the claims process can take months or possibly years to complete.

I have supported attempts to amend Federal bankruptcy laws to accomplish the following: First establish a time limit on the disposition of elevator assets; second, establish a priority disposition system; and third, allow a farmer to impose a statutory lien in a deferred payment arrangement. It has been noted that these changes are far reaching and could have secondary effects, one of which might be that the statutory lien could jeopardize the financing of elevator operations. Additionally, this proposed change might cause bankers and lenders to face new risks since the lien provisions affect clear title to commodities used as collateral. Also, some commentators have said that these amendments interfere with priorities set by States in bankruptcy proceedings. According to a statement by Brian Crowley, U.S. General Accounting Office, "The best overall and latest available data on past bankruptcies indicate that about 2 percent of the approximately 10,000 grain warehouses nationwide have gone bankrupt between 1974 and 1979. To estimate how many warehouses might be in financial trouble, we applied certain financial ratios and self-developed criteria to data reported to USDA by a random sample of 400 grain warehouses under Federal jurisdiction. We found that 19 or 4.75 percent of the sample warehouses met our criteria for being in financial trouble. Based on these results, we esti-

mate that about 300 warehouses may be financially unsound. At the 95-percent confidence level, this number could range from 173 to 427 warehouses."

Mr. Crowley further added "that the Federal programs, no matter how effective, do not provide protection for all grain depositors." About 36 percent of grain warehouses are subject only to State requirements, which range from nonexistent to very stringent.

Therefore, it is my belief that a program is needed that will apply to situations throughout the country and that will offer protection to farmers. Finally, it will help restore the needed confidence between farmer and elevator.

To accomplish these goals, I am introducing legislation to establish a Federal Grain Storage Insurance Corporation. The program would be financed and governed by farmers through a corporate board and be established within the U.S. Department of Agriculture. This plan will give the farmers of this country the opportunity to voice their approval or disapproval of the insurance concept by voting in a referendum. The referendum will allow them to express support for a program under which a portion of their grain is assessed in return for the protection offered by the Corporation. By this method, just as farmers now support check-offs for research and promotion, they could support a similar checkoff to insure their season's labor.

While some States, like Oklahoma and South Carolina, have already set up statewide insurance programs and many other States are showing interest, it seems logical that a national program that offers the advantages of a broad financial base and uniformity across State lines would be attractive to producers.

In the same vein, this program should not circumvent efforts that are now occurring to tighten the fiscal management of grain elevators. This program should further this cause. Farmers may even be wary of any warehouse that fails to meet requirements for qualification, just as depositors may be wary of a bank or savings and loan association that does not qualify for FDIC or FSLIC protection.

This bill also changes the criminal penalties for persons selling grain without proper title.

It is also hoped that by giving broad authorities to the Board of the Corporation, the Board can adequately address such legitimate concerns such as these: First, how to deal with variations in business risks; second, how much responsibility the producer should assume; third, how much protection should be offered and whether the assessment should vary between commodities; and fourth, whether a uniform warehouse receipt or scale ticket should be used by participants to increase uniformity.

I urge the consideration and support of my colleagues for this measure. We need to work together to try to alleviate a problem we find in our agricultural communities. I believe this is a step in the right direction.

I ask that the text of the bill, a summary and highlights of the bill, be printed following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Grain Storage Insurance Act of 1982".

DEFINITIONS

SEC. 2. As used in this Act, unless the context clearly requires otherwise—

(1) the term "Board" means the Board of Directors of the Corporation;

(2) the term "certified warehouse" means a warehouse which is certified pursuant to section 10;

(3) the term "Corporation" means the Federal Grain Storage Insurance Corporation established pursuant to section 3;

(4) the term "Department" means the Department of Agriculture;

(5) the term "depositor" means the owner or holder of a scale ticket, a warehouse receipt, or other original source document issued by a certified warehouse for grain, who resides in a State and who is entitled to possession or payment for the grain represented by such ticket, receipt, or other document;

(6) the term "grain" means barley, corn, cotton, dry edible beans, flaxseed, grain sorghum, oats, rice, rye, soybeans, sunflower seeds, wheat, and any other commodity which is commonly classified as a grain and traded at, or stored in, a warehouse;

(7) the term "warehouse" has the same meaning given to such term under section 2 of the United States Warehouse Act (7 U.S.C. 242);

(8) the term "Secretary" means the Secretary of Agriculture; and

(9) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific.

CREATION OF CORPORATION

SEC. 3. There is hereby established within the Department a corporation to be known as the "Federal Grain Storage Insurance Corporation". The office of the Corporation shall be located in the District of Columbia.

MANAGEMENT OF CORPORATION

SEC. 4. (a)(1) The management of the Corportion shall be vested in a Board of Directors, subject to the general supervision of the Secretary.

(2) The Board shall consist of—

(A) the manager of the Corporation;

(B) the Under Secretary or Assistant Secretary of Agriculture responsible for the Federal grain storage insurance program;

(C) the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department;

(D) two persons from private life who are experienced in the grain storage business;

(E) eight persons from private life who are actively engaged in farming;

(F) one person to represent the interests of private lenders who make a substantial portion of their loans for agricultural purposes and to represent the interests of the Farm Credit System, as defined in section 1.2 of the Farm Credit Act of 1971 (12 U.S.C. 2002); and

(G) one person who is experienced as a trustee in warehouse bankruptcies.

(3) Members of the Board described in clauses (D) through (G) of paragraph (2) shall be appointed by, and hold office at the pleasure of, the Secretary. The Secretary shall not be a member of the Board. In order to insure that diverse agricultural interests in the United States are at all times represented on the Board, persons appointed under paragraph (2)(E) shall be appointed from different geographic areas of the United States.

(b) (1) Any vacancy in the Board shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(2) Eight members shall constitute a quorum for the transaction of the business of the Board.

(c) (1) Members of the Board who are employed in the Department shall receive no additional compensation for their services as directors, but may be paid necessary traveling and subsistence expenses when engaged in business of the Corporation outside of the District of Columbia.

(2) Members of the Board who are not employed by the Federal Government shall be paid such compensation for their services as Directors as the Secretary shall determine, but such compensation may not exceed—

(A) the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5, United States Code, when actually employed; and

(B) actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of subsistance expenses, as authorized by section 5703 of title 5, United States Code, for persons in government service employed intermittently, when on the business of the Corporation away from their homes or regular places of business.

(d) The manager of the Corporation shall be its chief executive officer and shall have such power and authority as may be conferred upon him by the Board. The manager shall be appointed by, and hold office at the pleasure of, the Secretary.

POWERS

SEC. 5. (a) The Corporation—

(1) shall establish and administer a Federal grain storage insurance program in accordance with this Act;

(2) shall investigate and report to the Secretary on violations of this Act;

(3) shall recommend to the Secretary, from time to time, amendments for the improvement of this Act;

(4) may use the resources, personnel, and facilities of the Agricultural Stabilization and Conservation Service of the Department;

(5) may cooperate with State officials charged with the enforcement of State statutes governing warehouses;

(6) shall have succession in its corporate name;

(7) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

(8) may purchase or lease and hold such real and personal property as it considers necessary or convenient in the transaction

of its business and may dispose of such property held by it upon such terms as it considers appropriate;

(9) may sue and be sued in its corporate name and intervene in any court in any suit, action, or proceeding in which it has an interest, except that no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property;

(10) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and may exercise and enjoy the powers granted to it by law;

(11) may use the United States mails in the same manner as the other executive agencies of the Government;

(12) shall assemble data for the purpose of establishing actuarially sound premiums for insurance on grain stored in certified warehouses;

(13) shall determine the character and necessity for its expenditures under this Act and the manner in which they shall be incurred, allowed, and paid, without regard to any other laws governing the expenditure of public funds, and such determinations shall be final and conclusive upon all other officers of the Government;

(14) may enter into and carry out contracts or agreements necessary in the conduct of its business, as determined by the Board, except that the Corporation may not enter into or carry out contracts or agreements to provide insurance under this Act; and

(15) shall have such powers as may be necessary or appropriate for the exercise of the powers specifically conferred upon the Corporation by this Act and all such incidental powers as are customary in corporations generally.

(b) The district courts of the United States, including the courts of bankruptcy and the district courts of the District of Columbia and of any territory or possession, shall have exclusive original jurisdiction, without regard to the amount in controversy, of all suits brought by or against the Corporation. Any suit against the Corporation shall be brought in the District of Columbia, or in the district wherein the plaintiff resides or is engaged in business.

(c) State and local laws or rules shall not apply to contracts or agreements of the Corporation or the parties thereto to the extent that such contracts or agreements provide that such laws or rules shall not apply, or to the extent that such laws or rules are inconsistent with such contracts or agreements.

PERSONNEL

SEC. 6. (a) Except as provided in subsection (b), the Secretary shall—

(1) appoint, pursuant to the provisions of title 5, United States Code, governing appointments in the competitive service, such officers and employees as may be necessary for the transaction of the business of the Corporation;

(2) fix their compensation in accordance with chapter 51, and subchapter III of chapter 53, of title 5, United States Code;

(3) define their authority and duties; and

(4) delegate to them such of the powers vested in the Corporation as the secretary determines appropriate.

(b) Personnel paid by the hour, day, or month when actually employed may be appointed and their compensation fixed without regard to the provisions, chapter, and subchapter described in subsection (a).

MONEYS OF THE CORPORATION

SEC. 7. (a)(1) To carry out this Act, the Corporation is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount of not to exceed $250,000,000, in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations.

(2) The Secretary of the Treasury shall purchase any notes and other obligations issued under this subsection. To purchase such notes and obligations, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act (31 U.S.C. 752 et seq.). The purposes for which securities may be issued under such Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(b) All money of the Corporation not otherwise used may be—

(1) deposited with the Treasury of the United States or, with the approval of the Secretary of the Treasury, in any Federal reserve or other bank, subject to withdrawal by the Corporation at any time; or

(2) with the approval of the Secretary of the Treasury, invested in obligations of the United States, a State, or a political subdivision of a State or in obligations guaranteed as to principal and interest by the United States.

(c) The Corporation shall at all times maintain complete and accurate books of account and shall file with the Secretary such reports concerning the business of the Corporation as the Secretary may require.

(d) The Corporation, including its franchise, capital, reserves, surplus, income, and property, shall be exempt from all taxation now or hereafter imposed by the United States, a State, or a county, municipality, or local taxing authority.

GRAIN STORAGE INSURANCE FUND

SEC. 8. (a) There shall be established in the Treasury of the United States a Grain Storage Insurance Fund which shall be available, up to an amount determined by the Corporation, without fiscal year limitation—

(1) to pay such insurance claims as may arise under this Act;

(2) to repay any notes or obligations issued under section 7(a); and

(3) to pay such administrative expenses as may arise in carrying out the program established by this Act.

(b) The Grain Storage Insurance Fund shall be credited with such amounts as may be borrowed or collected pursuant to sections 7(a), 9(h), and 11(b).

INSURANCE BENEFITS

SEC. 9. (a) The Corporation shall insure a depositor who has grain stored in a certified warehouse against a loss of such grain sustained by such depositor as a result of such warehouse becoming insolvent, as defined in section 101(26) of title 11, United States Code.

(b)(1) The amount of grain that may be insured under this Act in the case of any depositor is the amount of grain stored by the depositor in certified warehouses and to which the depositor has title or a right to payment.

(2) The amount of grain to which a depositor has title or a right to payment may be proved by a scale ticket, a warehouse receipt, or other original source document issued by the warehouse for the grain.

(c) Grain shall be insured under this Act at the fair market value of the grain (as determined by the Corporation) as of the date of insolvency of the certified warehouse in which the grain was stored.

(d) The Corporation shall determine the date of insolvency of a certified warehouse in which grain was stored.

(e) The amount of insurance payable under this Act in the case of any depositor shall be an amount equal to the product obtained by multiplying the amount of grain which is insured under this Act and stored in the certified warehouse which became insolvent by the fair market value of the grain, less—

(1) any amounts for which settlement has been made;

(2) any expenses for the handling, processing, or disposition of grain which were incurred by the certified warehouse in which the grain was stored and which were authorized by the depositor; and

(3) any unpaid liens against the grain.

(f) The Corporation may require a depositor to file such proof for a claim of loss for grain insured under this Act as the Corporation considers appropriate. If the Corporation is not satisfied that a claim is valid, it may refuse to pay the claim until a final determination of the claim is made by a court of competent jurisdiction.

(g) The Corporation shall pay a claim for a grain loss insured under this Act as soon as possible after the date of insolvency of the certified warehouse in which the grain was stored but in no event shall payment be made later than ninety days after such date or the date of any final determination made by a court of competent jurisdiction, whichever is later.

(h) Upon payment to a depositor for a loss of grain insured under this Act, the Corporation shall be subrogated, to the extent of the payment, to all rights of the depositor against the warehouse in which such grain was stored and against any person providing insurance or a bond for the loss of such grain.

(i) Insurance benefits payable under this Act shall not be liable to attachment, levy, garnishment, or any other legal or equitable process, or to deduction on account of the indebtedness of the insured or his estate to the United States, before payment is made to the insured, except claims of the United States or the Corporation arising under this Act.

(j) This Act shall not be construed to bar any right of recovery—

(1) by a depositor against a warehouse for any fraud or criminal or tortious act committed by such warehouse; or

(2) by a State, warehouse, or depositor against a person providing insurance or a bond for grain losses.

CERTIFICATION OF WAREHOUSES

SEC. 10. (a) A warehouse which is licensed under the United States Warehouse Act (7

U.S.C. 241 et seq.) is a certified warehouse under this Act.

(b)(1) The Corporation shall grant certification under this Act to a warehouse, other than a warehouse described in subsection (a), which—

(A) submits to the Corporation an application which contains such information and is in such form as the Corporation prescribes; and

(B) meets the eligibility qualifications established for the licensing of warehouses under—

(i) the United States Warehouse Act (7 U.S.C. 241 et seq.); or

(ii) a State statute which imposes qualifications for the licensing of warehouses which the Corporation determines are at least equal to the qualifications established under such Act.

(2) The Corporation shall terminate the certification of a warehouse, other than a warehouse described in subsection (a), if—

(A) such warehouse requests the termination of such certification; or

(B) the Corporation determines, after notice and opportunity for a hearing, that such warehouse does not meet the eligibility qualifications described in paragraph (1)(B).

(c) The Corporation may cause examinations to be made of a warehouse which applies for certification or is certified under subsection (a) or (b), including the facilities, grain stocks, books, records, papers and accounts of such warehouse.

(d) Grain stored in a warehouse which is certified under subsection (a) or (b) and which ceases to be so certified shall continue to be insured under this Act for a period of sixty days after the date on which the certification ceases.

ASSESSMENT OF DEPOSITORS

SEC. 11. (a) A certified warehouse shall levy upon a depositor, in a manner prescribed by the Corporation, an assessment based on the amount of grain deposited by such depositor in such warehouse at the time such deposit is made.

(b) A certified warehouse shall remit to the Corporation, in a manner prescribed by the Corporation, assessments made by it pursuant to subsection (a).

(c) The Corporation shall establish and may adjust the rate of the assessment for insurance provided under this Act.

REGULATIONS

SEC. 12. The Board shall, after consultation with the Secretary, the Administrator of the Agricultural Stabilization and Conservation Service, and the Chairman of the Commodity Futures Trading Commission, prescribe such regulations as may be necessary to carry out this Act.

CRIMINAL PENALTIES

SEC. 13. (a) Whoever, being an officer, agent or employee of or connected in any capacity with the Corporation, and whoever, being a receiver of the Corporation, or agent or employee of the receiver, embezzles, abstracts, purloins or willfully misapplies any money, funds, credits, securities or other things of value belonging to the Corporation, or pledged or otherwise intrusted to its care, shall be fined not less than $10,000 nor more than $20,000 or imprisoned not less than three years nor more than fifteen years, or both.

(b) Whoever, with intent to defraud, knowingly conceals, removes, disposes of, or converts to his own use or to that of another, any property mortgaged or pledged to, or held by the Corporation or a depositor shall be fined not less than $10,000 nor more than $20,000 or imprisoned not less than three years nor more than fifteen years, or both.

(c) Whoever, being an officer, agent, or employee of or connected in any capacity with the Corporation, with intent to defraud the Corporation or any other company, body politic or corporate, or any individual, or to deceive any officer, auditor, examiner, or agent of the Corporation or of any department or agency of the United States, makes any false entry in any book, report, or statement of or to the Corporation, or without being duly authorized, draws any order or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree, or, with intent to defraud the United States or any agency thereof, or the Corporation participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of the Corporation, shall be fined not less than $10,000 nor more than $20,000 or imprisoned not less than three years nor more than fifteen years, or both.

(d) Whoever knowingly makes any false statement or report, or willfully overvalues any property or security, for the purpose of influencing in any way the action of the Corporation shall be fined not less than $10,000 nor more than $20,000 or imprisoned not less than three years nor more than fifteen years, or both.

(e) Whoever, being an officer, agent, or employee of or connected in any capacity with the Corporation or a certified warehouse speculates in any grain insured under this Act, or in contracts relating thereto, or in the stock or membership interests of any association or corporation engaged in handling, processing, or disposing of any such grain shall be fined not less than $10,000 nor more than $20,000 or imprisoned not less than three years nor more than fifteen years, or both.

EFFECTIVE DATE

SEC. 14. (a)(1) Within sixty days of the date of enactment of this Act, the Secretary shall conduct a referendum of farmers engaged in the production of grain to determine whether such farmers are in favor of or opposed to the Federal grain storage insurance program established under this Act. The Secretary shall determine the qualifications grain producers must meet in order to participate in the referendum.

(2) If such program is approved by 50 or more percent of eligible producers voting in the referendum conducted pursuant to paragraph (1)—

(A) such program shall become effective upon the date of such approval;

(B) the Secretary shall appoint the members of the Board pursuant to section 4(a) within ninety days of the date of such approval;

(C) the Board shall prescribe regulations pursuant to section 12 within one year after the date of such approval; and

(D) the Corporation shall reimburse the Secretary, from the Grain Storage Insurance Fund, established pursuant to section 8, for any expenses incurred by the Secretary in conducting the referendum, except for expenses relating to the salaries of employees of the Department.

(3) If such program is not approved by 50 or more percent of eligible producers voting in the referendum conducted pursuant to paragraph (1), such program shall not become effective.

(b)(1) If such program becomes effective pursuant to subsection (a) and subsequently 25 or more percent of depositors petition the Secretary to terminate such program, the Secretary shall conduct a referendum of depositors to determine whether such depositors favor termination of the program.

((2) If more than 50 percent of depositors voting in the referendum conducted pursuant to paragraph (1) vote to terminate such program, the program shall be terminated sixty days after the date of the referendum.

(3) The Corporation shall reimburse the Secretary from the Grain Storage Insurance Fund, established pursuant to section 8, for any expenses incurred by the Secretary in conducting the referendum, except for expenses relating to the salaries of employees of the Department.

BASIC CONCEPTS OF THE FEDERAL GRAIN STORAGE INSURANCE CORPORATION BILL

I. Creates corporation within U.S.D.A. managed by 15-member board.

A. Board

(1) manager

(2) undersecretary responsible for corporation

(3) undersecretary responsible for farm credit programs

(4) 2 persons from grain storage industry

(5) 8 persons actively engaged in farming

(6) private lender from agricultural lender or representative from Farm Credit Act participants

(7) person experienced as a trustee in handling warehouse bankruptcies

B. Corporation shall have responsibility to administer and write rules and regulations

II. Will utilize existing ASCS county offices and personnel

III. Corporation has borrowing authority from Treasury up to $250,000,000.

IV. Insurance Benefits:

A. Corporation will provide coverage to any depositor in a certified warehouse that is involved in a bankruptcy, liquidation or reorganization, or state receivership.

B. Basically settlement will be market price at time of closing minus any liens, conditioning, etc.

C. Pay claim within 90 days of warehouse closing.

V. Certification of Warehouses:

A. All warehouses licensed under Federal Warehouse Act shall participate.

B. State warehouses or any warehouses who meet federal warehouse licensing requirements.

C. Those warehouses not federally licensed may ask to terminate certification.

VI. Assessment:

A. Depositor (farmer) shall pay the prescribed assessment to the warehouse at time of deposit

B. Will be trigger mechanisms to call for additional referenda to protect farmer from excessive costs

VII. Criminal Penalties: All penalties have been increased to deal with grain storage.

VIII. Effective date: A producer referendum shall be conducted by U.S.D.A. of all eligible grain producers. 51 percent needed for approved and implementation of program.

HIGHLIGHTS

1. Allows farmer to have protection against loss of season's labor.

2. Farmer will be paid in short period of time.

3. Grants essentially same protection to farmer as amending bankruptcy code with-

out problems (such as jeopardizing financial lenders and elevators relationship).

4. More and more state legislatures are turning to state funds (South Carolina, Maryland, Oklahoma). Arkansas Legislative Council has directed State to draw up program for '83 season.

5. Allows large financial base that would be impossible with state programs.

6. Allows restoration of confidence in farmer and grain elevator relationship.

7. Allows uniformity of standards on a nationwide basis.

8. Allows protection to farmers in unsecured position.

9. GAO estimates that about 300 warehouses may be considered financially unsound. The problem of bankruptcy is not going away.

10. Allows farmers, by referendum vote, to decide on insurance proposal.

11. Check-off concept is widely accepted by farmers and elevators.

12. Would increase criminal penalties and to have more uniform and thorough audit procedures.

Mr. BUMPERS. Mr. President, Junction, Ill.; Stockport, Iowa; and most recently Ristine, Mo., have assumed their places in the annals of the long list of tragedies that have befallen the American farmer. I am talking about recent sites of elevator bankruptcies—tragedies that not only ruin the farmers immediately involved, but also the entire dependent agricultural community. According to a 1981 study conducted by the Illinois Legislative Council, 110 grain elevators went bankrupt in the United States during the period of 1974 to 1979 alone. The U.S. Department of Agriculture in its 1981 study, "Keeping Harvests Safe From Failing Elevators," estimated that approximately 175 elevators have either been liquidated or reorganized since 1975. The Congressional Research Service puts the number at 180 for the same period.

Each elevator collapse is a disastrous blow to the livelihood of our American farmers, and exacerbates their feelings of helplessness in the face of our legal institutions and the apparent lack of concern of their elected officials.

It is for these reasons that we are introducing the Federal Grain Storage Insurance Corporation Act. The bill is designed to cover most marketing and storage situations in which farmers have been left unprotected when dragged into bankruptcy litigation because of a warehouse failure. We have not reinvented the wheel. Instead, we have borrowed good provisions from previous bills and have incorporated the practical and structural suggestions from such far-ranging groups as the Farm Bureau, the AAM, warehouse associations, and the agricultural law faculty at the University of Arkansas. And, of course, we have received extensive comments and suggestions from individual farmers, which we have incorporated.

Times are extremely tough for our farmers today. After experiencing tremendous risks in planting, raising, and harvesting their crops, the last thing our farmers need to worry about is that elevators will go under. Our bill is designed to instill confidence into the farmer-grain warehouse relationship. It will establish a corporation whose management will be left in the hands of a 15-member farmer-controlled board of directors. Besides the eight farmer members, there would be two persons involved in the grain storage business, one member from the Farm Credit System, one trustee experienced in grain warehouse bankruptcies, two Under Secretaries of related agencies within the USDA, and a corporation manager. The corporation would utilize the many offices of the ASCS nationwide to handle the day-to-day administrative affairs. Our farmers already are used to dealing with their ASCS office and we are also avoiding the creation of another large Federal bureaucracy with which farmers must deal.

The insurance fund base will be provided by the farmers themselves by a per-bushel or per-bale checkoff on commodities stored in a program warehouse. A program financed by the warehouses would simply be passed on to the farmer anyway, so we have designed this program to be farmer-financed but also farmer-controlled. The storage insurance corporation also will have the authority to borrow money from the Treasury, especially for the establishment of a beginning fund base and for emergency situations.

The decision as to which grain warehouses would be covered was a heavily researched one, and I believe this program has the potential to include eventually 100 percent of all grain warehouses. The 10,000 grain warehouses in this country generally have the option of being State-licensed in the 29 States that have State licensing, or of being federally licensed under 7 U.S.C. 241 et seq. of the U.S. Warehouse Act. It is the federally licensed warehouses that will be required to enter into the insurance program. This group represents 20 percent of the total, but 43 percent of all commercial grain storage capacity, and would include the major grain companies because of their preference for the uniformity of Federal law.

Those elevators that are currently not federally licensed will be allowed into the program if they can show that they could meet the licensing requirements under the U.S. Warehouse Act. The procedure is relatively simple for these warehouses, and the strength of our insurance program plus market pressures will encourage their participation. Enactment of this program, however, will not preempt State-licensing schemes, or indemnity or insurance funds in States such as Oklahoma, South Carolina, Maryland, or Ohio.

Lastly, but most importantly, are the broad benefits to the farmers which this bill will put in place. The farmer would be able to avoid being caught in a bankruptcy tragedy. The farmer in a program warehouse would quickly recover 100 percent of the fair market value of his commodities. This would cover grain in storage as well as grain sold to the warehouse, but for which there has been an incomplete settlement. The corporation would accept warehouse receipts, scale tickets, or other original source documents as evidence of covered grain and would be subrogated to the rights of the farmer in the bankruptcy litigation. In short, this bill is intended to protect our grain, bean, and cotton farmers, as many States have already done, and as we have protected our livestock growers under the Packers and Stockyards Act, 7 U.S.C. 181 et seq.

We offer this program to our farmers. If passed by Congress, it would be presented to them to accept or reject in a nationwide farmer referendum. Some of the greatest problems facing our farmers in a warehouse bankruptcy are their unprotected status as creditors for grain sold, the reluctance of some courts to accept warehouse receipts or scale tickets as records of ownership, the tendency of courts to assess expenses such as trustees' fees to bailed property, and the delay in litigation which usually affects commodity prices significantly. We have dealt with these problems in this bill.

The time to act is now. The American farmer is pleading for help. I am convinced that major legislative changes in our farm programs will be necessary if our farm economy is to remain viable. Elevator bankruptcies are just a small part of the problem, but any farmer who has been the victim of one can attest to the anger, frustration, and misery it causes in addition to the financial loss. This bill is fair to all concerned, and will serve the public interest by instilling a measure of confidence and a good deal more stability into the farmer-grain warehouse relationship. I urge the quick passage of this legislation.

Mr. SASSER. Mr. President, I am pleased to rise today as an original cosponsor of S. 2979, the Federal Grain Storage Insurance Act of 1982. This legislation is particularly significant for farmers from my home State of Tennessee. There are some 126 grain warehouses in Tennessee with a storage capacity of 59,900,000 bushels. Because of our geographic proximity to several navigable waterways, long-term storage for grain has not been needed. Rather, grain elevators in Tennessee serve as monetary holding bins in a vast grain pipeline. it is not at all uncommon in Tennessee for barges docked at these elevators to have

greater storage capacity than that offered by the warehouses.

Our farmers use these bins primarily through a delayed price system of contracting. The farmer delivers his grain to the warehouse passing title to the grain to the warehouseman. The warehouseman sells the grain at a later date and uses these proceeds to pay off the farmer for his grain.

This situation can become quite intolerable for Tennessee farmers if and when the grain elevator goes bankrupt. Farmers in the system I just described are usually far down in the line of creditors to be paid in the event of a bankruptcy. They are usually not secured creditors and oftentimes the proceeds from the bankruptcy sale simply do not stretch far enough to cover the farmer.

Our bill offers the farmer a chance to avoid this predicament. Under this bill the farmer's deposits are insured for the entire period they are in storage or for as long as the farmer has a right to payment for the grain. This last point means a world of protection to farmers in circumstances such as in Tennessee. If something should go wrong, the farmer will not be left out in the cold.

As I said, our bill is one that offers the farmer a choice. In fact that is one of the more satisfying aspects of this bill. The farmer has the major voice in the actual implementation of this bill. Initially, farmers across the country must decide whether or not they want such insurance program through the referendum called for in the act.

Assuming the system is set up farmers will have another choice to make. Not all grain elevators and warehouses will be covered by this bill. The farmer must make the effort to seek out the warehouseman who will be able to offer the insurance protection this bill provides. But considering the benefits, this should not be a very difficult choice to make. Hopefully, the march of farmers to federally insured warehouses will spur those warehouses not eligible to upgrade their standards and come under this umbrella of protection.

And finally, once the bill is operational farmers will make up the controlling voice on the board of the insuring corporation which oversees the entire program.

Mr. President, this bill offers protection that is long overdue. It has taken tragedies such as bankruptcies and lost grain to galvanize action on this important topic. We must not abandon the American farmer in this time of economic depression in our farmlands. We hold the means of helping the farmer work back to economic stability and prosperity. We must not let this opportunity pass us by. I urge my colleagues to take expeditious action to enact S. 2979 into law.

By Mr. MOYNIHAN:

S. 2980. A bill to amend the Internal Revenue Code to exclude from recapture investment tax credits used to fund tax credit employee stock ownership plans and to permit recovery by such plans of previously recaptured investment tax credits; to the Committee on Finance.

TAX CREDIT ON EMPLOYEE STOCK OWNERSHIP PLANS

● Mr. MOYNIHAN. Mr. President, the bill I am introducing today amends the tax laws pertaining to tax credit employee stock ownership plans. Employee stock ownership plans come in all shapes and sizes. The acronyms are confusing. There are ESOP's, GSOC's, PAYSOP's and TRASOP's. The idea behind them is the same: to broaden stock ownership in America in the hope that this will improve worker productivity and lead in the long run to a more even distribution of wealth.

My bill concerns TRASOP's. In 1975, Congress increased the investment tax credit from 7 to 10 percent. It also offered an extra 1 percent tax credit to any company that would contribute an amount equal to 1 percent of its investment to a stock ownership plan for its employees. The contribution could be in the form of stock, or cash that could be used to buy stock.

Few TRASOP's were established. In 1976, Congress decided that this was due to a number of reasons. One problem was investment tax credit recapture. The Government recaptures, or takes back, a corporation's investment tax credit if the corporation does not hold on to the property for which a credit was claimed for at least 3 to 5 years. In some cases, the recapture period can be as long as 7 years. It depends on the type of property. Since the extra 1-percent credit a corporation got for contributing to a TRASOP was an investment tax credit, a corporation could donate stock, but discover later that it had to forfeit the credit. In such cases, it could not reclaim the stock.

The 1976 Tax Reform Act recognized this problem. It gave the corporation three options. The company could reduce its future contributions to the TRASOP to make up for the lost credit. It could take back its stock. Or it could take a tax deduction for the amount of the lost credit.

In 1977, the Central Hudson Gas & Electric Corp. established a TRASOP. It had not done so previously because of the possibility that it might lose the tax credit. In New York, it is not at all uncommon for a utility to sell interests in generating plants to other utilities as its requirements change. Also, construction projects are sometimes abandoned. Investment tax credits are often recaptured.

In 1978, Congress changed the rules. This is an area of law that seems perpetually unsettled. The rules are amended repeatedly to make employee stock ownership plans more attractive to corporations; at the same time, incentives that were available previously but that are no longer deemed important are revoked. This pattern was not clear then; it is today. The 1978 Revenue Act extended the life of the credit for contributing to TRASOP's for another 3 years until the end of 1983. It had been scheduled to expire at the end of 1980. But the act revoked the right of a corporation that has had its investment tax credit recaptured to reclaim its stock.

Two years later, the Central Hudson Gas & Electric Corp. suffered a reversal in a nuclear powerplant project. The utility had had permission with other utilities to build the Sterling nuclear plant in New York. The State withdrew that permission in 1980. The project had to be abandoned. Consequently, the company's investment tax credit for work on the plant plus TRASOP contributions was recaptured. This amounted to $103,039 in the case of the TRASOP. Central Hudson was able to withdraw $61,316 in stock from the TRASOP, since that amount had been contributed before the law was changed in 1978. But another $41,723 had to be recovered by reducing future contributions to the plan.

This is not what the company anticipated would happen when it established a TRASOP in 1977. Matters were made worse last year in the Economic Recovery Tax Act. The 1981 tax bill repealed the extra investment tax credit for TRASOP contributions and, instead, authorized corporations to take a tax credit equal to one-half percent of the company payroll in 1983 and 1984, provided that amount is contributed to an employee stock plan. The tax credit increases to three-fourth percent of company payroll in 1985, 1986, and 1987. Central Hudson, like all utilities, is capital intensive. It has a small payroll. The switch to a payroll-based credit calls into question the ability of Central Hudson to recover its recaptured credits by reducing future contributions. By law, the right to recover TRASOP credits by reducing future contributions ceases at the end of 1982. Investment tax credits cannot be offset against payroll tax credits.

Central Hudson is partners with other utilities in a plan to build another nuclear plant called the Nine Mile Point 2 plan in New York. That plant may also have to be abandoned or the company may decide to sell off its interest because it no longer needs the power. If that happens, the company would have another huge sum in TRASOP credits recaptured. But it would have no means effectively to recover most of its stock. At the end of 1980, Central Hudson had given

$1,361,342 in stock or cash to its TRASOP. The two nuclear plants together accounted for $793,116 of the company's TRASOP contributions, or 58 percent of the total.

The bill I am introducing today applies only to electric utilities. It says that there shall be no recapture of the extra TRASOP credit when recapture was triggered by Government or court action, or by the sale of extra generating capacity to another regulated public utility. To limit the revenue loss from the bill as much as possible, I have also restricted it so that it applies only to TRASOP credits that are based on "qualified progress expenditures." The code defines "qualified progress expenditures" basically as progress payments for construction jobs that normally take 2 or more years to finish. The bill is retroactive to 1978 when the provision allowing a corporation that has had its TRASOP credit recaptured to recover its stock was repealed.

The measure makes sense for two reasons. First, when Central Hudson established a TRASOP in 1977, it did so thinking it could reclaim its stock from the TRASOP if the tax credit were ever recaptured. It was unfair to lure Central Hudson into a TRASOP and then change the rules. Second, there is a sound policy reason for requiring the investment tax credit to be recaptured when equipment is sold. Otherwise, a company would sell its equipment, replace it every year, and claim the credit again and again. But there is no similar argument for recapture of the TRASOP credit. The aim of the TRASOP credit was to induce a company to donate stock to its employees. That having been done, what purpose is served by withdrawing the credit? None.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2980

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Subsection (b) of section 47 of the Internal Revenue Code (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end a new paragraph as follows:

"In addition, no amount of employee plan credit (as that term is defined in section 48(o)(3)) attributable to 'qualified progress expenditures' (as that term is defined in section 46(d)(3)) shall be required to be recaptured in a transaction to which subsection (a) applies because of a disposition of property owned by a regulated public utility (as that term is defined in section 7701(a)(33)) which is engaged in the furnishing or sale of electric energy, where such disposition is due to legislation, failure to obtain regulatory approval, other regulatory and other governmental action, court order, or a transfer to one or more other such regulated public utilities or to one or more governmental agencies or a combination thereof.".

SEC. 2. Subsection (a)(2)(E) of section 46 of such Code (relating to determination of the amount of credit allowed by section 38) is amended by adding immediately before the last sentence a new sentence as follows:

"Notwithstanding the provisions of subclauses (i) through (iii) of this subparagraph, employee plan percentage shall include an amount equal to any 'employee plan credit' (as that term is defined in section 48(o)(3)) attributable to 'qualified progress expenditures' (as that term is defined in section 46(d)(3)) for property owned by a regulated public utility (as that term is defined in section 7701(a)(33)) which is engaged in the furnishing or sale of electric energy, which credit was recaptured under section 47(a) due to the disposition of such property by the public utility due to legislation, failure to obtain regulatory approval, other regulatory and other governmental action, court order, or a transfer to one or more other such regulated public utilities or to one or more governmental agencies or a combination thereof; *provided, however,* such amount shall be reduced to the extent that the corporation did elect the adjustment set forth in section 48(n)(4)(B).".

SEC. 3. Subsection (n)(1)(A) of section 48 (relating to transfers of employer securities to a tax credit employee stock ownership plan) is amended to read as follows:

"(A) BASIC EMPLOYEE PLAN PERCENTAGE AND RECAPTURED EMPLOYEE PLAN PERCENTAGE.—

"(i) BASIC EMPLOYEE PLAN PERCENTAGE.—The basic employee plan percentage shall not apply to any taxpayer for any taxable year unless the taxpayer on his return for such taxable year agrees, as a condition for the allowance of such percentage—

"(I) to make transfers of employer securities to a tax credit employee stock ownership plan maintained by the taxpayer having an aggregate value which does not exceed one percent of the amount of the qualified investment (as determined under subsection (c) and (d) of section 46) for the taxable year, and

"(II) to make such transfers at the times prescribed in subparagraph (C).

"(ii) RECAPTURED EMPLOYEE PLAN PERCENTAGE.—The recaptured employee plan percentage shall not apply to any taxpayer for any taxable year unless the taxpayer on his return for such taxable year agrees as a condition for the allowance of such percentage—

"(I) to make transfers of employer securities to a tax credit employee stock ownership plan maintained by the taxpayer having an aggergate value which equals any amount of employee plan percentage which represents 'employee plan credit' attributable to 'qualified progress expenditures' which was recaptured under section 47(a), all as referred to in section 46(a)(2)(E), and

"(II) to make such transfers at the times prescribed in subparagraph (C).".

SEC. 4. Subsection (o)(8) of section 48 of such Code (relating to the rehabilitation tax credit) is renumbered subsection (o)(9) and a new subsection (o)(8) is inserted as follows:

"(8) RECAPTURED EMPLOYEE PLAN PERCENTAGE.—The term 'recaptured employee plan percentage' means the additional employee plan percentage as set forth in the second to last sentence in section 46(a)(2)(E).".

SEC. 5. The amendments made by this Act shall take effect as if originally enacted as part of the Revenue Act of 1978 (Public Law 95-600).●

By Mr. MOYNIHAN:

S. 2981. A bill to create a Federal offense for the carrying or use of a firearm during the commission of a State felony and to increase the penalties for carrying or using a firearm during the commission of a Federal felony; to the Committee on the Judiciary.

FIREARM FELONY ACT OF 1982

● Mr. MOYNIHAN. Mr. President, one of the benefits of standing for reelection to the U.S. Senate is the opportunity a campaign presents for the exchange of new ideas. And it is not out of order, I believe, for me to suggest that one of the Republican primary candidates for the seat I now hold had a good one; namely, that those convicted of a felony during which they carried a firearm, should be subjected to an additional term of punishment for having possessed that firearm at the time of the crime.

Mr. Whitney North Seymour, Jr.—a distinguished former U.S. attorney for the southern district of New York—made this proposal during his unsuccessful campaign for the Republican nomination for U.S. Senator from New York. During that campaign, which concluded September 23 with the New York primary, Mr. Seymour made several altogether reasonable suggestions as to what the Congress should do to stem the abhorrent rise of criminal activity in the land.

As is the custom during such exchanges, I had the opportunity to recount some of my work in this area and to identify the legislation I had sponsored to help stop crime. It is a record not inconsiderable in dimension, and one that I feel is furthered with the introduction of the measure I place before the Senate today. Clearly, my principal objective is to offer a measure that I believe will help deter the commission of violent crimes. Yet, I also offer this measure knowing full well that it follows from the honorable discourse of a political campaign.

Mr. Seymour suggested the creation of a new Federal criminal offense for carrying a firearm during the commission of a felony. This offense would apply to felonies under State or Federal law. I believe that the essence of Mr. Seymour's suggestion, modestly refined, is embodied in the legislation I now introduce, "The Firearm Felony Act of 1982."

My legislation would: One, make it a separate Federal offense for carrying or using a firearm during the commission of a felony under State law, two, strengthen the penalties already provided for carrying or using a firearm during the commission of a felony under Federal law, and three, impose a mandatory minimum sentence of 3 years for a first conviction under the terms of this legislation, and 10 years for a second or subsequent conviction under this act.

Mr. President, such a measure is indeed harsh. But certainly warranted given the dreadful toll that violent crime is exacting from the citizens of our Nation. The incidence of crime has a disproportionate effect upon the poor, minorities, and the elderly—in short, the most vulnerable segments of our society. But no segment of society is left untouched. Close to 25 million households—30 percent of all households in America—were victimized by a crime of violence or theft last year alone.

The use of firearms was not an insignificant factor during the commission of these crimes. According to statistics from the Federal Bureau of Investigation, assembled by the Senate Committee on the Judiciary, the percentage of homicides involving use of a firearm has consistently been between 62 and 68 percent since 1967; in other words, nearly two-thirds of all murders involve a handgun, shotgun, or rifle—14,051 murders in 1981 alone.

Over the past two decades, the numbers of aggravated assaults and robberies in the Nation have increased dramatically. In 1981, firearms were involved in 230,228 robberies around the Nation, just over 40 percent of the total. Firearms were involved in 151,918 aggravated assaults, just under 24 percent of the total. The figures for New York are just as telling, and underscore the importance citizens of my State attach to the issue of crime. In 1981, there were 1,008 murders involving firearms in New York, 27,697 robberies, and 12,202 aggravated assaults.

What we are talking about, then, is a society in which the principal instrument of violent crime is the firearm. Efforts to regulate those firearms have met with lackluster result in Congress. I, for one, am a sponsor of a measure to prohibit the sale, manufacture, and importation of so-called Saturday night specials—the Handgun Crime Control Act of 1981, S. 974, introduced by the senior Senator from Massachusetts (Mr. KENNEDY).

If we cannot agree on that measure, surely we can agree that those who commit crimes using firearms should suffer the direst of consequences. My legislation serves that purpose—by more clearly defining the law governing crimes with guns and by making the degree of punishment more certain.

Responsibility for law enforcement will, of course, rest primarily upon the State and local governments. Yet the Federal Government has a role, and one of the best roles it can play is to assure that those who commit felonies with firearms do so at the risk of prosecution for a Federal offense. Such a declaration would both strengthen the hand of those who enforce the law, and it would deter those who might otherwise consider carrying a firearm. Above all, passage of legislation such as mine would send a notice across this land that we will not tolerate the increase in crime, the devastation of lives and destruction of property that has accompanied the proliferation of firearms in our society. No less than the safety and security of a nation is at stake.

Mr. President, the Firearm Felony Act of 1982 would be but one measure this Congress could pass to prove that it is, in fact, tough on crime. There are others. In the 97th Congress, we have developed a compromise measure to reform our sentencing and bail procedures, to provide increased protection for witnesses, and to strengthen our laws dealing with illegal drug trafficking. That measure, S. 2572, is vital and as a cosponsor I commend the distinguished majority leader's decision to have the Senate consider it before adjournment.

We have also taken steps to protect and compensate the victims of crime. The Senate, on September 14, passed S. 2420, the Omnibus Victims Protection Act which I cosponsored as well as its predecessor in the 95th Congress, S. 551, the Victims of Crime Act. I have also authored legislation that would help take devices out of the hands of criminals that often render them immune from capture. Those bills, S. 1815 and S. 2128, would, respectively, regulate the availability of bulletproof vests and bullets capable of penetrating such vests.

What strikes me about the unprecedented attention in this Congress to the issue of crime is the degree of support for these measures from Members of all political philosophies. This is as it should be. In 1965, when campaigning for the office of city council president in New York City, I noted that "crime is the subterranean issue of American politics." I meant by that those who should have taken a leading role in examining the fact of crime in our lives had seemingly been reluctant to address the issue at all. I set out, 17 years ago to do so, noting at the time that "we are beginning to run rather serious risks by not doing so." Our achievement, in the last decade and one-half, has been to elevate the problem of crime to a level where those who ignore it, do so at peril, particularly so if they are in public life. Responsible public policymaking now includes a responsibility to address the threat which most concerns the public—crime. And none should doubt that our spirited debate over the issue will not, in short time, yield the measures that will do most to control crime.

Mr. President, I offer the thought that the measure I introduce today is a good place to begin a war on crime. It is born—as I noted at the outset—from a suggestion made to me by a man who might well have been my political opponent. The enforcement of law is a matter wholly above politics and it should not be beyond the powers of the men and women of this body to agree upon measures to do the job.●

By Mr. THURMOND:

S. 2982. A bill to temporarily suspend the duty on certain menthol feedstocks until June 30, 1986; to the Committee on Finance.

S. 2983. A bill to apply duty-free treatment to tetra amino biphenyl; to the Committee on Finance.

DUTY SUSPENSION FOR MENTHOL CHEMICALS AND TETRA AMINO BIPHENYL

Mr. THURMOND. Mr. President, today I am introducing two separate bills dealing with the relaxation of duties on imported chemicals utilized by domestic manufacturers.

The first bill will temporarily suspend the duty on certain menthol feedstocks until June 30, 1986.

These feedstocks go into the production of synthetic menthol, and are imported from the country of West Germany. There is a duty applied to these feedstocks when they are brought into the United States. However, there are no domestic industries that produce these particular chemicals, and, therefore this duty does not afford any protection to any chemical manufacturer in the United States. To the contrary, it imposes an unnecessary economic cost on the U.S. menthol industry by increasing the production costs for that industry.

Mr. President, this unnecessary duty only compounds the problems that face our domestic menthol industry. Menthol producers in this country also have to compete with highly subsidized and cheap imports of menthol from the People's Republic of China. Additionally, in 1977 when Mainland China was granted Most Favored Nation status, the duty on Chinese menthol fell from 50 cents per pound to 17 cents per pound. These developments have placed America's menthol producers at a competitive disadvantage in marketing their product within the United States and abroad where other countries, such as Japan, impose high tariffs on menthol imports.

Mr. President, I realize that this bill does not represent a complete solution to the numerous trade difficulties that our domestic menthol producers face today. However, it would allow America's menthol manufacturers to become more price competitive with menthol imported from Mainland China. This will help preserve America's menthol industry and the many jobs it represents.

Mr. President, my second bill addresses a situation very similar to that faced by our menthol producers. The bill suspends import duties on a chemical raw material called tetra amino biphenyl, or TAB, which is essential for

the production of a new fiber called PBI. PBI is a unique heat-and-chemical-resistant fiber that can be used as a suitable replacement for asbestos. PBI has a wide range of thermal protective applications such as flight suits and garments for firefighters, boiler tenders, and refinery workers.

As in the case of menthol feedstocks, there is no domestic source of the key chemical ingredient, TAB. Therefore, the suspension of duty on this chemical would not cause injury to any domestic industry.

Mr. President, there are a large number of jobs that are directly related to production of PBI, as well as additional positions resulting from the research, development, and marketing of this product. These jobs hinge on the ability of our domestic industry to produce this product effficiently and at a competitive price for the available markets.

Mr. President, it is extremely important that we do everything in our power to prevent the exportation of American jobs. This is an excellent opportunity to help keep some American jobs at home. For that reason, I am hopeful the Finance Committee and the Congress can favorably consider these bills before the end of this session.

By Mr. WEICKER:

S.J. Res. 257. Joint resolution to designate the month of November 1982, as "National Diabetes Month"; to the Committee on the Judiciary.

NATIONAL DIABETES MONTH

● Mr. WEICKER. Mr. President, I am today introducing a joint resolution to designate the month of November 1982 as National Diabetes Month. In our continuing war against diabetes, we have made significant advances in basic and clinical research aimed at prevention, diagnosis, and treatment of persons with diabetes. Yet, much more remains to be done.

Eleven million Americans suffer from diabetes. Tens of millions of additional Americans—the families and friends of those with the disease—are personally affected by the illnesses of their loved ones. Almost $10 billion are spent each year for health care, disability payments, and premature mortality costs as a result of diabetes.

Diabetes leads to further health complications which affect a variety of bodily organs and functions. For example, according to a recent report of the National Diabetes Advisory Board:

Five thousand persons with diabetes become blind each year;

Approximately 50 percent of foot and leg amputations among adults are due to diabetes;

Diabetes is responsible for about 20 percent of all cases of kidney failure;

Diabetes is a leading cause of birth defects and infant mortality;

Diabetes is a major risk factor for cardiovascular disease;

Persons with diabetes spend twice as many days in hospitals as persons without the disease;

One in seven nursing home patients has diabetes;

Forty percent of persons with diabetes are age 65 or older;

Federal health care programs, such as Medicare (including the end-stage renal disease program) and Medicaid, plus health-related programs of the Veterans' Administration and the Indian Health Service, bear a significant portion of the economic burden of diabetes.

Mr. President, the designation of National Diabetes Month will serve to call the human and economic costs of diabetes to the wider attention of the American people. I hope that a greater understanding of this disease—both by those afflicted with diabetes and by others—will lead to more intensive research, greater public and patient understanding, and improved methods of treatment for this national health problem. I urge the speedy adoption of this joint resolution.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 257

Whereas diabetes kills more Americans than all other diseases except cancer and cardiovascular diseases;

Whereas 11 million Americans suffer from diabetes and 5.7 million of such Americans are not aware of their illness;

Whereas $9.7 billion annually are used for health care costs, disability payments, and premature mortality costs due to diabetes;

Whereas up to 85 percent of all cases of noninsulin-dependent diabetes may be preventable through greater public understanding, awareness, and education; and

Whereas diabets is a leading cause of blindness, kidney disease, heart disease, stroke, birth defects and lower life expectancy, which complications may be reduced through greater patient and public understanding, awareness, and education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1982, is designated as "National Diabetes Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate programs, ceremonies, and activities.●

By Mr. WEICKER (for himself, Mr. RANDOLPH, Mr. HATCH, Mr. KENNEDY, Mr. STAFFORD, Mr. EAST, Mr. NICKLES, and Mr. MATSUNAGA):

S.J. Res. 258. Joint resolution to authorize and request the President to designate the month of December 1982 as "National Closed-Captioned Television Month"; to the Committee on the Juciciary.

NATIONAL CLOSE-CAPTIONED TELEVISION MONTH

● Mr. WEICKER. Mr. President, I am pleased, together with my distinguished colleagues, Senators RANDOLPH, HATCH, KENNEDY, STAFFORD, EAST, NICKLES, and MATSUNAGA to introduce this joint resolution designating December 1982 as "National Closed-Captioned Television Month." I recognize it is late in this session for new matters to be considered; however, I am hopeful that the Senate will act expeditiously to enact this important proclamation.

As 1982 is the National Year of Disabled Persons, it is a fitting time to commend the National Captioning Institute for the invaluable service it is provided through closed-captioned decoding systems. This service enables the hearing-impaired population to read on the TV screen what they cannot hear, without subjecting hearing viewers to unwanted distraction. Some 16 million Americans are affected by hearing loss and the incidence is growing. Furthermore, this new communication technology has great potential to benefit a myriad of reading and learning disabilities among the population as a whole.

By calling closed-captioned TV to the attention of the American people, we encourage the expansion of educational horizons as well as equal access for hearing-impaired persons of all ages to the wealth of information so abundantly available to the general public. This serves also as a celebration of the United States as the world's leader in services to its hearing-impaired population, demonstrating the American commitment to developing equal opportunity for all its citizens.

I hope my colleagues will afford this joint resolution their prompt and serious attention, so that "National Closed-Captioned Television Month" may be proclaimed for December 1982.

I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 258

Whereas the Congress has officially proclaimed 1982 as the National Year of Disabled Persons;

Whereas hearing-handicapped Americans of all ages traditionally have suffered isolation from society and too often have unwillingly ended up as burdens to society rather than participating citizens;

Whereas the recent telecommunications breakthrough of "closed captioning" now enables these people to read on the television screen what they cannot hear and thus share—for the first time in history—that wealth of information, entertainment, and language so abundantly absorbed by the general public;

Whereas the innovative service, provided through nonprofit and tax-exempt National Captioning Institute (NCI), represents the

culmination of almost ten years of technological research and development, market exploration, and cooperation between government, industry, and community;

Whereas the nationwide service which began in March 1980 on ABC, NBC, and PBS is already proving to open up new educational horizons and new avenues toward equal opportunity for this severely disadvantaged population, particularly its children and youth;

Whereas hearing-impaired citizens have personally invested over $17 million to date for purchase of decoding devices;

Whereas many members of the Congress have long been actively supporting development, implementation, and expansion of the closed-captioned television service which is the first of its kind anywhere in the world; and

Whereas President Reagan, referring to the closed captioning of his inaugural ceremonies and televised addresses to the Nation, has stated: "I feel very honored to be the first President in history to have spoken directly to people who had never before experienced this historic tradition": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the month of December, 1982, as "National Closed-Captioned Television Month" in recognition of this invaluable new service for deaf and hard-of-hearing American citizens, and calling on the people of the United States to observe the month with appropriate programs, ceremonies, and activities.●

ADDITIONAL COSPONSORS

S. 1298

At the request of Mr. WALLOP, the names of the Senator from Arizona (Mr. GOLDWATER), the Senator from Oklahoma (Mr. BOREN), the Senator from Arizona (Mr. DECONCINI), and the Senator from Colorado (Mr. HART) were added as cosponsors of S. 1298, a bill to amend the Internal Revenue Code of 1954 to extend certain tax provisions to Indian tribal governments on the same basis as such provisions apply to States.

S. 1450

At the request of Mr. CANNON, the name of the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1450, a bill to provide for the continued deregulation of the Nation's airlines, and for other purposes.

S. 1688

At the request of Mr. SPECTER, the names of the Senator from Virginia (Mr. WARNER), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1688, a bill to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment.

S. 2655

At the request of Mr. FORD, the names of the Senator from West Virginia (Mr. RANDOLPH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. RIEGLE), and the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsors of S. 2655, a bill to provide increased maximim limitations for student loans under part B of title IV of the Higher Education Act of 1965 for certain students who lost benefits under the Social Security Act as a result of amendments made by the Omnibus Budget Reconciliation Act of 1981.

S. 2711

At the request of Mr. INOUYE, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2711, a bill to specify that health maintenance organizations may provide the services of clinical psychologists.

S. 2828

At the request of Mr. DODD, the names of the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Nevada (Mr. CANNON) were added as cosponsors of S. 2828, a bill to authorize a demonstration program to provide for housing for older Americans.

S. 2845

At the request of Mr. MOYNIHAN, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 2845, a bill to amend section 202(7)(c) of title III, United States Code.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the junior Senator from New York (Mr. D'AMATO) be added as a cosponsor to S. 2845, a bill to increase the authorized reimbursement to New York City for police protection of diplomatic missions to the United Nations. Senator D'AMATO was cosponsor of S. 2235, a bill dealing with this subject introduced earlier in this session, and he was inadvertently omitted as cosponsor when S. 2845 was introduced. This is a subject of keen and continuing interest to my colleague and I deeply appreciate his cooperation in this shared endeavor.

S. 2902

At the request of Mr. THURMOND, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2902, a bill to define the affirmative defense of insanity and to provide a procedure for the commitment of offenders suffering from a mental disease or defect, and for other purposes.

S. 2910

At the request of Mr. TSONGAS, the name of the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 2910, a bill to amend title 38, United States Code, to establish new educational assistance programs for veterans and for members of the Armed Forces.

S. 2918

At the request of Mr. CHAFEE, the name of the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 2918, a bill to permit the investment of employee benefit plans in residential mortgages.

S. 2938

At the request of Mr. BENTSEN, the name of the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 2938, a bill to amend the Internal Revenue Code of 1954 to treat as medical care the expenses of meals and lodging of a parent or guardian accompanying a child away from home for the purpose of receiving medical care, and the expenses of meals and lodging of a child away from home for the purpose of receiving medical care on an outpatient basis.

S. 2953

At the request of Mr. PELL, the name of the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2953, a bill to provide for a program of financial assistance to States in order to strengthen instruction in mathematics, science, computer education, foreign languages, and vocational education, and for other purposes.

S. 2954

At the request of Mr. PELL, the name of the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2954, a bill to amend part E of the Higher Education Act of 1965 to provide cancellation of loans for certain teachers who enter the teaching profession in the field of mathematics, science, and computer education.

S. 2957

At the request of Mr. STENNIS, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 2957, a bill to repeal the denial of the use of the accelerated cost recovery system with respect to tax-exempt obligations, and the expiration of the authority to issue such obligations.

S. 2961

At the request of Mr. DANFORTH, his name was added as a cosponsor of S. 2961, a bill to promote improved defense preparedness by revising certain provisions of title III of the Defense Production Act of 1950, and to extend the expiration date of the act.

SENATE JOINT RESOLUTION 178

At the request of Mr. HATCH, the name of the Senator from Idaho (Mr. SYMMS) was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 188

At the request of Mr. INOUYE, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of Senate Joint Resolution 188, a joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day."

SENATE JOINT RESOLUTION 214

At the request of Mr. PERCY, the name of the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of Senate Joint Resolution 214, a joint resolution to authorize and request the President to designate the month of November 1982 as "National REACT Month."

SENATE JOINT RESOLUTION 225

At the request of Mr. EAGLETON, the names of the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of Senate Joint Resolution 225, a joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week."

SENATE JOINT RESOLUTION 237

At the request of Mr. CHILES, the names of the Senator from Nebraska (Mr. EXON), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Arkansas (Mr. BUMPERS), the Senator from Alabama (Mr. HEFLIN), the Senator from Maryland (Mr. SARBANES), the Senator from Mississippi (Mr. STENNIS), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Ohio (Mr. GLENN), the Senator from Arkansas (Mr. PRYOR), the Senator from Arizona (Mr. DECONCINI), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Nevada (Mr. CANNON), the Senator from Montana (Mr. BAUCUS), the Senator from Michigan (Mr. LEVIN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from North Dakota (Mr. BURDICK), the Senator from Louisiana (Mr. LONG), the Senator from Illinois (Mr. DIXON), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Indiana (Mr. LUGAR), the Senator from New York (Mr. D'AMATO), the Senator from Vermont (Mr. STAFFORD), the Senator from Utah (Mr. HATCH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Kansas (Mr. DOLE), the Senator from Idaho (Mr. MCCLURE), the Senator from Idaho (Mr. SYMMS) were added as cosponsors of Senate Joint Resolution 237, a joint resolution designating November 14, 1982, as "National Retired Teachers Day."

SENATE JOINT RESOLUTION 240

At the request of Mr. BOREN, the names of the Senator from Minnesota (Mr. DURENBERGER), the Senator from Mississippi (Mr. COCHRAN), the Senator from North Dakota (Mr. ANDREWS), the Senator from Colorado (Mr. ARMSTRONG), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of Senate Joint Resolution 240, a joint resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week."

SENATE JOINT RESOLUTION 246

At the request of Mr. LONG, the names of the Senator from Mississippi (Mr. STENNIS), the Senator from South Carolina (Mr. THURMOND), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Texas (Mr. TOWER), the Senator from Hawaii (Mr. INOUYE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Oregon (Mr. PACKWOOD), the Senator from Florida (Mr. CHILES), the Senator from Missouri (Mr. DANFORTH), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Indiana (Mr. LUGAR), the Senator from Maryland (Mr. SARBANES), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Montana (Mr. BAUCUS), the Senator from Mississippi (Mr. COCHRAN), the Senator from Alabama (Mr. HEFLIN), the Senator from Virginia (Mr. WARNER), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Florida (Mrs. HAWKINS), the Senator from New York (Mr. D'AMATO), the Senator from South Dakota (Mr. ABDNOR), the Senator from Georgia (Mr. MATTINGLY), and the Senator from New Jersey (Mr. BRADY) were added as cosponsors of Senate Joint Resolution 246, a joint resolution to authorize and request the President of the United States to issue a proclamation designating the first week in October for the calendar years 1982, 1983, and 1984 as "National Port Week."

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. DOLE, the name of the Senator from Florida (Mr. CHILES) was added as a cosponsor of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes.

SENATE RESOLUTION 458

At the request of Mr. SASSER, his name was added as a cosponsor of Senate Resolution 458, a resolution to express the sense of the Senate that the Export-Import Bank of the United States shall be given sufficient authority and shall provide competitive financing for American exports.

SENATE RESOLUTION 465

At the request of Mr. DOLE, the name of the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of Senate Resolution 465, a resolution to express the sense of the Senate that the restoration of U.S. competitiveness in agricultural trade should be pursued through every legitimate means, and without reference to political or economic problems in nonagricultural areas.

SENATE RESOLUTION 472

At the request of Mr. MOYNIHAN, the names of the Senator from Pennsylvania (Mr. HEINZ), the Senator from Kentucky (Mr. FORD), and the Senator from Ohio (Mr. METZENBAUM) were added as cosponsors of Senate Resolution 472, a resolution to preserve and protect medicare benefits.

SENATE RESOLUTION 478

At the request of Mr. DODD, the name of the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of Senate Resolution 478, a resolution expressing the sense of the Senate with respect to the need to maintain guidelines which insure equal rights with regard to education opportunity.

AMENDMENT NO. 3620

At the request of Mr. DANFORTH, his name was added as a cosponsor of amendment No. 3620 intended to be proposed to S. 2375, a bill to extend by 5 years the expiration date of the Defense Production Act of 1950.

AMENDMENT NO. 3621

At the request of Mr. METZENBAUM, the names of the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Missouri (Mr. EAGLETON), the Senator from Arkansas (Mr. PRYOR), the Senator from Vermont (Mr. LEAHY), the Senator from Kentucky (Mr. FORD), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Tennessee (Mr. SASSER), the Senator from Illinois (Mr. DIXON), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from North Dakota (Mr. BURDICK), the Senator from New Jersey (Mr. BRADLEY), the Senator from Montana (Mr. BAUCUS), the Senator from Michigan (Mr. LEVIN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Arizona (Mr. DECONCINI), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Arkansas (Mr. BUMPERS), the Senator from Maryland (Mr. SARBANES), the Senator from Nevada (Mr. CANNON), the Senator from Alabama (Mr. HEFLIN), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Nebraska (Mr. EXON), the Senator from Colorado (Mr. HART), the Senator from Washington (Mr. JACKSON), the Senator from Rhode Island (Mr. PELL), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of amendment No. 3621 proposed to House Joint Resolution 599, a joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes.

UP AMENDMENT NO. 1322

At the request of Mr. MOYNIHAN, the names of the Senator from Texas (Mr. BENTSEN), and the Senator from West Virginia (Mr. ROBERT C. BYRD) were added as cosponsors of UP amendment No. 1322 proposed to House Joint Resolution 599, a joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes.

UP AMENDMENT NO. 1323

At the request of Mr. BUMPERS, the name of the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of UP amendment No. 1323 proposed to House Joint Resolution 599, a joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes.

SENATE CONCURRENT RESOLUTION 125—CONCURRENT RESOLUTION DESIGNATING MONTANA AS THE GATEWAY TO THE 1988 CALGARY OLYMPICS

Mr. BAUCUS submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 125

Whereas the 1988 Winter Olympics will be held at Calgary, Alberta, Canada;

Whereas United States citizens by the thousands will be journeying to Calgary to join the festivities with our Canadian neighbors;

Whereas Montana is contiguous with the entire southern border of Alberta and is a natural passageway to the Winter Olympics in Calgary;

Whereas the State of Montana and the Province of Alberta have long been friendly neighbors; and

Whereas Alberta can be entered from the United States, traveling by land, only by way of Montana: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Montana is declared the "Official United States Gateway to the 1988 Calgary Olympics".

● Mr. BAUCUS. Mr. President, in 1988, the city of Calgary, in Alberta, Canada, will host the Winter Olympics.

We all remember the excitement of the Lake Placid Winter Olympics. There is little that attracts more attention in the sports world, and few events which can compete for sheer drama, competition, and showmanship.

Americans from all States of the Union will be unable to resist the powerful draw of the Olympics, and we can expect them to flock to Calgary by car, bus, train, and plane. We can also expect many foreigners traveling from Asia, Europe, Latin America, and the world over, to flock to Calgary.

When the games are over, or before they begin, many of these foreigners will also visit the beauties of our great country. The tourism industry will thrive, and with it, our balance of payments and international trade. Let us not forget that tourism is one of our biggest revenue gainers and represents 6.5 percent of our GNP. It was, in 1981, a $191 billion business.

Given this great importance of the Olympic games, let me point out, Mr. President, that any person proceeding from the United States directly to Alberta over land must pass through Montana since Montana lines the entire southern border of Alberta. Many will pause and enjoy the wonders of the State, and we want them all to know that a fine Western welcome will be available. Winter sports enthusiasts will be able to enjoy some of the finest skiing in the world.

As a result, Mr. President, it gives me great pleasure to offer today the following concurrent resolution declaring Montana the official gateway to the 1988 Winter Olympics. This supports the effort of the Montana travel promotion unit which wants all travelers through Montana to know that they will be welcome visitors. We have so much to offer, and we fully understand how many people will want to linger a bit on their way north or south.

Mr. President, a gateway is just that, a means for entrance or exit. Only via Montana can a person go directly by land from the United States to Alberta. My resolution simply recognizes that fact, and lets all potential visitors know that when they take that route, they will be met with a hearty Western welcome. I urge my colleagues to support this effort.●

SENATE RESOLUTION 484—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. COHEN, from the Select Committee on Indian Affairs, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 484

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2719. Such waiver is necessary because S. 2719, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983. Such bill was introduced on July 1, 1982 and was the subject of hearing before the Select Committee on Indian Affairs on July 14th. Such waiver is necessary because, due to the lateness of the introduction of the bill, the Select Committee on Indian Affairs was unable to complete action and report on or before May 15, 1982 as required by section 402(a) of the Congressional Budget Act of 1974 for such fiscal year 1983 authorizations.

S. 2719 embodies a negotiated settlement of a claim to land and consequential damages raised by the Mashantucket Pequot Tribe of Connecticut. The timely action of Congress is necessary to ensure that the settlement is effected and the claims are forever extinguished. The bill would provide $900,000 in new budget authority.

SENATE RESOLUTION 485—RESOLUTION RELATING TO INSPECTION OF TAX RECORDS

Mr. HUDDLESTON (for himself and Mr. MATHIAS) submitted the following resolution; which was considered and agreed to:

S. RES. 485

Whereas on March 25, 1982, the Senate adopted Senate Resolution 350, thereby establishing the Select Committee To Study Law Enforcement Undercover Activities of Components of the Department of Justice (hereinafter referred to as the Select Committee) to conduct an investigation and study of activities of components of the Department of Justice in connection with their law enforcement undercover operations generally, and the ABSCAM operation specifically;

Whereas the Select Committee has received conflicting evidence regarding the distribution of funds paid by undercover operatives of the Government as purported bribes to public officials in the ABSCAM operation;

Whereas in order to investigate the substance of these disputes it is necessary for the Select Committee to inspect and to receive tax returns, return information, and tax-related material, held by the Secretary of the Treasury;

Whereas information necessary for such investigation cannot reasonably be obtained from any other source; and

Whereas under subsection 6103(f)(3) and 6103(f)(4)(P) of the Internal Revenue Code of 1954, as amended, a committee of the Senate has the right to inspect tax returns if such committee is specifically authorized to investigate tax returns by resolution of the Senate: Now, therefore, be it

Resolved, That the Select Committee To Study Law Enforcement Undercover Activities of Components of the Department of Justice is authorized, in addition to S. Res. 350, to inspect and to receive for tax years 1979 and 1980 any tax return (including amended returns), return information, or other tax-related material, held by the Secretary of the Treasury, related to ABSCAM defendants Angelo J. Errichetti, Howard L. Criden, and Louis C. Johanson, including any trusts, sole proprietorships, partnerships, corporations, and other business entities, other than publicly held corporations, in which the above-named individuals have a beneficial interest, and for tax years 1977 through 1981 any tax return (including amended returns), return information, or other tax-related information, held by the Secretary of the Treasury, related to ABSCAM cooperating witnesses Melvin Weinberg, his late wife, Cynthia Marie Weinberg, and his present wife, Evelyn Knight or Evelyn Weinberg, including any trusts, sole proprietorships, partnerships, corporations, and other business entities, other than publicly held corporations, in which the above-named individuals have a beneficial interest, and any other tax return (including amended returns), return information, or other tax-related material held by the Secretary of the Treasury related to the above-named individuals that the Select Committee determines may contain infor-

mation directly relating to its investigation and otherwise not obtainable.

SENATE RESOLUTION 486—RESOLUTION RELATING TO THE ANNIVERSARY OF THE RESERVE OFFICERS ASSOCIATION

Mr. THURMOND (for himself, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. BAKER, and Mr. MATTINGLY) submitted the following resolution; which was considered, and agreed to:

S. RES. 486

Whereas on October 2, 1922, the Reserve Officers Association of the United States was organized in Washington, D.C., at the urging of General of the Armies John J. Pershing, with the objective to support a military policy for the United States that will provide adequate national security and to promote the development and execution thereof;

Whereas on June 30, 1950, this objective was reaffirmed in a Charter granted to the Reserve Officers Association by the Congress of the United States;

Whereas for the past 60 years, the Reserve Officers Association has acted as a catalyst between the military, citizen-soldiers, and Congress to educate and insure that the nation's defense remains strong and visible through coordinated efforts on both local and national levels;

Whereas for the past 60 years, the Reserve Officers Association has not only voiced its position on national security matters, but also influenced the passage of legislation to strengthen this national security; and

Whereas the 125,000 members of the Reserve Officers Association are commemorating the 60th Anniversary of the founding of the Reserve Officers Association of the United States: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Reserve Officers Association of the United States is deserving of public recognition and commendation upon the occasion of the sixtieth anniversary of its founding on the second day of October, 1982, and that the people of the United States should observe this date with appropriate programs, ceremonies and activities which pay tribute to the men and women who are members of this organization and to the principles of a strong national security policy to which this organization is dedicated.

SENATE RESOLUTION 487—RESOLUTION RELATING TO THE CITY OF NITRO, W. VA.

Mr. ROBERT C. BYRD submitted the following resolution; which was considered, and agreed to:

S. RES. 487

Whereas the city of Nitro, West Virginia, was founded during World War I as a result of the Deficiency Appropriation Act of October 6, 1917, which authorized funds for the construction of United States Government explosives plants;

Whereas the area topography between Charleston and Huntington, West Virginia, on the Kanawha River, was conducive to the selection of the area, and is conducive to tourism today;

Whereas the extant residual World War I structures heighten the historical significance of the city of Nitro;

Whereas the citizens of the community are working diligently toward dedicating the city of Nitro as a National Memorial to World War I; and

Whereas the city of Nitro will celebrate Veterans Day, November 11, 1982, with parades, fireworks, and appropriate displays: Now, therefore, be it

Resolved, That it is the sense of the Senate that the city of Nitro, West Virginia, be recognized as a Living Memorial to World War I.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the Mayor of Nitro, West Virginia.

SENATE RESOLUTION 488—CALLING FOR A JOINT UNITED STATES-SOVIET INITIATIVE

Mr. MATSUNAGA submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 488

Whereas the United States and the Soviet Union are on a course leading toward an arms race in space which is in the interest of no one;

Whereas the United States and the Soviet Union will drift into an arms race in space as prisoners of events unless preventive measures are taken while a choice still exists;

Whereas an arms race in space would open the door to a range of weapons systems whose introduction would further destabilize an already delicate military balance, perhaps permanently foreclosing hope for successful arms control agreements, requiring immense open-ended defense expenditures unprecedented in scope even for these times;

Whereas the prospect of an arms race in space between the United States and the Soviet Union has aroused worldwide concern expressed publicly by the governments of many countries, including most of the allies of the United States, such as Australia, Canada, France, the Federal Republic of Germany, India, Japan, and the United Kingdom of Great Britain;

Whereas the first decisive step in an arms race in space would involve the use of orbiting space stations for testing weapons, which would proceed inevitably from the tensions and suspicions generated by competing American and Soviet space stations;

Whereas the 1972-75 Apollo-Scyuz project involving the United States and the Soviet Union and culminating with a joint docking in space was the most successful cooperative activity undertaken by those two countries in a generation, thus proving the practicability of a joint space effort;

Whereas the opportunities offered by space for prodigious achievements in virtually every field of human endeavor, leading ultimately to the colonization of space in the cause of advancing human civilization, would probably be lost irretrievably were space to be made into yet another East-West battleground; and

Whereas allowing space to become an arena of conflict without first exerting every effort to make it into an arena of cooperation would amount to an abdication of governmental responsibility that would never be forgotten: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should—

(1) initiate talks with the Government of the Soviet Union, and with other interested governments of countries having a space capability, with a view toward exploring the possibilities for a weapons-free international space station as an alternative to competing armed space stations; and

(2) submit to the Congress, at the earliest possible date, but not later than June 1, 1983, a report detailing the steps taken in carrying out paragraph (1).

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. MATSUNAGA. Mr. President, I am today introducing legislation that calls upon the President of the United States to initiate talks with the Soviet Union, and with other nations having a space capability, with a view toward exploring the possibilities for a weapons-free international space station as an alternative to competing armed space stations. Mr. President, if we are concerned about the cost of defense now, imagine what levels the defense budget will reach when the arms race goes into orbit—literally and figuratively. A space arms race could effectively militarize the national budget. Yet we will find ourselves forced to fund open-ended space weapons programs of unprecedented scope if we wait until their activation becomes a matter of national survival. That is why I believe we have a responsibility to head off a space arms race now, while we still have a choice in the matter.

If a space arms race comes, the vehicle will be a permanently manned orbiting space platform, employed initially for testing weapons, such as both we and the Soviets are contemplating. If history is any guide, we will wait until the Soviet program is well underway; then, in an atmosphere of crises, with national survival at stake, we will launch a crash program to "catch up." And, once again, we will succeed. But by then we will have passed the point of no return. We will be trapped midst the infinite possibilities for military advantage offered by the infinite reaches of space. The cost will be stupendous. The budget process will risk complete militarization. Yet we will have no choice. So I believe we have an urgent responsibility to consider ways to prevent a space arms race, not tomorrow when we will be helpless to prevent it, but today when discussion can lead to meaningful preventive action.

In anticipation of questions which may be raised with regard to my resolution, please permit me to make these points:

First, will not the Soviets read this as a signal that we approve of their behavior in Poland, Afghanistan, and Azerbaijan? For nearly 70 years, we have not approved of Soviet behavior—sometimes more, sometimes less. And we have been trying to correct their behavior by one means or another. The real question in this regard

is whether the methods we have been employing are the best available. I believe that a joint space station, with its emphasis on working together toward a concrete objective, has advantages over the methods employed so far.

Second, but is such a belief realistic with regard to the Soviets? It is no less realistic than the currently prevailing belief that only unremitting pressure on all fronts will alter Soviet behavior. We have been assuming that pressure unceasingly applied will make the Soviets more accommodating and eventually lead them to accept our view of the world. But all experience shows that precisely the reverse is true. Such pressure tends to provoke extreme behavior even as it seems closest to success. As one analyst perceptively remarked, terror is the explosion of impotence. But in the Soviet's case, we are talking about nuclear terror. If we push the Soviets toward the breaking point, we can expect that before they break, they will explode.

For those same reasons, I cannot accept the argument that laser weapons in space will actually reduce the chances of war. It is said that because lasers will be able to hit missiles seconds after launching, they will prevent war by making nuclear weaponry obsolete. But a missile-neutralizing laser battle station will require years of orbital testing before it becomes operational. Should we engage the Soviets in a laser battle station race (which would probably be the outcome of separate space station programs rather than a joint effort), whoever appears on the point of losing will come under irresistible internal pressure to launch a preemptive strike before its entire nuclear arsenal is rendered obsolete. Would we accept total impotence vis-a-vis the Soviets? If not, why should we believe that they will?

A policy of unremitting pressure against the Soviets, concluding with a weapon to end war, is hardly realistic, to put it mildly.

Third, assuming that a policy of unremitting pressure is not realistic, does that mean a policy of cooperation is? Yes, if we are realistic in pursuing it. I do not propose replacing pressure across all fronts with cooperation across all fronts. I do not propose abandoning our defense deterrent, or even necessarily reducing it. I do not propose acquiescing to Soviet adventures that threaten our national security. I merely propose carving out an activity in which we might work together with the Soviets on the proven assumption that working together reduces tension. Reduced tensions will in turn make cooperation easier.

Fourth, but is working together with the Soviets, whose ideology we find repugnant, in fact desirable? Ideology is not the ground of being. Antagonism between the United States and the Soviet Union is not genetic. Indeed, all evidence confirms that the impulse for cooperation reaches far deeper than the impulse for conflict. It is a matter of awakening the former and, most important, allowing it access to the realm of Government policy.

Consider Anwar Sadat. If there are any people who cling more rigidly to their differences than the Soviets and the Americans, the Arabs and the Israelis certainly qualify. Yet Sadat correctly perceived that the key to the problem lay not in this or that bone of contention, but in a climate of overruling any mistrust, which governs the attitudes of the antagonists, which blocks any constructive evolution in their relations and which renders the parties unapproachable by negotiation alone. Then, Sadat had the courage to act on this perception and the resolution to stick to the new course he so dramatically set. Sadat's great triumph was to reestablish Egyptian-Israeli relations on a level deeper than ideology and to build up from there. We all admire Anwar Sadat. But have we the courage to emulate him?

Fifth, even if it is realistic and desirable, is the time ripe for such an initiative? Some might argue that cooperative activities with the Soviets always have been less a cause of détente than a result. But I would reply that the process ought to be reversed. An atmosphere of cooperation affects the spirit of negotiations, opening the way to objectives hitherto believed unattainable, as Sadat demonstrated so well.

Sixth, the road to mutual understanding begins with cooperation, not the other way around. If Republicans and Democrats elected to Congress worked out of separate self-contained enclaves and met only over a negotiating table at irregular intervals, I have no doubt that our differences would be exaggerated by an order of magnitude. The time for a cooperative overture is now.

Seventh, assuming that cooperation is desirable and realistic and the timing is ripe, is a joint space station the best vehicle? The advantages of this project are many. First, it would interrupt the momentum toward a hopeless arms race in space. Second, it would build on the most successful United States-Soviet cooperative venture so far, the Apollo-Soyuz mission, a 4-year project which led to a dramatic joint docking in space. Third, it could be conducted without undue risk to our national security: Rather than reduction in armament, with all the risks and problems involved in verficiation and definitions of parity, this project involves a commitment not to begin a new phase in the arms race—a step far easier to negotiate. Fourth, if successful, it could be easily expanded. That is the great advantage of space: It is virgin territory, free from the ensnaring web of rivalries that makes fresh overtures on planet Earth so difficult to sustain. Fifth, it offers a constructive outlet for the latent energies of the superpowers. Rather than a freeze on activity, it would permit the unleashing of whole new technologies in a decongealing climate of shared purposefulness—and hope.

Surely, Mr. Presdient, the concept is worth exploring. My resolution merely calls upon the President to initiate discussions—talks—a dialog with the Soviets. Surely we owe that much to future generations. Allowing space to become an arena of conflict without first exerting every effort to make it into an arena of cooperation would amount to an abdication of governmental responsiblity that would never be forgotten.

Finally, Mr. President, I ask unanimous consent that as an article on this subject which I authored and which appeared in the July 4, 1982, issue of the Washington Post be printed in the RECORD at this point. The article contains information which may assist my colleagues in judging the merits of my resolution.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SPACE STATIONS: FOR WAR OR PEACE?

(By Senator Matsunaga)

Our best—and perhaps last—opportunity to reach a workable accommodation with the Soviets appears on the verge of being lost before it is properly recognized.

While disarmament talks and negotiations must necessarily continue, the greatest opportunity appears to lie not in the narrow confines of a conference room but in the reaches of space. Within this decade, the United States and the Soviet Union plan to build permanent manned space stations. The age of space colonization, which scientists say will be comparable to the time when life emerged from the sea to colonize the land, will have begun.

But why two hostile space stations? Space—the last and most expansive frontier—will be what we make it. Must we make it into another "real world" lining on the brink of self-annihilation? Must we play the same old unwinnable game in space, too?

A more appealing alternative, it seems to me, is to seek to make the first orbiting space station a weapons-free international project involving the United States and the Soviet Union, as well as other interested nations having a space capability.

Reaching agreement with the Soviets on this won't be easy, but as a policy objective it is probably far more attainable than any tension-reducing alternative available here on earth.

Space is virgin territory, insofar as weapons are concerned.

By converting what most otherwise inevitably become the first space weapons platforms into a joint project, the Americans and the Soviets would, for the first time, decisively interrupt the suicidal process that has captured them. Even more significantly, we would begin turning that process around, by learning to work together in a challenging environment, as is perhaps only now possible in space. In that context, the dra-

matically successful Apollo-Soyuz mission of 1975 is worth recalling.

The project was sealed by a space cooperation agreement signed by President Nixon and Premier Kosygin in Moscow on May 24, 1972. Two days later, Nixon and Kosygin signed a strategic arms pact.

The two documents bore an instructive difference.

Whereas the strategic arms pact called for open-ended discussion in gilded conference rooms, the space agreement involved a no-nonsense design and construction timetable targeted toward a specific objective—a joint docking in space in 1975.

The tangible objective locked both sides into a train of technical imperatives which, in turn, influenced the basic character of their relations.

For instance, initial American requests for information ran up against compulsive Soviet secretiveness. Had they been negotiating over language and analyzing force strengths on the basis of contested definitions, the effort surely would have ended in stalemate. But they had spacecraft to design and build, communications systems to integrate, astronauts to train, joint docking systems, joint tracking systems, joint life-support systems.

As the timetable ticked off, the Soviets opened up to an unprecedented extent. Scientists and technicians from both nations became wholly absorbed in the project, integrating distinctly different operational styles under the pressure of a shared deadline and a shared professional commitment to make the project work.

Thus, in mid-1973, an American delegation was admitted to the previously top secret Soviet mission control center—again, for the technically-required purpose of coordinating communications and tracking. Looking out across the consoles, world maps, wall clocks, they saw, typed on the giant center screen: "Welcome American Colleagues."

The following year, American astronauts lived and trained at the Soviet space center outside Moscow, Soviet cosmonauts trained in Houston, and American public affairs officials successfully sold the Russians on live TV coverage for the event. All were firsts.

Before the project concluded on July 17, 1975, with a successful docking in space the Soviets and Americans had negotiated and signed 133 working documents—an unprecedented achievement.

Neil Hutchinson, the U.S. flight director of Apollo-Soyuz, summed up what was probably the project's most important contribution and what also turned out to be its greatest frustration for those involved:

"I wish there was another one of these flights. We've gone to all this trouble to learn how to work with these people. . . . I could run another Apollo-Soyuz with a heck of a lot less fuss than it took to get this one going."

So no one can say it can't be done. Not only that, but the stage is already set: In the seven years since Apollo-Soyuz, U.S. and Soviet space activities have followed strikingly complementary paths.

The Soviets have concentrated on long-duration space flights aboard orbiting house-trailer Salyut space stations (like our short-lived Skylab) serviced by manned Soyuz spacecraft and unmanned Progress resupply vehicles. Soviet cosmonauts have logged a solid two years of spaceflight, including a world record stint of six months.

The U.S. meanwhile, has concentrated on quick, easy access with a reusable space vehicle. As the first takeoff-and-landing space vehicle, the shuttle is more sophisticated than anything the Soviets have developed. But flight duration for the shuttle is limited to seven days with present power systems and a maximum of 30 days with adjustments.

Clearly, the Soviet and American space programs are in synch. From the perspectives of science, engineering and economics, both nations would benefit immensely from combining their efforts at this point.

Inevitably, there is the question of politics. The political drawbacks include concern about technology transfer (we are ahead in micro-electronics and computer technology) and the related policy of using cooperation itself as a bargaining chip, like the cruise missile. But in full perspective, the political drawbacks are far outweighed by the advantage of an opportunity to rein in the arms race and redirect its latent energies to meet a new, more inspiring and far more demanding challenge.

A joint project in space would add a refreshingly expansive dimension to life on a planet edging toward self-annihilation.

The arms buildup on planet earth could continue—Trident, MX, CX, BI, RDF, whatever our hearts desire. Arms control negotiation could continue. We might even continue antisatellite weapons testing, since that involves a ground-based Soviet weapon and an American weapon launched in the suborbital atmosphere from an F-16. So we would be protected.

But meanwhile, we also would be working on something with the Soviets. Something big. Something daring, bearing hope for the future.

And if it catches on, if we actually build some common ground up there, begin seeding it, wouldn't it be worth a try?

Tom Stafford, American flight commander for Apollo-Soyuz, said that when he opened the Appollo hatch to greet his Soviet counterpart, Alexei Leonov, as they spun in orbit 100 miles above the Earth, he believed "we were opening back on Earth a new era in the history of man."

We need to give the Staffords and Leonovs of this world a chance.

AMENDMENTS SUBMITTED FOR PRINTING

ADDITIONAL NATIONAL SCENIC AND HISTORIC TRAILS

AMENDMENT NO. 3622

(Ordered to be printed and to lie on the table.)

Mr. COCHRAN (for himself, Mr. JOHNSTON, Mr. BAKER, Mr. THURMOND, Mr. STENNIS, Mr. NUNN, Mr. HOLLINGS, Mr. CHILES, and Mr. HEFLIN) submitted an amendment intended to be proposed by them to the bill (H.R. 861) to amend the National Trails System Act by designating additional national scenic and historic trails, and for other purposes.

EDUCATION ASSISTANCE PROGRAM FOR VETERANS

AMENDMENT NO. 3623

(Ordered to be printed and referred to the Committee on Veterans' Affairs.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (S. 417) to amend title 38, United States Code, to provide a new educational assistance program for persons who enter the Armed Forces after June 30, 1981, to modify the December 31, 1989, termination date for the Vietnam-era GI bill, and for other purposes.

AMENDMENT NO. 3623: PROVIDING "STANDBY" AUTHORITY TO ESTABLISH ALL-VOLUNTEER FORCE EDUCATIONAL INCENTIVES PROGRAM

Mr. CRANSTON. Mr. President, I am today submitting for printing amendment No. 3623 to S. 417, the proposed All-Volunteer Force Educational Assistance Act, a measure I introduced on February 5, 1981, which is presently cosponsored by Senators MATSUNAGA, DECONCINI, HART, MITCHELL, PROXMIRE, and RIEGLE. The purpose of this amendment is to provide to the President the authority to determine the effective date and termination date of the All-Volunteer Force educational assistance program that would be established under my proposal.

I am submitting the amendment not because I anticipate movement on S. 417 at this time but because I want to inform my colleagues of this approach to providing standby authority to the President of the United States to activate a peacetime GI bill. I intend to propose this approach as an amendment to the Cohen-Armstrong educational incentives amendment when it is offered to the proposed Uniformed Service Pay Act of 1982, S. 2936, as indicated in the September 21 "Dear Colleague" letter from the Senators from Maine and Colorado.

BACKGROUND

For some time now, there has been much interest in the enactment of a peacetime GI bill. Indeed, at this time, there are eight measures pending before the Senate Veterans' Affairs Committee. Two days of hearings were held on these measures on July 22 and 23, 1981.

At the time I introduced my measure, recruitment, and retention in the Armed Forces were reaching emergency proportions. The service branches had each failed to reach their recruitment goals, and retention rates were very low. Caliber of new recruits was a major concern. My measure, like the measures introduced by others in the Senate and the House, was designed to aid in the recruitment and retention of well-qualified men and women in the Armed Forces. Specifically, it would provide incentives both to enter the armed services and to remain on active duty for lengthy periods of time.

Since I introduced S. 417 in February 1981, however, the service branches have enjoyed a real upturn in both recruitment and retention. For

the first 6 months of this fiscal year, each of the four branches has exceeded its recruiting goals. The dropout rate is down sharply; 43 percent of those who finished first hitches in 1981 decided to reenlist—a level unmatched in peacetime history. Some experts expect both trends to continue for at least the next few years. Average troop intelligence is also rising. Only 18 percent of the recruits are not coming from the lowest acceptable mental test category, compared with 31 percent in 1980. The proportion of high school graduates among new recruits rose from 68 percent in 1980—a 5-year low—to 81 percent in 1981. The figure for 1982 is expected to be even higher since the Army is no longer recruiting those without high school diplomas.

Nevertheless, Mr. President, down the road there are considerable potential problems that may undermine this current success. For example, the pool of eligible young men of prime recruiting age—ages 17 to 21—is projected to decline dramatically over the next decade, from 10.8 million in 1978 to barely 9 million in 1990. Competition among the military, colleges, and industry for smaller numbers of qualified and talented young men and women can be expected to intensify substantially. Likewise, a lasting upswing in the economy, resulting in lower rates of unemployment and more job opportunities in the private sector, could reduce significantly the attractiveness of military service, as well as encourage more individuals to leave the military when their hitches are up.

Because of the foregoing, I share concerns that restoration of GI bill-type benefits at this time may be premature. However, I continue to believe strongly in the value of educational incentives to enhance recruitment and retention in the Armed Forces and as a sound investment in the future of our Nation. I fully concur with the sentiment that one does not "fix the roof when it is raining" and that the time to address the issues involved in educational incentives and their relationship to the needs of the All-Volunteer Armed Forces is not when, and if, recruitment and retention problems again reach emergency proportions.

STANDBY AUTHORITY

Thus, the amendment I am submitting for printing to my measure—and which I intend to offer, with appropriate conforming changes, to any peacetime GI bill measure brought before the Senate—would provide for a triggering on by the President of a peacetime GI bill educational incentives program. Under my amendment, the educational assistance program would become effective when the President, upon the recommendation of the Secretary of Defense made after receiving the views of the Secretaries of the military departments, makes certain specified findings—and the Congress does not disagree—that the program is necessary to assist in meeting recruitment and retention goals. After Presidential notice to the Congress 60 days before invoking the trigger, Congress by resolution—adopted by each House under an expedited consideration process modeled on the Budget Act expedited process for impoundment resolutions—could disapprove the establishment of the program. In this way, although a standby program would be on the books, it would not become effective until needed and not disapproved by the Congress. In addition, my amendment would provide for the program to be "triggered off" in the same manner when the need for it as a recruitment and retention device was clearly no longer necessary.

The provision in my amendment for a congressional role in the making of these determinations is very important, Mr. President. It seems to me that what is involved here would be the delegation by the Congress to the President of a legislative decision. It is the province of the Congress to establish effective dates for programs. This is a very important responsibility, especially where large expenditures are at stake, as they are here. Hence, as a matter of fiscal and legislative prudence and consistency with the Budget Act, Congress should be guaranteed a fair opportunity to participate in making, and, if it wishes, to disapprove of, any triggering determination by the President.

This congressional participation is fundamental to the standby approach I am proposing. Without an assured congressional role, I believe this would be an unwise and possibly unconstitutional delegation of legislative branch authority to the executive branch.

Mr. President, this approach, which is designed to take a forward-looking approach to the issues of providing for our national defense in the years to come, recognizes the current and likely future recruitment and retention situations and the concerns about both the cost-effectiveness and general effectiveness of a GI bill at this time. I believe it strikes the appropriate balance among these considerations.

DEPARTMENT OF DEFENSE FUNDING

The amendment to S. 417 also makes another fundamental modification to the approach in the bill. It provides that all benefits are to be funded from appropriations to the Department of Defense. I came to this conclusion last September when preparing for a markup, which was ultimately canceled, of educational incentive legislation by the Veterans' Affairs Committee, and circulated such an amendment to committee members in preparation for that markup. The amendment I am submitting today would make clear that the funds transferred from the Defense Department to the Veterans' Administration are to cover the costs of administration as well as paying benefits.

The basis for taking this approach is my conviction that the cost of these benefits must be considered in the context of their rightful place in our budgetary process—as a direct and continuing cost of providing for our national defense. Certainly, since what is at stake is solely a recruitment and retention device—and not a readjustment benefit—the Department of Defense should bear the costs of the program.

According to the September 21 "Dear Colleague" letter from Senators COHEN and ARMSTRONG, this Defense Department funding will also be a feature of their amendment.

CONCLUSION

Mr. President, I urge my colleagues to join me in this approach to designing a program of educational incentives for the All-Volunteer Armed Forces. I ask unanimous consent, Mr. President, that the text of the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3623

On page 2, strike out all on lines 9 through 11 and insert in lieu thereof the following: "by providing for the establishment for men and women entering active duty of an improved program of educational assistance designed to help in the recruit-".

On page 3, line 6, strike out "the" and insert in lieu thereof "The".

On page 3, between lines 8 and 9, insert the following new paragraph:

"(2) The term 'date determined by the President' means the date determined by the President pursuant to section (8)(a) of the All-Volunteer Force Educational Assistance Act.".

On pages 3 and 4, redesignate paragraphs (3) through (6) as paragraphs (4) through (7), respectively.

On page 3, line 17, strike out "June 30, 1981," and insert in lieu thereof "the date determined by the President,".

On page 4, line 5, strike out "June 30, 1981," and insert in lieu thereof "the date determined by the President".

On page 4, line 9, strike out "the" and insert in lieu thereof "The".

On page 5, line 16, strike out "June 30, 1981," and insert in lieu thereof "the date determined by the President".

On page 6, line 8, strike out "June 30, 1981," and insert in lieu thereof "the date determined by the President,".

On page 10, line 16, strike out "June 30, 1981," and insert in lieu thereof "the date determined by the President,".

On page 15, beginning on line 4, strike out all through line 12, and insert in lieu thereof the following:

"(a) Payments for entitlement earned under this chapter and payments under subsection (b) of this section shall be made from appropriations made to the Department of Defense.

"(b)(1) The Secretary of Defense shall make payments to the Administrator for all expenses incurred by the Administrator in administering this chapter.

"(2) Payments under paragraph (1) of this subsection shall be made in advance or by way of reimbursement, with necessary adjustments for overpayments and underpayments.".

On page 19, strike out all on lines 16 and 17 and insert in lieu thereof the following:

SEC. 8. (a)(1) Subject to subsections (c), (d), and (f) and except as provided in subsection (e), the amendments made by sections 2 through 6 shall take effect on the date determined by the President, upon the recommendation of the Secretary of Defense, in accordance with the provisions of paragraph (2).

(2)(A) In making a determination pursuant to paragraph (1), the President (i) shall take into account (I) the projected costs of establishing the improved program of educational assistance for men and women entering active duty in the Armed Forces that would be established under chapter 30 of title 38, United States Code (as added by section 2(a)), (II) the recruitment and retention experiences of the Armed Services in the preceding fiscal year and the projected recruitment and retention performances of the Armed Services for the fiscal year in which such determination is made and the next four fiscal years, and (III) other alternatives and their projected costs to enhance such recruitment and retention, and (ii) shall determine a date for the establishment of such program upon finding that the establishment of the program on such date is, in terms of the factors specified in clause (i), necessary in the national interest of the United States in order to achieve the purposes of such chapter 30.

(B) Prior to making a recommendation under paragraph (1), the Secretary of Defense shall consult with the Administrator of Veterans' Affairs and obtain and review the recommendations of the Secretaries of the military departments in terms of the considerations specified in subparagraph (A).

(b)(1) Subject to subsections (c) and (d) and except as provided in subsection (e), no person shall be eligible for benefits under chapter 30 of title 38, United States Code (as added by section 2(a)), who enters a period of active duty in the Armed Forces after the date determined by the President, upon the recommendation of the Secretary of Defense, in accordance with the provisions of paragraph (2), to be the date for termination of eligibility for benefits under such chapter.

(2)(A) In making a determination pursuant to paragraph (1), the President (i) shall take into account (I) the projected costs of continuing the improved program of educational assistance established under chapter 30 of title 38, United States Code, (II) the recruitment and retention experiences of the Armed Services in the preceding fiscal year and the projected recruitment and retention performances of the Armed Services for the fiscal year in which such determination is made and the next four fiscal years, and (III) other alternatives and their projected costs to enhance such recruitment and retention, and (ii) shall determine a date on which continuation of such a program is, in terms of the factors specified in clause (i), no longer necessary in the national interest of the United States in order to achieve the purposes of such chapter 30.

(B) Prior to making a recommendation under paragraph (1), the Secretary of Defense shall consult with the Administrator of Veterans' Affairs and obtain and review the recommendations of the Secretaries of the military departments in terms of the considerations specified in subparagraph (A).

(c) On each December 1 after the date of the enactment of this Act through 1987, the President shall make a determination pursuant to subsection (a)(1) or subsection (b)(1), as appropriate, and shall, not later than 30 days thereafter, submit to the Committees on Armed Services and Veterans' Affairs of the House Representatives and the Senate a report explaining the reasons for that determination. Subject to subsection (f), the President may also make such a determination on any date other than December 1.

(d)(1) Not later than 60 days prior to a date determined by the President pursuant to subsection (a) or (b), the President shall submit to the Committees on Armed Services and Veterans' Affairs of the House of Representatives and the Senate written notice thereof, together with a report explaining the reasons for the determinations.

(2) For the purposes of computing the 60-day period referred to in paragraph (1) and the 30-day period referred to in subsection (c), there shall be excluded—

(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

(B) any Saturday and Sunday, not excluded under the preceding clause, when either House is not in session.

(e)(1) The amendments made by sections 2 through 6 shall not take effect on the date determined pursuant to subsection (a) if, prior to such date, the House of Representatives and the Senate each adopt a resolution disapproving such determination.

(2) The period for acquiring eligibility for benefits under chapter 30 of title 38, United States Code (as added by section 2(a)), shall not terminate on the date determined pursuant to subsection (b) if, prior to such date, the House of Representatives and the Senate each adopt a resolution disapproving such determination.

(3) The provisions of sections 1017(b), (c), and (d)(1), (2), and (3) of the Impoundment Control Act of 1974 (Public Law 93-344; 88 Stat. 332 et seq.), shall apply to a resolution under paragraph (1) or (2) which expresses only the disapproval of the House of Representatives or the Senate of such a determination in the same manner that such provisions apply to an impoundment resolution (as defined in section 1011(4) of such Act), except that the first reference in such section 1017(b) to "the committee" shall be deemed to be a reference to "the Committee on Armed Services" and the references in such section 1017(b) to "proposed deferral" shall be deemed to be references to the determination involved.

(f) The authority of the President to make a determination pursuant to subsection (a) shall expire on December 1, 1987.

Amend the title so as to read: "A bill to amend title 38, United States Code, to provide a new educational assistance program for persons who enter the Armed Forces after a date to be determined by the President, and to modify the December 31, 1989, termination date for the Vietnam-era GI Bill; and for other purposes."

RESEARCH IN WATER RESOURCE DEVELOPMENTS

AMENDMENT NOS. 3624 THROUGH 3626

(Ordered to be printed and to lie on the table.)

Mr. TSONGAS submitted three amendments intended to be proposed by him to the bill (S. 2443) to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs, of the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Thursday, September 30, at 9:30 a.m., to receive a State Department top secret briefing on Taiwan arms sales.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 30, at 4:15 p.m., to receive a secret briefing from the State Department on the U.S. Marines in Lebanon.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, September 30, to consider the nominations of Fowler West to be a Commissioner of the Commodity Futures Trading Commission, and Orville Bentley to be Assistant Secretary of Science and Education, USDA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTRY, WATER RESOURCES, AND ENVIRONMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Forestry, Water Resources, and Environment, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, September 30, at 10 a.m., to hold a hearing on marihuana on public lands.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 30, at

2 p.m., hold a State Department consultation on export of helium-3 (dual-use nuclear export) to South Africa.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE NEED TO REEXAMINE MONETARY POLICY

● Mr. QUAYLE. Mr. President, earlier today my friend and former colleague in the House of Representatives, JACK KEMP, introduced an important bill entitled "The Balanced Monetary Policy and Price Stability Act." The purpose of his bill is the need to change the focus of monetary policy from the money supply itself to interest rates. Although I have not fully digested its contents, I certainly agree with the intent of this bill—which is to shift attention to interest rates instead of monetary aggregates. I welcome his important contribution to the serious and pressing debate.

Mr. President, last March I introduced Senate Concurrent Resolution 71, a concurrent resolution calling on the President and the Federal Reserve Board to work together to stabilize real interest rates at a level much closer to their historical averages, levels that would allow vigorous but stable economic growth. At that time I was concerned that the continuation of a tight monetary policy would preclude any possibility of the economic recovery needed to put millions of Americans back to work and to save millions of American farms and businesses from ruin.

The past 6 months have not shown any evidence of the type of recovery so badly needed by our economy, by our factories, by our farms, and by our businesses. In fact, we have seen a disheartening succession of layoffs, foreclosures, bankruptcies, defaults, and failures such as we have not experienced since the 1930's. Unfortunately, the last economic indicator to change with economic recovery is unemployment—the most important. There are positive signs with a drop in inflation rates and the prime rate, but our battle on unemployment must be won.

Mr. President, I am not one to seek a single cause or scapegoat for the Nation's economic ills. I know entirely too well that, over the years, Federal budget deficits have contributed mightily to inflation and high interest rates. Although some progress has been made the past 2 years in reducing the rate of increase in the Federal spending, Congress has not shown the type of courage needed to bring these problems under control.

Despite this caveat, Mr. President, I do not think we can in any way ignore the effect of current monetary policy on keeping interest rates at historic high levels and inhibiting economic recovery. Many commentators and forecasters are now suggesting that the Federal Reserve Board has eased its tight monetary policy, and that, therefore, interest rates will continue to decline. Even if the Fed has eased somewhat, it has done so only timidly and in a fashion that cannot by itself lower interest rates.

I was struck yesterday by an article discussing the bond markets which appeared in the September 28 issue of the Wall Street Journal. The title of the article was as follows: "Bond Prices Climb as Conviction Grows That Economy Will Continue To Be Weak." This article, like many others in recent weeks, makes the observation that interest rates have declined because there is so little hope or prospect for a near-term economic recovery. The objective conditions allowing the recent downturn in interest rates are a direct reflection of this pessimistic assessment: First, demand for business and consumer loans has dropped—because businesses are not expanding and consumers are extremely cautious—and, second, the Fed has allowed growth in the monetary aggregates at the upper end of its target ranges—probably to avert the financial disaster that high interest rates would have otherwise caused.

Mr. President, I must repeat today the questions I asked 6 months ago: Can we have an economic recovery with a monetary policy that pays no attention to interest rates? What will interest rates climb to when loan demand picks up at the first sign of economic recovery? What type of economic growth can we expect with a prime rate of at least 13.5 percent and mortgage rates at 15 percent and higher?

Mr. President, the prognosis as I see it is not terribly encouraging. I simply do not think the economy can remain stable, much less grow, when interest rates are at current levels. I think it would be disastrous if we saw another spike in interest rates when the economy starts to grow and loan demand becomes more healthy.

In these circumstances, Mr. President, I believe it is imperative that we reexamine our monetary policy. We cannot make thousands of jobless workers, bankrupt businesses, and foreclosed farmers the guinea pigs of an academic theory on monetary policy. We must take responsible steps to reverse the economic trends of the last 18 months.

Mr. President, last March I proposed a simple resolution calling on the Federal Reserve Board to target real interest rates at a level approximating their historical average. Others would support a much more specific directive to the Fed and would write that directive into law. My friend JACK KEMP would subordinate the policy of targeting real interest rates to that of protecting a stable level of prices. The common theme of all these proposals is obviously a call for the Fed to pay more attention to real interest rates.

Mr. President, in today's economy this shift in focus is of paramount importance. I fear that the continuation of the current recession could lead us to an economic disaster from which it would be extremely difficult to recover. In these circumstances I would urge the Fed to work with the Congress to do all that is necessary to bring real interest rates down even further. If such a policy involves economic tradeoffs, I would still insist on the importance of lowering interest rates. Economic recovery no longer seems possible in the absence of such a trend.

In conclusion, Mr. President, I must insist that we continue to focus our attention on the monetary policy of the Federal Reserve Board. Just because the prime rate has fallen by 3 percent recently does not mean that we are absolved of this responsibility—because a prime rate of 13 to 13.5 percent will not allow a sustainable economic recovery. We must continue to focus our creative thinking and our political will on the problem of economic recovery—and lower interest rates are the key to any vigorous and stable recovery. I continue to believe that Senate Concurrent Resolution 71 is an appropriate vehicle for encouraging the redirection of monetary policy, but I certainly applaud the initiative of JACK KEMP and others to suggest positive alternatives, and I, for one Senator, will give serious attention to his important ideas.●

THE FILIBUSTER RULE

● Mr. KENNEDY. Mr. President, I would like to call the attention of my colleagues to an insightful essay written by a close friend of mine and one of the great lawyers in America, Joseph L. Rauh, Jr.

Mr. Rauh's discussion of the recent debate in the Senate on constitutional rights and the power of the judiciary entitled "Okay, So Change the Filibuster Rule" appeared in the Washington Post on September 25.

In that article, Mr. Rauh forcefully addresses the perceived inconsistency between the traditional opposition of many of us to the filibuster rule and the recent use of that rule to help stop a dangerous assault on judicial independence and our constitutional system. Mr. Rauh notes that certain interests object to the opponents of rule 22 invoking it in this instance. He then argues that, given the procedural rules of the Senate as they now exist, it is absurd to expect one side to forswear Rule 22 while the other side can invoke it at will. Let us change it for

everyone—or it will be available to everyone.

As usual, Joe Rauh offers us an important measure of commonsense—and shows us how to apply our principles to the policymaking process.

Mr. President, I ask that the full text of Mr. Rauh's essay be included in the RECORD.

The essay follows:

OKAY, SO CHANGE THE FILIBUSTER RULE

(By Joseph L. Rauh Jr.)

The Posts "Liberal Filibuster" editorial [Sept. 20] asks a fair and timely question: how come those who stoutly denounced the use of the Senate filibuster against civil rights and other proposed liberal legislation in the 1950s and '60s now support that same anti-democratic procedure against school prayer, court-stripping, anti-abortion and other measures emanating from the New Right? As one who worked in the Leadership Conference on Civil Rights to amend Senate Rule 22 at the opening of each new Congress in the 1950s and '60s to curb the filibuster and make it possible for a majority to get to a vote on pending bills, I accept the challenge to justify what The Post calls "this Great Turnabout."

Of course, a majority of the Senate should have the right, after a reasonable time, to cut off debate and get to a vote. As Sen. Henry Cabot Lodge Sr. put it some 90 years ago: "To vote without debating is perilous, but to debate and never vote is imbecile." Or, as Alexander Hamilton put it in "The Federalist" 100 years or so earlier, "If a pertinacious minority can control the opinion of a majority . . . the majority, in order that something may be done, must conform to the views of the minority. . . ."

Of course, too, the Constitution intended majority rule in the Senate as the method of enacting legislation. Where the framers intended to require more than a majority (veto overriding, treaty ratification, members' expulsion, impeachment, constitutional amendment), the Constitution explicitly so states. Both by word and deed, the framers made clear their belief that the majority should prevail.

Of course, also, filibusters have attacked legislation concerning the most basic of human rights. The injury inflicted by those long delays is irreparable. A generation of citizens suffered a tragic loss of rights in the post-World War II period while a minority of senators talked to prevent a vote on civil rights legislation.

So, if majority rule is right, constitutionally intended and historically vindicated, what is the justification for the liberal use of the filibuster today against legislation that would outlaw abortion, permit prayer in the public schools, strip the courts of jurisdiction and the like? The answer was given by the late great senator from Oregon, Wayne Morse, who would put a rose in his buttonhole, walk on the floor of the Senate to start a filibuster and announce that he was prepared to put his talkathon aside if the Senate would take up Rule 22 and amend it to outlaw filibusters. But Morse also made clear that, if those on one side of the ideological spectrum, the conservative side, were going to use the filibuster as a weapon against legislation they didn't want, he saw no reason why the other side, his side, should not do likewise.

That is exactly how I feel. I am as much against the filibuster today as I was when we were fighting for civil rights legislation in the 1950s and '60s. If anyone, liberal or conservative, wants to mount an effort at the opening of the next Congress to change Rule 22 so that a majority of the Senate, after a reasonable time, can cut off debate and get to a vote, count me in.

The Post's editorial, quite fairly, reminds everybody of the intense arguments the anti-filibuster groups made at an earlier time that "preventing an issue from being voted on on the floor was an outrage against democracy and the people's right to a decent, straightforward government." That's still true. But the answer is not for conservatives to use the filibuster and liberals to forswear the weapon. The answer is to change the Rule.

Look at it this way: the present Rule 22 requires 60 senators to be on the floor and vote in favor of cutting off debate; in other words, a filibustered bill requires 60 votes before it can pass. If there is no filibuster, 40 to 50 senators (a majority of those on the floor) can pass a bill. Thus, if the conservatives continue to use the filibuster against liberal legislation, it will take 60 senators to pass a liberal bill. On the other hand, if liberals forswear the filibuster, conservative legislation can be passed with 40 or 50 votes. How in heaven's name can anyone justify a system whereby liberal legislation takes 60 votes and conservative legislation takes only 40 or 50?

The House of Representatives operates under majority rule. The Senate should, too. But there cannot be one standard for ideological bills of one sort and another standard for measures of a different ideology. Criticism of the use of the filibuster by liberal senators is like criticizing a person who opposes the deduction of interest payments from federal income taxes because he takes the deduction the law allows or telling a prize fighter to go into the ring with one hand tied behind his back.●

THE FIFTH ANNIVERSARY OF THE CONNECTICUT STATE OFFICE OF PROTECTION AND ADVOCACY FOR HANDICAPPED AND DEVELOPMENTALLY DISABLED PERSONS

● Mr. WEICKER. Mr. President, October 8 will be an important day for the State of Connecticut and its 350,000 disabled citizens for it will mark the fifth anniversary of the creation of the State office of protection and advocacy for handicapped and developmentally disabled persons. Established in 1977 to comply with the Developmental Disabilities Assistance and Bill of Rights Act, the Connecticut agency is one of the few protection and advocacy office in the Nation which as part of its State mandate must serve all people with disabilities not just those with developmental disabilities as is currently required under Federal law. Over the past 5 years, therefore, the protection and advocacy office has filled quite a sizable gap in services for the disabled by being the only Connecticut agency whose sole interest and very reason for being is to preserve, protect, and enhance the rights, of such individuals. In fulfilling this vital function, the office engages in a myriad of activities ranging from routine SSI casework to conducting public services advertising campaigns designed to heighten the public's awareness of the needs, rights, and abilities of people with disabilities.

When it has had to, the protection and advocacy has not hesitated to go to court in order to insure that disabled people receive the full protection afforded them under the laws and the Constitution of this country. As a result, some of the stands which the agency has taken over the years have not always been popular. However, through a rare combination of patience and persistence, the office has been making considerable progress in educating local elected officials and town residents alike to the fact that being retarded never stopped anyone from being a good neighbor.

During the past 5 years, Connecticut's Protection and Advocacy Office has been a positive force working on behalf of our State's disabled citizenry. No small measure of the success of this agency is directly attributable to the leadership provided it by Elliot J. Dober, the agency's executive director, and Stanley Kosloski, assistant director. The foresight and fortitude of both of these men is the reason why the agency has come so far in eliminating environmental and attitudinal barriers which have long stood in the way in the participation of disabled persons in the mainstream of America's life. For all that both men and their staff have done to improve the opportunities available to disabled people to lead satisfying and productive lives, they deserve our commendation and our thanks. Special thanks is also owed to Robert Melandor, who as a parent and attorney helped to draft the original State legislation establishing the office and who now serves as the acting chairperson of its citizen advisory panel.●

THE AMERICAN TAXPAYER AND "PLANNED PARENTHOOD"

● Mr. HELMS. Mr. President, in recent weeks there have been two insightful newspaper columns on Planned Parenthood and its involvement in pro-abortion advocacy—one by William F. Buckley, Jr., and the other by John Lofton. Both are well-known and articulate syndicated columnists.

With regard to Planned Parenthood, the Buckley and Lofton articles speak for themselves. I commend them to my colleagues and the public. Moreover, I hope that all Federal and State legislators will pause to think about the true nature of Planned Parenthood, not its carefully developed public relations image, before they appropriate more hard-earned tax money to this organization.

Mr. President, I ask that the aforementioned columns be printed in the RECORD.

The articles follow:

[From the Chicago (Ill.) Daily News, Aug. 19, 1982]

TRUTH-IN-ABORTION

(By William F. Buckley, Jr.)

The Planned Parenthood people are featuring a full page ad of a bed, with three people under the covers sitting upright, unsmiling. On the left the young woman, in her nightie. On the right, the young man in pajamas. Between them, dressed in a business suit, a grim-faced middle-aged man. The headline: "The Decision to Have a Baby Could Soon Be Between You, Your Husband and Your Senator."

The brief textual message warns that the U.S. Senate will soon vote on a bill which "could deprive you of your most fundamental personal rights: the right to have the number of children you want. When you want them. Or to have none at all." And it continues: "Sponsoring the bills are Jesse Helms, Orrin Hatch and other right-wing U.S. Senators who will stop at nothing to impose their particular religious and personal beliefs on you."

Now, we live in an age when people will publicly swear to it that to be refreshed you need only a glass of Coca-Cola, or to be nourished a cupful of Wheaties, or to live vigorously a tablespoonful of Geritol; and we smile at our own commercial exuberance. But along the way a lobby in America crystallized that began to insist on certain restrictions. They tend to crowd under the generic heading of truth-in-selling. What galls is that the very same people who are mobilizing to resist outrageous hyperbole by corn-flakes vendors sponsor, and tolerate, the kind of disingenuous, hypocritical blather for which the Planned Parenthood association should be driven out of business.

The Hatch Bill seeks to return to the states the powers they exercised up until 1973. It is that simple. The bill in question is indeed sponsored by those who disapprove of abortion. To reason from the disapproval of abortion an aggessive desire to regulate the size of a family is as reasonable as to charge that any senator who opposes infanticide aggresses against the sovereign right of the parents to decide on how large a family to have. One would not think it necessary to lecture to Planned Parenthood on alternative ways of regulating the size of a family than by abortion.

And then the sly business about senators who "will stop at nothing to impose their particular religious and personal beliefs on you." What is that supposed to mean? What beliefs is a legislator supposed to act upon? Elvis Presley's? If a legislator believes that it is religiously wrong, let us say, to kill one's aged grandparent, is he exercising sectarian aggression in acting on that belief by voting against euthanasia? Sen. Helms is a Baptist, Hatch a Mormon. Are we supposed to ask what is the religion of the Planned Parenthood people, and are they "acting" on that religion in insisting that the newly discovered (1973) right to terminate the life of an unborn child be guaranteed by the federal government?

What gets you about the pro-abortion people, when all is said and done, is their persistent refusal to face up to the only serious question involved in this heated controversy. It is as if, 150 years ago, slave-owners had taken out full-page ads asking whether you wanted the Congress of the United States to decide whether you could own property. No, no, no, the abolitionists said. It isn't a question of whether people should be permitted to own property. It is a question of whether black people can qualify as property. Well, the right-to-life people are saying no, no, no, the question isn't how large a family the parents desire, the question is whether the implementation of that right should include the right to kill a substance which is more accurately described as human life than as animal life.

It could be that the Achilles' heel of the pro-abortionists is marvelously revealed in such an ad as this one. Their argument, you see, is reduced to a level so ridiculous, it would be hard to find an African witch doctor who wouldn't be embarrassed by the use of it. There simply aren't that many Americans who really believe that what threatens in Washington is a senatorial presence in the bedchamber. If they can believe that, they can believe anything, including the proposition, manifestly preposterous, that the Planned Parenthood people are responsible citizens. A crude way to put it is that those who devised that particular ad could justifiably accuse their parents of permissiveness.

[From the Washington Times, Aug. 30, 1982]

THIS KIND OF SILENCE IS FAR FROM GOLDEN

(From John Lofton's Journal)

On Wednesday, the day after tomorrow, in Indiana, a state law was to go into effect which would have required that parents be notified at least 24 hours before an abortion is performed on their minor daughter. But, Planned Parenthood is seeking a preliminary injunction to stop this law from being enforced because it "unduly burdens the right of minors to freely make and effectuate a decision to terminate pregnancy—a fundamental right of privacy."

Now, the first thing this legal action does is make a liar out of this organization's chief lawyer. On the CBS television program "Up To The Minute" several months ago, Harriet Pilpel, general counsel of the Planned Parenthood Federation of America, declared flatly: "Every Planned Parenthood affiliate I know makes every effort to involve the parents with any adolescent who consults them."

But, in fact, this is obviously not true. What the Planned Parenthood people in Indiana are attempting to do is deny parents any legal right to know if their minor child is about to get an abortion.

The second thing the lawsuit in question does is to allude to a right that simply does not exist: the absolute right of a minor to privacy. When I asked Ann McFarren, executive director of Planned Parenthood Associates of Northwest Indiana where such an absolute right comes from, she replied:

"It's our interpretation that this is the statement of the Supreme Court and it is one of the things we're seeking to get clarification on that still hasn't been clearly delineated."

Me: But your suit clearly implies that an absolute right of privacy already exists for minors. When has the Supreme Court ever so ruled?

McFarren: "Well, it hasn't excluded this either. And this is one of the things our suit will help clarify."

This is, of course, double-talk. What the Indiana Planned Parenthood groups are trying to do is not clarify any absolute right of privacy for minors, but create such a right.

Noting that their suit makes no distinction among minors, I ask: Are you really serious when you say that parents have no legal right to know, in advance, if their 10-, 11- or 12-year-old daughter is about to get an abortion?

McFarren: (Pause) "I guess I'm feeling you're pushing for absolutes and if I had to go absolute one way or the other I suppose I would be pushed into that position yes."

McFarren says that the difference between us is that I seem to be able to "very easily" distinguish what ought to be absolute whereas she views the world as "a little more complex than that." She adds that while parental involvement is prefereable in "most situations," there are times when such involvement is "detrimental" to both parents and "the patient" (this is what Planned Parenthood people call 10-, 11- or 12-year-old girls).

But, McFarren is an absolutist. When it comes to the legal right of parents to know if their minor daughter is about to get an abortion, she is absolutely against any such right for any parent. Period.

Now, I don't doubt for a minute that if some parents did know, in advance that their minor daughter was about to get an abortion this would complicate the situation. But even so, in my judgment, all parents of all minors should still have this right. After all, what is at stake here is simply prior notification, not parental permission.

The fascinating thing is that the Ann McFarrens of the world can see the possibility of problem parents, but they never seem to consider the possibility of problem abortionists. And they do exist. A series of articles in the Chicago Sun-Times in 1978, titled "The Abortion Profiteers," revealed the following about Windy City clinics:

Dozens of abortion procedures were performed on women who were not pregnant;

An alarming number of women suffered such severe internal damage that all their reproductive organs had to be removed;

Some doctors performed abortions in only two minutes not even waiting for the anesthetic to take effect;

Some counselors were paid not to counsel but to sell abortions with sophisticated pitches and deceptive promises; and

Some referral services, for a fee, sent women to a disreputable Detroit abortionist whose dog, to one couple's horror, accompanied a nurse into the operating room and lapped blood from the floor.

It is into this potentially monstrous maelstrom that the Planned Parenthood crew would hurl our minor daughters without even letting us know.

What the Planned Parenthood mindset represents is a throwback to the Dark and Middle Age concept of children as "miniature adults"—a dangerously naive notion written about in horrifying detail in a new book "The Disappearance of Childhood" (Delacorte Press) by Neil Postman professor media ecology at New York University. Says Postman:

"The liberal tradition (or as the Moral Majority contemptuously calls it, secular humanism) has had pitifully little to offer in this matter. For example in opposing economic boycotts of TV sponsors, civil libertarians have taken the curious position that it is better to have Procter & Gamble's moral standards control television's content than Queen Victoria's. In any case to the extent that a political philosophy can influence cultural change, the liberal tradition has tended to encourage the decline of

childhood by its generous acceptance of all that is modern as a corresponding hostility to anything that tries to 'turn back the clock'. But in some respects the clock is wrong, and the Moral Majority may serve as a reminder of a world that was once hospitable to children and felt deeply responsible for what they might become."

To those of you who might say you don't care what Planned Parenthood is trying to do I would say: you ought to because you are paying for their unceasing efforts to destroy the American family. During the past five years, the Planned Parenthood Federation, at the international level, has had its snout thrust deeply into the public through to the tune of $49.9 million worth of your hard-earned federal tax dollars and mine. To finance it 188 U.S. affiliates, Planned Parenthood has gotton $248.3 million in federal tax dollars.

You'd think that with this kind of support from so many parents the folks at Planned Parenthood would allow parents to plan something.●

PATRICIA MOONEY PARKER: BROADWAY LIGHTS SHINE ON TALENTED TARHEEL ACTRESS

● Mr. HELMS. Mr. President, this past week a very talented and lovely young lady from North Carolina, Patricia Mooney Parker, made her debut on Broadway in the musical, "A Doll's Life." I join her parents and their many other friends in expressing a sense of joy and pride in her accomplishments.

The September 15 edition of the Elizabeth City (N.C.) Daily Advance carried an interesting account of Patricia's accomplishments. It was written by the paper's Chowan County correspondent, Ken Kinion.

Mr. President, I ask that the article by Mr. Kinion be printed in the RECORD at the conclusion of my remarks.

The article follows:

THE LIGHTS OF BROADWAY SHINE ON EDENTON'S OWN

(By Ken Kinion)

Patricia Mooney Parker, a native of Edenton, will make a lifelong goal a reality when she makes her debut on Broadway, September 23 in the musical "A Doll's Life." Patricia is the daughter of Mr. and Mrs. Jack Mooney.

The musical is directed by Harold Prince who has won numerous Tony Awards and is presently considered the "King of Broadway" by many theatre-goers. The book and lyrics are by Betty Comden and Adolph Green. Music for the production is by Larry Grossman. Appearing in the leading roles will be George Hearn and Betsy Jolson. The Mark Heldinger Theatre on Broadway and 51st Street in New York City is the location of the upcoming musical.

"A Doll's Life" is a musical sequel to Henrik Johan Ibsen's play "A Doll's House" of 1879. In "A Doll's Life," a play within plays, all the characters have several roles. Patricia plays four character roles, all musical with one exception. Her character is listed on the program as "Woman in Black." Patricia excitedly commented that the play is "so new and creative with constant changing of dialogues, thus making each character stronger."

Patricia has recently returned to the East Coast after having been cast in the off-Broadway play in Los Angeles for three months. She was quite pleased with the response of the play in California and is very optimistic for the success of the upcoming Broadway performance.

A lyric soprano, Patricia initiated her career goals at a very early age. Her musical talent was nurtured by her mother, a music teacher. Having set her goals, Patricia designed a plan of training, hard work, education, dedication, persistence and a high consistent level of self-discipline. When questioned if luck is essential in climbing the performance ladder of success, she quickly added, "A lot of luck is always involved, but one must plan his luck. Luck just doesn't come to one. You must plan it. It's part of the career plan strategy."

Patricia attended Edenton Elementary School. In the early 1960's her parents moved to Raleigh and she attended Broughton High School. In high school she was selected to attend the first summer school session of the North Carolina Governor's School for the Gifted in the Performing Arts. She auditioned for the North Carolina Symphony and was chosen as the youngest vocalist.

A graduate of Converse College Conservatory of Music, she majored in voice performance and won numerous vocal competitions. She also sang with the opera workshop. She received her master's degree at the Eastman School of Music in Rochester, New York.

In between schooling and several teaching positions, there were times in which she worked in offices, coaching, going to operas, giving recitals and other minor chores which was often done on a "lean budget," but this was necessary "to grow as an artist."

Patricia has no problem in separating her roles in the fantasy world of music and drama from her real life. She "treats this aspect as part of the professional job and does not take her characters home with her at night."

Mr. and Mrs. Mooney, Patricia's parents, plan to fly to New York for the first performance of "A Doll's Life." Mr. Mooney stated, "Throughout the years I told Patricia it was a long, hard road in musical and theatrical success and she would probably be over 40 before she reached her goal. Now, she is on her way to one of the ultimate steps of success several years ahead of time. She's worked hard for many years to attain this level of performance and we are really proud of her. September 23rd will be one of the most exciting events in our life."●

IS THIS WATERWAY A GOOD INVESTMENT?

● Mr. DOMENICI. Mr. President, the St. Louis Post-Dispatch recently published an article that discussed the Federal investment in a waterway that appears to be operated by the taxpayers for the exclusive use of a single corporation.

This article focused on the Kaskaskia Waterway in Illinois, which the Post-Dispatch describes as essentially the private preserve of Peabody Coal Co. The company uses the waterway to ship coal to a powerplant in Missouri. The existence of this "free" waterway had the effect, the article notes, of reducing by $2.50 a ton the per-ton shipping cost of moving the coal to the powerplant.

That sounds like a sound investment, does it not? The only problem is that the taxpayers of America are spending $5.18 per ton of Kaskaskia River coal to operate and amortize the waterway.

Stated that way, this does not sound to me quite as wise an investment.

My colleagues know of my long interest in the issue of waterway user charges. Frankly, I can see few better examples of the need for such charges than the Kaskaskia Waterway.

Mr. President, I ask that the article by Tim Renken be printed at this point in the RECORD.

The article referred to follows:

[From the St. Louis Post-Dispatch, July 18, 1982]

MEANT TO BE A LIFELINE, KASKASKIA BLEEDS TAXPAYER

(By Tim Renken)

When the Kaskaskia River Navigation Project was being promoted to Congress in the 1960s, it was touted as a $67 million artery of commerce that would lead to a mining and industrial boom, spawn thousands of jobs and send economic ripples throughout Southern Illinois.

But since the public waterway opened five years ago, Army Corps of Engineers records show that the only freight that has moved on the river is coal mined by Peabody Coal Co. of St. Louis.

All of the coal has been carried by tows owned by Peabody. And virtually all of that coal has gone to one Peabody customer, a power plant at New Madrid, Mo.

It costs Peabody's customer $2.30 to move a ton of coal down the Kaskaskia River. That $2.30 does not cover all the shipping costs, however. Last year, American taxpayers paid what amounts to an additional $5.18 a ton for the coal to be shipped on the Kaskaskia.

Taxpayers are having to subsidize the coal shipments becaue the project hasn't generated the business that was promised and because the total cost of the project is expected to reach $162 million by the time it is completed.

Jill Greenbaum, director of the National Taxpayer's Union of Washington, called the project "an incredible boondoggle, one in which the public is paying the bills and one company reaping all the benefits."

Fred Smith of the Council For A Competitive Economy, a conservative businessman's group also based in Washington, called the project "an obvious example where taxpayers have been exploited by special interests. If Peabody thinks this project should survive, let's give it to them and let them make completing it and maintaining it a part of the cost of doing business.

Defenders of the Kaskaskia project say that it is too early to write it off as a failure. They say that the slump in the nation's economy has slowed growth in the region and that an upturn will bring the hoped-for development. They point to two new coal-fired power plants, one certain and one proposed, as indicative of the canal's value.

Stanley Reeble, director of the Kaskaskia Regional Port District, said of the project: "It's the best thing that ever happened to this area. With the river, this area has ev-

erything. Eventually, the canal will pay for itself many times over."

U.S. Rep. Paul Simon of Carbondale said that he believed the world market for Southern Illinois coal would grow in the years ahead and along with it traffic on the canal. But he said he did favor some form of user fees on the canal.

Wayne Ewing, president of Peabody's Illinois division, said the canal would pay dividends to the area far in the future.

"The coal business has been slow, there's no denying that, because our primary customer is the electricity industry and it has grown-little or none at all in the last few years," Ewing said. "But I see slow growth in coal sales, and in movement down the Kaskaskia, for many years and this will add up to significant growth by 1990."

Ewing said the coal now moving down the Kaskaskia provided jobs for about 1,000 people at four or five mines and support facilities. The company spends about $50 million on those employees' wages and benefits in all, Peabody has eight mines in Illinois and 3,400 employees

The Kaskaskia Navigation Project was placed in jeopardy a year ago when the Reagan administration ordered a sizable cut in spending for water projects. In response to this directive, the Corps of Engineers compiled a "hit list" of 35 projects, including the Kaskaskia. Each was to be shut down. So far, none of the projects has been closed, though operations at several have been curtailed. And the Kaskaskia project was removed from the list, at least temporarily, at the request of Congress.

The Reagan administration wants to establish a system of user fees that would make federal water projects at least partly self-supporting, and the Kaskaskia project has become a pawn in that effort.

The Kaskaskia River is a modest-sized stream that rises not far from Champaign and flows southewestward to the Mississippi River 12 miles north of Chester. Enroute it drains 600 square miles of fertile central Illinois farmland and passes through one of the largest coal fields in the world.

In the 1960s it became the focus of a huge development program, promoted and built by the Corps of Engineers, primarily with federal funds. The program included the construction of two high dams, Shelbyville and Carlyle, and the navigation project.

The navigation project was by far the most ambitious part of the program. It required the construction of a single lock and dam and massive excavations which coverted 52 miles of meandering, tree-lined river into 36 miles of steep-banked, rock-lined canal 300 to 400 feet wide with a minimum depth of nine feet and suitable for year-round passage of barge traffic.

The two reservoirs and the navigation project are tied together, in that one of the purposes of the reservoirs—perhaps the primary purpose—is to provide a stable water supply for the navigation project. The cost of all the work on the Kaskaskia will be about $280 million.

When the navigation project was put before Congress in the early 1960s, the corps estimated that in the 50-year life of the project an average of 15 million tons of coal a year would come out of nearby mines and move down the waterway to points around the country and the world. Last year only 2.8 million tons moved down the river, almost all of it going to the power plant at New Madrid. Last's year's tonnage was depressed by the coal strike. This year's tonnage is expected to be 3.5 million tons.

Previously, coal for the New Madrid power plant came from Southern Illinois by a combination rail and barge route that did not include the Kaskaskia River.

By shipping its coal via the canal, the power plant's operator, Associated Electric of Springfield, Mo., this year was estimated to have saved $2.50 a ton. This figure is based on the elimination of the rail segment of the route previously used for movement of the coal. At that rate, according to an Associated spokesman, the resulting saving for Associated's southeast Missouri customers has been less than one-half of 1 percent on their electric rates.

Peabody, the world's largest coal company, in its promotional brochures says it owns most of the vast coal reserves that lie underground along the river. Thus, any growth in coal traffic on the canal would benefit mainly Peaboby, though other coal companies own significant reserves in the area.

Peabody recently acquired a new customer for its coal. Construction is to begin this fall on a 450-megawatt coal-fired power plant on the Illinois River in Pike County, near Florence. The plant, owned by Soyland Power Cooperative of Decatur, will use 1.2 million tons of coal per year. The coal will be taken to Florence by Peabody's barge line, Mid-America Transportation Co.

A Soyland spokesman, Tom Seng, assistant to the general manager, said that barge transport of the coal was chosen because it was "somewhat cheaper" than rail transport. He would not disclose the price of the coal or the cost of its transportation.

Reeble, director of the Kaskaskia Regional Port District, said another power plant project that would be a customer for the area's coal is in the works. The Port District operates the Kaskaskia's only commercial freight dock and is the valley's chief development promoter. Reeble said he could not divulge names and dates yet, but said that the plant could be "twice as big" as the Soyland plant.

Reeble, a former Peabody employee who is a longtime booster for the project, said that there also is a good chance that a major energy conversion firm, Methacoal Corp, of Dallas, which converts natual gas and coal into an oil fuel substitute, will build a plant on the canal.

Leonard Keller, Methacoal's president told the Post-Dispatch that the lack of financing is holding up construction of a plant on the canal near Baldwin, Ill. The plant would employ 100 to 200 people, use 1.5 million tons of coal per year and produce the equivalent of 5.7 million barrels of crude oil a day for use in power plants in the Eastern U.S. and Europe. Presumably the company would ship its fuel down the canal.

It costs Associated Electric $2,30 to ship a ton of coal down the Kaskaskia to New Madrid. At the 1981 rate of shipping on the canal each ton of coal costs taxpayers $5.18, based on the project's annualized cost of $14.5 million, which includes maintenance, operations and interest (at 7⅝ percent) on the $162 million.

The increase in the cost of the Kaskaskia navigation project (from $67 million to $162 million) was caused partly by inflation and partly by design changes made necessary by unforseen problems. Most of the remaining $43 million needed to open the 17-mile stretch of the canal from New Athens to Fayetteville will be spent dredging silt from the previously-cut ditch and lining its banks with rock riprap.

The entire canal is silting far faster than the Corps had expected. The corps recently completed at Fayetteville a $1.3 million dam-like structure aimed at slowing siltation. The rock riprap, too, is supposed to slow bank erosion and siltation of the channel.

USERS OPPOSE WATERWAYS FEE

(By Tim Renken)

When the Reagan administration directed the U.S. Army Corps of Engineers to reduce its spending by $150 million last year, the corps published a list of 35 navigation projects it would close to comply.

The corps "hit list" included the Kaskaskia River and Missouri River waterway projects.

In addition to reducing revenues, the administration also proposed raising revenues by placing a charge on users of many corps projects. The waterway users' fee proposal offered by the administration would, if adopted by Congress, raise about $150 million a year—the same sum that the administration would have saved by closing the projects.

The user fee philosophy was voiced by Secretary of Transportation Drew L. Lewis Jr. in testimony given Feb. 4 before a Senate subcommittee.

"It seems to be only simple justice that profitmaking businesses should pay for the facilities they use rather than having the general taxpayers bear their costs," he said.

Edward Dickey, economic adviser to the assistant secretary for civil works of the Corps of Engineers, said that operating waterway projects with tax money "amounts to a subsidy that the taxpayers have been bearing without any real good reason."

Everyone does not agree with that statement. Waterway users, including barge lines, energy companies and farmers, constitute a powerful coalition of interests that opposes such fees. And, as Dickey said, user fees "don't have a constituency—other than taxpayers."

Many in Congress are not opposed in principle to waterway user fees, although they may not be supporting the administration's proposal. A member of this group is Rep. Paul Simon, D-Carbondale, who was instrumental in getting the Kaskaskia project removed from the "hit list" this spring.

David Carle, an aide to Simon, said that Simon's opposition to the administration's current user fees proposal stems from the belief that it is too drastic and too sudden.

"If the fees are too high and imposed too suddenly, it could cause abandonment of the waterways by shippers," he said. "He (Simon) doesn't want to do anything that would cause closure of these projects. That would prevent the nation from ever recovering the huge investment it has made."

Carle said that he foresees a move in the direction of increased user fees. Waterways users already pay a kind of user fee, a 6-cents-per-gallon tax on fuel used by towboats. But the tax does not begin to pay for operation and maintenance of the waterway system.

"The pressure for budget cutting is extremely strong now," Carle said. "User fees are one way to do that."

Dickey said that presently the user fees movement is at a standstill, with no hearings scheduled in either house of Congress on the administration's bills.

"I think that something may be done eventually," he said. "The need for new revenue is very strong. I think the best chance for some kind of fees is in new projects, such as the second lock on the Mississippi at

Alton. When waterway users want something new, they are more likely to agree to a system of fees."●

THE ALAMO MISSION BELL

● Mr. HELMS. Mr. President, last Saturday, September 25, I had the honor of participating in a special "School Prayer Day" observance on the Mall of the U.S. Capitol.

The rally was an expression of deep and continuing support for the basic constitutional right of public school children to engage in voluntary prayer.

President Reagan demonstrated his support for school prayer by lighting the first candle of the evening's candle light prayer ceremony. While the candles were being lit, the Alamo mission bell—symbol of a heritage of freedom and religious faith—was presented to the audience by Mr. Louis Ingram, representing the bell's sponsor, Mr. J. Evetts Haley. Mr. President, Mr. Ingram's remarks brought a message of courage and faith that deserves to be prayerfully remembered. For that reason I ask that the text of his remarks be printed in the RECORD at this point.

The remarks follow:

PRESENTATION OF THE ALAMO MISSION BELL AT SCHOOL PRAYER DAY 1982

I thank God for the opportunity to represent my dear friend J. Evetts Haley, who is one of contemporary America's great patriots, and for the opportunity to represent Clem Barns and the other trustees of The Nita Stewart Haley Memorial Library in Midland, Texas. The Haley Family and the Library are delighted to share with us here tonight this very special bell.

The bell from the religious Mission San Antonio de Velero, or the Alamo, as it is better known, is not just a relic from another time and another place. It is spectacularly relevant to us today.

In its three hundred and fifty years of development America has had many heroes, great and small. Every man and woman who has marched off to war in the cause of Liberty is a hero. But in general, they had a statistical probability of marching home. Not so, with the men who stood at the Alamo.

Crocket, Bonham, Bowie and the one hundred and eighty men who stepped across Travis' line had no statistical probability of marching home. Their choice was certain death at the hands of the murderous Santa Anna. Why they chose to die is why the Alamo bell is relevant today. Those men knew that their sacrifice would ignite the flame of Liberty among their fellow Texans.

They knew that Liberty was presupposed in God's creation of willful Man. They knew that to choose Life in preference to Faith and Duty was to surrender for ever their right to Liberty. That is why the Alamo bell is relevant to us today.

The devotion of Crocket, Bonham, Bowie and Travis and their courageous men is the autheisis of the modern moral decay bespoken in the phrase "better red than dead" which perfectly represents humanist thinking from whence cometh also antagonism to prayer which is antagonism to God Himself. For the wretched non-believer, it is an uncomfortable fact that the act of Prayer first of all recognizes the existance of God.

Just before the final onslaught by Santa Anna, Travis dispatched his last military communique at the end of which he appended a personal note. It began "Take care of my little boy."

Ladies and Gentleman, there are little boys and little girls across the width and breadth of this land who need us to care for them in the sense, at least that we reestablish meaningful religious freedom which means that they may pray, if they choose, in any public place—in school.

The Alamo bell has not always had the loving care it now receives and it no longer can be rung. Nevertheless, it stands as a resolute symbol of Liberty including religious Liberty. But you must be its voice.

This issue is your Alamo. You can cut and run with Moses Rose or you can step across the line and join Travis and the heroes who have gone before and fight to the victorious conclusion of our just cause. The choice is yours, the choice is now.

For those who have come here tonight who are going to stay in the fight God Bless you. God Bless America.

—LOUIS WILSON INGRAM, Jr.●

DEFENSE PRODUCTION ACT

● Mr. DANFORTH. Mr. President, I am pleased today to join as a cosponsor of S. 2961 and its companion amendment No. 3620 to S. 2375. This legislation would provide the Defense Department with $50 million in borrowing authority under title III of the Defense Production Act of 1950. This authority could only be used for purchase commitments to promote domestic production of strategic and critical minerals, metals, and materials.

To cite but one example why this legislation is needed, the United States is almost totally dependent on unstable regimes in Zaire and Zambia for its supply of cobalt. The largest single use of cobalt in this country is for super alloys, mostly for jet engine parts. Cobalt is critical for such aircraft as the F-15, F-16, and F-18, and for missiles and the M-1 tank.

Mining companies are ready and willing to expand their domestic production of cobalt to a level that would meet this country's strategic needs, but the risk of predatory pricing by foreign competitors currently makes such a step imprudent without a guaranteed market. A long-term purchase commitment by the Government under title III would provide the assurances these companies need to proceed with cobalt production and would assure the Nation of an adequate supply in time of crisis. Such a step, in my opinion, would be a prudent and foresighted one, in the interest of our national security, and I urge my colleagues to give favorable consideration to this legislation.●

END THE TAX SUBSIDIES FOR CORPORATE MERGERS

● Mr. HART. Mr. President, in recent months the demand on our Nation's limited credit facilities has increased, with billions of dollars being borrowed on a short-term basis from the banking system to finance the acquisition of one company by another. This demand for credit has increased the cost of money and been a factor in the high interest rates that have plagued our economy.

In this morning's New York Times, Mr. Edgar Bronfman, chairman and chief executive officer of Seagram Co., Ltd., proposed a simple, sensible tax reform to address this problem. Mr. Bronfman proposed to eliminate the tax deductibility of interest on corporate takeover money borrowed specifically to buy the common stock of another corporation. As Mr. Bronfman pointed out, to the extent that this interest was not tax deductible "Federal tax revenue would be increased and the average taxpayers would thus not be, as they are now, indirectly footing the bill for part of these corporate takeover games."

Mr. Bronfman has come up with an interesting and sensible proposal which will help address a very serious problem currently facing our credit markets. I intend to put this proposal into legislative form and introduce it at the earliest opportunity. I commend Mr. Bronfman's article to my colleagues and I ask that it be printed in the RECORD.

The article follows:

[From the New York Times, Sept. 29, 1982]

END THE TAX SUBSIDIES FOR CORPORATE MERGERS

(By Edgar M. Bronfman)

In the wake of the latest corporate-acquisition game—the four-way Allied-Bendix-Marietta-United Technologies deal—there is public confusion about who has done what to whom and what it all means. But more important, there is a public outcry, including voices of leading businessmen in the United States, that "enough is enough."

As one industrialist quoted in The Wall Street Journal said, summarizing a widespread frustration: "Maybe there's something wrong with our system when these four companies line up large amounts of money in order to purchase stock, when it doesn't help build one new factory, buy one more piece of equipment, or provide even one more job."

I am indeed an odd business executive to embrace this view. Not so long ago, our own company, the Seagram Company Ltd., was a major player in a multibillion-dollar acquisition contest that still holds the course record for size.

The result of the Conoco-DuPont-Seagram-Mobil jousting is well-known. DuPont acquired Conoco for cash and DuPont common stock, while Seagram became Du Pont's largest stockholder—slightly over 20 percent of the merged company.

I must point out, not in a self-serving way, that I believe all three shareholding groups, and certainly the Seagram shareholders, were delighted with the results, as am I.

But what of the general economy?

I am not an economist. But it is not difficult to recognize one huge demand on the United States' limited credit facilities. In

the takeover battles that we have all seen recently, and which are still going on, billions of dollars have been borrowed on a short-term basis from the banking system to finance the acquisition of one company by another.

When too many would-be borrowers are seeking credit, the cost of money goes up. This is especially true when the Federal Reserve system considers inflation a worse hazard than recession and is thus loath to increase the money supply—to print more money. High interest rates have been called by many the biggest barrier to economic recovery. There is surely a huge backlog of demand for housing as well as for automobiles, two of the most important industrial factors in our economic mosaic. But the high cost of money, as well as years of inflation, have put a new home or a new car beyond the reach of the vast majority of potential buyers, even though interest rates have come down somewhat recently.

There is a way to make available what I call more "constructive credit"—that is, credit that helps the economy: people, consumers, productivity, new products, research, industrial expansions and jobs.

If the interest on corporate takeover money borrowed specifically to buy the common stock of another corporation were not tax deductible, as it now is, such activity would be sharply curtailed. To the extent that it was not, Federal tax revenue would be increased and the average taxpayers would thus not be, as they are now, indirectly footing the bill for part of these corporate-takeover games.

All activity in the field of mergers or acquistions would not stop, of course. It would still be possible, even as it is today, to effect such marriages through exchange of securities, or sale and purchase of assets and other methods well known to industry.

What would change is that unfriendly takeovers would become discouragingly expensive and bank credit would not be used to enrich a few shareholders, discharged executives, arbitragers, lawyers and others without real benefit to the economy as a whole. Banks would have billions of dollars to lend more creatively, while the supply of credit would increase with a probable drop in interest rates.

At a time when we want less, not more, Government regulation, this would free up credit to expand the economy rather than further restrict it. The tax-deductibility of interest on such loans is now, in effect, a Government-issued benefit and hence an intervention in a more desirable laissezfaire economic trend.

So let's stop this tax benefit to corporations that encourages using credit to make money for a few. And let's try to get back to the successful, pre-eminent American enterprise system, instead of just moving huge sums of tax-deductible finite credit around.●

FOUR SCS PROJECTS AUTHORIZED

● Mr. STAFFORD. Mr. President, the Committee on Environment and Public Works recently authorized construction of four Soil Conservation Service projects under the authority of Public Law 83-566. The projects are: Little Calumet River, Ill.; South Zumbro River, Minn.; Upper Mud River, W. Va.; and Mozingo Creek, Mo.

These projects do not require action by the full Senate. Under procedures of the Committee on Environment and Public Works, we issue a committee print report describing each project when we authorize items not requiring Senate action. That report has been completed and will soon be available to interested parties from the committee.●

AGRICULTURAL SUBSIDIES—UNFAIR TO TAXPAYERS

● Mr. PELL. Mr. President, I voted against final passage of H.R. 7072, the Agriculture, Rural Development and Related Agencies Appropriations bill, because I believe it is far too generous to the private agricultural industry and unfair to taxpayers and consumers.

At a time when the majority of the Senate has approved deep cuts in essential health, education and employment programs, and, particularly, at a time when we are asking our citizens to tighten their own belts, I cannot support the payment of billions of dollars in subsidies to the agricultural industry.●

SOCRATES Z. INONOG

● Mr. PELL. Mr. President, I had the good fortune to attend a dinner on September 17, 1982, sponsored by the Rhode Island International Institute honoring Mr. Socrates Z. Inonog. Mr. Inonog is the director of operations of the culinary arts division of Johnson & Wales and is the first certified culinary instructor in Rhode Island. Born in the Philippines, Socrates Inongo and his lovely family have become American citizens and occupy a leading position in our State where he is respected by all those that come in contact with him and is a true community leader.

At this dinner, Judge Anthony A. Giannini delivered a truly excellent speech on citizenship and its responsibilities. In this regard, I ask that this speech be inserted in the RECORD.

The speech follows:

SPEECH OF JUDGE ANTHONY A. GIANNINI

On September 17, 1787, one hundred and ninety-five years ago today, the delegates who had met over the preceding four months in Philadelphia to draft a National Constitution completed their work and disbanded. One wonders whether any one of them had the vision to foresee that their efforts would sustain, for the next two centuries a nation in which the rights of the individual are considered paramount to the rights of those who seek to govern. One suspects that they were looking beyond the thirteen States that then formed our Union to the 220,000,000 people who are spread across the broad expanse of this land today. One is led to believe that they were convinced that the freedoms which their charter was designed to insure would draw people of all nationalities to these shores in years to come. We can speculate tonight about what was in the minds of those 55 convention delegates when they settled upon our great Constitution but there is one fact which is beyond repudiation—it is that no nation has enjoyed the freedoms that have been ours in the last two hundred years.

Thirty years ago the Congress of the United States designated this day as "Citizenship Day." It's function is to dignify and emphasize the significance of citizenship. On this day of annual renewal, it seems to me that it is an appropriate time for us, native and naturalized citizens alike, to pause and reflect upon the concern of our Founding Fathers, expressed in the preamble to our Constitution, "To secure the blessings of liberty to ourselves and our posterity" because it has been our good fortune to see the realization of that purpose to the very present.

The liberties we enjoy have not come at a small price. They were preceded by a long revolutionary war. The Constitution which enshrines them was tested and maintained by a bloody civil war less than eighty years after its adoption. Those who bore the cost of its birth and preservation had the keenest appreciation of its value. You and I—the posterity of which the preamble speaks—have had to do little so far to assure ourselves and our posterity that those liberties will continue to exist. Although it has cost us nothing, it is a priceless charter of freedom. We should not lose sight of the fact that other peoples of the world yearn for the dignity of the human personality which is recognized by our Bill of Rights. The liberties which we casually accept are but dreams to the politically oppressed. No matter what course our lives may take, no matter what success or fame we may achieve, it will all be for naught if we do not secure the blessing of liberty to ourselves and our posterity.

Let us not delude ourselves that those blessings cannot be lost. United States Supreme Court Justice Story, in writing about our constitutional form of government, gives us this eloquent warning:

"Never forget that you possess a noble heritage. The structure has been reared by architects of consummate skill and fidelity: Its foundations are solid, and its defenses are impregnable from without. It may, nevertheless, perish in an hour, by the folly or corruption or negligence of its keepers, the people. Republics fall when the wise are banished from the public counsels, because they dare to be honest, and the profligate are rewarded because they flatter the people in order to betray them."

It is imperative to the preservation of our liberties that we be constantly vigilant against their erosion or diminution. Permit me to suggest some ways in which this can be done.

Know what your rights are. Read and reread our Constitution. You will be surprised at how interesting a document it really is and how astute and far-sighted were the men who devised it. Although the words will always be the same, you will see a different facet with each reading. Our Founding Fathers set out not only the limits of governmental powers but underscored the importance of the freedom of the individual by the eight amendments which we call our Bill of Rights. They wished to leave no doubt whatsoever that we could print and speak as we pleased, be free to choose our own associates, respond to our consciences in religious matters, be secure in our persons, homes, papers and effects against un-

reasonable searches and seizures, to be informed of the nature and cause of any accusation of crime, to be entitled to a public and speedy trial by a jury and to have the assistance of counsel at that trial.

Everyone knows about their freedoms of speech, press, religion, and assembly. Unfortunately, a large majority of our citizenry is ill-acquainted about its rights much beyond that. It is important to the security of an individual's dignity that he be aware when the Government oversteps its lawful limits. Whether it be in the name of the common good or for some ulterior purpose, there is an inclination on the part of those who govern to intrude upon personal liberties. Recent history needs no recitation here to prove that point. It strikes me as plain commonsense that if you are to prevent that from happening to you. You must have a fair understanding of what your rights are.

Keep informed about the affairs of government. We elect public officers to attend to the day-to-day business that is necessary to achieve State and national objectives. It is imprudent to pay no attention to what they are doing after we elect them. Before assuming the duties of their office, each one of them commits himself by oath or affirmation that he will preserve, protect and defend the Constitution of the United States. It is in our own self-interest to see that that commitment is faithfully observed. We can do this most simply by keeping abreast of the news. An informed populace is vital to the lawful operation of our Government. The business of the executive, legislative, and judicial branches of Government is public business which is widely reported by the news media. If you have not done so up to now, develop the habit of reading about public affairs. It is only in this fashion that you will be able to assess whether those who govern do so in the public interest.

Participate; at the very least, this means that you should register to vote and then exercise that franchise at every election. Your registration as a voter will also render you eligible to participate in the administration of justice because persons are called for jury duty from the voting registers. It should be obvious that only by casting a ballot do we have a direct choice in who shall govern us. That such a small percentage of those who are of voting age exercise that right should be a source of concern to all of us. Do not be taken in by the line that your single vote doesn't mean anything. I have been witness to an election in my own representative district that resulted in a tie vote.

In addition to voting for others, think about voting for yourself. That means you should consider becoming a candidate for elective office. In spite of what some may say, politics is a noble undertaking—to say nothing of the fact that it is absolutely essential for the maintenance of this free society. If you have neither the time nor the inclination to run for office, lend your active assistance to some candidate.

My final suggestion to you is—be law-abiding. That is not easy as it sounds. Being law abiding goes beyond adhering to a set of rules when you have nothing to lose. The test comes when obedience to law runs counter to some personal interest. The variety of circumstances by which we might be tested are infinite but in each instance the issue to be resolved is the same: Should I do what is right or should I do what is most expedient for me. Unquestionably, there are times in our lives when we are confronted with that choice. If you reflect upon it for a moment, I think you will agree that which of the options we choose dictates to a great degree the kind of society in which we live.

Citizenship must be for us more than a legal status. It is not enough to content ourselves with the claim to American citizenship. When the legions of Rome had conquered much of the known world, the pround boast was "I am a Roman citizen." And yet the indifference of those very citizens caused their majestic empire to be overrun. I submit to you that the essence of good citizenship is the individual vigilance so necessary to the preservation of our Constitution. Should we so persevere, we shall succeed to secure the blessings of liberty to ourselves and our posterity.●

PROGRAM

Mr. BAKER. Mr. President, may I quickly review the situation for tomorrow.

Mr. President, on tomorrow the Senate will convene at 9:30 a.m. After the recognition of the two leaders under the standing order, five Senators will be recognized on special orders of not to exceed 15 minutes each.

After the execution of the special orders there will be a brief period for the transaction of routine morning business to extend not longer than 10 minutes in which Senators may speak for not more than 2 minutes each.

Mr. President, during the day tomorrow a number of items may be called up and considered. Conference reports will be available and, of course, are privileged to be presented as they can be cleared to meet the maximum convenience of Senators.

In addition to that, Mr. President, there are a number of bills which were identified earlier in these remarks as possible candidates for consideration. By listing them, it was not meant to imply that they have been cleared on both sides or, indeed, on either side for consideration by unanimous consent. However, the purpose of the listing was to give Senators some idea at least of what we might be asked to consider in the course of the next day or so. The list is not meant to be an exclusive list.

Mr. President, I urge Senators on both sides of the aisle to take account of this list, however, and advise their cloakrooms of any preferences, objections, or other matters that they may wish to note.

Mr. President, if there is no other Senator seeking recognition—I see the Senator from Ohio. I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise only for 1 minute to say that there are those who know the names of the majority leader and the minority leader, and the respective parties in the Senate, but the world has no comprehension of the fact that they sit here after everyone else has returned to their homes to go through that which is considered to be much drudgery in this body.

I want to say I pay my respects to both for their diligence. They are doing things that nobody pays any attention to, but without them doing these things the U.S. Senate would not be operating. I pay my respects.

Mr. BAKER. Mr. President, I am deeply appreciative and humble of the remarks of the Senator from Ohio. He, too, is diligent, remaining on the floor through long hours of sessions of the Senate.

Because of his diligence and understanding of the essence of this procedure, this compliment is all the more rewarding to me.

Mr. ROBERT C. BYRD. Mr. President, I join the majority leader in expressing appreciation to the Senator from Ohio (Mr. METZENBAUM). He is a man of supreme dedication, who has an unlimited amount of brass, and a head full of commonsense. I appreciate very much the compliment he has given us, and I am more appreciative of it appearing in the RECORD.

CONSIDERATION OF CRIME LEGISLATION TOMORROW

Mr. THURMOND. Mr. President, I am wondering if the majority leader could give us any idea about when the crime bill will come up? Will it probably come up tomorrow?

Mr. BAKER. Mr. President, I fully expect it will be up tomorrow and be up early tomorrow. There are some items that are privileged, such as conference reports, that I would like to ask the Senate to consider as soon as possible. I would not be surprised to see us attempt to proceed to the consideration of the crime bill before noon tomorrow.

Mr. THURMOND. We feel that we can probably finish in half a day.

Mr. BAKER. I thank the Senator.

ORDER TO VITIATE ORDER FOR RECOGNITION OF SENATOR TSONGAS TOMORROW

Mr. BAKER. Mr. President, does any other Senator seek recognition?

I am advised that the distinguished Senator from Massachusetts (Mr. TSONGAS) no longer has need for his special order. I ask unanimous consent that his special order be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the convening of the Senate be advanced from 9:15 to 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I see no other Senator seeking recognition. I

move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:30 a.m. tomorrow.

The motion was agreed to and, at 10:13 p.m., the Senate recessed until tomorrow, Thursday, September 30, 1982, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 29, 1982:

DEPARTMENT OF STATE

William Alexander Hewitt, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Jamaica.

Theodore C. Maino, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

Peter Dalton Constable, of New York, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zaire.

Robert Bigger Oakley, of Louisiana, a Career Member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Somali Democratic Republic.

Everett Ellis Briggs, of Maine, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Panama.

David Joseph Fisher, of Texas, a Career Member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

Sharon Erdkamp Ahmad, of the District of Columbia, a Career Member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

John Blane, of Illinois, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Rwanda.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE AIR FORCE

Lt. Gen. Charles C. Blanton, U.S. Air Force, age 52, for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be admiral

Adm. Harry D. Train II, [redacted]/1110, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601, and to be Senior Navy Member of the Military Staff Committee of the United Nations in accordance with title 10, United States Code, section 711:

To be vice admiral

Rear Adm. Arthur S. Moreau, Jr., [redacted]/1110, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Edward S. Briggs, [redacted]/1110, U.S. Navy.

MERIT SYSTEMS PROTECTION BOARD

K. William O'Connor, of Virginia, to be Special Counsel of the Merit Systems Protection Board for the remainder of the term expiring June 3, 1986.

THE JUDICIARY

Raymond L. Acosta, of Puerto Rico, to be U.S. district judge for the district of Puerto Rico.

James C. Fox, of North Carolina, to be U.S. district judge for the eastern district of North Carolina.

DEPARTMENT OF JUSTICE

Arthur F. Van Court, of California, to be U.S. Marshal for the Eastern District of California for the term of 4 years.

PANAMA CANAL COMMISSION

Stephen W. Bosworth, of Michigan, to be a Member of the Board of the Panama Canal Commission.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Robert T. Herres, [redacted]FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. William J. Campbell, [redacted]FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Larry D. Welch, [redacted]FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 8019, for appointment as chief, Air Force Reserve.

To be chief, Air Force Reserve

Maj. Gen. Sloan R. Gill, [redacted]FV, Air Force Reserve.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. John L. Piotrowski, [redacted]FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Robert D. Russ, [redacted]FR, U.S. Air Force.

Lt. Gen. James H. Ahmann, U.S. Air Force, age 51, for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Harold F. Hardin, Jr., [redacted], age 54, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Donald M. Babers, [redacted], U.S. Army.

The following-named Army National Guard of the United States officer for appointment to the grade of brigadier general as a Reserve commissioned officer of the Army under the provision of title 10, United States Code, sections 593(a) and 3385:

To be brigadier general

Col. Paul J. Kopsch, [redacted].

The following-named Army National Guard of the United States officer for appointment to the grade of brigadier general as a Reserve commissioned officer of the Army under the provision of title 10, United States Code, sections 593(a) and 3385:

To be brigadier general

Col. Philip B. Finley, [redacted].

The following-named officer for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be brigadier general, Chaplain's Corps

Col. Paul O. Forsberg, [redacted], U.S. Army.

The following-named officer under the provisions of title 10, United States Code, sections 3036 and 3040, to be appointed as Assistant Surgeon General (Dental), United States Army:

To be assistant surgeon general (Dental), U.S. Army

Brig. Gen. Hubert T. Chandler, [redacted] Dental Corps, U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. James B. Vaught, [redacted], age 56, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by

the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Louis C. Menetrey, xxx-xx-xxxx, U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. John Rutherford McGiffert II, xxx-xx-xxxx, age 56, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Edward Allen Partain, xxx-xx-x... xxx-..., U.S. Army.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be admiral

Adm. George E. R. Kinnear II, xxx-xx-x... xxx-.../1310, U.S. Navy.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. John D. Johnson, Jr., xxx-xx-x... xxx-.../1110, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. James A. Sagerholm, xxx-xx-x... xxx-.../1120, U.S. Navy.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Philip Abrams, of Massachusetts, to be an Assistant Secretary of Housing and Urban Development.

IN THE AIR FORCE

Air Force nominations beginning William J. Rome, and ending John H. Rogerson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 8, 1982.

Air Force nominations beginning Frederick B. Fishburn, and ending William J. Crielly, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 13, 1982.

Air Force nominations beginning Carl L. Batton, and ending Jerrold L. Nye, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 15, 1982.

Air Force nominations beginning William J. Crielly, Jr., and ending William C. Wood, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 23, 1982.

Air Force nominations beginning Thomas L. Huff, and ending Donald G. Wright, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 23, 1982.

Air Force nominations beginning Robert W. Baker, and ending Darwin L. Bell, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 27, 1982.

Air Force nominations beginning Michael J. Arganbright, and ending Dick T. Jordan, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 27, 1982.

Air Force nominations beginning Michael J. Arganbright, and ending Dick T. Jordan, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 27, 1982.

Air Force nominations beginning Leonard B. Amick, Jr., and ending William H. Stigelman, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 27, 1982.

Air Force nominations beginning Walter A. Aichel, and ending Michael J. Zachek, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 27, 1982.

Air Force nominations beginning Michael A. Abair, and ending James H. Wright, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 27, 1982.

IN THE ARMY

Army nominations beginning Irwin Berman, and ending Dale G. Martin, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 8, 1982.

Army nominations beginning Rembert G. Rollison, and ending Jeffrey P. Zervas, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 13, 1982.

Army nominations beginning Larry D. Aaron, and ending David C. Zucker, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 13, 1982.

Army nominations beginning Ralph P. Aaron, and ending Janet F. Zimmerman, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 13, 1982.

Army nominations beginning Thomas A. Rodgers, and ending Jimmy D. Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 13, 1982.

Army nominations beginning John A. Duff, and ending Stanley M. Krol, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 15, 1982.

IN THE MARINE CORPS

Marine Corps nominations beginning William J. Brooks, and ending Charles R. Jarrett, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 27, 1982.

IN THE NAVY

Navy nominations beginning Craig D. Batchelder, and ending Kermit R. Booher, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 8, 1982.

Navy nominations beginning Thomas M. Connor, and ending Dana C. Martinez, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 13, 1982.

Navy nominations beginning Milburn M. Anderson, and ending William Randolph Wright, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 27, 1982.

Navy nominations beginning James O. Royder, and ending Oakley F. White, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 27, 1982.

HOUSE OF REPRESENTATIVES—*Wednesday, September 29, 1982*

The House met at 10 a.m.

The Reverend Timothy F. Hourihan, pastor of Our Lady of the Lake Catholic

Great leaders—Moses, Jesus—when confronted by stern tasks, difficult decisions, were depicted alone on the mountain. There, as much to find themselves as to seek a strength beyond themselves; it can be called fate, their destiny, or even a God as personal as "a Father."

All leaders in the loneliness of that place, or moment, whether it be called a Biblical mountain or in Washington parlance, "the Hill," must strive to resonate to the very best that is within them as to humbly seek a strength that goes beyond.

Call it prayer, call it hope. It is not for easy lives but to be stronger women and men. It is not for tasks equal to our powers but for powers equal to our tasks. May we not be overwhelmed by the awesomeness and tedium of the burden but be inspired by the vision of our goals: Justice unrestricted, a peace that is lasting. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 6168. An act to amend title 18, United States Code, to provide a criminal penalty for threats against former Presidents, major Presidential candidates, and certain other persons protected by the Secret Service, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2586) entitled "An act to authorize certain construction at military installations for fiscal year 1983, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4613. An act to increase the efficiency of Government-wide efforts to collect debts owed the United States and to provide additional procedures for the collection of debts owed the United States;

H.R. 6968. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes; and

H.R. 7072. An act making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 6968) entitled "An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LAXALT, Mr. SCHMITT, Mr. GARN, Mr. MATTINGLY, Mr. SASSER, Mr. PROXMIRE, and Mr. INOUYE to be the conferees on the part of the Senate on the above-titled bill.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7072) entitled "An act making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. COCHRAN, Mr. MCCLURE, Mr. ANDREWS, Mr. ABDNOR, Mr. KASTEN, Mr. MATTINGLY, Mr. SPECTER, Mr. HATFIELD, Mr. EAGLETON, Mr. STENNIS, Mr. BYRD of West Virginia, Mr. CHILES, Mr. BURDICK, Mr. SASSER, and Mr. PROXMIRE to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1698. An act to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. citizens.

REV. TIMOTHY F. HOURIHAN

(Mr. MINISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINISH. Mr. Speaker, I am honored to welcome the Reverend Timothy F. Hourihan, Pastor of Our Lady of the Lake Roman Catholic Church in Verona-West Orange, N.J., as our guest chaplain in the House this morning. He is one of the distinguished clergymen from my district in New Jersey and I am pleased that he is able to visit us in Washington today to offer his inspirational words.

Father Hourihan was ordained in 1954. He graduated from Seton Hall University in South Orange, N.J., and received his theological degree from Immaculate Conception Seminary.

Father Hourihan has also served his country in the U.S. Army and was later the chaplain of the Veterans of Foreign Wars.

Civic minded for many years, Father Hourihan has continually displayed his concern for the community through a number of interesting and demanding positions. He has been the chaplain of the Police Officers Association in Jersey City, the chaplain of St. Dominic Academy in Jersey City and of the CYO Boy Scouts Association in Hudson County.

Currently, Father Hourihan is a member of the board of directors of Good Will Industries of America in charge of rehabilitation.

I would, however, be omitting an essential part of this man's background if I failed to mention the warmth and dedication which he brings to his work in the church. Personally, I have deeply enjoyed my friendship with Father Hourihan and have admired the support and guidance he offers to families in his parish.

Father, it is our pleasure and privilege to have you with us this morning and we appreciate your thoughtful message.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

AUTHORIZING AND DIRECTING THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN REAL PROPERTY TO THE PERSHING COUNTY WATER CONSERVATION DISTRICT

The Clerk called the bill (H.R. 5652) to authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. LUNGREN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR THE USE AND DISPOSITION OF MIAMI INDIANS JUDGMENT FUNDS

The Clerk called the bill (H.R. 5553) to provide for the use and disposition of Miami Indians judgment funds in dockets 124-B and 254 before the U.S. Court of Claims, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 5553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the funds appropriated on July 27, 1979, in satisfaction of the award in favor of the Miami Tribe of Oklahoma and the Miami Indians of Indiana in dockets 124-B and 254 before the United States Court of Claims, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be used and distributed as herein provided.

SEC. 2. The Secretary of the Interior (hereinafter "Secretary") shall divide the judgment funds in dockets 124-B and 254, together with the interest and investment income accruing thereon, between the two beneficiary groups, on the basis of the number of enrollees of each group as designated on the 1972 Miami Indians of Oklahoma and Indiana payment roll, prepared pursuant to the Act of June 2, 1972 (86 Stat. 199), with 1398/5,080ths to the tribal organization, the Miami Tribe of Oklahoma, and 3682/5,080ths to the descendant group which consists of the Miami Indians of Indiana and other Miami descendants.

SEC. 3. For purposes of determining the number of lineal descendants of the Miami Indians of Indiana and other Miami descendants entitled to participate in such funds apportioned to the descend-ant group, the Secretary shall prepare a roll of all persons of Miami Indian ancestry who meet the following requirements for eligibility:

(a) They were born on or prior to, and living on, the date of this Act.

(b) Their name or the name of an ancestor from whom they claim eligibility appears on the roll of Miami Indians of Indiana of June 12, 1895, or the roll of "Miami Indians of Indiana, now living in Kansas, Quapaw Agency, I.T., and Oklahoma Territory", prepared and completed pursuant to the Act of March 2, 1895 (28 Stat. 903), or the roll of the Eel River Miami Tribe of Indians of May 27, 1889, prepared and completed pursuant to the Act of June 29, 1888 (25 Stat. 223), or the roll of the Western Miami Tribe of Indians of June 12, 1891 (26 Stat. 1001), or any former Miami roll or other document satisfactory to the Secretary of the Interior. No person whose name appears on the current tribal roll of the Miami Tribe of Oklahoma shall be eligible to be enrolled under this section. Applications for enrollment must be filed with the area director of the Bureau of Indian Affairs, Muskogee, Oklahoma, on forms prescribed for that purpose. The determination of the Secretary regarding the eligibility of an applicant shall be final.

SEC. 4. On completion of the roll by the Secretary, as provided under section 3 of this Act, the funds apportioned to the descendant group, including the interest and investment income accruing thereon, shall be distributed equally to the individuals enrolled.

SEC. 5. (a) Of the apportioned share belonging to the Miami Tribe of Oklahoma, no more than 80 per centum of such funds, including the interest and investment income accruing thereon, shall be distributed on a per capita basis in amounts as equal as possible to all enrolled members. For purposes of determining the number of enrollees of the tribal organization, the membership roll shall be brought current pursuant to tribal enrollment procedures, to include all persons born on or prior to and living on the date of this Act.

(b) The remaining 20 per centum of such funds, including the interest and investment income accruing thereon, shall be held and invested by the Secretary pursuant to the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a), or invested by the tribe, in a private trust arrangement as approved by the Secretary, and such funds shall be expended by the tribe in accordance with tribal plans and budgets approved by the Secretary, where the investments are handled by the Secretary, or in accordance with the provisions of the private trust agreement.

SEC. 6. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed pursuant to regulations prescribed by the Secretary. Per capita shares of legal incompetents and per capita shares of individuals under age eighteen shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines to be necessary to protect the interests of such individuals.

SEC. 7. The funds distributed per capita or made available for programing under this Act shall not be subject to Federal or State income taxes nor shall such funds be considered as income or resources in determining either eligibility for or the amount of assistance under the Social Security Act.

SEC. 8. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act; including the establishment of deadlines.

With the following committee amendment:

Page 3, line 8, strike "(26 Stat. 1001), or any former Miami roll or other document satisfactory to the Secretary of the Interior." and insert "(26 Stat. 1001)."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DECLARING CERTAIN FEDERAL LANDS ACQUIRED FOR THE BENEFIT OF INDIANS TO BE HELD IN TRUST FOR THE TRIBES OF SUCH INDIANS

The Clerk called the bill (H.R. 5916) to declare certain Federal lands acquired for the benefit of Indians to be held in trust for the tribes of such Indians.

There being no objection, the Clerk read the bill as follows:

H.R. 5916

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act of October 17, 1975 (89 Stat. 577; 25 U.S.C. 459), is amended by adding thereto the following subsection (c):

"(c) The right, title, and interest of the United States of America in all of the lands, and the improvements now thereon, which were acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and any subsequent Emergency Relief Appropriation Act, including but not limited to section 5 of the Emergency Relief Appropriation Act of 1939 (53 Stat. 927, 930) section 4 Emergency Relief Appropriation Act, fiscal year 1941 (54 Stat. 611, 617), together with all minerals underlying any such land whether acquired pursuant to each as or otherwise owned by the United States and which lands are now administered by the Secretary of the Interior for the use or benefit of Ramah-Navajo Indians are hereby declared to be held in trust for the Ramah Band of the Navajo Tribe."

(b) Section 2(a) of said Act of October 17, 1975 is amended by deleting "section 1 of this Act" and inserting in lieu thereof "section 1(a) of this Act".

(c) The amendments made by this Act shall be effective upon enactment of this Act.

With the following committee amendment:

Strike all after the enacting clause and insert the following:

That (a) the first section of the Act of October 17, 1975 (89 Stat. 577; 25 U.S.C. 459), is amended by adding thereto the following new subsection (c):

"(c) The right, title, and interest of the United States of America in all of the lands, including the improvements now thereon (title to which is in the United States), acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and any subsequent Emergency Relief Appropriation Acts, including but not limited to section 5 of the Emergency Relief Appropriation Act of 1939 (53 Stat. 927, 930) and section 4 of the Emergency Relief Appropriation Act, fiscal year 1941 (54 Stat. 611, 617), together with all minerals underlying any such land whether acquired pursuant to such Acts or otherwise owned by the United States, and which lands are now administered by the Secretary of the Interior for the use or benefit of (1) Ramah Navajo Indians, are hereby declared to be held in trust for the Ramah Band of the Navajo Tribe, and (2) Choctaw Indians of Mississippi, except lands subject to the Act of June 21, 1939 (53 Stat. 851), are hereby declared to be held in trust for the Mississippi Band of Choctaw Indians; excepting valid rights-of-way of record."

(b) Section 2(a) of said Act of October 17, 1975, is amended by deleting "section 1 of this Act" and inserting in lieu thereof "section 1(a) of this Act".

(c) The amendments made by this Act shall be effective upon enactment of this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR THE USE AND DISTRIBUTION OF FUNDS AWARDED TO THE SHAWNEE TRIBE OF INDIANS

The Clerk called the bill (H.R. 5795) to provide for the use and distribution of the funds awarded to the Shawnee Tribe of Indians in dockets 64, 335, and 338 by the Indian Claims Commission and docket 64-A by the U.S. Court of Claims, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 5795

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the funds appropriated on March 10, 1978, and August 22, 1979, in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724A), in satisfaction of judgments granted to the Shawnee Tribe in dockets 64, 335, and 338 by the Indian Claims Commission and in docket 64-A by the United States Court of Claims, less attorney fees and litigation expenses, including all interest and investment income accrued, shall be used and distributed as herein provided.

SEC. 2. The Secretary of the Interior (hereinafter "Secretary") shall divide the funds among the Absentee Shawnee Tribe of Oklahoma, the Eastern Shawnee Tribe of Oklahoma and the Cherokee Band of Shawnee descendants as follows:

514/1378ths to the Absentee Shawnee Tribe of Oklahoma;

117/1378ths to the Eastern Shawnee Tribe of Oklahoma; and

747/1378ths to the Cherokee Band of Shawnee descendants.

SEC. 3. The Absentee Shawnee Tribe of Oklahoma's share shall be distributed as follows:

(a) A roll shall be prepared, in accordance with the procedures enacted by the tribal governing body and approved by the Secretary, of all members of the Absentee Shawnee Tribe of Oklahoma who were born on or prior to and living on the date of this Act. Subsequent to the preparation of this roll, the Secretary shall make a per capita distribution of 75 per centum of the Absentee Shawnee Tribe's share of the funds, in a sum as equal as possible, to all persons listed on this roll.

(b) The remaining 25 per centum shall be utilized as follows:

(1) A sum, not to exceed $150,000 shall be utilized as matching funds to acquire an Economic Development Administration (EDA) grant from the Department of Commerce to construct a multipurpose restaurant: *Provided,* That if the tribe is unable to acquire this grant that the funds herein discussed be distributed according to the provisions of section 3(b)(2).

(2) The Executive Committee of the Absentee Shawnee Tribe of Oklahoma shall prepare, subject to the approval of the Secretary, administrative guidelines for the remainder of the funds for use in education, health, economic, and related programs which will benefit the entire tribe.

SEC. 4. The Eastern Shawnee Tribe of Oklahoma's share shall be distributed as follows:

(a) A roll shall be prepared, in accordance with the procedures enacted by the tribal govering body and approved by the Secretary, of all members of the Eastern Shawnee Tribe of Oklahoma who were born on or prior to and living on the date of this Act. Subsequent to the preparation of this roll, the Secretary shall make a per capita distribution of 80 per centum of the Eastern Shawnee Tribe's share of the funds, in a sum as equal as possible to all persons listed on this roll.

(b) The remaining 20 per centum shall be utilized for a tribal land purchase program pursuant to the provisions of part 120-A of section 25, Code of Federal Regulations: *Provided,* That no salaries shall be paid from these funds: *Provided further,* That the funds shall be in the custody of the tribal secretary/treasurer and all expenditutes shall be approved by the Eastern Shawnee Tribe of Oklahoma business committee.

SEC. 5. A roll shall be prepared by the Secretary based on the roll of the Cherokee Shawnee compiled pursuant to the Act of March 2, 1889 (25 Stat. 994), and any other records acceptable to him, of all the lineal descendants, except members of the Absentee Shawnee Tribe of Oklahoma or the Eastern Shawnee Tribe of Oklahoma, of the Shawnee Nation as it existed in 1854, who were born on or prior to and living on the date of this Act. Subsequent to the preparation of this roll, the Secretary shall make a per capita distribution of the Cherokee Band of Shawnee descendant's share of the funds, in a sum as equal as possible, to all persons listed on this roll.

SEC. 6. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed pursuant to regulations prescribed by the Secretary. Per capita shares of legal incompetents and per capita shares of individuals under age eighteen shall be paid in accordance with such procedures, including the establishment of trust, as the Secretary determines to be necessary to protect the interests of such individuals.

SEC. 7. None of the funds distributed under this Act shall be subject to Federal or State income taxes or be considered income or resources in determining eligibility for or the amount of assistance under the Social Security Act.

SEC. 8. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE TWENTY-NINE PALMS BAND OF LUISENO MISSION INDIANS TO LEASE CERTAIN LANDS

The Clerk called the bill (H.R. 6122) to authorize the Twenty-nine Palms Band Luiseno Mission Indians to lease for 99 years certain lands held in trust for such band.

There being no objection, the Clerk read the bill as follows:

H.R. 6122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of the first section of the Act of August 9, 1955 (69 Stat. 539; 25 U.S.C. 415) as amended, is further amended—

(1) by striking out "and leases of land on the Agua Caliente" in the second sentence and inserting in lieu thereof "leases of land on the Aqua Caliente", and

(2) by striking out "and the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington," in the second sentence and inserting in lieu thereof the following: "leases of the land comprising the Moses Allotment Numbered 10, Chelan County, Washington, and leases of lands located in San Bernardine County and Riverside County, California, and held in trust for the Twenty-nine Palms Band of Luiseno Mission Indians.".

With the following committee amendment:

Strike all after the enacting clause and insert the following:

That section 1 of the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415) is further amended by inserting ", and lands held in trust for the Twenty-nine Palms Band of Mission Indians," immediately after "Chelan County, Washington" in the second sentence.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR THE USE AND DISTRIBUTION OF FUNDS TO THE WYANDOT TRIBE OF INDIANS

The Clerk called the bill (H.R. 6403) to provide for the use and distribution of funds to the Wyandot Tribe of Indians in docket 139 before the Indian Claims Commission and docket 141 before the U.S. Court of Claims, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 6403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the funds appropriated on October 31, 1978, and March 2, 1979, in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724A), in satisfaction of judgments granted to the Wyandot (hereinafter "Wyandotte") Tribe in docket 139 by the Indian Claims Commission and in docket 141 by the United States Court of Claims, less attorney fees and litigation expenses, including all interest and investment income accrued, shall be used and distributed as herein provided.

SEC. 2. The Secretary of the Interior (hereinafter "Secretary") shall divide the funds between the Wyandotte Tribe of Oklahoma and the absentee Wyandotte descendants as follows:

308/510ths to the Wyandotte Tribe of Oklahoma; and

202/510ths to the absentee Wyandotte descendants.

SEC. 3. The Wyandotte Tribe of Oklahoma's share shall be distributed as follows:

(a) A roll shall be prepared, in accordance with the procedures enacted by the tribal government body and approved by the Secretary, of all members of the Wyandotte

Tribe of Oklahoma who were born on or prior to and living on the date of this Act. Subsequent to the preparation of this roll, the Secretary shall make a per capita distribution of 80 per centum of the Wyandotte Tribe of Oklahoma's share of the funds, in a sum as equal as possible, to all persons listed on this roll. Any amount remaining after the per capita payment shall be utilized as provided in section 3(b)(2)(iii) of this Act.

(b) The remaining 20 per centum shall be utilized as follows:

(1) A sum of $100,000 shall be utilized to purchase land for the tribe to be held in trust status by the Secretary.

(2) The balance shall be invested by the Secretary, pursuant to the Act of June 24, 1983 (25 U.S.C. 162a). The interest and investment income accrued shall be immediately available to the Wyandotte Tribe of Oklahoma upon the approval of the Secretary of the tribe's plan of operation and budget as set forth in Wyandotte Tribe of Oklahoma Resolution Numbered 9479, adopted September 4, 1979, as follows:

(i) 33⅓ per centum shall be utilized toward the upkeep and maintenance of the Wyandotte Cultural Center and other sites as may in the future be developed by the tribe.

(ii) 33⅓ per centum shall be utilized for the upkeep and maintenance of the Wyandotte Tribal Cemetery at Wyandotte, Oklahoma.

(iii) 33⅓ per centum shall be placed in the custody of the secretary/treasurer of the tribe and, with the approval of the Business Committee of the Wyandotte Tribe of Oklahoma, utilized for the administration of the tribe: *Provided*, That none of these funds be expended for salaries.

SEC. 4. A roll shall be prepared by the Secretary of persons: not members of the Wyandotte Tribe of Oklahoma, on, or lineally descended from persons on, the "Census of Absentee or Citizen Wyandotte Indians" compiled by Joel T. Olive, dated November 18, 1896, as corrected in circular of October 28, 1904, by W. A. Richards, Commissioner of the General Land Office; and born on or prior to and living on the date of this Act. The Secretary's determination concerning eligibility for inclusion on this roll shall be final. Subsequent to the preparation of this roll, the Secretary shall make a per capita distribution, of the absentee Wyandotte's shares, in a sum as equal as possible, to all persons listed on this roll.

SEC. 5. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined as distributed pursuant to regulations prescribed by the Secretary. Per capita shares of legal incompetents and per capita shares of individuals under age eighteen shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines to be necessary to protect the interests of such individuals.

SEC. 6. None of the funds distributed under this Act shall be subject to Federal or State income taxes or be considered income or resources in determining eligibility for or the amount of assistance under the Social Security Act.

SEC. 7. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TEXAS BAND OF KICKAPOO RESERVATION ACT

The Clerk called the bill (H.R. 4496) to clarify the citizenship status of the members of the Texas Band of Kickapoo Indians; to provide for a reservation for the Texas Band of Kickapoo; to provide to members of the Texas Band of Kickapoo those services and benefits furnished to American Indian tribes and individuals, and for other purposes.

There being no objection, the Clerk read the bill as follows:

H.R. 4496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Texas Band of Kickapoo Reservation Act".

SEC. 2. CONGRESSIONAL FINDINGS.—Congress finds that the Texas Band of Kickapoo is a subgroup of the Kickapoo Tribe of Oklahoma that was forced to migrate from its ancestral lands in Wisconsin and Illinois, to Texas, to Mexico, and then back to Texas. The members of the Texas Band of Kickapoo Indians currently live in deep poverty. They face serious health problems. Although most members meet the requirements for United States citizenship, on some occasions Federal administrative officials have refused to recognize them as citizens. Because they have no reservation, they are denied desperately needed Federal services provided to other Indians and are unable to have a stable place of residence. Based on these and other considerations, Congress finds that it is appropriate to clarify their citizenship status, to authorize the provision of Federal services, and to provide for the establishment of a reservation for the members of the Texas Band of Kickapoo Indians.

SEC. 3. DEFINITIONS.—For the purpose of this Act—

(a) "band" means the Texas Band of Kickapoo Indians, a subdivision of the Kickapoo Tribe of Oklahoma;

(b) "tribe" means the Kickapoo Tribe of Oklahoma; and

(c) "Secretary" means the Secretary of the Interior.

SEC. 4. CITIZENSHIP.—All members of the band who are duly enrolled in the tribe shall be nationals and citizens of the United States immediately upon the date of the passage of this Act. All members of the band who apply for membership in the tribe within two years after the passage of this Act shall be nationals and citizens of the United States at the time enrollment is approved. Thereafter, nationality and citizenship of the members of the band shall be determined in accordance with the provisions of section 140(a)(2) of title 8 and other applicable laws.

SEC. 5. ESTABLISHMENT OF A RESERVATION.—(a) The Secretary is authorized and directed to accept into trust, as soon as practicable, any lands owned by the band if such lands are voluntarily tendered by the band. Such lands shall be accepted by the Secretary on behalf of the band pursuant to section 465 of title 25. The Secretary shall proclaim such lands to be an Indian reservation pursuant to section 467 of title 25. All land accepted into trust pursuant to this subsection shall be located in Maverick County, Texas.

(b) In addition to lands tendered to the Secretary by the band pursuant to subsection (a) of this section, there are hereby authorized to be appropriated sufficient funds to provide for the purchase of suitable additional reservation lands from willing sellers in Maverick County, Texas. The Secretary shall, after consultation with the band, identify appropriate land. To the extent feasible, such lands shall be contiguous to or near the reservation described in subsection (a) of this section. Within one year after the passage of this Act, the Secretary shall submit to Congress a request for an appropriation for the acquisition of such lands. Such lands shall be taken into trust pursuant to the provisions of subsection (a) of this section.

(c) The Secretary is authorized to provide for additional reservation lands for the band pursuant to sections 465 and 467 of title 25 and other applicable laws.

(d) The courts of the State of Texas shall have civil and criminal jurisdiction over the band's reservation in accordance with section 1360 of title 28 and section 1162 of title 18.

SEC. 6. FEDERAL SERVICES.—The band and its members shall be eligible for all Federal services and benefits available to federally recognized Indian tribes and their members. Notwithstanding any provision to the contrary in any law authorizing such services or benefits, the band and its members in Maverick County, Texas, shall be eligible for such Federal services without regard to the existence of a reservation for the band or the residence of members of the band on or near a reservation.

SEC. 7. The Secretary is hereby authorized to make such rules and regulations as are necessary to carry out the provisions of this Act.

SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

With the following committee amendment:

Strike all after the enacting clause and insert the following:

That this Act may be cited as the "Texas Band of Kickapoo Act".

SEC. 2. CONGRESSIONAL FINDINGS.—(a) Congress finds that the Texas Band of Kickapoo Indians is a subgroup of the Kickapoo Tribe of Oklahoma that was forced to migrate from its ancestral lands to Texas and Mexico; that although most members of the band meet the requirements of United States citizenship, some of them cannot prove that they do; that although the band is located in Texas, it does not own any land there and as a result, band members have been denied Federal services provided to other Indians, that the members of the band face serious health problems; and that because they are tricultural, they have unique educational needs.

(b) Congress therefore declares that it is appropriate to grant Federal recognition to the band, to clarify the right of the members of the band to cross the United States-Mexico border, to authorize the provisions of Federal services, and to provide for the establishment of trust lands for the members of the Texas Band of Kickapoo Indians.

SEC. 3. DEFINITIONS.—For the purposes of this Act—

(a) "Band" means the Texas Band of Kickapoo Indians, a subdivision of the Kickapoo Tribe of Oklahoma;

(b) "Tribe" means the Kickapoo Tribe of Oklahoma; and

(c) "Secretary" means the Secretary of the Interior.

SEC. 4. (a) Within six months after the passage of this Act and after consultation with the Kickapoo Tribe of Oklahoma, the Secretary shall compile and maintain a role of the duly enrolled members of Kickapoo blood of the Oklahoma Tribe who comprise the membership of the Texas Band of Kickapoo Indians.

(b) For a period of five years after enactment of this Act, any member of the band, whose name appears on the roll compiled and maintained by the Secretary pursuant to subsection (a) of this section, may at his option apply for United States citizenship, and, upon such application, shall be granted such citizenship. Thereafter, noncitizen members of the band may acquire United States citizenship only as otherwise provided by law.

(c) All members of the Texas Band shall be entitled to pass and repass the United States-Mexico border, to work and live in the United States, and be free of restrictions imposed on aliens by immigration laws.

SEC. 5. (a) The Secretary is directed to accept in trust, no more than one hundred acres of land in Maverick County, Texas, offered for the benefit of the band and with the approval of the tribe. Thereafter, the Secretary is authorized to accept any additional lands in Maverick County for the benefit of the band pursuant to the provisions of the Act of June 18, 1934 (48 Stat. 984) which Act is hereby made applicable to the band. The band shall further have the right to organize pursuant to section 16 of that Act if it so elects.

(b) The State of Texas shall have jurisdiction over civil causes of action and criminal offenses arising on the band's trust lands in accordance with section 1360 of title 218 and section 1162 of title 18. The provisions of the Act of April 11, 1968 (82 Stat. 79) shall be available to the State of Texas.

SEC. 6. The band and its members shall be eligible for all services and benefits available to tribes recognized by the Secretary as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. Notwithstanding any other provision of law authorizing such services or benefits, the band and its members in Maverick County, Texas, shall be eligible for such Federal services without regard to the existence of a reservation for the band or the residence of members of the band on or near a reservation. In the delivery of such services, the Secretary and head of each department and agency administering programs for the benefit of Indians, shall consult and cooperate, including but not limited to joint funding agreements, with appropriate Mexican officials to the greatest extent possible so that the provisions of such services shall meet the special tricultural needs of the band and its members.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to grant Federal recognition to the Texas Band of Kickapoo Indians; to clarify the status of the members of the band; to provide trust lands to the band, and for other purposes."

A motion to reconsider was laid on the table.

COW CREEK BAND OF UMPQUA TRIBE OF INDIANS RECOGNITION ACT

The Clerk called the bill (H.R. 6588) to provide for Federal recognition of the Cow Creek Band of Umpqua Tribe of Indians, to institute for such tribe those Federal services provided to Indians who are recognized by the Federal Government and who receive such services because of the Federal trust responsiblity, and for other purposes.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. LUNGREN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

MICHAEL McDERMOTT BULK AND FOREIGN MAIL CENTER

The Clerk called the bill (H.R. 2303) to designate the New York Bulk and Foreign Mail Center at Jersey City, N.J., as the "Michael McDermott Bulk and Foreign Mail Center."

There being no objection, the Clerk read the bill as follows:

H.R. 2303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the New York Bulk and Foreign Mail Center at Jersey City, New Jersey, shall be known as the "Michael McDermott Bulk and Foreign Mail Center" in memory of Michael McDermott who lost his life in an industrial accident at the Center and as a perpetual reminder of the unsafe working conditions that caused his death and are responsible for countless injuries to other postal employees. Any reference in a law, map, regulation, document, or other paper of the United States shall be held to be a reference to the Michael McDermott Bulk and Foreign Mail Center.

● Mr. FARY. Mr. Speaker, H.R. 2303 would designate the New York Bulk and Foreign Mail Center at Jersey City, N.J., as the "Michael McDermott Bulk and Foreign Mail Center." This legislation sponsored by the Honorable FRANK GUARINI is supported unanimously by all of Mike's former coworkers at the New York Bulk and Foreign Mail Center.

Briefly, Mr. Speaker, Michael McDermott was a postal employee who died in an accident caused by a faulty conveyer belt at this facility in New Jersey almost 3 years ago. Mike is survived by a wife and daughter.

The other postal workers at this facility feel to name the building in honor of Michael McDermott would be a fitting tribute and honor a man who represents the group which made America great, the working men and women of this country.

Generally, when postal facilities of Federal buildings are designated with the name of a person, the purpose is to honor someone for distinguished achievements. Public figures, such as Members of Congress or other national leaders, have been singled out for commendation in this manner. However, in light of the circumstances regarding Michael's death, and further, in view of the fact that the bulk and foreign mail center is not a building that is accessible to the public, it is an industrial type, warehouse facility to which only postal employees go, it is appropriate and fitting that the building be known as the "Michael McDermott Bulk and Foreign Mail Center." ●

● Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 2303, legislation designed to memorialize Michael McDermott, a postal employee who died in an accident at the New York Bulk Mail Center at Jersey City, N.J., almost 3 years ago.

In view of the circumstances surrounding Michael's death, it is a fitting tribute that this facility be named in his honor.●

● Mr. STANGELAND. Mr. Speaker, I support H.R. 2303, legislation to designate the New York Bulk and Foreign Mail Center at Jersey City, N.J., as the "Michael McDermott Bulk and Federal Mail Center." The purpose of this legislation is to remember Michael McDermott, a worker at this facility, who died in a tragic accident here almost 3 years ago.

While I feel that this is a fitting tribute, I was somewhat concerned that we may be setting an unwise precedent by naming this facility after a local hero. As my colleagues may know, it has been the policy of our committee to name Federal facilities only after nationally prominent figures, usually from Government. During committee consideration of this bill, an extensive record was built and it was determined that the bill would be appropriate and consistent with our general naming policy since this facility is not one utilized by the general public. I wish to emphasize that the record is clear that it is not the committee's intention to change our historic naming policy.●

● Mr. GUARINI. Mr. Speaker, today the House of Representatives will consider H.R. 2303, a bill I authored which would change the name of the New York Bulk and Foreign Mail Center in Jersey City, N.J., to the "Michael McDermott Bulk and Foreign Mail Center." This mail center is in my district, and this legislation is very important to me and to the postal workers in my district, 4,100 of whom work at this huge facility alone. Several days ago, the Committee on Public Works and Grounds, with Chairman JAMES HOWARD of New Jersey and key subcommittee Chairman JOHN FARY of Illinois lending their full support, re-

ported favorably on this bill in a unanimous expression of bipartisan support. I want to add to the record some of the important reasons why the full House should give its strong support to this bill.

Michael McDermott was a 25-year-old employee at the New York Bulk and Foreign Mail Center who was killed in an accident by a faulty conveyor belt almost 3 years ago. Safety devices meant to prevent the kind of accident that happened to Mike McDermott had been removed in order to speed the flow of mail during that Christmas season. Young Mike McDermott left behind a wife and an infant daughter.

The accident touched off a wave of charges that postal management had no concern for the safety of workers at the facility. Subsequent investigations of Mike McDermott's death revealed that 5,000 accidents had occurred at this facility in the 2 years preceding the fatal accident. An on-site survey conducted by the Congressional Subcommittee on Postal Personnel and Modernization 1 week after the incident turned up a number of safety violations—and that the same conveyor belt violations which caused the young father's death still existed.

There is a single important reason for the renaming of the New York Bulk and Foreign Mail Center as the "Michael McDermott Bulk and Foreign Mail Center"—a reminder to all that worker safety is the most important aspect of any industrial-type operation. Will Michael McDermott have died in vain? I believe it is right that Mike McDermott become a symbol of safety consciousness. Rather than provoke disharmony between management and workers, the renaming should facilitate discussion of safety consciousness. It could also be a symbol that the post office does want to make safety its first priority.

I want to make clear the function of this facility. As you know, it is traditional to name public buildings after statesmen and generals who have distinguished themselves with long records of public service. This is not a bill which would break this tradition—the bulk and foreign mail center is not a building that is accessible to the public. The mail center is not a post office as we know them in our hometowns; it is an industrial-type, warehouse facility to which only postal employees go.

What is most important about this bill to me and the many men and women who have spent their lives in the front lines of public service is the symbol for safety consciousness that Michael McDermott can become. Naming this facility after Michael McDermott will provide us a monument symbolizing the sacrifice of all working men and women who have lost their lives in public service. Let me assure you—young Mike McDermott was a hero. He is typical of the so many unsung heroes of this land—who go to work every day to support their family and save for their dreams for the future. He was the kind of American we are proud to represent as Members of Congress.

Michael McDermott was not an uncommon man. However, to forget him now—to let his death be in vain when the sorrow we feel from his loss can be turned into something positive—would demean the struggle of American working men and women. When we honor Michael McDermott, we shall be honoring a man who represents the group which made America great, a group which is distinguished by its achievements, a group which continues to serve America well—the working men and women of this country. Their safety while working is of paramount importance. Your favorable consideration of this bill would be a strong signal to all that industry should, first and foremost, be concerned with worker safety. Thank you.●

The bill was orderd to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NAMING CERTAIN FEDERAL BUILDINGS

The Clerk called the bill (H.R. 5941) to designate the building known as the Federal Building and U.S. Courthouse in Greenville, S.C., as the "Clement F. Haynsworth, Jr., Federal Building."

There being no objection, the Clerk read the bill as follows:

H.R. 5941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 300 East Washington Street, in Greenville, South Carolina, known as the Federal Building and United States Courthouse, hereafter shall be known and designated as the "Clement F. Haynsworth, Jr., Federal Building".

SEC. 2. Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in the first section of this Act hereby is deemed to be a reference to the "Clement F. Haynsworth, Jr., Federal Building".

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the building at 300 East Washington Street, in Greenville, South Carolina, known as the Federal Building and United States Courthouse, hereafter shall be known and designated as the "Clement F. Haynsworth, Jr., Federal Building".

SEC. 2. Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in the first section of this Act hereby is deemed to be a reference to the "Clement F. Haynsworth, Jr., Federal Building".

SEC. 3. The building located at 47 Washington Street, Quincy, Massachusetts, known as the Quincy Post Office, shall hereafter be known and designated as the "James A. Burke Post Office". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "James A. Burke Post Office".

SEC. 4. The United States Post Office Building located at the intersection of Sixth and Gay Streets, Portsmouth, Ohio, shall hereafter be named and designated as the "William H. Harsha United States Post Office Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "William H. Harsha United States Post Office Building".

● Mr. FARY. Mr. Speaker, the purpose of this legislation is to designate the Federal buiding and U.S. courthouse at 300 East Washington Street, in Greenville, S.C., as the "Clement F. Haynsworth, Jr., Federal Building"; designate the building known as the Quincy Post Office in Quincy, Mass., as the "James A. Burke Post Office"; and designate the U.S. Post Office building in Portsmouth, Ohio, as the "William H. Harsha U.S. Post Office Building."

Mr. Speaker, Clement Haynsworth, after graduating from Harvard Law School, was admitted to the South Carolina Bar and practiced law with the firm of Haynsworth & Haynsworth, with a break only for World War II service as a naval officer. In 1957, President Eisenhower appointed him to the Fourth Circuit of the U.S. Court of Appeals—the youngest judge in that circuit and only the second South Carolinian to serve in this century. Judge Haynsworth became chief judge in 1964, and continued in that position until he assumed senior judge status last spring.

Clement Haynsworth has guided his court through many controversial civil rights and labor law cases, and a landmark decision on behalf of prisoner rights. In the years since his Supreme Court nomination, both conservative and liberal law professors have praised his judicial abilities and leadership in the Nation's legal community.

The entire South Carolina congressional delegation, the Greenville Bar Association, and many other State and local elected officials have joined together in support of this tribute to Judge Haynsworth. Thus, in commemoration of his distinguished career, it is appropriate and fitting that the building be known as the "Clement F. Haynsworth, Jr., Federal Building."

Mr. Speaker, Congressman James A. Burke was born in Boston, Mass., on March 30, 1910. He attended Boston public schools, Lincoln Preparatory and Suffolk University.

Congressman Burke's career in public service began with his appointment to the post of registrar of vital statistics for the city of Boston. Mr.

Burke's public service, by no means, was contained to public office. During World War II he served as special agent into counterintelligence, attached to the 77th Infantry in the South Pacific. Mr. Burke was awarded four battle stars among other decorations for his distinctive service.

In 1948, Jim was first elected to public office and served for 10 years as a member the Massachusetts House of Representatives. He served as majority leader for 4 years and 4 years as vice chairman of the Massachusetts State Committee. Congressman Burke was elected to the 86th Congress and was appointed to the Ways and Means Committee in the 87th Congress and each subsequent Congress.

Congressman Burke served as chairman of the subcommittee on Social Security and his insight into problems facing the system were years ahead of his time. Only now, many of the congressman's innovative solutions, needed to strengthen the system, are being debated in the Congress.

In commemoration of his long and faithful dedication to public service, it is appropriate and fitting that the building which housed his district office for 20 years be known as the "James A. Burke Post Office."

Mr. Speaker, William H. Harsha was a distinguished Member of Congress and the Committee on Public Works and Transportation for 20 years. A native of Portsmouth, Ohio, he attended Portsmouth High School and received his undergraduate degree from Kenyon College. He later received his LL.B. from Western Reserve University and his LL.D from Kenyon.

His career in public service began during World War II when he served in the Marine Corps. He was the assistant city solicitor for Portsmouth 1947-51; and Scioto County prosecutor 1951-55. He was elected to the 87th Congress in 1960 and was reelected to each succeeding Congress. He eventually served as the ranking minority member on the House Public Works and Transportation Committee. He was also the past director of the Scioto County Cancer Society, and the past chairman of the Scioto County T.B. and Health Association.

In commemoration of his long and valuable services to his constituents and the Congress, his colleagues on the Committee on Public Works and Transportation feel it is appropriate and fitting that this building be chosen to point out to future generations the achievement of Congressman William H. Harsha.●

● Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 5941, a bill to designate the Federal building and U.S. courthouse at 300 East Washington Street, in Greenville, S.C., as the "Clement F. Haynsworth, Jr., Federal Building"; designate the building known as the Quincy Post Office in Quincy, Mass., as the "James A. Burke Post Office"; and designate the U.S. post office building in Portsmouth, Ohio, as the "William H. Harsha U.S. Post Office Building."

Mr. Speaker, as the chairman of the Subcommittee on Public Buildings and Grounds, the gentleman from Illinois (Mr. FARY), pointed out these three distinguished men are worthy of commendation in this manner. We are indeed honoring men for distinguished achievements. Their long and faithful dedication to public service warrants tribute be paid to these men by naming Federal facilities in their honor.●

● Mr. CAMPBELL. Mr. Speaker, I am pleased that the House is considering H.R. 5941, which designates the Federal building in Greenville, S.C., as the "Clement F. Haynsworth, Jr., Federal Building." I believe this bill is an appropriate tribute to a man who has served his State and Nation well for all of his 69 years.

Judge Haynsworth has received numerous awards in recognition of his distinguished work as a jurist and for his lifelong community service. Appointed to the Fourth Circuit of the U.S. Court of Appeals as the youngest judge in that circuit, he later became chief judge in 1964, and continued in that position until he assumed senior judge status last spring.

I cannot think of a more appropriate honor for Judge Haynsworth than having the House name the building for him in which he has maintained his office throughout his judicial career. Mr. Speaker, Judge Haynsworth's long list of distinguished achievements and his many contributions to both the legal community and his Nation make it an honor for me, and the city of Greenville, to request the enactement of this legislation.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in support of H.R. 5941, a bill to designate the building known as the Quincy Post Office in Quincy, Mass., as the "James A. Burke Post Office."

The Honorable James A. Burke retired in 1978 at the close of the 95th Congress after 20 years of service to his constituents of the 11th District of Massachusetts and to the people of the Nation. Jim Burke has been my friend since I was elected to Congress in 1964, and the people of America lost a fine, dedicated public servant when he retired because of illness.

As the former ranking member of the Joint Committee on Taxation and the Subcommittee on Public Assistance and Unemployment Compensation, Jim Burke proved himself a capable legislator and fully worthy of the trust and confidence of his constituents.

As the former distinguished chairman of the Subcommittee on Social Security of the House Ways and Means Committee, he became a self-educated expert on the social security system and earned the respect of his colleagues as a man of outstanding ability, deep compassion, and courage.

Mr. Speaker, I was proud to have worked with James A. Burke in the House of Representatives, and I urge the support of my colleagues for H.R. 5941 as a tribute to this courageous and compassionate gentleman.●

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to designate the building known as the Federal Building and U.S. Courthouse in Greenville, S.C., as the 'Clement F. Haynsworth, Jr., Federal Building', the building known as the Quincy Post Office in Quincy, Mass., as the 'James A. Burke Post Office', and the U.S. Post Office Building in Portsmouth, Ohio, as the 'William H. Harsha U.S. Post Office Building'."

A motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Consent Calendar.

GENERAL LEAVE

Mr. FARY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bills, H.R. 2303 and H.R. 5941, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

CONFERENCE REPORT ON H.R. 6956, HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS, 1983

Mr. BOLAND submitted the following conference report and statement on the bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-891)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, 5, 20, 22, 41, 43, 44, 47, 67, and 68.

That the House recede from its disagreements to the amendments of the Senate numbered 7, 9, 10, 11, 12, 14, 15, 17, 18, 19, 28, 29, 31, 32, 33, 35, 37, 39, 40, 48, 55, 58, 60, 62, 63, 64, and 65, and agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$4,000,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$20,000,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$119,000,000*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$40,000,000*; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$210,000,000*; and the Senate agree to the same.

Amendment numbered 34:

That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$111,300,000*; and the Senate agree to the same.

Amendment numbered 36:

That the House recede from its disagreement to the amendment of the Senate numbered 36, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$154,591,000*; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$97,500,000*; and the Senate agree to the same.

Amendment numbered 49:

That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$62,381,000*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,060,000,000*; and the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$22,700,000*; and the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$7,510,606,000*; and the Senate agree to the same.

Amendment numbered 57:

That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$152,665,000*; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$689,000,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 6, 13, 16, 23, 26, 27, 30, 38, 42, 45, 51, 52, 53, 61, and 66.

EDWARD P. BOLAND,
BOB TRAXLER,
LOUIS STOKES
(except amendments 1 and 61),
LINDY (MRS. HALE) BOGGS,
MARTIN O. SABO,
JAMIE L. WHITTEN,
BILL GREEN,
LAWRENCE COUGHLIN,
C. W. BILL YOUNG,
SILVIO O. CONTE,
Managers on the Part of the House.

JAKE GARN,
PAUL LAXALT,
HARRISON SCHMITT,
ALFONSE D'AMATO,
MARK O. HATFIELD,
WALTER D. HUDDLESTON,
PATRICK LEAHY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference of the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Amendment No. 1: Deletes language proposed by the Senate for annual contributions for assisted housing.

Amendment No. 2: Deletes language proposed by the Senate rescinding not more than $105,160,000 of rent supplement budget authority.

Amendment No. 3: Establishes the loan limitation for the housing for the elderly or handicapped fund at $453,000,000 as proposed by the House, instead of $724,800,000 as proposed by the Senate.

Amendment No. 4: Appropriates $4,000,000 for congregate services, instead of $3,500,000 as proposed by the House and $4,750,000 as proposed by the Senate. The conferees expect that the increase of $500,000 above the House amount will be used for rural demonstration projects in the congregate services program for a period of three years. The Department is directed to submit the proposed additional site locations to the Committees on Appropriations for approval.

Amendment No. 5: Appropriates $1,350,000,000 for payments for operation of low-income housing projects as proposed by the House, instead of $1,288,000,000 as proposed by the Senate.

The conferees concur with the policy established by the Department to assess a five percent penalty in operating subsidy during fiscal year 1983 for those public housing authorities that experienced excessive utility consumption. The Department is expected to redistribute the amount resulting from these penalties to various troubled housing projects. However, no funds derived from the penalty program shall be allocated to projects incurring a penalty.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

: Provided, That the amount payable to each public housing agency shall be obligated at least forty-five days prior to the beginning of the public housing agency's fiscal year: Provided further, That payments made as a result of the amounts so obligated will begin during the first month of the public housing agency's fiscal year, and shall be made in a lump sum payment to public housing agencies receiving $15,000 or less, shall be made quarterly to public housing agencies receiving payments over $15,000 and less than $60,000, and shall be made monthly to public housing agencies receiving payments of $60,000 or more: Provided further, That funds heretofore provided under this heading in Public Law 97-101 shall remain available for obligation for the fiscal year ending September 30, 1983, and shall be used by the Secretary for fiscal year 1983 requirements in accordance with section 9(a), notwithstanding section 9(d) of the United States Housing Act of 1937, as amended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 7: Establishes the limitation on Federal Housing Administration mortgage insurance commitments at $39,800,000,000 as proposed by the Senate, instead of $40,000,000,000 as proposed by the House.

Amendment No. 8: Appropriates $20,000,000 for assistance for solar and conservation improvements, instead of $25,000,000 as proposed by the House and $15,000,000 as proposed by the Senate.

Amendment No. 9: Appropriates $3,456,000,000 for community development grants as proposed by the Senate, instead of $3,445,000,000 as proposed by the House.

Amendment No. 10: Deletes language proposed by the House and stricken by the Senate limiting the amount available for

the Secretary's discretionary fund to $45,500,000.

Amendment No. 11: Appropriates $440,000,000 for urban development action grants as proposed by the Senate, instead of $340,000,000 as proposed by the House. The conferees are concerned with the distribution of funds among large and small cities. The conference action provides for the legislative committees to address this concern. If the legislative committees are unable to address the problem, the Appropriations Committees may again consider necessary action.

Amendment No. 12: Deletes language proposed by the House and stricken by the Senate limiting the amount of new budget authority available for small cities to $10,000,000.

Amendment No. 13: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that all amounts available in the revolving fund after September 30, 1982, be available for new loans.

Amendment No. 14: Appropriates $18,000,000 for research and technology as proposed by the Senate, instead of $20,000,000 as proposed by the House.

The conferees are agreed that within the total provided, at least $950,000 shall be made available to the Housing Assistance Council and that there will be no earmarking of funds for the Urban Consortium.

Amendment No. 15: Appropriates $575,223,000 for salaries and expenses as proposed by the Senate, instead of $576,224,000 as proposed by the House.

Amendment No. 16: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

: Provided, That none of the funds made available in this paragraph may be used prior to January 1, 1983 to plan, design, implement or administer any reorganization of the Department without the prior approval of the Committees on Appropriations.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

TITLE II—INDEPENDENT AGENCIES

DEPARTMENT OF DEFENSE—CIVIL

Cemeterial expenses, Army

Amendment No. 17: Provides for the purchase of two passenger motor vehicles as proposed by the Senate, instead of three vehicles as proposed by the House.

Amendment No. 18: Appropriates $6,682,000 for salaries and expenses as proposed by the Senate, instead of $6,689,000 as proposed by the House.

ENVIRONMENTAL PROTECTION AGENCY

Amendment No. 19: Appropriates $548,613,200 for salaries and expenses as proposed by the Senate, instead of $544,963,000 as proposed by the House. The conferees are in agreement with the recommendations contained in the report of the House with the following changes:

+$2,500,000 and 100 positions to be allocated on a priority basis at the Agency's discretion;

+$1,150,200 in offices under the management and support functions.

The conferees recommend an additional $10,500,000 for personnel compensation and benefits with the understanding that this will provide sufficient funding to preclude any reductions in positions during fiscal year 1983. The conferees expect OMB to increase EPA's fiscal year 1983 employment ceiling accordingly. In the event that additional resources are required, the conferees expect to receive a supplemental request for such additional funding.

Amendment No. 20: Deletes language proposed by the Senate providing for a minimum of 9,050 permanent, full-time equivalent workyears and prohibiting a reduction in force below that level. The increase provided for personnel compensation and benefits is sufficient to avoid the need for a reduction in force.

Amendment No. 21: Appropriates $119,000,000 for research and development, instead of $121,204,000 as proposed by the House and $115,000,000 as proposed by the Senate. The conferees expect EPA to target the additional funds to work on indoor air quality, acid rain and other areas of high priority determined by EPA.

Amendment No. 22: Appropriates $369,075,000 for abatement, control and compliance, as proposed by the House, instead of $365,007,000 as proposed by the Senate. The committee of conference is in agreement with the recommendations contained in the report of the Senate with the following changes:

−$3,000,000 for air quality (section 105) grants;

+$3,000,000 in water quality (section 106) grants;

−$2,000,000 in public water system program grants;

+$500,000 in underground injection control program;

+$2,368,000 in hazardous waste management grants;

−$500,000 in toxic enforcement grants;

+$2,800,000 to purchase an additional 95 workyears from the U.S. Army Corps of Engineers for wastewater treatment plant construction management assistance; and

+$900,000 for final hand-off of the Chesapeake Bay study results and responsibilities to the states.

The conferees direct that the $2,625,200 added for wastewater plant operator training be used to assist organizations and State agencies which actually conduct wastewater treatment plant operator training programs. Training programs provided with these funds should be focused on alleviating noncompliance problems in Federally funded municipal plants.

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing for reimbursement to Inverness, Mississippi for the costs of constructing a hydrological control release lagoon.

Amendment No. 24: Appropriates $40,000,000 for payment to the Hazardous Substance Response Trust Fund, instead of $44,000,000 as proposed by the House and $38,000,000 as proposed by the Senate.

Amendment No. 25: Appropriates $210,000,000 for Hazardous Substance Response Trust Fund, instead of $230,000,000 as proposed by the House and $200,000,000 as proposed by the Senate.

Amendment No. 26: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

: Provided further, That of the funds appropriated under this head, $8,000,000 shall be made available to the Department of Health and Human Services, upon enactment, and up to an additional $2,000,000 may be made available by the Administrator to the Department for the performance of specific activities in accordance with section 111(c)(4) of Public Law 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980: Provided further, That management of all funds made available to the Department shall be consistent with the responsibilities of the Trustee of the Fund, as outlined in section 223(b) of the Act: Provided further, That the administrative expenses contained in the first proviso are increased by $4,708,000

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase in the administrative expenses limitation is provided by the conferees for administrative expenses incurred by the Department of Health and Human Services.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing $10,000,000 to carry out the purposes of section 3012 of the Resource Conservation and Recovery Act of 1976, instead of $20,000,000 as proposed by the Senate.

The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The committee of conference is aware that in many areas delays have been experienced in the discovery, inspection and evaluation of hazardous waste sites. This $10,000,000 is a one-time, nonrecurring appropriation to assist states in completing the site survey and inspection process. Since this will not be a continuing program, the conferees expect the agency to allocate these funds to the States as expeditiously as possible, without establishing unduly complex administrative mechanisms or requirements.

Amendment No. 28: Includes language as proposed by the Senate to ensure funding eligibility for the waste water treatment plant in San Diego and for combined sewer overflow.

Amendment No. 29: Appropriates $2,430,000,000 for construction grants as proposed by the Senate, instead of $2,400,000,000 as proposed by the House. The $30,000,000 addition is to fund combined sewer overflow projects. The committee of conference understands that the Senate report includes only a partial list of areas and estimated costs of combined sewer overflow needs. The Environmental Protection Agency is directed to submit a report with a complete list of areas with combined storm water and sanitary sewer overflow problems and their estimated costs by March 1, 1983.

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

ADMINISTRATIVE PROVISION

With funds appropriated by this Act the Administrator shall cancel, deny, or take any other necessary action to cancel or deny, the registration of any pesticide product containing toxaphene: Provided, That none of the funds appropriated by this Act shall be used for the purpose of granting any registration of any pesticide product containing toxaphene, or for the purpose of approving any amendment to such a registration which would allow the use of such a product: Provided further, That this provi-

sion shall not apply to the use of toxaphene for the treatment of non-dairy cattle scabies by topical application on an individual basis, as approved by the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, until existing stocks are depleted or for a period of three years after enactment of this Act, whichever comes first: Provided further, That the foregoing provisos shall only take effect if the Environmental Protection Agency fails to promulgate a notice of intent to cancel or restrict registration of toxaphene within 60 days after enactment of this Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

EXECUTIVE OFFICE OF THE PRESIDENT

Amendment No. 31: Appropriates $1,839,000 for the Office of Science and Technology Policy as proposed by the Senate, instead of $1,578,000 as proposed by the House.

Amendment No. 32: Deletes the language proposed by the House and stricken by the Senate prohibiting the use of nonreimbursable detailees after March 31, 1983.

The conferees are concerned with the large number of nonreimbursable detailees used by the Office. As a result, the conferees direct the Office to limit the number of nonreimbursable detailees to 50 percent of the total detailees used by the Office during fiscal year 1983. It is estimated that given this requirement, and the funds provided in this Act, the Office could employ approximately 120 reimbursable and 120 nonreimbursable staff months during fiscal year 1983. This is approximately the same total level of detailees used during fiscal year 1982.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Amendment No. 33: Appropriates $130,000,000 for disaster relief as proposed by the Senate, instead of $324,000,000 as proposed by the House.

Amendment No. 34: Appropriates $111,300,000 for salaries and expenses, instead of $110,392,000 as proposed by the House and $112,616,000 as proposed by the Senate.

The committee of conference is in agreement with the following changes from the budget request:

−$4,876,000 from the civil defense program. The $27,322,000 available for civil defense activities will support 661 staff years, the same level as in fiscal year 1982;

−$4,640,000 general reduction from programs other than fire prevention and control;

+$2,413,000 for administration of the flood insurance program; and

+$850,000 for 20 full-time permanent positions for the U.S. Fire Administration.

Amendment No. 35: Includes language proposed by the Senate adding a citation for the Earthquake Hazards Reduction Act of 1977.

Amendment No. 36: Appropriates $154,591,000 for State and local assistance, instead of $139,776,000 as proposed by the House and $157,291,000 as proposed by the Senate.

The committee of conference is in agreement with the following changes from the budget request.

−$65,440,000 from the civil defense program.

−$200,000 from the terrorism program;

−$500,000 from the radiological emergency preparedness program; and

+$1,000,000 for the natural hazards-preparedness planning program ($750,000) and the hazard mitigation assistance program ($250,000).

Amendment No. 37: Deletes language proposed by the House and stricken by the Senate limiting funds for the earthquake hazards reduction program.

Amendment No. 38: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $154,007,000 for emergency planning and assistance, instead of $155,627,000 as proposed by the House and $157,550,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The committee of conference is in agreement with the following changes from the budget request:

−$34,617,000 from the civil defense program;

−$600,000 from the civil security program;

−$1,300,000 from the resources preparedness program;

−$779,000 from the strategic planning and analysis program; and

+3,300,000 for the U.S. Fire Administration. The conferees are agreed that the funds should be allocated as follows: $750,000 for the arson prevention and control program; $1,000,000 for the fire fighter health and safety program; $1,150,000 for the national fire data system; and $400,000 for fire rescue service management improvement.

GENERAL SERVICES ADMINISTRATION

Amendment No. 39: Appropriates $1,351,000 for the Consumer Information Center as proposed by the Senate, instead of $1,299,000 as proposed by the House.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Amendment No. 40: Establishes a limitation for Space Shuttle of $1,769,000,000 as proposed by the Senate, instead of $1,779,000,000 as proposed by the House.

Amendment No. 41: Restore language proposed by the House and stricken by the Senate and deletes language proposed by the Senate.

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

$1,796,000,000: Provided, That the amount available for obligation or expenditure shall be reduced to the extent subsequent authorizations provide for transfers

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 43: Restores language proposed by the House and stricken by the Senate establishing limitations on various programs.

Amendment No. 44: Appropriates $5,542,800,000 for research and development as proposed by the House, instead of $5,117,800,000 as proposed by the Senate.

The above amount includes the following changes from the budget:

+$140,000,000 for Centaur upper stage development (including $13,000,000 from kick-stage termination);

+$20,000,000 for advanced communications test satellite (30/20 gigahertz);

+$48,000,000 for aeronautics (including $3,000,000 from kick-stage termination);

+$30,000,000 for planetary mission operations and data analysis and research and analysis (including no less than $5,000,000 for physics and astronomy);

+$5,000,000 for technology transfer and/or technology utilization;

+$1,800,000 for operation of the infra-red telescope facility at Mauna Kea, Hawaii; and

−$20,000,000 as a general reduction.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

That $280,000,000 shall be made available for aeronautical research and technology, that $192,000,000 shall be made available for design, development, procurement, and other related requirements of liquid hydrogen-liquid oxygen upper stages (Centaur): Provided further,

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 46: Appropriates $97,500,000 for construction of facilities, instead of $95,000,000 as proposed by the House and $100,000,000 as proposed by the Senate.

Amendment No. 47: Appropriates $1,168,900,000 for research and program management as proposed by the House, instead of $1,177,000,000 as proposed by the Senate.

Amendment No. 48: Deletes language proposed by the House and stricken by the Senate limiting the number of senior executive service positions.

NATIONAL SCIENCE FOUNDATION

Amendment No. 49: Earmarks not more than $62,381,000 for program development and management, instead of $62,081,000 as proposed by the House and $63,081,000 as proposed by the Senate.

Amendment No. 50: Appropriates $1,060,000,000 for research and related activities, instead of $1,067,200,000 as proposed by the House and $1,055,568,000 as proposed by the Senate.

The conferees have not provided any funds for the Minority Institution's Science Improvement Program. It is expected that this program will remain the responsibility of the Department of Education.

The conferees recognize the importance of transferring Federally-owned or originated technology to State and local governments and to the private sector. Further, the conferees recognize the value of the technical information and assistance provided to smaller communities and jurisdictions through the Community Technology Initiatives Program (CTIP).

Although the Administration did not request funding for CTIP in fiscal year 1983, the conferees instruct NSF to continue closely monitoring the progress being made toward the transfer of CTIP to the private sector. The conferees request that the Foundation report to the Committees on Appropriations on this transfer, notifying the Committees of what involvement might be necessary to insure participation within CTIP by small communities and advise the Committees in the event that additional Federal start-up funds are required to assure the successful transition to the private sector.

Finally, the conferees expect the Foundation to make sufficient resources available to implement the post performance evaluation recommendations of the National Academy of Sciences, including the development of an implementation plan.

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

: Provided further, That of the funds appropriated in this Act or in funds appropriated previously to the Foundation, not less than $9,000,000 shall be available for the U.S. Antarctic Research Program and not more than $73,400,000 shall be available for the U.S. Antarctic Program operations and support: Provided further, That no funds appropriated in this Act or in funds previously appropriated to the Foundation shall be available for the advanced ocean drilling program without the approval of the Committees on Appropriations and not in excess of $12,000,000 shall be available for the deep sea drilling project without the approval of the Committees on Appropriations

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees recommend $73,400,000 for the U.S. Antarctic Program's operations and support. There is also a floor of $9,000,000 on the scientific research component, which is the level requested by the Foundation.

The conferees have taken note of the increasing costs to the Foundation of logistical and support activities for this program. For the Foundation to continue in this current funding mode for the next decade would require greatly augmented resources because of upcoming requirements for major capital purchases and replacement of aircraft. As a result of this concern, the Office of Management and Budget is requested to conduct an in-depth review of this activity and to reexamine other modes of funding that might be available from the Departments of Defense, State and Transportation. At the same time, an assessment of U.S. objectives should be undertaken to determine whether they could be met with lower costs or with a different approach to funding support activities in the Antarctic. The report should be submitted to the Committees on Appropriations by April 1, 1983.

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

$30,000,000, to remain available until September 30, 1984

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have provided $30,000,000 for science education. This amount includes $15,000,000 for the NSF Fellowship Program. The conferees are aware that the Foundation has established a Commission on Precollege Education in Mathematics, Science and Technology. It has begun to address the serious problems in precollege science education in our Nation's schools. The conferees have provided $15,000,000 for the NSF to undertake an activity at this precollege level, conditional upon approval of such a program plan by the Committees on Appropriations. It is expected that the final plan will be made available by February 1, 1983.

NEIGHBORHOOD REINVESTMENT CORPORATION

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

: Provided, That notwithstanding any other provisions of this or any other Act, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board and the Federal Home Loan Banks, the Board of Governors of the Federal Reserve System and the Federal Reserve Banks, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration or any other department, agency or other instrumentality of the Federal Government may provide to the Neighborhood Reinvestment Corporation such funds, services, and facilities as they deem appropriate, with or without reimbursement, to achieve the objectives and to carry out the purposes of the Neighborhood Reinvestment Corporation Act, with the prior approval of the Committees on Appropriations

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

SELECTIVE SERVICE SYSTEM

Amendment No. 54: Appropriate $22,700,000 for salaries and expenses, instead of $22,386,000 as proposed by the House and $22,986,000 as proposed by the Senate.

VETERANS' ADMINISTRATION

Amendment No. 55: Deletes language proposed by the House and stricken by the Senate prohibiting the use of funds for the payment of educational benefits for individuals enrolling in correspondence training after September 30, 1982.

Amendment No. 56: Appropriates $7,510,606,000 for medical care, instead of $7,512,661,000 as proposed by the House and $7,493,824,000 as proposed by the Senate. This amount of funding is specifically intended to support 188,046 full-time equivalent employees (FTEEs) with the understanding that, in accordance with established Congressional practice, any additional pay costs necessary to support that FTEE level will be borne by the VA, using funds made available by this measure, funds made available through enactment of supplemental appropriations, or through absorption of the costs, or some combination thereof. This FTEE level does not include common services FTEEs.

The committee of conference is in agreement with the following changes from the budget request;

+$12,500,000 for 500 additional staff years in nursing support;

+$4,282,000 to maintain a minimum census of 10,000 community nursing home patients; and

−$2,055,000 transferred to the medical and prosthetic research account for Agent Orange research.

Amendment No. 57: Appropriates $152,665,000 for medical and prosthetic research, instead of $155,000,000 as proposed by the House and $150,329,000 as proposed by the Senate. This amount of funding is specifically intended to support 4,385 full-time equivalent employees (FTEEs) with the understanding that, in accordance with established Congressional practice, any additional pay costs necessary to support that FTEE level will be borne by the VA, using funds made available by this measure, funds made available through the enactment of supplemental appropriations, or through absorption of the costs, or some combination thereof. This FTEE level does not include common services FTEEs.

The committee of conference is aware that the Veterans Administration has internally planned to earmark $10,000,000 for research targeted to Vietnam veterans. The conferees direct VA to secure the approval of the Committees on Appropriations before obligating funds for this proposed new program.

Amendment No. 58: Appropriates $55,807,000 for medical administration and miscellaneous operating expenses as proposed by the Senate, instead of $56,107,000 as proposed by the House. This amount of funding is specifically intended to support 866 full-time equivalent employees (FTEEs) with the understanding that, in accordance with established Congressional practices, any additional pay costs necessary to support that FTEE level will be borne by the VA, using funds made available by this measure, funds made available through the enactment of supplemental appropriations, or through absorption of the costs, or some combination thereof. This FTEE level does not include common services FTEEs.

Amendment No. 59: Appropriates $689,000,000 for general operating expenses, instead of $686,359,000 as proposed by the House and $691,359,000 as proposed by the Senate.

Amendment No. 60: Deletes center heading as proposed by the House and stricken by the Senate.

Amendment No. 61: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $407,392,000 for construction, major projects, instead of $687,142,000 as proposed by the House and $409,392,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The committee of conference is in agreement with the following changes from the budget request:

+$3,000,000 for design/site acquisition of a new outpatient clinic at Los Angeles;

+$1,700,000 for a clinical addition and alterations project at Murfreesboro; and

−$5,000,000 from the advance planning fund.

The conferees expect that the budget estimates for both the Minneapolis hospital and Cleveland clinic will be submitted with the fiscal year 1984 request and agree that funds for such projects will be included in the first available appropriation legislation.

Amendment No. 62: Deletes language proposed by the House and stricken by the Senate transferring $260,000,000 from compensation and pensions.

Amendment No. 63: Establishes the limitation on expenses for the Office of Construction at not more than $32,865,000 as proposed by the Senate, instead of $32,500,000 as proposed by the House.

TITLE IV—GENERAL PROVISIONS

Amendment No. 64: Deletes language proposed by the House and stricken by the Senate limiting the use of funds to issue revisions to the national ambient air quality standard for carbon monoxide to permit multiple days of allowable exceedances on an annual basis.

The committee of conference emphasizes its concern over weakening the carbon monoxide standard through manipulaton of the number of allowable exceedances or any other means. The Agency is directed to consider all available medical and scientific information and to allow for an adequate margin of safety for public health in any revision to the carbon monoxide standard.

Amendment No. 65: Deletes language proposed by the House and stricken by the Senate limiting the use of funds to require any State to implement a vehicle emission control inspection and maintenance program or to impose sanctions on any State for failure to do so.

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate prohibiting the use of unallotted construction contingency funds for completing construction of the physical fitness facility in the Hart Senate Office Building and prohibiting the use of any funds for operation of the physical fitness facility in the Dirksen Senate Office Building after enactment of this Act.

Amendment No. 67: Deletes language proposed by the Senate expressing the sense of the Senate with respect to human rights violations in connection with the construction of the trans-Siberian pipeline.

The committee of conference directs the Secretary of State to investigate the extent to which forced labor will be employed and human rights violated in the construction of the trans-Siberian pipeline and to cooperate with other Western nations which also seek to investigate such violations, and report back to the Committees on Appropriations within thirty days with his preliminary findings and with a final report by January 1, 1983.

Amendment No. 68: Deleted language proposed by the Senate which amends the Tariff Schedules of the United States to provide duty-free treatment for imported steam.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1983 recommended by the Committee of Conference, with comparisons to the fiscal year 1982 amount, the 1983 budget estimates, and the House and Senate bills for 1983 follow:

New budget (obligational) authority, fiscal year 1982	$46,788,908,200
Budget estimates of new (obligational) authority, fiscal year 1983	46,643,208,000
House bill, fiscal year 1983	47,000,239,000
Senate bill, fiscal year 1983	46,534,317,200
Conference agreement, fiscal year 1983	46,895,408,200
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1982	+106,500,000
Budget estimates of new (obligational) authority, fiscal year 1983	+252,200,200
House bill, fiscal year 1983	−104,830,800
Senate bill, fiscal year 1983	+361,091,000

EDWARD P. BOLAND,
BOB TRAXLER,
LOUIS STOKES
(except amendments 1 and 61),
LINDY (MRS. HALE) BOGGS,
MARTIN O. SABO,
JAMIE L. WHITTEN,
BILL GREEN,
LAWRENCE COUGHLIN,
C. W. BILL YOUNG,
SILVIO O. CONTE,
Managers on the Part of the House.

JAKE GARN,
PAUL LAXALT,
HARRISON SCHMIDT,
ALFONSE D'AMATO,
MARK O. HATFIELD,
WALTER D. HUDDLESTON,
PATRICK LEAHY,
Managers on the Part of the Senate.

A NEW DIMENSION TO THE ART OF THE ALIBI

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, adding a new dimension to the art of the alibi, President Reagan last night seemed to blame his recession on many unrelated things including the fact Congress has not passed a particular job training bill this year.

The truth, of course, is that the House passed such a bill many weeks ago and the President has only now discovered it and decided that he invented it.

Perhaps he forgets that his fiscal 1983 budget proposed reductions of more than $3.4 billion below the fiscal 1981 level for existing job training programs.

In all of American history, there probably has not been another person cast in the Chief Executive's role who has managed to get things so screwed up in so short a time and then insisted on blaming all of his own failures on other people.

He seems willing to go all the way back to George Washington, if necessary, to find scapegoats for the dismal economic disaster of the last 2 years.

He blames Lyndon Johnson for the fact that black Americans are not better off than they are today, and blames John Kennedy for misleading him by having a tax cut that worked.

Maybe next he will blame Herbert Hoover for giving depressions a bad name.

CUT THROUGH DEMAGOGUERY AND RHETORIC IN THE EAST ROOM

(Mr. REUSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REUSS. Mr. Speaker, the majority leader is obviously disturbed by President Reagan's press conference. I, too, am a little shaken, particularly by his answer to the question from the press, "Who should the voters believe?"

The President replied that we have got to cut through all the demagoguery and rhetoric. Then he went on to say that the rate of increase in unemployment in the last 6 months of 1980 was just about as great as it has been at any time since.

Well, the facts are that there was not a rate of increase in unemployment in the last 6 months of 1980. Unemployment went down in that period from 7.6 to 7.4 percent, and it was only after the Reagan program was fully in place in July 1981 that unemployment started going up from 7.2 percent then, to 9.8 percent, a tragic level today.

So the moral is: If we are going to cut through demagoguery and rhetoric, maybe the East Room would be a good place to start.

PROSPERITY IS JUST AROUND THE CURVE?

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, I, too, heard the President's statement and news conference last night.

Mr. Reagan was preparing the Nation for the forthcoming 10 percent unemployment which is just around the corner. The only thing new that I heard from the President last night which distinguishes his acts from those of former President Hoover is that instead of quoting President Hoover's remark that "Prosperity is just around the corner," the President amended that famous forecast by stating that "Prosperity is just around the curve."

Mr. Speaker, instead of making life better in America, Reaganomics has made economic conditions worse.

GARRISON DIVERSION PROJECT

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, since this Congress convened, we have painfully tried to trim the bulges, streamline the excesses, and cut the fat from the Federal budget. In some cases we succeeded, but if we are not careful, one boondoggle will slip through in 1982.

The Garrison diversion project is economically, internationally, and environmentally unsound. Just look at the facts. Do not take my word for it.

The cost of the project has quintupled since its authorization in 1965 to $1.018 billion. The Federal investment per acre amounts to $3,753 with repayment by the farm beneficiary set at $77 per acre. This is a subsidy of roughly $800,000 per benefited farm. What a deal.

The completion of Garrison diversion will have significant adverse impacts on Canada, including the possible destruction of 50 to 70 percent of Manitoba's commercial fisheries. The completed project will also violate the Boundary Waters Treaty of 1909.

And there is more, Mr. Speaker: Garrison will damage or destroy 12 na-

tional wildlife refuges and will result in the loss of 70,000 acres of prime waterfowl marshes.

Mr. Speaker, this project is only 15 percent completed. We have the chance before irreversible damage is done to permanently correct the faults connected with Garrison. The first step is clear: 1983 appropriations for this project must be cut. The Congress must then study and recommend realistic alternatives. Let us not make a $1 billion mistake. We cannot afford it.

NATIONAL DEBT RETIREMENT ACT

(Mr. KRAMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KRAMER. Mr. Speaker, today Senator CHARLES PERCY, Representative LARRY WINN, and I are introducing legislation to create a fund to be used to pay off the national debt.

The National Debt Retirement Act will allow Congress to demonstrate its commitment to actually doing something about the trillion-dollar-plus national debt which is largely responsible for the high interest rates and unemployment we are suffering today.

Earlier this year, President Reagan initiated a new Federal property program aimed at improving the management of Federal holdings and at expediting the sale of unneeded property. The President has indicated that the primary goal of the program is to apply the proceeds from the sale of surplus property toward reduction of the national debt. However, unless this legislation we are introducing today is enacted, this cannot be done.

The National Debt Retirement Act will not in any way change current law as to what property can and cannot be sold; but it will redirect where the proceeds from such sales go.

I urge my colleagues to join President Reagan and our colleagues, who have already cosponsored this legislation, in taking this monumental first step toward doing something about the national debt.

THE 50TH WEDDING ANNIVERSARY OF PAT AND EMELINE HOGAN

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, before we adjourn this session of the Congress, I want to make special mention of the 50th wedding anniversary coming up on October 20 of Pat and Emeline Hogan of Appanoose Township, Hancock County, Ill.

Pat and Emeline have been real pillars in their home community. When their five sons were in school, they were the parents that chaperoned school activities, class trips, dances, hayrides, and parties. They never missed a basketball game their sons played in. When a 4-H leader was needed in their rural community, they filled the need. The two younger boys wanted to be in the Cub Scouts, so Pat became cubmaster and Emeline a den mother.

For many years Pat acted as township supervisor. He worked with the American Red Cross on the county level, and he served on his church's board of directors.

Emeline has served on many committees for their church and their community. She has always been willing to do any task that needed to be done.

This wonderful couple have been more than just grandparents to their grandchildren. They have been friends, always willing to listen to a small child, always caring.

As they reached their retirement years, one could expect them to slow down, but instead, they became more active. They were instrumental in setting up a senior citizens' center in Nauvoo, Ill., and are active in the Dallas City, Ill., senior citizens. They arrange bus tours for senior citizens and even bought a 12-passenger van so they share their own travels with others.

Pat and Emeline Hogan are always doing for others; their families, their friends, their community and their country. I just could not let this opportunity slip by without special mention of this wonderful couple and to join their host of friends in wishing them a happy 50th wedding anniversary.

LAST MINUTE SPECIAL-INTEREST LEGISLATION

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, habitually, at the end of each Congress, time pressures are such that careful scrutiny is not given legislation and in a frenetic desire to adjourn, bad lawmaking is often the result. As this session draws to a preelection close, the Depository Institutions Amendments of 1982 contain a case in point. This bill, which is intended to set policy for whole industries within the financial community, includes a last-minute provision that is particularly egregious and should be dropped.

Section 705 of the Senate-passed bill grants one company—Wilshire Oil Co.—an additional year to divest itself of its banking subsidiary, the Trust Co. of New Jersey. Wilshire Oil is the only company that has failed to divest itself under the 1970 amendments to the Bank Holding Company Act despite a Federal Reserve order to do so. A court challenge by Wilshire failed. Therefore, the company has sought and succeeded in the other body to have adopted what may be considered a congressional pardon. Section 705 would overturn the Federal Reserve order and court decisions applicable to Wilshire. It would save the company substantial sums of money that it would otherwise be obligated to pay in Federal penalties for refusal to divest.

In a very small way, at issue here is whether we are a government of laws or men. Such a special-interest provision for a particular company is clearly inappropriate in major financial legislation designed to affect an entire industry. I urge that this provision be eliminated in conference so that it does not color Members' decisions regarding the merits of a very important bill.

THE MISERY INDEX

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker, I sat here a moment ago and listened to the majority leader attack the President of the United States for the failure of his program.

I would remind the majority leader that when his party left the White House, the misery index in the United States was 19½. The President of the United States has reduced that misery index by 25 percent. It now happens to be 14.9 percent. Maybe to the majority leader this is the wrong direction to go, but quite frankly, I think you have to look at where you started: 21½ percent interest rates when President Reagan took over, they are 13 percent today; misery index down by 25 percent.

Is this the wrong direction?

Do you really want to go back the other way?

I think not.

REMEMBER THOSE JIMMY CARTER POLICIES

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I think it is important that the gentleman from South Carolina just raised the misery index issue because I think the American people need to be reminded that Jimmy Carter told us that is how you measure the economy. He said, if you take the misery index, which is a combination of the inflation rate and the unemployment rate, when you put that together, you can measure the economy. If the misery index is going up, you are worse off; if the misery

index is coming down, you are better off. That is exactly how we should measure the economy, according to the Democrats.

The misery index stood at 12.5 percent when Jimmy Carter took office; when he left office, it stood at 19½ percent. Today it stands at 14.9 percent.

Now, we hear complaints from the Democratic Party, the party of no new ideas—they have only complaints—but I submit their solutions are to go back to the Jimmy Carter policies.

Let us remember those Jimmy Carter policies: They brought us double-digit inflation, double-digit interest, and double-digit misery.

That is what the President and the Republicans in Congress are trying to correct. I think the Republican program deserves support, not just condemnation.

DOES ANYBODY REMEMBER?

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, just a minute ago, the distinguished chairman of the Joint Economic Committee was complaining about certain of the policies of the administration and attributing the unemployment problem to the administration's actions. I recall just a few years ago when he took the floor and castigated the Federal Reserve during the Carter administration for actions it took, and said it would ultimately lead to unemployment.

I guess, by that analysis, he may have been correct. But now, instead of blaming it on the Carter appointees to that particular body, he said that it is the President's fault. But before we really criticize the Federal Reserve on that too much, we ought to realize why the Federal Reserve took the action it did in 1979 and 1980.

Does anybody remember the Carter administration's policy of a different economic policy once a month—on again, off again? Does anybody remember that they clamped down on credit controls which required the Federal Reserve to respond in a certain way? Does anybody remember that the Federal Reserve opened the floodgates of the dollar market in the last 6 months of the Carter administration as we were approaching the election of 1980, and then clamped down?

Does anybody from the other side remember these things, or does everybody just try and forget because it makes it more comfortable for us to forget as we approach another election?

□ 1030

FEDERAL LENDING PROGRAMS OUT OF CONTROL

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, Federal lending programs are absolutely out of control. They are growing faster than Federal spending programs.

Right now, we have over $600 billion in outstanding loans, loan guarantees, and other credit assistance programs on the books. Many of them are not working well. The defaults in some programs are as high as 25 percent. We need to make sense of what we have on the books before we add anything more to it.

Just last week, we had a bill on the floor called the Defense Industrial Base Revitalization Act, which would have spent $6.75 billion to leverage $50 billion in new lending programs, and that money would go to those hard-pressed defense-related industries which cannot seem to get along on the money we are spending on defense.

I understand now that the Honorable Speaker of the House is embracing a bill which would create something like the Reconstruction Finance Corporation, with $5 billion in new spending to leverage some $100 billion in loans and loan guarantees.

This is welfare for all, not just the truly needy, but for the defense-related industries and for the big corporations of America which are so hard pressed out there in the marketplace that they want help from the taxpayers. This is the Ponzi premise—all of us standing around in a circle with our hands in each other's pockets, expecting somehow to get richer.

Mr. Speaker, it never has worked, and it will not work now. There are no new ideas from that side of the aisle.

WHO IS BOASTING ABOUT ECONOMIC PROGRESS?

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, as I listened to the 1-minute speeches, it occurs to me that some folks must think that Jimmy Carter is still President. He is not. When he left the White House, he left a Federal deficit of something around $50 billion.

Ronald Reagan is now President. He passed his program through this Congress, and the Federal deficit next year is estimated to be $155 billion.

But let me say, with all the boasting about the progress we have made on inflation that has come from the White House and the minority party, it has never been a secret to me or anybody else in this House, I hope, that we could stem the tide of inflation by throwing this country into a deep recession. In fact, during the Great Depression, we had deflation. My guess is that if we threw this country into a deep depression and created a condition of deflation, we would hear boasting from the White House about the tremendous progress that has been made.

The fact is that Reaganomics has given us record unemployment, it has given us record Federal deficits, we still have 15- to 17-percent interest rates in the marketplace, and it is not working.

President Reagan had a good idea, that we should cut out some wasteful Federal spending. But he has expanded that into a poor economic strategy: Deep tax cuts for the wealthy and big military spending which result in record Federal deficits.

Mr. Speaker, Reaganomics is an economic policy that is not working and we must get back to some moderate economic policies.

PROVIDING FOR TEMPORARY EXTENSION OF CERTAIN HOUSING AND COMMUNITY DEVELOPMENT INSURANCE PROGRAMS

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the joint resolution (H.J. Res. 612) to provide for the temporary extension of certain insurance programs relating to housing and community development, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. (Mr. MOAKLEY). Is there objection to the request of the gentleman from Texas?

Mr. STANTON of Ohio. Mr. Speaker, reserving the right to object, I do so for the sole purpose of asking our distinguished subcommittee chairman, first, if this is not the legislation that would extend the FHA to next May 20.

I understand this has been worked out with the other body, and there is no disagreement on that. It also contains two other minor provisions, one which the administration asks for concerning the community development block grant program, and the other to bring the FHA or Fannie Mae in compliance with Freddie Mac.

Mr. GONZALEZ. Mr. Speaker, if my very esteemed colleague will yield, I will reply.

Mr. STANTON of Ohio. I yield to the gentleman from Texas

Mr. GONZALEZ. Mr. Speaker, the resolution is a simple extension of the

essential authorities of the Secretary of Housing and Urban Development. For example, the FHA home mortgage insurance program authority expires on Friday, and this is of course a program that must be continued. Likewise, the Federal flood insurance program must not be permitted to lapse, which it would do without enactment of this resolution.

In addition to maintaining the integrity of the HUD insurance operations, the resolution maintains in force the hold-harmless provisions for cities that are just below the 50,000 population requirement for entitlement status in the community development block grant program. This is an extender that we had provided for in the 1982 housing bill, but since it now appears that we will not be able to act on that bill before the end of the fiscal year, the extender is included here.

I might point out that this resolution will be effective through next May 20. This is in accord with the desires of the other body, and also in accord with the recommendation of my good friend, the gentleman from Ohio (Mr. STANTON). This will give us the assurance that the postelection session need not be burdened with this item, in the event that the overall housing bill is not acted upon during that time.

I want to emphasize that it was never my wish or intent to bring forward a continuing resolution. Unfortunately, the position of the committee majority is so distant from that of the administration, and the administration is so unwilling to seek any reasonable ground of compromise, that it has been impracticable thus far to bring forward a housing bill wherein the points of difference would be reasonably narrow and susceptible of well-considered floor action. I am still working with my distinguished friend from Ohio, and remain hopeful that we can devise a bill that the House could consider in an expeditious and informed manner.

Let me reemphasize that this resolution is necessary in order to keep the most essential functions of HUD intact; namely, the FHA, flood, crime, and riot-insuring authorities. These are all matters that must be settled by legislation, but until they can be resolved in that manner, the resolution is necessary to prevent a chaotic situation.

The resolution would also provide the Federal Home Loan Mortgage Corporation with the authority to issue preferred stock. The intent of this provision is to enable the Mortgage Corporation to contribute to a housing recovery by allowing it to increase its purchases of newly originated mortgages during the hoped-for housing recovery in 1983. It will also enable the Mortgage Corporation to continue its highly successful SWAP program at current volume levels should this need continue.

I must emphasize, however, that in authorizing this expansion of the Corporation's activities, the committee in no way intends to imply that it is in support of the Corporation's proposals to reorganize as a quasi-private entity, as contained in H.R. 6442. The committee intends in the near future to look closely at the issue of the appropriate size and structure of the secondary mortgage market, including the appropriate role of the Federal Home Loan Mortgage Corporation.

Mr. STANTON of Ohio. Mr. Speaker, further reserving the right to object, I do so only for the purpose of yielding to the gentleman from South Dakota (Mr. ROBERTS).

Mr. ROBERTS of South Dakota. Mr. Speaker, I rise in support of House Joint Resolution 612. First of all, I believe the basic insuring authority of the Federal Housing Administration should be extended. The housing industry has experienced a difficult time and this is not the time to let this important program lapse.

In a more parochial sense, however, I am in support of this legislation because it rectifies a wrong that was inadvertently inflicted upon Rapid City, S. Dak., a year ago. It will, I hope, bring to a successful conclusion the efforts I initiated over 9 months ago to provide equitable status for Rapid City.

The situation, Mr. Speaker, is this: The Omnibus Budget Reconciliation Act of 1981 attempted to award "grandfather" status, under the Housing and Community Development Act, to all entitlement cities that had, prior to the 1980 decennial census, enjoyed that status. The rationale was obvious. These communities had achieved that status and they had counted on the funds in planning their budgets for the next year. In the case of some of them, they had planned on a multiyear cycle in accordance with the requirements of the Department of Housing and Urban Development. The 1980 census may have changed their status but Congress, rightfully so, said they should not be penalized for this change.

Metropolitan cities, Mr. Speaker, are determined in two different ways. They can be the central city of a designated SMSA or they can be any other city within a metropolitan area which has a population of 50,000 or more. These are called "A" and "B" entitlement cities. Rapid City was certified as a central city or "A" classification.

The Housing and Community Development Act Amendments of 1981, the pertinent parts of which were later incorporated into last year's Reconciliation Act, attempted to "grandfather" all categories of entitlement recipients. By a quirk of legislative drafting, however, it covered only metropolitan cities certified under category "B". Rapid City, it developed, was inadvertently omitted.

When it was brought to my attention that Rapid City was not covered, I immediately contacted the appropriate parties. The chairman of the Housing and Community Development Subcommittee, Mr. GONZALEZ, and the ranking minority member, Mr. STANTON, agreed that was not the subcommittee's intent and wrote a letter to HUD Secretary Pierce explaining their position. The chairman and ranking member of the Senate Housing Subcommittee did likewise.

The Department concluded they could not ignore the clear language of the law. This was unfortunate but legally correct and, therefore, right. With the cooperation of the Department, and Gov. William Janklow of South Dakota, however, we were able to ease the shock to Rapid City to some extent. Secretary Pierce provided money from his discretionary funds and Governor Janklow ageed to provide funds from the State's share of the small cities block grant program.

On Monday, when I learned that the Housing Subcommittee planned to extend the basic authorities of the Department of Housing and Urban Development, I wrote Chairman GONZALEZ and asked that the extending legislation rectify the Rapid City situation. I also contacted the staff of the subcommittee. I am pleased to see that this legislation does contain the necessary language.

In this regard, Mr. Speaker, I would like to extend my appreciation to Chairman GONZALEZ and Representative STANTON for their help in this matter. I would also like to thank both the majority and minority staffs for their assistance.

Mr. Speaker, the change in the law would only assure that Rapid City is treated in the same manner as other metropolitan cities for purposes of receiving funding on an entitlement basis under the CDBG program for fiscal year 1983. It is only right and just and I urge the adoption of House Joint Resolution 612.

Mr. STANTON of Ohio. Mr. Speaker, I urge passage of House Joint Resolution 612 as a vital piece of legislation to extend the FHA insurance programs past their expiration date of October 1, 1982. While the legislation does not extend these programs for a full year, as I had wanted, the extension to May 20, 1983, should provide ample time for Congress to act next year.

In addition to the extension of FHA programs, there are the necessary extenders for the expiring farmers' home programs and the flood, crime, and riot insurance programs under the jurisdiction of the Federal Emergency Management Agency. Another provi-

sion, which would allow FHLMC (Freddie Mac) to issue preferred stock, has been added to this bill to retain parity with FNMA (Fannie Mae) which is being granted similar authority as part of another bill dealing with financial institutions. There is also a provision which allows certain communities, which would otherwise lose community development block grant eligibility, to continue as entitlement communities through the last year of their funding cycle.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

The Clerk read the joint resolution, as follows:

H.J. RES. 612

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SECTION 1. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1982" in the first sentence and inserting in lieu thereof "May 21, 1983".

(b) Section 217 of such Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

(c) Section 221(f) of the such Act is amended by striking out "September 30, 1982" in the fifth sentence and inserting in lieu thereof "May 20, 1983".

(d) Section 235 of such Act is amended—

(1) in subsection (h)(1), by striking out "September 30, 1982" each place it appears in the fourth sentence and inserting in lieu thereof "May 20, 1983";

(2) in subsection (m), by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983"; and

(3) in subsection (q)(1), by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

(f) Section 244(d) of such Act is amended—

(1) by striking out "September 30, 1982" in the first sentence and inserting in lieu thereof "May 20, 1983"; and

(2) by striking out "October 1, 1982" in the second sentence and inserting in lieu thereof "May 21, 1983".

(g) Section 245(a) of such Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1982" in the second sentence and inserting in lieu thereof "May 20, 1983".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1982" in the second sentence and inserting in lieu thereof "May 20, 1983".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1982" in the second sentence and inserting in lieu thereof "May 20, 1983".

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1982" in the second sentence and inserting in lieu thereof "May 20, 1983".

FLEXIBLE INTEREST RATE AUTHORITY

SEC. 2. Section 3(a)(1) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968 (12 U.S.C. 1709-1), is amended by striking out "October 1, 1982" and inserting in lieu thereof "May 21, 1983".

EXTENSION OF RURAL HOUSING AUTHORITIES

SEC. 3. (a) Section 515(b)(5) of the Housing Act of 1949 is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

(b) Section 517(a)(1) of such Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

(c) Section 523(f) of such Act is amended by striking out "September 30, 1982" each place it appears and inserting in lieu thereof "May 20, 1983".

OTHER INSURANCE PROGRAMS

SEC. 4. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

(c) Section 1201(b)(1) of the National Housing Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "May 20, 1983".

COMMUNITY DEVELOPMENT DEFINITIONS

SEC. 5. Section 102(a) of the Housing and Community Development Act of 1974 is amended—

(1) in paragraph (4), by striking out "under clause (B) of this paragraph shall continue to" and inserting in lieu thereof "under this paragraph because the population of such city exceeded fifty thousand shall";

(2) in paragraph (4), by striking out "1982" and inserting in lieu thereof "1983"; and

(3) in the second sentence of paragraph (6)—

(A) by striking out "for fiscal year 1982" the first place it appears and inserting in lieu thereof "before October 1, 1983,";

(B) by striking out "for fiscal year 1982" the second place it appears and inserting in lieu thereof "through September 30, 1983,"; and

(C) by striking out "that fiscal year" and inserting in lieu thereof "through such date".

FEDERAL HOME LOAN MORTGAGE CORPORATION

SEC. 6. Section 306 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following new subsection:

"(f) The Corporation may have preferred stock on such terms and conditions as the Board of Directors shall prescribe. Any preferred stock shall not affect the status of the capital stock issued under section 304 as nonvoting common stock.".

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TRIBUTE TO THE HONORABLE J. WILLIAM STANTON

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, now that we have the distinguished gentleman from Ohio (Mr. STANTON) on the floor, who has been an outstanding leader in the Committee on Banking, Finance and Urban Affairs, I think we ought to mark at this point the fact that he is leaving us, and this may be the last time he will have an opportunity to be present before adjournment on a major occasion concerning this Banking Committee.

I wanted to rise to have the record reflect the fact that the gentleman from Ohio (Mr. STANTON) has been a real leader in the matter of housing through the years that he has served in the House of Representatives, and that it is with a great deal of regret and sadness that I see that he has made the decision to retire from service.

Certainly, I can very sincerely and truthfully say that if at any time the Nation had the need of the services of a BILL STANTON, it is now. It is with a great deal of regret that I see that he has decided to leave the House.

Mr. STANTON of Ohio. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I am delighted to yield to the gentleman from Ohio.

Mr. STANTON of Ohio. Mr. Speaker, I, of course, want to thank the subcommittee chairman for those kind remarks. I certainly appreciate them. I have certainly enjoyed serving in this body. I have certainly enjoyed serving with the gentleman from Texas, and I thank him very much.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules.

UNIFORMED SERVICES PAY ACT OF 1982

Mr. NICHOLS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7166) to provide a 4-percent increase in the pay and allowances of members of the uniformed services, to make various adjustments in military personnel and compensation programs, and for other purposes, as amended.

H.R. 7166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniformed Services Pay Act of 1982".

TITLE I—COMPENSATION ISSUES

4 PERCENT INCREASE IN BASIC PAY AND ALLOWANCES EFFECTIVE OCTOBER 1, 1982

SEC. 101. (a) The adjustment required by section 1009 of title 37, United States Code, in certain elements of the compensation of members of the uniformed services to become effective on October 1, 1982, shall not be made, and no adjustment of the compensation of any member of a uniformed service shall be made pursuant to such section for the period beginning on October 1, 1982, and ending on the date of the enactment of this Act.

(b)(1) Subject to the provisions of paragraph (2), the elements of compensation specified in section 1009(a) of title 37, United States Code, shall be increased for members of the uniformed services by 4 percent effective with the first pay period beginning after September 30, 1982.

(2) Subsections (c) and (d) of section 1009 of title 37, United States Code, shall apply to any pay adjustment made pursuant to this section in the same manner as such subsections apply to an increase described in subsection (b)(3) of such section.

ADJUSTMENT IN BASIC PAY OF CERTAIN OFFICERS WITH PRIOR ENLISTED AND WARRANT OFFICER SERVICE

SEC. 102. (a) Section 203(d) of title 37, United States Code, is amended to read as follows:

"(d) The basic pay of a commissioned officer who is in pay grade O-1, O-2, or O-3 and who is credited with a total of over four years' active service as a warrant officer and enlisted member shall be computed in the same manner as the basic pay of a commissioned officer in the same pay grade who has been credited with over four years' active service as an enlisted member.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR ACTIVE FORCES

SEC. 103. (a) Sections 308(g) and 308a(c) of title 37, United States Code, are amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1987".

(b) Section 308f(c) of such title is amended by striking out "September 30, 1983" and inserting in lieu thereof "September 30, 1987".

FREEZE ON CERTAIN ALLOWANCES DURING FISCAL YEAR 1983

SEC. 104. (a) During fiscal year 1983, the amounts in effect for the following allowances may not exceed the amounts in effect for such allowances on the date of the enactment of this Act:

(1) The rates for dependents for the monetary allowance in lieu of transportation under section 404(d) of title 37, United States Code.

(2) Weight allowances for transportation of baggage and household effects prescribed under section 406(b) of such title.

(b) During fiscal year 1983, the regulations determining when permission to mess separately may be granted for purposes of the basic allowance for subsistence paid under section 402(b) of such title may not be revised so as to authorize any category of members to be granted such permission which was not eligible for such permission on the date of the enactment of this Act.

HAZARDOUS DUTY PAY FOR CERTAIN TOXIC FUEL HANDLERS

SEC. 105. (a) Section 301(a)(12) of title 37, United States Code, is amended by inserting "or the testing of aircraft or missile systems (or components of such systems) during which highly toxic fuels or propellants are used" after "propellants".

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

CLARIFICATION OF ELIGIBILITY FOR SEPARATION PAY

SEC. 106. (a) Subsection (c) of section 1174 of title 10, United States Code, is amended to read as follows:

"(c)(1) Except as provided in paragraphs (2) and (3), a member of an armed force other than a regular member who after September 14, 1981, is discharged or released from active duty and who has completed five or more, but less than twenty, years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2), as determined by the Secretary concerned, if—

"(A) the member's discharge or release from active duty is involuntary; or

"(B) the member was not accepted for an additional tour of active duty for which he volunteered.

"(2) If the Secretary concerned determines that the conditions under which a member described in paragraph (1) is discharged or separated do not warrant separation pay under this section, that member is not entitled to that pay.

"(3) A member described in paragraph (1) who was not on the active-duty list when discharged or separated and who had not completed at least five years of continuous active duty immediately before such discharge or release is not entitled to separation pay under this section.".

(b) Subsection (g)(2) of such section is amended by inserting ", other than section 1212 of this title," after "any other provision of law".

(c) The amendments made by this section shall take effect on October 1, 1982.

EXTENSION OF MINIMUM INCOME PROVISION FOR CERTAIN WIDOWS

SEC. 107. (a) Section 4(a)(1) of the Act entitled "An Act to amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit Plan, and for other purposes", approved September 21, 1972 (10 U.S.C. 1448 note), is amended by striking out "on the effective date of this Act is, or within one calendar year after that date becomes," and inserting in lieu thereof "on September 21, 1972, was, or during the period beginning on September 22, 1972, and ending on March 20, 1974, became,".

(b) Any annuity payable by reason of subsection (a) shall be payable only for months after September 1982.

MODIFICATIONS TO RESERVE OFFICER TRAINING CORPS' SCHOLARSHIP PROGRAM

SEC. 108. (a)(1) Section 2101(3) of title 10, United States Code, is amended by striking out the period and inserting in lieu thereof "(except that, in the case of a student enrolled in an academic program which has been approved by the Secretary of the military department concerned and which requires more than four academic years for completion of baccalaureate degree requirements, including elective requirements of the Senior Reserve Officers' Training Corps course, such term includes a fifth academic year or a combination of a part of a fifth academic year and summer sessions).".

(2) Section 2104(a) of such title is amended by inserting "at least" before "two".

(3) Section 2107(c) of such title is amended by inserting after the first sentence the following new sentence: "In the case of a student enrolled in an academic program which has been approved by the Secretary of the military department concerned and which requires more than four academic years for completion of baccalaureate degree requirements, including elective requirements of the Senior Reserve Officers' Training Corps course, financial assistance under this section may also be provided during a fifth academic year or during a combination of a part of a fifth academic year and summer sessions.".

(4) Section 209(a) of title 37, United States Code, is amended by striking out "20" and inserting in lieu thereof "30".

(b)(1) Section 2005 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The Secretary concerned shall require, as a condition to the Secretary providing financial assistance under section 2107 or 2107a of this title to any person, that such person enter into an agreement described in subsection (a). In addition to the requirements of clauses (1) through (4) of such subsection, any agreement required by this subsection shall provide—

"(1) that if such person fails to complete the education requirements specified in the agreement, the Secretary will have the option to order such person to reimburse the United States in the manner provided for in clause (3) of such subsection without the Secretary first ordering such person to active duty as provided for under clause (2) of such subsection and section 2107(f) and 2107a(f) of this title; and

"(2) that any amount owed by such person to the United States under such agreement shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the reimbursement is determined to be due for securities having maturities of 90 days or less and shall accrue from the day on which the member is first notified of the amount due to the United States as a reimbursement under this section.".

(2) The amendment made by paragraph (1) shall apply with respect to agreements entered into after September 30, 1982.

(c)(1) Section 2107(b)(5) of title 10, United States Code, is amended—

(A) by striking out "either" in the matter preceding subparagraph (A);

(B) by striking out "or" at the end of subparagraph (A);

(C) by striking out the period at the end and inserting in lieu thereof "; or"; and

(D) by adding at the end the following:

"(C)(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be; and

"(ii) serve in a reserve component of that armed force until the sixth anniversary of the receipt of such appointment, unless such appointment is otherwise extended by subsection (d) of section 2108 of this title, under such terms and conditions as may be prescribed by the Secretary of the military department concerned.".

(2) The second sentence of section 2107(b) of such title is amended—

(A) by inserting "or (5)(C)" after "(5)(B)"; and

(B) by striking out the period at the end and inserting in lieu thereof ", except that performance of service under clause (5)(C)

shall include not less than two years of active duty.".

(3) The amendments made by this subsection shall apply with respect to agreements entered into under section 2107(b)(5) of title 10, United States Code, after September 30, 1982.

TITLE II—COMPUTATION OF RETIRED PAY

TERMINATION OF SIX-MONTH ROUNDING RULE FOR COMPUTING RETIRED PAY

SEC. 201. (a)(1) The text of each of the footnotes listed in paragraph (2) is amended to read as follows: "Before applying percentage factor, credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month.".

(2) The footnotes referred to in paragraph (1) are the following:

(A) Footnote 3 of the table in section 1401 of title 10, United States Code.

(B) Footnote 2 of the table in section 1402(a) of such title.

(C) Footnote 1 of the table in section 1402(d) of such title.

(D) Footnote 1 of the table in section 1402a(a) of such title.

(E) Footnote 1 of the table in section 1402a(d) of such title.

(F) Footnote 4 of the table in section 3991 of such title.

(G) Footnote 2 of the table in section 3992 of such title.

(H) Footnote 4 of the table in section 8991 of such title.

(I) Footnote 2 of the table in section 8992 of such title.

(b) Subsection (f) of section 1174 of title 10, United States Code, is amended to read as follows:

"(f) In determining a member's years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(c)(1) The text of section 6328 of such title is amended to read as follows:

"In determining the total number of years of service to be used as a multiplier in computing the retired pay of officers retiring under this chapter, each full month of service that is in addition to the number of full years of service creditable to an officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(2) The first sentence of section 6330(d) of such title is amended to read as follows: "For the purposes of subsection (c), each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(3) Paragraph (2) of section 6151(b) of such title is amended to read as follows:

"(2) In determining the number of years to be used as a multiplier under this subsection, each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(4) The text of section 6404 of such title is amended to read as follows:

"In determining the total number of years of service to be used as a multiplier in computing retired pay and separation pay on discharge under this chapter, each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(d) The fourth sentence of section 423 of title 14, United States Code, is amended to read as follows: "In computing the number of years of service by which the rate of 2½ percent is multiplied, each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(e) Subsection (b) of section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o) is amended to read as follows:

"(b) In computing the number of years of service of an officer for the purposes of subsection (a), each full month of service that is in addition to the number of full years of service creditable to a member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(f) Section 211(e) of the Public Health Service Act (42 U.S.C. 212(e)) is amended by striking out "a part of" and all that follows and inserting in lieu thereof "each full month of service that is in addition to the number of full years of service credited to an officer is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.".

(g) The amendments made by this section shall apply with respect to (1) the computation of retired or retainer pay of any individual who becomes entitled to that pay after September 30, 1982, and (2) the recomputation of retired pay under section 1402, 1402a, 3992, or 8992 of title 10, United States Code, of any individual who after September 30, 1982, becomes entitled to recompute retired pay under any such section.

TITLE III—PERSONNEL MANAGEMENT ISSUES

TRANSFER OF PUBLIC HEALTH SERVICE OFFICERS TO OTHER UNIFORMED SERVICES

SEC. 301. (a)(1) Section 716 of title 10, United States Code, is amended to read as follows:

"§ 716. Commissioned officers: transfers among the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service

"(a)(1) The President may, within authorized strengths and with the consent of the officer involved, transfer any commissioned officer of a uniformed service from his uniformed service to, and appoint him in, another uniformed service. The Secretary of Defense, the Secretary of the Department of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Commerce, and the Secretary of Health and Human Services shall jointly establish, by regulations approved by the President, policies and procedures for such transfers and appointments.

"(2) In this section, 'uniformed service' means any of the armed forces, the Commissioned Corps of the National Oceanic and Atmospheric Administration, or the Commissioned Corps of the Public Health Service.

"(b) An officer transferred under this section may not be assigned precedence or relative rank higher than that which he held on the day before the transfer.

"(c)(1) An officer who previously served on active duty as a commissioned officer of the National Oceanic and Atmospheric Administration or the Public Health Service and who is appointed or reappointed as a commissioned officer in any other uniformed service shall be credited for purposes of computing such officer's eligibility to retire, and the amount of such officer's retired pay, with the number of years of service with which he was credited for such purposes on the day before the termination of his previous period of active duty.

"(2) For the purpose of determining the grade and rank within grade of a commissioned officer of the Public Health Service who transfers to, and is appointed as a commissioned officer in, an armed force, the Secretary concerned may, under regulations prescribed by the Secretary of Defense, credit such officer at the time of such appointment with any period of active commissioned service that such officer performed as a commissioned officer in the Public Health Service.".

(2) The item relating to such section in the table of sections at the beginning of chapter 41 of such title is amended to read as follows:

"716. Commissioned officers: transfers among the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service.".

(b) Clause (13) of section 3(a) of the Act of August 10, 1956 (33 U.S.C. 857a(a)), is amended to read as follows:

"(13) Section 716, Commissioned officers: transfers among the armed forces, the National Oceanic and Atmospheric Administration, and the Public Health Service.".

NOMINATIONS TO SERVICE ACADEMIES

SEC. 302. (a)(1) Clause (10) of section 4342(a) of title 10, United States Code, relating to the number of cadets at the United States Military Academy, is amended to read as follows:

"(10) One cadet from American Samoa, nominated by the Delegate in Congress from American Samoa.".

(2) Clause (10) of section 6954(a) of such title, relating to the number of midshipmen at the United States Naval Academy, is amended to read as follows:

"(10) One from American Samoa, nominated by the Delegate in Congress from American Samoa.".

(3) Clause (10) of section 9342(a) of such title, relating to the number of cadets at the United States Air Force Academy, is amended to read as follows:

"(10) One cadet from American Samoa, nominated by the Delegate in Congress from American Samoa.".

(b)(1) Clause (8) of section 4342(a) of title 10, United States Code, is amended to read as follows:

"(8) One cadet nominated by the Administrator of the Panama Canal Commission from the children of civilian personnel of the United States Government residing in the Republic of Panama who are citizens of the United States.".

(2) Clause (8) of section 6954(a) of such title is amended to read as follows:

"(8) One nominated by the Administrator of the Panama Canal Commission from the children of civilian personnel of the United States residing in the Republic of Panama who are citizens of the United States.".

(3) Clause (8) of section 9342(a) of such title is amended to read as follows:

"(8) One cadet nominated by the Administrator of the Panama Canal Commission

from the children of civilian personnel of the United States Government residing in the Republic of Panama who are citizens of the United States.".

APPOINTMENT OF CITIZENS OF NORTHERN MARIANA ISLANDS AS COMMISSIONED OFFICERS

SEC. 303. (a) Notwithstanding any provision of law respecting citizenship and in accordance with the covenant entitled "A Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America" (approved on March 24, 1976, by Public Law 94-241), a citizen of the Northern Mariana Islands who indicates in writing to a commissioned officer of the Armed Forces of the United States an intent to become a citizen, and not a national, of the United States upon full implementation of such covenant, and who is otherwise qualified for military service under applicable laws and regulations, may be appointed as an officer in the Armed Forces of the United States, may be appointed or enrolled in the Senior Reserve Officers' Training Corps program of any of the Armed Forces under chapter 103 of title 10, United States Code, and may be selected to be a participant in the Armed Force Health Professions Scholarship program under chapter 105 of such title.

(b) This section shall expire upon the establishment of the Commonwealth of the Northern Mariana Islands.

TITLE IV—MISCELLANEOUS

LIMITATION ON CONTRACTING-OUT CERTAIN FUNCTIONS

SEC. 401. (a) Section 502 of the Department of Defense Authorization Act, 1981 (94 Stat. 1086; 10 U.S.C. 2304 note), is amended by adding at the end thereof the following new subsections:

"(g) A commercial or industrial type function of the Department of Defense may not be performed by a private contractor if the Secretary of Defense, in his sole discretion, determines that in order to meet national defense needs such function must be performed by military or civilian personnel of the Department of Defense. An activity of the Department of Defense that is a commercial or industrial type function shall be considered to be necessary to meet national defense needs if the Secretary determines that—

"(1) the activity is operated primarily by military personnel and is utilized in, or is subject to deployment in, a direct combat role;

"(2) the activity is operated primarily by military personnel and is essential for training in skills that are exclusively military in nature;

"(3) the activity is operated primarily by military personnel and is needed to provide work assignments for a rotation base for overseas or sea duty assignments;

"(4) the activity performs depot or intermediate-level maintenance or logistical support and is necessary to ensure—

"(A) a ready and controlled source of technical competence and resources to meet military contingencies; or

"(B) that combat and combat support activities be self-sufficient insofar as possible in providing maintenance or logistical support for assigned weapons systems and equipment;

"(5) performance of the function by other than military or civilian personnel of the Department of Defense would adversely affect national defense capabilities; or

"(6) in the case of an activity performed on a military installation, performance of the function by military or civilian personnel of the Department of Defense is so critical to safety or security at the installation or to the well-being of personnel assigned to duty at the installation that any interruption in the performance of the function would be potentially hazardous or deleterious to the safety of personnel or security at the installation.

"(h) As a part of any notification to Congress under subsection (a)(2)(A), the Secretary of Defense shall include consideration of the assessment of the military commander of the major operating command to which is assigned the function to be studied for possible performance by a private contractor as to whether such function, under any of clauses (1) through (6) of subsection (e), must be performed by military or civilian personnel of the Department of Defense in order to meet national defense needs. The Secretary shall make the assessment of the military commander available to the Committees on Armed Services of the Senate and House of Representatives upon request.

"(i) In performing any cost comparison required by subsection (a)(2)(B), the Secretary of Defense shall ensure that the cost comparison includes a full and complete accounting of costs for both the Government and private contractor performance. In any such cost comparison, the cost to the Government of the cost comparison process shall be included among the costs of performance by private contractor.

"(j)(1) Except as provided in paragraph (2), in the case of any new requirement for a commercial or industrial type function or activity of the Department of Defense established after the end of the 60-day period beginning on the date of the enactment of this subsection, the Secretary of Defense shall determine (before deciding whether to use Department of Defense personnel or a private contractor for the performance of the function or activity) whether performance of the function or activity would be less costly to the Government using Department of Defense personnel or a private contractor. Any such determination shall be made based on a cost comparison carried out in accordance with such procedures as the Secretary of Defense may prescribe.

"(2) Paragraph (1) does not apply to a function that under subsection (e) may not be performed by a private contractor because of a determination by the Secretary of Defense under that subsection.".

(b) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives, not later than March 1, 1983, a written report concerning the impact within the Department of Defense of past or proposed conversions of commercial and industrial-type functions from performance by Department of Defense personnel to performance by private contractor. The Secretary shall include in the report—

(1) an assessment, together with relevant evidence, as to whether military readiness has been impaired or would be impaired or national defense capabilities adversely affected by conversions to private contractor performance in—

(A) activities in which the activity itself or the military personnel assigned thereto are utilized in, or are subject to deployment in, a direct combat role;

(B) activities essential for training in skills that are exclusively military in nature;

(C) activities needed to provide work assignments for military career progression or a rotation base for overseas or sea duty assignments;

(D) depot or intermediate-level maintenance or logistical support activities that are necessary to ensure—

(i) a ready and controlled source of technical competence and resources to meet military contingencies; or

(ii) that combat and combat-support activities are self-sufficient insofar as possible in providing maintenance support for assigned weapons systems and equipment;

(E) activities performed on military installations which involve the safety or security of personnel or security at the installation; or

(F) activities in which the performance of the functions by other than military or civilian personnel of the Department of Defense would adversely affect national defense capabilities;

(2) a detailed list of all commercial and industrial-type activities within the Department of Defense;

(3) a list of the commercial or industrial-type activities within the Department of Defense converted from performance by Department of Defense personnel to performance by private contractor since October 1, 1977;

(4) a list of commercial and industrial-type activities within the Department of Defense that it has been determined necessary to perform with Department of Defense personnel to meet national defense needs;

(5) the assessment (without modification) by the military commander of each major operating command in which commercial or industrial-type activities are performed of—

(A) the impact on the command and its operating capability of past conversions of commercial and industrial-type functions from performance by Department of Defense personnel to performance by private contractor; and

(B) whether the use of personnel ceilings has been a factor in past decisions to convert a commercial or industrial-type activity from performance by Department of Defense personnel to performance by a private contractor;

(6) his assessment, together with relevant evidence, including consideration of the assessment of each Secretary of a military department, of—

(A) the impact on the administration of the Department of Defense and each of the military departments of the legislative restrictions contained in section 502 of Public Law 96-342, and the provisions of subsection (a) of this section; and

(B) the impact of personnel ceilings on the administration of the contracting-out programs.

MEDICAL MALPRACTICE PROTECTION FOR HEALTH-CARE PERSONNEL OF THE SOLDIERS' AND AIRMEN'S HOME

SEC. 402. (a) Subsection (a) of section 1089 of title 10, United States Code, relating to defense of certain suits arising out of medical malpractice, is amended by inserting "the United States Soldiers' and Airmen's Home," after "the Department of Defense,".

(b) Subsection (f) of such section is amended by striking out "or his designee may, to the extent that he or his designee deems" and inserting in lieu thereof "may, to the extent that the head of the agency concerned considers".

(c) Subsection (g) of such section is amended—

(1) by striking out "and" at the end of clause (2);

(2) by redesignating clause (3) as clause (4); and

(3) by inserting after clause (2) the following new clause (3):

"(3) the board of commissioners of the United States Soldiers' and Airmen's Home, in the case of an employee of the United States Soldiers' and Airmen's Home; and".

(d) The amendments made by this section shall apply only to claims accruing on or after the date of the enactment of this Act.

REPEAL OF REPORTING REQUIREMENT RELATING TO EMPLOYMENT IN DEFENSE INDUSTRIES

SEC. 403. Section 410 of Public Law 91-121, approved November 19, 1969 (50 U.S.C. 1436), is repealed.

ACCEPTANCE OF VOLUNTARY SERVICES FOR MILITARY MUSEUMS AND FAMILY SUPPORT PROGRAMS

SEC. 404. (a) Chapter 81 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1587. Authority to accept certain voluntary services

"(a) Notwithstanding section 1342 of title 31, the Secretary of a military department may accept from any person voluntary services to be provided for a museum or a family support program operated by that military department.

"(b) A person providing voluntary services under subsection (a) shall be considered to be an employee for the purposes of chapter 81 of title 5, relating to compensation for work-related injuries, and to be an employee of the government for the purposes of chapter 171 of title 28, relating to tort claims. Such a person who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of such services.".

(b) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 1586 the following new item:

"1587. Authority to accept certain voluntary services.".

CLARIFICATION OF RELATIONSHIP BETWEEN AUTHORIZATIONS AND APPROPRIATIONS

SEC. 405. Subsection (a) of section 138 of title 10, United States Code, is amended to read as follows:

"(a) No funds may be appropriated for any fiscal year for the military functions of the Department of Defense or obligated or expended—

"(1) for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, naval torpedoes and related support equipment, other weapons, ammunition, or other procurement;

"(2) for research, development, test, or evaluation (or procurement or production related thereto);

"(3) for operation and maintenance; or

"(4) for military construction (as defined in subsection (f));

unless such funds have been specifically authorized by law.

TECHNICAL AMENDMENTS

SEC. 406. Title 10, United States Code, is amended as follows:

(1) Effective on October 1, 1982, section 520(a) is amended—

(A) by striking out "For the fiscal year beginning on October 1, 1980" and all that follows through "1982, the" and inserting in lieu thereof "The";

(B) by striking out "such fiscal year" the first place it appears in the last sentence and inserting in lieu thereof "any fiscal year"; and

(C) by striking out "number of such" and all that follows through "into" in the last sentence and inserting in lieu thereof "total number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in".

(2) Section 2005 is amended—

(A) by striking out "of this section" each place it appears in subsections (c) and (d); and

(B) by striking out "section—" in subsection (e) and inserting in lieu thereof "section:".

(3) Section 2101 is amended—

(A) by striking out "chapter—" and inserting in lieu thereof "chapter:";

(B) by striking out " 'program' " and inserting in lieu thereof " 'Program' ";

(C) by striking out the semicolon at the end of paragraph (1) and inserting in lieu thereof a period;

(D) by striking out " 'member' " and inserting in lieu thereof " 'Member' ";

(E) by striking out "; and" and inserting in lieu thereof a period; and

(F) by striking out " 'advanced' " and inserting in lieu thereof " 'Advanced' ".

(4)(A) Section 2116 is repealed.

(B) The table of sections at the beginning of chapter 104 is amended by striking out the item relating to section 2116.

(5) Section 2120 is amended by striking out "chapter—" and inserting in lieu thereof "chapter:".

(6) Section 2134 is amended by striking out the second sentence of such section.

The SPEAKER pro tempore. Is a second demanded?

Mr. MITCHELL of New York. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. NICHOLS) will be recognized for 20 minutes, and the gentleman from New York (Mr. MITCHELL) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker H.R. 7166 is similar to H.R. 6317, a bill that was brought to the floor last week and that failed to pass the House under suspension of the rules. It is extremely unfortunate that H.R. 6317 failed because some of the provisions are critical to the continued success in the military manpower arena. The House's action was particularly unfortunate because it was based on several "misunderstandings."

I introduced H.R. 7166 to address these misunderstandings. Although it is identical in most regards to H.R. 6317 as reported from the Committee on Armed Services, it clarifies two provisions to remove objections to the original bill.

First, there was some confusion with regard to the size of the pay increase authorized for military personnel in October. H.R. 7166 specifically authorizes a 4-percent increase for all service members effective October 1, 1982. This is the same percentage increase that will be provided to Federal civil servants and is consistent with the first concurrent resolution on the budget for fical year 1983.

The Committee on Armed Services had reported H.R. 6317 earlier this year with a provision that would give the President the flexibility to implement the recommendations in his budget: An 8-percent increase for military personnel and a 5-percent increase for Federal civilians. The committee believed then—and continues to believe—that military pay must keep pace with pay in the private sector if the recent recruiting and retention results are to be maintained. However, getting the economy back on its feet requires sacrifices from all segments of our society. To this end, the administration and the Congress agreed to cap pay increases for military personnel and Federal civilians at 4 percent. Although H.R. 6317 would have permitted an increase of more than 4 percent for military personnel, there was every indication that the increase would be 4 percent and no more. Certainly that was the committee's expectation and intent.

However, because the possibility of a pay increase of more than 4 percent for military personnel was the source of some concern among some of the Members, I modified the provision when I introduced H.R. 7166 to provide specifically for a 4-percent increase for military personnel.

I would note that I would not like to see more than a temporary deviation from the objective of providing full comparability increases for our service members. I believe that under repeated pay caps we will return quickly to the manpower situation we were experiencing just 2 years ago when neither recruiting nor retention goals were being met. We lost thousands of good people—even when unemployment was high. We can ill afford to experience the same trauma again.

The second area of confusion and misunderstanding deals with the subject of contracting out Government functions to the private sector. Although the Committee on Armed Services is deeply interested in this subject, I believe there is a misconception that we are opposed to contracting out. Nothing could be further from the truth. We support contracting out when it does not adversely affect our readiness to perform the defense mission and when it saves money. However when it is used—as it currently is—in an attempt to obfuscate the true level of Federal employment with little regard for readiness or economy, we believe it must be set back on track.

If contracting out is going to be a viable method of performing some of

the functions of Government then a stable environment is needed. Annual debates that place uncertainty on the parameters of the program are disconcerting to the businesses—both large and small—that must bid for the contracts. The committee believes a basically sound program has gone awry. It has reacted by placing temporary brakes on the contracting out program (a 6-month moratorium on studies on contracting out) and by recommending a permanent set of guidelines in order to keep this program on track in the future. These guidelines will remove the periodic uncertainties that afflict the program and benefit both the private contractor who is bidding on the program and the taxpayer.

Last week, organizations representing private sector businesses opposed the passage of H.R. 6317 because of the contracting-out provisions. Although I do not object to their right—and duty—to voice opposition to those provisions, I was extremely disappointed that the committee had not received their views prior to consideration of a bill that we believed to be largely noncontroversial.

The committee held hearings earlier this year—open to the public and all parties who asked to testify—on the subject of contracting out. We reported H.R. 6317 several months ago and debated, in conjunction with the defense authorization bill, a moratorium on contracting-out studies. The first time we heard substantive views expressed in opposition to these provisions was last week.

Since last week, several members of the committee have sought out and spoken with representatives of the organizations that opposed H.R. 6317. They made some good points, and many of their objectives are shared by members of the committee. I wish they had contacted us sooner.

We have incorporated in H.R. 7166 changes and additions to the contracting-out provisions that address some of the concerns raised. For example, we have clarified that the Secretary of Defense has complete control over the designation of which functions can be excluded from consideration for contracting out by reason of national security. This was the committee's original intent, and we have clarified that in H.R. 7166.

Much of the committee's concern regarding contracting out focuses on its impact on readiness, mobilization, and missions unique to defense. The committee is aware of a number of examples where contracting out has had a demonstrably adverse effect on a commander's ability to perform his mission. The committee's information has been based on a number of specific cases brought to our attention. The representatives with whom we spoke over the last week suggested a study of the impact of contracting out on the defense mission.

In response to this suggestion, we have incorporated in H.R. 7166 a provision requiring a study of the impact of contracting out on the ability of the Department of Defense to perform its mission. Although the Secretary of Defense would conduct the study, the provision would also require substantial input from the military commanders who are charged with the day-to-day task of managing their resources.

I think the idea of a study is a good one. It should provide additional information that will further the objectives of the contracting out program.

Finally, one of the provisions of the original bill would require that the entire cost of the cost comparison study be attributed to the cost of contractor performance in the cost comparison analysis. We have incorporated in H.R. 7166 a limitation on the costs so attributed. They would be limited to the cost of the cost comparison process and would not include the cost of developing the statement of work, for example. In addition, it would be my intent to seek language in the statement of managers report on the bill requiring the amortization of these costs over 3 years.

Mr. Speaker, the time is short for action on this bill. It is critical that we extend the authority to pay enlistment and reenlistment bonuses. That authority expires 2 days from now. The bonus program is perhaps the single most successful program we have for recruiting and retaining personnel in critical skills. We cannot let the authority lapse—even for 2 or 3 months.

We have attempted to alleviate the problems various members have had with the bill that failed suspension of the rules last week. I urge your support for the revised bill today.

Mr. Speaker, before I conclude my remarks, I would like to take the opportunity to express my high regard and deep appreciation to the ranking Republican member on the Subcommittee on Military Personnel and Compensation, the gentleman from New York (Mr. MITCHELL). His decision not to seek reelection will result in a loss to the committee and to the House of an unequaled advocate for military personnel. He knows that the true strength of the military establishment resides not in the hardware—on which we all spend a disproportionate amount of time—but in the quality and the spirit of the men and women of our armed forces.

He has served on the subcommittee as its ranking Republican member during a time when a decade of deterioration in military benefits has caused perhaps the worst crisis in military manpower we can recall. He tackled that problem, and in large part through his untiring efforts, the problem is well on its way to solution. He was instrumental in the design and enactment of the special pays for health professionals which have alleviated the critical shortage of health professionals in the military medical care system. He fought hard for the pay increases of the last 2 years which returned military pay to levels of comparability. He was a major player in the enactment of the Defense Officer Personnel Management Act—the most significant change to the personnel management system in three decades.

He has been a proponent of every worthwhile benefit program sponsored by the Department of Defense and the originator of programs the Department has not had the foresight to recommend.

I could not have asked for a more knowledgeable, cooperative, and patient ranking Republican member during my tenure as chairman of the subcommittee. There is no member who I would have rather had by my side as we have fought the many battles together.

□ 1040

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. NICHOLS. I yield to my friend from Texas, a member of the committee.

Mr. KAZEN. Mr. Chairman, I heard your explanation of how we amended this bill, particularly on the study to be conducted on the impact of contracting out certain functions on the missions and readiness of the Defense Department and requiring the input of the commanders of the various installations.

Does this bill in any way prohibit input from the personnel management or from employees themselves?

Mr. NICHOLS. Absolutely not. We would seek this input from all segments of the community involved, I would reply to my friend from Texas.

Mr. KAZEN. I appreciate the gentleman saying that because this is certainly what we had in mind. In order to get a well rounded, a complete study, we must have input from all sources.

Mr. NICHOLS. Mr. Speaker, I reserve the balance of my time.

Mr. MITCHELL of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Alabama (Mr. NICHOLS), the distinguished chairman of our subcommittee, for his kind remarks. I have greatly enjoyed working with him these past several years. I think we have been a good team.

When people know you are getting out of Congress voluntarily they often ask what will you miss the most about the Congress, about the job, about Washington. There are many things I

will miss, I am sure, and probably many I do not even realize I will miss until some time has expired.

But I do know that the thing I will miss the most will be the pleasure of working with good friends like the gentleman from Alabama (Mr. NICHOLS) in an effort to solve problems and to achieve goals.

I want to commend the gentleman from Alabama on the splendid job he has done as chairman of the subcommittee and on his long and strong and unwavering support of our people in our armed services.

At this time, too, Mr. Speaker, I would like to commend the professional staffers on our committee, Kim Wincup, Mr. Emmerichs, and Ms. Heath, for the excellent help they have provided, and they, too, have helped make my tenure on this committee a real pleasure.

Mr. Speaker, it is critically important that we act favorably on H.R. 7166 today. The major provision of this legislation would extend authority to pay enlistment and reenlistment bonuses—guts of bill—this authority expires in 2 days. To allow this authority to expire could be catastrophic to our efforts to attract and retain high quality personnel in critical skills.

Although the manpower situation today is favorable, this has been achieved at considerable cost by finally returning to adequate levels of compensation for our service members. Recent pay raises have again made active duty pay competitive with wages paid by private sector employers—But it took us 5 years to get there. In addition to this overall improvement in the level of compensation, the bonus program has proven extraordinarily successful in targeting additional compensation into the critical skills that the Armed Forces find difficult to man. Bonuses are one of the most cost-effective means we have of meeting manpower needs.

The extension of the bonus authority at this time is even more important than its success would imply. Because of budget constraints, the bonus program was not in full operation during the last quarter of fiscal year 1982. The 8,000 trained service members whose enlistments terminated during this quarter were asked to extend for several months until bonus funds could be appropriated for fiscal year 1983. In effect, they were promised a bonus in October if they would extend. However, if the authority to pay the bonus expires, that promise will be broken. We do not want that.

In addition, one of the most effective recruiting programs is the "delayed entry program." Under this program, high school seniors still in school accept a commitment to enter active duty up to 12 months in the future. Many are attracted into critical skills by accepting a bonus to be paid on successful completion of training. Expiration of the bonus authority will eliminate this option, which has considerable drawing power.

You will recall, only a few years ago, the Navy was unable to send ships to sea because of the critical shortage of experienced midcareer petty officers. One senior service official characterized the situation a "hemorrhage of talent." We have made considerable progress since that time as a result of the pay raises Congress has enacted in the past 2 years and as a result of judicious use of reenlistment bonuses. Without the ability to offer reenlistment bonuses to those petty officers with technical skills that are highly saleable in the private sector, Navy retention could again plummet dramatically in the months ahead, particularly as the economy begins to improve. Similar severe retention problems would be experienced by the other services.

The bill before the House today provides for a 4-percent increase in basic pay and allowances for members of the uniformed services.

□ 1050

The confusion last week regarding the size of this increase has been removed completely. H.R. 7166 specifically requires a 4-percent increase—period. There is no flexibility in this situation. Both military and civil service employees will receive identical 4-percent increases. So that objection has been addressed.

We are faced with economic circumstances that require hard decisions. I want to say that it is a hard decision for me to support a 4-percent increase rather than the full comparability pay increase of 8 percent. Although it is fair for service members to bear their share of the burden of setting the economy right again, we must not slide back into the abyss from which we recently climbed. We must not breach our contract relative to comparability with the people in our armed services. The cost in terms of skilled manpower lost because of lagging pay scales will never be recouped. The experience and training are gone forever. The cost of extended pay caps is measured in a decline in readiness.

I might point out also, Mr. Speaker, that there was also considerable confusion last week with regard to the administration's position on this legislation. As one of our leaders used to say, I want to make this perfectly clear: The confusion has been resolved, and I assure the Members that the administration supports passage of this bill in the House 100 percent. Let me repeat that: The administration is behind this bill 100 percent.

Mr. Speaker, we have made good faith efforts to resolve the confusion and the misunderstandings that have accompanied the unfortunate vote on the bill we brought to the floor last week. I believe the concern has been eliminated. The time is short for action and the need, as I pointed out, is great. I urge the Members to support this important legislation.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL of New York. I yield to my friend, the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, let me just rise to join my colleague, the gentleman from Alabama, in extending his best wishes to the gentleman from New York upon his retirement and to tell him that we are going to miss him. He has been a tremendous force for the good of the services and particularly the men and women who comprise our armed services.

Let me tell the gentleman that I want to associate myself with his remarks on the 4-percent pay. I, too, would have preferred to see the 8-percent raise. I think if we do not take care of the recruiting and retaining of our personnel, we are going to be the worse off for it. I certainly am of the opinion that our armed services should receive the full 8-percent raise; but since that was not possible at this time, I would go along with the bill as it is.

Mr. MITCHELL of New York. I thank the gentleman from Texas for his kind remarks about my service in the House and for his contribution on this particular legislation.

Mr. NICHOLS. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. FAZIO).

Mr. FAZIO. I thank the gentleman for yielding.

Mr. Speaker, at this time I would like to commend the gentleman from Alabama (Mr. NICHOLS) and the ranking minority member, the gentleman from New York (Mr. MITCHELL) for the outstanding job they have done in balancing some very difficult values, and that is the need to protect our national security and at the same time to get a handle on our burgeoning contracting-out problem where military and very essential civilian jobs have been perhaps too easily transformed into private contract positions.

I think that the committee, particularly Mr. DANIEL, Mr. MONTGOMERY, Mr. LEATH, and Mr. KAZEN deserve a great deal of credit for the work they have done in trying to fairly and equitably balance these concerns. At the same time they have, I think, met the very intense needs of Federal employees and neutralized the opposition and concerns of small business interests that have a legitimate future in contracting out commercial or industrial military functions.

I think the gentleman has been very kind to me in allowing additional amendments to be added to the bill

which are very important to our Air Force logistics facilities, for example, McClellan Air Force Base in my district and the naval shipyards on our coasts.

These aforementioned gentlemen have, like myself, been staunch advocates for improving the pay and benefits of our military personnel so that we can continue the services vastly improved ability to attract and retain topnotch personnel. H.R. 6317 provides the authority for a 4-percent pay increase for all military personnel. In addition, it extends the current enlistment and reenlistment bonus program which targets additional payments to service personnel in critical skills. The authority for this program expires at the end of this month, thus it is essential that we pass this measure today so that we will not delay or interrupt this program.

Furthermore, this bill provides guidance on an issue of great importance to the Armed Forces and the Nation alike. H.R. 6317 establishes limitations on contracting out of commercial/industrial activities conducted on our military installations. The purpose of this provision is to help insure cost-effective contracting out, and, at the same time, to insure that military readiness is not adversely affected.

All too often when we listen to individuals expounding on the virtues of contracting out, we neglect to realize that the costs of this work is still borne by the taxpayers. Contracting out does not reduce the size of Government as some would have the public believe, rather, it creates a shadow government, one that is paid for with money from the U.S. Treasury, but one that is not fully controlled by the agencies who let the contracts. Thus, it becomes absolutely imperative that any policies which direct an increase in contracting out be carefully reviewed so that we are fully aware of the ramifications of such, and that the Government is getting what it bargained for.

That is why Congress has taken a more active role in this matter. The Department of Defense is involved in a 5-year plan to contract out as much as 90 percent of the functions which are now performed by civilian employees of DOD including many activities that are performed by military personnel. Yet, the administration has set up no limitations to insure that national security is not adversely affected, or that the final costs to the Government will be less than if these activities were performed in-house.

No one is advocating an end to contracting out. Quite the contrary. The private sector plays a very important role in the overall mission of our armed services; and where the private sector can perform commercial-industrial activities at a lower cost than the Government, and where contracting out such functions does not interfere with the mission of our military bases, then we should allow the private sector to perform those functions. However, if it is crucial to the national defense that certain activities be conducted by Government personnel, then those activities should be exempt from contracting out.

That is what H.R. 6317 provides for. It specifies that certain functions should be considered for their national security implications, and that the commander of the base which conducts said activity can report to the Secretary of Defense his or her view on this matter. The Secretary of Defense can then consider the commander's recommendation. The commander's assessment would then be available to the House and Senate Armed Services Committees. Those in the field, our base commanders, are in a position to accurately determine who can best perform any given activity. He knows what the job requires, how much control he needs to have in order to make sure that the job is done properly and on time, and whether or not the particular activity should be done by a work force that he has direct control over, Federal employees, or by a private contractor. Thus, this bill provides the sort of input that heretofore has been missing.

An excellent example of the need for such input can be seen at the Air Force's Air Logistic Commands (ALC's). One such base, McClellan AFB, is located in my congressional district. This base performs logistical support services, including depot maintenance for many of the Air Force's planes and weapon systems. Functions of this sort are absolutely crucial to readiness. We cannot afford anything less than total commitment of the work force in the event of a national emergency. A Federal work force must give this type of commitment. A Federal work force cannot walk off the job or refuse to put in extra time and effort. A Federal work force is an essential adjunct of the military, and is held to the same standards of commitment. Thus, careful consideration must be given prior to allowing any activity that falls within this category to be contracted out.

When this bill was initially drafted, a national security exemption was given to depot maintenance functions. I prevailed upon Mr. NICHOLS and Mr. DANIEL to amend the bill to provide for logistical support functions, for the logistical activities, of which depot maintenance is a part, are also crucial to the mission of repair facilities, such as McClellan. The bill has been amended to include the logistical support services, and I thank my colleagues for their assistance in this matter. We can ill afford to overlook those activities that are also essential to a topnotch, smoothly functioning military.

I urge my colleagues to pass this measure. It will help bring order to a situation that, if not redirected, has the potential to bring havoc upon our defense operations.

Mr. NICHOLS. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I rise in support of H.R. 7166, the Uniformed Services Pay Act.

When the bill was before us about a week ago, I had missed, frankly, as the chairman of the Committee on Post Office and Civil Service, language in the bill that we found to be very troublesome. A very alert audible member of our committee, Representative STENY HOYER of Maryland, called it to my attention, as a matter of fact, while the vote was in progress. It was immediately apparent that the bill that came to the floor last week, having been reported from the committee early in May, did not take into account the actions that we took later in the year in the adoption of the budget resolution and in the adoption of the reconciliation resolution.

Mr. Speaker, H.R. 7166 authorizes a 4-year across-the-board pay increase for military personnel. A 4-percent pay increase is what was assumed in the first concurrent resolution on the budget, and it is the same pay raise insured for civil service employees under the Omnibus Budget Reconciliation Act.

Mr. Speaker, although I support H.R. 7166, I do so with just a little reluctance. I am pleased that the linkage between civil service pay and military pay has been preserved—both will receive a 4-percent increase—but I know, and I am sure most of my colleagues agree, that a 4-percent increase is woefully inadequate. Under the existing comparability law, a civil service pay increase of over 18 percent is necessary to achieve comparability. Also under existing law which links civil service and military pay, the military pay increase would be over 18 percent.

Unfortunately the current administration, through its policy of providing generous tax breaks for the rich, has produced a record budget deficit which it then claims justifies capping civil service and military pay. I trust the voters this November will make it clear the administration's economic policies are unwanted as well as unwise, and next year we will be able to provide the pay raise our dedicated civil servants and military personnel deserve.

One other aspect of the bill concerns me. As reported, the bill contained important provisions governing contracting out. I was advised this morning by the chairman of the subcommittee, Mr. NICHOLS, that these provisions

have been revised. Not having had the opportunity to study closely these revisions, I cannot endorse them. And I want to make sure that my colleagues who received a letter urging support for H.R. 7166, which I cosigned, do not construe that letter as signifying my support for these contracting-out changes. The "Dear Colleague" letter was signed and sent before any changes were made in the contracting-out provisions.

Mr. NICHOLS. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. I thank the chairman for yielding, and on behalf of myself and many others who worked on this problem with the gentleman, I want to thank him for his courtesy and consideration in working with us. It was the chairman's representation on the floor that the issue of comparability was not overcome by the previous legislation. There was some confusion as to that issue. I share the sentiments of the ranking minority Member, the gentleman from New York (Mr. MITCHELL), who talks about comparability. I believe that comparability is extremely important for our military personnel as well as our civilian personnel. I think that the chairman and the subcommittee have certainly modified this bill to insure that principle, and I thank them for their courtesy in working on this issue.

I certainly want to join Chairman FORD in full support of the pending legislation.

□ 1100

Mr. NICHOLS. Mr. Speaker, I thank the gentleman from Maryland.

I yield 1 minute to the gentleman from Mississippi (Mr. MONTGOMERY), the ranking member of our subcommittee.

Mr. MONTGOMERY. Mr. Speaker, certainly I rise in support of the bill.

I would like to make it clear, though, that I had the privilege of handling this bill Monday a week ago as the chairman happened to be receiving an award from the National Guard Association and was not here. It was certainly not my intention to mislead members. It was the full intent of the committee that there would be a 4-percent increase for military personnel.

I would have served on the conference committee when this bill goes to conference. I will have struck by the 4 percent.

I do think the amendment that has been added that spells out the 4-percent increase for the military clarifies the situation, but I want the chairman and the members to know that it was not my intention in any way, and I still think the way the bill was written it could have gotten by with 4 percent; that is what we said and that is what the reconciliation act was.

I hope that we have the full support now of all committees and members will vote for this bill.

Mr. NICHOLS. Mr. Speaker, I thank the gentleman.

I yield 2 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding.

I would like to enter into a colloquy with the chairman for purposes of clarification of a couple points that have led some Members to oppose this legislation.

I wonder about the performance of functions involving security and safety at military installations. It is unclear to me exactly what this bill does. It has been my understanding that this provision is not intended to preclude the contracting out of all base security and firefighting functions; although there is a 1-year moratorium on such contracts during fiscal year 1983, after that time the Secretary of Defense retains his authority and responsibility to determine on a case-by-case basis whether it is appropriate for a particular security guard or firefighter contract to be performed by Government personnel or by contractor personnel; is that correct?

Mr. NICHOLS. The gentleman from Texas is exactly correct. It would be the intent of the author of the bill to leave this to the discretion of the Secretary of Defense on a case-by-case basis.

Mr. STENHOLM. Mr. Speaker, based on the 6-months moratorium currently pending in the DOD 1983 authorizations and based on language now present in the revised military pay bill calling for a study of contracting out, am I correct in my understanding that the chairman will call for hearings immediately following release of the study report on contracting out April 1, 1983?

Mr. NICHOLS. Of course, I do not know what next year will bring to any of us, but I will say that I strongly support that. We talked about it in conference with the Senate and I will urge whatever chairman might be in charge of the appropriate subcommittee to hold those hearings. I will do everything I can to see that they are held.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. NICHOLS. Mr. Speaker, I yield 1 additional minute to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, with those assurances, I will withdraw my opposition to this bill and will lend my support to this legislation.

Mr. MITCHELL of New York. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. DICKINSON), the ranking member of the Committee on Armed Services.

Mr. DICKINSON. Mr. Speaker, I rise in support of this bill, H.R. 7166, as amended.

The bill provides additional authority to extend enlistment and reenlistment bonuses for military personnel as well as other pay provisions.

In my opinion, this is very much deserved and needed. The administration supports passage of this legislation.

The bill does contain certain provisions concerning contracting out in the Department of Defense about which there has been some confusion.

The bill simply establishes quidelines for the Secretary of Defense to use in determining what can be contracted out and what should not be contracted out for reasons of national security. These guidelines, with one exception, are exactly the guidelines now contained in the Secretary's own regulations, in the Office of Management and Budget Circular A-76; however, the committee is convinced that not enough attention has been paid to these national security guidelines. Therefore, this bill would place the guidelines into law.

I hope that the Members will support this bill, as many of the objections raised concerning it last week have been clarified and resolved in the version before the House today.

Again, let me say that I think this legislation is needed. the administration does support it. For those who had reservations last week, I think for the most part their questions have been answered. With respect to their hesitancy, while it might have been justified at the time, I think all questions have been answered. Passage of the bill is past due.

We are in the very last days of this session of Congress, and I would certainly hope that all the Members would support it at this time.

Mr. MITCHELL of New York. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, I rise in opposition to this bill, reluctantly, I might add. So far as the pay provisions relating to the military, I am fully in support of that.

I would have hoped that the members of the committee would have brought a bill to the floor that would not have included the provisions relating to contracting out which cause me to stand in the well of the House making the observations that I might right now.

This bill in its present form is opposed by the chamber of commerce. It is opposed by the Professional Services Association, and by the American Consulting Engineers Council. Basically, their opposition is based on what is not surprising, it is a fight over turf, a fight over jobs.

People in the private sector believe that they can perform a better service for the taxpayers' dollar by performing certain functions in the private sector, rather than by full-time Government employees. This is the basis of their opposition.

The legislation that is before us, for example, has a section that is written in such a way so as to overextend the cloak of national security to prohibit performance of a broad range of commercial activities by other than military or civilian personnel.

Last year, for example, in a major confrontation with the U.S. Army Corps of Engineers over planning and design activities associated with Superfund—Members may recall that was the fund to dispose of hazardous wastes, ACEC members nearly lost out, even though the required OMB circular, A-76 cost comparison, demonstrated out of house performance to be more economical and efficient because the corps initially attempted to invoke the national defense rationale. A national defense rationale to disposal of wastes around the country? That is a little bit of stretching and it is illustrative of the opposition to this legislation.

There is a tendency on the part of some in Government to invoke the element of national security as a means of preventing private sector employment from bidding on work for the Government.

Is that rational? Is that a proper use of national security interest? I do not think so. It is for these reasons that I rise in opposition to the bill and I am hopeful that it will come back to the floor clean of the provisions relating to contracting out and will stand on its own for the military pay aspect of it, which I would enthusiastically support.

Mrs. HOLT. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I am happy to yield to the gentlewoman from Maryland.

Mrs. HOLT. In the example that the gentleman cited, the private sector did not lose that contract, did it?

Mr. DANNEMEYER. It did not, but it came very close to it, that is the point.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. MITCHELL of New York. Mr. Speaker, I yield 1 additional minute to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. It did not lose it, but they came very close.

Mrs. HOLT. They did not lose it; so the system does work.

Is the gentleman aware of the mobilization exercise that was undertaken in Germany last year? We had contracted out the support computer services. At 5 o'clock all the computer operators went home and the mobilization had to be abandoned.

There is a danger that you might have a war and nobody would come.

Mr. DANNEMEYER. Well, that is surprising to me, considering the efficiency of the German people. I think we should look at that again.

Mr. DAN DANIEL. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. Mr. Speaker, another thing that bothers us, too, is the fact that some of these contractors are buying in.

I might say to the chairman, that up at Fort Dix not too long ago we had a situation where the contractor bought in and then he could not perform the contract and he pulled out with 2 days notice and left us high and dry. So there is a lot wrong with this thing that we need to correct.

Mr. DANNEMEYER. Well, I appreciate what the gentleman is saying. I do not think there is any contract around that will take care of and override every contingency that the mind of man can conceive. If someone is improvident in a bid, they will go broke. A new contract will come into existence and in the process Federal tax dollar expenditures will have been kept to a minimum.

Mr. MITCHELL of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it seems from listening to the debate on the floor that the only possible objection to this bill relates to contracting out.

I want to say that I think the committee has taken a huge step in the direction of compromise. I would like to mention some of the factors that we have changed to make it a more palatable bill.

First of all, we had a 12-month moratorium on contracting out studies. We have reduced that 50 percent, to just 6 months.

□ 1110

We have cut down the cost of making the cost-comparison study by eliminating some of the factors that would be involved.

We have also mandated that that cost-comparison study be amortized over 3 years so that, once again, this gives the civil sector a more favorable basis of comparison with the military in providing certain functions.

Also, in the defense authorization bill, we exempted all contracting out for functions requiring 10 or fewer employees from the detailed cost-comparison study.

We also clarified that it is in the discretion of the Secretary of Defense to decide whether a function should not be contracted out for national security reasons.

I want to point out, too, that there are several functions, many functions, for which there is no moratorium on contracting out. I am talking about functions like food service, laundry, groundskeeping, janitorial services, things that are not in the national interest and can be contracted out right now.

Mr. Speaker, I would like to say in summary that this is a very different bill than the one that was defeated on the floor last week and make the point that the guts of the bill is not contracting out; it is bonus provisions for enlistment and reenlistment that are so important to keeping the standards for people interested in being in our services high.

Also, we made it very specific that both the military and civilian civil service workers would get the same identical 4-percent pay increase. There is no flexibility there.

I would point out, too, that we just have 2 days to approve this before the bonus authority expires. We have targeting flexibility in this bill which will help make it an even better bill to provide those needed skills that we cannot seem to acquire any other way.

With contracting out liberalized, I cannot see any problem with the bill at all. I think there is a genuine concern about national security. The gentlewoman from Maryland brought up the point of civilian employees refusing to work overtime. How about civilian employees' strike provisions? There is a gray area there. We have to have some time to take a look at the overall contracting out situation. I do not think 6 months is too much time to ask.

Finally, the administration supports the bill 100 percent. There is no equivocation there at all, and I would urge my colleagues to support this bill.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. NICHOLS) has 1 minute remaining.

Mr. NICHOLS. Mr. Speaker, I yield 35 seconds to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. I thank the gentleman for yielding.

Mr. Speaker, to supplement what the gentleman from New York (Mr. MITCHELL) has said, I want the Members to concentrate on the fact that we have 2 days in which to pass this bill, get it over to the conference committee and back again. If we do not pass this bill on this particular Suspension Calendar, it will not meet the deadline of October 1, and we are going to be denying the military the authority for enlistment and reenlistment bonuses to keep pace with inflation.

Mr. Speaker, I plead and urge the membership to pass this bill today with the two-thirds required because it is extremely important so this fine chairman can go forward with an excellent bill that has been bereft of the

objectionable matters and, therefore, the NFIB has withdrawn their objections to this particular bill.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. NICHOLS) has 25 seconds remaining.

Mr. NICHOLS. Mr. Speaker, I yield the balance of my time to the gentleman from Virginia (Mr. DAN DANIEL), the chairman of the Subcommittee on Readiness.

Mr. DAN DANIEL. I thank the gentleman for yielding to me.

Mr. Speaker, the question has been raised as to whether or not this bill is in contravention of the 6-month moratorium. That is not the case. This is simply a cooling-off period.

Mr. Speaker, the Defense Department is inherently governmental by nature. We do not believe that OMB is qualified to run the Defense Department. We are not opposed to contracting out. The only thing we want to do is for the Defense Department to set guidelines so that we know that it is not adversely affecting readiness.

● Mr. DERWINSKI. Mr. Speaker, once again the 1983 military pay bill is pending before this body on the Suspension Calendar. Last Wednesday the House of Representatives appropriately returned this bill to the Armed Services Committee, refusing its passage under the Suspension Calendar. Yet here we are again. Aside from the fact that this legislation exceeds the $100 million threshold for consideration under a suspension of the rules, I had until recently some serious reservations about the contracting out provisions contained within it. I now understand that some changes have been agreed to that will, while not making it perfect, certainly make it more palatable.

As a member of the House Post Office and Civil Service Committee, I have studied this issue over a period of years and am familiar enough with the program and the merits of the issue to assure my colleagues that while we have a long way to go in this area, we may now be finally getting on the right track.

As the distinguished gentleman from Virginia (Mr. PARRIS) pointed out last week, this bill originally contained some serious flaws particularly in the area of the Secretary of Defense's discretionary authority to turn to the private sector to provide the Government with the goods and services it needs through contracting out. It is my current understanding that section 401 has now been modified so as to make this discretionary authority implicit. It is to be his decision when to go to contracting out with private enterprise and when not to and this is the way it should be. Our uniformed services deserve the right and the ability to make such decisions on a case-by-case basis and it would be inappropriate and bad policy for us to legislate any differently.●

● Mr. EVANS of Delaware. Mr. Speaker, I rise in support of H.R. 7166, the Uniform Services Pay Act, which will authorize a 4-percent pay raise for members of the Armed Forces, and also reauthorizes important enlistment and reenlistment bonuses.

I believe it is one of the most important responsibilities of this Congress, and indeed of our entire Nation, to support those who serve in the military by providing them with decent pay and benefits. H.R. 7166 does this by approving the 4-percent raise the administration has requested for fiscal year 1983. Although many of us would like to see a larger increase, this year's smaller raise is due to the economic situation we find ourselves in, and the critical need to narrow the Federal budget deficit.

In recent months, the caliber of recruits has been on the rise, and our Armed Forces have been more successful in reenlisting talented and experienced personnel. I believe this trend is a result of several factors, and certainly one of them is the significant improvements in pay and benefits passed by Congress in 1980 and 1981. We must continue this trend by adequately increasing military pay to keep pace with inflation, and to keep it competitive with private industry. I urge my colleagues to join me in support of our outstanding men and women in the armed services by voting for this pay raise.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. NICHOLS) that the House suspend the rules and pass the bill, H.R. 7166, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will not be postponed.

The point of no quorum is considered withdrawn.

□ 1120

GENERAL LEAVE

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 6968, MILITARY CONSTRUCTION APPROPRIATIONS, 1983

Mr. GINN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia? The Chair hears none, and, without objection appoints the following conferees: Messrs. GINN, BEVILL, HEFNER, LONG of Maryland, ADDABBO, OBEY, CHAPPELL, ALEXANDER, WHITTEN, REGULA, BURGENER, EDWARDS of Oklahoma, LOEFFLER, and CONTE.

There was no objection.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7159) to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and pH, as amended.

The Clerk read as follows:

H.R. 7159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(m)(1) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsections (b)(1)(A) and (b)(2)(E) of this section, and of section 403, with respect to effluent limitations to the extent such limitations relate to biochemical oxygen demand and pH from discharges by an industrial discharger in such State into deep waters of the territorial seas, if the applicant demonstrates to the satisfaction of the Administrator that—

"(A) on or before March 17, 1977, the State had received authority from the Administrator to administer its own permit program under section 402(b) and the applicant had received approval from the appropriate agency of such State for the modifications requested in the permit applied for under this subsection;

"(B) the economic and environmental costs of meeting such requirements of subsections (b)(1)(A) and (b)(2)(E) and section 403 exceed by an unreasonable amount the benefits to be obtained, including the objectives of this Act;

"(C) the applicant has established a system for monitoring the impact of such discharges on a representative sample of aquatic biota, to the extent practicable;

"(D) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

"(E) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit; and

"(F) the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which are necessary to allow compliance with this subsection and section 101(a)(2) of this Act.

"(2) The effluent limitations established under a permit issued under paragraph (1) shall, in the view of the Administrator, be sufficient to implement the applicable State water quality standards, to assure the protection of public water supplies and protection and propagation of a balanced, indigenous population of shellfish, fish, fauna, wildlife and other aquatic organisms, and to allow recreational activities in and on the water. In setting such limitations, the Administrator shall take into account any seasonal variations and the need for an adequate margin of safety, considering the lack of essential knowledge concerning the relationship between effluent limitations and water quality and the lack of essential knowledge of the effects of discharges on beneficial uses of the receiving waters.

"(3) A permit under this subsection may be issued for a period not to exceed five years, and such a permit may be renewed for additional periods not to exceed five years each upon a demonstration by the applicant to the satisfaction of the Administrator at the time of application for any such renewal that the provisions of this subsection are met.

"(4) The Administrator may terminate a permit issued under this subsection if the Administrator determines that there has been a decline in ambient water quality of the receiving waters during the period of the permit even if a direct cause and effect relationship cannot be shown.".

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. ROE) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. ROE).

Mr. ROE. Mr. Speaker, I yield myself what time I may consume.

Mr. Speaker, H.R. 7159 amends the Federal Water Pollution Control Act to give the Environmental Protection Agency the authority to modify the permit requirements for two pulp mills currently discharging into the Pacific Ocean. The situation facing these two mills is unique, and the bill has been drafted very narrowly so that it applies only to the circumstances in this particular case.

Under the current statutory requirements, industries were required to achieve effluent limitations that require the application of the best practicable control technology currently available by July 1, 1977. These effluent limitations were to be defined by the Administrator of the Environmental Protection Agency. The criteria to be considered by the Administrator in setting effluent limitations are set forth in section 304(b) of the act, and include the total cost of application of the technology in relation to the effluent reduction benefits to be achieved and nonwater quality environmental impacts, among others.

The effluent limitations applicable in this case, pertaining to the pulp and paper industry, were finalized by EPA in 1976. The State of California, which was the first to receive authority to administer the act's permit program in 1973, proposed to issue permits to the two mills involved in this case that included variances from the effluent limitations set by EPA for discharge of biochemical oxygen demand and acidity. In doing so, the State concluded, among other thing, that the discharge would not result in a discernible impact or threat of damage to the marine environment. The permits were vetoed by the Environmental Protection Agency on the grounds that the variances were based on local water quality considerations rather than on a finding that the nonwater quality environmental effects of adherence to the limitations were fundamentally different from those considered by EPA in publishing effluent limitations for the industry as a whole. This veto was upheld in the courts.

The provision in the bill authorizing EPA to grant variances under certain strict conditions for the two pulp mills involved is in no way intended to alter the existing statutory scheme for regulation of industrial discharges. It is not to be construed as a change in overall committee policy nor as setting a precedent. It in no way changes the committee's commitment to the basic approach of uniform national technology based standards for industrial discharges. The bill is intended to resolve a unique and extreme situation.

Mr. Speaker, in addition to being very narrowly drawn, the bill imposes a very strict test which must be satisfied before the variance can be granted by EPA. Meeting this test will insure that there are no adverse water quality impacts associated with the modified discharge requirements.

The test requires the applicants to show to the satisfaction of the Administrator that:

First, they have established a system for monitoring the impacts of its discharges on a representative sample of aquatic biota, to the extent practicable;

Second, the modified requirements will not result in any additional requirements on any other point or nonpoint source;

Third, there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit; and

Fourth, the discharge is into waters where there is strong tidal movement and other hydrological and geological characteristics which will allow for fishable and swimmable water after the discharge.

Finally, the bill specifies that the modification may be granted only if the Administrator is satisfied that it will comply with State water quality standards and assure the protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish, fauna, wildlife and other aquatic organisms, and to allow recreational activities in and on the water.

Mr. Speaker, I urge passage of the bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I am most pleased to support H.R. 7159. This legislation provides an environmentally preferred means of dealing with a clean water situation in northern California.

The ranking Republican member of the Committee on Public Works and Transportation, Mr. CLAUSEN, deserves full recognition for his efforts in bringing this matter to the attention of the members of the committee and the Congress. His ability to obtain swift action on this legislation is further evidence of his outstanding leadership and commitment to the best environmental and economic solutions to the Nation's challenges.

The legislation permits discharge of nontoxic materials by two mills into the ocean as had been approved by the State of California prior to that decision being overturned by the Environmental Protection Agency.

Due to the ocean characteristics in the area, discharge to the ocean has not and should not cause any harm. In fact, failure to allow these discharges will lead to environmental problems because of the need to dispose of large quantities of sludge, related air pollution problems, and others. Evidence of the benefits of this legislation is shown by the support of the proposal by local environmental interests in northern California. In addition, the expenditure of large sums of money on unnecessary facilities by the companies will certainly be economically harmful in this time of economic recovery.

It has been made entirely clear that this legislation only applies to the specific cases cited and is in no way a precedent for other situations.

Again, Mr. Speaker, H.R. 7159 provides for appropriate action in this particular case and is in keeping with the goals of the Clean Water Act and will provide the best overall environ-

mental results. I support this legislation and urge my colleagues to support it as well.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I rise in strong support of H.R. 7159 and urge its passage here today. This bill is greatly needed to address a very serious and unique west coast problem which, if it is not rectified soon, could result in grave economic and environmental consequences for the area involved.

In connection with our Water Resources Subcommittee's July hearings on the Clean Water Act, the subcommittee received a detailed statement on the nature of the problems being addressed in this bill. Therefore, in the interests of time, I will only attempt to summarize the situation here today.

Two nearly identical pulp mills are located 1 mile apart on a spit of land between the Pacific Ocean and Humboldt Bay, just west of the northern California town of Eureka. Both mills discharge their effluent into deep Pacific Ocean waters in an area of strong currents and turbulent conditions through separate outfalls about a half-mile long.

For more than 6 years, the mills have been seeking administrative relief from the need to install unnecessary additional waste treatment facilities. In 1977, the State of California's Water Quality Control Board, following similar action by the State's North Coast Regional Water Quality Control Board, granted the very limited relief being sought by the mills. In so doing the State board concluded, among other things, that—

In summary, it has been clearly shown, in this particular case, that neither the discharge of BOD nor pH (for which modifications were being sought) results in a discernible impact or a threat of damage to the marine development.

The board further determined that—

Based on the record before us, we must conclude that there do not appear to be any environmental benefits which will be derived by requiring these dischargers to meet . . . the . . . guideline limitations for BOD or pH.

Unfortunately, even though California had been delegated NPDES program management responsibilities, EPA reversed the State's decision on the grounds that California had no statutory authority to issue water quality based permit modifications for dischargers such as these. That EPA decision was subsequently upheld in the courts.

Mr. Speaker, I believe it is important at this point to call to my colleagues' attention a number of important facts related to some of the agency and judicial decisions that created the need for this legislation. Taken together, I believe that they illustrate quite well the kind of problem these two mills have been facing for more than 6 years.

They also illustrate that the mills' inability to receive a variance justified by serious and unique adverse nonwater quality environmental consequences should clearly be viewed as an unintended result.

In reaching its decision to approve the mills' variance applications, the California Water Quality Control Board noted that the dischargers presented extensive evidence both before the regional board and before the State board that there are no adverse environmental effects associated with the mills' discharges. The board noted testimony given by the executive director of the regional board "that he knew of no evidence that indicates that, in the case of these two discharges, BOD is a problem." It also likewise noted with respect to pH that "there is no evidence in the record to dispute the dischargers' allegation that the high or low pH of their discharges causes no problem when diffused into seawater." Under these circumstances, the State board reasoned that—

In this case we have unrefuted evidence presented by the dischargers and concurred with by the regional board executive officer that the existing discharges result in no water quality problems. Second, there is no expected or predictable water quality improvement to be achieved as the result of imposition of the EPA guidelines.

In light of these facts (the magnitude of the chemical and energy requirements, and the potential air and land management problems associated with sludge disposal) we can only conclude the evidence justifies the variance requested.

In appraising the evidence related to the nonwater quality environmental effects and energy requirements partly "in terms of the potential environmental benefits to be gained as a result of the imposition of the EPA guidelines," the State board subjected its variance-granting decision to EPA challenge on the grounds that a lack of effect on receiving water quality is not a legally permissible justification for granting a variance under the Clean Water Act and its implementing regulations.

EPA's consideration of the State board's decision was limited to the narrow legal question of whether water quality considerations are valid grounds for variances from effluent limitations based upon best practicable technology. The administrator concluded that—

Where the State board erred was in finding grounds for variances on the basis of nonwater quality environmental impacts . . . (because) the board found these impacts to be the basis for variances when weighed against, or considered in light of, the lack of environmental improvement.

The Administrator also clearly stated, however, that he was not "finding that the State could not, had it properly interpreted the act, have found fundamental difference with regard to nonwater quality environmental inpact." His statement was unequivocal:

I have not independently reviewed the factual record. I therefore express no opinion as to whether the two mills could be found fundamentally different in terms solely of nonwater quality environmental impact. This is a matter properly addressed in the first instance by the State.

Mr. Speaker, the matter is further complicated by procedural questions related to the adequacy of the record used by EPA to reach its decision, the refusal of EPA to grant the companies a hearing, and other matters. Suffice it to say that, by the time the pulp mills had exhausted their appellate rights with respect to the very narrow legal question at issue, the possibility of receiving administrative relief for the pulp mills' situation had become sufficiently clouded to warrant pursuing a legislative solution.

The mills, therefore, are faced with the following problems. Installation of the additional treatment facilities could cost as much as $15 million each in capital and another $1 to $2 million in additional annual operations and maintennance costs.

The costs of compliance, however, are not just dollar costs; as alluded to earlier, they also include significant environmental costs related to odor and other air pollution effects, difficulties with State coastal conservation efforts, and extremely difficult sludge disposal problems.

In light of this situation, a coalition of industry, environmental, consumer, local government and citizen groups has been working together for almost a year to attempt to assist the mills in finding the relief they seek. Support has come from the Redwood Chapter of the Sierra Club, the Northcoast Environmental Center—a coalition of 12 environmental organizations—the Arcata and Eureka Chambers of Commerce, and numerous other local organizations and citizens. Resolutions have been adopted by the Humboldt County Board of Supervisors, the Humboldt Bay municipal water districts, and the Eureka City Council urging relief for the mills. The strong preference of most of the members of the coalition, and my strong preference, would have been to find an administrative solution to the problem. Unfortunately, however, for reasons already alluded to, it does not appear that such an approach is feasible.

Therefore, in order for the mills to receive the relief they seek, a legislative solution is necessary and that is what is being proposed in H.R. 7159.

This bill has been crafted very carefully to limit its application to the very specialized kind of problem and unique set of circumstances I have de-

scribed to you. It has been drafted in a narrow, strict, and environmentally responsible fashion and is modeled after the Clean Water Act's section 301(h) with, in my opinion, additional safeguards to assure that the area's resources and the waters receiving the effluent are adequately protected.

H.R. 7159 allows the Administrator to modify NPDES permit requirements for an industrial discharger:

First, only with the concurrence of the State;

Second, only with respect to BOD and pH;

Third, only for discharges into deep waters;

Fourth, only for discharges into the territorial seas;

Fifth, only if approval had been received by a delegated State prior to March 17, 1977;

Sixth, only if a number of strict environmental tests are met;

Seventh, for no more than 5 years at a time; and

Eighth, with provision to terminate the modification if warranted by a deterioration in water quality.

Mr. Speaker, particular care has been taken to narrow the scope of this bill to deal with a very specialized problem and a very unique type of circumstances. It is in no way intended to be broadened to include other kinds or variations or problems, and any attempts to so broaden it will be resisted.

Furthermore, H.R. 7159 is in no way intended, nor should it be viewed, as a precedent for future general policy with respect to the act generally. The bill addresses what we believe is a totally unique situation, and it is meant to be and do nothing more.

The technical amendment that accompanies the bill is just that—purely technical. It is designed to avoid any interpretation of the bill's paragraph (A) which would enable a discharger to qualify for the relief this provision provides on the theory that the State concerned had a permit program equivalent to the Federal section 402 program on or before March 17, 1977. In order to do this we have added language to make it clear that, like California, the State concerned must have actually received authority under 402(b) from the Federal Environmental Protection Agency by that date.

Mr. Speaker, I am hopeful and confident that the need for H.R. 7159 is apparent and that the solution contained in the bill is appropriate. A great deal of effort has been expended to develop the consensus that exists in support of this bill, with compromises having to be made by all of the competing interests involved in order to find an approach that strikes the proper balance. I know of no opposition to the bill and am personally thankful to all who have played a part in expediting its consideration. It is necessary legislation and it should be passed here today.

● Mr. HOWARD. Mr. Speaker, I rise in support of the bill.

As my colleagues have stated, this is a narrowly drawn bill designed to address a special problem. The current statute already contains a mechanism for adjusting the effluent limitations applicable to a particular plant when its circumstances are fundamentally different from the plants which the Environmental Protection Agency looked at in determining the requirements for the industry as a whole. This was the rationale under which the State of California proposed to modify the effluent limitations for the bleached Kraft pulp mill subcategory for two mills discharging into the Pacific Ocean off the Humboldt Bay in California. However, the Environmental Protection Agency did not agree with California's decision, and vetoed the discharge permits issued by the State.

Those who are familiar with the act will recognize that the test contained in the bill to qualify for the modified discharge requirements is similar to the very strict test applicable to municipalities under section 301(h). This is designed to insure that the pulp mills addressed by the bill will be granted the modification only if they can meet strict environmental requirements. The similarity to 301(h) does not mean that the committee is contemplating extending the ocean discharge waiver which is now available to municipalities beyond its current scope. Indeed, the committee will be looking into the need to narrow the 301(h) provision. I wish to reiterate my own strong support, and the committee's support, for the current industrial regulatory provisions of the Federal Water Pollution Control Act, which are based on uniform technology based effluent limitations which are uniform within any particular industrial category or subcategory. It is also appropriate to point out that the support for modified requirements in this unique instance has been forthcoming from virtually every party which has become familiar with the facts.

Mr. Speaker, I urge passage of the bill.●

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. ROE) that the House suspend the rules and pass the bill, H.R. 7159, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 7159, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 1983.

Mr. O'BRIEN reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

ALCOHOL TRAFFIC SAFETY AND NATIONAL DRIVER REGISTER

Mr. ANDERSON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6170) to amend title 23, United States Code, to encourage the establishment by States of effective alcohol traffic safety programs, as amended.

The Clerk read as follows:

H.R. 6170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ALCOHOL TRAFFIC SAFETY PROGRAMS

SEC. 101. (a) Chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 408. Alcohol traffic safety programs.

"(a) Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol. Such grants may only be used by recipient States to implement and enforce such programs.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require

to ensure that such State will maintain its aggregate expenditures from all other sources for alcohol traffic safety programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than three fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year the State receives a grant under this section, 75 per centum of the cost of implementing and enforcing in such fiscal year the alcohol traffic safety program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 per centum of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 per centum of the cost of implementing and enforcing in such fiscal year such program.

"(d)(1) Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(1) shall equal 30 per centum of the amount apportioned to such State for fiscal year 1983 under section 402 of this title.

"(2) Subject to subsection (c), the amount of a supplemental grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e)(2) shall not exceed 20 per centum of the amount apportioned to such State for fiscal year 1983 under section 402 of this title. Such supplemental grant shall be in addition to any basic grant received by such State.

"(e)(1) For purposes of this section, a State is eligible for a basic grant if such State provides—

"(A) for the prompt suspension, for a period not less than ninety days in the case of a first offender and not less than one year in the case of any repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests, to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer;

"(B) for a mandatory sentence, which shall not be subject to suspension or probation, of (i) imprisonment for not less than forty-eight consecutive hours, or (ii) not less than ten days of community service, of any person convicted of driving while intoxicated more than once in any five-year period;

"(C) that any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated; and

"(D) for increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

"(2) For purposes of this section, a State is eligible for a supplemental grant if such State is eligible for a basic grant and in addition provides for some or all of the criteria established by the Secretary under subsection (f).

"(f) The Secretary shall, by rule, establish criteria for effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol, which criteria shall be in addition to those required for a basic grant under subsection (e)(1). The Secretary shall establish such criteria in cooperation with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary may deem appropriate. Such criteria may include, but need not be limited to, requirements—

"(1) for the establishment and maintenance of a statewide driver recordkeeping system from which repeat offenders may be identified and which is accessible in a prompt and timely manner to the courts and to the public;

"(2) for the creation and operation of rehabilitation and treatment programs for those arrested and convicted of driving while intoxicated;

"(3) for the impoundment of any vehicle operated on a State road by any individual whose driver's license is suspended or revoked for an alcohol-related driving offense;

"(4) for the establishment in each major political subdivision of a State of locally coordinated alcohol traffic safety programs which are administered by local officials and are financially self-sufficient;

"(5) for the grant of presentence screening authority to the courts;

"(6) for the setting of the minimum drinking age in such State at 21 years of age;

"(7) for the consideration of and, where consistent with other provisions of State law and constitution the adoption of, recommendations that the Presidential Commission on Drunk Driving may issue during the period in which rules are being made to carry out this section.

"(g) There is hereby authorized to be appropriated to carry out this section, out of the Highway Trust Fund, $25,000,000 for the fiscal year ending September 30, 1983, and $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, and September 30, 1985. All provisions of chapter 1 of this title that are applicable to Federal-aid primary highway funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section. Sums authorized by this subsection shall not be subject to any obligation limitation for State and community highway safety programs.".

(b) The analysis for chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"408. Alcohol traffic safety programs.".

(c) The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 408 of title 23, United States Code, not later than November 1, 1982. The Secretary shall allow public comment and hold public hearings on the proposed regulations to encourage maximum citizen participation. The final regulations shall be issued, published in the Federal Register, and transmitted to Congress before February 1, 1983. To the extent such regulations relate to the making of basic grants under such section 408, such regulations shall become effective on the date on which they are published in the Federal Register. To the extent such regulations relate to the making of supplemental grants under such section 408, such regulations shall become effective April 1, 1983, unless before such date either House of Congress by resolution disapproves such regulations to such extent. If such regulations are so disapproved by either House of Congress, the Secretary shall not obligate for such supplemental grants any amount authorized to carry out such section 408 for the fiscal year ending September 30, 1983, or any subsequent fiscal year, unless specifically authorized to do so by a statute enacted after the date of enactment of this Act.

TITLE II—NATIONAL DRIVER REGISTER

SHORT TITLE

SEC. 201. This title may be cited as the "National Driver Register Act of 1982".

DEFINITIONS

SEC. 202. For purposes of this title, the term—

(1) "alcohol" has the meaning given such term by the Secretary of Transportation under regulations prescribed by the Secretary;

(2) "chief driver licensing official" means the official in each State who is authorized to (A) maintain any record regarding any motor vehicle operator's license issued by such State; and (B) grant, deny, revoke, suspend, or cancel any motor vehicle operator's license issued by such State;

(3) "controlled substance" has the meaning given such term in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6));

(4) "highway" means any road or street;

(5) "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway, except that such term does not include any vehicle, machine, tractor, trailer, or semitrailer operated exclusively on a rail or rails;

(6) "motor vehicle operator's license" means any license issued by a State which authorizes an individual to operate a motor vehicle on a highway;

(7) "participating State" means any State which has notified the Secretary of its participation in the Register system, pursuant to section 204 of this title;

(8) "Register" and "Register system" mean the National Driver Register established under section 203 of this title;

(9) "Secretary" means the Secretary of Transportation;

(10) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(11) "State of record" means any State which has transmitted to the Secretary, pursuant to section 205 of this title, any report regarding any individual who is the subject of a request for information made under section 206 of this title.

ESTABLISHMENT OF REGISTER

SEC. 203. (a) The Secretary shall, as soon as practicable after the date of enactment of this title, establish and thereafter maintain a Register, to be known as the National Driver Register, to assist chief driver licensing officials of participating States in exchanging information regarding the motor vehicle driving records of individuals. The Register shall contain an index of the information that is reported to the Secretary under section 205 of this title, and shall be designed to enable the Secretary, either

electronically or, until such time as all States are capable of participating electronically, through the United States mails, to—

(1) receive information submitted under section 205(a) of this title by the chief driver licensing official of any State of record;

(2) receive any request for information made by the chief driver licensing official of any participating State under section 206 of this title;

(3) refer such request to the chief driver licensing official of any State of record; and

(4) relay without interception of the actual information to the chief driver licensing official of a participating State any information provided by any chief driver licensing official of a State of record in response to such request.

(b) The Secretary shall not be responsible for the accuracy of any information relayed to the chief driver licensing official of any participating State, except that the Secretary shall maintain the Register in a manner that ensures against any inadvertent alteration of information during any relay.

(c)(1) The Secretary shall, within eighteen months after the date of enactment of this title, promulgate a final rule which provides for procedures for the orderly transition from the system regarding the motor vehicle driving records of individuals provided in Public Law 86-660 (74 Stat. 526) to the Register established under subsection (a) of this section.

(2) The Secretary shall not maintain in the Register any report or information which was compiled under the provisions of Public Law 86-660 (74 Stat. 526) and was transferred to the Register after (A) the date the State of record removes it from the State's file; (B) seven years after the date such report of information is entered into the Register; or (C) the date of establishment of a fully electronic Register system, whichever is earlier. Such report or information shall be disposed of in accordance with the provisions of chapter 33 of title 44, United States Code.

(3) If the chief driver licensing official of any participating State finds that information which has been transmitted for inclusion in the Register under this section is erroneous or relates to a conviction of a traffic offense which is subsequently reversed, such official shall immediately notify the Secretary of the error. The Secretary shall provide for the immediate deletion from the Register of such material.

(d) The Secretary shall assign to the administration of this title such personnel as may be necessary to ensure the effective functioning of the Register system.

(e) The Secretary may prescribe such regulations as may be necessary to carry out the provisions of this title.

STATE PARTICIPATION

SEC. 204. (a) Any State may become a participating State under this title by notifying the Secretary of its intention to be bound by the provisions of section 205 of this title.

(b) Any participating State may terminate its status as a participating State under this title by notifying the Secretary of its withdrawal from participation in the Register system.

(c) Any notification made by a State under subsection (a) or (b) of this section shall be made in such form, and according to such procedures, as the Secretary shall establish by regulation.

REPORTS BY CHIEF DRIVER LICENSING OFFICIALS

SEC. 205. (a) The chief driver licensing official in each participating State shall, as soon as practicable after the date of enactment of this title, transmit to the Secretary a report containing the information required in subsection (b) of this section regarding any individual—

(1) who is denied a motor vehicle operator's license by such State for cause;

(2) whose motor vehicle operator's license is canceled, revoked, or suspended by such State, for cause; or

(3) who is convicted under the laws of such State of the following motor vehicle-related offenses or comparable offenses—

(A) operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance;

(B) a traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways;

(C) failure to render aid or provide identification when involved in an accident which results in a fatality or personal injury; or

(D) perjury or the knowledgeable making of a false affidavit or statement to officials in connection with activities governed by a law or regulation relating to the operation of a motor vehicle.

(b) Any report regarding an individual which is transmitted by a chief driver licensing official pursuant to subsection (a) of this section shall contain—

(1) the legal name, date of birth (including day, month, and year), sex, and (at the Secretary's discretion) the height, weight, eye and hair color of such individual;

(2) the name of the State transmitting such information; and

(3) the social security account number, if used by the reporting State for driver record or motor vehicle license purposes, and the motor vehicle operator's license number of such individual (if that number is different from the operator's social security account number);

except that any report concerning an occurrence specified in subsection (a)(1), (2), or (3) of this section which occurs during the two-year period preceding the date on which such State becomes a participating State shall be sufficient if it contains all such information as is available to the chief driver licensing official on such date.

(c) Any report required to be transmitted by a chief driver licensing official of a State under subsection (a) of this section shall be transmitted to the Secretary—

(1) not later than thirty-one days after receipt by a State motor vehicle department of any information specified in subsection (b)(1), (2), or (3) of this section which is the subject of such report, if the date of such occurrence is after the date on which such State becomes a participating State; or

(2) not later than the expiration of the six-month period following the date on which such State becomes a participating State, if such report concerns an occurrence specified in subsection (a)(1), (2), or (3) of this section that occurs during the two-year period preceding such date.

(d) Nothing in this section shall be construed to require any State to report any information concerning any occurrence which occurs before the two-year period preceding the date on which the State becomes a participating State.

ACCESSIBILITY OF REGISTER INFORMATION

SEC. 206. (a)(1) For purposes of fulfilling his duties with respect to driver licensing, driver improvement, or highway safety, the chief driver licensing official of any participating State may, on and after the date of enactment of this title, request the Secretary to refer electronically or through the United States mails any request for information regarding the motor vehicle driving record of any individual to the chief driver licensing official of any State of record.

(2) The Secretary shall electronically or through the United States mails relay to any chief driver licensing official of a participating State who requests information under paragraph (1) of this subsection any information received from the chief driver licensing official of any State of record regarding an individual in accordance with paragraph (1) of this subsection, except that the Secretary may refuse to relay any information to any such official who is the chief driver licensing official of a participating State which is not in compliance with the provisions of section 205 of this title.

(b)(1) The Chairman of the National Transportation Safety Board and the Administrator of the Federal Highway Administration, for purposes of requesting information regarding any individual who is the subject of any accident investigation conducted by the Board of Bureau of Motor Carrier Safety, may request the Chief driver licensing official of a State to obtain information under subsection (a) of this section regarding such individual. The Chairman and Administrator may receive any such information.

(2) Any individual who is employed as a driver of a motor vehicle or who seeks employment as a driver of a motor vehicle may request the chief driver licensing official of the State in which the individual is employed or seeks employment to transmit information under subsection, (a) of this section to this employer or prospective employer. An employer or prospective employer may receive such information regarding any such individual, and shall make that information available to the affected individual. There shall be no access to information in the Register under this paragraph if such information was entered in the Register more than three years before the date of such request.

(3) Any individual, in order (A) to determine whether the Register is providing any data regarding him or the accuracy of any such data; or (B) to obtain a certified copy of data provided through the Register regarding him, may request the chief driver licensing official of a State to obtain information regarding him under subsection (a) of this section.

(4) Any request made under this subsection shall be made in such form, and according to such procedures, as the Secretary shall establish by regulation.

(c) Any request for, or receipt of, information by means of the Register shall be subject to the provisions of sections 552 and 552a of title 5, United States Code, and any other applicable Federal and State law, except that—

(1) the Secretary shall not relay, or otherwise transmit, information specified in section 205(b)(1) or (3) of this title to any person not authorized by this section to receive such information;

(2) any request for, or receipt of, information by any chief driver licensing official, or by any person authorized by subsection (b) of this section to request and receive information, shall be considered to be a routine use for purposes of section 552a(b) of title 5, United States Code; and

(3) any receipt of information by any person authorized by this section to receive information shall be considered to be a disclosure for purposes of section 552a(c) of title 5, United States Code, except that the Secretary shall not be required to retain the accounting made under paragraph (1) of such section for more than a seven-year period after the date of such disclosure.

PILOT TEST PROGRAM

SEC. 207. (a) The Secretary shall design, within 18 months after the date of enactment of this title, and implement, within two years after the date of enactment of this title, a pilot test program for the purpose of demonstrating the potential effectiveness of a system for electronic referral and relay of information regarding the motor vehicle driving records of individuals.

(b) The Secretary shall solicit the participation of States which are interested in participating in such program and shall, within thirty months after the date of enactment of this title, select four States to participate in the program.

(c)(1) The Secretary shall select States in accordance with the provisions of subsection (b) of this section from among States which have in effect, on the date of selection, an intrastate online driver licensing system capable of electronically transmitting information regarding the motor vehicle driving records of individuals.

(2) The Secretary shall select only those States which indicate a willingness to participate in a comprehensive mechanical and programmatic evaluation of systems for the electronic transfer of information.

(3) The Secretary shall ensure that the selection made pursuant to subsection (b) of this section is representative of varying geographical and population characteristics of the Nation.

(4) No State shall participate in the program unless it agrees to assist in providing information to other States regarding the electronic transfer of the motor vehicle driving records of individuals.

(d) Within two years after the date of enactment of this title, the Secretary shall begin the pilot program authorized by subsection (a) of this section. Such program shall continue for a period of one year. In carrying out the program, the Secretary shall utilize different computer technologies and equipment in order to determine which technology and equipment is most effective for the electronic transfer of the motor vehicle driving records of individuals. The Secretary shall determine which systems and devices will best interconnect with systems and devices used in the States which are participating in the pilot program, as well as those used in other States.

(e) Any equipment or device which is provided to a State for use in the pilot program conducted under this section may, in the discretion of the Secretary, remain with the State following the conclusion of the pilot program.

(f) Not later than one year after the conclusion of the pilot program, the Secretary shall submit to the Congress a report on the program. Such report shall include an evaluation of the technology utilized during the program, together with an explanation of the nature and degree of State participation in the program. The report shall also contain an evaluation of achievements of the pilot program, as well as a projection of accomplishments which might result from the acquisition of electronic transfer equipment and methods by States other than those which participated in the pilot program.

CRIMINAL PENALTIES

SEC. 208. (a) Any person, other than an individual described in section 206(b)(4) of this title, who receives under section 206 of this title information specified in section 205(b)(1) or (3) of this title (the disclosure of which is not authorized by section 206 of this title), and who, knowing that disclosure of such information is not authorized, willfully discloses such information, shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(b) Any person who knowingly and willfully requests or under false pretenses obtains information specified in section 205(b)(1) or (3) of this title from any person who receives such information under section 206 of this title shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

ADVISORY COMMITTEE

SEC. 209. (a) There hereby is established a National Driver Register Advisory Committee, which shall advise the Secretary concerning the efficiency of the maintenance and operation of the Register, and the effectiveness of the Register in assisting States in exchanging information regarding motor vehicle driving records.

(b) The Advisory Committee shall consist of fifteen members, appointed by the Secretary, as follows:

(1) three members from among individuals who are specially qualified to serve on the Advisory Committee by virtue of their education, training, or experience, and who are not employees of the Federal Government or of any State; and

(2) three members from among groups outside the Government which represent the interests of bus and trucking organizations, enforcement officials, labor, or safety organizations; and

(3) nine members, geographically representative of the participating States, from among individuals who are chief driver licensing officials of participating States.

(c)(1) Except as provided in paragraph (2) and paragraph (3), each member of the Advisory Committee shall be appointed for a term of three years.

(2) Of the members first appointed—

(A) one of the members described in subsection (b)(1) and one of the members described in subsection (b)(2) and three of the members described in subsection (b)(3) shall be appointed for a term of one year;

(B) one of the members described in subsection (b)(1) and one of the members described in subsection (b)(2) and three of the members described in subsection (b)(3) shall be appointed for a term of two years; and

(C) one of the members described in subsection (b)(1) and one of the members described in subsection (b)(2) and three of the members described in subsection 2(b)(3) shall be appointed for a term of three years; as designated by the Secretary at the time of appointment.

(3) Any vacancy in the Advisory Committee shall be filled in the same manner as original appointments. Any member appointed to fill any vacancy shall serve for the remainder of the term for which his predecessor was appointed. Any member may serve after the expiration of his term until is successor has taken office.

(d) The members of the Advisory Committee shall serve without compensation, but the Secretary is authorized to reimburse such members for all reasonable travel expenses incurred by them in attending the meetings of the Advisory Committee.

(e)(1) The Advisory Committee shall meet not less than once each year.

(2) The Advisory Committee shall elect a Chairman and a Vice Chairman from among the members of the Advisory Committee.

(3) Eight members of the Advisory Committee shall constitute a quorum.

(4) The Advisory Committee shall meet at the call of the Chairman or a majority of the members of the Advisory Committee.

(f) The Advisory Committee may receive from the Secretary such personnel, penalty mail privileges, and similar services, as the Secretary considers necessary to assist it in performing its duties and functions under this section.

(g) Not less than once each year, the Advisory Committee shall prepare and submit to the Secretary a report concerning the efficiency of the maintenance and operation of the Register, and the effectiveness of the Register in assisting States in exchanging information regarding motor vehicle driving records. Such report shall include any recommendations of the Advisory Committee for changes in the Register system.

(h) The Advisory Committee shall be exempt from the requirements of section 10(e), section 10(f), and section 14 of the Federal Advisory Committee Act (5 U.S.C. Appendix).

REPORT BY SECRETARY

SEC. 210. Not later than the expiration of the four-year period following the date of enactment of this title, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the extent and level of participation in the Register system, and the effectiveness of such system in the identification of unsafe drivers. Such report shall include any recommendations of the Secretary concerning the desirability of extending the authorization of appropriations for this title beyond the period of authorization provided in section 211 of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 211. (a) There are authorized to be appropriated for fiscal years beginning after September 30, 1982, for expenses incurred in the establishment of the Register system under this title not to exceed $2,000,000.

(b) There are authorized to be appropriated to carry out the provisions of this title and the provisions of Public Law 86-660 (74 Stat. 526) not to exceed $1,000,000 for fiscal year 1983, not to exceed $1,300,000 for fiscal year 1984, not to exceed $1,600,000 for fiscal year 1985, not to exceed $1,600,000 for fiscal year 1986, and not to exceed $1,600,000 for fiscal year 1987.

(c) Funds authorized under this section shall remain available until expended.

The SPEAKER pro tempore. Is a second demanded?

Mr. CLAUSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. ANDERSON) will be recognized for 20 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6170 represents a commitment by this body to help reduce the tragic number of fatalities and injuries that occur on our highways today as a result of alcohol-related crashes. Each year, over 26,000 deaths result from accidents where alcohol is a factor. Over 120 Members have cosponsored legislation indicating the wide support and recognition given to the importance of this problem in our country today. Because the bill that was introduced differs substantially from the bill passed by the other body, we are today offering a committee amendment to H.R. 6170 that embodies a compromise which the other body can agree to, pass, and send to the President once we approve it.

Mr. Speaker, without Federal help, many States would be hard pressed to significantly improve their existing alcohol traffic safety programs without an increase in highway safety funding.

While the committee believes that the Federal Government ought to encourage the implementation of effective programs by the States, we were mindful that the States should not be coerced to take any action unless they feel, as I certainly do, that such an action is in the best interest of its citizens and appropriate for meeting State's needs.

Thus, it was felt by the committee that States would better respond to the incentive of "seed" money to expand their programs rather than to the imposition of a penalty in the nature of funds being withheld for noncompliance. H.R. 6170, as introduced, was committed to allowing the States the greatest amount of flexibility in achieving a combination of standards and sanctions that would best serve to create within each State a workable alcohol traffic program. The other body approved more restrictive legislation. H.R. 6170, as amended, is a happy medium between these approaches, an agreement that should benefit all concerned.

H.R. 6170 contains two titles, title I representing the alcohol traffic safety programs and title II setting forth the provisions of the National Driver Register. The provisions of this bill are as follows:

TITLE I—ALCOHOL TRAFFIC SAFETY PROGRAMS

Section 101 amends Chapter 4 of title 23, U.S. Code, by adding a new section 408 providing incentive grants to States that have in place and implement or adopt and implement (by legislation, regulation, or otherwise) effective programs to reduce the drunk driving problem. Whether a State qualifies for a basic grant in any fiscal year will be determined by its compliance with minimum criteria specified in the statute. Any State that complies with the minimum criteria and additional criteria which the Secretary of Transportation shall issue by regulation shall be eligible for a supplementary grant. The States may use the funds they receive under this program only for alcohol safety purposes. Projects in other highway safety areas, eligible for funding under the regular Section 402 State and Community Highway Safety Program, are not eligible for funding under this incentive grant program unless they are related to the alcohol traffic safety program.

Subsection (b) requires each State that receives incentive funds as a condition for the receipt of the funds to maintain its funding for alcohol safety, excluding incentive grant funds, at the level representing an average of total funds spent during the two years preceding the enactment of this program.

Subsections (c) and (d) limit the amounts that can be awarded under the incentive grant program. No State may receive grants for more than three fiscal years. The amount awarded to a State in any fiscal year is a function of the State's cost of implementing and enforcing the alcohol traffic safety program outlined by the Secretary in regulations. During the first fiscal year in which a State qualifies for an award, the Secretary shall reimburse the State for 75 percent of the costs of its alcohol traffic safety program. During the second and third fiscal years in which a State qualifies, the Secretary shall reimburse the State for 50 percent and 25 percent, respectively, of its costs in this area. It is the intent of the Committee that non-Federal share for grants awarded under section 208 may be provided from alcohol safety funds which are required under subsection (b) to be maintained by each State as a condition of assistance. In addition, the amount a State which meets the basic criteria can receive in any fiscal year is set at 30 percent of the amount apportioned to the State under the regular Section 402 Highway Safety Program. The amount a State which meets the basic criteria plus some or all of the supplementary criteria can receive in any fiscal year is limited to 50 percent of the amount apportioned to the State under the regular Section 402 Highway Safety Program.

Subsection (e) prescribes the minimum basic criteria a State program must meet to qualify for a basic grant:

(1) For a first offense, prompt suspension for at least 90 days is required and, for a repeat offender, prompt suspension for at least one year of the license of any driver whose blood alcohol concentration (BAC) equals or exceeds 0.10 percent or who refuses a chemical test for blood alcohol.

The key word in this criterion is "prompt." Too often, months and months are allowed to pass between arrest and licensing action. Memory fades and the threat of suspension loses its deterrent effect. What is needed is prompt action. A few States have already provided for such prompt suspensions through administrative means. A number of others provide that licenses can be suspended before conviction, but have not taken the administrative steps necessary to alert the licensing agencies to the pending charges. This bill can produce an effect right away in those States, and it is our hope that the availability of Federal assistance will help bring about rapid administrative changes. We estimate that an additional 19 States can increase the speed of their suspensions to qualify under this criteria without resort to additional legislation by the State legislatures.

(2) For a person convicted of a second offense in any five-year period, mandatory imprisonment for not less than 48 consecutive hours or 10 days of community service is required.

(3) Any person with a BAC of 0.10 percent or greater when driving shall be deemed to be driving while intoxicated.

(4) Increased efforts or resources must be dedicated to the enforcement of alcohol related traffic laws and to inform the public of such enforcement.

The Committee directs that the Secretary not promulgate any regulation or otherwise take any action relative to a blood alcohol test pursuant to subsection (e) without first determining that such test is a reliable method for measuring BAC and is administered in a reasonable and appropriate manner. The Committee expresses a preference for the use of the breathalyzer test for determining BAC.

Subsection (f) directs the Secretary to work with the States, other public agencies and nonprofit organizations to set criteria by which he can determine whether a State's alcohol safety program qualifies for a supplemental grant. During the rulemaking to determine the necessary criteria for an effective alcohol traffic safety program, the Secretary shall consider changes in State law such as the following:

(1) Establishing or expanding a Statewide driver record system readily accessible to the courts and the public which can identify drivers repeatedly convicted of drunk driving;

(2) Providing the courts with authority to conduct presentence screenings of convicted drunk drivers which would aid the courts in selecting the sanctions most appropriate for the convicted drivers;

(3) Providing for creation and operation of rehabilitation and treatment programs for persons arrested and convicted of driving while intoxicated;

(4) Providing for impoundment of any vehicle operated by an individual whose license had been suspended or revoked for an alcohol-related offense;

(5) Providing for a minimum drinking age of 21 years of age;

(6) Consideration of the recommendations of the Presidential Commission on Drunk Driving; and

(7) Establishing an alcohol traffic safety program in each major political subdivision (e.g., major cities and heavily populated counties) that is controlled at the local level, and permitting each local program to retain fines and other monies collected from convicted drunk drivers so that it can become financially self-sufficient.

Subsection (g) creates a separate three-year authorization for the incentive grant program. It authorizes out of the Highway Trust Fund $25 million for FY 1983 and $50 million per fiscal year for FY 1984 and FY 1985. Reference to the provisions of title 23 relating to Federal-aid primary highways is intended to mandate contract authority and a four-year period of availability of the authorized amounts. Further, these authorizations will not be limited by any provision of law limiting obligations for "State and Community Highway Safety" Programs.

Section 208(c) mandates a rulemaking schedule that would outline basic and supplementary criteria needed for an effective anti-drunk driving program. The Secretary must publish proposed regulations by November 1, 1982. During the rulemaking period, the Secretary shall allow public comment and hold public hearings to encourage maximum citizen participation.

Before February 1, 1983, the Secretary must publish the final rule in the Federal Register and transmit it to the Congress. Unless either House of Congress disapproves by a simple veto resolution, the portion of the final rule relating to supplementary grants shall become effective April 1, 1983.

If either House of Congress disapproves the final rule, the Secretary shall not obligate supplementary grant funds for FY 1983 or any subsequent fiscal year unless Congress authorizes him to do so by statute.

TITLE II—NATIONAL DRIVER REGISTER

SECTION 201. SHORT TITLE

This section provides that this Title may be cited as the "National Driver Register Act of 1982."

SECTION 202. DEFINITIONS

This section provides definitions pertinent to the operation of this Title.

SECTION 203. ESTABLISHMENT OF REGISTER

This section requires the Secretary, as soon as practicable after the date of enactment of this Title, to establish and maintain an updated, electronic Register, to be known as the "National Driver Register," to assist the States in rapidly exchanging driving record information on problem drivers. Once in full operation, the Register will serve as an index which points inquiring States to those States, if any, which have taken adverse driver licensing actions against any individual inquired about. The use of the Register to relay the exchange of data between States is to be accomplished without the capability on the part of the Register to intercept such exchanges. Also, the Secretary is not to be responsible for the accuracy of any data or information relayed by the Register, except that the Secretary is required to maintain the Register in a manner that ensures against any inadvertent alteration of information during any such relay.

The Secretary is also required by this section to promulgate a final rule within 18 months after the date of enactment of this Title which provides for procedures for the orderly transition from the system of problem driver records provided in Public Law 86-660 to the updated electronic Register established by this section. The Secretary is prohibited from maintaining in the Register any report or information which was compiled under the authority of Public Law 86-660 and transferred to the Register after (1) the date the State of record removes it from the State file; (2) seven years after the date such report or information is entered into the Register; or (3) the date of establishment of a fully electronic Register system, whichever is earlier. The disposal of such reports or information shall be made in accordance with chapter 33 of title 44, U.S. Code. The States, through their chief driver licensing officials, and the Secretary shall take appropriate measures to ensure the accuracy of the Register's data. The Secretary is given the authority to prescribe such regulations as may be necessary to carry out the provisions of this Title.

SECTION 204. STATE PARTICIPATION

This section provides that State participation in the Register is voluntary, and that any State may participate by notifying the Secretary of its intention to be bound by the provisions of section 205 of this Title.

SECTION 205. REPORTS BY CHIEF DRIVER LICENSING OFFICIALS

This section provides (a) the categories of adverse driver licensing actions for which reports on individuals are to be prepared by the chief driver licensing officials of the States and (b) the required categories of data elements needed to identify individuals for such reports.

SECTION 206. ACCESSIBILITY OF REGISTER INFORMATION

This section limits the accessibility of the Register's information to the States' chief driver licensing officials and, through them, to the Chairman of the National Transportation Safety Board and the Administrator of the Federal Highway Administration for the purposes of accident investigation conducted by the Board or the Bureau of Motor Carrier Safety, employers of individuals who are employed as drivers of motor vehicles or who seek such employment request the transmittal of such information to their employers or prospective employers, and any individual in order to (1) determine whether the Register is providing any data regarding him or the accuracy of any such data or (2) obtain a certified copy of data provided through the Register regarding him. Any request for, or receipt of, information by means of the Register is subject to the provisions of the Freedom of Information Act and the Privacy Act and any other applicable Federal or State law, except that (1) the Secretary is prohibited from relaying or transmitting Register data or information to any person not authorized by this Title to receive it; (2) any request for, or receipt of information by any person authorized by this Title to request and receive such information, shall be considered to be a "routine use" for the purposes of the Privacy Act (section 552a(b) of title 5, U.S. Code); and (3) any receipt of information by any person authorized by this Title to receive Register information is to be considered a disclosure for the purposes of the Privacy Act (section 552a(c) of title 5, U.S. Code).

SECTION 207. PILOT TEST PROGRAM

This section provides a pilot test program for an upgraded, electronic Register system. The Secretary is required to design the pilot test within 18 months after the date of enactment of this Title and to implement it within two years after the date of enactment. The purpose of the pilot test is to demonstrate the potential effectiveness of a system of electronic referral and relay of information regarding the driving records of problem drivers. Four States are to be chosen for the pilot test, and not later than one year after the conclusion of the test, the Secretary is required to submit to Congress a report on the program.

SECTION 208. CRIMINAL PENALTIES

This section provides criminal penalties for unauthorized receipt or disclosure of Register information in the amount of fines of not more than $10,000 or imprisonment for not more than one year, or both.

SECTION 209. ADVISORY COMMITTEE

This section establishes a National Driver Register Advisory Committee comprised of fifteen members appointed by the Secretary to provide advice and assistance concerning the efficiency of the maintenance and operation of the Register, and the effectiveness of the Register in assisting States in exchanging information regarding the motor vehicle driving records. The Advisory Committee will be composed of members possessing expertise, experience, and training related to the activities of the Register, public and private interest groups, and chief driver licensing officials of participating States. The Advisory Committee shall prepare and submit to the Secretary an annual report along with any recommendations for changes in the Register system. The Committee assumes that there will be extensive consultation between the Advisory Committee and the Secretary through the duration of the four pilot projects in the States.

SECTION 210. REPORT BY SECRETARY

This section provides that the Secretary prepare and submit a report to Congress setting forth the extent and level of participation in the Register system and the effectiveness of the system in the identification of unsafe drivers. This report is due not later than the expiration of the four-year period following the date of enactment of this Title.

SECTION 211. AUTHORIZATION OF APPROPRIATIONS

This section provides an authorization of appropriations for expenses incurred in the establishment of the Register system under this Title of not to exceed $2 million for the fiscal years beginning after September 30, 1982. This section also provides an authorization of appropriations to carry out the provisions of this Title and the provisions of Public Law 86-660 (the current Register system) of not to exceed $1 million for fiscal year 1983, $1.3 million for fiscal year 1984 and $1.6 million for each of the fiscal years 1985, 1986 and 1987. The funds authorized under this section are to remain available until expended.

Mr. Speaker, H.R. 6170 is designed to address the carnage and destruction that occurs daily on our Nation's highways. We have worked with interested groups around the country in crafting this proposal, and I know of no opposition.

These groups know the scope of the problem. They know that the time to act is now. We must make our roads safer from chronic violators and drunk drivers.

Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. HOWARD), the distinguished chairman of the full committee.

Mr. HOWARD. Mr. Speaker, today we are voting on what may be the most important legislation to come before us this Congress. H.R. 6170 is the result of a tragic statistic: 70 people are killed and 2,000 injured every day in alcohol-related motor vehicle accidents.

□ 1130

In the last 2 years the total amounted to more than died during the entire Vietnam war.

In my own State of New Jersey, motor vehicle accidents represent the leading cause of death of young people. Fifty-eight percent of all fatal crashes last year involved alcohol. In addition, the cost to society of motor vehicle accidents last year in New Jersey was almost $1 billion. Multiply that by the several States and we have

an idea of the economic impact of that statistic nationwide.

I might add, Mr. Speaker, that we are talking about the State of New Jersey, which is the safest highway State in the Nation, with fewer death per hundred million passenger miles than any other State.

The American public is no longer remaining quiet over this shocking state of affairs. The evidence of that is displayed on television, over the radio, and in newspapers and magazines. It is one of the fastest growing causes in the United States today, and the groups that have fostered this publicity promise us that there will be no reversal; they and their cause are here to stay. Many of these groups were started by individuals who lost loved ones or have seen them permanently injured because of an alcohol-impaired driver. These are groups you have all heard about and may be from—groups like Mothers Against Drunk Driving (MADD) and a group called Remove Intoxicated Drivers (RID). Others, like Students Against Drunk Driving (SADD), seek to eliminate or lessen the menace to our youth, among whose number alcohol-related crashes are the No. 1 killer.

In our Nation today, the No. 1 killer of all Americans between the ages of 10 and 34 is automobile accidents, and over half of those deaths are alcohol related. Their cause is our cause. It is one that we can go a long way in making a reality.

Although the amended version of H.R. 6170, which we are voting on today, differs somewhat from the bill as introduced, and which has received such widespread support, it nevertheless reflects the serious intention of the Congress to deal with this matter in an expeditious and effective manner and, in its totality, supports the end to which this effort has been made. This legislation is a concerted effort by this body and the other body to show that we hear and we care about what happens on our Nation's highways, that driving is a privilege, not a right, and should be treated accordingly.

Col. Clinton L. Pagano, superintendent of the New Jersey State Police, and a spokesman for the International Association of Police Chiefs, among those law enforcement agencies which have also supported this legislation, calls the bill a "meaningful and timely national attack on drunk driving. By providing States with the financial assistance necessary to begin comprehensive alcohol enforcement programs aimed at deterrance, arrest, conviction, punishment, and rehabilitation of drunk driving offenders, it addresses all of the vital concerns of the law enforcement community."

And the main aim of this bill is deterrance. Punishment is justified after the fact. What we want to do with this legislation is to not have that accident happen. The aim is deterrance.

Mr. Speaker, I am assured by those who supported and preferred the bill as introduced that they will support the amended version. We are grateful for their support, for their making this a national issue, and for questioning the notion that driving while intoxicated is somehow socially acceptable, for if it continues to be, no one is safe on our highways.

Mr. Speaker, I urge the Members to vote for this legislation, and I thank the committee members for their work on it.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. CLAUSEN) for 20 minutes.

Mr. CLAUSEN. Mr. Speaker, I ask unanimous consent that the time that was allotted to me be allotted to and controlled by the gentleman from Minnesota (Mr. STANGELAND).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STANGELAND. Mr. Speaker, I yield such time as he may consume to the ranking minority member of the Committee on Public Works and Transportation, the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, as an original cosponsor of drunk driving legislation in this Congress, I take great satisfaction in joining with my colleagues in bringing H.R. 6170 to the floor.

Drunk driving, and the toll it takes in loss of life and injury, is a national outrage which we, as a Nation, can no longer tolerate. At the same time, we, at the Federal level, have been constrained in our ability to act by the fact that law enforcement is and must remain essentially a State and local responsibility.

In H.R. 6170, I think we have developed the basis for a new beginning, going beyond the old alcohol safety action programs conducted under prior legislation, and provide genuine incentives for the States and localities to meet their responsibilities. In this respect, the voluntary nature of the program, the fact that the States are not required to comply, is a strength rather than a weakness of our approach.

What we are about with legislation of this nature, what we have staked out as our task, is a fundamental change in outlook and action on the part of society; of the individual inclined to drive after drinking; of those in law enforcement charged with the responsibility of getting the drinking driver off the road; of our prosecutors and judges; of our fellow-citizens who sit on juries; and of the public at large on whose continuing political support an effective and lasting effort must depend.

We must lay to rest the notion that there is any such thing as a lovable drunk when he gets behind the wheel of a car, that there can be any circumstances warranting a slap on the wrist, that the old "there but for the grace of God go I" attitude can be tolerated. The drunken driver whose vehicle becomes a chunk of metal hurtling out of control must be recognized for the menace he is and dealt with by a society which recognizes the matter as one of self-preservation.

No single piece of legislation, this or any other, can do the job alone. But this is, as I say, a beginning. It should allow the National Legislature to work with those of the States and the enormously effective citizen groups which have helped place drunk driving on the national legislative agenda.

I urge the enactment of the bill.

Mr. STANGELAND. Mr. Speaker, I rise in support of H.R. 6170, a two-titled measure providing an incentive program to encourage States to adopt and carry out effective drunk driving programs, and to reconstitute the National Driver Register.

Alcohol has been associated with roughly one-half of the traffic fatalities in this country each year, some 25,000 deaths being in some way related to alcohol, not to mention crippling injury and damage to property. The tragedy of it all is that much of this can be prevented.

The gentleman from California, the ranking minority member of the Committee on Public Works and Transportation, and I, are in complete agreement that this bill is no cure-all; but it is a beginning and a good beginning at that.

It should combine the expertise of the National Highway Traffic Safety Administration, modest funding from the highway trust fund and the States, the energy and vigor of citizens groups, and the emerging concern among State legislatures to forge a partnership that offers solid promise of achievement.

Voluntary in its approach, it offers participating States incentive grants to finance an approved program of drunk driving countermeasures, making use of a minimum number of statutory criteria and optional elements identified by the Secretary of Transportation through the rulemaking process.

Unlike many Federal programs which start small on a foot-in-the-door process, this one is calculated at the outset to be temporary, providing a declining Federal share of 75, 50, and 25 percent over the maximum 3-year period during which any given State could receive assistance.

Basic grants, amounting to a maximum 30 percent of a State's section

402 apportionment, could be made on the basis of the compliance with four minimum statutory criteria: Prompt license suspension on the basis of chemical tests or the driver's refusal to submit to such a test when a law enforcement official finds probable cause to request him to do so; mandatory sentencing for repeat offenders; a per se law whereby a driver found to have a blood alcohol content of .10 percent is deemed to be driving while drunk; and increased enforcement efforts, coupled with public information programs to publicize such enforcement efforts.

Supplemental grants, which could bring a State's total grant up to 50 percent of its total 402 apportionment, could be made on the basis of certain optional elements which a State might choose to incorporate into its program. Identified by the Secretary of Transportation on the basis of rulemaking in which the public would participate, these optional features could include:

Improved recordkeeping, rehabilitation and treatment programs, impoundment of offenders' vehicles, establishment of self-financing programs by major cities within the State, prescreening authority for the courts to devise most appropriate sanctions for individual offenders, establishment of 21 as the minimum drinking age, and adoption of recommendtions to come from the President's Commission on Drunk Driving.

The authorizations are modest, $25 million for fiscal year 1983, rising to $50 million for fiscal year 1984 and 1985.

A word also should be said concerning the National Driver Register, which in the past has proved to be worthwhile in concept but deficient in operation because of inherent limitations. The basic problem with the Register appears to lie in the fact that its responses are too slow. Then, too, there is some problem with the fact that some States may not choose to furnish information on individual drivers to the Register.

I believe both of these problems have been worked out. Rather than rely on the mails, as the Register does now, the system would develop the capability to transmit information electronically. As to the other problem, there no longer would be derogatory information about specific individuals furnished to the Register. Participating States—and I would emphasize that participation is entirely voluntary—would merely submit identifying data from their records. Inquiring States would request whatever information might be available on such individuals, similarly identified, and the Register would provide the means whereby the State or States having information on the driver in question would furnish that information to the inquiring State.

Thus, in my view, this does not represent a major change in policy but rather a procedural refinement and technological updating of a system in existence for more than 20 years.

Mr. Speaker, I urge the adoption of H.R. 6170.

Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, forgive me if I take this opportunity to repeat a story which I have presented to this body before. I think my colleagues will agree that it deserves repeating.

One day, I opened a letter from one of my constituents, and contained within it was a photograph of a beautiful, glowing baby boy with bright, blue eyes and rosy cheeks. His name was Jason Myers, and he was 3½ weeks old.

His father sent me the picture because, due to an accident caused by a drunk driver, Jason only lived to be 5 weeks of age.

His grieving father wrote:

It seems like this world . . . has no justice anymore. They just don't punish the criminal anymore. This accident happened . . . more than 9 months ago but . . . the man who killed Jason is still driving a car, even though he was charged with driving while under the influence of alcohol or other intoxicants, and driving on the wrong side of the highway, and also charged with homicide by a vehicle.

While both my constitutent and his wife required medical treatment for 6 months, the man who could not resist the urge to have "just one more" (who had also been involved in previous accidents) had one tooth knocked loose—and he kept his driver's license.

A license to kill another little boy or girl?

It is impossible to ignore the tragedy occurring on our Nation's roads daily. Drunk driving is the most frequently committed violent crime in the United States today, taking the lives of 70 people each day and injuring thousands more. Most heartbreaking is the loss of innocent young life—and I immediately think of the tragic loss to that young family of their 5-week-old son, or of the young man who witnessed the accident which took the life of his 20-year-old fiance just 1 week before they were to have been married—young life senselessly snatched away because someone could not resist having "one for the road."

Last year, I cosponsored legislation (H.R. 2488) sponsored by Representative MICHAEL D. BARNES urging States to establish comprehensive programs to combat drunk driving nationwide. This measure helped generate needed attention and momentum here in Congress as well as from the Nation's news media and among the American public generally.

Also, I cosigned a letter asking President Reagan to establish a Presidential Commission on Drunk Driving, the creation of which he announced on April 14, 1982.

However, the problems associated with the drunk driving epidemic remain with us. Drunk driving is the most frequently committed violent crime in the United States today. Last year alone, another 25,000 persons were killed in alcohol-related crashes, more than 650,000 suffered injuries, and drunk driving created economic costs surpassing $24 billion. While 70 of our citizens are killed tragically every day in alcohol-related crashes, only 1 of every 2,000 drunk drivers is caught, and the chances of conviction are slim.

And so, I and 120 Members of this House have joined with Representative BARNES and Representative JAMES HOWARD, chairman of the House Public Works and Transportation Committee, in supporting H.R. 6170, a bill which would reward the States, using existing funds from the highway trust fund, to encourage and facilitate the implementation of comprehensive, coordinated, and community-based drunk driving programs. I am pleased that the full House is today considering this measure, and I urge my colleagues to vote for its passage.

All of us, as elected officials, owe it to our constituents—to the victims of drunk driving—to join in the national fight in the "War Against Drunk Drivers." I am happy that my own State of Pennsylvania is considering a package of bills which would impose tough new penalties on those convicted of driving while under the influence of alcohol. Before the 97th session of Congress adjourns, let us enact Federal legislation addressing this national disgrace. Together, let us hope that public officials at all levels of government will cooperate in a successful effort to combat the national epidemic of drunk driving.

□ 1140

Mr. STANGELAND. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. YOUNG) a member of the committee.

Mr. YOUNG of Missouri. I thank the gentleman from Minnesota for yielding. I would like to engage in a colloquy with the chairman of the committee, the gentleman from California (Mr. ANDERSON).

I would like to clarify the intent of the committee on a provision of this bill.

The committee report that accompanied this bill said, and I quote:

The Committee expresses a preference for the use of the breathalyzer test for determining blood alcohol concentration.

Is it still the intent of the committee and this provision that the breathalyzer test is the preferred test to measure intoxication?

Mr. ANDERSON. The gentleman is correct.

Mr. YOUNG of Missouri. I thank the gentleman.

Mr. Speaker, I rise in support of the bill, but I feel I should point out that the provision of this bill requiring States to impose mandatory prison sentences on those persons twice convicted of driving while intoxicated carries with it a constitutional guarantee of trial by jury for all persons accused of driving while intoxicated.

In most routine cases it costs the States literally thousands of dollars to impanel a jury and often the expenses run into the millions of dollars for a single case. The limited Federal assistance provided by this bill will be swallowed up several times over by the cost of providing a jury trial.

This is a built-in disincentive for those States wishing to participate in this program. I question whether we really want to ask the States to provide a jury trial for each person accused of driving while intoxicated.

I am almost certain that the cost of providing jury trials will far exceed any benefits or grants we provide here today.

Mr. Speaker, drunk drivers are one of the Nation's most serious health problems. Many have classified it as epidemic. The fatality statistics are shocking. Over the past 10 years the number of persons killed on our highways in motor vehicle accidents involving alcohol has averaged 25,000 per year. In 1979, over 650,000 people were injured in accidents involving alcohol, creating economic costs in excess of $24 billion. In my own State of Missouri, 700 persons annually lose their lives in drunk driving incidents.

I am pleased to inform this House that the Federal Government has taken steps, which I consider appropriate, to help combat drunk driving. For one, the National Highway Safety Administration—NHTSA—is encouraging the States to establish task forces dealing with their specific drunk driving problems at the State and local level. The NHTSA will be working with task forces in a number of States, and is prepared to commit its efforts to insure the maximum possible coordination and transfer of knowledge and experience among such groups.

This year NHTSA is also urging officials across the Nation to use more of their highway safety funds to attack the drunk driver problem with emphasis on development of locally funded and controlled alcohol safety programs. Cities and counties are urged to adopt and coordinate programs, establish fines and fees charged to driving while intoxicated offenders to pay for expanded drunk driver programs, improve apprehension techniques, streamline court procedures to handle increased caseloads, strengthen State and local DWI laws, and increase media coverage of enforcement activities so that public perception of arrest for DWI is increased. NHTSA is committed to providing guidance, resources, and technical support to State and local communities to help achieve this end. Much guidance material already exists, including model laws and training programs.

I applaud the Federal Government and the administration for these initiatives, but more needs to be done here in Congress to address the problem. Extensive research and investigation into the drunk driving problem has been conducted by the Committee on Public Works and Transportation of which I am a member, which has revealed practical steps which Congress can take to encourage States to reduce significantly this needless slaughter on our Nation's highways.

The result is that the committee has reported the bill which we are considering today, the alcohol traffic safety program, H.R. 6170. H.R. 6170 involves no additional cost to the U.S. Treasury. Rather, the bill earmarks from the highway trust fund, $25 million in fiscal year 1983, $50 million in fiscal year 1984, and $50 million in fiscal year 1985 for an incentive grant program. These funds will be used as seed money to assist and reward those States taking effective steps toward establishing comprehensive programs aimed at deterring drunk driving and assuring swift and sure arrest, conviction, punishment, and rehabilitation of the offender.

The Committee on Public Works and Transportation decided that this approach of rewarding States for taking effective action to combat drunk driving, would win more support and have a better chance of enactment than alternate plans which place penalties on States for failing to act or which preempt local initiatives.

This is the most far-reaching and important alcohol traffic safety program ever considered by the House. I believe it is an extremely important step in curtailing the plague of drunk driving in this Nation, and I urge my colleagues to join me in support of this bill.

It is my judgment that Missouri has one of the most comprehensive enforcement bills in this country and I want to make sure that there is no disincentive to Missouri to weaken our law.

Mr. Speaker, I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BARNES) who is one of the original sponsors of this type of legislation.

Mr. NELSON. Mr. Speaker, will the gentleman yield?

Mr. BARNES. I am happy to yield to the gentleman from Florida.

Mr. NELSON. I want to compliment the committee, the subcommittee, and the gentleman from Maryland (Mr. BARNES) for his leadership on this bill, H.R. 6170.

All across this Nation the consciousness of the country has been shocked by the reality of what is happening on the roads and highways of this country.

I want to compliment the recent modifications to the bill which provides that the Secretary of Transportation shall consider certain criteria to promulgate rules for eligibility for Federal grants to the States. One such criteria is the recommendation that age 21 be the minimum drinking age in all the States.

When I was a member of the Florida Legislature I voted for the legislation that granted majority rights to persons age 18, 19, and 20. Those majority rights included drinking. That was a mistake. Dramatic statistics now show that after 8 States have raised the drinking age back to 21, the traffic accidents caused by alcohol were reduced by 28 percent in the age group 18 to 21.

Thus, as the gentleman knows, when the Surface Transportation Act comes up later this week I will be offering an amendment akin to the law which required the States to set a 55-mile-per-hour speed limit. My amendment will require the States to raise their drinking age to age 21.

My amendment to H.R. 6211 reads as follows:

Page 60, after line 16, add the following:

(d)(1) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 157. Minimum drinking age.

"(a) In the case of any State which does not make unlawful the sale of alcoholic beverages to persons who are less than 21 years of age, the Secretary shall reduce such State's apportionment of Federal-aid highway funds for each fiscal year under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title by an amount which does not exceed 10 percent of the amount apportioned.

"(b) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141(d) of this title for the twelve-month period ending on September 30 before the date the certification is required.".

(2) The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"157. Minimum drinking age.".

(3) Section 141 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting the minimum drinking age in accordance with section 157 of this title.

"(2) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of

such State under paragraph (1) of this subsection.

"(3) If a State fails to certify as required by paragraph (2) of this subsection or if the Secretary determines that a State is not adequately enforcing all State laws respecting such minimum drinking age, notwithstanding such a certification, then the Secretary shall reduce such State's apportionment of Federal-aid highway funds for each fiscal year under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title by an amount which does not exceed 10 percent of the amount apportioned.

"(4) If within one year from the date that an apportionment for any State is reduced in accordance with paragraph (3) of this subsection the Secretary determines that such State is enforcing all State laws respecting the minimum drinking age, such apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States.".

(4) The amendments made by this subsection shall take effect on October 1, 1984.

I thank the gentleman for yielding and I compliment him and support him on this legislation.

Mr. BARNES. I thank the gentleman for his words and for his support for the legislation.

Mr. Speaker, what first brought to this Member's attention the tragic reality and consequences of drunk driving was meeting a little girl who, at the age of 5 months, was struck and crippled for life by a repeat offender drunk driver in my State of Maryland. As a result of Laura Lamb's tragedy, her mother, Cindi Lamb, ignited massive citizen outrage statewide in Maryland, which led to the first reform of our State's drunk driving laws in over a decade.

Two years ago, when I organized a meeting here in the Capitol to announce my original drunk driving legislation, Cindi Lamb and her daughter Laura joined me and another young mother, named Candy Lightner, whose teenaged daughter had recently been killed by a drunk driver, and subsequently she organized a new citizens group called MADD—Mothers Against Drunk Drivers. At that meeting, where I launched my new effort and helped launch MADD's voice nationally, I will never forget Cindi Lamb's poignant plea as she described her thoughts as she and Laura rode to the grocery store on an autumn Saturday afternoon, moments before they fell victims to a repeat offender drunk driver.

She recalled glancing at Laura's face as she lit up with a brilliant smile, kicking her sturdy legs against her car seat and reaching out to touch her mother's hand. She wondered if Laura would someday like to take dance lessons or gymnastics or even horseback riding. Three minutes later, those dreams ended abruptly and violently when they were struck head-on by the repeat offender drunk driver.

Laura Lamb will never take any dance lessons and she will not be thrilled to show her mother her first cartwheel, for, you see, at the moment of that devastating crash, Laura Lamb became the Nation's youngest quadriplegic, paralyzed for life from her shoulders down.

What happened to Laura, what crippled that child and destroyed a family, was not, in my judgment, an accident. It was a crime. The fact is, drunk driving is the most frequently committed violent crime in America today; a crime that kills over 70 people and maims hundreds of others every day, day-in and day-out, all over our Nation.

Seeing Laura, and realizing that none of us are immune to this threat, I became determined that the Congress of the United States could provide the needed leadership to prompt States and communities to take effective action against this national horror that wipes out 5,000 of our teenagers every year. That is 5,000 parents who must bury their teenaged children because our Nation has allowed this insanity to get so out of control.

In the past 2 years alone, more Americans have been killed in drunk driving crashes than all of our brave men who lost their lives in the entire decade of the war in Vietnam. Astonishingly, while only 1 out of every 2,000 drunk drivers currently is caught, and the chance of conviction is slim, we continue to allow one American to die every 23 minutes due to someone's drunk driving. Clearly, the risk of punishment is low, and the deterrent effect is weak.

The annual economic costs alone due to drunk driving, estimated at over $24 billion, should alarm any budget-conscious governmental body to take immediate action.

Over the past year, Chairman HOWARD and I have conferred with top experts and practitioners from Government and the private sector to revise my original bill and develop a bill that would better fit the needs of the States and communities where the real battleground exists in the war against drunk driving.

As a result of this exhaustive effort, we teamed up earlier this year to introduce H.R. 6170, offering the States positive incentives and useful guidelines to improve their drunk driver control programs. We have received strong, bipartisan support from 124 House cosponsors, and we have earned the broad and vocal support of many key organizations, including MADD and RID—Remove Intoxicated Drivers, the National Safety Council, and other groups representing the insurance industry, law enforcers, the alcohol industry, automakers, highway users associations, and the health and medical field.

Citizen groups, like MADD and RID, who are now actively seeking reforms in most States, see passage of H.R. 6170 as leverage in urging their Governors and State legislators to support their objectives, knowing that the Federal Government is backing them up.

In closing, we have a unique opportunity today—by approving H.R. 6170—to set a national agenda for needed tough and effective action to combat drunk driving and to provide the ultimate public service, saving lives.

The time is long overdue to say "enough" to this senseless slaughter on our highways. By supporting this legislation, we will join the rising chorus of concerned citizens who are saying "enough" and whose voices will not be silenced until the words "drunk" and "driving" no longer appear in the same sentence.

This one bill will obviously not solve the problem and end the daily tragedies, but it is an important and major step in the right direction.

I urge my colleagues to support H.R. 6170.

□ 1150

Mr. STANGELAND. Mr. Speaker, I urge my colleagues to support H.R. 6170, and having no further requests for time, I yield back the balance of my time.

Mr. ANDERSON. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR), who is the author of the National Driver Register provision of the legislation.

Mr. OBERSTAR. Mr. Speaker, I want to compliment the chairman of the subcommittee, the gentleman from California (Mr. ANDERSON) for the enormous amount of time that he has devoted to this issue, to the hearings, to a personal examination of the issues of both drunk driving and the National Driver Register. The ranking minority member of the subcommittee, (Mr. SHUSTER) also has devoted a considerable amount of time to this issue. I want to congratulate our colleague from Arizona (Mr. RHODES), the pioneer of the National Driver Register, the gentleman who initiated this idea in 1961, seeing the need for a national means of coordinating information on drivers whose licenses have been revoked or suspended in one State but then have succeeded somehow in getting a driver license to continue their bad driving habits in another State and under other auspices. The register receives and supplies information, on a voluntary basis, from over 48 States and the District of Columbia concerning those drivers who have had their licenses suspended or revoked. Since 1961 the register has received over 250 million requests for information from State motor vehicle administrators or close to 92,000 in-

quiries a day. Despite an outdated "batch mail system" and an annual appropriation of only $1 million the Register succeeds in identifying over 268,000 problem drivers each year.

An overhaul of the system, however, is long overdue. The present identification process takes place through the mail, allowing for a response time of between 10 days to 2 weeks. In our increasingly mobile society this long a response time is completely unrealistic. By the time a State has requested information on an individual the same State has usually already issued that individual a new drivers license. Title II of H.R. 6170 would change the current index system to a computerized pointer system that would reduce the processing time from 10 days to under 5 minutes. Studies by DOT indicate that the new register would identify over a million people a year, or five times the present number. Moreover, the computer software would allow the actual information regarding individuals to remain in States files and not in Washington. The new register will also allow for expanded use and accessibility of driving records, without compromising an individuals right to privacy.

The reason that we are at this point today is, as our colleague from Maryland (Mr. BARNES) related, the tragic personal circumstance of a family. My former neighbors, Fran and Ken Nathanson and their two children, were struck from behind by a truck. They were properly and legally parked off the road. This truck plowed into the left rear of their car. The driver had had a history of 25 driving violations, had his license suspended in the State of New Jersey 3 months earlier but was still operating under a driver license newly issued in Arizona. The Nathanson's daughter, Kami, 14 years old, a sitter for our children, was killed instantly in that accident. Had the State that issued the driver's current license known of the record of 25 driving violations, most of them moving violations, that license might never have been issued and Kami's life might have been saved.

Characteristically of the Nathanson family, they did not seek vengeance upon the driver; they only asked of me, "What could we possibly do to prevent this tragedy from happening to other families, to other children?"

The inquiry that followed on my part and on theirs resulted in a closer look at the National Driver Register, revealing a need to update and upgrade it. That work has gone on now for 6 years, with the strong support of the gentleman from Arizona (Mr. RHODES) and national organizations all over this country, all of which brings us to the point we are today.

Skeptics of the register or those unfamiliar with highway safety issues often charge that depriving an individual of his driver's license will not keep him from driving. But studies by the National Highway Safety Administration (H. Lawrence Ross, 1981) suggest otherwise. The key factor in detering drunk driving is the level of enforcement and the driver's perception that he will be apprehended. Perhaps depriving an individual of his license will not keep him off the road all the time, but those that do drive without a license will tend to be more careful; and those that are apprehended without a license will face stiffer penalties than they would have otherwise.

On ABC's "Good Morning America" show, the former Secretary of Transportation and current chairman of the President's Commission on Drunk Driving, John Volpe, specifically and enthusiastically endorsed the concept of a strengthened driver register. A few of the safety groups and professional organizations that have specifically endorsed the NDR are the American Association of Motor Vehicle Administrators, the American Automobile Association, the American Insurance Association, the American Trucking Association, Citizens for Safe Drivers, Council of State Governments, National Association of Independent Insurers, National Safety Council, National Transportation Safety Board, and the Private Truck Council.

I am very pleased that the provisions to strengthen the National Driver Register are included in this important legislation to combat the national disgrace of drunken driving.

H.R. 6170 recognizes that the major emphasis for a successful attack on drunk driving must start at the State and local level, where our traffic laws are enforced. Title I provides incentive grants to States; but only to those States who provide for driver license revocations for repeat offenders, mandatory sentences for driving while intoxicated, enactment of a strict definition of intoxication, and upgraded enforcement of alcohol related traffic laws. Mr. Speaker, this is strong Federal medicine for State governments, but I believe strong, uniform national standards are necessary if we are serious about preventing drunk driving.

Mr. Speaker, the American people are angry and disgusted by the loss of life and destruction attributable to drunk drivers. The American people have mobilized and are demanding that State legislatures and the Congress enact tough drunk driving statutes so that American citizens should no longer be allowed to indiscriminately kill and maim each other on the Nation's highways.

Unfortunately, passage of this legislation cannot bring back to life the 25,000 Americans who died last year in alcohol related accidents, nor can it heal the 775,000 persons permanently disabled or injured by drunk drivers, nor will it restore the annual loss of almost $20 billion to this Nation's economy caused by accidents involving drinking drivers. It is, however, a step in the right direction and hopefully one that will mark a commitment by governments at all levels to prevent the tragedies caused by drunk driving.

Mr. ANDERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, I want to congratulate the committee on the fine work it has done on this bill, and I rise in strong support of this measure to fight the tragic incidence of death, disability, and property loss as a result of drunk driving. Although the major effort in this field must be done by the States and localities, this bill will give incentives to the reforms that are needed. I strongly support it. This measure may in fact be the most important bill this Congress will pass, and I hope it passes unanimously.

Mr. ANDERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, I rise in strong support of H.R. 6170 which will encourage States to develop and implement effective programs to combat drunk-driving.

The number of Americans killed as a result of alcohol-related deaths is a national tragedy, and a national disgrace. Every day 70 people die on our roads and highways in alcohol-related accidents.

That is over 25,000 a year.

The American people are quickly becoming more acutely aware of the scope of this problem, and they are committed to doing something about it. We have a responsibility to act and to do so promptly.

The bill before us today will provide seed money to encourage States to adopt effective plans that will really crack down on drunk driving.

These plans will include prompt suspension of driving licenses, mandatory jail or community service sentences, and a national alcohol blood level standard for determining intoxication.

Supplemental grants will be available for States that also approve measures soon to be proposed by the Secretary of Transportation.

These additional regulations could include raising State drinking ages to 21, and impounding drunk drivers' cars.

I believe we owe it to our constituents to join them, and especially those groups like Mothers Against Drunk Driving, in the war against drunk driving. The national tragedy occurring each day on America's highways is snuffing out innocent lives, and causing unbelievable suffering for thousands of families across the country.

It is time we remind drivers who cannot resist just "one more for the road" that driving is a privilege—not a right. And we intend to take that privilege away if they continue to drive, and kill, while intoxicated.

I urge my colleagues to join me in support of this important legislation.●

● Mr. RATCHFORD. Mr. Speaker, I rise in support of H.R. 6170, the Alcohol Traffic Safety Act and am pleased to join a number of my colleagues who have cosponsored this legislation. The adoption of this bill will give the States the opportunity to combat the Nation's No. 1 highway problem—drunk driving.

Drunk driving on our highways is a threat to every man, woman, and child. In the State of Connecticut in 1981, there were over 4,000 accidents involving drivers who were found to be under the influence of alcohol. Unfortunately, 166 citizens of the State of Connecticut lost their lives in 1981 because of drunk drivers.

The slaughtering of innocent lives will continue on our roadways unless there is some immediate action taken to confront the drunk driver dilemma. The legislation I have cosponsored will implement a national program which will encourage the States to reduce traffic safety problems resulting from individuals driving while under the influence of alcohol. This legislation, H.R. 6170, will encourage the States to implement uniform systems to both punish and rehabilitate drunk drivers. We cannot afford to continue to ignore the fact that those driving under the influence of alcohol threaten to destroy the lives of innocent victims.

By endorsing this measure, we will send a clear message to State and local governments that the Congress is willing to take action to remove drunk drivers from the highways. Although numerous States have taken the initiative and adopted stricter drunk driving statutes, I believe that this national problem must be addressed by the 97th Congress. We have to save the lives of innocent victims by removing drunk drivers from our highways.●

● Mr. MOFFETT. Mr. Speaker, I rise in support on the alcohol traffic safety bill which is before the House of Representatives today. This bill provides grants to States to operate programs aimed at reducing drunk driving and instructs the Transportation Department to establish a computerized national driver registration program to aid States in locating potential problem drivers. This piece of legislation represents a strong, meaningful commitment from Congress to combat the problem of intoxicated drivers on our Nation's roads.

When we speak of alcohol-related traffic accidents we are not just talking about traffic accidents; we are talking about crime. And, statistics show that drunk driving is the most frequently committed violent crime in the United States today. Last year alone, 25,000 people were killed in alcohol-related crashes and more than 650,000 others suffered serious injuries. The leading cause of teen deaths are traffic accidents, and most of these are alcohol related. The fact is, approximately 70 American citizens are killed daily in alcohol-related crashes yet, only 1 out of every 2,000 drunk drivers are caught. These statistics are intolerable.

But statistics do not begin to tell the story, the tragedy, of a single drunk-driving accident. I would like to conclude these brief remarks by submitting to the RECORD an editorial which was written by one of my constituents in Connecticut about his experience with a drunk driver. Perhaps this personal account can best convey the personal trauma of alcohol-related accidents and the need for explicit, far-reaching remedies.

Last Saturday evening, after a pleasant vacation dinner, my girlfriend and I came close to becoming another statistic in the long list of deaths associated with drunk driving. We were fortunate, suffering only concussions, cuts and bruises; however, with a slight change in circumstances, we would now be dead.

Waiting to make a left-hand turn, I was at a complete stop with my signal light on. As I waited for the oncoming traffic to clear, I noticed headlights advancing toward me in the wrong lane—my lane. Something was terribly wrong. The collision, which I don't remember, occurred only seconds later.

Paramedics were in the car checking the extent of our injuries when I awoke. As I opened my eyes, I saw that we were face to face with another car—a car which had driven head on into ours. Its driver was drunk.

A car is a safe and convenient means of transportation when used responsibly. When used irresponsibly, it becomes a weapon with more killing power than a gun. A drunk driver is a weapon on the road, capable of snuffing out innocent life in a split second.

My experience showed me that life is, indeed, both a precious and a fragile gift. A driver must always remember how easily he can destroy a life if he is drunk and out of control. I realize that although this letter may be persuasive to some, only strict laws with mandatory enforcement will persuade others.

It is the duty of all citizens who feel indignation concerning this and countless similar incidents to lobby for the passage of sensible laws before more innocents are killed.

STEPHEN CANCIANI,
HARWINTON, CONN.●

● Mr. CORRADA. Mr. Speaker, the legislation before the House today, H.R. 6170, comes before us on the Suspension Calendar and this bill has my strong support.

In Puerto Rico and throughout the Nation, alcohol safety and the hazards of drunk driving have become an immense and staggering social problem, one which H.R. 6170 seeks to alleviate by encouraging the States and, of course, Puerto Rico to set up alcohol traffic safety programs.

I want to commend Congressman JAMES HOWARD and Congressman MIKE BARNES, as well as members of the Subcommittee on Surface Transportation, for their leadership role in providing for this new grant program which will help States adopt and implement safety programs, curbing, in part, the problem of drunk driving.

The legislation sets up a 3-year program and a vital role for the U.S. Secretary of Transportation with considerable flexibility to come up with guidelines for States to follow in coming up with innovative approaches to combat this serious social problem.

Finally, it authorizes appropriations from the highway trust fund for fiscal year 1983 through 1985 to get this new and vital program implemented.

H.R. 6170 is a sound and responsible and fiscally reasonable measure and it merits all of our support.

● Mr. FARY. Mr. Speaker, I rise in strong support of H.R. 6170, the Alcohol Traffic Safety Act. This legislation will give incentives to States, in the form of Federal grants, to enforce our drunk driving laws. In addition, a national driver register will be established which will provide State licensing agencies with updated information on whether an applicant for a driver's permit has had action taken against his driving privileges in another State.

Over the past decade alone, an estimated 250,000 Americans have been killed in alcohol related auto crashes, and millions more have been seriously injured, some crippled or maimed for life. Many of those killed and crippled were innocent children. The fact is, drunk driving is the most often committed violent crime in the Nation; 26,000 people were killed last year alone, by drinking drivers.

For too long, we have done little to combat this serious problem. Other countries, including many Eastern bloc nations, impose severe penalties for drunk driving. In Romania, if a driver is stopped while driving under the influence he will face a lifetime revocation of his driving privileges. We should take this example and encourage all States to strictly enforce their drunk driving laws and close all the loopholes so drunk drivers will be punished and kept off the highways. It is my hope that this legislation will help us reach this goal.●

● Mr. MATSUI. Mr. Speaker, I rise in support of H.R. 6170.

We are all too familiar with the statistics on death and destruction caused by drunk drivers. The average is more than one person per week killed in each congressional district. The numbers and averages tend to anesthetize us to the needless human suffering resulting from this criminal abuse of driving privileges. That suffering is

more easily evidenced in reading the daily newspapers, both in Washington and from our districts. Check in the obituaries for deaths of persons under 55 years of age. See how often each of those deaths is the result of a drunk driver. See how many days you can go without finding an alcohol-related automobile fatality.

A number of 25,000 victims per year is too large for most of us to relate to. But, those obituaries I mentioned will show that the fatalities happen one, or two, or three, at a time. The newspaper will give you some details about the victims and the families they left behind. The frequency of these stories will give you much pause for reflection. This bill is about reducing that frequency.

The two key elements of H.R. 6170 will be very important in combating drunk driving. We have heard from several States that a grant of this type from the Federal Government will make a very substantial difference in their ability to pursue the types of programs needed in their own areas. The national register of problems drivers will allow States to reject the license applications of drivers who have had their licenses revoked in other jurisdictions. It is currently all too easy for a convicted drunk driver to get a license from another State.

I would like to thank the chairman of the Public Works Committee. Mr. HOWARD, and the chairman of the Surface Transportation Subcommittee, Mr. ANDERSON, for going to a special effort to see that this bill would be brought to the House floor in this Congress. I would also like to thank my colleague from Maryland, Mr. BARNES, for his efforts on behalf of this bill and other measures, including the President's Blue Ribbon Commission, to see that we fight drunk driving in every possible way.●

GENERAL LEAVE

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ANDERSON. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ANDERSON) that the House suspend the rules and pass the bill, H.R. 6170, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 23, United Stated Code, to encourage the establishment by States of effective alcohol traffic safety programs and to require the Secretary of Transportation to administer a national driver register to assist State driver licensing officials in electronically exchanging information regarding the motor vehicle driving records of certain individuals."

A motion to reconsider was laid on the table.

SLEEPING BEAR DUNES NATIONAL LAKESHORE, MICH.

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3787) to amend sections 10 and 11 of the act of October 21, 1970 (Public Law 91-479; 16 U.S.C. 460x), entitled, "An act to establish in the State of Michigan the Sleeping Dunes National Lakeshore, and for other purposes," as amended.

The Clerk read as follows:

H.R. 3787

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10 of the Act entitled "An Act to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes", approved October 21, 1970 (16 U.S.C. 460x-x14) is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Any person who is—

"(1) an owner of improved property described in section 11(a)(2) which is situated within the area designated for inclusion in the lakeshore on the date of its acquisition by the Secretary; or

"(2) an occupier of improved property described in section 11(a)(2) which is situated within the area designated for inclusion in the lakeshore on the date of its acquisition by the Secretary, in situations where the fee ownership of such improved property has been heretofore acquired by the United States (whether by donation, purchase, condemnation, exchange or otherwise);

may retain, for a term not to exceed twenty-five years from January 1, 1973, or for a term ending on the death of such owner or occupier, the right of use or occupancy of such property for any residential purpose which is not incompatible with the purposes of this Act or which does not impair the usefulness and attractiveness of the area designated for inclusion. Such owner or occupier must notify the Secretary of any intention to exercise such option within 60 days after receipt of the notice referred to in section 11(c)(3). In situations where the United States has not heretofore acquired fee title to the improved property, the Secretary shall pay to the owner the value of the property on the date of such acquisition, less the value on such date of the right retained by the owner. In situations where the United States has heretofore acquired fee title to the improved property, the occupier may notify the Secretary that such occupier elects to retain continued use and occupancy of such property pursuant to this section, in which event the occupier shall pay to the Secretary the value of the additional right retained, which value shall be based upon the value of the property at the time of its acquisition by the Secretary.

"(c) Any deed or other instrument used to transfer title to property, with respect to which a right of use and occupancy is retailed under this section, and any instrument evidencing any right of use and occupancy retained by any occupier under this section, shall provide that such property shall not be used for any purpose which is incompatible with purposes of this Act, or which impairs the usefulness and attractiveness of such area, and if it should be so used, that the Secretary may terminate such right. In the event the Secretary exercises his power of termination under this subsection he shall pay to the owner of the right terminated an amount equal to the value of that portion of such right which remained unexpired on the date of such termination.

"(d)(1) Any owner or occupier of improved property who retains a right of use and occupancy under subsection (b) may convey or lease such right during its existence to a member of such owner or occupier's immediate family for noncommercial residential purposes which are not incompatible with the purposes of this Act and which do not impair the usefulness and attractiveness of the area designated for inclusion.

"(2) Any owner or occupier of improved property who has retained a right of use and occupancy under subsection (b) may terminate such right at any time, and the Secretary shall pay, within 120 days after the date of such termination, to the owner of the right terminated an amount equal to the value of that portion of such right which remained unexpired on the date of such termination.

"(3) As used in this Act, the term 'member of the immediate family' means spouse, brother, sister, or child, including persons bearing such relationships through adoption, and step-child.".

SEC. 2. Section 11 of the Act amended by the first section of this Act is amended to read as follows:

"SEC. 11. (a) As used in this Act, the term 'improved property' means a detached, one-family dwelling, construction of which—

"(1) was begun before December 31, 1964, or

"(2) for the purposes of section 10(b) or 10(d), was begun on or after December 31, 1964, and before October 21, 1970, and has been openly and continuously used, at least during the summer months of each year when similar dwellings in the area are used, as a residential dwelling since such construction was completed, and with respect to the portion of such period after any acquisition of such property by the United States, by the owner, or a member of the immediate family of the owner, of such dwelling on the date of such acquisition.

together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommerical residential use, together with any structures accessory to the dwelling which are situated on the lands so designated. The amount of land so designated shall in every case be at least three acres in area, or all of such lesser acreage as may be held in the same ownership as the dwelling, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed.

"(b) The Secretary may exclude from the land designated under subsection (a) any beach or waters on Lake Michigan, together

with so much of the land adjoining any such beach or waters as the Secretary may deem necessary for public access thereto. If the Secretary makes such exclusion, an appropriate buffer zone shall be provided between any residence and the public access or beach.

"(c)(1) The Secretary may exclude from the category of 'improved property' under this Act any property described in subsection (a)(2) which the Secretary determines is in an area required for public use or development in the immediate future. In making any such determination the Secretary shall take into account the proximity of such property to any other improved property, the development or public use of the lakeshore and the related timetable therefor, and the anticipated availability in the immediate future of funds related to such development or public use.

"(2)(A) With respect to any improved property, as defined in subsection (a)(2), with respect to which the occupier has retained a right of use and occupancy under section 10(b), the Secretary may terminate such right 90 days after notifying in writing the occupier, if the Secretary determines that such improved property is needed for public use or development under this Act. In making any such determination the Secretary shall take into account the proximity of such property to any other improved property, the development or public use requirements of the lakeshore and related timetable therefor, and the current availability funds for the proposed public use or development.

"(B) The Secretary shall pay to the owner of the right terminated an amount equal to the value of that portion of such right which remained unexpired on the date of such termination.

"(3)(A) The Secretary must, within 60 days after the date of enactment of this subsection, notify in writing any owner or occupier of property described in subsection (a)(2) that an option to retain rights with respect to such property exists under section 10(b), whether such property shall be subject to any action by the Secretary under paragraph (1) of this subsection, the nature of such proposed action, the reasons for such proposed action, and the contemplated timetable therefor.

"(B) With respect to any proposed action to be taken under paragraph (2) of this subsection, if the Secretary determines within 60 days after the date of enactment of this subsection, after taking into account timetable and funding projections, that, consistent with the General Management Plan dated October 1979, public use or development is anticipated before 1998 for an area containing any improved property described in subsection (a)(2), the Secretary shall include notice of such determination in any notification under subparagraph (A) of this paragraph. Any failure of the Secretary to so notify an occupier pursuant to this subparagraph shall not preclude the Secretary from taking action under paragraph (2) at some future date.".

SEC. 3. Section 12 of the Act amended by the first two sections of this Act is amended—

(1) by inserting "(a)" immediately before "In order to facilitate";

(2) by inserting "Benzie County and within" after "within" in the first sentence thereof; and

(3) By adding the following at the end thereof:

"(b) Except as provided in subsection (c), any lands in Leelanau County acquired by the Secretary under this section before the date of enactment of this subsection which are within the parkway zone depicted on the map specified in section 2(a) but which are not within, or continguous to, the lakeshore zone as depicted on such map may be exchanged by the Secretary for other lands of approximately equal value in the lakeshore. If the Secretary is unable to effect such an exchange, such lands may be offered for sale to the person who owned such lands immediately before their acquisition by the Secretary. If such previous owner declines such offer, the Secretary may sell such lands to any buyer. Proceeds from any sale under this subsection shall be credited to the account established under section 17 of this Act.

"(c) The Secretary is authorized to obtain and administer, according to the provisions of this section, as a part of the lakeshore as Resource Preservation Areas certain interests in the following lands:

"(1) Approximately 600 acres designated as 'Miller Hill' on the map numbered 634-91,001, dated September 1982.

"(2) Approximately 975 acres as designated as 'Bow Lakes' on the map numbered 634-91-002, dated September 1982.

"(d)(1) The Secretary may obtain fee title under subsection (e) to lands described in subsection (c)(1), or easements or other restrictive agreements for the preservation of scenic values in such lands.

"(2) The Secretary may obtain fee title under subsection (e) to lands described in subsection (c)(2), or public access easements or other restrictive agreements consistent with use of such lands for educational purposes and for research and interpretation of natural features.

"(e)(1) Except as provided under paragraph (4), the Secretary may obtain fee title or other lesser interests to lands described in subsection (c) only—

"(A) by gift, donation, or bequest;

"(B) by purchase from a willing seller under paragraph (2); or

"(C) as an exercise of a right of first refusal under paragraph (3).

"(2) The Secretary may negotiate with willing sellers for the transfer of fee title or other lesser interests to lands described in subsection (c). If the Secretary and such willing seller are unable to agree to a fair purchase price they may agree to submit to binding arbitration by any party agreeable to both parties for such purpose to fix such a price.

"(3) If the owner of any lands described in subsection (c) intends to transfer any interest in such lands except by gift, donation, or bequest, such owner must notify the Secretary of such intention. The Secretary shall have 90 days after notification in which to exercise a right of first refusal to match any bona fide offer to obtain such interest under the same terms and conditions as are contained in such offer. If the Secretary has not exercised such right within 90 days, the owner may transfer such interest.

"(4) Condemnation may be used with respect to any lands described in subsection (c) only—

"(A) to clear title if necessary for any transfer to the Secretary under this subsection; or

"(B) to purchase fee title or such lesser interest as may be sufficient to prevent significant damage to the scenic, soil, or water resources of the lakeshore. Action under this subparagraph shall be used only after attempts to negotiate a solution to the problem have failed. If the Secretary determines that such attempts have failed, the Secretary shall notify in writing the owner of the property involved of the proposed action to be taken under this subparagraph and the Secretary shall seek an injunction to prevent such resource damage. The Secretary may at any time, and if an injunction is granted under this subparagraph the Secretary shall within 30 days after the date of such injunction, send in writing to the owner of the property the Secretary's best and final offer for the purchase of such property. If the owner does not accept such offer, the owner may elect to submit the purchase price to binding arbitration by any party agreeable to the owner and the Secretary. If the owner does not accept such offer and does not elect binding arbitration, the Secretary may file for condemnation. The Secretary must notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of any action taken under this subparagraph.

"(f)(1) The Secretary shall enter into discussions with appropriate local government officials to develop mutually agreeable zoning restrictions for the protection of scenic resources with respect to the lands described in subsection (c)(1).

"(2) The Secretary shall enter into discussions with appropriate State and local officials responsible for the administration of the Goemaere-Anderson Wetland Protection Act (Michigan, P.A. 203, 1979) to ensure the protection of natural resources with respect to the lands described in subsection (c)(2).

"(g) If the owner of the area designated as 'The Kettle' in the General Management Plan dated October, 1979, and comprising 240 acres, agrees to donate fee title or a scenic easement to, or other less than fee interest in, such area, the lands in such area may be included as a part of the lakeshore upon publication in the Federal Register by the Secretary of a revised map of the lakeshore which includes such lands.

"(h) The Secretary may, upon request in writing by any owner or occupier of lands in the lakeshore, provide services, such as road maintenance, subject to reimbursement.".

SEC. 4. Section 15 of the Act amended by the first three sections of this Act is amended by striking out "$57,753,000" and inserting in lieu thereof "$66,153,000".

SEC. 5. The Act amended by the first four sections of this Act is further amended by adding at the end the following new sections:

"SEC. 16. In accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892; 16 U.S.C. 1132(c)), the President shall, no later than June 1, 1983, advise the United States Senate and House of Representatives of his recommendations with respect to the suitability or nonsuitability as wilderness of any area within the lakeshore. Subject to existing private rights, the areas described in the report prepared by the National Park Service entitled "Wilderness Recommendation; Sleeping Bear Dunes National Lakeshore" dated January, 1981, and recommended for wilderness (approximately 7,128 acres) and for potential wilderness additions (approximately 23,775 acres) shall, until Congress determines otherwise, be administered by the Secretary so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

"SEC. 17. (a) Any revenues acquired by the Secretary in return for services provided or

from payments for property rights retained under this Act after the date of enactment of this section shall be credited to a separate account in the Treasury of the United States established for such purpose.

"(b) Any balances in such account shall be credited with interest at a rate to be determined by the Secretary of the Treasury.

"(c) Notwithstanding any limits in existing law on authorizations for appropriations, amounts in such account shall be available to the Secretary for land acquisition, purchase of remaining terms of retained rights, or site restoration, as provided under this Act and to the extent provided in appropriations Acts.".

SEC. 6. No authority under this Act or any amendment made by this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts.

SEC. 7. (a) For purposes of section 7(a)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)(3)), the statutory ceilings on appropriations established by the amendments made by this Act shall be deemed to be statutory ceilings contained in a provision of law enacted prior to the convening of the Ninety-fifth Congress.

(b) In determining amounts authorized to be appropriated pursuant to the amendments made by this Act, there shall not be taken into account any appropriations made available under section 7(a)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)(3)) before October 1, 1982.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3787 would amend the act establishing the Sleeping Bear Dunes National Lakeshore in Michigan.

As reported by the Committee on Interior and Insular Affairs, the legislation would authorize the right of use and occupancy for certain property owners and occupiers, delete a proposed road corridor, establish two resource preservation areas, increase the authorization for land acquisition, and require the President to submit wilderness recommendations for the lakeshore to the Congress by June 1, 1983.

H.R. 3787 would extend the option of retained rights of use and occupancy to residential property owners who built homes after December 31, 1964, the cutoff date in the original act establishing the Sleeping Bear Dunes National Lakeshore in Michigan. The act allowed property owners whose homes were acquired by the National Park Service to retain a right of use and occupancy for up to 25 years or life, with the fair market value of the retained right deducted from the purchase price. Congress limited that right to property owners who built homes before December 31, 1964. Others who built after that date but before enactment in 1970 were subsequently acquired by the National Park Service and allowed, under administrative action, to remain until February 4, 1983.

The reported bill would allow post-1964 property owners and occupiers to retain a right of use and occupancy for a term of 25 years from January 1, 1973, or for life. The owner would pay for that right based on the price paid for the property by the Secretary, traditionally 1 percent per year of the purchase price. The owner could transfer that right only to members of his or her immediate family. If the owner wished to terminate the right, the Secretary would pay the value of the remaining right within 120 days. The Secretary could initially exclude properties required for public use or development in the immediate future and could terminate the right if a property is needed for public use or development. The Secretary must notify all affected property owners and occupiers within 60 days concerning these provisions.

H.R. 3787 would also delete a proposed road corridor from the lakeshore in Leelanau County, but retain Miller Hill and Bow Lakes as resource preservation areas. The Secretary could acquire property in the areas only by gift or donation, by purchase from a willing seller or under a right of first refusal. Condemnation could be used only to clear title or, as a last resort, to prevent significant resource damage and then only after the Secretary had been granted an injunction and attempts to purchase the property had failed. A third area, the Kettle, would be included in the lakeshore only if donated by the owner to the Secretary.

The bill also requires the President to submit wilderness recommendations to the Congress by June 1, 1983, and, in the meantime, these areas already identified by the Park Service for wilderness or potential wilderness would be managed, subject to existing rights, to preserve the wilderness character until Congress can act.

The bill also incorporates the increase in land and land acquisition as provided in H.R. 6290, which passed the House on June 14, 1982.

Mr. Speaker, H.R. 3787 has been carefully fine tuned to take into account the needs of the private property owners while assuring that the present and future needs of the lakeshore are met and that the natural and cultural resources values of the lakeshore will be protected.

I would like to note that it has come to my attention that certain political officials in the Department of the Interior oppose the provision in the bill concerning the wilderness recommendations and the stipulation that the areas already identified by the National Park Service for potential wilderness be administered "to maintain their existing wilderness character and potential for inclusion in the National Wilderness Preservation System" until Congress determines otherwise.

I understand the feeling is that this would set some sort of precedent and change the existing management of these areas. Nothing could be farther from the truth. The general management plan for the lakeshore, dated October 1979, states:

> Now that this General Management Plan has been approved, a revised wilderness recommendation will be prepared and submitted to Congress. *Until Congress formally acts on the revised recommendation, the potential wilderness areas under Park Service jurisdiction will be managed as wilderness.* (Emphasis added.)

The provision in H.R. 3787 uses standard, statutory language which simply maintains the status quo for these areas, under their existing management. It neither adds new authority to that provided under the Wilderness Act itself nor does it take away from any of the National Park Service's existing authorities.

The intent of this provision is only to emphasize the interest of the Congress in these areas and to encourage the administration to complete the recommendations as required under existing law.

Before closing, I want to thank Mr. BROOMFIELD, author of H.R. 3787, and Mr. VANDER JAGT, author of H.R. 4082, a separate bill relating to Sleeping Bear Dunes, several provisions of which have been incorporated into the reported version of H.R. 3787. I would also like to thank Mr. KILDEE and Mr. DINGELL for their assistance with this legislation.

In addition, I would like to thank several House staff members who have helped work out this legislation, including Loretta Neumann and Clay Peters of the committee staff, Susan Wilhelm of Mr. KILDEE's staff, Ken Nakamura of Mr. BROOMFIELD's staff, and Jim Markwood of Mr. VANDER JAGT's staff.

Mr. Speaker, the legislation has bipartisan support in the Congress. I urge its passage by the House.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in reluctant support of the bill now under consideration, H.R. 3787, which deals with the Sleeping Bear Dunes National Lakeshore in Michigan.

There is a particular provision of this bill that consitutes the reason for my reluctant support, and that is the rather back door approach to wilderness designation for parts of the lakeshore. I am not so much objecting to the actual effect, as I am objecting to the methodology used to do it. For all I know, the lands may merit the kind of protection afforded by wilderness designation. However, this bill does not provide the traditional approach to wilderness designation; rather, it merely provides that these particular lands shall be managed in such manner as to assure retention of their wilderness character pending further later consideration by the Congress. If the Congress never returns to reconsider this action taken today, we have effectively designated these lands as wilderness without the normal, more deliberate and detailed attention usually accorded such a congressional designation.

The bill further provides that the formal wilderness study conclusions, already formulated by the National Park Service but not yet transmitted to the Congress, are to be transmitted to the Congress by June 1 of next year. With the enactment of the provision in this bill, I doubt there will be any hurry to get around to ever considering the formal proposal in a more conventional way to follow through with an outright designation.

I realize that this was done in this particular instance as a part of a compromise in order to assemble a package bill that contains something of appeal to divergent interests at Sleeping Bear Dunes. It is not my objective to adversely affect this compromise, as I know that it took several months of difficult negotiation by affected Members and staff to bring this bill to the floor with the support that it now has on both sides of the aisle. But I did want to register the objection of the wilderness feature that I have just mentioned, and with that I shall conclude my comments on this piece of legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. BROOMFIELD).

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Mr. BROOMFIELD. Mr. Speaker, I am in full support of H.R. 3787, which amends the 1970 act creating the Sleeping Bear Dunes National Lakeshore in Michigan, and I strongly urge my colleagues to pass this bill.

I also wish to express my deep appreciation to the distinguished chairman of the House Subcommittee on Public Lands and National Parks and to Ms. Loretta Neumann and Mr. Clay Peters of the majority and minority staffs of the subcommittee. Without their leadership and perseverance, we would not have this legislation before us today.

Our colleagues, Congressmen VANDER JAGT, DINGELL, and KILDEE, and Senators RIEGLE and LEVIN, as well as their staffs, Jim Markwood, Walt Sanders, Susan Wilhelm, John Graykowski, and Carla Kish were instrumental in helping to develop a sound bill.

Finally, appreciation must also be expressed to Mr. John Gelder and Mr. George Schilling who represented groups of residents in the lakeshore area, and to Ms. Jane Elder of the Sierra Club, Mr. Ron Tipton of the Wilderness Society, and to Mr. Bill Lienesch of the National Parks and Conservation Association for their invaluable input into the development of this one bill.

Mr. Speaker, I have recognized all of these people because this bill is a sound compromise resulting from their hard and diligent work. It meets the concerns of the residents of the lakeshore area and of the various conservation groups, and it stays true to the original act by advancing the preservation of the outstanding natural resources at Sleeping Bear Dunes.

When Congress established the Sleeping Bear Dunes National Lakeshore in 1970, several controversies resulted from certain provisions in the original act and from what I believe was an overly zealous land acquisition policy by the National Park Service. H.R. 3787 addresses these problems.

In the 1970 act, owners of homes built prior to December 31, 1964, could retain use and occupancy for up to 25 years or life. Homes after the cutoff date but before 1970 could be immediately acquired by the Park Service with no right of continued use and occupancy.

However, in examining the legislative history and based on a 1970 Departmental letter to me, it is my view that absent a public need for the properties, post-1964 homeowners should be allowed to continue to occupy their properties.

Without real consideration of the public needs for the post-1964 properties, however, in 1970 the Park Service exercised its full authority and eventually acquired nearly all of these properties.

Subsequently, the Park Service offered 10-year rights of occupancy to the post-1964 property owners which expires in February, 1983.

At that time, if this bill is not enacted, all 90 of the remaining post-1964 property owners will have to vacate their homes.

But if these 90 occupants are forced from their homes, it is highly questionable whether the Park Service could utilize the properties. In most cases, the immediate neighbors of the post-1964 occupants, who live only a few feet away, would continue to live in their homes. In fact, the vast majority of the post-1964 residences within the National Lakeshore are scattered throughout subdivisions and neighborhoods where at least a majority, and in most instances, most of the homes were built prior to the cutoff date.

Thus, I believe there is little to be gained by having these 90 properties vacated. But there is much to be lost in terms of dreams and hopes by those families if they had to leave.

The majority of these people are retired or approaching retirement within the next couple of years. They built their homes with the intention of using them as their permanent retirement homes. This will not come about without passage of this bill.

H.R. 3787 will allow them to have their right of occupancy extended for 25 years from January 1, 1973, or for life. This would be subject to the needs of the National Lakeshore and the resources of the Park Service. This bill provides a humane response to these people while giving full authority to the Secretary of the Interior to continue to develop the Lakeshore. Further, the bill is structured so that the properties would be vacated by everyone at about the same time so that the Secretary actually could utilize the properties.

Mr. Speaker, as in the case of the post-1964 occupants, the other parts of the bill provide reasonable responses to the various problems that have developed at the Sleeping Bear Dunes National Lakeshore.

Important resource preservation areas and the rights of property owners near the National Lakeshore can both be protected with enactment of this bill.

A wilderness recommendation by the President to the Congress, which was originally mandated in the 1970 act, is also required in this bill. Until Congress acts on these recommendations, however, the status quo would be held with the land managed to maintain its wilderness characteristics subject to existing rights.

Mr. Speaker, this is a carefully developed bill supported by all the local groups concerned with the Sleeping Bear Dunes National Lakeshore. Again, I strongly urge my colleagues to pass H.R. 3787.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. VANDER JAGT).

Mr. VANDER JAGT. Mr. Speaker, I rise in enthusiastic support of H.R. 3787 and to commend the chairman of the subcommittee, the distinguished gentleman from Ohio for his great leadership and legislative skill in fashioning this bill which resolves a number of issues connected with the Sleeping Bear Dunes National Lakeshore on Lake Michigan in my congressional district. The Sleeping Bear Dunes National Lakeshore has been

filled with controversy since it was first proposed over two decades ago. I do not know of any lakeshore that has stirred more intense emotions and passions; so the fact that the gentleman from Ohio could fashion this bill which resolves a number of issues that has the unanimous support of environmentalists, preservationists, property owners, the majority and the minority in the Michigan delegation, and now, with the explanation he gave, the support of the administration, is a great tribute to his legislative leadership.

I would like to thank the gentleman for his personal interest and involvement in what is an extraordinary legislative achievement.

I would also like to commend the original sponsor of the legislation, my good friend and distinguished Congressman from Michigan (Mr. BROOMFIELD) and to also acknowledge that without the work of the gentleman from Michigan (Mr KILDEE) on the subcommittee, this happy compromise could not have been reached. Special thanks must also go to the distinguished gentleman from Alaska (Mr. YOUNG), the ranking minority member of the subcommittee.

I would also like to thank the staff that worked so diligently to bring about this compromise.

Turning to the substance of the bill, I want to note that the language of H.R. 3787 as it was reported from the Committee on Interior and Insular Affairs incorporates the language of legislation I had introduced last year, H.R. 4062, to revise the authorized boundaries of the lakeshore to delete the Leelanau County segment of the scenic corridor that was originally proposed. That roadway is no longer in the Park Service plans for the lakeshore, so it is most appropriate that that land be removed from the official boundaries to eliminate the uncertainty that has clouded private property rights.

The language of H.R. 3787 also addresses other issues of concern which were resolved after lengthy discussions between the various parties with interests in the lakeshore. The bill carefully balances the interests of inholders and local residents against public use needs of the lakeshore. It was developed in the best sense of compromise, and is a sound agreement resolving several outstanding problems relating to the lakeshore.

The bill accomplishes the initial objective of the original bill, H.R. 3787, by extending the term of use and occupancy for residents of properties built between 1964 and 1970. This involves approximately 90 homes, most of which are not needed by the Park Service for the immediate future. Those few properties that are needed by the Park Service in the immediate future will not be eligible for this extended tenancy. Further, the Park Service is directed to advise property holders of any plans it now has to use their property over the next two decades, and to keep them advised as future plans are more firmly developed. If the Park Service does eventually have a real need for a property, and has the funding available to carry out its intended use, the bill clearly gives the Secretary the authority to revoke occupancy rights. The bill and the accompanying committee report give the Park Service criteria to evaluate the need for property. It is my hope that the direction given to the Park Service and the notification it is required to give residents will insure an orderly transition from private use to public use of these lands, balancing the needs of the residents with that of the public with minimal infringement on either.

Similar care was given to developing a balanced solution for the protection of two special "resource preservation areas" nearby the existing boundaries of the lakeshore. One area, Miller Hill, overlooks the lakeshore and exemplifies the scenic beauty of the area. The other, Bow Lakes, contains a number of outstanding natural features including a large bog area that would be desirable for nature studies.

The Park Service would be authorized to acquire these lands for inclusion in the lakeshore, but the rights of private property owners are carefully protected. Property acquisition would be done only from willing sellers, and from Park Service exercise of right of first refusal on property transfers. Condemnation would not be authorized for general acquisition, and could only be employed to prevent significant damage to the scenic, water or soil resources of the lakeshore. If any landowner initiated activities which might threaten damage to these resources, the Park Service could obtain an injunction to stop the damaging action. This gives the landowner an opportunity for judicial review, and insures that the Park Service has valid objection to the threatening activities. Again, the rights of private property owners have been carefully balanced with the need to protect essential resources of the lakeshore.

Section 5 dealing with wilderness questions should also be addressed. Wilderness designation of several areas in Sleeping Bear Dunes was initially sought by representatives of conservation and environmental organizations. These organizations pointed out that the National Park Service had prepared detailed recommendations on areas in Sleeping Bear which might be suitable for wilderness designation. This recommendation was completed in 1981, and was forwarded to the Department of the Interior. No recommendations have been submitted to the Congress.

Because the Congress has not had an opportunity to review the wilderness recommendations in detail, and has received no comments from local citizens and governments which might be affected by official wilderness designation, I raised strong objection to designating wilderness at this time. Consequently, the language of H.R. 3787 directs the President to submit the wilderness recommendations, already under consideration, by June 1, 1983.

H.R. 3787 does include language directing the Park Service to continue managing the recommended wilderness areas as they are currently doing to "maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System." This language merely insures that the Park Service will continue to do what they are doing today, and what they are required to do under the general management plan for the lakeshore, thus preserving the status quo. This requirement is subject to existing private rights, and the committee report further points out that this does not change the Park's Service's authority to maintain or close roads and access to private inholdings.

Nevertheless, questions have been raised about the language in section 5 of the bill on management of these lands as wilderness. While President Reagan and Secretary of the Interior Jim Watt have stated their strong support for designation of wilderness areas in accordance with the provisions of the Wilderness Act, the administration has raised concerns that section 5 could cause problems in managing areas of the lakeshore subject to use and occupancy under the other provisions of this bill. Of particular concern is the indefinite period the Park Service would be required to manage the recommended areas as wilderness in the absence of congressional action to officially designate them as such according to the Wilderness Act.

I would certainly be agreeable to amending this provision when the bill is considered in the other body to address concerns about possible unintended consequences. Although I would hope that the other body would act as expeditiously as possible on H.R. 3787, I do expect that there will be an opportunity to consider this issue, as well as other provisions of the bill. Perhaps the easiest manner to address the concerns raised by the management requirements contained in section 5 would be to limited their duration to a fixed period, and I will recommend that the management directive be limited.

That this bill resolves several rather controversial issues in a fair and balanced manner is a direct reflection on

the gentleman from Ohio (Mr. SEIBERLING), the chairman of the Subcommittee on Public Lands and National Parks. I cannot express in strong enough terms my gratitude and appreciation for his willingness to examine the problems associated with the Sleeping Bear Dunes National Lakeshore, and act on legislation to resolve them. Chairman SEIBERLING led a subcommittee field inspection of Sleeping Bear Dunes last year, so he has a genuine personal understanding of the situation at the lakeshore.

As I have noted, several members of the Michigan delegation have worked long and hard to develop this legislation. The original sponsor of this bill, Mr. BROOMFIELD, has been extremely involved and interested in the lakeshore, as has the gentleman who serves on the subcommittee, Mr. KILDEE, and Mr. DINGELL who has cosponsored the bill. In addition, the two Senators from Michigan have been part of the many meetings and discussions that led to agreement on H.R. 3787. In particular, the senior Senator from Michigan, Mr. RIEGLE, has been most helpful in working to resovlve differences between various parties involved in the issues.

I hope, therefore, that my colleagues will join me in giving the kind of enthusiastic vote to this legislation which will send a message to the Senate that we need expeditious action, yes, even in these remaining few days before we break for the congressional elections. If we do not act expeditiously in both Houses, about 90 property owners could be thrown out of their homes in the snow this coming February and I am certain that is something no Senator or Congressman would like to see.

Again, I commend the gentleman for his leadership and the happy resolution of a number of issues connected with the Sleeping Bear Dunes National Lakeshore.

Mr. SEIBERLING. Mr. Speaker, I yield myself 1 more minute.

Mr. Speaker, I again want to thank both gentlemen from Michigan, Mr. BROOMFIELD and Mr. VANDER JAGT, for their tremendous contribution to this bill and for their kind words.

I would like to say that having been up to Sleeping Bear Dunes last fall, a little less than a year ago, and looked at the problems on the ground, and talked to the people who have the problems that this bill deals with, I can say that unless we pass this bill, we are doing a serious injustice to many owners of private property, former owners, at least, who live in that area, whose land is being acquired by the Park Service and who are not being given equal treatment with others who, by a fluke, happened to have built their houses at a slightly different point in time.

So I feel that the gentleman's remarks are very pertinent. I would hope that the Senate can act expeditiously on this. I see nothing in this bill that is truly controversial, it ought to be accepted as passed by the House, and I would hope that that turns out to be the case.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 3787, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

VOYAGEURS NATIONAL PARK

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 846) to revise the boundary of Voyageurs National Park in the State of Minnesota, and for other purposes, as amended.

The Clerk read as follows:

H.R. 846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to authorize the establishment of the Voyageurs National Park in the State of Minnesota, and for other purposes", approved January 8, 1971 (84 Stat. 1971), is amended—

(1) in section 102 by striking out "The" after "SEC. 102." and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, the";

(2) by inserting after section 102(a), as redesignated by paragraph (1), the following new subsection:

"(b)(1) In addition to such revisions as the Secretary may make in the boundaries of the park from time to time pursuant to other provisions of law, the Secretary may, according to the provisions of subsection (a)—

"(A) delete approximately 782 acres in the Neil Point area of the park;

"(B) add approximately 180 acres in the Black Bay Narrows areas of the park;

"(C) add approximately 18.45 acres owned by the State of Minnesota at the Kabetogama Forestry Station;

"(D) add approximately 120 acres owned by the State of Minnesota, being a strip of land through that portion of section 1, township 68 north, range 20 west, fourth principal meridian, which is parallel to and 400 feet on both sides of the unimproved road extending northward from the Ash River Trail as such road crosses each section; and

"(E) subject to the provisions of paragraph (2), delete approximately 1,000 acres at Black Bay and convey such lands to the State of Minnesota.

All of the aforementioned boundary changes if accomplished shall be accomplished such that the boundary of the park shall conform to that generally depicted on the drawing entitled "Boundary, Voyageurs National Park, United States Department of the Interior, National Park Service", numbered 172,80, 088-MWR, and dated November 1981, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

"(2) The Secretary may not delete or convey the lands referred to in paragraph (1)(E) unless, prior to or simultaneously with such deletion or conveyance and in consideration of such conveyance, the State of Minnesota—

"(A) transfers to the Secretary all right, title, and interest in the land described in paragraph (1) (C) and (D); and

"(B) enters into a recordable agreement satisfactory to the Secretary which provides that—

"(i) the State has established a wildlife management area in the area authorized to be deleted and conveyed to the State by paragraph (1)(E);

"(ii) the State has prepared a plan acceptable to the Secretary to manage all the waters of and State lands riparian to Black Bay (including all of the State-owned lands and waters of Rainy Lake) to preserve the natural resources of the area so as to complement to the fullest extent possible the purposes for which the park was established;

"(iii) the State shall not transfer any right, title, or interest in, or control over, any land described in paragraph (1)(E) to any person other than the Secretary; and

"(iv) the State shall permit access by the Secretary at reasonable times to the land described in paragraph (1)(E).

"(3) If at any time the State fails to comply with the material requirements of the agreement referred to in paragraph (2)(B), all right, title, and interest in the land described in paragraph (1)(E) shall revert to the United States for administration by the Secretary as part of the park. Such reversion shall take effect upon the delivery by the Secretary of notice to the State respecting such failure to comply without further notice or requirement for physical entry by the Secretary unless an action for judicial review is brought in the United States Court of Appeals for the appropriate circuit within ninety days following such notice. In any such action the court may issue such orders as are appropriate to carry out the requirements of this subsection.";

(3) by adding after the last sentence of section 301(b) the following new sentence: "The President shall, no later than June 1, 1983, advise the United States Senate and House of Representatives of his recommendations with respect to the suitability or nonsuitability a wilderness of any area within the park."; and

(4) in section 401—

(A) by inserting "(a)" after "Sec. 401.";

(B) by striking out "$26,014,000" and inserting in lieu thereof "$38,314,000"; and

(C) by adding at the end the following new subsections:

"(b) The Secretary shall, in cooperation with other federal, State, and local governmental entities and private entities experienced in the fields of outdoor recreation and visitor services, develop and implement a comprehensive plan for visitor use and overnight visitor facilites for the park. The plan shall set forth methods of achieving an appropriate level and type of visitation in order that the resources of the park and its environs may be interpreted for, and used and enjoyed by, the public in a manner consistent with the purposes for which the park was established. Such plan may include appropriate informational and educational messages and materials. In the development and implementation of such plan the Secretary may expend funds donated or appropriated for the purposes of this subsection. Effective October 1, 1983, there is authorized to be appropriated for the purposes of this subsection not to exceed $250,000, to remain available until expended.

"(c) The Secretary is directed to study existing road access to the park and to report to Congress on the impact of park-related use of those roads and to report specific recommendations on improvements necessary to insure adequate road access to the park. The Secretary is directed to report, within one year of the date of enactment of the Act which appropriates funds authorized under this subsection, to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate Effective October 1, 1983, there is authorized to be appropriated for the purposes of this subsection not to exceed $75,000.

"(d)(1) For purposes of section 7(a)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)(3)), the statutory ceilings on appropriations established by this section shall be deemed to be statutory ceilings contained in a provision of law enacted prior to the convening of the Ninety-fifth Congress.

"(2) In determining amounts authorized to be appropriated pursuant to this section, there shall not be taken into account any appropriations made available under section 7(a)(3) of the Land and Water Conservation Fund Act of 1965 (17 U.S.C. 4601-9(a)(3)) before October 1, 1982.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 846 would amend the act establishing the Voyageurs National Park in Minnesota.

As reported by the Interior and Insular Affairs Committee, the bill would authorize the addition of approximately 319 acres of land in three areas of Voyageurs National Park. It would also delete 1,000 acres—primarily water—in the Black Bay area of the park, to be transferred to the State of Minnesota, and approximately 782 acres of land in the Neil Point area. The deletion and transfer of lands in the Black Bay area would be subject to the requirement that the State donate specified lands to the Secretary of the Interior for inclusion in the park and that the State enter into a recordable agreement with the Secretary for the management of Black Bay and certain surrounding State-owned lands and waters.

In addition, H.R. 846 would require the President to submit wilderness recommendations for the park to the Congress by June 1, 1983. It would direct the Secretary of the Interior to develop and implement a comprehensive plan for visitor use and overnight facilities and to study road access to the park. Neither study could be funded before fiscal year 1984 and the funding for the studies would be subject to appropriations acts. The bill also includes provisions contained in H.R. 6290, which passed the House on June 14, 1982, to increase the authorization of appropriations for land acquisition by $12.3 million.

Mr. Speaker, the reported bill is a carefully drafted compromise from the introduced version. A similar bill, S. 625, has passed the Senate and, if H.R. 846 is approved by the House, I intend to move to insert the text of the House bill in the Senate version and send it back to the Senate for their consideration.

Before closing, I would like to thank Mr. OBERSTAR, author of H.R. 846, and Mr. VENTO for their excellent help on this legislation. I would also like to thank members of the staff who assisted us, including Loretta Neumann and Clay Peters of the committee staff, Rick Healy of Mr. VENTO's staff, and John O'Connor of Mr. OBERSTAR's staff.

I urge all Members to support H.R. 846.

Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding me this time. I want to thank him, and especially the members of his staff who worked on this.

Mr. Speaker, I rise in support of H.R. 846. In working with my colleagues, Representative SEIBERLING and Representative OBERSTAR, I believe we have crafted legislation that furthers the enhancement of Voyageurs National Park. The legislation before us today is the result of extensive negotiations with the National Park Service, the State of Minnesota and interested parties to resolve points of disagreement that hinder the park's management.

Although Voyageurs National Park was authorized by Congress in 1971, it was not until 1975 that the park was officially established by the Secretary of the Interior. Development of the park has gone forward since that time but the pace has been slowed by problems which this bill seeks to address. The main thrust of this legislation and perhaps the park's most pressing problem is the controversy that has been generated through the inclusion of a portion of the Black Bay area within the park. The issue here is perhaps more emotional than substantive, but nevertheless, the ongoing issue has detracted from the park's management. To settle this matter, yet still provide for the utmost protection of the resources in the area, this legislation spells out procedures for turning over the 1,000 acres at Black Bay, mostly bog and water, to the State of Minnesota for protection as a wildlife management area. To insure the continued proper utilization of the Black Bay area, the Interior Committee was careful to insert a number of specific provisions, including the use of reverter clause.

The other boundary adjustments made are noncontroversial in nature, but important to the efficient management of the park. Of particular note is that a part of land to be added to the park by this legislation will house the park's visitor center, a facility the park sorely needs. The lack of a visitor center 7 years after the park's establishment points to another problem, this bill seeks to address. Inadequate road access and the lack of a cohesive visitor use program have been a detriment to the park's use and enjoyment. That is why H.R. 846 contains provisions directing the National Park Service to study road access into the park, and develop and implement a program for visitor use. The implementation of the road access and visitor use provisions will help measurably to facilitate the management and development of Voyageurs National Park.

Mr. Speaker, the intent and thrust of this legislation is to further the goals for which the park was established. I urge the adoption of H.R. 846.

□ 1210

Mr. SEIBERLING. Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise with little enthusiasm for the bill now before us, H.R. 846, which provides for boundary adjustment to Voyageurs National Park in Minnesota.

This bill authorizes some land exchanges and deletions, provides for an authorization ceiling increase to complete additional land acquisition, and reestablishes a date whereupon a wil-

derness study proposal is to be submitted to Congress.

The bill has two other provisions which I note are strongly objected to by the administration, and I must say that I too, find them difficult to support, particularly in this time of very tight fiscal constraints. Both are study provisions.

The first calls for a quarter-of-a-million dollar study to develop a tourism plan for the park. While I can sympathize with the rather hard-pressed economic situation in the local community, and while I can understand the local desire to enhance and promote tourism, I do not believe spending a quarter-of-a-million dollars on a study is apt to bring much of a result. Moreover, the language of the bill is very ambiguous as to the desired end product, and I believe it asks for results that are already required by existing law to be accomplished in the form of the park's general management plan. I should point out that the general management plan of which I speak was just completed and approved. There is no way that this new tourism plan will be able to promote much significant new development or use in the park itself beyond that which is already identified in the park's general management plan, so I do not really understand what this new quarter-million dollars is going to go for.

On a similar theme, the bill provides for $75,000 to be appropriated for a study related to road access to the park. I do not really know what this can prove either, as no matter what comes of this study, since the roads are outside of the park, the Secretary of the Interior will have no authority to implement any of the study's recommendations. Moreover, since the park was established to provide a relatively primitive type of visitor experience, I doubt that the Park Service, in this study, will likely advocate much in the nature of significantly enhanced road access. The study objectives and directives are very unclear in the bill, and I consequently fail to find any rationale for this expenditure of funds.

Mr. Speaker, I must say that I do feel that this type of nickel and dime spending through many of these little bills that we continue to pass like this one, do tend to add up to quite a considerable amount of money before long. This is the type of situation where we all need to be more responsible and scrutinizing. I do not feel that these two study provisions are very necessary, and it is a shame that they have been attached to this bill.

With that, Mr. Speaker, I yield back the balance of my time.

Mr. SEIBERLING. Mr. Speaker, I yield 6 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Speaker, typically, subcommittee chairmen on the Committee on Interior and Insular Affairs get stuck with many of the headaches of the Congress. They inherit legislation passed in a previous Congress and then as the program has developed, or a park established and comes into being, problems arise. A subsequent subcommittee chairman then has the task of untangling the detailed and complicated problems. Such as is the situation presented to the House today in a consideration of H.R. 846, legislation to amend the Voyageurs National Park Act.

The gentleman from Ohio (Mr. SEIBERLING) has demonstrated extraordinary patience, I must say in all candor, and an extraordinarily keen grasp of the issues.

Mr. Speaker, I want to compliment the gentleman for taking on this task in the case of Voyageurs, and in the case of numerous other bills that have come before his subcommittee in the course in this Congress. He has devoted painstaking attention to the problems that are, in many cases, uniquely local, but which also have national implications in their broader scope.

Whatever you change in one area of the country can be taken as a precedent for other areas of the country.

The gentleman has devoted an enormous amount of time on his own, as has his own staff, to unraveling the sticky problems of Voyageurs.

I also want to thank my colleague from Minnesota, the gentleman from St. Paul, Mr. VENTO, for devoting so much of his own time and attention to this legislation that has been of such interest in our State for over a decade. We are here today in large part because of the efforts of both the gentleman from Ohio (Mr. SEIBERLING) and the gentleman from Minnesota (Mr. VENTO).

I am grateful, on behalf of the people of Minnesota.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield to me?

Mr. OBERSTAR. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman very much for his kind words. Of course, his contribution has been the greatest one of all.

Let me say that one of the ways we are able to correct these problems is that we never take the position that what we do in one bill is a precedent for any other park somewhere else in the country. That makes it a little bit easier.

So I hasten to add that we consider this to be a sui generis situation and not a precedent for action anywhere else.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman from Ohio.

The clarification is important, as people will recognize.

Mr. Speaker, passage of H.R. 846 is very important to the future of Voyageurs National Park. This legislation will effect several boundary changes, increase authority for land acquisition within the park, and authorize two important programs to enhance use and enjoyment of the park.

In 1980, in the final weeks of the 96th Congress, I introduced legislation similar to H.R. 846. Senator DAVE DURENBERGER introduced identical legislation in the Senate. That legislation represented the product of extensive negotiations involving ourselves, the National Park Service, the State of Minnesota and the people living in the area around the park.

At the beginning of this Congress, Senator DURENBERGER and I, with broad bipartisan support in our delegation, introduced H.R. 846 and S. 625. In June, the Senate passed an amended version of S. 625.

After very careful consideration, the House Interior Committee has brought H.R. 846, as amended, to the floor. The Subcommittee on Public Lands and National Parks held a hearing at which Park Service and State of Minnesota officials, supporters of the bill and opponents of the bill had the opportunity to testify. Following that hearing, the subcommittee amended H.R. 846 to reflect concerns raised by conservation groups regarding the bill.

I believe H.R. 846 as introduced was a good bill. It reflected the extensive negotiations involving Federal, State and local officials which had preceeded introduction of H.R. 846.

H.R. 846, as reported, implements the essential elements of the agreement between the National Park Service and the State of Minnesota. It will authorize the Secretary of the Interior to transfer to the State of Minnesota approximately 1,000 acres at Black Bay, primarily water, in return for which the State of Minnesota is to: First, transfer approximately 138 acres to the National Park Service; and second, enter into a recordable agreement satisfactory to the Secretary providing for the establishment of a wildlife management area in that portion of Black Bay deleted from the park, and the establishment of a plan to manage the waters and State lands riparian to Black Bay to preserve the natural resources of the area to complement to the fullest extent possible the purposes for which the park was established.

The State has agreed to develop such a plan which will enhance the national park.

Under State law, the Minnesota Department of Natural Resources may convey a permanent easement to the

Park Service for road construction and up to a 10-year lease on other State lands. As introduced, H.R. 846 would have allowed these administrative conveyances. The bill before the House today will insist upon a conveyance in fee simple of the 138 acres involved. Fee conveyance will require an act of the State legislature. My concern with this change from the bill as introduced is that it will delay the conveyance authorized by H.R. 846. The State of Minnesota has already provided 36,000 acres of land for the park.

The Senate version of the bill does not require the fee conveyance. The other major differences between the House and Senate bills are that the Senate bill does not include the authorization for a tourism promotion program included by the House Interior Committee and the Senate bill authorizes a 10-year extension of leases on land donated to the Park Service by the State of Minnesota. I had asked the House Interior Committee to include such an extension in order to allow the 62 current leaseholders the opportunity to remain within the park for an additional period.

This legislation comes at a critical time for Voyageurs National Park. The park has suffered from inadequate funding for construction of visitor facilities, and as a result, has an unacceptably low level of visitation. Consequently, the communities around the park have not enjoyed the economic benefits promised prior to the establishment of the park. This legislation will authorize not only an acquisition increase, but the addition of 180 acres at Black Bay Narrows necessary for the development of a visitor facility in the area of International Falls. The addition will allow the Park Service to develop a primary access site with boat launching facilities, ranger station, visitor center, and central maintenance facility.

The basic provisions of this legislation have been under discussion for almost a decade. I introduced a similar bill in the 96th Congress and again in this 97th Congress. The return of Black Bay to the State removes a nearly two-decades-old misunderstanding about the boundaries of Voyageurs National Park and how this particular area should be managed. It will return to the people of Minnesota in this small area the opportunity for recreational uses not permitted within a national park, and will resolve a long-standing statewide controversy over duck hunting in Black Bay.

Second, this legislation will set in motion the means by which the area can benefit from the establishment of a national park.

With the passage of this legislation, with the inclusion of tourism study and road access study, we light that spark of hope that the area will be able to enjoy economic benefit from the park.

There is one area in the bill, though, that is somewhat unclear. I would like to ask the chairman of the subcommittee (Mr. SEIBERLING) to perhaps clarify language on page 4, lines 6, 7, and 8. The legislation requires the State to establish a wildlife management area in the area of Black Bay that is now within the park.

Second, it requires that the entire area of Black Bay be managed to preserve the resources of the area in such a way as to complement the purpose for which the park was established.

The language of the report makes it clear that the State is to manage Black Bay in that fashion. There is, however, a parenthetical expression the bill that suggests perhaps a different interpretation. As I understood the committee's deliberations in markup, the committee's intent is that the report language is correct in that the statutorily required management plan should be for the lands' riparian to Black Bay and not the entire area of Rainy Lake.

Is that understanding correct?

□ 1220

Mr. SEIBERLING. Black Bay is in fact less than one-fifth of the area of Rainy Lake.

The SPEAKER pro tempore. The time of the gentleman from Minnesota has expired.

Mr. SEIBERLING. Mr. Speaker, I yield 2 additional minutes to the gentleman from Minnesota.

The SPEAKER pro tempore. The gentleman from Minnesota (Mr. OBERSTAR) is recognized for 2 additional minutes.

Mr. SEIBERLING. The State's representatives testified that the State intends its management plan to cover all of Rainy Lake; however, the intent of the bill is to require a management plan covering all the State-owned lands and waters riparian to Black Bay, as the gentleman has said. I understand the Senate bill includes a similar position. We did not intend to make it a mandatory requirement as to how the State manages the rest of Rainy Lake, but merely to make it clear that Black Bay's plan would be part of the State-managed plan.

Mr. OBERSTAR. I thank the gentleman for that clarification.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and, therefore, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 846, as amended.

The question was taken; and (two-thirds having voted in the favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 625) to revise the boundaries of Voyageurs National Park in the State of Minnesota, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to authorize the establishment of the Voyageurs National Park in the State of Minnesota, and for other purposes", approved January 8, 1971 (84 Stat. 1971), is amended as follows:

(1) By redesignating "SEC. 102." as "SEC. 102. (a)" and inserting the following new subsection after subsection (a) of section 102:

"(b)(1) In addition to such revisions as the Secretary may make in the boundaries of the park from time to time pursuant to other provisions of law, the Secretary is specifically authorized in the manner provided in subsection (a)—

"(A) to delete approximately 782 acres in the Neil Point area of the park;

"(B) to add approximately 180 acres in the Black Bay Narrows area of the park;

"(C) to add approximately 18.45 acres owned by the State of Minnesota at the Kabetogama Forestry Station;

"(D) to add approximately 120 acres owned by the State of Minnesota, being a strip of land through that portion of section 1, township 68 north, range 20 west, fourth principal meridian, which is parallel to and 400 feet on both sides of the unimproved road extending northward from the Ash River Trail as such road crosses said section; and

"(E) to delete approximately 1,000 acres at Black Bay. All of the aforementioned boundary changes shall be accomplished such that the boundary of the park shall conform to that generally depicted on the drawing entitled, 'Boundary, Voyageurs National Park, U.S. Department of the Interior, National Park Service, numbered 172-80, 008-MWR, and dated November 1981, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

"(2) The boundary revisions specified in subparagraphs (C), (D), and (E) of paragraph (1) shall, notwithstanding anything to the contrary contained in this Act or any other law, become effective only upon (i) the tender of a conveyance to the United States, by such instrument and in such manner as are satisfactory to the Secretary, including but not limited to lease or easement, by the State of Minnesota of the lands or interests therein described in subparagraphs (C) and (D) for purposes of the park; (ii) the establishment by the State of Minnesota of a wildlife management area in

the area authorized to be deleted from the park by subparagraph (E); and (iii) agreement of the State of Minnesota, incorporated in a plan, to manage waters of and State lands riparian to Black Bay to preserve the natural resources of the area so as to complement to the fullest extent possible the purposes for which the park was established.

"(3) At such time as the deletion referred to in subparagraph (E) of paragraph (1) becomes effective, the Secretary is further authorized to convey to the State of Minnesota all right, title, and interest of the United States in and to property acquired for the park from the State within the area deleted pursuant to subparagraph (E): *Provided,* That such conveyance shall be made subject to the express provision that all such right, title, and interest conveyed shall revert to the United States for administration as part of the park at such time as the property conveyed ceases to be managed in accordance with clauses (ii) and (iii) of paragraph (2).".

(2) By redesignating "SEC. 401." as "SEC. 401. (a)" and inserting the following new subsection after subsection (a) of section 401.

"(b) In addition to such sums as may have been appropriated for the acquisition of property prior to the effective date of this subsection, there is authorized to be appropriated after October 1, 1982, for that purpose not to exceed $12,300,000.".

(3) In subsection 202(b), strike out "ten years" and insert in lieu thereof "twenty years".

SEC. 2. The Secretary is directed to study existing road access to the park and to report to Congress on the impact of park-related use of those roads and to report specific recommendations on improvements necessary to insure adequate road access to the park. The Secretary is directed to report within one year of the date of enactment of this section to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate.

MOTION OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. SEIBERLING moves to strike out all after the enacting clause of the Senate bill, S. 625 and to insert in lieu thereof the provisions of the bill, H.R. 846, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 846) was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

NATIONAL PARK SYSTEM PROTECTION AND RESOURCES MANAGEMENT ACT OF 1982

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5162) directing the Secretary of the Interior to prepare and submit a state of the parks report to Congress, as amended.

The SPEAKER pro tempore. Without objection, the Clerk will report the bill.

There was no objection.

The Clerk read as follows:

H.R. 5162

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Park System Protection and Resources Management Act of 1982".

FINDINGS

SEC. 2. The Congress finds that—

(1) the natural and cultural resources of the national park system embrace unique, superlative and nationally significant resources, constitute a major source of pride, inspiration, and enjoyment for the people of the United States, and have gained international recognition and acclaim;

(2) the Congress has repeatedly expressed its intentions, in both generic and specific statute and by other means, that the natural and cultural resources of the national park system be accorded the highest degree of protection;

(3) many of the natural and cultural resources of the national park system are being degraded or threatened with degradation; and

(4) no comprehensive process exists for the gathering of data, the identification, analysis, and documentation of trends and the identification of problems regarding the condition of the national park system's natural and cultural resources and for the development of a program to prevent and reverse the or degradation of the natural and cultural resources of the national park system.

PURPOSE AND POLICY

SEC. 3. In furtherance of the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), it is the purpose of this Act, and shall continue to be national policy, to provide for a high degree of protection and preservation of the natural and cultural resources within the national park system for the benefit of the public and to provide for the interplay of the forces and processes of natural ecological succession in perpetuity (except for locations of development or where the historic scene is to be stabilized and depicted at a particular static point in time). In furtherance of that purpose and policy, it is the specific purpose of this Act to provide for the development of comprehensive management programs, and planning and decisionmaking processes which will—

(1) identify damage, threats, and problems affecting the natural and cultural resources of the national park system, and

(2) provide for the implementation of actions which will prevent and reverse such adverse forces so as to maximize the protection and preservation of the natural and cultural resources of the national park system.

Nothing in this section shall be deemed to constitute a change in the more specific purposes or provisions of the various Acts establishing the individual units of the national park system.

STATE OF THE PARKS REPORT

SEC. 4. (a) In furtherance of the provisions of section 3 of this Act, the Secretary shall undertake a continuing program of data collection, research, monitoring, analysis and documentation as to conditions, factors and forces which are degrading, or threatening to degrade, the natural and cultural resources of the national park system and shall prepare a biennial "State of the Parks" report. Such report shall constitute documentation of the condition of park resources, including problems related to their degradation and solutions to such problems. The report shall correlate to a fiscal year base and shall be transmitted by January 1, 1984 (and by January 1 of each even numbered year thereafter), by the Secretary to the Speaker of the United States House of Representatives and to the President of the United States Senate for referral to and consideration by the appropriate legislative committees of the House and Senate. Successive reports shall update previous submissions. Each report shall be printed as a House document. The report shall include, but need not be limited to, the following major components:

(1) a brief description, for each individual unit of the national park system of—

(A) the past, current, and projected condition of the unit's natural and cultural resources;

(B) the impact from identified factors and forces, ranked in order of priority, emanating from both inside and outside the unit, which damage or threaten to damage the welfare and integrity of the unit's natural and cultural resources, with identification of the trends and the severity of impact of such factors and forces;

(C) ongoing and planned protection and management actions, including specific research programs with regard to subparagraphs (A) and (B) of this paragraph; and

(D) the accomplishments and results of the actions undertaken in accordance with subparagraph (C);

(2) a description and assessment of the systemwide efforts to address the requirements of paragraph (1) of this subsection, which assessment includes a list of all personnel positions systemwide (given according to pay grade, location, and professional expertise of the incumbent) assigned 50 per centum or more of the time to direct resource protection, resource management activities or research, and an assessment of the effectiveness and adequacy of these personnel in meeting resource management objectives;

(3) a detailed and specific discussion, developed in accordance with the requirements of paragraphs (1) and (2) of this subsection, of continuing, newly implemented and/or recommended systemwide policies, plans, programs, actions, commitments, and accomplishments for both the direct management actions and the research programs of the National Park Service relating to the prevention and reversal of factors and forces which are altering or damaging, or threatening to alter or damage, the welfare and integrity of natural and cultural park resources which discussion shall include, but not be limited to——

(A) management policies, directions, and priorities;

(B) accomplishments in and progress toward resolving specific problems described in the current and the previous State of the Parks report;

(C) contintuing research projects;

(D) new administration and research proposals for park protection and resource management programs;

(E) an itemized estimate of the funding required for the following two fiscal years to carry out both the continuing the new management actions and research programs;

(F) legal authority available for addressing damage and threats emanating from outside unit boundaries, the effectiveness of that authority in preventing damage to the natural and cultural resources, and suggestions for new authority which may promote resource protection; and

(G) the progress in meeting the objectives of this Act;

(4) a discussion of the adequacy of past and present congressional appropriations in addressing protection and resource management programs; and

(5) a determination and explanation of funding needs for fulfilling the mandates of this section.

(b) In the preparation of the State of the Parks report, the National Park Service shall take appropriate steps to solicit public involvement. A preliminary draft of the report shall be made available to the public for a period of thirty days for review and comment no less than three months before the final report is due for submission to the Congress. Notice of the availability of such draft for public review and comment shall be published in the Federal Register. A summary of public comments received shall be transmitted with the State of the Parks Report.

SIGNIFICANT RESOURCE PROBLEMS

SEC. 5. The Secretary shall identify and establish priorities among at least the most critical fifty natural and the most critical fifty cultural resource problems or threats within the national park system and shall prepare a detailed analysis of such problems or threats (with an estimate of the funds necessary to reduce or eliminate the problems or threats). Such analysis shall be made annually and shall be submitted to the Appropriations Committees of the Senate and House of Representatives and to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate, at the same time as the budget justification data are submitted to the Congress for each fiscal year.

SCIENTIFIC ADVISORY ASSISTANCE

SEC. 6. (a) The Secretary shall take such steps as may be necessary to contract with the National Academy of Sciences for development of a plan for the National Park Service to conduct natural and cultural resources inventories and research directed to the problems of and the solutions for natural and cultural resource problems within the national park system.

(b) The plan required under subsection (a) shall be simultaneously submitted to the Secretary, and to the appropriate committees of the Congress, no later than eighteen months after the effective date of this Act. Three months and six months after the effective date of this Act, the Secretary shall submit to the appropriate committees of the Congress a written statement as to his progress in the consummation of arrangements with the National Academy of Sciences for the development of such a plan.

(c) Funding for such program shall derive from funds specifically appropriated for this purpose to the National Park Service.

RESOURCE MANAGEMENT PLANS

SEC. 7. Resource management plans for each unit of the national park system, including areas within the national capital region, shall be prepared and updated no less frequently than every two years. Such plans shall address both natural and cultural resources of the park units and shall include, but not be limited to—

(1) a historical overview of the past composition, treatment, and condition of the resources;

(2) a statement of the purposes and objectives for the management and preservation of the individual or collective components of the resource base;

(3) an inventory of significant resources and their current condition, prepared in accordance with acceptable scientific baseline data collection methods;

(4) an identification of current and potential problems, emanating from sources both inside and outside park unit boundaries, associated with the protection and management of the resources;

(5) a comprehensive, detailed program of proposed actions to be taken to prevent or reverse the deterioration of the natural and cultural resources of the park, including a proposed schedule of actions to be initiated and the estimated costs to complete such actions; and

(6) a brief summary of accomplishments in resolving resource problems identified pursuant to paragraphs (4) and (5) of this subsection.

General management plans developed for each park unit shall be brought into conformity with the park unit's resource management plan, and the resource management plan shall be used to provide data for the State of the Parks Report. The Secretary shall establish guidelines for the National Park Service setting forth procedures whereby the development of general management plans and resource management plans shall be coordinated with other affected Federal agencies, States, and local governments.

LAND CLASSIFICATION REVIEW

SEC. 8. The Secretary shall conduct a review of the current land classification system for the preservation and use of lands within park system units, and shall adopt such revisions as may be appropriate to assure the protection of park resources, appropriately balanced with the use and appreciation of those resources by visitors. Such review shall include the development of a new classification for maximum resource protection where restricted use may be necessary to protect sensitive ecosystems and cultural resources or areas of special value for research, scientific, or related purposes. The review mandated by this section shall be completed and the results adopted by January 1, 1984.

INTERNATIONALLY RECOGNIZED AREAS

SEC. 9. (a) Those park units accorded the designation of "biosphere reserve" or "world heritage site" shall receive priority attention and consideration for prompt, heightened resource data collection, monitoring, and resource protection efforts. The Secretary shall develop a document, setting forth such policies and guidelines as are appropriate to achieve these objectives, to be published in draft form in the Federal Register no later than January 1, 1934, for public comment and published in final form no later than April 30, 1984. Such document shall be revised subsequently as appropriate.

(b) It is the sense of the Congress that with respect to any international park located within the United States and any adjacent nation which has been recognized and designated as a Biosphere Reserve under the auspices of the international conservation community, the responsible park management officials of the United States and such nation, in conjunction with appropriate legislative and parliamentary officials, establish means and methods of ensuring that the integrity of such Biosphere Reserve is maintained, and the collective attributes for which it was so recognized and designated are accorded the highest practicable degree of continuing protection.

PUBLIC LAND MANAGEMENT

SEC. 10. (a) In any case of areas which are within any unit of the National Park System, where the Secretary of the Interior is vested with any authority to—

(1) issue any lease;

(2) authorize or permit any use, occupancy, or development of such areas;

(3) sell or otherwise dispose of such lands or waters or interests therein or sell or otherwise dispose of any timber or sand, gravel, and other materials located on or under such areas,

he may exercise such authority only after he has determined that the exercise of such authority will not have a significant adverse effect on the values for which such park system unit was established (including the scenery and the natural and cultural resources). Such determination shall be made only after notice and opportunity for a hearing on the record. The process for collecting needed information and evaluation thereof for this section or section 11 may be integrated with such planning and decisionmaking processes as are required by other law, except that the determination of the effect upon park resources shall be a separate document executed by the Secretary of the Interior or the head of any other Federal agency or instrumentality as may be required by this section or section 11.

(b) In any case of areas which are adjacent to any unit of the National Park System, where the Secretary is vested with any authority described in subsection (a), the Secretary may exercise such authority only after he has determined that the exercise of such authority will not have a significant adverse effect on the values for which such national park unit was established; except that if the Secretary determines that—

(1) any significant adverse effects on the values for which the national park unit was established are clearly of lesser importance than the public interest value of the proposed action; and

(2) the exercise of such authority is fully consistent with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 through 1a-7) and specific provisions of law which established the affected national park unit,

he may exercise such authority. The Secretary shall publish the record of such decision in the Federal Register and transmit copies of such decision documents to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives. The Secretary shall not imple-

ment such decisions until thirty legislative days after such transmittal.

(c) This section shall not apply to inland waters except as to those which the Federal government owns the waters.

FEDERAL PROGRAM REVIEW

SEC. 11. (a) Each agency or instrumentality of the United States conducting or supporting activities within or adjacent to any unit of the national park system shall, to the extent practicable, undertake to insure that those activities will not significantly degrade the natural or cultural resources or values for which the unit was established.

(b) During the normal procedure utilized by any Federal agency in deciding to undertake or approve any Federal action (except such actions as may be required for maintenance or rehabilitation of existing structrues or facilities) on areas within or adjacent to any unit of the national park system, the agency head (or the Secretary as determined pursuant to subsection (d) of this section), shall consider whether such action may degrade or threaten the natural or cultural resources of any such unit, and if the head of such agency finds that such action may have such an effect, he shall notify the Secretary in writing. Such notification shall, at a minimum, include a description of the proposed action, the proposed agency's views as to the potential short and long term impact of the proposed action on the park unit's resources, and any measures proposed by the agency to prevent or minimize adverse effects on such park unit's resources.

(c) The Secretary shall respond in writing with regard to the foreseeable impact on park resources of such proposed Federal action and shall include recommendations for any changes in the proposed Federal action needed to avoid adverse effects on park resources. Such response shall be submitted to the proposing Federal agency within 60 days after receipt of notification required by subsection (b). The response by the Secretary shall include (as an attachment) the views of professional personnel within the National Park Service whose expertise is relevant to the issue of the impact of such proposed action on park resources.

(d) In any instance in which the Secretary has not been notified of a Federal agency's proposed action and on his own determination finds that such action may threaten the natural or cultural resources of any unit of the national park system, the Secretary shall notify the head of such Federal agency in writing. Upon such notification by the Secretary, such agency head shall promptly provide the Secretary with the information specified in subsection (b), and any other relevant information in the possession of such agency if requested by the Secretary, and such notification by the Secretary pursuant to this subsection shall thereby invoke the other relevant provisions of this section.

(e) The Secretary shall fully consider any adopted city, county, State, or Federal comprehensive development plans or elements thereof and shall, if requested by the affected governmental unit, hold a public hearing prior to responding to the Federal agency if such response to the proposed action is to be negative. The hearings are to be held at or near the site of the proposed action or project after notification of the affected local government unit.

(f)(1)(A) In all cases where the proposed Federal action would occur upon federally owned lands or waters within the authorized boundary of a national park unit, the proposing Federal agency shall comply fully with the recommendations of the Secretary.

(B) In all cases where the proposed Federal action would occur upon areas not owned by the Federal Government within the authorized boundary of a national park unit, the proposing Federal agency shall fully consider the recommendations of the Secretary and shall comply with such recommendations, unless the head of such agency, after consideration of applicable law, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), and the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 through 1a-7) finds that the public interest in the proposed action is greater than the public interest in avoiding the adverse effects on the natural and cultural resources of the affected national park unit. The proposing Federal agency shall, upon such determination publish the record of decision in the Federal Register and notify, in writing, the Secretary and the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of such decisions, including the reasons therefore and shall not implement the proposed action for thirty legislative days after the date of such transmittal.

(2) In any case where the proposed Federal action involves areas adjacent to the boundary of a park unit, the proposing Federal agency shall fully consider the recommendations contained within the response from the Secretary. The proposing Federal agency shall transmit the details of the planned final course of action to the Secretary prior to implementing such action. In any instance in which there is substantial disagreement between the proposing agency's course of action and the Secretary's recommendations to the agency, the Secretary shall, within 10 days of receipt of the agency's planned final course of action, notify, in writing, the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. The proposing Federal agency may proceed with the proposed final course of action at the time of transmittal to the Secretary, except that if the proposed final course of action is inconsistent with the recommendations of the Secretary, the proposed final course of action shall not be implemented for 30 legislative days after the date of such transmittal to the committees of Congress referred to in the preceding sentence.

(g) The Secretary shall publish promptly (but in all cases within ten days) in the Federal Register a notice of—

(1) receipt of any proposed Federal action, including a summary of the key components of the proposal and the location and availability of supporting documents, and

(2) notice of the response made by the Secretary to the proposing agency, including all recommendations made by the Secretary.

(h) The following Federal actions which constitute a major and necessary component of an emergency action shall be exempt from the provisions of this section—

(1) those necessary for safeguarding of life and property;

(2) those necessary to respond to a declared state of disaster; and

(3) those necessary to respond to an imminent threat to national security.

(i) Any action under this Act must be brought in the United States District Court for the district in which the National Park System unit concerned is located, and such court shall have jurisdiction to provide any appropriate relief.

TECHNICAL ASSISTANCE, COOPERATION, AND PLANNING

SEC. 12. (a) The Secretary is directed to cooperate with, and is authorized to provide technical assistance to, any governmental unit within or adjacent to the units of the national park system where the results of such cooperation and assistance would likely benefit the protection of park resources. There shall be initiated, by the superintendent of each unit of the national park system, an effort to work cooperatively with all governmental agencies and other entities having influence or control over lands, resources, and activities within or adjacent to the park unit for the purpose of developing, on a voluntary basis, mutually compatible land use or management plans or policies for the general area.

(b) Those personnel assigned to provide assistance described in subsection (a) shall be employees of the National Park Service knowledgeable about the affected unit of the national park system and the resources that unit was authorized to protect.

(c) The Secretary is authorized to make grants to units of local government for the purposes described in subsection (a). Such grants shall not exceed $25,000 in any fiscal year to any unit of local government. The Secretary shall develop criteria for the awarding of grants, with such criteria to include priority for awards which will afford the greatest increased degree of protection to critically degraded or threatened park resources.

(d) There is authorized to be appropriated not more than $750,000 in each of fiscal years 1984, 1985, and 1986 for the purposes of this section. Such sums shall remain available until appropriated and such sums as may be appropriated shall remain available until expended.

(e) Within one year after the effective date of this Act, no less than two park units in addition to all "biosphere reserves" and "world heritage sites", for each administrative region of the national park system shall have initiated the effort described in subsection (a). No more than two years after the date of enactment of this Act, each unit within the national park system shall have initiated such an effort.

(f) In no more than two years following the date of enactment of this Act, the Secretary shall assure that each unit, or each regional office for the region in which a unit is located, has on its staff at least one person who is trained and knowledgeble in matters relating to the provisions of this section, and whose principal duty it shall be to coordinated the activities which are related to the provisions of this section. The Secretary shall initiate, within no more than one year of the date of enactment of this Act, a training program for park personnel in the principles and techniques necessary to carry out the requirements of this section.

PUBLIC INFORMATION PROGRAM

SEC. 13. By January 1, 1983, the Secretary shall initiate and shall continue to develop, a public information program designed to inform park visitors and the public of the problems confronting the protection of park resources and the solutions being implemented to address those problems. Educational information of this nature shall be

made avialable to youth groups and to educational institutions.

PERSONNEL

SEC. 14. The Secretary shall promptly and continually take actions to assure that the staffing of the National Park Service provides for an adequate number and distribution of personnel with sufficient scientific and professional knowledge and expertise to provide for the protection and management of the natural and cultural resources. Scientific research shall be directed to the resource protection and management needs of the park system units. Programs, guidelines, and standards for the following shall be under development by not later than January 1, 1983, and completed no later than January 1, 1984:

(1) employee training programs in resource protection and resource mangement;

(2) performance standards for all employees as related to resource protection and resource management;

(3) qualification criteria related to resource protection and resource management for positions to be filled by new employees; and

(4) career ladders for employees specializing in resource protection and resource management, with equitable promotion opportunities for advancement into mid-level and senior general management positions.

GENERAL MANAGEMENT PLANS

SEC. 15. Section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 through 1a-7) is amended by inserting the following at the end of the first sentence: "Each such plan shall be reviewed, revised and approved no less frequently than every ten years or it shall cease to constitute an officially approved plan. All plans not fully addressing all of the following elements on January 1, 1983 shall be revised and approved to so address all such elements by not later than January 1, 1987.".

DONATIONS

SEC. 16. (a) In the case of real property located adjacent to, or within or in the near vicinity of, any unit of the national park system if—

(1) the owner of any interest in such property desires—

(A) to make a contribution of such interest to any person, and

(B) to have such contribution qualify as a charitable contribution under section 170 of the Internal Revenue Code of 1954 (relating to deduction for charitable, etc., contributions and gifts), and

(2) the Director of the National Park Service determines that the contribution of such interest to such person will protect or enhance the unit of the national park system.

the Director of the National Park Service shall, upon such owner's written request, promptly take appropriate steps to assist the owner in satisfying the requirements of such section 170 with respect to such contribution.

(b) The assistance provided by the Director of the National Park Service under subsection (a) shall include (but shall not be limited to) providing for—

(1) a professional valuation of the interest in real property being contributed, and

(2) a statement as to the importance of such contribution related to protecting and enhancing park unit values.

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT PRIORITY

SEC. 17. In all cases where the Secretary determines that the provisions of this Act are in conflict with the provisions of the Act of December 2, 1980 (16 U.S.C. 3101-3233), the provisions of the Act of December 2, 1980 (16 U.S.C. 3101-3233) shall prevail.

DEFINITIONS

SEC. 18. As used in this Act, the term—

(1) "Appropriate committees of the Congress" means those committees of both the House and the Senate which have primary jurisdiction for the authorization of national park system units and programs or for the appropriation of funds for the acquisition and operations of such units and programs.

(2) "Secretary" means the Secretary of the Interior acting through the Director of the National Park Service except where specific reference is made to the Secretary of the Interior.

(3)"Resource" and "resources" includes—

(A) in the case of natural resources, the geology, paleontological remains, and flora and fauna which are principally of indigenous origin, and

(B) in the case of clutural resources, the historic and prehistoric districts, sites, buildings, structures, objects and human traditions associated with or representative of human activities and events, including related artifacts, records and remains.

(4) "National park system" has the meaning provided by section 2 of the Act of August 8, 1953 (16 U.S.C. 1b-1C).

(5) "Federal action" means any Federal project or direct action, or any Federal grant or loan to a public body.

(6) The term "30 legislative days" means 30 calendar days of continuous session of Congress. For purposes of this paragraph—

(A) continuity of session of Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 30-day period.

SAVINGS PROVISION

SEC. 19. Nothing in this Act shall be construed to exempt the Secretary of the Interior, the Director of the National Park Service, or any other department, agency, or instrumentality of the United States from compliance with any other requirement of law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 20. Effective October 1, 1983, there is hereby authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out the provisions of this Act.

COMPLIANCE WITH BUDGET ACT

SEC. 21. Any new spending authority (within the meaning of section 401 of the Congressional Budget and Impoundment Control Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriations Acts. Any provision of this Act which authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1983. Nothing in this section shall be construed to affect or impair any authority to enter into contractrs, incur indebtedness, or make payments under any other provision of law.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1979, as a result of growing awareness of the pressures on our national parks, members of the House Interior Committee asked the National Park Service to conduct a nationwide survey of damage and threats confronting our national park system. The "State of the Parks Report" resulting from that survey and published in May 1980, revealed some alarming conclusions: To summarize them, nearly all of the national parks are being degraded or threatened with degradation, in significant ways, from activities both within and outside of their boundaries, and the trend is worsening.

That report detailed 4,345 specific threats. Fifty percent of these were from external sources; the remaining from activities inside the parks. After review of the "State of the Parks Report," the Subcommittee on Public Lands and National Parks held 4 days of oversight hearings in February of this year. We heard testimony from numerous witnesses who verified the extent and severity of the problems facing the national park system. The evidence was overwhelming, and many of us became convinced that the Congress should act to provide improved procedures to assure that the intent of Congress to protect national park resources, expressed in the law for almost 100 years, could be better carried out in the face of modern pressures.

Subsequent to our oversight hearings, four bills were introduced: Two by Mr. BEREUTER, H.R. 5162 and H.R. 5976; in addition, one by Mr. WILLIAMS of Montana, H.R. 5973; and one by myself, H.R. 5552. During 3 days of markup in the subcommittee and 1 day in full committee, members worked to reconcile differences and to accommodate specific problems that generic legislation of this type might overlook. The result of this lengthy process is the compromise bill before us today.

This bill includes a requirement for submission of a "State of the Parks Report" to the Congress every 2 years and preparation of resources management plans for each national park unit, which would provide a major source of data for the "State of the

Parks Report." A contract arrangement with the National Academy of Sciences is required, which will provide scientific expertise to the Park Service that they do not currently have. Park personnel would be required to work with local governmental, State, and other Federal agencies in order to solve mutual problems. Limited assistance to local governments is authorized. A limited right of consultation is given to the Secretary of the Interior with respect to direct actions by Federal agencies, including grant and loan programs to State and local governments if such actions are within or adjacent to a unit of the national park system. The Secretary would have a greater say over actions on Federal lands within the boundaries of national park units.

The bill sets up a simple consultation process designed to assure a full knowledge exchange between affected Federal Government parties as they go about their business in the vicinity of the parks. In other words, it requires that the Government's left hand know what the right hand is doing where it is in or near a national park unit. Only Federal actions having a potential for significant adverse impact on a park unit would be involved, and the initiating Federal agency would maintain the final decisionmaking prerogative in those proposed actions outside park boundaries.

The Secretary of the Interior would have 60 days to comment on such proposed actions, 60 days running from the time he has been advised of the proposed action by the particular agency.

This bill does not establish any kind of buffer zone around park units. What it does is simply to establish a requirement for interagency consultation so as to minimize the possibilities of careless or unknowing Federal actions that could degrade park resources.

Mr. Speaker, I wish to commend the many people who have worked so hard for so many years to bring this bill before the House today. But first, I must pay tribute to our colleague and member of the Interior Committee, DOUG BEREUTER of Nebraska, whose leadership, hard work, and knowledge has been the key to crafting this legislation. DOUG's intense concern with the protection of the national park system and his considerable knowledge of the problems of conflicting land use policies when they are fostered by uncoordinated Federal programs has been of inestimable value in bringing this bill to the floor of the House.

The National Park and Conservation Association has long been concerned with the steady degradation of park resources and through the fine work of Paul Pritchard, Destry Jarvis, and Laura Beaty as well as many of the National Park and Conservation Association "Park Watchers," we have been provided accurate, needed information throughout the committee's deliberations.

I would also like to commend Ron Tipton and Jim Norton of the Wilderness Society for their outstanding assistance. Finally, and not by any means the least, the excellent staff work on both sides of the aisle, which I greatly appreciate. My thanks go out to Barbara Phillips, Dale Crane, Clay Peters, and Sharon Lawrence.

Mr. Speaker, this is a modest bill, a bipartisan bill, but one we need to pass if we are to protect our great national park resources from a continuing spiral of decline.

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The public wants to see those resources protected.

Mr. Speaker, I urge all Members to vote for this bill and strike a blow for the protection of our national park system.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to H.R. 5162—not because of what it is supposed to do, but because of what it actually does. The idea behind this bill—to protect this Nation's park system, is a great one, and one that we can all rally around. But this bill does much more than that.

Have you got a park or a unit of the park system in your district? Chances are you do. Are any of your local units of government fed up with the redtape they have to wade through to get a simple road permit, or a sewer grant, or some other Federal action? If such is the case, this is not the bill for you or your constituents, because under this bill, they will have to get an OK from the local park superintendent before they receive the aid or the permission of the Federal Government. This is the key issue in this bill—it expands the authority of the National Park Service beyond the boundaries of the park system unit, creating Federal buffer zones on State, local, and private lands. Now, you will hear Members deny that this bill has any buffer zones in it. If that is so, why are we here? The National Park Service already has the authority to make decisions that protect the park, and they are making them. In the last 2 years, there has been a moratorium on acquisition of new parks, because the park service admits that they could not afford to take care of what they already had. The moneys that were being spent to buy up lots and lots of land are now going to fixing up the parks. That proves they can and are doing something about the state of the parks. But to think that your local communities are going to be asked to get an OK from the Park Service before they go ahead with a project requiring a loan from the EPA, or a permit from some other agency on their own land—just because they happen to be close to a park, should give you pause to think.

During the hearings and markup of this bill, there was one key word which, because of our inability to define it, made a number of us reject the bill. That word is "adjacent"—what does that word adjacent mean? We talked about it, and talked about it, and finally agreed that we were going to have to disagree. The reason we have to reject the word is that adjacent means lands outside the parks. And if you think your constituents have have had it with Washington decisions that affect their lives now, wait until this word "adjacent" ends up in the courts.

I think we should send a strong signal to our constituents that we are not going to once again go stumbling into their lives with this legislation. I think we should defeat this legislation and come back next year to develop a bill that really will protect the parks—I would be happy to work with the chairman of the committee in this effort to get a good bill that protects the parks as well as the State and local governments that will have to live with this very bad bill.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman from Alaska for yielding me this time.

Mr. Speaker, I rise in support of H.R. 5162.

The first state of the parks report to Congress and the testimony presented at the oversight hearings by the Subcommittee on Public Lands on this issue leave no doubt that our national parks are being degraded by both external and internal threats to our natural resources, including pollution, development, and visitor overcrowding. Adequate protections are clearly needed now to prevent further deterioration of these important areas.

Essentially, the bill requires the systematic and ongoing evaluation and management of our park resources through Park Service reports on the state of the parks and a review process by the Interior Secretary of proposed Federal actions inside and outside the park boundaries which may have adverse effects on the park resources. It is important to note that this bill does not provide any additional authority to the Secretary of Interior, nor does it apply to private actions in or near the parks.

Included in this bill is an amendment which I offered in the subcommittee to help address the current problems associated with providing certain tax benefits to landowners in return for a donation of interests in

their property for conservation purposes. This matter is clearly a Ways and Means jurisdictional issue; however, this provision is designed to merely assist landowners who are interested in such donations, by having the Secretary of Interior advise the landowner on the estimated value of his donation and its degree of contribution to the park in terms of protection and enhancement. This provision would in no way get involved in the Tax Code, but may encourage additional donations of land to our national park system, which would be helpful in light of the Federal funding reductions for land acquisition.

As an original cosponsor of Mr. BEREUTER's parks protection bill, I urge my colleagues to support this important environmental legislation in order to mitigate future threats to America's great national parks. It is also fitting to pass this legislation in tribute to my dear friend and our former colleague, Mr. Keith Sebelius, who was the original author of the state of the parks legislation.

Mr. SEIBERLING. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, I rise in support of H.R. 5162. In the increasingly complex world in which we live it is imperative that the right hand of the Federal Government know what the left hand is doing. By requiring an exchange of knowledge this legislation can only serve to enhance the decisionmaking process of the Federal Government.

I urge its adoption.

Mr. SEIBERLING. Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 6 minutes to the gentleman from Nebraska (Mr. BEREUTER), the prime sponsor of the legislation on this side of the aisle.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from Alaska (Mr. YOUNG) for yielding this time to me.

Mr. Speaker, I rise to urge each and every Member of the body to vote for H.R. 5162, the National Park System Protection and Resource Management Act of 1982.

My name is first on this bill, and, therefore, I find myself, of course, in substantial disagreement with the gentleman from Alaska (Mr. YOUNG) and with several other Members who will be speaking. I will try to make clear my reasons for that position in the next few minutes.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, I want to compliment the gentleman in the well.

As the original sponsor of the bill as it is right now, he has come a long way, and I want to compliment the gentleman for seeing the wisdom of the revitalization of the originally introduced bill.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for those comments, and indeed the legislative process has worked well on this bill; it is a better product as a result of the hearings and amendatory process.

I appreciate, first, the kind remarks of the subcommittee chairman, the gentleman from Ohio (Mr. SEIBERLING) and, second, I join him in the accolades he also offered to others.

This bill contains the contents of my second parks protective and natural resource management bill that received favorable comment and support earlier in this session, H.R. 5976. I would like to point out that there were 24 Republican cosponsors and 14 Democratic cosponsors of that bill, and remind my colleagues again that those state of the park provisions and in H.R. 5976 are key parts of this bill as well.

Now, more than ever before, we must reaffirm our commitment to the American people to preserve for all generations the precious natural and cultural resources contained within the 333-unit national park system.

More than a century ago, citizens of the United States recognized the particular blessings conferred upon them. Aware of the incredible natural beauty of the land and its contribution to the economic and emotional health of the Nation, leaders of the United States set a world precedence by preserving for all people, for all time, unique natural features of this splendid land. With the creation of Yellowstone National Park, Americans told the world of the high value they placed upon and their respect for the splendors of nature and their importance to the American way of life.

Since the establishment of Yellowstone, our national park system has grown to 333 units.

In 1854, scavengers denuded several of the sequoia trees at Yosemite's Mariposa Grove, marring them irreparably.

Now, more than ever before, the integrity of our precious national parks is threatened by the irrepressible advance of human civilization, the crushing weight of an astronomical increase in visitation and poor management or even neglect. "In the past, man had to protect himself from the forces of nature, whereas today it is nature that must be protected from man."

Threats to the parks have been documented in abundant detail by the Park Service itself. For example:

Extraction and transportation of fossil fuels and minerals near Chaco Culture National Historical Park create ground vibrations that threaten the stability of the nationally significant prehistoric structure of this park;

Solid waste disposal is degrading the water quality at Fire Island;

Sections of Mammouth Cave are closed to visitors due to the stench from polluted ground water;

Old Faithful itself is threatened by geothermal energy development within miles of it;

Spraying of 2-4-D outside the Whitman Mission National Historic Site in Washington caused partial denuding of the trees and shrubs in the park;

Construction of a road to a new visitors center by the National Park Service at Nez Perce National Historical Park disturbed graves and part of the precious archeological site.

The list, unfortunately, is almost endless. It touches the most cherished American treasures.

The man who should know the situation best, Roland Wauer, the Park Service's current Chief of the Division of Natural Resources Management, puts the situation in simple, but frightening terms. "Without question," Wauer said, "the significant resources—both natural and cultural—for which the National Park Service was established, are being degraded to an extent that if this trend continues, the parks will, in the not too distant future, be only shells of what they were originally."

We need H.R. 5162 to help reverse these dangerous trends. I believe that it provides a moderate, balanced, yet practical and responsible solution to the tremendous problems we face.

First, H.R. 5162 sets up a comprehensive data collection system covering the park system's natural and cultural resources. Just like a businessman who keeps an inventory of his grocery stock, effective and efficient management of the national park system requires nothing less. Under the guidelines of this bill, the state of the parks process which began in 1980 at the instigation of the late Representative Keith Sebelius and Representative PHILLIP BURTON would be formalized.

Wauer speaks eloquently of the need for such a formalized and comprehensive data collection process. According to Wauer:

The paucity of information about park ecosystems relates not only to resource conditions and the status of impinging internal and external activities but also to the baseline information available for planning and decision-making. Very few park units possess sufficient natural and cultural resource information needed to permit identification of incremental changes that may be caused by a threat.

Support for the state of the parks effort has been abundant. Current Park Service Director Russell Dickenson, in February 8, 1982, testimony before the Public Lands and National Parks Subcommittee said:

The State of the Parks report and its sequel represent our first systematic attempt to identify threats to resources on a service-wide basis and to develop a strategy for mitigating and preventing them. We

look to the Congress for its continued direction and support in this effort.

More than a year ago, Secretary Watt himself endorsed the report process. In a July 1981 memo to Dickenson, Watt decreed "the state of the parks analysis begun in 1980 should continue, and actions vigorously pursued to monitor, prevent or mitigate significant threats."

Resources Chief Wauer echoes that support. He noted:

The State of the Parks Report has been an unqualified success in a number of ways. . . . It has been instrumental in reminding the National Park Service of its primary mandate to protect its significant natural and cultural jewels. It has awakened the Service to the reality of the magnitude of the threats that are bombarding the parks.

Second, H.R. 5162 contains important directives to the Park Service regarding the utilization of resource management personnel. According to NPS records, "less than 10 percent of the estimated 10 million objects in park collections are actually catalogued," principally due to lack of trained staff. A recent survey of the National Capital region indicated that due to the absence of accurate catalog and inventory records, park unit managers are unaware of thefts and thus cannot account for museum property.

This inexcusable poor resource management must stop. Congress must exert some oversight over the National Park Service to insure that resource managers are indeed engaged in resource management. Provisions of H.R. 5162 would give us the information we need to make the oversight and appropriations decisions necessary to assure that this unforgiveable waste does not occur.

Finally, H.R. 5162 sets up a consultation and communications process designed to prevent or avoid unnecessary threats to park system units. It does not:

One, create "buffer zones";

Two, provide for "citizen lawsuits";

Three, give authority to the Interior Secretary to halt projects on a whim; or

Four, establish an elaborate planning process which imposes excessive burdens upon local communities surrounding a park system unit.

Although many individuals would like to establish requirements which provide iron-clad protection to all elements of the national park system, such iron-clad protection is impossible in our society. We must weigh the benefits of competing uses and balance the rights of individuals to the use of their own land, as they see fit, versus the public interest. Sensitive to the competing interests at stake, H.R. 5162 differentiates between lands publicly owned and those privately owned, and it differentiates as well between lands within the park boundaries and those adjacent to park boundaries. Only in the case of federally owned lands or waters within the park boundaries does H.R. 5162 give the Secretary of the Interior the authority to mandate any action. Certainly, a park should be a park, and should be managed in such a manner.

In all other situations, H.R. 5162 tries to establish an early warning system in order that damaging actions not occur unnecessarily or by accident.

Without the consultation process envisioned by H.R. 5162, destructive and possibly avoidable actions will continue to degrade the park system units. Admittedly, H.R. 5162 does impose some additional requirements upon the Department of the Interior and park system unit neighbors. But the requirements are modest, and realistic in light of the tremendous losses which we face if we fail to act.

For individuals who believe they have been plagued by decades of irrational and burdensome Federal interference in their lives, even the slightest additional requirements may be too much to ask. But we must have reasonable consultation and review procedures if we want to maintain the integrity of the national park system and meet the expectations of the American public for a quality park system.

The state of the parks report indicated that more than half of the threats to the parks emanate from sources outside of park boundaries. That is not surprising. Moreover, these tend to be the most serious and most potential damaging of all the threats.

If this bill, or any measure, is to truly have any hope of addressing and rectifying some of these serious matters, it must address activities outside of and adjacent to the parks.

Now there has been misrepresentation or misunderstanding on section 11 of this bill. Let me try to articulate precisely what this bill does and does not do with regard to areas outside of park boundaries.

First of all, it does not exert any control over private lands or private actions. The only actions this bill deals with are Federal actions—and even then, the bill is extremely light handed. The bill only deals with direct Federal actions of a Federal agency. It does not deal with Federal actions such as Federal licenses and Federal permits—only direct Federal actions to be undertaken by the agency. It does deal with Federal grants and loans, but only if made to a public body. It does not deal with grants or loans made to individuals, such as FHA loans, small business loans, and so forth.

Now for those few remaining Federal actions that the bill does address—that is, direct Federal actions and grants or loans to a public body—the action from that point is essentially a matter of information exchange and hopeful coordination among Federal agencies. The central idea and objective is to assure that the right hand of the Federal Government outside the parks, is aware of the needs and concerns of the left hand of the Federal Government inside the parks. This is only commonsense from an efficiency and budgetary standpoint, and certainly it makes sense from the standpoint of trying to reduce unnecessary and inadvertant damage to the parks. Under this process in the bill, in all cases outside the parks, the Federal agency proposing the action remains in the driver's seat all the way to the very end of the notification and consultation process—and finally still retains the right to go ahead with the decision it chooses. That agency is in charge from beginning to end. It only has to notify and consult for a short period along the way. This period of notification is designed to run parallel with any other similar review and consultation period which may already be inherent in or required for the action, separate and apart from this bill. So the allegation of significant further time delays as a result of this bill's provision is without much foundation.

As a final point of misunderstanding the only Federal actions which would trigger any part of this notification and consultation process in the first place are those deemed to have potential to significantly adversely affect the park. Examples given by letter earlier that indicate that grazing permits or road repairs outside the park could be affected or held up by this bill are simply totally without foundation. I am a principal author of this bill, and I would not for a minute condone such an interpretation; nor do I believe the bill text could possibly be so construed. The bill in no way would permit such obstructionism as is implied by examples such as this.

Our parks desperately need protection from adverse influences originating outside their boundaries. Of that there can be no doubt. This bill merely asks that certain significant Federal actions outside be reviewed, with the idea that they finally be carried out in a manner that is least damaging to the parks.

I do not think that that is too much to ask. I certainly do not believe that the American public would want us to do any less.

I think this Federal coordination and review section is a very responsible portion of this bill; I urge my colleagues to understand it as it is factually presented in the bill, and to support it and the entire bill. As I said these foregoing comments are specifically related to section 11 of the bill—the part dealing with external Federal action outside the park by an agency other than the Department of Interior.

Now I want to comment specifically on contentions circulated in a letter of opposition to the bill.

It is alleged that bill would "disrupt and jeopardize communities and activities located outside parks."

The bill neither disrupts nor jeopardizes any activity. The bill does not alter or add any authority of the Interior Secretary.

There is no authority in the bill for the Secretary to in any manner veto, prohibit, alter or even delay any Federal project.

The bill does not give the Secretary any jurisdiction over any action, project, activity, or agency, which the Secretary does not already have such authority over.

The bill does not directly affect any non-Federal lands. The review process set up by the bill applies only to direct Federal agency actions. In fact, at the same time that the bill would require Federal agencies to "fully consider" the recommendations of the Secretary as to protection of park resources, the bill also would require the Secretary to "fully consider" the adopted plans of any city, county, or State comprehensive development plan before making his recommendations. Thus, the bill gives local communities new, formal access to the Secretary's decisionmaking process involving projects in and next to national parks.

It is alleged that the bill would permit the Secretary to delay Federal projects.

Anticipating the need to avoid delay of Federal projects the bill carefully, and explicitly requires that the review process whereby the Secretary comments on Federal projects occur "during the normal procedure utilized by any Federal agency in deciding to undertake or approve any Federal action," but within 60 days. Thus, the Secretary must accommodate the decisionmaking process of each agency, and must fit his recommendations into that agency's planning process. There is no opportunity to delay any Federal project by this provision.

It is alleged that the bill is "flawed" because it treats "each and every management unit of the National Park Service as being the same."

By law, each designated unit of the national park system is the same, in the sense that all units are governed by the NPS Organic Act of August 25, 1916. As each new unit of the system is established by Congress, the statute references the 1916 act, and requires that the unit be managed in accordance with the 1916 act's provision.

Further the NPS General Authorities Act of 1970 declares that the areas of the national park system:

> Though distinct in character, are united through their interrelated purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superb environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States.

It is this dear colleague letter, not the present bill, which is flawed.

The specter of "buffer zones" is raised by stating that "the potential exists in this legislation to create such zones."

This is a totally false contention. The bill in no fashion could be interpreted as creating, authorizing, or even indirectly promoting anything that could be likened to a buffer zone. Since no new authority is given the Secretary to do anything except comment about Federal activities proposed to occur on lands adjacent to parks, there is no "buffer" in the bill. The Secretary may "intervene" only in the sense that he may make his comments known to the proposing agency of the Federal Government.

It is argued that because the bill does not define the term "adjacent" the bill is therefore a "sloppy way of legislating."

I would point out that the committee report deals extensively with the concept of "adjacent" very clearly limiting it to lands next to, close to, or in the vicinity of, though not necessarily contiguous with the park boundary. The report further notes that a rule of reason should apply, and that each project should be reviewed on a case by case basis as to whether it is "adjacent." Since the national park system is so diverse, it would be impossible to write a single definition of "adjacent" which would be appropriate for every situation. Any attempt to set a specific linear distance beyond which a project is no longer adjacent ignores the diversity of the system and the complexity involved in managing remote, wilderness areas and crowded urban parks; archeological ruins and homes of famous Americans.

Since the bill conveys no new substantive authority to the Secretary, nor imposes no new constraints on any other Federal agency, the review procedure cannot be described as burdensome and thus an impossibly prior definition of "adjacent" becomes unnecessary in so far as the language of the bill is concerned.

With park units in virtually every State and congressional district, the burdens are shared by all of us, for the benefit of all of us. Just as neighbors of Yellowstone are called upon to help preserve Yellowstone for all other Americans, residents of my district are also asked to help preserve Homestead National Monument for the benefit of their fellow Americans.

More than 282 million people visited units of the national park system in 1980. Imagine what American life would be like if our forefathers had not the wisdom to preserve for us these unspoiled natural treasures. The presence of these natural preserves has enriched the lives of generations of Americans. We must not rob our children of that rich experience we have shared. Unless we act now, that possibility may become an actuality.

Republican President Theodore Roosevelt, one of America's great conservationists, once provided sound advise which applies even more today. Roosevelt said:

> . . . The greatest questions before us are not partisan questions, but questions upon which men of all parties and all shades of opinion may be united for the common good. Among such questions . . . the conservation of natural resources stands first. It is the bottom rung of the ladder on our upward progress toward a condition in which the Nation as a whole, and its citizens as individuals, will set national efficiency and the public welfare before personal profit.

The SPEAKER pro tempore. The time of the gentleman from Nebraska (Mr. BEREUTER) has expired.

Mr. SEIBERLING. If the gentleman needs additional time I will be glad to yield the gentleman another 3 minutes.

Mr. BEREUTER. I thank the gentleman.

Mr. CHENEY. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Wyoming.

Mr. CHENEY. I would like to pursue and ask the gentleman what the term "adjacent to" does mean as used in the legislation.

Mr. BEREUTER. This is not an example of shoddy legislation in that respect, I would have to say, although that has been so alleged. We looked longer and harder at that specific definition than anything else.

We finally came to the conclusion that the best way to approach it was to simply refer to Black's Law Dictionary's defintion of "adjacent to" because what is "adjacent to" for one factor may be, and is, very different for another.

So really it is impossible, I think, to responsibly come to a precise definition in acreage or distance on diverse matters and so we are relying on Black's Law Dictionary's definitions.

Mr. CHENEY. But, of course, Black's Law Dictionary simply says "nearby."

Again, I think this brings up a very important point in the bill and that is the committee was unable to arrive at an agreement as to exactly what the scope and the jurisdiction of the bill really was because they never did define the term "adjacent to."

I thank the gentleman for yielding.

Mr. BEREUTER. I would say to the gentleman from Wyoming and to others that this is a major part of the controversy. I think we, on the com-

mittee, came ultimately to the only responsible decision about a definition for "adjacent to." The only way you can approach it is to provide that kind of discretion in interpretation.

Since we are not giving veto authority to Federal agencies, to the Secretary over other Federal agency actions outside a national park, and since we are not affecting the grant process through a secretarial veto, I think that does provide a very big part of an answer to the gentleman's concern.

In fact, I would like to say to the gentleman that due to part of the legislative process that unfolded, the gentleman from Idaho (Mr. CRAIG) presented an amendment which now requires for the first time, that communities will have to have their comprehensive development plans considered by the Secretary. Their adopted comprehensive development plans will be considered.

We are simply not going to have one bureaucrat going to another in some Federal office building in Denver or Atlanta and stopping or delaying an EPA sewer grant to a community on a low-level judgmental basis—and with no consideration of community plans and input. Now we are going to have the community's decisions taken into account in a responsible kind of review and consultative process.

Mr. FISH. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I an very pleased to yield to the gentleman from New York.

Mr. FISH. I rise in support of H.R. 5162, the National Park System Protection and Resources Management Act of 1982. The National Park Service was established in 1916 to "conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such a manner and by such a means as will leave them unimpaired for the enjoyment of future generations." This remains the Park Service's principal purpose.

H.R. 5162 will comprehensively address problems associated with protection of the natural and cultural resources of the National Park System, problems that came to light in a state of the Parks Report in 1980. This measure is vital to assure continued adherence to the fundamental mission of the National Park Service. Current policies prevent land acquisition for already authorized national parks: May increase air pollution in and around parks, allow development destroying historic sites around national monuments, and allow commercial trapping in some 39 parks. We must not sit idly by while our national parks begin to disintegrate.

H.R. 5162 would require a series of internal Park Service reports to assess the condition of resources, identify potential problems, conduct research and offer educational programs for park visitors on park resource problems. This measure would also require a review process, whereby any proposed Federal actions both inside and outside park boundaries would be commented on by the Secretary of the Interior concerning their potential impact on park resources. This would assure the American people of a thorough understanding and responsibility of our park system.

As a strong supporter of our environment and the preservation of our national parks, I urge my colleagues to vote in favor of H.R. 5162, so that we would be better able to work toward the successful protection of our national parks.

Mr. BROWN of Colorado. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Colorado.

Mr. BROWN of Colorado. I thank the gentleman from Nebraska for yielding.

I would put the question to the gentleman: If indeed a project that is located outside of a park boundary has not been reviewed by the Federal agencies as required in the bill, how would the enforcement provision of this legislation come into play?

Mr. BEREUTER. First of all, that would be brought to the attention of the Congress. But there are no specific provisions for citizen lawsuits, so any kind of action for noncompliance with statutory requirements and resulting procedures could also take place in this instance spoken to by the gentleman from Colorado.

I would say to the gentleman, incidentally, that that review period runs concurrently with the normal review, so we are not adding another 30 days or 60 days to the process.

The SPEAKER pro tempore. The time of the gentleman from Nebraska (Mr. BEREUTER) has again expired.

Mr. YOUNG of Alaska. Mr. Speaker, may I inquire, how much time do I have left?

The SPEAKER pro tempore. The gentleman from Alaska (Mr. YOUNG) has 9 minutes and 40 seconds remaining.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. BROWN).

Mr. BROWN of Colorado. Mr. Speaker, I appreciate the opportunity to address the House on H.R. 5162.

I oppose the measure as it is now drafted, but in that process I would like to commend the gentleman from Ohio (Mr. SEIBERLING) and the gentleman from Nebraska (Mr. BEREUTER) who have worked so long and hard on this measure.

It contains many good parts that speak in eloquent terms toward their fine efforts to promote the needs of our parks and the environment that we all honor.

The concern I have is that the bill does not adequately define the term "adjacent." The measure provides for a review process to tal . place with regard to Federal actions on areas outside of the parks.

Not knowing precisely where that review is required and where it is not required is a major problem. It is a major problem because every action, every project that is adjacent to a park or a monument, be it 1 mile or be it 100 miles away is in jeopardy.

It may be a project 100 miles away gets all the way to the construction phase and then someone raises the issue of whether or not it is adjacent.

In other words, what we have done is mandated local planning and State planning be worked in conjunction with Federal actions and then failed to tell them which ones come under the act and which ones do not.

We have said the developers or project planners have to go ahead and obtain local and State approval in certain instances but have not been willing to tell them whether they come under the purview of this act or not.

Someone conceivably could start a project and be at the point of putting a shovel in the ground or be almost complete and find that they have not complied with the act when they should have.

This is a nightmare for administration. Surely any strong bill, and this is a strong bill, should have clearly defined terms.

Surely we should know where this applies and where it does not.

It is in everyone's interest to know what adjacent is. Without that definition, the entire bill invites litigation, it invites delay, and it invites bureaucratic redtape. It is an error that must be corrected.

I urge my colleagues to vote down this bill in its present form and let us come back and pass one that provides a clear definition, because the basis of the bill and its purpose clearly is good.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Colorado. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I would like to give my best effort to establish some of that legislative history here on the term "adjacent to."

The report deals extensively with this definition. It very clearly is limiting it to lands next to, close to, or in the vicinity of, though not necessarily contiguous.

Further in the report it says that the rule of reason should apply and that each project should be reviewed on a case-by-case basis as to whether or not it is adjacent.

But most importantly, I need to say that since the bill conveys no new substantive authority to the Secretary, any possible uncertainty on the appli-

cability of the term "adjacent to" calling for discretion should not be a troublesome definition.

Mr. SEIBERLING. Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. UDALL), chairman of the Committee on Interior and Insular Affairs.

□ 1250

Mr. UDALL. Mr. Speaker, one of the really good things about our country is the national park system. We started it 110 years ago with Yellowstone, and we built it into one of the grand things in the whole world. It does need protection and it does need attention. The gentleman from Nebraska (Mr. BEREUTER) has made such a great contribution on many fronts. He is to be commended for bringing forward this legislation. I congratulate him and the chairman of the subcommittee, the gentleman from Ohio.

Mr. Speaker, I strongly support this measure and I hope that it will be adopted.

Mr. SEIBERLING. Mr. Speaker, I yield 4 minutes to the gentleman from Montana (Mr. WILLIAMS).

Mr. WILLIAMS of Montana. Mr. Speaker, we have celebrated the 100th anniversary of America's national parks system. During these past 100 and some years, it has been the duty of the Federal Government, demanded by the public, to preserve the natural and cultural resources of these national gems. For all of those 100 years our national parks have, as is described in this bill, provided a source of pride, inspiration, and enjoyment for the people of the United States. But now, a century after the establishment of the first park, Yellowstone Park in Wyoming and my home State of Montana, we find that that park and other national parks in the United States are on the threshold of trouble. We had several months of hearings on the state of the national parks, and we find that they are in trouble both from within and without: Increased visitor use, industrial and commercial activity near the park boundaries, air and water pollution, energy development, urban encroachment—and the troubles go on.

If we are to adequately protect our parks, we need to establish parameters within which the Park Service, the Secretary of the Interior, and the others, can move to protect the natural and cultural resources of these national parks.

There is a present lack of parameters, a present lack of direction, and it is that lack of direction that has invited litigation. It is the lack of direction that has invited confusion.

I have a great national park in the northern part of my district, Glacier National Park. Lawsuits have been pending in and around Glacier National Park for most of the past decade because there are no established legal parameters which have passed the Congress of the United States precisely defining how the parks are to be preserved, what the lines of communications are, what is appropriate to the protection of the park and what is not.

The Park Service is uncertain, the Secretary of the Interior is uncertain, and so is this Congress uncertain as to precisely how we are going to preserve these national parks now on the threshold of trouble. This bill is a prudent effort toward resolving the complexities, the confusion, which surround the administration of the parks.

So as one who comes from a State which has our share—thank you—of the national parks, I rise in support of this legislation. It will not only assist the parks, it will assist those of us who live near the parks and need precise language to know what is and what is not reasonable for the continued preservation and enjoyment of these parks.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS of Montana. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding.

Mr. Speaker, I thank the gentleman for his remarks and say that the gentleman's remarks on our parks are excellent and certainly very much on the point. Of course, that is to be expected from the distinguished gentleman from Montana. I would say that he has put his finger directly on what is likely to be the outcome of this bill: less litigation, less controversy between Federal agencies and between Federal agencies and adjacent landowners, both public and private.

The Congress would establish a process here whereby some of the action that once led to the Sagebrush Revolution will not reoccur with respect to Federal action related to our national parks. Therefore, I greatly appreciate the gentleman bringing those facts to the attention of the body.

Mr. WILLIAMS of Montana. I thank the gentleman.

Mr. Speaker, it is precisely because this legislation will define the parameters within which the Park Service and the Secretary of the Interior are allowed to operate and thus begin to end the confusion surrounding what actions can be taken or cannot be taken to preserve our national parks that I support this legislation.

Mr. SEIBERLING. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I want to commend the chairman of the subcommittee, the gentleman from Ohio (Mr. SEIBERLING), the gentleman from Nebraska (Mr. BEREUTER), the gentleman from Montana (Mr. WILLIAMS), and others, who have worked so long and hard on this park protection legislation.

It is very important, Mr. Speaker, I think, that the Members understand that with regards to the report on the parks and the threat to our parks problems will not all be solved by this initiative; however, I think it will take us off a path of crises management and intervention to one, I hope, of providing some foresights so that we can eliminate the potential crises that have arisen in recent years and are very likely to occur in the decades ahead as we struggle to preserve the integrity and the environments in these national parks.

Mr. Speaker, it is especially important at this point to recognize that because of development, because of the growth, new threats will persist and that this legislation offers much needed planning foresight and specific action to help reduce and limit harmful impacts to our national parks. I strongly urge its passage today.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 6 minutes to the gentleman from Wyoming (Mr. CHENEY).

Mr. CHENEY. I thank the gentleman Alaska for yielding.

Mr. Speaker, I certainly understand the wishes and the desires of my colleagues on the Interior Committee and the chairman of the subcommittee, Mr. SEIBERLING, and Mr. BEREUTER, who offered this legislation. But I must say, in spite of their good intentions, this is an extremely bad bill. I speak as someone who, of course, represents the entire State of Wyoming, including two of the Nation's premier national parks, the Grand Teton National Park, and Yellowstone.

I am aware of the fact that we do have in certain areas threats arising to parks. But the fact of the matter is that this particular piece of legislation does nothing to address those problems and, in spite of the talk and the debate we have had this morning and suggestions by some of my colleagues that the language is precise and that this is a well-tuned, carefully crafted piece of legislation, that simply is not the case.

Of course, the major departure that is embodied in this bill is to give the Park Service some say, even on a consultative basis, of what happens in areas outside of park boundaries. The term "buffer zone" has been used. In the past, the Congress has decided not to create buffer zones; and, to be precise, this does not create buffer zones directly, either, but it does give the Park Service some control over what goes on outside park boundaries, a say in the process, if you will.

The difficulty, of course, with that is that we do not define in the bill how far that jurisdiction should reach. There is no definition for "adjacent" written into this legislation and, in

spite of our efforts in committee to try to come up with a way to define what "adjacent" should mean, we simply were not able to do it. So it is not spelled out in the bill.

I would like, if I might, to cite an example of the kind of difficulty we have encountered over the years in a State like Wyoming in dealing with badly crafted legislation that merely requires one Federal agency to consult with another before proceeding to action.

We have tried for years in Wyoming to build something called the Cheyenne water project to provide water for the municipal needs of the people in the city of Cheyenne, Wyo. Without a single dollar of Federal money being involved, and using water that belonged to the city of Cheyenne, and simply requiring a pipeline to be run across U.S. Forest Service land and a permit therefore to be issued by the Forest Service, we found ourselves absolutely tied up in knots and redtape because of a consultative process that is required in a certain piece of Federal legislation. The project that began to seek permit authority in 1974 finally got approved in the summer of 1982. The result of that 8 years of delay is to double the cost of the project for the citizens of the State of Wyoming and the city of Cheyenne, merely because one agency, the Forest Service, was required to consult with another during the course of that process. And, of course, in the end we ended up with numerous lawsuits and administrative delays that have served to play absolute havoc with the project that, in the end, was approved anyway but at a far higher price than was necessary.

I think it is extremely important that we understand that this is one of those bills that, if it were to be brought up in the light of day, early in the session, when there was more time to think about it, there is no question but that this body would reject it. It is coming up in the final week of the session under suspension of the rules, a significant grant of additional authority to the Park Service in a way that I think is fundamentally damaging to the kinds of wise management practices we would like to see.

□ 1300

Finally, let me point out again that the administration is strongly opposed to this legislation.

Mr. Speaker, I ask unanimous consent to include at this point a letter signed by the acting Secretary of the Interior opposing this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The letter is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 27, 1982.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is to provide you with the Department's views on H.R. 5162, the "National Park System Protection and Resources Act of 1982", as ordered reported by the Subcommittee on Public Lands and National Parks.

We remain strongly opposed to this bill for many reasons, most of which were expressed in testimony on similar legislation before the Subcommittee on Public Lands and National Parks by National Park Service Director Russell Dickenson, March 30, 1982.

We fully support the goals and intent of the bill: to identify threats and provide for the highest possible degree of protection, preservation and enhancement of the natural and cultural resources within the National Park System. As Secretary Watt and National Park Service Director Dickenson have reaffirmed on many occasions, we are committed to these goals and are doing everything necessary and possible to identify present and potential threats and damage, mitigate existing impact and prevent future harm to those resources. It is largely for these reasons that we have suspended the acquisition of new parklands. We believe our highest priority must be to repair and care for our existing park units, to preserve these national treasures for future generations to enjoy and appreciate as we have.

We believe, however, that H.R. 5162 is unnecessary, duplicates existing laws and administrative programs, creates more red tape, and imposes inflexible requirements on resource management efforts that should remain flexible enough to apply available staff and funds to changing needs. It attempts to impose statutory mandates on what are properly discretionary administrative functions.

The bill would require that limited program funds be expended on new studies and reports, which would replicate work already being done and would reduce the personnel and funds needed to mitigate potential threats and restore the National Park System's lands and facilities. We feel strongly that mitigation and restoration must take precedence over duplicative studies and mandated reports.

H.R. 5162 and certain statements made in support of the bill greatly overstate the degree to which our parks are threatened. They suggest that little or no authority exists to identify or address problems, and that little is being done to protect park resources. Some appear to question the concern, commitment, integrity and professionalism of this Department and the National Park Service (NPS).

For example, under our existing resources management program, every unit of the National Park System will have a resources management plan. These will be done as part of the process of developing general management plans for each area, as required by section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a-7). The requirement in H.R. 5162 that resource management plans be prepared for every unit of the National Park System is therefore unnecessary.

Under H.R. 5162, a detailed biennial "State of the Parks" report must be submitted to Congress. We recognize that current law imposes no reporting requirement. However, we have always complied with Congressional requests to provide information on national park and other land use issues and will continue to do so. We do not believe a reporting requirement needs to be legislated.

Furthermore, we are very concerned about the adverse budgetary and personnel impacts which will inevitably result from many of the provisions of this legislation. For example, the requirement that the National Park Service contract with the National Academy of Sciences for a study of research and resource management programs. Completion of these studies and reports will take resources away from other, more essential tasks and would not significantly aid the park protection program. We would obviously welcome any advice of the Academy, but we do not believe such a study should assume the high priority it would enjoy by being mandated in law.

Within the requirement in section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA) that an environmental impact statement be prepared for major Federal actions, we do not see the need for the provisions regarding Federal consistency and consultation in H.R. 5162. In our opinion, Federal agencies must be aware of the effect of their actions on park resources, and the NEPA process must be carefully followed with no shortcuts. H.R. 5162 duplicates existing provisions and creates additional burdens, without commensurate benefit.

We also recognize the need for regional consultation, cooperation and planning that is addressed in this legislation. However, general management plans for park units and the accompanying environmental documents are not adopted and implemented without public input to the process. We believe the NEPA process and our administrative initiatives obviate the need for detailed legislation which mandates specific personnel and training actions.

In our opinion, the key to protecting the park resources is "conflict resolution through cooperative management." This means working hand in hand with other Federal agencies, State and local units of government, corporations and private entities, to protect natural and cultural resources within our parks. By voicing its concerns and suggesting solutions, the NPS has established itself as a partner in a wide variety of land use decisions. The Island Park geothermal program is but one instance where this approach has been used successfully. It illustrates that we have the authority, and are using it, to coordinate land use activities and avoid or mitigate harmful effects.

In addition, elements of the Administration's Land Protection Policy will require cooperation from local governments and adjacent landowners. As each park unit develops a Land Protection Plan, specific goals will be identified where regional cooperation can accomplish resource protection in the park. We do not believe any additional legislation is necessary.

The legislative mandates about policies and guidelines to assure that "biosphere reserves" and "world heritage sites" receive priority in resource protection, as well as the land classification, public information program, and employee training requirements, are more appropriately left to administrative discretion and the development of budgetary priorities. They are inappropriate as inflexible legislative mandates.

As we stated in our testimony on H.R. 5552, a similar bill:

"The solution to protecting our park resources is a shared responsibility. Our concern about protecting our National Park System from threats arising outside of Park boundaries must also become a State and local concern as well. This is the challenge of the 80's—to become "Good Neighbors" with our State and local governments, with the full expectation that they, too, will be our good neighbors."

We can protect park resources with the support of other Federal, State and local governmental agencies—acting in a spirit of cooperation and negotiation, and with the support of Congress for budgetary initiatives of the Secretary for funds to improve the parks. We are already pursuing a strong protection program, and we intend to continue and amplify these efforts. Additional legislation, such as H.R. 5162, is neither necessary nor desirable.

The Office of Management and Budget has advised that the enactment of this legislation would not be in accord with the program of the President.

Sincerely,

DONALD PAUL HODEL,
Acting Secretary.

Mr. CHENEY. Mr. Speaker, I do hope that if the bill should see the light of day and be approved by the Congress that it would be vetoed by the President.

I would strongly urge, Mr. Speaker, that all my colleagues think very carefully about this particular piece of legislation and that we reject it as well intended, but poorly drafted.

Mr. BROWN of Colorado. Mr. Speaker, will the gentleman yield?

Mr. CHENEY. I am happy to yield to the gentleman from Colorado (Mr. BROWN).

Mr. BROWN of Colorado. Mr. Speaker, I would like to present a hypothetical situation to the gentleman to see if we can get some handle on the impact of this bill.

Let us assume that there is a project, a water project or a sewer project or some other project, located 50 miles away from a national monument or a national park. Assume that project is ready to start operations and it requires an easement across Federal land. At that point, after the project is completed, is it possible that project then could be stopped because they have not conducted the review?

Mr. CHENEY. As I interpret the legislation, I would believe that it would be appropriate at that point for somebody that objected to bring suit in Federal court and challenge the project on the grounds that they had not complied with the provisions of this act.

Mr. BROWN of Colorado. And their basis would be that that area, maybe even 50 miles away, is adjacent to a unit?

Mr. CHENEY. That is correct.

Mr. BROWN of Colorado. So our failure to define adjacent may cast a cloud over any activity, even one up to a hundred miles away from the park unit.

Mr. CHENEY. I believe that is correct.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. CHENEY. I am happy to yield to the chairman of the subcommittee.

Mr. SEIBERLING. The analogy that the gentleman used, I think, is not appropriate, because he cites a Federal agency that has the power to grant or withhold a permit to run a pipeline across a national forest.

This bill gives no additional authority to the Park Service in areas outside the boundaries of the parks. It merely says that the agency that is considering action in adjacent areas will inform the Park Service and give them an opportunity to comment and make recommendations, and then it is up to the agency to decide what to do.

The SPEAKER pro tempore. The time of the gentleman from Wyoming (Mr. CHENEY) has again expired.

Mr. SEIBERLING. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me just say that the analogy that the gentleman from Colorado (Mr. BROWN) just made is also not appropriate for the simple reason that there is an express exemption in the bill for maintenance or rehabilitation of existing structures, so no one would even have to inform the Secretary about them.

Now, we heard a lot of talk about how the word "adjacent to" is a vague word. Of course, what it means has to be decided in the context of each situation, in other words, what is nearby and what is not.

If this bill gave the Park Service the authority to stop Federal action in areas adjacent to the parks, then it would become critical; but it does not give them any such authority. All it does is say that the Federal Government's right hand should know what the left hand is doing. If there is any doubt about whether a particular action by a Federal agency will adversely impact a national park, then the simple solution, under this bill, is to inform the Secretary of the Interior and let him comment on it and then decide whether his comments have any significance or not. If the agency decides they do not want to conform to the Secretary of Interior's comments or recommendations, the agency can go on its way rejoicing. So that red herring about the words "adjacent to" really does not have any substance.

The other aspect is, of course, that the administration opposes this bill. The gentleman from Wyoming said this is a power grab by the Park Service. Yet the Park Service itself opposes it. Why is the Park Service opposing it? Because every bureaucracy objects to the Congress telling them what to do. This bill simply tells the Park Service, "First, you should do what you should be doing all along anyway, monitoring these resources and coming up with a report to Congress periodically on how to protect them and second, other Federal agencies should tell you what they are planning to do in or near any national park before they do it so that you can tell them whether there are any implications with respect to damages to the national parks."

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I am glad to yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding.

I think the gentleman's points are exactly right.

If some Members who live adjacent to the large national parks in the American West feel they must express their caution by speaking and voting against the bill, I guess I understand that need, but this bill is not poorly crafted. It has had proper thought and action. The definition for "adjacency to" is adequately addressed by the committee report and it is important to realize that we are not granting vast new authority. Basically we are asking for review and consultation and that is a very reasonable expectation. Reason in the application is required.

Mr. CHENEY. Mr. Speaker, would the gentleman yield on that point?

Mr. SEIBERLING. I am glad to yield.

Mr. CHENEY. Mr. Speaker, I would be happy to ask either one of the gentlemen, so we can clarify for the legislative record, what the term "adjacent to" means within the context of this bill?

Mr. SEIBERLING. Well, Black's Law Dictionary says it means nearby and sometimes it means contiguous.

Mr. CHENEY. Is nearby clearer than adjacent?

Mr. SEIBERLING. "Nearby", in retrospect, might have been a better term to use and if the Senate wants to amend the bill to say "near" or "nearby" instead of "adjacent to", that is OK with me.

Mr. CHENEY. Does nearby mean 1 mile or 10 miles or 100 miles?

Mr. SEIBERLING. It all depends on the context in which the question arises. In Washington, D.C., something in the vicinity of Ford's Theater, which is a unit of the national park system, if it is in the same block would probably be adjacent or nearby. If it is down the street two or three blocks, it probably would not be. If it is out in Wyoming and it is 5 miles away from the Teton National Park, but fully in view of it, it might be adjacent or nearby. So it all depends on the context in which the question arises. But it does not really matter, because this bill does not give the Park Service the authority to block anything even if it is adjacent to a national park.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I am happy to yield.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding.

You know, the gentleman from Wyoming and this Member would be old men if we tried to come up with a better definition of adjacency.

The fact of the matter is that we cannot specify that "adjacent to" should mean 100 feet or that it means 3 miles. The proper interpretation depends upon the nature of what project or factor is being considered. The application of reason is essential under these circumstances.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, I would like to ask the gentleman—I sat here and listened to the questions from the various Members and the answer has always been, they already have the authority to do that anyway, so this bill does not make any difference.

Why do we have a bill if all these agencies already have the authority to do it? It just seems to me like it is putting a long hook into the bill with absolutely no teeth in it.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

Mr. SEIBERLING. Mr. Speaker, I yield myself 1 additional minute.

Mr. Speaker, I would just like to respond to the gentleman. The Park Service does have the authority to make a periodic "State of the Parks Report" and to monitor the parks, as provided in this bill, but they do not do it, and the reason they do not do it is because no one is making them do it.

And, of course, the other agencies have authority to inform the Park Service of their actions, but they do not regularly do it; so this bill simply says, in the future tell the Park Service what you are considering doing next door to a park before you take the action. It does not result in any significant delay of agencies' actions, because it is all part of their normal procedural process anyway.

Mr. LUJAN. Mr. Speaker, if the gentleman will yield further, I was referring to the answer given to the gentleman from Colorado on this question; whether the Forest Service could stop a pipeline by this legislation. The gentleman said, "well, they can do it now."

Every answer has been that way and it just seems to me like we are cluttering up the books with an unnecessary law that everybody has already as much authority that they need and here we are giving them the authority for something they already have.

Mr. SEIBERLING. Well, the record is clear as to the necessity for this type of legislation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

I think the gentleman from New Mexico has spoken very clearly. There is no need for this legislation. This is the beginning of another nightmare, the beginning of interference by a Federal agency within the Park Service to address the local landowner, the private holders, the State holders and the State agency holders.

I submit, Mr. Speaker, we do not need this legislation. If the Park Service is not acting correctly now, then it is up to this Congress to oversight, which we have the authority to do, to bring them before us and request the information which we are seeking in this legislation.

The Park Service would be involved with the local landholders, the State landholders and be involved in adjacent land dealings, whatever project they may be.

Let us use the case if we had a cement factory proposed 50 miles away from a hydropower site. We could not do it without the park's approval.

I urge Members to vote no on this legislation.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 5162, as amended.

The question was taken.

Mr. CHENEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, in which the concurrence of the House is requested, announced that the Senate had passed with an amendment a bill of the House of the following title:

H.R. 6976. An act to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons).

The message also announced that the Senate insists upon its amendment to the bill (H.R. 6976) entitled "An act to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons)," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. THURMOND, Mr. HATCH, Mr. SPECTER, Mrs. HAWKINS, Mr. BIDEN, Mr. DECONCINI, and Mr. HEFLIN to be the conferees on the part of the Senate.

The message also announced that Mr. TOWER and Mr. FORD be additional conferees, on the part of the Senate, on the bill (H.R. 5890) "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes," solely for the purpose of considering section 5.

FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT OF 1982

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5121), as amended.

□ 1310

The Clerk read as follows:

H.R. 5121

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Federal Oil and Gas Royalty Management Act of 1982".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Purpose.
Sec. 3. Definitions.

TITLE I—FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

SUBTITLE A—ROYALTY MANAGEMENT

Sec. 101. Federal royalty management system.
Sec. 102. Duties of interest holders, lessees, operators, reporters and motor vehicle transporters.
Sec. 103. Prompt disbursement of royalties.
Sec. 104. Explanation of payments.
Sec. 105. Liabilities and bonding.
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SUBTITLE B—ENFORCEMENT AUTHORITY

Sec. 111. Hearings, investigations.
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Sec. 113. Audits.
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Sec. 116. Interest charges.
Sec. 117. Injunctions and specific enforcement authority.
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TITLE II—STATES AND INDIAN TRIBES
Sec. 201. Application of title.
Sec. 202. Contracts, cooperative agreements, and confidential information.
Sec. 203. State suits under Federal law.
TITLE III—GENERAL PROVISIONS
Sec. 301. Secretarial authority.
Sec. 302. Reports.
Sec. 303. Relation to other laws.
Sec. 304. Effective date.
Sec. 305. Authorization of appropriations.
Sec. 306. Compliance with Budget Act.
Sec. 307. Statute of limitations.
TITLE IV—REINSTATEMENT OF LEASES AND CONVERSION OF UNPATENTED OIL PLACER CLAIMS
Sec. 401. Amendment of Mineral Lands Leasing Act of 1920.

PURPOSE

SEC. 2. It is the purpose of this Act—

(1) to clarify, reaffirm, and expand the authorities and define responsibilities of the Secretary of the Interior to implement a royalty management system for oil and gas leases on Federal lands, Indian lands, and the Outer Continental Shelf;

(2) to require the development of enforcement practices that ensure the prompt and proper collection and disbursement of oil and gas revenues owed to the United States and Indian lessors and those inuring to the benefit of States;

(3) to fulfill the trust responsibility of the United States for the administration of Indian oil and gas resources; and

(4) to effectively utilize the capabilities of the States and Indian tribes in developing and maintaining an efficient and effective Federal royalty management system.

DEFINITIONS

SEC. 3. For the purposes of this Act (other than title IV of this Act), the term—

(1) "Federal land" means all lands and interests in land owned by the United States which are subject to the mineral leasing laws of the United States, including mineral resources or mineral estates reserved to the United States.

(2) "Indian allottee" means any Indian for whom land is held in trust by the United States or who holds title subject to a Federal restriction against alienation.

(3) "Indian lands" means any lands or interest in lands of an Indian tribe or Indian allottee—

(A) held in trust by the United States or which are subject to a Federal restriction against alienation, and

(B) for which the leasing or other disposition of oil or gas resources is administered by the Secretary,

except that such term does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539).

(4) "Indian tribe" means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians, including the Metlakatla Indian Community of Annette Island Reserve, for which land or interest in lands is held by the United States in trust or which is subject to Federal restriction against alienation.

(5) "Interest holder" means any person who holds any interest in, or who owes any royalty or other payment to the United States under, an oil and gas lease on Federal or Indian lands or on the Outer Continental Shelf.

(6) "Lease" means any contract, profit share arrangement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law of the United States that authorizes exploration for, or extraction and removal of, an oil or gas resource.

(7) "Lessee" means the person to whom a lease on Federal lands, Indian lands, or the Outer Continental Shelf has been issued or assigned.

(8) "Mineral leasing law of the United States" means any Federal law administered by the Secretary authorizing the disposition under lease of an oil or gas resource.

(9) "Oil or gas resource" means any deposit of oil or gas in or on Federal, or Indian lands or the Outer Continental Shelf.

(10) "Outer Continental Shelf" has the same meaning as provided in the Outer Continental Shelf Lands Act.

(11) "Person" means any individual, firm, corporation, association, partnership, consortium, or joint venture.

(12) "Operator" means any person, including a lessee, who has control of, or who manages operations on, an oil and gas lease site on Federal or Indian lands or on the Outer Continental Shelf.

(13) "Reporter" means any person who transports or processes oil or gas from a lease on Federal or Indian lands and who has an obligation to report to the Secretary information concerning volumes of royalty oil or gas transported or processed prior to the point of royalty computation or first sale.

(14) "Royalty" means—

"(A) any payment accruing to the United States or an Indian tribe or allottee under an oil and gas lease based on the value or the volume of the production of oil or gas removed or sold from a lease; and

"(B) any payment designated as a "minimum royalty".

(15) "Secretary" means the Secretary of the Interior.

(16) "State" means any State of the United States.

(17) "Lease site" means any lands or submerged lands, including the surface of a severed mineral estate, on which exploration for, or the extraction and removal of, oil or gas resources is authorized pursuant to a lease.

TITLE I—FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

SUBTITLE A—ROYALTY MANAGEMENT

FEDERAL ROYALTY MANAGEMENT SYSTEM

SEC. 101. (a) The Secretary shall establish a comprehensive inspection, collection, and fiscal and production accounting and auditing system to provide the capability to—

(1) accurately determine oil and gas royalties, interests, fines, penalties, fees, deposits, and other payments owed to—

(A) the United States under the mineral leasing laws of the United States with respect to leases on Federal lands or the Outer Continental Shelf, or

(B) an Indian tribe or Indian allottee with respect to Indian lands; and

(2) collect and account for such amounts in a timely manner.

DUTIES OF INTEREST HOLDERS, LESSEES, OPERATORS, REPORTERS, AND MOTOR VEHICLE TRANSPORTERS

SEC. 102. (a) Each lessee or interest holder of any oil and gas lease on Federal, or Indian lands, or on the Outer Continental Shelf, shall—

(1) make all payments required under the lease, in the time and manner specified by the Secretary; and

(2) notify, and request approval of, the Secretary, in the time and manner specified by the Secretary, of any assignment or other transfer (including a transfer by inheritance, bequest, or devise) the lessee or interest holder makes of—

(A) all or part of his lease interest, or

(B) any obligation he has to make any royalty or other payment with respect to such lease.

(b) Each operator shall—

(1) with respect to oil and gas leases on Federal or Indian lands, develop, and comply with, a site security plan, in conformance with minimum standards prescribed by the Secretary to protect from theft or any other unauthorized use the oil or gas produced or stored on the lease site;

(2) not later than the 5th business day after any well begins production anywhere on a lease site, or resumes production in the case of a well which has been off of production for more than 90 days, provide notice to the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed, as the case may be; and

(3) prepare and maintain records as prescribed by the Secretary and, submit any such records to the Secretary upon request, including records on—

(A) the quantity of any oil or gas resource that is produced, stored, used on, or removed or sold from the lease site and, in the case of removal, the method by which such resource is removed, and

(B) the removal, sale, or distribution of such oil or gas including the method of transport, the first intended destination, and the identity of the first purchaser or owner, and the transportation agency.

Minimum standards prescribed by the Secretary under paragraph (1) shall take into account the variety of circumstances at onshore lease sites.

(c)(1) Any person engaged in transporting by motor vehicle any oil from any lease site, or allocated to any lease site, on Federal or Indian lands shall carry in such vehicle, on his person, or in his immediate control, documentation showing—

(A) the lease site, unit, or commingling facility from which the oil was obtained,

(B) the amount of such oil, and

(C) its intended first destination.

(2) Any person engaged in transporting any oil or gas by pipeline from any lease site, or allocated to any lease site, on Federal or Indian lands shall maintain documentation showing the source, amount, and first destination of such oil or gas as the Secretary deems appropriate.

(d)(1) Any interest holder, lessee, operator, or reporter or other person engaged in the business of developing, producing, transporting, marketing, refining, purchasing, or selling oil or gas produced on Federal, or Indian lands or the Outer Continental Shelf through the first sale or the point of royalty computation, whichever is later, shall establish and maintain any records, make any reports, and provide any information that the Secretary may, by rule, reasonably require for the purposes of implementing this Act or determining compliance with rules or orders under this Act. Upon request of any authorized representative of the Secretary or any State or Indian tribe conducting an audit, or investigation pursuant to this Act, every such interest holder, purchaser, lessee, operator, or other person shall permit the inspection and duplication of such records, reports, and other informa-

tion. The obligation under this paragraph to establish and maintain records, make reports, and provide information to the Secretary shall not apply to any oil or gas after it has moved beyond the first sale or point of royalty computation, whichever is later.

(2) Records required by the Secretary with respect to oil and gas leases from Federal or Indian lands or the Outer Continental Shelf shall be maintained for 6 years after the records are generated unless the Secretary notifies the record holder that he has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the record holder of the obligation to maintain such records.

(e) A lessee shall be liable for royalty payments on oil or gas lost or wasted from a lease site when such loss or waste is due to negligence on the part of the operator or due to the failure of the operator to comply with any rule or regulation, order, or citation issued under this Act or under any mineral leasing law of the United States.

PROMPT DISBURSEMENT OF ROYALTIES

SEC. 103. (a) Section 35 of the Mineral Lands Leasing Act of 1920 (approved February 25, 1920; 41 Stat. 437; 30 U.S.C. 191) is amended by deleting "as soon as practicable after March 31 and September 30 of each year" and by adding at the end thereof "Payments to States under this section shall be made not later than the last business day of the month in which such payments were received by the United States except for any portion of such a payment which is under challenge and placed in a suspense account for resolution of a dispute. Payments placed in a suspense account which are determined to be payable to a State shall be made not later than the last business day of the month in which such dispute is resolved. Any such amount placed in a suspense account for resolution shall bear interest until the dispute is resolved.".

(b) Deposits of any royalty funds derived from the production of oil or gas from Indian lands shall be made by the Secretary to the appropriate Indian account at the earliest practicable date after such funds are received by the Secretary but in no case later than the last business day of the month in which such funds are received.

(c) The provisions of this section shall apply with respect to payments received by the Secretary after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

EXPLANATION OF PAYMENTS

SEC. 104. (a) When any payment (including amounts due from receipt of any royalty, bonus, interest charge, fine, or rental) is made by the United States to a State with respect to any oil or gas lease on Federal lands or is deposited in the appropriate Indian account on behalf of an Indian tribe or Indian allottee with respect to any oil and gas lease on Indian lands, there shall be provided, together with such payment, a description and accounting of what such payment represents, including the type of payment being made, the source of such payment, production amounts, the royalty rate, unit value, and such other information as may be agreed upon by the Secretary and the recipient State, Indian tribe, or Indian allottee.

(b) This section shall take effect with respect to payments made after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

LIABILITIES AND BONDING

SEC. 105. Each individual (including any agent or employee of the United States and any independent contractor) authorized to collect, receive, account for, or otherwise handle any moneys payable to or received by the Department of the Interior which are derived from the sale, lease, or other disposal of any oil or gas or oil or gas resource shall be—

(1) liable to the United States for any losses caused by any intentional or reckless action or inaction of such individual with respect to such moneys; and

(2) in the case of an independent contractor, required as the Secretary deems necessary to maintain a bond commensurate with the amount of money for which such individual could be liable to the United States.

NONCOMPETITIVE OIL AND GAS LEASE ROYALTY RATES

SEC. 106. (a) Subsection 17(c) of the Mineral Leasing Act of 1920 (30 U.S.C. 226(c)) is amended by inserting the words "not less than" after the words "payment by the lessee of a royalty of" and by inserting the words "nor more than 16⅔ per centum" after the word "per centum".

(b) Subsection 17(c) of the Mineral Leasing Act of 1920 (30 U.S.C. 226(c)) is amended by changing the period to a colon and adding the following: *"Provided*, That the royalty rate shall be not more than 12½ per centum unless the Secretary finds that an increase in the royalty rate will not adversely affect the exploration, development or production of oil or gas or the overall revenue to the Federal Government generated by such activity.".

SUBTITLE B—ENFORCEMENT AUTHORITY

HEARINGS AND INVESTIGATIONS

SEC. 111. (a) The Secretary may conduct any hearing, investigation, audit, inspection, or other inquiry as necessary and appropriate and related to his royalty and other lease management functions as he may determine are reasonably necessary. In connection with such hearing, investigation, audit, inspection, or inquiry, the Secretary shall also have the authority—

(1) to require, by special or general orders, any person to submit in writing such affidavits, reports, and answers to questions which submission shall be made within such reasonable period and under oath or otherwise, as the Secretary may determine to be reasonably necessary;

(2) to administer oaths;

(3) to require by subpoena the attendance and testimony of witnesses and the production of all books, accounts, production and financial records, reports, files, documents, and other materials, as the Secretary may request;

(4) to order testimony to be taken by deposition before any person designated by the Secretary and who has the authority to administer oaths; and

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in the courts of the United States.

(b) In case of refusal to obey a subpoena served upon any person under this section, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General at the request of the Secretary and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary.

INSPECTIONS

SEC. 112. (a)(1) On any lease site on Federal or Indian lands, any authorized representative of the Secretary, may stop and inspect any motor vehicle that he has reason to believe is carrying oil from a lease site on Federal or Indian lands, for the purpose of determining whether the driver of such vehicle has documentation related to such oil as required by law.

(2) Any authorized representative of the Secretary, accompanied by any appropriate law enforcement officer, may stop and inspect any motor vehicle which is not on a lease site if he has probable cause to believe the vehicle is carrying oil from a lease site on Federal or Indian lands without the documentation required by this Act and other applicable law. Such inspection shall be for the purpose of determining whether the driver of such vehicle has the required documentation.

(b) Authorized representatives of the Secretary may without advance notice, enter upon, travel across, and inspect lease sites on Federal or Indian lands and may obtain from the operator immediate access to secured facilities on such lease sites, for the purpose of making any inspection or investigation for determining whether there is compliance with—

(1) the requirements of this Act;

(2) site security plans, regulations, and standards developed pursuant to this Act; or

(3) any citation, order, or decision issued under this Act.

The right of inspection under this subsection shall be independent of, and supplementary to, any other rights of inspection or entry available to the Secretary under other provisions of law.

(c) The Secretary shall establish and implement a planned program to thoroughly and frequently inspect lease sites. In the case of any lease which has a history of noncompliance with applicable provisions of law or regulations, such inspections shall be made at least once a year.

AUDITS

SEC. 113. (a) The Secretary shall audit and reconcile, to the extent practicable, all lease accounts or accounting line items for leases of oil or gas resources and take appropriate actions to make additional collections or refunds as warranted despite any changes in the Federal oil and gas royalty management and accounting systems. When auditing and reconciling lease accounts, the Secretary shall utilize the business practices and recordkeeping systems which were required of the lessee by the Secretary for the period covered by the audit. The Secretary shall give priority to auditing those lease accounts identified by a State or Indian tribe as having significant potential for underpayment. The Secretary may also audit accounts and records of selected lessees, interest holders, and operators.

(b) The Secretary may enter into contracts or other appropriate arrangements with independent certified public accountants to undertake audits of accounts, and records of any lessee, interest holder, or operator relating to the lease of an oil or gas resource. Selection of such independent certified public accountants shall be by competitive bidding in accordance with the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252), except that the Secretary may not enter into a contract or other arrangement with any independent certified public accountant to audit any lessee, interest holder, or operator where

such lessee, interest holder, or operator is a primary audit client of such certified public accountant.

(c) All books, accounts, financial records, reports, files, and other papers of the Secretary, or used by the Secretary, which are reasonably necessary to facilitate the audits required under this section shall be made available to any person or governmental entity conducting audits under this Act.

(d) In the case of any officer or employee of the United States who makes items or information available to any person conducting an audit under this Act, neither section 1905 of title 18 of the United States Code nor any other provision of law relating to confidentiality or restricting disclosure of information shall apply, but the provisions of section 1905, and any other provisions of law relating to confidentiality or restricting disclosure of information shall apply to the disclosure by such person to any other person of any such item or information.

(e) Except as expressly provided in subsection (f), nothing in this Act shall be construed to enlarge, diminish, or otherwise affect the authority or responsibility of the Inspector General of the Department of the Interior or of the Comptroller General of the United States.

(f) Commencing with fiscal year 1984, the Inspector General of the Department of the Interior shall conduct an annual audit of the Federal royalty management system. The Inspector General shall submit the results of such audit to the Secretary and to the Congress annually.

CIVIL PENALTIES

SEC. 114. (a) If any person fails to comply with any provision of this Act or any term of a lease, license, or permit issued pursuant to the mineral leasing laws of the United States, or any regulation or order issued under this Act or such laws, after receipt of notice of such failure and expiration of a 10-day period allowed for corrective action or a longer period as the Secretary may agree to, such person shall be liable for a civil penalty of not more than $1,000 for each day of the continuance of such failure, dating from the date of notice to such person. No person shall be liable for such a civil penalty if the failure is corrected by the close of business on the 10th day after notice is received, or such longer period as the Secretary may agree to.

(b) If corrective action is not taken within 30 days or a longer period as the Secretary may agree to, after the original notice of the failure to comply referred to in subsection (a) is given to such person, such person shall be liable for a civil penalty of not more than $10,000 for each day for the continuance of such failure from the date of the original notice of such failure to comply.

(c) If any person knowingly or willfully—

(1) prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other information required by this Act;

(2) takes, removes, uses, or diverts any oil or gas from any lease site on Federal or Indian lands or the Outer Continental Shelf, without having the required documentation and valid legal authority to do so;

(3) purchases, accepts, sells, transports, uses, or conveys to another person any oil or gas from any lease site on Federal or Indian lands or the Outer Continental Shelf, which oil or gas was stolen or unlawfully removed or diverted from such lease site;

(4) misrepresents the nature, quantity, or quality of any oil or gas transported by any means from any lease site on Federal or Indian lands or the Outer Continental Shelf, in any documents required by law or to any official charged with the enforcement of this Act which results in, or could result in, the underpayment of royalties,

such person shall be liable for a civil penalty of not more than $25,000 for each day of such violation.

(d) The Secretary may assess, collect, and compromise any penalties under subsection (a), (b), or (c). No payment of a penalty shall be collected until the person charged with a violation has been given an opportunity for a hearing on the record.

(e) Notice under this subsection (a) shall be by personal service by an authorized representative of the Secretary or by registered mail to an operator, reporter, lessee, or interest holder committing the violation. Any operator, reporter, lessee, or interest holder may, in the manner prescribed by the Secretary, designate a representative to receive any notice under this subsection.

(f) In determining the amount of such penalty, or whether it should be remitted or reduced, and in what amount, the Secretary shall state on the record the reasons for his determinations.

(g) The amount of any penalties under subsection (a), (b), or (c) or the amount agreed to on compromise, may be deducted, as determined by the Secretary, from any sums (other than refunds of taxes) owing by the United States to the person charged under the mineral leasing laws of the United States.

(h) Any person who has requested a hearing in accordance with subsection (d) within the time the Secretary has prescribed for such a hearing and who is aggrieved by a final order of the Secretary under this section may seek review of such order in the district court of the United States in whose jurisdiction the violation took place. Review by the district court shall be only on the administrative record and not de novo. Such an action shall be filed within 90 days after the Secretary's final order.

(i) If any person fails to pay an assessment of a civil penalty under this Act—

(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (h), or

(2) after a court in an action brought under subsection (h) has entered a final judgment in favor of the Secretary,

the court shall have jurisdiction to award the amount assessed plus interest from the date of the expiration of the 90-day period referred to in subsection (h) or the date of such final judgment, as the case may be. Judgment by the court shall include an order to pay.

(j) In addition to the penalty provisions of subsection (a), the Secretary may subject any operator who fails to comply with section 102(b)(2) to a penalty of not more than the value of the total production between the date of the start of the new production of a well or the recommencing of production of any well which has been off of production for more than 90 days and the date of actual notification.

(k) No person shall be liable for a civil penalty under subsection (a) or (b) for failure to pay any rental for any lease subject to the automatic cancellation provisions of section 31 of the Mineral Leasing Act of 1920.

CRIMINAL PENALTIES

SEC. 115. Any person who commits an act for which a civil penalty is provided in section 114(c) shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than 5 years, or both.

INTEREST CHARGES

SEC. 116. (a) In the case of oil and gas leases where royalty payments are not received by the Secretary on the date that such payments are due or are less than the amount due, the Secretary shall charge interest on such late payments or underpayments at the rate applicable under section 6621 of the Internal Revenue Code of 1954. In the case of an underpayment or partial payment interest shall be computed and charged only on the amount of the deficiency and not on the total amount due.

(b) Any payment made by the Secretary to a State under section 35 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 191) and any other payment made by the Secretary to a State from any oil or gas royalty received by the Secretary which is not paid on the date required under section 35 shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

(c) Any deposit of royalty funds made by the Secretary to an Indian account which is not made by the date required under subsection 103(b) shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

(d) For purposes of applying provisions of law relating to the distribution of royalty payments, any interest charges under this section or under section 103 with respect to late royalty payments or underpayments of royalties shall be included in, and deemed a part of, such royalty payments.

(e) Interest shall be charged under this section only for the number of days a payment is late.

INJUNCTION AND SPECIFIC ENFORCEMENT AUTHORITY

SEC. 117. (a) In addition to any other remedy under this Act or any other mineral leasing law, the Attorney General or his designee may bring a civil action in the district courts of the United States, which shall have jurisdiction over such actions—

(1) to restrain any activity for which a civil penalty is provided in section 114; or

(2) to compel the taking of any action required by or under this Act or any other mineral leasing law of the United States.

(b) A civil action described in subsection (a) may be brought only in the United States district court for the judicial district wherein the act, omission, or transaction constituting a violation under this Act or any other mineral leasing law occurred, or wherein the defendant is found or transacts business.

(c) The Attorney General of the United States or his designee, or a State or Indian tribe acting pursuant to a contract or cooperative agreement with the Secretary under section 202, may, in addition to any other remedies provided for in this Act, initiate an action in any court of competent jurisdiction, against any person for an injunction to restrain interference with the conduct of any activity authorized by this Act, or, in the case of a State or an Indian tribe, authorized pursuant to such agreement.

REWARDS

SEC. 118. Where amounts representing royalty or other payments owed to the United States with respect to any oil and gas lease on Federal lands or the Outer Con-

tinental Shelf are recovered pursuant to any action taken by the Secretary under this Act as a result of information provided to the Secretary by any person, the Secretary is authorized to pay not more than 10 percent of such recovered amounts to such person. The preceding sentence shall not apply to information provided by an officer or employee of the United States.

TITLE II—STATES AND INDIAN TRIBES

APPLICATION OF TITLE

SEC. 201. This title shall apply only with respect to oil and gas leases on Federal lands or Indian lands. Nothing in this title shall be construed to apply to any lease on the Outer Continental Shelf.

CONTRACTS, COOPERATIVE AGREEMENTS, AND CONFIDENTIAL INFORMATION

SEC. 202. (a) The Secretary is authorized to enter into a contract or cooperative agreement with any State with respect to Federal lands within the State, or with any Indian tribe with respect to Indian lands under the jurisdiction of that tribe, under which—

(1) the Secretary may delegate to such State or tribe any authority of the Secretary to conduct inspections, audits, or investigations with respect to oil and gas leases on Federal or Indian lands, as the case may be; and

(2) the Secretary may, except as provided in subsection (c), make information available to the State or Indian tribe for the purpose of such inspection, auditing, or investigation activities.

The Secretary shall not enter into any such cooperative agreement or contract with respect to any such activities on Indian lands, except with the permission of the Indian tribe involved. While exercising the authorities provided under such a contract or cooperative agreement, the State or Indian tribe and their agents shall have all the immunities which would be available to the Secretary and his officers or employees or under applicable law.

(b) Except as provided in subsection (c), after the date of the enactment of this Act—

(1) each State shall, upon request, have access to all royalty accounting information, including records, in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Federal lands within the State; and

(2) each Indian tribe shall, upon request, have access to all royalty accounting information, including records, in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Indian lands under the jurisdiction of such tribe.

Information shall be made available under paragraphs (1) and (2) as soon as practicable after it comes into the possession of the Secretary. Effective October 1, 1983, such information shall be made available under paragraphs (1) and (2) not later than 30 days after such information comes into the possession of the Secretary.

(c) Trade secrets, proprietary information, and other confidential information shall be made available by the Secretary to a State or Indian tribe upon request only if—

(1) such State or Indian tribe consents in writing to restrict the dissemination of the information to those who are directly involved in an audit or investigation under this Act and who have a need to know;

(2) such State or tribe accepts liability for wrongful disclosure;

(3) such State demonstrates that such information is essential to the conduct of an audit or investigation or to litigation under section 203; and

(4) in the case of an Indian tribe, such tribe demonstrates that such information is essential to the conduct of an audit or investigation and waives sovereign immunity by express consent for wrongful disclosure by such tribe.

(d) The United States shall not be liable for the wrongful disclosure by any State or Indian tribe or their agents of any information provided to such State or Indian tribe pursuant to this Act.

(e) Neither section 1905 of title 18 of the United States Code nor any other provision of law relating to confidentiality or restricting disclosure of information shall apply to any information made available by the Secretary under this section to any officer or employee of a State or Indian tribe, but the provisions of section 1905, and any other provisions of law relating to confidentiality or restricting disclosure of information, shall apply to the disclosure by such officer or employee to any other person of any such information in the same manner, and to the same extent, as if such persons were officers or employees of the United States. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under this Act may be required to disclose such information under State law.

(f) Any cooperative agreement entered into pursuant to this section shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act. Such agreements may provide for Federal reimbursement only for those costs which are directly required to carry out the agreed upon activities.

STATE SUITS UNDER FEDERAL LAW

SEC. 203. (a)(1) A State may commence a civil action under this section against any person to recover any royalties, interest, or civil penalties with respect to any oil and gas lease on Federal lands located within that State subject to the provisions of this section.

(2)(A) No action may be commenced under paragraph (1) prior to 90 days after the State has given notice in writing to the Secretary of the payment required. The 90-day limitation specified in this subparagraph shall not apply in any case in which the Secretary notifies the State that the limitation will be waived.

(B) If, within the 90-day period specified in subparagraph (A), the Secretary issues a demand for the payment concerned, no action may be commenced under paragraph (1) with respect to such payment during a 45-day period after issuance of such demand. If, during such 45-day period, the Secretary receives payment in full, no action may be commenced under paragraph (1).

(C) If the Secretary refers the case to the Attorney General of the United States within the 45-day period referred to in subparagraph (B) or within 10 business days after the expiration of such 45-day period, no action may be commenced under paragraph (1) if the Attorney General, within 45 days after the date of such referral, commences, and thereafter diligently prosecutes, a civil action in a court of the United States or any State with respect to the payment concerned.

(3) The State shall notify the Secretary and the Attorney General of the United States of any suit filed by the State under this section.

(4) In any action commenced under this section, the Secretary or the Attorney General of the United States, if not a party, and any person or governmental entity having an interest which is or may be adversely affected may intervene as a matter of right.

(5) A court in issuing any final order in any action brought under paragraph (1) may award costs of litigation including reasonable attorney and expert witness fees, to any party in such action if the court determines such an award is appropriate.

(b) An action brought under subsection (a) of this section may be brought only in a United States district court for the judicial district in which the lease site or the leasing activity complained of is located. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to require compliance or order payment in any such action.

(c)(1) Notwithstanding any other provision of law, any civil penalties recovered by a State under subsection (a) shall be retained by the State and shall be available to the State for expenditure in such manner and for such purposes as the State deems appropriate.

(2) Any rent, royalty, or interest recovered by a State under subsection (a) shall be deposited in the Treasury of the United States in the same manner, and subject to the same requirements, as are applicable in the case of any rent, royalty, or interest collected by an officer or employee of the United States, except that such amounts shall be deposited in the Treasury not later than 10 days after receipt by the State.

(d) The Secretary may reimburse a State for reasonable and direct costs incurred by that State in pursuing any investigation or taking any other action which leads to the State's notice to the Secretary under subsection (a)(2)(A) and which results in the commencement by the United States of a civil or criminal action (including a civil action pursuant to this Act by the Secretary) to compel compliance with any provision of this Act and/or the mineral leasing laws of the United States, including an action to recover any royalties, interest, or civil penalties with respect to any oil and gas lease on Federal lands located within that State.

TITLE III—GENERAL PROVISIONS

SECRETARIAL AUTHORITY

SEC. 301. (a) The Secretary shall prescribe such rules and regulations as he deems reasonably necessary to carry out this Act.

(b) Rules and regulations issued to implement this Act shall be issued in conformity with section 553 of title 5 of the United States Code, notwithstanding section 553(a)(2) of that title.

(c) In carrying out his functions under this Act, the Secretary may contract with such non-Federal Government inspectors, auditors, and other persons as he deems necessary to aid in the implementation of this Act in addition to entering into cooperative agreements as authorized under title II of this Act. With respect to his auditing and enforcement functions under this Act, the Secretary shall coordinate such functions so as to the maximum degree practicable, to avoid subjecting lessees, operators, and reporters to audits or investigations of the same subject matter by more than one auditing and investigative entity at the same time.

(d) The Secretary shall, by regulation, prescribe standards for identifying and maintaining the confidentiality of such information as trade secrets and privileged or

proprietary information, including any such information which is made available to independent auditors, States, or Indian tribes pursuant to the provisions of this Act.

(e) The Secretary shall establish and maintain adequate programs providing for the training of all authorized representatives of the Secretary, including State or tribal officials, in procedures and techniques of inspection and accounting that will be used with respect to such lease sites.

REPORTS

SEC. 302. (a) The Secretary shall submit to the Congress an annual report on the implementation of this Act including when applicable a statement specifying—

(1) the number of oil and gas lease accounts with outstanding balances;

(2) the reconciled and unreconciled accounts; and

(3) the magnitude of the balances involved.

The report shall include summaries of all audits conducted under section 113 (relating to audits), subject to applicable provisions of law relating to confidentiality and trade secrets. The specific information required under paragraphs (1) through (3) shall be broken down on a State-by-State basis and by quarter and age of accounts and shall be set forth in such form and manner as will indicate a correlation between production associated with particular lease accounts and the revenues attributable to such production. The information to be included in the report and the format of the report shall be developed by the Secretary after consulting with the Committees on Interior and Insular Affairs of the House of Representatives and on Energy and Natural Resources of the Senate. The Secretary shall also report on the progress of the Department in reconciling account balances.

(b) The Secretary shall conduct a review of Federal royalty management accounting and collection problems related to leasable minerals other than oil and gas and include in the first such annual report a summary of such review along with recommended changes to this Act regarding the management of royalties from Federal leases for such minerals. The Secretary shall submit such annual report within 3 months after the end of each fiscal year commencing after the date of the enactment of this Act.

RELATION TO OTHER LAWS

SEC. 303. The penalties and authorities provided in this Act are supplemental to, and not in derogation of, any penalties or authorities contained in any other provision of law.

EFFECTIVE DATE

SEC. 304. The provisions of this Act shall apply to oil and gas leases issued before, on, or after the date of the enactment of this Act, except that in the case of a lease issued before such date, no provision of this Act or any rule or regulation prescribed under this Act shall alter the express and specific provisions of such a lease.

AUTHORIZATION OF APPROPRIATIONS

SEC. 305. There is authorized to be appropriated such sums as may be necessary to carry out this Act.

COMPLIANCE WITH BUDGET ACT

SEC. 306. Authority under this Act to enter into contracts shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts. Nothing in this Act shall be construed to affect or impair any authority to enter into contracts or make payments under any other provision of law. Any provision of this Act which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1983.

STATUTE OF LIMITATIONS

SEC. 307. Except in the case of fraud, any action under this Act shall be barred unless the action is commenced within 6 years after the date of the act or omission which is the basis for the action.

TITLE IV—REINSTATEMENT OF LEASES AND CONVERSION OF UNPATENTED OIL PLACER CLAIMS

AMENDMENT OF MINERAL LANDS LEASING ACT OF 1920

SEC. 401. Section 31 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188) is amended by redesignating subsection (d) as subsection (j) and by inserting after subsection (c) the following new subsections:

"(d)(1) Where any oil and gas lease issued pursuant to section 17(b) or section 17(c) of this Act or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) has been, or is hereafter, terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of the rental due, and such rental is not paid or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was justifiable or not due to lack of reasonable diligence on the part of the lessee, or, no matter when the rental is paid after termination, it is shown to the satisfaction of the Secretary that such failure was inadvertent, the Secretary may reinstate the lease as of the date of termination for the unexpired portion of the primary term of the original lease or any extension thereof remaining at the date of termination, and so long thereafter as oil or gas is produced in paying quantities. In any case where a lease is reinstated under this subsection and the Secretary finds that the reinstatement of such lease (A) occurs after the expiration of the primary term or any extension thereof, or (B) will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable, but in no event for more than two years from the date the Secretary authorizes the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

(2) No lease shall be reinstated under paragraph (1) of this subsection unless—

"(A) with respect to any lease that terminated under subsection (b) of this section prior to enactment of the Federal Oil and Gas Royalty Management Act of 1982:

"(i) the lessee tendered rental prior to enactment of such Act and the final determination that the lease terminated was made by the Secretary or a court less than three years before enactment of such Act, and

"(ii) a petition for reinstatement together with the required back rental and royalty accruing from the date of termination, is filed with the Secretary on or before the one hundred and twentieth day after enactment of such Act, or

"(B) with respect to any lease that terminated under subsection (b) of this section on or after enactment of the Federal Oil and Gas Royalty Management Act of 1982, a petition for reinstatement together with the required back rental and royalty accruing from the date of termination is filed on or before the earlier of—

"(i) sixty days after the lessee receives from the Secretary notice of termination, whether by return of check or by any other form of actual notice, or

"(ii) fifteen months after termination of the lease.

"(e) Any reinstatement under subsection (d) of this section shall be made only if these conditions are met:

"(1) no valid lease, whether still in existence or not, shall have been issued affecting any of the lands covered by the terminated lease prior to the filing of such petition: *Provided however,* That after receipt of a petition for reinstatement, the Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him;

"(2) payment of back rentals and either the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future rentals at a rate of not less than $10 per acre per year, or the inclusion in a reinstated lease issued pursuant to the provisions of section 17(c) of this Act of a requirement that future rentals shall be at a rate not less than $5 per acre per year, all as determined by the Secretary;

"(3)(A) payment of back royalties and the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future royalties at a rate of not less than 16⅔ percent, computed on a sliding scale based upon the average production per well per day, at a rate which shall be not less than 4 percentage points greater than the competitive royalty schedule then in force and used for royalty determination for competitive leases issued pursuant to such section as determined by the Secretary: *Provided,* That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the termination of the original lease;

"(B) payment of back royalties and inclusion in a reinstated lease issued pursuant to the provisions of section 17(c) of this Act of a requirement for future royalties at a rate not less than 16⅔ percent: *Provided,* That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the cancellation or termination of the original lease; and

"(4) notice of the proposed reinstatement of a terminated lease, including the terms and conditions of reinstatement, shall be published in the Federal Register at least thirty days in advance of the reinstatement.

A copy of said notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the Secretary deemed significant in making this determination to reinstate, shall be furnished to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate at least thirty days in advance of the reinstatement. The lessee of a reinstated lease shall reimburse the Secretary for the administrative costs of reinstating the lease, but not to exceed $500. In addition the lessee shall reimburse the Secretary for the cost of publication in the Federal Register of the notice of proposed reinstatement.

"(f) Where an unpatented oil placer mining claim validly located prior to February 25, 1920, which has been or is currently producing or is capable of producing oil or

gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and it is shown to the satisfaction of the Secretary that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the Secretary may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease, consistent with the provisions of section 17(e) of this Act, to be effective from the statutory date the claim was deemed conclusively abandoned. Issuance of such a lease shall be conditioned upon:

"(1) a petition for issuance of a noncompetitive oil and gas lease, together with the required rental and royalty, including back rental and royalty accruing from the statutory date of abandonment of the oil placer mining claim, being filed with the Secretary—

"(A) with respect to any claim deemed conclusively abandoned on or before the date of enactment of the Federal Oil and Gas Royalty Management Act of 1982, on or before the one hundred and twentieth day after such date of enactment, or

"(B) with respect to any claim deemed conclusively abandoned after such date of enactment, on or before the one hundred and twentieth day after final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim;

"(2) a valid lease not having been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of such petition: *Provided however,* That after the filing of a petition for issuance of a lease under this subsection, the Secretary shall not issue any new lease affecting any of the lands covered by such abandoned oil placer mining claim for a reasonable period, as determined in accordance with regulations issued by him;

"(3) a requirement in the lease for payment of rental, including back rentals accruing from the statutory date of abandonment of the oil placer mining claim, of not less than $5 per acre per year;

"(4) a requirement in the lease for payment of royalty on production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the statutory date the claim was deemed conclusively abandoned, of not less than 12½ percent; and

"(5) compliance with the notice and reimbursement of costs provisions of paragraph (4) of subsection (e) but addressed to the petition covering the conversion of an abandoned unpatented oil placer mining claim to a noncompetitive oil and gas lease.

"(g)(1) Except as otherwise provided in this section, a reinstated lease shall be treated as a competitive or a noncompetitive oil and gas lease in the same manner as the original lease issued pursuant to section 17(b) or 17(c) of this Act.

"(2) Except as otherwise provided in this section, the issuance of a lease in lieu of an abandoned unpatented oil placer mining claim shall be treated as a noncompetitive oil and gas lease issued pursuant to section 17(c) of this Act.

"(h) The minimum royalty provisions of section 17(d) and the provisions of section 39 of this Act shall be applicable to leases issued pursuant to subsections (d) and (f) of this section.

"(i)(1) In acting on a petition to issue a noncompetitive oil and gas lease, under subsection (f) of this section or in response to a request filed after issuance of such a lease, or both, the Secretary is authorized to reduce the royalty on such lease if in his judgment it is equitable to do so or the circumstances warrant such relief due to uneconomic or other circumstances which could cause undue hardship or premature termination of production.

"(2) In acting on a petition for reinstatement pursuant to subsection (d) of this section or in response to a request filed after reinstatement, or both, the Secretary is authorized to reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes if, in his judgment, there are uneconomic or other circumstances which could cause undue hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the property under the lease after the rent had become due and had not been paid; or if in the judgment of the Secretary it is equitable to do so for any reason.".

The SPEAKER pro tempore. Is a second demanded?

Mr. MARRIOTT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes, and the gentleman from Utah (Mr. MARRIOTT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the passage of the bill, H.R. 5121, the Federal Oil and Gas Royalty Management Act of 1982, which is now before the House, is very important to remedying some of the past problems in the Federal Government's management of oil and gas leases on Federal and Indian lands. According to the General Accounting Office and a special investigating commission, there has been a loss of millions of dollars over the years to the U.S. Treasury and indirectly to those States and Indian tribes which receive payments based on oil and gas leases. Such losses to the Treasury resulted in part from a lack of authority to impose adequate penalties, and inability to enforce those laws which were available, and an archaic accounting system.

In March of this year, the Subcommittee on Mines and Mining, chaired by the gentleman from Nevada, Mr. SANTINI, reported H.R. 5121 to the full Interior and Insular Affairs Committee. Since that time this legislation has been the subject of extensive discussions and negotiations with the affected parties: The Indian tribes, the States, the oil and gas industry, the Minerals Management Service of the Department of the Interior, and others. On September 15, the bill was reported from the Interior and Insular Affairs Committee with strong bipartisan support.

The principal thrust of this bill is to provide for the development of an effective fiscal and production royalty accounting system and for the imposition of stiff civil and criminal penalties for violations. Additionally, the bill includes provisions to:

First, require the disbursement of payments to States under the Mineral Leasing Act of 1920 on a monthly basis rather than every 6 months;

Second, grant authority to the States to sue under Federal law to collect royalties, interests, and civil penalties;

Third, provide States and Indian tribes with access to royalty accounting data within 30 days after the Secretary receives it;

Fourth, provide the Secretary with the discretion to set a royalty rate on new noncompetitive oil and gas leases of not less than 12½ percent nor more than 16⅔ percent; and

Fifth, allow the Secretary of the Interior to reinstate terminated oil and gas leases at higher royalty and rental rates.

Mr. Speaker, according to the Congressional Budget Office, the bill could increase receipts to the Federal Government by $25 million to $50 million a year. Under the disbursement provisions of the Mineral Leasing Act of 1920, the bill could thereby increase receipts to oil-producing States by a similar amount. Furthermore, the Commission on Fiscal Accountability on the Nation's Energy Resources (the Linowes' Commission) and the General Accounting Office have asserted that the Federal Government is currently not collecting between 2 and 10 percent of the royalties due from oil and gas production on Federal and Indian lands and the OCS. If these royalties were collected in full, the gross receipts to the affected governmental units could be increased by $100 to $500 million.

This is a good bill; it has been the subject of considerable work both in subcommittee and in full committee. At this time I would like to thank in particular Chairmen SANTINI and MARKEY for initiating the oversight efforts which led to the introduction of H.R. 5121. They along with Representative MARRIOTT should be commended for their oversight efforts regarding

this legislation and in developing the bill as reported to the full committee. They have worked with me and others in our committee to help forge this consensus bill which we bring to the House today. I would also like to thank Representatives CHENEY and LUJAN, who have been instrumental in helping to work out the details of the reinstatement-of-leases title to the bill and in lending their support to bring this measure to the floor at this time.

We have attempted to incorporate in the bill as reported from the Interior and Insular Affairs Committee many of the provisions of a similar Senate bill, S. 2305, reported from the Senate Energy and Natural Resources Committee, and in the royalty management proposal submitted by the administration, with whom we have worked very closely in developing the final version of this bill. We have a bill here which is fair to the Indian tribes, to the States, to the oil and gas industry, and to the agency which has to administer the bill once it becomes law. Of paramount importance, if the bill passes, it will help return to the citizens of this Nation their fair share of revenues generated from a public resource.

I highly recommend this legislation to my colleagues and urge their support.

Mr. Speaker, probably more than any other member of the committee, the gentleman from Massachusetts (Mr. MARKEY) was responsible for this bill. He initiated the oversight efforts and worked with the gentleman from Nevada (Mr. SANTINI) in joint subcommittee hearings.

Mr. Speaker, I want to say that we would not be at the stage we are today without his leadership and concern and very effective work.

Mr. Speaker, I reserve the balance of my time.

● Mr. SANTINI. Mr. Speaker, H.R. 5121 represent the collective efforts and bipartisan support of a number of my colleagues on the Interior Committee. We have brought forth a very solid legislative proposal to bring an end to over two decades of bureaucratic ineptitude in the Department of the Interior and the loss of millions of dollars—maybe billions—in Federal revenues from uncollected oil and gas revenues.

The Congress has chose to turn its head away whenever this problem surfaced in the past. No less than 10 reports by the GAO and others sounded the alarm that the royalty program was being seriously mismanaged. But not until the introduction of H.R 5121 was a legislative proposal put on the table. While we deliberate over the merits and demerits of the bill, over $1 million a day slips through the cracks.

H.R. 5121 has been a top legislative priority of mine and Chairman MARKEY's throughout the 97th Congress. This bill has been hashed out by every conceivable person with an interest or concern over royalty management. The Western States, the oil and gas industry, the Minerals Management Service of the Department of the Interior, representatives of the Indian tribes, were all given ample opportunity to both testify before the subcommittees and to sit down with staff to work out the language in the bill. The result is that H.R. 5121 carries the support and confidence of almost everyone with a stake in royalty management.

I especially want to thank Chairman MARKEY and Congressman MARRIOTT, who joined me in plowing through the legislative thicket, and Chairman UDALL for maintaining the momentum to carry this bill through the Interior Committee.

I urge my colleagues to support this legislation.●

Mr. MARRIOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5121, The Federal Oil and Gas Royalty Management Act of 1982 is the result of the commendable initiative taken by Secretary of the Interior James Watt when he assumed office in January, 1981, and the bipartisan efforts of members of the House Interior Committee working with the oil and gas industry, the States, Indian tribes and the administration to resolve major administrative problems in connection with the proper collection of royalties due on Federal oil and gas lease production.

In particular, I wish to commend the chairman, Mr. UDALL, for his leadership and cooperation in responding to my repeated urgings for rapid, substantive action on this important legislation.

Special recognition should also be given my colleagues, Mr. SANTINI and Mr. MARKEY for their leadership and perseverance in pursuing legislative solutions to a vexing problem which has resulted in lost revenues of up to $1 million per day.

I am convinced that this legislation will provide the Secretary of the Interior, in cooperation with the States and Indian tribes, all necessary authority to restore to the American people revenues which have not been collected in the past and assure that royalty revenues due in the future will be collected in a timely and efficient manner and distributed to the States, the reclamation fund and the Federal Treasury as rapidly and efficiently as possible.

This bill will serve to buttress the initiative taken by the Interior Department in implementing a new system of royalty accounting by giving the Secretary all the support and enforcement authority necessary to insure its success.

It is my belief that the States will have much to gain by this legislation for it provides for a nationally uniform system of accounting which does not burden the States with detailed royalty accounting functions.

At the same time, it does enable States to monitor and assist Federal royalty management by entering into cooperative agreements to conduct inspections, audits or investigations to carry out enforcement authority of the Secretary. This will insure that the proper amount of royalty will be collected in the future and that the States will receive their fair share.

Further, this legislation will permit States to sue under Federal law to collect royalties, interests or civil penalties in cases where the Federal Government fails to take action in a timely manner. To strengthen this enforcement tool, States will be authorized to have access to production data as well as confidential data for use in State audits, investigations and litigation under the bill. Compensation will be provided to the States for their participation pursuant to cooperative agreements or litigation.

States will further benefit from the requirements for prompt distribution of royalty revenues to the States. Whereas existing law provides for distribution every 6 months, this bill will provide for monthly distribution with a full accounting for the revenue's origin, thereby enabling the States to monitor and better employ all the income to which they are entitled.

I think this is a sound piece of legislation and I urge my colleagues to give it their full support.

Mr. Speaker, I reserve the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to thank the chairman, Mr. UDALL, for the help that he gave us, and Roy Jones and Bill Shaefer from his staff, and Bob Andros and Bob Kerr on my staff, along with the gentleman from Nevada, (Mr. SANTINI), the gentleman from Utah (Mr. MARRIOTT), the gentleman from New Mexico (Mr. LUJAN), and their committee staff members who really made it possible for us to put together this piece of legislation, because it is indeed a bipartisan piece of legislation, one that addresses the problem that goes back through many administrations, at the Department of the Interior.

It could not really, fairly, be characterized as a problem that developed within this administration. It is one that goes back 20 years.

But, we finally do have a piece of legislation that will make it possible for us to put in place a mechanism

that will make it possible to have effective oversight, to have proper checks on the activities that go in the collection of the royalties in this country and make sure that the millions of dollars that are lost in the course of a year are returned to the Federal Government, to the States, to the Indian tribes, as they properly should be.

Mr. Speaker, I want to thank, especially, the gentleman from Nevada (Mr. SANTINI), who conducted with me, in our two subcommittees, a long series of hearings on this subject over the past year.

The problem is enormous, but it can be simply stated: The Federal Government has failed to collect billions of dollars over the past 30 years in money owed to it. At this very time, American taxpayers are losing more than $1 million a day of money that is rightfully theirs.

The problem has been the failure of the Department of the Interior to adequately account for and collect money owed from leases for oil and gas production on Federal lands. The money our Treasury receives from these leases represents the single largest source of income to our Nation with the exception of taxes.

The bill before us today, H.R. 5121, represents a major step in remedying the unacceptable condition of our royalty collection system.

□ 1320

It is a taxpayer bill because it is the taxpayers who will benefit from its passage. It is an economic recovery bill because over the next decade it could add literally billions of dollars in additional revenues to our Federal and State treasuries. It is a government improvement bill because it spells out a means by which we can dramatically improve the efficiency and quality of our royalty management system.

Let me summarize briefly what this bill accomplishes. First, and primarily, it will dramatically reduce the amounts of underpayment and theft from leases on Federal lands. Second, it will require owners of the leases to keep thorough records, subject to periodic audits. Third, it will mandate rough, new security measures to protect the oil and gas from being stolen or removed without detection. Fourth, it will lay down tough new monitoring procedures for companies transporting oil and gas off these properties. Fifth, it will grant new authorities for States and Indian tribes to enforce regulations for leases in their jursidictions.

And finally, in summary, it will dramatically improve the efficiency and accountability within the Interior Department, and will make a major inroad into improving the efficiency of our Government. Because of the great need for this bill, and because it is the product of many hearings and discussions, it has drawn wide support. It has been endorsed by the Interstate Oil Commission, the Western Governors Conference, the Western States Land Commission, and the Western Conference of Attorneys General. It is truly a bill which can attract the support of every Member on both sides of the aisle because it represents a step in improving our system of managing lands and resources held in the public trust, and because it will result in millions of dollars for the Federal Treasury in a period when we are faced with massive budget cuts.

Mr. SAM B. HALL, JR. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I will be glad to yield.

Mr. SAM B. HALL, JR. Mr. Speaker, I would like to commend the gentleman for the position he has taken and the work he has done on the bill. I would like to ask one or two questions.

Are the companies that the U.S. Government deals with in these leases, are the majority of them major companies?

Mr. MARKEY. I think the majority of them—it is hard to say. There is a fair mix of independents and majors in it.

Mr. SAM B. HALL, JR. Usually in all the States these companies must report to a regulatory body in their particular State on their runs, when they make any royalty payments to the royalty owners or to the landowners. I am speaking of Texas primarily. Is that same procedure followed in other States where they have a regulatory agency? Do these producers furnish annual or monthly reports to the regulatory agencies?

The SPEAKER pro tempore. The time of the gentleman from Massachusetts has expired.

Mr. UDALL. Mr. Speaker, I yield 2 additional minutes to the gentleman from Massachusetts.

Mr. MARKEY. The problem right now is that leases which are let on State land, that is, Texas or Louisiana or California can let leases on their own land, and they have a much better monitoring system than the Department of the Interior does, or in terms of collecting revenues and monitoring activities to make sure there is a good paper trail to follow in the event there is a belief that there are transactions which are being conducted which are leading to revenue losses. There is a good record, but with regard to the Federal Government, we do not have that same kind of monitoring system. What we are trying to put in place here is a system that will give the Federal Government the same kind of monitoring capability that many of the States have. That is why the States not only endorse this bill, but in fact want to have the opportunity of contracting with the Federal Government to do the collecting of royalties off the Federal lands because of the significant revenue losses to them if the Federal Government does not do a good job.

Mr. SAM B. HALL, JR. If the gentleman will yield further, does the Federal Government at this time have the authority to go to the Texas Railroad Commission and get production reports that have been filed at that local agency by a lessee of the Government?

Mr. MARKEY. It does have that authority.

Mr. SAM B. HALL, JR. It does have that authority?

Mr. MARKEY. Yes.

Mr. SAM B. HALL, JR. And will this set up additional authority in other States that do not have the State regulatory authority like Texas, Louisiana, New Mexico, and Oklahoma might have at the present time?

Mr. MARKEY. The States have that capablity right now. They do not need authorization from this bill to do that.

Mr. SAM B. HALL, JR. The gentleman means the Federal Government?

Mr. MARKEY. The Federal Government has that authority.

Mr. SAM B. HALL, JR. I thank the gentleman.

Mr. MARRIOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming (Mr. CHENEY).

Mr. CHENEY. Mr. Speaker, I rise in strong support of H.R. 5121, a bill intended to streamline and improve the efficiency of the Government's mineral royalty collection system. The need for this legislation was made clear by the Linowes Commission study, and by the work of State officials such as Jim Griffith, Wyoming's auditor, who uncovered evidence of nonpayment and underpayment of royalties due the Federal Government. This bill will assure that both the Federal Government and State governments will get their proper share of money.

I commend members of the House Interior Committee, who worked very hard to develop a consensus bill—particularly Messrs. UDALL, LUJAN, SANTINI, MARRIOTT, MARKEY, and MARLENEE. Many hours were spent working out the provisions of this bill, and it is sound legislation.

The bill would:

First, impose penalties on those who underpay or fail to pay their proper share of royalties;

Second, require better accounting of oil and gas production and improved site safety;

Third, require the Federal Government to greatly improve its system of collecting royalties and auditing royalty accounts to insure full payment;

Fourth, require the prompt transmission of States' share of royalties, increasing the frequency of payments from semiannually, to monthly; and

Fifth, provide the States with the authority and tools needed to help

insure full payment and efficient handling of royalty revenues.

Lastly, I want to bring to Members' attention title IV of the bill, which sets up an orderly system for handling lease reinstatements, which previously had to be handled one by one via private bills.

As one who represents a major oil-producing State which both generates significant oil and gas resources and benefits significantly from the royalty revenues generated by that development, I believe this is good legislation that deserves the support of the House.

Mr. DICKS. Mr. Speaker, I join with my good friend, Mr. UDALL to urge the support of the House for this vital piece of legislation.

As a member of the Interior Appropriations Subcommittee, I can inform this House that the subcommittee has followed the problem of uncollected oil and gas royalties very closely and has urged the Interior Department to collect these revenues owed the Government as soon as possible.

Toward this end, the subcommittee has provided funds to the Department and its auditors to collect the hundreds of millions of dollars which are currently owed the Federal Government.

As most of us know, at a time when the Federal Government is cutting the benefits to the unemployed and the needy and the deficit is far too large, it makes no sense to allow some individuals to benefit from not paying the Federal Government the oil and gas royalties it is owed.

I support the provisions of this bill which reduce the amounts of underpayments and theft, and which secure the prompt and proper collection of these revenues.

I am particularly pleased with the provisions which require the Interior Department to charge interest on late payments or underpayments to the Government.

At this time, the citizens of this country are losing $1 million per day because the Government lacks a comprehensive auditing, inspection, collection, and accounting system which secures the prompt collection of these oil and gas royalties.

We cannot afford to allow this to continue.

For these reasons and others, I strongly support this measure and urge my colleagues to support it.

This bill is needed now and will help the Interior Appropriations Subcommittee continue its efforts to insure that these outstanding revenues are collected.

Like my colleagues, I would like to compliment Mr. UDALL and Mr. MARKEY for their efforts on this legislation. Because of their efforts this House today has a great opportunity to clamp down on some of the waste and abuse which has existed in the Government for too long.

Mr. UDALL. Mr. Speaker, I have no further requests for time.

Mr. MARRIOTT. Mr. Speaker, I yield 5 minutes to the distinguished ranking Republican on the Committee on Interior and Insular Affairs, the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, what brings us here basically is that the royalty collection system has been a mess for a number of years, and we are trying to correct the situation. It had been estimated at the beginning that there was something like $400 to $600 million a year lost in royalty collections. That proved not to be true, but while the figure is not that high, it still pointed the way to a lack of a good system for reporting and collecting royalties.

This bill would set up an accounting system, a computerized system, to do it in a business manner. To assure payment, and to assure payment in a timely manner. We have been told that a lot of oil had been stolen, although it did not quite measure up to the original figures that they were talking about, but in order to be sure that there is not any theft a site security system has to be set up.

There are penalties for violation of the act in cases where there are deliberate acts. There are provisions for cooperation with the States.

I noticed in the colloquy between my friend from Texas, Mr. SAM B. HALL, JR., and Mr. MARKEY, that they were talking about the involvement of the States and what the States would have to report to the Federal Government. As a matter of fact, I will tell this body that the States have been far more efficient than the Federal Government in collecting their own royalties, and at one time, although it was facetiously, my suggestion was that the Federal Government might enter into a contract with my own State of New Mexico, which has an excellent record in collection of royalties, and we would be glad, for a fee, to collect the royalties for the Federal Government. I was not taken up on that suggestion, but we did improve the federal system.

I might say that this improvement is modeled very much after the States that do have good collection systems. We have done a couple of other things that I think needed to be done.

Every time someone would miss a payment for some reason on a lease, we would have to bring an individual bill in to reinstate that lease, so we have made provisions here that where it has been inadvertent or an error, not due to the absence of any due diligence on the part of the person holding the lease, that for some reason beyond his control he might have lost that lease, that the Secretary of Interior has the authority to look at it, and if it warrants it to go ahead and reinstate that lease.

One other thing which I think is good is in the payment of fees. I was home over the weekend, and it was pointed out to me that one of the problems in this royalty collection system is that if, for some reason they have not gotten paid, or maybe the reports are not quite up to snuff, that a payment might be late—they do not mind that they charge them 17 percent, which I think is the penalty—but they do mind that many times when someone wants to transfer the lease it shows that it is not in good standing. So, it creates some problems in cases of estates on things like that. We have tried to take care of that by suggesting that in the new regulations we give sufficient time for someone to be able to make the report, to collect from the producer, and then in turn send the money in to the Federal Government.

I think it is a good bill. I think that it will do much to improve the collection system of royalties in this country, and I ask my colleagues to support this legislation.

□ 1330

Mr. MARRIOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again I want to thank our committee chairman, the gentleman from Arizona (Mr. UDALL) and his assistants, Mr. Shafer and Mr. Jones, and, of course, Karen Shaffer on my staff, for getting this bill out, and I hope that all our colleagues can accept it.

Mr. Speaker, I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FLIPPO). The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill, H.R. 5121, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7102) to provide for the protection of migrant and seasonal agricultural workers and for the registration of contractors of migrant and seasonal agricultural labor and for other purposes.

The SPEAKER pro tempore Without objection, the Clerk will report the bill.

There was no objection.

The Clerk read as follows:

H.R. 7102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Migrant and Seasonal Agricultural Worker Protection Act".

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PURPOSE

SEC. 2. It is the purpose of this Act to remove the restraints on commerce caused by activities detrimental to migrant and seasonal agricultural workers; to require farm labor contractors to register under this Act; and to assure necessary protections for migrant and seasonal agricultural workers, agricultural associations, and agricultural employers.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "agricultural association" means any nonprofit or cooperative association of farmers, growers, or ranchers, incorporated or qualified under applicable State law, which recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.

(2) The term "agricultural employer" means any person who owns or operates a farm, ranch, processing establishment, cannery, gin, packing shed or nursery, or who produces or conditions seed, and who either recruits, solicits, hires, employs, furnishes, or transports any migrant or seasonal agricultural worker.

(3) The term "agricultural employment" means employment in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), or section 3121(g) of the Internal Revenue Code of 1954 (26 U.S.C. 3121(g)) and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

(4) The term "day-haul operation" means the assembly of workers at a pick-up point waiting to be hired and employed, transportation of such workers to agricultural employment, and the return of such workers to a drop-off point on the same day.

(5) The term "employ" has the meaning given such term under section 3(g) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g)) for the purposes of implementing the requirements of that Act.

(6) The term "farm labor contracting activity" means recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal agricultural worker.

(7) The term "farm labor contractor" means any person, other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association, who, for any money or other valuable consideration paid or promised to be paid, performs any farm labor contracting activity.

(8)(A) Except as provided in subparagraph (B), the term "migrant agricultural worker" means an individual who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of residence.

(B) The term "migrant agricultural worker" does not include—

(i) any immediate family member of an agricultural employer or a farm labor contractor; or

(ii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 101(a)(15)(H)(ii) and 214(c) of the Immigration and Nationality Act.

(9) The term "person" means any individual, partnership, association, joint stock company, trust, cooperative, or corporation.

(10)(A) Except as provided in subparagraph (B), the term "seasonal agricultural worker" means an individual who is employed in agricultural employment of a seasonal or other temporary nature and is not required to be absent overnight from his permanent place of residence—

(i) when employed on a farm or ranch performing field work related to planting, cultivating, or harvesting operations; or

(ii) when employed in canning, packing, ginning, seed conditioning or related research, or processing operations, and transported, or caused to be transported, to or from the place of employment by means of a day-haul operation.

(B) The term "seasonal agricultural worker" does not include—

(i) any migrant agricultural worker;

(ii) any immediate family member of an agricultural employer or a farm labor contractor; or

(iii) any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 101(a)(15)(H)(ii) and 214(c) of the Immigration and Nationality Act.

(11) The term "Secretary" means the Secretary of Labor or the Secretary's authorized representative.

(12) The term "State" means any of the States of the United States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, and Guam.

APPLICABILITY OF ACT

SEC. 4. (a) The following persons are not subject to this Act:

(1) FAMILY BUSINESS EXEMPTION.—Any individual who engages in a farm labor contracting activity on behalf of a farm, processing establishment, seed conditioning establishment, cannery, gin, packing shed, or nursery, which is owned or operated exclusively by such individual or an immediate family member of such individual, if such activities are performed only for such operation and exclusively by such individual or an immediate family member, but without regard to whether such individual has incorporated or otherwise organized for business purposes.

(2) SMALL BUSINESS EXEMPTION.—Any person, other than a farm labor contractor, for whom the man-days exemption for agricultural labor provided under section 13(a)(6)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(A)) is applicable.

(3) OTHER EXEMPTIONS.—(A) Any common carrier which would be a farm labor contractor solely because the carrier is engaged in the farm labor contracting activity of transporting any migrant or seasonal agricultural worker.

(B) Any labor organization, as defined in section 2(5) of the Labor Management Relations Act (29 U.S.C. 152(5)) (without regard to the exclusion of agricultural employees in that Act) or as defined under applicable State labor relations law.

(C) Any nonprofit charitable organization or public or private nonprofit educational institution.

(D) Any person who engages in any farm labor contracting activity solely within a twenty-five mile intrastate radius of such person's permanent place of residence and for not more than thirteen weeks per year.

(E) Any custom combine, hay harvesting, or sheep shearing operation.

(F) Any custom poultry harvesting, breeding, debeaking, desexing, or health service operation provided the employees of the operation are not regularly required to be away from their permanent place of residence other than during their normal working hours.

(G)(i) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to detassel, rogue, or otherwise engage in the production of seed and to engage in related and incidental agricultural employment, unless such full-time students or other indi-

viduals are required to be away from their permanent place of residence overnight or there are individuals under eighteen years of age who are providing transportation on behalf of such person.

(ii) Any person to the extent he is supplied with students or other individuals for agricultural employment in accordance with clause (i) of this subparagraph by a person who is exempt under such clause.

(H)(i) Any person whose principal occupation or business is not agricultural employment, when supplying full-time students or other individuals whose principal occupation is not agricultural employment to string or harvest shade grown tobacco and to engage in related and incidental agricultural employment, unless there are individuals under eighteen years of age who are providing transportation on behalf of such person.

(ii) Any person to the extent he is supplied with students or other individuals for agricultural employment in accordance with clause (i) of this subparagraph by a person who is exempt under such clause.

(I) Any employee of any person described in subparagraphs (A) through (H) when performing farm labor contracting activities exclusively for such person.

(b) Title I of this Act does not apply to any agricultural employer or agricultural association or to any employee of such an employer or association.

TITLE I—FARM LABOR CONTRACTORS

CERTIFICATE OF REGISTRATION REQUIRED

SEC. 101. (a) No person shall engage in any farm labor contracting activity, unless such person has a certificate of registration from the Secretary specifying which farm labor contracting activities such person is authorized to perform.

(b) A farm labor contractor shall not hire, employ, or use any individual to perform farm labor contracting activities unless such individual has a certificate of registration, or a certificate of registration as an employee of the farm labor contractor employer, which authorizes the activity for which such individual is hired, employed, or used. The farm labor contractor shall be held responsible for violations of this Act or any regulation under this Act by any employee regardless of whether the employee possesses a certificate of registration based on the contractor's certificate of registration.

(c) Each registered farm labor contractor and registered farm labor contractor employee shall carry at all times while engaging in farm labor contracting activities a certificate of registration and, upon request, shall exhibit that certificate to all persons with whom they intend to deal as a farm labor contractor or farm labor contractor employee.

(d) The facilities and the services authorized by the Act of June 6, 1933 (29 U.S.C. 49 et seq.), known as the Wagner-Peyser Act, shall be denied to any farm labor contractor upon refusal or failure to produce, when asked, a certificate of registration.

ISSUANCE OF CERTIFICATE OF REGISTRATION

SEC. 102. The Secretary, after appropriate investigation and approval, shall issue a certificate of registration (including a certificate of registration as an employee of a farm labor contractor) to any person who has filed with the Secretary a written application containing the following:

(1) a declaration, subscribed and sworn to by the applicant, stating the applicant's permanent place of residence, the farm labor contracting activities for which the certificate is requested, and such other relevant information as the Secretary may require;

(2) a statement identifying each vehicle to be used to transport any migrant or seasonal agricultural worker and, if the vehicle is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with the requirements of section 401 with respect to each such vehicle;

(3) a statement identifying each facility or real property to be used to house any migrant agricultural worker and, if the facility or real property is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with section 203 with respect to each such facility or real property;

(4) a set of fingerprints of the applicant; and

(5) a declaration, subscribed and sworn to by the applicant, consenting to the designation by a court of the Secretary as an agent available to accept service of summons in any action against the applicant, if the applicant has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

REGISTRATION DETERMINATIONS

SEC. 103. (a) In accordance with regulations, the Secretary may refuse to issue or renew, or may suspend or revoke, a certificate of registration (including a certificate of registration as an employee of a farm labor contractor) if the applicant or holder—

(1) has knowingly made any misrepresentation in the application for such certificate;

(2) is not the real party in interest in the application or certificate of registration and the real party in interest is a person who has been refused issuance or renewal of a certificate, has had a certificate suspended or revoked, or does not qualify under this section for a certificate;

(3) has failed to comply with this Act or any regulation under this Act;

(4) has failed—

(A) to pay any court judgment obtained by the Secretary or any other person under this Act or any regulation under this Act or under the Farm Labor Contractor Registration Act of 1963 or any regulation under such Act, or

(B) to comply with any final order issued by the Secretary as a result of a violation of this Act or any regulation under this Act or a violation of the Farm Labor Contractor Registration Act of 1963 or any regulation under such Act; or

(5) has been convicted within the preceding five years—

(A) of any crime under State or Federal law relating to gambling, or to the sale, distribution or possession of alcoholic beverages, in connection with or incident to any farm labor contracting activities; or

(B) of any felony under State or Federal law involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, prostitution, peonage, or smuggling or harboring individuals who have entered the United States illegally.

(b)(1) The person who is refused the issuance or renewal of a certificate or whose certificate is suspended or revoked under subsection (a) shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of the refusal, suspension, or revocation. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested as herein provided, the refusal, suspension, or revocation shall constitute a final and unappealable order.

(2) If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within thirty days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (c).

(c) Any person against whom an order has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the order was based. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Any final decision, order, or judgment of such District Court concerning such review shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

TRANSFER OR ASSIGNMENT; EXPIRATION; RENEWAL

SEC. 104. (a) A certificate of registration may not be transferred or assigned.

(b)(1) Unless earlier suspended or revoked, a certificate shall expire twelve months from the date of issuance, except that (A) certificates issued under this Act during the period beginning December 1, 1982, and ending November 30, 1983, may be issued for a period of up to twenty-four months for the purpose of an orderly transition to registration under this Act, (B) a certificate may be temporarily extended by the filing of an application with the Secretary at least thirty days prior to its expiration date, and (C) the Secretary may renew a certificate for additional twelve-month periods or for periods in excess of twelve months but not in excess of twenty-four months.

(2) Eligibility for renewals for periods of more than twelve months shall be limited to farm labor contractors who have not been cited for a violation of this Act, or any regulation under this Act, or the Farm Labor Contractor Registration Act of 1963, or any regulation under such Act, during the preceding five years.

NOTICE OF ADDRESS CHANGE; AMENDMENT OF CERTIFICATE OF REGISTRATION

SEC. 105. During the period for which the certificate of registration is in effect, each farm labor contractor shall—

(1) provide to the Secretary within thirty days a notice of each change of permanent place of residence; and

(2) apply to the Secretary to amend the certificate of registration whenever the farm labor contractor intends to—

(A) engage in another farm labor contracting activity,

(B) use, or cause to be used, another vehicle than that covered by the certificate to transport any migrant or seasonal agricultural worker, or

(C) use, or cause to be used, another real property or facility to house any migrant agricultural worker than that covered by the certificate.

PROHIBITION AGAINST EMPLOYING ILLEGAL ALIENS

SEC. 106. (a) No farm labor contractor shall recruit, hire, employ, or use, with knowledge, the services of any individual who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment.

(b) A farm labor contractor shall be considered to have complied with subsection (a) if the farm labor contractor demonstrates that the farm labor contractor relied in good faith on documentation prescribed by the Secretary, and the farm labor contractor had no reason to believe the individual was an alien referred to in subsection (a).

TITLE II—MIGRANT AGRICULTURAL WORKER PROTECTIONS

INFORMATION AND RECORDKEEPING REQUIREMENTS

SEC. 201. (a) Each farm labor contractor, agricultural employer, and agricultural association which recruits any migrant agricultural worker shall ascertain and disclose in writing to each such worker who is recruited for employment the following information at the time of the worker's recruitment:

(1) the place of employment;

(2) the wage rates to be paid;

(3) the crops and kinds of activities on which the worker may be employed;

(4) the period of employment;

(5) the transportation, housing, and any other employee benefit to be provided, if any, and any costs to be charged for each of them;

(6) the existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment; and

(7) the existence of any arrangements with any owner or agent of any establishment in the area of employment under which the farm labor contractor, the agricultural employer, or the agricultural association is to receive a commission or any other benefit resulting from any sales by such establishment to the workers.

(b) Each farm labor contractor, agricultural employer, and agricultural association which employs any migrant agricultural worker shall, at the place of employment, post in a conspicuous place a poster provided by the Secretary setting forth the rights and protections afforded such workers under this Act, including the right of a migrant agricultural worker to have, upon request, a written statement provided by the farm labor contractor, agricultural employer, or agricultural association, of the information described in subsection (a). Such employer shall provide upon request, a written statement of the information described in subsection (a).

(c) Each farm labor contractor, agricultural employer, and agricultural association which provides housing for any migrant agricultural worker shall post in a conspicuous place or present to such worker a statement of the terms and conditions, if any, of occupancy of such housing.

(d) Each farm labor contractor, agricultural employer, and agricultural association which employs any migrant agricultural worker shall—

(1) with respect to each such worker, make, keep, and preserve records for three years of the following information:

(A) the basis on which wages are paid;

(B) the number of piecework units earned, if paid on a piecework basis;

(C) the number of hours worked;

(D) the total pay period earnings;

(E) the specific sums withheld and the purpose of each sum withheld; and

(F) the net pay; and

(2) provide to each such worker for each pay period, an itemized written statement of the information required by paragraph (1) of this subsection.

(e) Each farm labor contractor shall provide to any other farm labor contractor, and to any agricultural employer and agricultural association to which such farm labor contractor has furnished migrant agricultural workers, copies of all records with respect to each such worker which such farm labor contractor is required to retain by subsection (d)(1). The recipient of such records shall keep them for a period of three years from the end of the period of employment.

(f) No farm labor contractor, agricultural employer, or agricultural association shall knowingly provide false or misleading information to any migrant agricultural worker concerning the terms, conditions, or existence of agricultural employment required to be disclosed by subsection (a), (b), (c), or (d).

(g) The information required to be disclosed by subsections (a) through (c) of this section to migrant agricultural workers shall be provided in written form. Such information shall be provided in English or, as necessary and reasonable, in Spanish or other language common to migrant agricultural workers who are not fluent or literate in English. The Department of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

WAGES, SUPPLIES, AND OTHER WORKING ARRANGEMENTS

SEC. 202. (a) Each farm labor contractor, agricultural employer, and agricultural association which employs any migrant agricultural worker shall pay the wages owed to such worker when due.

(b) No farm labor contractor, agricultural employer, or agricultural association shall require any migrant agricultural worker to purchase any goods or services solely from such farm labor contractor, agricultural employer, or agricultural association.

(c) No farm labor contractor, agricultural employer, or agricultural association shall, without justification, violate the terms of any working arrangement made by that contractor, employer, or association with any migrant agricultural worker.

SAFETY AND HEALTH OF HOUSING

SEC. 203. (a) Except as provided in subsection (c), each person who owns or controls a facility or real property which is used as housing for migrant agricultural workers shall be responsible for ensuring that the facility or real property complies with substantive Federal and State safety and health standards applicable to that housing.

(b)(1) Except as provided in subsection (c) and paragraph (2) of this subsection, no facility or real property may be occupied by any migrant agricultural worker unless either a State or local health authority or other appropriate agency has certified that the facility or property meets applicable safety and health standards. No person who owns or controls any such facility or property shall permit it to be occupied by any migrant agricultural worker unless a copy of the certification of occupancy is posted at the site. The receipt and posting of a certificate of occupancy does not relieve any person of responsibilities under subsection (a). Each such person shall retain the original certification for three years and shall make it available for inspection and review in accordance with section 512.

(2) Notwithstanding paragraph (1) of this subsection, if a request for the inspection of a facility or real property is made to the appropriate State or local agency at least forty-five days prior to the date on which it is occupied by migrant agricultural workers and such agency has not conducted an inspection by such date, the facility or property may be so occupied.

(c) This section does not apply to any person who, in the ordinary course of that person's business, regularly provides housing on a commercial basis to the general public and who provides housing to migrant agricultural workers of the same character and on the same or comparable terms and conditions as is provided to the general public.

TITLE III—SEASONAL AGRICULTURAL WORKER PROTECTIONS

INFORMATION AND RECORDKEEPING REQUIREMENTS

SEC. 301. (a)(1) Each farm labor contractor, agricultural employer, and agricultural association which recruits any seasonal agricultural worker (other than day-haul workers described in section 3(10)(A)(ii)) shall ascertain and, upon request, disclose in writing the following information when an offer of employment is made to such worker:

(A) the place of employment;

(B) the wage rates to be paid;

(C) the crops and kinds of activities on which the worker may be employed;

(D) the period of employment;

(E) the transportation and any other employee benefit to be provided, if any, and any costs to be charged for each of them;

(F) the existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment; and

(G) the existence of any arrangements with any owner or agent of any establishment in the area of employment under which the farm labor contractor, the agricultural employer, or the agricultural association is to receive a commission or any other benefit resulting from any sales by such establishment to the workers.

(2) Each farm labor contractor, agricultural employer, and agricultural association which recruits seasonal agricultural workers through use of a day-haul operation described in section 3(10)(A)(ii) shall ascertain and disclose in writing to the worker at the place of recruitment the information described in paragraph (1).

(b) Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall, at the place of employment, post in a conspicuous place a poster provided by the Secretary setting forth the rights and protections afforded such workers under this Act, including the right of a seasonal agricultural worker to have, upon request, a written statement provided by the farm labor contractor, agricultural employer, or agricultural association, of the information described in subsection (a). Such employer shall provide, upon request, a written statement of the information described in subsection (a).

(c) Each farm labor contractor, agricultural employer, and agricultural association

which employs any seasonal agricultural worker shall—

(1) with respect to each such worker, make, keep, and preserve records for three years of the following information:

(A) the basis on which wages are paid;

(B) the number of piecework units earned, if paid on a piecework basis;

(C) the number of hours worked;

(D) the total pay period earnings;

(E) the specific sums withheld and the purpose of each sum withheld; and

(F) the net pay; and

(2) provide to each such worker for each pay period, an itemized written statement of the information required by paragraph (1) of this subsection.

(d)(1) Each farm labor contractor shall provide to any other farm labor contractor and to any agricultural employer and agricultural association to which such farm labor contractor has furnished seasonal agricultural workers, copies of all records with respect to each such worker which such farm labor contractor is required to retain by subsection (c)(1). The recipient of these records shall keep them for a period of three years from the end of the period of employment.

(e) No farm labor contractor, agricultural employer, or agricultural association shall knowingly provide false or misleading information to any seasonal agricultural worker concerning the terms, conditions, or existence of agricultural employment required to be disclosed by subsection (a), (b), or (c).

(f) The information required to be disclosed by subsections (a) and (b) of this section to seasonal agricultural workers shall be provided in written form. Such information shall be provided in English or, as necessary and reasonable, in Spanish or other language common to seasonal agricultural workers who are not fluent or literate in English. The Department of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

WAGES, SUPPLIES, AND OTHER WORKING ARRANGEMENTS

SEC. 302. (a) Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall pay the wages owed to such worker when due.

(b) No farm labor contractor, agricultural employer, or agricultural association shall require any seasonal agricultural worker to purchase any goods or services solely from such farm labor contractor, agricultural employer, or agricultural association.

(c) No farm labor contractor, agricultural employer, or agricultural association shall, without justification, violate the terms of any working arrangement made by that contractor, employer, or association with any seasonal agricultural worker.

TITLE IV—FURTHER PROTECTIONS FOR MIGRANT AND SEASONAL AGRICULTURAL WORKERS

MOTOR VEHICLE SAFETY

SEC. 401. (a)(1) Except as provided in paragraph (2), this section applies to the transportation of any migrant or seasonal agricultural worker.

(2) This section does not apply to the transportation of any migrant or seasonal agricultural worker on a tractor, combine, harvester, picker, or other similar machinery and equipment while such worker is actually engaged in the planting, cultivating, or harvesting of any agricultural commodity or the care of livestock or poultry.

(b)(1) When using, or causing to be used, any vehicle for providing transportation to which this section applies, each agricultural employer, agricultural association, and farm labor contractor shall—

(A) ensure that such vehicle conforms to the standards prescribed by the Secretary under paragraph (2) of this subsection and other applicable Federal and State safety standards,

(B) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle, and

(C) have an insurance policy or a liability bond that is in effect which insures the agricultural employer, the agricultural association, or the farm labor contractor against liability for damage to persons or property arising from the ownership, operation, or the causing to be operated, of any vehicle used to transport any migrant or seasonal agricultural worker.

(2)(A) For purposes of paragraph (1)(A), the Secretary shall prescribe such regulations as may be necessary to protect the health and safety of migrant and seasonal agricultural workers.

(B) To the extent consistent with the protection of the health and safety of migrant and seasonal agricultural workers, the Secretary shall, in promulgating regulations under subparagraph (A), consider, among other factors—

(i) the type of vehicle used,

(ii) the passenger capacity of the vehicle,

(iii) the distance which such workers will be carried in the vehicle,

(iv) the type of roads and highways on which such workers will be carried in the vehicle,

(v) the extent to which a proposed standard would cause an undue burden on agricultural employers, agricultural associations, or farm labor contractors.

(C) Standards prescribed by the Secretary under subparagraph (A) shall be in addition to, and shall not supersede or modify, any standard under part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), or any successor provision of subtitle IV of title 49, United States Code, or regulations issued thereunder, which is independently applicable to transportation to which this section applies. A violation of any such standard shall also constitute a violation under this Act.

(D) In the event that the Secretary fails for any reason to prescribe standards under subparagraph (A) by the effective date of this Act, the standards prescribed under section 204(a)(3a) of the Interstate Commerce Act (49 U.S.C. 304(a)(3a)), relating to the transportation of migrant workers, shall, for purposes of paragraph (1)(A), be deemed to be the standards prescribed by the Secretary under this paragraph, and shall, as appropriate and reasonable in the circumstances, apply (i) without regard to the mileage and boundary line limitations contained in such section, and (ii) until superseded by standards actually prescribed by the Secretary in accordance with this paragraph.

(3) The level of the insurance required by paragraph (1)(C) shall be at least the amount currently required for common carriers of passengers under part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), and any successor provision of subtitle IV of title 49, United States Code, and regulations prescribed thereunder.

(c) If an agricultural employer, agricultural association, or farm labor contractor is the employer of any migrant or seasonal agricultural worker for purposes of a State workers' compensation law and such employer provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by such State law, the following adjustments in the requirements of subsection (b)(1)(C) relating to having an insurance policy or liability bond apply:

(1) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

(2) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

(d) The Secretary shall, by regulations promulgated in accordance with section 511 not later than the effective date of this Act, prescribe the standards required for the purposes of implementing this section. Any subsequent revision of such standards shall also be accomplished by regulation promulgated in accordance with such section.

CONFIRMATION OF REGISTRATION

SEC. 402. No person shall utilize the services of any farm labor contractor to supply any migrant or seasonal agricultural worker unless the person first takes reasonable steps to determine that the farm labor contractor possesses a certificate of registration which is valid and which authorizes the activity for which the contractor is utilized. In making that determination, the person may rely upon either possession of a certificate of registration, or confirmation of such registration by the Department of Labor. The Secretary shall maintain a central public registry of all persons issued a certificate of registration.

INFORMATION ON EMPLOYMENT CONDITIONS

SEC. 403. Each farm labor contractor, without regard to any other provisions of this Act, shall obtain at each place of employment and make available for inspection to every worker he furnishes for employment, a written statement of the conditions of such employment as described in sections 201(b) and 301(b) of this Act.

COMPLIANCE WITH WRITTEN AGREEMENTS

SEC. 404. (a) No farm labor contractor shall violate, without justification, the terms of any written agreements made with an agricultural employer or an agricultural association pertaining to any contracting activity or worker protection under this Act.

(b) Written agreements under this section do not relieve a person of any responsibility that such person would otherwise have under this Act.

TITLE V—GENERAL PROVISIONS

PART A—ENFORCEMENT PROVISIONS

CRIMINAL SANCTIONS

SEC. 501. (a) Any person who willfully and knowingly violates this Act or any regulation under this Act shall be fined not more than $1,000 or sentenced to prison for a term not to exceed one year, or both. Upon conviction for any subsequent violation of this Act or any regulation under this Act, the defendant shall be fined not more than $10,000 or sentenced to prison for a term not to exceed three years, or both.

(b) If a farm labor contractor who commits a violation of section 106 has been refused issuance or renewal of, or has failed to obtain, a certificate of registration or is a farm labor contractor whose certificate has

been suspended or revoked, the contractor shall, upon conviction, be fined not more than $10,000 or sentenced to prison for a term not to exceed three years, or both.

JUDICIAL ENFORCEMENT

SEC. 502. (a) The Secretary may petition any appropriate district court of the United States for temporary or permanent injunctive relief if the Secretary determines that this Act, or any regulation under this Act, has been violated.

(b) Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act, but all such litigation shall be subject to the direction and control of the Attorney General.

ADMINISTRATIVE SANCTIONS

SEC. 503. (a)(1) Subject to paragraph (2), any person who commits a violation of this Act or any regulation under this Act, may be assessed a civil money penalty of not more than $1,000 for each violation.

(2) In determining the amount of any penalty to be assessed under paragraph (1), the Secretary shall take into account (A) the previous record of the person in terms of compliance with this Act and with comparable requirements of the Farm Labor Contractor Registration Act of 1963, and with regulations promulgated under such Acts, and (B) the gravity of the violation.

(b)(1) The person assessed shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

(2) If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within thirty days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (c).

(c) Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Any final decision, order, or judgment of such District Court concerning such review shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

(d) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(e) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

PRIVATE RIGHT OF ACTION

SEC. 504. (a) Any person aggrieved by a violation of this Act or any regulation under this Act by a farm labor contractor, agricultural employer, agricultural association, or other person may file suit in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy and without regard to the citizenship of the parties and without regard to exhaustion of any alternative administrative remedies provided herein.

(b) Upon application by a complainant and in such circumstances as the court may deem just, the court may appoint an attorney for such complainant and may authorize the commencement of the action.

(c)(1) If the court finds that the respondent has intentionally violated any provision of this Act or any regulation under this Act, it may award damages up to and including an amount equal to the amount of actual damages, or statutory damages of up to $500 per plaintiff per violation, or other equitable relief, except that (A) multiple infractions of a single provision of this Act or of regulations under this Act shall constitute only one violation for purposes of determining the amount of statutory damages due a plaintiff; and (B) if such complaint is certified as a class action, the court shall award no more than the lesser of up to $500 per plaintiff per violation, or up to $500,000 or other equitable relief.

(2) In determining the amount of damages to be awarded under paragraph (1), the court is authorized to consider whether an attempt was made to resolve the issues in dispute before the resort to litigation.

(3) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

DISCRIMINATION PROHIBITED

SEC. 505. (a) No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant or seasonal agricultural worker because such worker has, with just cause, filed any complaint or instituted, or caused to be instituted, any proceeding under or related to this Act, or has testified or is about to testify in any such proceedings, or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this Act.

(b) A migrant or seasonal agricultural worker who believes, with just cause, that he has been discriminated against by any person in violation of this section may, within 180 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this section have been violated, the Secretary shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown, to restrain violation of subsection (a) and order all appropriate relief, including rehiring or reinstatement of the worker, with back pay, or damages.

WAIVER OF RIGHTS

SEC. 506. Agreements by employees purporting to waive or to modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of rights in favor of the Secretary shall be valid for purposes of enforcement of this Act.

PART B—ADMINISTRATIVE PROVISIONS

RULES AND REGULATIONS

SEC. 511. The Secretary may issue such rules and regulations as are necessary to carry out this Act, consistent with the requirements of chapter 5 of title 5, United States Code.

AUTHORITY TO OBTAIN INFORMATION

SEC. 512. (a) To carry out this Act the Secretary, either pursuant to a complaint or otherwise, shall, as may be appropriate, investigate, and in connection therewith, enter and inspect such places (including housing and vehicles) and such records (and make transcriptions thereof), question such persons and gather such information to determine compliance with this Act, or regulations prescribed under this Act.

(b) The Secretary may issue subpenas requiring the attendance and testimony of witnesses or the production of any evidence in connection with such investigations. The Secretary may administer oaths, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this Act, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49, 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall be available to the Secretary. The Secretary shall conduct investigations in a manner which protects the confidentiality of any complainant or other party who provides information to the Secretary in good faith.

(c) It shall be a violation of this Act for any person to unlawfully resist, oppose, impede, intimidate, or interfere with any official of the Department of Labor assigned to perform an investigation, inspection, or law enforcement function pursuant to this Act during the performance of such duties.

AGREEMENTS WITH FEDERAL AND STATE AGENCIES

SEC. 513. (a) The Secretary may enter into agreements with Federal and State agencies (1) to use their facilities and services, (2) to delegate, subject to subsection (b), to Federal and State agencies such authority, other than rulemaking, as may be useful in carrying out this Act, and (3) to allocate or transfer funds to, or otherwise pay or reimburse, such agencies for expenses incurred pursuant to agreements under clause (1) or (2) of this section.

(b) Any delegation to a State agency pursuant to subsection (a)(2) shall be made only pursuant to a written State plan which—

(1) shall include a description of the functions to be performed, the methods of performing such functions, and the resources to be devoted to the performance of such functions; and

(2) provides assurances satisfactory to the Secretary that the State agency will comply with its description under paragraph (1) and that the State agency's performance of functions so delegated will be at least com-

parable to the performance of such functions by the Department of Labor.

PART C—MISCELLANEOUS PROVISIONS

STATE LAWS AND REGULATIONS

SEC. 521. This Act is intended to supplement State law, and compliance with this Act shall not excuse any person from compliance with appropriate State law and regulation.

TRANSITION PROVISION

SEC. 522. The Secretary may deny a certificate of registration to any farm labor contractor, as defined in this Act, who has a judgment outstanding against him under the Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2041 et seq.), or is subject to a final order of the Secretary under that Act assessing a civil money penalty which has not been paid. Any findings under the Farm Labor Contractor Registration Act of 1963 may also be applicable to determinations of willful and knowing violations under this Act.

REPEALER

SEC. 523. The Farm Labor Contractor Registration Act of 1963 (7 U.S.C. 2041 et seq.), is repealed.

EFFECTIVE DATE

SEC. 524. The provisions of this Act shall take effect on December 1, 1982, and shall be classified to title 29, United States Code.

The SPEAKER pro tempore. Is a second demanded?

Mr. ERLENBORN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. MILLER) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, we have come to the end of a long road. Today, I ask that my colleagues support H.R. 7102, the Migrant and Seasonal Agricultural Protection Act. This bill represents months of negotiations and compromise between the interested parties—the agricultural employers and the agricultural workers. Both sides realized the many problems that exist under the current statute—the Farm Labor Contractor Registration Act. Problems such as: uneven enforcement, conflicting definitions, and needless registration. Both parties also realize that, in order to adequately insure that the protections afforded migrant and seasonal workers under this or any act, you must tie the responsibility for protecting the workers to the person which has the ability to correct the hazard or control the abuse. This bill, for the first time, takes that step. Through the use of the concept of "joint-employer" the agricultural employer or association will, for the first time, be responsible for the protection of the workers. No longer must the migrant workers look solely to the crewleader for relief.

As I stated on September 14, to open a hearing on H.R. 7102:

We have attempted to establish certainty during these long negotiations. That is also the goal of the administration's bill. It will determine "who is responsible for the protections and duties available under the act," with the answer, "he or she who provides the service or employs the worker—farm labor contractor or not—has the duty to protect the workers."

Certainty will benefit all parties. Agricultural employers will be relieved of the excessive burdens of FLCRA and will for the first time be sure of their duties to migrant workers. Agricultural employees will in turn, know who is responsible for their protections, by fixing the responsibility on those who ultimately benefit from their labors—the agricultural employer. Unions, likewise, will be assured for the first time that they will not fall within the coverage of an ever increasing maze of conflicting definitions which characterize the current law.

All of the problems of the migrant workers in this country will not disappear after this bill becomes law. Today, as always, exploitation, poor housing, and abuse all to often go hand in hand with the back-breaking work performed by the agricultural worker. As this bill is put into place, I will continue to use the Subcommittee on Labor Standards oversight authority to investigate the effect of these changes on the lives of the migrant worker and to look for ways to insure a better quality of life for these workers and their families.

I wish to commend all the parties that have worked on this act including the ranking minority member of my subcommittee and cosponsor of this bill, Mr. ERLENBORN.

The administration helped negotiate and transmitted a bill to this Congress that I believe should become law. I was involved in its development, and I believe that it represents a positive step in the protection of agricultural workers. I support this legislation and I urge my colleagues to do as well.

Mr. ERLENBORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a cosponsor of H.R. 7102, I am pleased that the bill is before the House for consideration today, and I support its enactment.

This is a bill that was recently submitted to the Congress by the administration. Despite the fact that the Subcommittee on Labor Standards has held only 1 day of hearings, it is my understanding that for over 18 months the interested parties, including staff from the House and Senate majority and minority, have been engaged in negotiations to work out a bill to replace the Farm Labor Contractor Registration Act (FLCRA). The Department of Labor (DOL) (especially Assistant Deputy Undersecretary Craig Berrington) has been the leader and negotiator in these extensive give-and-take meetings. All interested parties, agricultural employers, representatives of migrant workers, and the AFL-CIO reached a consensus in support of this bill. For some time, Republican members of this committee have sought a resolution to the problems of DOL's interpretation of FLCRA. With this bill, the parties most affected agree that their problems have been solved.

To put this issue in perspective, the history of the FLCRA plays a great role. When FLCRA became effective on January 11, 1965, it was almost ignored. The original law was designed to eliminate the exploitation of migrant workers, agricultural producers and the public by irresponsible labor contractors, commonly called crew leaders. It did not do so, largely because of its deficiencies in enforcement provisions. Usually, violations of FLCRA were discovered only when the Department of Labor was investigating other laws, such as the Fair Labor Standards Act.

In 1974, the Subcommittee on Agricultural Labor, as a result of oversight hearings, discovered that abuses of migrant workers and agricultural employers by farm labor contractors still existed. Some migrant workers were being held in virtual bondage by certain crew leaders and the same or other crew leaders were failing to show up for work on farms or ranches they had contracted to provide a crew for if "better pickings" were available elsewhere. The hearings of the subcommittee were so compelling in the revelation of abuses and inadequate enforcement that both sides of the aisle joined in a bipartisan effort to strengthen the act. As a result, the 1974 amendments directed the Department to monitor, investigate and enforce the FLCRA; the penalties for violations were increased; coverage was extended to intrastate crew leaders and to those who transported fewer than 10 workers; a nondiscrimination clause was added; an independent cause of civil action became available; and enforcement was strengthened by requiring those who do business with a crew leader to observe the crew leaders certificate.

After the 1974 amendments became law, the Department of Labor began to administer the act in a most forceful manner. Complaints were received that the Department was citing farmers, growers, producers, and processors for failure to register as crew leaders where they were not acting as middlemen. The Department was also requiring employees of exempt employers to register as crew leaders. The act then

became a bone of contention between growers and migrant legal action clients as to the extent of coverage. Because of the Department's overenforcement, certain groups have been exempted from coverage without hearings by amendments offered in the other body to house-passed labor bills; that is, sheepshearers, custom combine crews; custom poultry harvesting; and persons supplying students and others to detassel and rogue hybrid seed corn or sorghum, with certain provisos.

During the last Congress, criticisms of enforcement of the act resulted in two different type bills being introduced, attempts to amend the act through nongermane amendments to other bills, various correspondence, particularly from the Senate, to the Department concerning coverage and enforcement with unsatisfactory replies, and promises of hearings in both the Senate and the House, without result.

During the years of problems with enforcement and the bringing of numerous private suits, it appeared that the agricultural employer community felt all stationary agricultural employers should be exempt, while the migrant workers community feels all agricultural employers should be covered. There is a middle ground to those arguments, and the bill I am cosponsoring today reaches that middle ground consensus approach.

As the Department of Labor testified, the consensus bill encompasses five basic principles:

First, it distinguishes between the traditional crew leader and the fixed situs agricultural employer. In doing so, the bill requires traditional crew leaders to register and requires certain obligations of them. It additionally prohibits crew leaders from recruiting or hiring any individual who is an alien not lawfully admitted for permanent residence or not authorized for employment.

Second, the bill provides important workers protections, whether employed by a fixed situs employer or a crew leader. These important protections include vehicle safety, housing safety and health, and disclosure of wages and working condition. These were the three most important areas of protections requested by representatives of migrant workers.

Third, because there is a difference among them, the bill distinguishes between migrants, seasonal workers, and day-haul workers. Migrants particularly need all the worker protections provided, while seasonals and day-haul workers may not be as concerned with housing safety and health. Migrant and day-haul workers are more in need of vehicle safety than are seasonals who may commute in their own automobiles. These differences are recognized in this bill.

Fourth, the bill provides exemptions for family businesses, small businesses, and labor organizations, plus the present exemptions in FLCRA.

Fifth, the bill deletes ambiguous language.

Additionally, the new bill adopts the definition of the term "employ" used in the Fair Labor Standards Act, creating a "joint employer" relationship, not presently encompassed in FLCRA.

Title I of the new bill applies to traditional crew leaders, requiring registration and protections to workers. Title II sets out protections for migrant farmworkers, title III sets out protections for seasonals, and title IV sets out protections for both. The new bill offers particular protections to workers in the area of housing, transportation and disclosure. Enforcement provisions of the bill retain FLCRA's civil and criminal penalties and investigative authority of the Department of Labor. FLCRA's private cause of action is changed, by requiring some notice and conciliation effort prior to filing suit, and capping (or limiting) statutory damages, but not actual damages. The prohibition on discrimination for exercising rights under the bill are retained from FLCRA.

Let me emphasize that it was the interested parties that agreed to this bill. Each side achieved some long-sought goal. For instance, the fixed situs agricultural employer groups objected to the burdens of registration as farm labor contractors and objected to the possibility of being selectively subject to the prohibitions on hiring illegal aliens. In exchange for lifting those burdens, the agricultural employer groups agreed to offer certain additional protections to migrant and seasonal farmworkers and assume the joint employer concept of the Fair Labor Standards Act. The unions, which under FLCRA could be interpreted to be crew leaders, are now exempt, but in exchange agreed to allow exemptions from the new bill for family businesses and small businesses. In agreeing to offer additional disclosure to workers, agricultural employers can now look to the Department of Labor to provide them with the proper forms. Although all sides had policy positions stronger than the result of this bill, they negotiated in good faith and reached this consensus. If the parties are satisfied with the result, and urge enactment, we should move quickly in order to provide the protections promised and in order to inform the parties of their status prior to the new agricultural season. With these considerations in mind, I support enactment of H.R. 7102.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I rise in support of the Migrant and Seasonal Agricultural Worker Protection Act, which is the product of long negotiations between all parties involved and which appears to be a fair resolution to the problems related to the Department of Labor's interpretation of the Farm Labor Contractor Registration Act (FLCRA).

The purpose behind the original 1963 FLCRA was positive in nature. It was to eliminate the exploitation of migrant workers, agricultural producers and the public by crew leaders. However, this law was almost totally unenforced by the Department of Labor.

After oversight hearings pointed out that abuses by crew leaders were still in existence, strengthening amendments were passed by the Congress in 1974. These amendments were not ignored by the Department of Labor—they were overenforced.

The result of the Department of Labor's interpretations has been unnecessary and unproductive harassment for many Pennsylvania fruit and vegetable farmers, mushroom growers, fruit and vegetable processors and other agricultural employees.

During hearings before the House Subcommittee on Economic Opportunity in 1978, testimony was given by the general manager of Knouse Fruitland and the Pennsylvania Farmer's Association pertaining to the problems they were experiencing as a result of the Department of Labor's interpretation and enforcement of the FLCRA—against the original intent of Congress.

Both witnesses cited unwarranted and overzealous tactics of the wage and hour division, which ranged from constant review of farm payroll records to interviewing intoxicated farmworkers and hiding behind trees to observe farm activity—tactics disruptive to the smooth operation of the farm which is so crucial during harvest time when workers are dealing with perishable crops.

Mr. Speaker, I feel the bill before us today will eliminate many of these problems by defining in clear terms the scope of authority vested in the Department of Labor and clarifying the responsibilities of all parties involved.

Mr. MILLER of California. Mr. Speaker, I yield 5 minutes to my colleague, the gentleman from California (Mr. PANETTA), who has been not only a force in bringing all these parties together, but also, I think, a catalyst in resolving the disagreements between the parties.

Mr. PANETTA. Mr. Speaker, I thank the gentleman from California (Mr. MILLER) for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 7102, the Migrant and Seasonal Agricultural Worker Protection Act. This bill repeals the Farm Labor Con-

tractor Registration Act and puts in its place compromise legislation that is supported by a consensus of the interested organizations, including the department of Labor, farmers, unions, and farmworker groups. I am a cosponsor and heartily support this piece of legislation which eliminates undue redtape and harassment for farmers and other agricultural employers, while at the same time, provides real protection to migrant and seasonal agricultural workers.

I introduce the first proposal to reform this law because of inequities in its enforcement. The Farm Labor Contractor Registration Act was enacted in 1963 to protect both farmers and farmworkers from abuse by unscrupulous farm labor contractors and crew leaders. The strict requirements of FLCRA were necessary to deal with the potential problems posed by farm labor contractors who generally move with the harvest and serve as independent labor suppliers to more than one farm operation at a time. Since FLCRA's enactment, however, the Department of Labor has misconstrued the terms of the act and has imposed the act's requirements on farmers and other agricultural employers who were never intended to be covered by the act.

The legislation we are voting on today is designed to resolve the issue of who is, and who is not, a farm labor contractor under the law. At the same time, the bill guarantees significant rights and protections to migrant and seasonal agricultural workers. The bill imposes on all agricultural employers, whether or not they are required to register as farm labor contractors, certain duties and standards in their treatment of migrant agricultural employees, including requirements to provide adequate housing and transportation.

I believe this legislation provides a viable solution to the problems of the past, and effectively protects the rights and interests of agricultural employers and farm workers. Enactment of this bill is much needed by the agricultural community of this country, and I urge adoption of this bill by my colleagues today.

□ 1340

I also would pay tribute to the chairman of the subcommittee, the gentleman from California (Mr. MILLER), who worked a great deal in trying to bring the parties together to resolve the differences.

This was not an easy job. It was difficult to try to bring into one room all of the varied interests that were involved in this legislation.

Yet all of them, through the process of compromise, were able to develop this kind of consensus legislation.

It is a good bill and I urge my colleagues to adopt it.

Mr. Speaker, I yield back the balance of my time.

Mr. ERLENBORN. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. HARTNETT).

Mr. HARTNETT. Mr. Speaker, I thank the gentleman for yielding.

I think this legislation which we have before us now is long past due. I have never been able to understand why, though, we need migrant labor in a country where we have millions of unemployed, but the fact is that we do have migrant labor and we do use them. I think we need to provide adequate protection for them and for the farmer.

The bill eliminates the fiction that farmers, packing shed operators, and other agriculture employers are crew leaders. By eliminating this fiction, it removes the requirement that farmers register as crew leaders, be fingerprinted, and eliminates their potential liability for not registering as crew leaders.

The bill further amends civil penalty provisions so that individuals that have actually been harmed can recover any damages which they have received. However, employers will not be liable from their technical provisions.

For example, if the law required you have an 8-foot ceiling in your migrant laborers' quarters and you had a 7.5-foot ceiling, the Federal Government could bring charges against you for not complying with the act. These types of things will be eliminated if we pass this act.

It provides better protection for workers while at the same time it removes unnecessary regulations on employers by making the law clear so that whoever houses, transports, or employs migrant workers is responsible for having safe housing, safe transportation, and information on wages, hours, and working conditions.

It provides specific exemptions for family and small farms, which is also very important. If a farm is operated or owned by a farmer and the members of his family deal directly with the migrant workers and no crew leaders is involved, that farm is exempted from the act.

This bill is well balanced. It eliminates unnecessary burdens and still does what we hope it will do. It protects the worker.

This is a consensus bill supported by a broad spectrum of the American people, including the Farm Bureau and the AFL–CIO.

I urge my colleagues to pass this bill and yield back the balance of my time.

Mr. ERLENBORN. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I thank the gentleman very much.

I want to compliment the gentleman on this fine piece of legislation.

I think it is one of the little noted but most important pieces of legislation that will pass through this body.

I can only compliment the gentleman from California for his fine legislative craftsmanship.

I know the long and hard hours the gentleman has spent in trying to put together a piece of legislation that I think will really benefit those portions of the population which he has sought to help.

I just want to compliment the gentleman because I did not think people had given him the proper credit and recognition for the work he has done.

I yield back the balance of my time.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include therein extraneous material, on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. MILLER) that the House suspend the rules and pass the bill, H.R. 7102, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MAINTENANCE OF FEDERAL INVOLVEMENT AND SUPPORT FOR CHILD NUTRITION PROGRAMS

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 384) expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes.

The Clerk read as follows:

H. CON. RES. 384

Whereas the United States has been committed to assuring adequate nutrition for school children since the enactment of the National School Lunch Act (42 U.S.C. 1751 et seq.) in 1946;

Whereas shocking conditions of Americans suffering from hunger and malnutrition were once prevalent in this century;

Whereas the Congress has successfully responded by initiating a comprehensive national effort to reduce domestic hunger and malnutrition;

Whereas nutrition was declared to be a Federal responsibility by President Richard

M. Nixon in 1969, at the White House Conference on Food, Nutrition, and Health;

Whereas the nutrition benefits provided to our Nation's school children contribute significantly to the development of their learning potential;

Whereas nutrition assistance to mothers and children at critical periods of growth can substantially reduce infant mortality, low birth weight, and promote long-term health; and

Whereas the child nutrition programs, including the school lunch program, the breakfast program, the child care food program, the summer feeding program, the special milk program, the special supplemental food program for women, infants, and children (W.I.C.), and the nutrition education and training program, represent a vital investment in our children's future: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) current national efforts to reduce hunger and malnutrition should continue;

(2) a uniform national commitment to the nutrition of our Nation's children should continue through Federal leadership and support of the vital child nutrition programs; and

(3) the Federal Government should retain primary responsibility for the child nutrition programs and such programs should not be included in any block grant.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky (Mr. PERKINS) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. GOODLING) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise in support of House Concurrent Resolution 384, a concurrent resolution urging the continuation of Federal support and involvement in the child nutrition programs.

On July 23, Congressman GOODLING, the ranking Republican on the Subcommittee on Elementary, Secondary, and Vocational Education, and I introduced House Concurrent Resolution 384. I want to commend my distinguished colleague from Pennsylvania for his longterm commitment to the child nutrition programs.

BILL GOODLING and I have worked together for a number of years on child nutrition legislation and I believe he is as dedicated to these programs as any Member in the House or Senate.

I also want to commend the American School Food Service Association and Bread for the World for their tireless efforts on behalf of this resolution.

House Concurrent Resolution 384 has broad bipartisan support. On September 16, Senator ROBERT DOLE, chairman of the Senate Nutrition Subcommittee and Senator PATRICK LEAHY, the subcommittee's ranking Democrat, introduced a comparable resolution in the Senate. This Senate resolution has 33 cosponsors and our own House Concurrent Resolution 384 currently has 127 cosponsors.

Mr. Speaker, since the 1930's the Federal Government has taken a leadership role in the area of child nutrition.

Some of my colleagues may remember that the national school lunch program was established in 1946 in response to the overwhelming number of World War II draftees that were rejected from military service because of nutrition-related health problems.

In the late sixties, the Federal child nutrition efforts were augmented after a field foundation study revealed the high incidence of malnutrition in the population, predominantly among low-income people.

Today, the United States has the most comprehensive network of child nutrition programs in the world. These programs include the school lunch program, the breakfast program, the special milk program, child care food program, the summer food program, the commodity distribution program, the nutrition education program, and the WIC program.

But through the President's New Federalism initiative, the administration is proposing to turn back the child nutrition programs to the States in fiscal year 1988 and terminate all Federal involvement and support by fiscal year 1991, thereby jeopardizing the very programs it took this country 36 years to build.

There are compelling reasons why the child nutrition programs should remain on the Federal level and not be turned back to the States.

First, States with limited resources will not have the funds to replace lost Federal dollars with State and local funds.

As a result, States will be forced to severely limit or eliminate the child nutrition programs altogether.

To illustrate this point, the Federal Government cut $1.5 billion out of the child nutrition budget last year. The fact that not one State increased its financial commitment to the programs to make up for the Federal loss has now resulted in 1,700 schools and 3.4 million children being forced out of the school lunch program.

Second, the child nutrition programs are highly successful in reducing the incidence of malnutrition. Medical experts have forecast that if the child nutrition programs are significantly weakened, there will be a reoccurrence of many of the same nutrition and related health problems that were prevalent in the 1960's.

These programs are considered to be very cost-effective in reducing the incidence of health problems associated with malnutrition. It is important to point out that the medical costs associated with health problems greatly outweigh the Federal costs of maintaining the child nutrition programs.

Finally, a turnback of the child nutrition programs to the States would have a very adverse impact on the stability of our agricultural economy. Since 1946, the school lunch program and the other feeding programs have served an important function as the primary outlet for agricultural commodities.

Last year, 750 million dollars worth of commodities, including flour, beef, pork, rice, poultry, and dairy products, were distributed to 91,220 schools participating in the school lunch program. As a result, over 22 million children received hot, nutritious school lunches last year.

Mr. Speaker, House Concurrent Resolution 384 expresses the sense of Congress that the child nutrition programs should not be turned back to the States nor should they be diluted by inclusion in any block grant. As Senator ROBERT DOLE testified before the Subcommittee on Elementary, Secondary, and Vocational Education on September 21:

> The Health of our nation's children should be a high priority. Our children deserve to have good nutritional input during the early stages of their growth and development. In many ways, this is what will determine their potential as adults, enabling them to contribute their share to make ours a more productive society. It is well known that hungry children do not concentrate well in the classroom, and whatever educational opportunities are extended to them will not have the intended beneficial effects under these circumstances. A child whose development is impeded during the early years will never have a chance to catch up. Based on this rationale, child nutrition is perhaps one of the most worthwhile investments that our country can make in its future. As Chairman of the nutrition subcommittee, and one who has actively engaged in efforts to establish and improve the existing child nutrition programs, this Senator believes that child nutrition should remain a national priority.

Our children are the Nation's greatest resource and for 36 years, the Federal Government has been committed to insuring their nutritional well being. I urge my colleagues to join me in supporting House Concurrent Resolution 384, a resolution urging the Federal Government's continued support of these very worthy programs and expressing the sense of the Congress that these programs should not be turned back to the States nor should their effectiveness be diluted through inclusion in any block grant.

□ 1350

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the distinguished ranking minority member of the committee, the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, I would like to mention several reservations I have about House Concurrent

Resolution 384. While I recognize the intent expressed by my colleagues who support this legislation, I am concerned that such a resolution might raise false expectations and, in effect, make promises we cannot keep.

This resolution is not binding on anyone and has no direct effect on any future Congress which would have to consider the fate of the Federal child nutrition programs. In addition, I fear that we might be putting the cart before the horse. We have not seen the final plans for the administration's New Federalism package and no document to my knowledge has been transmitted from the administration to Capitol Hill. Congress will have ample opportunity to fully deliberate on the entire issue and debate the merits of the administration's proposal. Now may not be the best time to act while sensitive negotiations are going on among administration officials and the Governors of the 50 States regarding the contents of the New Federalism package.

Another potential problem, despite the assurances from my respected colleague from Pennsylvania (Mr. GOODLING), is that some people may attempt to use this resolution as an argument against making any changes in the current child nutrition programs. I agree with both Representative GOODLING and Senator DOLE when they note that merely throwing money at a problem does not necessarily mean that it will be solved. Some programs have proven to be more effective than others and further improvements might be in order. I would hope that House Concurrent Resolution 384 would not be used to stymie needed changes but I have been around Congress long enough to know that well-intended legislation can often times be used against the very lofty aims they were designed to serve.

There are many merits to certain aspects of the New Federalism concept and one must be selective in determining which programs are appropriate for turnback to the States. Reasonable people may disagree on specific issues, but I would hate to see debate cutoff by hasty action. I urge my colleagues to weigh carefully the arguments presented before casting their votes.

Mr. PERKINS. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I certainly want to congratulate the chairman and, of course, the members of the committee for bringing up this resolution.

After hearing my friend from Illinois talk just a moment ago, the bipartisanship seemed to have weakened a little, more than I had expected, because this resolution has certainly been, I think, practically unanimously supported by the committee. And I must say it is an important resolution because it will clearly indicate to the administration, certainly as we go into next year, that this Congress is not going to agree with a further dilution of the nutrition programs that have been so successful in our country and have been so important to young people in our country.

As to the gentleman's reference to New Federalism, of course, New Federalism, from what little we have seen of it, is a disaster. I think what we are going to hear, as we get more into this question of New Federalism, is the issue of what this is really going to cost the people back home unless they, too, are willing to sacrifice our children and sacrifice other areas of education and many other areas, to simply say, "We are going to let everything go."

I think the issue here is purely one that our nutrition program for children is overwhelmingly supported by Members of Congress, that the administration in future battles ought to fight on some other grounds and not on these.

Mr. ERLENBORN. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

Mr. Speaker, let me just say, as I said in my statement, no package of New Federalism has been sent here to the Hill, and it seems to me that the gentleman is in fear of the unknown and might do better to reserve his judgment until a proposal is made.

Mr. PEYSER. I thank the gentleman for his comment, but the facts are that there have been numerous indications of what New Federalism is about to contain, and it is because of what we have seen that this type of resolution is so important.

I would be most anxious to see, as time goes on, a number of other resolutions to help the administration, so that we do not go through a lot of wasted exercise on what is not going to pass this Congress and try to direct ourselves to things that the Congress is willing to discuss with the administration.

So once again I rise in strong support of this resolution and I urge an overwhelming, resounding victory for it.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in support of the concept contained in House Concurrent Resolution 384, but I believe the language and underlying purpose are not perfectly clear.

While the strengths of the national child nutrition program merit its continuation and strong backing of this body, we should not be blind to the flaws that exist in this program.

I have been approached by many people who have explained to me several serious apparent inadequacies in the child nutrition program, and feel that they should at least be addressed. One problem mentioned most often is that too many children do not eat their meals. This undermines the intent of the program to provide nutrition to our children, and if we cannot improve ways of encouraging our children to take advantage of this offering, how effective are our efforts and what do they accomplish?

I believe that State and local school boards should be given greater control over how school lunch menus fulfill Federal nutritional standards. I believe that, certainly in Nebraska, State and local school officials are far more likely to provide nutritious meals at lowest possible cost and with the least amount of plate waste.

Another frequently mentioned problem is that the formula that determines who qualifies for reduced-price meals is extremely complicated and very time-consuming to calculate. It has been suggested that this formula be discontinued, and have the above-poverty-level qualifying percentage for free meals increased in its place. This would require no additional funding, and could possibly reduce funding levels because much redtape would be eliminated.

I firmly believe the Federal Government should continue its involvement in child nutrition, but to what extent and how it should be accomplished are essential elements to our success in adequately providing for our children's future well-being. I am not aware that these points and concerns are addressed or taken under consideration by this resolution.

I am drafting legislation aimed at correcting these and other deficiencies with the goal uppermost being the maximum use of our food abundance at lowest possible cost, lowest possible waste levels, and highest possible nutrition consistent with national policies and goals.

If the thrust of this resolution is to insure the proper nutritional development of our Nation's youth, then we should commit ourselves to be open to all forms of alternatives for the betterment of this cause. And if certain viable alternatives include sending portions of the child nutrition program back to the States, then we should not let any actions taken today preclude the potential of such a worthy and necessary program.

□ 1400

Mr. GOODLING. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Idaho (Mr. CRAIG).

Mr. CRAIG. Mr. Speaker, after very careful consideration, today I rise in support of House Concurrent Resolution 384. This resolution has broad bipartisan support both in the House and Senate. Further, it enjoys the overwhelming support of the National PTA, the American School Food Service Association, the Coalition on Block Grants and Human Needs, the American Federation of State, County and Municipal Employees, and the American Dietetic Association.

In my own State of Idaho, I have received endorsements of this resolution from the largest school district in the State, Independent School District of Boise City, and also from the supervisor of food services for the Idaho Department of Education, the Idaho School Food Service Association, and the regional office of the National Farmers Union.

I recognize that the child nutrition programs not only improve the health of children; they improve a child's chances to remain healthy. Further, in the area of child nutrition and health, we cannot afford to ignore the past history of some States in their dealings with minorities and the poor. There is little doubt that Federal guidelines and standards have played an important role in maintaining quality nutritional programs. However, this is not a blanket endorsement. There can and does need to be refinement of the various programs.

Finally, as we look down the road, I believe that the reduction of hunger for our children rests in a working partnership between parents, local governments, schools, State government departments, and the Federal agencies. We all have responsibilities.

With this concept in mind, I recommend passage of House Concurrent Resolution 384.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I commend the gentleman from Kentucky (Mr. PERKINS) and my colleague from Pennsylvania (Mr. GOODLING) for their leadership on this.

Let me just give a moment or two background on how we ended up with the school lunch program.

We ended up in World War II with a host of young people who were going to be drafted, who were not physically sound, who could not pass the health tests, because they did not have adequate nutrition. And so as a defense measure, my friends, we launched a school nutrition program.

And the result of that has been positive. The result of that has been improved health. It has been improved longevity.

Now, my colleague from Illinois, (Mr. ERLENBORN) for whom I have great respect, made a couple of comments in response to the gentleman from New York (Mr. PEYSER), in his remarks.

First, he said that there is no binding effect on this resolution, and of course this is true. We passed a resolution on the refugee situation yesterday that has no binding effect. I am sure the gentleman from Illinois voted for it as did I believe virtually every Member of this body.

The second thing he said in response to the gentleman from New York was there is no administration proposal to whack away at this school lunch program.

First, we have the experience of a one-third cutback already. Second, the administration has floated a document called Tentative Administration Decisions on Federalism Initiative, dated June 22, 1982, which calls for the total elimination of Federal assistance in the school lunch program by 1991.

And 3.4 million young people have already been eliminated from the school lunch program by the cuts we have made already. One-third of them poor young people.

I do not think this body nor the body across the way in this Capitol Building wants to say we want to cut back on the school lunch program, for we do not want to jeopardize the health of the young people of this Nation. And that is really what it comes down to, when we do not have an adequate school lunch program.

So I rise in strong support of the resolution.

Mr. GOODLING. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise in strong support of House Concurrent Resolution 384, which expresses the sense of Congress that the Federal Government should retain primary responsibility for child nutrition programs and that such programs should not be included in any block grant. Federal funding and standards have protected the health of millions of American children in whatever State they may reside for the past 36 years through child nutrition programs. Transferring administrative responsibility and financing to State and local governments could result in substantial inequities from State to State as to how much nutritional food children receive.

If, as a nation we stand for equal opportunity and equal treatment before the law, we should not allow the health of our children to be dependent on the State in which they reside. Our country has made great strides in advancing the health and welfare of our children and families through valuable programs like school lunch and breakfast, special milk, nutrition education, summer food and child care. We who send children to school and guarantee them that right, recognized in 1946, with the passage of the national school lunch program, that nutritional food is a basic necessity, and as such, must be provided for those unable to without this advantage everyday in their homes, through no fault of their own. By passing this legislation today, the House would be stating that we as a nation will stand behind our commitment to protect our greatest resource—our children—by assuring the strong continuation of our Nation's child nutrition programs. I commend the bipartisan effort, led by my distinguished colleagues, the gentleman from Pennsylvania, Mr. GOODLING, and Mr. PERKINS, the distinguished committee chairman, to bring this important resolution to the floor and I urge my colleagues to give this resolution the whole hearted support it deserves.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 384. I am pleased to join our distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS) in advocating favorable House action on this resolution. I wish to commend Chairman PERKINS for his leadership, not only on this resolution, but in every area of child nutrition legislation.

This resolution has strong support from both sides of the aisle in the House of Representatives and the Senate. As Senator BOB DOLE stated when he testified before our committee, "it is obvious that Congress has strong feelings on this issue, and that these feelings are bipartisan."

House Concurrent Resolution 384 is significant because the administration is currently developing its New Federalism legislative package. In June of this year we learned that current plans for this initiative included the school lunch and child nutrition programs as areas that would be turned back to the States by fiscal year 1988 with a termination of all Federal involvement and funding by fiscal year 1991.

Mr. Speaker, I cannot lend my support to the concept of turning back to the States all responsibility for achieving child nutrition goals. This approach fails to acknowledge either an adequate future Federal commitment to or an appropriate Federal role in achieving these child nutrition objectives. Clearly, it does not address the nutrition needs of youngsters from low-income families. As Dr. Aaron Shirley, a practicing pediatrician in Jackson, Miss., testified before our subcommittee on September 21:

> There is no doubt in my mind that the child nutrition programs make the difference between the gross malnutrition of 15 years ago with its adverse health and social problems such as anemia, stunted growth, lowered resistance to infection and inability

to learn and develop—and the less severe problems which we see today.

Few will quarrel with the statement that a child's basic nutrition needs do not vary from State to State. The administration's plan, however, does not recognize the fact that a child residing in a State with a low tax base is less likely to receive a nutritionally adequate diet than is the child whose family resides in a State with an adequate or more favorable tax base.

In short, we have a continuing obligation to insure that the nutrition needs of our truly needy youngsters—wherever they may reside—are adequately met. This is and must remain a national priority and goal. Similarly, to the end that basic nutrition needs are satisfied, I firmly believe that we have an ongoing obligation to insure that child feeding programs receiving Federal assistance maintain the objective of providing certain recommended dietary allowances (RDA) of nutrients for children, as established by the National Academy of Sciences.

On the other hand, I do not believe that we can or will continue to "do business as usual" in the area of child feeding. We can and must continue to scrutinize all phases of our child nutrition programs as well as the interrelationships among these activities. Limited resources should not be wasted by duplicating benefits. Fraud, abuse, and mismanagement cannot be tolerated. Overly complex and often contradictory federally imposed regulatory requirements must be eliminated. A continuing Federal role or presence does not preclude affording the States and local program administrators a greater degree of flexibility in designing and effectively implementing child nutrition programs tailored to better meet their special needs.

From my perspective, in the months ahead, our challenge will be one of working to establish a balanced partnership among the Federal, State, and local levels in achieving longstanding child nutrition goals that are universally agreed upon.

An overwhelming vote on House Congress Resolution 384 should signal the administration that Congress deeply believes that we must have a permanent national commitment to meeting the nutrition and educational needs of our Nation's children. This is a commitment that we will not abandon. I urge my colleagues on both sides of the aisle to join in passing this bipartisan resolution.

□ 1410

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, the question I want to ask is with the information we have received now that the administration plans on block granting and in effect reducing the WIC program, the womens, infants, and childrens program, would that be affected by this resolution at all?

Mr. PERKINS. It would not, because the WIC program was not part of the President's New Federalism "swap." It was not included, but it was proposed by the President in his budget this year to eliminate the WIC program in a block grant.

Mr. PEYSER. That would necessitate really if we have the opportunity at another time a similar resolution by itself would have to stand to express the opinion of the Congress on the WIC program.

Mr. PERKINS. If the House passes this resolution, this in my opinion will send a signal that we really do not want that WIC program eliminated.

● Mr. BIAGGI. Mr. Speaker, as a cosponsor of this resolution and as a senior member of the House Education and Labor Committee, I wish to join with my colleagues in support of this resolution which reaffirms support for our current child nutrition programs.

Clearly, few programs have suffered the devastating cuts that this program has in the past 2 years under the current administration—nearly 50 percent from $4 billion to $2 billion. Even more tragic is the fact that these cuts—authorized under the past two Budget Reconciliation Acts which I adamantly opposed—hit those families who can least afford these cuts. While we have protected the lowest income families and maintained eligibility for their children in these programs, we have virtually eliminated the program for what we term "the working poor." These families work hard to support themselves and their children and the small amount of support their children receive under this program allows them the assurance of one nutritious meal a day, 5 days a week.

I know firsthand what the impact of the diminution of the current Federal role in these programs has resulted in for these families, for they comprise a large portion of my own district. If these children do not receive assistance to help them in this program, they do not eat. It is that simple.

In my own city of New York, where 93 percent of our school-age population is eligible for free or reduced-priced lunches, I commend the efforts of our school people for helping to minimize the losses we have sustained—$50 million in the past 2 years. However, it is clear that they have stretched their resources to the limit. The current Federal role must be maintained otherwise we will see a return to the America of the 1950's—an era which saw millions of children going hungry because they could not afford to eat in school and malnutrition on the rise.

I commend our chairman, Mr. PERKINS, for his leadership in this area. I know of no other member who has been a more stalwart champion and protector of child nutrition programs over the years. I hope this resolution will send a signal to the White House that Congress is serious in its commitment to these programs. I urge adoption of the resolution.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. Perkins) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 384, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZATION FOR CERTAIN EDUCATION PROGRAMS

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7137) to increase the authorization of appropriations for certain education programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 7137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

LAW RELATED EDUCATION

SECTION. 1. (a) Notwithstanding any other provision of law, the total amount which may be appropriated to carry out the part E of title IX of the Higher Education Act of 1965, relating to law school clinical experience programs, shall not exceed $2,000,000 for each of the fiscal years 1983 and 1984.

(b)(1) Section 583(b) of the Education Consolidation and Improvement Act of 1981 is amended by striking out "and" at the end of paragraph (2), by inserting "and" at the end of paragrah (3), and by inserting after paragraph (3) the following new paragraph:

"(4) the law-related education program formerly authorized by part G of title III of the Elementary and Secondary Education Act of 1965,".

(2) Such section is further amended by inserting "(or $500,000 in the case of the program referred to in paragraph (4))" after "fiscal year 1981".

ELLENDER FELLOWSHIP PROGRAM

SEC. 2. Notwithstanding any other provision of law, there is authorized to be appropriated to carry out the joint resolution of October 19, 1972 (86 Stat. 907), relating to the Allen J. Ellender fellowship program, not more than $1,500,000 for each of the fiscal years 1983, 1984, and 1985.

GENERAL DANIEL JAMES MEMORIAL HEALTH EDUCATION CENTER

SEC. 3. Notwithstanding any other provision of law, the total amount which may be appropriated to carry out subpart 2 of part H of title XIII of the Education Amendments of 1980, relating to the General Daniel James Memorial Health Education

Center, shall not exceed $9,600,000 for the fiscal years 1983 and 1984.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky (Mr. PERKINS) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 7137. This bill increases the authorizations of appropriations for three education programs and affects the treatment of a fourth program within the elementary and secondary education block grant.

First, the legislation authorizes the Allen J. Ellender fellowship program, carried out by the Closeup Foundation, through fiscal year 1985, at a level of $1.5 million for each of the fiscal years 1983, 1984, and 1985. Currently, the program is authorized at $1 million per year through fiscal year 1984.

The Ellender program provides fellowships for low-income students to attend the Closeup Washington seminar program. The program has been very successful in affording students firsthand look at how the Federal Government works. The Federal contribution has acted as a catalyst, generating private support in a ratio of 10 private dollars to 1 Federal.

The additional authorization will give the Appropriations Committee the leeway, if desired, to increase the funding for the Ellender fellowships, which has remained stable since 1979. Additional funding will enable the Ellender fellowship program to move toward its goal of bringing in students from all 50 States.

Second, H.R. 7137 increases the authorization for the law school clinical experience program under the Higher Education Act to $2 million for each of the fiscal years 1983 and 1984. The program is now authorized at $1 million.

Third, the bill authorizes $9.6 million over a 2-year period, for fiscal years 1983 and 1984, for the Gen. Daniel "Chappie" James Memorial Health, Education and Aerospace Center at Tuskegee University. This center was authorized by the Education Amendments of 1980, but the 1981 budget reconciliation act set the authorizations at zero.

However, the administration has requested funds for the center in its fiscal year 1983 budget. H.R. 7137 would set an authorization ceiling adequate for these funds to be appropriated pursuant to the administration's recommendation.

Fourth, the legislation amends the education block grant authorized by chapter 2 of the Education Consolidation and Improvement Act to upgrade the status of the law-related education program formerly authorized by the Elementary and Secondary Education Act. Law-related education is now an authorized activity under the State block grant. This bill would place the law-related program with other national priority programs in the Secretary's discretionary fund of chapter 2 and stipulate that $500,000 must be set aside from the Secretary's fund to support it.

The law-related education amendment would not entail any additional cost, since it merely shifts priorities within the overall funding for the block grant.

Mr. Speaker, this legislation involves only modest increases in authorizations to give the Appropriations Committee more flexibility. The actual funding for these programs will continue to be subject to the appropriations process.

I urge my colleagues to join with me in supporting H.R. 7137.

Mr. ERLENBORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the total authorization in this bill, contained in three sections for three different and totally unrelated programs, is $13.6 million. This is about $4 million or $4.6 million over what the administration has asked for.

The bill, before it was reported by the committee with the committee amendments that will be offered here on the floor, would have authorized an additional $2 million over this figure.

The three programs that are authorized, or the amount of funds authorized or increased in this bill are, first, the law school clinical experience programs. The current level of funding would be $1 million. This bill would increase that to $2 million.

The law-related education program, the current level is $1 million and as this bill is reported, it would be taken out of the block grant and placed in the Secretary's discretionary fund at a reduced level of $500,000.

□ 1420

Section 2 of the bill authorizes $1½ million for the Ellender fellowship program. The current level of authorization is $1 million, so this represents a $500,000 increase in authorization.

And last, in section 3, is the authorization of a new construction program, the Gen. Daniel "Chappie" James Memorial Health, Education and Aerospace Center at Tuskegee University.

This authorization was requested by the administration at a level of $9 million and the bill, as reported, is only slightly above that a $9.6 million.

Mr. Speaker, the bill is not supported by the administration, but I do thank the gentleman from Kentucky and the others on the majority of our committee in acceding to my request to reduce the authorization in the bill, and the major portion of the funds have been requested by the administration for the "Chappie" James Memorial, so I personally see no reason to oppose the bill and expect that it will be passed.

Mr. PERKINS. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to reiterate what has been said here.

On the law school clinical experience, our colleague, the gentleman from Iowa, NEAL SMITH, has provided special leadership in this area. Were it not for reconciliation, we would be at the $4 million figure right now, what the bill was as it emerged from the subcommittee.

At the request of our colleague from Illinois, the ranking Republican on the committee (Mr. ERLENBORN) that was reduced to $2 million, and also 1 year taken off so that it is down to a very modest sum for 2 years.

The Allen J. Ellender fellowship program, Closeup has resulted in 28,725 students and teachers experiencing firsthand what the Federal Government is all about. We have all seen the benefits of that.

Then finally, the Gen. Daniel "Chappie" James Memorial Health, Education and Aerospace Center at Tuskegee University has been requested by the administration. It is in the district of our colleague, the gentleman from Alabama (Mr. NICHOLS), who is in support of this bill.

Mr. Speaker, I am pleased to hear my colleague from Illinois say that he will not oppose this legislation. I think it is good, sound legislation. I urge everyone to support it.

Mr. ERLENBORN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I rise because I have some serious reservations about a portion of the bill. Section 1(b) creates what appears to be only a minor change in the law by amending the education block grant authorized by chapter II of the Education Consolidation and Improvement Act. This bill would remove the law related education program from this block grant.

Let me first of all say that I joined with my chairman in very strongly leading the fight to keep certain things out of the block grant, such as title I, handicapped education, vocational education, and so on.

But we did then put 28 other small programs that were funded at that particular time into an education block grant.

I have reservations about the proposal before us because the block

grant program just began in September of this year, and by passing this bill we would turn right around at the end of September and say we are immediately going to remove a program and we have not had an opportunity to see whether the education block grant will work as designed.

I have a feeling that law-related education will probably work better in a block grant because of the strong support that it has locally. Therefore, when the block granted money goes back to local school districts it will get its fair share and more because of the tremendous support it has locally.

I have additional reservations because this bill places law-related education in a protected status under the Education Secretary's discretionary fund.

I do not believe it will get as much money, but more than that, this bill will take away the real purpose of those discretionary funds. I fear a trend that might end up using the Secretary's discretionary fund as a source for small categorical grants rather than having any discretionary funds at all for the Secretary.

For these reasons, I did want to bring to the attention of the Congress the fact that we have some problems with a small portion of this legislation that is before us today.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa, Mr. NEAL SMITH.

Mr. SMITH of Iowa. I thank the gentleman for yielding to me.

Mr. Speaker, I want to thank the members of the committee for this bill. Although the amount of money involved is small compared to most education bills, I think it is a very important bill. It is one of those bills where a small amount of money encourages important activities by others.

With regard to law-related education, I agree with the gentleman from Pennsylvania that it is a program that either has or will have strong support at the local level. However, it is somewhat different, I think, than the others that were put into the block grant because this program did not have enough opportunity to be exposed at the local level long enough so all would have an opportunity to evaluate the program.

Both the law-related and clinical programs were not funded until recent years, so they are really relatively new programs.

I think the half million dollars in the bill for law-related education, needs to be separated from the block grant to be sure that there will be some exposure in those local areas where it has not yet been used but a year or two.

I do want to ask the gentleman from Kentucky this: Having a half million dollars in here designated outside the block grant does not keep the Secretary from adding to that amount out of his discretionary funds, does it?

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding.

Mr. Speaker, the answer is "No." The Secretary could spend more if he wanted to.

Mr. SMITH of Iowa. Mr. Speaker, I sure hope he will. He has had a million dollars. I would hope that out of his other discretionary funds he will supplement it so the program remains at least $1 million.

With regard to the clinical program, I point out it is terribly important to those students who do not happen to have a father who is a lawyer, do not happen to have a father who heads a corporation who could tell a law firm, "Put my boy or girl on for this summer for an internship." There are students in law school who have no opportunity to be exposed to a clinical-type education in law school.

This is the program through which they secure some needed experience. Those who cannot secure an internship or a better deal somewhere else then will enroll in a clinical experience course. The course may include work with a legal aid society, or Legal Services Corporation or in some way help other people than the student also.

The money that has been available, $3 million in previous years, is only a portion of what it costs the law school for the program. One hundred and ten schools signed up. We really need a minimum of $4 million in this program. There is only $2 million authorized in this bill. So this is certainly not an excessive authorization in that regard. I think it is terribly important to those schools that have this kind of a program and urge a favorable vote on the bill.

Again, I want to commend the gentlemen on both sides of the aisle for bringing this bill to the floor at this time.

Mr. PERKINS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in strong support of the bill and congratulate the committee on bringing forth a bill that addresses so many of the particular problems that we would like to address in education.

I would like especially to commend the gentlemen for their support of the Allen J. Ellender fellowship program. As my colleagues know, this program was named for the late Senator Allen J. Ellender, the President pro tempore of the Senate, who was from my State of Louisiana, and who was a splendid teacher and believed strongly in the ability of the young people of this Nation to take over in fine fashion in our democratic form of government if they simply knew enough about it.

Mr. Speaker, it was very fitting that we named the fellowships in the closeup program in his honor. I am glad the gentlemen saw fit to increase the funding from $1 million to $1,500,000 and to forward-fund this educational program so that it can be on a par with other educational programs in that regard.

Mr. Speaker, I rise in support of H.R. 7137 and I commend the committee and the gentleman from Kentucky for their particular interest in the Allen J. Ellender Fellowship program.

For a number of years I have been closely associated with this program which is administered by the Closeup Foundation—an nonprofit, nonpartisan educational foundation. Closeup gives high school students from throughout the country, along with their teachers, to Washington to study our Government firsthand. I know many of my colleagues realize from their own contact that these students return home enthusiastic about their ability to participate in the governing process at all levels—city, State, and Federal.

Those of us committed to the development of civic-mindedness among our young people want to see the Ellender fellowship program continue and grow. In 1982 alone, 14,000 students and teachers from 47 areas of the country participated in the program. Eighty-three new high schools and four new States were added. More will be added in the 1982-83 school year, but there will be some areas of the country and some students who will be left out.

I know the Closeup Foundation is striving to have programs in each of the 50 States but there are limits to the available resources. This increase in the Federal participation in the closeup program will help to make the goal of a 50-State program come closer to reality. This Federal participation is used as "seed money" by the Closeup Foundation to attract private and corporate contributions. In 1982 every Federal dollar invested in the Ellender fellowships was matched by $9 from corporate, civic, philanthropic, and individual sponsors.

This is a highly successful private-sector initiative. I am certain that all of you who are familiar with Closeup will agree that our small Federal investment is yielding a great return.

But the reality is that inflation is slowly sapping the vitality of the growth of this program. The current level of Federal participation was established in 1978. We all know what inflation has done to everyone. I do

not think every Federal expenditure should be tied to inflation, but I certainly think that when we are making an investment in our young people—the very future of this Nation—we should do all in our power to keep pace with the reduced buying power of the taxpayers' dollar and rising demand from around the country for participation in this outstanding program.

Since the Ellender fellowship program began in 1972, it has received strong bipartisan support. There has never been any dispute regarding its effectiveness. It is known as a program that works—both in terms of its effective use of Federal funds and its educational benefits. Those of us who have participants in our districts know the difference the program has made in their lives. A statement by one group of students from Iowa is typical:

We can sincerely say that we learned more about Government in that week than we could have learned in weeks of class work. Talking and meeting with our Senators and Representatives made us realize how precious is our right to vote.

Mr. Speaker, I urge passage of H.R. 7137.

Thank you.

□ 1430

Mr. ERLENBORN. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I wish to associate myself with the remarks of the distinguished gentlewoman from Louisiana about Closeup Foundation and the Allen Ellender scholarships.

There is no program in Government that is more effective pound-for-pound than Closeup. The very modest Federal share generates a matching private contribution in the ratio of about 8 or 9 to 1. I know of no more effective program with which this Congress is associated.

Mr. Speaker, my colleague form Minnesota, a member of this distinguished committee, Mr. ERDAHL, has worked very long, hard and well on this particular authorization. I am proud of his work and his success.

Mr. PERKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Speaker, I am most appreciative of your giving me a few minutes of your time in order that I might speak in support of H.R. 7137, which would authorize $9.6 million over a 2-year period in fiscal year 1983 and 1984 for the Gen. Daniel "Chappie" James Health, Education and Aerospace Science Center at Tuskegee Institute which is in my congressional district.

This Center is supported by an administration budget request to appropriate funds for the Center, and the Center is supported by the entire Alabama House delegation

Mr. Speaker, I rise today in strong support of this particular project before the consideration of the House.

As a member of the House Armed Services Committee, I had the privilege of knowing "Chappie" James, and I can tell you he was an outstanding American. It is entirely fitting that this Memorial Center for Preventive Health Education and Aerospace Science bear his name.

I recall, Mr. Speaker, that soon after coming to Congress, our late Chairman Mendel Rivers dispatched three members of the House Committee on Armed Services to visit elements of our American military in the Mediterranean area. Chairman Rivers was particularly anxious for us to go to Wheelus Air Force Base in Libya which was being closed following a takeover of the Libyan Government by Colonel Qadhafi. We were met by Colonel James and invited to have lunch in his home on post. He told us of several encounters he had had with Colonel Qadhafi's staff people who were adament in their demands that, when the base was vacated by American troops, we leave the radar unit intact. Colonel Qadhafi just a few days earlier had dispatched members of his staff to call on Colonel James—one of whom had a submachine gun which he nestled in his lap—as they outlined their demands. I asked Colonel James, "What did you do?", to which he replied, "I told the senior officer in charge that I was going to count to three and if that soldier was not out of my living room by that time then I would physically throw him out". I can understand why the man removed himself from the colonel's home for Chappie James was a magnificent physical specimen standing some 6 feet 4 inches tall and was extremely impressive as an officer.

I was extremely proud of Colonel James in standing up to the demands of the militant colonels and I am pleased to tell you, Mr. Speaker, that, when that base was closed out, the radar equipment went with the troops.

Later I had the pleasure of working with General James on a number of military issues in his capacity as principal Assistant Secretary of Defense for Public Affairs and continued to rely on his good judgment following his promition to four-star general rank and commander-in-chief of the North American Air Defense Command.

Gen. "Chappie" James was a credit to his profession and he proudly wore the much decorated blue suit of the U.S. Air Force with great distinction. But, Mr. Speaker, the aspect of this great American's life that I shall remember was his patriotism and his love for his country. He made numerous appearances throughout this Nation speaking on Americanism, and his eloquence and sincerity were heartening to me as a Member of Congress and, in this capacity, he served this Nation equally well as he had served his country in the almost 200 combat missions he flew as a fighter pilot in Korea and over North Vietnam.

Mr. Speaker, I am persuaded that the General James Center for Preventive Health, Education and Aerospace Science personifies an outstanding American's commitment to the defense of one's country together with instilling patriotism and pride in that sense of being an American.

I know it will mean much to young Americans who will remember with pride the achievements and heroic deed of "Chappie" James and will strive even harder to reach those lofty goals which were achieved by this graduate of Tuskegee Institute.

The Memorial Center will fill a definite need on the Tuskegee campus in housing an important program of health education and health maintenance providing diversified services for Tuskegee students, faculty and staff. More importantly, it will serve the local community and residents of some 15 predominently black belt counties where rural health education is much needed. The Center will also house the Reserve officer training programs for the Army and Air Force units at Tuskegee and will be a great morale factor in boosting patriotism. It will most certainly improve the recruitment of qualified young men and women for military careers.

● Mr. ERDAHL. Mr. Speaker, I am happy to join in asking support for the enactment of H.R. 7137 particularly because of the increase in authorization for the Allen J. Ellender fellowship program.

In the Education and Labor Committee, I offered an amendment to H.R. 7048, pertaining to the Pell grant program which would have increased the authorization for the Ellender fellowship program. It was determined by the committee that no amendments should be added to H.R. 7048, but rather a separate bill introduced containing the three elements which are in H.R. 7137.

The Ellender fellowships provide the basis for the participation of teachers and low- to middle-income students in the close-up program as well as providing the incentive for corporate gifts to the close-up program. This latter program is an outstanding program in which high school students spend approximately 1 week in Washington learning about the operation of the Federal Government.

The growth of the program attests to its success and effectiveness among high school students. Starting with 2,000 students in 1973, almost 14,000 students participated in the 1981-82

school year. Some 306 schools in 6 areas of the country originally participated whereas today 2,150 schools are actively engaged in the program from 43 areas of the country. The additional authorization of $500,000 per year will permit the program to expand to the remaining States so I urge my colleagues to vote for this most beneficial legislation.●

Mr. PERKINS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ERLENBORN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS) that the House suspend the rules and pass the bill, H.R. 7137, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed and on the preceding concurrent resolution which was agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 7166, de novo; and

H.R. 5162, de novo.

The Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

UNIFORMED SERVICES PAY ACT OF 1982

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 7166, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. NICHOLS) that the House suspend the rules and pass the bill, H.R. 7166, as amended,

The question was taken; and (two-thirds having voted in favor thereof) the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NATIONAL PARK SYSTEM PROTECTION AND RESOURCES MANAGEMENT ACT OF 1982

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5162, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 5162, as amended.

The question was taken.

Mr. CHENEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 319, nays 84, not voting 29, as follows:

[Roll No. 376]

YEAS—319

Addabbo	Collins (IL)	Evans (IN)
Akaka	Conte	Fary
Albosta	Conyers	Fascell
Alexander	Corcoran	Fazio
Anderson	Coughlin	Fenwick
Andrews	Courter	Ferraro
Anthony	Coyne, James	Fiedler
Applegate	Coyne, William	Findley
Aspin	Crockett	Fish
Atkinson	D'Amours	Fithian
AuCoin	Daniel, Dan	Flippo
Bailey (PA)	Daniel, R. W.	Florio
Barnes	Daschle	Foglietta
Bedell	Daub	Foley
Beilenson	Davis	Ford (MI)
Bennett	Deckard	Ford (TN)
Bereuter	Dellums	Fowler
Bethune	DeNardis	Frank
Bevill	Derrick	Frenzel
Biaggi	Derwinski	Frost
Bingham	Dickinson	Fuqua
Boggs	Dicks	Garcia
Boland	Dingell	Gaydos
Boner	Dixon	Gejdenson
Bonior	Donnelly	Gephardt
Bonker	Dorgan	Gibbons
Bouquard	Dougherty	Gilman
Bowen	Dowdy	Gingrich
Brinkley	Downey	Ginn
Brodhead	Duncan	Glickman
Brooks	Dunn	Gonzalez
Broomfield	Dwyer	Gore
Brown (CA)	Dymally	Gradison
Burton, Phillip	Dyson	Gray
Butler	Early	Green
Byron	Eckart	Gregg
Campbell	Edgar	Guarini
Carman	Edwards (AL)	Gunderson
Carney	Edwards (CA)	Hagedorn
Chisholm	Emery	Hall (OH)
Clausen	Erdahl	Hall, Sam
Clinger	Evans (DE)	Hamilton
Coelho	Evans (GA)	Harkin
Coleman	Evans (IA)	Hatcher
Hawkins	Mica	Schumer
Heckler	Michel	Seiberling
Hefner	Mikulski	Sensenbrenner
Heftel	Miller (CA)	Shamansky
Hertel	Miller (OH)	Shannon
Hillis	Mineta	Sharp
Hollenbeck	Minish	Shaw
Hopkins	Mitchell (MD)	Shelby
Horton	Mitchell (NY)	Shuster
Howard	Moakley	Siljander
Hoyer	Molinari	Simon
Huckaby	Mollohan	Smith (AL)
Hughes	Moorhead	Smith (IA)
Hunter	Mottl	Smith (NJ)
Hutto	Murphy	Smith (PA)
Hyde	Murtha	Snowe
Ireland	Myers	Snyder
Jacobs	Napier	Solarz
Jeffords	Natcher	Spence
Jenkins	Neal	St Germain
Jones (NC)	Nelligan	Stangeland
Jones (OK)	Nelson	Stark
Jones (TN)	Nichols	Stokes
Kastenmeier	Nowak	Stratton
Kemp	Oakar	Studds
Kennelly	Oberstar	Swift
Kildee	Obey	Synar
Kindness	Ottinger	Tauke
Kramer	Panetta	Taylor
LaFalce	Parris	Traxler
Lagomarsino	Pashayan	Udall
Lantos	Patterson	Vander Jagt
Latta	Pease	Vento
Leach	Pepper	Volkmer
LeBoutillier	Perkins	Walgren
Lee	Peyser	Wampler
Lehman	Pickle	Washington
Leland	Porter	Waxman
Lent	Price	Weaver
Levitas	Pritchard	Weber (MN)
Lewis	Pursell	Weber (OH)
Long (LA)	Rahall	Whitehurst
Long (MD)	Railsback	Whitley
Lowery (CA)	Rangel	Whittaker
Lowry (WA)	Ratchford	Whitten
Lujan	Regula	Williams (MT)
Luken	Reuss	Williams (OH)
Lundine	Rinaldo	Wilson
Madigan	Ritter	Winn
Markey	Roberts (KS)	Wirth
Martin (IL)	Rodino	Wolf
Martin (NY)	Roe	Wolpe
Martinez	Rose	Wortley
Matsui	Rosenthal	Wright
Mavroules	Rostenkowski	Wyden
Mazzoli	Roukema	Wylie
McCloskey	Roybal	Yates
McCollum	Russo	Yatron
McDade	Sabo	Young (MO)
McEwen	Sawyer	Zablocki
McGrath	Scheuer	Zeferetti
McHugh	Schneider	
McKinney	Schroeder	

NAYS—84

Archer	Gramm	Montgomery
Ashbrook	Grisham	Moore
Badham	Hall, Ralph	Morrison
Bailey (MO)	Hammerschmidt	Oxley
Barnard	Hance	Patman
Benedict	Hansen (ID)	Paul
Breaux	Hansen (UT)	Petri
Brown (CO)	Hartnett	Quillen
Broyhill	Hendon	Rhodes
Burgener	Hightower	Roberts (SD)
Chappie	Hiler	Roemer
Cheney	Holt	Rogers
Coats	Hubbard	Rousselot
Conable	Jeffries	Rudd
Craig	Johnston	Schulze
Crane, Daniel	Kazen	Shumway
Crane, Philip	Kogovsek	Skeen
Dannemeyer	Leath	Smith (NE)
Dornan	Livingston	Smith (OR)
Dreier	Loeffler	Solomon
Edwards (OK)	Lott	Staton
Emerson	Lungren	Stenholm
English	Marlenee	Stump
Erlenborn	Marriott	Tauzin
Fields	Martin (NC)	Thomas
Fountain	McClory	Walker
Goldwater	McCurdy	Watkins
Goodling	McDonald	Young (AK)

NOT VOTING—29

Annunzio	Collins (TX)	Roth
Bafalis	de la Garza	Santini
Beard	Ertel	Savage
Blanchard	Forsythe	Skelton
Bliley	Holland	Stanton
Bolling	Marks	Trible
Brown (OH)	Mattox	Weiss
Burton, John	Moffett	White
Chappell	O'Brien	Young (FL)
Clay	Robinson	

□ 1450

Messrs. McCURDY, ENGLISH, BREAUX, HILER, WATKINS, HIGHTOWER, and LUNGREN changed their votes from "yea" to "nay."

Mr. HILLIS and Mr. HUNTER changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "An act to provide for the protection and management of the national park system and for other purposes."

A motion to reconsider was laid on the table.

EXPORT ADMINISTRATION ACT AMENDMENTS

Mr. MICHEL. Mr. Speaker, under the special order granted on Tuesday, September 28, 1982, I call up the bill (H.R. 6838) to amend the Export Administration Act of 1979 to terminate certain export controls imposed on December 30, 1981, and June 22, 1982, and ask for its immediate consideration.

The Clerk read the title of the bill.

The Clerk read the bill, as follows:

H.R. 6838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended by adding at the end thereof the following new subsection:

"(1) TERMINATION OF CERTAIN CONTROLS.—Those export controls imposed under this section on December 30, 1981, and June 22, 1982, on goods or technology shall not be effective on or after the date of the enactment of this subsection.".

The SPEAKER. Under the agreement, the gentleman from Illinois (Mr. MICHEL) is recognized for 1 hour.

Mr. MICHEL. Mr. Speaker, I would like to advise the Chair that any time I yield will be for the purposes of debate only.

The SPEAKER. The Chair recognizes the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I find myself today in rather a unique situation here. This measure was scheduled for consideration under the Suspension Calendar yesterday. The Speaker withdrew it at the request of our own Secretary of State, and I am sure for purely patriotic reasons the Speaker saw fit at that time to withdraw it from the Suspension Calendar, knowing that our Secretary of State was meeting with some foreign emissaries and that he did not want to be responsible in any way for undercutting those negotiations. Certainly I do not want to be in that position either. But I was not given any kind of call whatsoever under the circumstances, so I was obliged yesterday to make the kind of request that makes in order our appearance here today; and, again, in rather a unique kind of situation, where the minority leader, in effect, gives way to the gentleman from Michigan (Mr. BROOMFIELD), our ranking Member on the Foreign Affairs Committee, to handle the matter for the administration.

But let me briefly state what I believe to be the issues involved in this bill. H.R. 6838 is not an effort to ease pressure on the Soviet Union. To the contrary, it is precisely because the sanctions are not pressuring the Soviet Union that we seek to remove them. I can speak with some authority when I say that in one area of the sanctions, pipelaying equipment, they not only do not work, they cannot work.

The Japanese are willing and able to fulfill every pipelaying requirement the Soviet Union has.

Before we get into the international issues involved here, I want to say something about my own position. I have to say, frankly, that it is a matter of parochial interest for me. The domestic impact of the sanctions hits hardest in central Illinois where we are bearing 80 percent of the adverse effects of these sanctions. And I should make special mention of my colleague, the gentleman from Illinois (Mr. FINDLEY), who is the initial author of the legislation and, with the subcommittee's assistance, moved it through the Foreign Affairs Committee of the House of Representatives. We will surely be yielding to him to make his case on his own within a few moments.

□ 1500

When you see the hardship and the frustration such actions cause you can also see why sticking by policies that do not work are doubly wrong. We have not only aimed our weapon at the Soviet Union and missed, but we have shot ourselves in the foot in the process.

I represent the needs of workers in Peoria, Decatur, and Springfield, but I think my position represents the needs of the workers in Poland as well. In Peoria they want jobs. In Poland they want freedom. The sanctions do not accomplish either.

To those who say these sanctions are of symbolic value, I say that the rulers of the Soviet Union are not moved by symbols. They are hard and cold men and women who are moved by hard and cold facts, not pious wishes or macho rhetoric.

So far as our allies go, it is obvious they intend to proceed with the pipeline deal. They have made that decision a good long time ago. There are various historic, geopolitical, and economic factors that have led to their controversial decision.

Their decision must, however, influence our own decision.

Former Secretary of State Alexander Haig once said:

> We cannot carry out an effective East-West economic policy unilaterally. We must take into account the complex interrelationships that exist among our allies and OECD partners and among the individual countries of the Warsaw Pact.

Well, those complex interrelationships have blown our sanctions right out of the water.

Our current Secretary of State, George Shultz, May 28, 1978, writing in a piece for Business Week magazine, about the Carter-imposed sanctions, in part said:

> Exports and imports, considered together, are equivalent to about one-fifth of our gross national product, which is double what they represented a decade ago . . .
>
> Traders, individual or corporate or government, must keep their bargains, and government must not place private parties in the position of breaking a bargain properly arrived at. We cannot ignore the essential importance of trust, confidence, and continuity.

So said Secretary Shultz when he was in the private sector.

I agree with both the President's appointees to the position of Secretary of State.

This bill does not stop a President from imposing sanctions because of national security.

Let us remember, 1 week before these sanctions were imposed, the President gave us the go-ahead for Caterpillar to sell 200 more pipelayers to the Soviet Union because pipelayers were not among the national security items demanding restrictions.

Pipelayers are not now, and never have been, seen by the President as national security items. They are seen as one part of a punitive embargo.

And I might also add that when you get to technological equipment and all the rest, a pipelayer is simply a crawler tractor with a boom to lay pipes. That is all it is. Anybody can make them. We kind of think we make the best in the world. But it is not all that high sophisticated technology when you are thinking about exporting something extraordinary special to the Soviet Union. And when you embargo an item on that kind of basis the only question to ask is does the intended punitive effect work. And the answer in this case is a resounding and unarguable "no."

For me this is not a case of being soft on the Soviets. My credentials, I think, speak for themselves. In fact, when the President said his intention was to teach the Soviet Union a lesson, I gave him the benefit of the doubt, as all of us did here. Nine months have now gone by. There is not a single piece of evidence to show the embargoed pipelayers have taught the Soviet Union anything.

So I say, let us go back to square one, and start over.

The people of Poland need our help, not our ineffective good intentions. The Soviets do not respond to symbolism, as I said, or good intentions. We have to be smart enough to change course when the course we are on does no good.

And so I would ask the Members to support us in this measure.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding.

I commend the gentleman and I join him. I would just like to add one little piece of information.

Back a couple of years ago I had a student intern from the University of Michigan by the name of Elizabeth Shrayer, and I said to her, "Do a study of boycotts and economic sanctions, not only by the United States, but by other countries. What is the history of it, when has it been successful?" The result was very interesting.

When a country has a monopoly on a product, then a boycott or sanctions can be effective. When a country does not have a monopoly on a product, it ends up hurting the country that tries the boycott. And that is precisely where we are today.

Mr. MICHEL. The gentleman has stated the case very well.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I want to commend the gentleman.

I do not think there should be embargoes on exports to any country with whom we have diplomatic relations unless it involves a product that cannot be obtained elsewhere.

Now, the history is that none of them has worked. An attempt was made on the House floor to embargo wheat sales to Russia in 1963. I opposed that amendment and it was defeated. However, in 1967, cattle hides were embargoed, and as a result I put an amendment on an appropriations bill that killed it but it was effective for a short time. Even though it was on only temporarily, the countries which had been buying our cattle hides turned to leather substitutes for shoes, luggage, and other goods and provided even stiffer competition for leather goods manufacturers than they had had from leather. There were two or three embargoes under Nixon. There was one under Ford on soybeans that resulted in permanent damage to our soybean market because our best customer, Japan, then helped expand production permanently in Brazil and today they provide almost one-third of the soybeans in export. That did permanent damage to our farm economy and eliminated a sale for millions of acres of farm land in the United States.

There was an embargo under Carter and continued by Reagan against grain to Russia. It caused a shift in customers in world trade and while it did not do as much damage as the Ford embargo because it did not change total world production and did not involve our best customer, Japan, but it disrupted world markets and did some damage. All of these embargoes failed in their objectives and did more damage to the United States than to those against whom the embargo was levied. This pipeline embargo is just another mistake and I support the bill.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield 6 minutes to the gentleman from Michigan (Mr. BROOMFIELD), the ranking member of the Foreign Affairs Committee, and our friendly adversary today.

Mr. BROOMFIELD. Mr. Speaker, here we go again.

At the very moment Secretary of State Shultz is negotiating with NATO leaders on the pipeline question, Congress is attempting to intervene with a foreign policy of its own.

We are meddling again, opposing the President, coming down on the side of Western Europe and the Soviets, and the results are predictable.

All we are doing today is undercutting the President and the Secretary of State in the conduct of foreign policy.

We should not make day-to-day foreign policy decisions on the floor of the House.

The impact of what we do here today will be felt long after November 2.

By debating H.R. 6838 today, we are putting our foot in the midst of a sensitive and very complicated issue that reaches into a number of foreign policy areas.

It is not simply a question of whether the pipeline will be built, but, if it is to be built, on what terms?

Are we going to make it easy for the Soviets and forget the suffering of the Polish people, or are we going to give the President the leeway to strike the best deal possible for America?

The sanctions were put in place in response to the ruthless repression of Poland.

That situation remains as grim now as it was when the sanctions were imposed.

Totalitarian rule still reigns. There is no freedom of the press or freedom of speech. Detainees continue to be held. The activities of Lech Walesa and Solidarity are still severely controlled. Even His Holiness, the Pope, has been unable to return to his native land. Recently, nonviolent marches by Solidarity supporters were broken up by riot-stick-wielding police. Water cannons and tear gas quickly put an end to the demonstrations. Shameful repression still continues in Poland.

Are we going to reward the Soviets for this sort of behavior and for the possible use of slave labor in building of the pipeline by providing them with over $200 billion in hard Western currency which pipeline construction will bring.

Those hard dollars will allow the Soviets to purchase additional technology in the West and enhance their military capabilities. It eases the strain on their own faltering economy and helps the Soviets shore up the sick economies of Eastern Europe.

The President's policy toward Soviet aggression in Poland and Afghanistan is consistent. This is our opportunity to support rather than undermine this important element of foreign policy.

The memories of Poland and Afghanistan should not be forgotten. Let your vote today against this bill symbolize America's concern for the repressed peoples of these nations.

□ 1510

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I thank my friend for yielding.

Mr. Speaker, with great regret I must differ with my friend from Illinois, the minority leader. The Soviet economy is in great difficulty today. They have a hard currency shortage. They have had crop failures. There is an economic drain to the Soviets from Cuba and from Afghanistan, and so now we are about to pull their chestnuts out of the fire by providing them with hard currency, subsidized credit, and a pipeline to be built by slave labor.

Now, 85 percent of the natural gas that will be produced will be used by the Soviet Union, which will help their industry, will help their military, and only 15 percent of the gas goes to Western Europe.

Now with the Soviet Union on the march in Afghanistan, locking Poland into a prison state, what do we do? How do we express our contempt for what they are doing? Withdraw from the next Olympics? Pass a resolution? That is ineffectual nonsense.

If we pass this resolution we will validate what Lenin said, "The West will sell us the rope to hang them with."

I know how tough this issue is. Is it not sad that our economy depends on selling a pipeline to the Soviet Union? Is there not something wrong? Of course, there is; but in the long term we will regret the day we facilitated their industry and their military machine.

I just think this is a terrible mistake and with great regret, I hope this resolution is defeated.

Mr. COLEMAN. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Missouri.

Mr. COLEMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to this bill. That is not to say that this administration's position on the pipeline is not a flawed position. I think the pipeline is going to be built. They should have announced their position a year and a half or 2 years ago; but having said that, the real question is, what do we know in this body about the sensitive negotiations and discussions going on in New York with our allies?

For that matter, what do we know in this body about the sensitive discussions that may be going on with our adversaries?

This bill is shooting from the hip. We are not well informed enough on this resolution to be able to support it.

The Constitution gives the predominant responsibility in foreign policy to the executive branch—the President—to speak with one voice in this country. We are simply muddying the waters here today by passing this resolution.

I think the administration's position is flawed, but I think we ought to stand behind it and let the President change that policy.

Mr. MICHEL. Mr. Speaker, I yield 6 minutes to the distinguished chairman of the Foreign Affairs Committee, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I commend the honorable minority leader, BOB MICHEL, for calling up H.R. 6838 before the House today. I also would like to congratulate the gentleman from Illinois (Mr. FINDLEY), the author of the bill, and the gentleman from New York (Mr. BINGHAM), who shepherded it through the committee, for their diligent and effective efforts on behalf of this measure.

As Members of the House well know, my general preference is to support whoever is the President on major foreign policy issues. However, I strongly oppose the economic sanctions aimed at preventing construction of the Yamal gas pipeline and support H.R. 6838 to reverse that decision. The sanctions are neither in the U.S. domestic nor foreign policy interest. Approving this legislation should help in extricating the President from the corner in which he has painted himself and thereby further the U.S. national interests.

A major reason for the growing opposition to the sanctions is the considerable confusion as to their real purpose. While the initial explanation was to respond to the Soviet role in the imposition of marshal law in Poland most administration statements have focused primarily on strategic considerations—the alleged dependence on the Soviet Union that the pipeline would create for Western Europe, the billions of dollars of hard currency it would provide the Soviet treasury, and the transfer of resources into Soviet military capability.

The "strategic" argument is of questionable validity if we consider the insignificance of this project in the context of the Soviet economy or even Soviet pipeline construction plans. At the same time, however, the administration claims it will lift the sanctions if conditions are eased or returned to normal in Poland. What this means, therefore, is that either the strategic considerations are not real and compelling, or that the administration is willing to weaken long-range strategic interests for the sake of temporary political objectives. Neither rationale provides the basis for a sound foreign policy initiative.

As to the goal of reversing the oppression in Poland, I yield to no one in the Congress or in the executive branch in concern over the plight of the people of Poland or willingness to do everything necessary to ease their burden. But I refuse to support actions which are primarily symbolic in nature, do nothing effective to alter Soviet behavior, and therefore needlessly hurt U.S. domestic and foreign policy interests. Anyone who thinks the pipeline sanctions will alter Soviet behavior is overlooking the 30 years of Soviet actions in the post-World War II period. If anything, the sanctions are likely to undermine our objectives in Poland, because the public nature of the sanctions will stiffen the Soviet resolve in Poland.

A second likely counterproductive result of the sanctions is to convince the Soviets to construct the pipeline by themselves. In an August hearing of the Subcommittee on International Economic Policy and Trade, former Under Secretary George Ball described the effect of a similar U.S. policy two decades ago. The Kennedy administration succeeded in blocking the sale of West German pipe for another pipeline, following which action Soviet Ambassador Dobrynin expressed his thanks to Mr. Ball for forcing the Soviets to do what they should have done to begin with—namely, build facilities for the fabrication of wide-diameter pipe and thereby reduce their economic dependence on the West. Sound familiar?

A third counterproductive result, with strategically damaging implications, is the impact this decision has already produced on the Atlantic Alliance. Seldom has the level of vituperative rhetoric hurled from each side of the Atlantic Ocean been as high as it is on this issue today. While we are engaged in several serious economic disputes with our European allies in which the United States has major interests at stake—steel negotiations, agricultural trade, and interest rates—the U.S. position is being damaged by the flak created by the sanctions on the pipeline. This open rift in the Alliance must be creating joy in the Kremlin and reducing the perceived need to alter the Soviet posture in Poland. The outcome could not have been more favorable to the Soviets if they had stage-managed it themselves.

How much better it would have been had the President declared victory after the Versailles summit, where he achieved significant progress toward European agreement to increase interest rates and to shorten maturities for credits to the Soviet Union. The President made a real contribution in addressing the question that troubles many Westerners, that is, "Why should the West be subsidizing credit and exports to the Soviet Union?" The West was united and acting in concert on this point. Then the President destroyed this real achievement by taking our allies by surprise in announcing unilateral U.S. sanctions on the pipeline.

The administration has reacted with amazement and disbelief that the Europeans were surprised by the U.S. action. Well, I can easily believe that they were surprised, because I certainly was. I sat through a briefing on Under Secretary Buckley's trip through Europe prior to the Versailles summit, and I left that briefing convinced that the administration had finally given up its goal of interrupting the construction of the pipeline and instead was focusing its efforts on ending subsidized credits to the Soviet Union.

I was surprised by the decision, even though the President is required by section 6(e) of the Export Administration Act to consult with the Congress before imposing export controls for foreign policy reasons—a requirement which was not, to my knowledge, fulfilled. That same section requires the President to notify the Congress of any such action and to submit a detailed report on the reasons for the action and its likely effect. Three months later, that notification and report are yet to be received.

The unilateral sanctions are an all-too-clear signal that the United States, at least under the current administration, does not consider the Atlantic alliance to be a two-way street. It does not understand that an alliance is a partnership, a cooperative relationship, in which one works out a common position on major issues. The alliance was based, in the first place, upon a realization that unified action is much more effective in confronting a common problem than unilateral, independent initiatives. How can we even begin to think about pressing the Europeans to follow our lead and predilections in areas in which U.S. interests and proximity are preeminent—such as Central America and the Caribbean—if we refuse to respond in a like manner in areas that are closer to Europe geographically, strategically, and economically. There must be some give-and-take, some compromise, or there will be no viable alliance. And this, I repeat, is a major Soviet objective.

Therefore, I urge in addition to these political and strategic costs of the pipeline sanctions, the decision will be much more costly economically to the United States and Western Europe than to the Soviet Union. U.S. companies have already been deprived of 850 million dollars' worth of business and the final figure may be double that. U.S. firms will incur millions of dollars of cancellation fees, be saddled with useless inventory, and be subjected to numerous court suits for reneging on contracts. Their long-term position in the international market will be severely damaged at a time when major U.S. firms are laying off workers and facing a dubious financial future and when our domestic unemployment rate is nearing 10 percent.

Caterpillar Tractor Co., which at the time of the 1978 Carter oil and gas embargo held 85 percent of the Soviet market for pipe-laying tractors, has now, as a result of the December 29, 1981, sanctions, lost the sale of 200 pipelayers valued at $80 to $90 million which would have produced 900 man-years of work. The costs to Caterpillar of carrying the production already undertaken to fill the contract will be some $9 million, Caterpillar has had to scrap $1 million of material, and Caterpillar faces hundreds of thousands of dollars in cancellation charges to its suppliers. Did the 1978 or the 1981 sanctions cost the Soviets economically? No, but it did remove Caterpillar from the Soviet market and turned it over to the Japanese company, Komatsu, Caterpillar's principal international competitor.

What do you do if you are a European subsidiary or licensee of a U.S. firm and are faced with conflicting orders from the United States and the French, German, Italian, or British Government? No matter what your decision, you can face going to jail and the loss of future business. And how, in the future, will our European allies and Japan view the operations of U.S. multinational firms in their countries, particularly in sensitive industries—companies which are subject to every political whim in Washington. The United States, which for the last decade has been arguing in the OECD for national treatment of foreign investment, has, by this single action, probably done more to set back the cause of national treatment than any of the restrictionist, protectionist actions of any of the OECD members.

Possibly the most damaging aspect of the pipeline decision, specifically the June 22 expansion to U.S. subsidiaries and licensees, is its extraterritorial reach. During the Iranian crisis European countries, notably Britain, consented to the extraterritorial reach of our economic embargo of Iran because they concurred in the basic purpose of that embargo. The next time we are faced with a similar situation, our European allies may be much less amenable to looking the other way because of this unfortunate experience.

Finally, to turn to the domestic political side of the equation, it has to be the height of hypocrisy for the President, with one hand, to invoke economic sanctions on the Soviets for their role in the Polish clampdown and, with the other hand, to remove the grain embargo and extend the grain agreement with the Soviet Union which Carter had canceled because of the Soviet invasion of Afghanistan. In his August 2, 1982, speech to the National Corn Growers Convention, the President criticized the Carter decision for reducing the U.S. share of the Soviet grain market from 75 to 25 percent during the embargo, during which time "* * * competitors took advantage of this market that the last administration threw away." He said, and I quote: "The extension would have the sanctity of a contract, ensuring U.S. farmers' access to the Soviet market * * * We must restore confidence in U.S. reliability as a supplier. * * * Farm exports will not be singled out as an instrument of foreign policy. * * * At home and abroad, we are committed to assuring the American farmer a market that will reward his investment and hard work, not punish him for his incomparable success." I accept these points on behalf of the American farmer, but what about the American manufacturer—what about the sanctity of the contracts they have signed, their access to the Soviet market, confidence in their reliability as a supplier, the hard work of the factory worker who now may be out of a job? Why should manufacturers be singled out as an instrument of U.S. foreign policy? Where is the equity?

Why should one sector of the economy rather than another bear the brunt of economic warfare between governments? Where is the consistency and reliability in U.S. policy?

I urge the adoption of H.R. 6838.

□ 1520

Mr. STANTON of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I am delighted to yield to the gentleman from Ohio.

Mr. STANTON of Ohio. I thank the distinguished chairman for yielding to me.

Mr. Speaker, I wish to associate myself with the remarks of the gentleman from Wisconsin.

It was my privilege last week to be over in Europe. I do not know of any one, single item, that has come along in a long time that has been misunderstood and misconstrued among our allies and friends than this particular subject: So, I support the position of the chairman of the Committee on Foreign Affairs, who answered some of the questions that I had, and I associate myself with the chairman.

Mr. ZABLOCKI. I thank the gentleman.

Mr. Speaker, I urge adoption of H.R. 6838.

Mr. MICHEL. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. I thank the gentleman for yielding this time to me.

Mr. Speaker, I strongly oppose the adoption of this legislation. If we were debating the merits of this issue before a decision had been made, then I believe some of the arguments in favor of H.R. 6838 might have some validity. But the point is: The decision has already been made. For the House to vote to override the administration's action would only serve to confuse our allies and adversaries as to who's in charge here.

During the subcommittee hearing on this bill, we heard witnesses from previous administrations who believed the Congress would be acting correctly by passing this legislation. Frankly, I do not believe those witnesses would have said the same thing if the administration each of them represented had been faced with the same situation. America's foreign policy must be represented by one voice, and to overturn the President's decision in this case would not serve our Nation's interests.

Aside from the principle of the matter, I believe the merits of the case demonstrate the President acted correctly in imposing tighter controls on the sale of oil and gas technology to the Soviets. If you look back at events in 1979 when the Soviets invaded Afghanistan and in 1981 when they increased pressure on Poland thus forcing the establishment of martial law,

you see reactions from our European allies that were not as significant as those adopted by the U.S. I believe the reaction was mild because of the Europeans close economic and trade ties with the Soviets. For that reason, I am concerned that increased dependence by Europe on the Soviets, as represented by the pipeline, would mean the Soviets would have even greater ability to influence European actions.

Whether the President's actions actually serve to block the construction of the pipeline may be debatable, but the decision will unquestionably increase the costs for the Soviets and will also have the effect of delaying the time when they would begin earning hard currency from the operation of the pipeline.

Many who oppose the President's decision on the pipeline argue that it is inconsistent with the decision to sell grain. I do not believe it is inconsistent at all. The decision on the pipeline denies, or at least, delays the Soviets ability to earn hard currency. The sale of grain requires the Soviets to use their hard currency to purchase it from the United States. In both cases, the Soviets' balance of payments are adversely affected.

Some have questioned the advisability of sanctions altogether. Yet, if you review the reports from the Soviet Union following the invasion of Afghanistan, the recurring theme is the surprise the Soviets felt at the degree of the sanctions imposed following their invasion. I believe the Soviets view those earlier sanctions plus the threat of sanctions before December 1981 influenced, in large part, a Soviet decision not to invade Poland, unlike their actions in 1956 in Hungary and 1968 in Czechoslovakia. The application of the sanctions in December and June further served to emphasize to the Soviets the costs attached to their aggressive international behavior. I am quite sure the Soviets view the entire package of sanctions—those of our allies and our own—as merely the first step of potentially greater sanctions. I do not believe the Soviets are willing to risk facing additional sanctions from the United States and the West by aggravating the situation in Poland. If we were to relax our current sanctions without any corresponding movement from the Soviets in Poland, then we would end up encouraging them to maintain their pressure, if not increase it.

I should add also that the AFL-CIO supports the President's decision on the Yamal pipeline. Despite the hardship for individual workers and companies, that union organization believes U.S. interests are best served by maintaining these sanctions as long as martial law remains in effect, political detainees continue to be held and the free trade union movement is suppressed. Does anyone really believe that legislation removing the sanctions would improve the situation for Solidarity? Moreover, recent reports indicate the Soviets are using slave labor to build the pipeline. This body is on record as consistently deploring the human rights offenses of the Soviet Union. We must not condone the Soviets use of slave labor for construction of the pipeline by voting now to make it easier for them to do so.

Also, on the issue of extraterritorial reach of U.S. laws, the antiboycott provisions of the Export Administration Act offer effective evidence that extraterritorial extension of U.S. laws is appropriate and valid.

Before any decision is made on this legislation, I believe it is vital to remember that if the House passes this legislation, we would not be getting the administration off the hook of a bad decision. We would, instead, be forcing the President to harden his position, leaving him no leeway to seek a conciliatory solution to the disagreement that has arisen between the United States and our European allies over the pipeline. I am confident the President would resist any effort to eliminate his options in trying to administer the foreign policy of this country. I am sure, if it came to that point, he would veto this legislation and the final result would be only confusion and lack of confidence by our allies in our ability to adopt a policy and stick to it.

Ironically, some of the supporters of this legislation to lift sanctions are the same ones who not long ago argued in favor of reimposing sanctions the President had removed.

I urge my colleagues to oppose this legislation.

The SPEAKER pro tempore (Mr. MINISH). The time of the gentleman from California (Mr. LAGOMARSINO) has expired.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. BINGHAM) whose subcommittee, I believe, initially scheduled hearings on this legislation.

Mr. BINGHAM. I thank the gentleman for yielding this time to me.

Mr. Speaker, I wish to commend the minority leader for his skill in bringing this matter before the House, and his initiative.

I also want to thank the chairman of the Committee on Foreign Affairs for his remarks and to associate myself with what he said.

Let me just emphasize a couple of points.

First of all, I want to emphasize that this bill has nothing to do with controls for national security purposes. There is nothing in this bill that would prevent the President from imposing controls or denying export licenses on products that can be shown to be of help to the Soviet Union in a military fashion. There is no change in the authorities of the Export Administration Act.

Mr. Speaker, I realize some Members are uncomfortable with action to reverse a Presidential foreign policy decision, but it is not new for this House to assert this right for a veto under certain circumstances.

The chairman has already referred to the testimony before our subcommittee of Mr. George Ball, who is not known for downgrading the role of the executive branch in foreign policy. Yet he said that in some extraordinary instances, such as this one, it is necessary for the Congress to assert itself and act to reverse a decision of the administration.

Why is it so bad? In my judgment, the strongest argument in favor of this legislation is what these controls are doing to our relationships with our NATO allies. Nothing that has happened since World War II has done so much damage to these relationships.

A case could have been made against the Yamal pipeline 2 years ago. Maybe we did not make it strongly enough. But the point is, our allies made their decision. They are under the gun there. They have the Soviets next door. They made the decision to go ahead, and now we are telling them, as if they were children, that they are wrong and we are going to try to punish their companies that hold U.S. licenses; we are going to punish those companies because they were ordered to go ahead by their governments. They are doing what their governments say is the right thing to do, instead of what the United States says is the right thing to do.

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. BINGHAM) has expired.

The gentleman from Illinois (Mr. MICHEL) has 34 minutes remaining.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona, Mr. RUDD.

Mr. RUDD. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in opposition to this bill, H.R. 6838. In December of 1981, the President, acting under authority expressly provided him by the Export Administration Act, prohibited the sale of any American equipment or technology that could be used to complete the construction of the 3,600-mile trans-Siberian natural gas pipeline. This serious action was taken in order to give a signal to the Soviets that their totalitarian measures against the people of Poland did not go unnoticed by the United States.

The issue at hand is not whether you believe the pipeline should or should not be built, or whether you accept the stories which are now surfacing about the slave labor being used by the Soviets to complete this

project. What we are considering today is a bill which would tie the hands of the President in his efforts to implement a consistent and effective foreign policy. The authority to control exports as a means of demonstrating U.S. resolve in foreign policy matters was expressly provided the President in a law passed by this body in 1979. The action taken by the President was given due consideration before it was enacted. Our relations with the Soviet Union involve issues which can hardly be addressed superficially or with cursory review. The Congress should not complicate a foreign policy issue of such great importance with hasty amendments to the law, passed in the 11th hour of this 97th Congress. It is not beyond the purview of this body to consider needed changes in the laws which govern Executive powers to implement foreign policy. But to pass so far-reaching a measure in this manner would be travesty, and an abuse of the powers vested here.

Underlying this entire matter is the question of whether we are going to allow the Soviets to control the destiny of Europe, because this pipeline will directly determine where Europe will be looking for energy. If the greed of businessmen is so great that they want the Soviets as their customers, even at this price to the cause of freedom, I question whether they have the real interest of the United States at heart.

Mr. MICHEL. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, the House is now considering under suspension of the rules a bill to terminate export controls on the sale of gas and oil technology to the Soviet Union. I oppose this legislation. It is a major error for the Congress to be legislating day-to-day foreign policy. This move is bad policy; it is bad legislation; and it is truly bad timing.

Passage of this legislation can only be viewed as an attempt to undermine the President's responsibilities in formulating and carrying out foreign policy.

I believe the merits of the policy adopted by the administration are valid and appropriate as a response to the Soviet threat against Poland, Afghanistan, and their flagrant violations of human rights provisions contained in the Helsinki agreement. To lift these controls against the Soviet Union without the Soviets easing their pressure on the Polish regime removes any influence the United States might have to achieve a change in Poland. Furthermore, the Soviets are still in Afghanistan, slaughtering the tribesmen, using poison gas and biological weapons. There is no reason to reward Soviet actions either in Poland or Afghanistan by removing the sanctions the current administration has in place.

The martial law regime in Poland is as harsh as ever. There have been a few calculated gestures in releasing some prisoners. However, Lech Walesa is still being held. The Pope was not allowed to visit Poland. There is no freedom of the press, freedom of speech, or freedom of economic opportunity which Solidarity had helped produce. Can anyone really believe that legislation removing the sanctions would impove the situation for the Polish people? If we were to relax our current sanctions without any corresponding movement from the Soviets in Poland, then we would end up encouraging them to maintain their dictatorial control on the Polish people.

The Soviet economy is in a shambles. The Soviets have a soft currency. The only way they can survive economically is to sell to the West to get hard currency. The Soviets intend the Yamal pipeline to yield them much needed hard currency. To delay it 2 or 3 years would be a boon to the West. It is an asset to the West to deprive the Soviet Union of hard currency earnings.

I recognize that these foreign policy controls have some domestic costs. But while recognizing these costs, I believe, and am supported by nongovernmental organizations like the AFL-CIO, that the President's decision on the Yamal pipeline is the correct one as long as martial law remains in effect in Poland, political detainees continue to be held and the free trade union movement is suppressed. The list of ongoing Soviet aggressions includes actions against Somalia, Namibia, Honduras, El Salvador, Morocco, and continued efforts by the U.S.S.R. to disrupt our peace initiative in the Middle East.

The President of the United States is the leader of the free world; of necessity, the leader of the NATO Alliance. Our allies may not like some of his decisions, but when the chips are down, the U.S. President is where they look for leadership. House consideration of H.R. 6838 is an unfortunate show of disunity in implementing U.S. foreign policy.

But what are we doing here? I cannot think of a bill that has poorer timing in application than this measure before us.

□ 1530

The Secretary of State is in New York this week and the next week with the foreign ministers, not just with the Soviet Union's Mr. Gromyko, but the foreign ministers of all Western Europe; leaders that he is going to try to bring into line more consistently with our policy.

One of the charges that comes up in this debate is that somehow sanctions are endangering NATO. That is sheer nonsense. I would like to remind the Members of the unfortunate situation any President finds himself in. If a President of the United States, regardless of his party, shows less than the necessary strength in dealing with our Western European allies, they complain that we are not providing leadership. When the President of the United States asserts the legitimate leadership that he automatically has as head of the free world, our allies then complain about that leadership. Well, they cannot have it both ways. We now have a strong President providing long-overdue leadership to NATO.

The other point to keep in mind is that in this specific case the House is injecting itself into the day-to-day administration of foreign policy, which I think is bad under any circumstances, and especially bad at the present time.

Then there is the specific application of this issue to the situation in Poland. Is martial law easing? No. Are conditions there improving? No. Where is Lech Walesa, the man of the year, the hero of the AFL-CIO? Held in confinement. Are there any developments there in Poland that one could point to as easing the pressures upon the people? Absolutely no.

I would like to advise the Members that might be contemplating their votes, the Polish-American community in this country is absolutely opposed to this legislation. I would also like to remind the Members that the position the President has taken is considered in some circles, for example the AFL-CIO, as being somewhat soft. They would want credit restrictions applied to all our dealings with the Soviet Union because they recognize that the Soviet economy is in shambles. Without question, without Western credits and Western subsidies the Soviet Union's economy would collapse.

What we are waging here is logical, economic war instead of military war. We are waging it in the proper forum and the proper area, aiming at a project in which they will reap tremendous hard currency earnings from the moment they get it constructed. If we do nothing else in the application of these sanctions but delay the construction, and therefore the ability to deliver gas, for 2 to 3 years, we are striking a very serious blow to the economy of the Soviet Union, and we are doing it in a bloodless fashion.

I would point out also that the issue before us is the overall, worldwide behavior of the Soviet Union. Look at the problems affecting Morocco, which are being caused by the Soviet support of the Polissario. Look at the problems in Central America, Fidel Castro and his role in Cuba. Who is behind it? The Soviet Union. The U.N. inability to solve the complications in

Namibia, the Soviet Union is behind that problem. The invasion of Somalia, directed by the Soviets via their Cuban surrogates operating in Ethiopia. I can to on and on and on.

I cannot think of any situation in the world stage today where the Soviet Union is being prudent, cooperative or objective in dealing with us. I think it would be a great mistake—a great mistake to undercut the foreign policy of the President at this time. I strongly oppose this legislation and urge Members to defeat it.

Mr. MICHEL. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. FINDLEY), the author of the resolution.

Mr. FINDLEY. Mr. Speaker, first of all I want to express my appreciation to Speaker O'NEILL and to the Republican leader for their cooperation in bringing this bill before this Chamber at this time. It is timely; it is urgent. I am glad it is on the schedule. Now, I have hopes that it may even clear the Senate before we recess.

And I would also like to thank for all their special efforts on behalf of H.R. 6838, the chairman, Mr. ZABLOCKI, and the chairman of the Subcommittee on International Economic Policy, Mr. BINGHAM. I would also like to thank supporters and cosponsors, Mr. ERDAHL, Mrs. FENWICK, LYNN MARTIN, GEORGE O'BRIEN, and BILL FRENZEL.

The important fact for us to keep in mind is that the pipeline is going to be built. That decision is made. It is going to be built. There is no question about it, and for us to try to alter Soviet behavior through these sanctions is like trying to push a big bear around with a feather. It is going to have no effect at all.

The second point is that this is a failure that is very costly to the American people. Let me personalize it by referring to circumstances in my district, Springfield, Ill. Between today and November 5, Fiat-Allis, which is by any measurement the largest employer in the city of Springfield, will shutdown completely; shutdown completely on November 5 for an indefinite period of time. Whether it will reopen the first of the year will depend on whether it gets new business.

As a result of the sanctions decision by the President, Fiat-Allis has no business in prospect at the present time. Had it not been for the sanctions, Fiat-Allis would have been running full blast right now and would have been running full blast for at least 5 years into the future, fulfilling one of the largest contracts ever negotiated with any country, and most of the contract totally unrelated to the Soviet natural gas pipeline project. Fiat-Allis estimates that it has lost $2.4 billion worth of business with the Soviet as a result of President Reagan's sanctions.

In human terms, look at this: Eighteen hundred employees were out of their jobs in Springfield, Ill., or they will be out of a job within the next 3 or 4 weeks. Ten thousand dependents, pensioners, and others who look to Fiat-Allis each month for income, will cease getting support or have it put in question if Fiat-Allis goes under because of the sanctions.

Seventy to one hundred million dollars annually will be withdrawn from the Springfield economy if Fiat-Allis fails to reopen. That means thousands of men and women in Springfield who depend upon Fiat-Allis employees to buy their products will be irreparably hurt. Then, translate that to a national scale. There are dozens, even hundreds of firms all over the country that have a stake here.

There has been mention of slave labor in the Soviet Union, and of course we are all concerned about labor in the Soviet Union, but our primary concern must be labor in the United States. There is surely no slave labor in Springfield, Ill., or Peoria or Schenectady or any other place in the country. There is a shortage of labor, jobs to be done. What is at stake here is labor in the United States, jobs, work.

Let us pass this bill and help the President out of a very difficult circumstance.

Mr. HAGEDORN. Mr. Speaker, will the gentleman yield?

Mr. FINDLEY. I yield.

Mr. HAGEDORN. Mr. Speaker, I appreciate the economic conditions the gentleman has in his district, and yet does it not bother him a little that the Soviet Union is receiving Western-subsidized credit at 7- to 8-percent interest rates?

Mr. FINDLEY. I regret that very much. The subsidized credit is not the issue here. The pipeline is going to be built. The question is whether the labor is going to be provided in Japan or in the United States, and my vote is cast for jobs in the United States.

Mr. HAGEDORN. The subsidized credit ought to be an issue here.

Mr. MICHEL. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Tennessee (Mrs. BOUQUARD).

Mrs. BOUQUARD. Mr. Speaker, I rise in support of the resolution. The President's policy is, I believe, essentially self-defeating for three straightforward reasons.

First, the need for natural gas and the acceptability of the Soviet Union as a supplier is viewed by our European allies as a domestic issue and not part of the larger considerations of East-West relations. I am certain that there are many who disagree with this assessment, unfortunately, they are not the representatives of the European nations involved in the dispute.

Second, there can no longer be any argument about whether or not the Soviet Union can, in fact, obtain the necessary technology. The indisputable fact is that they are now in the process of getting it. Thus, the underlying principle of the embargo is invalid. In fact, since the Soviet Union is receiving and contracting for the equipment, I think the real question is whom does our policy hinder? Certainly not the Soviets who reap not only the benefits of the technology, but the added value of dissension among Western allies.

Third, the policy has the result of penalizing one sector of our domestic economy in a manner inconsistent with how we treat another sector. We have continued to provide agricultural exports for the Soviets, a decision which I endorse, and yet we propose to deny industrial exports.

I am forced to draw what I think is a rather direct parallel with the Carter administration's policy on the question of nuclear exports. We denied many of our allies—countries like Spain and England—the access they had previously enjoyed to U.S. nuclear technology, in the hope that this would force changes in the availability of nuclear materials. Of course, that policy failed because there were other sources of supply and we now are confronted with a more fractured and potentially more dangerous proliferation concern because the U.S. role as a reliable supplier has come into question.

In the same way, the technology in question in the trans-Siberian pipeline is available from other sources, we are asking our allies to shoulder a burden that we will not take on ourselves—foregoing a supply of energy. And we are seen as inconsistent both by our allies and by the industrial sector of own economy because we permit exports of foodstuffs and deny the same treatment to industrial products.

The policy will fail because of its own inconsistency, and its inability to recognize availability of technology. We can salvage the respect of our allies, and a better spirit of cooperation by ending the policy sooner, rather than waiting for its disintegration.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, I would like to take this opportunity to express my opposition to H.R. 6838, which would terminate certain export controls which prohibit American companies here and abroad from exporting goods and services related to the construction of the Soviet natural gas pipeline.

While I oppose U.S. participation in the pipeline project, I question some aspect of these controls, notably their extension to non-pipeline-related oil

and gas business. However, this bill is not the means for correcting those problems or addressing this issue. The export controls may be viewed as the right thing done in the wrong way. However, H.R. 6838 is the wrong thing done at the wrong time in the wrong way.

This bill is flawed in several ways.

It is as ineffective and counterproductive as it claims the pipeline sanctions to be;

It is not based on a full public understanding of the secret Soviet agreements with Europeans over the terms of gas supply; and

It does not address the principal issue for our workers and for our allies: the need to continue to push for a Western alternative to Soviet gas.

Opponents of the controls claim that they are ineffective, that they will not stop the pipeline. But there are real costs and risks to the Soviets.

One report from the Wall Street Journal has it that the Russians have not found buyers for about half the gas they had originally planned to deliver to Western Europe; and

It is questionable whether the Soviets can build a pipeline of about the same volume and length as the stalled Alaskan natural gas pipeline for one-quarter of the construction cost, unless the reported use of slave labor is increased on the project.

It should be noted that the committee report states that the committee does not suggest that "effectiveness in achieving their (economic sanctions) states purpose is essential to justify all foreign policy export controls." Indeed, it is a wonder how effective this bill can be if it would only repeal sanctions one day that can be reimposed by the administration on the next day. Conversely, would not repeal of these export controls remove any flexibility the President might have in modifying them?

Of even greater importance is the fact that it is difficult to debate a subject when there is not a full exchange of information. Details of the European agreements with the Soviets which determine the benefits and risks of the project are yet unpublished. We do not know the repayment schedule for Western credit. We do not know whether such repayment is dependent on pipeline earnings. We do not know how these earnings are defined. How we have a full debate on the costs and benefits of these controls when we do not have sufficient data on the project?

While the price of the project may be uncertain, the cost is more certain. Why should we support a project which primarily benefits the Soviet economy? Only 15 percent of the gas flowing from the Soviet pipeline will be sold in Europe. The other 85 percent will flow from Siberia to industrial Russia. Can we dismiss the fact that West Germany's dependence on Soviet gas will rise from 16 to 30 percent, that France's dependence will increase from 7 to 30 percent, or that Italy's dependence will grow from 24 to 40 percent? This is the kind of project H.R. 6838 would have us support.

We should also count the cost to this other Western nations struggling under the burden of a defense establishment forced on us by the military threat from the Soviet Union. Why should we engage in a public works project that will earn the Soviets valuable currency with which to supports its military machine and political goals?

These export controls do have a domestic cost. The Commerce Department estimates that over the next 3 years, the December sanctions will cost the United States $300 to $600 million in exports, direct and through third countries, to the U.S.S.R. As a result of the June 18 expansion of controls, foreign subsidiaries of U.S. companies may lose $1.6 billion in business with the U.S.S.R. over the next 3 years.

As I noted earlier, I object to certain aspects of these controls. While administration officials claim that the focus of the controls is the Soviet pipeline, Baker International, an employer in the oil services industry located in my congressional district, has indicated that indeed all exports of oil and gas goods and services to the U.S.S.R. are prohibited. While I agree with the objective of stalling the pipeline, there is less justification for prohibiting the export of nonpipeline goods and services. But having said that, let me reiterate: This is not the time or place to correct that problem, nor is it sufficient cause to scrap the entire program of controls through legislation.

Also, it is my view, that these controls should not have been justified largely on the basis of the crisis in Poland. Polish loans should have simply been called in default. Opposition to the Soviet pipeline was right before and after the crackdown in Poland. By emphasizing the Polish crisis, however, we are encouraging a debate over whether our foreign policy favors Polish workers over American workers. The sanctions issue is much broader than that.

Finally, it should be pointed out that there are alternatives to the Siberian pipeline. For one thing, we should promote more vigorously the export of American coal. For another, we should encourage the development of Norwegian offshore gas for export to Europe. One study estimates that Norwegian gas reserves are 4.3 times as large as that of the Alaskan North Slope reserves. If we spent less time wringing our hands over these controls and more time bending our efforts toward a constructive, Western alternative to Soviet gas, we all, workers and nations alike, would be a lot better off.

H.R. 6838 is a poor way to frame foreign policy or to produce jobs. The choice is not between sanctions and jobs. The real choice is between an ineffective bill and an opportunity to expand Western technology to meet Western needs.

I urge my colleagues to oppose this legislation.

□ 1540

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I represent the other major area that is affected by the pipeline sanctions, the great city of Schenectady, the home of the massive turbine plant of the General Electric Co., which in good times has employed some 27,000 people but now is operating at less than half capacity because of the economic situation.

On top of that, a $175 million contract for supplying gas turbines to the Soviet pipeline was wiped out by the President's action and 200 or 300 additional people are now unemployed in Schenectady.

Most of the major points have been touched upon already. Let me just touch on a few of them.

I think Members of this House will recognize that no one is more anxious to put the economic heat on the Soviet Union than the Member from Schenectady. But the fact of the matter is that this embargo is not hurting the Soviet Union. The pipeline is being built regardless of the embargo.

This is not helping the Polish people, as the distinguished chairman of the Foreign Affairs Committee just pointed out.

It is hurting American working men and women while French, German, British and Japanese workers are getting the jobs instead.

And our foreign policy, despite what somebody said here a moment ago, is being severely damaged by the disruption of our NATO partners.

I believe that the President is actually looking for a way out. I think he realizes he has made a mistake.

Secretary Shultz is meeting with NATO foreign ministers trying to find if there is some face-saving way to get out of this dilemma. I think there is an alternative course and I would like to propose it here.

What we need to do is to go back and redo the NATO summit. Let us get together with our NATO allies and find out clearly and precisely, as was not done in Versailles last June, just which economic sanctions against the Soviets our NATO allies are prepared to support and then we can allow the pipeline to proceed, and put the sanc-

tions on the Soviet Union in a way that will not disrupt our NATO alliance and will not take away much needed American jobs in a period of unprecedented unemployment.

Mr. Speaker, if this House approves the resolution of the gentleman from Illinois (Mr. MICHEL) then the President will have the excuse he needs to shift his policy on the pipeline. We will be helping him out of a tough corner.

Moreover, Mr. Speaker, at a time when we have some 10-percent unemployed, here is a chance for this House to do what we need to do; namely, to put people back to work—American working men and women now unemployed.

If you believe in jobs, then vote for the Michel resolution.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. BETHUNE).

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise to express my opposition to H.R. 6838, the bill which would amend the Export Administration Act of 1979 by terminating the export controls announced by the President on December 30, 1981 and June 22, 1982.

Under the Export Administration Act, the President is granted the authority to prohibit exports where necessary in order to further the foreign policy of the United States. On December 29, 1981, President Reagan announced sanctions forbidding American companies from selling equipment to the Soviet Union, which would be used in building the Yamal Pipeline. Since these sanctions applied only to equipment manufactured in the United States, American firms and workers were bearing the full economic costs of the sanctions and the U.S.S.R. could still obtain the embargoed technology from United States subsidiaries and licensees abroad. The June 22 restrictions closed this loophole, broadening the sanctions to apply to both U.S. companies' foreign subsidiaries and to foreign companies operating under American licenses.

There are several secondary reasons why this administration announced the sanctions. The U.S. imposed restrictions will not stop the construction of the pipeline and will not prevent Western Europe's increasing economic dependence on the Soviet Union. But at least they will delay the date the pipeline becomes operable and therefore postpone the corresponding European dependence. Also, there will be a delay in the time when the Soviets will have access to more hard currency, which they can use to buy more military hardware. Finally, the International Sakharov Committee in Copenhagen and the International Society for Human Rights in Frankfurt have both charged that political dissidents in the Soviet Gulags have been used as forced labor on the pipeline construction, although the President's sanctions will not put a stop to such slave labor, at least the sanctions are focusing the world's attention on the massive human rights violations within the Soviet Union.

But the President's primary purpose in imposing the sanctions, which H.R. 6838 wants to eliminate, is to make clear to the U.S.S.R., this Nation's disapproval of Soviet-inspired repression in Poland. August 31 marked the second anniversary of the establishment of Solidarity, the first independent labor union in the Soviet bloc. Since martial law was proclaimed in Poland on December 13, 1981, support for Solidarity has continued unabated. Our Government demands progress in three areas in order for the sanctions to be removed: Martial law must be lifted; political detaineees, especially Lech Walesa, must be freed; and the Polish authorities must resume a dialog with the Catholic Church and Solidarity.

These three demands were not made unilaterally by the United States. Rather they were agreed upon by the NATO nations on January 11, 1982. What distinguishes the United States from our NATO allies is only that we have taken actions to demonstrate to the Soviets the seriousness of these demands. Our actions, the economic sanctions which will result in limited economic harm to our country as well as to the Europeans, were not intended to cause a rift in the Western alliance. Rather the President has used them as the leader of the alliance, to express the West's shared outrage at the continued repression in Poland.

Now is not the time to lag in support of our President and the courageous actions he has taken. For this reason, I urge my colleagues to vote against H.R. 6838, and to instead seek to explain to our European friends why President Reagan felt constrained to announce the December 30 and June 22 economic sanctions on the transfer of oil and gas technology to the Soviet Union.

Mr. BETHUNE. Mr. Speaker, early this year I was privileged to be with a group that traveled to Poland. We learned a good deal out of that trip.

We were the first official congressional delegation to go into the country after the declaration of martial law.

At the time I went in I was strong in favor of forcing the Polish Government into default on the debts that they had. In other words, I was for making the U.S. policy tougher.

I found out when I got there that the Polish people are full of hope. They love America and they love Americans. We are their symbol.

For nearly 200 years it has been a part of their national character that they will be the people that will establish once and forever that freedom will prevail over totalitarianism. Messianic poets wrote about it some 200 years ago. They saw it as the destiny of Poland. This feeling is wrapped up in the Polish character and their hope is all they have.

They know we have limits. They are surrounded and the Soviets have some 20,000 troops in their country. They know we have to work with our allies.

What we learned on our trip is that they are very satisfied with our carefully balanced policy. Sanctions will not be released until the Polish Government lifts martial law, releases the prisoners, and there is some dialog between the church and Solidarity and the Polish Government.

So I changed my mind about the credits. I decided the administration was right.

What I am saying is that we now have a move here to relax the policy, to change the policy.

If you are certain, if you are absolutely convinced that the administration is wrong, then you might want to support this. But give the administration the benefit of the doubt if you are not sure about your position.

I learned after going there they know what they are talking about. The Polish people trust us. They trust this President. Their hope is built around that. Their hope is built on the unity of Americans, not the disunity of Americans.

Let us show them that for us freedom means more than commercial ventures, freedom means more than the almighty dollar. That is what keeps the Poles going. That is what keeps them enthused, and let us stay with them.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Speaker, I would admit, as my leader did, that Caterpillar used to be the largest employer in my district. They now have the distinguished honor of being the company with the most unemployed.

But this issue goes way beyond that. I am an idealist also. I stand on principle just as the President does.

But when I am hit over the head three times at least by my so-called friends and allies then I become a realist.

President Carter came up here and told us "Boy, we will run those Russians out of Afghanistan. We will just boycott those Olympics. And if that does not do it, then we will quit selling grain that we already promised the farmers we were going to sell."

And the Russians went running back into Russia, out of Afghanistan, with their tails between their legs, never to aggress again.

And then this administration decides that we will fix them messing around in Poland. We will just cut out the sale of butter that we had already set up and planned to do, and so we sell it to New Zealand for 25 cents less a pound. They sell it to Russia for a profit.

Now we have the pipeline issue. That is going to teach the Russians a real lesson. Again, our dear friends and allies show us that it just is not going to work.

So it is about time we think a little bit about ourselves since our allies and friends do not seem to appreciate our thinking about them and their defense at all.

Mr. MICHEL. Mr. Speaker, I yield 1 minute to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I am a member of the Foreign Affairs Committee but I am not talking now about the damage to our relations with our allies. I am talking about work in America. I am talking about people without jobs. I am talking about workers laid off and seeing the contract go to a foreign country within days.

We are using a blunt instrument to try to bring pressure on the Polish Government.

We are not bringing pressure on the Polish Government to release Lech Walesa. We are trying to bring pressure on the Soviet Union while that Government enjoys more than ever the disruption of our relations with our allies, and receives all the trucks and all the equipment they need, buying freely in the rest of the industrialized world.

Meanwhile, what is happening? Layoffs in my district, in your district, in every part of the Nation because of this embargo, jobs lost for people who need jobs.

Mr. MICHEL. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALKER).

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Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, the respected journalist William Safire recently wrote: "No one can deny that this pipeline is the biggest slave-labor project since the Pyramids."

If that is the case—and there is much circumstantial evidence to suggest that it is—then we seem, in my opinion, to have a moral obligation to keep our Nation from equipping the slaves. That is the issue here.

The recommittal motion to be offered by the gentleman from Michigan will assure that we speak to this vital issue.

I urge the support of the Members of this body for Mr. BROOMFIELD's motion to recommit this bill so that, at the very least, we state that we remain a nation willing to take a firm stand against the use of slave labor by a thoroughly immoral government in the Soviet Union.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH of Iowa. Mr. Speaker, there are two issues involved in this resolution. One relates to basic economics. Just as our Government 3 years ago shot the American farmer in the foot with the grain embargo, today we are shooting the American worker in the foot with this embargo of pipelaying equipment. Our diplomatic arrows may be aimed at the Politburo, but the target actually hit has been the American worker.

But the biggest issue is not economic; it relates to more fundamental United States-Soviet relations. If we cannot arrive at agreement with the Soviet Union in nonstrategic areas such as trade, how are we going to in arms control, where the fate of the world is at stake?

It is time, simply, for prudence and pragmatism to prevail in our foreign policy. The issue is jobs here at home; it is also peace and security abroad.

The cartoon character "Pogo" once remarked that "the enemy is us." I cannot think of a more classic reflection of a foreign policy truth than in this instance. One simple lesson ought to be craved in stone above the diplomatic entrance of the State Department, and that is: "Unilateral trade embargoes do not work."

Mr. MICHEL. Mr. Speaker, I yield 2½ minutes to the distinguished whip on our side, the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. I thank the gentleman for yielding this brief time to me.

Mr. Speaker, I urge my colleagues to oppose this legislation, and I urge also that, before vote on final passage, that they do vote for the Broomfield motion to recommit, which puts some emphasis on the fact that this pipeline is being built with slave labor.

My colleagues, if nothing else, this legislation is badly timed. As I am sure has already been said today on the floor of the House of Representatives, our Secretary of State is meeting right now at the United Nations with his European counterparts to address the critical problem of overall East-West policy.

I had hoped that we would at least put this off until a time when it might not have direct impact on what is going on in those discussions.

Second, to say that we would throw in the towel because our allies, our European allies, are not standing by our side is the most ludicrous argument of all. I am beginning to wonder if our European allies are going to stand with us on anything, even if it involves their own best interests against the Soviet power.

I regret that this whole matter has been handled the way it has been, legislatively. I just have to ask you: Are we not going to stand firm against the Soviet Union? Are we not going to stand up for our friends in Poland who are being oppressed? Are we going to do nothing?

One by one, we have backed off every step to try to stick to our guns and say to the Soviet Union, "We will not stand mute while you do anything you want to with any country and any oppressed people anywhere in the world."

My colleagues, it may not be the best solution to have this pipeline sanction by our country, but it is an action. It is the only one we have at hand and to come along here now, at this time with this legislation, and reverse it is, I think, terrible foreign policy.

Mr. HAGEDORN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. It seems to me rather than taking this action today we ought to be looking at those allies such as Japan. If they want to sell alternatives to our Caterpillar tractors, then maybe we ought to lock their Toyotas and their Datsuns and their Hondas out and deal with the issue for what it is. If our allies undercut the efforts of the free world, the security and the freedom for which we spend literally billions of dollars, then we ought to deal with it aboveboard.

Mr. LOTT. Mr. Speaker, I just ask: Who are we afraid of?

Instead of backing away from sanctions, we should be turning the screws down now, or we will have to do it in a more difficult way later.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. PORTER).

Mr. PORTER. Mr. Speaker, three separate, but related news items from today's papers illustrate and dramatize the wisdom of this resolution ending the ineffectual Soviet pipeline sanctions.

First, there is a report from my State of Illinois that Caterpillar Tractor of Peoria is projected to post a pretax loss of $120 to $140 million and predicts a fourth-quarter loss substantially greater. Why? Well, clearly in part because they are unable to sell equipment to the Soviets to build the pipeline, resulting not only in greater operating losses, but the laying off of thousands of Caterpillar workers, undermining the Peoria economy further and adding to the costs of Government while subtracting from its revenues and plunging our economy further into the doldrums.

Then, we read that a West German concern has dispatched its first shipment of U.S.-licensed turbines ordered by the Soviets for the Siberian gas pipeline. The German concern has flouted the President's embargo following similar moves by the French, British, and Italians—indeed all of our NATO Allies, none of whom has cooperated with the President's policy. So, not only is the policy undermined completely, resulting in the Soviets getting what they need, not from us, but from our allies, but a wedge—perhaps a permanent wedge—is being driven between us and those who are our closest trading partners.

So, Mr. Speaker, we have in place, being vigorously pursued by the White House, a policy that is little impeding the progress of the Soviets, alienating our Western allies, and undermining our economy at home.

Beyond that, however, our policy is completely inconsistent. The third news article tells us that while we are attempting to embargo pipeline technology to the Soviets, we are proceeding to sell them grain, 750,000 metric tons of corn in this first Soviet purchase since March under the new U.S.-Soviet agreement initiated by the President. If the Soviets need our technology, how much more immediate is their need for our grain? And yet the leverage we have here, where their need for U.S. grain is estimated at 20 million metric tons this year, is totally unused.

Mr. Speaker, it is patently unfair to ask American business enterprise to not sell technology that will be used to build the Soviet pipeline while at the same time allowing American farmers to sell the Soviet's grain that is vitally needed there to make up the huge shortfall from yet another year of Soviet crop failure.

If the policy the President were pursuing were in fact working; if we had the cooperation of our allies and the Soviets were being denied the ability to build the pipeline, then surely no one would do other than applaud the wisdom of the administration's actions. But, in fact, the policy is clearly a failure, not preventing the pipeline from being built, delaying it completion date, perhaps, slightly, but punishing most, not the Soviets nor our disloyal allies, but punishing American business and losing American jobs to no purpose. Under these circumstances, good judgment tells us to reconsider and look for policies that in fact do the job. I urge the adoption of the measure presented by the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the measure.

When a sanction is not hurting your adversaries, it is time to reconsider that policy.

When a sanction is driving a wedge between you and your allies, without hurting your adversaries, it is counterproductive.

And when a sanction alienates your allies, does not hurt your adversaries, does not help their victims, and hurts your own economy, it is time to change direction.

The current sanction against the Soviet Union, which prevents the use of U.S. technology in building the Soviet-European pipeline is just such a failed policy.

The Soviets are still getting the technology from our NATO allies.

The oppressed people of Poland are not being helped by the sanction.

Our NATO allies have become slightly estranged from the United States because of our unilateral embargo, which they are ignoring.

And American jobs are being lost.

Folks from my agricultural corner of Minnesota learned how ineffective such unilateral and partial sanctions are when Jimmy Carter ordered the doomed grain embargo of 1980.

We learned that the hundreds of thousands of lost jobs are not worth such a limited, shortsighted, and ineffective sanction.

It is time to end this senseless sanction, for the same reasons that President Reagan lifted the Carter grain embargo.

There is one further reason to kill the pipeline sanction.

Such a policy sends a clear message to both our farmers and their potential foreign customers that this administration is willing to unilaterally violate the "sanctity of contracts" for any single American industry.

That is a message and a policy which I strongly oppose.

We cannot afford to throw away the respect of our allies, the integrity of American resolve in foreign policy, thousands of U.S. jobs, or any of our export markets.

I urge my colleagues in the House to vote against this failed policy.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. BONKER).

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. BONKER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I rise in support of the resolution, and urge the House to pass it.

Mr. BONKER. Mr. Speaker, the economic sanctions are bad business, bad diplomacy, and bad foreign policy. Bad business because the real victims are American companies and American workers. This comes at a time when we need to increase jobs in this country and when we need to place increased emphasis on export trade. Indeed we are not going to experience economic recovery in this country until we increase our export position on the world market.

It is bad diplomacy because it drives a wedge between the United States and our European allies. The pipeline is constructed to help the Europeans as much as it is the Russians. It is the Europeans who need to diversify their energy base and to find new sources of energy to support their own economies.

It is bad foreign policy because the intended victims are supposedly the Soviet Union, but they are going to remain unaffected because that pipeline is going to be constructed regardless of whether this administration denies the issuance of export licenses to businesses and their subsidiaries who are involved in the project.

I think when we look at the example of the grain embargo, we can see just how ineffective these economic sanctions are. Indeed, it was candidate Reagan who stated a few years ago that this really injures the U.S. image as an unreliable supplier. And if that argument applies during the grain embargo, it also applies today.

The administration argues that the pipeline freeze would deprive the Soviets of up to $10 billion a year which would otherwise be used for weapons production. They also state that the Europeans are too dependent on the Soviets for energy, and thus would become neutralized as a military ally. But the argument is contradictory. If the Soviets need hard currency, why would they attack Europe and destroy the pipeline and their very source of revenue?

I urge that we adopt the Findley resolution.

Mr. MICHEL. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Speaker, I thank my colleague for yielding me this 1 minute, and I rise in strong support of this resolution.

There is no one here who is in sympathy with what Russia is doing throughout the world in their aggressive activities, but does anyone here know any time that economic sanctions have worked? Any time in the history of our country or any other country where economic sanctions have worked?

The only kind of sanctions that work are military blockades. They do work for a limited time.

But this sanction, imposed by our country, is not going to stop the construction of the pipeline. Does anyone think the pipeline is not going to be built? Who are we hurting? Our own economy is already damaged. We are hurting only ourselves.

I might add that, for those of you who have farmers in your districts, farmers have an indirect interest in this pipeline being built. We cannot sell to the EEC countries, Now they will be buying gas from Russia and Russia will be using that money to buy grain from the United States. Seems like a pretty good deal for the United States as far as increasing exports.

I do not think we should be interfering with Eastern or Western European activities. If Western Europe wants to buy gas from Russia, they should have the right to buy it. Maybe they are wrong in doing it. But we have no right to impose our ideas upon them.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. ERDAHL), a member of the committee.

Mr. ERDAHL. I thank the gentleman for yielding.

Mr. Speaker, just to summarize, as we look at the sanctions and the pipeline: First of all, we need to acknowledge that it will not stop or significantly delay the pipeline from Siberia from being built. Would that we could restore some freedom to Poland by this and similar measures; but unfortunately we cannot.

The second point is that we are unduly interfering with the internal domestic and the international policies of some of our strongest allies in Western Europe, and we are damaging that relationship. It is something that we cannot ignore and must correct by lifting these sanctions.

Third, I think it has given our country a bad name as a nation and as a people who do not honor contracts, and that does us irreparable harm, not only in this part of the world, but in other regions of the world as well.

The fourth point I would like to summarize and make is that these sanctions further intensifies the unemployment picture here in the United States, as we are losing thousands of jobs to other countries in the world. In my own State of Minnesota, we have a small firm that has lost a contract worth over $8 million and 100 jobs. This is multiplied many, many times throughout the country.

It seems, as someone has said, we are cutting off our nose to spite our face. We have shot ourselves in the foot, and we are not achieving the goal we are trying to achieve.

The administration has made an unwise, unworkable policy. As someone said in opposing the resolution, we each cannot pretend to be the Secretary of State. We are not.

□ 1600

We have one President, one Secretary of State. And yet each of us in this body does represent a constituency. We are here to represent our people and reflect their views. That is exactly what the gentleman from Illinois (Mr. MICHEL) and the gentleman from Illinois (Mr. FINDLEY) are doing in offering H.R. 6838, and I urge that we give it our support.

Mr. MICHEL. Mr. Speaker, I yield 30 seconds to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I had not intended to speak on this resolution. But I cannot really believe what I am hearing here this afternoon. Talk about selling the rope. For a few jobs that might be produced, we are giving the Soviet Union all of this ready cash, which is exactly the thing that they need. And I could not restrain myself from just making that comment, even if it is for just 30 seconds.

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

● Mr. FRENZEL. Mr. Speaker, I think that all our decisions on the pipeline have been questionable from the very beginning.

We acted late after our allies had made their decisions. The decision was really theirs to make anyway, and of course, none of our boycotts have improved Soviet deportment.

The lot of the Poles and Afghans has not been improved, Russia has not been brought to its knees. We will not have any assurance that slave labor will be removed from anywhere in the world by what we have done.

What we know has happened is that we have begun to poison the well of our relationships with our NATO allies. We are punishing ourselves through extra unemployment.

And there is no evidence at all that the pipeline will not be completed on time, no matter how much we flagellate ourselves.

The worst of it is of course the extra territorial application of this U.S. policy where we have given American firms, American subsidiaries, a choice of going to jail in Europe, or in the United States depending on whose laws they contractually must violate. That is, I think, an outrageous imposition on people who are stuck between the laws of countries in which they are trying to operate.

I agree with the persons who said we should not legislate foreign policy on the floor on a day-to-day basis. I do not want to do that either. However, I have been trying to raise my advice to the President and his counselors every way that I can, and so far they do not seem very receptive. They do not seem to understand what the real world is saying about the folly of this particular policy.

We as the House owe our Chief Executive the obligation of our counsel. And I believe that this House is going to overwhelmingly counsel the President that this policy is ill advised and should be changed to one that really works, such as one which would guarantee restrictions of credit to the Russians.

This bill should be promptly passed.●

Mr. MICHEL. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Republican Conference, the gentleman from New York (Mr. KEMP), to wrap up the case for the opposition.

Mr. KEMP. Mr. Speaker, I realize the perplexing position in which my friend, the gentleman from Illinois, has found himself. But there is no doubt about it, right is right, even if we are not getting the agreement of the rest of the world. And the President in this case is right. The timing of this bill is wrong. This is a poor time for Congress to tell the rest of the world that we are going to turn our back on the heroic people in Poland, that we are going to turn our back on the refugees of Afghanistan, that we are going to turn our back on our President who is attempting to modify the misbehavior of the Soviet Union when it comes to the liberties and the human rights of people around the world.

Let us make no mistake about it. The Soviet Union is interested in one thing. They are interested in selling gas, selling goods to the West in order to earn hard currency. Gas sales in Western Europe are expected to generate between $11 and $22 billion each year for the Soviets, freeing Soviet capital for military spending. The hard currency that they are earning is giving them Western technology, subsidized with Western credit, and they are using that hard currency to fund their exploits: To invade Afghanistan, to embolden the martial law regime of General Jaruzelski in Poland, and to use their Cuban surrogates up and down the continent of Africa and throughout Central America.

This is a major foreign policy issue notwithstanding the pain in our domestic economy. The problem of Caterpillar is no different than the problem of Bethlehem Steel or small businessmen and women in western New York, or the farmers in New York and the Midwest. The problem in our domestic economy is the high interest rates policy of the Fed. And it is not going to be solved by undercutting the President's efforts to oppose the repressive policies of the Soviet Union. This is exactly the kind of linkage we in Congress need to support.

I understand what the gentleman from Illinois wants to do and I respect him deeply. I believe in maximum trade. But not the kind of trade that renders the West vulnerable to coercion by the Soviet Union.

Today, the New York Post editorial offered key insights into this critical issue, which I would like to share with you now:

It is a diversion for the West Europeans to evade the pipeline issue by discussing it in terms of sanctions. The Polish suppression may have provoked U.S. action but the issue far transcends the suffering of the Polish people and goes to the heart of a Soviet arms drive based on Western hard currency and Western high technology.

Is it really so difficult for countries which have been allies for over 40 years to define common policy toward the Soviet Union?

Is it really asking too much to tighten credit on trade with the Russians, to end all subsidies, to increase the present down payments, which amount to only 15 percent of a deal's value?

Is it asking too much to require that major deals be submitted to a two-thirds majority vote by COCOM, the committee of Western nations specifically created to control exports that have a military use?

Is it asking too much of the Europeans that they should develop alternative pipelines—to bring in Norwegian gas via West Germany, liquefied West African and South American gas via France and Persian Gulf gas via Italy?

The NATO foreign ministers conference in Ottawa this weekend provides an opportunity to try again for a compromise. Shultz should go there determined to achieve it.

I agree with the New York Post. The President was right to impose these export controls. He deserves our support.

Mr. MICHEL. Mr. Speaker, to wrap up the case on our side, I yield the balance of our time to the gentleman from Illinois (Mr. FINDLEY), the author of the original piece of legislation.

Mr. FINDLEY. Mr. Speaker, I will say to my good friend from New York, the chairman of the Republican conference, there is no high technology involved here at all. Everything involved here can be manufactured elsewhere in the free world and is going to be manufactured there because of the sanctions.

Mention was made of the attitude of union labor, organized labor. I have in my hand a letter dated September 27, signed by Dick Warden, legislative director of the International UAW, Douglas Fraser, president. And this letter says:

The UAW urges you to support H.R. 6838. * * * In today's world economy the U.S. cannot impose effective sanctions without the full coopration of its European and Japanese allies.

Harry Wells, president of the UAW local in Springfield, Ill., came to Washington to testify on this bill. Listen to Harry Wells' words.

Many of those who have been laid off have drawn their 26 weeks of unemployment benefits and they are really looking for work and wanting jobs. In our union we support the struggle of the Polish workers and the Solidarity Union, and if something could be done that would work and be effective we would support that. The trade sanctions as they are are not working. Japan's Komatsu Company has signed contracts with the Soviet Union for over 900 pipelayers.

Because of the sanctions these pipelayers are being built in Japan. If they were built in the United States they would represent hundreds and hundreds of jobs. This means the Soviet Union is going to get all the pipelayers it wants, but U.S. workers are denied jobs.

I urge support for the bill.

Mr. MICHEL. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

CALL OF THE HOUSE

Mr. WALKER. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 377]

ANSWERED "PRESENT"—377

Akaka	Courter	Ford (TN)
Albosta	Coyne, James	Fountain
Alexander	Coyne, William	Fowler
Anderson	Craig	Frank
Andrews	Crane, Daniel	Frenzel
Annunzio	Crane, Philip	Frost
Anthony	Crockett	Fuqua
Applegate	Daniel, R. W.	Garcia
Archer	Dannemeyer	Gaydos
Ashbrook	Daschle	Gejdenson
Aspin	Daub	Gephardt
Atkinson	Davis	Gibbons
AuCoin	de la Garza	Gilman
Bailey (MO)	Deckard	Glickman
Bailey (PA)	Dellums	Goldwater
Barnard	DeNardis	Gonzalez
Barnes	Derrick	Goodling
Bedell	Dickinson	Gore
Benedict	Dicks	Gradison
Bennett	Dixon	Gray
Bereuter	Donnelly	Green
Bethune	Dorgan	Gregg
Biaggi	Dornan	Grisham
Bingham	Dougherty	Guarini
Bliley	Dowdy	Gunderson
Boggs	Downey	Hagedorn
Boland	Dreier	Hall (OH)
Boner	Duncan	Hall, Ralph
Bonior	Dunn	Hall, Sam
Bonker	Dwyer	Hamilton
Bouquard	Dyson	Hammerschmidt
Bowen	Early	Hance
Breaux	Eckart	Hansen (ID)
Brinkley	Edgar	Hansen (UT)
Brodhead	Edwards (AL)	Harkin
Brooks	Edwards (CA)	Hartnett
Broomfield	Edwards (OK)	Hatcher
Brown (CA)	Emerson	Hawkins
Brown (CO)	Emery	Hefner
Broyhill	English	Heftel
Burgener	Erdahl	Hendon
Burton, Phillip	Erlenborn	Hertel
Byron	Evans (DE)	Hightower
Campbell	Evans (IA)	Hiler
Carman	Evans (IN)	Hillis
Carney	Fary	Holland
Chappie	Fascell	Hollenbeck
Cheney	Fazio	Holt
Chisholm	Fenwick	Hopkins
Clausen	Ferraro	Horton
Clinger	Fiedler	Howard
Coats	Fields	Hoyer
Coelho	Findley	Hubbard
Coleman	Fish	Hughes
Collins (IL)	Fithian	Hunter
Conable	Flippo	Hutto
Conte	Florio	Hyde
Conyers	Foglietta	Ireland
Corcoran	Foley	Jacobs
Coughlin	Ford (MI)	Jeffords
Jeffries	Murphy	Shaw
Jenkins	Murtha	Shelby
Johnston	Myers	Shumway
Jones (NC)	Napier	Siljander
Jones (OK)	Natcher	Simon
Jones (TN)	Neal	Skeen
Kastenmeier	Nelligan	Smith (AL)
Kazen	Nelson	Smith (IA)
Kemp	Nichols	Smith (NE)
Kennelly	Nowak	Smith (NJ)
Kildee	Oakar	Smith (OR)
Kindness	Oberstar	Smith (PA)
Kogovsek	Obey	Snowe
Kramer	Oxley	Snyder
LaFalce	Panetta	Solarz
Lagomarsino	Parris	Solomon
Lantos	Pashayan	Spence
Latta	Patman	Stangeland
Leath	Patterson	Stanton
Lee	Paul	Staton
Lent	Pease	Stenholm
Levitas	Pepper	Stokes
Lewis	Perkins	Stratton
Livingston	Petri	Studds
Loeffler	Peyser	Stump
Long (LA)	Pickle	Swift
Long (MD)	Porter	Synar
Lott	Price	Tauke
Lowry (WA)	Pritchard	Tauzin
Lujan	Pursell	Thomas
Luken	Quillen	Traxler
Lungren	Rahall	Trible
Madigan	Railsback	Udall
Markey	Rangel	Vander Jagt
Marlenee	Ratchford	Vento
Marriott	Regula	Volkmer
Martin (IL)	Rhodes	Walgren
Martin (NY)	Rinaldo	Walker
Martinez	Ritter	Wampler
Matsui	Roberts (KS)	Washington
Mavroules	Roberts (SD)	Watkins
Mazzoli	Robinson	Waxman
McClory	Rodino	Weaver
McCollum	Roe	Weber (MN)
McCurdy	Roemer	Weber (OH)
McDade	Rogers	White
McEwen	Rose	Whitehurst
McGrath	Rosenthal	Whitley
McHugh	Rostenkowski	Whittaker
McKinney	Roth	Whitten
Mica	Roukema	Williams (OH)
Michel	Rousselot	Wilson
Mikulski	Roybal	Winn
Miller (CA)	Rudd	Wirth
Miller (OH)	Russo	Wolf
Mineta	Sabo	Wolpe
Minish	Sawyer	Wortley
Mitchell (MD)	Schneider	Wright
Mitchell (NY)	Schroeder	Wyden
Molinari	Schulze	Wylie
Mollohan	Schumer	Yates
Montgomery	Seiberling	Yatron
Moore	Sensenbrenner	Young (MO)
Moorhead	Shamansky	Zablocki
Morrison	Shannon	Zeferetti
Mottl	Sharp	

□ 1620

The SPEAKER pro tempore (Mr. MINISH). On this rollcall 377 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

EXPORT ADMINISTRATION ACT AMENDMENTS

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan (Mr. BROOMFIELD).

MOTION TO RECOMMIT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BROOMFIELD. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BROOMFIELD moves to recommit the bill H.R. 6838 to the Committee on Foreign Affairs with instructions to report back the same forthwith with the following amendment:

Page 2, line 3, strike out "not" and all that follows through the end of line 5 on page 2, and insert in lieu thereof the following: "cease to be effective 90 days following the date of enactment of this subsection: *Provided*, That within that 90 day period, the President certifies to the Congress that the Soviet Union is not employing, or encouraging the use of, forced labor in the construction of any project affected by these sanctions.".

□ 1630

The SPEAKER pro tempore. The gentleman from Michigan (Mr. BROOMFIELD) is recognized for 5 minutes in support of the motion to recommit.

Mr. BROOMFIELD. Mr. Speaker, I am offering this motion to recommit with instructions to condemn the Soviet use of slave labor in construction of the Yamal natural gas pipeline and request the President report his findings on such use of slave labor.

As many of us have argued already, the lifting of sanctions, as proposed by H.R. 6838, without any corresponding action by the Soviets would only serve as an endorsement of Soviet action and give them no incentive to ease their suppression of the Polish people.

To act on this legislation now would also condone the Soviet use of slave labor for construction of the approximately 3,000-mile pipeline from Siberia to West Germany.

Reports that slave labor might be used for the pipeline began appearing a year ago when there were indications the Vietnamese Government might be supplying large numbers of Vietnamese to work on the pipeline as a way of offsetting its massive debt to the Soviet bloc.

Further reports this year indicated that by April some 10,000 Vietnamese had been sent to the Soviet Union for that purpose. Also, a former South Vietnamese Communist official, now living in exile, has evidence that by 1985, some 500,000 Vietnamese people would be deported to the Soviet Union to build the pipeline.

In June of this year, the Frankfurt-based International Society for Human Rights estimated some 100,000 prisoners, including women and children, were currently working on the pipeline. Based on information compiled by the society, the conditions under which these prisoners are working include heavy manual labor under brutal climatic and medical conditions with squalid living arrangements. Many who are working at forced labor are political prisoners such as human rights activists and clergymen.

The extent of the use of slave labor in the Soviet Union cannot be questioned. The trans-Siberian railroad, the Moscow subway, the railway along the Chinese border are among the more notable achievements of Soviet slave labor. There are also reports that more than 250,000 workers died on the Baltic-White Sea Canal project. Even Secretary Brezhnev is quoted as saying some 400,000 workers are needed to open up the oil and gas fields in Siberia.

The other body has recently examined published European press reports about the use of slave labor by the Soviet Union to construct the Siberian gas pipeline. On September 24, the other body passed a resolution by a vote of 80 to 1 that calls upon the Secretary of State to investigate these reports of forced labor. This investigation is underway.

With so much evidence pointing to the massive use of slave labor in the construction of the Yamal natural gas pipeline, I believe it is imperative that this Congress receive the President's report on the use of forced labor by the Soviets before sanctions are lifted against them.

I urge my colleagues to vote in favor of this motion to recommit with instructions.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Speaker, I rise today in opposition to the resolution offered by my distinguished colleagues, Representatives FINDLEY and BONKERS, to annul the foreign policy export controls imposed by President Reagan following the brutal suppression of human rights in Poland.

Mr. Speaker, the entire purpose of these sanctions is to communicate our strong displeasure over Soviet sponsorship for the imposition of martial law in Poland, and to apply pressure on the U.S.S.R. to observe their obligations under the Helsinki accords of noninterference in the internal affairs of their neighbors.

President Reagan focused these sanctions on exports of oil and gas equipment and technology in order to force the U.S.S.R. to pay a high price for its conduct in Poland. We have all heard about the Siberia-West Europe natural gas pipeline. Soviet economic prospects in the 1980's ride on the sales of huge volumes of natural gas to Western Europe so that hundreds of billions of dollars in hard currency can be earned. Therefore, timely completion of this pipeline is crucial to them.

The Soviets cannot build this pipeline without Western financing, equipment, and technology. Soviet officials have recently been quoted to the effect that the U.S.S.R. is incapable of producing equipment needed for this project. Large diameter pipe, pipelayers, and gas turbines for the project must all be purchased in Europe, Japan or the United States. In the case of gas turbines, the United States is clearly the foremost leader, and the Soviets have expressed a strong preference for the U.S. design, manufactured either here or under license in Europe. This is understandable since the United States is the world leader in pipeline construction under extremely adverse and corrosive conditions, as are found in Siberia.

The foreign policy controls, therefore, are designed to deny critical U.S. origin equipment which is essential to the timely construction and performance of the Soviet export pipeline. Our actions are forcing the Soviets to lose time by searching for comparable equipment. For example, with respect to the gas turbines, without which the gas will not flow, the Soviets will eventually be forced to settle for either lower quality items, or items which have not been designed to operate in the harsh Siberian climate. Thus, even though the pipeline will eventually be built, the use of such equipment will result in a pipeline that will be plagued with problems.

Mr. Speaker, I can assure you that our sanctions are beginning to bite. Some violations have occurred, but the Commerce Department has quickly moved to enforce its regulation. Discussions with the Europeans are ongoing, and there will be greatly increased cooperation within the alliance on East-West trade issues as a result.

Congress must not undermine these efforts, particularly when Poland has been shaken by the largest series of demonstrations since martial law went into effect. There have been reports from Poland that martial law will be lifted within the year. To annual our sanctions, as intended by this resolution, would only offer the Polish and Soviet authorities an incentive to prolong Poland's agony.

Mr. Speaker, earlier this year we celebrated Captive Nations Week in memory of those who must live under Communist tyranny. Of all the nations in East Europe, Poland has always been a beacon for those who believe in democratic rights and self-determination. In fact, Polish patriots fought and served with distinction in our Revolution.

But we, I am sad to say, have not always stood by Poland. At Yalta, Stalin agreed to allow a multiparty democratic republic to be established in Poland after World War II. These promises were never kept, and we did nothing. Subsequently, the Soviet and Polish governments, as part of the Helsinki process, agreed to grant their citizens basic human rights. The Gdansk Agreement, signed in 1980 between Solidarity and the Government, reiterated those rights and guaranteed

them to Poland's working people. These promises have also not been kept, and again we are being asked to stand by and do nothing. For, Mr. Chairman, this is exactly what this resolution would have us do.

Finally, Mr. Speaker, the Siberian pipeline also represents an unacceptable threat to the security and cohesion of the Western Alliance. Once completed, it would double or even triple Europe's dependence on Soviet natural gas, leaving them open to Soviet diplomatic coercion, and would provide hundreds of billions of dollars over a 25-year period which will be used to finish the unprecedented Soviet military buildup. Since the United States has American troops stationed in Europe and underwrites a considerable portion of NATO's budget, it is only logical that we should have serious reservations about this project. In fact, in light of our lead role in insuring Western security, we must view this project as far more than simply an economic trade issue.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I am happy to yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, I am glad the gentleman has brought up the question of slave labor being brought from Vietnam. As I sat here listening to the argument, I wondered if that investigation as to slave labor could include that some of our missing MIA's might be some of that slave labor the Soviets are using.

Mr. MICHEL. Mr. Speaker, I rise in opposition to the motion to recommit.

I do not think there is any question but that slave labor is being used on the pipeline.

But I also believe that slave labor is now and always has been a part of the Soviet system.

So if the State Department is going to use the fact of slave labor to allow the sanctions to continue, it should logically demand that there be a complete ban of all economic sales to the Soviet Union.

If that is what the State Department wants then it should say so.

If that is not what the State Department wants, then it is exploiting one group of slaves and ignoring millions of others. State should tell us why certain Communist slaves are not as important to them as others.

The State Department wants to grant the Chinese Communists Public Law 480 trade status. What does the State Department think the Mainland Chinese people have been for over 30 years if not slaves to tyranny?

I happen to favor trade with China and the Soviet Union not because I am insensitive to slavery but because I believe it is in our national interest in the long run. But if we are being told by the State Department that the fact of slavery in a country justifies a ban on certain items, then unless we ban all trade in such countries what kind of a moral stand are we taking? I say we trade because it is in our interest, not because we favor slavery.

I will welcome a vote on a complete ban if it comes to that. At least we will all know where we stand. At least there will be a clear, consistent position based on morality. At least the world will know we take human slavery seriously.

But I will not be a party to an attempt to exploit one part of human slavery in order to justify an ineffective policy.

I have been asked what we should do when the Soviet Union acts in ways that we do not like.

My answer is that instead of imposing ineffective sanctions, we instead build new transmitters for the Voice of America, Radio Liberty, and Radio Free Europe. We should improve their technology and broadcast more, in more languages, until the entire slave empire is flooded with the truth.

That is the best way to deal with that bunch. That is something they understand. Let them spend their time and money trying to figure out ways of jamming our broadcasts. The more they jam, the louder we broadcast.

Is that not better than sanctions?

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will be happy to yield to the distinguished chairman of the committee.

Mr. ZABLOCKI. I thank the gentleman for yielding.

If the House recommits with instructions, and if the negotiations that Secretary Schultz is now undergoing with our Western allies and the pact is reached, what would this resolution postponing it 90 days because of alleged slave labor, how could the country reverse itself?

Mr. MICHEL. Well, I have no idea how that would come about. The gentleman poses a very good question.

Mr. ZABLOCKI. It has tied the President's hands far more than he desires.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will be happy to yield.

Mr. BINGHAM. Mr. Speaker, I thank the gentleman for yielding. I would like to associate myself with his remarks. I think they are entirely apt.

Let me add a couple of points. First, the matter of slave labor on the pipeline is under investigation by both France and Germany. The other body has adopted a resolution calling upon the Secretary of State to investigate it.

Second, the amendment now proposed in the motion to recommit in effect guts the bill completely. You should not vote for it unless you reject everything that has been said in the debate up to now about the importance of reversing the President's action, not only for the sake of the U.S. economy, but the the sake of our relations with our allies. Our allies have considered this matter, as I said before. They are not children; they are adults; they are grown up; they are independent countries. They made a decision taking this matter of slave labor into account along with all other factors, and it is wrong for us to try to compel them to act in some other way.

Mr. MICHEL. I thank the gentleman for his contribution.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to my friend from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, this recommittal motion has two parts, and Members should note very carefully the first part.

The first part of the motion would keep the sanctions in place for 3 more months. Regardless of what comes on the Soviet labor item, the sanctions would remain in place for 3 more months. Now, all of us are concerned about labor conditions in the Soviet Union, but I think we are all a lot more concerned about labor conditions here in the United States. The issue here is getting people in the United States back to work.

I urge opposition to the recommittal motion.

Mr. MICHEL. I thank the gentleman.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I commend the gentleman for his leadership in this matter. My feeling is that the President would like to get off the hook and would like to find some solution to this troubling problem.

Does not the gentleman agree that if the House votes for the gentleman's resolution, this will give the President an excuse to change his policy, and especially at a time when we are almost at 10-percent unemployment?

A vote for this resolution will put back some 1,500 people to work, will it not?

Mr. MICHEL. I agree with the gentleman's thought, and I would not be here if I did not think that would give the President that opportunity.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished Speaker.

Mr. O'NEILL. Mr. Speaker, I thank the gentleman for yielding. I just want to advise the minority leader as to where I stand on this. On Saturday afternoon I was at home, and I received a telephone call from Secretary of State George Shultz informing me

that this bill was on suspension for Tuesday. He said he was bitterly opposed to its being considered. The reason he was opposed to it was because there was a meeting of the foreign ministers of the U.N., and he was meeting with Mr. GROMYKO yesterday and he met with him on Monday. On next Saturday and Sunday he was going to meet with the NATO allies concerning the pipeline question in Toronto, Canada.

He said, "Do you know, you are sending me up there without any cards, sending me up there in an embarrassing situation."

I said to him in reply, "Well, this is a matter in which I understand members of your party from Illinois are vitally interested in, and it was their pressure that has really brought this to the floor."

□ 1640

But I said I am ready and willing to acquiesce to you. If you think it should not come on I will be happy to talk to the Republican leader, BOB MICHEL.

When I came in on Monday I brought my own leadership together and I told them I had the telephone call from the Secretary of State and how he felt it would be an embarrassment.

There is no question in my mind. I doubt if the other body will bring it up and there is no question in my mind that the President will veto it.

Now, how far are we going with this?

I talked with the chairman of my own committee, the gentleman from Wisconsin (Mr. ZABLOCKI) and in courtesy I talked to the minority leader. I said we would not take it up, but I would give him the courtesy if he wanted the unanimous consent to keep it on and he could call it up if he wanted, but I thought I had to act this way in fairness to the Secretary of State.

This appears to me to be a problem between the party in power in this country at the present time, the Secretary of State and the leaders in your party. I leave it that way and let the chips fall where they may. But I wanted to explain where I stood on the subject.

● Mr. FORD of Michigan. Mr. Speaker, I rise in support of H.R. 6838—legislation to terminate President Reagan's restrictions on sales of oil and gas transmission equipment to the Soviet Union.

Economic sanctions have not proved effective in changing Soviet behavior in Afghanistan, Poland, or on human rights issues. In my mind they are counterproductive. Furthermore, the sanctions are harmful to U.S. firms and American workers at a time when our country is suffering with a very weak economy. The sanctions imposed by the Reagan administration only export U.S. jobs and business overseas; $1.2 billion in immediate contracts have been lost and billions of dollars in followup contracts as well. This means thousands of jobs lost for our workers.

On a different note, let me just mention that a U.S. policy of economic and political confrontation with the U.S.S.R. makes progress on nuclear arms reductions highly unlikely. Our nuclear arms negotiators are attempting to reach agreement with their Soviet counterparts on the most controversial, sensitive, and dangerous national security issues. But if the United States is opposing an expansion of Soviet trade in peaceful goods—at a reported U.S. cost of 25,000 jobs—their efforts to convince Soviet representatives of U.S. sincerity and good faith are seriously undermined.

Mr. Speaker, it is very difficult to explain to the unemployed workers in my district why the President could extend the grain agreement at the same time he is toughening other sanctions. Let us take the correct action today and pass H.R. 6838.●

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—yeas 206, nays 203, not voting 23, as follows:

[Roll No. 378]

YEAS—206

Addabbo	Cheney	Evans (DE)
Anderson	Clausen	Evans (GA)
Andrews	Coleman	Fary
Annunzio	Conyers	Fiedler
Applegate	Corcoran	Fields
Ashbrook	Coughlin	Flippo
Atkinson	Courter	Foglietta
Badham	Coyne, James	Fountain
Bailey (PA)	Craig	Frank
Barnard	Crane, Daniel	Fuqua
Bennett	Crane, Philip	Gaydos
Bereuter	D'Amours	Gilman
Bethune	Daniel, R. W.	Gingrich
Bevill	Dannemeyer	Ginn
Biaggi	Daub	Goldwater
Bliley	Davis	Gonzalez
Boner	de la Garza	Gramm
Bonior	Derwinski	Green
Brinkley	Donnelly	Gregg
Broomfield	Dornan	Grisham
Brown (CO)	Dougherty	Hagedorn
Broyhill	Dreier	Hall, Sam
Burgener	Duncan	Hammerschmidt
Butler	Dyson	Hance
Byron	Early	Hansen (ID)
Campbell	Edwards (AL)	Hansen (UT)
Carman	Edwards (OK)	Hartnett
Carney	Emery	Hatcher
Chappie	English	Heckler
Hefner	McClory	Rostenkowski
Hendon	McCollum	Roth
Hiler	McDonald	Rousselot
Holland	McEwen	Rudd
Holt	McGrath	Sawyer
Hopkins	Mica	Schroeder
Hubbard	Mikulski	Sensenbrenner
Hughes	Miller (OH)	Shelby
Hunter	Minish	Shumway
Hutto	Mitchell (NY)	Shuster
Hyde	Molinari	Siljander
Ireland	Mollohan	Skeen
Jeffries	Montgomery	Smith (AL)
Jenkins	Moorhead	Smith (NJ)
Johnston	Morrison	Smith (OR)
Kazen	Mottl	Smith (PA)
Kemp	Murphy	Snyder
Kennelly	Murtha	Solomon
Kindness	Napier	Spence
Kogovsek	Neal	Staton
Kramer	Nelligan	Stenholm
Lagomarsino	Nelson	Stump
Latta	Nichols	Trible
Leath	Nowak	Vander Jagt
Lee	Oakar	Walker
Lent	Ottinger	Wampler
Levitas	Parris	Watkins
Lewis	Pashayan	Waxman
Livingston	Patman	White
Loeffler	Petri	Whitehurst
Long (LA)	Peyser	Whitley
Long (MD)	Price	Whittaker
Lott	Quillen	Wilson
Lowery (CA)	Rahall	Winn
Lujan	Regula	Wolf
Lungren	Rhodes	Wortley
Marriott	Rinaldo	Yatron
Martin (NC)	Ritter	Young (AK)
Martin (NY)	Robinson	Zeferetti
Mavroules	Rogers	

NAYS—203

Akaka	Erlenborn	Leland
Albosta	Evans (IA)	Lowry (WA)
Alexander	Evans (IN)	Luken
Anthony	Fascell	Lundine
Archer	Fazio	Madigan
Aspin	Fenwick	Markey
AuCoin	Ferraro	Marlenee
Bailey (MO)	Findley	Martin (IL)
Barnes	Fish	Martinez
Bedell	Fithian	Matsui
Beilenson	Florio	Mazzoli
Benedict	Foley	McCloskey
Bingham	Ford (MI)	McCurdy
Boggs	Ford (TN)	McDade
Boland	Fowler	McHugh
Bolling	Frenzel	McKinney
Bonker	Frost	Michel
Bouquard	Garcia	Miller (CA)
Bowen	Gejdenson	Mineta
Breaux	Gephardt	Mitchell (MD)
Brodhead	Gibbons	Moakley
Brooks	Glickman	Moore
Brown (CA)	Goodling	Myers
Burton, Phillip	Gore	Natcher
Chisholm	Gradison	Oberstar
Clinger	Gray	Obey
Coats	Guarini	Oxley
Coelho	Gunderson	Panetta
Collins (IL)	Hall (OH)	Patterson
Conable	Hall, Ralph	Paul
Conte	Hamilton	Pease
Coyne, William	Harkin	Pepper
Crockett	Hawkins	Perkins
Daschle	Heftel	Pickle
Deckard	Hertel	Porter
Dellums	Hightower	Pritchard
DeNardis	Hillis	Pursell
Derrick	Hollenbeck	Railsback
Dickinson	Horton	Rangel
Dicks	Howard	Ratchford
Dingell	Hoyer	Reuss
Dixon	Huckaby	Roberts (KS)
Dorgan	Jacobs	Roberts (SD)
Dowdy	Jeffords	Rodino
Downey	Jones (NC)	Roe
Dunn	Jones (OK)	Roemer
Dwyer	Jones (TN)	Rose
Dymally	Kastenmeier	Rosenthal
Eckart	Kildee	Roukema
Edgar	LaFalce	Roybal
Edwards (CA)	Lantos	Russo
Emerson	Leach	Sabo
Erdahl	Lehman	Savage

Schneider	Stark	Washington
Schumer	Stokes	Weaver
Seiberling	Stratton	Weber (MN)
Shamansky	Studds	Weber (OH)
Shannon	Swift	Whitten
Sharp	Synar	Williams (MT)
Shaw	Tauke	Williams (OH)
Simon	Tauzin	Wirth
Smith (IA)	Taylor	Wolpe
Smith (NE)	Thomas	Wright
Snowe	Traxler	Wyden
Solarz	Udall	Yates
St Germain	Vento	Young (MO)
Stangeland	Volkmer	Zablocki
Stanton	Walgren	

NOT VOTING—23

Bafalis	Daniel, Dan	Santini
Beard	Ertel	Scheuer
Blanchard	Forsythe	Schulze
Brown (OH)	LeBoutillier	Skelton
Burton, John	Marks	Weiss
Chappell	Mattox	Wylie
Clay	Moffett	Young (FL)
Collins (TX)	O'Brien	

□ 1650

The Clerk announced the following pair:

On this vote:

Mr. Forsythe for, with Mr. O'Brien against.

Messrs. RANGEL, EMERSON, GUNDERSON, DOWDY, and LELAND changed their votes from "yea" to "nay."

Messrs. CONYERS, BADHAM, GREGG, SHUSTER, and NAPIER changed their votes from "nay" to "yea."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, pursuant to the motion just agreed to, I report the bill, H.R. 6838, back to the House with an amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment: Page 2, line 3, strike out "not" and all that follows through the end of line 5 on page 2, and insert in lieu thereof the following: "cease to be effective 90 days following the date of enactment of this subsection: *Provided*, That within that 90 day period, the President certifies to the Congress that the Soviet Union is not employing, or encouraging the use of, forced labor in the construction of any project affected by these sanctions.".

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ZABLOCKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Members are advised that this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 209, nays 197, not voting 26, as follows:

[Roll No. 379]

YEAS—209

Akaka	Fountain	Pease
Albosta	Fowler	Pepper
Alexander	Frenzel	Peyser
Andrews	Frost	Porter
Annunzio	Garcia	Price
Archer	Gejdenson	Pritchard
Aspin	Gibbons	Pursell
AuCoin	Glickman	Railsback
Badham	Gonzalez	Rangel
Bailey (MO)	Goodling	Ratchford
Barnes	Gore	Regula
Bedell	Gray	Reuss
Beilenson	Green	Roberts (KS)
Benedict	Hagedorn	Roberts (SD)
Bingham	Hall (OH)	Roemer
Boggs	Hall, Ralph	Rose
Boland	Hamilton	Rostenkowski
Bonior	Hance	Roth
Bonker	Harkin	Roybal
Bouquard	Hawkins	Russo
Bowen	Hertel	Sabo
Breaux	Hightower	Savage
Brinkley	Hillis	Schneider
Brodhead	Hollenbeck	Schroeder
Broomfield	Hoyer	Schumer
Brown (CA)	Huckaby	Seiberling
Burton, Phillip	Jacobs	Sensenbrenner
Chisholm	Jeffords	Shamansky
Clinger	Jones (NC)	Shannon
Coats	Jones (TN)	Sharp
Coelho	Kazen	Shuster
Collins (IL)	Kildee	Simon
Conable	Kogovsek	Smith (IA)
Coughlin	LaFalce	Smith (NE)
Courter	Lantos	Smith (PA)
Coyne, James	Leach	Snowe
Crockett	Leland	Solarz
Dannemeyer	Long (MD)	Solomon
Daschle	Lowery (CA)	St Germain
Davis	Lowry (WA)	Stangeland
Deckard	Luken	Stanton
Dellums	Lundine	Stark
DeNardis	Madigan	Stenholm
Derrick	Markey	Stokes
Dicks	Martin (IL)	Stratton
Dingell	Martinez	Studds
Dixon	Matsui	Swift
Donnelly	McClory	Synar
Dorgan	McCloskey	Tauke
Dowdy	McCurdy	Tauzin
Downey	McDade	Traxler
Dunn	McHugh	Udall
Dymally	Mica	Vento
Early	Michel	Volkmer
Eckart	Miller (CA)	Walgren
Edwards (CA)	Mineta	Walker
Emerson	Mitchell (MD)	Washington
English	Mitchell (NY)	Weaver
Erdahl	Moakley	Weber (MN)
Evans (DE)	Moore	Whittaker
Evans (IA)	Myers	Williams (MT)
Evans (IN)	Napier	Williams (OH)
Fazio	Neal	Winn
Fenwick	Oberstar	Wolpe
Findley	Obey	Wright
Fish	Ottinger	Wyden
Fithian	Oxley	Yates
Foley	Panetta	Young (MO)
Ford (MI)	Pashayan	Zablocki
Ford (TN)	Patterson	

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Addabbo	Biaggi	Chappie
Anderson	Bliley	Cheney
Anthony	Boner	Clausen
Applegate	Brooks	Coleman
Ashbrook	Brown (CO)	Conte
Atkinson	Broyhill	Conyers
Bailey (PA)	Burgener	Corcoran
Barnard	Butler	Coyne, William
Bennett	Byron	Craig
Bereuter	Campbell	Crane, Daniel
Bethune	Carman	Crane, Philip
Bevill	Carney	D'Amours
Daniel, R. W.	Hunter	Oakar
Daub	Hutto	Parris
de la Garza	Hyde	Patman
Derwinski	Ireland	Paul
Dickinson	Jeffries	Perkins
Dornan	Jenkins	Petri
Dougherty	Johnston	Pickle
Dreier	Jones (OK)	Quillen
Duncan	Kastenmeier	Rahall
Dwyer	Kemp	Rhodes
Dyson	Kennelly	Rinaldo
Edwards (AL)	Kindness	Ritter
Edwards (OK)	Kramer	Robinson
Emery	Lagomarsino	Rodino
Erlenborn	Latta	Roe
Evans (GA)	Leath	Rogers
Fary	Lee	Rosenthal
Fascell	Lehman	Roukema
Ferraro	Lent	Rousselot
Fiedler	Levitas	Rudd
Fields	Lewis	Sawyer
Flippo	Livingston	Scheuer
Florio	Loeffler	Shaw
Foglietta	Long (LA)	Shelby
Frank	Lott	Shumway
Fuqua	Lujan	Siljander
Gaydos	Lungren	Skeen
Gephardt	Marlenee	Skelton
Gilman	Marriott	Smith (AL)
Gingrich	Martin (NC)	Smith (NJ)
Ginn	Martin (NY)	Smith (OR)
Gradison	Mavroules	Snyder
Gramm	Mazzoli	Spence
Gregg	McCollum	Staton
Grisham	McDonald	Stump
Guarini	McEwen	Taylor
Gunderson	McGrath	Thomas
Hall, Sam	McKinney	Trible
Hammerschmidt	Mikulski	Vander Jagt
Hansen (ID)	Miller (OH)	Wampler
Hansen (UT)	Minish	Waxman
Hartnett	Molinari	Weber (OH)
Hatcher	Mollohan	White
Hefner	Montgomery	Whitehurst
Heftel	Moorhead	Whitley
Hendon	Morrison	Whitten
Hiler	Mottl	Wilson
Holland	Murphy	Wirth
Holt	Murtha	Wolf
Hopkins	Natcher	Wortley
Horton	Nelligan	Yatron
Howard	Nelson	Young (AK)
Hubbard	Nichols	Zeferetti
Hughes	Nowak	

NOT VOTING—26

Bafalis	Daniel, Dan	Moffett
Beard	Edgar	O'Brien
Blanchard	Ertel	Santini
Bolling	Forsythe	Schulze
Brown (OH)	Goldwater	Watkins
Burton, John	Heckler	Weiss
Chappell	LeBoutillier	Wylie
Clay	Marks	Young (FL)
Collins (TX)	Mattox	

□ 1700

Messrs. BAILEY of Pennsylvania, WHITLEY, HEFNER, DAUB, RHODES, SKELTON, PERKINS, CAMPBELL, FARY, HAMMERSCHMIDT, RODINO, ROBINSON, HEFTEL, and NOWAK, and Ms. FERRARO changed their votes from "yea" to "nay".

Messrs. DOWNEY, SCHUMER, GRAY, and FOLEY changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. HECKLER. Mr. Speaker, on rollcall 379, I was unavoidably detained and missed the vote. Had I been

present, I would have voted "no" on that rollcall.

□ 1710

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5890, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, 1983

Mr. FLIPPO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 5890) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 97-897)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5890) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I

SEC. 101. There is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1982:

(a) For "Research and development", for the following programs:

(1) Space Shuttle, $1,798,000,000;

(2) Space flight operations, $1,699,000,000;

(3) Expendable launch vehicles, $42,800,000;

(4) Physics and astronomy, $473,700,000;

(5) Planetary exploration, $177,600,000;

(6) Life sciences, $55,700,000;

(7) Space applications, $336,300,000;

(8) Technology utilization, $9,000,000;

(9) Aeronautical research and technology, $280,000,000;

(10) Space research and technology, $128,000,000; and

(11) Tracking and data acquisition, $503,900,000;

(b) For "Construction of facilities", including land acquisition, as follows:

(1) Construction of data analysis facility, Hugh L. Dryden Flight Research Facility, $4,500,000;

(2) Rehabilitation and modification of utility systems, Goddard Space Flight Center, $2,840,000;

(3) Modifications to the 4- by 7-meter low speed tunnel, Langley Research Center, $7,200,000;

(4) Modifications to upgrade the transonic dynamics tunnel, Langley Research Center, $9,000,000;

(5) Modification of rocket engine test facility for altitude testing, Lewis Research Center, $995,000;

(6) Modification to 450 PSI air system in engine research building, Lewis Research Center, $2,920,000;

(7) Rehabilitation of airfield, Wallops Flight Center, $2,150,000;

(8) Space Shuttle facilities at various locations as follows:

(A) Modifications to solid rocket booster refurbishment and subassembly facilities, John F. Kennedy Space Center, $1,700,000;

(B) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $17,845,000;

(C) Minor Shuttle-unique projects, various locations, $1,860,000;

(9) Space Shuttle payload facility: Rehabilitation and modification for payload ground support operations, John F. Kennedy Space Center, $1,740,000;

(10) Repair of facilities at various locations, not in excess of $500,000 per project, $15,000,000;

(11) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $20,000,000;

(12) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,000,000; and

(13) Facility planning and design not otherwise provided for, $8,250,000.

"(c) For "Research and program management", $1,168,900,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

"(d) Nothwithstanding the provisions of subsection (g), appropriations hereby authorized for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

"(e) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

"(f) Appropriations made pursuant to subsection (c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections (a) and (c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: Provided, That, of the funds appropriated pursuant to subsection (a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 102. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (12) inclusive, of section 101(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 103. Not to exceed one-half of 1 percent of the funds appropriated pursuant to section 101(a) hereof may be transferred to and merged with the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to section 101(b) hereof (other than funds appropriated pursuant to paragraph (13) of such section) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in section 101(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written

report containing a full and complete statement concerning (i) the nature of such construction, expansion, or modification, (ii) the cost thereof including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action. In calculating the 30 day period referred to in the preceding sentence, any days on which either House is not in session because of an adjournment sine die or an adjournment of more than 5 days to a day certain shall be excluded, but in no event shall the local period extend beyond 45 days.

SEC. 104. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by sections 101(a) and 101(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action. In calculating the 30 day period referred to in the preceding sentence, any days on which either House is not in session because of an adjournment sine die or an adjournment of more than 5 days to a day certain shall be excluded, but in no event shall the total period extend beyond 45 days.

SEC. 105. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 106. (a) Notwithstanding any other provision of law, or any interagency agreement, the Administrator of the National Aeronautics and Space Administration shall charge such prices as necessary to recover the fair value of placing Department of Defense payloads into orbit by means of the Space Shuttle.

(b) This section shall apply to any Department of Defense payloads placed into orbit by means of the Space Shuttle on or after October 1, 1983.

SEC. 107. (a) The Director of the Federal Emergency Management Agency shall ensure that all obligations and responsibilities imposed by the Federal Fire Prevention and Control Act of 1974 are performed during fiscal year 1983, including activities of the United States Fire Administration and the United States Fire Academy.

(b) The Director shall reserve such funds as are appropriated to carry out the functions of the Federal Emergency Management Agency as designated in Reorganization Plan Numbered 3 of 1978 to conduct the operations of the United States Fire Administration, the United States Fire Academy, and such other functions and responsibilities as are vested in the Director pursuant to the Federal Fire Prevention and Control Act of 1974.

SEC. 108. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1983".

TITLE II

SEC. 201. (a). The Secretary of Commerce is hereby authorized to plan and provide for the management and operation of a civil land remote sensing satellite system, including the LANDSAT D and D' satellites and associated ground system equipment transferred from the National Aeronautics and Space Administration; to provide for user fees; and to plan for the transfer of the ownership and operation of civil operational land remote sensing satellite systems by the private sector when in the national interest. The provisions of this subsection expire September 30, 1984.

(b)(1) As part of his planning for the transfer of the ownership and operation of civil operational land remote sensing satellite systems to the private sector the Secretary shall—

(A) conduct a study to define the current, projected, and potential needs of the government for land remote sensing data.

(B) Determine and describe the equipment, software, and data inventory that could be transferred to the private sector.

(C) Compare various feasible financial and organizational approaches for such a transfer. Criteria for the comparison should include considerations such as: maintenance of date continuity; maintenance of United States leadership; national security; international obligations; potential for market growth; marketing ability; sunk and projected cost to the government; independence of subsidy or financial guarantee from the government; potential of financial return to the government; and price of data to users. The following institutional alternatives should be compared: (i) wholly private ownership and operation of the system by an entity competitively selected; (ii) phased-in government/private ownership and operation; (iii) a legislatively-chartered privately owned corporation; and (iv) continued ownership and operation by the Federal government.

The Secretary shall complete these studies and report on them to the Congress by February 1, 1983.

(2) In addition to the studies and comparisons called for in section 201(b)(1) the Secretary shall fund at least two parallel studies outside the government independently to assess the alternatives called for in section 201(b)(1)(C). These studies should be submitted to the Congress by April 1, 1983.

(c) There is authorized to be appropriated $14,955,000 for the fiscal year 1983, for the purpose of carrying out the provisions of this title.

(d) No moneys authorized by this title shall be used to transfer to the private sector the ownership or management of any civil land remote sensing space satellite system and associated ground system equipment unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives, the President of the Senate, the House Committee on Science and Technology, and the Senate Committee on Commerce, Science and Transportation, of a message from the Secretary of Commerce or his designee containing a full and complete plan for the action proposed to be taken together with the reasons therefor and expected funding impacts, or (B) each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

And the Senate agree to the same.

Committee on Science and Technology: For consideration of the entire House bill, H.R. 5890 and Senate amendment thereto:

DON FUQUA,
RONNIE G. FLIPPO,
DAN GLICKMAN,
BILL NELSON,
GEORGE E. BROWN, JR.,
LARRY WINN, JR.,
BARRY M. GOLDWATER, JR.,
HAROLD HOLLENBECK,

Select Committee on Intelligence: Solely for consideration of section 5 of Senate amendment to H.R. 5890:

EDWARD P. BOLAND,
ALBERT GORE, JR.,
J. K. ROBINSON,

Managers on the Part of the House.

Committee on Commerce, Science, and Transportation: For consideration of the entire House bill, H.R. 5890 and Senate amendment thereto:

BOB PACKWOOD,
HARRISON J. SCHMITT,
BARRY GOLDWATER,
HOWARD W. CANNON,
DON RIEGLE,

Committee on Armed Services: Solely for consideration of section 5 of Senate amendment to H.R. 5890:

JOHN TOWER,

Committee on Commerce, Science, and Transportation: Solely for consideration of section 5 of Senate amendment to H.R. 5890:

WENDELL H. FORD,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 5890 to authorize appropriations to the National Aeronautics and Space Administration for fiscal year 1983 for Research and Development, Construction of Facilities, and Research and Program Management, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the disposition of the differences agreed upon by managers and recommended in the accompanying conference report.

The NASA request for fiscal year 1983 totaled $6,612,900,000. The House authorized $6,647,300,000 and the Senate amendment authorized $6,612,900,000. The committee of conference agrees to a total authorization for fiscal year 1983 of $6,772,900,000 as follows:

SUMMARY OF ADJUSTMENTS TO H.R. 5890—NASA FISCAL 1983 AUTHORIZATION

	Budget request	House action	Senate action	Committee of conference
Research and development:				
Space Shuttle	$1,718,000,000	$1,706,500,000	$1,808,000,000	$1,798,000,000
Space flight operations	1,707,000,000	1,699,000,000	1,448,000,000	1,699,000,000
Expendable launch vehicles	42,800,000	42,800,000	42,800,000	42,800,000
Physics and astronomy	471,700,000	463,500,000	491,700,000	473,700,000
Planetary exploration	154,600,000	177,600,000	194,600,000	177,600,000
Life sciences	55,700,000	55,700,000	55,700,000	55,700,000
Space applications	316,300,000	330,300,000	336,300,000	336,300,000
Technology utilization	4,000,000	9,000,000	9,000,000	9,000,000
Aeronautical research and technology	232,000,000	267,100,000	296,000,000	280,000,000
Space research and technology	123,000,000	128,000,000	133,000,000	128,000,000
Tracking and data acquisiton	508,900,000	498,900,000	508,900,000	503,900,000
Total	5,334,000,000	5,378,400,000	5,324,000,000	5,504,000,000
Construction of facilities	100,000,000	100,000,000	110,000,000	100,000,000
Research and program management	1,178,900,000	1,168,900,000	1,178,900,000	1,168,900,000
Grand total	6,612,900,000	6,647,300,000	6,612,900,000	6,772,900,000

The Conferees are concerned about the continuing downward trend (in real dollars) of the NASA budget. A strong civilian science and technology base to which NASA is a major contributor is essential to sustaining a strong economy and a credible national defense. Federal expenditures on our national space program are an investment in our future and lead to increased productivity, increased employment and contribute greatly to a positive balance of trade.

As a result of budget constraints that have been placed on NASA over the past few years, additional reductions in this and future fiscal years threaten even further the ability of the agency to fulfill the mandate of the National Aeronautics and Space Act of 1958. The conferees strongly believe that a balanced civilian space program as set out in the National Aeronautics and Space Act of 1958 is even more relevant today and direct NASA to do everything possible to maintain an effective balanced space program.

The points in disagreement and the conference resolution of them are as follows:

1. NASA requested $1,718,000,000 for the Space Shuttle program.

The House authorized $1,706,500,000, a reduction of $11.5 million including the deletion of the $6.5 million for Space Shuttle/Solar Maximum Mission Spacecraft Retrieval and Repair Demonstration and a reduction of $5 million in Performance Augmentation activities.

The Senate authorized $1,808,000,000, an increase of $90 million to begin production of the fifth Shuttle orbiter vehicle.

The Conference substitute authorizes $1,798,000,000, for the Space Shuttle program including $55 million for Performance Augmentation activities and $85 million for the fifth Shuttle orbiter vehicle.

2. NASA requested $1,707,000,000 for the Space Flight Operations program.

The House authorized $1,699,000,000, a reduction of $8 million from the NASA request. this reduction is the net result from a decrease of $5 million in development, test, and mission support/engineering and test base (DTMS/ETB), a decrease of $8 million from deleting funds for the Space Shuttle/Solar Maximum Mission Spacecraft Retrieval and Repair Demonstration activities and an increase of $5 million for Advanced Shuttle Upper Stage studies.

The Senate authorized $1,448,000,000, a reduction of $259 million from the NASA request. This reduction was the net result from a decrease of $409 million in Space Transportation Systems Operations activities and an increase of $150 million for Shuttle/Centaur related development activities.

The Committee of Conference authorizes $1,699,000,000 for the Space Flight Operations program including $77.4 million for Development, Test, and Mission Support/Engineering and Technical Base activities; $5 million for Advance Shuttle Upper State studies; and $1,286.1 million for Space Transportation Systems Operations activities. The amount for Space Transportation Systems Operations activities reflects a $128 million reduction in authorization of appropriation for Shuttle operations costs related to the launch of defense and national security payloads.

3. NASA requested $471,700,000 for the Physics and Astronomy program.

The House authorized $463,500,000, a net reduction of $8.2 million in Mission Operations and Data Analysis as follows: a decrease of $9 million from deletion of the Space Shuttle/Solar Maximum Mission Spacecraft Retrieval and Repair Demonstration and an increase of $1 million for HEAO and OAO data analysis activities.

The Senate authorized $491,700,000, an increase of $20 million for the following: $5 million for Explorer development, $8 million for Mission Operations and Data Analysis, $6 million for Research and Analysis, and $1 million for the Suborbital Program.

The Conference substitute authorizes $473,700,000 for Physics and Astronomy activities including a $1 million increase for the High Energy Astronomical Observatory and Orbiting Astronomical Observatory data analysis activities and a $1 million increase for the Suborbital program.

4. NASA requested $154,600,000 for the Planetary Exploration program.

The House authorized $177,600,000, an increase of $23 million including $12 million for Mission Operations and Data Analysis for Pioneer Venus, Pioneer 6—9, Pioneer 10 and 11 and Viking mission operations and $11 million for Research and Analysis including funds for the Infrared Telescope Facility and Lunar Curatorial Facility.

The Senate authorized $194,600,000, an increase of $40 million including $15 million for Mission Operations and Data Analysis and $25 million for Research and Analysis.

The Committee of Conference adopts the House position.

5. NASA requested $316,300,000 for the Space Applications program.

The House authorized $330,300,000, an increase of $14 million for activities in Technology Transfer ($4 million), Materials Processing in Space ($5 million) and Communications and Information Systems ($5 million).

The Senate authorized $336,300,000, an increase of $20 million for a flight demonstration of advanced communications satellite technology.

The Committee of Conference authorizes $336,300,000 for Space Applications activities including $28,600,000 for Materials Processing in Space and $34,900,000 for Advanced Communications Technology activities. The Conferees recognize that NASA is currently re-scoping their Advanced Communications Technology program and strongly support this program. The Conferees request that NASA submit to the House and Senate authorizing Committees a detailed program plan including major milestones, cost projections and any necessary adjustments to the fiscal year 1983 operating plan by January 15, 1983.

6. NASA requested $232,000,000 for the Aeronautical Research and Technology program.

The House authorized $267,100,000 for aeronautical research and technology, an increase of $35.1 million over the Agency request. In its Report No. 96-502 accompanying H.R. 5890, the House provided that $6 million of the $35.1 million would be allocated for general augmentation of the research and technology base, and $29.1 million to systems technology programs with emphasis on transport aircraft systems, and advanced propulsion systems.

The Senate authorized $296,000,000 for aeronautical research and technology, specifying $182,000,000 of that amount for the research and technology base, and $114,000,000 for systems technology development. In so doing, the Senate added $64 million above the Agency request of specifically for enhancement of certain systems technology programs outlined in Report No. 97-449 accompanying the Senate authorization bill, S. 2604.

The Committee on Conference noted with concern that the Agency's request provided $50 million for two systems technology programs having a clear focus on military requirements with no funding for systems technology programs targeted toward civil aviation requirements. The severe economic distress of the U.S. aviation industry including the general and transport aircraft manufacturing industries, and the commercial airline industry is attributable to several major factors. Among these are the recent worldwide decline in the demand for expanded aviation services, the high cost of capital for such growth that is required, and the emergence of foreign competition featuring advanced technology in transports, rotorcraft, and general aviation products backed by foreign government-supported low cost financing.

The Committee of Conference recognizes part of NASA's role in aeronautical research and technology as helping "maintain the strong competitive position of the United

States in the international marketplace." The Agency's aeronautical systems technology programs are focused on this role and should now be strengthened, not eliminated. In this connection, the Committee takes note of a similar judgment expressed in the National Research Council Report of July 1982 on "Aeronautics Research and Technology—A Review of Proposed Reductions in the FY 1983 NASA Program." Accordingly, the Committee of Conference has provided $280,000,000 for Aeronautical Research and Technology including $182,000,000 for the research and technology base and $98,000,000 for the systems technology programs.

The Committee expects these additional funds in the amount of $48 million to be allocated to enhance the Agency's systems technology programs with emphasis on:

	Millions
(1) acceleration of advanced turboprop, including long lead items required for flight test	$15
(2) composite primary aircraft structures	6
(3) general and commuter aviation including small engine component technology	3
(4) broad property fuels	3
(5) energy efficient engine	7
(6) energy efficient transport	3
(7) terminal configured vehicle	5

The remaining $6.0 million is to be applied to those high priority projects that NASA considers most feasible. The Committee wishes to stress its firm commitment to flight testing of the prop fan concept, thereby positioning the U.S. aviation industry in a leadership position with respect to this coming technology.

7. NASA requested $123,000,000 for the Space Research and Technology program.

The House authorized $128,000,000, an increase of $5 million for advanced propulsion research and technology activities.

The Senate authorized $133,000,000, an increase of $10 million for Research and Technology base activities.

The Committee of Conference adopts the House position.

8. NASA requested $508,900,000 for the Tracking and Data Acquisition program.

The House authorized $498,900,000, a reduction of $10 million by adjusting the TDRSS payment schedule and reducing management support efforts.

The Senate authorized the NASA budget request $508,900,000.

The Committee of Conference recommends a total authorization of $503,900,000 for Tracking and Data Acquisition activities in fiscal year 1983.

9. NASA requested $100,000,000 for construction of facilities.

The House authorized the NASA budget request.

The Senate authorized $110,000,000, an increase of $10,000,000 over the NASA request for high priority projects which have been previously deferred.

The Committee of Conference adopted the House position.

10. NASA requested $1,178,900,000 for Research and Program Management activities.

The House authorized $1,168,900,000, a reduction of $10 million.

The Senate authorized the NASA request.

The Committee of Conference adopts the House position.

11. Senate Modifications to Section 3 and Section 4 Reprogramming Provisions.

House bill: No provision.

The Senate modified the reprogramming provisions of Section 3 and Section 4 to provide that when either House is not in session because of an adjournment sine die or an adjournment of more than 3 days the thirty day notification period would be extended by the period of adjournment not to exceed a total notification period of 60 days.

The Conferees adopted the Senate provision but provided that the thirty day notification would be extended when either House is in adjournment sine die or an adjournment of more than 5 days not to exceed a total notification period of 45 days.

12. Section 5 of Senate Amendment.

House bill: No comparable provisions.

The Senate amendment included a new Section 5 which would require the Department of Defense to pay NASA full costs for placing its payloads into orbit using the Space Shuttle.

The Committee of Conference adopts a substitute provision as follows: Sec. 106(a) Notwithstanding any other provision of law, or any interagency agreement, the Administrator of the National Aeronautics and Space Administration shall charge such prices as necessary to recover the fair value of placing Department of Defense payloads into orbit by means of the Space Shuttle. b) This section shall apply to any Department of Defense payloads placed into orbit by means of the Space Shuttle on or after October 1, 1983. The Conferees note that fair value is a matter of negotiation between a seller and a willing buyer.

13. Section 8 of Senate Amendment (FEMA authorization).

House bill: No comparable provision.

The Senate amendment included a new section 8 which would require the Director of the Federal Emergency Management Administration to perform the obligations and responsibilities imposed by the Federal Fire Prevention and Control Act of 1974 including activities of the United States Fire Administration and the United States Fire Academy. The Senate language further provided that the Director shall reserve $20 million of funds appropriated to carry out these activities.

The Conferees adopted the Senate language but provided that the Director would reserve such funds as are appropriated for functions of FEMA pursuant to the Federal Fire Prevention and Control Act of 1974, including activities of the United States Fire Administration and the United States Fire Academy.

14. Title II of House bill (NOAA Landsat authorization).

The House included a new Title II to provide authority for the Secretary of Commerce to operate a civil land remote sensing system, provide for user fees, and plan for the transfer of future civil land remote sensing satellite systems to the private sector, when in the national interest. Any plan for transfer to the private sector would be subject to approval by both the House and Senate authorizing committees. The House authorized $14,955,000 for fiscal year 1983.

The Senate. No comparable language.

The Committee on Conference adopts Title II with three modifications as follows: provides that the authority to plan and provide for the management and operation of the civil land remote sensing satellite system would expire September 30, 1984; includes thirty day notification provision in lieu of legislative veto provision; and requires various studies and analyses be submitted to the Congress.

Committee on Science and Technology: For consideration of the entire House bill, H.R. 5890 and Senate amendment thereto:

DON FUQUA,
RONNIE G. FLIPPO,
DAN GLICKMAN,
BILL NELSON,
GEORGE E. BROWN, JR.,
LARRY WINN, JR.,
BARRY M. GOLDWATER, JR.
HAROLD HOLLENBECK,

Select Committee on Intelligence: Solely for consideration of section 5 of Senate amendment to H.R. 5890:

EDWARD P. BOLAND,
ALBERT GORE, JR.,
J. K. ROBINSON,

Managers on the Part of the House.

Committee on Commerce, Science, and Transportation: For consideration of the entire House bill, H.R. 5890 and Senate amendment thereto:

BOB PACKWOOD,
HARRISON J. SCHMIDT,
BARRY GOLDWATER,
HOWARD W. CANNON,
DON RIEGLE,

Committee on Armed Services: Solely for consideration of section 5 of Senate amendment to H.R. 5890:

JOHN TOWER,

Committee on Commerce, Science, and Transportation: Solely for consideration of section 5 of Senate amendment to H.R. 5890:

WENDELL H. FORD,

Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 2852, STUDENT FINANCIAL ASSISTANCE TECHNICAL AMENDMENTS ACT OF 1982

Mr. PERKINS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2852) to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983–84, and 1984–85, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 28, 1982.)

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. PERKINS) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge support of the conference report on S. 2852, the Student Financial Assistance Technical Amendments of 1982.

This conference report has two basic purposes. The first and foremost is to bring stability to the area of Federal student assistance by prescribing strict rules for the publication of family contribution schedules for the two major programs: the Pell grants and the guaranteed student loans.

Federal student aid has been in disarray for the last year and a half as the administration has tried to cut deeply into support for these programs. And the Department of Education has repeatedly missed the deadlines prescribed by legislation for publication of the family contribution schedules, which are the foundation for determining student aid eligibility and grants.

This push for cutbacks combined with laxness in submitting these schedules has meant that students have been confused about how much money they can count on as student aid. And universities and colleges also have had increased and numerous difficulties in processing these loans and grants.

We must bring an end to this mischief and restore stability to these programs. Otherwise, students will continue to be discouraged from pursuing higher education, and many will be nagged by financial insecurities while they are in school.

The conference report before us achieves this objective by prescribing the exact family contribution schedule for school year 1983-84 for both the Pell grant program and for guaranteed student loans, and by setting in law a family contribution schedule for Pell grants for school year 1984-85, if the Secretary of Education should miss the legislatively required deadlines for the submission of these schedules to Congress.

The second purpose of this conference report is to restore Vietnam veterans to eligibility for Pell grants for the current academic year and for succeeding school years. Unfortunately, an administration proposal was adopted last year in the third continuing resolution which had the effect of eliminating many Vietnam veterans from eligibility for Pell grants. Many of these veterans were not even notified of this change until they showed up for school this fall.

This conference report sets aside up to $30 million to restore the eligibility of these veterans for Pell grants. In order not to disrupt the grant-making process for other students, these veterans will have their eligibility determined on a case-by-case basis by the local college or university. In my view, it was an affront to have denied these funds to those men and women who served our country in the armed services, and this conference report merely removes that affront from the law and restores them to eligibility for what they should have been receiving all along.

The conference report also requires that truth-in-lending provisions apply to student loans, that the national secondary loan market's (Sallie Mae's) authority to consolidate student loans terminate by August 1983, and that the General Accounting Office conduct a comprehensive study of Sallie Mae.

Before I finish, let me commend Congressman PAUL SIMON, chairman of the Subcommittee on Postsecondary Education, for the strong leadership he has shown on this bill. His efforts have meant that thousands of our citizens will now be able to pursue a higher education.

Mr. Speaker, this legislation is needed for the future well-being of our country. I am just sorry that we could not have gone beyond this legislation to expand the student aid programs which we cut back last year as a result of the Gramm-Latta substitute to the budget reconciliation bill. I am including a chart showing the effects of these cutbacks. It is my hope that this Congress in the appropriations process will restore these programs to what they were receiving before last year's cutbacks.

Mr. Speaker, I urge the adoption of the conference report.

COMPARISON OF APPROPRIATIONS FOR SELECTED HIGHER EDUCATON PROGRAMS

[Dollars in millions]

Program	Fiscal year 1981 appropriation	Fiscal year 1982 appropriation	Difference + or −
Pell grants	$2,604.0	$2,419.0	−$185.0
Supplemental opportunity grants	370.0	355.4	−14.6
Work-study	550.0	528.0	−22.0
Direct loans	200.8	193.4	−7.4
State incentive grants	76.8	73.7	−3.1
Special programs for disadvantaged	156.5	150.2	−6.3
Cooperative education	23.0	14.4	−8.6
College libraries	9.9	8.6	−1.3

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I want to commend the gentleman for a provision in here with regard to Vietnam veterans. The Vietnam veterans arrived at school a month ago, and without any notice whatever, they found that their readjustment assistance had been subtracted from their Pell grant amounts. Many of them have families. They were in a very difficult situation. Some of them have borrowed money from the colleges, and they are expecting something to be done. The gentleman from Kentucky has gone ahead and almost within a week or 10 days cured this situation.

I want the gentleman to know there are hundreds and hundreds of Vietnam veterans that are going to be appreciative of what the gentleman has done here.

Mr. PERKINS. Mr. Speaker, I want to say to my colleague, the gentleman from Iowa (Mr. SMITH) that most of that credit goes to the gentleman who is standing at his side there, the gentleman from Illinois (Mr. SIMON). He is the chairman of the subcommittee and worked diligently all along. I just fell in line and worked along with him any way I could.

Mr. ERLENBORN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 2852, the Student Financial Assistance Technical Amendments Act of 1982.

The conference committee on this legislation succeeded in adopting the best provisions from the House passed legislation, H.R. 7048, and the Senate bill. The resulting conference agreement will significantly reduce the confusion surrounding both the Pell grant and guaranteed student loan programs, which has resulted in many students not knowing what aid is available to them.

The major provisions of the conference agreement are, first, to establish a Pell grant family contribution schedule in the law for the 1983-84 academic year.

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Second, to establish a foolproof mechanism to insure the timely promulgation of the 1984-85 family contribution schedule.

Third, the GSL family contribution schedule for the 1983-84 academic year is established.

Fourth, the Pell grant eligibility of veterans who were denied aid because of a legislative change last year is restored.

Fifth and finally, the exemption of Sallie Mae debt from a 1977 bankruptcy statute is extended for 2 years.

Mr. Speaker, I am happy to observe that the conferees dropped from the Senate bill the provision most objectionable to the administration. This provision called for the granting of loan consolidation authority to State guarantee agencies participating in the GSL program. This provision was not only costly but also was too complex to adequately consider, given the urgency of this legislation.

The compromises incorporated in S. 2852 have resulted in a bill which will not increase Federal expenditures. Perhaps more importantly, the provisions of S. 2852 will result in tremendous improvements in the operation of

the Pell grant program. These improvements will result in more reliable information about the availability of student aid being known by low-income students at a much earlier date than has been the case this year and in the past.

Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the conference report on S. 2852, to establish a Pell grant family contribution schedule for 1983-84.

Mr. Speaker, this conference agreement has been carefully worked out between the House and the Senate, with both sides and parties concurring fully with the final product. The one controversial provision regarding loan consolidation, which the administration opposed, was removed in conference to the agreement of all conferees.

The bill puts in place for next year the formula by which Pell grants are distributed to needy students. In past years the publication and dissemination of this formula has been delayed, thus causing problems for students and their parents, counselors, and colleges. By setting the formula into law now, we can distribute the information in a timely manner to all those involved, and they, in turn, can make their academic plans with advance consideration. This bill does not affect any appropriation or authorization level; it only helps the flow of Pell grant dollars to the students who need them most.

I commend my colleagues here and in the other body for taking this matter up promptly and for seeing that low-income students are served in a timely and efficient manner. I urge my colleagues to support the conference report on S. 2852.

Mr. SIMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to join the chairman of the Committee on Education and Labor in recommending House adoption of the conference report accompanying S. 2852. This bill is the result of a bipartisan effort in both Houses of the Congress to insure the timely delivery of Federal student aid funds to needy low- and middle-income students in the future. The bill also contains provisions which will assure that needy Vietnam-era veterans receive Pell grants in the 1982-83 school year.

The provisions of this bill were worked out in a conference with the Senate last week and the Senate has already adopted this report. Let me highlight those major provisions:

The bill establishes two statutory family contribution schedules for the 1983-84 school year—one for the Pell grant program and another for the guaranteed student loan program—which will insure that applications are completed, processed, and awards to students are made in a timely fashion;

The bill also assures that should the Secretary fail to submit a Pell grant family contribution schedule for 1984-85 in accordance with the law, the Pell grant process will not be disrupted;

The bill also restores eligibility for Vietnam-era veterans for Pell grants for the current school year, thereby assuring that needy veterans will receive additional assistance in order that they can complete their education. The eligibility will be continued for 1983-84 and 1984-85;

The bill also provides for a 2-year extension of the priority of indebtedness provision for the Student Loan Marketing Association (Sallie Mae). Under this provision, the Federal Government has equal claim with creditors in the event of an involuntary Sallie Mae liquidation or bankruptcy.

The bill incorporates certain truth-in-lending provisions in the Higher Education Act in order to assure that students will be given critical information about their student loans.

Finally, the bill contains a provision terminating on August 1, 1983, the loan consolidation authority given Sallie Mae in the Education Amendments of 1980. This compromise provision commits the Congress to a review of the current loan consolidation experience and to enactment of new provisions, if appropriate, granting loan consolidation authority to Sallie Mae and to State guarantee agencies.

The original Senate provision authorizing the State guarantee agencies to consolidate loans was deleted. Cost concerns raised by the administration and substantive issues related to uniform rules and limitation on size of loans to be consolidated, led the House conferees to oppose this new authority. My subcommittee will be looking closely at the cost and equity considerations involved in providing additional loan consolidation authority.

I join Chairman PERKINS in urging an aye vote on this matter.

Mr. ERLENBORN. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. ERDAHL).

Mr. ERDAHL. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of S. 2852. I serve on the subcommittee with our distinguished chairman, the gentleman from Illinois (Mr. SIMON), the gentleman from Illinois (Mr. ERLENBORN), and also was a member of the conference committee.

I think as we wrestled with the various parts of this bill between the other body and ours, we came up with a responsible bill that does, as has been said, clarify the law as far as the Pell grants and guaranteed student loans. I think we arrived at a compromise in that committee that will assure its acceptance by the administration.

If we had not done anything, the potential education of several hundred thousand students hung in the balance.

Mr. Speaker, I want to commend the gentleman from Kentucky (Mr. PERKINS) for his ongoing leadership in this area, the gentleman from Illinois (Mr. SIMON) for what he has done, and on the minority side, the gentleman from Illinois (Mr. ERLENBORN) for bringing a bill before this House which I think justifies our complete support.

Mr. SIMON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 6976, MISSING CHILDREN ACT

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6976) to amend title 28 of the United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons, including unemancipated persons, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object—and I will not because I believe I am one of the cosponsors of this legislation—this is the one that requires the FBI to do a better job of helping us keep track of missing children?

Mr. EDWARDS of California. Mr. Speaker, if the gentleman will yield, the gentleman from California is correct.

Mr. ROUSSELOT. In this we just hook up with the Senate version, or what?

Mr. EDWARDS of California. We are in disagreement with one part of

the Senate's version, and we hope to work it out in conference, or earlier.

Mr. ROUSSELOT. It is an excellent bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and, without objection, appoints the following conferees: Mr. EDWARDS of California, Mr. KASTENMEIER, Mrs. SCHROEDER, and Messrs. WASHINGTON, SENSENBRENNER, LUNGREN, SHAW, and SIMON.

There was no objection.

PROVIDING FOR THE ESTABLISHMENT OF A SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

Mrs. CHISHOLM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 421 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 421

Whereas Congress finds that strong family relationships are crucial to the health and optimal development of children;

Whereas there are approximately sixty-four million children in the United States, and the number of children under age ten may increase by 20 per centum in the next decade;

Whereas decisions of the Federal Government involving education, employment, health and nutrition, law enforcement, or economic policy have a substantial effect upon the well-being of American children and their families;

Whereas a combination of governmental and private sector efforts are necessary to provide services and support for families and children; and

Whereas the House of Representatives lacks the capacity to conduct comprehensive oversight affecting our Nation's children, youth, and families: Now, therefore, be it

Resolved, That clause 6 of rule X of the Rules of the House of Representatives is amended by inserting at the end thereof the following:

"(h)(1) There shall be in the House the Select Committee on Children, Youth, and Families, which shall not have legislative jurisdiction but which shall have jurisdiction—

"(A) to conduct a continuing comprehensive study and review of the problems of children, youth, and families, including but not limited to income maintenance, health (including medical and child development research), nutrition, education, welfare, employment, and recreation;

"(B) to study the use of all practicable means and methods of encouraging the development of public and private programs and policies which will assist American children and youth in taking a full part in national life and becoming productive citizens;

"(C) to develop policies that would encourage the coordination of both governmental and private programs designed to address the problems of childhood and adolescence.

"(2) The select committee shall be composed of no more than thirty-six members.

"(3) The select committee shall cease to exist at the close of the Ninety-ninth Congress.".

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. CHISHOLM) is recognized for 1 hour.

Mrs. CHISHOLM. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Missouri (Mr. TAYLOR) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 421 establishes a Select Committee on Children, Youth and Families. It is a matter of original jurisdiction for the Committee on Rules, and as a privileged resolution is now being considered in the House under the hour rule.

Mr. Speaker, the Rules Committee received testimony on House Resolution 421 on September 16, 1982, and reported the bill with an amendment in the nature of a substitute. The substitute revises the language of the resolution as introduced to conform with the "Guidelines for the Establishment of Select Committees" prepared by the Subcommittee on Rules and Organization of the House in October 1977. The substitute also reduces the number of members that shall comprise the committee, from 36 to no more than 30, includes administrative provisions that were not contained in the resolution as introduced, and directs the select committee to report to the House as soon as practicable the results of its investigation and study, together with such recommendations as it deems advisable.

The Rules Committee amendment deletes the language of the original proposal which amends the rules of the House and extends the committee's existence through the 99th Congress. It is not necessary to amend the rules to provide for a temporary committee, and under current procedures the select committee shall expire with the end of one Congress and must be reconstituted in the succeeding Congress. House Resolution 421 provides no moneys for the select committee, as funding is subject to the adoption of a resolution from the Committee on House Administration.

Mr. Speaker, the Select Committee on Children, Youth, and Families will have no legislative jurisdiction, but will be responsible for providing continual review and assessment of the needs, status, and interest of children, youth, and families. There are currently 64 million children in the United States who are affected by the policies and programs of the Federal Government and the Congress in the areas of education, employment, health and nutrition, law enforcement, and economic policy. Jurisdiction over the programs which affect children and families is spread throughout the committee structure of the Congress, and there is currently no forum in which to carry out comprehensive review and oversight with regard to issues affecting this Nation's youth. The time has come to establish such a forum. I strongly urge my colleagues to adopt House Resolution 421, so that the Congress can proceed to focus its attention on our most valuable resource for the future, our children.

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COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the word "Resolved," and insert in lieu thereof the following:

That there is hereby established in the House of Representatives a select committee to be known as the Select Committee on Children, Youth, and Families (hereinafter referred to as the "selected committee").

FUNCTIONS

SEC. 2. (a) The select committee shall not have legislative jurisdiction. The select committee shall have authority—

(1) to conduct a continuing comprehensive study and review of the problems of children, youth, and families, including but not limited to income maintenance, health (including medical and child development research), nutrition, education, welfare, employment, and recreation;

(2) to study the use of all practicable means and methods of encouraging the development of public and private programs and policies which will assist American children and youth in taking a full part in national life and becoming productive citizens; and

(3) to develop policies that would encourage the coordination of both governmental and private programs designed to address the problems of childhood and adolescence.

(b) Nothing contained in this resolution shall be construed to limit or alter the legislative and oversight jurisdiction of any standing committee of the House under Rule X of the Rules of the House of Representatives.

APPOINTMENT AND MEMBERSHIP

SEC. 3. (a) The select committee shall be composed of no more than thirty Members of the House, who shall be appointed by the Speaker, and one of whom he shall designate as chairman.

(b) For purposes of this section, the term "Members" shall include any representative in, or Delegate or Resident Commissioner to, the House of Representatives.

AUTHORITY AND PROCEDURES

SEC. 4. (a) For the purpose of carrying out its responsibilities under this resolution the select committee is authorized to sit and act during the present Congress at such times and places within the United States, including any Commonwealth or possession thereof, or elsewhere, whether the House is in session, has recessed or has adjourned and to hold such hearings as it deems necessary.

(b) The provisions of clauses 1, 2, and 3 of rule X of the Rules of the House of Repre-

sentatives shall apply to the select committee.

(c) Nothing contained in subsection (a) of this section shall be construed to limit the applicability of clause 2(i) of the rule XI of the Rules of the House of Representatives to the select committee.

ADMINISTRATIVE PROVISIONS

SEC. 5. (a) Subject to the adoption of expense resolutions as required by clause 5 of rule XI of the Rules of the House of Representatives, the select committee may incur expenses in connection with its duties under this resolution.

(b) In carrying out its functions under this resolution, the select committee is authorized—

(1) to appoint, either on a permanent basis or as experts or consultants, such staff as the select committee consider necessary;

(2) to utilize the services of the staffs of those committees of the House from which Members have been selected for membership on the select committee;

(3) to prescribe the duties and responsibilities of such staff;

(4) to fix the compensation of such staff at a single per annum gross rate which does not exceed the highest rate of basic pay, as in effect from time to time, of level V of the Executive Schedule in section 5316 of title 5, United States Code;

(5) to terminate the employment of any such staff as the select committee considers appropriate; and

(6) to reimburse members of the select committee and of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties and responsibilities for the select committee, other than expenses in connection with any meeting of the select committee held in the District of Columbia.

REPORTS AND RECORDS

SEC. 6. (a) The select committee shall report to the House as soon as practicable during the present Congress, the results of its investigation and study, together with such recommendations as it deems advisable.

(b) Any such report which is made when the House is not in session shall be filed with the Clerk of the House.

(c) Any such report shall be referred to the committee or committees having jurisdiction over the subject matter thereof.

(d) The records, files, and materials of the select committees shall be transferred to the Clerk of the House.

Mrs. CHISHOLM (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, House Resolution 421 establishes a Select Committee on Children, Youth, and Families for the balance of the 97th Congress.

The resolution is reported from the Committee on Rules as a privileged matter, and is not open to amendment, unless the gentlelady from New York (Mrs. CHISHOLM) yields for that purpose or the previous question is defeated and an amended version is offered.

Mr. Speaker, there is no controversy about the resolution. In fact, this is a rare moment in this House because so many Members with wide political and philosophical differences agree that we need to establish this select committee.

During our hearing in the Rules Committee, I was impressed by the strong support this resolution has received from my Republican colleagues. I was particularly persuaded by the testimony of the gentleman from California (Mr. ROUSSELOT) and the testimony of the gentleman from Illinois (Mr. HYDE).

Mr. Speaker, as our committee report points out, there are at least 13 of the 22 standing committees of the House which share some jurisdiction over issues relating to children, youth, and families. Because of this legislative maze, the House lacks the capacity to conduct comprehensive oversight affecting our Nation's children, youth, and families.

There are approximately 64 million children in the United States, and the decisions the Congress and the executive branch make involving education, recreation, employment, health and nutrition, law enforcement, or economic policy have a substantial effect on the well-being of our Nation's children and their families.

As reported from the Rules Committee, House Resolution 421 establishes the select committee with 30 members. The select committee will not have any legislative jurisdiction, and its creation will not limit or alter the legislative and oversight jurisdiction of any standing committee of the House.

The select committee will study and review the problems of children, youth, and families; it will study practical means and methods of encouraging policies to assist American children and youth to become productive citizens; and it will help develop policies to encourage the coordination of governmental and private programs designed to address the problems of childhood and adolescence.

The select committee is directed by House Resolution 421 to report to the House as soon as practicable during the present Congress, the results of its investigation and study, together with such recommendations as it deems advisable.

Mr. Speaker, I have several requests for time, and I reserve the balance of my time.

Mrs. CHISHOLM. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. MILLER), for the purpose of debate only.

Mr. MILLER of California. Mr. Speaker, I rise in strong support of House Resolution 421, to establish a temporary select Committee on Children, Youth, and Families. This resolution was reported unanimously by the Rules Committee, and 20 of its members have cosponsored the resolution.

A bipartisan group of 229 Members of the House representing every point on the ideological spectrum, have joined in sponsoring House Resolution 421. The breadth of House support for this measure is matched outside this body by the nearly 150 national and State organizations which have endorsed the proposal. Constituencies of every stripe concerned with, or serving children, youth, and families have come together to support this idea.

Organizations endorsing House Resolution 421 represent professionals and constituencies involved in law enforcement, medicine and health, nutrition, child welfare, labor, education, local government, disability and civil rights, business and industry, parent and child advocacy, and religious institutions. A partial list of endorsing organizations follows:

LIST OF SUPPORTERS FOR H. RES. 421, PROPOSAL TO CREATE SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

1. Advocates for Children of New York.
2. American Academy of Child Psychiatry.
3. American Academy of Pediatrics.
4. American Association for Marriage and Family Therapy.
5. American Association of Psychiatric Services for Children.
6. American Association of School Administrators.
7. American Bar Association.
8. American Camping Association.
9. American Citizens Concerned for Life, Inc.
10. American Coalition of Citizens with Disabilities.
11. American Council of the Blind.
12. American Education Research Association.
13. American Federation of State, County and Municipal Employees.
14. American Federation of Teachers.
15. American Foundation for the Blind.
16. American Home Economics Association.
17. American Humane Association.
18. American Orthopsychiatric Association.
19. American Psychiatric Association.
20. American Psychological Association.
21. American Public Health Association.
22. American School Food Service Association.
23. American Society for Training and Development.
24. American Vocational Association.
25. Association for the Advancement of Psychology.
26. Association for Children of New Jersey.
27. Association of Junior Leagues, Inc.
28. Association of Retarded Citizens.
29. Bay Area Child Care Law Project.
30. Boys Clubs of America.
31. Bread for the World.
32. California Association of Children's Hospitals.
33. The California Children's Lobby.
34. Camp Fire Incorporated.
35. Candlelighters Foundation.
36. Center for Public Advocacy Research.
37. Children's Defense Fund.

38. Children's Foundation.
39. Children's Hospital National Medical Center, Child Protection Unit.
40. Children's Rights, Inc.
41. Child Welfare League of America.
42. Citizens' Committee for Children of New York, Inc.
43. Colorado Child Care Coalition.
44. Contra Costa (California) Children's Council.
45. Convention II Inc.
46. Corporate Child Development Fund for Texas.
47. Council for Exceptional Children.
48. Council of Great City Schools.
49. Council of Jewish Federations.
50. Covenant House.
51. Day Care Council of America.
52. D.C. Action for Foster Children.
53. Down's Syndrome Congress.
54. The Episcopal Church, Committee on Families.
55. The Episcopal Church, Office of Social Ministries.
56. Family Impact Seminar.
57. Family Resource Coalition.
58. Family Service Association of America.
59. Food Research and Action Center.
60. Friends Committee on National Legislation.
61. Gerber Products Company.
62. Girls Clubs of America.
63. Governor's Advisory Committee on Child Development Programs (California).
64. High/Scope Educational Research Foundation.
65. Industrial Union Department, AFL-CIO.
66. Interreligious Task Force on U.S. Food Policy.
67. Jewish Child Care Association of New York.
68. Juvenile Justice Center of Pennsylvania.
69. Lutheran Council in the USA, Office of Governmental Affairs.
70. March of Dimes.
71. Maryland Committee for Children, Inc.
72. Maryland Office for Children and Youth.
73. Mental Health Law Project.
74. Michigan Association for the Education of Young Children.
75. Michigan Association of Children's Agencies.
76. Michigan Federation of Private Child and Family Agencies.
77. NAACP Legal Defense and Educational Fund, Inc.
78. National Association for Child Care Management.
79. National Association for the Deaf.
80. National Association for the Education of Young Children.
81. National Association of Homes for Children.
82. National Association of Secondary School Principals.
83. National Association of Social Workers, Inc.
84. National Association of State Boards of Education.
85. National Association of State Mental Health Program Directors.
86. National Black Child Development Institute.
87. National Black Nurses Association.
88. National Center for Clinical Infant Programs.
89. National Center for Youth Law.
90. National Coalition of Advocates for Students.
91. National Coalition of ESEA Title I Parents.
92. National Coalition of Hispanic Mental Health and Human Services Organizations (COSSMHO).
93. National Committee for Adoption.
94. National Committee for Citizens in Education.
95. National Committee for Prevention of Child Abuse.
96. National Conference of Catholic Charities.
97. National Congress of Parents and Teachers.
98. National Consortium on Alternatives to Incarceration.
99. National Council of Catholic Women.
100. National Council of Churches, Child Advocacy Working Group.
101. National Council of Community Mental Health Centers, Inc.
102. National Council of Jewish Women.
103. National Council of Juvenile and Family Court Judges.
104. National Council of Negro Women.
105. National Council on Crime and Delinquency.
106. National Council on Family Relations.
107. National Easter Seal Society.
108. National Education Association.
109. National Exchange Club Foundation.
110. National Football League Players Association.
111. National Head Start Association.
112. National Mental Health Association.
113. National Milk Producers Federation.
114. National Network of Runaway Youth.
115. National Organizations Advisory Council for Children.
116. National PTA.
117. National Society for Children and Adults with Autism.
118. National Youth Work Alliance.
119. North American Council on Adoptable Children.
120. North Carolina Association for the Education of Young Children.
121. Ohio Association of Child Caring Agencies.
122. Orphan Foundation.
123. Parents Anonymous.
124. Parents United.
125. People for the American Way.
126. Philadelphia Child Guidance Clinic.
127. Reading is Fundamental, Inc.
128. The Salvation Army.
129. Save the Children.
130. SCAN America, Inc.
131. Society for Research in Child Development.
132. Southeastern Public Education Program.
133. Southern Association of Children Under Six.
134. Tennessee Children's Services Commission.
135. Today's Unified Nutrition Advocates.
136. Union of American Hebrew Congregations.
137. United Auto workers.
138. United Church of Christ Commission for Racial Justice.
139. The United Presbyterian Church in the USA.
140. U.S. Catholic Conference
141. U.S. Committee for UNICEF.
142. United States Conference of Mayors.
143. WAIF, Inc.
144. Wisconsin Council on Developmental Disabilities.
145. National Nutritional Foods Association.
146. National Urban League.
147. Girl Scouts of the USA.
148. American Society for Psychoprophylaxis in Obstetrics/Lamaze.
149. Boy Scouts of America.

These groups have overcome many of their divergent views to seek this special forum because they recognize that fundamental changes are taking place in this country which affect children, youth, and families. And they recognize that the results of these changes are profound and long term.

My conviction that the Congress must give serious and immediate attention to what is happening to the children and youth of this country has only been reaffirmed by this extraordinary demonstration of support from those who have dedicated their lives to working with and aiding children and their families.

As long ago as 1909, the Federal Government recognized it had some role in serving and protecting the children of this Nation. That year saw the first White House Conference on Dependent Children. Three years later, in response to that conference, the Federal Government established the Children's Bureau. Fifty years later, we saw a rapid expansion of social security to address many of the dependency needs of children and families.

Interestingly, State and local governments far exceeded the Federal Government's required financial contribution, revealing that State and local governments acknowledged the needs, and in many instances provided substantial support for these dependent constituents.

Congress and the Federal Government became increasingly involved in legislating on behalf of children with the best of motives:

A desire to protect vulnerable children who were abused.

An effort to achieve equity for the poor, for the handicapped, for minorities, who had not been given a fair shake by the institutions responsible for their education, health care, and community services.

A recognition that preventive approaches could improve the chances that a child would grow up free of birth defects, and with an opportunity for a healthy and safe childhood.

We exercised these concerns when we reformed the foster care system, when we developed education for handicapped children, title 1 and Head Start.

Since 1980, we have seen the expensive policy of social services reversed in the most dramatic fashion:

Between 1981 and 1983, Federal support for social services will have been reduced almost 20 percent.

This change has been both rapid and substantial. It has cut across the entire Federal spectrum of both policy and program relating to children, youth, and families.

It is becoming clear that we can no longer believe our actions affect only Federal policy.

Congressional actions affect State and local actions and decisions within the private sector.

The time has come for those of us serving in the Congress to assess the results and ramifications of the decisions Congress made during the past 2 years. As the role of the Government changes, we have an obligation to assess what other parties are willing to do, and what they can do, to protect and serve the youngest third of our Nation.

Not for the purpose of returning to the great society.

Not for the purpose of condemning this administration.

Not for the purpose of formulating a single Federal policy toward children.

But rather, to begin to understand the impact—be it favorable or unfavorable—on our children, youth, and families.

The most thorough analysis of these changes to date was issued just this month by the Urban Institute. At a minimum, their report concludes that the actions Congress has taken in the past 2 years will affect this Nation for a decade. Children and families in different economic circumstances and in different regions of the country may be helped or hurt disproportionately.

It is no longer sufficient for us to rely on the assumptions made when Congress voted; we must now start to gather the evidence.

Consider some of the assumptions on which we based our decisions:

Assumption: State and local government would make up the loss of Federal assistance.

Evidence: Few, if any, States are making attempts.

Assumption: Private, charitable contributions will fill in the gap.

Evidence: Even if the private sector doubled its charitable contributions in the upcoming year, it would only make up a fraction of the loss in Federal dollars.

There are also a number of questions which need to be asked:

First, has the "social safety net" remained in place for those children, youth, and families in need?

Second, are these private entities that can replace the Federal Government's traditional role?

Third, how will this new Federal/State/local/private partnership strengthen children, youth, and families?

Fourth, how are families in different regions of the country being treated differently?

What is clear is that an historic change in direction has been forged by the administration and the Congress—a change of such proportions that the impact has been felt in every segment of our society, both directly and indirectly.

This changed relationship between children, youth, and families in need and the Government requires the most fundamental concern and evaluation if we are to assure that the American family will emerge stronger, and the nonprofit and profit-making sectors will become better able to deliver their traditional services to our children and families.

It is my strong belief, after 8 years in the Congress dedicating most of my time to the problems of children and families, that we can only undertake this comprehensive evaluation by crossing committee lines and jurisdictions. I need not remind you that in our elaborate committee and subcommittee system, more than 13 standing committees and innumerable subcommittees determine the programs and policies affecting children and youth. As a result, it is virtually impossible to conduct a coordinated review of children's needs and circumstances, or to assess the lessons we have learned from our extensive legislating in this area over the past two decades.

I will be the first to agree that Congress should not set up select committees at the drop of a hat. Nor do I believe that select committees, once Congress has determined to use them, should necessarily exist indefinitely. But they do provide a timely and effectively vehicle to take stock, to make a comprehensive review, and to bring findings back to standing committees and to this body for consideration.

The proposed select committee would provide Congress the opportunity to make that assessment, and to develop our best judgment about how to make that future secure for the Nation's children, youth, and families. I urge you to join me in this effort by voting for House Resolution 421.

Mr. Speaker, I want to thank particularly the original cosponsors of House Resolution 421, who early on saw the need for this special forum in the Congress where problems affecting children, youth, and families can receive attention without the competition of other issues or constituencies that may have more clout. Mr. WEISS of New York, Mrs. BOGGS of Louisiana, Mr. WAXMAN of California, Mr. JEFFORDS of Vermont, Mr. ROUSSELOT of California, and Mr. HYDE of Illinois have worked closely and in a solid bipartisan fashion to bring this proposal to the attention of their colleagues and to respond to the interest and support for a House panel on children which local and State agencies and organizations across the country clearly communicated to them.

The Congressional Caucus on Women's Issues also has endorsed this proposal, in recognition of the fact that when we talk about the needs of women in this country we must also recognize the needs of the children who depend on them.

I would also like to give special thanks to Ann Rosewater of my staff who has done an outstanding job.

Mr. Speaker, I include the list of cosponsors for House Resolution 421 at this point:

LIST OF COSPONSORS FOR HOUSE RESOLUTION 421

Mr. Addabbo, Mr. Akaka, Mr. Alexander, Mr. Anderson, Mr. Andrews, Mr. Anthony, Mr. Aspin, Mr. Atkinson, Mr. AuCoin, Mr. Bailey, Mr. Barnard, Mr. Barnes, Mr. Beard, Mr. Bedell, Mr. Bennett, Mr. Bevill, Mr. Biaggi, Mr. Bingham, Mr. Blanchard, Mrs. Boggs, Mr. Boner, Mr. Bonior, Mr. Bonker, Mrs. Bouquard, Mr. Bowen.

Mr. Brodhead, Mr. Brooks, Mr. Clarence Brown, Mr. George Brown, Mr. John Burton, Mr. Phillip Burton, Mrs. Byron, Mr. Chappell, Mr. Chappie, Mrs. Chisholm, Mr. Clay, Mr. Coats, Mr. Coelho, Mrs. Collins, Mr. Conte, Mr. Conyers, Mr. Corrada, Mr. William Coyne, Mr. Crockett, Mr. Daschle, Mr. Dellums, Mr. de Lugo, Mr. DeNardis, Mr. Derrick, Mr. Dicks, Mr. Dixon.

Mr. Donnelly, Mr. Dorgan, Mr. Dowdy, Mr. Downey, Mr. Duncan, Mr. Dwyer, Mr. Dymally, Mr. Early, Mr. Eckart, Mr. Edgar, Mr. Don Edwards, Mr. Jack Edwards, Mr. Erdahl, Mr. Ertel, Mr. Billy Lee Evans, Mr. Cooper Evans, Mr. Fary, Mr. Fauntroy, Mr. Fazio, Ms. Fenwick, Ms. Ferraro, Ms. Fiedler, Mr. Findley, Mr. Fish, Mr. Foglietta.

Mr. Foley, Mr. Harold Ford, Mr. William Ford, Mr. Forsythe, Mr. Fowler, Mr. Frank, Mr. Frost, Mr. Garcia, Mr. Gephardt, Mr. Gejdenson, Mr. Gilman, Mr. Gingrich, Mr. Ginn, Mr. Gore, Mr. Gray, Mr. Guarini, Mr. Hagedorn, Mr. Tony Hall, Mr. Harkin, Mr. Hartnett, Mr. Hawkins, Mrs. Heckler, Mr. Hefner, Mr. Heftel, Mr. Hertel.

Mr. Hollenbeck, Mr. Horton, Mr. Howard, Mr. Hoyer, Mr. Howard, Mr. Hubbard, Mr. Hughes, Mr. Hyde, Mr. Jeffords, Mr. Jenkins, Mr. Ed Jones, Mr. Walter Jones, Mr. Kastenmeier, Mr. Kennelly, Mr. Kildee, Mr. Kogovsek, Mr. Kramer, Mr. LaFalce, Mr. Lagomarsino, Mr. Lantos, Mr. Latta, Mr. Leach, Mr. Lee, Mr. Lehman, Mr. Leland,

Mr. Levitas, Mr. Lowery, Mr. Lowry, Mr. Lujan, Mr. Lundine, Mr. Markey, Mr. Marriott, Mr. James Martin, Mr. Matsui, Mr. Mavroules, Mr. Mazzoli, Mr. McClory, Mr. McCollum, Mr. McHugh, Mr. McKinney, Mr. Mikulski, Mr. Mineta, Mr. Minish, Mr. Parren Mitchell, Mr. Moakley, Mr. Moffett, Mr. Molinari, Mr. Mollohan, Mr. Mottl, Mr. Murphy.

Mr. Murtha, Mr. Natcher, Mr. Neal, Mr. Nelligan, Mr. Nelson, Mr. Nowak, Ms. Oakar, Mr. Oberstar, Mr. O'Brien, Mr. Ottinger, Mr. Panetta, Mr. Patman, Mr. Patterson, Mr. Pease, Mr. Pepper, Mr. Perkins, Mr. Peyser, Mr. Porter, Mr. Price, Mr. Pritchard, Mr. Quillen, Mr. Rahall, Mr. Railsback, Mr. Rangel, Mr. Ratchford, Mr. Rodino, Mr. Roe, Mr. Rogers.

Mr. Rose, Mr. Rosenthal, Mr. Rousselot, Mr. Roybal, Mr. Russo, Mr. Sabo, Mr. Savage, Mr. Scheuer, Mrs. Schneider, Mrs. Schroeder, Mr. Schumer, Mr. Seiberling, Mr. Shamansky, Mr. Shannon, Mr. Simon, Mr. Christopher Smith, Mr. Joseph Smith, Mr. Neal Smith, Mrs. Snowe, Mr. Solarz, Mr. Solomon, Mr. Spence, Mr. Stark, Mr. Stokes, Mr. Sunia, Mr. Swift, Mr. Synar.

Mr. Tauzin, Mr. Traxler, Mr. Udall, Mr. Walgren, Mr. Washington, Mr. Waxman, Mr. Weaver, Mr. Weiss, Mr. Whitehurst, Mr. Whitten, Mr. Pat Williams, Mr. Charles Wilson, Mr. Wirth, Mr. Wolf, Mr. Wolpe, Mr. Won Pat, Mr. Wyden, Mr. Yates, Mr. Yatron, Mr. Zablocki, Mr. Zeferetti, Mr. Mickey Edwards, Mr. Dougherty, Mr. Ireland, Mr. Martinez.

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● Mr. WEISS. Mr. Speaker, I strongly support House Resolution 421, a resolution to establish a Select Committee for Children, Youth, and Families in the House of Representatives.

I would like to commend Mr. MILLER for his leadership on this resolution and Mr. BOLLING for expeditiously bringing this resolution to the floor.

I became an initial cosponsor of this resolution because I believe that the Congress is not addressing the needs of our Nation's 67 million children in a systematic or comprehensive manner and I fear that the Nation will suffer if serious consideration is not given to how Federal policies are affecting children, our future.

The mood of fiscal restraint that now pervades the Congress and the Nation has resulted in drastic cutbacks in Federal social programs. Whereas some reductions may, indeed, serve to streamline programs, the severity and pervasiveness of those that have been enacted and others being contemplated, are likely to have profound negative effects on children and their families.

Most people do not realize that children and their families are the main beneficiaries of many of those programs being slashed—AFDC, food stamps, title I, fuel assistance, and public housing. Indeed, children comprise over 70 percent of AFDC beneficiaries and over 50 percent of food stamp recipients.

Fortunately, most American children are reared in their own families, by their natural parents, although we must not forget those in foster care and institutions. The present administration has been proceeding with its policy of cutting social programs under the assumption, and it is only an assumption, that families can and should bear complete responsibility for rearing and supporting their children. Although I would certainly agree that children are best off when their families are functioning effectvely and meeting their physical and emotional needs, I do not accept the administration's premise that families are inevitably hurt by Government programs and are better off when the Government leaves them alone. Whereas Government bureaucracies may, at times, engage in some excessive or intrusive practices, it is only the Federal Government that can deal effectively with problems such as unemployment, inadequate housing, the high cost of heating fuel, and racial discrimination. These are issues that affect families in profound ways and on a daily basis.

Recent data shows that, contrary to the common wisdom, welfare programs are not encouraging dependency on the Government but rather, are providing needed assistance to families during unforeseen emergencies such as the illness or unemployment of the main breadwinner. The Children's Defense Fund reports that 1 in 4 children receive assistance from the AFDC program during their childhood, whereas only a small fraction of children remain on welfare throughout their childhoods. Such data demonstrate that large segments of the population, not just a permanent, dependent underclass, depend on federally supported welfare programs. It is important that Members of Congress be informed of these facts so that our decisions about social programs that serve children may be based on solid data and not upon personal beliefs and values.

It is my fervent hope that the establishment of a Select Committee for Children, Youth, and Families in the House of Representatives will provide a much-needed opportunity for the Congress to learn how Federal policies are affecting our largest group of vulnerable citizens—our children. I would hope that the work of such a committee would help shed light upon why the infant mortality rate is so much higher in the United States than in other industrialized nations, what can be done to lower the infant mortality rate of minority children (which is twice that of white infants), how society will be affected by recent reductions in student aid, to what degree we can actually depend upon the private sector to step in where Federal social programs have been cut, what will be the impact of reduced Federal assistance in the area of science education, and what has been the impact on children of the increasing migration of families who are looking for employment. There is much to be learned.

The Congress has allowed its fragmented approach to children's programs to persist for too long. Child nutrition and education programs are the province of the Committee on Education and Labor, while jurisdiction over AFDC belongs to the Committee on Ways and Means. The establishment of a Select Committee on Children, Youth and Families would enable the Congress to vault the procedural and structural hurdles created by our committee system and allow consideration in one forum of the multiplicity of Federal programs and how they affect our children. I strongly urge my colleagues to vote for its establishment.●

Mr. TAYLOR. Mr. Speaker, I yield 6 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I rise in support of House Resolution 421, a measure which addresses a matter of prime importance to the American people, namely, our children, youth, and family. Children represent one-third of our country's population, but this special constituency many times lacks adequate attention in our legislative process. This can be attributed to the fragmented congressional committee system and complex budget process which work to prevent the needs of children and families from being adequately heard in Congress. Additionally, there are only a few organizations which advocate the needs of the American family and children.

With a bipartisan group of Members of Congress, I have joined with my colleague Mr. MILLER to a resolution (H. Res. 421) to create a Select Committee on Children, Youth, and Families. The object of this committee would be to concentrate on the needs, status, and the quality of life of children and family in our country.

While many of us serving in the Congress have families and often consider ourselves to be familiar with the problems of children from firsthand experience, we just are not aware of all of the problems of children from the many various segments of our society. Yet we are being asked to legislate governmental policies directly affecting children and families.

As you know, I serve on the House Ways and Means Committee—the tax-writing committee on Congress. Yet, when drafting tax legislation—legislation that affects each and every American citizen including many children and families and corporation—the members and staff assistants on my committee look to the Joint Committee on Taxation for their expert advice. It is this "oversight" committee, a nonlegislative committee, which provides the foundation for our committee bills.

The Ways and Means Committee also handles certain issues affecting our children, youth, and families. The committee must rely on its own committee hearings and testimony to receive the information upon which to base its legislation. While other committees have jurisdiction over complementary programs there is often a lack of coordination, a loss of interest, and a delay in the hearing process. An example of this is seen in the AFDC (aid to families with dependent children) and medicaid programs.

Let me talk about one bill I am most familiar with, H.R. 3434, now Public Law 96-272. The Adoption Assistance and Child Welfare Act is very good law. It took a lot of time by the committee members on the Ways and Means Committee to work on this legislation. It provides a major legislative reform in an area of Federal involvement.

Experience has shown that this act works. Last year, an effort was made to block grant this legislation. I worked successfully with my colleagues in the House to defeat this effort. However, this beneficial law is still under attack by the bureaucracy in Washington and by the continuing attempt to block grant it. As a member

of the Subcommittee on Public Assistance and Unemployment Compensation, I am working to oppose these attempts to weaken this important law providing protection for more than 500,000 children in foster care.

Mr. Speaker, and this is my point: While the full Ways and Means Committee must consider tax legislation, unemployment problems, social security reform issues, medicare measures, trade barriers and tariffs as well as various business trust funds such as the airport and airways development trust fund or the highway trust fund, and many other miscellaneous revenue matters—quite frankly, our time is limited. I would hate to see the hard work of every member on our committee go down the drain simply because this issue was edged-out of importance in balance with the other restraints on our committee.

And this is not only true with the House Ways and Means Committee. Presently children and family matters are divided among various committees and subcommittees such as Education, Nutrition, Health Care, Juvenile Justice and Employment. By establishing one oversight committee, the concerns of children and family will be given a more comprehensive and focussed review.

While many of the governmental policies established by the Congress directly affect children and families, often their concerns are not given a fair hearing. For this reason, the establishment of this select committee is long overdue.

Among the organizations endorsing the resolution are the American Academy of Child Psychiatry, American Academy of Pediatrics, Children's Defense Fund, Child Welfare League, Council of Jewish Federations, Family Service Association, March of Dimes, National Black Child Development Institute, National Committee for the Prevention of Child Abuse, National Council of Negro Women, National Easter Seal Society, National PTA, U.S. Catholic Conference, and the Lutheran Council. I am sure there are many others that I have not listed.

Mr. Speaker, many of us here today feel that this is important legislation, legislation which should be addressed before this Congress adjourns. This oversight committee will provide Congress a tool to assure accountability and reduce overlap among current programs and policies affecting children and their families. The committee will have no legislative jurisdiction, but will provide continuing review of the status, needs, and success of this special constituency. The Select Committee on Children, Youth and Families will offer an essential forum during this Congress and the next for consideration of public and private sector policies affecting generations to come. I urge that my colleagues join me in voting for this legislation.

It is important to discuss funding for this committee. But I wish to talk about funding in two steps: First, why budgetary restraints now dictate a need for this select committee and, second, why this committee would not unduly strain the operating budget.

First, I am sure all of you here know, I have long been a proponent of restrained Federal spending. Deficit spending has only hurt our Nation and brought us the economic ills from which we are suffering today. But, during the cutback process at all levels of government, Federal, State, and local, it is essential that the welfare of our young be protected and supported. We have legislative committees fighting reduced spending in many areas—agriculture, labor, the courts, defense, education, health, community services, public jobs, water projects, transportation, energy, national parks, and veterans.

Mr. Speaker, if we have one whole legislative committee looking after the special needs of our veterans, and one whole legislative committee looking after the special needs of the residents of the District of Columbia, does it not seem logical that we should have an oversight committee specializing on the needs of our children—the future of America?

Let us look at the costs of long-term human damage versus the small costs of preventive service services. It is important for one committee to look at these differences and look for the methods that are most cost-effective.

Changes in national trends and policies can affect families directly. While I have never advocated nor do I now support further Federal intervention in areas that are the responsibility of the family—it would be helpful in drafting legislation to understand the growing trends to see what is occurring in our Nation today in relation to children and families. Perhaps we will find that too much Government interference has caused family disruptions.

Statistics show us that today many of our families are headed by a single parent. Many married couples are both working in an effort to meet their monthly bills. More and more youth are becoming "latch-key" children and are often left unsupervised or on the streets.

Many of our children are missing—either through crime or another increasing phenomenon, parental kidnaping. Legislation has already been passed by the House—the Missing Children's Act—which asks for very little Federal money but which would allow States the use of FBI computers to locate missing children. This situation must be looked at in greater depth.

Gang crime is increasing. Children are not only the primary victims, but often the criminals as well. Child pornography is increasing. Child abuse is increasing. In fact, the Reagan administration has recently substantiated the fact that child abuse has increased 17 percent. We are suddenly aware of the problems of the American children of our servicemen.

In 1980 some alarming statistics regarding our Nation's children showed that half a million children were in foster care homes. Of these, almost half had been there for 2 years, roughly 100,000 had spent more than 6 years in foster homes and 25 percent were waiting to be adopted with no homes to be found. With the implementation of the Adoption Assistance and Child Welfare Act, these statistics are improving. But they are far from satisfactory.

So let us go back to talking dollars. The second point I wish to make today is that this committee would not unduly strain the operating budget.

The Select Committee on Children, Youth and Families which we propose will be limited to two Congresses. It will not be open-ended legislation, not open-funded. It is anticipated that we can organize a lean staff and run a committee, a competent committee, for less than we appropriated for the Select Committee on Narcotics, which is the select committee with the lowest budget here in the House of Representatives.

The dollars we may be able to save in the long term are well worth an investment now by this Congress in a committee whose sole responsibility is the assessment of the needs and interests of the children and families of this country.

I am not an advocate of the school of thought that one should throw more Federal dollars at a problem just to solve it. History shows that this simply does not work. I am in full agreement with the need to reform our bureaucracy and streamline Federal spending.

This is why I support this 2-year oversight committee. By having this select committee we will be streamlining Federal spending.

I believe that we will save more Federal dollars, ease more Federal regulations and assist a greater number of American families and children by concentrating on their special needs and exposing these needs to the public and private segments of our society. Further, we will cease unnecessary rules and regulations and terminate senseless duplication.

Therefore, I urge that the Members here today give serious consideration to the need for this legislation.

It is incumbent upon the legislators of this age to draw new legislation to continue the rights and privileges envisioned in an earlier, simpler age when our Constitution was drafted. It

is my hope that the new oversight Committee on Children, Youth and Families will meet the challenge of protecting our families in an age when the foundation of our society, the family, can be so easily destroyed.

I will certainly cast my vote in favor of final passage of this measure and I look forward to working with this Select Committee on Children, Youth and Families during the 98th Congress in the House of Representatives.

I urge you to join with me in casting a "yea" vote.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. MILLER of California. I simply want to acknowledge the help that my colleague from California has been in pursuing this idea and working with groups outside of the Congress to garner support for the select committee.

Also I would like to obviously acknowledge the continued support in his efforts to protect the foster care and adoption legislation from the cuts at OMB.

Mr. ROUSSELOT. I appreciate my colleague's comments.

All we have tried to do is to make sure that the 1980 law is fulfilled the way we all hoped it would be and it should have been.

I thank my colleague for his comments and wish to compliment him for his efforts.

I think additionally we should realize that this will not be an expensive enterprise on the part of the Congress. It is already the intention of the advocates of the select committee that it operate for two terms and though we cannot absolutely control that, it is the intention of those that have been supportive to bring this work to a culmination within a 2-year period.

We are not asking for large sums of money. As most of the Members of this House are aware, I am one of those who tries to be very conscious of making sure that we do not spend too much when we can do it for less.

So I again wish to compliment my colleague from California (Mr. MILLER), my colleague from Illinois (Mr. HYDE), my colleague from Maryland (Ms. MIKULSKI), and others who have been advocates of making sure that Congress focus on this issue of children, youth, and families and to try and coordinate in a more complete way all of the various activities that affect children by the Congress of the United States.

Mrs. CHISHOLM. Mr. Speaker, I yield 5 minutes to the gentlewoman from Maryland (Ms. MIKULSKI).

Mr. LEHMAN. Mr. Speaker will the gentlewoman yield?

Ms. MIKULSKI. I yield to the gentleman from Florida.

Mr. LEHMAN. Mr. Speaker, I want to express my strong support for the efforts of the gentleman from California (Mr. MILLER) to establish a Select Committee on Children.

I do not usually support the establishment of additional committees, because I believe that in most cases existing committees have sufficient jurisdiction to deal with the important issues facing our Nation. I cosponsored House Resolution 421, however, because I was alarmed at the lack of consideration being given to the effects of various policies on children, the most vulnerable in our society.

The budget cuts of the past 2 years have taken their toll on our children, particularly on our poor children. Cuts in education have made it more difficult for them to learn. Cuts in health programs have made it more difficult for them to stay healthy. Cuts in nutrition programs have made more of them hungry.

We need to look beyond the numbers in the Federal budget and see the children whose futures are being threatened. We have been told that our present economic policies, if we stick with them, will mean prosperity for all. There cannot, however, be prosperity for many of today's children if they are too hungry or too sick to learn the skills they will need when they grow up.

Mr. Speaker, I believe the problems facing today's children merit the establishment of a select committee, and I am hopeful that the committee's recommendations will result in enlightened Federal policies toward our young. I urge my colleagues to support House Resolution 421.

Ms. MIKULSKI. Mr. Speaker, I am speaking today on behalf of the Congressional Caucus on Women's Issues to talk about the future of our most important resource—the children and young people of this Nation.

That future, to a large extent, is shaped by the policies and programs that are formed and administered by this Congress. That is an awesome responsibility. It is a responsibility that demands vigilance and oversight.

But it is difficult to oversee, to evaluate, and to coordinate when the policies and programs that affect children are dispersed among 13 different committees and subcommittees, and that number does not even include the Appropriations Committee, the Government Operations Committee, or the Defense Committee.

Even closely allied programs are dealt with in different committees, for instance, one prenatal nutrition program is in the Education and Labor Committee, while others are in the Health Committee.

Mr. Speaker, I am suggesting that each of these 13 entities is not doing their job, not making initiatives, or not dealing with the issues that affect children with sensitivity and responsibility.

But as each of us works to establish policy, as each committee deals with the issues before it, we also need a central place for the main issue—the issue of children, of their future.

Without a central point of coordination, we are never able to see the whole picture. We are never able to determine the net effect of the separate efforts of each committee dealing with issues that affect our young people.

The Select Committee on Children, Youth, and Families that you have before you will watch that picture, to make sure that it is not damaged, that it cannot disappear, that it is not fragmented to the point where it loses focus.

The Select Committee on Children, Youth, and Families can provide the coordination and oversight for the many policies and programs that affect our young people every day—that will affect them for the rest of their lives.

The lives of children today are different than they were when I was young. Times have changed. There are more single parent households, not every home is like a Norman Rockwell painting. Child abuse is on the rise, there are more teenage pregnancies, more latchkey children, and more suicides among our young people.

The economy, too, has taken its toll on our young. Recreations centers are closing from lack of funding. There are no longer the resources for community centers and many child care centers. Doors have closed.

Through the work of this committee, we can assess the problem and suggest ways to open new doors. We can provide a place where children are taken seriously.

The committee we propose does not create a new bureaucracy, but rather, streamlines and centralizes an existing bureaucracy. The committee would be limited in scope and duration, and the funds spent for administration can be more than made up by careful planning and distribution of program resources.

We need a one-stop-shop for children's issues. There are more than 217 cosponsors for this legislation who agree, and more than 150 national and State groups as well. If we are truly the leaders of this Nation, we must take this opportunity to nurture the leaders of tomorrow.

□ 1750

Mr. TAYLOR. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I do not think it is useful to repeat all of the excellent things that have been said about the need for this committee.

I think the assault on the family is one of the tragic phenomena of our time. I think society has to take a very

hard look at what is happening to young people, to children, and to families if we are to build a livable future.

I think the gentleman from California (Mr. MILLER) is to be commended for his initiative, the gentlewoman from Maryland (Ms. MIKULSKI) and so many of the other Members, the gentleman from California (Mr. ROUSSELOT), and I do not think we should forget the staff, Ann Rosewater of Mr. MILLER's staff, who has spent a great deal of time and energy on this. I think this will be a very useful place to focus attention.

Mrs. CHISHOLM. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. I thank my friend, the gentlewoman from New York, for yielding, and I certainly rise to support House Resolution 421. I am proud to be a cosponsor of that legislation.

Mr. Speaker, I think it is appropriate that the individual managing this rule is Congresswoman SHIRLEY CHISHOLM. I cannot think of any Member who has introduced and had passed more legislation for the children of this Nation and our families than SHIRLEY. I am only sorry that she will not be here in the next session or this session to serve on it. But I know that she will be continuing her great interest in support of the youth and families of our Nation.

I also want to commend the two gentleman not from Verona, but from California, GEORGE MILLER and Mr. ROUSSELOT, for their very hard work in putting together the coalitions necessary so that this congressional committee would be a reality.

Mr. Speaker, we do have, as my friend from Baltimore said, various committees that deal with programs affecting children and families through a myriad of committees; but there is really not one single committee that has the leisure and the time and the interest to focus solely on our children, our most valuable resource, and our families, the basic unit of society. The children of this country are the leaders of tomorrow. At a time when economic decline is causing an erosion of the family unit, we need to look at ways in which we can strengthen programs to enhance our American families and to strengthen our children and our youth.

The establishment of this committee would provide us with a forum for reviewing comprehensively the problems, the needs, the solutions to situations related to our children, to our families. A Select Committee on Children, Youth, and Families would permit us to look at the programs directly affecting these viable segments of our society, with their recipients and participants in mind, not merely by looking at dollar figures as part of the Federal budget, but in a comprehensive fashion, interested in their humanity.

We cannot continue to allow the legislative system to chisel away at essential programs for our Nation's children and our families in the name of balancing the budget. We cannot ask our children, our youth, our families to suffer because of a committee system that does not allow for dealing with these issues in an in-depth fashion.

We need to look at these people programs in an overall, comprehensive fashion. We need to pass this resolution today unanimously and mobilize to insure that the public and private sector policies affecting our young people of America do not get left by the wayside because of our inefficiency to deal with it in-depth. I urge my colleagues to pass House Resolution 421 and establish this Select Committee on Children, Youth, and Families.

When I think of child abuse, I often remember that it was not until the late 19th century that there was brought about by the Animal Protective League the first case dealing with child abuse. So we have come a long way.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I will not prolong the debate here on an issue which I feel most everyone agrees on. I would just say that from my own experience, having served on both the Education Committee and the Agriculture Committee which deal with nutrition programs that there are many times that we have conflicts going on, as well as with the Ways and Means Committee, where we are going in one direction on certain things and they are going in another, and it is a very confusing and difficult problem to try to get the committees going in the same direction with respect to these matters which affect families.

I would like to say that I commend the various Members who are present for putting the time in and really getting a movement behind what I think is a very important need, and that is to have a Select Committee on Children, Youth, and Families.

The need is great for a select committee that would examine legislation and other government policies dealing with children and families. As you know, this is a time when we are seeing spending reductions in domestic programs. Many of these programs impact directly on children and youths. Examples of these programs include the women, infants, and children program (WIC), school nutrition programs, aid to families with dependent children (AFDC), summer youth employment programs, and assorted education programs.

At this point in time, there is no forum where all these programs can be discussed together. There is no place where the combined impact of any individual changes can be assessed. It happens often that one subcommittee or committee will make a change or a cut in a program that initially seems minor in importance. However, when looked at from a larger perspective, when set up against what other committees and agencies are doing, then the minor change can take on a much greater significance.

Perhaps more important than the need for a committee that takes a broad overview of the programs dealing with children and families is the fact that children and youths have no direct voice in the activities of their government. Those who are under 18 years of age cannot vote, they have no political lobby, and no grassroot organizations that can start a letterwriting campaign or exert some other sort of pressure on their congressional delegation. In short, these constituents that we in the Federal Government are serving have little opportunity to make their views known.

I feel strongly that there is a need for Congress to keep an eye out for the well-being of our silent constituents. We have a duty to insure that actions which affect children, youths, and families are responsible. We are also in the unique position to pull together information from Congress, from the administrative agencies, and from private sector activities. The establishment of a select committee would assure accountability, efficiency, and reduce overlap between various Federal programs. It would provide a continuing review of the status, needs, and progress of our Nation's children and families.

Mr. Speaker, I urge all my colleagues to vote for this important resolution.

Mrs. CHISHOLM. Mr. Speaker, I yield 2 minutes to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Speaker, I rise in strong support of House Resolution 421, and I would like to combine my remarks with those both sensitive and powerful that have gone before me by my colleagues who have been interested in this legislation.

I think all of us here who remember the long fight on being able to have a Select Committee on Aging in the House of Representatives rejoice in this day when we are coordinating the efforts of the various committees of the House in being able to have a Select Committee on Children, Youth, and Families.

Mr. Speaker, I served for about 12 years on the Family and Child Services Board in the District of Columbia, and I know that under the umbrella of those services we had about 44 private agencies that were interested in children and families. Just the coordination of those 44 agencies gives

me some idea of what we will be able to do in bringing together all of the resources from all of the different committees and from all of the interested units throughout the country both public and private which will help us in determining the right research to pursue and the proper legislation to enact and the programs to develop that will enhance the prospects of our children and our youth and our families to enjoy the quality of life and the pursuit of happiness that our Government should provide for them.

□ 1800

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. CHISHOLM. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DYMALLY).

Mr. DYMALLY. Mr. Speaker, I simply want to rise in support of House Resolution 421 which would create a Select Committee on Children, Youth, and Families, and want to make reference to a California experience.

Some 10 years ago, when Congressman GEORGE MILLER was a staffer in the California Senate, I had the privilege of carrying a similar resolution to create the Senate Select Committee on Children and Youth. And that committee was born out of an experience I had in visiting a children's hospital to observe abused children there.

The question of abused children was one which was kept among families and was not one which was discussed in the public arena.

As a result of the formation of that committee, we had passed in California the Child Abuse Prevention Act, the Early Childhood Education Act, the Children's Center Construction Act, all of which I might add was signed by a man named Reagan, Governor of California.

So the measure had bipartisan support of this President, who was then Governor.

The committee also went on to study the question of the runaway child, the handicapped child, the abused child, suicide among children, a number of very important issues affecting children.

Today I received a call from California that the select committee is still in operation and was able to get Governor Brown to sign legislation to appropriate $10 million for the abused child. That legislation was signed last Friday.

And so I am very pleased to join with my old friend, the gentleman from California (Mr. MILLER), and commend him for initiating this effort. There is one important dimension in this resolution in that it adds families—unlike the California resolution which dealt with children and youth. But we realized you cannot deal with children and youth without dealing with families as a whole.

So I am very pleased to join with my colleagues from California in supporting the creation of this very important select committee.

● Mr. BIAGGI. Mr. Speaker, I rise as a cosponsor of this legislation to join with my colleagues to express my support for this very important measure to create a Select Committee on Children, Youth, and Families.

It is clear that we must act expeditiously to adopt this measure in order to begin a full and fair examination of our national policy in this area. Programs for children, youth, and families are legislatively parceled out to a number of committees and because of this, we do not have a single, clear voice that can be a forceful voice on a national level for the best interests of this segment of our population.

As one of the original members of the Select Committee on Aging appointed by the Speaker in 1975, I have seen firsthand what our own select committee has accomplished on behalf of the elderly. Ours is a nonpartisan and bipartisan committee committed to the advancement of the quality of life for our Nation's seniors. I have every confidence that a Committee on Children, Youth, and Families would be equally as effective. Consider that the lion's share of budget cuts which have been made in the past 2 years disproportionately hurt this particular segment of the population. Consider further that we have a moral responsibility to protect those programs which serve this vulnerable segment of the population. It is in that light that this resolution must be seen and it is for that reason that we should adopt it.

I commend my colleague, Mr. MILLER, for his tireless dedication to this piece of legislation and the work he has done to bring it here before us today. As New York's senior member of the House Education and Labor Committee where we have a number of programs for children and youth, I can assure my colleagues here that such a select committee will be an essential partner with us in coordinating our programs in this area. I reaffirm my support for this legislation and urge its adoption.●

● Mr. EVANS of Delaware. Mr. Speaker, I rise in strong support of the creation of a Select Committee on Children, Youth, and Families in the House of Representatives.

Children cannot vote and are often inadequately represented in the Congress. It is time that we squarely face the unique problems that have been created for today's families and children.

Obviously, I do not feel that the Federal Government should be in the business of running our families, but I do feel a select committee can overcome the division of congressional responsibilities to focus attention on the needs of youth, children, and families, and the support appropriate to the Federal Government.

Youth drug and alcohol abuse has undermined the interest in learning by many young people. Adolescent suicide has increased at an alarming rate. Teenage pregnancy has denied many the opportunity to have a normal youth. Juvenile delinquency has sown a plague of vandalism in many of our communities.

The burden of inflation has been devastating on the American Family, requiring that in many families, both husband and wife work without being able to afford child care. The consequence has been unsupervised adolescents who grow up feeling there is no one who cares about them, and assume they have nothing in their lives of value for the future.

One of the alarming issues the select committee will address is child abuse, a dark and ugly secret in all too many homes. Children who have been beaten and abused by their parents or guardians are violently denied the protection a child needs to grow up as a confident and socially concerned adult.

Whatever we in the Congress can do to support the prevention of problems among children, youth, and families is vital if we are to protect the essence of our future. I urge my colleagues to join me in support of this important legislation.●

● Mrs. SNOWE. Mr. Speaker, in recent years, we have witnessed an incredible growth of special interest groups lobbying for their specific concerns here in Congress. A lot of money has been poured into these efforts, and many Americans are beginning to think that money speaks louder than either actions or words. There is one large and very important sector of the population that does not have money or clout, but which certainly deserves the undivided attention of this Congress, and that is our Nation's children. We have a special opportunity today to guarantee that the needs of children are recognized by voting to create a Select Committee on Children, Youth, and Families.

The children of our country are subject to the policies made here in Congress, but they cannot vote for the people who made these policies. They have virtually no control over the problems which society has placed before them. Most children are fortunate to have families to look after them and protect them, but there are approximately one-half million children who are in foster care or institutions.

The changing economy has had a definite effect on children. More than half of all mothers with children under age 6 now work, many out of

economic necessity. The number of single parent households is alarming. This has greatly increased the need for services for preschool children. High unemployment has not only hurt many adults, but it has made it much harder for young people to break in to the work force.

The family has traditionally been a source of strength for our society. The Select Committee on Children, Youth, and Families will allow Congress to examine Federal programs to be sure that our Federal policies are supportive of families.

Many of my constituents in Maine who work with children in a variety of areas, including education, health care, juvenile justice, and other areas, have expressed their support for the creation of this select committee. This proposal won the endorsement of a very diverse group of child advocacy organizations representing a wide range of interests and philosophies.

It is obvious how fragmented the programs affecting children and youth are in our present committee structure. Furthermore, as we look to the future, we can do so with some foresight if we create a temporary select committee to review our current policies and evaluate them in terms of the needs and interests of children and families now and in the coming years. The coordination of existing programs could eliminate overlap and could save money in the long run.

I hope my colleagues will join me today in supporting House Resolution 421, to create this select committee so that we can improve the outlook for our Nation by improving the outlook for our children.●

● Mr. BROYHILL. Mr. Speaker, I wish to state my strong opposition to the unwise and unnecessary proposal to create a Select Committee on Children, Youth, and Families.

The needs of children, youth, and families are already being addressed by important committees in the House, including the Committees on Education and Labor and Energy and Commerce.

The creation of yet another committee in the Congress will provide a forum for those who think spending more money we do not have is the answer to our problems. The next logical step will be the advocacy, by this new committee, of a separate and independent department in Government to address the needs of these various groups.

What the Congress needs to be spending its time on is the consolidation of many of the existing committees and subcommittees. Creating new bureaucracies within the Congress sends entirely the wrong signal to the American people at a time when we should be reducing, not increasing the cost of Government.

The best Government program we can provide for our children, youth, and families is a sound economy which encourages production, investments, and savings. The creation of another committee will do nothing to accomplish our goals of better and expanded opportunities for persons of all ages.●

● Mr. BENNETT. Mr. Speaker, I rise today to support House Resolution 421, which would establish a House Select Committee on Children, Youth, and Families. I cosponsored this bill at the request of the Children's Home Society of Florida because I believe that the House of Representatives needs a mechanism to coordinate its oversight of the many Federal programs which impact upon the lives of our Nation's children. I believe it is extremely important to identify any interbudget connections that may exist between the many programs, as will as to identify any gaps that may exist in the services that are rendered under the programs.

Passage of this resolution would also help focus the interest of the country on the particular needs of the young people and the families of this Nation. I urge my fellow Members to support this legislation.●

● Mr. RANGEL. Mr. Speaker, I want to rise in strong support of House Resolution 421 to create a Select Committee on Children, Youth, and Families.

Families, as we all know and as we are constantly reminded by our friends on the New Right, are the foundation of our society. Without strong, healthy families, the United States will falter as a powerful and prosperous nation. For from their families, our youths draw their strength, their inspiration, their values and their encouragement. And our youth are our only hope for the future.

But while the New Right has adequately identified the problem, they have failed in providing solutions. A strong family is not forged by prohibiting abortion, or by restricting distribution of contraceptives, or discriminating against homosexuals in the job market—all measures in the so-called Family Protection Act. Nor are strong families forged through indiscriminate cuts in social programs, cuts so lauded by the New Right. A strong family is forged when there is work for the parents, and when the children receive good health care and fine educations, and when they never want for a healthy meal.

Poverty, hunger, ignorance, illness—these are the things that are ripping American families apart. And yet this administration is dismantling those programs which help solve those problems. And they are taking apart the mechanisms that we have built over the years to gather information on what children are wanting in their basic needs.

And it is for this reason, to focus national attention on the needs of our children and their families, that we so badly need this select committee. I strongly urge your support.●

● Mr. MOFFETT. Mr. Speaker, a couple years ago a number of Members pulled together an informal coalition of child and family advocates to develop policies and strategies on strengthening child services. My good friend and colleague, Representative GEORGE MILLER, and I helped organize the coalition and quickly realized how very important it was to have such an organized forum to focus on the needs of American children and their families. Those needs were immediately clear, expressed by advocates and experts in the fields of juvenile justice, child welfare, youth training, child abuse, and more. What also became clear, however, was the need for a single deliberative body within the Congress to coordinate the review and consideration of the diverse issues confronting children and families. Today, we have before us legislation which would establish the framework for such oversight, GEORGE MILLER's Select Committee on Children, Youth, and Families.

The select committee is surely a proposal whose time has truly come. We have been building to this moment over the years, we who hold so deeply the commitment of making our children's world a better one. We really started the ball rolling with the creation of the Select Panel for the Promotion of Child Health, under the Department of Health and Human Services, back in 1978. This Panel, which it was my great pleasure to help establish, reported back to the Congress last year an extraordinarily sweeping set of recommendations on bettering the health and welfare of our Nation's children. The report summarized the following:

> We found widespread consensus about the interventions likely to be effective, about the programs that work well and the obstacles that keep them from working better, about ways to get the most out of the money we are already spending, and about improvements that could be achieved for relatively little more. We have also found that a large proportion of the most burdensome child health problems can be prevented or ameliorated at reasonable and predictable costs through the application of knowledge already at hand. The Panel was struck by the contrast between how much we know about promoting the health of pregnant women and children and how little is actually reaching some of the most vulnerable among them. Similarly, we were impressed by the number of highly successful efforts currently underway throughout the country, but discouraged that they have not been systematically built upon and expanded.

The chairperson of the Panel, Ms. Lisbeth Bamberger Schorr, made a

further and cogent summarization of the Panel's findings:

I am sure you share with us the conviction that public policy, no matter how well conceived and carried out, can contribute only modestly to the vigor, grace, and joy we wish to see in our children's lives. But as our report makes clear, public policy and programs can mean the crucial difference, especially in the lives of the most vulnerable of our children.

Congress mandated the Select Panel and its research. Now we have the opportunity to mandate an authoritative body within the Congress to help put into actions the Panel's recommendations to promote a nation of healthy children. I approach this prospect with considerable hope: hope that the most vulnerable of our children will be reached and served, and hope that the Congress of the United States can provide the leadership necessary to achieve this goal.

We have work to do. We have work to do for the health and welfare of our children. The Select Committee on Children, Youth, and Families is instrumental to our efforts. I endorse Representative MILLER's select committee and urge its immediate approval.●

● Mr. ROGERS. Mr. Speaker, I rise in support of House Resolution 421 as a means for consistent and comprehensive evaluation of all legislative affecting our children. Everything we do—every move we make—in these hallowed Halls of Congress must reflect a tremendous degree of foresight. We must scrutinize legislation for its effect on our children directly and indirectly—for its effect now and in the future. Otherwise, our legacy to them will not be a proud one or a promising one.

What action do we take in Congress which does not affect our children and their futures? I think the Select Committee on Children, Youth, and Families addresses the need to evaluate proposals, reconsider current laws, disseminate information, and coordinate private and public efforts which are important to our children.

I would like to share one effort I have made recently to give the youth in my district some hope for the future. Just this month, I held six informational seminars across my district to acquaint my young people with the education programs available through our military academies. Students are now more aware of how important it is to plan ahead for higher education opportunities which might otherwise not be available.

This is just one small, but important, example of an opportunity which can significantly improve a young person's future, yet it has been virtually untapped by the youth in my district. This select committee, which I am supporting today, will serve as a vehicle for transmitting these types of efforts, I urge my colleagues to join me in support of House Resolution 421.●

GENERAL LEAVE

Mrs. CHISHOLM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 421.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. CHISHOLM. Mr. Speaker, I move the previous question on the committee amendment in the nature of a substitute and on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

The title of the resolution was amended so as to read: "Resolution providing for the establishment of a Select Committee on Children, Youth, and Families.".

A motion to reconsider was laid on the table.

OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANT ACT

Mr. JONES of North Carolina. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5543) to establish an Ocean and Coastal Resources Management and Development Fund and to require the Secretary of Commerce to provide to coastal States national ocean and resources management and development block grants from sums in the Fund.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5543, with Mr. SIMON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, September 22, 1982, all time for general debate on the bill had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 5543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Ocean and Coastal Resources Management and Development Block Grant Act".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "coastal State" means any State of the United States in, or bordering on, the Atlantic Ocean, the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes, and includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territories of the Pacific Islands, and American Samoa;

(2) the term "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a)), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control; and

(3) the term "Secretary" means the Secretary of Commerce.

OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT FUND

SEC. 3. (a) There is established in the Treasury of the United States a fund to be known as the Ocean and Coastal Resources Management and Development Fund (hereafter in this Act referred to as the "Fund").

(b)(1) Except as provided in paragraph (2), the Secretary of the Treasury shall pay into the Fund not later than September 30, 1983, and not not later than each September 30 occurring after September 30, 1983, an amount equal to 10 per centum of the amount by which all sums deposited in the Treasury of the United States pursuant to section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) during the fiscal year ending on each such September 30 exceeds all sums deposited in the Treasury of the United States pursuant to such section during the fiscal year ending on September 30, 1982.

(2) The total amount paid into the Fund during any fiscal year pursuant to paragraph (1) shall not exceed $300,000,000.

(c)(1) As provided in advance by appropriation Acts, the Secretary shall use for the fiscal year ending on September 30, 1984, and for each fiscal year ending after September 30, 1984, an amount equal to not less than 10 per centum and not more than 20 per centum of any sums paid into the Fund during each such fiscal year pursuant to subsection (b)(1) to carry out the National Sea Grant College Program Act (33 U.S.C. 1121-1131).

(2) As provided in advance by appropriations Act, the Secretary shall use the total amount of any sums paid into the Fund during each fiscal year pursuant to subsection (b)(1), which are not used to carry out the National Sea Grant College Program Act pursuant to paragraph (1), to provide block grants pursuant to section 4.

NATIONAL OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANTS

SEC. 4. (a) Subject to subsections (b) and (c), the Secretary shall provide for the fiscal year ending on September 30, 1984, and for each fiscal year ending after September 30,

1984, to each coastal State a national ocean and coastal resources management and development block grant (hereinafter in this Act referred to as a "block grant") from sums paid into the Fund during each such fiscal year pursuant to section 3(b)(1).

(b)(1) No coastal State may receive a block grant for a fiscal year unless such coastal State has submitted to the Secretary a report for such fiscal year which—

(A) specifies the allocation by such coastal State of the block grant among coastal zone management activities, coastal energy impact programs, living marine resource programs, and natural resources enhancement and management;

(B) describes each activity receiving funds provided by the block grant; and

(C) supports the eligibility under section 5(a) of each activity receiving funds provided by the block grant.

(2) Each coastal State submitting a report under paragraph (1) shall hold at least one public hearing on each report before the report is submitted under paragraph (1) and shall provide other opportunities for the public to review and comment on the report before the report is submitted under paragraph (1).

(c) The amount of each block grant provided under subsection (a) for a fiscal year to a coastal State shall be determined by the Secretary under a formula established by the Secretary which gives equal consideration to each of the following criteria:

(1) For each coastal State, the equal combination of—

(A) the amount of actual leasing with respect to oil and gas which is carried out under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et. seq.) during the last fiscal year ending before such fiscal year and which occur within the Outer Continental Shelf planning area to which such coastal State is adjacent; and

(B) the volume of oil and gas produced from Outer Continental Shelf acreage leased by the Federal Government which is first landed in such coastal State during the last fiscal year ending before such fiscal year.

(2) For each coastal State, any proposed oil and gas lease sales which are specified by the Outer Continental Shelf leasing program prepared pursuant to section 18(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(a)) and which are scheduled to occur during such fiscal year within the Outer Continental Shelf planning area to which such coastal State is adjacent.

(3) The coastal related energy facilities (including coal facilities) located within each coastal State during the last fiscal year ending before such fiscal year.

(4) The shoreline mileage of each coastal State for which the Secretary has approved a management program under section 306 of the Coastal Zone Management Act of 1982 (16 U.S.C. 1455).

(5) The coastal population of each coastal State for which the Secretary has approved a management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

REQUIREMENTS ON THE USE OF BLOCK GRANTS

SEC. 5. (a) Block grants provided to a coastal State pursuant to section 4(a) may only be used for the following eligible activities:

(1) Activities of such coastal State authorized by the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(2) Activities of such coastal State under the coastal energy impact program administered under section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1457).

(3) Activities of such coastal State for the enhancement and management of living marine resources.

(4) Activities of such coastal State for the enhancement and management of its natural resources.

(b) The Secretary shall insure that any coastal State receiving a block grant under section 4(a) will use at least—

(1) 40 per centum of the amount of each block grant for eligible activities specified by paragraph (1) and paragraph (2) of subsection (a); and

(2) 20 per centum of the amount of each block grant for eligible activities specified by paragraph (3) of subsection (a).

(c) Any coastal State which the Secretary determines uses any funds provided by a block grant under section 4(a) for an activity not specified in subsection (a), in an amount less than specified in subsection (b), or in any other manner inconsistent with this Act, shall repay such funds to the Fund. If a coastal State does not repay any funds required to be repaid under this subsection, the Secretary may reduce the amount of any block grant or grants provided under section 4(a) by the amount of such required repayment.

EVALUATION ASSESSMENT

SEC. 6. (a) Under regulations promulgated by the Secretary, any coastal State receiving a block grant for a fiscal year under section 4(a) must submit to the Secretary an evaluation assessment on the expenditure of funds provided by the block grant.

(b) Each evaluation assessment submitted by a coastal State for a fiscal year under subsection (a) must contain an audit of all funds provided by the block grant received by such coastal State for such fiscal year. Any audit contained in an evaluation assessment pursuant to this subsection shall be conducted by an entity which is independent of any agency or official administering or using funds provided by such block grant and shall be undertaken in accordance with generally accepted accounting principles.

Mr. JONES of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. JONES of North Carolina. Mr. Chairman, I ask unanimous consent that the committee amendments printed in the bill be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The committee amendment considered en bloc are as follows:

Committee amendments: On page 2 line 16 strike out "Territories" and substitute "Territory".

On page 2 line 18, strike out "Outer" and insert "outer".

On page 2 line 20, strike out "lands beneath navigable waters as" and insert "lands beneath navigable waters as that term is" in lieu thereof.

On page 3 line 5, strike "and".

On page 3 line 7, strike "Commerce." and insert "Commerce; and".

On page 3 after line 7, insert the following:

(4) the term "coastal related energy facilities" means any equipment or facility which, (A) is or will be used primarily in the exploration for, or the development, production, conversion, storage, transfer processing, or transportation of, any energy resource or for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any such energy-resource activity, and (B) is or is likely to be, sited, constructed, expanded, or operated in or in close proximity to, the coastal zone of any coastal State because of technical requirements.

The term includes, but is not limited to (i) electric generating plants; (ii) facilities associated with the transportation, transfer, or storage of coal; (iii) petroleum refineries and associated facilities; (iv) gasification plants; (v) facilities associated with the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes; (vii) facilities, including deepwater ports, for the transfer of petroleum; (viii) facilities used for alternative ocean energy activities, including those associated with ocean thermal energy conversion; and (ix) pipelines, transmission facilities, and terminals which are associated with any of the foregoing.

For the purposes of this paragraph, the siting, construction, expansion, or operation of any coastal related energy facilities shall be "in close proximity to the coastal zone of any coastal State" if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

On page 4 strike out all of lines 21, 22, and 23; and strike "occurring after September 30, 1983," on line 24 and insert the following:

(b) Beginning in fiscal year 1983, the Secretary of the Treasury shall pay into the Fund not later than the end of each fiscal year the lesser of $300,000,000 or

On page 5 lines 7 and 8, strike "the fiscal year ending on each such September 30 exceeds" and insert "each fiscal year exceed".

On page 5 line 10, strike out "the" and "ending on September 30,".

On page 5 strike out all of subparagraph (2).

On page 5 lines 15 and 16, strike "the" and "ending on September 30,".

On page 5 lines 16–17, insert "subsequent" after "each" and strike "ending after September 30, 1984.".

On page 5 lines 18–20, strike out "any sums paid into the Fund during each such fiscal year pursuant to subsection (b)(1)" and insert "the total amount appropriated from the Fund for the purposes of this Act".

On page 5, line 23, change "appropriations Act," to read "appropriation Acts,".

On page 5, line 25, and page 6, lines 1–2, strike out "pursuant to subsection (b)(1)," and "pursuant to paragraph (1),".

On page 6, lines 6–9, strike "and (c), the Secretary shall provide for the fiscal year ending on September 30, 1984, and for each fiscal year ending after September 30, 1984," and inserting "(c) and (d), for fiscal year 1984 and for each subsequent fiscal

year, the Secretary shall provide" in lieu thereof.

On page 6, line 14, strike "each such" and insert "the prior"; and strike "3(b)(1)." and insert "3(b).".

On page 6, lines 21-22, change "programs," to read "activities," each time it appears.

On page 6, line 23, strike "management;" and insert "management activities pursuant to section 5(a), and".

On page 7, line 2, strike out "grant; and" and insert "grant." therefor.

On page 7, strike out all of lines 3 through 11 inclusive and insert the following:

(2) Before submitting each report required under paragraph (1), each coastal State shall provide opportunities for the public to review and comment on the report and shall hold at least one public hearing on such report.

On page 8, lines 1-2, strike "last" and insert "previous"; and strike "ending before such fiscal year and" and change "occur" to read "occurs".

On page 8, line 3, change "Outer" to read "outer".

On page 8, lines 7 and 12, change "Outer" to read "outer".

On page 8, lines 9-10, strike out "last fiscal year ending before such" and insert "previous".

On page 8, line 16, strike out "during such fiscal year" and change "Outer" to read "outer".

On page 8, line 21, strike out "last fiscal year ending before such" and insert "previous" therefor.

On page 9, after line 6, insert the following:

(d) No coastal State for which the Secretary has approved a management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall receive less than one-half of one percent of the total amount available for block grants pursuant to subsection (a) during any fiscal year.

On page 10, amend subparagraph (1) on lines 5-7 to read as follows:

(1) 30 per centum of the amount of each block grant for eligible activities specified by paragraph (1) of subsection (a), excluding activities administered under section 308 of the Coastal Zone Management Act and 10 per centum of the amount of each block grant for activities specified by paragraph (2) of subsection (a); and

On page 10, after line 17, insert a new subsection (c) that follows and change the old subsection "(c)" to read "(d)":

(c) Each coastal State shall be encouraged to provide financial assistance under this title to units of local government within such State.

On page 11, line 3, insert the word "future" before "block grant".

On page 11, after line 5, insert a new subsection to read as follows:

(e) Nothing in this Act shall be construed to repeal or modify, by implication or otherwise, section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461): *Provided, however,* That the Secretary shall reduce any block grant, provided under this Act to a coastal State that has an approved program under section 306 of the Coastal Zone Management Act (16 U.S.C. 1455), by no more than 30 per centum of the amount of such State's block grant, which is attributable to sections 4(c) (4) and (5) of this Act, if the Secretary makes the determination provided in section 312(c) of the Coastal Zone Management Act.

On page 11, line 17, strike "Evaluation Assessment" and insert in lieu thereof "Assessment and Audit".

On page 11, lines 19-20, strike out "Under regulations promulgated by the Secretary, any" and insert "Any".

On page 11, lines 22 and 24, strike "evaluation".

On page 11, line 22, delete "on" and substitute "of" therefor.

On page 12, line 3, strike "evaluation".

On page 12, after line 7, insert the following:

RULES AND REGULATIONS

SEC. 7. The Secretary shall promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of the Act.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

Mr. JONES of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will take just a minute to bring my colleagues up to date on the situation with respect to this legislation. On September 16, House Resolution 555, which provided an open rule and 1 hour of general debate on H.R. 5543, was approved by a 342 to 8 vote. On September 22 we completed general debate in the Committee of the Whole. Consequently, we are now ready for consideration of the committee amendments and final passage.

This legislation will establish a program for the sharing of a small portion of future increases in Federal offshore oil and gas revenues with the national sea grant college program and coastal States.

Through block grants that they receive from this legislation, coastal States will be authorized to carry out activities presently covered by the Coastal Zone Management Act, the coastal energy impact program, and living marine resource programs. It will assist States in dealing with the planning and the impacts associated with the Department of the Interior's accelerated offshore oil and gas program.

It has been thoroughly considered by the Committee on Merchant Marine and Fisheries, and endorsed by numerous Governors' associations and individual Governors, and a whole host of State and local government agencies, public interest groups, and environmental organizations. I urge the support of my colleagues for the passage of H.R. 5543, a bill whose time has finally come.

Mr. STUDDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of H.R. 5543, the Ocean and Coastal Resources Management and Development Block Grant Act. This legislation attempts to deal with the obvious inconsistency in the administration's approach to the management of our ocean resources. In the past year and a half, the Federal Government has been transformed from at least an intermittently jealous guardian of our ocean resources into their most aggressive salesman. While simultaneously seeking to offer to the highest bidder, without hesitation or conditions, the oil and minerals of the oceans, the Reagan administration has moved to end Federal support for coastal zone management—despite ever-increasing population, industrial, and recreational pressures on the coast—and to end the sea grant program which has been producing the type of scientific expertise this Nation must possess to understand and utilize with confidence the resources of the marine environment.

The administration's policies are forcing coastal States to respond to a vastly accelerated OCS oil and gas development program with increasingly limited resources. This important legislation attempts to provide State coastal zone management programs with adequate levels of funding to do their job. Failing to give States sufficient resources will not, as the Interior Department apparently believes, result in an increase in oil and gas development. Rather it is likely to have the opposite effect, causing litigation and protracted delays.

Some contend that this bill is an attempt to fund programs that somehow cannot make it on their own through the authorization and appropriations process. This is nonsense. The programs that can be funded under this program are already authorized for $410 million for 1982, while the bill establishes a $300 million annual ceiling on the fund. Moreover, the use of any funds would still be subject to the appropriations process.

Finally, I support the earmarking of a portion of a State's funding in the hope that it will help States plan for and deal with the pressures associated with activities like offshore oil and gas development. In light of the administration's failure to support adequate funding, it is critically important for those of us who care about these marine programs to devise ways to help insure their survival. The revenue sharing bill would do just that, while assuring that those States which have been asked to jeopardize their coastal resources by accommodating offshore oil and gas exploration will receive some compensation for having done so.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, I would like to support this bill, and I identify myself with the remarks of the gentleman from Massachusetts.

Mr. STUDDS. I thank the gentlewoman.

Mr. PRITCHARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this bill was thoroughly discussed. I just want to say from our position why I think it has been worked out thoroughly. I think it is a reasonable bill. And while it spends a little less money than the Senate has envisioned in their bill, I think that we can work out the differences between them.

□ 1810

Mr. D'AMOURS. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I am happy to yield to the gentleman from New Hampshire.

Mr. D'AMOURS. Mr. Chairman, I have asked the gentleman to yield for the purpose of stating that the bill did originate in the Oceanographic Subcommittee which I chair. Of course, I support it strongly.

Mr. LENT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Ocean and Coastal Resources Management and Development Block Grant Act, and urge its passage without any further delay. I want to commend the gentleman from North Carolina (Mr. JONES) the chairman of the Merchant Marine and Fisheries Committee.

As ranking minority member of the Panama Canal/OCS Subcommittee, I believe this legislation is needed to assure that States and local governments are able to participate in Federal oil and gas activities on the Outer Continental Shelf (OCS).

In addition, this legislation addresses the present disparity in the treatment of Federal onshore and offshore mineral leasing receipts. This year, affected States will receive in excess of $500 million from Federal onshore mineral leasing receipts, while no portion of Federal offshore leasing receipts will be shared with affected coastal States. H.R. 5543 corrects this inequity by providing for the return of a portion of future Federal OCS revenues to the affected coastal States.

In the minds of many, the development of offshore oil and gas is a controversial issue. Yet our greatest hope for new finds of domestic oil and gas reserves lies on the Outer Continental Shelf. This legislation is designed to mitigate the effects of such activities and, at the same time, provide a mechanism by which revenues from future, offshore nonrenewable energy resources will contribute to the management and development of renewable ocean and coastal resources.

Again, I support H.R. 5543 and urge my colleagues to vote for its passage.

Mr. SNYDER. Mr. Chairman, I move to strike the requisite number of words.

During general debate, the proponents of this bill utilized descriptive words, that are very much in vogue today, to explain the reasons that they believe the Members should vote for H.R. 5543. I would urge my colleagues to take a very close look at the facts and not the rhetoric which is being bantered about by the proponents. They call this bill a block grant. They talk about developing a partnership with the States. They also characterize the legislation as revenue sharing and say that H.R. 5543 is important in order to facilitate the development of our Outer Continental Shelf energy resources.

If you look at what the bill actually does, you will see that it does none of these things. This bill is not one that creates a partnership. It is not one which gives the State a block grant. What it does is order the States to fund three programs which this administration and the Carter administration have sought to either eliminate or reduce the funding for, and the Congress has agreed.

What exactly are you being asked to vote for? If you vote for H.R. 5543, you will be voting to provide Federal dollars to:

First, pay for masters degrees for graduate students. That is, the taxpayer is footing the students' educational costs;

Second, you're voting to pay for the Merchant Marine and Fisheries Committee to get free staff—we have approximately three so-called sea grant interns this year and four last year. There are a total of 13 congressional freebies this year, and they get a taxpayer paid salary of as much as $20,000, and some do not even finish their degree; and

Third, you're voting to continue Government funding for wonderful studies such as these: Training programs for aquatic veterinarians—they treat sea horses, I guess; assessment of the recreational fishing potential for New York City; a study of the role of the American Indian in marine science; a study on how to culture fathead minnows for bait in Ohio; and for all of you that are interested in such a subject, the vital statistics of the female crab.

My good friend from New Hampshire stated during general debate that none of the sea-grant program monies can go for tuition expenses. That is, unfortunately, not accurate. There is no restriction disallowing such payments either in this bill or in title 33 of the United States Code that deals with the sea grant program.

Further, in 1982, six universities made direct payments through their sea grant programs for tuitional payments, and I will furnish the schools and amounts for any Member that requests it.

Finally, under the regulations pertaining to the guidelines for the sea grant fellowship, the regulations state that the amount of money requested and awarded may vary greatly between institutions because of certain factors. The factors that are considered in the regulations to explain this difference include tuition. Thus, money at certain universities is paid directly for tuition costs, and at the remaining universities tuition is used as one of the factors that sets the amounts awarded per fellowship. The bill does not change this regulation. I felt the record should be corrected so that my colleagues understand how much obfuscation is associated with this turkey bill.

This is what you are being asked to support with your vote. Now I wonder about the priorities of any Congress that would take up to $3 billion from the U.S. Treasury to put these turkeys ahead of other important programs, such as social security, to name one.

The proponents of the legislation, and I would especially direct the attention of my Democratic colleagues to this point because their whip notice brings it out—the proponents state that currently there is authorized $490 million for the programs to be carried out by H.R. 5543 and that only $300 million per year will be put aside from the general fund for these programs; thus inferring a cut of $190 million. In fact, however, the Congress and the President have requested zero in appropriations for fiscal year 1982 for sea grant and only $7.5 million for the two other programs, a difference of a mere $483 million. We are being treated to a legislative sleight of hand, mixing apples and oranges, which of course the proponents of this bill do frequently.

I would point out to the Members that the cost of this legislation is $300 million per year forever. Through fiscal year 1994 the price tag that goes with it for the next decade is estimated to be $1.5 to $3 billion, that is billion.

So remember, you are voting today on taking $300 million per year from the general fund—from other programs—you are voting to take away as much as $3 billion, and that is real money, money which will no longer be available to fund other Government programs—unless we borrow the money or eliminate other programs.

The administration strongly opposes the enactment of this legislation. I hope the Members will also, and vote this turkey down.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. SNYDER) has expired.

(By unanimous consent, Mr. SNYDER was allowed to proceed for 1 additional minute.)

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Chairman, I am sure the gentleman is aware, referring to the $300 million, that it must go through the appropriations process. This bill is nothing more than an authorization.

Mr. SNYDER. There is no question about that. It has to go through the appropriation process, but neither the Congressional Budget Office nor the President's budget funds some of these programs, and funds others at much less.

Mr. JONES of North Carolina. I was not quite sure this administration was aware of that.

Mr. SNYDER. But the money set aside would not be available under the general fund, as the gentleman knows, under this bill.

Mr. BREAUX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had not intended to speak on the legislation, but I think that the debate has sort of diverted itself away from the principal point before this Congress.

We are talking in the next fiscal year by the administration's estimate of generating $8 billion from drilling for oil and gas in the offshore areas around the 30 coastal States of the United States. That is critically important if we are ever going to get away from having to import oil and gas from foreign countries and from OPEC-type cartels.

Now, what this bill does is very simple. It says to the States off whose coasts the development is taking place that we recognize there are special problems and that the Federal Government is going to enter into a partnership with these various States and say, "We are going to help you."

Now, my own State of Louisiana, which is a leading oil- and gas-producing State in the Nation in the offshore area, is suffering a loss of 40 square miles of our coastline per year. Louisiana has done our part in helping to become energy self-sufficient.

□ 1840

What we are merely talking about now is to have the Federal Government say, "Hey, we think your actions are important enough to merit some consideration, and we are going to consider it by sharing with you some of these revenues to help you offset some of your losses."

Now, we are talking about a very small amount of money in comparison to what the total is. We are talking about $300 million out of projected income of $8 billion in fiscal year 1982. The administration estimates $15 billion in fiscal year 1983.

I say to all of the coastal States that I think they have an interest. I think this Federal Government has an interest, as the administration has said many times, in forming a Federal-State partnership in developing our resources.

There has been discussion on the floor today that this money will be used for interns, for staffing committees. That is simply so insignificant that we are diverting from the principal issue here at hand. We are talking about sharing with the States less than 2 percent of the total revenues, and one of the programs that might happen to be funded is a sea grant program which, yes, is going to be doing research in how to benefit from preserving and protecting and conserving our coastal areas, and yes, they have staff, yes, those staff people work with the Congress.

Now what is so unusual about that? The principal issue here is: Are we going to have a real Federal-State partnership in developing our coastal resources? Is $300 million too much to spend?

I would say the answer is quite clear that no, it is not. We are going to produce $15 billion. Let us say to the States producing it, "This is a partnership." We recognize we want to put up any financial resources we can to help them achieve that goal.

The issue is quite clear. I think a vote in the affirmative is absolutely demanded. We have had these programs in the past. We should continue them in the future.

Mr. D'AMOURS. Mr. Chairman, I move to strike the last word. I am not going to take up a whole lot of time. I do not want to delay the process.

Mr. Chairman, the bill before us today is absolutely necessary in order to provide equity and basic fairness to our coastal States.

Revenue sharing is an integral component of virtually all Federal lands management programs—all programs, that is, except the OCS oil and gas leasing program.

Onshore leasing programs resulted in direct payments to States of $781 million in fiscal year 1981. In fiscal year 1982, these payments may top $1 billion. However, oil and gas leasing on the Nation's OCS resulted in no payments to coastal States, while producing revenues of close to $10 billion in fiscal year 1981. Interior States, in addition to sharing revenues, are free to tax all mineral operations on Federal lands in their States. Coastal States can levy no such taxes.

The ability of coastal States to derive revenue from Federal OCS activity is strictly limited to taxing onshore support facilities. However, GAO has concluded that, "In OCS development, where the States and communities are not able to tax the actual energy facility—or resource—but are limited to taxing onshore support facilities, the revenues generated will not usually compensate for impact costs."

Mr. Chairman, the time is long past when we can afford to take for granted the coastal States role in the OCS process. We expect them to be full partners in bearing the costs of the process. And yet, under this current administration we have seen a significant push to accelerate the rate of production while at the same time we see a strenuous effort to deny the States adequate funding for existing coastal programs. These programs have been and continue to be the States only chance to meet their responsibilities concerning the OCS and sensibly manage their coastlines.

H.R. 5543 provides a measure of fairness that will encourage States to become real partners in the OCS leasing program. This legislation is essential if the coastal States are to continue to meet their OCS responsibilities and plan for their coastal zones. It is also essential if the OCS program is to succeed in providing the Treasury with the billions of dollars in revenues that the administration and Congress have counted upon in our budget considerations.

I urge my colleagues to support this critical legislation.

● Mr. GEJDENSON. Mr. Chairman, I rise in support of H.R. 5543, the Ocean and Coastal Resources Management and Development Block Grant Act. As a cosponsor of this legislation, I am pleased that the House of Representatives is considering this bill today. This legislation addresses the important role that the development of the Outer Continental Shelf can play in contributing to America's energy security and in providing coastal States, such as Connecticut, the necessary funds to mitigate any impacts from OCS development.

This bill proposes that the development of the Outer Continental Shelf ought not occur in a rushed and careless fashion that put at risk those other resources of the Outer Continental Shelf which, if properly managed and protected, are perpetually renewable and literally priceless. The bill is based on the proposition that a modest portion of future increases in Federal revenue from the extraction of publicly owned, nonrenewable ocean energy resources should be allocated to coastal States for the continued sound management of, and research on, renewable ocean and coastal resources.

This bill consciously complies with the block grant concept advocated by

the administration. H.R. 5543 provides maximum flexibility and adequate funding within the framework of American federalism. The amount of each coastal State's, share of the block grant is based of a five-part formula. For Connecticut, this formula equals 1.6 percent of the total block grant trust fund, or approximately $4.2 million. These funds will be used according to broad categories of State activities: Coastal zone management, siting of energy facilities, land acquisition, management of fisheries, energy impact programs, and the obtainment of a balanced coastal ecology.

Ten to twenty percent of the trust fund expenditures would be earmarked for the sea grant program. Last July, the Connecticut sea-grant cooperative program was awarded institutional recognition by the National Oceanic and Atmospheric Administration. This is the first stage in the development of a sea grant program capable of monitoring marine resources and restoring fishery resources. This legislation will provide the Connecticut sea-grant program adequate funds to emerge as an important contributor to the oceans sector of the national economy.

Mr. Chairman, this legislation is a resounding rebuttal to an administration that has argued that coastal assistance programs largely serve State and lcoal interests and not the national interest. This administration has tried to eliminate funding for coastal zone management programs, fishery conservation programs, energy impact assistance and the sea grant programs.

Clearly, if we are to develop at a reasoned pace our Outer Continental Shelf activities, we must minimize potential dangers with a commitment to the management of our priceless coastal and ocean resources. Thank you.●

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. SIMON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5543) to establish an Ocean and Coastal Resources Management and Development Fund and to require the Secretary of Commerce to provide to coastal States national ocean and resources management and development block grants from sums in the Fund pursuant to House Resolution 55, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOLINARI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 260, nays 134, not voting 38, as follows:

[Roll No. 380]

YEAS—260

Addabbo	Dixon	Hawkins
Akaka	Donnelly	Heckler
Albosta	Dorgan	Hefner
Alexander	Dougherty	Heftel
Anderson	Downey	Hertel
Andrews	Dunn	Hightower
Annunzio	Dwyer	Holland
Anthony	Dymally	Hollenbeck
Applegate	Dyson	Holt
Atkinson	Early	Horton
AuCoin	Eckart	Howard
Bailey (PA)	Edwards (AL)	Hoyer
Barnard	Edwards (CA)	Huckaby
Barnes	Emery	Hughes
Bedell	Erdahl	Hutto
Beilenson	Evans (DE)	Jacobs
Bennett	Evans (GA)	Jones (NC)
Bevill	Evans (IN)	Jones (TN)
Biaggi	Fary	Kastenmeier
Bingham	Fascell	Kazen
Bliley	Fazio	Kennelly
Boggs	Fenwick	Kildee
Boland	Ferraro	LaFalce
Bolling	Fiedler	Lagomarsino
Boner	Fish	Lantos
Bonior	Fithian	Leath
Bonker	Flippo	Lehman
Bouquard	Florio	Leland
Bowen	Foglietta	Lent
Breaux	Foley	Levitas
Brinkley	Ford (MI)	Livingston
Brodhead	Fountain	Long (LA)
Brooks	Fowler	Long (MD)
Broomfield	Frank	Lott
Brown (CA)	Frost	Lowery (CA)
Burton, Phillip	Fuqua	Lowry (WA)
Byron	Garcia	Luken
Campbell	Gaydos	Lundine
Carney	Gejdenson	Markey
Clausen	Gephardt	Martin (NY)
Coelho	Gibbons	Martinez
Collins (IL)	Gilman	Matsui
Conte	Gingrich	Mavroules
Conyers	Ginn	Mazzoli
Coughlin	Goldwater	McClory
Coyne, James	Gonzalez	McDade
Coyne, William	Gore	McGrath
Crockett	Gray	McHugh
D'Amours	Green	McKinney
Daniel, R. W.	Gregg	Mica
Daschle	Guarini	Mikulski
Davis	Hall (OH)	Miller (CA)
de la Garza	Hall, Ralph	Mineta
Dellums	Hall, Sam	Minish
DeNardis	Hamilton	Mitchell (MD)
Derrick	Harkin	Mitchell (NY)
Dicks	Hartnett	Moakley
Dingell	Hatcher	Molinari
Mollohan	Rinaldo	Spence
Montgomery	Robinson	St Germain
Morrison	Rodino	Stark
Mottl	Roe	Stratton
Murphy	Roemer	Studds
Murtha	Rose	Swift
Napier	Rostenkowski	Synar
Natcher	Roth	Traxler
Neal	Roukema	Udall
Nelson	Roybal	Vander Jagt
Nowak	Sabo	Walgren
Oakar	Savage	Washington
Oberstar	Scheuer	Waxman
Obey	Schneider	Weaver
Ottinger	Schroeder	Weber (MN)
Panetta	Schumer	Weber (OH)
Parris	Seiberling	Whitehurst
Patman	Sensenbrenner	Whitley
Patterson	Shamansky	Whitten
Pease	Shannon	Williams (OH)
Pepper	Sharp	Wirth
Petri	Siljander	Wolf
Peyser	Simon	Wolpe
Pickle	Skelton	Wright
Price	Smith (NJ)	Wyden
Pritchard	Smith (PA)	Young (MO)
Rangel	Snowe	Zablocki
Ratchford	Solarz	Zeferetti
Reuss	Solomon	

NAYS—134

Archer	Hammerschmidt	Porter
Ashbrook	Hance	Pursell
Badham	Hansen (ID)	Quillen
Bailey (MO)	Hansen (UT)	Rahall
Benedict	Hendon	Railsback
Bereuter	Hiler	Regula
Bethune	Hillis	Rhodes
Brown (CO)	Hopkins	Ritter
Broyhill	Hubbard	Roberts (KS)
Burgener	Hunter	Roberts (SD)
Butler	Hyde	Rogers
Carman	Ireland	Rousselot
Chappie	Jeffords	Rudd
Cheney	Jeffries	Sawyer
Clinger	Jenkins	Schulze
Coats	Johnston	Shaw
Coleman	Jones (OK)	Shelby
Conable	Kemp	Shumway
Corcoran	Kindness	Shuster
Craig	Kogovsek	Skeen
Crane, Daniel	Kramer	Smith (AL)
Crane, Philip	Latta	Smith (IA)
Dannemeyer	Leach	Smith (NE)
Daub	Lewis	Smith (OR)
Deckard	Loeffler	Snyder
Derwinski	Lujan	Stangeland
Dickinson	Lungren	Stanton
Dornan	Madigan	Staton
Dreier	Marlenee	Stenholm
Duncan	Marriott	Stump
Edwards (OK)	Martin (IL)	Tauke
Emerson	Martin (NC)	Taylor
English	McCloskey	Thomas
Erlenborn	McCollum	Vento
Evans (IA)	McDonald	Volkmer
Fields	Michel	Walker
Findley	Miller (OH)	Wampler
Frenzel	Moore	Watkins
Glickman	Moorhead	White
Goodling	Myers	Whittaker
Gradison	Nelligan	Wilson
Gramm	Oxley	Winn
Grisham	Pashayan	Wortley
Gunderson	Paul	Young (AK)
Hagedorn	Perkins	

NOT VOTING—38

Aspin	Edgar	Rosenthal
Bafalis	Ertel	Russo
Beard	Ford (TN)	Santini
Blanchard	Forsythe	Stokes
Brown (OH)	LeBoutillier	Tauzin
Burton, John	Lee	Trible
Chappell	Marks	Weiss
Chisholm	Mattox	Williams (MT)
Clay	McCurdy	Wylie
Collins (TX)	McEwen	Yates
Courter	Moffett	Yatron
Daniel, Dan	Nichols	Young (FL)
Dowdy	O'Brien	

□ 1840

Messrs. WILSON, WHITE, and DECKARD changed their votes from "yea" to "nay."

Messrs. FARY, BROOMFIELD, MAZZOLI, SILJANDER, and LOTT changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to establish an Ocean and Coastal Resources Management and Development Fund from which coastal States shall receive block grants."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5543, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PREPARATION OF DUPLICATE CONFERENCE REPORT PAPERS ON H.R. 5930, AVIATION INSURANCE PROGRAM EXTENSION

Mr. MINETA. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 414) directing the preparation of duplicate conference papers on H.R. 5930.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LEVITAS. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the gentleman from California if he would explain the effect of the concurrent resolution.

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. MINETA. Mr. Speaker, this concurrent resolution merely recreates papers which apparently have been lost. It does not approve or constitute approval of the conference report.

I expect to bring that conference report before the House tomorrow.

Mr. LEVITAS. Further reserving the right to object, and I will not object, I wanted to make certain that it did not constitute approval of the conference report by the adoption of the concurrent resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 414

Resolved by the House of Representatives (the Senate concurring), That the Secretary of the Senate and the Clerk of the House of Representatives are authorized and directed to prepare and sign official duplicates of the conference papers on the bill (H.R. 5930) to extend the aviation insurance program for five years.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

COAST GUARD AUTHORIZATION ACT OF 1982

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2252) to authorize appropriations for the Coast Guard for fiscal years 1983–84, and for other purposes, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment as follows:

Strike out all after the enacting clause and insert:

TITLE I

SEC. 101. This title may be cited as the "Coast Guard Authorization Act of 1982".

SEC. 102. Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1983 and 1984 as follows:

(1) For the operation and maintenance of the Coast Guard, including expenses related to the Capehart housing debt reduction, $1,800,000,000 for fiscal year 1983 and $2,000,000,000 for fiscal year 1984, and such additional amounts for each such fiscal year as may be necessary for increases in salary, pay, and other employee benefits authorized by law.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $550,000,000 for fiscal year 1983 and $650,000,000 for fiscal year 1984.

(3) For research, development, test, and evaluation, $22,000,000 for fiscal year 1983 and $32,000,000 for fiscal year 1984, of which sufficient funds shall be made available to continue in operation a Coast Guard research and development center through the end of fiscal year 1984.

(4) For the alteration or removal of bridges over navigable waters of the United States, constituting obstructions to navigation, $8,000,000, for fiscal year 1983.

(5) For retired pay including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, such sums as may be necessary for fiscal years 1983 and 1984.

SEC. 103. For fiscal years 1983 and 1984, the Coast Guard is authorized an end-of-year strength for active duty personnel of forty-one thousand five hundred. This end-of-year strength shall not include members of the Ready Reserve called to active duty under the authority of section 712 of title 14, United States Code.

SEC. 104. For fiscal years 1983 and 1984, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, three thousand six hundred and sixty student-years.

(2) For flight training, one hundred and eighteen student-years.

(3) For professional training in military and civilian institutions, six hundred and fifty-five student-years.

(4) For officer acquisition, one thousand thirty-eight student-years.

SEC. 105. (a) Section 81 of title 14, United States Code, is amended by adding at the end thereof the following: "The Coast Guard may establish, maintain, and operate aids to maritime navigation under paragraph (1) of this section by contract with any person, public body, or instrumentality.".

(b) Not later than one year after the date of enactment of this title, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress evaluating—

(1) the exercise by contract of the authority of the Coast Guard under section 81 of title 14, United States Code, to establish, maintain, and operate aids to navigation, including a discussion of any problems involved in exercising such authority by contract, the reasons for exercising or failing to exercise such authority by contract in particular areas, and the feasibility of expanding the exercise of such authority by contract; and

(2) the advantages and disadvantages of increasing the ratio of civilian to military employees assigned to the establishment, maintenance, and operation of aids to navigation on the inland waterways of the United States.

(c) Any authority to enter into contracts provided in this section shall be available only to the extent that appropriated funds are available for that purpose.

SEC. 106. Subsections (e) and (f) of section 475 of title 14, United States Code, are repealed.

SEC. 107. (a) Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) is amended by adding at the end thereof the following: "This subsection shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(b) Section 9 of the Act of March 3, 1899, entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes" (33 U.S.C. 401) is amended by adding at the end thereof the following: "The approval required by this section of the location and plans or any modification of plans of any bridge or causeway shall not apply to any bridge or causeway over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

(c) The first section of the Act of March 23, 1906, entitled "An Act to regulate the construction of bridges over navigable waters" (33 U.S.C. 491) is amended by adding at the end thereof the following: "This section shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.".

SEC. 108. (a) Section 5 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", enacted August 18, 1894 (33 U.S.C. 499; 28 Stat. 362), is amended—

(1) by inserting "(a)" after "SEC. 5.";

(2) by striking out "or who shall unreasonably delay the opening of said draw after reasonable signal shall have been given," in the second sentence;

(3) by striking out "section" and inserting in lieu thereof "subsection";

(4) by striking out "any violation" and inserting in lieu thereof "any willful violation"; and

(5) by adding at the end thereof the following new subsections:

"(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of Transportation shall issue rules and regulations to implement this subsection.

"(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than $1,000. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(b) Section 18 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", enacted March 3, 1899 (30 Stat. 1153; 33 U.S.C. 502), is amended by inserting "(a)" after "SEC. 18.", by striking out "Secretary of War" wherever it appears and inserting in lieu thereof "Secretary of Transportation", by striking out "recommended by the Chief of Engineers", and by adding at the end thereof the following new subsections:

"(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

"(c) Whoever violates any provision of this section, or any order issued under this section, shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

SEC. 109. The Act entitled "An Act to constitute a Bureau of Navigation in the Treasury Department", enacted July 5, 1884 (23 Stat. 118), is amended by adding at the end of section 8 (as added by section 9 of Public Law 97-136) the following new subsection:

"(d) In any case in which an inspection or examination is delegated under subsection (a) to the American Bureau of Shipping, or similar American classification society, or agent thereof, such Bureau, society, or agent, as the case may be, shall maintain within the United States complete files of all information derived from or necessarily connected with such inspection or examination for not less than two years after the vessel with respect to which the inspection or examination is made ceases to be certificated and shall permit access to such files at all reasonable times to any member of the Coast Guard designated as a marine inspector and serving in a position as a marine inspector or designated in writing by the Commandant of the Coast Guard to have such access.".

SEC. 110. Section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a) is amended by striking out paragraph (11) and inserting in lieu thereof the following:

"(11) PERSONNEL AND MANNING STANDARDS FOR FOREIGN VESSELS.—The Secretary shall—

"(A) periodically evaluate the manning, training, qualification, and watchkeeping standards promulgated by the certificating state of any foreign vessel which operates on or enters the navigable waters of the United States, and transfers oil or hazardous materials in any port or place under the jurisdiction of the United States; and

"(B) determine, after each evaluation made under clause (A), whether the foreign state, whose system for licensing and certification of seafarers was evaluated, has standards which are comparable to or more stringent than United States standards or international standards which are accepted by the United States.".

SEC. 111. Section 4417a(19) of the Revised Statutes of the United States (46 U.S.C. 391a(19)) is repealed.

SEC. 112. (a) Section 34 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1483) is amended by striking out "$1,000" and inserting in lieu thereof "$5,000".

(b) Section 35(b) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1484(b)) is amended by striking out "$500" and inserting in lieu thereof "$1,000".

SEC. 113. The Commandant of the Coast Guard shall review Coast Guard policies and procedures for towing and salvage of disabled vessels in order to further minimize the possibility of Coast Guard competition or interference with private towing activities or other commercial enterprise.

SEC. 114. Notwithstanding any other provision of law, the number of full-time civilian employees of the Coast Guard shall be maintained at a level not less than five thousand four hundred and eighty-four throughout fiscal years 1983 and 1984.

SEC. 115. (a)(1) Chapter 3 of title 14, United States Code, is amended by adding at the end thereof the following new section:

"§ 52. Vice admirals, continuity of grade

"The continuity of an officer's precedence on the active duty promotion list, date of rank, grade, pay, and allowances as a vice admiral shall not be interrupted by the termination of an appointment for the purpose of reappointment to another position as a vice admiral.".

(2) The analysis of chapter 3 of title 14, United States Code, is amended by adding the following new item after the item relating to section 51:

"52. Vice admirals, continuity of grade.".

(b)(1) Section 368 of title 14, United States Code, is repealed.

(2) The analysis of chapter 11 of title 14, United States Code, is amended by striking out:

"368. Discharge in case of underage enlistment.".

(c) Section 93 of title 14, United States Code, is amended by—

(1) striking out "and" at the end of subsection (p);

(2) striking out the period at the end of subsection (q) and inserting in lieu thereof "; and "; and

(3) adding at the end thereof the following new subsection:

"(r) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities.".

SEC. 116. Section 306(f) of title 37, United States Code, is amended by striking out "The Secretary of Transportation shall make a similar report for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

SEC. 117. Paragraph (1) of the first section of the Act entitled "An Act to authorize appropriations for the Coast Guard for fiscal year 1982, and for other purposes" (95 Stat. 1705; Public Law 97-136) is amended by striking out "$1,404,800,000" and inserting in lieu thereof "$1,548,800,000".

SEC. 118. (a)(1) Section 33(a) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(a)) is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.".

(2) Section 33(b) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(b)) is amended by adding at the end thereof the following: "The Council is authorized to make available to Congress any information, advice, and recommendations which the Council is authorized to give to the Secretary.".

(3) Section 33(c) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482(c)) is amended by striking out "when engaged in the duties of the Council" and inserting in lieu thereof "while attending meetings of the Council".

(b)(1) Section 193 of title 14, United States Code, is amended in the first sentence by inserting before the period the following: "(or, in the case of a member of the Committee who is an officer or employee of the United States, who shall receive no additional pay on account of his service on the Committee)".

(2) Section 193 of title 14, United States Code, is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Advisory Committee. The Advisory Committee is authorized to make available to Congress any information, advice, and recommendations which the Advisory Committee is authorized to give to the Secretary or the Commandant.".

(c)(1) Section 5(a) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(a)) is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.".

(2) Section 5(b) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(b)) is amended by adding at the end thereof the following: "The Council is authorized to make available to Congress any information, advice, and recommendations which the Council is authorized to give to the Secretary.".

(3) Section 5(c) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(c)) is amended by striking out "or while otherwise engaged in the business of the Council" and by striking out ", including traveltime".

(d) The Act entitled "An Act to establish a Towing Safety Advisory Committee in the Department of Transportation" (33 U.S.C. 1231a; 94 Stat. 1521) is amended as follows:

(1) Subsection (b) of the first section is amended by adding at the end thereof the following: "The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.".

(2) Subsection (c) of the first section is amended by adding at the end thereof the following: "The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.".

(3) Subsection (d) of the first section is amended by adding before the first sentence the following: "Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.".

(e)(1) The Secretary of the department in which the Coast Guard is operating shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on any advisory committee established administratively for the purpose of giving advice and recommendations to such Secretary or the Commandant of the Coast Guard with respect to functions of the Coast Guard.

(2) Any advisory committee described in paragraph (1) of this subsection is authorized to make available to Congress any information, advice, and recommendations which the committee is authorized to give to the Secretary of the department in which the Coast Guard is operating or the Commandant of the Coast Guard.

(3) Members of any advisory committee described in paragraph (1) of this subsection who are not officers or employees of the United States shall serve without pay and members of any such committee who are officers or employees of the United States shall receive no additional pay on account of their service on such committee. While away from their homes or regular places of business, members of any such committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

SEC. 119. Section 4450(a) of the Revised Statutes of the United States (46 U.S.C. 239(a)) is amended in the first sentence by inserting "or to the loss of life involved in such casualty" after "of such casualty".

SEC. 120. Section 4450 of the Revised Statutes of the United States (46 U.S.C. 239) is amended—

(a) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(b) by inserting after subsection (i) the following new subsection:

"(j)(1) The Commandant of the Coast Guard shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives of any hearing involving the investigation of a major marine casualty involving loss of life under subsection (a) before such hearing occurs.

"(2) The Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives any information on major marine casualties which is requested to be submitted by either of the committees or the chairman of either of the committees if the submission of such information is not prohibited by any other statute of the United States.".

SEC. 121. It is the sense of the Congress that the President and the Coast Guard should give the search and rescue operations of the Coast Guard a high priority.

TITLE II

SEC. 201. This title may be cited as the "Sailing School Vessels Act of 1982".

SEC. 202. The Act entitled "An Act to require the inspection and certification of certain vessels carrying passengers", enacted May 10, 1956 (46 U.S.C. 390 et seq.; 70 Stat. 151), is amended as follows:

(1) Subsection (a) of the first section is amended by inserting ", or any guest on board a sailing school vessel," after "purposes" in paragraph (5). Such subsection is further amended by striking out "or" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; or", and by adding at the end thereof the following:

"(7) any sailing school instructor or sailing school student.".

(2) Section 2(a) is amended by striking out "and each freight-carrying vessel," and inserting in lieu thereof ", each freight-carrying vessel, and each sailing school vessel". Section 2(a)(3) is amended by striking out "and the crew" and inserting in lieu thereof ", crew, sailing school students and sailing school instructions".

(3) Section 3 is amended by striking out "and freight-carrying vessels" and inserting in lieu thereof ", freight-carrying vessels, and sailing school vessels". Section 3 is further amended by striking out "and crew," and inserting in lieu thereof ", crew, sailing school students, and sailing school instructors," and by inserting after "number of passengers" the following: ", sailing school students, and sailing school instructors".

(4) Sections 4(a), 4(b), and 5 are each amended by striking out "or freight-carrying vessel" each place it appears and inserting in lieu thereof ", freight-carrying vessel, or sailing school vessel".

(5) Section 5 is further amended by designating the existing language, as amended by this Act, as subsection (a) and by adding at the end thereof the following new subsection:

"(b) Whoever violates any rule or regulation of this Act shall be liable to a civil penalty of not more than $1,000. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the Department in which the Coast Guard is operating may assess and collect any civil

penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.".

(6) The first section is further amended by adding at the end thereof the following:

"(f) The term 'sailing instruction' means teaching, research, and practical experience in the operation of vessels propelled primarily by sail and may include any subjects related thereto and to the sea, including but not limited to seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature.

"(g) The term 'sailing school vessel' means a vessel which the Secretary finds to be less than five hundred gross tons, carrying six or more individuals who are sailing school students or sailing school instructors, principally equipped for propulsion by sail, whether or not the vessel has any auxiliary means of propulsion, and owned or demise chartered and operated by an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code, as now or hereafter amended, or by any State or political subdivision thereof, during such times as the vessel is operated by such organization or State or political subdivision exclusively for the purposes of sailing instruction.

"(h) The term 'sailing school instructor' means any person who is aboard a sailing school vessel for the purpose of furnishing sailing instruction. Such term does not include any operator or member of the crew of such a vessel who is among those required to be aboard the vessel to meet requirement establishing under section 3 of this Act.

"(i) The term 'sailing school student' means any person who is aboard a sailing school vessel for the purpose of receiving sailing instruction.".

SEC. 203. Section 13(b) of the Act of March 4, 1915 (46 U.S.C. 672(b)), is amended by adding at the end thereof the following new paragraph:

"(4) 'Able seaman-sail' qualified for service on any waters shall have at least six months' service on deck on sailing school ships, oceanographic research vessels powered primarily by sail, or equivalent sailing vessels operating on the oceans or navigable waters of the United States including the Great Lakes.".

SEC. 204. Sailing school students and sailing school instructors shall not be considered to be seamen under the provisions of titles 52 and 53 of the Revised Statutes of the United States and any Act amendatory thereof or supplementary thereto, or for the purposes of the maritime law doctrines of maintenance and cure or warranty of seaworthiness.

SEC. 205. Each owner or charterer of a sailing school vessel shall maintain evidence of his or her financial responsibility to meet any liability incurred for death or injury to sailing school students or sailing school instructors on voyages aboard the vessel, in an amount not less than $50,000 for each student or instructor. Such financial responsibility may be evidenced by policies of insurance or other adequate financial resources.

SEC. 206. For the purposes of section 3 of the Act of February 17, 1898 (46 U.S.C. 291), and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), a sailing school vessel shall not be deemed to be a merchant vessel or a vessel engaged in trade or commerce.

SEC. 207. For purposes of sections 203, 204, 205, 206, and 208 of this title, the terms "sailing school students", "sailing school instructor", and "sailing school vessel" have the meaning given such terms in the first section of the Act entitled "An Act to require the inspection and certification of certain vessels carrying passengers", enacted May 10, 1956 (46 U.S.C. 390) as amended by this title.

SEC. 208. (a) The Secretary of the department in which the Coast Guard is operating shall, after consultation with representatives of the private sector having experience in the operation of vessels likely to be certified as sailing school vessels, but not later than 18 months after the date of enactment of this title, prescribe rules and regulations to carry out this title including the amendments made by this title. Such rules and regulations shall reflect the specialized nature of sailing school vessel operations, and the character, design, and construction of vessels operating as sailing school vessels, and shall include requirements for notice to sailing school students and sailing school instructors regarding the specialized nature of sailing school vessels and applicable safety regulations. Any manning requirement imposed with respect to sailing school vessels shall take into account the participation of sailing school students and sailing school instructors in the operation of such vessels.

(b) Sections 202, 203, 204, 205, 206, and 207 of this title and the amendments made by such sections shall take effect eighteen months after the date of enactment of this Act or on the date upon which the rules and regulations referred to in subsection (a) take effect, whichever is earlier.

Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

□ 1850

Mr. SNYDER. Mr. Speaker, reserving the right to object, I would like to ask the chairman first to tell us exactly what this is. I understand it is a Coast Guard bill.

Mr. JONES of North Carolina. Mr. Speaker, I would say to the gentleman that this is the Coast Guard authorization, which is a compromise. This conference was agreed to by the ranking minority Member on the subcommittee. It was sent back with an amendment and was agreed to by the gentleman from Alaska (Mr. YOUNG). Therefore, I assume it had cleared with the gentleman's side.

Mr. SNYDER. We have been consulted about bringing it up under this procedure. I am not objecting to that. But since it is the Coast Guard authorization, I think the House is entitled to know what the chairman is bringing back from the Senate. In that connection, I would like to ask the gentleman from North Carolina if it is not correct——

Mr. JONES of North Carolina. Will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. The Senate amendments lower the authorization levels for operating expenses from $1.842 billion to $1.8 billion in 1983, and from $2.026 billion to $2 billion in 1984.

For acquisition and construction, the Senate lowered the 1983 authorization levels from $670 million to $550 million, and from $700 million to $650 million in 1984.

For research and development, the Senate lowered the authorization levels from $30 million in 1983 to $22 million, and from $33 million in 1984 to $32 million.

For alteration of bridges, the Senate lowered the fiscal year 1983 authorization levels from $12.7 million to $8 million.

Two further amendments were passed by the Senate. A new title, title II, the Sailing School Vessels Act of 1982, was added, which amends 45 United States Code 390 pertaining to inspection and certification of passenger-carrying vessels.

Now, I have been informed that the administration has no disagreements with the Sailing School Vessels Act, as amended, in S. 2252.

The final amendment changes a section of the House version which stated it was a sense of Congress that aids to navigation can be accomplished more effectively by civilian employees of the Coast Guard than its military employees. The Senate amendment requires the Coast Guard to study the advantages and disadvantages of increasing the ratio of civilian to military employees assigned to the operation of aids to navigation on the inland waterways of the United States.

Now, basically, I say to the gentleman from Kentucky, they are the differences between the House and the Senate. If you will note and if I spoke distinctly, which I hope I did, you will find that the Senate figures are slightly lower than that which we authorized, but in the spirit of compromise and to accommodate this particular administration, we agreed to the lower figures.

Mr. SNYDER. I thank the chairman.

Mr. Speaker, I would like to reemphasize an item that the chairman did mention, and that is that title II of the bill contains provisions almost identical to H.R. 6580, the sailing school vessels bill which on September 15 failed to achieve the necessary two-thirds in the House, failed to pass on suspension on a vote of 236 to 154. As

of yesterday, in talking with the Coast Guard, they had not changed their position being opposed to that provision.

I think it creates a separate, unnecessary regulatory treatment for this particular class of vessel and that insufficient guidance is contained in the bill for the development and implementing Coast Guard rules and regulations. Nevertheless, I do not intend to object. But I do think that the House ought to know that they are passing in this bill what they turned down a week ago.

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. The bill to which the gentleman refers, let me remind the gentleman, it is true it did not get the two-thirds, but it got a rather healthy majority.

Mr. SNYDER. 236 to 154. The chairman is correct.

Mr. JONES of North Carolina. I thank the gentleman.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Massachusetts.

Mr. STUDDS. I would just like to reassure the gentleman that in conversations between the subcommittee staff today and the Coast Guard, we were informed that the slight modifications in the bill to which the gentleman refers made by the Senate have met the objections which the administration had, that it is no longer objected to by the administration.

Mr. SNYDER. I am not going to dispute what the gentleman is saying because my conversation, my staff conversation, was yesterday, and they were still objecting then. But I do think the House ought to know that we are incorporating into this what we failed to pass a week or so ago.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina that the Senate amendment to the House amendment be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 6956, HOUSING AND URBAN DEVELOPMENT - INDEPENDENT AGENCIES APPROPRIATION, 1983

Mr. BOLAND. Mr. Speaker, pursuant to the order of the House of September 28, 1982, I call up the conference report on the bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. STUDDS). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the statement.

(For conference report, see proceedings of the House of today, September 29, 1982.)

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. BOLAND) will be recognized for 30 minutes, and the gentleman from New York (Mr. GREEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, I yield myself such time as I may require.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 6956, as well as the Senate amendments reported in disagreement, and that I may include tables, charts, and other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. BOLAND. Mr. Speaker, we bring back to the House today the conference report on the 1983 HUD independent agencies appropriation bill.

I want to begin by explaining to the Members that we had hoped to reach agreement in the conference last night and file the report by midnight so that it would be printed in the RECORD. Unfortunately, although we did finish in the early evening hours, there was insufficient time to assemble the papers and file the conference report by midnight.

However, we did file this report at 10 a.m. today, and we have more than 200 copies of the conference report and the statement of the managers available for Members.

We are asking for the indulgence of the membership for the consideration of this report. We are making a supreme effort to get this bill to the President before the end of the fiscal year. In order to do that, we felt we had to move as quickly as possible on this side so that the Senate can also take action.

I believe I can assure the Members of the House that, although we are on a fast track, this bill is a responsible bill and it is one that should have the support of this body.

Before I get into a discussion of some of the specifics, I want to sum up what the bottom line is. The total amount recommended in this conference report is $46,895,408,200. That total is $252,200,200 above the President's 1983 budget and $104,830,800 below the House-passed bill. I want to emphasize that again. We are more than $100 million below the House-passed bill which cleared this body 2 weeks ago by a vote of 343 to 38.

There are two issues which I know may prove of some importance to the Members and may provoke some questions. To begin with, many of the Members have undoubtedly been contacted by housing developers throughout the country concerning what is known as the financial adjustment factor, or FAF. To digress for just a little history, I want to remind the House that it was the HUD Subcommittee which this past March and April first began to draft bill language designed to buy out the section 8 pipeline. In order to do that, our subcommittee provided sufficient budget authority in the urgent supplemental appropriations bill and included language in that bill which extended the cutoff of FAF to October 1.

Let me also remind my friends here that it was the Department's intention not to buy out the section 8 pipeline. In fact, HUD originally proposed recapturing as much as $7.5 billion from projects that could not go to construction by June 1.

Our committee stopped that. Our committee went to bat for the low-income families of this country, and this subcommittee can take credit for insuring that the FAF provision was extended to October 1.

Now, with that background, let me hasten to add that we recognize that even with the extension to October 1, a number of projects, comprising perhaps 30,000 to 35,000 units, may not complete their paperwork by that date.

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It was for that reason that the Senate included language in our bill which extended the FAF deadline an additional 3 months to January 1, 1983. But the problem we faced was that in order to include that language in a conference agreement, the price was to take the Senate language on other assisted housing programs. To

put it simply, that price was far too high.

What the Senate was looking for was to use only $3.8 billion of the $9.6 billion remaining in the section 302(b) allocation. The Senate provided for no new public housing units and it provided for no additional section 8 existing units.

I felt that I could not take back such a meager allocation of funding for subsidized housing. The House position was and continues to be that we defer action on assisted housing for 1983, that we hold in reserve $9.6 billion of our section 302(b) allocation, and wait until the legislative committees authorize a 1983 housing program.

That is precisely what we have done in this bill. We have given the authorization committees an additional 2 months to come up with a bill. If they do not come up with a bill, we will address the issue of subsidized housing in the continuing resolution that we have to pass on or about December 15 of this year.

The other issue we know is of considerable interest is the vehicle inspection and maintenance provision that was carried in section 417 of the House-passed bill. I regret to tell the Members that we were unable to bring that back in the conference agreement. And the reason is simple. The Senate made it very clear to Senator GARN, who by the way favored the I&M amendment, that if it was brought back in the conference report, every parliamentary procedure would be used to bottle up the HUD bill. That meant that the entire HUD bill, including all funding for NASA, the National Science Foundation, the Environmental Protection Agency, the Veterans' Administration, and the Department of Housing and Urban Development would have to be carried in a continuing resolution at the House or Senate level, whichever is lower.

I felt that it was not in the best interest of the House to sacrifice this entire bill to accommodate the I&M amendment. There really is nothing more that I can add about the issue. It was not debated on the merits of the conference. Actually, there was not much dispute among many of the conferees on the merits. I personally do not believe that it was an appropriate place to carry this amendment, but I recognize the frustrations of those who have not been able to include it in a clean air bill. What we finally came up with is that if we were going to have a HUD bill we had to drop the I&M amendment, and that is precisely what was done.

Now let me take just an additional few minutes to summarize our action in some of the other areas of the bill. A total of $5,974,448,000 is included for the programs of the Department of Housing and Urban Development, outside of the assisted housing activities.

Within that total is $440 million for the urban development action grants program; a loan limitation of $453 million for housing for the elderly and handicapped; $3,456,000,000 for community development grants; $18 million for research and technology; and $20 million for the Solar Bank.

With respect to the programs of the Environmental Protection Agency, the conference agreement includes $3,719,688,200. That represents a total of $84,296,200 above the President's budget request. That total is above both the Senate and the House recommendations.

Within the total available for abatement, control, and compliance is the $900,000 sought by the gentleman from Maryland (Mr. DYSON) for the Chesapeake Bay program.

For the National Aeronautics and Space Administration we have included a total of $6,809,200,000. A provision is also included for NASA that would reduce the amount of funds that could be obligated or expended for space flight operation to the extent that authorizing acts require additional reimbursement from other agencies above and beyond that contained in NASA's fiscal year 1983 budget.

If the NASA Authorization Act for fiscal year 1983 would require the DOD to transfer an additional $128 million, for example, then $128 million of funds available in this act for space flight operations will be withheld from obligation or expenditure in anticipation of such funds being made available to NASA by transfer.

For the programs of the National Science Foundation, we have included $1,092,200,000—or $96,625,000 above 1982 and $22,800,000 above the President's request.

In the area of the Veterans' Administration, the committee has provided a total of $24,081,218,000. Included within that amount is an increase of $14,727,000 above the budget for medical care. That increase will provide for an additional 500 nurses in the VA hospitals and will insure that a minimum of 10,000 community nursing beds are available to veterans.

Also within the VA total we have added $14,872,000 for medical research above the President's budget.

Mr. Speaker, let me say finally that this bill continues to be about $9.6 billion under the section 302(b) allocation. The committee also continues to make its pledge that when we address the issue of funding housing for 1983 we will not exceed the balance remaining in the section 302(b) allocation.

I hope, Mr. Speaker, that all can agree that this bill is a good bill—it is a bill that the Director of the Office of Management and Budget has indicated he can support for the President's signature.

I urge support for this conference report.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1982	Estimates, 1983	House, 1983	Senate, 1983	Conference, 1983	Enacted, 1982	Estimates, 1983	House bill	Senate bill
TITLE I—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT									
Housing Programs									
Annual contributions for assisted housing (contract authority)	(13,274,888,040)	(−2,415,541,000)	Defer	(3,799,920,000)	Defer	Defer	Defer	Defer	Defer
(Increased limitation for annual contract authority)	(802,795,848)	(−2,052,000)	Defer	(179,940,000)	Defer	Defer	Defer	Defer	Defer
Rent supplement (rescission of contract authority, indefinite)	(−2,787,480,000)	(−2,830,360,000)	Defer	(−2,830,360,000)	Defer	Defer	Defer	Defer	Defer
(Limitation on annual contract authority, indefinite)	(−33,840,000)	(−105,160,000)	Defer	(−105,160,000)	Defer	Defer	Defer	Defer	Defer
Housing payments (appropriation to liquidate contract authority)	(8,759,000,000)	(9,538,000,000)	(9,538,000,000)	(9,538,000,000	(9,538,000,000)	(+779,000,000)	.....	.....	.....
Housing for the elderly or handicapped fund (authority to borrow)	744,511,000	276,617,000	276,617,000	442,590,000	276,617,000	−467,894,000	.....	.....	−165,973,000
(Limitation on direct loans)	(830,848,000)	(453,000,000)	(453,000,000	(724,800,000)	(453,000,000)	(−377,848,000)	.....	.....	(−271,800,000)
(Limitation on loans, prior authority)	(20,000,000)	.....	.....	.....	.....	(−20,000,000)	.....	.....	.....
Congregate services program	.....	.....	3,500,000	4,750,000	4,000,000	+4,000,000	+4,000,000	+500,000	−750,000
Payments for operation of low-income housing projects	1,350,06,000	1,075,000,000	1,350,000,000	1,288,000,000	1,350,000,000	−306,000	+275,000,000	.....	+62,000,000
Fiscal year 1981 supplemental	(140,600,000)	.....	.....	.....	.....	(−140,600,000)	.....	.....	.....
Troubled projects operating subsidy	4,000,000	.....	.....	.....	.....	−4,000,000	.....	.....	.....
Housing counseling assistance	3,520,000	.....	3,500,000	3,500,000	3,500,000	−20,000	+3,500,000	.....	.....

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1982	Estimates, 1983	House, 1983	Senate, 1983	Conference, 1983	Enacted, 1982	Estimates, 1983	House bill	Senate bill
Federal Housing Administration Fund	222,148,000	240,022,000	240,022,000	240,022,000	240,022,000	+17,874,000			
Portion applied to debt reduction	−127,248,000	−161,617,000	−161,617,000	−161,617,000	−161,617,000	−34,369,000			
(Limitation on guaranteed loans)	(40,000,000,000)	(35,000,000,000)	(40,000,000,000)	(39,800,000,000)	(39,800,000,000)	(−200,000,000)	(+4,800,000,000)	(−200,000,000)	
Temporary mortgage assistance payments (limitation on direct loans)	(75,960,000)	(45,000,000)	(45,000,000)	(45,000,000)	(45,000,000)	(−30,960,000)			
Total, Federal Housing Administration Fund	94,900,000	78,405,000	78,405,000	78,405,000	78,405,000	−16,495,000			
Nonprofit sponsor assistance (limitation on direct loans)	(2,590,000)	(1,790,000)	(1,790,000)	(1,790,000)	(1,790,000)	(−800,000)			
Low-rent public housing—loans and other expenses									
(By transfer)		(1,400,000,000)	Defer		Defer	Defer	Defer	Defer	Defer
(Appropriations to liquidate contract authority)		(1,400,000,000)	Defer		Defer	Defer	Defer	Defer	Defer
Government National Mortgage Association									
Special assistance functions fund (limitation on direct loans)	(1,973,000,000)		Defer		Defer	Defer	Defer	Defer	Defer
Payment of participation sales insufficiencies	1,964,000	2,726,000	2,726,000	2,726,000	2,726,000	+762,000			
Guarantees of mortgage-backed securities (limitation on guaranteed loans)	(68,250,000,000)	(38,400,000,000)	(68,250,000,000)	(68,250,000,000)	(68,250,000,000)		(+29,850,000,000)		
Total, Government National Mortgage Association	1,964,000	2,726,000	2,726,000	2,726,000	2,726,000	+762,000			
Solar Energy and Energy Conservation Bank									
Assistance for solar and conservation improvements	21,850,000		25,000,000	15,000,000	20,000,000	−1,850,000	+20,000,000	−5,000,000	+5,000,000
Total, housing programs (net)	2,221,051,000	1,432,748,000	1,739,748,000	1,834,971,000	1,735,248,000	−485,803,000	+302,500,000	−4,500,000	−99,723,000
Community Planning and Development									
Community development grants	3,456,000,000	3,456,000,000	3,445,000,000	3,456,000,000	3,456,000,000			+11,000,000	
(Limitation on guaranteed loans)	(225,000,000)		(225,000,000)	(225,000,000)	(225,000,000)		(+225,000,000)		
Urban development action grants	440,125,000	440,000,000	340,000,000	440,000,000	440,000,000	−125,000		+100,000,000	
Urban homesteading		12,000,000	12,000,000	12,000,000	12,000,000	+12,000,000			
Total, Community Planning and Development	3,896,125,000	3,908,000,000	3,797,000,000	3,908,000,000	3,908,000,000	+11,875,000		+111,000,000	
Policy Development and Research									
Research and technology	20,000,000	20,000,000	20,000,000	18,000,000	18,000,000	−2,000,000	−2,000,000	−2,000,000	
Fair Housing and Equal Opportunity									
Fair Housing Assistance	5,016,000	5,700,000	5,700,000	5,700,000	5,700,000	+684,000			
Management and Administration									
Salaries and expenses	319,500,000	321,001,000	308,501,000	307,500,000	307,500,000	−12,000,000	−13,501,000	−1,001,000	
(By transfer, FHA funds)	(266,752,000)	(267,723,000)	(267,723,000)	(267,723,000)	(267,723,000)	(+971,000)			
Working capital fund	528,000					−528,000			
Total, title I: Department of Housing and Urban Development:									
New budget (obligational) authority (net)	6,462,220,000	5,687,499,000	5,870,949,000	6,074,171,000	5,974,448,000	−487,772,000	+286,999,000	+103,499,000	−99,723,000
Appropriations	5,844,957,000	5,572,449,000	5,755,949,000	5,793,198,000	5,859,448,000	+14,491,000	+286,999,999	+103,499,000	+66,250,000
Portion applied to debt reduction	−127,248,000	−161,617,000	−161,617,000	−161,617,000	−161,617,000	−34,369,000			
Authority to borrow	744,511,000	276,617,000	276,617,000	442,590,000	276,617,000	−467,894,000			−165,973,000
Fiscal year 1981 supplemental	(140,600,000)					(−140,600,000)			
(Appropriation to liquidate contract authority)	(8,759,000,000)	(9,538,000,000)	(9,538,000,000)	(9,538,000,000)	(9,538,000,000)	(+779,000,000)			
(Limitation on direct loans)	(909,398,000)	(499,790,000)	(499,790,000)	(771,590,000)	(499,790,000)	(−409,608,000)			(−271,800,000)
(Limitation on loans, prior authority)	(20,000,000)					(−20,000,000)			
(Limitation on corporate funds to be expended)	(266,752,000)	(267,723,000)	(267,723,000	(267,723,000)	(267,723,000)	(+971,000)			
TITLE II—INDEPENDENT AGENCIES									
American Battle Monuments Commission									
Salaries and expenses	10,507,000	10,669,000	10,669,000	10,669,000	10,669,000	+162,000			
Consumer Product Safety Commission									
Salaries and expenses	32,163,680	33,508,000	33,508,000	33,508,000	33,508,000	+1,344,320			
Department of Defense—Civil									
Cemeterial expenses, Army: Salaries and expenses	4,555,000	6,689,000	6,689,000	6,682,000	6,682,000	+2,127,000	−7,000	−7,000	
Environmental Protection Agency									
Salaries and expenses	555,106,000	538,113,000	544,963,000	548,613,200	548,613,200	−6,492,800	+10,500,200	+3,650,200	
Research and development	154,315,000	108,704,000	121,204,000	115,000,000	119,000,000	−35,315,000	+10,296,000	−2,204,000	+4,000,000
Abatement, control and compliance	372,970,000	311,575,000	369,075,000	365,007,000	369,075,000	−3,895,000	+57,500,000		+4,068,000
Buildings and facilities	3,621,000	3,000,000	3,000,000	3,000,000	3,000,000	−621,000			
Payment to the hazardous substance response trust fund	26,600,000	44,000,000	44,000,000	38,000,000	40,000,000	+13,400,000	−4,000,000	−4,000,000	+2,000,000
Hazardous substance response trust fund	190,000,000	230,000,000	230,000,000	200,000,000	210,000,000	+20,000,000	−20,000,000	−20,000,000	+10,000,000
Construction grants:									
Appropriation	2,400,000,000	2,400,000,000	2,400,000,000	2,430,000,000	2,430,000,000	+30,000,000	+30,000,000	+30,000,000	
(Appropriation to liquidate contract authority)	(1,000,000,000)					(−1,000,000,000)			
Total, Environmental Protection Agency	3,702,612,000	3,635,392,000	3,712,242,000	3,699,620,200	3,719,688,200	+17,076,200	+84,296,200	+7,446,200	+20,068,000
Executive Office of the President									
Council on Environmental Quality and Office of Environmental Quality	936,000	926,000	926,000	926,000	926,000	−10,000			
Office of Science and Technology Policy	1,578,000	1,839,000	1,578,000	1,839,000	1,839,000	+261,000		+261,000	
Total, Executive Office of the President	2,514,000	2,765,000	2,504,000	2,765,000	2,765,000	+251,000		+261,000	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1982	Estimates, 1983	House, 1983	Senate, 1983	Conference, 1983	Enacted, 1982	Estimates, 1983	House bill	Senate bill
Federal Emergency Management Agency									
Funds appropriated to the President, disaster relief	301,694,000	325,000,000	324,000,000	130,000,000	130,000,000	−171,694,000	−195,000,000	−194,000,000	
Salaries and expenses	96,463,000	117,553,000	110,392,000	112,616,000	111,300,000	+14,837,000	−6,253,000	+908,000	−1,316,000
State and local assistance	119,745,000	219,731,000	139,776,000	157,291,000	154,591,000	+34,846,000	−65,140,000	+14,815,000	−2,700,000
Emergency planning and assistance	67,406,000	188,003,000	155,627,000	157,550,000	154,007,000	+86,601,000	−33,996,000	−1,620,000	−3,543,000
National flood insurance fund	328,240,000	41,572,000	39,159,000	39,159,000	39,159,000	−289,081,000	−2,413,000		
Portion applied to debt reduction	−328,240,000	−41,572,000	−39,159,000	−39,159,000	−39,159,000	+289,081,000	+2,413,000		
Total, Federal Emergency Management Agency	585,308,000	850,287,000	729,795,000	557,457,000	549,898,000	−35,410,000	−300,389,000	−179,897,000	−7,559,000
General Services Administration									
Consumer Information Center	1,290,000	1,299,000	1,299,000	1,351,000	1,351,000	+61,000	+52,000	+52,000,000	
Department of Health and Human Services									
Office of Consumer Affairs	1,848,000	1,987,000	1,947,000	1,947,000	1,947,000	+99,000	−40,000		
National Aeronautics and Space Administration									
Research and development	4,738,000,000	5,334,000,000	5,542,800,000	5,117,800,000	5,542,800,000	+804,800,000	+208,800,000		+425,000,000
Construction of facilities	98,700,000	100,000,000	95,000,000	100,000,000	97,500,000	−1,200,000	−2,500,000	+2,500,000	−2,500,000
Research and program management	1,183,300,000	1,178,900,000	1,168,900,000	1,177,000,000	1,168,900,000	−14,400,000	−10,000,000		−8,100,000
Total, National Aeronautics and Space Administration	6,020,000,000	6,612,900,000	6,806,700,000	6,394,800,000	6,809,200,000	+789,200,000	+196,300,000	+2,500,000	+414,400,000
National Consumer Cooperative Bank									
Self-help development	5,000,000					−5,000,000			
(Limitation on direct loans)	(14,000,000)					(−14,000,000)			
National Consumer Cooperative Bank Fund:									
(Limitation on direct loans)	(260,000,000)					(−260,000,000)			
Total, National Consumer Cooperative Bank	5,000,000					−5,000,000			
National Credit Union Administration									
Central liquidity facility:									
(Limitation on borrowing authority)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)				
(Limitation on direct loans)	(4,400,000,000)	(709,632,000)				(−4,400,000,000)	(−709,632,000)		
(Limitation on administrative expenses)	(1,641,000)	(1,749,000)	(1,368,000)	(1,368,000)	(1,368,000)	(−273,000)	(−381,000)		
Emergency lending authority	100,000,000					−100,000,000			
National Institute of Building Sciences									
Salaries and expenses	1,440,000					−1,440,000			
National Science Foundation									
Research and related activities	971,595,000	1,052,200,000	1,067,200,000	1,055,568,000	1,060,000,000	+88,405,000	+7,800,000	−7,200,000	+4,432,000
Science education activities	20,900,000	15,000,000	40,000,000	15,000,000	30,000,000	+9,100,000	+15,000,000	−10,000,000	+15,000,000
Scientific activities overseas (special foreign currency program)	3,080,000	2,200,000	2,200,000	2,200,000	2,200,000	−880,000			
Total, National Science Foundation	995,575,000	1,069,400,000	1,109,400,000	1,072,768,000	1,092,200,000	+96,625,000	+22,800,000	−17,200,000	+19,432,000
Neighborhood Reinvestment Corporation									
Payment to the Neighborhood Reinvestment Corporation	13,872,000	15,512,000	15,512,000	15,512,000	15,512,000	+1,640,000			
Selective Service System									
Salaries and expenses	19,721,000	23,386,000	22,386,000	22,986,000	22,700,000	+2,979,000	−686,000	+314,000	−286,000
Department of the Treasury									
Payments to State and local government fiscal assistance trust fund	4,566,700,000	4,566,700,000	4,566,700,000	4,566,700,000	4,566,700,000				
Office of Revenue Sharing, salaries and expenses	6,209,000	6,612,000	6,612,000	6,612,000	6,612,000	+403,000			
New York City loan guarantee program, administrative expenses	822,000	310,000	310,000	310,000	310,000	−512,000			
(Limitation on guaranteed loans)	(755,898,000)					(−755,898,000)			
Investment in National Consumer Cooperative Bank	47,000,000					−47,109,000			
Total, Department of the Treasury	4,620,731,000	4,573,622,000	4,573,622,000	4,573,622,000	4,573,622,000	−47,109,000			
Veterans' Administration									
Compensation and pensions	13,824,000,000	13,430,800,000	13,430,800,000	13,430,800,000	13,430,800,000	−393,200,000			
Readjustment benefits	1,919,100,000	1,665,800,000	1,665,800,000	1,665,800,000	1,665,800,000	−253,300,000			
Veterans insurance and indemnities	8,500,000	6,400,000	6,400,000	6,400,000	6,400,000	−2,100,000			
Medical care	7,101,028,000	7,495,879,000	7,512,661,000	7,493,824,000	7,510,606,000	+409,578,000	+14,727,000	−2,055,000	+16,782,000
Medical and prosthetic research	140,855,000	137,793,000	155,000,000	150,329,000	152,665,000	+11,810,000	+14,872,000	−2,335,000	+2,336,000
Medical administration and miscellaneous operating expenses	63,392,000	55,807,000	56,107,000	55,807,000	55,807,000	−7,585,000		−300,000	
General operating expenses	662,056,520	693,359,000	686,359,000	691,359,000	689,000,000	+26,943,480	−4,359,000	+2,641,000	−2,359,000
Construction, major projects	372,270,000	419,392,000	427,142,000	409,392,000	407,392,000	(+35,122,000	−12,000,000	−19,750,000	−2,000,000
(By transfer)			(260,000,000)					(−260,000,000)	
Construction, minor projects	102,010,000	192,113,000	141,748,000	141,748,000	141,748,000	+39,738,000	−50,365,000		
Grants for construction of State extended care facilities	15,840,000	18,000,000	18,000,000	18,000,000	18,000,000	+2,160,000			
Grant for construction of State veterans cemeteries		2,500,000	2,500,000	2,500,000	2,500,000	+2,500,000			
Grants to the Republic of the Philippines	500,000	500,000	500,000	500,000	500,000				
Direct loan revolving fund (limitation on direct loans)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)				
Total, Veterans, Administration	24,209,551,520	24,118,343,000	24,103,017,000	24,066,459,000	24,081,218,000	+128,333,520	−37,125,000	−21,799,000	+14,759,000

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	Enacted, 1982	Estimates, 1983	House, 1983	Senate, 1983	Conference, 1983	Enacted, 1982	Estimates, 1983	House bill	Senate bill
Total, title II, Independent Agencies:									
New budget (obligational) authority	40,326,688,200	40,955,759,000	41,129,290,000	40,460,146,200	40,920,960,200	+594,272,000	−34,798,800	−208,329,800	+460,814,000
Appropriations	40,554,928,200	40,997,331,000	41,168,449,000	40,499,305,200	40,960,119,200	+405,191,000	−37,211,800	−208,329,800	+460,814,000
Portion applied to debt reduction	−328,240,000	−41,572,000	−39,159,000	−39,159,000	−39,159,000	+289,081,000	+2,413,000		
(Appropriation to liquidate contract authority)	(1,000,000,000)					(−1,000,000,000)			
(Limitation on borrowing authority)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)				
(Limitation on direct loans)	(4,675,000,000)	(710,632,000)	(1,000,000)	(1,000,000)	(1,000,000)	(−4,674,000,000)	(−709,632,000)		
(Limitation on guaranteed loans)	(755,898,000)					(−755,898,000)			
(limitation on corporate funds to be expended)	(1,641,000)	(1,749,000)	(1,368,000)	(1,368,000)	(1,368,000)	(−273,000)	(−381,000)		
TITLE III—CORPORATIONS									
Federal Home Loan Bank Board:									
(Limitation on administrative expenses)	(22,720,000)	(24,360,000)	(24,360,000)	(24,360,000)	(24,360,000)	(+1,640,000)			
(Limitation on non-administrative expenses)	(37,840,000)	(40,680,000)	(40,680,000)	(40,680,000)	(40,680,000)	(+2,840,000)			
Federal Savings and Loan Insurance Corporation (limitation on administrative expenses)	(1,060,000)	(1,120,000)	(1,120,000)	(1,120,000)	(1,120,000)	(+60,000)			
Total, title III, corporations	(61,620,000)	(66,160,000)	(66,160,000)	(66,160,000)	(66,160,000)	(+4,540,000)			
RECAPITULATION									
Grand total:									
New budget (obligational) authority	46,788,908,200	46,643,208,000	47,000,239,000	46,534,317,200	46,895,408,200	+106,500,000	+252,200,200	−104,830,800	+361,091,000
Appropriations	46,399,885,200	46,569,780,000	46,924,398,000	46,292,503,200	46,819,567,200	+419,682,000	+249,787,200	−104,830,800	+527,064,000
Portion applied to debt reduction	−455,488,000	−203,189,000	−200,776,000	−200,776,000	−200,776,000	+254,712,000	+2,413,000		
Authority to borrow	844,511,000	276,617,000	276,617,000	442,590,000	276,617,000	−567,894,000			−165,973,000
Fiscal year 1981 supplemental	(140,600,000)					(−140,600,000)			
(Appropriations to liquidate contract authority)	(9,759,000,000)	(9,538,000,000)	(9,538,000,000)	(9,538,000,000)	(9,538,000,000)	(−221,000,000)			
(Limitation on borrowing authority)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)				
(Limitation on direct loans)	(5,584,398,000)	(1,210,422,000)	(500,790,000)	(772,590,000)	(500,790,000)	(−5,083,608,000)	(−709,632,000)		(−271,800,000)
(Limitation on guaranteed loans)	(109,230,898,000)	(73,400,000,000)	(108,475,000,000)	(108,275,000,000)	(108,275,000,000)	(−955,898,000)	(+34,875,000,000)	(−200,000,000)	
(Limitation on loans, prior authority)	(20,000,000)					(−20,000,000)			
(Limitation on corporate funds to be expended)	(330,013,000)	(335,632,000)	(335,251,000)	(335,251,000)	(335,251,000)	(+5,238,000)	(−381,000)		

Mr. SABO. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. Mr. Speaker, I yield to the distinguished gentleman from Minnesota, a very valuable member of this subcommittee, and a valued member of the conference committee.

Mr. SABO. Mr. Speaker, I thank the chairman for his kind remarks. Let me commend the chairman for his continual good work in bringing this very important bill to the House.

Mr. Speaker, if I might, I would like to get a clear statement for the record of the current situation concerning the funding for the VA replacement hospital at Minneapolis. As you know, the Minneapolis hospital is No. 1 in priority in the VA's construction program. We appropriated $15 million in planning funds for this hospital in 1981. The preliminary drawings are now completed and site preparation has begun. The administrator of the Minneapolis hospital and the architects believe they will be ready to let bids in early summer of 1983 and award contracts in September of 1983. Unfortunately, the bidding and contract processes cannot be started until an appropriation is in place. If we wait for the 1984 HUD bill, the weather in Minnesota will have become so cold before we can begin that we will lose a substantial portion of one construction season. This delay would result in an increased cost of $10 million to $15 million.

While the Senate was unwilling to accede to the House position and include the funding in this bill, they did understand our timing problem and made the following promise. Senator GARN has promised that he will include funding for this hospital in a continuing resolution or supplemental appropriations bill, whichever comes up first after the President has submitted his 1984 budget request, provided the President includes the hospital in his request.

Is that the gentleman's understanding of our agreement?

Mr. BOLAND. The gentleman is absolutely correct. And I want to compliment the gentleman for the work he has done for this particular hospital. I think the gentleman has outlined the history of it and particularly the history of the conference agreement precisely as it happened.

I want to indicate to the gentleman that this committee appreciates the interest he has shown in this hospital. It is one of the hospitals, perhaps one of the most important VA hospitals, ready for replacement at the present time. And providing the necessary historical background that the gentleman has done here will indicate that we will be getting started on this hospital within the 1983 framework.

Mr. SABO. I thank the chairman, and I thank the gentleman for his constant help and good counsel as we pursued the funding for this important hospital. So the people of Minnesota can be assured that if the President includes the Minneapolis hospital in his 1984 budget, we will fund the project next spring and they may go through the bidding and contracting process without delay.

I thank the chairman for all his good help.

Mr. BOLAND. The gentleman's statement is correct. This subcommittee agrees with the statement as given by the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I want to thank the chairman of the subcommittee for his interest and concern with the VA hospitals, a matter of longstanding interest in the State of Minnesota.

This hospital serves a five-State region, and well over 200,000 veterans have at one time or another used this hospital, with antiquated facilities, and we are long overdue for modernization, updating of this facility.

The work of the gentleman from Minnesota (Mr. SABO) is assuring the funding for this project is really vital to the veterans in our area.

Mr. BOLAND. The gentleman is correct. As I understand it, the jurisdiction of this hospital would include over 500,000 veterans in the State of Minnesota and adjacent territory.

I thank the gentleman from Minnesota for his interest and concern about the replacement medical center at Minneapolis. And I want to complement the gentleman for the work he has done for this replacement hospital.

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Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to rise in support of the conference agreement on H.R. 6956, making appropriations for the Department of Housing and Urban Development and independent agencies. I think we had a very good conference with the Senate yesterday as we were able to come away with very satisfactory agreements on most of the items of particular concern to the House.

The report we bring back to you today recommends $46,895,408,200 in new budget authority. This is $104.8 million below the House bill which was passed by an overwhelming vote of 343 to 38 in this body on September 15. This action continues to leave us well below our section 302(b) allocation with over $9 billion in new budget authority remaining available for any future action the Congress may wish to take with respect to subsidized housing.

Let me take just a moment to highlight for you some of the more important conference decisions. First, the conferees have agreed with the House to defer action on most of the subsidized housing accounts. It is our hope that a housing authorization bill can be acted upon by the Congress during the lameduck session, which would guide us as to spending for those accounts. On those housing account items not deferred, including the section 202 housing for the elderly and handicapped program and public housing operating subsidies, the Senate has agreed to the House numbers. A total of $4 million is made available for congregate services and $20 million for solar energy and energy conservation improvements. For both community development grants and UDAG, the conference agreement provides for the budget request.

With regard to the Environmental Protection Agency, the conferees agreed to the Senate's slightly higher figure for salaries and expenses. The conferees intend that the funds being made available for salaries and expenses be sufficient to preclude any reductions in positions during the coming fiscal year.

My colleagues will recall that when the HUD-independent agencies bill came before the House on September 15, we agreed to accept an amendment offered by the gentleman from Tennessee providing an additional $4.5 million above the committee's recommendation for EPA's abatement, control and compliance program. The conference agreement contains this higher figure. The conference agreement also contains $2.4 billion for EPA's wastewater treatment construction grants program plus an additional $30 million, which was authorized but not included in the House bill, for work to correct combined sewer overflow problems.

With respect to NASA, the conference agreement contains the House-passed level of $5.5 billion for research and development. Changes from the budget request include increases of $140 million for Centaur upper stage development; $20 million for the 20/30 gigahertz satellite; $30 million for planetary mission operations, data analysis and research analysis, including no less than $5 million for physics and astronomy; $5 million for technology transfer and $1.8 million for the infrared telescope facility at Mauna Kea, Hawaii.

Included in the bill is language reducing the amount available for obligation or expenditure on the Shuttle program to the extent that subsequent authorizations provide for a transfer of funds from the Department of Defense to reflect DOD's fair share costs of Shuttle use.

In the area of science education under the National Science Foundation which is of particular concern to me and I know is of concern to other Members of this body, the conference agreement would provide $30 million in fiscal year 1983. This is within the level contained in the House-passed NSF authorization bill and is $15 million more than was included in the Senate bill.

Finally, let say that the House conferees receded to Senate amendment No. 66, barring spending for the Hart and Dirksen Senate Office Buildings' physical fitness facilities, otherwise known as gyms. In this case, the House receded to the Senate in acknowledgement of the comity one body generally shows another in matters of internal housekeeping.

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I am happy to yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. Mr. Speaker, I just would like to take the time to congratulate my distinguished colleague from New York, as well as the very distinguished chairman of the subcommittee, the gentleman from Massachusetts (Mr. BOLAND) for a job well done in the conference, as well as a job well done on the bill.

I congratulate the staff, too.

It is certainly nice to have a bill coming before this body that can be signed by the President, that can be enacted into law. That is a welcome change from some of the situations we have had at other times with other bills.

I think we have done an excellent job and I congratulate the gentleman for bringing the bill before us in this manner.

Mr. GREEN. Mr. Speaker, I thank the gentleman from Pennsylvania. His words are particularly gracious and appreciated because he is the former ranking member of this subcommittee.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

I would like to ask a question about this matter of the proportion of the rent, the income that should be paid by the occupants of this housing, the elderly and the handicapped. What happened, was it not supposed to be delayed?

Mr. GREEN. Well, I thank the gentlewoman for that question. I think that it is an important matter for this House.

The gentlewoman refers to what is known as the Moynihan amendment that was adopted by the other body.

Mrs. FENWICK. That is right.

Mr. GREEN. In essence this amendment proposed to postpone for 90 days the effective date of the provision in last year's reconciliation bill, which provided for the increase in rent income ratios. Unfortunately, from the point of view of those of us who are interested in that amendment, it was attached to the housing subsidy provisions and amendments in the Senate bill.

As our distinguished subcommittee chairman explained in his earlier statement, during the course of the conference we were unwilling to accept the amendments that the Senate had introduced relating to subsidized housing because they did not provide additional funding for low-income family housing, with certain very limited exceptions. We on the House side were not prepared to accept so limited a housing package that ignored the needs of low-income families.

Unfortunately, as I said, the Moynihan amendment was adopted in the other body as part of those amendments relating to subsidized housing and when the House conferees stated their position, the conferees on behalf of the other body simply withdrew and receded on those amendments altogether, which in effect withdrew the Moynihan amendment as well. Since we had no similar provision in the House bill, there was nothing that the House conferees, even those of us who are very concerned about this increase in rent income ratios, could do.

Mrs. FENWICK. I understand. I thank the gentleman for his explanation.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding.

I would like to ask the distinguished chairman of the subcommittee, in his

discussion earlier the gentleman indicated that this conference report was below the bill that was passed in the House, but it was still his intention to maintain the $9.6 billion limitation on a supplemental housing bill and that if the gentleman were able to do that, he had some assurances that the bill would be signed.

Would the gentleman restate that for me; is that correct?

Mr. BOLAND. Mr. Speaker, if the gentleman will yield, as the gentleman said, we were within the section 302 allocation by $9.6 billion, all occasioned by the fact that we deferred action on assisted housing.

We deferred action, as the gentleman knows, pending possible authorization by the legislative committees, both on the House and the Senate side, and recommendations by the administration on what it wants to do with reference to the assisted housing program. But when we return in late November, we intend to push the legislative committees for a housing program. If they do not take action with reference to this area, then the Appropriations Committee would hope to provide some relief, as we have done before in this program. But we pledge to stay within the $9.6 billion figure that is now available to us for precisely that purpose.

Mr. FRENZEL. Yes, and if that is done, the gentleman believes that the administration will not oppose the bill, at least on fiscal grounds?

Mr. BOLAND. I am convinced of that, since we have been assured that the adminstration will not oppose it on that basis.

Mr. FRENZEL. I thank the gentleman.

Mr. Speaker, will the gentleman from New York continue to yield?

Mr. GREEN. I am happy to continue to yield, but may I first respond to the gentleman's last question?

Mr. FRENZEL. Yes.

Mr. GREEN. I would simply like to call to the gentleman's attention the colloquy which occurred on the floor of the House at the time this bill was first under consideration between the ranking minority member of the full Appropriations Committee, the gentleman from Massachusetts (Mr. CONTE) and the distinguished chairman of the subcommittee, in which it was established that if we would commit to stay within the $9.6 billion limit on the assisted housing items that we have not included in this bill, the administration would have no objection on fiscal grounds to the bill, and the subcommittee did at that time, in the person of its chairman, commit to that, so that that understanding is still in effect.

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Mr. FRENZEL. Mr. Speaker, will the gentleman yield further to me?

Mr. GREEN. I will be happy to yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Speaker, at the time the bill was passed, I say to both gentlemen, I was very fulsome in my congratulations to both of them for being willing to work out these differences and for making the budget process work, where in previous cases we had had great difficulty with it. I want to restate those congratulations to them.

Further, if I may, I would like to say a good word for my colleague from Minnesota (Mr. SABO) with respect to the discussion he just had with his chairman. The gentleman has worked long and hard on a very important regional matter, often alone. He has done a good and faithful service to his constituency.

Mr. GREEN. I thank the gentleman from Minnesota.

Mr. SABO. Mr. Speaker, will the gentleman yield to me?

Mr. GREEN. I yield to the gentleman from Minnesota.

Mr. SABO. I thank the gentleman for yielding.

Mr. Speaker, let me thank the gentleman from Minnesota for his kind comments. It is always good to work with him.

Mr. BOLAND. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I take this time only to thank the members of this subcommittee for the time and effort they put into fashioning a bill that is acceptable, so overwhelmingly, to the Members of the House, and that also presents the real possibility of being signed by the President. This bill is perhaps the first and maybe the only one of the appropriations bills that might be signed by the start of the new fiscal year, which is Friday.

I particularly want to thank the distinguished gentleman from New York, the ranking minority member. It is not always easy to schedule meetings and have members available for those meetings. I must say the gentleman from New York (Mr. GREEN) is always available. Few people put as much time and effort into this bill as he has done. I want him to know that as chairman of this subcommittee, I appreciate his efforts, I appreciate his knowledge, and I appreciate his cooperation.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply want to respond to the distinguished chairman of the subcommittee that it has been my privilege during this Congress to work with him and with the other members of the committee on these very important appropriations measures.

I am continually impressed by the gentleman's knowledge of the agencies involved, which in some respects are among the most complicated within the Government, and certainly have some of the most complicated financing packages of any of the agencies of our Government. The gentleman's knowledge of these agencies and knowledge of the House constantly amaze me. It has been a real privilege to work with him.

Mr. Speaker, I yield back the balance of my time.

● Mr. MONTGOMERY. Mr. Speaker, I strongly support the compromise agreement reached on the HUD-independent agencies appropriation for fiscal year 1983. I want to especially congratulate Chairman BOLAND and the gentleman from New York, Mr. GREEN, and other members of the committee for doing an outstanding job in reaching such quick agreement with the other body.

I am of course pleased with the agreement that has been reached relating to appropriations for programs administered by the Veterans' Administration. I made comments previously about several provisions of the House-passed bill relating to veterans benefits and services. I don't plan to comment further in that regard; however I would like to mention on item contained in the conference agreement that deserves comment from me as chairman of the Committee on Veterans' Affairs.

I notice the agreement contains $3 million for the design and site preparation for a Veterans' Administration outpatient clinic in downtown Los Angeles, Calif. This $3 million was contained in the bill as passed by the House. It was not in the Senate measure, and I am glad to note that the conference agreement does contain these funds. At the time our committee considered its authorization resolution for fiscal year 1983, the proposed new outpatient clinic was not an issue: therefore, the project was not considered by our committee. The House Public Works Committee informed the Committee on Veterans' Affairs that the General Services Administration was proposing a new 20-year lease that would require the existing outpatient clinic operation to be moved to another location at a cost of well over $130 million. The Public Works Committee felt it would be cost-effective for the VA to build a new clinic rather than to sign a long-term lease of this magnitude. Until the new facility is completed, the VA is attempting to negotiate a 3-year lease of the existing facility with an additional 2-year option.

If this is approved, it will allow enough time for the new facility to be completed. I concurred with that recommendation and so indicated my sup-

port to the Appropriations Subcommittee on HUD—Independent Agencies. Mr. Speaker, I want to put the agency on notice that it should proceed without delay on this project.

I expect the Committee on Veterans' Affairs to authorize full funding for this major construction project, estimated to cost $28,550,000. This will be done early next year when the committee considers its construction authorizations for fiscal year 1984.

Mr. Speaker, I wanted to take this time to clarify this issue and to say that I support the action of the Appropriations Committee in this unique case. I am sure all Members of the House from the State of California are pleased that the VA can not proceed to begin developing its plans for a new outpatient clinic in downtown Los Angeles to take the place of the existing facility. It will mean a lot to the veterans in the city of Los Angeles and it will save the Federal Government millions of dollars in future years.

I urge my colleagues to support the conference agreements.●

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 6: Page 3, line 23, after "$1,350,000,000" insert ": *Provided*, That the amount payable to each public housing agency shall be obligated at least forty-five days prior to the beginning of the public housing agency's fiscal year: *Provided further*, That payments made as a result of the amounts so obligated will begin during the first month of the public housing agency's fiscal year, and shall be made in a lump sum payment to public housing agencies receiving $15,000 or less, shall be made quarterly to public housing agencies receiving payments over $15,000 and less than $60,000, and shall be made monthly to public housing agencies receiving payments of $60,000 or over.

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Senate amendments in disagreement be designated by number, considered as read, and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided*, That the amount payable to each public housing agency shall be obligated at least forty-five days prior to the beginning of the public housing agency's fiscal year: *Provided further*, That payments made as a result of the amounts so obligated will begin during the first month of the public housing agency's fiscal year, and shall be made in a lump sum payment to public housing agencies receiving $15,000 or less, shall be made quarterly to public housing agencies receiving payments over $15,000 and less than $60,000, and shall be made monthly to public housing agencies receiving payments of $60,000 or more: *Provided further*, That funds heretofore provided under this heading in Public Law 97-101 shall remain available for obligation for the fiscal year ending September 30, 1983, and shall be used by the Secretary for fiscal year 1983 requirements in accordance with section 9(a), notwithstanding section 9(d) of the United States Housing Act of 1937, as amended".

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 13: Page 8, line 20, strike out "1981" and insert "1982".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 13, and concur therein.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 16: Page 11, line, 1, strike out all after "tion" down to and including "Appropriations" in line 4

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 16 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following: ": *Provided*, That none of the funds made available in this paragraph may be used prior to January 1, 1983 to plan, design, implement or administer any reorganization of the Department without the prior approval of the Committees on Appropriations".

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate Amendment No. 23: Page 14, line 10, after "4009" insert ": *Provided further*, That notwithstanding any other provision of law, Inverness, Mississippi shall be reimbursed for the costs incurred for the construction of a hydrological control release lagoon".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 23, and concur therein.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 26: Page 15, line 5, after "96-510" insert ": *Provided further*, That of the funds appropriated under this head, $8,000,000 shall be made available to the Department of Health and Human Services, upon enactment, and up to an additional $2,000,000 may be made available by the Administrator to the Department for the performance of specific activities in accordance with section 111(c)(4) of Public Law 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. Management of all funds made available to the Department shall be consistent with the responsibilities of the Trustee of the Fund, as outlined in section 223(b) of the Act".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 26 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided further*, That of the funds appropriated under this head, $8,000,000 shall be made available to the Department of Health and Human Services, upon enactment, and up to an additional $2,000,000 may be made available by the Administrator to the Department for the performance of specific activities in ac-

cordance with section 111(c)(4) of Public Law 96-510, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980: *Provided further,* That management of all funds made available to the Department shall be consistent with the responsibilities of the Trustee of the Fund, as outlined in section 223(b) of the Act: *Provided further,* That the administrative expenses contained in the first proviso are increased by $4,708,000".

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 27: Page 15, line 5, after "96-510" insert ": *Provided further,* That for purposes of carrying out section 3012 of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6933), as added by Public Law 96-482, $20,000,000, from the funds provided under this head, to remain available until September 30, 1984".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided further,* That for purposes of carrying out section 3012 of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6933), as added by Public Law 96-482, $10,000,000, from the funds provided under this head, to remain available until September 30, 1984".

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 30: Page 15, strike out lines 11 to 20, inclusive.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 30 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ADMINISTRATIVE PROVISION

With funds appropriated by this Act the Administrator shall cancel, deny, or take any other necessary action to cancel or deny, the registration of any pesticide product containing toxaphene: *Provided,* That none of the funds appropriated by this Act shall be used for the purpose of granting any registration of any pesticide product containing toxaphene, or for the purpose of approving any amendment to such a registration which would allow the use of such a product: *Provided further,* That this provision shall not apply to the use of toxaphene for the treatment of non-dairy cattle scabies by topical application on an individual basis, as approved by the Animal and Plant Health Inspection Service of the United States Department of Agriculture, until existing stocks are depleted or for a period of three years after enactment of this Act, whichever comes first: *Provided further,* That the foregoing provisos shall only take effect if the Environmental Protection Agency fails to promulgate a notice of intent to cancel or restrict registration of toxaphene within 60 days after enactment of this Act.

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 38: Page 18, line 20, strike out "$155,627,000" and insert "$157,550,000".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 38 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$154,007,000".

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 42: Page 20, line 5, strike out "$1,815,000,000" and insert "$1,369,000,000.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: $1,796,000,000: *Provided,* That the amount available for obligation or expenditure shall be reduced to the extent subsequent authorizations provide for transfers".

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 45 Page 20, line 14, after "*Provided,*" insert "That $280,000,000 shall be made available for aeronautical research and technology, that $174,000,000 shall be made available for design, development, procurement, and other related requirements of liquid hydrogen-liquid oxygen upper stages (Centaur F) for use in launching the Galileo and Solar Polar spacecraft in 1986: *Provided further,*.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: That $280,000,000 shall be made available for aeronautical research and technology, that $192,000,000 shall be made available for design, development, procurement, and other related requirements of liquid hydrogen-liquid oxygen upper states (Centaur): *Provided further,".*

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 51: Page 23, line 22, after "tionally" insert ": *Provided further,* That of the funds appropriated under this head, not more than $62,100,000 shall be available for all operational activities in the United States Antarctic Program: *Provided further,* That no appropriated funds contained herein shall be available for the Advanced Ocean Drilling Program without the approval of the Committees on Appropriations".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 51 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided further*, That of the funds appropriated in this Act or in funds appropriated previously to the Foundation, not less than $9,000,000 shall be available for the U.S. Antarctic Research Program and not more than $73,400,000 shall be available for the U.S. Antarctic Program operations and support: *Provided further*, That no funds appropriated in this Act or in funds previously appropriated to the Foundation shall be available for the advanced ocean drilling program without the approval of the Committees on Appropriations and not in excess of $12,000,000 shall be available for the deep sea drilling project without the approval of the Committees on Appropriations.".

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempo. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 52: Page 24, line 4, strike out "$40,000,000" and insert "$15,000,000".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 52 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$30,000,000, to remain available until September 30, 1984".

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 53 Page 25, line 2, after "$15,512,000" insert ": *Provided*, That notwithstanding any other provisions of this or any other Act, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board and the Federal Home Loan Banks, the Board of Governors of the Federal Reserve System and the Federal Reserve Banks, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration or any other department, agency or other instrumentality of the Federal Government may provide to the Neighborhood Reinvestment Corporation such funds, services, and facilities as they deem appropriate, with or without reimbursement, to achieve the objectives and to carry out the purposes of the Neighborhood Reinvestment Corporation Act".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided*, That notwithstanding any other provisions of this or any other Act, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board and the Federal Home Loan Banks, the Board of Governors of the Federal Reserve System and the Federal Reserve Banks, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration or any other department, agency or other instrumentality of the Federal Government may provide to the Neighborhood Reinvestment Corporation such funds, services, and facilities as they deem appropriate, with or without reimbursement, to achieve the objectives and to carry out the purposes of the Neighborhood Reinvestment Corporation Act, with the prior approval of the Committees on Appropriations."

Mr. BOLAND (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 61: Page 29, line 15, strike out "$687,142,000," and insert "$409,392,000".

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$407,392,000".

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 66: Page 43, after line 14, insert:

SEC. 416. (a)(1) Notwithstanding the directive of the Senate Office Building Commission of March 19, 1982, and notwithstanding any other provision of law, the Architect of the Capitol shall cease the obligation, commitment, or expenditure of any unallotted construction contingency funds (identified during the construction of the Hart Senate Office Building) for the purpose of completing the construction of the physical fitness facility in the Hart Senate Office Building.

(2) The Architect of the Capitol is authorized to obligate and expend from the construction contingency funds for the Hart Senate Office Building amounts which are prohibited to be obligated, committed, or expended by the first paragraph of this subsection for such other necessary expenses relating to the completion of the Hart Senate Office Building as the Architect of the Capitol deems necessary.

(b) No funds may be expended for the operation of the physical fitness facility in the Dirksen Senate Office Building after the date of enactment of this Act.

MOTION OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BOLAND moves that the House recede from its disagreement to the amendment of the Senate numbered 66, and concur therein.

The motion was agreed to.

A motion to reconsider was laid on the table.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

CONFERENCE REPORT ON S. 2586, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1983

Mr. BRINKLEY. Mr. Speaker, pursuant to the order of the House of September 28, 1982, I call up the conference report on the Senate bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 28, 1982.)

Mr. BRINKLEY (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. BRINKLEY) will be recognized for 30 minutes,

and the gentleman from Virginia (Mr. WHITEHURST) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on S. 2586, the fiscal year 1983 Military Construction Authorization Act, represents the diligent effort of a House-Senate conference that met on Wednesday, September 22, and resolved some 270 differences.

The final product is a compromise, that is essentially the House bill that was passed on August 11. The House conferees protected the House position and kept faith with their colleagues.

As agreed upon, the bill authorizes $7,030,726,000 for military construction and family housing programs for fiscal year 1983. This figure is $484,441,000 below the House passed bill and $589,205,000 above the Senate bill. It is $780,438,000 below the administration's original request of $7,811,164,000.

For the benefit of my colleagues I want to briefly explain how we arrived at the final authorization level. We were guided by two objectives: First, to protect as many of the House initiatives as possible, and second, to comply with the spirit of the first concurrent budget resolution.

I can report to the House that we have been successful in meeting these objectives:

First, we are authorizing everyone of the House initiatives except in one case where the project is not required at this time; and

Second, we are bringing a conference report to the House that we believe meets budget criteria.

To accomplish these objectives, it has been necessary to modify the standard practice of authorizing the project and then providing a corresponding authorization of appropriations. We are providing authorization for each project; however, to comply with budgetary constraints we have provided authorization of appropriations for the military construction projects at 91.5 percent of their estimated cost. We have further stipulated that the military services are to proceed with their regular military construction program as quickly as possible. Then, in June 1983, they are to submit reports to the respective Committees on Armed Services advising us of their ability to proceed with construction of the House adds by using savings, funds made available from cancellation of other projects or from prior year funds that maybe be available. From that point, no further action by the committee will be required for the services to proceed to place those projects under contract. High priority, however, to the extent of funds available, will be given to training, operational, and living facilities.

Let me explain the basis for this procedure:

First, because of overall budget constraints it was necessary to impose an 8.5 percent across-the-board cut in authorization of appropriations for military construction projects;

Second, because of the current bidding climate the services are experiencing nearly 15 percent savings on their construction projects. Therefore, if current market conditions continue, the services should be able to undertake most, if not all, of the authorized projects in fiscal year 1983;

Third, the services will have approximately two-thirds of their program under bid or contract by the end of July; therefore, they should be able to provide a realistic assessment to the committees in June of their expected savings for the year; and

Fourth, with these anticipated savings they will be able to program funds for the House initiatives, many of which will not be ready to go before the June timeframe, because of their current design status.

In all, we believe that we have developed a workable program that is on target with the budget, protects the House position and enables the services to meet their most pressing construction requirements.

Mr. Speaker, before I conclude, I want to mention several other initiatives that we developed in conference. I might add that all of them are designed to generate additional cost savings in military construction and family housing.

First, the conferees have directed the military services to adopt a standard barracks design. At present, all three services have different barracks designs. There is no reason why a single design cannot be adopted. If it is, there should be savings on design costs and on construction costs.

The second initiative involves the military services adopting housing construction standards and criteria that will permit all types of housing construction methods to compete fairly and evenly on military family housing projects in the United States. As a result of committee action last year, the Department of the Army has adopted such standards for a 200 unit housing project at Fort Irwin, Calif. As a result, both conventional, stick built, onsite housing methods are competing with factory built methods, including manufactured housing. Again, significant cost savings are anticipated.

The third cost-saving initiative that I want to mention involves the consolidation of related military family and personnel support activities. At present, the services build separate facilities for child care centers, family service centers, and religious centers. Considerable savings should be realized by combining these activities under one roof. This dual or multi-use approach to the design and construction of such facilities should be more cost effective than continuing to build separate buildings with different designs for each one.

With these points in mind, Mr. Speaker, I urge my colleagues to support the conference report. Because of time constraints, I will not go into any further detail on the conference agreement. The report was printed in the RECORD on September 28.

GENERAL LEAVE

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislation days within which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WHITEHURST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to join my good friend, the distinguished gentleman from Georgia, JACK BRINKLEY, in support of the conference report to accompany S. 2586, the Military Construction Authorization Act for fiscal year 1983.

This conference report represents a compromise which assures that construction requirements in support of the active forces, Guard and Reserve components, defense agencies, and military family housing will be adequately met for fiscal year 1983.

The conferees were faced with decisions involving many projects that represented valid service requirements of high priority. Although these projects warranted immediate authorization and funding, the conferees were constrained to produce a bill within the limits of the scope of the conference and within budgetary guidelines established by the first concurrent budget resolution.

I want to further emphasize that the total amount authorized in this bill is $826 million below the President's budget request. This conference report reflects our belief that reductions in the Federal budget, defense included, must be implemented to lessen the budget deficits facing our country.

Mr. Speaker, I urge my colleagues to vote for the conference report on S. 2586.

Mr. Speaker, I yield back the balance of my time.

Mr. BRINKLEY. Mr. Speaker, I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1409, BUFFALO BILL DAM, RECLAMATION REFORM, AND PAPAGO INDIAN WATER RIGHTS

Mr. UDALL. Mr. Speaker, I call up the conference report on the Senate bill (S. 1409), to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill dam and reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 22, 1982.)

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) will be recognized for 30 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report before us, S. 1409, contains three titles: Title I, which authorizes construction of dam modifications to the Buffalo Bill Dam in Wyoming; title II, which amends and reforms the Reclamation Act of 1902; and, title III, which is a settlement of the water rights claims of the Papago Indian Tribe of southern Arizona.

I want to commend the conferees from both the House and the Senate for the long hours, the diligent effort and the spirit of compromise that prevailed during the conference. I especially wish to congratulate Senator JAMES MCCLURE, chairman of the Senate Committee on Energy and Natural Resources, and Congressman KAZEN, the distinguished chairman of the Subcommittee on Water and Power Resources, for the dedicated leadership they have shown over the last several months.

Of the three titles, title II, the Reclamation Reform Act, is perhaps the most complex. For more than 6 years, I have been personally involved with legislative efforts to revise and reform the Reclamation Act of 1902. The original 1902 legislation was intended to provide a stable, regulated source of water to lands in the arid and semiarid West, in order to promote the orderly development of these frontier lands. That legislation permitted a farmer to receive water for 160 acres of owned land.

For many years, that 160-acre limit was adequate to provide an income for a family unit. But now that limit is outmoded, and for a long time Congress has recognized the need to reform the original act.

Everyone agreed that reform was necessary, but there was considerable disagreement over how to reform the reclamation law. Throughout countless hearings, committee meetings, and informal caucuses held this session, a consensus has slowly emerged.

The conference report before the House today contains a compromise that is, I believe, a sound, responsible approach to reform of the reclamation program. The legislation maintains the strong Federal support for the family farm that is the hallmark of the reclamation program. The report recognizes that farm methodology has changed over the last 80 years, and provides a new acreage limitation that more adequately defines a modern, efficient farm operation.

At the same time, the conference report introduces the concept of full-cost pricing. Full-cost pricing provides that those farm operations over the basic acreage limitation will have to pay more for water to those excess lands. They will have to pay a rate that recoups the interest on construction that was foregone in the past.

The main provisions of the conference report are as follows:

First, 960 ownership and subsidy limit for the family unit.

Lands owned in excess of 960 have to be put under recordable contract and sold.

Lands leased and farmed above 960 have to pay full cost: the interest rate for projects already built will be according to the House formula, which is a weighted average of the interest rates in effect when the project was built. There is a floor on this interest rate of 7½ percent. Projects that incur future construction costs will pay an interest rate of about 11⅝ percent, according to the formula contained in the Senate bill.

Corporations over 25 persons that are now receiving water can own 640 acres and receive subsidy for 320 acres. Those not yet receiving water can own 640 but pay full cost, with Senate interest rate on all water received.

Second, in order to take advantage of new acreage limits, and other benefits like equivalency and exemption on payout, a district must come in to amend his contract and accept the full cost pricing repayment obligations. A district has 4.5 years to amend; at the end of that time, no water will be delivered above 160 acres unless full cost, at the Senate rate, is charged. This provision eliminates the current practice of unlimited leasing at subsidized rates.

Third, O&M charges will be calculated every year and the rate paid for water delivery must at least cover those charges. This eliminates the current practice of reevaluating O&M every 5 years, which left a 4-year-old rate in effect in many cases.

Fourth, districts that come in to amend must develop a water conservation program and submit it to the Secretary.

Fifth, farmers that own land in excess of 960 acres will be required to enter into recordable contracts to sell that land at the end of a specified time period.

In several respects the conference report is much tougher than the bill approved by the House. The interest rates for full cost pricing are higher: The House bill originally had a 5-percent floor; now we have a 7½-percent floor. And project construction costs expended in the future will be subject to the Senate interest rate, which is 11⅝-percent today.

In addition, there is now a "hammer" provision that is intended to end the practice of unlimited leasing at subsidized rates. That provision tells the water districts that they have 4½ years to come in to amend their water contracts. If they fail to come in, at the end of that time period they will have to pay full cost, at the Senate interest rate, for all lands over 160 acres.

And finally, the ownership limits for large corporations is lowered from 960 to 940 acres.

Title III is the Southern Arizona Water Rights Settlement Act of 1982. This title is a legislative resolution of the water rights claims of the Papago Indian Tribe to water from basins underlying Tucson, Ariz.

The settlement ends a 7-year-long dispute over how much water the Papago Indian Tribe is entitled to. The settlement is the result of lengthy negotiations among local water users, the tribe, and State, and Federal officials.

Title III provides an annual supply of 76,000 AF of water to the tribe. The water comes from three sources within the Tucson basins: An allocation of CAP water, pumped groundwater, and reclaimed water from the city of Tucson. The settlement also provides a $15 million trust fund, which will generate income which may be used by the tribe to level lands for irrigation, pay operating costs, and otherwise develop their water resources.

In exchange for this guaranteed water supply, the tribe will dismiss the pending lawsuits that have clouded Tucson's future, and to execute a waiver and release of all other claims to water in the affected basins.

This settlement includes a $5.25 million contribution by local water users to a cooperative fund, which is intended to generate sufficient money to pay anticipated annual costs of water delivery.

The original settlement legislation, H.R. 5118, was passed overwhelmingly by the House and by unanimous consent in the Senate in the spring of this year. This bill was vetoed, however, by President Reagan, on June 2 on the grounds that the settlement was too costly and there were not adequate local contributions.

As a result of that veto, negotiations among local water users and the Federal Government were commenced in Tucson. The settlement contained in title III is the product of those negotiations.

The final settlement is endorsed by the State of Arizona, the city of Tucson, the major water users, the Papago Tribe and the Department of the Interior.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this conference report under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I am concerned that the paragraph on water conservation in the conference report may lend itself to misinterpretation. The Bureau of Reclamation has had an administrative policy in place since 1979 which requires water conservation plans as part of new or amended contracts.

In the House bill, we adopted a provision which would have made this administrative practice a requirement of law. The conferees have accepted the requirement that each district prepare a comprehensive water conservation plan. However, we dropped from the text of the bill the requirement that this conservation plan must be made a part of new or amended contracts.

I would like to address a question to the manager of the bill, the distinguished chairman of the Interior Committee. Does the chairman share my view that it is not our intention here today to disallow the Bureau's current practice of requiring water conservation plans in new or amended contracts?

Mr. UDALL. The gentleman has stated the intention correctly, as far as I am concerned.

Mr. MILLER of California. Mr. Speaker, I thank the chairman for this clarification, and I ask unanimous consent that the memorandum spelling out the Bureau's water conservation contracting program be entered into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Speaker, the memorandum is as follows:

BUREAU OF RECLAMATION,
Washington, D.C., July 17, 1978.

Memorandum to: Regional Director, PN, MP, UM, LM, UC, LC, SW.
From: Commissioner R. Keith Higginson.
Subject: Water Conservation Programs—Water Service and Repayment Contracts.

I appreciate your response to my memorandum of March 16, 1979, on the above subject. It has become increasingly critical to develop a form of "standard" contract article on water conservation in order to receive Secretarial approval of a proposed contract. Our efforts to develop this language and to identify the constituent parts of an adequate conservation program will undoubtably aid the Water Policy Implementation Task Forces currently reviewing these matters.

We have been directed to incorporate a provision into every water service and repayment contract requiring the contractor to develop and implement an effective water conservation program. This is a recent expansion of the previous requirement to develop such language only for M&I water service contracts. Until such time as the Water Policy Implementation Task Forces develop alternative language, the following standard language will be used in all water service and repayment contracts (including loan repayment contracts):

WATER CONSERVATION PROGRAM

a. While the contents and standards of a given water conservation program are primarily matters of State and local determination, there is a strong Federal interest in developing an effective water conservation program because of this contract. The contractor shall develop and implement an effective water conservation program for all uses of water which is provided from, or conveyed through, Federally constructed or Federally financed facilities. That water conservation program shall contain definite goals, appropriate water conservation measures, and time schedules for meeting the water conservation objectives.

b. A water conservation program, acceptable to the Contracting Officer, shall be in existence prior to one or all of the following: (1) service of Federally stored/conveyed water; (2) transfer of operation and maintenance of the project facilities to the contractor; or (3) transfer of the project to an operation and maintenance status. The distribution and use of Federally stored/conveyed water and/or the operation of project facilities transferred to the Contractor shall be consistent with the adopted water conservation program. Following execution of this contract, and at subsequent 5-year intervals, the Contractor shall resubmit the water conservation plan to the Contracting Officer for review and approval. After review of the results of the previous 5 years and after consultation with the Contractor, the Contracting Officer may require modifications in the water conservation program to better achieve program goals."

We believe that the above language will cover most situations. If a specific situation requires modification of the above language, please advise us of such when submitting a basis of negotiation on the proposed contract or when the contract is to be submitted to the Secretary for approval.

At this time, we will not attempt to set forth specific guidelines or goals for water conservation programs. In all likelihood, the program adopted will be highly dependent on the particular contractor, type of water use, full or supplemental service, etc. Therefore, it will be your responsibility to review and approve each specific program. The following is a brief synopsis of suggestions received from the regions on the contents of water conservation programs and those policies which would promote water conservation. Some, of course, are more applicable to municipal and industrial water use while others would better fit agricultural water use.

1. Only contract for that quantity of water which can be beneficially used.

2. Require metering devices and accurate measurement of water used.

3. Require recapture or recycling of water.

4. Require an acceptable rationing plan be available in the event of a water shortage.

5. Provide for a system of incentives and penalties to ensure contractor adherence to water conservation goals. This can be in monetary rewards, penalties of take the form of restricted deliveries.

6. Require the contractor to undertake an education program to acquaint its water user with water conservation practices.

7. Require the contractor to institute a graduated pricing system.

8. Limitations on the provision of project power for pumping water.

9. Allowing contractors to market unused water, if allowable under State law.

10. Require M&I contractors to modernize and improve the efficiency of their customer distribution systems.

11. Require implementation of more efficient onfarm irrigation techniques and distribution systems.

It would appear that the most effective measures would consist of a system of economic rewards and penalties. Balanced against this is our requirement to achieve full repayment of project costs within the water users' ability-to-pay. It is possible that some consideration will be given to altering our current repayment policies to provide incentives to contractors to conserve water. Further, Reclamation law and policy could be revised to finance or share in the costs of water conservation facilities and programs. For example, legislation could be introduced to amend the Rehabilitation and Betterment Act of 1949 to specifically authorize loans for such facilities and programs.

At this time, we will not attempt to address specific policies which would provide such economic incentives. These issues will be investigated by the Water Policy Implementation Task Forces. However, and in view of the 5-year review provision, we will only require a minimally acceptable water conservation program with simple implementation measures and goals.

If you have any other suggestions in this area, please submit them to us.

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Mr. CLAUSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. PASHAYAN).

Mr. PASHAYAN. Mr. Speaker, section 212 of House Report 97-855 provides, with some specific exceptions, for an exemption from reclamation law for flood control projects constructed, operated, and maintained by the Army Corps of Engineers.

Both the House and Senate reclamation bills contained virtually identical language clarifying the congressional intent that those projects constructed and maintained by the U.S. Army Corps of Engineers for flood control purposes are and shall be exempt from the application of reclamation law unless: First, the Congress, by explicit statutory language, designates the project as a reclamation project, or integrates or makes that flood control project part of a reclamation project; and second, in addition to the project works constructed by the corps, the Secretary of the Interior pursuant to the Federal reclamation law has also provided project works for control or conveyance of an agricultural water supply to the lands in question.

Because of the agreement of both the House and Senate on this provision, the corps exemption was not a part of the conference negotiations and was therefore only briefly mentioned in the conference report. Both the House and Senate committee reports amply state the grounds for the exemption and the degree of certainty intended by both bodies.

I should like, at this time, further to clarify for the record the key aspects of this exemption, that is has special application to the four corps projects constructed on the Kings, Kern, Kaweah, and Tule Rivers in California.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. PASHAYAN. I yield to the gentleman from Arizona.

Mr. UDALL. I agree with the gentleman's statement.

Mr. PASHAYAN. I thank the gentleman.

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

May I say on behalf of the minority, we also concur with the gentleman from California's (Mr. PASHAYAN) statement.

Mr. Speaker, the conference report on S. 1409 contains three titles. The first of these deals with modifications to the existing Buffalo Bill Dam in the State of Wyoming and involved a substantial financial contribution by the non-Federal beneficiaries. The text of this title is substantially identical to that passed by both bodies and was not the subject of the conferees during our meetings over the past 2 weeks.

Another matter in the conference report, contained in title III, concerned a settlement of the Papago Indian water rights claims and the pending litigation surrounding those claims. The text of that title was the result of extensive negotiations between the Indian interests, the Secretary of Interior, local Arizona governmental entities, and private commercial interests. I understand that all parties are agreed to this compromise and, in particular, it has the approval of both Secretary Watt and Chairman UDALL.

The focus of greatest attention by our conferees was the Reclamation Reform Act of 1982 in title II. There is no question of the historical significance of this legislation, the first major revision of reclamation law in almost half a century and the only comprehensive reform of ownership and pricing provisions since the original Reclamation Act of 1902.

This conference and the resulting reform legislation is a fine example of real compromise between the numerous and diverse, competing interests. When one considers how far we have come just during this Congress, let alone over the past 6 years, this accommodation is a truly remarkable achievement and a credit to all who have been involved in the process. We have achieved that which is almost impossible and I am personally proud to have been a part of this fine effort.

Mr. Speaker, I believe it is particularly appropriate to recognize the individual contribution and leadership of our Water and Power Subcommittee chairman, the Honorable ABRAHAM KAZEN of Texas. As the ranking Republican member of the subcommittee and formerly as the ranking minority member of the full Interior Committee, I have been involved over the years in the effort to modernize reclamation law. I have worked closely with Chairman KAZEN and can certify that he has made an outstanding contribution. In fact, were it not for the leadership roles of Chairman KAZEN, Chairman UDALL, and the ranking Republican member of the full committee, the gentleman from New Mexico, the Honorable MANUEL LUJAN, who earlier authored his own bill, coupled with the extraordinary cooperation and constructive work of my three California colleagues with whom we worked in the committee and in the conference, we would not be at this stage of final consideration today. It was, indeed, an unusually cohesive coalition that crafted and negotiated this very important reclamation reform package.

Mr. Speaker, the Reclamation Reform Act of 1982 is as close to a bipartisan consensus product as is possible and is the culmination of almost 6 years of effort. It comes after numerous hearings by both bodies here and in the impact western reclamation States. The feelings among those directly involved in the reclamation program were almost unanimous that the law has long required revision.

Mr. Speaker, my principal concern and objective in reclamation reform has been to preserve the family farm unit. Obviously, the ownership acreage limitation set in 1902 is inadequate for the economic, farm circumstances of 1982 and beyond. The hope of the conferees is that the upward revision of the ownership limitation, as well as the change in concept for ownership eligibility to the family farm unit, will enhance the economic viability and productivity of the modern family farm. Upward revision of both the ownership and pricing or subsidy limitations was clearly required to increase farming efficiency and to justify the substantial capital investment for equipment required for anyone who wants to remain competitive as a farmer or to become a farmer for the first time. To the extent it was available, evidence suggested that 960 acres was sufficiently large to include the vast majority of family farm operations. Under this reform the family farm unit will still be eligible to receive subsidized water for up to 960 acres. However, those larger farming operations which do not qualify as family farms will qualify for subsidized water on substantially fewer acres and will pay full cost above that. Moreover, even those qualified family farms will be required to pay full cost for water above 960 acres. These pricing limitations may very well result in a net gain to the Treasury.

The prevalent and longstanding practice of leasing, so important to farmers just getting started, was not expressly addressed in existing reclamation law. This reform act effectively ratifies that practice while at the same time placing limitations on, among other things, its cost and extent. This act has the important beneficial effect of settling this past uncertainty in the law.

Other important concerns have also been resolved by this act. Any requirement of residency on the lands irrigated is repealed in recognition of today's practicalities. The record is set straight, once and for all, that Corps of Engineer projects not specifically designated otherwise by Congress are not covered by the acreage limitations or other provisions of Federal reclamation law. In my view, this provision rectifies a situation never intended by the Congress to begin with.

Mr. Speaker, the reclamation program is critical to the 17 Western States and to the agricultural economy of the Nation as a whole. The Reclamation Reform Act of 1982 is probably the most significant reform ever effected of this vital program. It is clearly in the national interest. I urge my colleagues to adopt the conference report.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I rise in support of the conference report on S. 1409, the Reclamation Reform Act of 1982. As one of the Members of this House who has been deeply involved in every stage in the crafting of this historic legislation,

and as one who has been the strongest critic of the reclamation program for many years in the House, I regard this bill as a comprehensive, workable, and essential piece of legislation.

Members of the Congress know that, over the course of many years, I have vigorously condemned the lax administration of the reclamation law. In particular, I have criticized the outdated and wasteful subsidies which have lavished on a small number of large and powerful agricultural interests the benefits which taxpayers, and the Congress, intended for small family farmers.

As the primary author of the water pricing reforms contained in this legislation, I want Members of this House to know that we have closed the door on the unwarranted subsidies by ending the practice of signing 40 year, fixed price contracts for all irrigators, and by mandating that larger farms in excess of 960 acres (or 320 acres for limited recipients) must pay full price, including interest, for the water they receive from the Government.

Mr. Speaker, let me say that an aura of cynicism has grown around this reclamation program in recent years. The multifold abuses, the lax enforcement, the sweetheart contracts, the protracted litigation which have characterized this program for so many years have led some to doubt that this new law will be vigorously enforced. Let this Congress be as clear as the statute itself. We are sending a message to the Secretary of the Interior, to the participants in this program, and to the American taxpayers. We demand that this law be enforced, and we will be watching to see that it is.

I have been very pleased by the spirit of unanimity which has surrounded development of this legislation in the 97th Congress. In the House committee and in the joint conference committee with the Senate, our intent has been crystal clear, as has been the goal of this legislation. We intend that this law be implemented and enforced with the same spirit of reform with which we have written it.

Before I discuss the specific provisions of this bill, I want to note that in the days since the completion of the conference committee's work, a few irrigators have initiated efforts to revise the final bill. Failing to convince the conferees to tamper with this sound product, those people are now raising threats of lawsuits to challenge this legislation, which they have monitored and commented upon for months, and which they endorsed at the conclusion of the conference. There have also been intimations that they will seek special legislation to exempt themselves from some of this bill's cost saving reforms.

Let us be very clear. These people are not being treated unfairly at all in this legislation. Everyone in the reclamation program is being treated equally and fairly, and so is the taxpayer who pays for this program. These farmers do not seek to exempt themselves from the law or to weaken the law because the law is unsound, but simply because they would prefer not to fall under its provisions. Even before the President's signature is placed on this long overdue measure, these farmers are again raising the spectre of lawsuits, injunctions and special interest riders which have plagued this program for decades, and which have necessitated enactment of S. 1409.

We have no ability to prevent people from going to court, and I suppose it is understandable that these irrigators, who have long enjoyed millions of dollars in unjustified subsidies at the expense of the American taxpayer and farmers in other areas of the Nation, would seek to retain their special benefits. But neither the Congress, nor the Secretary, nor any courts should be confused or misled by these tactics.

We mean this law to be enforced, and we are tired to the machinations of those who have used vagueries in the law and the legal system to pervert the reclamation program.

Let no Member of this body support this legislation and then turn around and seek special relief for his or her constituents. If you support sound reform of the reclamation program, if you support reduction in unsound subsidies for reclamation farms and elimination of subsidies for large operations, and if you favor putting behind us the years of accusations, controversy and abuse, then vote for this conference report. If you believe this legislation is unfair or unsound, please vote against this conference report. But let the Congress speak decisively on this matter, and let those charged with administering the law, and the courts, know that we want the policies in this new law enforced and enforced vigorously.

Let me briefly note some of this bill's chief provisions. We raise the acreage ownership ceiling to 960 acres for individuals, 640 for other corporate entities. Current law limits ownerships to 160 acres, or 320 acres for a married couple. This 960 acres is within the limits recommended by economists who testified before our committee as reasonable for a farm operation in the West. It imposes no unreasonable burden on farmers, since 97 percent of farms currently are at this ceiling, although the remaining 3 percent control some 30 percent of the lands in the reclamation program.

For water under this ownership cap, farmers will have to pay full operation and maintenance costs. We mandate that the Bureau of Reclamation, which currently recalculates those costs annually, revise the price every year so that the fixed price, 40-year subsidy in these contracts is eliminated. There is absolutely no justification to shield even these smaller farmers from the realities of inflation, growing energy costs or higher operation expenses as we have for far too long. In some situations, farmers are paying less than half of the true cost of their water, and could continue to enjoy that unreasonable subsidy for decades to come if we failed to enact this new legislation.

The current law has never been clear on the issue of leasing in addition to the acreage limitation. Clearly, if a farm operation is several thousand acres, whether by ownership or lease, the goal of small farming is frustrated. We clarify in this new law that leasing will be permitted in excess of the ownership cap, but only if the farm operator pays the full cost for all water used on those excess acres.

We are not going to impose a compulsory land redistribution program on western farmers. But neither are we going to shower on large, profitable farming operations the benefits intended for small, family farmers.

The full price would include not only operation and maintenance deficits funded, but also all remaining construction costs plus, for the first time, interest on these construction charges. Under the formula in the bill, the minimum rate for past construction will be 7½ percent, and future interest will be calculated at a rate designed to capture interest costs to Government at the time money is spent.

According to several studies by the General Accounting Office which I requested in recent years, subsidies on some of these projects have exceeded 90 percent. The availability of this excessively cheap water has had several disasterous consequences. Cheap water has encouraged wasteful irrigation practices; it has induced farmers to bring unsuitable lands into irrigation, and to grow inappropriate crops on those lands; it has discouraged introduction of water conservation technology; and it has stimulated the construction of unnecessary and costly projects which could not hope to meet any serious benefit cost test.

This bill ends those wasteful and archaic practices. It is time for the large irrigators of the West to join the economic realities of the 20th century. Simply stated, the day of the dole is over.

Another understandable concern has been raised about this bill. While most individuals knowledgeable about the water issue agree that the pricing reforms are equitable, some question how broadly they will be applied. This is a crucial question, because the last thing we want to do is to create a sound pricing program that applies to no one, or merely to those who cannot

afford expensive lawyers who can wiggle their way loose of this legislation.

There is no wiggle room in this legislation. Frankly, there have been some exemptions granted with which I fundamentally disagree. To my mind, there is no rationale for exempting the Corps of Engineers projects in California, which have repeatedly been found to be subject to the law by court after court. I have concerns about the religious and charitable exemptions, which has some potential for abuse. But these decisions have been clearly made by the Congress.

There are also some situations, regarding trusts, lands held in fiduciary capacity, irregular tracts, as well as religious and charitably held lands, which are in part or wholly exempted from the ownership ceiling. However, none of these lands are exempted from the pricing requirements of this law, either for lands under 960 acres, or the full cost repayment mandate.

In all other situations, we are mandating that any owner who seeks to have his current contracts conformed to the enhanced benefits of this legislation, or who receives any benefits beyond those enjoyed on the date this legislation is enacted, will fall under all the terms of this law. We allow individuals who find themselves trapped in districts which refuse to revise their contracts to apply to the Secretary individually to come under the terms of this new law. Of course, each and every new contract signed after the date of enactment must fully comply with this law, and I hope that every Member of this body will view with hostility those who subsequently come to Congress seeking special treatment and privileged exemptions from this reform legislation.

There may be some who simply refuse to come into compliance with this legislation, who decline our offer of enhanced benefits in return for reforms which will benefit the taxpayers of the United States. If an owner insists on staying outside the terms I have outlined, we have gone beyond the "carrot and stick" approach; we have included a "hammer," because 4½ years from now, that farmer will have to pay full price for all water in excess of the 160-acre limit imposed by current law. His current water contract permits water delivery only to lands judged eligible to receive those waters under the law. Both current law, and this new legislation, limit that benefit to 160 acres unless all terms of S. 1409 are met.

We should also be very clear that no benefits beyond those enjoyed at the time of enactment are to be accorded an operator without full compliance with this law. There may be some owners who believe other law entitles them to benefits which are to be realized at some time in the future. Without affecting those other statutes, the Congress is clearly stating that receipt of any of those benefits not heretofore enjoyed will require compliance with S. 1409.

Lands in excess of the ownership limitation may receive water only if they are placed under a recordable contract, by which the owner agrees to sell them at a price approved by the Secretary which is intended to prevent private speculation based on public improvements to that land. This law reduces the future term of a recordable contract to 5 years from the current 10-year term in all cases except the central Arizona project, which has some special considerations attached to it because of State laws which will affect the operations of that project.

Some lands dispositions under current recordable contracts have been delayed by moratoriums on sales imposed by the Secretary. We have decided to make those owners whole by assuring them that they will have the full 10 years to dispose of their excess land. The period of the moratorium will not count against that 10-year period, but their sale time will be extended only by the amount of time remaining on their contract at the date the moratorium was imposed.

However, we have designed a different plan regarding the delivery of subsidized water to lands under recordable contracts. While an owner was prevented from selling his lands during a moratorium, and thereby suffered a loss of benefits, subsidized water continued to be delivered to those lands throughout the suspension of sales. Therefore, the landowner suffered no loss of subsidy benefits during that moratorium.

The provisions approved by the conferees limit the subsidy to lands under recordable contract to 10 years, regardless of the extension of that contract in order to permit the landowner his full 10 years to dispose of excess lands. An added proviso assures landowners water at the subsidized rate for excess lands for at least 18 months beyond the original 10-year contract period after the lifting of the moratorium. This proviso is intended to prevent the dumping of a huge amount of land onto the market immediately after enactment which would have the effect of depressing the market artificially or, on the other hand, suddenly imposing the full cost on owners who had no way to anticipate the provisions of the new law or the added conditions of receipt of Federal water in an extended contract period.

As the coauthor of this section, let me provide some examples of how this section would work. If a landowner signed a recordable contract in 1975, and a moratorium was imposed from 1977 to 1982, that landowner would lose his right to subsidized water for his excess lands in 1985, as originally anticipated, even though under the terms of this legislation his contract period would be expanded to 1990, thus providing him 10 full years to dispose of the land. He would not benefit from the 18-month proviso, since he would have more than 18 months of subsidized water remaining when the moratorium was lifted.

If a landowner signed a recordable contract in 1970, and a moratorium delayed sales from 1977 to 1980, that landowner would have his contract extended until 1983 under this legislation, to afford him his 10 years to sell, but his subsidized water rights would have expired because he has had his subsidies for 10 years, as well as 18 months beyond expiration of the moratorium on sales.

If a landowner is still burdened by a moratorium on sales today, however, and less than 18 months of those benefits remain when the moratorium is lifted, he would be eligible for the extension under the proviso.

I also want to clarify another provision of this legislation which I helped to draft. Because of special circumstances surrounding water use in the State of Arizona, the conferees agreed to allow excess landowners in the central Arizona project (CAP) to be accorded 10 years of water subsidies rather than the 5 years otherwise allowed for future recordable contracts. The House, and irrigators in the CAP itself, should be very clear that this 10 years period extends from the date water is made available to a landowner, whether that landowner accepts the water or not, and not from the date a recordable contract is signed.

The reason for this stipulation is that we do not want CAP irrigators mining ground water for years, and then at some point in the future coming to the Secretary and demanding subsidized water for 10 years after having ruined their aquifers. When the water is available to those irrigators, in the opinion of the Secretary, the clock starts running on their right to water at less than full price.

This new law also permits landowners to sue the United States by waiving sovereign immunity. In the past, some landowners have attempted to argue that vague promises of dubious legality, written by unauthorized officials somehow committed the United States to confer massive benefits on these individuals. Early in the deliberations on this legislation, some interests sought to confirm those representations in law and insist that the courts abide by them. The conferees have firmly rejected this proposal, and have instead accorded any party the right to take their case to court, using all existing rules of evidence. Similarly, the conferees agreed that only a very limited number of contract provisions concerning application of acreage limita-

tions after payout would be validated by this legislation.

Mr. Speaker, this is a good bill, but it is not a noncontroversial bill. There are many throughout this country who will mourn the loss of the old 160-acre limit and other relics of the 1902 law, and that is understandable. But circumstances change, and they have certainly changed in the case of the reclamation program.

As the Federal Reserve Board of San Francisco concluded in a research report issued last month:

> The social objective of developing the arid West may no longer be an appropriate reason for subsidizing water prices . . . Congress should logically give more attention to the role of the price mechanism in reducing the projected growth of demand for irrigation water.

These conclusions parallel those of the U.S. General Accounting Office in its report, "Federal Charges for Irrigation Projects Reviewed Do Not Cover Costs" (March 13, 1981). GAO noted the enormous subsidies provided several Western water projects and noted:

> The original rationale for building the Federal projects and increasing the subsidy was based on early 20th century goals for the settlement of the West and for regional development. Those goals have been reached and the projects should now be re-evaluated in the light of current economic and social conditions.

Mr. Speaker, we have taken these words to heart, and we have reconstructed the reclamation program on a more socially and fiscally sound basis. We have not abandoned the effort to support and encourage the small farmer, but rather have added to that 80-year-old goal the mandate that water be priced fairly, used appropriately, and paid for by those who enjoy the benefits of these taxpayer constructed projects.

The goals of water conservation, and the elimination of unjust subsidies, are as sound pieces of public policy in the latter years of the 20th century as were the goals of 160-acre farming and water subsidization at the beginning of the 20th century.

But good as this bill is, Mr. Speaker, realization of its historic reforms will depend on rigorous enforcement and clarity in interpretation. I would hope that the representations which have been made by landowners during the development of this legislation will be honored, and that they will abide by this law instead of litigating and attempting to delay its enforcement. I would hope that the Secretary will expeditiously issue regulations on both this new law and the 1902 law so that there is no question in anyone's mind that we intend to abide by the rules of this program.

I intend to watch that process carefully, and to monitor the issuance of regulations, the revisions of contracts, and the setting of water prices to assure that the firmness and clarity with which the Congress has spoken is responsibly and rigorously enforced.

The clarity of this final piece of legislation is the result of the unanimity of the conference committee that wrote it. This is a product of compromise it is true, but in the end, there was no dissent from the program embodied in S. 1409.

Lord Macauley once said that we would never experience a true test of our political institutions until our public domain was exhausted and an enlarged population competed for the ownership of a limited amount of resources. I believe that we in Congress have met that test with respect to the Reclamation Act amendments. We have taken a program riddled with abuse, inequity, waste, and confusion, and set out a mandate which will serve the best interests of the farmer, the consumer, the taxpayers, and the natural resources of this Nation.

I urge my colleagues to join in supporting this historic piece of legislation by voting in favor of this conference report.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise in opposition to the conference report to S. 1409. Specifically, I object to the provisions amending and supplementing Federal reclamation law. When the House originally considered this legislation, a number of Members including myself expressed our concerns on the thrust of this legislation, especially as it pertains to acreage limitations and the ability of corporations to take part in the benefits of reclamation law. The conference report before us today does not diminish those concerns. Indeed, on the one provision regarding corporations, where the House expressed its position by recorded vote, the conferees adopted weaker language.

We are facing a crisis in our farm economy. Members have been faced with tough votes in establishing an equitable farm program. The legislation before us defeats those efforts. This legislation goes far beyond the base needed in the reclamation program to promote an efficient family farm operation. The lack of any sort of residency requirement, the high acreage limits, and the continued subsidies to certain corporations that this legislation offers signals to the vast majority of American farmers that Congress is ready to provide special benefits to a privileged few. The passage of this legislation will only serve to compound the American farmers' problems. With this legislation the Federal Government will be subsidizing vastly larger farm operations with no rhyme or reason in relation to the problems of depressed farm prices, continued price supports, and land set-aside programs.

Mr. Speaker, the real issue of this legislation is not the West versus other regions, but a question of equity within the entire farm economy. There is no question that the reclamation program needs reform, but if this is the vehicle by which we achieve reform, then the legislation before us has fallen far short of its task. This legislation continues to be fraught with the potential for misuse and misrepresentation in the reclamation program.

I urge the defeat of the conference report.

● Mr. KAZEN. Mr. Speaker, I rise in support of the conference report on S. 1409 and particularly wish to discuss title II.

Title II of S. 1409 represents the conclusion of more than 4 years of work in both Houses to modernize the Federal reclamation laws.

Mr. Speaker, title II of S. 1409, as amended by the House, incorporated the language of H.R. 5539, a bill which had been approved by the House on May 6 of this year. The Senate amendment to title II was substantially different from the House amendment.

The amendment which was approved by the House accommodated the economics of modern farming by increasing the basic acreage limitation of the 1902 Reclamation Act which placed a limit of 160 acres, or 320 acres for a husband and wife, on the quantity of irrigable land in a single ownership to which Federal reclamation water could be supplied. The House amendment also required a higher payment from the irrigators for the water they receive than that which they now make. They also would have been, under the House amendment, required to amend their contracts with the Government to assure that they would return to the United States all of the operation and maintenance costs of the project from which they receive irrigation water.

In a nutshell, Mr. Speaker, the House amendment increased the acreage limitation of the reclamation law to 960 acres for a family unit, but at a higher cost to the irrigators.

In my judgment, the Senate amendment treated the irrigators in a more liberal fashion than did the House amendment.

I am happy to report to the House, Mr. Speaker, that the conference report adopts most of the positions of the House amendment on the major issues before the conference committee.

The 960 acreage limitation of the House amendment was approved, as contrasted with a 1,280-acre limitation in the Senate amendment.

The two amendments had different formulas for computing the payment of full cost by the irrigators for water delivered to lands in excess of 960

acres. A compromise was reached which applies to the House formula to project construction money expended before the date of enactment, but with an interest rate floor of 7½ percent as opposed to the 5-percent floor in the House amendment. The full cost provision of the Senate bill, which in most cases would result in the application of a higher interest rate, would be applied to construction expenditures made after the date of enactment.

As the members who have interested themselves in this issue know, the basic acreage limitation of the 1902 law is 160 acres. Contrary to popular belief, however, that has not operated as a restriction upon the size of a farming operation eligible to receive water from a Federal reclamation project at what has been generally considered to be a subsidized rate. As a matter of fact, the Department of the Interior has administered the law to permit the delivery of water to leased lands in a farming operation which are in excess of the ownership limitation of 160 acres.

Congress has never addressed the question of leased lands. However, the conference report does do so. It provides that an irrigation district which now has a contract with the Secretary for the delivery of water may continue to receive that water pursuant to its present contract. However, after 4½ years from the date of enactment, the Secretary is prohibited from delivering or permitting the delivery of water to lands in such a district unless full cost is paid for all of the water delivered to any one farming operation in excess of the 160-acre ownership limitation—in other words, water delivered to leased lands will be delivered only at full cost and the operators of those lands will no longer enjoy the subsidy.

Mr. Speaker, the irrigators in a district are given a reasonable time to complete all of the processes required to amend their contracts to receive the benefits of the new law and to comply with the new pricing and other provisions of the new law. They have a choice. They may agree to the required amendments, or they can continue to operate under their present contracts, but not as they have in the past.

New contracts entered into subsequent to the date of enactment will, of course, be written to comply with the provisions of this new law.

I might also point out that individuals within irrigation districts which do not elect to be bound by the provisions of the new law, may make such an election and receive the benefits of the new law.

Mr. Speaker, we all know the functions and purposes of a conference committee. It is to resolve the differences existing between two versions of the same legislation acted upon by both Houses. This necessarily means that there must be some compromises. I believe that the conference report on S. 1409 is a good compromise. I believe that it preserves the policy judgments made by this House when it considered and passed the House amendment, and I urge approval of the conference report.●

● Mr. COELHO. Mr. Speaker, I am pleased to join my colleagues in support of the Reclamation Reform Act of 1982. This is clearly a momentous occasion—the culmination of years of often-heated debate—and resolution of many of the conflicts surrounding the interpretation of the law which brought irrigation water to the arid West. I am truly pleased to have played a part in forging this compromise measure.

As with any such ambitious undertaking, this comprehensive reform measure will likely be in need of some modification and further reform to insure that the language of the law conforms with the spirit embodied in our actions today.

I would additionally like to compliment my fellow members of the conference committee who crafted this measure now before us. Particularly deserving of recognition, however, are the Honorable MO UDALL and the Honorable JIM MCCLURE, respective chairmen of the House and Senate conferees. Their cooperation and consideration of the members of the conference have been truly exemplary. I am looking forward to working with them in the future, as we seek to insure that any modifications that may be necessary will be brought about.●

Mr. UDALL. Mr. Speaker, I have no further requests for time and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

NATIONAL SPINAL CORD INJURY MONTH

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from the further consideration of the joint resolution (H.J. Res. 598) to provide for the designation of the month of October 1982, as "National Spinal Cord Injury Month", and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 598

Whereas spinal cord injuries now paralyze over five hundred thousand Americans;

Whereas there are twenty thousand new spinal cord injuries per year;

Whereas most spinal cord injuries are the result of motor vehicle accidents, sports and recreational activities involving young men;

Whereas lifetime costs to sustain a person with a spinal cord injury are between $1,000,000 and $5,000,000, representing a major and expensive medical problem for this country;

Whereas research advances have permitted scientists to predict that we will be able to prevent and cure paralysis for hundreds of thousands of people;

Whereas the general public is unaware of the staggering costs and personal consequences of spinal injury; and

Whereas the National Spinal Cord Injury Association's program is dedicated to funding research and helping all paralyzed persons; and

Whereas an increase in the national awareness of the problem of spinal cord injuries may ease the burden of the victims and families of victims and may stimulate interest in increased research for the cure of spinal cord injury paralysis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October is designated as "National Spinal Cord Injury Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate activities.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FORD of Michigan: The third clause of the preamble is amended by striking out "involving young men" and inserting in lieu thereof "or of service in our Nation's Armed Forces".

The seventh clause of the preamble is amended by striking out "the National Spinal Cord Injury Association's program is" and inserting in lieu thereof "programs of the National Spinal Cord Injury Association, the Paralyzed Veterans of America, and other similar organizations are".

Mr. FORD of Michigan. Mr. Speaker, this is a minor amendment that conforms the rest to the one passed in the other body.

The amendment was agreed to.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. FORD) is recognized.

Mr. FORD of Michigan. Mr. Speaker, House Joint Resolution 598 designates the month of October 1982 as "National Spinal Cord Injury Month." Spinal cord injuries now paralyze over 500,000 Americans and there are 20,000 new spinal cord injuries per year. Most spinal cord injuries are the result of motor vehicle accidents, sports and recreational activities involving young men. An increase in national awareness of problems associated with these injuries may result in increased research for cures for paralyzed victims.

● Mr. FRENZEL. Mr. Speaker, in the coming minutes, weeks, months, or years you or someone you know may

suffer a spinal cord injury. An automobile accident, a sporting accident, or a host of other flukes may be the cause of the injury. "It could never happen to me," we shrug, but we forget that spinal cord injury is not a disease we are immune to. It can happen to anyone, anywhere, and the result is almost always the same—a life of paralysis.

Where does one go after spinal cord injury? Although we have found cures for many illnesses and injuries in the past years, the prevention of paralysis and the cure for spinal cord injury continues to plague researchers and victims. Twenty thousand young people a year are paralyzed by spinal cord injuries. Seven thousand Vietnam veterans, brought back from Vietnam in wheelchairs, suffer from spinal cord injuries.

There is, however, a spark of hope. Researchers feel that with public awareness and support they may expect, in the near future, to find ways to prevent paralysis and in some cases cure it.

If passing National Spinal Cord Injury Month, House Joint Resolution 598, helps increase support and public awareness, bringing researchers one iota closer to those cures, it is worth it.

Passage of House Joint Resolution 598 is a must.●

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COMMEMORATING 75TH ANNIVERSARY OF WASHINGTON CATHEDRAL

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 120) to commemorate the 75th anniversary of the Washington Cathedral, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 120

Whereas the foundation stone for the Cathedral Church of Saint Peter and Saint Paul, known as the Washington Cathedral, was laid on September 29, 1907, with the President of the United States, Members of Congress, and Justices of the Supreme Court in attendance;

Whereas George Washington was the first to call for a "great church for national purposes in the capital city";

Whereas the Congress in 1893 granted a charter to the Protestant Episcopal Cathedral Foundation for religious, charitable, and educational purposes, leading to the construction of this grand Gothic cathedral;

Whereas the Cathedral is administered by the Episcopal Church, it is truly a house of prayer for all people, with its pulpit open to all faiths, seeking to serve the whole Nation, offering its ministry on behalf of all churches;

Whereas in times of trial the leaders of our Nation often have gathered there to pray and seek God's guidance;

Whereas this majestic monument to our Nation's faith in a Devine Creator dominates the physical and spiritual horizons of the city of Washington;

Whereas the Cathedral is an architectural and artistic masterpiece that will lift up the human heart for centuries to come;

Whereas the nave of this magnificent cathedral was dedicated in the year of America's two hundredth anniversary "for the reconciliation of the peoples of the earth";

Whereas the Cathedral inspires over five hundred thousand American visitors each year; and

Whereas September 29, 1982, marks the seventy-fifth anniversary of this great Cathedral: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States recognizes and pays tribute to the Washington Cathedral on its seventy-fifth anniversary and to all the men and women whose especial labors have contributed to the building of this great house of worship.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the Canon of the Cathedral Church of Saint Peter and Saint Paul.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, Senate Concurrent Resolution 120 commemorates the 75th anniversary of the Washington Cathedral. George Washington was the first to call for a "great church for national purposes in the Capital City." On September 29, 1907, the foundation stone for the Washington Cathedral was laid. The cathedral is an architectural and artistic masterpiece, and is a majestic monument to our Nation's faith in a Divine Creator. The cathedral is truly a house of prayer for all people, and its pulpit is open to all faiths, seeking to serve the whole Nation and offering its ministry on behalf of all churches.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

HEAD START AWARENESS MONTH

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 588) to provide for the designation of the month of October 1982, as "Head Start Awareness Month," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 588

Whereas more than eight thousand Head Start centers located in every State and territory of the United States are currently serving preschool disadvantaged children and their families by providing health, educational, nutritional, and social services;

Whereas eight million two hundred and sixty-nine thousand and four hundred children and their families have been served in Head Start since the program began in 1965;

Whereas Head Start has led the Nation in mainstreaming and providing early intervention services to handicapped children;

Whereas Head Start has demonstrated outstanding leadership in the development of volunteerism;

Whereas Head Start has taken the initiative in developing successful parent involvement;

Whereas Head Start has been a frontrunner in collaborative efforts with other federally, State, and locally funded programs in the delivery of services; and

Whereas the United States Congress recognizes Head Start as the foremost early childhood program in the United States:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1982 is designated as "Head Start Awareness Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate activities and ceremonies.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, House Joint Resolution 588, designates the month of October 1982 as "Head Start Awareness Month." More than 8,000 Head Start centers located in every State and territory of the United States are serving disadvantaged preschool children and their families by providing health, educational, nutritional, and social services. Since the program began in 1965, over 8 million children and their families have been served by Head Start. Head Start is the foremost early childhood program in the United States.

● Mr. ROGERS. Mr. Speaker, I urge unanimous and immediate passage of House Joint Resolution 588.

Dedicated to breaking the cycle of poverty, Head Start is one of the most successful Federal programs in history. Over 8 million economically disadvantaged and handicapped children and their families have been served since the beginning of Head Start in 1965. Just this past year, over 45,000—45,430—handicapped children were enrolled in over 19,000—19,535—classrooms across this Nation. Nonetheless, Head Start is currently serving only

one out of five of the eligible low-income preschool children.

Head Start has led this country in voluntarism, mainstreaming handicapped children, developing preschool programing, and community collaboration. For every three children enrolled, at least two Head Start parents are providing a volunteer service. In addition, parents work hand in hand with staff in setting policies, planning activities, and evaluating the effectiveness of Head Start. Head Start has always acknowledged parents as the key influence in the child's life and that early intervention is essential. Spillover to the family has been a targeted goal and an achieved goal. Furthermore, in Head Start, our young handicapped children have taught classmates, teachers, parents, and communities that children are more alike than different.

Please join me in paying tribute to the accomplishments of Project Head Start in teaching children, reaching families, and involving communities.

Thank you.

This bill has been cosponsored by more than 218 Members of the House. ● Mr. WOLF. Mr. Speaker, today, we have before us a joint resolution which I originally sponsored here in the House, to declare October 16, 1982, as "National Newspaper Carrier Appreciation Day." Enactment of this resolution will recognize the devoted efforts of the many individuals who deliver the news of the world to our doorsteps and will let them know that we support their hard work and dedication.

It is important that we show our appreciation to the more than 1 million newspaper carriers in the United States. Too many times the efforts of newspaper carriers go unappreciated and unrecognized, with many people taking newspaper delivery for granted.

Each day, more than 107 million Americans read one or more of the 9,396 daily, weekly, or other newspapers published in the United States and of that total, 83 percent are delivered to the homes of the readers. I believe it is also significant to point out that of the approximately 1 million newspaper carriers in the United States, 90 percent are 18 years of age or under.

Not only does newspaper delivery provide part-time employment for over 1 million people, it also provides the opportunity for young people to gain experience and confidence in what is many times their first job. It is an excellent way for them to learn how to earn and appreciate the value of money and to learn a sense of responsibility in knowing that others are depending on them daily.

I urge my colleagues to support the passage of this resolution.●

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL NEWSPAPER CARRIERS APPRECIATION DAY

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 239) designating October 16, 1982, as "National Newspaper Carriers Appreciation Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 239

Whereas newspapers and their availability to the citizens comprise a cornerstone of a free society and of our democracy, as affirmed under the freedom of the press clause of the first amendment to the United States Constitution;

Whereas every day more than one hundred and seven million Americans read one or more of the nine thousand three hundred and ninety-six daily, weekly, or other newspapers published in the United States;

Whereas 83 per centum of the daily newspapers printed in the United States are delivered to the homes of readers;

Whereas newspaper carriers have always played an important and vital role in the distribution of newspapers;

Whereas there are approximately one million newspaper carriers in the United States;

Whereas 90 per centum of such newspaper carriers are eighteen years of age or under; and

Whereas it is appropriate to acknowledge the too often unappreciated contribution of newspaper carriers to freedom, and to recognize their devoted efforts in delivering the paper regardless of inclement weather: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1982, be designated as "National Newspaper Carriers Appreciation Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate celebrations and activities.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, 90 percent of this country's 1 million newspaper carriers are 18 years old or under. Their contribution to an enlightened citizenry through the home delivery of newspapers each day and their efforts in making such deliveries despite inclement weather deserve acknowledgment, recognition, appreciation, and commemoration.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the several resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

LETTER TO THE PRESIDENT

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, this body has repeatedly tried to pass subsidies for the housing industry, which is on its knees. This administration has shown, through vetos of subsidy bills, that it will not support subsidies that are, historically, the cause of continued high interest rates, large deficits, and large interest payments on the national debt.

Yesterday, I sent a letter explaining the bill to the President, which is a part of this RECORD, asking him to consider H.R. 4833, the national home ownership bond bill. This bill would stimulate the housing industry without adding to the deficit, and would not push interest rates any higher.

I would hope that this Congress can change its course and adopt a housing stimulus bill that is not a subsidy, but a tax incentive program.

I urge my colleagues to support and cosponsor this bill.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., September 28, 1982.

Hon. RONALD REAGAN,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: Time is running out. We in Congress, who have supported you, and the ideals for which you stand, are soon to come under a barrage of election year bail-out legislation and soapbox demagoguery concerning the supposed "failure" of the Program for Economic Recovery.

In the last few weeks, your veto of the Supplemental Appropriations bill was overridden, the House passed a ridiculous "jobs" bill and more is on the way.

The opposition party has waiting in the wings legislation that runs the gamut from creating new CETA-like agencies to legislation aimed at forcing the Federal Reserve Board of Governors to artificially reduce interest rates through expansive, and inflationary monetary policy.

I am still convinced, as I have been for the last two years, that the design outlined in the Program for Economic Recovery is vital to the economic, and political security for

this Nation. I am also convinced that the American people are willing to give this sound Program every chance it needs, provided they are not convinced that the cost for waiting is too high.

The critics of the Program are doing everything they can to convince the American people that anything short of an instant turnaround in the economy spells failure for the Program for Economic Recovery. These critics are busy here in Congress castigating your Administration for record budget deficits and at the same time passing from Appropriations subcommittee bills which will bust the FY '83 budget by almost $4 to $10 billion even before the fiscal year begins.

Mr. President, the Program for Economic Recovery is losing the one ingredient that cannot be lost: time. It is imperative that a strategic move be made to buy the time needed to ensure the success of the Program. I suggest that such a move be made in an area that affects all Americans young, old, rich and poor: housing.

The 97th Congress has seen many attempts at passing bail-out legislation for the benefits of this Nation's homebuilding industry and homeowners. You and this Congress have consistently rejected bail-out legislation, and rightfully so. But, the problem in that industry and with the whole economy remains.

The housing industry is the key industry to lead this country out of recession. That industry is still at record low production. Millions of Americans are without the homes they so desperately desire.

Homeowning is part of the American ethos. Before the creation of the FHA, this was a Nation of renters. Now, with continued inflation and high interest rates, we are going back along the same path; housing only for the rich.

If the Administration were to adopt a housing program that offered the chance for homebuyers to purchase homes at mortgages in the 12% range, that put homebuilders back on the job, and that did not increase the Federal deficit of Federal outlays one cent, then, in my humble opinion, we, who support both you and and the Program for Economic Recovery, will have been guaranteed the crucial time needed for the success of this initiative.

Just such a program is outlined in H.R. 4833, the National Home Ownership Bond bill. I have taken the liberty of enclosing a copy of a brochure that I have had printed on this bill.

H.R. 4833 proposes that lending institutions be authorized to issue National Home Ownership Bonds which would have a maturity of five years and a face yield of 10%. These bonds would be given preferential tax treatment, indexed to the investor's income bracket, which would make the investor's return the equivalent to a 14% taxable instrument. That would be the incentive for the investor.

The proceeds of the bond sales would be used to finance new home mortgages at 12%, a 200 basis point spread on the cost of the mortgage for the lending institutions. This is the traditional finance arrangement that has built most of the homes in America.

If interest rates go down sufficiently, this bill will not be needed and, in fact, would virtually self destruct, with no left over bureaucracy or cost to the Government. If interest rates are on the way down, but not low enough, we can adjust the relationship of the face yield, net yield and mortgage rate from 10%:14%:12% to 9%:13%:11% or any reasonable alternative.

Mr. President, this is not a governmental subsidy. It is a tax incentive program aimed at revising the housing market which, in turn, leads the revival of our economy.

I urge you to examine the merits of this bill and consider its implementation so that we can use the much needed time it will give us to cement a firm foundation for a prosperous and secure future.

My best wishes to you.

Sincerely,

ELDON RUDD,
Member of Congress.

□ 1020

IN MEMORY OF ARTIST ALLYN COX

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PICKLE. Mr. Speaker, on Tuesday, September 21, 1982, by authority of House Resolution 593, the Congress honored artist Dr. Allyn Cox in a ceremony held in National Statuary Hall. As honorary chairman, you, Mr. Speaker, opened that program with your eloquent tribute to Dr. Cox. During the program Senator HOWARD BAKER presented a warm tribute also, thus the leadership of both Houses bestowed honors upon Dr. Cox for his murals in the House corridors. A fellow artist, Dean Fausett, gave a splendid address and testimony to the long career of Allyn Cox in blending art and history. Mr. Speaker, it is with sadness that I report that just 4 days following this congressional tribute, Dr. Cox was stricken and died on Sunday, September 26, 1982. Before he was called, it is my understanding that the Day of Recognition by the Congress had a profound effect upon him and he said it was one of the greatest days in his life. It was fitting and proper, indeed, that this deserving tribute was paid to the man while he lived rather than after his death.

The Nation has lost a great artist. The Capitol has lost a devoted servant. The following tributes presented for the record and given during the ceremony of September 21 were, I am sure, deeply appreciated by Allyn Cox and, of course, they will serve to inform the Nation and provide an eloquent record for posterity. They constitute a memorial in memory to Allyn Cox (1896–1982). As the years roll on these remarks may not be long remembered, but the murals in the House corridors and the other works of art of Allyn Cox in the Capitol will stand on their own as a lasting testament. They will forever speak of the greatness of America and of the artist who created them. And we here today and those who come after us will not forget what Allyn Cox did in this Capitol Building.

THE CEREMONY HONORING ALLYN COX IN NATIONAL STATUARY HALL, SEPTEMBER 21, 1982, 10:30 A.M.

CHORAL MUSIC

The U.S. Army Chorus, under direction of Col. Eugene Allen.

The Master of Ceremonies (Mr. PICKLE). Mr. Speaker, Chairman of the Day, my colleagues in the Congress, distinguished guests, let us rise for our National Anthem by the U.S. Army Chorus and remain standing for Invocation.

INVOCATION

Rev. James D. Ford: Almighty God, Lord of Life and Giver of all good things, we give you our thanks that we can come together on this happy occasion to honor one who has given of his time and talents for the benefit of all who visit this place. We praise you, O God, that creative ability and dedication to a task have brought forth the story of our heritage. That is the glory that we behold. We praise you that people of good will—artist and benefactors—have combined to give beauty to this sanctuary of freedom and provided testimony to the rich story of our American Experience. May generations of people be inspired by what they see, thankful for our history and given vision and new courage by seeing the mighty deeds of those who have gone before. Amen.

Mr. PICKLE. It is now my great pleasure to introduce the Chairman of the Day for these ceremonies honoring Allyn Cox—The Speaker of the U.S. House of Representatives, the Honorable Thomas P. O'Neill.

Hon. THOMAS P. O'NEILL. Our honoree of the day, Allyn Cox, my colleagues in the House, Members of the Senate, Majority Leader Baker, House Majority and Minority Leaders Wright and Michel and guests, we are gathered here today to honor a great artist and those who have made possible the historical murals which he created for the House Corridors. As we do this, we are following a long tradition of the Congress since the very first Session of Congress was held in the old North wing of the Capitol in 1800. From that day forward, successive Congresses saw the importance of the artistic adornment of this magnificent Building to which the aspirations of the American people flow. To further that goal many great artists and sculptors toiled in this building and those, such as Constantino Brumidi, Carlo Franzoni and others, left their creations of art for posterity.

Now we honor today a most talented and dedicated Artist Allyn Cox, who has also labored long in the Capitol and whose achievements will stand as embellishments to this most-revered building. Their significance will be heightened by the historical quotations which will quicken our interest in and strengthen our faith in the concepts inherent in our form of government

The Congress is further mindful of the generosity of the National Society Daughters of the American Revolution, whose contributions made it possible for Allyn Cox to pursue his goal.

And it is with warm affection and appreciation that we recognize the work of our U.S. Capitol Historical Society which, in cooperation with the Congress, sponsored the Art Program in the House Corridors and, in particular, its hard working President and my former colleague Fred Schwengel.

The efforts of all of these people have given to our beloved Capitol Building an artistic treasure to cherish.

Mr. PICKLE. Thank you, Mr. Speaker, you have truly set the tone and the theme for

this day of tribute to a man of the Arts and a program to enhance the beauty of the Capitol. Before we hear from out next speaker, I would like to recognize the contributions of two distinguished platform guests who are unable to be with us today. First, Senator Robert Byrd, Minority Leader of the Senate; and second, the Honorable Augustus Hawkins, Chairman of the Committee on House Administration. The honors to Mr. Cox are extended by the Congress as a whole, thus it is quite fitting that we now hear from the Honorable Howard H. Baker, Jr., the Majority Leader of the United States Senate.

Senator BAKER. Mr. Cox, your splendid work enjoys an extraordinary position in the artistic world. Your work is instant history and its legacy is instantly secured. On behalf of the entire Senate, I want you to know that we are most proud that your work surrounds us and most indebted that you have shared your unmatched ability with us and the Nation.

Mr. PICKLE. Senator Baker, I know that Mr. Cox and those who have made possible this new art in the Capitol are gratified by your remarks. It is now a particular pleasure to introduce my colleague in the House and my colleague on the Executive Committee of the U.S. Capitol Historical Society—a man deeply devoted to the history of this building and to the Congress as an institution—the Honorable Barber B. Conable, Jr.

Mr. CONABLE. Mr. Cox, Distinguished Members of the Dias and Friends: As I was driving over here this morning, listening to a beautiful symphony which Ludwig von Beethoven wrote almost 200 years ago, I thought of the lines written by Omar Khayyam 2,000 years ago which in translation say:

"Think in this battered caravanserai
Whose portals are alternate night and day
How sultan after sultan with his pomp
Abode his destined hour and went his way."

If the pomp of sultans is ephemeral, how much more so is that the case for congressmen! Indeed, life, and political careers, are short, but art is long—whether it is music by Beethoven, poetry, or great art by Allyn Cox.

Before I thank Mr. Cox for dedicating his talent to the American people here in the Capitol Building, let me first tell him how fortunate he is to have had the opportunity to insure that his art will live not just in the abstract but in the eyes of millions of Americans. Unless we have a falling out with the British again and they arrive with torches, this building should remain for centuries a symbol of a cultural and political heritage of the American people. It is entirely appropriate that that heritage should be enriched by art, and I am sure almost any American artist would give his eye teeth to have the opportunity Mr. Cox has had. He has made the most of that opportunity, and generations unborn will enjoy and draw inspiration from his work long after we have gone.

Some of us have to seek a more modest immortality by such plebian activities as the planting of trees or the passing of laws, but Mr. Cox' artistic genius has no more appropriate use than in the presentation of our American heritage here where he is assured a large and appreciative audience.

Thank you, Sir, and many thanks to those of you who have turned out today to marvel at what Allyn Cox has wrought and to bear further testimony to our confidence that the future of our country and its great experiment in democracy will be ongoing in these halls, we hope for centuries to come.

Mr. PICKLE. Thank you so much Barber for those meaningful words. These ceremonies represent the tribute of the Congress and the sense of the whole House. At this time I see the Member from Massachusetts, Mr. Silvio Conte, and I would ask Mr. Conte to come to the platform.

Mr. CONTE. I would like to join my friends here in tribute to the artist Allyn Cox on the completion of his finest masterpiece, the House of Representatives corridor.

His work has added a new dignity to the halls of the people's Congress, making it more of a showplace of our nation's hopes, aspirations, and achievements. While only a flight away from the House floor, the scene of often-divisive political squabbles, this newly-unveiled corridor evokes both a different and larger sense of our national purpose.

While history may judge favorably or harshly our actions only a few steps away, this corridor will forever stand as testament to our people's sensitivity and genius.

As a painter, Allyn Cox humbles us all, for although we are practitioners of the art of politics and makers of history, we do not create the timeless works of beauty for which he has become famous.

It is fitting that his works grace the halls of the most important forum in the world, and I thank him for harnessing the creative passion that has been his Muse for nearly a decade of painstaking work on this hallway.

As the French essayist Theophile Gautier wrote in 1832, "Everything passes—Art alone is eternal. The bust survives the city." Long after all of us have gone, Allyn Cox's works will continue to celebrate the highest achievements of our people from within the seat of their government.

Mr. PICKLE. While great accomplishments are due to the initiation of those who see their value, it takes financial resources to make many of them possible. The Art in the Great Experiment Hall could not have been possible without the great generosity of the National Society—Daughters of the American Revolution. Before we are honored by the remarks of their President General, Mrs. Richard Denny Shelby, I would like to ask her predecessor in office Mrs. Wakelee Rawson Smith, who gave the original approval of the support of the D.A.R., to now stand and receive the ovation she is due for her vital part in this art project.

(Mrs. Smith stands and is recognized.)

Mr. PICKLE. And now representing the Daughters of the American Revolution, a dedicted American, a devoted student of the history of this building and an outstanding Administrator of an honored organization—Mrs. Richard Denny Shelby, President-General of the National Society, Daughters of the American Revolution.

Mrs. SHELBY. Mr. Speaker, Distinguished Guests, Members of Congress, Friends: It is a signal honor for the President General of the National Society of the Daughters of the American Revolution to participate in these ceremonies, honoring America's greatest master historical artist, Mr. Allyn Cox, upon the occasion of dedication of his magnificent artwork in the East-West corridor of the House wing of the United States Capitol. This project truly epitomizes the words of John Ruskin: "Fine art is that in which the hand, the head, and the heart go together."

The DAR takes great pride in dedication of this decorative work of art, financed by the National Society as a bicentennial tribute to the United States of America. Contributions of $150,000 were made by DAR members in each of the fifty states, the District of Columbia, and units overseas, to commemorate two hundred years of freedom in our constitutional republic. This special project of Mrs. Wakelee Rawson Smith, President General during the bicentennial administration, generated additional interest because of the location, within these hallowed halls, which further enhances the aesthetic qualities of our Nation's Capitol in Washington city.

It has been said that "We have built no national temples but the Capitol. We consult no common oracle but the Constitution." The threefold objectives of the Daughters of the American Revolution are the same today as when the national society was founded in 1890, and chartered by an act of the congress of the United States in 1896. Historic: "To perpetuate the memory and spirit of the men and women who achieved American independence." Educational: "To carrry out the injunction of George Washington in his farewell address to the American people: 'To promote as an object of primary importance, institutions for the general diffusion of knowledge,' . . . thus, developing an enlightened public opinion." Patriotic: "To cherish, maintain, and extend the institutions of American freedom, to foster pure patriotism and love of country." These are the objectives upon which the DAR was organized and upon which its programs are based. The National Society is a service organization, an organization of over 208,000 members dedicated to "service to the nation."

The bylaws of the National Society outline a policy of non-partisan and non-political activity. And, rightly so. For the role which Daughters of the American Revolution have played for 92 years has focused on issues which are simply, yet profoundly American.

DAR have never asked anything in return for this service, other than acknowledgement of the numerous projects, many of which provided much-needed volunteer aid to our federal government, beginning in 1898 with support of veterans and nursing services during the Spanish-American War.

NSDAR history records millions in liberty bond sales; five lots on DAR property loaned to the United States Government for the erection of temporary office buildings and barracks during World War I; restoration of a war-torn village in France; care and feeding of war orphans; Belgian relief fund; millions in World War II savings bonds; Phillipine nursing scholarships; the complex of buildings at 1776 D Street offered and used by the American Red Cross during World War II; support for veterans through millions of volunteer hours in hospitals throughout the land; assisting applicants for American citizenship; work with naturalization courts; scholarships in nursing, medical, and occupational therapy, in addition to general scholarships to American Indians; junior American citizen clubs; DAR good citizens awards; ROTC medals and good citizenship medals; American history essay contests; six schools for the economically deprived and two Indian schools assisted financially.

And, upon entering the 1980's, the DAR is actively involved in conservation of our natural resources, energy, and the protection of our endangered species. This is only the tip of the iceberg!

All this began when the four founders of the National Society determined that women could and should make a contribu-

tion in service to the nation and decided to become involved.

In 1890, the fledgling National Society resolved to respond to the expressed desire of General George Washington that memorial buildings for the thirteen original colonial states be erected in the city of Washington. Memorial Continental Hall, dedicated in 1905, was the first architectural response in the Nation's Capitol to this clarion call of our first president. In 1973, Memorial Continental Hall was designated a registered national historic landmark, due to the first international conference on the limitation of armament, held in 1921-1922.

A vision without a task is a dream . . . A task without a vision is drudgery . . . Yet, a vision and a task . . . is the hope of the world.

The dream of Washington lives on, through the endeavors of the United States Capitol Historical Society.

The task of Allyn Cox, this Great Experiment, is now complete. Thus, the vision of the Daughters of the American Revolution yields, yet another, legacy preserved."

Mr. PICKLE. Thanks so very much Mrs. Shelby for your fine words and for the gracious help of your organization of patriotic citizens.

We are hearing many deserved tributes today from those who admire the achievements of Allyn Cox. I am sure Allyn appreciates them all; but perhaps the next remarks may hold a very special place in his heart, because they come form a fellow artist and they represent the sentiments of his many colleagues in the Art World. To deliver this principal message, we now hear from Mr. Dean Fausett, the President of the National Society of Mural Painters, a renowned artist in his own right, a friend and colleague of our honored guest today.

Mr. DEAN FAUSETT. Thank you, Mr. Pickle. I wish to express my gratitude at the outset to the members of The House of Representatives, the Hon. Mr. Jake Pickle and the Hon. Mr. Barber Conable, who submitted the resolution that was responsible for the ceremony we are attending today.

I also extend greetings to all those in attendance, the distinguished Members of Congress and their guests; my respected and admired colleague Allyn Cox, who is being honored today; Cliff Young, head of Allyn Cox's team of mural assistants; members of the United States Capitol Historical Society and its President Fred D. Schwengel; members of the National Society of the Daughters of the American Revolution and its President Mrs. Richard Denny Shelby; and the members of the venerable National Society of Mural Painters, who are colleagues and close friends of Allyn Cox; and other invited guests.

As I viewed the murals we are honoring today, I was moved to reflect upon the ancient origins of the art of mural painting, and I should like to share some of these reflections with you on this occasion.

Scientists, historians, and archaeologists now know that mural art—the art of decorating the walls and ceilings of mankind's abodes, shelters, and shrines—is the oldest art form on the face of the earth.

As far back as the shadowy beginnings of primitive man, his first rich emotional expressions were etched, carved, and colored in magnificent creations representing all the forms of life to which his existance was related—the animals, the birds, human figures, and many forms of natural life. Explorations of the earliest caverns reveal the symbols and highly sensitive art forms which we know pre-date the written word, and perhaps pre-date the spoken word.

As human beings expanded their civilizations in various parts of the earth, the art of decorating and carving was used to record and extol the depth of their religions, their political concepts, and their experiences of living.

We also know that from these expressions of their mural art came the written symbols, heiroglyphics, which were the predecessors of the written word, enabling us to create the documentary descriptions of the essence of our existence.

The crucial importance of understanding and recording man's experience, whether through art or words, was indelibly impressed upon us by Carl Sandburg, the revered poet, who had the honor of addressing a joint session of Congress, appropriate to this occasion are the word he left us:

"When a nation goes down and never comes back,
When a society or a civilization perishes,
One condition may always be found—
They forgot where they came from. . . .
Whenever a people or an institution forgets its early hard beginnings,
It is beginning to decay."

And it is Fred Schwengel who added: "This is why writers and artists are so important—they preserve our origins and development."

With these background reflections as a preface, we can proceed to the immediate reasons why we are here.

This is a time for celebration and tribute.

We are here to celebrate the completion of artistic work that will adorn the United States Capitol with dignity and beauty for the endless years of our Nation's future. As we celebrate the completion of this work, we are also giving deserved recognition to the contributions of muralists to our civilization.

Murals in our Nation's Capitol and elsewhere are the result of scholarly achievements:—their creators had to absorb the essence of a complex, dynamic, diverse people;—they had to grasp fully what our aspirations have been, the challenges we faced and met to fulfill our aspirations, how we have labored and cooperated to make the most of our Nation's resources and opportunities.

Murals are also challenging artistic achievements;—their creators had to transmit the scholarly findings of our history to others through the selection of fitting subjects and techniques, and the use of appropriate color, line, form, and composition, and to marry their designs to the meaning and beauty of the architecture;—they had to imbue in others not only depth of understanding—but also depth of feeling of the great messages which must be carried to their viewers.

Now these works in our Nation's Capitol are done, and they will be viewed and appreciated by countless citizens representing every facet of our population and the many unborn generations to come. By serving this purpose, they will join other murals of our time as a strong and enduring force to promote understanding of our heritage and pride in what our heritage has brought to this planet . . . such understanding and pride are basic to the promotion of unification, dedication, and inspiration of our people. This is why it is fitting that we celebrate the completion of these murals. As a personal example, upon the completion of the mural I was selected to paint by the National Conference of Christians and Jews as a signet painting for the building for brotherhood in New York City, our President Dwight D. Eisenhower uttered these words in support of its meaning:

"On the occasion of the dedication of the building for brotherhood I extend greeting to you and to all who will join in this observance. All of us must continue our efforts to promote a belief in brotherhood among people of varied backgrounds, to uphold the right of freedom of worship, to foster the individual citizen's understanding and tolerance of his neighbor's spiritual convictions. Such efforts, which rest upon a belief in the equality and dignity of men under the fatherhood of God, are essential to our unity and strength as a society."

We are here also to pay tribute to those who had the wisdom, initiative, and perserverance to launch and sustain the development of the Capitol murals. Those deserving of tribute are the Members of Congress, the United States Capitol Historical Society, the National Society of the Daughters of the American Revolution, the Joint Committee on the Library in cooperation with the Committee on House Administration, and the Architect of the Capitol. They are deserving of tribute not only for the direct assistance provided for this project, but also the example they have set—

That such works have high priority for recognition and support—that such works can be a major contribution to strengthening the ideals and achievement of our people—that recognition of such works can help to inspire and sustain artistic accomplishments by future generations.

But beyond being here for this celebration and tribute, we are assembled to pay special tribute to Dr. Allyn Cox, the artist who climaxed magnificent work in the Nation's Capitol with this achievement, and to celebrate his uniquely distinguished career as a muralist. Perhaps I find particular gratification reviewing the background and career of our honored guest. Born in New York City in 1896, he grew up in a family of artists and began to train to be a painter as a child. His parents, Kenyon and Louise King Cox, were both prominent artists—his father famous for his mural paintings at the Chicago Exposition in 1893 and his memorable murals here in the Library of Congress. It is interesting for those of us who are members of the National Society of Mural Painters to note that Allyn's father was a prominent founder of our organization the very year that Allyn was born, and as you know, Allyn was President of our organization and is now our honorary President, a great distinction among American muralists.

This part of his biography has particular meaning for me, because just as he was influenced by and gained experience from his father, I am indebted to my brother Lynn in a comparable way. In fact, my first introduction to Allyn Cox was at the Art Students League in New York City, of which my brother was president. As a fledgling artist in the 1930's, I was aware of Allyn's fastidiousness and drive, his vast knowledge of mural art.

By that time he had already applied the benefits of extensive training, including 5 years of study in Italy, and had been commissioned to execute many murals for public and private buildings.

To bring the biography more pertinently to this occasion—in the early 1950's Allyn had an opportunity to make his first contribution to the decoration of the United States Capitol. While working on paintings at Alsop House in Middletown, Connecticut,

he took his wife to Washington, D.C. to see the famous wall decorations in the corridors of the Capitol's Senate wing, painted by Constantine Brumidi.

As Mrs. Cox was looking at the blank space in the frieze surrounding the Great Rotunda—left undecorated since the 1880's, a guide mentioned that funds had just been appropriated to have the frieze finished. She told her husband about this, as she knew he had often spoken of his longing to be allowed to fill this void. As Allyn has related, he immediately applied for the assignment and in due time was commissioned to complete the historic project.

Allyn's determination is even more evident because he has said that he first saw the Capitol in 1906 when he was 11 years old, and thought then how nice it would be to fill the blank space in the frieze. There is no doubt about the closeness between Allyn's career and his feeling about the Capitol. He has said that the Capitol is the only public building he knows—and he has seen many in the world—that is human in scale, and lovable; that is awe-inspiring but also intimate.

I have spoken somewhat lightly and in generalities about Dr. Cox's major works for the United States Capitol. We should appreciate how awesome and demanding the tasks were. What he did in 1953 was to complete a 30-foot space that had been left from Brumidi's original 300-foot frieze on the circular Rotunda, depicting scenes from American history. This was one of his few opportunities to work in true fresco.

The artistic achievement whose completion we are honoring particularly today involved a corridor 124 by 10 feet, but because of the vaulting, the space to be painted was actually about 5,000 square feet. And because of the irregular shapes of the vaults, all the work was done on a scaffold about 10 feet off the the ground. The theme for the decoration concerns the history of the Capitol itself, including scenes related to the construction of the building and important events within. Relief pendants of the architects and artists who built and beautified the Capitol fill three narrow vaults and lunettes at either end of the corridor. Architectural forms and ornaments painted in the spirit of the classical revival of the early 19th century serve to tie the numerous panels together, while allegorical and decorative figures are used to fill irregular spaces. Beyond the masterful artistic achievement represented in this work by Dr. Cox, it is unique in its selection of historic quotations which are the framework for the content of the work and shall be inscribed on it.

I know that Dr. Cox would insist that credit and recognition should be given to the artists who aided on this project and I am pleased to extend our praise to Cliff Young, a colleague and also former president of the National Society of Mural Painters and staff assistants, John Roach, Delilah Hoyle, Everett Molinari, and Sally Price Ross.

There is much more that could be said about the details of Allyn Cox's career including such distinctive, diverse work as the mosaics in the Ulysses S. Grant Memorial, stained glass windows in St. Bartholomew's Church in New York City, glass mosaics and stone inlaid maps for the United States Military Cemetary in Luxenbourg, the cleaning and restoration of the Brumidi fresco in the eye of the dome of the United States Capitol, and numerous portraits of national leaders. Such work has brought him significant honors and awards from professional colleagues, governments, organizations and universities.

About all of this he is the kind of man who would say that this works say what ought to be said about him. So I shall leave it at that—letting all of us look at his work and learn from it about his greatness as an artist and a man.

Now as a spokeman for artists through my position in the National Society of Mural Painters, I want to express gratitude to the 97th Congress for House Resolution 593 which has made this occasion for celebration and tribute possible. I shall cherish forever the privilege that I have had to be a part of the ceremony. In the same sense of accepting responsibility for stewardship and continuity which I attributed to muralists such as Allyn Cox, I feel it is fitting to review at this time plans of our society for achievement of another significant art project which has been inspired by Allyn Cox's murals in the Capitol. Which we believe will serve our Nation well:

In conjunction with the bicentennial, the National Society of Mural Painters carried out the creation of a series of murals on the theme, "Momentous Events in American History". Exhibits of these murals have been sent to cities and universities in various parts of the Nation from the base location in New York City in the American Federation of Arts Building. For example, presently we are showing preliminaries at the University of Maine in Orono, Hamilton College in Clinton, New York and the Veterans Administration Hospital at White River Junction, Vermont.

The success of this enterprise has inspired us to extend the scope of the exhibit and also to assure its widespread viewing throughout the Nation for many years to come. We have already undertaken leadership to assemble contributions of preliminary designs into our portfolio from many American muralists, and 82 prestigious muralists from all parts of the country have completed the preliminary designs, drawing from their favorite historic themes for a great many murals. By using the latest technological development, these designs can be enlarged electronically on special material that can be rolled up to facilitate transportation of the exhibits. Each muralist will personally complete the enlargement of his or her designs for the final unveiling when the national tour is launched.

In cooperation with the United States Capitol Historical Society an arrangement has been made for a gala exhibit at the new Washington, D.C. Convention Center. This will be the premiere of the exhibit, and it will then be available for showing in all the major cities of the Nation.

To carry out this program, which we believe has vast potential for the well-being of national understanding and of the world of art, we shall be harnessing the cooperation of all levels of government, foundations, educational organizations, leaders of the arts and the humanities, and leaders of the economy. Funds gained from the exhibits will be contributed to the United States Capitol Historical Society in behalf of its monumental activities to beautify the Nation's Capitol and do justice to our Nation's history. Also all the people of our country can participate individually in this noble work.

From this auspicious beginning today as we have provided recognition for work and leadership of distinction, I am confident that the essential creativity, support, and cooperation will be obtained. We shall appreciate any guidance and support you can provide.

We thank you for joining us today and invite you to view with greater knowledge and appreciation the wealth of painting and sculpture here in the Capitol—national treasures of magnificent worth to our Nation's history and our peoples heritage, all of which are being preserved and augmented by the U.S. Capitol Historical Society.

Just as our society of mural painters will continue to create murals in the future to honor "momentous events in American history"—so this day of celebration and tribute will be remembered by many as a momentous event in American history, as a time when a grateful, appreciative Nation rendered a fitting tribute to an art and an artist steeped in our tradition, consistent with that tradition, eloquent in its presentation of that tradition, and capable of serving as a lofty example for art and artists in the generations ahead. Thank you.

Mr. PICKLE. We thank you, Dean Fausett, for this tribute of the artistic community to one of their own—Allyn Cox. Most great achievements depend on the foresight, the energy and the determination to pursue a goal. The Art program on the House side was initiated by the U.S. Capitol Historical Society, and of course, we all know, and especially his former colleagues in the House, that Fred Schwengel is the driving force behind the U.S. Capitol Historical Society. From its very first inception, Fred has done everything possible to advance this art program and to support the work of Allyn Cox. He has done this, I am sure because he knows that there are great values in beautifying the Capitol and carrying on a tradition, he is inspired by the creative talent of Allyn Cox, and lastly because he loves and respects this Capitol Building. Let us now hear from the man who has played a pivotal role in this whole program—the Honorable Fred Schwengel, President of the U.S. Capitol Historical Society.

Mr. FRED SCHWENGEL. Mr. Chairman, my esteemed friend and Congressman Conable, fellow historians, and fellow appreciators of art, I know that we are operating on the House side and we go by House rules so my remarks will be brief. So much has already been said so much better than I can; but I must say thank you, thank you, thank you, all of you who cooperated so magnificently to make all of this possible. I deeply appreciate that because I came to Congress as the son of immigrant parents. It was here that I had the opportunity to brush shoulders with great men. Right now, in fact, this day and occasion reminds me of a poem written twenty five hundred years ago. Some brief lines are . . . . "Listen to the exultation of the dawn. Look to this day, for it is life, the very life of life. In its brief course lie all the varieties of your existence, the blessing of growth, the glory of action, the splendor, and beauty all around. Look well to this day, for yesterday is but a dream and tomorrow is a vision. But every day well lived makes every yesterday a dream of happiness and every tomorrow a vision of hope. Look well to this day, for such is the salutation of the dawn."

We are looking well to this day and are showing appreciation to talent, art, history, and our heritage. You see art and history are closely interwoven strands in this seamless fabric of our culture undergirded by our love of liberty and freedom. Aside from their purely visual attractions, the paintings, the engravings, and the sculptures re-

produced in our Capitol reveal aspects of American experiences that can be recalled by no other means. As we learn more about the history of American art our self understanding increases.

I have grown so close to the artist and I believe among all the men and women I have met in this atmosphere hailed by the accomplishments of their records including representatives of foreign governments and Members of Congress, Allyn Cox in my book is the greatest.

I am taking the privilege, Mr. Chairman, to present this man and I do it with these lines written by Edwin Markham. They are lines from a poem—a tribute to another great American—"Here is a man to hold against the world, a man to match the mountains and the sea." In the field of art especially, these lines apply as I present now the greatest artist of our time—Please stand and take a bow Dr. Allyn Cox."

Mr. PICKLE. Fred, we thank you indeed for those remarks. We probably will now hear a long speech from Mr. Cox, because he speaks so eloquently with the brush. Before our honored guest speaks we will now hear "America the Beautiful" by the U.S. Army chorus under the direction of Colonel Eugene Allen.

Mr. COX. I am simply stymied for something to say for this occasion. Something occurred to me while I was sitting here. Mr. Morse was looking at me. He was a very able painter who was unable to get patronage for his work so he had to go and invent the telegraph instead to make a living. We live in a more fortunate age—there has been patronage enough so that artists are able to make a living now and don't have to be something important. I found nothing but help, but faithful help, from the very beginning in all the work I have done here at the Capitol. The last 30 years I have been working here in this building off and on. It is really incredible the amount of assistance I have been given by everybody. There is one other thing I would like to say, the one man without whom the matter would not be done, I would like Mr. Young to stand up. He is now finishing the work in the right style out there. He has to work in the evenings, but he is right at it every night. I realize that is about all I have to say except thank you, thank you, everybody."

Mr. PICKLE. As we have attempted to honor you, you have honored us Mr. Cox. Your work will stand through the years to bring pleasure to those many millions of visitors to the Capitol—this great public building, the symbol of our form of representative Government; the building of which Charles Moore said in 1910, 'it is not a creation, but a growth.' You Mr. Cox have contibuted to its cultural growth by your artistry.

The program will be concluded by the benediction offered by the Rev. James D. Ford. Please rise."

BENEDICTION

Reverend FORD. The Lord bless and keep you.

The Lord make His face shine upon you and be gracious unto you. The Lord lift up His countenance upon you and give you peace. Amen.

CLOSING

Choral selection as audience disperses. "This is My Country" by the U.S. Army Chorus.

PERSONAL EXPLANATION

Mr. ROTH. Mr. Speaker, today on rollcall 376 on H.R. 5162, the park protection bill, I was unavoidably detained.

Had I been here I would have voted yes. I would have voted for the measure.

□ 1950

TRIBUTE TO HON. DAVID BOWEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. WHITTEN) is recognized for 60 minutes.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I rise today to honor my colleague, Hon. DAVID BOWEN, who some months ago announced his retirement from this body at the end of this term.

Truly we appreciate his fine service to the people of his district, State, and Nation.

As I have so frequently said, it seems that those who voluntarily retire are most frequently the ones we can least afford to have leave. Certainly that is true of my friend DAVID BOWEN. A splendid person, graduate of Harvard University and Oxford University, DAVID taught political science and history at both Milsaps and Mississippi College in our home State, later worked on Congressional Liaison for the U.S. Chamber of Commerce and the Economic Opportunity, and 4 years as Mississippi's first Federal, State Coordinator and Special Assistant to the Governor.

In the Congress, DAVID has distinguished himself for his intelligent application to his job—serving on the Committee on Agriculture, chairman of the Cotton Subcommittee, later the Subcommittee on Cotton, Rice, and Sugar.

He also serves on the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

In the Committee on Foreign Affairs he served on the Subcommittees on International Operations, on Asian and Pacific Affairs, and on International Organizations.

The Library of Congress noted in April 1973, when Congressman BOWEN introduced and won passage of a bill providing emergency assistance to farmers who suffered losses as a result of natural disasters, that it was the first time in 20 years that a freshman Congressman had won passage of a bill so early in his term of service.

Subsequently, as chairman of his subcommittee he became an effective national spokesman for the cotton, rice, and soybean industries, as well as other segments of American agriculture, and he managed in committee and on the floor a wide range of farm legislation enacted during his congressional career, including the Cotton Research and Promotion Act of 1976, extra long staple cotton legislation in 1979, the sugar program of 1981, and the Rice Production Act of 1975—which gave the right to grow and market rice to every American farmer.

He also took an active role in other agricultural matters, both legislative and executive, including export credit, antiembargo legislation, multifiber agreement extension, export revolving fund, food for peace (Public Law 480) legislation and administration, and the Tokyo Round at GATT negotiations.

Perhaps the Tupelo Journal expressed it best in an editorial which it carried upon DAVID'S announcement of his retirement:

BOWEN'S DECISION

Representative DAVID BOWEN'S unexpected announcement Monday morning that he will not run for a sixth term from the Second Congressional District creates a serious and damaging gap in the Mississippi delegation.

BOWEN, one of the most intellectually-gifted people ever elected to public office in Mississippi, has served the state and his district with distinction and integrity.

His congressional interests, reflecting his experience as a political science professor who grew up in Mississippi's richest farming area, spanned the Capitol—from Agriculture Committee to Foreign Affairs to the Merchant Marine Committee.

BOWEN, who was first elected after heated primary and general election campaigns in 1972, captured national attention in 1974 when he became chairman of the Cotton Subcommittee of the Agriculture Committee. The chairmanship involves dealing with sensitive and complex issues affecting the traditional cotton-growing States of the old South and the newer, sprawling plantations of the Southwest and southern California. He negotiated compromises on several major farm bills that satisfied the cotton industry's diverse interests.

We regret BOWEN'S decision. It is a blow to this State's influence in Washington that will not be regained easily.

We hope that the announcement Monday will not be, in effect, DAVID BOWEN'S political obituary.

He is a capable and astute man who, at 49, has many productive years to offer Mississippi and the country.

DAVID, we wish you the very best, for the future, you truly have a splendid record on which to build.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, the news that my fellow Mississippian and able colleague, DAVID R. BOWEN,

had decided not to seek a sixth term in the House of Representatives came as a shock to me. I am sure it was a surprise to most of my House colleagues as well.

DAVID BOWEN has served the Second District of Mississippi since 1973. During the 10-year period, he has become an expert in the field of agriculture and is chairman of the Subcommittee on Cotton, Rice, and Sugar. I have taken the lead many times from him on matters pertaining to agriculture.

DAVID's steady leadership in this area has been a great benefit to the Second District, which is made up of farming interests, as well as the entire Nation. He has also become astute on foreign policy matters and has been a most valuable member of the House Foreign Affairs Committee.

He has joined with the rest of our State delegation in serving as a very strong voice in support of the Tenn-Tom Waterway. His efforts were most important in securing continued funding for this vital project. From the first day he came to Washington, DAVID has been a positive force behind the Tenn-Tom. This dedication to his district and the State of Mississippi is typical of the type leader he has been in the House of Representatives.

But that dedication to service began long before his election to the House of Representatives. He worked with great effectiveness as the first State-Federal coordinator for the State of Mississippi.

Before that, he had become a well respected professor of political science and history at Mississippi College and Millsaps College. His most distinguished academic career began at Cleveland (Miss.) High School and took him to Harvard University and then on to Oxford University as a Rhodes Scholar.

He has always impressed me as a well-rounded individual, who has a clear understanding of the issues being debated and has been able to make his arguments forcefully and successfully.

I am sorry DAVID BOWEN is leaving this Chamber. His departure will be a loss, not only to the people of Mississippi but to this Nation as well. He has been a hard and dedicated worker for his constituents and on the committees where he has served. That hard work has brought him both praise and respect from his fellow lawmakers.

DAVID has chosen to pursue other interests. I know my fellow colleagues want to join me in wishing for him the very best. He has made a lot of friends on Capitol Hill over the years and we will miss him in this Chamber.

Mr. Speaker, in addition to my remarks, I want to insert this editorial written for the June 24, 1982, issue of the Amory, Miss., Advertiser. It is a fine tribute to DAVID BOWEN and describes what his service has meant to so many of the people of the Second District over the past 10 years.

CONGRESSMAN BOWEN—HE IMPROVED OUR IMAGE

We heard with regret this week of Congressman David Bowen's decision not to seek election to a sixth term in the United States House of Representatives.

The Mississippi congressman, we feel, has done much to improve the state's image nationwide during the decades when we needed all the help we could get. He bears no resemblance at all to the stereotype "Southern political boss" circulated through editorial cartoons. He is personable, warm-hearted, and friendly—as Southerners should be—but, unlike Joe Blow of the political cartoon, he is also very evidently quickwitted, highly intelligent, and interested in the well-being of the people of the state he represents. We feel he has served our people well, with integrity and distinction.

One of the things that we especially have liked about Congressman Bowen is his accessibility. Very few times during his years in Washington were we unable to personally contact him or a member of his staff when it became necessary. He and his staff also have made it a point to keep newspeople informed on activities in Washington affecting this state through telephone calls, news releases, and weekly news columns.

Bowen is also one of the few Congressmen we recall who has made it a point to visit the people of his district on a regular basis . . . not just prior to an election.

The Mississippi Congressman is one of the most educated men in Congress, holding a Bachelor's Degree from Harvard and a Master's Degree from Oxford University. Mississippi's being "at the bottom of the totem pole" was a lot easier for us to take when we could point with pride to our well-qualified representation in Washington.

Not all of the people of his district were as fond and proud of Congressman David Bowen as we. They sometimes remarked on his exceptionally good appearance, his education, and his age, particularly when he was first elected, as if these things should be hindrances instead of the assets we knew them to be.

We hope that the people of Mississippi realize as we do that our young congressman's shoes will be difficult to fill.

We are aware that if he had sought reelection it would have been in another district . . . but he's a Mississippian and would still have represented our state, not just the district.

Mississippians will feel the loss.

Mr. HUBBARD. Mr. Speaker, it is with great pleasure that I speak about my good friend and colleague, Congressman DAVID BOWEN. Indeed, it has been a pleasure to be associated with him and work with him over the past years on the Merchant Marine and Fisheries Committee and its Subcommittee on Panama Canal/Outer Continental Shelf, and on the House floor. When I took the chairmanship of the Panama Canal/Outer Continental Shelf Subcommittee, DAVE BOWEN was a great influencing factor.

He has been of tremendous assistance to me due, in part, to his invaluable knowledge of Panama Canal issues, particularly with regard to the passage of the key Panama Canal management legislation, an uphill battle all the way. Congressman BOWEN was tireless in his efforts to lead the fight in the House for passage of the Panama Canal Act in 1979. Indeed, his leadership and assistance were keys to winning our colleagues' acceptance of this critical legislation.

DAVE BOWEN has been instrumental in other ways. He has devoted a great deal of time, with substantial success, in the fight for the construction of the Tennessee-Tombigbee Waterway, preservation of the tax-exempt industrial revenue bond system, and continuation of the NOAA Agricultural Weather Service.

Indeed, the Congress is losing an excellent Member and the people of Mississippi are losing a man who has proven his dedication and abilities over the past 10 years. I shall personally miss Congressman DAVE BOWEN and am pleased to consider him a friend of mine. I want to wish him the best of luck in his future endeavors.

Mr. DERWINSKI. Mr. Speaker, I would like to join with my colleagues in paying a well-deserved tribute to DAVID BOWEN, who will be leaving the Congress at the close of this session. We have been fortunate to have DAVE as a colleague and to benefit from his extraordinary abilities.

During his 10 years in Congress, DAVE has served the people of the Second District of Mississippi with dedication and distinction, and he may step down from his duties here in the House knowing that he has served well and contributed significantly to the legislative process.

I have had the privilege of working with DAVE on the House Foreign Affairs Committee, as well as serving with him on the U.S. delegation to the Interparliamentary Union (IPU) Conferences. At the fall IPU meeting held last week in Rome, Italy, DAVE ably and effectively represented the U.S. stand on the disarmament issue and on our stance in the Middle East. DAVE is a well-informed spokesman with a broad view of the world situation.

As an example of his farsighted leadership, I remember his fight for support of the legislative package that implemented the Panama Canal treaty. DAVE BOWEN expressed his strong and forcible arguments during the debate, and I wish to quote from his statement as follows:

I sincerely hope that by the year 2000, there will be a great deal more political and economic stability in Panama and in all of Central America. I certainly hope that by the year 2000 it will not be necessary for us to rely upon the Panama Canal so heavily for our ocean commerce and for the military security of our Nation. I hope that we will have developed alternate routes and methods of transportation between the Atlantic and the Pacific. But for 1979 and 1980, and the two decades thereafter, it is essential to every American that we retain the right to administer and defend the Panama Canal, a

right we have exercised wisely for 65 years and one that I am confident we will exercise wisely for the next 20.

Not only in the area of foreign affairs did DAVE show his effective and tireless service, but also in his work on the Agriculture and Merchant Marine and Fisheries Committees. DAVE has worked diligently toward shaping programs needed in the agriculture field and in the legislative objectives under the jurisdiction of the Merchant Marine and Fisheries Committee.

It has been a pleasure to have had the opportunity to serve with DAVE in the House. I will remember the outstanding effort he has put forth as a Member of this body and on the committees on which he has served, and especially our association on the Foreign Affairs Committee.

As a young man, I am sure that DAVE will continue to contribute to the progress of our country; and whatever vocation he chooses to pursue, he will put forth every effort and do a good job. I join our colleagues and friends in wishing him the best for a happy and fulfilling future.

Mr. FOUNTAIN. Mr. Speaker, I would like to associate myself with the remarks of Congressman MONTGOMERY and others in paying tribute to one our distinguished Members who, like myself, will be leaving the Congress at the end of this session.

I have had the pleasure of observing DAVID BOWEN since he has been here in many capacities, not only in his work on the Foreign Affairs Committee but in our meetings at other places, such as the Interparliamentary Union, which we have just participated in. I want to pay special tribute to him as one of the most outstanding Members who has served in the Congress of the United States. I have had the opportunity now for almost 30 years—at the end of this year it will be—of observing a variety of candidates for Congress and Members of Congress, and I feel that I can say without fear of contradiction that DAVID BOWEN is one of the most able and capable who has served in this great body.

Mr. PEPPER. Mr. Speaker, I would like to say a word in behalf of Mr. DAVID BOWEN, our distinguished colleague.

Down South we have an appellation that we apply to those that we consider the most deserving of knowledge, skill and character. That is the "gentleman and a scholar," and I am sure that every Member of this House will agree that that is what the Honorable DAVID BOWEN is recognized as by all of us, to be truly a gentleman and a scholar.

He has made a great record of public service in this House and been a particularly valuable member of the important Committee on Foreign Affairs. I have had the privilege of being with him at various international conferences and meetings. He has deserved the great respect which has been accorded to him by his colleagues whether here in the House or at some international assembly because the quality of his mind, the purity of his spirit and the depth of his dedication to the public interest has impressed all who have known him.

I regret exceedingly that DAVID BOWEN is leaving this House. He leaves behind him an enviable record of dedicated and distinguished public service.

Our warmest wishes go with him in what we hope will be many healthy and happy years of his future life.

Mr. DOWDY. Mr. Speaker, when I was a student at Millsaps College in Jackson, Miss., almost 20 years ago, I took a course in political science. My professor was a very young, bright man of wisdom and insight, a young teacher with a special ability to spark an interest in his subject among students who were only slightly younger than he. My professor was DAVID BOWEN.

Of course, there was no way to predict that DAVID BOWEN would be elected to serve in Congress. But the fact that he would be a great factor in the future of the State of Mississippi could not be denied.

After serving as a college professor, DAVID BOWEN became director of State-Federal relations in the office of the Governor of our State. He made many contributions in this very important position, and he served our people in a manner which is still remembered and emulated in this office.

After leaving the Federal-State director's position, DAVID BOWEN ran for Congress, and he was elected. His congressional accomplishments are well known in our home State and here in Washington. The farmers and agricultural interests of our State and Nation have found a loyal, capable and hard-working friend in DAVID BOWEN, who has been an effective advocate of agriculture since his election to Congress.

His special expertise in foreign relations, which gave him a special way in which to further advance the interest of agricultural community, has made him a valued member of the Foreign Relations Committee, in addition to his service on Agriculture.

DAVID BOWEN served his district well.

DAVID BOWEN has been an effective spokesman for Mississippi. Our people appreciate his contribution. At this point in the RECORD I include the following article:

[From the Clarion-Ledger, June 22, 1982]

DAVID BOWEN: HARVARD MAN IN RURAL STATE

(By Johanna Neuman)

WASHINGTON.—Talk to people on Capitol Hill about David Bowen, the five-term Democratic congressman from Mississippi's 2nd District who announced Monday that he will not be a candidate for re-election, and a twin portrait emerges.

One portrait is of an effective legislator, a man of quiet intelligence and diplomatic grace, a potent voice for the rice and cotton crops he has watched over during 10 years as a member of the House Agriculture Committee.

"He will be greatly missed," said his colleague, Rep. Sonny Montgomery of Mississippi's 3rd District, "especially in the field of agriculture, where he became an expert and an influential voice."

The other portrait which emerges is of a Harvard man, a bachelor about town, a world traveler seemingly ill-suited to his constituency of farmers and plantation owners, of truck drivers and factory workers.

"He was subjected to a lot of criticism for his social life and his congressional trips, and that tended to cloud his legislative work," said John Perkins, Bowen's press secretary for six years. "But he was very effective, and always prepared."

Bowen, who will be 50 in October, was credited in Washington for his "masterful" work in helping to pass the implementation legislation that sealed the Panama Canal Treaty, for his meticulous preparation on the issues, and for his ability to attract quality staffers.

"It was a very courageous, very effective campaign," said an aide to a Democratic leader who worked with Bowen on the Panama Canal legislation. "He produced the information, and the votes."

Bowen is sensitive to his twin images, aware that his constituents are suspicious of his academic ties, wary of his international connections. In an interview in 1979, Bowen explained that while he did not support the Panama Canal Treaty, he believed it important to support the legislation that would keep the canal under U.S. management for another 20 years.

Realizing that his constituents were overwhelmingly opposed to the bill, Bowen said, "There's a time when a congressman has to take some risk. There's a time when a congressman has to attempt to lead, to do what's right and what's in the best interests of his constituents, even when they don't agree with him."

A former assistant professor of political science at Mississippi and Millsaps colleges, Bowen did not slap backs or demagogue the issues. A graduate of Harvard University, with a master's degree in international relations from Oxford University, he winced at the headlines about his attendance at a party thrown by South Korean lobbyist Tongsun Park, about his record number of congressional junkets to countries like Sri Lanka and Egypt, about being named Cosmopolitian magazine's bachelor of the month.

"My opponents are always pointing out that I went to Harvard," he said. "That is so much political rhetoric."

Rhetoric aside, the image as a favorite of Washington socialites never hurt Bowen at the polls. After his election in 1972 he was never challenged by a well-financed candidate, never re-elected with less than 60 percent of the vote.

His thoroughness in preparing for the daily battles of a legislator won him devoted accolades from hard-worked staffers.

"He always does his homework," said William LaForge, a former Bowen staffer who, like press secretary Perkins now works for the state's Republican senator, Thad Cochran. "Bowen demands a lot of his staff—

some might call him a taskmaster—but I think it builds character."

And his smoothness in handling diplomatic situations led him to special appointment to fill a vacancy on the Foreign Affairs Committee, even though he was already serving to the limit of House rules on one major committee, Agriculture, and one minor one, Merchant Marines and Fisheries.

"This is a sad day for Mississippi," said William Simpson, the state's Washington consultant. "Bowen was a very effective member, a hard-working member, who took care of his district, and his business."

Simpson, who worked as a White House aide under former President Carter, compared Bowen to James O. Eastland who served in the U.S. Senate for 35 years before his retiring to Doddsville in 1978.

"He approached the thing like Eastland did," Simpson said of Bowen. "He was concerned about getting the thing done, about getting his job done. If it was agriculture, he got it done. If it was foreign relations he got it done."

Added the staffer for the Democratic leader, "He was very impressive, very smooth. We will be very sad to lose him."

● Mr. BEVILL. Mr. Speaker, our good friend and colleague, DAVID BOWEN, has provided this body, and the entire Nation, with the highest caliber of service during his 10 years as the Representative of the Second District of Mississippi.

I have the highest respect for his abilities and his willingness to serve this great country. I remember, especially, his helpful and effective contribution in the reauthorization of the Endangered Species Act. Through his efforts, this body was able to produce legislation which shaped this act into a more realistic law, in its application to wildlife, rivers, and streams.

DAVID BOWEN has been a tireless worker on behalf of the people in his district. But he never lost sight of the needs of the country, as a whole.

The Congress will miss his ability and his cordial manner, which have enabled him to become one of our most effective Members.

I will miss DAVID, personally, as he has become a good friend and neighbor. The interests of the people of Alabama and Mississippi are similar, indeed, and I have always found DAVID to provide wise counsel and insight into how best to serve the people of our area.

I join with his colleagues in wishing DAVID continued happiness and success in the future.●

● Mr. REUSS. Mr. Speaker, I appreciate this opportunity to pay tribute to my friend and colleague, DAVID R. BOWEN, who has decided to retire after completing five terms in Congress. As chairman of the House Agriculture Subcommitteee on Cotton, Rice, and Sugar, DAVE has provided valuable service to farmers in his native Mississippi and throughout the Nation.

DAVE has also served with distinction on the House Foreign Affairs Committee, becoming a leading congressional spokesman on foreign policy and trade issues. Perhaps DAVE's most courageous and valuable role was his work in support of implementing the Panama Canal treaties. Although politically divisive, those treaties have proved a success in preventing potential anti-Americanism in an important Central American neighbor. Their passage in Congress would not have been possible without DAVE BOWEN's leadership.

Since he is still a young man, DAVE's retirement from Congress leaves him plenty of opportunity for further service to his State and Nation. I know that he will continue to be a valued adviser on foreign policy and agricultural issues. I have appreciated the opportunity to work with DAVE, and I wish him the best of luck in his future endeavors.●

● Mr. ROE. Mr. Speaker, I take great pleasure in rising today to honor Representative DAVE BOWEN of Mississippi, who unfortunately, has decided not to seek another term in Congress.

During his five terms in the House of Representatives, DAVE BOWEN has set a high standard of excellence that will be hard to follow.

I recently had the opportunity to visit the great State of Mississippi in my role as chairman of the House Water Resources Subcommittee. And let me tell you, the people of Mississippi I spoke to were indeed proud to have DAVE BOWEN as a key member of their State's congressional delegation.

As chairman of the Agriculture Subcommittee on Cotton, DAVE BOWEN has insured that the cotton farmers of his own State and others around the Nation received fair and just treatment.

Mr. Speaker, DAVE BOWEN's contributions are certainly not limited to his own State. His service as a member of the Merchant Marine and Fisheries and Foreign Affairs Committees have established him as a well respected expert in international affairs.

At a time when our Nation is faced with making highly complicated decisions in the international arena, DAVE BOWEN's expertise will be sorely missed.●

● Mr. UDALL. Mr. Speaker, I rise today to join with my colleagues in honoring a friend and colleague, DAVID BOWEN. I regard him as one of the most pleasant, friendly and fairminded persons that I have had the pleasure of serving with in this body.

I know that he has represented the people of the Second District of Mississippi with both courage and wisdom. He has shown both commonsense and uncommon abilities.

In his work with the Agriculture Committee, he has been both diligent and effective. I know that on more than one occasion, I have turned to him for advice on cotton legislation.

He is a fine man and a good legislator. We are sorry to see him go and wish the best in his retirement.●

● Mr. DE LA GARZA. Mr. Speaker, I join my colleagues today in paying tribute to one or our esteemed colleagues, DAVID BOWEN of Mississippi, who has decided to retire at the end of this session. I have had the distinct pleasure of working with Representative BOWEN on both the Agriculture Committee and the Merchant Marine and Fisheries Committee.

In the 10 years we have worked together, I have developed the greatest respect for DAVID BOWEN's efforts in behalf of the Second District of Mississippi, and the Nation. His ability as a legislator will surely be missed by all. I certainly wish my friend and colleague nothing but the best in the future.●

● Mr. FORD of Michigan. Mr. Speaker, I will miss DAVID BOWEN as both a friend and a colleague when he retires at the end of the 97th Congress. I have had the pleasure of working with him over the last five terms and during that time, I have found him to be both effective and hardworking. As a member of three committees—Agriculture, Foreign Affairs, and Merchant Marine and Fisheries—his numerous legislative accomplishments ranged from work with the Endangered Species Act to the enactment of the Panama Canal Act.

During his tenure in Congress, he quickly became a national spokesman for the farmers of our Nation. He combined his expertise in agriculture and trade to enact legislation protecting American farmers from the effects of illegal dumping of agriculture products by other countries. When DAVID BOWEN picked an issue on which to wage a legislative battle, you could be sure that he would see it through to a successful completion. Members of Congress, the people of Mississippi and the citizens of the United States will all miss DAVID BOWEN's presence in the House of Representatives.●

● Mr. BRINKLEY. Mr. Speaker, it is a personal privilege to participate in this special order honoring the outstanding congressional career of my good friend from the Second District of Mississippi, DAVID BOWEN.

Throughout his five terms in office, DAVID has demonstrated the highest resolve to serve his district and country with honor. DAVID's expertise on the issues extends from farming to foreign policy—from his chairmanship of the House Agriculture Cotton, Rice, and Sugar Subcommittee to his outstanding work on the Merchant Marine and Fisheries and Foreign Affairs Committees.

DAVID BOWEN is a man of uncommon commitment, who loves his country and has relished the opportunity to serve. He will be greatly missed, but he

has left his mark, and we are grateful for the quality of his example.●

● Mr. BARNES. Mr. Speaker, I just want to add a very few words about our friend, DAVID BOWEN.

As we all know, DAVID rarely traveled abroad. Nevertheless, as a freshman Member of the House, I did have the opportunity to travel with him once, when he accompanied me to Mexico City in July of 1979. That is where I got to know DAVID BOWEN. Besides livening up the trip considerably, DAVID participated in and contributed to all the meetings. He was knowledgeable and well prepared, and a definite asset to the study mission.

During the rest of our time together on the Foreign Affairs Committee, I was to learn that the qualities and work habits that I had seen in Mexico were typical of DAVID's approach to his job. He always did his homework, and made important contributions to the work of the committee. I was very disappointed to learn of his retirement, and I hope the people of Mississippi's Second District will have the wisdom to send as able a legislator as DAVID BOWEN to replace him in Congress next year.

I join all my colleagues in wishing DAVID all the best as he moves on to another stage in his career.●

● Mr. HUGHES. Mr. Speaker, our colleague DAVE BOWEN of Mississippi has decided to retire at the end of the 97th Congress, after five terms of service to his home district, to the State of Mississippi, and to the Nation.

I have known DAVE best in his work on the Merchant Marine and Fisheries Committee, of which he has been a member since 1973. DAVE BOWEN is an able and a hard worker, blessed with great courage and determination in his convictions. His work contributed to the passage of vital legislation concerning the environment and the oceans.

He has stood his ground on issues—both popular and unpopular—regardless of the current public opinion. In the 96th Congress, DAVE waged a strong, often uphill effort in the House to pass the Panama Canal Act of 1979 and maintain the U.S. right to oversee and protect the canal through the end of this century.

The results of DAVE's efforts and personal involvement in the workings of the Agriculture Committee are clear. Farmers in my own State of New Jersey, and across the country, have been able to benefit from legislation that DAVE managed in committee and on the floor of the House. His active support of the food for peace program has aided people throughout the world.

When he retires from public service, DAVE can take pleasure and pride in his performance—not even 50 years old, he has given a decade of public service. He will be remembered and missed by all of us.●

● Mrs. HOLT. Mr. Speaker, I was sorry to learn that my friend DAVID BOWEN is retiring from the House of Representatives. We were both elected to the House in 1972 and shared the experience of freshmen learning how to function in this environment.

He learned very quickly and has served his constituents of the Second District of Mississippi with great distinction. I have enjoyed working with this pleasant and conscientious man and have admired his work in the House Agriculture Committee and the Merchant Marine and Fisheries Committee.

Those of us who know him have acquired great respect for his intellect, his keen knowledge of history and government, and his ability to analyze complicated issues.

He came to the Congress with excellent credentials. A graduate of Harvard who earned a master's degree from Oxford University and then taught history and political science in colleges, he was wonderfully prepared for the challenge of serving in Congress.

After 10 years of diligent service, this bright and diligent Member of the House will soon be leaving us for other pursuits. I am sure the House joins me in wishing him the best.●

● Mr. CORRADA. Mr. Speaker, I am honored to join in this tribute to Congressman DAVID BOWEN who will be sorely missed as he leaves the House of Representatives.

Mr. BOWEN has worked diligently on behalf of the interests of the Nation and his own congressional district in Mississippi since coming here in the 93d Congress and his departure leaves us with the memory of such issues as agriculture and the shaping of the foreign policy of this country as a member of the Foreign Affairs Committee.

Mr. BOWEN brought to his work here a considerable knowledge of the intricacies of our country's agricultural policy and I believe his many friends here in the House of Representatives will continue to benefit from his service here long after he has left.

I am wishing him the very best as he leaves the Congress and I hope he visits us often.●

● Mr. YATRON. Mr. Speaker, I am most grateful for this opportunity to honor a good friend and fellow Foreign Affairs Committee member, DAVID BOWEN.

At the end of this session, DAVID will have completed five illustrious terms in the U.S. House of Representatives. During his tenure, DAVID has made outstanding contributions not only to his district and the State of Mississippi, but to the entire Nation as well.

DAVID's many capabilities and tireless efforts were especially evident in the House Foreign Affairs Committee. It was a pleasure to serve with DAVID and to work closely with him.

DAVID will be sorely missed by this body when the next session of Congress convenes, and it is with sadness that I see this fine Member leave. Throughout his service, DAVID continuously exemplified the true meaning of "public servant."●

● Mr. PANETTA. Mr. Speaker, I want to join my colleagues in paying tribute to DAVID BOWEN, who is resigning from the House to pursue a more private life with, we hope, the same intelligence and vigor he has demonstrated here in the House.

As a fellow member of the Agriculture Committee, it has been a real pleasure to be able to work with DAVID. His knowledge of the issues and his effective work on behalf of his own constituents and on behalf of all of American agriculture have made him an extremely capable and valuable member of the committee.

Mr. Speaker, I think I speak for all of my colleagues when I say that we will miss DAVID's presence and his contribution a great deal here in the House. We all wish him the best of luck in the future, and I hope he will be back to visit us in the near future.●

● Mr. NAPIER. Mr. Speaker, in a spirit of camaraderie among our Nation's leaders, I join other Members of Congress today in recognizing one of our own who is leaving. We pay special tribute at this time to Congressman DAVID BOWEN of the Second District of Mississippi because he is retiring, but we shall continue to feel the contributions he has made, long after he is gone. During the five terms he was in Congress, he served his people well through dedication and hard work on the Agriculture, Merchant Marine and Fisheries, and Foreign Affairs Committees. I speak for myself and all my fellow colleagues when I say "thank you" to Congressman BOWEN for the many hours you have given to us and to your constituents in leadership and in friendship.●

● Mr. ADDABBO. Mr. Speaker, I am proud and honored to join my colleagues today in paying tribute to our friend and colleague, DAVID BOWEN.

DAVID, first elected to the House of Representatives in 1972 from the Second Congressional District of Mississippi, has decided to retire at the end of this term, much to the dismay of his constituents and colleagues.

During his first term in Congress, DAVID was appointed to the Committee on Agriculture and the Committee on Merchant Marine and Fisheries. He has certainly served his constituents well, always keeping their interests at heart as a top priority. In 1973, DAVID introduced and won passage of a bill providing emergency assistance for farmers who had suffered losses due

to natural disasters, a rare accomplishment for a freshman Congressman. He has been very active as a spokesman for American agriculture, especially the cotton, rice, and soybean industries. DAVID was also instrumental in the construction of the Tennessee-Tombigbee Waterway and the preservation of the tax-exempt industrial revenue bond program, which originated in Mississippi.

DAVID will also be sorely missed in the area of international affairs, where he took an extremely active role. He represented Congress as leader of the delegation serving as liaison to the Council of Europe, served as a member of the congressional delegation to the Interparliamentary Union, and was a member of the board of the Center for European Defense and Strategic Studies of London.

We will all miss DAVID's intelligent leadership and wise counsel, and I want to wish him continued success in all of his future endeavors.●

● Mr. MAZZOLI. Mr. Speaker, I wish to add my tribute to Representative DAVE BOWEN of Mississippi on his retirement from the House. DAVE came to the House shortly after I did, and he has consistently given competent and devoted service to his constituents as well as his fellow colleagues in the House. I have always found DAVE to be a dedicated hard-working Representative as well as a congenial colleague. DAVE has contributed much to the State of Mississippi as well as to the Congress and I wish him much success in his future endeavors.●

● Mr. WINN. Mr. Speaker, it was with deep regret that I learned of DAVE BOWEN's decision to retire from Congress. In his 10 years of service in the House of Representatives, DAVE has made many outstanding contributions. And, like his colleagues, I had looked forward to working with this gentleman from Mississippi for years to come.

DAVE has proven himself to be a thoughtful, articulate, and creative member of the Foreign Affairs Committee. He has taken a serious interest in United States-Japanese relations and actively sought to promote increased Japanese defense spending—an issue of critical importance to the United States. His concern with U.S. national security has also extended to NATO affairs. And DAVE has combined his expertise from the Agriculture Committee with his Foreign Affairs Committee responsibilities to be a key formulator of U.S. policies in agricultural assistance and Public Law 480 programs. Future committee deliberations of tense and delicate matters will miss DAVE BOWEN's quiet nonsensical approach and his courageous stands.

I want to wish DAVE BOWEN the very best in all that he undertakes. We will miss him greatly. But we also know with confidence that DAVE BOWEN will continue to address himself seriously and assiduously to our most pressing contemporary problems and that DAVE's efforts will continue to promote considered solutions to these problems.●

HESITANT COPS AND JUDGES MAKE U.S. TRADE LAW WEAK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GAYDOS) is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, where the Constitution of the United States grants the people a right to petition the Government for redress of grievances, it imposes on Congress a duty to hear them. This obligation demanded more of the Steel Caucus in 1982 than ever before.

This year was demanding because the people of industrial America are seeking out the steel caucus almost as a last resort. They have almost no one else to ask for relief from injuries that could be prevented or lessened. And they come to the caucus because no standing committee in Congress has a specific focus on the looting of industrial America. A lot of us see isolated muggings in our committees, but none is charged to see all that is happening or how or why.

It is happening because our trade partners are using every cunning trick of trade war—bluff and stall and bluster and subsidy and dumping and state capitalism.

Their goal is to keep the goods flowing into the biggest and most active market in a slumping world. They want to keep open their mills and foundries and factories. They want to avoid the political problems of unemployment.

But this year the caucus executive committee has heard from the wives of laid off American steelworkers—there are 134,600 now and about 62,000 never will be called back.

We have heard from fired steelworkers—their number grows daily with unemployment in this basic industry as dreadful as during the depression. The Nation's No. 2 steelmaker, Bethlehem, just last week announced it will quit operating on our west coast. It will close, or sell if any will buy, two 50-year-old mills there.

We have heard from State legislators, who are watching their communities crumble.

And we have heard from management. Steel losses through the first 8 months of the year for 13 top companies exceeded $927 million. And through June, imported steel had almost 26 percent of the U.S. market. That amounts to a little more than 1 ton in 4. Much of it is subsidized or dumped.

This is industrial America today. A century ago the poet Whitman could write, "I hear America singing," and tell a story of promise and confidence.

Were he a Member of Congress in 1982, and hearing what the caucus has heard, he could only write, I hear America mourning, and the cry is a long one of grief and pain and anger.

Anger is the strongest element in what we have heard.

There is anger with trading partners who cheat on their trade agreements to send their unemployment here along with their subsidized goods.

And there is anger with a government that winks and pretends it is all due to some higher law of economics or the result of some special moral responsibility.

Together the words of those who petitioned us swell to an angry and sorrowful chorus. It is the kind that might underscore the moral of a tragic opera:

Make our partners keep their agreements, or give them a quota;

Enforce the trade law, or give them a quota.

This lamentation is not from the intellect. It does not come from a high principled theory of economics or morality held together by an unsupported and infinite string of if's and what-should-happen's. It is from the heart and the gut. It comes from what they see and experience. It comes from what is happening.

And what is happening is nothing less than economic warfare, trade war.

What is happening is that U.S. trade law—meant to enforce international trade agreements—is under unprecedented strain and attack.

And, in the case of steel, what is happening is involved only tangentially with trade agreements and U.S. industrial strength. Experience says it is involved directly with political appeasement for transitory, probably imaginary, gain.

You see, early this year American steelmakers began trade cases against seven European countries; or rather the country of Europe, since they are united in this regard. They alleged subsidy and dumping.

The U.S. Government did not want these cases. It wanted to avoid trouble by ignoring it. With subsidized and dumped imports at historic highs, our trustees of the trade law wanted to make examples of one- or two-bit players. The idea was that the chief offenders would take notice and reform.

But the Government was forced to investigate once the cases were opened. There were preliminary findings of some huge subsidies: Up to 40 percent in the case of the British, for example; up to 30 percent by the French; almost 22 percent in Belgium.

These findings meant countervailing duties that would have made their steel sell here at its true price. It would have been too expensive to com-

pete, by and large. Shocked, but united, Common Market officials began negotiating with the U.S. Government in behalf of European steel.

Meanwhile, the Soviet natural gas pipeline and our Government's opposition to it and all the attending tensions emerged.

Then the Europeans offered to settle. They offered voluntary quotas. But the quotas offered were open to easy circumvention, especially when the Europeans function as one, in matters of steel. And the proposed settlement did little to change the current binge of looting.

American steelmakers rejected the settlement. The U.S. Government was upset. The depth of this displeasure is exemplified by the unattributed conclusion that was repeated in one of the Nation's leading newspapers: "The U.S. industrialists apparently felt they cold get more by holding out, whatever the cost to the Atlantic Alliance."

Against this background, or Government methodically developed its final subsidy figures. There were huge Reductions: The British fell from 40 percent to 20 percent; the French from 30 percent to 21 percent; Belgium from 22 percent to 13 percent.

In other words, the British were found to be subsidizing 50 percent less, France 29 percent less and Belgium 38 percent less. In cases involving other parts of Europe, subsidy findings were eliminated or virtually eliminated. Suddenly only one side was under high pressure to settle because the Europeans are one nation as far as steel is concerned.

And our Government trustees said more accurate information had now become available after the preliminary finding.

There were three reactions to all of this that could help the House see into the situation.

First, of the European agreement pushed by the U.S. Government, Adolph Lena said:

> This agreement continues the long history of the failure of the U.S. Government to deal with the problem of unfairly traded specialty steel imports.

Mr. Lena is chairman of the Specialty Steel Advisory Committee and he was speaking for the industry, which is the most efficient and modern in the world. But it is targeted by those with goals other than efficiency and profit. Dumped and subsidized imports have bled it dry.

Second, on the formal subsidy findings, David Roderick said:

> This disparity reflects the pressures that are undoubtedly being brought to bear on the administration from European countries . . . to bail the European steel industry out of the difficulty it created by its unfair trade practices.

Mr. Roderick is head of the American Iron and Steel Institute and the chief executive officer of United States Steel.

United States Steel recently confirmed to the Wall Street Journal that it is close to beginning new trade actions, these against Japanese steelmakers. The cause is not Japan's initial 85 percent government capitalization of the industry. It is not the four or five episodes of Japanese dumping that have been shown and proved. It is not even Japan's largely closed markets.

The cause is something new. U.S. steel is considering action alleging a bilateral agreement between the Japanese and the Europeans on steel. The idea is that Japan has agreed to limit exports to the Common Market for the sake of trade harmony, but that those goods are diverted to the United States.

But the third reaction may be the most telling.

Sir Roy Denman is the head of the Commission of the European Communities and he spoke to the U.S. Chamber of Commerce in Washington on September 15 on the trade dispute.

One of the first things Sir Roy said was, "finding (that) imports are subsidized—or dumped—is not enough. There is nothing in international trade rules against these practices as such."

But Sir Roy said a lot more. He modified and adjusted and asked for understanding, as diplomats will, and he worried in a veiled way that the United States will start a trade war if it insists that Europe follow the trade law. But his final message was, Europe will do what Europe feels it must do.

By the way, the formal and reduced U.S. Government findings were very understanding of many European arguments—they were up to 49 percent understanding.

Some who studied the findings say that the United States threw out almost everything not measuring up to the criminal justice standard of proof beyond a reasonable doubt; or that they threw out everything on which a clever argument could be found; they say the Europeans got the benefit of the doubt in almost every case.

In addition, there is an equally serious criticism of the handling of the German coal subsidy.

The United States found that since the benefit goes to all users of coal, and not just to steel, it is not a subsidy, and that the price paid is above world price. A number of cases were reduced almost to zero subsidy this way. And the same reasoning on broadness was applied to other forms of government help to get other smaller reductions. Shave a point here and a point there and you can drop a finding from 23 percent to 20 percent when you start totaling.

Nevertheless, there may have been in this an effort to build now a defense in case the Europeans decide to retaliate or to lessen the possibility of retaliation.

The Europeans point to controlled natural gas here as a subsidy, and there is official worry here about action against American textiles and fibers and petrochemicals.

But I do not think our official toleration of their coal subsidy will cause 1 minute's hesitation in Europe if they decide to move.

Europe will do what Europe feels it must do. So will the rest of the world.

This group of steel cases stands as the first test of the 1979 trade law, and getting laws that work is a problem as old as mankind.

The English grappled with it and produced a proverb: "The law cannot persuade where judges will not punish."

And the Romans concluded: "Where the law is uncertain, there is no law."

Understanding and tolerance will not induce them to do less. It will incite them to do more.

The course of these first cases shows that the 1979 trade law may be incapable of persuasion; or that it is far less certain than Congress intended it to be.

Many questions I have discussed will be appealed, probably. But U.S. companies that petitioned for enforcement of their rights, and the rights of their workers, under GATT and the U.S. trade law will have to bear the expense. That expense already numbers in the millions.

And that expense will come in a year in which they will be losing over $1 billion.

Furthermore, a large portion of that $1 billion will be lost to Europeans who have received subsidies mounting into the tens of billions of dollars in recent years.

Meanwhile, this Nation, which wanted to begin reindustrializing in 1980, will see its most basic industry, steel, continue to fail because, as one analyst wrote recently:

> . . . currently Government officials refuse to become advocates for the domestic steel industry in their negotiations with foreign governments, which means deliveries from Europe will not be as restrained as they otherwise would be.

The Common Market negotiates for European steel. In many cases, there is no difference between country and company; they are the same.

And the pressure on American producers mounts. The U.S. International Trade Commission has postponed its final ruling on the cases until mid-October so the Europeans can have one more try at forcing their settlement.

You see, there is no hesitancy in Europe to advocate, unless I misunderstand Sir Roy and all that has happened.

But in the United States other pressures have a way of intruding, even if they should not.

However, the point of the trade law is not saving the Atlantic Alliance or any of a half-dozen other goals that have been created by active imaginations and intellects—the point is trade and the prevention of trade war.

Trade war is not unlike other forms of war, and as Gen. Douglas MacArthur observed more than 50 years ago, "wars are caused by undefended wealth."

And Europe will do what Europe must do, as will Japan and the rest of the world.

Foresight demands that we be prepared to act and standing at the ready if this uncertain law collapses, and the very best thing we have waiting is what the people have been petitioning for all along—a quota bill.

The Europeans understand quotas. They suggested one. The only quarrel they have is that the American industry will not accept it because they want to hold Europe to its historic share of this market.

So let us give them their historic share by law.

To do this would get the Nation and our theorists to the point where English writer Aldous Huxley said all things end:

> The course of every intellectual—if he pursues his journey unflinchingly enough and long enough—ends in the obvious, from which the nonintellectuals have never stirred.

The people want a quota rather than talk. And it is time the United States did what the United States must do.

□ 2020

Mr. Speaker, I yield to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. I appreciate the gentleman yielding to me.

I would like to commend the gentleman in the well for his leadership in trying to get the steel industry back on its feet, put people back to work and start using American steel.

I am proud to be a member of the Steel Caucus just on account of the gentleman in the well. He is a figher and a leader.

Mr. GAYDOS. I thank the gentleman.

Mr. Speaker, I do want to comment that Mr. MONTGOMERY has been a very active member of the Steel Caucus in spite of the fact that he does not live in a steel-oriented district, but one who has recognized the problem, per se, as affecting everyone. He has brought the needs of his district to my attention, and other members of the steel caucus. There is a mutual exchange of support which I think benefits both areas of our country.

CONCERNS ABOUT THE PUBLIC PRINTER

Mr. GAYDOS. Mr. Speaker, over the past several months, the Public Printer, Mr. Danford L. Sawyer, Jr., has engaged in a very active media campaign to convince Members of Congress and the general public that Government Printing Office craft employees are paid 22 percent more than allegedly similar craftsmen in the private sector and Federal agency printing operations. As part of this campaign, orchestrated by the Public Printer, a political appointee of the Reagan administration, Mr. Sawyer has attacked the members of the Joint Committee on Printing by alleging that several members of the joint committee have a prolabor bias and, as a result, implying that the members' integrity, fairness, and good judgment are in question. The impression of a prolabor bias is created by vague references to campaign contributions from the AFL-CIO and GPO craft unions to members of the Joint Committee on Printing. These references are made by Mr. Sawyer himself and various members of the press.

During this intense public misinformation campaign, the members of the Joint Committee on Printing have remained publicly silent, preferring to allow that committee's oversight process and the proceedings under the Kiess Act (44 U.S.C. 305) to run their courses. However, since the Kiess Act proceedings were completed by the joint committee on September 23, 1982, I think that now is the appropriate time to express some serious concerns about Mr. Sawyer's stewardship at GPO and the role of the Reagan administration in politicizing the management and direction of this legislative branch agency.

During my 14 years in the U.S. House of Representatives, I have seen administrations come and go, and I have learned that political operatives in any administration have subtle and secretive ways of achieving their objectives, often without the blessings of their duly elected boss, the President. In my judgment, one would have to be incredibly naive not to assume that Mr. Sawyer's conduct at GPO has been encouraged by high-ranking officials in the Reagan administration. To appoint an individual such as Mr. Sawyer, with his background and involvement in conservative political campaigns, to head a legislative branch agency, established by law, first and foremost, to serve Congress, without giving that appointee a clear signal to radically restructure that agency's operations and to do so without regard for the morale of its hard-working employees, seems hard to believe for anyone with experience and knowledge about the ways of Washington politics. If my belief is incorrect, then I cannot understand how the Reagan administration can let this public relations man continue to run GPO in the bitter atmosphere that he has created. Improvements in employee morale and relations with Congress appear to be impossible with Danford L. Sawyer, Jr., at the helm of GPO.

Furthermore, I wish to emphasize that I bear no personal animosity toward Mr. Sawyer. Those of us who hold public office have thick skins. But, I cannot believe that he is not being encouraged and directed by high officials in the Reagan administration to conduct his ideological campaign to radically change this legislative branch agency and to do so without regard for employee morale.

Now, as one who has been attacked, but who has remained silent over the past several months, I would like to comment about Mr. Sawyer's background, public statements, and stewardship at GPO.

1. BACKGROUND OF DANFORD L. SAWYER, JR.

Mr. Sawyer says that because he has had extensive experience in the private sector as a printer and publisher, he should be allowed to institute sweeping and "necessary" changes at GPO, unfettered by the "uninformed" approval of the Joint Committee on Printing (JCP). An excellent example of this arrogant, know-it-all attitude occurred when the JCP challenged Mr. Sawyer's unilateral proposal to close the GPO bookstores. Mr. Sawyer sought to repudiate any independent review of his proposal by reference to his extensive experience. He said:

> Well, I did spend 20 years in the publishing business before I came here, so I don't know whether I qualify as an expert or not. (From: Feb. 9, 1982, JCP meeting transcript, p. 26.)

When Mr. Sawyer's background is examined, it can be seen that he has little or no experience in a large, high-demand-time printing operation, such as GPO.

He started his business career as a cost accountant for a Tampa, Fla., contracting company. Then he was an advertising manager for a Sarasota news monthly. Next he joined the advertising staff of the Sarasota Herald-Tribune & Journal. Then he became the commercial manager for a Sarasota radio station. In 1964, he started Sawyer & Associates Advertising, Inc. Up to this time, he was obviously an advertising man, and not a publisher or printer.

In 1976, he finally entered the "publishing industry" when he founded Area Guides, Inc., which printed local tourist literature in Florida. He also founded a community news magazine, Sarasota South, and was a partner in a company which reproduced out-of-print publications for the nostalgia market. It is reported that at no time did he have more than 40 employees working for him, as contrasted with 6,500 employees who work at GPO.

None of his small operations were capable of producing the high-demand-time-type of printing work which has been done at GPO for the past 120 years. High-demand-time printing means that GPO is capable of producing the CONGRESSIONAL RECORD in less than 12 hours for each and every day in which the Congress is in session. It must be done in a manner which adheres to the requirement of the utmost accuracy.

In summation, producing flashy ads for high-paying clients, or tour guide brochures, or a community news magazine, does not qualify one as an expert in high-demand-time-type of printing such as is produced at GPO on a daily basis.

It is uncertain why the Reagan administration would appoint a man with apparently no prior experience in labor-management relations at any large printing firm to head an agency such as GPO which had in excess of 6,500 employees. Furthermore, it seems unlikely that Mr. Sawyer has ever negotiated with a labor union before, which might explain why he has made such a mess of it this time. Mr. Sawyer's actual lack of this type of experience may be contrasted with former Public Printers Boyle and Saylor who each worked their way up within the ranks at GPO—at least 25 years of experience each—and who strongly disagree with Mr. Sawyer on several issues.

Furthermore, in relation to his background, his constant references to alleged prolabor bias on the part of the JCP members is laughable when one examines his own extensive political activities. He was a member of the board of directors of the ultraconservative Young Americans for Freedom in Florida. He has stated that:

In a professional capacity, I have handled the successful election campaigns for over 60 Republican candidates for public office in Florida.

He was finance chairman of the Republican Party in Sarasota and, in 1980, was a delegate to the Republican National Convention. He was also a member of the national advisory committee and State of Florida Reagan for President Committee. He has reportedly referred to the GPO union leadership as a bunch of Bolsheviks. That statement has particularly angered GPO union president, George Lord, who resented the implication that he is a Communist, in light of the fact he had placed his life on the line to oppose communism in Vietnam. By the way, evidence of Mr. Sawyer's military service is conspicuously lacking from his résumé. He is the one who has demonstrated bias, and it is decidedly antiorganized labor. (Mr. Lord's comments are from the District of Columbia hearing transcript, p. 101.) (Background information on Danford L. Sawyer, Jr., was provided by Mr. Sawyer himself for his confirmation hearing; see hearing, pp. 2-3.)

2. CONFLICTS WITH CONFIRMATION HEARING TESTIMONY

Mr. Sawyer gave extensive testimony and responded to written interrogatories at his confirmation hearing which was held by the Senate Committee on Rules and Administration on July 13, 1981. His subsequent actions have directly contradicted several statements which he made at that hearing.

Mr. Sawyer served as a consultant at GPO for 90 days prior to his confirmation as Public Printer. Based on that experience, he made several statements at his confirmation hearing which he later repudiated. For example, Mr. Sawyer is quoted in the Washington Post, June 27, 1982, and in other sources as saying that GPO is "overpriced, overstaffed, overpaid, and inefficient." However, at his confirmation hearing, when Senator FORD asked him if he could give a general impression of the quality of GPO's operations, based on his preconfirmation consultant experience, Mr. Sawyer stated the following:

Oh, yes. I think the quality of the operation is excellent. . . . Frankly, I stand in awe of their ability to produce.

The CONGRESSIONAL RECORD in itself in one evening is a feat, but to also produce the Register and the extraordinary number of bills and reports and what have you that are also produced is quite a feat.

The production staff and other supporting departments in the Government Printing Office are of extremely high caliber. Frankly, I am surprised, coming from the private sector, I have a prejudice—and I am more than willing to admit it—about the "Federal bureaucracy," and I have been much surprised to find that the Government Printing Office has been able to attract and to retain some very high-quality people; and the end result is some very high-quality work.

The work produced is on a time schedule that is almost miraculous. Quite frankly, Senator, if the Government Printing Office were a private facility and I were heading it, I would send a lot of the work that is delivered to us down the road; I wouldn't even attempt to do it. The fact that they can actually produce the work that they do in the timespan is close to miraculous. (Confirmation hearing before Senate Committee on Rules and Administration, July 13, 1981, p. 20.)

Congressman HAWKINS addressed several written questions to Mr. Sawyer prior to his confirmation as Public Printer. Mr. Sawyer's answers sound as if they came from another person. Specifically, in the area of labor relations, Mr. HAWKINS asked the following questions and Mr. Sawyer gave the following answers:

Q1. How would you solve problems arising as a result of new technology if attrition is not adequate to reduce the work force to necessary size?

A1. Based on the projections by the Planning Staff at GPO, workload at the Government Printing Office will *increase* gradually over the next several years' time. I cannot envision the situation where the advent of new technology would require a reduction in force. (Emphasis added.)

However, shortly after his confirmation, he let it be known that he thought 2,000 employees could be cut from GPO's payroll because of reduced demand for printing work at GPO. Reduced demand for printing was also the reason given for his furlough program.

Q2. The Kiess Act requires that the Public Printer negotiate with the Unions over wages and other benefits. Will you fully commit yourself to negotiations with labor as prescribed by the Act? Do you have any reservations about any situations you feel should not be negotiated with labor unions?

A2. I have already clearly and unequivocally promised them that I will adhere to all existing agreements, and that I will negotiate in good faith with them over wages and benefits. I see no work-related activity that I will not be willing to negotiate with the unions over. To date, my dealings with labor union representatives have been most cordial and I see no reason why the situation will not continue.

After his confirmation hearing, he failed to negotiate in good faith during the first contract negotiation in which he participated. He engaged in "bullwareism"—intransigence—which has been deemed to be an unfair labor practice. He came to the negotiating table with an initial offer of a 22-percent pay cut on the first day of negotiations and refused to modify his position except to say that he would spread the cut over 3 years instead of 1. That can hardly be considered negotiating in good faith.

The independent factfinder appointed by the JCP pursuant to the Kiess Act proceedings criticized Mr. Sawyer's negotiating strategy of insistence to the point of impasse, that collective bargaining should be eliminated at GPO and be substituted by the Federal wage rate system. The factfinder stated:

In another context, such an effort by an employer to insist to the point of impasse in "bargaining negotiations" on the surrender of statutory rights would be viewed as a *violation of the most elementary principles* of the nation's basic labor relations." (Factfinder's report to the Joint Committee on Printing, p. 6.) (Emphasis added.)

Furthermore, he refused to negotiate the furlough issue at all, claiming it was a managerial prerogative to furlough and, therefore, not negotiable. At the District of Columbia Committee hearing on the effects of the furlough on the Washington area, he said that he did not indicate that he would negotiate all issues with the unions at his confirmation hearing. (District of Columbia Committee hearing transcript, pages 48-49.) Finally, at the District of Columbia Committee hearing, he said:

I have problems with employees having the full protection of union membership and all that goes with it and also being fed-

eral employees. (District of Columbia Committee hearing transcript, p. 55.)

He should have admitted that at his confirmation hearing and saved all the parties involved considerable aggravation.

Chairman MATHIAS asked Mr. Sawyer at his confirmation hearing if he had any recommendations as to organizational changes that he would like to see. To which Mr. Sawyer responded that he did see the need for some changes at the top, which he would be pursuing over the next few months. He then stated:

I am very cognizant of the Joint Committee on Printing's relationship with the Government Printing Office, and any changes will be discussed with you and with the other Members of the Joint Committee.

However, on March 25, 1982, Mr. Sawyer informed the Joint Committee on Printing, without prior consultation, that he had decided to furlough a group of GPO employees. Subsequently, and also without consultation, he decided that the furlough would apply to all GPO employees for 6 days over 7 months, the first day being June 1, 1982.

Therefore, contrary to the abovementioned statement at his confirmation hearing, he has reneged on his promise to consult the Joint Committee on Printing prior to initiating this drastic personnel action. Failure to consult the committee soon gave way to outright insubordination.

On May 11, 1982, the JCP met and unanimously passed a resolution which stated:

No furloughs, reductions in force, or other adverse personnel actions shall be imposed upon GPO employees as ad hoc solutions to immediate problems until a study of the long-range printing needs of the Federal Government has been conducted by GPO/JCP and evaluated by the JCP to examine the future technological and personnel requirements.

Prior to receiving official notification of the JCP's action, Mr. Sawyer issued a press release announcing his intent to disregard the committee's resolution. He reportedly said that he would go to jail rather than accept the JCP's decision. He then issued notices of intent to furlough to virtually all GPO employees. Then he had to reschedule the first furlough date which was to have been June 1, 1982, because of an "unexpected" increase in congressional printing work. However, the other furlough dates were still to be in effect.

Finally, the unions went to court to force Mr. Sawyer to obey the committee's resolution. The court ruled that he must obey the resolution, but Mr. Sawyer has appealed the lower court's ruling. All of this shows that up until the court decision he had not lived up to the commitment made at his confirmation hearing to discuss any changes at GPO with the Joint Committee on Printing and abide by their decision. Furthermore, all of these legal actions which are being directed by the Justice Department are costing the taxpayers a significant amount of money and wasted time by the Justice Department. This waste comes at a time when that Department's budget is tight and its manpower overworked.

3. FURLOUGH-RELATED ISSUES

Mr. Sawyer has repeatedly stated that the reason for his proposed furlough was a reduced demand for Government printing caused by the Reagan administration's efforts to reduce unnecessary printing by the executive agencies. However most of GPO's in-plant work is for Congress and the Federal Register—77 percent—with agency work being contracted out to a large extent to the private sector.

When Mr. Sawyer first announced his proposed furlough in March 1982, he projected a slow summer for congressional printing demands as well, and stated that GPO had lost $5 million because of reduced demand for congressional as well as agency printing up to that time. He did not mention the cyclical nature of the printing business nor the fact that Congress had taken very little legislative action during the period of September 1981 through March 1982, when he said GPO lost $5 million. However, by the time his first furlough date—June 1, 1982—came around, he had to cancel it because of "unexpected" increases in the amount of high-priority congressional printing. Despite this "unexpected" demand, he still insisted that GPO would continue to operate at a loss, and that the furlough program would continue.

At the District of Columbia Committee hearing, Congressman BARNES focused on Mr. Sawyer's reported profit-and-loss figures for the month of May. The Congressman could not understand how Mr. Sawyer and company could show a loss of profit during May at GPO and yet it was necessary to work 55,000 hours of overtime in that month due to increased demand for congressional printing. Mr. Sawyer responded that in a high-demand time printing operation like GPO, it was possible to be working that kind of overtime and still not be breaking even because of the fluctuating periods of demand. (District of Columbia Committee hearing transcript, pp. 14-15.)

By admitting that GPO is the type of operation which experiences high and low periods of demand for its services, he implies that the high demand experienced in May was an aberration, and that, overall, GPO would continue to lose money because of shrinking demand. The facts indicate that just the opposite has happened. The spring and summer months have been extremely busy at GPO due to steadily increasing congressional printing demands. In a memorandum dated as recently as August 19, 1982, from John Costello, Superintendent of the Electronic Photocomposition Division, to the employees of that Division, he states:

The Production Manager has voiced his appreciation for the extra effort exerted in this Division during the past week.

The huge workload generated by Congressional activity could not have been produced without your cooperation.

Another memo dated August 23, 1982, from Bennie F. Bakowski, Night Production Manager, and concurred in by the General Production Manager, states that—

They are proud of the outstanding performance displayed by all Production Division employees on Wednesday, August 18, 1982.

Four critical and sizeable publications were produced in addition to other needs of Congress in record time. All delivered on schedule.

The past two weeks have been a traumatic experience for everyone, and I realize the sacrifices you have made to see us through this crisis. For this, I am most appreciative. I commend you for your contribution to this outstanding team effort.

Finally, in a memo from Mr. Sawyer himself, dated September 10, 1982, to all employees at GPO, Mr. Sawyer states the following:

I have been informed that during my absence in August that although under the considerable pressures associated with extremely tight deadlines all employees involved in the production of Congressional work not only processed and delivered all orders, both Congressional and agency, efficiently and correctly, but also many of them ahead of schedule.

It is noteworthy to mention that during this period of time there were 4,102 pages of Record, 3,318 pages of Federal Register, 1,952 pages of House and Senate Calendars, 6,721 pages of Bills, in addition to other Congressional and agency work. Also, the largest Congressional Record ever printed in a single book (432 pages) was produced overnight.

It is reassuring and gratifying to know that we are enriched with employees of your caliber, who are willing to give "above and beyond" to insure the mission of the U.S. Government Printing Office. Therefore, I wish to commend and congratulate you for the excellent manner in which you are performing your assigned duties.

It is apparent that Mr. Sawyer cannot make up his mind whether GPO is praise-worthy or overstaffed, overpaid, and inefficient.

Mr. Sawyer has stated that his furlough program would save the taxpayers $640,000 per day. Most of this amount would come from the salaries of GPO employees who would not have to be paid on those days when the furlough was in effect. These employees would otherwise be sitting around idly on days immediately preceding six Federal holidays, which Mr. Sawyer had scheduled as furlough days.

The facts which have transpired to date contradict this assertion com-

pletely. The first furlough day, scheduled for June 1, 1982, had to be canceled, and was to be rescheduled because of unexpected increases in demand. Actually, GPO employees were forced to work through the entire Memorial Day weekend because of increased congressional printing demand.

Mr. William Boarman of the Columbia Typographical Union explained at the District of Columbia Committee hearing how the furlough program would actually lose money for GPO by reducing chargeable work hours. He said that if the 3,000 production employees were furloughed for an 8-hour day, that would result in the loss of 24,000 chargeable hours per day. Normally, GPO gets $55 per hour for press time. The pressman's wages are $17 per hour, the rest is profit to GPO's revolving fund. By eliminating 24,000 chargeable hours per day, times 6 projected furlough days, GPO would lose substantial profits which could never be recovered. (District of Columbia Committee hearing transcript, pp. 91-92.)

Mr. Sawyer has called Mr. Boarman's figures relating to chargeable hours, "black magic economics." However, both former Public Printers who testified before the District of Columbia Committee agreed with Mr. Boarman's contention. Former Public Printer John Boyle stated the following with regard to Mr. Sawyer's projected savings of $640,000 per day from furloughing all GPO employees:

I would say that the Government Printing Office gets its income from the amount of work it does—productive, chargeable work it does—in a day. If they are not working that day, that is a loss, and with a $600 million, roughly, round figure annual income, there is $2,600,000 going to be lost that day so that they are going to save $640,000. (District of Columbia Committee hearing transcript, p. 116.)

Former Public Printer Boyle had 28 years of experience at GPO and battled the unions on many issues when he was Public Printer. However, he contradicted Mr. Sawyer rather than the union's position in his testimony. For example, he did not see how it was possible for GPO to have experienced a $1.6 million loss in printing and binding, as Mr. Sawyer reported, in the same month as 55,000 hours of overtime were necessary because of high-priority congressional printing demands. (District of Columbia Committee hearing transcript, p. 121.)

With regard to a plantwide furlough in general, Mr. Boyle said that he did not believe in it.

There is always work to be done at GPO, and particularly at this time of year when Congress is in its busiest part of its session. (District of Columbia Committee hearing transcript, p. 113.)

He said that the printing industry—private sector included—is constantly in periods of either too much work or not enough to keep the employees busy. When Congress is in session, you could not hire enough people to prevent overtime; when Congress is in recess, there is not enough work for everyone. In the past, during slow periods, employees were urged to take annual leave time. If not enough people volunteered to take leave, the supervisors had a roster which told those whose turn it was to take their leave. The next time it was someone else's turn. This system worked for 100 years. It is the same system which is used in the private printing industry to cope with the peaks and valleys in demand. (District of Columbia Committee hearing transcript, p. 115.)

4. EXCESSIVE WAGES PAID TO GPO EMPLOYEES

Mr. Sawyer has stated:

Random samples indicate that the cost of printing done in the Government Printing Office exceeds by an average of 100 percent the cost of procuring those same jobs from the low bidder in the private sector, *primarily because of the high wage costs at the Government Printing Office.* (Emphasis added.)

He has further stated that the GPO employees receive the highest wages in the Western World for printers.

However, at the 1983 legislative branch appropriations hearing (House), in a discourse with Congressman BOB TRAXLER, Mr. Sawyer was forced to admit that the figures which he has used as a private sector "average" wage include generalized workers, unionized and nonunionized, and nonsupervisory personnel only. In contrast, in determining the average wage at GPO, which of course is unionized, he admitted that supervisors were considered as well. He also admitted that it was not a good idea to use these figures for comparison with each other. (Legislative branch appropriations for 1983, hearings before the House subcommittee, May 25, 1982, volume 3, pp. 169-178.)

Mr. Sawyer also states that GPO employees receive considerably more than other "printers" who work for the Federal Government. Again, he is trying to compare "apples with oranges."

On the issue of comparability between the GPO employees and other so-called printers in the Federal Government, the independent factfinder held as follows:

Comparison between GPO and these other facilities reveals substantial, indeed overwhelming, differences of both degree and kind. (Factfinder's report, p. 8.)

As examples of how these printing operations are not similar, he notes that GPO has 2,700 production employees, while the average number in other Federal printing plants is from 25 to 35. GPO receives 1,000 requisitions per day and runs in excess of 4 billion production units per year. The next largest agency printing plant has about one-tenth that volume, and it is much larger than most agency printing operations. The factfinder states:

The great bulk of the work of other Federal printing facilities is what is known in the trade as "quick and dirty," meaning that they exist primarily to satisfy the needs of the agency for quick reproduction and distribution of internal material so that, "If you can read it, run it." (Factfinder's report, p. 9.)

The factfinder notes that GPO maintains 75 presses, including 19 different varieties and 10 different makes. At the Defense Mapping Agency, for example, there are eight presses and two different makes. This explains why they can train on the job, while GPO must start with experienced employees who have knowledge as to each of the presses he may be called on to operate. (Factfinder's report, p. 10.)

The factfinder concludes this segment of his report as follows:

GPO is not remotely comparable to any other Federal printing facility * * * any attempt to equate its operations or its wage structure with that of other existing Federal printing facilities must be viewed as either ill-informed or unconcerned with the quality of GPO work and with its capacity to continue to furnish the service Congress has heretofore required of it. (Ibid.)

Mr. Sawyer has been repeatedly quoted in the media as saying that at GPO 80 percent of the costs for in-plant production are attributable to personnel expenses, compared with 40 to 50 percent in the private sector. As a result, the typical job produced by GPO can cost three times as much as privately produced printing.

What Mr. Sawyer does not say in any article is that included among his alleged "80 percent personnel expenses" is the large white-collar work force at GPO, some of whom have been recently added by him. For example, no private-sector printing firm is forced to factor in such things as an "Office of Legislative Liaison" into their figures relating to production costs.

Finally, Mr. Sawyer's contention that personnel costs amount to 80 percent of production costs does not match his written statement given before the House Appropriations Subcommittee on Legislative Branch Appropriations for 1983. In that statement he says:

Personnel costs amount to about 25 percent of total GPO expenses. (Legislative Branch Appropriations 1983 Hearing, Part 2, p. 163.)

5. PRO-LABOR BIAS ON THE PART OF THE JCP MEMBERS

Perhaps the worst aspect of Mr. Sawyer's activities since becoming Public Printer has been that he has politicized the Government Printing Office which has previously served the members of both parties in a nonpartisan manner for 120 years. In addition to his claim that GPO employees re-

ceive excessive wages, he has implied that Members of the House and Senate, who make up the Joint Committee on Printing, have perpetuated this situation because a majority of the JCP exhibits a strong pro-organized labor bias.

The syndicated columnist, Donald Lambro, said that—

In an astonishingly candid interview, Mr. Sawyer bluntly puts the blame (for excessive wages) squarely in the lap of the Joint Committee on Printing.

Mr. Lambro said that Mr. Sawyer informed him that—

Over the years, when an impasse was reached in bargaining talks, GPO's unions usually went to the Committee (JCP) where its sympathetic pro-labor Members—many of whose campaigns are supported by these very unions—went along with their demands.

Mr. Sawyer is directly quoted in the same article as saying:

If you check the membership of the Committee, the Democrat and Republican Members, but primarily the Democratic Members, you will find AFL-CIO funding of their campaigns in a very large degree. (This particular Lamb or article was entitled, "U.S. Printing Chief Raps Lawmakers" and appeared in the May 3, 1982 edition of The Pittsburgh Press.)

The injection of partisan politics into the issues affecting GPO is something totally new in the history of the organization. As a legislative agency, it is supposed to be responsive to both parties' needs and avoid politics. While Mr. Sawyer has paid lipservice to the fact that he works for Congress, a better indication of his beliefs was evident when he greeted the Depository Library Council after becoming Public Printer. He said:

Greetings from the President of the United States, the Reagan Administration, Office of the Public Printer, and the Government Printing Office. (Fall 1981 meeting of the Depository Library Council.)

A more recent example of his efforts which have politicized GPO was a statement quoted directly in an article in the Sarasota Herald-Tribune on August 11, 1982. In this article Mr. Sawyer said:

I used to think a liberal was some strange, abstract creature who lived in California or New York. But now I find that Washington is a Disneyland of liberals who actively campaign for cradle-to-grave Federal protection and guaranteed income, whether there's work to be had or not.

Finally, in several articles he has directly attributed prolabor motives to the actions of JCP Chairman MATHIAS:

If Charles Mathias were being judged by the same (conflict of interest) standards that I was judged by going through the confirmation process, he wouldn't be allowed to be Chairman of the Committee. He should disqualify himself.

Here's the Senator from the neighboring State representing a substantial number of his own constituents who work here involved in the setting of their wages, and then turning around and receiving financial and soldier-type support from these people (unions).

In addition to the outrageous attempt by Mr. Sawyer to politicize GPO, the substance of what he says is totally unsupported by the facts. Pursuant to public law, title 44 United States Code, section 305, the Kiess Act, the Joint Committee on Printing is the final arbitrator in wage disputes between the GPO employees as represented by their unions, and the Public Printer. In the past 10 years, when such wage disputes have been settled by the JCP members, the committee has supported the recommendation of the former Public Printers 9 times out of 10. A brief history of GPO wage negotiations and the JCP participation in these negotiations from 1972 through 1981 follow:

1972—The Public Printer offered a 7-percent increase, based upon a 5.5-percent Federal Pay Board guideline, plus a 1.5-percent increase authorized pursuant to the President's wage-price stabilization program. The photoengravers appealed to the Joint Committee claiming that the traditional formula for calculating wage rates—either a 17-city Bureau of Labor Statistics printing wage formula, or the local private sector rate, whichever is higher—would have provided an 11-percent increase. The Joint Committee denied the appeal, granting the 7-percent increase recommended by the Public Printer.

1973—The Public Printer offered an 8.5-percent increase, when the 17-city formula from BLS would have provided an 11.7-percent increase and the local private sector scale would have provided a 14-percent increase. The Joint Committee ratified the 8.5-percent increase of the Public Printer.

1974—The Public Printer, again ignoring the traditional formula, offered a 12-percent increase which was accepted by the unions. Use of the traditional formula would have yielded increases of between 17 to 20 percent. The Joint Committee ratified the agreement.

1975 [1]—The Public Printer offered a 10.5-percent increase. Local Washington wage settlement in the private sector was a 9-percent increase. The national average increase for 1975 in the private sector was 12.5 percent. Bureau of Printing and Engraving personnel received increases ranging from 10 to 16 percent. The Joint Committee ratified the 10.5 offer made by the Public Printer.

1976 [1]—The Public Printer offered a 7.2-percent increase. Local Washington wage settlement in the private sector was a 9-percent increase. The Joint Committee ratified offer made by the Public Printer.

1977—The Public Printer offered a 5.1-percent increase. There was a great deal of maneuvering with conflicting statistics about private sector/GPO wage scale comparisons. In the end, the Joint Committee ratified the offer made by the Public Printer.

1978—The Public Printer offered a 5.5-percent increase. Following an exchange of conflicting wage statistics and charges that the Public Printer had failed to bargain in good faith, an appeal was filed. The Joint Committee ratified the offer made by the Public Printer.

1979—The Public Printer offered a 5.5-percent increase, the amount which was recommended by the President for all Federal employees. The unions sought 9 percent with a cost-of-living escalator clause. The Joint Committee hired an arbitrator/factfinder to assess both proposals. The factfinder recommended a 6.8-percent increase which was concurred in by the JCP.

1980-81—The Joint Committee was prepared to employ an arbitrator/factfinder to make recommendations if a bargaining impasse should arise. However, agreement was reached between the Public Printer and the unions without impasse. The agreement covered both 1980 and 1981, giving effective 7.02 and 6.2 percent increases respectively. The Joint Committee ratified the agreement.

It can be seen that the alleged prolabor bias has not resulted in the unions getting what they want from the JCP. To the contrary, the Joint Committee has agreed with the recommendation of former Public Printers on every occasion but one. In that case, the JCP went with the recommendation of an independent factfinder. So it is impossible to say the prolabor bias on the part of JCP members is responsible for excessive wages.

Regarding alleged substantial contributions from GPO unions to the campaigns of JCP members, none of the members of the committee received anything from the 13 small unions who actually represent GPO employees at the local level. Some members have received modest contributions from the larger AFL-CIO affiliates, but to say that these contributions are from GPO unions is just not true.

6. HIGH-PAID POLITICAL APPOINTEES AND OTHER NEW SUPER-GRADES AT GPO

Mr. Sawyer has repeatedly taken credit for instituting a hiring freeze at GPO which has resulted in the reduction of 400 positions through attrition. However, former Public Printer Boyle said at the District of Columbia Committee hearing that a selective hiring freeze—relating to production workers—had been in effect for at least 10 years at GPO. (District of Columbia Committee hearing transcript, p. 112.)

However, Mr. Sawyer is responsible for one, new personnel policy at GPO, that is, the practice of hiring numer-

[1] Negotiated in June 1975.

ous schedule C political appointees, as well as creating, updating or modifying many new white-collar supergrade positions—above GS-15. Former Public Printer Boyle testified that, to his knowledge:

No other Public Printer in the 120-year history of GPO ever hired a political appointee schedule C.

The one, minor exception occurred when a lawyer was hired by the Public Printer as an arbitrator. This man was paid between $1,500 and $2,000 per year. (District of Columbia Committee hearing transcript, p. 122.)

Now, under Mr. Sawyer, the practice of hiring high-paid political appointees and creating new positions for supergrades has become commonplace. He has justified their hiring by saying that they are needed to sell his proposed legislative changes and to work in his much-touted marketing program. Whatever the justification, their presence is novel to GPO and contradictory to any concept of a hiring freeze.

Specifically, Mr. Sawyer has, as of July 1982, established, upgraded, or modified 65 positions. He has indicated that there have been "no increases in pesonnel costs" as a result of these changes. That is hard to believe considering the fact that 35 of the positions are completely new ones. At the highest executive level he has created six new positions and upgraded seven. In the new Legislative Liaison Office, which he has created, there are 13 new positions. In the Marketing Office, he has created four. In the Policy and Planning Office, he has created nine new positions and upgraded two. Finally, in the Executive Assistant to the Public Printer's Office, he has created five new positions and upgraded one.

7. EXTENSIVE COSMETIC REMODELING

Much of the turmoil generated by Mr. Sawyer's actions as Public Printer has been precipitated because of his stated desire to save the taxpayers money. In fact, he has stated that—

I don't want to sound like a revolutionary, but if the American taxpayers knew the kind of screwing they were getting in this operation (GPO), they'd all pick up a rifle and march on this place.

Mr. Sawyer's actions have demonstrated that, when it comes to the offices of the several new departments which he has created and those which he has greatly expanded, the expenditure of the taxpayers' money for the sake of luxurious improvements does not disturb his "revolutionary" conscience.

In a Jack Anderson column in the Washington Post dated April 9, 1982, it was revealed that the eighth floor of GPO was refurbished to accommodate the schedule C's and others in an amount approaching one-quarter million dollars. In his "Open Letter to Jack Anderson," of which 9,000 copies were produced at the taxpayers' expense and distributed to every Member of Congress, and others, Mr. Sawyer stated:

Total changes for my own office included only the replacement of a 14-year old, totally worn-out carpet, 21-year old drapes, and the repair of a 42-year old desk and chairs.

With regard to the eighth floor renovations in general, he said:

Had they [Anderson's associates] taken these personal tours, perhaps they would have better understood the renovations which actually took place and the challenge we face in adequately maintaining and modifying a facility which is from 40 to 80 years old.

Finally, he mentioned that he ordered the Inspector General to investigate "certain remodeling and refurbishing * * * which may not have been justified by need and need alone." This remodeling was said to have been authorized by someone else while Mr. Sawyer was in Florida on vacation.

In fact, Jack Anderson had only uncovered the tip of an iceberg. Since Mr. Sawyer assumed the Office of Public Printer, over $1 million has been spent to increase the size and comfort of the executive offices on the eighth floor and associated costs. The associated costs were incurred as a result of relocating other offices which were originally on the eighth floor and had to be moved. Such offices include the Office of Personnel Service and the Equal Employment Opportunity Office. Both had to be moved at great expense to accommodate Mr. Sawyer's executive expansion program. None of these expenditures were approved by the Joint Committee on Printing as required by committee regulations. A list of the luxury renovations and associated costs is as follows:

1. Construct new offices for Personnel Service	$570,530
2. Construct executive offices for the Legislative Liaison on the eighth floor	76,393
3. Manufacture and install draperies for executive office and conference rooms	6,680
4. Renovate executive office room C-852 (Deputy Public Printer)	33,244
5. Renovate executive office room C-856	13,894
6. Renovate executive office room C-810	15,400
7. Construct temporary office for EEO which had to be moved from the eighth floor	23,525
8. Renovate executive office room C-862	48,812
9. Renovate executive office area of eighth floor	19,078
10. Construct executive offices on the eighth floor	82,294
11. Eighth floor furnishings (August 1981 to April 1982)	38,300
12. Air-conditioning for the relocated office of personnel service	67,700
13. Furnishings for relocated office of personnel service	31,200
Total	1,027,050

These figures were provided by GPO in a recent letter to Senator MATHIAS. They indicate that, in fact, saving the taxpayers money is not really a high priority consideration with Mr. Sawyer. Perhaps the taxpayers should pick up a rifle and march on the eighth floor executive suites at GPO.

8. CONTRACTING OUT WORK WHICH IS CURRENTLY PRODUCED AT GPO

Mr. Sawyer's statement that "random samples indicate that the cost of printing done at GPO exceeds by 100 percent the cost of procuring those same jobs from the low bidder in the private sector" indicates a preference on his part for contracting out much more of the work done at GPO than is presently the practice. Again, the alleged motive is to save the taxpayers money.

In an article entitled, "One Man's Battle to Buck Waste," from a publication called Dollars and Sense, August 19, 1982, Mr. Sawyer says that if he could break down the barriers set up by Congress and the GPO unions he would contract out all Government printing to the private sector. He states:

I would do nothing in-house. I'd allow the forces of the free enterprise system to work. I'd ruthlessly play printers against one another and get the best price I possibly could for printing. I'd save the taxpayers tons of money.

Mr. Sawyer's stated desire to contract out all the work performed at GPO would result in financial disaster rather than saving the taxpayers "tons of money." Prior to the formation of the Government Printing Office in 1861, congressional printing was done by one of two methods involving the private sector. Printing for Congress was done either by contracting out to the lowest bidder or a schedule of fixed prices with each House electing its own printer. Both methods proved to be unsatisfactory, but the low bidder method was the most expensive.

As early as 1819, a joint congressional committee studying excessive printing costs made the following findings when recommending the discontinuation of the low bidder method:

(1) Competitors for the work underbid each other, until it was undertaken for a less sum than it could be afforded.

(2) Hence, both Houses had to frequently wait for long periods for important communications, reports, bills, etc.

(3) Low bid prices prevented the care and attention which were necessary for neatness and accuracy. (From "100 GPO Years 1861-1961," pp. 14-15.)

Thereafter, Congress established a program of fixed rates which improved timeliness and accuracy, but resulted in huge windfall profits to those

politically connected people who were elected to be Public Printer.

In 1846, the Garnett-Davis resolution restored the contract system of awarding printing to the lowest bidder. Once again, the shortcomings of the contracting-out method became apparent. Competition under the contract system was fierce. Bids were made, and if the contractor made money he would pocket it. If he lost, he said:

I unfortunately lost, and surely the Government does not want me to work for them and lose money in the performance.

A congressional bailout was usually forthcoming. What else could Congress do with several months of its proceedings in private hands? The printing for the 6 years under the 1846 law requiring private bidding cost the Government $3,462,655.12, or almost as much as the printing under the act of 1819 requiring fixed rates cost during the 28 years it was in force (ibid., pp. 21-22).

With the establishment of GPO in 1861, the "free enterprise" era of public printing came to an end. Now Public Printer Danford L. Sawyer wants to restore that system. Although modern technology has vastly improved, compared to what existed when the low-bidder system was previously in effect, the same basic condition of human greed exists today. It seems certain that prospective bidders would deliberately underestimate their costs in an attempt to beat the competition. The quality and timeliness of the work would be diminished, and if a profit could not be made, the contractor would simply petition Congress for a bailout. The resultant confusion and subsidies would cost Congress more than continuing the practice of having GPO do most congressional printing under strict congressional supervision.

CONCLUSION

In the instance of congressional printing requirements, history has shown that contracting out to the lowest bidder was inevitably more expensive and less dependable than maintaining the Government Printing Office. The reliability of GPO has been proven beyond a doubt, by 120 years of service, in wartime situations as well as in peacetime. Now war has been declared on the GPO itself, as an institution, and the Joint Committee on Printing, as its director and overseer. It amounts to yet another instance of an agency head setting out to destroy the very agency that he is directed to manage.

The aspect of this situation which is personally appalling to me is that Mr. Sawyer sat in my office shortly after his confirmation and pledged to strengthen and modernize GPO through the application of advanced marketing techniques and other business methods over which he was said to have extensive command. After over a year as Public Printer, his track record is open to serious questions. He has called for the abolition of the Joint Committee on Printing, attacked its chairman and its members in the media, and politicized GPO for the first time in its history. He, himself, and not the employees at GPO, has been guilty of causing waste and inefficiency. For the first time, he has instituted the practice of hiring high-grade schedule C's and supergrades. He has embellished their offices at the taxpayer's expense.

He has attempted to destroy a tradition of 60 years of collective bargaining rights, not to mention the morale of 3,000 hard-working men and women who are the production workers at GPO. These people are often up late at night and into the early morning hours in order to insure that every Member of the House and Senate has the previous day's debate on his or her desk when they come to work later the same morning. This is a totally nonpolitical service and must always remain so in order that we may preserve a record of our democratic tradition for posterity.

Ask yourselves the following questions: Have you ever had any complaints with the work produced at GPO, prior to hearing from or about Danford Sawyer? How would you say the CONGRESSIONAL RECORD compares to your daily newspaper for typographical accuracy? Have you ever secretly admired the ability to produce massive copies of the CONGRESSIONAL RECORD on a next-day basis?

The answers to these questions might reveal that GPO has been doing a tremendous job for a long time without the assistance of Danford Sawyer. When there have been problems, they have been willingly and frankly addressed by the Joint Committee on Printing, which has currently undertaken to study the long-range printing needs of Congress and the role of the Government Printing Office. I am concerned, however, that any effort to undertake such an important study will be inhibited by the highly charged, partisan atmosphere which has been created and perpetuated by Danford Sawyer.

His insensitivity toward the morale of the craft workers who serve us at GPO is best exemplified by the following quotation by him which appeared in the Washington Post on June 28, 1981. When asked about the economic impact of his proposed 6-day furlough on the employees at GPO, he said:

The real economic impact of this is that they're not going to be able to go to Pizza Hut on Friday night.

He said:

They're all screaming like pigs. It's absurd.

At the District of Columbia Committee hearing on the impact of RIF's and furloughs on the Washington area, Congressman MICHAEL BARNES requested, but did not receive, from Mr. Sawyer an apology for that statement.

His defiance of, and attacks on, the members of the Joint Committee on Printing have received nationwide attention in the press. Normally, when you have led an unsubstantiated attack on your boss, you have good reason to be in fear of losing your job. However, even though he works for Congress as head of a legislative agency, he has been appointed by the President, who is the only one who can remove him from his post. Besides, as Mr. Sawyer arrogantly stated in the July edition of the Washingtonian magazine:

I've got a Jaguar, an MG, two station wagons, a thoroughbred, and two quarter horses sitting out there. I'm supporting two households. I retired before I came up here. I need this garbage like a hole in the head.

Nevertheless, Sawyer said he'll "stick it out for awhile." Perhaps the time has come for Mr. Sawyer to retire again to pursue his extravagant lifestyle, and leave the Government Printing Office alone.

□ 2040

ROME INTERPARLIAMENTARY UNION CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 60 minutes.

Mr. PEPPER. Mr. Speaker, I have requested this special order to report on the results of an important international conference attended by several Members of this body.

The fall conference of the Interparliamentary Union (IPU) convened in Rome, Italy, September 14 to 22, 1982. This meeting represented the 69th occasion that the world's parliamentarians have convened in an IPU plenary session since the organization was established in 1889. The IPU is the oldest and most broadly representative interparliamentary association in the world. This year, parliamentary groups from 98 countries are members, and 91 countries sent delegations to the Rome conference. International observers, such as from U.N. organizations, were also present.

The agenda established for the fall conference included consideration of disarmament, world hunger, world environment, development of parliamentary institutions, and decolonization, particularly referring to the Namibia issue. The meeting considered the results of the recent U.N. Special Session on Disarmament held in New York and the recent U.N. Environment Program Conference held in Nairobi. The IPU has been particularly active with these intergovermental

negotiations. The conference also gave special consideration to the situation in Lebanon, the invasion of Afghanistan, Ethiopian aggression against Somalia, and the Iran/Iraq war.

At the end of the 10-day session, the conference voted final resolutions on each issue that serve as the communiques of the results of the conference.

The IPU has played a number of historic roles during the almost 100 years of its existence. Early in this century, it played a key role in establishing international arbitration and initiated the creation of the Permanent Court of International Justice. It has facilitated European reconciliation and cooperation, particularly following the two world wars and more recently, by starting discussions on security and cooperation in Europe that encouraged the 1975 Helsinki agreement. The IPU serves as a regular forum for debate and resolution on major issues of global significance.

The IPU also provides modest technical assistance and facilitates informational exchange aimed at improving parliamentary institutions throughout the world.

The purpose of the IPU, according to its statutes, is to promote personal contacts between members of all parliaments and to unite them in common action to secure and maintain the full participation of their respective states in the firm establishment and development of representative institutions and in the advancement of the work of international peace and cooperation, particularly by supporting the objectives of the United Nations.

U.S. participation in the IPU and delegations to meetings are in accordance with 22 U.S.C. 276, as amended by Public Law 95-45. In accordance with these provisions, the following Members of Congress served as delegates to the 69th IPU conference: Representatives CLAUDE PEPPER (House chairman, and in the absence of Senator ROBERT STAFFORD, chairman of the delegation), EDWARD J. DERWINSKI (House vice chairman), L. H. FOUNTAIN, J. J. PICKLE, E (KIKA) DE LA GARZA, DAVID R. BOWEN, ROBERT MCCLORY, J. WILLIAM STANTON, M. CALDWELL BUTLER, and WAYNE GRISHAM.

This meeting, the 69th annual conference of the Interparliamentary Union (IPU), concluded last week in Rome. It was a controversial meeting, to be sure. But it was also occasion for much direct and productive interaction of members of parliament from all over the world.

Undoubtedly the greatest media attention was attracted by the presence at the IPU meeting of Yasser Arafat, the head of the PLO. He is also technically head of what is called the Palestinian National Council, a body allowed by the IPU to attend meetings but only as observer. Such an observer can only speak to the assembly when invited by the President of the Conference.

The President of the Rome Conference invited Mr. Arafat to address the Conference. However, Arafat's presentation was brief and considered moderate. It was designed, I believe, to show a reasonable facade to the European parliamentarians, in particular, who attended the meeting. I personally did not attend the Conference while Arafat was addressing it but some of the members of our delegation agreed to attend so as to note what Arafat said and to make a report upon it to our delegation.

Needless to say, all of us on the U.S. delegation were concerned by Arafat's presence and by his reception. Representative PICKLE in fact addressed the assembly and, among other points, raised the fundamental one—that Arafat and the PLO will not be acceptable until they clearly and directly grant Israel's right to existence and security.

Because of the tragic events occurring in Lebanon, emphasized by Arafat's presence in Rome, the IPU conference devoted concentrated attention to the Lebanon situation and the Palestinian problem. Besides Representative PICKLE's statement on the subject, Representative DERWINSKI also worked intensely to make American congressional positions on these matters clearly understood. Representative DERWINSKI, in fact, devoted his resources of eloquence, reason and patience in efforts to draft a resolution outlining IPU opinion on the Lebanon and Palestinian problems. I understand his efforts in a drafting committee, overwhelmingly stacked in favor of the most snap judgments against Israel, were statesmanlike but unsuccessful in bringing about any proportionate recognition of the long term and internal aspect to the Lebanon conflict. He was equally unsuccessful in gaining due recognition of the positive peace efforts being promoted. Representative DERWINSKI deserves great credit for his noble effort with an impossible task.

All other U.S. delegates who attended the nearly two-week long meeting in Rome were also deeply engaged in the IPU Conference tasks. Representative FOUNTAIN presented a forceful presentation of congressional views on the subject of the UN special session on disarmament and its results and the future of disarmament and arms control. He drew direct attention, as has the Commission on Security and Cooperation in Europe that was established by our Congress, to the forced demise of the Moscow Helsinki monitoring group and to how this and other Soviet practices further the distrust of the Soviet Union in the United States.

I offered some views to the assembly on how some of us feel about the world hunger and food production and distribution problem.

Representative MCCLORY, for whom this represents the last of nearly two decades of participation in the IPU, was deservedly chosen to serve as rapporteur of his Committee on Environment. In this capacity, he had a special responsibility to report on a decade of progress or lack of progress since the 1972 Stockholm Environment Conference. His report further reflected on the recent United Nations attempts, particularly through the Nairobi conference held earlier this summer, to build up greater momentum for environmental protection activity and to bring focus on the main outstanding environmental issues.

Finally, during the first week when U.S. statements were made, Representative BUTLER presented views on the importance of strong representative parliaments as the basis of government action. In this context, he raised concerns about Poland and the continuation of martial law there. I should also point out that while the IPU meeting occurred in Rome, representatives of Solidarity were also in Rome and several of our Members had contact with them.

During the second week of the Conference all U.S. delegates were engaged in long hours of committee work during which final resolutions were composed. This process involved close examination of recommendations from other countries. U.S. delegates needed to be prepared to oppose language promoted that would simply further international currency of ideas totally at odds with facts and at odds with U.S. interests and foreign policy positions. At the Rome meeting, as at other IPU meetings, Cubans, Bulgarians, East Germans, and Russians were particularly aggressive in pressing for expressions of this sort.

U.S. delegates also worked to articulate the reasons for U.S. foreign policy positions. In these committee sessions, Representatives BOWEN, DE LA GARZA, GRISHAM, and STANTON were particularly active. The experience in these committees is as difficult as that of U.N. working groups; only at IPU conferences, time is more compressed.

The IPU meeting in Rome was significant. While it produced the IPU resolution most critical of Israel and critical of U.S. policy respecting Israel, it also reiterated condemnation of Soviet occupation of Afghanistan and the demand that the Soviet Union withdraw its armed forces from that land. It also urged a peaceful end to the Iran-Iraq conflict and the end of Ethiopian aggression against Somalia. Many of these results were particularly desired by friends and allies of the United States and show that world

opinion can be mobilized to demonstrate strong and clear concern for continued aggression and occupation of territories despite international agreement that they should cease.

The meeting also further identified areas for action in improving world environment conditions and on preventing future environmental erosion, ways in which the food production and distribution network can be facilitated and the ways in which we can all strengthen the democratic institutions of our lands. Where we may have failed to gain majority support for our positions, we succeeded in showing the clarity and firmness of our view. In this, I think we communicated forcefully to the rest of the world how much resiliance there is in American democracy and how ready we are to stand and express our ideas and to argue againt those who would misrepresent or challenge the policies of the United States.

The latter part of the morning on Wednesday, September 15, I held a meeting with the distinguished President of the Italian Senate, the Honorable Amintore Fanfani, by his invitation. We had a very interesting discussion of the good relations between our two countries existing now and the visits that the President had made to our country and the leaders of our country whom he had known and counted as his friends. Mr. Fanfani urged me to extend personally his warmest invitation to Vice President Bush to visit Rome in December of this year. This was a request which I was, of course, pleased to comply with upon my return.

United States-Italian relations are exceptionally good for a variety of reasons including cooperation in NATO, on drugs, and toward Mideast peacekeeping. As an instance of the warm relations existing between Italy and United States, at the reception for all the delegates to the Interparliamentary Union Conference given by the President of the Italian Republic, Hon. Allessandro Pertini, the President paused for some time where my niece, Mrs. Rob Silano, who accompanied me on the trip, and I were standing to chat about our agreeable relations, and expressly requested me as the chairman of the United States delegation to convey his warmest personal greetings to President Reagan. This I was pleased to do upon my return from Rome.

While in Rome, our delegation held a productive session with Italian parliamentarians during which we were able to focus directly on bilateral matters affecting our two nations. At the conclusion of the meeting between our delegation and Italian parliamentarians a press communique was issued by the two groups which I ask to be inserted in the RECORD at this point.

I include, Mr. Speaker, the statements of Representatives BUTLER, DERWINSKI, FOUNTAIN, MCCLORY, PICKLE, and my statement in the RECORD following the press communique.

ITALIAN-AMERICAN STATEMENT

After a very warm meeting between the U.S. Delegation and the leadership of the Italy-United States Group of the Interparliamentary Union, the U.S. Congressmen issued the following statement which had been read by the Chairman of the U.S. Delegation, Senator Pepper (Florida) to his Italian colleagues, who shared and approved it.

STATEMENT BY AMERICAN DELEGATION TO IPU

We have just completed a most friendly, even fraternal, session with our Italian parliamentary colleagues, and we have learned that, as legislators, we share many of the same hopes and concerns.

Our very positive meeting was another indication, we feel, of the growing bond between our two countries, of the growing strength of Italian-American relations. Our view of those relations is that they are exceptionally close and beneficial for a number of reasons.

Italy and the United States participate as full partners in the NATO alliance and a wide range of defense efforts, while at the same time our governments agree closely on arms controls possibilities.

Our formal relations have been made even stronger by the warm human relations that have developed between President Reagan and President Pertini and Prime Minister Spadolini during their meeting this year.

Our two countries have pledged to cooperate in a common battle against the Mafia and the vicious drug trade which especially threaten our young people. In this connection, we can state that Americans were deeply saddened by the tragic assassination of General Dalla Chiesa, who so valiantly fought against these twin evils.

Our governments, our two peoples, and we as parliamentarians are very close on a number of international issues, such as the repression in Poland, the Soviet aggression in Afghanistan, and support for President Reagan's new peace initiative in the Middle East. We should mention here specifically that we feel the Italian troops, along with American and French units, performed magnificently during the evacuation of PLO elements from Lebanon.

All these points, and more, show the strength of ties between Italy and the United States as equal partners in the Western Alliance and in the community of nations. And we stress the word "partner". We understand there are those who try to make much of differences of size and role within the Alliance. But the reality is that our countries are partners who share common values and aim at common objectives. We parliamentarians together confront the hard issues of the times, knowing that we can ultimately count on each other's support.

At this time I will include the addresses delivered to the Interparliamentary session of the assembly of the recent Rome Conference of the Interparliamentary Union:

STATEMENTS BY U.S. DELEGATES AT ROME INTERPARLIAMENTARY UNION CONFERENCE

STATEMENT ON DISARMAMENT GIVEN BY THE HONORABLE L. H. FOUNTAIN (U.S.A.), SEPTEMBER 14, 1982

Fellow Colleagues: On behalf of my colleagues at this 69th Interparliamentary Conference, I bring you greetings from the U.S. Congress and the peace loving people of our country. I was delighted to hear the representative of the Soviet Union tell us that nuclear war can be averted. With this, my colleagues and I agree. A nuclear war would be catastrophic for mankind.

With the conclusion of the Second Special Session of the UN General Assembly devoted to disarmament, we approach a new era in arms control. Some look at the outcome of that conference in despair—worrying that its failure to produce a comprehensive review document or agreement on a comprehensive program of disarmament represents a significant last chance to bring under control the tremendously destructive military power available in the world today.

I disagree that the outcome of the second UN Session on Disarmament was a failure. In fact, the Special Session itself proved an effective review. Heads of many states clarified their arms control positions facilitating further negotiations. And in its inability to write a definitive text, the Special UN Session clearly pointed out that issues of national security and survival cannot be addressed by rhetoric and platitudes. Real progress towards disarmament requires sincere, concrete, and verifiable steps to reduce arms, control their development, and prevent their use.

Indeed, some such negotiation is now in motion. The Strategic Arms Reduction Talks and the Intermediate Range Nuclear Forces Talks are underway.

The United States and the Soviet Union must move ahead with their negotiations. In this, many Members of the U.S. Congress have indicated their concern that both parties still seem to be sparring with one another. The world is looking for leadership from these two countries for obvious reasons, and has a right to expect meaningful results from their negotiations—maybe not next week, or in the immediate future; but a decade from now the world will expect these two countries to have nuclear and conventional arms, their development and deployment controlled and responsibly reduced. If no evidence of progress on arms control exists by then, these two countries can expect to be blamed.

During these negotiations, the United States cannot be expected unilaterally to sacrifice U.S. security. However, we are ready to consider making concessions if there is a corresponding willingness from the other side.

The U.S. Congress has had major influence over the shape of U.S. arms control and disarmament policy. It has made laws that govern U.S. export policy, regulating the overseas transfers of conventional arms and nuclear technology. These control and restrain the flow from the United States of material that would make more readily available conventional or nuclear war options.

The U.S. Congress ratified the first SALT agreement and influences the course of all bilateral and multilateral arms negotiation with foreign countries, but principally the Soviet Union.

The U.S. Congress, more recently, has represented fundamental concerns of the

American people. As demonstrated in many ways, the American people feel that arms control negotiations—particularly in the nuclear area—must proceed. The "nuclear freeze" debate that occurred earlier this summer in Congress illustrates the genuine desire of the American people for world peace, and for progress toward reining in the massive destructive power of nuclear arms.

But the U.S. Congress, like U.S. administrations, is looking sincerely for some way of translating the peace-loving desire of our people into real progress in preventing war of disastrous proportions. Speaking for my own country, our search for arms control is hampered mainly because of the lack of confidence of the American people about the motives and reliability of the Soviet Union. Why, for example, is the Soviet leadership unwilling to respond positively to President Reagan's proposal for an international conference on military expenditures?

Arms control negotiations simply cannot be a way of gaining one-sided advantages. Suspicion of the Soviet Union is hardly diminished by reports we receive of Soviet policies and practices. While disarmament discussions flourish in the West, the Soviet leadership blocks disarmament meetings in its own land as provocative, anti-social and illegal. American distrust of the motives of Soviet leadership increased as they sadly watched the closing last week of the Moscow Helsinki Monitoring Group, a group which was persecuted by the Soviet secret police for activity which should be respected in all the 35 signatories to the Helsinki Final Act.

Please understand, the internal suppression of arms control and disarmament discussion in the Soviet Union—and in other places as in East Germany—are joined with the evidence that the Soviet Union also ignores already instituted arms control requirements, that it, for example, presses ahead—despite broad international concern—with the use of chemical weapons in cross border military activities against its neighbors in violation of the demands of the international community. Only last week, a Russian soldier admitted knowledge of chemical weapons storage and use in Afghanistan.

The Soviet occupation of Afghanistan, its conspiracy with Vietnam to colonize Cambodia, and its role in oppressing Polish demands for democracy—all these are bound to shape judgment of Soviet objectives. In the face of aggressive, military activity by the Soviet Union, arms control pronouncements by their side sound hollow. Many in the United States believe they use arms discussions only to gain tactical advantages, in their effort to gain world superiority, not to reduce tension and threat to global peace.

The time has come to make a serious effort at reducing tensions. The United States and the Soviet Union need to seriously move ahead in their arms negotiations. North Korea needs to sit down for concrete discussions with South Korea to pursue peace offers of South Korea. Vietnam needs to show willingness to pursue peace initiatives of the United Nations. And, President Reagan's recent proposals on the Middle East have given added impetus to the peace process in that area and show promise of advancing negotiations.

Most assuredly, options are available for reducing the threat of armed conflict, and opportunities remain for significant reductions in the resources devoted to military preparedness. I appeal to all in this room, and to leaders and governments and responsible people all over the world, to aid efforts to take advantage of these options and opportunities—to press realistically and persistently and responsibly on with arms control efforts, and for peace on our time throughout the world.

STATEMENT ON MIDEAST AND DISARMAMENT GIVEN BY THE HONORABLE J. J. PICKLE (U.S.A.), SEPTEMBER 15, 1982

Mr. President: After two days of intense debate on voting, it is time—even at this late hour—to make some general observations.

First, the address by Yasser Arafat was rather moderate coming from a man with such a violent background. What Mr. Arafat did not say was the important thing: Not once did he recognize the right of Israel to exist as a sovereign nation. If Mr. Arafat would simply recognize the right of Israel as a nation, then a great deal of the controversy in the Mideast could be appropriately adjudicated around the conference table. It is not fair to subject the delegates of this conference to an appeal of sweetness and wounded mannerisms as if he were the innocent victim waving the wand of conciliation. He is the man without a country. Moments before he commented to this conference, Mr. Arafat held two press conferences where he was less sweet. There, he said, "The assassination of Lebanon's President-elect was the continuation of the Israeli plan against the Palestinian and Labenese people." He continued to say, "killing was an attempt to strike down the Lebanese reconciliation." He was making prejudicial, self-serving accusations to the world even while he smiled at us. We must not be misled into believing that he is a man of peace. He has been a man engaged in acts of terrorism. I call on Mr. Arafat to first publicly and clearly state that he or the PLOs would fully recognize Israel as a nation—with no equivocation; then we all might be able to help.

Second, I also want to compliment this conference for including in our discussion today the question of the Afghanistan invasion. If we had not included this item on the agenda, this kind of aggression might be forgotten—such as other invasions like Czechoslovakia.

We must never forget the naked invasion of countries like Afghanistan, Czechoslovakia, Poland, Somalia, Kampuchea, and many other countries. If we close our eyes and doze, we will forget our history, but our decision will not be forgotten by history. This conference must continue to hammer away at the brutality of the Afghanistan invasion.

Third, we have heard much from Soviet delegates and their allies about certain arms control stances. For example, we have heard much about the non-first use of force and the Soviet commitment to this principle. Yet, we have not been given any assurances that in times of crisis—that is when non-first use would have any meaning—this pledge will be respected. The United States and its allies continue to uphold the fundamental position enshrined in Article 2, paragraph 4 of the United Nations Charter that "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state." This is a commitment of international law, an obligation sounder than political statements of a leadership group.

I also listened, during the disarmament debate, with great curiosity as the delegate from the Soviet Union made reference to the military budget of the United States. Truly, the U.S. defense budget is an openly published document, and anyone in the world can review its contents. It is reviewed by the American people and the U.S. Congress. It is debated thoroughly, and defense policy and expenditures are, therefore, determined in the United States by the popular decision of the American people.

Unfortunately, similar public exposure and determination of Soviet defense spending and military plans is not provided by the Soviet leadership. I challenge the Soviet authorities to provide us with as reliable data on military expenditures as we provide them. Better yet, I urge the Soviet Union to join with international effort, such as through the United Nations, to standardize reporting on the defense efforts of all nations on this globe.

Finally, I offer a brief observation that this conference has almost devolved into a narrow consideration of the question of Lebanon and the recent military action there, principally around Beirut. These are questions that must have a legitimacy and that should be debated. Clear positions on them should be taken by the IPU. However, such a hearing should not divert us from the overpowering problem we face and that the IPU should, in the main, give priority to the problem of controlling arms and their potential use. I still believe what was said earlier by my colleague from the United States: responsibility for making mutual agreements lies squarely, at this time in history, on the shoulders of the Soviet Union and the United States. The world looks to our two countries to give leadership to the task of controlling both nuclear and conventional war-making power.

I thank you for your attention.

STATEMENT ON PARLIAMENTARY RIGHTS GIVEN BY THE HONORABLE CALDWELL BUTLER (U.S.A.), SEPTEMBER 15, 1982

Mr. President, fellow delegates, colleagues, and friends: The development of parliamentary institutions is in essence the purpose of the Interparliamentary Union, and this issue is, therefore, the single most relevant agenda item before our conference this session.

Each of us has a stake in the outcome of this debate within the IPU. The precedents established in other countries must be of concern to us, and we must clarify the parliamentary ideals we cherish. Clearly, a fundamental ideal, indeed a cornerstone of our system, is respect, protection, and promotion of parliamentary rights.

Those of us from well-established democracies have little to fear as we represent our constituents' interests in our parliaments, and that is as it should be. Yet, as the Special Committee on Human Rights Violations, chaired by Mr. Van Dam of the Netherlands, reminds us, several of our colleagues have been placed under arrest for their parliamentary activities.

Respect for the rights of parliamentarians is a feature of vibrant and healthy societies throughout the world. I was particularly impressed by the lively sense of democracy and free speech we found in Nigeria last April, not only in the National Assembly, but also in the society at large.

As a member of the drafting committee that presented the resolution before us today, I support it, but I must insist that we have not gone far enough, particularly in the area of protecting the rights of parliamentarians.

The rights of a parliamentarian cannot be separated from the rights of those he represents. A parliamentarian is not free to hear a full range of advice and viewpoints—which has been proven in all true democracies to be essential to the proper consideration of public business—unless all members of the society are free to speak out. We cannot express concern for free, open, and vigorous debate within parliaments unless we have an equal concern for the free, open, and vigorous debate on public issues within society as a whole.

The continued imposition of martial law within Poland must be a matter of considerable concern to all of us. Martial law destroys the democratic foundation upon which representative government is constructed. It destroys the base which is essential to the existence of a parliament.

We cannot call ourselves a union of parliamentarians and quietly accept a situation in which a parliament that exists in name has been denied all of the attributes that a parliament must have in order to function.

We have an obligation to ourselves and to our colleagues throughout the world to play a creative role in giving birth to democratic practices in those countries in which they do not exist, to strengthen them in those countries where they do exist, to help restore them where they once existed but have been taken away.

It is well to wonder what might have happened had this institution—the Interparliamentary Union—been conscious of these responsibilities in the 1930's. Had the IPU fulfilled its mandate to protect parliamentary governments then, the loss of 55 million lives during World War II might have been avoided.

The American delegation is committed to supporting resolutions and amendments which will strengthen the IPU's moral stand against tyranny, martial law, and external interference with internal affairs of every nation. In this regard, we were particularly impressed with the eloquent expression of concern by President Caldera in his opening remarks.

The noble struggle of the Polish people over centuries for their God-given right to self-determination and freedom cannot be ignored. Martial law in Poland is wrong and we cannot dignify it with any other characterization. Simply stated: The time has come when we must take a stand. We have submitted an amendment to the resolution before us designed to express a concern for the continued presence of martial law in Poland and will ask for your support at the appropriate time.

STATEMENT ON ENVIRONMENT GIVEN BY THE HONORABLE ROBERT M'CLORY (U.S.A.), SEPTEMBER 16, 1982

The State of the World Environment, the issue taken up in April by the Committee on Education, Science, Culture and Environment, is particularly appropriate for consideration in 1982. For it was just a decade ago, in 1972, that the Nations of the world assembled at the U.N. Conference on the Human Environment in Stockholm, Sweden, where the delegates sought to awaken the collective and urgent need to face up to and resolve the environmental problems common to all mankind.

The human environment was threatened then, as it still is today, by pollution of the air and water; living creatures were threatened with extinction on both land and in the sea; and a variety of essential resources were and continue to be in danger of being depleted.

The Stockholm conference was marked by a tremendous vitality. It was an exciting place to be, as I, myself as a U.S. delegate, and representatives of the Inter-Parliamentary Union (IPU) may attest. The problems were large and frequently complex, but there was an overwhelming sense of purpose among the international delegations to overcome these threats to the environment. The Stockholm Action Plan contained over a hundred recommendations for implementation by individual nations, as well as by international and regional organizations. The UN Environment Programme (UNEP) was established immediately after Stockholm, based in Nairobi, and has been functioning since then to serve as a catalyst for needed actions at all levels to investigate, monitor and resolve environmental problems.

Ten years later, in 1982, the situation is unchanged in some respects. In other respects the situation has changed dramatically. Progress has been significant in many areas, but far from adequate to resolve the major problems. The UN Environment Programme called a special meeting in May of this year to assess this progress and the remaining problems. The meeting, held in Nairobi, was attended by delegations from 105 countries. It was also designed to elicit on-going commitment from the world's nations to continue the high level of activity of the 1970s into the next decade.

Last April, just before the Nairobi Conference, the IPU's Committee on Education, Science, Culture and Environment took up the subject of the world environment, debated the relevant issues, and the report which I present today summarizes this debate. The draft resolution proposed by our committee, and which also I present here today, reflects a very high level of involvement and enthusiasm by virtually all who took part in our spring committee session.

In addition to drafting this resolution, we urged that the IPU send a delegation to the Nairobi Conference, following the tradition of strong interest shown by the IPU at Stockholm, where a delegation attended as observers. I am very pleased to note that Mr. M. I. Dakroury, the Chairman of our committee, did attend the Nairobi Conference as the IPU representative.

The conference in Nairobi was indeed an important step in re-affirming the commitments made at Stockholm. First, the Conference found, as our IPU Committee did in April, that the Stockholm Action Plan and the imperatives behind it are as valid today as they were ten years ago. The Nairobi Conference also reflected a number of changes that have occurred in the intervening decade, together with demonstrating the progress that has been made in understanding the nature of the environmental problems with currently face mankind.

The major changes since 1972 can be summarized as follows:

First, the excitement of Stockholm appears to have been lacking at Nairobi. One observer compared the Nairobi Conference to a second honeymoon which lacks the thrill of the first, but this was not counted as a detriment by those at Nairobi. Rather it was seen as a necessary condition following a maturing of the understanding of environmental problems and issues. Although the sense of discovery has faded after a decade of dealing with the problems discussed at Stockholm, the sense of urgency has evolved into the more sober work of organizing, planning and regulating on a daily basis the actions needed to meet recognized problems.

The level of importance given to environmental issues has risen considerably in almost all the nations of the world. Most countries have ministers or cabinet level officials charged specifically with environmental concerns. This compares to the very few countries that had such top level officials in 1972. The U.S. had just established its Environmental Protection Agency and a Council on Environmental Quality in 1970, and only a few other nations had taken similar steps.

Impressive programs are not in place to monitor, investigate and study international environmental problems. Such programs as UNEP's Global Environmental Monitoring System (GEMS), though still in the early stages of development, are important first steps in monitoring on a global basis, problems which traverse national boundaries, such as ocean pollution and atmospheric changes. Other programs involving actions to abate area pollution problems, such as the regional seas program, have been developed with the encouragement and assistance of UNEP. The International Register of Potentially Toxic Substances, and INFOTERRA are information dissemination programs that help nations and organizations find necessary information on environmental problems.

In the process of carrying out these investigations and attempting to ameliorate known problems, much scientific knowledge has been gained. It was generally agreed at Nairobi that the techniques for diagnosing environmental problems have improved a great deal, although there is still a long way to go.

Perspectives on environmental problems have changed a great deal on the part of both developing and industrialized nations. There is now a clear recognition of the importance of the relationship between economic development and environmental protection. Both are equally important, and one cannot be effectively achieved without the other. Whereas some developing countries were somewhat suspicious of environmental concerns because they feared this could impede development, it is now clear that poverty itself can induce particularly difficult problems of resource degradation.

A new interest in involving private sector actors, such as business and industry, in environmental protection and resource conservation efforts emerged at Nairobi, and if successful, could enlarge the cast of characters in this arena.

Finally, although the rhetoric was as strong and positive as ever, the economic difficulties in which many nations find themselves raise the specter of shrinking financial resources being available just as the successes of the past decade demonstrate the value of the many programs now in place at the international and regional level. However, a hopeful sign at Nairobi involved several new and increased commitments of funding by a number of countries, and continuing interest and awareness shown by all the countries whose delegates attended the conference.

The "Nairobi Declaration" adopted by the Conference delegates in May, included the indentification of global environmental problems which are of particular concern in the coming decade. These include the disappearance of forests in many nations of the world, the spread of deserts, soil erosion, water loss and degradation, and the reduction in the renewable resource base due to wasteful patterns of use of consumption

patterns often induced by poverty; atmospheric changes from build-up of carbon dioxide; depletion of atmospheric ozone with possible harmful levels of ultraviolet light reaching the earth's surface; pollution of the oceans and inland waters; careless disposal of hazardous wastes; extinction of animal and plant species with consequent loss of biological diversity; and other problems related to population pressures and impacts of poorly planned energy use or industrial development.

The unsatisfactory results of efforts since the 1972 Stockholm Conference noted in the Declaration included lack of appreciation among some sectors of the long-term benefits of environmental protection, continued lack of coordination among efforts and approaches to ameliorate known problems; and insufficient resources made available to developing countries for dealing with environmental concerns. The successes since Stockholm noted in the Declaration, include the dramatic increase in the number of environmental ministries and other organizations dealing with environmental or resource conservation issues; improved policy-making ability and techniques, and the growing body of environmental law, treaties and environmental conventions which now deal with a wide range of environmental concerns.

In the Draft Resolution proposed by the IPU's Committee on Education, Science, Culture and Environment, the strong interest and concern of the IPU in most of the issues considered at Nairobi are expressed, and the UN Environment Programme is strongly commended for its contributions to the progress achieved over the past ten years. The strong and continuing support of the IPU for the Stockholm Conference recommendation is expressed in this resolution, and a wide range of activities is urged by governments to achieve continuing progress in the areas of policy formulation, research and monitoring, scientific exchange, prediction of environmental consequence of government policies and technological changes, environmental education, support for UNEP, cooperation among nations in environmental protection, and reduction of the flow of resources into arms and instruments of destruction.

I would like to express my appreciation for the efforts of all the members of the Committee on Education, Science Culture and Environment in debating these issues, and in formulating this very comprehensive resolution, which I believe successfully anticipated the wide range of issues taken up at the UN conference in Nairobi, and which expresses the appropriate concerns of the IPU in this year of the tenth anniversary of the 1972 Stockholm Conference on the Human Environment.

STATEMENT ON HUNGER GIVEN BY THE HONORABLE CLAUDE PEPPER (U.S.A.)

Mr. President, I apologize—I have a bit of laryngitis this morning, but I wanted to say something about this critical subject of hunger and its relationship to the burden of armament upon the peoples of the world. It is estimated that perhaps a half of a billion people are undernourished in the world at all times. We are told that 15 million children die every year because of diseases attributed to nutrition or related thereto. We are told that one-hundred thousandth of the amount of money spent by the nations of the world on armaments would prevent blindness on the part of 300 million children in the world. We all know that more production is necessary, that better distribution of food is required, and we know that the funds which would make possible that distribution are too much today spent upon armaments by the nations of the world. It is estimated that the expenditure for armaments is between $400 and $500 billion a year by the nations of the world.

Why should we have this burden of armament? Every delegate upon this floor knows that there are two nations sitting here—one of them mine and the other the Soviet Union—who have it within their power to reduce the burden of armament not only upon our own people but upon the peoples of the world generally. What a tragedy that we who fought together as comrades against a terrible despotism only a little while ago today are considered antagonists by the peoples of the world, perhaps by one another. We are spending about six percent of our national income on armaments. We are told that the Soviet Union is spending about fifteen percent of its national income on armaments. Everybody knows how much we're spending—$257 billion—just for 1983. The Soviet delegate—the distinguished spokesman for the Soviet Union—here, upon this platform, mentioned the figure of our expenditures. How helpful it would have been had he given us the expenditures of his own country, or they were permitted to be published for the information of the world as ours are.

So what I pray is that somehow we may come to the end of this terrible antagonism—somehow the heart of mankind may be hardened toward war and softened to the embrace of peace. Let we pray—to whatever gods we pray—that mankind may at long last have come to embrace the principle of the brotherhood of man. I'm an old man—82 years old—I shall not be permitted long to enjoy the blessings of this world. I contemplate with horror, Mr. President, that this beautiful Earth should be devastated by nuclear war and the hungry of this Earth should be denied adequate nourishment in order to support the mad dogs of war. Let us therefore add our own entreaties, and our own prayers, and our own hopes, and our own desperate efforts to see to it that there shall come a day when all men everywhere shall have enough to eat, necessary medical care, and be permitted to live upon this God's good Earth longer healthier, and happier lives.

Thank you, Mr. President.

Mr. Speaker, I would like to add also a warm word of commendation for the dedication and the diligence and the conscientiousness with which all of the members of the delegation pursued their work in Rome.

Due to the fact that the House was in session we had to divide our delegation into two parts. One part went the first week and the second group went the second week. Each took up its obligations and duty with deep dedication and with great earnestness.

These speeches that I offer for the RECORD attest to the excellence with which each one of these delegates made a presentation on the very critical issues that were before this conference and we were all proud of the quality of the addresses delivered by these gentlemen and the way in which they were received and the favor the applause accorded the numerous delegates on the floor who heard them, the attentive recognition given to their utterences. They did credit to our country by the character and the quality of their remarks.

Those of the second delegation headed by the Honorable ED DERWINSKI rendered comparable service in excellence. Mr. DERWINSKI made a number of very important addresses off the cuff, as we say, without using a manuscript, as he always is so effective in doing, to the various plenary sessions and the various committees of the assembly.

Incidentally, I want to say that two of our delegates who were in attendance at Rome will not be Members of this House in the following years, we hope later, if not next year, but their service to the Interparliamentary Union and through that great organization of States of this world have made a tremendous contribution to the status and the security of this country.

I hope, as far as I am concerned, the prestige that they enjoy with this conference which they have been in attendance so many times may be enjoyed by our country in the years ahead and that they will be able to come as honorary members of the Interparliamentary group.

To that list, in the warmest way, I add also the Honorable L. H. FOUNTAIN. He is now second in seniority on our prestigious Foreign Affairs Committee. He has been a Member of this House for 30 years. He was one of the outstanding delegatcs from our Congress at this recent Rome Conference. His address was outstanding in quality and in the recognition that it received.

I hope that he, too, will remain an honorary member of the IPU group and go whenever he can to the conferences of the Interparliamentary Union because the Conference needs and our country needs his counsel, as it does the continuted counsel of the Honorable ROBERT MCCLORY and the Honorable ED DERWINSKI.

May I just conclude by saying, Mr. Speaker, how warmly all of our delegation wishes to commend the staff who served us so ably, those from the Foreign Affairs Committee, the Senate Foreign Relations Committee, from the State Department, those from the Navy and Marine Corps who were our escort officers, and all of those who were engaged in the service to our delegation in every way.

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One of the outstanding contributors to the excellence of the Rome Conference was the great lady, Ellen Rayner, who is from the Clerk's office, who has had such an important part for so long, with others, in making arrangements for the carrying out of the activities of our delegation at the IPU Conference.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the able gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, as the vice chairman of the U.S. delegation to the 69th Interparliamentary Union Conference held in Rome, I wish to join the other members of the delegation in reporting our activities during the Rome meeting.

There are several parliamentary organizations where representatives meet to share ideas and views and seek common directions and solutions; but the IPU is the oldest and largest and the major parliamentary association where representatives from the United States and from virtually all the eastern bloc nations meet. It is also an interesting opportunity for North-South dialog between the developed and developing countries.

This Conference was concerned with a number of topics including disarmament, the legislative aspect of intergovernmental negotiations, world hunger, world environment especially as it pertained to the results of the U.N. Environment Program Conference held in Nairobi and the Namibia issue. The Conference also gave special attention to the tragic situation in Lebanon and to the invasion of Afghanistan; the Ethiopian aggression against Somalia; and the Iran/Iraq war.

Although most of the resolutions passed by the IPU Conference contained far from perfect expressions of useful foreign policy recommendations, the U.S. delegation only cast votes against the resolution concerning Lebanon. Then, one of the most noteworthy of the nine resolutions adopted at the 10-day conference concerns the invasion of Afghanistan and the removal of all foreign troops from that country. This resolution was adopted by 439 votes to 164, with 88 abstentions. I wish to include as part of my remarks this resolution along with two other resolutions pertaining to the Iran/Iraq war and the Ethiopian aggression against Somalia which received our strong support.

THE INVASION OF AFGHANISTAN

The 69th Inter-Parliamentary Conference,

Having considered in general the search for a political solution to the problem of invasion and occupation by foreign troops and taking into account in particular the situation in Afghanistan,

1. Urges the implementation of the resolutions of the Inter-Parliamentary Council of 12 April 1980 and of the 67th Inter-Parliamentary Conference of 23 September 1980, the resolution of the Third Islamic Conference held from 25 to 28 January 1981, and the United Nations General Assembly resolution of 18 November 1981 calling for the immediate withdrawal of foreign troops from Afghanistan in order to enable its people to determine their own form of government and choose their economic, political and social systems free from outside intervention, subversion, coercion or constraint of any kind whatsoever and appealing to all States to respect the sovereignty, territorial integrity, political independence and non-aligned character of Afghanistan;

2. Calls therefore upon the Soviet Union to withdraw its troops from Afghanistan at the earliest possible date, inviting the parties concerned to agree to the urgent achievement of a political solution in accordance with the provisions of the resolutions referred to above.

THE ETHIOPIAN AGGRESSION AGAINST THE SOMALI DEMOCRATIC REPUBLIC AND THE DANGERS TO INTERNATIONAL PEACE AND SECURITY THAT CAN RESULT FROM IT

The 69th Inter-Parliamentary Conference,

Mindful of the obligation of all States to refrain in their international relations from the threat or use of force against the sovereignty, territorial integrity and political independence of any State, or from acting in any manner inconsistent with the principles and purposes of the Charter of the United Nations,

Aware that the Ethiopian invasion tends to destabilize the whole region and presents a threat to international peace and security.

1. Strongly condemns the military invasion committed by Ethiopia and its allies and directed against the sovereignty, territorial integrity and political independence of the Somali Democratic Republic;

2. Deplores the continuing conflict between Somalia and Ethiopia and calls for an immediate cessation of hostilities, urges all parties to the conflict to negotiate a political solution in accordance with the principles of the Charter of the Organization of African Unity, and also requests the immediate, total and unconditional withdrawal of all foreign forces from the territory of the Somali Democratic Republic.

PROPOSAL FOR A DEFINITIVE PEACE BETWEEN IRAQ AND IRAN

The 69th Inter-Parliamentary Conference,

Reaffirming the conviction that the only viable way of settling controversial issues among States is by means of negotiation and stressing the necessity to renounce completely the threat or use of force in the settlement of differences between States or peoples,

Recalling United Nations Security Council resolutions 479 and 514,

Deeply concerned about the prolongation of the conflict between the two countries, resulting in heavy losses of human life and considerable material damage and endangering peace and security,

Taking note of the efforts of mediation pursued notably by the Secretary-General of the United Nations and his representative as well as the movement of the nonaligned countries and the Organization of the Islamic Conference,

1. Calls for an immediate cease-fire and an end to all military operations as well as for the withdrawal of all forces to internationally recognized boundaries;

2. Calls upon all parties to the conflict to co-operate fully with the mediation efforts of the Secretary-General of the United Nations with a view to establishing a basis for negotiations aimed at the achievement of a comprehensive, just and honourable settlement of the conflict.

On our arrival in Rome, DAVE BOWEN and I participated in the discussions conducted at the Disarmament Subcommittee of the Political Committee. Congressman BOWEN deserves commendation for defending the U.S. position on disarmament, and through his efforts combined with those of other allies, Soviet propaganda efforts to embarrass the United States for arms control policy were unsuccessful. The IPU serves as a useful forum for debate on the strategic and conventional arms issues.

Congressman GRISHAM also deserves credit for his contributions to the Conference. He spoke on behalf of the U.S. delegation on the draft resolution on Lebanon. WAYNE very aptly explained that the U.S. delegation could not support much of the language of the resolution even though the United States does not accept uncritically Israel's action in Lebanon. The resolution adopted by the Conference contained a demand that the United States end military and economic aid to Israel. It also called for the severing of diplomatic trade and cultural relations, and it established a committee to investigate bombings in Lebanon, the weapons used by Israel, and the detention of Lebanese and Palestinian combatants. In the final vote, the U.S. delegation voted 5 against and 15 abstaining on the resolution.

In addition, our colleague, WILLIAM STANTON brought great expertise to our delegation and proved to be a very effective member of the group. BILL worked on the Parliamentary Committee.

I had the honor of participating on the Political, Military Security and Disarmament Committee as well as on various caucuses with free world parliamentarians. While my interest was in the drafting committee on the resolution on Lebanon, I could not get the anti-U.S. and the anti-Israeli language toned down. Therefore, the U.S. delegation could not support the language as proposed in the resolution. In addition, I participated in debate on recommendations to improve the work of the IPU, and to support the peaceful objectives of the United Nations.

In addition to participating in the IPU meetings, U.S. delegates were also briefed on bilateral issues of concern to the United States and Italy. Chief among these were the situation in Rome, United States-Italian relations and the Italian Government's involvement in Lebanon.

We had a very able and hard-working delegation attending from our country and the U.S. delegation not only promoted much good will and understanding among other delegations but had a very important influence upon the work and the output of the Conference. I wish to commend all the members of our delegation for their contributions to the important accomplishments of the Conference.

Mr. Speaker, this Conference runs for approximately 2 weeks. It requires quite a staff effort by many who are

not always recognized. The interpreters play a vital role in these conferences. One interpreter, who will remain nameless, presented me with a poem which he had written inspired by the debates during the meetings. Its contents may be somewhat irreverent, but I believe accurate. Therefore, I would like to submit it for the Members' attention:

They came to the eternal city
To resume their eternal debate
On whether they could save the world
Or whether it was too late.

The delegates proceeded to their seats
With faces grave and grim.
They placed their earphones on their heads
All eager to begin.

A portly gent, the first to speak,
Stood up and looked around,
Preparing to divest himself
Of a statement most profound.

The drama of the moment
Was going to his head.
But he managed to control himself
And drew his breath and said:

"The world is wracked by crisis,
By strike and agitation."
A hush fell over everyone
At this great revelation.

"There's tension everywhere," he said,
Now warming to this theme,
"An everlasting peace is but
A grand utopian dream."

The second speaker rose to offer
Words of courage and hope.
But nary a word was heard on the floor,
"Your microphone's dead, you dope?"

On and on the speakers droned
In languages unclear.
They haven't found a remedy yet
For verbal diahrrea.

"We'll have to limit speaking time,"
The chairman finally said,
"Or we'll be stuck here through the night
And never get to bed."

Faster spoke the speakers
In a race against the clock.
Faster went the interpreters,
Reeling from the shock.

'Til finally they decided
They'd simply had enough.
They turned off their switches
And marched out in a huff.

"Outrageous", cried the delegates,
But you can think what you like.
There's nothing anyone can do
If the help has gone on strike.

To sum up the contents of this Conference, I wish to report that the United States was well represented and did as well as can be expected.

Mr. Speaker, I would like to add my commendations to those that our chairman, CLAUDE PEPPER has given on the effective conduct of the U.S. delegates to this Conference.

I would also like to make special mention of the chairman of the Agriculture Committee, Mr. KIKA DE LA GARZA, who serves on our delegation, and very, very ably represented the United States on the issue or world hunger. It was most appropriate, since he knows the subject so well, the subject of agriculture, that he was able to point out the great role of the United States in helping alleviate some of the tragic needs that exist in parts of the world.

The Council meeting on the closing day of the Conference, Wednesday, the 22d, on which our friend from Mississippi, DAVE BOWEN, and I served, felt from the U.S. standpoint that the meeting was productive and was an example, by the way, of bipartisanship in foreign affairs, because it is typical of us at these conferences that politics stop at the waters' edge, and as Democrats and as Republicans we work together to advance our country's foreign policy.

One interesting debate centered around the site of the 1983 fall conference, which by a vote of a margin of roughly 2½ to 1, the conference voted to meet in the fall of 1983 at Seoul, Korea. This will be an interesting test of world diplomacy since we have met in Hungary, Romania, Bulgaria, Poland, Czechoslovakia, and East Germany in recent years, and we of the free world have attended those conferences.

The Communist delegates objected to the meeting being held in Seoul, which is an interesting example of hypocrisy, I felt, and by an overwhelming vote the agreement is now to meet in Seoul. It wil be interesting to see if the Communist bloc participates or boycotts.

And then, certainly, last but not least, Mr. Speaker, I wish to add to the commendation that our good chairman, Mr. PEPPER, made in eulogizing a very talented, lovely young lady, Miss Ellen Rayner. She has been the heart and soul of the staff operation for many years, ably filling for Ted Henshaw, the Clerk of the House, and with great dispatch handling the logistical problems as well as representing the Clerk of the House at meetings of the Association of Secretaries General, which is an adjunct to the IPU.

So I commend you, Mr. PEPPER, for your leadership at the Rome Conference. I think you would agree with me we had an excellent and effective delegation, and it was an honor and a privilege to serve.

Mr. PEPPER. I thank the gentleman very much.

Mr. FOUNTAIN. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Speaker, first, I want to thank the distinguished gentleman from Florida for his kind and overgenerous comments about me and my service here in the Congress. I want to associate myself with him in his comments and observations about all of those who participated at the Conference in Rome. I thought it was a splendid event. It was an opportunity for us to not only establish better relations, but to encourage more active participation for all of the parliamentarians throughout the world.

I want to thank the gentleman from Florida for seeking this special order and to associate myself with the comments he has made about the IPUC. Particularly do I want to commend him for the commendable and statesmanlike manner in which he led our delegation, reflecting credit not only upon himself but upon this Congress and our Nation. I want to pay the same tribute to the gentleman from Illinois (Mr. DERWINSKI) who took over the leadership of the second phase of our country's part at this Conference.

The Inter-Parliamentary Union Conference held in Rome last week was the 69th occasion that the IPU has met since its founding in 1889. In fact, the IPU has held sessions almost every year since the turn of the century with the exception of the periods during the two world wars and their immediate aftermaths. These IPU sessions have had great importance, particularly for Europe and for U.S. relations with its European friends and allies.

In the past, IPU conferences brought European parliamentarians together to reunify Europe, to restore contacts of the peoples and leaders of Europe following the European wars. The IPU organization worked to establish international mechanisms for peaceful arbitration of disputes and has by its own example shown that international debate and cooperation is possible and productive.

Although the IPU has grown substantially since World War II, it still holds meaning for many of our friends in the European parliaments. It was particularly because of this importance of the IPU to our European friends and allies that I was pleased to accept the appointment of the Speaker to attend the Rome meeting as a U.S. delegate.

Perhaps because the United States and its European friends and allies have remained so close in the postwar years, we tend to neglect the cross-Atlantic relationship. Perhaps we do not properly take into account European perceptions. Concern for this possibility was reflected recently in a letter to the Speaker of the House by Secretary of State Schultz when he wrote "there is a growing perception among Europeans that American interest in the relationship is diminishing and that the U.S. is cutting down its contacts and involvement in Europe." Secretary Shultz specifically pointed out how important it is to other U.S. friends who share our democratic values that the United States actively participate in activity of the Inter-Parliamentary Union.

The Secretary of State's letter was referred to the Foreign Affairs Committee in which I have served for the past 25 years. Since this is my last term in Congress, and I will not be

able to join with other U.S. delegates in attending future IPU meetings, I want to place the contents of this letter in the RECORD this point. I urge Members, particularly those unfamiliar with the IPU and its work, to read it and consider seriously the consequences that lack of U.S. participation in the IPU might hold:

THE SECRETARY OF STATE,
Washington, August 3, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker,
House of Representatives

DEAR MR. SPEAKER: I am writing to express my serious concern over the need for all of us to do more to maintain a high level of understanding between the U.S. and our allies and friends in Europe.

I believe that we are in many senses at a historic crossroads in the U.S.-European relationship. We still enjoy continuing cohesion on many key issues, particularly in the security area, and member governments' basic commitment to the Atlantic Alliance remains firm. At the same time, however, we face a number of contentious issues which could cause deep divisions between us over time if not attended to in a concerted and sensitive manner.

Unfortunately, there is a growing perception among Europeans that American interest in the relationship is diminishing and that the U.S. is cutting down its contacts and involvement with Europe. Although such a perception is mistaken, and underrates the strong commitment of both the Administration and Congress to the transatlantic relationship, it may take on a life of its own if all of us do not do our part to strengthen the European-American partnership.

Equally important, a new generation has already entered key political and professional positions both in Europe and in this country. This "successor generation's has not shared in the experience of post-war democratic construction and economic rebirth which has bound together the generations which established our common western institutions. It is particularly important that we make a concerted effort to ensure the understanding and support of these younger politicians and professionals, as well as the generations coming after them.

Congress has played a key role in establishing and preserving the Atlantic Alliance and our other western institutions. Indeed Congress' long involvement in collective and individual exchanges with European parliamentarians has had an important impact on the Atlantic relationship. But I believe that all of us must now intensify our efforts to preserve and strengthen the Atlantic partnership which is so vital to our peace and security.

This is particularly important if we are to stop simply reacting to problems and being on the defensive. We need to bring together the democratic forces of the world behind a positive offensive which combines our ideals and our strengths. Parliamentarians have a central role to play in this political process.

There are five specific areas where an enhanced Congressional role would make a particularly significant contribution in this regard:

North Atlantic Assemby—The Congress has taken an active part over the years in the meetings of the North Atlantic Assembly, the only key parliamentary group with a transatlantic focus, bringing Europeans and Americans together to discuss issues of concern to the Alliance. In the last few years, the participation of Members of Congress in the NAA seems to have flagged. This reduced Congressional presence has given an unfortunate signal to the Europeans. We hope you can work with us to renew Congressional interest in the Assembly. The next NAA plenary is November 14-19 in London.

European Parliament—Those elected to the European Parliament come not only from allied countries but from the other European democracies as well. The Parliament seeks a more active role in the European Community's foreign affairs and influencing European policies across a broad spectrum of issues, including Poland, Central America and Afghanistan and US-European trade problems. Congress has engaged in useful semi-annual exchanges with the Parliament, and I hope this process will be strengthened through increased participation by Members of both the House and Senate. The next exchange is scheduled for late November-early December of this year.

Parliamentary Assembly of Council of Europe—The Council's Parliamentary Assembly wishes to expand its contacts with Congress. The Council will hold a conference in Strasbourg in the Fall of 1983 bringing together Parliamentarians from all OECD countries which include all the world's industrial democracies. We see this as an excellent vehicle for promoting objectives we and Europe share, and we hope such activities can eventually be expanded to bring in democratic forces from the developing world as well. Our ultimate objective should be annual meetings of parliamentarians from all existing democracies—there are over 50 at present. This could develop into a major global force for freedom, peace and economic growth. The President of the Council, Spanish parliamentarian and former Foreign Minister Jose Maria de Areilza, will be in Washington this November 17-18 to discuss the conference. We hope you and other Congressional leaders will be able to meet with him during his visit and that Congress will work with the Parliamentary Assembly in furthering such excellent initiatives. More importantly, we hope you will encourage members to participate actively in the conference. We also urge you to support Representative David Bowen, House liaison with the Council of Europe Parliamentary Assembly, as he attempts to organize a U.S. Congressional delegation to the Council of Europe's OECD debates on October 5. The COE Assembly will discuss the Strasbourg Conference on October 6, and U.S. Congressional delegation will be invited to attend.

Inter-Parliamentary Union.—The IPU differs from the above bodies, of course, in that it includes representatives from Communist nations and others who are not freely elected. It can therefore be a frustrating body for western parliamentarians. But a continuing active western presence is nonetheless important in protecting the interests of the democracies. British members of parliament have expressed to us their concern that diminishing U.S. Congressional interest and participation have put the British and others who share our democratic values in an increasingly isolated position. The IPU meets again in mid-September in Rome. We hope Members of Congress will bear this concern in mind when it comes time to form the delegation.

Assembly of the Western European Union—The U.S. is not a member of this body, which focuses on defense and arms control issues. However, its committees visit the United States annually on a rotating basis for briefings on U.S. official and Congressional views. Congress' receptiveness to these groups can be an important element of the transatlantic diaalogue. The next WEU committee visit here will be in Spring 1983.

I hope that you and the other members of the leadership will be able to encourage Congressional interest and participation in these and other activities with your counterparts in Europe. We are ready to work closely with you and to provide our assistance in all these areas.

Sincerely,

GEORGE P. SHULTZ.

During the Rome meeting, I spoke on behalf of the U.S. group and outlined American positions on the issue of arms control and disarmament. My comments were chiefly designed to explain to others at the meeting U.S. views represented in the U.S. Congress. I mentioned that the "nuclear freeze" debate that was held earlier this summer in this very Chamber illustrated the genuine desire of the American people for progress toward reining in the massive destructive power of nuclear arms. Yet, I also felt it necessary to point out that the search for arms control is hampered mainly because of lack of confidence in the United States about the motives and reliability of the Soviet Union. Some reasons for American distrust have been known for some time. Some have new causes. For example, in my statement in Rome I felt it was important to make an immediate stand on the very recent suppression on the Moscow Helsinki monitoring group and other evidence that the Soviet Union suppresses any vestiges of debate on arms control and disarmament issues. The U.S. Commission on Security and Cooperation in Europe similarly expressed strong condemnation of the Soviet action while we were attending the Rome meeting. Since we in the United States witnessed earlier this summer in New York a large demonstration focused on disarmament, since New York was also the scene of the Special Session in Disarmament in the United Nations, since we in this Congress actively not only debate nuclear freeze proposals, but also deliberate and debate on the qualities and quantities of the U.S. defense budget, I think we have ample reason to challenge the Soviet Union for its practices in this regard. None of these things, about which obviously there are differences in our country could have occurred in the Soviet Union and been as broadly publicized as they have been in the United States. While many of us in the Congress are still opposed to a nuclear freeze that is not negotiated on a mutually verifiable inspection bases, we made the point at the meeting in Rome that such concerns and discussions are being openly debated in the United States.

My statement also continued to challenge the Soviet occupation of Afghanistan, its role in oppressing the Polish demands for democracy, and its role with Vietnam in Cambodia. Finally, I urged that peace initiatives on the several armed conflicts be pursued.

The conference, pressed by a member of the Irish Parliament, did vote to allow for special consideration of the continued Soviet occupation of Afghanistan. It also repeated the call made in past years by the IPU, the United Nations, and the Islamic Conference for an end to this occupation of foreign territory by the troops of the Soviet Union.

By supporting this Irish initiative, we showed our own unity of view with our colleagues from Europe.

The IPU has become a global organization and does provide an opportunity to learn of many national perspectives on world problems. But it also holds significance as an occasion for transatlantic dialog and cooperation. As we continue to consider legislation and national policy, such as concerns the pipeline from the Soviet Union to Western Europe, our contacts with European parliamentarians become increasingly important. I urge my colleagues to pay attention to the opportunities for such contacts which are facilitated by the Interparliamentary Union.

Mr. PEPPER. I thank the able gentleman from North Carolina very much for his very expert remarks.

● Mr. STANTON of Ohio. Mr. Speaker, the U.S. Congress was represented at the Interparliamentary Union Conference, that just concluded in Rome, by 10 Members of this House, including myself. Representatives CLAUDE PEPPER and EDWARD DERWINSKI deserve great praise for their leadership and for their diplomatic skills. They served respectively as chairman and vice chairman of our delegation. Both are widely recognized by the other delegates who attend IPU meetings and respected for their intelligence and eloquence. They have earned great respect for the U.S. Congress and for this country in parliaments all over the world. Their participation in the IPU, therefore, represents an important national service that will benefit the United States for years to come.

While I attended the IPU meeting in Rome my responsibilities included long hours of argument in the IPU committees on decolonization and on parliamentary rights. As Members who have attended these meetings know, much of the most interesting conference activity occurs in committee sessions where delegates really get to debate positions and attempt to create statements that represent a common parliamentary view. Unfortunately, in these efforts to find an international view on the world's problems, unanimity is frequently not possible. Moreover, in the IPU, as in the United Nations, blocs frequently press for their own advantage. Somehow the Soviet Union and its Warsaw Pact military allies, together with Vietnam and others, seem to more readily agree on position than we in the Western democracies do.

In the committee on decolonization that I attended, I tried to eliminate prejudicial referenences in the IPU resolution to U.S. policies and practices particularly regarding Puerto Rico. My efforts were opposed by a phalanx of solid votes from the Soviet bloc. The Soviet Union, Cuba, and their friends have attempted to press the Puerto Rico issue on the IPU as they have in the United Nations.

The IPU resolution ultimately adopted does contain much language either directly or implicitly critical of U.S. policies in a number of areas. Therefore, following the adoption, I issued an explanatory statement expressing regret at inclusion in the IPU decolonization resolution of matters such as Puerto Rico and Guam that made it impossible for us to support the resolution. I also expressed my view that Western activity in seeking a settlement in Namibia and seeking racial justice in South Africa deserves praise, not blame, of the IPU.

While at the Rome meeting, I also participated in the committee on parliamentary rights and helped to strengthen a resolution on the role of parliaments so that it affirms principles consistent with the orientation of the Western democratic systems. I should add that our efforts in this regard were made with the stiff opposition of the Soviet delegation. For the benefit of other Members, I ask that a copy of this resolution be inserted at this point:

THE DEVELOPMENT OF PARLIAMENTARY INSTITUTIONS WITH RESPECT FOR THE CONSTITUTION AND THEIR WORK IN THE SPHERE OF INTERNATIONAL RELATIONS

The 69th Inter-Parliamentary Conference—

Recalling that parliamentary institutions represent a fundamental element of the balance of powers in democratic systems, that they play a significant part in guaranteeing respect for the Constitution and human rights, and that they assume an important role in the field of international relations,

Recalling the Charter of the United Nations, particularly Chapters I and II, and the commitment of member States thereto,

Considering that the development of parliamentary institutions in the spirit of respect for the Constitution and the codification of the peaceful foundations of foreign policy of States in national legislation contribute to the achievement of peaceful co-operation among States,

Stressing that since they are chosen by the people through free and fair elections held at regular intervals, parliamentarians represent, on the one hand, a very strong link between Parliaments of different countries as illustrated by the close contacts within the Inter-Parliamentary Union and constitute, on the other hand, the irreplaceable intermediaries in the permanent maintenance of the indispensable dialogue between the organs of power and the citizens, including on the problems of international relations,

Convinced of the need to improve and make better use of the forms and methods of action of Parliaments for influencing the foreign policy of Governments in order that it may serve the cause of peace, international security and friendship and co-operation among peoples,

1. Invites Parliaments, with due regard to the Constitutions and traditions of their countries, to seek appropriate methods and forms of action with a view to building up their influence over the foreign policy of their Governments so that the latter may make a greater contribution to strengthening international peace and security, to promoting détente and the disarmament process, and to developing co-operation, friendship and trust among peoples;

2. Recommends more particularly the following forms of parliamentary activity which help to direct the Government's foreign policy and foster its monitoring by Parliament:

Systematic and public examination, within Parliament and its specialized bodies, of major foreign policy issues with special reference to international peace and security, to cessation of the arms race and to disarmament;

Submission for parliamentary approval of all important international treaties and agreements to which Governments intend that their countries should become party, the harmonization of their domestic legislation with such treaties and agreements and the adoption of provisions enabling national Parliaments to monitor their effective implementation;

The various ways in which Parliament is informed about major negotiations conducted by the Government, about its policy in international organizations and about the activity of such organizations;

Inclusion in domestic legislation, by means which accord with democratic practices and procedures of each country, of the principles of relations between States which are enshrined in the Charter of the United Nations and other international legal agreements;

3. Encourages all parliamentarians to keep themselves closely informed of their Government's foreign policy and to endeavor to influence its course, by all the means at their disposal, in a direction favourable to world peace, respect for human rights and achievement of the objectives of the United Nations;

4. Considers that the strengthening of inter-parliamentary contacts, at the international level, designed to promote mutual respect and understanding is essential for that purpose;

5. Calls on all Parliaments to draft and to enact, in their respective countries, legislation guaranteeing political and economic freedom for all mass media to enable, inter alia, a free, fair and full exchange of views on relations between States and thus promote mutual understanding among them in the spirit of the Charter of the United Nations and the Statutes of the Inter-Parliamentary Union;

6. Encourages the governing bodies of all countries to foster citizens' participation in political decision-making, free of undue interference by institutionalized pressure groups, by establishing, through democratic means, decentralized representative institu-

tions with real power and adequate financial resources, as well as other possible means in the spirit of the Constitution and traditions of each country;

7. Calls on the Parliaments of all countries to exercise vigilant, concrete and permanent oversight of governmental action, particularly in the field of international relations, and to provide themselves for that purpose with investigatory, study and forecasting techniques which are reliable and independent of the Executive, particularly through modern means of information and including the use of appropriate parliamentary committees with wide investigatory powers;

8. Urges all Parliaments to guarantee the inviolability of parliamentarians' rights, including those who are in the minority, in the exercise of their mandates, particularly in respect of relations between States;

9. Calls on Parliaments and the Inter-Parliamentary Union to search for appropriate means of strengthening the participation of parliamentarians in the work of the United Nations;

10. Calls on Parliaments to approach the concept of human rights as one and indivisible, including political, economic and social rights, the rights of individuals and peoples, freedom of opinion, expression, association and the right to life;

11. Encourages Parliaments to inform each other, including through the Inter-Parliamentary Union, of their activities in the international field;

12. Invites Parliaments and Governments to take into consideration the resolutions adopted by the Inter-Parliamentary Conferences and brought to their attention in conformity with the Statutes of the Inter-Parliamentary Union by the respective National Groups.●

● Mr. McCLORY. Mr. Speaker, I am pleased and proud to take part in this special order reporting on our recent Interparliamentary Union Conference in Rome, Italy.

First, let me say that our delegation was ably represented there and included, prominently, our distinguished chairman of the U.S. group, the gentleman from Florida, CLAUDE PEPPER. Congressman PEPPER provided substantial prestige to our group and expressed himself forcefully in behalf of our U.S. policies in the Mideast and on many of the political, social, and economic issues on which the IPU delegates addressed themselves.

Mr. Speaker, let me emphasize, as I have many times before, the great significance of the Interparliamentary Union as a forum in which members of the parliaments of the world—the lawmaking branch—may come together and discuss problems of mutual interest. This occurred again this year in Rome and I am satisfied that great progress was made in broad-based understanding between these representatives of the governments who took part in the Rome conference.

Mr. Speaker, I was privileged to serve as rapporteur of the Education, Science, Culture and Environment Committee which reported on the condition of the human environment 10 years after the 1972 U.S. Conference on the Environment held in Stockholm.

As a delegate to the 1972 meeting I was required to report on developments worldwide since that time—the plusses and the minuses—and to delineate the most acute environmental problems with which our national legislation bodies are dealing. My remarks were followed by discussions of this general subject by some 50 delegates to the Rome meeting. In the week following my appearance, the IPU conferees adopted a resolution sustantially similar on which I had made my report.

Mr. Speaker, I wish, also, to comment favorably on the representation of my colleagues, Congressmen L. H. FOUNTAIN, CALDWELL BUTLER, J. J. PICKLE, all of whom were active participants in the Rome meeting in addition to our chairman, Congressman PEPPER and me. I applaud all of them for their able representation of this body and of our Nation and wish to reiterate the great importance of our exchange of views and the opportunities for many individual contacts which cannot help but benefit the long-range interests of our Nation.

Mr. Speaker, this will probably be my last attendance at conferences of the IPU. Let me repeat my view that my service as a U.S. delegate to these meetings over a period of 19 years is representative of some of the most important of my responsibilities as a Member of this body. I hope that increased support for our IPU activities will occur in the years ahead.

Mr. Speaker, let me also add my commendation for the capable staff support which our delegation received. We were served well, and our representation of our Nation in Rome has earned for our delegation the highest praise.●

● Mr. PICKLE. Mr. Speaker, often unnoticed in the world press is the semiannual meeting of the Interparliamentary Union. Twice each year parliamentarians from all over the Earth gather to exchange ideas, compare values, and comment on world affairs.

Unfortunately, the real significance of this event is often overlooked. I am concerned, Mr. Speaker, that even the Members of our own body, and the other body across the dome, do not always fully appreciate the significance, and the potential, of these IPU meetings. The United States has sent representatives to the conference for years—but more from a sense of defensiveness than because of any positive agenda the U.S. Government has sought to pursue. Quite often our delegates spend their time working to thwart negative resolutions by delegates from other nations, or hopelessly squared off against the Soviet Union and its allies. If, at meeting's end, we have not gained—but neither lost ground, then we declare victory and retreat.

In these days of superpower confrontation, that seems to be a legitimate diplomatic goal in itself, of course—just holding ground. But we could accomplish so much more if we took these meetings as seriously as they deserve, and if the U.S. delegates could approach delegations from developing and nonalined nations in the union with positive programs and exciting new ideas, and the full weight of the American Government behind them—rather than taking official notice of these countries mainly when we need their vote to squelch some embarrassing resolution.

I am particularly distressed that the Senate seldom seems to make full use of this opportunity. Usually one or two stalwarts from the other body find time to make the trip, but this year no Member of the Senate was represented at the IPU. This absence left our delegation one-sided and incomplete. Mr. Speaker, it comes down to this: Either we should make our commitment to the IPU a strong and vibrant one, or we should drop out of the program. We owe that much to the other member nations; and we certainly owe that much to ourselves.

Just as important as reorganizing our attitudes and goals with respect to the IPU, is the reorganization of the IPU itself. The semiannual meetings, when the representatives of the world's various congressional and parliamentary systems come together, last an average of 2 weeks or more. Few delegates from the United States can afford to be gone that long, particularly as the IPU's meetings all too often fall during our sessions of Congress here in Washington. Perhaps the IPU could set up executive sessions to save time for average members, with shorter full meetings to finish up business and provide the opportunity for delegates to concentrate on getting to know one another and resolving the most important of the questions before each session of the IPU.

Perhaps the IPU should consider other changes as well. For example, membership might be limited more strictly to parliamentary bodies, groups truly chosen to represent the people of their respective nations and invested with the power of democratic government. Right now the IPU includes many delegations from bodies whose members are not freely elected, or whose parliaments represent little more than figure-head status within a dictatorship. At times it might be appropriate for the IPU to pass resolutions censuring nations that have violated "the peace," or for the organization to otherwise play a more active role in world affairs.

Most of all, the IPU needs to come into its own, to again become a forum for solution making, and a channel for sure, positive action. Its meetings are

important. Within the IPU is the only place that the world's parliamentarians at once meet to work on common problems. U.N. delegates of course, despite their many other qualifications—are not elected representatives of the people, and the very nature and perception of their task is very different from that of the IPU. This is a source largely untapped on the grand scale of geopolitics; a great deal of good can come from it.

To develop the IPU's full potential, we must first give it our full attention. The United States can be an instrumental force for constructive development in the IPU, as in so many other areas, but with our attention, we must lend our unique resources—and internally and externally develop a strong commitment to lead, and a strong agenda for our delegates and for the organization as a whole.

I want to back up here to emphasize briefly an important point. Despite the problems I have mentioned, I think our delegations in general—and this year's in particular—have brought credit to this U.S. Congress. Our own beloved Congressman CLAUDE PEPPER was asked to make the nominating speech for the conference president, Gessepi Andriotti, of Italy. As is his fashion, Senator PEPPER in his eloquent and gentlemanly manner gave such a warm and appealing speech, that the presidential nominee was accepted by acclamation. Later during the conference, Senator PEPPER delivered a moving and prophetic plea for the nations of the world to turn from bankrupting themselves in the pursuit of militarism, and to use those same resources to feed the poor and the hungry of the world. At the conclusion of his remarks, the delegates from the nations of the world rose to salute this venerable statesman who has always honored his country and this body by his presence in the Congress.

Representative L. H. FOUNTAIN also addressed the conference. He spoke to our peers about the need for the United States and the Soviet Union to join in the quest for arms control, and peace. Later, I too addressed the conference, following a speech by PLO Leader Yasser Arafat. I tried to remind the delegates that—whatever the rights or claims of the Palestinian people themselves—we should remember that Mr. Arafat is not the passive, untainted, heroic victim he presented himself to be when he addressed our conference. If he wants peace in the Mideast, he should recognize the right of Israel to exist as a nation. Until he does that, he is all talk.

I do not know the impact of my remarks, nor am I the one to judge such a thing. But I do know the impact of the remarks and the work of the other two gentlemen who I have mentioned, and I know the stature they lent the U.S. delegation—your delegation. I hope Members will find time to thank them personally before we adjourn for the October break. A second group of Congressmen assumed our leadership roles at the end of the first week. Headed by Congressman ED DERWINSKI and others, this group made a valuable contribution to the IPU session.●

GENERAL LEAVE

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONGRESSMAN TONY P. HALL INTRODUCES CONVENTIONAL ARMS TRANSFER LIMITATION LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. HALL) is recognized for 60 minutes.

Mr. HALL of Ohio. Mr. Speaker, I am taking this opportunity today to address the House on one of the most serious international issues, conventional arms transfer limitation. I also am introducing a resolution to express the sense of Congress about conventional arms transfer limitation policies.

To absolutely no one's surprise, one of the first foreign policy actions of the Reagan administration was to abandon the Carter arms transfer policy in unequivocal terms. The Reagan administration has characterized this move as replacing the Carter theology with a healthy sense of self-preservation. In so doing, the Reagan administration has argued that an arms transfer policy more firmly based on the realities of international affairs will run less risk of failure and insure the more productive and successful transfer of U.S. conventional weapons overseas. But, given the widely critical evaluation of the Nixon-Kissinger approach to arms transfer and the legacy of the Carter policy as a naive and faulty attempt at arms transfer restraint, is there any good reason to believe that the Reagan administration's prudent policy will fare any better?

In all likelihood, the answer is "no."

A look back at the history of arms transfers indicates that, in general, arms transferred for political reasons are just as likely to fail as they are to succeed. As a result, arms transfer policies seem destined, at best, to be weakly related to and, at worst, completely at odds with the actual arms transfer practices of an administration. Or, to put this in slightly different terms, the rhetoric of arms transfer practices have typically been at odds with one another.

This conclusion leads to three observations. First, Presidents and their administrations have found arms transfers an extremely seductive but ultimately unpredictable instrument of foreign policy. Second, for a variety of reasons, particular arms transfers and the policies upon which they are based—or, more likely made exceptions to—are frequent failures. And third, having found arms transfers attractive for symbolic political purposes and practical foreign policy activities, the Reagan administration is heading down a path that will ultimately have counterproductive foreign and domestic political consequences.

In order to avoid further policy failures, and in an attempt to rein in the burgeoning world market in arms, the United States should move to renew conventional arms transfer talks without delay. Such talks are not advocated out of some vague moralistic notion about the "evil" of arms; though arms have been used and continue to be used for clearly immoral and evil purposes. Restraint is not blindly advocated on a unilateral basis; though selective self-restraint has on occasion benefited and would continue to benefit a nation that regards itself as a world peacemaker. Such talks are advocated with a realistic sense of the limits which face any nation that would undertake restraint in a violent world of sovereign states.

In order to make a case for arms transfer restraint—and hence for renewed arms transfer talks—some sense must first be made of the evolving international arms trade. Beyond that, any realistic attempt to renew such talks must be grounded in a thorough knowledge of the commonly advocated rationales for the transfer of arms. Since few nations openly debate their arms sales policies, and only the United States does so in the presence of reasonably accurate and comprehensive data, it is not always possible to obtain a complete picture of the arms trading world. Enough is known, however, to reopen a dialog regarding controls on the international trade in arms.

PART I—CURRENT TRENDS IN INTERNATIONAL CONVENTIONAL ARMS TRANSFERS

The international arms trade has been rather fundamentally altered during the post-World War II period. As with most impressions, this notion is rather loosely based on vague facts about who sells arms, who buys arms, and what sorts of arms are actually sold. Regardless of the source of those facts, though, most people believe that more arms are sold each year. They believe that more sophisticated arms are sold each year. And they believe that the United States sells a very large portion of those arms each year.

In most respects, these people are quite correct.

Common impressions, however, are not enough of a base upon which to build a case for conventional arms restraint. Hence, this portion of the analysis is devoted to an overview of the most current public date available on international conventional arms transfers. Five major factors in this trade are examined which represent the most salient characteristics about the contemporary international arms trading system: First, the quantity of arms sold or transferred; second, the destination of the transferred arms; third, the origin of the arms exported; fourth, the mode by which the arms are transported; and fifth, the level of sophistication of the arms exported.

As a prefatory note, however, arms transfers must be placed in the context of overall military expenditures. From 1970 to 1979 world military expenditures increased from $425 billion to $521 billion (in constant 1978 dollars). For developing nations this meant an increase from $73 to $119 billion.

THE QUANTITY OF ARMS TRANSFERRS

By virtually all accounts, the dollar value of arms exported to developing nations in the last 8 years has fluctuated fairly dramatically from year to year. This makes any policy decision—or political argument—based upon such figures prima facie suspect. As the Congressional Research Service points out in its most recent report on arms transfers to developing nations:

> The basic utility of the dollar values of arms transfer agreements is in indicating long range trends in sales activity by arms suppliers. . . . To use these data for purposes other than assessing general trends in seller/buyer activity is to risk drawing hasty conclusions that may be rapidly invalidated by events.

Thus, some caution is in order whenever data about arms transfers are discussed.

The best available data indicate that total arms agreements with developing nations remained fairly stable from 1974 to 1981. In constant 1974 dollars, the average dollar value of these agreements during the first 4 years of the period was $20 billion while during the second 4-year period it was $19.8 billion. Thus, despite fluctuations—including especially high levels of agreements in 1980 and especially low levels in 1981—the average value of transfer agreements has remained quite stable.

Data on the total value of arms delivered to developing nations demonstrates a roughly similar pattern. Average deliveries—again, in constant 1974 dollars—for the 1974-77 period were $9.3 billion while for the 1978-81 period they averaged $13.9 billion. The upward trend during this period reflects the fact that worldwide arms export agreements increased markedly in 1973-74 while deliveries of these weapons did not occur until a few years later. Even so, the level of total arms deliveries during the 1977-81 period is remarkably uniform.

Finally, if one examines the actual number of weapons delivered to developing nations during the 1974-81 period, much the same picture emerges. Of the 12 categories of weapons systems that can be tracked with some accuracy, only two have patterns that change very noticeably. The total number of submarines delivered actually declined—from 33 in the 1974-77 period to 15 in the 1978-81 period—and the total number of guided missile boats delivered increased—from 40 to 103. For the remaining categories the trends are generally quite stable. Surface-to-air missiles (SAM's) are something of an exception since both the Soviets and the United States exported unusually large numbers of SAM's in 1977 and 1979.

In sum, the aggregate level of arms transfers to developing nations during the 1974-81 period has been relatively stable. This stability, however, follows immediately on the heels of a rapid, real increase in the volume of arms transfer agreements between developed and developing nations. Hence, while the trends are fairly stable they are stable at what are arguably high levels of transfers from the arms developers to the arms consumers. Going beyond overall trends, one finds a number of interesting, and important, patterns once the available information on suppliers and consumers is examined.

MAJOR ARMS SUPPLIERS

The international arms trade—which totaled more than $120 billion in agreements between developed and developing nations from 1978-81—has long been dominated by two major suppliers—the United States and Soviet Union—and a series of lesser but nonetheless significant suppliers—France, the United Kingdom, West Germany, and Italy. Beyond these major suppliers, there are numerous additional arms exporters—some 60 countries in all today—who sell a variety of weapons on the international market.

Today, the Soviet Union is the developing world's leading arms supplier—having surpassed the United States in the late 1970's. Soviet arms agreements with developing nations totaled $33.2 billion from 1978 to 1981.

France also has established itself as a major arms supplier—with agreements in 1980 nearly equal to those of the United States—$8.7 and $9.4 billion, respectively. The level of agreements by other Western suppliers—West Germany, the United Kingdom, and Italy, have yet to rival the leaders, but they remain quite competitive. In fact, from 1978 to 1981, total agreements with developing nations by free world nations other than the United States—$45.5 billion—easily exceeded agreements with developing nations by the Soviets and by the United States—with $33.2 and $30.7 billion, respectively. Over the last 4 years, therefore, the arms trade with the developing world has actually been dominated by a group of free world nations and not by the Soviets or the United States.

If the United States is included among other free world arms exporters, then an even clearer dominance of the arms trading world becomes apparent—with total free world agreements of $76.2 billion and total communist agreements of $44.4 billion during the 1978 to 1981 period. This seems to indicate that if nations feel ideological constraints about which nations supply them arms, Western oriented recipients have diversified among a larger range of suppliers. As a result, today, free world nations control, share in, and compete for, the largest share of the conventional arms market—that which is oriented to Western suppliers.

The value of deliveries by major weapons suppliers mirrors the trend in agreements—again, with a lag over the first few years of the 1970's. For the United States, the value of arms deliveries increased from 1974 to 1978 before falling back in 1980 and 1981. Soviet deliveries peaked a year later than the United States and also declined in 1980 and 1981. France's deliveries peaked in 1981.

If one examines the actual number of weapons delivered by major suppliers the ascendency of the Soviets is even more pronounced. Of the 12 major categories of weapons delivered to developing nations from 1974 to 1977 the Soviets led in five categories, the United States led in four, and the major Western European nations led in three. From 1978 to 1981, the Soviets led in 9 of the 12 categories, the West Europeans in 3, and the United States in none. These data indicate that the Soviets easily outstrip their rivals in exports of tanks, artillery, supersonic aircraft, and surface-to-air missiles. The European exporters have been competitive in helicopters, minor surface combatants, "other" aircraft, and submarines. Over the entire period, the United States led in APC's and armored cars, major surface combatants, subsonic combat aircraft, and other aircraft.

MAJOR ARMS RECIPIENTS

With the end of the Vietnam war and the advent of petrodollar politics the major arms importing region of the world is now the Middle East and North Africa rather than East Asia. Based on data from the Arms Control and Disarmament Agency, arms imports in the Middle East guadrupled between 1970 and 1979. Even more dramatic increases were recorded in Africa which imported less than half a

billion dollars worth of arms in 1970 but over $4 billion in 1979. These increases are almost solely due to increased imports by North African nations—such as Libya—rather than sub-Saharan nations. The North African states are, of course, involved in the ongoing Middle East conflict. Meanwhile, arms imports to Latin America and to South Asia and Oceania also increased but remain at relatively modest levels.

The data clearly demonstrate that continued conflict among Middle Eastern nations, aggravated by the presence of considerable disposable wealth among the OPEC nations, is one of the root causes of the conventional arms transfer problem. Indeed, in 1979, 6 of the top 10 arms importing nations were in the Middle East. Efforts to solve the arms transfer problem may not have to begin in the Middle East, but, inevitably, they must come around to the Middle East.

THE MODE OF TRANSFER

Since passage of the Foreign Military Sales Act of 1968 and the pronouncement of the "Nixon Doctrine" in 1969, the U.S. Government has followed a (successful) policy of encouraging importing nations to purchase their own weapons. The purposes of the 1968 law, and the Nixon Doctrine, were to reduce U.S. foreign aid commitments, help remedy chronic balance-of-payments, deficits, reduce U.S. military presence overseas, and increase the self-reliance of nations friendly to the United States. As a result, most transfers today are sales—either commerical or government to government.

The United States has developed three mechanisms to transfer weapons overseas. Through the 1960's military assistance programs (MAP) were the most common mode of transfer for the U.S. Government. These are grant aid programs which provide military aid to foreign countries free of charge. Grant aid programs have evolved a great deal over the years and today no fewer than five different formal mechanisms exist created to provide security assistance to eligible foreign countries—including the foreign military sales financing program, the international military education and training program, the economic support fund program, the peacekeeping operations program, and MAP.

In the 1970's, a dramatic shift from grant aid toward government-to-government sales—called foreign military sales (FMS)—and commercial sales, the second and third mechanisms, was brought about to fulfill the dictates of the FMS Act of 1968 and the Nixon Doctrine. Under FMS procedures, the U.S. Government is authorized to sell directly from our own weapons stocks—provided no danger to national security is present—or to order equipment directly from U.S. manufacturers. FMS procedures allow for either credit sales—under the financing program—or direct cash purchases. Commercial sales became more popular in the early seventies, as a result of the dictates of the FMS Act, but seem destined to remain at low levels relative to FMS transfers for the foreseeable future. There are two reasons for this. First, Congress now requires that FMS procedures be used for any sale of major defense equipment of $25 million or more to non-NATO countries. And second, many buyers prefer to use FMS to gain the benefits of complete package acquisition, fair pricing, government quality control, audit services, and other advantages stemming from government participation.

FMS is easily the predominant mechanism for transferring weapons from the United States today. Most of these are straight government-to-government sales and do not involve concessionary credits by the United States—though such mechanisms do exist within FMS. Grant military aid has nearly been phased out. And commercial sales have risen lately but remain well below FMS transfers.

Relatively little is known about the details of the transfer mechanisms of the other major supplier nations. What is clear, however, is that they depend on the actual sale of their weapons either to earn valuable hard currencies for foreign exchange or in order to keep their production lines open. The Soviets do offer concessionary loans and credits to a wide variety of nations but have, according to most reports, reemphasized the acquisition of hard currency for their arms transfers in recent years. Countries such as France, Israel, Great Britain, and Italy depend on actual sales to maintain their production lines and to insure that their own unit costs remain at affordable levels. Hence, virtually all arms exporters today find it necessary to sell most of their weapons. Few nations have significant amounts of surplus equipment that they can part with cheaply. And, as more sophisticated weapons are produced, there is increasing pressure to export early in production runs in order to amortize research and development costs.

THE SOPHISTICATION OF ARMS TRANSFERS

The last major change in the character of the arms trade in the last decade involves the sophistication of the arms being transported by the major exporting countries. Two developments, the shift from aid to sales, which places buyers in a better bargaining position, and the high cost of research and development, appear to account for the increasingly sophisticated weapons which are now exported.

As previously noted, during the 1960's the United States began to pursue policies which emphasized a shift from grant aid transfers to a sales relationship. This decline in aid transfers has altered the exporter/importer relationship, with increased weight now attending the purchasers' demands. Thus, it appears that as importing countries began to pay their own way the United States became unable or unwilling to refuse to sell its most advanced conventional arms. Moreover, with the added leverage of oil politics thrown in, the richest Middle East nations have been able to import some of the most sophisticated weapons in the U.S. inventory.

But the ability to buy has not been the only factor leading to the sale of increasingly sophisticated equipment. As R&D cost pressures have driven unit prices upward at rates unacceptable to even the two super powers, additional markets have become attractive to even the largest manufacturers. Because of this, and complicated by the rapid rate of technological change, the world's leading arms developers are now exporting their most-advanced weapons with little or no time lapse between introduction into their own arsenals and transfer abroad. Transfers of advanced French Mirage fighters and the Exocet missiles, Soviet T-72 tanks, United States Phoenix and Sidewinder missiles, advanced aircraft such as U.S. F-15 and F-16 fighters are prominent examples of this trend.

SUMMARY

This review of the most recent data on arms transfers leads to five major observations:

First, arms transfers increased quite dramatically during the early 1970's and then leveled off at a new but higher plateau. Hence, while overall trends are stable, the "current" data has outrun an important watershed period in arms transfer and tends to obscure that previous period of lower overall transfer.

Second, the United States and the Soviet Union are still the world's leading arms suppliers while France has solidified its position as a major arms trading nation. In aggregate, however, major free world suppliers, excluding the United States, accounted for the largest share of arms transfer agreements to developing nations from 1978 to 1981—with the Soviets and the United States ranking second and third,

Third, the Middle East is easily the major arms importing region of the world, having supplanted East Asia in the early 1970's. Six of the 10 top importing nations, in 1979, were in the Middle East.

Fourth, most arms transfers today are effected through sales mechanisms though substantial "concessions" are available from the two leading suppliers—the Soviets and the United States.

Fifth, some of the most-sophisticated weapons available anywhere in the world are among those being transferred to developing nations. Surface-to-air missiles, supersonic aircraft, advanced tanks, and precision-guided munitions are among these.

It is important to remember that, in and of themselves, these overview data do not provide an argument for or against arms transfers. They should, instead, be viewed as context—a rough representation of current trends in the arms trade. In the end, the arms-transfer debate does not hinge on trends—though trends are important elements in the ongoing debate. The discussion itself usually revolves about a series of rationales which are advanced in favor of arms transfers.

PART II—THE ARMS TRANSFER DEBATE

During the last decade the arms transfer debate, in government and academia, has attracted a great deal of attention. At one time, scholars felt relatively free to generalize about the lack of "literature" on the arms transfer problem. That is no longer the case. As a result, a fairly common list of debating points has emerged. These typically focus upon the various rationales for transferring arms overseas.

To make a case favoring renewed arms transfer talks, some familiarity with the common rationales for arms transfers is important. In most cases, there has been no satisfactory resolution of the debate. And in a few cases, the debate is purely rhetorical since there is no evidence that bears on either side.

The spectrum of the arms transfer debate is bounded at its limits by two extreme positions—historical realism and rational idealism. Not surprisingly, more than a few analysts have found that the extremity represented by either of these two positions is a dangerous approach to foreign policy in general and to arms transfer policy in particular. The former leads to excessively shortsighted policymaking; the latter leads to overzealous moralism or universalty. With respect to arms exports, the realists argue that, in an essentially amoral and anarchic international system, a nation must use any tool at its disposal to further its foreign policy objectives. Conversely, the idealists argue that the transfer of weapons of war is a fundamentally immoral act which can only lead to the destruction of human potential.

A more realistic approach to arms transfer, and arms transfer restraint, requires the assumption that neither of these positions is intellectually supportable. Or, more simply, the position staked out by both realists and idealists precludes the possibility of making any policy choices. For realists, there is no choice involved because historical situations predetermine a nation's foreign policy—and therefore the nature of its responses to the international system. If arms can be transported, and they serve some pragmatic purpose, they will be transferred. For idealists, at the extreme, choice is removed simply because the transfer of weapons violates a moral imperative. Thus, there is no decision to be made—arms are just not to be exported.

Once these absolutist positions are abandoned, policymakers are faced with the practical problem of how to treat arms transfers within the foreign policy framework. In so doing, criteria must be developed upon which to base transfer decisions. As noted, a fairly large number of these have evolved in the last decade. Ten of these—grouped into political, military/security, and economic categories—are examined below.

1. POLITICAL RATIONALES

The first group of rationales favoring arms transfers is political. These arguments are based primarily upon the effect of transferred arms on the relationship between the suppliers and those to whom arms are exported. Four major arguments are included in this category.

(A) INFLUENCE: ARMS TRANSFERS GIVE THE SUPPLIER COUNTRY INFLUENCE OR LEVERAGE OVER THE RECIPIENT NATION

While influence may result from the transfer of arms on some occasions there is abundant evidence to indicate that such influence is, at best, haphazard. For a variety of reasons, arms transfers are likely to create only an imperfect bond between countries. Even if the transfer is virtually their only contact, too many additional factors influence nations' actions for a single transfer to be determinative.

In most cases arms are part of an exchange relationship between two nations. Hence, any subsequent demands or attempts at influence are likely to be resented by the recipient. For example, Turkish authorities generally believed that an exchange had taken place between themselves and the U.S. Government—an exchange of bases for U.S. weapons. In 1975, when the United States tried to use weapons transfers as a lever to force Turkey to withdraw its troops from Cyprus the Turkish Government considered this offensive. In essence Turkey viewed the demands by the United States as blackmail. And, rather than be forced to remove troops from Cyprus, an issue viewed as completely separate from the bases agreement with the United States despite the fact that U.S. weapons were used on Cyprus, permission for U.S. use of the bases was withdrawn.

Because of evolution in the arms trading system in recent years it may be argued that arms are of even less influence today than in years past. As the transfer mechanism has shifted from aid to trade most nations have come to feel that they have paid for their weapons and, as sovereign nations, are free to use them as they see fit. Moreover, even where some strings could be attached to transfers, an increasingly interdependent world limits the extent to which countries like the United States can dictate the policies of client nations. The most prominent example, of course, is that of transfers to OPEC nations which, after all, also have the capacity to influence the arms suppliers.

It may well be, therefore, that there is as much reverse influence as there is positive influence between supplier and client. The Soviets, for example, have often overlooked the fact that their clients suppress indigenous Communist Parties. As for the United States, on more than one occasion—in Turkey and Morocco, for example—it has been forced to sit idly by and watch its clients use American weapons in possible contravention of agreements signed with the United States prior to the transfer of weapons. In theory, the supplier is supposed to be able to threaten its client with a cutoff of further arms or with a cutoff of spare parts. In practice such threats are rarely tendered. Part of the reason for this is that a great deal of modern military action does not hinge on immediate resupply. But even when it does, the supplier is often too deeply involved (and often otherwise dependent upon) the client to carry out such threats. Moreover, alternative sources of supply now take some of the sting out of such threats as many arms importing nations move to diversify their sources of supply.

(B) REGIME STABILITY: ARMS TRANSFERS CAN POLITICALLY BENEFIT A NATION BY STABILIZING FRIENDLY REGIMES

U.S. experience in Vietnam and Iran and Soviet experience in Indonesia offer ample proof of the weakness of this argument. Despite vast amounts of resources the United States was unable to stabilize the regimes in either South Vietnam or in Iran. Worse yet, a U.S. identity with and commitment to the South Vietnamese ultimately entangled the United States in a lengthy war. Such failures are further compounded by the fact that subseqent regimes—Egypt, Ethiopia, Indonesia, Iran, and Vietnam are all examples—almost invariably turn on their former suppliers. But even when they do not, as has been the case for numerous U.S. backed regimes in South America, the granting or selling of arms does not seem to guarantee that subsequent regimes will be any more stable than their predecessors.

(C) POLITICAL TIES: ARMS TRANFERS, BECAUSE THEY NEED SUBSEQUENT SUPPORT, TEND TO FOSTER CLOSER POLITICAL TIES BETWEEN SUPPLIERS AND CLIENTS.

While on the surface this argument seems to make some sense, most na-

tions fully realize that suppliers wish to create such dependencies. As a result they tend to diversify their arms purchases as much as possible. Moreover, from the suppliers' perspective, arms transfers do not generally establish ties to the people of a country, the way that economic aid can, but rather with the regime. Hence, in the event of a regime change, the ties have been removed and only resent remains.

It is also argued that arms transfers will, as a result of political ties, help to bring a client nation around to the political orientation of the supplier. Yet there is little evidence for this. On the contrary it seems that nations seeking arms will seek them from suppliers that reflect their own orientation.

(D) SYMBOLISM: ARMS TRANSFERS ARE A SYMBOL OF SUPPLIER SUPPORT FOR ITS FRIENDS AND OPPOSITION TO ITS ENEMIES

Because arms are a visible, tangible instrument of foreign policy, they are viewed as having symbolic utility. This rationale is dangerous because it leads to a scorekeeping mentality toward arms transfers. That is, the nation with the most clients is obviously the most popular and dependable. Unfortunately, this also leads to subsequent problems when two countries supplied by the same nation (in whole or in part) go to war. U.S. experience in the Indo-Pakistani wars, in the Falklands crisis, and in the Middle East demonstrates this point. It is simply impossible to be everyone's ally. And, should two client states go to war the supplier, especially if the arms transferred were intended to create political bonds, will suffer either the embarrassment (and subsequent diplomatic damage) of having to take sides or risk being branded hypocritical for arming both sides in a war.

Thus, if arms are useful symbols of political support, they should be used all the more carefully—and sparingly. For example, of what symbolic utility is the fact that the United States has supported 28 of the 41 military-dominated governments in the world with records of violating citizens' rights?

In sum, of the major political arguments favoring arms transfers only their utility as symbols of American support carries much weight. Unfortunately, the United States has been less than careful about who buys arms. The Center for Defense Information, for example, has noted that the United States sold weapons to 96 of the 161 nations in the world in 1981. The symbolic message in this seems to be that the United States will sell arms to almost anyone. During the Carter administration, a concerted effort was made to avoid selling arms to repressive regimes. While that policy was implemented in an uneven fashion it was an instance of an attempt to reinforce an international reputation for U.S. support of democratic principles. To date the Reagan administration has shown little inclination to follow suit.

2. MILITARY/SECURITY RATIONALES

While three distinct arguments can be identified under the rubric of military/security rationales, they all boil down to the question of whether arms transfers increase or decrease the security of suppliers and consumers. For proponents of increased sales a limit on arms transfers is naive and self-destructive. They feel arms control advocates would gamble away security in an attempt to secure meaningless guarantees of human rights or other "moral victories." For opponents of arms sales, almost any transfer is bound to precipitate a regional arms race, U.S. entanglements and ultimately, participation in local wars. They feel that arms transfer advocates overstate the security needs of virtually all nations in order to achieve illusory gains in security or, more basely, to make money. Neither group differentiates among the myriad interests which are often conditional and inconsistent for suppliers and consumers. One thing seems clear, security interests need to be carefully weighed prior to transferring arms. Unfortunately, the weighing of such interests is extremely difficult.

(A) REGIONAL SECURITY: ARMS TRANSFERS CONTRIBUTE TO REGIONAL SECURITY BY INSURING A BALANCE OF FORCE AMONG POTENTIALLY CONTENDING NATIONS

This rationale is almost impossible to prove—either in the positive or the negative form—because it assumes that nations behave rationally. It also tends to assume that an objective assessment of capabilities can be determined by counting weapons alone while not carefully considering either the motives or perceptions of the contending nations.

Balances of power, it must be remembered, refer to the strengths and weaknesses of various nations relative to each other. Thus, one region may be balanced at high levels of capability (Europe) while other regions may be balanced at fairly low levels of capability (sub-Saharan Africa).

For a long period of time U.S. restraint in selling advanced weapons to Latin America contributed to an overall balance of power in that region. Once that balance was perceived to have been tipped the constraints no longer held. Today, Latin American nations are poceeding to break out of that balance—each claiming to be in the process of restoring it based upon its own security needs. Peru has diversified its suppliers. The French and Israelis are trying to sell advanced aircraft in the region. Brazil is developing its own arms industry. And, the United States has sold F-16's to Venezuela.

The experience of the United States with increasing its security through arms transfers is checkered at best. Attempts to stabilize Southeast Asia, based on the domino theory, failed. Attempts to shore up Iran as a bastion against Soviet aggression in the Middle East failed—and led indirectly to subsequent fighting between Iran and Iraq. U.S. proposals to arm Pakistan in response to the Soviet occupation of Afghanistan were met by threats from Indira Ghandi to increase the defense capabilities of her country commensurately. Hence, in most cases, the transfer of arms to one nation leads its potential foes—and in some cases its allies—to attempt to reestablish the status quo ante.

It is also argued that arms transfer restraint will not stop nations intent on war from going to war. But then the opposite must also be true. Suppling arms to nations intent on war will not stop them from going to war. And it is also true that such wars, fought without arms from major contending suppliers, are likely to attract less attention as proxy actions which are outgrowths of East/West competition.

(B) BURDEN SHARING: ARMS TRANSFERS CONTRIBUTE TO SUPPLIER SECURITY BY PROXY WHEN ALLIED NATIONS INCREASE THEIR CAPABILITY TO OPPOSE COMMON FOES

This rationale is true by definition. The problem is that, for the most part, proxies never actually have to defend themselves against the common foe. When they do, as is the case in Afghanistan, no amount of supplies would allow them to defend themselves in the absence of determined additional support from the supplier. More typically, proxies tend to fight proxies with weapons of politically opposed suppliers (that is the United States and the Soviets).

Iran did not have to fight against the Soviets; it fought with the Soviet's ally, Iraq. Turkey and Greece did not have to fight with the Soviets, they fought, indirectly, with each other over Cyprus. India and Pakistan did not fight the Soviets; they fought each other with U.S. equipment.

In Europe, where a clear-cut peacetime military alliance exists in NATO, a strong case can be made that shared responsibilities increase the joint security of suppliers and consumers. But the further one gets from such clear-cut conflicts—geographically, temporally, or politically—the more difficult it becomes to sustain the argument of shared security. Several years ago, few would have argued with the notion that Iran would have proven an invaluable ally in the event of war. But what are the costs of maintaining that capability? In Iran, and in Vietnam, the costs were considerable, and the rewards nonexistent.

For joint security to hold sway where arms transfers are concerned there must be relatively little chance that transferred weapons will be used for other purposes—against other nations that is. This does not mean that arms should not be transferred unless such conditions exist, only that joint security seems to apply to a limited set of circumstances.

(C) TRANSIT RIGHTS, ACCESS, AND SUPPLIES: ARMS TRANSFERS INCREASE SUPPLIER NATIONS' SECURITY BY INSURING OVERFLIGHT AND LANDING RIGHTS, BASES, AND ACCESS TO FORWARD FACILITIES AND SUPPLIES THROUGH STANDARDIZATION

This rationale is sound but of limited value. Base rights, overflight authority, and landing rights can be quite valuable to supplier nations and can enhance security. But such rights and access can also be withdrawn quickly—as was shown in Turkey in 1975. Also, base rights and access are typically negotiated on the basis of some known or plausible future threat. The United States negotiates base rights in Turkey, Greece, or Spain in order to advance its ability to counter Soviet capabilities. Yet these forms of access can be withdrawn when unforeseen contingencies arise—the Iranian rescue mission, resupply of Israeli war efforts, or pressure on Turkey to withdraw from Cyprus.

The argument favoring forward supplies—because of standardization—and facilities is also highly contingent. It assumes that spares, facilities, and supplies will be available under a wide variety of conditions. Moreover, it assumes that the amount of spares and facilities would be sufficient. Yet, it is extremely dubious that any responsible military planner would depend upon the existence and availability of such supplies or facilities. What's more, in most cases arms are shifted in quite limited numbers with necessarily limited spares. Hence, any given facility would be of relatively little use. This does not hold for base rights in major NATO countries, of course, where facilities and prepositioned supplies are purposely provided for United States use.

Again, this argument is persuasive to a degree. But it depends upon the use of spares, facilities, and bases in known or foreseeable circumstances. Unfortunately, the exact nature and form of future conflicts is never known. This makes contingency planning based upon the supposed availability of bases and supplies risky business. At best, such bases and supplies are of potential use to resourceful leaders in a time of crisis. Only in clear-cut exchanges, arms for base rights in Spain for example, should such a rationale hold sway.

In sum, most rationales favoring arms transfers for security reasons are highly contingent on assumptions about the most likely threats to the security of the supplier. And yet, actual outbreaks of hostility have proven very difficult to foresee. Security rationales for arms transfers tend to focus on likely scenarios while transferred arms tend to be used in unlikely (and too often politically and militarily damaging) scenarios.

3. ECONOMIC RATIONALES

Economic rationales are among the most frequently cited supportive arguments advanced in favor of arms transfers. In its simplest form this argument is rendered as follows: "If we don't sell, somebody else will." The logic being that, since arms will be sold anyway, why should we suffer the economic loss of not being the seller? Such simplistic arguments are damaging for at least two reasons. First, they ignore the fact that arms transfers are not simply products and that when arms are transferred there are other political and military costs and benefits. And second, even on economic grounds, the sale of arms is a complex matter with effects that are not always easy to identify.

Economic rationales are commonly examined from the suppliers perspective, although critics of arms transfers are quick to point out that spending on arms is a misuse of developing nations' resources. On occasion, however, it is argued that arms transfers encourage economic development. Hence, this rationale will also be examined.

(A) BALANCE OF PAYMENTS: ARMS TRANSFERS BENEFIT THE SUPPLIER BY REDUCING DEFICITS OR INCREASING SURPLUSES IN THE BALANCE OF PAYMENTS

This is a complex question which, in its simplest form, is irrefutable. In the short term arms transfers, assuming they are straight sales, bring in money. But, in the short term, it may well be that arms purchases will preclude spending on other goods—especially if a country has foreign exchange constraints. In the long term, increasing exports will force an appreciation of the currency which, in turn, will dampen demand for other exports. Thus, it may well be that, despite apparent short-term gains, the balance of payments is helped relatively little by arms exports.

This leads to several criticisms of the balance-of-payments argument. First, since arms constitute only a minor part of all the major suppliers' exports they can have only limited effects on the balance of payments in any event. Second, since all goods produce the same balance-of-payments effects when exported, pushing arms only or largely for this reason cynically equates arms with other domestic products. And, third, since all arms sales have the same effect, all sales become equally valuable according to this rationale—leaving no way to distinguish among various sales.

(B) UNIT COSTS, R&D RECOUPMENT, PRODUCTION RUNS: ARMS TRANSFERS BENEFIT THE SUPPLIER BY LOWERING UNIT COSTS, RECOUPING R&D COSTS, INCREASING LEARNING CURVE EFFECTS, AND LENGTHENING OR SMOOTHING PRODUCTION RUNS

This group of benefits is derived largely from the economic principle that savings will result from longer production runs. Workers get better at their jobs. R&D costs can be amortized over a larger number of units. Economies of scale are achieved. And, potentially vital production lines are kept open with foreign sales.

A 1976 study by CBO estimated that $8 billion in foreign military sales (in a fiscal year) would result in savings of $560 million to the United States—less than 1 percent of defense outlays. According to CBO, savings are most likely to occur on newly developed, highly sophisticated weapons. This means that the United States could realize fairly substantial savings, 14 percent on procurement and 4 percent on R&D, but only on about 40 to 45 percent of its sales—the portion accounted for by items such as aircraft and missiles. For the French and British savings would be higher since they export 50 to 60 percent of the high technology items they produce.

As with unemployment, the economic effects of longer production runs are highly sector specific; a relatively few companies account for a high proportion of foreign sales. In the United States, foreign military sales represent only about 15 to 20 percent of total defense industry output. Again, for French and British companies—and the defense sector as a whole—exports are a much larger portion of total production.

Finally, while there is some logic to keeping production lines open, there is considerable disagreement about how important it is to keep them open. In the event of a short war added production capabilities are irrelevant; only existing defense stocks are of any use. Hence, production lines are only important where long war scenarios are concerned or where the ability to divert current production to resupply efforts of allies without serious damage (drawdowns) on existing stock is needed. Moreover, exports do not necessarily keep lines open. Instead, they may simply increase the level of output for a given period of time. This is especially true when firstline equipment is being exported. Apparently only the Soviets have the luxury, or are willing to bear the costs, of keeping open production lines solely for export purposes—as they do with some older tanks and the Mig-21.

(C) RECIPIENT DEVELOPMENT: ARMS TRANSFERS CONTRIBUTE TO RECIPIENT NATION ECONOMIC DEVELOPMENT BY BUILDING INFRASTRUCTURE AND THROUGH THE SPILLOVER EFFECTS OF INCREASED EDUCATION LEVELS AMONG THE ARMED FORCES

This argument is not generally offered by supplier nations but recipients sometimes argue that effective, well-equipped, well-trained armed forces symbolize progress at the very least and, more often, that training programs have spillover effects on the civilian population.

There is very little systematic evidence to support this argument. On the contrary, it is more likely the case that high technology transfers soak up funds in capital intensive efforts to arm which could pay off in development if used in more labor-intensive industries. Moreover, rather than spilling over to the civilian population, higher education levels often isolate the armed forces from the population. This leads to two additional, related, problems.

First, coproduction probably has relatively few spinoff benefits for the recipient country. Coproduction increases the price of the weapons purchased; it rarely leads to significant manufacturing capabilities; and it tends to drain funds from development projects with broader benefits to the population. It should be noted that, in most cases, only relatively simple arms are actually coproduced. For advanced weapons such as aircraft most countries can handle only coassembly—which involves only the assembly of imported pieces—or, at most, the fabrication of a limited number of parts. Korean coproduction of F-5's is a good example of this relatively limited capability.

And second, modern weapons may very well overtax the ability of recipients to absorb new technology—the so-called backend problem. This in turn my actually reduce the defense capabilities of a nation while occupying resources in an effort to train personnel.

For developing nations the import of sophisticated arms is economically taxing. Indeed, as some have argued, a very high proportion of available import capacity of some developing nations—Egypt, Israel, Syria, South Korea, Turkey, and Libya, for example—is absorbed largely by military related activities. Such technologies cost more to purchase and they cost more to maintain. In all likelihood, they contribute only narrowly to development. And, where coproduction is concerned—even though opposed by most arms companies—the hope of developing indigenous arms manufacturing capabilities is a false hope.

In sum, the range of economic rationales favoring arms transfers typically operate in isolation from the overall economic context. In such isolation, these arguments are relatively compelling—assuming one is willing to sell arms either to make money or to save money. But examined closely these arguments lose much of their appeal. No doubt, there are real economic benefits to be derived from the sale of arms. But even so, the available evidence indicates that the benefits (especially at the margin) are rather limited.

SUMMARY

As noted there is relatively little agreement on any of the major rationales for arms transfers. Arguments and counterarguments abound. It should also be noted that standing policy on arms transfers—whether in the Carter or Reagan administrations—mandates the consideration of a variety of criteria before transferring arms. The difference in the two administrations, however, is far from insignificant. It is not too much of a simplification to say that where the Carter administration placed the burden of proof on those who would transfer weapons, the Reagan administration places the burden of proof on those who would restrain weapons transfers.

PART III—DEVELOPING SOLUTIONS: A REALISTIC APPROACH TO CONVENTIONAL ARMS RESTRAINT

An examination of current trends in the transfer of conventional armaments and the common rationales set forth in favor of these transfers indicates that renewed arms transfer talks will be an extremely difficult yet worthwhile endeavor. They will be difficult because there are formidable barriers to overcome before talks can be renewed. But they will be worthwhile because the patient, pragmatic, pursuit of such talks holds out the prospect of tangible gains in worldwide peace and security.

To date, the Reagan administration has payed only lipservice to renewed conventional arms transfer talks while estimating that over $25 billion in new sales agreements would be made in fiscal year 1982. Were such a level of sales to be completed, they would far exceed any previous level of sales by the United States in a single year. Hence, the first barrier, and perhaps the most troublesome, is to overcome the current administration's reluctance to pursue further talks. Only by surmounting that barrier can the other roadblocks to serious restraint initiatives be reached.

Ultimately, it must be recognized, the goal of arms transfer restraint is an ideal. No matter how honorable, the rash and quixotic pursuit of such an ideal can have negative consequences. Thus, it is with a firm sense of pragmatism, and the limits on the potential for any near term achievement, that these proposals are set forth.

PAST RESTRAINT EFFORTS

Despite longstanding concerns over the international transfer of armaments there are relatively few precedents upon which to build new initiatives. From 1925 until 1938 the League of Nations published statistics on the international arms trade. In 1965, 1967, 1970, and 1976 proposals by various nations were forwarded that attempted to renew the statistical effort abandoned in 1938. In each of these cases, the proposals foundered because few nations were willing to publish import/export information. Moreover, there is little evidence to indicate that merely publishing information leads to restraint. Even so, the widespread dissemination of such information may lead to public pressure for restraint. Hence, opportunities to provide more complete and accurate data on the arms trade should not be ignored.

One of the most interesting recent attempts at arms transfer restraints is the Declaration of Ayacucho of 1974. In this declaration eight Andean nations agreed to attempt to "create conditions" where a freeze on the acquisition of new offensive weapons could occur. While subsequent discussions ultimately failed to produce a lasting freeze, the effort demonstrated that there may be some room for regional constraints if the parties can be encouraged to enter into meaningful discussions. In this particular instance, Brazil, the largest Latin American arms producer, did not participate. And, more recently, supplier competition in the region has proved too tempting for Equador, Peru, Guatamala, Venezuela, and other nations to resist. Still the Ayacucho agreement was an important—if limited—first step. Most observers agree, however, that without cooperation from suppliers, restraint agreements among recipients will remain too fragile to succeed.

Occasionally, multilateral embargoes have been used to restrict transfers to particular regions or nations—usually during periods of hostility. A limited embargo on arms shipments to China existed in 1919, but quickly fell apart. In 1934, at the outset of the Chaco war, an embargo by more than 30 nations was placed on arms transfers to Bolivia and Paraguay. Similar efforts were advanced during the Italo-Ethiopian conflict in 1935 and the Spanish Civil War though, again, with fairly limited success. In one further example, France, Britain, and the United States were able to exercise some control over arms shipments to the Middle East. But these efforts were ultimately undermined when the Soviets began arms shipments to Egypt—an occurence which underscores the importance of dampening East/West competiton if arms restraints are ever to be truly effective.

The most recent attempt at conventional arms transfer restraint occurred during the Carter administration. The

Coventional Arms transfer (CAT) talks between the United States and the Soviet Union now provide an important precedent for future efforts—though there are both positive and negative lessons to be learned from them. Because the events surrounding the talks are summarized elsewhere, this discussion will focus primarily upon what might may be learned from the talks.

First, on the negative side, the CAT talks demonstrate that finding common ground for agreement between the United States and the Soviet Union is no easy matter. Given the complex nature of the great power relationship, arms transfers cannot be negotiated in isolation from other aspects of the relationship. In this instance, normalization of relations with China led the Carter administration to restrict the maneuvering room of the delegation in Mexico City during the fourth round of the talks. In retrospect, it appears that the Carter people could have been more accommodating—although given the sensitive nature of the dealings with China we may never know for sure.

The Carter effort also provides a renewed warning that bureaucratic politics will always influence negotiations. In this case, a fairly fundamental difference in perspective developed between the Arms Control and Disarmament Agency and other participants. ACDA, following on its institutional mission, apparently viewed the talks as a technical arms control exercise, while other participants viewed the talks in more political terms—wishing to link arms transfers to Soviet behavior in the developing world. This "schizophrenia" may well have done more damage to the talks than anything else.

Another, negative lesson to be drawn from the talks involves other participants. Despite explicitly stating that arms transfer restraint would require a multilateral effort, the Carter administration did not move aggressively to push the allies toward a dialog on restraint once the CAT talks began. The allies had, of course, been skeptical about restraint talks. But they seem to have taken enough of a "show me" attitude that they would have been partially open to overtures once the Soviet/United States talks were underway. The administration may have felt, quite understandably, that talks with the Soviets had not progressed quite far enough. But even so, the allies were, in effect, allowed off the hook. An immediate parallel effort may have given the administration something to fall back upon, while leaving the dialog with the Soviets on hold, rather than forcing an end to the entire effort. Also, had a parallel effort been underway a more solidly based Western position might have resulted—one more resistant to bureaucratic infighting.

On the positive side, the CAT talks with the Soviets proceeded further than most observers ever thought possible. At a minimum, this supports the argument that such talks are always worth a try. Beyond this, however, the talks offer some evidence that there is room for meaningful negotiations between the United States and the Soviets. Most reports have indicated that demonstrable progress had been made in the talks prior to the abortive fourth meeting in Mexico City.

A second positive lesson is that the talks demonstrate that there may be room for some reasonably specific restraints on certain classes of weapons—those useful to terrorists and surface-to-surface missiles, for example. This means that guidelines on transfers of some advanced equipment or perhaps on the first introduction of advanced equipment might be topics for serious discussion. At the very least, this would help to create a more coherent understanding of how to classify and compare various types of weapons.

Third, despite the fact that it ultimately undermined the effort, U.S. insistence that specific regions be discussed early on was not flatly rejected by the Soviet negotiators. Because of widely recognized regional peculiarities such a focus will be necessary in future talks as well. Hence, Soviet willingness to broach regional issues is a good sign. In fact, if some limited global restraints can be negotiated, the next step may well be to negotiate similarly limited but mutually acceptable restraints at the regional level. Such a step will almost certainly require broader participation in the talks by other major suppliers.

Finally, the CAT talks demonstrate that arms transfer restraints require aggressive leadership. The Western allies have too little incentive to take on this leadership role. And, to date, the Soviets have proven reactive rather than active where arms control initiatives are concerned. In the case of the CAT talks, an aggressive strategy paid off—at least to a limited degree. Future arms talks will, no doubt, require a similarly aggressive leadership role.

In sum, while the negotiations between the United States and Soviets ultimately foundered they produced some hopeful signs that—carefully pursued—there is common ground for discussions. But the talks also demonstrate the tremendous complexity of such negotiations, the need to take things one step at a time, and the need to avoid a single track bilateral strategy to the exclusion of other efforts.

ARMS RESTRAINT: A MULTITRACK APPROACH

As the CAT talks have demonstrated, success in restraining conventional arms transfers will be neither easy nor immediate. But the talks also show us that without aggressive leadership even gradual progress will elude us. Hence, the approach suggested here is intended to be aggressive but gradual—making gains where possible, but keeping up the pressure to continue a productive international dialog. In order to avoid complete collapse, a multitrack approach is set forward here so that if one track is stalled progress might still be made in another forum.

Four identifiable tracks, each with distinct advantages and disadvantages, would comprise this overall strategy. A selective self-restraint track would involve continued restraint on the part of the United States. A bilateral track would involve the Soviets and the United States in an renewed dialog. And two multilateral tracks would take place, in a Western context and in a more broadbased forum such as the Committee on Disarmament in Geneva.

The self-restraint track: Self-restraint on the part of the United States was among the most widely criticized aspects of the Carter arms transfer policy. For many, this aspect of the policy symbolized a fundamental naivete on the part of the administration regarding the nature of the international system.

Despite this criticism, the United States should not simply abandon self-restraint. Instead, such restraint should be used to support a broader effort at control of the international arms trade. Used carefully, a measure of self-restraint can signal continued willingness to engage in meaningful negotiations. Moreover, as some analysts have noted, such restraints may encourage reciprocal action by other suppliers—creating tacit multilateral agreements where explicit negotiations are not possible. Mutual restraint of this sort is not without precedent, having occurred between the Soviets and the United States during both the Vietnam and Korean wars.

Furthermore, the United States has an interest in self-restraint—as do many other nations—when it supports general policy principles. Human rights, economic development, and other general principles supported by the United States are important components in the fabric of U.S. diplomacy. Banking up those principles with the refusal to transfer arms keeps the United States from being intrapped by "double standards." One of the successes of the Carter administration despite much criticism to the contrary, was that military aid and support for democratic principles were brought more fully into line with one another. The Reagan administration must be judged to have backtracked on this

progress—however limited it may have been.

In using selective self-restraint caution is in order on several fronts. While restraint is good symbolically, care must be taken not to open the door for alternative suppliers of more sophisticated weapons to step into the vacuum. While restraint may encourage mutual, tacit responses, it must be kept in mind that such responses are never durable agreements. Care must also be taken to avoid misperception where mutual restraint is involved. By nature, tacit agreements are prone to misinterpretation due to a lack of direct contact. Finally, self-restraint can be taken so far that other nations have no incentive to bargain. Clearly, if other countries see that they are already being given what they want, then negotiations become pointless.

At the very least, selective self-restraint can play an important, if limited, part in the initial stages of a larger effort to encourage conventional arms control and also allow a nation to refuse to transfer weapons on grounds of general principle. But they should be seen as a limited, and largely symbolic, supportive track rather than as a primary means of encouraging arms control.

Bilateral talks: The limited progress made in talks with the Soviets should encourage a continued effort along these same lines—although renewal may have to await some thaw in United States-Soviet relations.

Because of the dominant position held by the United States and Soviets meaningful progress cannot be made without participation by both parties. In addition, the United States and Soviets may be able to reach agreement on a few weapons which they alone can transfer—advanced surface-to-surface missiles and a few other advanced "smart" weapons.

The most important reason for a continued United States-Soviet dialog, however, is that regional arms races are most often a direct result of United States-Soviet competition. The attempt to win friends or to compete through proxies has been a dangerous and destabilizing dimension of superpower competition. And, it has had unfortunate ancillary effects on existing regional conflicts. This is particularly true in the Middle East where there is always a danger that local conflicts will escalate to a point that would include the superpowers. Hence, the United States and the Soviet Union have an ongoing interest in regulating their competition in a direct fashion. The CAT talks held out some hope that progress could be made in this direction. Therefore it would be foolhardy to abandon it completely at this point.

Multilateral approaches—The Western track: While bilateral talks between the Soviets and United States are necessary if long-term progress on arms restraint is to be realized, the most immediate goal should be to encourage multilateral initiatives. At this point in time the West European allies remain quite skeptical about prospects for such talks. Even so, prospects for arms restraint could be advanced if an appropriate mechanism could be created as a forum for preliminary discussions.

First, in concert, the major Western suppliers still deliver a majority of the weapons traded in the international system. Moreover, they are more often in direct competition with one another than are Eastern and Western suppliers. Cross-bloc supply patterns still remain relatively rare that is. It makes sense, therefore, for some coordination to take place among the Western suppliers since a joint effort on their part would limit the ability of western oriented recipients to "shop" elsewhere.

Second, if some sort of market-sharing approach could be arranged, then the current disincentives for France and British participation might be overcome. Such an approach could begin by recognizing French and British interests in continued production of certain weapons systems. For example, French supersonic aircraft and helicopters and some types of British missiles or surface ships could be given assurances of adequate export outlets. This would have the dual benefit of bringing important suppliers into the restraint framework while reenforcing common security interests. A preliminary goal could be an effort to reach consensus among Western suppliers on sales of highly advanced or sophisticated weapons to particular regions.

And, third, a restraint regime with an appropriate attendant mechanism could also serve a function during times of crisis. A fragmented allied response to the 1973 war in the Middle East and the recent Falklands crisis are good examples of cases where such a mechanism might have proven valuable. Even if a coordinated response had proved impossible, which seems likely in the case of the 1973 war, the advantages of exchanging information on arms transfers during a crisis could prove invaluable. As for the Falklands crisis, allied responses could have benefited from greater coordination throughout the confrontation even though some formal "Brussels channels" and extensive bilateral communications took place. Indeed, many analysts believe that a golden opportunity was missed to create some form of consultative mechanism during that brief conflict.

All in all, this Western alliance approach embraces some of the toughest challenges and, potentially, some of the biggest rewards. A joint restraint—or joint export—policy will be difficult because currently the West Europeans are the United States most direct competitors. But reducing competition would allow greater attention to be focused upon common security concerns—an advantage now realized by the Eastern bloc nations to the detriment of the West. Initially, this avenue might proceed without formal agreements in order to accustom the participants to a new coordinating mechanism. Hopefully, it would proceed to more formal agreements at a later stage.

Multilateral approaches—The Geneva track: The fourth track that should be pursued as part of any new restraint initiative focuses upon the Committee on Disarmament at Geneva. The committee—more formally called the Conference of the Committee on Disarmament—was created in 1962 as a multilateral forum for negotiations on disarmament. It reports to and is instructed by the U.N. General Assembly. And its membership includes nations of both Eastern and Western blocs as well as a number of nonalined nations. Thus, it is a truly multilateral forum and has been the site of discussions on general disarmament, nuclear testing, demilitarization of the seabeds, chemical and biological weapons, and humanitarian laws.

Though talks in such a forum would be slow and necessarily somewhat diffuse due to the large number of participants, a dialog between suppliers and recipients needs to be encouraged. Several advantages might be derived from such a dialog.

First, a better understanding of the legitimate defense needs of developing nations could be a primary target. Arms transfer restraint proposals too often lack sensitivity to this issue. A frank exchange of views might help to clear the air.

Second, some initial gains might be achieved by focusing on weapons useful to terrorists. This focus might defuse the more contentious aspects of such a dialog by focusing on common problems. At the same time a structure for more serious ongoing debate could be under development.

Third, such a forum might be able to discuss the outlines for an internationally recognized code of principles regarding legitimate arms transfer practices. Such an approach might be modeled after discussions of internationally recognized standards of human rights. While such an approach would be generally symbolic—and certainly lacking in enforcement mechanisms—it would begin to establish a common grounds for discussion.

And, fourth, such a forum might begin to serve as a vehicle for differentiating among various regional interests and concerns, although more productive talks might be focused within existing regional organizations such as the Organization of American States.

Again, this very broad multilateral approach would almost certainly be rather diffuse. But it will be important in the future to encourage a supplier/recipient dialog. The Committee on Disarmament offers a preexisting forum with which members of the international community have had some experience. Thus, it presents less of a barrier so far as institution building is concerned. Also, it is less immediately identified with U.S. interests.

SUMMARY

To reiterate, the proposal offered here is intended to foster a concerted, broad-based effort on several tracks. The multitrack approach is offered in recognition of the complexity of the international arms transfer network. Regional differences, bloc competition, economic considerations, and security needs are but a few of the factors which make restraint very difficult to accommodate within a single negotiating framework.

Even so, lack of previous success is no excuse for failure to try again in the future. Complex problems require patience, and hopefully future efforts will be guided by the lessons of previous attempts at restraint. The only naive approach is one that is blind to the mistakes of the past.

Mr. Speaker, for the benefit of my colleagues, the text of the resolution I am introducing follows:

H. CON. RES. 415

Concurrent resolution with respect to conventional arms transfer limitations

Whereas developing nations allocated $119 billion in 1979 for military spending;

Whereas during the last four years, conventional arms transfer agreements between developing nations and arms supplying nations totaled $120.6 billion, with agreements by free world nations totaling $76.2 billion and agreements by Communist nations totaling $44.4 billion;

Whereas during this four year period, conventional arms transfer agreements with developing nations by free world nations other than the United States totaled $45.5 billion, agreements by the Soviet Union totaled $33.2 billion, and agreements by the United States totaled $30.7 billion;

Whereas some developing nations have established their own armaments industries and are becoming arms exporters;

Whereas conventional arms transfers contribute to regional instability and facilitate the use of force to resolve conflicts;

Whereas sophisticated new weapons are among the arms being transferred to developing nations;

Whereas the acquisition of sophisticated weapons by developing nations encourages regional arms races and upsets balances of power;

Whereas the use of sophisticated weapons to settle disputes by force threatens to expand such conflicts;

Whereas the use of sophisticated weapons to settle disputes by force increases the possibility that nuclear weapons might be used;

Whereas conventional arms sales have become an arena for competition in the developing world between free world and Communist nations; and

Whereas expenditures for conventional arms by the developing world should be redirected toward economic development and the fulfillment of human needs: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the United States should reaffirm a commitment to the self-restraint it has demonstrated with respect to selective conventional arms transfers to developing nations.

SEC. 2. The United States and the Soviet Union should immediately begin negotiations to resume the Conventional Arms Transfer talks.

SEC. 3. The United States should immediately begin discussions with the free world arms supplying nations to limit conventional arms transfers to developing nations and to establish qualitative guidelines for conventional arms transfers.

SEC. 4. The United States should immediately, through the Committee on Disarmament in Geneva or through some other appropriate international forum, begin conventional arms transfer discussions between nations selling conventional weapons and nations purchasing such weapons to limit such arms transfers.

GENERAL PULASKI'S MEMORIAL DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, October 11 marks the 203d anniversary of the death of the great Polish patriot, and U.S. Continental Army officer, Count Casimir Pulaski, who fought courageously during the Revolutionary War, and sacrificed his life in the Battle of Savannah in 1779.

Casimir Pulaski was born in the Province of Podolia in 1748, and became actively involved in the resistance to Russian encroachments on Polish independence during the years 1768 to 1772. Although his military exploits were heroic and temporarily successful, Count Pulaski was unable to prevent the partition of Poland, and was forced into exile. Nevertheless, his deep commitment to the ideals of freedom never waived.

No longer able to fight for liberty in his beloved country of Poland, Pulaski offered his services to the United States, when he was recruited in France by American commissioners Benjamin Franklin and Silas Deane. In a letter to the Continental Congress in 1779, Count Pulaski recalled his selfless reasons for joining the American colonies in their fight for independence, stating:

As an enthusiastic Zeal for the glorious cause which animated America, when I came over, and a contempt of death, first introduced me in your service.

I could not Submit to Stoop before the Sovereigns of Europe, So I came to hazard all the freedom of America, and desirous of passing the rest of my life in a Country truly free and before settling as a Citizen, to fight for liberty.

Pulaski arrived in Boston in June 1777, and in September of that year fought with distinction at the Battle of Brandywine. Because of his meritorious service, General George Washington recommended to the Continental Congress that it appoint Pulaski to the post of Brigadier General of Cavalry. Washington, later, in a letter to Pulaski stated:

I assure you Sir, I have a high sense of your merit and services and the principles that influenced the part you have taken in the affairs of this country. The disinterested and unremitted zeal you have manifested in the service gives you a title to the esteem of the citizens of America, and have assured you mine.

General Pulaski exercised great military skill and ability in his task of organizing an independent corps of cavalry and light infantry, known as the Pulaski Legion, and his forces contributed to the successes of the American military cause throughout 1778. The following year in several fierce encounters against the British in South Carolina, Pulaski reinforced his reputation as a superior military commander. Sadly, however, on October 9, 1779, in a final act of bravery, General Pulaski was mortally wounded while leading a valiant charge against the British, during the Battle of Savannah, Ga., and he died 2 days later.

Gen. Casimir Pulaski was a man of extraordinary capabilities, and is representative of the numerous outstanding contributions that Americans of Polish descent have made to our country. His examples of sacrifice to our Nation and devotion to the cause of freedom are an inspiration to generations of Polish Americans, and to all people who cherish the precious blessings of liberty.

President Reagan has issued a proclamation designating October 11 as General Pulaski's Memorial Day, and a copy of that proclamation follows:

A PROCLAMATION—GENERAL PULASKI MEMORIAL DAY, 1982

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

Two hundred and three years ago the Polish and American patriot General Casimir Pulaski fell at the battle of Savannah while fighting for the principles of freedom and equality in our young Nation's struggle for independence. His example of dedication to democratic ideals has provided continuing inspiration to all of us. His name and deeds remain alive in the hearts of the Polish people, never more so than in this difficult time when so many of their basic rights are being denied to them.

In remembrance of General Pulaski's heroic sacrifice and his dedication to the ideals of freedom, we pay tribute to him and to the Polish nation of which he was such an esteemed son. In doing so, we also honor the contributions made by generations of Polish-Americans to the greatness of America.

Now, therefore, I, Ronald Reagan, President of the United States of America, do hereby designate Monday, October 11, 1982, as General Pulaski Memorial Day, and I direct the appropriate Government officials

to display the flag of the United States on all Government buildings on that day.

In witness whereof, I have hereunto set my hand this 14th day of Sept., in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

RONALD REAGAN.

Mr. Speaker, I am proud to join Americans of Polish descent in the 11th District of Illinois which I am honored to represent, in Chicago, and all over the Nation, in commemorating the 203d anniversary of General Pulaski's heroic and inspiring sacrifice during the American Revolution.●

THE CHALLENGES FOR AMERICAN EDUCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 60 minutes.

● Mr LAFALCE. Mr. Speaker, there is an ancient Chinese proverb which is very pertinent to our discussion of the challenges for our educational system.

If you are planning for a year, sow rice
If you are planning for a decade, plant trees
If you are planning for a lifetime, educate a person.

Today, it is our educational system, itself, which has a good deal of planning to undertake, because American education is courting a crisis. Almost daily, we are assaulted with statistics, testimony, and antedotes which represent insidiously mounting evidence of fundamental softness in our educational product. Scholastic aptitude test scores have been steadily declining for over a decade, with the exception of the most recent scores for this past year. Training of students, at all educational levels, in the basic maths and sciences, is dwindling; the number of trained engineers, scientists, and computer technicians is abysmally low at a time when our foreign friends have not only foreseen but taken leadership in a worldwide technological revolution. This past May, the National Academy of Sciences, not an organization given to broadsides or exaggeration, referred to our high school students as "scientifically and technologically illiterate."

The inability of Americans to converse in a foreign language—let alone our own—at a time when telecommunications and supersonic travel have substantially reduced the effective size of the globe, is nothing short of a national disgrace. We are, in essence, a "tongue-tied nation."

An article entitled "The Decline in Education" published in the Washington Post a year ago reported that at the same time that we spend trillions of dollars on defense, largely due to highly sophisticated technology, our military services have been forced by necessity to rewrite training manuals for defense equipment so that they are readable at an 8th grade reading level instead of an 11th grade level, as was formerly the case.

Meanwhile, policymakers, government, business, and academic leaders, as well as armchair soothsayers, all raise their voices in a unified chorus to bemoan our Nation's decline—at home and abroad—in both our commercial and military leadership. Economists and others who depict our world with charts and graphs will show us persuasive and disturbing trends: Flat to declining rates of investment and productivity occurring simultaneously with surging rates of unemployment, interest, trade deficits, and other disquieting data.

Because education is so fundamental to our society, because it is so pervasive and broad, because in the abstract it is so readily embraced as a positive value by virtually any conceivable constituency, it is a convenient and safe whipping boy for everyone who seeks a simplistic answer to all our national ills. Unfortunately, this kind of demagoguery has occurred so often that we become inured to it. Now I, and many others who see problems, serious problems, in our educational system, speak in the face of indignant resistance or tired indifference.

But I still must speak out; I still must sound an alarm because I am deeply concerned not only that our educational process is less than it might be in general, but more immediately, because it is ignoring not only foreseeable future needs, but demands currently upon us.

We seem to be inclined to extremes in this country. We slept through German and Japanese expansionism, then rose to fight and win a war on two fronts; we slept before Sputnik, then placed a man on the moon a dozen years later; we exploded a nuclear weapon in 1945 and years later awoke to the reality of potential global holocaust; now silicon chip technology—the Sputnik of the 80's—finds us looking in the face of a technology explosion in which we are already losing ground. How many times can we depend on reactive crash responses to meet avoidable and foreseeable challenges to our national well-being? As I view the expanding chasm between our educational product and the obvious immediate and near-term demands for economic and political survival, to say nothing of leadership, I see our posture at a precarious angle of repose.

Evidently, my own assessment of the current condition of the education system—especially the public education system—is shared by a significant proportion of the population.

I am very wary of citing public opinion polls as an authoritative measure of true public perceptions, but they do make for interesting reading, particularly when they show trends in opinions over time.

As many of you know, the Gallup Poll has, for the past 14 years, conducted an annual survey on the public's attitudes toward the public schools. I am sorry to say the statistics show a pattern of declining confidence in public schools.

In 1974, aggregate "good" grades for the schools surpassed "bad" grades by 16 percent. Forty-eight percent of the public had favorable grades for our schools, while 32 percent had negative ratings. By 1981, 7 years later, virtually the reverse was true: 54 percent gave "bad" grades while only 36 percent had positive ratings.

I would like to discuss some of the problems we face in technical preparedness, foreign language competency, teacher training, and the general attitudes toward our educational system. After spelling out some of the serious problems that I see, I will offer some of my thoughts on how we can meet some of the challenges facing us.

THE SCIENCE GAP

While we gaze in awe at closeup pictures of distant planets or retrieve recipes from home computers, the proportion of us who understand even dimly the technology involved dwindles sharply. Given the dazzling pace of the technology boom, this is not an indictment or condemnation, but a reality that must be addressed. Our industrial and economic base and our military are increasingly reliant on high technology—yet we are not now preparing the numbers and kinds of personnel to sustain the current momentum, let alone spearhead the growth and breakthroughs predictable in the foreseeable future. Let me emphasize that the problem is not simply one of ceding our future to a scientific and technically elite group; the problem is one of ceding our future altogether as that elite group loses ground to competing nations. We are already stretched so thin that in the "Silicon Valley," the data processing design and production heartland, the average job turnover of analysts and designers is barely 1 year.

The U.S. Department of Labor estimated that there were 17,000 unfilled entry-level engineering jobs in 1980. Other observers claim that the true shortage may be closer to 25,000 unfilled entry-level positions. In either case, according to a recent survey by the American Electronics Association, the expected demand for engineers in the high-technology area will significantly outpace the growth potential of colleges and universities to turn out trained engineers.

The numbers which represent the engineering shortage take on a new dimension when we compare how we are faring with how our foreign friends and foes are dealing with the world-

wide demand for technically competent individuals. We now rank fourth in the world in scientific literacy, behind the Soviet Union, West Germany, and Japan.

The Soviet Union has a population slightly larger than ours, yet it graduates three times as many engineers as we do. Japan, with half of our population, graduates 5,000 more electrical engineers each year than the United State. Yet we do not trail Japan in all respects. We certainly can crank out lawyers at an incredible rate. Though Japan manages quite nicely with 40,000 attorneys, we somehow require 480,000—proportionately six times more lawyers for comparable numbers of citizens.

And while the United States generates litigation, Japan produces robots, microprocessors, and sophisticated computer chips. While Japan graduates 10 engineers for every lawyer who graduates, in the United States the ratio is reversed. Is it any wonder that Japan is soundly beating us in both foreign and domestic goods?

The engineering shortage in America is not, unfortunately, the extent of our inadequacies in technical training—it is just one manifestation of it. The preparation of American students in the math and sciences is seriously deficient.

One of the most comprehensive analyses of science and engineering education is the National Science Foundation/Department of Education report: "Science and Engineering Education for the 1980's and Beyond." The findings of the report read like an indictment of the Nation's failure to adequately prepare our young people for an ever increasing technical world. I will not smother you with numbers and statistics, but I must present a sufficient amount to define and underscore the scale of the problem.

The National Science Foundation/Department of Education report noted that:

After the 10th grade, only about one of three students takes chemistry and only about one in seven takes physics.

One-half of all U.S. high school students take no mathematics or science beyond the 10th grade and only one-half of the students entering college have had any major exposure to math or the physical sciences beyond the 10th grade.

Compare those statistics with figures for an American youngster's counterpart in the Soviet Union where emphasis on the maths and sciences is an integral part of the educational system. All Russian high school graduates must have 2 years of calculus, 5 years of physics, 4 years of chemistry, 5 years of biology, 1 year of astronomy, 3 years of mechanical drawing, 10 years of workshop training. Moreover, in the Soviet Union, 98 percent of the students enrolling in high school actually graduate, while in the United States the level is 75 percent.

When the Soviet Union launched Sputnik in 1957, we were goaded into an unprecedented national commitment to science development—a commitment which, in just a dozen years, enabled us to land men on the moon. The science commitment permeated and indeed, represented the vanguard of the U.S. educational system. Yet somewhere along the way things have gone awry as demonstrated by those grossly contrasting statistics for science and math training at the secondary level here and in the Soviet Union.

In a sense, it is puzzling that the discrepancies should be so wide because some studies have shown that at the elementary level, American students actually spend a bit more class time each week devoted to math and science than in the Soviet Union. The National Science Foundation/Department of Education report does not, however, even concede an edge to the United States in terms of commitment at the elemetary level. The report found that emphasis in the lower grades is diminishing because science is not perceived as a "basic" topic for study by either educators or the general population.

Whatever the true picture of math and science education at the lower grades, it is quite evident that we are clearly deficient throughout the junior high and high school years. It is interesting to note that for many years the Soviets followed the traditional European practice of focusing the greatest educational efforts on the most gifted students. Then, in 1966, the Soviets launched a program as monumental as the Sputnik launch a few years earlier. The policymakers there decided to promote the broadest possible educational program to all students. Russia's best scientists, Noble laureates, and members of its Academy of Sciences were put to work to develop a new curriculum with strong technical emphasis. The minimum competence in math and science demanded of a Russian student reflects their educational priorities, but also foreshadows our future, absent a major revision of our priorities.

In recent Science and Technology Committee testimony, Dr. Sheldon Glashow, 1979 winner of the Noble Prize for Physics, gave the following explanation of the correlation between precollege preparation in science and attaining the most significant science achievements possible. Dr. Glashow attributes the great number of Noble Prize winners in America to our former commitment to science education and research. Prize winning research was done 10 to 25 years ago when it was more generously supported than today. Dr. Glashow stated that:

> Prize-winning scientists received their crucial pre-college education in the first half of the 20th century. Since then, European investment in science education and research has been much larger per capita than in the United States.

Dr. Glashow warns that this differential in investment in science education will become apparent with the Noble Prizes of the next two generations.

Fortunately, American planners are recognizing the flaccidity of our current commitment to scientific training, at least in our Nation's secondary schools. Accordingly, the National Science Foundation recently announced the establishment of a Commission on Precollege Education in Mathematics, Science and Technology. The Commission consists of people designated by the National Science Board, who are examining "the health and potential of secondary school mathematics, science and technology education in the United States." The Commission will make recommendations to address the Nation's needs in this area. I fervently hope the Commission acts quickly.

There is some evidence which suggests that we may be already moving in the right direction, at least in engineering. A recent lead essay in the National Academy of Engineering Journal asserted that "there is almost unanimous agreement among the heads of the engineering schools that both the total complement and competence of undergraduate engineering students have been on the rise over the past decade." The essay did go on to note that while quality is not the problem—quantity is a real concern. We cannot be comfortable with being "on the rise"—the problem is that the rate of the rise is not meeting the need. Roy Thiess, of the Oregon Department of Education, has warned:

> Our youngsters are not becoming science-literate in a world that is science-oriented.

The greater message of his warning, I believe, is that there is a real danger that if a familiarity with the processes of science, and its implications, is not commonly shared, we face the specter of only a few individuals understanding and controlling the means by which life and death can be determined.

It is, therefore, quite ironic that the Soviet Union, which is actually a political oligarchy, embarked many years ago on a program to provide a thorough technical training for all citizens. While they have concentrated power, they have democratized technical education. By contrast, the United States, which truly is governed by the popular acts of its people, has apparently limited its most extensive technical training to relatively few individuals—a political democracy with a scientific oligarchy. The ability of only a few to converse easily in the vocabulary of a

technological society is not only unwise—it is a clear and present danger to our survival—militarily, economically, and politically. As Lyndon Johnson said:

> Every child must be encouraged to get as much education as he has the ability to take. We want this not only for his sake, but for the nation's sake. Nothing matters more for the future of our country: not our military preparedness—for armed might is worthless if we lack the brainpower to buiild a world of peace; not our productive economy—for we cannot sustain growth without trained manpower; not our democratic system of government—for freedom is fragile if citizens are ignorant.

While President Johnson was addressing educational attainment more broadly than the focus of these remarks, the basic thrust of his statement certainly applies with respect to scentific education.

At another level, the science, math, and engineering crisis is both caused by, and itself exacerbates, the number of faculty qualified to meet a substantially increased demand for teaching in those areas. This shortage in turn is largely attributable to the scarcity situation in which private industry, government at all levels, and the military compete fiercely for competent personnel, leaving educational institutions at a severe competitive disadvantage. As a measure of the proportions of this shortage, U.S. News & World Report reports that perhaps as many as 2,000 nationwide vacancies for engineers alone exist at the present time.

The scale of the teaching supply problem is frightening. During the 1970's the number of secondary school math and science teachers being trained declined by 77 and 65 percent, respectively. This year, the shortage in our high schools was so bad that 50 percent of the Nation's math and science teachers were working under "emergency certifications"—in other words, not even minimally qualified. The National Education Association has found that 22 percent of all secondary school math positions are either not filled or are being filled by those not certified to teach math.

The quality of the training of elementary and secondary science and math teachers has also taken quite a blow in recent years. In testimony before the House Science and Technology Committee, Robert P. Henderson, chairman of Itek Corp., recounted the ever-diminishing standards for State certification of teachers coming out of teacher colleges.

The curricular requirements for elementary school teachers show a marked decline in the number of math and science courses required to obtain teacher certification in many States. The average SAT scores for students who enroll in teacher training majors follows the pattern of students elsewhere—a disturbing decline. A recent national survey indicated that fewer than 10 percent of elementary school teachers felt qualified to teach math and science. In the secondary grades the preparation is no better. In North Carolina, for example, a survey showed that only 52 percent of the teachers who taught in grades 7 through 9 were adequately certified to do so. Nearly 29 percent of the teachers who taught science in grades 7 to 12 had no science certification at all.

We cannot reasonably expect to successfully address the challenge of a technically undertrained general populous until we demand more stringent training criteria and greater rewards for those to whom the education of our young people is entrusted. Reversing the precipitous drop in technical capabilities is not easy. But it is essential. Unfortunately, classic supply/demand functions do not operate in this situation. Normally in a high demand/low supply situation, marketplace forces would tend toward equilibrium. In this situation, however, the high demand is depleting the mechanisms for its response—an educational apparatus to increase the supply of trained teachers. We have, therefore, a downward cycle which will not be reversed without focused and aggressive intervention from outside the system.

I want to turn, now, to a related topic of great concern when we speak about our "science gap" and our inability to keep pace with rapidly changing technology. That is the issue of how the educational system itself can adjust to the new technological knowledge which must be imparted to our youngsters and the technological capabilities for delivering educational curricula.

Prof. Stanley Pogrow, professor of education administration at the University of Arizona, has discussed this point quite cogently in describing the bleak future of our education system if educators resist demands for what he calls "technological relevance." Even without technologically updated and relevant curricula, Pogrow, quite rightly in my opinion, foresees the coming societal technology revolution as inevitable.

Should educators, particularly public education officials, fail to recognize the need for technologically relevant curricula, Pogrow predicts an "environmental collapse" whereby dissatisfied constituents and clients do not try to change an organization but rather abandon it in favor of an economically compelling alternative made possible by fundamentally new technology. Professor Pogrow cites ocean liners, the Pony Express, scribes, and artisans as previous examples of "environmental collapse" in which society simply turned to the new form of technology—rather than alter the old forms—in order to meet its needs.

What makes our education system so prone to this form of collapse is that the demand for new types of educational training can also provide the alternative for delivering such training. Small, private, high-technology oriented schools will be able to offer a comprehensive curricula, at less expense, to education consumers. While the elementary school student of 1982 still must decide what color lunch pail to buy to carry to school each day, the elementary school student of 1992 or 2002 will very likely have to decide which brand name of home computer he should ask his parents to buy in order to allow him to hook up with the private proprietary school which offers him on-line curricula sent right to his home.

The possibility of a greater trend toward home delivery of educational curricula is not as far-fetched as it might seem at first blush. A report to the National Science Foundation 2 years ago projects that 40 percent of American households will have home computers by the end of the decade. That figure will inevitably rise over the years. If high-technology alternatives to the delivery of education curricula do not absolutely replace the traditional classroom, these alternatives will at least force the public to rethink how many years of formal classroom training they will support, as the cost of maintaining school buildings inevitably goes higher while the cost of providing curricula through electronic means becomes less expensive.

Students and parents will simply make logical educational and economic decisions in opting for this high technology alternative to the traditional educational system. Some degree of this trend is inevitable no matter how diligent our school leaders are in anticipating these changes and insuring that the conventional school environment can offer both greater substantive technical curricula and greater use of high technology in the delivery of the education product. However, the degree to which the traditional classroom will be replaced by home computer delivery of course-work will depend largely on how forward-looking we are in dealing with these inexorable changes.

Resisting the technological changes facing American education both in terms of the content of curricula and the delivery of it, will prove as successful in stopping these technological advances as were the efforts of 19th century Luddites in England who went about smashing labor-saving machinery in the hope of staving off the Industrial Revolution. The better course of action, needless to say, is to lead the public in accepting inevitable changes rather than have the public lose confidence in our wisdom for not having perceived these changes in advance.

OUR TONGUE-TIED NATION

I want to turn next to the issue of foreign language training. As incredible as it may seem, fewer than 1 percent of this Nation's students learn languages which are spoken by three-quarters of the world's people. Fewer than one-fifth of the U.S. high school graduates have any training whatsoever in a foreign language. Only 4 percent of all high school graduates in the Nation have studied a foreign language for more than 1 year; and, as anyone who has studied a foreign language knows, it takes more than 1 year of study to become even halfway proficient in another tongue.

In 1979, the President's Commission on Foreign Languages and International Studies reported:

America's incompetence in foreign languages is nothing short of scandalous, and it is becoming worse. Historically, to be sure, America's continental position between vast oceans was a basis for linguistic as well as political isolation, but rocketry as well as communications satellites render such a "moat" mentality obsolete.

The fact that so few of us are able to communicate in the native tongue of such a vast majority of the world's populace has to be an issue of concern to the United States when so much of the world's stability rests on our shoulders.

The inability of Americans to speak the language of foreign neighbors diminishes our ability to compete effectively in foreign markets and to insure national security. Perhaps a few humorous anecdotes will demonstrate better than any raw data the need to improve foreign language skills.

When General Motors tried to market its cars in Belgium, it naturally wanted to tout its well-known "Body by Fisher." What GM did not know was that in Belgium's native language, Flemish, "Body by Fisher" translates into the phrase: "corpse by Fisher."

In Spanish-speaking countries, car buyers avoid the Chevrolet Nova because "No va" in Spanish means: "It doesn't go."

In Taiwan, Pepsi-Cola found that it had to revoke its "Come Alive With Pepsi" advertising campaign when it was discovered that the literal translation read: "Pepsi brings your ancestors back to life!"

These humorous examples aside, the resulting loss of market penetration by American companies in other countries costs American workers jobs. Even if we reverse our troublesome decline in science capabilities and, thereby, help insure our lead as a world producer of high technology goods, we may still find it increasingly difficult to capitalize upon this gain if our marketing representatives are ill-equipped to convince foreign buyers to purchase our U.S.-made products.

One recent study estimated that there were 10,000 English-speaking Japanese sales representatives spread-out throughout the United States, while there were fewer than 900 Americans in Japan—almost all centered near Tokyo—and only a handful of those Americans actually spoke Japanese. Is it any wonder that the Japanese have so successfully sold their wares on our shores while we can barely make a dent in Japanese markets?

Foreign language illiteracy also contributes to the erosion of our national security. In hearings before the House Education and Labor Committee, the Special Assistant to the Deputy Undersecretary of Defense for Intelligence admitted that "the American population no longer presents the (Department of Defense) with a large talent bank of bilingual and multilingual people on which to draw to meet current and future needs."

The former Deputy Director of the CIA, Bobby Inman, has bemoaned: "The deteriorating language-study capabilities programs of this country are presenting a major hazard to national security."

Our own State Department no longer requires foreign language proficiency as a prerequisite for entering the foreign service. Not so long ago, when the CBS "60 Minutes" show did a report on foreign language study, it noted that at the time the U.S. Embassy in Iran was taken over, only 6 of the 60 Embassy personnel there spoke the native language, Farsi. When the U.S. Embassy in Pakistan was attacked during the Iranian crisis, fewer than a third of our Embassy personnel there spoke the native language. To make matters worse, the "60 Minutes" report noted that in the Soviet Union, there are 10 million people learning English while in the United States, by comparison, there are only 28,000 Americans learning Russian.

Without understanding foreign languages, our military and defense intelligence experts simply cannot gather the data we need to keep abreast of ever-changing dangers in the international "hot-spots" around the globe.

In brief, I think that it should be evident that our Nation perilously and foolishly distorts priorities by spending billions of dollars on sophisticated, technical weapons, while ignoring the most basic tool of diplomacy—communication.

For years and years, in the fullness of our power, Americans regarded foreign language competence as a relatively superfluous ornament since others would have to learn our tongue. The common belief "it's not necessary for us to learn other languages; foreigners will learn English," was the rule of the day. That posture has always been narrow; today it is treacherous.

The fact is that we need to know foreign languages to communicate with foreigners as well as the increasingly larger numbers of Americans who do not speak English as their native tongue.

In addition, most people of the world, especially in the developing Third World countries, do not have a mastery of English. It is arrogant, short-sighted, and unrealistic for us to expect the rest of the world to learn English. It is time for us to move forward and teach ourselves to communicate in the languages of others. We do not want archaeolgists to find our epitaph inscribed in a foreign language. This is not such a far-fetched idea if we accept the contention of one of the featured speakers at the National Academy of Sciences Convocation on Pre-college Education in Mathematics and Science:

There are more students and adults learning English in China than there are English speaking people in the United States.

In my home State, New York, the board of regents, which oversees education policy, has issued a report entitled, "Education for a Global Perspective: A Plan for New York State." It calls for more than 50 percent of the States high school graduates, by 1996, to have "functional communications proficiency in a language other than English." The regent's plan also mandates that all elementary school students have a "basic functional proficiency" in a foreign language by the time they reach sixth grade. To accomplish this, the plan envisions that foreign language instruction begin in the first grade.

I am keenly aware of the costs of the regents' proposal and the drain on both financial and faculty resources. Our schools are already hard pressed for both cash and a steady supply of adequately trained teachers. A proposal, such as this one, no doubt would mean a further commitment of scarce resources.

The hearings on this proposal that will be held throughout New York State in the coming weeks will need to address these practical realities of sources of money and staff to implement the plan as well as the substantive merits of the proposal. Ultimately the regents, themselves, will have to make a final recommendation; and, of course, the New York State Legislature will have to consider all of these factors before taking action.

Whatever the practical "pros" and "cons," I think that any concerned observer of the American education scene has to applaud the regents' recognition of and concern for the current dearth of foreign language capability among high school graduates.

New York State has always been at the forefront of innovative educational change. A commitment to redress the foreign language competency

problem is one more indication of that innovation.

A CHANGING WORKFORCE

In a general sense, everything I have said up to this point about the science gap, the foreign language problem, and deficiencies in teacher training have been of importance, I think, because of the direct correlation between these problems and the Nation's economic growth and productivity and national defense needs.

But if it all seems too vague and inapplicable to our current task of teaching students today and matching graduates with available jobs today, then you may want to consider some of the following statistics which are particularly relevant to the job market and skill level requirements in New York State which I will cite as an illustrative example.

Seveal months ago I held a conference in western New York to discuss the automobile industry and its outlook for the future. One of the speakers, an expert on the social impact of robots and automation in the workplace, asserted that his exhaustive studies showed that over the next several years robotization alone will likely displace some 117,000 members of the work force in New York State. More and more frequently we read statistics which predict such a revolutionary change for the work force of the future. By some accounts, at the end of this century, only 18 years from now, some 10 to 15 million manufacturing workers and at least as many service workers will no longer be needed in the types of jobs that now exist. This means, of course, that we have a great obligation to provide a solid educational foundation to students so that they can adapt to changing job roles. We also must insure continued retraining for workers, both in and out of work. Even in the high unemployment western New York area where 150,000 people will have, at some time during 1982, sought jobs, there will be 45,000 job openings needed to be filled. Many of those positions will not be filled or will be filled by persons who are not qualified to take those positions. That jobs should go begging while we suffer the greatest unemployment rate since the Depression is nothing short of a tragedy!

Just recently the Congressional Office of Technology Assessment issued a report entitled "Informational Technology and Impact on American Education." The report recognizes explosive developments in new computer and communication technologies. These developments are creating new demands on the work force and are altering what workers must know to participate fully in the workplace.

As job definitions rapidly change, the need to better match skills with opportunities and job demands becomes more critical. Failure to address this general skill level mismatch will have profoundly adverse impacts for our Nation's level of productivity, and, of course, the employment situation as well.

Recently, therefore, I have gathered together here in Washington a group of national experts on this level issue. The group includes people from the executive and legislative branches of Government, as well as private and quasi-government organizations such as: the American Productivity Center, the Japan Productivity Center, the American Society for Training and Development, the National Institute of Education, the National Commission for Employment Policy, and many other notable experts from business and academia.

During the three meetings I have thus far hosted, I have asked these individuals to define the nature of our skills level problem (a problem which presents great challenges for the future of American education) and to offer solutions. The significant conclusion of this group of experts is that far more needs to be done to coordinate the activities of the education and the business communities to address the skills level issue, especially at the community college level.

The figures I cited at the beginning of this speech about the enormous shortfall in many types of job categories, such as engineers and computer analysts, bespeaks a mismatch of existing skills and potential job opportunities of great proportions. Clearly one of the greatest challenges to American education, then, is to recognize this mismatch and to resolve to correct it.

While I have appreciated the insights gained from the experts that I have brought together, I have come away from these meetings with a clearer sense of the enormity of the problems we face. It has become painfully obvious that informal meetings of concerned individuals—even concerned experts—is woefully inadequate in charting the course for dealing with our significant educational challenges. What has become apparent is that this Nation must commit itself fully to an education agenda for the future. It is to this subject that I would like to direct my attention in concluding these remarks.

AN EDUCATION AGENDA

If we compare the approach to our education system with the policies that are prevalent in the Soviet Union, Japan, the Peoples Republic of China, and East Germany, we see that each of those countries has a national education policy—and it emphasizes the importance of science and math to economic and cultural progress. We in the United States not only seem to be ignoring math and science, we do not even have a national policy at all!

This was not, however, always the case. In the late 1950's, following the Sputnik launch, the country was shaken-up enough to move Congress to enact the National Education Defense Act. The technological preeminent position which this country enjoyed in the 1960's and 1970's was a direct outgrowth of the programs, policies and directions set forth in that landmark legislation.

It would be unfair to say that we are not still enjoying the benefits of that national commitment to education—we are. But it would be unwise, I think, to forego updating the directions and programs of the act some 25 years after its passage. Therefore, I urge a new full-fledged commitment by the Nation to a brand new National Education Defense Act for the 1980's and beyond.

This new National Education Defense Act for the 1980's, which I am now drafting and shall introduce in the next Congress, must recognize that a strong defense depends upon trained military personnel who can operate sophisticated technology and who can converse in foreign tongues. A strong national defense depends upon a solid domestic economic base. A nonproductive and fundamentally unsound domestic economy which must rely on foreign suppliers for both "guns and butter" is one of the most serious threats to our national security.

By advocating a comprehensive plan which charts out our educational needs, I am not envisioning some grand Federal scheme for educating our youngsters, complete with more regulations and guidelines. What I am talking about is devoting the resources at all levels of government to study our educational system and to recognize that we are seriously lagging in a number of areas. Then, of course—the most crucial part—the new educational agenda must include ideas for addressing the problems.

Many of these ideas are already before the public and the Congress. I am pleased to be a cosponsor of many of these legislative proposals. Allow me to briefly describe some of these ideas—the existence of which indicates, I believe, that Congress is beginning to realize the importance of addressing the problems which I have been describing.

One such proposal is the National High Technology Training Act, which would allow the National Science Foundation to provide grants to accredited community colleges to train students in skills needed in growing high-technology industries. The emphasis of this bill is to place priority on men and women needing to upgrade technical skills and knowledge, or who are displaced by technological change.

Another bill I have cosponsored that addresses the science and math teacher shortage is the Precollege Mathematics and Science Teacher Assistance Act. The bill proposes low-interest direct student loans for college students who plan to pursue careers in precollege math and science teaching. The loans would be forgiven if, within 1 year of becoming a certified science or math teacher, the student begins to teach math or science in a public school. The amount of the loan forgiven would depend upon the number of years devoted to teaching. Many of you remember that this concept was embodied in the National Defense Education Act of 1958.

Other solutions to the teacher training problem include a greater emphasis on inservice training for science and math instructors and Federal support for such efforts. In the Soviet Union, all teachers are required to take a refresher course every 5 years. In this country, we have witnessed the drastic reduction of Federal funding for the National Science Foundation which provides such teacher inservice retraining efforts. Thomas Hobart, president of the New York State United Teachers, was right on target in labelling as "short-sighted" the administration's proposed cuts for the National Science Foundation's education fund.

As for the foreign language dilemma, I have already referred to the New York Regents' proposal as a starting point for discussions on how to better integrate foreign language instruction in New York's curricula. Other States may want to consider similar efforts.

Other proposed solutions include grant programs to school districts and institutions of higher learning that make concerted efforts to expand foreign language training. I am a cosponsor of the National Security and Economic Growth Through Foreign Language Improvement Act which would do precisely that through a system of incentive grants to school districts and colleges.

I mentioned earlier that I believe a stable economy is one of the most important elements of our national security. And, of course, as I have elaborated earlier, a sound educational system and an emphasis on solving our skills gap is a key element of a stable economy. The House of Representatives is taking a significant step toward meeting those skills shortages and soft spots in our industrial readiness, with its consideration of the Defense Industrial Base Revitalization Act. This measure, which I have cosponsored, seeks to improve the condition of our defense industrial base through a variety of means, including an emphasis on skills training programs for high priority industries.

Ultimate, favorable, complete consideration of this measure would be a step toward a recognition of the role improved education plays in meeting our economic and defense needs.

These suggested programs, of course, only represent a piecemeal approach to a problem of major scope. But they are worth mentioning because they will likely be constituent parts of the overall educational agenda which I believe must be drawn up if we are to see some success in meeting our formidable educational challenges. Mr. Speaker, I earnestly seek the suggestions of our colleagues as I work to develop this educational agenda.

CONCLUSION

Everytime a job opportunity goes unfilled while an eager job seeker goes hungry, the individual and the Nation suffers. Every time a citizen is unemployed, because our educational system has failed to produce highly skilled citizens, we pay for that weakness with lost opportunities and outright cash payments for a host of income maintenance programs.

Nothing could be less socialistic, more capitalistic, and more supportive of our free enterprise system than a commitment of our resources to educating our citizens. We cannot neglect our needed investment in human capital.

The public will pay for what it believes is important, so our challenge is to demonstrate to the public that it is spending its money wisely when it supports our educational system.

As competing demands for scarce resources increase, the pressures upon the educational system to prove it can do its job will also increase. That is a fundamental challenge facing American education. I do not want to overstate the case, but neither do I want to miss the opportunity to remind you of the maxim coined by Thomas Hobbes: "Hell is the truth seen too late."

At the beginning of these remarks I referred to the Chinese proverb which says: "If you are planning for a lifetime, educate a person." That proverb is prescient in its comprehension of the basic truism that education permeates our life's activities and, indeed our ability to succeed. But there is another lesson to be learned from the Chinese culture in understanding the crisis of American education. The Chinese character for the term "crisis" is composed of two concepts: "danger" and "opportunity." Crisis, then, represents both a present threat and the chance for a better tomorrow. Perhaps, therefore, the condition of American education is not so much at a crisis as it is at a crossroads. Which road we take in the future depends upon our capacity to acknowledge the problems and our commitment to accept the challenge of their resolution.●

IN SUPPORT OF DESIGNATING OCTOBER 17-23 "NATIONAL FEDERAL RETIREES WEEK"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, I am today introducing a bill to designate the week of October 17 to 23 "National Federal Retirees Week," and I ask my colleagues to join me in sponsoring this legislation.

Federal retirees are a very special group of senior citizens, and this commemorative week will be a chance for communities across our country to recognize their contributions. Our Nation's 1.6 million retired Federal workers have dedicated their working lives to serving their country in jobs ranging from astronauts and diplomatic officers to postal workers and firefighters. They have helped our Nation survive in such difficult times as the Great Depression and World Wars I and II. In retirement, many of these former Federal workers are actively involved in serving their communities, and enhancing pride in our country.

Mr. Speaker, retired Federal employees have been much on our minds this year, as we have struggled to reduce the enormous Federal deficits we face, without imposing damaging cuts on the benefits and services on which our people depend. For this reason, I see this as a particularly timely moment for the Congress to publicly honor the special contributions of retired public servants.

If my resolution is adopted, the President will be requested to issue a proclamation calling upon the people of the United States to observe the week of October 17 to 23 with appropriate ceremonies and activities to highlight public awareness of the service Federal retirees have given all of us. I urge its adoption.●

BALANCED BUDGET SUPPORT—MANDATE OR HOAX?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CROCKETT) is recognized for 5 minutes.

● Mr. CROCKETT. Mr. Speaker, I would like to include in the RECORD a letter from one of my constitutents, Mr. Willie Williams. Mr. Williams received in the mail an "urgent message," on which his "immediate response" was requested, seeking to have him lobby me on behalf of the balanced budget/tax limitation constitutional amendment. The "message" is set up in a manner that makes it seem as if I, or my office, had solicited his support for this measure.

I wish it were possible to reprint this material example as it appears, so that other Members could see for them-

selves the manner in which the sponsors of this measure are eliciting the large postcard lobbying effort now reaching our offices. Although it is not possible to reprint that material, I think Mr. Williams' response to me clearly points out the problems the material poses, and the strong opposition within my district both on the issue and against the kind of shenanigans being perpetrated by those who support it.

DETROIT, MICH.,
September 10, 1982.

DEAR CONGRESSMAN CROCKETT: I just received an impressive looking official envelope that I first thought was from you. It asked for an immediate response as it was an urgent message. But upon reading it closer it was from Mr. Orrin Hatch asking me to send a petition and post card to you supporting the Tax Limitation/Balanced Budget Amendment.

I do not know your position on this issue but I am against it and I think the way the letter from Orrin Hatch was written was written deliberately confusing so that a number of people would send the letter to you not knowing they were supporting something that had not come from you.

I am enclosing a portion of the letter including the post card so that you can see what I mean.

I must repeat again that I am not in favor of any type of constitutional amendment to the constitution for Tax Limitation/Balanced Budget.

Sincerely yours,

WILLIE WILLIAMS.●

ESTIMATE OF CURRENT LEVEL OF REVENUES FOR FISCAL YEAR 1983

(Mr. JONES of Oklahoma asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

●Mr. JONES of Oklahoma. Mr. Speaker, Pursuant to section 311(b) of the Congressional Budget Act of 1974, the committee on the budget submitted to the Speaker the following estimate of the current level of revenues for fiscal year 1984. I would like to include this material in the RECORD at this point:

COMMITTEE ON THE BUDGET,
Washington, D.C., September 29, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. The Budget Committee is herewith transmitting the Status report under S. Con. Res. 92, the First Budget Resolution for fiscal year 1983. This report, approved by the Budget Committee on September 29, 1982, reflects the First Budget Resolution of June 23, 1982, and estimates of revenues based on all completed action as of the close of legislative business September 28, 1982.

Sincerely,

JAMES R. JONES,
Chairman.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 28, 1982.

Hon. JAMES R. JONES,
Chairman, Committee on the Budget, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter provides an up-to-date tabulation of the current level of estimate revenues for fiscal year 1983 in comparison with the appropriate level contained in the most recently agreed to concurrent resolution on the 1983 budget (S. Con. Res. 92). This tabulation is consistent with the economic assumptions and revenue estimates used for S. Con. Res. 92.

As of close of business September 27, 1982, the estimated current level of 1983 revenues is $663,724 million. This level is $2,176 million below the resolution target of $665,900 million.

Sincerely,

JAMES BLUM,
(For Alice M. Rivlin, Director).●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YOUNG of Florida (at the request of Mr. MICHEL), for today, on account of attending a funeral.

Mr. DAN DANIEL (at the request of Mr. DAN DANIEL), for September 30 until adjournment, on account of committee business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Colorado) to revise and extend their remarks and include extraneous material:)

Mr. TAUKE, on September 29, 1982, for 5 minutes.

Mr. KEMP, for 30 minutes, today.

(The following Members (at the request of Mr. HALL of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. HALL of Ohio, for 60 minutes, today.

Mr. ALEXANDER, for 30 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. NEAL, for 5 minutes, today.

Mr. LAFALCE, for 60 minutes, today.

Mr. WIRTH, for 5 minutes, today.

Mr. SIMON, for 60 minutes, September 30.

Mr. BAILEY of Pennsylvania, for 30 minutes each day on October 4, 5, 6, 7, and 8; on November 29 and 30; and on December 1, 2, and 3.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HALL of Ohio) and to include extraneous matter:)

Mr. MCHUGH.
Mr. FARY.
Mr. COELHO in three instances.
Mr. MINETA.
Mr. SYNAR.
Mr. FAZIO.
Mr. MOFFETT in four instances.
Mrs. SCHROEDER.
Mr. RANGEL in two instances.
Mr. ROE in three instances.
Mr. MOTTL.
Mr. GUARINI.
Mr. PEYSER.
Mr. MILLER of California.
Mr. SHAMANSKY.
Mr. HAMILTON.
Mr. RAHALL.
Mr. APPLEGATE.
Mr. MCDONALD in five instances.
Mr. ROSENTHAL.
Mr. FLORIO in two instances.
Mr. BOLAND in two instances.
Mr. SOLARZ.
Mr. STARK.
Mr. JONES of Tennessee.
Mr. BROOKS.
Mr. WIRTH.
Mr. DOWNEY.
Mr. HUBBARD.
Mr. OTTINGER.
Mr. BEDELL.

(The following Members (at the request of Mr. BROWN of Colorado) and to include extraneous matter:)

Mr. MICHEL in two instances.
Mr. KRAMER.
Mr. DOUGHERTY in two instances.
Mrs. ASHBROOK.
Mr. RITTER.
Mr. BROOMFIELD.
Mr. DANNEMEYER.
Mr. O'BRIEN.
Mr. MCGRATH.
Mr. SNYDER.
Mr. EVANS of Iowa.
Mr. HYDE in two instances.
Mr. CARMAN.
Mr. PAUL in three instances.
Mr. DORNAN of California.
Mr. KEMP in two instances.
Mr. WOLF.
Mr. GOODLING.
Mr. GINGRICH.
Mr. NAPIER.
Mr. BROYHILL.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On September 28, 1982:

H.R. 5081. An act to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the United States Forest Service; and

H.R. 7065. An act to amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services to designate community action agencies for certain community action programs administered by the Secretary for fiscal year 1982, and for other purposes.

On September 29, 1982:

H.R. 3589. An act to authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, and for other purposes;

H.R. 4347. An act to authorize the Secretary of the Interior to proceed with development of the WEB pipeline to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power; and

H.J. Res. 496. A joint resolution to provide for the designation of the week beginning on November 20, 1982, as "National Alzheimer's Disease Week."

ADJOURNMENT

Mr. FOUNTAIN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock p.m.), the House adjourned until tomorrow, Thursday, September 30, 1982, at 10 o'clock a.m.

MOTION TO DISCHARGE COMMITTEE

SEPTEMBER 29, 1982.

To the CLERK OF THE HOUSE OF REPRESENTATIVES:

Pursuant to clause 4 of rule XXVII, I, BARBER B. CONABLE, JR., move to discharge the Committee on Rules from the consideration of the resolution (H. Res. 450) entitled, "A resolution providing for the consideration of the resolution (H.J. Res. 350) proposing an amendment to the Constitution altering Federal budget procedures," which was referred to said committee May 4, 1982, in support of which motion the undersigned Members of the House of Representatives affix their signatures, to wit:

1. Barber B. Conable, Jr.
2. Trent Lott.
3. Ed Jenkins
4. F. James Sensenbrenner, Jr.
5. Stan Parris.
6. William E. Dannemeyer.
7. Carroll A. Campbell, Jr.
8. Dan Lungren.
9. David Dreier.
10. Chalmers P. Wylie.
11. James V. Hansen.
12. Bill Emerson.
13. Robert S. Walker.
14. Hal Daub.
15. Robert W. Daniel, Jr.
16. L. A. (Skip) Bafalis.
17. Denny Smith.
18. Hank Brown.
19. John Hiler.
20. Dan Coats.
21. Thomas F. Hartnett.
22. Judd Gregg.
23. Jack Fields.
24. Robert E. Badham.
25. Robert H. Michel.
26. Dick Cheney.
27. Robert J. Lagomarsino.
28. David O'B. Martin.
29. Carlos J. Moorhead.
30. John Paul Hammerschmidt.
31. G. William Whitehurst.
32. Bill McCollum.
33. William M. Thomas.
34. Cleve Benedict.
35. James G. Martin.
36. Manuel Lujan, Jr.
37. Donald J. Mitchell.
38. Bobbi Fiedler.
39. Bob Livingston.
40. George M. O'Brien.
41. George Hansen.
42. John J. Duncan.
43. James H. (Jimmy) Quillen.
44. Paul Findley.
45. Henry J. Hyde.
46. Arlan Stangeland.
47. Delbert L. Latta.
48. Wayne Dowdy.
49. Charles Hatcher.
50. Bill Archer.
51. Philip M. Crane.
52. Ken Kramer.
53. Duncan Hunter.
54. Gene Snyder.
55. Vin Weber.
56. Don Young.
57. Bill Hendon.
58. Carl D. Pursell.
59. Ron Marlenee.
60. Gerald B. H. Solomon.
61. Tom Loeffler.
62. E. Thomas Coleman.
63. Ed Weber.
64. Buddy Roemer.
65. Jim Jeffries.
66. Raymond J. McGrath.
67. Jean S. Ashbrook.
68. Clair W. Burgener.
69. Bill Lowery.
70. Joe Skeen.
71. James T. Broyhill.
72. Wendell Bailey.
73. Daniel B. Crane.
74. Newt Gingrich.
75. Larry McDonald.
76. John LeBoutillier.
77. John H. Rousselot.
78. Eldon Rudd.
79. Edward R. Madigan.
80. Jerry Lewis.
81. Gene Taylor.
82. Christopher H. Smith.
83. Thomas N. Kindness.
84. Albert Lee Smith, Jr.
85. E. Clay Shaw, Jr.
86. Barry M. Goldwater, Jr.
87. Gary A. Lee.
88. Eugene Johnston.
89. Ed Bethune.
90. Ron Paul.
91. Tom Hagedorn.
92. Wm. S. Broomfield.
93. Thomas E. Petri.
94. Phil Gramm.
95. Frank R. Wolf.
96. Sid Morrison.
97. Ralph M. Hall.
98. Charles W. Stenholm.
99. James M. Collins.
100. Andy Ireland.
101. Lawrence Coughlin.
102. C. W. Bill Young.
103. William F. Goodling.
104. Jim Leach.
105. Thomas A. Daschle.
106. Thomas J. Bliley, Jr.
107. Douglas K. Bereuter.
108. James K. Coyne.
109. J. Kenneth Robinson.
110. Clarence E. Miller.
111. Marjorie S. Holt.
112. Ronnie G. Flippo.
113. G. V. (Sonny) Montgomery.
114. Willis D. Gradison, Jr.
115. Gene Chappie.
116. William L. Dickinson.
117. Tom Corcoran.
118. Bob McEwen.
119. Ray Kogovsek.
120. Don H. Clausen.
121. Toby Roth.
122. W. Henson Moore.
123. Lyle Williams.
124. Larry J. Hopkins.
125. Jerry Huckaby.
126. James A. Courter.
127. Lynn Martin.
128. Charles Whitley.
129. William Carney.
130. Thomas J. Tauke.
131. Robert K. Dornan.
132. Michael G. Oxley.
133. Steve Gunderson.
134. Gregory W. Carman.
135. Norman F. Lent.
136. Dan Marriott.
137. Robin L. Beard.
138. Clint Roberts.
139. Bo Ginn.
140. Guy V. Molinari.
141. Jack Brinkley.
142. Don Ritter.
143. Mickey Edwards.
144. Bill Chappell, Jr.
145. Arlen Erdahl.
146. David Michael Staton.
147. Bob Whittaker.
148. Bill Frenzel.
149. Cooper Evans.
150. Harold S. Sawyer.
151. Mark D. Siljander.
152. Earl Hutto.
153. Floyd Spence.
154. John L. Napier.
155. Larry E. Craig.
156. Eugene V. Atkinson.
157. Elwood Hillis.
158. J. William Stanton.
159. Olympia J. Snowe.
160. Pat Roberts.
161. Harold Rogers.
162. Paul S. Trible, Jr.
163. Thomas B. Evans, Jr.
164. Robert W. Davis.
165. Jack Edwards.

166. Glenn English.
167. W. J. (Billy) Tauzin.
168. Virginia Smith.
169. Dave McCurdy.
170. David F. Emery.
171. Norman D. Shumway.
172. Charles E. Bennett.
173. Guy Vander Jagt.
174. Bob Stump.
175. William C. Wampler.
176. Larry Winn, Jr.
177. Jim Dunn.
178. Richard C. Shelby.
179. Joel Pritchard.
180. Jim Santini.
181. Richard C. White.
182. Bill Nichols.
183. Wayne Grisham.
184. Marilyn Lloyd Bouquard.
185. Ike Andrews.
186. Robert McClory.
187. John N. Erlenborn.
188. Tom Railsback.
189. Billy Lee Evans.
190. Joel Deckard.
191. Dan Daniel.
192. Sam B. Hall, Jr.
193. Ike Skelton.
194. Doug Barnard, Jr.
195. L. H. Fountain.
196. Marvin Leath.
197. Stephen L. Neal.
198. W. G. (Bill) Hefner.
199. Andrew Jacobs, Jr.
200. Paul N. McCloskey, Jr.
201. Abraham Kazen, Jr.
202. George C. Wortley.
203. Bill Patman.
204. Jack F. Kemp.
205. Ronald M. Mottl.
206. Marc L. Marks.
207. Hamilton Fish, Jr.
208. Walter B. Jones.
209. John B. Breaux.
210. Richard T. Schulze.
211. John Edward Porter.
212. Bud Shuster.
213. M. Caldwell Butler.
214. John J. Rhodes.
215. William F. Clinger, Jr.
216. Edward J. Derwinski.
217. Beverly B. Byron.
218. Charles Pashayan.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4864. A letter from the Secretary of Defense, transmitting certification by the Secretary based on the Departments review of the program and cost estimates in the unit cost exception report of August 27, 1982, by the Secretary of the Air Force, pursuant to section 917(b)(2) of Public Law 97-86; to the Committee on Armed Services.

4865. A letter from the Director, Federal Emergency Management Agency, transmitting the stockpile report for the period October 1981 to March 1982, pursuant to section 11 of the Strategic and Critical Materials Stock Piling Act, as amended; to the Committee on Armed Services.

4866. A letter from the Vice President, Government Affairs, Amtrak, transmitting a financial report of the Corporation for the month of June 1982, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Energy and Commerce.

4867. A letter from the Vice President, Government Affairs, Amtrak, transmitting a report covering the month of July 1982, on the average number of passengers per day on board each train operated, and ontime performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Energy and Commerce.

4868. A letter from the Chairman, Securities and Exchange Commission, transmitting draft of proposed legislation to amend the Securities Exchange Act of 1934 to increase the sanctions against trading in securities while in possession of material nonpublic information; to the Committee on Energy and Commerce.

4869. A communication from the President of the United States, transmitting a report on the use of U.S. Armed Forces to facilitate the restoration of Lebanese Government sovereignty and authority, pursuant to the War Powers Resolution of 1973 (Public Law 93-148) (H. Doc. No. 97-243); to the Committee on Foreign Affairs and ordered to be printed.

4870. A letter from the Acting Secretary of the Interior, transmitting notice of the intention to transfer Mr. Ben Fukutome from the position of U.S. Government Comptroller of Guam to the position of U.S. Government Comptroller of the Virgin Islands, pursuant to 48 U.S.C. 1422d(a); to the Committee on Interior and Insular Affairs.

4871. A letter from the Clerk, U.S. Court of Claims, transmitting a copy of the court's opinion in Docket No. 363, *Lower Sioux Indian Community in Minnesota, et al.* v. *the United States;* to the Committee on Interior and Insular Affairs.

4872. A letter from the Acting Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of the judgment funds awarded to the Chippewa Cree Tribe of Rocky Boy's Reservation by the U.S. Court of Claims in Docket No. 221-C, pursuant to section 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BOLAND: Committee of conference. Conference report on H.R. 6956 (Rept. No. 97-891). Ordered to be printed.

Mr. ZABLOCKI: Committee on Foreign Affairs. Report on allocation of budget totals under the first concurrent resolution on the budget for fiscal year 1983; (Rept. No. 97-892). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. S. 1573. An act to exempt the Lake Oswego, Oregon, hydroelectric facility from part I of the Federal Power Act (act of June 10, 1920) as amended, and for other purposes; with an amendment (Rept. No. 97-893). Referred to the Committee of the Whole House on the State of the Union.

Mr. NATCHER: Committee on Appropriations. H.R. 7205. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1983, and for other purposes. (Rept. No. 97-894). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5785. A bill to quiet title and possession with respect to a certain private land claim in Livingston Parish, La.; with amendments (Rept. No. 97-895). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6612. A bill to provide for the settlement of land claims of the Mashantucket Pequot Indian Tribe of Connecticut, and for other purposes; with an amendment (Rept. No. 97-896). Referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee of conference. Conference report on H.R. 5890 (Rept. No. 97-897). Ordered to be printed.

ADVERSE REPORTS

Under clause 2 of rule XIII,

Mr. SMITH of Iowa: Committee on Appropriations. H.R. 6978. A bill to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution, and for other purposes (Rept. No. 97-807, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

[Omitted from the Record of September 28, 1982]

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. RODINO: Committee on the Judiciary. H.R. 6514. A bill to revise and reform the Immigration and Nationality Act, and for other purposes; with an amendment; referred to the Committees on Agriculture, Education and Labor, Energy and Commerce, and Ways and Means for a period ending not later than November 30, 1982, for consideration of such provisions of the bill and amendment as fall within the jurisdictions of those committees pursuant to clauses 1 (a), (g), (h), and (v) of rule X, respectively (Rept. No. 97-890, Pt. I). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. NATCHER:

H.R. 7205. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. BROWN of Colorado:

H.R. 7206. A bill to amend the Internal Revenue Code of 1954 to provide additional incentives to taxpayers to provide home care for dependents who have attained age

60 or are incapable of caring for themselves; to the Committee on Ways and Means.

By Mr. EDWARDS of California (for himself and Mr. MINETA):

H.R. 7207. A bill to amend title 17 of the United States Code to protect semiconductor chips and masks against unauthorized duplication, and for other purposes; to the Committee on the Judiciary.

By Mr. EVANS of Iowa (for himself and Mr. LEACH of Iowa):

H.R. 7208. A bill to amend the Consolidated Farm and Rural Development Act and the Farm Credit Act of 1971 to require farmers to implement conservation plans which provide for the protection of soil, water, and other natural resources (especially with respect to fragile lands) as a condition of eligibility for loans made and insured under such acts with respect to acquiring and enlarging farms; to the Committee on Agriculture.

H.R. 7209. A bill to amend the Internal Revenue Code of 1954 to provide certain income-tax incentives for soil and water conservation expenditures, and for other purposes; to the Committee on Ways and Means.

By Mr. FINDLEY (for himself, Mr. ERDAHL, Mrs. MARTIN of Illinois, Mr. O'BRIEN, and Mr. FRENZEL):

H.R. 7210. A bill to amend the Export Administration Act of 1979 to terminate certain export controls imposed on December 30, 1981, and June 22, 1982; to the Committee on Foreign Affairs.

By Mr. HAMILTON (for himself and Mr. SIMON):

H.R. 7211. A bill to help insure the Nation's independent factual knowledge of Soviet-bloc countries, to help maintain the national capability for advanced research and training on which that knowledge depends, and to provide partial financial support for national programs to serve both purposes; jointly, to the Committees on Education and Labor and Foreign Affairs.

By Mr. KRAMER (for himself, Mr. WINN, Mr. MICHEL, Mr. WALKER, Mr. MCCOLLUM, Mr. O'BRIEN, Mr. MCEWEN, Mr. HAGEDORN, Mr. DERWINSKI, Mr. MOORE, Mr. WHITTAKER, Mr. DORNAN of California, and Mr. BROYHILL):

H.R. 7212. A bill to amend section 204 of the Federal Property and Administrative Services Act of 1949 to authorize the deposits of cash proceeds from the disposal of surplus real property into the general fund of the Treasury to be used to retire the national debt of the United States; jointly, to the Committees on Government Operations and Interior and Insular Affairs.

By Mr. MOTTL:

H.R. 7213. A bill to amend the Truth in Lending Act to require that an individual's picture be placed on each credit card issued to such individual; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STARK:

H.R. 7214. A bill to amend title II of the Social Security Act to provide that the legality of an individual's residency in the United States shall be taken into account in determining such individual's entitlement to benefits thereunder and any other entitlement thereunder on the basis of such individual's wages and self-employment income; to the Committee on Ways and Means.

By Mr. WALGREN:

H.R. 7215. A bill to amend the Railroad Unemployment Insurance Act to provide that certain amendments made by the Omnibus Budget Reconciliation Act of 1981 to the extended unemployment compensation program shall not affect the amount of benefits payable under the Railroad Unemployment Insurance Act; to the Committee on Ways and Means.

By Mr. ANTHONY:

H.R. 7216. A bill to amend the Internal Revenue Code of 1954 to provide that the basic adjustments applicable where noncorporate taxpayers acquire certain motor carrier operating authorities shall be similar to the basis adjustments applicable where corporate taxpayers acquire such authorities; to the Committee on Ways and Means.

By Mr. JENKINS (for himself, Mr. FRENZEL, Mr. MATSUI, and Mr. GEPHARDT):

H.R. 7217. A bill to amend the Internal Revenue Code of 1954 to provide that the income of qualified trusts and educational organizations from domestic oil and gas wells shall be treated as passive income for purposes of the tax on unrelated business taxable income; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. LOTT, Mr. BETHUNE, Mr. BURGENER, Mr. CAMPBELL, Mr. COURTER, Mr. GINGRICH, Mr. HILER, Mr. LUNGREN, Mr. PASHAYAN, Mr. ROUSSELOT, Mr. SMITH of Oregon, Mr. STATON of West Virginia, Mr. MARRIOTT, Mr. WILLIAMS of Ohio, Mr. CORCORAN, Mr. NAPIER, Mr. LENT, Mr. GILMAN, and Mr. HYDE):

H.R. 7218. A bill to amend the Federal Reserve Act, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. KOGOVSEK:

H.R. 7219. A bill to amend section 14(c) of the Fair Labor Standards Act of 1938 to permit the employment of handicapped and severely handicapped individuals in common areas, and for other purposes; to the Committee on Education and Labor.

By Mr. RANGEL:

H.R. 7220. A bill to prohibit the export or other transfer to the Republic of South Africa of nuclear material, equipment, and technology; to the Committee on Foreign Affairs.

By Mr. SOLARZ:

H.R. 7221. A bill to authorize the Secretary of State to reimburse State and local governments for providing extraordinary protection with respect to foreign government premises and officials located in the United States outside the metropolitan area of the District of Columbia, and for other purposes; to the Committee on Foreign Affairs.

By Mr. DOUGHERTY:

H.J. Res. 614. Joint resolution to designate the period commencing January 1, 1983, and ending December 31, 1983, as the "Tricentennial Anniversary Year of German Settlement in America"; to the Committee on Post Office and Civil Service.

By Mr. PHILLIP BURTON:

H.J. Res. 615. Joint resolution commemorating the 75th Anniversary of Teamsters' Joint Council No. 7; to the Committee on Post Office and Civil Service.

By Mr. WIRTH (for himself, Mr. MONTGOMERY, Mr. PEPPER, Mr. BIAGGI, Mr. RODINO, Mr. BOLAND, Mr. FASCELL, Mr. ADDABBO, Mr. ROSENTHAL, Mr. LONG of Maryland, Mr. ANNUNZIO, Mr. DE LA GARZA, Mr. HOWARD, Mr. WAMPLER, Mr. BEVILL, Mrs. HECKLER, Mr. ROUSSELOT, Mr. ALEXANDER, Mrs. CHISHOLM, Mr. CLAY, Mr. FISH, Mr. FORSYTHE, Mr. WHITEHURST, Mr. JOHN L. BURTON, Mr. ROBERT W. DANIEL, JR., Mrs. HOLT, Mr. LEHMAN, Mr. MADIGAN, Mr. MOAKLEY, Mr. O'BRIEN, Mr. YOUNG of Alaska, Mr. PEYSER, Mr. BRODHEAD, Mr. DOWNEY, Mr. FARY, Mr. FITHIAN, Mr. FORD of Tennessee, Mr. HUBBARD, Mr. MARKEY, Mr. MINETA, Mr. MOTTL, Mr. OBERSTAR, Mr. SANTINI, Mr. WAXMAN, Mr. AKAKA, Mr. BARNARD, Mr. DICKS, Mr. DORNAN of California, Mr. FLIPPO, Mr. GEPHARDT, Mr. HEFTEL, Mr. MARRIOTT, Ms. MIKULSKI, Mr. WEISS, Mr. ANTHONY, Mr. BARNES, Mr. BAILEY of Pennsylvania, Mr. DASCHLE, Mr. DOUGHERTY, Mr. FAZIO, Mr. GRAY, Mr. HANCE, Mr. KRAMER, Mr. MATSUI, Mr. RATCHFORD, Mr. BROWN of Colorado, Mr. JAMES K. COYNE, Mr. CRAIG, Mr. FOGLIETTA, Mr. FRANK, Mr. MCCURDY, Mr. MCEWEN, Mr. MOLINARI, Mr. NELLIGAN, Mr. ROBERTS of South Dakota, Mrs. SCHNEIDER, Mr. WOLF, Mr. FAUNTROY, Mr. SUNIA, Mr. WON PAT, Mr. HOYER, Ms. FERRARO, Mr. CHAPPELL, Mr. LAGOMARSINO, Mrs. KENNELLY, Mr. BROOKS, Mr. DYSON, Mr. WILLIAMS of Ohio, Mr. ROE, Mr. BEVILL, Mr. BONER of Tennessee, Mr. HENDON, Mr. YOUNG of Missouri, Mr. BOWEN, Mr. PARRIS, Mr. EDWARDS of California, Mr. STENHOLM, Mr. SKEEN, Mr. FLORIO, Mr. PATMAN, and Mr. MARTINEZ):

H.J. Res 616. Joint resolution designating the week beginning October 17, 1982, as "National Federal Retirees Week"; to the Committee on Post Office and Civil Service.

By Mr. HALL of Ohio:

H. Con. Res. 415. Concurrent resolution with respect to conventional arms transfer limitations; to the Committee on Foreign Affairs.

By Mr. FITHIAN:

H. Con. Res. 416. Concurrent resolution expressing the sense of the Congress that the President should enter into negotiations with the Government of the Union of Soviet Socialist Republics for purposes of establishing a new long-term grain sales agreement, and for other purposes; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

502. By the SPEAKER. A memorial of the Legislature of the State of California, relative to student loans and employment for older Americans; to the Committee on Education and Labor.

503. Also, a memorial of the Municipal Assembly of Puerto Rico, relative to the tuna-fishery industry; to the Committee on Merchant Marine and Fisheries.

504. Also, a memorial of the Legislature of the State of California, relative to Ontario Airport; to the Committee on Public Works and Transportation.

505. Also, a memorial of the Legislature of the State of California, relative to hospice care; jointly to the Committee on Ways and Means and Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California:

H.R. 7222. A bill for the relief of Jose Luis Esquivel-Valenzuela; to the Committee on the Judiciary.

By Mr. FASCELL:

H.R. 7223. A bill to direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *El Condor* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1031: Mr. PRICE.

H.R. 2202: Mr. TRIBLE and Mr. WHITEHURST.

H.R. 2899: Mr. RINALDO.

H.R. 4147: Mr. COURTER and Mr. BEARD.

H.R. 6009: Mrs. ASHBROOK, Mr. ATKINSON, Mr. DORNAN of California, Mr. GRISHAM, Mr. LUJAN, Mr. MINISH, and Mr. PRICE.

H.R. 6239: Mr. CARNEY.

H.R. 6460: Mr. QUILLEN, Mr. SUNIA, Mr. FISH, Mr. MCGRATH, Mr. MOLINARI, Mr. HYDE, Mr. MOTTL, and Mr. ANDERSON.

H.R. 6467: Mr. MOAKLEY, Mr. FOWLER, Mr. HILER, Mr. JACOBS, Mr. HAMILTON, Mr. GIBBONS, and Mr. DELLUMS.

H.R. 6660: Mr. GREGG and Mr. DICKINSON.

H.R. 6803: Mr. KASTENMEIER, Mr. OBERSTAR, Mr. HANCE, and Mr. NELLIGAN.

H.R. 7041: Mr. PETRI.

H.R. 7063: Mr. MAVROULES, Mr. MCDONALD, Ms. FIEDLER, Mr. WHITTAKER, Mr. STANGELAND, Mr. PORTER, Mr. MCCOLLUM, Mr. FISH, Mr. BAILEY of Pennsylvania, Mr. SCHUMER, Mr. ROTH, Mr. PETRI, Mr. STOKES, Mr. HAMMERSCHMIDT, and Mr. LUNGREN.

H.R. 7114: Mr. SNYDER, Mr. CHAPPIE, and Mr. HUBBARD.

H.R. 7117: Mr. STATON of West Virginia.

H.R. 7181: Mr. MCDONALD and Mr. WHITEHURST.

H.R. 7182: Mr. MCDONALD.

H.J. Res. 102: Mr. WEBER of Ohio, Mr. LATTA, Mr. ALEXANDER, Mr. FOWLER, Mr. GINN, Mr. PRITCHARD, Mr. SHAMANSKY, Mr. LEHMAN, Mr. DORNAN of California, Mr. FITHIAN, Mr. OBERSTAR, Mr. TAUKE, Mr. MARLENEE, Mr. STANGELAND, Mr. LANTOS, Mr. PARRIS, Mr. LOWRY of Washington, and Mr. GRAMM.

H.J. Res. 302: Mr. ADDABBO, Mr. AKAKA, Mr. ALBOSTA, Mr. ALEXANDER, Mr. ANDERSON, Mr. ANDREWS, Mr. ANNUNZIO, Mr. ARCHER, Mr. ATKINSON, Mr. BADHAM, Mr. BAFALIS, Mr. BAILEY of Pennsylvania, Mr. BARNARD, Mr. BENEDICT, Mr. BENNETT, Mr. BEVILL, Mr. BIAGGI, Mr. BINGHAM, Mr. BLANCHARD, Mrs. BOGGS, Mr. BOLAND, Mr. BONER of Tennessee, Mr. BONIOR of Michigan, Mr. BONKER, Mr. BOWEN, Mr. BREAUX, Mr. BROOKS, Mr. BROYHILL, Mr. BURGENER, Mr. JOHN L. BURTON, Mr. PHILLIP BURTON, Mr. BUTLER, Mrs. BYRON, Mr. CAMPBELL, Mr. CARNEY, Mr. CHAPPELL, Mr. CHAPPIE, Mrs. CHISHOLM, Mr. CLAUSEN, Mr. CLAY, Mr. CLINGER, Mr. COELHO, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. CORCORAN, Mr. CORRADA, Mr. D'AMOURS, Mr. DAN DANIEL, Mr. ROBERT W. DANIEL, JR., Mr. DAVIS, Mr. DE LA GARZA, Mr. DELLUMS, Mr. DE LUGO, Mr. DERRICK, Mr. DICKS, Mr. DINGELL, Mr. DONNELLY, Mr. DORNAN of California, Mr. DOUGHERTY, Mr. DOWNEY, Mr. DWYER, Mr. DYMALLY, Mr. DYSON,, Mr. EDGAR, Mr. EDWARDS of Alabama, Mr. EMERY, Mr. FARY, Mr. FASCELL, Mr. FAUNTROY, Mr. FAZIO, Mrs. FENWICK, Ms. FERRARO, Ms. Fiedler, Mr. FIELDS, Mr. FISH, Mr. FITHIAN, Mr. FLIPPO, Mr. FLORIO, Mr. FOGLIETTA, Mr. FOLEY, Mr. FORD of Tennessee, Mr. FORSYTHE, Mr. FOWLER, Mr. FRANK, Mr. FRENZEL, Mr. FUQUA, Mr. GEJDENSON, Mr. GEPHARDT, Mr. GIBBONS, Mr. GILMAN, Mr. GINN, Mr. GOLDWATER, Mr. GONZALEZ, Mr. GRAY, Mr. GREEN, Mr. GRISHAM, Mr. GUARINI, Mr. HANCE, Mr. HARTNETT, Mr. HATCHER, Mr. HAWKINS, Mrs. HECKLER, Mr. HEFNER, Mr. HEFTEL, Mr. HERTEL, Mr. HOLLAND, Mr. HOLLENBECK, Mrs. HOLT, Mr. HORTON, Mr. HOYER, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. HUTTO, Mr. IRELAND, Mr. JENKINS, Mr. KAZEN, Mr. KEMP, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LENT, Mr. LEVITAS, Mr. LIVINGSTON, Mr. LONG of Louisiana, Mr. LONG of Maryland, Mr. LOTT, Mr. LOWRY of Washington, Mr. LUNGREN, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MCDONALD, Mr. MCEWEN, Mr. MARKEY, Mr. MARKS, Mr. MARTIN of New York, Mr. MARTIN of North Carolina, Mr. MATSUI, Mr. MICA, Ms. MIKULSKI, Mr. MILLER of California, Mr. MINISH, Mr. MOAKLEY, Mr. MOLINARI, Mr. MONTGOMERY, Mr. MOORE, Mr. MORRISON, Mr. MOTTL, Mr. MURPHY, Mr. MURTHA, Mr. NAPIER, Mr. NEAL, Mr. NELLIGAN, Mr. NOWAK, Ms. OAKAR, Mr. OBERSTAR, Mr. OTTINGER, Mr. PANETTA, Mr. PASHAYAN, Mr. PATMAN, Mr. PATTERSON, Mr. PEPPER, Mr. PEYSER, Mr. PRICE, Mr. PRITCHARD, Mr. PURSELL, Mr. RAHALL, Mr. RAILSBACK, Mr. RANGEL, Mr. REUSS, Mr. RINALDO, Mr. ROBERTS of Kansas, Mr. ROBINSON, Mr. RODINO, Mr. ROEMER, Mr. ROSE, Mr. ROSTENKOWSKI, Mr. ROTH, Mr. ST GERMAIN, Mr. SANTINI, Mr. SAVAGE, Mr. SCHEUER, Mrs. SCHNEIDER, Mr. SCHUMER, Mr. SHAW, Mr. SHUMWAY, Mr. SMITH of Pennsylvania, Mrs. SNOWE, Mr. SNYDER, Mr. SOLARZ, Mr. SOLOMON, Mr. SPENCE, Mr. STANGELAND, Mr. STANTON of Ohio, Mr. STOKES, Mr. STRATTON, Mr. STUDDS, Mr. SUNIA, Mr. SWIFT, Mr. TAUZIN, Mr. TRIBLE, Mr. VANDER JAGT, Mr. VENTO, Mr. WALGREN, Mr. WAMPLER, Mr. WEAVER, Mr. WEBER of Ohio, Mr. WEISS, Mr. WHITEHURST, Mr. WHITLEY, Mr. WILSON, Mr. WINN, Mr. WOLF, Mr. WON PAT, Mr. YATRON, Mr. YOUNG of Alaska, Mr. YOUNG of Florida, Mr. YOUNG of Missouri, Mr. ZABLOCKI, and Mr. ZEFERETTI.

H.J. Res. 468: Mr. DOUGHERTY, Mr. SPENCE, Mr. LIVINGSTON, Mrs. BOGGS, Mr. MOORE, Mr. HUCKABY, Mr. NAPIER, Mr. TAUZIN, Mr. HARTNETT, Mr. TAUKE, Mr. DERRICK, and Mr. SNYDER.

H.J. Res. 484: Mr. FOLEY, Mr. HAGEDORN, Mr. MARTIN of New York, Mr. FROST, Mr. PEPPER, Mr. ROBERTS of South Dakota, Mr. WEBER of Ohio, Mr. WYLIE, Mr. HAMILTON, Mr. QUILLEN, Mr. HUTTO, Mr. JONES of Tennessee, Mr. KEMP, Mr. LELAND, Mr. MADIGAN, Mr. MOLINARI, Mr. PRITCHARD, Mr. BROWN of Ohio, Mr. STOKES, Mr. STENHOLM, Mr. COATS, and Mr. HYDE.

H.J. Res. 499: Mr. MORRISON.

H.J. Res. 531: Mr. SHUMWAY, Mr. QUILLEN, Mr. WEBER of Ohio, Mr. WYLIE, Mr. SKEEN, Mr. SHELBY, Mr. MITCHELL of New York, Mr. WHITTEN, Mr. COUGHLIN, Mr. SPENCE, Mr. CARNEY, Mr. JONES of North Carolina, Mr. LEWIS, Mr. RAILSBACK, Mr. STENHOLM, Mr. STARK, Mr. BUTLER, Mr. GILMAN, Mr. FARY, Mr. SIMON, Mr. KASTENMEIER, Mr. ANTHONY, Mr. NELSON, Mr. OTTINGER, Mrs. SCHNEIDER, Mr. PHILLIP BURTON, Mr. BROWN of Ohio, Mr. CROCKETT, Mr. SAWYER, Mr. MOTTL, Mr. LAFALCE, Mr. FUQUA, Mr. BROWN of California, Mr. PURSELL, Mr. MADIGAN, Mr. WHITEHURST, Mr. HAMMERSCHMIDT, Mr. HANSEN of Idaho, Mr. HERTEL, Mr. MARTINEZ, Mr. BINGHAM, Mr. O'BRIEN, Mr. ERDAHL, Mr. ERTEL, Mr. DOWNEY, Mr. HAWKINS, Mr. MURTHA, Mr. WOLPE, Mr. KRAMER, Mr. FORD of Michigan, Mr. VOLKMER, Mr. BENNETT, Mr. PANETTA, Mr. MCDADE, Mr. ASPIN, Mr. CARMAN, Mr. GOLDWATER, Mr. WALGREN, Mr. PASHAYAN, Mr. LONG of Maryland, Mr. MOLLOHAN, Mr. LOWRY of Washington, Mr. MOORHEAD, Mrs. ROUKEMA, Mr. HEFTEL, Mr. SMITH of New Jersey, Mr. LEE, Mr. SYNAR, and Mr. WILSON.

H.J. Res. 556: Mr. MCCLOSKEY, Mr. PEYSER, Mr. WOLPE, Mr. MITCHELL of Maryland, Mr. YATES, Mr. VENTO, Mr. FOGLIETTA, Mrs. SCHROEDER, Mr. MAVROULES, Mr. SHAMANSKY, Mr. SABO, Mr. MATSUI, Mr. CROCKETT, Mr. KILDEE, Mr. WAXMAN, Mr. PANETTA, Ms. FERRARO, Mr. DASCHLE, Mr. DIXON, Mr. GREEN, Mr. SCHUMER, Mrs. FENWICK, Mr. REUSS, Mr. DORGAN of North Dakota, Mr. RODINO, Mr. LELAND, Mr. GEJDENSON, Mrs. COLLINS of Illinois, Mr. SCHEUER, Mr. MAZZOLI, Ms. OAKAR, Mr. TRAXLER, Mr. RATCHFORD, and Mr. KASTENMEIER.

H.J. Res. 571: Mr. LELAND.

H.J. Res. 583: Mr. BAILEY of Missouri, Mr. HANCE, Mr. LUJAN, Mr. ASPIN, Mr. SMITH of New Jersey, Mr. WYDEN, Mrs. KENNELLY, and Mr. MARTIN of North Carolina.

H.J. Res. 585: Mr. BARNARD.

H.J. Res. 591: Mr. FRENZEL, Mr. HORTON, Mr. HUGHES, Mr. MARTIN of New York, Mr. RAHALL, Mr. ROE, and Mr. TRIBLE.

H.J. Res. 594: Mr. MITCHELL of New York, Mr. GINGRICH, Mr. LUKEN, Mr. IRELAND, Mr. TRAXLER, Mrs. HECKLER, Mr. LOWRY of Washington, and Mr. VOLKMER.

H.J. Res. 602: Mr. WRIGHT.

H.J. Res. 604: Mr. MOLINARI, Mr. HOYER, Mr. SUNIA, Mr. BAILEY of Pennsylvania, Mr. LEBOUTILLIER, Mr. SOLARZ, Mr. VANDER JAGT, Mr. SCHEUER, Mr. BRINKLEY, Mr. MITCHELL of New York, Mr. WOLF, Mr. DORNAN of California, Mr. JEFFORDS, Mr. OXLEY, Mr. LAFALCE, Mr. GINGRICH, Mr. WYLIE, and Mr. WINN.

H.J. Res. 607: Mr. MOFFETT.

H. Con. Res. 275: Mr. ROSE.

H. Con. Res. 334: Mr. GINGRICH, Mr. STUMP, and Mr. HANCE.

H. Con. Res. 378: Mr. PHILLIP BURTON.

H. Con. Res. 410: Mr. SOLARZ, Mr. HOWARD, Mr. RATCHFORD, Mr. FASCELL, Mr. STOKES, Mr. DELLUMS, Mr. ROE, Mr. MINETA, Mr. ROYBAL, Mr. CROCKETT, Mr. LEHMAN, Mr. FROST, Mr. MARKEY, Mr. BONIOR of Michigan, Mr. LONG of Maryland, and Mr. FAUNTROY.

H. Con. Res. 411: Mr. BEREUTER, Mr. CHENEY, Mr. COURTER, Mr. GINGRICH, Mr. HILER, Mr. RATCHFORD, Mr. SKEEN, and Mr. SOLOMON.

H. Res. 558: Mr. CLAY, Mr. MOLINARI, Mr. AKAKA, Mr. MURPHY, and Mr. KILDEE.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 746

By Mr. DINGELL:

(Federal Advisory Committee Act exemption.)

—Page 25, line 17, strike out "Groups which are" and all that follows down through ", shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.)".

(Open rulemaking.)

—Page 26, strike out line 21 and all that follows down through line 3 on page 27 and insert in lieu thereof the following:

"(2) The file required by paragraph (1) of this subsection shall include, in accordance with paragraph (1)(B) (i) and (ii), any material that is relied upon by an agency in formulating a rule.".

(Hybrid rulemaking.)

—Page 10, strike out line 17 and all that follows down through line 12 on page 11 and insert in lieu thereof the following:

"(f) An agency shall, in the case of rulemaking to promulgate a major rule, provide an opportunity for presentation of written data, or arguments concerning the proposed rule with or without an opportunity for oral presentation, unless such rule is required to be made on the record after an opportunity for an agency hearing.".

(Substantial support test.)

—Page 33, line 19, insert closing quotation marks after the period.

Page 33, strike out line 20 and all that follows down through line 2 on page 34.

(Cost-benefit restrictions.)

—Page 6, line 9, strike out ", in-" and all that follows down through line 11 and insert a semicolon in lieu thereof.

Page 6, strike out line 17 and all that follows down through "paragraph (2)," on line 20 and insert in lieu thereof the following:

"(4) an analysis of the proposed rule identifying the projected significant effects of the proposed rule and of each of the principal alternatives listed under paragraph (2),".

Page 7, strike out line 23 and all that follows down through line 13 on page 8 and insert in lieu thereof the following:

"(4) an analysis of the proposed rule identifying the projected significant effects of the rule and of each of the principal alternatives listed under paragraph (2);

"(5) a concise general statement of the extent to which such effects were considered in selecting the alternative adopted;".

Page 8, line 14, strike out "(7)" and insert "(6)" in lieu thereof.

Page 8, line 20, strike out "(8)" and insert "(7)" in lieu thereof.

Page 8, line 23, strike out "(9)" and insert "(8)" in lieu thereof.

Page 9, line 3, strike out "(10)" and insert "(9)" in lieu thereof.

Page 15, line 18, strike out "With respect to each rule" and all that follows down through line 21.

Page 19, strike out line 14 and all that follows down through line 16 and insert in lieu thereof the following:

"(A) the significant effects of the rule;".

Page 19, line 17, strike out "(C)" and insert "(B)" in lieu thereof.

Page 19, strike out line 20 and all that follows down through line 22.

Page 19, line 23, strike out "(E)" and insert "(C)" in lieu thereof.

Page 20, line 1, strike out "(F)" and insert "(D)" in lieu thereof.

Page 20, line 3, strike out "(G)" and insert "(E)" in lieu thereof.

(Nonseverability.)

—Page 38, strike out line 9 and all that follows down through line 13 and insert in lieu thereof the following:

SEC. 208. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall be deemed to be invalid.

(Role of Office of Management and Budget.)

—Page 12, strike out line 22 and all that follows through line 25 on page 13 and insert in lieu thereof the following:

"(a) The Office of Management and Budget may participate in agency rulemaking under this chapter and chapter 5 only through the submission of written comments on the record or through oral testimony at hearings which are open to the public. The Director of the Office of Management and Budget shall report annually to the Congress on any participation by the Director or the Office in any rulemaking.".

Page 14, line 5, strike out "subsection (a)(1)" and insert in lieu thereof "subsection (a)".

Page 18, line 7, strike out "Within" and all that follows down through line 14.

(Coordination with other law.)

—Page 12, strike out lines 1 through 3 and insert in lieu thereof the following:

"(h) The requirements of this subchapter and subchapter IV do not alter the substantive or procedural requirements applicable to agency action under any other provision of law.".

(Demonstration period.)

—Page 3, in the matter following line 15, insert before the period in the item relating to section 621 the following: "; applicability".

Page 4, line 3, after "Definitions" insert "; applicability".

Page 4, line 4, insert "(a)" before "For purposes".

Page 5, after line 20, insert the following new subsection:

"(b)(1) During the demonstration period, the requirements of sections 622 and 641 shall only apply to major rules designated pursuant to criteria which the President shall establish, by Executive order, within 6 months after the date of the enactment of this subchapter. Such criteria shall provide for the designation during any fiscal year of not more than 3 major rules by any agency and not more than 20 rules in the aggregate by all agencies.

"(2) Criteria established in such Executive order shall be designed to provide for an adequate variety of agencies, subject matters, and existing and new rules to assure a proper basis on which to determine—

"(A) whether the requirements under sections 622 and 641 should apply to all major rules after the demonstration period, and

"(B) what, if any, modifications should be made in such requirements.

"(3) For purpose of this subsection, the demonstration period shall be the period which begins on the first day of the calendar month beginning more than—days after issuance of the Executive order and which ends on the first day of the 36th calendar month beginning thereafter.

"(4)(A) During the demonstration period, the Comptroller General of the United States shall periodically review the activities of agencies and the Office of Management and Budget under this subchapter and subchapter IV.

"(B) Each agency shall make available to the Comptroller General such information as the Comptroller General may request in order to carry out subparagraph (A).

"(5) Within 60 days after the end of each fiscal year ending during the demonstration period, the President shall submit to the Congress a report on activities under this subchapter an subchapter IV. Such report shall include an estimate of the costs incurred by each agency in carrying out such subchapters.".

(Oversight of independent regulatory agencies: Amendment to the amendment in the nature of a substitute.)

—Page 15, line 14, insert "(1)" after "(a)".

Page 15, line 19, insert the following new paragraph:

"(2)(A) This section shall not apply with respect to any agency which is an independent regulatory agency.

"(B) As used in subparagraph (A), the term 'independent regulatory agency' means the Board of Governors of the Federal Reserve System, the Civil Aeronautics Board, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Federal Energy Regulatory Commission, the Federal Home Loan Bank Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by a statute as a Federal independent regulatory agency or commission.".

(Congressional access to rulemaking information submitted for executive review: Amendment to the amendment in the nature of a substitute.)

—Page 16, line 23, insert the following new subsection:

"(d) At the time any copy of any written material is submitted to the President by an agency, or by the President to the agency, under subsection (c)(1), a copy shall also be submitted to the Senate and the House of Representatives.".

Page 16, line 24, strike out "(d)" and insert in lieu thereof "(e)".

Page 17, line 15, strike out "(e)(1)" and insert in lieu thereof "(f)(1)".

By Mr. SAM B. HALL, JR.:

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Regulatory Procedure Act of 1982".

TABLE OF TITLES

TITLE I—THE ANALYSIS, MANAGEMENT, AND ORGANIZATION OF AGENCY FUNCTIONS

TITLE II—REORGANIZING AND IMPROVING AGENCY PROCEEDINGS

EFFECTIVE DATE

SEC. 2. This Act shall take effect 180 days after the date of the enactment of this Act, except that the provisions of subchapter II of chapter 6 of title 5, United States Code, as added by section 101(c) of this Act, the amendment made by section 201(a) of this Act, and the amendment made by section 203 of this Act (to the extent such amendment applies to rules) shall apply only to rules for which notice of proposed rulemaking is given after such effective date and to rules promulgated after such effective date for which a notice of proposed rulemaking is not required.

TITLE I—THE ANALYSIS, MANAGEMENT, AND ORGANIZATION OF AGENCY FUNCTIONS

SEC. 101. (a) Chapter 6 of title 5, United States Code, is amended—

(1) by inserting immediately after the chapter heading the following:

"Subchapter I—Regulatory Flexibility";

(2) by inserting immediately before section 601 the following:

"Subchapter I—Regulatory Flexibility";

and

(3) by striking out "this chapter" each place it appears and inserting in lieu thereof "this subchapter".

(b) Such chapter 6 is further amended by inserting at the end of the chapter analysis the following:

"Subchapter II—Analysis of Agency Proposals

"Sec.
"621. Definitions.
"622. Additional procedures for major rules.
"623. Judicial review.
"624. Executive oversight.
"625. Review by Comptroller General.
"626. Authority of agencies and the President.

"Subchapter III—Establishing Agency Priorities and Schedules for Completing Proceedings

"631. Regulatory agenda.

"Subchapter IV—Agency Review of Rules

"641. Review of rules.".

(c) Such chapter 6 is further amended by adding at the end thereof the following:

"Subchapter II—Analysis of Agency Proposals

"§ 621. Definitions

"(a) For purposes of this subchapter, subchapter III, and subchapter IV—

"(1) the term 'agency' means an agency as defined in section 551(1) of this title;

"(2) the term 'benefit', except as used in subsection (b)(2)(B) of this section, means any direct or indirect beneficial economic, health, safety, environmental, or other effect;

"(3) the term 'cost' means any direct or indirect adverse economic, health, safety, environmental, or other effect;

"(4) the term 'economic cost' means a cost (as defined in paragraph (3) of this subsection) that is reasonably quantifiable in monetary terms;

"(5) the term 'rule' means a rule as defined in section 551(4) of this title but does not include—

"(A) a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures or reorganizations, prices, facilities, appliances, services, or allowances;

"(B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System;

"(C) a rule that is required by statute to be made on the record after an opportunity for an agency hearing; or

"(D) a rule described in section 553(a) of this title;

"(6) the term 'major rule' means a rule or group of closely related rules that—

"(A) imposes economic costs which are likely to result in an annual impact on the economy of $100,000,000 or more; or

"(B) otherwise is designated a major rule by the agency proposing the rule, or by the President (not later than 30 days after the publication of the notice of proposed rulemaking for that rule)—

"(i) because the rule would have significant adverse effects on the environment, health or safety, competition, employment, investment, productivity, innovation, or the ability of enterprises, the principal places of business of which are in the United States, to compete in domestic or export markets; or

"(ii) because the rule would cause a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions.

"(b)(1) Any designation of a major rule made by the President under subsection (a)(6)(B) of this section shall be published in the Federal Register, together with a succinct statement of the basis for the designation. The President may not delegate his authority to make such a designation.

"(2) The term 'major rule' as defined in subsection (a)(6)(A) of this section does not include—

"(A) a rule involving the internal revenue laws of the United States;

"(B) a rule relating to public loans, grants, or benefits;

"(C) a rule relating to the viability, stability, asset powers, or categories of accounts of, or permissible interest rate ceilings applicable to depository institutions, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the Share Insurance Fund of the National Credit Union Administration Board;

"(D) a rule promulgated under the Agricultural Adjustment Act to encourage or to regulate the orderly marketing of agricultural commodities and products, or a rule promulgated under the Agriculture Act of 1949 to make available price support for agricultural commodities and products; or

"(E) a rule promulgated on an annual basis which governs the hunting of migratory birds.

"§ 622. Additional procedures for major rules

"(a) Before providing notice of proposed rulemaking for any rule, the agency proposing the rule shall determine whether the rule is a major rule and shall include in that notice an explanation of that determination.

"(b) Not later than the date on which an agency provides notice of proposed rulemaking for a major rule (or, in the case of a rule designated by the President under section 621(a)(6)(B) of this title, as soon as reasonably practicable after such designation), the agency shall issue—

"(1) a statement of the need for, and objectives of, the proposed rule;

"(2) a description of those reasonable alternatives to the proposed rule and its main elements that may accomplish the stated objectives of the proposed rule in a manner consistent with the applicable statutes, and, if the proposed rule does not have lower economic costs than each such alternative, an identification of such alternative which has the lowest economic costs;

"(3) an analysis of the need, if any, for the establishment or application of requirements in the proposed rule in order to accommodate regional differences, including economic, environmental, demographic, and land-use differences;

"(4) an analysis of the benefits and costs of the proposed rule and of each of the principal alternatives described in paragraph (2) (including, where applicable, the alternative identified in such paragraph having the lowest economic costs) and a comparison of the cost effectiveness of the proposed rule and each of the principal alternatives;

"(5) an analysis, where applicable, of the relative advantages and disadvantages of adopting performance standards rather than design standards in the proposed rule;

"(6)(A) an identification of any scientific, economic, or other technical report or study upon which the agency has relied substantially or expects to rely substantially in the rulemaking; and

"(B) a description of how the agency has evaluated or intends to evaluate the quality, reliability, accuracy, and relevance of any such scientific or economic report or study; and

"(7) if the proposed rule would regulate activities which, before the rule was proposed, were regulated only by State law, a statement of the legal authority for the agency to regulate such activities.

"(c) Not later than the date on which an agency provides notice of the promulgation of a major rule, the agency shall issue—

"(1) a statement of the need for, and the objectives of, the rule;

"(2) a description of those alternatives to the rule with respect to which an analysis was made pursuant to subsection (b)(4);

"(3) an analysis of the extent to which the requirements of the rule reflect regional differences, including economic, environmental, demographic, and land-use differences;

"(4) an analysis of the benefits and costs of the rule;

"(5) an analysis of the extent to which the benefits of the rule justify its costs, and, if they do not, an explanation of why the agency adopted the rule;

"(6)(A) an explanation of how the rule attains its objectives, in a manner consistent with applicable statutes, with lower economic costs than the other alternatives analyzed pursuant to subsection (b)(4) of this section; or

"(B) if the rule does not do so, a statement of the agency's reasons for selecting the rule rather than such alternatives;

"(7) an explanation, where applicable, for the adoption of design standards rather than performance standards in the rule;

"(8)(A) an identification of any scientific, economic, or other technical report or study upon which the agency relied substantially in the rulemaking; and

"(B) a description of how the agency evaluated the quality, reliability, accuracy, and relevance of any such scientific or economic report or study; and

"(9) if the rule regulates activities which, before the issuance of the rule, were regulated only by State law, a statement of the legal authority for the agency to regulate such activities.

"(d)(1) In lieu of preparing material required by subsection (b) or (c) of this section, an agency may incorporate by reference in any material that it issues pursuant to either such subsection information contained in any other statement or analysis, to the extent that such information satisfies any of the requirements of either such subsection.

"(2) Each agency shall include, in the notice of each proposed and final major rule, a statement of how the public may obtain copies of the material issued pusuant to subsections (b) and (c). An agency may charge a reasonable fee for the copying and mailing of such material. Such material shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is primarily of benefit to the general public.

"(3) Subject to section 553(f)(2) of this title, each agency shall include in the rulemaking file required by section 553(f) of this title—

"(A) a copy of the material issued pursuant to subsections (b) and (c) of this section and of any transcript prepared pursuant to subsection (e) of this section; and

"(B) a copy of any scientific, economic, or other technical report or study that the agency actually considered in connection with the rulemaking, if information in such report or study pertains directly to the rulemaking and was prepared by officers or employees of the agency or under contract with the agency.

"(4) Each agency shall send to the President a copy of all material issued pursuant to subsection (b) or (c) of this section.

"(e)(1) An agency shall, in the case of rulemaking to promulgate a major rule, provide an opportunity for oral presentation of views and information at informal public hearings. Transcripts shall be made of all such public hearings.

"(2) The agency shall permit cross-examination of individuals who present testimony, documents, or studies at such hearings but only to the extent the agency determines that other procedures would be inadequate for resolution by the agency of significant issues of fact upon which the rule is based. This paragraph shall not apply to any rulemaking for which cross-examination is otherwise required by statute.

"(3) The agency shall regulate the course of informal public hearings required by this subsection so as to ensure orderly and expeditious proceedings. The agency may take such actions as it considers necessary to achieve this objective, including—

"(A) limiting the time allowed for oral presentations and cross-examination;

"(B) establishing procedures designed to limit cross-examination to the significant issues of fact referred to in paragraph (2) of this subsection; and

"(C) designating representatives to make oral presentations or engage in cross-examination on behalf of persons with a common interest in the rulemaking.

"(f) An agency may delay complying with any requirement of this section with respect to a rule if—

"(A) the agency finds, for good cause, that complying with such requirement before making the rule effective would be impracticable, unnecessary, or contrary to the public interest; and

"(B) the agency publishes the rule in the Federal Register with a statement of such finding and a succinct explanation of the reasons therefor.

Unless such a rule will, by its terms, cease to be effective within two years after its effective date, the agency shall comply with the requirements of this section with respect to the rule as soon as reasonably practicable after promulgating the rule.

"(g) The requirements of this section do not change the standards applicable to agency action under any other provision of law or relieve an agency of procedural requirements imposed by any other provision of law.

"§ 623. Judicial review

"(a) In any action for judicial review of a rule, any material issued under section 622 of this title may, to the extent relevant, be considered by the court in determining the lawfulness of the rule, but (except as provided in subsections (b) and (c) of this section) the court shall not have any authority to review agency compliance or noncompliance with the requirements of this subchapter or subchapter III or IV, or to compel any action by the agency promulgating the rule or to hold unlawful, set aside, or remand the rule on the ground that the agency has failed to comply with one or more of such requirements.

"(b)(1) Subsection (a) of this section does not prohibit a court from holding unlawful, setting aside, remanding, or staying a rule because of a failure of the agency to follow a procedure required by section 622(e) of this title if—

"(A) an objection to the failure to follow the procedure was made to the agency in a timely fashion or there are extraordinary circumstances that excuse the failure to present such a timely objection, and

"(B) the court finds that such failure was so serious and of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if the procedure omitted by the agency had been followed.

"(2) To the extent that compliance with applicable provisions of section 622 of this title is required by the last sentence of section 622(f), a court may direct an agency to issue material required by sections 622(b) and 622(c) and to comply with section 622(e) if the court finds that the agency has unreasonably delayed complying with the applicable requirements of section 622.

"(3) If an agency has failed to issue any material whatsoever which it designates as having been issued in compliance with paragraph (5) or (6) of section 622(c) of this title for a rule that has been determined or designated to be 'major' under section 621(a)(6) of this title, nothing in subsection (a) of this section prohibits a court from remanding the rule to the agency with instructions to issue the material required by either such paragraph.

"(c) If the court finds that an agency has unreasonably delayed publishing a proposed schedule required by section 641(a)(1), a final schedule required by section 641(a)(4), a notice required by section 641(c), or a notice required by section 641(e), subsection (a) of this section does not prohibit the court from directing the agency to comply with such requirement.

"(d) Any exercise of authority granted under section 621, 624, or 641 of this title, or any failure to exercise such authority, by the President or by an officer to whom such authority has been delegated, shall not be subject to judicial review in any manner.

"§ 624. Executive Oversight

"(a) The President shall establish guidelines and procedures for agency implementation of the requirements of this chapter. The President shall monitor and review agency actions and materials for compliance with the provisions of this chapter and shall comment upon the adequacy of such compliance.

"(b) Any guidelines and procedures established by the President for agency implementation of this chapter shall be adopted after the public has been afforded notice and an opportunity to comment thereon, and shall be consistent with the prompt completion of rulemaking proceedings. Such guidelines and procedures may provide for review and evaulation by the President of material the agency intends that it will issue under sections 622(b) and 622(c) of this title in order to comment upon whether such material complies with the requirements of this chapter. The time for any such review shall not exceed 30 days following receipt of the material by the President, except that the President may extend the time for such review for one additional period not in excess of 30 days.

"(c) Nothing in this section—

"(1) provides authority to the President, or limits any authority that the President may possess under the Constitution or other provisions of law—

"(A) to prevent an agency from proceeding with a rulemaking or issuing a proposed or final rule; or

"(B) to require an agency to modify a proposed or final rule or comply with the guidelines or procedures established pursuant to subsection (a) of this section;

"(2) changes the standards applicable to agency action under any other provision of law or relieves an agency of procedural requirements imposed by any other provision of law; or

"(3) relieves an agency of its responsibilities to comply with the requirements of this chapter.

"(d)(1) The President may delegate the authority granted by subsection (a) of this section, in whole or in part, to the Vice President or to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate. Notice of any such delegation, or any revocation or modification thereof, shall be published in the Federal Register.

"(2) Any person to whom authority is delegated under this subsection shall be subject to all of the provisions of this section applicable to the exercise of such authority by the President.

"§ 625. Review by Comptroller General

"(a) The Comptroller General of the United States may review the compliance by agencies with the provisions of this chapter.

"(b) Each agency shall make available to the Comptroller General, in accordance with section 716 of title 31, United States Code, such information as the Comptroller General may request in order to carry out subsection (a).

"§ 626. Authority of agencies and the President

"(a) Nothing in this chapter—

"(1) limits agency jurisdiction to prescribe a rule,

"(2) relieves an agency of statutory requirements applicable to rulemaking, or

"(3) displaces rulemaking authority vested by statute in an agency.

"(b) Nothing in this chapter limits the exercise by the President of the authority and responsibility that he otherwise possesses under the constitution and other laws of the United States.

"Subchapter III—Establishing Agency Priorities and Schedules for Completing Procedures

"§ 631. Regulatory agenda

"(a) Each agency shall publish a regulatory agenda in the Federal Register in April and October of each year. Each such agenda shall contain a list of all rules that the agency expects to propose, promulgate, modify, repeal, or otherwise consider in a rulemaking proceeding in the succeeding 12 months. The agendas of all agencies shall be published in a single issue of the Federal Register in accordance with guidelines issued by the director of the Office of Management and Budget to ensure a useful, uniform, and consistent publication.

"(b) With respect to each rule listed on a regulatory agenda, the agenda shall include a description of the rule; the objectives of

and the legal basis for the rule; any dates established or anticipated by the agency for taking action, including dates for advance notices of proposed rulemaking, notices of proposed rulemaking, and final agency action; a statement of the sectors of the economy likely to be affected by the rule; and the agency's assessment of whether the rule is or is expected to be a major rule. If consistent with any guidelines issued by the Office of Management and Budget, an agency may consider a group of closely related rules as one rule for the purpose of providing the information required by this subsection.

"(c) Each regulatory agenda shall include a list of rules scheduled to be reviewed in accordance with section 641 of this title during the succeeding 12 months and the status of all rules listed on the previous agenda for which rulemaking proceedings have not been completed or which have not been explicitly withdrawn from consideration by the agency.

"(d) Each regulatory agenda shall include the name, address, and telephone number of an agency official responsible for handling inquiries about each rule listed on the agenda.

"(e) Failure of an agency to include a rule in a regulatory agenda shall not preclude the agency from proposing or issuing that rule.

"Subchapter IV—Agency Review of Rules

"§ 641. Review of rules

"(a)(1) Not later than 9 months after the effective date of this section, each agency shall prepare and publish in the Federal Register for comment a proposed schedule for the review, in accordance with this section, of each rule of the agency which is in effect on such effective date and which, if adopted on such effective date, would be a major rule under section 621(a)(6)(A) of this title, and of such other rules as the agency has selected for review.

"(2) At least 90 days before publishing in the Federal Register the proposed schedule required by paragraph (1), each agency shall make the proposed schedule available to the President. The President may select for review under this section any additional rule that the President determines to be a major rule under section 621(a)(6)(A) of this title. The President may not delegate the authority conferred by this paragraph.

"(3) Each proposed schedule required by paragraph (1) shall include a brief explanation of the reasons the agency or the President, as the case may be, considers each rule on the schedule to be a major rule or of the reasons why the agency selected the rule for review, and the date set by the agency for the completion of the review of each such rule. The review of all rules on the schedule shall be completed not more than 10 years after the date on which the final schedule is published pursuant to paragraph (4) of this subsection. The agency shall set a date to initiate review of each rule on the schedule in a manner which will ensure the simultaneous review of related items and which will acheive a reasonable distribution of reviews over the period of time covered by the schedule.

"(4) Not later than 6 months after publishing the proposed schedule as required by paragraph (1) of this subsection, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in paragraphs (1) and (2) of this subsection. Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

"(5) Each agency shall include with the publication in the Federal Register of a major rule a date for completion of the review of the major rule. The agency shall set such date at not more than 10 years after the date of such publication.

"(b) The agency shall, pursuant to subsections (c) through (e) of this section, review each rule on the final schedule. A rule designated by an agency for review as a major rule need not be reviewed if, at the time of the planned review, the agency determines that such rule, if adopted on the date on which the planned review is to be initiated, would not be a major rule and publishes a notice and explanation of that determination in the Federal Register.

"(c) An agency shall publish notice in the Federal Register of the initiation of the review of a rule under this section. The notice shall include—

"(1) an identification of the legal authority under which the rule was promulgated and a determination by the agency of whether the rule presently fulfills the objectives of that authority;

"(2) a brief summary of the benefits and costs of the rule during the calendar year preceding the publication of such notice, and of the benefits and costs the agency projects for the rule if it remains in effect;

"(3) an analysis of whether the objectives of the rule can be met through an alternative having lower economic costs than the existing rule;

"(4) an analysis of whether greater benefits can be achieved through an alternative having costs which are comparable to those of the existing rule;

"(5) a description of any problems encountered by the agency in obtaining compliance with the rule;

"(6) an analysis of the extent to which the rule overlaps or duplicates other rules; and

"(7) a statement that the agency seeks comments from the public as to whether the rule should be retained, amended, or repealed.

An agency may include a group of closely related rules in a single notice under this subsection.

"(d) After publishing the notice required by subsection (c) of this section, the agency shall provide a period of not less than 60 days during which the public may submit comments in response to such notice.

"(e) Within 180 days after the close of the comment period required by subsection (d) of this section, the agency shall take one of the following two actions:

"(1) The agency shall publish a notice of proposed rulemaking to repeal or amend the rule and shall conduct a rulemaking proceeding with respect to the rule in accordance with the requirements of this chapter, if applicable, and of section 553 of this title or any other applicable law. Such requirements and other applicable requirements of law, including those relating to judicial review, shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule which is not taken pursuant to the review required by this section.

"(2) The agency shall publish a notice of its decision to retain the existing rule along with a statement responding to the significant issues that were raised in the public comments received concerning the rule pursuant to subsection (d) of this secton.

"(f)(1) Any agency which finds compliance with this section with respect to a particular rule to be impracticable during the period provided in subsection (a)(3) of (a)(5) of this section may request the President to establish a period longer than 10 years for the completion of the review of such rule. The President may extend the period for review of a rule to a total period of not more than 15 years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

"(2) An agency may, with the concurrence of the President, alter the timing of review of rules under this section if an explanation of such alteration is published in the Federal Register at the time such alteration is made. The President may direct an agency to alter the timing of the review of rules under this section, except that the President may not increase the number of rules to be reviewed by one agency in any calendar year.".

(d) The chapter heading of chapter 6 of title 5, United States Code, is amended to read as follows:

"Chapter 6—PLANNING AND MANAGEMENT OF AGENCY FUNCTIONS".

(e) The chapter analysis of part I of title 5, United States Code, is amended by inserting after the item relating to chapter 5 the following new item:

"6-Planning and Management of Agency Functions ..... 601".

TITLE II—REORGANIZING AND IMPROVING AGENCY PROCEEDINGS

RULEMAKING PROCEDURES

SEC. 201. (a) Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rulemaking

"(a) This section applies according to the provisions thereof, except to the extent that there is involved—

"(1) a military or foreign affairs function of the United States;

"(2) a matter relating to public property or contracts or to agency management or personnel practices; or

"(3) any interpretative rule or general statement of policy unless such rule or statement has general applicability and substantially alters or creates rights or obligations of persons outside the agency.

"(b)(1) Notice of proposed rulemaking shall be published in the Federal Register, unless persons subject to the proposed rule are named and either personally served or otherwise have actual notice of the rulemaking in accordance with law. Each notice of proposed rulemaking shall include—

"(A) a statement of the time during which public comments will be received concerning the proposed rule and the time, place, and nature of any informal public hearings to be held concerning the proposed rule;

"(B) a statement of the specific objectives to be attained by the proposed rule;

"(C) a statement of the specific legal authority under which the rule is proposed;

"(D) either the terms or substance of the proposed rule or a description of the subjects and issues involved;

"(E) a statement that the agency seeks proposals from the public for alternative methods to accomplish the objectives of the proposed rule that are more effective or less burdensome than the methods used in the proposed rule; and

"(F) a statement of where the file of the rulemaking proceeding required by subsection (f) of this section may be inspected or copies of the file may be obtained.

"(2) Except when notice or hearing is required by statute, this subsection and subsection (c) do not apply to rules of agency organization, procedure, or practice, or a rule to the extent the agency for good cause finds that notice and public procedure with respect to the rule are impracticable, unnecessary, or contrary to the public interest and publishes, at the time of publication of the final rule, such finding and a brief statement of the reasons therefor.

"(c)(1) An agency shall provide a public comment period of at least 60 days after the issuance of a notice of proposed rulemaking pursuant to subsection (b). During the public comment period, the agency shall give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentations. After the consideration of the relevant matter presented, the agency shall publish any rule adopted with a concise general statement of the basis and purpose of the rule. The statement shall include a response to the significant issues raised by the comments concerning the proposed rule received by the agency during the public comment period. When rules are required by statute to be made on the record after an opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

"(2) In promulgating a rule, unless otherwise permitted by law, an agency may not rely substantially on any report, study, or other document containing significant factual material of central relevance to the rulemaking that was not placed in the rulemaking file at the time the notice of proposed rulemaking was issued or, if publicly available, identified in such notice, unless—

"(A) the public has had an adequate opportunity to comment upon such report, study, or other document if it was developed by or under contract with the agency; or

"(B) such report, study, or other document, if not developed by or under contract with the agency, was placed in the rulemaking file required by subsection (f) of this section promptly after—

"(i) its receipt by the agency, in the case of material received by the agency in the course of the rulemaking proceeding, or

"(ii) its review by the agency, in the case of material that was obtained by the agency outside the course of the rulemaking proceeding.

For purposes of subparagraph (A) of this paragraph, an agency shall be deemed to have afforded an adequate opportunity to comment on any document received during or after the initial comment period if it provides an additional comment period of 21 days from the date on which notice of such additional comment period is published in the Federal Register.

"(d) An agency issuing a final rule shall publish that rule in the Federal Register, unless persons subject to the rule are named and either personally served or otherwise have actual notice of the rule in accordance with law. Such publication or service shall be made not less than 30 days before the effective date of the final rule, except in the case of a rule that grants or recognizes an exemption or relieves a restriction, or as otherwise provided by the agency for good cause found and published with the rule.

"(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

"(f)(1) Except as provided in paragraph (2) of this subsection, each agency shall maintain a file of each rulemaking proceeding conducted pursuant to this section, beginning no later than the date on which the agency issues the notice of proposed rulemaking for that proceeding pursuant to subsection (b) or, if the agency is not required to issue such a notice, no later than the date the agency first issues or receives material required to be included in the file. The file shall be made available to the public and shall include—

"(A) the notice of proposed rulemaking and any supplemental notice concerning the rulemaking;

"(B) a copy of all written comments on the proposed rule which were submitted to the agency after the publication of the notice of proposed rulemaking;

"(C) all material which the agency by statute or rule is required to issue in connection with the rulemaking or which the agency decides to make part of the record;

"(D) a copy of all written material pertaining to the rule including any drafts of the proposed or final rule, submitted by the agency to the President or the designee directed by the President to review proposed or final rules for their regulatory impact; and

"(E) a written explanation of the specific reasons for any significant changes made by the agency in the drafts of the proposed or final rule which respond to any comment received by the agency on the draft proposed, proposed draft final, or final rule, made by the President or the designee directed by the President to review proposed or final rules for their regulatory impact.

"(2) The file required by paragraph (1) of this subsection need not include any material described in section 552(b) of this title. If the agency is permitted by law to rely on, and does rely on, such material in promulgating a rule, the agency shall include in such file a statement noting the existence of any such material and the statutory basis upon which the material is exempt from public disclosure. Notwithstanding the preceding sentence, the file shall include all material described in subparagraph (D) or (E) of paragraph (1).

"(3) No court shall hold unlawful or set aside an agency rule because of a violation of subparagraph (D) or (E) of paragraph (1) of this subsection unless the court finds that such violation has precluded fair public consideration of a material issue of the rulemaking taken as a whole. Judicial review of compliance or noncompliance with subparagraphs (D) and (E) of paragraph (1) of this subsection shall be limited to review of action or inaction on the part of an agency.

"(g)(1) Each agency shall transmit to the appropriate committees in Congress each regulatory agenda, or relevant portion thereof, published by the agency pursuant to section 631 of this title.

"(2) On the date on which an agency forwards to the Federal Register for publication a proposed or final major rule, the agency shall transmit a copy of such rule to the Senate and the House of Representatives and to the appropriate committees in Congress.

"(3) Notwithstanding any other provision of law, no final major rule may become effective until the expiration of a period of 30 days after the date on which the final rule is received by the appropriate committees in Congress. If, before the expiration of such 30-day period, an appropriate committee in Congress orders favorably reported a joint resolution disapproving the rule, at a meeting at which a majority of the committee is present, the agency promulgating the rule shall either—

"(A) delay the effective date of the rule until the earlier of—

"(i) the expiration of 60 days after the date on which the committee orders reported such resolution, or

"(ii) the rejection by either House of Congress of a joint resolution disapproving such rule; or

"(B) submit to the Congress an explanation of why the agency is not delaying the effective date of the rule.

The matter after the resolving clause in any joint resolution disapproving a rule under this subsection shall be as follows: 'That the Senate and the House of Representatives disapprove the rule entitled, transmitted to , the Congress by on , 19 .', the blank spaces to be filled in with the appropriate title of the rule, agency, and date.

"(4) Upon the enactment of a joint resolution disapproving an agency rule, such rule shall not be effective.

"(5) For purposes of computing the 30-day and 60-day periods referred to in paragraph (3) of this subsection, days when the Congress is not in session because of an adjournment of more than 30 days are excluded in the computation.

"(6) Whenever a committee orders favorably reported a joint resolution disapproving a rule pursuant to this subsection, the resolution shall be accompanied by a committee report specifying the reasons for the committee's action.

"(7) The provisions of paragraph (3) of this subsection shall not apply to a major rule if—

"(A) the agency promulgating the rule determines that the rule is being issued in response to an emergency situation or other exceptional circumstances requiring immediate agency action in the public interest, or the contents of such rule must be kept confidential before the effective date of such rule; and

"(B) the agency submits to the appropriate committees in Congress a written notice of its determination under subparagraph (A);

except that any such rule shall be subject to a joint resolution disapproving that rule.

"(8) Congressional inaction on, or rejection of, any joint resolution disapproving a rule shall not be deemed an expression of approval of the rule involved. The compliance of any agency with the requirements of this subsection, including any determination by an agency under this subsection, shall not be subject to judicial review.

"(9) For purposes of this subsection—

"(A) the term 'appropriate committee in Congress' means, with respect to a major rule, any committee of the House of Representatives and any committee of the Senate which has legislative jurisdiction over the statute pursuant to which the agency involved may issue the rule; and

"(B) the term 'major rule' means a major rule as defined in section 621(a)(6) of this title.

"(10) This subsection shall not apply to rules proposed or issued pursuant to a statute which expressly provides for congressional review or veto of such rules.".

(b) The provisions of section 553(q) of title 5, United States Code, as added by subsection (a) of this section, shall cease to be effective on January 1, 1987.

JUDICIAL REVIEW

SEC. 202. Section 706 of title 5, United States Code, is amended to read as follows:

"§ 706. Scope of review

"(a) To the extent necessary to decision and when presented, the reviewing court shall independently decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

"(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In deciding questions of law pursuant to the following sentences of this subsection, the court shall exercise its independent judgment without according any presumption in favor of or against agency action. In making determinations on questions of law, other than statutory jurisdiction, the court shall give the agency's interpretation such weight as it warrants, taking into account factors such as the discretionary authority provided to the agency by law. In making determinations of law concerning statutory jurisdiction under subsection (a)(2)(C) of this section, the court shall determine whether the agency's action is within the scope of the agency's jurisdiction on the basis of the language of the statute or, in the event of ambiguity, other indicia of ascertainable legislative intent.

"(d) In determining whether agency action in adopting a rule, other than a rule to which subsection (a)(2)(E) of this section applies, is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, the court shall consider whether there is substantial support in the rulemaking file, viewed as a whole, for determinations of fact on which the agency was required to rely in adopting the rule or which the agency asserted was the basis for the rule.".

APPEALS OF AGENCY ORDERS

SEC. 203. (a) Section 2112(a) of title 28, United States Code, is amended by striking out the last three sentences and inserting in lieu thereof the following: "If proceedings are instituted in two or more courts of appeals with respect to the same order, the court in which the agency, board, commission, or officer concerned is to file the record shall be determined as follows:

"(1) If within 10 days after issuance of the order the agency, board, commission, or officer receives written notice, in a manner that the agency shall prescribe by rule, that proceedings have been instituted in two or more courts of appeals, the agency, board, commission, or officer shall, promptly after the expiration of that 10-day period, so inform the Administrative Office of the United States Courts and shall identify each such court in which such proceedings are pending. As soon as is practicable after receiving such notice, the Administrative Office of the United States Courts shall designate one court, according to a system of random selection, from among those identified by the agency, board, commission, or officer, and the record shall be filed in the court so designated.

"(2) If within 10 days after issuance of the order the agency, board, commission, or officer has received written notice, as provided in the rules prescribed pursuant to paragraph (1) of this subsection, that proceedings have been instituted in only one court of appeals, the record shall be filed in that court notwithstanding the institution of any proceedings in any other court of which such written notice was not received by the agency, board, commission, or officer within that 10-day period.

"(3) In all other cases, the record shall be filed in the court in which proceedings with respect to the order were first instituted.

All courts in which proceedings have been instituted with respect to the same order, other than the court in which the record is filed pursuant to this subsection, shall transfer those proceedings to the court in which the record is so filed. For the convenience of the parties in the interest of justice, the court in which the record is filed may thereafter transfer all the proceedings with respect to that order to any other court of appeals. Until the record concerning an order is filed in a court pursuant to this subsection, any court of appeals in which proceedings with respect to that order have been instituted within 10 days after the issuance of such order may, to the extent authorized by law, postpone the effective date of the order as necessary to permit the designation of a court pursuant to paragraph (1) of this subsection. Such action by the court may thereafter be modified, revoked, or extended by the court in which the record is filed or by any other court of appeals to which the proceedings are transferred.".

(b) Section 604(a) of title 28, United States Code, is amended by redesignating paragraph (18) as paragraph (19) and by inserting immediately after paragraph (17) the following new paragraph:

"(18) Where proceedings with respect to an order of any agency, board, commission, or officer have been instituted in two or more courts of appeals and the agency, board, commission, or officer, pursuant to section 2112(a)(1) of this title, has been notified of such proceedings within 10 days after issuance of the order, administer a system of random selection to determine the appropriate court in which the record is to be filled;".

PARTICIPATION EXPENSES

SEC. 204. (a) Subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 505. Participation expenses

"(a) No agency may, except as provided in section 504 of this title or unless specifically authorized by any other statute, provide financial assistance to pay the expenses of persons participating or intervening in an agency proceeding.

"(b) For the purposes of this section—

"(1) 'agency' means an agency as defined in section 551(1) of this title; and

"(2) 'agency proceeding' means any agency proceedings as defined in section 551(12) of this title.".

(b) The section analysis of chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 504 the following new item:

"505. Participation expenses.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 205. (a) Section 551(4) of title 5, United States Code, is amended by striking out "services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing" and inserting in lieu thereof "services, or allowances therefor or of valuations, costs or accounting, or practices relating to such rates, wages, structures or reorganizations, prices, facilities, appliances, services, or allowances".

(b) Section 551(5) of such title is amended by striking out "rule making" and inserting in lieu thereof "rulemaking".

(c) Section 556(d) of such title is amended in the last sentence by striking out "rule making" and inserting in lieu thereof "rulemaking".

(d) Section 557(b) of such title is amended by striking out "rule making" and inserting in lieu thereof "rulemaking".

(e) The item relating to section 553 of title 5, United States Code, in the section analysis of chapter 5 of such title is amended by striking out "Rule making" and inserting in lieu thereof "Rulemaking".

(f)(1) Section 3(e)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1262(e)(1)) is amended by striking out "(other than clause (B) of the last sentence of subsection (b) of such section)" and inserting in lieu thereof "(other than paragraph (2) of subsection (b) of such section, except to the extent such paragraph applies to rules of agency organization, procedure, or practice)".

(2) Section 3(e)(3)(C) of such Act (15 U.S.C. 1262(e)(3)(C)) is amended in the first sentence by inserting "(a)" after "section 706".

(g)(1) Section 5(a) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1474(a)) is amended by striking out "(other than paragraph (3)(B) of the last sentence of subsection (b) of such section)" and inserting in lieu thereof "(other than paragraph (2) of subsection (b) of such section, except to the extent such paragraph applies to rules of agency organization, procedure, or practice)".

(2) Section 5(b)(3) of such Act (15 U.S.C. 1474(b)(3)) is amended by inserting "(a)" after "section 706".

(h) Section 19(c)(1)(B) of the Toxic Substances Control Act (15 U.S.C. 2618(C)(1)(B)) is amended—

(1) in clause (i) by inserting "subsection (a) of" after "paragraph (2)(E) of";

(2) in clause (ii) by striking out "706(2)(D)" and inserting in lieu thereof "706(a)(2)(D)"; and

(3) in clause (iii)(II) by striking out "section 553(c)" and inserting in lieu thereof "section 553(c)(1)".

(i) Section 4218(b) of title 18, United States Code, is amended—

(1) by striking out "section 553(b)(3)(A)" and inserting in lieu thereof "section 553(a)(3)"; and

(2) by striking out "statements" and inserting in lieu thereof "statement".

(j) Section 409 of the General Education Provisions Act (20 U.S.C. 1221e-4) is amended by striking out "exception provided

under section 553(b)" and inserting in lieu thereof "exceptions provided under subsections (a)(3) and (b)(2) of section 553".

(k)(1) Section 508 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 358) is amended—

(A) in subsection (c) by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" and inserting in lieu thereof "section 553 of title 5, United States Code"; and

(B) in subsection (e) by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" and inserting in lieu thereof "section 553 of title 5, United States Code,".

(2) Section 514(e)(4) of such Act (21 U.S.C. 360d(e)(4)) is amended by striking out "subsection (b)(A)" and insertng in lieu thereof "subsections (a)(3) and (b)(2) (to the extent such subsection applies to rules of agency organization, procedure, or practice)".

(l) Section 426(a) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 936(a)) is amended by striking out "subsection (a) thereof" and inserting in lieu thereof "paragraphs (1) and (2) of subsection (a) of such section".

(m) Section 5(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(a)) is amended by striking out "without regard to subsection (a) thereof" and inserting in lieu thereof "without regard to paragraphs (1) and (2) of subsection (a) of such section".

(n) Section 10(a) of the Act of June 30, 1936 (41 U.S.C. 43a(a)), is amended by striking out "section 4 of the Administrative Procedure Act, such Act" and inserting in lieu thereof "section 553 of title 5, United States Code the provisions of chapters 5, 6, and 7 of such title".

(o) Section 2(a)(2) of the Act of June 25, 1938 (41 U.S.C. 47(a)(2)), is amended by striking out "subsections (b), (c), (d), and (e) of section 553 of title 5, United States Code," and inserting in lieu thereof "section 553 of title 5, United States Code (without regard to paragraphs (1) and (2) of subsection (a) of such section)".

(p) Section 6(c)(2) of the Noise Control Act of 1972 (42 U.S.C. 4905(c)(2)) is amended by striking out "the first sentence of".

(q) Section 501(b)(3) of the Department of Energy Organization Act (42 U.S.C. 7191(b)(3)) is amended by striking out "public property, loans, grants, or contracts" and inserting in lieu thereof "public property or contracts".

(r) Section 307(a)(1) of the Clean Air Act (42 U.S.C. 7607(d)(1)) is amended by striking out "subparagraphs (A) or (B) of subsection 553(b)" and inserting in lieu thereof "subsection (a)(3) of (b)(2) of section 5532".

(s) Section 102(a) of the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9112(a)) is amended by striking out "without regard to paragraphs (1) and (2) of subsection (a) of such section".

SERVABILITY

Sec. 206. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

Amend the title so as to read: "A bill to amend title 5, United States Code, to make regulations more cost-effective, to ensure review of rules, to improve regulatory planning and management, to enhance public participation in the regulatory process, and for other purposes.".

By Mr. KINDNESS:

(Amendment in the nature of a substitute.)

Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Regulatory Procedure Act of 1982".

TABLE OF TITLES

TITLE I—THE ANALYSIS, MANAGEMENT, AND ORGANIZATION OF AGENCY FUNCTIONS

TITLE II—REORGANIZING AND IMPROVING AGENCY PROCEEDINGS

EFFECTIVE DATE

SEC. 2. This Act shall take effect 180 days after the date of the enactment of this Act, except that the provisions of subchapter II of chapter 6 of title 5, United States Code, as added by section 101(c) of this Act, the amendment made by section 201(a) of this Act, and the amendment made by section 203 of this Act (to the extent such amendment applies to rules) shall apply only to rules for which notice of proposed rulemaking is given after such effective date and to rules promulgated after such effective date for which a notice of proposed rulemaking is not required.

TITLE I—THE ANALYSIS, MANAGEMENT, AND ORGANIZATION OF AGENCY FUNCTIONS

SEC. 101. (a) Chapter 6 of title 5, United States Code, is amended—

(1) by inserting immediately after the chapter heading the following:

"Subchapter I—Regulatory Flexibility";

(2) by inserting immediately before section 601 the following:

"Subchapter I—Regulatory Flexibility";

and

(3) by striking out "this chapter" each place it appears and inserting in lieu thereof "this subchapter".

(b) Such chapter 6 is further amended by inserting at the end of the chapter analysis the following:

"Subchapter II—Analysis of Agency Proposals

"Sec.
"621. Definitions.
"622. Additional procedures for major rules.
"623. Judicial review.
"624. Executive oversight.
"625. Review by Comptroller General.
"626. Authority of agencies and the President.

"Subchapter III—Establishing Agency Priorities and Schedules for Completing Proceedings

"631. Regulatory agenda.

"Subchapter IV—Agency Review of Rules

"641. Review of rules.".

(c) Such chapter 6 is further amended by adding at the end thereof the following:

"Subchapter II—Analysis of Agency Proposals

"§ 621. Definitions

"(a) For purposes of this subchapter, subchapter III, and subchapter IV—

"(1) the term 'agency' means an agency as defined in section 551(1) of this title;

"(2) the term 'benefit', except as used in subsection (b)(2)(B) of this section, means any direct or indirect beneficial economic, health, safety, environmental, or other effect;

"(3) the term 'cost' means any direct or indirect adverse economic, health, safety, environmental, or other effect;

"(4) the term 'economic cost' means a cost (as defined in paragraph (3) of this subsection) that is reasonably quantifiable in monetary terms;

"(5) the term 'rule' means a rule as defined in section 551(4) of this title but does not include—

"(A) a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures or reorganizations, prices, facilities, appliances, services, or allowances;

"(B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System;

"(C) a rule that is required by statute to be made on the record after an opportunity for an agency hearing; or

"(D) a rule described in section 553(a) of this title;

"(6) the term 'major rule' means a rule or group of closely related rules that—

"(A) imposes economic costs which are likely to result in an annual impact on the economy of $100,000,000 or more; or

"(B) otherwise is designated a major rule by the agency proposing the rule, or by the President (not later than 30 days after the publication of the notice of proposed rulemaking for that rule)—

"(i) because the rule would have significant adverse effects on the environment, health or safety, competition, employment, investment, productivity, innovation, or the ability of enterprises, the principal places of business of which are in the United States, to compete in domestic or export markets; or

"(ii) because the rule would cause a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions.

"(b)(1) Any designation of a major rule made by the President under subsection (a)(6)(B) of this section shall be published in the Federal Register, together with a succinct statement of the basis for the designation. The President may not delegate his authority to make such a designation.

"(2) The term 'major rule' as defined in subsection (a)(6)(B) of this section does not include—

"(A) a rule involving the internal revenue laws of the United States;

"(B) a rule relating to public loans, grants, or benefits;

"(C) a rule relating to the viability, stability, asset powers, or categories of accounts of, or permissible interest rate ceilings applicable to depository institutions, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the Share Insurance Fund of the National Credit Union Administration Board;

"(D) a rule promulgated under the Agricultural Adjustment Act to encourage or to regulate the orderly marketing of agricultural commodities and products, or a rule promulgated under the Agriculture Act of 1949 to make available price support for agricultural commodities and products; or

"(E) a rule promulgated on an annual basis which governs the hunting of migratory birds.

"§ 622. Additional procedures for major rules

"(a) Before providing notice of proposed rulemaking for any rule, the agency proposing the rule shall determine whether the rule is a major rule and shall include in that notice an explanation of that determination.

"(b) Not later than the date on which an agency provides notice of proposed rulemaking for a major rule (or, in the case of a rule designated by the President under section 621(a)(6)(B) of this title, as soon as reasonably practicable after such designation), the agency shall issue—

"(1) a statement of the need for, and objectives of, the proposed rule;

"(2) a description of those reasonable alternatives to the proposed rule and its main elements that may accomplish the stated objectives of the proposed rule in a manner consistent with the applicable statutes, and, if the proposed rule does not have lower economic costs than each such alternative, an identification of such alternative which has the lowest economic costs;

"(3) an analysis of the need, if any, for the establishment or application of requirements in the proposed rule in order to accommodate regional differences, including economic, environmental, demographic, and land-use differences;

"(4) an analysis of the benefits and costs of the proposed rule and of each of the principal alternatives described in paragraph (2) (including, where applicable, the alternative identified in such paragraph having the lowest economic costs) and a comparison of the cost effectiveness of the proposed rule and each of the principal alternatives;

"(5) an analysis, where applicable, of the relative advantages and disadvantages of adopting performance standards rather than design standards in the proposed rule;

"(6)(A) an identification of any scientific, economic, or other technical report or study upon which the agency has relied substantially or expects to rely substantially in the rulemaking; and

"(B) a description of how the agency has evaluated or intends to evaluate the quality, reliability, accuracy, and relevance of any such scientific or economic report or study; and

"(7) if the proposed rule would regulate activities which, before the rule was proposed, were regulated only by State law, a statement of the legal authority for the agency to regulate such activities.

"(c) Not later than the date on which an agency provides notice of the promulgation of a major rule, the agency shall issue—

"(1) a statement of the need for, and the objectives of, the rule;

"(2) a description of those alternatives to the rule with respect to which an analysis was made pursuant to subsection (b)(4);

"(3) an analysis of the extent to which the requirements of the rule reflect regional differences, including economic, environmental, demographic, and land-use differences;

"(4) an analysis of the benefits and costs of the rule;

"(5) an analysis of the extent to which the benefits of the rule justify its cost, and, if they do not, an explanation of why the agency adopted the rule;

"(6)(A) an explanation of how the rule attains its objectives, in a manner consistent with applicable statutes, with lower economic costs than its other alternatives analyzed pursuant to subsection (b)(4) of this section; or

"(B) if the rule does not do so, a statement of the agency's reasons for selecting the rule rather than such alternatives;

"(7) an explanation, where applicable, for the adoption of design standards rather than performance standards in the rule;

"(8)(A) an identification of any scientific, economic, or other technical report or study upon which the agency relied substantially in the rulemaking; and

"(B) a description of how the agency evaluated the quality, reliability, accuracy, and relevance of any such scientific or economic report or study; and

"(9) if the rule regulates activities which, before the issuance of the rule, were regulated only by State law, a statement of the legal authority for the agency to regulate such activities.

"(d)(1) In lieu of preparing material required by subsection (b) or (c) of this section, an agency may incorporate by reference in any material that it issues pursuant to either such subsection information contained in any other statement or analysis, to the extent that such information statisfies any of the requirements of either such subsection.

"(2) Each agency shall include, in the notice of each proposed and final major rule, a statement of how the public may obtain copies of the material issued pursuant to subsections (b) and (c). An agency may charge a reasonable fee for the copying and mailing of such material. Such material shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is primarily of benefit to the general public.

"(3) Subject to section 553(f)(2) of this title, each agency shall include in the rulemaking file required by section 553(f) of this title—

"(A) a copy of the material issued pursuant to subsections (b) and (c) of this section and of any transcript prepared pursuant to subsection (e) of this section; and

"(B) a copy of any scientific, economic, or other technical report or study that the agency actually considered in connection with the rulemaking, if information in such report or study pertains directly to the rulemaking and was prepared by officers or employees of the agency or under contract with the agency.

"(4) Each agency shall send to the President a copy of all material issued pursuant to subsection (b) or (c) of this section.

"(e)(1) An agency shall, in the case of rulemaking to promulgate a major rule, provide an opportunity for oral presentation of views and information at informal public hearings. Transcripts shall be made of all such public hearings.

"(2) The agency shall permit cross-examination of individuals who present testimony, documents, or studies at such hearings but only to the extent the agency determines that other procedures would be inadequate for resolution by the agency of significant issues of fact upon which the rule is based. This paragraph shall not apply to any rulemaking for which cross-examination is otherwise required by statute.

"(3) The agency shall regulate the course of informal public hearings required by this subsection so as to ensure orderly and expeditious proceedings. The agency may take such actions as it considers necessary to achieve this objective, including—

"(A) limiting the time allowed for oral presentations and cross-examination;

"(B) establishing procedures designed to limit cross-examination to the significant issues of fact referred to in paragraph (2) of this subsection; and

"(C) designating representatives to make oral presentations or engage in cross-examination on behalf of persons with a common interest in the rulemaking.

"(f) An agency may delay complying with any requirement of this section with respect to a rule if—

"(A) the agency finds, for good cause, that complying with such requirement before making the rule effective would be impracticable, unnecessary, or contrary to the public interest; and

"(B) the agency publishes the rule in the Federal Register with a statement of such finding and a succinct explanation of the reasons therefor.

Unless such a rule will, by its terms, cease to be effective within two years after its effective date, the agency shall comply with the requirements of this section with respect to the rule as soon as reasonably practicable after promulgating the rule.

"(g) The requirements of this section do not change the standards applicable to agency action under any other provision of law or relieve an agency of procedural requirements imposed by any other provision of law.

"§ 623. Judicial review

"(a) In any action for judicial review of a rule, any material issued under section 622 of this title may, to the extent relevant, be considered by the court in determining the lawfulness of the rule, but (except as provided in subsections (b) and (c) of this section) the court shall not have any authority to review agency compliance or noncompliance with the requirements of this subchapter or subchapter III or IV, or to compel any action by the agency promulgating the rule or to hold unlawful, set aside, or remand the rule on the ground that the agency has failed to comply with one or more of such requirements.

"(b)(1) Subsection (a) of this section does not prohibit a court from holding unlawful, setting aside, remanding, or staying a rule because of a failure of the agency to follow a procedure required by section 622(e) of this title if—

"(A) an objection to the failure to follow the procedure was made to the agency in a timely fashion or there are extraordinary circumstances that excuse the failure to present such a timely objection, and

"(B) the court finds that such failure was so serious and of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if the procedure omitted by the agency had been followed.

"(2) To the extent that compliance with applicable provisions of section 622 of this title is required by the last sentence of section 622(f), a court may direct an agency to issue material required by sections 622(b) and 622(c) and to comply with section 622(e) if the court finds that the agency has unreasonably delayed complying with the applicable requirements of section 622.

"(3) If an agency has failed to issue any material whatsoever which it designates as having been issued in compliance with paragraph (5) or (6) of section 622(c) of this title for a rule that has been determined or designated to be 'major' under section 621(a)(6) of this title, nothing in subsection (a) of this section prohibits a court from remanding the rule to the agency with instructions to issue the material required by either such paragraph.

"(c) If the court finds that an agency has unreasonably delayed publishing a proposed schedule required by section 641(a)(1), a final schedule required by section 641(a)(4), a notice required by section 641(c), or a notice required by section 641(e), subsection (a) of this section does not prohibit the court from directing the agency to comply with such requirement.

"(d) Any exercise of authority granted under section 621, 624, or 641 of this title, or any failure to exercise such authority, by the President or by an officer to whom such authority has been delegated, shall not be subject to judicial review in any manner.

"§ 624. Executive oversight

"(a) The President shall establish guidelines and procedures for agency implementation of the requirements of this chapter. The President shall monitor and review agency actions and materials for compliance with the provisions of this chapter and shall comment upon the adequacy of such compliance.

"(b) Any guidelines and procedures established by the President for agency implementation of this chapter shall be adopted after the public has been afforded notice and an opportunity to comment thereon, and shall be consistent with the prompt completion of rulemaking proceedings. Such guidelines and procedures may provide for review and evaluation by the President of material the agency intends that it will issue under sections 622(b) and 622(c) of this title in order to comment upon whether such material complies with the requirements of this chapter. The time for any such review shall not exceed 30 days following receipt of the material by the President, except that the President may extend the time for such review for one additional period not in excess of 30 days.

"(c) Nothing in this section—

"(1) provides authority to the President, or limits any authority that the President may possess under the Constitution or other provisions of law—

"(A) to prevent an agency from proceeding with a rulemaking or issuing a proposed or final rule; or

"(B) to require an agency to modify a proposed or final rule or comply with the guidelines or procedures established pursuant to subsection (a) of this section;

"(2) changes the standards applicable to agency action under any other provision of law or relieves an agency of procedural requirements imposed by any other provision of law; or

"(3) relieves an agency of its responsibilities to comply with the requirements of this chapter.

"(d)(1) The President may delegate the authority granted by subsection (a) of this section, in whole or in part, to the Vice President or to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate. Notice of any such delegation, or any revocation or modification thereof, shall be published in the Federal Register.

"(2) Any person to whom authority is delegated under this subsection shall be subject to all of the provisions of this section applicable to the exercise of such authority by the President.

"§ 625. Review by Comptroller General

"(a) The Comptroller General of the United States may review the compliance by agencies with the provisions of this chapter.

"(b) Each agency shall make available to the Comptroller General, in accordance with section 716 of title 31, United States Code, such information as the Comptroller General may request in order to carry out subsection (a).

"§ 626. Authority of agencies and the President

"(a) Nothing in this chapter—

"(1) limits agency jurisdiction to prescribe a rule,

"(2) relieves an agency of statutory requirements applicable to rulemaking, or

"(3) displaces rulemaking authority vested by statute in an agency.

"(b) Nothing in this chapter limits the exercise by the President of the authority and responsibility that he otherwise possesses under the constitution and other laws of the United States.

"Subchapter III—Establishing Agency Priorities and Schedules for Completing Procedures

"§ 631. Regulatory agenda

"(a) Each agency shall publish a regulatory agenda in the Federal Register in April and October of each year. Each such agenda shall contain a list of all rules that the agency expects to propose, promulgate, modify, repeal, or otherwise consider in a rulemaking proceeding in the succeeding 12 months. The agendas of all agencies shall be published in a single issue of the Federal Register in accordance with guidelines issued by the director of the Office of Management and Budget to ensure a useful, uniform, and consistent publication.

"(b) With respect to each rule listed on a regulatory agenda, the agenda shall include a description of the rule; the objectives of and the legal basis for the rule; any dates established or anticipated by the agency for taking action, including dates for advance notices of proposed rulemaking, notices of proposed rulemaking, and final agency action; a statement of the sectors of the economy likely to be affected by the rule; and the agency's assessment of whether the rule is or is expected to be a major rule. If consistent with any guidelines issued by the Office of Management and Budget, an agency may consider a group of closely related rules as one rule for the purpose of providing the information required by this subsection.

"(c) Each regulatory agenda shall include a list of rules scheduled to be reviewed in accordance with section 641 of this title during the succeeding 12 months and the status of all rules listed on the previous agenda for which rulemaking proceedings have not been completed or which have not been explicitly withdrawn from consideration by the agency.

"(d) Each regulatory agenda shall include the name, address, and telephone number of any agency official responsible for handling inquiries about each rule listed on the agenda.

"(e) Failure of an agency to include a rule in a regulatory agenda shall not preclude the agency from proposing or issuing that rule.

"Subchapter IV—Agency Review of Rules

"§ 641. Review of rules

"(a)(1) Not later than 9 months after the effective date of this section, each agency shall prepare and publish in the Federal Register for comment a proposed schedule for the review, in accordance with this section, of each rule of the agency which is in effect on such effective date and which, if adopted on such effective date, would be a major rule under section 621(a)(6)(A) of this title, and of such other rules as the agency has selected for review.

"(2) At least 90 days before publishing in the Federal Register the proposed schedule required by paragraph (1), each agency shall make the proposed schedule available to the President. The President may select for review under this section any additional rule that the President determines to be a major rule under section 621(a)(6)(A) of this title. The President may not delegate the authority conferred by this paragraph.

"(3) Each proposed schedule required by paragraph (1) shall include a brief explanation of the reasons the agency or the President, as the case may be, considers each rule on the schedule to be a major rule or of the reasons why the agency selected the rule for review, and the date set by the agency for the completion of the review of each such rule. The review of all rules on the schedule shall be completed not more than 10 years after the date on which the final schedule is published pursuant to paragraph (4) of this subsection. The agency shall set a date to initiate review of each rule on the schedule in a manner which will ensure the simultaneous review of related items and which will achieve a reasonable distribution of reviews over the period of time covered by the schedule.

"(4) Not later than 6 months after publishing the proposed schedule as required by paragraph (1) of this subsection, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in paragraphs (1) and (2) of this subsection. Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

"(5) Each agency shall include with the publication in the Federal Register of a major rule a date for completion of the review of the major rule. The agency shall set such date at not more than 10 years after the date of such publication.

"(b) The agency shall, pursuant to subsections (c) through (e) of this section, review each rule on the final schedule. A rule designated by an agency for review as a major rule need not be reviewed if, at the time of the planned review, the agency determines that such rule, if adopted on the date on which the planned review is to be initiated, would not be a major rule and publishes a notice and explanation of that determination in the Federal Register.

"(c) An agency shall publish notice in the Federal Register of the initiation of the review of a rule under this section. The notice shall include—

"(1) an identification of the legal authority under which the rule was promulgated and a determination by the agency of whether the rule presently fulfills the objectives of that authority;

"(2) a brief summary of the benefits and costs of the rule during the calendar year preceding the publication of such notice, and of the benefits and costs the agency projects for the rule if it remains in effect;

"(3) an analysis of whether the objectives of the rule can be met through an alternative having lower economic costs than the existing rule;

"(4) an analysis of whether greater benefits can be achieved through an alternative having costs which are comparable to those of the existing rule;

"(5) a description of any problems encountered by the agency in obtaining compliance with the rule;

"(6) an analysis of the extent to which the rule overlaps or duplicates other rules; and

"(7) a statement that the agency seeks comments from the public as to whether the rule should be retained, amended, or repealed.

An agency may include a group of closely related rules in a single notice under this subsection.

"(d) After publishing the notice required by subsection (c) of this section, the agency shall provide a period of not less than 60 days during which the public may submit comments in response to such notice.

"(e) Within 180 days after the close of the comment period required by subsection (d) of this section, the agency shall take one of the following two actions:

"(1) The agency shall publish a notice of proposed rulemaking to repeal or amend the rule and shall conduct a rulemaking proceeding with respect to the rule in accordance with the requirements of this chapter, if applicable, and of section 553 of this title or any other applicable law. Such requirements and other applicable requirements of law, including those relating to judicial review, shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule which is not taken pursuant to the review required by this section.

"(2) The agency shall publish a notice of its decision to retain the existing rule along with a statement responding to the significant issues that were raised in the public comments received concerning the rule pursuant to subsection (d) of this secton.

"(f)(1) Any agency which finds compliance with this section with respect to a particular rule to be impracticable during the period provided in subsection (a)(3) or (a)(5) of this section may request the President to establish a period longer than 10 years for the completion of the review of such rule. The President may extend the period for review of a rule to a total period of not more than 15 years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

"(2) An agency may, with the concurrence of the President, alter the timing of review of rules under this section if an explanation of such alteration is published in the Federal Register at the time such alteration is made. The President may direct an agency to alter the timing of the review of rules under this section, except that the President may not increase the number of rules to be reviewed by one agency in any calendar year.".

(d) The chapter heading of chapter 6 of title 5, United States Code, is amended to read as follows:

"Chapter 6—PLANNING AND MANAGEMENT OF AGENCY FUNCTIONS".

(e) The chapter analysis of part I of title 5, United States Code, is amended by inserting after the item relating to chapter 5 the following new item:

"6-Planning and Management of Agency Functions ..... 601".

TITLE II—REORGANIZING AND IMPROVING AGENCY PROCEEDINGS

RULEMAKING PROCEDURES

SEC. 201. (a) Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rulemaking

"(a) This section applies according to the provisions thereof, except to the extent that there is involved—

"(1) a military or foreign affairs function of the United States;

"(2) a matter relating to public property or contracts or to agency management or personnel practices; or

"(3) any interpretative rule or general statement of policy unless such rule or statement has general applicability and substantially alters or creates rights or obligations of persons outside the agency.

"(b)(1) Notice of proposed rulemaking shall be published in the Federal Register, unless persons subject to the proposed rule are named and either personally served or otherwise have actual notice of the rulemaking in accordance with law. Each notice of proposed rulemaking shall include—

"(A) a statement of the time during which public comments will be received concerning the proposed rule and the time, place, and nature of any informal public hearings to be held concerning the proposed rule;

"(B) a statement of the specific objectives to be attained by the proposed rule;

"(C) a statement of the specific legal authority under which the rule is proposed;

"(D) either the terms or substance of the proposed rule or a description of the subjects and issues involved;

"(E) a statement that the agency seeks proposals from the public for alternative methods to accomplish the objectives of the proposed rule that are more effective or less burdensome than the methods used in the proposed rule; and

"(F) a statement of where the file of the rulemaking proceeding required by subsection (f) of this section may be inspected or copies of the file may be obtained.

"(2) Except when notice or hearing is required by statute, this subsection and subsection (c) do not apply to rules of agency organization, procedure, or practice, or a rule to the extent the agency for good cause finds that notice and public procedure with respect to the rule are impracticable, unnecessary, or contrary to the public interest and publishes, at the time of publication of the final rule, such finding and a brief statement of the reasons therefor.

"(c)(1) An agency shall provide a public comment period of at least 60 days after the issuance of a notice of proposed rulemaking pursuant to subsection (b). During the public comment period, the agency shall give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentations. After the consideration of the relevant matter presented, the agency shall publish any rule adopted with a concise general statement of the basis and purpose of the rule. The statement shall include a response to the significant issues raised by the comments concerning the proposed rule received by the agency during the public comment period. When rules are required by statute to be made on the record after an opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

"(2) In promulgating a rule, unless otherwise permitted by law, an agency may not rely substantially on any report, study, or other document containing significant factual material of central relevance to the rulemaking that was not placed in the rulemaking file at the time the notice of proposed rulemaking was issued or, if publicly available, identified in such notice, unless—

"(A) the public has had an adequate opportunity to comment upon such report, study, or other document if it was developed by or under contract with the agency; or

"(B) such report, study, or other document, if not developed by or under contract with the agency, was placed in the rulemaking file required by subsection (f) of this section promptly after—

"(i) its receipt by the agency, in the case of material received by the agency in the course of the rule making proceeding, or

"(ii) its review by the agency, in the case of material that was obtained by the agency outside the course of the rulemaking proceeding.

For purposes of subparagraph (A) of this paragraph, an agency shall be deemed to have afforded an adequate opportunity to comment on any document received during or after the initial comment period if it provides an additional comment period of 21 days from the date on which notice of such additional comment period is published in the Federal Register.

"(d) An agency issuing a final rule shall publish that rule in the Federal Register, unless persons subject to the rule are named and either personally served or otherwise have actual notice of the rule in accordance with law. Such publication or service shall be made not less than 30 days before the effective date of the final rule, except in the case of a rule that grants or recognizes an exemption or relieves a restriction, or as otherwise provided by the agency for good cause found and published with the rule.

"(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

"(f)(1) Except as provided in paragraph (2) of this subsection, each agency shall maintain a file of each rulemaking proceeding conducted pursuant to this section, beginning no later than the date on which the agency issues the notice of proposed rulemaking for that proceeding pursuant to subsection (b) or, if the agency is not required to issue such a notice, no later than the date the agency first issues or receives material required to be included in the file. The file shall be made available to the public and shall include—

"(A) the notice of proposed rulemaking and any supplemental notice concerning the rulemaking;

"(B) a copy of all written comments on the proposed rule which were submitted to the agency after the publication of the notice of proposed rulemaking;

"(C) all material which the agency by statute or rule is required to issue in connection with the rulemaking or which the agency decides to make part of the record;

"(D) a copy of all written material pertaining to the rule including any drafts of the proposed or final rule, submitted by the agency to the President or the designee directed by the President to review proposed or final rules for their regulatory impact; and

"(E) a written explanation of the specific reasons for any significant changes made by the agency in the drafts of the proposed or final rule which respond to any comment received by the agency on the draft proposed, proposed draft final, or final rule, made by the President or the designee by the President to review proposed or final rules for their regulatory impact.

"(2) The file required by paragraph (1) of this subsection need not include any material described in section 552(b) of this title. If the agency is permitted by law to rely on, and does rely on, such material in promulgating a rule, the agency shall include in such file a statement noting the existence of any such material and the statutory basis upon which the material is exempt from

public disclosure. Notwithstanding the preceding sentence, the file shall include all material described in subparagraph (D) or (E) of paragraph (1).

"(3) No court shall hold unlawful or set aside an agency rule because of a violation of subparagraph (D) or (E) of paragraph (1) of this subsection unless the court finds that such violation has precluded fair public consideration of a material issue of the rulemaking taken as a whole. Judicial review of compliance or noncompliance with subparagraphs (D) and (E) of paragraph (1) of this subsection shall be limited to review of action or inaction on the part of an agency.

"(g)(1) Each agency shall transmit to the appropriate committees in Congress each regulatory agenda, or relevant portion thereof, published by the agency pursuant to section 631 of this title.

"(2) On the date on which an agency forwards to the Federal Register for publication a proposed or final major rule, the agency shall transmit a copy of such rule to the Senate and the House of Representatives and to the appropriate committees in Congress.

"(3) Notwithstanding any other provision of law, no final major rule may become effective until the expiration of a period of 30 days after the date on which the final rule is received by the appropriate committees in Congress. If, before the expiration of such 30-day period, and appropriate committee in Congress orders favorably reported a joint resolution disapproving the rule, at a meeting at which a majority of the committee is present, the agency promulgating the rule shall either—

"(A) delay the effective date of the rule until the earlier of—

"(i) the expiration of 60 days after the date on which the committee orders reported such resolution, or

"(ii) the rejection by either House of Congress of a joint resolution disapproving such rule; or

"(B) submit to the Congress an explanation of why the agency is not delaying the effective date of the rule.

The matter after resolving clause in any joint resolution disapproving a rule under this subsection shall be as follows: 'That the Senate and the House of Representatives disapprove the rule entitled transmitted to the Congress by on , 19 .', the blank spaces to be filled in with the appropriate title of the rule, agency, and date.

"(4) Upon the enactment of a joint resolution disapproving an agency rule, such rule shall not be effective.

"(5) For purposes of computing the 30-day and 60-day periods referred to in paragraph (3) of this subsection, days when the Congress is not in session because of an adjournment of more than 30 days are excluded in the computation.

"(6) Whenever a committee orders favorably reported a joint resolution disapproving a rule pursuant to this subsection, the resolution shall be accompanied by a committee report specifying the reasons for the committee's action.

"(7) The provisions of paragraph (3) of this subsection shall not apply to a major rule if—

"(A) the agency promulgating the rule determines that the rule is being issued in response to an emergency situation or other exceptional circumstances requiring immediate agency action in the public interest, or the contents of such rule must be kept confidential before the effective date of such rule; and

"(B) the agency submits to the appropriate committees in Congress a written notice of its determination under subparagraph (A);

except that any such rule shall be subject to a joint resolution disapproving that rule.

"(8) Congressional inaction on, or rejection of, any joint resolution disapproving a rule shall not be deemed an expression of approval of the rule involved. The compliance of any agency with the requirements of this subsection, including any determination by an agency under this subsection, shall not be subject to judicial review.

"(9) For purposes of this subsection—

"(A) the term 'appropriate committee in Congress' means, with respect to a major rule, any committee of the House of Representatives and any committee of the Senate which has legislative jurisdiction over the statute pursuant to which the agency involved may issue the rule; and

"(B) the term 'major rule' means a major rule as defined in section 621(a)(6) of this title.

"(10) This subsection shall not apply to rules proposed or issued pursuant to a statute which expressly provides for congressional review or veto of such rules.".

"(b) the provisions of section 553(q) of title 5, United States Code, as added by subsection (a) of this section, shall cease to be effective on January 1, 1987.

JUDICIAL REVIEW

SEC. 202. Section 706 of title 5, United States Code, is amended to read as follows:

"§ 706. Scope of review

"(a) To the extent necessary to decision and when presented, the reviewing court shall independently decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

"(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In deciding questions of law pursuant to the following sentences of this subsection, the court shall exercise its independent judgment without according any presumption in favor of or against agency action. In making determinations on questions of law, other than statutory jurisdiction, the court shall give the agency's interpretation such weight as it warrants, taking into account factors such as the discretionary authority provided to the agency by law. In making determinations of law concerning statutory jurisdiction under subsection (a)(2)(C) of this section, the court shall determine whether the agency's action is within the scope of the agency's jurisdiction on the basis of the language of the statute or, in the event of ambiguity, other indicia of ascertainable legislative intent.

"(d) In determining whether agency action in adopting a rule, other than a rule to which subsection (a)(2)(E) of this section applies, is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, the court shall consider whether there is substantial support in the rulemaking file, viewed as a whole, for determinations of fact on which the agency was required to rely in adopting the rule or which the agency asserted as the basis for the rule.".

APPEALS OF AGENCY ORDERS

SEC. 203. (a) Section 2112(a) of title 28, United States Code, is amended by striking out the last three sentences and inserting in lieu thereof the following: "If proceedings are instituted in two or more courts of appeals with respect to the same order, the court in which the agency, board, commission, or officer concerned is to file the record shall be determined as follows:

"(1) If within 10 days after issuance of the order the agency, board, commission, or officer receives written notice, in a manner that the agency shall prescribe by rule, that proceedings have been instituted in two or more courts of appeals, the agency, board, commission, or officer shall, promptly after the expiration of that 10-day period, so inform the Administrative Office of the United States Courts and shall identify each such court in which such proceedings are pending. As soon as is practicable after receiving such notice, the Administrative Office of the United States Courts shall designate one court, according to a system of random selection, from among those identified by the agency, board, commission, or officer, and the record shall be filed in the court so designated.

"(2) If within 10 days after issuance of the order the agency, board, commission, or officer has received written notice, as provided in the rules prescribed pursuant to paragraph (1) of this subsection, that proceedings have been instituted in only one court of appeals, the record shall be filed in that court notwithstanding the institution of any proceedings in any other court of which such written notice was not received by the agency, board, commisison, or officer within that 10-day period.

"(3) In all other cases, the record shall be filed in the court in which proceedings with respect to the order were first instituted.

All courts in which proceedings have been instituted with respect to the same order, other than the court in which the record is filed pursuant to this subsection, shall transfer those proceedings to the court in which the record is so filed. For the convenience of the parties in the interest of justice, the court in which the record is filed may thereafter transfer all the proceedings with respect to that order to any other court of appeals. Until the record concerning an order is filed in a court pursuant to this subsection, any court of appeals in which proceedings with respect to that order have been instituted within 10 days after the issuance of such order may, to the extent authorized by law, postpone the effective date of the order as necessary to permit the designation of a court pursuant to paragraph

(1) of this subsection. Such action by the court may thereafter be modified, revoked, or extended by the court in which the record is filed or by any other court of appeals to which the proceedings are transferred.".

(b) Section 604(a) of title 28, United States Code, is amended by redesignating paragraph (18) as paragraph (19) and by inserting immediately after paragraph (17) the following new paragraph:

"(18) Where proceedings with respect to an order of any agency, board, commission, or officer have been instituted in two or more courts of appeals and the agency, board, commission, or officer, pursuant to section 2112(a)(1) of this title, has been notified of such proceedings within 10 days after issuance of the order, administer a system of random selection to determine the appropriate court in which the record is to be filled;".

PARTICIPATION EXPENSES

SEC. 204. (a) Subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 505. Participation expenses

"(a) No agency may, except as provided in section 504 of this title or unless specifically authorized by any other statute, provide financial assistance to pay the expenses of persons participating or intervening in an agency proceeding.

"(b) For the purposes of this section—

"(1) 'agency' means an agency as defined in section 551(1) of this title; and

"(2) 'agency proceeding' means any agency proceedings as defined in section 551(12) of this title.".

(d) The section analysis of chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 504 the following new item:

"505. Participation expenses.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 205. (a) Section 551(4) of title 5, United States Code, is amended by striking out "services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing" and inserting in lieu thereof "services, or allowances therefor or of valuations, costs or accounting, or practices relating to such rates, wages, structures or reorganizations, prices, facilities, appliances, services, or allowances".

(b) Section 551(a) of such title is amended by striking out "rule making" and inserting in lieu thereof "rulemaking".

(c) Section 556(a) of such title is amended in the last sentence by striking out "rule making" and inserting in lieu thereof "rulemaking".

(d) Section 557(b) of such title is amended by striking out "rule making" and inserting in lieu thereof "rulemaking".

(e) The item relating to section 553 of title 5, United States Code, in the section analysis of chapter 5 of such title is amended by striking out "Rule making" and inserting in lieu thereof "Rulemaking".

(f)(1) Section 3(e)(1) of the Federal Hazardous Substances Act (15 U.S.C. 1262(e)(1)) is amended by striking out "(other than clause (B) of the last sentence of subsection (b) of such section)" and inserting in lieu thereof "(other than paragraph (2) of subsection (b) of such section, except to the extent such paragraph applies to rules of agency organization, procedure, or practice)".

(2) Section 3(e)(3)(C) of such Act (15 U.S.C. 1262(e)(3)(C)) is amended in the first sentence by inserting "(a)" after "section 706".

(g)(1) Section 5(a) of the Posion Prevention Packaging Act of 1970 (15 U.S.C. 1474(a)) is amended by striking out "(other than paragraph (3)(B) of the last sentence of subsection (b) of such section)" and inserting in lieu thereof "(other than paragraph (2) of subsection (b) of such section, except to the extent such paragraph applies to rules of agency organization, procedure, or practice)".

(2) Section 5(b)(3) of such Act (15 U.S.C. 1474(b)(3)) is amended by inserting "(a)" after "section 706".

(h) Section 19(c)(1)(B) of the Toxic Substances Control Act (15 U.S.C. 2618(C)(1)(B)) is amended—

(1) in clause (i) by inserting "subsection (a) of" after "paragraph (2)(E) of ";

(2) In clause (ii) by striking out "706(2)(D)" and inserting in lieu thereof "706(a)(2)(D)"; and

(3) in clause (iii)(II) by striking out "section 553(c)" and inserting in lieu thereof "section 553(c)(1)".

(i) Section 4218(b) of title 18, United States Code, is amended—

(1) by striking out "section 553(b)(30(A)" and inserting in lieu thereof "section 553(a)(3)"; and

(2) by striking out "statements" and inserting in lieu thereof "statement".

(j) Section 409 of the General Education Provisions Act (20 U.S.C. 1221e-4) is amended by striking out "exception provided under section 553(b)" and inserting in lieu thereof "exceptions provided under subsections (a)(3) and (b)(2) of section 553".

(k)(1) Section 508 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 358) is amended—

(A) in subsection (c) by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" and inserting in lieu thereof "section 553 of title 5, United States Code"; and

(B) in subsection (e) by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" and inserting in lieu thereof "section 553 of title 5, United States Code,".

(2) Section 514(e)(4) of such Act (21 U.S.C. 360d(e)(4)) is amended by striking out "subsection (b)(A)" and insertng in lieu thereof "subsections (a)(3) and (b)(2) (to the extent such subsection applies to rules of agency organization, procedure, or practice)".

(l) Section 426(a) of the Federal Coal mine Health and Safety Act of 1969 (30 U.S.C. 936(a)) is amended by striking out "subsection (A) thereof" and inserting in lieu thereof "paragraphs (1) and (2) of subsection (a) of such section".

(m) Section 5(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(a)) is amended by striking out "without regard to subsection (a) thereof" and inserting in lieu thereof "without regard to paragraphs (1) and (2) of subsection (a) of such section".

(n) Section 10(a) of the Act of June 30, 1936 (41 U.S.C. 43a(a)), is amended by striking out "section 4 of the Administrative Procedure Act, such Act" and inserting in lieu thereof "section 553 of title 5, United States Code, the provisions of chapters 5, 6, and 7 of such title".

(o) Section 2(a)(2) of the Act of June 25, 1938 (41 U.S.C. 47(a)(2)), is amended by striking out "subsections (b), (c), (d), and (e) of section 553 of title 5, United States Code," and inserting in lieu thereof "section 553 of title 5, United States Code (without regard to paragraphs (1) and (2) of subsection (a) of such section)".

(p) Section 6(c)(2) of the Noise Control Act of 1972 (42 U.S.C. 4905(c)(2)) is amended by striking out "the first sentence of".

(q) Section 501(b)(3) of the Department of Energy Organization Act (42 U.S.C. 7191(b)(3)) is amended by striking out "public property, loans, grants, or contracts" and inserting in lieu thereof "public property or contracts".

(r) Section 307(d)(1) of the Clean Air Act (42 U.S.C. 7607(d)(1)) is amended by striking out "subparagraphs (A) or (B) of subsection 553(b)" and inserting in lieu thereof "subsection (a)(3) of (b)(2) of section 553".

(s) Section 102(a) of the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9112(a)) is amended by striking out "without regard to subsection (a) thereof" and inserting in lieu thereof "without regard to paragraphs (1) and (2) of subsection (a) of such section".

SEVERABILITY

Sec. 206. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

Amend the title so as to read: "A bill to amend title 5, United States Code, to make regulations more cost-effective, to ensure review of rules to improve regulatory planning and management, to enhance public participation in the regulatory process, and for other purposes.".

S. 2177

By Mr. VENTO:

—Page 2. line 11, before the first period insert the following: "*: Provided*, That the Secretary shall enter into agreements with non-federal interests to provide not less than 35 per cent of the total cost of such facilities during the construction of such facilities".

EXTENSIONS OF REMARKS

THE ART OF A PEOPLE ON THE RUN

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mrs. SCHROEDER. Mr. Speaker, several years ago I had the honor of sponsoring an exhibit of Hmong and Yao art organized here in Washington by Jane Hamilton-Merritt.

That exhibition is now at the Museum of Natural History in Denver as part of a national tour.

The Wall Street Journal today gave needed attention to Hamilton-Merritt's work, and to the heroic and tragic story of the Hmong people:

THE ART OF A PEOPLE ON THE RUN

By Daniel Henninger and Manuela Hoelterhoff

The artists who created the exhibition now at the Museum of Natural History in Denver came a long way to show their work. They walked down from the high mountains of Laos and through its jungles, floated on pieces of bamboo across the Mekong River, spent months or years in the refugee camps of Thailand, eventually climbed aboard planes and—some of them, at least—ended up in Denver. These refugee artists are the "yellow rain people." It is they who were intially attacked in Laos with the chemical and biological agents that the U.S. government has accused the Soviet Union of deploying in violation of two international treaties barring the use of poison weapons.

Their exhibition, "Hmong and Yao: Mountain Peoples of Southeast Asia," will be on view there through Oct. 10. More than 30,000 residents of Denver have attended. The work they are seeing is quite extraordinary.

The small exhibition rooms pulsate with dramatically colored, intricately patterned textiles. In their own country, the Hmong and Yao have no need for museum walls; they wear their art and have done so for centuries, stitching and embroidering garments with abstracted vegetable blossoms, peacock eyes, stars and snails. We see baby hats as delicately worked as a filigreed crown; skirts folded into a hundred pleats, belts that would serve nicely wrapped around a royal waist; and sophisticated wall hangings decorated with a maze-like pattern called "dreaming."

But the Hmong (the "h" is silent) have had little occasion for the comfort of dreams these last few years. Their art is on view in Denver because daily life for many Hmong has become a nightmare.

There are now some 50,000 Hmong people in the U.S. They are here because in 1962 they decided to ally themselves with the U.S. against the army of North Vietnam. The Hmong are the largest of many culturally distinct Lao mountain minorities. They have always feared Vietnam's historical claims to their land, so they fought with the French and later with the U.S., primarily interdicting movements of North Vietnamese materiel through Laos into the south. They also rescued U.S. pilots downed over Laos.

Like their U.S. allies, the Hmong lost. Unlike the U.S., the Hmong stayed. And sometime between 1975 and 1976, the Communists in Southeast Asia began to kill them.

VERY UNPLEASANT CONSEQUENCES

In the year since the U.S. raised the issue, "yellow rain" has to a certain extent become one factor in the abstract calculus of arms control. But the Hmong are the people who were sprayed with the stuff. And the "stuff" is not the sort of thing one buys at a garden-supply store to spray on the front lawn. After much research and argument, U.S. scientists have identified one of these biological weapons as an extremely lethal form of mycotoxin, a poison derived from plant fungus. The Hmong accuse the Communist Vietnamese and Laos of dropping clouds of it onto them from airplanes. When these toxins are inhaled, they attack the nervous system and body membranes, with consequences that are as unpleasant as one might imagine.

U.S. diplomats stationed in Southeast Asia continue to file reports of chemical and biological weapons attacks in Laos (the most recent occurred through this summer) and by Soviet forces against insurgents in Afghanistan.

Against this background of lurid and apparently unstoppable killing, one finds in Denver, Colo., the irony of an exhibition of beautiful and delicate folk art produced by a people on the run. The show itself exists because of the anger and frustration of an American journalist named Jane Hamilton-Merritt, who covered the Vietnam War from 1966 to 1972.

While visiting a Thai refugee camp in 1977, she heard reports that the Lao mountain people were being attacked and killed with chemical or biological agents. She interviewed the Hmong and photographed some of their worst external injuries. She returned to the U.S. thinking that a magazine or newspaper article would cause an uproar. She was wrong. Her story and her pictures were not published.

"I have to admit that at first I couldn't believe it either," Miss Hamilton-Merritt says now. "I couldn't imagine what it (the weapon) was." She called U.S. government agencies to ask about the symptoms she'd seen but got nowhere. She called chemical companies, drug companies, biochemists at universities here and abroad. Finally she called some veterinarian researchers, who said her description sounded familiar. Miss Hamilton-Merritt says they told her: "We don't know anything about humans, but we know there is fungus animals can eat and get sick."

She made the rounds of magazines, expecting to find one that would publish both her article and pictures. There were no takers. "I just never thought I would hit a dead end on this," she says. "I thought, 'Who is going to record all this?' I had notebooks and notebooks of Hmong testimony about the air attacks."

In desperation, she more or less tore a page out of the environmental movement's strategy manual: "I chose what I thought would be a non-threatening approach. And that was to offer a look at the art of an unknown people, whose art and very existence were in jeopardy. I knew that the Hmong art would be appreciated in this country because it's quite extraordinary."

The first exhibition of art by the Hmong and Yao people opened in November 1979 at the Bethel Gallery in Connecticut. The show has been seen since at galleries and museums in Washington, D.C.; Calgary, Alberta; New Haven, Conn.: Martha's Vineyard, Mass.; Minneapolis and now in Denver. As designed by Miss Hamilton-Merritt, it is an exhibition that shows visitors images of great and remarkable beauty and of great and remarkable horror.

Particularly striking are the complex appliques done by the White Hmong (a tribal subdivision). Their color and maze-like designs hit the eye with psychedelic impact. The women who do these works map out the entire design in their heads, and the finished piece—which can take months to complete—can have an intellectual precision and technical splendor one doesn't always encounter in museums of modern art.

Only a few pieces are antiques. The harsh and arduous exit route means minimal luggage. Western relief workers in Thailand often foolishly encourage the Hmong and Yao to put on their Western shirts and leave behind their tribal dress. But in the camps, many Hmong continue to fashion their centuries-old designs.

One of the most spectacular pieces in the exhibition is a White Hong wedding dress made in the Ban Vinai camp in Thailand. The elaborate, silver-looking necklace incorporates old French coins and tin from soda cans. Once the Hmong carried their wealth around their necks because they had no currency. Now they turn refuse into memories of silver.

The horror is only a few feet away in the show. In a corner at the end of the exhibition, one sees photographs of people who have been gassed and driven out. One picture shows an emaciated man holding up a small diary detailing yellow-rain attacks he witnessed. Another photograph shows parents holding sick children who died long before the exhibition opened.

One of Miss Hamilton-Merritt's pictures probably accounts in no small part for her publication problems. It is of a baby who is being breast-fed. The baby is burned across the eyes and forehead in such a way that the child very much resembles a person who was burned at Hiroshima. Most people who see it turn away from the child.

Miss Hamilton-Merritt includes these photographs in lectures she gives in conjunction with the exhibition—often to the discomfort of sponsoring organizations. She is usually asked to eliminate particularly unsettling images. But the disturbing contrasts are most germane to Miss Hamilton-Merritt's undertaking: She is trying to say that some terrible thing is happening to the people of Southeast Asia and has been doing so the past three years by telling her story to one roomful of people after another. And in Minneapolis and Denver, she has had some effect.

SOVIETS ARE SOURCE OF WEAPONS

Next Tuesday a nonprofit gallery shop will open in Minneapolis to sell the Hmong's textile art. The shop is the work of Gloria Congdon and Lucy Hartwell, who became interested after seeing the museum show. "The gallery is an attempt to develop an outlet for the art, with the money going directly back to the women who make the textiles," says Gloria Congdon. Local business-

men have begun to find jobs for the Hmong. And one has put up money to publish a brief color catalog, which effectively depicts who the Hmong were and what they have become.

There is evidence of a similar pattern of community involvement emerging in Denver. The shop at the Denver museum has sold $7,500 of Hmong textiles.

Miss Hamilton-Merritt also found a publisher. In its October 1980 issue, Reader's Digest ran a long article on chemical-biological warfare in Southeast Asia after sending her back to Thailand to update the story. The Digest also published a followup article by her in August 1981.

Miss Hamilton-Merritt was by no means the only person chasing the story. In 1981, Sterling Seagrave published his book, "Yellow Rain," detailing the use of these agents in Southeast Asia. Barry Wain, a reporter for the The Asian Wall Street Journal, described the plight of those fleeing Southeast Asia's new Communist governments in his book, "The Refused." And in September 1981, then Secretary of State Alexander Haig said in a speech in Bonn that the Soviet Union was the source of these forbidden weapons. In the wake of Mr. Haig's resignation, however, the government's yellow-rain initiative is in disarray.

Despite some measure of progress, Miss Hamilton-Merritt appears to live with this subject in a state of perpetual indignation and rage. "It has been most difficult," she says evenly. "The Hmong are not making it here." Besides Denver and Minneapolis, the Hmong have settled in Chicago; Seattle; Portland, Ore.; Boston; Providence, R.I.; and Orange County, Calif.

The Hmong now living in America have in many ways become another manifestation of this century's relentlessly absurd tragedy. They were once a tough, self-sufficient people, who rolled into the pit of Vietnam. They are now in the U.S., a preliterate and improverished Asian mountain people whose women sit for hours with dazzling textile art slowly spilling from their hands. And they say they are here because the Communists' planes and helicopters showered them with a "yellow rain" that hurt and killed them. It all seems so unlikely. That, Jane Hamilton-Merritt says, is precisely the problem.●

JOHN J. RHODES: A TRIBUTE

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. FUQUA. Mr. Speaker, for the three decades Congressman JOHN RHODES has ably and effectively served the First District of Arizona and the people of the United States as a Member of this body.

His planned retirement at the end of this Congress will mark the end of a career of which JOHN RHODES can be justly proud and for this this House can be truly thankful.

For many years JOHN J. RHODES symbolized the Republican Party in this Chamber, serving as minority leader from 1973 until 1981, always bearing that responsibility with dignity and an unfailing dedication not only to his party but to this institution and the Nation.

His leadership in his party is also acknowledged by his peers who selected him as chairman of the House Republican Policy Committee from the 88th through the 93d Congresses, chairman of the platform committee of the 1972 Republican National Convention and permanent chairman of the 1976 Republican National Convention.

Though JOHN RHODES has been unabashedly partisan both through personal conviction and party position, he was never one to put partisan interests above the national good; never banished reason for rhetoric; and was always willing to give of his friendship and wise counsel to those with whom he served.

For myself and for my country I thank JOHN RHODES for his many contributions to America.●

U.N. AGENCY'S REJECTION OF ISRAELI CREDENTIALS MUST BE REBUFFED

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. McHUGH. As you know, Mr. Speaker, last week the 26th General Conference of the International Atomic Energy Agency (IAEA) rejected the credentials of the Israeli delegation by a vote of 41 to 39.

That move followed an earlier failure by the Iraqi delegation to obtain the two-thirds vote necessary to suspend Israel from the rights and privileges of IAEA membership.

Because this denial of credentials took place on the last day of the conference and thus only denied Israel access to its proceedings for 1 day, some have suggested that the move was only symbolic, especially since Israel's membership in the IAEA is not affected.

I do not share that view, Mr. Speaker. In my judgment, this is an extremely serious matter that could have larger ramifications for the entire United Nations system.

The action taken by the IAEA was totally unjustified and illegal, and I am pleased that the U.S. delegation as well as the delegations from 16 other countries chose to withdraw from the conference on the final day of its proceedings.

As you know, Mr. Speaker, I have consistently spoken out on the House floor against U.S. efforts to politicize a variety of international organizations, including the World Bank. I find it equally objectionable for other nations to engage in this kind of behavior.

If the International Atomic Energy Agency is becoming so politicized that it can no longer meet its very important responsibilities, then it may be that the United States will have to reconsider its participation in this agency.

In this connection, I would remind our colleagues that the House passed a resolution (H. Con. Res. 322) on May 12 of this year expressing the sense of Congress that if Israel is denied participation in the United Nations and other specialized agencies of the United Nations—of which the IAEA is one—the United States should suspend its participation in such agency and withhold its assessed contributions to the agency involved until this illegal action is reversed. A similar resolution also was passed by the Senate.

As I said, Mr. Speaker, this is a very serious matter, and I would hope that the Reagan administration will make it clear to other nations that the United States will not tolerate this kind of effort to politicize U.N. agencies.

Until the situation is clarified to our satisfaction, I would also urge the administration to withhold our assessed and voluntary contributions to the IAEA.●

CLEVELAND'S GABE PAUL

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. MOTTL. Mr. Speaker, Cleveland has been very fortunate to have one of the best baseball minds and talents running the Cleveland Indians in Gabe Paul, along with owner Steve O'Neil. They have made every effort to give Cleveland a winner and will continue to do so in the future. Gabe Paul is a great baseball man and his wife is a gracious lady. They are a tremendous asset for the Cleveland scene.

Gabe is in his 54th year of professional baseball and under his leadership the Cleveland Indians have flourished. He is the Tribe's president and chief executive officer—positions he has held since February 3, 1978, when he returned to Cleveland from New York, where he was president of the Yankees from January 1973 through December 1977.

Paul, prior to that, was general manager of the Tribe (1961–63) and president and treasurer of the American League club (1963–72). He began his baseball career in 1928, when he was publicity director and ticket manager for the Rochester (N.Y.) baseball club.

In 1934, he added the duties of traveling secretary, a post he held through 1936—a year before he was named publicity director of the Cincinnati Reds. Gabe was named the Reds' traveling secretary in 1938, was appointed

assistant to the president 10 years later and in 1949, was named Cincinnati's vice president and general manager. He held those positions through part of 1960. He also was the Houston Astros' general manager until April 1961 when he came to the Indians.

Born January 4, 1910, in Rochester, Paul married the former Mary Frances Copps on April 17, 1935. They have five children: Gabriel, Jr., Warren, Michael, Jennie Lou, and Henry. Paul served with the U.S. Army from 1943 to 1945 and was named Major League Executive of the Year by The Sporting News and Sports Executive of the Year by General Sports Time—both in 1956. He was a reporter for the Rochester Democrat and Chronicle in the off-season (1926-30) and received the J. Lewis Comiskey Award from the Chicago Baseball Writers in 1961.

Paul also has been bestowed with the following: The Judge Emil Fuchs Memorial Award from the Boston Baseball Writers in 1967; named Major League Executive of the Year by the Boston Baseball Writers and received the Bill Slocum Memorial Award from the New York Baseball Writers in 1975; named Major League Executive of the Year by the Milwaukee Baseball Writers and United Press International and received the Sports Torch of Learning Award in 1976. Paul also was honored this past winter by the NCAA for his long and devoted service to major league and collegiate baseball and was selected a member of the Ohio Baseball Hall of Fame in 1980.●

FOR TWO HEALTHY PARTIES

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. COELHO. Mr. Speaker, I would like to bring to the attention of my colleagues an excerpt from a speech given by a woman whose energy, determination, and personal charisma have done much to revitalize the Democratic Party, Pamela C. Harriman. Although her contribution to my party cannot be overemphasized, those of us on both sides of the aisle should be aware of her meaningful and substantial efforts for the Democratic process. Her recent speech to the Wall Street Club exemplifies her concern for the future of the two-party system which has been the backbone of our Government ever since it was created, a concern that everyone in this Chamber should share.

The excerpt follows:

[From the New York Times, Sept. 19, 1982]

FOR TWO HEALTHY PARTIES

(By Pamela C. Harriman)

Should every good Republican want a strong Democratic Party? The answer, plainly, is yes. But why?

The short answer—that all of us have a stake in a strong two-party system—only begs the question. There are three reasons why I believe that everybody should be vitally concerned about the future of the Democratic Party.

The first is that this nation desperately needs good ideas, and it is vigorous debate between two strong parties that offers the best chance of yielding good ideas.

The second reason is that neither major party has a monopoly on good and talented people—and each party needs the strength and wherewithal to support and advance its best people. If one party is disproportionately weak, it may fail in one of the most important roles that political parties play: their role as a launching platform for young, talented leaders. And that would be a misfortune not only for one party or the other—but for our nation.

The third reason is that two strong parties help form a bulwark against third-party movements and splinter candidacies, which threaten to fragment our politics today.

I think France and Italy are marvelous places to visit, and I think that multiparty politics makes wonderful theater. But I also believe that the marvelous workability of American politics over the years has been due in large part to the strength of our two major parties and to the absence of splinter parties.

Now, why do I raise these points, which should be so obvious? For a very important reason: In the last few years, a serious imbalance has arisen between our two major parties—serious and dangerous.

I'm afraid neither the press nor the public is more than dimly aware of this imbalance. Yet it is real, and its dimensions are staggering.

The Democratic Party, for example, began 1981 with $600,000 on hand. The Republicans, by contrast, had nearly $6 million.

In the months since January 1981, national Democratic campaign committees have managed to raise $19 million dollars. Republican national campaign committees, however, have raised $146 million.

As of last June 30, the Democrats had little more than $2 million available to spend during the rest of this election year. The Republicans, however, had $31 million on hand—roughly 15 times the amount in the Democratic treasury.

This imbalance is reflected also when it comes to political-action committees. This year, almost one dollar out of every three spent on political campaigns will come from political-action committees—a figure five times higher than in 1974. And here again, Republican candidates will claim the lion's share.

Some intensely ideological committees are spending sums that are without precedent in our politics. Senator Jesse Helm's Congressional Club, for example, has already spent nearly $8.5 million in the past 18 months! And the National Conservative Political Action Committee has spent more than $7 million in the same period.

My concern is for the future. I care about what this imbalance means to the future health of our democratic system. It's not healthy, in my judgment, for one party—consistently, year in and year out—to spend 4 or 5 or 15 times as much as the other. It creates a distortion in our politics that isn't good for either party—or for the country.●

TRIBUTE TO JOHN RHODES

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. PANETTA. Mr. Speaker, it is a real honor to be able to join this tribute to one of the greatest Members of this House in the past few decades, JOHN RHODES. JOHN is truly one of the most respected and well liked Members of this body, and his service as minority leader was certainly a tribute to his standing among his colleagues.

JOHN RHODES is a real statesman who believes in the integrity of the Congress, the integrity of the legislative process, and the integrity of the American system of government. His contributions, some of which came at one of the most difficult periods in our Nation's history, will never be forgotten. The Nation and the Congress owe him a great deal which they can never really repay except with the love and respect they have already given him.

Mr. Speaker, while we have stood on different sides of the aisle, I have always had a great deal of admiration for JOHN, and I know all of my colleagues join me in wishing him well as he retires from the Congress.●

TRIBUTE TO JOHN RHODES

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. UDALL. Mr. Speaker, yesterday I received a letter from my friend DENNIS DECONCINI of the other body. He wanted to join with us in this House in honoring our friend and colleague JOHN RHODES.

I would like to take this opportunity to share his remarks with this body by inserting the text of his letter.

U.S. SENATE,
Washington, D.C., September 28, 1982.

Hon. MORRIS K. UDALL,
U.S. House of Representatives,
Washington, D.C.

DEAR MO: I am pleased to take this opportunity to add my voice to those honoring Representative John J. Rhodes on this day.

Since he was first elected to the United States House of Representatives nearly thirty years ago, John Rhodes has been a true leader among his colleagues. Arizonans are very proud that John Rhodes has represented them so well and faithfully over the years, rising in 1973 to the distinguished position of Minority Leader of the House, and serving honorably in that difficult post through the 96th Congress.

During my time in the Senate, from the other side of the political aisle, and from the other side of the Capitol, I have seen John Rhodes and respected him both for his work and his integrity. I congratulate him on his years of distinguished service,

and I assure him that we will miss his presence in the Arizona delegation.

Sincerely,

DENNIS DECONCINI,
U.S. Senator.●

L. H. FOUNTAIN: A TRIBUTE

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. FUQUA. Mr. Speaker, at the end of the 97th Congress this House and our Nation will lose to retirement one of the finest legislators with whom it has ever been my pleasure to serve.

Congressman L. H. FOUNTAIN of the Second District of North Carolina will conclude 30 years of service in this body where he has so faithfully and effectively served his constituents, his Nation, and this institution.

As senior Democrat on both the Committee on Government Operations and the Committee on Foreign Affairs, L. H. FOUNTAIN has amassed a distinguished record of service.

Legislation which Congressman FOUNTAIN introduced in 1959 created the Advisory Commission on Intergovernmental Relations, on which he served with distinction since its creation. His farsighted legislation preceded by more than 20 years the current fashion to streamline the responsibilities of Federal, State, and local jurisdictions.

Throughout his career, during which I have been privileged to be associated with him for the past 20 years, L. H. FOUNTAIN has been a steady, thoughtful, dedicated, and thorough legislator who earned and won the respect of all who came to know him.

His well-earned retirement at the end of this term will leave a vacancy among our ranks which will be hard, if not impossible to fill. We cannot, however, but wish him the greatest pleasures of an active retirement while simultaneously suppressing our regret that he will no longer be among us.●

THE DARIUS-GIRENAS POST 271

HON. JOHN G. FARY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. FARY. Mr. Speaker, the Darius-Girenas Post No. 271, the American Legion, one of the largest in the Nation, comprised of 1,400 post and auxiliary members, has reached a significant historic milestone in its long history of service to its community, State, and Nation.

Darius-Girenas post is named after two American flyers of Lithuanian descent, Capt. Stephen A. Darius and Lt. Stanley Girenas, who attempted a nonstop flight from the United States to Lithuania. There plane crashed 250 miles short of their goal. The pioneer aviators were killed instantly. They became national heroes in Lithuania and captured the hearts of all Americans.

The post was founded in order to serve the American war veterans of Lithuanian extraction. The motive for organizing the Darius-Girenas post of the American Legion also has a most interesting origin which I would like to share with my colleagues in the House.

The inspiration came to Joseph A. Mickels (Mickeliunas) while attending the funeral services of a friend, a Chicago veteran of Lithuanian extraction, who unfortunately was killed in Washington, D.C. while participating in the bonus march.

The body had been returned to Chicago at Government expense and the funeral arranged by a local Congressman as the veteran had no known relatives. As Mickels watched the funeral, he felt bitter that the services were conducted by hired strangers. Then the question occurred to him why there could not be an American Legion post comprised of veterans like himself, to render such services when the occasion arose.

The plan grew in some material form as other veterans became enthusiastic. After publicity in many Lithuanian newspapers, meetings were held in local parks, taverns, or such places that could be secured without charge and large enough to accommodate the expanding membership.

Dr. J. Poska was chairman and A. A. Precinauskas was secretary of the organization when application was made to the 4th district of the American Legion, department of Illinois, for a charter as the "Lt. S. J. Harris Post."

The name, selected at the time, was to honor an American Army aviator who volunteered his services in the struggle for Lithuanian independence. The application was opposed by posts already established in the vicinity fearing future loss of membership. It was pointed out that the applicants in the new post were to be of Lithuanian extraction, some of whom spoke English with difficulty, and had not been enrolled in any other post of the American Legion. The objection was withdrawn with the understanding that the membership be restricted to Lithuanians only.

The post charter was granted on November 19, 1932, bearing the names of 27 charter members. Joseph Mikels (Mickeliunas) was elected as its first commander.

During the first year of the post's existence, Capt. Stephen A. Darius and Lt. Stanley Girenas, who were members of the post, attempted a nonstop flight from New York to Lithuania. They crashed to their death on July 17, 1933, near Soldin, Germany, about 250 miles short of their goal. The aviators were the first members of the newly formed post to die and immediately steps were taken to change the name of the post to Darius-Girenas, which was quickly agreed to by the post membership and the American Legion's department of Illinois.

The post has had some illustrious moments since this noble inception, some of which follow: 1934—Darius-Girenas post members completed their plans and built a beautiful memorial building at 4416 South Western Avenue in honor of Captain Darius and Lieutenant Girenas; 1938—Lithuanians donated a huge granite stone marble monument to the city of Chicago in memory of Captain Darius and Lieutenant Girenas. (Marquette Park, 67th and California); 1946—Darius-Girenas post donated a two-way radio communication system to the Chicago Fire Department (ambulance); 1950—*Lituanica* was the name of the plane that Captain Darius and Lieutenant Girenas attempted their ill-fated flight. The city of Chicago named a street on the South Side which is called Lituanica Avenue; and 1982—a commemorative postage stamp is being considered by the U.S. Stamp Advisory Committee at the present time honor of Darius and Girenas.

Some of the dedicated and industrious leaders who have contributed selflessly to the success of the post bear recognition, Mr. Speaker. The names of the past commanders of the Darius-Girenas Post follow:

PAST COMMANDERS

Joseph A. Mickels, Wm. J. Kareiva, B. R. Pietkiewicz, Dr. Victor S. Nares, John Yuska, William Sebastian, Anthony H. Kasper, Joseph A. Kibort, John A. Mason, Frank T. Pumputis, Joseph A. Rachus, Joseph M. Judickas, John J. Karalaitis, Lawrence F. Gubista, Frank P. Zelis, John E. Viscount, John L. Paukstis, Stephen G. Gay, Bill P. Jarvis, Bruno A. Prankus, Joseph G. Kamin, Adolphe L. Grigas, John W. Pachankis, Florian J. Simanonis, Frank A. Gray, Stanley J. Rastutis, Raymond P. Mikalajunas, Vito A. Rumchek, Cleveland Lee, Ray J. Krasauskis, Paul C. Bagwell, William J. Degutis, Ben J. Pocius, Aloysius Dzieginski, Frank W. Navas, Jules Corbett, Casimir Stukonis, Adam Paplawskas, Lawrence Graves, Charles Gustafson, Edward Tyszka, Chester Stachyra, Joseph Martikonis, Walter Kalvaitis, Harry Gembara, Bruce Neberieza, and Casey Noga.

The Darius-Girenas American Legion Post will celebrate their golden anniversary at a dinner-dance to be held on Friday, October 8, 1982, at the Mayfield Banquet Hall, 6072 South Archer Avenue, in Chicago. Leading dignitaries from all walks of life have been invited to participate.

Msgr. D. A. Mozeris, pastor of Immaculate Conception Parish, will give the invocation.

Algird Brazis, former met opera star, will sing the National Anthem.

The Musichorale, a nationally known choral group will sing patriotic songs, while 50 years of history will be on display.

Cmdr. Stanley Walters and President Bernice Graves are the present leaders of the Darius-Girenas Post and auxiliary unit.

Past Cmdr. Harry Gembara is the chairman of the board of directors.

Stanley Bender, World War II recipient of the Congressional Medal of Honor, as well as Michael Vikiras, Vietnam veterans and recipient of the Silver Star and Purple Heart, and the Vietnam Cross of Gallantry, are two of the highest decorated members of the post who will be in attendance.

Presentations will be made to Mrs. Helen Mickels, wife of the first commander of the post, Frank Krasauskis, the only surviving charter member, and to Edward "Moose" Krause—of Notre Dame fame—a 35-year member of the post.

Finally, Mr. Speaker, I would like to offer my commendations and congragulations to past Cmdrs. John L. Paukstis and Bruce Neberieza who are the cochairmen for the golden anniversary of Darius-Girenas Post 271, the American Legion. These gentlemen who are personal friends of longstanding have contributed their energies, their time and their talents to this upcoming event. I am sure it will be a memorable and successful evening.●

THE PACIFIC/ASIAN ELDERLY

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. MINETA. Mr. Speaker, our citizens share many common problems: Inadequate income, poor health, substandard housing, and transportation inadequacies. These conditions, though, are frequently more intense for the minority elderly because they oftentimes are exposed to a multiple form of jeopardy because they are old; they are members of a minority group; and they typically have limited income.

For the Pacific/Asian elderly, there is an added barrier—language.

The most recent Census Bureau information reveals that more than 322,000 Pacific-Asians in the United States are 60 years or older. However, this figure understates the actual number of older Asian and Pacific islanders because of significant undercounting in the census.

The Older Americans Act makes it abundantly clear that limited English-speaking individuals, such as the Pacific/Asian elderly, are among the special target groups to be served. Quite often, their needs are either overlooked or ignored by Government agencies and service providers because they may have lower visibility in the community.

However, more and more communities are becoming aware of the Pacific/Asian elderly and their special problems because of the splendid leadership provided by the National Pacific/Asian Resource Center on Aging.

During its brief existence, NP/ARCA has helped to sensitize the Administration on Aging network about the service needs of the Pacific/Asian aged. It has worked cooperatively with State and local offices on aging to make them more knowledgeable and effective in responding to the Pacific/Asian elderly.

NP/ARCA has provided much useful research on the Pacific/Asian elderly, such as the compilation of the National Community Service Directory (Pacific/Asian Elderly) and the proceedings of the 1981 National Mini-White House Conference on Aging concerning elderly Pacific/Asians. NP/ARCA's technical assistance, through its ongoing community workshops, has also proved to be valuable and useful for the Administration on Aging network and others in the field of aging.

NP/ARCA has done all this and more—and in just 3 years. However, additional work is still needed to meet the challenges of the 1980's.

For these reasons, I urge the Administration on Aging to continue its support of NP/ARCA to insure that the needs of the Pacific/Asian elderly continue to receive close, careful, and competent attention. Thank you.●

TRIBUTE TO L. H. FOUNTAIN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. LAGOMARSINO. Mr. Speaker, it is with great admiration and personal respect that I rise to pay tribute to the gentleman from North Carolina, L. H. FOUNTAIN, a friend and valued colleague on the Committee on Foreign Affairs.

Having worked with L. H. on the Foreign Affairs Committee for the past 8½ years, I have come to know him as a conscientious, responsible advocate of a strong U.S. foreign policy, representing our national interest and preserving and promoting support and cooperation with our allies.

I have been particularly impressed by his commitment to the principles of freedom and democracy and his efforts to preserve and protect those principles when our friends and allies face challenges to them. He has supported the administration when he has believed it to be right, whether it was the popular course of action or not. His principles will not be compromised.

I share the disappointment of the many Members of this House that L. H. FOUNTAIN will not be returning to the Congress and to the Foreign Affairs Committee next year. I can only say that we all wish you much luck and good health. We will miss you.●

IN HONOR OF THE CREW OF THE "TIKI TOO"

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. FAZIO. Mr. Speaker, I would like to bring to the Members' attention the outstanding accomplishments of a group of young women from my congressional district, the crew members of the Mariner/Sea Explorer ship No. 960, the *Tiki Too.*

The *Tiki Too* is a 34-foot twin-engine cabin cruiser berthed near the town of Freeport, Calif., on the Sacramento River. Its all-female crew, hailing from the Sacramento and Davis areas, are between the ages of 14 and 18 and are members of the Mariner Scouting branch of the Senior Girl Scouts and the Sea Exploring branch of the Boy Scouts. These young women receive year-round, "hands on" nautical experience while maintaining the traditional Scouting values of teamwork, individual excellence, service, and fun.

A major aspect of the *Tiki's* program involved competition in several major Scouting regattas held in the San Francisco Bay area each spring, including the Ancient Mariner Regatta which highlights the regatta season. Approximately 700 scouts representing 48 ships from along the west coast, including the crew of the *Tiki Too,* participated in the 1982 Ancient Mariner Regatta.

This year, there were 23 events to enter in the 2 days of competition, each one challenging the mental and physical agility of the young participants. Although only about 20 percent of the participants were female, these young women competed on a totally equal basis with the young men for awards in individual events as well as for a class award based on the ship's overall achievement.

The crew of the *Tiki Too* caused quite a stir at the 1982 Ancient Mariner competition when they became the first female ship in the regatta's 30-year history to achieve the highest and most sought-after clipper class award for outstanding overall performance. In addition to winning the "clipper class," the *Tiki* took first place in five individual events, including piloting and marine radio commu-

nication. It received two second place and fourth place awards.

With hard work, dedication, and team spirit, undaunted by the fact that the clipper class had never been achieved by an all-female crew before, the young women of the *Tiki Too* have brought honor to their community and their Scouting councils through their outstanding accomplishments. I am proud to bring the *Tiki Too* program to the attention of this body. Certainly, such a fine group of young women, their directors and supporters, and the Mariner/Sea Explorer Scouting program deserve our recognition.●

A TRIBUTE TO ADAM BENJAMIN

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. PANETTA. Mr. Speaker, I would like to join my colleagues who have paid tribute to Adam Benjamin, whose recent death was a shock to us all. The genuine sadness throughout the Congress was a tribute not only to the friendship we all felt for him but also the respect with which he was regarded.

Adam was one of the most effective Members of the House. As a member of the Appropriations Committee, he was responsible for the funding of numerous key programs in the area of transportation. I came to know him best when he joined the Budget Committee last year. It was an honor and a pleasure to be able to work with Adam on the committee. His grasp of the issues and his commitment to rational and fair solutions to our Nation's problems made him a great asset to the committee.

Mr. Speaker, I attended Adam's funeral in Indiana, and, while it was obviously a very sad occasion, it was heartwarming to see the outpouring of affection for him from his friends and neighbors at home. Like us, they will miss Adam a great deal.

I know all of my colleagues join me in extending the deepest sympathy to Adam's family. Their loss is shared by the Congress and by the Nation.●

COMMENDING COACH EDDIE ROBINSON OF GRAMBLING UNIVERSITY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. DYMALLY. Mr. Speaker, it gives me great honor to join in commending Coach Eddie Robinson of Grambling State University, Louisiana, on his 40th year as head football coach at Grambling, and on his 300th football victory.

A man of uncompromising warmth and sincerity, Coach Robinson is an institution unto himself. Having put Grambling on the map, not only as a fine athletic center, but as a great academic institution as well, Coach Robinson has continued to write a commendable legend. For 40 seasons of work, Coach Robinson has amassed a won-loss record of 300–98–13, second only to Alabama's "Bear" Bryant.

A well-versed man, Robinson's versatility has made him a national figure. A profound speaker, businessman, administrator and civic leader, Coach Robinson's off-season speaking engagements keep him on the road. This demanding schedule has not, however, hindered his ability to keep the Grambling winning tradition intact. Grambling State, under the helm of Coach Robinson, has sent more than 170 of its players into the ranks of professional football. Many of the top names that dominate pro football today, in fact, had their start at Grambling.

More importantly, though, Coach Robinson instills in his players a deep appreciation for the game of life that must be played and earned. Many of his players look to him for leadership off the gridiron as well as on, and view him as a second father.

Married for 40 years to the former Doris Mott of Baton Rouge, Robinson has two children—Lillian Rose Wattais and Eddie Robinson, Jr.

Eddie Robinson is one of America's true folk heroes. He embodies the spirit and spine that have become the hallmark of the American dream.

Coach Robinson, we in the House of Representatives salute you on your contributions to youth, your university, your community, our history, and our country.●

OKLAHOMA LABOR RECOGNIZES OUTSTANDING PERSON

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. SYNAR. Mr. Speaker, several weeks ago, my colleague (JIM JONES of Tulsa) and I had the opportunity to join workingmen and workingwomen of northeastern Oklahoma for a special dinner.

We were moved by a presentation that these Oklahomans gave, and we want to share it with the House of Representatives.

Rather than trying to restate the remarks of labor leader Mike Nobles, who made the presentation, I would like to simply repeat them in full. Unfortunately, it is impossible to recapture the emotion of that evening; but I am hopeful these remarks will remind us that the American spirit remains strong.

REMARKS OF CHARLES M. NOBLES, PRESIDENT, UNITED FOOD & COMMERCIAL WORKERS LOCAL 76

SPECIAL GUEST PRESENTATION

Ladies and Gentlemen, you may have noticed on the Agenda that about this time we have listed a special guest presentation . . . and indeed we do!

Tonight our Local Union is going to present a small token of our appreciation to a man that has contributed so much to so many in our community and the chances are you have never heard his name . . . because that's his style. He gives and gives and is never in the limelight.

Tonight we are presenting the fourth such award in 19 years. It is presented from time to time to an individual who exhibits, through deeds and actions, the spirit of the labor movement; who is caring about others regardless of their economic status in life. Caring about people because it's right.

Tonight's recipient is such a person. His name is John Slack.

He is the kind of person that contributes generously to good causes because he "cares about working people."

He is the kind of person that helped build with his own money and hands a shelter from the winter winds and cold for striking workers in Tulsa.

He is the kind of person that contributes regularly to organizations such as Neighbor For Neighbor and Project-Get-Together.

He is the kind of person that has contributed time and again to numerous church social programs without regard for their denomination.

He is the kind of person that contributed $200.00 cash a year ago to Frosty Troy in order that an individual he had never met in Southern Oklahoma might have an artificial limb.

He is the kind of person I hope someday to be and am proud to say I know him. He is what makes this City and State and Nation the hope of mankind. He is why people sail in boats, fly in airplanes, and climb barbed wire fences to set foot on our shores. He has quietly and methodically brought hope and faith and joy and caring to literally hundreds of our fellow citizens.

I have had a good deal of difficulty finding the right words to describe this man. Perhaps the following statement will suffice:

"Youth is not a time of life, it is a state of mind, a product of the imagination, a vigor of the emotions, a predominance of courage over timidity, an appetite for adventure."

"Nobody grows old by living a number of years. People grow old when they desert their ideals. Years wrinkles the skin, but to give up enthusiasm wrinkles the soul."

"Worry, self-doubt, fear, and anxiety—these are the culprits that bow the head and break the spirit."

"Whether 16 or 70, there exists in the heart of every person who loves life the thrill of a new challenge, the insatiable appetite for what is coming next. You are as young as your faith and as old as your doubts."

"So long as your heart receives from your head messages that reflect beauty, courage, joy, and excitement, you are young. When your thinking becomes clouded with pessimism and prevents you from taking risks, then you are old—and may God have mercy on your soul."

Ladies and Gentlemen, our special award tonight goes to a man who has a predominance of courage, who receives messages that truly reflect beauty, courage, joy, enthusiasm, and a deep sense of caring. He has not deserted his ideals.

Please join me in honoring John Slack for his never ending devotion to the less fortunate of our community.

(Present plaque.)

The inscription on the plaque read:

"Presented to John Slack in appreciation and recognition of his support and assistance to the working men and women in Oklahoma. His selfless and uncompromising efforts on behalf of the people most epitomizes the spirit and purpose of the American Labor Movement."—UFCW Union Local 76, Tulsa, Oklahoma, August 31, 1982.●

TRIBUTE TO L. H. FOUNTAIN

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. HEFNER. Mr. Speaker, I want to express my sincere congratulations to my friend and colleague, the Honorable L. H. FOUNTAIN, on the occasion of his approaching retirement from the House of Representatives. He has had a long and distinguished career, which is a tribute to North Carolina's Second Congressional District.

L. H. has rendered tireless and loyal service not only to the citizens of the Second District, but also the Americans everywhere who have benefited from his work in his 30 years as a Member of Congress. His generous contributions of time and energy over the years have helped our country maintain its position of preeminence throughout the world.

I commend and congratulate L. H. for his service to his country and wish him a long and happy retirement.●

LEONARD MATSUYAMA

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. COELHO. Mr. Speaker, in the San Joaquin Valley there exists an active, viable, network of family farming operations. Steeped in tradition, hard work, and long hours, they are the backbone of the San Joaquin Valley agriculture industry—an industry composed of over 200 crops today.

Keeping the tradition, which has been fundamental in the growth of the San Joaquin Valley agriculture industry, is not always a matter of choice, but rather one of responsibility, as was the case for Leonard Matsuyama.

Agriculture was not Leonard's chosen field. However, the death of his father left Leonard to shoulder the responsibility of harvesting his family's red onion crop—that was 10 years ago, when Leonard was 21 and a novice at harvesting.

With 10 years of experience under his belt, Leonard has met with market and environmental plights as well as the growth and prosperity which reward the persistence of the family farmer.

It is my pleasure to submit the following article as a tribute to the maintenance of a family tradition in the face of economic hardship.

The article referred to follows:

RED ONIONS: SWEET SAVOR TO FARM COUPLE

(By Ron Goble)

Leonard Matsuyama was thrust into the farming business at an early age. Agriculture was not his chosen field. In fact, he had studied to be an electrician, a trade he never had an opportunity to pursue.

His farming career began about 10 years ago—when he was barely 21. He had to take over his family's vegetable growing operation when his father was killed in a tractor accident on the family farm just west of Fresno.

"My father left a crop of red onions to be harvested. And that's where my farming career all started," he said.

So young Matsuyama shouldered the harvest responsibility and he has never looked back.

Today, Matsuyama and his wife of one year, Olivia, just completed another red onion harvest. Picking and packing usually lasts only two or three weeks.

The onion crop in Fresno County is no agribusiness giant when compared to major San Joaquin Valley crops; last year's plantings reached a total of only 1,400 acres. The overall fresh market value was estimated at $4.6 million.

This year's onion prices started out good—early in the season, but since then the price per carton to the grower has tumbled close to the profit line. Matsuyama said he must get $4 per carton to break even.

Jimmie Hirasuna, sales and field supervisor for Pam Pak Distributors Inc., where Matsuyama sends his onions for packing and shipping, said a couple growers with the first red onions of the season were getting $15 per carton. That price didn't last too long. Soon prices moved down to about $8 after a week and then fell dramatically from that mark.

"The jumbos are selling at $4 or $5 a carton right now and we're holding back in hope that the market will pick up some," Hirasuna said. "There are too many acres planted and too many packers (about 25) handling red onions."

But regardless of the market situation, Matsuyama is content.

"Farming has been good to me—for the most part," he confided. "Now Olivia is part of it."

The reserved but articulate Matsuyama explained that he was teaching his wife the ropes of the farming business. She is learning how to drive trucks, spread boxes through the field for the workers and do some of the payroll, complete with social security and state disability deductions.

"She wants to be involved in what I'm doing," he said. "So she is learning the business from the bottom up."

While Matsuyama talked, the petite Olivia was busy securing the truckload of eight pallets of market-ready onions. She hitched one end of the rope to the cleat on the truck bed and then heaved the remainder of the nylon line to the other side. There she applied a trucker's hitch and threw all of her weight on the rope to cinch down the load.

"All this work began back in November," Matsuyama explained, gesturing toward the pickers and packers. November is when he lifted the three-month-old transplants from the nursery rows and sank those rootings into the rich west side soil near the corner of Valentine and Jensen Avenues.

After the plants were in the ground, Matsuyama began the tasks of irrigating, spraying and other chores needed in tending his crop.

"We have to use pre-plant fumigants to guard against onion maggots," he declared. "And we spray four or five times during the season to keep the mildew down. On bad years it really drives your costs out of sight."

Every four years an onion grower usually has to move to a new field because of a disease called "pink root" which can almost kill the plant and keep the onion bulb from sizing properly.

Growers are paid according to the size of the onion they produce. Matsuyama said about 75 percent of his crop will be jumbo size and the remainder mediums. At one time during the season the jumbo cartons of onions were bringing him about $8 each and the medium about $6 per carton. Prices are much lower now.

To harvest, growers use a blade which they pull through the soil behind the tractor to uproot and loosen the onions. Then farm workers pull the onions up by hand, shake the soil from the roots, cut off the tops and put them in large gunnysacks.

Each sack, says Matsuyama, holds two five-gallon bucketfuls of onions. At this point the sacked onions are stacked in piles around the field, ready for hand grading—another process done by crews in the field.

Workers empty the sacks onto the grading table and sort through the onions to select those that should go into the cardboard "jumbo" or "medium" cartons or into the cull sacks. For all practical purposes, these are the only sizes considered; at least these are the only ones that reach market as fresh stock.

The cartons weigh about 42 pounds and Matsuyama said he needs at least $4 per carton in order to pay expenses. The sacked culls are left standing in the field to be sold when possible to individuals who drive by looking for a bargain. One passerby bought six sacks of culls from Olivia for $2.50 each.

"Don't tell Leonard," she said with a grin as she tucked the extra cash in the hip pocket of her blue jeans. "That's my spending money," she joked, knowing that Leonard was watching from the nearby truck.

"Olivia learns fast," observed Leonard. "She has been around farming all her life and enjoys being out in the field. She also communicates well with the farm workers and is a big help in getting the crews going in the morning."

And when Matsuyama says morning, he means just that. They begin their day at 5 a.m. with a big breakfast prepared by Olivia. Then it's off to the field together for a full day's work. They often work until after dark.

Hard work is nothing new to Olivia, who travelled extensively in the United States as a youngster with her family to work in various crops. She is the twelfth child of 16.

"Farm labor is all my family ever knew," she said. "I was born in Saginaw, Michigan,

where my father and mother were working at the time. Many of my brothers and sisters were born in other states or in Mexico."

She enjoys being active. When she is not working on the ranch or taking care of household chores, Olivia lifts weights and works at body building.

"About two years ago I started working out at a Fresno gym and was involved in body building competition on four occasions. I finished fourth in the Miss Central State competition," she said proudly. "But I like being a farmer's wife.

"Every day when people share and care for each other, things grow," she said, pausing to think for a moment. "That's how it is for Leonard and me."●

TRIBUTE TO L. H. FOUNTAIN

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. PANETTA. Mr. Speaker, I am pleased to be able to join my colleagues in paying tribute to L. H. FOUNTAIN, who will be leaving the House at the end of this year.

As a Member of this body for 30 years, L. H. FOUNTAIN has had an enormous opportunity to make a substantial contribution to the legislative output of the Congress, and he has done just that. As a longtime active member of the Government Operations and Foreign Affairs Committees, he has been one of the most respected and effective workers in this body.

Mr. Speaker, we all will miss L. H. FOUNTAIN, and we wish him the best of luck in the future.●

EVENTS IN THE MIDDLE EAST IN PERSPECTIVE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. DANNEMEYER. Mr. Speaker, all of us are aware that events are unfolding in the Middle East, and particularly in Lebanon, at a dizzying pace. So much has taken place in such a short period of time. Attention is presently riveted on the tragic events in West Beirut with the massacre of hundreds, if not thousands, of civilians. It is important, under the circumstances, to step back and place the activities in the Middle East in some perspective.

At the outset we must remember that Israel originally invaded Lebanon for the purpose of rooting out Palestinian terrorists in southern Lebanon. Working from encampments in Lebanon along the Israeli border, these terrorists had been systematically shelling Israeli villages. Israel had both the military means and the political will-power to act against the source of the terrorism.

Israel ought to be credited with recognizing from whence the terror was coming and with taking the appropriate steps to physically remove it from a position where the PLO could continue to threaten citizens of Israel.

We have been dealing, once again, where symptoms of problems and their root causes have been confused. All of the actors on the Middle East stage have been reacting to the underlying cause, which is the Palestinian refugee problem. The lack of a solution to this problem has spawned the PLO and given it political life. It has resulted in the Israeli reaction on a wide range of matters, including settlements policy and the initial decision to invade Lebanon. Even the massacre itself, as sad and as terrible an event as it is, can be traced to the underlying refugee problem. When the PLO was forced out of Jordan, they took up positions in Lebanon. As the new president of Lebanon, Amin Gemayel, pointed out on national television just last Sunday, his fellow citizens took up arms in the form of militias in response to the armed presence of foreign troops, including those of Syria and the PLO. We cannot condone the massacre in West Beirut in any way, shape, or form. We can, however, understand its root causes by trying to put a moratorium on emotional statements long enough to take the long view of history and events.

We can contrast the action of Israel to that of the United States and the West in general. Israel has demonstrated the "civil courage" of which Alexander Solzhenitsyn spoke in his famous commencement address to the graduates of the Harvard class of 1978. The opening words of his address were as follows:

A loss of courage may be the most striking feature which an outside observer notices in the West in our days. The western world has lost its civil courage, both as a whole and separately, in each country, each government, each political party and of course in the United Nations. Such a decline in courage is particularly noticeable among the ruling groups and the intellectual elite, causing an impression of loss of courage by the entire society.

Solzhenitsyn went on to discuss the American experience in Vietnam and the role of the news media in shaping public opinion on the conflict in that country. His words are worth repeating here today:

However, the most cruel mistake occurred with the failure to understand the Vietnam War. Some people sincerely wanted all wars to stop just as soon as possible; others believed that there should be room for national, or communist, self-determination in Vietnam, or in Cambodia, as we see today with particular clarity.

The American intelligentsia lost its nerve, and as a consequence thereof danger has come much closer to the United States. But there is no awareness of this.

And yet—no weapons, no matter how powerful, can help the West until it overcomes its loss of willpower. In a state of psychological weakness, weapons become a burden for the capitulating side. To defend oneself, one must also be ready to die; there is little such readiness in a society raised in the cult of material well-being.

Hastiness and superficiality are the psychic disease of the 20th century and more than anywhere else this disease is reflected in the press. In-depth analysis of a problem is anathema to the press. It stops at sensational formulas.

Unfortunately, hastiness and superficiality with the use of sensational formulas characterize much of the media coverage of ongoing events in the Middle East. Columnist R. Emmett Tyrrell, Jr. addressed himself to this issue in the August 30, 1982, editions of the Washington Post. I am including the text of his commentary at the end of my remarks. They are appropriately printed under the heading, "How Cameras Lied for the PLO."

The history of the Israeli-Palestinian conflict suggests that, having assisted in the creation of an independent Israel which has become a bastion of democracy in the Middle East, it is unrealistic to believe our involvement could have been easily avoided or soon will be unnecessary. The conflict runs deep, the passions it generates run high, and the range of mutually acceptable solutions are limited.

As noted earlier, our attention should be focused on the real cause of the problems today, which lies with the Palestinian refugee dilemma and not with the symptoms embodied in the tragedies of the current conflict. Israel should not be blamed for taking action to protect its citizens. All of us in the world community share the responsibility of coming to grips with the Palestinian problem. The President recently put forward a public proposal that includes a change in the borders of the West Bank to permit a Palestinian entity in association with Jordan. The details of the President's proposal are left to future negotiations. What is important is that the proposal is on the table as a potential solution to the underlying cause of the Middle East conflict. The President's bold initiative merits our serious consideration in the days ahead.

The article referred to follows:

[From the Washington Post, Aug. 30, 1982]

HOW CAMERAS LIED FOR THE PLO

(R. Emmett Tyrrell, Jr.)

In "Journey to Nowhere," Shiva Naipaul's perceptive chronicle of the Rev. Jim Jones' hecatomb in Guyana, Naipaul views the ruin of Guyana's radical regime: its rusting facade of progress, the rude posturing of its leaders, "the broken grammar, the fractured, nebulous prose" of its revolutionary tracts; and he laments over "what seems to hint at a kind of universal mental retardation." Eureka! Here is the precise term by which to explain the PLO's ebullient retreat from West Beirut last week.

Dr. Arafat and his grisly gang had just suffered a bloody and unforeseen defeat of such dimensions that many experts on the Middle East are now whispering that the PLO is washed up as a political force. Certainly as a conventional military force the PLO is defunct.

Yet while departing they hold raucous celebrations. For hours they fire machine guns and even rocket-propelled grenades into the air. Such is their elation that their comrades are again dying, not from Phalangist bullets or from Israeli artillery, but from the reckless small-arms fire of other devil-may-care PLO revelers. How else can we explain such idiocy than by laying it to a sort of mental retardation?

Not that it has not been induced by outside stimulants. Last week London's Sunday Telegraph reported that "Young Palestinians marched alongside the lorries carrying banners, and the flag of Palestine. Portraits of Yasser Arafat were held aloft for every camera." Camera? Yes, camera. What do you suppose the evacuation from Beirut would be like were there no cameras? If there were only a contingent of foreign correspondents covering the withdrawal, would there be such jollification and all those victory signs flashing from a defeated army? Without the cameras, the PLO revelers would be vastly more subdued—and then they would be gone.

Malcolm Muggeridge has written insightfully of the camera as a great falsifier of reality. Here we see boisterous proof of Muggeridge's allegation.

The cameras are not recording reality. they are recording pretense and gesture. The reality is defeat. It is also brutality and treachery. The PLO shielded itself behind civilians. It held an entire city hostage. Earlier it destroyed the delicate balance in Lebanon, throwing the entire country into civil war. By its ambushes and other acts of terror it made an invasion by Israel inevitable.

Moreover it has suffered a grievious political defeat. Contrary to PLO hopes, its withdrawal will not lead to its participation in future negotiations. The United States will not recognize the PLO or have direct contact with it. The PLO is not even being allowed to maintain a political and information office in Beirut. Nonetheless the cameras record smiling PLO members whooping it up over their illusory "victory." In so doing the cameras present a falsehood.

What the cameras record depends on what those behind the cameras want us to see, and apparently our media want us to see the PLO's false pretensions. In presenting this sham, Western media have become a tool of PLO propaganda. Resisting PLO manipulation, the cameras could show the sign of defeat; Israeli gunners overlooking Beirut's evacuation, Phalangists where the PLO was once sovereign. By focusing on the strutting PLO, Western media contribute to the madness and give hope to what should be a spent political force.

If the PLO is to remain a political force, it must mask the extent of a setback. So it makes its demented claim of victory, and our cameras are there assisting in the great work. Who can say for a certitude that members of the American media do this out of stupidity or out of sympathy for Dr. Arafat's killers? My guess is that they do it from a mixture of motives. Yet to sympathize with the PLO is itself a kind of madness or perhaps a kind of evil.

These are not nice revolutionaries, nor are they very civilized. Last week. The Washington Post reported that in the first five days of evacuation more than 100 PLO members had been killed or wounded by these joyous celebrations. In any other age this violent little band would now be dispersed, never to be heard from again. Thanks to the nature of modern communications and to the sympathies of those in charge we may not yet be at this happy pass. A world swarmed over by camera crews and talking heads at least partially explains the "universal mental retardation" Naipaul writes of.●

THE 25TH ANNIVERSARY OF THE LEHIGH VALLEY CHAPTER OF THE AIIE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. RITTER. Mr. Speaker, this year marks the 25th anniversary of the Lehigh Valley Chapter of the American Institute of Industrial Engineers. The AIIE is vitally concerned with the productivity of our Nation's industrial and other endeavors. The Lehigh Valley Chapter of the AIIE represents a showcase example to the Nation as to how many organizations which have traditionally shared in the large Federal pie of funds can operate more efficiently and more effectively under the New Federalism. I offer the following observations for my colleagues' consideration.

The American Institute of Industrial Engineers was founded in 1948 at the Ohio State University. It is the only professional society in the United States which represents industrial engineers. The AIIE currently has over 40,000 members in chapters as far spread as Mexico, Canada, Hong Kong, Saudi Arabia, Argentina, and Singapore.

The Lehigh Valley chapter in Pennsylvania was chartered in 1957 at Lehigh University. This year, 1982, marks its 25th anniversary. There are presently over 220 members in the Lehigh Valley Chapter of the AIIE, representing most major industries in the Lehigh Valley and in Warren County, N.J.

The AIIE is vitally concerned with the productivity of American industry. They have been for years. That is their most important product. The word "productivity" is used often without much consideration of its real meaning. Absent an effort to increase public awareness, the American public could dismiss the concept of productivity as a fad. The AIIE is trying to provide a portion of the needed public education.

In my congressional district, the Lehigh Valley chapter has met with many civic and community groups, and chapter efforts have caused the mayors of major cities in the Lehigh Valley to issue proclamations declaring the first full week in October as "Productivity Improvement Week." A similar resolution is before the House of Representatives, House Joint Resolution 565, of which I am a cosponsor. I urge my colleagues in the House to join me in cosponsoring this resolution which includes as its goals, heightened public awareness regarding the importance of true industrial productivity.

Members of the Lehigh Valley Chapter of the AIIE have also been active in the public distribution of literature and information regarding productivity improvement, have worked with the Lehigh Valley Lighthouse Industries for the Blind, served on the Industrial Engineering Advisory Committee for Northampton County Area Community College, sponsored Engineers Week and Productivity Week activities, worked with the Council of Alcohol and Drug Abuse and with the Girls Club of Bethlehem, and initiated a new community affairs program to extend the professional talents of chapter members on a volunteer basis in assisting tax-free service organizations and local government bodies in conducting productivity improvement studies and projects.

Such activities by our Nation's professionals will be required to increase the productivity of our charitable and civic organizations which have come to rely directly or indirectly on Federal support. With this support shifting somewhat back to State and local levels, increasing the productivity of such organizations must become one of our first priorities. The activities of the Lehigh Valley chapter can serve as an example to the Congress and to the whole country.

In summary, I want to congratulate the Lehigh Valley Chapter of the American Institute of Industrial Engineers on its 25th anniversary and commend its efforts to enhance public understanding of real productivity in this era of shrinking resources for government. I also urge my colleagues in the House to join me in cosponsoring House Joint Resolution 565 which proclaims the week of October 3 through October 9, 1982, as "National Productivity Improvement Week."●

NEW EMPHASIS ON SOIL PRODUCTIVITY AND CONSERVATION

HON. COOPER EVANS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. EVANS of Iowa. Mr. Speaker, I am introducing today two bills which would enhance the Nation's soil conservation efforts. In times of low farm prices, such as the present, the ability of our farmers to apply needed conservation practices is severely limited. In the face of recent indications that the

damage to our land due to soil erosion and other forms of soil degradation is greater than we had thought, I believe it is essential that we take further action that will permit all members of our society to share with the farmer the soil stewardship responsibilities of this generation. It is not fair for farmers to bear the cost of the public benefit attained through soil conservation.

In Iowa, our more fragile cropland is currently eroding at annual rates of more than 20 tons per acre. That is at least four times the tolerable rate and will result in loss of an inch of good topsoil every 8 years. Such severe erosion is not limited to Iowa, as many other parts of the Nation have excessive losses in productivity of cropland due to soil erosion.

For nearly 50 years, the Soil Conservation Service has done an outstanding job in assisting farmers to develop conservation plans that outline sets of practices which prevent long-term loss of soil productivity. Yet, only about 30 percent of our farmland is now being farmed according to such plans. The reason is not that our farmers want to destroy our land. But many farmers are in such a financial squeeze that they feel compelled to maximize production and, as businessmen, profit. Current inducements are clearly not sufficient for many farmers to apply needed practices. Also some Federal agricultural policies encourage the cultivation of fragile lands and should be revised.

The first bill I am introducing would provide income tax incentives for soil conservation farming that I believe will prove to be sufficient motivation for an extensive new wave of conservation management of our farms. The second bill contributes to this end by requiring a conservation plan as a condition of eligibility for obtaining loans through the Federal land banks or the Farmers Home Administration for purchases of farmland. It is not our intent to place roadblocks in the path of our farmers, but to assure consistency in Federal policies that will help farmers and all of our society to achieve soil conservation objectives. We cannot wait until our soil productivity is lost before instituting practices to meet these objectives. Please join me in the timely shift of our priorities needed to assure that future generations will have the benefit of productive soils, as we have had.●

THE RECIPROCAL INVESTMENT TREATY BETWEEN UNITED STATES AND EGYPT

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. BROOMFIELD. Mr. Speaker, today the United States and Egypt signed a bilateral investment treaty. This is a historic and unique effort between our two Governments. It is the first treaty of its kind to be completed which provides comprehensive, fair, and equitable treatment for American investors overseas and for foreign investors here in the United States.

During the past few years, our two nations have worked closely in mutually fostering international peace both within and beyond our respective regions. The peace effort, and spirit of cooperation begun at Camp David are being continued by this agreement.

As we all know, economic expansion and development are basic elements in the process of strengthening the bonds of international peace and friendship in the atmosphere of stability and security. This positive atmosphere will foster bilateral trade and investment and will contribute to the long-term benefits and welfare of all the peoples in the involved nations.

As the first in a series of bilateral investment treaties with other nations around the world, this new and creative initiative on the part of the administration provides a comprehensive legal framework to protect private American investors involved in overseas projects and business ventures. Foreign investors are encouraged to invest in the United States and are given the same protection for their investments here in the States.

One of the most important aspects of this treaty is that the involved nations protect foreign investors using the same laws, and procedures which they apply in protecting their own nationals. In addition, there is a free and unhindered flow and transfer of investment capital, profits, and funds between the involved nations.

Another important facet of the treaty is that clear and carefully defined rules governing expropriation of property and investments are set forth and the procedures for fair compensation are defined. To settle serious disputes, international arbitration can be used between the involved governments, or between private investors and the host government.

In essence, treaties of this type encourage investment overseas by private investors in a secure and protected environment. By creating a more attractive investment climate for the private sector, it is hoped that foreign investments will flourish here in the United States and that American investors will become more involved overseas.

I believe that one of the fundamental strengths of this great country is the American businessman; I salute this effort to bring the American private sector more directly into the overseas investment effort.●

REPEAL THE SANCTIONS

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. O'BRIEN. Mr. Speaker, I strongly support the repeal of the trade sanctions against Russia. In my district we have an unemployment rate of up to 25 percent in some areas, and this is partly due to the cancellation of the Caterpillar Co.'s contract with Russia. Caterpillar is reporting its first deficit since 1932, partly because of the trade sanctions.

We are not hurting anyone except Americans and the only jobs being lost are American jobs. Repeal the sanctions. They were a mistake, and they are not working.●

REAGAN "SHAKING HIS FIST" AT THE STATE OF ISRAEL

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. PEYSER. Mr. Speaker, I had the opportunity recently to comment on President Reagan's Mideast peace proposal on the editorial page of the Rockland County, N.Y., Sunday Journal-News. I would like to share this article with my colleagues, Mr. Speaker, and ask that it be included in the CONGRESSIONAL RECORD.

REAGAN "SHAKING HIS FIST" AT THE STATE OF ISRAEL

(By Peter A. Peyser)

A lasting solution to the Palestinian problem has eluded diplomacy for over thirty years. Yet, I still believe that we have an obligation to the people of the Middle East, as well as to ourselves, to continue to seek a workable and enduring settlement of this difficult issue. It is clear that no peace in the region will be secure without such an effort.

That is why I find it so unpleasant to criticize President Reagan's recent Mideast proposal, for I believe it to be an honest attempt to resolve the Palestinian problem and bring lasting peace to the region. However, while I cannot quarrel with Mr. Reagan's intent, I must take issue with the specifics of his plan.

The starting point of his argument is that Israel is our most important and trusted ally in the Middle East. From the perspective of our own national interests in the region, Israel's friendship and loyalty are of paramount importance. Moreover, as a lively and flourishing democracy with close historic and cultural ties to our own people, we have an obligation to Israel's survival which runs far deeper than national interest.

Given this unalterable commitment to the people and the State of Israel, we cannot seek peace in the Mideast by sacrificing Israeli security requirements. Yet, this is precisely what the Reagan proposal suggests.

Palestinian federation with Jordan, even if the West Bank and Gaza are declared

"permanently demilitarized," poses a direct and dangerous threat to Israeli survival. In the first place, demilitarization has proved over the years to be a weak guarantor of security interests. Over time, such arrangements inevitably deteriorate, as the assertions of sovereign rights over territory overshadow the legal constraints imposed by treaty obligations. In light of this historical pattern, Israel will eventually find itself in a position similar to that existing prior to 1967, when Israelis lived within range of an Arab thrust across Israel's narrow territory. The return to such a strategically unsound position is intolerable and must be prevented.

I am also curious why the president believes that Palestinian autonomy in association with Jordan will prove so terribly beneficial to peace in the region. Just over ten years ago, the PLO and the Kingdom of Jordan were engaged in fierce combat which very nearly caused a general Mideast war. The consequence of that struggle was the expulsion of the PLO into Lebanon, and we are all painfully aware of what that has meant to regional peace and stability.

The president has said that his commitment to Israel's security is "iron clad." If this commitment is to have any substance, I believe it is incumbent upon us to work together as friends and partners with Israel to arrive at a mutually agreeable solution to Israeli security problems. However, the president has instead worked closely with Arab states in formulating his plan and has largely ignored the legitimate concerns which exist within the Israeli government.

As a consequence we find ourselves allied with Arab states in publicly exerting pressure on Israel for territorial concessions. I do not understand why the president is turning the other cheek to the Arabs while at the same time he shakes his fist at Israel. This is not the way to treat a trusted and loyal ally.

This approach is all the more disturbing when one observes that the Arab leader most closely associated with the President's plan, King Hussein of Jordan, has stated publicly that the Camp David process, which President Reagan has acknowledged is the sole framework for U.S. policy in the Mideast, is "totally unacceptable." Based on the present alignment, reason would suggest that instead of applying pressure on Israel to be forthcoming with territorial concessions, the United States should be applying pressure on Jordan to accept the Camp David accords. Unfortunately, the president has chosen the opposite course.

Furthermore, the timing of the announcement of the president's plan has served to give new life to PLO leader Yasser Arafat. For years the PLO and Arafat cast a shadow of terror over all moderate Palestinian spokesmen. Now those moderates have once again been preempted with Arafat thrust back onto center stage, even as his terrorist organization lies in ruins.

I believe that the Israelis are serious about resolving the Palestinian question in a responsible manner and I believe that they should be allowed to prove it through negotiations based on the Camp David agreements. The president's proposal, however, weakens Camp David; first by bringing in other parties which have explicitly rejected the Camp David accords, and second by preordaining the conclusion of the negotiations on the Palestinian course. This not only jeopardizes Israel's security, but it also jeopardizes the chances for a durable peace in the Mideast.

I am sorry to note that the administration's policy toward Israel is not the only misguided element of U.S. foreign policy. Unfortunately, the case of the Mideast is reflective of a broader problem.

The Reagan Administration has made no effort to resolve the problems and injustices of Northern Ireland. The administration's Central American policy is helping to accelerate the spiral of violence rather than promoting stability. As our policy toward El Salvador has demonstrated, the administration has abandoned any serious pursuit of a human rights policy. Furthermore, the administration has succeeded in creating a vast rift between ourselves and our NATO allies by imposing pointless sanctions on many of our friends in Europe for their participation in the Soviet gas pipeline project.

The time has come to restore consistency and rationality to American foreign policy.●

THE HONORABLE L. H. FOUNTAIN

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. RAHALL. Mr. Speaker, I am happy to join with my colleague from the State of North Carolina, Mr. BROYHILL, in this tribute to the dean of the Tarheel State's Congressional delegation, L. H. FOUNTAIN.

Congressman FOUNTAIN and I have a little bit of background in common, for while I was born and raised in West Virginia, I graduated from Duke University in Durham, N.C. While at Duke, I was very active in the Young Democrats of North Carolina, and I was always pleased to know that Congressman FOUNTAIN's political career began with his involvement in the same organization. Not at the same time as myself however. But, he was one of those fine people who laid the groundwork for those who followed.

L. H. FOUNTAIN is a most distinguished man, and one who leaves the Congress of the United States with the utmost respect of his colleagues. His life has been one of accomplishment and strong dedication to his Nation.

His service during World War II led him to the rank of major. He was elected to the North Carolina State Senate in 1947, and then to this body in 1952. In 1967, he served as a U.S. delegate to the 22d session of the United Nations.

L. H. FOUNTAIN has fashioned legislation on the Government Operations Committee, and on the Committee on Foreign Affairs. His experience and advice has been invaluable to this House during the 30 years of his service, and he will certainly be missed by those of us who value his judgment and respect his values.●

WILL MEXICO REMAIN SOCIALIST?

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. McDONALD. Mr. Speaker, ever since coming to the Congress, I have been noting the drift to the left of Mexico and the possible bad consequences for the United States. Mexican foreign policy has been slanted to the left for some time and, seemingly, successive Mexican Governments have taken delight in supporting Castro. However, due to the illusion of oil-produced prosperity, little attention has been paid to the state of Mexico's economy until now. Now Mexico has moved further towards socialism with the nationalization of her banks, but still wants capitalist money to bail her out. Daniel James, a veteran correspondent, who spent more than 20 years in Mexico recently described Mexico's sad situation in an article that appeared in Human Events of October 2, 1982. I commend its contents to those who would like a realistic appraisal of the situation south of the border.

The article follows:

WILL MEXICO REMAIN SOCIALIST?

(By Daniel James)

When he nationalized the banks on September 1, Mexican President Jose Lopez Portillo virtually completed the process of socializing the Mexican economy that has been going on steadily for more than four decades. Does that mean the end of private enterprise in Mexico? "It's not quite that bad yet," a knowledgeable Mexican informant told me, "but it is going very strongly in that direction."

The principal organizations of the private sector of Monterrey, the bastion of Mexican capitalism, have issued a statement expressing its view as follows:

"The announced measure tries to socialize the country by a stroke of the pen in order eventually to communize it against the people's will."

These harsh facts must be faced, sooner or later, by the Reagan Administration, whose policymakers insist upon viewing the Mexican crisis as a "financial" crisis when it is really much deeper. That, however, has not yet been conveyed to Washington by its embassy in Mexico, which even a State Department source characterizes as "confused." But the "confusion" will have to be dispelled quickly if the President is going to talk turkey to Mexico's President-elect Miguel de la Madrid Hurtado, whom he is expected to meet soon, and help him surmount problems that are likely to become even more exacerbated in the intervening period. De la Madrid takes office on December 1.

There is little that is confusing about the basic facts in the Mexican crisis.

The first fact is that the bank nationalization is not the precipitous reaction to the financial crisis that it appears to be. It was, of course, designed in combination with stringent exchange controls, to stem the unend-

ing flight of capital out of the country (though it is unlikely to do that). But fundamentally it was, as a keen Mexican observer points out, a "political act," and the linchpin of a program to move Mexico well to the left.

The September 1 move is part of a "nationalist development plan," as it is euphemistically termed, which was spelled out in a seminal book awkwardly entitled, *Mexico, la Disputa de la Nacion*, published in 1980 by two radical authors.

One is Carlos Tello, who was made head of the Banco de Mexico, the central bank, when his predecessor resigned in protest over the nationalization; he is thus the technician in charge of the socialization process. The other is Rolando Cordera, a University of Mexico economics professor who is the coordinator of the new United Socialist party faction—the USP was created out of the Mexican Communist party and three other Communist groups—in the Chamber of Deputies.

The Tello-Cordera book advocates frankly and strongly the socialization of the economy and the creation, in support of it, of a political coalition of workers, peasants and the middle class (Mexico's equivalent of our lower-middle-class) with army backing. "This kind of leaves everybody else out," as a Mexican financier put it drily. The coalition would be, in other words, a Mexican version of the old Marxist "democratic dictatorship of the proletariat and peasantry," the machinery for which is already in place since Mexico has long been a one-party state under the ruling Institutional Revolutionary party—the PRI, in its Spanish initials.

On the practical political level, the motivating force behind the "decisive" turn to socialism, as a Mexican observer considers the nationalization, is a powerful leftist bloc inside and outside the PRI under the de facto leadership of radical former President Luis Echeverria, who gave Lopez Portillo his job and has been a close adviser since he left office six years ago.

Echeverria's 1970-76 presidential term was marked by a permanent confrontation with the Mexican private sector and the United States, whom he frequently vilified—even in an address before the U.S. Congress—as an oppressive "imperialist" power. Echeverria, aspiring to become the champion of the Third World, lobbied toward that end for the post of U.N. Secretary General before leaving the Presidency; he finally settled for running his own "Third World Institute" in Mexico City, which has become in effect the headquarters of the Mexican left.

The second basic fact that should dispel any "confusion" in Administration minds is that the nationalization not only brings under state control a total of 59 private banking institutions but also an estimated 100 large and 3,000 small private companies in which the banks had equity. Those companies are estimated to constitute 35 percent of Mexican private business.

Included among the companies taken over, in effect, by the Mexican government, are several important ones in which Americans have a strong (usually 49 percent) minority interest such as John Deere, Pennwalt and Kimberly-Clark. Although "Mexicanized" under the foreign investment law, they retain close ties with their former parent companies stateside. Thus U.S. private industry is directly affected by the bank nationalization.

Since the Mexican government already controlled approximately two-thirds of the economy, through a persistent process of acquisition of private companies that began with the expropriation of the oil industry in 1938, the September 1 nationalization encompasses 35 percent of only the remaining one-third in private hands. In short, the private sector now consists of perhaps one-quarter or less—only 15-20 percent, estimates Emilio Goigochea Luna, president of the Confederation of Mexican Chambers of Commerce—of the economy.

"The statization of the banks and the attacks on the bankers, characterizing them as traitors," continues the Confederation head, "is an attack upon private initiative and free enterprise, and is thus an audacious step toward the socialization of the Mexican economy."

Through 900 "decentralized" companies and agencies, the Mexican state had already owned or controlled by basic industry: oil, steel, electric energy, telecommunications, commercial aviation and commercial fishing. It has also owned the country's biggest hotel chain, major tourist resorts, and most shipping and mining. It had previously taken over, also, several private banks nearing bankruptcy and had organized state banks and financial institutions handling agricultural credit, housing and the like.

In addition, the state's share of investment in the national economy had been growing progressively greater by the year in proportion to its acquisitions of equity in private concerns, while that of the private sector had correspondingly declined, the ratio now being around 2 to 1. Such public investment extended state influence over an increasing percentage of private business, without directly controlling it, through government contracts (as in the construction industry, for example) and loans and credits.

As a result, even before September 1, no private firm in Mexico, national or foreign, could do business without the state's approval—which was obtained, often as not, through graft and bribery of government officials from the highest on down.

Corruption is, in fact, so massive in Mexico that it is a basic cause of the flight of capital. Mexican government officials have been among the first to rush their ill-gotten funds, from bribes and "commissions," into banks or investments abroad.

Of the estimated $14 billion Mexicans have deposited in foreign (mostly U.S.) financial institutions, and the additional $30 billion they have invested in foreign (again, mostly U.S.) real estate, a large proportion was probably accounted for by bureaucrats. Indeed, most of Mexico's biggest capitalists are former high government officials who enriched themselves while in office.

Lopez Portillo himself is said to own considerable private holdings, abroad as well as at home, and Mexican sources predict he will leave office a "billionaire." Much the same applies to many members of his family, his regime having set an all-time record for nepotism. Yet Lopez Portillo ferociously denounced private businessmen, on September 1, as the ones chiefly responsible for the capital drain.

Will—can—the incoming president, Miguel de la Madrid Hurtado, halt or significantly modify the trend toward socialism in Mexico?

"He could modify the bank nationalization," one Mexican financier confided to me. "And he could look at exchange controls."

Also, the private sector is taking steps on its own to have the courts declare the nationalization unconstitutional through suits brought by Monterrey concerns which had controlled two banks, Banco Serfin and Banpais. Eventually, it would be up to the Mexican Supreme Court to make the final determination—which would be a key test if the companies press their suit forward, of the independence of the Mexican judiciary.

Private sector associations are planning to meet shortly to determine exactly how they can fight the government's bank nationalization and exchange-control measures.

But basically, according to that and other Mexican sources, it will be nearly impossible for de la Madrid to reverse the nationalization. For one thing, Lopez Portillo, who was thoroughly discredited for his mismanagement of the economy, regained some lost prestige with the bank nationalization and positioned himself as a latter-day Lazaro Cardenas. (As president, Cardenas nationalized the oil companies in 1938 and since then has been revered by the Mexican people as a symbol of nationalism.) For another, he does have behind him the powerful labor federations as well as the political left in general.

Some observers hope that, at least, de la Madrid will find some way of returning to private hands all or most of the companies that bank nationalization brought under state control. But that, though hypothetically possible, is rendered doubtful for the simple reason that the current lack of pesos and dollars, combined with the general chaos in finance and industry, makes it virtually impossible for businessmen to come up with the funds or credit to purchase those companies.

Nor does the state possess the funds to compensate the former private banks for having nationalized them and the companies in which they had equity. Besides, in an atmosphere dominiated by near-total lack of confidence in either the government or the economy, who would want to invest in enterprises that, once having been nationalized, could again be taken over the state at will?

Indeed, that is the long-term objective enunciated in the Tello-Cordera book which not only Lopez Portillo, but apparently the PRI as well, subscribes to. That leads, in turn, to speculation in Mexico as to the future of political pluralism. Will that go the way of the much-vaunted "mixed economy" which had hitherto been the pride of the PRI and a long succession of PRI presidents? What happens, meanwhile, to U.S. hopes for a continuation of that kind of economy so close to our own geographically and in other ways?

What happens to the $81 billion Mexico owes to U.S. and other foreign banks?

"Mexico has a very strong hand," one Mexican source believes, in dealing with the American and other foreign banks. The latter cannot afford to let Mexico go into default, with the risk that entails of losing all or most of the $81 billion. On the other hand, not only is Mexico unable to pay any appreciable amount of interest, not to speak of principle, on its indebtedness, but also may decide to refuse to go along with austerity terms usually imposed by the International Monetary Fund for borrowing an estimated $4.5 billion it needs immediately.

Carlos Tello, the new Banco de Mexico president and co-author of the "national development plan" to socialize Mexico, is adamantly opposed to IMF-imposed terms. That leaves the treasury secretary, Jesus Silva Herzog, who let it be known he favors such terms, out on a limb. The key question at the moment, then, is both political and fi-

nancial: Will there be continued disagreement between Mexico's two highest financial officials, Tello and Silva Herzog, resulting in policy paralysis until de la Madrid is inaugurated as president? Or will Silva Herzog resign in disgust and frustration, thus conceding victory to the anti-IMF forces? That would leave to de la Madrid the unpleasant, and politically risky, alternative of imposing austerity upon a people already suffering from a soaring inflation accompanying the country's financial collapse along with soaring unemployment.

"By the time he takes office," predicts one Mexican observer pessimistically, "the economy may be in a shambles."●

10TH ANNIVERSARY MANIFESTO BY TASK FORCE ON SOVIET JEWRY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. FRANK. Mr. Speaker, I would like to take this opportunity to insert into the RECORD a copy of the proclamation by the National Interreligious Task Force on Soviet Jewry which recently met in Washington on the occasion of their 10th anniversary. The interreligious task force represents the spirit of cooperation and mutual dedication among people of different faiths to the principle of religious freedom which deserves the recognition of all those who are concerned about human rights. The interreligious task force has dedicated tremendous energy to the cause of Soviet Jewry over the past 10 years with their persistent dedication to this issue. Although their goals remain difficult to achieve due to the refusal of the Soviet Government to acknowledge the fundamental human rights of Soviet Jews, the interreligious task force remains a viable and potent element in raising public awareness among both Christians and Jews on this issue. Mr. Speaker, I believe it is important for this body to recognize the efforts of this group and the work which they have put forth over the past 10 years on behalf of Soviet Jews. A copy of the proclamation follows:

10TH ANNIVERSARY MANIFESTO: NATIONAL INTERRELIGIOUS TASK FORCE ON SOVIET JEWRY LEADERSHIP CONFERENCE, WASHINGTON, D.C., SEPTEMBER 13-14, 1982

We Christians and Jews meet in Washington, D.C. to celebrate the 10th anniversary of the National Interreligious Task Force on Soviet Jewry, a unique organization that works to bring freedom to the Soviet Jews and Christians.

We will not be silent as we raise our voices to protest the cultural and spiritual repression of Jews and Christians in the Soviet Union. We will make known our profound anguish and concern about the continuing denial of human rights and religious liberty of Soviet Christians and Jews.

We will continue to repeat our public calls for human rights and religious liberty until they are respected. A government that resorts to coercive measures against its citizens demonstrates both its own weakness and its contempt for human dignity. Therefore, we speak now to the leaders of the Soviet Union: Respect the Human Rights Provision of the United Nations Charter, give Christians and Jews their right to leave for countries of their choice, a right which is theirs under the United Nations Declaration of Human Rights. We call upon the Soviet Union to implement the provisions of the Helsinki agreement that guarantee freedom of thought, conscience, religion, and belief for those Christians and Jews who choose to remain in the Soviet Union.

We appeal especially for an end to the ruthless and brutal imprisonment of all prisoners of conscience, both Christians and Jews, and we urge that all prisoners be immediately released.

To all persons who are denied religious liberty in the Soviet Union and to all who courageously defend human rights in the Soviet Union, we pledge our solidarity with them. As brothers and sisters we will stand at their side until their freedom and liberation is fully achieved. We will not rest until human rights and religious liberty prevail in the Soviet Union. Finally, in the spirit of the Prophet Isaiah we call upon Jews and Christians in every land to join with us in this vital effort.

I the Lord have called you in righteousness.
I have grasped you by the hand, I have formed you and set you as a convenent of the people, a light for the nations,
To open the eyes of the blind, to bring prisoners out from confinement.
And from the dungeon those who live in darkness.
(Isaiah 42:6-7)●

CLEAN WATER ACT 1972-82

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. ROE. Mr. Speaker, this month marks the 10th anniversary of the Federal Water Pollution Control Act, commonly referred to as the Clean Water Act. The basic framework for the statute, as we now know it, was enacted into law on October 18, 1972. I was honored to be a member of the Committee on Public Works and Transportation in 1972 and to serve as a conferee on that landmark legislation.

Since 1972, there have been two sets of major amendments to the act—one in 1977, the so-called midcourse corrections, and one in 1981, major changes to the municipal construction grant program. The Subcommittee on Water Resources, which I chair, is now considering with important amendments to the industrial provisions of the act. None of these amendments—1977, 1981, and those being contemplated now—alter the law's basic structure.

In recognition of the anniversary of this important law, the Water Pollution Control Federation under the leadership of its president, Jack Newbould, executive director Robert Canham, and assistant executive director Robert Perry, arranged for the publication of the act, consolidating the major amendments of the law. To facilitate an understanding of this complex statute, WPCF member Joan M. Kovalic wrote a user's guide which analyzes the significant legislative, political, and practical issues surrounding the development of the act. The analysis serves as a prolog to the federation's compilation of the statute. Recognition is due WPCF manager of public affairs Andrew Ellicott for his expert assistance in this effort.

Over the past 10 years, I have worked with Joan Kovalic on a range of issues in environmental law and regulation—when she was with the House Public Works Committee, the Environmental Protection Agency, and currently the law firm of Taft, Stettinius, and Hollister. She brings a wealth of knowledge, in-depth professional expertise, and sincerity of purpose to all her endeavors.

Because of the timeliness of the federation's action, and the significance I attach to the Clean Water Act, I am bringing the availability of what promises to be a very valuable and useful publication to the attention of my colleagues. The document will be available in time for the federation's annual meeting in St. Louis, next week, October 3-6.●

MONSIGNOR RICHTER TO CELEBRATE 50TH ANNIVERSARY

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. APPLEGATE. Mr. Speaker, I would like to take this opportunity to bring to the attention of the House of Representatives a personal friend and a constituent of mine, the Right Reverend Monsignor Paul L. Richter, who on October 31 of this year will celebrate the 50th anniversary of his reception of the sacred sacrament of holy orders as a priest in the Roman Catholic Church.

Monsignor Richter graduated from St. Francis Seminary in St. Francis, Wisconsin in 1929 with a bachelor of arts degree; and completed his theology course in 1933 obtaining both the S.T.B. and S.T.L. degrees from the North American College in Rome. On August 29, 1933, Monsignor Richter was appointed as a parish priest of St. Anthony Catholic Church in Steubenville, Ohio.

Since his ordination as a priest in the Catholic Church, the said Monsignor Paul L. Richter has not only been a devoted servant of God within his church but also a distinguished citizen of the city of Steubenville. His accomplishments have been both spiritual and material in nature, as in addi-

tion to ministering to the needs of his parishioners, Monsignor Richter was instrumental in assisting the parish in efforts to purchase a site adjoining the church for use as a convent for the Dominican Sisters teaching in the parish school, remodel the church, and erect a new school building alongside the convent. He also exhibited great zeal in the fulfillment of other diocesan offices, having served in such capacities as diocesan consultor, member of the diocesan administrative board, synodal examiner, director of the Catholic Community Center, chairman and treasurer of Catholic Central High School Board and the bishop's representative for hospitals. Perhaps most noteworthy, however, are the personal characteristics of this spiritual leader. Monsignor Richter is a warm and compassionate man, whose softspoken manners and sage counsel have inspired many of his parishioners and have enriched the lives of all those who know him.

We are all grateful to Monsignor Richter for his contributions to the community and join in congratulating him on his accomplishments to date, wishing him much health and happiness in his continuing service to God.●

JOHN RHODES

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. McDADE. Mr. Speaker, it is with both pleasure and sadness that I must take this opportunity to bid farewell to my distinguished colleague and longtime friend, JOHN RHODES. I am pleased because I know that he is moving on to meet new challenges and sad because his presence will be sorely missed by myself and everyone else who has had the good fortune to work with him here in the House.

For the 20 years that I have had the privilege of serving with JOHN, he has always proven to be a totally dedicated, totally impartial, and totally conscientious individual. I have looked to JOHN countless times for his advice, judgment, and courage, especially during our years together on the Appropriations Committee. Although he held the title "leader" for only 7 years, no one would ever doubt that he was our unofficial leader for years before and after he held that official position. He has, for 30 years, displayed outstanding leadership qualities and possessed the keen foresight to deal with many of the serious problems that confront our Nation.

JOHN has served this Nation unselfishly and we are all grateful, for he has made it a better one because of it. I wish him nothing but the best in whatever endeavors he undertakes in the years ahead.●

RUSSIANS BUY "CONTROL" OF GREEK PRESS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. McDONALD. Mr. Speaker, if anyone feels that the Soviets are not interested in using disinformation against the Western press or are incapable of it, they should read the news item from the Sunday Telegraph (London) of September 19, 1982. It describes in a graphic manner exactly how Soviet agents bribed, bullied, and subverted their way into partial control of the Greek press. There is a lesson here for the West. I commend the item to the attention of my colleagues who value freedom of the press.

[From the Sunday Telegraph (London), Sept. 19, 1982]

RUSSIANS BUY "CONTROL" OF GREEK PRESS

(By Paul Anast)

The Soviet Union has infiltrated the Greek media and propagated a disinformation campaign to a deeper extent than in any Western country, according to Western diplomatic and Greek Press and political sources.

They say methods employed by Russia have included help in the setting up of a highly successful Soviet-front Greek daily, *Ethnos* (The Nation), financial inducements to other publications, and direct pressure on conservative newspapers.

Greek and foreign Press reports over the Soviet financing of *Ethnos* have led to angry exchanges in Parliament, after the Conservatives tabled a question charging that freedom of the Press was at stake and accusing the Government of failing to investigate allegations that "Greek newspapers are paid organs of foreign interests."

The Socialist government has countered by ordering an investigation into the financial resources of all newspapers, and by promising legislation that would make compulsory the publication of their sources of income and would bar the participation of foreigners in ownership.

Moscow's deep inroads into Greece have been made possible, Western diplomats believe, by the fertile ground offered by a less sophisticated readership, an anti-Western climate following Nato's toleration of the 1967-74 dictatorship and the Turkish occupation of Northern Cyprus, and the near economic bankruptcy of most newspapers which makes publishers anxious for financial support.

A Centrist and an extreme Rightist daily have already shut down in the past month. Two more Conservative papers also say they are on the verge of closure. The only morning dailies then remaining would be those of Greece's two Communist parties. There are another eight afternoon national papers of mixed political leanings.

Western diplomatic sources said the most successful Soviet disinformation move in Greece has been to aid the launching of mass-circulation daily *Ethnos*, which since publication one year ago has achieved the country's second largest circulation. *Ethnos* was recently cited in a State Department press briefing on Russia's disinformation campaign as a probable case of a Soviet-subsidised paper, but no details were given.

Several different Western diplomatic sources say investigations have since determined that the financing of *Ethnos* has been organized through the State Committee for Foreign Economic Relations of the U.S.S.R. Council of Ministers, the department handling the extensive business dealings with the Russians maintained by George Bobolas, the publisher of *Ethnos* and of the *Soviet Encycloaedia* here.

Though *Ethnos* claims to be a pro-Government and independent publication, it has concentrated on promoting the main arguments of Soviet foreign policy and ideology.

Diplomatic sources maintain that the paper's main strategic objective has been to urge Greece's Socialist Government to fulfil its more radical past pledges to break with the West by leaving Nato and the European Economic Community, and by getting rid of American bases and nuclear weapons.

Mr. Bobolas and Alexander Filipopoulos, formerly managing editor of the Soviet Encyclopedia and now of Ethnos, declined an interview to discuss these allegations.

Mr. Filipopoulos, in 1977, wrote a 20-page confidential report to then Opposition leader and now Socialist Prime Minister, Andreas Papandreou, attempting to discredit the entire existing Press structure in Greece and explaining how a new series of pro-Socialist publications could be set up.

Diplomatic sources point to the fact that Nea and Eleftherotypia, two other large circulation Centre-Leftist papers, along with Ethnos also use Soviet state news agency texts. They say this makes the three papers the only non-Communist party Press organs in the Western world to do so.

Greek Press sources also stress that the State-run Athens News Agency (ANA), in addition to using Western news agencies, has now started making use of the news services of almost all the Eastern bloc news organisations and those of the hard-line Arab states. Andreas Christodoulides, the Director general of ANA, confirms this but argues that Western news agencies alone do not provide a subjective enough view of world events, and says that care is taken not to distribute State propaganda from the Eastern bloc and Arab regimes' news services.

The Russians have also exercised direct pressure against Conservative newspapers. The most extreme case was a visit in March last year by Soviet Embassy Press attache, Vladimir Prygin, to the managing editor of Nea Poreia, which at the time was the official Press organ of the then governing Conservative party.

A confidential report written by the managing editor, Titos Athanasiades, says Mr. Pregin's attitude was "insulting and threatening," and that the approach employed was "probably the first of its kind in our country."

The report, a copy of which I have obtained, says the Soviet official gave the Editor a lecture justifying Soviet Foreign policy since 1939 and the invasion of Afghanistan.

He said Nea Poreia had no right to criticise Soviet foreign policy or its domestic system. He threatened that continued publication of such articles would negatively affect relations between Greece and Russia.

Officials of the New Democracy party confirmed the incident and said the case was buried so as not to cause diplomatic complications a few months before the general

elections. Nea Poreia is no longer in publication, having shut down for lack of funds.●

TRIBUTE TO JOHN J. RHODES

HON. NICK JOE RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. RAHALL. Mr. Speaker, I would first of all like to thank my good friend, the gentleman from Arizona (Mr. (RUDD), for taking this special order today so that the Members of the House can pay tribute and extend their thanks to a fine man, who has graced this body for 30 years, JOHN J. RHODES of Arizona.

Since 1952, JOHN RHODES has served his district, his State, and his Nation tirelessly and with the utmost dedication. Most of all though, he has done his job in a way that does nothing but gain the respect of his colleagues and those around him.

For eight terms while in the House, JOHN RHODES represented his party in the House as its leader, and he performed this job with great skill. As the first Republican ever elected to the House of Representatives from the State of Arizona, you knew which party with which he was affiliated, but on this side of the aisle, we all knew that party labels would be set aside when it came to do something that was right and good for the Nation.

Bipartisanship is a word we hear often, but very seldom see practiced. JOHN RHODES practiced for the good of the Nation. He was a true diplomat.

JOHN RHODES career will be remembered as one based on fairness, openmindedness, and respect. He leaves us with much more, but we certainly give him back that respect, for he has earned it in the hearts of every Member of the House with whom he has served.●

MERGERMANIA STRIKES AGAIN

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. ROSENTHAL. Mr. Speaker, mergermania has struck again; this time in one of the most complex and convoluted transactions ever to be seen in the annals of corporate America. Now that the dust has settled in the Allied-Bendix-Martin-Marietta-United Technologies game of corporate bingo, it is a good time to assess the impact wrought upon the public at large.

Unfortunately, other than providing a slight diversion to the more serious headlines in the news, the general public has gained little from the adventures that took place in the board rooms of these major corporations. No jobs were created, no further growth of our economy, not even a new product line resulted from this merger.

On the other hand, because these corporate jousts cost money, which is borrowed from our Nation's credit facilities, this latest exercise has brought about an even further squeeze on the already limited amount of available credit. This inevitably leads to higher interest rates, and inflation, the very economic factors we have been so desperately trying to control.

The one benefit of the latest acquisition game witnessed by the American public may be a concerted outcry that something must be done to control mergermania. In this regard, I call attention to an insightful article written by Edgar Bronfman, chairman and chief executive of the Seagram Company, Ltd., and also a recent participant in the merger contest between Conoco-DuPont-Seagram-Mobil. This article, appearing in the New York Times on September 29, 1982, not only points out the pitfalls of mergermania to the public at large, but presents a plan for relief: eliminate the tax deduction for interest on money borrowed for the purpose of funding a takeover bid.

This would first supply a major disincentive to companies thinking of engaging in acquisition battles. At the same time it would free up credit needed for more useful purposes—as Mr. Bronfman calls constructive credit—home purchases and other consumer loans, as well as, research, industrial, and product expansion. Equally important, we would end the public subsidy provided via a tax structure that gives a tax benefit to corporations who engage in conduct that is ultimately harmful to us all. I recommend Mr. Bronfman's article to all who feel something must be done to control mergermania.

[From the New York Times, Sept. 29, 1982]

END THE TAX SUBSIDIES FOR CORPORATE MERGERS

(By Edgar M. Bronfman)

In the wake of the latest corporate-acquisition game—the four-way Allied-Bendix-Marietta-United Technologies deal—there is public confusion about who has done what to whom and what it all means. But more important, there is a public outcry, including voices of leading businessmen in the United States, that "enough is enough."

As one industrialist quoted in The Wall Street Journal said, summarizing a widespread frustration: "Maybe there's something wrong with our system when these four companies line up large amounts of money in order to purchase stock, when it doesn't help build one new factory, buy one more piece of equipment, or provide even one more job."

I am indeed an odd business executive to embrace this view. Not so long ago, our own company, the Seagram Company Ltd., was a major player in a multibillion-dollar acquisition contest that still holds the course record for size.

The result of the Conoco-Du Pont-Seagram-Mobil jousting is well-known. Du Pont acquired Conoco for cash and Du Pont common stock, while Seagram became Du Pont's largest stockholder—slightly over 20 percent of the merged company.

I must point out, not in a self-serving way, that I believe all three shareholding groups, and certainly the Seagram shareholders, were delighted with the results, as am I.

But what of the general economy?

I am not an economist. But it is not difficult to recognize one huge demand on the United States' limited credit facilities. In the takeover battles that we have all seen recently, and which are still going on, billions of dollars have been borrowed on a short-term basis from the banking system to finance the acquisition of one company by another.

When too many would-be borrowers are seeking credit, the cost of money goes up. This is especially true when the Federal Reserve system considers inflation a worse hazard than recession and is thus loath to increase the money supply—to print more money. High interest rates have been called by many the biggest barrier to economic recovery. There is surely a huge backlog of demand for housing as well as for automobiles, two of the most important industrial factors in our economic mosaic. But the high cost of money, as well as years of inflation, have put a new home or a new car beyond the reach of the vast majority of potential buyers, even though interest rates have come down somewhat recently.

There is a way to make available what I call more "constructive credit"—that is, credit that helps the economy: people, consumers, productivity, new products, research, industrial expansions and jobs.

If the interest on corporate takeover money borrowed specifically to buy the common stock of another corporation were not tax deductible, as it now is, such activity would be sharply curtailed. To the extent that it was not, Federal tax revenue would be increased and the average taxpayers would thus not be, as they are now, indirectly footing the bill for part of these corporate-takeover games.

All activity in the field of mergers or acquisitions would not stop, of course. It would still be possible, even as it is today, to effect such marriages through exchange of securities, or sale and purchase of assets and other methods well known to industry.

What would change is that unfriendly takeovers would become discouragingly expensive and bank credit would not be used to enrich a few shareholders, discharged executives, arbitragers, lawyers and others without real benefit to the economy as a whole. Banks would have billion of dollars to lend more creatively, while the supply of credit would increase with a probable drop in interest rates.

At a time when we want less, not more, Government regulation, this would free up credit to expand the economy rather than further restrict it. The tax-deducibility of interest on such loans is now, in effect, a Government-issued benefit and hence an intervention in a more desirable laissez-faire economic trend.

So let's stop this tax benefit to corporations that encourages using credit to make money for a few. And let's try to get back to the successful, pre-eminent American enterprise system, instead of just moving huge sums of tax-deductible finite credit around.●

H.R. 6009

HON. JEAN S. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mrs. ASHBROOK. Mr. Speaker, I am pleased today to announce my wholehearted support for the Enterprise Zone Tax Act of 1982 (H.R. 6009).

My late husband was an ardent and early supporter of this legislation because he recognized the dismal failure of the subsidy-laden, Federal, urban policies of the past and the need to experiment with a program which augments, rather than withdraws, economic freedom.

John Ashbrook knew there was a vital need to stimulate the creation of new jobs and promote the economic revitalization of our most distressed urban and rural areas. But my husband also knew that the source of urban distress was frequently the heavy burden of Federal, State, and local taxation and the unwarranted intrusion of Government regulation into our lives and businesses.

Mr. Speaker, it is time we all recognize that the Federal Government constitutes an impediment, rather than an aid, to our daily existence. We can no longer ignore the stifling consequences of this bloated, Federal apparatus which directly and indirectly reaches into every business, occupation, and home in this country. We can no longer ignore the indecently high level of Government spending, which this Congress has shown little desire to control, and which diverts needed capital from the private market to the nonproductive, self-aggrandizing public sector. We can no longer ignore the Federal regulation which imposes senseless paperwork, or worse, furthers—through legal coercion rather than honest competition—the private interests of whosoever happens to have the favor of those with regulatory authority.

All of us are victims of the Federal Government's departure from the philosophy of limited government embedded in our Constitution. Yet, the two biggest losers are first, those at the bottom of the economic ladder without the financial wherewithal to withstand the everincreasing, Federal waste, and second, our State and local governments which are denied their constitutional preeminence in our Federal structure and transformed into weak-kneed dependents of Federal largesse.

The Enterprise Zone legislation is carefully structured to begin the process of rectifying these federally created problems. As President Reagan stated in his July 13, 1982, remarks to the National Association of Counties, Enterprise Zones may "not [be] a comprehensive answer to the problem of our inner cities, [but they] offer real hope for the mostly minority communities trapped at the bottom of America's economic ladder." Moreover, Mr. Speaker, Enterprise Zones enhance federalism and strengthen State and local governments by returning to them the freedom and resources to identify and respond to their own problems with tailor-made packages of tax and regulatory relief.

Thus, the soundness of the Enterprise Zone legislation is not merely its potential for stimulating the development of distressed areas or new jobs for disadvantaged workers, but its reaffirmation of the careful checks and balances devised by the Founding Fathers to insure that the Federal Government does not dictate, as the President stated, "where a community will build a bridge or lay a sewer system."

In short, Mr. Speaker, the Enterprise Zone legislation will restore needed vitality to economically depressed areas and to the 10th amendment of the Constitution, which, lest this body totally forget, says that the Federal Government shall do only those things enumerated therein, and all other powers shall remain in the States and with the people. In Jefferson's words, "Were not this great country already divided into States, that division must be made, that each might do for itself what concerns itself directly, and what it can do so much better than a distant authority."●

BON APPETIT, MONSIEUR BEGIN

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. SNYDER. Mr. Speaker, a most thought-provoking editorial appeared recently in the Louisville Scholar. The Louisville Scholar is an independent newspaper at the University of Louisville whose stated purpose is "to provide the U. of L. with an alternative source of information, news analysis, and editorial opinion." The editor, J. Atchison Frazer, has said something that needed to be said in this editorial.

BON APPETIT, MONSIEUR BEGIN

The Israeli invasion into Lebanon has demonstrated to the world that war is a very unpleasant thing. Nightly pictures of innocent Lebanese people mutilated by Israeli artillery has done nothing to enhance one's mealtime pleasure. The realities of war, that.

And yet another reality of war implicit in this conflict is war's ultimate objective: victory.

The PLO had sought that reality by using its Soviet-donated weaponry at will on civilian settlements along the Israeli-Lebanese border. But what was its intent? Did these unprovoked attacks bring it closer to an autonomous homeland? Create a better image?

On the other hand, Israel's strategy was to push the PLO back off its border and out of range of Israeli populations. Had the Israeli army stopped at that point, could it have been assured of a permanent PLO ceasefire? History indicated otherwise and Israel continued on towards the elimination of the PLO threat.

The pursuit of the PLO into Beirut was consistent with Israel's objective and the reality of war. Unlike the United State's Vietnam involvement, Israel has made war to achieve a victory. It has sent its best soldiers into hostile territory with its best weapons. Limited warfare cannot achieve anything.

Indeed, the tragedy of the helpless Lebanese people is a consequence of the macabre reality of war. But there is also more stark reality that the conflict has revealed about the PLO. Mainly that Arafat's outlaws arbitrarily drew the Israeli's wrath on the Lebanese people by using Lebanon as a launching pad for world terrorism.

Fortunately, hooligans like the PLO who foolishly seek power by riding the back of the tiger, usually end up inside. Bon appetit, Monsieur Begin.●

RAIL STRIKE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. FLORIO. Mr. Speaker, last week the House voted to end the nationwide railroad strike by dictating the terms of a collective bargaining agreement. I argued that the Congress should not intervene in a collective bargaining dispute by legislating the terms of an agreement. Instead I offered an amendment which would have imposed an additional 140 day cooling off period during which the parties would continue to negotiate.

The House voted not to impose a cooling off period, and to impose a collective bargaining agreement. This is a dangerous precedent, which has implications for all industry when a strike threatens an important part of the economy.

The Journal of Commerce recognized the danger of Congress dictating the terms of a collective bargaining agreement in an editorial on September 24, 1982. I believe it is worth reading that editorial.

[From the Journal of Commerce, Sept. 24, 1982]

AN ILL-ADVISED INTRUSION

The nationwide rail strike and the situation surrounding it are full of anomalies. Perhaps the biggest is the overwhelming decision of the president and Congress to insert themselves into the private collective bargaining process and impose a settlement.

No one argues that the four-day strike cost the country millions of dollars and could have crippled the sagging economy had it continued. From the point of view of shippers and industries concerned with the botton line, the end of the strike—no matter how it was achieved—is welcome.

But government should have no place in the collective bargaining process, short of

making sure that it can take place. And by acting as they did this week, the president and the Congress climaxed an evolutionary period and assured themselves a permanent place in that process, at least as far as rail labor is concerned.

The evolution began with the Railway Labor Act of 1926. It continued with various presidents invoking the act and appointing emergency boards to recommend settlements to stalled contract talks. If that failed, Congress usually ordered binding arbitration.

Now a new stage has been reached. Congress, instead of ordering arbitration, has mandated that the Brotherhood of Locomotive Engineers settle with the nation's private railroads by accepting the recommendations of an emergency board.

The Railway Labor Act was written with the realization that railroad service is vital to the country's economy and passed in the intention of avoiding a stoppage of that service as long as possible. No one can complain about those objectives.

But the act has come to be used by both management and labor as a way to drag the government into contract talks instead of following those talks to a conclusion. And the government this time—from conservatives like the president to liberals like Sen. Edward Kennedy—acted with amazing alacrity to inject itself into the situation.

A far better way would have been to return to the tactic used by President Lyndon Johnson in a similar dispute in the 1960s: Order a brief cooling-off period, lock negotiators for both sides in a stark room and keep them there until they have hammered out a new contract.

What should the terms of the settlement have been? Except for saying that the trains should operate normally, no one but management and the union can determine that. It's the proverbial thorny situation and it has come just as the rail industry is entering a new era of deregulation.

The railroads want and need greater productivity from their workers. No longer can they afford to give in easily to pay and work-rule demands, safe in the assumption that the Interstate Commerce Commission will almost automatically allow the cost to be passed on to shippers.

The railroads say they also must rid themselves of a variety of costly work rules and trim down the size of train crews. Many of the rules, which grant extra pay for duties not strictly considered part of operating a train, are antiquated, and technology has meant that smaller crews can operate trains efficiently and safely, they say.

But the mission of a railroad union, of any union, is to preserve the jobs and benefits of its members and to make sure those members have safe working conditions.

The real issue in the talks between management and the two unions that represent train crews—the United Transportation Union and the Brotherhood of Locomotive Engineers—was not general wages. It consisted of what to do about work rules and train crew sizes.

The presidential emergency boards recommended artful compromises. Their suggestions included allowing the unions to bargain for more money in return for reducing the number of workers in a train crew. But also included was a recommendation that the unions not be allowed to strike during those negotiations.

The UTU agreed to that recommendation. The locomotive engineers, concerned that other train crewmen could wind up earning more money than they, balked.

Their insistence on remaining the most highly paid workers on a train obviously was not good public relations; it irritated other unions and put the engineers in a bad light in the eyes of the public. But there was a more basic issue involved, too: the right to strike. Being offered the right to negotiate on an issue during the life of a contract, but at the same time being denied the use of their only real bargaining weapon, was unacceptable, the engineers decided.

So Congress, concerned that ordering another cooling-off period could cause the UTU to back out of its contract, jumped in and dictated the terms of the settlement.

It may have been an expeditious act, but it was not a wise one. Rail management and labor have a contract, but not one they reached themselves. The issues involved aren't going to go away. And next time Congress and the president are going to find themselves in the same situation they encountered this week.●

A CONGRESSIONAL SALUTE TO BONNIE BROWN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. ANDERSON. Mr. Speaker, 1982 marks the 50th anniversary of the Democratic Women's Study Group (DWSG) of Long Beach, Calif.

One of the most instrumental and dominant figures in the continued success of this fine organization is Bonnie Brown.

Born in Altus, Franklin County, Ark., Bonnie inherited her democratic principles from a long line of distinguished Democrats. Her grandfather, Russell Nichols—an early settler and Civil War veteran—was a Union official and farmer.

As a child, she vividly remembers John L. Lewis' frequent visits to their home. Although stricken at an early age with polio, Bonnie through her intestinal fortitude and courage, as well as the diligent care of her mother and methods developed by Sister Kenny, was able to walk unassisted by the age of 8.

Educated in Arkansas and Oklahoma normal schools, Bonnie later attended Beauty College at Fort Smith, Ark. Shortly thereafter, she began teaching at the Tulsa Beauty College. It should be noted that Bonnie is a charter member of the Ozark, Ark., Business and Professional Women's Club.

Along with her husband, Kenneth, Bonnie moved to Long Beach where they opened a retail shoe business. Although she was now 2,000 miles from her roots, Bonnie continued her professional career. A former member and close friend, Mrs. Virginia Hensen, brought Bonnie to several DWSG functions as a guest. Although she had a busy work schedule and could not actively participate in the various group functions, Bonnie was quickly impressed with Mrs. Henson's deep fondness of the DWSC and resolved that as soon as her personal life permitted she would volunteer her services.

Upon active participation in the group, Bonnie's accomplishments are impressive. She has served as membership chairman—third vice president—as well as vice president for 5 years. It was in this capacity in which she managed the picnics and all teas for the group. Also, she has served as president for six terms—longer than any other president in the DWSG's 50-year existence.

Mr. Speaker, without hesitation I can say that Bonnie's career of service to her community is a model of citizenship all should follow. She has extended herself, working tirelessly as few people have for the benefit of others. Her many accomplishments, particularly within the DWSG, will be long remembered and appreciated by those who follow in her footsteps. She can certainly reflect with pride and satisfaction upon the many accomplishments of her life and her dedicated involvement to the betterment of Long Beach.

My wife, Lee, joins me in congratulating Bonnie Brown on her fine work. Having known her as a friend for many years, we share this pride and wish her continued success in the future.●

INSTABILITY IN MEXICO: AN OPEN LETTER FROM CONGRESS TO PRESIDENT RONALD REAGAN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. McDONALD. Mr. Speaker, at a time when many other matters hold our attention and seem to take precedence, it is well for us to note that events in Mexico are taking an ominous direction. The rather spectacular financial crisis was not unheralded, and its causes can be traced to a variety of unhealthy political developments.

As we have noted in our letter to President Ronald Reagan, "no American wishes to speculate upon the massive and terrible consequences of a Communist takeover of Mexico. All previous problems would be insignificant in comparison."

We believe that only those unfamiliar with the situation can be unconcerned. The inroads made, in recent years, by the forces of international communism in Central America, certainly point toward the fact that Mexico is the prize.

We believe that we, as Americans, are within our rights in attempting to prevent the development of a disastrous situation.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 29, 1982.

Hon. RONALD REAGAN,
President, The White House, Washington, D.C.

DEAR MR. PRESIDENT: Since 1976, Members of Congress have sometimes resorted to the open letter in order to call attention to a deteriorating situation in Latin America. The foreign policy "Establishment" has too often preferred to ignore, or even to conceal, such conditions as have now caused serious destabilization in Mexico.

During the past two administrations in Mexico, under Presidents Luis Echeverria and Jose Lopez Portillo, there has been a continuing socialistic trend involving greater government takeover of business. Thus, the nationalization of the private banks in Mexico should not have come as a great surprise, and the expropriation of all dollar accounts held by Mexicans or others, in these banks, simply fits into the overall pattern.

The socialistic trend in Mexico has manifested itself in the constant growth, in size and in numbers, of government-run enterprises which are chronic money-losers. That they merely add to the nation's economic problems, rather than help to solve them, surely has been known to the international financial institutions.

Mexico's staggering $80 billion in foreign debt has been contracted almost entirely during the past two administrations. In this same period, Mexico has received nearly $70 billion for its cartel-priced petroleum and other exports. Since internal revenues cover normal expenditures, this should mean that virtually all of this inflow of about $150 billion has been available for economic development.

Yet there is no evidence of $150 billion worth of development expenditures in Mexico. Has the money vanished? Is it perhaps in the pockets and security-boxes of politicians of the ruling party?

If an influx of this enormous sum of money produces only near-bankruptcy, surely one must question whether the provision of further billions to the hand-picked successor administration, without real supervision to see that it is correctly invested, may not merely compound the problem.

Policies of the past two Mexican administrations have led to repeated devaluation of the peso. This means the repeated destruction of the value of the savings of Mexico's struggling middle class. The flight of private capital is a consequence, not a cause, of Mexico's financial problems, regardless of demagogic statements by President Lopez Portillo. President Lopez Portillo has not only tried to blame others, including the United States, for the fact that Mexicans have tried to save themselves by converting pesos to dollars, but he expects his party to create for him a heroic image. Such a triumph of propaganda is not likely to reassure a plundered citizenry which has seen its life savings turned into worthless paper.

Indeed, insecurity and instability have led, for the first time in recent memory, to open discussion of the possibility of revolution in Mexico, and there is no question that Mexico has become an easier and more attractive target for international Communism that at any time in the past forty years.

The Communist-led student uprising in Mexico City in 1968, a well-documented operation of the Soviet K.G.B., was suppressed by President Gustavo Diaz Ordaz. However, many of the "leaders" of that uprising, who had allowed themselves to be manipulated by the K.G.B., have been made officials of the Mexican government. The names of these officials are well known to knowledgeable people in Mexico. In addition, the Communist and other ultra-leftist parties have been encouraged by recent "political reforms" of President Lopez Portillo. And, in addition, tens of thousands of Marxist terrorists from Latin America and elsewhere have been admitted to Mexico.

Any takeover threat in Mexico today comes, obviously, from the extreme left. We cannot stand aside, whether in the face of a direct threat of Communist takeover, or in the face of some Allende-style transformation imposed by the Mexican government itself. It was President Salvador Allende of Chile himself who boasted of his "autocoup" against Chile, from his position in control of the government.

President Lopez Portillo boasts of having contributed hundreds of millions of dollars' worth of aid to Communist Nicaragua. And his government refuses to answer, when asked whether Mexico has provided the Sandinistas with free petroleum supplies for the past two years.

For good reason, no American wishes to speculate upon the massive and terrible consequences of a Communist takeover of Mexico. All previous problems would be insignificant in comparison. Yet the growing instability of Mexico is a fact, and the Communist are practiced masters of the professional takeover of governments.

We, the undersigned, do not believe that our own government should remain passive. Rather, we must take appropriate action to ensure that a new Mexican government headed by President-elect Miguel de la Madrid Hurtado does not continue—or even bring to completion—the program carried out by the previous two administrations. That program is demonstrably disastrous for Mexico, and potentially so for both Mexico and the United States. Mexico in chaos, or Mexico under Communism, would present extremely difficult problems for the United States. We are within our rights to attempt to prevent the development of a disastrous situation. That is one of the things any government is paid, by its citizens, to do.

Sincerely,

Floyd Spence, Daniel B. Crane, Philip M. Crane, Larry E. Craig, Don Ritter, Albert Lee Smith, Clint Roberts, Tommy Hartnett, Newt Gingrich, George Hansen, Richard Shelby, Carlos Moorhead, Bill McCollum, Denny Smith, Billy Lee Evans, John L. Napier, Hal Daub, Bob McEwen, Larry McDonald, Eugene Johnston, Jim Jeffries, Dan Marriott, James V. Hansen, Bill Dannemeyer, Gene Snyder, Jean S. Ashbrook, Walter B. Jones, Gerald B. Solomon, Carroll Hubbard, Bud Hillis, Ron Paul, Thomas N. Kindness, Ken Holland, David Dreier, Stan Parris, Gene Taylor.●

AN UNKNOWN FROM THE VIETNAM CONFLICT FOR THE TOMB OF THE UNKNOWN SOLDIER

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. GOODLING. Mr. Speaker, yesterday I introduced House Concurrent Resolution 413, urging the President to provide as expeditiously as possible for the burial of an unknown soldier from the Vietnam era at Arlington National Cemetery as directed by the National Cemeteries Act of 1973.

The United States concluded its participation in the hostilities in Southeast Asia, which is commonly called the Vietnam war, on January 17, 1973. During the years since, various groups and individuals, myself, and other Members of this House included, have tried to get a Vietnam unknown soldier interred at Arlington Cemetery. But modern forensic science had made it possible to identify almost all of the remains which came back from Vietnam, leaving few sets of unidentified remains that were incomplete or which yet had the possibility of being identified. Additionally, some people felt that by interring a Vietnam unknown, we would, in effect, be closing the book on the Vietnam era and not continue efforts to gain an accounting for the still large number of members of the Armed Forces who are still missing in Southeast Asia.

However, I would like to stress that the interment of an unknown soldier from the Vietnam conflict will not put an end to a search for the missing. Section 2 of my resolution categorically states this. The Department of the Army has assured me that an accounting of the missing and the interment of an unknown are not linked, and that an unknown soldier from the Vietnam conflict will not adversely affect efforts to recover our missing from Southeast Asis. I have made this clear in my resolution, and if I thought that there were such a connection, I would not continue to press for the interment of an unknown soldier from Vietnam.

With regard to an acceptable set of remains for the tomb, I ask only that the provisions of Public Law 93-43, the National Cemeteries Act of 1973, be observed; these are that the remains be those of an unidentified American soldier who died in Southeast Asia during the years of our involvement in Vietnam. The Department of the Army recently assured me that they do possess a set of remains which they have not been able to identify during 10 years of attempting to do so, and now having done everything possible to identify the remains, have judged

them to be unidentifiable. In short, there does exist at least one set of remains that can be legally interred at the Tomb of the Unknown Soldier at Arlington National Cemetery.

After the First World War, we had literally thousands of sets of remains which were unidentified and with the limited science of the day, unidentifiable. The same was true of World War Two and the Korean war. However, by the time of the Vietnam conflict, forensic science had progressed to such a point that very, very little in the way of remains was needed in order for them to be identified. At the same time, modern warfare had increased in such a horrible way that often there was absolutely nothing left of a body to identify. Many will never return because they were literally wiped off the face of the Earth as if they had never existed. The Tomb of the Unknown Soldier will be their only tomb. We have a set of remains to inter, let us do it and so honor our dead, and at the same time render honor to those Vietnam veterans who did return, and remember their buddies who did not and will not.●

JOHN GEORGE HALAK—PROGRESSIVE MAYOR

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. MOTTL. Mr. Speaker, North Royalton is a town of about 18,000 set among the rolling hills of suburban Cleveland. It is also one of the fastest growing cities in my district. As any city planner and most of us know, a city cannot survive a continuing population expansion without expanding its services, too. North Royalton, with that in mind, is progressing very nicely under the watchful eye of its mayor, John George Halak.

John is no stranger to North Royalton's needs. He grew up in North Royalton, where he graduated from North Royalton High School before earning a bachelor of science degree from Ohio University. Currently finishing his third year as mayor, John was previously a councilman for 14 years, including 4 as president of council. He was the first elected president of council. His familiarity with the needs of his city was further enhanced by serving 12 years as council representative on the planning commission and 2 years as council representative on the board of zoning.

Under John's direction North Royalton constructed fire station facilities and started its first full-time fire department. City roads were resurfaced for the first time since 1974. City hall has been refurbished, including construction which made the building accessible to the handicapped and the blind. Ramps, restrooms, and parking areas were built for these citizens. City Green, a public park, is now truly available to all with the addition of permanent tables, benches, walks, and restrooms constructed with the handicapped in mind.

In his effort to better serve all the people of North Royalton, John also started a full-time office on aging. Over 2,000 citizens registered.

John Halak is truly a mayor who carries the best interests of the citizens not only in his mind, but also into practice. Mr. Speaker, Members of the House of Representatives, I ask you, today, to help me recognize this man and his accomplishments.●

ADELPHI UNIVERSITY SCHOOL OF NURSING

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. McGRATH. Mr. Speaker, it is with great pride and pleasure that I take this opportunity to commend the administration, faculty, students, and alumni of the Adelphi University School of Nursing. The advisory Board of the school will hold its annual dinner this Sunday, October 3, and several emergency room nurses of Long Island will be honored at the affair.

Since moving to Garden City in 1929, Adelphi University has maintained a strong commitment to serving the needs of area residents. The school of nursing epitomizes that commitment with current students and hundreds of graduates providing the highest caliber of nursing care possible at dozens of health facilities in the Metropolitan New York area and throughout our nation.

Few fields of endeavor are as challenging as nursing. Rapid advances in medical technology require the constant attention of those involved in the preparation of individuals entering the nursing profession. Dr. June S. Rothberg, dean of Adelphi School of Nursing, and her predecessors have put forth tireless effort to develop an outstanding institution, which has gained recognition from many sectors locally and nationally.

The honorees on October 3 deserve special credit for their contributions to health care. Their field of nursing is especially demanding, and countless lives are saved through the work performed around the clock in hospital emergency rooms.

I know every Member of this House joins me in congratulating all who have strived to make the Adelphi School of Nursing a great center of learning. I appreciate this opportunity to bring their achievements to the attention of my colleagues.●

ADULT DAY CARE WEEK

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. WOLF. Mr. Speaker, I would like to take this opportunity to bring "Adult Day Care Week," which was observed in Virginia during the week of September 5 through 11, to the attention of my colleagues.

In recognition of "Adult Day Care Week," the Fairfax County Health Department held an open house at the Annandale Elderly Day Care Center which focused attention on the services of that outstanding facility.

The Annandale Elderly Day Care Center is funded almost entirely through Fairfax County, although partial Federal funding is received from title III. The center serves approximately 25 people per day and has had a long waiting list since soon after its opening in January of 1980. The center offers a multidisciplinary health program that provides skilled nursing care, therapeutic recreation, physical therapy, occupational therapy, speech therapy, as well as many additional services such as podiatry, speech and hearing, and dental assistance. Transportation is provided for participants within a 5-mile radius and two meals are served each day.

The center has a staff of seven, including director, Kay Larmer; registered nurse, Helen Glidden; two recreation therapists, Martha Hollifield, full time, and Teresa Cunningham, part time; an administrative assistant, Eileen Inglis; and two geriatric aides, Miriam Rowley, full time, Juliet Dill and Rose Popeck, job sharing. The staff is supplemented by a number of essential volunteers.

Adult day care programs typically serve the impaired older person who cannot live entirely independently, but who is not a candidate for a nursing home. The Annandale Elderly Day Care Center fulfills the goals traditionally associated with these programs:

ANNANDALE ELDERLY DAY CARE CENTER

1. To Prevent Premature Institutionalization.—Daycare programs help avoid premature institutionalization by providing the attention, stimulation, socialization, and intermediate Nursing Care needed to prevent deterioration and in many instances, bring about notable improvement in an impaired older person.

2. To Relieve Families of the Burden of Full Time Care.—When a family is not interested in a Nursing Home or cannot afford the cost for an older relative who can no longer live independently, Daycare is the ideal solution. The older person is completely cared for and feels less of a burden; the

family is not pinched financially because someone had to give up a job to care for mother or father; and all family members have respite from attending to the needs of a frail older person.

3. To Help Individuals Remain Independent for as Long as Possible.—Even after suffering debilitating illness, many individuals are able to maintain their own homes and independence if they have sufficient supports, both family and community. Daycare is an important community based service; it assists older persons as well as their families. Its particular benefits in maintaining independence for an older person result from its ability to prevent premature institutionalization, contain health care costs, and expand the supports provided by families.

4. To Curtail Health Care Costs.—Representative dollar comparisons of Daycare Programs and other Long Term Care costs are revealing. For example, Adult Daycare costs around $22.00 per day. For this a participant receives one to two meals per day, transportation, Nursing Care, various therapeutic treatments if needed, stimulating activities and peer socialization for 6 to 10 hours per day. In comparison, Nursing Home Care costs around $60.00 per day. It is apparent that Daycare does not provide the 24 hour care that these institutions provide, but it meets the needs of many families that without Daycare would have to seek Nursing Home Placement at a much greater cost.

The need and usage of this center is well documented and emphasizes the value of such day care programs across the Nation. With our ever-increasing older population, innovative and cost-effective options for meeting the needs of the impaired elderly must be supported. The Annandale Elderly Day Care Center is an excellent example of community service for other counties and States to follow.●

ALEXANDRIA ADOPTS "COP KILLER BULLET" BAN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. BIAGGI. Mr. Speaker, I am pleased to report that last night the Alexandria (Va.) City Council approved an ordinance banning the sale, manufacture or possession of armor-piercing handgun bullets. These are the so-called cop killer bullets that can rip through the bulletproof vests worn by approximately 250,000 police officers across the country.

The ordinance adopted by Alexandria is very similar to my bill, H.R. 5437, which would place a nationwide ban on the future manufacture, importation or sale of armor-piercing handgun ammunition. My legislation would also provide stiff, mandatory penalties for any person using these high-powered bullets in a crime.

Let me point out that the bullets that would be banned by my bill and the Alexandria ordinance are not used for legitimate purposes, but they have been used by criminals to shoot and kill police officers. Ironically, these armor-piercing bullets were originally made to help police, particularly when firing at escaping criminals in automobiles. However, the police community determined long ago that these high-powered bullets were just too dangerous to use.

In fact, according to James P. Damos, president of the International Association of Chiefs of Police, "We can find no legitimate use for such (armor-piercing) ammunition, either in or out of law enforcement."

Testifying before the House Subcommittee on Crime, Associate Attorney General Rudolph W. Guiliani added:

We see no legitimate reason for private use or possession of handgun bullets, such as the KTW, that are designed specifically for the purpose of armor penetration.

Nevertheless, these armor-piercing bullets continue to be made.

The Alexandria City Council, and particularly the sponsor of the ordinance, Mr. Donald Casey, have clearly demonstrated a strong commitment to protecting the lives of law enforcement officers. As a 23-year veteran of the New York City Police Department, I wish to commend them for their responsible action in this extremely important matter.

It should be noted that passage of this ordinance came 1 day after an Alexandria deputy sheriff's life was saved by a bulletproof vest he was wearing when shot by an escaping prisoner. Realizing the results would have been much worse if an armor-piercing bullet had been used by the criminal, the Alexandria Council was quick to act.

In addition, the council's action comes at a time when the D.C. Fraternal Order of Police are lobbying heavily for bulletproof vests for their officers, and for good reason. Recently, a D.C. police officer was killed, and another critically wounded by handgun bullets that would have been stopped if they had been wearing soft body armor.

As one who has long advocated the need for all police officers to be furnished with bulletproof vests, I am pleased that more and more officers are relying on soft body armor for protection. However, I also recognize that this development will give criminals an added incentive to use armor-piercing bullets. That is why it is absolutely essential that we act now to eliminate easy access to these high-powered handgun bullets.

I am very encouraged by the following States (Alabama, Rhode Island, California, Kansas, Oklahoma, and Minnesota) and numerous localities that have outlawed armor-piercing handgun bullets, but I will not be satisfied until Federal legislation is enacted to effectively deal with this national problem.

Mr. Speaker, at this time I wish to insert an article written by Mary Battiata that appeared in today's Washington Post discussing the action taken by the Alexandria City Council:

[From the Washington Post, Sept. 29, 1982]

ALEXANDRIA BANS CONTROVERSIAL PLASTIC-COATED HANDGUN BULLETS

(By Mary Battiata)

The Alexandria City Council last night approved an ordinance banning the sale, manufacture or possession of controversial handgun bullets capable of piercing the lightweight bulletproof vests used by police.

The ordinance, which was opposed by some gun enthusiasts and the National Rifle Association (NRA), specifically names the KTW plastic-coated, hard-metal bullet manufactured in the United States and a French-made Arcane bullet with a pointed tip. Apparently it is the first measure of its kind in the Washington area. Seven states, including Rhode Island and Minnesota, have passed similar legislation banning the bullets or levying heavy penalties for their use.

Anyone possessing, manufacturing or selling the bullets in Alexandria may be punished by a $500 fine or six months in prison.

The domestically made bullet coated with the plastic Teflon was developed before widespread police use of bulletproof vests. It was intended for police or military use, but is available commercially. The bullet can pierce an auto engine block, the side of a house and can go through several bulletproof vests without losing substantial velocity.

Alexandria's sheriff, police chief and commonwealth's attorney spoke in favor of the measure at a public hearing earlier this month.

The 6-to-0 vote with one abstention came a day after an Alexandria deputy sheriff's life was saved by a bulletproof vest that deflected pistol fire from an escaping prisoner.

The ordinance drew strenuous opposition at the hearing. Opponents included a Northern Virginia gun club and the NRA, which criticized the bill's language as too vague and difficult to enforce. NRA general counsel Michael McCabe also said he believed the language posed a threat to the legitimate sportsman who may use lubricants on his bullets.

After last night's vote, McCabe expressed disappointment and said that he believed the council had been misled and misinformed. "The bill addresses a nonexistent problem," he said. "The fact is there is not one documented incident of successful use of this bullet against a policeman." McCabe added that he believes that ordinances such as this are "just a shopping list for the criminal who decides he wants a better way to take on the police."

Several council members disagreed.

"These bullets have no legitimate purpose. No sportsman will be deprived of any sport by this ordinance," said Vice Mayor James P. Moran, Jr. (D).

Council member Carlyle C. Ring (R) abstained from voting and questioned the bill's language, saying he believes it poses a potential problem for both policemen trying to enforce the ordinance and gun owners trying to stay within the law.

Council member Donald Casey (D), who sponsored the ordinance, said local law enforcement officials, gun enthusiasts and bal-

listics experts had been consulted and found the language of the measure adequate. "By picking this language apart," said Casey, "you fall victim to the same trap the others have." That was an apparent reference to similar federal legislation introduced by Rep. Mario Biaggi (D-N.Y.), which is currently stalled in subcommittee.

The U.S. Justice Department has voiced opposition to the bullets in question, but has stopped short of endorsing a federal ban, citing the difficulty of defining exactly what bullets are included.●

THE KREMLIN IS AFRAID OF UKRAINE

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. DOUGHERTY. Mr. Speaker, I have had the opportunity to work with many Ukrainian-Americans in my capacity as cochairman of the Ad Hoc Congressional Committee on the Baltic States and Ukraine. You can be assured that no group of people is more hard working and determined for the cause of human rights in the Soviet Union. Undoubtedly, the devotion to justice is also found in the many Ukrainians still suffering under the domination of the Soviet Government. As seen in a recent column by Jack Anderson, the Soviet officials are well aware of the Ukrainians' potential for protest, and have taken extreme steps in an effort to keep them in line. I would like to submit this Anderson column for the RECORD, so that my colleagues may better appreciate the Ukrainian spirit of freedom.

SHADOW OF THE UKRAINE SPURS KREMLIN IN POLAND

(By Jack Anderson)

The real reason for the Kremlin-instigated crackdown on Poland, secret CIA reports suggest, was to prevent the Solidarity movement from spreading to the restive Ukraine inside the Soviet Union.

Intelligence cables from Moscow periodically include reports of sit-ins and protests demonstrations in the Ukraine. But for the most part, these have been spontaneous, uncoordinated incidents that were quickly suppressed by the authorities. And that's the way the Kremlin intends to keep it.

"After the Russian Republic itself, there is no area of the Soviet empire more important to Moscow than the Ukraine," a top-secret CIA report points out.

Nor is there any area where nationalist fervor has persisted with more determination and where the populace has more stubbornly resisted decades of attempted Russification.

"Ukrainians possess characteristics which, taken together, give them a unique position among Soviet minorities," states the CIA report, which was reviewed by my associate, Dale Van Atta. "Some of these features—the cohesiveness of the Ukrainian population, the economic significance of their area, the historical longevity of the Ukraine as a distinct ethnic community conscious of an independent cultural heritage, and the Ukraine's susceptibility to Western cultural influences—would seem to increase the ability of the Ukrainians to resist Russification pressures."

Analysts also point out that, like Poland (of which the Western Ukraine was a part before World War II, the Ukraine has large iron and coal mines. "Those kinds of industries have created the same sorts of labor problems as they did in Poland," noted one expert, "including long hours, six-day weeks and unsafe working conditions." It will be remembered that Solidarity began as a labor movement, not an anti-Communist uprising.

In time, the analysts suggested, "the mood could develop" among the Ukrainians to imitate Solidarity.

While the Ukrainian Communist Party enjoys a privileged position in the Soviet Union, and Ukrainians are treated "on an almost equal footing with Russians" in recruitment for top jobs, they are still not trusted to withstand the siren song of Ukrainian nationalism, the CIA report notes.

The Polish crisis wasn't the first time the Kremlin had cause to worry about the Ukraine. In 1941, Ukrainians welcomed Hitler's invading troops with flowers, hailing them as liberators from Stalin and the Russian oppressors. Ukrainian volunteers fought with the Germans against the Red Army.

In 1968, the decisive factor in the Kremlin's decision to invade Czechoslovakia was fear that the liberalizing effects of the "Prague spring" would spread across the border into the Ukraine. And four years later, the Ukraine's party boss, Peter Shelest, was ousted when he showed a dangerous tendency to go easy on Ukrainian nationlists.

The man who engineered Shelest's downfall was the head of the KGB in the Ukraine, Vitaly Vasilyevich Fedorchuk. Though a Ukrainian, he had none of Shelest's qualms about suppressing Ukrainian aspirations with truly Stalinist ruthlessness.

Not surprisingly, Fedorchuk's hard-line suppression in the Ukraine endeared him to Leonid Brezhnev, himself an alumnus of the Ukrainian apparatus. Fedorchuk now heads the entire Soviet KGB. Western intelligence analysts note glumly that any man who put down his own people so harshly will be unlikely to balk at stifling dissidence throughout the Soviet Union. And that is precisely what is happening.●

THE SILVIO O. CONTE LANGUAGE LABORATORY

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. BOLAND. Mr. Speaker, on September 10, Tufts University dedicated a new language laboratory on its campus in Medford, Mass.

I want to inform the Members of the House that this exciting and beautiful facility has been named for our colleague, and my friend, SILVIO CONTE. This signal honor is a tribute to SILVIO's commitment to the pursuit of international understanding through education. No Member of this House has been more resolute in the belief that in the encouragement of education lies mankind's best hope for lasting peace. No Member has been more willing to back up his commitment with action when appropriations for educational programs were threatened.

In his remarks at the dedication ceremonies, Tufts President Jean Mayer eloquently described SILVIO CONTE's efforts on behalf of people, both here and abroad, who were in need of assistance. I would like to insert Dr. Mayer's remarks at this point in the RECORD.

REMARKS BY TUFTS UNIVERSITY PRESIDENT JEAN MAYER AT THE DEDICATION OF THE SILVIO O. CONTE LANGUAGE LABORATORY

Dean Eliot has expressed very clearly the importance of this Language Laboratory to the students at Tufts, not just to the young diplomats who are getting such superb training at the Fletcher School, but to all our students. It is important for every educated person to be able to express herself or himself and to think in a language different from his own. It is important for an individual not to be a total captive of an inherited framework and mode of thought, a prisoner throughout life of one culture, no matter how rich and varied it may seem to be.

It is even more important for the nations and for the people of the earth that we learn how to talk and reason together. Over 40 years ago, the historian Thomas Bailey wrote, "If the ordinary American wants to know who shapes fundamental foreign policy, all he has to do is look into a mirror." It is even more true today. It is, of course, also true that English is the only official language of almost 30 nations and one of the official languages of 16. But a decreasing number of the world's population speak English. Increasingly, the ordinary American speaks directly to the ordinary citizen of other nations on this small planet, through trade, through international conferences, through travel, through print and radio and television, and they speak back. As a Japanese businessman remarked—in excellent French—the most useful international language is the language of your client.

Far more, language is one key to understanding the needs and hopes and dreams of other people, and that perception is a key to international and national accord. No one in public life appreciates that better than the man we are honoring today. Congressman Silvio Conte believes that both individuals and nations need to understand and help each other before they can live in peace. For over two decades he has been a member of the Foreign Aid Appropriations Subcommittee and the leading Republican giving continuous support to foreign aid. He is a strong supporter of international language studies, of the Peace Corps and the World Bank, a key figure in the support of health, agricultural, and educational assistance through the Agency for International Development, and of the Fulbright-Hays cultural exchange program.

He is a member of the U.S.-Japan Friendship Commission, was deeply involved in the sending of aid following the Italian earthquake, and has played a personal and very quiet role in helping a number of Jewish families to emigrate from the Soviet Union and other communist bloc countries, and in helping dissidents to leave Argentina.

I have known Mr. Conte personally and have worked with him at intervals for almost 15 years. We first met in the late 1960's while I was working on the hunger programs and was chairing the White House Conference on Food, Nutrition and Health. I know him as a generous man, who truly cares about the poor. Whenever I have gone to talk with him in the name of people who are needy and suffering I have found him unfailingly helpful and sympathetic.

As a university president, I have come to know the depth of his commitment to both public and private education at every level, and to continuing education programs. Indeed, he recently received the award of the National Advisory Council on Continuing Education for his leadership in support of continuing education. Mr. CONTE is one of those who truly believe that education is the hope of the future, and that all the young people of this country need to have the chance to carry their education just as far as their abilities will take them. He believes in self-help—he is a most effective advocate of the work-study program—but he also believes in adequate support.

He has been a steady friend of Tufts University. It is in part thanks to him that the Congress saw fit to award us this model intercultural center. He has been equally helpful in a number of other educational ventures with the University—our regional school of Veterinary Medicine and the National Human Nutrition Research Center.

Since 1950, Mr. CONTE has served the people of his district, first as State Senator, and since 1958, as their Representative in the Congress of the United States. It is a mark of his qualities as a politician and a statesman that on four occasions he was nominated by both parties, that his support crosses political boundaries, and that through the years he has become known as a man dedicated not only to the welfare of his constituents but to that of all Americans. In a House divided and politicized even more now than in the past, he is a wise friend to colleagues on both sides of the aisle, a strong influence on the side of both reason and compassion. I might say that he is the indispensable cement that binds the many elements together and that keeps the system working.

It is with great pleasure that I present to you our guest, Ranking Minority Member of the House Appropriations Committee, Member of the Committee on Small Business, Regent of the Smithsonian Institution, recipient of 12 honorary degrees, including in 1980 a Doctorate of Laws from Tufts, committed outdoorsman and environmentalist, Member of the Migratory Bird Conservation Commission, a man at the center of gravity of the American people, and my very good friend, the Honorable Silvio O. Conte.

Representative Conte, Mrs. Conte, I am happy to welcome you once again to Tufts. Mrs. Conte, would you do us the honor of unveiling the plaque?●

CONGRESSIONAL SALUTE TO THE CLERGY AND PARISHIONERS OF OUR LADY OF LOURDES CHURCH OF PATERSON, N.J., DURING THEIR CENTENNIAL ANNIVERSARY CELEBRATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. ROE. Mr. Speaker, on Saturday, October 9, the people of Paterson, my congressional district and State of New Jersey will join with His Excellency, the Most Reverend Bishop Frank J. Rodimer, D.D., J.C.D. of the Diocese of Paterson; the Capuchin Friars, Rev. Pastor Donald Luciano, O.F.M., Rev. Peter Napoli, O.F.M., Brother John LoSasso, O.F.M., the beloved sisters, and the congregation of Our Lady of Lourdes Parish of Paterson, N.J. at a Jubilee Mass and gala festive celebration in commemoration of the 100th anniversay of Our Lady of Lourdes Church. I know that you and our colleagues here in the Congress will want to join with me in extending our heartiest congratulations to the clergy and parishioners of Our Lady of Lourdes Church in national recognition of a century of total dedication and devotion to the service of God and the cause of brotherhood, goodwill, and understanding among all mankind.

Mr. Speaker, the faith and devotion of our people in a full communion of understanding, ever caring and respecting the individual religious beliefs of his fellowman has been the lifeline of our democracy—ever inspiring our people with hope and urging the individual on to great achievements and purpose in pursuing the fulfillment of his dreams and ambitions. The exemplary leadership and outstanding efforts of our citizens so important to our quality of life are in the vanguard of the American dream. Today we express our appreciation to the pastor of Our Lady of Lourdes, the Reverend Donald Luciano, and his predecessors whose esteemed commitment and unselfish devotion in promulgating spiritual guidance, goodwill, fellowship, and brotherhood in service to God have provided a lasting contribution to the quality of life of the people of our community, State, and Nation.

The quality of the leadership of members of the most reverend clergy who settled in the city of Paterson, N.J. and founded Our Lady of Lourdes Church is most eloquently intertwined in the history of the church which was provided me by Father Luciano, Father Napoli, Brother LoSasso, and Mrs. Pamela A. Brown, members of the Centennial Anniversary Committee. With your permission, Mr. Speaker, I would like to place this statement on the history of Our Lady of Lourdes Parish at this point in our historic journal of Congress, as follows:

HISTORICAL SKETCH OF OUR LADY OF LOURDES PARISH

It was on Sunday, September 3, 1882 that a small crowd began to gather on the vacant lots between River and Butler Streets. Most arrived on foot but a few had come in horse drawn carriages. All were dressed in their Sunday best. It was an unusual kind of gathering, for as soon as they arrived, they immediately separated into small groups, each speaking a different language.

Among them stood the man whose efforts were responsible for this mixed assembly. This was a special day and he was a man endowed with very special abilities. This man of vision and determination was Father Hena, rector of St. Boniface Church. He had been privileged to be present at the shrine of Our Lady, in Lourdes, France on the occasion of the twenty-fifth anniversary of the apparition of the Blessed Virgin to Bernadette. He dreamed of one day building a church dedicated to Our Lady of Lourdes. It was on this fall day of 1882 that his dream was becoming a reality. The Right Reverend Bishop Wigger was present to lay the cornerstone. The church was not completed, however, until the spring of 1883. It was on May 14th of this year that Bishop Wigger was again present and addressed the congregation in English. Many parishioners were unable to understand the message. Later in the afternoon, Father Funke of Carlstadt arrived to preach a sermon in German. Again in the evening another sermon was delivered this time in Dutch by Father Schaeken.

On July 7, 1883 Father Schaeken received his appointment as the first resident rector of Our Lady of Lourdes. He accepted the difficult challenge of organizing this diversified parish of 738 members with enthusiasm and zeal.

Father Schaeken soon began to make plans for the Christian education of his young parishioners. After having visited all the homes of his flock to discuss the possibility of opening a parish school, the decision was made to set up four classrooms under the church. Three Sisters of St. Dominic were invited to educate some ninety children. And so, on Monday, September 17, 1883 the little parish school began. The sisters had to make use of cramped living quarters at the rear of the basement school. The convent was built in 1890 and blessed on October 5th of that same year.

On April 5, 1891 the community gathered in joy to participate in the first solemn mass of one of its own young men who had become a priest, Father John DeLade.

June 28, 1891 was to go down as one of the sad days in the life of this young congregation. A fire broke out in the church and caused some damage. Thanks to the speedy work of the local fire company, serious destruction was averted.

On Sunday, May 19, 1895 a grotto dedicated to Our Lady of Lourdes was blessed. It was a simple structure built of wood blocks and illuminated by gas lights. On December 29, 1895 draperies caught fire from a votive candle. They had to use the water from the grotto to extinguish the flames. The damage was severe.

After 17 years as pastor Father Schaeken was asked to assume responsibility of St. Paul's Church in Jersey City. On August 10, 1900 Father Stein became pastor. He devot-

ed a good deal of his energies to the improvement of the school. He requested that the City Educational Department inspect the parish school and give their evaluation. The result was that they found the school to be far superior to many.

Up to this time the parish had been served by only one priest. Father O'Neil became the first curate to serve the parish. He was followed by Father Peter Kurz and Father Van Zale, Father Van Zale was from the parish. Other young men were to follow after the turn of the century: Fathers Oberholz, McDonald, Shaw, Bender, Becker, Bohl, Verhoest, Pfister, Scchnell and Reese.

A number of young women from the parish had also joined the Sisterhood.

Fr. Stein found the time to organize a church for Polish speaking people. The church was named St. Hyacinth's.

Father Stein left the parish for a new assignment in June of 1915. He had succeeded in breaking down many of the national prejudices which had hampered the church for so long.

On June 10, 1915 Father Degan became paster. He realized soon that the most pressing need of the hour was to build a parochial school. He promptly purchased property, had plans drawn up and signed the contract for construction.

The cornerstone of the new school was laid on September 17, 1916. The ceremonies were conducted by Dean McNulty.

Fr. Degan then set about buying more property in the hope that other churches and schools might be built in the future. He himself succeeded in building St. Paul's Church in Prospect Park.

A new pastor was named in 1925, Father Van Zele. He was responsible for building a new, magnificent church. However, plans for interior decoration were forestalled because of the depression years. Father Van Zele also established an outlying chapel which later became St. Anthony's, Hawthorne.

Father Merrick, the first Diocesan Director of Catholic Charities, in the newly formed Diocese of Paterson, was appointed pastor to succeed Father Van Zele who passed away on August 14, 1941.

Fr. Merrick immediately set to work to reduce the tremendous church debt which was a staggering $125,000.00. He reactivated parish societies to this end. This exhausting burden proved fatal for Fr. Merrick who died on March 18, 1944.

In 1944 an ex-army chaplain, Father George Crone, became pastor. He was a strong personality and a natural leader. He directed much of his efforts in forming an active Parent Teachers Association whose purpose would be to aid the sisters in their task and to improve the quality of education.

As Father Crone's health declined, Father Wanerka was appointed to administer the parish in March of 1951. It wasn't until December, 1957, that Father Wanerka formally became pastor. He had proven his exceptional ability to lead the flock of Lourdes. His cherished dream would be to transform the rather drab gray interior of the church into something impressively beautiful.

Father Wanerka was fortunate to be given as a co-worker Father John McHugh who had just arrived from Ireland. They formed an excellent team, each blessing the parish with so many personal gifts.

Later, in June of 1957 Father John Mushinsky arrived at Lourdes and began working with Father Wanerka in ministering to a community which he very soon grew to deeply love and admire.

For the very brief period of two months Father Joseph Glynn administered the parish before being asked to take on another pastorate.

He was succeeded by Fr. Francis McCarthy in 1965, who immersed himself especially in the life of the school, developing a warm rapport with the children of school and parish. The school at this time was in need of much repair and was about to be condemned by the fire department for lack of proper fire exits. As a result, renovations were undertaken and an addition was also made on the school building. Work was carried on while school remained in progress.

In 1969 Father Pat Scott assumed the responsibility of a now changing parish. Socioeconomic conditions now presented the parish with new challenges. Some families began moving to other cities. A good, faithful core of parishioners remained. Attendance was not what it had been in past days. Fr. Scott generated a great deal of enthusiasm and kept the parish on the move. It was during this time that the needs of the growing Hispanic community were beginning to be met. Hispanic clergy joined the parish staff and a Mass in Spanish was introduced. Working along with Fr. Pat was the dynamic Fr. Mark Giordani, whose special talent was working with the youth of the parish.

By this time much of the physical plant was in great need of repair. Finances were becoming quite burdensome and as a result the parish staff had to be somewhat reduced. The diocese asked Fr. John Weis to assume the difficult task of leading the parish as pastor in 1975. He gave his all to the situation and shall always be remembered for his hard work and for his personal involvement not only in the spiritual life of the community but in the actual repair work of the plant.

In June of 1977 Bishop Lawrence B. Casey invited the Capuchin-Franciscans of the New Jersey Province to administer the parish. Fr. Donald Luciano, O.F.M. Cap. was named pastor at this time. Other friars have served along with him: Brother John LoSasso, who has remained since that time, Father Salvatore Panagia, Father Robert Grix, Father John Frega, Brother Hilary and Father Peter Napoli. Each has given of himself and left his mark on the community. The parish has also been blessed with the presence of three Hispanic Permanent Deacons: Mario Munoz, Angel Rodriquez and José Rivera.

From humble beginnings Our Lady of Lourdes has not only enlarged itself but has been instrumental in the formation of many other Catholic churches in the area. Through the years it has weathered storms and also experienced many successes. The Lord has been faithful throughout in guiding His people.

The Apostle John wrote in his Gospel: "There are still many other things that Jesus did, yet if they were written about in detail, I doubt there would be room enough in the entire world to hold the books to record them." These words apply not only to the Historical Jesus but also to His Mystical Body, the Church. We are that Church.

Mr. Speaker, in observance of their centennial anniversary celebration, we do indeed extend our congressional salute to the pastor, Father Donald Luciano, and to all of the associate priests, sisters, and parishioners of Our Lady of Lourdes Church of Paterson, N.J., in national tribute to the elegance of their faith and outstanding good works on behalf of our people which has truly enriched our community, State, and Nation.●

CRIME VICTIMS: THE REAL LOSERS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. BIAGGI. Mr. Speaker, although the odds are about 100 to 1 against a criminal ever paying for the crime they commit, there is one person who always pays—the crime victim.

Earlier this Congress I authored a bill, H.R. 2284, to provide crime victims with Federal compensation covering medical expenses, loss of job earnings and—for senior citizens—any property losses incurred.

Just this week, I joined as an original cosponsor of another bill, H.R. 7191, to provide additional assistance and protection to crime victims and witnesses.

The major provisions of H.R. 7191 would:

Better protect Federal crime victims and witnesses against acts of retaliation or intimidating.

Require that a Federal judge know what impact a crime had on the victim before sentencing the convicted criminal.

Require that victims and witnesses receive prompt notification of hearing and trial dates.

Insure that property held for evidentiary purposes is returned to the victim as soon as possible.

Encourage the increased use of restitution as an appropriate criminal penalty.

Direct the Attorney General to report to Congress on the need for legislation to prevent criminals from gaining profit—that is books, movies—from their offense.

This important measure was authored by the distinguished chairman of the House Judicary Committee (Mr. RODINO) and my friend and colleague from New York (Mr. FISH). The bill is cosponsored by 70 House Members, and a very similar measure has already received unanimous approval in the Senate. I am hopeful H.R. 7191 will receive the favorable consideration it certainly deserves before the end of this Congress.

Mr. Speaker, at this time I wish to insert an editorial in support of H.R. 7191, the Comprehensive Victim and Witness Protection and Assistance Act of 1982, that appeared in today's New York Times:

[From the New York Times, Sept. 29, 1982]

REMEMBER CRIME VICTIMS

With plenty of reason, crime victims liken themselves to the patients of a doctor who

focuses so much on the technical problem of curing disease that he ignores his patients' feelings. Courts and prosecutors, the victims say, pay attention to the victim only as he may help prosecute the case; otherwise they treat him with indifference.

Yet the victim's feelings are important, and not only because it is decent to show official concern. Alienated victims contribute in a big way to the credibility crisis that afflicts criminal justice. Congress, finally aware of the problem, now has a chance to make a gesture on the victim's behalf.

The Senate recently passed an "Omnibus Victims' Protection Act"; a similar measure was introduced in the House this week. The bills, sponsored by Senator Heinz and Representatives Rodino and Fish, would strengthen laws against intimidation of crime victims and witnesses, encourage judges to make offenders pay restitution to victims, require a sentencing judge to consider the effects of the crime upon the victim and set up procedures to insure that courts and prosecutors treat victims with greater respect.

To be sure, most of the robberies and other crimes that traumatize the public are tried in state, not Federal courts. The effect of Federal legislation is mainly symbolic. Some of the provisions, furthermore, raise technical questions.

Restitution, a worthy concept, so far has worked well only where the court makes a determined effort to follow up. Only the House version of the bill recognizes this problem, by requiring that judges be given information about non-prison programs that allow an offender to earn money for restitution payments. The effectiveness of this provision will depend on its final language.

Over all, though, the bills would reassure victims without infringing on defendants' rights. The most valuable provisons may be the most mundane. One would have prosecutors consider the victim's views before dismissing or plea-bargaining a case. Others would require courts and prosecutors to be sure victims are notified about proceedings they must attend and about the status of their cases. The bills even call upon the court to help a victim negotiate for required time off from work.

Such procedural steps incur no major public cost. But the return, in terms of heightened public confidence, could be considerable.●

THE TESTIMONY OF MR. GEORGE SPRINGER

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. MOFFETT. Mr. Speaker, it is my distinct pleasure to present to this Chamber the testimony of Mr. George Springer before the forum on the effects of the New Federalism on the children of Connecticut. Mr. Springer is the president of the Connecticut State Federation of Teachers. I commend to all his thoughtful and insightful comments on how Connecticut schoolchildren are faring under the continuing cutbacks in Federal aid to public education.

Congressman Moffett, Congressman Miller, and Congresswoman Kennelly:

Thank you for inviting me here to share my views on the impact of proposed federal budget cuts in education and the school lunch program on children in Connecticut. My name is George C. Springer and I speak as President of the Connecticut State Federation of Teachers, a union of 16,000 members and as Co-Chairperson of the Connecticut Solidarity Committee, a coalition of labor and community organizations concerned with budget cuts and proposed budget cuts.

Federal education funding represents about 3 percent of the federal budget, 8 percent of public elementary and secondary costs and 20 percent of support for colleges, universities and their students. Federal assistance for education has made an important contribution to clearly identified national needs. It has provided for agricultural and military research, readjustment for servicemen, increasing capability in math, science and foreign languages and furthering equal opportunity.

Federal education funding has been targeted to serve populations with specific needs. Ninety percent of the higher education funding by the Department of Education is concentrated on major student assistance programs. Most of the elementary and secondary assistance is targeted to populations and districts with special education needs. These funds have been concentrated in a few programs—Chapter 1 (formerly Title I, aid to disadvantaged), Chapter 2 (a block grant consolidating 30 small programs), Impact Aid for federally affected school districts, Bilingual Education, Education for the Handicapped and Vocational Education.

During the past two years of budget cuts and proposed cuts, we have experienced uncertainty, anxiety and stress. We busied ourselves compiling data on the effectiveness of programs, not fully realizing that tax policy, commitment to tremendous increases in military spending and concern over deficits would make federal support for education along with programs in 25 percent of the federal budget. Extremely vulnerable to the annual appropriations process.

Given the present budget priorities, federal aid to education will continue to be under increasing pressure. It is a state of affairs that we must turn around. There are not that many federal education dollars to cut and the cost of these cuts is enormous. Education is an indispensable element in our economic recovery and growth. Children who do not receive help early will require costlier assistance later.

In Connecticut, the state and municipal governments have their share of fiscal problems and are unprepared to make up for losses in federal revenues. We have been experiencing cutback government—increasing taxes and reduction in services. The federal budget cuts have their greatest immediate and negative impact on urban centers where the poor and those children with the greatest educational needs are concentrated. These urban centers are plagued with eroding revenue sources and increasing demands for services. These children and their parents are often the ones affected by other federal cuts—food stamps, welfare, job training, unemployment compensation, fuel assistance, etc.

Budget cuts lead to unemployment, suffering and despair. Present needs go unmet and the future is mortgaged. Dismantling of programs designed for prevention will force us to create costlier programs to cure social ills and ease human suffering.

Let me be more specific on the impact of federal budget cuts in Connecticut. After the FY '83 federal budget was proposed, the Connecticut State Board of Education unanimously approved a resolution outlining probable impact on Connecticut and calling on the President to reconsider his requests. In a letter of transmittal to the President, Mark Shedd, Commissioner of Education said,

"The impact of further large rollbacks in federal funding for elementary and secondary educational programs can be devastating to the lives and futures of large numbers of young people. Such cuts will be counter productive in their long-range effect on the nation's economy."

An impact study prepared for the Connecticut General Assembly in March, 1982 discussed cuts in the school lunch program and education funding as follows:

"During the 80-81 school year, the national School Lunch Program provided schools with cash and commodities so that all children could receive nutritious lunches and breakfasts. Congress designed these programs to 'safeguard the health and well-being of the nation's children.' Nearly half the 27 million children who participate in the school lunch and over 80 percent of the 4 million children who participate in school breakfast are poor. About 1 billion or 35 percent of the federal support was cut.

"As a result of the cutbacks thus far, 29 public schools serving 19,260 students in Connecticut, have dropped out of school lunch programs. 35 private schools have dropped out of the school lunch program. The average statewide price increase for children who pay for their lunches is 20-25¢. Between November 1980 and November 1981, there has been a 20 percent drop in approval of applications for free lunches and a 4 percent drop in approved applications for reduced price lunch."

Further cuts are proposed for fiscal year 1983.

"The President had asked Congress to slice some 30 percent of federal aid to education, a move that would have effectively eliminated much of the federal assistance for public schools legislated over the past two decades.

"This fiscal year . . . slashed education funding . . . making deep cuts in aid to elementary and secondary education and in aid to the college loan programs.

Devastating cuts have been made in programs which serve disadvantaged children . . . programs which local districts did not or could not fund without federal assistance.

"These cuts constitute a catastrophic change in both education funding and equality of educational opportunity."

The President has asked for further cuts for Chapter 1, Aid for Handicapped and Bilingual Education. To date, Congress has successfully resisted major cuts. The debate continues over whether 1970 or 1980 census data should be used in computing assistance for Chapter 1. It is still unknown whether Congress will override the President's recent veto of a bill that would require use of 1980 data. (At stake for Connecticut is $3 million for the Chapter 1 grant.)

Time does not permit discussion of the new federalism, deregulation, block grants and tuition tax credits and their probable impacts. I would say however, that the federal government has an important role to play in education to protect the national in-

terests and provide for the general welfare. The laws and regulations of the federal government have effectively protected the rights and furthered the interests of the poor, young, handicapped and disadvantaged. The flexibility provided states and local governments in block grants does not compensate for the revenue losses in funding important programs. It is ironical that while the President seeks to reduce the average of $160 of federal funding supporting each child in public schools, he proposes $500 in new tax credits for parents of each child in private schools.

Bad news and budgetary uncertainties have made many sufficiently doubtful about the prospects of getting financial aid continued through four years, and so they don't even bother to apply to college. As racial isolation increases, funds for desegregation are cut back. We may be seeing the beginning of an educational caste system. Harvard accepted 171 blacks in April and found 97 enrolling in the Fall. Yale received 98 fewer applications from blacks this year, even though it raised its scholarship budget by $1.9 million.

There is a warning in the September 8 issue of "Education Week" by John Egerton, that is worth repeating.

"We are dangerously near a time when public schools could become, like public housing or public jails, places where the poor are confined against their will. If we allow that to happen, it will not be the poor alone who will lose, it will be all of us."

Programs	Grant awards received 1981–82	Program ends	Estimated grant awards to be received 1982–83	Projected grant awards to be received 1983–84
Child nutrition programs	24,664,029	.....	24,550,000	[1] 26,602,000
Title I ESEA programs (disadvantaged)	25,518,704	9/13	.....	.....
Chapter 1 ECIA (disadvantaged) and migrant	.....	.....	[2] 25,226,039	[2] 28,388,039
Education of the handicapped	13,989,814	.....	14,828,104	14,828,104
Vocational education	7,493,007	.....	6,750,694	[4] 6,750,694
Adult education	1,401,245	.....	1,216,522	[4] 1,216,522
Youth employment and training	5,281,040	9/30	.....	.....
Job Training Act (proposed)	.....	.....	[5] 2,400,000	.....
Title IV and V ESEA (innovation and support)	3,773,724	9/30	.....	.....
Chapter 2 ECIA (block grant)	.....	.....	5,626,052	[4] 5,626,052
All other	1,097,074	.....	1,456,874	896,385
Subtotal	.....	.....	.....	.....
Vocational rehabilitation and disability determination	12,731,618	.....	14,998,552	16,066,950
Total	.....	.....	.....	.....

[1] Rate of reimbursement changes upward.
[2] USDE figures based on 1970 census data. Includes $1,957,234 for handicapped disadvantaged.
[3] Using 1980 census data and continuing resolution.
[4] For other programs the probability as of Aug. 17, 1982, is that we will have a continuing resolution October 1982
[5] 8 percent of $30,000,000 Senate version. House not available.

Connecticut State Department of Education.

ESTIMATED IMPACT OF FEDERAL GRANT PROGRAMS ON CONNECTICUT ELEMENTARY AND SECONDARY SCHOOLS

[All estimates based on President Reagan's budget proposals—dollars in millions]

	Grant awards received 1980–81	Estimated grant awards 1981–82	Proposed grant awards 1982–83	Projected grant awards 1983–84
Child nutrition	29.4	24.9	19.5	17.5
Disadvantaged	30.5	27.9	23.7	[1] 15.5
Handicapped	14.0	14.5	10.9	[2] 12.0
Rehabilitation	11.6	11.6	9.9	[3] 10.1
Vocational Rehabilitation	7.5	6.7	4.6	4.3

ESTIMATED IMPACT OF FEDERAL GRANT PROGRAMS ON CONNECTICUT ELEMENTARY AND SECONDARY SCHOOLS—Continued

[All estimates based on President Reagan's budget proposals—dollars in millions]

	Grant awards received 1980–81	Estimated grant awards 1981–82	Proposed grant awards 1982–83	Projected grant awards 1983–84
Disability	4.1	4.9	5.3	5.8
Vocational education	8.9	7.5	6.0	[4] 4.8
CETA	5.8	4.9	0.5	[5]
Adult education	1.4	1.4	1.2	1.0
Title IV	4.1	3.1	(d)	(d)
Title V	0.8	0.7	(d)	(d)
Block grant (chapter 2)	.....	.....	5.6	5.2
All others	1.2	0.8	(6)	(6)
Subtotal	107.7	97.3	77.3	66.1
Direct Grants	3.7	2.4	(6)	(6)
Impact Aid	5.5	3.5	2.5	2.5
Total	116.9	103.2	79.8	68.6

[1] Public Law 89–313 transferred to handicapped.
[2] Public Law 89–313 included.
[3] Proposed block grant in social services
[4] Vocational and adult education proposed new block grant.
[5] Proposed elimination of CETA.
[6] 1982–83 block grant.

These numbers are based on preliminary nationwide budget proposals of the administration (with derived Connecticut estimates), and are obviously expected to change in the coming months via Congressional action.

Connecticut State Department of Education.
February 23, 1982.

IMMIGRATION DISCRIMINATION AGAINST GAY MEN AND LESBIANS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. WEISS. Mr. Speaker, current immigration laws deny lesbians and gays entry into the United States. As a cosponsor of H.R. 3524, which would reverse this homophobic practice, I protest this flagrant violation of human rights. It is a case of unwarranted Government intrusion into citizens' private lives.

On July 14, 1982, our distinguished colleague from California (Mr. DIXON) sponsored a briefing on the impact of our discriminatory immigration laws. As a panel member, I heard testimonies which outlined the discrimination that many lesbians and gay men encounter when attempting to visit our country. Highlighting the testimonies were two Dutch citizens, Ms. Sylvia Borren and Mr. Rob Pistor, who offered enlightening words on this subject. I take this opportunity to insert into the CONGRESSIONAL RECORD their testimonies and to invite my colleagues to examine this important issue.

The testimonies follow:

IMMIGRATION DISCRIMINATION AGAINST GAY MEN AND LESBIANS

Testimony on the effects of U.S. immigration measures against homosexuals on Individuals, the Press, Parliament and the Government in The Netherlands. By: Rob Pistor, member and former International Secretary of the Dutch Society for the Integration of Homosexuality COC, Rozenstraat 8, 1016 NX Amsterdam, The Netherlands.

INTRODUCTION

The reaction in The Netherlands to the tightening up of the immigration regulations that ban homosexuals from the United States was fierce. The entire press, newspapers, radio and television spoke out against the measures. So did Parliament in a unique, almost unanimously supported letter of protest to U.S. Congress, and so did the Dutch Government. Public opinion in general was appalled and the gay and lesbian community demonstrated.

U.S. reputation, especial as human rights advocate, suffered a severe blow.

THE PRESS

The highly respected newspaper NRC/Handelsblad wrote on January 3, 1980 in an editorial comment: "The American immigration measures, that discriminate against homosexuals, are, of course, on strained terms with the freedom of traffic of people. That is an international principle that got new impulse by the Helsinki agreement. As advocate of this agreement, the U.S. are the first to take it at heart." In a letter to the editor of the influential De Volkskrant, former labour M.P. Mr. Koos Huysen wondered how seriously the Dutch Government should take the boycott of the Moscow Olympic Games, as proposed by the Carter Administration because of the bad human rights situtation in the Soviet Union, the treatment of dissidents in general and Mr. Sacharow in particular, whereas the U.S. itself violates human rights by discriminating homosexuals with its immigration regulations.

There has been a wave of demonstrations, all extensively and widely covered by the press. This in itself is an exception, since demonstrations are so common, that the press hardly pays any attention to them and something very special must be going on to reach the headlines.

January 10, 1980: The Homosquad action took place at Schiphol Amsterdam Airport. Two men (the queer division) and two women (the dyke division) of so called Homosquad, dressed as police officers, interrogated American travellers arriving in Amsterdam about their sexual preferences. After having explained the startled interviewees that this treatment is very likely to happen to Dutch citizens arriving in the U..S., most people interviewed turned sympathetic towards the action, expressing their embarrassment that such discriminative laws existed in their country. Especially this action found a tremendous coverage in the Dutch and foreign press.

January 19, 1980: Mr. Benno Premsela, a world famous architect with business connections in the U.S.A., former chairman of COC, wrote an open letter to the Ambassador of the United States, which was quoted in the newspapers: "Letting to survive any kind of discrimination, he wrote, is extremely dangerous. To my opinion, which I always tried to propagate, discrimination inevitably leads to murder. There can be no doubt about that. It starts with some words. Next there will be a law and it ends with destruction, physically and mentally. (. . .) As a Jew and as a homosexual, after a holocaust and after a by large not yet finished struggle for homosexual rights in Holland, I know very well what I am talking about. (. . .) The law in your country forces people to do the worst possible: to hide and to deny their identity."

March 30, 1980: Two reporters of a Dutch gay radio program, Ms. Diane de Coninck and Mr. Reijer Breed went to the U.S. to make a report on the immigration situation for gays and lesbians. They announced their homosexuality to the immigration officer who allowed them on parole in the country. After two days of interrogation they were expelled. But the authorities were too relieved to be able to use a non political argument. Since they intended to do a report, the tourist visa they had, was not sufficient. Because making a report means work, and that requires a business visa. Both reporters got facilities on radio and television to testify their experiences and to explain their action.

In March also, the Dutch National Council for Social Welfare, a Christian Democratic dominated overall organization, called upon her sister organisations in the U.S. to oppose the immigration law, because it is based on the assumption that homosexuality is a disease. The American Psychiartric Association however denounced this assumption already years ago. The Council points at the timing of the re-enacting of the anti gay regulations. It says that it is always in times of economic crisis that the rights of minorities are under attack.

THE U.S. ANSWER

The United States Ambassador in The Hague, then Mrs. Gery Joseph, tried to soothe protests by offering an exceptional treatment for Dutch citizens. They could apply for and obtain a special waiver, which would guarantee them free entrance to the U.S. Mrs. Joseph considered the Dutch gay and lesbian community very ungrateful, when it did not welcome her solution. The community pointed at the dangers of having yourself registrated, even in order to obtain free entrance. The fact that one should register first as homosexual and then get a waiver as being Dutch was considered by the gay and lesbian community as a form of double discrimination. Mrs. Joseph was not amused.

FINALLY

By letting the existence continue of anti homosexual immigration regulations, to be gay or lesbian is, in the eyes of the U.S. legislator somehow less than fully human. Any authority, finding itself capable of drawing the line between human and less then fully human, bears much remembrance to a period, when a criminal and oppressive regime defined the difference between Ubermensch and Untermensch. With all the results it had and which may well be known. I end this testimony with an appeal to all members of Congress to be aware of the dangers that any discriminative measure involves. They have to guard a tremendous heritage of freedom, that the United States means. For their own benefit, but also for others, also for ours. If they are not aware of the impact anti gay measures have, I would like to ask them: "Whenever you express your opinion on homosexuals or on what they should do, please repeat what you have said, but change the word homosexual into the word Jew or jewish. It all of a sudden becomes clearer then. And if not. . ."

Testimony on the effects of U.S. immigration measures against homosexuals on individuals, the Press, Parliament and the Government in New Zealand—in comparison to the effects in The Netherlands. By: Sylvia Borren, member and International Secretary of the Dutch Society for the Integration of Homosexuality COC, Rozenstraat 8, 1016, NX Amsterdam, The Netherlands.

Being of Dutch extraction, but having lived in New Zealand from my twelfth until my twenty-fifth year, and holding both Dutch and New Zealand nationalities, this testimony is an addition to that of Rob Pistor and refers to the effects of U.S. immigration measures against homosexuals in New Zealand—in comparison to the effects in The Netherlands.

In 1977 the New Zealand Parliament accepted the Human Rights Commission Act 1977 which had as purpose "the advancement of human rights in New Zealand in general accordance with the United Nations International Covenants on Human Rights". The Human Rights Commission was instated and claimed that "the Commission in discharging its general functions must look to international instruments on human rights for guidance". It will not be surpising that the Human Rights Commission turned to International Convenants, but also to countries such as for instance the U.S.A. with her tradition of developing policy in matters of civil and human rights for insight and support.

In August 1979 the NGRC made submissions to the Human Rights Commission asking the Human Rights Commission to carry out its functions and powers to recommend to Parliament that the Human Rights Commission Act be amended to include 'sexual orientation' as a ground on which discrimination is illegal, and to amend the Crimes Act 1961 to remove all distinctions between sexual acts done by men or by women, by homosexuals or by heterosexuals.

On 22 December 1980 the Human Rights Commission reported on the submissions made by the NGRC (which were fully supported by case histories). It found that the New Zealand legislation does at present make a distinction between males and females: male homosexuality is illegal and provides for a term of imprisonment not exceeding 5 years, whilst female homosexuality is not recognized in the law. But the Human Rights Commission states that it does not consider discrimination on the grounds of homosexuality a matter of human rights or fundamental freedoms.

In the wave of actions and reactions which followed the decision of the Human Rights Commission it became clear for the New Zealand public that this was an issue in which the U.S. was unable to fulfill its role as guardian of basic human—and civil rights—and worse, that New Zealand homosexuals would not be able to apply for refugee status—or even take a holiday—in the U.S. For what the New Zealand government chooses to call 'criminal' is according to the U.S. immigration laws a 'pathological condition'.

In the early months of 1981 it appeared clear that the New Zealand criminal law and the U.S. immigration laws had in common their discriminatory position against homosexuals—with countries such as Iran and Russia showing clearly where such a position leads.

Let me know what my personal situation is in the face of this mish-mash of contradictory policies.

My Dutch citizenship should ensure my full human rights—in The Netherlands. My sexual orientation is not relevant. Should I wish to enter the U.S. under my Dutch Citizenship, then I can have myself registered as a lesbian, receive a special waiver and thus pass the U.S. immigration laws—as a Dutch lesbian. Should I travel on my New Zealand passport, then there would be no registration, no waiver—and no entering the U.S. If I were a homosexual man, not woman, then I would be allowed into the U.S. But the registration necessary for this would brandmark me a criminal within my New Zealand nationality. Once I have a visa I can best enter the U.S. in the Northern California Court District for there the INS cannot prevent me entering. Which they can elsewhere in the U.S. If I do reach San Francisco I am likely to be told at length about the pro-gay policies and the full democratic rights that lesbians and homosexual men enjoy there. However if I happen to travel on to other states of the U.S. the practice—and the preaching—which I can encounter will be of a very different sort.

It is clear that this amounts to a case of discrimination on the grounds of sexual orientation, of nationality, of sex and finally of geographical position of entering the U.S.

By allowing this situation to continue, by allowing the anti-homosexual immigration laws to exist, the U.S. is guilty of discrimination, of conscious discrimination, in all the above mentioned ways.

I appeal to the members of Congress to insure that the U.S. begins to practice what she preaches—by removing these laws.●

THE NATIONAL DEBT RETIREMENT ACT

HON. KEN KRAMER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. KRAMER. Mr. Speaker, today Senator CHARLES PERCY and I, along with my distinguished colleague from Kansas, Representative LARRY WINN, are introducing legislation to create the fund to pay off the national debt.

The National Debt Retirement Act, as this bill is known, is introduced at the request of President Reagan.

It will allow Congress to demonstrate its commitment to actually doing something about the trillion-dollar-plus national debt, which is largely responsible for the high interest rates and unemployment we are suffering.

Earlier this year, President Reagan initiated a new Federal property program aimed at improving the management of Federal holdings and at expediting the sale of unneeded property. The President has indicated that one of the primary goals of the program is to apply the proceeds from the sale of surplus property toward reductions of the national debt. However, unless the legislation we are introduing today is enacted, this cannot be done.

The Kramer-Percy bill will eliminate a barrier to using the proceeds from the sale of surplus property to help retire the debt. Under current law, receipts from the sale of such property are deposited in the land and water conservation fund. The National Debt Retirement Act directs that receipts from Federal surplus property sales be placed in the Federal Treasury so that

they can be used only to help reduce the national debt.

It is important to note that our proposed legislation will not affect the level of funding in the Land and Water Conservation Fund. By law, the fund must receive $900 million annually from any combination of sources: offshore drilling leases, motorboat fuel taxes, and surplus property sales. In the past, surplus property sales have provided less than 10 percent of the land and water conservation fund's deposits. If the National Debt Retirement Act is passed, revenues from Outer Continental Shelf oil lands will continue to be deposited in the fund, insuring that the required $900 million annual income level is met.

Furthermore, the National Debt Retirement Act will not in any way change current law as to what property can and cannot be sold. Not one single acre more could be sold under this legislation than what is allowed under present law. Thus, our national treasures and other properties of scenic and environmental value will be totally exempt from the disposition process.

The National Debt Retirement Act will simply pave the way for receipts from surplus property sales to be used to help reduce the debt. For the first time in our history, a special account will be established within the Federal Treasury solely for the purpose of debt reduction.

In sending this legislation up to the Hill, President Reagan said:

Although the congressional calendar is crowded, I believe that the Congress shares my concern that the continued growth of our national debt can have a crippling effect on our economy. This is a problem that can be solved in part by the bill I am submitting today. The sales of surplus property cannot alone retire the debt. However, it demonstrates our commitment and is an all-important first step.

I urge you to join President Reagan, me, and our colleagues who have already cosponsored this legislation in taking that monumental first step toward doing something about the national debt in order to assure that the legacy which we pass on to the generations that follow us is one not of burden and despair, but filled with hope and promise.●

A TRIBUTE TO CORNELIUS RYAN

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. CARMAN. Mr. Speaker, I want to pay tribute to Cornelius "Connie" Ryan who passed away earlier this week.

All of Long Island, in particular the senior citizen community, will dearly miss Connie. His activities on behalf of his peers had earned him the title of "Mr. Senior Citizen" and "Champion of Senior Citizens".

You could always find Connie in attendance at meetings when the issues concerned the elderly. Many elderly advocacy organizations counted Connie on their membership rolls: the Legislative Technical Advisory Committee, the Statewide Action Council, the Town of Oyster Bay Senior Citizens Advisory Council, the Plainview Senior Men's Club and Senior Power of Nassau County. The Town of Oyster Bay recognized Connie's good works by naming him "Senior Man of the Year".

One of Connie Ryan's greater contributions was working with Supervisors John W. Burke and Joe Colby and the Oyster Bay Town Board in developing one of the better senior citizen housing programs in the country.

Connie had been ill for a long time; however, during his illness he never let his concern for the elderly wane. I have been told that Connie mentioned when he went to heaven he would still be looking out for senior citizens' best interests.

I extend to his wife, Jean, my heartfelt sympathies and prayers and to all those whose lives Connie touched, I share your loss. The highest tribute we can pay Connie will be to make sure all his efforts on behalf of the elderly were not in vain.●

WALTER STOESSEL

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. WIRTH. Mr. Speaker, last week Ambassador Walter J. Stoessel, Jr., retired from the State Department. I want to take this opportunity to note for my colleagues the record of this distinguished public servant, as outlined in the following article by Bernard Gwertzman from the New York Times of Friday, September 24, 1982.

At a time in which we find significant turmoil in the career ranks at the State Department, due in part to an excessive number of political appointees in heretofore career positions, this administration would do well to focus on the example of Ambassador Stoessel. His commitment, capability, and loyalty to the dream of America characterize the best of the career service.

As we say goodby and thank you to this fine man, let us also urge the administration to better utilize the talents of the career Foreign Service, of which Walter Stoessel is such a good example.

DIPLOMAT'S FONDEST MEMORY: CHINA BREAKTHROUGH

(By Bernard Gwertzman)

WASHINGTON, September 23—For most diplomats there is at least one moment in a career, a breakthrough in top-level negotiations, perhaps, or a face-to-face encounter with a legendary figure, that becomes indelibly etched in the memory.

For Deputy Secretary of State Walter J. Stoessel Jr., that moment occurred in December 1969. It was then, on some snowy steps in Warsaw, that he finally managed to track down a Chinese diplomat and deliver a truly historic message: President Nixon wanted to move toward normalizing relations with Peking.

In recent days Mr. Stoessel has been reflecting somewhat nostalgically on that moment and others in his long diplomatic career. He will retire on Friday after almost 41 years in the Foreign Service, the only career officer in more than three decades to rise to the No. 2 State Department position, a job usually reserved for political appointees.

Mr. Stoessel, who is 62 years old and has been planning retirement for some time, has been an almost classic practitioner in the traditional school of quiet diplomacy, both in substance and in demeanor. He avoided controversy throughout his career, and in his "farewell interview" he had good words for just about everybody he ever met.

THREE TOURS IN MOSCOW

He is one of the last of the breed of American specialists on the Soviet Union who were trained in and immediately after World War II. His departure will remove the last senior official with great expertise about Russia from Government ranks.

Mr. Stoessel served three tours in Moscow, his first from 1947 to 1949, his last as Ambassador from 1974 to 1976. Those tours left him with many memories.

"Molotov was quite taciturn and tough," he recalled of the old Bolshevik who was Stalin's Foreign Minister. "That was always his image. Of course, they played a good guy, bad guy game. Molotov was the bad guy. And Stalin would come in and say, 'Don't worry about that guy, we'll work it out.' "

Mr. Stoessel recalled Leonid I. Brezhnev, the Soviet leader, now in very poor health, as being "very much a politician type, hearty, quite ebullient, outgoing, full of jokes, could be tough, quite sharp in conversation, negotiation, quite a guy."

As for Foreign Minister Andrei A. Gromyko, the dean of the world's foreign ministers, Mr. Stoessel said, "I respect him very much as a pro. Gromyko has been around so long he has continuity. He knows the dossier."

The foreign diplomat to whom Mr. Stoessel gives highest marks is Robert Ford, who was Canada's Ambassador to Moscow for more than a decade and who is now retired and living in France. As for Americans, he calls Dean Acheson the best Secretary of State and considers Loy D. Henderson and G. Frederick Reinhardt the best diplomats he ever met.

With his silver gray hair, his blue eyes and his smooth, well groomed manner, Mr. Stroessel looks every bit a diplomat. In fact, he reports, he almost passed up his diplomatic career for one in the movies.

The son of a California insurance executive, Mr. Stoessel was a senior at Beverly Hills High School in 1937 when he was found by a scout for Paramount who saw

him in his class play. He could have had a "short term" juvenile's contract but instead went off to Stanford University.

After graduation he became a Foreign Service officer, starting what was to become an exceptionally successful career as the lowly third secretary in the United States Embassy in Caracas. Reflecting the other day on his career and, in particular, on that memorable, historic moment with the Chinese diplomat in the snow in Warsaw, Mr. Stoessel recalled that the groundwork for the meeting was laid while he was on home leave in Washington from his post as Ambassador to Poland.

Those were the days when the United States and China had no formal relations, Mr. Stoessel noted. The only contacts were held periodically in Warsaw in a neutral setting by the two countries' envoys.

He was summoned to President Nixon's office, accompanied only by Henry A. Kissinger, the national security adviser. Mr. Stoessel said Mr. Nixon told him: "Walt, I want you, in a very discreet way, I don't want anybody to notice it particularly, but I'd like for you to get in touch with the Chinese and tell them that I'm very serious about talking, that we should have a better relationship, and let me know the reaction."

"That was my problem," the veteran diplomat recalled. "How to do this in a discreet way. The few parties we were at were usually mob scenes. It was hard to pick the right time."

The right moment came, he said, smiling in anticipation of telling what is clearly his favorite story, at a fashion show sponsored by the Yugoslav Embassy in a nightclub in the basement of the towering Palace of Culture in Warsaw.

"They had invited a lot of ambassadors to see this thing," he said. "There was a rock band from Yugoslavia beating away. I spotted the Chinese chargé and I told my people, 'O.K., this is the time, we're going to make our move to get this guy.'"

HE LOOKED SCARED

The last model to walk down the aisle was "dressed in a see-through wedding dress," he recalled, adding: "It was quite risqué. The Chinese chargé stood up and moved toward the door. None of the Poles did. None of the other diplomats did. I saw him get up and I got up. I was right after him. We went out through the cloak room. I said to him in Polish, 'I want to talk to you.' He looked scared and made for the stairs that went up."

"He was running up the stairs, and I was right behind him," Mr. Stoessel continued. "And then we came out on the big sort of terrace steps. It was dark. It was snowing. It was cold. There was nobody around. I got him. I said, 'I was in Washington recently. I saw the President. I want to tell you the President is very serious about talking with your leaders because we want a better relationship with your country. Please report that and I'll be glad to hear from you.'"

Mr. Stoessel continued: "Of course, I didn't know what he'd say. Drop dead? Running dog of capitalism? But he said, in fact, the best thing: 'I have heard you and will report this.' And then about two days later, we got a phone call from the Chinese. It said, 'We'd be very pleased to see your Ambassador if he would like to call on us.'"

So began a secret contact, in which the two sides exchanged visits in each other's embassy, for some five months. Eventually, this and other channels produced the secret Kissinger mission to China in 1971 that led to Mr. Nixon's trip the next year.●

SISTER FRANCIS KRESS: A LEADER IN THE CRUSADE FOR A CLEANER NEWTOWN CREEK

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. SOLARZ. Mr. Speaker, one of the important issues facing the Congress this session has been the reauthorization of the Clean Water Act, one of our major environmental protection laws. Sometimes as we debate a major issue like improving the quality of our rivers and streams and the tremendous short-range costs involved in implementing these pollution control measures, we can lose sight of the tremendous negative impact that a polluted body of water can have on a community.

In the new district that I represent in Brooklyn, I am proud to have among my constituents a number of environmental activists, including the "Coalition for Newtown Creek." This dedicated and determined group is chaired by Sister Francis Kress, a member of the Catholic teaching order of the Sisters of St. Joseph, and a most remarkable woman. It may seem somewhat unusual to have a religious woman spearheading a local environmental clean-up effort, but Sister Francis has come to know firsthand the deleterious effect which the pollution of Newtown Creek has had on the Greenpoint community. Sister Francis and her coalition also have a vision of what Greenpoint could be like if the creek was a recreational and scenic asset to the neighborhood, instead of the noxious and dangerous nuisance that it now represents to local residents.

Colman McCarthy, a nationally syndicated columnist, recently wrote about the coalition's effort to restore Newtown Creek and of the important role that Sister Francis Kress is playing in the effort to clean up this environmental hazard. To my mind the column indicates what community activists like Sister Francis can do to demonstrate just how important the Clean Water Act really is, not only to Brooklyn residents, but to literally thousands of communities across the country who are working to upgrade their own Newtown Creeks. These citizens want and merit our continued support for the clean-up efforts necessary to make their communities safer and more attractive places in which to live, work, and raise a family.

Mr. Speaker, I ask that Mr. McCarthy's column be reprinted in today's RECORD I urge that the Congress continue to support environmental protection legislation.

[From the Washington Post, Sept. 26, 1982]

SEEKING THE SALVATION OF NEWTOWN CREEK

(By Colman McCarthy)

BROOKLYN, N.Y.—To historians the five-mile Newtown Creek that winds through the Greenpoint neighborhood into the East River is a reminder of past glories. In the early 1800s, this was the young nation's busiest waterway. It thrived with sailing ships. Besides the commerce, the creek's clean and wide waters supported swimming beaches for the citizens and preserves for wildlife.

Today Newtown Creek is poisonous, smelly and dangerous. Industrial waste, human waste, sewage and garbage have been dumped into it with such relentless profusion that it ranks as one of America's most polluted bodies of water. The local citizens—an ethnic and racial mix, with urban decay and high unemployment the common bond—can do without the distinction. They would rather be known for the energies they are putting into the Coalition for Newtown Creek.

It is a group of residents, business people, public health workers and environmentalists who think the creek can still be brought back to life, despite the decades of lethal abuse.

This radical vision is based on nothing more bold than the Clean Water Act, the moderately progressive law of 1972 that is now before Congress for reconsideration.

The fight to save Newtown Creek is of national interest because water quality is an unavoidable health issue in the politics of every American city and rural area. In the past few months, the reauthorization of the clean air law has been the most publicized environmental issue before Congress. But clean water presses with an urgency of its own. We are only beginning to learn, for example, what effect the discharge of 400 million pounds annually of toxic wastes from factories and sewage plants is having on human beings.

One of those in Brooklyn who has learned about the illnesses of polluted water is Sister Francis Kress, the chairwoman of the coalition. She is a 67-year-old member of the Sisters of St. Joseph, a teaching order. For some time, she has made the salvation of Newtown Creek a holy cause only a little lower on the divine scale than the salvation of souls. In fact, her theology of the environment includes the belief that if Newtown Creek were returned to some of the grandeur that God originally lavished on it, the local citizens and businesses would have restored to them a blessing rightfully deserved.

The other day, Sister Francis went to Washington to testify before the House Subcommittee on Water Resources. She made the expected plea that Congress strengthen the 1972 law, not weaken it as the Reagan administration is trying to do. Among her arguments was the seldom heard idea that polluted waterways were threats to people's mental health.

She told the congressmen about teaching grade school in the early 1960s in Greenpoint and wondering why many of her students, languid, seemed to be lagging behind life. "After a while," she said, "I learned that an odor like rotten eggs could be the cause . . . This obnoxious odor was caused by the decomposition of organic matter and raw waste discharged into Newtown Creek. In a family situation this could increase the stress factor and very possibly contribute to

asthmatic attacks and emotional breakdowns."

When I talked with Sister Francis, her love of children was apparent. She had taught thousands of them in her more than four decades in the classroom. But she believed that Newtown Creek, which could have retained the old-swimming-hole character for the children, was stolen by "greedy and unscrupulous characters."

The words have a judgmental ring coming from a woman of placid bearing. But the anger, which is justified, isn't hers alone. The owners of refineries and factories that line the creek now realize that the waterway's bottom is so lined with sludge—too contaminated to be dumped elsewhere—that soon barges may be unable to navigate. The economic losses are as real as the recreational ones.

The fates of hundreds of Newtown Creeks across America will be settled by whether the Clean Water Act is left intact by Congress. In the past 10 years, the law has been amended twice. Both times, fair compromises were made. Water quality has improved in some areas and deterioration stopped in others. Nature does give second chances. The choice now is whether to make places like Newtown Creek symbols of hope or scenes of neglect.●

TRIBUTE TO JOHN RHODES

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mrs. HOLT. Mr. Speaker, in baseball when a superb and well-loved player retires, the team honors him by retiring his uniform number. JOHN RHODES does not have a uniform number that we can retire, but I think he deserves a great tribute from this House.

As he prepares to hang up his spikes after 30 years as a great competitor who has played the game honorably and well in the legislative arena, I want him to know of my personal appreciation of his service to our Nation.

I am keenly aware of the difficult circumstances under which JOHN RHODES served as minority leader of this House for 7 years. We Republicans were a much smaller minority then, faithfully representing our principles against overwhelming numbers. Under JOHN RHODES' leadership we became a cohesive force that was respected by the majority and enabled us to affect policy.

Mr. Speaker, you and JOHN RHODES came to this House together 30 years ago and have fought many political wars. It is a great tribute to our political system that partisan opponents can end each debate with respect and affection for each other.

JOHN RHODES can retire with the knowledge that he has served his country with great distinction and has the esteem of his colleagues in the House of Representatives. We should all thank him for his excellent service to our country. Duncan and I wish the very best for Betty and JOHN.●

NO SOCIAL SECURITY BENEFITS FOR ILLEGAL ALIENS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. STARK. Mr. Speaker, today I introduced a bill which will insure that illegal aliens who worked in the United States (obviously illegally) do not receive social security benefits. At this time when we are worried about the financial solvency of the social security system, I believe that it is particularly crucial to close up the loopholes.

Under current law there are no citizenship, permanent residence, or legal residence requirements for receiving benefits under the old age, survivors and disability insurance (OASDI) program of title II of the Social Security Act. Any alien in the United States—whether in the United States legally or illegally, or as a permanent or temporary resident—is eligible for benefits provided he/she has engaged in covered employment and otherwise meets the eligibility requirements (that is, age, disability, minimum quarters of coverage, et cetera). Dependents and survivors are also eligible for benefits regardless of their immigration status or that of the insured worker. The only exceptions to this general rule are for three categories of nonimmigrant aliens: foreign students, exchange visitors, and temporary foreign agricultural workers admitted under subparagraphs (F), (J), and (H), respectively, of the Immigration and Nationality Act, who are specifically excluded from coverage (26 U.S.C. 3121(b)). These workers do not pay the social security tax and are not eligible for benefits.

It seems quite odd to me that we should allow illegal aliens, who were holding jobs in this country illegally, to receive social security benefits. The bill which I introduced will correct this problem. My bill will only allow aliens to receive social security benefits for work done while having the status of legal alien. Moreover, it will not allow dependents and survivors to receive benefits based on the work of illegal aliens or even of legal aliens if they themselves are illegal aliens.

I urge my colleagues to support me in this effort to assure the continued vitality of the social security system for generations to come, by fixing some of the quirks in the present law.●

THE BALANCED BUDGET AMENDMENT: RIGHT OR WRONG, IT DESERVES A FAIR DEBATE

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. KEMP. Mr. Speaker, it is the job of the House of Representatives to legislate. It is also our job to deliberate: to debate our differences honestly and on the record.

By refusing to allow the House of Representatives even to deliberate on a constitutional amendment to balance the budget, the Democratic leadership is openly repudiating its democratic responsibility. A bill with 231 cosponsors shouldn't need a discharge petition. But apparently it does, which is why I am signing that petition today, and joining my colleagues in the House Republican leadership in calling for immediate consideration of House Joint Resolution 350.

As I have said in the past, I do not "worship at the shrine of a balanced budget." We very much need to balance the budget and restrain spending—but not by raising taxes. We can, in fact, balance the budget only by putting Americans back to work and ending unemployment's huge drain on our budget. I have opposed the constitutional amendment approach because the disparity between a majority vote for tax increases and a three-fifths vote for a deficit creates an automatic, antigrowth tax-increase mechanism. I worry as well about how accurately we will be able to pinpoint outlays and revenues during times of recession. All of these concerns need to be raised during the debate on a balanced budget amendment.

But that is no argument against holding the debate. It is no excuse for holding a bill hostage. I urge my colleagues to strike a blow for public debate—however they come down on the final merits of this legislation—by bringing this bill to an early vote.●

ABORTION AND THE HOUNDS OF HEAVEN

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. HYDE. Mr. Speaker, one of Chicago's most provocative thinkers is Thomas F. Roeser, who in addition to being a busy business executive, is president of the City Club of Chicago and a fellow of Harvard's John F. Kennedy School of Government.

His occasional articles in the Chicago Sun Times on contemporary topics

are widely read, and his most recent one on the abortion issue deserves sharing with my colleagues:

[From the Chicago Sun-Times, Sept. 26, 1982]

HOUNDING FRIENDS OF ABORTION: "WILL THESE HOUNDS NEVER GIVE UP THE CHASE?"

(By Thomas F. Roeser)

One day in the last quarter of my beloved 19th century, there came to the desk of London literary publisher Wilfred Meynall a poem. It was signed with the unknown name "Francis Thompson."

No address was attached. Meynall, bored, began to scan it. Then his eyes popped. The theme and style evoked the allegorical beauty of the Middle Ages' famed Pearl Poet. Its composition was all the more significant in this era of bad poetry reflecting cultist rebellion against Victorian restraint.

After its publication, readers begged for more. Additional verses arrived—these better than the first, comprising an ecstatic private revelation of heaven. Then no more poetry came. Yielding to their maddening curiosity, the Meynalls searched throughout London for Thompson. They found him in 1888, dying at age 29 of starvation and opium addiction. Nurtured tenderly by the Meynalls, Thompson promptly developed tuberculosis. While undergoing torturous death, he produced a single, additional major poem.

It was merely the seminal masterpiece for our current and all other ages, casting an apocalyptic mood, exceeding in power the psalms of David, which it matches in meter and surpasses in imagery.

It is, of course, "The Hound of Heaven." If you have not read or heard of it, it is your deserved deprivation for having attended either an expensive, elitist Ivy League college devoted to secularism or a prestigious state behemoth concerned solely with mastery of technological dexterity. Today one can study "The Hound of Heaven" only at tiny, hard-scrabble private colleges that generally eschew federal funding, surreptitiously keeping the humanities alive as did the monks of the Dark Ages.

In his poem, Thompson casts God as a bloodhound, relentlessly pursuing the fleeing soul through bewildering mazes. The soul shoots up vistaed hopes, hides under running laughter. Eventually it is felled to Earth by the tireless canine that runs it not to death—but to life.

Why do I cite "The Hound" now? Because, as few are aware, it has become, for some, the hunter's horn of the much-attacked • • • issue are traditionalists more determined to pursue justice—and vacillating lawmakers—than on the subject of abortion. While the U.S. Senate this month forestalled a vote and tabled attempts to reverse the Supreme Court's 1973 decision that legalized the practice, it did not elude its hunters. The more Bob Packwood, Ted Kennedy and others flee decision-making via filibuster, the more intensively shall their steps be dogged.

How do the traditionalist hounds (they acknowledge the designation gratefully) differ from other advocacy groups? Free of establishmentarian backing, they have no creaking interlocking network of blue-chip corporations, foundations, media conglomerates, big-time universities and society leaders. Thus unstymied, they can turn on a dime. They number roughly 27 million Protestant evangelicals, half of them Baptist, one-tenth Methodist. To this number add (here a surprise for secularists) only 4 million evangelically stirred Roman Catholics (the vast remainder are largely inert, motionless, comprising a stagnant pool tended by modernist "parochaid" bishops).

While the 27 million lack political civility, they have as a priceless asset the resource of being more worldly wise than the secularists: Most traditionalists have themselves been pursued down life's long colonnade, through labryinthine ways and past titantic gloom before rescue. Accordingly some can, assuredly may, be caught in bordellos; some can, and certifiably do occasionally, repeat Augustine's funny prayer that chastity be sent to quench passion—but not right now. But their tears of repentence for these and other failings wash out charges of hypocrisy and fuel much political zeal.

Such zeal means the national debate over abortion is waged at marked disadvantage to secularists. Traditionalists say they do not want to force all Americans to be born again—only guarantee that all infants be born once.

Let secularists aver there is no certainty when life begins; traditionalists, who disagree, argue that this is all the more reason to opt for life. When secularists extol the Constitution as a "living" document—to be forever pulled to and fro by shining-eyed modern generations—traditionalists co-enthuse, vowing to tug the elastic document back to its founder-intended dimensions.

"God," complained a weary, agnostic ACLUer to me in an unperceived exclamatory contradiction, "will these hounds never give up the chase?" They will not. The ACLUer and all of us are doomed to be pursued by, in Thompson's words, "strong feet that follow, follow after"—feet that, "with unhurrying chase and unperturbed pace," will ultimately win the race.●

HONORING L. H. FOUNTAIN UPON HIS RETIREMENT FROM THE U.S. HOUSE OF REPRESENTATIVES

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. CONTE. Mr. Speaker, as you and I both know, 30 years in Congress is no small accomplishment. If you add to that long career the personal qualities of integrity and dedication, you have a Member that is worthy of our highest praise. Today, therefore, I want to congratulate my colleague, L. H. FOUNTAIN, upon his retirement.

Whether a Member sits on the left or the right side of the center aisle is of little consequence if, by his acts, that Member is able to build and maintain the respect and admiration of all Congressmen. L. H. is one Member who has been able to do just that. Over his 30-year tenure here in Washington, L. H. has managed to build an impressive record that he may proudly display. Aside from achieving advanced positions on both the House Foreign Affairs and Government Operations Committees, L. H. has led the congressional fight for more stringent drug regulations and against fraud in the executive branch. All in all, his efforts have been admirable and North Carolina's second district will be losing a fine representative.

May he be blessed with much happiness and continued good health as he leaves us to return home.●

TUITION TAX CREDIT LEGISLATION

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. HUBBARD. Mr. Speaker, I have received a letter from one of my constituents, the superintendent of Paducah Public Schools, Dr. Daniel Keck, of Paducah, Ky., with regard to his opposition to tax credits for a child's tuition paid to a private school. Dr. Keck's comments and reasons for opposing this legislation are quite timely and worthy of consideration. As such, I would like to take this opportunity to share his views with my colleagues. The letter follows:

PADUCAH PUBLIC SCHOOLS,
Paducah, Ky., September 3, 1982.

CARROLL HUBBARD,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HUBBARD: I am writing in opposition to H.R. 6701, the tuition tax credit bill. I am sure you have received a number of arguments both pro and con with regard to the bill.

My major reasons for opposition to this piece of legislation are that:

First, the United States has always provided a free system of education for all children. Should someone choose to take advantage of another system available at cost, they should have every opportunity to do so but that is their choice. To divide the limited resources available (from all sources including the federal government) to the total educational system at this time would only fragment state or governmental effectiveness in financing the institution.

Second, tax credit for tuition would be of greatest advantage to upper level income families and would drain off the top 25 percent of students in the United States. This would automatically lower potential achievement levels in the public education system and further destroy any credibility that system may have left.

Third, by its very nature, it injects into the American education system not only the potential but the reality of a class system.

Fourth, it has the potential of draining the remaining highly effective teachers from the public education to the private sector.

Fifth, it has always been the legitimate responsibility of the individual states to provide for the common education of the people. Unless that responsibility is shifted to the private sector, funds necessary to support the legitimate job of the states should not be withdrawn without a concurrent shift in responsibility.

I deeply appreciate your support of education both public and private. I sincerely feel that both systems are necessary to the success of our national role. Anything you can

do to foster the effectiveness of either or both of those systems would be deeply appreciated; however, neither should be sacrificed to the needs of the other.

Sincerely,

DANIEL KECK,
Superintendent.●

ENGINEERS AND ARCHITECTS SUPPORT BROYHILL-DINGELL

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. FLORIO. Mr. Speaker, the House is scheduled to vote on the FTC reauthorization bill shortly. An attempt will be made to amend that bill by completely exempting professionals from FTC jurisdiction.

Congressmen BROYHILL and DINGELL will offer a substitute to the complete exemption. The substitute preserves for the States the traditional regulation of the professions, such as education requirements for licensing. It allows the FTC to continue to review anticompetitive activities of professionals, such as price fixing, boycotts, and fraud.

A coalition of health care and other professionals strongly opposes the complete exemption and favors the Broyhill-Dingell substitute.

I would like to add the Design Professions group to the list of those opposing the complete exemption and supporting the Broyhill-Dingell compromise. The Design Professions group includes the American Consulting Engineers Council, the American Institute of Architects, the American Society of Civil Engineers, and the National Society of Professional Engineers. I believe that it is significant that a major professional group with a large membership believes that the Broyhill-Dingell substitute should be adopted by the House.

I insert the letter from the Design Professionals Group for your view.

THE DESIGN PROFESSIONS GROUP,
Washington, D.C., September 21, 1982.

Hon. JAMES J. FLORIO,
Chairman, Subcommittee on Commerce, Transportation and Tourism, Committee on Energy and Commerce, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN FLORIO: Following The Design Professions Group's testimony before the Subcommittee on the FTC reauthorization bill on April 20, 1982, we have further analyzed the implications of various proposals for the public and the professions, and have been in consultation with FTC Chairman Miller and his staff, as well as with the Subcommittee staff and others.

We understand that when the bill reaches the House floor for debate an amendment will be offered to exempt the professions from FTC jurisdiction, and that a bipartisan substitute amendment will be offered on behalf of Chairman Dingell, ranking minority members Broyhill and Lent, and yourself. The substitute amendment, as we understand it, will contain the following major points regarding the professions:

1. The FTC would have no authority to find methods of competition unlawful if such methods of competition constitute state action ("Parker doctrine").

2. The FTC would be barred from prohibiting acts or practices engaged in by professionals if its assertion or authority would invalidate state laws or regulations establishing qualifications for professional licensure, or defining the tasks or duties of professionals.

3. The FTC would be permitted, however, to assert authority (even if use of such authority would invalidate such a state law) if the state law authorizes commercial or business practices of professionals and is likely to affect competition adversely. However, the FTC would be required to take into account the benefits of the practice to public health, safety and welfare.

The preceding sentence is particularly significant and relevant to the basic point we made at the hearing: In evaluating professional standards the FTC should be required to take into account the effects of the professional practice on public health, safety, and welfare. Under current law, consideration of professional standards is rigidly limited to their effects on competition alone.

Although the proposed substitute, as we understand it, is limited to certain consumer protection aspects of the FTC Act, and hence is too narrow, we believe that it reflects a proper and desirable concept, and is a step toward ultimate full recognition of the foregoing approach in antitrust matters.

For that reason we support the substitute amendment and hope it will be adopted by the House. In that event, we would hope that if the House bill goes to conference with the Senate there will be an opportunity for the conferees to consider (1) applying the foregoing principle to the so-called "competition jurisdiction" of the Commission, and (2) correcting the inconsistency between acceptance of the state action principle in the first part of the substitute and the assertion that the FTC could, nevertheless, take action to invalidate state law. We categorically oppose provisions which would empower the FTC to override duly enacted state statutes and regulations.

We would appreciate your bringing these views to the attention of your colleagues in the House of Representatives.

Respectfully yours,

MARTIN MICHAELSON,
On behalf of The Design Professions Group.●

FRANCIS BUSILLO

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. FOGLIETTA. Mr. Speaker, I would like to take a moment to honor Francis Busillo on the occasion of his retirement from public service, and to recognize the dedication and achievements of a man who, for 50 years, has served our political system and the Democratic Party with distinction.

Francis Busillo has served as a Democratic committeeman in the 33d ward of Philadelphia since 1932, and he has the enviable record of never having supported a losing candidate. This remarkable fact is due to his understanding of his constituents and his desire to effectively and responsibly meet their needs.

All too frequently, recognition within the political arena is reserved only for the prominent, and that is why it is particularly appropriate that a man of Francis Busillo's dedication be recognized.

Mr. Speaker, I rise both to acknowledge Francis Busillo's contributions and to thank him for his years of inspiration. He stands as an example to us all. Although we are sorry that he is retiring, we wish him and his wife of some 62 years, Mary, happiness and continued good health in the years ahead.●

AMNESTY: ALIENS

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. DAUB. Mr. Speaker, the following article written by Mr. John Gonzales, which appeared in the Dallas Morning News on Sunday, August 29, 1982, is especially enlightening and I commend it to the reading of our colleagues:

[From the Dallas Morning News, Aug. 29, 1982]

AMNESTY PLAN LURING ALIENS, U.S. AGENTS SAY

(By John Gonzalez)

EL PASO.—U.S. Border Patrol officials say the allure of potential amnesty is partly to blame for the latest infux of illegal aliens.

The officials challenge the assumption that the U.S. harvest season and the recent peso devaluation are mostly responsible for the record numbers of Mexicans who crossed the swift, muddy Rio Grande last week in search of work.

The patrol officials said that after a slow first half of 1982, traffic along the Texas and New Mexico portions of the border picked up in early July, a month before the Mexican currency was devalued for the second time this year.

While no one questions that the mexican economic crisis is the underlying cause of the alien traffic, several border agents said the Senate-approved immigration law, awaiting House action that will begin in mid-September, is exacerbating the situation.

"We've got to remember that not only was there a peso devaluation, but there was also that immigration bill passed by the Senate, which received widespread publicity in Mexico," Laredo sector chief William Selser said.

"A lot of the aliens being encountered now are induced to come here by the thought that if they can get into the U.S. now, they won't have to leave," he said.

McAllen sector chief Larry Richardson agreed.

"I don't like the alarmist thing where this increase is blamed on the peso alone," he

said. "We started our increase a couple of weeks in front of the devaluation (Aug. 5.) The immigration bill may be involved, too."

His brother, Del Rio sector chief Jack Richardson, said informants report counterfeiters are prepared to produce documents that illegal aliens could try to use to prove resdency prior to Jan. 1, 1980.

The immigration bill, which would make the first changes in the law in 17 years, includes an amnesty provision that would allow aliens who have lived in the United States since before Jan. 1, 1980, to stay.

Rent receipts and U.S. W-2 forms would be considered proof of residency, and border patrol intelligence officers have been told the receipts and W-2s are among items that will be counterfeited.

"I don't have a built-in dislike for amnesty," Jack Richardson said. "I do have some concern about rewarding persons who have violated the law at the expense of those who have waited to try to lawfully immigrate."

"There are indications that vendors on both sides of the border are gearing up to supply counterfeit documents, but we haven't intercepted any yet."

El Paso sector chief Alan Eliason was more cautious.

"I am hearing speculation that the amnesty proposal is going to bring people in and that through acquistion of various documents, they would be able—to sustain a claim that they've already been here two years. It could be, but I'm really not seeing it yet," he said.

Eliason said he has noticed an increase in aliens from big cities in southern Mexico where unemployment and inflation rates are staggering.

While border agents wait for the House to take action on the immigration law, they will rely more than ever on high-technology tools for detecting aliens as they illegally enter the United States.

Alien traffic is heaviest in El Paso, where 1-day apprehension records were set twice last week. Eliason said the record of 989 apprehensions in El Paso and southern New Mexico, set Tuesday, was eclipsed the following day, when 1,205 illegal aliens were caught. Most of them were found in downtown El Paso. The pace slowed as the weekend approached—down to 847 arrests Thursday.

At Laredo, the next-busiest areas for crossing the river, the border agents were catching less than 150 aliens a day, but Selser said the rate is higher rate than a year ago.

Selser and other patrolmen said that the U.S. harvest season accounts partially for increasing influx of aliens. But the aliens often enter without realizing that there are few farm jobs available this season in the strom-damaged High Plains, they said. The job market for farmworkers is considered saturated in several regions of the U.S.—from the pecan groves of southern New Mexico to the sugarbeet fields of Michigan. Mexicans questioned about their attempts to cross illegally into the United State invariably cite the need for work as their motivation for crossing.

The Rio Grande this time of year poses a danger to aliens attempting to cross, and drownings are a frequent occurence in El Paso where the river has been channeled into a flat but slippery concrete trough. At Del Rio, the river widens and forms a natural barrier. Horses, inner tubes or small boats are necessary to make the crossing. Further downstream at McAllen, aliens prefer to use inner tubes or bridges to ford the swift river.

Those who elude detection at the riverbanks often are picked up by sensors, upon which the patrol relies heavily. Aliens who evade the sensors face detection at the many road checkpoints coordinated by border agents. Illegal aliens who clear those checks then need to worry about inland patrols by agents, who visited worksites from Odessa to Oklahoma last week.●

CONSTRUCTIVE ENGAGEMENT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. DOWNEY. Mr. Speaker, The Reagan administration characterizes their policy toward South Africa as one of "constructive engagement." This policy has never been clearly defined, but recent administration actions are making its meaning clearer and clearer.

Last week, Congress learned that the Department of Commerce had approved a sale of 2,500 shock batons to the South African Government. Shock batons are similar to cattle prods and give a 3,500 volt shock to anyone they touch. They are particularly effective in crowd control and torturing prisoners. They fall into the category of "crime control equipment", and it is illegal to export them to countries such as South Africa which have a consistent record of violating internationally recognized human rights. Yet somehow the license for the batons did not show up on the routine log of licenses considered for the export of crime control and detection equipment. Commerce Department officials claim the approval was a mistake.

We also just learned that the Commerce Department wants to reverse a longstanding policy of prohibiting the export of isostatic presses to South Africa. These presses are used to mold powdered metals into shapes such as solid and hollow spheres, which are used in the development of nuclear weapons. Despite Commerce, there does not appear to be any reason to believe that isostatic presses are no longer useful in developing nuclear weapons. In fact, the Deputy Assistant Director of the Arms Control and Disarmament Agency was recently quoted in the Washington Post as saying that the sale of isostatic presses "is a longstanding item over which there has been concern. . . . It's obviously something that could be used in a nuclear weapons program, and you do not want to give somebody a key capability that they are missing that might let them move ahead."

The United States limits the amount and type of arms, high technology, crime control equipment and nuclear materials that can be exported to South Africa because of that country's long history of using such equipment to violate human rights in efforts to maintain the racist system of apartheid. The Reagan administration's South African policy, however, eases up on these export and trade restrictions.

It is becoming clearer and clearer that "constructive engagement" is "constructive" only for the whites in South Africa—not for the blacks.●

TENURE RECORD

HON. BOB SHAMANSKY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. SHAMANSKY. Mr. Speaker, this year Ohio's Governor—the Honorable James A Rhodes—became the longest serving Governor in the history of the Republic.

For the benefit of my colleagues, I would like to insert in the RECORD at this time an article which appeared in the September 10, 1982, Columbus Citizen-Journal. Written by UPI's veteran statehouse reporter Lee Leonard, the article deals with a significant part of American history and serves properly to note a unique accomplishment in American political and governmental life.

[From the Columbus Citizen-Journal, Sept. 10, 1982]

GUBERNATORIAL CHAMP RHODES TIES SUCCESS TO ENJOYING THE JOB

(By Lee Leonard)

(Editor's Note: Gov. James A. Rhodes, who celebrates his 73rd birthday Monday, has served as governor for 16 years—1963-71 and 1975-83. UPI Statehouse Reporter Lee Leonard interviewed Rhodes for the occasion of his birthday and also determined through extensive research in the Biographical Directory of the Governors of the United States, 1789-1978, that no one in the history of the country has governed longer. His exclusive report follows.)

Gov. James A. Rhodes is preparing to celebrate his 73rd birthday Monday as the longest-running gubernatorial act in the history of the United States of America.

Rhodes, who will observe his birthday as he always does, with a family dinner at home, has served as chief executive longer than the governor of any state since the U.S. Constitution was implemented in 1789.

Rhodes will complete 16 years on the job when he leaves in January. He took over the longevity title in July, when he eased past Arthur Fenner, Rhode Island's second governor, who died in office in 1805 after 15½ consecutive years.

Rhodes has outdistanced all but a handful of colonial governors and one post-revolutionary governor, George Clinton of New York, who served for 21 years in the late 1700s.

He has surpassed Albert C. Ritchie, governor of Maryland from 1920-35; Nelson A. Rockefeller, governor of New York for 14 years and 11 months; and William Livingston, the first governor of New Jersey, who served 14 years.

He has outdistanced some more famous long-term governors: Orval Faubus, Earl Warren, Thomas E. Dewey and Earl Long. The only man with a reasonable chance of catching him in the near future is George C. Wallace of Alabama, who is seeking a fourth four-year term this year and may win.

An unimpressed Rhodes, informed of his longevity record, said without batting an eye, "I know."

"You're going to work someplace," he said, "and I hapen to be governor, I love to work for the state of Ohio, and I think we've accomplished something."

For his birthday, Rhodes plans dinner at his home in Upper Arlington with his wife, Helen, his three daughters and their husbands, and eight grandchildren.

"Your family is everything," said Rhodes, adding, "I go home at night and leave the job here (in the office).

"I've been blessed by good Cabinet members and good assistants," said the governor. "The secret of this job is qualified help.

"We look at this as a big department store," said Rhodes in explaining how he farms out problems to his agency heads. "We're a service organization. I think I set the pace. They all know what I think and what I stand for."

Rhodes' remarkable political career began 48 years ago as a ward committeeman in Columbus. He progressed to Columbus school board member, city auditor and mayor of Columbus.

As state auditor in the 1950s, Rhodes studied the moves of the man he was to replace as Ohio's consummate politician, Gov. Frank J. Lausche, who thrashed him in a premature try for governor.

"He taught me timing," says Rhodes. "He was a master of timing. Timing is everything in public life."

Rhodes said people look to a governor for "service, like in blizzards. We're here to help people. We get a near catastrophe every year, and we react."

The governor has been criticized for waiting to react rather than taking the leadership in establishing a new school funding mechanism or new social programs.

"I don't pay any attention to what people say about me," said Rhodes.

He said Ohio has been a leader in education and mental health, but they are more intangible and receive less public notice than "the things that people can see," such as parks and highways.

"The street signs in Columbus are still mine (from his days as mayor)," he said.

"When you analyze what's been done over the 16 years, we're not behind anyone," said Rhodes.

The governor is preparing to leave office in January to reopen the real estate development firm through which he made his fortune between terms in 1971–75.

"When I leave, Ohio is still going to make progress no matter who the governor is," he said.

And, to the chagrin of his adversaries, he would not rule out a return in 1986, when he will be 77. Endurance records mean nothing when you enjoy your job.●

TRIBUTE TO L. H. FOUNTAIN

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to take part in this tribute to our colleague and my friend and neighbor, L. H. FOUNTAIN. I appreciate JIM BROYHILL requesting this special order and I think it is particularly appropriate for a man of L. H. FOUNTAIN's stature and seniority in this body.

I have enjoyed the relationship that I have developed with L. H. over the years. He has served his country and his State well over the past 30 years. I have always found him to be cooperative and a man on whose word you could depend. His expertise in the operation of Government in the foreign policy of this country will be sorely missed by all of us who looked to him for leadership in both of these vital areas.

It was with sadness that I learned of L. H.'s decision to retire but I want to wish for him and his family a happy and fruitful retirement.●

STOP THE PIPELINE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. HYDE. Mr. Speaker, the President's opposition to the Soviet pipeline has been clearly articulated in an article by Ambassador Evan G. Galbraith which appeared in the July 24–25 issue of the International Herald-Tribune. It ought to be studied by all Members of Congress:

AN OFFICIAL U.S. VIEW ON MOVES TO STOP THE PIPELINE

(By Evan G. Galbraith)

U.S. Ambassador to France

Paris—It is important that the Europeans understand why the United States opposes the Siberian gas pipeline and why it has imposed sanctions in an attempt to stop or at least delay the pipeline. It is clear from the many conversations I have had in France that the strategic justification underlying our policy is not widely understood, and I welcome this opportunity to explain our actions.

This is the background: The Soviet economy is in trouble. Apart from the nature of the Soviet system itself, it has several specific problems. One is a serious shortage of foreign currency in relation to ambitious five-year plans.

The Russians have committed themselves to rapid expansion based on a flow of foreign exchange earnings, which has not materialized. Like Braniff Airways, they have extended themselves at the wrong time in the business cycle. Their cash flow is down because of a drop in prices of oil and other raw material exports such as gold and diamonds.

Poor harvests, the economic problems of Poland and Eastern Europe and the cost of their Cuban and Afghan adventures have aggravated the situation. Consequently, the credit standing of the Soviet Union is under severe scrutiny. Indeed, it is unlikely that a straight balance-of-payments loan based on the credit of the Soviet Union could be arranged today.

The current Soviet plan calls for a 50-percent increase in natural gas production. Only about 15 percent of this increase is slated to go to Western Europe. Eighty-five percent is to be used to fuel Soviet internal industry.

This changeover to gas will not only compensate for falling oil production and allow for oil to be exported but, more important, it will provide the basis for further industrial expansion, which otherwise would be impossible. In other words, the pipeline will transform and expand the Soviet energy base.

This, in turn, would have a profound beneficial effect on Soviet industrial, and subsequently Soviet military, capability.

The significance of the pipeline to the economic success of the Soviet Union can be overstated, but the development of Soviet natural gas is without a doubt an extremely important contribution to the Soviet economy, comparable to the development of the Russian railroad system at the end of the last century.

In order to build this pipeline network, the Soviet Union must import some key materials such as large diameter pipe and large gas compressors. The Russians plan to import components, compressor parts that were developed by General Electric, an American firm, and are available for the pipeline only through GE or its licensees.

In denying them these parts, our sanctions will require the Soviet Union to take on additional work, such as redesigning them by redirecting its own limited engineering capacities. This will certainly lead to delays.

With the Soviet system already strained by cash flow problems and fading credit standing, these delays could cause particularly troubling problems, which we are prepared to leave to them to solve. The pipeline could be delayed well beyond the period needed merely to redesign the GE parts.

Although the contracted-for gas exports to Europe can probably be delivered even though the pipeline is delayed, this will be possible only by diverting gas from some other use in the Soviet economy, further adding to the overall strain.

I do not see the pipeline issue as primarily one of European dependency (unless a second pipeline were to compound the problem). The central point is that the Russians are in economic trouble for reasons of their own doing, which are inherent in their system. The United States is perfectly justified in refusing actively to facilitate the quantum leap forward that will come from the Russians' expanded use of gas.

This view is the primary basis of the American measures against the Siberian pipeline. And it is why the sanctions are linked to such an important matter as Soviet aggression in Poland. We are not waging economic warfare against the Soviet Union. We have decided not to bail the Soviet Union out of its current economic difficulties at a time when Soviet military aggressiveness continues around the world.

We are not saying that we should not trade with the Soviet Union, but that we should do so on our terms, not theirs, and in a way that does not erode the security of the West.●

MEDICARE AND MEDICAID

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, September 29, 1982, into the CONGRESSIONAL RECORD:

MEDICARE AND MEDICAID

Health care is easily one of the most important concerns of Americans. I am impressed by the frequency and intensity with which Ninth District residents express that concern to me. Because of the strong views of constituents and the heaving involvement of the federal government in health care, members of Congress are paying greater attention than ever to health care legislation.

The major government programs which finance health care—medicare and medicaid—are headed for rough times. These two programs are already in such serious trouble that they can no longer support genuinely adequate services to the country's growing population of disadvantaged and elderly.

Medicare is a nationwide program of health care insurance for 26 million older and 3 million disabled Americans. Benefits and standards of eligibility are uniform throughout the country. It is, of course, the larger of the two programs. Medicaid is a federally aided, state-administered program of medical assistance to 22 million low-income people. Subject to federal guidelines, states set benefits and standards of eligibility to suit their own needs. Because it is an open-ended entitlement program, medicaid requires the federal government to match whatever the states spend for covered services to beneficiaries.

The rising costs of medicare and medicaid are putting heavy strains on budgets in Washington and in the state capitals. Medicare's hospital insurance fund—one of social security's trust funds—may be exhausted as soon as 1986 or by the early 1990's at the latest. Medicaid is consuming up to 15 percent of the state budgets, and in some states it is the largest item in the budget. The problem of rising costs has become ominous. Medicare will cost $50 billion this year and $58 billion next year. Medicaid will cost $34 billion this year and $37 billion next year. No relief from such increases—approximately 16 percent and 9 percent per year, respectively—is in sight. The principal factor driving up the costs of these programs is severe inflation in the health sector. While the consumer price index rose by 5.4 percent in the first six months of 1982, health care costs soared by 11.3 percent. Hospital costs, which account for four tenths of the nation's $287-billion health care bill, rose by 17.5 percent alone.

The rising costs of medicare and medicaid are compounding other problems which will only get worse if they are neglected. One problem is the increase in out-of-pocket payments demanded of patients on medicare: many elderly had trouble meeting the out-of-pocket costs of several years ago. Another problem is an imbalance in the services available through medicare; too many medicare payments cover the costly treatment of terminally ill patients in the final stage of life. At the same time, the elderly complain that medicare does not cover health care in nursing homes or rehabilitative treatment of the common ailments of old age. Many older people seek such care and treatment through medicaid, but to qualify for the program they must use up their own financial resources and, in effect, become poor. Yet another problem of the programs is fraud, particularly on the part of those who provide services: it has been the subject of concern for several years. Substantial differences in benefits and standards of eligibility from state to state and highly complex regulations which tie the program to welfare are further problems plaguing medicaid.

Hospitals, too, are having problems with medicare and medicaid. Because the rates paid by patients on medicare and medicaid are generally considered to be too low to cover costs, hospitals which serve these patients are cutting services, demanding more out-of-pocket payments, and shifting costs to privately insured patients in an effort to make ends meet and keep their doors open. As such stopgap measures are closed off, however, hospitals may be forced to turn people away if their bills cannot be paid. Should this become a common practice, we would experience the rise of a medically-unserved underclass. Even now, the Health Insurance Association of America reports that 20 million people are essentially unprotected and run the risk of not being able to get treatment if they have a catastrophic illness.

For some time now, Congress had been aware of these disturbing trends. It has tried to contain costs. The recently enacted tax bill, for example, may save about $13 billion in outlays for medicare during the next three years. The same bill will probably rim about $1 billion from outlays for medicaid during the same period. Last year, congress achieved savings of nearly $6 billion in medicare and medicaid. An inspector general has been set up to monitor the programs and stronger penalties have been enacted to deter fraud. What effect these steps will ultimately have is uncertain, but no matter how successful they may be they are certainly not sufficient.

Proposals for sweeping change in medicare and medicaid are being heard in Congress. Under one plan currently being pushed on Capitol Hill, procedures of reimbursement in medicare would be completely overhauled; instead of reimbursing hospitals for daily costs, the federal government would pay them a certain sum for each patient on medicare, depending on the diagnosis. This "prospective reimbursement" could hold costs down significantly. Another plan would provide beneficiaries of medicare with vouchers they could use to purchase private health care insurance. A third plan would establish a "means test" for beneficiaries of medicare—only those who earned or possessed less than a certain minimum amount would be eligible for benefits. Yet another plan—a favorite of President Reagan's—would federalize medicaid, completely eliminating any role for the states in funding the program.

While I have not supported a means test for beneficiaries of medicare, I have supported reasonable proposals on prospective reimbursement. I am prepared to consider other approaches to strengthen these valuable programs. If possible, I want to avoid additional burdensome costs to beneficiaries.●

DELTA-THON '82

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. MILLER of California. Mr. Speaker, on Sunday, October 3, 1982, a major East Contra Costa County community-run Delta-Thon '82 will be sponsored to foster good will and community spirit and to demonstrate support for East Contra Costa County's nonprofit service agencies.

This year, the 3 agencies selected from among more than 20 applicants to receive the proceeds from the event are REACH Project, Inc., of Antioch, Pittsburg Food Pantry of Pittsburg, and Liberty Area Child Care Committee Inc., of Brentwood.

REACH project is a 13-year-old community-based program for the prevention of juvenile deliquency, drug and alcohol abuse. The Pittsburg Food Pantry has been providing food to needy families for the last 8 years. The Liberty Area Child Care Committee has served working parents for nearly a decade by delivering preschool nursery and compensatory education programs for their children. Each is widely recognized for its dedicated service to the community.

I wish to commend the California Delta Newspapers, Inc., for sponsoring Delta-Thon '82 and join the participants in saluting its importance for East Contra Costa.●

HALTING NUCLEAR EXPORTS TO SOUTH AFRICA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. RANGEL. Mr. Speaker, in the past 2 years, the Reagan administration has articulated a new U.S. policy toward South Africa. Known as "constructive engagement," this policy has sought to befriend the brutal apartheid regime in South Africa and end its "polecat status" in the world community.

We have seen numerous examples of this policy: the administration has rescinded a 20-year policy prohibiting contact with high-level South African military personnel; it has upgraded the military attachés in its Embassy; it has undertaken to train South African Coast Guard personnel; it has sought repeal of the Clark amendment prohibiting covert military operations in Angola; it has vetoed United Nations' calls for sanctions and a Security Council resolution condemning South Africa's invasion of Angola; it has rescinded Carter administration regula-

tions involving exports to the South African military and police; and, the latest outrage, it has allowed the export of 2,500 electric shock batons to South Africa in direct violation of human rights restrictions on such exports.

Equally disturbing now is the growing nuclear collaboration between the Reagan administration and the Pretoria regime. South Africa is becoming steadily more sophisticated in its development of nuclear technology, particularly in the technology of enriching uranium to weapons grade. Its Koeberg reactor, due to begin operations next year, will be able to produce about 200 kilograms of plutonium annually, more than enough to produce an atomic bomb every 2 weeks.

The prospect of nuclear weapons in the hands of this apartheid regime is a frightening threat to the peace and security of the African Continent and the rest of the world. The Reagan administration has been particularly insensitive to this concern, allowing Pretoria to obtain enriched uranium to fuel the Koeberg reactor and increasing dual-use nuclear exports to South Africa.

It is because of this increased collaboration at this critical time that I offer this piece of legislation prohibiting any further U.S. nuclear assistance to South Africa.

In the past 10 years, South Africa's nuclear capability has grown enormously, due mainly to assistance given it by the United States, France, and West Germany. The U.S. Government, alone, helped establish South Africa's uranium mining business; was the primary enricher for South African and Namibian uranium and licensed U.S. companies to export nuclear materials and technology such as the Safari research reactor and the Foxboro computers that greatly enhanced Pretoria's pilot enrichment plant. In fact, the U.S. Government has been so helpful to South Africa in developing its nuclear program that A. I. Roux, former president of the South African Atomic Energy Board was prompted to say, "We can ascribe our degree of advancement today in large measure to the training and assistance so willingly provided by the United States."

Although it is uncertain whether South Africa has yet tested nuclear weapons—though there is a good deal of circumstantial evidence surrounding the 1977 attempted nuclear test in the Kalahari Desert and the 1979 double flash in the South Atlantic to indicate it has—most would agree that it has the capability to produce them. It also has a delivery capability through its Mirage jets and 155-millimeter howitzer cannons, also provided by a U.S. company. South African has refused to sign the Nuclear Non-Proliferation Treaty and to submit to full-scope safeguards on its nuclear facilities to prevent their use for military purposes.

This is especially frightening given the belligerent character of the Pretoria regime. South African aggression in the southern African region has intensified during the past 2 years. Pretoria continues its illegal occupation of Namibia, refusing to accede to the demands of self-determination by the Namibian people and the repeated call for an internationally recognized settlement from the world community. And South Africa persists in its military attacks on Angola, still occupying part of that country, having penetrated more than 175 miles in this latest invasion, inflicting heavy loss of life and property.

Inside South Africa, Pretoria's violations of human rights have dramatically increased. In 1981 and 1982, the majority black population has suffered under a relentless crackdown by the minority regime, including an increase in detentions, arrests, tortures, and bannings.

The Reagan administration's policy of "constructive engagement" has encouraged this through a policy that has created an environment where Pretoria feels it can increase its repression at home and conduct its aggressive campaign of destabilization against the frontline states with impunity. Despite this brutal stepup of internal repression and external aggression, the Reagan administration has continued to appease Pretoria in the vain hope of achieving some reform inside South Africa and an agreement on Namibia.

Yet of all of this administration's efforts to win the good will of South Africa, the favors that we have extended in the nuclear field will prove the most dangerous. Although many forms of nuclear assistance are restricted by the Nuclear Non-Proliferation Act of 1978, others are still allowed. I am ashamed that the United States, particularly under this administration, has shown its willingness to help South Africa along in its nuclear program:

The Reagan administration allowed the sale of a Control Data Cyber 170/750 computer to the state-controlled Council on Scientific and Industrial Research (CSIR) on March 26, 1982. The computer will greatly aid Pretoria's nuclear weapons program.

Now pending Commerce Department approval is the export of 95 grams of helium-3 to South Africa. Helium-3, when converted into tritium, becomes an important component in thermonuclear weapons.

In early September, the Commerce Department resubmitted for approval the export of a hot isostatic press to South Africa. The isostatic press is a sophisticated piece of equipment used in making critical components for nuclear weapons. Although this press had been previously rejected for export to South Africa, the Department of Commerce is now recommending the export.

Since May 1980 one set of vibration test equipment, one hot isostatic press, nine sets of computers or computer-related equipment, one multichannel analyzer, one set of hydrogen recombiners have been shipped to South Africa from the United States. All have nuclear applications.

In addition, the U.S. Government periodically trains South African nuclear technicians at U.S. Government facilities, including at least 20 in 1981. U.S. Atomic Energy Commission files show that from the mid-1950's to the mid-1970's, about 88 South Africans were trained in the United States in various aspects of nuclear technology, including Lukas Barnard, South Africa's head of the Department of National Security.

My bill has two purposes: First, it would halt the transfer of all equipment to South Africa that is designed for or could be used for nuclear related purposes. Second, it would prohibit officers or employees of the executive branch from making available to South Africa any information, technology, or training that would accelerate their nuclear program.

In proposing this bill, I well understand that many of the components and training that the United States has made available to South Africa may be available elsewhere. That is beside the point. It is incumbent on the United States not to participate in accelerating the nuclear program of a nation internationally condemned for its systematic violation of fundamental human rights, a nation which also has refused to sign the Treaty on Nuclear Non-Proliferation. We cannot provide worldwide moral leadership in stemming the flow of nuclear technology while we, ourselves, are vendors to a noncomplying nation.

The Reagan administration, and the Commerce Department especially, has shown its unwillingness to restrict nuclear exports to South Africa. Congress must act with the utmost haste in cutting this sort of nuclear assistance to South Africa. With help from the administration's overly generous nuclear export policy, Pretoria continues to mock the international community in its concern for a nuclear-controlled world. This legislation would greatly reduce U.S. assistance to South Africa's nuclear program and would provide the basis for moral leadership for the executive branch to urge other nuclear supplier countries to similarly cut off nuclear assistance to South Africa.●

A TRIBUTE TO MRS. RUBY ALLEN

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. BROOKS of Texas. Mr. Speaker, I would like to take a moment to pay tribute to a member of a special class of parents, a group of parents who are all too often taken for granted and who go unrecognized. I am referring to foster parents, and to one foster parent in particular, Mrs. Ruby Allen.

Mrs. Allen is a foster parent in Galveston, Tex., and over the years has been mother to 87 foster children, some of them for up to 15 years. That fact alone would make Mrs. Allen's contributions remarkable, but even more significant is the special love and care that she has for special children. Nearly all of her foster children have had severe physical and/or mental handicaps.

At any given time she has five to six children in her home. Presently she has three physicially handicapped children—one is severely brain damaged, one is severely burned, the other has multiple mental and physical handicaps. A fourth child has a learning disability, and a fifth, who she has care for for 15 years is mildly mentally retarded.

Many of the children would undoubtedly have lived their lives in institutions had it not been for the special love of Ruby Allen. Mrs. Allen's nurturance and stimulation effected necessary changes upon children who seemed unadoptable when they were placed in her home. Her special kind of love has worked near miracles with almost every child who has been placed in her home. Many are now in adoptive homes.

On behalf of my colleagues, I would like to commend Mrs. Ruby Allen as an outstanding citizen who has contributed greatly to the welfare of the children of the State of Texas.●

CERTIFIED PROFESSIONAL SECRETARY (CPS)

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. OTTINGER. Mr. Speaker, I would like to call to the attention of my colleagues that one of my constituents, Harriet Childs of New Rochelle, N.Y. has been certified by the Institute for Certifying Secretaries as a "Certified Professional Secretary."

The CPS Progam was instituted in 1951 when 281 secretaries sat for a 2-day examination; 62 were certified and, including this year's group, to date 16,197 secretaries have been so certified.

To attain the CPS rating, a secretary must meet certain educational and work experience requirements. Then he or she may apply to take the 2-day examination administered annually in May by the Institute for Certifying Secretaries, a department of Professional Secretaries International. Although advantageous, membership in PSI is not required to become a CPS.

The CPS examination covers six sections: Behavioral science in business, business law, economics and management, accounting, communication applications, and office administration and technology. A candidate is permitted 6 years to pass all six parts.

The Washington Metro area is quite fortunate, as there is a generous quota of CPS's present and two members of the District of Columbia Chapter, Professional Secretaries International, appeared on the recently released list of new certified professional secretaries.

In bringing the CPS rating to the attention of my colleagues today, perhaps my remarks will help to open the door through which we here in the House, as well as the members of management throughout the business world, will come to recognize the merits of the certified professional secretary. Only then will the certified professionals secretary attain the recognition so rightly earned.●

PROTESTING THE ENERGY DEPARTMENT'S MISGUIDED POLICY ON PHOTOVOLTAICS

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. BEDELL. Mr. Speaker, I wish to share with my colleagues and the public yet another example of the misguided thinking that passes for national energy policy these days. This story might be viewed by some as being humerous, were it not so sad.

This week in San Diego, the Institute of Electrical and Electronics Engineers, IEEE, and the Jet Propulsion Laboratory, JPL, are hosting an international conference on research into solar voltaics technology. This is one the the premier international meetings on the subject, and this year it is America's turn to be the host country.

As it has done on previous occasions, JPL reserved exhibit space and prepared a display that would showcase new and exciting research into photovoltaics that has been sponsored by the U.S. Government. This time, however, JPL was advised that a new policy at the Department of Energy bars JPL from doing anything that could be construed as Government-subsidized promotion of technologies that are close to commercialization.

The Energy Department, which has been supporting advanced research in photovoltaics through a program administered by JPL, ruled that the proposed exhibit in San Diego would violate this policy. JPL appealed the decision, but was informed last Friday that the appeal was turned down.

Mr. Speaker, this puts us in a ridiculous situation. It should be obvious that the Department of Energy's decisions are wrong on several counts.

First, the United States is now in the embarrassing situation of being the host country for an international conference at which we do not have an exhibit. The Germans, the French, the Japanese, and others are not shy about using this event to promote their own achievements in the increasingly important field of photovoltaic energy. Only the United States among major producing countries is not exhibiting.

Second, the research being sponsored by JPL which would have been included in the exhibit is not at the commercialization stage. Commercial products are being exhibited at this conference by the manufacturers. The purpose of the JPL exhibit is to help inform the manufacturers of what new ideas are in the pipeline.

Third, JPL was not advised that their request for a waiver had been turned down until last week, just days before the conference was set to open. So, the exhibit had already been prepared and space rented for it. Now, the United States is represented by an empty booth.

For the past 2 days, I have been on the telephone with officials at the Department of Energy, trying to get this decision reversed, while the conference is still in session and the exhibit is available for display. The Department will not budge.

Mr. Speaker, as chairman of the Small Business Subcommittee on Energy, I have spoken out before on the subject of photovoltaic energy. I have said before that I am appalled at the Department of Energy's current policy toward photovoltaics, a policy which consciously or unconsciously is frittering away our technological edge in a promising new field where foreign governments are actively encouraging their domestic manufacturers. I am afraid that U.S. industry may be left at the starting gate in the race for a major world market.

Finally, I want to point out the hypocrisy embodied by the Energy Department's decision not to allow this exhibit on U.S. photovoltaic research at the conference in San Diego.

The Department's higher echelons apparently have chosen to ignore the advice of their own advisory panel on solar research and development. As re-

cently as September 2, that panel was urging a program of public dissemination of Government-sponsored research results. They said this was essential, even for programs that are being discontinued, so that the public will get a return on its investment. As the Energy Department's solar advisory group noted, "Research that goes undocumented might just as well never have been performed."

Moreover, the Department does not seem to have the same qualms about publicizing what it is doing in the civilian nuclear field. There, the Department of Energy has sought to establish a special office full of Government employees to help spread the good word.

This is how the trade publication Inside Energy described the Department's activity in its September 18, 1981, issue:

DOE's Nuclear Energy division, NE, in a significant departure from past practice, is preparing to implement a comprehensive, far-reaching public information program on nuclear power . . . The public information program was listed as one of NE's objectives in a memorandum responding to Energy Secretary James Edwards' broad policy initiatives for the department, administration officials said.

Mr. Speaker, I am dismayed by the administration's self-defeating, hypocritical attitude toward the photovoltaics industry. This latest incident, unfortunately, is all too typical of the strange thinking that dominates our energy policy these days.●

ENTERPRISE ZONES: IT IS TIME FOR THE HOUSE OF REPRESENTATIVES TO ACT

HON. JACK KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. KEMP. Mr. Speaker, I know the 120 House cosponsors of the Enterprise Zone Tax Act join me in applauding yesterday's Senate Finance Committee vote to report that bill favorably for Senate passage. I especially want to commend the excellent leadership of the chairman of the Finance Committee, Senator BOB DOLE, and of Senator JOHN CHAFEE, the chief Senate sponsor of the bill. Their efforts are good news indeed for America's cities.

The House of Representatives has tragically let the ball drop on this legislation, while the rest of the country moves ahead. Fourteen States have enacted enterprise zone statutes, and enterprise zone bills are being debated in the legislatures of most other States. Virtually all big cities and many smaller communities have an enterprise zone task force picking and preparing sites. In States where enterprise zones are already underway, thousands of new jobs have been created.

Enterprise zones are no panacea. They cannot be a substitute for other programs. Nevertheless, enterprise zones offer a low-cost, low-risk attempt to create new jobs, to invest in and salvage the tremendous human and physical capital of our inner cities.

My question to my colleagues in the House of Representatives is this: What do we lose by taking a chance on enterprise zones? And what will be the loss in not trying?

My thanks to BOB DOLE for his leadership; now let us see the House act.●

CONGRESSIONAL SALUTE TO THE CLERGY AND CONGREGATION OF THE MOST HOLY NAME OF JESUS SLOVAK NATIONAL CATHOLIC CATHEDRAL OF PASSAIC, N.J. UPON THEIR 60TH ANNIVERSARY CELEBRATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. ROE. Mr. Speaker, on Sunday, October 10, the residents of the city of Passaic, my congressional district and State of New Jersey will join with Rev. William Chromey, pastor, and the congregation of the Most Holy Name of Jesus Slovak National Catholic Cathedral in celebration of the 60th anniversary of the founding of this most revered church of Slavic heritage located in the city of Passaic. I know that you and our colleagues here in the Congress will want to join with me in extending our heartiest congratulations and best wishes to the esteemed pastor, Father Chromey, and all of the members of the Most Holy Name of Jesus Slovak National Catholic Cathedral on this historic occassion.

Mr. Speaker, our Nation was founded on the cornerstone of our people's faith in God which is truly the spirit, conscience and very being of our society. The Most Holy Name of Jesus Cathedral of the Slovak National Catholic Church is a monument to faith, love, and sacrifice but it is more; it is a living tradition gratefully received from one generation and reverently passed on to another.

Sixty years ago a group of deeply religious Slovak Catholics separated from the Roman Church to establish the Most Holy Name of Jesus Cathedral of the Slovak National Catholic Church under the Christian creed of the Slovak nation established by the Greek Missionary brothers, Saints Cyril and Methodius—a free and independent national church whose divine services were conducted in the language of the people.

A group of simple pious folks—most of them immigrants—whose community life revolved around the parish church sought Father Jecusko as their pastor when they left St. Mary's Roman Catholic Church to organize a new parish in the religious faith that was the creed of their patron saints, Cyril and Methodius. The Reverend Emery A. Jecusko, a former secretary of Dr. Colby-Fischer, the bishop of Kosice, had been called to Passaic, N.J. as an assistant to Father Hajtinger, the pastor of Saint Mary's Roman Catholic Church.

On August 6, 1922, a pledge was made to organize a new parish in which the administration of its activities and meterial assets would be based on democratic principles. The first pastor was the late Reverend Emery A. Jecusko from 1922 to 1938. On September 1938, the late Reverend Eugene W. Magyar became pastor and was elevated to bishop on June 29, 1963. At that time the church was designated a cathedral. Upon the death of the late Right Reverend Eugene Magyar in 1969, the Reverend John Rencewicz became pastor until 1972. The present pastor is the Reverend William Chromey.

The people turned to the Most Reverend Francis Hodur, the organizer and first prime bishop of a like-minded religious body—the Polish National Catholic Church. Bishop Hodur agreed to dedicate the new church and to provide episcopal services when needed. His sympathetic concern and willingness to help are recalled by members of the parish with deep appreciation.

The new parish waxed strong under the fatherly guidance of its pastors. From their first pastor they learned that the democracy of their adopted land was not inconsistent with the Catholic faith of their forebearers. Father Jecusko passed away on July 23, 1938.

Father Jecusko's successors carried forward the work of the church with passionate dedication. Their interests covered a wide spectrum and their zeal was infectious. Uppermost in their concern was the welfare of the church and their congregation. Their devotion to the Slovak National Catholic Church became an exemplary example of priestly life par excellence.

Father Magyar, their second pastor, was elected the first bishop of the Slovak National Catholic Church. A victim of cardiac disease, he gave of himself unstintingly to consolidate and expand the mission of the church. This was his fondest dream. His untimely passing deprived the church of a man who was at once a true spiritual father, teacher, and friend.

Bishop Magyar brought the church into full and friendly relations with other churches possessing the apostolic succession. Altar boys attended gatherings sponsored by the Episcopal

Church. He taught at the Savonarola Seminary of the Polish National Catholic Church and was a close friend and adviser of its late Prime Bishop Dr. Leon Grochowski. He helped produce the Polish church's official organ, "God's Field-Rola Boza." Bishops Magyar and Grochowski attended several important conferences together. Bishop Grochowski is also fondly remembered for his sincere efforts to help the church.

Mr. Speaker, I appreciate the opportunity to seek this national recognition and tribute to the distinguished pastors, the current pastor, Rev. William Chromey, and the congregation of the Most Holy Name of Jesus Slovak National Catholic Cathedral whose devotion, untiring efforts and sincerity of purpose dedicated to the spiritual and cultural enrichment of our people—a lasting contribution to the quality of life—is applauded by all of us. In commemorating the 60th anniversary of their cathedral in pursuit of the noble cause of service to God and brotherhood, good will and understanding among all mankind, we do indeed salute the esteemed clergy and congregation of the Most Holy Name of Jesus Slovak National Catholic Cathedral of Passaic, N.J.●

PAY EQUITY

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. MOFFETT. Mr. Speaker, I was greatly honored recently to present testimony before a distinguished joint subcommittee hearing on the issue of equal pay for work of comparable value. These historic hearings, to be concluded tomorrow, have brought before the Congress for the first time an indepth view of the wage disparity between men and women. I want to applaud the chairwomen of the subcommittees who have taken the initiative on this issue, our colleagues, GERALDINE FERRARO, PATRICIA SCHROEDER, and MARY ROSE OAKAR. Their commitment to insuring equality for all Americans is well known in this Chamber. I urge every one of you here today to join the chairwomen of the three Post Office and Civil Service subcommittees in resolving the persistent problem of wage inequities.

I am submitting for the RECORD a copy of my prepared statement on pay equity for women. I also want to have printed a letter signed by members of the Congressional Caucus for Women's Issues to President Reagan on the proposed increase in IRS positions for fiscal year 1983. We have requested that the President instruct the IRS to make a concerted effort to recruit and hire women for these new jobs. I believe that this request dovetails perfectly with the initiative to close the gender gap in wages. The Federal Government must take a leadership role in promoting equal employment opportunities for women, and the time for such action is now.

TESTIMONY OF HON. TOBY MOFFETT BEFORE THE SUBCOMMITTEE ON CIVIL SERVICE, SUBCOMMITTEE ON HUMAN RESOURCES, AND SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS

Congresswomen Schroeder, Oakar, and Ferraro, I am honored to participate in today's historic hearing on the issue of equal pay for work of comparable worth. Pay equity for women will certainly be one of the major economic issues of this decade and I commend you for bringing it to national attention through this series of hearings. Given the enormity of the issue, and the large number of distinguished witnesses here today to discuss it, I will make my remarks very brief.

I come before you today, not an expert on the issue, but to assist and encourage your efforts to remedy the injustice of sex-based wage discrimination. My own state of Connecticut has made encouraging advances in addressing this injustice, but clearly much remains to be accomplished nationwide. Equal rights for women is surely a matter of equal opportunities in employment and equal pay for that employment. We have anti-discrimination laws on the books, good laws, but the wage disparity between men and women doggedly persists—women continue to earn approximately 59¢ for every dollar earned by men. This nation simply cannot afford to permit this disparity to continue.

The profile of our labor force shows that 53 percent of all women in the nation are working. They constitute about 43 percent of the entire labor force. The U.S. Department of Labor issued a report two weeks ago stating that mothers of children under 18 years of age are the fastest growing segment of the labor force today. The report noted that "the labor force participation of mothers grew at a rate of 21 percent between 1977 and 1982, greater than the 18 percent rate for all women and more than double the 9 percent growth rate for men." At the same time, the number of working women who are poor or "near poor" is equally large and growing. Most working women, three out of five, earn less than $10,000 a year.

A nation which professes to be pro-family must ensure that this trend is immediately reversed. Closing the gap between the wages of men and women in jobs of comparable worth must be undertaken at all levels of the public and private sector. This is a huge undertaking, one that is underway in a number of states and which must be aided and abetted by leadership from the federal government.

Studies show that there are two major reasons for the current wage disparity between men and women: the occupational segration of women in limited job areas and the undervaluation of the work women perform in these areas. In my home state of Connecticut, and in other states in the nation, a joint effort by the state government and labor unions representing health and clerical workers is carrying out an indepth and ongoing evaluation of state job classifications and evaluations to redress the pay disparity issue. Begun as a pilot project in 1979 with an appropriation of $30,000, the Connecticut pay equity study is now incorporated into the state's budget on an ongoing basis. This study allocates points to various male and female dominated job fields which have been determined to be of similar value. A building maintenance supervisor, a male dominated job classification, earned a salary of between $16,643 and $19,800, it was found. A female psychiatric aide, evaluated at the same level, earned between $12,100 and $14,700.

Armed with this statistical information, labor unions are able to meet at the collective bargaining table to redress compensation inequities. As the National Committee on Pay Equity will testify today, District 1199 of the New England Health Care Employees' Union negotiated wage equity increases for Connecticut health care workers, a predominantly female occupational field. This is an encouraging victory, to be sure, and one which will no doubt be repeated through increased labor-management negotiations. However, more than 80 percent of working women are not protected by bargaining agreements. States and union organizations are doing their part, but it is time for the federal government to join the action.

I noted earlier that we have anti-discrimination laws on the books, most notably Title VII of the Civil Rights Act, Executive Order 11246, and the Equal Pay Act of 1963. These laws are not being enforced. We must do so vigorously. I share the views of many labor unions and women's groups that comprehensive research and enforcement programs must be initiated to identify and correct wage discrimination due to occupational segregation by race and sex. We must support legislation which encourages women to enter nontraditional occupations, including the fields of science and engineering. The sex equity provisions of the Vocational Education Act, which promote enterance into nontraditional jobs, must be maintained. And, we must renew our efforts to enact and ratify the Equal Rights Amendment, once and for all.

Congresswomen, Members of the Subcommittee, I pledge my assistance to your pursuit of meaningful remedies to wage discrimination and once again applaud your initiative in bringing this important issue before the Congress.

CONGRESS OF THE UNITED STATES,
CONGRESSIONAL CAUCUS FOR WOMEN'S ISSUES,
Washington, D.C., September 28, 1982.

The PRESIDENT,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: The Tax Equity and Fiscal Responsibility Act of 1982, as passed by the Congress, includes your proposal for an increase of 3,310 positions in the Internal Revenue Service for Fiscal Year 1983.

Currently, 54.5 percent of the full time workforce for the Internal Revenue Service are women. In some of the ten Service Centers, up to 85 percent of the employees are women. Yet, the agency's average grade level for women employees is 6.32 while the average grade level for men employees is 9.99. Women hold only nine of the 257 senior executive positions. There are ten Service Center Directorships, yet only one of these positions is occupied by a woman. In addition, of the 60 District Directorships, women hold only two of these positions.

We know that you have frequently expressed your commitment to bring qualified women into positions of responsibility within the Federal government, and we share your concern in this area. We view the creation of these 3,310 IRS positions as an

excellent opportunity for you to demonstrate this commitment by placing women in senior and mid-level positions, to serve as revenue officers, investigators, examiners and in a variety of supervisory and management positions.

We urge you, Mr. President, to instruct the Internal Revenue Service to make a concerted and determined effort to recruit and hire women for these newly created positions and to require accountability through followup reports.

Sincerely,

Thomas J. Downey, Charles B. Rangel, Michael D. Barnes, George W. Crockett, Jr., Don Edwards, Vic Fazio, Thomas M. Foglietta, Martin Frost, Margaret M. Heckler, Tom Lantos, George E. Brown, Jr., Ronald V. Dellums, Walter E. Fauntroy, Hamilton Fish, Jr., Barney Frank.

Frank Guarini, James Howard, William Lehman, Clarence D. Long, Robert T. Matsui, Norman Y. Mineta, Peter W. Rodino, Jr., Patricia Schroeder, Al Swift, Ted Weiss, Barbara Kennelly, Edward J. Markey, Barbara A. Mikulski, James L. Oberstar, Robert A. Roe.

Olympia Snowe, James Weaver, Howard Wolpe, Geraldine Ferraro, Cardiss Collins, James Scheuer, Anthony Toby Moffett, Fortney H. Stark, Mary Rose Oakar, Steny Hoyer, Peter Peyser, Berkley Bedell, Cecil Heftel, Stephen Solarz.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 30, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 1

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to consider S. 2204, promoting interstate commerce by prohibiting discrimination in the writing and selling of insurance contracts, S. 2469, proposed International Telecommunications Deregulation Act, S. 2631, creating a uniform Federal product liability law establishing manufacturer responsibilities and consumer rights in this field, S. Res. 455, expressing the sense of the Senate with respect to actions to be taken by the Secretary of Commerce to protect Pacific salmon stocks, and pending nominations.
235 Russell Building

Judiciary
To hold hearings on S. 2044, to revise and clarify the "work made for hire" provision of the copyright law, to exclude from its coverage a work composed as (1) a contribution to a collective work, (2) a part of a motion picture or other audiovisual, and (3) an instructional text.
2228 Dirksen Building

2:00 p.m.
Judiciary
Separation of Powers Subcommittee
To resume hearings on certain constitutional and separation of powers issues involving the Joint China Communique and the Taiwan Relations Act.
2228 Dirksen Building

OCTOBER 5

10:00 a.m.
Finance
Energy and Agricultural Taxation Subcommittee
To hold hearings on S. 1911 and S. 2642, bills providing for the establishment of reserves for mining land reclamation.
2221 Dirksen Building

OCTOBER 6

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the accessibility of the judicial system.
2228 Dirksen Building

CANCELLATIONS

SEPTEMBER 30

9:00 a.m.
Armed Services
Tactical Warfare Subcommittee
To hold hearings on military flight simulators.
212 Russell Building

OCTOBER 7

10:00 a.m.
Foreign Relations
To hold closed hearings on U.S. Strategic doctrine.
S-116, Capitol

89-059 O-86-29 (Pt. 19)

HOUSE OF REPRESENTATIVES—*Thursday September 30, 1982*

The House met at 10 a.m.

The Reverend Kenneth Folkes, Mount Carmel Baptist Church, Bronx, N.Y., offered the following prayer:

O God, our Father, Thou who art the source of our existence we thank Thee this morning for the challenge of another day and the opportunities to serve Thee as we serve our fellow man.

Give direction to this august body as they tackle the pressing problems of the times and as they strive to make true the promise of freedom and justice to all as one nation under God.

May the discussions in this Chamber and the decisions arrived at be directed by Your spirit. Give to the President of these United States men and women who are dedicated and unselfish in the service. Give to Your people hope in spite of the dark clouds that may sometimes gather, and strength to the weakhearted that we may lift up Thy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills, a joint resolution, and a concurrent resolution of the House of the following titles:

H.R. 3881. An act to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands conveyed to the Arkansas Foresty Commission, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such lands to such Commission;

H.R. 5154. An act to amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business;

H.R. 6422. An act to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land previously conveyed to the State of Connecticut;

H.J. Res. 207. Joint resolution to require the Secretary of the Interior to place a plaque at the U.S. Marine Corps War Memorial honoring Joseph Rosenthal, photographer of the scene depicted by the memorial; and

H. Con. Res. 414. Concurrent resolution directing the preparation of duplicate conference papers on H.R. 5930.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6956) entitled "An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 6, 16, 26, 27, 30, 38, 42, 45, 51, 52, 53, and 61 to the above-entitled bill.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to the bill (H.R. 6782) entitled "An act to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rate of dependency and indemnity compensation for surviving spouses and children of veterans, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills and a joint resolution of the House of the following titles:

H.R. 2035. An act to authorize certain employees of the U.S. Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection.

H.R. 5145. An act to amend title 5, United States Code, to provide training opportunities for employees under the Office of the Architect of the Capitol and the Botanic Garden, and for other purposes;

H.R. 6164. An act to authorize the Secretary of Agriculture to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP), and for other purposes; and

H.J. Res. 599. Joint Resolution making continuing appropriations for the fiscal year 1983, and for other purposes.

The message also announced that the Senate insists upon its amendments to the joint resolution (H.J. Res. 599) entitled "Joint resolution making continuing appropriations for the fiscal year 1983, and for other purposes", requests a conference with the House on the disagreeing votes of two Houses thereon, and appoints Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. MCCLURE, Mr. LAXALT, Mr. GARN, Mr. SCHMITT, Mr. COCHRAN, Mr. ANDREWS, Mr. ABDNOR, Mr. KASTEN, Mr. D'AMATO, Mr. MATTINGLY, Mr. RUDMAN, Mr. SPECTER, Mr. PROXMIRE, Mr. STENNIS, Mr. INOUYE, Mr. HOLLINGS, Mr. EAGLETON, Mr. CHILES, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, and Mr. BURDICK to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1661. An act to authorize the Secretary of the Interior to acquire certain lands by exchange for addition to Effigy Mounds National Monument in the State of Iowa, and for other purposes; and

S.J. Res. 255. Joint resolution to designate the week of October 10, 1982, through October 16, 1982, as "Freedom Week U.S.A."

THE REVEREND KENNETH FOLKES

(Mr. GARCIA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARCIA. Mr. Speaker, I have the honor of saying a few words about our Rev. Kenneth Folkes. Kenneth Folkes is from my district in the county of the Bronx, but I believe he is a reverend that is shared by the entire county of the Bronx, both within my congressional district, the congressional district of my colleague, Congressman BIAGGI, and Congressman BINGHAM. The three of us have worked very closely with Reverend Folkes over many years and all three of us agree that he is a man who has given a great deal to our county.

He organized the Mount Carmel Baptist Church, Mr. Speaker, in February 1956 and there is no question that under his leadership the Mount Carmel Baptist Church has grown tremendously.

Dr. Folkes is a member of the board of directors of the Bronx Boys Club.

Besides being a pastor, he is also the Protestant chaplain of one of the largest hospitals in the city of New York, Lincoln Hospital.

He is the past president of the Council of Churches of the city of New York.

Mr. Speaker, Rev. Kenneth Folkes is a man that we, as Americans, can all be proud of and I am delighted that he found time within his busy schedule to grace this House today.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

THE REVEREND KENNETH FOLKES

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BIAGGI. Mr. Speaker, I am pleased to join with my colleagues from New York, Mr. GARCIA and Mr. BINGHAM, in welcoming the Reverend Dr. Kenneth L. Folkes, pastor of the Mount Carmel Baptist Church in the Bronx.

It has been my distinct pleasure and unique honor to have known Dr. Folkes for a number of years and enjoy his warm and enduring friendship. In addition to his many time-consuming duties as pastor, Dr. Folkes is one of the most active members of his community serving in a variety of capacities including Protestant chaplain of Lincoln Hospital, member, board of directors of the Bronx Boys Club and treasurer of the Bronx Chapter NAACP. In previous years, he has been the past president of the Council of Churches of New York City and a member of Community School Board, District 12. He is also a life member of the National Council of Negro Women.

Dr. Folkes' career has been replete with accomplishments which have made him the recipient of many prestigious awards. He was named Minister of the Year by the Bronx Negro Business and Professional Women's Club, and Man of the Year by the Bronx Boys Club. He was the winner of the 1974 Brotherhood Award presented by the Catholic Interracial Council of the Bronx.

The Reverend Dr. Folkes represents the finest example of an involved and dedicated religious leader. He is an inspiration to his parishioners and to those he comes in contact with in the community. The House is deeply honored to have him here today and thanks him for his prayer this morning. I welcome all those who accompanied him here.

BIOGRAPHY OF OUR PASTOR

Rev. (Dr.) Kenneth L. Folkes was born in Kingston, Jamaica, West Indies. He is a son of the Late Richard Samuel and the Late Mrs. Mary E. Folkes.

He came to the United States of America in the year of 1945. He graduated from Shelton College in 1950, earned his B.T.H. Degree from the American Bible College in 1954 and received his Dr. Divinity Degree from Virginia College in 1975.

He organized the Mt. Carmel Baptist Church in February of 1956, and under his leadership, the church has grown tremendously.

Dr. Folkes' interest and concerns are not limited only to pastoring, but to the community as well. Besides being pastor of Mt. Carmel, he is the Protestant Chaplain of Lincoln Hospital; Past President, Council of Churches, City of N.Y., Financial Secretary of the Baptist Ministers Conference of Greater New York and Vicinity; Financial Secretary of the United Missionary Baptist Association.

Dr. Folkes is a member of the Board of Directors, Bronx Boys Club; Bronx Red Cross, Bronx Rotary Club, Southeast Bronx Neighborhood Center (Forest House); and served a great number of years as member of Community School Board, District No. 12, Bronx. He is treasurer, Bronx Chapter N.A.A.C.P. and a life member. He is a life member, National Council Negro Women, member of Bronx Community College, Community Council, Hostos Community College, Community Council.

Dr. Folkes has been the recipient of many awards and citations for church and community services rendered. To name a few, he was named Minister of the Year by the Bronx Negro Business and Professional Women's Club; Man of the Year by Bronx Boys Club; several Humanitarian Awards; The Brotherhood Award for 1974, presented by the Catholic Inter-racial Council of the Bronx. A group home for the Mentally Retarded was named in his honor.

Dr. Folkes has been instrumental in assisting people in the community in securing proper housing and employment as well.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. BIAGGI. I am happy to yield to my colleague, the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, I would like to associate myself with the gentleman's remarks and those of Congressman GARCIA in tribute to Reverend Folkes, an outstanding leader of our Bronx community.

A MONUMENTAL COURT DECISION

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, a monumental Oregon court decision yesterday by Circuit Court Judge George Woodrich declared in effect that contracts between Oregon Public Utilities and WPPSS on plants 4 and 5 were invalid. This court decision vindicates my long fight to throw off the shackles of the bankrupt WPPSS nuclear project. It is a great victory for Oregon electric ratepayers.

I want to give very special commendations and congratulations to the two Oregon citizens who were instrumental in this court victory: Peter DeFazio, a brilliant young aide in my office, who was the leading plaintiff, and the stalwart attorney, Bob Ackerman. Bob Ackerman took on the case with little hope of ever being paid for his efforts, saw the grievous faults in the contracts, and presented his case to the court in such an excellent fashion that a summary judgment was delivered on the crucial parts of the case.

The decision will have an enormous impact on the WPPSS projects and on the bonds sold to pay for them. A year and a half ago, I met with 80 brokers and security analysts in New York and told them the contracts were faulty and warned them not to sell any more WPPSS bonds. I told them then: The people of Oregon would not be taken for suckers. We would fight paying for billion-dollar plants we had not consented to pay for.

That is exactly what the judge ruled. Without a vote of the people, the contracts were invalid.

TIME SHARE LEGISLATION

(Mr. SHAMANSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAMANSKY. Mr. Speaker, time sharing is a relatively new phenomenon in the American real estate market. By purchasing an interest in a time share development, a purchaser buys or leases the right to use a particular property for a limited time during the year for a number of years. This practice permits those who cannot afford or do not want the expense of a second home the opportunity to obtain a dream vacation home.

It is this promise of a dream fulfilled that has made time sharing so popular in the United States today. As in other growing industries, "get-rich-quick" promoters take advantage of vulnerable consumers, including our Nation's senior citizens. Last June, the House Select Committee on Aging heard evidence of abuses in the selling of time share interests. Other similarities also were presented between the selling of time share interests, which is not regulated by Federal law, and the interstate selling of land before it was regulated by the Interstate Land Sales Act in 1968.

Today, I am introducing a bill which would merely extend the Interstate Land Sales Act to include time share developments. Thus, time share interests would be treated like the interstate sale of land, which they so closely resemble in terms of methods of sale and likelihood of abuse.

A SERIOUS TRANSPORTATION PROBLEM IN RURAL AMERICA

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, we have a very serious transportation problem in the rural parts of America, particularly with respect to the deterioration of rail service.

The 97th Congress has not really dealt with railroad issues the way I think it should have. The questions of land grants and the responsibilities of the railroads for their land grants the issue of holding companies, branch line abandonments, and how deregulation affects railroad service in this country, have not been addressed.

Congressman PAT WILLIAMS of Montana and I have visited with three committee chairman in the House and have received approval to hold some forums around the country on rail service that we intend to do later this year.

Deteriorating rail service is threatening transportation services in rural parts of America. Particularly the stripping of the assets away from the railroad companies through the use of a holding company is deteriorating service and causing loss of rail service in many parts of America.

We think that holding these forums to gather the facts and do the research on what is happening to rail service in America will allow the 98th Congress to pass some legislation that finally answers some of these questions.

Rail transportation is vital to rural America. When that transportation deteriorates, it affects and injures rural America and we hope these forums will help.

UNIVERSITY OF MARYLAND EARNS HIGH MARKS

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise to bring to the attention of my colleagues a report issued yesterday by the National Academy of Sciences that assesses the research doctorate programs offered at institutes of higher learning in this country.

I am very proud to note that the University of Maryland at College Park, which is located in my district and is my alma mater, was ranked 7th among all public universities in computer science and is tied for 10th in both physics and math.

The evaluations, said to be academia's version of the Academy Awards, are the first installment in a five-volume series covering 32 fields in science, humanities and the social sciences. The project was sponsored by four research groups, including the American Council of Learned Societies, American Council on Education, Social Science Research Council, and National Research Council. The groups reviewed 2,700 graduate programs in 32 disciplines at 228 universities.

The University of Maryland graduate programs in computer science, physics and mathematics were rated in the "strong" category, ranking specifically 13th out of 57 programs in the country in computer science, 22d out of 121 programs in physics and 23d out of 114 in mathematics.

I want to commend the faculty, staff, and administration of these programs at the university for their outstanding efforts which are clearly recognized through the academy's evaluations. In particular, I would like to congratulate Maryland President John Toll and the outstanding board of regents who are working to make the University of Maryland one of the top 10 public universities in the United States. Clearly that goal is within reach, as evidenced by this report.

Mr. Speaker, I am proud to serve the University of Maryland and its many students, faculty, and staff, and I know that my colleagues join with me in congratulating them for this impressive achievement.

□ 1010

TERMINATING DISABILITY BENEFITS

(Mr. CORRADA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORRADA. Mr. Speaker, I cannot imagine any single Member of this Chamber not sharing my deep concern over the way in which the Social Security Administration is implementing the social security amendments enacted by Congress in 1980 with respect to the social security disability benefits program.

Something terribly wrong must be happening when over 60 percent of the decisions made by the Social Security Administration terminating disability benefits are reversed by administrative law judges and these benefits reinstated.

In Puerto Rico, as well as in every other part of the Nation, the Social Security Administration is sending thousands of cases to State agencies for review, and in an astonishing percentage of those cases, in over 40 percent of them, benefits are terminated. This is causing anguish, desperation, frustration and at times a state of deep depression among a group of citizens who once were deemed qualified to receive disability benefits by the Social Security Administration. There is no doubt in my mind that the implementation of this law has resulted in extreme hardship to over 100,000 American citizens and in a recurring nightmare for millions of beneficiaries waiting for their cases to be reviewed.

I urge all my colleagues to act without further delay and restore our people's faith, by enacting legislation that will continue the benefit payments to those whose benefits have been terminated by the Social Security Administration, until their cases are finally decided by an administrative law judge, and by reducing the number of cases sent to each State and Puerto Rico for review.

I am cosponsoring a bill, H.R. 6971, introduced by Congressman SILVIO CONTE, that will establish precisely this fair treatment.

I strongly urge all my colleagues either to pass H.R. 6971 or to attach similar provisions to any other appropriate bill coming to our consideration and urgently enact these changes.

Our constituents, those we work so hard every day to adequately represent, are waiting for a response from each and every one of us.

EXPORT TRADING COMPANY LEGISLATION

(Mr. BONKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONKER. Mr. Speaker, yesterday the conferees met and hopefully reached agreement on legislation which will allow the formation of export trading companies.

This bill would allow the formation of trading companies primarily through permitting bank participation, through bank holding companies, that would place badly needed financial capital, encourage trading companies to get more involved in export markets.

The second provision would remove the continuing threat of antitrust violations to be accomplished through a certification procedure which would be approved by the Attorney General.

The Department of Commerce has estimated that there are 20,000 firms in this country that have the capability and the products for foreign markets but these firms lack the facility and the resources necessary to get those products abroad. Chase Econometrics has estimated that if this legislation passes and is signed into law, it will create anywhere between 320,000 and 600,000 new jobs. If we are going to have economic recovery in this country, we have to increase our exports and find our place in international markets. The export trading company legislation can help us accomplish that goal.

I hope that both the House and the Senate will act favorably upon this bill so we can send it to the President before the session ends.

MEANS TEST FOR MEDICARE

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, last week when the administration indicated that they were going to request a means test on medicare, I introduced a resolution, a sense of the House resolution, in coordination with the Senate. Senator GARY HART and Senator PAT MOYNIHAN of New York introduced it in the Senate. It was added yesterday to the continuing resolution that passed the Senate.

I was considering, Mr. Speaker, offering a motion to instruct the conferees but I understand the difficulties that the chairman of the commiteee and the conferees are going to have, so I am not going to offer the motion, even though clearly the House would accept it overwhelmingly.

I would like, Mr. Speaker, to ask the chairman of the committee, the gentleman from Mississippi (Mr. WHITTEN) if he will give consideration and understanding of the House's support for rejecting the Republican administration's effort to eliminate senior citizens from medical care.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, we have no intention of approving such efforts. Whether it be necessary to disapprove as against a refusal to approve will of course be considered.

This is a continuing resolution. I think the other side has added 100 amendments. If we do not get together by midnight tonight, the whole Government, in the opinion of the Attorney General, will close down, so I hope the gentleman understands the situation we face.

So I cannot accept instruction at this stage, but I do understand the reasons behind it and I understand that that would probably be in line but likely unnecessary—a mere refusal to agree will likely be sufficient protection. I think we should have a resolution which meets the definition of a continuing resolution, that is, keeping the Government in business until we can pass the regular appropriation bills. The gentleman is familiar with the fact that we have not passed the regular bills because we were held up by reason of the lateness of the Congress on agreeing on a budget resolution. So as we go into a conference that we must finish by midnight tonight with 100 changes on the other side, which makes it anything but a continuing resolution.

So I cannot make any firm commitment to demand a prohibition if all that is required is to refuse to agree, this might prevent an agreement if we are to get through by midnight.

Mr. PEYSER. I appreciate the chairman's statement. I know he will make every effort to follow through on this, as it is obviously the feeling of the House, and now the Senate to support this resolution.

EXTRACT PROPOSED BALANCED BUDGET AMENDMENT

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, the ante is in the pot, the cards are dealt, the bet has been placed and called, and it is time to see who is bluffing.

You told a nationwide TV audience a while back that you challenged the Republican Party to find 218 signatures to sign the discharge petition, which would extract the proposed amendment to balance the Federal budget from the grasp of the Judiciary Committee which you control.

We have done so—with Republican and Democrat signatures. For the last 20 years, the American people have been looking for the opportunity to get Congress to vote on this proposal which they feel is vital to the economic survival of this country. So now they have the chance, Mr. Speaker. It is time for a showdown. Do not avoid the issue with procedural gimmicks. Play the cards and let us see who really wants to restore economic sanity to this Nation. Or were you really bluffing?

APPOINTMENT OF CONFEREES ON HOUSE JOINT RESOLUTION 599, CONTINUING APPROPRIATIONS, 1983

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 599) making continuing appropriations for the fiscal year 1983, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees: Messrs. WHITTEN, BOLAND, NATCHER, SMITH of Iowa, ADDABBO, LONG of Maryland, YATES, ROYBAL, BEVILL, GINN, LEHMAN, DIXON, FAZIO, CONTE, MCDADE, EDWARDS of Alabama, MYERS, ROBINSON, MILLER of Ohio, COUGHLIN, and YOUNG of Florida.

A MAJORITY OF AMERICANS WANT A BALANCED BUDGET

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, it was not too long ago that you told a national television audience that the balanced budget amendment was stalled and this Congress would not act on it because the proponents could not get the necessary number of signatures on a discharge petition.

We have now gotten the necessary number of signatures, so it is now time that this Congress does the right thing. We do not want any phony balanced budget laws brought to this floor; they do not work. The law of the land already requires a balanced budget, and that law is being regularly ignored and regularly violated by the votes of this House, conscious votes of this House.

The vast majority of the American people want a balanced budget amendment. Now the majority of this House has gone on record as saying it wants a particular amendment, the Jenkins-Conable proposal.

We deserve a vote on that bill now. The American people want a vote on that measure before the election. They want to know who is willing to take a stand for a mandated balanced budget that will lower interst rates, further reduce inflation, and put Americans back to work, and they want to know it before they vote in November.

LET US VOTE ON THE BALANCED BUDGET AMENDMENT

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, it is time to see whether the Democratic leadership in this House, led by you, Mr. Speaker, is really serious about the balanced budget. Time is up. Yesterday was the deciding hour when 218 of us decided it was time that the American people had an opportunity to see whether we have been bluffing all of these days, or whether we were really serious about getting this House in order as it relates to the fiscal sanity of ths Nation.

I do not think on November 2 they are going to tolerate the kind of leadership shenanigans that we have seen over the last 10 to 12 months in an effort to keep this issue away from the people.

I ask that this House be given the opportunity to vote, up or down, on that amendment before November 2. I think it time we stand and we be counted so that on that election day the American people can vote "yes" or "no" on whether they really support us on the issue of a balanced budget.

□ 1020

DEFENSE PRODUCTION ACT SHOULD BE A CLEAN BILL

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker and my colleagues, today is the day that the Defense Production Act will expire if this Congress does not act. We need the Defense Production Act, but we do not need a bunch of junk added to the bill such as was tried on the floor of this House last week. Some Members tried to add $6.75 billion in new spending to leverage some $50 billion worth of new loan guarantees and new credit assistance programs.

The other body is scheduled to act on the bill today. I am hopeful they will send us a clean bill extending the act into the next Congress. If they do, then those of us on this side who feel strongly about it will not be constrained to object to further proceedings here in the House. But, if they try to load it up with a bunch of useless, unnecessary, and unwarranted credit assistance programs or other similar wastes of public money, then we are going to object even though that might cause the act, which we need, to expire.

THE SPEAKER COULD BE SIGNATURE NO. 219 FOR THE BALANCED BUDGET AMENDMENT

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, as the other Members have so eloquently put it, we did get the 218, the number of Members that you asked to get some weeks ago. So, that question has been resolved. You issued the challenge saying that it was up to the Republicans to get 218 Members to see if we really wanted to deal with a balanced budget constitutional amendment.

The next question surfaces; that is, Mr. Speaker, do you want to be No. 219? We know what happened in the past. As we were approaching the 218 number, the problem was that some people would leave it and we would never get to 218.

The question now, Mr. Speaker, is whether you will join us to allow the American people to at least have two questions answered—do they want a balanced budget—and, if so, do they want it imposed by constitutional amendment? I am confident that the American peoples' answers to both those questions would be "Yes."

But the question now is whether the peoples' House, our House, this institution which is supposed to be closest to the people, is going to deny the people the right to have their voices heard and decided on this floor, or whether we are going to allow that voice to be heard.

Mr. Speaker, as No. 219, the answer is up to you.

THE PARTY'S OVER

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Well, Mr. Speaker, as the song goes, "The Party's Over."

Do not block us from considering, and approving, a constitutional amendment to require a balanced budget.

I am sure you remember earlier this year the Evans-Corcoran housing initiative to take a billion dollars out of the Synfuels Corporation, where it is intended to subsidize big oil companies, and use it instead to lower mortgage interest rates and help Americans buy homes.

The House could have voted, up or down, on the merits of this plan. The House could have voted to create hundreds of thousands of permanent, productive jobs, and help out the beleaguered housing industry.

But no, you and the majority leader from Texas were more determined to protect subsidies for big oil companies than help people buy homes and return hundreds of thousands to their jobs.

Mr. Speaker, do not make the same mistake again. Every American family knows that you cannot spend more than you take in. Some of us in the Congress have been trying for years to change this body's spending habits. Now let the American people see how each of us stands on this vital issue.

AMERICANS FAVOR A BALANCED BUDGET AMENDMENT

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker yesterday we witnessed the achievement of a goal long sought-after by many of us—the gathering of enough signatures on the discharge petition to force a vote in the House on the balanced budget amendment, House Joint Resolution 350. It appears at this time that such a vote will most likely occur in November when we are scheduled to reconvene.

The balanced budget amendment has only become necessary because the people's representatives in Washington cannot or will not take the necessary measures to bring Federal spending in line with revenues. Time after time, readings of the public pulse have indicated that the vast majority of Americans want and expect Congress to practice a modicum of fiscal responsibility.

This past March, a Newsweek poll revealed that 85 percent of Americans favored further spending reductions as opposed to 10 percent who favored tax increases.

In June, a Market Opinion Research poll indicated 79-percent approval for a balanced budget amendment—59 percent strongly approved—versus 15 percent in opposition—8 percent strongly against. In addition, 73 percent were shown in favor of congressional spending limitations—54 percent strongly in favor—whereas only 20 percent were opposed—10 percent strongly against. Moreover, 73 percent stated they would be more likely to vote for a Member of Congress who supported such an amendment versus 12 percent less likely.

In July, a Gallup survery reported in U.S. News & World Report (July 26, 1982) revealed that, among those aware of the balanced budget amendment, 74 percent were for it. Also in July a Harris poll indicated that 90 percent of Americans believe that projected budget deficits pose serious problems for the national economy.

Perhaps most instructively, a July poll conducted by Oppenheimer and Co., member, New York Stock Exchange, among institutional investors revealed the following responses:

[In percent]

	Long term	Short term
(1) What effect would passage of a balanced budget amendment have on interest rates?		
Significantly downward	49	43
Modestly downward	46	43
Total	95	86
(2) How quickly will we see results?		
1 to 2 mo	26	40
Within 6 mo	31	37
Within 1 yr	23	6
Total	80	83

Obviously, the sentiment is there. And laments over having to go the constitutional route in getting our fiscal house in order would not be necessary if we had had the courage to take the necessary steps earlier in the year to reduce spending by more orthodox means.

Accordingly, I have prepared a breakout of the fiscal year 1983 budget incorporating the Rousselot amendment which, although defeated in this body on May 25, received the second highest number of votes among the seven substitutes which were offered. This study is available from my office.

NATURAL GAS CONSUMER PROTECTION ACT

(Mr. TAUKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUKE. Mr. Speaker, I am introducing today, along with six of my colleagues, legislation that will remedy some inequities in our natural gas pricing system and help hold down the spiraling costs of natural gas to consumers.

The price consumers pay for natural gas continues its upward spiral despite both a supply surplus and a decreasing demand. In Iowa, we have seen natural gas prices increase by nearly 100 percent in the last 3 years. For the average Iowa homeowner, this translated a $71 January 1979 heating bill into a $130 bill in January 1982. Other States are similarly impacted.

Recently we have seen the example of a local pipeline company, Columbia

Gas, buying expensive Sun Belt gas while refusing to buy less expensive gas in Ohio, which, for want of a market, is being flared at the wellhead. Some pipelines are even buying expensive liquified natural gas from foreign producers. Consumers ultimately bear the extra cost.

Such unconscionable distortions of the marketplace are the result of provisions of the Natural Gas Policy Act (NGPA) of 1978 which permit pipelines to automatically pass through cost increases to distributors and ultimately to consumers.

The NGPA cost passthrough provisions give the Federal Energy Regulatory Commission (FERC) authority to deny cost passthrough in cases of fraud and abuse. But FERC has narrowly interpreted the term "abuse," with the result that passthrough is virtually assured, even if consumer interests are not considered during contract negotiation.

Our bill would clarify the definition of abuse to give authority to FERC to disallow passthrough where consumer interests are clearly ignored.

OUR CONSTITUENTS DEMAND PROMPT ACTION ON BALANCED BUDGET AMENDMENT

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I rise to thank my colleagues who had the conviction and commonsense to sign a discharge petition releasing the balanced budget amendment, from committee.

At long last, we have the opportunity to end excessive Government spending, bring down interest rates, and lift our country out of the economic quagmire.

My constituents are relieved—as we all are—by the recent drop in interest rates. But this is not enough. They know that the real cause of high interest rates is deficit spending, and until we put an end to this practice, the threat of a return to the outrageous rates of only a few months ago will continue to haunt the consumers who are supposed to lead this Nation's economic recovery.

After the long fight to bring this proposal to the floor, we must not and cannot delay. And I strongly urge my colleagues to join me in pressing for consideration of the balanced budget amendment as soon as House rules permit.

Your constituents, and the Nation's economic health, demand prompt action.

□ 1030

CONSIDERATION OF BALANCED BUDGET AMENDMENT PROMISES DEBATE ON REAL ISSUES

(Mr. PANETTA asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, frankly, I am rather pleased by the opportunity that we are going to have to take up the constitutional amendment on balancing the budget. I think that this is a great opportunity for all of us to address the real issues, not the gimmick involved in the constitutional amendment and the diversion it tries to create from the real issues of record unemployment, the issue of the record deficits that are being run by this administration, and the issue of the President himself failing to offer a balanced budget amendment.

Make no mistake about it, this administration is running the largest deficits in the history of this country. They will average $143 billion each year. This year the deficit will be $120 billion; next year the deficit will be $155 billion; the year after that, CBO says the deficit will be $152 billion; and the year after that, the deficit will be $152 billion.

This administration is running the largest deficits in the history of this country. And so what do they have to offer? They do not offer a balanced budget for 1983 or 1984; they offer a balanced budget amendment that will take effect 7 or 8 years down the road.

Mr. Speaker, the question is not the balanced budget amendment. The question that must be asked is this: "Mr. President, when are you going to offer this Congress and this country a balanced budget proposal?"

BALANCED BUDGET AMENDMENT SEEN AS COVERUP FOR ADMINISTRATION FAILURES

(Mr. WIRTH asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WIRTH. Mr. Speaker, what we are seeing this morning in the well and in the signing of the discharge petition is another example of the perfectly wonderful political charade that is going on up on Pennsylvania Avenue—a charade designed to the extraordinary economic failures of this administration.

This is another attempt by the administration to govern by rhetoric, by television, by the 30-second commercial, by the simple solution. H. L. Mencken once said that "for every complicated problem there is a quick and easy solution which is wrong."

This one is wrong. As the gentleman from California (Mr. PANETTA) just pointed out, this administration now pushing a balanced budget amendment to the Constitution is the administration that has brought us these record-breaking deficits, and is expected to increase the national debt in its 4 years by 50 percent.

The administration has failed. How can you possibly increase defense spending as dramatically as it has, cut taxes, and balance the budget at the same time? You cannot do it.

I hope, Mr. Speaker, that when the President comes up for his media event in front of the Capitol this afternoon, he brings us his balanced budget. Where is it? It does not exist. All we can expect is a quick and easy media shot this afternoon.

Mr. Speaker, the balanced budget amendment is designed to cover up the failures of this administration.

CONFERENCE REPORT ON H.R. 6133, ENDANGERED SPECIES ACT AMENDMENTS OF 1982

Mr. BREAUX. Mr. Speaker, I call up the conference report on the bill (H.R. 6133) to authorize appropriations to carry out the provisions of the Endangered Species Act of 1973 for fiscal years 1983, 1984, and 1985, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 17, 1982.)

The SPEAKER. The gentleman from Louisiana (Mr. BREAUX) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation that is before us, the conference report on the Endangered Species Act Amendments of 1982, represents the culmination of what has been a unique and very rewarding legislative experience for myself and the other members of our committee.

We started working on this legislation at the beginning of this session with a certain apprehension. In the past, this issue has sometimes been explosive and, as we began, I must say that visions of snail darters haunted us. However, Mr. FORSYTHE and I and the other members of the Subcommittee on Fisheries and Wildlife Conservation and the Environment were determined that we would try to address the bill calmly and logically, to preserve the many good points in the legislation and to attempt to iron out the difficulties and anomalies that evolve in any program over the years.

After 2 days of hearings and numerous meetings with all of the interest groups involved in the legislation, we developed legislation that was supported by almost all of the groups concerned with the Endangered Species Act. Organizations as diverse as Greenpeace, the Audubon Society, the National Wildlife Federation, the Western Regional Council, the Edison Institute, and the American Mining Congress all sent letters in support of the legislation. The legislation passed out of subcommittee, out of the Merchant Marine and Fisheries Committee, and was passed by the House on June 8, 1982, all without a dissenting vote. The following day, the Senate passed out legislation that contained provisions that were similar in many respects to H.R. 6133 and which also received broad support from the interest groups.

I am pleased to report to the Members that the two major initiatives that were in the House bill but not in the Senate bill are included in the conference report with slight modifications. The first of these provisions allows persons whose projects may affect endangered species to work out their problems with the Federal agencies prior to applying for a Federal permit. This will allow private parties to modify or alter their project plans at an earlier, more flexible point in the design phase of the project.

The second major House initiative that was accepted involved permits for the taking of endangered species when no other Federal action is involved. We found that, in many instances, the development of long range conservation plans that allowed some taking of a species could be more beneficial to that species than simply leaving it alone. A prime illustration of this involves a planned development in San Mateo County that could affect two species of butterflies. The developer and the Fish and Wildlife Service have developed a long range plan, to be funded by the developer, that will provide for management of the habitat of the butterflies. Without the plan, exotic species of plants would crowd out the plants essential to the butterflies and they would be severely threatened. Our legislation would encourage the development of similar conservation and allow the long-range planning necessary to provide both species protection and investment security.

Most of the other provisions of the two bills were so close in concept that the only issue was the resolution of language differences. There were also a number of noncontroversial provisions found only in one of the bills. For example, the House bill contained a provision involving the implementation of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere. The Senate bill contained language encouraging Federal-State cooperation on water resource conflicts involving endangered species. The conferees agreed to accept all of these noncontroversial items.

Mr. Speaker, this legislation reaffirms our strong commitment to protect endangered species. The reasons we must continue to do so are many. The loss of each species, whether or not it is the whooping crane or the Furbish Lousewort, represents a lessening of the biological resources of the Earth.

The loss of species in the age of genetic engineering has been compared to burning books before we read them—foregoing priceless genetic resources that may provide cures for diseases, protection for plants from insects and many other practical benefits to society.

Mr. Speaker, this legislation is not designed to strengthen or weaken the Endangered Species Act, but simply to make it work better. As such it will enhance the chances for survival of the more than 700 species of plants and animals that have been listed as endangered or threatened.

With that, Mr. Speaker, I heartily submit this conference report to the House Members for its adoption, and I reserve the balance of my time.

The SPEAKER. The Chair recognizes the gentleman from Kentucky (Mr. SNYDER) and, in so doing, wants to congratulate the gentleman on his birthday.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on amendments to the Endangered Species Act. I am pleased that the conference on this important legislation is complete and that we can look forward to the act's reauthorization for the next 3 fiscal years.

These amendments have been considered in a fair and rational manner to the credit of both industry and the environmental community. The end result has been a conference report which maintains the strength and integrity of the Endangered Species Act while at the same time streamlines the law.

Both the House and Senate-passed versions of the package were very close, so what we did in conference was to take the best provisions of both and incorporate them into the report. I am confident that the changes we have made will facilitate the operation of existing law and enhance the ability of endangered and threatened species to recover.

Approval of the conference report will again demonstrate our commitment to reduce the number of species threatened with extinction for the benefit and enjoyment of not only ourselves but also of future generations. Its provisions will enhance the effectiveness of the act and maintain the U.S. lead position in wildlife conservation.

I would like to especially commend my colleagues, Congressmen FORSYTHE, JONES, and BREAUX for their dedication and hard work in producing this conference report.

I urge my colleagues to give the measure their support.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. LENT).

Mr. LENT. Mr. Speaker, I rise in strong support of the conference report on the Endangered Species Act Amendments, H.R. 6133, and urge my colleagues to approve this legislation reauthorizing the Endangered Species Act for 3 years.

I want to commend the chairman of the Committee on Merchant Marine and Fisheries, the gentleman from North Carolina (Mr. JONES), and the ranking Republican member, the gentleman from Kentucky (Mr. SNYDER), for their leadership in bringing this legislation to fruition, as well as the gentleman from Louisiana (Mr. BREAUX) and the entire committee.

Last January, I wrote a letter to the President to set forth a series of principles I and my colleagues on the House Merchant Marine and Fisheries Committee saw as key elements in a strong endangered species program to better preserve our rich natural heritage, both at home and abroad.

Today, I am proud to vote for passage of this conference report because it reflects those principles and reaffirms the strong commitment of the American people to preserve the diversity of species which now inhabit the Earth.

Perhaps the legislation's most important provision is that which requires listing and/or delisting of a species to be based solely on biological grounds; only the best scientific and commercial data available may be used in making this decision, not economic considerations.

In addition, the amendments streamline the listing process by imposing time limits by which the Department of Interior must decide whether to list a species. No longer will bureaucratic footdragging keep a threatened or endangered species off the list.

We have come a long way since the Endangered Species Act was passed in 1973. Hundreds of species have been protected, and 682 species have been listed on the U.S. endangered species list. It is estimated that 5 to 10 million plants and animal species inhabit the Earth, and that species extinctions occur at a rate of 1 species every day. This legislation does not focus on the processes of natural selection, but rather on the work of man, whose development, technology, and growth

must not be permitted to erase entire species from the face of the Earth.

It has been said that the Endangered Species Act is one of the world's strongest laws to prevent species extinction. The 1982 amendments will further enhance our efforts to maintain the vitally important interrelationships among the various life forms on our planet, and I urge favorable action today so this legislation can be signed into law without delay.

Thank you.

Mr. BREAUX. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I just want to echo the congratulatory notes of the Speaker directed toward the gentleman from Kentucky (Mr. SNYDER). I am not sure what the Speaker was congratulating the gentleman about, but whatever it was, I join in extending my congratulations to the gentleman from Kentucky which, I am sure, are very appropriate.

I would just like to recognize the contribution of the gentleman from Kentucky (Mr. SNYDER) as well as the chairman of the full committee, the gentleman from North Carolina (Mr. JONES) and thank them for their diligence in working with us to produce a product which we can all agree to.

● Mr. JONES of North Carolina. Mr. Speaker, I am pleased to express my strong support for the conference report on H.R. 6133, the Endangered Species Act Amendments of 1982, and urge its adoption by the House.

This conference report represents a success story. It is something we can take pride in and it is an example of how the legislative process should work. In 1973, the Endangered Species Act passed this House under suspension of the rules and it has since been hailed throughout the world as a model wildlife protection law. But, in the intervening years, it has often been the subject of controversy. There is probably no one here today who has not heard of the snail darter—the little fish that fought a dam all the way to the Supreme Court and won—temporarily. Earlier efforts to reauthorize this act caused heated debates in Congress, the courts, and between business and environmental interests.

Needless to say, Mr. Speaker, my committee did not relish the prospect of another round in this continuing controversy when this Congress began. But that was exactly what we faced with one side opposing any change in the act, the other side calling for drastic changes and hostility on both sides. It was not easy, but under the wise direction of the chairman of our Subcommittee on Fisheries and Wildlife Conservation and the Environment, Mr. BREAUX, and his ranking minority member, Mr. FORSYTHE, and with some excellent staff work, the committee produced a bill which all could live with and support. That bill, H.R. 6133, passed this House on June 8, 1982, under suspension of the rules and without a dissenting vote. An amended version subsequently passed the Senate by unanimous consent.

The differences between the two versions of the bill were more a matter of how to get there than where they were going. The conference report, in my opinion, contains the best of both and is, therefore, a better bill than either of the versions from which it was derived. It is designed neither to strengthen nor to weaken the act, but rather to clarify and refine it and to speed up the processes by which species are added to or deleted from the endangered and threatened species lists. It also shortens the procedure to exempt projects from the act where such unusual action is warranted. Both the House and Senate versions of H.R. 6133 reauthorized the act for 3 years at the existing authorization levels.

Mr. Speaker, I am proud of the work of my committee on this legislation and I hope all of my colleagues will join me in adopting this conference report so that our country can continue to play a leading role in the conservation of these precious national resources.●

● Mr. EVANS of Delaware. Mr. Speaker, I rise in strong support of the Endangered Species Act conference report. I also want to congratulate the House and Senate conferees who have worked so hard to fashion this effective legislation. The Endangered Species Act has undergone extensive review, and I believe that review clearly demonstrates that the act has been successful in balancing environmental protection and economic needs.

During hearings, some of the Nation's leading scientists testified about the value of many life forms to man. They emphasized that the magnitude and significance of the extinction problem is little appreciated and that the implications for human welfare are far more drastic than we have previously thought.

It is estimated that 5 to 10 million plant and animal species inhabit the Earth. Of these, approximately 1 million will become extinct during the next 30 years, according to testimony presented to the Subcommittee on Fisheries and Wildlife by Dr. Peter H. Raven, director of the Missouri Botanical Garden.

Our understanding of the interrelationships of various life forms on our planet is limited. We still do not know the implications of losing a million species in the next 30 years. However, it is important to understand that the contribution of wild species to the welfare of mankind in agriculture, medicine, industry, and science have been of incalculable value. These contributions will continue only if we protect our storehouse of biological diversity. Just as one example, Dr. Raven described how research on several species of evening primrose has turned up a fatty substance that may help us to avoid coronary heart disease and to cure such diseases as eczema and arthritis that afflict millions and millions of people. Members of this same plant family are protected under our Endangered Species Act, and no one knows what secrets of medical science they hold.

The tragedy of losing plant and animal species to the void of extinction is that we are losing them at a pace far faster than we can evaluate their utility to man. The Honorable James L. Buckley, Under Secretary of State, recently stated:

> The maintenance of biological diversity is fundamental not only to maintaining life on Earth over the long term, but also to achieving our economic development and quality of life goals over the nearer term . . . Permitting high rates of extinction . . . is tantamount to bookburning; but it is even worse, in that it involves books yet to be deciphered and read.

Mr. Speaker, our wild plants and animals are not only uplifting to the human spirit, but they are absolutely essential—as a practical matter—to our continued healthy existence. This is a bill that vigorously protects our natural heritage at the same time as it provides for a timely balancing of environmental and economic interests on those rare occasions when the two are irreconcilably in conflict. Both elements are necessary if we are to have a strong, workable act.

Mr. Speaker, as my colleagues consider the Endangered Species Act, I hope that they will bear in mind the inestimable value of our wild natural heritage.●

Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 599, CONTINUING APPROPRIATIONS, 1983

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the joint resolution (H.J. Res. 599) making continuing appropriations for fiscal year 1983, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MAKING IN ORDER ON TODAY OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 599, CONTINUING APPROPRIATIONS, 1983

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it may be in order at any time today or any day thereafter, any rule of the House to the contrary notwithstanding, to consider the conference report and any amendments in disagreement on the joint resolution (H.J. Res. 599) making continuing appropriations for fiscal year 1983, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONSERVATION PROGRAMS ON MILITARY RESERVATIONS AND PUBLIC LANDS AUTHORIZATION, 1982, 1983, AND 1984

Mr. BREAUX. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1952) authorizing appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1982, 1983, and 1984, and for other purposes, with Senate amendments thereto, concur in Senate amendments Nos. 1, 2, and 3 and the Senate amendment to the title of the bill, and concur in Senate amendment No. 4 with an amendment.

The Clerk read the title of the bill.

The SPEAKER. The Clerk will report the Senate amendments and the House amendment to Senate amendment No. 4.

□ 1040

The Clerk read the Senate amendments and the House amendment to Senate amendment No. 4, as follows:

Page 2, strike out lines 15 to 18, inclusive, and insert:

(1) by striking out "ending September 30, 1979, September 30, 1980, and September 30, 1981," each place it appears in subsections (b) and (c) and inserting in lieu thereof "1983, 1984, and 1985"; and

Page 3, strike out lines 14 to 17, inclusive, and insert:

(1) by striking out "ending September 30, 1979, September 30, 1980, and September 30, 1981," each place it appears in subsections (a) and (b) and inserting in lieu thereof "1983, 1984, and 1985,"; and

Page 4, after line 12, insert:

SEC. 6. Section 12 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2911) is amended—

(1) by striking out ", out of funds available for the administration of this Act" immediately after "shall conduct"; and

(2) by striking out "the expiration of the thirty-month period following the date of enactment of this Act," and inserting in lieu thereof "December 31, 1984,".

Page 4, after line 12, insert:

SEC. 7. Section 7(d) of the Anadromous Fish Conservation Act of 1965 (16 U.S.C. 757g(d)) is amended by striking out "$1,000,000 for the fiscal year ending September 30, 1980, not to exceed $1,750,000 for the fiscal year ending September 30, 1981, and not to exceed $2,000,000 for the fiscal year ending september 30, 1982." immediately after "this section not to exceed" and inserting in lieu thereof "$2,000,000 for the period beginning October 1, 1982, and ending September 30, 1984.".

Amend the title so as to read: "An Act authorizing appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1983, 1984, and 1985, and for other purposes.".

House amendment to Senate amendment numbered 4: In lieu of the matter proposed to be inserted by the Senate amendment numbered 4, insert the following;

SEC. 7. Section 3 of the Fish and Wildlife Impovement Act of 1978 (16 U.S.C. 7421) is amended by adding at the end thereof the following new subsection:

"(k) LAW ENFORCEMENT OPERATIONS.—With respect to any undercover or other enforcement operation which is necessary for the detection and prosecution of violations of any laws administered by the United States Fish and Wildlife Service relating to fish, wildlife, or plants, the Secretary of the Interior may, notwithstanding any other provision of law—

"(1) direct the advance of funds which may be deposited in commercial banks or other financial insitutions;

"(2) use appropriations for payment for information, reward, or evidence concerning violations, without reference to any rewards to which such persons may otherwise be entitled by law, and any moneys subsequently recovered shall be reimbursed to the current appropriation; and

"(3) use appropriations to establish or acquire proprietary corporations or business entities as part of an undercover operation, operate such corporations or business entities on a commercial basis, lease space and make other necessary expenditures, and use the proceeds from such undercover operations to offset necessary and reasonable expenses incurred in such operations: *Provided*, That at the conclusion of each such operation the proceeds shall be deposited in the Treasury of the United States as miscellaneous receipts.".

Mr. BREAUX (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments and the House amendment to the Senate amendment No. 4 be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Louisiana?

Mr. SNYDER. Mr. Speaker, reserving the right to object, I do so to ask the gentleman from Louisiana to tell the membership what it is we are doing here.

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Speaker, H.R. 1952, which would reauthorize the Sikes Act, was originally passed by the House of Representatives on September 21, 1981. As passed by the House, it reauthorized such sums as may be necessary to carry out conservation programs on military reservations and other public lands under this act during fiscal years 1982, 1983, and 1984. It also amended the act to encourage the relevant departments to expand their efforts to protect wildlife and to make the lands involved available to the public for hunting, fishing, and other outdoor recreational experiences and clarified certain ambiguities in the act.

Title I of the Sikes Act has been in effect since 1960. It authorizes the Secretary of Defense to carry out programs of fish and wildlife conservation and rehabilitation on military reservations in accordance with cooperative plans agreed to by the Secretary of Defense, the Secretary of the Interior, and the appropriate State agency. It was amended in 1968 to include the development of public outdoor recreation programs.

Title II of the act, added in 1974, directs the Secretaries of the Interior and Agriculture, in cooperation with State agencies, to plan, develop, maintain, and coordinate programs for the conservation and rehabilitation of fish and wildlife on Bureau of Land Management and Forest Service lands. It also directs the Secretary of the Interior to adopt, modify, and implement such conservation and rehabilitation programs on lands under the jurisdiction of the Department of Energy and the National Aeronautics and Space Administration, with the prior written approval of those agencies.

Mr. Speaker, on June 9, 1982, the Senate passed H.R. 1952, with a series of four amendments, plus an amendment to the title of the bill. It is those amendments which we are considering today.

Amendments Nos. 1 and 2 would amend the bill to reauthorize appropriations at existing levels for fiscal years 1983, 1984, and 1985. This would include $1.5 million per year to the Department of Defense and $3 million per year to the Department of the Interior under title I of the act and $10 million per year for the Department of the Interior and $12 million per year for the Department of Agriculture under title II of the act.

The House bill did not specify exact figures because the history of the legislation has been that money to carry out Sikes Act programs is taken out of funds authorized under other laws. As a general rule, money has not been appropriated under the Sikes Act. It is my understanding that the Senate believes that oversight over these programs will be more readily insured if specific amounts are authorized despite past failures to appropriate moneys under the Sikes Act. The Merchant Marine and Fisheries Committee shares the Senate's desire to assure oversight over these important conservation programs by the appro-

priate committees of Congress, and therefore supports these two amendments.

Senate amendment No. 3 adds a new section 6 to the bill which amends section 12 of the Fish and Wildlife Conservation Act of 1980, legislation which is designed to promote State efforts to benefit nongame species. That act directed the U.S. Fish and Wildlife Service to undertake a study to determine if there is a more appropriate way—other than through general appropriations—to finance a nongame fish and wildlife conservation program. Such study was to be completed by March of 1984. The Senate amendment will allow the Fish and Wildlife Service to carry out this study using other existing authorities and will extend the completion date for the study to December 31, 1984.

Mr. Speaker, the vast majority of the vertebrate species of fish and wildlife, including birds, mammals, fish, reptiles, and amphibians, in the United States are not harvested for sport, food, or fur. These so-called nongame species receive little direct benefit from State and Federal wildlife management programs although they provide millions of hours of pleasure for bird watchers, students, photographers, and nature lovers and they are important natural resources of our Nation.

Three years ago, the Congress recognized the importance of these species through passage of the Fish and Wildlife Conservation Act. Unfortunately, as is often the case when the budget is tight, such programs are the first to go and no money has ever been appropriated to carry out the important provisions of that act. The Senate's amendment would permit the Fish and Wildlife Service to use existing authorities under other acts to carry out a preliminary study of possible alternative ways to fund a nongame program. The committee urges the House to accept this amendment as well.

Senate amendment No. 4 adds a new section 7 to the bill which amends the Anadromous Fish Conservation Act to extend the authorization for appropriations under that act for an emergency study of striped bass. This provision is unnecessary since language to extend this program has been included in H.R. 5002, legislation to amend the Fishery Conservation and Management Act, which the House will consider this week.

Mr. Speaker, while the language included in the Senate's amendment No. 4 is no longer necessary, we would like to concur in that amendment with an amendment, in order to clarify the authority of the Fish and Wildlife Service to carry out certain procedures as part of their sting type undercover operations. These operations have been responsible for detection of a number of major wildlife crimes.

To date, the Service has been using their authority under the administrative provision of each year's Appropriations Act to make expenditures for undercover operations. So far, this authority has proved adequate but the Service feels the need for clarification in three areas and the language which we propose to substitute for the Senate language contained in amendment No. 4 will do this. This amendment will clarify fish and wildlife authority for: First, agents to deposit advance funds in commercial banks or other financial institutions without disclosing their identity; second, use of proceeds of undercover operations to offset necessary and reasonable expenses incurred in such operations; and third, reimbursement to current appropriations of money expended to purchase evidence which is later recovered.

This amendment will in no way affect congressional control, through the appropriation process, of the amount allotted each year to undercover operations and funds recovered from such operations will continue to come back into the Treasury. It will simply clarify the authority for existing procedures which assist the agents of the Fish and Wildlife Service in carrying out these difficult and dangerous, but highly successful undercover activities.

Finally, Mr. Speaker, we wish to concur in the Senate's amendment to the title of H.R. 1952 which clarifies that the reauthorization of the Sikes Act will be for fiscal years 1983, 1984, and 1985, rather than 1982 through 1984 as set forth in the House bill.

I hope that the Members of the House will join me in voting to accept the Senate amendments to H.R. 1952, with an amendment, so that these necessary wildlife conservation programs may go forward.

Mr. SNYDER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Louisiana?

There was no objection.

A motion to reconsider was laid on the table.

PROTECTION ISLAND NATIONAL WILDLIFE REFUGE ACT

Mr. BREAUX. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1486) to establish the Protection Island National Wildlife Refuge, Jefferson County, State of Washington, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 24, after "land" insert: as of January 1, 1982,

Page 3, line 4, strike out "1981" and insert: 1982

Page 3, after line 25, insert:

(Id) Any owner of property within the refuge may offer to sell his property to the Secretary for the amount determined by the Jefferson County assessor to be the assessed value of the property as of the date that the offer is tendered. Prior to two years after Congress has appropriated funds to the Secretary to make purchases under this Act, the Secretary may immediately purchase such properties pursuant to such offers, may tender immediate payment for such properties, and may take immediate possession of such properties, in order to accommodate such owners. Any purchase made pursuant to this section shall not be subject to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (42 U.S.C. 4691-4655).

Page 3, after line 25, insert:

(e) Prior to two years after Congress has appropriated funds to the Secretary to make purchases under this Act, the Secretary shall not acquire any of the property within the refuge by exercising the power of eminent domain except as may be necessary to control public access to concentrated nesting sites within the refuge.

Page 4, line 20, strike out "$5,000,000" and insert: $4,000,000

Page 4, after line 21, insert:

SEC. 8. In consideration of the prior transfer of certain properties now in the San Juan National Wildlife Refuge by the Washington State Parks and Recreation Commission to the Department of the Interior, the Secretary of the Interior shall transfer all ownership, jurisdiction, and control over the Jones Island National Wildlife Refuge, more particularly described as section 10, tract B; section 11, tract A, lots 1, 2, and 3; section 14, tract C, lots 1 to 5 inclusive, and the northeast quarter of the northwest quarter, all of township 36 north, range 3 west, Willamette Meridian, all in the State of Washington, to the State of Washington for use as a public recreation area to be managed in accordance with the applicable laws of the State of Washington.

Mr. BREAUX (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. SNYDER. Mr. Speaker, reserving the right to object, I do so again so that the gentleman from Louisiana can explain to the House what we are doing here.

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Speaker, H.R. 1486 would establish the Protection Island National Wildlife Refuge in Jefferson County in Washington State.

Protection Island consists of 400 acres located in the entrance to Puget Sound in the State of Washington.

Both the U.S. Fish and Wildlife Service and the State of Washington have identified it as a unique seabird habitat of national significance. This island is particularly valuable for two species of birds that have highly specialized habitat requirements, the rhinoceros auklet and tufted puffin. Owls, nighthawks, swifts, finches, and many types of western songbirds also reside on Protection Island and in recent years two pairs of bald eagles have nested on the island. A large pod of harbor seals uses the island for whelping and resting.

H.R. 1486 would create the Protection Island National Wildlife Refuge which would be managed by the Secretary of the Interior through the Fish and Wildlife Service as part of the National Wildlife Refuge System. An authorization of $5 million for acquisition, beginning in fiscal year 1983, is included in the bill.

Mr. Speaker, H.R. 1486, as it was originally passed by the House, would direct the Secretary to offer life estates or extended use reservation to those who own habitable residences on the island. The number of the residences is not great nor is their present use damaging to the bird life on the island. With regard to this issue, we recognize that it will probably be a high priority for the Fish and Wildlife Service to acquire the community property areas of the island prior to acquiring any individual lots which may be subject to life or extended use reservations.

This, of course, would insure protection of the most valuable nesting habitat, but would extinguish all rights of such property owners to use the common areas. Management under the Refuge Administration Act provides that the Secretary may allow uses which are compatible with the purposes of the refuge. It is our intent that any restrictions in use of the common areas would be primarily for the hauling out or nesting seasons or to protect endangered or threatened, species, but would not otherwise unreasonably limit the island's residents use of these or other areas.

The Senate made a further amendment to this provision to allow for accelerated purchases from willing sellers for an amount equal to the value assessed by the local county government. Since this value is likely to be lower than the appraised value determined by the Federal Government and since the grant of authority to the Secretary is discretionary, we believe the amendment would be beneficial.

The Senate bill also included an amendment to remove a part of the San Juan Island National Wildlife Refuge from the Wildlife Refuge System to complete a land exchange with the State of Washington that began in the 1970's.

In the early 1970's, the Washington State Parks and Recreation Commission and the Fish and Wildlife Service agreed to exchange some properties in the San Juan Islands. The State owned properties which were suited for inclusion in a refuge or wilderness area; the Federal Government owned lands which could be used more appropriately as a State park recreation area. The Parks Commission consequently transferred the ownership of several small islands and rocks within the San Juan archipelago to the Federal Government for inclusion in the San Juan National Wildlife Refuge or Wildlife Area. In return, the U.S. Fish and Wildlife Service agree to transfer ownership of Jones Island to the State and to permit the State to use other islands for recreational facilities.

During negotiations over the transfer of Jones Island, the Congress enacted in 1976 Public Law 94-223 which designated the island as part of the National Widlife Refuge System. This classification precluded the transfer of the island to State ownership. A solicitor's opinion declared that an act of Congress was required. A recreational use agreement for the use of Jones Island by the State was adopted by the State and Federal Government pending removal of the island from the refuge system.

Today the State park located on Jones Island pursuant to the use agreement is one of the most popular marine parks in the San Juan Islands. The Washington State Parks and Recreation Commission and the U.S. Fish and Wildlife Service still favor transfer of the island to the State.

Mr. Speaker, while I believe that, in the normal course of events, such removals must be carefully scrutinized by Congress, we have examined this situation carefully and we believe that removing this area from the National Wildlife Refuge System is appropriate. This should in no way be interpreted as giving encouragement to those who propose that other areas should be removed for development purposes.

In summation, I believe this legislation would make a worthy addition to our system of wildlife refuges and I urge my colleagues to support it.

Mr. SNYDER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. BONKER. Mr. Speaker, reserving the right to object, the gentleman from Louisiana has shared with us the two amendments that have been added by the other body. I assume that was with the concurrence of both Senators from the State of Washington?

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. BONKER. I yield to the gentleman from Louisiana.

Mr. BREAUX. The gentleman is correct.

Mr. BONKER. Mr. Speaker, the House can enhance wildlife protection in a small but very significant way today by passing H.R. 1486, which authorizes a new Protection Island National Wildlife Refuge in Washington State.

The proposed refuge would protect only 350 acres, but they include some of the most productive seabird nesting and rearing grounds in the Nation. The bill also contains special provisions to accommodate the interests and concerns of the island's private property owners. This package enjoys broad support.

A protection island refuge bill first passed the House last December after it was introduced by the entire Washington State delegation. It was perfected then and has been guided through the long legislative process under the leadership of my colleague, Congressman JOHN BREAUX, the chairman of the Fisheries and Wildlife Subcommittee.

The Senate passed the bill with amendments in June. One Senate amendment extends an additional, voluntary acquistion option to landowners. The other merely completes the final half of a longstanding property transfer agreement between the Federal Government and the State of Washington. The House should accept these provisions today in the interests of completing timely congressional action on the bill.

A Protection Island National Wildlife Refuge is needed to protect unique, nationally significant wildlife resources. Rhinoceros auklets, glaucous winged gulls, pigeon guillemots, pelagic cormorants, tufted puffins, and black oystercatchers flock to the island each year to lay their eggs and rear their young in nests that cling to the island's cliffs, dot its beaches and lie tucked inside burrows beneath its surface.

The birds at times number in the tens of thousands on and around the island, but, despite their profusion, they require a special combination of fragile environmental conditions that could be easily disturbed or destroyed without the protection that refuge designation affords.

Glaciers laid down the porous beds of sand and gravel that form Protection Island. The rain shadow effect of the nearby Olympic Mountains sharply reduces the precipitation that normally falls in western Washington State. The waters of the Strait of Juan de Fuca keep snakes, rats and other predators away. And difficulties with residential development have discouraged an influx of human residents that would disrupt the nesting colonies.

Predator-free conditions are essential for all the island's ground-nesting species, and soils that are light and dry enough for burrowing, yet with sufficient consistency to prevent excessive cave-ins, are additional requirements for the rhinoceros auklets that are the island's dominant bird species.

The auklets of Protection Island represent about half of the bird's breeding population in the contiguous United States. According to the U.S. Fish and Wildlife Service, this is the largest U.S. population of the species south of Alaska and is possibly the fourth largest in North America and quite probably the world.

Seventy-two percent of the estimated 29,000 pairs of breeding age seabirds in the inland waters of Washington State nest on Protection Island. The island is also a nesting area for bald eagles and provides pupping and hauling out beaches for a large herd of harbor seals.

There is no dispute about the unique and important nature of the wildlife resources of Protection Island or the threat to that wildlife that would be posed by extensive development of the large subdivisions into which the island has been platted.

Although a State seabird sanctuary encompasses 48 acres on the island's western end, the other 350 acres of privately owned land is divided into more than 800 lots plus community tracts managed by a lot owners' association, the Protection Island Beach Club.

The Fish and Wildlife Service concluded in an environmental assessment that supports refuge designation:

> It is almost certain that should development commence, the integrity and value of the island as a seabird nesting site would be reduced dramatically.
>
> To exert the level of control necessary to minimize conflicts between man and wildlife using the island, to prevent the permanent destruction and loss of habitat due to development of lots, and to reduce the potential for the introduction of predatory animals will almost certainly require that the entire island be placed in public ownership, the environmental assessment says.

Unconstrained development would directly harm habitat and birds on the private lands and would indirectly endanger the birds that use the existing State seabird sanctuary. There is a pressing need for congressional action now.

Some 580 owners have invested in property on "Protection Island," but a State and county building moratorium has been imposed since the mid-1970's because an acceptable source of domestic water has not been found. Property values have declined; few lots have been developed in any manner, and many lot owners are willing—and anxious—sellers.

The House version of H.R. 1486 recognized the interests of the few lot owners who do wish to continue to use and enjoy their properties on the island by providing that:

First, the owner of any improved lot may retain life use or extended use reservations that are compatible with the purposes for which the refuge is established; and

Second, the Secretary of the Interior shall consider offering similar extended use reservations to owners of unimproved lots. (Of course, these individuals—many of whom now come to the island only on a day use basis or for tent camping—could continue to have access to the island and use it as members of the general public whenever sound wildlife management practices would permit such activities.)

The House authorized $5 million to acquire at market value the other land, water and interests therein within the new refuge boundary.

The Senate added an acquisition option: A lot owner could obtain acquisition priority during the first 2 years of the acquisition program by agreeing to sell to the Government for the value assessed for local taxing purposes. The Senate believes that many lot owners will so much prefer speedier sales that they will accept the lower selling prices. The Senate concluded, therefore, that acquisition costs would be reduced and, accordingly, cut the acquisition authorization to $4 million.

These Senate provisions are voluntary. They do not prevent any lot owners from seeking market value compensation through regular land acquisition procedures. Timely action on the bill is important; I urge the House to accept these provisions.

Another Senate amendment clears up a longstanding bit of unfinished business between the Federal Government and the State of Washington by tranferring Jones Island from the National Wildlife Refuge System to State ownership.

The Jones Island National Wildlife Refuge was established by executive order in 1937. The island, which lies between Orcas and San Juan Islands, was subsequently developed as a State marine park and was managed for recreation use by the Washington State Parks and Recreation Commission under a 10-year agreement that was signed in 1959. This marine recreation management continued even after the agreement expired.

In the late 1960's, the Bureau of Sports Fisheries and Wildlife designated various small islands, rocks and reefs in Puget Sound as the San Juan National Wildlife Refuge. Most of these areas subsequently became part of the Wilderness System.

The State of Washington aided this endeavor by withdrawing any potential claims to a number of these unsurveyed rocks and islets, and the Bureau agreed to transfer Jones Island to the State for continued park management.

The transfer, however, never occurred. By the mid-1970's the Fish and Wildlife Service said the situation was an embarrassment because the Federal Government seemed unable to honor its commitments. When Congress formally established the National Wildlife Refuge System in 1976, another oversight left Jones Island within that system, where an act of Congress is now required to remove it.

The State parks and recreation commission has managed Jones Island for recreation and conservation purposes for some 23 years. The island is now one of the most popular marine parks in the San Juans, and the Senate amendment transferring ownership to the State clearly requires continued management as a public recreation area.

Any deletion from the National Wildlife Refuge System is an important matter. Congress must carefully review each such situation to determine whether other uses outweigh the value or significance of the natural and wildlife resources of the area. Refuge transfer simply to permit property development is poor policy and certainly is not the situation with Jones Island.

The history of Jones Island is unique. Marine recreation development occurred years ago. The proposed transfer is not for the purposes of future or different development. It is to complete the terms of a longstanding agreement between the State and Federal Governments and to accomplish the final portion of a transfer package that has been left incomplete for more than a decade. It is, I believe, therefore appropriate for the House to accept the Senate's Jones Island amendment.

Some property owners are concerned about the acquisition of various community property tracts that were conveyed at the time of platting to the Protection Island Beach Club to be managed for the benefit of all property owners. The community property includes parks and open space, roads, garbage disposal sites, a grass airstrip and a marina.

The Fish and Wildlife Service may acquire the community tracts before purchasing all of the individual lots. Some property owners fear that such acquisition timing could substantially reduce the market value of lots still to be acquired. And there is speculation that Federal ownership of the community tracts could be used as a device to restrict the access of owners to their lots.

Congress does not intend that any timetable for acquiring the community property should affect the ultimate or total financial interest that any lot owner may have in Protection Island.

Similarly, there is no intent that Federal ownership of the community property should deprive any lot owner of access to the island that is consistent with the purposes for which the refuge is established and that would otherwise have been permitted.

The opportunity before the House today to complete congressional action establishing a Protection Island National Wildlife Refuge culminates a long, determined effort by a great many individuals, organizations, and agencies.

Nothing has been more important, however, than the tireless devotion and dedication of one person—bird lover, conservationist, Audubon Society activist and my constituent—Eleanor Stopps of Port Ludlow, Washington.

She convinced every member of the Washington State delegation to cosponsor a refuge bill. She generated publicity and press coverage to emphasize the threats that endanger the island's wildlife. She used an "Adopt a Seabird" program to raise money nationwide to purchase key lots while the wheels of Government have ground slowly along. And she has testified and telephoned and lobbied and promoted this bill for a long, long time. A Protection Island National Wildlife Refuge would not be close to reality today without Eleanor's work.

Her friend, the late Zella Schultz, watched over and chronicled the activities of Protection Island's birds for many years. The State seabird sanctuary is named in her honor to recognize her contributions as an early proponent of permanent protection for the island.

The Washington State Department of Game manages the sanctuary, has provided funds and personnel for research that helped establish the importance of the entire island to the wildlife, and has taken the lead among several State agencies in supporting refuge legislation.

The Nature Conservancy was instrumental in initially purchasing and protecting the lands that were eventually sold to the State for the sanctuary. Another national conservation organization, the Audubon Society, has refuge designation of Protection Island as one of its highest priorities.

In Washington State, local Audubon units, especially the Admiralty and Seattle Audubon societies, supplies essential support through the work of people like Mrs. Stopps and Lorna Campion of Seattle. And officers of the beach club—especially presidents Bob Haughland and, currently, Philip Vorvick—have represented the interests of property owners and offered many suggestions for improving the bill.

H.R. 1486, as it is before the House today is, thus, the fruit of many labors. By acting favorably on the legislation, the House will be doing the right and best thing for the birds and other wildlife of Protection Island and for all the people who know and care about them and their habitat.

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. BONKER. I now yield to my colleague, the gentleman from Washington, who now represents the area which includes Protection Island.

Mr. SWIFT. Mr. Speaker, it is with a great deal of pleasure that I speak on behalf of the Protection Island Wildlife Refuge bill. Under Washington State's redistricting plan, I have acquired this area and am now the congressional Representative of this important nesting habitat. I consider it an honor to have this internationally significant resource in the Second Congressional District.

Protection Island, although small in actual size—only 400 acres—is one of the largest breeding grounds for many species of birds. I am told that this island is home to 70 percent of all seabirds nesting in Puget Sound and the Straits of Juan de Fuca; 17,000 breeding pairs make the island one of the largest breeding grounds in the United States for the rhinoceros auklet. It is the largest breeding ground in Washington State for the glacous winged gulls, and it is a major nesting site for cormorants, gillamots, black oystercatcher and the tufted puffin.

In addition, a small pod of harbor seals used the beaches of Protection Island for loafing and pupping grounds. This pod represents one of the last sizable populations of harbor seals in Washington.

Finally, the island has become a nesting site for northern bald eagles. Without a doubt, this island deserves to be placed in our National Wildlife Refuge System.

Protection Island's nesting areas are fragile and could easily be damaged by overuse or by introduction of predators to the island; 800 lots have been platted of which over 600 have been purchased. No safe means for providing drinking water has been found and consequently only a few permanent structures have been built. Only about 30 to 40 owners use their lots with any regularity. In fact, most of them are quite willing to sell their lots. There are some, however, who love the island and all of its wildlife and are very protective of it. They would like to keep their lots, and those who have permanent structures will be given life use of their property.

Mr. Speaker, it is my sincere hope that the House will act to pass this bill and that acquisition can begin soon and proceed quickly. It is important that this fragile ecosystem be preserved.

Mr. LOWRY of Washington. Mr. Speaker, will the gentleman yield?

Mr. BONKER. I yield to the gentleman from Washington.

Mr. LOWRY of Washington. I thank my colleague for yielding.

Mr. Speaker, I would like to congratulate the chairman of the Merchant Marine Committee, Mr. JONES of North Carolina, and the chairman of the subcommittee, Mr. BREAUX, for their leadership and assistance in the creation of a Protection Island National Wildlife Refuge in the Strait of Juan de Fuca. The gentleman on the other side of the isle, Mr. SNYDER and Mr. FORSYTHE, have also been helpful. I particularly commend my Washington State colleague Mr. BONKER for his leadership on this legislation.

Even more credit though, goes to the people of Washington State who have dreamed of the creation of this refuge for many years. The central figure has been Eleanor Stopps of Port Ludlow. Due to her own interest in birds, and because of her longtime friendship with the late Zella Shultz—an artist who was an active supporter of the welfare of the island—she has pursued this goal with determination, and we in the Washington delegation have learned from her the lobbying power of endless persistence, determination, and personal conviction in a worthy cause. She is a delight to work with. Her efforts were justly recognized last month in the Governor's Award for Conservation, as a result of her outstanding leadership on behalf of Protection Island. We are all grateful for her sure grasp of local conditions and her real concern in this area.

In my district, the Seattle Audubon Society has been no less determined in its support of this refuge. Ms. Lorna Campion, chair of their conservation committee, has testified in congressional hearings and has been very effective in her work to preserve the puffins, auklets, oyster catchers, and other birds of the island. I am delighted to have worked with her on this issue. The past president of Seattle Audubon, Dave Galvin, and the current president, Wilma Anderson, have also played key roles. The various Seattle organizations that provided financial support to send witnesses to hearings deserve credit as well.

The landowners on Protection Island have been ably represented by Phil Vorvick and other board members of the Protection Island Beach Club. Members of the club should be assured that Mr. Vorvick and his colleagues did their utmost to see that the legislation at all stages kept the interests of property owners in mind.

I am delighted to see this legislation reach completion and commend all of the parties involved for their hard work. I urge all of my colleagues to join the Washington delegation in support for this measure.

Mr. BONKER. I thank the gentleman.

Mr. PRITCHARD. Mr. Speaker, will the gentleman yield?

Mr. BONKER. I yield to the gentleman from Washington.

Mr. PRITCHARD. I thank the gentleman for yielding.

This is the major bird sanctuary in our part of the country and I think it is fitting action that we at this time set it aside for present and future generations.

Mr. BONKER. I thank my colleague.

I would also express my appreciation to members of the delegation who have been fully supportive of this bill.

I would also like to compliment the chairman of the subcommittee, the gentleman from Louisiana (Mr. BREAUX), and the ranking member, the gentleman from Kentucky (Mr. SNYDER), for their full support in expediting action on this legislation.

Mr. DICKS. Mr. Speaker, I would like to join with my colleagues to urge the support of this House for this important legislation.

In this Congress the Washington State delegation has worked hard to create a wildlife refuge on Protection Island, which is located in the Strait of Juan de Fuca—in Puget Sound.

This island is extremely well suited for a wildlife refuge as it currently provides a home for hundreds of harbor seals, over 20,000 seabirds, and other wildlife.

However, while the island is well suited for a wildlife refuge it is unsuitable for increased residential and commercial development. In 1974, the Washington State Department of Health halted issuing building and septic tank permits because the drinking water on the island was contaminated. Additionally, a moratorium on building on the island remains in effect at this time.

A consensus has been reached on the issues and problems which arose when this legislation was first introduced. For their efforts in this regard, Congressmen BREAUX, FORSYTHE, BONKER, LOWRY, and PRITCHARD should be commended.

At this time, we believe that this measure is sound and should be supported so that a wildlife refuge on Protection Island can be created.

For these reasons, among others, I urge my colleagues to support this bill.

Mr. BONKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Louisiana?

There was no objection.

A motion to reconsider was laid on the table.

CREDIT ENTRANCE FEES FOR ADMINISTRATION OF MIGRATORY BIRD HUNTING AND CONSERVATION STAMP CONTEST

Mr. BREAUX. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2874) to amend the act of March 16, 1934, as amended, to credit entrance fees for the migratory bird hunting and conservation stamp contest to the account which pays for the administration of the contest, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. SNYDER. Mr. Speaker, reserving the right to object, I do so again so that the gentleman from Louisiana may explain to the House this bill.

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Speaker, this legislation would allow the Secretary of the Interior to use fees collected for entrance into the annual duck stamp contest for the administration of that contest.

The Migratory Bird Hunting Stamp Act of 1934 states that no person 16 years of age and older may take any migratory waterfowl unless he possesses a Federal migratory bird hunting and conservation stamp known popularly as the duck stamp. The receipts from sale of this stamp are used to acquire migratory bird refuges and waterfowl production areas. The stamp itself is issued by the Postal Service pursuant to joint regulations of the Postal Service and the Secretary of the Interior.

Since 1949, the design of the duck stamp has been determined through a public contest administered by the U.S. Fish and Wildlife Service of the Department of the Interior. Although free to choose the stamp in any manner, the Service believed that competition would be the best way to achieve a quality design. The first contest consisted of 8 entrants and remained at manageable levels—374 entrants in 1978—until 1979, when the number of entries jumped to 1,362. This was followed by 1,507 entries in 1980, and 2,099 entries in 1981.

The growth in popularity also resulted in a large increase in the cost of administering the contest. It is estimated that the 1982 contest will cost approximately $50,000 to operate. This includes, among other things, salaries, contracts for display panels, security, transportation and per diem for judges, and postage and supplies used in returing all entries. Currently the administrative expenses are charged to the Office of Migratory Bird Management.

Beginning with the 1982 contest, which opened in July, the Service has required a $20 fee for each entry. Costs were easily absorbed by the Service while the contest was small. However, the recent growth in participation has pushed the costs so high that the Service feels that those who wish to have their art judged, rather than one of the Service's programs, should support the annual contest. In addition, although no prizes were awarded, the winner can expect to generate substantial income from the private sale of prints of the winning entry. It is estimated that the last five winners grossed over $1 million each from the sale of these prints.

While the Fish and Wildlife Service has the authority to charge such an entry fee, the current statutory authority requires that the fees be paid into the General Treasury. This legislation would merely allow the entry fees to be used for administration of the contest. Any excess funds would go into the Migratory Bird Conservation account.

Mr. Speaker, this is a house cleaning bill necessary to maintain a good program. I ask for its approval.

Mr. SNYDER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of March 16, 1934, as amended (16 U.S.C. 718 et seq.), is amended by adding at the end thereof the following section:

"SEC. 10. Notwithstanding any other provision of law, moneys received by the United States Fish and Wildlife Service in the form of fees for entering the migratory-bird hunting and conservation stamp contest shall be credited first to the appropriation account from which expenditures for the administration of such contest are made, and second, to the extent such moneys exceed the expenditures for administration of the contest, to the migratory-bird conservation fund.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL MIDNIGHT, OCTOBER 7, 1982, TO FILE REPORT ON H.R. 7076

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until midnight, October 7,

1982, to file a report on the bill, H.R. 7076.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DEBT COLLECTION ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4613) to increase the efficiency of Government-wide efforts to collect debts owed the United States and to provide additional procedures for the collection of debts owed the United States, with a Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the Senate amendment and the House amendments to the Senate amendment.

The Clerk read the Senate amendment and the House amendments to the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

That this Act may be cited as the "Debt Collection Act of 1982".

AMENDMENTS TO THE PRIVACY ACT

SEC. 2. (a) Section 552a(b) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(12)" to a consumer reporting agency in accordance with section 3(d) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952 (d)).".

(b) Section 552a(m) of such title is amended—

(1) by inserting "(1)" immediately after "m"; and

(2) by adding at the end thereof the following new paragraph:

"(2) A consumer reporting agency to which a record is disclosed under section 3(d) of the Federal Claims Collection Act of 1966 (31 U.S.C. 952(d)) shall not be considered a contractor for the purposes of this section.".

AMENDMENT TO THE FEDERAL CLAIMS COLLECTION ACT OF 1966

SEC. 3. Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) is amended by adding at the end thereof the following new subsection:

"(d)(1) Whenever the head of an agency attempts to collect a claim of the United States under subsection (a) of this section, or under any other statutory authority except the Internal Revenue Code of 1954, the head of the agency may disclose to a consumer reporting agency information from a system of records that an individual is responsible for a claim if—

"(A) the notice for the system of records required by section 552a(e)(4) of title 5, United States Code, indicates that information in the system may be disclosed to a consumer reporting agency;

"(B) the head of the agency has reviewed the claim and determined that such claim is valid and overdue;

"(C) the head of the agency has sent a written notice to the individual informing such individual—

"(i) that the payment of the claim is overdue;

"(ii) that the agency intends to disclose to a consumer reporting agency, within not less than sixty days after sending such notice, that the individual is responsible for such claim;

"(iii) of the specific information intended to be disclosed to the consumer reporting agency; and

"(iv) of the rights of such individual to a full explanation of the claim, to dispute any information in the records of the agency concerning the claim, and to administrative appeal or review with respect to the claim;

"(D) such individual has not—

"(i) repaid or agreed to repay such claim under a repayment plan which is agreeable to the head of the agency and is in a written form signed by such individual; or

"(ii) filed for review of such claim under paragraph (2) of this subsection;

"(E) the agency has established procedures (i) for promptly disclosing, to each consumer reporting agency to which the original disclosure was made, any substantial change in the status or amount of the claim, (ii) for promptly verifying or correcting, as appropriate, information concerning the claim upon the request of any such consumer reporting agency for verification of any or all information so disclosed, and (iii) for obtaining satisfactory assurances from each such consumer reporting agency concerning compliance by such consumer reporting agency with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and any other Federal law governing the provision of consumer credit information; and

"(F) the information disclosed to the consumer reporting agency is limited to (i) the name, address, taxpayer identification number, and other information necessary to establish the identity of the individual, (ii) the amount, status, and history of the claim, and (iii) the agency or program under which the claim arose.

"(2) Prior to a disclosure to any consumer reporting agency under paragraph (1) of this subsection and at such other times as may be permitted by law, the head of the agency shall, upon request of any individual alleged by the agency to be responsible for the claim, provide for the review of the obligation of such individual, including an opportunity for reconsideration of the initial decision concerning the claim.

"(3) If an agency does not have a current address for an individual for the purpose of sending the notice required by paragraph (1)(C), the agency shall take reasonable action to locate the individual prior to disclosing any information to a consumer reporting agency under paragraph (1).

"(4) For purposes of this subsection—

"(A) the term 'consumer reporting agency' means—

"(i) a consumer reporting agency within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)); or

"(ii) any person who, for monetary fees, dues, or on a cooperative basis, regularly engages in whole or in part in the practice of (I) obtaining credit or other information on consumers for the purpose of furnishing such information to consumer reporting agencies (as defined in clause (i) of this subparagraph), or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies;

"(B) the term 'system of records' has the meaning given such term under section 552a(a)(5) of title 5, United States Code; and

"(C) the term 'head of an agency' includes a designee of the head of an agency.".

USE OF SOCIAL SECURITY NUMBERS

SEC. 4. (a) Executive departments and agencies shall require each individual applying for credit, financial assistance, or payment which may result in an indebtedness to the United States or any agency thereof to furnish the social security number of such individual for the purposes described in subsection (b) of this section.

(b) Any social security number obtained under subsection (a) of this section may be used for verification of the identity of the applicant in connection with credit management and debt collection purposes undertaken pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) or other statutory authority.

(c) For purposes of this section—

(1) the term "Executive departments" has the meaning given such term under section 101 of title 5, United States Code; and

(2) the term "Executive agencies" has the meaning given such term under section 105 of such title.

SALARY OFFSET

SEC. 5. (a) Subsection (a) of section 5514 of title 5, United States Code, is amended to read as follows:

"(a)(1) When the head of an agency or his designee determines that an employee, member of the Armed Forces or Reserve of the Armed Forces, is indebted to the United States for debts to which the United States is entitled to be repaid at the time of the determination by the head of an agency or his designee, or is notified of such a debt by the head of another agency or his designee the amount of indebtedness may be collected in monthly installments, or at officially established pay intervals, by deduction from the current pay account of the individual. The deductions may be made from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay. The amount deducted for any period may not exceed 15 percent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved. If the individual retires or resigns, or if his employment or period of active duty otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from subsequent payments of any nature due the individual from the agency concerned.

"(2) Except as provided in paragraph (3) of this subsection, prior to initiating any proceedings under paragraph (1) of this subsection to collect any indebtedness of an individual, the head of the agency holding the debt or his designee, shall provide the individual with—

"(A) a minimum of 30 days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this subsection;

"(B) an opportunity to inspect and copy Government records relating to the debt;

"(C) an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, to establish a schedule for the repayment of the debt; and

"(D) an opportunity for a hearing on the determination of the agency concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to subparagraph (C), concerning the terms of the repayment schedule.

A hearing, described in subparagraph (D), shall be provided if the individual, on or before the fifteenth day following receipt of the notice described in subparagraph (A), and in accordance with such procedures as the head of the agency may prescribe, files a petition requesting such a hearing. The timely filing of a petition for hearing shall stay the commencement of collection proceedings. A hearing under subparagraph (D) may not be conducted by an individual under the supervision or control of the head of the agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

"(3) The collection of any amount under this section shall be in accordance with the standards promulgated pursuant to the Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) or in accordance with any other statutory authority for the collection of claims of the United States or any agency thereof.

"(4) For purposes of this subsection—

"(A) 'disposable pay' means that part of pay of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld; and

"(B) 'agency' includes the United States Postal Service and the Postal Rate Commission.".

(b) Section 5514(b) of title 5, United States Code, is amended by inserting "(1)" immediately after "(b)" and by adding at the end thereof the following new paragraph:

"(2) For purposes of section 7117(a) of this title, no regulation prescribed to carry out subsection (a)(2) of this section shall be considered to be a Government-wide rule or regulation.".

(c) The section heading of section 5514 of title 5, United States Code, is amended to read as follows:

"§ 5514. Installment deduction for indebtedness to the United States".

PROTECTION OF FEDERAL DEBT COLLECTORS

SEC. 6. Section 1114 of title 18, United States Code, is amended—

(1) by striking out "or" before "any attorney"; and

(2) by inserting before "shall be punished" a comma and the following: "or any officer or employee of the United States or any agency thereof designated to collect or compromise a Federal claim in accordance with the Federal Claims Collection Act of 1966 (31 U.S.C 951 et seq.) or other statutory authority".

SCREENING POTENTIAL DEBTORS

SEC. 7. (a) Section 6103(l)(3) of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information to the Privacy Protection Study Commission) is amended to read as follows:

"(3) DISCLOSURE OF CERTAIN RETURN INFORMATION TO FEDERAL LENDING AGENCIES.—

"(A) IN GENERAL.—Upon written request, the Secretary may disclose to officers and employees of a Federal agency whether a Federal loan applicant has an outstanding liability for any tax, penalty, interest, fine, forfeiture, or other imposition under this title.

"(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose information under subparagraph (A) only for purposes of, and to the extent necessary in, determining whether an applicant for a Federal loan has outstanding liabilities. Information regarding outstanding liabilities which are in dispute shall not be disclosed under subparagraph (A).

"(C) FEDERAL LOAN.—For purposes of this paragraph, the term 'Federal loan' means a loan of money by, or guaranteed or insured by, the Federal Government or a Federal agency.".

(b) Section 6103(p) of such Code (relating to procedure and recordkeeping) is amended—

(1) by striking out "or (l) (3) or (6)" in paragraph (3)(C)(i) and inserting in lieu thereof "or (l)(6)";

(2) by striking out "(l)(3), (6), or (7)" in paragraph (4) and inserting in lieu thereof "(l)(6) or (7)"; and

(3) by striking out "(l)(1), (2), or (5), or (o)(1), the commission described in (l)(3)" in paragraph (4)(F)(ii) and inserting in lieu thereof "(l)(1), (2), (3), or (5), or (o)(1),".

DISCLOSURE TO AGENTS OF A FEDERAL AGENCY

SEC. 8. (a) Paragraph (2) of section 6103(m) of the Internal Revenue Code of 1954 (relating to disclosure of taxpayer identity information) is amended to read as follows:

"(2) FEDERAL CLAIMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may, upon written request, disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer to collect or compromise a Federal claim against the taxpayer in accordance with section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952).

"(B) SPECIAL RULE FOR CONSUMER REPORTING AGENCY.—In the case of an agent of a Federal agency which is a consumer reporting agency (within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))), the mailing address of a taxpayer may be disclosed to such agent under subparagraph (A) only for the purpose of allowing such agent to prepare a commercial credit report on the taxpayer for use by such Federal agency in accordance with section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952).".

(b)(1) Section 6103(p) of such Code (relating to procedure and recordkeeping) (as amended by section 7(b) of this Act) is further amended by adding at the end thereof the following new paragraph:

"(9) SAFEGUARDS OF CERTAIN MAILING ADDRESSES.—Any Federal agency shall, as a condition for receiving mailing addresses under subsection (m)(2)—

"(A) establish and maintain, to the satisfaction of the Director of the Office of Management and Budget, a permanent system of standardized records with respect to disclosures of such mailing addresses to the agents of such agency;

"(B) ensure, to the satisfaction of the Director of the Office of Management and Budget, that the mailing addresses are not incorporated in the general records of agents of such agency or otherwise used by such agents for a purpose other than as provided by subsection (m)(2);

"(C) provide such other safeguards which the Director of the Office of Management and Budget determines to be necessary or appropriate to protect the confidentiality of mailing addresses disclosed to the agents of such agency;

"(D) furnish a report to the Director of the Office of Management and Budget after the close of each calendar year which describes the procedures established and utilized by such agency for ensuring the confidentiality of mailing addresses disclosed to the agents of such agency; and

"(E) upon completion of use of the mailing addresses, provide for the return of the mailing addresses (along with any copies thereof) to the Secretary or provide a method for making the mailing addresses incapable of being disclosed in any manner.".

(2) Paragraph (5) of section 6103(p) of such Code is amended by striking out "this subsection" and inserting in lieu thereof "paragraphs (3) and (4) of this subsection".

(c)(1) Section 7213(a)(2) of such Code (relating to unauthorized disclosure of information) is amended by striking out "or (m)(4)" and inserting in lieu thereof "or (m)(2) or (4)".

(2) Paragraph (3) of section 6103(a) of such Code (relating to confidentiality and disclosure of returns and return information) is amended by striking out "(m)(4)(B)" and inserting in lieu thereof "(m)(2) or (m)(4)(B)".

STATUTE OF LIMITATIONS WITH RESPECT TO ADMINISTRATIVE OFFSETS

SEC. 9. Section 2415 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) The provisions of this section shall not prevent the United States or an officer or agency thereof from collecting any claim of the United States by means of administrative offset, in accordance with section 5 of the Federal Claims Collection Act of 1966.".

ADMINISTRATIVE OFFSETS

SEC. 10. The Federal Claims Collection Act of 1966 (31 U.S.C. 951 et seq.) is amended—

(1) by redesignating section 5 as section 6; and

(2) by adding the following new section 5:

"SEC. 5. (a) The head of an agency or his designee may, after attempting to collect a claim from a person under section 3 (a) of this Act, collect the claim by means of administrative offset, except that no claim under this Act that has been outstanding for more than ten years may be collected by means of administrative offset.

"(b) The head of an agency or his designee may not collect any claim by administrative offset authorized by subsection (a) unless the agency head has prescribed regulations for the exercise of such administrative offset, based on the best interests of the United States, the likelihood of collecting a claim by administrative offset, and, with respect to the collection of claims by means of adminstrative offset after the six-year period provided in section 2415 of title 28, United States Code, has expired for bringing an action on such a claim, the cost effectiveness of leaving such claim unresolved for more than six years.

"(C) Prior to collecting any claim through adminstrative offset, the head of the agency or his designee shall provide the debtor with—

"(1) written notification of the nature and amount of the claim, the intention of the agency to collect the claim through administrative offset, and an explanation of the rights of the debtor under this section;

"(2) an opportunity to inspect and copy the records of the agency with respect to the claim;

"(3) an opportunity for the review, within the agency, of the determination of the agency with respect to the claim; and

"(4) an opportunity to enter into a written agreement with the head of the agency or his designee, for the repayment of the amount of the claim.

"(d) The provisions of this section shall not apply in any case in which a statute either explicitly provides for or prohibits the collection through administrative offset of the claim or type of claim involved.

"(e) For purposes of this section—

"(1) the term 'administrative offset' means the withholding of money payable by the United States to or held by the United States on behalf of a person to satisfy a debt owed the United States by that person; and

"(2) the term 'person' does not include any agency of the United States, or of any State or local government.".

INTEREST AND PENALTY ON INDEBTEDNESS TO THE UNITED STATES

SEC. 11. Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) (as amended by section 3 of this Act) is further amended by adding at the end thereof the following new subsection;

"(e)(1) Except as provided in paragraph (3), the head of an agency or his designee shall charge a minimum annual rate of interest on outstanding debts on claims owed by persons that is equal to the average investment rate for the Treasury tax and loan accounts for the twelve-month period ending on September 30 of each year, rounded to the nearest whole per centum. The Secretary of the Treasury or his designee shall publish such rate each year not later than October 31 and such rate shall become effective on the first day of the next calendar quarter. The Secretary of the Treasury may revise such rate quarterly if the average investment rate for the twelve-month period ending at the close of that calendar quarter, rounded to the nearest whole per centum, is greater or less than the existing published rate by 2 per centum. For purposes of this paragraph, 'calendar quarter' means any three-month period beginning on January 1, April 1, July 1, or October 1.

"(2) Except as provided in paragraph (3), the head of an agency or his designee shall, with respect to claims owed by persons—

"(A) assess charges to cover the costs of processing and handling delinquent claims, and

"(B) assess a penalty charge, not to exceed 6 per centum per annum, for failure to pay any portion of a debt more than ninety days past due.

"(3) Interest and charges under paragraphs (1) and (2) shall not apply if an applicable statute, a regulation required by statute, a loan agreement, or a contract either prohibit the charging of interest or charges, or explicitly fix interest or charges that apply to claims involved. The head of an agency or his designee may promulgate regulations identifying circumstances appropriate to waive collection of interest and charges in conformity with such standards as may be promulgated jointly by the Attorney General and the Comptroller General. Waivers in accordance with such regulations shall constitute compliance with the requirements of paragraphs (1) and (2).

"(4) This subsection shall not apply to any claim under a contract which is executed before the effective date of this subsection and which is in effect on that date.

"(5) Subject to paragraph (6), interest under paragraph (1) shall accrue—

"(A) except as provided in subparagraph (B), from the date on which notification of the amount due on the claim is first mailed to the debtor (using the most current address of such debtor that is available to the head of the agency or his designee); or

"(B) if such notification was first mailed before the date of the enactment of the Debt Collection Act of 1982, from the date on which such notification is first mailed after such date of enactment.

The rate of interest to be charged on a claim under paragraph (1) shall be the rate in effect on the date from which interest accrues on the claim under subparagraph (A) or (B), and shall remain fixed at that rate for the duration of the indebtedness.

"(6) Interest under paragraph (1) shall not be charged if the amount due on the claim is paid within thirty days after the date from which interest accrues under paragraph (5). The head of an agency may extend such thirty-day period.

"(7) Interest under this subsection shall not accrue on any charges assessed pursuant to paragraph (2) of this subsection.

"(8) For purposes of this subsection, the 'person' does not include any agency of the United States or any State or local government.

REPORT ON AGENCY DEBT COLLECTION ACTIVITIES

SEC. 12. (a) The Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury and Comptroller General of the United States, shall establish regulations requiring each agency with outstanding debts to prepare and transmit to the Director and the Secretary of the Treasury at least once each year a report which summarizes the status of loans and accounts receivable managed by each agency. The report shall contain information regarding—

(1) the total amount of loans and accounts receivable owed to the agency and when the funds owed to the agency are due to be repaid;

(2) the total amount of receivables and number of claims that are at least thirty days past due;

(3) the total amount written off as uncollectable, actual, and allowed for;

(4) the rate of interest charged for overdue debts and the amount of interest charged and collected on debts;

(5) the total number of claims and total amount collected;

(6) the number of claims and the total amount of claims referred to the Department of Justice for settlement and the number of claims and the total amount of claims settled by such Department;

(7) for each program or activity administered by the agency, the information described in clauses (1) through (6) of this subsection; and

(B) such other information as the Director finds necessary in order to determine whether the agency is engaging in aggressive action to collect the claims of the agency.

(b) The Director shall analyze the reports received by each agency under subsection (a) and shall report annually to the Congress on the management of agency debt collection activities, including the information provided to the Director under subsection (a) above.

CONTRACTS FOR COLLECTION SERVICES

SEC. 13. (a) Section 3617 of the Revised Statutes (31 U.S.C. 484) is amended by striking out "section 487" and inserting in lieu thereof "sections 487 and 952(g)(2)".

(b) Section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952) (as amended by sections 3 and 11 of this Act) is further amended by adding at the end thereof the following new subsections:

"(f)(1) Notwithstanding the provisions of any other law governing the collection of claims owed the United States, except for collections of unpaid or underpaid debts under the Internal Revenue Code of 1954, the head of an agency or his designee may enter into a contract with any person or organization, under such terms and conditions as the head of the agency or his designee considers appropriate, for collection services to recover indebtedness owed to the United States. Any such contract shall include provisions specifying that the head of the agency or his designee retains the authority to resolve disputes, compromise claims, terminate collection action, and refer the matter to the Attorney General to initiate legal action, and that the contractor shall be subject to section 552a of title 5, United States Code, to the extent provided in subsection (m) of that section, and shall be subject to Federal and State laws and regulations pertaining to debt collection practices, including the Fair Debt Collection Practices Act (15 U.S.C. 1962 et seq.).

"(2) Notwithstanding section 3617 of the revised Statutes (31 U.S.C. 484), the head of an agency or his designee may provide, as part of a contract described in paragraph (1), that appropriate fees charged by a contractor to recover indebtedness owed to the United States may be payable from the amount collected by such contractor.

"(3) Any such contract shall be effective only to such extent and in such amounts as are provided in advance appropriation Acts.

"(g) For purposes of this Act, the term 'claim' includes amounts owing on account of loans insured or guaranteed by the United States and all other amounts due the United States from fees, duties, leases, rents, royalties, services, sales of real or personal property, overpayments, fines, penalties, damages interest, taxes, forfeitures, and other sources.".

House amendments to the Senate amendment:

Strike out section 4 of the Senate amendment and insert in lieu thereof the following:

REQUIREMENT THAT APPLICANT FURNISH TAXPAYER IDENTIFYING NUMBER

SEC. 4. (a) IN GENERAL.—Each Federal agency administering an included Federal loan program shall require any person applying for a loan under such program to furnish such person's taxpayer identifying number.

(b) DEFINITIONS.—For purposes of this section—

(1) INCLUDED FEDERAL LOAN PROGRAM.—The term "included Federal loan program" has the meaning given to such term by subparagraph (C) of section 6103(l)(3) of the Internal Revenue Code of 1954 (as added by section 7 of this Act).

(2) TAXPAYER IDENTIFYING NUMBER.—The term "taxpayer identifying number" has the meaning given to such term by section 6109 of such Code.

Strike out section 7 of the Senate amendment and insert in lieu thereof the following:

SCREENING POTENTIAL DEBTORS

SEC. 7. (a) DISCLOSURE TO FEDERAL LENDING AGENCY THAT APPLICANT HAS TAX DELINQUENT ACCOUNT.—Paragraph (3) of section 6103(l) of the Internal Revenue Code of 1954 is amended to read as follows:

"(3) DISCLOSURE THAT APPLICANT FOR FEDERAL LOAN HAS TAX DELINQUENT ACCOUNT.—

"(A) IN GENERAL.—Upon written request, the Secretary may disclose to the head of the Federal agency administering any included Federal loan program whether or not an applicant for a loan under such program has a tax delinquent account.

"(B) RESTRICTION ON DISCLOSURE.—Any disclosure under subparagraph (A) shall be made only for the purpose of, and to the extent necessary in, determining the creditworthiness of the applicant for the loan in question.

"(C) INCLUDED FEDERAL LOAN PROGRAM DEFINED.—For purposes of this paragraph, the term 'included Federal loan program' means any program—

"(i) under which the United States or a Federal agency makes, guarantees, or insures loans, and

"(ii) with respect to which there is in effect a determination by the Director of the Office of Management and Budget (which has been published in the Federal Register) that the application of this paragraph to such program will substantially prevent or reduce future delinquencies under such program."

(b) TECHNICAL AMENDMENTS.—

(1) Clause (i) of section 6103(p)(3)(C) of such Code is amended by striking out "(l) (3) or (6)" and inserting in lieu thereof "(l)(6)".

(2) Paragraph (4) of section 6103(p) of such Code is amended—

(A) by striking out "(l) (1), (2)," in the matter preceding subparagraph (A) and inserting in lieu thereof "(l) (1), (2), (3),",

(B) by striking "(l) (3), (6)," and inserting in lieu thereof "(l)(6),", and

(C) by striking out "(l) (1), (2), or (5), or (o)(1), the commission described in subsection (l)(3)" in subparagraph (F)(ii) and inserting in lieu thereof "(l) (1), (2), (3), or (5), or (o)(1),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of loan applications made after September 30, 1982.

Strike out section 8 of the Senate amendment and insert in lieu thereof the following:

DISCLOSURE OF MAILING ADDRESS TO THIRD PARTIES FOR PURPOSES OF COLLECTING FEDERAL CLAIMS

SEC. 8. (a) Paragraph (2) of section 6103(m) of the Internal Revenue Code of 1954 (relating to disclosure of taxpayer identity information) is amended to read as follows:

"(2) FEDERAL CLAIMS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may, upon written request, disclose the mailing address of a taxpayer for use by officers, employees, or agents of a Federal agency for purposes of locating such taxpayer to collect or compromise a Federal claim against the taxpayer in accordance with section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952).

"(B) SPECIAL RULES FOR CONSUMER REPORTING AGENCY.—In the case of an agent of a Federal agency which is a consumer reporting agency (within the meaning of section 603(f) of the Fair Credit Reporting Act (15 U.S.C. 1681a(f))), the mailing address of a taxpayer may be disclosed to such agent under subparagraph (A) only for the purpose of allowing such agent to prepare a commercial credit report on the taxpayer for use by such Federal agency in accordance with section 3 of the Federal Claims Collection Act of 1966 (31 U.S.C. 952)."

(b) SAFEGUARDS.—Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by adding at the end thereof the following new sentence: "In the case of any agency which receives any mailing address under subsection (m) (2) or (4) and which discloses any such mailing address to any agent, this paragraph shall apply to such agency and each such agent (except that, in the case of an agent, any report to the Secretary or other action with respect to the Secretary shall be made or taken through such agency)."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (3) of section 6103(a) of such Code is amended by striking out "subsection (m)(4)(B)" and inserting in lieu thereof "paragraph (2) or (4)(B) of subsection (m)".

(2) Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of information) is amended by striking out "(m)(4)" and inserting in lieu thereof "(m) (2) or (4)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(e) Except as otherwise provided in section 4 or 7 or the foregoing provisions of this section, nothing in this Act (or in the amendments made by this Act) shall apply to claims or indebtedness arising under, or amounts payable under, the Internal Revenue Code of 1954, the Social Security Act, or the tariff laws of the United States.

Mr. ROSTENKOWSKI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendments to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. CONABLE. Mr. Speaker, reserving the right to object, I do so primarily for the purpose of bringing about an explanation of this measure.

The distinguished gentleman from Illinois, the chairman of our committee, I believe can explain the procedural and substantive situation affecting this measure, which is involved in the jurisdiction of four separate committees, but which has come out of our committee. And I would like to have his explanation of where we stand on this matter right now.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman will yield, H.R. 4613, as passed by the House in May of this year, contained those provisions within the jurisdiction of the Committee on Ways and Means recommended by the administration to improve the effectiveness of the Government's debt collection efforts. To assist in achieving this goal, the bill approved by the House permitted the Internal Revenue Service to provide mailing addresses to Federal agencies or their agents for Federal debt collection purposes and to disclose to Federal agencies, under certain conditions, whether a loan applicant has a tax delinquent account. In addition, Federal agencies administering designated loan programs could also require loan applicants to furnish their taxpayer identifying number; for individual taxpayers, this would be their social security number.

The Senate has substituted the provisions of S. 1249, an omnibus debt collection bill, with amendments, for the House provisions of H.R. 4613. Accordingly, the bill before us is a considerably broader debt collection bill than originally passed by the House, and it contains provisions within the jurisdiction of three House committees in addition to the Committee on Ways and Means. These committees are Judiciary, Post Office and Civil Service, and Government Operations. It is my understanding that Senator PERCY, who managed this measure in the Senate on behalf of the Senate Committee on Governmental Affairs, has worked with these House committees in the development of the final bill as it is presently before us.

The Senate substitute to H.R. 4613 also incorporates the Senate Finance Committee version, rather than the House version, of those provisions within the jurisdiction of the Committee on Ways and Means. Accordingly, the amendment I am offering would generally restore the House version of those provisions. The Senate Finance Committee provision on consumer reporting agencies would be retained, however. The amendment would also make clear that the other provisions of this omnibus debt collection act do not apply to claims or debts arising under the Internal Revenue Code, the Social Security Act, or the tariff laws. The amendment I am offering has been discussed with the chairmen of the House and Senate committees having jurisdiction over this bill, and it is my understanding that the amendment is acceptable to all concerned.

Mr. Speaker, I urge the adoption of my amendment to the Senate substitute to H.R. 4613.

GENERAL LEAVE

Mr. CONABLE. Further reserving the right to object, Mr. Speaker, this situation is as described by the chairman of the Ways and Means Committee. There are three other committees involved and, not knowing whether or not they have comments to make about this measure, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CONABLE. Further reserving the right to object, Mr. Speaker, I

must say that I personally rise in support of the legislation. The situation is one in which a conference is not necessary because the Senate generally tried to have widespread objection with the Members of the House in the course of passing their version of this measure. For some reason they did not include the wording from Ways and Means and, as a result, it is necessary to amend it as has been suggested by the chairman.

I would like to summarize the attitude of the administration by saying that, while it is not exactly what they wanted in the way of a debt collection bill, it nonetheless represents a substantial improvement over the current situation. And for that reason, they not only have no objection, but they support the measure's enactment as compromised.

The bill does permit the Federal Government to institute procedures preventing overdue and delinquent indebtedness from building up in the future. The Federal Government has outstanding currently billions of dollars owed it in delinquent debts. The amendment being proposed to this legislation has been worked out on a bipartisan basis with the staff of the four House committees and the two Senate committees with jurisdiction over the measure. My understanding is that eveybody with an interest in the measure has agreed to the amendment, that it will be accepted by the Senate, thereby clearing the bill for the President's signature.

Within the jurisdiction of the Committee on Ways and Means, the bill, as amended, will accomplish three basic things. First, it requires Federal agencies to get taxpayer identifying numbers from people applying for certain Federal loans. These numbers will permit the agencies to ascertain the identity of the individuals making application, just as most lenders in the private sector do as a routine matter. Second, it will permit the IRS to disclose to other Federal agencies whether or not Federal loan applicants have outstanding tax liability. Finally, it will permit up-to-date IRS mailing addresses to be disclosed to agents of Federal agencies for the purpose of collecting or compromising a Federal claim.

It is unbelievable, Mr. Speaker, that we have permitted our Government procedures to be as lax and, frankly, as sloppy as they have become. This bill will help put an end to that waste. It will help make sure that everyone pays what he or she owes. The alternative, Mr. Speaker, as we all know, is further increases in revenue from some other source, increasing the burden on those who do pay their taxes and their obligations to the Federal Government, while letting those that owe them and perhaps can pay them get away scot-free.

Given the current stringent fiscal situation, we surely need to do everything possible to make sure we recover funds owned the Government so that budget cuts in existing programs will be no deeper than absolutely necessary and so that additional tax increases will not be required.

I support adoption of this amendment and the passage of the bill.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. Mr. Speaker, under my reservation of objection I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding.

Mr. Speaker, as a member of two of the four House committees which had jurisdiction over pieces of the debt collection legislation, I am pleased that it appears that we are close to enactment.

But, I have had mixed feelings from the beginning about some of the proposals made to facilitate the Government's debt collection activities.

First, I still remain to be convinced that we will see much return either from the utilization of private credit bureaus for debtor information or the utilization of private collection agencies for the collection of outstanding debts.

Second, no one should look on this legislation as critical to the collection of debts or that its passage will result in a whirlwind of collections.

Do not get me wrong. I support this legislation. But, improvement of credit management by the Federal Government is going to require some dedication on the part of the folks in the agencies who make the decisions on who gets Federal assistance and when to take action on an overdue account.

With that caveat, I am glad to lend my support to this legislation and urge its passage.

Mr. CONABLE. Further reserving the right to object, Mr. Speaker, I thank the gentleman for his contribution. I believe he expresses reservations that many of us feel. At the same time, it does represent a step forward and gives the Federal Government additional tools that it should have.

Mr. Speaker, I know of no other Member who wishes to comment on this at the current time, and I withdraw my reservation of objection.

● Mr. HORTON. Mr. Speaker, I am very pleased to see this legislation on the brink of enactment. Any time a legislative proposal is divided up among several committees, people figure that it will never make it.

The need for this legislation is well recognized. As a result of years of inattention and neglect, more than $33 billion of the $239 billion owed the Federal Government is delinquent or in default. The Office of Management and Budget has informed us that the Government is now writing off over $1 billion each year in bad debts. Daily interest on delinquent debts is over $14 million.

While the President has directed Federal agencies to implement an agressive program to recover delinquent debts and improve credit programs, he still needs this legislative authority to strengthen the capacity of executive branch agencies to collect debts owed to them.

I was pleased that our Government Operations Committee got the ball rolling last year with House passage of H.R. 2811 which would facilitate the use of private credit reporting services by Federal agencies to determine the creditworthiness of loan applicants.

It has taken a long time, but it appears that all the committees with jurisdiction have held hearings and had an opportunity to contribute to this legislation. The product is a good one and I urge its passage.●

● Mr. BUTLER. Mr. Speaker, I am pleased that we finally will enact some legislation intended to facilitate the debt collection efforts of the Federal Government.

When the Government Operations Committee considered this legislation I expressed some reservations about the wisdom of relying on private credit reporting bureaus for information in the credit worthiness of Federal loan applicants. Furthermore, the Office of Management and Budget complained about how difficult it has been for agencies of the Federal Government to share credit information with each other. The Privacy Act was blamed for making the sharing of credit information among agencies a very difficult and costly process.

However the only change in the Privacy Act proposed by OMB was one to facilitate the disclosure of delinquent debt information to private credit reporting bureaus. Accordingly, I offered an amendment to the bill in the Government Operations Committee which was intended to facilitate exchanges of credit information within and between Federal lending agencies. Unfortunately, my good intentions were not translated into an acceptable legislative solution and I subsequently agreed to deletion of my amendment.

I hope that this legislation will help OMB and the individual agencies in recovering the vast amount of delinquent debt that is out there. I also hope that it will help to prevent the accumulation of more delinquent debt.●

● Mr. ERLENBORN. Mr. Speaker, I too, am pleased that this legislation to facilitate the Government's debt collection efforts is near enactment.

In the Government Operations Committee, we very carefully crafted amendments to the Privacy Act which retain the essential individual privacy

protections of the act while clarifying the liability of credit reporting bureaus for wrongful disclosures of credit information. Under current interpretations of the Fair Credit Reporting Act and the Privacy Act, credit reporting bureaus might have found themselves liable under both acts for a wrongful disclosure. Through our amendment, we have made it clear that credit reporting bureau liability will be governed by the Fair Credit Reporting Act.

One of the concerns that I expressed in our hearings on this legislation 18 months ago was that we not overlook overpayment of benefits as debts to be collected. A good example of this is in the black lung program. Claims allowed by the Labor Department which, later in the special appeal process, are denied result too frequently in uncollected lump sum payments made prior to completion of the appeals process. The Government Accounting Office looked into this at my request and confirmed the failure of the Labor Department to collect those wrongful payments.

We want to make sure that those who are truly entitled to benefits get them. But, we should not forgo collection of payments made to persons found later not to be entitled to them. I trust that the various agencies will be as diligent in the collection of debts as they heretofore have been in handing out the largess.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois (Mr. ROSTENKOWSKI) that the amendments be considered as read and printed in the RECORD?

There was no objection.

Is there objection to the initial request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

□ 1100

HEALTH RESEARCH EXTENSION ACT OF 1982

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6457), to amend the Public Health Service Act to revise and extend the authorities under that act relating to the National Institutes of Health and the national research institutes, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 365, nays 12, answered "present" 2, not voting 53, as follows:

[Roll No. 381]

YEAS—365

Addabbo	Downey	Hopkins
Akaka	Duncan	Horton
Albosta	Dunn	Howard
Alexander	Dwyer	Hoyer
Anderson	Dymally	Hubbard
Andrews	Dyson	Huckaby
Annunzio	Eckart	Hughes
Anthony	Edgar	Hunter
Atkinson	Edwards (AL)	Hyde
AuCoin	Edwards (CA)	Jacobs
Badham	Emery	Jeffords
Bailey (PA)	English	Jeffries
Barnard	Erdahl	Jenkins
Barnes	Erlenborn	Jones (NC)
Beilenson	Evans (DE)	Jones (OK)
Benedict	Evans (GA)	Jones (TN)
Bennett	Evans (IA)	Kastenmeier
Bereuter	Evans (IN)	Kazen
Bethune	Fary	Kemp
Bevill	Fascell	Kennelly
Biaggi	Fazio	Kildee
Bingham	Fenwick	Kogovsek
Bliley	Ferraro	Kramer
Boggs	Fiedler	Lagomarsino
Boland	Fields	Lantos
Boner	Findley	Latta
Bonior	Fish	Leach
Bowen	Fithian	Leath
Breaux	Flippo	Lee
Brinkley	Florio	Lehman
Brodhead	Foglietta	Leland
Brooks	Foley	Lent
Broomfield	Ford (TN)	Levitas
Brown (CO)	Fountain	Lewis
Broyhill	Fowler	Livingston
Burgener	Frank	Loeffler
Burton, Phillip	Frenzel	Long (MD)
Byron	Frost	Lott
Campbell	Fuqua	Lowry (WA)
Carman	Garcia	Lujan
Carney	Gejdenson	Luken
Chappie	Gibbons	Lundine
Cheney	Gilman	Lungren
Clausen	Gingrich	Madigan
Clinger	Ginn	Markey
Coats	Glickman	Marlenee
Coelho	Gonzalez	Marriott
Coleman	Goodling	Martin (IL)
Collins (IL)	Gore	Martin (NC)
Conable	Gradison	Martin (NY)
Conte	Gramm	Martinez
Conyers	Gray	Matsui
Corcoran	Green	Mavroules
Coughlin	Gregg	Mazzoli
Courter	Grisham	McClory
Coyne, James	Guarini	McCollum
Coyne, William	Gunderson	McCurdy
Crane, Daniel	Hagedorn	McDade
Crane, Philip	Hall (OH)	McEwen
D'Amours	Hall, Ralph	McGrath
Daniel, R. W.	Hall, Sam	McHugh
Dannemeyer	Hamilton	McKinney
Daschle	Hammerschmidt	Mica
Daub	Hance	Michel
Davis	Hansen (ID)	Mikulski
de la Garza	Hansen (UT)	Miller (CA)
Deckard	Harkin	Miller (OH)
Dellums	Hatcher	Mineta
Derrick	Hawkins	Minish
Derwinski	Hefner	Mitchell (MD)
Dickinson	Heftel	Mitchell (NY)
Dicks	Hendon	Moakley
Dingell	Hertel	Molinari
Dixon	Hightower	Mollohan
Donnelly	Hiler	Montgomery
Dorgan	Hillis	Moore
Dornan	Hollenbeck	Moorhead
Dowdy	Holt	Morrison
Mottl	Rogers	Stenholm
Murphy	Rose	Stokes
Murtha	Rostenkowski	Stratton
Myers	Roth	Studds
Napier	Roukema	Stump
Natcher	Roybal	Swift
Nelligan	Rudd	Synar
Nelson	Russo	Tauke
Nichols	Sabo	Tauzin
Nowak	Santini	Taylor
O'Brien	Sawyer	Thomas
Oakar	Scheuer	Trible
Oberstar	Schneider	Udall
Obey	Schroeder	Vander Jagt
Oxley	Schulze	Vento
Panetta	Schumer	Volkmer
Parris	Seiberling	Walgren
Pashayan	Sensenbrenner	Washington
Patman	Shamansky	Watkins
Patterson	Shannon	Waxman
Paul	Sharp	Weaver
Pease	Shaw	Weber (MN)
Pepper	Shelby	Weber (OH)
Perkins	Shumway	White
Petri	Shuster	Whitehurst
Peyser	Siljander	Whitley
Pickle	Simon	Whittaker
Porter	Skeen	Whitten
Price	Skelton	Williams (MT)
Pritchard	Smith (AL)	Williams (OH)
Pursell	Smith (IA)	Wilson
Quillen	Smith (NE)	Winn
Railsback	Smith (NJ)	Wolf
Ratchford	Smith (OR)	Wolpe
Regula	Smith (PA)	Wortley
Reuss	Snowe	Wright
Rhodes	Snyder	Wyden
Rinaldo	Solarz	Wylie
Ritter	Solomon	Yates
Roberts (KS)	Spence	Yatron
Roberts (SD)	St Germain	Young (MO)
Robinson	Stangeland	Zablocki
Rodino	Stark	Zeferetti
Roe	Staton	

NAYS—12

Ashbrook	Craig	McDonald
Bailey (MO)	Dreier	Roemer
Butler	Johnston	Rousselot
Clay	Kindness	Walker

ANSWERED "PRESENT"—2

Hutto	Ottinger

NOT VOTING—53

Applegate	DeNardis	Lowery (CA)
Archer	Dougherty	Marks
Aspin	Early	Mattox
Bafalis	Edwards (OK)	McCloskey
Beard	Emerson	Moffett
Bedell	Ertel	Neal
Blanchard	Ford (MI)	Rahall
Bolling	Forsythe	Rangel
Bonker	Gaydos	Rosenthal
Bouquard	Gephardt	Savage
Brown (CA)	Goldwater	Stanton
Brown (OH)	Hartnett	Traxler
Burton, John	Heckler	Wampler
Chappell	Holland	Weiss
Chisholm	Ireland	Wirth
Collins (TX)	LaFalce	Young (AK)
Crockett	LeBoutillier	Young (FL)
Daniel, Dan	Long (LA)	

□ 1110

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6457, with Mr. D'AMOURS in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Wednesday, September 22, 1982, all

time for general debate on the bill had expired.

Pursuant to House Resolution 595, each section is considered as having been read.

The Clerk will designate section 1.

□ 1120

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the bill, H.R. 6457 is as follows:

H.R. 6457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Research Extension Act of 1982".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Public Health Service Act.

REVISION OF TITLE IV OF THE PUBLIC HEALTH SERVICE ACT

SEC. 2. Title IV of the Public Health Service Act is amended to read as follows:

"TITLE IV—NATIONAL RESEARCH INSTITUTES

"PART A—NATIONAL INSTITUTES OF HEALTH

"ORGANIZATION OF NIH

"SEC. 401. (a) The National Institutes of Health is an agency of the Service. The following national research institutes are agencies of the National Institutes of Health:

"(1) The National Cancer Institute.

"(2) The National Heart, Lung, and Blood Institute.

"(3) The National Institute of Diabetes and Digestive and Kidney Diseases.

"(4) The National Institute of Arthritis and Musculoskeletal Diseases.

"(5) The National Institute on Aging.

"(6) The National Institute of Allergy and Infectious Diseases.

"(7) The National Institute of Child Health and Human Development.

"(8) The National Institute of Dental Research.

"(9) The National Eye Institute.

"(10) The National Institute of Neurological and Communicative Disorders and Stroke.

"(11) The National Institute of General Medical Sciences.

"(12) The National Institute of Environmental Health Sciences.

"(b) The Secretary may establish in the National Institutes of Health one or more additional national research institutes to conduct and support research, training, health information, and related programs relating to any particular disease or groups of diseases or any other aspect of human health when the Secretary determines that an additional institute is necessary to carry out such activities.

"(c) For purposes of this title, the term 'national research institute' means a national research institute referred to in subsection (a).

"APPOINTMENT AND AUTHORITY OF DIRECTOR OF NIH

"SEC. 402. (a) The National Institutes of Health shall be headed by the Director of the National Institutes of Health (hereinafter in this title referred to as the 'Director of NIH') who shall be appointed by the President by and with the advice and consent of the Senate. The Director of NIH shall perform functions as provided under subsection (b) and as the Secretary may otherwise prescribe.

"(b) The Secretary, acting through the Director of NIH—

"(1) shall be responsible for the overall direction of the National Institutes of Health and for the establishment and implementation of general policies respecting the management and operation of programs and activities within the National Institutes of Health;

"(2) shall coordinate and oversee the operation of the national research institutes and other administrative entities within the National Institutes of Health;

"(3) for the national research institutes and administrative entities within the National Institutes of Health—

"(A) may—

"(i) after consultation with the National Institutes of Health Advisory Board, acquire and construct, and

"(ii) improve, repair, operate, and maintain,

laboratories, other research facilities, other facilities, equipment, and other real or personal property (including patents), and

"(B) may acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for use for a period not to exceed ten years;

"(4) may secure resources for research conducted by or through the National Institutes of Health;

"(5) may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, establish such technical and scientific peer review groups as are needed to carry out the requirements of this title and appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service on such groups;

"(6) shall assure that research at the National Institutes of Health is subject to review in accordance with section 480;

"(7) may secure for the National Institutes of Health consultation services and advice of persons from the United States or abroad;

"(8) may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(9) may, for purposes of study, admit and treat at facilities of the National Institutes of Health individuals not otherwise eligible for such treatment;

"(10) may accept voluntary and uncompensated services; and

"(11) may perform such other administrative functions as the Secretary determines are needed to carry out effectively this title.

The Federal Advisory Committee Act does not apply to the duration of a peer review group appointed under paragraph (5), and the Office of Management and Budget shall not exercise any authority under such Act with respect to such a group.

"(c) The Secretary may make available to individuals and entities, for biomedical and behavioral research, substances and living organisms. Such substances and organisms shall be made available under such terms and conditions (including payment for them) as the Secretary determines appropriate.

"(d)(1) The Secretary, after consultation with the National Institutes of Health Advisory Board, may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than two hundred experts or consultants, with scientific or other professional qualifications, for the National Institutes of Health.

"(2)(A) Except as provided in subparagraph (B), experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed, in accordance with title 5, United States Code, for their travel and other expenses associated with their assignment.

"(B) Expenses specified in subparagraph (A) shall not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1) unless the expert or consultant has agreed in writing to complete the entire period of the assignment or one year of the assignment, whichever is shorter, unless separated or reassigned for reasons which are beyond the control of the expert or consultant and which are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for such expenses is recoverable from the expert or consultant as a debt due the United States.

"(e)(1) There shall be in the National Institutes of Health an Assistant Director to whom the Director of NIH shall delegate the function of promoting the prevention research programs of the national research institutes and coordinating such programs between the institutes and between the institutes and other public and private entities.

"(2)(A) The Director of NIH, acting through the Assistant Director for Prevention, shall formulate a long-range plan (hereinafter in this section referred to as the 'Prevention Plan') for research to be conducted by or through the National Institutes of Health and the national research institutes into the prevention of disease. The Prevention Plan shall be based on (i) information, provided by the National Center for Health Statistics and other sources, of the incidence and prevalence of disease and its economic and social consequences, and (ii) an evaluation of the status of research into the prevention of disease and the effect on the incidence and prevalence of disease which may be expected from such research.

"(B) The Prevention Plan shall include recommendations for—

"(i) investigations into the epidemiology of disease;

"(ii) studies of the etiology of disease, including—

"(I) the effect of diet and other personal habits on the development of disease; and

"(II) the effect of environmental factors, including air, water, radiation, and toxic substances, on the development of disease;

"(iii) research into immunizations against disease;

"(iv) studies of the means to preclude the development of disease through changes in personal habits and environmental factors; and

"(v) studies of methods for, and the cost-effectiveness of, population screening programs.

"(C) In preparing the Prevention Plan, the Director of NIH shall confer with the Directors of the Centers for Disease Control and the National Center for Health Statistics and representatives of other Federal and State agencies and private associations as may be appropriate.

"(f) The Director of NIH shall establish a process for the prompt and appropriate response to information provided the Director of NIH respecting (1) scientific fraud in connection with projects for which funds have been made available under this title, and (2) incidences of violations of the rights of human subjects of research for which funds have been made available under this title. The process shall include procedures for the receiving of reports of such information from recipients of funds under this title and taking appropriate action with respect to such fraud and violations.

"NATIONAL INSTITUTES OF HEALTH ADVISORY BOARD

"SEC. 403. (a) The Secretary shall appoint a National Institutes of Health Advisory Board (hereinafter in this section referred to as the 'Advisory Board'). The Advisory Board shall advise, consult with, and make recommendations to the Secretary and the Director of NIH with respect to the functions under section 402 and with respect to the policies to be followed in the exercise of such functions.

"(b)(1) The Advisory Board shall consist of—

"(A) twelve members appointed by the Secretary from among the leading representatives of the health and scientific disciplines;

"(B) five members appointed by the Secretary from leaders in the fields of public policy, law, health policy, economics, and management and one member appointed by the Secretary from the general public; and

"(C) such ex officio members as the Secretary may designate to assist the Advisory Board in carrying out its functions.

Not less than four of the appointed members of the Advisory Board shall be experts in public health or the behavioral or social sciences.

"(2) Members of the Advisory Board who are officers or employees of the United States shall not receive any compensation for service on the Advisory Board. The other members of the Advisory Board shall receive, for each day they are engaged in the performance of the functions of the Advisory Board, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime.

"(c) The term of office of an appointed member of the Advisory Board is four years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and of the members first appointed to the Advisory Board—

"(1) five members shall be appointed for a term of three years,

"(2) five members shall be appointed for a term of two years, and

"(3) three members shall be appointed for a term of one year,

as designated by the Secretary at the time of appointment. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of four years may not be reappointed to the Advisory Board before two years from the date of the expiration of such term of office. If a vacancy occurs in the Advisory Board, the Secretary shall make an appointment to fill the vacancy not later than ninety days from the date the vacancy occured.

"(d) The chairman of the Advisory Board shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of NIH to be the chairman of the Advisory Board. The term of office of the chairman shall be two years.

"(e) The Advisory Board shall meet at the call of the chairman or upon the request of the Director of NIH, but at least three times in each fiscal year. The Advisory Board may hold such hearings, take such testimony, and sit and act at such times and places as the Advisory Board deems advisable to carry out its functions. The location of the meetings of the Advisory Board is subject to the approval of the Director of NIH.

"(f) The Director of NIH shall designate a member of the staff of the National Institute of Health to serve as the executive secretary of the Advisory Board. The Director of NIH shall make available to the Advisory Board such staff assistants, information, and other assistance as it may require to carry out its functions. The Director of NIH shall provide orientation and training for new members of the Advisory Board to provide them with such information and training as may be appropriate for their effective participation in the functions of the Advisory Board.

"(g) In carrying out its functions the Advisory Board may appoint subcommittees with the approval of the Director of NIH.

"(h) The Advisory Board shall prepare, for inclusion in the biennial report under section 404, a biennial report respecting the activities of the Advisory Board and including its recommendations respecting the program policies of the Secretary and the Director of NIH.

"BIENNIAL REPORT

"SEC. 404. The Secretary shall transmit to the President and to the Congress a biennial report which shall be prepared by the Director of NIH and which shall consist of—

"(1) a description of the activities carried out through the National Institutes of Health and the policies respecting the programs of the National Institutes of Health and such recommendations respecting such policies as the Secretary deems appropriate;

"(2) without revision, the biennial report of the National Institutes of Health Advisory Board; and

"(3) the biennial reports of the Directors of each of the national research institutes.

The first report under this section shall be submitted not later than the first November 30 which occurs at least eighteen months after the date of the enactment of this section and shall relate to the two-fiscal-year period ending on the preceding September 30.

"CENTERS FOR RESEARCH AND DEMONSTRATION OF HEALTH PROMOTION AND DISEASE PREVENTION

"SEC. 405. (a) The Director of NIH shall establish and maintain Centers for Research and Demonstration of Health Promotion and Disease Prevention to undertake research and demonstration projects in health promotion, disease prevention, and improved methods of appraising health hazards and risk factors. The centers shall serve as demonstration sites for the use of new and innovative research in public health techniques to prevent chronic diseases.

"(b) Each center assisted under this section shall—

"(1) be located in an academic health center with—

"(A) a multidisciplinary public health faculty which has demonstrated working relationships with relevant groups in such fields as medicine, nursing, social work, pharmacy, education, and business;

"(B) graduate training programs relevant to disease prevention;

"(C) core faculty in epidemiology, biostatistics, social sciences, behavioral and environmental health sciences, and health administration;

"(D) demonstrated core medical school curriculum in disease prevention;

"(E) residency training capability in public health and preventive medicine; and

"(F) such other qualifications as the Secretary may prescribe.

"(2) conduct—

"(A) health promotion and disease prevention research on retrospective and longitudinally prospective bases in population groups and communities;

"(B) demonstration projects for the delivery of health promotion and disease prevention services to defined population groups using, as appropriate, community outreach and organization techniques and other methods of educating and motivating communities; and

"(C) evaluation studies on the efficacy of its demonstration projects.

"(c) During fiscal year 1983 ten centers shall be established under subsection (a); during fiscal year 1984 an additional ten centers shall be established under such subsection; and during fiscal year 1985 an additional five centers shall be established under such subsection. Such centers shall be distributed geographically as well as within areas containing a wide range of population groups which exhibit disease incidences which are most amenable to preventive intervention.

"(d) For centers under this section there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1983, $20,000,000 for the fiscal year ending September 30, 1984, and $25,000,000 for the fiscal year ending September 30, 1985.

"PART B—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

"APPOINTMENT AND AUTHORITY OF THE DIRECTORS OF THE NATIONAL RESEARCH INSTITUTES

"SEC. 407. (a) The Director of the National Cancer Institute shall be appointed by the President, and the Directors of the other national research institutes shall be appointed by the Secretary.

"(b)(1) With respect to the human disease or disorder or other aspect of human health for which the institutes were established, the Secretary, acting through the Director of each national research institute—

"(A) shall encourage and support research, investigations, experiments, demonstrations, and studies in the health sciences related to—

"(i) the maintenance of health,

"(ii) the detection, diagnosis, treatment, and prevention of human diseases and other disorders,

"(iii) the rehabilitation of individuals with human diseases, disorders, and disabilities, and

"(iv) the expansion of knowledge of the processes underlying human diseases, disorders, and disabilities, the processes underlying the normal and pathological functioning of the body and its organ systems, and the processes underlying the interactions between the human organism and the environment;

"(B) may, subject to the review prescribed under section 472 and advisory council review prescribed by section 408(a)(3)(A)(i), conduct the research, investigations, experiments, demonstrations, and studies referred to in subparagraph (A);

"(C) may conduct and support research training for which fellowship support may not be provided under section 475;

"(D) shall develop, implement, and support demonstrations and programs for the application of the results of the activities of the institute to clinical practice and disease prevention activities;

"(E) shall develop, conduct, and support public and professional education and information programs;

"(F) shall secure, develop and maintain, distribute, and support the development and maintenance of resources needed for research;

"(G) may make available the facilities of the institutes to appropriate entities and individuals engaged in research activities and cooperate with and assist Federal and State agencies charged with protecting the public health;

"(H) may accept unconditional gifts made to the institutes for their activities, and, in the case of gifts of a value in excess of $50,000, establish suitable memorials to the donor;

"(I) may secure for the institutes consultation services and advice of persons from the United States or abroad;

"(J) may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(K) may accept voluntary and uncompensated services; and

"(L) may perform such other functions as the Secretary determines are needed to carry out effectively the purposes of the institutes.

The indemnification provisions of section 2354, title 10, United States Code, shall apply with respect to contracts entered into under this subsection and section 402(b).

"(2) Support for an activity or program under this subsection may be provided through grants, contracts, and cooperative agreements. The Secretary, acting through the Director of each national research institute—

"(A) may approve any contract for resources for research conducted at or through the institute, except that if the total cost of the contract to be approved exceeds $500,000 the contract may be approved only after a peer review group authorized by regulations under section 480 has recommended approval of the contract;

"(B) may approve other contracts under paragraph (1) for research or training only if a peer review group authorized by regulations under section 480 has recommended approval of the contracts; and

"(C) may approve grants and cooperative agreements under paragraph (1) for research or training; except that—

"(i) if the direct cost of the grant or cooperative agreement to be approved does not exceed $35,000, such grant or cooperative agreement may be approved only after appropriate technical and scientific review in accordance with section 480, and

"(ii) if the direct cost of the grant, or cooperative agreement to be approved exceeds $35,000, such grant or cooperative agreement may be approved only after appropriate technical and scientific review in accordance with section 480 and recommendation for approval by the advisory council to the institute.

"(c) In carrying out subsection (b), each Director of a national research institute shall—

"(1) coordinate, as appropriate, the activities of the institute with similar programs of other public and private entities; and

"(2) cooperate with the Directors of other national research institutes in the development and support of multidisciplinary research and research that involves more than one institute.

"(d) In addition to the Assistant Director appointed under section 424(c), the Director of each national research institute shall establish in the Office of the Director an office to administer and promote the prevention research programs of the institute and to administer the portion of the section 402(e) plan applicable to the institute.

"ADVISORY COUNCILS

"SEC. 408. (a)(1) Except as provided in subsection (i), the Secretary shall appoint an advisory council for each national research institute which (A) shall advise, assist, consult with, and make recommendations to the Secretary and the Director of the institute on matters related to the activities carried out through the institute and the policies respecting such activities, and (B) shall carry out the special functions prescribed by part C.

"(2) Each advisory council for a national research institute shall recommend to the Secretary acceptance, in accordance with section 2101, of conditional gifts for study, investigation, or research respecting the disease, diseases, or other aspect of human health with respect to which the institute was established, for the acquisition of grounds, or for the construction, equipping, or maintenance of facilities for the institute.

"(3) Each advisory council for a national research institute—

"(A)(i) shall (I) on the basis of the materials provided under section 480(d)(2) respecting research conducted at the institute, make recommendations to the Director of the institute respecting such research, and (II) periodically review the program of research which is being carried out at the institute and make recommendations to the Director respecting the program,

"(ii) shall review applications for grants and cooperative agreements for research or training and for which advisory council approval is required under section 407(b)(2) and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge, and (iii) may review any grant, or cooperative agreement proposed to be made or entered into;

"(B) may collect information as to studies which are being carried on in the United States or any other country as to such disease, diseases, or other aspect of human health by correspondence or by personal investigation of such studies, and with the approval of the Director of the institute make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public;

"(C) shall advise the Secretary and the Director of the institute respecting the portion of the funds appropriated for the institute which should be obligated for grants, contracts, and cooperative agreements; and

"(D) may appoint subcommittees and convene workshops and conferences.

"(b)(1) Each advisory council shall consist of ex officio members and eighteen members appointed by the Secretary. The ex officio members of an advisory council shall consist of the Secretary, the Director of NIH, the Director of the national research institute for which the council is established, the Chief Medical Officer of the Veterans' Administration, a medical officer designated by the Secretary of Defense, or the designees of such persons and such additional officers or employees of the United States as the Secretary deems necessary for the advisory council to effectively carry out its functions. The members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Twelve members shall be appointed from among the leading representatives of the health and scientific disciplines relevant to the activities of the institute for which the advisory council is established.

"(B) Five members appointed by the Secretary from leaders in each of the fields of public policy, law, health policy, economics, and management and one member appointed by the Secretary from the general public.

Of the members appointed to each advisory council, not less than four shall be experts in public health or the behavioral or social sciences.

"(2) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime.

"(c) The term of office of an appointed member of an advisory council is four years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such a manner as to stagger the terms of the members. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of four years may not be reappointed to an advisory council before two years from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within ninety days from the date the vacancy occurs.

"(d) The chairman of an advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the institute for which the advisory council is established to be the chairman of the advi-

sory council. The term of office of the chairman shall be two years.

"(e) The advisory council shall meet at the call of the chairman or upon the request of the Director of the national research institute for which it was established, but at least three times each fiscal year. The advisory council may hold such hearings, take such testimony, and sit and act at such times and places as the advisory council deems advisable to carry out its functions. The location of the meetings of each advisory council is subject to the approval of the Director of the institute for which the council was established.

"(f) The Director of the national research institute for which an advisory council is established shall designate a member of the staff of the institute to serve as the executive secretary of the advisory council. The Director of such institute shall make available to the advisory council such staff assistants, information, and other assistance as it may require to carry out its functions. The Director of such institute shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.

"(g) Each advisory council may prepare, for inclusion in the biennial report made under section 404, (1) comments respecting the activities of the advisory council in the fiscal years respecting which the report is prepared, (2) comments on the progress of the national research institute for which it was established in meeting its objectives, and (3) recommendations respecting the future directions and program and policy emphasis of the institute.

"(h)(1) Except as provided in paragraph (2), this section does not terminate the membership of any advisory council to a national research institute which was in existence on the date of the enactment of the Health Research Act of 1982. After such date—

"(A) the Secretary shall make appointments to each such advisory council in such a manner as to bring about as soon as practicable the composition prescribed by this section.

"(B) each advisory council shall organize itself in accordance with this section and exercise the functions prescribed by this section, and

"(C) the Director of each national research institute shall perform for such advisory council the functions prescribed by this section.

"(2)(A) This section applies to the National Cancer Advisory Board, the advisory council for the National Cancer Institute, except that (i) appointments to such Board shall be made by the President, (ii) of the members appointed to the Board not less than five members shall be individuals knowledgeable in environmental carcinogenesis (including carcinogenesis involving occupational and dietary factors), (iii) the chairman of the Board shall be selected by the President from the appointed members and shall serve as chairman for a term of two years, (iv) the ex officio members of the Board shall be the secretary, the Director of the Office of Science and Technology Policy, the Director of NIH, the chief medical officer of the Veterans' Administration, the Director of the National Institute for Occupational Safety and Health, the Director of the National Institute of Environmental Health Sciences, the Secretary of Labor, the Commissioner of the Food and Drug Administration, the Administrator of the Environmental Protection Agency, the Chairman of the Consumer Product Safety Commission or the designees of such persons, and a medical officer designated by the Secretary of Defense, and (v) the Board shall meet at least four times each fiscal year.

"(B) This section applies to the advisory council to the National Heart, Lung, and Blood Institute, except that the advisory council shall meet at least four times each fiscal year.

"BIENNIAL REPORT

"SEC. 409. The Director of each national research institute, after consultation with the advisory council to the institute, shall prepare for inclusion in the biennial report made under section 404 a biennial report which shall consist of a description of the activities and program policies of the Director of the institute in the fiscal years respecting which the report is prepared. The Director of each institute shall provide the advisory council of the institute an opportunity for the submission of the written comments referred to in section 408(g).

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 410. (a) The following amounts are authorized to be appropriated for the national research institutes:

"(1)(A) For the National Cancer Institute (other than its programs under sections 413 and 415), there are authorized to be appropriated $913,000,000 for the fiscal year ending September 30, 1983, $1,019,000,000 for the fiscal year ending September 30, 1984, and $1,131,000,000 for the fiscal year ending September 30, 1985.

"(B) There are authorized to be appropriated for the programs under section 413, $63,000,000 for the fiscal year ending September 30, 1983, $70,000,000 for the fiscal year ending September 30, 1984, and $78,000,000 for the fiscal year ending September 30, 1985.

"(C) There are authorized to be appropriated for section 415, $85,000,000 for the fiscal year ending September 30, 1983, $93,000,000 for the fiscal year ending September 30, 1984, and $103,000,000 for the fiscal year ending September 30, 1985.

"(2)(A) For the National Heart, Lung, and Blood Institute (other than its programs under section 422) there are authorized to be appropriated $587,000,000 for the fiscal year ending September 30, 1983, $655,000,000 for the fiscal year ending September 30, 1984, and $727,000,000 for the fiscal year ending September 30, 1985. Of the sums appropriated under this subsection for any fiscal year, not less than 15 per centum for such sums shall be reserved for programs respecting diseases of the lung and not less than 15 per centum of such sums shall be reserved for programs respecting blood diseases and blood resources.

"(B) There are authorized to be appropriated for the programs under section 422, $41,000,000 for the fiscal year ending September 30, 1983, $46,000,000 for the fiscal year ending September 30, 1984, and $51,000,000 for the fiscal year ending September 30, 1985.

"(3)(A) For each of the advisory boards under section 435 there are authorized to be appropriated $300,000 for the fiscal year ending September 30, 1983, $350,000 for the fiscal year ending September 30, 1984, and $360,000 for the fiscal year ending September 30, 1985.

"(B) For diabetes research and training centers under section 436 there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1983, $16,000,000 for the fiscal year ending September 30, 1984, and $17,500,000 for the fiscal year ending September 30, 1985.

"(C) For digestive diseases research centers under section 437 there are authorized to be appropriated $8,000,000 for the fiscal year ending September 30, 1983, $9,000,000 for the fiscal year ending September 30, 1984, and $10,000,000 for the fiscal year ending September 30, 1985.

"(D) For kidney and urologic diseases research centers under section 438, $1,000,000 for the fiscal year ending September 30, 1983, $3,000,000 for the fiscal year ending September 30, 1984, and $5,000,000 for the fiscal year ending September 30, 1985.

"(4)(A) For grants for arthritis and musculoskeletal diseases demonstration projects under section 446(a) there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1983, and for each of the next two fiscal years.

"(B) For multipurpose arthritis and musculoskeletal diseases centers under section 447 there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1983, $15,000,000 for the fiscal year ending September 30, 1984, and $18,000,000 for the fiscal year ending September 30, 1985.

"(5) For each of the data systems and clearinghouses under sections 432 and 444 there are authorized to be appropriated $1,500,000 for the fiscal year ending September 30, 1983, $1,000,000 for the fiscal year ending September 30, 1984, and $1,100,000 for the fiscal year ending September 30, 1985.

"(b) From appropriations under section 301 and this section, the Secretary shall make available to carry out section 309, $3,000,000 for each of the fiscal years 1983, 1984, and 1985. Not less than 15 per centum of the amount made available to carry out section 309 in any fiscal year shall be obligated for assessments, research, demonstrations, and evaluations directly undertaken through the Center under paragraph (1) or (2) of subsection (b) of such section.

"(c) There is authorized to be appropriated $16,000,000 for fiscal year 1983, $18,000,000 for fiscal year 1984, and $20,000,000 for fiscal year 1985 for basic and clinical research by the National Institute on Neurological and Communicative Disorders and Stroke in the area of spinal cord regeneration.

"PART C—SPECIFIC PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

"Subpart 1—National Cancer Institute

"PURPOSE OF INSTITUTE

"SEC. 411. The general purpose of the National Cancer Institute (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and related programs with respect to the cause, diagnosis, prevention, and treatment of cancer.

"NATIONAL CANCER PROGRAM

"SEC. 412. The national cancer program shall consist of (1) an expanded, intensified, and coordinated cancer research program encompassing the research programs conducted and supported by the Institute and the related research programs of the other national research institutes and including an expanded and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens, and (2) the other programs and activities of the Institute.

"CANCER CONTROL PROGRAMS

"SEC. 413. The Director of the Institute shall establish and support demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of cancer and for rehabilitation and counseling respecting cancer. Programs established and supported under this section shall include—

"(1) locally initiated education and demonstration programs (and regional networks of such programs) to transmit research results and to disseminate information respecting the detection, diagnosis, prevention, and treatment of cancer and rehabilitation and counseling respecting cancer to physicians and other health professionals who provide care to individuals who have cancer;

"(2) the demonstration of and the education of students of the health professions and health professionals in—

"(A) effective methods for the prevention and early detection of cancer and the identification of individuals with a high risk of developing cancer, and

"(B) improved methods of patient referral to appropriate centers for early diagnosis and treatment of cancer; and

"(3) the demonstration of new methods for the dissemination of information to the general public concerning the prevention, early detection, diagnosis, and treatment and control of cancer and information concerning unapproved and ineffective methods, drugs, and devices for the diagnosis, prevention, treatment, and control of cancer.

"SPECIAL AUTHORITIES OF THE SECRETARY AND THE DIRECTOR

"SEC. 414. (a) The Secretary, acting through the Director of the Institute, shall establish an information and education center to collect, identify, analyze, and disseminate on a timely basis, through publications and other appropriate means, to cancer patients and their families, physicians and other health professionals, and the general public, information on cancer research, diagnosis, prevention, and treatment (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer). The Director of the Institute may take such action as may be necessary to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Institute and other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"(b) The Director of the Institute in carrying out the national cancer program—

"(1) may establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for cancer research and set standards of safety and care for persons using such materials;

"(2) may, with the approval of the advisory council for the Institute, support (A) research in the cancer field outside the United States by highly qualified foreign nationals which research can be expected to inure to the benefit of the American people, (B) collaborative research involving American and foreign participants, and (C) the training of American scientists abroad and foreign scientists in the United States;

"(3) may, with the approval of the advisory council for the Institute, support appropriate programs of education (including continuing education) and training;

"(4) may encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research;

"(5) may obtain (with the approval of the Institute's advisory council and in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred and fifty-one experts or consultants who have scientific or professional qualifications;

"(6)(A) may—

"(i) with the approval of the Institute's advisory council, acquire and construct, and

"(ii) improve, repair, operate, and maintain, such laboratories, other research facilities, equipment, and other real or personal property (including patents) as the Director deems necessary;

"(B) may make grants for new construction or renovation of facilities; and

"(C) may acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years;

"(7) may, with the approval of the Institute's advisory council, appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions;

"(8) may, subject to section 407(b)(2), enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions, with any public agency, or with any person, firm, association, corporation, or educational institution; and

"(9)(A) shall prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate (including an estimate of the number and type of personnel needs for the Institute) for the national cancer program, after reasonable opportunity for comment (but without change) by the Secretary, the Director of NIH, and the Institute's advisory council; and (B) may receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the Institute.

"NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

"SEC. 415. The Director of the Institute, under policies established by the Director of NIH and after consultation with the Institute's advisory council, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers for basic and clinical research into, training in, and demonstration of advanced diagnostic, prevention, and treatment methods for cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 481), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) training, including training for allied health professionals, continuing education for health professionals and allied health professions personnel, and information programs for the public respecting cancer, and (4) demonstration purposes. As used in this section, the term 'construction' does not include the acquisition of land, and the term 'training' does not include research training for which fellowship support may be provided under section 475. Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"PRESIDENT'S CANCER PANEL

"SEC. 416. (a)(1) The President's Cancer Panel (hereinafter in this section referred to as the 'Panel') shall be composed of three persons appointed by the President who by virtue of their training, experience, and background are exceptionally qualified to appraise the national cancer program.

"(2)(A) Members of the Panel shall be appointed for three-year terms, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member who has been appointed for a term of three years may not be reappointed to the Panel before two years from the date of the expiration of such term of office. If a vacancy occurs in the Panel, the President shall make an appointment to fill the vacancy not later than ninety days from the date the vacancy occurred.

"(B) The President shall designate one of the members to serve as the chairman of the Panel for a term of one year.

"(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel.

"(3) The Panel shall meet at the call of the chairman, but not less often than four times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the chairman shall make such transcript available to the public.

"(b) The Panel shall monitor the development and execution of the activities of the national cancer program, and shall report directly to the President. Any delays or blockages in rapid execution of the program shall immediately be brought to the attention of the President. The Panel shall submit to the President periodic progress reports on the program and shall submit to the President, the Secretary, and the Congress an annual evaluation of the efficacy of the program and suggestions for improvements, and shall submit such other reports as the President shall direct.

"Subpart 2—National Heart, Lung, and Blood Institute

"PURPOSE OF THE INSTITUTE

"SEC. 421. The general purpose of the National Heart, Lung, and Blood Institute (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and other programs with respect to heart, blood vessel, lung, and blood diseases and with respect to the use of blood and blood products and the management of blood resources.

"HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASE PREVENTION AND CONTROL PROGRAMS

"SEC. 422. The Director of the Institute, under policies established by the Director of NIH and after consultation with the advisory council for the Institute, shall establish programs as necessary for cooperation with other Federal health agencies, State, local, and regional public health agencies, and nonprofit private health agencies in the diagnosis, prevention, and treatment (including the provision of emergency medical services) of heart, blood vessel, lung, and blood diseases, appropriately emphasizing the prevention, diagnosis, and treatment of such diseases of children.

"INFORMATION AND EDUCATION

"SEC. 423. The Secretary, acting through the Director of the Institute, shall collect, identify, analyze, and disseminate on a timely basis, through publications and other appropriate means, to patients, families of patients, physicians and other health professionals, and the general public, information on research, prevention, diagnosis, and treatment of heart, blood vessel, lung, and blood diseases, the maintenance of health to reduce the incidence of such diseases, and on the use of blood and blood products and the management of blood resources. In carrying out this section the Secretary shall place special emphasis upon—

"(1) the dissemination of information regarding diet and nutrition, environmental pollutants, exercise, stress, hypertension, cigarette smoking, weight control, and other factors affecting the prevention of arteriosclerosis and other cardiovascular diseases and of pulmonary and blood diseases, and

"(2) the dissemination of information designed to encourage children to adopt healthful habits respecting the risk factors related to the prevention of such diseases.

"NATIONAL HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASES AND BLOOD RESOURCES PROGRAM

"SEC. 424. (a) The National Heart, Blood Vessel, Lung, and Blood Diseases and Blood Resources Program (hereinafter in this subpart referred to as the 'Program') may provide for—

"(1) investigation into the epidemiology, etiology, and prevention of all forms and aspects of heart, blood vessel, lung, and blood diseases, including investigations into the social, environmental, behavioral, nutritional biological, and genetic determinants and influences involved in the epidemiology, etiology, and prevention of such diseases;

"(2) studies and research into the basic biological processes and mechanisms involved in the underlying normal and abnormal heart, blood vessel, lung, and blood phenomena;

"(3) research into the development, trial, and evaluation of techniques, drugs, and devices (including computers) used in, and approaches to, the diagnosis, treatment (including the provision of emergency medical services), and prevention of heart, blood vessel, lung, and blood diseases and the rehabilitation of patients suffering from such diseases;

"(4) establishment of programs that will focus and apply scientific and technological efforts involving biological physical, and engineering sciences to all facets of heart, blood vessel, lung, and blood diseases with emphasis on refinement, development, and evaluation of technological devices that will assist, replace, or monitor vital organs and improve instrumentation for detection, diagnosis, and treatment of those diseases;

"(5) establishment of programs for the conduct and direction of field studies, large-scale testing and evaluation, and demonstration of preventive, diagnostic, therapeutic, and rehabilitative approaches to, and emergency medical services for, such diseases;

"(6) studies and research into blood diseases and blood, and into the use of blood for clinical purposes and all aspects of the management of its resources in this country, including the collection, preservation, fractionation, and distribution of it and its products;

"(7) the education (including continuing education) and training of scientists, clinical investigators, and educators, in fields and specialties (including computer sciences) requisite to the conduct of clinical programs respecting heart, blood vessel, lung, and blood diseases and blood resources;

"(8) public and professional education relating to all aspects of such diseases, including the prevention of such diseases, and the use of blood and blood products and the management of blood resources;

"(9) establishment of programs for study and research into heart, blood vessel, lung, and blood diseases of children (including cystic fibrosis, hyaline membrane, Cooley's anemia, and hemolytic and hemophilic diseases) and for the development and demonstration of diagnostic, treatment, and preventive approaches to these diseases; and

"(10) establishment of programs for study, research, development, demonstrations and evaluation of emergency medical services for people who become critically ill in connection with heart, blood vessel, lung, or blood diseases.

The program shall be coordinated with other national research institutes to the extent that they have responsibilities respecting such diseases and shall give special emphasis to the continued development in the Institute of programs related to the causes of stroke and to effective coordination of such programs with related stroke programs in the National Institute of Neurological and Communicative Disorders and Stroke. The Director of the Institute, with the advice of the advisory council to the Institute, shall revise annually the plan for the program and shall carry out the program in accordance with such plan.

"(b) In carrying out the program, the Director of the Institute, under policies established by the Director of NIH—

"(1) may, after approval of the advisory council to the Institute, obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred experts or consultants who have scientific or professional qualifications;

"(2)(A) may—

"(i) after approval of the advisory council to the Institute, acquire and construct, and

"(ii) improve, repair, operate, alter, renovate, and maintain,

heart, blood vessel, lung, and blood disease and blood resource laboratory, research, training, and other facilities, equipment, and such other real or personal property (including patents) as the Director deems necessary; and

"(B) may acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise, through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years;

"(3) subject to section 407(b)(2), may enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of the Director's functions, with any public agency, or with any person, firm, association, corporation, or educational institutions; and

"(4) may make grants to public and nonprofit private entities to assist in meeting the cost of the care of patients in hospitals, clinics, and related facilities who are participating in research projects.

"(c) There shall be in the Institute an Assistant Director to coordinate and promote the prevention, education, and health information programs of the Institute and to carry out the part of the plan formulated under section 402(e)(2) applicable to the Institute. The Assistant Director shall be appointed by the Director of the Institute.

"NATIONAL RESEARCH AND DEMONSTRATION CENTERS FOR HEART, BLOOD VESSEL, LUNG, AND BLOOD DISEASES AND BLOOD RESOURCES

"SEC. 425. (a)(1) The Director of the Institute may provide, in accordance with subsection (b), for the development of—

"(A) ten centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for heart and blood vessel diseases;

"(B) ten centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for lung diseases (including bronchitis, emphysema, asthma, cystic fibrosis, and other lung diseases of children); and

"(C) ten centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods (including methods of providing emergency medical services) for blood diseases and research into blood, in the use of blood products and in the management of blood resources.

"(2) The centers developed under paragraph (1) shall, in addition to being utilized for research, training, and demonstrations, be utilized for the following prevention programs for cardiovascular, pulmonary, and blood diseases:

"(A) Programs to develop improved methods of detecting individuals with a high risk of developing cardiovascular, pulmonary, and blood diseases.

"(B) Programs to develop improved methods of intervention against those factors which cause individuals to have a high risk of developing such diseases.

"(C) Programs to develop health professions and allied health professions personnel highly skilled in the prevention of such diseases.

"(D) Programs to develop improved methods of providing emergency medical services for persons with such diseases.

"(E) Programs of continuing education for health and allied health professionals in the diagnosis, prevention, and treatment of such diseases and the maintenance of health to reduce the incidence of such diseases and information programs for the public respecting the prevention and early diagnosis and treatment of such diseases and the maintenance of health.

"(3) The research, training, and demonstration activities carried out through any such center may relate to any one or more of the diseases referred to in paragraph (1) of this subsection.

"(b) The Director of the Institute, under policies established by the Director of NIH and after consultation with the advisory council to the Institute, may enter into cooperative agreements with public or nonprofit private agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers for basic or clinical research into, training in, and demonstration of, the management of blood resources and advanced diagnostic, prevention, and treatment methods for heart, blood vessel, lung, or blood diseases. Funds paid to centers under cooperative agreements under this subsection may be used for—

"(1) construction (notwithstanding any limitation under section 481),

"(2) staffing and other basic operating costs, including such patient care costs as are required for research,

"(3) training, including training for allied health professions personnel, and

"(4) demonstration purposes.

Support of a center under this subsection may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"(c) As used in this section, the term 'construction' does not include the acquisition of land; and the term 'training' does not include research training for which fellowship support may be provided under section 475.

"INTERAGENCY TECHNICAL COMMITTEE

"SEC. 426. (a) The Secretary shall establish an Interagency Technical Committee on Heart, Blood Vessel, Lung and Blood Diseases and Blood Resources which shall be responsible for coordinating those aspects of all Federal health programs and activities relating to heart, blood vessel, lung, and blood diseases and to blood resources to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

"(b) The Director of the Institute shall serve as chairman of the Committee and the Committee shall include representation from all Federal departments and agencies whose programs involve health functions or responsibilities relevant to the functions of the Committee, as determined by the Secretary.

"(c) The Secretary shall establish a subcommittee of the Committee to (1) develop a coordinated plan for each of the national research institutes within the National Institutes of Health and other Federal programs and activities with respect to research and training concerning lung diseases; (2) assess the adequacy of management approaches for the activities within such institutes and other Federal programs and activities concerning lung diseases and for developing improved approaches; (3) monitoring and reviewing expenditures by such institutes and other Federal programs and activities concerning lung diseases; and (4) identifying research and training opportunities concerning lung diseases and recommending ways to utilize such opportunities. The subcommittee shall prepare an annual report for the Secretary and the Director of NIH.

"Subpart 3—National Institute of Diabetes and Digestive and Kidney Diseases

"PURPOSE OF THE INSTITUTE

"SEC. 431. The general purpose of the National Institute of Diabetes and Digestive and Kidney Diseases (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and related programs with respect to diabetes mellitus and endocrine and metabolic diseases, digestive diseases and nutrition, and kidney, urologic, and hematologic diseases.

"INFORMATION CLEARINGHOUSES AND DATA SYSTEMS

"SEC. 432. (a) The Director shall (1) establish the National Diabetes Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with diabetes, including, where possible, data involving general populations for the purpose of detection of individuals with a risk of developing diabetes, and (2) establish the National Diabetes Information Clearinghouse to facilitate and enhance knowledge and understanding of diabetes on the part of health professionals, patients, and the public through the effective dissemination of information.

"(b) The Director shall (1) establish the National Digestive Diseases Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with digestive diseases, including, where possible, data involving general populations for the purpose of detection of individuals with a risk of developing digestive diseases, and (2) establish the National Digestive Diseases Information Clearinghouse to facilitate and enhance knowledge and understanding of digestive diseases on the part of health professionals, patients, and the public through the effective dissemination of information.

"(c) The Director shall (1) establish the National Kidney Diseases Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with kidney diseases, including, where possible, data involving general populations for the purpose of detection of individuals with a risk of developing kidney diseases, and (2) establish the National Kidney Diseases Information Clearinghouse to facilitate and enhance knowledge and understanding of kidney diseases on the part of health professional, patients, and the public through the effective dissemination of information.

"ASSOCIATE DIRECTORS FOR DIABETES AND DIGESTIVE AND KIDNEY DISEASES

"SEC. 433. (a) In the Institute there shall be an Associate Director for Diabetes, Endocrinology, and Metabolic Diseases, an Associate Director for Digestive Diseases and Nutrition, and an Associate Director for Kidney, Urologic, and Hematologic Diseases who, under the supervision of the Director, shall be responsible for—

"(1) developing a coordinated plan (including recommendations for expenditures) for each of the national research institutes within the National Institutes of Health with respect to research and training concerning diabetes and digestive and kidney diseases;

"(2) assessing the adequacy of management approaches for the activities within such institutes concerning such diseases and developing improved approaches if needed;

"(3) monitoring and reviewing expenditures by such institutes concerning such diseases; and

"(4) identifying research opportunities concerning such diseases and recommending ways to untilize such opportunities.

The Director shall transmit to the Director of NIH the plans, recommendations, and reviews of the Associate Directors under paragraphs (1) through (4) together with such comments and recommendations as the Director of the Institute determines appropriate.

"(b) The Director of the Institute, acting through the Associate Director for Kidney, Urologic, and Hematologic Diseases, the Associate Director for Digestive Diseases and Nutrition, and the Associate Director for Diabetes, Endocrinology, and Metabolic Diseases, shall—

"(1) carry out programs of support for research and training (other than training for which National Research Service Awards may be made under section 475) in the diagnosis, prevention, and treatment of digestive diseases and nutrition, diabetes mellitus, and endocrine and metabolic, kidney, urologic, and hematologic diseases, including support for training in medical schools, graduate clinical training, graduate training in epidemiology, epidemiology studies, clinical trials, and interdisciplinary research programs; and

"(2) establish programs of evaluation, planning, and dissemination of knowledge related to such research and training.

"INTERAGENCY COORDINATING COMMITTEES

"SEC. 434. (a) For the purpose of—

"(1) better coordination of the research activities of all the national research institutes relating to diabetes mellitus, digestive diseases, and kidney and urologic diseases; and

"(2) coordinating those aspects of all Federal health programs and activities relating to such diseases to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities;

the Secretary shall establish a Diabetes Mellitus Interagency Coordinating Committee, a Digestive Diseases Interagency Coordinating Committee, a Kidney and Urologic Diseases Coordinating Committee, and a Skin Disease Interagency Coordinating Committee (hereinafter in this section individually referred to as a 'Committee').

"(b) Each committee shall be composed of the Directors (or their designees) of each of the national research institutes and divisions involved in research involving the diseases with respect to which the committee is established, the Associate Directors of the Institute for the diseases for which the committee is established, the chief medical director (or the director's designee) of the Veterans' Administration, and a medical officer designated by the Department of Defense, and shall include representation from all other Federal departments and agencies whose programs involve health functions or responsibilities relevent to such diseases, as determined by the Secretary. Each committee shall be chaired by the Director of NIH (or his designee). Each committee shall meet at the call of the chairman, but not less often than four times a year.

"(c) Each committee shall prepare an annual report for—

"(1) the Secretary,

"(2) the Director of NIH, and

"(3) the Advisory Board established under section 435 for the diseases for which the committee was established,

detailing the work of the committee in the fiscal year for which the report was prepared in carrying out the coordinating activities described in paragraphs (1) and (2) of subsection (a). Such report shall be submitted not later than the one hundred and twentieth day after the end of each fiscal year.

"ADVISORY BOARDS

"SEC. 435. (a) The Secretary shall establish in the Institute the National Diabetes Advisory Board, the National Digestive Diseases Advisory Board, and the National Kidney and Urologic Diseases Advisory Board (hereinafter in this section individually referred to as an 'Advisory Board').

"(b) Each Advisory Board shall be composed of eighteen appointed members and nonvoting, ex officio members as follows:

"(1) The Secretary shall appoint—

"(A) twelve members from individuals who are scientists, physicians, and other health professionals, who are not officers or employees of the United States, and who represent the specialties and disciplines relevant to the diseases with respect to which the Advisory Board is established; and

"(B) six members from the general public who are knowledgeable with respect to such diseases, including at least one member who is a person who suffers from such a disease and one member who is a parent of a person who suffers from such a disease.

Of the appointed members at least five shall by virtue of training or experience be knowledgeable in health education, nursing, data systems, public information, or community program development.

"(2) The following shall be ex officio members of each Advisory Board: The Assistant Secretary for Health, the Director of NIH, the Director of the National Institute of Diabetes and Digestive and Kidney Diseases, the Director of the Center for Disease Control, the chief medical director of the Veterans' Administration, the Assistant Secretary for Medical Affairs of the Department of Defense (or the designees of such ex officio members), the Associate Director of the National Institute of Diabetes and Digestive and Kidney Diseases for the diseases for which the Board is established, and such other officers and employees of the United States as the Secretary deems necessary for the Advisory Board to carry out its functions. In the case of the National Diabetes Advisory Board, the following shall also be ex officio members: The Director of the National Heart, Lung, and Blood Institute, the Director of the National Eye Institute, the Director of the National Institute of Child Health and Human Development, the Administrator of the Health Resources Administration, and the Administrator of the Health Services Administration (or the designees of such ex officio members).

"(c) Members of an Advisory Board who are officers or employees of the Federal Government shall serve as members of the Advisory Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board.

"(d) The term of office of an appointed member of an Advisory Board is three years, except that no term of office may extend beyond the expiration of the Advisory Board. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office. If a vacancy occurs in an Advisory Board, the Secretary shall make an appointment to fill the vacancy not later than ninety days from the date the vacancy occurred.

"(e) The members of each Advisory Board shall select a chairman from among the appointed members.

"(f) The Secretary shall, after consultation with and consideration of the recommendations of an Advisory Board, provide the Advisory Board with an executive director and one other professional staff member. In addition, the Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with such additional professional staff members, such clerical staff members, and (through contracts or other arrangements) with such administrative support services and facilities, such information, and such services of consultants, as the Secretary determines are necessary for the Advisory Board to carry out its functions.

"(g) Each Advisory Board shall meet at the call of the chairman or upon request of the Director of the Institute, but not less often than four times a year.

"(h) Each Advisory Board shall—

"(1) review and evaluate the implementation of the plan (referred to in section 441) respecting the diseases with respect to which the Advisory Board was established and periodically update the plan to ensure its continuing relevance;

"(2) for the purpose of assuring the most effective use and organization of resources respecting such diseases, advise and make recommendations to the Congress, the Secretary, the Director of NIH, the Director of the Institute, and the heads of other appropriate Federal agencies for the implementation and revision of such plan; and

"(3) maintain liaison with other advisory bodies related to Federal agencies involved in the implementation of such plan, the coordinating committee for such diseases, and with key non-Federal entities involved in activities affecting the control of such diseases.

"(i) In carrying out its functions the Advisory Board may establish subcommittees, convene workshops and conferences, and collect data. Such subcommittees may be composed of Advisory Board members and nonmember consultants with expertise in the particular area addressed by such subcommittees. The subcommittees may hold such meetings as are necessary to enable them to carry out their activities.

"(j) Each Advisory Board shall submit to the Secretary and to the Congress an annual report which—

"(1) describes the Advisory Board's activities in the fiscal year for which the report is made;

"(2) describes and evaluates the progress made in such year in research, treatment, education, and training with respect to the diseases with respect to which the Advisory Board was established;

"(3) summarizes and analyzes expenditures made by the Federal Government for activities respecting such diseases in the fiscal year for which the report is made; and

"(4) contains the Advisory Board's recommendations (if any) for changes in the plan referred to in subsection (h)(1).

"(k) Each Advisory Board shall expire on September 30, 1985.

"(l) The National Diabetes Advisory Board and the National Digestive Diseases Advisory Board in existence on the date of the enactment of the Health Research Act of 1982 shall terminate not later than ninety days after such date. The Secretary shall make appointments to the Advisory Boards established under subsection (a) before the expiration of such days. The members of the Boards in existence on such date may be appointed, in accordance with subsections (b) and (d), to the Boards established under subsection (a) for diabetes and digestive diseases.

"DIABETES RESEARCH AND TRAINING CENTERS

"SEC. 436. (a) Consistent with applicable recommendations of the National Commission on Diabetes, the Director of the Institute shall provide for the development, or substantial expansion of centers for research and training in diabetes mellitus and related endocrine and metabolic diseases. Each center developed or expanded under this section shall (1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Secretary; and (2) conduct (A) research in the diagnosis and treatment of diabetes mellitus and related endocrine and metabolic diseases and the complications resulting from such diseases, (B) training programs for physicians and allied health personnel in current methods of diagnosis and treatment of such diseases and complications, and in research in diabetes, and (C) information programs for physicians and allied health personnel who provide primary care for patients with such diseases or complications. Insofar as practicable, centers developed or expanded under this section shall be located geographically on the basis of population density throughout the United States and in environments with proven research capabilities. A center may use funds provided under this subsection to provide stipends for nurses and allied health professionals enrolled in research training programs described in clause (B).

"(b) Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"DIGESTIVE DISEASES RESEARCH CENTERS

"SEC. 437. (a) Consistent with applicable recommendations of the National Digestive Diseases Advisory Board, the Director shall provide for the development or substantial expansion of centers for research in digestive diseases and related functional, congenital, metabolic disorders, and normal development of the digestive tract. Each Center developed or expanded under this section shall (1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research qualifications as may be prescribed by the Secretary; (2) develop and conduct basis and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of digestive diseases and related functional, congenital, or metabolic complications resulting from such diseases

or disorders, (3) shall encourage research into and programs for (A) providing information for physicians and others who care for patients with such diseases, disorders, and complications; patients and their families; and the general public; (B) model programs for cost effective and preventive patient care; and (C) training physicians and scientists in research on such diseases, disorders, and complications; and (4) may perform research and participate in epidemiological studies and gathering data relevant to digestive diseases and disorders to disseminate to the health care profession and to the public. Insofar as practicable, Centers established, developed, or expanded under this section should be geographically dispersed throughout the United States and in environments with proven research capabilities.

"(b) Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"KIDNEY AND UROLOGIC DISEASES RESEARCH CENTERS

"SEC. 438. (a) The Director shall provide for the development or substantial expansion of centers for research in kidney and urologic diseases. Each center developed or expanded under this section shall (1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research qualifications as may be prescribed by the Secretary; (2) develop and conduct basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of kidney and urologic diseases, (3) shall encourage research into and programs for (A) providing information by physicians and others who care for patients with such disease; patients and their families; and the general public; (B) model programs for cost effective and preventive patient care; and (C) training physicians and scientists in research on such diseases; and (4) may perform research and participate in epidemiological studies and gathering data relevant to kidney and urologic diseases to disseminate to the health care profession and to the public. Insofar as practicable, centers established, developed, or expanded under this section should be geographically dispersed throughout the United States and in environments with proven research capabilities.

"(b) Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"DIET THERAPY FOR KIDNEY FAILURE

"SEC. 429. The Director of the Institute shall conduct research into the role of diet therapy in the treatment of end stage renal disease. The Director shall report to Congress the results of such study not later than January 1, 1986. For the purposes of the study, there are authorized to be appropriated $1,000,000 for fiscal year 1983, $1,000,000 for fiscal year 1984, and $1,000,000 for fiscal year 1985.

"ADVISORY COUNCIL SUBCOMMITTEES

"SEC. 440. There are established within the advisory council of the Institute appointed under section 408 a subcommittee on diabetes and endocrine and metabolic diseases, a subcommittee on digestive diseases and nutrition, and a subcommittee on kidney, urologic, and hematologic diseases. The subcommittees shall be composed of members of the advisory council who are outstanding in the diagnosis, prevention, and treatment of the diseases for which the subcommittees are established and members of the advisory council who are leaders in the fields of education and public affairs. The subcommittees are authorized to review applications made to the Director for grants for research and training projects relating to the diagnosis, prevention, and treatment of the diseases for which the subcommittees are established and shall recommend to the advisory council those applications and contracts that the subcommittees determine will best carry out the purposes of the Institute. The subcommittees shall also review and evaluate the diabetes and endocrine and metabolic diseases, digestive diseases and nutrition, and kidney, urologic, and hematologic diseases programs of the Institute and recommend to the advisory council such changes in the administration of such programs as the subcommittees determine are necessary.

"BIENNIAL REPORT

"SEC. 441. The Director of the Institute shall prepare for inclusion in the biennial report made under section 404 a description of the Institute's activities—

"(1) under the current diabetes plan under the National Diabetes Mellitus Research and Education Act, and

"(2) under the current digestive diseases plan formulated under the Arthritis, Diabetes, and Digestive Diseases Amendments of 1976.

The description submitted by the Director shall include an evaluation of the activities of the centers supported under sections 436, 437, and 438.

"Subpart 4—National Institute of Arthritis and Musculoskeletal Diseases

"PURPOSES OF THE INSTITUTE

"SEC. 443. (a) The general purpose of the National Institute of Arthritis and Musculoskeletal Diseases (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and related programs with respect to arthritis and musculoskeletal and skin diseases, including sports-related disorders.

"(b) The Director of the Institute, with the advice of its advisory council, shall develop a plan for a national arthritis and musculoskeletal program to expand, intensify, and coordinate the activities of the Institute respecting the diseases, and shall carry out the program in accordance with such plan. The program shall be coordinated with the other national research institutes of the National Institutes of Health to the extent that they have responsibilities respecting such diseases and shall, at least, provide for—

"(1) investigation into the epidemiology, etiology, and prevention of all forms of arthritis and musculoskeletal diseases, including sports related disorders, primarily through support of basic research and such areas as immunology, genetics, biochemistry, microbiology, physiology, bioengineering, and any other scientific discipline which can contribute important knowledge to the treatment and understanding of these diseases;

"(2) research into the development, trial, and evaluation of techniques, drugs, and devices used in the diagnosis, treatment, and prevention of arthritis and musculoskeletal diseases;

"(3) research on the refinement, development, and evaluation of technological devices that will replace or be a substitute for damaged bone, muscle, and joints and other supporting structures; and

"(4) establish mechanisms to monitor the causes of athletic injuries and identify ways of preventing such injuries on scholastic athletic fields.

The Director shall transmit to the Director of NIH the plan required by this section, together with such comments and recommendations as the Director of the Institute determines appropriate.

"(c) The Director of the Institute shall—

"(1) carry out programs of support for research and training (other than training for which National Research Service Awards may be made under section 475) in the diagnosis, prevention, and treatment of arthritis, musculoskeletal diseases, and skin diseases, including support for training in medical schools, graduate clinical training, graduate training in epidemiology, epidemiology studies, clinical trials, and interdisciplinary research programs; and

"(2) establish programs of evaluation, planning, and dissemination of knowledge related to such research and training.

"INFORMATION CLEARINGHOUSE AND DATA SYSTEM

"SEC. 444. The Director shall (1) establish the National Arthritis and Musculoskeletal Diseases Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with arthritis and musculoskeletal diseases, including, where possible, data involving general populations for the purpose of detection of individuals with a risk of developing such diseases, and (2) establish the National Arthritis and Musculoskeletal Diseases Information Clearinghouse to facilitate and enhance knowledge and understanding of arthritis and musculoskeletal diseases on the part of health professionals, patients, and the public through the effective dissemination of information.

"INTERAGENCY COORDINATING COMMITTEES

"SEC. 445. (a) For the purpose of—

"(1) better coordination of the research activities of all the national research institutes relating to arthritis, skin diseases, and musculoskeletal diseases, including sports related disorders; and

"(2) coordinating those aspects of all Federal health programs and activities relating to such diseases to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities,

the Secretary shall establish an Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and a Skin Disease Interagency Coordinating Committee (hereinafter in this section individually referred to as a 'Committee').

"(b) Each Committee shall be composed of the Director (or his designee) of the Institute and its divisions involved in research involving arthritis and musculoskeletal diseases, the chief medical director (or the director's designee) of the Veterans' Administration, and a medical officer designated by the Department of Defense, and shall in-

clude representation from all other Federal departments and agencies whose programs involve health functions or responsibilities relevant to arthritis and musculoskeletal diseases, as determined by the Secretary. Each Committee shall be chaired by the Director of NIH (or his designee). Each Committee shall meet at the call of the chairman, but not less often than four times a year.

"(c) Each Committee shall prepare and annual report for—

"(1) the Secretary, and

"(2) the Director of NIH,

detailing the work of the Committee in the fiscal year for which the report was prepared in carrying out the coordinating activities described in paragraphs (1) and (2) of subsection (a). Such report shall be submitted not later than the one hundred and twentieth day after the end of each fiscal year.

"ARTHRITIS AND MUSCULOSKELETAL DISEASES DEMONSTRATION PROJECTS

"SEC. 446. (a) The Secretary may make grants to public and other nonprofit entities to establish and support projects for the development and demonstration of methods for arthritis and musculoskeletal diseases screening and detection and for referral for treatment, and for dissemination of information on these methods to the health and allied health professions. Activities under such projects shall be coordinated with (1) Federal, State, local, and regional health agencies, (2) centers assisted under section 447, and (3) the data system established under subsection (c).

"(b) Projects under this section shall include—

"(1) programs which emphasize the development and demonstration of new and improved methods of screening and early detection, referral for treatment, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases;

"(2) programs which emphasize the development and demonstration of new and improved methods for patient referral from local hospitals and physicians to appropriate centers for early diagnosis and treatment;

"(3) programs which emphasize the development and demonstration of new and improved means of standardizing patient data and recordkeeping;

"(4) programs which emphasize the development and demonstration of new and improved methods of dissemination of knowledge about the projects and methods referred to in the preceding paragraphs of this subsection to health and allied health professionals;

"(5) programs which emphasize the development and demonstration of new and improved methods for the dissemination to the general public of information—

"(A) on the importance of early detection of arthritis and musculoskeletal diseases, of seeking prompt treatment, and of following an appropriate regiment; and

"(B) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive treatment, and control methods for arthritis and unapproved and ineffective drugs and devices for arthritis and musculoskeletal diseases; and

"(6) projects for the investigation into the epidemiology of all forms and aspects of arthritis and musculoskeletal diseases, including investigations into the social, environmental, behavioral, nutritional, and genetic determinants and influences involved in the epidemiology of such diseases.

"(c) The Director shall provide for the standardization of patient data and recordkeeping for the collection, storage, analysis, retrieval, and dissemination of such data in cooperation with projects under this section and centers assisted under section 447, and other persons engaged in arthritis and musculoskeletal diseases programs.

"MULTIPURPOSE ARTHRITIS AND MUSCULOSKELETAL DISEASES CENTERS

"SEC. 447. (a) The Director of the Institute shall, after consultation with the advisory council to the Institute and consistent with the arthritis plan developed pursuant to the National Arthritis Act of 1974, provide for the development, modernization, and operation (including staffing and other operating costs such as the costs of patient care required for research) of new and existing centers for arthritis and musculoskeletal diseases. For purposes of this section, the term 'modernization' means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers descried in the preceding sentence.

"(b) Each center assisted under this section shall—

"(1)(A) use of the facilities of a single institution or a consortium of cooperating institutions, and (B) meet such qualifications as may be prescribed by the Secretary; and

"(2) conduct—

"(A) basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of arthritis and musculoskeletal diseases and complications resulting from such diseases, including research into implantable biomaterials and biomechanical and other orthopaedic procedures;

"(B) training programs for physicians, scientists, and other health and allied health professionals;

"(C) information and continuing education programs for physicians and other health and allied health professionals who provide care for patients with arthritis and musculoskeletal diseases; and

"(D) programs for the dissemination to the general public of information—

"(i) on the importance of early detection of arthritis and musculoskeletal diseases, of seeking prompt treatment, and of following an appropriate regimen; and

"(ii) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods and unapproved and ineffective drugs and devices.

A center may use funds provided under subsection (a) to provide stipends for health professionals enrolled in training programs described in paragraph (2)(B).

"(c) Each center assisted under this section may conduct programs to—

"(1) establish the effectiveness of new and improved methods of detection, referral, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases,

"(2) disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping, and

"(3) develop community consultative services to facilitate the referral of patients to centers for treatment.

"(d) The Director shall insofar as practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of children affected by arthritis.

"(e) Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"BIENNIAL REPORT

"SEC. 448. The Director of the Institute shall prepare for inclusion in the biennial report made under section 404 a description of the Institute's activities under the current Arthritis Plan under the National Arthritis Act of 1974. The description submitted by the Director shall include an evaluation of the activities of the centers supported under section 447.

"Subpart 5—National Institute on Aging

"PURPOSE OF THE INSTITUTE

"SEC. 451. The general purpose of the National Institute on Aging (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of biomedical, social, and behavioral research, training, health information, and related programs with respect to the aging process and the diseases and other special problems and needs of the aged.

"SPECIAL FUNCTIONS OF THE SECRETARY

"SEC. 452. (a) In carrying out the training responsibilities under this Act or any other Act for health and allied health professions personnel, the Secretary shall take appropriate steps to insure the education and training of adequate numbers of allied health, nursing, and paramedical personnel in the field of health care for the aged.

"(b) The Secretary shall, through the Director of the Institute, conduct scientific studies to measure the impact on the biological, medical, and psychological aspects of aging of programs and activities assisted or conducted by the Department of Health and Human Services.

"(c) The Director of the Institute shall carry out public information and education programs designed to disseminate as widely as possible the findings of Institute-sponsored and other relevant aging research and studies and other information about the process of aging which may assist elderly and near-elderly persons in dealing with, and all Americans in understanding, the problems and processes associated with growing older.

"Subpart 6—National Institute of Allergy and Infectious Diseases

"PURPOSE OF THE INSTITUTE

"SEC. 455. The general purpose of the National Institute of Allergy and Infectious Diseases is the conduct and support of research, training, health information, and related programs with respect to allergic and immunologic diseases and disorders and infectious diseases.

"Subpart 7—National Institute of Child Health and Human Development

"PURPOSE OF THE INSTITUTE

"SEC. 457. The general purpose of the National Institute of Child Health and Human Development (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and related programs with respect to maternal health, child health, human growth and development, including

prenatal development, population research, and special health problems and requirements of mothers and children.

"SUDDEN INFANT DEATH SYNDROME

"SEC. 458. The Secretary shall, through the Director of the Institute, conduct and support research which specifically relates to sudden infant death syndrome.

"Subpart 8—National Institute of Dental Research

"PURPOSE OF INSTITUTE

"SEC. 461. The general purpose of the National Institute of Dental Research is the conduct and support of research, training, health information, and related programs with respect to the cause, prevention, and methods of diagnosis and treatment of dental diseases and conditions.

"Subpart 9—National Eye Institute

"PURPOSE OF INSTITUTE

"SEC. 463. The general purpose of the National Eye Institute (hereinafter in this subpart referred to as the 'Institute') is the conduct and support of research, training, health information, and related programs with respect to blinding eye diseases, visual disorders, mechanisms of visual function, preservation of sight, and the special health problems and requirements of the blind. The Secretary may, through the Director of the Institute and without regard to section 480, carry out a program of grants for public and private nonprofit vision research facilities.

"Subpart 10—National Institute of Neurological and Communicative Disorders and Stroke

"PURPOSE OF THE INSTITUTE

"SEC. 465. The general purpose of the National Institute of Neurological and Communicative Disorders and Stroke is the conduct and support of research, training, health information, and related programs with respect to neurological disease and disorder, stroke, and disorders of human communication.

"SPINAL CORD REGENERATION RESEARCH

"Sec. 466. (a) The Secretary shall establish in the Institute an Interagency Committee on Spinal Cord Injury to plan, develop, coordinate, and implement comprehensive Federal initiatives in research on spinal cord regeneration.

"(b)(1) The Committee shall consist of individuals from the—

"(A) National Institute on Neurological and Communicative Disorders and Stroke,

"(B) Department of Defense,

"(C) Department of Education,

"(D) Veterans' Administration,

"(E) Office of the Science Advisor to the President, and

"(F) National Science Foundation,

selected by the heads of such entities.

"(2) The Committee shall meet at least four times a year. The Secretary shall designate the Chairman from the representatives of the Committee selected under paragraph (1). The Secretary shall make such designations so that a representative from each agency referred to in paragraph (1) will serve as Chairman of the Committee. The Chairman shall serve for a term of one year.

"(c) Not later than one hundred and twenty days after the end of each fiscal year the Committee shall report to Congress on its activities in the fiscal year. The report shall include a description of research projects on spinal cord regeneration conducted or supported by Federal agencies in the fiscal year for which the report is made, the nature and purpose of each such project, the amounts expended for each such project, and an identification of the entity which conducted the research under each such project.

"(d) The Committee shall terminate September 30, 1985.

"Subpart 11—National Institute of General Medical Sciences

"PURPOSE OF THE INSTITUTE

"SEC. 471. The general purpose of the National Institute of General Medical Sciences is the conduct and support of research, training, and, as appropriate, health information and related programs with respect to general or basic medical sciences and related natural or behavioral sciences which have significance for two or more other national research institutes or are outside the general area of responsibility of any other national research institute.

"Subpart 12—National Institute of Environmental Health Sciences

"PURPOSE OF THE INSTITUTE

"SEC. 473. The general purpose of the National Institute of Environmental Health Sciences in the conduct and support of research, training, health information, and related programs with respect to factors in the environment that affect human health, directly or indirectly.

"PART D—AWARDS AND TRAINING

"NATIONAL RESEARCH SERVICE AWARDS

"SEC. 475. (a)(1) The Secretary shall—

"(A) provide National Research Service Awards for—

"(i) biomedical and behavioral research at the National Institute of Health and the Alcohol, Drug Abuse, and Mental Health Administration and under programs administered by the Division of Nursing of the Health Resources Administration, in matters relating to the cause, diagnosis, prevention, and treatment of the diseases or other health problems to which the activities of the Institutes and Administration and Division are directed,

"(ii) training at the National Institutes of Health and at the Administrations of individuals to undertake such research,

"(iii) biomedical and behavioral research at public and nonprofit private institutions, and

"(iv) pre- and post-doctoral training at public and private institutions of individuals to undertake biomedical and behavioral research, and

"(B) make grants to public and nonprofits private institutions to enable such institutions to make individuals selected by them National Research Service Awards for research (and training to undertake biomedical and behavioral research) in the matters described in subparagraph (A)(i).

A reference in this subsection to the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration shall be considered to include the institutes, divisions, and bureaus included in the Institutes or under the Administration, as the case may be.

"(2) National Research Service Awards may not be used to support residences.

"(3) In awarding National Research Service Awards under this section, the Secretary shall take account of the Nation's overall need for biomedical research personnel by giving special consideration to physicians who agree to undertake a minimum of two years of biomedical research.

"(b)(1) No National Research Service Award may be made by the Secretary to any individual unless—

"(A) the individual has submitted to the Secretary an application therefor and the Secretary has approved the application;

"(B) the individual provides, in such form and manner as the Secretary shall be regulation prescribe, assurances satisfactory to the Secretary that the individual will meet the service requirement of subsection (c)(1); and

"(C) in the case of a National Research Service Award for a purpose described in subsection (a)(1)(A)(iii), the individual has been sponsored (in such manner as the Secretary may by regulation require) by the institution at which the research or training under the award will be conducted.

An application for an award shall be in such form, submitted in such manner, and contain such information, as the Secretary may by regulation prescribe.

"(2) The making of grants under subsection (a)(1)(B) for National Research Service Awards shall be subject to review and approval by the appropriate advisory councils within the Department of Health and Human Services (A) whose activities relate to the research or training under the awards, or (B) for the entity at which such research or training will be conducted.

"(3) No grant may be made under subsection (a)(1)(B) unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary may be regulation prescribe. Subject to the provisions of this section other than paragraph (1) of this subsection, National Research Service Awards made under a grant under subsection (a)(1)(B) shall be made in accordance with such regulations as the Secretary shall prescribe.

"(4) The period of any National Research Service Awards made to any individual under subsection (a) may not exceed—

"(A) five years in the aggregate for predoctoral training, and

"(B) three years in the aggregate for postdoctoral training,

unless the Secretary for good cause shown waives the application of such limit to such individual.

"(5) National Research Service Awards shall provide for such stipends, tuition, fees, and allowances (including travel and subsistence expenses and dependency allowances), adjusted periodically to reflect increases in the cost of living, for the recipients of the awards as the Secretary may deem necessary. A National Research Service Award made to an individual for research or research training at a non-Federal public or nonprofit private institution shall also provide for payments to be made to the institution for the cost of support services (including the cost of faculty salaries, supplies, equipment, general research support, and related items) provided such individual by such institution. The amount of any such payments to any institution shall be determined by the Secretary and shall bear a direct relationship to the reasonable costs of the institution for establishing and maintaining the quality of its biomedical and behavioral research and training programs.

"(c)(1) Each individual who is awarded a National Research Service Award (other than an individual who is a pre-baccalaureate student who is awarded a National Research Service Award for research training) shall, in accordance with paragraph (3), engage in health research or teaching or any combination thereof which is in accord-

ance with the usual patterns of academic employment, for a period computed in accordance with paragraph (2).

"(2) For each month for which an individual receives a National Research Service Award which is made for a period in excess of twelve months, such individual shall engage in one month of health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment.

"(3) The requirement of paragraph (1) shall be complied with by any individual to whom it applies within such reasonable period of time, after the completion of such individual's award, as the Secretary shall by regulation prescribe. The Secretary shall by regulation prescribe the type of research and teaching in which an individual may engage to comply with such requirement and such other requirements respecting research and teaching as the Secretary considers appropriate.

"(4)(A) If any individual to whom the requirement of paragraph (1) is applicable fails, within the period prescribed by paragraph (3), to comply with such requirements, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula—

$$A=\Phi(t-s/t)$$

in which 'A' is the amount the United States is entitled to recover; 'ϕ' is the sum of the total amount paid under one or more National Research Service Awards to such individual; 't' is the total number of months in such individual's service obligation; and 's' is the number of months of such obligation served by him in accordance with paragraphs (1) and (2) of this subsection.

"(B) Any amount which the United States is entitled to recover under subparagraph (A) shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States. Until any amount due the United States under subparagraph (A) on account of any National Research Service Award is paid, there shall accrue to the United States interest on such amount at a rate fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date the United States becomes entitled to such amount.

"(5)(A) Any obligation of any individual under paragraph (3) shall be canceled upon the death of such individual.

"(B) The Secretary shall by regulation provide for the waiver or suspension of any such obligation applicable to any individual whenever compliance by such individual is impossible or would involve substantial hardship to such individual or would be against equity and good conscience.

"(d) There are authorized to be appropriated to make payments under National Research Service Awards and under grants for such awards $182,000,000 for the fiscal year ending September 30, 1982, $195,000,000 for the fiscal year ending September 30, 1983, $208,000,000 for the fiscal year ending September 30, 1984, and $221,000,000 for the fiscal year ending September 30, 1985. Of the sums appropriated under this subsection, not less than 15 per centum shall be made available for payments under National Research Service Awards provided by the Secretary under subsection (a)(1)(A) and not less than 50 per centum shall be made available for grants under subsection (a)(1)(B) for National Research Service Awards. In any fiscal year not more than 4 per centum of the amount obligated to be expended under this section may be obligated for National Research Service Awards for periods of three months or less.

"VISITING SCIENTIST AWARDS

"SEC. 476. (a) The Secretary may make awards (hereinafter in this section referred to as 'Visiting Scientist Awards') to outstanding scientists who agree to serve as visiting scientists at institutions of postsecondary education which have significant enrollments of disadvantaged students. Visiting Scientist Awards shall be made by the Secretary to enable the faculty and students of such institutions to draw upon the special talents of scientists from other institutions for the purpose of receiving guidance, advice, and instruction with regard to research, teaching, and curriculum development in the biomedical and behavioral sciences and such other aspects of these sciences as the Secretary shall deem appropriate.

"(b) The amount of each Visiting Scientist Award shall include such sum as shall be commensurate with the salary or remuneration which the individual receiving the award would have been entitled to receive from the institution with which the individual has, or had, a permanent or immediately prior affiliation. Eligibility for and terms of Visiting Scientist Awards shall be determined in accordance with regulations the Secretary shall prescribe.

"STUDIES RESPECTING BIOMEDICAL AND BEHAVIORAL RESEARCH PERSONNEL

"SEC. 477. (a) The Secretary shall, in accordance with subsection (b), arrange for the conduct of a continuing study to—

"(1) establish (A) the Nation's overall need for biomedical and behavioral research personnel, (B) the subject areas in which such personnel are needed and the number of such personnel needed in each such area, and (C) the kinds and extent of training which should be provided such personnel;

"(2) assess (A) current training programs available for the training of biomedical and behavioral research personnel which are conducted under this Act, at or through national research institutes under the National Institutes of Health and institutes under the Alcohol, Drug Abuse, and Mental Health Administration, and (B) other current training programs available for the training of such personnel;

"(3) identify the kinds of research positions available to and held by individuals completing such programs;

"(4) determine, to the extent feasible, whether the programs referred to in clause (B) of paragraph (2) would be adequate to meet the needs established under paragraph (1) if the programs referred to in clause (A) of paragraph (2) were terminated; and

"(5) determine what modifications in the programs referred to in paragraph (2) are required to meet the needs established under paragraph (1).

"(b)(1) The Secretary shall request the National Academy of Sciences to conduct the study required by subsection (a) under an arrangement under which the actual expenses incurred by such Academy in conducting such study will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such study.

"(2) If the National Academy of Sciences is unwilling to conduct such study under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such study and prepare and submit the reports thereon as provided in subsection (c).

"(3) The National Academy of Sciences or other group or association conducting the study required by subsection (a) shall conduct such study in consultation with the Director of NIH.

"(c) A report on the results of such study shall be submitted by the Secretary to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate at least once every two years.

"PART E—GENERAL PROVISIONS

"INSTITUTIONAL REVIEW BOARDS; ETHICS GUIDANCE PROGRAM

"SEC. 479. (a) The Secretary shall by regulation require that each entity which applies for a grant, contract, or cooperative agreement under this Act for any project or program which involves the conduct of biomedical or behavioral research involving human subjects submit in or with its application for such grant, contract, or cooperative agreement assurances satisfactory to the Secretary that it has established (in accordance with regulations which the Secretary shall prescribe) a board (to be known as an 'Institutional Review Board') to review biomedical and behavioral research involving human subjects conducted at or sponsored by such entity in order to protect the rights of the human subjects of such research.

"(b) The Secretary shall establish a program within the Department under which requests for clarification and guidance with respect to ethical issues raised in connection with biomedical or behavioral research involving human subjects are responded to promptly and appropriately.

"PEER REVIEW

"SEC. 480. (a) The Secretary, after consultation with the Director of NIH, and where appropriate, the head of the Division of Nursing of the Health Resources Administration (or the successor to such entity), shall by regulation require appropriate technical and scientific peer review of—

"(1) applications made for grants and cooperative agreements under this Act for biomedical and behavioral research (including research under programs of such Division of Nursing); and

"(2) biomedical and behavioral research and development contracts to be administered through the National Institutes of Health or the Divison of Nursing of the Health Resources Administration (or the successor to such entity).

"(b) Regulations promulgated under subsection (a) shall require that the review of grants, contracts, and cooperative agreements required by the regulations be conducted—

"(1) in a manner consistent with the system for scientific peer review applicable on the date of the enactment of the Health Research Act of 1982 to grants under this Act for biomedical and behavioral research, and

"(2) to the extent practical, by peer review groups performing such review on or before such date.

"(c) The members of any peer review group established under such regulations shall be individuals who by virtue of their

training or experience are eminently qualified to perform the review functions of the group and not more than one-fourth of the members of any peer review group established under such regulations shall be officers or employees of the United States.

"(d) The Director of NIH shall establish procedures for periodic, technical, and scientific peer review of research at the National Institutes of Health. Such procedures shall require that—

"(1) the reviewing entity be provided a written description of the research to be reviewed; and

"(2) the reviewing entity provide the advisory council of the national research institute involved with such description and the results of the review by the entity.

"USE OF APPROPRIATIONS UNDER THIS TITLE

"SEC. 481. Appropriations to carry out the purposes of this title shall be available for the acquisition of land or the erection of buildings only if so specified. Such appropriations, unless otherwise expressly provided, may be expended in the District of Columbia for personal services, stenographic recording and translating services; by contract if deemed necessary, without regard to section 3709 of the Revised Statutes; travel expenses (including the expenses of attendance at meetings when specifically authorized by the Secretary); rental, supplies and equipment, purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings; purchase, operation, and maintenance of passenger motor vehicles; printing and binding (in addition to that otherwise provided by law); and for all other necessary expenses in carrying out the provisions of this title.

"GIFTS

"SEC. 482. The Secretary may, in accordance with section 2101, accept conditional gifts for the National Institutes of Health or a national research institute or for the acquisition of grounds or for the erection, equipment, or maintenance of facilities for the National Institutes of Health or a national research institute. Donations of $50,000 or over for the National Institutes of Health or a national research institute for carrying out the purposes of this title may be acknowledged by the establishment within the National Institutes of Health or institute of suitable memorials to the donors.

"PART F—OTHER AGENCIES OF NIH

"NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND NATIONAL CENTER FOR HEALTH STATISTICS

"SEC. 483. The National Center for Health Services Research and the National Center for Health Statistics are agencies of the National Institutes of Health.".

CONFORMING AMENDMENTS

SEC. 3. (a) The National Advisory Health Council established under section 217 is terminated.

(b) Section 217(a) is amended—

(1) in the first sentence—

(A) by striking out "National Advisory Health Council, the National Advisory Mental Health Coucil, the National Advisory Council on Alcohol Abuse and Alcoholism, and the National Advisory Dental Research Council" and inserting in lieu thereof "National Advisory Mental Health Council and the National Advisory Council on Alcohol Abuse and Alcoholism"; and

(B) by striking out "by the Surgeon General with the approval of the Secretary of Health, Education, and Welfare" and inserting in lieu thereof "by the Secretary";

(2) in the second sentence—

(A) by striking out "in the case of the National Advisory Health Council, are skilled in the sciences related to health, and";

(B) by striking out "the National Advisory Mental Health Council, the National Advisory Council on Alcohol Abuse and Alcoholism, the National Advisory Heart Council, and the National Advisory Dental Research Council" and inserting in lieu thereof "the National Advisory Mental Health Council and the National Advisory Council on Alcohol Abuse and Alcoholism"; and

(C) by striking out ", alcohol abuse and alcoholism, and dental diseases and conditions" and inserting in lieu thereof "and alcohol abuse and alcoholism"; and

(3) by striking out the third sentence.

(c) Subsection (b) of section 217 is repealed and subsections (c) through (g) are redesignated as subsections (b) through (f), respectively.

(d) Section 222(c) is amended to read as follows:

"(c) Upon apointment of any such council or committee, the Secretary may delegate to such council or committee such advisory functions relating to grants-in-aid for research or training projects or programs, in the areas or fields with which such council or committee is concerned, as the Secretary determines to be appropriate.".

(e) Section 301(a) is amended—

(1) in paragraph (3), by striking out "as are recommended" through "for such fiscal year" and inserting in lieu thereof "as are recommended by the advisory council to the entity of the department supporting such projects or, in the case of mental health projects, by the National Advisory Mental Health Council; and make, upon recommendation of the advisory council to the entity of the department involved or the National Advisory Mental Health Council, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research"; and

(2) in paragraph (8), by striking out "recommendations of the National Advisory Health Council" through "such additional means"and inserting in lieu thereof "recommendations of the advisory councils to the entities of the department involved or, with respect to mental health, the National Advisory Mental Health Council, such additional means".

(f) Sections 305(a) and 306(a) (42 U.S.C. 242c(a), 242k(a)) are each amended (1) by striking out "in the Department of Health and Human Services", and (2) by striking out "and supervised" and all that follows in that section and inserting in lieu thereof a period and the following: "The Center shall be an agency of the National Institutes of Health.".

(g) Section 309(h) (42 U.S.C. 242n(h)) is amended by inserting "and" after "1981," in the first sentence and by striking out "1982," and all that follows in that sentence and inserting in lieu thereof "1982.".

TRANSFER OF NATIONAL LIBRARY OF MEDICINE TO THE NATIONAL INSTITUTES OF HEALTH

SEC. 4. (a) Part I of title III of the Public Health Service Act is transferred to title IV of such Act (as amended by section 2 of this Act), inserted at the end of such title, redesignated as part G, and amended as follows:

(1) Section 381 (42 U.S.C. 275) is amended—

(A) by inserting "(a)" before "In order",

(B) by striking out "there is hereby established in the Public Health Service" and inserting in lieu thereof "there is established as an agency of the National Institutes of Health",

(C) by striking out "381." and inserting in lieu thereof "485.", and

(D) by amending the section heading to read as follows:

"PURPOSE, ESTABLISHMENT, AND FUNCTION OF THE NATIONAL LIBRARY OF MEDICINE".

(2) Section 382 (42 U.S.C. 276) is amended—

(A) by striking out "subsection (c)" in subsection (a) and inserting in lieu thereof "subsection (d)",

(B) by striking out "section 383" in subsection (c) and inserting in lieu thereof "section 486",

(C) by striking out "SEC. 382. (a)" and inserting in lieu thereof "(b)",

(D) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(E) by striking out the section heading.

(3) Subsection (a) of section 388 (42 U.S.C. 280a-1(a)) is inserted just before section 383, redesignated as subsection (e), and amended by striking out "section 397" and inserting in lieu thereof "section 496".

(4) Sections 384 and 385 (42 U.S.C. 278, 279) are inserted after the subsection inserted by paragraph (3) and amended—

(A) by striking out "SEC. 384." and inserting in lieu thereof "(f)",

(B) by striking out the section heading of section 384,

(C) by striking out "SEC. 385." and inserting in lieu thereof "(g)",

(D) by striking out the section heading of section 385, and

(E) by striking out "section 383" in section 385 and inserting in lieu thereof "section 486".

(5) Section 383 (42 U.S.C. 277) is redesignated as section 486 and is amended in subsection (a) by striking out "in the Public Health Service".

(6) Section 386 (42 U.S.C. 280) is redesignated as section 487.

(7) Section 387 (42 U.S.C. 280a) is repealed.

(8) Section 388 (42 U.S.C. 280a-1) is amended by striking out subsection (b) and the section heading.

(b) Part J of title III of the Public Health Service Act is transferred to title IV of such Act (as amended by section 2 of this Act and subsection (a) of this section), inserted after the part inserted by subsection (a), redesignated as part H, and amended as follows:

(1) Section 390(c) (42 U.S.C. 280b(c)) is amended by striking out "and" after "1981," and by inserting before the period a comma and the following: "$8,000,000 for the fiscal year ending September 30, 1983, $8,500,000 for the fiscal year ending September 30, 1984, and $9,000,000 for the fiscal year ending September 30, 1985".

(2) Section 390(c) (42 U.S.C. 280b(c)) is amended by striking out "sections 393, 394, 395, 396, and 397" and inserting in lieu thereof "sections 492, 493, 494, 495, and 496".

(3) Section 392 (42 U.S.C. 280b-2) is amended (A) by striking out "section 383(a) shall, in addition to its functions prescribed under section 383" in subsection (a) and inserting in lieu thereof "section 486 shall, in addition to its functions prescribed under such section", and (B) by striking out "section 383(d)" in subsection (d) and inserting in lieu thereof "section 486(d)".

(4) Section 393(a) (42 U.S.C. 280b-4(a)) is amended by striking out "section 390(b)(2)"

and inserting in lieu thereof "section 489(b)(2)".

(5) Section 394(a) (42 U.S.C. 280b-5(a)) is amended by striking out "section 390(b)(2)" and inserting in lieu thereof "section 489(b)(2)".

(6) Section 394(b) is amended by striking out "section 390(b)(3)" and inserting in lieu thereof "section 489(b)(3)".

(7) Section 395(a) (42 U.S.C. 280b-7(a)) is amended by striking out "section 390(b)(4)" and inserting in lieu thereof "section 489(b)(4)".

(8) Section 396(a) (42 U.S.C. 280b-8(a)) is amended by striking out "section 390(b)(5)" and inserting in lieu thereof "section 489(b)(5)".

(9) Section 397(a) (42 U.S.C. 280b-9(a)) is amended by striking out "section 390(b)(6)" and inserting in lieu thereof "section 489(b)(6)".

(10) Sections 390 through 399 are redesignated as sections 489 through 498, respectively.

EXPANSION OF ARTHRITIS AND MUSCULOSKELETAL DISEASES RESEARCH

SEC. 5. The Director of the National Institute of Arthritis shall report by December 31, 1982, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the expansion of research on arthritis and musculoskeletal diseases by and through the Institute.

STUDY OF PERTUSSIS VACCINE

SEC. 6. The Directors of the National Institute of Child Health and Human Development and the National Institute of Alergies and Infectious Diseases shall jointly conduct a study of the safety and effectiveness of pertussis vaccine. The Directors shall make a report to the Congress not later than January 1, 1984, on the results of the study and shall include in the report recommendations—

(1) respecting actions which should be taken to improve the reporting of adverse reactions to pertussis vaccine;

(2) respecting actions which should be taken to promote better understanding by physicians and parents of the possible side effects of pertussis vaccine;

(3) respecting procedures for identifying children who are susceptible to adverse reactions to pertussis vaccine; and

(4) if the study determines the vaccine is not safe or effective, respecting the actions which the Institutes or other Federal agencies may take to assist in the development of a safe and effective pertussis vaccine.

STUDY OF PERSONNEL FOR HEALTH NEEDS OF THE ELDERLY

SEC. 7. (a) The Director of the National Institute on Aging shall conduct a study on the adequacy and availability of personnel to meet the current and projected health needs of elderly Americans through the year 2020.

(b) The Director shall report the results of the study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate by March 1, 1984. The report on the study shall contain recommendations on—

(1) the number of primary care physicians and other health personnel needed to provide adequate care for the elderly,

(2) the training needs of physicians (including specialists) and other health personnel to provide care responsive to the particular needs of the elderly,

(3) necessary changes in medicare and other third party reimbursement necessary to support training of primary care and other physicians to meet the needs of the elderly, and

(4) necessary program changes in third party reimbursement programs (including changes in medicare programs) to support training of other health personnel in the care of the elderly.

COMMERCIALIZATION STUDY

SEC. 8. (a) The Secretary of Health and Human Services shall arrange, in accordance with subsection (c), for a study to determine—

(1) the nature of recent agreements between (A) individual universities and other institutions which conduct biomedical research, and (B) private corporations engaged in the commercial use of the findings of biomedical research;

(2) the effects, both intended and inadvertent, of such agreements on the conduct of biomedical research by individual researchers and on the operation of universities and other institutions which conduct biomedical research; and

(3) the appropriate role for public funds in supporting biomedical research which may lead to products to be sold for private profit.

The report of such study shall include recommendations to individual researchers, universities and other institutions which conduct biomedical research, and private corporations concerning the most appropriate practices to be followed in such agreements. The report shall also provide for recommendations to the Secretary and the Congress regarding changes in policies regarding grants, and regulatory and statutory law (including patent law) necessary to protect the public interest in federally supported biomedical research.

(b) A final report of such study shall be completed no later than September 30, 1984. Such report shall be submitted to the Secretary.

(c)(1) The Secretary shall request the National Academy of Sciences to conduct the study required by subsection (a) under an arrangement under which the actual expenses incurred by such Academy in conducting such study will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such study.

(2) If the National Academy of Sciences is unwilling to conduct such study under such an arrangement, then the Secretary shall enter into a similar arrangement with other appropriate nonprofit private groups or associations under which such groups or associations will conduct such study and prepare and submit the reports thereon as provided in subsection (b).

(3) The National Academy of Sciences or other group or association conducting the study required by subsection (a) shall conduct such study in consultation with the Director of NIH.

INTERAGENCY COMMITTEE ON LEARNING DISABILITIES

SEC. 9. (a) Not later than ninety days after the date of the enactment of this Act, the Director of the National Institutes of Health shall establish an Interagency Committee on Learning Disabilities to review and assess Federal research priorities, activities, and findings regarding learning disabilities (including central nervous system dysfunction in children).

(b) The Committee shall be composed of such representatives as the Director may designate, but shall include representatives from the National Institute of Neurological and Communicative Disorders and Stroke, the National Institute of Child Health and Human Development, the National Institute of Allergy and Infectious Diseases, the National Institute of Environmental Health Sciences, and the Division of Research Resources of the National Institutes of Health.

(c) Not later than eighteen months after the date of the enactment of this Act, the Committee shall report to the Congress on its activities under subsection (a) and shall include in the report—

(1) the number of persons affected by learning disabilities and the demographic data which describes such persons;

(2) a description of the current research findings on the cause, diagnosis, treatment, and prevention of learning disabilities; and

(3) recommendations for legislation and administrative actions—

(A) to increase the effectiveness of research on learning disabilities and to improve the dissemination of the findings of such research, and

(B) respecting specific priorities for research in the cause, diagnosis, treatment, and prevention of learning disabilities.

(d) The Committee shall terminate on the ninetieth day following the date of the submission of the report under subsection (c).

SMALL BUSINESS REQUIREMENTS

SEC. 10. (a) The Secretary, acting through the Director of NIH, shall provide through September 30, 1984, such assistance as may be appropriate to individuals associated with small business firms to assist such individuals to prepare applications for grants, contracts, and cooperative agreements made under title IV of the Public Health Service Act. The Secretary shall also insure that qualified scientists employed by small business firms are, at such time as new appointments are appropriate, invited to participate as members of scientific peer review committees appointed under section 402(b)(5) of the Public Health Service Act.

(b) The Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate no later than September 30, 1984, on the activities undertaken to provide assistance to small business firms and on applications made by small business firms for grants, contracts, and cooperative agreements under title IV of the Public Health Service Act.

EFFECTIVE DATE

SEC. 11. This Act and the amendments made by this Act shall take effect October 1, 1982. The authority to enter into contracts under sections 7, 8, 9, and 10 shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that the committee amendments be considered on bloc, considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. WALKER. Reserving the right to object, Mr. Chairman, among the

committee amendments to be considered en bloc is there any amendment with regard to the transfer of NIOSH included in those committee amendments?

Mr. WAXMAN. Mr. Chairman, if the gentleman will yield to me, there is nothing to do with the National Institute of Occupational Safety and Health in the committee amendments.

Mr. WALKER. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The committee amendments offered en bloc are as follows:

Committee amendments: Page 3, insert before the period in line 23 the following: "or established under subsection (b)".

Page 8, line 6, insert "for Prevention" after "Director".

Page 10, lines 1, 3, and 5, strike out "title" and insert in lieu thereof "Act".

Page 13, strike out line 16 and insert in lieu thereof the following:

"REPORT OF THE DIRECTOR OF NIH

Page 15, line 1, insert "psychology," before "nursing" and insert a comma after "education" in line 2.

Page 51, line 17, strike out "monitoring" and insert in lieu thereof "monitor", in line 19 strike out "identifying" and insert in lieu thereof "identify", and beginning in line 21 strike out "recommending" and insert in lieu thereof "recommend".

Page 53, beginning in line 22 strike out ", Endocrinology and Metabolic Diseases", beginning in line 23 strike out "and Nutrition", and beginning on page 54, line 1 strike out ", Urologic, and Hematologic".

Page 54, line 23, strike out ", Urologic, and Hematologic", beginning on page 54, line 24, strike out "and Nutrition", and on page 55, line 2, strike out ", Endocrinology, and Metabolic Diseases".

Page 56, line 6, insert "and" before "a Kidney" and beginning in line 7 strike out ", and a Skin Disease Interagency Coordinating Committee".

Page 61, lines 1 and 2, insert "in the case of the Advisory Boards for diabetes and digestive diseases," before "review".

Page 61, line 20, strike out "the" and insert in lieu thereof, "each".

Page 72, line 11, insert after "diseases" the following: "or skin diseases, as may be appropriate".

Page 99, line 18, strike out "(g)" and insert in lieu thereof "(e) and subsection (g)".

Page 99, line 19, strike out "(f)" and insert in lieu thereof "(e)".

Page 105, line 15, insert "and Musculoskeletal Diseases" before "shall".

Page 105, strike out line 21 and all that follows through line 16 on page 106, and insert in lieu thereof the following:

STUDY OF PERTUSSIS VACCINES

SEC. 6. (a) The Director of the National Institutes of Health, in consultation with the Directors of the National Institute of Child Health and Human Development, the National Institute of Allergy and Infectious Diseases, and the National Institute of Neurological and Communicative Disorders and Stroke and with organizations of parents concerned with the safety and effectiveness of pertussis vaccines, shall conduct a study of the safety and effectiveness of pertussis vaccines used in the United States and of the comparative safety and effectiveness of pertussis vaccines not being used in the United States. The Director of the National Institutes of Health shall where appropriate request the Food and Drug Administration and the Center for Disease Control to conduct parts of the study.

(b)(1) The Director of the National Institutes of Health shall complete the study prescribed by subsection (a) and make a report on it to the Congress and the Secretary of Health and Human Services not later than April 1, 1983, or six months after the date of the enactment of this Act, whichever is later. Within sixty days of the report to the Congress, the Secretary of Health and Human Services shall submit a report to Congress describing actions proposed to be taken by the Secretary in response to the recommendations included in the report.

(2) The report of the Director of the National Institutes of Health shall include—

(A) data on the extent of the reporting and recordkeeping of adverse reactions to pertussis vaccines and recommendations respecting the actions which should be taken to improve such reporting and recordkeeping;

(B) recommendations respecting actions which should be taken to promote better understanding by physicians and parents to the possible side effects of pertussis vaccines;

(C) recommendations respecting procedures for identifying children who are susceptible to adverse reactions to pertussis vaccines and the conditions under which pertussis vaccines should be contraindicated; and

(D) a description of the actions being taken by the National Institutes of Health and its national research institutes and other Federal agencies to promote development of effective and safer pertussis vaccines and recommendations for actions to be taken by such Federal agencies to promote such vaccines.

Page 113, insert after line 20 the following:

STUDY OF NATIONAL RESEARCH INSTITUTES

SEC. 11. (a)(1) The Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall in accordance with subsection (b) arrange for the conduct of a study of the effectiveness of the existing combinations of disease research programs within the individual national research institutes and of the standards which should be followed in establishing new or realigning existing national research institutes.

(2) The Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the results of the study. The report shall be submitted not later than 18 months after the date of the enactment of this Act.

(b)(1) The Secretary of Health and Human Services shall request the National Acadamy of Sciences, through the Institute of Medicine, to conduct the study required by subsection (a)(1) under an arrangement under which the actual expenses incurred by the Academy in conducting such study will be paid by the Secretary and the Academy will prepare the report required by subsection (a)(2). If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with the Academy for the conduct of the study.

(2) If the National Academy of Sciences is unwilling to conduct such study under such an arrangement, the Secretary shall enter into a similar arrangement with other appropriate nonprofit private entities.

(c) No national research institute, other than the National Institute of Arthritis and Musculoskeletal Diseases, shall be established in addition to the institutes in existence on the date of the enactment of this Act before the expiration of 6 months after the submission of the report referred to in subsection (a)(2).

(d) The Secretary of Health and Human Services shall conduct an administrative review of the disease research programs within the National Institute of Diabetes and Digestive and Kidney Diseases to determine if any of such programs could be more effectively and efficiently managed by other national research institutes. The Secretary shall complete such review within the sixty-day period beginning on the date of enactment of this Act.

Page 115, line 16, strike out "11" and insert in lieu thereof "12", insert before the period in line 17, a comma and "or on the date of the enactment of this Act whichever date occurs later", and in line 19, strike out "10" and insert in lieu thereof "11".

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

The CHAIRMAN. Are there any further amendments?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BROYHILL: Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. (a) This Act may be cited as the "Biomedical Research and Library Extension Act of 1982".

NATIONAL CANCER INSTITUTE

SEC. 2. (a) Section 410(a) of the Public Health Service Act (42 U.S.C. 286e(a)) is amended by striking out "and" after "1981;", and by inserting before the period a semicolon and "$925,450,490 for the fiscal year ending September 30, 1983; $980,977,600 for the fiscal year ending September 30, 1984; $1,030,026,400 for the fiscal year ending September 30, 1985".

(b) Section 410(a) of such Act is amended by striking out "and" after "1981;", and by inserting before the period a semicolon and "$59,195,600 for the fiscal year ending September 30, 1983; $62,747,350 for the fiscal year ending September 30, 1984; $65,884,720 for the fiscal year ending September 30, 1985".

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

SEC. 3. (a) Section 414(a) of the Public Health Service Act (42 U.S.C. 287c(b)) is amended by striking out "and" after "1981,", and by inserting before the period a comma and "$38,520,400 for the fiscal year ending September 30, 1983, $40,831,200 for the fiscal year ending September 30, 1984, and $42,872,760 for the fiscal year ending September 30, 1985".

(b) The first sentence of section 419B of such Act (42 U.S.C. 287i) is amended by

striking out "and" after "1981,", and by inserting before the period a comma and "$530,573,410 for the fiscal year ending September 30, 1983, $562,407,810 for the fiscal year ending September 30, 1984, and $590,528,200 for the fiscal year ending September 30, 1985".

NATIONAL LIBRARY OF MEDICINE

SEC. 4. (a) Section 390(c) of the Public Health Service Act (42 U.S.C. 280b(c)) is amended by striking out "and" after "1981, and", and by inserting before the period a comma and "$8,000,000 for the fiscal year ending September 30, 1983, $8,500,000 for the fiscal year ending September 30, 1984, and $9,000,000 for the fiscal year ending September 30, 1985".

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL DISEASES

SEC. 5. (a) Title IV of the Public Health Service Act is amended by adding at the end the following new part:

"PART J—NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL DISEASES

"ESTABLISHMENT AND PURPOSE OF INSTITUTE

"SEC. 481. (a) There is established in the Public Health Service a National Institute of Arthritis and Musculoskeletal Diseases (hereinafter in this part referred to as the 'Institute'). The general purpose of the Institute is the conduct and support of research, training, health information, and related programs with respect to arthritis and musculoskeletal and skin diseases, including sports-related disorders.

"(b) The Director of the Institute, with the advice of its advisory council, shall develop a plan for a national arthritis and musculoskeletal diseases program to expand, intensify, and coordinate the activities of the Institute respecting the diseases, and shall carry out the program in accordance with such plan. The program shall be coordinated with the other national research institutes of the National Institues of Health to the extent that they have responsibilities respecting such diseases and shall, at least, provide for—

"(1) investigation into the epidemiology, etiology, and prevention of all forms of arthritis and musculo-skeletal diseases, including sports related disorders, primarily through support of basic research in such areas as immunology, genetics, biochemistry, microbiology, physiology, bioengineering, and any other scientific discipline which can contribute important knowledge to the treatment and understanding of these diseases;

"(2) research into the development, trial, and evaluation of techniques, drugs, and devices used in the diagnosis, treatment, and prevention of arthritis and musculoskeletal diseases;

"(3) research on the refinement, development, and evaluation of technological devices that will replace or be a substitute for damaged bone, muscle, and joints and other supporting structures; and

"(4) establish mechanisms to monitor the causes of athletic injuries and identify ways of preventing such injuries on scholastic athletic fields.

The Director shall transmit to the Director of the National Institutes of Health the plan required by this section, together with such comments and recommendations as the Director of the Institute determines appropriate.

"(c) The Director of the Institute shall—

"(1) carry out programs of support for research and training (other than training for which National Research Service Awards may be made under section 472) in the diagnosis, prevention, and treatment of arthritis, musculoskeletal diseases, and skin diseases, including support for training in medical schools, graduate clinical training, graduate training in epidemiology, epidemiology studies, clinical trials, and interdisciplinary research programs; and

"(2) establish programs of evaluation, planning, and dissemination of knowledge related to such research and training.

"INFORMATION CLEARINGHOUSE AND DATA SYSTEM

"SEC. 482. (a) The Director shall (1) establish the National Arthritis and Musculoskeletal Diseases Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with arthritis and musculoskeletal diseases, including, where possible, data involving general populations for the purpose of detection of individuals with a risk of developing such diseases, and (2) establish the National Arthritis and Musculoskeletal Diseases Information Clearinghouse to facilitate and enhance knowledge and understanding of arthritis and musculoskeletal diseases on the part of health professionals, patients, and the public through the effective dissemination of information.

"(b) For the data system and clearinghouse under subsection (a) there is authorized to be appropriated $1,500,000 for the fiscal year ending September 30, 1983, $1,100,000 for the fiscal year ending September 30, 1984, and $1,100,000 for the fiscal year ending September 30, 1985.

"INTERAGENCY COORDINATION COMMITTEES

"SEC. 483. (a) For the purpose of—

"(1) better coordination of the research activities of all the national research institutes relating to arthritis, skin diseases, and musculoskeletal diseases, including sports related disorders; and

"(2) coordinating those aspects of all Federal health programs and activities relating to such diseases to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities,

the Secretary shall establish an Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and a Skin Diseases Interagency Coordinating Committee (hereinafter in this section individually referred to as a 'Committee').

"(b) Each Committee shall be composed of the Director (or his designee) of the Institute and its divisions involved in research involving arthritis and musculoskeletal diseases or skin diseases, as may be appropriate, the chief medical director (or the director's designee) of the Veterans' Administration, and a medical officer designated by the Department of Defense, and shall include representation from all other Federal departments and agencies whose programs involve health functions or responsibilities relevant to arthritis and musculoskeletal diseases or skin diseases, as may be appropriate, as determined by the Secretary. Each Committee shall be chaired by the Director of the National Institutes of Health (or his designee). Each Committee shall meet at the call of the chairman, but not less often than four times a year.

"(c) Each Committee shall prepare an annual report for—

"(1) the Secretary, and

"(2) the Director of the National Institutes of Health,

detailing the work of the Committee in the fiscal year for which the report was prepared in carrying out the coordinating activities described in paragraphs (1) and (2) of subsection (a). Such report shall be submitted not later than the one hundred and twentieth day after the end of each fiscal year.

"ARTHRITIS AND MUSCULOSKELETAL DISEASES DEMONSTRATION PROJECTS

"SEC. 484. (a) The Secretary may make grants to public and other nonprofit entities to establish and support projects for the development and demonstration of methods for arthritis and musculoskeletal diseases screening and detection and for referral for treatment, and for dissemination of information on these methods to the health and allied health professions. Activities under such projects shall be coordinated with (1) Federal, State, local, and regional health agencies, (2) centers assisted under section 485, and (3) the data system established under subsection (c).

"(b) Projects under this section shall include—

"(1) programs which emphasize the development and demonstration of new and improved methods of screening and early detection, referral for treatment, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases;

"(2) programs which emphasize the development and demonstration of new and improved methods for patient referral from local hospitals and physicians to appropriate centers for early diagnosis and treatment;

"(3) programs which emphasize the development and demonstration of new and improved means of standardizing patient data and recordkeeping;

"(4) programs which emphasize the development and demonstration of new and improved methods of dissemination of knowledge about the projects and methods referred to in the preceding paragraphs of this subsection to health and allied health professionals;

"(5) programs which emphasize the development and demonstration of new and improved methods for the dissemination to the general public of informantion—

"(A) on the importance of early detection of arthritis and musculoskeletal diseases, of seeking prompt treatment, and of following an appropriate regimen; and

"(B) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive treatment, and control methods for arthritis and unapproved and ineffective drugs and devices for arthritis and musculoskeletal diseases; and

"(6) projects for the investigation into the epidemiology of all forms and aspects of arthritis and musculoskeletal diseases, including investigations into the social, environmental, behavioral, nutritional, and genetic determinants and influences involved in the epidemiology of such diseases.

"(C) For grants for arthritis and musculoskeletal diseases demonstration projects under subsection (a) there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1983, and for each of the next two fiscal years.

"(d) The Director shall provide for the standardization of patient data and recordkeeping for the collection, storage, analysis, retrieval, and dissemination of such data in cooperation with projects under this section and centers assisted under section 485, and

other persons engaged in arthritis and musculoskeletal diseases programs.

"MULTIPURPOSE ARTHRITIS AND MUSCULOSKELETAL DISEASES CENTERS

"SEC. 485. (a) The Director of the Institute shall, after consultation with the advisory council to the Institute and consistent with the arthritis plan developed pursuant to the National Arthritis Act of 1974, provide for the development, modernization, and operation (including staffing and other operating costs such as the costs of patient care required for research) of new and existing centers for arthritis and musculoskeletal diseases. For purposes of this section, the term 'modernization' means the alteration, remodeling, improvemnt, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

"(b) Each center assisted under this section shall—

"(1)(A) use the facilities of a single institution or a consortium of cooperating institutions, and (B) meet such qualifications as may be prescribed by the Secretary; and

"(2) conduct—

"(A) basic and clinical research into the cause, diagnosis, early detection, prevention, control, and treatment of arthritis and musculoskeletal diseases and complications resulting from such diseases, including research into implantable biomaterial and biomechanical and other orthopaedic procedures;

"(B) training programs for physicians, scientists, and other health and allied health professionals;

"(C) information and continuing education programs for physicians and other health and allied health professionals who provide care for patients with arthritis and musculoskeletal diseases; and

"(D) programs for the dissemination to the general public of information—

"(i) on the importance of early detection of arthritis and musculoskeletal diseases, of seeking prompt treatment, and of following an appropriate regimen; and

"(ii) to discourage the promotion and use of unapproved and ineffective diagnostic, preventive, treatment, and control methods and unapproved and ineffective drugs and devices.

A center may use funds provided under subsection (a) to provide stipends for health professionals enrolled in training programs described in paragraph (2)(B).

"(c) Each center assisted under this section may conduct programs to—

"(1) establish the effectiveness of new and improved methods of detection, referral, and diagnosis of individuals with a risk of developing arthritis and musculoskeletal diseases,

"(2) disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping, and

"(3) develop community consultative services to facilitate the referral of patients to centers for treatment.

"(d) The Director shall, insofar as practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of children affected by arthritis.

"(e) Support of a center under this section may be for a period of not to exceed five years and such period may be extended by the Director for additional periods of not more than five years each after review of the operations of such center by an appropriate scientific review group established by the Director.

"(f) For multipurpose arthritis and musculoskeletal diseases centers there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1983, $15,000,000 for the fiscal year ending September 30, 1984, and $18,000,000 for the fiscal year ending September 30, 1985.

"Report

"SEC. 486. The Director of the Institute shall include in the annual report of the Institute a description of the Institute's activities under the current Arthritis Plan under the National Arthritis Act of 1974. The description submitted by the Director shall include an evaluation of the activities of the centers supported under section 485.".

(b)(1) Section 431(a) of the Public Health Service Act (42 U.S.C. 289a(a)) is amended by striking out "arthritis, rheumatism, and".

(2)(A) Subsection (a) of section 434 of such Act (42 U.S.C. 298c-1) is amended by striking out "Arthritis, Diabetes," each place it appears and inserting in lieu thereof "Diabetes".

(B) Subsection (b) of such section is amended (i) by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes", and (ii) by striking out "an Associate Director for Arthritis and Musculoskeletal and Skin Diseases,".

(C) Subsection (c) of such section is amended (i) by striking out "a subcommittee on arthritis and musculoskeletal and skin diseases,", and (ii) by striking out "arthritis, musculoskeletal and skin diseases,".

(D) Subsection (d) of such section is amended (i) by striking out "the Associate Director for Arthritis and Musculoskeletal and Skin Diseases,", and (ii) by striking out "arthritis, musculoskeletal and skin diseases,".

(E) Subsection (e) of such section is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(F) The heading for such section is amended by striking out "ARTHRITIS, DIABETES," and inserting in lieu thereof "DIABETES".

(3)(A) Subsection (a) of section 436 of such Act (42 U.S.C. 289c-3) is amended (i) by striking out "arthritis, diabetes mellitus," and inserting in lieu thereof "diabetes mellitus", and (ii) by striking out "an Arthritis Interagency Coordinating Committee,".

(B) Subsection (b) of such section is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(4)(A) Subsection (a) of section 437 of such Act (42 U.S.C. 289c-4) is amended by striking out "the National Arthritis Advisory Board,".

(B) Subsection (b)(2) of such section is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(C) Subsection (d) of such section is amended by striking out "and the National Arthritis Advisory Board, six of the members of each" and inserting in lieu thereof ", six of the members of".

(D) Subsection (g) of such section is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(E) Subsection (h)(3) is amended by striking out "Arthritis, Diabetes," and inserting in lieu thereof "Diabetes".

(F) The heading for such section is amended by striking out ", ARTHRITIS,".

(5) Sections 438 and 439 of such Act (42 U.S.C. 289c-5, 289c-6) are repealed.

(6) The heading for part D of such Act is amended by striking out "ARTHRITIS, DIABETES," and inserting in lieu thereof "DIABETES".

STUDY OF NATIONAL RESEARCH INSTITUTES

SEC. 6. (a)(1) The Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall in accordance with subsection (b) arrange for the conduct of a study of the effectiveness of the existing combinations of disease research programs within the individual national research institutes and of the standards which should be followed in establishing new or realigning existing national research institutes.

(2) The Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the results of the study. The report shall be submitted not later than 18 months after the date of the enactment of this Act.

(b)(1) The Secretary of Health and Human Services shall request the National Academy of Sciences, through the Institute of Medicine, to conduct the study required by subsection (a)(1) under an arrangement under which the actual expenses incurred by the Academy in conducting such study will be paid by the Secretary and the Academy will prepare the report required by subsection (a)(2). If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with the Academy for the conduct of the study.

(2) If the National Academy of Sciences is unwilling to conduct such study under such an arrangement, the Secretary shall enter into a similar arrangement with other appropriate nonprofit private entities.

(c) No national research institute, other than the National Institute of Arthritis and Musculoskeletal Diseases, shall be established in addition to the institutes in existence on the date of the enactment of this Act before the expiration of 6 months after the submission of the report referred to in subsection (a)(2).

(d) The Secretary of Health and Human Services shall conduct an administrative review of the disease research programs within the National Institute of Diabetes and Digestive and Kidney Diseases to determine if any of such programs could be more effectively and efficiently managed by other national research institutes. The Secretary shall complete such review within the sixty-day period beginning on the date of enactment of this Act.

ANIMALS IN RESEARCH

SEC. 7. (a) The Secretary of Health and Human Services shall review—

(1) the actions being taken by the Department of Health and Human Services to support research to develop research and testing methodologies which will decrease the number of live animals used in biomedical and behavioral research;

(2) the actions taken by the Department to improve oversight of the use of animals in such research by entities which receive financial support for such research through the Department; and

(3) the activities undertaken by the Department to ensure the humane care and treatment, and appropriate use, of live animals in such research conducted or supported by agencies of the Department.

(b) Not later than June 30, 1984, the Secretary of Health and Human Services shall transmit to the Committee on Labor and Human Resources of the Senate and Committees on Energy and Commerce and Science and Technology of the House of Representatives a report on the review conducted under subsection (a). The report shall also contain a detailed analysis of the impact on biomedical and behavioral research and the entities conducting such research of a requirement that the entities be accredited for the use of live animals in research.

Mr. BROYHILL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. WALGREN. Mr. Chairman, will the gentleman yield to me?

Mr. BROYHILL. I will yield to the gentleman from Pennsylvania. I am accommodating the gentleman because he has duty in another part of the Capitol and he wants to ask some questions of the chairman of the subcommittee, the gentleman from California (Mr. WAXMAN).

Mr. WALGREN. I appreciate the gentleman yielding to me.

Mr. Chairman, I would like to enter into a brief colloquy with the chairman of the committee.

I had intended to offer an amendment adding to the NIH bill the provisions of a bill that we passed out of the House Committee on Science and Technology, H.R. 6928, known as the Humane Care and Development of Substitutes for Animals in Research Act.

This bill was reported, as I say, by the Committee on Science and Technology. However, it was referred jointly to the House Committee on Energy and Commerce, and then referred to Chairman WAXMAN's subcommittee where there has been, as yet, no action taken.

The bill raises the issue of very needed progress in the humane treatment of laboratory animals. Inasmuch as NIH is the major source of Government funding involving the use of animals in research, it seemed this would be a very appropriate time and place to raise this subject.

The bill essentially tried to establish a framework to assure uniform humane standards for care and treatment of laboratory animals and to develop alternative tests so that the use of laboratory animals could be reduced.

I understand we have not had time to have hearings on this bill in the gentleman's subcommittee, but I wanted to ask if this subject would be brought up in the subcommittee and receive assurances to that effect.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield to me so that I might respond to the gentleman from Pennsylvania?

Mr. BROYHILL. I will be glad to yield to the gentleman from California.

Mr. WRIGHT. Mr. Chairman, I ask unanimous consent that the gentleman from North Carolina (Mr. BROYHILL) may have 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WRIGHT. Mr. Chairman, I now ask that the gentleman from North Carolina yield to me just a very brief part of that time.

Mr. BROYHILL. I am delighted to yield to the majority leader.

(By unanimous consent, Mr. WRIGHT was allowed to proceed out of order.)

UPDATE OF LEGISLATIVE PROGRAM

Mr. WRIGHT. Mr. Chairman, I would like to make an announcement.

All Members will be interested in the announcement that I want to make right now because it has to do with our schedule tomorrow and, quite possibly, the remainder of this year.

It is anticipated that our first vote tomorrow will be a vote upon the adoption of a conference committee report on the continuing appropriation. I urge all Members to plan to be here tomorrow, whatever other plans you might otherwise have had.

It also is possible that there may be a vote tomorrow upon the proposition of a constitutional amendment with respect to balancing the Federal budget.

It is my understanding that the Rules Committee contemplates meeting today and does not actually anticipate trying to rush action tonight on the House floor but, rather, would like to perfect a rule which would permit Members on both sides to have a fair opportunity to express their particular views and have at least one option available with respect to the matter that has been mandated to the House by the successful discharge petition, and that this might come tomorrow.

So, therefore, I would urge that all Members make plans to be present tomorrow for at least one of those two very vital matters, and quite possibly both of them.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman from North Carolina yield to me?

Mr. BROYHILL. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman yielding.

Mr. Chairman, could the majority leader tell us, is it anticipated that the rule being recommended by the leadership will be fashioned in such a way as to allow the offering of alternative constitutional amendments, or does the gentleman know yet?

Mr. WRIGHT. Will the gentleman from North Carolina yield to me for a response?

Mr. BROYHILL. I gladly yield to the majority leader.

Mr. WRIGHT. Mr. Chairman, I do not know the answer to that.

If the gentleman will permit me, I do know, however, and I believe I can say without fear of contradiction by any future events, that whatever opportunity comes tomorrow will be fair. It will not seek to foreclose those 218 Members who have signed the discharge petition, but will give them an opportunity to vote for their proposal.

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I believe, quite possibly, it may also be fashioned in such a way as to give to some other an opportunity to present an alternative means of achieving the same objective, and permit a vote on that. So far as I am concerned, there will be no effort to deny the minority or to the majority an opportunity to work its will.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield further?

Mr. BROYHILL. I will be glad to yield.

Mr. ROUSSELOT. Could the majority leader tell us if that alternative would be offered as a substitute; or what?

Mr. WRIGHT. I am sorry to say that I do not have that answer at this moment. Counsel is presently engaged in trying to make some decisions with respect to that. However, I think it is sufficient to state that Members of this House will be given an opportunity to work their will, and there will not be a gag rule that would be aimed at prohibiting any person's rights. The rules of the House will be such as to avoid the throttling of a minority or the enthronement of the majority.

Mr. ROUSSELOT. I appreciate the majority leader's comments; I hope the Rules Committee will provide a fair rule.

(At the request of Mr. ROUSSELOT and by unanimous consent, Mr. BROYHILL was allowed to proceed for 5 additional minutes.)

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I will be glad to yield to the gentleman.

Mr. WAXMAN. Mr. Chairman, I want to acknowledge and commend Mr. WALGREN, our colleague from Pennsylvania, for the work that he has done as chairman of the Subcommittee on Science, Research and Technology of the Science and Technology Committee in preparing legislation to protect laboratory animals from improper care and treatment that all of

us would acknowledge as inappropriate and inhumane.

I appreciate the fact that legislation has been reported by his Committee. Unfortunately, we have not yet had an opportunity in the Subcommittee on Health and the Environment to review that legislation. I do want to commit to him, however, that I want to work with him on this legislation, and that when we return for the postelection session, we will work to explore the idea of a hearing and possible movement of legislation this year. If these steps are not possible this year, I want to work with him on those activities that will be helpful for next year and to see if we cannot agree on a bill and move that bill through the legislative process into law.

I do want to commend the gentleman for the responsible work he has done in trying to address a very important problem that should be addressed by the U.S. Congress.

Mr. WALGREN. Mr. Chairman, if the gentleman will yield further, I want to thank the gentleman from California for his commitment to exploring legislation in this area. I do appreciate his concern for that area, and would like to ask unanimous consent that my amendment that I did not offer be printed in the RECORD at this point. I thank the gentleman from North Carolina for allowing the interruption.

AMENDMENT TO H.R. 6457, AS REPORTED OFFERED BY MR. WALGREN

Page 97, insert after line 23 the following:

"ANIMALS IN RESEARCH

"SEC. 483. (a) The Secretary of Health and Human Services (hereafter in this section referred to as the 'Secretary') is authorized to make awards—

"(1) to sponsor research into, and development of, methods of research, experimentation, and testing which do not require the use of live animals, which reduce the numbers of live animals used, or which produce less pain and distress in such animals than methods currently in use; and

"(2) to establish the validity and reliability of such methods for the purpose of replacing animal research and testing methods currently in use, where applicable.

"(b) No award may be made under subsection (a) unless an application or proposal therefor has been assessed through applicable peer review procedures. Such application or proposal shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(c) The Secretary shall designate an Advisory Panel to—

"(1) provide advice concerning his responsibilities under this section;

"(2) make such recommendations as it deems appropriate to the Secretary concerning specific opportunities or problems regarding research support of nonanimal testing; and

"(3) design and recommend a system for insuring that any application or proposal meeting the requirements of subsection (a) will receive full consideration for funding.

"(d) Funds for making awards under clauses (1) and (2) of subsection (a) shall be made available by the Secretary by allocation of adequate research resources within the Department of Health and Human Services, except that no funds may be used for other than purposes for which they were appropriated.

"(e) The Secretary shall direct the National Institutes of Health and shall consult with the Environmental Protection Agency and other appropriate regulatory and scientific research agencies to—

"(1) promote the development of new, and the evaluation of existing, testing methods that do not require the use of animals and which will satisfy public health and safety concerns as well as regulatory requirements;

"(2) promote the use of nonanimal methods of research, experimentation, and testing by seeking further cooperation in international regulatory research and development programs that would lead to more effective toxicologic data systems; and

"(3) assure the efficient use of current and future research and test data involving animal use by enhancing the capabilities and the integration of data storage and retrieval systems.

"(f) The Secretary shall direct that resources within the Department of Health and Human Services for research and development on new methodologies and validation of nonanimal research and testing methods or computer models, which could be more rapid, less expensive, equally or more reliable, and generate more useful toxicological and safety information shall be significantly increased.

"(g) The Secretary shall submit a report to the Speaker of the House of Representatives and President of the Senate not later than two years after the date of enactment of this section and biennially thereafter setting forth progress under this section, including new initiatives to reduce animal use and increased emphasis on development of new methodologies.

"(h) The National Institutes of Health shall not, after the effective date of this section, conduct within any of its own research entities, or approve any research entity for the receipt of an award for the conduct of research, experimentation, or testing, involving the use of large numbers of animals unless—

"(1) that research entity is accredited for such use in accordance with subsection (i)(1); and

"(2) that research entity has provided to the agency the assurances required under subsection (l).

"(i)(1) In order to be eligible to receive an award from the National Institutes of Health for the conduct of research, experimentation, or testing, involving the use of large numbers of animals, a research entity shall provide to the National Institutes of Health evidence that it is accredited as qualified to engage in such use by a recognized accrediting agency approved by the Secretary under paragraph (2) of this subsection. The Secretary shall, by regulation, prescribe the form and manner in which such evidence shall be presented.

"(2) For the purpose of accrediting entities for the conduct of research, experimentation, or testing, involving the use of large numbers of animals, the Secretary shall designate (and shall at least once each five years review the designation of) a private agency or agencies which the Secretary has determined to—

"(A) have the demonstrated capability to ascertain the qualifications, background, and experience of research entities in the use of animals for such purposes;

"(B) have established a system for the initial accreditation of research entities, including a mechanism for monitoring the correction of items of noncompliance;

"(C) have established a system for the routine inspection, not less than once each three years, of laboratory animal facilities at any accredited research entity, such routine inspection to include a mechanism for monitoring the correction of items of noncompliance;

"(D) have established a set of standards (i) for acceptable animal care, treatment, and use in experimental procedures, including appropriate and reasonable requirements with respect to handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperature, and exercise, and (ii) with respect to other practices described in paragraphs (B) through (D) of subsection (r); and

"(E) have established a mechanism for liaison with the institutional animal studies committees in accredited research entities, and for involvement of such committees in monitoring compliance with the accreditation standards.

"(j) The standards established under subsection (i)(2)(D) shall be designed to be eventually at least comparable to the proper current practices in animal care, treatment, and use in experimental procedures as specified in the 'Guide for the Care and Use of Laboratory Animals' of the National Institutes of Health. Attainment of compliance with such standards by research entities shall be a prerequisite for full accreditation after a date which is ten year after the date of enactment of this section, but accrediting agencies may, in accordance with regulations prescribed by the Secretary for the interim period, provisionally accredit research entities which demonstrate (1) satisfactory and continued progress toward attainment of compliance with such standards, and (2) current practices which (A) comply with standards for animal care and treatment under the Animal Welfare Act of 1966 (7 U.S.C. 2131), and (B) include appropriate and reasonable requirements with respect to handling, housing, feeding, watering, sanitation, ventilation, shelter from extremes of weather and temperature, and exercise, and other practices described in paragraphs (B) through (D) of subsection (r).

"(k) In the event that no private agencies are found able to carry out the accrediting functions of subsection (i), the Secretary shall establish an accreditation mechanism to carry out such functions, to be fully supported by appropriate user fees.

"(l)(1) In order to be eligible to receive an award from the National Institutes of Health for the conduct of research, experimentation, or testing, involving the use of large numbers of animals, as required by subsection (h), a research entity shall provide to the National Institutes of Health a statement of assurances. Such statement shall be submitted at such time and in such manner and form as the agency may prescribe by regulation and shall demonstrate to the satisfaction of the agency—

"(A) that the research entity has established an institutional animal studies committee (hereinafter in this section referred to as the 'committee') composed of not fewer than three members who collectively possess sufficient expertise to assess the appropriateness of animal use in experimental research and of which—

"(i) at least one member is a doctor of veterinary medicine;

"(ii) at least one member is not affiliated with the research entity of parent organization and is primarily responsible for representing community concerns regarding the welfare of the animal subjects; and

"(iii) not more than three members are from the same administrative unit of the research entity; "(B)(i) that such committee—

"(I) will meet regularly, and will have an appropriately constituted quorum for all formal actions;

"(II) will make inspections at least semiannually of all animal study areas and facilities of such research entity;

"(III) will review, as part of the inspection, research methods and practices in progress involving direct use of conscious animals, and the condition of research animals, for the purpose of evaluating these research methods and practices to ensure that animal pain and distress are minimized, and for compliance with experimental design of the original approved proposal, or with accepted standards for appropriate animal care, treatment, and use; and

"(IV) will file with the National Institutes of Health certification that such inspections and reviews have taken place, along with reports of any violations of assurances given pursuant to this subsection, of deficient conditions of animal care, treatment, or use, or of deivations of research methods and practices from originally approved proposals in a manner adversely affecting animal welfare; and

"(ii) that such inspection certification will be signed by a majority of the members of the committee, and that minority views shall be included in the reports filed pursuant to subparagraph (B)(i)(IV) if any members so desire, except that, if either of the members designated in subparagraph (A) (i) or (ii) of this subsection do not sign the majority report, they shall be particularly notified of the opportunity to file a minority report and given a reasonable time to do so;

"(C) that the committee will maintain complete records of their inspection visits (including attendance of committee members), and other information pertinent to its activities, and that such records will be maintained for at least three years and will be available for inspection by any authorized Federal agency;

"(D) that members of the committee will be encouraged individually to notify in writing the Animal and Plant Health Inspection Service of the Department of Agriculture, the National Institutes of Health, and the applicable accrediting agency of any unacceptable conditions of animal care, treatment, or use which have not been reported in writing by the committee as a whole and which have persisted despite notification to the research entity; and

"(E) that the committee will establish courses or sessions available annually for scientists, animal technicians, and other personnel involved with animal care, treatment, and use by the research entity, which provide instruction or training in (i) the humane practice of animal maintenance and experimentation, and (ii) the concept, availability and use of research or testing methods that minimize the use of animals or limit animal distress.

"(m) In those cases where the National Institutes of Health determines that conditions of animal care, treatment, or use in a particular project have been persistently unacceptable despite notification to the research entity, the National Institutes of Health shall suspend or revoke its support for the project.

"(n) Research entities subject to subsection (h) shall inform their employees of the provisions of subsection (1) and shall instruct such employees to report to the animal studies committee any violations of such provisions, and no employees of such entities shall be discriminated against in their employment because such employees reported any such violation.

"(o) The Secretary may waive the accreditation requirements under exceptional circumstances related to the needs for research results or special and unusual circumstances of the research entity.

"(p) For purposes of this section—

"(1) the term 'award for the conduct of research, experimentation, or testing, involving the use of animals' means any mechanism (grant, contract, or cooperative agreement) under which Federal funds are provided to support the conduct of such research;

"(2) the term 'animal' refers to any living warm-blooded animal, that is, birds and mammals;

"(3) the term 'research entity' means any school (except an elementary or secondary school), institution, organization, or person that uses or intends to use live animals in research, tests, or experiments, and that is eligible to receive funds under a grant, cooperative agreement, loan, or contract from a Federal agency for the purpose of carrying out research, tests, or experiments on those animals;

"(4) 'direct use of conscious animals' means any use that involves more than momentary minor pain or discomfort, or any procedure except where the animal is anesthetized throughout the entire course of that procedure; and

"(5) the term 'large numbers of animals' means more than one hundred animals for rodent species, more than ten animals for nonrodent species, and one or more for nonhuman primates.

"(q) The provisions of subsections (h) through (p) shall apply to any research entity that receives an award for the conduct of research, experimentation, or testing, involving the use of animals approved by the National Institutes of Health on or after a date which is three years after the date of enactment of this section, except that regulations implementing subsections (h) through (p) may be issued prior to that date.

"(r)(1) The National Institutes of Health shall not, after the effective date of this paragraph approve any research entity for the receipt of an award for the conduct of research, experimentation, or testing, involving the direct use of conscious animals, unless the agency finds, as a result of its review of the scientific merit of the proposal, that the award proposal—

"(A) includes a justification for anticipated animal distress in terms of the benefits of the research;

"(B) includes, in any case involving the direct use of conscious animals, appropriate assurances that the services of a consulting doctor of veterinary medicine have been employed in the planning of such procedures;

"(C) includes, in any case involving the direct use of conscious animals, appropriate provisions for assurances of the proper use of tranquilizers, analgesics, anesthetics, and paralytics, and for appropriate pre- and postsurgical medical and nursing care; and appropriate assurances that the withholding of tranquilizers, anesthesia, analgesia, or euthanasia when scientifically necessary shall continue for only the necessary period of time; and

"(D) includes, except in cases of scientific necessity or other special circumstances as determined by the animal studies committee, assurances that no animal shall be used in more than one major operative procedure from which it is allowed to recover.

"(2) The provisions of paragraph (1) shall take effect one year after the date of enactment of this section.

"(s) No regulation promulgated under this section shall take effect if disapproved by either House of Congress within sixty days of its proposal.

"(t)(1) Nothing in this section shall be construed to apply to research, experimentation, or testing intended to improve animal nutrition, health, breeding, management, or production efficiency in horses, livestock, or poultry used or intended for use as food or fiber, or for improving the quality or safety of food, including fish, or fiber. Nothing in this section shall be construed to apply to research, experimentation, or testing intended to improve wild animal conservation, propagation, or management.

"(2) Nothing in this section shall be construed to apply to specific experiments, research programs, or research facilities for which the accreditation, assurances, and award requirements of subsections (h), (i), (l), and (r) of this section would present specific risks to national security or the safety of manned space flight. Such exemption shall be effective upon certification by the responsible agency head to the Secretary that such risks are involved, along with reasons and justifications. All such exemptions must be recertified annually and be available in an unclassified form for public review.

"(u) All authority conferred by this section shall terminate ten years after the date of the enactment of this section.

EFFECT OF FETAL RESEARCH LANGUAGE

This language would prohibit research using fetal fluids and tissues to lead to improved pregnancy outcome and infant health, such as:

All research involving normal fetal maturation and development.

Research similar to that which has allowed physicians to detect, manage and prevent "Rh babies"; that research was dependent upon sampling the blood of the pregnant woman and the developing fetus. A study commissioned by the National Commission for the Protection of Human Subjects estimated that 450,000 stillbirths would have been caused in recent years without this Rh research.

Using amniotic fluid to assess fetal lung maturity. Failure to develop lungs, or respiratory distress, accounts for much of the infant mortality in this country. Treatment for some forms of this syndrome is now available as the result of fetal experimentation. Other research is ongoing.

Research on prematurity requires fetal monitoring and developing new monitoring and intensive care techniques. Prematurity accounts for 75 percent of the infant mortality in this country, and animal research is not comparable in many ways.

Research similar to that which produced: new agents to prevent long and dangerous labor; new anesthesia techniques that are safer for mother and child; therapy for conditions that once caused high blood pressure, convulsions and kidney damage; techniques to help pregnant women who have

heart or metabolic diseases; evaluation of timing of delivery and use of antibiotics.

Research on effects of drugs on pregnant women and developing fetuses.

Research on corrective surgical intervention in cases of birth defects.

Research on the effects of lead and other toxic chemicals on developing fetuses.

(At the request of Mr. WAXMAN and by unanimous consent, Mr. BROYHILL was allowed to proceed for 5 additional minutes.)

Mr. BROYHILL. Mr. Chairman, I thank the gentleman for all that additional time. I am not sure that we will need all of that time, but I was glad to accommodate Members who had asked me for time at this particular point. The gentleman from Pennsylvania had to go chair a subcommittee meeting in another part of the Capitol, and of course the important announcement by the majority leader was one in which we are all interested.

Now, let us get to the amendment at hand, the substitute. I would hope that Members would have the opportunity to take a look at the bill we are considering here and to read the committee report. I would point out that we who sponsored this amendment are supportive of much of the goals of this legislation. However, we are very much concerned about the excessively high authorization levels that are included in this bill. We are also concerned about the substantial substantive recodification of the various authorities affecting the various health institutes at the National Institutes of Health that are found in this bill.

Our substitute continues our longstanding commitment to biomedical research, and longstanding commitment to the National Institutes of Health. However, it does this at a far less authorization level. Our substitute contains the following provisions:

It continues the support for important biomedical research programs at levels of 7 percent above 1982 budget. Now, compared to the bill that is before us that we are attempting to amend, our substitute would save the taxpayers $165 million in just the next fiscal year alone. At the same time, our substitute would provide for generous resources for NIH research.

In addition, our substitute provides for simple extensions of expiring authorities rather than the total revision of NIH authorities that are called for in the Waxman bill. In our judgment, this would be far less disruptive to an agency of whose research program against disease depends upon a stable managerial and organizational environment.

Now, what we provide for in order to look ahead at whatever problems might exist in the organizational structure of NIH is for a study of the organizational structure of NIH in order to better have information to make future decisions regarding the creating of new Institutes or the authorities of the old Institutes.

We do have one section of our substitute that is identical to the Waxman bill, and where there is general consensus that this should be done. That is the creation of a new Institute on Arthritis. In our substitute a new Arthritis Institute is created with the exact provisions and funding levels of the Waxman bill. This new Arthritis Institute would promote research that is focused on arthritis as well as musculo-skeletal diseases.

In addition, we have a study that is not found in the Waxman bill, and that is a study and review of the use of animals in biomedical and behavioral research. We feel that the information from this study will improve our oversight of this activity, and we feel that we should have a look at this and the review that will be made possible as a result of this will let us find out more about this important area.

Mr. Chairman, our substitute that I am offering today on behalf of myself, the gentleman from Texas (Mr. GRAMM), and the gentleman from Illinois (Mr. MADIGAN), offers many advantages over the bill before us. No. 1, it continues our commitment to biomedical research, but it does this at far more responsible fiscal levels. In addition—and this is very important—our substitute provides for the present structure of management and operations of NIH without the recodification that is provided for in the Waxman bill. We think it is unnecessary and potentially disruptive to make these changes in the management and operating procedures of NIH and its various component institutes.

We feel that the bill before us would create a detailed inflexible administrative framework that may have undesirable effects on the quality of research that is conducted and supported by NIH. So, if the Members would want to vote for more sensible administrative management framework, if they want to vote for lower authorization levels that will continue research, and also provide for additional funds over and above 1982 we urge you to vote for this substitute. We are not cutting. We are only slowing down the growth rate. We urge the Members to vote for this substitute.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Illinois.

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Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

On the point the gentleman just made about the substitute not being a cut, in fact the administration recommended a 3-percent increase in funding for the NIH. I believe the committee bill being sponsored by the gentleman from California is at 11 percent, and the Broyhill substitute is a 7-percent increase across the board for NIH.

I will ask the gentleman, is that a correct understanding?

Mr. BROYHILL. The gentleman is correct.

Mr. MADIGAN. So it is not a cut. It is a 7-percent increase in all the functions of NIH.

Mr. Chairman, again I thank the gentleman for yielding.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I thank the gentleman for yielding.

I am trying to understand the impact of the gentleman's proposal. Is it my understanding that what the gentleman is saying is that he is supporting a 7-percent increase over last year's appropriations; is that correct?

Mr. BROYHILL. Over the authorization levels.

Mr. PEYSER. Over the authorization level?

Mr. BROYHILL. We deal in our committee with authorization levels.

Mr. PEYSER. Right. Now, on the authorization that is in this bill, the increase is at what level?

Mr. BROYHILL. There is $984.6 million for the National Cancer Institute, $569.1 million for the National Heart, Blood, and Lung Institute, and $8 million for the National Library of Medicine.

Mr. PEYSER. Now, my understanding was that these figures were not snatched out of the air, and that these were figures that had been estimated as needed to keep this program moving and to be making the same level of progress that has been achieved over the past several years.

What I am trying to find out is why the gentleman feels that if there is a cutback on this program, it would not hurt it.

Mr. BROYHILL. Mr. Chairman, I will take back my time and say that we are not asking for cuts. We are providing for generous increases in the authorization levels of the program.

As to the authorization levels, when we go out into 1985 in the Waxman program, we are talking about over 25-percent increases, and we are concerned about drastically increasing to that extent the program at a time when in other areas of our budget we are tending to level off and give more modest increases. We maintain that these increases will probably be far greater than the increase in the inflation rate and they will be far greater than the increase in the rate of growth in people's incomes in this Nation. We think that all programs ought to relate at least to that circumstance.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, if I may just read some numbers for the gentleman from New York, these are the increases over the actual 1980 continuing resolution figures being advocated by the gentleman from North Carolina:

The 1982 continuing resolution for cancer research was $920 million; the gentleman from North Carolina is recommending $984.6 million, a $64.3 million increase. In the case of heart research, the continuing resolution was $531.8 million; the gentleman from North Carolina is asking for $569.1 million, a $37.3 million increase. And in the instance of the library function at the NIH, the gentleman from North Carolina is asking for a $500,000 increase over the actual 1982 continuing resolution figures.

Mr. BROYHILL. Mr. Chairman, in contrast, I might say that the gentleman from California (Mr. WAXMAN) is asking for $1 billion, $59 million for the National Cancer Institute, $628 million for the National Heart, Lung, and Blood Institute, and $8 million for the National Library.

These are substantial increases over and above the 1982 continuing resolution. And then his authorizations on top of that for future years are compounded.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, I would like to respond to the gentleman from New York (Mr. PEYSER) by suggesting to him that his question is really, whether or not these figures were just pulled out of the air? I serve on the subcommittee.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. BROYHILL) has expired.

(On request of Mr. DANNEMEYER, and by unanimous consent, Mr. BROYHILL was allowed to proceed for 1 additional minute.)

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield further?

Mr. BROYHILL. I yield to the gentleman from California.

Mr. DANNEMEYER. Mr. Chairman, I thank the gentleman for yielding.

I can tell the gentleman from New York that in the 3½ years that I have served on the Health and Environment Subcommittee, when we considered reauthorization for various spending programs for ameliorating human suffering and advancing the cause of health in this country, I cannot remember an instance when a representative from one of these agencies has come forward to the subcommittee and said, "If you will give us an additional x number of dollars, we will advance in a certain direction and at a certain speed," or what have you.

As far as this Member from California has been able to discern, the figures in the authorization bill presented by my colleague, the gentleman from California (Mr. WAXMAN), are mere estimates which have been taken out of thin air in the sense of a dream of the bureaucracy, and they can find all the ways in the world to reach that level of authorization if we in the House give them the appropriation to get there.

Mr. BROYHILL. Mr. Chairman, I urge the adoption of this amendment. There is no need for these inordinate increases in these programs at a time when we are trying to reduce the growth levels generally in Government.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, before I make my comments in opposition to the amendment, I would like to yield to our very distinguished colleagues, the gentleman from New Jersey (Mr. MINISH) for whatever comments he wishes to make on this amendment.

Mr. MINISH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the proposed amendment, which would reduce the funding approved in committee for cancer programs in the National Cancer Institute from a level which insure progress. I urge my colleagues to reject a reduction of this magnitude in this vital area.

The American Cancer Institute predicts that 430,000 Americans will die of cancer this year. We desperately need to continue full funding for biomedical research in this field so as to decrease this number in the years ahead. Those of you who have been here long enough will recall that I was one of the original sponsors of our Conquest of Cancer effort, and I see no reason to slow our progress toward that critical goal now.

Mr. Chairman, the people of New Jersey have special reason to insist on vigorous prosecution of the war on cancer because our State acquired the reputation for being the cancer alley of America, where the incidence of that disease was supposed to be higher than it was elsewhere. Fortunately, the New Jersey Department of Health was able to report in 1981 that New Jersey cancer mortality rates no longer exceed national rates to the degree formerly reported. We were able to discover that fact as a result of a pioneering "cancer atlas" of our State over the period 1949 to 1976, a study produced by the cooperation of the State health department and the National Cancer Institute. Nonetheless, the old reputation of our State as being particularly vulnerable to cancer has lingered, and it has made us very sensitive to the need to press the fight against this awful disease.

New Jersey has used the report which I mention to press forward with prevention and research efforts which can save many lives and prevent much pain. On releasing the "cancer atlas" in 1981, State health commissioner, Dr. Joanne E. Finley, was able to announce that "we are not sitting back to await the results of these research efforts; we are applying the knowledge we already have to hasten the impact on cancer incidence and mortality." New Jersey is acting now against cancer, and positive results are beginning to show.

Mr. Chairman, we cannot jeopardize this progress; when funding in real dollars for cancer research has already declined, locking the appropriation into 1982 levels will actually slow our efforts in the future. This is not the time to jeopardize the momentum we have achieved in New Jersey and throughout America. I urge that the full funding recommended by the committee be retained for this vital fight, and that the amendment be rejected.

□ 1150

Mr. WAXMAN. I thank my colleague for his very eloquent statement in opposition to this amendment.

My colleagues, this substitute is nothing more than an attempt to limit the appropriations for the cancer and heart disease research supported by the National Institutes of Health.

The authorizations in the substitute freeze research funds, in real dollars, at the 1982 level. The authorizations for 1983 are actually below the amounts that may be appropriated consistent with the budget resolution that we adopted for 1983.

The substitute, in fact, authorizes $22 million less for heart and lung research in 1983 than the Appropriations Committee yesterday voted to appropriate.

We know that authorization levels can limit what the Appropriations Committee can do. If this substitute passes, there will be a reduction in what the Appropriations Committee voted yesterday to spend on research for heart and lung diseases in 1983.

Over half of our people will eventually be afflicted with cancer or crippling heart diseases, half of all of the American people, and this substitute would freeze the activities at NIH that deal with these two dreaded diseases.

We have seen the development of magic bullets for cancer that quickly kill tumor cells and nonsurgical treatment for heart disease with tiny balloons and laser beams so that we do not need complicated, expensive bypass surgery.

In the early 1970's we declared a war on cancer and a strong new attack on heart disease.

The Broyhill-Gramm substitute declares a truce in that war and calls back the troops from that attack.

This substitute discards all of the substantive provisions of the committee bill except for the new Arthritis Institute. I am pleased they have left that Institute alone. But the Broyhill-Gramm substitute would jettison the first substantive amendments to the statutory authority for NIH in 5 years.

I believe this substitute should be soundly rejected. We ought to continue a real commitment to continue the work at the NIH for biomedical research, for cancer, heart and lung research.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has expired.

(At the request of Mr. PEYSER and by unanimous consent Mr. WAXMAN was allowed to proceed for 3 additional minutes.)

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I am pleased to yield.

Mr. PEYSER. I thank the chairman for yielding. I want to congratulate him for bringing this bill out and for obviously objecting and resisting what I think could really be called a killing amendment.

I find it hard to believe that this Congress is about to consider this, but hopefully we are going to reject it, a move that is striking at literally millions of Americans and their future.

You can talk all you want about juggling figures around. The truth is we have to continue supporting and moving this program ahead. It has a direct effect on lives, on people's lives.

I think there is little we could do in this Congress that would be more irresponsible than to pass this amendment.

I say again we are dealing with a killing amendment that this Congress should not support, and I thank the gentleman for yielding.

Mr. WAXMAN. I want to point out to my colleagues that the appropriations made under the authorizations in the bill as reported by the committee, would be consistent with the budget resolution.

Why should we now look for additional cuts in biomedical research? I want to report to you what researchers tell me will happen if we make a short-term cut for this year or the next on the funds we are going to spend for research. They tell me that they can make more money practicing medicine than devoting their time to research. If they do not think the funds will be there to allow them to continue their chosen profession in science they are going to leave research.

When they leave, we will lose not just what they could have accomplished in 1983 or 1984. They will decide to leave research permanently. We will lose the productive talents of some of the brightest and most capable researchers in the country for their entire careers.

So I would hope my colleagues would sustain the committee authorization levels. They are consistent with the budget and consistent with what the Appropriations Committee has voted for appropriated funds.

Mr. O'BRIEN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I am pleased to yield to the gentleman.

Mr. O'BRIEN. The reason I rise in reluctant opposition to the Broyhill substitute deals with the Cancer Institute and the Blood Institute and with particular emphasis on clinical trials.

Under that funding clinical trials at the Cancer Institute and the Heart, Lung and Blood Institute will be continued in a "pending" category.

For example, and I am selecting just a few, allogenic bone marrow transplantation, hormone receptors in prostatic cancer, study of cell markers in leukemias and malignant lymphomas.

At the Heart, Lung and Blood Institute antiarryhythmic agents in the prevention of sudden cardiac death, hypertension experiments for the elderly, streptokinase in the treatment of acute myocardial infarction, and tests for diagnosis of pulmonary embolism.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has again expired.

(By unanimous consent Mr. WAXMAN was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. I yield to the gentleman from Illinois.

Mr. O'BRIEN. It is, of course, a period of tough budget decisions but in the long run I think that the clinical trials which in my judgment are the last prequalifying round before the cure gets to the patient is a very poor place to cut back and save.

For those reasons I object to the amendment.

Mr. WAXMAN. I thank the gentleman for his support for the committee bill and his opposition to this amendment.

Mr. MADIGAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the substitute amendments sponsored by my good friends, the gentlemen from North Carolina and Texas.

I urge your support for this substitute for two principal reasons:

First, the substitute provides adequate funding for the three Institutes which require reauthorization;

Second, the substitute does not contain the unnecessary recodification of title 4 as in H.R. 6457 as reported.

On the first point, I would like to point out to my colleagues that the truth runs contrary to information given them by outside interest groups who stand to benefit from excessive funding increases.

The facts are these: The substitute will increase funding for the three Institutes which require reauthorization by 7 percent in fiscal year 1983. In terms of dollars, this provides $102 million over the 1982 continuing resolution figure for the three Institutes.

In my judgment and that of the administration's, this increase of 7 percent for the next fiscal year will more than adequately continue the basic levels of support for the NIH.

To quote the words of our colleague Mr. WAXMAN, "I am hopeful the Congress will reject any attempt to erode the basic level of support for NIH."

Mr. WAXMAN made these comments in a subcommittee hearing on this subject last spring. I agree with him, and submit that the Broyhill-Gramm substitute would enact the policy which Mr. WAXMAN wants.

On the second point, I am very concerned that the bill as reported would unnecessarily revise title 4 of the Public Health Service Act.

By conforming all the various NIH Institute authorities into a revised title 4, the bill fails to take into account the special needs of different biomedical research programs. One result would be that the National Cancer Institute, the largest single Institute in the NIH, would lose some authorities that are considered necessary.

Report language which accompanies H.R. 6457 would restrict the NIH's ability to fall back on general research authority found at present in title 3 of the PHS Act. This restriction would permit NIH operations only under the newly recodified title 4. Many years ago, the Congress agreed that the NIH needed the flexibility contained in section 301. The NIH still needs this general research authority and resists the recodification on this point.

I am also concerned that if the NIH loses its general research authority the subcommittee chairman's next step will be to place time-limited authorizations on each Institute. I am concerned that this is a continuing goal of the gentleman's and believe that it should be opposed as strongly now as it was 2 years ago.

Finally, I believe we recognize the NIH as being a very well-run Federal research agency. I for one cannot see the need to make extensive changes in its management and operations. As a consequence, I disagree with the thrust in Mr. WAXMAN's bill. The Broyhill-Gramm substitute offers only a simple extension of expiring authorities rather than the total revision of Mr. WAXMAN's.

□ 1200

Mr. SHELBY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Broyhill amendment.

Let us not kid ourselves when we talk about biomedical research and the role of the NIH in it. We are spending billions and billions of dollars each year on health care. What is the best way to prevent disease I think is the thrust of the bill that came out of the committee. The bill that the gentleman from California is pushing is preventive health.

All of us who are on the committee and all of us who are in the Congress who have been dealing with the spiraling health costs know that the best way to deal with it is preventive medicine and research. Let us not turn our backs on the thrust of this bill. Like the gentleman from California pointed out, let us not turn our backs on these bright, energetic, dedicated doctors who are interested in doing this type of research. We have got to do it. I think it is not only cost-effective, it is cost prevention down the road.

Sure, $165 million is a lot of money, but it is a small amount of money when you are talking about the health costs of this country.

I urge all of the Members to reject the Broyhill substitute and go with the committee bill.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. SHELBY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I just want to underscore a very important point that the gentleman has made. We are called upon each year to spend more and more money on medicare and medicaid. These costs of these entitlement programs are increasing at a rate far in excess of the general inflation rate. We are trying to struggle with increasing health care costs in the private sector as well.

Unless we put the money into research so that we can prevent and control disease, we can only expect a future of health costs escalating ad infinitum. We must put our money into research and, hopefully, eliminate these diseases before they eliminate so much of our Treasury and national resources to pay for health care.

Mr. SHELBY. I wonder if the gentleman from California (Mr. WAXMAN) would engage in a colloquy with me for a moment.

In this bill that came out of our committee, Mr. Chairman, is there not a provision in there for health prevention centers around the country? I do no know if the gentleman touched on that earlier.

Mr. WAXMAN. If the gentleman will yield, indeed there is a very constructive provision. We discussed this when we had general debate on this bill last week.

I want to point out that my colleague from Alabama was the leading proponent of that provision which we hope will be enacted into law. It is a very important signal that we want greater emphasis at NIH on research on prevention. NIH should now shift its focus to try to prevent diseases and to control them at an early stage.

Mr. SHELBY. I thank the gentleman.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. SHELBY. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I thank the gentleman from Alabama for yielding to me, and I share his views. For many years, Mr. Chairman, I received a computer printout from the National Cancer Institute of the approved but unfunded projects. They were substantial. And it was a grievous thing to see the fact that there was this omission out of which there may have come a cure for one type of cancer. So, therefore, I think it is very important that we put priority and emphasis on this bill. I rise in support of the bill and I rise in opposition to the Broyhill amendment.

AMENDMENT OFFERED BY MR. DANNEMEYER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROYHILL

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER to the amendment in the nature of a substitute offered by Mr. BROYHILL: Page 18, after line 16, insert the following new section:

"FETAL AND INFANT RESEARCH

"SEC. 8. The Secretary of Health and Human Services shall not conduct or support research or experimentation in the United States or abroad on a living human fetus or infant, whether before or after induced abortion, unless such reserch or experimentation is done for the purpose of insuring the survival of that fetus or infant."

Mr. WAXMAN. Mr. Chairman, I reserve a point of order against the amendment.

Mr. DANNEMEYER. Mr. Chairman, I ask unanimous consent that this amendment may be considered en bloc as applicable to the amendment in the nature of a substitute, as well as to the basic bill before the committee.

Mr. WAXMAN. Reserving the right to object to that request, the regular order, Mr. Chairman, would be the point of order which has been raised against the amendment. I seek to be recognized to be heard on the point of order.

POINT OF ORDER

The CHAIRMAN. The gentleman from California (Mr. WAXMAN) is recognized on his point of order.

Mr. WAXMAN. Mr. Chairman, the amendment is in violation of rule XVI, clause 7 of the House of Representatives. The gentleman's amendment is not germane to the amendment for two reasons:

The subject matter of the Broyhill amendment is the reauthorization of the National Cancer and Heart, Lung, and Blood Institutes and the National Library of Medicine which is administered by NIH. The Broyhill amendment is limited specifically to the research conducted by the Cancer and Heart Institutes. The amendment proposes to limit research throughout the Department of Health and Human Services. The amendment would affect research conducted by the Alcohol, Drug Abuse, and Mental Health Administration, FDA, CDC, NIOSH, and the National Institute for Handicapped Research.

NIH is not the only research agency within the Department of Health and Human Services that conducts research involving infants. For example, the Center for Disease Control does or has done research on infants and nutrition—new strains of infectious diseases, adverse reactions to vaccines and drugs, infant mortality.

The Food and Drug Administration does research on nutrition and effects of drugs on pregnancy.

ADAMHA does research on the effects of alcohol and drugs on pregnancy, on infants, on congenital mental retardation and birth defects, and on congenital hormonal and physiological causes of mental illness.

Other agencies do extensive research on child health and infant mortality.

My second point is that a specific subject may not be amended by a provision general in nature, even when the same class of the specific subject.

The CHAIRMAN. Does the gentleman from California (Mr. DANNEMEYER) wish to be heard on the point of order?

Mr. DANNEMEYER. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized on the point of order.

Mr. DANNEMEYER. Mr. Chairman, I am a little surprised—and then I am not—by the assertion of a point of order. But dealing with its merits, since this proposed legislation before the committee deals with experimentations of all types on human systems, the authorization for the National Institutes of Health, to seriously suggest that a proposed limitation on that experimentation would not be germane to such a bill I do not think is deserving of a serious argument. That is on the merits.

So far as scope is concerned, taking the entire picture of what is before the committee, the legislation before us deals with limitations on experimentations with animals. Is the gentleman from California now suggesting that a proposed limitation on a human fetus has less dignity for the consideration by this committee than

the subject matter of the bill before the House relating to limitations on experimentations with animals?

Mr. WAXMAN. Mr. Chairman, I would point out to the gentleman that I am attacking his amendment on procedural grounds. I will be pleased to discuss it on substantive grounds. But I would also point out that, had the gentleman given us the courtesy of giving us his amendment in advance, we would have informed him of the defect. I was informed in advance that the amendment was going to be offered. That was sometime yesterday. But it seems to me that since we did not see his amendment until 5 minutes before it was offered, we did not have a chance to advise the gentleman, as we would, how to draft an amendment that would be appropriate in form so that we can discuss the merits. My point of order is solely on the defect procedurally that this amendment contains as it relates to the matter before us.

□ 1210

Mr. DANNEMEYER. I thank the gentleman for his offer in assisting the drafting of an amendment. I was kind enough to discuss it with the gentleman yesterday. And I hope that would be sufficient information to advise him as to my intent.

I will continue to advise the gentleman if I have another amendment to offer to this bill I will continue to give him at least 1 day's notice of my intent to offer any such amendment, because I think it is the fair thing to do.

The CHAIRMAN (Mr. D'AMOURS). The Chair is ready to rule on the point of order.

Insofar as the amendment may restrict the authority of the Secretary of HHS over programs not covered in the amendment in the nature of a substitute, and also may restrict research for experimentation of other agencies not within the province of the substitute, the Chair agrees with the point of order made by the gentleman from California (Mr. WAXMAN).

The Chair has also found a precedent in Deschler's Procedures, chapter 28, section 8.26, where—

§ 8.26 To a bill amending the Bretton Woods Agreement Act, perfected by the Committee of the Whole to only address U.S. participation in and use of a special and limited International Monetary Fund financing facility, an amendment adding a new section to the act to impose certain policy directives on the U.S. Governor of the International Monetary Fund in relation to all IMF transactions was held not germane.

The Chair sustains the point of order.

Ms. MIKULSKI. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the substitute.

Mr. Chairman, much has been said earlier about opposing the Broyhill-Madigan substitute because of its cuts in research. I absolutely support the remarks made by my colleagues. For I believe that one of the most important roles that a government can perform is that of saving lives. And lives are saved, not only through a national defense policy, but through a preventative medicine policy.

Recently my mother underwent a triple bypass surgical operation at Johns Hopkins University. She is alive today because of the medical research that was done.

At one point in our history, such surgery could have only been done on the very rich or the very young. But because of our commitment to the kind of research and clinical protocols that were involved, oldtimers are alive today.

The Broyhill substitute would severely limit research in basic heart disease. Right now, death rates have declined 45 percent from strokes and 30 percent from other cardiovascular diseases because of this research. The biomedical cuts in heart and stroke research is compelling enough to defeat the Broyhill substitute.

However, I am not naive to believe that everybody working under contracts from the National Institutes of Health are idealistic and would be Noble Prize winners.

During extensive hearings held before our committee, we saw that there was extensive fraud, waste, and abuse in the scientific field. And as a result, good guy scientists were being robbed of the moneys that were needed because of faulty protocols, lousy monitoring, and either the inability or the lack of will from the National Institutes of Health to bring that under some type of discipline.

Right now there are cases pending on scientific fraud, violations of basic protocols that have taken over 4 years to rectify.

The Broyhill substitute totally eliminates the provision for providing more effective response to reports of scientific fraud. We need to act promptly. And the Waxman bill provides, No. 1, the statutory authority to set up a fraud and abuse unit within the National Institutes of Health to deal with this problem. It also provides the mechanism to do that and a very clear directive to do that.

So if the U.S. Government is going to fund our research, we better make sure that we get a dollar's worth of research for a dollar's worth of taxes. And the American people need to have confidence in what we are doing.

As our research community is saving those lives, we need to protect their reputation, and we need to protect their integrity, and we need to protect the research of this country.

I am opposed to the Broyhill substitute because it cuts money and research, and it also eliminates those very important mechanisms to deal with scientific fraud and abuse. I think if we are going to go after welfare mothers, we also ought to go after the guys who are ripping off our Government far more insidiously, cynically and dangerously.

Mr. GRAMM. Mr. Chairman, I move to strike the requisite number of words and rise on behalf of the amendment.

Mr. Chairman, I do not know anybody who is against health research. What a wonderful thing it is that we can do a triple bypass and keep someone alive.

There is nothing in Government I think that has a stronger base of support than NIH.

But the real issue we are debating here is are we going to have budgets or are we not. And I think what we have today is a perfect example of why the budgetary process has not worked in this Congress, why we have consistently overspent on every budget that we have written under the Budget Act, and why we need a reform of the budget process.

We are not going to see this amendment accepted here today. The Members of the House are going to vote a level of spending for NIH which is higher than the proposed increases during the last 2 years of the Carter administration, at a time when inflation is down, at a time when we are trying to control the growth in spending, because nobody wants to be thought of back home as being against health research that can keep people alive.

Our problem is that every time we set out a budget, we have all the programs with big constituencies come forward busting that budget.

Now, technically the distinguished gentleman from California can say that within the authorization we can accommodate an 11 percent increase in NIH, and that is correct, if we are willing to cut some other area of our authorization program back substantially.

I predict here today that that will not happen, that we will adopt this 11-percent increase, and that when the time comes to meet the budget in authorization in other areas we will have reached the point where these programs have to be cut back so severely that this House will not enforce the budget.

Our problem is you cannot be fiscally responsible on an issue like NIH. We will have many Members here today who voted for a budget to control spending who will vote to bust the budget on NIH, and the reason is those who benefit from NIH, from our universities, from our clinics, from our

physicians, are all looking over the right shoulder, telling people back home whether Congressman so and so cares about the poor and the sick and the suffering.

Nobody is going to be looking over the left shoulder. This debate is not going to be written up as a budget referendum. And as a result the American public is in the dark.

Under these circumstances, we are going to lose on the budget over and over and over again. And that is why I think it is imperative that we engage in budget reform, that we adopt a balanced budget amendment to the Constitution, so that if we really want a 11-percent growth in NIH, a perfectly legitimate position, that we take the money away from another program, that we be honest up front. We are not being honest here today. That is why I have cosponsored this amendment, so that we might debate this issue, and make it clear exactly what is happening in this House, where we are busting the budget over and over and over again on motherhood and apple pie votes. Not busting it technically, because technically we could cut authorizations for other levels back to make this conform to the budget.

The point is that will not be done because on the last authorization of this year we will be to the point where the cutback in that program would be so severe to conform to the budget that it will not occur.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. GRAMM. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Is the gentleman aware of the fact that the Appropriations Committee, which must decide each year how much money may be spent, just yesterday decided to limit funds in other areas and to appropriate more funds for heart research in 1983 than the Broyhill-Gramm substitute would allow?

Mr. GRAMM. If I might reclaim my time, we on the authorization committee have the obligation to set out authorizations in the aggregate that conform to the Budget Act. An objection can be made under the Budget Act not to appropriations, but only to authorizations. So I am addressing our legitimate mandated function under the Budget Act.

□ 1220

If the gentleman is telling me that there is support spending more money on health, the gentleman is telling me something that I am very aware of and something that I support.

My point is not that the money is not there. My point is that we are not going to take the money away from anybody else; so we are going to continue spending on every motherhood and apple pie program, all good programs; but the aggregate effect is economic chaos.

Mr. JOHNSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Gramm-Broyhill amendment for this reason: The Reauthorization Act provides legislative mandate that I seriously question are due or called for in this time of rapidly changing technology.

Why lock into the National Institutes of Health an organizational program that is specified by congressional mandate. Why require that an assistant director for this area or that area be appointed, that all the different advisory boards and councils be created immediately, when we are going through a health care transition period, reflecting more and more the preventive aspects of treatment, where technology is playing an ever-increasing role and change is constant.

I have been fortunate recently to visit a lot of the centers that are now administering blood tests and all sorts of tests by means of computers, and to lock in organizational and managerial structure as part of an authorization bill simply does not make any sense to me.

We can correct an underfunding of this program, and I am a strong supporter of the National Institutes of Health, by a simple appropriation bill; but once we lock in this bureaucratic structure, once we lock in this administrative structure that is set forth in this bill, we will never disassemble it.

The real question is not how many dollars we appropriate, but how effective the dollars are, and for us, a body not noted for its managerial ability, to sit here and stipulate how the National Institutes of Health and all their subagencies should be created, managed, organized, administered, advised, counseled and run, just simply does not make sense to me.

A simple continuation of the appropriation and authorization process, which is all the Gramm-Broyhill amendments are about, does not lock in all these changes, all these councils, all these advisory committees, and does not put us in the position of telling the Director of the National Institutes of Health how to run his shop.

I think a simple continuation of the existing program, and let the management remain with those who have to determine and contribute to the effectiveness of the program, is what is in order.

AMENDMENTS OFFERED BY MR. SIMON TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROYHILL AND TO H.R. 6457

Mr. SIMON. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. SIMON to the amendment offered in the nature of a substitute offered by Mr. BROYHILL: Page 18, insert after line 16 the following:

CYSTIC FIBROSIS CENTER

SEC. 12. The Director of the National Institutes of Health shall continue the Cystic Fibrosis Center.

Redesignate the succeeding section accordingly.

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SIMON. Mr. Chairman, I also ask unanimous consent that this amendment and an identical amendment to the committee bill be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from illinois?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment to the bill.

The Clerk read as follows:

Amendment offered by Mr. SIMON: Page 115, insert after line 14 the following:

CYSTIC FIBROSIS CENTER

SEC. 12. The Director of the National Institutes of Health shall continue the cystic fibrosis center.

Redesignate the succeeding section accordingly.

Mr. SIMON. Mr. Chairman, I was amazed recently to be contacted by the Cystic Fibrosis Foundation—all of us have had our pictures taken with the Cystic Fibrosis Child each year—the Cystic Fibrosis Foundation contacted me and said that the cystic fibrosis research is to be stopped.

I contacted the head of the arthritis program at NIH which supports this research and he confirmed this report. He said, "I say it with great regret. It costs only $400,000 a year, but we are in a financial squeeze and we have to make some very difficult decisions."

I believe that this research absolutely ought to be continued. My strong, strong feelings on this matter stem in part because my family has become acquainted with an 18-year-old victim of cystic fibrosis, Rachel Mann.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the chairman of the committee.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding. I want to commend him on the amendment.

Mr. Chairman, we have had a chance to review the amendment and I am pleased to join the gentleman in supporting the amendment.

Mr. SIMON. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered en bloc by

the gentleman from Illinois (Mr. SIMON) to the text of the bill, H.R. 6457, and to the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. BROYHILL).

The amendments to the text of the bill, H.R. 6457, and to the amendment in the nature of a substitute were agreed to.

AMENDMENT OFFERED BY MR. GORE

Mr. GORE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will inquire, is this amendment offered to the Broyhill substitute amendment?

Mr. GORE. No, Mr. Chairman. This is to the bill.

The CHAIRMAN. The gentleman is correct. The bill is open to amendment at any point.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. GORE: Page 14, insert at the end of line 25 the following: "nutrition,".

Mr. GORE. Mr. Chairman, this amendment is very simple. I call your attention to the proposal in the committee bill to establish centers for research and demonstration of health promotion and disease prevention. The amendment adds the study area of nutrition as one of the fields to be involved in these centers.

In recent years I have become involved in a number of activities that have made me realize the importance of a strong national effort in health promotion and disease prevention research. Along these lines, I have seen increasing evidence of the relationship between diet and many of the most invidious forms of morbidity and mortality in the United States. Nutrition is clearly a fundamental component of health promotion/disease prevention activities. This amendment assures nutrition is one of the disciplines to be included in what I consider to be an excellent proposal in the gentleman from California's bill.

I urge Members to support this amendment and to support the committee bill.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the distinguished chairman.

Mr. WAXMAN. Mr. Chairman, I am familiar with this amendment. I am pleased to join the gentleman in supporting it. I think it is a helpful and constructive proposal.

Mr. GORE. Mr. Chairman, I believe that is true on the other side as well.

Mr. CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. GORE).

The amendment to the text of the bill, H.R. 6457, was agreed to.

Mr. PEPPER. Mr. Chairman, I rise in opposition to the Broyhill substitute amendment.

Mr. Chairman, I wish first to thank in the warmest way the distinguished gentleman from North Carolina for including in his substitute, as is included in the committee bill, a provision for a separate Arthritis Institute, shearing away the appendages that have been added over the years to the legislation of which I had the privilege of being the author in 1950 as a Member of the other body.

I am especially grateful to Mr. WAXMAN and Mr. WYDEN for their generous and able assistance in making this provision part of the committee bill.

I think the wisdom of the bill's sponsors and of the substitute's sponsors is very clear that there ought to be a separate, clear Arthritis Institute, because millions of people, particularly the elderly in this country, are afflicted with arthritis every year.

Unhappily, however, I must oppose the substitute amendment of my distinguished friend, the gentleman from North Carolina, because of the limitation in funds that his substitute would provide.

Mr. Chairman, when I was a Member of the other body and we had legislation of this character to provide additional funds for cancer research, there were five Members of that body who later died with cancer who voted against additional funds for cancer research. Those conscientious public servants honestly did not think we could afford more money for cancer research.

As it is today, only 26 percent of all the applications for funds for research from competent applicants passed upon and approved by the top echelon of the National Cancer Institute are funded. Only about one out of four of the approved applications that look as if they have merit are funded because of the limitation of funds that we have.

□ 1230

In respect to heart and lung research, only 36 percent of the applications that are approved by the highest authority in the Heart, Lung, and Blood Institute are finally implemented because of a lack of funds.

Basically what we have, therefore, in this substitute by my able friend from North Carolina would add a little onto the funds already being appropriated for heart and cancer research.

Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I am glad to yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

The gentleman does concede we are not asking for a cut in funds? We are asking for a 7-percent increase in the funding level of the authorization levels for the National Cancer Institute.

Mr. PEPPER. I was not aware that it was quite that much.

Mr. BROYHILL. That is exactly what it is, a 7-percent increase.

Mr. PEPPER. I thought it was only a few million dollars. However, whatever the able gentleman says is his figure, is to be compared with about 12 percent for fiscal year 1983, an average of 11½ percent for 1983, 1984, and 1985.

Mr. BROYHILL. And about 25 percent from 1983 to 1985.

Mr. PEPPER. Now, here is the problem presented to this House, to this committee: Yesterday, you have already been advised, the Appropriations Committee appropriated in the heart area more money than is authorized by the Broyhill substitute.

Does my distinguished friend mean to say we want to curb the Appropriations Committee of this body, acting within the scope of the budget, from providing additional funds for heart and lung research? The same thing applies in the cancer field.

Nobody knows what the answer is, but can we not give our own Appropriations Committee, when it is acting within the scope of the budget that has been approved by this House, the discretion to respond to the appeals that may have merit that more funds be made available for cancer and heart research?

My colleagues, if you have ever had to look into the face of a loved one knowing that she was doomed to die from cancer, would you have wanted to say to her and them—421,000 die every year on an average—would anybody have the temerity to say to a lingering person like that, approaching the threshold of death, "I wish we could have tried some more things, but we did not think we could afford the additional funds that would have been necessary if we had funded those 74 percent of projects that were approved but for which we did not have the funds?"

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Illinois.

Mr. MADIGAN. I want to thank the gentleman for yielding and apologize for intruding into this very emotional moment, but I think the record should be clear that when we talk about what the Senate Appropriations Committee is doing in this instance, it is correct to say that they have an appropriation figure higher for heart diseases than is contained in the Broyhill substitute.

The CHAIRMAN. The time of the gentleman from Florida (Mr. PEPPER) has expired.

(On request of Mr. MADIGAN and by unanimous consent, Mr. PEPPER was allowed to proceed for 2 additional minutes.)

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, they also have a figure lower for cancer research than is contained in the Broyhill substitute.

The Senate is providing increased appropriations for heart disease research by taking it away from cancer. Mr. BROYHILL is providing more money for cancer than the Appropriations Committee.

Mr. Chairman, I thought in fairness the gentleman would want the record to be clear on that.

Mr. PEPPER. Yes. I thank the gentleman for what he has added, but we go back to the essential question presented by this substitute: Is there too much discretion; is there too much latitude allowed to our own Appropriations Committees, as long as they act within the scope of the budget, in trying to provide more research funds to go through the myriad of reasons, myriad of causes that somehow lead to this desperate, dastardly killer that is taking nearly half a million lives every year?

Mr. Chairman, in this House today, in our membership, there are victims of cancer. You know the old saying: "Ask not for whom the bell tolls; it tolls for you." If statistics continue in the future as in the past, some of us in this House, and several of us, will be the victims of cancer. Can we not afford a few more million dollars to try to find a way that we can live, and our loved ones can survive?

That is the question here. This is not an extraordinary, an exorbitant demand on the part of the committee. It is a responsible committee. Eleven or twelve percent is not an excessive authority, an excessive leeway.

So I ask my colleagues: Let us not look back and regret that we did not do what we could within reason to save the beloved of this country, maybe ourselves.

AMENDMENT OFFERED BY MR. DANNEMEYER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROYHILL

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER to the amendment in the nature of a substitute: Page 18, after line 16, insert the following new section:

"FETAL AND INFANT RESEARCH

"SEC. 8. The National Institutes of Health, with respect to the programs conducted by or through the Institutes or the National Research Institutes, shall not conduct or support research or experimentation in the United States or abroad on a living human fetus or infant, whether before or after induced abortion, unless such research or experimentation is done for the purpose of insuring the survival of that fetus or infant."

The CHAIRMAN. The gentleman from California (Mr. DANNEMEYER) is recognized for 5 minutes in support of his amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague yielding.

Mr. Chairman, I would like to ask our colleague, the author of the substitute, as I understand, there is almost $1 billion in this bill for cancer research; is that not correct?

Mr. BROYHILL. Mr. Chairman, if the gentleman will yield to me, that is correct. The authorization levels in my substitute are $984.6 million.

Mr. ROUSSELOT. That is an increase over last year.

Mr. BROYHILL. That is an increase over last year. Reference has been made to the action taken in the other body by a committee there, and that is $948.7 million. We are providing for an increase even over that.

Mr. ROUSSELOT. The gentleman is providing an increase over what the Senate recommended. Well, then, the gentleman's provisions here are for increased resources for cancer research; is that not correct?

Mr. BROYHILL. That is correct.

Mr. ROUSSELOT. I appreciate clarifying that, because we had almost gotten the impression 1 minute ago that somebody was trying to cut back on cancer research. We are actually increasing it. That is terific.

Mr. DANNEMEYER. Mr. Chairman, I ask unanimous consent that this amendment be considered en bloc as to both the substitute amendment offered by the gentleman from North Carolina (Mr. BROYHILL) and to the basic bill offered by the gentleman from California (Mr. WAXMAN).

The CHAIRMAN. The Chair would inquire: Is the amendment properly drafted as to both texts?

Mr. DANNEMEYER. Yes, it is; in my understanding, it is.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BROYHILL. Mr. Chairman, reserving the right to object, is the gentleman's amendment properly drafted as to the proper place in the original bill?

The CHAIRMAN. The Chair thought he had put that question already.

Mr. BROYHILL. I did not hear the answer.

The CHAIRMAN. The Chair has no direct knowledge and thought he would put that question to the gentleman from California.

Mr. BROYHILL. Further reserving the right to object, as I understand, the amendment is referenced to the substitute and is not referenced by page number or section number to the original bill.

Mr. DANNEMEYER. To cover that base, may I ask unanimous consent that if the amendment to the Broyhill substitute is not properly indexed to the basic bill that it may be considered properly indexed?

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The Chair would suggest that the amendment could be construed to be a new section at the end of either bill.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, if I might be heard on the unanimous consent request of the gentleman from California, I think we ought to get to the debate on the merits of the amendment. I will not object to the unanimous-consent request that the amendment be considered en bloc so he could try to amend both the substitute and the original bill. I want to extend that courtesy to my colleague from California so we can have a real discussion on the merits of this amendment, and I hope to express my hope our colleagues would not adopt it.

Mr. BROYHILL. With the understanding that it is a section at the end of both bills, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

The Chair hears none, and the request is so ordered.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER to H.R. 6457: Page 115, after line 14, insert the following new section:

"FETAL AND INFANT RESEARCH

"SEC. 12. The National Institutes of Health, with respect to the programs conducted by or through the Institutes or the National Research Institutes, shall not conduct or support research of experimentation in the United States or abroad on a living human fetus or infant, whether before or after induced abortion, unless such research or experimentation is done for the purpose of insuring the survival of that fetus or infant."

Redesignate the following section accordingly.

Mr. DANNEMEYER: I thank my colleagues.

Mr. Chairman, I am presenting this amendment to the Committee for its consideration for basically one very simple reason: Back in 1973, a similar amendment, almost identical in form, was presented to the House and it was adopted by a vote of 354 to 9.

□ 1240

In the same year, in 1973, the Senate temporarily halted the funding for activities of this nature pending the

adoption of regulations by HEW relating to this particular activity. When the regulations came out, the regulations limited the use of Federal funds for experimenting on fetuses in the womb or after they are born and prior to the time the fetuses die—that very limited period of time. The regulations, I will repeat, limited Federal funds for that kind of experimentation.

The amendment now before the Committee would prohibit the use of Federal funds for experimentation on aborted fetuses, in the womb or after they are born, while they still have life. Now, I am not suggesting that we would stop experimentation on a fetus after it has expired. This amendment relates only to while the fetus has life, in that brief period of time before birth or after birth, that very narrow stricture of time.

The basis for it is very simple. Any society, I think, has to stand for something, and I think one of the things that our society should stand for is a respect for human life. When anyone is involved in an automobile accident of a very serious nature and is laying in a hospital bed, and the prognosis is that he probably has a day or two to live, ethically do we not permit experimentation on such a person lying in a hospital on the theory that, "Well, they are going to die anyway, so why don't we start experimenting for the sake of helping those who may come in the future?"

We all want to have research for the purpose of improving the knowledge of medical science so that we can assist caring for the sick and the ill when any of those misfortunes strike any of us, but we have in our culture a limitation which says that there is a limit beyond which we will not tolerate experimentations on humans when there is life in a person. I think our society should stand for this.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. DANNEMEYER was allowed to proceed for 2 additional minutes.)

Mr. DANNEMEYER. Other cultures in the past have justified actions of this type by saying: "Well, we need this in order to advance medical science."

There was a gentleman who wrote a book, a very famous book, Mr. Shirer, called "The Rise and Fall of the Third Reich, History of Nazi Germany," in which he said in that book, written in 1960:

> The Nazi medical experiments are an example of this sadism. For in the use of concentration inmates and prisoners of war as guinea pigs, very little, if any, benefit to science was achieved. It is a tale of horror of which the German medical profession cannot be proud. Although the "experiments" were conducted by fewer than 200 murderous quacks, albeit that some held eminent posts in the medical world, their criminal work was known to thousands of leading physicians of the Reich, not a single one of whom, so far as the record shows, ever uttered the slightest public protest.

We are here today, as elected representatives; we have the ability to speak for the unborn, the living fetus, and I think the least we can do, in terms of satisfying the conscience, or respecting the dignity of life, is to state that in this narrow stricture of time that we want medical experimentation, but in this instance our respect for life overcomes our desire for medical experimentation, and therefore we say we will not permit it.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I will be happy to yield.

Mr. PEYSER. Mr. Chairman, does the gentleman really try to infer that the work of the National Institutes of Health and the medical profession in the United States is comparable to what was going on in Hitler's Germany?

Mr. DANNEMEYER. I am glad the gentleman from New York asked that question, because I have a list of examples here of experimentation on fetuses which has been taking place in the United States of America in the 1970's.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. PEYSER and by unanimous consent, Mr. DANNEMEYER was allowed to proceed for 1 additional minute.)

Mr. DANNEMEYER. I will reclaim my time. The gentleman asked me to read it. and I will be happy to read it.

> (2) The chief of pediatrics at the New York State Institute for Basic Research in Mental Retardation, Jerald Gaull, M.D., "injects radioactive chemicals into fragile umbilical cords of fetuses freshly removed from their mother's womb in abortions. While the heart is still beating, he removes their brains, lungs, livers, and kidneys for study". (Washington Post, 3/15/73)

Mr. PEYSER. If the gentleman will yield for a question, does the gentleman infer that that is the type of thing that Nazi Germany was involved with? I have read the statements of what went on in the medical profession in Germany during the war. I do not find anything, and I am sort of amazed to see the gentleman's belief that our National Institutes of Health and medical profession are to be compared to what doctors did in Germany during the war.

Mr. DANNEMEYER. Let me respond to the gentleman.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. JOHNSTON and by unanimous consent, Mr. DANNEMEYER was allowed to proceed for 1 additional minute.)

Mr. DANNEMEYER. This was a psychiatrist who was an adviser to the War Department at the Nuremburg trials:

> Whoever brought the early change in medical attitudes, whatever proportions these crimes finally assumed, it became evident to all who investigated them that they started from small beginnings. It started with the acceptance of the attitude that there is such a thing as a life not worthy to be lived.

This proposed amendment is a narrow stricture prohibiting Federal dollars for research funds on a living aborted fetus, and I think we should stand here today and say that we will draw the line from the standpoint of respect for human life; we choose not to start that small beginning in our culture.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman and my colleagues, Mr. DANNEMEYER indicated that a similar amendment had been adopted by the Congress in 1974. He is correct, and at that time a Commission was also organized for the protection of human subjects of biomedical and behavioral research. That Commission met and adopted regulations which are now existing law. I would like to point out for the Members that existing Federal regulations already carefully restrict reseach involving pregnant women and fetuses.

Pregnant women are not permitted to be involved as research subjects unless the research is intended to meet the health needs of the mother or the risk to the fetus is minimal. That is existing law.

No fetus in utero may be involved as a research subject unless the research is to meet the health needs of the particular fetus or the risk to the fetus imposed by the research is minimal and the purpose of the activity is the development of important biomedical knowledge which cannot be obtained by any other means. This is existing law.

No fetus ex utero may be involved in a research activity unless the fetus has been determined not to be viable. This is existing law.

Research activities involving the dead fetus, mascerated fetal material, or cells, tissue or organs excised from a dead fetus may only be conducted in accordance with applicable State or local law. This is existing law.

What I am pointing out is that existing regulations are adequate, and I suggest that this amendment is unnecessary if it seeks to accomplish any of these purposes. Present law already deals with protecting the dignity of life, including the fetus.

Now, what will be the impact of this ideological statement which is being offered to us in the form of an amendment to NIH? There are important research activities that may be curtailed.

For example, the language in this amendment might prohibit research using fetal fluids and tissue which would lead to improved pregnancy outcome and infant health. All research involving normal fetal maturation and development would be stopped.

Research similar to that which has allowed physicians to detect, manage, and prevent "Rh babies"; that research was dependent upon sampling the blood of the pregnant woman and the developing fetus could be stopped.

□ 1250

And by the way, a study commissioned by the National Commission for the Protection of Human Subjects estimated that 450,000 stillbirths would have been caused in recent years without this Rh research. And that could be stopped.

Fetal lung maturity can be assessed by sampling amniotic fluid. Failure to develop lungs, or respiratory distress, accounts for much of the infant mortality in this country. Treatment for some forms of this syndrome is now available as the result of fetal experimentation. And this could be stopped.

This amendment, while it seeks to make an ideological statement that none of us disagrees with, would do a tremendous amount of harm for saving lives, for allowing births to go forward, for allowing babies to mature, and it would lead to ignorance. Ignorance in biomedical research would mean that we are not going to know how to save lives and how to allow a fetus to mature.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I am pleased to yield to my colleague, the gentleman from New York.

Mr. GREEN. Mr. Chairman, I thank the gentleman for yielding and for his very lucid explanation of the problems which this well-intended but really quite pernicious amendment would offer.

As I read the amendment, an experiment properly designed, meeting all legal and scientific standards, which was in no way threatening to the life of a fetus, if it was essentially designed to give information as to how to save the lives of future fetuses and was not directed simply to save the life of that particular fetus, would be forbidden by this amendment.

So I think the gentleman is correct when he states to the House that this amendment would in fact shut off very important research that is underway and designed to preserve life, because that research, even though it would not impose any threat at all to the life of the fetus involved, would nonetheless be totally abandoned by this amendment.

Mr. WAXMAN. Mr. Chairman, the gentleman is correct. The research that is now going on saves the lives of fetuses and infants. There are new treatments being developed to treat fetal disease, and techniques are being developed to perform fetal surgery to correct congenital defects before birth. This could now be restricted by this amendment.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has expired.

(By unanimous consent, Mr. WAXMAN was allowed to proceed for 1 additional minute.)

Mr. WAXMAN. Mr. Chairman, research and corrective surgical intervention in cases of birth defects, research on the effects of lead and other toxic chemicals, and research on the effects of alcohol and other drugs on pregnant women are vital to assuring the health of developing fetuses.

These are the issues that may be set back if we develop an ideological statement that is only an ideological statement. Existing law already fully protects human dignity which the gentleman from California said was the purpose of his amendment.

Mr. GREEN. Mr. Chairman, will the gentleman yield further?

Mr. WAXMAN. I yield to the gentleman from New York.

Mr. GREEN. So the basic effect of the gentleman's amendment, then, ultimately would be the loss of many fetal lives which research, we hope, would be able to save, and to no end, because present law prevents any research which would be threatening to the individual fetus involved.

Mr. WAXMAN. Mr. Chairman, I think we must reach that conclusion. It is inescapable.

Mr. SILJANDER. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I am pleased to yield to the gentleman from Michigan.

Mr. SILJANDER. Mr. Chairman, we heard one aspect of this. The gentleman is suggesting that there are plenty of laws and regulations now prohibiting experimentation on fetuses. Then we also heard another comment, if I may make this inquiry of the gentleman from California.

Mr. CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has again expired.

(On request of Mr. SILJANDER, and by unanimous consent, Mr. WAXMAN was allowed to proceed for 1 additional minute.)

Mr. SILJANDER. Mr. Chairman, will the gentleman yield further?

Mr. WAXMAN. Certainly, I yield to the gentleman from Michigan.

Mr. SILJANDER. Then, Mr. Chairman, we hear that this amendment, while ideologically proper or one that the gentleman will agree with in a philosophical perspective, would still limit experimentation.

Let me emphasize what the amendment would do. No. 1, this amendment is not included under present regulations or present laws dealing with prior or after induced abortions. We are talking about experimentation on live fetuses during or before or after an abortion.

No. 2, it would not curtail any experiments to assist in maintaining or stabilizing the life of a fetus. As the last line of the amendment says, "for the purpose of insuring the survival of that fetus or infant."

So I think it is very clear that present rules and regulations do not in fact deal with abortion, prior or after induced abortion.

No. 3, it does insure that any type of experimentation that would assist in the survival of the fetus or infant would in fact be allowed under the amendment. If the gentleman does in fact agree with the concept, I cannot believe that we are restricting experiments on animals and monkeys but we would not restrict experiments on live human beings either before or after induced abortion.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has again expired.

(By unanimous consent, Mr. WAXMAN was allowed to proceed for 1 additional minute.)

Mr. WAXMAN. Mr. Chairman, I want to respond by indicating that the amendment ought to be read by those who consider this amendment to be helpful. It is a poorly drafted amendment.

This amendment says that the NIH may not support research on living human fetuses or infants. I do not know what that means. It says, "whether before or after induced abortion, unless such research or experimentation is done for the purpose of insuring the survival of that fetus or infant."

It seems to me this language could be interpreted to prevent research on an infant or a fully developed fetus. It could prohibit research that is going to lead to saving lives.

Mr. Chairman, this amendment is poorly drafted. I think present law is sufficient, and I suggest that this amendment should be defeated.

Ms. MIKULSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Although I rise in opposition to the amendment offered by the gentleman from California (Mr. DANNEMEYER), I would like to salute him for his intentions in offering this amendment. I absolutely agree that it is the responsibility of the U.S. Government to be absolutely vigilant against any experimentation of a grim, ghoulish, or grizzly nature on human life, and the examples the gentleman raised are indeed grizzly.

That is why I would hope that he would support our thrust to make sure

that there is a mechanism established within the National Institutes of Health to be sure that we do deal with those issues of scientific abuse that result in this, and that he also join with us who speak out on the violations of experimentation on human beings, not only in uterosurgery but, for example, the kinds of experiments that were spoken about recently in a book called "Black Blood" or "Bad Blood" where they talk about the experimentation on black men for syphilis on which the entire research community turned its back.

Sure, we need to protect life. Sure, we need to make sure that our research does not border on the kind of abuses that the gentleman from California outlined.

But this amendment will not do that and will not accomplish that purpose. In fact, what this amendment could inadvertently do is result in the loss of future lives. This amendment would prohibit research on prematurity. Seventy-five percent of all infant mortality in this country is due to premature births.

I have visited the premature centers in Maryland. In Maryland we treat premature births as if those children are trauma victims, and they go to special centers. I have been to the Catholic hospitals and to the other hospitals in which I have seen children smaller than this pen fight for life. The research is not experimentation on their little bodies, it is the kind of monitoring that goes on to know, No. 1, how to save them, and, No. 2, how to prevent other premature births in the future.

We owe them that. And then what does it often take to keep a premature baby alive? You talk to Sister Thomas at Mercy Hospital and you will find out that the saving of the life of a premature baby often costs over $120,000 a year. You bet it is worth it, and you bet I am willing to pay for it. But if we had the kind of research we need, maybe it would not come to that.

Mr. DORNAN of California. Mr. Chairman, will the gentlewoman yield?

Ms. MIKULSKI. No, I will not yield. I have got a lot to say about this. I feel very strong about it.

Maybe if some of the people who are going to have the babies spoke up about it, we could talk a little bit about what it means to be a mother, what it means to face this, and what it means to wonder, when you are 40 years old, whether you are going to have a baby that is retarded, or whether you are going to have a baby with arms and eyes and feet.

We want to know those things. We want to be able to have the kinds of tests that will tell us that, and we want the kind of research that will tell us, given the man that we marry, what his genetic makeup is or what his propensity is not only to diabetes and Down's syndrome but Tay-Sachs. For the women of this country we want this research because we want to live and we want our babies to live, and we want to have healthy babies.

□ 1300

We do not want this kind of an amendment.

I can tell you, speaking out for the right to life, defeat this amendment because this amendment does work against saving lives and saving lives whether they are in the womb or after birth. So I urge the defeat of the Dannemeyer amendment and I urge this defeat for all of the unborn children who need this type of research.

I yield back no time to anyone.

Mr. DORNAN of California. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment.

My colleagues, I represent a beautiful coastal district in California. Until the President of the United States moved north to beautiful Santa Barbara I was his Congessman.

In that beautiful district we have a horror story that indicates precisely how sick I believe, mentally sick some doctors of the American medical profession are who specialize in abortion.

Sixteen thousand, four hundred and thirty-three fetuses taken from a laboratory in my beautiful district city of Santa Monica out to Woodland Hills in the San Fernando Valley, and packaged away, at least 59 of these fetuses in the infamous third trimester that the Supreme Court thought they knew so much about until the book "The Brotherhood" came out.

These 16,433 fetuses were preserved in formaldehyde in a big container which was repossessed by the container company when the person, not a part of the medical profession, who was taking all of these fetuses and storing them could not afford 40 cents per fetus to incinerate them, got behind the power curve in his bill paying.

We found out that just one lab in some unknown period of time, with a little name tag identifying every doctor, the date, and the mother, and all of these bottles or containers holding these fetuses which has now given the district attorney of Los Angeles County a mammoth paperwork job, particularly with the fetuses which were 27 and 28 weeks old, trying to prepare proper autopsy reports on this American holocaust, nightmare.

This is the result of a small percentage, thank God, of American doctors who believe they have a right to abort a living human fetus in advanced months and then experiment on it like it is a rhesus monkey or a guinea pig.

That is what the language of this fine amendment addresses.

I am confused by the chairman of the committee, by the distinguished gentlewoman, using right-to-life terms to look at this amendment when the language here, folks, is precisely correct and clear. It says:

> Whether before or after an induced abortion, unless such research or experimentation is done for the purpose of insuring the survival of that fetus or infant.

If you were sincere about your protestations that we do not want any doctor Mengeles from Auschwitz in our society experimenting on living human beings, with a God-given mortal soul, you would be offering perfecting amendments, I say to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Will the gentleman yield?

Mr. DORNAN of California. I will yield in just 1 second.

I will not take the arrogant attitude of the gentlewoman from Maryland, who is not so gentle, saying that she will yield to nobody.

Give us a perfecting amendment and help us to perfect this language so that we do not get into the damnable situation in our country where we have a Dr. Mengele working and doing experiments on human beings.

If we can protect the snail darter, if we can cut the whale kill to zero, if we can protect animals in this country because we find they register pain with their brute minds compared to the human being, we had better work out proper language. So let us have it.

I will tell the gentleman from California (Mr. WAXMAN) I had a propaganda piece come by my office on this American holocaust in my district and your name was on it with several others of my colleagues. They asked me to send out a "Dear Colleague" and I said I would not do that to a colleague. I said I believe most of my colleagues are sincere, particularly when it comes to medical research.

But if you do not help work out a perfecting amendment on this I am going to call a spade a spade and start putting out the ghastly color photographs which look like Beirut or My Lai or Auschwitz or Buchenwald or Ravensbruck or Mauthausen or all of the death camps and show the photographs of what you and others are trying to protect in this House unless you give us the perfecting amendment, if there is some little nuance that I do not see in this very clear language.

Mr. WAXMAN. Will the gentleman yield?

Mr. DORNAN of California. I yield to the distinguished gentleman from California.

Mr. WAXMAN. I thank my colleague for yielding and appreciate the fact he feels very sincerely about the views he has been expressing.

I agree with the protection of human life. But I want to point out to you that the incident you talked about with such drama in Los Angeles had

nothing to do with research at NIH. A perfecting amendment is not needed because what you are talking about keeping the researchers from doing is prevented by present law.

What this thoughtless amendment would do would be to prevent research in areas where I think any rational person would think we ought to know information so we can save lives, so we can allow fetuses to develop and then be born healthy.

The CHAIRMAN. The time of the gentleman from California (Mr. DORNAN) has expired.

(By unanimous consent Mr. DORNAN of California was allowed to proceed for 2 additional minutes.)

Mr. DORNAN of California. I appreciate the colloquy and I accept your good will. But this is not a thoughtless amendment. A lot of thought has gone into this on the part of the gentleman from California and others who believe that whether you are blinded to it or not, we have sick, very sick, mentally disturbed doctors, an infinitesimal percentage to be sure, that specialize in nothing but the destruction of human life. Then to assuage their consciences they look forward to doing research on living fetuses.

Now, if there are atheists in this House who believe we are just talking about collie dogs or that we are little more advanced than baboons or orangutans, then, sure, this is just a lump of flesh destined to be nothing but dust so why not have medical research to allow for the perfect male fetus so that daddy can have another first baseman, because the No. 1 cause, as the gentlewoman knows, in some communities for abortion are that there are too many females being created in the world and they are looking for more little sons.

Mr. SILJANDER. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Michigan.

Mr. SILJANDER. If I understand this amendment it is only dealing with live fetuses prior and after an induced abortion; is that correct?

Mr. DORNAN of California. Correct.

Mr. SILJANDER. As I also understand it, this amendment would include, allow experiment and research on a fetus if it is to insure the survival of that fetus or infant; is that correct also?

Mr. DORNAN of California. Correct.

Mr. SILJANDER. Then I am very, very confused with all of this discussion about warding off experiments that would save the life of an infant or a fetus. The amendment seems very clear. I cannot believe anyone would oppose this amendment unless their real heart to heart motivation was in fact supporting experiments on live fetuses.

How else could anyone possibly consider viewing this amendment?

Mr. DORNAN of California. If the gentleman would yield back my time, I have heard the word "ideological" used about eight times in some of the counterarguments to this very specific, simple amendment.

The CHAIRMAN. The time of the gentleman from California (Mr. DORNAN) has again expired.

(At the request of Mr. SILJANDER and by unanimous consent Mr. DORNAN of California was allowed to proceed for 2 additional minutes.)

Mr. DORNAN of California. If it is ideological, an article of ideological faith not to want experimentation on living fetuses then so be it.

But if there is a good will in this House about not having the type of strange experiments we saw in Nazi Germany and if they will give those of us who are pro lifers the benefit of the doubt that a living fetus on a table has as much dignity and right not to be tortured as a rhesus monkey, then let us work out any perfecting language, or in legislative colloquy here so that NIH understands from whence we come on this.

We can work out allowing microsurgery on children in the womb because that has been one of the great advantages that has shorn up the argument of the pro life movement in this country.

Mr. SILJANDER. Will the gentleman yield to me again?

Mr. DORNAN of California. I yield to the gentleman from Michigan.

Mr. SILJANDER. It has also been said in this House, to clarify one more point, that there are plenty of laws and regulations now on the books to make this amendment totally unnecessary.

May I point out that in Cleveland, Dr. Robert Schwartz has documented research which shows he removed tissues and organs from fetuses while the hearts were still beating under funding from the Federal Government.

Perhaps the worst case of all was Dr. Peter A. J. Adams, an associate professor at Case Western Reserve University, who performed an experiment involving the severed heads of 12 fetuses obtained by abdominal hysterectomy.

So I think we have concrete data, we have research, we have evidence to show that the present laws, rules, whatever the gentleman from California has outlined that we have that is sufficient is not sufficient and it is not clear.

Why then is it such a big debate about saying we cannot experiment on live fetuses except to save their lives? Is that so difficult for anyone, any human being with any remorse or sense of value of life to conceive or understand?

Quote of doctor's involved in the experiments of Dr. Peter Adams:

They took the fetus and cut its belly open. They said they wanted his liver. They carried the baby out of the incubator and it was still alive. It was a boy. It had a complete body, with hands, feet, mouth and ears * * *

The fetus was not injected with an anesthetic when doctors sliced open his stomach, the doctors maintained that this was little concern to the experimentors because as the doctor put it "an aborted baby is just garbage."

Said Planned Parenthood spokeswoman, Adrienne Degun of New York:

It's ghastly and inhumane. It's unthinkable that such a thing should be going on. If those fetuses are actually surviving the abortions, that may mean they were old enough to even be born prematurely and survive.

It should be noted that in a detailed study, Dr. Noonan from the University of California at Berkeley, that the human fetus was demonstrated to respond to pain very strongly. In other words, the fetus experiences a great deal of pain, and for all we know, anguish at the acts of these doctors.

The CHAIRMAN. The time of the gentleman from California (Mr. DORNAN) has again expired.

Mr. DORNAN of California. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. WAXMAN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DORNAN of California. I have never objected in 6 years to any Member sharing in a colloquy. I resent it.

The CHAIRMAN. For what purpose does the gentleman from New York (Mr. SCHEUER) rise?

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.remarks.)

Mr. Chairman, I rise in opposition to this amendment.

If the intent is to enhance human life, as Mr. WAXMAN has said, that is amply taken care of in the existing law and in the existing regulations, and this amendment would be duplicative. But I fear that it is not meant to do that. I fear that is meant to prevent us from obtaining new knowledge on normal fetal development and pregnancy.

I would ask the proponent of the amendment: Would this amendment prevent microsurgery? Would this amendment prevent research to develop techniques in microsurgery to enhance and improve the health and well-being of the fetus, of the future child?

Mr. DANNEMEYER. If the gentleman will yield, the answer is no.

Mr. SCHEUER. Well, the amendment says in haec verba that everything is excluded and prevented

except research on the fetus designed to save the life of the child.

Now, if we could identify disability, deformities, and what not, in a fetus that could be eliminated so that we could not claim that we are saving the life of the fetus but we could legitimately claim that we are enhancing the life of the fetus, it seems to me that would be a justifiable social objective; but it seems to me that that kind of research would be excluded and prevented by this amendment if it is not designed to save the life of the child.

Mr. DANNEMEYER. If that is a question, I would respond that it is not designed to prevent that kind of research.

Mr. SCHEUER. Well, it clearly does prevent it on its face. The clear meaning of the words would prevent it.

Mr. DANNEMEYER. I think the interpretation of the amendment in the form the gentleman from New York has just related is nothing more nor less than an effort on the part of the opponents of the amendment to create a measure of confusion.

Mr. SCHEUER. I do not think there is any confusion. I will recover my time. The clear meaning of the words that the gentleman has selected is that all kinds of fetal research would be prevented except research designed to save the life of the child, that would prevent research involving normal fetal maturity and development, research on the effects of drugs on pregnant women and developing fetuses, research on corrective surgical intervention in the case of birth defects which could be prevented or avoided by fetal surgery. And, of course, it would prevent research on prematurity, which the lady, whether gentle or not, from Maryland has defined as stimulating three-quarters of the infant mortality in this country plus unimaginable, painful, horrifying mental retardation and physical deformities which will last through the life of the child.

The clear meaning of your amendment would prevent any research on anything except that research designed to save the life of the child.

Does the gentleman from California wish to be recognized?

Mr. DORNAN of California. Yes.

Mr. SCHEUER. The gentleman is a Member whom I respect and admire, and I would be interested in his views on this subject.

Would or would not the clear meaning of this amendment prohibit all of the research that I have just enumerated designed to enhance the well-being of the fetus and the infant when born?

Mr. DORNAN of California. I appreciate the gentleman's good will in asking this, because this is precisely why this House has a value instead of letting the committees write all of the amendments and legislation. And why we come into the Committee of the Whole is to get a legislative background and colloquy so that we give guidance to our legislation, because you cannot put all of the nuances down in paragraph after paragraph.

I am devoted to microsurgery and experimentation on even living people if they are volunteer prisoners. I think it is a way to redeem a lost life and volunteer their bodies for conquering diseases and experimentation.

Mr. SCHEUER. May I ask my colleague a quick, clear question, for which I would like a simple and precise answer:

Would the wording of this amendment in haec verba, on its face, would it not prevent all fetal research to enhance and improve the life of the fetus and the born infant and permit only research to save the life of the fetus?

Mr. DORNAN of California. I believe it would not. And if there is some gray area, some nuance I am missing, I would love to see a perfecting amendment, or I state in the legislative dialog that the answer is "no."

The CHAIRMAN. The time of the gentleman from New York (Mr. SCHEUER) has expired.

(By unanimous consent, Mr. SCHEUER was allowed to proceed for 1 additional minute.)

Mr. SCHEUER. It seems to me that in our legislative life, in the real world as it exists, we have to deal with what is before us. I suggest to my colleagues that the clear meaning of this amendment, the clear meaning of the amendment, the simple, obvious, real-life interpretation of that amendment, is that it has to prevent, it has to prohibit on its face all of this research that I have discussed that would enhance the quality of life of the fetus when it becomes a born child, and that the only thing it would permit is the very narrow fetal research to save the life of the child. I submit that that is an unacceptable result for this Congress and for the American people.

Mr. PAUL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I did want to make some comments about the debate regarding the medical aspect of this particular amendment. As most of you know, I am an obstetrician and gynecologist and have been intimately involved with the abortion issue both from a philosophical viewpoint as well as the medical viewpoint. I would have to say that my interpretation of this amendment would mean that there would be absolutely no restraint on research and the procedures necessary to do whatever we can do to save a human fetus. So I think the questions being raised on the other side of the aisle are more or less procedures just to confuse the issue. I think it is a very necessary amendment. If anybody is concerned about the dignity of human life I think it is vital that this amendment be passed, because it just happens that the experimentation that is going on with live fetuses is a grotesque procedure, and it has been going on for a good many years. Yet for the last several decades we have had experimentation in research for the protection of human life which has been going on and will continue going on with or without this amendment.

This amendment is necessary to prevent the abuse and the crass and outrageous disregard for human life.

As many others in this Congress, I am very much concerned about the role of government in the affairs of individuals and in our economy. It just happens that nobody in this Congress that I know of advocates totalitarianism in its entire state, and yet I for one happen to probably claim the title for recognizing that government should be as small as possible. I advocate very limited government and, therefore, some come to me and say, "Well, with your strict views on the limitation of government power, why is it you will not just avoid the use of government in protecting human life and fetus?" And I think there is a very special reason. I do believe the key role of government is to protect life and property—and not much more than that. And under these circumstances, if we avoid the protection of life, I think we have lost everything else. There is not much else left.

Besides, there is great legal precedence for defending and protecting human life. And that is what we are talking about: Is there legal protection of all life? And I believe there has to be, or we are moving into an age of a disastrous political period if we do not protect all human life.

Just recently we had a case in Texas where a doctor who in the midtrimester aborted a woman of a live fetus. According to some, he participated in malpractice because he did the terrible thing of aborting the fetus and the fetus was born alive weighing 3 pounds. It was breathing and crying. He felt that his responsibility was to kill the fetus. Because he logically assumed there was no legal protection of human life he just picked up the fetus and held its head under the water and drowned the baby. However, he was charged with murder.

We must ask this serious question: What was the difference between the moment before birth and the moment after? Why was it permissible to inject something into the uterus and kill a fetus and deny its protection, and then a moment later not be able to drown the baby? Obviously there is no difference between the two. Human life is

human life and deserves protection. It just happens that a fetus is entitled to inheritance. That fetus also deserves other legal rights because if I as a physician am guilty of malpractice, and the fetus is injured, that baby after it is born can sue me for malpractice. If there is an accident, that fetus that we want to disregard and throw in a bucket can sue if somebody injures it, if it has been harmed in any way.

□ 1320

Yet, believe it or not, if the physician performs an abortion and he fails and the baby is born alive and lives, the fetus has the right to sue the doctor for his care, claiming that malpractice was committed.

So the fetus has the right to be killed but not the right to live. It has legal protection in a very perverse sense of the word.

Legalized abortion is a right to kill, and a right to experiment, but denies the basic right to life. If life cannot be protected how can liberty to any degree be defended?

If government should exist at all, it has to exist to protect life. If we cannot protect life, what is there left for government to do. So it is very necessary that we have an amendment like this to establish once and for all that all life deserves protection.

Mr. PEYSER. Mr. Chairman, will the gentleman yield for a question?

Mr. PAUL. I yield to the gentleman from New York.

Mr. PEYSER. Does the gentleman feel that this amendment we are discussing would have any impact at all on the type of situation that the gentleman has been discussing with some doctor who did something with a 3-pound fetus, or some of the other illustrations?

Mr. PAUL. Yes; I do.

Mr. PEYSER. This refers only to the National Institutes of Health.

The CHAIRMAN. The time of the gentleman from Texas (Mr. PAUL) has expired.

(At the request of Mr. PEYSER and by unanimous consent, Mr. PAUL was allowed to proceed for 1 additional minute.)

Mr. PEYSER. If the gentleman would yield further, this amendment, unless I am mistaken, and the gentleman can correct me, has no application whatsoever to anything that is not dealing in work with the NIH. So a doctor such as the gentleman has mentioned under this situation, I do not think this has any impact at all; is that correct?

Mr. PAUL. Not correct at all, because it has to do with the legality and the responsibility of government to protect life. If we cannot protect life of the fetus that the doctor drowned, how can we protect life if you want to extract its brain in experimentation. It is identical with the legal protection of life.

Mr. PEYSER. But the amendment only says the National Institutes of Health. Unless this doctor the gentleman is talking about has a contract with the NIH, it would have no bearing.

Mr. PAUL. What the gentleman is suggesting is we should have a more inclusive amendment and I agree with him. It should be more inclusive to include every fetus in and out of NIH. But while we are dealing with NIH as we are today we ought to make sure this type of outrage does not occur within NIH and with the funds of the American taxpayer.

The CHAIRMAN. The time of the gentleman from Texas (Mr. PAUL) has again expired.

(At the request of Mr. ROUSSELOT and by unanimous consent, Mr. PAUL was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

As a former practicing physician, or maybe the gentleman still practices occasionally as a diversion from this wonderful job, can the gentleman assure us that the questions raised by our colleague from New York (Mr. SCHEUER), do not apply to this amendment? That is, he was concerned that various research areas which he listed would somehow be denied under this amendment. Is that the gentleman's judgment?

Mr. PAUL. That is not my judgment. It is so clear I cannot even understand the raising of the question. The way the amendment is written, and all that has been done in the last several decades, there is no way anybody could interpret this to deny worthwhile treatment to keep a fetus alive, whether it is experimentation or not. I cannot see how anybody could be concerned with that question.

Mr. ROUSSELOT. I appreciate the gentleman's comment.

As somebody who is obviously very familiar with this field, and knows it firsthand, I think it is helpful to have that information. It is helpful to know that none, I report none of the suggested areas if research by the Gentleman from New York (Mr. SCHEUER) are excluded under the Dannemeyer amendment.

The CHAIRMAN. The time of the gentleman from Texas (Mr. PAUL) has expired.

(At the request of Mr. SCHEUER and by unanimous consent, Mr. PAUL was allowed to proceed for 1 additional minute.)

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from New York.

Mr. SCHEUER. The gentleman just used the words of the amendment again. The gentleman said he could not understand how this could be construed to prevent any treatment or research designed to protect the life of the child. That is exactly what I am saying. It does include that. But on its face it would exclude and prevent all research designed to develop tools and techniques and methodologies designed to enhance the well being of the child, to enhance the health of the child, to enhance the child's life prospects. That would be clearly prevented on clear reading of the words of this amendment.

I agree with the gentleman that any research that would tend to save the life of the child would be permitted. But any research that was not designed to save the life of the child but enhance its well being, prevent prematurity, prevent mental retardation——

Mr. PAUL. I cannot see how enhancing the life of the child and protecting its life as a whole are different. To me they are one and the same. I see no problem with that.

Unless we recognize as a legislative body in a moral society that all life is equal before the law and deserving of its protection. Social upheaval will be the inevitable result of this careless attitude toward life and liberty. No portion of liberty can be preserved if life is rejected arbitrarily for reasons of size or quality.

If life can be snuffed out because it is small or fails to meet certain qualifications—medical or social—we are on the verge of losing the very heritage of this great Nation. If human beings must meet certain standards in order to live, who shall play God and set these standards?

Hopefully, what we do here today helps in a significant way to reverse the trend of the past decade in our disregard for both the value of human life and individual liberty. Let us hope our efforts in the prolife movement are noted and of some real benefit to our country, our freedom, and our children.

Mr. MADIGAN. Mr. Chairman, in view of the fact that the debate on the Broyhill substitute began almost 2 hours ago, and the debate on the Dannemeyer amendment began 35 minutes ago, I am going to ask unanimous consent that all debate on the Broyhill substitute and all amendments thereto conclude in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. AUCOIN. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. AuCOIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask unanimous consent that the debate on the Broyhill substitute and all amendments to this bill end in 15 minutes so that we can get on to making some decisions.

The CHAIRMAN. On the bill and all amendments thereto.

Is there objection to the request of the gentleman from California?

Mr. MADIGAN. Mr. Chairman, is that the Broyhill substitute and all amendment thereto?

The CHAIRMAN. Would the gentleman from California (Mr. WAXMAN) restate his unanimous-consent request.

Mr. WAXMAN. I will go along with the gentleman from Illinois' formulation. I did not know if any other amendments were to be offered.

Mr. MADIGAN. Mr. Chairman, my request was for consideration to be limited on the Broyhill substitute and all amendments thereto. I was not making a request with regard to the bill itself because I do not know if there is anybody else with amendments.

Mr. WAXMAN. I did not think there were.

The CHAIRMAN. Will the gentleman from California restate his request?

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that all debate on the Broyhill substitute and all amendments thereto be limited to 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. AuCOIN. Mr. Chairman, reserving the right to object, I would pose a parliamentary inquiry to the Chair.

If the unanimous-consent request is granted, the gentleman from Oregon has just been recognized, what does that do to the gentleman from Oregon's time?

The CHAIRMAN. The allocation of remaining time will go into effect after the gentleman from Oregon's 5 minutes has expired.

Mr. PEYSER. Mr. Chairman, reserving the right to object does that then mean that the 15 minutes is going to start after the 5 minutes of the gentleman from Oregon?

The CHAIRMAN. After the gentleman from Oregon is finished, there will be 10 minutes remaining.

Mr. PEYSER. Fifteen minutes after he has finished.

The CHAIRMAN. After the gentleman from Oregon has concluded, there will be 10 minutes of debate remaining on the Broyhill substitute and all amendments thereto.

Mr. SMITH of New Jersey. Mr. Chairman, reserving the right to object, I would not object if the request was pushed up to 25 minutes, because I know there are some Members on this side waiting to be heard.

Mr. WAXMAN. Mr. Chairman, a compromise at 15 minutes after the gentleman from Oregon concludes his remarks.

Mr. SMITH of New Jersey. An additional 20 minutes.

Mr. WAXMAN. An additional 15 minutes after the gentleman from Oregon concludes his remarks.

Mr. AuCOIN. Mr. Chairman, I withdraw my reservation of objection.

Mr. PEYSER. Mr. Chairman, I withdraw my reservation of objection.

Mr. SMITH of New Jersey. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the unanimous-consent request of the gentleman from California (Mr. WAXMAN) for 15 minutes of debate on the Broyhill substitute and all amendments thereto, debate to end 15 minutes after the gentleman from Oregon's time has expired?

There was no objection.

Mr. AuCOIN. Mr. Chairman, I have been listening to the debate and I think all Members ought to understand that what we are dealing with here is a question of whether or not the House is going to be stampeded by another fever swamp kind of amendment offered once again by advocates who will go to any extreme to try to promote the so-called right-to-life politics that we have seen practiced too often on the floor of the House of Representatives. And in this particular case, the effects of the amendment would be devastating to the very fetuses that those who support the amendment say they want to protect.

I have listened very carefully to the remarks of the gentleman from Texas, who is a medical physician.

□ 1330

The gentleman's comments have absolutely no relationship to the text of the amendment.

Now, the gentleman is an M.D. and I am not an M.D. and very few of the Members of the House are M.D.'s, but we are legislators and if we read the text of this amendment, it is clear that research that is now being conducted in the National Institutes of Health, research that is preventing children from being stillborn, research that is being conducted to save children from being born with birth defects, would be prevented.

Now, what is the purpose of the amendment? Is it to try to deal with the quality and the well-being of the fetuses? If it is, this amendment runs absolutely counter to that objective.

Recent medical journals have been reporting phenomenal breakthroughs in treating fetal heart and lung problems prior to birth. This amendment would prevent such research in the National Institutes of Health.

Those literature and medical journals that you can read anywhere are reporting successes in discovering ways to rid fetal lungs of excess fluid buildup, a syndrome which is called respiratory distress syndrome. It is usually fatal for fetuses.

Clinical tests of the fetus while in the womb can identify a fetus in a circumstance like this that is at risk and because of that research, preventive steps can be taken to save the life of that fetus.

This amendment, regardless of what you may want to think it says, says in fact that that research cannot be conducted.

Now, I just ask my colleagues for once to just relax, read the amendment, calm down, put aside the horror stories and the shock value stories that have been put forward here that have no relationship to this amendment and defeat this amendment today.

The CHAIRMAN. The Chair will inquire of the gentleman from Oregon (Mr. AuCOIN) whether he wants the minute and 20 seconds under the time reservation that he will get.

Mr. AuCOIN. Mr. Chairman, I yield back my minute and 20 seconds.

● Mr. WALGREN. Mr. Chairman, it is unfortunate that the House would even have a dispute over support for health research, as we are asked today to choose between two bills that extend and fund the National Institutes of Health. There is hardly a greater priority for this Government than eradicating disease and human suffering.

I support H.R. 6457, as reported by our committee, the Health Research Extension Act of 1982. I oppose the substitute bill offered by Congressmen BROYHILL, GRAMM, and MADIGAN. The reason is simple: We should be doing more to support health research, not less.

The committee's bill would increase health research funding by 11 percent. Since 1980, funds for biomedical research have been reduced by 10 percent in constant dollars. In light of this, an 11-percent increase is hardly extravagant.

We are, however, not only talking about levels of funding. We are also talking about directions and priorities. H.R. 6457 would, for the first time, make prevention of disease an NIH priority. The Broyhill substitute deletes these provisions. Pursuing prevention of health problems is certainly important, both in terms of quality of life and in terms of economics. Preventing health problems is probably

the most cost-effective approach to the crisis in health care financing.

Similarly, the bill will give new impetus to arthritis research by establishing a separate National Institute of Arthritis and Musculoskeletal Diseases within the NIH. Thirty-seven million Americans suffer from some form of arthritis or musculoskeletal disease at a cost of $30 billion a year. That is the cost in health expenditures, disability payments, lost wages, and lost tax revenues. Arthritis and musculoskeletal diseases account for about 20 percent of medicare hospital expenditures and half of all workers compensation claims, yet they receive about 1 percent of NIH funding for research, less than $2 per victim per year on research.

SPINAL CORD REGENERATION

I would also like to call my colleagues' attention to an amendment that I offered and included by the committee in this bill. My amendment creates an interagency committee on spinal cord injury to plan and coordinate Federal research on spinal regeneration and it earmarks $16 million, $18 million, and $20 million for 1983–85 for research in regeneration of the spinal cord. These provisions have been dropped from the Broyhill-Gramm bill.

Spinal cord injury and paralysis have profound consequences and staggering costs, personal and financial. Over 500,000 Americans are now paralyzed because of spinal cord injuries; 7,000 came home from Vietnam in wheelchairs. It can happen to anyone, any time—from automobile accidents or falling in the bathtub. Most of the newly injured are young men hurt in auto and sports accidents.

We need to accelerate our efforts to find a cure, and to improve rehabilitation programs, housing, and education and training opportunities. I am pleased that the committee agreed that spinal cord regeneration research should receive more attention within the Federal Government.

Former President Carter, in 1980, established an Interagency Task Force on Spinal Cord Injury to coordinate the programs of various agencies and to develop and implement Federal medical initiatives in this area. In view of the fact that the Reagan administration failed to continue this task force despite compelling need, I believe we should reinstate this interagency effort by law. Earmarking a specific amount and reestablishing the interagency task force are two small steps toward hopefully someday finding a cure for this tragic problem.

SPINA BIFIDA RESEARCH

I am also pleased that the committee agreed with my request to urge the National Institute of Neurological and Communicative Diseases and Stroke and the National Institute of Child Health and Human Development to hold a consensus development conference on spina bifida. Spina bifida is the second most common birth defect in the United States, and its cause is unknown. For children born with spina bifida who survive, the deformities and associated paralysis present major rehabilitation problems, with many confined to wheelchairs for life. It is our hope that a consensus development conference would focus attention on the status and nature of current research and identify what resources are needed to address this condition.

HEALTH NEEDS OF THE ELDERLY

With people living longer and the average age rising, we as a nation must give more attention to the health needs of the elderly. We must place more emphasis on the training of doctors and health personnel to deal with the health problems of the elderly. I am pleased that the committee, in this bill, directed the National Institute on Aging to conduct a study of personnel needs in this area, to be sent to Congress by March 1, 1984. This important study will provide Congress guidance for arriving at greater emphasis on training health care professionals in the care of the elderly.

The National Institutes of Health have probably done more to expand human knowledge about the causes of death and disease than any other research organization. Many people look to NIH for hope, in the face of cancer and many other life-threatening diseases.

For 1983, President Reagan requested a 21-percent increase in defense spending, $250 billion. The administration has asked for a military buildup that will cost $1.7 trillion between 1983 and 1987. In my view, there is room in the Federal budget to spend $3 billion over 3 years to find a cure for cancer and $1.9 billion over 3 years on heart, lung, and blood diseases. I hope my colleagues will join me in passing this important bill.●

● Mrs. HECKLER. Mr. Chairman, I strongly support H.R. 6457, which would authorize funding for health research programs at the National Institutes of Health. Such funding is essential for the activities conducted by the National Cancer Institute; National Heart, Lung, and Blood Institute; and other vital health research programs.

This bill would also create a National Institute of Arthritis and Musculoskeletal Diseases. I am particularly pleased to see the creation of this new institute, as it is one I have urged for many years due to the needs for discovery of the causes of and development of more effective treatments for arthritic diseases.

Over 20 major national health organizations, such as the American Cancer Society, American Heart Association, American Diabetes Association, Arthritis Foundation, and American Nurses Association, have urged the passage of this bill, which is crucial to the active research community and health institutes in the Boston area.

During my 16 years in Congress, I have been a staunch advocate of budgetary support for health research. This bill is necessary to maintain and encourage the high levels of research in our biomedical fields.

In recognition of the need for and value of these health research programs, I urge my colleagues to support this bill.●

● Mr. GORE. Mr. Chairman, the bill before us, H.R. 6457, is important for some very specific reasons. The NIH, and indeed, biomedical research as a whole has been experiencing fundamental changes and I believe that the work of the gentleman from California has recognized that fact. An attitude of lets do business in the same old manner, which is expressed in the Broyhill substitute, simply is not going to hold up any longer, and I would like to give a coupe of examples of why I think that is true.

One of the most notable trends in the genetic engineering revolution has been a dramatic increase in the ties between univerisites and industry. More and more, universities are beginning to receive major grants from corporations to do research, in exchange for licensing rights to any commercially valuable ideas. An example you all might remember is the contract signed between Massachusetts General Hospital and the German chemical firm of Hoescht who will give the hospital $50 million for biomedical research in exchange for licensing rights. This is not a small or insignificant arrangement. The hospital is literally building a new department, building and all with corporate money. Since the contract, 25 percent of Hoescht has been purchased by Kuwait. The trend of industrial investment by foreign multinational as well as domestic firms in biotechnology is increasing. It is important to know how these new, large-scale arrangements are going to affect the free exchange of information, the training of graduate students, the protection of public investment, and a host of other interests which are of major importance to the role of universities in our society and to how public investments are commercialized.

The committee bill has addressed these potential concerns by directing the NIH to study this trend of increased university-industry ties and assess the impacts. This is one example how the gentleman from California is taking a modern look at the Federal research effort. The gentleman from North Carolina's substitute does not address this question.

Another example my colleagues might be aware of is the recent reports about fraud in biomedical research. Several of our most prestigious research institutions—including Harvard's Massachusetts General Hospital, Yale Medical School, and the University of California at Davis—have recently had the work of well-known researchers declared fraudulent. In each of these unfortunate cases research had been falsified.

Almost without exception, the universities involved have been at a loss as to how to handle these problems. NIH's reponse has been equally confused. Delays of years in investigations are not uncommon as in the case of one Masschusetts doctor who was accused and subsequently found guilty of falsifying medical records. It took the NIH some 3 years to investigate that case, and during the investigation, NIH gave the researcher another grant. Again, my friend from California has recognized the significance of fraudulent research on the scientific community and on the public, and has directed the NIH to come up with specific procedures to cope with fraud in science which would eliminate the delays and uncertainties.

So, Mr. Chairman, I think my colleague can appreciate that the bill as drafted by the Energy and Commerce Committee has shown a marked sensitivity to the rapidly changing world of biomedical research. I would urge rejection of the Broyhill substitute, and urge my colleagues support for the committee bill.●

● Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of H.R. 6457, the Health Research Extension Act of 1982. This legislation is extremely important, not only because it sets authorization levels for the operation of the National Institutes of Health over the next 3 fiscal years, but also because it represents this body's commitment to the ongoing functions of health research programs.

As a member of the Select Committee on Aging, I am aware that one of the concerns uppermost in the minds of older persons is their health. It is unfortunate that there are many illnesses affecting the elderly and the general population today for which there is no known cure. Arthritis, for example, afflicts 37 million people in this country. Continued biomedical research in this area is sorely needed. H.R. 6457 creates a new National Institute on Arthritis and Musculoskeletal Diseases which will hopefully make new inroads in the quest to prevent the onset and advancement of this devastating and crippling disease.

One of the most significant provisions in this bill is the authorization for the National Cancer Institute. This is especially relevant because of the documented increase in the incidence of cancer with age. It is not clear whether age-related changes lead to cancer or whether aging and cancer stem from a common process or processes. Continued research will surely contribute to a more advanced understanding of both aging and cancer and their relationship, as there has been relatively little cross study to date in these fields.

Of equal importance to the elderly is the new emphasis on long-range disease prevention programs. Twenty-five centers will conduct vital research in the prevention of illness and the promotion of good health. Data shows us that more people are living to old age and that the fastest growing segment of our population is those over age 75. Currently, 86 percent of the elderly over the age of 65 have at least one chronic condition. With an emphasis on basis preventive research, we can have serious hopes of improving the health and quality of life for those beyond the age of 65.

Mr. Chairman, I believe we can do no better than to approve this legislation, for ourselves and for future generations of healthy Americans.●

● Mr. WYDEN. Mr. Chairman, I would like to congratulate Congressman WAXMAN for crafting H.R. 6457, the Health Research Act.

I am particularly pleased that included in H.R. 6457 is a provision that creates a National Institute of Arthritis.

During markup of the Health Research Act in the Energy and Commerce Committee I chose to introduce an amendment to create a separate Institute of Arthritis because I believe NIH has focussed far too little attention on arthritis research.

I was pleased to see that the Broyhill-Gramm substitute includes the creation of a national arthritis institute.

However, the Broyhill-Gramm substitute does not go far enough, and I would like to urge my colleagues to oppose this legislation.

Broyhill-Gramm is yet another attempt by the administration to employ a meat-ax approach to achieve budget savings. This time the meat ax will cripple progress in the areas of cancer, lung and heart research, and development.

The Broyhill-Gramm substitute was developed by OMB in an effort to enact mandatory limits on funding for cancer and heart-lung research for fiscal years 1983 through 1985.

Personally, this upsets me because well over 60 percent of all Americans will suffer or die from cancer or cardiovascular disease.

Yet, the administration and its friends, want to arbitrarily cut funding of research at the National Institute of Health.

As a matter of fact, over 3 years, the Broyhill-Gramm-Stockman substitute reduces authorizations for cancer and heart-lung research $700 million below levels in the committee-passed bill.

And as a Congressman, this upsets me because the recodification was the product of months of work between members of the committee, NIH, and staff.

Provisions in the committee bill, H.R. 6457, respond to demonstrated problems in the Nation's research program. They deal with wasteful contracting practices, persistent failure to respond to cases of scientific fraud and the stubborn refusal of NIH to emphasize the prevention of disease.

Until just a few days ago there was an agreement on all sides that the substance of the rewrite was a constructive and noncontroversial proposal.

Even today there is not a single provision of the recodification which authors of the Broyhill-Gramm substitute can point to which is in anyway controversial.

The recodification simply is not the issue of this debate.

The real debate is whether this Congress will continue to exercise its oversight role and protect the NIH from those within OMB who would arbitarily reduce funding for health research.

The facts are simple.

The Broyhill/Gramm/Stockman substitute circumvents the normal channels of the budget process through a backdoor attack on an authorization bill.

The main purpose of the Broyhill substitute is to insure that it will be Dave Stockman rather than the Congress that will determine the level of funding necessary to continue our fight against cancer, heart, and lung diseases.

The Broyhill substitute should be soundly rejected.

It should be soundly rejected because it circumvents the legislative process.

Most important, the Broyhill/Gramm/Stockman substitute should be soundly rejected because it will severely inhibit research and development for diseases that affect a majority of Americans—cancer and heart disease.●

● Mr. BIAGGI. Mr. Chairman, I rise in opposition to and in fear of the consequences of passing the Broyhill amendment. It proposes to make major cuts in programs which can ill afford to sustain cuts. As long as one person is struck with a serious illness where research may someday produce a cure, I will work for and vote for bills which provide adequate funding.

What greater return on the investment of the Federal dollar is there than in health related research. If the money we spend today produces cures for diseases tomorrow we are saving lives and funds which would go for treatment.

I am especially disturbed over the provision in the Broyhill substitute which would eliminate a much needed study about the health care needs of our rapidly aging population. I am an original member of the House Select Committee on Aging. In 1978 I conducted a special hearing examining the health care needs of tomorrow's elderly. I discovered that our Nation had less than half of its medical schools providing geriatric medicine in their curriculum—an even smaller percentage of nursing homes provided these type of courses.

We must donate some time and energy to foresight in planning for the health care needs of our senior citizens. We must not assume that all care will be acute in nature—we should start now by improving our preventative care programs. The pending substitute is ill timed and should not be accepted on several grounds. I urge its defeat.●

The CHAIRMAN. Members standing at the time the unanimous consent request was agreed to will each be recognized for 1 minute and 20 seconds.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Chairman, since I do not have all that much time, I will keep it brief.

The gentleman from California (Mr. DANNEMEYER) had one case after another that he sought to share with the members of this committee about the abuses of where fetal experimentation took place on lives of unborn children, as well as newly born children, to their detriment.

I think that this committee should be aware that this is going on in our society and NIH funding has been a part of that kind of demise to our unborn children.

You know, it is interesting that the antagonists to this amendment keep referring to the unborn and not to those who survive abortion. Some 500 children every year survive the abortion process, according to the Center for Disease Control. Those children are in no man's land. They can be dealt with as chattel.

I think we would be well informed, and I think it would be in our best interest to pass this kind of amendment to protect and provide fundamental protection to treat those children as patients before and after birth. An unborn child should be seen in that regard and any help for other children that could be attained by experimenting on a child should not be done to the detriment of that patient.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DORNAN).

Mr. DORNAN of California. Mr. Chairman, I will leave the final word on the amendment to its author, but since the word extremist was applied to our position, let us be very clear that what we are talking about here are extreme cases of medical abuse.

Allowing the Baby Doe from Bloomingtron, Ind., by American court order to lie there and die, a living human being, does conjure up the imagine of the Nazi courts that made experimentation on living human beings legal; so I will give one more horror story for my colleagues.

The Germans were able by experimenting on human life to save life. They were worried about German fighter pilots in the Luftwaffe bailing out at too high an altitude and dying of hypoxia, oxygen starvation; so they took Jewish inmates at either Buchenwald or Auschwitz or Dachau, I forget which, and they hung them in parachute harnesses and then starved the rooms, the medical labs, of oxygen and watched how long it took them to die. We have the photographic evidence in the Nurenburg trials of men slowly dying of hypoxia. Then they were able to design oxygen green bottles for the pilots and also to design aneroid barometers so that they could bail out lower.

A good cause, sick and evil, came to maintain life by exterminating life. For those of us who believe these are human beings with immortal souls, you better believe we feel this is a tough position and we are going to the wall on it.

What devastated me today is I do not sense the good will on the ideological beliefs of the other side to protect this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, this is an unusual day on the floor of the House. We have heard the NIH, the National Institutes of Health, compared to the Nazis and the operations of Nazi Germany during the war.

We have heard the medical profession painted as monsters, people who are setting about killing infants and babies.

Really, it is pretty unbelievable, because that is not the NIH that I know and it is not the doctors in this country that I know.

I would like to say in all reality that if you are supporters of the right to life movement, and I am not, but if you are, a vote against this amendment is a vote for life. A vote against this amendment is a vote for life, for the life of children to come, for the life of existing infants and children. Do not make any mistake about it.

Some people in their zealousness to get at all these issues construct something like this amendment which destroys life, which is what they say they want to save; so for my colleagues who are sitting back in offices or in committees and have a chance to hear this, vote against this amendment and vote for life.

(By unanimous consent, Mr. MADIGAN yielded his time to Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Chairman, I thank my colleague for yielding.

I am quite surprised at the suggestion that this amendment now pending before the committee would preclude research necessary to save the life of a fetus. It is quite surprising to think it would be so interpreted, because the language is quite clear. It is very short. It is very narrowly drafted. It only relates to the Federal expenditure of funds by the National Institutes of Health and it only relates to experimentation on aborted fetuses before the abortion or after the abortion and the limitation is that they can still conduct experiments on that fetus before birth or after birth, while life still exists, if it is necessary to save the life of that fetus or infant. That is very narrowly drafted.

If it does not fit within that narrow stricture, then it is permitted, obviously.

I think it is important for us here today to set forth that so far as Federal tax dollars are concerned, what goes on outside Federal tax dollars is not the business of this institution today, but only for the expenditure of Federal funds, we will narrowly limit experimentation in this manner.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. BROYHILL).

□ 1340

Mr. BROYHILL. Mr. Chairman, my remarks are addressed to the substitute that I have offered, and not to the amendment that is pending, since this will be the last opportunity I will have to say a word about that substitute.

I want to point out again that there are no cuts that are provided in the substitute. We are calling for a 7-percent increase in authorization. These are lower authorizations than in the Waxman bill.

Our argument is that there is no need for the inordinate increases provided in the Waxman bill. The gentleman provides for 11 percent the first year, and even larger increases going into the out-years, as much as 25 percent up until 1985.

The substitute provides for a simple extension of the authorities rather than a complete revision of NIH that is provided for in the Waxman bill. We argue that this will be far less disruptive to this agency's operation and provide for only those changes that are essential.

This authorization level, I say again, does not provide for a cut. We are providing for a 7-percent increase, but it would provide for some $165 million less than in the bill.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I would point out that of the horror stories of which we have been hearing, not a single one has anything to do with the National Institutes of Health. This bill deals exclusively with research at the NIH.

Existing law prevents research on fetuses unless the risk to the fetus is minimal, and the purpose of the activity is the development of important biomedical knowledge which cannot be obtained by other means. A fetus may not be used as a subject for research unless the risk to the fetus is minimal.

The present law says that no fetus ex utero may be involved in a federally funded research activity unless the fetus has been determined not to be viable. We do not need this amendment. We should fear the results of this amendment because of its potentially damaging impact on very important, worthwhile research.

Do not let your emotions sway you. Look at the proposal. It is poorly drafted. It is not worthy of your support, and it will do a great deal of harm.

Mr. Chairman, I urge a no vote on the Dannemeyer amendment and a no vote on the Broyhill substitute.

The CHAIRMAN. All time has expired.

The question is on the amendments offered en bloc by the gentleman from California (Mr. DANNEMEYER) to the text of the bill, H.R. 6457, and to the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. BROYHILL).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 260, noes 140, not voting 32, as follows:

[Roll No. 382]

AYES—260

Albosta	Boner	Coyne, James
Anderson	Bonior	Coyne, William
Andrews	Bonker	Craig
Annunzio	Bouquard	Crane, Daniel
Applegate	Breaux	Crane, Philip
Archer	Broomfield	D'Amours
Ashbrook	Brown (CO)	Daniel, R. W.
Atkinson	Broyhill	Dannemeyer
Badham	Burgener	Daub
Bailey (MO)	Byron	Davis
Bailey (PA)	Campbell	de la Garza
Barnard	Carney	Deckard
Benedict	Chappie	Derrick
Bennett	Cheney	Derwinski
Bereuter	Clausen	Dickinson
Bethune	Coats	Dingell
Bevill	Coleman	Donnelly
Biaggi	Conte	Dorgan
Bliley	Corcoran	Dornan
Boggs	Coughlin	Dougherty
Boland	Courter	Dowdy
Dreier	Kramer	Rinaldo
Duncan	Lagomarsino	Ritter
Dyson	Latta	Roberts (KS)
Eckart	Leach	Roberts (SD)
Edwards (AL)	Leath	Robinson
Emerson	LeBoutillier	Roe
Emery	Lee	Roemer
English	Lent	Rogers
Erdahl	Lewis	Rostenkowski
Erlenborn	Livingston	Roth
Evans (DE)	Loeffler	Rousselot
Evans (GA)	Lott	Rudd
Evans (IN)	Lowery (CA)	Russo
Fary	Lujan	Santini
Fiedler	Luken	Sawyer
Fields	Lungren	Schulze
Fish	Madigan	Sensenbrenner
Fithian	Markey	Sharp
Flippo	Marlenee	Shaw
Foglietta	Marriott	Shelby
Foley	Martin (NC)	Shumway
Fountain	Martin (NY)	Shuster
Frost	Mavroules	Siljander
Fuqua	Mazzoli	Skeen
Gaydos	McClory	Skelton
Gephardt	McCollum	Smith (AL)
Gingrich	McCurdy	Smith (NE)
Goldwater	McDade	Smith (NJ)
Goodling	McDonald	Smith (OR)
Gore	McEwen	Smith (PA)
Gradison	McGrath	Snyder
Gramm	Michel	Solomon
Gregg	Miller (OH)	Spence
Grisham	Minish	St Germain
Gunderson	Mitchell (NY)	Stangeland
Hagedorn	Moakley	Stanton
Hall, Ralph	Molinari	Staton
Hall, Sam	Montgomery	Stenholm
Hammerschmidt	Moore	Stratton
Hance	Moorhead	Stump
Hansen (ID)	Morrison	Tauke
Hansen (UT)	Mottl	Tauzin
Hartnett	Murphy	Taylor
Heckler	Murtha	Thomas
Hefner	Myers	Traxler
Hendon	Napier	Trible
Hertel	Natcher	Vento
Hightower	Neal	Volkmer
Hiler	Nelligan	Walgren
Hillis	Nelson	Walker
Holt	Nichols	Watkins
Hopkins	O'Brien	Weber (MN)
Horton	Oakar	White
Hubbard	Oberstar	Whitley
Huckaby	Oxley	Whitten
Hunter	Parris	Williams (OH)
Hutto	Pashayan	Winn
Hyde	Patman	Wolf
Ireland	Paul	Wortley
Jeffries	Perkins	Wylie
Jenkins	Petri	Yatron
Johnston	Porter	Young (AK)
Kazen	Price	Young (MO)
Kemp	Quillen	Zablocki
Kildee	Regula	Zeferetti
Kindness	Rhodes	

NOES—140

Addabbo	Dunn	Harkin
Akaka	Dwyer	Hatcher
Alexander	Dymally	Hawkins
Anthony	Early	Heftel
AuCoin	Edgar	Holland
Barnes	Edwards (CA)	Hollenbeck
Bedell	Evans (IA)	Howard
Beilenson	Fazio	Hoyer
Bingham	Fenwick	Hughes
Bowen	Ferraro	Jacobs
Brinkley	Findley	Jeffords
Brooks	Florio	Jones (NC)
Brown (CA)	Ford (MI)	Jones (OK)
Burton, Phillip	Ford (TN)	Jones (TN)
Butler	Fowler	Kastenmeier
Clay	Frank	Kennelly
Clinger	Frenzel	Kogovsek
Collins (IL)	Gejdenson	LaFalce
Conable	Gibbons	Lantos
Conyers	Gilman	Lehman
Crockett	Ginn	Leland
Daschle	Glickman	Levitas
Dellums	Gonzalez	Long (LA)
DeNardis	Gray	Long (MD)
Dicks	Green	Lowry (WA)
Dixon	Guarini	Lundine
Downey	Hamilton	Marks
Martin (IL)	Pursell	Snowe
Martinez	Rahall	Solarz
Matsui	Rangel	Stark
McHugh	Ratchford	Stokes
McKinney	Reuss	Studds
Mica	Rodino	Swift
Mikulski	Rose	Synar
Miller (CA)	Rosenthal	Udall
Mineta	Roukema	Washington
Mitchell (MD)	Roybal	Waxman
Mollohan	Sabo	Weaver
Nowak	Scheuer	Weber (OH)
Ottinger	Schneider	Whittaker
Panetta	Schroeder	Williams (MT)
Patterson	Schumer	Wilson
Pease	Seiberling	Wirth
Pepper	Shamansky	Wolpe
Peyser	Shannon	Wyden
Pickle	Simon	Yates
Pritchard	Smith (IA)	

NOT VOTING—32

Aspin	Coelho	Moffett
Bafalis	Collins (TX)	Obey
Beard	Daniel, Dan	Railsback
Blanchard	Edwards (OK)	Savage
Bolling	Ertel	Vander Jagt
Brodhead	Fascell	Wampler
Brown (OH)	Forsythe	Weiss
Burton, John	Garcia	Whitehurst
Carman	Hall (OH)	Wright
Chappell	Mattox	Young (FL)
Chisholm	McCloskey	

Messrs. YOUNG of Alaska, SHARP, FITHIAN, BOLAND, BONKER, ROSTENKOWSKI, and WALGREN changed their votes from "no" to "aye."

□ 1400

So the amendments offered en bloc to the text of the bill and to the amendment in the nature of a substitute were agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the previous agreement, the question now is on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. BROYHILL), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MADIGAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 130, noes 275, not voting 27, as follows:

[Roll No. 383]

AYES—130

Archer	Conable	Frenzel
Ashbrook	Corcoran	Gingrich
Badham	Craig	Goldwater
Bailey (MO)	Crane, Daniel	Goodling
Bedell	Crane, Philip	Gradison
Benedict	Daniel, R. W.	Gramm
Bereuter	Dannemeyer	Gregg
Bethune	Daub	Grisham
Bliley	Derwinski	Gunderson
Brown (CO)	Dickinson	Hagedorn
Broyhill	Dornan	Hansen (ID)
Burgener	Dreier	Hansen (UT)
Butler	Duncan	Hartnett
Campbell	Edwards (AL)	Hiler
Carman	Emerson	Holt
Carney	Emery	Hopkins
Chappie	Erlenborn	Hunter
Cheney	Evans (GA)	Hyde
Clausen	Fiedler	Ireland
Coats	Fields	Jeffries
Coleman	Fountain	Johnston

Kemp	Moore	Smith (NE)
Kindness	Moorhead	Smith (OR)
Kramer	Oxley	Snowe
Lagomarsino	Pashayan	Snyder
Latta	Paul	Solomon
Leach	Ritter	Spence
Lee	Roberts (KS)	Stangeland
Lewis	Roberts (SD)	Stanton
Loeffler	Robinson	Staton
Lott	Rogers	Stenholm
Lowery (CA)	Roukema	Stump
Lujan	Rousselot	Tauke
Lungren	Rudd	Taylor
Madigan	Sawyer	Thomas
Marlenee	Schulze	Trible
Martin (NC)	Sensenbrenner	Walker
McClory	Shaw	Weber (MN)
McCollum	Shumway	Weber (OH)
McDonald	Shuster	Whittaker
McEwen	Siljander	Wortley
Michel	Skeen	Young (AK)
Miller (OH)	Skelton	
Montgomery	Smith (AL)	

NOES—275

Addabbo	Evans (IA)	Leath
Akaka	Evans (IN)	LeBoutillier
Albosta	Fary	Lehman
Alexander	Fazio	Leland
Anderson	Fenwick	Lent
Andrews	Ferraro	Levitas
Annunzio	Findley	Livingston
Anthony	Fish	Long (LA)
Applegate	Fithian	Long (MD)
Atkinson	Flippo	Lowry (WA)
AuCoin	Florio	Luken
Bailey (PA)	Foglietta	Lundine
Barnard	Foley	Markey
Barnes	Ford (MI)	Marks
Beilenson	Ford (TN)	Marriott
Bennett	Fowler	Martin (IL)
Bevill	Frank	Martin (NY)
Biaggi	Frost	Martinez
Bingham	Fuqua	Matsui
Boggs	Garcia	Mavroules
Boland	Gaydos	Mazzoli
Boner	Gejdenson	McCurdy
Bonior	Gephardt	McDade
Bonker	Gibbons	McGrath
Bouquard	Gilman	McHugh
Bowen	Ginn	McKinney
Breaux	Glickman	Mica
Brinkley	Gonzalez	Mikulski
Brodhead	Gore	Miller (CA)
Brooks	Gray	Mineta
Broomfield	Green	Minish
Brown (CA)	Guarini	Mitchell (MD)
Burton, Phillip	Hall (OH)	Mitchell (NY)
Byron	Hall, Ralph	Moakley
Clay	Hall, Sam	Molinari
Clinger	Hamilton	Mollohan
Collins (IL)	Hammerschmidt	Morrison
Conte	Hance	Mottl
Coughlin	Harkin	Murphy
Courter	Hatcher	Murtha
Coyne, James	Hawkins	Myers
Coyne, William	Heckler	Napier
Crockett	Hefner	Natcher
D'Amours	Heftel	Neal
Daschle	Hendon	Nelligan
Davis	Hertel	Nelson
de la Garza	Hightower	Nichols
Deckard	Hillis	Nowak
Dellums	Holland	O'Brien
DeNardis	Hollenbeck	Oakar
Derrick	Horton	Oberstar
Dicks	Howard	Obey
Dingell	Hoyer	Ottinger
Dixon	Hubbard	Panetta
Donnelly	Huckaby	Parris
Dorgan	Hughes	Patman
Dougherty	Hutto	Patterson
Dowdy	Jacobs	Pease
Downey	Jeffords	Pepper
Dunn	Jenkins	Perkins
Dwyer	Jones (NC)	Petri
Dymally	Jones (OK)	Peyser
Dyson	Jones (TN)	Pickle
Early	Kastenmeier	Porter
Eckart	Kazen	Price
Edgar	Kennelly	Pritchard
Edwards (CA)	Kildee	Pursell
English	Kogovsek	Quillen
Erdahl	LaFalce	Rahall
Evans (DE)	Lantos	Rangel
Ratchford	Shannon	Watkins
Regula	Sharp	Waxman
Reuss	Shelby	Weaver
Rhodes	Simon	White
Rinaldo	Smith (IA)	Whitley
Rodino	Smith (NJ)	Whitten
Roe	Smith (PA)	Williams (MT)
Roemer	Solarz	Williams (OH)
Rose	St Germain	Wilson
Rosenthal	Stark	Winn
Rostenkowski	Stokes	Wirth
Roth	Stratton	Wolf
Roybal	Studds	Wolpe
Russo	Swift	Wright
Sabo	Synar	Wyden
Santini	Tauzin	Wylie
Scheuer	Traxler	Yates
Schneider	Udall	Yatron
Schroeder	Vento	Young (MO)
Schumer	Volkmer	Zablocki
Seiberling	Walgren	Zeferetti
Shamansky	Washington	

NOT VOTING—27

Aspin	Coelho	McCloskey
Bafalis	Collins (TX)	Moffett
Beard	Conyers	Railsback
Blanchard	Daniel, Dan	Savage
Bolling	Edwards (OK)	Vander Jagt
Brown (OH)	Ertel	Wampler
Burton, John	Fascell	Weiss
Chappell	Forsythe	Whitehurst
Chisholm	Mattox	Young (FL)

□ 1410

Mr. HEFTEL changed his vote from "aye" to "no."

Mr. LOWERY of California and Ms. FIEDLER changed their votes from "no" to "aye."

So the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there any additional amendments to the bill?

If not, under the rule, the Committee rises.

□ 1420

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. D'AMOURS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6457) to amend the Public Health Service Act or revise and extend the authorities under that act relating to the National Institutes of Health and the national research institutes, and for other purposes, pursuant to House Resolution 595, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appear to have it.

Mr. McDONALD. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RESTORING LAKE OSWEGO, OREG., AS A NONNAVIGABLE WATER OF THE UNITED STATES

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 1573) to exempt the Lake Oswego, Oreg., hydroelectric facility from part I of the Federal Power Act (act of June 10, 1920) as amended, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. WALKER. Mr. Speaker, I reserve the right to object only because I could not hear the bill reported.

The SPEAKER pro tempore. The Clerk will rereport the title of the Senate bill.

The Clerk reread the title of the Senate bill.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. WYDEN. Mr. Speaker, I reserve the right to object.

Mr. Speaker, this legislation pertains to the jurisdiction of the Federal Energy Regulatory Commission over Lake Oswego, Oreg.'s electrical generating facility.

Adopted by the Senate unanimously in May, this bill unequivocally removes the Lake Oswego dam from the applicability of part I of the Federal Power Act and of section 408 of the Energy Security Act of 1980.

This bill enjoys the support of Mr. AUCOIN and Mr. SMITH, the other members of the delegation whose districts include portions of Lake Oswego.

Lake Oswego is owned by the Lake Oswego Corp., a homeowner associa-

tion of some 9,000 family members who share in ownership of the corporation through deeded rights appurtenant to residential property in the Lake Oswego area.

The Lake Oswego Corp. owns and operates a 500-kilowatt generator at the east end of the lake. This generator operates on a part-time seasonal basis.

In 1972, the Army Corps of Engineers attempted to assert jurisdiction over the lake to control water related construction and use of the lake. As a result, section 162 of the Water Resources Development Act of 1976 was passed to declare Lake Oswego a nonnavigable waterway and thereby eliminated the Corps of Engineers assumed jurisdiction.

Now the Federal Energy Regulatory Commission has questioned this earlier legislation and has attempted to impose jurisdiction over Lake Oswego's electrical generating facility.

The purpose of S. 1573 is to clear up this matter and remove FERC's jurisdiction over this generating facility.

In an Energy Conservation and Power Subcommittee hearing in August, FERC was seen to have no interest in regulating Lake Oswego, per se. Rather, the agency feels that their assertion of jurisdiction is nondiscretionary under the Federal Power Act.

Earlier this week, I offered S. 1573 in the House Energy and Commerce Committee and my colleagues accepted it with one amendment. The amendment preserves jurisdiction over the project and lake that Federal and State fish and wildlife agencies would have under the Fish and Wildlife Coordination Act.

Finally, Mr. Speaker, I wish to thank the chairman of the Energy and Commerce Committee, Mr. DINGELL, the ranking member, Mr. BROYHILL, subcommittee chairman, Mr. OTTINGER, and the ranking member on the subcommittee, Mr. MOORHEAD for their assistance in reporting this legislation in such a timely manner.

I urge adoption of the bill.

Mr. AUCOIN. Mr. Speaker, will the gentleman yield?

Mr. WYDEN. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Speaker, I am pleased to join my colleague from Oregon (Mr. WYDEN) to speak in favor of the Senate bill as amended by the Energy and Commerce Committee to remove the Lake Oswego Dam and Hydroelectric Facility from the jurisdiction of the Federal Energy Regulatory Commission.

I have been working on this issue along with my distinguished colleague, Senator HATFIELD, of Oregon, since I came to Congress 8 years ago. I have since come to appreciate the old saying that the "wheels of government turn slowly," although I believe that this problem should have been resolved as a result of legislation which Congress enacted in 1976.

That legislation, introduced by Senator HATFIELD and myself, amended the Rivers and Harbors Act of 1899 to declare that Lake Oswego was not considered navigable for the purposes of that act and had the effect of removing Lake Oswego from the regulatory jurisdiction of the Corps of Engineers.

Now, the Federal Energy Regulatory Commission has determined that the 1976 amendment does not apply to FERC's regulatory jurisdiction, and they are attempting to require Federal licensing of Lake Owsego's small dam and generator.

As a result of this decision, I introduced legislation, H.R. 1886, to remove Lake Oswego's dam and generator from FERC's regulatory jurisdiction. Similar legislation has already passed the Senate and was referred to the Energy and Commerce Committee as was legislation introduced by my friend and colleague RON WYDEN.

An appeal of FERC's decision to require licensing of the dam was taken before the ninth circuit court of appeals. The court is aware of the pending legislation and has entered an order delaying submission of the case in order to allow the legislation to proceed. Thus, the court has deferred to the legislative process.

It is for this reason that I would urge the House to act favorably on this matter with all deliberate speed. As we all know, the remaining legislative days are limited and there is much work the Congress must complete. Given those circumstances it is easy for a small, and relatively noncontroversial, piece of legislation to get lost in the shuffle.

Forcing the residents of Lake Oswego to wait for at least another year would truly be unfortunate. And even worse, unnecessary. The Federal Government has no reason of safety, public welfare or the environment to claim authority over the dam or the lake. The dam complies with all local, State, and Federal regulations.

Congress recently granted authority for FERC to exempt new 5-megawatt projects from FERC jurisdiction and licensing requirements. The Lake Oswego Dam meets every test of this law except that it is not new construction—hardly a distinction of any consequence given the fact that the generator has only a 500-kilowatt capacity.

The additional costs of having to comply with FERC's power licensing procedures would be substantial. Rough estimates indicate that complying with FERC regulations could make Lake Oswego residents liable for millions of dollars in unnecessary expenditures. It is this needless overregulation and redtape that has frustrated the public and led the administration and their friends in Congress to go after all regulations, not merely the unnecessary and wasteful.

During Senate hearings on the bill, FERC officials did not oppose this legislation and in fact, offered amendments to insure that Lake Oswego would be completely removed from its jurisdiction.

I appreciate the efforts of the distinguished chairman of the Energy and Commerce Committee to expedite consideration of this matter and urge my colleagues to pass this small but important piece of legislation.

Mr. WYDEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1573

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part I of the Federal Power Act (Act of June 10, 1920) as amended, and section 408 of the Energy Security Act (Act of June 30, 1980), shall not be applicable to the Lake Oswego, Oregon, hydroelectric facility or Lake Oswego, until and unless otherwise provided by the Congress.

AMENDMENT OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 1, line 7, after the period insert: "Notwithstanding the preceding sentence, this Act shall not be construed to affect the applicability of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et. seq) to the Lake Oswego, Oregon, hydroelectric facility or to Lake Oswego.".

Mr. DINGELL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. DINGELL).

The amendment was agreed to.

Mr. DINGELL. Mr. Speaker, our committee approved this Senate-passed bill by voice vote after adopting one amendment to insure protection and enhancement of fish and wildlife.

The bill relates to a small hydroelectric project located on a lake just outside Portland, Oreg. The project, which is over 40 years old, is privately owned.

Until 1979, the project was never thought to be subject to licensing by the Federal Energy Regulatory Commission. However, in 1979 FERC found that this waterbody was navigable and therefore subject to FERC regulation

under part I of the Federal Power Act. The project owners have appealed the FERC decision to the Ninth Circuit Court. That court has deferred action on the litigation until October 8, 1982, to give Congress time to consider this bill.

S. 1573 does not change FERC's finding that this lake is navigable. Rather, it exempts the project from FERC jurisdiction under the part I licensing requirement of the Federal Power Act, but not the other parts of the act. FERC does not oppose the bill. In fact, FERC, in asserting jurisdiction, concluded that this was a "minor project" requiring minimal FERC regulation.

Normally, the committee is not interested in exempting on a case-by-case basis projects of this nature from the requirements of part I of the act, including those relating to dam safety, environmental concerns, and recapture. Generally, we narrow the exemption considerably and avoid exemptions relative to safety and environmental concerns.

However, in this case we felt, in light of the age of the project and the lack of any opposition to this bill, that a partial exception to our general rule was appropriate. In doing so, we insisted on protection for fish and wildlife.

It is my hope that the Senate will accept the bill with this amendment because failure to do so will likely result in no bill being enacted in this Congress.

I stress that the bill does not resolve or change FERC and earlier findings about the navigability of those waters for various purposes. Also, it applies only to these existing facilities and not to future facilities.

Mr. SMITH of Oregon. Mr. Speaker, I would like to commend my colleague from the State of Oregon for his work on S. 1573, a bill which is intended to provide relief for Lake Oswego, Oreg., from the Federal Energy Regulatory Commission's requirements relating to the city's electrical generating facility.

The Lake Oswego Corp., a homeowner's corporation, which owns the lake and hydroplant, has sought relief from Federal regulation on their facility. The corporation was granted an exemption in the midseventies; however, since that time, FERC determined that Lake Oswego and the powerplant were subject to requirements of the Federal Water Power Act of 1920 and ordered the corporation to file for a Federal power license. Subsequently, this decision has been appealed. The purpose of my colleague's bill, S. 1573, is to clear up the issue and eliminate a regulatory burden which will otherwise be imposed by the Federal Government with regard to the generating facility.

My review of the legislation finds that no additional cost will be borne by the Government as a result of this bill; Congress will be removing an unnecessary regulatory burden; and there appears to be no opposition in the House and Senate committees with jurisdiction over the issue.

I extend my support to S. 1573 and ask my colleagues to adopt this measure.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ENVIRONMENTAL QUALITY IMPROVEMENT ACT OF 1970 AMENDMENTS

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1210) amending the Environmental Quality Improvement Act of 1970, together with House amendments and Senate amendments to the House amendments, to concur in the Senate amendment to the title of the bill, and to concur in the Senate amendments to the text of the bill with an amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendments and the House amendment to the Senate amendments, as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

That section 205 of the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4374) is amended—

(a) by striking out "; and" at the end of paragraph (a) and inserting in lieu thereof a period; and

(b) by adding at the end thereof the following:

"(c) $44,000 for the fiscal years ending September 30, 1982, 1983, and 1984.".

SEC. 2. That a new section of the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4374) be added as follows:

"(a) Subject to valid existing rights, all Federal lands within the area described in subsection (b) of this section are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto, except as is necessary to dispose of such lands for the protection of drinking water watersheds.

"(b) The area referred to in subsection (a) shall comprise those lands which are owned by the United States within the Mount Baker-Snoqualmie National Forest and which lie within the physiographic boundaries of the watersheds of the Cedar River, the Green River, and the North and South Forks of the Tolt River. The boundaries of such area shall be as depicted on maps entitled 'Boundary Map, Mount Baker-Snoqualmie Proposed Withdrawals', dated May 12, 1982. Such maps shall be on file and available for inspection in the offices of the United States Forest Service, Department of Agriculture.".

Amend the amendment of the House to the title so as to read: "An Act to authorize appropriations for the operations of the Office of Environmental Quality and the Council of Environmental Quality during the fiscal years 1982, 1983, and 1984, and withdraw certain lands within the Mount Baker-Snoqualmie National Forest from leasing under mineral and geothermal leasing laws.".

House amendment to the Senate amendments: In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

That section 205 of the Environmental Quality Improvement Act of 1970 (42 U.S.C. 4374) is amended—

(1) by striking out "; and" at the end of paragraph (a) and inserting in lieu thereof a period; and

(2) by adding at the end thereof the following:

"(C) $44,000 for the fiscal years ending September 30, 1982, 1983, and 1984.".

SEC. 2. (a) Subject to valid existing rights, all Federal lands within the area described in subsection (B) are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto.

(b) The area referred to in subsection (a) shall comprise those lands which are owned by the United States within the Mount Baker-Snoqualmie National Forest and which lie within the physiographic boundaries of the watersheds of the Cedar River, the Green River, and the North and South Forks of the Tolt River. The boundaries of such areas shall be as depicted on maps entitled "Boundary Map, Mount Baker-Snoqualmie Proposed Withdrawals", dated May 12, 1982. Such maps shall be on file and available for inspection in the offices of the United States Forest Service, Department of Agriculture.

(c) The withdrawal described in subsection (a) shall not apply to any exchange carried out by the Secretary of Agriculture pursuant to the Alpine Lakes Area Management Act of 1976 (P.L. 94-357, 90 Stat. 905) nor shall such withdrawal apply to any Federal land exchange in process. For purposes of this Act an exchange is in process if publication of notice of the contemplated exchange has commenced by the date of enactment of this Act.

(d) Additionally, the Secretary may dispose of land or interests therein within the area described in subsection (b) by exchange if the Secretary determines that the public will be well-served by the exchange; provided that the Secretary determines that the values of the watersheds as sources of drinking water are protected and provided further that such exchanges shall not alter, diminish, or abridge rights and obligations contained in state law and watershed management agreements between local government and landowners inside the watershed existing as of the effective date of this act.

Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. PRITCHARD. Mr. Speaker, reserving the right to object, I shall not object, but I would like the chairman of the Merchant Marine and Fisheries Committee on explain the bill at this time.

Mr. JONES of North Carolina. If the gentleman will yield, I will try to be as brief as I can.

Mr. Speaker, S. 1210, which amends the Environmental Quality Improvement Act of 1970 to reauthorize appropriations for the Council on Environmental Quality and the Office of Environmental Quality for fiscal years 1982, 1983, and 1984, passed by the House of Representatives on September 22, 1981, with amendments providing appropriations in the amount of $44,000 for the fiscal year 1982 in such sums as may be necessary for the following 2 fiscal years.

Now, this measure was subsequently amended in the Senate on June 14, 1982, to provide appropriations in the amount of $44,000 for each of the 3 fiscal years of 1982, 1983, and 1984.

In addition, Mr. Speaker, the Senate added a provision which is designed to protect certain areas in the State of Washington which are part of the watershed for the cities of Seattle and Tacoma. The amendment which is offered today clarifies the language dealing with this latter provision and has the approval of all concerned.

I urge the approval of these amendments and the adoption of the Senate version.

□ 1430

Mr. PRITCHARD. Mr. Speaker, I will not object to the proposal.

Mr. Speaker, I rise in support of it. It is supported by all Members of our State. It is important and it deals particularly with our watershed.

The purpose of this amendment is to clarify the intentions of the Senate amendment withdrawing Federal lands in the Cedar, Tolt, and Green River watersheds in Washington State from appropriation under the mineral leasing laws. The amendment is the product of discussion and negotiation between the various parties involved in the management of lands and resources within the watersheds including the local governments, private landowners, the management of the Forest Service directly responsible for administering these lands and our congressional delegation.

This amendment was made necessary because the various Federal agencies charged with the responsibility to coordinate the management of these lands, in particular the Bureau of Land Management, failed to properly execute those responsibilities. For years, local agencies, private landholders, and Federal agencies in the region had worked together in administering an orderly management scheme within the watersheds with the shared goal of protecting these vital drinking water resources upon which over 1 million people in the Puget Sound area depend. This amendment will insure that these resources receive the level of protection which they deserve.

Mr. Speaker, this admendment will renew the working partnership which was unnecessarily jeapordized by the inappropriate action of a Federal agency. The water resources will be protected from possible damage by mineral development. The Forest Service, a majority landowner in one watershed and a minority landowner in another, will still be able to manage the timber resources within the watersheds. In addition, the Forest Service will be able to continue exchanging lands in other units of the National Forests in Washington for Federal lands in the watershed. The private landowners in the watersheds who are engaged in timber activities have pledged to continue their good neighbor policy and cooperate in the management of the watershed.

I am confident that the Senate will concur in the amendment and I urge its adoption.

Mr. DICKS. Mr. Speaker, I join with my colleagues in supporting this measure.

As many in this Chamber may recall, earlier this spring, the Interior Department's Bureau of Land Management in its zeal to approve oil and gas exploration and drilling permits ignored environmental and procedural safeguards which protected three watersheds in Washington State.

The BLM issued oil and gas drilling permits in the Green River, Cedar River, and North Fork of the Tolt watershed areas.

These actions—which were suspended after telephone calls from myself and other members of the Washington State congressional delegation—posed significant threats to the drinking water supplies for the cities of Tacoma and Seattle, Wash.

The measure which this House considers today ends this threat to the clean drinking water supplies for these two cities by withdrawing the Interior Department's authority to issue oil and gas exploration in these sensitive watershed areas.

The House approved a similar prohibition against issuing oil and gas drilling permits in these watersheds when it passed the fiscal year 1982 supplemental appropriations bill earlier this year. This restriction on fiscal year 1982 BLM appropriations is also included in the House version of the continuing funding resolution this body passed recently.

For these reasons and others, I urge the House to support this measure and to continue to protect the clean, pure drinking water supplies for Tacoma and Seattle from potential contamination.

I would like to thank my good friends from Washington, Congressman LOWRY and Congressman PRITCHARD, for their efforts on this important matter.

Mr. LONG of Washington. Mr. Speaker, this legislation is crucial to the citizens of Puget Sound. I am therefore especially grateful to the chairman of the Merchant Marine and Fisheries Committee, Mr. JONES of North Carolina, for his leadership and assistance on this bill. The gentleman from Louisiana (Mr. BREAUX) also assisted in bringing this legislation to the floor of the House. My colleagues on the Interior Committee, Mr. UDALL and Mr. SEIBERLING, were gracious in their willingness to overlook the jurisdictional problem caused by the Senate's attachment of the Puget Sound amendment. Without the assistance of these and so many other people, the watersheds of Seattle and Tacoma would still be facing the threat of contamination.

I support the reauthorization for the Council on Environmental Quality, which performs a vital function in the National Environmental Policy Act. I am even more interested in the provisions of this bill which protect the watersheds of Seattle and Tacoma from potential contamination. Last spring, the Bureau of Land Management actually leased areas of the Mount Baker-Snoqualmie National Forest that lie within the watersheds of Seattle and Tacoma. This occurred without notification of officials of the two cities, and in contradiction to the recommendations of the Forest Service. The outcry from the two cities was tremendous. The leases were canceled due to violations of the normal procedures used in granting such leases. Yet the threat remained that such leases might be made again.

The Subcommittee on Public Lands included this topic when it held hearings in Seattle in April on the general question of leasing in wilderness. The opposition to such leases was universal. In order to strengthen the Forest Service's hand in preventing such a recurrence, this law is needed. It is in fact vital: Both cities have relied on pure sources of drinking water. Consequently, their water treatment amounts to little more than removal of large objects and silt, followed by chlorination. Contamination of the sources would require a huge expenditure to build treatment facilities from scratch.

This language protects the three watersheds but still allows land exchanges and other management functions to occur in the area. Future land exchanges may occur for any purpose, provided that such exchanges protect the value of the watersheds as sources of drinking water. There is no intent to prevent future exchanges. In fact, I believe that this language will require minimal additional activity on the part of the forest supervisor. This amendment is a consensus supported by both cities, by conservation groups, and by affected timber interests.

Again, I am grateful to the chairman, Mr. JONES of North Carolina, for his leadership and assistance. I join him in asking for the support of all of my colleagues for this legislation so absolutely vital to the health of the citizens of my area.

Mr. PRITCHARD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina (Mr. JONES)?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1210.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON H.R. 6267, NET WORTH GUARANTEE ACT

Mr. ST GERMAIN submitted the following conference report and statement on the bill (H.R. 6267) to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and insuring the availability of home mortgage loans.

CONFERENCE REPORT (H. REPT. No. 97-899)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6267) to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and ensuring the availability of home mortgage loans, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Garn-St Germain Depository Institutions Act of 1982".

TITLE I—DEPOSIT INSURANCE FLEXIBILITY

SHORT TITLE

SEC. 101. This title may be cited as the "Deposit Insurance Flexibility Act".

PART A—FEDERAL DEPOSIT INSURANCE CORPORATION AMENDMENTS

ASSISTANCE TO INSURED BANKS

SEC. 111. Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended to read as follows:

"(c)(1) The Corporation is authorized, in its sole discretion and upon such terms and conditions as the Board of Directors may prescribe, to make loans to, to make deposits in, to purchase the assets or securities of, to assume the liabilities of, or to make contributions to, any insured bank—

"(A) if such action is taken to prevent the closing of such insured bank;

"(B) if, with respect to a closed insured bank, such action is taken to restore such closed insured bank to normal operation; or

"(C) if, when severe financial conditions exist which threaten the stability of a significant number of insured banks or of insured banks possessing significant financial resources, such action is taken in order to lessen the risk to the Corporation posed by such insured bank under such threat of instability.

"(2)(A) In order to facilitate a merger or consolidation of an insured bank described in subparagraph (B) with an insured institution or the sale of assets of such insured bank and the assumption of such insured bank's liabilities by an insured institution, or the acquisition of the stock of such insured bank, the Corporation is authorized, in its sole discretion and upon such terms and conditions as the Board of Directors may prescribe—

"(i) to purchase any such assets or assume any such liabilities;

"(ii) to make loans or contributions to, or deposits in, or purchase the securities of, such insured institution or the company which controls or will acquire control of such insured institution;

"(iii) to guarantee such insured institution or the company which controls or will acquire control of such insured institution against loss by reason of such insured institutions merging or consolidating with or assuming the liabilities and purchasing the assets of such insured bank or by reason of such company acquiring control of such insured bank; or

"(iv) to take any combination of the actions referred to in subparagraphs (i) through (iii).

"(B) For the purpose of subparagraph (A), the insured bank must be an insured bank—

"(i) which is closed;

"(ii) which, in the judgment of the Board of Directors, is in danger of closing; or

"(iii) which, when severe financial conditions exist which threaten the stability of a significant number of insured banks or of insured banks possessing significant financial resources, is determined by the Corporation, in its sole discretion, to require assistance under subparagraph (A) in order to lessen the risk to the Corporation posed by such insured bank under such threat of instability.

"(3) The Corporation may provide any person acquiring control of, merging with, consolidating with or acquiring the assets of an insured bank under section 13(f) of this Act with such financial assistance as it could provide an insured institution under this subsection.

"(4)(A) No assistance shall be provided under this subsection in an amount in excess of that amount which the Corporation determines to be reasonably necessary to save the cost of liquidating, including paying the insured accounts of, such insured bank, except that such restriction shall not apply in any case in which the Corporation determines that the continued operation of such insured bank is essential to provide adequate banking services in its community.

"(B) The Corporation may not use its authority under this subsection to purchase the voting or common stock of an insured bank. Nothing in the preceding sentence shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interest.

"(5)(A) During any period in which an insured bank has received assistance under this subsection and such assistance is still outstanding, such insured bank may defer the payment of any State or local tax which is determined on the basis of the deposits held by such insured bank or of the interest paid on such deposits.

"(B) When such insured bank no longer has any outstanding assistance, such insured bank shall pay all taxes which were deferred under subparagraph (A). Such payments shall be made in accordance with a payment plan established by the Corporation, after consultation with the applicable State and local taxing authorities.

"(6) Any assistance provided under this subsection may be in subordination to the rights of depositors and other creditors.

"(7) In its annual report to the Congress, the Corporation shall report the total amount it has saved, or estimates it has saved, by exercising the authority provided in this subsection.

"(8) For purposes of this subsection, the term 'insured institution' means an insured bank as defined in section 3 of this Act or an insured institution as defined in section 401 of the National Housing Act.".

FEDERAL DEPOSIT INSURANCE CORPORATION; INSURED FEDERAL SAVINGS BANKS

SEC. 112. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding at the end thereof the following:

"(o)(1) Notwithstanding any other provision of this section, the Board, subject to the provisions of this subsection, may authorize, under the rules and regulations of the Board, the conversion of a State-chartered savings bank insured by the Federal Deposit Insurance Corporation into a Federal savings bank, if such conversion is not in contravention of State law, and provide for the organization, incorporation, operation, and regulation of such institution.

"(2)(A) The Federal Deposit Insurance Corporation shall insure the deposit accounts of any Federal savings bank chartered pursuant to this subsection, until such time as the accounts of such institution are insured by the Federal Savings and Loan Insurance Corporation.

"(B) The Board shall provide the Federal Deposit Insurance Corporation with notification of any application under this Act for

conversion to a Federal charter by an institution insured by the Corporation, shall consult with the Corporation with notification of the Board's determination with respect to such application.

"(C) The Federal Deposit Insurance Corporation shall have the power to make special examinations of any Federal savings bank it insures and for which the Board of Directors of the Federal Deposit Insurance Corporation determines an examination is necessary to determine the condition of the bank for insurance purposes.

"(D) Except with the prior written approval of the Federal Deposit Insurance Corporation, no Federal savings bank insured by the Federal Deposit Insurance Corporation shall—

"(i) merge or consolidate with any bank, association, or institution that is not insured by the Federal Deposit Insurance Corporation;

"(ii) assume liability to pay any deposits made in, or similar liabilities of, any bank, association, or institution that is not insured by the Federal Deposit Insurance Corporation; or

"(iii) transfer assets to any bank, association, or institution that is not insured by the Federal Deposit Insurance Corporation in consideration of the assumption of liabilities for any portion of the deposits made in such bank.

"(E) In granting any approval required by paragraph (D) of this subsection, the Board of Directors of the Federal Deposit Insurance Corporation shall consider the financial and managerial resources and the future prospects of the existing and proposed institutions.

"(F) Notwithstanding section 402(j) of the National Housing Act, any provision of the constitution or laws of any State, or paragraph (1) of this subsection, if the Federal Deposit Insurance Corporation determines conversion into a Federal stock savings bank or the chartering of a Federal stock savings bank is necessary to prevent the closing of a savings bank it insures or to reopen a closed savings bank it insured, or if the Federal Deposit Insurance Corporation determines, with the concurrence of the Board, that severe financial conditions exist that threaten the stability of a savings bank insured by such Corporation and that such a conversion or charter is likely to improve the financial condition of such savings bank, the Federal Deposit Insurance Corporation shall provide to the Board a certificate of such determination, the reasons therefor in conformance with the requirements of this Act, and the bank, without further action by the Board, shall be converted or chartered by the Board, pursuant to the rules and regulations thereof, from the time the Federal Deposit Insurance Corporation issues such certificate.

"(G) A bank may be converted under subparagraph (F) only where the board of trustees of the bank—

"(i) has specified in writing that the bank is in danger of closing or is closed, or that severe financial conditions exist that threaten the stability of the bank and a conversion is likely to improve the financial condition of the bank; and

"(ii) has requested in writing that the Corporation use the authority of subparagraph (F).

"(H)(i) Before making a determination under subparagraph (F), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered. The State bank supervisor shall be given a reasonable opportunity, and in no event less than forty-eight hours, to object to the use of the provisions of subparagraph (F).

"(ii) If the State supervisor objects during such period, the Corporation may use the authority of subparagraph (F) only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State supervisor, as soon as practicable, a written certification of its determination.

"(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations, and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this Act.

"(4) For purposes of the Bank Protection Act of 1968, the Home Mortgage Disclosure Act, the Community Reinvestment Act, the Depository Institution Management Interlocks Act, the Depository Institutions Deregulation Act of 1980, the Truth in Lending Act, the Equal Credit Opportunity Act, the Fair Debt Collection Practices Act, the Electronic Fund Transfer Act, and section 12(i) of the Securities Exchange Act of 1934, a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation shall be regarded as an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

"(5) Notwithstanding any limitation contained in the National Housing Act, the Federal Savings and Loan Insurance Corporation, in its sole discretion, and on such terms and conditions as it shall determine, may provide the Federal Deposit Insurance Corporation with financial assistance or guarantees in connection with a transaction subject to paragraph(2)(D) or section 18(c) of the Federal Deposit Insurance Act.".

CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 113. (a) Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) is amended—

(1) in paragraph (2) thereof, by striking out "and" at the end thereof;

(2) in paragraph (3) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

(4) the Federal Home Loan Bank Board in the case of an insured Federal savings bank.".

(b) Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end thereof the following:

"(t) The term 'insured Federal savings bank' means a Federal savings bank chartered pursuant to section 5(o) of the Home Owners' Loan Act of 1933 and insured by the Corporation.".

(c) Section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814) is amended by inserting at the end thereof the following:

"(c) Every Federal savings bank which is chartered pursuant to section 5(o) of the Home Owners' Loan Act of 1933, and which is engaged in the business of receiving deposits other than trust funds, shall be an insured bank from the time it is authorized to commence business, until such time as its accounts are insured by the Federal Savings and Loan Insurance Corporation.".

(d) Section 7(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)) is amended by inserting "(A)" after "(2)" and by inserting at the end thereof the following:

"(B) The Corporation shall have access to reports of examination made by, and reports of condition made to, the Federal Home Loan Bank Board or any Federal Home Loan Bank, respecting any insured Federal savings bank, and the Corporation shall have access to all revisions of reports of condition made to either such agency. Such agency shall promptly advise the Corporation of any revisions or changes in respect to deposit liabilities made or required to be made in any report of condition.".

(e) The first sentence of section 7(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended to read as follows: "Each insured State nonmember bank (except a District bank) and each foreign bank having an insured branch (other than a Federal branch) shall make to the Corporation, each insured national bank, each foreign bank having an insured branch which is a Federal branch, and each insured District bank shall make to the Comptroller of the Currency, each insured State member bank shall make to the Federal Reserve bank of which it is a member, and each insured Federal savings bank shall make to the Federal Home Loan Bank Board, four reports of condition annually upon dates which shall be selected by the Chairman of the Board of Directors, the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Federal Home Loan Board.".

(f) Section 7(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(6)) is amended by inserting", the Federal Home Loan Bank Board," after "Comptroller of the Currency".

(g) Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

(1) in the second sentence thereof, by inserting after "district bank," the following: "to the Federal Home Loan Bank Board in the case of an insured Federal savings bank,"; and

(2) in the third sentence thereof, by inserting after "national bank," the following: "or the Federal Home Loan Bank Board in the case of an insured Federal savings bank,".

(h) Section 8(o) of the Federal Deposit Insurance Act (12 U.S.C. 1818(o)) is amended by inserting at the end thereof the following: "Whenever the insured status of an insured Federal savings bank shall be terminated by action of the Board of Directors, the Federal Home Loan Bank Board shall appoint a receiver for the bank, which shall be the Corporation.".

(i) Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended in the second sentence thereof by inserting after "or District bank," the following: "or any insured Federal savings bank,".

(j) Section 11(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)) is amended by inserting at the end thereof the following: "Notwithstanding any other provision of law, whenever the Federal Home Loan Bank Board shall appoint a receiver, other than a conservator, of any insured Federal savings bank hereafter closed, it shall appoint the Corporation receiver for such closed insured Federal savings bank.".

(k) Section 11(g) of the Federal Deposit Insurance Act (12 U.S.C. 1821(g)) is amended in the first sentence by inserting after "District bank," the following: "or closed insured Federal savings bank,".

(l) Section 12(a) of the Federal Deposit Insurance Act (12 U.S.C. 1822(a)) is amended

by inserting after "foreign bank," the following: "insured Federal savings bank,".

(m) Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) in subsection (e)—

(A) by inserting "(e)" before "No agreement"; and

(B) by striking out the first paragraph of such subsection.

(n) Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by inserting at the end thereof the following:

"(12) the provisions of this subsection shall not apply to any merger transaction involving an insured Federal savings bank unless the resulting institution will be an insured bank other than an insured Federal savings bank.".

(o) Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by adding at the end thereof the following:

"(4) The provisions of this subsection shall not apply to an insured Federal savings bank.".

(p) Section 26 of the Federal Deposit Insurance Act (12 U.S.C. 1831c) is amended—

(1) by inserting "(a)" after "Sec. 26.";

(2) in subsection (a), as so redesignated under paragraph (1), by adding at the end thereof the following: "The provisions of this subsection shall apply only to mergers, consolidations, or conversions consummated and effective prior to the effective date of the Depository Institutions Amendments of 1982 or mergers, consolidations, or conversions for which applications have been received at a regional Federal Home Loan Bank prior to such effective date."; and

(3) by adding at the end thereof the following:

"(b) No transaction involving a change of deposit insurance agencies from the Corporation to the Federal Savings and Loan Insurance Corporation shall be deemed a termination of insured status under section 8(a) of this Act.".

(q) Section 7(j)(16) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(16)) is amended by adding at the end thereof the following: "This subsection shall not apply to an insured Federal savings bank.".

CONFORMING AMENDMENTS TO THE HOME OWNERS' LOAN ACT OF 1933

SEC. 114. (a) Section 2(d) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1462(d)) is amended to read as follows:

"(d) The term 'association' means a Federal savings and loan association or a Federal savings bank chartered by the Board under section 5 of this Act and any reference in any other law to Federal savings and loan association shall be deemed to be also a reference to such Federal savings banks, unless the context indicates otherwise.".

(b) Section 5(d)(6) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(6)) is amended—

(1) in paragraph (B), by inserting after "Federal Savings and Loan Insurance Corporation" the following: "or the Federal Deposit Insurance Corporation";

(2) in the second sentence of subparagraph (D), by inserting after "shall appoint" the following: ", except as hereafter povided,"; and

(3) by inserting at the end of subparagraph (D): "In the case of a Federal savings bank chartered pursuant to subsection (o) and insured by the Federal Deposit Insurance Corporation, the Board shall appoint only the Federal Deposit Insurance Corporation as receiver for the association and the Federal Deposit Insurance Corporation shall have the same powers as receiver as those powers granted by the paragraph to the Federal Savings and Loan Insurance Corporation as receiver of other associations.".

(c) Section 5(d)(11) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(11)) is amended by striking out "with other" and inserting in lieu thereof "with associations or with any".

CONFORMING AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 115. (a) Section 403(a) of the National Housing Act (12 U.S.C. 1726(a)) is amended to read as follows:

"(a)(1) It shall be the duty of the Corporation to insure the accounts of all Federal savings and loan associations, and all Federal savings banks, except for Federal savings banks the deposits of which are insured by the Federal Deposit Insurance Corporation.

"(2) The Corporation may insure the accounts of building and loan, savings and loan, and homestead associations and cooperative banks organized and operated according to the laws of the State, District, territory, or possession in which they are chartered or organized, and of savings banks chartered pursuant to section 5(o) of the Home Owners' Loan Act of 1933.".

(b) Subparagraphs (A) and (B) of section 408(a)(1) of the National Housing Act of (12 U.S.C. 1730a (a)(1)) are amended to read as follows:

"(A) 'insured institution' means a Federal savings and loan association, a Federal savings bank, a building and loan, savings and loan or homestead association or a cooperative bank, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and shall include a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation;

"(B) 'uninsured institution' means any association or bank referred to in subparagraph (A), the accounts of which are not insured by the Federal Savings and Loan Insurance Corporation, except for a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation;".

(c) Section 407(m) of the National Housing Act (12 U.S.C. 1730(m)) is amended by adding at the end thereof the following:

"(4) The Federal Home Loan Bank Board, or its designated representative, shall have the same power with respect to a Federal association, or affiliate thereof, the deposits of which are insured by the Federal Deposit Insurance Corporation as it or the Corporation has under paragraphs (1) and (2) of this subsection with respect to insured institutions, or their affiliates,.".

(d) Section 407(l)(6) of the National Housing Act (12 U.S.C. 1730(l)(6)) is amended by adding at the end thereof the following: "For the purpose of this subsection, the term 'insured institution' shall include a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(e) Section 407(q)(13) of the National Housing Act (12 U.S.C. 1730(q)(13)) is amended by inserting "(A)" after "(13)" and by adding at the end thereof the following:

"(B) For the purposes of this subsection, the term 'insured institution' shall include a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation.".

EXTRAORDINARY ACQUISITIONS

SEC 116. Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by inserting after subsection (e) the following:

"(f)(1) Nothing contained in paragraphs (2) or (3) shall be construed to limit the Corporation's powers in subsection (c) to assist a transaction under paragraphs (2) or (3).

"(2)(A) Whenever an insured bank with total assets of $500,000,000 or more (as determined from its most recent report of condition) is closed, the Corporation, as receiver, may, in its discretion and upon such terms and conditions as the Corporation may determine, arrange the sale of assets of the closed bank and the assumption of the liabilities of the closed bank, including the sale of such assets to and the assumption of such liabilities by an insured depository institution located in the State where the closed bank was chartered but established by an out-of-State bank or holding company. Where otherwise lawfully required, a transaction under this subsection must be approved by the primary Federal or State supervisor of all parties thereto.

"(B) (i) Before making a determination to take any action under subparagraph (A), the Corporation shall consult the State bank supervisor of the State in which the closed insured bank was chartered.

"(ii) The State bank supervisor shall be given a reasonable opportunity, and in no event less than forty-eight hours, to object to the use of the provisions of this paragraph. Such notice may be provided by the Corporation prior to its appointment as receiver, but in anticipation of an impending appointment.

"(iii) If the State supervisor objects during such period, the Corporation may use the authority of this paragraph only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State suspervisor, as soon as practicable, a written certification of its determination.

"(3)(A)(i) Whenever the Corporation has determined, in its discretion, that an insured bank organized in mutual form with total assets of $500,000,000 or more (as determined from its most recent report of condition) is in danger of closing, the insured bank may merge with or its assets may be purchased by and its liabilities assumed by another institution, including an insured depository institution located in the State where the insured bank is chartered but established by an out-of-State bank or holding company.

"(ii) Where otherwise lawfully required, a transaction under this subsection must be approved by the primary Federal or State supervisor of all parties thereto.

"(B) The Corporation may make a determination under paragraph (A) only where the board of trustees of the insured bank and the appropriate Federal or State chartering authority have specified in writing that the bank is in danger of closing and have requested in writing that the Corporation assist a merger or a purchase.

"(C)(i) Before making a determination under subparagraph (A), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered.

"(ii) The State bank supervisor shall be given a reasonable opportunity, and in no event less than forty-eight hours, to object to the use of the provisions of this paragraph.

"(iii) If the State supervisor objects during such period, the Corporation may use the

authority of this paragraph only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State supervisor, as soon as practicable, a written certification of its determination.

"(4)(i) Notwithstanding section 3(d) of the Bank Holding Company Act of 1956 or any other provision of law, State or Federal, or the constitution of any State, an institution that merges with or acquires an insured bank under paragraph (2) or (3) is authorized to be and shall be operated as a subsidiary of an out-of-State bank or bank holding company, except that an out-of-State bank may operate the resulting institution as a subsidiary only if such ownership is otherwise specifically authorized.

"(ii) Any subsidiary created by operation of this subsection may retain and operate any existing branch or branches of the institution merged with or acquired under paragraph (2) or (3), but otherwise shall be subject to the conditions upon which a national bank may establish and operate branches in the State in which such insured institution is located.

"(iii) No insured institution acquired under this subsection shall after it is acquired move its principal office or any branch office which it would be prohibited from moving if the institution were a national bank.

"(5) In determining whether to arrange a sale of assets and assumption of liabilities or to permit an acquisition or a merger under the authority of paragraph (2) or (3), the Corporation may solicit such offers or proposals as are practicable from any prospective purchasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring the assets and liabilities of the closed bank or the bank in danger of closing.

"(6)(A) If, after receiving offers, the offer presenting the lowest expense to the Corporation, that is in a form and with conditions acceptable to the Corporation (hereinafter referred to as the 'lowest acceptable offer'), is from an offeror that is not an existing in-State bank of the same type as the bank that has closed or is in danger of closing (or, where the closed bank is an insured bank other than a mutual savings bank, the lowest acceptable offer is not from an in-State bank holding company), the Corporation shall permit each offeror who made an offer the estimated cost of which to the Corporation was within 15 per centum or $15,000,000, whichever is less, of the initial lowest acceptable offer to submit a new offer.

"(B) In considering authorizations under this subsection, the Corporation shall give consideration to the need to minimize the cost of financial assistance and to the maintenance of specialized depository institutions. The Corporation shall authorize transactions under this subsection considering the following priorities:

"(i) First, between depository institutions of the same type within the same State;

"(ii) Second, between depository institutions of the same type in different States;

"(iii) Third, between depository institutions of different types in the same State; and

"(iv) Fourth, between depository institutions of different types in different States.

"(C) In considering offers from different States, the Corporation shall give a priority to offers from adjoining States.

"(D) In determining the cost of offers and reoffers, the Corporation's calculations and estimations shall be determinative. The Corporation may set reasonable time limits on offers and reoffers.

"(7) No sale may be made under the provisions of paragraph (2) or (3)—

"(A) which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States; or

"(B) whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Corporation finds that the anticompetitive effects of the proposed transactions are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

"(8) As used in this subsection—

"(A) the term 'receiver' means the Corporation when it has been appointed the receiver of a closed insured bank;

"(B) the term 'insured depository institution' means an insured bank or an association or savings bank insured by the Federal Savings and Loan Insurance Corporation; and

"(C) the term 'in-State depository institution or in-State holding company' means an existing insured depository institution currently operating in the State in which the closed bank or the bank in danger of closing is chartered or a company that is operating an insured depository institution subsidiary in the State in which the closed bank or the bank in danger of closing is chartered.".

ASSESSMENTS

SEC. 117. The third sentence of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended—

(1) by striking out "and" before "(3) the insurance losses"; and

(2) by inserting before the period at the end thereof the following: "; and (4) any lending costs for the calendar year, which costs shall be equal to the amount by which the amount of interest earned, if any, from each loan made by the Corporation under section 13 of this Act after January 1, 1982, is less than the amount which the Corporation would have earned in interest for the calendar year if interest had been paid on such loan during such calendar year at a rate equal to the average current value of funds to the United States Treasury for such calendar year".

WAIVER OF NOTICE REQUIREMENTS

SEC. 118. (a) Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following: ". Notwithstanding any other provision of this Act, if the Board finds that an emergency exists which requires the Board to act immediately on any application under this subsection involving a thrift institution, and the primary Federal regulator of such institution concurs in such finding, the Board may dispense with the notice and hearing requirement of this subsection and the Board may approve or deny any such application without notice or hearing;".

(b) Section 2(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(i)) is amended by—

(1) striking out "or" before "(3)"; and

(2) by inserting before the period at the end thereof the following: "or (4) a Federal savings bank"

(c) The first sentence of section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended by inserting after "no application" the following: "(except an application filed as a result of a transaction authorized under section 13(f) of the Federal Deposit Insurance Act)".

PART B—FEDERAL HOME LOAN BANK BOARD AMENDMENTS

FEDERAL STOCK SAVINGS INSTITUTIONS

SEC. 121. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended by section 112, is amended by adding at the end thereof the following:

"(p)(1) Notwithstanding any other provision of Federal law or the laws or constitution of any State, and consistent with the purposes of this Act, the Board may authorize (or in the case of a Federal association, require) the conversion of a mutual savings and loan association or Federal mutual savings bank that is insured by the Federal Savings and Loan Insurance Corporation into a Federal stock savings and loan association or Federal stock savings bank, or charter a Federal stock savings and loan association or Federal stock savings bank to acquire the assets of, or merge with such a mutual institution under the rules and regulations of the Board.

"(2) Authorizations under this subsection may be made only to assist an institution in receivership, or if the Board has determined that severe financial conditions exist which threaten the stability of an institution and that such authorization is likely to improve the financial condition of the institution, or when the Federal Savings and Loan Insurance Corporation has contracted to provide assistance to such institution under section 406 of the National Housing Act.

"(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provisions of this Act, and may engage in any investment, activity, or operation that the institution it acquired was engaged in if that institution was a Federal savings bank, or would have been authorized to engage in had that institution converted to a Federal charter.".

ASSISTANCE TO THRIFT INSTITUTIONS

SEC. 122. (a) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)) is amended to read as follows:

"(f)(1) The Corporation is authorized, in its sole discretion and upon such terms and conditions as the Corporation may prescribe, to make loans to, to make deposits in, to purchase the assets or securities of, to assume the liabilities of, or to make contributions to, any insured institution—

"(A) if such action is taken to prevent the default of such insured institution;

"(B) if, with respect to an insured institution in default, such action is taken to restore such insured institution in default to normal operation; or

"(C) if, when severe financial conditions exist which threaten the stability of a significant number of insured institutions or of insured institutions possessing significant resources, such action is taken in order to lessen the risk to the Corporation posed by such insured institution under such threat of instability.

"(2)(A) In order to facilitate a merger or consolidation of an insured institution described in subparagraph (B) with another

insured institution or the sale of assets of such insured institution and the assumption of such insured institution's liabilities by another insured institution, the Corporation is authorized, in its sole discretion and upon such terms and conditions as the Corporation may prescribe—

"(i) to purchase any such assets or assume any such liabilities;

"(ii) to make loans or contributions to, or deposits in, or purchase the securities of, such other insured institution (which, for the purposes of this subparagraph, shall include a Federal savings bank insured by the Federal Deposit Insurance Corporation);

"(iii) to guarantee such other insured institution (which, for the purposes of this subparagraph, shall include a Federal savings bank insured by the Federal Deposit Insurance Corporation) against loss by reason of such other insured institution's merging or consolidating with or assuming the liabilities and purchasing the assets of such insured institution; or

"(iv) to take any combination of the actions referred to in clauses (i) through (iii).

"(B) An insured institution described in this subparagraph—

"(i) is an insured institution which is in default;

"(ii) is an insured institution which, in the judgment of the Corporation is in danger of default; or

"(iii) is an insured institution which, when severe financial conditions exist which threaten the stability of a significant number of insured institutions, or of insured institutions possessing significant financial resources, is determined by the Corporation, in its sole discretion, to require assistance under subparagraph (A) in order to lessen the risk to the Corporation posed by such insured institution under such threat of instability.

"(3) The Corporation may provide any person acquiring control of, merging with, consolidating with or acquiring the assets of an insured institution under section 408(m) of this Act with such financial assistance as it could provide an insured institution under this subsection.

"(4) (A) No assistance shall be provided under paragraph (1), (2), or (3) of this subsection in an amount in excess of that amount which the Corporation determines to be reasonably necessary to save the cost of liquidating (including paying the insured accounts of) such insured institution, except that such restriction shall not apply in any case in which the Corporation determines that the continued operation of such insured institution is essential to provide adequate savings or home financing services in its community.

"(B) The Corporation may not use its authority under this subsection to purchase the voting or common stock of an insured institution. Nothing in the preceding sentences shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.".

"(b) Section 406(b) of the National Housing Act (12 U.S.C. 1729(b)) is amended to read as follows:

"(b)(1) In the event that a Federal association is in default, the Corporation shall be appointed as conservator or receiver and as such—

"(A) is authorized—

"(i) to take over the assets of and operate such association;

"(ii) to take such action as may be necessary to put it in a sound solvent condition;

"(iii) to merge it with another insured institution;

"(iv) to organize a new Federal association to take over its assets;

"(v) to proceed to liquidate its assets in an orderly manner; or

"(vi) to make such other disposition of the matter as it deems appropriate;

whichever it deems to be in the best interest of the association, its savers, and the Corporation; and

"(B) shall pay all valid credit obligations of the association.

"(2) The corporation shall pay insurance as provided in section 405. The surrender and transfer to the Corporation of an insured account in any such association which is in default shall subrogate the Corporation with respect to such insured account, but shall not affect any right which the insured member may have in the uninsured portion of his account or any right which he may have to participate in the distribution of the net proceeds remaining from the disposition of the assets of such association.

"(3) As used in this section, the term 'Federal association' means a Federal savings and loan association or a Federal savings bank.".

(c) Section 406(c) of the National Housing Act (12 U.S.C. 1729(c)) is amended by striking out "savings and loan" wherever it appears.

(d) Section 406(c)(1) of the National Housing Act (12 U.S.C. 1729(c)(1)) is amended by inserting "(A)" after "(c)(1)" and by adding at the end thereof the following:

"(B)(i)(I) Notwithstanding any provision of the constitution or laws of any State, or of this section, in the event the Federal Home Loan bank board determines that any of the grounds specified in section 5(d)(6)(A)(i), (ii), or (iii) of the Home Owners' Loan Act of 1933 exist with respect to an insured institution, other than a Federal association, the Board shall have exclusive power and jurisdiction to appoint the Corporation as sole conservator or receiver of such institution.

"(II) In such cases the corporation shall have the same powers and duties with respect to insured institutions as are conferred upon it under subsection (b) of this section with respect to Federal associations.

"(ii)(I) The authority conferred by this subparagraph shall not be exercised without the written approval of the State official having jurisdiction over the State-chartered insured institution that the grounds specified for such exercise exist.

"(II) If such approval has not been received by the Board within 90 days of receipt of notice by the State that the Board has determined such grounds exist, and the Board has responded in writing to the State's written reasons, if any, for withholding approval, then the Board may proceed without State approval only by a unanimous vote of the Board. The corpcration may also proceed without State approval if the Corporation has been appointed conservator, receiver, or other legal custodian pursuant to State law under subparagraph (A).".

(e) The first sentence of section 406(c)(2) of the National Housing Act (12 U.S.C. 1729(c)(2)) is amended by inserting "conservator or" after "sole".

(f) Section 406(c)(3) of the National Housing Act (12 U.S.C. 1729(c)(3)) is amended—

(1) by inserting "conservator or" before "receiver" wherever it appears therein;

(2) by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (1) or (2)"; and

(3) by striking out the second sentence.

(g) Section 406(d) of the National Housing Act (12 U.S.C. 1729(d)) is amended to read as follows:

"(d) In connection with the liquidation of insured institutions, the Corporation shall have power to carry on the business of and to collect all obligations to the insured institutions, to settle, compromise, or release claims in favor of or against the insured institutions, and to do all other things that may be necessary in connection therewith, subject only to the regulation of the Federal Home Loan Bank Board, or, in cases where the Corporation has been appointed conservator, receiver, or legal custodian solely by a public authority having jurisdiction over the matter other than said Board, subject only to the regulation of such public authority.".

EMERGENCY THRIFT ACQUISITIONS

SEC. 123. (a) Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end thereof the following:

"(m)(1)(A)(i) Notwithstanding any provision of the laws or constitution of any State or any provision of Federal law, except as provided in subsections (e)(2) and (1) of this section, and in clause (iii) of this subparagraph, the Corporation, upon its determination that severe financial conditions exist which threaten the stability of a significant number of insured institutions, or of insured institutions possessing significant financial resources, may authorize, in its discretion and where it determines such authorization would lessen the risk to the Corporation, an insured institution that is eligible for assistance pursuant to section 406(f) of this Act to merge or consolidate with, or to transfer its assets and liabilities to, any other insured institution or any insured bank (as such term 'insured bank' is defined in section 3(h) of the Federal Deposit Insurance Act), may authorize any other insured institution to acquire control of said insured institution, or may authorize any company to acquire control of said insured institution or to acquire the assets or assume the liabilities thereof.

"(ii) Mergers, consolidations, transfers, and acquisitions under this subsection shall be on such terms as the Corporation shall provide.

"(iii) Where otherwise required by law, transactions under this subsection must be approved by the primary Federal supervisor of the party thereto that is not an insured institution.

"(B)(i) Before making a determination to take any action under subparagraph (A), the Corporation shall consult the State official having jurisdiction of the acquired institution.

"(ii) The State official shall be given a reasonable opportunity, and in no event less than forty-eight hours, to object to the use of the provisions of this paragraph. Such notice may be provided by the Corporation prior to its appointment as receiver, but in anticipation of an impending appointment.

"(iii) If the State official objects during such period, the Corporation may use the authority of this paragraph only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State official, as soon as practicable, a written certification of its determination.

"(2) In considering authorizations under this subsection, the Corporation may solicit

such offers or proposals as are practicable from any prospective purchasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring the assets and liabilities of the insured institution.

"(3)(A) If, after receiving offers, the offer presenting the lowest expense to the Corporation, that is in a form and with conditions acceptable to the Corporation (hereinafter referred to as the 'lowest acceptable offer') is from an institution that is not an existing in-State insured institution or an in-State savings and loan holding company, the Corporation shall permit each offeror who made an offer the estimated cost of which to the Corporation was within 15 per centum or $15,000,000, whichever is less, of the initial lowest acceptable offer to submit a new offer.

"(B) In considering authorizations under this subsection, the Corporation shall give consideration to the need to minimize the cost of financial assistance and to the maintenance of specialized depository institutions. The Corporation shall authorize transactions under this subsection considering the following priorities:

"(i) First, between depository institutions of the same type within the same State;

"(ii) Second, between depository institutions of the same type in different States;

"(iii) Third, between depository institutions of different types in the same State; and

"(iv) Fourth, between depository institutions of different types in different States.

"(C) In the case of a minority-controlled institution, the Corporation shall seek an offer from other minority-controlled institutions before proceeding with the sequence set forth in the preceding subparagraph.

"(D) In considering offers from different States, the Corporation shall give a priority to offers from adjoining States.

"(E) In determining the cost of offers and reoffers under this subsection, the Corporation's calculations and estimations shall be determinative. The Corporation may set reasonable time limits on offers and reoffers.

"(4) For purposes of this subsection—

"(A) the term 'insured depository institution' means an insured institution or a bank insured by the Federal Deposit Insurance Corporation; and

"(B) the term 'in-State depository institution or in-State depository institution holding company' means an existing insured depository institution currently operating in the State in which the closed institution is chartered or a company that is operating an insured depository institution subsidiary in the State in which the closed institution is chartered.

"(5)(A) Where a merger, consolidation, transfer, or acquisition under this subsection involves an insured institution eligible for assistance and a bank or bank holding company, an insured institution may retain and operate any existing branch or branches or any other existing facilities but otherwise shall be subject to the conditions upon which a national bank may establish and operate branches in the State in which such insured institution is located.

"(B) No such insured institution shall move its principal office or any branch office after it is acquired which it would be prohibited from moving if it were a national bank.

"(C)(i) Notwithstanding the foregoing, if such an insured institution does not have its home office in the State of the bank holding company bank subsidiary, and if such institution does not qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954, or does not meet the asset composition test imposed by subparagraph (C) of that section on institutions seeking so to qualify, then such insured institution shall be subject to the conditions upon which a bank may retain, operate, and establish branches in the State in which the insured institution is located.

"(ii) The Corporation, for good cause shown, may allow insured institutions up to two years to comply with the requirements of clause (i).".

(b) Section 408(e)(2) of the National Housing Act (12 U.S.C. 1730a(e)(2)) is amended—

(1) in the first sentence, by inserting after "subsection" the following: ", or any transaction under subsection (m) of this section,"; and

(2) in the third sentence, by inserting after "acquisition," the following: "except a transaction under subsection (m) of this section,".

ASSISTANCE TO FEDERAL HOME LOAN BANKS MEMBERS

SEC. 124. Section 16 of the Federal Home Loan Bank Act (12 U.S.C. 1436) is amended by inserting "(a)" after "Sec. 16." and by adding at the end thereof the following:

"(b) Notwithstanding subsection (a) or any other provision of this Act, if the Board determines that severe financial conditions exist threatening the stability of member institutions, the Board may suspend temporarily the requirements of subsection (a) that a portion of net earnings be set aside semiannually by each Federal Home Bank to a reserve account and permit each Federal Home Loan Bank to declare and pay dividends out of undivided profits.".

BORROWING AUTHORITY

SEC. 125. (a) The first sentence of section 402(d) of the National Housing Act (12 U.S.C. 1725(d)) is amended by inserting before the period at the end thereof the following: ", except that interest on loans from the Federal Home Loan Banks shall be not less than their current marginal cost of funds, taking into account the maturities involved, and loans from the Federal Home Loan Banks shall be adequately secured, as determined by the Board".

(b) The first sentence of section 402(i) of the National Housing Act (12 U.S.C. 1725(i)) is amended—

(1) by striking out "any source other than the Federal Home Loan Banks"; and

(2) by inserting "from the Treasury" after Provided, That each such loan".

(c) Section 11 of the Federal Home Loan Bank Act (12 U.S.C. 1431) is amended by adding at the end thereof the following:

"(k) The Federal Home Loan Banks are hereby authorized, as directed by the Board, to make loans to the Federal Savings and Loan Insurance Corporation. All such loans shall be made in accordance with the provisions of section 402(d) of the National Housing Act.".

INSURANCE FUND RESERVES

SEC. 126. Section 404 of the National Housing Act (12 U.S.C. 1727) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following:

"(h) Notwithstanding any other provision of this section, the Corporation, upon its determination that extraordinary financial conditions exist increasing the risk to the Corporation, may terminate distribution of shares of the secondary reserve and utilize said reserve on the same basis as the primary reserve. If otherwise authorized, the Corporation may resume such distribution upon its determination that said conditions no longer exist.".

FEDERAL HOME LOAN BANK ACT

SEC. 127. Section 17(a) of the Federal Home Loan Bank Act (12 U.S.C. 1437(a)) is amended by inserting after the first sentence the following: "Notwithstanding any other provision of law, the Board may from time to time make such provision as it deems appropriate authorizing the performance by any officer, employee, agent, or administrative unit thereof of any function of the Board (including any function of the Federal Savings and Loan Insurance Corporation), except with regard to promulgation of rules and regulations in accordance with the Administrative Procedure Act, and adjudications subject to such Act.".

CONTINUATION OF INSURANCE

SEC. 128. Section 405(a) of the National Housing Act (12 U.S.C. 1728(a)) is amended by adding after the first sentence the following: "Whenever the liabilities of an insured institution for accounts shall have been assumed by another insured institution or institutions, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract, all accounts so assumed shall have separate insurance which shall terminate at the end of six months from the date such assumption takes effect or, in the case of any certificate account, the earliest maturity date after the six-month period.".

PART C—CREDIT UNIONS

CREDIT UNION MERGERS

SEC. 131. Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end thereof the following:

"(h) Notwithstanding any other provision of law, the Board may authorize a merger or consolidation of an insured credit union which is insolvent or is in danger of insolvency with any other insured credit union or may authorize an insured credit union to purchase any of the assets of, or assume any of the liabilities of, any other insured credit union which is insolvent or in danger of insolvency if the Board is satisfied that—

"(1) an emergency requiring expeditious action exists with respect to such other insured credit union;

"(2) other alternatives are not reasonably available; and

"(3) the public interest would best be served by approval of such merger, consolidation, purchase, or assumption.

"(i) (1) Notwithstanding any other provision of this Act or of State law, the Board may authorize an institution whose deposits or accounts are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation to purchase any of the assets of or assume any of the liabilities of an insured credit union which is insolvent or in danger of insolvency, except that prior to exercising this authority the Board must attempt to effect the merger or consolidation of an insured credit union which is insolvent or in danger of insolvency with another insured credit union, as provided in subsection (h).

"(2) For purposes of the authority contained in paragraph (1), insured accounts of the credit union may upon consummation of the purchase and assumption be converted to insured deposits or other comparable accounts in the acquiring institution, and the Board and the National Credit Union

Share Insurance Fund shall be absolved of any liability to the credit union's members with respect to those accounts.".

BOARD'S AUTHORITY AS CONSERVATOR

SEC. 132. (a) Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) by redesignating subsections (h) through (o) as subsections (i) through (p), respectively; and

(2) by inserting after subsection (g) the following new subsection:

"(h)(1) The Board may, ex parte without notice, appoint itself as conservator and immediately take possession and control of the business and assets of any insured credit union in any case in which—

"(A) the Board determines that such action is necessary to conserve the assets of any insured credit union or to protect the Fund or the interests of the members of such insured credit union; or

"(B) an insured credit union, by a resolution of its board of directors, consents to such an action by the Board.

"(2)(A) In the case of a State-chartered insured credit union, the authority conferred by paragraph (1) shall not be exercised without the written approval of the State official having jurisdiction over the State-chartered credit union that the grounds specified for such exercise exist.

"(B) If such approval has not been received by the Board within 90 days of receipt of notice by the State that the Board has determined such grounds exist, and the Board has responded in writing to the State's written reasons, if any, for withholding approval, then the Board may proceed without State approval only by a unanimous vote of the Board.

"(3) Not later than ten days after the date on which the Board takes possession and control of the business and assets of an insured credit union pursuant to paragraph (1), such insured credit union may apply to the United States district court for the judicial district in which the principal office of such insured credit union is located or the United States District Court for the District of Columbia, for an order requiring the Board to show cause why it should not be enjoined from continuing such possession and control.

"(4) Except as provided in paragraph (3), in the case of a Federal credit union, the Board may maintain possession and control of the business and assets of such credit union and may operate such credit union until such time—

"(A) as the Board shall permit such credit union to continue business subject to such terms and conditions as may be imposed by the Board; or

"(B) as such credit union is liquidated in accordance with the provisions of section 207.

"(5) Except as provided in paragraph (3), in the case of an insured State-chartered credit union, the Board may maintain possession and control of the business and assets of such credit union and may operate such credit union until such time—

"(A) as the Board shall permit such credit union to continue business, subject to such terms and conditions as may be imposed by the Board;

"(B) as the Board shall permit the transfer of possession and control of such credit union to any commission, board, or authority which has supervisory authority over such credit union and which is authorized by State law to operate such credit union; or

"(C) as such credit union is liquidated in accordance with the provisions of section 207.

"(6) The Board may appoint such agents as it considers necessary in order to assist the Board in carrying out its duties as a conservator under this subsection.

"(7) All expenses incurred by the Board in exercising its authority under this subsection with respect to any credit union shall be paid out of the assets of such credit union.

"(8) The authority granted by this subsection is in addition to all other authority granted to the Board under this Act.".

(b) Section 206(b)(2) of the Federal Credit Union Act (12 U.S.C. 1786(b)(2)) is amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)".

(c) Section 206(j)(1) of such Act (12 U.S.C. 1786(j)(1)), as so redesignated by subsection (a), is amended—

(1) in the first sentence, by striking out "subsection (h)(3)" and inserting in lieu thereof "subsection (i)(3)"; and

(2) in the fourth sentence, by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)".

(d) The first sentence of section 206(j)(2) of such Act (12 U.S.C. 1786(j)(2)), as redesignated by subsection (a), is amended by striking out "subsection (h)(1)" and inserting in lieu thereof "subsection (i)(1)".

(e) The first sentence of section 206(1) of such Act (12 U.S.C. 1786(1)), as redesignated by subsection (a), is amended by striking out "(h)" and inserting in lieu thereof "(i)".

(f) Section 206(m) of such Act (12 U.S.C. 1786(m)), as redesignated by subsection (a), is amended—

(1) by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)"; and

(2) by striking out "subsection (h)" and inserting in lieu thereof "subsection (i)".

(g) The section heading for section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by inserting "; TAKING POSSESSION OF BUSINESS AND ASSETS" after "COMMITTEE MEMBERS".

PART D—SUNSET PROVISION

SUNSET OF CERTAIN PROVISIONS

SEC. 141. (a) Effective upon the expiration of three years after the date of enactment of this Act—

(1) section 13(c)(5) of the Federal Deposit Insurance Act, as added by section 111 of this Act, shall be repealed;

(2) subparagraphs (F) and (G) of section 5(o)(2) of the Home Owners' Loan Act of 1933, as added by section 112 of this Act, shall be repealed;

(3) the provision of law amended by section 116 of this Act shall be amended to read as it would without such amendment;

(4) the provisions of law amended by subsections (a) and (c) of section 118 shall be amended to read as they would without such amendments;

(5) the provision of law amended by section 121 of this Act shall be amended to read as it would without such amendment;

(6) the provisions of law amended by subsections (d) through (g) of section 122 of this Act shall be amended to read as they would without such amendments;

(7) the provisions of law amended by section 123 of this Act shall be amended to read as they would without such amendment;

(8) the provisions of law amended by section 131 and 132 shall be amended to read as they would without such amendments.

(b) The repeal or termination by subsection (a) of any amendment made by this Act shall have no effect on any action taken or authorized while such amendment was in effect.

TITLE II—NET WORTH CERTIFICATES

SHORT TITLE

SEC. 201. This title may be cited as the "Net Worth Certificate Act".

INSURED INSTITUTIONS

SEC. 202. (a) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)), as amended by section 122 of this Act, is amended by adding at the end thereof the following:

"(5)(A)(i) Notwithstanding any other provision of State or Federal law, and without limitation on any authority provided elsewhere in this Act or the Home Owners' Loan Act of 1933, the Corporation, in its sole discretion and on such terms and conditions as it may prescribe, is authorized to increase or maintain the capital of a qualified institution by making periodic purchases of capital instruments to be known as net worth certificates, as defined by the Corporation, for such form of consideration as the Corporation may determine, from such qualified institution, and may authorize such institution to issue such net worth certificates, pursuant to this paragraph.

"(ii) Dividends on any certificate so purchased shall be at a rate equivalent to the rate of interest paid on any promissory note used to purchase the certificate.

"(iii) In making a determination under this paragraph, the State supervisor of the State in which a State chartered institution which is the subject of the eligibility determination is located shall be consulted.

"(iv) With respect to certificates held by it, the claim of the Corporation shall have a priority over any claim arising out of an equity interest in the institution in the event of a liquidation or reorganization, subject to the prior payment of all accounts, certificates of deposit, and debt obligations other than debt obligations subordinated to the claims of general creditors which were outstanding when any certificates were purchased, and over any right of equity holders to participate in future earnings.

"(B) For the purposes of this paragraph, the term 'qualified institution' means an institution the deposits of which are insured under this title or insured or guaranteed under State law which, as determined by the Corporation—

"(i) has net worth equal to or less than 3 per centum of its assets;

"(ii) has incurred losses during the two previous quarters;

"(iii) has not incurred such losses as a result of transactions involving speculation in futures or forward contracts, of management action designed solely for the purpose of qualifying for assistance, or of excessive operating expenses;

"(iv) agrees to comply with all the terms and conditions established by the Corporation for receiving assistance pursuant to this paragraph, including those relating to reporting, compliance with laws, rules and regulations, execution and implementation of resolutions and agreements to merge or reorganize, submission and adoption of plans of operation, restrictions on operations, repayment of assistance received, and consent to supervisory action;

"(v) will have a net worth of not less than one-half of one per centum of assets after any purchase of its net worth certificates by the Corporation, as determined by the Corporation in accordance with the methods for calculating net worth pursuant to this paragraph; and

"(vi) has investments in residential mortgages or securities backed by such mortgages aggregating at least 20 per centum of its loans.

"(C) (i) The Corporation may not condition the purchase of certificates under this paragraph on the agreement of the institution's board to allow such institution to be merged with or acquired by another company if the Corporation finds that such institution will have positive net worth for a period of at least six months after such certificates are purchased.

"(ii) The Corporation may not condition the purchase of certificates under this paragraph on the agreement of the institution's board to make specified management personnel changes if the Corporation finds that if such institution will have positive net worth for a period of at least nine months after such certificates are purchased.

"(D) In any case where the staff of the Corporation finds for the purpose of subparagraph (C) that the length of time during which the institution will have positive net worth after a purchase of certificates is less than six months or nine months, as the case may be, the institution may submit to the staff its plans and projections. If the staff does not change its position after considering such plans and projections, the institution may submit such plans and projections to the Board and the institution shall be entitled to an appeal to, and a review of the staff's findings by, the Board.

"(E) The Corporation may initially purchase net worth certificates as follows:

"(i) With respect to a qualified institution having net worth greater than 2 per centum and less than or equal to 3 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 50 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(ii) With respect to a qualified institution having net worth greater than 1 per centum and less than or equal to 2 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 60 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(iii) With respect to a qualified institution having net worth less than or equal to 1 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 70 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(F) In the exercise of its authority under this paragraph, the Corporation may at any time, in its sole discretion, establish criteria which, with respect to ranges of net worth, calculation of losses, and percentage of losses to be met by purchases of net worth certificates, differ from those set forth in subparagraph (E), except that the Corporation shall in no period purchase net worth certificates from a qualified institution in an amount equal to more than 100 per centum of such institution's operating losses incurred for the immediate preceding period.

"(G) No assistance may be provided to a qualified institution pursuant to this paragraph if the Corporation determines that providing such assistance would be costlier than liquidating (including paying the insured accounts of) such institution or dealing with it in accordance with paragraph (1) or (2) of this subsection.

"(H) The provisions of the constitution or the laws, civil or criminal, of any State, express or implied, limiting the authority of a qualified institution (i) to take part in programs under this paragraph, (ii) to issue and otherwise deal in net worth certificates issued pursuant to this paragraph, or (iii) to continue operations, including the receipt of deposits and the payment or crediting of interest or dividends to depositors, because of the level of such institution's net worth, surplus fund, or guaranty fund, shall not apply to any qualified institution which the Corporation has approved for the purpose of taking part in programs under this paragraph, continuing operations, or paying interest or dividends.

"(I) During any period when a qualified institution has outstanding net worth certificates issued in accordance with this paragraph, such institution shall not be liable for any State or local tax which is determined on the basis of the deposits held by such institution or the interest paid on such deposits.

"(J) Notwithstanding any other Federal or State law, net worth certificates purchased by the Corporation under this paragraph shall be deemed to be net worth for statutory and regulatory purposes.

"(K) The Corporation may not use its authority under this paragraph to purchase the voting or common stock of a qualified institution. Nothing in this subparagraph shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.

"(L) The Corporation may provide assistance to a qualified institution which is not an insured institution only if the State fund which insures or guarantees the deposits of such qualified institution enters into an agreement with the Corporation which provides that—

"(i) the State fund will indemnify the Corporation for any losses which the Corporation may incur as a result of providing assistance under this paragraph to such qualified institution; and

"(ii) during any period when such qualified institution has outstanding capital instruments issued in accordance with this paragraph, the State insurance fund maintains a level of assessments on its members which results in costs to its members which are at least equivalent to the premium assessments paid to the Corporation by insured institutions during such period.

"(M) During any period in which a qualified institution which has a stock form of ownership has outstanding certificates under this paragraph, such qualified insured institution may not pay dividends to its shareholders.".

(b) Section 5(b)(5) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(5)) is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) Net worth certificates issued by an association pursuant to section 406(f) of the National Housing Act shall constitute part of the general reserves and net worth of the association, in accordance with the rules and regulations of the Board."; and

(2) by adding at the end thereof a new subparagraph (C) as follows:

"(C) The Board shall provide in its rules and regulations for charging losses to mutual capital certificates, net worth certificates issued pursuant to section 406(f) of the National Housing Act, reserves, and other net worth accounts.".

(c) Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)) is amended—

(1) in the fourth-to-last sentence by inserting after "items," the following: "including net worth certificates issued pursuant to section 406(f) of this act,"; and

(2) in the second-to-last sentence by striking out "the mutual capital certificate" and inserting in lieu thereof "mutual capital certificates, net worth certificates issued pursuant to section 406(f) of this Act,".

(d) Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)) is amended by striking out "will provide adequate reserves satisfactory to the Corporation" and all that follows through the end of the sentence immediately preceding the fourth sentence from the end of such subsection, and inserting in lieu thereof the following: "and will provide adequate reserves in a form satisfactory to the Corporation, to be established in accordance with regulations made by the Corporation.".

INSURED BANKS

SEC. 203. Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823), as amended by section 113 of this Act is amended by adding at the end thereof the following:

"(i)(1)(A) Notwithstanding any other provision of State or Federal law, and without limitation on any authority provided elsewhere in this Act, the Corporation, in its sole discretion and on such terms and conditions as it may prescribe, is authorized to increase or maintain the capital of a qualified institution by making periodic purchases of capital instruments to be know as net worth certificates, as defined by the Corporation, for such form of consideration as the Corporation may determine, from such institution, and may authorize such institution to issue net worth certificates, pursuant to this subsection.

"(B) Dividends on any certificate so purchased shall be at a rate equivalent to the rate of interest paid on any promissory note used to purchase the certificate.

"(C) In making a determination under this subsection, the corporation shall consult the State supervisor of the State in which a State chartered bank which is the subject of the eligibility determination is located, and in the case of a State member bank or a national bank, the Corporation shall consult the Board of Governors of the Federal Reserve System or the Comptroller of the Curency, respectively.

"(D) With respect to certificates held by it, the claim of the Corporation shall have a priority over any claim arising out of an equity interest in the institution in the event of a liquidation or reorganization, subject to the prior payment of all accounts, certificates of deposit, and debt obligations other than debt obligations subordinated to the claims of general creditors which were outstanding when any certificates were purchased, and over any right of equity holders to participate in future earnings.

"(2) For the purposes of this subsection, the term 'qualified institution' means an institution the deposits of which are insured under this title or insured or guaranteed under State law which, as determined by the Corporation—

"(A) has net worth equal to or less than 3 per centum of its assets;

"(B) has incurred losses during the two previous quarters;

"(C) has not incurred such losses as a result of transactions involving speculation in futures or forward contracts, of management action designed solely for the purpose of qualifying for assistance, or of excessive operating expenses;

"(D) agrees to comply with all the terms and conditions established by the Corporation for receiving assistance pursuant to this paragraph, including those relating to reporting, compliance with laws, rules and regulations, execution and implementation of resolutions and agreements to merge or reorganize, submission and adoption of plans of operation, restrictions on operations, repayment of assistance received, and consent to supervisory action;

"(E) will have a net worth of not less than one-half of one per centum of assets after any purchase of its net worth certificates by the Corporation, as determined by the Corporation in accordance with the methods for calculating net worth pursuant to this paragraph; and

"(F) has investments in residential mortgages or securities backed by such mortgages aggregating at least 20 per centum of its loans.

"(3) (A) The Corporation may not condition the purchase of certificates under this paragraph on the agreement of the institution's board to allow such institution to be merged with or acquired by another company if the Corporation finds that such institution will have positive net worth for a period of at least six months after such certificates are purchased.

"(B) The Corporation may not condition the purchase of certificates under this paragraph on the agreement of the institution's board to make specified management personnel changes if the Corporation finds that such institution will have positive net worth for a period of at least nine months after such certificates are purchased.

"(4) In any case where the staff of the Corporation finds for the purpose of paragraph (3) that the length of time during which the institution will have positive net worth after a purchase of certificates is less than six months or nine months, as the case may be, the institution may submit to the staff its plans and projections. If the staff does not change its position after considering such plans and projections, the institution may submit such plans and projections to the Board and the institution shall be entitled to an appeal to, and a review of the staff's findings by, the Board.

"(5) The Corporation may initially purchase net worth certificates as follows:

"(A) With respect to a qualified institution having net worth greater than 2 per centum and less than or equal to 3 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 50 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(B) With respect to a qualified institution having net worth greater than 1 per centum and less than or equal to 2 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 60 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(C) With respect to a qualified institution having net worth greater than zero and less than or equal to 1 per centum, the Corporation may purchase net worth certificates in any period from such institution in an amount equal to 70 per centum of its operating losses (not occasioned by mismanagement or speculation in futures or forward contracts), as determined by the Corporation.

"(6) In the exercise of its authority under this subsection, the Corporation may at any time, in its sole discretion, establish criteria which, with respect to ranges of net worth, calculation of losses, and percentage of losses to be met by purchases of net worth certificates, differ from those set forth in paragraph (5), except that the Corporation shall in no period purchase net worth certificates from a qualified institution in an amount equal to more than 100 per centum of such institution's operating losses incurred for the immediately preceding period.

"(7) No assistance may be provided to a qualifed institution pursuant to this subsection if the Corporation determines that providing such assistance would be costlier than liquidating (including paying the insured accounts of) such institution or dealing with it in accordance with subsection (c) or (d) of this subsection.

"(8) The provisions of the constitution or the laws, civil or criminal, of any State, express or implied, limiting the authority of a qualified institution (A) to take part in programs under this subsection, (B) to issue and otherwise deal in net worth certificates issued pursuant to this paragraph, or (C) to continue operations, including the receipt of deposits and the payment or crediting of interest or dividends to depositors, because of the level of such institution's net worth, surplus fund, or guaranty fund, shall not apply to any qualified institution which the Corporation has approved for the purpose of taking part in programs under this subsection, continuing operations, or paying interest or dividends.

"(9) During any period when a qualified institution has outstanding net worth certificates issued in accordance with this subsection, such institution shall not be liable for any State or local tax which is determined on the basis of the deposits held by such institution or the interest paid on such deposits.

"(10) Notwithstanding any other Federal or State law, net worth certificates purchased by the Corporation under this subsection shall be deemed to be net worth for statutory and regulatory purposes.

"(11) The Corporation may not use its authority under this subsection to purchase the voting or common stock of a qualified institution. Nothing in this paragraph shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interests.

"(12) The Corporation may provide assistance to a qualified institution which is not an insured institution only if the State fund which insures or guarantees the deposits of such qualified institution enters into an agreement with the Corporation which provides that—

"(A) the State fund will indemnify the Corporation for any losses which the Corporation may incur as a result of providing assistance under this subsection to such qualified institution; and

"(B) during any period when such qualified institution has outstanding capital instruments issued in accordance with this subsection, the State insurance fund maintains a level of assessments on its members which results in costs to its members which are at least equivalent to the premium assessments paid to the Corporation by insured institutions during such period.

"(13) During any period in which a qualified institution which has a stock form of ownership has outstanding certificates under this subsection, such qualified insured institution may not pay dividends to its shareholders.".

REPORTS TO CONGRESS

SEC. 204. The Federal Home Loan Bank Board and the Board of Directors of the Federal Deposit Insurance Corporation shall each transmit an annual report to each House of the Congress specifying the types and amounts of net worth certificates purchased from each depository institution and the conditions imposed on each such depository institution.

GENERAL ACCOUNTING OFFICE AUDIT

SEC. 205. The Comptroller General of the United States shall conduct on a semiannual basis an audit of the net worth certificate programs of the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board. A report on each such audit shall be transmitted to each House of the Congress.

REPEAL

SEC. 206. Upon the expiration of 3 years after the date of enactment of this Act, section 406(f)(5) of the National Housing Act and section 13(i) of the Federal Deposit Insurance Act are repealed.

TITLE III—THRIFT INSTITUTIONS RESTRUCTURING

SHORT TITLE

SEC. 301. This title may be cited as the "Thrift Institutions Restructuring Act".

PART A—FORM OF CHARTER; DEMAND ACCOUNTS

CHARTERING AND PURPOSE

SEC. 311. Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended to read as follows:

"SEC. 5. (a) In order to provide thrift institutions for the deposit or investment of funds and for the extension of credit for homes and other goods and services, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as Federal savings and loan associations, or Federal savings banks, and to issue charters therefor, giving primary consideration to the best practices of thrift institutions in the United States. The lending and investment authorities are conferred by this section to provide such institutions the flexibility necessary to maintain their role of providing credit for housing.".

DEMAND ACCOUNTS AND CAPITAL STOCK

SEC. 312. Paragraphs (1) and (2) of section 5(b) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)) are amended to read as follows:

"(1)(A) An association may raise capital in the form of such savings deposits, shares, or other accounts, for fixed, minimum, or indefinite periods of time (all of which are referred to in this section as savings accounts), or in the form of such demand accounts of those persons or organizations that have a business, corporate, commercial, or agricultural loan relationship with the association as are authorized by its charter or by regulations of the Board, and may issue such passbooks, time certificates of de-

posit, or other evidence of accounts as are so authorized.

"(B) An association may also accept demand accounts from a commercial, corporate, business, or agricultural entity for the sole purpose of effectuating payments thereto by a nonbusiness customer. An association may not pay interest on a demand account. All savings accounts and demand accounts shall have the same priority upon liquidation. Holders of accounts and obligors of an association shall, to such extent as may be provided by its charter or by regulations of the Board, be members of the association, and shall have such voting rights and such other rights as are thereby provided.

"(C) Except as may be otherwise authorized by an association's charter or regulation of the Board in the case of savings accounts for fixed or minimum terms of not less than fourteen days, the payment of any savings account shall be subject to the right of the association to require such advance notice, not less than fourteen days, as shall be provided for by the charter of the association or the regulations of the Board.

"(D) The payment of withdrawals from accounts in the event an association does not pay all withdrawals in full (subject to the right of the association, where applicable, to require notice) shall be subject to such rules and procedures as may be prescribed by the association's charter or by regulation of the Board, but any association which, except as authorized in writing by the Board, fails to make full payment of any withdrawal when due shall be deemed to be in an unsafe or unsound condition to transact business within the meaning of subsection (d) of this section.

"(E) Accounts may be subject to check or to withdrawal or transfer on negotiable or transferable or other order or authorization to the association, as the Board may by regulation provide.

"(F) Notwithstanding any limitation of this section, associations may establish remote service units for the purpose of crediting savings or demand accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions, as provided in regulations prescribed by the Board.

"(2) To such extent as the Board may authorize by regulation or advice in writing, an association may borrow, may give security, may be surety as defined by the Board and may issue such notes, bonds, debentures, or other obligations, or other securities, including capital stock, as the Board may so authorize.".

CONVERSIONS TO FEDERAL CHARTERS

SEC. 313. Section 5(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)) is amended to read as follows:

"(i)(1) Any institution which is, or is eligible to become, a member of a Federal home loan bank may convert itself into a Federal savings and loan association or Federal savings bank under this Act (and in so doing may change directly from the mutual form to the stock form, or from the stock form to the mutual form), but such conversion shall be subject to such rules and regulations as the Board shall prescribe, and thereafter the converted association shall be entitled to all the benefits of this section and shall be subject to examination and regulation to the same extent as other associations incorporated pursuant to this Act.

"(2) Subject to the rules and regulations of the Board, any Federal association may convert itself from the mutual form to the stock form of organization, or from the stock form to the mutual form, and any Federal association may change its designation from a Federal savings and loan association to a Federal savings bank, or the reverse.

"(3)(A) Any Federal association may convert itself into a savings and loan or savings bank type of institution organized pursuant to the laws of the State, district, commonwealth, or territory (hereinafter referred to in this section as the 'State') in which the principal office of such Federal association is located if—

"(i) the State permits the conversion of any savings and loan or savings bank type of institution of such State into a Federal association;

"(ii) such conversion of a Federal association into such a State institution is determined upon the vote in favor of such conversion cast in person or by proxy at a special meeting of members or stockholders called to consider such action, specified by the law of the State in which the home office of the Federal association is located, as required by such law for a State-chartered institution to convert itself into a Federal association, but in no event upon a vote of less than 51 per centum of all the votes cast at such meeting, and upon compliance with other requirements reciprocally equivalent to the requirements of such State law for the conversion of a State-chartered institution into a Federal association;

"(iii) notice of the meeting to vote on conversion shall be given as herein provided and no other notice thereof shall be necessary; the notice shall expressly state that such meeting is called to vote thereon, as well as the time and place thereof, and such notice shall be mailed, postage prepaid, at least thirty and not more than sixty days prior to the date of the meeting, to each member or stockholder of record of the Federal association at his last address as shown on the books of the Federal association and to the General Counsel of the Federal Home Loan Bank Board, Washington, District of Columbia;

"(iv) in the event of dissolution of a mutual association after conversion, the members of shareholders of the association will share on a mutual basis in the assets of the association in exact proportion to their relative share or account credits;

"(v) in the event of dissolution of a stock association after conversion, the stockholders will share on an equitable basis in the assets of the association; and

"(vi) such conversion shall be effective upon the date that all the provisions of this Act shall have been fully complied with and upon the issuance of a new charter by the State wherein the association is located.

"(B)(i) The act of conversion constitutes consent by the institution to be bound by all the requirements that the Federal Savings and Loan Insurance Corporation may legally impose under section 403 of the National Housing Act.

"(ii) The association shall upon conversion and thereafter be authorized to issue securities in any form currently approved at the time of issue by the Federal Savings and Loan Insurance Corporation for issuance by similar insured institutions in such State.

"(iii) If the insurance of accounts is terminated in connection with such conversion, the notice and other action shall be taken as provided by law and regulations for the termination of insurance of accounts.

"(4) Any aggrieved person may obtain review of a final action of the Board or the Federal Savings and Loan Insurance Corporation which approves, with or without conditions, or disapproves a plan of conversion from the mutual to the stock form, only by complying with the provisions of subsection (k) of section 408 of the National Housing Act within the time limit and in the manner therein prescribed, which provisions shall apply in all respects as if such final action were an order the review of which is therein provided for, except that such time limit shall commence upon publication of notice of such final action in the Federal Register or upon the giving of such general notice of final action as is required by or approved under regulations of the Corporation, whichever is later.

"(5)(A) To the extent authorized by the Board—

"(I) any Federal savings bank chartered as such prior to the enactment of this paragraph may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was permitted to do so as a Federal savings bank prior to such enactment; and

"(ii) any Federal savings bank formerly organized as a mutual savings bank under State law may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was authorized to do so as a mutual savings bank under State law.

"(B) The authority conferred by this paragraph may be utilized by any Federal association that acquires, by merger or consolidation, a Federal savings bank enjoying grandfathered rights hereunder.".

CONVERSION FROM STATE MUTUAL TO STATE STOCK

SEC. 314. Section 402(j) of the National Housing Act (12 U.S.C. 1725(j)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Except as provided in section 5 of the Home Owners' Loan Act of 1933, no insured institution may convert from the mutual to the stock form except in accordance with the rules and regulations of the Corporation."; and

(2) by striking out paragraphs (2), (3), (5), and (6) and redesignating paragraph (4) as paragraph (2).

PART B—INVESTMENTS

OVERDRAFTS

SEC. 321. Section 5(c)(1)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(A)) is amended to read as follows:

"(A) Account loans.—Loans on the security of its savings accounts and loans specifically related to transaction accounts.".

REAL ESTATE LOANS

SEC. 322. Section 5(c)(1)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(B)) is amended to read as follows:

"(B) REAL PROPERTY LOANS.—Loans on the security of liens upon residential or nonresidential real property, except that the loans and investments of an association on nonresidential real property may not exceed 40 per centum of its assets.".

TIME DEPOSITS

SEC. 323. Section 5 (c)(1)(G) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(G)) is amended to read as follows:

"(G) DEPOSITS.—Investments in the time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation, or in the savings accounts, certificates, or other accounts of any institution the ac-

counts of which are insured by the Federal Savings and Loan Insurance Corporation.".

GOVERNMENT SECURITIES

SEC. 324. Section 5(c)(1)(H) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(H)) is amended to read as follows:

"(H) STATE SECURITIES.—Investments in obligations of, or issued by, any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision), except that an association may not invest more than 10 per centum of its capital and surplus in obligations of any one issuer, exclusive of investments in general obligations of any issuer.".

COMMERCIAL AND OTHER LOANS

SEC. 325. Section 5(c)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)) is amended by adding at the end thereof the following:

"(R) COMMERCIAL AND OTHER LOANS.—Secured or unsecured loans for commercial, corporate, business, or agricultural purposes. No association may make loans to one borrower under the authority provided by this subparagraph in excess of the amount a national bank having an identical total capital and surplus could lend such borrower. The aggregate amount of loans under this paragraph shall not exceed 5 per centum of the assets of a savings and loan association (7½ per centum of the assets of a savings bank) prior to January 1, 1984, or 10 per centum of the assets of a savings and loan association or savings bank thereafter.".

ELIMINATION OF DIFFERENTIAL

SEC. 326. (a) Section 102 of Public Law 94-200 is repealed.

(b)(1) Interest rate differentials for all categories of deposits or accounts between (i) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation, and (ii) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3 (f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(j)), shall be phased out on or before January 1, 1984.

(2) Any differential which is being phased out pursuant to a schedule established by regulations prescribed by the Depository Institutions Deregulation Committee prior to the date of enactment of this Act shall be phased out as soon as practicable, but in no event later than such schedule provides.

(3) Notwithstanding any other provision of law, no differential for any category of deposits or accounts shall be established or maintained on or after January 1, 1984.

(c) No interest rate differential may be established or maintained in the case of the deposit account authorized pursuant to section 204(c) of the Depository Institutions Deregulation Act of 1980.

(d) In the case of the elimination or reduction of any interest rate differential under subsection (b) with respect to any category of deposits or accounts between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3 (f) of the Federal Deposit Insurance Act, the maximum rate of interest which shall be established for such category of deposits for banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation shall be equal to the highest rate of interest which savings and loan associations the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation were permitted to pay on such category of deposits immediately prior to the elimination or reduction of such interest rate differential.

MONEY MARKET DEPOSIT ACCOUNT

SEC. 327. Section 204 of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. 3503) is amended by adding at the end thereof the following:

"(c)(1) The Committee shall issue a regulation authorizing a new deposit account, effective not later than 60 days after the date of enactment of this subsection. Such account shall be directly equivalent to and competitive with money market mutual funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940.

"(2) No limitation on the maximum rate or rates of interest payable on deposit accounts shall apply to the account authorized by this subsection.

"(3) For purposes of section 19(b) of the Federal Reserve Act, accounts established pursuant to this subsection which are not 'transaction accounts' as defined by the reserve requirement regulations of the Board of Governors of the Federal Reserve System as those regulations existed on August 1, 1982, shall not be subject to transaction account reserves, even though no minimum maturity is required, and even though up to three preauthorized or automatic transfers and three transfers to third parties are permitted monthly.".

HOUSING AND LAND DEVELOPMENT LOANS

SEC. 328. Section 5(c)(1)(O) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(1)(O)) is amended to read as follows:

"(O) HOUSING AND LAND AND URBAN DEVELOPMENT INSURED OR GUARANTEED INVESTMENTS.—Loans (i) secured by mortgages as to which the association has the benefit of insurance under title X of the National Housing Act or of a commitment or agreement for such insurance, or (ii) as to which the association has the benefit of any guarantee under title IV of the Housing and Urban Development Act of 1968 or under part B of the National Urban Policy and New Community Development Act of 1970 or under section 802 of the Housing and Community Development Act of 1974, or of a commitment or agreement therefor.".

CONSUMER LOANS

SEC. 329. Section 5(c)(2)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(2)(B)) is amended—

(1) by inserting ", including loans reasonably incident to the provision of such credit," after "household purposes"; and

(2) by inserting before the period at the end thereof the following: ", except that loans of an association under this subparagraph may not exceed 30 per centum of the assets of the association".

ADDITIONAL INVESTMENT AUTHORITIES

SEC. 330. Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended—

(1) in paragraph (2), by striking out "20 per centum" and inserting in lieu thereof "the following percentages";

(2) by redesignating paragraph (6) as paragraph (5);

(3) by striking out paragraph (2)(A) and inserting in lieu thereof the following:

"(A) INVESTMENTS IN PERSONAL PROPERTY—Investments in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale, but such investment may not exceed 10 per centum of the assets of the association.";

(4) in paragraph (3)—

(A) by striking out subparagraph (D); and

(B) by amending subparagraph (A) to read as follows:

"(A) EDUCATION LOANS.—Loans made for the payment of educational expenses."; and

(5) in paragraph (4)—

(A) by amending subparagraph (C) to read as follows:

"(C) FOREIGN ASSISTANCE INVESTMENTS.—Investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 or loans having the benefit of any guarantee under section 224 of such Act, or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding and disposition of loans having the benefit of any guaranty under section 221 or 222 of such Act as hereafter amended or extended, or of any commitment or agreement for any such guaranty. Investments under this subparagraph shall not exceed, in the case of any association, 1 per centum of the assets of such association."; and

(B) by amending subparagraph (D) to read as follows:

"(D) SMALL BUSINESS INVESTMENT COMPANIES.—An association may invest in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958, for the purpose of aiding members of the Federal Home Loan Bank System, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 per centum of the assets of such association.".

TYING ARRANGEMENTS

SEC. 331. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended by sections 112 and 121, is amended by adding at the end thereof the following:

"(q)(1) an association shall not in any manner extend credit, lease, or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

"(A) that the customer shall obtain additional credit, property, or service from such association, or from any service corporation or affiliate of such association, other than a loan, discount, deposit, or trust service;

"(B) that the customer provide additional credit, property, or service to such association, or to any service corporation or affiliate of such association, other than those related to and usually provided in connection with a similar loan, discount, deposit, or trust service; and

"(C) that the customer shall not obtain some other credit, property, or service from a competitor of such association, or from a competitor of any service corporation or affiliate of such association, other than a condition or requirement that such association shall reasonably impose in connection with

credit transactions to assure the soundness of credit.

"(2)(A) Any person may sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by reason of a violation of paragraph (1), under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity and under the rules governing such proceedings.

"(B) Upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

"(3) any person who is injured in his business or property by reason of anything forbidden in paragraph (1) may sue therefor in any district court of the United States in which the defendant resides or is found or has an agent, without regard to the amount in controversy, or may sue therefor in any other court of competent jurisdiction, and shall be entitled to recover three times the amount of the damages sustained by him, and the cost of suit, including a reasonable attorney's fee. Any such suit shall be brought within four years from the date of the occurrence of the violation.

"(4) Nothing contained in this subsection shall be construed as affecting in any manner the right of the United States or any other party to bring an action under any other law of the United States or of any State, including any right which may exist in addition to specific statutory authority, challenging the legality of any act or practice which may be proscribed by this subsection. No regulation or order issued by the Board under this subsection shall in any manner constitute a defense to such action.

"(5) For purposes of this subsection—

"(A) the term 'affiliate' of an association means any individual or company (including any corporation, partnership, trust, joint-stock company, or similar organization) which controls, is controlled by, or is under common control with such association; and

"(B) the term 'loan' includes obligations and extensions or advances of credit.".

LIQUIDITY INVESTMENTS

SEC. 332. Section 5A(b)(1)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)(1)(B)) is amended by striking out "and commercial banks" and inserting in lieu thereto the following: ", institutions which are, or are eligible to become, members thereof, and commercial banks".

REGULATORY JURISDICTION

SEC. 333. Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)) is amended by inserting after "Islands" the following: ", except an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or an institution chartered by the Federal Home Loan Bank Board,".

BRANCHING

SEC. 334. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464), as amended by sections 112, 121, and 331, is amended by adding at the end thereof the following:

"(r)(1) No association may establish, retain, or operate a branch outside the State in which the association has its home office, unless the association qualifies as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954 or meets the asset composition test imposed by subparagraph (c) of that section on institutions seeking so to qualify. No out-of-State branch so established shall be retained or operated unless the total assets of the association attributable to all branches of the association in that State would qualify the branches as a whole, were they otherwise eligible, for treatment as a domestic building and loan association under said section 7701(a)(19).

"(2) The limitations of paragraph (1) shall not apply if—

"(A) the branch results from a transaction authorized under section 408(m) of the National Housing Act;

"(B) the branch was authorized for the association prior to the enactment of the Depository Institutions Amendments of 1982;

"(C) the law of the State in which the branch is or is to be located would permit establishment of the branch were the association an institution of the savings and loan or savings bank type chartered by the State in which its home office is located; or

"(D) the branch was operated lawfully as a branch under State law prior to the association's conversion to a Federal charter.

"(3) The Board, for good cause shown, may allow associations up to two years to comply with the requirements of this subsection.".

HOLDING COMPANY ACTIVITIES

SEC. 335. Section 408 of the National Housing Act (12 U.S.C. 1730a), as amended by section 123, is amended by adding at the end thereof the following:

"(n) A savings and loan holding company, or any subsidiary thereof which is not an insured institution, whose subsidiary insured institution fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954, may not commence, or continue for more than three years after such failure, any business activity other than those specified for multiple savings and loan holding companies and their subsidiaries under subsection (c)(2) of this section.".

PART C—PREEMPTION OF DUE ON SALE PROHIBITIONS

DUE-ON-SALE CLAUSES

SEC. 341. (a) For the purpose of this section—

(1) the term "due-on-sale clause" means a contract provision which authorizes a lender, at its option, to declare due and payable sums secured by the lender's security instrument if all or any part of the property, or an interest therein, securing the real property loan is sold or transferred without the lender's prior written consent;

(2) the term "lender" means a person or government agency making a real property loan or any assignee or transferee, in whole or in part, of such a person or agency;

(3) the term "real property loan" means a loan, mortgage, advance, or credit sale secured by a lien on real property, the stock allocated to a dwelling unit in a cooperative housing corporation, or a residential manufactured home, whether real or personal property; and

(4) the term "residential manufactured home" means a manufactured home as defined in section 603(6) of the National Manufactured Home Construction and Safety Standards Act of 1974 which is used as a residence; and

(5) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(b)(1) Notwithstanding any provision of the constitution or laws (including the judicial decisions) of any State to the contrary, a lender may, subject to subsection (c), enter into or enforce a contract containing a due-on-sale clause with respect to a real property loan.

(2) Except as otherwise provided in subsection (d), the exercise by the lender of its option pursuant to such a clause shall be exclusively governed by the terms of the loan contract, and all rights and remedies of the lender and the borrower shall be fixed and governed by the contract.

(3) In the exercise of its option under a due-on-sale clause, a lender is encouraged to permit an assumption of a real property loan at the existing contract rate or at a rate which is at or below the average between the contract and market rates, and nothing in this section shall be interpreted to prohibit any such assumption.

(c)(1) In the case of a contract involving a real property loan which was made or assumed, including a transfer of the liened property subject to the real property loan, during the period beginning on the date a State adopted a constitutional provision or statute prohibiting the exercise of due-on-sale clauses, or the date on which the highest court of such State has rendered a decision (or if the highest court has not so decided, the date on which the next highest appellate court has rendered a decision resulting in a final judgment if such decision applies State-wide) prohibiting such exercise, and ending on the date of enactment of this section, the provisions of subsection (b) shall apply only in the case of a transfer which occurs on or after the expiration of 3 years after the date of enactment of this Act, except that—

(A) a State, by a State law enacted by the State legislature prior to the close of such 3-year period, with respect to real property loans originated in the State by lenders other than national banks, Federal savings and loan associations, Federal savings banks, and Federal credit unions, may otherwise regulate such contracts, in which case subsection (b) shall apply only if such State law so provides; and

(B) the Comptroller of the Currency with respect to real property loans originated by national banks or the National Credit Union Administration Board with respect to real property loans originated by Federal credit unions may, by regulation prescribed prior to the close of such period, otherwise regulate such contracts, in which case subsection (b) shall apply only if such regulation so provides.

(2)(A) For any contract to which subsection (b) does not apply pursuant to this subsection, a lender may require any successor or transferee of the borrower to meet customary credit standards applied to loans secured by similar property, and the lender may declare the loan due and payable pursuant to the terms of the contract upon transfer to any successor or transferee of the borrower who fails to meet such customary credit standards.

(B) A lender may not exercise its option pursuant to a due-on-sale clause in the case of a transfer of a real property loan which is subject to this subsection where the transfer occurred prior to the date of enactment of this Act.

(C) This subsection does not apply to a loan which was originated by a Federal savings and loan association or Federal savings bank.

(d) A lender may not exercise its option pursuant to a due-on-sale clause upon—

(1) the creation of a lien or other encumbrance subordinate to the lender's security instrument which does not relate to a transfer of rights of occupancy in the property;

(2) the creation of a purchase money security interest for household appliances;

(3) a transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;

(4) the granting of a leasehold interest of three years or less not containing an option to purchase;

(5) a transfer to a relative resulting from the death of a borrower;

(6) a transfer where the spouse or children of the borrower become an owner of the property;

(7) a transfer resulting from a decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which the spouse of the borrower becomes an owner of the property;

(8) a transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property; or

(9) any other transfer or disposition described in regulations prescribed by the Federal Home Loan Bank Board.

(e)(1) The Federal Home Loan Bank Board, in consultation with the Comptroller of the Currency and the National Credit Union Administration Board, is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section.

(2) Notwithstanding the provisions of subsection (d), the rules and regulations prescribed under this section may permit a lender to exercise its option pursuant to a due-on-sale clause with respect to a real property loan and any related agreement pursuant to which a borrower obtains the right to receive future income.

(f) The Federal Home Loan Mortgage Corporation (hereinafter referred to as the "Corporation") shall not, prior to July 1, 1983, implement the change in its policy announced on July 2, 1982, with respect to enforcement of due-on-sale clauses in real property loans which are owned in whole or in part by the Corporation.

(g) Federal Home Loan Bank Board regulations restricting the use of a balloon payment shall not apply to a loan, mortgage, advance, or credit sale to which this section applies.

PART D—MISCELLANEOUS

ATTORNEYS FEES

SEC. 351. The last sentence of section 5(d)(8)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(A)) is amended by inserting ", which prevails," after "party".

SECURITY FOR ADVANCES

SEC. 352. Section 10 of the Federal Loan Bank Act (12 U.S.C. 1430) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Each Federal Home Loan Bank is authorized to make secured advances to its members upon such security as the Board may prescribe.";

(2) by striking out the first two sentences of subsection (b); and

(3) by striking out the word "twelve" wherever it appears in subsection (c) and inserting in lieu thereof the word "twenty".

DELETION OF OBSOLETE REQUIREMENT

SEC. 353. Section 6(c)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1426(c)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of this subsection, no action shall be taken by any bank with respect to any member pursuant to any of the foregoing provisions of this subsection if the effect of such action would be to cause the aggregate outstanding advances, within the meaning of the last sentence of subsection (c) of section 10 of this Act or within the meaning of regulations of the Board defining such term for the purposes of this sentence, made by such bank to such member to exceed twenty times the amounts paid in by such member for outstanding capital stock held by such member.".

COMPENSATION OF ADVISORY COMMITTEE MEMBERS

SEC. 354. Section 8a of the Federal Home Loan Bank Act (12 U.S.C. 1428a) is amended by striking out the fifth sentence and inserting in lieu thereof the following: "Subject to the provisions of section 7 of the Federal Advisory Committee Act, all members and alternates of the Council may be compensated and shall be entitled to reimbursement from the Board for traveling expenses incurred in attendance at meetings of such Council.".

WITHDRAWAL FROM MEMBERSHIP

SEC. 355. (a) Section 6(i) of the Federal Home Loan Bank Act (12 U.S.C. 1426(i)) is amended by inserting before the period at the end of the second sentence the following: "except that in the case of a voluntary withdrawal, such liquidation shall be deemed a prepayment of any such indebtedness, and shall be subject to any penalties applicable to such prepayment".

(b) Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended by adding at the end thereof the following:

"(m) Notwithstanding any other provision of this Act, an institution which withdraws from membership may acquire membership in any Federal Home Loan Bank only after the expiration of a period of five years thereafter, except where such withdrawal is a consequence of a transfer of membership on a non-interrupted basis between Banks.".

TITLE IV—PROVISIONS RELATING TO NATIONAL AND MEMBER BANKS

PART A—GENERAL PROVISIONS

LENDING LIMITS

SEC. 401. (a) Section 5200 of the Revised Statutes (12 U.S.C. 84) is amended to read as follows:

"SEC. 5200. (a)(1) The total loans and extensions of credit by a national banking association to a person outstanding at one time and not fully secured, as determined in a manner consistent with paragraph (2) of this subsection, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed 15 per centum of the unimpaired capital and unimpaired surplus of the association.

"(2) The total loans and extensions of credit by a national banking association to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding shall not exceed 10 per centum of the unimpaired capital and unimpaired surplus of the association. This limitation shall be separate from and in addition to the limitation contained in paragraph (1) of this subsection.

"(b) For the purposes of this section—

"(1) the term 'loans and extensions of credit' shall include all direct or indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person and to the extent specified by the Comptroller of the Currency, such term shall also include any liability of a national banking association to advance funds to or on behalf of a person pursuant to a contractual commitment; and

"(2) the term 'person' shall include an individual, sole proprietorship, partnership, joint venture, association, trust, estate, business trust, corporation, sovereign government or agency, instrumentality, or political subdivision thereof, or any similar entity or organization.

"(c) The limitations contained in subsection (a) shall be subject to the following exceptions:

"(1) Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse shall not be subject to any limitation based on capital and surplus.

"(2) The purchase of bankers' acceptances of the kind described in section 13 of the Federal Reserve Act and issued by other banks shall not be subject to any limitation based on capital and surplus.

"(3) Loans and extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples shall be subject to a limitation of 35 per centum of capital and surplus in addition to the general limitations if the market value of the staples securing each additional loan or extension of credit at all times equals or exceeds 115 per centum of the outstanding amount of such loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure such staples.

"(4) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or Treasury bills of the United States or by other such obligations fully guaranteed as to principal and interest by the United States shall not be subject to any limitation based on capital and surplus.

"(5) Loans or extensions of credit to or secured by unconditional takeout commitments or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States shall not be subject to any limitation based on capital and surplus.

"(6) Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject to any limitation based on capital and surplus.

"(7) Loans or extensions of credit to any financial institution or to any receiver, conservator, superintendent of banks, or other agent in charge of the business and property of such financial institution, when such loans or extensions of credit are approved by the Comptroller of the Currency, shall not be subject to any limitation based on capital and surplus.

"(8) (A) Loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper which carries a full recourse endorsement or unconditional guarantee by the person transferring the paper shall be subject under this section to a maximum limitation equal to 25 per centum of such capital and surplus, notwithstanding the collateral requirements set forth in subsection (a) (2).

"(B) If the bank's files or the knowledge of its officers of the financial condition of each maker of such consumer paper is reasonably adequate, and an officer of the bank designated for that purpose by the board of directors of the bank certifies in writing that the bank is relying primarily upon the responsibility of each maker for payment of such loans or extensions of credit and not upon any full or partial recourse endorsement or guarantee by the transferor, the limitations of this section as to the loans or extensions of credit of each such maker shall be the sole applicable loan limitations.

"(9)(A) Loans and extensions of credit secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than 115 per centum of the face amount of the note covered, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to a maximum limitation equal to 25 per centum of such capital and surplus.

"(B) Loans and extensions of credit which arise from the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which paper carries a full recourse endorsement or unconditional guarantee of the seller, and which are secured by the cattle being sold, shall be subject under this section, notwithstanding the collateral requirements set forth in subsection (a)(2), to a limitation of 25 per centum of such capital and surplus.

"(10) Loans or extensions of credit to the Student Loan Marketing Association shall not be subject to any limitation based on capital and surplus.

"(d)(1) The Comptroller of the Currency may prescribe rules and regulations to administer and carry out the purposes of this section, including rules or regulations to define or further define terms used in this section and to establish limits or requirements other than those specified in this section for particular classes or categories of loans or extensions of credit.

"(2) The Comptroller of the Currency also shall have authority to determine when a loan putatively made to a person shall for purposes of this section be attributed to another person.".

(b) This section shall take effect upon the expiration of one hundred and eighty days after the date of its enactment.

BORROWING LIMITS

SEC. 402. (a) Section 5202 of the Revised Statutes (12 U.S.C. 82) is repealed.

REAL ESTATE LOANS

SEC. 403. (a) Section 24 of the Federal Reserve Act (12 U.S.C. 371) is amended to read as follows:

"REAL ESTATE LOANS

"SEC. 24. (a) Any national banking association may make, arrange, purchase or sell loans or extensions of credit secured by liens on interests in real estate, subject to such terms, conditions, and limitations as may be prescribed by the Comptroller of the Currency by order, rule, or regulation.

"(b) Notes representing loans made under this section to finance the construction of residential or farm buildings and having maturities not to exceed nine months shall be eligible for discount as commercial paper within the terms of the second paragraph of section 13 of the Federal Reserve Act if accompanied by a valid and binding agreement to advance the full amount of the loan upon the completion of the building entered into by an individual, partnership, association, or corporation acceptable to the discounting bank.".

(b) The Act of September 7, 1916 (12 U.S.C. 92; 39 Stat. 753) is amended—

(1) by striking out "; and may also act as the broker or agent for others in making or procuring loans on real estate located within one hundred miles of the place in which said bank may be located, receiving for such services a reasonable fee or commission"; and

(2) by striking out "guarantee either the principal or interest of any such loans or".

(c) This section shall take effect upon the expiration of one hundred and eighty days after the date of its enactment.

BANKERS' BANKS

SEC. 404. (a) Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended—

(1) by inserting "(a)" before "If,"; and

(2) by adding at the end thereof the following:

"(b)(1) The Comptroller of the Currency may also issue a certificate of authority to commence the business of banking pursuant to this section to a national banking association which is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions and is organized to engage exclusively in providing services for other depository institutions and their officers, directors, and employees.

"(2) Any national banking association chartered pursuant to paragraph (1) shall be subject to such rules, regulations, and orders as the Comptroller deems appropriate, and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply under the national banking laws to a national bank.".

(b) The paragraph numbered "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by striking out "Provided further, That," and all that follows through the end thereof and by inserting in lieu thereof the following: "Provided further, That notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation or a holding company which owns or controls such an insured bank if the stock of such bank or company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions and such bank or company and all subsidiaries thereof are engaged exclusively in providing services for other depository institutions and their officers, directors, and employees, but in no event shall the total amount of such stock held by the association in any bank or holding company exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus and in no event shall the purchase of such stock result in an association's acquiring more than 5 per centum of any class of voting securities of such bank or company.".

(c) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end thereof the following:

"(5) This section shall apply, in the same manner as it applies to any insured bank for which the appropriate Federal banking agency is the Comptroller of the Currency, to any national banking association chartered by the Comptroller of the Currency, including an uninsured association.".

(d)(1) Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)) is amended by adding at the end thereof the following: "The term 'bank' also includes a State chartered bank or a national banking association which is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions or by a bank holding company which is owned exclusively by other depository institutions and is organized to engage exclusively in providing services for other depository institutions and their officers, directors, and employees.".

(2) Section 3(e) of such Act is amended by adding at the end thereof the following: "This subsection does not apply to a bank described in the last sentence of section 2 (c).".

NAME OR HEADQUARTERS CHANGE

SEC. 405. (a) Section 2 of the Act of May 1, 1886 (24 Stat. 18; 12 U.S.C. 30) is amended to read as follows:

"SEC. 2. (a) Any national banking association, upon written notice to the Comptroller of the Currency, may change its name, except that such new name shall include the word "National".

"(b) Any national banking association, upon written notice to the Comptroller of the Currency, may change the location of its main office to any authorized branch location within the limits of the city, town, or village in which it is situated, or, with a vote of shareholders owning two-thirds of the stock of such association and upon receipt of a certificate of approval from the Comptroller of the Currency, to any other location within or outside the limits of the city, town, or village in which it is located, but not more than thirty miles beyond such limits.".

(b) The first proviso of section 5134 of the Revised Statutes (12 U.S.C. 22) is amended by placing a period after the word "national" and striking the remainder of that sentence.

VENUE PROVISIONS

SEC. 406. Section 5198 of the Revised Statutes (12 U.S.C. 94) is amended to read as follows:

"SEC. 5198. Any action or proceeding against a national banking association for which the Federal Deposit Insurance Corporation has been appointed receiver, or against the Federal Deposit Insurance Corporation as receiver of such association, shall be brought in the district or territorial court of the United States held within the district in which that association's principal place of business is located, or, in the event any State, county, or municipal court has jurisdiction over such an action or proceeding, in such court in the county or city in which that association's principal place of business is located.".

LEGAL HOLIDAYS

SEC. 407. The last sentence of section 4(b)(1) of the Act of March 9, 1933 (48 Stat. 2; 12 U.S.C. 95(b)(1)) is amended to read as follows: "In the event that a State official authorized by law designates any day as a legal holiday for ceremonial or emergency reasons, for the State or any part thereof, that same day shall be a legal holiday for all national banking associations or their offices located in that State or the part so affected. A national banking association or its affected offices may close or remain open on such a State-designated holiday unless the Comptroller of the Currency by written order directs otherwise.".

UNCLAIMED PROPERTY

SEC. 408. Title VII of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by adding after section 723 the following:

"PART C—DISPOSITION OF UNCLAIMED PROPERTY RECOVERED FROM CLOSED NATIONAL BANKS

"PURPOSE

"SEC. 731. The purpose of this part is to dispose of unclaimed property in the possession, custody, or control of the Comptroller of the Currency by—

"(1) providing final notice of the availability of unclaimed property from closed national banks and closed banks in the District of Columbia;

"(2) barring rights of claimants to obtain such property from the Comptroller after a reasonable period of time following such notice; and

"(3) authorizing the Comptroller to dispose of such property for which no claims have been filed and validated under this part.

"DEFINITIONS

"SEC. 732. For purposes of this part—

"(1) the term 'Comptroller' means the Comptroller of the Currency;

"(2) the term 'unclaimed property' means any articles, items, assets, other property, or the proceeds thereof from safe deposit boxes or other safekeeping arrangements with closed national banks or closed banks in the District of Columbia, which are in the possession, custody, or control of the Comptroller in its capacity as successor to receivers of those banks; and

"(3) the term 'claimant' means any person or entity, including a State under applicable statutory law, asserting a demonstrable legal interest in title to, or custody or possession of, unclaimed property.

"DISPOSITION OF UNCLAIMED PROPERTY

"SEC. 733. (a)(1) Within twelve months following the date of the enactment of this part, the Comptroller shall publish formal notice in the Federal Register that all claims to rights of any claimant to obtain title to, or custody or possession of, any unclaimed property in the possession, custody, or control of the Comptroller must be filed within twelve months following the last date of publication of such formal notice in the Federal Register or shall thereafter be barred.

"(2) Such notice shall contain the names of last known owners, if any, names and locations of affected closed banks, and a general description of the types of unclaimed property held by the Comptroller. The Comptroller may provide additional notice in local communities as it deems appropriate.

"(3)(A) The Comptroller shall not disclose, by publication, inspection or otherwise, information relating to the ownership or description of any specific unclaimed property prior to publication of formal notice under this section.

"(B) Thereafter, the Comptroller shall disclose descriptive information of specific unclaimed property only to a claimant thereof. The Comptroller may recoup expenses associated with any publication or other provision of notice from any sale of property authorized by this part. Reasonable opportunity for inspection of specific property by a claimant thereof shall be provided in Washington, District of Columbia.

"(b)(1) The Comptroller shall deliver such property to any claimant or his or her legally authorized representative upon receiving proof deemed adequate by the Comptroller that such claimant is entitled to the property, but only if the claimant files for the property within twelve months following the last date formal notice is published in the Federal Register.

"(2)(A) The Comptroller shall have authority to determine the validity of all claims filed. The Comptroller may recoup expenses associated with the handling and processing of claims from any sale of property authorized by this part.

"(B) All expenses associated with the delivery of any property shall be borne by the claimant. The Comptroller shall not be responsible for any loss in connection with the handling, storage, or delivery of any property to the claimant. The Comptroller may require the claimant to purchase insurance to cover the risk of any loss.

"(c)(1) If, after twelve months from the date formal notice is published in the Federal Register, any such property remains in the possession, custody, or control of the Comptroller for which no valid claim has been filed, all rights, title, and interest in such property shall immediately be vested in the United States.

"(2) The Comptroller shall thereupon, in his discretion, sell, use, destroy, or otherwise dispose of any such unclaimed property. Such disposition may include donations to the Smithsonian Institution for addition to the national collection.

"(3) The proceeds of any sale authorized by this section, after recoupment by the Comptroller of any expenses incurred hereunder, shall be covered into the Treasury as miscellaneous receipts.

"(d) The United States, the Comptroller, or any officer, employee, or agent thereof shall not be subject to personal or legal liability for any determination as to the validity of any claim or claims filed under this part or for any delivery, sale, destruction, or other disposition of unclaimed property.

"(e)(1) A court action to determine legal ownership entitlement, or right to possession may be filed in any State or Federal court of competent jurisdiction other than against the United States, the Comptroller, or any officer, agent, or employee thereof.

"(2) Such actions shall be determined de novo without regard to any agency determination or any disposition or delivery by the Comptroller of any particular property to any person.

"(d) The United States, the Comptroller, or any officer, employee, or agent thereof shall neither be a party to any such judicial proceeding nor be bound by any decision, decree, or order resulting therefrom.

"(f)(1) The United States Claims Court shall have exclusive jurisdiction to hear and determine any suit brought against the United States, the Comptroller, or any officer, employee, or agent thereof with regard to any determination of a claim or the disposition of any unclaimed property.

"(2) The United States Claims Court may set aside actions of the Comptroller only if such actions are found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(3) All claims for which the United States Claims Court has jurisdiction under this subsection shall be barred unless suit is filed within two years from the date of expiration of the twelve-month notice period provided by this part.

"(4) For purposes of section 1491 of title 28, United States Code, any claim against the Comptroller, the United States, or any officer, employee, or agent thereof shall be considered a claim against the United States.

"RULEMAKING AUTHORITY

"SEC. 734. The Comptroller may issue rules and regulations necessary or appropriate to carry out this part.

"SEVERABILITY

"SEC. 735. If any provision of this part or the application of such provision to any person or circumstance is held invalid, the remainder of this part and the application of such provision to other persons or circumstances shall not be affected thereby.".

AMENDMENTS TO DEREGULATION ACT

"SEC. 409. Sections 721 and 722 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 191 note) are amended by striking out the phrase "closed on or before January 22, 1934" each place it appears and inserting in lieu thereof "which have been closed and for which the Comptroller has appointed a receiver other than the Federal Deposit Insurance Corporation".

BANKING AFFILIATES

"SEC. 410. (a) This section may be cited as the "Banking Affiliates Act of 1982".

(b) Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended to read as follows:

"SEC. 23A. (a) RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES.—

"(1) A member bank and its subsidiaries may engage in a covered transaction with an affiliate only if—

"(A) in the case of any affiliate, the aggregate amount of covered transactions of the member bank and its subsidiaries will not exceed 10 per centum of the capital stock and surplus of the member bank; and

"(B) in the case of all affiliates, the aggregate amount of covered transactions of the member bank and its subsidiaries will not exceed 20 per centum of the capital stock and surplus of the member bank.

"(2) For the purpose of this section, any transaction by a member bank with any person shall be deemed to be a transaction with an affiliate to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that affiliate.

"(3) A member bank and its subsidiaries may not purchase a low-quality asset from an affiliate unless the bank or such subsidiary, pursuant to an independent credit evaluation, committed itself to purchase such asset prior to the time such asset was acquired by the affiliate.

"(4) Any covered transactions and any transactions exempt under subsection (d) between a member bank and an affiliate shall be on terms and conditions that are consistent with safe and sound banking practices.

"(b) DEFINITIONS.—For the purpose of this section—

"(1) the term 'affiliate' with respect to a member bank means—

"(A) any company that controls the member bank and any other company that is controlled by the company that controls the member bank;

"(B) a bank subsidiary of the member bank;

"(C) any company—

"(i) that is controlled directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the member bank or any company that controls the member bank; or

"(ii) in which a majority of its directors or trustees constitute a majority of the persons holding any such office with the member bank or any company that controls the member bank;

"(D)(i) any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the member bank or any subsidiary or affiliate of the member bank; or

"(ii) any investment company with respect to which a member bank or any affiliate thereof is an investment advisor as defined in section 2(a)(20) of the Investment Company Act of 1940; and

"(E) any company that the Board determines by regulation or order to have a relationship with the member bank or any subsidiary or affiliate of the member bank, such that covered transactions by the member bank or its subsidiary with that company may be affected by the relationship to the detriment of the member bank or its subsidiary; and

"(2) the following shall not be considered to be an affiliate:

"(A) any company, other than a bank, that is a subsidiary of a member bank, unless a determination is made under paragraph (1)(E) not to exclude such subsidiary company from the definition of affiliate;

"(B) any company engaged solely in holding the premises of the member bank;

"(C) any company engaged solely in conducting a safe deposit business;

"(D) any company engaged solely in holding obligations of the United States or its agencies or obligations fully guaranteed by the United States or its agencies as to principal and interest; and

"(E) any company where control results from the exercise of rights arising out of a bona fide debt previously contracted, but only for the period of time specifically authorized under applicable State or Federal law or regulation or, in the absence of such law or regulation, for a period of two years from the date of the exercise of such rights or the effective date of this Act, whichever date is later, subject, upon application, to authorization by the Board for good cause shown of extensions of time for not more than one year at a time, but such extensions in the aggregate shall not exceed three years;

"(3)(A) a company or shareholder shall be deemed to have control over another company if—

"(i) such company or shareholder, directly or indirectly, or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the other company;

"(ii) such company or shareholder controls in any manner the election of a majority of the directors or trustees of the other company; or

"(iii) the Board determines, after notice and opportunity for hearing, that such company or shareholder, directly or indirectly, exercises a controlling influence over the management or policies of the other company; and

"(B) notwithstanding any other provision of this section, no company shall be deemed to own or control another company by virtue of its ownership or control of shares in a fiduciary capacity, except as provided in paragraph (1)(C) of this subsection or if the company owning or controlling such shares is a business trust;

"(4) the term 'subsidiary' with respect to a specified company means a company that is controlled by such specified company;

"(5) the term 'bank' includes a State bank, national bank, banking association, and trust company;

"(6) the term 'company' means a corporation, partnership, business trust, association, or similar organization and, unless specifically excluded, the term 'company' includes a 'member bank' and a 'bank';

"(7) the term 'covered transaction' means with respect to an affiliate of a member bank—

"(A) a loan or extension of credit to the affiliate;

"(B) a purchase of or an investment in securities issued by the affiliate;

"(C) a purchase of assets, including assets subject to an agreement to repurchase, from the affiliate, except such purchase of real and personal property as may be specifically exempted by the Board by order or regulation;

"(D) the acceptance of securities issued by the affiliate as collateral security for a loan or extension of credit to any person or company; or

"(E) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, on behalf of an affiliate;

"(8) the term 'aggregate amount of covered transactions' means the amount of the covered transactions about to be engaged in added to the current amount of all outstanding covered transactions;

"(9) the term 'securites' means stocks, bonds, debentures, notes, or other similar obligations; and

"(10) the term 'low-quality asset' means an asset that falls in any one or more of the following categories:

"(A) an asset classified as 'substandard', 'doubtful', or 'loss' or treated as 'other loans especially mentioned' in the most recent report of examination or inspection of an affiliate prepared by either a Federal or State supervisory agency;

"(B) an asset in a nonaccrual status;

"(C) an asset on which principal or interest payments are more than thirty days past due; or

"(D) an asset whose terms have been renegotiated or compromised due to the deteriorating financial condition of the obligor.

"(c) COLLATERAL FOR CERTAIN TRANSACTIONS WITH AFFILIATES.—

"(1) Each loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate by a member bank or its subsidiary shall be secured at the time of the transaction by collateral having a market value equal to—

"(A) 100 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit, if the collateral is composed of—

"(i) obligations of the United States or its agencies;

"(ii) obligations fully guaranteed by the United States or its agencies as to principal and interest;

"(iii) notes, drafts, bills of exchange or bankers' acceptances that are eligible for rediscount or purchase by a Federal Reserve Bank; or

"(iv) a segregated, earmarked deposit account with the member bank;

"(B) 110 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of obligations of any State or political subdivision of any State;

"(C) 120 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of other debt instruments, including receivables; or

"(D) 130 per centum of the amount of such loan or extension of credit, guarantee, acceptance, or letter of credit if the collateral is composed of stock, leases, or other real or personal property.

"(2) Any such collateral that is subsequently retired or amortized shall be replaced by additional eligible collateral where needed to keep the percentage of the collateral value relative to the amount of the outstanding loan or extension of credit, guarantee, acceptance, or letter of credit equal to the minimum percentage required at the inception of the transaction.

"(3) A low-quality asset shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, an affiliate.

"(4) The securities issued by an affiliate of the member bank shall not be acceptable as collateral for a loan or extension of credit to, or guarantee, acceptance, or letter of credit issued on behalf of, that affiliate or any other affiliate of the member bank.

"(5) The collateral requirements of this paragraph shall not be applicable to an acceptance that is already fully secured either by attached documents or by other property having an ascertainable market value that is involved in the transaction.

"(d) EXEMPTIONS.—The provisions of this section, except paragraph (a)(4), shall not be applicable to—

"(1) any transaction, except for the purchase of a low-quality asset which is prohibited, with a bank—

"(A) which controls 80 per centum or more of the voting shares of the member bank;

"(B) in which the member bank controls 80 per centum or more of the voting shares; or

"(C) in which 80 per centum or more of the voting shares are controlled by the company that controls 80 per centum or more of the voting shares of the member bank;

"(2) making deposits in an affiliated bank or affiliated foreign bank in the ordinary course of correspondent business, subject to any restrictions that the Board may prescribe by regulation or order;

"(3) giving immediate credit to an affiliate for uncollected items received in the ordinary course of business;

"(4) making a loan or extension of credit to, or issuing a guarantee, acceptance, or letter of credit on behalf of, an affiliate that is fully secured by—

"(A) obligations of the United States or its agencies;

"(B) obligations fully guaranteed by the United States or its agencies as to principal and interest; or

"(C) a segregated, earmarked deposit account with the member bank;

"(5) purchasing securities issued by any company of the kinds described in section 4(c)(1) of the Bank Holding Company Act of 1956;

"(6) purchasing assets having a readily identifiable and publicly available market quotation and purchased at that market quotation or purchasing loans on a non-recourse basis from affiliated banks; and

"(7) purchasing from an affiliate a loan or extension of credit that was originated by the member bank and sold to the affiliate subject to repurchase agreement or with recourse.

"(e) RULEMAKING AND ADDITIONAL EXEMPTIONS.—

"(1) The Board may issue such further regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purposes of this section and to prevent evasions thereof.

"(2) The Board may, at its discretion, by regulation or order exempt transactions or relationships from the requirements of this section if it finds such exemptions to be in the public interest and consistent with the purposes of this section.".

(c) Section 23A of the Federal Reserve Act, as amended by this section, shall apply to any transaction entered into after the date of enactment of this Act, except for transactions which are the subject of a binding written contract or commitment entered into on or before July 28, 1982, and except that any renewal of a participation in a loan outstanding on July 28, 1982, to a company that becomes an affiliate as a result of the enactment of this Act, or any participation in a loan to such an affiliate emanating from the renewal of a binding written contract or commitment outstanding on July 28, 1982, shall not be subject to the collateral requirements of this Act.

(d) Section 18 (j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended by striking out ", within the meaning of section 2 of the Banking Act of 1933, and".

(e) Section 22(h)(6)(C) of the Federal Reserve Act (12 U.S.C. 375b-(6)(C)) is repealed and subparagraphs (D) through (G) of such section are redesignated as subparagraphs (C) through (F), respectively.

(f) Section 106(b)(2)(E) of the Bank Holding Company Amendments of 1970 (12 U.S.C. 1972(2)(E)) is amended by striking out "the same meaning given it in section 23A of the Federal Reserve Act" and inserting in lieu thereof "the meaning prescribed by the Board pursuant to section 22(h) of the Federal Reserve Act (12 U.S.C. 375b),".

(g) Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by inserting "as in section 2(b) of the Banking Act of 1933 (12 U.S.C. 221a(b)) and" after "shall have the same meaning".

EXEMPTION FROM RESERVE REQUIREMENTS

SEC. 411. (a) Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end thereof the following:

"(11) ADDITIONAL EXEMPTIONS.—(A)(i) Notwithstanding the reserve requirement ratios established under paragraphs (2) and (5) of this subsection, a reserve ratio of zero per centum shall apply to any combination of reservable liabilities, which do not exceed $2,000,000 (as adjusted under subparagraph (B)), of each depository institution.

"(ii) Each depository institution may designate, in accordance with such rules and regulations as the Board shall prescribe, the types and amounts of reservable liabilities to which the reserve ratio of zero per centum shall apply, except that transaction accounts which are designated to be subject to a reserve ratio of zero per centum shall be accounts which would otherwise be subject to a reserve ratio of 3 per centum under paragraph (2).

"(iii) The Board shall minimize the reporting necessary to determine whether depository institutions have total reservable liabilities of less than $2,000,000 (as adjusted under subparagraph (B)). Consistent with the Board's responsibility to monitor and control monetary and credit aggregates, depository institutions which have reserve requirements under this subsection equal to zero per centum shall be subject to less overall reporting requirements than depository institutions which have a reserve requirement under this subsection that exceeds zero per centum.

"(B)(i) Beginning in 1982, not later than December 31 of each year, the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount specified in subparagraph (A), as previously adjusted under this subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total reservable liabilities of all depository institutions.

"(ii) The increase in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the preceding calendar year from the amount of total reservable liabilities on June 30 of the calendar year involved. In the case of any such twelve-month period in which there has been a decrease in the total reservable liabilities of all depository institutions, no adjustment shall be made. A decrease in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the calendar year involved from the amount of total reservable liabilities on June 30 of the previous calendar year.".

(b) Section 19(b)(4)(A)(iv) of the Federal Reserve Act (12 U.S.C. 461(b)(4)(A)(iv)) is amended by inserting "except as provided in paragraph (11)," after "requirement is imposed,".

(c) Section 19(b)(1) of the Federal Reserve Act (12 U.S.C. 461(b)(1)) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following:

"(E) The term 'reservable liabilities' means transaction accounts, nonpersonal time deposits, and all net balances, loans, assets, and obligations which are, or may be, subject to reserve requirements under paragraph (5).".

VISITORIAL POWERS

SEC. 412. Section 5240 of the Revised Statutes (12 U.S.C. 484) is amended to read as follows:

"SEC. 5240. (a) No national bank shall be subject to any visitorial powers except as authorized by Federal law, vested in the courts of justice or such as shall be, or have been exercised or directed by Congress or by either House thereof or by any committee of Congress or of either House duly authorized.

"(b) Notwithstanding subsection (a), lawfully authorized State auditors and examiners may, at reasonable times and upon reasonable notice to a bank, review its records solely to ensure compliance with applicable State unclaimed property or escheat laws upon reasonable cause to believe that the bank has failed to comply with such laws.".

REAL ESTATE HOLDING PERIOD

SEC. 413. Section 5137 of the Revised Statutes (12 U.S.C. 29) is amended by striking out the last paragraph thereof and inserting in lieu thereof the following:

"Notwithstanding the five-year holding limitation of this section or any other provision of this title, any national banking association which on the date of enactment of this paragraph held, directly or indirectly, real estate, including any subsurface rights or interests therein, that since December 31, 1979, had not been valued on the books of such association for more than a nominal amount, may continue to hold such real estate, rights, or interests for such longer period of time as would be permitted a State chartered bank by the law of the State in which the association is located if the aggregate amount of earnings from such real estate, rights, or interests is separately disclosed in the annual financial statements of the association.".

PART B—FINANCIAL INSTITUTIONS REGULATORY ACT AMENDMENTS

LOAN LIMITS

SEC. 421. (a) Section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amended by striking out "not exceeding $60,000" in paragraph (2), and by striking out ", not exceeding the aggregate amount of $20,000 outstanding at any one time," in paragraph (3).

(b) Paragraph (4) of section 22(g) of the Federal Reserve Act (12 U.S.C. 375a (4)) is amended by striking "not exceeding the aggregate amount of $10,000 outstanding at any one time" and inserting in lieu thereof "in an amount prescribed in a regulation of the member bank's appropriate Federal banking agency".

APPROVAL OF CERTAIN LOANS

SEC. 422. Paragraph (2) of section 22(h) of the Federal Reserve Act (12 U.S.C. 375b(2)) is amended by striking out "$25,000" and inserting in lieu thereof "an amount prescribed in a regulation of the appropriate Federal banking agency".

EXCLUSION OF FOREIGN BANKS

SEC. 423. Section 18(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(2)) is amended by adding at the end thereof the following: "The provisions of this subsection shall not apply to any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)), having an insured branch in the United States, but shall apply to the insured branch.".

CIVIL MONEY PENALTIES

SEC. 424. (a) Section 19(l)(1) of the Federal Reserve Act (12 U.S.C. 505(1)); section 5(c)(8)(B)(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i)); section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1)); and section 206(j)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)(A)) are amended by inserting before the period at the end of the first sentence thereof the following: ": Provided, That the Board may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under authority of this subsection".

(b) Section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A)); section 408(j)(4)(A) of the National Housing Act (12 U.S.C. 1730a(j)(4)(A)); and section 18(j)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)(A)) are amended by inserting before the period at the end of the first sentence thereof the following: ": Provided, That the Corporation may, in its discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under authority of this subsection".

(c) Section 29(a) of the Federal Reserve Act (12 U.S.C. 504(a)); section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i)); and section 106(b)(2)(F)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)(i)) are amended by inserting before the period at the end of the first sentence thereof the following: ": Provided, That the agency having authority to impose a civil money penalty may, in its discretion, compromise, modify, or remit any civil money penalty which is

subject to imposition or has been imposed under such authority".

(d) Each of the following provisions is amended by striking the term "shall" and inserting in lieu thereof the term "may":

(1) The second sentence of section 29(a) of the Federal Reserve Act (12 U.S.C. 504(a));

(2) The second sentence of section 19(l)(1) of the Federal Reserve Act (12 U.S.C. 505(l));

(3) The second sentence of section 5239(b)(1) of the Revised Statutes (12 U.S.C. 93(b)(1));

(4) The second sentence of section 8(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1847(b)(1));

(5) The second sentence of section 408(j)(4)(A) of the National Housing Act (12 U.S.C. 1730a(j)(4)(A));

(6) The second sentence of section 8(i)(2)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(i));

(7) The second sentence of section 407(k)(3)(A) of the National Housing Act (12 U.S.C. 1730(k)(3)(A));

(8) The second sentence of section 5(d)(8)(B)(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(i));

(9) The second sentence of section 206(j)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)(A));

(10) The second sentence of section 18(j)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)(A)); and

(11) The second sentence of section 106(b)(2)(F)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)(i)).

(e) Sections 29(d) and 19(1)(4) of the Federal Reserve Act (12 U.S.C. 504(d) and 505(4)), 18(j)(3)(D) and 8(i)(2)(iv) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(3)(D) and 1818(i)(2)(iv)), 407(k)(3)(D) of the National Housing Act (12 U.S.C. 1730(k)(3)(D)), 5(d)(8)(B)(iv) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(8)(B)(iv)), 206(j)(2)(D) of the Federal Credit Union Act (12 U.S.C. 1786(j)(2)(D)), and 106(b)(2)(F)(iv) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(F)(iv)) are amended by striking out "ten days from the date" in each section and inserting in lieu thereof "twenty days from the service".

(f) Section 5239(b)(1) of the Revised Statutes (12 U.S.C. 93(b)(1)) is amended by striking out the word "chapter" and inserting in lieu thereof "title".

(g) Section 5239(b)(1) of the Revised Statutes (12 U.S.C. 93(b)(1)) is amended by inserting before ", or any regulation issued pursuant thereto," the following: "or any of the provisions of the first section of the Act of September 28, 1962 (76 Stat. 688; 12 U.S.C. 92a)".

TECHNICAL AMENDMENTS

SEC. 425. (a) Section 407(h)(1) of the National Housing Act (12 U.S.C. 1730(h)(1)) is amended—

(1) by striking out "persons" in the first sentence and inserting in lieu thereof "person"; and

(2) by striking out "(3)" in the last sentence and inserting in lieu thereof "(2)".

(b) The first sentence of section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended by striking out "25A" and inserting in lieu thereof "25(a)".

(c) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b) is amended by adding at the end thereof the following:

"(4) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any foreign bank or company to which subsection (a) of section 8 of the International Banking Act of 1978 applies and to any subsidiary (other than a bank) of any such foreign bank or company in the same manner as they apply to a bank holding company and any subsidiary thereof (other than a bank) under subparagraph (3) of this subsection. For the purposes of this paragraph, the term 'subsidiary' shall have the meaning assigned to it in section 2 of the Bank Holding Company Act of 1956.".

(d) Section 205(2) of the Depository Institution Management Interlocks Act (12 U.S.C. 3204(2)) is amended by striking "25A" and inserting in lieu thereof "25(a)".

MANAGEMENT INTERLOCKS

SEC. 426. The Depository Institution Management Interlocks Act is amended by adding at the end thereof the following new section:

"SEC. 210. (a) For the purpose of the exercise by the Attorney General of his enforcement functions under section 207(6) of this title, all of the functions and powers of the Attorney General under the Clayton Act are available to the Attorney General, irrespective of any jurisdictional tests in the Clayton Act, including the power to take enforcement actions in the same manner as if the violation had been a violation of the Clayton Act.

"(b) All of the functions and powers of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice are available to the Attorney General or to such Assistant Attorney General to investigate possible violations under section 207(6) of the title in the same manner as if such possible violations were possible violations of the Clayton Act.".8

REMOVAL AUTHORITY

SEC. 427. (a) Section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1646(d)) is amended—

(1) by redesignating paragraphs (4) (C) through (E) as paragraphs (4) (D) through (F), respectively, and by inserting after paragraph (4)(B) the following new paragraph:

"(C) Whenever, in the opinion of the Board, any director or officer of an association has committed a violation of the Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.), the Board may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.";

(2) by striking out "(A) or (B)" each place it appears in paragraphs (4)(D) and (4)(F), as redesignated, and inserting in lieu thereof "(A), (B), or (C)";

(4) by striking out "(C)" in paragraph (F), as redesignated, and inserting in lieu thereof "(D)";

(5) by striking out, in paragraph (5)(A), "or (C)" and inserting in lieu thereof "(C), or (D)"; and

(6) by striking out, in paragraph (12)(A), "(4)(C), (4)(D)" and inserting in lieu thereof "(4)(D), (4)(E)".

(b)(1) Section 407(g) of the National Housing Act (12 U.S.C. 1730(g)) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) Whenever, in the opinion of the Corporation, any director or officer of an insured institution has committed a violation of the Depository Institution Management Interlocks Act, the Corporation may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.";

(B) by striking out "or (2)" each place it appears in paragraphs (4) and (6), as redesignated, and inserting in lieu thereof ", (2) or (3)";

(C) by striking out "(5)" in paragraph (4), as redesignated, and inserting in lieu thereof "(6)"; and

(D) by striking out "(3)" in paragraph (6), as redesignated, and inserting in lieu thereof "(4)".

(2) Section 407(h)(1) of the National Housing Act (12 U.S.C. 1730(h)(1)) is amended by striking out "or (3)" in the fourth sentence and inserting in lieu thereof "(3) or (4)".

(3) Section 407(p)(1) of the National Housing Act (12 U.S.C. 1730(p)(1)) is amended by striking out "(g)(3), (g)(4)," and inserting in lieu thereof "(g)(4), (g) (5),".

(c)(1) Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by inserting after paragraph (2) the following new paragraph:

(3) Whenever, in the opinion of the Board, any director, officer, or committee member of an insured credit union has committed any violation of the Depository Institution Management Interlocks Act, the Board may serve upon such director, officer, or committee member a written notice of its intention to remove him from office.";

(B) by striking out "or (2)" each place it appears in paragraphs (4) or (6), as redesignated, and inserting in lieu thereof ", (2), or (3)";

(C) by striking out "(5)" in paragraph (4), as redesignated, and inserting in lieu thereof "(6)"; and

(D) by striking out "(3)" in paragraph (6), as redesignated, and inserting in lieu thereof "(4)".

(2) Section 206(k) of the Federal Credit Union Act (12 U.S.C. 1786(k)) is amended by striking out "(3), (g)(4)" and inserting in lieu thereof "(4), (g)(5)".

(d) (1) Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank has committed any violation of the Depository Institution Management Interlocks Act, the agency may serve upon such director or officer a written notice of its intention to remove him from office."; and

(B) by striking out "or (2)" each place it appears in paragraph (4), as redesignated, and inserting in lieu thereof ", (2), or (3)".

(2) Section 8(f) of the Federal Deposit Insurance Act (12 U.S.C. 1818(f)) is amended by striking out "(e)(5) or (e)(7)" and "(e)(1), (e)(3), or (e)(7)" and inserting in lieu thereof "(e)(4)" and "(e)(1), (e)(2), or (e)(3)", respectively.

(3) Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended by striking out "or (3)" in the penultimate sentence and inserting in lieu thereof ", (3), or (4)".

(4) Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended by striking out "(e)(3), (e)(4)" and inserting in lieu thereof "(e)(4), (e)(5)".

CORRESPONDENT ACCOUNTS

SEC. 428. (a) Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended—

(1) by inserting in subparagraph (a) after the phrase "such other bank" the phrase "or to any related interest of such person";

(2) by inserting in subparagraph (B) after the phrase "desiring to open the account" the phrase "or to any related interest of such person";

(3) by inserting in subparagraph (C) after the phrase "such other bank" the phrase "or to any related interest of such person"; and

(4) by inserting in subparagraph (D) after the phrase "another bank" the phrase "or to any related interest of such person".

(b) Section 106(b)(2)(G) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(G)) is amended—

(1) by striking out subparagraph (ii) and inserting in lieu thereof the following:

"(ii) The appropriate Federal banking agencies are authorized to issue rules and regulations, including definitions or terms, to require the reporting and public disclosure of information by any bank or executive officer or principal shareholder thereof concerning any extension of credit by a correspondent bank to the reporting bank's executive officers or principal shareholders, or the related interests of such persons."; and

(2) by striking out subparagraph (iii).

(c) Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended by adding at the end thereof the following:

"(H) For the purpose of this paragraph—

"(i) the term 'bank' includes a mutual savings bank;

"(ii) the term 'related interests of such persons' includes any company controlled by such executive officer, director, or person, or any political or campaign committee the funds or services of which will benefit such executive officer, director, or person or which is controlled by such executive officer, director, or person; and

"(iii) the terms 'control of a company' and 'company' have the same meaning as under section 22(h) of the Federal Reserve Act (12 U.S.C. 375b).".

DISCLOSURE OF MATERIAL FACTS

SEC. 429. Section 7(k) of the Federal Deposit Insurance Act (12 U.S.C. 1817(k)) is amended to read as follows:

"(k) The appropriate Federal banking agencies are authorized to issue rules and regulations, including definitions of terms, to require the reporting and public disclosure of information by a bank or any executive officer or principal shareholder thereof concerning extensions of credit by the bank to any of its executive officers or principal shareholders, or the related interests of such persons.".

EFFECTIVE DATE OF REPORTING PROVISIONS

SEC. 430. The provision of law amended by section 428(b) and section 429 shall remain in effect until the regulations referred to in such amendments become effective.

TECHNICAL AMENDMENT

SEC. 431. Section 1006(b)(2) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305(b)(2)) is amended by striking out "unaccepted" and inserting in lieu thereof "unacceptable".

RIGHT TO FINANCIAL PRIVACY ACT AMENDMENTS

SEC. 432. (a) Section 1112 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding section 1101(6) or any other provision of this title, the exchange of financial records or other information with respect to a financial institution among and between the five member supervisory agencies of the Federal Financial Institutions Examination Council is permitted.".

(b) Section 1114(b)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(b)(2)) is amended by striking out "of" following the term "institution".

MISCELLANEOUS AMENDMENTS

SEC. 433. (a) Section 8(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended by placing a period after the phrase "six-month period" in the first sentence and striking the remainder of that sentence.

(b) Section 4(a)(2) of the Bank Holding Company act of 1956 (18 U.S.C. 1843(a)(2)) is amended by striking out "December 31, 1982" in the last paragraph and inserting in lieu thereof "December 31, 1984".

TITLE IV—AMENDMENTS TO THE FEDERAL CREDIT UNION ACT

CUSTODIAL ACCOUNTS

SEC. 501. Section 101(5) of the Federal Credit Union Act (12 U.S.C. 1752(5)) is amended by inserting ", and such terms mean custodial accounts established for loans sold in whole or in part pursuant to section 107(13)" after "section 207 of this Act".

AUDIT OF NATIONAL CREDIT UNION ADMINISTRATION

SEC. 502. Section 102(f) of the Federal Credit Union Act (12 U.S.C. 1752a(f)) is amended by striking out "on a calendar year basis".

ORGANIZATIONAL PROCESS

SEC. 503. Section 103 of the Federal Credit Union Act (12 U.S.C. 1753) is amended by striking out "subscribe" and inserting in lieu thereof "each subscribe either individually or collectively".

PAR VALUE OF SHARES

SEC. 504. Section 103(4) of the Federal Credit Union Act (12 U.S.C. 1753(4)) is amended by inserting "initial" before "par value" and by striking out ", which shall be $5 each".

INVESTMENT OF FEES

SEC. 505. Section 105 of the Federal Credit Union Act (12 U.S.C. 1755) is amended by adding at the end thereof the following new subsection:

"(e)(1) Upon request of the Board, the Secretary of the Treasury shall invest and reinvest such portions of the annual operating fees deposited under subsection (d) as the Board determines are not needed for current operations.

"(2) Such investments may be made only in interest bearing securities of the United States with maturities requested by the Board bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(3) All income derived from such investments and reinvestments shall be deposited to the account of the Administration described in subsection (d).".

TECHNICAL AMENDMENT

SEC. 506. Section 107(5)(A) of the Federal Credit Union Act (12 U.S.C. 1757(5)) is amended by striking out the period at the end of clause (ix) and inserting in lieu thereof a semicolon and be adding at the end thereof the following:

"(x) loans must be approved by the credit committee or a loan officer, but no loan may be made to any member if, upon the making of that loan, the member would be indebted to the Federal credit union upon loans made to him in an aggregate amount which would exceed 10 per centum of the credit union's unimpaired capital and surplus.".

REAL ESTATE LENDING; MAXIMUM MATURITY

SEC. 507. Section 107(5)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(i)) is amended by inserting "or such other limits as shall be set by the National Credit Union Association Board" after "not exceeding thirty years.".

REAL ESTATE LENDING; MEDIAN PRICE RULE

SEC. 508. Section 107(5)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(i)) is amended by striking out "the sales price of which is not more than 150 per centum of the median sales price of residential real property situated in the geographical area (as determined by the board of directors) in which the property is located.".

REAL ESTATE LENDING; REFINANCING

SEC. 509. Section 107(5)(A)(i) of the Federal credit Union Act (12 U.S.C. 1757(5)(A)(i)) is amended by striking out "which is made to finance the acquisition of" and inserting in lieu thereof "on" and by striking out "for" the first time it appears and inserting in lieu therof "that is or will be".

REAL ESTATE LENDING; SECOND MORTGAGES

SEC. 510. Section 107(5)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(ii) is amended to read as follows:

"(ii) a loan to finance the purchase of a mobile home, which shall be secured by a first lein on such mobile home, to be used by the credit union member as his residence, or a second mortgage loan secured by a residential dwelling which is the residence of a credit union member shall have a maturity not to exceed fifteen years unless such loan is insured or guaranteed as provided in subparagraph (iii);".

TERMS OF GUARANTEED LOANS

SEC. 511. Section 107(5)(A)(iii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(iii)) is amended to read as follows:

"(iii) a loan secured by the insurance or guarantee of, or with advance commitment to purchase the loan by, the Federal Government, a State government, or any agency of either may be made for the maturity and under the terms and conditions specified in the law under which such insurance, guarantee, or commitment is provided;".

LOANS TO DIRECTORS OR COMMITTEE MEMBERS

SEC. 512. Sections 107(5)(A) (iv) and (v) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A) (iv) and (v)) are amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

REAL ESTATE LENDING; PARTIAL PAYMENTS

SEC. 513. Section 107(5)(A)(viii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(viii)) is amended by inserting before the semicolon at the end thereof the following: ", except that on a first or second mortgage loan a Federal credit union may require that any partial prepayments (I) be made on the date monthly installments are due, and (II) be in the amount of that part of one or more monthly installments which would be applicable to principal".

INVESTMENT IN STATE AND LOCAL GOVERNMENT OBLIGATIONS

SEC. 514. Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)) is amended by adding at the end thereof the following: "(L) investments in obligations of, or issued by, any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision), except that no credit union may invest more than 10 per centum of its unimpaired capital and surplus in the obligations of any one issuer (exclusive of general obligations of the issuer); and".

USE OF SPACE AND FACILITIES

SEC. 515. Section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended by adding at the end thereof the following: "For the purpose of this section, the term 'services' includes, but is not limited to, the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems). Where there is an agreement for the payment of costs associated with the provision of space or services, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.".

INVESTMENT IN SECONDARY MARKET INSTRUMENTS

SEC. 516. Section 107(7)(E) of the Federal Credit Union Act (12 U.S.C. 1757(7)(E)) is amended by inserting after the last semicolon the following: "or in obligations, participations, securities, or other instruments of, or issued by, or fully guaranteed as to principal and interest by any other agency of the United States and a Federal credit union may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act;".

DEPOSITS IN OUT-OF-STATE INSURED STATE BANKS

SEC. 517. Section 107 (8) of the Federal Credit Union Act (12 U.S.C. 1757 (8)) is amended by inserting after "in which the Federal credit union does business," the following: "or in banks or institutions the accounts of which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation,".

MONEY TRANSFER SERVICES

SEC. 518. Section 107 (12) of the Federal Credit Union Act (12 U.S.C. 1757 (12)) is amended—

(1) by striking out "and money orders" and inserting in lieu thereof ", money orders, and other similar money transfer instruments"; and

(2) by striking out all after "for a fee" and inserting in lieu thereof a semicolon.

ANNUAL MEETINGS

SEC. 519. Section 110 of the Federal Credit Union Act (12 U.S.C. 1760) is amended to read as follows:

"MEMBERS' MEETINGS

"SEC. 110. The fiscal year of all Federal credit unions shall end December 31. The annual meeting of each Federal credit union shall be held at such place as its bylaws shall prescribe. Special meetings may be held in the manner indicated in the bylaws. No member shall be entitled to vote by proxy, but a member other than a natural person may vote through an agent designated for the purpose. Irrespective of the number of shares held, no member shall have more than one vote.".

TECHNICAL WORDING CHANGES IN MANAGEMENT AUTHORITY

SEC. 520. Section 111 of the Federal Credit Union Act (12 U.S.C. 1761) is amended to read as follows:

"MANAGEMENT

"SEC. 111. (a) The management of a Federal credit union shall be by a board of directors, a supervisory committee, and where the bylaws so provide, a credit committee. The board shall consist of an odd number of directors, at least five in number, to be elected annually by and from the members as the bylaws provide. Any vacancy occurring on the board shall be filled until the next annual election by appointment by the remainder of the directors.

"(b) the supervisory committee shall be appointed by the board of directors and shall consist of not less than three members nor more than five members, one of whom may be a director other than the compensated officer of the board. A record of the names and addresses of the executive officers, members of the supervisory committee, credit committee, and loan officers, shall be filed with the Administration within ten days after their election or appointment.

"(c) No member of the board or of any other committee shall, as such, be compensated, except that reasonable health, accident, similar insurance protection, and the reimbursement of reasonable expenses incurred in the execution of the duties of the position shall not be considered compensation.".

ELIMINATION OF SPECIFIC REFERENCE TO THE TITLES OF THE OFFICERS OF THE BOARD

SEC. 521. Section 112 of the Federal Credit Union Act (12 U.S.C. 1761 (a)) is amended to read as follows:

"OFFICERS OF THE BOARD

"SEC. 112. At their first meeting after the annual meeting of the members, the directors shall elect from their number the board officers specified in the bylaws. Only one board officer may be compensated as an officer of the board and the bylaws shall specify such position as well as the specific duties of each of the board officers. The board shall elect from their number a financial officer who shall give bond with good and sufficient surety, in an amount and character to be determined by the board of directors in compliance with regulations prescribed from time to time by the Board conditioned upon the faithful performance of the officer's trust.".

CLARIFICATION OF BOARD OF DIRECTOR'S DUTIES

SEC. 522. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b) is amended to read as follows:

"BOARD OF DIRECTORS; MEETINGS; POWERS AND DUTIES; EXECUTIVE COMMITTEE; MEMBERSHIP OFFICERS; MEMBERSHIP APPLICATIONS

"SEC. 113. The board of directors shall meet at least once a month and shall have the general directions and control of the affairs of the Federal credit union. Minutes of all meetings shall be kept. Among other things, the board of directors shall—

"(1) act upon applications for membership or appoint membership officers from among the members of the board of directors, other than the board member paid as an officer, the financial board officer, any assistant to the paid officer of the board or to the financial officer, or any loan officer;

"(2) require any officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character in compliance with regulations of the Board, and authorize the payment of the premium or premiums therefor from the funds of the federal credit unions;

"(3) fill vacancies on the board of directors until successors elected at the next annual meeting have qualified;

"(4) if the bylaws provide for an elected credit committee, fill vacancies on the credit committee until successors elected at the next annual meeting have qualified;

"(5) appoint the members of the supervisory committee and, if the bylaws so provide, appoint the members of the credit committee;

"(6) have charge of investments including the right to designate an investment committee of not less than two to act on its behalf;

"(7) determine the maximum number of shares, share certificates, and share draft accounts, and the classes of shares, share certificates, and share draft accounts;

"(8) subject to any limitations of this subchapter, determine the interest rates on loans, the security, and the maximum amount which may be loaned and provided in lines of credit;

"(9) authorize interest refunds to members of record at the close of business on the last day of any dividend period from income earned and received in proportion to the interest paid them during that dividend period;

"(10) if the bylaws so provide, appoint one or more loan officers and delegate to these officers the power to approve or disapprove loans, lines of credit, or advances from lines of credit;

"(11) establish the par value of the share;

"(12) subject to the limitations of this title and the bylaws of the credit union, provide for the hiring and compensation of officers and employees;

"(13) if the bylaws so provide, appoint an executive committee of not less than three directors to act on its behalf and any other committees to which it can delegate specific functions;

"(14) prescribe conditions and limitations for any committee which it appoints;

"(15) review at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meetings together with such other related information as it or the bylaws require;

"(16) provide for the furnishing of the written reasons for any denial of a membership application to the applicant upon the written request of the applicant;

"(17) in the absence of a credit committee, and upon the written request of a member, review a loan application denied by a loan officer;

"(18) declare the dividend rate to be paid on shares, share certificates, and share draft accounts pursuant to the terms and conditions of section 117;

"(19) establish and maintain a system of internal controls consistent with the regulations of the Board;

"(20) establish lending policies; and

"(21) do all other things that are necessary and proper to carry out all the purposes and powers of the Federal credit union, subject to regulations issued by the Board.".

OPTIONAL CREDIT COMMITTEE

SEC. 523. Section 114 of the Federal Credit Union Act (12 U.S.C. 1761c) is amended to read as follows:

"CREDIT COMMITTEE

"SEC. 114. (a) If the bylaws provide for a credit committee, then pursuant to the provisions of the bylaws, the board of directors may appoint or the members may elect a credit committee which shall consist of an odd number of members of the credit union, but which shall not include more than one loan officer. The method used shall be set forth in the bylaws. The credit committee shall hold such meetings as the business of the Federal credit union may require, not less frequently than once a month, to consider applications for loans or lines of credit. Reasonable notice of such meetings shall be given to all members of the committee. Except for those loans or lines of credit required to be approved by the board of directors in section 107(5) of this Act, approval of an application shall be by majority of the committee who are present at the meeting at which it is considered provided that a majority of the full committee is present. The credit committee may appoint and delegate to loan officers the authority to approve applications.

"(b) If the bylaws provide for a credit committee, all applications not approved by the loan officer shall be reviewed by the credit committee, and the approval of a majority of the members who are present at the meeting when such review is undertaken shall be required to reverse the loan officer's decision provided a majority of the full committee is present. If there is not credit committee, a member shall have the right upon written request of review by the board of directors of a loan application which has been denied. No individual shall have authority to disburse funds of the Federal credit union with respect to any loan or line of credit for which the application has been approved by him in his capacity as a loan officer.".

REQUIREMENT THAT CREDIT UNION PAY ON ALL DOLLARS AFTER PURCHASE OF FULL SHARE

SEC. 524. Section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended to read as follows:

"DIVIDENDS

"SEC. 117. At such intervals as the board of directors may authorize, and after provision for required reserves, the board of directors may declare, pursuant to such regulations as may be issued by the Board, a dividend to be paid at different rates on different types of shares, at different rates and maturity dates in the case of share certificates, and at different rates on different types of share draft accounts. Dividends credited may be accrued on various types of shares, share certificates, and share draft accounts as authorized by the board of directors. If the par value of a share exceeds $5, dividends shall be paid on all funds in the regular share account once a full share has been purchased.".

NONPARTICIPATION

SEC. 525. Section 118 of the Federal Credit Union Act (12 U.S.C. 1764) is amended to read as follows:

"EXPULSION AND WITHDRAWAL

"Sec. 118. (a) Subject to subsection (b) of this section, a member may be expelled by a two-thirds vote of the members of a Federal credit union present at a special meeting called for the purpose, but only after opportunity has been given him to be heard.

"(b) The board of directors of a Federal credit union may, by majority vote of a quorum of directors, adopt a policy with respect to expulsion from membership based on nonparticipation by a member in the affairs of the credit union. In establishing its policy, the board should consider a member's failure to vote in annual credit union elections or failure to purchase shares from, obtain a loan from, or lend to the Federal credit union. If such a policy is adopted, written notice of the policy as adopted and the effective date of such policy shall be mailed to each member of the credit union at the member's current address appearing on the records of the credit union not less than 30 days prior to the effective date of such policy. In addition, each new member shall be provided written notice of any such policy prior to or upon applying for membership.

"(c) Withdrawal or expulsion of a member pursuant to either subsection (a) or (b) of this section shall not operate to relieve him from liability to the Federal credit union. The amount to be paid a withdrawing or expelled member by a Federal credit union shall be determined and paid in a manner specified in the bylaws.".

NATIONAL CREDIT UNION ADMINISTRATION BOARD'S REGULATORY AUTHORITY

SEC. 526. Section 120(a) of the Federal Credit Union Act (12 U.S.C. 1766(a)) is amended by adding at the end thereof the following: "Any central credit union chartered by the Board shall be subject to such rules, regulations, and orders as the Board deems appropriate and, except as otherwise specifically provided in such rules, regulations, or orders, shall be vested with or subject to the same rights, privileges, duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to all Federal credit unions under this act.".

CHARTER CONVERSION

SEC. 527. Section 125(a)(1) of the Federal Credit Union Act (12 U.S.C. 1771(a)(1)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Approval of the proposition for conversion shall be by the affirmative vote of a majority of the members of the credit union who vote on the proposal. The written notice of the proposition shall in bold face type state that the issue will be decided by a majority of the members who vote.".

ELIMINATION OF DISCRIMINATORY INSURANCE PREMIUM ASSESSMENT FOR DEPOSITS OF STATE CHARTERED CREDIT UNIONS

SEC. 528. Section 202(h)(3) of the Federal Credit Union Act (12 U.S.C. 1782(h)(3)) is amended to read as follows:

"(3) the term 'members accounts' when applied to the premium charge for insurance of accounts shall not include amounts received from other credit unions, the accounts of which are federally insured or insured or guaranteed by a fund established under State law or regulation for this purpose, in excess of the insured account limit set forth in section 207(c)(1);".

ELIMINATION OF PARTIAL INSURANCE PREMIUMS AND REBATES

SEC. 529. Section 202(c) of the Federal Credit Union Act (12 U.S.C. 1782(c)) is amended by striking out paragraphs (3) and (6) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

AUTHORIZATION FOR FUND TO BORROW FROM CLF

SEC. 530. Section 203 of the Federal Credit Union Act (12 U.S.C. 1783) is amended by adding at the end thereof the following:

"(f) In addition to the authority to borrow from the Secretary of the Treasury provided in subsection (d), if in the judgment of the Board, a loan to the fund is required at any time for carrying out the purposes of this title, the fund is authorized to borrow from the National Credit Union Administration Central Liquidity Facility.".

CENTRAL LIQUIDITY FACILITY LENDING AND INVESTMENT AUTHORITY

SEC. 531. Section 307(a) of the Federal Credit Union Act (12 U.S.C. 1795f(a)) is amended—

(1) by striking out "and" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(17) exercise such incidental powers as shall be necessary or requisite to enable it to carry out effectively the purposes for which the Facility is incorporated; and

"(18) advance funds to the National Credit Union Share Insurance Fund under such terms and conditions as may be established by the Board.".

CENTRAL LIQUIDITY FACILITY AS AGENT OF FEDERAL RESERVE SYSTEM

SEC. 532. Title III of the Federal Credit Union Act (12 U.S.C. 1795 through 1795i) is amended by adding at the end thereof the following:

AGENT OF THE FEDERAL RESERVE SYSTEM

SEC. 311. The Facility is authorized to act upon the request of the Board of Governors of the Federal Reserve System as an agent of the Federal Reserve System in matters pertaining to credit unions under such terms and conditions as may be established by the Board of Governors of the Federal Reserve System.".

STUDY OF DIRECTORS' COMPENSATION

SEC. 533. The national Credit Union Administration Board shall conduct a study to determine the feasibility and desirability of permitting Federal credit unions to compensate members of their boards of directors. A report containing the results of such study shall be transmitted to the Congress not later than 6 months after the date of enactment of this Act.

TITLE VI—PROPERTY, CASUALTY, LIFE INSURANCE ACTIVITIES OF BANK HOLDING COMPANIES

AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 601. Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", but for purposes of this subsection it is not closely related to banking or managing or controlling banks for a bank holding company to provide insurance as a principal, agent, or broker except (A) where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death, disability, or involuntary unemployment of the debtor; (B) in the case of a finance company which is a subsidiary of a bank holding company, where the insurance is also limited to assuring repayment of the outstanding balance on an extension of credit in the event of loss or damage to any property used as collateral on such extention of credit and, during the period beginning on the date of

the enactment of this subparagraph and ending on December 31, 1982, such extension of credit is not more than $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) and for any given year after 1982, such extension of credit is not more than an amount equal to $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) increased by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical workers published monthly by the Bureau of Labor Statistics for the period beginning on January 1, 1982, and ending on December 31 of the year preceding the year in which such extension of credit is made; (C) any insurance agency activity in a place that (i) has a population not exceeding five thousand (as shown by the last preceding decennial census), or (ii) the bank holding company, after notice and opportunity for a hearing, demonstrates has inadequate insurance agency facilities; (D) any insurance agency activity which was engaged in by the bank holding company or any of its subsidiaries on May 1, 1982, or which the Board approved for such company or any of its subsidiaries on or before May 1, 1982, including (i) sales of insurance at new locations of the same bank holding company or the same subsidiary or subsidiaries with resepct to which insurance was sold on May 1, 1982, or approved to be sold on or before May 1, 1982, if such new locations are confined to the State in which the principal place of business of the bank holding company is located, any State or States immediately adjacent to such State, and any State or States in which insurance activities were conducted by the bank holding company or any of its subsidiaries on May 1, 1982, or were approved to be conducted by the bank holding company or any of its subsidiaries on or before May 1, 1982, and (ii) sales of insurance coverages which may become available after May 1, 1982, so long as those coverages insure against the same types of risks as, or are otherwise functionally equivalent to, coverages sold on May 1, 1982, or approved to be sold on or before May 1, 1982 (for purposes of this subparagraph, activities engaged in or approved by the Board on May 1, 1982, shall include activities carried on subsequent to that date as the result of an application to engage in such activities pending on May 1, 1982, and approved subsequent to that date or of the acquisition by such company pursuant to a binding written contract entered into on or before May 1, 1982, of another company engaged in such activities at the time of the acquisition); (E) any insurance activity where the activity is limited solely to supervising on behalf of insurance underwriters the activities of retail insurance agents who sell (i) fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the bank holding company or any of its subsidiaries, and (ii) group insurance that protects the employees of the bank holding company or any of its subsidiaries; (F) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries, which bank holding company has total assets of $50,000,000 or less; or (G) where the activity is performed, or shares of the company involved are owned, directly or indirectly, by a bank holding company which is registered with the Board of Governors of the Federal Reserve System and which, prior to January 1, 1971, was engaged, directly or indirectly, in insurance agency activities as a consequence of approval by the Board prior to January 1, 1971: Provided, however, That such bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in subparagraph (A), (B), or (C).".

TITLE VII—MISCELLANEOUS

AMENDMENT TO THE TRUTH IN LENDING ACT

SEC. 701. (a) Section 104 of the Truth in Lending Act (15 U.S.C. 1601) is amended by adding at the end thereof the following:

"(6) Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.)".

(b) Loans made, insured, or guaranteed pursuant to a program authorized by title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) shall not be subject to any disclosure requirements of any State law.

(c) The amendment made by subsection (a) and subsection (b) shall be effective both with respect to loans made prior to and after the date of enactment of this Act.

DEFINITION OF CREDITOR

SEC. 702. (a) Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended to read as follows:

"(f) The term 'creditor' refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the preceding sentence, in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors. For the purpose of the requirements imposed under chapter 4 and sections 127(a)(5), 127(a)(6), 127(a)(7), 127(b)(1), 127(b)(2), 127(b)(3), 127(b)(8), and 127(b)(10) of chapter 2 of this title, the term 'creditor' shall also include card issuers whether or not the amount due is payable by agreement in more than four installments or the payment of a finance charge is or may be required, and the Board shall, by regulation, apply these requirements to such card issuers, to the extent appropriate, even though the requirements are by their terms applicable only to creditors offering open-end credit plans.".

(b) The amendment made by subsection (a) shall take effect on the effective date of title VI of the Depository Institutions Deregulation and Monetary Control Act of 1980.

INDUSTRIAL BANKS ELIGIBILITY FOR FDIC INSURANCE

SEC. 703. (a) Section 3(a) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)) is amended by inserting "industrial bank or similar financial institution which the Board of Directors finds to be operating substantially in the same manner as an industrial bank," before "or other banking institution".

(b) Section 3(l)(1) of such Act (12 U.S.C. 1813(l)(1)) is amended by inserting "thrift certificate, investment certificate, certificate of indebtedness, or other similar name," before "or a check or draft drawn against a deposit account".

(c) Section 5(a) of such Act (12 U.S.C. 1815(a)) is amended by adding at the end thereof the following: "Before approving the application of any industrial bank or similar financial institution, the Board of Directors shall determine that it is chartered and operating under laws providing for examination, supervision, and liquidation substantially comparable to those applicable to banks operating in the same State.".

(d) Section 109(b)(2) of title 11, United States Code, is amended by striking out "or" before "credit union", and by inserting ", or industrial bank or similar institution which is an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))" after "credit union".

APPLICABILITY OF THE INTERNATIONAL BANKING ACT OF 1978

SEC. 704. Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by inserting in the first sentence immediately after the words "on the date of enactment of this Act" the following: "or on the date of the establishment of a branch in a State an application for which was filed on or before July 26, 1978".

SECURITIES ACTIVITIES UNDER THE INTERNATIONAL BANKING ACT OF 1978

SEC. 705. (a) The last sentence of section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by striking out all after "company, and" and inserting in lieu thereof the following: "the term 'domestically-controlled affiliate covered in 1978' shall mean an affiliate organized under the laws of the United States or any State thereof if (i) no foreign bank or group of foreign banks acting in concert owns or controls, directly or indirectly, 45 per centum or more of its voting shares, and (ii) no more than 20 per centum of the number of directors as established from time to time to constitute the whole board of directors and 20 per centum of the executive officers of such affiliate are persons affiliated with any such foreign bank. For the purpose of the preceding sentence, the term 'persons affiliated with any such foreign bank' shall mean (A) any person who is or was an employee, officer, agent, or director of such foreign bank or who otherwise has or had such a relationship with such foreign bank that would lead such person to represent the interests of such foreign bank, and (B) in the case of any director of such domestically controlled affiliate covered in 1978, any person in favor of whose election as a director votes were cast by less than two-thirds of all shares voting in connection with such election other than shares owned or controlled, directly or indirectly, by any such foreign bank.".

(b) The second sentence of section 8(c) of such Act is amended to read as follows: "Notwithstanding subsection (a) of this section, a foreign bank or company referred to in this subsection may retain ownership or control of any voting shares (or, where necessary to prevent dilution of its voting interest, acquire additional voting shares) of any domestically-controlled affiliate covered in 1978 which since July 26, 1978, has engaged in the business of underwriting, distributing, or otherwise buying or selling stocks, bonds, and other securities in the United States, notwithstanding that such affiliate acquired after July 26, 1978, an interest in, or any or all of the assets of, a going con-

cern, or commences to engage in any new activity or activities.".

NOW ACCOUNTS FOR PUBLIC FUNDS

SEC. 706. (a) Section 2(a)(2) of Public Law 93-100 (12 U.S.C. 1832(a)(2)) is amended by inserting before the period at the end thereof the following: ", and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof".

(b) Section 205(f)(2) of the Federal Credit Union Act (12 U.S.C. 1785(f)(2)) is amended by inserting before the period at the end thereof the following: ", and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof".

FEDERAL NATIONAL MORTGAGE ASSOCIATION

SEC. 707. (a) Section 303(a) of the Federal National Mortgage Association Charter Act is amended—

(1) by inserting after the first sentence the following: "The corporation may have preferred stock on such terms and conditions as the board of directors shall prescribe."; and

(2) by striking out "common" in the last sentence thereof.

(b) Section 304(e) of such Act is amended by striking out the fourth sentence.

RESERVE REQUIREMENT PHASE-IN

SEC. 708. Section 19(b)(8)(D) of the Federal Reserve Act (12 U.S.C. 461(b)(8)(D)) is amended—

(1) by striking out clause (i) and inserting in lieu thereof the following:

"(i) Any bank which was a member bank on July 1, 1979, and which withdrew from membership in the Federal Reserve System during the period beginning July 1, 1979, and ending on March 31, 1980, shall maintain reserves during the first twelve-month period beginning on the date of enactment of this clause in amounts equal to one-half of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to two-thirds of those otherwise required, and during the third such twelve-month period in amounts equal to five-sixths of those otherwise required."

(2) in clause (ii) by striking the words "on or".

BANK SERVICE CORPORATIONS

SEC. 709. The Bank Service Corporation Act (12 U.S.C. 1861 et seq.) is amended to read as follows:

"SHORT TITLE AND DEFINITIONS

"SECTION 1. (a) This Act may be cited as the 'Bank Service Corporation Act'.

"(b) For the purpose of this Act—

"(1) the term 'appropriate Federal banking agency' shall have the meaning provided in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q));

"(2) the term 'bank service corporation' means a corporation organized to perform services authorized by this Act, all of the capital stock of which is owned by one or more insured banks;

"(3) the term 'Board' means the Board of Governors of the Federal Reserve System;

"(4) the term 'depository institution' means an insured bank, or another financial institution subject to examination by the Federal Home Loan Bank Board or the National Credit Union Administration Board;

"(5) the term 'insured bank' shall have the meaning provided in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h));

"(6) the term 'invest' includes any advance of funds to a bank service corporation, whether by the purchase of stock, the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment; and

"(7) the term 'principal investor' means the insured bank that has the largest dollar amount invested in the capital stock of a bank service corporation. In any case where two or more insured banks have equal dollar amounts invested in a bank service corporation, the corporation shall, prior to commencing operations, select one of the insured banks as its principal investor and shall notify the bank's appropriate Federal banking agency of that choice within 5 business days of its selection.

"AMOUNT OF INVESTMENT IN BANK SERVICE CORPORATION

"SEC. 2. Notwithstanding any limitation or prohibition otherwise imposed by any provision of law exclusively relating to banks, an insured bank may invest not more than 10 per centum of paid-in and unimpaired capital and unimpaired surplus in a bank service corporation. No insured bank shall invest more than 5 per centum of its total assets in bank service corporations.

"PERMISSIBLE BANK SERVICE CORPORATION ACTIVITIES FOR DEPOSITORY INSTITUTIONS

"SEC. 3. Without regard to the provisions of sections 4 and 5 of this Act, an insured bank may invest in a bank service corporation that performs, and a bank service corporation may perform, the following services only for depository institutions: check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a depository institution.

"PERMISSIBLE BANK SERVICE CORPORATION ACTIVITIES FOR OTHER PERSONS

"SEC. 4. (a) A bank service corporation may provide to any person any service authorized by this section, except that a bank service corporation shall not take deposits.

"(b) Except with the prior approval of the Board under section 5(b) of this Act in accordance with subsection (f) of this section—

"(1) a bank service corporation shall not perform the services authorized by this section in any State other than that State in which its shareholders are located; and

"(2) all insured bank shareholders of a bank service corporation shall be located in the same State.

"(c) A bank service corporation in which a State bank is a shareholder shall perform only those services that such State bank shareholder is authorized to perform under the law of the State in which such State bank operates and shall perform such services only at locations in the State in which such State bank shareholder could be authorized to perform such services.

"(d) A bank service corporation in which a national bank is a shareholder shall perform only those services that such national bank shareholder is authorized to perform under this Act and shall perform such services only at locations in the State at which such national bank shareholder could be authorized to perform such services.

"(e) A bank service corporation that has both national bank and State bank shareholders shall perform only those services that may lawfully be performed by both its national bank shareholder or shareholders under this Act and its State bank shareholder or shareholders under the law of the State in which such State bank or banks operate and shall perform such services only at locations in the State at which both its State bank and national bank shareholders could be authorized to perform such services.

"(f) Notwithstanding the other provisions of this section or any other provision of law, other than the provisions of Federal and State branching law regulating the Geographic location of banks to the extent that those laws are applicable to an activity authorized by this subsection, a bank service corporation may perform at any geographic location any service, other than deposit taking, that the Board has determined, by regulation, to be permissible for a bank holding company under section 4(c)(8) of the Bank Holding Company Act.

PRIOR APPROVAL FOR INVESTMENTS IN BANK SERVICE CORPORATIONS

"SEC. 5. (a) No insured bank shall invest in the capital stock of a bank service corporation that performs any service under authority of subsection (c), (d), or (e) of section 4 of this Act without the prior approval of the bank's appropriate Federal banking agency.

"(b) No insured bank shall invest in the capital stock of a bank service corporation that performs any service under authority of section 4(f) of this Act and no bank service corporation shall perform any activity under section 4(f) of this Act without the prior approval of the Board.

"(c) In determining whether to approve or deny any application for prior approval under this section, the Board or the appropriate Federal banking agency, as the case may be, is authorized to consider the financial and managerial resources and future prospects of the bank or banks and bank service corporation involved, including the financial capability of the bank to make a proposed investment under this Act, and possible adverse effects such as undue concentration of resources, unfair or decreased competition, conflicts of interest or unsafe or unsound banking practices.

"(d) In the event the Board or the appropriate Federal banking agency, as the case may be, fails to act on any application under this section within 90 days of the submission of a complete application to the agency, the application shall be deemed approved.

"SERVICES TO NONSTOCKHOLDERS

"SEC. 6. No bank service corporation shall unreasonably discriminate in the provision of any services authorized under this Act to any depository institution that does not own stock in the service corporation on the basis of the fact that the nonstockholding institution is in competition with an institution that owns stock in the bank service corporation, except that—

"(1) it shall not be considered unreasonable discrimination for a bank service corporation to provide services to a nonstockholding institution only at a price that fully reflects all of the costs of offering those services, including the cost of capital and a reasonable return thereon; and

"(2) a bank service corporation may refuse to provide services to a nonstockholding institution if comparable services are available from another source at competitive overall costs, or if the providing of services would be beyond the practical capacity of the service corporation.

"REGULATION AND EXAMINATION OF BANK SERVICE CORPORATIONS

"SEC. 7. (a) A bank service corporation shall be subject to examination and regulation by the appropriate Federal banking agency of its principal investor to the same extent as its principal investor. The appropriate Federal banking agency of the principal shareholder of such a bank service corporation may authorize any other Federal banking agency that supervises any other shareholder of the bank service corporation to make such an examination.

"(b) A bank service corporation shall be subject to the provisions of the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1818(b) et seq.) as if the bank service corporation were an insured bank. For this purpose, the appropriate Federal banking agency shall be the appropriate Federal banking agency of the principal investor of the bank service corporation.

"(c) Notwithstanding subsection (a) of this section, whenever a bank that is regularly examined by an appropriate Federal banking agency, or any subsidiary or affiliate of such a bank that is subject to examination by that agency, causes to be performed for itself, by contract or otherwise, any services authorized under this Act, whether on or off its premises—

"(1) such performance shall be subject to regulation and examination by such agency to the same extent as if such services were being performed by the bank itself on its own premises, and

"(2) the bank shall notify such agency of the existence of the service relationship within 30 days after the making of such service contract or the performance of the service, whichever occurs first.

"(d) The Board and the appropriate Federal banking agencies are authorized to issue such regulations and orders as may be necessary to enable them to administer and to carry out the purposes of this Act and to prevent evasions thereof.".

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 710. (a) Section 604 of the Neighborhood Reinvestment Corporation Act (Public Law 95-557) is amended—

(1) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively, and by inserting after subsection (e) the following:

"(f) A director who is necessarily absent from a meeting of the board, or of a committee of the board, may participate in such meeting through a duly designated representative who is serving, pursuant to appointment by the President of the United States, by and with the advice and consent of the Senate, in the same department, agency, corporation, or instrumentality as the absent director, or in the case of the Comptroller of the Currency, through a duly designated Deputy Comptroller."; and

(2) by inserting in section 604(g), as redesignated, after "members" a comma and the words "or their representatives as provided in subsection (f),".

(b) Section 606(c)(3) of such Act is amended by inserting "funds," after "provide".

MARRINER S. ECCLES FEDERAL RESERVE BOARD BUILDING

SEC. 711. The building at 20th and Constitution Avenue, Northwest, in Washington, District of Columbia (commonly known as the Federal Reserve Board Main Building) shall hereafter be known and designated as the "Marriner S. Eccles Federal Reserve Board Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Marriner S. Eccles Federal Reserve Board Building".

INSURANCE STUDY

SEC. 712. (a) The Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration Board shall each conduct a study of—

(1) the current system of deposit insurance and its impact on the structure and operations of depository institutions;

(2) the feasibility of providing depositors the option to purchase additional deposit insurance covering deposits in excess of the general limit provided by law and the capabilities of the private insurance system, either directly or through reinsurance, to provide risk coverage in excess of the general statutory limit;

(3) the feasibility of basing deposit insurance premiums on the risk posed by either the insured institution or the category or size of the depository institution rather than the present flat rate system;

(4) the impact of expanding coverage of insured deposits upon the operations of the insurance funds, including the possibility of increased or undue risk to the funds;

(5) the feasibility of revising the deposit insurance system to provide even greater protection for smaller depositors while fostering a greater degree of discipline with respect to large depositors;

(6) the adequacy of existing public disclosure regarding the condition and business practices of insured depository institutions, and providing an assessment of changes which may be needed to assure adequate public disclosure;

(7) the feasibility of consolidating the three separate insurance funds; and

(8) other related issues.

(b) A report containing the results of each of the studies carried out under subsection (a) shall be transmitted to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate not later than six months after the date of enactment of this Act.

TITLE VIII—ALTERNATIVE MORTGAGE TRANSACTIONS

SHORT TITLE

SEC. 801. This title may be cited as the "Alternative Mortgage Transaction Parity Act of 1982".

FINDINGS AND PURPOSE

SEC. 802. (a) The Congress hereby finds that—

(1) increasingly volatile and dynamic changes in interest rates have seriously impared the ability of housing creditors to provide consumers with fixed-term, fixed-rate credit secured by interests in real property, cooperative housing, manufactured homes, and other dwellings;

(2) alternative mortgage transactions are essential to the provision of an adequate supply of credit secured by residential property necessary to meet the demand expected during the 1980's; and

(3) the Comptroller of the Currency, the National Credit Union Administration, and the Federal Home Loan Bank Board have recognized the importance of alternative mortgage transactions and have adopted regulations authorizing federally chartered depository institutions to engage in alternative mortgage financing.

(b) It is the purpose of this title to eliminate the discriminatory impact that those regulations have upon nonfederally chartered housing creditors and provide them with parity with federally chartered institutions by authorizing all housing creditors to make, purchase, and enforce alternative mortgage transactions so long as the transactions are in conformity with the regulations issued by the Federal agencies.

DEFINITIONS

SEC. 803. As used in this title—

(1) the term "alternative mortgage transaction" means a loan or credit sale secured by an interest in residential real property, a dwelling, all stock allocated to a dwelling unit in a residential cooperative housing corporation, or a residential manufactured home (as that term is defined in section 603(6) of the National Manufactured Home Construction and Safety Standards Act of 1974)—

(A) in which the interest rate finance charge may be adjusted or renegotiated;

(B) involving a fixed-rate, but which implicitly permits rate adjustments by having the debt mature at the end of an interval shorter than the term of the amortization schedule; or

(C) involving any similar type of rate, method of determining return, term, repayment, or other variation not common to traditional fixed-rate, fixed-term transactions, including without limitation, transactions that involve the sharing of equity or appreciation;

described and defined by applicable regulation; and

(2) the term "housing creditor" means—

(A) a depository institution, as defined in section 501(a)(2) of the Depository Institutions Deregulation and Monetary Control Act of 1980;

(B) a lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act;

(C) any person who regularly takes loans, credit sales, or advances secured by interests in properties referred to in paragraph (1); or

(D) any transferee of any of them.

A person is not a "housing creditor" with respect to a specific alternative mortgage transaction if, except for this title, in order to enter into that transaction, the person would be required to comply with licensing requirements imposed under State law, unless such person is licensed under applicable State law, and such person remains, or becomes, subject to the applicable regulatory requirements and enforcement mechanisms provided by State law.

ALTERNATIVE MORTGAGE AUTHORITY

SEC. 804. (a) In order to prevent discrimination against State-chartered depository institutions, and other nonfederally chartered housing creditors, with respect to making, purchasing, and enforcing alternative mortgage transactions, housing creditors may make, purchase, and enforce alternative mortgage transactions, except that this section shall apply—

(1) with respect to banks, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the Comptroller of the Currency for national banks, to the extent that such regulations are authorized by rule-

making authority granted to the comptroller of the Currency with regard to national banks under laws other than this section;

(2) with respect to credit unions, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the National Credit Union Administration Board for Federal credit unions, to the extent that such regulation are authorized by rulemaking authority granted to the National Credit Union Administration with regard to Federal credit unions under laws other than this section; and

(3) with respect to all other housing creditors, including without limitation, savings and loan associations, mutual savings banks, and savings banks, only to transactions made in accordance with regulations governing alternative mortgage transactions as issued by the Federal Home Loan Bank Board for federally chartered savings and loan associations, to the extent that such regulations are authorized by rulemaking authority granted to the Federal Home Loan Bank Board with regard to federally chartered savings and loan associations under laws other than this section.

(b) For the purpose of determining the applicability of this section, an alternative mortgage transaction shall be deemed to be made in accordance with the applicable regulation notwithstanding the housing creditor's failure to comply with the regulation, if—

(1) the transaction is in substantial compliance with the regulations; and

(2) within sixty days of discovering any error, the housing creditor corrects such error, including making appropriate adjustments, if any, to the account.

(c) An alternative mortgage transaction may be made by a housing creditor in accordance with this section, notwithstanding any State constitution, law, or regulation.

APPLICABILITY

SEC. 805. (a) The provisions of section 804 shall not apply to any alternative mortgage transaction in any State made on or after the effective date (if such effective date occurs on or after the effective date of this title and prior to a date three years after the effective date of this title) of a State law or a certification that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the preemption provided in section 804 to apply with respect to alternative mortgage transactions subject to the laws of such State, except that section 804 shall continue to apply to—

(1) any alternative mortgage transaction undertaken on or after such date pursuant to an agreement to undertake such alternative mortgage transaction which was entered into on or after the effective date of this title and prior to such later date (the "preemption period"); and

(2) any renewal, extension, refinancing, or other modification of an alternative mortgage transaction that was entered into during the preemption period.

(b) An alternative mortgage transaction shall be deemed to have been undertaken during the preemption period to which this section applies if it—

(1) is funded or extended in whole or in part during the preemption period, regardless of whether pursuant to a commitment or other agreement therefor made prior to that period; or

(2) is a renewal, extension, refinancing, or other modification of an alternative mortgage transaction entered into before the preemption period and such renewal, extension, or other modification is made during such period with the written consent of any person obligated to repay such credit.

RELATION TO OTHER LAW

SEC. 806. Section 501(c)(1) of the Depository Institutions Deregulation and Monetary Control Act of 1980 shall not apply to transactions which are subject to this title.

EFFECTIVE DATE

SEC. 807. (a) This title shall be effective upon enactment.

(b) Within sixty days of the enactment of this title, the Comptroller of the Currency, the National Credit Union Administration, and the Federal Home Loan Bank Board shall identify, describe, and publish those portions or provisions of their respective regulations that are inappropriate for (and thus inapplicable to), or that need to be conformed for the use of, the nonfederally chartered housing creditors to which their respective regulations apply, including without limitation, making necessary changes in terminology to conform the regulatory and disclosure provisions to those more typically associated with various types of transactions including credit sales.

And the Senate agree to the same.

FERNAND J. ST GERMAIN,
HENRY S. REUSS,
FRANK ANNUNZIO,
J. W. STANTON,
CHALMERS P. WYLIE,
Managers on the Part of the House.

JAKE GARN,
JOHN TOWER,
DICK LUGAR,
DON RIEGLE,
ALAN CRANSTON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6267) to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and ensuring the availability of home mortgage loans, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—DEPOSIT INSURANCE FLEXIBILITY

The Senate amendments and the bill, H.R. 4603, which passed the House on october 18, 1981, had substantially similar provisions granting the Federal depository institutions insurance agencies with increased flexibility in order to effectively assist troubled and financially distressed institutions.

Both the Senate amendment and the House bill enhanced the ability of the FDIC and FSLIC to aid institutions in need of assistance by expanding the forms of financial assistance that could be provided by the agencies and broadening the circumstances under which such assistance could be granted. They also provided specific procedures for the agencies, including the NCUA, to follow in order to facilitate the acquisition or merger of failed and failing institutions. Broadened conservatorship powers with respect to certain of the insuring agencies was granted under both the Senate and House provisions. Finally, the Senate and the House both provided a sunset for the emergency authorities of the regulatory agencies.

Since the House and Senate versions of Title I of H.R. 6267 were very similar, the House receded to the Senate with four changes. The following paragraphs summarize the revisions made to the Senate amendment.

In using their extraordinary acquisition authority, the FDIC and FSLIC are required to consult the state supervisor of the state in which the institution being acquired is located. The state supervisor must be given at least 48 hours to object to the use of the extraordinary authority, which objection can be overridden only by a unanimous vote of the appropriate insuring agency. In the case of an institution in receivership, the notice can be provided in anticipation of the impending appointment.

The FDIC and FSLIC are required to consider the following priorities when authorizing extraordinary acquisitions:

First, between institutions of the same type within the same State;

Second, between institutions of the same type in different States;

Third, between institutions of different types in the same State; and

Fourth, between institutions of different types in different States.

Both the FSLIC and NCUA are given emergency conservatorship authority over state chartered institutions. While such authority cannot be exercised without the written approval of the state supervisor of any such state institution, if such approval is not received by the insuring agency within 90 days of the state's receipt of the notice, such authority can be exercised upon the unanimous vote of the insuring agency.

If the FDIC is providing financial assistance to an insured bank under its general 13(c) authority, any institution receiving such assistance will be able to defer state taxes that are based upon deposits held or interest paid by such institutions. This authority is subject to the three year sunset provision.

TITLE II—NET WORTH CERTIFICATES

In order to provide capital assistance to depository institutions which have suffered earnings and capital losses primarily as a result of their mortgage lending activities, the conferees agreed to a program of assistance representing a compromise between the House and Senate approaches.

Title II will be known as the "Net Worth Certificate Act".

The Senate concept establishing an income capital assistance program was adopted rather than the guarantee concept in the House bill. Thus, the assisted institutions will issue capital instruments, called "net worth certificates," which are to be purchased by the insuring agencies with promissory notes.

The program is designed to assist a broad range of insured institutions having net worth equal to or less than 3 percent of assets. In order to qualify for such assistance, institutions must have a net worth equal to or greater than ½ percent of their assets after the issuance of net worth certificates. The agencies may consider the special circumstances of minority thrift associations when considering the ½ percent requrement. In addition, the conferees wish to point out that an institution that receives assistance under the provisions of title I is not, for that reason, precluded from receiving assistance under this Title.

Institutions covered by this Title must comply with all the terms and conditions established by the appropriate federal insuring agency. While the agencies are given the discretion to take into account the particular circumstances and condtions of each institution, the federal insurance agencies shall not arbitrarily or capriciously establish significantly different terms and conditions for insured institutions which are similarly situated.

With regard to merger resolutions, the Senate receded to the House amendment that a federal insurance agency shall not require the execution of a merger resolution from an institution which is projected to have a positive net worth for at least 6 months after receiving capital assistance. Nor can a management change be required from an institution which is projected to have a positive net worth for at least 9 months after receiving capital assistance. With reference to both merger resolutions and management change requirements, institutions would be permitted to submit their own business or operating plan to the appropriate agency in support of their case to counter the agency determination. If that plan is rejected by the designated agency official, an appeal to the full Federal Home Loan Bank Board or the Board of Directors of the Federal Deposit Insurance Corporation shall be permitted. Additionally, the Senate receded to the House that an institution would have to have a mortgage portfolio equal to 20 percent of its outstanding loans.

The partial formula for providing assistance would be as follows:

Net worth	*Level of assistance*
3 percent or less...	50 percent of period loss.
2 percent or less...	60 percent of period loss.
1 percent or less...	70 percent of period loss.

In determining the amount of period losses, it is the intention of the conferees that such losses be limited to operating losses as determined by the appropriate federal insurance agency and shall not include extraordinary items for the period. Additionally, the agencies would be provided with the discretion to change the formula for providing assistance but the conferees believe that such discretion should only be exercised in limited and unusual circumstances.

As long as a stock institution has net worth certificates outstanding, the payment of dividends on its common stock is prohibited. In the event of liquidation, the net worth certificates would be treated like preferred stock with a higher priority than common stock but following other creditors.

State-insured institutions are eligible for assistance provided the state fund which insures or guarantees the deposits of such institutions agrees to indemnify the appropriate federal insurance agency for any losses incurred by that agency as a result of providing assistance to such state-insured institutions. During any period that there are outstanding net worth certificates from a state-insured institution to a federal insurance agency, the state fund insuring such institution's deposits is required to maintain a level of assessment on the institutions insured by such agency at least equal to the premiums paid by federally-insured institutions to the the appropriate federal insurance agency.

Each insuring agency and the General Accounting Office will be required to report annually to Congress on the operation of the new worth certificate program.

TITLE III—THRIFT INSTITUTIONS RESTRUCTURING

The Senate amendment provides increased investment powers for federal thrift institutions—savings and loans and savings banks. This flexibility is provided to improve the range of services which thrift institutions may provide to their customers and to improve their ability to generate earnings to sustain the growth capital needed for future operations. The provisions provide federal thrift institutions with more liberal chartering options; the ability to offer stock; the authority to accept demand deposits from commercial, corporate and agricultural customers who have established a loan relationship with the thrift; expanded real estate investment authority; and the ability to invest in a broad range of government securities. Thrifts are also provided authority to invest in commercial, corporate and agricultural loans up to a specified percentage of their assets.

The House receded to the Senate provisions with amendments. One amendment made clear that the liberalized provisions in the bill are intended to strengthen the thrift industry so that it may maintain its place as the nations's primary home lender.

Other House amendments make the following changes in the Senate amendment: the authority for federal thrifts to invest in government securities is limited to 10 percent of a thrift's capital accounts in the obligations of one governmental unit, thus making this investment authority comparable to the National Bank Act limitation on investment securities. In addition, federal thrifts are provided commercial, agricultural and corporate lending authority up to 5 percent of assets beginning on the date of enactment of the bill (7½ percent for federal savings banks) and 10 percent after January 1, 1984. This commercial lending authority may be in the form of either direct loans or participations.

The managers want to stress that by specifically approving certain expanded powers and activities for thrift institutions and by not authorizing the Federal Home Loan Bank Board to permit service corporations to engage in any new activities not previously authorized, the managers intend that henceforth the FHLBB should not approve, in the absence of clear and specific Congressional authorization, any new regulation expanding activities of service corporations other than to permit service corporations to engage in activities permitted for federal thrift institutions. The conferees are aware that the Bank Board presently is considering proposed regulations that would expand significantly the permitted range of activities for service corporations. In light of specific additional powers authorized for savings and loan institutions in this bill, the conferees intend that the Board shall withdraw and take no further action on the proposed regulations. Of course, the House and Senate conferees reserve the right of their respective banking committees to review activities previously authorized by the Bank Board.

The bill also provides a directive to the Depository Institutions Deregulation Committee to establish within sixty days of enactment of the bill an account which is "directly equivalent to and competitive with money market mutual funds". The House receded to the Senate provision with an amendment modifying the description of the account. The amendment will allow such accounts to have up to 3 preauthorized or automatic transfers and three third party transfers per month, and such account will be subject to the reserve level for nonpersonal time deposits. In the opinion of the Conferees, the minimum balance for such account shall not be more than $5,000.

In addition to directing the DIDC to create a new deposit instrument the legislation will shorten the time period for the phase-out of the differential to insure that all differentials will be eliminated on or before January 1, 1984. However, the Conferees stress that none of the provisions of the bill should be interpreted to limit in any way the Depository Institutions Deregulation Committee's authority to eliminate a ceiling on any account.

The Senate bill provides a federal preemption of state laws and judicial decisions which restrict the enforcement of due-on-sale clauses in real property loans, except for loans originated or assumed during a "window period" as specified in the legislation. The House accepted the Senate provision with two amendments. First, the Federal Home Loan Bank Board is required to consult with the National Credit Union Administration as well as the Comptroller of the Currency, in drafting regulations for the provision. Second, the effective date for Federal Home Loan Mortgage Corporation changes in its due-on-sale provision is extended until July 1, 1983.

Finally, with respect to issuance of regulations pursuant to Section 341(c)(2), the conferees state that nothing in this section shall be construed as affecting, in any way, the authority of the Comptroller of the Currency.

TITLE IV—PROVISIONS RELATING TO NATIONAL AND MEMBER BANKS

The Senate amendment includes a number of significant provisions which revise or repeal provisions of the banking laws covering national and member banks that are obsolete and unjustifiably restrictive. Changes were made to the Senate amendment with regard to lending limits, the banking affiliate provisions, the exemption from reserve requirements and the provisions governing loans to executive officers, directors and 10 percent shareholders. Otherwise the House receded to the Senate.

LENDING LIMITS

The Senate amendment increases the lending limits by a national bank to an individual borrower for unsecured loans from 10 percent to 15 percent of a bank's unimpaired capital and surplus, and an additional 10 percent for loans fully secured by readily marketable collateral. The House receded with an amendment which clarifies the existing application of Section 84 lending limitations to loans by national banks for foreign governments.

BANKING AFFILIATES

The Senate amendment completely revises Section 23A of the Federal Reserve Act in order to close several unintended loopholes, liberalize certain unduly restrictive provisions and simplify it in order to enhance compliance and enforcement. The House receded with an amendment to exempt from the 23A restrictions the nonrecourse purchase of loans at fair market value from affiliated banks.

EXEMPTION FROM RESERVE REQUIREMENTS

The House in August 1982 passed H.R. 6222. This bill is comparable to Section 412 of the Senate amendment. The House bill provides that the reservable liabilities, in-

cluding deposits, up to $2 million held by any depository institution are not subject to reserve requirements. The Senate amendment provides that depository institutions holding less than $5 million in total deposits are not subject to reserve requirements. The Senate receded.

LOANS TO INSIDERS

The Senate amendment eliminates the statutory limitations on mortgage and educational loans to executive officers of member banks and replaces the $10,000 "other loan" limit with a grant of authority to the bank supervisory agencies to set appropriate limits. The Senate amendment also eliminated the quarterly reporting of such transactions. The House receded to the Senate on the statutory limits while the Senate receded to the House on the reporting requirements.

The Senate amendment removes the $25,000 threshold figure above which loans to officers, directors and 10% shareholders must be approved by the board of directors and authorizes the bank supervisory agencies to establish the threshold. The House receded to the Senate on this provision. While the Senate amendment would also have allowed a committee of the Board to make the approvals, the Senate receded to the House on that provision. The Senate also receded to the House on a provision in the Senate amendment that would have eliminated officers of subsidiaries of a bank holding company from the coverage of these requirements.

The Senate amendment eliminates reporting and public disclosure requirements relative to bank's loans to their officers, directors and 10 percent shareholders ("insiders") and insider loans by banks with whom the insider's bank has a correspondent relationship. The Senate receded to the House with an amendment that requires the bank supervisory agencies to develop alternative reporting and disclosure requirements. When the new reporting requirements become effective, the existing reporting requirements shall be repealed.

TITLE V—AMENDMENTS TO THE FEDERAL CREDIT UNION ACT

The Senate amendment makes numerous changes in the Federal Credit Union Act to facilitate the establishment, management, and provide greater operating flexibility for federal credit unions. The amendment also provides greater operating flexibility for the National Credit Union Administration in the management of its budget, the NCU Share Insurance Fund, and the Central Liquidity Facility.

The Senate amendment reorganizes the listing of the duties of the board of directors and adds to the enumerated board duties authority relating to having an optional credit committee, establishing par value of shares, declaring dividend rates, and establishing lending policies. The House recedes with an amendment requiring the NCUA to conduct a study of the adverse and beneficial effects of board member compensation.

The Senate amendment allows approval for conversion from federal to state charter based on the affirmative vote of the majority of those members voting. The House recedes. The conferees stress their expectation that the notice to members will clearly, accurately, and prominently explain the intended charter change and its effect on the credit union and its members.

TITLE VI—INSURANCE ACTIVITIES OF BANK HOLDING COMPANIES

The Senate amendment generally prohibits bank holding companies and their subsidiaries from providing insurance, including property and casualty insurance products, as a principal, agent, or broker, with six specific exceptions enumerated in the Title. Thus, the amendment establishes that the sale of insurance does not, except for activities subject to the exceptions, meet the "closely related" test of section 4(c)(8) of the Bank Holding Company Act.

The House receded with an amendment to grandfather the insurance activities of a bank holding company registered with the Federal Reserve Board which, prior to January 1, 1971, was engaged, directly or indirectly, in insurance agency activities as a consequence of approval by the Board prior to January 1, 1971.

The conferees stress that nothing in this Title is intended to prevent the transferring of grandfathered insurance activities of a bank holding company to the parent company or any of its subsidiaries if the transferral is brought about for management or efficiency purposes. Such a reorganization shall have no effect on the application of the restrictions or exemptions contained in this Title.

TITLE VII—MISCELLANEOUS

TRUTH IN LENDING STUDENT LOANS

The Senate amendment exempts from the Truth in Lending Act and from disclosure requirements of any state law loans that are made, insured or guaranteed under any program authorized by title IV of the Higher Education Act of 1965. The House recedes to the Senate.

DEFINITION OF CREDITOR

The Senate amendment amends the definition of "creditor", so that in other than open end credit transactions, the Act will not apply to any arrangers of credit, but it will only apply to professional extenders of consumer credit, namely, those who regularly extend consumer credit. The House recedes.

INDUSTRIAL BANKS ELIGIBILITY FOR FDIC INSURANCE

The Senate amendment permits industrial banks and like-type institutions to be eligible for FDIC insurance. The House recedes.

AMENDMENT TO BHC ACT OF 1956

The Senate amendment authorizes a one-bank holding company covered by the 1970 BHC Act Amendments, which was required to divest its banking or impermissible non-banking activities as a result of that Act, but has not yet filed an irrevocable commitment to divest, to divest no later than December 31, 1983. The Senate recedes from its amendment leaving the existing requirement intact.

APPLICABILITY OF THE INTERNATIONAL BANKING ACT OF 1978 TO SECURITIES ACTIVITIES

The Senate amendment provides grandfather rights for the non-banking activities of foreign banks which had applied for but had not yet received approval to operate a U.S. branch on September 17, 1978. The House recedes.

FOREIGN OWNERSHIP CONTENT OF DOMESTIC CORPORATIONS

The Senate amendment permits a U.S. non-bank affiliate to be a domestically controlled affiliate if a foreign bank or group of banks owns up to 45% of the affiliate. The House recedes.

NOW ACCOUNTS FOR PUBLIC FUNDS

The Senate amendment clarifies Congressional intent in passing P.L. 96-221. It permits financial institutions to offer NOW accounts and share draft accounts to state and local governments. The House recedes.

FNMA

The Senate amendment authorizes FNMA to issue perferred stock and makes such stock freely transferable. It also repeals the provisions that restricts the amount of subordinated obligatons of FNMA that may be outstanding at any time. However, all new issues of preferred stock and subordinated obligations still must be approved by the Secretary of Housing and Urban Development. The House recedes.

BANK SERVICES CORPORATIONS

The Senate amendment allows one or more banks to form a bank service corporation in which they can invest up to 10% of their unimpaired capital and surplus. No bank may invest more than 5% of their assets in bank service corporations. A service corporation can engage in the same activities as its parent banks and is authorized to perform any activity permissible under the Federal Reserve Board's Regulation Y (permissible non-banking activities).

The proposed amendments to the Bank Service Corporation Act contained in section 713 do not authorize a bank service corporation to perform any activity that is not authorized for any bank that is a shareholder of the bank service corporation or that is not authorized for bank holding companies under the Bank Holding Company Act and the Federal Reserve Board's Regulation Y.

The amendments do not authorize any securities activity that is prohibited to banks or bank holding companies under the Glass Steagall Act or any other federal or state statutes relating to the securities activities of such institutions.

RESERVE REQUIREMENT PHASE-IN

The bill grants a phase-in of reserve requirements to banks that withdrew from the Federal Reserve System between July 1, 1979 and March 31, 1980. A bank will be regarded as having withdrawn from membership in the Federal Reserve System during such period if its Federal Reserve stock had been redeemed by March 31, 1980. The period for the phase-in of reserve requirements begins on the date of enactment of this legislation and continues for a six year period from the effective date of the reserve requirement phase-in provisions for non-member banks (sec. 103(b)(8)(A)) of the Monetary Control Act of 1980 (P.L. 96-221). The phase-in should be administered in the same manner as the phase-in for other non-member banks. This provision does not authorize the Federal Reserve to reimburse former member banks covered by this provision for reserves that have been maintained up until this time.

USURY LIMITS

The Senate amendment extended the business and agricultural loan usury preemption one year, until April 1, 1984. The Senate recedes.

NEIGHBORHOOD REINVESTMENT CORPORATION

The Senate amendment allows Directors to designate another Presidential appointee as his representative for meetings of the Corporation. The House recedes.

STUDY OF OPTIONAL INSURANCE OF LARGE DEPOSITS

The Senate amendment directs the FDIC, the FSLIC, and the NCUA to conduct a study of the feasibility of providing excess deposit insurance coverage and to include within that study the possibility of allowing private insurance or reinsurance for such coverage. The studies shall be transmitted to Congress not later than six months after the date of enactment of the Act.

The House recedes to the Senate with an amendment. The amendment gives each agency six months to complete its study and expands the scope of the study to also include (i) examining the current system of deposit insurance and its impact on the structure and operations of depository institutions; (ii) basing deposit insurance premiums on the risk posed by either the insured institution or the category or size of depository institution rather than the present flat rate system; (iii) assessing the impact of expanded coverage of insured deposits upon the operations of the insurance funds; (iv) revising the deposit insurance system to provide even greater protection for smaller depositors while fostering a greater degree of discipline with respect to large depositors; (v) examining the adequacy of disclosures of business practices and providing more public disclosure regarding the condition and business practices of insured depository institutions; (vi) feasibility of consolidating the three separate insurance funds; and (vii) determining such other related issues as the agencies may deem appropriate to study.

MARRINER S. ECCLES FEDERAL RESERVE BUILDING

The Senate amendment would have the main Federal Reserve Building be known and designated as the "Marriner S. Eccles Federal Reserve Building." The House recedes.

TITLE VIII—ALTERNATIVE MORTGAGE TRANSACTIONS

The Senate amendment authorizes nonfederally chartered housing creditors to offer alternative mortgages in accordance with the Federal regulations issued by the appropriate Federal regulatory agencies. Thus, those creditors will have parity with federally chartered institutions. States have three years within which to reject the authority granted by this provision. The House receded.

FERNAND J. ST GERMAIN,
HENRY S. REUSS,
FRANK ANNUNZIO,
J. W. STANTON,
CHALMERS P. WYLIE,
Managers on the Part of the House.

JAKE GARN,
JOHN TOWER,
DICK LUGAR,
DON RIEGLE,
ALAN CRANSTON,
Managers on the Part of the Senate.

MAKING IN ORDER ON TODAY OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON H.R. 5890, NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, 1983

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that it be in order today or any day thereafter to call up the conference report to accompany the bill (H.R. 5890) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2036) entitled "An act to provide for a job training program and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5890) entitled "An act to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5930) entitled "An act to extend the aviation insurance program for 5 years."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6267) entitled "An act to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and insuring the availability of home mortgage loans."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 5106. An act to amend the Clayton Act to modify the amount of damages payable to foreign states and instrumentalities of foreign states which sue for violations of the antitrust laws; and

H.R. 6094. An act to authorize appropriations for the United States International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1983, and for other purposes.

The message also announced that the Senate had passed a bill and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1688. An act to combat violent street crime by establishing a Federal offense for continuing a career of robberies or burglaries by using a firearm to commit a third or subsequent such offense, and providing a mandatory minimum sentence of between 15 years and life imprisonment; and

S. Con. Res. 127. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of S. 2036.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6968, MILITARY CONSTRUCTION APPROPRIATION, 1983

Mr. GINN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. WALKER. Reserving the right to object, Mr. Speaker, do I understand this has been cleared with the minority?

Mr. GINN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Georgia.

Mr. GINN. Yes, it has.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 97-913)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6968) "making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 10, 11, 12, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 5, 14, 18, and 19, and agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,080,750,000*; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,551,414,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate num-

bered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$120,000,000*; and the Senate agree to the same.

Amendment numbered 9:

That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$14,500,000*; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$127,791,000*; and the Senate agree to the same.

Amendment numbered 15:

That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$1,005,220,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$98,991,000*; and the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amemdment insert *$736,300,000*; and the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$513,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$14,313,000*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the section number named in said amendment, insert *120*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 8, and 32.

BO GINN,
TOM BEVILL,
W. G. HEFNER,
CLARENCE D. LONG,
JOSEPH P. ADDABBO,
BILL ALEXANDER,
JAMIE L. WHITTEN,
RALPH REGULA,
CLAIR W. BURGENER,
TOM LOEFFLER,
SILVIO O. CONTE,
Managers on the Part of the House.

PAUL LAXALT,
HARRISON SCHMITT,
JAKE GARN,
MACK MATTINGLY,
JIM SASSER,
WILLIAM PROXMIRE,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

ITEMS OF GENERAL INTEREST

MX missile program

The basing mode for the MX missile continues to be one of the most important elements of the Military Construction program. Both the House and Senate Military Construction Committees have endorsed the need to strengthen our current land-based intercontinental ballistic missile systems. However, military construction funds in support of an improved system cannot be provided in advance of executive branch and Congressional decisions on a specific basing mode. For that reason only $16,700,000 of the $207,000,000 requested for MX construction has been recommended in the Conference Agreement. The Senate had recommended $36,700,000 for MX construction and the House had provided no funding.

The conferees have agreed that the $16,700,000 recommended is for facilities at Hill Air Force Base, Utah and Newark Air Force Station, Ohio. These facilities, according to the Department, are required regardless of what basing mode is chosen. In order to further assure that there will be no conflict with a basing decision, the conferees have directed that these funds not be obligated prior to the President's decision on MX deployment.

The conferees have agreed to retain a General Provision in the House bill that requires the Department to withhold site specific design until all terms, conditions and requirements of the National Environmental Policy Act are met. This is consistent with current policy, and the conferees feel that any changes to this should be addressed once basing mode decisions are proposed.

Persian Gulf/Indian Ocean

The conferees support the continued development of necessary capabilities in the Persian Gulf area, while respecting the sovereignty of foreign states. Clearly, the United States has assumed the leading role for maintaining the stability of this area of the world, thereby assuring the flow of oil from the region. Neither our NATO allies nor Japan, who import over 70 percent of their oil from the Persian Gulf region have taken sufficient steps to support facility construction in the region or to develop other types of offsets to the large U.S. investment. Our Western European allies are in fact taking steps to increase their reliance on the Soviet Union through participation in the natural gas pipeline project.

The conferees have approved funding at the authorized levels for all locations except Ras Banas, Egypt, in order that those facilities planned or under construction can be completed. The details of the conference agreement are shown as follows:

Location/project	Budget request	Conference agreement
Diego Garcia:		
Facilities expansion (Navy)	$80,630,000	$53,395,000
Facilities expansion (Air Force)	36,550,000	4,550,000
Egypt:		
RDF base (Army)	53,000,000	0
RDF base (Air Force)	125,600,000	91,000,000
Somalia: Facilities expansion (Navy)	30,000,000	30,000,000
Kenya: Facilities expansion (Navy)	8,300,000	8,300,000
Oman: Facilities expansion (Air Force)	60,350,000	60,350,000
Portugal-Lajes Field (Air Force)	56,490,000	0
Total	450,920,000	247,595,000

Diego Garcia

The conferees have provided a total of $57,945,000 for facilities expansion at Diego Garcia for both the Navy and Air Force. The reductions to the request were necessary to conform to the authorization. The conferees are acutely aware of the need to provide recreational facilities at this location and therefore recommend that the Navy fund them with nonappropriated funds.

Egypt

The Executive Branch proposal to construct a Rapid Deployment Force facility at Ras Banas, Egypt, has been debated and reviewed for more than one year. The Defense Department, following Congressional insistance, has reviewed the plan and, although some reductions in the scope have been made, continues to insist on the military value and the need to proceed with a facility at this location. The Department has also indicated that—even though there is no country-to-country agreement—it is their feeling that adequate assurances exist to construct an RDF base at Ras Banas.

The conferees have agreed to fund $91 million of the $178 million requested for construction of facilities at Ras Banas, with the understanding that the Department will take several actions to satisfy lingering concerns over the construction program. In developing these stipulations, it is the intention of the conferees to assure that the United States is in fact proceeding with a truly bare base at Ras Banas, that the Department has a clear understanding of when and for what purposes the base can be used, and that our NATO and Japanese allies will be taking an active role in the Persian Gulf program.

The conferees agree that prior to the obligation of Ras Banas construction funds, the Secretary of Defense is to certify through specific documentation that negotiations have proceeded with our NATO and Japanese allies which would insure either direct funding or indirect offset funding support for the Persian Gulf program. Direct participation would be through funding a portion of U.S. planned facilities. Indirect offsets should include increased funding for U.S. projects by host nations or, in the case of NATO, increased expenditures in the NATO infrastructure program.

The conferees agree that prior to the obligation of Ras Banas construction funds, further written assurances on the use of Ras Banas are necessary from the Government of Egypt and the Secretary of Defense. The Department is to obtain from the Government of Egypt further written assurances on the use of Ras Banas for RDF and other purposes. The conferees also direct that the

Secretary of Defense is to provide a detailed letter to the Committees on Appropriations outlining his understanding of how, when and for what purposes the Government of Egypt will allow the United States to use the Ras Banas facility.

The conferees recommend that not more than $350 million should be planned for total military construction at Ras Banas, Egypt. This level of spending is in line with other planned facilities in the Persian Gulf program and will keep Ras Banas a bare base. The conferees believe that the bare base concept will enable this cost reduction.

The conferees also recommend that proportionate reductions should be made in the prepositioned equipment items proposed for the base.

Kenya

The conferees have provided $8,300,000 for various facilities in Kenya. None of these funds are to be used for the dredging of Mombasa Harbor since it has been fully funded. If any additional funds above the $38,870,000 made available to date for this dredging are necessary, the Navy is directed to seek a reprogramming.

Family housing—improvements and maintenance limitation

The conferees have agreed to a $30,000 limitation per unit investment in foreign-owned family housing improvements and maintenance. This limitation is absolute and does not allow for use of area cost factors or variations due to foreign exchange rates.

Family housing—maintenance

The conferees reiterate their concern about large per unit investment in family housing maintenance and direct that the details of any proposed expenditure from this account which exceeds $15,000 per unit be detailed in the justification material supplied as part of the fiscal year 1984 budget. The conferees agree that continued high per unit investment for maintenance and improvement could be avoided if artificial constraints within the Department's budgetary procedures were removed. The full amounts necessary to make needed whole house improvements to specific units should be requested in the same year, rather than continuing the incremental approach. The Department is to take the necessary steps to correct this deficiency.

Family housing—reprogramming criteria

The conferees have agreed to a new rule establishing reprogramming criteria for family housing operation, leasing, and maintenance accounts as follows: The transfer of an amount in excess of 10% or $7,500,000, whichever is less, among or between accounts shall be subject to prior approval.

Family housing—minor construction improvements

The conferees are agreed that funds available from savings can be used to meet minor construction or restoration of damage requirements.

Unbudgeted projects

The conference report on S. 2586, the Military Construction Authorization Act, 1983, provides authorization for various projects in all Services to be derived from savings. Generally these projects to be funded from savings include all unbudgeted items added by the House Armed Services Committee except for those added for the Guard and Reserve Components. A list of the projects falling into this category approved for funding by the Conferees appears in the appropriate Service sections of this report. Savings from funds appropriated may be used to construct only those projects which appear on these lists.

The conferees wish to clarify that contracts for the projects appearing in each Service section to be funded from savings may be entered into once sufficient savings from fiscal year 1983 and prior years have been realized.

Matters addressed by only one committee

The reports of both the House and Senate contain items addressed by only one Committee. Unless otherwise indicated in this conference report, those items are approved by the committee of conference.

MILITARY CONSTRUCTION, ARMY

Amendment No. 1

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $929,720,000 for military construction, Army instead of $941,570,000 as proposed by the House and $982,810,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees have agreed to the following additions and deletions to the amount and line items as proposed by the House:

Fort Huachuca, Arizona: Electromagnetic test facility	+$4,950,000
Pine Bluff Arsenal, Arkansas: Binary munitions facility	+7,920,000
Fort Irwin, California: Modernize miscellaneous facilities	−2,000,000
Outdoor playing courts and fields	−2,250,000
Physical fitness center	−5,500,000
Fort Benning, Georgia: Reception station barracks	−9,700,000
Troop medical clinic	−1,050,000
Postal facility	−270,000
Fort Gordon, Georgia: Signal Corp headquarters	−9,200,000
Fort McPherson, Georgia: FORSCOM command and control facility	−41,000,000
Fort Leavenworth, Kansas: Gymnasium	−3,400,000
Aberdeen Proving Ground, Maryland: Barracks	−18,100,000
Fort Drum, New York: Building insulation	−1,550,000
Fort Bliss, Texas: Training facility	+6,700,000
Fort Hood, Texas: Division headquarters	−13,800,000
Fort Sam Houston, Texas: Training barracks	−20,000,000
Air conditioning school distr	−2,000,000
Dining hall	−310,000
Kaiserslautern, Germany: Barracks	+12,200,000
Dining facility	+2,650,000
Heating plant	+1,450,000
Kriegsfeld, Germany: Administration building	−880,000
Vilseck, Germany: Barracks	+10,600,000
Barracks	+9,300,000
Battalion headquarters and classroom	+3,000,000
Dining facility	+3,600,000
Wertheim, Germany: Battalion headquarters and classroom	−2,300,000
Wildflecken, Germany: Attic insulation	+1,850,000
Facilities modernization	+5,800,000
Upgrade Range 9	+3,050,000
Johnston Island: Expansion of maintenace building	+1,050,000
Worldwide unspecified: General reduction	+40,000,000
Planning and design	+7,340,000
Total	−11,850,000

The conferees have approved the following projects to be funded out of savings from current and prior year programs:

Fort Benning, Georgia: Reception station barracks	$9,700,000
Troop medical clinic	1,050,000
Postal facility	270,000
Fort Gordon, Georgia: Signal Corps headquarters	9,200,000
Fort McPherson, Georgia: FORSCOM command and control facility	41,000,000
Aberdeen Proving Ground, Maryland: Barracks	18,100,000
Fort Drum, New York: Building insulation	1,550,000
Fort Hood, Texas: Division headquarters	13,800,000
Fort Sam Houston, Texas: Training barracks	20,000,000
Air conditioning school distr	2,000,000
Dining hall	310,000

The conferees agreed to fund all other items in conference at the level proposed by the House, as shown below:

Fort Huachuca, Arizona: Child care center	$2,600,000
Fort Carson, Colorado: Fencing	0
Fort Devens, Massachusetts: Gymnasium addition	490,000
White Sands Missile Range, New Mexico: Launch complex	0
Yakima Firing Center, Washington: Gymnasium	1,700,000
Ras Banas, Egypt: Upgrade/construct RDF facilities	0
Various, Turkey: Gymnasium	2,200,000
Worldwide unspecified: Exigent minor construction	26,720,000

Ras Banas, Egypt—Upgrade/construction RDF facilities

The conferees agree not to provide the $53,000,000 requested for RDF facilities at Ras Banas.

Pine Bluff Arsenal, Arkansas—Binary munitions facility

The conferees agree to fund a facility at the $7,920,000 level proposed by the Senate. The approved funding is to be used only for the construction of a waste treatment unit and landfill at the arsenal.

Planning and design

The conferees agree to fund the Army planning and design program at the $145,240,000 level proposed by the Senate instead of the $137,900,000 level proposed by the House. The conferees agree that the increased funds are to be used for the overall Army program and not to increase the

level of funding for the mobilization design program.

Master restationing plan

The conferees have provided the $26,500,000 in funds requested for master restationing plan facilities at Vilseck, Germany. The conferees agree that funds are not to be obligated for these projects until the Department has notified the Committees on Appropriations that the Federal Republic of Germany has agreed to substantially assume the cost of the restationing plan.

Amendment No. 2

Earmarks $145,240,000 for study, planning, design, architect and engineer services as proposed by the Senate instead of $137,900,000 as proposed by the House.

Amendment No. 3

Restores House language which earmarks $8,000,000 of the funds available for planning and design for the design of the renovation and addition to Brooke Army Medical Center at Fort Sam Houston, Texas.

MILITARY CONSTRUCTION, NAVY

Amendment No. 4

Appropriates $1,080,750,000 for military construction, Navy, instead of $1,120,813,000 as proposed by the House and $1,047,040,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

NARF North Island, California: Manufacture/repair shop	+$18,500,000
NAS Lemoore, California: Operational trainer facility	+5,600,000
NAS Moffett Field, California: Unaccompanied enlisted personnel housing	+6,850,000
NSWSES Port Hueneme, California: Guided missile laboratory	+7,800,000
NSY Mare Island, Vallejo, California:	
Compressed air breathing distribution system	−3,400,000
Electrical distribution system addition	−3,500,000
NWC China Lake, California: Electrical distribution lines	+700,000
NS Mayport, Florida:	
Intermediate maintenance facility	−7,700,000
Maintenance hangar	−12,600,000
NAS Whiting Field, Florida: Airfield pavements improvement	−3,150,000
NAVCAMS EPAC Honolulu, Hawaii: Chapel	+950,000
NSY Portsmouth, Kittery, Maine: Steamplant improvements	−900,000
NAS Meridian, Mississippi: Dining facility addition	−820,000
NSY Philadelphia, Pennsylvania:	
Engineering management building	−17,500,000
Fire protection system	−1,000,000
NS Charleston, South Carolina: Mooring platform	+6,700,000
NSY Charleston, South Carolina: Crane and equipment maintenance shop	+13,600,000
NMEF Yorktown, Virginia: Mine engineering laboratory	+3,250,000
NAS Oceana, Virginia: Land acquisition	−6,200,000
NSY Puget Sound, Bremerton, Washington: Steam plant phase II	−73,000,000
NAVSUPPFAC Diego Garcia: Facilities expansion	−18,535,000
Overseas classified: Communication terminal	+2,500,000
Worldwide unspecified:	
General reduction	+40,000,000
Planning and design	+1,792,000
Total	−40,063,000

The conferees have approved the following projects to be funded out of savings from current and prior year programs:

NSY Mare Island, Vallejo, California:	
Compressed air breathing distribution system	$3,400,000
Electrical distribution system addition	3,500,000
NS Mayport, Florida:	
Intermediate maintenance facility	7,700,000
Maintenance hangar	12,600,000
NAS Whiting Field, Florida: Airfield pavements improvement	3,150,000
NSY Portsmouth, Kittery, Maine: Steamplant improvements	900,000
NAS Meridian, Mississippi: Dining facility addition	820,000
NSY Philadelphia, Pennsylvania:	
Engineering management building	17,500,000
Fire protection system	1,000,000
NAS Oceana, Virginia: Land acquisition	6,200,000

The conferees agreed to fund all other items in conference at the level proposed by the House, as shown below:

NAS Alameda, California: Child care center	$1,750,000
NAS Lemoore, California: Family services center	920,000
NAS Moffett Field, California: Family services center	400,000
NCBC Port Hueneme, California: Child care center	890,000
NSA San Francisco, California: Child care center	1,400,000
NS Mayport, Florida: Family services center	650,000
NAS Brunswick, Maine: Family services center	840,000
NCBC Gulfport, Mississippi: Family services center	420,000
MCAS Beaufort, South Carolina: Gymnasium addition	570,000
NS Charleston, South Carolina: Child care center	1,550,000
NWS Charleston, South Carolina:	
Family services center	390,000
Pass office	0
NSGA Chesapeake, Virginia: Chapel/religious education building	930,000
NWS Yorktown, Virginia: Torpedo shop addition	0
NAS Whidbey Island, Washington: Child care center	1,200,000
NS Keflavik, Iceland:	
Chapel and religious education building	4,700,000
Family services center	1,500,000
NAS Sigonella, Italy: Family services center	500,000
NAF Atsugi, Japan: Family services center	500,000
NAS Cubi Point, Philippines: Jet engine test cell	2,500,000
Overseas Various: Non-eligible NATO funding	0
Worldwide Unspecified: Exigent minor construction	16,000,000

Non-eligible NATO funding

The conferees have not provided the $3,000,000 requested to fund portions of NATO projects in the United States and Iceland. The Navy is directed to fund these needs with savings and report it to the Committees on Appropriations.

Amendment No. 5

Earmarks $111,792,000 for study, planning, design, architect and engineer services as proposed by the Senate instead of $110,000,000 as proposed by the House.

MILITARY CONSTRUCTION, AIR FORCE

Amendment No. 6

Appropriates $1,551,414,000 for military construction, Air Force instead of $1,420,825,000 as proposed by the House and $1,657,457,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items proposed by the House:

Blytheville AFB, Arkansas:	
Composite support equipment and organizational maintenance shop	−$1,533,000
Unaccompanied enlisted personnel housing	−3,600,000
Edwards AFB, California: Educational center	−820,000
Fort MacArthur, California: Convert to chapel	−510,000
March AFB, California: Alter division headquarters	−550,000
Moffett AFB, California: Unaccompanied enlisted personnel housing	+1,900,000
Sunnyvale AFB, California: Add to and alter satellite control facility	+11,700,000
Vandenberg AFB, California:	
Range safety processing center	+5,000,000
STS facility modifications	+2,150,000
Eglin AFB, Florida:	
Energy conservation investment program (ECIP)	−1,600,000
Composite management facility	−11,000,000
Eglin AFB (Auxiliary 9), Florida: Add to and alter recreation center	−1,200,000
MacDill AFB, Florida: RDF/REDCOM base	+2,300,000
Tyndall AFB, Florida: Petroleum operations complex	−5,240,000

Moody AFB, Florida, Georgia: Unaccompanied enlisted personnel housing	−4,000,000
Mountain Home AFB, Idaho: Add to gymnasium	−2,650,000
Chanute AFB, Illinois: Unaccompanied enlisted personnel housing	−10,800,000
Grissom AFB, Indiana: Unaccompanied enlisted personnel housing	−3,400,000
Various locations, Maine: Over-the-horizon backscatter radar operational support facilities	−6,000,000
Whiteman AFB, Missouri: Small arms range	+710,000
Unaccompanied enlisted personnel housing	−7,800,000
Malmstrom AFB, Montana: Unaccompanied enlisted personnel housing	−5,100,000
Offutt AFB, Nebraska: Add to and alter communications receiver facility	+3,805,000
Griffiss AFB, New York: Vehicle maintenance facility	−7,400,000
Minot AFB, North Dakota: Add to and alter gymnasium	−710,000
Altus AFB, Oklahoma: Dormitory	−2,100,000
Vance AFB, Oklahoma: Unaccompanied enlisted personnel housing	−8,000,000
Flight facilities maintenance shop	−500,000
Base flight operations facility	−900,000
CONUS Unspecified: Various MX support facilities	+16,700,000
SECGRUDET Diego Garcia: Upgrade/construct RDF facilities	−32,000,000
Ras Banas, Egypt: Upgrade/construct RDF facilities	+91,000,000
Bitburg AB, Germany: Convert to warehouse	−510,000
Geilenkirchen AB, Germany: Community support facility	−3,766,000
Landstuhl, Germany: Add to and alter aeromedical staging facility	−3,500,000
Sembach AB, Germany: Warehouse	−3,050,000
Osan AB, Korea: Publications management center	−650,000
Oman: Upgrade/construct RDF facilities	+51,100,000
RAF Bentwaters, United Kingdom: Warehouse	−310,000
RAF Fairford, United Kingdom: Add to and alter gymnasium	−1,100,000
Overseas Various: Contingency facilities	+13,000,000
Ground-launched cruise missile facility (GLCM)	+38,976,000
Worldwide Unspecified: General reduction	+5,000,000
Planning and design	+17,547,000
Total	+130,589,000

The conferees have approved the following projects to be funded out of savings from current and prior year programs:

Blytheville AFB, Arkansas: Composite support equipment and organizational maintenance shop	$1,533,000
Unaccompanied enlisted personnel housing	3,600,000
Eglin AFB, Florida: Composite management facility	11,000,000
Tyndall AFB, Florida: Petroleum operations complex	5,240,000
Moody AFB, Georgia: Unaccompanied enlisted personnel housing	4,000,000
Chanute AFB, Illinois: Unaccompanied enlisted personnel housing	10,800,000
Grisson AFB, Indiana: Unaccompanied enlisted personnel housing	3,400,000
Whiteman AFB, Missouri: Unaccompanied enlisted personnel housing	7,800,000
Malmstrom AFB, Montana: Unaccompanied enlisted personnel housing	5,100,000
Griffiss AFB, New York: Vehicle maintenance facility	7,400,000
Altus AFB, Oklahoma: Dormitory	2,100,000
Vance AFB, Oklahoma: Unaccompanied enlisted personnel housing	8,000,000
Flight facilities maintenance shop	500,000
Base flight operations facility	900,000

The conferees agreed to fund all other items in conference at the level proposed by the House, as shown below:

Maxwell AFB, Alabama: Readiness training facility	$7,300,000
Gila Bend, Arizona: Gymnasium	1,700,000
Blytheville AFB, Arkansas: Unaccompanied enlisted personnel housing	3,600,000
Little Rock AFB, Arkansas: Add to and alter child care center	570,000
Edwards AFB, California: Modernize satellite propulsion research facility	0
Travis AFB, California: Chapel center	2,400,000
MacDill AFB, Florida: RDF facilities (FY 82 Supplemental)	11,100,000
Chanute AFB, Illinois: Gymnasium	3,300,000
Andrews AFB, Maryland: Add to child care center	1,050,000
Whiteman AFB, Missouri: Add to child care center	540,000
Pease AFB, New Hampshire: Add to and alter gymnasium	290,000
Child care center	1,000,000
Brooks AFB, Texas: Add to chapel center	400,000
Kelly AFB, Texas: Education center	2,000,000
Langley AFB, Virginia: Child care center	550,000
McChord AFB, Washington: Gymnasium	3,700,000
Powell, Wyoming: Recreation facility	1,000,000
Osan AB, Korea: Child care center	510,000
RAF Lakenheath, United Kingdom: Child care center	1,450,000
RAF Upper Heyford, United Kingdom: Child care center	1,500,000
Overseas various: Minimum essential facilities	0
Worldwide unspecified: Access roads (Castle AFB, California)	4,400,000

Moffett AFB, California—Unaccompanied enlisted personnel housing

The conferees have agreed to fund this project at the $1,900,000 level proposed by the Senate. However, the Air Force is to verify to the Committees on Appropriations that the facility will not be used for personnel who will later be relocated to the consolidated space operations center in Colorado.

MacDill AFB, Florida—RDF/REDCOM base

The conferees agree to fund the proposed base support project at the $2,300,000 level proposed by the Senate. The Air Force is to review the current design of this facility and develop a final design that provides for the least costly per room cost and consequently more capacity.

MX support facilities

The conferees agree to provide $16,700,000 instead of the $36,700,000 proposed by the Senate. The conferees have denied $20,000,000 requested for test facilities at Vandenberg AFB. The funding recommended is for a $12,300,000 logistics facility at Hill AFB, Utah and a $4,400,000 guidance system repair facility at Newark AFS, Ohio. The Department has indicated that these facilities are required regardless of what MX basing mode is chosen. The Department is not to obligate the funds for these projects until the Committees on Appropriations have been notified as to the President's recommendation on how the MX missile is to be deployed.

Ras Banas, Egypt—Upgrade/construct RDF facilities

The conferees agree to fund $91,000,000 for Air Force RDF facilities at Ras Banas instead of the $125,600,000 proposed by the Senate. The House had recommended no funding. The Air Force funding is for airfields, POL distribution, utilities, desalinization facilities, and facility modifications. Further discussion of the Ras Banas program can be found under the Persian Gulf section earlier in this report.

Honduras—Contingency facilities

The conferees agree to funding in the amount of $13,000,000 for one airfield contingency project in Comayagua, Honduras. The Senate had provided $21,000,000 for contingency improvements; the House provided no funding. The second facility program in Honduras has been deferred without prejudice.

Ground-launched cruise missile facilities

The conferees agree to funding in the amount of $75,000,000 instead of the $85,400,000 proposed by the Senate and the $49,376,000 proposed by the House. The $75,000,000 will provide funding for each GLCM site proposed in fiscal year 1983 but does not allow for community support facilities, as outlined by the House.

Minimum essential facilities, Europe

The conferees have deferred without prejudice the $28,000,000 requested for collocated operating bases in Europe. The conferees agree that further efforts for increased NATO funding should be made and concur with the approach outlined in the House report.

Vandenberg AFB, California—Space shuttle facility

The conferees agree with the report language as contained in the Senate report. The conferees further agree that the Air Force is to notify the Committees on Appropriations 21 days prior to entering into any construction or advance procurement contracts for the space shuttle vertical assembly environmental shelter. This notification is to include the status of design, estimated construction cost, and terms of the anticipated contract.

Eglin AFB (auxiliary 9), Florida—Add to and alter recreation center

The conferees direct the Air Force to immediately accomplish the $1,200,000 addition and alteration to the recreation center through existing savings.

Amendment No. 7

Earmarks $120,000,000 for study, planning, design, architect and engineer services instead of $102,453,000 as proposed by the House and $147,453,000 as proposed by the Senate. Funds are to be obligated for MX planning and design as indicated under the MX section earlier in this report and also as stipulated by the language in the House and Senate reports.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

Amendment No. 8

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $339,770,000 for military construction, Defense Agencies, instead of $289,145,000 as proposed by the House and $305,143,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

DLA—Defense Property Disposal Office, Elmendorf AFB, Alaska: Covered storage	−$2,700,000
SECDEF—Armed Forces Radio and Television Service, Los Angeles, California: Radio and television studio	+2,825,000
SECDEF—Defense Installations, Mariana Islands: Land acquisition	+33,000,000
SECDEF—Overseas Classified Location: War headquarters facility	+13,000,000
SECDEF—Worldwide Unspecified: Planning and design	+4,500,000
Total	+50,625,000

The conferees agreed to fund all other items in conference at the level proposed by the House, as shown below:

Bamberg, Germany: Elementary school addition	$1,730,000
High school addition	1,740,000
Fulda (Zweibrucken), Germany: High school addition	1,780,000
Hanau, Germany: Elementary school addition	510,000
Kaiserslautern, Germany: Elementary school annex	7,967,000
Karsruhe, Germany: Elementary/high school addition	7,380,000
Mainz, Germany: Elementary school addition	2,830,000
Nelligen, Germany: Elementary school addition	950,000
Nuernberg, Germany: High school addition	2,820,000
Ramstein Air Base, Germany: High school addition	1,460,000
Vilseck (Ludwigsburg), Germany: Middle school addition	910,000
Wuerzburg, Germany: Elementary school addition	3,920,000
Guantanamo Bay, Cuba: Elementary school addition	510,000
Yokota AB, Japan: High school addition	5,660,000
Seoul, Korea: Elementary and high school addition	960,000

DOD dependents schools

The conferees have agreed to restore all funds requested for construction of DOD dependents schools. The high school addition project for $1,780,000 designated for Fulda, Germany in both the House and Senate reports is actually to be at Zweibrucken, Germany. The middle school addition project for $910,000 designated for Vilseck, Germany in both the House and Senate reports is actually to be at Ludwigsburg, Germany.

Mariana Islands—Land lease

The conferees agree to provide $33,000,000 of the $35,000,000 requested, based on the condition that prior to the obligation of funds, the Department is to determine whether acquiring either a long-term lease or a fee simple purchase of the proposed acreage on Tinian and Farallon de Medinilla only would be in the best interests of the United States and the Northern Marianas. If, after this determination, the Department still feels it necessary to exercise the lease option, the Committees on Appropriations are to be notified 30 days prior to entering into the agreement. The conferees have not recommended the $2,000,000 requested for development of a park.

Amendment No. 9

Earmarks $14,500,000 for study, planning, design, architect and engineer services instead of $10,000,000 as proposed by the House and $19,000,000 as proposed by the Senate.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

Amendment No. 10

Appropriates $54,958,000 as proposed by the House instead of $51,100,000 as proposed by the Senate. The conferees agreed to fund all items in conference at the level proposed by the House, as shown below:

Gary, Indiana: Armory	$1,800,000
Hazard, Kentucky: 150 person armory	792,000
Jackson, Kentucky: 150 person armory	937,000
Boston, Massachusetts: Armories	5,200,000
Jackson, Mississippi: 400 person armory	882,000
Ardmore, Oklahoma: 150 person armory	801,000
Okemah, Oklahoma: 100 person armory	606,000
Worldwide Unspecified: Exigent minor construction	8,000,000

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

Amendment No. 11

Appropriates $127,900,000 as proposed by the House instead of $106,800,000 as proposed by the Senate. The conferees agreed to fund all items in conference at the level proposed by the House, as shown below:

Libby Army Airfield, Fort Huachuca, Arizona: Runway/taxiway/apron	$12,600,000
Stewart Airport, New York:	
Site preparation	5,000,000
Jet fuel storage	3,000,000
Aircraft parking	2,500,000
Worldwide Unspecified: Exigent minor construction	7,000,000

MILITARY CONSTRUCTION, ARMY RESERVE

Amendment No. 12

Appropriates $41,800,000 as proposed by the House instead of $42,800,000 as proposed by the Senate. The conferees agreed to fund all items in conference at the level proposed by the House, as shown below:

Worldwide Unspecified: Exigent minor construction	$4,700,000

FAMILY HOUSING, ARMY

Amendment No. 13:

Appropriates $127,791,000 for Army family housing construction instead of $146,781,000 as proposed by the House and $117,611,000 as proposed by the Senate. The conferees have agreed to the following deletions to the amounts and line items as proposed by the House:

Fort Irwin, California	−$2,085,000
Grafenwoehr, Germany	−15,495,000
Hohenfels, Germany	−1,410,000
Total	−18,990,000

The conferees agreed to fund all other items in conference at the level proposed by the House, as shown below:

Aliamanu Military Reservation, Hawaii: Construct community facility	$4,100,000
Aberdeen Proving Grounds, Maryland: Rehabilitate 160 units	6,080,000

Aliamanu Military Reservation, Hawaii—Construct community facility:

The conferees have agreed to provide $4,100,000 for the first phase of the community center at Aliamanu Military Reservation. The inability of the Army to realize sufficient savings within this account to fund this project have made this action necessary.

Aberdeen Proving Grounds, Maryland—Rehabilitate 160 units:

The conferees have agreed to provide $6,080,000 to rehabilitate 160 units of family housing at Aberdeen Proving Ground, Maryland. The inability of the Army to realize sufficient savings within this account to fund this project have made this action necessary.

Amendment No. 14:

Appropriates $834,245,000 for Army family housing operation and maintenance as proposed by the Senate instead of $864,645,000 as proposed by the House.

Amendment No. 15:

Appropriates $1,005,220,000 for Army family housing instead of $1,054,610,000 as proposed by the House and $995,040,000 as proposed by the Senate.

FAMILY HOUSING, NAVY

Amendment No. 16

Appropriates $98,991,000 for Navy family housing construction instead of $104,091,000 as proposed by the House and $98,921,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

NS Long Beach, California	−$13,600,000
NATC Patuxent River, Maryland	+19,500,000
NS Guantanamo Bay, Cuba	−11,000,000
Total	−5,100,000

The conferees agreed to fund the new construction at MCMWTC Bridgeport, California, the only other item in conference, at the $8,470,000 level proposed by the House.

Amendment No. 17

Appropriates $736,300,000 for Navy family housing instead of $741,400,000 as proposed by the House and $736,230,000 as proposed by the Senate.

Leasing

The conferees are agreed that the Navy may use available funds from within this account to fulfill its contractural obligation for a lease/construct project in Italy to be beneficially occupied in fiscal year 1983, provided that funds to purchase this property are included in the fiscal year 1984 budget request.

FAMILY HOUSING, AIR FORCE

Amendment No. 18

Appropriates $110,904,000 for Air Force family housing construction as proposed by the Senate instead of $143,004,000 as proposed by the House. The conferees have agreed to the following deletions to the amounts and line items as proposed by the House:

MacDill AFB, Florida	−$2,300,000
RAF Bentwaters, United Kingdom	−29,800,000
Total	−32,100,000

Construction improvements

The action of the conferees on the per year limitation on foreign-owned family housing units is explained earlier in the report. The conferees direct that the proposed project at Ramstein AB, Germany be deferred in order that the other projects can be accomplished within the amount provided. The conferees do not intend to approve additional funds for the specific units approved for improvement under this limitation in future years.

Amendment No. 19

Appropriates $897,171,000 for Air Force family housing as proposed by the Senate instead of $929,271,000 as proposed by the House.

Miscellaneous account

The conferees have agreed not to provide any funds for accommodation charges in Great Britain and reiterate that they are not to be paid from any other account. The conferees further agree that those funds necessary for operation and maintenance charges at Zweibrucken AB may be paid.

FAMILY HOUSING, DEFENSE AGENCIES

Amendment No. 20:

Appropriates $513,000 for Defense Agencies Family housing construction instead of $433,000 as proposed by the House and $593,000 as proposed by the Senate. The conferees have agreed to the following addition to the amounts and line items as proposed by the House:

NSA classified project	+$80,000
Total	+$80,000

Amendment No. 21:

Appropriates $14,313,000 for Defense Agencies family housing instead of $14,233,000 as proposed by the House and $14,393,000 as proposed by the Senate.

GENERAL PROVISIONS

Amendment No. 22:

Restores House language which prohibits use of minor construction funds to transfer or relocate any activity from one base to another without prior notification to the Committee on Appropriations.

Amendment No. 23:

Restores section number 110.

Amendment No. 24:

Restores section number 111.

Amendment No. 25:

Restores section number 112.

Amendment No. 26:

Restores House language which prohibits the obligation of design funds for any site-specific facilities for the MX missile system until all terms, conditions, and requirements of the National Environmental Policy Act (42 U.S.C. 4332) are met.

Amendment No. 27:

Restores section number 114.

Amendment No. 28:

Restores section number 115.

Amendment No. 29:

Restores section number 116.

Amendment No. 30:

Restores section number 117.

Amendment No. 31:

Restores section number 118.

Amendment No. 32:

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 119. Pursuant to 10 U.S.C. 2394 and section 201 of the Military Construction Authorization Act, 1983, the Navy is authorized (a) to construct and operate a refuse derived fuel-fired electric power generating plant and (b) to contract for fuel supplies at the Norfolk Naval Shipyard (NNSY). Any electric power and fuel supplies produced in excess of the needs of the Navy may be sold: Provided, however, That any proceeds from such sales, adjusted for costs related thereto, shall be credited to the Treasury as miscellaneous receipts.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 33:

Adds Senate language, which reads as follows:

SEC. 120. None of the funds appropriated in this Act may be obligated or expended in any way for the express purpose of the sale, lease, or rental of any portion of land currently identified as Fort DeRussy, Honolulu, Hawaii.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1983 recommended by the Committee of Conference, with comparisons to the fiscal year 1982 amount, the 1983 budget estimates, and the House and Senate bills for 1983 follow:

New budget (obligational) authority, fiscal year 1982	$7,116,052,000
Budget estimates of new (obligational) authority, fiscal year 1983	8,211,827,000
House bill, fiscal year 1983	7,000,249,000
Senate bill, fiscal year 1983	7,099,708,000
Conference agreement, fiscal year 1983	7,043,040,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1982	−73,012,000
Budget estimates of new (obligational) authority, fiscal year 1983	−1,168,787,000
House bill, fiscal year 1983	+42,791,000
Senate bill, fiscal year 1983	−56,668,000

BO GINN,
TOM BEVILL,
W. G. HEFNER,
CLARENCE D. LONG,
JOSEPH P. ADDABBO,
BILL ALEXANDER,
JAMIE L. WHITTEN,
RALPH REGULA,
CLAIR W. BURGENER,
TOM LOEFFLER,
SILVIO O. CONTE,
Managers on the Part of the House.

PAUL LAXALT,
HARRISON SCHMITT,
JAKE GARN
MACK MATTINGLY,
JIM SASSER,
WILLIAM PROXMIRE,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

MAKING IN ORDER ON TODAY OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON H.R. 6968, MILITARY CONSTRUCTION APPROPRIATION, 1983

Mr. GINN. Mr. Speaker, I ask unanimous consent that it may be in order at any time today or any day thereafter, any rule of the House to the contrary notwithstanding, to consider the conference report and any amendments in disagreement on the bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

DISTRICT OF COLUMBIA APPROPRIATIONS BILL, 1983

Mr. DIXON. Mr. Speaker, pursuant to the order of the House on Tuesday, September 21, 1982, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7144) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Pennsylvania (Mr. COUGHLIN) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DIXON).

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from California (Mr. MILLER) as Chairman of the Committee of the Whole and requests the gentleman from Massachusetts (Mr. DONNELLY) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 7144, with Mr. DONNELLY (Chairman pro tempore) in the chair.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from California (Mr. DIXON) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. COUGHLIN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. DIXON).

Mr. DIXON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at this time we present to the House the fiscal year 1983 appropriation bill for the District of Columbia government. This bill, Mr. Chairman, appropriates all the city's revenues from taxes, fees, and charges as well as the Federal payment.

COMPARISON WITH BUDGET RESOLUTION AND PRESIDENT'S BUDGET

Let me say at this point that the bill is below the President's budget request by $34.4 million in both budget authority and outlays, and $24.4 million below the budget resolution in both budget authority and outlays. Legislation to increase the Federal payment ceiling by $24.4 million is presently awaiting conference action by the authorizing committees. If that amount is subsequently included in this bill prior to final action by the Congress, the bill will be the same as the budget resolution and $10 million under the President's budget request.

FEDERAL FUNDS

What we have here in terms of Federal money, Mr. Chairman, is a level of funding for fiscal year 1983 that is essentially the same as that provided last year. There is no increase whatsoever in Federal funds to cover the effects of inflation.

The Committee recommends a Federal payment of $336.6 million which is the same as the budget request and the amount appropriated for fiscal 1982. The bill also includes a Federal contribution of $52,070,000 to the police, fire, teachers, and judges pension system; $11.8 million for water and sewer services furnished to Federal facilities, and $145 million in Federal loans to finance the city's construction program. These loans are repaid to the Federal Treasury over a 30-year period with interest at the market rate set at the time the loan is made.

Mr. Chairman, all of these Federal funds total $545,470,000 for fiscal year 1983 and reflect a decrease of $11.7 million below last year's level and, as I mentioned a moment ago, $34.4 million below the fiscal year 1983 budget request.

The Committee recommends language that will withhold the Federal payment until the number of police officers is at least 3,880, the number mandated and funded since 1981 but never put on board. Mr. Chairman, those officers are needed on the streets of our Nation's Capital, but District officials have not complied with the directives that Congress has included in the joint House-Senate conference reports. Since the conference report on the 1981 bill was filed on November 21, 1980, to the time of our markup last month, the net increase in the number of officers has been 39—instead of the 226 directed by the Congress.

The Committee has been flexible, understanding, and believing; but Mr. Chairman, the numbers just are not there. So the Committee agreed unanimously to place language in the bill withholding the Federal payment until such time as the number of police officers reaches 3,880. And to discourage any attempt to lower the entrance requirements, the new officers must meet the same qualification standards that were in effect on August 19, the date the subcommittee marked up.

DISTRICT FUNDS

Mr. Chairman, we recommend $1,971,653,200 out of the District's treasury. This amount consists of $1,883,638,700 for operating expenses and $88,014,500 in budget authority for capital outlay projects. Overall, this is a net increase of $66,395,000 or 3.5 percent above last year's level and $9,896,200 below the budget request for fiscal year 1983.

EMPLOYMENT LEVEL

I believe considerable progress is being made by the District in trimming its employment base. In 1980, there were 39,105 positions in the District government. In the bill that is now before you, a total of 32,215 positions are recommended, or a reduction since 1980 of 6,890 positions or 17.6 percent.

This has been done through various management and administrative improvements which District officials have carefully implemented so as to maintain, and in some cases even improve, the delivery of essential municipal services.

GOVERNMENTAL DIRECTION AND SUPPORT

The Committee recommends a total of $68,312,200 for the various activities funded under this appropriation. A new program is funded in the budget at a level of $750,200 to compensate victims of violent crime who have sustained medical injury or economic loss and have exhausted their resources in treating the injury or loss. According to testimony received by the Committee, this program is similar to programs successfully operating in 34 States. An additional $415,200 and three new positions are recommended for the Council, the District's legislative branch. The committee has added $3,126,600 in Office of Financial Management to continue the implementation of the city's new Financial Management System. A minimum of $38 million in Federal and District funds have been spent so far to design and implement this system which is vital to the city's financial well-being and credibility. It is therefore essential that adequate funding be provided so that the system will serve the purpose for which it was intended—to maintain the financial integrity of the District of Columbia.

A total of $1,611,800 and 36 positions are recommended for the Board of Elections and Ethics. Mr. Chairman, the Committee is concerned about the Board's past experience in conducting local elections. These concerns were expressed at the time the supplemental appropriations bill for 1982 was under consideration and we have asked the Mayor to submit a report within 30 days as to the performance and procedures employed during the recent election. The voters in the District are entitled to a simple, workable and efficient voter system.

For the District of Columbia Retirement Board, we recommend the full budget request of $1,689,000 and seven positions to oversee the investment of pension funds for the police, fire, teachers, and judges. These funds are expected to total $300 million by the end of 1983. Mr. Chairman, the Committee received testimony that incomplete and insufficient personnel records are being provided by the District to the Board's actuary and as a result, the actuary's valuation has been inaccurate. For 1981, this problem involves $14.3 million. This amount has been earmarked in the Federal payment authorization bill which will increase the Federal payment by $24.4 million. That bill is awaiting conference action, and if the earmarking provision is adopted by the conferees, I will recommend to the Committee that $14.3 million of the additional $24.4 million Federal payment be appropriated to eliminate the fiscal 1981 deficit. In addition, we have included language in the Committee report directing that deficits or overages in 1 year be reflected in the budget for the following year so that the problem caused by inaccurate or incomplete information will be minimized. The Committee is recommending in this bill the full budget request of $137.5 million as the District's contribution to the three retirement funds in fiscal year 1983.

Mr. Chairman, the bill includes $150,000 to continue the implementation of the District of Columbia Statehood Constitutional Convention Initiative which was approved by District voters in November, 1980. The Convention, consisting of 45 elected delegates, was convened on January 30, 1982, and a proposed constitution was approved by 36 delegates on May 29, 1982 and will be presented to District voters for their approval or disapproval on November 2, 1982. In order to provide District voters with the necessary information so they can make an informed decision, language is included in the bill which requires that first call on these funds shall be for printing and distributing the proposed constitution together with objective statements both for and against its provisions by October 15, 1982. The Committee believes it is important that the voters understand the issues before they vote.

ECONOMIC DEVELOPMENT AND REGULATION

Mr. Chairman, the bill includes a total of $58,263,400 for 1983 for the 16 departments and agencies funded through this appropriation. During the hearings we received testimony that the District's elements of the comprehensive plan have been completed and will be made available for general community review starting in October 1982. We also received testimony from one of the Nation's leading urban planners, Prof. Dorn C. McGrath, Jr., whose testimony I would characterize as constructively critical of the District's planning process. In his testimony Professor McGrath emphasized the importance of the comprehensive plan to the District of Columbia. The Committee is encouraged with the progress that has been made in the last few years and has urged District officials to move ahead toward adopting an adequate and workable comprehensive plan.

Increases of $4.4 million are included in the bill under the Department of Housing and Community Development for the Alabama Avenue renaissance program. These funds will be used to finance the rehabilitation of vacant and boarded-up apartments and provide home purchase assistance loans. The Committee has also approved $4.9 million for increased utility costs in the low-income housing program.

For the Office of Business and Economic Development, the bill includes an increase of $70,500 to establish a technical assistance unit which will provide small businesses with technical counsel, assistance, and resources including site identification and maintenance as well as assistance with tax and financial matters. Additional funds and personnel are also provided to the Department of Finance and Revenue to improve its tax collection efforts.

The Committee recommends $400,000 and 12 positions for the Commission on Licensure to Practice the Healing Arts. This allowance is $190,900 and seven positions above the budget request and is being recommended by the Committee following testimony that indicated the Commission is unable to protect citizens of the District from improper or illegal practices of persons licensed under the Healing Arts Practice Act of 1976 with the budget as submitted. The Committee was also advised that in 1980 the annual medical license renewal fee for District physicians was tripled with revenues in excess of $1.1 million going to the District's general fund with no appreciable increase in the Commission's budget.

PUBLIC SAFETY AND JUSTICE

For public safety and justice, we recommend a total of $405,111,600. Mr. Chairman, in each of the past 2 years, the Committee has been urging District officials to increase the police force from 3,654 officers up to 3,880 officers. Funding has been provided in each of those bills to maintain an average strength of 3,880 officers. However, problems have been encountered in the hiring process, and over a period of 21 months—from the time the fiscal 1981 conference report was filed on November 21, 1980, to August 19, of this year, the date of our markup—the net increase in the police rolls has been 39 instead of the 226 mandated by the Congress. The Committee has received repeated assurances that the congressional mandate would be met and that the hiring process was progressing. On March 25, 1982, the Mayor sent a letter to the Committee "* * * announcing a series of steps by the Metropolitan Police Department which will place additional officers on the streets within the next several months." The Mayor also stated that the uniformed strength was 3,745 at the end of February; however, 5½ months later, on August 12, the uniformed strength was 3,693, or 52 below the February level. The Committee has tried to be flexible, understanding, and believing, but the statements made by District officials have not been supported by action. Accordingly, the Committee recommends language in the bill stating that the Federal payment shall not be made available to the District of Columbia until the number of full-time uniformed officers is at least 3,880 with no relaxation of the qualification standards for recruits. The Committee has been advised informally that the recruiting process is progressing well and the District expects to meet the requirement of 3,880 officers on board by October 1, 1982.

For the Fire Department, we recommend an increase of $1,774,900 and 20 positions which will permit the Department to continue operating 50 fire-fighting companies and 17 emergency ambulance units in 1983.

Mr. Chairman, the condition of the fire houses was brought to the Committee's attention by public witnesses during the hearings. The conditions described by the witnesses were not very favorable, so I visited some of the firehouses and found the conditions to be exactly as described. We have directed the Department to apply the maintenance funds recommended in the bill to make repairs and renovations at those stations since they are in far worse condition than the ones on the Department's schedule for repairs. Also, Mr. Chairman, we have directed the Department of General Services to look at the alternative of renovating several facilities with the funds required to construct one new facility.

For the courts we recommend $44,888,800 and 1,092 positions, a net increase of $3,693,200 and 19 positions above the 1982 level. A total of $4,150,300 is included for the Criminal Justice Act program which provides indigent defendants with court-appointed private counsel. Increases totaling $7,507,600 and 89 positions are recommended for the Department of Corrections. Funds are included to cover the costs of an out-of-court settlement which requires that improvements be made as far as living conditions are concerned and that security arrangements at the central facility be improved. Part of this increase will be

used to annualize the cost of operations at the Occoquan facility which was opened in 1982 to house misdemeanants. The bill includes increases of $2,350,000 to restore funding for program staff and $208,000 for the costs of inmate care for a projected increase of 100 residents in the various correctional facilities. A total of $15,328,000 is included in the bill to reimburse the Federal Bureau of Prisons for the costs involved in housing District prisoners in Federal facilities.

Under the Office of Criminal Justice Plans and Analysis we recommend $250,000 to replace expiring Federal grants for a law school clinical program which will provide civil legal services to indigent persons by using third-year law school students.

PUBLIC EDUCATION SYSTEM

The bill includes a total of $434,171,200 for the District's public education system and reflects an increase of $50,249,600 above the fiscal year 1982 level. Increases totaling $42,233,500 are recommended to reduce the pupil-teacher ratio and make other improvements in the public school system. The Committee has transferred the responsibility for funding the driver education program to public schools from the Department of Transportation, and has directed that the program be funded out of the increases approved for public schools.

The Committee recommends a total of $882,400 and seven positions for the Commission on the Arts and Humanities. This allowance reflects a net increase of $121,200 above the adjusted base and includes the requested increase of $10,100 for pay adjustments in 1983 as well as a 20-percent increase in program support instead of the 100-percent increase requested. Mr. Chairman, the budget for the Commission has increased 148 percent over the past 3 years, from $356,400 and three positions in fiscal 1980 to $882,400 and seven positions recommended in 1983.

Mr. Chairman, the bill includes $171,300 and five positions for the Educational Institution Licensure Commission. It was been brought to the Committee's attention that the incentive for a number of institutions in the District seems to center on the availability of Federal funds to benefit proprietors rather than educational programs to benefit students. The Commission testified that the level of funding in this bill will be sufficient to allow the Commission to carry out its functions and responsibilities in monitoring the quality of education in the city and thereby protect District residents and others from misrepresentation by educational institutions or their agents. The Committee once again urges District officials to adopt a fee schedule that will provide sufficient revenues to the city to offset the Commission's costs.

HUMAN SUPPORT SERVICES

The Committee recommends a total of $450,550,800 for the 12 agencies funded through this appropriation. For the Office on Aging, the bill includes a total of $4,856,100 which is $1,016,200 above the 1982 level. This increase will allow the office to expand its long-term care service delivery system which has as its primary aim the postponement of institutionalizing senior citizens by providing in-house health and homemaker services as well as home delivered meals and transportation services.

A total of $13,430,000 is recommended for four programs designed to provide jobs for various categories of unemployed persons, including the summer youth jobs program which serves 5,200 city youth between the ages of 15 and 21 years, by providing subsidized work at the minimum wage for a period of 20 to 40 hours a week for 9 weeks during the summer.

The bulk of the budget under this appropriation is for the Department of Human Services which will receive a total of $315,636,500 to carry out its programs and activities in 1983. The Committee recommends $194,600 for the Office of Veterans Affairs. This allowance is the same as appropriated in 1982 but $35,800 above the request for 1983. For the medicaid/medical charities program, the bill includes an increase of $9,320,100 which will provide a total of $179,975,000 in Federal and local funds for this program which, according to testimony, provides 130,000 District residents with comprehensive medical care which they are economically unable to provide for themselves. A total of $12,089,900 is recommended for the city's day care program for services provided though licensed day care centers, family day care homes, and in-home caretakers. In addition to this allowance, which is $850,000 above the 1982 level, the committee recommends $50,000 for the Family Services Administration to conduct a needs assessment for day care in order to target day care services to the population in greatest need. The committee recommends $19,070,300 to cover payments for board and care in contract foster homes and the subsidized adoption program which was developed to assist in placing children 5 years old and above who meet specific qualifications related to handicapped conditions, family relationships, and ethnicity.

Mr. Chairman, several members have inquired about Forest Haven, the city's institution for the mentally retarded and developmentally disabled. We recommend the full budget request of $21,767,900 which is $1.7 million above the 1982 level. There are 620 residents at the facility and the District plans to place 100 of those individuals in less restrictive settings in the community. An additional $3,871,100 is included in the bill to cover the relocation and support requirements which will be handled through contractual arrangements with vendors in the private sector who will provide group and foster homes for these 100 residents.

The committee continues to be concerned that the Department has been unable to regain medicaid accreditation for 400 beds. Forest Haven lost its accreditation in December 1980 and regained certification of only 154 beds in June 1981, even though Congress has approved the full budget requests for operating expenses and capital improvements for the past several years. The committee has directed the Department to move aggressively to regain full medicaid certification.

The bill includes $26,548,700 for payments to Saint Elizabeths Hospital to cover per diem costs of mental health care which District residents receive at the hospital. Language is also included in the bill which will allow the hospital to be certified to receive medicaid reimbursements at the discretion of the Federal Department of Health and Human Services. The allowance recommended by the committee is $3.6 million or 15.7 percent above the 1982 appropriation and reflects an increase that is twice the 7.2-percent rate of increase in the hospital's total operating budget for 1983. Although this increase is $9 million less than the increase requested in the President's budget, the committee supports the concept that the District's share of the operating costs of the hospital must increase to a level which reflects the heavy use of these services by District residents; however, it does not feel that such a large increase can be absorbed by the District government on such short notice. The committee urges the Federal Department of Health and Human Services to work closely with District officials in developing a fiscal year 1984 proposal which will accomplish this goal over a reasonable period of time.

Mr. Chairman, the final item under this appropriation is the complementary energy assistance program. The bill includes $3 million which will be used to provide assistance in the form of cash payments directly to 3,800 eligible recipients with household energy and utility expenses.

TRANSPORTATION SERVICES AND ASSISTANCE

We recommend $135,712,700 for the three activities funded under this appropriation. This allowance is $15,681,200 above the 1982 level and includes $1 million to improve and integrate three automatic data processing systems for motor vehicle registration operations and traffic violations which should increase revenues by $5.6 million annually after the system is fully implemented. Increases of $379,700 and 16 positions are included

to expend the department's coverage in residential permit parking areas, and the request for $1,042,100 for the towing program has been approved. The bill includes $92,085,700 for the District's share of the operating expenses and debt service for Metrorail and Metrobus operations. Increases of $7,766,300 are provided for inflationary costs in salaries and fuel purchases as well as to cover interest charges on revenue bonds. Funds are included for the small bus program. According to the justifications the small bus is quieter, lighter, and offers fuel economy and maneuverability. The objective of this program is to minimize Metrobus operating costs and increase transit ridership and availability.

ENVIRONMENTAL SERVICES AND SUPPLY

Mr. Chairman, we recommend $38,337,000 from the general fund for the Department of Environmental Services and for payments to the Water and Sewer Fund. A total of $32,910,000 is included in the bill for the collection and disposal of solid waste and for the street and alley cleaning functions of the Department of Environmental Services. Savings of $852,000 have been realized from the "supercan" program and have been redirected to meet inflationary increases in supplies, heating fuel, electricity, and other services. The committee recommends $5,427,000 for payment from general fund revenues to the water and sewer enterprise fund to cover the cost of water consumption and sewer service which District Government agencies will receive in 1983. The committee has denied the request for $11,803,500 for an operating subsidy from the general fund to the water and sewer enterprise fund.

The committee continues to be concerned about problems in water billing and collection. In last year's bill funds were provided to contract out these functions, and a reprograming request in the amount of $6,316,200 was approved recently to make further improvements in the water revenue division and replace residential and commercial meters. These actions by city officials are evidence of a serious commitment to make further improvements in water billing and collecting so that water bills will be correct and payments will be collected.

PERSONAL SERVICES

The bill includes $17,100,000 for unallocated cost-of-living or pay adjustment costs in 1983. This amount is included in a separate appropriation title because some collective bargaining agreements had not been signed at the time the budget was developed. In addition to this unallocated amount of $17,100,000, an across-the-board pay increase of 5 percent is included in agency budget requests and totals $42,382,200 which makes a grand total of $59,482,200 for various cost-of-living salary increases in 1983. Merit promotions and within grade salary increases are excluded from these amounts.

REPAYMENT OF LOANS AND INTEREST

The bill includes $142,204,200 to repay the Federal Treasury the amount due in fiscal 1983 on the $1.6 billion in outstanding loans borrowed by the city to finance its capital program which encompasses highway construction, water and sanitary sewer systems, and general public works projects. This amount is $16,143,600 higher than the appropriation for 1982 and reflects debt service on loans received by the District through September 30, 1980, 2 years ago.

REPAYMENT OF GENERAL FUND DEFICIT

Mr. Chairman, the committee recommends $20 million as the second appropriation installment to be applied toward reducing the cash portion of the District's $309 million accumulated general fund deficit. This allowance is $17,103,500 above the budget request of $2,896,500, $4,500,000 above the Mayor's request to the Council, and $10 million above the 1982 appropriation.

District officials are to be commended for reducing the deficit from $388 million in 1980 down to $309 million in 1981 with a further decrease of $13.1 million expected in fiscal 1982, which will bring the deficit down to $296 million. With the $20 million included in this bill, the deficit is expected to total $276,410,000 as of September 30, 1983. The committee has directed District officials to develop an alternative plan by April 15, 1983, to retire the deficit without selling bonds.

ENERGY ADJUSTMENTS

The bill includes language authorizing the Mayor to reduce the energy budget within one or several of the appropriation titles by $2,078,000 due to the reduction that has taken place in the price of petroleum products since the Mayor submitted the District's budget to the Council.

CAPITAL OUTLAY

Mr. Chairman, we recommend a total of $88,014,500 for 47 construction projects for fiscal year 1983. These projects cover a wide range of programs located throughout the city. More than half of these funds or $53,801,000 are for transportation and sanitation related projects, such as the resurfacing of streets, safety improvements, bridge rehabilitation, and subway construction, as well as the replacement of sanitary sewers and undersized and defective water mains. We recommend a total $16,811,000 in District funds which will be matched with $42,832,000 in Federal funds and provide a total of almost $60 million to upgrade and resurface obsolete or deteriorated elements of the city's street system. Thirty-one miles of roadway will be completely repaved. The bill includes $3,997,000 to be matched with $19,463,000 in Federal funds for a total of $23,460,000 for bridge replacement and rehabilitation in fiscal year 1983, the third year of the city's 15-year systematic bridge rehabilitation program. The bill includes $21,687,000 as the District's share of the regional subway and bus system. Almost $19 million of that amount will be used to continue the construction of the 101-mile Metrorail system and $2,787,000 is to modernize the bus fleet, including the purchase of 22 small buses which offer better fuel economy and maneuverability.

A total of $8,810,000 is recommended for the city's Department of Environmental Services. These funds will be used to reduce drainage and flooding problems as well as replace deficient sanitary sewers throughout the city's sewer system before they become dangerous. A total of $1,155,000 is recommended to maintain the District's watermain system and reinforce weak points in the water distribution system.

Mr. Chairman, it is no secret that the basic infrastructure of our country—our bridges, roads, and sewage systems—are eroding. The only difference here in the Nation's Capital is instead of simply talking about it, District officials are moving ahead and doing the work that has to be done before the situation becomes serious and the costs excessive. And, Mr. Chairman, this speaks well of the city's Transportation and Environmental Services Directors.

We recommend $1,250,000 for the fire department to purchase fire apparatus and to make permanent improvements at several fire stations. A total of $10,620,000 is recommended to modernize and make improvements at two public housing projects. Part of these funds will be used to correct deficiencies and make property changes for residents with special needs, such as handicapped and older persons. Four projects and $1,605,900 have been approved to allow the courts to install a video surveillance security system in the courthouse as well as renovate and rehabilitate three auxiliary court buildings. A total of $4,200,000 has been approved for the Department of Corrections to relieve some of the overcrowding at Lorton. Eight million dollars are recommended for the public school system to make permanent improvements such as major roof repairs and the updating of electrical systems at various schools throughout the city. For the Office on Aging, $2,083,900 is recommended to complete the renovation and modernization of the Washington Center for Aging Services. These funds will be used to increase the capacity of the Center and thereby accommodate additional clients. The request for $913,700 is recommended to renovate a branch library and modify restroom

facilities to accommodate handicapped persons at various libraries throughout the city. We recommend $1,225,000 to complete the renovation and modernization of the Cedar Knoll Institution for the care and treatment of delinquent youth, and $650,000 for air-conditioning and elevator improvements at three mental health facilities. Two projects and $1,660,000 are recommended to replace steam and hot water lines throughout D.C. General Hospital and make major roof repairs throughout the hospital complex.

WATER AND SEWER ENTERPRISE FUND

The bill includes $107,195,000 for the three activities funded under this appropriation. A total of $76,355,500 and 970 positions are recommended for the Department of Environmental Services to carry out its responsibilities in distributing potable water and collecting and processing waste water. The committee recommendation is $7,280,600 above the 1982 level and $2,166,600 below the request.

The committee recommends $14,113,900 and 300 positions for the operation of the Washington Aqueduct which collects, purifies, and pumps potable water for the District of Columbia. The appropriation recommended by the committee is $1,532,600 above the 1982 level mainly to cover inflationary increases in the costs of electrical power, supplies, fuel, and communications.

REPAYMENT OF LOANS AND INTEREST

The bill includes $16,726,500 for debt service on outstanding loans from the Federal Treasury for capital projects under the water and sewer fund. These projects are administered by the Washington Aqueduct and the Department of Environmental Services and involve the rehabilitation and improvement of the District's water and sewage treatment facilities as well as the rehabilitation and extension of water and sewer lines.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

The committee recommends the full budget request of $7,574,000 and 70 positions for the operation and administration of the Washington Convention Center which is expected to be completed in late calendar year 1982 with its first event booked for January 5, 1983. I am pleased to report to the House that the committee was advised that construction of the center is on schedule and is expected to be completed within the $98.7 million previously appropriated.

Included in the committee's recommendation is $2.3 million for the purchase of 10,000 theater-style seats on risers to provide general assembly type seating arrangements. According to testimony received by the committee, several conventions now require such seating and the alternative to these permanent retractable seats is to construct temporary platforms which is time consuming as well as costly both in terms of fabrication costs and lost revenues due to salable dates being tied up with the construction and dismantling of seating platforms.

Mr. Chairman, the committee received testimony from the Chairman of the Convention Center Board who stated that

> . . . the sole purpose for building this long-overdue facility—is to attract the hundreds of major national and international conventions, conferences and trade shows, and their hundreds of thousands of delegates and exhibitors, to our city . . .

Other Convention Center officials testified

> . . . that the objectives of the building were to develop the income from the out-of-town convention delegate . . .

A third official testified that

> The total justification for our building is not only to create new exhibit areas but to impact on hotels.

Furthermore, the booking policy of the Center states that the primary purpose of the Center is to serve a market that is not in competition with currently available facilities.

Accordingly, the committee has included language in the bill based on testimony received by the committee from the Board Chairman and others as to the purpose and objective of the Convention Center. The language is in section 123 of the general provision.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

The bill includes $1,184,500 in non-Federal funds and 41 positions for the Lottery and Charitable Games Control Board in fiscal 1983. The committee's allowance is $537,500 and 27 positions above the 1982 appropriation and will allow the Board to control the lotteries and daily numbers games and to regulate and monitor the operation of bingo and raffles by agents authorized by the Board.

The Board is expected to generate revenues of $84,284,500 of which $1,184,500 will be for its administrative expenses; $58,100,000 will be paid out as prizes, commissions, and vendor fees; and $25 million will be transferred as revenues to the District's general fund.

At the committee's request, the General Accounting Office has reviewed the language included in the fiscal year 1982 bill (Public Law 97-91; 95 Stat. 1174, 1175), which established the Lottery and Charitable Games Enterprise Fund, and has concluded that the language is permanent legislation except for the specific amount of the appropriation which was for fiscal year 1982.

Although the permanent legislation does not specifically refer to fees to ticket agents and contractors supplying gambling paraphernalia or services, it is clearly the intent of the committee that fees be paid by the Board from revenues generated by its operations, in accordance with all laws, regulations, and policies of the District of Columbia government regarding appropriated funds.

GENERAL PROVISIONS

A number of general provisions are carried in the bill and are summarized on pages 80 through 82 of the report. In addition to the usual ones that are carried from year to year, language has been retained under section 118 identical to that in the 1980, 1981, and 1982 bills, prohibiting the use of Federal funds to perform abortions except to save the mother's life or in cases of rape or incest. Language under sections 127 and 128 deal with limitations and restrictions on the salaries of District employees. Section 127 authorizes the Mayor to set the salary of the City Administrator at a rate not to exceed the maximum statutory rate established for level IV of the Federal Executive Schedule and provides that this salary may be payable to the City Administrator during fiscal year 1983. Section 128 removes District employees from the Federal employee pay ceiling and provides that the pay setting authority shall be the District's Merit Personnel Act, as authorized by the Home Rule Act, rather than title 5 of the United States Code which was the pay setting authority prior to home rule.

CONCLUSION

Mr. Chairman, in these few minutes I have attempted to provide you with the highlights of the bill. The committee report explains our actions in much more detail and is available to all Members.

We have tried to bring to you a bill that preserves the integrity of Home Rule while at the same time protects the Federal interest. That is not an easy thing to do. Some Members may feel we have gone too far while others probably feel we did not go far enough. But this bill comes to you after days and weeks of hearings and deliberations with numerous witnesses.

I would be remiss if I did not thank the subcommittee members for their hard work and dedication in bringing this bill to you: Mr. NATCHER of Kentucky; Mr. STOKES of Ohio; Mr. WILSON of Texas; Mr. LEHMAN of Florida; Mr. GREEN of New York; and Mr. PORTER of Illinois.

Last but by no means least, I want to extend my sincere appreciation to the gentleman from Pennsylvania (Mr. COUGHLIN) who serves as the ranking member of our subcommittee. His knowledge and experience were very evident during our hearings and markup and I just want him to know that I appreciate his assistance and cooperation very much.

Mr. Chairman, this is a good bill.

It provides the District with the full authorized Federal payement of $336.6 million, which is the same level as last year;

It continues the city's efforts to reduce the accumulated general fund deficit;

It provides for 6 percent fewer positions than in fiscal 1982;

It funds all programs at or above their 1982 level; and

It is below the budget resolution and the President's budget in both budget authority and outlays.

Mr. Chairman, I urge my colleagues to support this bill.

Mr. LEHMAN. Mr. Chairman, I rise in strong support of H.R. 7144, District of Columbia appropriations for fiscal year 1983. Chairman DIXON has done an excellent job in balancing different points of view and still meeting the needs of the District.

We have tried to respect home rule while at the same time protect legitimate interests of the Federal Government.

I believe our committee has acted responsibly in its decision to withhold the Federal payment until the number of police officers is brought up to 3,880. Good intentions notwithstanding, many promises have been broken and the committee was left with no choice but to take this very serious step. I sincerely hope that we will not have to hold up the Federal payment and I am glad that the city has begun to show progress toward the hiring of additional police.

The bill is below the President's budget request, even taking into account the likelihood that we will provide additional funds for the Federal payment later in the fiscal year. I intend to support increasing the payment as soon as the authorizing legislation has been enacted.

Mr. Chairman, I believe all areas of the city's budget have been treated fairly and I urge my colleagues' support for this bill.

□ 1440

Mr. PORTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the District of Columbia Subcommittee bill, H.R. 7144, coming out of the subcommittee on which I serve.

This bill is under the President's budget and has, I understand, the administration's support on its proposed spending levels.

Mr. Chairman, I have supported amendments in the subcommittee that will help keep the city's finances solvent and under control in fiscal year 1983.

An amendment with my support was added to this bill requiring the city to set aside $20 million for accumulated debt retirement in fiscal year 1983. This sum of $20 million is less than the $30 million originally in the city's own debt retirement plan presented to the Congress a year ago, but it is a step in the right direction of helping the District government meet its accumulated deficit of over $300 million in operating funds alone.

I continue to have serious reservations as to whether the District's budget will end in balance for fiscal year 1982. In my judgment, Congress should set aside an additional reserve fund of say $20 million or more from a portion of those surplus tax revenues above projections accruing in the fiscal year 1982 to the city, to meet the numerous projections of deficits we have received from the District's own Auditor, as well as from other District and independent officials on the 1982 budget.

However, I do support this bill and will work in conference to improve on the set-aside necessary to meet District debts owed and accumulated deficits in operating expenses.

On another matter, I would like to bring to the attention of Members that despite our bill and conference report language of last year, and numerous inquiries we have made of the City Planning Director, Congress still has not received the completed master comprehensive plan for land use and zoning in the Nation's Capital. This master plan has been promised at least since 1978. Last year Congress mandated that it be completed and presented to the public in fiscal year 1982. We have not yet seen it, despite Mayor Barry's and Jim Gibson's personal promises to us earlier this year. I view this matter very seriously and would urge the Mayor to bring forth the comprehensive master plan just as quickly as possible.

On another matter, I commissioned a GAO report on the status of voter registration and voting roles this spring with an eye toward potential performance in the September 14 primary elections. The GAO reported to Congress, and we in turn to the Mayor of the District of Columbia, that the Board of Elections and Ethics situation was calamitous, and that there would be utter chaos at the polls when the District residents came to vote on September 14.

Shortly after, the Mayor appointed Teddy Philosophos to the post of Director. Well, we all know the results of that day. Mr. Philosophos has resigned; 20,000 and more votes were challenged on September 14 and over 5,000 allegedly were disqualified. Many more registrants' names have disappeared and the chaos remains as we approach the November elections. Something simply must be done about this situation in the Nation's Capital with respect to our citizens' voting rights.

At minimum, at my suggestion, language has been incorporated in the committee report today requesting a full report to the House within 30 days on the September 14 primary performance by the Board of Elections and Ethics. Members should scrutinize this report carefully with an eye toward future congressional action if this situation is not cleared up.

On another matter, the subcommittee has agreed to reinsert language continuing current law banning advertising and the playing of lottery and bingo under the District's new legalized gambling law in the Federal enclave, in the national historic area of Old Georgetown, and advertising on the Metro and other public transportation. These are areas of Federal interest where thousands of our constituents and foreign visitors come to see the District of Columbia each year. I see a strong and continued Federal interest preventing commercial exploitation in the Federal and historic areas. I would urge Members to insist that we continue the current prohibitions. My understanding is that the other body will try to lift the current restriction on the advertising of gambling operations in the Metro and other public transportation in this year's bill. I oppose lifting these restrictions and so do my chairman, the gentleman from California (Mr. DIXON) and the ranking minority member, the gentleman from Pennsylvania (Mr. COUGHLIN).

I also oppose the District government's efforts in the guise of a "technical" correction in the other body's bill to lift the congressional action of last year limiting the gambling operations in the national historic district of Old Georgetown. I hope my colleagues will support the committee on this compromise that was worked out with the Mayor of the District of Columbia and with the officials of his office and with the other body in conference last year, keeping gambling out of the Federal areas and the national historic districts that are visited by so many foreign visitors and so many of the people of this country.

This is our National Capital. It is a beautiful and gracious one; of all that I have seen, the most beautiful and gracious. We are very proud of it. We ought to do more to protect it, to help it grow, to restore its promise and the inspiration it provides to all our citizens.

Through the vision and patient, practical efforts of a few extraordinary citizens, we have seen in recent years the preservation, establishment, and protection of such national treasures as the C&O Canal National Park, the Kennedy Center, and others. We ought to be alert to such important matters, to protect our national heritage. For instance, it has come to our attention that a monument and restoration of the Francis Scott Key Home is needed and work is underway. Here,

right near the Key Bridge in Old Georgetown, is where Francis Scott Key lived and worked when he made that fateful trip to Baltimore, witnessed the British bombardment, and in the emotion of the moment, penned what has become our national anthem. How can we fail to protect and memorialize in our National Capital such a momentous achievement? There is nothing in this particular bill on the subject of a memorial to Francis Scott Key. His home, what is left of it, remains razed and unnoticed by most of us. I urge Members to help me take some needed action to rectify this negligence with respect to the Francis Scott Key Home, and I will work in the subcommittee with others on this particular matter as well.

Other matters on which I have worked in the subcommittee to help bring to the floor in this bill today are the limitations imposed on the use of the $150,000 of additional moneys for promotion of the District's statehood constitution. Witnesses before our subcommittee testified as to the possibility of misuse of these moneys unless some restrictions were enacted to provide for the necessary balance among proposed expenditures. Our language in the report provides for copies of the proposed constitution to be distributed and for preparation of a legislative history for the education of the public prior to this November's vote by the citizens of the District.

The restrictions imposed by the subcommittee do in no way prejudge or otherwise intervene in the normal order under existing law for action on the proposed constitution by District citizens. This was not our subcommittee's intention and should not in any way be interpreted as other than a limitation on the use of the $150,000 in the bill.

Another matter I brought to the attention of the subcommittee is discussed on page 32 of the committee report. This has to do with the reported shortfall of $14.3 million in the District's required payments to the District Retirement Board for the payment of pensions to police officers, firefighters, judges, and teachers. The Board Chairman testified before our subcommittee on the accuracy of this projected shortfall of $14.3 million required to eliminate the fiscal year 1981 deficit. During House debate on the Parris amendment on this subject, the House of Representatives clearly manifested its opinion that the fiscal year 1981 bill owed by the city should be paid at once. I intend to continue working in the House-Senate conference to assure full payment to the fund for our teachers, police, and firefighters pension. The Congress must recognize that unless prompt action is taken on the projected and actual unfunded pension liability, eventually the Nation's taxpayers will pick up the entire tab on this District of Columbia liability, or the pensions owed will go unfunded, a catastrophe no one desires or will allow.

Mr. Chairman, with these reservations, I urge support for this committee bill, H.R. 7144, and pledge additional work on these matters that I have discussed in the conference that is upcoming with the other body.

I commend my chairman, the gentleman from California (Mr. DIXON), the committee staff, and my ranking minority leader, the gentleman from Pennsylvania (Mr. COUGHLIN) for the outstanding work they have done on this lengthy and complex piece of legislation.

Mr. Chairman, I reserve the balance of my time.

□ 1450

Mr. DIXON. Mr. Chairman, I have no requests for time at the moment. I would like to reserve the balance of my time until the minority finishes.

Mr. PORTER. Mr. Chairman, I yield 4 minutes to the gentleman from Arizona (Mr. RUDD) a member of the subcommittee.

Mr. RUDD. Mr. Chairman, I would sincerely like to take this opportunity to commend the chairman of this subcommittee, the members of the committee, and the staff on both sides for their diligent efforts, of which I am well aware, and their sincere regard for the welfare of this city and, as well, their attempt to put together an enormously difficult bill on the floor today.

Mr. Chairman, while I commend my colleagues on the Appropriations Committee for the fine job they have done in trying to hold the line on this spending bill, and they did hold to last year's figure. I rise in opposition to the bill providing appropriations for the operational expenses of the District of Columbia.

I would ask my colleagues to note that although the District's population has been dropping significantly over the past decade, the requests for money from the Federal Government continue to rise. In the 2 years I served on the District of Columbia Subcommittee, I personally witnessed appropriations rise 22 percent and actively sought to reduce this excessive growth in spending. While I recognize that the city endures certain expenses as a result of serving as the home of the Federal Government, most of the funds provided in this bill are directed at social service programs and local needs which should rightly be funded through taxes collected by the city.

In reviewing the shopping list of items we are being asked to help fund, we find the D.C. government spent $100,000 on personal services (pay increases) and this year $17,000,000 is the requested outlay for the same line item, increases for District employees. This is despite the fact that the city is still carrying nearly $300 million in outstanding debts.

We are also asked to contribute a 515-percent increase for the construction of the Washington Convention Center. This project was approved in an effort to provide economic growth potential within the city. However, this same bill includes a provision which will knock out all sorts of entertainment options which could provide needed revenues to the city.

I urge my colleagues to join me in opposing this bill which provides no incentive for the District of Columbia to implement sound fiscal policies, or sound management, and creates or continues an unnecessary tax burden for the American taxpayer across the country.

Mr. Chairman, I yield back the balance of my time to my colleague, the gentleman from Illinois (Mr. PORTER).

Mr. PORTER. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut (Mr. MCKINNEY), the ranking member of the Committee on the District of Columbia, the authorizing committee for the District.

Mr. MCKINNEY. Mr. Chairman, first of all I would like to congratulate the chairman of the Appropriations Subcommittee on the District of Columbia and the ranking member of that subcommittee for a bill which I respect in every extent for its funding, but I must rise in strong opposition to section 123 of the general provisions, which prohibits the city from booking certain events at the Convention Center.

I think it is safe to say that I am probably about the only Member, except for the Delegate from the District of Columbia, who was here when this Convention Center was first planned, authorized, and dreamt of by the city and who is still involved closely with the city.

Some Members will undoubtedly defend this prohibition by stating that it is consistent with congressional intent and they will refer to the legislative history. That is where my greatest problem lies, because there is no basis in the legislative history or the congressional intent for such restrictive action.

Congressional intent cannot be arbitrarily manufactured. It is determined by the authorizing legislation itself, the hearing record, and the floor debate. Let me enlighten my colleagues on some of the facts:

Public Law 92-520, which authorized construction of the center, has this to say about its purpose:

> In order to provide for the District of Columbia facilities for the holding of conventions, exhibitions, meetings, and other social, cultural and business activities. . . .

Does that, in fact, sound like the statement of a Congress whose intent

was to prohibit concerts or theatrical productions from the building? Certainly not to me, and my view was shared by the chairman of the subcommittee from which this bill originally came.

Mr. Chairman, when this measure was debated in the House in 1972, Congressman KENNETH L. GRAY said:

We know that this center will be used all year long. The circus can play there a month out of the year. We can have Ice Capades, the horse show, and many other things. . . .

These statements are further reinforced by the hearing record of the Distict of Columbia Committee when the final plans for the center were undergoing approval in 1973.

In spite of these factual statements, the Appropriations Committees make repeated reference to the legislative history in which we are to find clear congressional intent prohibiting certain activities. I have looked. I invite all of my colleagues to do the same. But I can tell you right now that you will find no such intent.

Let me now trace this so-called congressional intent as enunciated by the House Appropriations Committee.

First, a statement from the report on the fiscal year 1981 budget for the city:

In addition, the Center will provide facilities for *local events, local shows, entertainment, sports tournaments,* meetings, and other civic events.

Next, a statement from the report on the fiscal year 1982 budget for the city, which say exactly the opposite:

The Committee reminds the Convention Center Board of previous legislative history indicating that the Convention Center is not to be used for entertainment purposes. . . .

In order to understand what happened to completely change the position of the House Appropriations Committee, we need to look to the statements of its counterpart in the other body.

I refer now to the Senate Appropriations Committee report on the city's fiscal year 1981 budget, the first time this issue is raised in recent history. That report—

Notes the lack of firm policy decisions regarding use of the center;

Urges the Convention Center Board to review the legislative history and congressional intent on the center; and

Cites portions of the authorizing legislation.

And then, for the ultimate insult, the Senate report makes this totally unsupported and inaccurate statement:

Uses which would compete with existing facilities in the National Capital Region, such as cultural events or entertainment appealing to a national audience were clearly not contemplated.

Mr. Chairman, these uses were not only contemplated, they were specifically authorized.

I have taken the time to trace this history because it shows that every reference in the Appropriations Committee reports to this issue is based on the totally inaccurate statement contained in the Senate report on the fiscal year 1981 budget.

The congressional intent to which the committees continually refer is, in fact, merely a repetition of erroneous statements made by those very committees. Saying something is so, does not make it so.

Let me state that I support efforts to insure that the center is used for its primary purpose—that is, for conventions and large trade shows. I also support directives to the Board to develop a booking policy that is consistent with this primary purpose, and I would add that those directives have been properly addressed. However, it is realistic to expect that to achieve its full financial potential, the center will have to fill random days between conventions with the very activities this language seeks to prohibit.

There is no rational or legal basis for enacting such a prohibition on the use of the Convention Center, and there is certainly no congressional intent that such a restriction should be in place. I repeat, there is no such congressional intent, and the legislative history will bear out that statement. I urge my colleagues to oppose any such efforts to tie the hands of the city on the use of their center.

That in summary form is the basis for my adamant objection to this general provision. I would now like to go into more detail.

As I see it, the problem here is twofold. First, there is the question of congressional intent with regard to what types of activities were envisioned as appropriate for the Convention Center. And then there is the question of one specific activity—regularly scheduled sporting events. The greatest fear I have is that those supporting this prohibition will be successful in clouding the issue to the point that this restriction appears to reflect true congressional intent, when in reality it goes far beyond that intent.

Let me turn then to the first part of the problem: What was the congressional intent on utilization of the Convention Center?

As I stated earlier, the first recent reference to this issue occurred in the fiscal year 1981 report of the Senate Appropriations Committee on the District of Columbia budget. That report referenced only certain portions of the basic authorizing legislation for the center, Public Law 92-520, notably, those that appeared to bolster its totally unfounded contention.

In that Senate committee report, the citation chosen for reference speaks to the findings of Congress with respect to what the center would accomplish. The specific citation is section 2(3) of Public Law 92-520.

If the Senate report had gone on to cite other portions of that same law, the section amending the Public Buildings Act of 1959 would have been referenced. That language is what I cited earlier, in part, and now quote in full:

SEC. 3. The Public Buildings Act of 1959 (73 Stat. 479), as amended (40 U.S.C. et seq.), is amended by adding at the end thereof the following new section:

SEC. 18. (a) In order to provide for the District of Columbia facilities for the holding of conventions, exhibitions, meetings, and other social, cultural, and business activities, the Commissioner of the District of Columbia (hereinafter, "Commissioner") is authorized to provide for the development, construction, operation, and maintenance of the civic center to be designated as the Dwight D. Eisenhower Memorial Bicentennial Civic Center on a site in the Northwest section of the District of Columbia within an area bounded by Eighth Street, H Street, Tenth Street, New York Avenue, and K Street.

In case there is any uncertainty as to that concrete statement of congressional intent, one need only look to the statements of the floor manager of the House bill and the chairman of the subcommittee which reported it to the House, Congressman KENNETH L. GRAY of Illinois.

As I mentioned earlier, this statement clearly shows that the uses that some would seek to prohibit were intended. This position is further reinforced by the testimony of the same former Member before the House Committee on the District of Columbia.

I should note that Public Law 92-520 required approval of the specific plan for the Convention Center by the authorizing and appropriations committees on the District of Columbia before any contracts could be let. The House District of Columbia Committee held hearings on the plan on December 14, 1973.

I wish to cite one specific portion of the testimony contained in this hearing record. Mr. Gray, near the end of his appearance, states the following:

Now, one further word, Mr. Chairman, on finances as it relates to the Capital Centre. We have only two options in the Congress in this matter. One is to do like we have done for 180 years. Yes, I am for it but not now. Yes, I think we ought to have a great Nation's Capital but let somebody else do it. Yes, I think we ought to do this or do that but we never take action. We have that alternative. We have the further alternative of sitting here and watching Abe Pollin with his economic pump as he is doing now in the heart of the District of Columbia and not only—my friends, he is not going to take the traditional revenue, he is going to take about $5 million to $10 million of existing revenues away from the District of Columbia. He is already taking the circus, the boat shows, all of those things. The spectacular events that pull people down in the inner-

city. A lot of people can't take that 40-mile round trip in a cab or some public transportation and they will miss seeing these spectacular events. They can and will be held in the Eisenhower Center and I would just say that that does not mean that at the present I am against the Center out in Largo. We will add to his business by bringing an additional 15 to 20 million people in that would like to see a hockey game that he is showing.

I think these references to the law and the legislative history should make it much more clear to my colleagues exactly what the congressional intent was with regard to use of the Center.

Let us then look to the so-called legislative history as it appears in the reports of the House and Senate Appropriations Committees.

Senate Report 96-969, concerning the District's fiscal year 1981 budget, notes the following:

During budget hearings the Committee became aware of the lack of firm policy decisions regarding the potential use of the Center. The Committee urges the Convention Center Board to undertake a thorough review of the legislative history and congressional intent concerning this major public works project.

A 1978 Washington Civic Center report by the District Government to the House and Senate Appropriations Committees stated:

"The basic purpose of the proposed development of a Civic Center in the District of Columbia is to provide a large meeting and exhibition facility for international, national, regional, and local events (chiefly conventions, trade shows, and large-scale meetings), that do not now come to Washington because of lack of an adequate facility."

The Committee calls the attention to the Board to the House Public Works Committee Report No. 92-1410 which notes:

"Although it had been earlier considered, the project does not include a sports arena."

The Board is reminded that the original eight-block site for the Civic Center was reduced to four blocks to control costs and to eliminate a sports arena as part of the project. The District Government acknowledged this reduced scope of use in its "Questions and Answers" contained in Senate Report 92-1145.

The Committee remains committed to the findings of the Civic Center Act, Public Law 92-520, which states:

"(3) a civic center would (A) attract large numbers of visitors to the downtown area and result in increased business activity in the area surrounding the center; (B) enable national organizations to hold their conventions and other meetings in the District of Columbia and thereby encourage citizens from the entire Nation to visit their Capital City; (C) provide a new source of revenue for the District of Columbia as a consequence of its operations and the expanded commercial activities resulting therefrom; and (D) provide expanded employment opportunities for residents of the District of Columbia."

Uses which would compete with existing facilities in the National Capital Region, such as cultural events or entertainment appealing to a national audience, were clearly not contemplated.

Announcement of policies by the Convention Center Board concerning the use of management of the facility is encouraged at the earliest possible time.

The penultimate paragraph from that quotation is, in fact, totally unsupported by any of the legislative history. Yet somehow, it was simply accepted as fact and repeated year after year.

Senate Report 97-254, on the city's fiscal year 1982 budget, for example, makes the following statement on page 50:

It is the Committee's hope that such a facility will provide a spur to economic revitalization of Washington's downtown area. Revenues from new developments in the downtown area will generate more than $9 million a year in new local tax revenue by 1985. These revenues will more than cover the projected $7 million annual debt service and operating costs as well as provide new employment for District residents.

Responsibility for all management and administration of the Center has been given to a newly established independent District Government agency with a 5-person Board of Directors comprised of distinguished local citizens.

The Committee directs the Center's Board of Directors to the legislative history which is clear that the Convention Center is not to be used for cultural events or entertainment appealing to a national audience and not to be used in competition with existing facilities.

And finally, Senate Report 97-548, concerning the fiscal year 1983 budget for the city, states this, on page 60:

As in the past, the Committee remains interested in the purposes and uses of the Convention Center. The booking policy set by the Convention Center Board appears to reflect that concern by providing for the following priorities:

Priority 1.—Conventions and trade shows which are international, national, or regional requiring significant usage of hotel rooms.

Priority 2.—Multiple-day annual public shows.

Priority 3.—Multiple-day shows contracting no earlier than 12 months in advance, on a space available basis.

Priority 4.—Single-day events, contracting no sooner than 6 months prior to the event, on a space available basis.

In support of these Board actions, the Committee concurs with language suggested by the House providing that the Center is not to be used for any concert, athletic event, or similar entertainment activity not incident to a convention or trade show. This will insure that the Center will support the purposes and economic development goals of the facility. The Committee believes that the tax revenues dedicated to the operation of the Center require that the booking priorities set by the Board be supported.

It should be noted that it is not the intention of the Committee to prohibit activities that could reasonably be accommodated under the Board's booking policy, such as local commencement exercises and the like.

The statements contained in the comparable House Appropriations Committee reports are perhaps even more disturbing.

House Report 96-1271 noted, on page 29, that—

The Center will be a new civic exhibition and meeting facility designed to accommodate large national conventions, meetings, and trade shows which cannot now meet in Washington because of inadequate facilities. In addition, the Center will provide facilities for local events, local shows, entertainment, sports tournaments, meetings, and other civic events.

House Report 97-235 notes either an amazing discovery, or a complete reversal of position. Page 69 contains the following language:

Noting that the purpose of the Convention Center is to attract large conventions and trade shows which do not now come to Washington because of lack of facilities, the Committee reminds the Convention Center Board of previous legislative history indicating that the Convention Center is not to be used for entertainment purposes and was not intended to compete with existing facilities in the Washington area for entertainment and cultural events.

Finally, we have the report on the bill under consideration. Rather than restate the language, I will simply call the attention of Members to pages 78 and 79 of House Report 97-849.

I believe that I have covered the inaccurate statements in these reports adequately, but I want my colleagues to be able to see for themselves the genesis of this issue. I will reiterate my contention that all of this language, and the attempts therein to establish nonexistent congressional intent, are based on the unsupported fabrication which appeared in the Senate report covering the fiscal year 1981 budget.

Mr. Chairman, I do not know how my colleagues feel, but I do not intend to stand silent while a few Members of the Congress dictate to the city under the guise of congressional intent when there was no such intent. And certainly, I will not permit such action to take place in a back door fashion as legislation in an appropriation bill. If congressional intent is to change, and I certainly recognize that it can change over time, let that happen in the proper manner. Let there be open debate, by the committees which should be involved, and let the whole Congress speak on the matter, not simply a few Members. The simple fact of the matter is that has not happened with respect to this issue, and until it has, the intent of Congress is only what is clearly established in the legislative history.

Mr. Chairman, I only touched earlier on the fact that this misguided congressional intent, up until this year, was limited to a directive that the Convention Center Board develop a booking policy that is consistent with legislative history. Let us now see what the response to that directive has been.

As you might note from the fiscal year 1983 Senate report language, the Board has indeed established a booking policy. While it is summarized in the Senate report, I wish to quote two specific portions. First, this regarding the physical conversion of the facility to accommodate special events:

The primary function of the Center is to secure a market unique in itself and not in competition with currently available facilities. The primary type of events that may be scheduled include conventions, large meetings, trade shows and other flat floor exhibits. These events shall be given priority in accordance with Sections 406 through 409.

If special circumstances exist which would justify departing from the policy stated in subsection 400.3, the facility may be temporarily converted to handle such events as show-case concerts, theatre-style events, or sports events. Conversion may be made only with the express approval of the General Manager.

Any costs incurred in temporary conversion of the facility for non-primary events as described in subsection 400.4 must be covered by the particular promoter requesting those conversions.

Thus, if the center wished to hold, for example, a sports event requiring a special playing surface, the express approval of general manager of the center would be required.

The other portion I wish to cite is the detailed statement of the booking policy. Rather than burden the record, I call the attention of my colleagues to pages 2729 through 2754 of part 2, of the subcommittee hearings on the city's budget. These pages contain the entire booking policy statement as well as some very interesting questions and answers.

Putting aside for a moment the fact that there is no congressional intent to prohibit certain activities from the center, it would seem to me that if the Board was responsive to the directive that it establish a booking policy that reflects the primary purpose of the center, there should no longer be a problem for our colleagues on the Appropriations Committee.

The booking policy makes it almost impossible to circumvent or violate the true congressional intent. Note that first priority is given to conventions and large shows which must execute a contract at least 18 months prior to the event. Next, priority will be given to multiple day shows, which cannot execute a contract sooner than 18 months in advance. The progression continues until single day events, the last priority, which cannot contract for booking more than 6 months in advance, and are permitting only on a space available basis. In a nutshell, this policy gives priority to uses which are consistent with the primary purpose of the center, and at the same time does not preclude special events if, and only if the Center is available.

Now, Mr. Chairman, let me get to the second part of the problem, that being regularly scheduled sporting events at the Convention Center.

Originally, the Convention Center was to include a sports arena. Legislation to accomplish that never succeeded, primarily because Mr. Pollin came along with his proposal for the Capital Centre. The result was that the legislation passed removed any reference to the sporting arena.

It is absolutely clear from the language of the public law authorizing the Center and the statements of Congressman Kenneth L. Gray that regularly scheduled sporting events were not envisioned for the Center. That point is supported by the testimony of every city official who has ever made a public statement concerning the Center. And if there was an effort to prohibit the city from using the Center for that purpose only, I would agree that it would be fully justified and consistent with congressional intent. But there would be no reason to prohibit such activities, first because of the Board's booking policy, and also because the building is not physicially capable of supporting either regular or even one-time sports events.

The testimony of city officials indicates that the building will not, and does not now have scoreboards, appropriate surfaces for various sports events, or locker rooms. Such events will simply not be possible.

Proponents of this prohibition will likely respond to these facts by saying the Center could acquire scoreboards, locker rooms, and the like in the future, thereby permitting such uses. But could such equipment be acquired without congressional approval?

The answer to that question, Mr. Chairman, is a plain and simple "No." To explain, I reference the basic authorizing legislation and legislative history.

Recall that the Center was authorized by a public law. That is no longer the case for District of Columbia facilities, but it was, and is for the Center. The law required that the specific plans for the Center, including design and cost estimates be approved by the authorizing and appropriations committees in both the House and Senate, prior to execution of any contracts. That was accomplished, but at some detriment to the city. The overall cost was reduced, from $114 million to under $100 million, and consequently many originally intended features were eliminated. These features would have permitted regularly scheduled sporting events to take place at the Center. But now, should the city wish to acquire anything that was not in the congressionally approved plan, it is the opinion of this Member that additional congressional approval would be required.

So I say to my colleagues who support this language which would severely limit the utilization of the Convention Center for certain purposes, there is no need for it. We can still flex our muscles on the real question, regularly scheduled sports events, through enforcement of the letter of the law.

Mr. Chairman, my colleagues have been most generous in granting me this time. I oppose the language in section 123 first, because it is clearly not based on congressional intent, as alleged; next, because it is a back-door method of legislating; and finally, because it is immoral.

□ 1500

I will address my closing remarks to the elected officials of the District of Columbia. Mr. Mayor, City Council, I have worked for 12 years to get this body out of your life. I will not accept nor will I contribute to this kind of dealing, and I will stop you every single time you try to get this body to do what you want done. You cannot have it both ways.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I will be delighted to yield.

Mr. LUJAN. Mr. Chairman, I am glad that the gentleman brought this up, because I was wondering about it myself, why there was such a prohibition, so I went to the report. All that the report says is that the Center is specifically prohibited from booking sports events, concerts, circuses, rodeos, and other such events that traditionally have been held in existing facilities.

I fully expected to find in the report some rational explanation as to why we would deprive that center of that kind of income when we are appropriating some $7 million.

I thank the gentleman for yielding to me and appreciate his bringing it out.

Mr. McKINNEY. I appreciate the gentleman saying that. I would have to state to the gentleman, as someone who was here when this Center was contemplated, who has taken part in every single part of its organization on the floor of this House, its conception, that I have no desire whatsoever to put private industry out of business. There is obviously a very large question about what this Convention Center would do to Capital Centre. Let us face it. I quite frankly did not realize that Largo, Md., was in the Metropolitan Washington area. To me, it is quite a way out.

But, let us get down to the basic point and I stress this to my friend, the gentleman from California (Mr. DIXON). I congratulate him on the funding aspects of this bill, and I realize the problem he has with the other body, as we call it. But I say it is no better for the Congress of the United States to interfere in the affairs of the District of Columbia on non-Federal matters than it is for the Mayor of the District of Columbia to come to the Congress of the United States and ask us to interfere in the internal matters of the District of Columbia. If, in fact, the Mayor of the District of Columbia wants a good working relationship

with the district of my good friend, Mr. HOYER, and the district of my good friend, Mr. BARNES, let him go to them and go to his City Council. It was no better for my friend, Mr. PHILIP CRANE, to bring a resolution of disapproval and a discharge petition against the city's sexual assault bill than it was for the Baptist ministers of the city of Washington to come to Congress and say, "Save us from this City Council regulation."

Mr. DIXON. Mr. Chairman, I have no further requests for time at this point, and I reserve the balance of my time.

Mr. PORTER. Mr. Chairman, I yield such time as he may consume to the ranking minority member of the committee, the distinguished gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, I thank my colleague from Illinois. I just want to take this time to congratulate the chairman of the subcommittee, who has certainly done a very able job indeed on what is always a difficult bill. I enjoy having the opportunity to work with him, and want the Members of the House to know just what a good job he has done.

As I have said many times, I see the prime responsibility of the subcommittee as insuring that the government of the District of Columbia does not run in a deficit, and it applies money toward its accumulated debt. We have done that in this bill.

The chairman has been very good about insisting on the committee's position, which we have taken for several years, of a 3,880 level of uniformed Metropolitan Police officers. Included in this bill is language prohibiting payment of the Federal payment until that level is reached. I think this is a very important measure.

The subcommittee recommends $1,971,653,200 for fiscal year 1983 consisting of $1,883,638,700 in operating expenses and $88,014,500 in capital outlay funds.

Included in this figure is a Federal payment of $336,600,000. The balance of funds is the District of Columbia's own money, raised through income tax, property tax, license fees, et cetera. At the present time a $24.4 million increase in the Federal payment has passed both Houses of Congress and is in conference. Unauthorized, that increase is not included in this bill.

The accumulated general fund deficit is $309,510,000 and is expected to drop by $10 to $13 million at the end of fiscal year 1982. The subcommittee recommends setting aside $20 million for debt retirement in fiscal year 1983.

For the Statehood Constitutional Convention, we have recommended the requested $150,000, but added bill language to provide for: first, printing of proposed constitution with supporting and opposing views; second, distribution to registered voters; and third, a legislative history.

For St. Elizabeths Hospital, we are recommending that the District of Columbia take over a larger share of the cost of running this facility.

Money is included for the lottery and Charitable Games Enterprise Fund. The subcommittee has recommended the full request for $1,184,500 in non-Federal funds for the lottery and Charitable Games Control Board. Revenues are expected to be generated at a level of $84,284,500 in fiscal year 1983 of which $1,184,500 will go for administrative support, $58,100,000 for prizes, commissions, and vendor fees, and $25 million transferred as revenues to the District's general fund.

This bill is not a budget buster—it is under the section 302(b) budget allocation.

Let me close with compliments to the staff: Migo Miconi, Mary Porter, and Kenny Kraft.

Mr. COUGHLIN. Mr. Chairman, I yield back the balance of my time.

Mr. DIXON. Mr. Chairman, I have no requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

Mr. WALKER. Mr. Chairman, I have a point of order against sections of the bill.

The CHAIRMAN. The Clerk will read.

The Clerk proceeded to read the bill.

□ 1510

POINT OF ORDER

Mr. FAUNTROY. Mr. Chairman, I have a point of order.

The portion of the bill to which the point of order relates is as follows:

SEC. 123. (a) No funds available in fiscal year 1983 or thereafter pursuant to this or any other Act may be used for leasing, promoting, or permitting the occupancy or use of any part of the Washington Convention Center (including any related facility) for any concert, athletic event, or similar entertainment activity (as defined in subsection (b)), unless—

(1) such activity is incidental to a convention, meeting, trade show, product exhibition, or similar primary event held at the Center, and the activity is of a type customarily performed as part of the primary event;

(2) admission to the activity is limited to those attending the primary event; and

(3) allowing the activity to occur is consistent with the purpose of promoting the use of the Center as a national and regional convention and trade show center.

(b) For purposes of this section, the term "concert, athletic event, or similar entertainment activity" includes—

(1) any concert or other performance of music,

(2) any circus or rodeo,

(3) any athletic competition,

(4) any theatrical production, or

(5) any similar spectator event,

which traditionally has been in publicly or privately owned facilities within the metropolitan area of Washington, District of Columbia.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FAUNTROY. Mr. Chairman, I make a point of order against section 123 which includes line 12 on page 22 through line 14 on page 23.

Section 123 violates rule XXI, clause 2, and constitutes legislation on a general appropriations bill.

This provision clearly requires the District of Columbia to make judgments and determinations not otherwise required by law with respect to whether a particular event would be permitted as "incidental to" a convention, meeting or similar event at the Convention Center or whether it is prohibited as a concert, theatrical production, or "similar spectator event." There is nothing in the authorizing legislation which remotely authorizes or requires the District to make such determinations. In this regard, I call the attention of the Chair to a series of precedents cited in "Deschler's Procedures," chapters 26 and 11.

Section 123 is further violative of rule XXI, clause 2, in that it attempts to condition the expenditure of funds appropriated in other acts. Past rulings of the Chair on this point clearly require that any limitation on a general appropriations bill be limited to funds made available by the bill.

Mr. Chairman, section 123 clearly changes existing law with respect to the Convention Center in fundamental ways. Yet there has been no opportunity for hearings or debate before the District of Columbia Committee, as required by the rules of the House.

For these reasons, Mr. Chairman, I respectfully ask that my point of order be sustained.

The CHAIRMAN. Does the gentleman from California (Mr. DIXON) desire to be heard on the point of order?

Mr. DIXON. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is sustained.

● Mr. BEREUTER. Mr. Chairman, I rise in support of the effort by our respected colleague from the District of Columbia.

It is incredible to me that, after all the debate which has taken place on the floor of this House and in its committees and subcommittees, we would seek to pass a bill containing language which would restrict the District from maximizing its return on the investment it has made in the Convention Center—the investment which the District and its taxpayers have made without a penny from the Federal Treasury.

Mr. Chairman, this body has a history of castigating the government of the District of Columbia—many times without any justification—for not making the most efficient possible use of its resources. Now we are telling the

District that it cannot use the Convention Center for concerts, sporting events, circuses, rodeos, and the like. What possible justification can there be for such a rule?

The spurious reason given is that facilities for events such as these are currently available and that the sole purpose of contructing this Center is to attract major national and international conventions, conferences, and trade shows. If this is so, not only was I not aware of it, but Congress was not aware of it in 1979 when it had the opportunity to disapprove the City Council's enabling legislation for the Center and made no mention of restrictions. And this is not surprising—because the effect of such restrictions is to take the Center from the people who paid for it, the D.C. taxpayers, and give it to conventioneers and travel agents.

Mr. Chairman, I know that many of my colleagues have similar convention facilities in their districts, and I am sure that my colleagues who participated in the planning process for the development of these facilities will agree with this Member that anticipation of concerts and sporting events is an important part of arriving at a local consensus for such a project.

Mr. Chairman, this restrictive language can be called by the worst names in the book—legislating in an appropriations bill; special interest protectionism; and, most importantly, intergovernmental meddling.

I urge all my colleagues to support the effort of the gentleman from the District of Columbia.●

AMENDMENT OFFERED BY MR. HOYER

Mr. HOYER. Mr. Chairman, I offer an amendment.

Mr. McKINNEY. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman's rights are reserved.

The Clerk read as follows:

Amendment offered by Mr. HOYER: Beginning on page 22, after line 11, insert the following new section:

SEC. 123. (a) No funds available in fiscal year 1983 or thereafter pursuant to this or any other Act may be used for leasing, promoting, or permitting the occupancy or use of any part of the Washington Convention Center (including any related facility) for any professional concert, athletic event, or similar entertainment activity (as defined in subsection (b)), unless—

(1) such activity is incidental to a convention, trade show, product exhibition, or similar primary event held at the Center, and the activity is of a type customarily performed as part of the primary event;

(2) admission to the activity is limited to those attending the primary event; and

(3) allowing the activity to occur is consistent with the purpose of promoting the use of the Center as a national and regional convention and trade show center.

(b)(1) For purposes of this section, the term "professional concert, athletic event, or similar entertainment activity" includes—

(A) any professional concert,

(B) any circus or rodeo, and

(C) any professional athletic competition or performance.

(2) For purposes of this section, the term "professional concert, athletic event, or similar entertainment activity" (as defined in paragraph (1)) shall not include any event which is conducted solely for educational, charitable, eleemosynary, religious, or philanthropic purposes.

Mr. HOYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

Mr. McKINNEY. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Connecticut (Mr. McKINNEY) desire to be heard on his point of order?

Mr. McKINNEY. Mr. Chairman, I would make a point of order that the amendment to section 123 proposed by the gentleman from Maryland violates clause 2 of rule XXI in that it constitutes legislation on an appropriation bill, just as the original and primary point of order.

I would also suggest, Mr. Chairman, that it states,

No funds available for fiscal year 1983 or thereafter, pursuant to this or any other Act.

That is also clearly a violation of the rules of the House in that it instructs another Congress, which we may not do, what to appropriate and where to appropriate.

It also conditions the appropriation on other acts which the Appropriations Committee does not have purview over.

The CHAIRMAN. Does the gentleman from Maryland (Mr. HOYER) desire to be heard on the point of order?

Mr. HOYER. Mr. Chairman, notwithstanding the fact that this amendment is the result of many hours of work and an agreement reached between my jurisdiction and the city, in a worthwhile, positive negotiation, I nevertheless must stand and say I think the gentleman's point is well taken and that therefore this matter will have to be resolved in another forum.

The CHAIRMAN. The Chair is prepard to rule.

The gentleman from Maryland concedes the point of order and the Chair sustains the point of order.

The Clerk will read.

The Clerk proceeded to read the bill.

POINT OF ORDER

Mr. WALKER. Mr. Chairman, I have a point of order.

The portion of the bill to which the point of order relates is as follows:

SEC. 127. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. code 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1982 shall be deemed to be the rate of pay payable for that position for September 30, 1982.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945 (D.C. Code 5-803(a)), the board members of the Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WALKER. Mr. Chairman, I make a point of order against section 127 as violating clause 2, rule XXI, which mandates that there can be no legislation on an appropriation bill.

Section 127, the language of that section is clearly legislative in nature.

Mr. DIXON. If the gentleman will yield, I concede the point of order.

Mr. WALKER. I thank the gentleman.

Mr. DIXON. Mr. Chairman, I believe a point of order will lie against section 128 as well, and I concede that.

The CHAIRMAN. First the Chair will state that the point of order lying against section 127 is conceded and sustained.

The Clerk will read.

The Clerk proceeded to read the bill.

POINT OF ORDER

Mr. WALKER. Mr. Chairman, I make a point of order against section 128.

The portion of the bill to which the point of order relates is as follows:

SEC. 128. The provisions of the District of Columbia Government Comprehensive Merit Personnel Act, D.C. Law 2-139, enacted pursuant to the District of Columbia Self Government and Governmental Reorganization Act of 1973 (Public Law 93-198; 87 Stat. 744), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

The CHAIRMAN. The gentleman will state his point of order.

□ 1520

POINT OF ORDER

Mr. WALKER. Mr. Chairman, I make a point of order against section

128 as a violation of clause 2, rule XXI.

The CHAIRMAN. Does the gentleman from California (Mr. DIXON) concede the point of order?

Mr. DIXON. Yes, Mr. Chairman.

The CHAIRMAN. The point of order is conceded and sustained.

Mr. McKINNEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank my good friend—and he is a good friend—from Maryland for fighting a good fight, and I want to, in some fashion or another, state once more what I stated before in somewhat of a harsh term.

The District of Columbia, on the Convention Center of the District of Columbia, or any other question cannot have it both ways. If, in fact, there are those of us who are going to fight for the District and for the District's right to govern itself, the District must govern itself.

When I was here in 1972 we conceived of this Convention Center, it was conceived by the District, brought to the Congress, and in fact is being built. It is up to the District, if in fact it is going to have problems with Prince Georges County, and its intergovernmental relations staff, to do its business within the City Council, to do its business with negotiations between the head of Prince Georges County and other counties and the Mayor of the city of Washington.

I as ranking minority member of the District of Columbia Committee could, I suppose, take great comfort in the fact that I could bring a point of order and thereby stop legislation on an appropriations bill. I do not even want to go into the merits of what I consider to be sort of an idiotic proposal, even though that word will tell you what I think. But I do seriously, and I guess for the last time this year or in this Congress, want to state once again a very clear principle. It is in fact wrong for the Congress of the United States to interfere in District affairs that have no Federal interest. It is in fact doubly wrong for the District to come to the Congress and ask it to put its stamp of approval on something that is in the purview of the Mayor, the City Council and the voters of this great city.

There is no issue about this Convention Center, from its entire history, which I have summarized in the RECORD, that cannot be solved by intelligent men. The last place it should be solved is in the House of Representatives which in fact should find that there is no Federal interest in the issue.

I do not really want to keep us any longer, but I cannot emphasize any stronger that interference from us is wrong. The suggestion of interference from the city government is even worse.

Mr. FAUNTROY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, section 123 seeks to limit the use to which the Washington Convention Center may be put, effectively eliminating most if not all uses that the local community may desire. If this section is allowed to stand, the Congress will be saying to the people of the District of Columbia that "you must pay for the Washington Convention Center, but you cannot use it."

Specifically, section 123 prohibits the use of the Center for concerts, circuses, rodeos, athletic events, and theatrical productions. It also includes a "catch-all" phrase, prohibiting "any similar spectator event," thus, the Cardoza High School band of Rose Bowl fame and performers from our distinguished Duke Ellington School of the Arts would not be allowed in the Convention Center. A local church choir or a local Girl Scout group would be barred from the Center. The list of meaningful local acitivities that would not be allowed under section 123 could go on forever.

These severe restrictions on local use are aggravated by the fact that the entire costs of the Center, construction and operational, will be borne solely by the taxpaying citizens of the District of Columbia.

It will cost $98.7 million to construct the Convention Center and an average of $7 million annually to operate it. Every penny of this money will come from local tax dollars.

Mr. Chairman, this effort to impose these rigid limitations comes on the eve of the opening of the Convention Center and goes against the grain of 10 years of planning, development, and legislative history.

The authorizing legislation for the Center was passed by the Congress on October 21, 1972, and required that the D.C. government adopt a plan for the Center. No mention was made concerning any restrictions of the kind reflected in section 123. At the urging of the Congress, the D.C. Council enacted a special hotel tax on March 16, 1978. This tax was designed to create a new stream of revenue to help finance the Center. On June 5, 1978, the Congress approved the District's fiscal year 1978 budget which included funds for initial work on the Center. While that law contained certain conditions that had to be met by the D.C. government before the funds could be received, no mention was made concerning any restrictions of the kind reflected in section 123.

On November 3, 1979, the D.C. Council passed D.C. Law 3-36, the Washington Convention Center Management Act. That act expressly allows local activity of the kind that section 123 now seeks to disallow. That act was submitted to the Members of the House and Senate Appropriations Committee in draft in 1978, and of course was again submitted to the Congress for the standard review when it was finally passed by the D.C. Council.

The groundbreaking of the Convention Center took place on April 23, 1980. Since 1972 to the present, there has never been any statutory language even remotely similar to section 123. Since 1972 to the present, there has been every expectation that local events would be allowed.

Mr. Chairman, the right of D.C. citizens to enjoy a facility which they will pay for is basic and fundamental. Thank you.

Mr. PARRIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to engage, if I might, in a brief discussion with the chairman of the subcommittee in regards to a portion of the legislation that has euphemistically become known as the Parris amendment, having to do with the funding for the D.C. police, firefighters, and teachers, a $14.3 million fund, which is the fiscal year 1981 shortfall. My question to the distinguished gentleman from California is that the appropriations bill that we are addressing our attention to at the moment is to appropriate some $336.6 million and, if memory serves, those of us who are privileged to serve on the authorization committee, have previously authorized the sum of $361 million as the Federal contribution.

Obviously, the shortfall is some $24.4 million. On page 32 of the report accompanying this legislation, the Subcommittee on Appropriations indicates that at such time as the authorization bill, which is H.R. 5595, should be enacted into law, the Appropriations Subcommittee would take appropriate action in accordance with their jurisdiction to direct their attention to the balance of the appropriation that is not included in this legislation.

With that brief question, Mr. Chairman, let me pose rhetorically to the chairman of the subcommittee, the distinguished gentleman from California, that should the conference report on H.R. 5595, which I understand from the other distinguished gentleman from California (Mr. DELLUMS) be brought before the House later this afternoon or tomorrow, has the Appropriations Subcommittee formulated any proposal, does it have any plans that the chairman might discuss with us in regards to the balance of the appropriation?

Mr. DIXON. If the gentleman will yield, the subcommittee has not formulated any plans except to adopt the scheme and the formula as agreed to by the conference committee on the authorization bill. As I understand it, that conference agreement will be coming before the House today, and whatever the agreement is, I will rec-

ommend that the conferees carry out that agreement when we go to conference on the 1983 District of Columbia appropriations bill.

Mr. PARRIS. If I understand the thrust of where we are, then, at the moment, is that should the Appropriations Committee find itself dealing with the conference report from the authorization committee at a higher level, presumably it would be the intention of your committee to address the problem of the shortfall between the authorization amount and the appropriated amount at any early date; is that correct?

Mr. DIXON. Absolutely.

□ 1530

Mr. PARRIS. I thank the gentleman very much for his comments and for clarifying that situation for us.

I congratulate his committee on addressing these very important problems in the interests of the District of Columbia which is near and dear to the hearts of all of us.

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take all of the time, but I did want to respond briefly and comment on the remarks of the gentleman from Connecticut.

We have had a very interesting and lively discussion during the course of today's events with respect to the situation in which we find ourselves.

Like the gentleman from Connecticut, although I was not on this floor, I followed this issue for many years as a member of the Maryland Senate for 12 years before I came here. If the gentleman will recall, in 1977 we had proposed to place a convention center immediately next to the arena located in Largo, Md.

Now, the gentleman questions whether Largo, Md., is indeed in the metropolitan Washington area. It is all of approximately 10 minutes from the District of Columbia line. His definition of metropolitan area is extraordinarily small if he maintains that Largo is not indeed in the metropolitan area. But, notwithstanding that fact, let me comment on the fact that the District of Columbia Convention Center proposal did not move, my friends, from 1972 until 1978. And what was the impetus that made this proposal move? It was that the State of Maryland and Prince Georges County, Md., proposed the placing of a convention center next to and in conjunction with the Capital Centre located at Largo, Md.

The argument then ran, as to the Convention Center in Washington, and still runs, that the Convention Center would draw visitors from throughout the country. And the gentleman from Connecticut of course has reviewed the record—90 percent of the debate in 1972 dealt with what a great facility the Convention Center would be for those who were going to come to Washington and participate in the Bicentennial, and how there would be 80 buses traveling between the Visitors' Center at Union Station, which would have been, of course, funded by that time to provide a beautiful facility for Bicentennial visitors. That of course did not happen.

It is clear that the proposal for a convention center in Maryland in 1977, which would have been located adjacent to the sports arena, and obviously a complement to that arena, was the impetus for the Congress moving to fund the District of Columbia Convention Center, which clearly was also perceived to be complementary and not competitive to the Capital Centre.

We have supported that effort. I continue to support that effort and will support that effort in the future.

However, I might say that my friend from Connecticut has observed that I have fought the good fight.

I want to let the gentleman know that I continue.

What we offered today, as the gentleman knows, was an agreement worked out between the District of Columbia officials and myself on behalf of the jurisdiction that I represent, an agreement I believe to be fair to my jurisdiction, which ultimately, as the gentleman knows, will be the owner of this facility, an agreement reached between the appropriate authorities of the District of Columbia and myself on behalf of Prince Georges County.

However, unlike any other jurisdiction in the United States there is a little kicker. You must go through the Congress of the United States. We are here. We cannot in any way avoid that.

The seats for the Convention Center are the issue raised in this appropriations bill, seats which were not included before, so that whatever one may argue was or was not the legislative history, in point of fact, no seats have ever been provided to accommodate events which were not contemplated by the supporters and sponsors of the Convention Center. So it was not until now, this year, that the seats were included. And that is the pending question. And that is why we are addressing this issue in this forum at this time.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Well, I appreciate the gentleman's remarks, and I appreciate his thanking me for telling him the gentleman fought the good fight. The gentleman did exactly what he should do. He represents the people of Largo.

I would suggest to the gentleman, however, that I have never commented on the fairness of the agreement that was struck between the Mayor, I gather, and other parties concerned. And I do not even want to know who the parties are. That is the kind of agreement that I have always stood for.

I am only standing up and talking at this time to just try once more to get a point across. One of the things I pride myself on, believe it or not, is trying to waste the time of this House with my verbiage. I do not think this is that way. I think what we are talking about is everything that was done was right except it came to the U.S. Congress when it has no Federal interest.

The Federal interest, as the gentleman says, is the seats. My contention is if in fact Congress said the Center should be built, I would suggest that Congress committed itself to this concept and therefore should be committed to the seats.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. HOYER) has expired.

(By unanimous consent, Mr. HOYER was allowed to proceed for 3 additional minutes.)

Mr. McKINNEY. If the gentleman will yield further, what I am trying to get across is that I have fought long and hard for 12 years for the government of the District of Columbia, to set it free, to get the voting representation in the Senate and the House, to get it its own judiciary, to get rid of line item appropriations through this committee, to do all the rest of this.

I remember standing on this floor way back during the Presidency of Richard Nixon saying how can the President of the United States suddenly demand the District of Columbia have 1,500 extra policemen and not tell us how we are going to pay for them.

The fact of the matter is this agreement should be made. I think the agreement the gentleman worked on should be made. But it should be made between the Mayor and the City Council of the city of Washington and the public officials with the gentleman's side. It should not be legislation on an appropriation bill, nor should it be before the body that is meant to be governing one of the greatest institutions in the world, the United States of America.

And I feel badly that the gentleman and I have had to disagree on this. I feel badly that the Appropriations Committees have to have a point of order brought. But sooner or later someone has to hold the line to get this body out of the District of Columbia's affairs. And that is why I have been so strong on this.

Mr. BARNES. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Maryland.

Mr. BARNES. I thank the gentleman for yielding.

I rise to commend my colleague from Maryland for the manner in which he has endeavored to find middle ground on a difficult and a complex issue.

The gentleman has worked tremendously diligently over the last couple of days with the city government, with officials from our State, and officials from his community in Prince Georges County to find a solution to this problem.

I was convinced that that solution had been found, and that everybody was in accord as to what the proper approach would be, and indeed I think everyone was in agreement as to how we ought to go forward.

Unfortunately, some of our colleagues here felt this was not the forum to strike that bargain. That bargain can be stuck in another forum. And I just want to commend the gentleman for finding an answer that I think is an equitable one for Maryland and for the District of Columbia, and I look forward to continuing to work with him to make sure that the interests of all of these parties are protected as we tried to do over the last few days.

Mr. HOYER. I thank the gentleman for his remarks.

The Clerk concluded the reading of the bill.

□ 1540

Mr. DIXON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, once again, I would like to thank those who have been exceptionally cooperative, and I am particularly appreciative of the cooperation we have received from members of the Committee on the District of Columbia, the authorizing committee.

The gentleman from Connecticut is absolutely correct in many of the things he says. And I am certainly as strong in my support of home rule as Congressman FAUNTROY or the gentleman from Connecticut. I think I have tried to provide an objective perspective, but no matter how calm we say it on this floor, or how clearly we speak, it is clear to me, as a strong supporter of home rule, that the legislative intent that the gentleman from Connecticut talks about is not clear. The gentleman from Connecticut has looked at the same material and has had the benefit of being here through that history. I have not had the benefit of being here through that, but I have looked at the same material, and I would point out to my colleagues that the material the gentleman cites does not necessarily relate to this particular convention center. There was specific legislation a few years ago authorizing the construction of a civic center and sports arena. That particular project was not financed. Although I am very pleased that we are moving forward with the bill, I can assure the House that until we resolve this controversy, it is only the District of Columbia that is going to be hurt.

Mr. DIXON. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. MILLER of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7144) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes, had directed him to report the bill back to the House, with the recommendation that the bill do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 6467

Mr. PARRIS. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of the bill, H.R. 6467.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

MAKING IN ORDER TODAY OR ANY DAY THEREAFTER CONSIDERATION OF S. 2177, COLORADO RIVER BASIN PROJECT ACT AMENDMENTS

Mr. UDALL. Mr. Speaker, I ask unanimous consent that it be in order today or any day thereafter to consider in the House the Senate bill (S. 2177) to amend title III of the Colorado River Basin Project Act, and that the previous question be considered as ordered on said Senate bill to final passage without intervening motion except the amendment recommended by the Committee on Interior and Insular Affairs now printed in the bill and one amendment to be offered by Representative VENTO, said amendments not subject to amendment, and one motion to recommit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

COLORADO RIVER BASIN PROJECT ACT AMENDMENTS

Mr. UDALL. Mr. Speaker, under the unanimous consent request just agreed to, I call up the Senate bill (S. 2177) to amend title III of the Colorado River Basin Project Act, Public Law 90-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505), and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The Clerk read the Senate bill, as follows:

S. 2177

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 90-537 (82 Stat. 885), as amended is further amended to provide for cost indexing as may be justified by reason of ordinary fluctuations in construction costs.

Section 309(b), first sentence, is amended to read: "There is also authorized to be appropriated $100,000,000 for construction of distribution and drainage facilities for non-Indian lands plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering and cost indices applicable to the types of construction involved therein from the date of the Colorado River Basin Project Act.".

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 4, strike "There" and insert "Effective October 1, 1983, there".

The committee amendment was agreed to.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) is recognized for 1 hour.

Mr. UDALL. Mr. Speaker, this bill has been agreed to by the Committee on Interior and Insular Affairs and all the people concerned.

There is one amendment to be offered by the gentleman from Minnesota (Mr. VENTO), which the gentleman from Arizona (Mr. ROSE) and I have studied with him. We agree with the minority that it should be adopted.

This will save us the time on the rule and general debate on a matter which now has the misunderstandings cleared up and is without controversy.

This legislation contains a single provision to amend title III of the Colorado River Basin Project Act to provide for cost indexing for the authorization for construction of the non-Indian distribution systems of the central Arizona project.

The adjustment of the original $100 million authorization will provide approximately $320 million for construction of these systems to bring CAP water from the main canal to the irrigation districts.

The 1968 law authorizing the central Arizona project provided a project appropriations ceiling with cost indexing for the main aqueduct system, pumping plants, dams, and Indian distribution systems.

The authorization for the non-Indian distribution systems was, however, set forth in a separate section and the cost-indexing provision was omitted. There is no legislative history to explain why construction of the non-Indian systems was the only feature of the project not cost indexed. Those of us who were present for the long struggle to get the CAP authorized agree that failure to include the cost-indexing provision was probably an oversight.

In the years since the original act, rising construction costs have rendered the $100 million inadequate to construct the systems necessary to carry CAP water from the main aqueduct to the farms.

Importation of Colorado River water to central and southern Arizona will help alleviate a critical ground water overdraft problem. Under the terms of the CAP master contract, water users that contract for CAP water must also agree to reduce ground water pumping on an acre-foot for acre-foot basis.

At the same time, the State ground water code, which was required by the original CAP authorization, will be implemented. The management plans drafted pursuant to this State law will prohibit irrigation of new lands, impose mandatory conservation measures and reduce permissible pumping levels over the next several years. The management plans will be rewritten every 10 years to establish new goals and to require additional conservation and reductions in water use.

The CAP is almost complete to Phoenix today. Water deliveries to the Phoenix area are scheduled for 1985, to Pinal County in 1987 and to the Tucson area by 1989 or 1990.

In order for our ground water code to work, present pumpers must be able to take CAP water when it is available. In order to be able to receive CAP water, the irrigation districts in the Phoenix and Pinal County areas need to begin immediately to construct distribution systems to take water from the turnouts to the fields.

If the distribution systems are not constructed, the farmers will not be able to take the CAP, and they will continue to mine ground water. If ground water mining is not halted, the future of Phoenix and Tucson is in jeopardy.

The original cost estimate for these distribution systems was close to $500 million. In recent months, however, the districts have worked closely with the Bureau of Reclamation, and I am informed that by revising the scope and dimensions of the systems, the total estimated cost of the systems has been dramatically reduced.

The manager of the Central Arizona Water Conservancy District has advised me and the Bureau of Reclamation that the cost indexing provided in this bill should be adequate to construct these needed systems.

This is due, in part, to a decision by the local irrigators to contribute moneys of their own. Over the last several months these farmers have gone to the private bond markets and they are prepared to put approximately $64 million of upfront money toward construction of the systems.

I am pleased to see this kind of cooperation and contribution from the irrigation districts and I think this is the kind of local cost-sharing effort we have been talking about in this Congress for the last several years.

In addition, of course, the water districts that receive these funds must enter into repayment contracts with the Federal Government to repay the construction costs over a period of time not to exceed 40 years after delivery of water begins.

The distribution systems are an important part of the CAP and it is critical to begin construction now, in order to permit water to be delivered when it begins to flow to Arizona in 1985. I urge your support for this legislation.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VENTO: Page 2, line 11, before the first period insert the following: ": *Provided*, That the Secretary shall enter into agreements with non-Federal interests to provide not less than 20 percent of the total cost of such facilities during the construction of such facilities".

Mr. VENTO. Mr. Speaker, I want to recognize that this is a compromise amendment from which I had outlined in a letter to Members previously with Congressman EDGAR and Congressman WALKER, a provision suggesting that we were going to offer a higher percentage amount. We opted for this compromise because it does set an important new precedent. The enactment and final passage of this, indeed, will mean that the distribution system of the central Arizona project will be responsible to provide at least 20 percent of the cost from other than Federal sources. I think is the reality of where we are at with the constraints in Federal spending and proper priorities. If these projects are important, they at least ought to attain a commitment from the local community.

This amendment, I believe, will be a prerequisite for many of the water projects, sound water projects, that come down to Congress in the future.

I would point out that this legislation only provides for a major component of the central Arizona project. The remainder of it will not have such cost-sharing provisions. Historically, old projects that have been authorized by this Congress, such as this, a project authorized, I understand, in the 1967-68 Congress did not have such provisions, but because this is a portion of that project which had not begun construction and because of the ceilings that were inherent in it, we had an opportunity to revisit this subject of cost sharing and I think we are treating the service area, especially the irrigation portions of it very fairly in terms of this particular provision.

The Reclamation Act, of course, does provide for a certain degree of repayment, but I think most of us recognize that that repayment is far less than the actual value of the benefit received.

Nevertheless, I am happy in this instance to offer the amendment to thank the chairman, Mr. UDALL, and the other gentleman from Arizona (Mr. RHODES), for their support and willingness to accept this alternative and to work together so that we could get this legislation passed.

Mr. Speaker, the amendment I am offering is representative of the realities of the 1980's, namely; that beneficiaries should be responsible for a greater percentage of the up-front costs associated with financing water projects. Historically, the levels of repayment on reclamation projects have been extraordinarily generous, particularly to irrigators. Reclamation projects have been built with the Federal Government assuming all the up-front costs. The project's beneficiaries typically have repaid those costs over a 50-year period at little or no interest cost.

Mr. Speaker, this amendment is a compromise between myself and those who share my concerns, and the project's supporters. It is important to point out that the adoption of this amendment will set an important "new" precedent, refining on the cost-sharing provisions of the House-passed Reclamation Safety of Dams Act and the recently renegotiated Southern Arizona Water Rights Settlement Act.

For the foreseeable future, constraints on Federal spending will require additional sources of non-Federal funding to simply maintain the current level of water development in the face of rising costs. Cost sharing by non-Federal interests can assure that

Federal priorities are in tune with local priorities. With this sort of cost-sharing amendment in place State and local users will have the incentive to assure that only truly important water projects are built.

The legislation before us presents a unique opportunity to go back and review an already authorized project. Since S. 2177 deals only with the non-Indian distribution system, my amendment applies only to one major component of the central Arizona project. This irrigation system is a separate component which carries a separate authorization ceiling right in the original authorizing statute. I believe though that my amendment goes far beyond the legislation at hand and that cost sharing has and will become a prerequisite for the advancement of sound water projects.

I urge the amendment's adoption.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, we accept the amendment and I understand it is acceptable to the minority.

Mr. RHODES. Mr. Speaker, if the gentleman will yield, we accept the amendment.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, I rise because of my deep concern for the rational use of the waters of the Colorado in the West, a matter which I have been concerned with for some time.

I do not propose to object to this amendment, but earlier before I realized that a compromise had been reached, I was concerned that we have an opportunity for a full discussion of the policy implications of what is proposed in this legislation.

I am still not satisfied that we have reached a solution to the water problems of Arizona or the broader problems of the West involving the Colorado in a satisfactory fashion. I want to pursue this so that we may ultimately solve some of these problems in a realistic way.

I rise at this point merely to express this concern, not to object to the proposed amendment.

Mr. UDALL. Mr. Speaker, I thank the gentleman and I will be glad to talk to him.

Mr. Speaker, I move to strike the last word, and I yield to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of S. 2177 which amends the Colorado River Basin Project Act.

This bill corrects a serious oversight in the original authorizing legislation.

At the time when the authorizing language was passed, construction funding for the main project, the central Arizona project was indexed for inflation. Unfortunately, through a legislative oversight, funding for the distributions systems, which take the water from the main canal to all the areas in need of water, was not indexed. In searching through the legislative history, we find no official intention of excluding the distribution systems from indexation, but rather through oversight.

This indexation is a serious and vital aspect of the entire central Arizona project. Without the distribution systems in line when the main canal is in place, the water will not serve anyone, will not reach the farmers, town folk, and cities that it is intended to reach. In effect, all the sweat, time, and money that has gone into the central Arizona project will have been wasted if there is no money for takeoff systems. There is even fear now that the distribution systems will not be constructed in time to take the water when the first leg of the main canal is opened in 1985.

Many people who do not live in the West do not understand the vital necessity of projects such as these.

Water in the West is our most precious resource. We use it, reuse it, and reuse until there is virtually nothing left but dust. The central Arizona project, which will deliver Arizona's share of the Colorado River water to central and south Arizona, has been in the design and construction state since 1947.

In addition to building projects such as this, Arizona is leading the country in attempts to conserve, and wisely use our most scarce, and most precious resource. Recently, the State legislation passed the Groundwater Management Act, which I believe, will become a model for water management in many parts of this country. It sets specific goals and timetables for reaching those goals to bring our use and recharging of natural water sources into balance. It also mandates careful rules applying to future expansion which will balance water supplies against future need.

I urge my colleagues to support this bill and correct a legislative oversight so that benefits of this great undertaking, the central Arizona project, can be realized.

Mr. EDGAR. Mr. Speaker, I rise in support of the Vento amendment to require that water users share some portion of the massive cost of construction of the irrigation features of the central Arizona project.

The administration has made clear that increased non-Federal participation in water project construction is a necessary prerequisite to additional Federal commitments to water development. Indeed, the President's Cabinet Council on Natural Resources has already approved a cost-sharing formula that would require the up-front contribution of at least 35 percent of the cost of constructing irrigation facilities, precisely the level called for in the amendment. And the Department of the Army has already forwarded a request to Congress for construction funding for nine Corps of Engineers projects, premised upon these increased non-Federal contributions. The President is expected to give final approval to the cost-sharing plan later this fall.

Mr. Speaker, the growing bipartisan support for the President's cost-sharing proposal was noted recently in the New York Times. I ask unanimous consent that this article appear in the RECORD in full at this time.

It also should be noted at this point that public officials within the State of Arizona are currently engaged in a public discussion of their options for non-Federal contributions toward the completion of the central Arizona project. A State financing plan is expected by early next year. Mr. Chairman, I believe that this is a healthy debate, and I commend the State and local officials of Arizona for recognizing the need to share the load if important regional and national water development needs are to be met in coming years.

Mr. Speaker, the bill before us would constitute the largest single water project authorization passed by Congress in several years. I see no need to rush this measure through without cost sharing, as though our current fiscal situation had not changed since 1968. Mr. Chairman, the writing is on the wall. Increased participation by water users is essential for the continued operation of the Federal water development program. The Vento amendment is a reasonable approach, one which mirrors the administration's own views on the subject. I urge the adoption of the Vento amendment.

PLAN TO SHARE WATER PROJECT COSTS IS GAINING IN WEST UNDER REAGAN

(By William E. Schmidt)

DENVER, September 11.—Western officials who rejected a Carter Administration plan to share 10 percent of the bill on new water projects in the region may soon be asked by President Reagan to pay about a third of the cost of building the giant dams and reservoirs.

The new cost-sharing formula has been under review by Mr. Reagan since June, when it was sent to him by his Cabinet Council on Natural Resources and the Environment. Generally, it would require that states, local governments and private water users pay no less than 35 percent of the cost of agricultural and flood control projects.

In principle, Western governors and water officials who bitterly attacked Mr. Carter now seem prepared to accept Mr. Reagan's broader notion of cost-sharing as the necessary and unavoidable price of getting new starts on the water projects that are essen-

tial to the arid region's growth and economy.

Construction of water projects in the region has been virtually frozen since 1976, when President Carter singled out 19 projects as a waste of Federal tax money and refused to finance them.

"Over the last 10 years there has been a growing realization in the West that national economic and political realities dictate a move toward some form of cost-sharing," said Gov. Bruce Babbitt of Arizona, a Democrat who credits the Reagan Administration with a positive approach to Western water development.

"Under Carter, there was a feeling that cost-sharing was being used as a club to beat down reclamation projects," the Governor added.

But he and other officials in the West say they are still wary of the details of Mr. Reagan's cost-sharing plan, and they warn that requiring front-end financing from states, a cost-sharing arrangement, could impose impossible burdens.

Under a front-end financing arrangement, the state or local government generally must set aside or guarantee its share of the project's cost at the start of the project.

Governor Babbitt said that Western states had not been officially briefed on the plan and what details were learned only when his office obtained a "leaked" copy of the proposal.

"Up until now, the Administration has drawn an iron curtain across the subject," he said.

At a meeting in Boise, Idaho, last month, a group of nine Western governors passed a resolution urging the President and Interior Secretary James G. Watt to give them more accurate information on the cost-sharing proposal.

Interior Department officials refuse to discuss the details. Garrey E. Carruthers, Assistant Interior Secretary for Land and Water, said that Mr. Reagan had made no decision on the proposal but that he expected the White House to announce a new water policy, in combination with some new starts on construction, before the November elections.

The President's policy would apply both to the Bureau of Reclamation, responsible for building water storage projects in the 17 states west of the 100th meridian, and the Army Corps of Engineers, which constructs navigation and flood control projects, mostly in the Eastern states.

Mr. Carruthers said the Reagan Administration, unlike the Carter Administration was "pro-water development in the West." But he added, "For us to get back in the water business there must be cost-sharing".

BIPARTISAN SUPPORT FOR PLAN

It is a measure of Mr. Reagan's broad popularity in the region that both Democrats and Republicans are prepared to accept his notion of cost-sharing. Mr. Carter's opposition to water projects led to accusations by Westerners that he was "waging war on the West."

But the issue also has potential political pitfalls for Mr. Reagan. On the one hand, Western politicians are clearly banking on him to break the six-year bottleneck on water development. But given the nation's economic malaise and the President's emphasis on fiscal austerity, it will be difficult to propose Federal financing of new water projects while cutting back on social welfare programs.

In effect, Mr. Reagan's policy, if approved, would force states to put up tens of millions of dollars in front-end financing and might sharply increase the price of water purchased from the projects by farmers and irrigators.

For example, Colorado officials and private water users could be forced to provide nearly $100 million, much of it in front-end financing, to build the Narrows Dam, a giant water storage project planned in the South Platte River valley in the high, dry plains of northeast Colorado. Last January, the Bureau of Reclamation estimated construction costs on the project at $325 million, a figure it is now trying to trim.

As a measure of Western willingness to accept some degree of cost-sharing, the Colorado Legislature did set aside $30 million last spring toward the cost of the Narrows Dam and Animas La Plata, a proposed storage project in southwestern Colorado. In Wyoming, where the state treasury is flush with revenues from oil and gas exploration, officials have established a $600 million fund to help pay for new water starts.

NEW TURN IN A LONG DISPUTE

The idea of cost-sharing marks the latest turn in the dispute over the expensive reclamation projects, which were originally intended, in the early part of the century, to help settle the arid West by providing irrigation water for farmers.

Although they also increasingly supply municipal and industrial water, reclamation projects helped irrigate about 10 million acres last year in 17 Western states. Those irrigated lands, representing 1 percent of the nation's agricultural planted acreage, provide 10 percent of the total produce.

The Bureau of Reclamation contends that by purchasing water, irrigators overtime repay 85 percent of the cost of the projects. Critics say this is not true, and one report by the General Accounting Office last year said the pay-back was only about 10 percent because the farmers pay no interest.

As a result, some Congressman and environmentalists regard the projects as wasteful pork-barrel politics and point out that although the Narrows Dam will help irrigate 270,000 acres, it will serve only 150 farmers.

But for Westerners, water remains the political and emotional equivalent of blood. As Gov. Richard D. Lamm of Colorado says, "Most of the West today, most of its cities and people, sits on arid ground made habitable by the damming and diversion of water."

Governor Lamm, as well as Colorado's Senators, Gary Hart, a Democrat, and Willim L. Armstrong, a Republican, have expressed strong support for financing for the Narrows Dam and the Animas project.

LOCAL OPPOSITION TO DAM

Even if a cost-sharing formula is approved, the Narrows must overcome local objections. Opponents of the dam, including some of the 212 families who would have to be relocated, have railed against the project as unsafe and unnecessary and have sued to try to block it.

"This dam is not only going to increase the price of water, it is going to take out of production some of the most productive bottom land in the state," said Don Christensen, a crew-cut farmer whose land would be flooded by the proposed reservoir.

Local supporters in Fort Morgan, a sleepy farm community of 8,700 astride Interstate 76, say the dam will not only fuel the local agricultural economy by providing a stable supply of water but will also enhance recreation, fishing and wildlife by creating a reservoir 17 miles long.

There has been talk of building a dam on the South Platte since the early 1900's, when Congress first established the Bureau of Reclamation to build dams and reservoirs in the West so that farmers could turn dry brushland into productive cropland.

Like many rivers in the region, the South Platte changes with the seasons. In the spring, when it carries melted snow east across the plains from the Rockies, it can be a dangerous river, a swollen torrent that will sweep away roads and homes. In the late summer and fall it is desultory trickle, carrying too little water for farmers.

The project, called the Narrows because the dam would be placed at the narrowest point in the valley, was designed to capture and store the water for times when the farmers need it most. The project was authorized in 1944 but never built. Congress reauthorized it in 1970, and a study assessing its environment impact was completed in 1976, the same year Mr. Carter placed the Narrows on his "hit list."

Mr. Speaker, I wonder if the gentleman from Arizona (Mr. UDALL) might respond to a question.

Mr. UDALL, we have talked for some time about this bill, particularly in light of the Vento amendment which provides for some cost-sharing for this particular project.

I would like to direct your attention, as chairman of the committee, to a provision in the fiscal year 1983 energy and water appropriations bill, section 305 of that bill. In that particular provision, there is the authorization language for the Colorado River Basin project. Are you familiar with that particular language?

Mr. UDALL. Yes, I am.

Mr. EDGAR. I wonder if you would respond to a followup question. Would you as the chairman of the Interior Committee support an amendment to delete or alter that language to conform with the Vento amendment?

Mr. UDALL. Let me say to the gentleman that I agree with his request, but let me put it in proper focus.

We never knew whether the time was going to run out and this legislative bill would have a chance to get to the floor and pass. So a second track was opened up, a second shot at it, in the Appropriations Subcommittee, and they agreed to the provision the gentleman has referred to.

Clearly, the way to do this, the right way and the only way, in the long haul, is to do it by legislative committee and not by an appropriation rider.

So assuming this bill is passed in the Senate, that would resolve the problem, and we would oppose any further action of the Appropriations Committee and ask them to take that provision out.

Mr. EDGAR. And it is your intention that cost-sharing should apply to this project?

Mr. UDALL. Yes; it should. I want to say to the gentleman that things have changed a lot in the last few years, and those of us in the West have got to get used to the idea, as the gentle-

man has been proposing here through two administrations now, that there must be cost-sharing. I think you have won a victory in forcing us to pay attention to this, and I think you have set a precedent here which will be moving in the way the gentleman wants to move.

Mr. EDGAR. I thank the gentleman for his answer.

● Mr. CLAUSEN. Mr. Speaker, I rise in support of S. 2177, a bill to provide for cost indexing for the non-Indian distribution portion of the central Arizona project.

Mr. Chairman, the Subcommittee on Water and Power Resources, of which I am ranking minority member, held hearings in June of this year on S. 2177. During this hearing the evidence suggested that the 1968 law for the central Arizona project did not provide for cost indexing for the $100 million authorization for the non-Indian distribution system due to a simple oversight. This conclusion is further indicated by the fact that the Congress did provide for cost indexing on the Indian portion of the same project in the same 1968 law. After our hearing, S. 2177 was marked up in August in subcommittee and in the full committee and was voted out unanimously by both.

S. 2177 was brought to the other body and to this body by a bipartisan delegation from the State of Arizona. In addition, it has the support of the Reagan administration. Moreover, Commissioner Broadbent of the Bureau of Reclamation indicated during the hearing before our Water and Power Subcommittee that with indexing the original $100 million authorization would yield a new ceiling of about $320 million. Further, I am informed by Chairman UDALL who submitted a statement before the subcommittee in August that due to recent cooperation between the districts in the area and the Bureau, the scope and dimensions of the distribution systems have been revised to bring down the total estimated cost. Also, local farmers have agreed to contribute almost $64 million toward that total cost. In short, it appears that due to these efforts and to the cost sharing offered by the local beneficiaries, the non-Indian distribution system can be built for less than the ceiling provided for by this bill. There is no question that we must live within that budget and stay under that ceiling regardless of future cost escalation.

Mr. Chairman, S. 2177 serves to correct an oversight and to carry out the original 1968 act. That is the principle behind this bill. I urge my colleagues to support this legislation.●

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Minnesota (Mr. VENTO).

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

House Resolution No. 584 was laid on the table

ESTABLISHING PERMANENT BOUNDARY FOR THAT PORTION OF ACADIA NATIONAL PARK AS LIES WITHIN THE TOWN OF ISLE AU HAUT, MAINE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1777) relating to the establishment of a permanent boundary for that portion of the Acadia National Park as lies within the town of Isle au Haut, Maine, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) there are significant scenic, educational, natural, and cultural resources in the town of Isle au Haut, Maine;

(2) due to the isolated location and traditional resource-based economy of the town's island community, these resources are fragile and deserving of conservation and protection through both public and private efforts; and

(3) both residents of the town and visitors to the Acadia National Park will benefit from the establishment of a permanent boundary for the park and the management of parklands on a limited entry, low intensity basis.

SEC. 2. Notwithstanding any other provision of law, the permanent boundary of Acadia National Park lying within the town of Isle au Haut, Maine, is hereby established to include only those lands and interests therein as are depicted on the map entitled "Boundary Map, Acadia National Park, Town of Isle au Haut, Maine", numbered 123-80003 and dated October 1981, which map is on file and available for public inspection in the offices of the Department of the Interior and at the Registry of Deeds for Hancock and Knox Counties, Maine.

SEC. 3. (a) Within the boundary established by section 2, and as indicated on the map referenced therein, the Secretary of the Interior (hereinafter referred to as "the Secretary") is authorized to acquire lands and interests therein by donation or exchange. The Secretary is authorized and directed to acquire by donation, purchase with donated or appropriated funds, or exchange the tract known as the Hamilton lot in Duck Harbor. No later than one hundred and eighty days from enactment hereof, the Secretary shall convey to the town of Isle au Haut all right, title and interest of the United States in and to those lands under the jurisdiction of the Secretary which lie outside the boundary established by section 2 and within the town of Isle au Haut, subject only to such covenants running with the land as the Secretary and the town agree are necessary to preserve the general character of such lands, which shall include covenants to maintain forever in their natural condition (excepting the cutting of fire trails and the extinguishment of fires) lands above three hundred feet above the mean high water level: *Provided, however,* That such covenants with respect to lands above three hundred feet and below four hundred feet shall permit the gathering and removal of dead and fallen timber.

(b) Notwithstanding any other provisions of this Act, the Secretary is also authorized to accept by donation, as a coholder for enforcement purposes only, a limited enforcement interest in conservation easements on lands outside the boundary established by section 2 hereof and within the town of Isle au Haut which may from time to time be donated to the Isle au Haut Land Conservation Trust, a trust established under the laws of the State of Maine. The Superintendent of Acadia National Park is hereby authorized to serve as an ex officio trustee of such trust.

SEC. 4. (a) The management and use of parklands on Isle au Haut shall not interfere with the maintenance of a viable local community with a traditional resource-based economy outside the boundary of the park. To the maximum extent practicable, no development or plan for the convenience of park visitors shall be undertaken which would be incompatible with the preservation of the flora and fauna or the physiographic conditions now prevailing, and every effort shall be exerted to maintain and preserve this portion of the park in as nearly its present state and condition as possible. In recognition of the special fragility and sensitivity of the park's resources, visitation shall be strictly limited to assure negligible adverse impact on such resources, to conserve the character of the town and to protect the quality of the visitor experience.

(b) In furtherance of the purpose of subsection (a) of this section, the Secretary shall prepare a report establishing carrying capacities for the Isle au Haut portion of Acadia National Park. The report shall be prepared and the carrying capacities established with public participation and in consultation with the town of Isle au Haut and other interested parties.

(c) The Secretary shall transmit the report to the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives no later than six months from the date of enactment of this Act. The Secretary shall begin implementing the carrying capacities contained in the report sixty days after the report has been transmitted to the committees.

(d) Carrying capacities established pursuant to this section shall be reviewed, and if necessary revised, every five years. Any revision in such carrying capacity shall be made in accordance with the procedures set forth in subsections (b) and (c) of this section.

(e) Until such time as a carrying capacity limitation is established and implemented pursuant to subsections (b) and (c) of this section, the Secretary shall take such temporary measures as are necessary to assure that visitation does not exceed the average annual visitation for the period 1979 to 1981.

SEC. 5. There are hereby authorized to be appropriated after October 1, 1982, such sums as may be necessary to carry out the provisions of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1550

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 6267, NET WORTH GUARANTEE ACT

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 97-903) on the resolution (H. Res. 603) providing for the consideration of the conference report on the bill (H.R. 6267) to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and insuring the availability of home mortgage loans, which was referred to the House Calendar and ordered to be printed.

AUTHORIZING SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LANDS NEAR MILES CITY, MONT.

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 187) to authorize the Secretary of the Interior to convey certain lands near Miles City, Mont., and to remove certain reservations from prior conveyances, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. MARLENEE. Mr. Speaker, reserving the right to object, I appreciate the action taken by the subcommittee chairman, the gentleman from Ohio (Mr. SEIBERLING) and fully support the committee-amended version of Senator MELCHER's bill, which in essence is my bill, H.R. 4654.

I worked closely with the Senator. He has no objection to this arrangement. The administration also supports the amended version.

Mr. Speaker, I urge the bill's passage, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he hereby is, authorized and directed to convey by patent to the city of Miles City, a municipal corporation organized and existed under the laws of the State of Montana, to wit: Lots 9, 17, and 21 (all presently encumbered by the Miles City public water system); lots 28, 31, and 32, all in section 32; lots 16 and 17 in section 33, township 8 north, range 47 east, Principal meridian, Montana, and tract Q and tract S, townships 7 and 8 north, range 47 east, Principal meridian, Montana.

SEC. 2. The Secretary of the Interior is authorized and directed to convey to the city of Miles City, Montana, such evidence as is necessary to remove the reversionary provisions for public lands previously patented or conveyed by act of Congress, to wit: Patent numbered 1021511, tracts A and B; patent numbered 1122295, tracts E and F; patent numbered 1173770, tract G; patent numbered 1173768, tract K; patent numbered 1173769, tract L; patent numbered 1178764, tract M; patent numbered 1219817; tract P, all located in townships 7 and 8 north, range 47 east; and tract D located in township 8 north, range 47 east, Principal meridian Montana.

SEC. 3. The Secretary of the Interior is further authorized and directed to convey to county of Custer, State of Montana, such evidence as is necessary to remove the reversionary provisions for public lands previously patented, to wit: Patent numbered 1023689, tract C; patent numbered 25-76-0099, tract T, located in townships 7 and 8 north, range 47 east, Principal meridian, Montana, and patent numbered 25-76-0100, lot 20, located in section 33, township 8 north, range 47 east, Principal meridian, Montana.

SEC. 4. The patents and documents issued pursuant to sections 1, 2 and 3 of this Act shall contain a reservation to the United States of all gas, oil, coal, and other mineral deposits as may be found in such lands and the right to the use of the lands for extracting and removing same.

SEC. 5. No conveyance shall be made pursuant to this Act until payment has been made for the fair market value of the interest being conveyed. Where initial conveyance of these lands was conditioned upon payment of a reasonable consideration on the basis of use, the Secretary is directed to determine the basis for the payment made at the time of the original conveyance. If such payment reflected fair market value without any reduction in that price because of the reverter, no additional payments shall be required.

Mr. SEIBERLING. Mr. Speaker, this bill provides for transfer to the city of Miles City and to Custer County, Mont., of the Federal interests in about 708 acres of land within or adjacent to Miles City. As reported by the committee, the bill is essentially identical to H.R. 4654, sponsored by the gentleman from Montana (Mr. MARLENEE). I urge its passage and will now explain it further.

Beginning in 1890, 491.64 acres of public land, consisting of 24 different parcels predominantly located in flood plain, were conveyed to, or authorized to be used by, Miles City under various patents, leases, special acts of Congress, and special use permits. Of this, 275.28 acres have since been patented, with the United States retaining reversionary interests in the event the lands were ever used for purposes other than those specified in the patents. An additional 43.34 acres were granted to the Chicago, Milwaukee and St. Paul Railway Co. in 1906 as rights-of-way for specified uses, again with provision for reversion to the United States should any portion of the lands cease to be used for the intended purpose. The remaining 173.02 acres are currently subject to Recreation and Public Purposes Act leases containing similar provisions for termination of the lease.

All the tracts are currently being used. However, many of the uses deviate from or are in addition to the original authorizations, and therefore technically constitute illegal trespass. Examples of these unauthorized and nonconforming uses include two tracts conveyed in 1924 for municipal purposes as a public park, which currently are used for an emergency water tower and an American Legion Hall; lands conveyed for industrial and recreation purposes now utilized for State offices; and other similar cases.

The lands covered by the bill are all being used for purposes which benefit the people of Miles City. However, in every instance title should revert back to the Federal Government under the technical use restrictions in the original authorizations, even though BLM has determined there is no Federal need for the lands.

Mr. Speaker, the Senate passed S. 187 on September 22, 1981. As passed, the Senate bill required that Miles City and Custer County pay to the United States the fair market value of the interests to be transferred to the city and the county. Such a requirement apparently was prompted by the administration's asset management program and the policy that the Federal Government insist upon receipt of fair market value for any Federal interests transferred out of Federal ownership. By a departmental report dated December 3, 1981, the administration indicated that because the Senate bill did include the requirement for payment of fair market value, they would have no objection to its acceptance here in the House.

Subsequently, however, the Committee received an additional departmental report, dated September 2, 1982, on both the Senate bill and on H.R. 4654.

That report noted that the House bill dealt with the same lands but would require payment to the U.S. Treasury only in the event that the lands are ever sold by the city or county, and stated that the administration believes that the House bill is the better alternative.

Frankly, Mr. Speaker, the committee agrees with the administration's 1982 position and disagrees with their 1981 position.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING SECRETARY OF AGRICULTURE TO CONVEY CERTAIN LANDS IN GALLATIN NATIONAL FOREST

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 188) to authorize the Secretary of Agriculture to convey certain lands in the Gallatin National Forest, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so simply to ask the gentleman from Ohio to explain a little bit about this legislation.

Mr. SEIBERLING. Mr. Speaker, this bill, which passed the Senate on October 21, 1981, provides for the transfer to a named individual of the surface estate in slightly less than a half acre of national forest land in Park County, Mont., upon payment to the United States of fair market value. The mineral rights would be retained by the United States. It is not controversial and I urge its passage.

The bill involves a homestead, "HES 84," consisting of about 112 acres which was patented to Mr. Wayne Fuller's ancestors on November 11, 1913. The boundary of the homestead was surveyed and established on the ground in 1911. Some of the improvements constructed by the patentee subsequent to the land survey, such as the residence and the barn, constructed in the midthirties and about 1940 respectively, are located partially on national forest system lands. Other improvements such as a springhouse, corral, cabin, and assorted outbuildings are constructed entirely on national forest system lands. Each of these structures constitutes an unauthorized occupancy and would have to be removed unless authorized by a special-use permit from the Forest Service. A special-use permit was issued by the Forest Service to Wayne and Helen Fuller on September 10, 1980, as an interim measure pending a permanent resolution.

Of apparent principal concern to Mr. Fuller is the location of the house and barn, portions of which are on national forest system lands, and other lesser improvements. Mr. Fuller would prefer to acquire the land rather than move the structures or continue to have their occupancy of national forest system land authorized by special-use permit.

The administration has indicated that they have no objection to enactment of the bill, although they do not believe that the situation could be handled through administrative means.

Mr. LUJAN. Mr. Speaker, further reserving the right to object, I would ask the gentleman from Ohio if that has been cleared with the gentleman from Alaska (Mr. YOUNG), the ranking member.

Mr. SEIBERLING. That was reported by the Committee on Interior and Insular Affairs yesterday and passed by the committee.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture be, and he hereby is, authorized and directed to convey by patent to Wayne Fuller, the following described lands in the Gallatin National Forest, to wit: township 6 south, range 9 east, and township 6 south, range 10 east, Principal meridian, Montana, Park County, Montana; beginning at corner numbered 4 of H.E.S. 84, thence south 63 degrees 50 minutes west, a distance of 68.1 feet; thence south 54 degrees 5 minutes east, a distance of 448.7 feet; thence north 53 degrees 27 minutes east, a distance of 39.3 feet; thence north 51 degrees 3 minutes 52 seconds west, a distance of 429.3 feet to the point of beginning; containing approximately 0.497 acres.

SEC. 2. No conveyance shall be made pursuant to this Act until payment has been made for the fair market value of the interest being conveyed.

SEC. 3. The patent issued pursuant to this Act shall contain a reservation to the United States of all gas, oil, coal, and other mineral deposits as may be found in such lands.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 3809, ATOMIC ENERGY ACT AMENDMENTS OF 1981

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 601 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 601

Resolved, That upon the adoption of this resolution it shall be in order, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3809) to provide for repositories for the disposal of high-level radioactive waste, transuranic waste, and spent nuclear fuel, to amend provisions of the Atomic Energy Act of 1954 relating to low-level waste, to modify the Price-Anderson provisions of the Atomic Energy Act of 1954 and certain other provisions pertaining to facility licensing and safety, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two and one-half hours, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the bill shall be read for amendment under the five-minute rule. In lieu of the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 7187 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read for amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 7, Rule XVI and clause 5, Rule XXI are hereby waived. No amendment to the bill or to said substitute shall be in order except the following amendments printed in the Congressional Record of September 28, 1982, which shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and which shall not be subject to amendment except pro forma amendments for the purpose of debate, and all such amendments shall be in order even if changing portions of the text of said substitute already changed by amendment:

an amendment by Representative Lujan of New Mexico and if offered by Representative Lujan or Representative Broyhill of North Carolina;

the amendments by and if offered by Representative Broyhill of North Carolina;
an amendment by and if offered by Representative Derrick of South Carolina;
the amendments by Representative Dingell of Michigan and if offered by Representative Dingell or Representative Udall of Arizona;
an amendment by and if offered by Representative Fuqua of Florida;
an amendment by and if offered by Representative Lott of Mississippi;
the amendments by and if offered by Representative Lundine of New York except that the amendment by Representative Lundine to sections 2, 131, 135, 136, 137, 141, and 304 of said substitute (relating to away-from-reactor storage) may be offered by Representative Lundine or by Representative Markey of Massachusetts;
the amendments by and if offered by Representative Markey of Massachusetts;
the amendments by and if offered by Representative Marriott of Utah;
the amendments by and if offered by Representative Breaux of Louisiana;
an amendment by and if offered by Representative Petri of Wisconsin;
an amendment by and if offered by Representative Rahall of West Virginia;
an amendment by and if offered by Representative Rodino of New Jersey;
an amendment by and if offered by Representative Stratton of New York;
an amendment by and if offered by Representative Swift of Washington;
the amendments by and if offered by Representative Udall of Arizona;
an amendment by and if offered by Representative Weaver of Oregon and all points of order against said amendment for failure to comply with the provisions of clause 7, Rule XVI are hereby waived;
and the amendments by and if offered by Representative Wirth of Colorado.

At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□1600

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Arizona (Mr. RHODES), and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 601 is a modified open rule allowing the offering of some 36 amendments covering a wide variety of issues on a rather complex matter. It provides for consideration of H.R. 3809, the Nuclear Waste Policy Act of 1982. The bill is one of three measures on which seven committees of the House spent many months working. The other two measures are H.R. 5016 and H.R. 6598.

H.R. 5016 was jointly referred to the Committees on Energy and Commerce, Interior and Insular Affairs, Science and Technology, and Rules. This bill was reported (House Report No. 97-411, part 1) from the Committee on Science and Technology on December 15, 1981. The Committee on Energy and Commerce reported its version of the nuclear waste legislation, H.R. 6598, on August 20, 1982 (House Report No. 97-785, part 1). Both the Committees on Interior and Insular Affairs and Armed Services reported H.R. 3809. The Committees on the Judiciary and Merchant Marine and Fisheries received a sequential referral on all three of the nuclear waste bills.

Mr. Speaker, the process for committee consideration of this very complex nuclear waste legislation has been both complicated and difficult. The substantive issues were both intricate and controversial. Additional complexity was added to the situation by the sheer number of committees involved. After the committees had reported the three bills, there was an additional step of consultation and compromise necessary to draft a bill which might be taken to the floor. The Committee on Rules held 3 days of hearings just to consider granting a rule on the measure. The rule, I believe, provides for as orderly a consideration of this complex matter as could be devised. It allows those Members most concerned with this legislation to offer amendments which will be constructive in focusing the House's attention on the major areas of controversy in the legislation.

Mr. Speaker, with my colleagues' indulgence, I will take just a few brief minutes to explain the provisions of the rule. The rule allows 2½ hours of general debate; 30 minutes is allocated to each of five committees. They are the Committees on Interior and Insular Affairs, Energy and Commerce, Science and Technology, Armed Services, and Rules. The time of each committee is to be equally divided and controlled by the chairman and ranking minority member of the designated committee.

The bill is to be considered for amendment under the 5-minute rule and the amendment in the nature of a substitute consisting of the text of the bill, H.R. 7187, the compromise measure, is to be considered as an original bill for the purpose of amendment. It will be considered as having been read, thus allowing it to be open for amendment at any point. No amendment, except pro forma amendments for purposes of debate shall be in order except those amendments printed in the CONGRESSIONAL RECORD of September 28, 1982, and specifically listed by the Member's name in the rule. These amendments are not amendable nor are they subject to a demand for division of the question. The amendments may be offered even if they amend a section of the bill already amended.

The rule waives clause 7, rule XVI (16), Germaneness, and clause 5, Rule XXI (21), appropriations in a legislative bill, against the amendment in the nature of a substitute. The rule also waives points of order pursuant to germaneness against the amendment to be offered by Representative WEAVER. A motion to recommit with or without instructions is also allowed.

Mr. Speaker, the only other waiver in the rule is a waiver of section 402(a) of the Budget Act against consideration of the bill. Section 402(a) requires new budget authority to be reported by May 15, preceding the beginning of the fiscal year in which it is to become effective. H.R. 3809, as introduced, would have allowed new budget authority for fiscal year 1983, and thus should have been reported by May 15 of this year.

Mr. Speaker, while the rule does make in order a number of amendments, I believe it is as fair and orderly process as we could devise for the consideration of the nuclear waste legislation. I urge my colleagues to adopt House Resolution 601 so that the House might consider H.R. 3809, the Nuclear Waste Policy Act of 1982.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the rule. I know of no opposition to it on my side. The gentleman from South Carolina has explained it quite adequately. I am in hopes that we can adopt the rule rapidly and go on to consider this very important bill.

For too long the people of this country have wanted the Government to adopt a policy concerning the disposition and storage of nuclear waste and, unfortunately, the Congress has not done it. It would certainly be my hope that before this session of Congress adjourns or recesses, or whatever we finally do, that this will be accomplished.

Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the rule on H.R. 7167, the Nuclear Waste Policy Act of 1982. This legislation is vitally needed by this Nation and we must act now if we are to have a chance for final passage in this Congress. An enormous amount of Members' and staffs' time and effort has gone into preparation of this bill. Seven committees of jurisdiction have reported out bills and my good friend, Chairman UDALL, has bent over backwards to accommodate the views and needs of a number of other groups and individual Members. The process, while in the interest of fairness, has

caused some significant delays. While endorsing this rule, I do want to take time to express my dissatisfaction with certain aspects of the process which created it. Chairman UDALL, in his statement before the Rules Committee last week, mentioned some of the problems he has had with the preemption of the committee process which went on in assembling this bill. In addition, many of the compromises which were struck in order to move the bill to the floor were accepted because it was assumed that a tight rule would be granted. Only major substantive issues were to be voted on. I personally feel that some of the amendments approved by the Rules Committee in the interest of fairness are dilatory and wish that they had been recognized as such during drafting of the rule. However, in spite of these reservations, I feel that the rule and bill are generally acceptable, largely through the efforts and fairness of Congressmen UDALL, DINGELL, FUQUA and BROYHILL.

Mr. Speaker, I urge that my colleagues adopt this rule.

Mr. RHODES. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Speaker, I thank the gentleman for yielding, and I congratulate the chairman of the committee and the ranking member of the Rules Committee for bringing this measure to the floor of the House today.

I want to urge prompt action on the rule and expedited debate and action on the legislation which the rule authorizes. In my part of the Nation, 70 percent of the electrical energy is generated from nuclear power. The problem of disposing of the spent nuclear rods is a very acute one. They are stored presently in pools adjoining the nuclear generating plant, as is the case, I understand, in about 50 different nuclear generating plants around the country. The space is rapidly being used up, and unless we provide for a permanent way of disposing of the spent nuclear waste, we are going to face shortages in generating of electrical power and we are going to have to close down some of these nuclear generating plants.

Consequently, it is extremely important that we have expedited action in this Congress on this issue so that we can get on with the work of disposing of the waste nuclear fuel and spent nuclear rods which are accumulating daily and hourly in the various parts of the country where nuclear energy is providing the source of electric energy for our population.

I urge favorable action on the rule.

□ 1610

Mr. DERRICK. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I rise in somewhat reluctant support of this rule. It has been the most difficult bill I ever had to deal with. My subcommittee shares with the appropriate subcommittee of the Interior and Insular Affairs Committee prime jurisdiction over this matter and I have just never seen a bill where industry was so obdurate and the Department of Energy was so obdurate in insisting upon unreasonable requirements for the legislation.

They pushed through, with their supporters on the committee, by very narrow votes, 32 separate exemptions from the National Environmental Policy Act and other laws, many of which are critically important for the protection of the public health and safety of the citizenry of this country and for the communities that are affected. They just wanted to run roughshod over these laws.

They pushed through unprecedented exceptions from the licensing procedure as if safety of nuclear installations were to mean nothing. The industry was to be granted its will regardless, with the Department of Energy full speed behind them.

They even went to the point of adopting in the committee a provision that none of the public hearings were going to be on the record, nor would they be subject to the Administrative Procedures Act. They were to be called public meetings and nobody had to do anything with the public comments that were introduced. The Secretary of Energy just had to have these public meetings and then could forget about everything that was said.

Judicial review was truncated.

It was really the most incredible performance I have ever seen.

I would like to say, to the credit of the gentleman from South Carolina who is handling this rule, that this legislation finally was improved to a point where I feel I barely can support it. He played an enormously constructive role. Also the gentleman from Arizona, Mr. UDALL, labored long and hard to try and see if we could not get a product that would be reasonably acceptable to the very diverse viewpoints that are represented in this body.

The bill is by no means perfect. The bill still contains a great many exceptions from the environmental processes required by law that I think are bad precedents and very bad procedure.

The military waste issue is not handled as I would have handled it. There is still the possibility that there would be two separate repository programs, two separate procedures, that the entire country would again be subject to having these dangerous repositories. But at least some protections are put in there. At least the State procedures will apply to military-only repositories.

There is encouragement for having one repository unless the President finds that there are security reasons for having a separate military repository.

There are now at least formal environmental reviews at critical stages and one EIS is subject to judicial review before the actual construction of a repository takes place.

There is a very bad provision in this bill for monitored retrievable storage. Unfortunately, it appeared in both committees and passed. But it requires that monitored retrievable storage be planned with specific designs and the specific site to be put forward and then exempts that process from environmental review. It then appears to say to the NRC, "When you get to licensing the thing you can consider everything, but you cannot consider alternate sites or alternate designs, alternate designs, mind you, even though the design that is put forward may pose a danger to the public, and even though there may be designs which are far preferable."

Monitored retrievable storage would keep high-level radioactive nuclear waste for 100 years or more. Those sites and those designs and procedures for the protection of the health and safety of the public ought to be as meticulous as for the full repository itself.

I am very pleased that the chairman and ranking minority members of each of the committees invovled have agreed to support an amendment that will provide those key protections and will, in addition, provide for adequate time so that the Department can carefully produce a monitored retrievable storage facility rather than the 1-year time limit that is provided in the bill at the present time, which the Department of Energy says it cannot meet.

As I indicated, there are still lots of problems with this bill. There are many amendments to which my friend from New Mexico referred, the amendments of people who were concerned in the committee process situation which have been dealt with in a such fashion now that I can support the rule and the bill as it is presented in compromise form.

Mr. DERRICK. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I thank the gentleman for yielding.

I want to begin by first thanking and complimenting the chairman of the Rules Committee, Mr. BOLLING, who worked with the gentleman from South Carolina, Mr. DERRICK, and the gentleman from Massachusetts, Mr. MOAKLEY, and others, to help to craft a rule which I believe is open and fair and will give a full opportunity to have a complete discussion of all of the outstanding issues which still

remain unresolved. Members will have an opportunity to be able to decide whether or not they want to go forward with a nuclear waste bill that does not concern itself with some of the very major environmental and States rights questions that we should all have considered before this legislation goes into effect as the law of the land.

I also want to thank MO UDALL, JOHN DINGELL, DICK OTTINGER, and DON FUQUA for their work. They all did yeoman work in trying to put together this piece of legislation. All of us agree that a comprehensive piece of nuclear waste legislation is absolutely critical for this country. We differ as to how we are going to reach that goal.

All of us ultimately want to see high-level nuclear waste buried in deep-bed geological respositories. This debate this afternoon and tomorrow will largely determine whether or not we will ever reach that goal.

There are a number of other issues which will have to be discussed and that is why I am very glad that the Rules Committee decided to give us this bill, not on a take it or leave it basis, because under those grounds I think we should have left it, but, rather, with a chance of discussing issues as important as the inclusion of defense waste, which is 90 percent by volume of all of the nuclear waste in this country.

Do we really need to set up a Federal bailout of the nuclear power industry by providing 2,000 metric tons of short-term interim storage capacity which will very much undermine our goal of constructing a permanent repository in the country?

Should we directly threaten the purpose of this bill by allowing for the construction of monitored retrievable storage, a huge mausoleum which will be able to basically contain all of the surplus nuclear wastes in our country for the next 50 to 100 years, and completely obviate any need for the further construction of any permanent nuclear waste repository?

What role should the States play? What role should Governors play as we determine that one particular State in the Union shall be the nuclear garbage can for the next 10,000 years? Should that Governor have the right to object to the siting of a nuclear waste repository? Should the Governor's decision be overridden by Congress or should it be sustained?

I think that is a very, very critical question.

Are we wise to sidestep the National Environmental Policy Act and other environmental protection laws which were put on the books over the past years in dealing with the test and evaluation facilities, the interim storage facility, the permanent facility, the monitored retrievable storage facility?

Should we have full, complete environmental protection laws in place to make sure that when they are experimenting with these nuclear materials in any of these facilities that all environmental precautions have been taken?

All of these questions should be resolved.

This rule gives us the opportunity to raise all of those questions. I hope that all of the Members in this body listen very attentively to the full and complete debate because what we are talking about here is the most dangerous material on this planet, the most potentially serious environmental hazard that will face the health and safety of people on this planet for the next generation, for the next 100 years, and for the next 10,000 years to come.

□ 1620

I thank the ladies and gentlemen of the Rules Committee for crafting such an open rule. I thank the relative chairmen and the minority leadership of all of the relevant committees who made it possible to fully debate the controversial issues surrounding nuclear waste disposal. I hope that every Member of this body listens attentively to the entire debate because this issue is the single most important environmental issue that will have been voted on in the 1981-82 Congress.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I feel that this bill is absolutely necessary. I urge the adoption of the rule. I am glad that we are getting down to business.

Mr. Speaker, I yield 1 minute to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I rise in support of the rule.

At long last the House will have an opportunity to consider this crucial legislation. I very much appreciate the Rules Committee bringing it to the floor at this point. I could quibble with portions of the rule, as others have, but the important point is that finally the Congress will have an opportunity to address this important issue.

Certainly as a first-term member of the House Interior and Insular Affairs Committee during the last Congress, it was my largest frustration, the frustration of not being able to deal with this important issue. I thought that once again perhaps jurisdiction and other delays would keep us from dealing with it. I commend to my colleagues the importance of this bill. I look forward to working out some of the problems that still remain in the bill in the next few minutes.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

VACATING PROCEEDINGS ON S. 187, AUTHORIZING SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LANDS NEAR MILES CITY, MONT.

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to vacate proceedings whereby the Senate bill (S. 187) to authorize the Secretary of the Interior to convey certain lands near Miles City, Mont., and to remove certain reservations from prior conveyances, was passed, and I ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the Secretary of the Interior be, and he hereby is, authorized and directed to convey by patent to the city of Miles City, a municipal corporation organized and existed under the laws of the State of Montana, to wit; Lots 9, 17, and 21 (all presently encumbered by the Miles City public water system); lots 28, 31, and 32, all in section 32; lots 16 and 17 in section 33, township 8 north, range 47 east, Principal meridian, Montana, and tract Q and tract S townships 7 and 8 north, range 47 east, Principal meridian, Montana.

SEC. 2. The Secretary of the Interior is authorized and directed to convey to the city of Miles City, Montana, such evidence as is necessary to remove the reversionary provisions for public lands previously patented or conveyed by act of Congress, to wit: Patent numbered 1021511, tracts A and B; patent numbered 1122295, tracts E and F; patent numbered 1173770, tract G; patent numbered 1173768, tract K; patent numbered 1173769, tract L; patent numbered 1178764, tract M; patent numbered 1219817, tract P, all located in townships 7 and 8 north, range 47 east; and tract D located in township 8 north, range 47 east, Principal meridian, Montana.

SEC. 3. The Secretary of the Interior is further authorized and directed to convey to county of Custer, State of Montana, such evidence as is necessary to remove the reversionary provisions for public lands previously patented, to wit: Patent numbered 1023689, tract C; patent numbered 25-76-0099, tract T, located in townships 7 and 8 north, range 47 east, Principal meridian, Montana, and patent numbered 25-76-0100, lot 20, located in section 33, township 8

north, range 47 east, Principal meridian, Montana.

SEC. 4. The patents and documents issued pursuant to sections 1, 2 and 3 of this Act shall contain a reservation to the United States of all gas, oil, coal, and other mineral deposits as may be found in such lands and the right to the use of the lands for extracting and removing same.

SEC. 5. No conveyance shall be made pursuant to this Act until payment has been made for the fair market value of the interest being conveyed. Where initial conveyance of these lands was conditioned upon payment of a reasonable consideration on the basis of use, the Secretary is directed to determine the basis for the payment made at the time of the original conveyance. If such payment reflected fair market value without any reduction in that price because of the reverter, no additional payments shall be required.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the committee amendment to the Senate bill, S. 187, approved by the Interior and Insular Affairs Committee, be considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the enacting clause and insert:

That (a) The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall convey by patent to the city of Miles City, Montana (hereafter, referred to as the "city"), all right, title, and interest, except for those interests described in subsection (b) of this section, of the United States in and to the following lands in Custer County, Montana, in range 47 east of the principal meridian, Montana: In township 8 north, lots 9, 17, 21, 28, 31, and 32 in section 32 and in townships 7 and 8 north, tract Q and tract S.

(b) Any patent issued pursuant to subsection (a) of this section shall contain a reservation to the United States of all gas, oil, coal, and other minerals that may be found in such lands, and the right to prospect for, mine, and remove such minerals, and that patents shall also contain any other reservations required by law.

(c) Any patent issued pursuant to subsection (a) of this section shall provide that if the land is transferred or conveyed by the city, the proceeds of such sale shall be paid to the United States, to be distributed in accordance with section 4 of this Act.

SEC. 2. (a) The Secretary shall take such actions as are necessary to convey to the city the reversionary interests of the United States contained in the patents which conveyed to the city of Miles City, Montana, the lands described in subsection (b) of this section. Such reversionary interests arise when the patentee/grantee violates provisions which (1) require that such lands be used for specified purposes, or (2) prohibit transfer of such lands by the patentee/grantee. All documents of conveyance issued under this subsection shall provide that if the land is conveyed by the city, the proceeds of sale shall be paid to the United States, to be distributed in accordance with section 4 of this Act.

(b) The lands referred to in subsection (a) of this section are the following tracts in range 47 east of the principal meridian, Montana: In townships 7 and 8 north, tracts A and B (conveyed by patent numbered 1,021,511), tracts E and F (conveyed by patent numbered 1,122,295), tract G (conveyed by patent numbered 1,173,770), tract K (conveyed by patent numbered 1,173,768), tract L (conveyed by patent numbered 1,173,769), tract M (conveyed by patent numbered 1,178,764), tract P (conveyed by patent numbered 1,219,817), and tract D (conveyed by the grant made by the Act of July 30, 1890 (26 Stat. 292)), Lots 16 and 17, Section 33 (conveyed by patent numbered 25-81-0094).

SEC. 3. (a) The Secretary shall take such actions as are necessary to convey to the holder of the patent the reversionary interests of the United States contained in the patents which conveyed to the county of Custer, Montana, the lands described in subsection (b) of this section. Such reversionary interests arise when the patentee violates provisions which (1) require that such lands be used for specified purposes, or (2) prohibit transfer of such lands by the patentee. All documents of conveyances issued under this subsection shall provide that if the land is conveyed by the patentee, the proceeds of such sale shall be paid to the United States, to be distributed in accordance with section 4 of this Act.

(b) The lands referred to in subsection (a) are the following parcels in range 47 east of the principal meridian, Montana: In townships 7 and 8 north, tract C (conveyed by patent numbered 1,023,689) and tract T (conveyed by patent numbered 25-76-0099), and in township 8 north, lot 20 in section 33 (conveyed by patent numbered 25-76-0100).

SEC. 4. (a) Notwithstanding any other provision of law, if the city or any other patentee or grantee transfers any lands described in this Act, such transfer shall be at fair market value for the land and improvements thereon.

(b) Proceeds from the sale of the land, excluding the value of any improvements on the land and less any sums paid to the United States at the time of original conveyance out of federal ownership, shall be deposited in the general fund of federal ownership, shall be deposited in the general fund of the Treasury of the United States, to be distributed as follows: At the end of each Federal fiscal year, the United States shall return 5 per centum of the net receipts collected in that fiscal year from the sale of lands described in this Act to the State of Montana, and 10 per centum of such receipts to the county or the city in which the lands are located in amounts proportional to the receipts generated from the sale of such land in each county or city during the fiscal year.

SEC. 5. All documents of conveyance issued pursuant to this Act shall be subject to valid existing rights.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

QUIETING TITLE AND POSSESSION WITH RESPECT TO CERTAIN PRIVATE LAND CLAIM IN LIVINGSTON PARISH, LA.

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 5785) to quiet title and possession with respect to a certain private land claim in Livingston Parish, La.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, all right, title, and interest of the United States in and to the parcel of land described as section 39, township 5 south, range 4 east, Saint Helena meridian, Louisiana, is hereby granted, released, and relinquished by the United States in fee simple to William Dennis, his heirs, or assigns.

SEC. 2. Nothing contained in this Act shall abridge or prejudice valid exisiting rights in any portion of the land described in the first section of this Act, the true intent of this Act being to convey all right, title, and interest to which the United States is entitled in said land to all persons or estates who would be the lawful owners under the laws of Louisiana in the absence of any interest or estate in the United States.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the amendment approved by the Committee on Interior and Insular Affairs be considered at once.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike all after the enacting clause and insert:

SEC. 1. (a) For the purposes of this Act only, the limitation provision of section 1 of the Act of December 22, 1928, as amended (45 Stat. 1069; 43 U.S.C. 1968), popularly

known as the Color-of-Title Act, that limits conveyances under that Act to not more than 160 acres, shall not apply to any claim for a patent that may be filed under the Color-of-Title Act for a parcel of land described as section 39, township 5 south, range 4 east, Saint Helena Meridian, Louisiana.

(b) Except as provided in subsection (a) of this section, all provisions of the Color-of-Title Act shall apply to any claim for a patent under the Color-of-Title Act for the parcel of land described in subsection (a) of this section.

SEC. 2. (a) Section 5 of the Act entitled "An Act to authorize the Secretary of the Interior to provide an administrative site for Yosemite National Park, California, on lands adjacent to the park, and for other purposes", approved September 2, 1958 (16 U.S.C. 47-1(e)), is amended by striking *'Provided,'* and all that follows in such section and inserting in lieu thereof *'Provided,* that he may grant nonexclusive privileges, leases, and permits for the use of land in the area and enter into contracts relating to the same which he determines necessary to further the purposes of this Act.'

(b) The first sentence of the first section of the Act entitled "An Act to authorize the Secretary of the Interior to grant long-term leases with respect to lands in the El Portal administrative site adjacent to Yosemite National Park, California, and for other purposes", approved July 21, 1968 (16 U.S.C. 47-2(a)), is amended by striking out "for periods of fifty-five years".

SEC. 3. (a) To eliminate a conflict between the official cadastral survey and a private survey of certain lands known as the Hartland subdivision located within the boundaries of the Sequoia National Forest in Tulare County, California, and described in section 2 of this Act, all right, title, and interest of the United States is hereby conveyed to those persons who submit a written application to the Secretary of Agriculture within five years after the date of enactment of this Act, with such proof of title as the Secretary may consider appropriate.

(b) The lands to be conveyed are described as follows:

PARCEL A—MOUNT DIABLO MERIDIAN, CALIFORNIA

Township 14 South, Range 28 East

Section 32: That portion of the south half southeast quarter southwest quarter more particularly described as follows:

Beginning at the south quarter corner of said section 32, said corner being marked by a 2½-inch aluminum monument with aluminum cap;

thence along the north line of Hartland as said subdivision is delineated in volume 17 of maps at page 48, Tulare County records, north 89 degrees 24 minutes 20 seconds west 152.79 feet to the northwest corner of lot 1 of said Hartland subdivision, said corner being marked by a 2-by 2-inch clear stake;

thence leaving said north line of Hartland north 84 degrees 15 minutes 50 seconds west 55.00 feet to a point on the northeasterly prolongation of that line between lot 7 and lot 8 of Hartland;

thence south 89 degrees 27 minutes 50 seconds west 148.98 feet to the most westerly corner of said lot 8;

thence along the north line of Hartland north 88 degrees 50 minutes 45 seconds west 232.26 feet to the northwest corner of lot 11 of said Hartland subdivision, said corner being marked by a three-fourth inch iron pipe;

thence continuing along the north line of Hartland north 88 degrees 50 minutes 45 seconds west 100.00 feet to the most westerly corner of lot 12 of said Hartland subdivision, said corner being also the most westerly corner of Hartland, according to said record map;

thence leaving the boundary of Hartland south 41 degrees 01 minutes 05 seconds east 70.64 feet to a point on the south line of said section 32;

thence along said south line of section 32 north 86 degrees 21 minutes 18 seconds east 643.62 feet to the point of beginning.

PARCEL B—MOUNT DIABLO MERIDIAN, CALIFORNIA

Township 14 South, Range 27 East

Section 14:

West half southwest quarter southwest quarter northwest quarter southwest quarter southwest quarter,

Northwest quarter northwest quarter northwest quarter southwest quarter southwest quarter southeast quarter.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

Mr. SEIBERLING. Mr. Speaker, this bill would provide additional authority to the Secretary of the Interior in two respects, namely, with regard to certain lands in Louisiana and also regarding the El Portal area in California. It would also resolve problems arising from a conflict between the official cadastral survey and a private survey of a small area in the Sequoia National Forest in California. I urge its passage and will now explain its provisions in greater detail.

Let me first explain the Louisiana provisions, relating to a cloud on the title of lands held by the Georgia Pacific and Crown Zellerbach corporations and others. Georgia Pacific acquired part of the 630 Louisiana acres in question in 1966 when it acquired another lumber firm. When Georgia Pacific contacted Bureau of Land Management (BLM) to obtain a copy of the original patent of grant covering this property, it was discovered that the property had been part of a land claim by one William Dennis identified in a letter to the Senate in 1821, but apparently because that claim was considered not to have a valid grounding in any applicable laws of the French, British, or Spanish Governments appertaining to the Louisiana country, no patent was ever issued for this private claim.

According to the Bureau of Land Management (BLM), the official files show that the William Dennis claim identified in 1821 was never confirmed by Congress, because it did not meet the legal requirements for confirmation of such claims established by the applicable laws for regularizing titles of lands in the Louisiana Territory after its purchase by the United States.

Therefore, according to Bureau of Land Management, it appears that the lands affected by this bill have never been separated from the public domain, and title to them is still in the United States.

The size of the tract prevents applicability of the Color of Title Act, which authorizes the issuance of patents for up to 160 acres of Federal lands held under color of title. As introduced, this bill would have granted and relinquished to the heirs and assigns of William Dennis all right, title, and interest of the United States in the described lands.

At the subcommittee's hearing, the administration indicated that they were unable to support the original bill because of its apparent conflict with the administration's asset management program and that program's stress on obtaining the fair market value for any Federal interests transferred out of Federal ownership.

Subsequently, the administration notified the subcommittee that they could support a revision which would have the effect of waiving the 160-acre limitation of the Color of Title Act with respect to this particular tract, so that the record owners could apply for patent under the act. That revision is included in the committee amendment in the nature of a substitute.

The amendment is in three sections. Section 1 incorporates the language suggested by the administration which would allow for the record owners to apply for a patent to the Louisiana lands under the Color of Title Act.

Section 2 which was shaped by recommendations of the gentleman from California (Mr. COELHO) would provide the Secretary the statutory authority to extend the period of leases at El Portal, a community that is located just outside Yosemite National Park in California.

Master plans for the park include development of this community to meet park management needs and, at the same time, encourage substantial private investment and homeownership. This measure is intended to reduce the level of development within Yosemite itself, and to provide pleasant and affordable housing for park staff members. This development, as proposed, will make excellent environmental sense for Yosemite and good business sense for the private business community.

This legislation is needed to assure that the Department of the Interior will have the flexibility necessary to write leases that are in keeping with

the lending policies of financial institutions so that an individual, organization, or concessionaire that may seek a development loan for an El Portal project can work within a timeframe acceptable to a lender.

Section 3 incorporates the text of H.R. 5899, sponsored by the gentleman from California (Mr. PASHAYAN). It would convey all right, title, and interest to Federal land on the Sequoia National Forest and located in Tulare County, Calif., to several adjoining landowners who are occupying two parcels of Federal land. Parcel A includes lands within an area known as the Hartland subdivision. Parcel B lies several miles away. The Federal land would be conveyed without consideration to those persons who submit a written application to the Secretary of Agriculture within 5 years of enactment along with such proof of title as required by the Secretary.

A discrepancy in surveys of parcel A was discovered in 1981 when the Forest Service resurveyed the National Forest property boundary which adjoins the Hartland subdivision, a community within the national forest. This survey reestablished through recovered evidence the corners that were established in the original General Land Office (GLO) survey made in 1883. A true line surveyed between these recovered corners established the national forest boundary and revealed the encroachment by seven private owners. The private land had been privately surveyed in 1923 for the purpose of establishing building parcels only. The 1981 survey revealed that the private survey began at a section quarter corner and proceeded in a cardinal direction west instead of along the General Land Office line, thus creating the error. The error affects seven property owners, five of whom have constructed improvements on the Federal land. A total 0.42 acre of Federal land is involved in the overlap.

The conflict concerning parcel B arose when a 1979 Forest Service survey revealed that improvements occupied by Ms. Betsy Murphy were partially in trespass on the national forest. The 1979 survey was a retracement of a 1972 private survey which had located and retraced the original GLO survey made in 1881. The property, acquired by Ms. Murphy in 1973, is described in the deed as a "portion of the southeast one-quarter of the southwest one-quarter of section 14," an area which includes no Federal land. However, about two-thirds of Ms. Murphy's home, the access road, and a garden and well have been found to be on national forest land. The house has been in existence for over 40 years. Less that 1 acre of Federal land is involved.

The Senate bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to provide for consideration, under the Color-of-Title Act, of a certain private land claim in Livingston Parish, Louisiana, and for other purposes."

A motion to reconsider was laid on the table.

NUCLEAR WASTE POLICY ACT OF 1982

Mr. UDALL. Mr. Speaker, pursuant to House Resolution 601, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3809) to provide for repositories for the disposal of high-level radioactive waste, transuranic waste, and spent nuclear fuel, to amend provisions of the Atomic Energy Act of 1954 relating to low-level waste, to modify the Price-Anderson provisions of the Atomic Energy Act of 1954 and certain other provisions pertaining to facility licensing and safety, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MARKEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 370, nays 1, answered "present" 3, not voting 58, as follows:

[Roll No. 384]

YEAS—370

Addabbo	Billey	Coats	Dingell	Kennelly	Reuss		
Akaka	Boggs	Coelho	Dixon	Kildee	Rhodes		
Albosta	Boland	Coleman	Donnelly	Kindness	Rinaldo		
Alexander	Boner	Collins (IL)	Dornan	Kogovsek	Ritter		
Anderson	Bonior	Conable	Dowdy	Kramer	Roberts (KS)		
Andrews	Bonker	Conte	Downey	LaFalce	Robinson		
Annunzio	Bouquard	Conyers	Dreier	Lagomarsino	Rodino		
Anthony	Bowen	Corcoran	Duncan	Lantos	Roe		
Applegate	Breaux	Coughlin	Dunn	Latta	Roemer		
Archer	Brinkley	Courter	Dwyer	Leach	Rogers		
Ashbrook	Brodhead	Coyne, James	Dymally	Leath	Rosenthal		
Atkinson	Brooks	Coyne, William	Dyson	LeBoutillier	Rostenkowski		
AuCoin	Broomfield	Craig	Early	Lehman	Roth		
Badham	Brown (CA)	Crane, Daniel	Eckart	Leland	Rousselot		
Bailey (MO)	Brown (CO)	Crane, Philip	Edgar	Lent	Roybal		
Bailey (PA)	Broyhill	D'Amours	Edwards (AL)	Levitas	Rudd		
Barnard	Burgener	Daniel, R. W.	Edwards (CA)	Lewis	Russo		
Barnes	Burton, Phillip	Dannemeyer	Emerson	Livingston	Sabo		
Bedell	Butler	Daschle	English	Loeffler	Santini		
Beilenson	Byron	Daub	Erdahl	Long (LA)	Savage		
Benedict	Campbell	Davis	Erlenborn	Long (MD)	Sawyer		
Bennett	Carman	de la Garza	Evans (DE)	Lott	Scheuer		
Bereuter	Chappie	Deckard	Evans (IA)	Lowery (CA)	Schneider		
Bethune	Cheney	Dellums	Evans (IN)	Lowry (WA)	Schulze		
Bevill	Clausen	DeNardis	Fary	Lujan	Schumer		
Biaggi	Clay	Derrick	Fazio	Luken	Seiberling		
Bingham	Clinger	Dicks	Ferraro	Lundine	Sensenbrenner		
			Fiedler	Lungren	Shamansky		
			Findley	Madigan	Shannon		
			Fish	Markey	Sharp		
			Flippo	Marlenee	Shaw		
			Foglietta	Marriott	Shelby		
			Ford (MI)	Martin (IL)	Shumway		
			Ford (TN)	Martin (NC)	Shuster		
			Fountain	Martin (NY)	Siljander		
			Fowler	Martinez	Simon		
			Frank	Matsui	Skeen		
			Frenzel	Mazzoli	Skelton		
			Fuqua	McClory	Smith (AL)		
			Garcia	McCollum	Smith (IA)		
			Gejdenson	McCurdy	Smith (NE)		
			Gephardt	McDade	Smith (NJ)		
			Gibbons	McDonald	Smith (OR)		
			Gilman	McEwen	Snowe		
			Gingrich	McGrath	Snyder		
			Ginn	Mica	Solarz		
			Glickman	Michel	Solomon		
			Gonzalez	Mikulski	Spence		
			Gore	Miller (CA)	St Germain		
			Gradison	Miller (OH)	Stangeland		
			Gramm	Mineta	Stanton		
			Green	Minish	Stark		
			Gregg	Mitchell (MD)	Staton		
			Grisham	Mitchell (NY)	Stenholm		
			Guarini	Moakley	Stokes		
			Gunderson	Molinari	Studds		
			Hagedorn	Mollohan	Stump		
			Hall, Ralph	Montgomery	Swift		
			Hall, Sam	Moore	Synar		
			Hamilton	Moorhead	Tauke		
			Hammerschmidt	Morrison	Tauzin		
			Hance	Mottl	Taylor		
			Hansen (ID)	Murphy	Thomas		
			Hansen (UT)	Murtha	Traxler		
			Harkin	Myers	Trible		
			Hartnett	Napier	Udall		
			Hatcher	Natcher	Vander Jagt		
			Hawkins	Neal	Vento		
			Heckler	Nelligan	Volkmer		
			Hefner	Nelson	Walgren		
			Heftel	Nichols	Walker		
			Hertel	Nowak	Wampler		
			Hightower	O'Brien	Washington		
			Hiler	Oakar	Watkins		
			Hillis	Oberstar	Waxman		
			Holland	Obey	Weaver		
			Holt	Oxley	Weber (MN)		
			Hopkins	Panetta	Weber (OH)		
			Horton	Parris	White		
			Howard	Pashayan	Whitley		
			Hoyer	Patman	Whittaker		
			Hubbard	Patterson	Williams (OH)		
			Huckaby	Paul	Wilson		
			Hughes	Pease	Winn		
			Hunter	Pepper	Wirth		
			Hyde	Perkins	Wolf		
			Jacobs	Petri	Wolpe		
			Jeffords	Pickle	Wright		
			Jeffries	Porter	Wyden		
			Jenkins	Price	Wylie		
			Johnston	Pritchard	Yates		
			Jones (NC)	Quillen	Yatron		
			Jones (OK)	Rahall	Young (AK)		
			Jones (TN)	Railsback	Zablocki		
			Kastenmeier	Rangel	Zeferetti		
			Kazen	Ratchford			
			Kemp	Regula			

NAYS—1

Dorgan

ANSWERED "PRESENT"—3

Hutto	Ottinger	Schroeder

NOT VOTING—58

Aspin	Fascell	McCloskey
Bafalis	Fenwick	McHugh
Beard	Fields	McKinney
Blanchard	Fithian	Moffett
Bolling	Florio	Peyser
Brown (OH)	Foley	Pursell
Burton, John	Forsythe	Roberts (SD)
Carney	Frost	Rose
Chappell	Gaydos	Roukema
Chisholm	Goldwater	Smith (PA)
Collins (TX)	Goodling	Stratton
Crockett	Gray	Weiss
Daniel, Dan	Hall (OH)	Whitehurst
Derwinski	Hendon	Whitten
Dickinson	Hollenbeck	Williams (MT)
Dougherty	Ireland	Wortley
Edwards (OK)	Lee	Young (FL)
Emery	Marks	Young (MO)
Ertel	Mattox	
Evans (GA)	Mavroules	

□ 1650

Messrs. CRAIG, BROWN of Colorado, and JOHNSTON changed their votes from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3809, with Mr. PANETTA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

The gentleman from Arizona (Mr. UDALL) will be recognized for 15 minutes; the gentleman from New Mexico (Mr. LUJAN) will be recognized for 15 minutes; the gentleman from New York (Mr. OTTINGER) will be recognized for 15 minutes; the gentleman from California (Mr. MOORHEAD) will be recognized for 15 minutes; the gentleman from Florida (Mr. FUQUA) will be recognized for 15 minutes; the gentlewoman from Maryland (Mrs. BYRON) will be recognized for 15 minutes; the gentlewoman from Maryland (Mrs. HOLT) will be recognized for 15 minutes; the gentleman from Missouri (Mr. BOLLING) will be recognized for 15 minutes; and the gentleman from Tennessee (Mr. QUILLEN) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, before I begin to discuss the bill, let me respond to questions that have been asked by a number of our colleagues with regard to the debate on this bill.

The leadership wishes that the Committee rise not later than 6:30 tonight and we will, of course, follow that admonition.

Under the rule, we have a somewhat unusual procedure in that five different committees each get 30 minutes apiece in general debate. We start with the Committee on the Interior. The others involved are the Committee on Energy and Commerce, the Committee on Science and Technology, the Committee on Armed Services, and the Committee on Rules.

So if all the time were to be taken by all the committees, we would be unable to finish by 6:30. Our plan will be, in any event, to rise at that time.

I hope that maybe we can shortcut some of the general debate and get back here tomorrow and get on amendments. I think some of the time will not be used by some of the committees.

□ 1655

With that introduction, Mr. Chairman, let me say a few things about our bill.

Three major bills were introduced in this Congress to address the need for a national program for the disposal of high level nuclear waste from our commercial power facilities. After months of negotiation, the three major committees of jurisdiction have reconciled these three bills. Today I am proposing the product of these negotiations, H.R. 7187 as a substitute for the Interior Committee bill, H.R. 3809, which is the floor vehicle; for the bill reported by the Committee on Energy and Commerce, H.R. 6598, and for the Science and Technology Committee bill, H.R. 5016. Our substitute bill integrates the various committee approaches for a comprehensive waste management system that is supported by the chairmen and ranking minority members of all the committees and subcommittees of primary jurisdiction.

We have in addition worked with other interested committees, including Armed Services, Rules, Merchant Marine and Fisheries, and Judiciary, to reconcile possible conflicts with programs under their jurisdiction.

The product of this work is a delicate fabric of agreements. After an arduous and at times contentious process of committee consideration, we have support for the bill from the administration, from the nuclear industry, from major environmental groups and from States where nuclear repositories may be constructed. I want to congratulate all of these groups for their spirit of compromise in a shared effort to provide for our people a safe, permanent solution to the nuclear waste problem.

The primary objective of this legislation is development of licensed facilities to be constructed deep underground for the permanent disposal of high level nuclear waste. The committees have considered various options for additional facilities which can complement the geologic repository program. Some of these alternatives are included in the waste management system proposed, such as a "Test and Evaluation," or "T&E," facility for advanced research on repository operations and design. A small-scale, emergency program for interim storage of nuclear spent fuel will be provided for commercial utilities which cannot provide storage on site until a repository is ready. And a backup, long-term storage technology will be available as a future option in case our geologic repository program is seriously delayed.

The legislation we bring before you today does not, however, seriously contemplate failure to provide a permanent answer to the waste problem. We have put into place the most thoughtfully planned out roadmap for what will be a 15-year site investigation and construction program that we could devise. We have considered and addressed the enormous technical, political, and institutional problems that have delayed or obstructed the waste program for 30 years. We have taken the critical step of levying the cost of the program on the beneficiaries of nuclear power. Up-front financing will both keep the program moving on track, and assure that future generations will not bear the costs of today's electric power generation.

After 4 years of concentrated personal effort in the development of this legislation, I have reached a deep understanding of the great national interests it represents as well as the myriad special interests on whom it will have serious and lasting effects. Please give your support to this fair and complex legislation so that nuclear power companies, environmental groups, and affected States can proceed with certainty to plan for and participate in the development of these critical facilities.

Following is a summary of the major provisions of H.R. 7187:

DEFENSE NUCLEAR WASTE

H.R. 7187 provides for development of facilities which will be licensed by the Nuclear Regulatory Commission and which will be available for disposal of both commercial and defense nuclear waste.

Under the bill, the defense sector can construct its own nuclear waste repository, and this repository would not be subject to this Act as long as no commercial waste would ever be disposed of in it. A defense-only repository would, under current law, be subject to licensing and to the National Environmental Policy Act.

A defense-only repository would also be subject to the state consultation and state review provisions of the bill. Pursuant to recommendations by the Armed Services Committee, states would have a right to object to the construction of defense-only repositories, and this objection could only be overridden by a vote of both Houses of Congress.

No authorization now exists for construction of a repository exclusively for defense nuclear wastes. This bill requires the President to make a final recommendation whether such an exclusive defense waste repository is necessary. If the President finds a separate program is not necessary, he is

required to consolidate the defense and civilian repository programs so that repositories constructed under this legislation would provide disposal capacity for all wastes. Disposal of defense wastes in one of these repositories would be paid for by funds transferred from the defense budget into the Nuclear Waste Trust Fund.

REPOSITORY DEVELOPMENT SCHEDULE

This bill sets out a 15-year program for the siting, licensing and construction of waste disposal facilities. Once licensed to operate, a waste repository will continue to receive waste for from 30 to 50 years, depending on how much waste has been produced to fill the available space. The bill contemplates having the world's first permanent nuclear waste disposal facility on line by the mid-1990's.

Major milestones in the program follow:

ENACTMENT—1984

The Department of Energy (DOE) will investigate geologic sites which have the potential to safely isolate high level radioactive wastes from the biosphere. During this period, the Secretary is required to identify at least 5 sites for further study. Each identification must be accompanied by a special environmental assessment detailing plans for the site, potential impacts and alternate site considerations.

SITE CHARACTERIZATION

Following identification of candidate sites, the DOE will select at least three of these for "characterization." Shafts 40 feet in diameter will be sunk up to 1500 feet deep so that the geological formation which would isolate the waste can be studied in detail. Groundwater and pressure systems in the area which could affect repository operation will be thoroughly mapped and studied. From two to three years at minimum will be required for this phase of study at each site.

1987—REPOSITORY SITE SELECTION

By 1987 the Secretary of Energy and the President are required to have identified from among the sites studied one that they determine is qualified for license application. This site selection must be accompanied by a full-scope EIS and environmental impact statement.

STATE REVIEW

Upon the President's recommendation of a site for licensing, the host state will have the right to object to the site selection. This objection will be effective unless both Houses of Congress vote to override the states.

If a site is vetoed, the President and the Secretary are required to provide a new site selection within one year.

REPOSITORY LICENSING

Immediately following Presidential approval and state review of a site, the Department of Energy will submit to the Nuclear Regulatory Commission an application for a license for a repository at the site. NRC licensing review will continue for three years, under citizen participation and regulatory process of the Administrative Procedures Act and the Commission's technical review.

TEST AND EVALUATION

Following Presidential recommendation and state review of a site, DOE may begin advanced testing of the site under the "test and evaluation" program. These "T&E" facilities will be conducted in accord with Nuclear Regulatory Commission licensing requirements and health and safety oversight.

1990—CONSTRUCTION AUTHORIZATION DECISION

The NRC is required to make final decision on the repository construction application within three years of submission of the application.

1990-95—REPOSITORY CONSTRUCTION

Depending on the kind of rock in which the repository will be constructed, mining of the underground facilities may take from four to six years.

1995-98—START-UP OF WASTE DISPOSAL

The NRC will issue a final license to receive and possess high level waste at the repository site, after which loading and backfilling of the repository may begin.

ENVIRONMENTAL REVIEW OF REPOSITORY SITE SELECTION

H.R. 7187 sets up a roadmap for compliance by the Secretary of Energy and the NRC with the National Environmental Policy Act. Compliance with NEPA is essential if the American people are to feel that the site selection process has been fair and to serve as a crucial tool for Federal decision-making. The bill clearly identifies the points in the site selection process where environmental review is required. When the Secretary identifies a site for possible in-depth study, or "characterization," he must develop an environmental assessment for the site. The assessment, which is judicially reviewable, must consider the health, safety and environmental impacts of site characterization as well as provide a comparative evaluation with other possible sites. Once the Secretary determines that a site is appropriate for characterization he must submit a characterization plan to the Nuclear Regulatory Commission (NRC) and local state governments. Such a plan will further address impact and mitigation issues.

When a site is recommended to the President as the final selection for a repository, the Secretary of Energy must complete a full Environmental Impact Statement under the National Environmental Policy Act. The NRC must then issue a construction authorization and license before the repository may be built or accept any nuclear waste. In issuing the construction permit and license the NRC will rely on the Environmental Impact Statement prepared by the Secretary of Energy in recommending the repository site. The Commission will have to supplement any environmental impact statement with considerations of the public health and safety required under the Atomic Energy Act of 1954.

Throughout the site selection process, provisions are made for public hearings and local government notification and participation.

H.R. 7187 also provides important environmental safeguards for the interim storage of nuclear waste. Whenever an existing Federal facility is modified or expanded to accept less than 300 metric tons of spent nuclear fuel, the Secretary of Energy must complete an environmental assessment. This assessment must consider the regional and local impact of the interim storage of nuclear waste as well as comparisons of the site with possible alternative sites. If the Secretary determines that he must store 300 or more metric tons of spent fuel at an existing Federal facility, he must complete a full Environmental Impact Statement under the National Environmental Policy Act. Both the environmental assessment and the EIS are subject to full judicial review.

INTERIM SPENT FUEL STORAGE

A small number of nuclear utilities may be in need of Federal assistance in the provision of storage space for spent nuclear fuel. H.R. 7187 provides for the Federal government to make available existing capacity at Federal facilities to assist utilities with interim storage. The bill limits the capacity provided to 1700 metric tons. (1300 metric tons total was produced in the U.S. in 1980-1981).

It is expected that the decline in the need for interim storage away from reactor sites which has taken place during the past five years will continue. Nuclear utilities have undertaken programs to expand on-site storage capacity using new storage technologies. H.R. 7187 encourages the development of new technologies with cooperative DOE/utility programs, and provides for expedited licensing of all on-site storage capacity.

Utilities must meet strict eligibility requirements for use of Federal capacity. The Nuclear Regulatory Commission is required to develop criteria for determining which utilities are in need of Federal assistance, and to apply these criteria on a case-by-case basis. All utilities must show not only that they cannot provide storage capacity at the site of the reactor, but also that they are diligently pursuing alternatives to Federal storage. Under these conditions, the need for Federal storage capacity will be eliminated within the next decade.

The interim storage program created under H.R. 7187 is constrained by the small amount of existing capacity that can be made available for this purpose. No new facilities can be purchased, leased, acquired or constructed for commercial spent fuel storage. While existing Federal buildings or structures may be modified or expanded to accommodate civilian spent fuel, new structures on Federal sites or land not now being used for spent fuel storage are not authorized. Use of any existing facility will be subject to the determination that such use will not interfere with defense activities.

STATE AND TRIBAL ASSISTANCE AND PARTICIPATION

State governments and Indian Tribes are given in H.R. 7187 extraordinary rights to consultation and concurrence in repository development activities. In addition, financial and technical assistance will be available for states from the time a site is being studied throughout the site licensing and construction process.

The Secretary of Energy is required to attempt to enter into an agreement with each potential repository state or tribe under which DOE and the state or tribe will share information and cooperatively plan the site investigation program.

A state or tribe may object to siting of a repository after the site has been recommended for licensing. An objection may only be overturned by vote of both Houses of Congress. Any resolution to overturn a state is subject to highly expedited consideration. The bill attempts to strike a balance between the central interests and rights of the affected state or tribe, and the national need for a permanent waste disposal facility.

If a construction authorization is issued for a site, the state or tribe will be eligible for technical or financial assistance to mitigate any social, environmental or economic impacts of repository development. The kind and amount of impact assistance will be determined by state or tribal request, as negotiated with the Secretary.

FINANCE AND MANAGEMENT

The cost of the waste disposal program will be borne by generators of the waste. The program will be financed up-front by nuclear utilities, so that the Federal budget will not be burdened by repository program expenditures. Utility payments will be made into a Nuclear Waste Trust Fund set aside exclusively for repository development purposes.

The Nuclear Waste Trust Fund will be isolated from other Federal programs, and will not be used to finance any activities other than repository development. Even nuclear fuel cycle activities such as spent fuel reprocessing, or interim spent fuel storage, which may relate indirectly to permanent disposal, are prohibited from being paid for from the Trust Fund. The Trust Fund must remain dedicated to repository activities to assure that nuclear electricity consumers and utilities are not required to finance programs outside of those required for waste disposal. In addition, the financial well-being of the waste program may rely upon strict isolation of program funds. The Trust Fund will go through periods of large deficits, during which borrowing expenses will greatly increase program costs. Periods of financial surplus will provide critical additional income to the program, through collection of interest on the surplus, to offset heavy borrowing costs.

An Office of Radioactive Waste Management is created to elevate the administrative level of waste management programs and to further concentrate the waste management effort. Financial accounting and program management will both benefit from separation of these programs.

Federal defense waste management programs would under the bill be both financially and administratively separated from the commercial waste management program. It is anticipated that these programs will share technical information to the extent practicable. If the President determines that a separate defense repository program is not necessary, those specific defense waste activities could be integrated into the civilian office. Sequestering of civilian and defense waste programs is not only desirable from an accounting viewpoint, but is also consistent with the need to distinguish the benefits and objectives of the defense and civilian nuclear programs.

Development of two nuclear waste repositories over the next 20 years is estimated to cost $14.8 billion in FY 1982 dollars. The fee that utilities will pay for disposal of spent fuel or waste under the program will amount to a value of from .5 to .6 mills per kilowatt hour of electricity generated (under moderate or low nuclear capacity growth rates), which is only about 1 per cent of the cost of nuclear-powered electricity. Two repositories are expected to accommodate all commercial high level wastes produced through the year 2004 or 2039, depending on the growth rate of domestic nuclear capacity.

Mr. LUJAN. Mr. Chairman, I yield myself 5 minutes.

I am speaking today both as ranking minority member of the Interior Committee and as the ranking minority member of the Energy Research and Production Subcommittee of the Science and Technology Committee. I want to express my support for passage of the Nuclear Waste Policy Act of 1982, a piece of legislation which is vitally needed by this country I first wish to acknowledge Chairman UDALL's and Congressmen BROYHILL, DINGELL, FUQUA, AND MOORHEAD'S, great patience and skill in working out a consensus nuclear waste bill between the seven committees of jurisdiction. I feel that the bill before you represents a reasonable floor vehicle which endeavors to take into account the positions of all parties concerned with this much-needed legislation. This country's need for such a statutory program to develop repositories for high-level nuclear waste is well established. Further delay, which may or may not benefit the provincial concerns of one group or another, is not in the best interests of this Nation and should be resisted.

Mr. Chairman, we have been working on this legislation for a long time. The Science Committee reported out the first legislation dealing with this issue 5 years ago. During the last Congress, both the House and Senate passed versions of a nuclear waste bill, but unfortunately it died in conference. I believe that this year we still have a good chance at successfully getting a bill passed and signed into law.

One of the reasons I am hopeful of getting a waste bill through is that we have been successful in developing a compromise in the true democratic spirit. Let me tell you—democracy is hard work. All the interested parties have had to give and take a lot. Working out this consensus has been a difficult and complicated process.

But the end result is something we can all be proud of. The bill actually will provide the statutory framework for a rather simple process for providing a permanent, long-term solution to the nuclear waste issue. Let me briefly summarize this process.

The bill before you first provides that guidelines be developed to define the criteria for selecting a permanent repository site. Using these guidelines, the Secretary of Energy will recommend five sites in at least two different geologic media for characterization by July 1, 1984, and then recommend one additional site by February 1, 1985. Before the site characterization can actually begin, an environmental assessment must be completed. The States' participation in this process, and I am keenly aware of this States' rights issue, also starts before any site characterization can begin.

When at least three of the sites have been characterized as to their suitability for a repository, the Secretary will recommend one of them to the President as a site for a final repository. A full environmental impact statement is required for this Presidential decision.

Throughout the site characterization and site selection process, the States have a clearly defined role of participation, which includes a written agreement between the State and the Department of Energy. In addition, the Governor and the legislature may submit a petition to Congress disapproving the President's site selection. If so, the bill provides for a congressional review process that requires that both Houses override the State's petition or the State veto becomes final.

Once a site selection is finalized—then the Department of Energy would apply to the Nuclear Regulatory Commission for a construction authorization. If all goes according to schedule, the NRC will approve or disapprove this application by January 1, 1989.

The bill also provides for a test and evaluation facility which may either be colocated at a repository site or at a site not under consideration as a repository. The purpose of a test and evaluation facility is to resolve issues that might come up during the licensing process. If the test and evaluation facility is to be colocated at the repository site, the construction of the surface facilities for the test and evaluation facility cannot begin until after the NRC has issued a construction authorization for the final repository itself. Thus the test and evaluation facility cannot be used as an argument to bias the repository site selection. The test and evaluation facility is clearly for the purpose of facilitating the licensing process, and it is not a back door repository.

There are several other key issues associated with this bill. The bill provides for last resort interim storage of spent nuclear fuel. While some may argue that this interim storage is an industry bailout, I feel that it is sound policy to provide these interim facilities as a last resort until a final repository is ready. The States are also given a role in the siting of any interim storage facility within their boundaries, although since any such facility is only temporary, I feel that the States need not have as strong a right to object as for a permanent repository. There is also language in this bill allowing for a monitored retrievable storage (MRS) program. Again, some may argue that an MRS is not necessary if a final repository can be completed with absolute certainty by 1998, as we have endeavored to insure in this bill. I nevertheless totally support the MRS program as a valid alternate technology which must be developed. One last item which should be noted in this bill is that all funds to pay for these programs—the permanent repository, the interim storage facility, and the monitored retrievable storage—come from utility-paid trust funds. The Federal Government is not required to pay for these activities.

Mr. Chairman, I do have one amendment which I intend to offer to this bill and I know of several others which I will support. However, on the whole

I feel that this is a good bill and I will not support any dilatory amendments or tactics and urge my colleagues to do so also. The time has come to act on this vitally-needed legislation and we should do so fairly and expeditiously.

Mr. FUQUA. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the nuclear waste bill before the House is the product of great effort on the part of the three committees of primary jurisdiction and has undergone extensive scrutiny by Members of at least seven committees of the House. It is a genuine compromise which logically joins the R&D elements of our science and technology bill, H.R. 5016, to the procedural and licensing provisions of the energy and commerce and interior bills. This legislative product is tangible evidence that the House can and will act on a national issue that has been the subject of some controversy.

Mr. Chairman, the Science and Technology Committee first began consideration of nuclear waste issues when we were assigned nuclear jurisdiction under House rules in 1977. Since that time, the committee has spent considerable effort developing nuclear waste R&D legislation, including the reporting of our first R&D bill in the 96th Congress.

In this Congress, because of what we had learned from earlier attempts, we took the approach of introducing a comprehensive bill to demonstrate how the research and development activities should be integrated into the overall nuclear waste repository program. This bill is H.R. 5016.

In its deliberations on this legislation, the committee acted only on the R&D provisions for both nuclear waste and spent fuel. The legislation was introduced by Mrs. BOUQUARD, chairman of our Energy Research and Production Subcommittee, myself, and 16 additional members of the committee. I want to take this opportunity to compliment the gentlelady from Tennessee for her leadership in initiating this legislation at subcommittee and her willingness to incorporate a diversity of views on the various provisions into the introduced bill. As a result of her consensus approach, this legislation received overwhelming endorsement when it was reported by the full Science and Technology Committee in a 37-to-2 vote, on November 20, 1981.

I am very pleased to note that the other committees of jurisdiction have recognized the programmatic need for the research and development elements of our bill which include the concept of a test and evaluation facility. This research and development concept is recognized as a most valuable element of the waste management program by the Department of Energy, the Nuclear Regulatory Commission, and the technical community. It is a focus for the R&D activities which consist of site research and the ongoing generic supporting research, which has been authorized by the Science and Technology Committee over the past 5 years. It is also tailored to demonstrate handling, storage, and other aspects of waste management in a site-specific manner, and will serve as a basis for resolving licensing issues. In both cases, the NRC has been given a significant role of concurrence with respect to the DOE R&D activities.

We have agreed with the other committees to provide the Secretary with the discretion to locate the T&E facility at a candidate repository site or on a separate site. If he chooses to go the route where the T&E facility is a precursor to the repository, the site will be included in all the siting procedures of title I and onsite construction is tied to those procedures. In the case of a separately sited T&E facility, the safeguards of the R&D title apply so that the public is involved and health and safety issues are properly addressed.

Our Science and Technology Committee title also contains a research, development, and demonstration program on the dry storage of spent fuel. This program encourages the Department to aid the utilities by developing valuable licensing data and authorizes onsite demonstration programs at up to three power plants. The Secretary may also conduct a technology demonstration activity on dry storage at a Federal facility using up to 300 metric tons of spent fuel. This activity is an excellent complement to the last resort, Away-From-Reactor (AFR) storage provisions of title I. The funding for the program may come from the DOE, the utilities, and the interim storage fund. This program appears in title II very much as it was reported by the committee in H.R. 5016.

I should note that a few elements of the three major bills have been placed in a joint title since they are items of shared jurisdiction. These three elements are: First, the funding mechanism which includes funds for title II, the R&D title; second, the mission plan; and third, the new civilian office for nuclear waste management.

Mr. Chairman, the R&D provisions from the Science and Technology Committee bill, H.R. 5016, were conformed to apply to the integrated substitute, H.R. 7187, and are complementary to the licensing and construction authorization provisions governing the permanent geologic respository which have been reported by the Commerce and Interior Committees, which dealt with the regulatory aspects of the bill.

Mr. Chairman, the Congress should demonstrate its will to resolve this issue now. A majority of the House has already expressed views on this legislation through several major committees; there is a strong consensus to move this bill.

Thank you, Mr. Chairman.

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Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I will be happy to yield.

Mr. GLICKMAN. Mr. Chairman, I support the substitute to H.R. 3809 because there are strong environmental controls over the development of a repository and because the State and the public are fully involved in decisionmaking all along the way. The committees wisely included in both H.R. 5016 and H.R. 7187, A National Environmental Policy Act Road Map which does not abrogate the requirement of existing law but carefully defines what environmental reports are required at any particular point. This will allow the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Nuclear Regulatory Commission to conduct their activities in accordance with the law. Such an approach allows these agencies to carry out the will of Congress with assurance that adequate environmental and safety precautions but without the threat of dilatory lawsuits. I believe that this approach allows the Congress to keep its commitment to protection of the environment and at the same time define a strong program through a clearly mandated congressional policy directive.

Mr. Chairman, I believe that the research and development program established in H.R. 7187 is not only desirable but it is a necessary precedent to the successful construction and operation of a repository. Although we currently have the technology to dispose of nuclear waste, there remains much to be done in the nature of obtaining specific data and refinement of engineering designs and analyzing the interaction between the waste package and the geology. This work can logically be done at the test and evaluation facility which will also serve as a mechanism to answer the questions of the States, the Nuclear Regulatory Commission, and the public regarding issues that may arise during the licensing process. Mr. Chairman, in summary, this bill is programatically and institutionally sound.

I urge my colleagues to support it.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from New Hampshire (Mr. D'AMOURS).

Mr. D'AMOURS. There have been questions raised on the relationship between H.R. 7187, the Nuclear Waste Policy Act of 1982 and the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401) which governs the disposition of materials into the ocean including radioactive materials. It is my understanding that the intent of section 5 of H.R. 7187 is to insure that nothing in the Nuclear Waste

Policy Act of 1982 will in any way affect the applicability of the Marine Protection, Research, and Sanctuaries Act to the dumping, disposal, or other disposition of radioactive materials in the ocean; and further, that the regulatory and licensing programs established pursuant to the Marine Protection, Research, and Sanctuaries Act will remain in effect for these materials.

Mr. UDALL. The gentleman is correct in his understanding. The Nuclear Waste Policy act authorizes development of a permanent repository for radioactive waste. One of the options for permanent disposal which may be considered by the Department of Energy somewhere in the future is the subseabed option. This legislation does not specifically authorize a subseabed repository and it does not affect the applicability of the Marine Protection, Research, and Sanctuaries Act to the dumping, disposal, or other disposition of radioactive materials in the ocean.

Mr. D'AMOURS. I thank the gentleman.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma (Mr. SYNAR).

Mr. SYNAR. Mr. Chairman, I would like to ask the gentleman from Arizona to clarify one point. Does this legislation authorize the Department of Energy to place nuclear waste repositories on lands which the U.S. Government holds in trust for American Indian tribes?

Mr. UDALL. It is not the intent of this legislation to grant such authority. Indian lands are held in trust by the U.S. Government for the benefit of the Indian people living on the land. It would be difficult for the Federal Government, as trustee, to show any benefit to the tribe from placing a nuclear waste repository on Indian trust land without the full consent of the tribe whose land is involved.

Furthermore, nothing in this legislation would change the existing status of Indian trust land nor alter any existing Federal law affecting Indian tribes.

Mr. SYNAR. Are Indian tribes treated differently from States in this legislation?

Mr. UDALL. No. The governing bodies of affected Indian tribes are treated the same as State governments. The difference arises not in this bill but in the existing Federal authority to acquire land. If the Department of Energy were to recommend the placement of a repository on Federal, State, or private lands, the Federal Government would be able to exercise its authority of eminent domain according to existing law. In the case of Indian trust lands, however, existing law would not give DOE the express authority to acquire or condemn Indian trust land. Such action would require either the consent of the tribe whose land is involved or an explicit act of Congress dealing with the lands of that specific tribe.

Mr. LUJAN. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas (Mr. WINN), the ranking Republican of the committee.

Mr. WINN. Mr. Chairman, I am extremely pleased that the House is today taking up one of the most important pieces of legislation to be considered by the Congress. I wish to congratulate Mr. UDALL, Mr. LUJAN, Mr. BROYHILL, Mr. FUQUA, Mrs. BOUQUARD, and Mr. DINGELL for their great patience and skill in guiding this legislation through the seven committees of jurisdiction.

This bill represents a genuine compromise where no one Member has everything he would like, but the bill is something we all can live with. There has been give and take on both sides to develop the compromise. In fact, the bill is more than just something we can all live with, it is a critical piece of legislation. Public opinion polls have shown again and again that an overwhelming majority of the American people feel that it is very important for our country to develop permanent sites for the storage of radioactive waste. In fact, only 5 percent do not feel the issue is important. Furthermore, 9 out 10 Americans agree that it is time the Government stop procrastinating on nuclear waste. This legislation will represent the most significant contribution Congress will make in assuring safe methods of storing and disposing of nuclear waste.

Whether you are pronuclear or antinuclear, there are several important reasons to support this bill. First, it assures that the States will participate in the decision on siting a repository. Without this legislation, there would not be a specific process for State involvement nor would the State be assured of congressional review if they object to a siting decision.

Second, the bill requires that the utilities pay for the cost of storing and disposing of the radioactive waste they have generated. I am pleased not only because the utilities have agreed to this responsibility, but also I am especially pleased because this means the cost of nuclear waste disposal will not be part of the Federal budget, and will not be further adding to our deficit.

Third, this bill provides a road map for full compliance with the National Environmental Policy Act and for the judicial review.

Fourth, this bill represents a successful resolution of the issue of Defense wastes, which has caused the failure of previous attempts at nuclear waste legislation.

Fifth, the bill is the first piece of nuclear waste legislation to be considered by the House that includes the test and evaluation facility. This concept, as developed by the Science Committee, provides a technology demonstration facility that is specifically designed to help resolve issues that could come up during the licensing process. Since the test and evaluation facility cannot be constructed until after the repository siting decision has been confirmed by the congressional review process, the test and evaluation facility will not prejudice the repository site selection process. In addition, the bill insures that the test and evaluation facility cannot become a backdoor repository. The Science and Technology Committee has been trying to draft specific legislation to pass the House for a long time. As ranking minority member of the Science and Technology Committee, I am proud to point out that we reported out the first legislation dealing with the issue in 1977. During the present Congress, the Science Committee took the lead and reported out a waste bill last November. We have really worked at coming up with an approach that is acceptable to the variety of viewpoints on this issue.

The sixth reason that this legislation should be supported by all Members is that this bill demonstrates to the public and industry that the Federal Government is fulfilling its responsibility to dispose of high-level waste. This bill finally would provide a past due legislative framework for a permanent long-term solution to the accumulation of radioactive waste generated by commercial nuclear activity—wastes that have been accumulating for 40 years now. I believe that all of us should agree that this is crucial legislation in this day and age of nuclear development.

There are a large number of amendments that may be offered today. Some of these amendments are consistent with, and would enhance, the compromise represented in this bill and should be supported. However, the majority of today's amendments would destroy the careful balance in this bill and should be resisted.

Thank you, Mr. Chairman. I urge you and our fellow Members to join me today in support of the bill.

Mr. LUJAN. Mr. Chairman, I yield 4 minutes to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARIOTT. Mr. Chairman, I rise today to support this Nuclear Waste Policy Act, and to thank the chairman of our committee, Mr. UDALL, who for many years now has been trying to get this bill to the floor of the House, and I am proud and happy to have been able to assist him in doing this. It is imperative that the Congress address this serious national issue, a problem that, if not resolved, can develop into a crisis of major proportions.

We need a national waste repository, and it must be in place by the turn of the century. All waste that is now

stored is temporarily stored. This includes 10.3 million cubic feet of high-level waste; 11.8 million cubic feet of transuranic waste; 8,000 metric tons of commercially spent fuel, and 81 million cubic feet of low-level waste.

Without a proper repository for interim and permanent waste, as many as 28 nuclear powerplants may be forced to close for lack of storage.

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In addition, many nuclear powerplants in the process of completing will be severely hampered.

There are other reasons why this nuclear waste bill must pass the House this session.

First, the bill provides a clear direction to DOE on waste disposal and sets a national policy.

Second, we should remember the Lions/Kansas disaster and the WIPPS, New Mexico controversy that resulted from a lack of a national policy.

This bill still gives us the long awaited national policy we need. This bill resolves the present conflict between the DOE and the States, conflicts over site selection, environmental requirements and the question of State protection.

This bill, Mr. Chairman, protects the States by giving them a voice in the process.

Few States want a repository which would require an annual trafficking of some 3,000 tons of spent fuel around the country and into their States. Furthermore, there would be extensive excavation and construction projects and environmental and health problems.

This bill addresses all of these problems. In fact, it meets the problems head on. This bill provides for adequate consultation and review by the States. It provides for the judicial review of environmental documents. It provides for the ultimate protection of the States by giving States the veto authority which requires a two-House congressional override to proceed over the objections of the State.

I think, Mr. Chairman, that is the least we can do. The States must be allowed to veto if they believe they have reason to do so.

Congress can always override that if they believe the reasons are not valid. But without this protection, Government agencies can simply stampede over State concerns.

This bill will restore the public's confidence in Congress, a body which has been unable to resolve this nuclear waste dilemma for the past number of years. Many States have laws preventing construction of new nuclear plants until the waste problem is resolved. The waste problem is also a potential problem to licensees.

This bill, Mr. Chairman, gives the country direction and an orderly process to resolve the nuclear waste problem once and for all, and will help us in becoming energy independent.

Nuclear power plays a major role in our national energy scenario. Nationwide, 12 percent of the electricity of the country comes from nuclear power. Thirty-six States have nuclear reactors.

Without nuclear energy, our dependence on foreign oil would be increased substantially and make us even more dependent.

It is important, Mr. Chairman, that we become energy independent, not only for the security of this country, but also to help keep the inflation costs under control. This bill in the long run will help us obtain that independence.

I yield back the balance of my time.

Mr. UDALL. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. LUJAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I rise in support of H.R. 7187, the Nuclear Waste Policy Act of 1982. This legislation establishes a comprehensive program that will help our Nation address its pressing nuclear waste management problems. It also authorizes the Department of Energy to undertake a focused high-level radioactive waste research and development program, including the construction and operation of a test and evaluation research facility.

The issue of nuclear waste is one of great importance to our Nation, and is one which has been neglected for too long a period of time. This is a problem which all agree requires a solution now. The consensus is clear—we need to build a permanent repository regardless of whether our country continues to pursue the nuclear option. This repository should be built as quickly as possible consistent with environmental requirements and administrative procedure safeguards. I stress environmenal considerations, because we are all fully aware that our future generations will have to live with the decisions we make on nuclear waste management today.

The legislation before us is certainly a notable accomplishment. Many House committees have been involved, including the Science and Technology Committee, the Energy and Commerce Committee, the Interior Committee, the Armed Services Committee, the Judiciary Committee, and the Merchant Marine Committee. I would like to commend any fellow colleagues on these committees for their fine work. They have spent many long hours fashioning this proposal. Under the leadership of distinguished chairman UDALL, DINGELL, and the distinguished chairman of the Science Committee (Mr. FUQUA), as well as the ranking minority members of these committees, Mr. LUJAN, Mr. BROYHILL, and Mr. WINN, and subcommittee chairman OTTINGER and Chairwoman BOUQUARD, a compromise bill has been drafted that will allow us to move forward in solving this national problem.

As with any complex initiative, many agreements have been made in order to reach a consensus bill, a goal we all endorse. Foremost is the schedule for the construction and operation of a nuclear waste repository. For the first time a fixed schedule has been set to develop permanent repositories for high-level waste. The bill also provides for effective State and local government participation in decisions relating to the siting, construction, and operation of this repository. In addition, under this bill the costs of this program are borne by the appropriate parties. These are just a few of the highlights of this bill.

While I rise in support of this legislation, I must confess that there are still some areas where I have concerns. We all understand that the bill before us is a compromise, based on the work of the many committees involved. It is a bill that we may not all agree with, but one which our Nation desparately needs. Nevertheless, I understand that several amendments will be offered to address areas of concern. I urge my fellow colleagues to seriously consider these amendments when they come before us.

Mr. LUJAN. Mr. Chairman, I yield my remaining 3 minutes to the distinguished minority leader, the gentleman from Illinois, Mr. BOB MICHEL.

Mr. MICHEL. Mr. Chairman, I rise in support of this legislation. It represents a truly bipartisan consensus approach toward our nuclear waste problem, reflecting the impact of five separate House committees.

This is a national problem that demands the immediate attention of the Federal Government. In my home State of Illinois, we are dependent upon nuclear plants for 30 percent of our energy. We cannot as a State fully address the problems created by nuclear waste. This Congress must act, not only to resolve those complicated problems, but to allay the fears and apprehensions of those people who have waited so long for us to face this issue.

It is important that we enact this legislation this year. The need for producing a coherent plan for nuclear waste management is urgent. Spent fuel storage congestion is now rapidly building up at power reactor sites, a situation which will become absolutely critical by 1986.

There has been a tendency in the past to delay action in this field until a perfect solution is found. We really do not have time to procrastinate any longer. We need to act now, to protect our environment, and to protect the

health and safety of the American people. This bill is not the perfect solution, but it is a sound, serious, and constructive approach to the problem.

The legislation provides for a firm schedule leading toward completion of a deep geologic repository for disposal of nuclear waste, with a full environmental review and NRC licensing.

It provides for interim storage sites and a limited off-site storage program aimed at meeting our immediate needs. It allows full State, local, and public participation in the siting, construction, and operation of these facilities.

It is also important to note that, at a time of high budget deficits, this bill requires no Federal funding. It is financed through a series of user fees on nuclear utilities, which would actually reduce Federal costs by an estimated $14 billion through the remainder of this century.

This is a good and necessary bill, with broad support, and I urge its adoption.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. OTTINGER) for 15 minutes.

Mr. OTTINGER. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Chairman, I rise in support of the substitute to H.R. 3809.

I would like to congratulate the gracious lady, Mrs. BOUQUARD, from Tennessee, the chairman of the Science Subcommittee on Energy Research and Production, for her initiative, her leadership, and her intelligence in carefully guiding the waste bill, H.R. 5016, through the tortuous path of consensus on our Science Committee.

Under her stewardship, we were able to report a nuclear waste bill, by the overwhelming majority of 37 to 2, a full 4 months before any other committee in this House reported similar legislation.

As chairman of our Environmental R&D Subcommittee, I was graciously invited to participate in her subcommittee hearings and markup, so that I have been able to follow the progress of this legislation carefully in both the Science and Technology and Energy and Commerce Committees.

Mr. Chairman, the nuclear waste issue is today the greatest stumbling block to the continued safe use of nuclear power.

It is very difficult for a Member of Congress to assume a credible pronuclear stance when people can raise a legitimate concern about how to dispose of the potentially dangerous wastes that result from this activity.

However, this legislation, along with its legislative history, directly answers the question of what we will do with high-level nuclear waste.

The bill was drafted with the recognition that the technology is at hand to dispose of all nuclear waste in an environmentally sound manner.

And with the strong Federal, State, and public participation provided in this act, the mechanisms will be in place for the American public to regain its confidence in nuclear power as a viable and important energy option.

Mr. Chairman, I cosponsored H.R. 5016 because I thought it provided fair and well-balanced institutional mechanisms leading to the development of a repository.

I believe H.R. 7187, as a substitute for H.R. 3809, contains all of the institutional protections which were included in H.R. 5016 and more.

I am particularly pleased that the other committees have recognized the value of our Science and Technology Committee concept for a test and evaluation facility.

It is reassuring to note that the Nuclear Regulatory Commission, the EPA and other agencies would play very significant roles in the event that such an R&D facility is scaled up at a repository site and converted into a permanent geological disposal facility.

Our Science and Technology Committee title also provides for both extensive participation of the States and NRC review of authorized Federal R&D activities.

In fact, these features were the principal reasons why I cosponsored H.R. 5016.

In sum, Mr. Chairman, it is gratifying that this Congress has dealt with a difficult and controversial issue in such a constructive fashion.

It is clearly time to give the American public a responsible nuclear waste policy, as embodied in the substitute, and I urge my colleagues to support it.

Thank you.

Mr. OTTINGER. Mr. Chairman, I yield 3 minutes to the chairman of the full committee, the gentleman from Michigan, my good friend, Mr. DINGELL.

Mr. DINGELL. Mr. Chairman, I will take only a few brief moments to address myself to the major issues I believe we have very successfully resolved in the compromise nuclear waste bill now before us.

Numerous committees have been involved in the process of trying to complete action on the Nuclear Waste Policy Act during the 97th Congress. The cooperation between the chairmen and ranking minority members of committees and subcommittees has been impressive, indeed. I think great credit should go, in particular, to my good friends Representatives DICK OTTINGER, JIM BROYHILL, and CARLOS MOORHEAD on my committee, as well as to DON FUQUA, MARILYN BOUQUARD, and MANNY LUJAN on the Science and Technology Committee and to MO UDALL, in particular, for his vigorous efforts in behalf of this legislation.

I should point out that we have been through this effort in previous Congresses, and I sincerely believe that the product before us today represents as good a product as can be put together on this extremely complex and controversial subject.

I should point out, at this point, that the Committee on Energy and Commerce reported out the bill H.R. 6598, which was accompanied by Report No. 97-785, Part I. Many of the provisions contained in the reconciled bill before us today were contained in the bill reported by the Energy and Commerce Committee, and thus the committee's report should be considered as a part of the legislative history for this bill.

The legislation provides for a reasonable schedule for the construction of a nuclear waste repository, which is expected to be available for use in the late 1990's.

In setting forth that schedule, the bill provides what I think are reasonable and sound protections for the environment, for the States, and for citizens.

I want to give special emphasis to these protections. It is clear that our Nation's nuclear energy industry is in very deep trouble at the present time. Clearly some of the problems are economic; during our worst economic crisis since the 1930's, we saw an actual drop in consumption of electric energy during 1981. But the industry's problems go beyond its economic difficulties. A very large part of the problem is the lack of public confidence that nuclear energy is safe. In putting in this bill to provisions for public participation, for Governors to have a role in repository siting—including a veto unless overridden by the Congress—and licensing by the Nuclear Regulatory Commission, we have been attempting to make it possible for there to be some restoration of public confidence. Any lesser protections would be almost certain to engender opposition to nuclear energy far greater than any we have seen to date, and this is particularly true in the case of trying to achieve safe and environmentally sound permanent disposal of nuclear waste.

Specifically in the environmental area, I believe this bill sets forth a very reasonable series of protections. At the beginning, the Department of Energy is to look at five different sites in three different geologic media for the purpose of choosing three sites to characterize for possible development as a repository. At that point, right at the outset, the DOE is to prepare an environmental assessment, which is subject to somewhat limited, but I believe acceptable, judicial review. Then, as the DOE goes forward toward the point at which one site is selected to

be nominated for a repository, the Secretary is required to complete a full environmental impact statement. While we have in some ways constrained the application of the National Environmental Policy Act in this legislation, I believe we have done so responsibly. We must get on with building a waste repository, but we need not do so without adequate protections under NEPA.

I believe that the other provisions of the bill, such as the interim storage section, the monitored retrievable storage plan, and the Science and Technology Committee's test and evaluation facility program have all been worked out in a way that provides for a sound statute to deal, at last, with the national problem of nuclear waste management.

It has not been an easy or a simple process. Many of my colleagues are deeply concerned about the matter, as are all Americans. Particularly for those Members who come from States where any of the facilities called for in this bill might be located, I can only say I believe we have worked out a fair and equitable bill. With regard to locating a repository at any site, I should say that, in the selection of and construction on a geologic formation for a permanent nuclear waste repository, the Department of Energy shall, to the maximum extent practical, assure that such facilities thereon shall be located as far as practicable from populated areas in order to protect the public health and safety. I know not everyone is satisfied; indeed, I have some problems, myself. But this bill has been worked out honestly among many people, in a great spirit of cooperation. And while we have not ruled out any State as a potential repository site, nor have we decided on any one State as that which should bear this national burden. As I said, it has been a difficult process, but I am content that this is a supportable product, and I hope my colleagues will agree and join in passing this important bill today.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MOORHEAD) for 15 minutes.

Mr. MOORHEAD. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Chairman, I commend the House leadership for moving ahead on vital nuclear waste legislation which is so important to the security of our electric utility industry and to the health of present and future generations of Americans.

Except for the State veto provisions, this bill before us today is truly a bipartisan compromise bill. It has brought together as original sponsors 10 of us from both sides of the aisle, from all persuasions and philosophies—Mr. UDALL, Mr. DINGELL, Mr. FUQUA, Mr. OTTINGER, Mr. LUJAN, Mrs. BOUQUARD, Mrs. BYRON, Mr. HUCKABY, Mr. MOORHEAD, Mr. WINN, Mr. CORCORAN, and myself.

After marathon sessions of compromise after compromise, we have resolved in good faith nearly every contentious issue that has bedeviled this vital bill over the years. For example, the distinguished Member from South Carolina (Mr. DERRICK) and I, under the leadership of Chairmen UDALL and DINGELL, have achieved a workable, good faith compromise on the interim spent fuel storage program, and we intend to take it to the Senate as a practical alternative to the provisions that body has adopted.

The Senate passed similar legislation, S. 1662, nearly 6 months ago. Four major House committees—Energy and Commerce (H.R. 6598), Interior and Insular Affairs (H.R. 3809), Science and Technology (H.R. 5016), and Armed Services (H.R. 3809)—representing over 150 Members, have reported this legislation, with the last committee, Energy and Commerce, reporting its bill by voice vote August 4—nearly 2 months ago. In addition, three other committees—Judiciary, Merchant Marine, and Budget—have been involved in reconciling this vital bill for consideration by the full House. Finally, the Committee on Rules itself has legislative jurisdiction, and I have appreciated the monumental efforts of Chairman BOLLING as well as the efforts of the subcommittee chairman, Mr. MOAKLEY, and the respective ranking minority members, Mr. QUILLEN and Mr. TAYLOR, and other members of that committee for their efforts to assure a consensus bill this Congress.

In short, Mr. Speaker, the efforts of the committees of jurisdiction have been nothing short of unprecedented.

I sometimes think there are so many footprints on this legislation I can no longer see the print on the title page. And yet, no bill in my memory over the last 20 years is a better example of the ability of the committee system and this great representative institution to work the will of our citizens on legislation of this magnitude, complexity, and critical need.

The balance on this bill is very delicate. A majority of the Members of this House, through the various committees on which they serve, have been represented in the compromises achieved to bring this bill to the floor. For this reason, we have had to separate the "wheat from the chaff" and agree to accept certain amendments which are consistent with this delicate balance, while agreeing to resist others which would strike at the heart of the consensus compromises reported by the various committees.

However, two issues still divide even the original sponsors of this legislation. One issue—the State veto of repository sites—is major, and we have agreed to allow the House to work its will. The other issue—a compromise between Mr. DERRICK and myself regarding State participation in the interim spent fuel storage program—is minor, and Mr. DERRICK and I have agreed to support the Lujan amendment which addresses it.

For these reasons, I want to inform members that I intend to join in offering two amendments to H.R. 7187 relating to the issue of the State veto of waste repositories, and one amendment relating to State participation in the spent fuel storage program:

The first amendment will be the Broyhill-Moorhead No. 1 amendment providing a two-House sustain State veto over waste repositories. In other words, a Governor of a State can veto the President's repository site selection if and only if two Houses of Congress vote to sustain the Governor's objection under expedited procedures.

The second amendment, which will be offered only if the first amendment fails, will be the Broyhill-Moorhead No. 2 amendment providing a one House sustain veto over waste repositories. In other words, the Governor's veto of the President's site selection would stand only if sustained by the vote of at least one House of Congress. This amendment would be virtually identical to the State veto provision passed by the House in 1980 and the Senate in 1982.

These two amendments should be contrasted with the two House override State veto in H.R. 7187 currently. This provision would require that unless two Houses of Congress vote to override a State veto and the President signs a joint override resolution, the Governor's veto of the President's waste repository selection would be absolute.

The third amendment will be the Lujan-Broyhill amendment providing a one House sustain State veto over interim spent fuel storage of 300 or more metric tons at existing Federal facilities. Although this language was in neither the Energy and Commerce nor Interior Committee-reported bills, Mr. DERRICK, other interested Members, and I agreed to include it as part of a good faith, consensus compromise on the interim spent fuel storage program.

As my good friends JOHN DINGELL, MO UDALL, DON FUQUA, MEL PRICE, and DICK OTTINGER know, this is not a bill to write home about. This bill does not separate ourselves across the aisle. We do not seek to enact this bill for ourselves. We enact it because the American people need it.

For over 30 years, ranging from the landmark studies of the National Academy of Sciences in the 1950's to this past summer's Office of Technology assessment report, the scientists have told us that the technology for

the safe storage and disposal of nuclear waste is "here and now," and that all we lack is a comprehensive national blueprint to put it into action

But, after 30 years of congressional inaction and executive branch policy reversals, we are running out of time. The technology may still be "here and now" but for many older nuclear plants which will run out of space to store their spent fuel at their reactor sites before the Federal Government completes its first permanent waste repository, "here and now" may well "here and gone."

Many of these older reactors are in my own southeast region of North Carolina, South Carolina, Virginia, and Florida. These reactors were built when it was assumed the Federal Government would take custody of spent fuel by the early 1970's and reprocess it for reuse. Then the Carter administration banned reprocessing in 1977, and these utilities were left holding the bag. The Carter administration promised them the Government would build a centralized storage facility, but Congress never acted. Then, the Reagan administration reversed course again, lifting the ban on reprocessing.

Twelve powerplants in the southeast region alone, according to NRC and DOE projections, will run out of spent fuel storage space by 1990—8 to 17 years before the Government projects the first repository will be available. A June 1982 NRC study projects as many as 39 plants in 19 States nationwide may run out of space by 1990.

For this reason, every Senate and House committee which has reported nuclear waste legislation has included an interim storage program to "help utilities help themselves" with at-reactor-site storage and limited "last resort" off-site storage.

All four House committees of jurisdiction, as well as the full Senate, have included at least four major elements in their consensus bill:

One, a firm schedule leading toward completion of a deep geologic repository for disposal of nuclear waste, with a full environmental review and NRC licensing.

Two, an interim spent fuel storage program providing licensing reforms to expedite on-site spent fuel storage and a limited, "last-resort" off-site storage program at existing Federal facilities to bridge the gap before the first repository is available early next century and assure utilities they will not have to shut down useful powerplants for lack of spent fuel storage space.

Three, full State and local and public participation in the siting, construction and operation of nuclear waste facilities, through Federal-State "consultation and cooperation" to insure public confidence in the storage and disposal of waste throughout the program.

Four, up-front private financing of the entire program through user fees on nuclear utilities which will raise over $14 billion through the 2000, but add an average of only 75 cents to the average family's electric bill.

As we all know, we came very close to enacting this bill last Congress. This Congress, we are equally close. However, if we fail this Congress, the need for this legislation will not go away, it will increase. And the compromises we include in this bill will not be easier, they will be more difficult. For example, last Congress, the House did not address the interim spent fuel storage problem. This Congress, all four House committees have decided to include an interim spent fuel storage program, but only in connection with a blueprint for permanent disposal. However, next Congress, we may only be able to get a consensus on interim spent fuel storage—and the congressional will and consensus to enact a permanent disposal program may be gone.

Poll after poll of American citizens has identified this legislation as a critical national need. President Reagan, in his April policy statement, has made enactment a major goal of his administration. In all our negotiations over the last 2 years—JOHN DINGELL, MO UDALL, DON FUQUA, LARRY WINN, MEL PRICE, MANNY LUJAN, BILL DICKINSON, and myself—we all have agreed this bill is a must priority for this Congress.

Mr. Chairman, I ask the entire membership of this great body to join with us in passing this consensus nuclear waste bill this Congress. We cannot fail—we must not fail to enact a national nuclear waste policy this Congress. I urge support for the compromise bill.

Mr. MOORHEAD. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, for over three decades scientists have told us that nuclear waste can be stored and disposed of safely and permanently. Yet to this day, there has been no Federal policy providing for such disposal. Congress has been charged with the responsibility for providing a blueprint for a nuclear waste disposal policy, and H.R. 3809, the Nuclear Waste policy Act of 1982, provides such a long-overdue blueprint.

As surveys have shown, an overwhelming majority of Americans believe that it is time for the Government to stop procrastinating and to move ahead with a safe and permanent method of storing nuclear waste. In my own State of California, the State legislature has forbidden the licensing of new nuclear plants until such a method for waste disposal is in place. Other States have enacted similar legislation indicating widespread concern over the lack of a Federal nuclear waste disposal policy.

Reponding to such concerns, the last session of Congress saw both the House and the other body pass comprehensive nuclear waste legislation—only to have that legislation die in conference.

During this session, the other body has again passed their version of comprehensive nuclear waste disposal legislation (S. 1662), and I believe that it would indeed be tragic if the House failed to respond in a timely and bipartisan manner to the concerns of so many Americans on this vital issue.

It is clear that comprehensive nuclear waste disposal must provide not only for the long-term problem of permanent disposal of nuclear waste, but it also must alleviate the short-term problem of a lack of interim storage capacity for spent nuclear fuel. A June 1982 report, prepared for the Nuclear Regulatory Commission, projects that as many as 39 nuclear powerplants in 19 States may run out of onsite storage capacity by 1990. This would inevitably result in plant shutdowns, and clearly this would be a disaster that must be prevented.

But if we deal only with the problem of a lack of utility interim storage capacity, there will be no pressure in the future for a permanent repository for nuclear waste. Therefore, it is imperative that legislation on the nuclear waste issue address both of these problems.

I believe that H.R. 3809 accomplishes both of these objectives while fully providing for the public health and safety—which has been our prime concern throughout the consideration of this legislation. H.R. 3809 provides for extensive environmental protection and State participation throughout the exhaustive site selection process. This process includes three sets of public hearings at a proposed site, consultation with the States on a site characterization plan and promulgation of guidelines for the selection of a repository by the Department of Energy, in consultation with the Council on Environmental Quality, the Environmental Protection Agency, the Nuclear Regulatory Commission, the Director of the Geological Survey, and interested Governors. Additionally, an extensive environmental assessment must be developed by the Secretary of Energy in consultation with the States. There will be a full and complete review of the planned site under the National Environmental Policy Act, culminating in a comprehensive environmental impact statement. This—as well as all other final agency actions—will be open to full judicial review. The Nuclear Regulatory Commission will have oversight authority over the development of this repository under its independent public health and safety standards.

Clearly, H.R. 3809 provides comprehensive and exhaustive procedures to protect the public health and safety and the environment throughout the repository development process.

I am concerned, however, with an aspect of this legislation that has nothing whatsoever to do with the protection of the public health and safety or the environment—the State veto. Under H.R. 3809, the Governor and the legislature may petition Congress to disapprove a selection of candidate site in their State. There is no requirement that this petition for disapproval of a federally mandated program be based on any rational reason—the State may simply tell the Congress and the President that it does not want to be the site of a repository—regardless of how well the health and safety of its citizens is protected and regardless of how minimal an impact the repository development will have on the environment.

Then, the current bill would require that both Houses of Congress must pass a resolution, which the President must sign, overriding this veto of a critical Federal project. I believe that this is a totally unprecedented and unwise delegation of power to the States, and that is why I will be joining in offering an amendment to delete this aspect of H.R. 3809. I will have further comments on this issue at that time.

I am confident that with this crucial correction, the passage of H.R. 3809 will restore America's confidence in the Federal Government to deal with the urgent and critical issue of nuclear waste disposal policy.

Thank you.

□ 1730

Mr. OTTINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Chairman, as many of my colleagues know, I worked to eliminate provisions in this bill which authorize the Government to provide away-from-reactor, or AFR, storage of utilities' spent fuel. When the Energy and Commerce Committee considered the bill, my amendment to correct this flaw was narrowly defeated.

Proponents of Government-provided AFR storage tried to make a case that this provision is no more than a last-resort effort to prevent some utilities from shutting down when onsite storage capacity is exhausted.

Mr. Chairman, this sounds like an innocuous proposal and one which, I regret, was included in the bill reported out of the Energy and Commerce Committee. It is no secret that AFR proponents were able to preserve this part of the bill by providing special exemptions to certain probable AFR sites in order to win critical votes.

I do not raise this issue to be critical of any of my colleagues—since we all certainly want a nuclear waste program which will serve the Nation's best interests—but I mention the markup process to point out that this overall legislation is too important to be held hostage by serious flaws in the AFR provisions. If the AFR provisions are abused, the Nation's entire permanent nuclear waste management program will be in jeopardy, all because we chose to provide special treatment—financial and political—to a handful of utilities which will now have little incentive to solve their spent fuel storage problem onsite.

I will not offer a motion to try and eliminate the AFR provisions at this time. I am pleased that the various committees working on this bill, with the help of our colleague, Mr. DERRICK, have arrived at a compromise bill which at least provides some further improvements in the legislation considered in committees earlier this year. I will accept the assurances of the AFR advocates that this questionable provision will indeed be only a last resort and that, if used, Government-provided AFR's will be managed safely, economcially, and at no cost to taxpayers.

I will, however, urge careful oversight during the 98th and succeeding Congresses, to insure that these promises are met. Anything less would be a complete abrogation of our responsibility to give the American public—and the nuclear industry—a waste management policy which addresses the legitimate health and safety issues—as well as the special narrow financial interests of utilities which choose to solve this problem with a Federal bailout.

Mr. Chairman, I would like to engage the chairman of the Committee on Interior and Insular Affairs and the chairman of the other committees involved in two brief colloquies.

First of all section 133 and 218 provide for DOE to establish a commercialization program to assist and encourage the development by the private sector of technology for the onsite storage of spent nuclear fuel.

The Tennessee Valley Authority has been one of the leaders within the electric power industry examining and encouraging new onsite spent fuel storage technologies. TVA has already done extensive work in this area in close cooperation with DOE.

It is, however, a Federal corporation, although the Atomic Energy Act and the present bill generally apply to it in the same way as a private electric company. I want to make sure that the term "private sector" in section 133 is intended by Congress to include TVA in the same way as a private electric company.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Arizona.

Mr. UDALL. Let me give assurances to my friend from Tennessee for the purposes of this act TVA is considered within the private sector and will be eligible for DOE assistance and encouragement to the same extent as a private electric company.

Mr. GORE. And that is the understanding of the other two committees involved?

Mr. OTTINGER. That is my understanding.

Mrs. BOUQUARD. If the gentleman will yield, this is the understanding of our committee.

Mr. GORE. I thank my colleagues.

Second, I want to confirm that an understanding we had in the Committee on Energy and Commerce is shared generally by Congress as to the effect of this legislation on contractual commitments to dispose of spent nuclear fuel. Page 85 of that committee's report on H.R. 6598 states generally that nothing in the bill—either in section 123 obligating spent fuel disposal nor in section 135 obligating those owners and generators to pay DOE for interim storage—would relieve any other parties who may have contracted with such generators or owners to be responsible for some or all disposal costs, from any of their contractual obligations.

Is that correct?

Mr. UDALL. If the gentleman will yield further, that is correct, as far as our committee is concerned.

Mr. OTTINGER. And it is correct as far as our committee is concerned.

Mr. Chairman, may I inquire how much time we have left.

The CHAIRMAN. The gentleman from New York has 10 minutes, and the gentleman from California has 7 minutes.

Mr. OTTINGER. Mr. Chairman, I yield 7 minutes to the gentleman from Massachusetts (Mr. MARKEY), who has made just a tremendous contribution to this legislation, for which I would like to thank him at this time.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I would only rise in support of this legislation, compliment all of those who have participated over the years in dealing with a very complicated piece of legislation.

Mr. MARKEY. Mr. Chairman, there are a number of deficiencies with this legislation as it has been presented to Congress for a vote today or tomorrow. It begins with the dual problems of parochialism and special interests.

We all are here, allegedly, to put together a solution to the nuclear waste problem in this country. Our goal is to bury it as deep and as long as possible.

The bill that we have before us today is a bill which will not accom-

plish that goal. It is a bill that will result in nuclear waste being stored in interim facilities, above ground, for the next 50 to 100 years. As we continue to play this thermonuclear Ponzi game where our generation gets the benefits of nuclear power generation and the next generations take all the risks associated with nuclear waste disposal, let us mark this day well.

Our job here is to make sure that we do not avoid hard choices.

It is to make sure that we understand what options are available to us to day.

Parochialism. People say they want a permanent deep-bedded geologic solution. But they do not want it in their State. They do not want it in salt. They do not want it in basalt, toft, or granite. They do not want it in their State. No matter how ardent a supporter of nuclear power citizens of this country might be, they do not want the permanent repository in their backyard. That is rule No. 1.

Parochialism is very understandable. Let us build interim facilities instead, say those advocates of nuclear power who want to deal with the problem that we have confronting us—the problem being the inability of the nuclear industry to deal with the issue of permanent waste disposal.

Problem No. 2: Special interests. The reason that we are here today more than any other reason is that six referendums have passed in this country which prohibit any further construction of nuclear powerplants until a permanent waste respository has been found.

So the business that we are really about here today is to pass a bill that will produce a headline in a newspaper tomorrow night or the day after which will say, "Permanent Waste Repository Solution Found, Continue to Construct Nuclear Power Plants."

However, what we will know is that because of parochial interests we will not have found a permanent solution. Rather we will have authorized the construction of monitored retrievable storage, away-from-reactor storage, and a study after study which will push back the permanent solution to the point where there will never be a permanent waste repository constructed in this country. And why is that?

Well, for one very simple reason. Money. In this era of fiscal constraints, do you think we are going to build a $3 billion monitored retrievable storage unit, a $300 million per unit away-from-reactor storage unit, a $300 million per year test and evaluation unit, and also spend the money for a $3 to $5 billion permanent waste repository? Or do you think that once we start building these interim facilities, it will take the political pressure off of the Federal Government for 30 or 50 years? We will transport the waste to interim facilities where it will sit. The political consensus we have here this afternoon—to solve the permanent waste problem for the next 10,000 years will not be as intense once the industry's near-term public relations problem is solved.

Well, my somewhat youthful political instincts tell me when you do not have to spend an extra $5 billion in an era in which a balanced budget amendment is about to come out on the floor of the Congress the next day, you should not spend it. It is very, very unlikely that we will see any Congress or any ratepayers accepting a $5 billion expenditure for interim storage and a $5 billion for permanent disposal.

Now, what other problems do we have? Well, we have a problem that some people do not think the States should have a real role in deciding whether or not this respository is located in their State. We are only talking about 10,000 years or so. The Governor should just have a few words that he can pass on to the Congress.

But, as far as the Congress having to override him in order to use it as a site, that would be too much work for the Congress and the President to go through. After all, the repository is probably going to be in a State that has probably one Congressman and two Senators, I mean a really powerful coalition. No question about that when compared to the other 98 and 434. I mean, God forbid, we should give a State any real power when they come before Congress and make their lonely plea on this floor asking that their case be heard. Perhaps there is an aquifer, perhaps there is a population problem, perhaps there have not been proper environmental safeguards which have been taken into account in selecting our State as the repository. No, ladies and gentlemen, we must watch giving the States any real clout.

□ 1740

Let us not, in any way, stop to give a State that kind of consideration. After all, that would slow the bill down maybe 10 or 15 days. And, 10 or 15 days would be a real loss between now and the year 2000.

How could we allow that to happen in light of the need to get this buried for the next 10,000 years?

And what about public confidence? What do you think is going to happen in this country when we tell the American people that we are taking nuclear wastes out of the 72 nuclear powerplants in this country, and we are putting that toxic pollutant on the highways. We are putting high-level radioactive wastes in railroad cars and we are not taking it to a permanent repository. We are going to transport these wastes to away-from-reactor storage facilities. We are going to take them to monitor retrievable storage facilities.

Do you know what kind of demonstrations we are going to have in this country, when you announce to the people, and every State that has a nuclear powerplant, that they are going to have around 9,000 shipments of nuclear materials a year going through their States because we have not yet constructed a permanent repository. You get these shipments because people do not want high-level wastes in their States. Three Mile Island and Seabrook will look like a cub scout picnic compared to the demonstrations that will go on in this country at that time. You do not have any comprehension as to what we are about to set in motion.

We will come back here in 6 or 8 years and wonder why we did not take care of the job that was at hand at the time it was presented to us. Why we did not just strip away all the folderol, the special interests and the parochialism.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. OTTINGER. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I am glad to yield to the gentleman.

Mr. OTTINGER. Mr. Chairman, the gentleman indicated that the industry would run out after we passed this and proclaim the problem has been solved.

I just would like to make it very clear that this legislation sets up a process by which an eventual permanent repository may be put in place. That is stated in the purpose of this act which is to establish this process to arrive at an eventual solution.

We have not done as the other body did and tried to proclaim that the problem has been solved, when in fact it has not. I think that ought to be clear for the record.

Mr. MARKEY. Mr. Chairman, I will say this in conclusion. The solution is easy. We give each nuclear powerplant in this country the authority to expand onsite swimming pools, or cannisters to keep all the wastes at the reactor until we build a permanent repository. That will keep the pressure on the industry. It will keep the pressure on us. It will keep the pressure on whatever administration is in office to build that permanent repository. Anything else that we do is going to delay for at least a generation the construction of that repository that we all contend that we are interested in seeing built in this country.

Mr. MOORHEAD. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. CORCORAN).

Mr. CORCORAN. First of all, Mr. Chairman, I want to thank my friend

and colleague, the gentleman from California, for yielding.

Mr. Chairman, it would be tempting, given the fact this is a debate on this portion of the bill, to engage as we have done so many times in the past with our friend from Massachusetts some of the issues that have been raised; but given the character of the Congress to debate during the 5-minute rule and to make speeches during this portion of general debate, I will not yield to that temptation, although it is tempting.

Mr. Chairman, first of all, I want to commend the chairman and the senior Republicans on the various committees who have been involved for several years in the crafting of this legislation, because it is complex, it is difficult. It does involve some tradeoffs. It does affect us directly from a State standpoint and, in some cases, from the standpoint of our individual districts.

Many of the individual issues have already been addressed either in the debate on the bill or in connection with the rule for consideration of the measure, so I am not at this time going to cover that ground again, but I would like to comment on two broad issues which I think should be considered as we evaluate the compromise consensus product of the various committees with jurisdiction to our colleagues here in the Committee of the Whole.

No. 1 is the problem of the permanent repository. Let me say that I think the legislation before us does adequately address that problem. We will have, if this legislation is passed, in operation by the turn of the century an operational permanent repository and that is something I think that makes this legislation monumental in its significance, because for many years we have needed that. It is unfortunate that it will not be available sooner, but it will be available soon enough, and that is the point that I want to make in connection with this sound legislation.

Second, with respect to the other broad problem that is facing the United States today, and that is the question of what to do with the accumulating spent fuel, this legislation, as our friend and colleague from New York has pointed out, does establish a procedure not only with respect to permanent disposal of the nuclear wastes, but also with regard to the interim storage of the accumulating spent fuel. The legislation provides for a limit on that and I think that is as it should be, some 1,900 metric tons.

Second, in respect to the accumulating problem of spent fuel, we do allow for a number of improvements with respect to onsite storage capability, so that the utilities can take steps themselves in concert with the Nuclear Regulatory Commission and in some instances with regard to the technology of our own Department of Energy in order to solve their own problem.

So, Mr. Chairman, I would hope that the bill will pass.

Mr. MOORHEAD. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico (Mr. SKEEN).

Mr. SKEEN. Mr. Chairman, the Atomic Energy Act of 1954 established a Federal policy to develop nuclear energy as an important alternative energy source for our country. One manifestation of that policy has long been exclusive Federal authority over the hazards associated with Atomic Energy Act activities. The bill before us provides a limited exception to that exclusive Federal authority, authorizing State participation in the siting of a high-level waste repository. However, undue leverage in the hands of a State risks exalting a State's parochial interests over the broader and more fundamental interests of the Nation. This would be a marked and unwarranted deviation from the exclusive and paramount Federal regulatory authority which characterizes the atomic energy area.

I am troubled for another reason with provisions affording States either veto authority or undue leverage against the Federal decisionmaking process. Antinuclear groups have instituted litigation and administrative proceedings asking that reactors be shut down or that no new reactors be licensed because of alleged lack of confidence that waste disposal facilities will be available when needed. I fear that these same groups are supporting State veto or quasi-veto power because such authority will be more conducive to delaying and to frustrating the availability of disposal facilities. This will naturally feed into the arguments by these same antinuclear groups in litigation and administrative proceedings against nuclear power. I do not wish to be a part of the efforts of these groups to subvert the important and well-considered policy, embodied in the Atomic Energy Act, to pursue the nuclear power option. Congress should not endorse unwarranted authority on the part of States to frustrate fundamental national policy.

Mr. MOORHEAD. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. Mr. Chairman, there comes a time when Congress needs to make its move. Seven committees have generally agreed on a format for a nuclear waste bill. I think it is a rather remarkable achievement that seven committees could agree on a paragraph of anything, no less an entire piece of legislation.

There have been years of struggle to come to grips in this country with the problem of nuclear waste disposal, the proper disposition of those wastes. This bill goes far in that direction. It is not perfect. Technically and scientifically, it leaves a few things to be desired, but is definitely better than doing nothing.

There are, unfortunately, forces in this country which view the entire nuclear option negatively and have used over time the waste disposal problem to hang up the nuclear option.

□ 1750

In other words, on the end of that pipeline, if the waste cannot be dealt with, you have to close plants; you cannot build new ones.

Well, seven committees have said America will go ahead with the nuclear option, it will provide for the disposition, the proper disposition, of the wastes, and this legislation makes a reasonable first step in that direction.

Mr. MORRISON. Mr. Chairman, will the gentleman yield to me?

Mr. RITTER. I yield to the gentleman from Washington.

Mr. MORRISON. I thank the gentleman for yielding.

Mr. Chairman, I compliment the committees involved in the development of this bill, representing an area which has a very good attitude toward nuclear power and perhaps has the facility to accept a nuclear waste facility.

I believe this bill is very much a step in the right direction.

Mr. OTTINGER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman and my colleagues, believe it or not, I think we ought to have waste legislation in this Congress, and I think that this bill, with the agreements made among the chairmen, is a reasonable compromise. But I will tell my colleagues that we gave an awful lot in reaching this compromise. In the words of a popular song: "We have gone about as fur as we can go."

If there is any endeavor in the course of the consideration of this bill or in consideration with the Senate to try to put back some of the gaping holes in the environmental and regulatory processes that were in there originally, then I will not be able to support it. I will not be able to come to the floor and urge that a conference or compromise bill that we may work out between the Senate and the House should be approved.

Let me say a couple of words about the amendments. The most critical amendment, in my opinion, is the amendment agreed upon among the chairmen to fix up the monitored retrievable storage.

I favored monitored retrievable storage. I disagree with my friend from Massachusetts that it is a way to delay indefinitely a final resolution. I do not believe we are near a final resolution. I do not think the Department of Energy has demonstrated that it has

the knowledge or anywhere near the knowledge or intends to pursue thoroughly enough the options for permanent deep storage of waste.

Unfortunately, past Federal efforts to establish demonstration repositories have met with serious problems. DOE's history of failures and false assurances to Congress and the public give little cause for confidence. In 1970, DOE assured us that the salt domes at Lyons, Kans., were ideal for a waste repository and that all their geological, hydrological, and other scientific tests confirmed this. DOE proposed legislation which was narrowly defeated in the House providing for permanent storage there. Shortly thereafter it was discovered that the Lyons, Kans., repository leaked. It was only through the tremendous ability and respect which the gentleman from Kansas, Mr. Skubitz, who then served in this body, a Republican Member, had, that would cause that, by one vote, to be defeated. Similar false assurances and problems were encountered at the WIPP site chosen by DOE as a repository for military waste. The past failure to dispose of high-level radioactive materials will require rebuilding public confidence in the ability of the Government to safely dispose of these materials.

The bill before us today is by no means my ideal bill, but nonetheless it comes close enough to establishing a sound policy for the development of a repository that I support it. When H.R. 6598 was reported from our committee it was the unwholesome progeny of greed, with wholesale elimination of participation by the public and State and local governments and seriously truncating environmental, NRC and judicial review. I was discouraged that these extreme industry positions adopted by the narrowest of votes in our committee, threatened the hopes of many that a consensus could be reached on this long overdue policy.

Fortunately, following the actions of the various committees, we were able to fashion a consensus bill. It still includes some provisions that I do not like, but significant changes have been made. And I feel that most importantly, we now have a bill which will give us a start toward disposing of these wastes.

I am pleased that the consensus bill before us provides for a better review of proposed repository sites prior to their being recommended for site characterization. It is important that sites are selected based on geologic suitability rather than on the basis of convenience. I am also pleased that the bill contains no special interest provisions which would absolutely exclude any one site. And I believe it is crucial to the success of the program that the States are given strong participation rights, including the right to disapprove a site unless both Houses of Congress agree that a repository should be located there.

While I still question the need for a Federal interim storage program, I believe the consensus bill has made a number of improvements to insure that the program will be a "last resort" program, and that it will be run as safely as possible.

I also commend the chairmen of the two committees on which I serve—Energy and Commerce and Science and Technology—for fashioning a compromise to blend the R&D activities with the repository program. The consensus bill is designed to insure that the safeguards and protections in the development of a repository contained in the Energy and Commerce and Interior bill will not be undermined by the development of an unlicensed test and evaluation facility.

I continue to have serious concerns over the establishment of monitored retrievable storage with impossible deadlines and unprecedented restrictions on NEPA and the NRC licensing process. However, I believe that an amendment supported by the chairmen and ranking minority members of each of the jurisdictional committees, to be offered later, will make that provision acceptable.

In conclusion, I am hopeful that we can finally get down to the task of building a repository to dispose of our nuclear wastes. We have developed a program that will start us down the road, while preserving opportunities to carefully explore options. I commend all of those who have worked so diligently on this bill.

The CHAIRMAN. Under the rule, the gentlewoman from Tennessee (Mrs. BOUQUARD) is recognized for 15 minutes.

Mrs. BOUQUARD. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. I thank the gentlewoman for yielding this time to me.

Mr. Chairman, first of all I would like to add my compliments to the gentlewoman from Tennessee, to the chairman and ranking members from all of the committees involved in this process.

May I say a special word of commendation to that great legislator and great compromiser, the gentleman from Arizona (Mr. UDALL), who I believe as much as any one person has tried to put together conflicting ideas and opinions.

It is terribly important that we have a comprehensive nuclear waste management policy for America, to be credible to the American people, and a consensus, therefore, is needed.

First of all, the highest priority is to have a permanent repository.

Second, it seems to me you have to have the tools to get to that permanent repository, and here I would like to compliment the authors of this compromise version for including, first, a mission plan which is necessary to see how we are going to get from the point of intention to the point of resolution. Second, link to that a funding mechanism to make sure that we can, in fact, fund the necessary activities.

Third, consensus is needed on a mechanism to resolve the differences with the States, that the States should have, and I think an excellent job has been done in that respect and I urge the committee to retain the language contained in this bill in that regard.

Mr. Chairman, I personally do not see any difference between the treatment of defense and civilian waste, but I think a worthwhile compromise has been reached in this bill in that regard as well.

Finally, let me say that I will be offering an amendment during the consideration of this bill with regard to the interim spent-fuel storage problem.

I believe that this is not needed. I think that this 2,000 metric tons for an AFR, away from reactor storage, is not needed and will, in fact, occasion the delay of the eventual objective of permanently dealing with nuclear waste.

We have the technology for storing in dry casks and in the liquid pools at the site of reactors without the transportation and without the attendant difficulties of the wastes that are developing and will be accumulated during this decade and beyond. Hopefully, the facilities provided in this bill will have an answer to it.

I urge support of this bill. I think it is a fine compromise. It has been worked on very hard by a lot of people and I commend all of them for their efforts in that regard.

Mrs. BOUQUARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support the unified nuclear waste bill before us today, and I urge that the House act expeditiously to approve it. The nuclear waste issue is one to which I have personally devoted many hours of work, as well as being involved in six hearings and five markup sessions in the Science Committee during this Congress alone. It is clearly an issue which is overripe for consideration by the full House.

Mr. Chairman, as author of the Science Committee bill, I want to thank Chairman FUQUA and the Republican leadership on the Committee on Science and Technology, particularly Mr. LUJAN and Mr. WINN, for their strong support in moving H.R. 5016. Mr. UDALL, Mr. BROYHILL, Mr. MOORHEAD, and Mr. DINGELL, and staffs deserve to be commended for their hard work in reaching agreement on a unified regulatory title. This unified nuclear waste bill is not an ideal legislative vehicle

since it falls short of authorizing a fully integrated program, nevertheless, this is a genuine compromise which articulates a national policy on nuclear waste. I am convinced it will be approved by an overwhelming majority of this body.

I believe it will be useful for my colleagues to understand the principal features of our R&D title which Chairman FUQUA has summarized. The cornerstone of our research and development program is the test and evaluation (T&E) facility. This T&E facility has eight purposes and is precisely defined in this bill as it was in H.R. 5026. The purposes are to:

Focus the R&D program;

Integrate the repository components into a functioning system;

Resolve technical licensing issues regarding the repository;

Validate scientific models;

Refine repository component designs;

Supplement the geologic characterization process;

Evaluate and test waste handling systems; and

Establish repository operating capability.

The timetable for the T&E facility depends on whether the Secretary chooses to locate it at a candidate repository site; or construct an entirely separate facility. This flexibility of approach is key since it precludes any prejudicing of a site; that is, the so-called backdoor repository option. If the Secretary decides to colocate this facility, such that it is a genuine technological demonstration repository, then onsite construction is delayed until a construction permit is issued for the full-scale repository. This is not an ideal approach for the R&D program, but the Secretary still has the discretion to pursue the path of a separately located T&E. The T&E facility should be designed to accommodate up to 100 canisters of high-level waste so it can provide desirable simulation and serve as a true test facility. the separately sited T&E facility should still serve as a tool for resolving technological licensing issues and in that sense the NRC would still have an opportunity to review DOE's R&D activities. This two-track approach, Mr. Chairman, provides the strong linkage between the T&E and first-of-a-kind repository which is so necessary to assure program success. In the case of spent-fuel storage, the committee has provided strong encouragement to the utilities and DOE to obtain research data from onsite and Federal facility demonstrations of dry storage technologies which appear very promising. This Science Committee program meshes very well with the concept of a "last resort" away from reactor (AFR) storage program allowed for in title 1 of this bill.

Mr. Chairman, let us get on with consideration of this important piece of legislation. there are a number of amendments which all three major committees of jurisdiction are ready to accept, let us debate the few major issues that remain before the House. The Congress must demonstrate its readiness to address this national issue.

Mr. Chairman, the Science Committee's report on H.R. 5016, House Report 97-411, part I, states the intention of the committee relative to title II of the substitute (H.R 7187) to H.R. 3809. There were only minor modifications made in the process of reaching agreement on the incorporation of the R&D provisions of H.R. 5016 into this substitute. In summary, the substitute bill contains the following provisions:

THE NUCLEAR WASTE POLICY ACT OF 1982—H.R. 7187—TITLE II (R&D SECTION)

1. TEST AND EVALUATION FACILITY

Requires the Secretary to build one Test and Evaluation (T&E) Facility.

DOE may use a candidate repository site for a T&E Facility, if he deems it appropriate, or locate it separately. If the candidate site is chosen, the same procedures are used for the T&E Facility as for the repository. It it is located separately, the safeguards of H.R. 5016 are used.

Purposes are to:

Focus the R&D program;

Integrate the repository components into functioning system;

Resolve technical licensing issues regarding the repository;

Validate scientific models;

Refine repository component designs;

Supplement geologic characterization process;

Evaluate and test waste handling systems;

Establish repository operating capability.

T&E Facility construction of a separately-located T&E expected could begin about 2 years after passage of act.

On-site construction for a T&E Facility located at a repository site can begin after the repository construction authorization is issued by the NRC (expected about 7 years after passage of act).

T&E is to be designed for a capacity of up to 100 canisters of high-level waste.

Limitations:

Operation terminates within five years after initial repository operation begins;

NRC actively involved in assessing public health and safety concerns;

All non-generic R&D, including T&E costs paid from Nuclear Waste Fund.

2. DRY STORAGE RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM FOR SPENT FUEL

Up to 3 powerplant sites may be chosen for demo program subject to reaching agreement with owners.

Cask, caisson and silo storage are options for dry storage.

R&D on rod consolidation in existing water storage pools may be undertaken.

Utility to utilize DOE data to license the on-site facilities and pay all construction and operation costs.

Secretary may conduct technology demonstration on dry storage at federal facilities up to 300 metric tons.

Secretary may use appropriations to fund up to 25 percent of certain authorized R&D activities, any remaining costs to be provided by the utilities involved or the Interim Storage Fund.

□ 1800

Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, I would simply want to correct two statements that were made earlier today, and that is about the cost of these facilities to the Government. There will not be one dime of cost to the Government. The bill provides that industry pays, whether it is the repository, the AFR, or the monitored retrievable storage.

The other point made was that away from reactor storage should not be allowed because we should do it all onsite. As a matter of fact, the bill calls for an away from reactor storage if it can be used only as a last resort, and that every effort must be made to expend it onsite.

Those two points I wanted to clear up. I would finally want to thank Mr. MOORHEAD and Mrs. HOLT for accommodating the request of time during this time period, so I will not be asking for any additional time.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding. I do not know if the gentleman is aware of it, but in the test evaluation facilities the Federal Government picks up 25 percent of the cost. It might run into several hundreds of millions of dollars before all of the T&E facilities are finally put into place.

Mr. LUJAN. Certainly, without this kind of a bill the Government would pick up the cost. We have made sure the industry bears the cost.

Mr. MARKEY. But it is a Federal expenditure.

Mrs. BOUQUARD. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Under the rule, the Chair now recognizes the gentlewoman from Maryland (Mrs. BYRON) and the gentlewoman from Maryland (Mrs. HOLT) for 15 minutes each.

The Chair recognizes the gentlewoman from Maryland (Mrs. BYRON).

Mrs. BYRON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the compromise substitute that will be offered to H.R. 3809.

I want to commend my friends Chairman UDALL, Chairman DINGELL, and Chairman FUQUA for their hard work and cooperation in bringing this legislation to the floor. I want to commend them and the gentleman from North Carolina (Mr. BROYHILL) for their spirit of cooperation and under-

standing of the special circumstances that are involved in the defense activities of the Department of Energy. That cooperation and understanding is incorporated in the substitute that will be offered.

The basic bill, H.R. 3809, was referred to the Committee on Armed Services earlier this year. The positions of the report of the Armed Services Committee on H.R. 3809 have now been incorporated into the substitute bill. The most important position of the Armed Services Committee is that the provisions of this bill "shall not apply with respect to any atomic energy defense activity or to any facility used in connection with any such activity." Mr. STRATTON will be offering an amendment which was printed in the CONGRESSIONAL RECORD on September 28 that will qualify this exclusion of defense activities and facilities.

Another important provision of the substitute bill makes it clear that nothing in this legislation would require the release or disclosure of classified national security information. The Armed Services Committee also reported an amendment to H.R. 3809 that would require participation of the States and Indian tribes if any future decision is made to develop a repository for the disposal of high-level radioactive waste or spent fuel resulting from atomic energy defense activities. This provision is also contained in the substitute bill that will be offered.

Mr. Chairman, the radioactive waste issue has been with us for a long, long time. We have spent years trying to reach a national consensus on the best way to finally isolate and dispose of defense radioactive waste. As the Office of Technology Assessment has pointed out, waste disposal policies seldom survive the passing of an administration. The OTA has also recognized that there are no technical barriers to the safe disposal of radioactive waste at this time. The problem has been in locating a final geographic resting place—or repository—for high-level radioactive waste.

It is the hope of all of us who have worked on this legislation that the substitute bill will help bring about a national consensus on the location of one or more repositories.

Mr. Chairman, in the brief time remaining I want to explain some of the things involved in the defense radioactive waste issue. The Department of Energy's defense programs operate large Government-owned industrial facilities throughout the United States. All industrial facilities generate waste. Nuclear facilities such as these that produce special nuclear materials for weapons and for the naval nuclear propulsion program generate radioactive wastes that must be isolated from the human environment. These wastes have been, since the 1940's, stored and isolated.

Most of the volume of so-called defense high-level waste is isolated in double shell tanks in the form of sludge with a small amount of liquid. In all of the years since the 1940's, no high-level waste has migrated off of the DOE sites involved nor has a single member of the public been harmed. This waste storage activity is a part of DOE's interim waste management program. The majority of defense waste is located at the Hanford Reservation in Washington State, at the Savannah River plant reservation in South Carolina and at the Idaho Works of the Department of Energy near Great Falls, Idaho.

The Armed Services Committee's fiscal year 1983 Department of Energy defense programs authorization bill has recommended appropriations amounting to $500 million for Department of Energy's waste management program including R&D, construction, and waste management operations. DOE's long term waste disposal plans, supported by the Armed Services Committee and Congress involve a logical and carefully planned program.

First, facilities must be constructed so that high-level radioactive waste can be removed from tanks or otherwise processed and put into a proper form for eventual disposal in a repository. The initial facility for doing this has already been started at the Savannah River plant in South Carolina. Nearly $37 million has been appropriated to date and $30 million is requested for fiscal year 1983. This facility will solidify defense high-level waste into glass logs. The current construction schedule calls for this facility to begin operation in 1990. The project will cost $970 million and the facility will take approximately 20 years to process the high-level waste inventory now at the Savannah River plant.

I want to point this out to illustrate that there is no instant solution to the defense waste problem and that there will be no defense high-level waste in a suitable form for a repository until at least after 1990. Other facilities will, obviously, have to be built at other DOE sites if the waste located on those sites is to be immobilized. This will be a very expensive process.

Since 1977 the Armed Services Committee has supported the construction of a waste isolation pilot plant in southeast New Mexico. This project, which will cost an estimated $650 million through fiscal year 1988, is to demonstrate for the first time the long term storage of defense generated radioactive waste in a geologic environment. The facility will permit the demonstration of waste handling and other technology that will be directly transferable to any national waste repository. The committee knows of no plan to build a permanent repository for defense high level waste. Since there is a national problem, recognized by the legislation before us, with the disposal of commercial high level waste and spent fuel, the committee believes that both of those problems can be solved with the national repository that this legislation would authorize.

As I stated earlier, I intend to introduce an amendment to the substitute bill which will make only slight changes in the wording of the language now contained in the substitute. But first I want to explain the basic reasons why the Armed Services Committee believes that DOE's defense activities and facilities should be excluded from the operation of the bill.

Certain parts of H.R. 3809 and of the substitute would authorize and direct the Secretary of Energy to make available a certain amount of storage for spent civilian reactor fuel and high level radioactive waste. The Secretary is also directed to provide monitored retrievable storage facilities for high level waste and spent nuclear fuel, to identify sites for the establishment of a geologic test and evaluation facility and to make available facilities for storage and disposal of transuranic nuclear waste. The preferred method of providing these facilities is through the use of facilities "owned by the Federal Government on the date of enactment" of this legislation.

As the committee stated in its report on H.R. 3809, we believe that it would be very unwise to colocate facilities for the storage of civilian generated wastes or spent fuel with the operating facilities that support DOE's defense programs. These operating defense facilities are sized to the requirements of the weapons program, the naval reactor program, and various research programs. Also, since DOE's defense programs are in the paramount national interest, are carried out in Government owned-buildings, for the Government and by the Government, and not for commercial purposes, these programs have never been subjected to licensing or regulations under the Atomic Energy Act.

Commercial radioactive waste and spent fuel on the other hand, has been generated by licensed activities by profitmaking companies and has been subjected to licensing and regulations.

Commingling civilian and defense programs would not only increase the burdens of management of defense programs but they would also have undesirable impacts on the operating facilities themselves through crowding, increased traffic, increased security requirements and housing of an additional work force. There would also be additional costs to the Government that would have to be borne by DOE's defense programs which would be made necessary by the storage of civilian waste.

As everyone knows, the Congressional Budget Act neatly divides defense expenditures from other expenditures such as energy. When the Committee on Armed Services took over the responsibility for atomic energy defense programs in 1977, we found to our dismay that expenditures by ERDA for defense had in several instances been commingled with expenditures for energy programs. That prompted the House Armed Services Committee to legislatively force a division in the management of the defense waste management program and the civilian waste management program within the DOE. This arrangement now works very well and both programs have made substantial progress. The Armed Services Committee reports authorizing legislation for the defense waste program and holds the Assistant Secretary of Energy for Defense programs responsible for administration. Other committees handling authorizing legislation for the civilian waste program hold the Assistant Secretary of Energy for Nuclear Energy responsible.

The defense waste management program is so closely intertwined with the production of special nuclear materials and the reprocessing of naval reactor fuel that a disruption in some aspects of the waste management program could impede or stop those important production activities.

These disruptions could be caused by regulatory difficulties that would be encountered if civilian waste facilities are colocated with operating defense activities.

For the reasons that I have outlined, the Armed Services Committee has taken the position that the provisions of this legislation should not force the colocation of civilian waste or spent fuel at DOE's operating defense activities and facilities. My amendment to the substitute would make it clear that civilian waste facilities and activities will not be located with defense activities.

Having explained the rationale behind the position of the Committee on Armed Services, let me also explain that there are certain facilities located on very large Government reservations where civilian waste activities and facilities could be located in such a way that they would not interfere with defense activities. Some of these areas may contain buildings or other facilities that are surplus to the needs of defense activities where such buildings and sites can be segregated and used for the storage of civilian generated radioactive waste. Nothing in the substitute bill or in my proposed amendment to the substitute bill would prohibit such use. However, the Committee on Armed Services would insist that such use would not interfere with or burden atomic energy defense activities or subject those activities to additional regulations.

Mr. Chairman, the substitute bill that will be offered to H.R. 3809 is not a perfect bill nor is there an absolute consensus in support of this legislation. There are many things in the bill and in the substitute that I do not particularly like. As the Members may have noted, there are many amendments to the substitute bill that have been printed in the RECORD. Several of the amendments are constructive, several of the amendments would be destructive and if adopted, could destroy the broad base of support enjoyed by the substitute.

Notwithstanding the amendments pending to the bill, I believe that the substitute, with appropriate amendments that would reduce some of the delays and stumbling blocks that it contains, is the closest thing to a consensus that the House can achieve.

We need to get going on the establishment of nuclear waste repositories, Mr. Chairman. We need a decision by this Congress. I would urge the Members to pay close attention to the debate on this bill, to reject amendments that have no bearing on the subject matter or that will gut the bill. In the end I would hope that we can send to the other body a bill that they can accept without change or with minimal changes.

□ 1810

Mr. OTTINGER. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I yield to the gentleman from New York.

Mr. OTTINGER. I want to make clear what the gentlewoman has said is the Armed Services Committee's position with respect to waste from reactor storage. I take it that provisions in the bill, as you interpret them, would prohibit commingling of current defense waste with civilian waste at an AFR?

Mrs. BYRON. It is our understanding, as currently drafted, it would prohibit that.

Mr. OTTINGER. The only facilities presently owned by the Department of Energy that could be used for an AFR are those which do not involve defense operations, and would be determined presumably by the Secretary of Energy?

Mrs. BYRON. Operating facilities, the gentleman is correct.

Mr. OTTINGER. They would not be in defense operations facilities, but in areas that are presently not used for defense operation?

Mrs. BYRON. The gentleman is correct.

Mr. OTTINGER. I thank the gentlewoman.

Mrs. BYRON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentlewoman from Maryland (Mrs. HOLT) for 15 minutes.

Mrs. HOLT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 7187. I am concerned that the complicated nature of the bill's provisions do not reflect in any way the technical or engineering problems that might arise in selecting a site and constructing an R&D repository or permanent repository. This is unfortunate for several reasons. First, it adds years of convoluted political approval paths to what should be engineering decisions. Second, there is a constant effort to involve atomic energy defense activities in this maze. If the aim of those proposing inclusion of defense activities in this maze is the unilateral disarmament of the United States, they have selected a most appropriate vehicle to achieve this goal. I do not believe that unilateral disarmament is the desire of the majority of our citizens or the Members of Congress. But we must be eternally vigilant, since a seemingly innocuous amendment could raise the cost of national security by billions of dollars without adding an iota to our national well-being.

Mr. Chairman, I would like to spend a few minutes to point out what are the Atomic Energy Defense Activities, their involvement with national security, and the part played by the defense nuclear waste and materials byproducts management.

As defined in section 2 of H.R. 7187, the term atomic energy defense activity means any activity of the Secretary of Energy performed in whole or in part in carrying out any of the following functions:

Naval reactors development;

Weapons activities including defense inertial confinement fusion;

Verification and control technology;

Defense nuclear materials production;

Defense nuclear waste and material byproducts management;

Defense nuclear materials security and safeguards and security investigations; and

Defense research and development.

Defense nuclear waste can result from any of these activities although the greatest amount is derived from defense nuclear materials production, nuclear weapons fabrication, and naval reactors fuel reprocessing. I would point out to my colleagues that, based upon Presidential requests and congressional concurrences, nuclear materials are being produced, weapons are being fabricated and our nuclear Navy is contributing mightily to national security. And waste is being generated.

In spite of these facts, there seems to be a serious misconception in this Nation that no one is in charge of our

defense nuclear waste program and that at some time in the near future we will be overwhelmed by nuclear waste. It is difficult to trace the origin of such rumors which would be laughable if it were not for the fact that well-meaning but uninformed citizens, and Members, repeat those absolutely incorrect statements.

We do know how to handle nuclear wastes in this country, and so do the experts in many other nations. Safe interim storage has been a fact, not a wish, for 40 years. In that time not one member of the American public has been seriously inconvenienced, let alone harmed, by nuclear waste. If any of my colleagues have knowledge to the contrary, I would be interested in hearing it. Even the Laurel and Hardy comedy act put on by the Nuclear Regulatory Commission, sometimes called Three Mile Island or the nuclear holocaust that was not, did not harm anyone, although the media tried their best to scare the local Pennsylvania residents to death. They may have succeeded. We do have at least one new concept derived from that incident. It is called the psychologic or neurotic impact statement. I wish the future authors of those statements good luck when they try to explain what they are trying to explain.

Environmental impact statements have been prepared over the years for essentially all phases of the Department of Energy's defense waste management program. As significant changes are made, or proposed, new statements are issued.

The defense waste management program supported by the Armed Services Committee provides for the handling and disposal of low-level and airborne radioactive wastes, for storage of transuranic and high-level waste, and for the development and demonstration of technologies for their disposal. In fiscal year 1983, DOE will upgrade waste handling, storage, and disposal operations by transferring high-level waste from old single-shell tanks at Savannah River and Hanford into new double-shell tanks.

The long-term program in fiscal year 1983 will focus on processing technologies for high-level waste at Savannah River, preparation of transuranic waste from Idaho and other agency sites for the Waste Isolation Pilot Plant (WIPP), and low-level waste technology for local agency sites. The waste form for immobilization of Savannah River waste has been selected as encapsulation in borosilicate glass.

Identification and development of safe and cost-effective applications of radioisotopes and materials recovered from the defense fuel cycle will continue. This is called the beneficial uses program and for the present is using cesium from the waste stream to irradiate sewage sludge to convert the sludge to high-grade pathogen-free fertilizer and a cattle feed supplement equal in nutrient value to cottonseed.

The Defense Waste Processing Facility at Savannah River will provide the final step in processing high-level waste for disposal. Facility design will continue in fiscal year 1983 leading to "hot" operations in 1990. The Defense Waste Processing Facility will immobilize the high-level waste sludge, which contains most of the long-lived radionuclides, for storage, transportation to, and disposal in a geologic repository. Immobilization and confinement in a geologic repository will insure the long-term isolation of these wastes from the environment with minimal maintenance and surveillance. The defense program is well along with research on such a geologic repository.

The Waste Isolation Pilot Plant, located near Carlsbad, N. Mex., will demonstrate closure of the defense nuclear fuel cycle. The WIPP facilities will be capable of routine operations to receive, inspect, package, and emplace pilot plant quantities of remote-handled high-level and transuranic waste and contact-handled waste in an environment typical of a repository. This research and development facility will be sized to handle quantities typical of defense nuclear waste inventories and anticipated generation rates.

I frequently am told that the waste repository bill before the House is not satisfactory because it does not cover the interim waste storage or other activities of the defense nuclear waste program. It is true that it does not cover this program and we on Armed Services plan to assure that the smoothly working waste program we support does not become involved with anything like the ponderous and inconceivably complex practices and procedures to which H.R. 7187 is dedicated. I believe it will take hundreds of millions of dollars to even get to the point where it is decided that a repository should be built at a given site.

In less than 10 years the defense waste program will be capable of turning out glass encapsulated high-level waste suitable for repository burial. Those logs will wait for a repository to be built. It will not be the other way around.

I would conclude by affirming the need of this Nation for a permanent repository for nuclear waste and temporary storage for spent fuel from commercial power reactors. H.R. 7187 would be a great start if it were less complicated. Perhaps the conference will aid the search for a less confused solution.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Rules Committee is now entitled to 15 minutes on each side.

The Chairman recognizes the gentleman from Tennessee (Mr. QUILLEN) for 15 minutes.

Mr. QUILLEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not intend to use but a minute or two.

I am very pleased with the progress being made on general debate. I hope that the amendments to the measure can be disposed of quickly. I was afraid the way the rule was drafted would delay consideration of this bill.

But based on the progress being made, I am encouraged. I commend those who are handling the general debate. I hope the amendments can quickly be disposed of when we reconvene tomorrow.

Mr. Chairman, I have no requests for time and I yield back the balance of my time.

The CHAIRMAN. The majority side of the Rules Committee is entitled to 15 minutes.

The Chair is advised that they will yield back their time.

● Mr. GONZALEZ. Mr. Chairman, I am opposed to this bill.

First, it does not address the question of what we are going to do with 90 percent of the nuclear waste that is presently in one form or another of temporary and often inadequate storage—namely, military waste material.

Second, the bill almost completely guarantees that any site selected will not be subject to any veto by a State that objects to it. Even if the Congress were to vote to uphold the wishes of a State in opposing a proposed site, there is considerable reason to believe that the courts would hold such an action to be unconstitutional.

Third, the bill does not set out any reasonable criteria for what a site might be like—how it would be operated, what kind of geological formation would be best suited for such an operation, and the like.

The bill, taken together, is an open invitation to have the Department of Energy select a site that is faulty, and then force that site on a protesting State or community. We cannot say that this is impossible—for the same thing very nearly happened in Kansas only a few years ago, when the Federal Government attempted to place a nuclear waste dump in a leaking salt dome, and was only deterred when the evidence against the safety of that site was overwhelming.

This bill provides a mechanism whereby the Federal Government can shove a waste dump down the throat of one or more presently unsuspecting communities. It establishes the basis for an operation to transport extremely hazardous materials across the Nation, through hundreds, thousands of towns that do not want or welcome such traffic. Oh, yes, we are assured of

safety. Tell that to the community of Livingston, La., which has been terrorized and victimized for days by the burning of a more than a 100-car train that carried deadly chemicals. No one can safely live in that town today; no one can say when the people can safely return.

Some States are so fearful of nuclear waste material transportation that they forbid such materials to pass through. Many communities likewise prohibit the shipment of such materials through their jurisdiction. The caution flags are all around, yet here we are considering a last-minute item that will create a whole new industry of nuclear waste transport.

Very few, if any, who are present here today will still be in the House when the program created by this bill actually becomes operational. We can adopt this program with ease, because it will be others, not us, who must live with its consequences. But that would be morally wrong, it would be indefensible to simply say that this is the best we can do, let others live with the consequences. This bill sets out a program that we do not have to live with ourselves. The trouble is, those who we think will live with it, may not be able to, much less have any desire to.

This bill does not bail out the nuclear power business, as so many claim. What it does is drown the rest of us, by pumping their water on our heads.●

● Mr. GEJDENSON. Mr. Chairman and colleagues, I am pleased that the House of Representatives is finally considering the National Nuclear Waste Policy Act. For almost 10 years, the U.S. Congress has debated who should be responsible for the disposal of nuclear waste and where should it be disposed. As a Member of Congress with three operating nuclear reactors in my district, and a fourth under construction, I have been active as a member of the House Interior Committee in insuring that my constituents are safe from the potential hazards of nuclear waste disposal.

I am proud that this legislation, H.R. 7187, incorporates my interim onsite dry storage provision, as adopted by the House Interior Committee in H.R. 3809. Clearly, this provision and its subsequent modifications, have been instrumental in resolving the outstanding differences of opinion between the nuclear industry and environmental concerns in the resolution of the nuclear waste interim storage problems. Simply, interim onsite storage of commercial reactor nuclear waste can and will provide immediate relief to those utilities running out existing storage space without compromising the integrity of safeguards against nuclear accidents or nuclear exposure to surrounding populations. Additionally, this provision will alleviate the perceived fears of transporting nuclear waste and establishing an away-from-reactor storage facility.

When I first proposed my amendment during the Interior Committee markup of H.R. 3809, I attempted to provide a reasoned and orderly compromise to the problems posed by the interim storage of nuclear waste to nuclear utilities, environmental groups, and affected States. I believe that I have achieved that goal. I also sought to provide the nuclear utility industry the opportunity to explore the use of innovative, but safe, storage practices which are not as costly as other storage options. Furthermore, I sought to incorporate the experiences of the European nuclear industry in designing alternative technologies for the interim storage of commercial nuclear waste with American ingenuity and penchant for innovation to address our domestic nuclear waste problem. I sought to strike a middle course in the interim storage debate and provide a common ground upon which all sides could agree. Today, we are about to realize these goals.

The interim dry storage of spent nuclear fuel rods is a quick solution to the storage problems facing utilities with rapidly filling spent fuel rod pools. This type of storage can be done at nuclear reactor sites in a modular fashion and thereby alleviate the need to transport the waste to a holding facility. Dry storage is not licensable by the Nuclear Regulatory Commission yet, but this provision will accomplish licensing shortly. The Department of Energy has stated that dry storage can be licensable within a short time frame and that there are "no technical problems that prevent the use of dry storage technologies." The NRC, in my opinion, will have the technical capability to offer generic licenses to certain dry storage technologies in the near future. This is certainly a first step in the right direction.

Ideally, the concept behind onsite dry storage of nuclear waste is to fashion a technology with low front-end capital requirements, short leadtimes, and the ability to add storage capacity as needed on an annual basis, so as to avoid either under- or over-capacity. DOE is currently conducting a small-scale test of dry storage technologies at the Nevada test site, and information from these tests suggest that this technology might be substantially less expensive on a unit basis than establishing away from reactor storage or expanding at-reactor pool facilities. Documentation from the Office of Technology Assessment, the Department of Energy, the Nuclear Regulatory Commission, and the European Nuclear Community clearly indicate that alternative technologies, such as dry storage casks, dry caisson storage, and concrete silo storage offer effective, safe, and inexpensive solutions to the interim storage problems. I feel confident that interim onsite storage will be in use at many nuclear reactors lacking sufficient pool storage.

The dry storage of spent fuel can be accomplished in several ways. One is to place the spent fuel rods in a cast iron cask designed to be used for both onsite storage and transportation to final disposition. One estimate of the cost of onsite storage in such casks is around $40,000/MTU, which is substantially below DOE's estimated fee for AFR storage of $130,000/MTU.

Another form of dry storage at reactor sites is drywell storage. Individual fuel elements are placed in steel canister and lowered below ground level into metal sleeves surrounded by concrete liners. In this case, the only large front end investment required for drywell storage would be a special cask and associated transport vehicles to move the canned fuel elements from the pool to the individual drywells at the reactor site.

Both drywell storage and the cask storage can be added incrementally as needed by the utilities and because of this, there are distinct advantages in having this technology licensed as quickly as possible. Licensing this storage technology would provide the utilities with greater flexibility in meeting their storage needs and prevent the transportation of nuclear waste through communities and towns. The perception of the public is that transportation of spent fuel storage poses a potential hazard and I tend to agree. However, if the spent fuel can remain at the utility site until either a final disposition site has been selected or until reprocessing becomes a reality, the public perception will be improved.

Mr. Speaker, I would like to thank the members of the House Interior Committee for their support of my onsite interim storage amendment. I would also like to extend my appreciation to Representatives UDALL, LUJAN, DINGELL, BROYHILL, OTTINGER, MOORHEAD for retaining this critical provision in today's compromise nuclear waste bill.

I congratulate the House for bringing this legislation to a vote in the near future and I urge my colleagues to vote for its final passage.●

● Mr. GOLDWATER. Mr. Chairman, I rise in strong support of H.R. 7187, the Nuclear Waste Policy Act of 1982. This legislation establishes a comprehensive nuclear waste management program which our Nation desperately needs. This program will allow us to move forward with the permanent disposal of high-level radioactive waste.

For many years now, we in Congress have debated the merits of various proposals to dispose of the growing quantities of nuclear wastes. In the summer of 1978, I visited the Hanford Laboratory facilities in the State of Washington to review their nuclear

waste management activities. These activities focused on an investigation of basalt geologic formations for nuclear waste disposal. While satisfactory progress had been made, I was disappointed to learn that the permanent repository was still scheduled to begin operation more than 10 years down the road. This schedule was quite different from the pace of earlier activities at Hanford in which entire production reactors were built in just 13 months. This situation led me to seriously question our commitment to solving the nuclear waste problem.

Because I was convinced that the problem was a national concern, I introduced legislation in 1979 which called for the construction of a commercial-scale demonstration repository for nuclear wastes. That legislation, the Nuclear Waste Management Research, Development and Demonstration Act of 1979, required the Department of Energy to undertake an accelerated nuclear waste management program. The Department was directed to build and operate a repository within a specific timeframe. A Nuclear Waste Advisory Committee, composed of public and private sector representatives, was also recommended.

In my opinion, this proposal was necessary to keep nuclear power a viable option in California and other parts of the United States where restrictive laws had banned or slowed needed nuclear development. It was introduced at a time when the California State Legislature had refused to provide an exemption for the proposed, but since canceled, Sun Desert nuclear project from California law that prohibited the construction of new nuclear powerplants until an adequate waste disposal technology had been demonstrated.

I believed, however, that we would need additional nuclear powerplants to satisfy the future energy requirements of my State. Our current inability to build them, due to the California law, would prove extremely damaging in the long run. Therefore, during the 96th Congress, I again introduced legislation that would have required the Department of Energy to construct a technology demonstration repository for high-level radioactive wastes. This legislation was based on the need to provide for a sound research and development base, including integrated technology demonstration activities, to support the construction of a permanent repository.

The Science and Technology Committee held several days of hearings during the 95th, 96th, and 97th Congresses on my proposal and several other nuclear waste legislative initiatives. During those hearings, there was a review of a seemingly endless series of studies and reports on the subject of nuclear waste. The hearing witnesses made it clear that the nuclear waste disposal issue had been studied to death. Quite frankly, I grew tired of having it delayed. What the Nation needed was a farsighted program to get the job done, and in my mind that included the construction and operation of a repository in a timely manner.

Since we now possess the technology for developing a permanent repository, it is imperative that we proceed expeditiously with a solution to our waste problems if we are to maintain nuclear energy as a viable energy option. In some parts of the country, the construction of new nuclear powerplants has already been affected due to the pressing nuclear waste problem.

The Nuclear Waste Policy Act of 1982 will help restore public confidence in our Nation's ability to cope with nuclear wastes. It will help us avoid the frightening prospect of an energy shortage by providing for the timely construction of needed facilities to dispose of these wastes. And it will properly guide us in selecting disposal sites consistent with our public health and needs and national security requirements.

Some of the key features of this legislation should be noted. First, the bill outlines an expeditious timeframe for the construction of a permanent waste repository. Second, it provides for an effective State government role in the construction and operation of a nuclear waste repository. Third, appropriate site standards consistent with environmental requirements will be developed. Fourth, and most important, the bill provides for a strong research and development program which, through a test and evaluation facility, should demonstrate the feasibility of a sound nuclear waste management program. The test and evaluation facility is the centerpiece of the nuclear waste management program. It will resolve technical questions which may otherwise occur during the permanent repository construction authorization or during the issuing of an operating license. It would also allow for the evaluation of the designs for the repository and the packaging handling and emplacement of the waste and spent fuel. It may improve the operating capacity of a final repository without excessive radiation exposure to workers. I firmly believe that the other provisions of this legislation are complementary, but additional to, the test and evaluation facility concept.

Mr. Chairman, the legislation we are now considering will provide our Nation with a firm policy to manage our nuclear waste. It will allow us to fully take advantage of the promise of nuclear energy. I urge my colleagues to support this legislation.●

The Chair recognizes the gentleman from Arizona, Mr. UDALL.

Mr. UDALL. Mr. Chairman, we have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired on general debate. Pursuant to the rule, the text of H.R. 7187 is considered as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs printed in the bill and said amendment is considered as having been read. No amendments are in order except the amendments made in order by House Resolution 601 printed in the CONGRESSIONAL RECORD of September 28, 1982, which shall not be subject to a demand for a division of the question and which shall not be subject to amendment except pro forma amendments for the purpose of debate, and all amendments listed in said resolution shall be in order even if changing portions of the text of said substitute already changed by amendment.

The text of H.R. 7187 is as follows:

H.R. 7187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Nuclear Waste Policy Act of 1982".

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DEFINITIONS

SEC. 2. For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "atomic energy defense activity" means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

(A) naval reactors development;

(B) weapons activities including defense inertial confinement fusion;

(C) verification and control technology;

(D) defense nuclear materials production;

(E) defense nuclear waste and materials byproducts management;

(F) defense nuclear materials security and safeguards and security investigations; and

(G) defense research and development.

(3) The term "candidate site" means an area, within a geologic and hydrologic system, that is recommended by the Secretary under section 112 for site characterization, approved by the President under section 112 for site characterization, or undergoing site characterization under section 113.

(4) The term "civilian nuclear activity" means any atomic energy activity other than an atomic energy defense activity.

(5) The term "civilian nuclear power reactor" means a civilian nuclear powerplant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

(6) The term "Commission" means the Nuclear Regulatory Commission.

(7) The term "Department" means the Department of Energy.

(8) The term "disposal" means the emplacement in a repository of high-level radioactive waste, spent nuclear fuel, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits the recovery of such waste.

(9) The terms "disposal package" and "package" mean the primary container that holds, and is in contact with, solidified high-level radioactive waste, spent nuclear fuel, or other radioactive materials, and any overpacks that are emplaced at a repository.

(10) The term "engineered barriers" means manmade components of a disposal system designed to prevent the release of radionuclides into the geologic medium involved. Such term includes the high-level radioactive waste form, high-level radioactive waste canisters, and other materials placed over and around such canisters.

(11) The term "high-level radioactive waste" means—

(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products and transuranic waste in sufficient concentrations; and

(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

(12) The term "Federal agency" means any Executive agency, as defined in section 105 of title 5, United States Code.

(13) The term "Governor" means the chief executive officer of a State.

(14) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

(15) The term "Office" means the Office of Civilian Radioactive Waste Management established in section 305.

(16) The term "repository" means any system licensed by the Commission that is intended to be used for, or may be used for, the permanent deep geologic disposal of high-level radioactive waste and spent nuclear fuel, whether or not such system is designed to permit the recovery, for a limited period during initial operation, of any materials placed in such system. Such term includes both surface and subsurface areas at which high-level radioactive waste and spent nuclear fuel handling activities are conducted.

(17) The term "reservation" means—

(A) any Indian reservation or dependent Indian community referred to in clause (a) or (b) of section 1151 of title 18, United States Code; or

(B) any land selected by an Alaska Native village or regional corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(18) The term "Secretary" means the Secretary of Energy.

(19) The term "site characterization" means—

(A) siting research activities with respect to a test and evaluation facility at a candidate site; and

(B) activities, whether in the laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the suitability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

(20) The term "siting research" means activities, including borings, surface excavations, shaft excavations, subsurface lateral excavations and borings, and in situ testing, to determine the suitability of a site for a test and evaluation facility.

(21) The term "spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(22) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(23) The term "storage" means retention of high-level radioactive waste, spent nuclear fuel, or transuranic waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

(24) The term "Storage Fund" means the Interim Storage Fund established in section 137(c).

(25) The term "test and evaluation facility" means an at-depth, prototypic, underground cavity with subsurface lateral excavations extending from a central shaft that is used for research and development purposes, including the development of data and experience for the safe handling and disposal of solidified high-level radioactive waste, transuranic waste, or spent nuclear fuel.

(26) The term "transuranic waste" means material containing elements that have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, that have a half life greater than 5 years, and that are in such concentrations as the Commission, consistent with existing law, determines is necessary to protect the public health and safety, and the environment.

(27) The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(28) The term "Waste Fund" means the Nuclear Waste Fund established in section 302(c).

SEPARABILITY

SEC. 3. If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TERRITORIES AND POSSESSIONS

SEC. 4. Nothing in this Act shall be deemed to repeal, modify, or amend the provisions of section 605 of the Act of March 12, 1980 (48 U.S.C. 1491).

OCEAN DISPOSAL

SEC. 5. Nothing in this Act shall be deemed to affect the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.).

LIMITATION ON SPENDING AUTHORITY

SEC. 6. The authority under this Act to incur indebtedness, or enter into contracts, obligating amounts to be expended by the Federal Government shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

PROTECTION OF CLASSIFIED NATIONAL SECURITY INFORMATION

SEC. 7. Nothing in this Act shall require the release or disclosure to any person or to the Commission of any classified national security information.

TITLE I—DISPOSAL AND STORAGE OF HIGH-LEVEL RADIOACTIVE WASTE, SPENT NUCLEAR FUEL, AND LOW-LEVEL RADIOACTIVE WASTE

APPLICABILITY

SEC. 101. (a) ATOMIC ENERGY DEFENSE ACTIVITIES.—Subject to the provisions of subsection (c), the provisions of this title and title III shall not apply with respect to any atomic energy defense activity or to any facility used in connection with any such activity.

(b) EVALUATION BY PRESIDENT.—(1) Not later than 2 years after the date of the enactment of this Act, the President shall evaluate the use of disposal capacity at one or more repositories to be developed under subtitle A for the disposal of high-level radioactive waste resulting from atomic energy defense activities. Such evaluation shall take into consideration factors relating to cost, efficiency, health and safety, regulation, transportation, public acceptability, and national security.

(2) Unless the President finds, after conducting the evaluation required in subsection (a), that the development of a repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only is required, taking into account all of the factors described in such subsection, the Secretary shall proceed promptly with arrangement for the use of one or more of the repositories to be developed under subtitle A for the disposal of such waste.

(3) Any repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only shall (A) be subject to licensing under section 202 of the Energy Reorganization Act of 1973 (42 U.S.C. 5842); and (B) comply with all requirements of the Commission for the siting, development, construction, and operation of a repository.

(c) APPLICABILITY TO CERTAIN REPOSITORIES.—The provisions of this Act shall apply with respect to any repository not used exclusively for the disposal of high-level radioactive waste or spent nuclear fuel resulting from atomic energy defense activities, research and development activities of the Secretary, or both.

STATE AND INDIAN TRIBE PARTICIPATION IN DEVELOPMENT OF PROPOSED REPOSITORIES FOR DEFENSE WASTE

SEC. 102. (a) NOTIFICATION TO STATES AND INDIAN TRIBES.—Notwithstanding the provisions of section 101, upon any decision by the Secretary or the President to develop a repository for the disposal of high-level radioactive waste or spent nuclear fuel resulting exclusively from atomic energy defense activities, research and development activities of the Secretary, or both, and before proceeding with any site-specific investigations with respect to such repository, the Secretary shall notify the Governor and legislature of the State in which such repository is proposed to be located, or the governing body of the Indian tribe on whose reservation such repository is proposed to be located, as the case may be, of such decision.

(b) PARTICIPATION OF STATES AND INDIAN TRIBES.—Following the receipt of any notification under subsection (a), the State or Indian tribe involved shall be entitled, with respect to the proposed repository involved, to rights of participation and consultation identical to those provided in sections 115 through 118, except that any financial assistance authorized to be provided to such State or Indian tribe under section 116(b) or 118(b) shall be made from amounts appropriated to the Secretary for purposes of carrying out this section.

SUBTITLE A—REPOSITORIES FOR DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

FINDINGS AND PURPOSES

SEC. 111. (a) FINDINGS.—The Congress finds that—

(1) radioactive waste creates potential risks and requires safe and environmentally acceptable methods of disposal;

(2) a national problem has been created by the accumulation of (A) spent nuclear fuel from nuclear reactors; and (B) radioactive waste from (i) reprocessing of spent nuclear fuel; (ii) activities related to medical research, diagnosis, and treatment; and (iii) other sources;

(3) Federal efforts during the past 30 years to devise a permanent solution to the problems of civilian radioactive waste disposal have not been adequate;

(4) while the Federal Government has the responsibility to provide for the permanent disposal of high-level radioactive waste and such spent nuclear fuel as may be disposed of in order to protect the public health and safety and the environment, the costs of such disposal should be the responsibility of the generators and owners of such waste and spent fuel;

(5) the generators and owners of high-level radioactive waste and spent nuclear fuel have the primary responsibility to provide for, and the responsibility to pay the costs of, the interim storage of such waste and spent fuel until such waste and spent fuel is accepted by the Secretary of Energy in accordance with the provisions of this Act;

(6) State and public participation in the planning and development of repositories is essential in order to promote public confidence in the safety of disposal of such waste and spent fuel; and

(7) high-level radioactive waste and spent nuclear fuel have become major subjects of public concern, and appropriate precautions must be taken to ensure that such waste and spent fuel do not adversely affect the public health and safety and the environment for this or future generations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish a schedule for the siting, construction, and operation of repositories that will provide a reasonable assurance that the public and the environment will be adequately protected from the hazards posed by high-level radioactive waste and such spent nuclear fuel as may be disposed of in a repository;

(2) to establish the Federal responsibility, and a definite Federal policy, for the disposal of such waste and spent fuel;

(3) to define the relationship between the Federal Government and the State governments with respect to the disposal of such waste and spent fuel; and

(4) to establish a Nuclear Waste Fund, composed of payments made by the generators and owners of such waste and spent fuel, that will ensure that the costs of carrying out activities relating to the disposal of such waste and spent fuel will be borne by the persons responsible for generating such waste and spent fuel.

RECOMMENDATION OF CANDIDATE SITES FOR SITE CHARACTERIZATION

SEC. 112. (a) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Commission, the Director of the Geological Survey, and interested Governors, shall issue general guidelines for the recommendation of sites for repositories. Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media. Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall specify population factors that will disqualify any site from development as a repository if any surface facility of such repository would be located (1) in a highly populated area; or (2) adjacent to an area 1 mile by 1 mile having a population of not less than 1,000 individuals. Such guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recommend sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering candidate sites for recommendation under subsection (b). The Secretary may revise such guidelines from time to time, consistent with the provisions of this subsection.

(b) RECOMMENDATION BY SECRETARY TO THE PRESIDENT.—(1)(A) Following the issuance of guidelines under subsection (a) and consultation with the Governors of affected States, the Secretary shall recommend to the President at least 5 candidate sites in not less than 2 different geologic media that he determines suitable for site characterization for selection of the first repository site. Such sites shall be recommended by the Secretary not later than July 1, 1984. Not later than February 1, 1985, the Secretary shall recommend to the President at least 1 additional candidate site the Secretary determines is suitable for site characterization, at least 1 of which shall be a site that has not been recommended previously under this subsection. At least 1 of such additional sites shall be in a geologic medium other than the geologic medium of any site previously recommended under this subsec-

tion. Each recommendation of a candidate site under this subsection shall be accompanied by an environmental assessment, which shall include a detailed statement of the basis for such recommendation and of the probable impacts of the site characterization activities planned for such candidate site, and a discussion of alternative activities relating to site characterization that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an evaluation by the Secretary as to whether such candidate site is suitable for site characterization under the guidelines established under subsection (a);

(ii) an evaluation by the Secretary as to whether such candidate site is suitable for development as a repository under each such guideline that does not require site characterization as a prerequisite for application of such guideline;

(iii) an evaluation by the Secretary of the effects of the site characterization activities at such candidate site on the public health and safety and the environment;

(iv) a reasonable comparative evaluation by the Secretary of such candidate site with other sites and locations that have been considered;

(v) a description of the decision process by which such candidate site was recommended; and

(vi) an assessment of the regional and local impacts of locating the proposed repository at such candidate site.

(B)(i) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119. Such judicial review shall be limited to the sufficiency of such environmental assessment with respect to the items described in clauses (i) through (vi) of subparagraph (A).

(ii) Each environmental assessment prepared under this paragraph shall be made available to the public.

(C) Upon recommending a candidate site to the President, the Secretary shall notify the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as the case may be, of such recommendation and the basis for such recommendation.

(2) Before recommending to the President any candidate site for site characterization, the Secretary shall hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of the proposed recommendation of such candidate site and to receive their comments. At such hearings, the Secretary shall also solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment described in paragraph (1) and the site characterization plan described in section 113(b)(1).

(c) PRESIDENTIAL REVIEW OF RECOMMENDED CANDIDATE SITES.—(1) The President shall review each candidate site recommendation made by the Secretary under subsection (b). Not later than 60 days after the submission by the Secretary of a recommendation of a candidate site, the President, in his discretion, may either approve or disapprove such candidate site, and shall transmit any such decision to the Secretary and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as the case may be. If, during such 60-day period, the President fails to approve or disapprove such candidate site, or fails to invoke his authority under paragraph (2) to delay his decision, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a candidate site, upon determining that the information provided with the recommendation of the Secretary is insufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such 60-day period, of his intent to invoke such authority. If the President invokes such authority, but fails to approve or disapprove the candidate site involved by the end of such 6-month period, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(d) CONTINUATION OF CANDIDATE SITE SCREENING.—After the required recommendation of candidate sites under subsection (b), the Secretary may continue, as he determines necessary, to identify and study other sites to determine their suitability for recommendation for site characterization, in accordance with the procedures described in this section.

(e) PRELIMINARY ACTIVITIES.—Except as otherwise provided in this subsection, each activity of the President or the Secretary under this section shall be considered to be a preliminary decisionmaking activity. No such activity shall be considered to be a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(f) TIMELY SITE CHARACTERIZATION.—Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any site on Department of Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982, except that (1) the environmental assessment described in subsection (b)(1) shall be prepared and made available to the public before proceeding to sink shafts at any such site; and (2) the Secretary shall not continue site characterization at any such site unless such site is among the candidate sites recommended by the Secretary under the first sentence of subsection (b) for site characterization and approved by the President under subsection (c). If site characterization is discontinued at any site under the second clause of the first sentence of this subsection, site characterization at such site may be continued by the Secretary if such site is subsequently approved by the President under subsection (c).

SITE CHARACTERIZATION

SEC. 113. (a) IN GENERAL.—The Secretary shall carry out, in accordance with the provisions of this section, appropriate site characterization activities at not less than 3 candidate sites approved under section 112. The Secretary shall consider fully the comments received under subsection (b)(2) and section 112(b)(2) and shall, to the maximum extent practicable and in consultation with the Governor of the State involved or the governing body of the Indian tribe involved, conduct site characterization activities in a manner that minimizes any significant adverse environmental impacts identified in such comments or in the environmental assessment submitted under subsection (b)(1).

(b) COMMISSION AND STATES.—(1) Before proceeding to sink shafts at any candidate site, the Secretary shall submit for such candidate site to the Commission and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as the case may be, for their review and comment—

(A) a general plan for site characterization activities to be conducted at such candidate site, which plan shall include—

(i) a description of such candidate site;

(ii) a description of such site characterization activities, including the following: the extent of planned excavations, plans for any onsite testing with radioactive or nonradioactive material, plans for any investigation activities that may affect the capability of such candidate site to isolate high-level radioactive waste and spent nuclear fuel, and plans to control any adverse, safety-related impacts from such site characterization activities;

(iii) plans for the decontamination and decommissioning of such candidate site, if it is determined unsuitable for application for a construction authorization for a repository;

(iv) criteria to be used to determine the suitability of such candidate site for the location of a repository, developed pursuant to section 112(a); and

(v) any other information required by the Commission;

(B) a description of the possible form or packaging for the high-level radioactive waste and spent nuclear fuel to be emplaced in such repository, a description, to the extent practicable, of the relationship between such waste form or packaging and the geologic medium of such site, and a description of the activities being conducted by the Secretary with respect to such possible waste form or packaging or such relationship; and

(C) a conceptual repository design that takes into account likely site-specific requirements.

(2) Before proceeding to sink shafts at any candidate site, the Secretary shall (A) make available to the public the site characterization plan described in paragraph (1); and (B) hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of such plan, and to receive their comments.

(3) During the conduct of site characterization activities at a candidate site, the Secretary shall report not less than once every 6 months to the Commission and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the Indian tribe on whose reservation such candidate site is located, as the case may be, on the nature and extent of such activities and the information developed from such activities.

(c) RESTRICTIONS.—(1) The Secretary may conduct at any candidate site only such site characterization activities as the Secretary considers necessary to provide the data required for evaluation of the suitability of such candidate site for an application to be

submitted to the Commission for a construction authorization for a repository at such candidate site, and for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) In conducting site characterization activities—

(A) the Secretary may not use any radioactive material at a candidate site unless the Commission concurs that such use is necessary to provide data for the preparation of the required environmental reports and an application for a construction authorization for a repository at such candidate site; and

(B) if any radioactive material is used at a candidate site—

(i) the Secretary shall use the minimum quantity necessary to determine the suitability of such candidate site for a repository, but in no event more than the curie equivalent of 10 metric tons of spent nuclear fuel; and

(ii) such radioactive material shall be fully retrievable.

(3) If site characterization activities are terminated at a candidate site for any reason, the Secretary shall (A) notify the Congress, the Governors and legislatures of all States in which candidate sites are located, and the governing bodies of all Indian tribes on whose reservations candidate sites are located, of such termination and the reasons for such termination; and (B) remove any high-level radioactive waste, spent nuclear fuel, or other radioactive materials at or in such candidate site as promptly as practicable.

(d) PRELIMINARY ACTIVITIES.—Each activity of the Secretary under this section that is in compliance with the provisions of subsection (c) shall be considered a preliminary decisionmaking activity. No such activity shall be considered to be a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

SITE APPROVAL AND CONSTRUCTION AUTHORIZATION

SEC. 114. (a) HEARINGS AND PRESIDENTIAL RECOMMENDATION.—(1) The Secretary shall hold public hearings in the vicinity of each site under consideration for recommendation to the President under this paragraph as a site for the development of a repository, for the purposes of informing the residents of the area in which such site is located of such consideration and receiving their comments regarding the possible recommendation of such site. If, upon completion of such hearings and completion of site characterization activities at not less than 3 candidate sites under section 113, the Secretary decides to recommend approval of such site to the President, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the Indian tribe on whose reservation such site is located, as the case may be, of such decision. No sooner than the expiration of the 30-day period following such notification, the Secretary may submit to the President a recommendation that the President approve such site for the development of a repository. Any such recommendation by the Secretary shall be based on the record of information developed by the Secretary under section 113 and this section, including the information described in subparagraph (A) through subparagraph (G). Together with any recommendation of a site under this paragraph, the Secretary shall make available to the public, and submit to the President, a comprehensive statement of the basis of such recommendation, including the following:

(A) a description of the proposed repository, including preliminary engineering specifications for the facility;

(B) a description of the waste form or packaging proposed for use at such repository, and an explanation of the relationship between such waste form or packaging and the geologic medium of such site;

(C) a discussion of data, obtained in site characterization activities, relating to the safety of such site;

(D) a final environmental impact statement prepared pursuant to subsection (f) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including an analysis of the consideration given by the Secretary to not less than 3 candidate sites with respect to which site characterization is completed under section 113, together with comments made concerning such environmental impact statement by the Secretary of the Interior, the Council on Environmental Quality, the Administrator, and the Commission, except that any such environmental impact statement concerning the first repository to be developed under this Act shall not be required to consider the need for a repository or the alternatives to geologic disposal;

(E) preliminary comments of the Commission concerning the extent to which the at-depth site characterization analysis and the waste form proposal for such site seem to be sufficient for inclusion in any application to be submitted by the Secretary for licensing of such site as a repository;

(F) the views and comments of the Governor and legislature of any State, or the governing body of any Indian tribe, that is affected by such site, as determined by the Secretary, together with the response of the Secretary to such views;

(G) such other information as the Secretary considers appropriate; and

(H) any impact report submitted under section 116(b)(2)(B) by the State in which such site is located, or under section 118(b)(2)(B) by the Indian tribe on whose reservation such site is located, as the case may be.

(2)(A) Not later than March 31, 1987, the President shall submit to the Congress a recommendation of a site that the President considers qualified for application for a construction authorization for a repository. The President shall submit with such recommendation a copy of the report for such site prepared by the Secretary under paragraph (1). After submission of the first such recommendation, the President may submit to the Congress recommendations for other sites, in accordance with the provisions of this subtitle.

(B) The President may extend the deadline described in subparagraph (A) by not more than 12 months if, before March 31, 1986 (i) the President determines that such extension is necessary; and (ii) transmits to the Congress a report setting forth the reasons for such extension.

(3) If approval of such first site recommendation does not take effect as a result of a disapproval by the Governor and legislature of a State under section 116 or the governing body of an Indian tribe under section 118, the President shall submit to the Congress, not later than 1 year after the disapproval of such recommendation, a recommendation of another site for the first repository.

(4)(A) The President may not recommend the approval of any site under this subsection unless the Secretary has recommended to the President under paragraph (1) approval of such site and has submitted to the President a report for such site as required under such paragraph.

(B) No recommendation of a site by the President under this subsection shall be considered a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(b) SUBMISSION OF APPLICATION.—If the President recommends to the Congress a site for a repository under subsection (a) and the site designation is permitted to take effect under section 115, the Secretary shall submit to the Commission an application for a construction authorization for a repository at such site not later than 90 days after the date on which the recommendation of the site designation is effective under such section and shall provide to the Governor and legislature of the State in which such site is located, or the governing body of the Indian tribe on whose reservation such site is located, as the case may be, a copy of such application.

(c) STATUS REPORT ON APPLICATION.—Not later than 1 year after the date on which an application for a construction authorization is submitted under subsection (b), and annually thereafter until the date on which such authorization is granted, the Commission shall submit a report to the Congress describing the proceedings undertaken through the date of such report with regard to such application, including a description of—

(1) any major unresolved safety issues, and the explanation of the Secretary with respect to design and operation plans for resolving such issues;

(2) any matters of contention regarding such application; and

(3) any Commission actions regarding the granting or denial of such authorization.

(d) COMMISSION ACTION.—The Commission shall consider an application for a construction authorization for all or part of a repository in accordance with the laws applicable to such applications, except that the Commission shall issue a final decision approving or disapproving the issuance of a construction authorization for the first such application not later than—

(1) January 1, 1989; or

(2) the expiration of 3 years after the date of the submission of such application, except that the Commission may extend such deadline by not more than 12 months if, not less than 30 days before such deadline, the Commission complies with the reporting requirements established in subsection (e)(2);

whichever occurs later.

(e) PROJECT DECISION SCHEDULE.—(1) The Secretary shall prepare and update, as appropriate, in cooperation with all affected Federal agencies, a project decision schedule that portrays the optimum way to attain the operation of the repository involved, within the time periods specified in this subtitle. Such schedule shall include a description of objectives and a sequence of deadlines for all Federal agencies required to take action, including an identification of the activities in which a delay in the start, or completion, of such activities will cause a delay in beginning repository operation.

(2) Any Federal agency that determines that it cannot comply with any deadline in

the project decision schedule, or fails to so comply, shall submit to the Secretary and to the Congress a written report explaining the reason for its failure or expected failure to meet such deadline, the reason why such agency could not reach an agreement with the Secretary, the estimated time for completion of the activity or activities involved, the associated effect on its other deadlines in the project decision schedule, and any recommendations it may have or actions it intends to take regarding any improvements in its operation or organization, or changes to its statutory directives or authority, so that it will be able to mitigate the delay involved. The Secretary, within 30 days after receiving any such report, shall file with the Congress his response to such report, including the reasons why the Secretary could not amend the project decision schedule to accommodate the Federal agency involved.

(f) ENVIRONMENTAL IMPACT STATEMENT.—Any recommendation made by the Secretary under this section shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). A final environmental impact statement prepared by the Secretary under such Act shall accompany any recommendation to the President to approve a site for a repository. With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), compliance with the procedures and requirements of this Act shall be deemed adequate consideration of the need for a repository, the time of the initial availability of a repository, and all alternatives to the isolation of high-level radioactive waste and spent nuclear fuel in a repository. For purposes of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section, the Secretary shall consider as alternate sites for the first repository to be developed under this subtitle 3 candidate sites with respect to which (1) site characterization has been completed under section 113; and (2) the Secretary has made a preliminary determination that such sites are suitable for development as repositories. Any environmental impact statement prepared in connection with a repository proposed to be constructed by the Secretary under this subtitle shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). In any such statement prepared with respect to the first repository to be constructed under this subtitle, the need for a repository or nongeologic alternatives to the site of such repository shall not be considered.

REVIEW OF REPOSITORY SITE SELECTION

SEC. 115. (a) DEFINITION.—For purposes of this section, the term "resolution of repository siting approval" means a joint resolution of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the site at -------- for a repository, with respect to which a notice of disapproval was submitted by -------- on --------.". The first blank space in such resolution shall be filled with the name of the geographic location of the proposed site of the repository to which such resolution pertains; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or Indian tribe governing body submitting the notice of disapproval to which such resolution pertains; and the last blank space in such resolution shall be filled with the date of such submission.

(b) STATE OR INDIAN TRIBE PETITIONS.—The designation of a site as suitable for application for a construction authorization for a repository shall be effective at the end of the 60-day period beginning on the date that the President recommends such site to the Congress under section 114, unless the Governor and legislature of the State in which such site is located, or the governing body of an Indian tribe on whose reservation such site is located, as the case may be, has submitted to the Congress a notice of disapproval under section 116 or 118. If any such notice of disapproval has been submitted, the designation of such site shall not be effective except as provided under subsection (c).

(c) CONGRESSIONAL REVIEW OF PETITIONS.—If any notice of disapproval of a repository site designation has been submitted to the Congress under section 116 or 118 after a recommendation for approval of such site has been made by the President under section 114, such site shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress after the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution of repository siting approval in accordance with this subsection approving such site, and such resolution thereafter becomes law.

(d) PROCEDURES APPLICABLE TO THE SENATE.—(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions of repository siting approval, and such provisions supersede other rules of the Senate only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(2)(A) Not later than the first day of session following the day on which any notice of disapproval of a repository site selection is submitted to the Congress under section 116 or 118, a resolution of repository siting approval shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

(B) Upon introduction, a resolution of repository siting approval shall be referred to the appropriate committee or committees of the Senate by the President of the Senate, and all such resolutions with respect to the same repository site shall be referred to the same committee or committees. Upon the expiration of 60 calendar days of continuous session after the introduction of the first resolution of repository siting approval with respect to any site, each committee to which such resolution was referred shall make its recommendations to the Senate.

(3) If any committee to which is referred a resolution of siting approval introduced under paragraph (2)(A), or, in the absence of such a resolution, any other resolution of siting approval introduced with respect to the site involved, has not reported such resolution at the end of 60 days of continuous session of Congress after introduction of such resolution, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the Senate.

(4)(A) When each committee to which a resolution of siting approval has been referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in paragraph (3), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

(B) Debate on a resolution of siting approval, and on all debatable motions and appeals in connection with such resolution, shall be limited to not more than 10 hours, which shall be divided equally between Members favoring and Members opposing such resolution. A motion further to limit debate shall be in order and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business, and a motion to recommit such resolution shall not be in order. A motion to reconsider the vote by which such resolution is agreed to or disagreed to shall not be in order.

(C) Immediately following the conclusion of the debate on a resolution of siting approval, and a single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on final approval of such resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution of siting approval shall be decided without debate.

(5) If the Senate receives from the House a resolution of repository siting approval with respect to any site, then the following procedure shall apply:

(A) The resolution of the House with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the Senate with respect to such site—

(i) the procedure with respect to that or other resolutions of the Senate with respect to such site shall be the same as if no resolution from the House with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the Senate with respect to such site, a resolution from the House with respect to such site where the text is identical

shall be automatically substituted for the resolution of the Senate.

(e) PROCEDURES APPLICABLE TO THE HOUSE OF REPRESENTATIVES.—(1) The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of resolutions of repository siting approval, and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the House to changes the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) Resolutions of repository siting approval shall, upon introduction, be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the Senate shall be held at the Speaker's table.

(3) Upon the expiration of 60 days of continuous session after the introduction of the first resolution of repository siting approval with respect to any site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

(4) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution of repository siting approval after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution to adoption without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(5) If the House receives from the Senate a resolution of repository siting approval with respect to any site, then the following procedure shall apply:

(A) The resolution of the Senate with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the House with respect to such site—

(i) the procedure with respect to that or other resolutions of the House with respect to such site shall be the same as if no resolution from the Senate with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the House with respect to such site, a resolution from the Senate with respect to such site where the text is identical shall be automatically substituted for the resolution of the House.

(f) COMPUTATION OF DAYS.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subsection (c) and the 60-day period referred to in subsections (d) and (e).

(g) INFORMATION PROVIDED TO CONGRESS.—In considering any notice of disapproval submitted to the Congress under section 116 or 118, the Congress may obtain any comments of the Commission with respect to such notice of disapproval. The provision of such comments by the Commission shall not be construed as binding the Commission with respect to any licensing or authorization action concerning the repository involved.

PARTICIPATION OF STATES

SEC. 116. (a) STATE PARTICIPATION IN REPOSITORY SITING DECISIONS.—(1) Unless otherwise provided by State law, the Governor and legislature of each State shall have authority to jointly submit a notice of disapproval to the Congress under paragraph (2). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor and legislature of such State shall be considered to refer instead to such other person or entity.

(2) Upon the submission by the President to the Congress of a recommendation of a site for a repository, the Governor and legislature of the State in which such site is located may disapprove the site designation and submit to the Congress a notice of disapproval. Such Governor and legislature may submit such a notice of disapproval to the Congress not later than the 60 days after the date that the President recommends such site to the Congress under section 114. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why such Governor and legislature disapproved the recommended repository site involved.

(3) The authority of the Governor and legislature of each State under this subsection shall not be applicable with respect to any site located on a reservation.

(b) FINANCIAL ASSISTANCE.—(1)(A) The Secretary shall make grants to each State in which a candidate site for a repository is approved under section 112(c). Such grants may be made to each such State only for purposes of enabling such State—

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the State and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to its residents regarding any activities of such State, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

(B) The amount of funds provided to any State under this paragraph in any fiscal year may not exceed 90 percent of the costs incurred by such State with respect to the activities described in clauses (i) through (v) of subparagraph (A). Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

(2)(A) The Secretary shall provide financial and technical assistance to any State requesting such assistance in which there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such State of the development of such repository. Such assistance to such State shall commence within 6 months following the granting by the Commission of a construction authorization for such repository and following the initiation of construction activities at such site.

(B) Any State desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site in such State. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the State involved setting forth the amount of assistance to be provided to such State under this paragraph and the procedures to be followed in providing such assistance.

(3) The Secretary shall also grant to each State and unit of general local government in which a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such State and unit of general local government, respectively, would receive were they authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State and unit of general local government tax the other real property and industrial activities occurring within such State and unit of general local government. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

(4)(A) A State may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies the Governor and legislature of the State involved of the termination of site characterization activities at the candidate site involved in such State;

(ii) the date on which the site in such State is disapproved under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first, unless there is another candidate site in the State approved under section 112(c) with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) A State may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary

or if such activities are permanently enjoined by any court.

(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository in a State, no Federal funds shall be made available to such State under paragraph (1) or (2), except for—

(i) such funds as may be necessary to support State activities related to any other repository located in, or proposed to be located in, such State, and for which a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such State with the Secretary during such 2-year period.

(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in section 302(c).

(c) ADDITIONAL NOTIFICATION AND CONSULTATION.—Whenever the Secretary is required under any provision of this Act to notify or consult with the governing body of an Indian tribe on whose reservation a site is located, the Secretary shall also notify or consult with, as the case may be, the Governor of the State in which such reservation is located.

CONSULTATION WITH STATES AND INDIAN TRIBES

SEC. 117. (a) PROVISION OF INFORMATION.—(1) The Secretary, the Commission, and other agencies involved in the construction, operation, or regulation of any aspect of a repository in a State shall provide to the Governor and legislature of such State, and to the governing body of any Indian tribe affected, timely and complete information regarding determinations or plans made with respect to the siting, development, design, licensing, construction, operation, regulation, or decommissioning of such repository.

(2) Upon written request for such information by the Governor or legislature of such State, or by the governing body of any Indian tribe affected, as the case may be, the Secretary shall provide a written response to such request within 30 days of the receipt of such request. Such response shall provide the information requested or, in the alternative, the reasons why the information cannot be so provided. If the Secretary fails to so respond within such 30 days, the Governor or legislature of such State, or the governing body of any Indian tribe affected, as the case may be, may transmit a formal written objection to such failure to respond to the President. If the President or Secretary fails to respond to such written request within 30 days of the receipt by the President of such formal written objection, the Secretary shall immediately suspend all activities in such State authorized by this subtitle, and shall not renew such activities until the Governor or legislature of such State, or the governing body of any Indian tribe affected, as the case may be, has received the written response to such written request required by this subsection.

(b) CONSULTATION AND COOPERATION.—In performing any study of an area within a State for the purpose of determining the suitability of such area for a repository, and in subsequently developing and loading any repository within such State, the Secretary shall consult and cooperate with the Governor and legislature of such State and the governing body of any affected Indian tribe in an effort to resolve the concerns of such State and any affected Indian tribe regarding the public health and safety, environmental, and economic impacts of any such repository. In carrying out his duties under this subtitle, the Secretary shall take such concerns into account to the maximum extent feasible and as specified in written agreements entered into under subsection (c).

(c) WRITTEN AGREEMENT.—Not later than 60 days after notifying a State of his decision to study an area within such State as a possible repository site, the Secretary shall seek to enter into a binding written agreement, and shall begin negotiations, with such State and, where appropriate, to enter into a separate binding agreement with the governing body of any affected Indian tribe, setting forth (but not limited to) the procedures under which the requirements of subsections (a) and (b), and the provisions of such written agreement, shall be carried out. Any such written agreement shall not affect the authority of the Commission under existing law. Each such written agreement shall, to the maximum extent feasible, be completed not later than 6 months after such notification. If such written agreement is not completed within such period, the Secretary shall report to the Congress in writing within 30 days on the status of negotiations to develop such agreement and the reasons why such agreement has not been completed. Prior to submission of such report to the Congress, the Secretary shall transmit such report to the Governor of such State or the governing body of such Indian tribe, as the case may be, for their review and comments. Such comments shall be included in such report prior to submission to the Congress. Such written agreement shall specify procedures—

(1) by which such State or governing body of an Indian tribe, as the case may be, may study, determine, comment on, and make recommendations with regard to the possible public health and safety, environmental, social, and economic impacts of any such repository;

(2) by which the Secretary shall consider and respond to comments and recommendations made by such State or governing body of an Indian tribe, including the period in which the Secretary shall so respond;

(3) by which the Secretary and such State or governing body of an Indian tribe may review or modify the agreement periodically;

(4) by which such State or governing body of an Indian tribe is to submit an impact report and request for impact assistance under section 116(b) or section 118(b), as the case may be;

(5) by which the Secretary shall assist such State, and the units of general local government in the vicinity of the repository site, in resolving the offsite concerns of such State and units of general local government, including, but not limited to, questions of State liability arising from accidents, necessary road upgrading and access to the site, ongoing emergency preparedness and emergency response, monitoring of transportation of high-level radioactive waste and spent nuclear fuel through such State, conduct of baseline health studies of inhabitants in neighboring communities near the repository site and reasonable periodic monitoring thereafter, and monitoring of the repository site upon any decommissioning and decontamination;

(6) by which the Secretary shall consult and cooperate with such State on a regular, ongoing basis and provide for an orderly process and timely schedule for State review and evaluation, including identification in the agreement of key events, milestones, and decision points in the activities of the Secretary at the potential repository site;

(7) by which the Secretary shall notify such State prior to the transportation of any high-level radioactive waste and spent nuclear fuel into such State for disposal at the repository site;

(8) by which such State may conduct reasonable independent monitoring and testing of activities on the repository site, except that such monitoring and testing shall not unreasonably interfere with or delay onsite activities;

(9) for sharing, in accordance with applicable law, of all technical and licensing information, the utilization of available expertise, the facilitating of permit procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws;

(10) for public notification of the procedures specified under the preceding paragraphs; and

(11) for resolving objections of a State and Indian tribes at any stage of the planning, siting, development, construction, operation, or closure of such a facility within such State.

PARTICIPATION OF INDIAN TRIBES

SEC. 118. (a) PARTICIPATION OF INDIAN TRIBES IN REPOSITORY SITING DECISIONS.—Upon the submission by the President to the Congress of a recommendation of a site for a repository located on the reservation of an Indian tribe, the governing body of such Indian tribe may disapprove the site designation and submit to the Congress a notice of disapproval. The governing body of such Indian tribe may submit such a notice of disapproval to the Congress not later than the 60 days after the date that the President recommends such site to the Congress under section 114. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the governing body of such Indian tribe disapproved the recommended repository site involved.

(b) FINANCIAL ASSISTANCE.—(1)(A) The Secretary shall make grants to each Indian tribe on whose reservation a candidate site for a repository is approved under section 112(c). Such grants may be made to each such Indian tribe only for purposes of enabling such Indian tribe—

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the reservation and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to the residents of its reservation regarding any activities of such Indian tribe, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the

Secretary regarding any activities taken under this subtitle with respect to such site.

(B) The amount of funds provided to any Indian tribe under this paragraph in any fiscal year may not exceed 100 percent of the costs incurred by such Indian tribe with respect to the activities described in clauses (i) through (v) of subparagraph (A). Any salary or travel expense that would ordinarily be incurred by such Indian tribe may not be considered eligible for funding under this paragraph.

(2)(A) The Secretary shall provide financial and technical assistance to any Indian tribe requesting such assistance and on whose reservation there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such Indian tribe of the development of such repository. Such assistance to such Indian tribe shall commence within 6 months following the granting by the Commission of a construction authorization for such repository and following the initiation of construction activities at such site.

(B) Any Indian tribe desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site on the reservation of such Indian tribe. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the Indian tribe involved setting forth the amount of assistance to be provided to such Indian tribe under this paragraph and the procedures to be followed in providing such assistance.

(3) The Secretary shall grant to each Indian tribe on whose reservation a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such Indian tribe would receive were it authorized to tax site characterization activities at such site, and the development and operation of such repository, as such Indian tribe taxes the other commercial activities occurring on such reservation. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

(4)(A) An Indian tribe may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies such Indian tribe of the termination of site characterization activities at the candidate site involved on the reservation of such Indian tribe;

(ii) the date on which such site is disapproved under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first, unless there is another candidate site on the reservation of such Indian tribe that is approved under section 112(c) and with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) An Indian tribe may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository at a site on the reservation of an Indian tribe, no Federal funds shall be made available under paragraph (1) or (2) to such Indian tribe, except for—

(i) such funds as may be necessary to support activities of such Indian tribe related to any other repository located on, or proposed to be located on, such reservation, and for which a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support activities of such Indian tribe pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such Indian tribe with the Secretary during such 2-year period.

(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in section 302(c).

JUDICIAL REVIEW OF AGENCY ACTIONS

SEC. 119. (a) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—(1) Except for review in the Supreme Court of the United States, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

(A) for review of any final decision or action of the Secretary, the President, or the Commission under this subtitle;

(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this subtitle;

(C) challenging the constitutionality of any decision made, or action taken, under any provision of this subtitle;

(D) for review of any environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this subtitle, or as required under section 135(e)(1), or alleging a failure to prepare such statement with respect to any such action;

(E) for review of any environmental assessment prepared under section 112(b)(1) or 135(e)(2); or

(F) for review of any research and development activity under title II.

(2) The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia.

(b) EXPEDITED DETERMINATION.—The United States courts of appeals shall exercise their powers in such manner as to expedite the determination of cases over which they have jurisdiction under this section.

(c) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought not later than the 180th day after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action not later than the 180th day after the date such party acquired actual or constructive knowledge of such decision, action, or failure to act.

EXPEDITED AUTHORIZATIONS

SEC. 120. (a) ISSUANCE OF AUTHORIZATIONS.—(1) To the extent that the taking of any action related to the site characterization of a site or the construction or initial operation of a repository under this subtitle requires a certificate, right-of-way, permit, lease, or other authorization from a Federal agency or officer, such agency or officer shall issue or grant any such authorization at the earliest practicable date, to the extent permitted by the applicable provisions of law administered by such agency or officer. All actions of a Federal agency or officer with respect to consideration of applications or requests for the issuance or grant of any such authorization shall be expedited, and any such application or request shall take precedence over any similar applications or requests not related to such repositories.

(2) The provisions of paragraph (1) shall not apply to any certificate, right-of-way, permit, lease, or other authorization issued or granted by, or requested from, the Commission.

(b) TERMS OF AUTHORIZATIONS.—Any authorization issued or granted pursuant to subsection (a) shall include such terms and conditions as may be required by law, and may include terms and conditions permitted by law.

CERTAIN STANDARDS AND CRITERIA

SEC. 121. (a) ENVIRONMENTAL PROTECTION AGENCY STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Administrator, pursuant to authority under other provisions of law, shall, by rule, promulgate generally applicable standards for protection of the general environment from offsite releases from radioactive material in repositories.

(b) COMMISSION REQUIREMENTS AND CRITERIA.—(1)(A) Not later than January 1, 1984, the Commission, pursuant to authority under other provisions of law, shall, by rule, promulgate technical requirements and criteria that it will apply, under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), in approving or disapproving—

(i) applications for authorization to construct repositories;

(ii) applications for licenses to receive and possess spent nuclear fuel and high-level radioactive waste in such repositories; and

(iii) applications for authorization for closure and decommissioning of such repositories.

(B) Such requirements and criteria shall not be inconsistent with any comparable standards promulgated by the Administrator under subsection (a).

(2) For purposes of this Act, nothing in this section shall be construed to prohibit the Commission from promulgating requirements and criteria under paragraph (1) before the Administrator promulgates standards under subsection (a). If the Administrator promulgates standards under subsection (a) after requirements and criteria are promulgated by the Commission under paragraph (1), such requirements and criteria shall be revised by the Commission if necessary to comply with paragraph (1)(B).

(c) ENVIRONMENTAL IMPACT STATEMENT.—The promulgation of standards or criteria in accordance with the provisions of this section shall not be considered a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42

U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

DISPOSAL OF SPENT NUCLEAR FUEL

SEC. 122. Notwithstanding any other provision of this subtitle, any repository constructed on a site approved under this subtitle shall be designed and constructed to permit the retrieval of any spent nuclear fuel placed in such repository, during an appropriate period of operation of the facility, for any reason pertaining to the public health and safety, or the environment, or for the purpose of permitting the recovery of the economically valuable contents of such spent fuel. The Secretary shall specify the appropriate period of retrievability with respect to any repository at the time of design of such repository, and such aspect of such repository shall be subject to approval or disapproval by the Commission as part of the construction authorization process under subsections (b) through (d) of section 114.

TITLE TO MATERIAL

SEC. 123. Delivery, and acceptance by the Secretary, of any high-level radioactive waste or spent nuclear fuel at a repository constructed under this subtitle shall constitute a transfer to the Secretary of title to such waste or spent fuel.

CONSIDERATION OF EFFECT OF ACQUISITION OF WATER RIGHTS

SEC. 124. The Secretary shall give full consideration to whether the development, construction, and operation of a repository may require any purchase or other acquisition of water rights that will have a significant adverse effect on the present or future development of the area in which such repository is located. The Secretary shall mitigate any such adverse effects to the maximum extent practicable.

TERMINATION OF CERTAIN PROVISIONS

SEC. 125. Sections 119 and 120 shall cease to have effect at such time as a repository developed under this subtitle is licensed to receive and possess high-level radioactive waste and spent nuclear fuel.

SUBTITLE B—INTERIM STORAGE PROGRAM

FINDINGS AND PURPOSES

SEC. 131. (a) FINDINGS.—The Congress finds that—

(1) the persons owning and operating civilian nuclear power reactors have the primary responsibility for providing interim storage of spent nuclear fuel from such reactors, by maximizing, to the extent practical, the effective use of existing storage facilities at the site of each civilian nuclear power reactor, and by adding new onsite storage capacity in a timely manner where practical;

(2) the Federal Government has the responsibility to encourage and expedite the effective use of existing storage facilities and the addition of needed new storage capacity at the site of each civilian nuclear power reactor; and

(3) the Federal Government has the responsibility to provide, in accordance with the provisions of this subtitle, not more than 1,700 metric tons of capacity for interim storage of spent nuclear fuel for civilian nuclear power reactors that cannot reasonably provide adequate storage capacity at the sites of such reactors when needed to assure the continued, orderly operation of such reactors.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to provide for the utilization of available spent nuclear fuel pools at the site of each civilian nuclear power reactor to the extent practical and the addition of new spent nuclear fuel storage capacity where practical at the site of such reactor; and

(2) to provide, in accordance with the provisions of this subtitle, for the establishment of a federally owned and operated system for the interim storage of spent nuclear fuel at one or more facilities owned by the Federal Government with not more than 1,700 metric tons of capacity to prevent disruptions in the orderly operation of any civilian nuclear power reactor that cannot reasonably provide adequate spent nuclear fuel storage capacity at the site of such reactor when needed.

AVAILABLE CAPACITY FOR INTERIM STORAGE OF SPENT NUCLEAR FUEL

SEC. 132. The Secretary, the Commission, and other authorized Federal officials shall each take such actions as such official considers necessary to encourage and expedite the effective use of available storage, and necessary additional storage, at the site of each civilian nuclear power reactor consistent with—

(1) the protection of the public health and safety, and the environment;

(2) economic considerations;

(3) continued operation of such reactor; and

(4) any applicable provisions of law.

INTERIM AT REACTOR STORAGE

SEC. 133. The Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section 219(a) for use at the site of any civilian nuclear power reactor. The establishment of such procedures shall not preclude the licensing, under any applicable procedures or rules of the Commission in effect prior to such establishment, of any technology for the storage of civilian spent nuclear fuel at the site of any civilian nuclear power reactor.

LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS

SEC. 134. (a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after the date of the enactment of this Act, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

(b) ADJUDICATORY HEARING.—(1) At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

(2) In making a determination under this subsection, the Commission—

(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

(B) shall not consider—

(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor for which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless (I) such issue results from any revision of siting or design criteria by the Commission following such decision; and (II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

(3) The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

(c) JUDICIAL REVIEW.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

STORAGE OF SPENT NUCLEAR FUEL

SEC. 135. (a) STORAGE CAPACITY.—(1) Subject to section 102, the Secretary shall provide not more than 1,700 metric tons of capacity for the storage of spent nuclear fuel from civilian nuclear power reactors. Such storage capacity shall be provided through any one or more of the following methods, used in any combination determined by the Secretary to be appropriate:

(A) use of available capacity at one or more facilities owned by the Federal Government on the date of the enactment of this Act, including the modification and ex-

pansion of any such facilities, if the Commission determines that such use will adequately protect the public health and safety, except that such use shall not—

(i) render such facilities subject to licensing under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); or

(ii) except as provided in subsection (e), be considered a major Federal action requiring preparation of an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if such facility is already being used, or has previously been used, for such storage or for any similar purpose;

(B) acquisition of any modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, and provision of such equipment, to any person generating or holding title to spent nuclear fuel, at the site of any civilian nuclear power reactor operated by such person or at any Federal site;

(C) construction of storage capacity at any site with respect to which an application for a construction authorization for a repository is submitted under section 114(b) and approved by the Commission; and

(D) construction of storage capacity at any site of a civilian nuclear power reactor.

(2) In selecting methods of providing storage capacity under paragraph (1), the Secretary shall consider the timeliness of the availability of each such method and shall seek to minimize the transportation of spent nuclear fuel, the public health and safety impacts, and the costs of providing such storage capacity.

(3) In providing storage capacity through any method described in paragraph (1), the Secretary shall comply with any applicable requirements for licensing or authorization of such method, except as provided in paragraph (1)(A)(i).

(4) The Secretary shall ensure that storage capacity is made available under paragraph (1) when needed, as determined on the basis of the storage needs specified in contracts entered into under section 137(a), and shall accept upon request any spent nuclear fuel as covered under such contracts.

(5) For purposes of paragraph (1)(A), the term "facility" means any building or structure.

(b) CONTRACTS.—(1) Subject to the capacity limitation established in subsections (a)(1) and (d), the Secretary shall offer to enter into, and may enter into, contracts under section 137(a) with any person generating or owning spent nuclear fuel for purposes of providing storage capacity for such spent fuel under this section only if the Commission determines that—

(A) adequate storage capacity to ensure the continued orderly operation of the civilian nuclear power reactor at which such spent fuel is generated cannot reasonably be provided by the person owning and operating such reactor at such site, or at the site of any other civilian nuclear power reactor operated by such person, and such capacity cannot be made available in a timely manner through any method described in subparagraph (B); and

(B) such person is diligently pursuing licensed alternatives to the use of Federal storage capacity for the storage of spent nuclear fuel expected to be generated by such person in the future, including—

(i) expansion of storage facilities at the site of any civilian nuclear power reactor operated by such person;

(ii) construction of new or additional storage facilities at the site of any civilian nuclear power reactor operated by such person;

(iii) acquisition of modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, for use at the site of any civilian nuclear power reactor operated by such person; and

(iv) transshipment to another civilian nuclear power reactor owned by such person.

(2) In making the determination described in paragraph (1)(A), the Commission shall take into account whether maintenance of a full core reserve storage capability at the site of the civilian nuclear power reactor involved is necessary for the continued orderly operation of such reactor.

(3) The Commission shall complete the determinations required in paragraph (1) with respect to any request for storage capacity not later than 6 months after receipt of such request by the Commission.

(c) FOREIGN SPENT NUCLEAR FUEL.—Notwithstanding the capacity limitation established in subsection (a)(1), the Secretary may provide additional storage capacity not to exceed 100 metric tons in accordance with this section for any foreign spent nuclear fuel that the United States is required to accept pursuant to international arrangements relating to the nonproliferation of nuclear weapons. The provisions of subsection (b) shall not apply with respect to such storage.

(d) ADDITIONAL STORAGE CAPACITY.—Notwithstanding the capacity limitations established in subsections (a)(1) and (c), the Secretary may provide an aggregate of not more than 200 metric tons of additional storage capacity for purposes of such subsections. The provision of any such additional storage capacity for purposes of either such subsection shall be subject to all requirements and limitations, other than the capacity limitation, established in such subsection.

(e) ENVIRONMENTAL REVIEW.—(1) The provision of 300 or more metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) shall be considered to be a major Federal action requiring preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(2)(A) The Secretary shall prepare, and make available to the public, an environmental assessment of the probable impacts of any provision of less than 300 metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) that requires the modification or expansion of any facility at site, and a discussion of alternative activities that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an estimate of the amount of storage capacity to be made available at such site;

(ii) an evaluation as to whether the facilities to be used at such site are suitable for the provision of such storage capacity;

(iii) a description of activities planned by the Secretary with respect to the modification or expansion of the facilities to be used at such site;

(iv) an evaluation of the effects of the provision of such storage capacity at such site on the public health and safety, and the environment;

(v) a reasonable comparative evaluation of current information with respect to such site and facilities and other sites and facilities available for the provision of such storage capacity;

(vi) a description of any other sites and facilities that have been considered by the Secretary for the provision of such storage capacity; and

(vii) an assessment of the regional and local impacts of providing such storage capacity at such site, including the impacts on transportation.

(B) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code. Such judicial review shall be limited to the sufficiency of such assessment with respect to the items described in clauses (i) through (vii) of subparagraph (A).

(3) Judicial review of any environmental impact statement or environmental assessment prepared pursuant to this subsection shall be conducted in accordance with the provisions of section 119.

(f) REVIEW OF SITES.—(1) Upon deciding to provide an aggregate of 300 or more metric tons of storage capacity under subparagraphs (A) and (B) of section (a)(1) at any one Federal site, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the Indian tribe in whose reservation such site is located, as the case may be, of such decision.

(2)(A) During the 60-day period following receipt of such notification, such Governor and legislature or governing body may disapprove the provision of 300 or more metric tons of storage capacity at the site involved and submit to the Congress a notice of such disapproval. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the provision of such storage capacity at such site was disapproved by such Governor and legislature or the governing body of such Indian tribe.

(B) Unless otherwise provided by State law, the Governor and legislature of each State shall have authority to jointly submit a notice of disapproval to the Congress under subparagraph (A). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor and legislature of such State shall be considered to refer instead to such other person or entity.

(C) The authority of the Governor and legislature of each State under this paragraph shall not be applicable with respect to any site located on a reservation.

(3)(A) If any notice of disapproval is submitted to the Congress under paragraph (2), the proposed provision of 300 or more metric tons of storage capacity at the site involved shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution approving such proposed provision of storage capacity in accordance with the procedures established in this paragraph and subsections (d) through (f) of section 115 and such resolution thereafter becomes law. For purposes of this paragraph, the term "resolution" means a joint resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the provision of 300 or more

metric tons of spent nuclear fuel storage capacity at the site located at --------, with respect to which a notice of disapproval was submitted by -------- on --------.". The first blank space in such resolution shall be filled with the geographic location of the site involved; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the date of submission of such notice of disapproval.

(B) For purposes of the consideration of any resolution described in subparagraph (A), each reference in subsections (d) and (e) of section 115 to a resolution of repository siting approval shall be considered to refer to the resolution described in such subparagraph.

(g) LIMITATIONS.—Any spent nuclear fuel stored under this section shall be removed from the storage site or facility involved as soon as practicable following the date on which a repository developed under this Act is available for disposal of such spent fuel.

(h) REPORT.—The Secretary shall annually prepare and submit to the Congress a report on any plans of the Secretary for providing storage capacity under this section. Such report shall include a description of the specific manner of providing such storage selected by the Secretary, if any. The Secretary shall prepare and submit the first such report not later than 1 year after the date of the enactment of this Act.

(i) CRITERIA FOR DETERMINING ADEQUACY OF AVAILABLE STORAGE CAPACITY.—Not later than 90 days after the date of the enactment of this Act, the Commission shall propose, by rule, procedures and criteria for making the determination required by subsection (b) that a person owning and operating a civilian nuclear power reactor cannot reasonably provide adequate spent nuclear fuel storage capacity at the civilian nuclear power reactor site when needed to ensure the continued orderly operation of such reactor. Such criteria shall take into account whether the maintenance of a full core reserve storage capability at the site of such reactor is necessary for the continued orderly operation of such reactor. Such criteria shall identify the feasibility of reasonably providing such adequate spent nuclear fuel storage capacity, taking into account economic, technical, regulatory, and public health and safety factors, through the use of high-density fuel storage racks, fuel rod compaction, transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, construction of additional spent nuclear fuel pool capacity, or such other technologies as may be approved by the Commission.

(j) APPLICATION.—Notwithstanding any other provision of law, nothing in this Act shall be construed to encourage, authorize, or require the private or Federal use, purchase, lease, or other acquisition of any storage facility located away from the site of any civilian nuclear power reactor and not owned by the Federal Government on the date of the enactment of this Act.

(k) COORDINATION WITH RESEARCH AND DEVELOPMENT PROGRAM.—To the extent available, and consistent with the provisions of this section, the Secretary shall provide spent nuclear fuel for the research and development program authorized in section 219(d) from spent nuclear fuel received by the Secretary for storage under this section. Such spent nuclear fuel shall not be subject to the provisions of subsection (g).

TITLE TO STORED MATERIAL

SEC. 136. In carrying out the provisions of this subtitle, the Secretary may not accept title to any spent nuclear fuel or high-level radioactive waste. Acceptance by the Secretary of any such spent fuel or waste for storage under this subtitle shall not constitute a transfer to the Secretary of title to such spent fuel or waste.

INTERIM STORAGE FUND

SEC. 137. (a) CONTRACTS.—(1) During the period following the date of the enactment of this Act, but not later than January 1, 1990, the Secretary is authorized to enter into contracts with persons who generate or own transuranic waste or spent nuclear fuel resulting from civilian nuclear activities for the storage of such waste or spent fuel in any storage capacity provided under this subtitle. Each such contract shall (A) provide for payment to the Secretary of fees determined in accordance with the provisions of this section; and (B) specify the amount of storage capacity to be provided for the person involved.

(2) The Secretary shall undertake a study and, not later than 180 days after the date of the enactment of this Act, submit to the Congress a report, establishing payment charges that shall be calculated on an annual basis, commencing on or before January 1, 1984. Such payment charges and the calculation thereof shall be published in the Federal Register, and shall become effective not less than 30 days after publication. Each payment charge published in the Federal Register under this paragraph shall remain effective for a period of 12 months from the effective date as the charge for the cost of the interim storage of any spent nuclear fuel or transuranic waste resulting from civilian nuclear activities. The report of the Secretary shall specify the method and manner of collection (including the rates and manner of payment) and any legislative recommendations determined by the Secretary to be appropriate.

(3) Fees for storage under this subtitle shall be established on a nondiscriminatory basis. The fees to be paid by each person entering into a contract with the Secretary under this subsection shall be based upon an estimate of the pro rata costs of storage and related activities under this subtitle with respect to such person, including the acquisition, construction, operation, and maintenance of any facilities under this subtitle.

(4) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such storage services shall be made available.

(5) The Secretary shall commence collection of fees under contracts entered into under this section as soon as is practicable.

(b) LIMITATION.—No spent nuclear fuel or transuranic waste generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code may be stored by the Secretary in any storage capacity provided under this subtitle unless such department transfers to the Secretary, for deposit in the Interim Storage Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such spent fuel or waste were generated by any other person.

(c) ESTABLISHMENT OF INTERIM STORAGE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Interim Storage Fund. The Storage Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), which shall be deposited in the Storage Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Storage Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the interim storage of civilian spent nuclear fuel or civilian transuranic waste, which shall automatically be transferred to the Storage Fund on such date.

(d) USE OF STORAGE FUND.—The Secretary may make expenditures from the Storage Fund, subject to subsection (e), for any purpose necessary or appropriate to the conduct of the functions and activities of the Secretary, or the provision or anticipated provision of services, under this subtitle, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any interim storage facility provided under this subtitle;

(2) the administrative cost of the interim storage program; and

(3) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at an interim storage site, consistent with the restrictions in section 135.

(e) ADMINISTRATION OF STORAGE FUND.—(1) The Secretary of the Treasury shall hold the Storage Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Storage Fund during the preceding fiscal year.

(2) The Secretary shall submit the budget of the Storage Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Storage Fund shall consist of estimates made by the Secretary of expenditures from the Storage Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Storage Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

(3) If the Secretary determines that the Storage Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Storage Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Storage Fund, shall be exempt from annual apportionment under the provisions of sub-

chapter II of chapter 15 of title 31, United States Code.

(5) If at any time the moneys available in the Storage Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Storage Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

(6) Any appropriations made available to the Storage Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Storage Fund, less the average undisbursed cash balance in the Storage Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

SUBTITLE C—MONITORED RETRIEVABLE STORAGE

MONITORED RETRIEVABLE STORAGE

SEC. 141. (a) FINDINGS.—The Congress finds that—

(1) the Federal Government has the responsibility to provide for long-term storage of high-level radioactive waste and spent nuclear fuel;

(2) the executive branch and the Congress should proceed as expeditiously as possible to consider fully a proposal for construction of one or more monitored retrievable storage facilities to provide such long-term storage;

(3) the Federal Government has the responsibility to ensure that such facilities are available with sufficient capacity when needed; and

(4) disposal of high-level radioactive waste and spent nuclear fuel in a repository developed under this Act should proceed regardless of any construction of a monitored retrievable storage facility pursuant to this section.

(b) SUBMISSION OF PROPOSAL BY SECRETARY.—(1) Not later than 2 years after the date of the enactment of this Act, the Secretary shall complete a detailed study of the need for and feasibility of, and shall submit to the Congress a proposal for, the construction of one or more monitored retrievable storage facilities for high-level radioactive waste and spent nuclear fuel. Each such facility shall be designed—

(A) to accommodate spent nuclear fuel and high-level radioactive waste resulting from civilian nuclear activities;

(B) to permit continuous monitoring, management, and maintenance of such spent fuel and waste for the foreseeable future;

(C) to provide for the ready retrieval of such spent fuel and waste for further processing or disposal; and

(D) to safely store such spent fuel and waste as long as may be necessary by maintaining such facility through appropriate means, including any required replacement of such facility.

(2) Such proposal shall include—

(A) the establishment of a Federal program for the siting, development, construction, and operation of facilities capable of safely storing high-level radioactive waste and spent nuclear fuel, which facilities are to be licensed by the Commission;

(B) a plan for the funding of the construction and operation of such facilities, which plan shall provide that the costs of such activities shall be borne by the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities;

(C) site-specific designs, specifications, and cost estimates sufficient to (i) solicit bids for the construction of the first such facility; (ii) support congressional authorization of the construction of such facility; and (iii) enable completion and operation of such facility as soon as practicable following congressional authorization of such facility; and

(D) a plan for integrating facilities constructed pursuant to this section with other storage and disposal facilities authorized in this Act.

(3) In formulating such proposal, the Secretary shall consult with the Commission and the Administrator, and shall submit their comments on such proposal to the Congress at the time such proposal is submitted.

(c) ENVIRONMENTAL IMPACT STATEMENTS.—(1) Preparation and submission to the Congress of the proposal required in this section shall not be considered a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare, in accordance with regulations issued by the Secretary implementing such Act, an environmental assessment with respect to such proposal. Such environmental assessment shall be based upon available information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such proposal is submitted.

(2) If the Congress by law, after review of the proposal submitted by the Secretary under subsection (b), specifically authorizes construction of a monitored retrievable storage facility, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply with respect to construction of such facility, except that any environmental impact statement prepared with respect to such facility shall not be required to consider the need for such facility, alternate sites for such facility, or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(d) LICENSING.—Any facility authorized pursuant to this section shall be subject to licensing under section 202(3) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842(3)). In reviewing the application filed by the Secretary for licensing of the first such facility, the Commission may not consider the need for such facility, alternate sites for such facility, or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(e) IMPACT ASSISTANCE.—(1) Upon receipt by the Secretary of congressional authorization to construct a facility described in subsection (b), the Secretary shall commence making annual impact aid payments to appropriate units of general local government in order to mitigate any social or economic impacts resulting from the construction and subsequent operation of any such facility within the jurisdictional boundaries of any such unit.

(2) Payments made available to units of general local government under this subsection shall be—

(A) allocated in a fair and equitable manner, with priority given to units of general local government determined by the Secretary to be most severely affected; and

(B) utilized by units of general local government only for planning, construction, maintenance, and provision of public services related to the siting of such facility.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines are necessary to ensure achievement of the the purposes of this subsection. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(4) Such payments shall be made available entirely from funds held in the Interim Storage Fund established in section 137(c) and shall be available only to the extent provided in advance in appropriation Acts.

(5) The Secretary may consult with appropriate units of general local government in advance of commencement of construction of any such facility in an effort to determine the level of payments each such unit is eligible to receive under this subsection.

(f) LIMITATION.—No monitored retrievable storage facility developed pursuant to this section may be constructed in any State in which there is located any site approved for site characterization under section 112. No repository may be developed under this Act in any State in which there is located any monitored retrievable storage facility developed pursuant to this section.

SUBTITLE D—LOW-LEVEL RADIOACTIVE WASTE

FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE

SEC. 151. (a) FINANCIAL ARRANGEMENTS.—(1) The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Com-

mission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on the date of the enactment of this Act, prior to termination of such licenses.

(2) If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

(b) TITLE AND CUSTODY.—(1) The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

(2) If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

TITLE II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION REGARDING DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

PURPOSE

SEC. 211. It is the purpose of this title—

(1) to provide direction to the Secretary with respect to the disposal of high-level radioactive waste and spent nuclear fuel;

(2) to authorize the Secretary—

(A) to provide for the construction, operation, and maintenance of a deep geologic test and evaluation facility; and

(B) to provide for a focused and integrated high-level radioactive waste and spent nuclear fuel research and development program, including the development of a test and evaluation facility to carry out research and provide an integrated demonstration of the technology for deep geologic disposal of high-level radioactive waste, and the development of the facilities to demonstrate dry storage of spent nuclear fuel; and

(3) to provide for an improved cooperative role between the Federal Government and States, Indian tribes, and units of general local government in the siting of a test and evaluation facility.

APPLICABILITY

SEC. 212. The provisions of this title shall not apply to facilities that are used primarily for the disposal of high-level radioactive waste, low-level radioactive waste, or spent nuclear fuel resulting from atomic energy defense activities.

IDENTIFICATION OF SITES

SEC. 213. (a) GUIDELINES.—Not later than 6 months after the date of the enactment of this Act and notwithstanding the failure of other agencies to promulgate standards pursuant to applicable law, the Secretary shall, in consultation with the Commission, the Director of the Geological Survey, the Administrator, the Council on Environmental Quality, and such other Federal agencies as the Secretary considers appropriate, issue, pursuant to section 553 of title 5, United States Code, general guidelines for the selection of a site for a test and evaluation facility. Under such guidelines the Secretary shall specify factors that qualify or disqualify a site for development as a test and evaluation facility, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall require the Secretary to consider the various geologic media in which the site for a test and evaluation facility may be located and, to the extent practicable, to identify sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering and selecting sites under this title.

(b) SITE IDENTIFICATION BY THE SECRETARY.—(1) Not later than 1 year after the date of the enactment of this Act, and following promulgation of guidelines under subsection (a), the Secretary shall identify 3 or more sites, at least 2 of which shall be in different geologic media in the continental United States, and at least 1 of which shall be in media other than salt. Subject to Commission requirements, the Secretary shall give preference to sites for the test and evaluation facility in media possessing geochemical characteristics that retard aqueous transport of radionuclides. In order to provide a greater possible protection of public health and safety as operating experience is gained at the test and evaluation facility, and with the exception of the primary areas under review by the Secretary on the date of the enactment of this Act for the location of a test and evaluation facility or repository, all sites identified under this subsection shall be more than 15 statute miles from towns having a population of greater than 1,000 persons as determined by the most recent census unless such sites contain high-level radioactive waste prior to identification under this title. Each identification of a site shall be supported by an environmental assessment, which shall include a detailed statement of the basis for such identification and of the probable impacts of the siting research activities planned for such site, and a discussion of alternative activities relating to siting research that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(A) an evaluation by the Secretary as to whether such site is suitable for siting research under the guidelines established under subsection (a);

(B) an evaluation by the Secretary of the effects of the siting research activities at such site on the public health and safety and the environment;

(C) a reasonable comparative evaluation by the Secretary of such site with other sites and locations that have been considered;

(D) a description of the decision process by which such site was recommended; and

(E) an assessment of the regional and local impacts of locating the proposed test and evaluation facility at such site.

(2) When the Secretary identifies a site, the Secretary shall as soon as possible notify the Governor of the State in which such site is located, or the governing body of the Indian tribe on whose reservation such site is located, of such identification and the basis of such identification. Additional sites for the location of the test and evaluation facility authorized in section 302(d) may be identified after such 1 year period, following the same procedure as if such sites had been identified within such period.

SITING RESEARCH AND RELATED ACTIVITIES

SEC. 214. (a) IN GENERAL.—Not later than 30 months after the date on which the Secretary completes the required identification of sites under section 213, the Secretary shall complete sufficient evaluation of 3 sites to select a site for expanded siting research activities and for other activities under section 218. The Secretary shall conduct such preconstruction activities relative to such site selection for the test and evaluation facility as he deems appropriate. Additional sites for the location of the test and evaluation facility authorized in section 302(d) may be evaluated after such 30-month period, following the same procedures as if such sites were to be evaluated within such period.

(b) PUBLIC MEETINGS AND ENVIRONMENTAL ASSESSMENT.—Not later than 6 months after the date on which the Secretary completes the required identification of sites under section 213, and before beginning siting research activities, the Secretary shall hold at least 1 public meeting in the vicinity of each site to inform the residents of the area of the activities to be conducted at such site and to receive their views.

(c) RESTRICTIONS.—Except as provided in section 218 with respect to a test and evaluation facility, in conducting siting research activities pursuant to subsection (a)—

(1) the Secretary shall use the minimum quantity of high-level radioactive waste or other radioactive materials, if any, necessary to achieve the test or research objectives;

(2) the Secretary shall ensure that any radioactive material used or placed on a site shall be fully retrievable; and

(3) upon termination of siting research activities at a site for any reason, the Secretary shall remove any radioactive material at or in the site as promptly as practicable.

(d) TITLE TO MATERIAL.—The Secretary may take title, in the name of the Federal Government, to the high-level radioactive waste, spent nuclear fuel, or other radioactive material emplaced in a test and evaluation facility. If the Secretary takes title to any such material, the Secretary shall enter into the appropriate financial arrangements described in subsections (a) or (b) of section 302 for the disposal of such material.

TEST AND EVALUATION FACILITY SITING REVIEW AND REPORTS

SEC. 215. (a) CONSULTATION AND COOPERATION.—The Governor of a State, or the governing body of an Indian tribe, notified of a site identification under section 213 shall have the right to participate in a process of consultation and cooperation as soon as the site involved has been identified pursuant to such section and throughout the life of the test and evaluation facility. For purposes of this section, the term "process of consultation and cooperation" means a methodology—

(1) by which the Secretary—

(A) keeps the Governor or governing body involved fully and currently informed about any potential economic or public health and safety impacts in all stages of the siting, development, construction, and operation of a test and evaluation facility;

(B) solicits, receives, and evaluates concerns and objections of such Governor or governing body with regard to such test and evaluation facility on an ongoing basis; and

(C) works diligently and cooperatively to resolve such concerns and objections; and

(2) by which the State or Indian tribe involved can exercise reasonable independent monitoring and testing of onsite activities related to all stages of the siting, development, construction and operation of the test and evaluation facility, except that any such monitoring and testing shall not unreasonably interfere with onsite activities.

(b) WRITTEN AGREEMENTS.—The Secretary may enter into written agreements with the Governor of the State in which an identified site is located or with the governing body of any Indian tribe on whose reservation an identified site is located in order to expedite the consultation and cooperation process. Any such written agreement shall specify—

(1) procedures by which such Governor or governing body may study, determine, comment on, and make recommendations with regard to the possible health, safety, and economic impacts of the test and evaluation facility;

(2) procedures by which the Secretary may consider and respond to comments and recommendations made by such Governor or governing body, including the period in which the Secretary may so respond;

(3) the documents the Department is to submit to such Governor or governing body, the timing for such submissions, the timing for such Governor or governing body to identify public health and safety concerns and the process to be followed to try to eliminate those concerns;

(4) procedures by which the Secretary and either such Governor or governing body may review or modify the agreement periodically; and

(5) procedures for public notification of the procedures specified under subparagraphs (A) through (D).

(c) LIMITATION.—Except as specifically provided in this section, nothing in this title is intended to grant any State or Indian tribe any authority with respect to the siting, development, or loading of the test and evaluation facility.

FEDERAL AGENCY ACTIONS

SEC. 216. (a) COOPERATION AND COORDINATION.—Federal agencies shall assist the Secretary by cooperating and coordinating with the Secretary in the preparation of any necessary reports under this title and the mission plan under section 301.

(b) ENVIRONMENTAL REVIEW.—(1) No action of the Secretary or any other Federal agency required by this title or section 301 with respect to a test and evaluation facility to be taken prior to the initiation of onsite construction of a test and evaluation facility shall require the preparation of an environmental impact statement under section 102(2)(C) of the Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require the preparation of environmental reports, except as otherwise specifically provided for in this title.

(2) The Secretary and the heads of all other Federal agencies shall, to the maximum extent possible, avoid duplication of efforts in the preparation of reports under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

RESEARCH AND DEVELOPMENT ON DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE

SEC. 217. (a) PURPOSE.—Not later than 64 months after the date of the enactment of this Act, the Secretary shall, to the extent practicable, begin at a site evaluated under section 214, as part of and as an extension of siting research activities of such site under such section, the mining and construction of a test and evaluation facility. Prior to the mining and construction of such facility, the Secretary shall prepare an environmental assessment. The purpose of such facility shall be—

(1) to supplement and focus the repository site characterization process;

(2) to provide the conditions under which known technological components can be integrated to demonstrate a functioning repository-like system;

(3) to provide a means of identifying, evaluating, and resolving potential repository licensing issues that could not be resolved during the siting research program conducted under section 212;

(4) to validate, under actual conditions, the scientific models used in the design of a repository;

(5) to refine the design and engineering of repository components and systems and to confirm the predicted behavior of such components and systems;

(6) to supplement the siting data, the generic and specific geological characteristics developed under section 214 relating to isolating disposal materials in the physical environment of a repository;

(7) to evaluate the design concepts for packaging, handling, and emplacement of high-level radioactive waste and spent nuclear fuel at the design rate; and

(8) to establish operating capability without exposing workers to excessive radiation.

(b) DESIGN.—The Secretary shall design each test and evaluation facility—

(1) to be capable of receiving not more than 100 full-sized canisters of solidified high-level radioactive waste (which canisters shall not exceed an aggregate weight of 100 metric tons), except that spent nuclear fuel may be used instead of such waste if such waste cannot be obtained under reasonable conditions;

(2) to permit full retrieval of solidified high-level radioactive waste, or other radioactive material used by the Secretary for testing, upon completion of the technology demonstration activities; and

(3) based upon the principle that the high-level radioactive waste, spent nuclear fuel, or other radioactive material involved shall be isolated from the biosphere in such a way that the initial isolation is provided by engineered barriers functioning as a system with the geologic environment.

(c) OPERATION.—(1) Not later than 88 months after the date of the enactment of this Act, the Secretary shall begin an in situ testing program at the test and evaluation facility in accordance with the mission plan developed under section 301, for purposes of—

(A) conducting in situ tests of bore hole sealing, geologic media fracture sealing, and room closure to establish the techniques and performance for isolation of high-level radioactive waste, spent nuclear fuel, or other radioactive materials from the biosphere;

(B) conducting in situ tests with radioactive sources and materials to evaluate and improve reliable models for radionuclide migration, absorption, and containment within the engineered barriers and geologic media involved, if the Secretary finds there is reasonable assurance that such radioactive sources and materials will not threaten the use of such site as a repository;

(C) conducting in situ tests to evaluate and improve models for ground water or brine flow through fractured geologic media;

(D) conducting in situ tests under conditions representing the real time and the accelerated time behavior of the engineered barriers within the geologic environment involved;

(E) conducting in situ tests to evaluate the effects of heat and pressure on the geologic media involved, on the hydrology of the surrounding area, and on the integrity of the disposal packages;

(F) conducting in situ tests under both normal and abnormal repository conditions to establish safe design limits for disposal packages and to determine the effects of the gross release of radionuclides into surroundings, and the effects of various credible failure modes, including—

(i) seismic events leading to the coupling of aquifers through the test and evaluation facility;

(ii) thermal pulses significantly greater than the maximum calculated; and

(iii) human intrusion creating a direct pathway to the biosphere; and

(G) conducting such other research and development activities as the Secretary considers appropriate, including such activities necessary to obtain the use of high-level radioactive waste, spent nuclear fuel, or other radioactive materials (such as any highly radioactive material from the Three Mile Island nuclear powerplant or from the West Valley Demonstration Project) for test and evaluation purposes, if such other activities are reasonably necessary to support the repository program and if there is reasonable assurance that the radioactive sources involved will not threaten the use of such site as a repository.

(2) The in situ testing authorized in this subsection shall be designed to ensure that the suitability of the site involved for licensing by the Commission as a repository will not be adversely affected.

(d) USE OF EXISTING DEPARTMENT FACILITIES.—During the conducting of siting research activities under section 214 and for such period thereafter as the Secretary considers appropriate, the Secretary shall use Department facilities owned by the Federal Government on the date of the enactment of this Act for the conducting of generically applicable tests regarding packaging, handling, and emplacement technology for solidified high-level radioactive waste and spent nuclear fuel from civilian nuclear activities.

(e) ENGINEERED BARRIERS.—The system of engineered barriers and selected geology

used in a test and evaluation facility shall have a design life at least as long as that which the Commission requires by regulations issued under this Act, or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), for repositories.

(f) ROLE OF COMMISSION.—(1)(A) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Commission shall reach a written understanding establishing the procedures for review, consultation, and coordination in the planning, construction, and operation of the test and evaluation facility under this section. Such understanding shall establish a schedule, consistent with the deadlines set forth in this subtitle, for submission by the Secretary of, and review by the Commission of and necessary action on—

(i) the mission plan prepared under section 301; and

(ii) such reports and other information as the Commission may reasonably require to evaluate any health and safety impacts of the test and evaluation facility.

(B) Such understanding shall also establish the conditions under which the Commission may have access to the test and evaluation facility for the purpose of assessing any public health and safety concerns that it may have. No shafts may be excavated for the test and evaluation until the Secretary and the Commission enter into such understanding.

(2) Subject to section 306, the test and evaluation facility, and the facilities authorized in section 217, shall be constructed and operated as research, development, and demonstration facilities, and shall not be subject to licensing under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

(3)(A) The Commission shall carry out a continuing analysis of the activities undertaken under this section to evaluate the adequacy of the consideration of public health and safety issues.

(B) The Commission shall report to the President, the Secretary, and the Congress as the Commission considers appropriate with respect to the conduct of activities under this section.

(g) ENVIRONMENTAL REVIEW.—The Secretary shall prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) prior to conducting tests with radioactive materials at the test and evaluation facility. Such environmental impact statement shall incorporate, to the extent practicable, the environmental assessment prepared under section 217(a). Nothing in this subsection may be construed to limit siting research activities conducted under section 214. This subsection shall apply only to activities performed exclusively for a test and evaluation facility.

(h) LIMITATIONS.—(1) If the test and evaluation facility is not located at the site of a repository, the Secretary shall obtain the concurrence of the Commission with respect to the decontamination and decommissioning of such facility.

(2) If the test and evaluation facility is not located at a candidate site or repository site, the Secretary shall conduct only the portion of the in situ testing program required in subsection (c) determined by the Secretary to be useful in carrying out the purposes of this Act.

(3) The operation of the test and evaluation facility shall terminate not later than—

(A) 5 years after the date on which the initial repository begins operation; or

(B) at such time as the Secretary determines that the continued operation of a test and evaluation facility is not necessary for research, development, and demonstration purposes;

whichever occurs sooner.

(4) Notwithstanding any other provisions of this subsection, as soon as practicable following any determination by the Secretary, with the concurrence of the Commission, that the test and evaluation facility is unsuitable for continued operation, the Secretary shall take such actions as are necessary to remove from such site any radioactive material placed on such site as a result of testing and evaluation activities conducted under this section. Such requirement may be waived if the Secretary, with the concurrence of the Commission, finds that short-term testing and evaluation activities using radioactive material will not endanger the public health and safety.

RESEARCH AND DEVELOPMENT ON SPENT NUCLEAR FUEL

SEC. 218. (a) DEMONSTRATION AND COOPERATIVE PROGRAMS.—The Secretary shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission. Not later than 1 year after the date of the enactment of this Act, the Secretary shall select at least 1, but not more than 3, sites evaluated under section 214 at such power reactors. In selecting such site or sites, the Secretary shall give preference to civilian nuclear power reactors that will soon have a shortage of interim storage capacity for spent nuclear fuel. Subject to reaching agreement as provided in subsection (b), the Secretary shall undertake activities to assist such power reactors with demonstration projects at such sites, which may use one of the following types of alternate storage technologies: spent nuclear fuel storage casks, caissons, or silos. The Secretary shall also undertake a cooperative program with civilian nuclear power reactors to encourage the development of the technology for spent nuclear fuel rod consolidation in existing power reactor water storage basins.

(b) COOPERATIVE AGREEMENTS.—To carry out the programs described in subsection (a), the Secretary shall enter into a cooperative agreement with each utility involved that specifies, at a minimum, that—

(1) such utility shall select the alternate storage technique to be used, make the land and spent nuclear fuel available for the dry storage demonstration, submit and provide site-specific documentation for a license application to the Commission, obtain a license relating to the facility involved, construct such facility, operate such facility after licensing, pay the costs required to construct such facility, and pay all costs associated with the operation and maintenance of such facility;

(2) the Secretary shall provide, on a cost-sharing basis, consultative and technical assistance, including design support and generic licensing documentation, to assist such utility in obtaining the construction authorization and appropriate license from the Commission; and

(3) the Secretary shall provide generic research and development of alternative spent nuclear fuel storage techniques to enhance utility-provided, at-reactor storage capabilities, if authorized in any other provision of this Act or in any other provision of law.

(c) DRY STORAGE RESEARCH AND DEVELOPMENT.—(1) The consultative and technical assistance referred to in subsection (b)(2) may include, but shall not be limited to, the establishment of a research and development program for the dry storage of not more than 300 metric tons of spent nuclear fuel at facilities owned by the Federal Government on the date of the enactment of this Act. The purpose of such program shall be to collect necessary data to assist the utilities involved in the licensing process.

(2) To the extent available, and consistent with the provisions of section 135, the Secretary shall provide spent nuclear fuel for the research and development program authorized in this subsection from spent nuclear fuel received by the Secretary for storage under section 135. Such spent nuclear fuel shall not be subject to the provisions of section 135(g).

(d) FUNDING.—The total contribution from the Secretary from Federal funds and the use of Federal facilities or services shall not exceed 25 percent of the total costs of the demonstration program authorized in subsection (a), as estimated by the Secretary. All remaining costs of such program shall be paid by the utilities involved or shall be provided by the Secretary from the Interim Storage Fund established in section 137.

(e) RELATION TO SPENT NUCLEAR FUEL STORAGE PROGRAM.—The spent nuclear fuel storage program authorized in section 135 shall not be construed to authorize the use of research, development or demonstration facilities owned by the Department unless—

(1) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) has passed after the Secretary has transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a written report containing a full and complete statement concerning (A) the facility involved; (B) any necessary modifications; (C) the cost thereof; and (D) the impact on the authorized research and development program; or

(2) each such committee, before the expiration of such period, has transmitted to the Secretary a written notice to the effect that such committee has no objection to the proposed use of such facility.

PAYMENTS TO STATES AND INDIAN TRIBES

SEC. 219. (a) PAYMENTS.—Subject to subsection (b), the Secretary shall make payments to each State or Indian tribe that has entered into an agreement pursuant to section 215. The Secretary shall pay an amount equal to 75 percent of the expenses incurred by such State or Indian tribe in engaging in any monitoring, testing, evaluation, or other consultation and cooperation activity under section 215 with respect to any site. The amount paid by the Secretary under this paragraph shall not exceed $3,000,000 per year from the date on which the site involved was identified to the date on which the decontamination and decommission of the facility is complete pursuant to section 217(h). Any such payment may only be made to a State in which a potential site for a test and evaluation facility has been identified under section 213, or to an Indian tribe on whose land the potential site has been identified under such section.

(b) LIMITATION.—The Secretary shall make any payment to a State under subsection (a) only if such State agrees to provide, to each unit of general local government within the jurisdictional boundaries of which the potential site or effectively selected site involved is located, at least one-tenth of the payments made by the Secretary to such State under such subsection. A State or Indian tribe receiving any payment under subsection (a) shall otherwise have discretion to use such payment for whatever purpose it deems necessary, including the State or tribal activities pursuant to agreements entered into in accordance with section 215. Annual payments shall be prorated on a 365-day basis to the specified dates.

STUDY OF RESEARCH AND DEVELOPMENT NEEDS FOR MONITORED RETRIEVABLE STORAGE PROPOSAL

SEC. 220. Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report describing the research and development activities the Secretary considers necessary to develop the proposal required in section 141(b) with respect to a monitored retrievable storage facility.

JUDICIAL REVIEW

SEC. 221. Judicial review of research and development activities under this title shall be in accordance with the provisions of section 119.

TITLE III—OTHER PROVISIONS RELATING TO RADIOACTIVE WASTE

MISSION PLAN

SEC. 301. (a) CONTENTS OF MISSION PLAN.—The Secretary shall prepare a comprehensive report, to be known as the mission plan, which shall provide an informational basis sufficient to permit informed decisions to be made in carrying out the repository program and the research, development, and demonstration programs required under this Act. The mission plan shall include—

(1) an identification of the primary scientific, engineering, and technical information, including any necessary demonstration of engineering or systems integration, with respect to the siting and construction of a test and evaluation facility and repositories;

(2) an identification of any information described in paragraph (1) that is not available because of any unresolved scientific, engineering, or technical questions, or undemonstrated engineering or systems integration, a schedule including specific major milestones for the research, development, and technology demonstration program required under this Act and any additional activities to be undertaken to provide such information, a schedule for the activities necessary to achieve important programmatic milestones, and an estimate of the costs required to carry out such research, development, and demonstration programs;

(3) an evaluation of financial, political, legal, or institutional problems that may impede the implementation of this Act, the plans of the Secretary to resolve such problems, and recommendations for any necessary legislation to resolve such problems;

(4) any comments of the Secretary with respect to the purpose and program of the test and evaluation facility;

(5) a discussion of the significant results of research and development programs conducted and the implications for each of the different geologic media under consideration for the siting of repositories, and, on the basis of such information, a comparison of the advantages and disadvantages associated with the use of such media for repository sites;

(6) the guidelines issued under section 112(a);

(7) a description of known sites at which site characterization activities should be undertaken, a description of such siting characterization activities, including the extent of planned excavations, plans for onsite testing with radioactive or nonradioactive material, plans for any investigations activities which may affect the capability of any such site to isolate high-level radioactive waste or spent nuclear fuel, plans to control any adverse, safety-related impacts from such site characterization activities, and plans for the decontamination and decommissioning of such site if it is determined unsuitable for licensing as a repository;

(8) an identification of the process for solidifying high-level radioactive waste or packaging spent nuclear fuel, including a summary and analysis of the data to support the selection of the solidification process and packaging techniques, an analysis of the requirements for the number of solidification packaging facilities needed, a description of the state of the art for the materials proposed to be used in packaging such waste or spent fuel and the availability of such materials including impacts on strategic supplies and any requirements for new or reactivated facilities to produce any such materials needed, and a description of a plan, and the schedule for implementing such plan, for an aggressive research and development program to provide when needed a high-integrity disposal package at a reasonable price;

(9) an estimate of (A) the total repository capacity required to safely accommodate the disposal of all high-level radioactive waste and spent nuclear fuel expected to be generated through December 31, 2020, in the event that no commercial reprocessing of spent nuclear fuel occurs, as well as the repository capacity that will be required if such reprocessing does occur; (B) the number and type of repositories required to be constructed to provide such disposal capacity; (C) a schedule for the construction of such repositories; and (D) an estimate of the period during which each repository listed in such schedule will be accepting high-level radioactive waste or spent nuclear fuel for disposal;

(10) an estimate, on an annual basis, of the costs required (A) to construct and operate the repositories anticipated to be needed under paragraph (9) based on each of the assumptions referred to in such paragraph; (B) to construct and operate a test and evaluation facility, or any other facilities, other than repositories described in subparagraph (A), determined to be necessary; and (C) to carry out any other activities under this Act; and

(11) an identification of the possible adverse economic and other impacts to the State or Indian tribe involved that may arise from the development of a test and evaluation facility or repository at a site.

(b) SUBMISSION OF MISSION PLAN.—(1) Not later than 15 months after the date of the enactment of this Act, the Secretary shall submit a draft mission plan to the States, the Indian tribes, the Commission, and other Government agencies as the Secretary deems appropriate for their comments.

(2) In preparing any comments on the mission plan, such agencies shall specify with precision any objections that they may have. Upon submission of the mission plan to such agencies, the Secretary shall publish a notice in the Federal Register of the submission of the mission plan and of its availability for public inspection, and, upon receipt of any comments of such agencies respecting the mission plan, the Secretary shall publish a notice in the Federal Register of the receipt of comments and of the availability of the comments for public inspection. If the Secretary does not revise the mission plan to meet objections specified in such comments, the Secretary shall publish in the Federal Register a detailed statement for not so revising the mission plan.

(3) The Secretary, after reviewing any other comments made by such agencies and revising the mission plan to the extent that the Secretary may consider to be appropriate, shall submit the mission plan to the appropriate committees of the Congress not later than 17 months after the date of the enactment of this Act. The mission plan shall be used by the Secretary at the end of the first period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) following receipt of the mission plan by the Congress.

(c) ANNUAL REPORT.—(1) The Secretary shall annually submit to the Congress a report describing in detail the progress made toward implementation of the mission plan. Such report shall include any amendments to the mission plan that the Secretary considers appropriate to accomplish the purposes of this Act.

(2) Any amendment to the mission plan shall be submitted to the Congress, either in a report under paragraph (1) or at such time as the Secretary considers appropriate, and such amendment shall become a part of the mission plan in accordance with the procedure established in the second sentence of subsection (b)(3) with respect to the mission plan.

NUCLEAR WASTE FUND

SEC. 302. (a) CONTRACTS.—(1) In the performance of his functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to high-level radioactive waste, or spent nuclear fuel, of domestic origin for the disposal of such waste or spent fuel. Such contracts shall provide for payment to the Secretary of a fee sufficient to offset expenditures described in subsection (d).

(2) The Secretary shall undertake a study and, not later than 180 days after the date of the enactment of this Act, submit to the Congress a report, establishing payment charges per unit of spent nuclear fuel or high-level radioactive waste, determined pursuant to paragraph (3), which shall be calculated on an annual basis, commencing July 30, 1983. Such payment charges and the calculation thereof shall be published in the Federal Register, and shall become effective not less than 30 days after publication. Each payment charge published in the Federal Register under this paragraph shall remain effective for a period of 12 months from the effective date as the charge for the costs of disposal or deposit of any spent nuclear fuel or high-level radioactive waste. The report of the Secretary shall specify the method and manner of collection (including the rates and manner of payment), an estimate of the total payments necessary to cover the full amount of such costs, and any legislative recommendations determined by the Secretary to be appropriate.

(3) The Secretary shall require each person entering into a contract for disposal under this section to make payments at such levels as will ensure that such person will be required to pay a ratable portion of the costs of radioactive waste disposal activities under this subtitle, including the activities described in paragraphs (1) through (5) of subsection (d). The Secretary shall also require any other person desiring to dispose of high-level radioactive waste or spent nuclear fuel in a repository developed under this Act to pay a ratable portion of such costs. Payment schedules for such ratable portions shall be determined as follows:

(A) with respect to fuel assemblies placed into reactors after July 30, 1983, the Secretary shall establish a fee schedule requiring full predisposal payment to be made in equitable installments over the time that such fuel assembly is in the reactor core;

(B) with respect to fuel assemblies placed into reactors before July 30, 1983, the Secretary shall establish an equitable schedule of payments to be made over a 10-year period commencing July 30, 1983;

(C) with respect to high-level radioactive waste, the Secretary shall establish an equitable fee schedule requiring payments to be made over a 10-year period commencing at the time the generator or owner of such waste has entered into a contract with the Secretary under this section; and

(D) with respect to high-level radioactive waste or spent nuclear fuel described in subsection (b)(2), or any other high-level radioactive waste or spent nuclear fuel to be disposed of in a repository for which no contracts are entered into under this section, the Secretary shall establish a fee schedule providing for full payment of the appropriate ratable portion prior to disposal of such waste or spent fuel.

(4) Contracts entered into under this section shall provide that—

(A) following commencement of operation of a repository, the Secretary shall take title to the high-level radioactive waste or spent nuclear fuel involved as expeditiously as practicable upon the request of the generator or owner of such waste or spent fuel; and

(B) in return for the payment of fees established by this section, the Secretary, beginning not later than January 31, 1998, will dispose of the high-level radioactive waste or spent nuclear fuel involved as provided in this subtitle.

(5) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such disposal services shall be made available.

(6) The Secretary shall commence collection of fees under contracts entered into under this section as soon as is practicable.

(b) ADVANCE CONTRACTING REQUIREMENT.—(1)(A) The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

(i) such person has entered into a contract with the Secretary under this section; or

(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

(B) The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of high-level radioactive waste and spent nuclear fuel that may result from the use of such license.

(2) Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in any repository constructed under this Act unless the generator or owner of such spent fuel or waste has entered into a contract with the Secretary under this section by not later than—

(A) June 30, 1983; or

(B) the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste;

whichever occurs later.

(3) The rights and duties of a party to a contract entered into under this section may be assignable with transfer of title to the spent nuclear fuel or high-level radioactive waste involved.

(4) No high-level radioactive waste or spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be disposed of by the Secretary in any repository constructed under this Act unless such department transfers to the Secretary, for deposit in the Nuclear Waste Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such waste or spent fuel were generated by any other person.

(c) ESTABLISHMENT OF NUCLEAR WASTE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Nuclear Waste Fund. The Waste Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), which shall be deposited in the Waste Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Waste Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the disposal of civilian high-level radioactive waste or civilian spent nuclear fuel, which shall automatically be transferred to the Waste Fund on such date.

(d) USE OF WASTE FUND.—The Secretary may make expenditures from the Waste Fund, subject to subsection (e), only for purposes of radioactive waste disposal activities under titles I and II, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any repository or test and evaluation facility constructed under this Act;

(2) the conducting of nongeneric research, development, and demonstration activities under this Act;

(3) the administrative cost of the radioactive waste disposal program;

(4) any costs that may be incurred by the Secretary in connection with the treating or packaging of spent nuclear fuel or high-level radioactive waste to be disposed of in a repository or to be used in a test and evaluation facility;

(5) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at a repository site or a test and evaluation facility site and necessary or incident to such repository or test and evaluation facility; and

(6) the provision of assistance to States, units of general local government, and Indian tribes under sections 116, 118, and 219.

No amount may be expended by the Secretary under this subtitle for the construction or expansion of any facility unless such construction or expansion is expressly authorized by this or subsequent legislation. The Secretary hereby is authorized to construct one repository and one test and evaluation facility.

(e) ADMINISTRATION OF WASTE FUND.—(1) The Secretary of the Treasury shall hold the Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Waste Fund during the preceding fiscal year.

(2) The Secretary shall submit the budget of the Waste Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Waste Fund shall consist of the estimates made by the Secretary of expenditures from the Waste Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Waste Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

(3) If the Secretary determines that the Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Waste Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

(5) If at any time the moneys available in the Waste Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Waste Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate deter-

mined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.

(6) Any appropriations made available to the Waste Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Waste Fund, less the average undisbursed cash balance in the Waste Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

ALTERNATIVE MEANS OF FINANCING

SEC. 303. The Secretary shall undertake a study with respect to alternative approaches to managing the construction and operation of all civilian radioactive waste management facilities, including the feasibility of establishing a private corporation for such purposes. In conducting such study, the Secretary shall consult with the Director of the Office of Management and Budget, the Chairman of the Commission, and such other Federal agency representatives as may be appropriate. Such study shall be completed, and a report containing the results of such study shall be submitted to the Congress, within 1 year after the date of the enactment of this Act.

STORAGE AND DISPOSAL OF TRANSURANIC WASTE

SEC. 304. (a) STORAGE FACILITIES.—Subject to section 102, the Secretary shall make available facilities, owned by the Federal Government on the date of the enactment of this Act, for the storage of transuranic waste, regardless of concentration, from decommissioning and decontamination of civilian nuclear facilities (except utilization facilities) and from civilian fuel research and development programs. The Secretary may accept transuranic waste for storage and disposal in accordance with the provisions of this section. The Secretary may accept title to such waste upon receipt at a facility made available under this section. Acceptance of transuranic waste under this section shall not render any Federal facility subject to licensing under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), unless such licensing is otherwise required, and shall not be deemed a major Federal action requiring preparation of an environmental impact statement within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) CONTRACTS.—Before accepting any transuranic waste for storage and disposal under this section, the Secretary shall require the person who generated or holds title to such waste to enter into a contract under section 137(a) providing that the fee for storage of such waste shall be estimated to cover all reasonably attributable storage costs until the availability of an appropriate repository or other disposal facility. In any case in which the Secretary provides for disposal under this section, the Secretary shall charge, in addition to such storage fee, a reasonable nondiscriminatory fee for the estimated pro rata share of the costs, including transportation costs, for disposal of such waste in an appropriate repository or other disposal facility. Such disposal fee shall be paid by such person to the appropriate fund or authority for such repository or disposal facility prior to disposal of such waste. In any case in which the Secretary provides for disposal under this section, as soon as practicable following the date on which an appropriate repository or other disposal facility is available for disposal of such waste, the Secretary shall remove such waste and dispose of it in such repository or other disposal facility.

(c) EXPIRATION OF CERTAIN AUTHORITY.—The authority of the Secretary under this section to accept title to transuranic waste, or accept additional transuranic waste for disposal, shall expire 2 years after the date of the enactment of this Act.

(d) ACCEPTANCE SCHEDULE.—The Secretary shall cease accepting transuranic waste under this section beginning—

(1) on the date on which a repository or other disposal facility is available for disposal of such waste; or

(2) 6 years after the date on which the Commission issues final regulations pursuant to subsection (d) with respect to the licensing of facilities primarily for the disposal of transuranic waste;

whichever date occurs sooner.

(e) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall conduct a study of, and submit to the Congress a report with respect to—

(1) the amount of transuranic waste eligible for storage under this section through December 31, 2000;

(2) the amount of private storage capacity available for such waste;

(3) the availability of Federal storage capacity for such waste; and

(4) the plan of the Secretary for disposal of any such waste to which the Secretary accepts title under this section.

(f) DISPOSAL LICENSING.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall issue standards and the Commission shall issue final regulations, in accordance with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), establishing criteria for the licensing of facilities for the disposal of civilian transuranic waste.

OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

SEC. 305. (a) ESTABLISHMENT.—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

(c) ANNUAL REPORT TO CONGRESS.—The Director of the Office shall annually prepare and submit to the Congress a comprehensive report on the activities and expenditures of the Office.

(d) ANNUAL AUDIT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

LOCATION OF TEST AND EVALUATION FACILITY

SEC. 306. (a) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report setting forth whether the Secretary plans to locate the test and evaluation facility at the site of a repository.

(b) PROCEDURES.—(1) If the test and evaluation facility is to be located at any candidate site or repository site (A) site selection and development of such facility shall be conducted in accordance with the procedures and requirements established in title I with respect to the site selection and development of repositories; and (B) the Secretary may not commence construction of any surface facility for such test and evaluation facility prior to issuance by the Commission of a construction authorization for a repository at the site involved.

(2) No test and evaluation facility may be converted into a repository unless site selection and development of such facility was conducted in accordance with the procedures and requirements established in title I with respect to the site selection and development of respositories.

(3) The Secretary may not commence construction of a test and evaluation facility at a candidate site or site recommended as the location for a repository prior to the date on which the designation of such site is effective under section 115.

TECHNICAL AMENDMENTS OFFERED BY MR. DINGELL

Mr. DINGELL. Mr. Chairman, I offer a series of technical amendments which were made in order under the rule.

The Clerk read as follows:

Amendments offered by Mr. DINGELL: Page 6, after line 16, insert the following new paragraph (and redesignate the subsequent paragraphs accordingly):

(15) the term "low-level radioactive waste" means radioactive material that—

(A) is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or by-product material as defined in section 11e. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

Page 11, line 21, strike out "subsection (a)" and insert in lieu thereof "paragraph (1)".

Page 21, line 22, strike out "subsection" in the first sentence and insert in lieu thereof "section".

Page 36, line 10, strike out "PETITIONS" and insert in lieu thereof "DISAPPROVAL".

Page 36, line 22, strike out "PETITOINS" and insert in lieu thereof "DISAPPROVAL".

Page 41, line 5, strike out "section" and insert in lieu thereof "subsection".

Page 72, line 3, strike out "102" in the first sentence and insert in lieu thereof "101".

Page 100, line 18, strike out "all" and all that follows through "title" on line 22 and insert in lieu thereof the following: "the Secretary shall use the guidelines issued under section 112(a) with respect to population factors for purposes of selecting a site for a test and evaluation facility".

Page 102, line 9, strike out "218" in the first sentence and insert in lieu thereof "217".

Page 103, line 1, strike out "218" and insert in lieu thereof "217".

Page 108, line 2, strike out "212" and insert in lieu thereof "214".

Page 108, line 17, strike out "each" and insert in lieu thereof "the".

Page 111, line 16, strike out "the site" and insert in lieu thereof "any site".

Page 113, line 8, strike out "217" and insert in lieu thereof "218".

Page 114, line 3, strike out "section 217(a)" in the second sentence and insert in lieu thereof "subsection (a)".

Page 119, line 18, insert "test and evaluation" before "facility".

Page 122, line 21, strike out "siting" and insert in lieu thereof "site".

Page 137, line 9, strike out "102" in the first sentence and insert in lieu thereof "101".

Mr. DINGELL (during the reading). Mr. Chairman, I ask unanimous consent that the technical amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, the technical amendments, whose reading has just been dispensed with, were made in order by the rule. They have been published in the RECORD and are offered on behalf of the three committees dealing with this, the Committee on Energy and Commerce, the Committee on Interior and Insular Affairs, and the Committee on Science and Technology.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my good friend from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding.

We have looked over those amendments on this side and, of course, read them in the RECORD and have discussed them. We find absolutely no objection to them and would support the passage of those amendments.

Mr. DINGELL. I thank the gentleman.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to my dear friend from Arizona.

Mr. UDALL. The staffs of the committees involved went over these technical corrections. They have approved them.

I support the amendments.

Mr. DINGELL. I thank my good friend.

Mrs. BOUQUARD. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. I thank the gentleman for yielding.

The Committee on Science and Technology has no objections to the amendments.

Mr. DINGELL. I thank the gentlewoman for her comments.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the technical amendments offered by the gentleman from Michigan (Mr. DINGELL).

The technical amendments were agreed to.

□ 1820

AMENDMENTS OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Chairman, I offer amendments.

The CHAIRMAN. Are the amendments in order under the rule?

Mr. BREAUX. Yes; they are, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. BREAUX: Page 21, line 24, strike out: "No such activity shall be considered to be a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act." and substitute: "No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act."

Page 27, line 1, strike out: "No such activity shall be considered to be a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act" and insert in lieu thereof the following: "No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act."

Page 31, in line 3, strike out:

"(B) No recommendation of a site by the President under this subsection shall be considered a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act." and insert in lieu thereof the following:

"(B) No recommendation of a site by the President under this subsection shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act."

Page 64, line 3, strike out:

"(c) Environmental Impact Statement.—The promulgation of standards or criteria in accordance with the provisions of this section shall not be considered a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.", and insert in lieu thereof the following:

"(c) Environmental Impact Statement.—The promulgation of standards or criteria in accordance with the provisions of this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act."

Page 72, line 20, strike out:

"(ii) except as provided in subsection (e), be considered a major Federal action requiring preparation of an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if such facility is already being used, or has been previously been used, for such storage or for any similar purpose;", and insert in lieu thereof the following:

"(ii) except as provided in subsection (e) require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), if such facility is already being used, or has previously been used, for such storage or for any similar purpose;".

Page 92, line 18, strike out "Preparation and submission to the Congress of the proposal required in this section shall not be considered a major Federal action under section 102(2)(C) of the National Environmental Policy Act of 1979 (42 U.S.C. 4332(2)(C))." and insert in lieu thereof the following: "Preparation and submission to the Congress of the proposal required in this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).".

Page 137, line 23, strike out "and shall not be deemed a major Federal action requiring preparation of an environmental impact statement within the meaning of the National Environmental Policy Act of 1969 (42 U.S.C, 4321 et seq.)", and insert in lieu thereof the following: ", and shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C))".

Mr. BREAUX (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BREAUX. Mr. Chairman, I would like to offer a package of amendments today which I think the Members will agree are purely technical in nature yet will contribute greatly to the integrity of the legislation before us, H.R. 7187. The single purpose of these amendments is to reword the restrictions on the National Environmental Policy Act (NEPA) contained in H.R. 7187 so as to eliminate the potential prejudice such restrictions might have on future applications of NEPA to other Federal actions unrelated to the Nuclear Waste Policy Act of 1982. I can assure you that these amendments do not in any way alter the objectives or programs under this act.

To be more specific, H.R. 7187 restricts the applicability of NEPA to certain Federal decisions in the site selection processes for repositories, storage facilities, and testing facilities in order to avoid excessive and duplicative environmental review. To accomplish this the present language makes several determinations that such decisions are not to be considered "major Federal actions" for the purposes of NEPA. The objective is strictly to exempt the requirement for the preparation of environmental impact statements or other reviews under NEPA. Instead, however, Congress has made a judgment as to what constitutes a "major Federal action" which could seriously prejudice such decisions by the courts in future cases not related to the Nuclear Waste Policy Act of 1982. I do not believe that Congress intended this, or that such an indirect approach is necessary, the amendments I have prepared will alter the NEPA language to directly exempt the requirement of an EIS or other review under NEPA, when appropriate, without involving a determination as to what constitutes a "major Federal action." I might add that the Committee on Science and Technology has already incorporated similar changes in their title, title II of the bill.

Mr Chairman, the definition of "major Federal action" is one that is based on a lengthy yet fragile compilation of case law which would suffer greatly under the unaltered provisions in this bill. I, therefore, urge the Members of act to legislate responsibly, not only within the scope of H.R. 7187, but within the scope of NEPA as well.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Arizona, the chairman of the Committee on Interior and Insular Affairs.

Mr. UDALL. Mr. Chairman, this is a clarifying amendment which makes no change, I think, in what our committee intended, and I am happy to support the amendment.

Mrs. BOUQUARD. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. Mr. Chairman, the Committee on Science and Technology has no objection to this amendment.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from New Mexico.

Mr. LUJAN. Am I correct in assuming that in no way are the amendments you have prepared intended to require additional environmental assessments, public hearings, or judicial reviews other than those that are required under other provisions of the Nuclear Waste Policy Act?

Mr. BREAUX. The gentleman has correctly stated the intent and the purpose of the amendments and the function of the amendments.

Mr. LUJAN. That being the case, I can accept the amendment.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Louisiana is the distinguished and able chairman of a subcommittee that I once chaired myself, the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries.

It is my understanding that this amendment is an attempt to conform this provision with a similar provision in title II of the bill and thus avoid the possibility of two different interpretations in the same law. The language that now appears in the bill that the gentleman proposes to change was derived from other provisions of law, such as the Fuel Use Act. As I understand the amendment offered by the gentleman, there is no intention on his part to make a substantive change in the way the language adopted in other laws has been administered or interpreted up to the present. Furthermore, there would be no different interpretation or administration between the use of the language proposed to be stricken and that contained in the Breaux amendment. The Breaux amendment is not, as I understand the matter, intended to expand or contract that long administrative or interpretive practice, and I realize that under the rule, we are precluded from amending the language of title II to conform with the provision you propose to change. If my understandings are correct, I can accept this amendment.

Mr. BREAUX. The gentleman has correctly stated the intent of the amendment and the purpose of the amendment. I agree with the gentleman's statement.

Mr. DINGELL. If the gentleman will yield just briefly, I have always been proud of the work the gentleman has done as chairman of the subcommittee. As one of the authors of the National Environmental Policy Act on which I labored with the gentleman in earlier days, I congratulate him for making the change and for his vigilance and vigor in carrying out the provisions of the National Environmental Policy Act.

Mr. BREAUX. I thank the gentleman for his comments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Louisiana (Mr. BREAUX).

The amendments were agreed to.

Mr. OTTINGER. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from Washington (Mr. MORRISON) for a colloquy.

Mr. MORRISON. I thank the gentleman for yielding for the purpose of engaging in a colloquy about timely site characterization.

It is my understanding that the intent of section 112(f) is to permit the Secretary to continue ongoing or presently planned site characterization activities at any site on Department of Energy land for which the location of the principal borehole has been approved by August 1, 1982. This is intended to avert costly delays at sites where significant work has already been done. Is that correct?

Mr. OTTINGER. The gentleman is correct.

Mr. MORRISON. Is my understanding correct, then, that such site characterization activities may continue notwithstanding section 112 of this bill?

Mr. OTTINGER. The gentleman is correct, provided that the environmental assessment required by section 112(b)(1) is prepared and made available to the public before proceeding to sink shafts at any such site. The intent of this section is to permit presently planned site characterization activities to proceed apace at the same time as the requirements of section 112 is being fulfilled. I should also emphasize that under this bill, the conduct of site characterization under section 112(f) will not prejudge a particular site. The bill requires that the site selection decision be made from at least three sites where appropriate site characterization has been completed.

Mr. MORRISON. I thank the gentleman for this material.

AMENDMENT OFFERED BY MR. LUNDINE

Mr. LUNDINE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment in order under the rule?

Mr. LUNDINE. Yes, it is, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. LUNDINE: Page 73, strike line 8, and insert in lieu thereof the following: "operated by such person or at any site owned by the Federal Government on the date of enactment of this Act".

□ 1830

Mr. LUNDINE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the amendment is acceptable to us. It is consistent with the intent of the bill. I will support the amendment.

Mrs. BOUQUARD. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. The Committee on Science and Technology has no objection to the amendment. We support the amendment.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, we will make it unanimous.

Mr. LUNDINE. Mr. Chairman, I have heard of a story around here where the proposer of an amendment spoke after everyone said they would accept it, and it was rejected.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. LUNDINE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DERRICK

Mr. DERRICK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment in order under the rule?

Mr. DERRICK. It is, Mr. Chairman.

The CHAIRMAN. The clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DERRICK:

Page 72, line 3, strike out "1,700" and insert in lieu thereof "1,900".

Page 76, strike out line 10 through line 17 (and redesignate the subsequent subsections accordingly).

Page 66, line 13, strike out "1,700" and insert in lieu thereof "1,900".

Page 67, line 5, strike out "1,700" and insert in lieu thereof "1,900".

Page 82, line 24, strike out "(g)" and insert in lieu thereof "(f)".

Page 118, line 2, strike out "135(g)" and insert in lieu thereof "135(f)".

Mr. DERRICK (during the reading). Mr. Chairman I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. UDALL. Mr. Chairman, will be gentleman yield?

Mr. DERRICK. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the gentleman's amendment has been studied by us. Our committee is in favor of it. We approve of it. We urge the Committee to approve it.

Mrs. BOUQUARD. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. Mr. Chairman, the Committee on Science and Technology also accepts the amendment.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. DERRICK. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, is this the 200-metric-ton amendment?

Mr. DERRICK. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina (Mr. DERRICK).

The amendment was agreed to.

Mr. UDALL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. PANETTA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3809) to provide for repositories for the disposal of high-level radioactive waste, transuranic waste, and spent nuclear fuel, to amend provisions of the Atomic Energy Act of 1954 relating to low-level waste, to modify the Price-Anderson provisions of the Atomic Energy Act of 1954 and certain other provisions pertaining to facility licensing and safety, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3809, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 1872. An act to amend the Act establishing the Capitol Reef National Park in the State of Utah to provide for a grazing phaseout schedule, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate with an amendment to a bill of the Senate of the following title:

H.R. 5139. An act to authorize appropriations for certain insular areas of the United States, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6055. An act to revise subchapter S of the Internal Revenue Code of the 1954 (relating to small business corporations).

EXPRESSING SENSE OF HOUSE OF REPRESENTATIVES WITH RESPECT TO RECOGNITION OF RED SHIELD OF DAVID OF MAGEN DAVID ADOM SOCIETY OF ISRAEL BY LEAGUE OF RED CROSS SOCIETIES

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the resolution (H. Res. 580), expressing the sense of the House of Representatives with respect to recognition of the Red Shield of David of the Magen David Adom Society of Israel by the League of Red Cross Societies, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 580

Whereas Magen David Adom is the major emergency, medical, blood, ambulance, disaster, and humanitarian service in Israel;

Whereas Magen David Adom performs services equivalent to those performed by other National Red Cross societies currently recognized as members in good standing of the League of Red Cross Societies;

Whereas Magen David Adom has been formally recognized by the American Red Cross as an exceptionally strong humanitarian organization fully qualified for formal recognition and equal status with other members of the League of Red Cross Societies;

Whereas Magen David Adom fulfills nine out of ten formal requirements for recognition under the terms of the XVII International Red Cross Conference held in Stockholm, Sweden, in 1948;

Whereas the one requirement that Magen David Adom does not fulfill is the rule that only Red Cross societies using the "title and emblem of the Red Cross (Red Crescent,

Red Lion and Sun) in conformity with the Geneva Conventions," may be afforded full recognition;

Whereas Magen David Adom uses the Red Shield of David as its emblem and distinctive sign of the medical services of Israel's Armed Forces;

Whereas the Red Crescent is the recognized emblem of Red Cross societies in Moslem countries;

Whereas Magen David Adom wishes to claim the same formal recognition for its emblem as is afforded other Red Cross societies not using the Red Cross emblem as long as there is no uniform emblem agreed upon by the League of Red Cross Societies;

Whereas recognition of the Red Shield of David is vital so that parties to the Geneva Convention will recognize the Red Shield of David as a protective symbol in times of conflict;

Whereas the International Committee of the Red Cross enjoys considerable respect as a humanitarian organization of long standing and, from October 1977 until November 1981, constituted a working group with the League of Red Cross Societies to study all questions relating to emblems;

Whereas the International Committee of the Red Cross could have considerable influence on the granting of formal recognition to the Magen David Adom by the League of Red Cross Societies; and

Whereas the General Assembly of the League of Red Cross Societies took an important step toward recognition of Magen David Adom by granting Magen David Adom observer status at the meeting of the Assembly held in Manila, the Philippines, in November 1981 and on other occasions: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the International Committee of the Red Cross, together with the League of Red Cross Societies, shoud take steps to support the recognition of the Red Shield of David of the Magen David Adom Society of Israel; and

(2) the League of Red Cross Societies should formally recognize the Red Shield of David of the Magen David Adom Society of Israel so that Magen David Adom may become a member in good standing of the League.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this resolution to the International Committee of the Red Cross and to the Secretary General of the League of Red Cross Societies.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Resolution 580, which was introduced by our distinguished colleague from Illinois, the Honorable FRANK ANNUNZIO. The resolution expresses the sense of the House of Representatives with respect to recognition of the Red Shield of the Magen David Adom Society of Israel by the League of Red Cross Societies.

That society, the equivalent of the American Red Cross, has been denied official recognition since its establishment in 1948. The reason is that its emblem, the Red Shield of David, does not conform with the requirements of the Geneva Conventions and those sanctioned by the League of Red Cross Societies and the International Committee of the Red Cross.

Yet, there is no emblem that the International Red Cross universally recognizes. Christian countries use the Red Cross and Moslem countries are permitted to use the Red Crescent. Iran used to use the emblem of the Red Lion and Sun, but dropped that emblem several years ago.

The consequences of nonrecognition are serious. All signatories to the Geneva Convention have agreed, in times of conflict, to protect those who wear emblems sanctioned under the Convention rules. Those who wear the Red Shield, however, are not afforded official protection. Considering the tragic situation of conflict in the Middle East, it is vitally important that the emblem of the Magen David Adom have official international protection.

I would like to point out that the authority to confer recognition lies with International Red Cross conferences which are attended by governments as well as national societies. The issue of recognition is governmental and not an issue that can be decided by national societies alone. The American Red Cross has for many years strongly supported Magen David Adom to secure recognition. The U.S. delegation was very disappointed when the 1981 General Assembly of Red Cross Societies discontinued a working group set up to investigate the problem of recognition of the Red Shield of David. The Magen David Adom Society does not seek recognition for political reasons. Rather it seeks to continue its humanitarian work in conflict situations under the same international protection accorded other Red Cross societies. Granting recognition of the Red Shield of David can only enhance the high humanitarian standards of the International Committee of the Red Cross.

Mr. Speaker, I urge the adoption of House Resolution 580.

● Mr. BROOMFIELD. Mr. Speaker, I support this House resolution. I am familiar with the excellent work which this organization has done since its inception in 1948.

As all of you know, the Magen David Adom Society is the Israeli equivalent of the American Red Cross, and is well respected for its work. It is Israel's major emergency medical service, providing assistance regardless of race, religion, or ethnic background. It also provides disaster service, blood services, ambulance services and other humanitarian assistance.

The society's dedication to humanitarian efforts is truly exemplary. During the recent fighting in Lebanon, Magen David Adom was working in southern Lebanon providing medical care, clothing, blankets, and other assistance to the Lebanese civilian caught up in the bloody conflict. The society's performance measured up to the highest standards of the Red Cross movement.

The issue is the inclusion of the Red Shield of David of the Magen David Adom Society among those emblems currently in use and sanctioned by governments under the Geneva Convention. This is a critical issue in that the recognition of the Red Shield of David logo by the International Red Cross community would extend the same protection to Israeli doctors, corps people, and nurses who might attend battle casualties. This protection is currently afforded to medical personnel working under the sign of the red cross, or the red crescent.

Historically, the red cross is a religious symbol having Christianity as its origin. When the first Moslem countries joined the Red Cross system, it logically allowed these Arab nations to use an alternate symbol, the red crescent, in accordance with their own religious tradition. The League of the Red Cross Societies and the International Committee of the Red Cross do not, however, sanction the Red Shield of David emblem at this time.

In order for the Magen David Adom Society to continue its humanitarian work in times of war and international conflict, I strongly support this resolution calling for the recognition of the Red Shield of David by the League of Red Cross Societies, and the International Committee of the Red Cross.●

● Mr. ANNUNZIO. Mr. Speaker, I commend the distinguished chairman of the House Foreign Affairs Committee, Congressman CLEM ZABLOCKI, and thank him for his diligent efforts in bringing my bill, House Resolution 580, to the House floor for consideration today. The Senate has already passed a similar bill, and my bill expresses the sense of the House of Representatives that the Red Shield of David of the Magen David Adom Society of Israel should be formally recognized by the league of Red Cross Societies and by the International Committee on the Red Cross.

Since its creation, the Magen David Adom Society has tirelessly provided major emergency, medical, ambulance, and disaster service for the people of Israel, regardless of race, religion, ethnic background, or nationally. Its exemplary humanitarian activities are consistent with the noblest traditions of the Red Cross system and fulfill 9 of the 10 requirements for formal recognition by the League of Red Cross Socities.

Magen David Adom has been excluded from the league because it does not use one of the symbols formally recognized by the 17th International Red Cross Conference of 1948. The exclusion of the Shield of David as a recognized symbol is arbitrary and without merit, for both Moslem and Christian religious symbols are officially recognized. There can be no other reason but political or religious bias to deny the same recognition of another religious symbol, that of the Jewish

faith. My resolution urges the institution of the Red Cross to take the appropriate steps to correct this unfortunate situation, and to recognize the Red Shield of David so that Magen David Adom may become a member of the International Red Cross system in good standing.

In times of conflict, those national societies which are formally recognized by the League of Red Cross Societies gain additional international legal protection. Under the Geneva Conventions, parties to these treaties are obliged not to interfere with the work of these emergency service organizations. Formal recognition of the Magen David Adom Society of Israel would afford added protection to the courageous and dedicated people who work for this fine organization.

Mr. Speaker, my resolution, along with the similar resolution approved in the Senate, will encourage the institutions of the Red Cross to take the appropriate steps to give the Magen David Adom Society of Israel the recognition it richly deserves for its contributions to the cause of humanity, and I strongly urge my colleagues to approve this legislation.●

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Chairman, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution, House Resolution 580, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AUTHORIZING CERTAIN EMPLOYEES OF THE DEPARTMENT OF AGRICULTURE TO CARRY FIREARMS

Mr. PANETTA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2035), to authorize certain employees of the U.S. Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection, with a Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 2, after line 4, insert:

SEC. 2. The first sentence of section 8e of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 608e-1), is amended by inserting "table grapes," after "filberts,".

Amend the title so as to read: "An Act to authorize certain employees of the United States Department of Agriculture charged with the enforcement of animal quarantine laws to carry firearms for self-protection and to improve the quality of table grapes for marketing in the United States."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. PANETTA)?

Mr. WAMPLER. Mr. Speaker, I reserve the right to object, although I will not object.

Mr. LEWIS. Mr. Speaker, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from California.

Mr. LEWIS. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the opportunity to express my appreciation to the gentleman, the chairman of the committee as well, for assisting us in solving a problem that is facing table grape growers in California and throughout the country.

Essentially it provides for a minor adjustment which would assure that the quality standards which maintain our marketplace are adhered to on the part of importers of grapes to the American marketplace. It is a very important change to our growers in California as well as the country. We very much want to express our appreciation for the gentleman's cooperation and help.

Mr. WAMPLER. Mr. Speaker, I rise in support of H.R. 2035, which would allow Animal Health technicians, commonly referred to as "tick inspectors," of the U.S. Department of Agriculture to carry firearms.

This legislation orginally passed the House under suspension of the rules on May 18, 1982. These tick inspectors are exposed to smugglers, cattle rustlers, and allegal aliens as they go about their daily duties of patrolling the international border between Texas and Mexico to prevent the illegal entry of animals into the United States. These animals are inspected for prevention of the introduction or dissemination of communicable animal diseases. There have been numerous instances of violence and we should not expect our Government employees to go about their duties without having some protection. Others such as the Texas Rangers, immigration personnel, and drug enforcement personnel are all armed and it appears to be only equitable to arm these tick inspectors.

Also included in this bill is a provision that amends the Agricultural Marketing Act of 1937 to require that imported table grapes meet the same quality standards as grapes grown and marketed here in the United States.

Mr. Speaker, grapes are picked and imported to the United States from some countries before they have reached their maximum sweetness. This obviously affects the sales of domestic table grapes because American growers wait to pick their crops until the fruit is just at the right sweetness. The problem arises because many American consumers have lost their desire for table grapes after buying and trying to eat the grapes that are not as good tasting. Simply put, demand has been cut, because the first grapes of the season eaten by consumers are those which are imported and are not of maximum palatability.

This legislation will not restrict grape imports, but it will assure consumers a good, quality product each time they buy table grapes in their markets. I urge the adoption of both these provisions.

Mr. Speaker, I withdraw my reservation of objection.

● Mr. UDALL. Mr. Speaker, the bill before us today imposes import regulations for table grapes from May through November—the period when the two Federal marketing orders for domestically grown grapes are in effect. The existing marketing orders affect only the table grapes grown in Coachella Valley and San Joaquin, both in California.

The two major foreign sources of table grapes are Mexico and Chile. The table grape season for Mexico lasts at most 3 weeks in the May-June period. The table grapes from Chile enter at an entirely different time.

It should be noted that imported table grapes are not subject to Federal quality standards, but more than half of the table grapes from Mexico that enter through Nogales, Ariz., are submitted to the U.S. Department of Agriculture inspectors on a voluntary basis, and the majority of the inspected grapes meet the U.S. No. 1 standard.

While the bill before us does not create import quotas or barriers, it has the potential of stifling competition and putting obstacles in the way of American businessmen who import and distribute table grapes from Mexico. One basic factor is where the quality inspections are conducted. Imported grapes are shipped chilled so that they should not be inspected in the warm open air. The reason is that the chilled grapes collect moisture and sweat when truck doors are opened in the warm outside air.

In addition, since the imported grapes are shipped from some distance away, the grapes cannot be resorted and repacked if any part of the shipment fails to meet the quality inspection. The shipment simply has to be discarded. In contrast, domestic grapes are inspected in the field before the grapes are chilled and before they are packed for final shipment. There is no hazard of sweating and shipments that might not meet the quality standard can be resorted and repacked to bring them up to standard.

There are also potentials for manipulating the domestic marketing orders so as to create subtle barriers to restrict imports and free competition. For example, the method of determining the sugar content can be manipulated or the ratio of sugar content to acidity can be stated in such a way as to disadvantage imports.

The record should show that the Mexican growers, their agricultural associations, and other representatives have proposed self-policing measures that would assure high quality for table grapes from Mexico. The details of such a program apparently have not been worked out yet but a nongovernmental approach should be examined and tried.

I urge the administration and the Government of Mexico to assist in the creation of a self-imposed and self-enforced system that will assure high quality table grapes from Mexico. A voluntary system established in the self-interest of all those involved to provide high quality fruits and vegetables is to be preferred over rigid Government rules and regulations.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. PANETTA)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PANETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMPREHENSIVE VICTIM AND WITNESS PROTECTION AND ASSISTANCE ACT OF 1982

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 7191), to provide additional protections and assistance to victims and witnesses in Federal cases, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. McCOLLUM. Mr. Speaker, reserving the right to object, and I do not intend to object, but I would like to yield to the gentleman from New Jersey (Mr. RODINO) for an explanation of this bill.

Mr. RODINO. Mr. Speaker, a few years ago I read an article in the New York Times which upset me so much that the essence of the story has stayed with me ever since. The Times was interviewing a man who had tried to be a good samaritan by intervening to help a law enforcement officer perform his duty. The good samaritan was severely beaten as a result of his effort, and was quoted bitterly remarking: "Crime pays for the criminal but not for the innocent victim."

It is my personal fear that this kind of perception—that crime does pay, and at the expense of the innocent—is on the rise in our country. I have been studying the plight of the victim and witness for some years now and am compelled to conclude that the concerns and needs of crime victims and witnesses have been neglected. Our criminal justice system is perceived and with much justification to be run for the convenience of judges, lawyers, police, and defendants with little regard for the convenience of victims and witnesses.

We have seen in recent years a heightened awareness of the needs of victims and witnesses. More than 30 States, for example, have set up programs to reimburse crime victims for out-of-court expenses resulting from the crime. Organizations like the American Bar Association have actively promoted measures to insure that the victims and witnesses are better treated. In numerous communities, the particular needs of rape victims and spousal-abuse victims have been addressed by rape crisis centers and battered spouse centers.

There is much more than can be done, particularly at the Federal level. Earlier this year Prof. Bertram Gross of Hunter College, writing in the Nation, identified two ways in which crime victims suffer beyond the trauma of the initial victimization. He pointed out that a crime victim "suffers when he loses wages (or even his job) because of the time he must spend in court, and he suffers * * * if his cooperation with the authorities brings retaliation by the accused."

We have before us today legislation (H.R. 7191) which would help alleviate the sort of suffering identified by Professor Gross as well as help insure the just and sympathetic treatment of victims and witnesses in the Federal criminal justice system. This legislation was drafted in consultation with the National Organization for Victim Assistance, the American Bar Association, the National Coalition Against Sexual Assault, the American Civil Liberties Union, and the U.S. Department of Justice.

It provides significant assistance and protection to victims and witnesses without eroding constitutionally protected rights of persons accused of crime. The legislation addresses three major areas: personal safety, financial reimbursement, and fair treatment.

As noted by Professor Gross, and as confirmed by testimony taken by the American Bar Association's Committee on Victims, which appears in the Judiciary Committee's published Hearings on Crime Victim Compensation in the 96th Congress, the crime victim or witness confronts the possibility of intimidation or retaliation. H.R. 7191 strengthens Federal law in several respects in order to provide better protection for the safety of victims and witnesses.

First, the bill strengthens existing Federal criminal statutes dealing with intimidation of or retaliation against victims and witnesses by force or threats. Second, the bill makes it a condition of bail that the person released on bail not commit a victim or witness intimidation or retaliation offense. Third, the bill authorizes the Federal prosecutor to obtain a protective order to prevent harassment of a witness. This order can be used where the witness is not physically threatened but is being annoyed and harassed.

The crime victim is also interested in being reimbursed for his or her financial losses resulting from the crime. These losses can be great. I am reminded of a television program I saw several years ago. A young black man had come to the aid of a white woman being assaulted by several young toughs. The black man was badly beaten; he was disabled. He had no medical coverage for his bills and lost income during the weeks of hospitalization. When I called on him in the hospital he said he did not know what he could do to help himself except go on relief.

One of the purposes of the Federal criminal justice system should be to make the victim financially whole. The person who should be responsible for doing this is the wrongdoer, the person who caused the loss. For this reason alone, the courts should order restitution whenever possible.

However, restitution also serves purposes other than restoring the victim. As the Wisconsin Supreme Court has said:

> Restitution can aid an offender's rehabilitation by strengthening the individual's sense of responsibility. The probationer may learn to consider more carefully the consequences of his or her actions. One who successfully makes restitution should have a positive sense of having earned a fresh start and will have tangible evidence of his or her capacity to alter old behavior patterns and lead a law-abiding life. *Huggett* v. *State*, 266 N.W. 2d. 403, 407 (1978).

H.R. 7191 encourages Federal courts to order restitution whenever possible. It makes restitution available as a penalty for any offense in title 18 of the United States Code and for any aircraft hijacking offense involving personal injury or property damage. It requires a judge who does not order restitution to state on record the reasons for not ordering restitution. If the

court orders restitution and a prison term, the person's parole will be conditioned upon complying with the restitution order; if the person fails to comply, parole can be revoked.

We should not have false hopes, however, that restitution is a panacea for the financial ills of crime victims. Restitution is only possible if the wrongdoer is caught and convicted. Even when that occurs, restitution may not be possible because the wrongdoer lacks the resources to make it. Restitution, in short, cannot reasonably be expected to benefit the majority of crime victims. As I noted earlier, over 30 States have recognized this and set up crime victim compensation programs. I hope that next Congress we can enact legislation, such as I have introduced in this and past Congresses, to assist States in these efforts.

The third area addressed by the legislation is the fair treatment of victims and witnesses whenever they come into contact with personnel or apparatus of the Federal criminal justice system. First, the bill requires that a Federal judge, when formulating a sentence, receive information about the impact of the offense on any victim. Second, the bill directs the Attorney General to issue and implement, within 9 months after enactment of the legislation, guidelines insuring the fair treatment of victims and witnesses at all stages of the Federal criminal justice process. These guidelines cover such matters as services to crime victims, scheduling changes, return of property held for evidentiary purposes, and training in victim assistance for Federal law enforcement officers.

Mr. Speaker, H.R. 7191 is the product of much work with the gentleman from New York (Mr. FISH). We were greatly aided in our work by several people, and I want to thank them for their extraordinary efforts on behalf of the legislation: John Stein of the National Organization for Victim Assistance; Mary Ann Largen of the National Coalition Against Sexual Assault; Laurie Robinson and Susan Hillenbrand of the American Bar Association; John Shattuch, David Landau, and Marty Michaelson of the American Civil Liberties Union; and Ron Gainer and Roger Pauley of the U.S. Department of Justice. I also want to acknowledge the work and interest of our colleagues in the other body, Senators HEINZ and LAXALT.

H.R. 7191 has been carefully drafted. Much of it comes from work done by the House Judiciary Committee in previous Congresses. Here is a section-by-section analysis of its provisions:

SECTION-BY-SECTION ANALYSIS OF H.R. 7191

SECTION 1

Section 1 of the bill provides that the short title of the legislation is the "Comprehensive Victim and Witness Protection and Assistance Act of 1982".

SECTION 2

Section 2 of the bill amends Rule 32(c)(2) of the Federal Rules of Criminal Procedure, which deals with the contents of a presentence report.[1] The primary purpose of section 2 is to insure that a court, when sentencing a defendant convicted of an offense, has before it information about the impact of the offense upon any victim of the offense.

Rule 32(c)(2) currently provides that a presentence report "contain any prior criminal record of the defendant and such information about his characteristics, his financial condition and the circumstances affecting his behavior as may be helpful in imposing sentence . . . and such other information as may be required by the court." Section 2 of the bill amends Rule 32(c)(2) to require that the presentence report contain, in addition to the defendant's criminal record and "any other information that may aid the court in sentencing": (1) "information concerning any harm done to or loss suffered by any victim of the offense," and (2) "the nature and extent of nonprison programs and resources available and the applicability of such programs and resources to the defendant." The phrase "any harm done to or loss suffered by" requires that the presentence report contain information about all aspects of the harm done to the victim—physical, financial, psychological, and social. Information about nonprison programs and resources will be useful to the sentencing court when deciding whether to order an indigent defendant to make restitution. This provision is intended to encourage the use of restitution as a criminal punishment.

While information about the impact of the offense upon the victim and about the availability of nonprison programs may presently be included in a presentence report, the court must specifically direct that such information be collected. Section 2 requires that the information be collected routinely and included in every presentence report.

SECTION 3. BACKGROUND NOTE ON DRAFTING

Section 3 of the bill amends chapter 73 ("Obstruction of justice") of title 18 of the United States Code. Most of section 3 is drawn from the Criminal Code Revision Act of 1980 reported by the Judiciary Committee last Congress and is drafted employing the format, conventions, and techniques used in drafting that bill.[2] *See generally* House Report No. 96-1396, at 12-13, 15-20, 30-36.

The format, conventions, and techniques used express in modern terms traditional principles of the criminal law. It has traditionally been stated that there are two components of a crime: conduct and intent. To violate the criminal law, the actor must engage in the prohibited conduct (*actus reus*) with the requisite state of mind (*mens rea*). Professor Perkins summarizes the traditional view this way:

"[T]here are two components of every crime: One of these is objective, the other is subjective; one is physical, the other is psychical; one is the *actus reus*, the other is the *mens rea*. Although two or more offenses may have the same objective components, as in the case of murder and manslaughter, the *actus reus* generally differs from crime to crime. In murder it is homicide; in burglary it is nocturnal breaking into the dwelling of another; in uttering a forged instrument it is the act of offering as good an instrument which is actually false. In like manner the *mens rea* differs from crime to crime. In murder it is malice aforethought; in burglary it is the intent to commit a felony (and under some statutes an intent to commit any public offense); in uttering a forged instrument it is 'knowledge' that the instrument is false plus an intent to defraud." R. Perkins, *Criminal Law* 743 (2d ed. 1969) (footnote omitted).

The traditional analysis that a crime consists of two components, conduct and intent, is somewhat misleading. First, there are components to the *actus reus* other than conduct. For example, a typical burglary offense is defined as the entry of the dwelling of another in the nighttime with intent to commit a felony. The conduct component of the offense is the entry. In order to establish the *actus reus*, however, the prosecution must show more than an entry. The prosecution must also show that the building entered was a dwelling, that the dwelling belonged to someone other than the actor, and that the entry took place at night. These factors are circumstances that must exist at the time of the conduct.

In addition to circumstances, a criminal statute may also require certain results of the proscribed conduct. For example, the offense of false pretenses typically proscribes the obtaining of the property of another by means of untrue representations of fact with intent to defraud. The conduct component is the representation of fact. However, proof of the *actus reus* is not established by showing a representation of fact. It must also be shown that the representation was false (a circumstance), that property was obtained (a result), and that the property obtained was property of another (a circumstance).

Thus, in analyzing the *actus reus* of an offense, it is helpful to speak of conduct, the circumstances (if any) that must attend that conduct, and the results (if any) that must attend that conduct. This is the approach of the American Law Institute's Model Penal Code (*see* section 1.13(9)) and of the National Commission on Reform of Federal Criminal Laws (*see* Final Report section 103(1)). It is also the approach taken in the recent Congressional attempts to recodify Federal criminal laws.

The traditional analysis is also somewhat misleading because the *mens rea* requirement of traditional law is not a unitary concept. Traditional criminal law uses two terms to refer to mental state requirements: general intent and specific intent. Each term has been given a number of different meanings. However, in most cases general intent has been interpreted as a requirement that one know the nature of one's conduct and the circumstances under which that conduct occurs. Thus, in order to be convicted of common law battery, one need only be aware that one is using force against another. Specific intent has had two generally acknowledged meanings: (1) any mental state more stringent than general intent (*e.g.*, the malice aforethought required for common-law murder); and (2) a particular motive or purpose (*e.g.*, the intent to commit a felony discussed above with respect to burglary, and the intent to defraud

Footnotes at the end of article.

discussed above with respect to false pretenses). Current Federal law utilizes both general and specific intent, but has added over 70 variants of these mental state requirements. Some of these variants, such as "maliciously" or "wilfully", appear to be more stringent than general intent. Others, such as "negligently", are less restrictive. The confusion is multiplied by the fact that the same term may be given different meanings by the courts when it appears in different sections of current title 18 of the United States Code.[3]

Most modern criminal codes adopt a structure derived from the Model Penal Code and endorsed by the National Commission on Reform of Federal Criminal Laws.[4] Mental states are assigned to each component of the actus reus, including (1) the conduct involved, (2) the results, if any, that must be caused by the conduct, and (3) the circumstances, if any, under which the conduct must occur. Modern codes also supplement these components and companion mental states, when appropriate, with additional requirements involving purpose or motive. These additional requirements reflect the matters traditionally denominated "specific intent," when that term is used to mean a particular motive or purpose.

Thus, the Model Penal Code of the American Law Institute uses four basic terms to describe the states of mind used in its substantive offenses (see section 2.02(2)). The Model Penal Code also uses, on occasion, a specific intent requirement (see, e.g., section 221.2 (burglary), which requires an intent to commit a crime at the time of entry). The National Commission on Reform of Federal Criminal Laws also decided to use a limited number of terms to describe the states of mind used in the substantive offenses. While the National Commission listed five terms (intentionally, knowingly, recklessly, negligently, and willfully), it really only used four, since willfully was defined to mean intentionally, knowingly or recklessly (see section 302(1) of the Final Report). The National Commission also used the specific intent concept (see, e.g., section 1711 (burglary) of the Final Report) and on occasion required proof of a motive (see, e.g., section 1515 (discriminatory interference with speech or assembly related to civil rights activities) of the Final Report).

The criminal offenses established by section 3 of the bill use only two of the four possible states of mind—intentional and knowing—and require proof of a specific intent. The definitions of "intentional" and "knowing" are taken from the Criminal Code Revision Act of 1980 with only nonsubstantive changes in phrasing. As in the Criminal Code Revision Act of 1980, the state of mind applicable to conduct in the offenses established by section 3 of the bill also applies (unless otherwise specified) to any circumstances and results required by the offenses. See House Report No. 96-1396, at 34.

This approach to state of mind comports with the usual interpretation of the general intent requirement of current law. As Mr. Justice Rehnquist has stated, "In a general sense, 'purpose' corresponds loosely with the common-law concept of specific intent, while 'knowledge' corresponds loosely with the concept of general intent," *United States* v. *Bailey*, 444 U.S. 394, 405 (1980). Mr. Justice Holmes similarly spoke of general intent; "If a man intentionally adopts certain conduct in circumstances known to him, and that conduct is forbidden by the law under the circumstances, he intentionally breaks the law in the only sense in which the law ever considers intent." *Ellis* v. *United States*, 206 U.S. 246, 257 (1907). *See also United States* v. *Haldeman*, 559 F.2d 31, 114 n. 26 (D.C. Cir. 1976), *cert. denied sub nom. Ehrlichman* v. *United States*, 431 U.S. 933 (1977) ("[A] person who knowingly commits an act which the law makes a crime may be said to have 'general intent' . . . ."); *United States* v. *Byrd*, 352 F.2d 570, 572 (2d Cir. 1965) ("Ordinarily, one is not guilty of a crime unless he is aware of the existence of all facts which make his conduct criminal. That awareness is all that is meant by the *mens rea*, the 'criminal intent' necessary to establish guilt."). Thus the principles of interpretation used in current law will achieve the intended result (*i.e.*, the state of mind applicable to conduct will also apply to circumstances and results, unless specified otherwise). For this reason, and because the legislation does not deal with a comprehensive revision of Federal criminal laws, it is unnecessary to set forth specially the Criminal Code Revision Act of 1980 drafting conventions on state of mind.[5]

SECTION 3(A)

Section 3(a) of the legislation adds four new sections (1512, 1513, 1514, and 1515) to chapter 73 of title 18, United States Code. Two of the sections describe criminal offenses relating to intimidating victims and witnesses, one authorizes a civil action to enjoin victim and witness harassment, and one sets forth definitions of terms used in the criminal offenses.

NEW 18 U.S.C. 1512, TAMPERING WITH A WITNESS OR INFORMANT

Present Federal law concerning tampering with witnesses and informants is found in 18 U.S.C. 1503 (witnesses in Federal courts), 1505 (witnesses before Congressional or Federal department or agency proceedings), and 1510 (informants). Sections 1503 and 1505 are parallel provisions that prohibit the use of force or threats to intimidate witnesses. Section 1510 prohibits the use of force, threats or misrepresentation to interfere with informants.

Both section 1503 and 1505 also make it an offense when someone "corruptly . . . influences, obstructs, or impedes . . . the due administration of justice. . . ." This residual clause has been the subject of conflicting interpretations. Some courts have applied the *ejusdem generis* rule, requiring the conduct in question to be of a nature similar to that conduct proscribed in earlier paragraphs and clauses of the sections. *See, e.g., United States* v. *Metcalf*, 435 F.2d 754 (9th Cir. 1970); *United States* v. *Essex*, 407 F.2d 214 (6th Cir. 1969). Other courts have refused to apply the *ejusdem generis* rule, and consider *any* conduct obstructing the administration of justice within the ambit of the sections. *See, e.g., United States* v. *Howard*, 569 F.2d 1331 (5th Cir.) *cert. denied sub. nom. Ritter* v. *United States*, 439 F.2d 834 (1978). *See also United States* v. *Walasek*, 527 F.2d 676 (3d Cir. 1975).

New section 1512(a) makes it a felony knowingly to use physical force or threat, to attempt to use physical force or threat, or to use misleading conduct, with intent to: (1) influence the testimony of another person in an official proceeding; (2) cause or induce another person to (A) withhold testimony or a record, document, or other object from an official proceeding, (B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding, or (C) evade legal process summoning that person to appear as a witness or to produce a record, document, or other object, in an official proceeding: and (3) to hinder, delay or prevent the communication of information relating to the commission (or possible commission) of a Federal crime or of a violation of a condition of probation, parole, or release pending judicial proceedings.[6]

New section 1512 has two principal purposes. First, it protects witnesses in Federal judicial and quasi-judicial proceedings and persons who report information about Federal crimes, possible Federal crimes, or violations (or possible violations) of conditions of Federal orders of probation, parole, or pretrial release. The tampering offenses of present Federal law (18 U.S.C. 1503, 1505, 1510) have a similar purpose. *See United States* v. *Chandler*, 604 F.2d 972, 974 (5th Cir. 1979), *cert. denied*, 444 U.S. 825. At the same time, again like present Federal law, *see id.*, new section 1512 also protects the integrity of Federal judicial and quasi-judicial proceedings.

New section 1512 clarifies the present Federal tampering offenses (18 U.S.C. 1503, 1505, 1510) and changes them in several ways. Present law (18 U.S.C. 1503, 1505) speaks of using force or threats to intimidate a "witness". The use of the term "witness" tends to place the focus upon the status of the victim, but the Federal courts have taken a functional approach, looking to substance rather than form, in determining who is a witness within the meaning of the present law. *See id.; United States* v. *Grunewald*, 233 F.2d 556 (2d Cir. 1956), *rev'd on other grounds*, 353 U.S. 391. New section 1512 does not use the term "witness", but rather focuses upon the wrongdoer's purpose instead of upon the victim's status. Thus, it is immaterial whether the victim was under subpoena, so long as the defendant intended, by the use of force, threat or misleading conduct, to influence a person to withhold a document from an official proceeding, for example.

New section 1512 also clarifies present Federal tampering offenses by reaching third-party intimidation (the use of threats or force, for example, against the witness' spouse for the purpose of intimidating the witness). While present law probably would be interpreted to reach third-party retaliation, the statutory language is not without ambiguity. Section 1512 refers to using force or threatening conduct against another person with intent to intimidate *any* person and thus unambiguously reaches third-party intimidation.

The new provision changes present Federal tampering offenses in several ways. First, by reaching misleading conduct, the provision allows prosecution for conduct that could not be prosecuted under present Federal law in those circuits that apply the *ejusdem generis* rule to interpreting the residual clauses of 18 U.S.C. 1503 and 1505. Second, new section 1512 broadens the present Federal tampering offenses to protect persons reporting information about a violation or possible violation of a Federal order of probation, parole, or pretrial release.[7] Third, the new provision expands the present Federal tampering offenses to reach persons who provide information to Federal judges and to Federal probation and pretrial services officers. Finally, section 1512 increases the maximum fine from $5,000 to $250,000. The fine levels in existing criminal provisions need to be increased because those fine levels do not provide Federal courts with sufficient flexibility to impose fines that will adquately deter future crimi-

nal conduct. *See* House Report No. 96-1396, at 466. The maximum fine level in section 1512 is the same as the maximum fine level for felony record and film piracy offenses set by the recently-enacted Record and Film Piracy and Counterfeiting Amendments Act of 1982 (Public Law 97-180).

Because the terms "official proceeding" and "law enforcement officer" are defined in new section 1515 to mean a Federal proceeding and a Federal officer, and because the term "judge of the United States" is used, there is Federal jurisdiction to prosecute an offense under section 1512 only if the official proceeding involved is a Federal official proceeding, the law enforcement officer involved is a Federal enforcement officer, or the judge involved is a judge of the United States.[8] Thus, there is no authorization for Federal prosecution when the intimidation involves States court witnesses or persons providing information about crimes to States law enforcement officers, even if, for example, a State boundary is crossed during the commission of the offense.

I am unaware of evidence that suggests that State and local prosecutors are unwilling or unable to deal with intimidation of State court witnesses and informants. Absent such a showing, and absent also a showing of any other Federal interest sufficiently important to justify Federal intrusion into a matter essentially of local concern, it is best to leave with State and local officials the responsibility for prosecuting offenses against State court witnesses and State informants. *See* House Report No. 96-1396, at 16-19.[9]

Subsection (b) of section 1512 provides an affirmative defense—*i.e.*, a defense that the defendant must establish by a preponderance of the evidence—to a prosecution under section 1512(a)(1) (intimidation of a witness in an official proceeding) where the use or attempted use of a threat is involved.[10] The defense has two parts; the threat must consist solely of lawful conduct, and the defendant's sole intention must have been to compel or induce the other person to testify truthfully. Without such a provision, the offense would make criminal a threat to sue or seek perjury charges against another person if that person does not testify truthfully.[11]

Subsection (c) of section 1512 provides that no state of mind need be proved with respect to certain circumstances set forth in subsection (a). These circumstances are that the official proceeding involved is a Federal proceeding, that the judge involved is a judge of the United States or that the law enforcement officer is a Federal officer. This provision is necessary because of the convention that the state of mind applicable to the conduct required for the offense also applies to any circumstances or results that are required. Because the terms "official proceeding" and "law enforcement officer" are defined in section 1515 to mean Federal proceeding and Federal officer, and because section 1512(a)(3) refers to a "judge of the United States", it would be necessary for the prosecution, absent this provision, to prove that the defendant knew the official proceeding or law enforcement officer was a Federal proceeding or a Federal officer or that the judge was a Federal judge. Since the Federal nature of the proceeding and the Federal status of the officer or judge are matters that go to the power of the Federal government to assert jurisdiction over conduct, rather than to the criminal nature of the conduct, it is neither necessary nor appropriate to require proof that the defendant knew the proceeding, officer or judge was a Federal proceeding, officer, or judge. *See* House Report No. 96-1396, at 15, 16.

NEW 18 U.S.C. 1513, RETALIATING AGAINST A WITNESS OR INFORMANT

Present Federal law concerning retaliation against witnesses and informants is found in 18 U.S.C. 1503 (witnesses in Federal courts), 1505 (witnesses before Congressional or Federal department or agency proceedings), and 1510 (informants). Sections 1503 and 1505 are parallel provisions that make it an offense to injure the person or property of a witness in order to retaliate against that person. Section 1510 makes it an offense to injure the person or property of any person in order to retaliate against an informant. Since all three provisions refer to injuring the person or property of another, they do not reach retaliatory threats. *See United States* v. *San Martin*, 515 F.2d 317 (5th Cir. 1975) (§ 1510).

Subsection (a) of section 1513 makes it a felony knowingly to engage or threaten to engage in any conduct and thereby intentionally cause bodily injury to, or damage to the tangible property of, another person, with intent to punish any person for: (1) the attendance of a witness or party at an official proceeding, or any testimony given or any object produced by a witness in an official proceeding; or (2) any information, given by any person to a law enforcement officer, to the commission or possible commission of (A) a Federal offense or (B) a violation of a condition of a Federal order of probation, parole, or release pending judicial proceedings.[12] The offense also reaches attempts to retaliate.

This offense has two principal purposes. First, it protects Federal witnesses and Federal informants. The retaliation offenses of present Federal law (18 U.S.C. 1503, 1505, 1510) have a similar purpose. *See United States* v. *Chandler*, 604 F.2d 972, 974 (5th Cir. 1979), *cert. denied*, 444 U.S. 825. At the same time, the offense protects the integrity of Federal judicial and quasi-judicial proceedings. *See id.*

New section 1513 clarifies present Federal retaliating offenses and changes them in several ways. It clarifies present Federal witness retaliation offenses (18 U.S.C 1503, 1505) by reaching third-party retaliation (conduct directed at the witness' spouse, for example, in retaliation for the witness' testimony). While the present witness retaliation offenses probably would be interpreted to reach third-party retaliation, the statutory language is not without ambiguity. Section 1513 refers to conduct directed at another person with intent to retaliate against *any* person and thus unambiguously reaches third-party retaliation.

The new offense changes present Federal tampering offenses in several ways. First, it reaches threats of retaliation. Present Federal law (18 U.S.C. 1503, 1505, 1510) speaks of injuring the person or property of the witness or informant but does not reach retaliatory threats. *See United States* v. *San Martin*, 515 F.2d 317 (5th Cir. 1975) (§ 1510). Second, the new offense covers attempted retaliation against witnesses and informants. Present law does not cover attempted retaliation. Third, the section raises the maximum fine from $5,000 to $250,000. The fine levels in existing Federal criminal provisions need to be increased because those fine levels do not provide Federal courts with sufficient flexibility to impose fines that will adequately deter future criminal conduct. *See* House Report No. 96-1396, at 466. The maximum fine level in section 1513 is the same as the maximum fine level for felony record and film piracy offenses set by the recently-enacted Record and Film Piracy and Counterfeiting Amendments Act of 1982 (Public Law 97-180).

The new section also changes the present informant retaliation offense (18 U.S.C. 1510). Section 1513 protects persons who report a violation or possible violation of a condition of a Federal order of probation parole, or pretrial release. Present law does not protect such persons. The new section also covers persons who report information to a United States judge or to a probation or pretrial services officer. Present law does not protect persons who report to Federal judges, and it protects persons who report to probation or pretrial services officers only to the extent that such officers are authorized to investigate violations of probation, parole or pretrial release that are also violations of Federal criminal statutes.

There is Federal jurisdiction to prosecute an offense under section 1513 if the official proceeding involved is a Federal official proceeding or if the law enforcement officer involved is a Federal law enforcement officer.[13] There is no Federal jurisdiction to prosecute retaliatory conduct directed at State court witnesses or State informants. *See* discussion of jurisdiction for new section 1512.

NEW 18 U.S.C. 1514, CIVIL ACTION TO RESTRAIN HARASSMENT OF A VICTIM OR WITNESS

There is presently no Federal statutory provision authorizing Federal courts to issue, upon application of a Federal Prosecutor, orders protecting witnesses from harassment, and I am not aware of any cases under the present intimidation and retaliation offenses (18 U.S.C. 1503, 1505, 1510) in which those statutory provisions have been used as the basis for a protective order. Federal courts, moreover, have generally declined to issue protective orders at the request of a witness, citing the maxim that equity will not enjoin a crime. *See, e.g., Hu* v. *Morgan*, 405 F. Supp. 547 (E.D. N.C. 1975). *Cf. Burch* v. *Snider*, 461 F. Supp. 598 (D. Md. 1978); *Jones* v. *United States*, 401 F. Supp. 168 (E.D. Ark. 1975).

Section 1514, which is modeled upon a California enactment, Cal. Civ. Proc. Code Section 527.6 and Rule 65 of the Federal Rules of Civil Procedure, establishes a new cause of action in Federal law. The section authorizes a Federal district court to issue (*ex parte*, if necessary) a temporary restraining order to prevent harassment or intimidation of a witness. It also authorizes the district court to issue a protective order prohibiting harassment or restraining certain intimidation or retaliation of offenses.[14]

Subsection (a)(1) authorizes a Federal district court, upon application of the attorney for the Government, to issue a temporary restraining order prohibiting harassment of a victim or witness in a Federal criminal case, if the court finds, on the basis of specific facts shown by affidavit or verified complaint, that: (1) there are reasonable grounds to believe that harassment of an identified victim or witness exists; or (2) such order is necessary to prevent and restrain a witness or informant intimidation offense (other than an offense consisting of misleading conduct) or a witness or informant retaliation offense from taking place. (The term "harassment" is defined in subsection (e)). Subsection (a)(2)(A) permits the court to issue the temporary restraining order *ex parte*, if the court finds, upon writ-

ten certification of facts by the attorney for the Government, that (1) notice to the adverse party should not be required and (2) there is a reasonable probability that the Government will prevail on the merits.

The temporary restraining order may not have a duration of more than 10 days, but the court can extend the order for an additional 10 days (or for a longer period if the adverse party consents) (subsection (a)(2)(C)). The order must state the reasons for its issuance, be specific, and describe in reasonable detail what is being restrained (subsection (a)(2)(F)). The adverse party, on two day notice to the attorney for the Government (or on shorter notice if the court so prescribes), may move to dissolve or modify the order (subsection (a)(2)(E)). When a temporary restraining order is issued, the court must set down for hearing, at the earliest possible time, the attorney for the Government's motion for a protective order (subsection (a)(2)(D)). If the attorney for the Government does not proceed with the application for the protective order, the court must dissolve the temporary restraining order (subsection (a)(2)(D)).

Subsection (B)(1) authorizes a Federal district court, upon motion of the attorney for the Government, to issue a protective order prohibiting harassment of a victim or witness in a Federal criminal case, if after a hearing the court finds by a preponderance of the evidence that: (1) harassment of an identified victim or witness exists; or (2) such order is necessary to prevent and restrain a witness or informant intimidation offense (other than an offense involving misleading conduct) or a witness or informant retaliation offense from taking place. Subsection (b)(2) gives any adverse party named in the complaint the right to present evidence and cross-examine witnesses.

Any protective order issued by the court must state the reasons for its issuance, be specific, and describe in reasonable detail the act or acts being restrained (subsection (b)(3)). The protective order will have such duration (not to exceed 3 years) as the court determines is necessary to prevent harassment of the victim or witness, and the attorney for the Government can, at any time within 90 days of the expiration of the order, apply for a new protective order under section 1514 (subsection (b)(4)).

Subsection (c)(1) defines the term "harassment" for the purposes of section 1514. The term is defined to mean a course of conduct directed at a specific person that causes substantial emotional distress in that person and that serves no legitimate purpose. "Course of conduct" is defined in subsection (c)(2) to mean a series of acts over a period of time, however short, that indicate a continuity of purpose.

NEW 18 U.S.C. 1515, DEFINITIONS FOR CERTAIN PROVISIONS

Section 1515 defines, for the purposes of sections 1512, 1513, and 1515, seven terms used in those sections.

Section 1515(1) defines "official proceeding" to mean: (A) a proceeding before a Federal judge or court, a United States magistrate, a bankruptcy judge, or a Federal grand jury; (B) a Congressional proceeding; or (C) a Federal agency proceeding that is authorized by law.

Section 1515(2) defines "physical force" to mean physical action against another, including confinement. "Misleading conduct" is defined in section 1512(3) to mean: (A) knowingly making a false statement; intentionally creating a false impression in a statement by intentionally omitting information from that statement (and thereby causing a portion of that statement to be misleading) or by intentionally concealing a material fact; (C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity; (D) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or (E) knowingly using a truck, scheme, or device with intent to mislead.[15]

Section 1515(4) defines the term "law enforcement officer" to mean an officer or employee of the Federal Government (or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant) who is (A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or (B) serving as a probation or pretrial services officer under title 18, United States Code.

The term "intentional" is defined in section 1515(5) to mean, with respect to an individual's conduct or the results of that conduct, that engaging in such conduct or causing such result is that individual's conscious objective. The term "knowing" is defined in section 1515(6) to mean, with respect to an individual's conduct, the circumstances surrounding that conduct, or the results of such conduct, that individual (A) is aware that he or she is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or (B) has a firm belief that such circumstance exists or that such result is substantially certain to occur.[16]

Section 1515(7) defines the term "bodily injury" to mean a cut, abrasion, bruise, burn, or disfigurement; physical pain; illness; impairment of the function of a bodily member, organ, or mental faculty; or any other injury to the body, no matter how temporary.

SECTION 3(b)

Section 3(b) of the legislation amends the table of sections for chapter 73 of title 18, United States Code, in order to add the section headings for the four new sections added by the legislation and to amend the catchline for section 1503.

SECTION 3(c)

Section 3(c) of the legislation makes technical amendments to 18 U.S.C. 1503, which deals with tampering with Federal witnesses, jurors, and court officers. The amendments delete language from section 1503 pertaining to witness intimidation and retaliation because the conduct dealt with by that language is covered in new sections 1512 and 1513.

SECTION 3(d)

Section 3(d) of the legislation makes technical amendments to 18 U.S.C. 1505, which concerns tampering with witnesses before Congressional and Federal agency proceedings and otherwise interfering with such proceedings or with a civil investigative demand made under the Antitrust Civil Process Act. The amendments delete language from section 1505 pertaining to witness intimidation and retaliation because the conduct dealt with by that language is covered in new sections 1512 and 1513.

SECTION 3(e)

Section 3(e) of the legislation makes technical amendments to 18 U.S.C. 1510, which concerns obstruction of criminal investigations. The amendments delete language from section 1510 pertaining to informant intimidation and retaliation because the conduct dealt with by that language is covered in new sections 1512 and 1513.

SECTION 4—BACKGROUND

Section 4 of the bill adds to title 18, United States Code, a new chapter on restitution. The new chapter authorizes the court to order restitution in lieu of or in addition to any other penalty imposed, and thereby explicitly recognizes the importance of restitution as a criminal sanction. *See* House Report No. 96-1396, at 456. As the Wisconsin Supreme Court has said:

"Restitution can aid an offender's rehabilitation by strengthening the individual's sense of responsibility. [The offender] may learn to consider more carefully the consequences of his or her actions. One who successfully makes restitution should have a positive sense of having earned a fresh start and will have tangible evidence of his or her capacity to alter old behavior patterns and lead a law-abiding life." *Huggett* v. *State*, 266 N.W.2d 403, 407 (1978).

Federal law (18 U.S.C. 3651) currently permits a court to order a convicted defendant to make restitution only as a condition of probation. Thus, whenever a court wants to impose a prison term in excess of 6 months, the court cannot also order restitution. (Section 3651 provides that 6 months is the maximum prison time that can be imposed as a condition of probation.)

SECTION 4(a)

Section 4(a) of the legislation amends chapter 227 ("Sentence, judgment, and execution") of title 18, United States Code, to add two new sections, one defining the scope and nature of restitution and the other setting forth the procedure for ordering restitution.

NEW 18 U.S.C. 3579, NATURE OF SENTENCE OF RESTITUTION

Subsection (a)(1) of new section 3579 authorizes a Federal court to order, in addition to or in lieu of any other punishment, that the defendant make restitution to any victim of the offense for which the defendant is sentenced. This provision applies to a defendant convicted of any offense under title 18 of the United States Code or of an aircraft hijacking offense involving personal injury or property damage (*i.e.*, an offense under section 902 (i), (j), (h), or (n) of the Federal Aviation Act of 1958). If the court decides not to impose restitution, then subsection (a)(2) requires that the court state on the record why restitution was not ordered.

Subsection (b) of new section 3579 defines those losses for which the victim may be awarded restitution. In the case of a property-damage or property-loss offense, subsection (b)(1) provides that the defendant may be ordered to return the property to the rightful owner (or to someone designated by the rightful owner) or to pay damages if return of the property is impossible or impractical (such as because the property, while capable of being returned, is damaged beyond repair). The damages are defined in subsection (b)(1)(B) to be the greater of the property's value on the date of the damage or loss (or the value of the property on the date of sentencing), less the value of any part of the property that is returned. In the case of a bodily injury offense, subsection (b)(2) provides that the defendant may be ordered: (A) to pay necessary medical ex-

penses (including expenses related to psychiatric care and nonmedical care and treatment rendered in accordance with a method of healing reorganized by the law of the place of treatment);[17] (B) to pay necessary expenses for physical and occupational therapy; and (C) to reimburse the victim for income lost as a result of the offense.[18] In the case where the victim dies as a result of the offense, subsection (b)(3) authorizes the court to order the defendant to pay necessary funeral expenses. Subsection (b)(4) authorizes the court in any instance to order the defendant to make restitution in services in lieu of money, if the victim (or if the victim is deceased, the victim's estate) consents.[19]

Subsection (c) of new section 3579 precludes the court from ordering restitution if the procedures necessary to issue the order will unduly prolong or complicate the sentencing process. This is necessary to insure that the sentencing process not become a sort of mini-civil trial for damages.[20]

Subsection (d) seeks to prevent double recovery. Subsection (d)(1) precludes the court from ordering restitution for a loss for which the victim has received or is to receive reimbursement, except where the reimbursement comes from an insurer against that kind of loss. In that situation, subsection (d)(1) provides that the court can order the restitution to be made to the insurer, but the order must require that all restitution under the order be made to victims before any restitution under the order is made to an insurer. Subsection (d)(2) provides that any amount paid by a person as restitution to a victim shall be set off against any compensatory damages recovered by that victim in any Federal civil proceeding or in any State civil proceeding (to the extent provided by the law of that State).

Subsection (e) deals with the time within which restitution must be made. Subsection (e)(1) authorizes the court to order the defendant to make restitution within a specified time period or in specified installments. Subsection (e)(2) provides that the installment period, or the period within which restitution must be made, must be not later than: the end of the probation period, if probation is ordered; five years after the end of a term of imprisonment (unless the imprisonment is ordered as a part of probation);[21] and five years after the date of sentencing in any other case. Subsection (e)(3) provides that if the court does not specify otherwise, restitution must be made immediately.

Subsection (f) provides that the parole of a person ordered to make restitution is conditioned upon that person's compliance with the order of restitution. The person's failure to comply can result in revocation of parole. In deciding whether to revoke a person's parole for not complying with an order of restitution, the Parole Commission must consider the person's employment status and financial resources, the financial needs of the person and that person's family, the person's reason for noncompliance, and such other factors as the Parole Commission deems appropriate.

Subsection (g) authorizes a victim named in the order, or the United States, to enforce the restitution order in the same manner as a judgment in a civil action.

NEW 18 U.S.C. 3580, PROCEDURE FOR ISSUANCE ORDER OF RESTITUTION

Subsection (a) of new section 3580 sets forth the factors that a court must consider when determining whether to order restitution, and the amount of restitution. The factors are the amount of the victim's loss resulting from the offense, the financial needs of the convicted defendant and that person's family, and other factors that the court deems appropriate. In order to get information about these factors, the court is authorized by subsection (b) to order the probation service to gather pertinent information, which is to be included in the presentence report or in a separate report.

Subsection (b) requires that all of the information about the factors described in subsection (a) be disclosed to the defendant and the attorney for the Government, whether that information is presented to the court in the presentence report or in a separate report.[22]

Subsection (d) sets forth provisions concerning the resolution of disputes about whether to order restitution or the type or amount of restitution. The court is directed to resolve any dispute by the preponderance of the evidence. If there is a dispute about the amount of the victim's loss, the attorney for the Government has the burden of persuasion. If the dispute involves the defendant's financial resources or financial needs, the defendant has the burden of persuasion. If there is a dispute about another factor deemed appropriate to ordering restitution, the burden of persuasion will fall on that party designated by the court in the interest of fairness.

SECTION 4 (6)

Section 4(b) of the bill amends the table of sections at the beginning of chapter 227 of title 18, United States Code, in order to include references to the two new sections added to that chapter by section 4(a) of the bill.

SECTION 5

Section 5(a) of the bill requires the Attorney General, within 9 months after enactment of the legislation, to issue and implement guidelines for the fair treatment of Federal crime victims and witnesses. Section 5(a) also sets forth 10 objectives that the Attorney General must consider in formulating the guidelines. These objectives relate to services to crime victims, scheduling of court proceedings, consultation with victims by Federal prosecutors, return of property to victims and witnesses, the training of law enforcement personnel about victim and witness assistance, and "other important means of assisting victims and witnesses".

Section 5(b) of the bill provides that section 5 does not create a cause of action against the United States.

SECTION 6

Section 6 of the bill instructs the Attorney General, within one year of enactment of the Act, to report to Congress on the desirability of legislation to assure that a Federal felon does not derive profit from books, articles, movies and the like about the offense until any victims of the offense have received restitution. These "Son of Sam" statutes have been implemented in a number of States, including New York in 1979,[23] with the majority being modeled after the New York law. *See* Note, "In Cold Type: Statutory Approaches to the Problem of the Offender as Author," 71 J. Crim. Law & Criminology 255, 256 (1980). The theory behind such statutes is that profits from offenses constitute "unjust enrichment." However, "Son of Sam" statutes raise serious constitutional questions, *see id.*, and Section 6 anticipates that these questions would be explored and discussed in the Attorney General's report.

SECTION 7

Current Federal case law permits a court to revoke bail where a defendant interferes with a government witness. *See*, e.g., *United States* v. *Kirk*, 534 U.S. F.2d 1262 (8 Cir. 1976); *United States* v. *Cozzetti*, 441 F.2d 344, (9 Cir. 1971). The cases and Rule 46(b) of the Federal Rules of Criminal Procedure recognize the court's inherent power to revoke bail where a defendant's conduct presents a danger or interferes with the progress of the trial. *See* e.g., *Bitter* v. *United States*, 389 U.S. 15, 16 (dictum).

Section 7 of the bill in effect codifies this power. It amends 18 U.S.C. 3146(a) by expressly requiring the judicial officer making the bail determination to release a defendant only on the condition that the defendant not commit an offense under 18 U.S.C. 1503 (influencing or injuring a witness, court official or juror), 1512 (tampering with a witness or informant), or 1513 (retaliating against a witness or informant). Paragraph (1) of Section 7 requires the judge to impose this condition on a defendant released on personal recognizance or the execution of an unsecured appearance bond. Paragraph (2) requires the judge to impose the condition on all other defendants released under section 3146(a).

SECTION 8

Section 8 of the legislation provides for the effective date of the legislation. All of the provisions of the bill except section 2 (victim impact statement) and section 4 (restitution) take effect on date of enactment. The provisions of section 2 of the bill apply to presentence reports that are ordered on and after March 1, 1983. The provisions of section 4 of the bill apply to offenses occurring on or after January 1, 1983.[24] The effective dates of these two sections of the bill are deferred in order to give the bench and bar time to prepare for the changes that those provisions make.

FOOTNOTES

[1] Rule 32(c)(1) of the Federal Rules of Criminal Procedure require that a presentence report be made before the court imposes sentence unless (1) the defendant, with the court's permission, waives the report, or (2) the court finds that there is in the record sufficient information to enable the meaningful exercise of sentencing discretion and the court explains this finding on the record.

[2] Section 3(a) of the bill adds a provision to title 18 that authorizes a civil action to restrain harassment of victims and witnesses (proposed new section 1514). That provision was not a part of the Criminal Code Revision Act of 1980. Since new section 1514 is not a criminal provision, the format, conventions, and techniques used in drafting new section 1512, 1513 and 1515 were not, of course, employed.

[3] For a discussion of the different meanings given the term "willful," see Note. *An Analysis of the Term "Wilful" in Federal Criminal Statutes*, 51 NOTRE DAME LAW. 786 (1976).

[4] See, e.g. Ala. Code tit § 13-A-2-2 (1977); Ariz. Rev. Stat. Ann. § 13-105(5) (West 1978); Ark. Stat. Ann. § 41-203 (1977); Colo. Rev. Stat. § 18-1-501 (1978); Conn., Gen. Stat. Ann. § 53a-3 (West Supp. 1980); Del. Code Ann. tit 11 § 231 (1979); Hawaii Rev. Stat. § 702-206 (1976); Ill. Ann. Stat. ch. 38, §§ 4-4, 4-5, 4-6, 4-7 (Smith-Hurd) 1972); Ind. Code Ann. § 35-41-2-2 (1979); Ky. Rev. Stat. § 501.020 (1975); Me. Rev. Stat. Ann. tit. 17-A. § 10 (West 197 Pmph.); Mo. Ann Stat. § 562.016 (Vernon 1979); Mont. Rev. Codes Ann. § 94-2-103 (1979); N.H. Rev. Stat. Ann. § 626.2 (II) (1974); N.J. Stat. Ann. § 2C:2-2(b) (West 1980); N.Y. Penal Law § 15.05 (McKinney 1975); N.D. Cent. Code § 12.1-02-02 (1976); Ohio Rev. Code Ann § 2901.22 (1975); Or. Rev. Stat. § 161.085 (1977); 18 Pa. Cons. Stat. Ann § 302(b) (Purdon 1973); S.D. Codified Laws Ann. § 22-1-2(1) (1979); Tex Penal Code Ann. tit. 2, § 6.03 (Vernon 1974); Utah Code Ann. § 76-2-108 (1978); Wash. Rev. Code Ann. § 9A.08.010(1) (1977).

[5] It similarly is unnecessary to set forth other general principles (such as the principle that the court decides questions of law), even though those principles were set forth in the Criminal Code Revision Act of 1980.

[6] The terms "knowingly", "physical force", "misleading conduct", "official proceeding", and "law enforcement officer" are defined in new section 1515.

It is not necessary under subsection (a)(1) or (2) that the official proceeding be pending or about to be instituted at the time of the offense. Similarly, it is not necessary under those subsections that the testimony, or the record, document or other object, not be subject to a claim of privilege or that it be admissible in evidence.

[7] Such persons are protected under 18 U.S.C. 1510 now only if the information concerns a violation of probation, parole, or pretrial release that is also a violation of "any criminal statute of the United States".

[8] "Federal jurisdiction" traditionally refers to the power of the Federal Government to make and enforce laws. As used here, and as used in the Criminal Code Revision Act of 1980, "Federal jurisdiction" means the nature and extent of that power and how that power is used. *See* House Report 96-1396, at 15.

[9] The Senate-passed bull authorizes Federal prosecution for hindering, delaying, preventing or dissuading a witness from reporting an offense to a State judge or a State correctional facility officer (proposed 18 U.S.C. 1512(a)(2)(B)(i)), from causing a State criminal prosecution (proposed 18 U.S.C 1512(a)(2)(B)(ii)), or from causing the arrest of a person in connection with a State crime (proposed 18 U.S.C 1512(a)(2)(B)(iii)), if the mail or a facility in interstate commerce is used in committing the offense or if a person crosses a State boundary in committing the offense. That bill does not otherwise authorize Federal prosecution for intimidation of State-court witness.

[10] *See* House Report No. 96-1396, at 29-30.

[11] See id. at 155; Senate Report No. 97-307, at 354-55.

[12] The terms "knowing", "intentional", "bodily injury", "official proceeding", and "law enforcement officer" are defined in section 1515.

[13] By the nature of the offense, the wrongdoer knows that the person retaliated against has been a party to or witness in a Federal proceeding or has reported information to a Federal law enforcement officer. It is therefore unnecessary to preclude the applicability of the convention on states of mind.

[14] Since this is a civil action, the Federal Rules of Civil Procedure apply, as do the Federal Rules of Evidence.

[15] See House Report No. 96-1396, at 14, 141-42 (discussion of definition of the term "fraud").

[16] The definition of the term "knowing" also encompasses the concept of "willful blindness." See House Report No. 96-1396, at 35-36.

[17] The language about nonmedical care and treatment authorizes reimbursement for the expense of Christian Science treatment where the law of the place where that treatment occurs recognizes the Christian Science method of treatment.

[18] The term "income lost" would cover lost future income. In many cases, however, the procedure required to make the findings that are necessary in order to order restitution will unduly complicate or prolong the sentencing process and thus bar the imposition of an order of restitution. *See* subsection (c) of new section 3579.

[19] The court is not confronted with a choice of ordering full restitution or no restitution at all. The court may order partial restitution if the court determines that that course of action is appropriate.

[20] Proving the loss or value of property involved in an offense may be a relatively simple matter. For example, the property may be tangible property like an automobile or jewelry, or stock or bond certificates held by one person. If so, the court can order restitution without unduly complicating the sentencing process. However, proving losses by a class or the existence, returnability, or value of an economic arrangement usually will not be as simple. If the procedures required to make such a determination will unduly prolong or complicate sentencing, then the court cannot order restitution.

[21] Such imprisonment cannot, under 18 U.S.C. 3651, be for a period of more than 6 months.

[22] Rule 32(c)(3) of the Federal Rules of Criminal Procedure permits nondisclosure of certain matters appearing in a presentence report. In order to have a fair procedure for determining whether to order restitution (and the amount of such restitution), both the attorney for the Governement and the defendant should have full access to information in the presentence report (and in separate reports) about the factors described in section 3580(a). Thus, the Committee has provided in section 3580(c) for full disclosure to that information, and the provisions fo Rule 32(c)(3) of the Federal Rules of Criminal Procedure will not apply to that infromation when that information is included in a presentence report.

[23] N.Y. Exec. Law § 632-a (McKinney Sup. 1979).

[24] Restitution is a criminal penalty, and therefore the provisions of section 4 cannot apply to offenses committed before its effective date without violating the ex post facto clause of the Constitution.

Mr. Speaker, H.R. 7191 is a fair, balanced, and bipartisan bill that will constitute a substantial step forward in improving the treatment accorded victims and witnesses by the Federal criminal justice system. I urge its passage.

Mr. McCOLLUM. Mr. Speaker, further reserving the right to object, like many of my colleagues, I have witnessed an outpouring of frustration and anguish from victims of crime with whom I have spoken in my district. Clearly, there is an appropriate and necessary role for the Federal Government in addressing the problems encountered by crime victims. Not only does the Federal Government have a responsibility for the fair treatment of victims of Federal crimes, but it is clear that Federal legislation can serve as a model for the States.

Based on suggestions from Senator PAUL LAXALT, who has demonstrated outstanding leadership on this issue for many years, the gentleman from New York (Mr. FISH) introduced H.R. 6508 last spring, which I was pleased to cosponsor. The gentleman from New Jersey (Mr. RODINO) also introduced his own bill. H.R. 7191 constitutes a resolution of the differences between those two measures.

Mr. Speaker, the gentleman has provided us with a most helpful description of the elements of this important legislation, which I will not repeat at this time. However, I would like to touch upon some of the provisions and indicate my understanding of them.

First, H.R. 7191 would revise and clarify Federal offenses relating to victim/witness tampering and retaliation and would expand those offenses in certain important respects. It is absolutely imperative that Federal law in this area serve as a strong deterrent to any intimidating activity aimed at a victim, potential witness, or person close to him. I believe that the penalties for such an offense, which H.R. 7191 substantially increases, should be strong.

Furthermore, the civil restraint which the bill authorizes is a substantial preventive measure against this sort of horrifying activity.

As the Wall Street Journal observed in a recent editorial, the authority for Federal judges to order restitution to victims, which is provided under H.R. 7191, makes such good sense that it is a wonder that legislation was not enacted long before this. Restitution represents the ultimate justice—the perpetrator of the crime must compensate the victim for the results of his action. Under H.R. 7191, restitution could be ordered in cases arising under the Federal Criminal Code, which is found in title 18, or if the defendant has committed a skyjacking-related offense. The latter represents a slight expansion from my original bill, which confined restitution to title 18 offenses. While I believe that the inclusion of skyjacking offenses is a valuable improvement in the bill, I firmly believe that restitution is not appropriate in connection with regulatory offenses. H.R. 7191, in my judgment, draws the line in an appropriate place and permits restitution only in cases where it makes the most sense.

The restitution provisions of H.R. 7191 contain a logical limitation on awarding restitution. Specifically, they preclude a restitution order which would unduly complicate or prolong the sentencing proceedings. Thus, for instance, restitution could not be ordered with respect to speculative lost future income. Such a determination could, however, be made in connection with a civil action.

The guidelines which the Attorney General is required to promulgate will vastly improve the treatment experienced by Federal crime victims in the criminal justice system. The notion of insuring such fair treatment is based upon initiatives in Wisconsin, California, and New York, and will not unduly burden Federal law enforcement officers and prosecutors.

Finally, Mr. Speaker, H.R. 7191 will require that Federal judges impose as a condition of pretrial release or release pending sentencing or appeal a condition that the defendant not engage in victim or witness harassment. As we all know, defendants too often use their release as an opportunity to intimidate those whose testimony may put them where they belong—behind bars. Under H.R. 7191, each Federal defendant will receive a warning upon his release that conduct of this reprehensible nature will lead to revocation of his release. Although Federal judges could impose such a condition under current law, it is not mandatory.

Mr. Speaker, H.R. 7191 is the product of the testimony received in both bodies, efforts in connection with Federal criminal code reform, and input from the administration, the American Bar Association, various business groups, victims organizations, and civil liberties groups. I was happy to learn that in a September 29 letter to the chairman of the Judiciary Committee, the Assistant Attorney General expressed his strong support for H.R. 7191. This comports with the strong

concern that President Reagan has expressed for the plight of crime victims.

Mr. Speaker, it is imperative that we proceed with reasonable promptness toward addressing the needs of crime victims and demonstrating to them the compassion which they well deserve. I want to enthusiastically commend the gentleman from New Jersey (Mr. RODINO), the chairman of the full Committee on the Judiciary, for his efforts in connection with H.R. 7191. His willingness to move the bill in these waning days of the 97th Congress demonstrates a heartfelt concern for the victims of crime in this country, which is shared by all of us who believe that their rights and concerns have been neglected for far too long.

I also want to commend the gentleman from New York (Mr. FISH) for his invaluable leadership on this issue. As a victim of crime himself and as president of the National Victims of Crime, he has been in the frontlines of the battle to restore the rights of victims in our criminal justice system. Finally, I want to thank my colleagues on both sides of the aisle, including virtually all of our committee members, who have demonstrated their determination to ease the burdens suffered by crime victims by cosponsoring H.R. 7191.

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● Mr. BUTLER. Mr. Speaker, reserving the right to object, I support this legislation because it will help both the victims and witnesses of crime as well as society as a whole. I urge support of this bill, withdraw my reservation, and I ask unanimous consent to revise and extend my remarks.

I have long advocated the type of legislation that this bill would hopefully encourage in section 6. That section of the bill requires the Attorney General to report to the Congress on the desirability of legislation to apply to the victim the profits realized by a criminal who sells his memoirs or recollections concerning the crime.

To myself and the overwhelming number of House Members, the desirability of such legislation is unquestionable. During the 95th Congress, I offered an amendment to a bill then pending that would have required States to enact such a law in order to qualify for Federal assistance for their individual State crime victim assistance programs. This amendment to H.R. 7010 in the 95th Congress was adopted by a vote of 245 to 113. Unfortunately, that modest but widely supported amendment was deleted by the House-Senate conferees and that action, I fear, was significant in House disapproval of the conference report.

My amendment, which stated sound public policy, was based upon a statute in New York that had recently been enacted. Since then, New York's "Son of Sam" statute weathered constitutional scrutiny and has been adopted by approximately 10 other States.

In the matter of Doris Johnson (430 N.Y.S.2d 904), the New York court deciding the constitutional issue, indicated that it "fully adopts the Legislature's 'expression of public policy * * * [which] is a good one and should be supported.' "

I, too, think that a "Son-of-Sam" statute should be supported because it is good for victims and good for society in general. And it is right. H.R. 7191 may require the Attorney General report on the desirability of such legislation, but Mr. Speaker, I think there can be no doubt of that question, and I include here for the record a copy of the New York provision and an explanation of it from the State of New York Crime Victim Compensation Board. This will be of considerable assistance to my successors in the next Congress when they receive the Attorney General's report.

§ 632-a. Distribution of moneys received as a result of the commission of crime

1. Every person, firm, corporation, partnership, association or other legal entity contracting with any person or the representative or assignee of any person, accused or convicted of a crime in this state, with respect to the reenactment of such crime, by way of a movie, book, magazine article, tape recording, phonograph record, radio or television presentation, live entertainment of any kind, or from the expression of such accused or convicted person's thoughts, feelings, opinions or emotions regarding such crime, shall submit a copy of such contract to the board and pay over to the board any moneys which would otherwise, by terms of such contract, be owing to the person so accused or convicted or his representatives. The board shall deposit such moneys in an escrow account for the benefit of and payable to any victim or the legal representative of any victim of crimes committed by: (i) such convicted person; or (ii) by such accused person, but only if such accused person is eventually convicted of the crime and provided that such victim, within five years of the date of the establishment of such escrow account, brings a civil action in a court of competent jurisdiction and recovers a money judgment for damages against such person or his representatives.

2. The board, at least once every six months for five years from the date it receives such moneys, shall cause to have published a legal notice in newspapers of general circulation in the county wherein the crime was committed and in counties contiguous to such county advising such victims that such escrow moneys are available to satisfy money judgments pursuant to this section. For crimes committed in a county located within a city having a population of one million or more, the notice provided for in this section shall be in newspapers having general circulation in such city. The board may, in its discretion, provide for such additional notice as it deems necessary.

3. Upon dismissal of charges or acquittal of any accused person the board shall immediately pay over to such accused person the moneys in the escrow account established on behalf of such accused person.

4. Upon a showing by any convicted person that five years have elapsed from the establishment of such escrow account and further that no actions are pending against such convicted person pursuant to this section, the board shall immediately pay over any moneys in the escrow account to such person or his legal representatives.

5. For purposes of this section, a person found not guilty as a result of the defense of mental disease or defect pursuant to section 30.05 of the penal law shall be deemed to be a convicted person.

6. Whenever it is found, pursuant to article seven hundred thirty of the criminal procedure law, that a person accused of a crime is unfit to proceed as a result of mental disease or defect because such person lacks capacity to understand the proceedings against him or to assist in his own defense, the board shall bring an action of interpleader pursuant to section one thousand six of the civil practice law and rules to determine disposition of the escrow account.

7. Notwithstanding any inconsistent provision of the estates, dowers and trusts law or the civil practice law and rules with respect to the timely bringing of an action, the five year period provided for in subdivision one of this section shall not begin to run until an escrow account has been established.

8. Notwithstanding the foregoing provisions of this section the board shall make payments from an escrow account to any person accused or convicted of crime upon the order of a court of competent jurisdiction after a showing by such person that such moneys shall be used for the exclusive purpose of retaining legal representation at any stage of the criminal proceedings against such person, including the appeals process. The board may in its discretion and after notice to the victims of the crime make payments from the escrow account to a representative of any person accused or convicted of a crime for the necessary expenses of the production of the moneys paid into the escrow account, provided the board finds that such payments would be in the best interests of the victims of the crime and would not be contrary to public policy. The total of all payments made from the escrow account under this subdivision shall not exceed one-fifth of the total moneys paid into the escrow account and available to satisfy civil judgments obtained by the victims of the crime.

9. Any action taken by any person accused or convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities or otherwise, to defeat the purpose of this section shall be null and void as against the public policy of this state.

10. For purposes of this section:

(a) Victim shall mean a person who suffers personal, physical, mental, or emotional injury, or pecuniary loss as a direct result of the crime.

(b) A person convicted of a crime shall include any person convicted of a crime in this state either by entry of a plea of guilty or by conviction after trial and any person who has voluntarily and intelligently admitted the commission of a crime for which such person is not prosecuted.

11. Notwithstanding any other provision of law, claims on moneys in the escrow account shall have the following priorities:

(a) Payments ordered by the board or a court pursuant to subdivision eight of the section;

(b) Subrogation claims of the state pursuant to section six hundred thirty-four of this article in an amount not exceeding one-half of the net amount of the civil judgment

obtained by a victim which is payable directly to the victim from the escrow account;

(c) Civil judgments of the victims of the crime;

(d) Other judgment creditors or persons claiming moneys through the person accused or convicted of a crime who present lawful claims, including state or local government tax authorities;

(e) The person accused or convicted of the crime.

No payment shall be made out of the escrow account where such payment would be in derogation of claims, either presented or pending, entitled to a higher priority under this subdivision. The board may bring an action of interpleader pursuant to section one thousand six of the civil practice law and rules or an action for a declaratory judgment where it cannot determine the priority of claims and the proper disposition of the escrow account.

Moneys in the escrow account shall not be subject to execution, levy, attachment or lien except in accordance with the priority of claims established in this subdivision.

12. Notwithstanding any other provisions of law, the board shall have exclusive jurisdiction and control, as escrow agent over any moneys subject to this section. No distribution of moneys in such escrow accounts shall be made except by determination and order of the board, pursuant to the provisions of this section and the board's rules and regulations. Any party aggrieved by a final determination and order of the board under this section may seek judicial review of such decision pursuant to article seventy-eight of the civil practice law and rules.

Added L.1977, c. 823, § 1; amended L.1978, c. 417, § 1; L.1981,c. 445,§ 2, 3.

[1] CPL 730.10 ct seq.

TITLE VI—PROFIT BY A CRIMINAL FROM SALE OF HIS STORY

During 1977 the City of New York was terrorized by random shootings of young women and their companions. Known as the "Son of Sam" killings, these crimes, as one could expect, generated widespread public notoriety and media attention.

As a result, publishers were willing to pay large sums of money for the murderer's story. Aware of this desire, New York State Senator Emanuel R. Gold proposed a bill that could prevent the criminal from reaping financial gain from his crimes.

Approved and effective on August 11, 1977, this bill became Section 632-a of the Executive Law and is commonly referred to as the "Son of Sam" law. (A copy of the current statute is attached.)

The State of New York, and in particular the Crime Victims Board which was given the duty of enforcing the provisions of this statute, has had the opporunity to work with this statute for the past five years. In this time period, the Board has gained a working knowledge of the statute and has been instrumental in the submission of amendments to the original bill which have ensured that the statue operates in an effective and efficient manner. Since enactment of New York's law approximately ten other states have enacted similar legislation.

Provisions of the law which the Board has found to be of great importance include:

(1) The law creates a new statute of limitations commencing from the date the Board places money in an escrow account. The victim has five years from such date within which to commence a civil action. This provision is critical in that the underlying statute of limitations on the intentional tort based upon the criminal act is usually be one year. The commercial exploitation of the crime story will usually be one year. The commercial exploitation of the crime story will usually occur several years after the crime.

(2) Subdivision II of the statute sets out priorities in the payment of claims. As many different interests may be competing for payment out of the escrow account, it is important that priorities be set forth. Included among these priorities is a provision for the limited payment of the criminal's legal expenses incurred at any stage of the criminal proceedings against him.

(3) The Board's rules contain administrative due process procedures providing the criminal with notice and an opportunity to be heard at the time the Board seizes funds and prior to distribution of the funds.

(4) Adequate notice to the victim(s) of monies available. Subdivision 2 provides for publication of notices every six months for the entire five year period the escrow account exists.

(5) The definitional sections of the law are also of great importance. Subdivision 10 specifically defines victim and a person convicted of a crime. In addition, the term "representative", section 632-a, is defined in the Board's statute to be one "who represents or stands in the place of another person, including but not limited to an agency, an assignee, an attorney, a guardian, a committee, a conservator, a partner, a receiver, an administrator, an executor or an heir of another person, or a parent or a minor." This definition was necessitated by a court interpretation of the original statute. Holding that a court appointed conservator was not a "representative" of the accused and thus monies paid to a conservator were not subject to the statute, this ruling points out the significance of precisely defining those third parties that the law applies to.●

● Mr. FISH. Mr. Speaker, I want to begin by enthusiastically commending my friend from New Jersey (Mr. RODINO), the chairman of the full Committee on the Judiciary, for making this vitally important unanimous-consent request today. His willingness to move H.R. 7191 in these waning days of the 97th Congress demonstrates a heartfelt concern for the victims of crime in this country, which is shared by all of us who believe that their rights and concerns have been neglected for far too long.

As a victim of crime myself, I became painfully aware early in this Congress of the problems encountered by victims in our criminal justice system. In addition to my own experience, I have witnessed an outpouring of frustration and anguish from victims with whom I have spoken in my district and encountered in my capacity as the president of the National Victims of Crime. It became very clear to me that there was an appropriate and necessary role for the Federal Government in addressing the problems encountered by crime victims. Not only does the Federal Government have a responsibility for the fair treatment of victims of Federal crimes, but it is clear that Federal legislation can serve as a model for the States.

Based on suggestions from Senator PAUL LAXALT, who has demonstrated outstanding leadership on this issue for many years, I introduced H.R. 6508 last spring. The gentleman from New Jersey (Mr. RODINO) also introduced his own bill. H.R. 7191 constitutes a resolution of the differences between our two measures.

Mr. Speaker, the gentleman from New Jersey (Mr. RODINO) has provided us with a most helpful description of the elements of this important legislation, which I will not repeat at this time. However, I would like to touch upon some of the provisions and indicate my understanding of them.

First, H.R. 7191 would revise and clarify Federal offenses relating to victim/witness tampering and retaliation and would expand those offenses in certain important respects. It is absolutely imperative that Federal law in this area serve as a strong deterrent to any intimidating activity aimed at a victim, potential witness, or person close to him. I believe that the penalties for such an offense, which H.R. 7191 substantially increases, should be strong.

Furthermore, the civil restraint which the bill authorizes is a substantial preventive measure against this sort of horrifying activity.

As the Wall Street Journal observed in a recent editorial, the authority for Federal judges to order restitution to victims, which is provided under H.R. 7191, makes such good sense that it is a wonder that legislation was not enacted long before this. Resolution represents the ultimate justice—the perpetrator of the crime must compensate the victim for the results of his action. Under H.R. 7191, restitution could be ordered in cases arising under the Federal Criminal Code, which is found in title 18, or if the defendant has committed a skyjacking-related offense. The latter represents a slight expansion from my original bill, which confined restitution to title 18 offenses. While I believe that the inclusion of skyjacking offenses is a valuable improvement in the bill, I firmly believe that restitution is not appropriate in connection with regulatory offenses. H.R. 7191, in my judgment, draws the line in an appropriate place and permits restitution only in cases where it makes the most sense.

The restitution provisions of H.R. 7191 contain a logical limitation on awarding restitution. Specifically, they preclude a restitution order which would unduly complicate or prolong the sentencing proceedings. Thus, for instance, restitution could not be ordered with respect to speculative lost future income. Such a determination could, however, be made in connection with a civil action.

The guidelines which the Attorney General is required to promulgate will

vastly improve the treatment experienced by Federal crime victims in the criminal justice system. The notion of insuring such fair treatment is based upon initiatives in Wisconsin, California, and New York, and will not unduly burden Federal law enforcement officers and prosecutors.

Finally, Mr. Speaker, H.R. 7191 will require that Federal judges impose as a condition of pretrial release or release pending sentencing or appeal a condition that the defendant not engage in victim or witness harassment. As we all know, defendants too often use their release as an opportunity to intimidate those whose testimony may put them where they belong—behind bars. Under H.R. 7191, each Federal defendant will receive a warning upon his release that conduct of this reprehensible nature will lead to revocation of his release. Although Federal judges could impose such a condition under current law, it is not mandatory.

Mr. Speaker, H.R. 7191 is the product of testimony received in both bodies, efforts in connection with Federal Criminal Code reform, and input from the administration, the American Bar Association, various business groups, victims organizations, and civil liberties groups. I was happy to learn that in a September 29 letter to the gentleman from New Jersey, the Assistant Attorney General expressed his strong support for H.R. 7191. This comports with the strong concern that President Reagan has expressed for the plight of crime victims.

Mr. Speaker, it is imperative that we proceed promptly toward addressing the needs of crime victims and demonstrating to them the compassion which they well deserve. Again, I commend our chairman for his assistance in moving this legislation forward. I also want to commend the ranking minority member of the committee (Mr. McCLORY) for his invaluable input and assistance, and the gentleman from Florida (Mr. McCOLLUM) whose early cosponsorship of this measure and my original bill and his willing cooperation have facilitated this bill's prompt consideration. Finally, I want to thank my colleagues on both sides of the aisle, including virtually all of our committee members, who have demonstrated their determination to ease the burdens suffered by crime victims, by cosponsoring H.R. 7191.●

Mr. McCOLLUM. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey (Mr. RODINO)?

There was no objection.

The Clerk read the bill, as follows:

H.R. 7191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Victim and Witness Protection and Assistance Act of 1982".

VICTIM IMPACT STATEMENT

SEC. 2. Paragraph (2) of rule 32(c) of the Federal Rules of Criminal Procedure is amended to read as follows:

"(2) REPORT.—The presentence report shall contain—

"(A) any prior criminal record of the defendant;

"(B) a statement of the circumstances of the commission of the offense and circumstances affecting the defendant's behavior;

"(C) information concerning any harm done to or loss suffered by any victim of the offense; and

"(D) any other information that may aid the court in sentencing.".

PROTECTION OF VICTIMS AND WITNESSES FROM INTIMIDATION

SEC. 3. (a) Chapter 73 of title 18 of the United States Code is amended by adding at the end the following new sections:

"§ 1512. Tampering with a witness or an informant

"(a) Whoever knowingly uses physical force or threatens another person, or attempts to do so, or engages in misleading conduct towards another person, with intent to—

"(1) influence the testimony of any person in an official proceeding;

"(2) cause or induce any person to—

"(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

"(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official porceeding; or

"(3) hinder, delay, or prevent the communication, to a law enforcement officer or judge of the United States, of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be fined not more than $250,000 or imprisoned not more than five years, or both.

"(b) In a prosecution for an offense under subsection (a)(1) of this section, it is an affirmative defense, as to which the defendant has the burden of persuasion by a preponderance of the evidence, that the threat consisted solely of lawful conduct and that the defendant's sole intention was to compel or induce the other person to testify truthfully.

"(c) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance—

"(1) that the official proceeding before a judge, court, magistrate, grand jury, or government agency is before a judge or court of the United States, a United States magistrate, a bankruptcy judge, a Federal grand jury, or a Federal Government agency; or

"(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.

"§ 1513. Retaliating against a witness or an informant

"Whoever knowingly engages in any conduct and thereby intentionally causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to punish any person for—

"(1) the attendance of a witness or party at an official proceeding, or any testimony given, or any record, document, or other object produced, by a witness in an official proceeding; or

"(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer;

or attempts to do so, shall be fined not more than $250,000 or imprisoned not more than five years, or both.

"§ 1514. Civil action to restrain harassment of a victim or witness

"(a)(1) A United States district court, upon application of the attorney for the Government, shall issue a temporary restraining order prohibiting harassment of a victim or witness in a Federal criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

"(2)(A) A temporary restraining order may be issued under this section without written or oral notice to the adverse party in a civil action under this section, or such party's attorney, if the courts find, upon written certification of facts by the attorney for the Government, that such notice should not be required and that there is a reasonable probability that the Government will prevail on the merits.

"(B) A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed forthwith in the office of the clerk of the court issuing the order.

"(C) A temporary restraining order issued under this section shall expire at such time, not to exceed 10 days from issuance, as the court directs; the court, for good cause shown before expiration of such order, may extend the expiration date of the order for up to 10 days or for such longer period agreed to by the adverse party.

"(D) When a temporary restraining order is issued without notice, the motion for a protective order shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character, and when such motion comes on for hearing, if the attorney for the Government does not proceed with the application for a protective order, the court shall dissolve the temporary restraining order.

"(E) If on two days notice to the attorney for the Government or on such shorter notice as the court may prescribe, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

"(F) A temporary restraining order shall set forth the reasons for the issuance of such order, be specific in terms, and describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

"(b)(1) A United States district court, upon motion of the attorney for the Government, shall issue a protective order prohibiting harassment of a victim or witness in a Federal criminal case if the court, after a hearing, finds by a preponderance of the evidence that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

"(2) At the hearing referred to in paragraph (1) of this subsection, any adverse party named in the complaint shall have the right to present evidence and cross-examine witnesses.

"(3) A protective order shall set forth the reasons for the issuance of such order, be specific in terms, describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

"(4) The court shall set the duration of effect of the protective order for such period as the court determines necessary to prevent harassment of the victim or witness but in no case for a period in excess of three years from the date of such order's issuance. The attorney for the Govenment may, at any time within 90 days before the expiration of such order, apply for a new protective order under this section.

"(c) As used in this section—

"(1) the term 'harassment' means a course of conduct directed at a specific person that—

"(A) causes substantial emotional distress in such person; and

"(B) serves no legitimate purpose;

"(2) the term 'course of conduct' means a series of acts over a period of time, however short, indicating a continuity of purpose.

"§ 1515. Definitions for certain provisions

"As used in sections 1512 and 1513 of this title and in this section—

"(1) the term 'official proceeding' means—

"(A) a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, or a Federal grand jury;

"(B) a proceeding before the Congress; or

"(C) a proceeding before a Federal Government agency which is authorized by law;

"(2) the term 'physical force' means physical action against another, and includes confinement;

"(3) the term 'misleading conduct' means—

"(A) knowingly making a false statement;

"(B) intentionally omitting information from a statement and thereby intentionally causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby intentionally creating a false impression by such statement;

"(C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;

"(D) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

"(E) knowingly using a trick, scheme, or device with intent to mislead;

"(4) the term 'law enforcement officer' means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant—

"(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

"(B) serving as a probation or pretrial services officer under this title.";

"(5) the term 'intentional,' with respect to an individual's conduct or the results of that conduct, means that engaging in such conduct or causing such result is such individual's conscious objective;

"(6) the term 'knowing', with respect to an individual's conduct, the circumstances surrounding that conduct, or the results of such conduct means that such individual—

"(A) is aware such individual is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

"(B) has a firm belief that such circumstance exists or that such result is substantially certain to occur; and

"(7) the term 'bodily injury' means—

"(A) a cut, abrasion, bruise, burn, or disfigurement;

"(B) physical pain;

"(C) illness;

"(D) impairment of the function of a bodily member, organ, or mental faculty; or

"(E) any other injury to the body, no matter how temporary.".

(b) The table of sections at the beginning of chapter 73 of title 18 of the United States Code is amended—

(1) so that the item relating to section 1503 reads as follows:

"1503. Influencing or injuring officer or juror generally."; and

(2) by adding at the end the following:

"1512. Tampering with a witness or an informant.

"1513. Retaliating against a witness or an informant.

"1514. Civil action to restrain harassment of a victim or witness.

"1515. Definitions for certain provisions.".

(c) Section 1503 of title 18 of the United States Code is amended—

(1) in the heading of such section, by striking out ", juror or witness" and inserting in lieu thereof "or juror";

(2) by striking out "witness" the first place it appears after "impede any" and all that follows through "or any grand" and inserting "grand" in lieu thereof; and

(3) by striking out "injures any party or witness" and all that follows through "matter pending therein, or".

(d) Section 1505 of title 18 of the United States Code is amended by—

(1) striking out paragraphs (1) and (2);

(2) striking out "such" the first place it appears in the fourth paragraph and inserting in lieu thereof "any pending";

(3) striking out "such" the second place it appears in the fourth paragraph and inserting in lieu thereof "any"; and

(4) striking out "such inquiry" in the fourth paragraph and inserting in lieu thereof "any inquiry".

(e) Section 1510(a) of title 18 of the United States Code is amended—

(1) by striking out the comma immediately following "bribery" and all that follows through "thereof";

(2) by striking out the semicolon immediately following "investigator" the first place it appears and all that follows through "Shall be fined" and inserting "shall be fined" in lieu thereof.

RESTITUTION

SEC. 4. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end the following:

"§ 3579. Nature of sentence of restitution

"(a)(1) The court, when sentencing a defendant convicted of an offense under this title or under subsection (i), (j), (h), or (n) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of the offense for which the defendant is sentenced.

"(2) If the court does not order restitution under this section, the court shall state on the record the reasons therefor.

"(b) The order may require that such defendant—

"(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

"(A) return the property to the rightful owner of the property or someone designated by the rightful owner; or

"(B) if return of the property under subparagraph (A) is impossible or impractical, pay an amount equal to the greater of the value of the property on the date of the damage, loss, or destruction, or the value of the property on the date of sentencing, less the value (as of the date the property is returned) of any part of the property returned under subparagraph (A) of this paragraph;

"(2) where an offense results in bodily injury to a victim—

"(A) pay necessary expenses of medical and related professional services and devices relating to physical or psychiatric care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

"(B) pay expenses necessarily incurred for physical and occupational therapy and rehabilitation; and

"(C) reimburse the victim for income lost by such victim as a result of such offense;

"(3) where an offense resulting in bodily injury also results in the death of a victim, pay necessary funeral expenses; and

"(4) in any instance, where the victim (or if the victim is deceased, the victim's estate) consents, make restitution in services in lieu of money.

"(c) The court shall not impose an order of restitution under this section if such imposition will unduly complicate or prolong the sentencing process.

"(d)(1) The court shall not impose restitution with respect to a loss for which the victim has received or is to receive compensation, except that if such compensation is received from an insurer against such loss, the court may order restitution to such insurer to the extent of such compensation. An order of restitution shall require that all restitution to victims under such order be made before any restitution to any insurer under such order is made.

"(2) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by such victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of that State.

"(e)(1) The court may require that such defendant make restitution under this section within a specified period or in specified installments.

"(2) The end of such period or the last such installment shall not be later than—

"(A) the end of the period of probation, if probation is ordered;

"(B) five years after the end of the term of imprisonment imposed, if the court does not order probation; and

"(C) five years after the date of sentencing in any other case.

"(3) If not otherwise provided by the court under this subsection, restitution shall be made immediately.

"(f) If such defendant is paroled under this title, compliance by such defendant with any order of restitution under this section shall be a condition of such parole. The Parole Commission may revoke such defendant's parole if such defendant fails to comply with such order. In determining whether to revoke such defendant's parole because of such a failure, the Parole Commission shall consider such defendant's employment status and financial resources, the financial needs of such defendant and the dependents of such defendant, such defendant's reason for noncompliance, and such other factors as the Parole Commission deems appropriate.

"(g) An order of restitution may be enforced by the United States or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

"§ 3580. Procedure for issuing order of restitution

"(a) The court, in determining whether to order restitution under section 3579 of this title and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs of the defendant and the defendant's dependent, and such other factors as the court deems appropriate.

"(b) The court may order the probation service of the court to obtain information pertaining to the factors set forth in subsection (a) of this section. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs.

"(c) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.

"(d) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and such defendant's dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.".

(b) The table of sections at the beginning of chapter 227 of title 18 of the United States Code is amended by adding at the end the following new items:

"3579. Nature of sentence of restitution.
"3580. Procedure for issuing order of restitution.".

FEDERAL GUIDELINES FOR FAIR TREATMENT OF CRIME VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM

SEC. 5. (a) Within two hundred and seventy days after the date of the enactment of this Act, the Attorney General shall prescribe and implement guidelines for the fair treatment of crime victims and witnesses in criminal cases. In preparing the guidelines the Attorney General shall consider the following objectives:

(1) A victim of crime should routinely receive emergency social and medical services as soon as possible and information on—

(A) the availability to the victim of any crime victim compensation and of community-based victim-treatment programs;

(B) the crime victim's role in the criminal justice process; and

(C) stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained.

(2) A victim or witness should routinely receive information on steps that law enforcement officers and attorneys for the Government can take to protect victims and witnesses from intimidation.

(3) A victim or witness should receive timely advance notice of all proceedings such victim or witness must attend.

(4) A victim of, or witness to, a serious crime should be able to request advance notification of—

(A) the arrest of an accused, if such notification is feasible;

(B) the initial appearance of an accused before a judicial officer;

(C) the initial bond decision relating to the accused; and

(D) proceedings in the presecution of the accused (including entry of a plea of guilty, trial, sentencing, and, where a term of imprisonment is imposed, the release of the accused from such imprisonment).

(5) The victim of a serious crime, or in the case of a minor child or a homicide, the victim's family, should be consulted by the attorney for the Government in order to obtain such victim's or such family's views about the disposition of any Federal criminal case brought as a result of such crime, including such victim's or family's views about—

(A) dismissal;

(B) release of the accused pending judicial proceedings;

(C) plea negotiations; and

(D) pretrial diversion program.

(6) Victims and witnesses should be provided within a secure waiting area during court proceedings.

(7) Property held for evidentiary purposes should promptly be returned to the owner of such property unless there is a compelling law enforcement reason for retaining such property.

(8) A victim or witness who so requests should be assisted by law enforcement agencies and attorneys for the Government in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of cooperation with law enforcement agencies or attorneys for the Government, is subjected to serious financial strain, should be assisted by such agencies and attorneys in explaining to creditors the reason for such serious financial strain.

(9) Victim assistance education and training should be offered to persons taking courses at Federal law enforcement training facilities and attorneys for the Government so that victims may be promptly, properly, and completely assisted.

(10) Any other important means of assisting victims and witnesses that the prescribing official deems appropriate.

(b) Nothing in this section shall be construed as creating a cause of action against the United States.

PROFIT BY A CRIMINAL FROM PUBLICITY RELATING TO CRIMINAL CONDUCT

SEC. 6. Within one year after the date of enactment of this Act, the Attorney General shall report to Congress regarding the desirability of legislation necessary to assure that no Federal felon derives any profit from the sale of the recollections, thoughts, and feelings of such felon with regard to the offense committed by such felon until any victim of such offense receives restitution.

BAIL

SEC. 7. Section 3146(a) of chapter 207 of title 18, United States Code, is amended in the matter preceding paragraph (1)—

(1) by inserting after "judicial officer," the second place it appears the following: "subject to the condition that such person not commit an offense under section 1503, 1512, or 1513 of this title,"; and

(2) by inserting after "impose" the following: "a condition of release that such person not commit an offense under section 1503, 1512, or 1513 of this title and impose".

EFFECTIVE DATE

SEC. 8. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b)(1) The amendment made by section 2 of this Act shall apply to presentence reports ordered to be made on or after March 1, 1983.

(2) The amendments made by section 4 of this Act shall apply with respect to offenses occurring on or after January 1, 1983.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid upon the table.

OMNIBUS VICTIMS PROTECTION ACT OF 1982

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 2420) to protect victims of crime, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Victims Protection Act of 1982".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that:

(1) Without the cooperation of victims and witnesses, the criminal justice system would cease to function; yet with few exceptions these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.

(2) All too often the victim of a serious crime is forced to suffer physical, psychological, or financial hardship first as a result of the criminal act and then as a result of

contact with a criminal justice system unresponsive to the real needs of such victim.

(3) Although the majority of serious crimes falls under the jurisdiction of State and local law enforcement agencies, the Federal Government, and in particular the Attorney General, have an important leadership role to assume in ensuring that victims of crime, whether at the Federal, State, or local level, are given proper treatment by agencies administering the criminal justice system.

(4) Under the current law, law enforcement agencies must have cooperation from victims of crime and yet neither the agencies nor the legal system can offer protection or assistance when such victim as a result of such cooperation, is threatened or intimidated.

(5) While the defendant is provided with counsel who can explain to him both the criminal justice process and his rights, the victim or witness has no counterpart and is usually not even notified when the defendant is released on bail, the case is dismissed, a plea to a lesser charge is accepted, or a court date is changed.

(6) The victim and witness who cooperate with the prosecutor often find that the transportation, parking facilities, and child care services at the court are unsatisfactory and they must often share the pretrial waiting room with the defendant or his family and friends.

(7) The victim may lose valuable property to a criminal only to lose it again for long periods of time to Federal law enforcement officials, until the trial and sometimes the appeals are over; many times that property is damaged or lost, which is particularly stressful for the elderly or poor.

(b) The Congress declares that the purposes of this Act are—

(1) to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process;

(2) to ensure that the Federal Government does all that is possible within the limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of the defendant; and

(3) to provide a victim/witness model for State and local law enforcement officials.

TITLE I—VICTIM'S IMPACT STATEMENT

SEC. 101. Subsection (c)(2) of rule 32 of the Federal Rules of Criminal Procedure is amended by striking ", and such other information as may be required by the court" and inserting in lieu thereof: "The report shall also contain verified information stated in a nonargumentative style assessing the financial, social, psychological, and medical impact upon and cost to any person who was the victim of the offense committed by the defendant. The report shall also include a statement of any need of the victim for restitution and any such other information as may be required by the court.".

TITLE II—PROTECTION OF VICTIMS AND WITNESSES FROM INTIMIDATION

SEC. 201. (a) Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1512. Tampering with a witness, victim, or an informant

"(a) Whoever—

"(1) knowingly uses or attempts to use physical force, threat, intimidation, or fraud with intent to—

"(A) influence the testimony of another person in an official proceeding;

"(B) cause or induce another person to—

"(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"(ii) alter, destroy, mutilate, or conceal an object with intent to impair such object's integrity or availability for use in an official proceeding;

"(iii) evade legal process summoning him to appear as a witness, or to produce a record, document, or other object in an official proceeding; or

"(iv) absent himself from an official proceeding to which he has been summoned by legal process; or

"(C) hinder, delay, or prevent the communication to a law enforcement officer of information relating to an offense or a possible offense;

"(2) knowingly and maliciously hinders, delays, prevents, or dissuades or attempts to hinder, delay, prevent, or dissuade—

"(A) a witness or a victim from attending or testifying in an official proceeding; or

"(B) a witness, victim, or a person acting on behalf of a victim from—

"(i) making a report of an offense or a possible offense to a judge, a law enforcement officer, a probation or parole officer, or an officer of a correctional facility;

"(ii) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted or assisting in such prosecution or proceeding; or

"(iii) arresting, or causing or seeking the arrest of, a person in connection with an offense; or

"(3) corruptly, by threats of force, or by any threatening letter of communication, intentionally influences, obstructs or impedes, or attempts to influence, obstruct, or impede the—

"(A) enforcement and prosecution of Federal law;

"(B) administration of a law under which an official proceeding is being or may be conducted; or

"(C) exercise of a Federal legislative power of inquiry,

shall be punished as provided in subsection (b).

"(b) Whoever is guilty of an offense set forth in subsection (a)(1) shall be fined not more than $100,000, or imprisoned not more than ten years, or both. Whoever is guilty of an offense set forth in subsection (a)(2) or (a)(3) shall be fined not more than $25,000 or imprisoned not more than five years, or both. Whoever is convicted for a second or subsequent offense under this section shall be sentenced to a term of imprisonment, or fine or both up to twice that authorized for such offense.

"(c) In a prosecution for an offense under subsection (a)(1) of this section, it is an affirmative defense, as to which the defendant has the burden of proving the defense by a preponderance of the evidence, that the conduct engaged in consisted solely of lawful conduct and that the defendant's sole intention was to encourage or cause the other person to testify truthfully.

"(d) It is not a defense to a prosecution under this section that—

"(1) an official proceeding was not pending or about to be instituted;

"(2) the testimony, or the record, document, or other object, would have been legally privileged or would have been inadmissible in evidence; or

"(3) no person was injured physically, or, in fact, intimidated.

"(e) There is Federal jurisdiction over an offense described in this section if—

"(1) the official proceeding, offense, or prosecution is or would be a Federal official proceeding, offense, or prosecution;

"(2) the officer is a Federal public servant and the information or report relates to a Federal offense or a possible Federal offense;

"(3) the administration of justice, administration of a law, or exercise of a legislative power of inquiry relates to a Federal Government function;

"(4) the United States mail or a facility in interstate or foreign commerce is used in the planning, promotion, management, execution, consummation, or concealment of such crime punishable in this section, or in the distribution of the proceeds of such crime punishable in this section;

"(5) movement of a person across a State or United States boundary occurs in the planning, promotion, management, execution, consummation, or concealment of such crime punishable in this section or in the distribution of the proceeds of such crime punishable in this section.

"§ 1513. Retaliating against a witness or an informant

"(a) Whoever—

"(1) knowingly engages in conduct by which he causes bodily injury to another person or damages the property of another person because of—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given, or any record, document, or other object produced, by a witness in an official proceeding; or

"(B) any information relating to an offense or a possible offense given by a person to a law enforcement officer; or

"(2) threatens to cause bodily injury to another person or to damage the property of another person or otherwise endeavor to intimidate another person because of any matter described in subparagraph (A) or (B) of paragraph (1);

"(3) unlawfully subjects a Federal public servant to economic loss or injury to his business or profession because of any matter described in subparagraph (A) or (B) of paragraph (1),

shall be punished as provided in subsection (b).

"(b) Whoever is guilty of an offense set forth in subsection (a)(1) shall be fined not more than $100,000 or imprisoned not more than ten years, or both. Whoever is guilty of an offense in subsection (a)(2) shall be fined not more than $10,000 or imprisoned for not more than two years, or both. Whoever is guilty of an offense in any other case under this section shall be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(c) There is Federal jurisdiction over an offense described in this section if—

"(1) the official proceeding is a Federal official proceeding;

"(2) the law enforcement officer is a Federal public servant and the information relates to a Federal offense or a possible Federal offense;

"(3) the United States mail or facility in interstate or foreign commerce is used in the planning, promotion, management, execution, consummation, or concealment of such crime punishable in this section or in the distribution of the proceeds of such crime punishable in this section; or

"(4) movement of a person across a State or United States boundary occurs in the planning, promotion, management, execution, consummation, or concealment of such

crime punishable in this section or in the distribution of the proceeds of such crime punishable in this section."

"§ 1514. Definitions for certain provisions

"As used in sections 1512 and 1513 of this title the term—

"(1) 'law enforcement officer' means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant (including an elected official, judge, or juror)—

"(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

"(B) serving as a parole or probation officer under this title;

"(2) 'maliciously' means for the purpose of (A) intimidating, harassing, harming, injuring in any other way another person or (B) interfering with the orderly administration of justice;

"(3) 'official proceeding' means—

"(A) a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, or a Federal grand jury, a parole or probation officer;

"(B) a proceeding before the Congress; or

"(C) a proceeding before a Federal Government agency which is authorized by law;

"(4) 'physical force' means physical action against another, and includes confinement;

"(5) 'victim' means an individual against whom an offense has been or is being committed, or was attempted to be committed;

"(6) 'witness' means an individual—

"(A) having knowledge of the existence or nonexistence of facts relating to an offense;

"(B) whose declaration under oath is received in evidence for any purpose;

"(C) who has reported an offense to a judge, a law enforcement officer, or probation officer, or an officer of a correctional facility; or

"(D) who has been served with a subpoena, including a grand jury subpoena, issued under the authority of a court of the United States.

"§ 1515. Penalty for an offense committed while on release pending judicial proceedings

"Any term of imprisonment which is imposed under section 1503, 1512, or 1513 when the offense is committed while such person is released under chapter 207 of this title shall be consecutive to any sentence of imprisonment for the offense with respect to which release was ordered.".

(b) The analysis for chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"1512. Tampering with a witness, victim, or an informant.
"1513. Retaliating against a witness or an informant.
"1514. Definitions for certain provisions.
"1515. Penalty for an offense committed while on release pending judicial proceeding.".

(c) Subsection (a) of section 3146 of chapter 207 of title 18, United States Code, is amended by—

(1) inserting between "officer," and "unless" the following: "subject to the condition that such person not commit an offense under chapter 73 of this title,"; and

(2) inserting between "impose" and "the" the following: "a condition of release that such person not commit an offense under chapter 73 of this title and impose"; and

(3) by adding at the end thereof the following: "Notwithstanding any other provision of this subsection, the pretrial release of any person pursuant to this section or section 3148 shall be deemed to include a condition that the defendant not commit or cause to be committed any act proscribed by sections 1503, 1512, and 1513 of this title.".

SEC. 202. (a) Title 18 of the United States Code is amended by adding after chapter 223 the following new chapter:

"CHAPTER 224—PROTECTION OF WITNESSES

"Sec.
"3521. Witness relocation and protection.
"3522. Reimbursement of expenses.
"3523. Civil action to restrain witness or victim intimidation.
"3524. Definition for chapter.

"§ 3521. Witness relocation and protection

"(a) The Attorney General may provide for the relocation or protection of a government witness or a potential government witness in an official proceeding if the Attorney General determines that an offense described in section 1503, 1512, or 1513 of this title, or a State or local offense that is similar in nature or that involves a crime of violence directed at a witness, is likely to be committed. The Attorney General may also provide for the relocation or protection of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered.

"(b) In connection with the relocation or protection of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the Attorney General may take any action he determines to be necessary to protect such person from bodily injury, and otherwise to assure his health, safety, and welfare, for as long as, in the judgment of the Attorney General, such danger exists. The Attorney General may—

"(1) provide suitable official documents to enable a person relocated to establish a new identity;

"(2) provide housing for the person relocated or protected;

"(3) provide for the transportation of household furniture and other personal property to the new residence of the person relocated;

"(4) provide a tax-free subsistence payment, in a sum established in regulations issued by the Attorney General, for such times as the Attorney General determines to be warranted;

"(5) assist the person relocated in obtaining employment; and

"(6) refuse to disclose the identity or location of the person relocated or protected, or any other matter concerning the person or the program after weighing the danger such a disclosure would pose to the person, the detriment it would cause to the general effectiveness of the program, and the benefit it would afford to the public or to the person seeking the disclosure.

"(c) Notwithstanding the provisions of subsection (b)(6), if a person relocated under this section is named as a defendant in a civil cause of action, arising prior to the person's relocation, for damages resulting from bodily injury, property damage, or injury to business, process in the civil proceeding may be served upon the Attorney General. The Attorney General shall make reasonable efforts to serve a copy of the process upon the person relocated at his last known address. If a judgment in such an action is entered against the person relocated, the Attorney General shall detemine whether the person has made reasonable efforts to comply with the provisions of that judgment. The Attorney General shall take affirmative steps to urge the person relocated to comply with any judgment rendered. If the Attorney General determines that the person has not made reasonable efforts to comply with the provisions of the judgment, he may, in his discretion, after weighing the danger to the person relocated, disclose the identity and location of that person to the plaintiff entitled to recovery pursuant to the judgment. Any such disclosure shall be made upon the express condition that further disclosure by the plaintiff of such identity or location may be made only if essential to the plaintiff's efforts to recover under the judgment, and only to such additional persons as is necessary to effect the recovery. Any such disclosure or nondisclosure by the Attorney General shall not subject the government to liability in any action based upon the consequences thereof.

"§ 3522. Reimbursement of expenses

"The provision of transportation, housing, subsistence, or other assistance to a person under section 3521 may be conditioned by the Attorney General upon reimbursement of expenses in whole or in part to the United States by a State or local government.

"§ 3523. Civil action to restrain witness or victim intimidation

"(a) The Attorney General may initiate a civil proceeding to prevent and restrain an offense involving a witness or a victim under section 1503, 1512 or 1513 of this title. After a hearing and upon a finding, which may be based upon hearsay or the representation of the attorney for the government or the counsel for the defendant, that an offense under section 1503, 1512 or 1513 of this title involving a witness or a victim has occurred or is reasonably likely to occur, the court may order a defendant, a witness or other person connected with the case, or any individual in the courtroom to—

"(1) refrain from engaging in conduct in violation of section 1503, 1512, or 1513 of this title;

"(2) maintain a prescribed distance from a specified victim or witness; and

"(3) refrain from communicating with a specified victim or witness except under such conditions as the court may impose.

"(b) A district court of the United States in which a proceeding is initiated under this section has jurisdiction to hear and determine the matter so presented, and to prevent and restrain an offense referred to in subsection (a). In a proceeding initiated under this section, the court shall proceed as soon as practicable to a hearing and determination.

"§ 3524. Definition for chapter

"As used in this subchapter 'government' includes the Federal Government and a State or local government.".

(b) The table of chapters for part II of title 18, United States Code, is amended by adding after the item for chapter 223 the following new item:

"224. Protection of witnesses..... 3521".

TITLE III—RESTITUTION

SEC. 301. (a) Chapter 227 of title 18, United States Code, is amended by adding at the end the following:

"§ 3579. Order of restitution

"(a) The court, in imposing a sentence on a defendant for any offense under this title,

except an offense described in subsection (d), may order the defendant to make appropriate restitution. The order of restitution shall require that the defendant—

"(1) in the case of an offense causing injury or death, make restitution to the victim of the offense or estate of the victim in an amount that does not exceed income lost because of the victim's incapacitation or death, necessary medical expenses including ones associated with physical, psychological or vocational rehabilitation and, if applicable, the expenses for the funeral and burial of the victim; and

"(2) in the case of an offense resulting in loss, damage, or destruction of property—

"(A) restore the property to the victim of the offense; or

"(B) make restitution to the victim of the offense in an amount that does not exceed the value of the property; or

"(3) make restitution in money or, when the victim agrees, in services to the victim or to a person or organization designated by the victim.

If the court does not order restitution, the court must state for the record the reasons. The court shall make the order of restitution as fair as possible to the victim without unduly complicating or prolonging the sentencing process.

"(b)(1) The court shall not order restitution as to any victim who is bound by an earlier judgment in, or a settlement of a civil proceeding involving the underlying offense.

"(2) Any amount paid to a person pursuant to an order of restitution shall be set off against an amount later recovered as compensatory damages by such person in any civil proceeding.

"(3) A conviction of a defendant by a Federal court of an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the victim.

"(4) If appropriate the court may consider ordering restitution to any party who has compensated the victim for expenses or losses directly related to the crime.

"(5) An order of restitution may be enforced by the victim or the United States in same manner as a judgment in a civil action and notwithstanding any other provision of law, an order of restitution shall be satisfied by the defendant before any Federal lien.

"(c) If a defendant is placed on probation or paroled pursuant to this title any restitution ordered under this section shall be a condition of such parole or probation. Failure to comply with an order of restitution shall be grounds for the revocation of parole or probation. In determining whether failure to comply with an order of restitution shall be grounds for the revocation of parole or probation, the Court shall consider the defendant's employment status, earning ability, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.".

(b) The analysis for chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3579. Order of restitution.".

(c) Within six months after the date of enactment of this title, the Attorney General shall report to Congress concerning any laws necessary to ensure that all victims of crime are justly compensated in those cases where restitution is not possible. The Attorney General shall consider funding methods such as imposing additional fines on all individuals convicted of Federal crimes.

(d) The court may not order restitution in any offense described in:

(1) section 24 of the Securities Act of 1933 (15 U.S.C. 77x) (relating to the registration of securities);

(2) section 325 of the Trust Indenture Act of 1939, as added by the Act of August 3, 1939, and amended (15 U.S.C. 77yyy) (relating to the public offering of notes, bonds, debentures, evidences of indebtedness, and certificates of interest or participation therein);

(3) section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a)) (relating to regulation of transactions in securities exchanges and over-the-counter markets);

(4) section 29 of the Public Utility Holding Company Act (15 U.S.C. 79z-3) (relating to regulation of public utility holding companies and their subsidiary companies);

(5) section 49 of the Investment Company Act of 1940 (15 U.S.C. 80a-48) (relating to regulation of investment companies and securities issued by them);

(6) section 217 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-17) (relating to registration of investment advisers);

(7) section 11911 of subtitle IV of title 49, United States Code (relating to securities of carriers subject to the jurisdiction of the Interstate Commerce Commission);

(8) section 127 of chapter 2 of title I of the Act of October 26, 1970 (12 U.S.C. 1957) (relating to records and reports by uninsured banks and institutions, banks insured by the Federal Deposit Insurance Corporation, and institutions insured by the Federal Savings and Loan Insurance Corporation);

(9) section 210 of the Currency and Foreign Transaction Reporting Act (31 U.S.C. 1059) (relating to records and reports concerning domestic currency transactions, exports and imports of monetary instruments, and foreign monetary transactions);

(10) section 9(b) of the Commodity Exchange Act (7 U.S.C. 13(b) (relating to price manipulation and other illegal practices involving transactions in commodities in interstate commerce), and section 9 (d) and (e) of that Act (7 U.S.C. 13 (d) and (e)) (relating to transactions in commodity futures by commissioners, employees, or agents of the Commodity Futures Trading Commission);

(11) the eleventh paragraph of section 25(a) of the Act of December 23, 1913, as added by the Act of December 24, 1919 (12 U.S.C. 617) (relating to the prohibition on the use of corporate funds to manipulate the price of a commodity by an agent of a corporation organized to do foreign banking); and

(12) sections 1, 2, and 3 of the Sherman Act (15 U.S.C. 1, 2, and 3) (relating to agreements in restraint of trade and monopolizing trade).

TITLE IV—FEDERAL ACCOUNTABILITY FOR ESCAPE OR RELEASE OF FEDERAL PRISONER

SEC. 401. (a) Section 1346(b) of title 28, United States Code, is amended by inserting "(1)" immediately after "(b)".

(b) Section 1346(b) of title 28, United States Code, is amended by adding at the end thereof the following:

"(2)(A) Subject to the provisions of chapter 171 of this title and subparagraph (B) of this paragraph, the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of any civil action on a claim against the United States for damages, accruing on and after the date of enactment of this paragraph, for personal injury or death directly caused by any dangerous offender charged with or convicted of a Federal offense who is released from, or who escapes from, lawful custody of an employee of, or any person acting as the lawful agent of, the United States as a result of the gross negligence of such employee or person.

"(B) For the purposes of this paragraph 'dangerous offender' means a person charged with or convicted of a crime involving the use, attempted use, or threatened use of violence against the person of another.".

SEC. 402. Subsection (a) of section 2680 of title 28 of the United States Code is amended by adding at the end thereof the following: "This subsection shall not apply to actions constituting gross negligence for purposes of section 1346(b)(2) of this title.".

TITLE V—FEDERAL GUIDELINES FOR FAIR TREATMENT OF CRIME VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM

SEC. 501. (a) Within six months after the date of enactment of this title, the Attorney General shall develop and implement guidelines for the Department of Justice consistent with the purposes of this Act. The Attorney General shall assign responsibilities for the implementation of each of the guidelines. In preparing the guidelines the Attorney General shall consider the following objectives:

(1) SERVICES TO VICTIMS OF CRIME.—Law enforcement personnel should ensure that victims routinely receive emergency social and medical services as soon as possible and are given information on the following—

(A) availability of crime victim compensation (where applicable);

(B) community-based victim treatment programs;

(C) their role in the criminal justice process, including what they can expect from them;

(D) key points in the criminal justice process at which they might want to request information as to the status of their particular case and suggestions on how best to request this information; and

(E) ability of law enforcement officers to protect victims and witnesses from intimidation.

(2) SCHEDULING CHANGES.—All victims and witnesses who have been scheduled to attend criminal justice proceedings should either be notified as soon as possible of any scheduling changes which will affect their appearances or have an "on call" or "telephone-alert" system available.

(3) PROMPT NOTIFICATION TO VICTIMS OF MAJOR SERIOUS CRIMES.—The opportunity to request advance notification of important criminal justice proceedings shall be given to victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims. Those same individuals, who provide the appropriate official with a current address and telephone number, should receive prompt advance, if possible, notification of judicial proceedings relating to their case, including—

(A) arrest or initial appearance before a judicial officer of the accused;

(B) initial bond decision of the accused; and

(C) disposition of the case (including trial, sentencing, and eventual release of accused).

(4) CONSULTATION WITH VICTIM.—The prosecution should obtain the non-binding views of victims of serious crimes, or in the case of a minor child or homicide, the victim's family, prior to making a recommendation to the court, when the victim has provided a current address and telephone number. The key points for consultation include—

(A) pretrial release hearings (if feasible);

(B) pretrial diversion program;

(C) dismissal; and

(D) plea negotiations.

(5) SEPARATE WAITING AREA.—Victims and other prosecutor witnesses should be provided prior to court appearance a waiting area that is separate from all other witnesses.

(6) PROPERTY RETURN.—Law enforcement agencies and prosecutors should promptly return victim's property held for evidentiary purposes unless there are compelling law enforcement reason for retaining it.

(7) NOTIFICATION TO EMPLOYER.—A victim or witness should be asked if he would like his employer to be notified of need for the victim/witness to cooperate and, therefore, be absent from work. If the victim or witness has to take time off from work to assist in the investigation or prosecution of the case, employers should be encouraged to continue to pay the victim or witness as if he had actually worked. In situations where, as a direct result of a crime or cooperation with law enforcement officials, the victim or witness is subjected to serious financial strain, a law enforcement official should offer to contact creditors to explain the circumstances.

(8) TRAINING BY FEDERAL LAW ENFORCEMENT TRAINING FACILITIES.—The Attorney General and Secretary of the Treasury should instruct the directors of the Federal training facilities to ensure that victim assistance training be offered to law enforcement personnel so that victims are properly assisted immediately following the commission of crime and throughout the duration of the criminal justice proceedings; and to ensure that criminal justice personnel are familiar with these guidelines.

(9) GENERAL VICTIM ASSISTANCE.—The guidelines should also ensure that when feasible other important means of assisting victims and witnesses, such as the adoption of transportation, parking, and translator services for victims in court, are provided.

(b) Nothing in this title shall be construed as creating a cause of action against the United States.

SEC. 502. All Federal law enforcement agencies, outside of the Department of Justice, shall adopt guidelines consistent with section 501.

TITLE VI—PROFIT BY A CRIMINAL FROM SALE OF HIS STORY

SEC. 601. Within one year after the date of enactment of this title, the Attorney General shall report to Congress regarding any laws that are necessary to ensure that no Federal felon derives any profit from the sale of the recollections, thoughts, and feelings of such felon with regards to the offense committed by the felon until any victim of the offense receives restitution.

MOTION OFFERED BY MR. RODINO

Mr. RODINO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. RODINO moves to strike out all after the enacting clause of the Senate bill, S. 2420, and insert in lieu thereof the provisions of H.R. 7191, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to provide additional protections and assistance to victims and witnesses in Federal cases."

A motion to reconsider was laid on the table.

A similar House bill, H.R. 7191, was laid on the table.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

INTERNATIONAL CARRIAGE OF PERISHABLE FOODSTUFFS ACT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6164) to authorize the Secretary of Agriculture to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP), and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 7, after line 9, insert:

ASSISTANT SECRETARY OF AGRICULTURE

SEC. 8. (a) There shall be in the Department of Agriculture, in addition to the Assistant Secretaries now provided for by law, an additional Assistant Secretary of Agriculture who shall be appointed by the President, by and with the advice and consent of the Senate, who shall be responsible for such duties as the Secretary of Agriculture shall prescribe and shall receive compensation at the rate now or hereafter prescribed by law for Assistant Secretaries of Agriculture.

(b) Section 5315 of title 5 of the United States Code is amended by striking out "(6)" following "Assistant Secretaries of Agriculture" and inserting in lieu thereof "(7)".

(c) Section 5316 of title 5 of the United States Code is amended by striking out "Assistant Secretary of Agriculture for Administration".

(d) Section 3 of Reorganization Plan Numbered 2 of 1953 (67 Stat. 633) is repealed.

(e) This section shall take effect on the date of enactment of this Act except that subsections (c) and (d) of this section shall take effect upon the appointment of a person to fill the successor position created by subsection (a) of this section.

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WAMPLER. Mr. Speaker, reserving the right to object, I rise in support of the Senate amendment.

Mr. Speaker, I rise in support of H.R. 6164, the International Carriage of Perishable Foodstuffs Act.

This legislation, as passed by the House on May 18, 1982, under suspension of the rules, would implement the agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be used for such carriage. This agreement was developed under the auspices of the Economic Commission for Europe, a subsidiary of the United Nations.

The Senate ratified the agreement in March 1980, but before the agreement can be promulgated it is necessary that this legislation be enacted.

This legislation provides that the Secretary of Agriculture has the responsibility for the U.S. Government for the administration and implementation of the agreement. Essentially what the Secretary must do is issue regulations establishing a program for the testing and certification of temperature controlled equipment; thus manufacturers and owners of temperature controlled equipment could have their equipment inspected, tested, and certified to the standards outlined in the agreement.

Both industry and Government witnesses, in appearances before the Subcommittee on Department Operations, Research, and Foreign Agriculture of the House Agriculture Committee, fully supported this legislation. They indicated that there is no problem with U.S. equipment meeting the standards as outlined in this agreement.

The Senate, in the passage of this legislation, has added an amendment calling for the establishment of an Assistant Secretary for Administration at the Department of Agriculture. This amendment is strongly supported by the administration, and I would urge my colleagues in the House to support it also. The position is a very important one and the individual who is subsequently appointed must be someone who has the confidence of the Secretary because of the responsibility the office carries with it.

Mr. WAMPLER. Mr. Speaker, I yield to the gentleman from Texas (Mr. DE LA GARZA.

Mr. DE LA GARZA. Mr. Speaker, this bill passed the House on May 18 of this year. The Senate this week approved it with an amendment. H.R. 6164 is a bill to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage.

As passed by the House, H.R. 6164 designated the Secretary of Agriculture as the properly authorized person to administer the act, and fulfills the necessary prerequisite to the United States becoming a signatory of the treaty.

This act will make it possible for equipment in the United States to be inspected, tested, and certified in accordance with the agreement and the standards specified therein. This act will improve the conditions for the movement of perishable foodstuffs in international carriage in equipment owned or operated by United States firms, which will serve to protect existing trade and promote expansion of trade in perishable foodstuffs, and will improve the sale of U.S.-manufactured equipment for use in international carriage.

ASSISTANT USDA SECRETARY

The Senate amendment to H.R. 6164 simply makes the present position of Assistant Secretary for Administration a Presidential appointment, rather than a career service position, as is presently the case.

USDA believes that the position of Assistant Secretary for Administration entails a very high level of responsibility comparable to those of the other Assistant Secretaries of Agriculture who are appointed by the President. This position is heavily involved in policymaking and plays an important role in implementing managing improvement initiatives of the administration. USDA believes, therefore, there is a strong need for the Assistant Secretary for Administration to enjoy the full confidence of the Secretary in the performance of the important and sensitive responsibilities assigned to this position.

Mr. WAMPLER, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas (Mr. DE LA GARZA)?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

DESIGNATING THE MARY McLEOD BETHUNE COUNCIL HOUSE IN WASHINGTON, DISTRICT OF COLUMBIA, AS A NATIONAL HISTORIC SITE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2436) to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CONGRESSIONAL FINDINGS AND PURPOSE

SECTION 1. (a) FINDINGS.—The Congress finds and declares that—

(1) the Mary McLeod Bethune Council House was the residence in Washington, District of Columbia, of Mary McLeod Bethune, renowned educator, national political leader, and founder of the National Council of Negro Women;

(2) it was at this location that Mary McLeod Bethune directed activities that brought her national and international recognition;

(3) this site was significant as a center for the development of strategies and programs which advanced the interests of black women and the black community;

(4) it was at this location that Mary McLeod Bethune as the president of the National Council of Negro Women received heads of state, government officials, and leaders from across the world;

(5) the Mary McLeod Bethune Council House was the first national headquarters of the National Council of Negro Women, and is the site of the Mary McLeod Bethune Memorial Museum and the National Archives for Black Women's History;

(6) the archives, which houses the largest extant manuscript collection of materials pertaining to black women and their organizations, contains extensive correspondence, photographs, and memorabilia relating to Mary McLeod Bethune; and

(7) the museum and archives actively collect artifacts, clothing, artwork, and other materials which document the history of black women and the black community.

(b) PURPOSE.—It is the purpose of this Act—

(1) to assure the preservation, maintenance, and interpretation of this house and site because of the historic meaning and prominence of the life and achievements of Mary McLeod Bethune, an outstanding leader in the areas of housing, employment, civil rights, and women's rights; and

(2) to assure the continuation of the Mary McLeod Bethune Memorial Museum and the National Archives for Black Women's History at this site, the preservation of which is necessary for the continued interpretation of the history of black women in America.

ESTABLISHMENT OF HISTORIC SITE

SEC. 2. In order to further the purpose of this Act and the Act of August 21, 1935 (16 U.S.C. 461-7), the Mary McLeod Bethune Council House at 1318 Vermont Avenue Northwest, in the city of Washington, District of Columbia, is hereby designated as a national historic site (hereinafter in this Act referred to as the "historic site").

COOPERATIVE AGREEMENT

SEC. 3. In furtherance of the purposes of this Act and the Act of August 21, 1935 (16 U.S.C. 461-7), the Secretary of the Interior is authorized and directed to enter into cooperative agreements with the National Council of Negro Women. Such agreements may include provisions by which the Secretary will provide technical assistance to mark, restore, interpret, operate, and maintain the historic site and may also include provisions by which the Secretary will provide financial assistance to mark, interpret, and restore the historic site (including the making of preservation-related capital improvements and repairs but not including other routine operations). Such agreement may also contain provisions that—

(1) the Secretary of the Interior, acting through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public; and

(2) no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements.

No limitation or control of any kind over the use of such properties customarily used for the purposes of the National Council of Negro Women shall be imposed by any such agreement.

ANNUAL REPORT

SEC. 4. The National Council of Negro Women shall, as a condition of the receipt of any assistance under this Act, provide to the Secretary of the Interior and to the Congress of the United States an annual report documenting the activities and expenditures for which any such assistance was used during the preceding fiscal year.

SEC. 5. Beginning after September 30, 1983, there is authorized to be appropriated $100,000 to provide financial assistance under section 3 of this Act. There is also authorized to be appropriated for purposes of making grants to the National Council of Negro Women for purposes of this Act an additional $100,000 to be provided, as may be agreed to by the Secretary of the Interior and the National Council, on a fifty-fifty matching basis to the extent that funds or services are contributed by the National Council for such purposes. Sums authorized to be appropriated under this section shall remain available until expended.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ACQUISITION BY THE UNITED STATES BY EXCHANGE OF CERTAIN NATIVE OWNED LANDS OR INTEREST IN LANDS IN ALASKA

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6471) for the acquisition by the United States by exchange of certain native owned lands or interest in lands in Alaska, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6471

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act is enacted to facilitate the achieve-

ment of the purposes expressed in section 101 of the Alaska National Interest Lands Conservation Act (Public Law 96-487; 16 U.S.C. 3101).

(b) In exchange for conveyance to the United States by Koniag, Incorporated, Regional Native Corporation, of interests in or entitlements to lands within and adjacent to the exterior boundaries of the Koniag National Wildlife Refuge which were or are to be conveyed pursuant to the Alaska Native Claims Settlement Act to any or all of the Alaska Native village corporations representing, respectively, the Alaska Native villages of Akhiok, Old Harbor, Larsen Bay, Kaguyak, and Karluk, or to Koniag, Incorporated, as successsor in interest to such Native village corporations, and which interests in or entitlements to such lands are now owned by Koniag, Incorporated, as successor in interest, the Secretary of the Interior ("Secretay") shall issue to Koniag, Incorporated, certificates of bidding rights ("bidding rights").

(c) Bidding rights to be issued hereunder may be tendered and shall be accepted as payment in whole or part of bonuses or other cash payments, or deposits, in competitive lease sales conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1731, et seq.), until their total face value is thereby exhausted by a successful bid or bids. The face value of bidding rights issued shall equal the value of the land or interests therein conveyed in exchange for their issuance. In determining such values, primary consideration shall be given to the optimum enhancement of refuge objectives arising out of the acquisition by the United States of the lands and interests to be acquired, taking into consideration difficulties of achieving such optimum enhancement if the lands and interests are not acquired. The bidding rights issued hereunder shall be assignable in whole or part by Koniag, but no assignment shall be recognized by the Secretary until written notice thereof is filed with him by Koniag, Incorporated. Bidding rights may be exercised only by an entity qualified to bid under the Outer Continental Shelf Lands Act.

(d) The consummation of any exchange shall not affect subsistence uses of Koniag members and their families. By agreement with the Secretary, Koniag, Incorporated, may retain interests in the nature of easements or rights-of-way in, on or across any lands or interests conveyed to the United States under this Act including uses in connection with commercial fishing by or for its members and their families. Any reserved rights shall be exercised in accordance with such reasonable regulations as the Secretary may prescribe.

(e) Land or interests acquired by the United States shall become part of the Kodiak National Wildlife Refuge as provided in section 103(c) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 103(c)).

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike all after enacting clause and insert:

H.R. 6471

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act is enacted to facilitate the achievement of the purposes expressed in section 101 of the Alaska National Interest Lands Conservation Act (Public Law 96-487, 16 U.S.C., 3101 et seq.).

SEC. 2. (a) In the event that Koniag, Incorporated, Regional Native Corporation ("Koniag"), within one year after this Act becomes law, files with the Regional Director of the Fish and Wildlife Service, Anchorage, Alaska, a list designating interests in or entitlements to land as described in subsection (b) of this section which Koniag is willing to convey to the United States pursuant to this Act, then the Secretary of the Interior ("the Secretary"), not later than 180 days after Koniag files such list, shall select from such list interests or entitlements or both aggregating at least eighty per centum of the acreage thereof and shall notify Koniag of such selection.

(b) The list described in subsection (a) of this subsection may include only interests in or entitlements to land within the exterior boundaries of Kodiak National Wildlife Refuge ("Refuge") which have been or are to be conveyed pursuant to the Alaska Native Claims Settlement Act to any or all of the Alaska Native village corporations representing, respectively, the Alaska Native villages of Akhiok, Old Harbor, Larsen Bay, Kaguyak and Karluk, or to Koniag, as successor in interest to such Native village corporations, and which interests in or entitlements to such lands are now owned by Koniag as successor in interest.

(c) Upon determination pursuant to section 4 of this Act of the value of the interests or entitlements or both selected by the Secretary, Koniag shall convey the selected interests or entitlements or both to the United States by quitclaim deed or deeds. Upon Koniag's conveyance of the selected interests or entitlements or both to the United States, the Secretary shall issue to Koniag certificates of value ("certificates") in exchange therefor.

SEC. 3. Certificates issued under this Act may be tendered, and shall be accepted, as payment, in whole or part, of bonuses or other cash payments, or deposits, in competitive lease sales conducted under the Outer Continental Shelf Lands Act, as amended, 43 U.S.C. 1331, et seq., and of rentals and cash royalties on leases heretofore or hereafter issued under that Act, until their total face value is thereby exhausted by payments under a successful bid or bids and by rental and royalty payments. The face value of certificates issued hereunder shall equal the value of the land or interests therein conveyed in exchange for their issuance. In determining value of lands or interests to be conveyed to the United States under this Act, primary consideration shall be given to their value for Refuge purposes. Certificates issued under this Act shall be assignable in whole or part, but no assignment shall be recognized by the Secretary until written notice thereof is filed with him by the assignor and assignee. Certificates may be tendered only by an entity qualified to bid and hold leases under the Outer Continental Shelf Lands Act.

SEC. 4. The Secretary and Koniag shall attempt, through negotiations, to reach agreement on the value of the lands or interests therein which Koniag is to convey. In the event Koniag and the Secretary are unable to agree on such value within one year after the date on which the Secretary notified Koniag of his selections (or at such time prior thereto mutually agreed upon by the Secretary and Koniag) the determination of value shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association. Each member of the Board of Arbitrators shall be selected through utilization of the procedures of the American Arbitration Association: *Provided,* That such Board shall consist of three arbitrators, unless the Secretary and Koniag mutually agree to a lesser number. The decision of the Board of Arbitrators shall be final and conclusive. At any point prior to the announcement of a decision by the Board of Arbitration, the Secretary and Koniag may mutually agree on value.

SEC. 5. The conveyance of any lands or interests therein under this Act shall not affect subsistence uses of Koniag members and their families under applicable law. By agreement with the Secretary, Koniag may retain interests in the nature of easements or rights-of-way in, on, or across any surface estate or interests thereto be conveyed to the United States under this Act. Any interests reserved under this section shall be exercised in accordance with such reasonable regulations as the Secretary may prescribe.

SEC. 6. In addition to those interests or entitlements or both selected by the Secretary under section 1 of this Act, Koniag and the Secretary may from time to time agree that there shall be conveyed to the United States under and in accordance with this Act lands or interests therein owned by Koniag within or adjacent to the exterior boundaries of the Refuge. In each such case the negotiating period for the determination of value under section 4 shall be the one year period after Koniag and the Secretary have agreed upon the lands or interests to be conveyed.

SEC. 7. Lands or interests acquired by the United States under this Act shall become part of the Kodiak National Wildlife Refuge.

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EXTENDING PERIOD OF GRAZING PRIVILEGES ON PRIVATELY OWNED LANDS WITHIN CAPITOL REEF NATIONAL PARK IN UTAH

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1872) to amend the act establishing the Capitol Reef National Park in the State of Utah to provide for a grazing phaseout schedule, and for other purposes, with Senate amendments to the House amendments thereto, and concur in the Senate amendments to the House amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendments, as follows:

In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SECTION 1. Where any Federal lands included within the boundary of Capitol Reef National Park are legally occupied or utilized on the date of enactment of this Act for grazing purposes, pursuant to a lease, permit, or license which is—

(1) for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, and

(2) scheduled for termination before December 31, 1992,

notwithstanding the provisions of section 3 of the Act of December 18, 1971, entitled "An Act to establish the Capitol Reef National Park in the State of Utah" (85 Stat. 740; 16 U.S.C. 273), the Secretary of the Interior shall allow the persons holding such grazing privileges (or their heirs) to retain such grazing privileges until December 31, 1994.

SEC. 2. The Secretary of the Interior, acting through the Director of the National Park Service in cooperation with the Director of the Bureau of Land Management, shall take such steps as may be necessary to, within ninety days after the enactment of this Act, enter into a contract with the National Academy of Sciences for the purpose of conducting a study of grazing in Capitol Reef National Park and vicinity to:

(1) determine the historic and current impact of grazing upon the natural ecosystem and cultural resources of the park;

(2) determine the impacts of grazing upon visitor use within the park;

(3) evaluate alternatives to grazing within Capitol Reef National Park including means to increase grazing carrying capacity on adjacent Bureau of Land Management lands;

(4) determine the economic impact upon grazing permit holders, and on the local economy, if such permits were terminated; and

(5) include such other information and findings as may be deemed necessary by the Secretary of the Interior. Such study shall be conducted in accordance with the best scientific methodology (as set forth by the National Academy of Sciences) and shall be transmitted by the National Academy of Sciences to the Committee on Energy and Natural Resources of the United States Senate, to the Committee on Interior and Insular Affairs of the United States House of Representatives, and to the Director of the National Park Service no later than January 1, 1992. Progress reports regarding the study shall be transmitted to the above Committees on January 1, 1984, and January 1 of each year thereafter.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act. No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Nothing in this section shall be construed to prevent the Secretary of the Interior from utilizing, for purposes of the contract referred to in section 2, funds which are available to the Secretary for such purposes under authority of law.

Amend the amendment of the House to the title so as to read: "An Act to provide for a study of grazing phaseout at Capitol Reef National Park, and for other purposes.".

Mr. SEIBERLING (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MORRISON. Mr. Speaker, reserving the right to object, I do so because it is my understanding that the minority has not seen this rule, nor has it been considered by the Rules Committee.

Therefore, I voice my objection.

The SPEAKER pro tempore. Objection is heard.

CONFERENCE REPORT ON H.R. 6976, MISSING CHILDREN ACT

Mr. EDWARDS of California submitted the following conference report and statement on the bill (H.R. 6976) to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons):

CONFERENCE REPORT (H. REPT. No. 97-911)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6976) to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons), having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Missing Children Act".

SEC. 2. (a) Section 534(a) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (4);

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) acquire, collect, classify, and preserve any information which would assist in the identification of any deceased individual who has not been identified after the discovery of such deceased individual;

"(3) acquire, collect, classify, and preserve any information which would assist in the location of any missing person (including an unemancipated person as defined by the laws of the place of residence of such person) and provide confirmation as to any entry for such a person to the parent, legal guardian, or next of kin of that person (and the Attorney General may acquire, collect, classify, and preserve such information from such parent, guardian, or next of kin);"; and

(4) by striking out "exchange these records" in paragraph (4) (as so redesignated) and inserting in lieu thereof "exchange such records and information".

(b) Section 534(b) of title 28, United States Code, is amended—

(1) by inserting "and information" after "records"; and

(2) by striking out "(a)(2)" and inserting "(a)(4)" in lieu thereof.

SEC. 3. (a) The heading for section 534 of title 28, United States Code, is amended to read as follows:

"§534. Acquisition, preservation, and exchange of identification records and information; appointment of officials".

(b) The table of sections at the beginning of chapter 33 of such title is amended by striking out the item relating to section 534 and inserting in lieu thereof the following new item:

"534. Acquisition, preservation, and exchange of identification records and information; appointment of officials.".

And the Senate agree to the same.

DON EDWARDS,
ROBERT W. KASTENMEIER,
PATRICIA SCHROEDER,
HAROLD WASHINGTON,
PAUL SIMON,
F. JAMES SENSENBRENNER, JR.
DAN LUNGREN,
E. CLAY SHAW, JR.,
Managers on the Part of the House.

STROM THURMOND,
ORRIN G. HATCH,
ARLEN SPECTER,
PAULA HAWKINS,
JOSEPH R. BIDEN, JR.,
DENNIS DECONCINI,
HOWELL HEFLIN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6979) to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons), submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Conference agreement restored the House language proposed to be stricken by the Senate amendment with the following additional language at the end of paragraph (3) of the amended section 534 of title 28.

At the end of paragraph (3), add these words: "and provide confirmation as to any entry for such a person to the parent, legal guardian, or next of kin of that person (and the Attorney General may acquire, collect, classify, and preserve such information from such parent, guardian, or next of kin)".

The conference received the following letter from Federal Bureau of Investigation Director William H. Webster to the Honorable Don Edwards, Chairman of the House Subcommittee on Civil and Constitutional Rights:

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., September 29, 1982.

Hon. DON EDWARDS,

Chairman, Subcommittee on Civil and Constitutional Rights, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It is my understanding that within the next few days the House and Senate will confer on what are commonly referred to as the Missing Children Acts. These bills address a major problem in the United States, the tragedy of missing children and the problem of the unidentified dead. The sponsors of these bills should be commended for their untiring efforts in addressing these national concerns.

I prefer the House version because the Senate Bill, S. 1701, creates serious problems. S. 1701 would require the FBI to acquire, collect, and classify information concerning a missing person directly from that individual's parent, legal guardian, or next of kin, provided that that individual has reported the missing person to the appropriate law enforcement agency which has jurisdiction to investigate such matter. The rare case where the FBI should enter a missing child into the Missing Persons File is where the local police refuse to cooperate with the parent or guardian. No legislation is required for us to address this situation.

Currently, all entries made into the National Crime Information Center (NCIC) are made by law enforcement agencies having an investigative interest in the entry. This would change under S. 1701, where an entry would be made by the FBI at the request of a parent or guardian. The investigative agency is in the best position to know whether the information should be entered into the system and when it should be modified or cleared from the system. It is the investigative agency that has access to the needed official documentation and reports and other information, including the validity of missing person reports.

There are legal relationships existing between states in the form of interstate compacts on juveniles to which the FBI is not a signatory. This would place the FBI in the untenable position of entering records into the NCIC with no capacity to accomplish the continued detention and return of the missing person.

Reaction of local authorities to a "hit" based on entry by parent or legal guardian is, at the very best, uncertain. When a local law enforcement officer receives a "hit" through the NCIC computer, that officer must institute an inquiry by which that entry is determined to be current and, therefore, valid. The amount of time in which an official may detain the individual pending confirmation is relatively short—perhaps up to 30 minutes. If the parent or guardian is unavailable during that limited time, the detaining authority will most likely let the juvenile go free. Even if appropriate confirmation does occur during that time, other concerns may force the inquiring agency to disregard the "hit" based simply on the absence of an official investigation which, in most instances, would at least: (1) verify the status of the individual as a minor under the laws of the state; (2) verify other criteria under which the individual is entered; (3) verify the actual condition of being missing; and (4) verify the capacity of the individuals filing the complaint to do so.

While cost alone should not be determinative, it is worthy of your consideration when viewed in the light of the uncertain benefit and perhaps counterproductivity of the parental access provision. The FBI has calculated cost estimates for the direct parental access provision to NCIC at four levels of activity. These estimates represent anticipated added costs to the FBI. They are as follows:

Number of missing children:	*Estimated cost*
100,000	$2,132,695
250,000	5,326,857
1,000,000	21,298,780
1,800,000	38,335,300

I hope the above information is of assistance to you in your deliberation of the Missing Children bills. If I can be of any additional assistance to you in this or any other matter, please do not hesitate to contact me.

Sincerely yours,

WILLIAM H. WEBSTER,
Director.

The above letter from Director Webster was received by the conferees during the conference and based upon the assurances contained therein, the conferees unanimously agreed to adopt language making clear the right of a parent, legal guardian, or next of kin to verify whether or not the appropriate State or local law enforcement agency did enter such person in the National Crime Information Center System.

The Conferees unanimously agreed to the additional language described above based upon the asurances of the Director, contained in his letter, that if the appropriate State or local law enforcement agency refuses to enter the missing child in the National Crime Information Center System, the FBI will enter the information.

The conferees would direct particular attention to pages 5 through 9 of the Missing Children Act, Report of the Committee on the Judiciary, House of Representatives, September 16, 1982, which concludes in part that it is "apparent that the system needs to be expanded and enhanced if the problem of missing children in particular is to be adequately addressed. Additional physical descriptors aside from name, sex, and date of birth should be utilized to the extent that available technology permits. The Committee recognizes that there are inherent problems in designing a system which can isolate 'hits' of sufficient uniqueness to prove useful to the officer in the street. It is the Committee's understanding that the FBI is committed to broadening to the extent practicable the use of personal identifiers. For that reason, H.R. 6976 is drafted to make clear the congressional intent that the unique problem of missing children be addressed, while allowing the FBI sufficient management flexibility and latitude to implement that intent."

In addition, the conferees would direct attention to pages 8 and 9 of the United States Senate Report of the Committee on the Judiciary on the Missing Children Act which reflects the conferees' intent that the FBI provide State and local law enforcement agencies with a detailed format for the entry of missing persons information into the NCIC system, that the unidentified dead file be based upon autopsy, dental, and all descriptive and identifying information available, that the Attorney General appoint an appropriate Board of Advisors, including a medical examiner, a forensic odontologist, experienced State and local police investigators, and State officials who currently operate unidentified dead files, to oversee the establishment and operation of the National Clearinghouse on the Unidentified Dead.

The conferees adopt the relevant portions of the above described House and Senate reports on the Missing Children Act as indicative of the conferees' intent as to the legislation.

The conferees met and reached agreement on September 30, 1982.

DON EDWARDS,
ROBERT W. KASTENMEIER,
PATRICIA SCHROEDER,
HAROLD WASHINGTON,
PAUL SIMON,
F. JAMES SENSENBRENNER, JR.,
DAN LUNGREN,
E. CLAY SHAW, JR.,
Managers on the Part of the House.

STROM THURMOND,
ORRIN G. HATCH,
ARLEN SPECTER,
PAULA HAWKINS,
JOSEPH R. BIDEN, JR.,
DENNIS DECONCINI,
HOWELL HEFLIN,
Managers on the Part of the Senate.

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that, notwithstanding clause 2a of rule 28, it be in order to proceed to the immediate consideration of the conference report to accompany H.R. 6976.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the title of the bill.

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of today, Sept. 30, 1982.)

Mr. EDWARDS of California (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. EDWARDS) will be recognized for 30 minutes, and the gentleman from Wisconsin (Mr. SENSENBRENNER) will be recognized for 30 minutes.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report on the Missing Children Act reflects the unanimous decision of the conferees from both the House and the Senate to adopt the House version of the bill with one additional provision. This provision simply clarifies the right of parents to confirm directly from the FBI whether or not their missing child is, in fact, entered into the National Crime Information Center's computerized missing person system.

I urge all Members of the House to support the approval of this conference report.

Mr. Speaker, I yield to the author of the bill, a member of the conference committee, the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I thank my colleague, the gentleman from California.

I simply want to commend him for his leadership and commend the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Florida (Mr. SHAW).

This is something that is long overdue. It is a fundamental protection for the families of America and I am pleased that we are at this point.

I thank my colleague again for his leadership.

Mr. EDWARDS of California. Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I fully support the conference report that is before the House at the present time. I believe that the House won the battle in the conference by using the House bill as a vehicle with certain additional language that was inserted that would guarantee the right of the parent, guardian or next of kin, to verify whether the identity of a missing person has been entered into the Federal Bureau of Investigation's national crime information files.

□ 1850

Furthermore, it directs the Attorney General or allows him to acquire, collect, classify, and preserve such information furnished by a parent, guardian, or next of kin.

During the conference, the conferees received a letter from the FBI Director Webster that clearly states his understanding, and I would ask unanimous consent that the text of this letter be inserted in the RECORD at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The letter follows:

FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., September 29, 1982.

Hon. DON EDWARDS,
Chairman, Subcommittee on Civil and Constitutional Rights, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It is my understanding that within the next few days the House and Senate will confer on what are commonly referred to as the Missing Children Acts. These bills address a major problem in the United States, the tragedy of missing children and the problem of the unidentified dead. The sponsors of these bills should be commended for their untiring efforts in addressing these national concerns.

I prefer the House version because the Senate Bill, S. 1701, creates serious problems. S. 1701 would require the FBI to acquire, collect, and classify information concerning a missing person directly from that individual's parent, legal guardian, or next of kin, provided that that individual has reported the missing person to the appropriate law enforcement agency which has jurisdiction to investigate such matter. The rare case where the FBI should enter a missing child into the Missing Persons File is where the local police refuse to cooperate with the parent or guardian. No legislation is required for us to address this situation.

Currently, all entries made into the National Crime Information Center (NCIC) are made by law enforcement agencies having an investigative interest in the entry. This would change under S. 1701, where an entry would be made by the FBI at the request of a parent or guardian. The investigative agency is in the best position to know whether the information should be entered into the system and when it should be modified or cleared from the system. It is the investigative agency that has access to the needed official documentation and reports and other information, including the validity of missing person reports.

There are legal relationships existing between states in the form of interstate compacts on juveniles to which the FBI is not a signatory. This would place the FBI in the untenable position of entering records into the NCIC with no capacity to accomplish the continued detention and return of the missing person.

Reaction of local authorities to a "hit" based on entry by parent or legal guardian is, at the very best, uncertain. When a local law enforcement officer receives a "hit" through the NCIC computer, that officer must institute an inquiry by which that entry is determined to be current and, therefore, valid. The amount of time in which an official may detain the individual pending confirmation is relatively short—perhaps up to 30 minutes. If the parent or guardian is unavailable during that limited time, the detaining authority will most likely let the juvenile go free. Even if appropriate confirmation does occur during that time, other concerns may force the inquiring agency to disregard the "hit" based simply on the absence of an official investigation which, in most instances, would at least: (1) verify the status of the individual as a minor under the laws of the state; (2) verify other criteria under which the individual is entered; (3) verify the actual condition of being missing; and (4) verify the capacity of the individuals filing the complaint to do so.

While cost alone should not be determinative, it is worthy of your consideration when viewed in the light of the uncertain benefit and perhaps counterproductivity of the parental access provision. The FBI has calculated cost estimates for the direct parental access provision to NCIC at four levels of activity. These estimates represent anticipated added costs to the FBI. They are as follows:

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I hope the above information is of assistance to you in your deliberation of the Missing Children bills. If I can be of any additional assistance to you in this or any other matter, please do not hesitate to contact me.

Sincerely yours,

WILLIAM H. WEBSTER,
Director.

Mr. SENSENBRENNER. This letter from Director Webster was received during the conference and, based upon the assurances contained therein, the conferees unanimously agreed to adopt the language that I have referred to.

The conferees unanimously agreed to the additional language described above, based upon the assurances of the Director as contained in his letter that if the appropriate State or local law enforcement agency refuses to enter the missing child in the National Crime Information Center System, the FBI will enter the information.

I believe that this is an appropriate compromise, and I would like to commend my colleague from Florida (Mr. SHAW), as well as the chairman of the subcommittee, the gentleman from California (Mr. EDWARDS), as well as the gentleman from Illinois (Mr. SIMON), for their yeomen's work this afternoon.

Mr. Speaker, I now yield such time as he may consume to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. I thank the gentleman for yielding to me.

Mr. Speaker, I will be brief in my remarks. I think today we got over a very difficult hump. There were some

significant differences between the House language and the Senate language.

I would like to compliment my friend, the ranking minority member, Mr. SENSENBRENNER, on the subcommittee and also the chairman of the subcommittee, the gentleman from California (Mr. EDWARDS), for doing a yeoman job in seeing this through the whole conference session as well as the committee process here on the House side.

I would also like to particularly thank Mr. SIMON and compliment him for his work on this particular bill and the tremendous amount of effort that he has put in, particularly as the coauthor of this bill, together with me on the House side, and particularly, I think, the originator of this bill in the House of Representatives.

Mr. Speaker, I think we have come a long way this evening. I very much appreciate the good bipartisan effort that we had to get this bill through the conference process.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 5930, AVIATION INSURANCE PROGRAM EXTENSION

Mr. MINETA. Mr. Speaker, I call up the conference report on the bill (H.R. 5930) to extend the aviation insurance program for 5 years.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 23, 1982.)

The SPEAKER pro tempore. The gentleman from California (Mr. MINETA) will be recognized for 30 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report authorizes the aviation war risk insurance program for an additional 5 years. This program has long been in existence, and makes it possible for our airlines to continue service to foreign countries when the President determines that continuation of such air service is necessary to carry out the foreign policy of the United States and that commercial insurance cannot be obtained on reasonable terms and conditions. This program is seldom invoked, but it is an important option for the President to have in his exercise of foreign policy. The existing authority for this program expires tomorrow, so there is some urgency in the enactment of this legislation.

The conference report also changes the existing requirement that not less than two of the five National Transportation Safety Board members have technical qualifications to not less than three out of five. And it would require the Board to not release aircraft cockpit voice recorder tapes or transcripts for 60 days after an accident or until the public hearings, whichever occurs first.

And finally, the bill would delay a transfer of authority from the Civil Aeronautics Board in order to give the Congress further time to consider the issue in the coming Congress. Existing law provides that the domestic aspects of CAB approval authority over airline mergers and other transactions transfer to the Department of Justice on January 1, 1983, while the international aspects remain at CAB. This split appears to be unworkable, since most transactions involve both domestic and international aspects. The conference report therefore retains both authorities for 1983 and 1984 at the CAB, which is merely a continuation of past and present practice for a period in which the Congress can consider the final disposition of this issue.

Mr. Speaker, this conference agreement is noncontroversial. I am aware of no opposition to it, and there is some urgency attacked to its adoption because of the foreign policy implications of the aviation insurance program. I therefore urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 5930 and urge my colleagues to adopt it.

As my distinguished colleague has indicated, the conference report would: First, extend the aviation war risk insurance program for 5 years through fiscal year 1987; second, require three of the five members of the NTSB to possess certain transportation-related qualifications; third, prohibit the disclosure of cockpit voice recorder (CVR) information for up to 60 days after an aircraft accident; and fourth, extend for 2 years the CAB's authority to approve domestic mergers, interlocking relationships, and certain other major transactions between air carriers.

The extension of the war risk insurance program was requested by the administration since current authority under the statute expires at the close of this fiscal year. The program, including the salaries of those who administer it, is funded entirely out of a revolving fund which now has a balance of $22.6 million. Although we have rarely been required to use this standby Government insurance, I believe it is important that we are ready to conduct vital air transportation operations in the event the President determines them to be necessary.

It should also be noted that the Air Transport Association, which represents most of our Nation's airlines, also supports the extension of the program and so indicated to us during our hearings on the bill.

The provision dealing with the qualifications of NTSB members requires that three board members, instead of the current two, must possess a transportation background. The Senate amendment required that all five NTSB members have such qualifications, but the conferees decided that it was better to retain some flexibility and diversity in the makeup of the Board.

The third provision deals with the release of CVR tapes and transcripts by the NTSB. As my colleagues are aware, a cockpit voice recorder is a device which records communications between the flight crew and air traffic control. In the event of an accident, the CVR is recovered and a transcript of the conversations is made an exhibit to the NTSB formal investigation. As frequently happens, the press obtains a copy of the CVR immediately after the accident and stories are written highlighting the flight crew's role therein.

The conferees believe that this practice paints an unfair picture for the public as to the cause of the accident which might never be erased—even when additional evidence is later released.

For this reason, and with the concurrence of the NTSB, the Board will now be required to withhold CVR tapes and transcripts for up to 60 days, or until the time of its public hearing. In this way, the public will still receive the information but it will be presented at the same time as other evidence

about the accident is also being made available.

Fourth, the conference report extends the CAB's authority for 2 years over domestic airline mergers and other major transactions, as well as over interlocking relationships. In this way, prior CAB approval will continue to be required before these transactions can go forward. The provision in existing law which would transfer this authority to the Justice Department on January 1, 1983, has been modified so that the Board's authority in these areas will be transferred to Justice on January 1, 1985, as it relates to both domestic and foreign air transportation.

Accordingly, the Board will be free to impose labor protective provisions which it believes are necessary to respond to individual cases under section 408 of the Federal Aviation Act—the same authority which it exercises today.

For the foregoing reasons, I urge my colleagues to support the conference report on H.R. 5930.

● Mr. SNYDER. Mr. Speaker, I rise in support of the conference report on H.R. 5930 and urge my colleagues to do the same.

As the chairman of the Aviation Subcommittee has indicated, the conference report contains four provisions relating to the operations of the FAA, CAB, and the NTSB.

First, it extends the aviation war risk insurance program for 5 years through fiscal year 1987. Originally established in 1951 and extended on seven previous occasions by the Congress, the war risk insurance program authorizes the Secretary of Transportation to issue insurance to air carriers when the President determines such operations are in the foreign policy interests of the United States and commercial insurance is not reasonably available. Although the authority contained in the statute has not been actually used since the closing days of the Vietnam conflict, it is important that we have the ability to continue critically needed civilian air transportation operations which would not otherwise be conducted in the absence of commercial insurance.

Second, the conference report changes existing law relative to the makeup of the NTSB. The NTSB is an Independent Agency headed by a five member Board appointed by the President. Its chief role is to determine the probable cause of accidents in a variety of transportation modes. Under existing law, two of the five sitting NTSB members must have a transportation background. The conference report raises this number to three and also broadens the types of qualifications which the three members will be required to possess. It will not affect any sitting member of the Board.

Third, we have prohibited the NTSB from disclosing cockpit voice recorder transcripts or recordings for a period of not more than 60 days after an aircraft accident, or at the time of the Board's public hearing, whichever occurs first. In this way, we will assure that information about the actions of the flight crew will not become the subject of sensational post-accident headlines until other equally important evidence has also been made available by the Board. This provision will assure that the public will receive a more balanced presentation of the facts and circumstances surrounding major aircraft accidents. Moreover, it would not affect the rights of any potential litigants who will continue to have broad rights of discovery during any litigation which may arise.

Finally, the conference report retains CAB jurisdiction over sections 408 and 409 of the Federal Aviation Act until 1985. Section 408 requires prior CAB approval of airline mergers and other major transactions before they can go forward. Section 409 requires the same prior Board approval of interlocking relationships.

Existing law would transfer CAB's domestic authority under these provisions to the Justice Department on January 1, 1983. However, because of CAB's expertise in administering these sections and because the Board's authority as it relates to foreign air transportation does not sunset until 1985, the conferees believe it would be more appropriate to also retain the Board's domestic authority for 2 additional years. This will avoid having two agencies share responsibility over these sections—something which would undoubtedly present numerous problems.

The effect of this provision on the issue of labor protection will be to maintain the status quo through 1985 until the Congress is able to fashion a more permanent solution to this most controversial problem. CAB will therefore be permitted to continue its current practice of imposing labor protective provisions in those cases where it believes they are warranted by the particular facts and circumstances involved.

For the foregoing reasons, I urge my colleagues to support the conference report on H.R. 5930.

● Mr. HOWARD. Mr. Speaker, I rise in support of the conference report on H.R. 5930. The bill reported by the conference committee will strengthen our aviation system in several areas.

The bill reauthorizes the aviation war risk insurance program through September 30, 1987. This important program permits our Nation's airlines to continue to provide air service to foreign countries where there are security problems when the President determines that the continuation of air service is necessary to carry out the foreign policy of the United States and commercial insurance cannot be obtained on reasonable terms and conditions.

Other provisions of the bill deal with the National Transportation Safety Board. First, the bill requires that three of the five Board members be technically qualified in areas of the Board's jurisdiction. Under current law only two of the five Board members are required to have these qualifications.

The bill also regulates the NTSB's release of transcripts of airplane cockpit voice recorders after an accident. The bill requires NTSB to release these transcripts at the time of the Board's public hearing on the accident, and in no event later than 60 days following the accident.

Finally, the bill modifies a transfer of authority established by the Airline Deregulation Act of 1978 which, in retrospect, appears to create an undesirable split in regulatory authority. The 1978 act provides that the Civil Aeronautics Board's authority over domestic airline mergers will be transferred to the Department of Justice on January 1, 1983, but authority over international airline mergers will remain at CAB until 1985.

Since many airlines operate both domestically and internationally, this split of jurisdiction could create problems. The bill corrects the situation by leaving CAB with all authority over mergers until 1985 when merger authority will be transferred to the Justice Department. Leaving this authority with CAB will preserve the status quo with respect to the labor protective provisions which CAB has imposed in merger cases. We will be considering this issue further in the next Congress.

Mr. Speaker, the legislation reported by the conference makes necessary and desirable changes in the laws governing aviation. I urge adoption of the conference report.●

Mr. CLAUSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MINETA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

REGARDING SOVIET COMPLIANCE WITH CERTAIN INTERNATIONAL HUMAN RIGHTS AGREEMENTS

Mr. BONKER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 336) expressing the sense of the Congress concerning the compliance by the Soviet Union with certain international agreements on human rights.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEACH of Iowa. Reserving the right to object, Mr. Speaker, it is not my intention to object, but I would like to express complete support for this measure.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield to me?

Mr. LEACH of Iowa. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of three resolutions that will be called up by the gentleman from Washington (Mr. BONKER), chairman of the Subcommittee on Human Rights and International Organizations, concerning human rights in the Soviet Union.

The first of these, House Concurrent Resolution 336, expresses dismay with the severe decline of Jewish emigration from the Soviet Union, and continued harassment of Soviet Jews who have been repeatedly denied permission to emigrate. These so-called refuseniks have been subjected to internal exile, arbitrary arrest, and imprisonment. The resolution calls on the Soviets to observe in practice, human rights standards which it claims to support in principle.

House Concurrent Resolution 330 urges the Soviets to promote a humane emigration policy, and calls on the President to convey U.S. concerns on Soviet emigration policy to Soviet leaders at every opportunity, particularly when we negotiate bilateral agreements on grain, trade, commerce, and scientific and technological exchanges with them. It focuses on the specific case of Ida Nudel, a Soviet refusenik who has been denied permission to emigrate since 1971, and spent 4 years in internal exile. Her situation, highlights the gross injustice of Soviet emigration policies. Ida Nudel's continuing efforts on behalf of Jewish prisoners of conscience are truly admired. She has persevered in the face of much adversity.

The final resolution (H. Res. 398) was introduced by the Honorable RAYMOND J. MCGRATH, along with numerous other colleagues of this body. It is directed toward the plight of two Soviet citizens whose crime was the desire to emigrate. When they attempted to exercise their basic human right to leave the Soviet Union, Alexsei Murzhenko and Yuri Fiodorov were imprisoned 10 years ago. During the intervening period, the Soviets have abused them which has resulted in severe health maladies. House Resolution 398 urges the Soviets to release them from prison and expedite their request to emigrate.

Mr. Speaker, the Soviets' callous disregard of human rights is deplorable. I urge the adoption of all three of the resolutions—House Concurrent Resolution 336, House Concurrent Resolution 330, and House Resolution 398.

Mr. BONKER. Mr. Speaker, I have four resolutions pertaining to citizens within the Soviet Union who wish to emigrate. I would like to explain them en bloc and call up each separately for consideration.

Mr. Speaker, the resolution, House Concurrent Resolution 336, expresses the concern of Congress over compliance by the Soviet Union with certain international agreements on human rights.

The resolution is sponsored by our colleague, the gentleman from Connecticut, TOBY MOFFETT, and describes the problem of emigration from the U.S.S.R.

Time and time again I have said that if our human rights policy is to have any meaning to the Soviets, there must be linkage. I commend the gentleman from Connecticut for his leadership on this issue and urge all my distinguished colleagues to support House Concurrent Resolution 336.

Mr. Speaker, subsequent resolutions concern individual cases involving emigration desires of certain citizens within the Soviet Union.

Mr. LEACH of Iowa. Mr. Speaker, further reserving the right to object, I only reserve that right to indicate full minority support for these resolutions.

Mr. Speaker, I rise in support of House Concurrent Resolution 336, a resolution outlining the many manifestations of Soviet repression against the Jews living in that country today.

The Subcommittee on Human Rights and International Organizations has been deeply concerned over the ominous trends in the emigration rate from the Soviet Union which now stands at a 10-year low. According to the State Department's Country Reports on Human Rights Practices for 1981:

> The USSR has ratified the U.N. Charter and other international documents, such as the International Covenants on Civil and Political Rights and on Economic, Social, and Cultural Rights, in which the right to leave one's country and return thereto is enumerated, but in practice the regime also denies Soviet citizens this right. . . . Jewish sources estimate that there still are more than 200,000 Soviet Jews who possess the letters of invitation (vyzovs) from Israel required by Soviet authorities for applications to emigrate.

In the first half of this year, the emigration picture continued to deteriorate. In March, the Congress approved House Joint Resolution 373, calling on the Soviet authorities to respect the right to religious expression and the right to emigrate and calling on the United States to bring up these issues at the United Nations Human Rights Commission. In an official statement submitted by the United States to the 38th session of the U.N. Commission on Human Rights, one of our advisers Mr. Stein noted:

> Three indices of mistreatment stand out: First the right of emigration and reunification with families; second cultural and linguistic rights; third, flagrant discrimination and, in this case, anti-semitic propaganda and practice.
>
> . . . It is a tragic reality that Jews in the Soviet Union, some 2½ to 3 million in number, are today virtually denied the right to leave. The monthly emigration rate for this minority has been cut by 90 percent since 1979. Thousands of Jews have been refused their exit visas, and live in a kind of twilight existence. Many have been deprived of jobs and facing (sic) social ostracism.

Mr. Speaker, House Concurrent Resolution 336 reflects these same concerns and expresses the sense of Congress that the Soviet Union should honor its traditional human rights commitments, noting that such actions on the part of the Soviet Union would go a long way toward improving relations between our two nations.

The resolution also calls on our own President to be unflagging in his efforts to raise our concerns on behalf of the Soviet Jewish community at every appropriate opportunity, whether it be negotiations on a grain agreement; negotiations on other agreements relating to trade, commerce, or the exchange of science and technology; or on the occasion of summit level talks between our two leaders.

Finally, the resolution also calls on the administration to share our concerns with our allies and to urge their cooperation in efforts to promote emigration from the Soviet Union.

Mr. Speaker, all of us are familiar with the problems the Jewish community in the Soviet Union faces. It is my hope that this body will continue to send a clear and persistent signal to the Soviet Government that we will not be satisfied until the basic right to emigrate and to practice one's religious beliefs is respected in that nation.

● Mr. BROOMFIELD. Mr. Speaker, I rise in support of House Concurrent Resolution 336, a resolution calling on the Soviet Union to honor its obligations under international human righs agreements and calling on our own President to convey congressional concern on this issue to the Soviet authorities at every appropriate opportunity including summit talks or negotiations on trade or other matters.

The plight of the Jewish people in the Soviet Union today is on the conscience of many of us. Dramatic reductions in the rate of emigration from the Soviet Union has meant the virtual imprisonment of thousands of Jews living within Soviet borders. In testimony presented to the Subcommittee on Human Rights and International Organizations on July 29, 1982, Dr. William Korey of B'nai B'rith International, summed up their plight with these words:

For Soviet Jews it is more than the abridgement of both international law and international treaties which are at stake. Deprived of Jewish cultural facilities, restricted in effective and free access to Judaism and Jewish tradition, and confronted by deepening anti-Semitism, they today are almost totally prevented from emigrating and being united with their families and kin in Israel. In the words of some 130 leading Soviet Jewish activists, in a desperate plea sent to the Soviet Party Congress in February, 1981, they "face the threat of a national catastrophe." A more desperate cry has not been heard in recent Jewish history.

According to a statement by the Union of Councils of Soviet Jewry at that same hearing, the emigration rate in 1979 was about 4,000 Jews per month with an annual total of 51,331 in contrast to the present trend in 1982 which, if it continues will mean less than 3,000 will leave the Soviet Union this year. It is estimated that some 500,000 Jews still seek to leave the Soviet Union.

The National Conference on Soviet Jewry also reported that:

The refusenik community, comprised of those Jews whose applications for emigration have been rejected at least twice, presently numbers approximately ten thousand. Nearly fifty families have been struggling for their right to leave for over ten years, and more than 130 families have been waiting between five and ten years . . . There are currently fourteen Jewish activists serving sentences on unjustified charges—their true crime being the desire to emigrate to Israel.

Some of the recommendations for dealing with these problems which emerged at the subcommittee hearing are embodied in the resolution before us today which calls on the administration to raise our concerns with the Soviet authorities at every appropriate opportunity including summit talks and negotiations on grain trade or other agreements. The resolution further calls on the administration to convey our concern to our allies in an effort to obtain their cooperation in promoting emigration from the Soviet Union.

A January 26, 1982, editorial in the New York Times said it well when it observed:

Permitting an orderly emigration and thus adhering to the Helsinki Final Act would not be just a favor to the United States. It would counter one of the oldest reproaches leveled at Russia.

Even in czarist times, it was grimly nicknamed "The Prison-House of Peoples" because so many ethnic minorities were sealed inside.

This issue is a nonpartisan one on which Members of both sides of the aisle are united. The administration is firmly committed to addressing this problem and, in views submitted to the Foreign Affairs Committee, assured us that U.S. officials consistently encourage Soviet authorities to be less harsh and more responsive toward Soviet Jews who wish to emigrate. In the instance of long-standing emigration cases, the United States presents a list of these periodically to high-level Soviet officials to emphasize U.S. concern.

Mr. Speaker, I urge the Members of this body to support this resolution in an effort to underscore to the Soviet Government the seriousness of this issue to the U.S. Congress and the American people and our insistence that they honor their obligations under international human rights agreements. House Concurrent Resolution 336 will serve to reinforce the administration's ongoing efforts in pursuing this matter and I urge its adoption.●

● Mr. MOFFETT. Mr. Speaker, since I introduced this resolution 4 months ago, the plight of Soviet Jewry has deteriorated dramatically. As we consider this legislation, tens of thousands of Jews in the Soviet Union are waiting anxiously for a chance to leave that oppressive land to make Israel their home. Many have lost their jobs, or have been denied academic or career opportunities, because of their efforts to emigrate. Many others suffer harassment, assault, or surveillance by Soviet officials. Some have even been arrested, and sentenced to lengthy terms in prisons, labor camps, or internal exile in Siberia.

Jews in the Soviet Union are also increasingly denied their right to cultural expression. Hebrew classes, cultural seminars, and even Jewish kindergartens have been forcibly broken up by Soviet officials. While isolated from Soviet society and made outcasts by the Soviet Government, they are denied the right to flee to the land of their kinsmen—Israel.

There is no end in sight to the continuing deterioration of the plight of Soviet Jewry. Emigation has reached its lowest point in 10 years, and it continues to decline. Of those few who have been allowed to emigrate, virtually none are among the hundreds of long-term "refuseniks," who have spent 5 years or more as internal refugees waiting to leave the Soviet Union. And harassment of Jews—particularly those involved in Jewish culture groups—has increased dramatically.

I do not pretend that this resolution will automatically reverse the dismal outlook for Soviet Jews. But it is an important signal to the Soviets that we are aware of their deplorable treatment of their Jewish citizens, in violation of the Helsinki Final Act and other human rights agreements under which it has obligations. And it makes it clear to the Soviets that an improvement in the treatment of Soviet Jews would bring a significant improvement in United States-Soviet relations.

Thousands of Jews are suffering under the repressive policies of the Soviet Union. We must show that we have not forgotten these brave people, or their valiant struggle to gain freedom and a new life in Israel. I urge my colleagues to support this resolution.●

● Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 336, which expresses the sense of Congress concerning the compliance of the Soviet Union with its obligations under International agreements on human rights.

As the resolution states, the Soviet Union has apparently adopted a policy of virtually closing its borders to Jewish emigration as evidenced by the declining emigration levels which for 1982 have averaged fewer than 300 individuals per month. This policy has left literally tens of thousands of people who are seeking to emigrate from the Soviet Union with little or no hope of being granted permission to emigrate in the foreseeable future.

Those individuals who have been denied emigration rights, especially the long-term "refuseniks," are regularly subjected to a life as internal refugees. As a result, they often face a loss of jobs, the loss of membership in important social and professional organizations, revocation of academic degrees, constant surveillance and arbitrary assault, and other forms of harassment and social isolation. Ultimately such treatment often results in the creation of severe physical, emotional, and psychological problems for affected individuals.

Such action by the Soviet Union regarding the rights of its citizens to emigrate to religious and cultural expression and to freedom from harassment as members of specific ethnic groups is in clear violation of several international agreements. The Soviet Union as signatories to the Helsinki Final Act. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Convenant on Economic, Social, and Cultural Rights, the International Labor Orga-

nization Convention Concerning Employment Policy, and the UNESCO Convention Against Discrimination in Education, has clear obligations to prevent the very acts they are now committing.

House Concurrent Resolution 336 stresses that human rights considerations are a vital part of U.S. foreign policy. Futhermore, that it is the sense of Congress that the Soviet Union should comply with its obligations under international agreements relating to human rights, by pursuing a more humane emigration policy and ceasing harassment of Jews and others seeking to emigrate.

Finally, this resolution calls upon the President to convey to Soviet officials the concerns of the Congress expressed in this resolution at every appropriate opportunity including negotiations for trade and commerce (especially grain sales), science and technology exchanges, as well as during President summit talks. These requests include fully sharing these views with our allies and urging their cooperation in the effort to promote emigration from the Soviet Union.

As an initial cosponsor of House Concurrent Resolution 336, I urge the strong support of my colleagues on this important resolution.●

Mr. LEACH of Iowa. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 336

Whereas the Soviet Union is pursuing a policy of virtually closing its borders to Jewish emigration, as evidenced by declining emigration levels which, for 1982, have averaged fewer than 300 individuals per month;

Whereas this policy has left tens of thousands of people seeking to emigrate from the Soviet Union with little hope of being granted permission to emigrate in the foreseeable future;

Whereas there are several hundred long-term "refuseniks", including many children, who applied to emigrate from the Soviet Union between 1970 and 1975 and have been waiting for permission to emigrate since that time;

Whereas those who have been denied emigration rights, especially the long-term "refuseniks", are often subjected to a life as internal refugees in the Soviet Union, resulting in loss of jobs, loss of membership in important social and professional organizations, revocation of academic degrees, surveillance and arbitrary assault, and other forms of harassment and social isolation;

Whereas these individuals also suffer physical, emotional, and psychological problems which result from social isolation;

Whereas these individuals are also denied the right to cultural expression, evidenced by the breaking up of cultural seminars and Hebrew classes and harassment by Soviet officials of those individuals participating in those forms of cultural expression;

Whereas these individuals are subjected to arbitrary arrest, imprisonment, and internal exile, as is the case with the Jewish "Prisoners of Conscience" currently serving sentences in the Soviet Union;

Whereas it is the stated policy of United States law, including section 502B(a)(1) of the Foreign Assistance Act of 1961 and section 402 of the Trade Act of 1974, that human rights considerations are a vital element of United States foreign policy;

Whereas the Soviet Union, by arbitrarily denying its citizens the right to emigrate and the right to religious and cultural expression, and by harassing members of a specific ethnic group, is violating international agreements under which it has obligations under international law, including the Helsinki Final Act, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Labor Organization Convention Concerning Employment Policy, and the UNESCO Convention Against Discrimination in Education: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the Soviet Union should comply with the Helsinki Final Act, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and other international agreements relating to human rights, by pursuing a more humane emigration policy and ceasing harassment of Jews and others seeking to emigrate;

(2) the compliance by the Soviet Union with internationally recognized emigration rights would significantly promote improved relations between the United States and the Sovet Union;

(3) the President or his representatives should convey to Soviet officials the concerns of the Congress expressed in this resolution at every appropriate opportunity, including—

(A) at such time as the grain agreement between the United States and the Soviet Union, which will expire on September 30, 1982, is renegotiated;

(B) at such time as other agreements between the United States and the Soviet Union, relating to trade and commerce and to science and technology exchange, are negotiated; and

(C) at such time as the President and the President of the Soviet Union meet for summit talks; and

(4) the President or his representatives should also convey these concerns of the Congress to the governments of United States allies and urge the cooperation of those governments in efforts to promote emigration from the Soviet Union.

SEC. 2. The President is requested to transmit a copy of this resolution to the Ambassador from the Soviet Union to the United States and to the Chairman of the Presidium of the Supreme Soviet.

AMENDMENT OFFERED BY MR. BONKER

Mr. BONKER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BONKER: Page 3, in line 20, strike out "1982" and insert in lieu thereof "1983".

Mr. BONKER. Mr. Speaker, this is a technical amendment on the resolution under consideration.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. BONKER).

The amendment was agreed to.

Mr. BONKER. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the concurrent resolution, as amended.

The concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

□ 1900

EXPRESSING SENSE OF HOUSE OF REPRESENTATIVES THAT ALEXSEI MURZHENKO AND YURI FIODOROV BE RELEASED FROM PRISON AND BE ALLOWED TO EMIGRATE FROM THE SOVIET UNION

Mr. BONKER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution (H. Res. 398) to express the sense of the House of Representatives that Alexsei Murzhenko and Yuri Fiodorov should be released from prison and allowed to emigrate from the Soviet Union.

The Clerk read the resolution, as follows:

H. RES. 398

Whereas Yuri Fiodorov and Alexsei Murzhenko were sentenced to harsh prison terms at the infamous Leningrad trials held in the Soviet Union in 1970; and

Whereas these brave men sought only the freedom to leave their country as guaranteed in the Helsinki accords and other international agreements respecting human rights which have been signed by the United States and the Soviet Union; and

Whereas reports on the conditions of Fiodorov and Murzhenko indicate they are suffering serious health problems resulting from over a decade of mistreatment; and

Whereas the House of Representatives has always stood as a beacon of freedom for oppressed peoples throughout the world: Now, therefore, be it

Resolved, That the House of Representatives expresses its deepest concern over the well-being of Yuri Fiodorov and Alexsei Murzhenko and calls upon the Government of the Soviet Union to grant their immediate release and permission to emigrate to the nation of their choice.

The SPEAKER pro tempore. Is there objection of the request of the gentlemen from Washington?

Mr. LEACH of Iowa. Mr. Speaker, reserving the right to object, I rise in support of House Resolution 398, expressing the sense of the House that Alexsei Murzhenko and Yuri Fiodorov should be released from prison and permitted to emigrate from the Soviet Union.

These two men, as our colleague from New York, Mr. MCGRATH, explained in testimony submitted to the Subcommittee on Human Rights and International Organizations, became friends in 1962 while in prison and

upon their release found themselves confronted by constant harassment and no opportunity for meaningful employment. In 1970, Murzhenko and Fiodorov, along with several others, planned to seize an empty airliner on the ground in Leningrad in an effort to leave the Soviet Union. Their plan failed, however, and they were sent to prison. Today, Murzhenko and Fiodorov are the last of the participants in that failed escape attempt to remain in prison. Reports from friends of these two men indicate they have serious health problems and receive only occasional visits from friends and family.

It is appropriate that the Members of this body join in our colleague's efforts to secure the release of these two men and to support the efforts of the U.S. Government on their behalf. In views submitted to House Foreign Affairs Committee, the Department of State declared its concern over the plight of these men and its willingness to do everything appropriate to help them. It also assured the committee that the resolution was "totally consistent with the aims and practice of American foreign policy."

Mr. Speaker, I would urge my colleagues to vote for House Resolution 398 to demonstrate to the Soviet authorities our concern for individuals, like Murzhenko and Fiodorov, who are too often the victims of an impersonal totalitarian system which refuses to honor internationally recognized standards of human rights. The fate of one such victim must never be considered too insignificant for the Members of this House to defend.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Speaker, House Resolution 398, sponsored by our distinguished colleague RAY MCGRATH of New York, expresses the sense of the House that Alexsei Murzhenko and Yuri Fiodorov should be released from prison and permitted to emigrate from the Soviet Union. This resolution is similar to a number of resolutions adopted by the Subcommittee on Human Rights and International Organizations on behalf of political prisoners in the Soviet Union and Eastern Europe. I urge its adoption.

● Mr. BROOMFIELD. Mr. Speaker, I rise in support of House Resolution 398, expressing the concern of the House on behalf of Alexsei Murzhenko and Yuri Fiodorov, and calling on the Soviets to release them from prison immediately and permit them to emigrate.

In 1970, these two Ukrainian men, who had become acquainted during imprisonment in the 1960's for "anti-state" activities, joined a group of Soviet Jews who planned to seize an airliner on the ground in Leningrad in an effort to escape from the Soviet Union.

That attempt failed and Alexsei Murzhenko was sentenced, after trial for attempted treason, to 14 years of imprisonment and his colleague Yuri Fiodorov to 15 years of imprisonment. Both men have served their sentences under harsh prison camp conditions for the past 12 years. Their health has been severely affected as a result of a lack of medical care and inadequate nutrition.

Today, they are the only two involved in the Leningrad hijacking affair to remain in prison. The U.S. Government was partly responsible for the release in 1979 of some of the others involved in that incident and in February 1981, the last Soviet Jew involved was released and allowed to emigrate to Israel.

Mr. Speaker, lest the Soviet authorities believe that the American people have forgotten the last two of these individuals, the House should adopt House Resolution 398, supporting their release from prison and calling on the Soviet authorities to let them leave the country.

I urge my colleagues to give this resolution their unanimous support.●

Mr. LEACH of Iowa. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS WITH RESPECT TO SOVIET UNION'S OBLIGATIONS TO ALLOW IDA NUDEL TO EMIGRATE TO ISRAEL

Mr. BONKER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 330) expressing the sense of the Congress with respect to the Soviet Union's obligations under international law to allow Ida Nudel to emigrate to Israel, and for other purposes.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 330

Whereas the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantee to all citizens the right to freedom of religion, the right to hold opinions without interference, the right to freedom of expression, and the right to emigrate;

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits the signatory nations to respect individual rights and freedom, specifically the right to emigrate to the country of one's choice to rejoin relatives;

Whereas the Soviet Union has signed the Final Act of the Conference on Security and Cooperation in Europe, has subscribed to the general principles set forth in the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights;

Whereas Ida Nudel first applied in 1971 to emigrate from the Soviet Union to Israel with her sister, whose exit visa was approved and who now resides in Israel and is Ida Nudel's only close relative;

Whereas Ida Nudel has devoted herself for more than a decade to the plight of Jewish Prisoners of Conscience and is known as the guardian angel for her activities on their behalf;

Whereas Ida Nudel endured years of harassment and surveillance after her application for an exit visa, including interrogation by the Soviet authorities;

Whereas Ida Nudel was charged by the Soviet courts of "malicious hooliganism" for hanging a banner on her balcony which read, "KGB, give me my visa", and was sentenced in 1978 to four years of internal exile after a trial in which no witnesses were allowed to testify on her behalf;

Whereas Ida Nudel was released from internal exile in March 1982; and

Whereas Ida Nudel is once again in the process of applying for an emigration visa, and the denial of her original application to emigrate, on the grounds that she allegedly had knowledge of state secrets, cannot possibly be a valid reason for such a denial 11 years later: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President, acting directly or through the Secretary of State, should—

(1) urge the Government of the Soviet Union to accept Ida Nudel's visa application and allow her to emigrate to Israel to join her sister, in accordance with the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights; and

(2) inform the Government of the Soviet Union that the Government of the United States, in evaluating its relations with other countries, will take into account the extent to which such countries honor their commitments under international law, especially commitments with respect to the protection of human rights.

SEC. 2. The Clerk of the House of Representatives shall transmit a copy of this concurrent resolution to the President with the request that the President further transmit such copy to the Ambassador of the Union of Soviet Socialist Republics to the United States.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. LEACH of Iowa. Mr. Speaker, reserving the right to object, as a cosponsor of House Concurrent Resolution 330, I rise in support of this resolution calling on the Soviet Union to permit Ida Nudel to emigrate to Israel.

This resolution recites some of the well-known history of this courageous Jewish woman's persistent struggle against the Soviet power structure. In March 1982 she was finally released from a Siberian labor camp after 4 long years of internal exile. Her story is familiar to many of us and her role as the "Guardian Angel" of Soviet Jews in prison has been a inspiration to many.

The basic right to emigrate, which this resolution calls on the Soviets to respect, is an internationally recognized human right. However, the Soviet Union continues to ignore its obligations, under international accords, to honor that right and instead punishes many of those hardy souls who are daring enough to challenge them. Inasmuch as this ongoing contest betwen the Soviet authorities and Ida Nudel has revealed to a worldwide audience the uncommon courage and spirit of this woman, it has revealed with equal clarity the pervasive brutality of the Soviet political system today.

In official views submitted to the House Foreign Affairs Committee, the State Department outlined its public and private efforts on behalf of Ida Nudel, many of which have met with frustration and little success. However, the Department declares this resolution to be "fully consistent with current U.S. policy" and suggests that "House Concurrent Resolution 330 may serve to reinforce U.S. Government efforts in support of all those, such as Ms. Nudel, whose rights are being abridged by the Soviet authorities, and to reaffirm the deep concern of the American people for their plight."

Mr. Speaker, the commitment of this body to Ida Nudel and many more like her rests not on the immediacy or degree of our success. Rather it rests in our consistent commitment to the basic rights which we, in this country, believe to be the inalienable rights of all people. I would urge my colleagues to join us in passing this resolution without a single dissenting voice and to join in a national effort to secure her freedom.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Speaker, House Concurrent Resolution 330, sponsored by our distinguished colleague from Connecticut, Mrs. KENNELLY, concerns the case of Ida Nudel and urges the Soviet Union to allow her to immigrate to Israel. She is a courageous woman and deserves the special attention of this body. A number of Members have worked on her behalf and I hope all my distinguished colleagues will join me in supporting this expression of congressional concern about her fate.

● Mr. BROOMFIELD. Mr. Speaker, I rise in strong support of House Concurrent Resolution 330, reiterating once again the concern of the Congress on behalf of Ida Nudel.

This brave Jewish woman, an economist by profession but known to so many of us as the "Guardian Angel of Soviet Prisoners of Conscience," has for 11 years sought to emigrate from the Soviet Union. For her efforts she has suffered harassment, interrogation, surveillance, and finally arrest and 4 years of internal exile under the harshest of conditions in Siberia. Because of the extreme hardships she faced while in Siberia, living among hardened male criminals, she became an internationally recognized and respected symbol of the courage and spirit of the captive Jewish community in the Soviet Union. By one reported estimate she received more than 10,000 letters from Western supporters.

Finally, this past March, she was released and is once again seeking to exercise her basic human right to emigrate from the Soviet Union. In spite of the past 4 years and the suffering she endured, the Baltimore Sun reported in March after her release that, "Miss Nudel was emphatic in saying that she does not regret her act and the price she was made to pay for it." She slso said: "I still want to emigrate. Not just 'still', but more than ever before."

Over the past several years, the U.S. Government has taken an active interest in her case and has cited it at the Madrid CSCE Review Conference as a prime example of how the Soviet Union fails to respect the human rights provisions in the Helsinki Accords. U.S. officials have also raised her case through diplomatic channels. In official views submitted to the House Foreign Affairs Committee, the Department of State has assured us that "The name of Ida Nudel is included on the * * * official list of Soviet Jews who have been repeatedly denied permission to emigrate to Israel. Through periodic presentation of this list to high Soviet officials, we reiterate United States concern for their individual rights and welfare. Ms. Nudel's name will remain on the list until her case is resolved favorably."

Mr. Speaker, I would urge my colleagues to give this resolution their unanimous support as a signal to the Soviet authorities that the people of the United States will not forget Ida Nudel's cause until she is free at last.●

● Mrs. KENNELLY. Mr. Speaker, I want to thank the distinguished chairman of the Humans Rights and International Organizations Subcommittee for his help with this resolution, and for the fine work he has been doing for some time on behalf of Ida Nudel and other Soviet citizens who wish desperately to emigrate from that country.

I know that many of my colleagues are deeply concerned with helping Ida Nudel. She has been struggling to leave the Soviet Union for 11 years, and was released from her 4-year exile in Siberia only last March. Since, then, she had endured continual harassment and abuse by Soviet officials as she attempted once again to begin the process of applying for an emigration visa to join her sister, Elena Friedman, in Israel.

Ida Nudel has spent most of her time since her March 1982 release from internal exile in search of a place to live. She was denied a residence permit for Moscow which had previously been her home on the basis that she had not occupied her apartment while she was in exile in Siberia. Without a residence permit, she could not apply for a visa to emigrate to Israel, nor could she obtain needed medical treatment in a hospital for her heart condition.

After leaving Moscow, Ida attempted to take up residence in Riga, the capital of Latvian S.S.R. She was forced to spend the night on a bench in a Riga train station when authorities refused her permission to reside in that city. She is currently living in an undisclosed place hoping Soviet authorities will stop harassing her.

Ida Nudel is a brave, courageous woman. Her story is one of great personal courage and heroism. She has endured years of hardship inflicted on her by the Soviet Government in order to exercise her basic human right to emigrate.

All of us involved in the Soviet Jewry movement feel strongly about the plight of Ida Nudel; 139 of my colleagues have cosponsored this resolution. We are calling on the Government of the Soviet Union to accept Ida Nudel's visa application and allow her to emigrate with no further harassment or abuse. It is time the Soviet Union as a member of the international community lived up to the principles contained in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the final act of the Conference on Security and Cooperation in Europe. We must demonstrate to the Soviet Union that we will not cease our efforts until Ida Nudel, and every Jew who desires to emigrate, is given permission to do so. We will continue to point out instances of Soviet noncompliance with international agreements until basic religious and cultural rights are given to all those who reside in the Soviet Union.

Again, I wish to thank the gentleman for his work in allowing us to take the important step we are taking here today, and hope this will be the last time we will have to point out Soviet violations of Ida Nudel's human rights.●

● Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 330, which calls on the Soviet Union to grant Ida Nudel a visa permitting her to immigrate to Israel.

By passing this resolution the Congress is stating that the President should urge the Soviet Union to accept Ida Nudel's visa application and allow her to join her sister in Israel. Such a

request would be based upon the Soviet Union's own pledges in accordance with the Final Act of the Helsinki Conference, the U.N. Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights.

The case of Ida Nudel is well known by this body as well as around the world. She has suffered greatly for the crime of merely seeking to exercise her right to emigrate from the Soviet Union. As this resolution points out, Ida Nudel first applied for a visa in 1971. Her efforts to publicly demand her right to immigrate were rewarded by being sentenced in 1978 to 4 years of internal exile in Siberia.

Ida Nudel was released in March of this year. Since then she has been denied a permit to live in Moscow, her former residence. She next moved to Riga, the capital of Latvia, only to be denied a permit to reside there as well. Reports indicate she has been forced to move from place to place with no permanent residence permit and even having to sleep on benches in train stations.

Ida Nudel is now 51 years old. She has a heart condition. She has endured much hardship including her recent exile in Siberia. Yet, throughout this she has not given up hope. She continues instead to be the very symbol of hope to thousands of other prisoners of conscience earning her the name of "Guardian Angel."

Accordingly, Mr. Speaker, I join with my colleagues in urging the Soviet Union to honor its commitments to the preservation of basic human rights by allowing Idea Nudel to immigrate to Israel. I urge all of my colleagues to join me in strong support of House Concurrent Resolution 330.●

● Mr. FRANK. Mr. Speaker, today I rise in support of House Concurrent Resolution 330, a sense of the Congress resolution expressing support for Ida Nudel. Ida Nudel has been struggling to gain her freedom for a long period of time, facing numerous obstacles, yet persisting in her determination to emigrate in order that she can be reunited with her sister in Israel. The passage of this resolution is important because it represents another concrete expression of the American people and our Government that we firmly believe that Ida Nudel must be allowed to emigrate and that we will not forget her in this brave and often lonely struggle.

Mr. Speaker, the latest work that I have received concerning Ida Nugel indicates that the Soviet Union is persisting in its campaign of harassment, and that she is now living outside of Moscow while officially forbidden from returning there until July 1983. It is evident that the interest in this case in the West will continue to play an important role in maintaining public consciousness about Ida Nugel and the obstacles she is encountering in her search for freedom. Recently, I received word from Ida Nudel's sister in Israel, that Ida has expressed her feeling that our interest in this case is vital and that the expression of interest by her supporters in the West is an important one to her. Mr. Speaker, the passage of House Concurrent Resolution 330 is fundamental to the effort to free Ida Nudel and I support the passage of the bill at this time.●

Mr. LEACH of Iowa. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

RELIGIOUS AND CIVIL PERSECUTION OF UKRAINIAN ORTHODOX AND CATHOLIC CHURCHES

Mr. BONKER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 18) concerning the problem of the Ukrainian Orthodox and Catholic Churches in the Ukraine.

Senate Concurrent Resolution 18 passed the Senate on June 19, 1981. Churches in the Ukraine—The Ukranian Orthodox and Catholic Churches—have not been repressed, they have been exterminated. This resolution calls attention to that problem and calls "upon the Government of the Union of Soviet Socialist Republics to permit the concrete resurrection of both the Ukranian Orthodox and Catholic Churches . . ."

I commend my distinguished colleague (Ed. DERWINSKI of Illinois) for bringing this matter to the attention of the Congress and for his leadership on this issue. I urge all my distinguished colleagues to support Senate Concurrent Resolution 18.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 18

Whereas in the so-called Brezhnev Constitution of the Union of Soviet Socialist Republics, article 52 unequivocally provides that "Freedom of conscience, that is, the right to profess any religion and perform religious rites or not profess any religion . . . shall be recognized for all citizens of the Union of Soviet Socialist Republics. Incitement of hostility and hatred on religious grounds shall be prohibited"; and

Whereas not just religious or civil repression but the attempted genocide—the absolute physical extermination—of both the Ukrainian Orthodox and Catholic Churches, and all other truly independent religions, in a ntion of forty-five million persons brutally violates the basic civilized rights enunciated above: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the President of the United States of America shall in the name of human rights take immediate and determined steps to—

(1) call upon the Government of the Union of Soviet Socialist Republics to permit the concrete resurrection of both the Ukrainian Orthodox and Catholic Churches and other independent religions in the largest non-Russian nation both within the Union of Soviet Socialist Republics and in Eastern Europe; and

(2) utilize formal and informal contacts with Union of Soviet Socialist Republics officials in an effort to secure the freedom of religious worship in places of both churches and all other independent religions as their own constitution provides for; and

(3) bring to the attention of all national and international religious councils the nature of this Stalinist crime and perpetuated violation of basic human rights, with an appropriate appeal to the commitment of their resources toward achieving the objective of this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. LEACH of Iowa. Mr. Speaker, reserving the right to object, I rise in support of Senate Concurrent Resolution 18, which calls on the President to press the Soviets toward restoring religious freedom in the Ukraine. Since this resolution passed the Senate last year, our colleague from Illinois (Mr. DERWINSKI), who has introduced similar legislation in the House, has taken a strong leadership role in bringing this resolution to the attention of the House.

The Subcommittee on Human Rights and International Organizations considered this resolution in the midst of hearings we have been holding on the theme of religious persecution as a violation of internationally recognized human rights.

Today, in the Ukraine, the right to worship freely is being violated. Members of the Orthodox Church, the Catholic Church, an other independent religions in the Ukraine have witnessed, over the past decades, the execution and imprisonment of church leaders, the closing of church institutions, and other forms of harassment and persecution. After World War II, the Ukrainian Orthodox Church was virtually abolished and replaced by the Russian Orthodox Church. The Roman Catholic Church has also suffered as a result of the antireligious policies of the government, as have the Evangelical Christians, the Baptists, the Seventh Day Adventists, the Pentecostals, the Jehovah's Witnesses, and Jews.

The State Department's Country Reports on Human Rights Practices for 1981 discusses the state of religious liberty under the Soviet Government:

Article 52 of the Soviet Constitution guarantees the "right to profess or not to profess any religion and to conduct religious worship or atheistic propaganda." In practice, however, religious believers are subject-

ed to many restrictions. The Russian Orthodox Church is believed to be heavily infiltrated and manipulated by the state security services.

Amnesty International also noted, in its latest annual report covering May 1980 to April 1981 that with respect to the Soviet Union "More than half of the prisoners of conscience arrested during the year were religious believers."

It is clear, as the State Department document points out, that "the regime is especially sensitive to anything it considers to be religious manifestations of dissent * * *."

Mr. Speaker, the right to freedom of worship and religious expression is one of the most fundamental of all human rights. Senate Concurrent Resolution 18, before us today makes clear to the Soviet Union that the United States holds it accountable for the degree to which it honors—or fails to honor—its international human rights commitments, particularly in this case, its commitment with respect to the right of religious expression in the Ukraine.

It is my hope that the President will take this message to the Soviet authorities and would urge my colleagues to give this mandate their unanimous support.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of Senate Concurrent Resolution 18, concerning the repression of religious institutions in the Ukraine,

The Committee on Foreign Affairs has filed House Report No. 97-860 on this resolution because the Members considered it very important to record the brutal nature of Soviet repression of the Ukrainian Orthodox Church and the Ukrainian Catholic Church. I want therefore only to call attention to several pertinent points in that report.

First, the Ukraine is the most populous State within the Soviet Union, and for that matter in the whole of Eastern Europe, and is home to the largest number of religious believers.

Second, for well over a generation, the Soviet Government has tried to eliminate both Ukrainian churches, their clergy and members using all manner of terrorist tactics. But it failed to eliminate the churches altogether. Both churches have survived and their followers participate in catacomb activities often at considerable personal risk.

Finally, the spiritual significance of the Ukrainian churches is very great. These churches have sustained the hope of courageous people for years. They serve as a rallying point for these subject peoples.

If the Soviet Government practiced what it preached and granted the peoples of Ukraine the right to practice their religion openly—and if the Soviets abided by the provisions of their Constitution and various international conventions they have signed, the churches would flourish and the peoples of Ukraine could enjoy the religious freedom that all human beings have the right to enjoy.

Mr. Speaker, the resolution calls on the Soviet Government to permit the resurrection of both churches and independent religion in the Ukraine. It also calls on the President to contact Soviet officials to secure freedom of religion in the Ukraine. I urge the immediate adoption of Senate Concurrent Resolution 18.

● Mr. DERWINSKI. Mr. Speaker, I urge my colleagues to approve this resolution which has already passed the Senate so that Congress can go on record as expressing our desire that the President take steps to call upon the Soviet Government to permit the resurrection of the Ukrainian Orthodox and Catholic Churches and other religious institutions in Ukraine.

The resolution also calls on the President to use contacts with Soviet officials to secure freedom of religion in Ukraine, and to bring to the attention of all national and international religious councils the nature of this violation of basic human rights, with an appeal that the resources of these organizations be utilized for attaining the objectives of this resolution.

Mr. Speaker, I have long been extremely concerned that the national churches of Ukraine—the Ukrainian Orthodox and Catholic Churchs—and other religious institutions have been subjected not only to religious and civil repression, but actual physical extermination by Soviet authorities. We heard a great deal of evidence on the extent of religious repression in Ukraine during the hearing held by the Subcommittee on Human Rights and International Organizations on this resolution.

Although I had introduced a resolution on this issue myself, in order to avoid a House-Senate conference, I have joined in support of the Senate resolution we are considering today. It is important for Congress to make this statement, and I urge the House to approve Senate Concurrent Resolution 18. ●

Mr. LEACH of Iowa. Mr. Speaker, I withdraw my reservation of objection.

Mr. BONKER. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

RECOGNIZING OUTSTANDING SERVICE AND PATRIOTISM OF VOLUNTEERS OF AMERICAN NATIONAL RED CROSS DURING TIMES OF WAR

Mr. BONKER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 376) recognizing the outstanding service and patriotism exhibited by the volunteers of the American National Red Cross during times of war and expressing the gratitude of the Congress for the service of such volunteers.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 376

Whereas the volunteers of the American National Red Cross who served in or near combat zones in times of war have shown great loyalty in the service of their counry;

Whereas such volunteers have displayed exceptional courage while stationed near frontline battle positions;

Whereas such volunteers have demonstrated true compassion in the service of this Nation by tending to the needs of sick, wounded, and weary soldiers fighting to maintain the freedom of the American people;

Whereas many Red Cross volunteers have remained on, or returned to, foreign soil after the cessation of hostilities in further service to the United States;

Whereas volunteers of the American National Red Cross have asked for no benefits and have received no recognition from the country they so gallently served and deserve the thanks of all American: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes the outstanding service and patriotism exhibited by volunteers of the American National Red Cross during times of war, and

(2) expresses its gratitude to the individuals from every State and territory of the United States of America who served their country by volunteering to work with the American National Red Cross overseas.

SEC. 2. It is the sense of the Congress that State and local governments should issue proclamations calling upon the people of their respective jurisdictions to honor the volunteers of the American National Red Cross with appropriate ceremonies and activities.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. LEACH of Iowa. Mr. Speaker, reserving the right to object, I rise in support of House Concurrent Resolution 376, a resolution which, in small measure, pays tribute to the priceless service our American Red Cross volunteers have rendered in times of war as well as in times of peace. The resolution before us today expresses our gratitude for that uncompensated service and for the remarkable patriotism, courage, and compassion so evident in it.

Just over 100 years ago, in 1881, Clara Barton and her associates first

founded the American Red Cross. Clara Barton had by that time a well-earned reputation for compassion as a result of her service to the sick and wounded in our own civil war. Today, a century later, the American Red Cross is one of 123 similar national organizations in countries around the world who work cooperatively through the International Committee of the Red Cross as well as the League of Red Cross Societies. When disasters—natural or manmade—occur overseas, the American Red Cross and others are ready with assistance, providing supplies as well as manpower. The American Red Cross has also been active in U.S. military hospitals overseas and at home and helps to reunite families divided by war and political conflict. Through both major world wars it rendered invaluable service to wounded American servicemen, many of whom undoubtedly owe their lives in part today to the selfless service of these volunteers. The American Red Cross continues in this tradition of service by contributing now to the relief assistance effort in war-torn Lebanon.

Mr. Speaker, the spirit of volunteerism and compassion embodied in the mission of the American Red Cross is in the finest of American traditions. It is an organization of which the people of this country can be supremely proud and to which it owes a long-standing debt of gratitude. It is fitting that the U.S. Congress pay special tribute to those many volunteers—for their service to this country and to the world. In the spirit of the resolution before us, I would call on our State and local governments to similarly honor these humble and courageous Americans, and urge my colleagues to join in strong support of this resolution on behalf of all those volunteers who over the years have come from their own congressional districts.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Concurrent Resolution 376.

This resolution expresses the appreciation of the Members of Congress for the outstanding service and patriotism demonstrated over the years by the American Red Cross volunteers. These volunteers come from every State and territory of the United States. They have provided humanitarian assistance to the sick and wounded overseas in or near combat zones in times of war.

The resolution also calls attention to the important American tradition of volunteerism. The good works of the American Red Cross and any number of other private American organizations demonstrate that this tradition is alive and well in America.

For all of these reasons, Mr. Speaker, I would urge the adoption of the resolution.

Mr. LEACH of Iowa. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. BONKER. Mr. Speaker, I have no further requests for time.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONDEMNING IRANIAN PERSECUTION OF THE BAHA'I COMMUNITY

Mr. BONKER. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 378) to condemn the Iranian persecution of the Baha'i community.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 378

Whereas the Baha'i community in Iran is experiencing persecution, harassment and disappearances of family members, job discrimination, seizure of bank funds, destruction of personal property, and torture;

Whereas current reports show at least one hundred and thirteen executions of Baha'is and Bahá'i religious leaders by the Government of Iran; and

Whereas the continued harassment and murder of Baha'is demonstrates that the Government of Iran has launched a conscious effort to destroy the Baha'i community: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States condemns persecution of the Baha'is, holds the Government of Iran responsible for upholding the rights of all its citizens, including the Baha'is, and expresses the hope that the discrimination and brutal executions within the Baha'i community cease immediately. The Congress urges the Iranian Government to take whatever means are necessary to end this extermination of law-abiding citizens who only wish to worship in freedom.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. LEACH of Iowa. Mr. Speaker, reserving the right to object, I rise in support of House Concurrent Resolution 378, a resolution condemning the Iranian persecution of the Bahá'i community.

The Subcommittee on Human Rights and International Organizations held a hearing on May 25, 1982, at the long-standing request of the gentleman from Illinois, Mr. DERWINSKI, who has been tireless in his efforts to bring this tragedy of brutal religious persecution to the attention of the Members of this body.

The testimony presented at that hearing was heart rending and provided the subcommittee with a veritable catalog of the manifestations such campaigns of religious persecution assume. One witness, Judge James Nelson, chairman of the national Spiritual Assembly of the Baha'is of the United States, told how Baha'is in Iran are being ruthlessly deprived of their basic human rights and have no recourse for redress of grievances. Speaking of the Baha'is in Iran, he said:

> They are arbitrarily harassed, arrested, detained, tortured, forced to recant, executed, deprived of citizenship at home and rendered stateless abroad. Their widows and elderly are left homeless and penniless; their leaders are exterminated, often secretly; their homes, crops, jobs, incomes, pensions, property, assets, centers, cemeteries and shrines are confiscated, looted, desecrated and destroyed; their worship is made a criminal act and their literature is suppressed. Their children are deprived of education and kidnapped; their families derogated and destroyed—all constituting the pattern of a systematic, willful and officially sanctioned pogrom.

This very deliberate and systematic assault on the Baha'is has been stimulated to a large extent by the fanaticism of radical Islamic elements in political control in Iran today.

While this resolution falls short of incorporating some of the suggestions which emerged from our subcommittee hearing, it is identical to Senate Concurrent Resolution 73 as passed by the Senate and thus certain of final passage without referral to conference. I would like to note for the record, however, several facts which this resolution does not make clear.

First, the Iranian Government is a party to the International Covenant on Civil and Political Rights which states, in article 18, that everyone shall have the right to freedom of religion and, in article 27, that persons belonging to religious minorities shall not be denied the right, in community with other members of their group to profess and practice their own religion. The Constitution of Iran recognizes only the Zoroastrians, the Jews, and the Christians as religious minorities which are free to practice their religion and does not so recognize the Baha'i faith.

Second, it should be made clear to the Government of Iran that history will record the acts for which they bear responsibility and that they may, at some time in the future, be held accountable under international law, for their persecution and extermination of these religious people.

Third, I would draw the attention of the Members of this body to a resolution adopted by the United Nations Human Rights Commission in March 1982, expressing the deep concern over human rights violations in Iran and requesting the United Nations Secretary General to establish direct contacts with the Government of Iran on the human rights situation in Iran and to continue his efforts to insure that

the Baha'is are guaranteed their basic human rights. Also, the United Nations General Assembly, of which Iran is a member, adopted by consensus in November 1981 the "Declaration of the Elimination of All Forms of Intolerance of Discrimination Based on Religion or Belief."

Finally, while the resolution before us does not specifically call on the President of the United States to take any specific action in response to this human rights tragedy, I would like to take this opportunity to appeal to the administration to do all in its power, in spite of the absence of formal diplomatic relations with the Government of Iran, to back up the efforts of the U.N. Secretary General and the U.N. Human Rights Commission in addressing the persecution of the Baha'is, to use opportunities in international fora to express the moral outrage of the American people over what is happening, to urge foreign governments to make urgent appeals to the Iranian authorities to cease the execution and persecution of the Baha'is, and to render all appropriate, feasiable humanitarian aid to Baha'is victimized by this tragedy.

Mr. Speaker, I urge my colleagues to give this resolution their strong support as an unmistakable signal to the Government of Iran that the Congress of the United States, and the people it presents, will not countenance the continued persecution and repression of this peaceful religious group.

Thank you.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. Mr. Speaker, I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, it is shocking that religious persecution of the most barbarous kind still exists in the world. Despite the standards observed by our Government and many other governments throughout the world, the principle of the freedom of conscience and religion is more honored in the breach than the observance in certain States—Iran's persecution of the Baha'is is a case in point.

The Subcommittee on Human Rights and International Organizations, chaired by the Honorable DON BONKER from the State of Washington, has held a series of hearings on the persecution of the Baha'is in Iran. Testimony has revealed that the most gross violations of human rights of the members of that community have been committed there in recent years by the Iranian Government. These have been documented in the subcommittee's hearings as well as in the spring 1982 edition of the major publication of the Baha'is, "World Order."

House Concurrent Resolution 378 expresses the moral outrage with this dreadful situation by condemning Iran's persecution of the Baha'is. It holds the Government of Iran responsble for this behavior, and expresses the hope that that Government should immediately cease its discrimination of the Baha'i community. Mr. Speaker, I urge the adoption of House Concurrent Resolution 378.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Speaker, the Subcommittee on Human Rights and International Organizations has conducted a series of hearings on religious practice throughout the world. We have been particularly concerned about the persecution of the Baha'i's in Iran. Testimony has revealed that the grossest violations of human rights of the community have been committed by the Iranian Government. These have been documented in subcommittee hearings as well as in the spring 1982 edition of the major publication of the Baha'i's.

Mr. Speaker, the resolution before us holds the Government of Iran responsible for this behavior, and expresses the hope the government should immediately cease its discrimination of the Baha'i community.

I urge adoption of House Congressional Resolution 378.

● Mr. DERWINSKI. Mr. Speaker, I urge the House to approve House Concurrent Resolution 378, condemning the persecution of the Baha'i community by the Moslem fundamentalist regime in Iran.

The vicious vindictiveness of the Moslem fundamentalist regime in Iran is nearly pervasive with almost every segment of society subjected to the terror of its inhumane rulers. Religious minorities especially are persecuted severely and of these, the largest of all, the Baha'i community, has suffered most.

The Baha'i religion was founded in Iran 139 years ago. Its founder, Baha'u llah, believed by Baha'is to be the most recent Prophet of God, taught, among other things, the oneness of all the races, the equality of the sexes, and the common foundation of the world religions. Opposition from Iran's religious and government leaders, however, was encountered from the outset. It persisted over the years with varying intensity but never has the virulence of the Moslem clergy been as strong as it is now.

Like Baha'i communities everywhere, the one in Iran abstains from all political activity, is peaceful, works toward brotherhood, promotes tolerance, and seeks mutual understanding with members of all faiths and groups. Yet the reign of terror unleashed by Iranian fanatics, both in government and out, has been relentless and savage.

Christians and Jews have also been imprisoned and Jews have been executed where religious affiliation appeared to be an important factor. But both of these groups, it should be noted, are protected by the Iranian Constitution. The Baha'is, however, are not even recognized under the Constitution and are subject to persecution, imprisonment, and execution simply by virtue of their religious ties. Absurd charges have been leveled against them. They have been accused of "entering into battle against God" and "corruption on earth." "Espionage on behalf of Israel," is another frequent charge. Under Islamic law, a practicing Baha'i is practicing heresy and the Iranian high court has upheld the execution of Baha'i leaders from their religious activities.

Mobs have attacked Baha'is in Iran's cities, towns, and villages resulting in much property damage, widespread injury and numerous deaths. The government itself has directed a nationwide pogrom, a systematic annihilation of Baha'is based solely on their religious belief. Many ordinary members and almost all Baha'i leaders have been executed as "heretics." They have been jailed unjustly, their homes burned, their cemeteries destroyed, and their property seized. Their children have been kidnaped. For example, teenage students were abducted from their schools by Moslem instructors who claimed that the young people had converted to Islam. Their teachers refused to meet with their parents and local authorities refused to cooperate in attempting to locate the kidnaped children.

In Miyan-Duab, a mob, after destroying the local Baha'i center, fell upon a man and his son, dragged their bodies through the street, chopped them up into small pieces and finally burned them.

In Nuk, a farming village near Birjand, 15 masked men attacked a couple in their home at night, poured kerosene on the husband and set him on fire before forcing him to run for a few yards. Finally, they heaped wood upon him, burning him to death. His wife, subjected to similar treatment, died a few days later.

In Yazd, following the execution of seven Baha'is, including an 85-year-old man, the authorities presented their widows with bills for the cost of the bullets used.

The House of Bab, the holiest Baha'i shrine in Iran and a place of pilgrimage for the Baha'is of the world, was seized on the pretext that it would be protected by the authorities against mob attack. It was ultimately razed and the site obliterated by a hastily built road.

As reported by the committee, House Concurrent Resolution 378 takes note of the persecution and harassment of the Baha'i community in Iran. It cites the execution of 113

Baha'is and Baha'i religious leaders by the Government of Iran, the disappearances of family members, job discrimination, seizure of bank funds, destruction of personal property, and torture. Further, the resolution notes that the actions taken against the Baha'is demonstrate that the Government of Iran has launched a conscious effort to destroy the Baha'i community.

Finally, the resolution states that it is resolved by the House of Representatives, the Senate concurring, "That the Congress of the United States condemns the persecution of the Baha'is, holds the Government of Iran responsible for upholding the rights of all its citizens, including the Baha'is, and expresses the hope that the discrimination and brutal executions within the Baha'i community will cease immediately." The Congress also urges the Iranian Government to take whatever steps are necessary to bring the extermination of the Baha'is to an end.

It was with a heavy heart that I cosponsored this resolution. The tragedy the Baha'is are suffering in Iran is as grim in its own way as the World War I Turkish genocide effort against the Armenians. The problem is hidden due to the absence of media coverage in Iran; the few Western reporters there are restricted to the capital. But Baha'is are a special target of the religious fanatics that now run the Government of Iran, and this savage persecution continues without world attention to it.

Outside Iran this resolution, therefore, could have special significance. Certainly it is not going to change the policies of the Iranian Government, but perhaps it will alert the sleeping conscience of the world to the terrible condition of the Baha'is in Iran and the immense suffering borne by the faithful in the name of their religion.

Like my distinguished colleague, Mr. LEACH, I would have preferred the language of the resolution which we introduced. It spelled out in greater detail the background of the problem of the Baha'is in Iran, the U.N. Human Rights Commission report and a number of other things of note.

The principal consideration, nonetheless, is that proper notice be taken of this tragedy and that we recognize the ongoing suffering of the Baha'is in Iran. Perhaps we can awaken people throughout the world to this issue. I trust that this resolution will be quickly passed by the full House.

I urge you to join me in voting in favor of House Concurrent Resolution 378.●

● Mr. STARK. Mr. Speaker, I am here to urge my colleagues to vote for House Concurrent Resolution 378, and to express my concern about the religious persecution of the 300,000 Iranian Baha'is by the Khomeini regime. I know that many in Congress also believe that we must condemn and oppose the harsh repression and possible genocide of the Baha'is in Iran. It is quite sad and ironic that a people who for over 100 years have striven to bring about the unity of mankind, world peace, and world order, should be the target of flagrant violations of human rights.

I first learned about the plight of the Baha'is in Iran through constituents of mine, who are either themselves members of the Baha'i community or who are friends of members. The shocking and disturbing letters and news clippings which I received from people in the Ninth District of California, prompted me to investigate this matter further, and then to speak out against the genocidal actions of the Khomeini regime.

I would like to share with my colleagues, some excerpts from "A Cry From the Heart," by an eminent Western Baha'i, William Sears. This book is an impassioned account of the horrors perpetrated against the Iranian Baha'is, a refutation of the false and contradictory charges leveled against them, and an exposé of the genocidal purpose of the present outbreak. The following excerpt describes the atrocities taking place against the Baha'is in Iran:

The atrocities taking place against Baha'is today throughout Iran are no longer matters of suspicion or opinion. They are matters of fact. The proof can be found in the records of libraries, newsrooms, United Nations Agencies, human rights organizations, telex and cable files in every part of the world.

The spotlight of world publicity has now been turned directly upon Iran. It is no longer a secret that the killings, burnings, lootings, and torture of Baha'is are still continuing, even as these pages are being written. It is no longer possible for the persecutors to suppress or minimize the enormity of their crimes, or to hide anonymously behind the fiction of 'uncontrollable mobs'.

Those days are over!

Confiscation of property, of bank accounts, burning and looting of homes, officially sanctioned executions of innocent victims—all these things take place everywhere, in the streets, in the market-place, and in the homes.

The Baha'is are harassed, beaten, abused, killed. Sometimes husband and wife together. Or an entire family. Or a group of close friends, or neighbours, or business associates. Chosen at random. At the whim of the killers.

Stabbed, stoned, hanged, burned alive, hacked to pieces with knives, stood before firing-squads.

Men, women, children. No one is spared.

Their crime?

They are Baha'is.

These attacks have been going on for nearly one hundred and fifty years.

The first onslaught of the current persecutions began in 1978. It is now in its fourth year. The severity and spread of the outrages increase each day and become ever more sinister. There is no end in sight, and no sign of a let-up.

What is most alarming and threatening about the present avalanche is not its violence, that has always occurred. It is the devilish ingenuity of the assault designed to eliminate an entire community of nearly half a million souls. The terror has now spread into every level of Baha'i life, to city dweller, villager and farmer.

At first the Baha'i business houses, the repository of the savings of rich and poor Baha'is alike, were confiscated, with no recompense. Then the great Baha'i hospital in Teheran, built, operated and fully supported by Baha'is where patients of all religions and backgrounds were treated with the same loving care, was taken over. Next, Baha'i holy places throughout the country were occupied and put to whatever use, often personal, the revolutionary authorities, equally often the man with a gun, might decide. The meeting-places of the local communities were next to be taken. Then, having deprived this helpless community, which has no rights in law, of its funds, hospital, holy places and religious properties, attention was turned to the leaders of the community. All nine members of the National Spiritual Assembly were kidnapped and have not been heard of, except by rumor, to this day. Outstanding Baha'is in the provincial communities were next and many of those have been executed. The obvious aim is to get rid of the capable, trusted, elected leaders before launching the attack on the rank and file.

The Baha'i community they are trying to destroy is the largest religious minority in Iran. It has more members than the Christian, Jewish and Zoroastrian communities combined. In spite of this, the Baha'i Faith is not recognized and Baha'is are deprived of their basic human rights. There is no one and no place in the entire country they can approach for protection. They cannot appeal to the clergy, to the courts, or to the authorities. The clergy and their religious courts *are* the authorities.

They are engaged in a process which the entire civilized world has always been against.

It is called: *Genocide!*

Again, I urge my colleagues to vote for House Concurrent Resolution 378. We must express the extent to which we condemn and deplore the situation of the Baha'is in Iran. Thank you.●

Mr. LEACH of Iowa. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The current resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. BONKER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 73) to condemn the Iranian persecution of the Baha'i community, and ask for its immediate consideration in the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 73

Whereas the Baha'i community in Iran is experiencing persecution, harassment and

disappearances of family members, job discrimination, seizure of bank funds, destruction of personal property, and torture;

Whereas current reports shows at least one hundred and thirteen executions of Baha'is and Baha'i religious leaders by the Government of Iran; and

Whereas the continued harassment and murder of Baha'is demonstrates that the Government of Iran has launched a conscious effort to destroy the Baha'i community: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States condemns persecution of the Baha'is, holds the Government of Iran responsible for upholding the rights of all its citizens, including the Baha'is, and expresses the hope that the discrimination and brutal executions within the Baha'i community cease immediately. The Congress urges the Iranian Government to take whatever means are necessary to end this extermination of law abiding citizens who only wish to worship in freedom.

Mr. BONKER. Mr. Speaker, this concurrent resolution is identical to the House concurrent resolution just passed. We are acting on this resolution so that the House and Senate can act in concert on the resolution concerning persecution of the Baha'is in Iran.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

A similar House concurrent resolution (H. Con. Res. 378) was laid on the table.

PERMISSION FOR COMMITTEE ON RULES TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE PRIVILEGED REPORT

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report.

The SPEAKER pro tempore (Mr. RATCHFORD). Is there objection to the request of the gentleman from Pennsylvania?

Mr. LOTT. Mr. Speaker, reserving the right to object, and I will not, I just do so for the purpose of saying that we had hesitated to allow this unanimous consent request until we did have an opportunity to at least look at the rule that the Rules Committee is now meeting on to consider. We have had a chance to review it, and I am sure it is going to be discussed at length in the Rules Committee, but now that we have seen it and had a look at it, we do not feel the need to object.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. BONKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the several resolutions just approved.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

NATIONAL PARKINSON'S DISEASE WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 531) authorizing the President to proclaim the week beginning October 24, 1982, as "National Parkinson's Disease Week," and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

□ 1910

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 531

Whereas Parkinson's disease is one of the most devastating illnesses threatening the citizens of the United States;

Whereas Parkinson's disease afflicts one out of every one hundred persons over the age of sixty;

Whereas Parkinson's disease is one of the most severely crippling disorders of the nervous system;

Whereas the National Parkinson Foundation is entering its twenty-fifth year as a major contributor to research on Parkinson's disease and to treatment and rehabilitation programs for the victims of such disease; and

Whereas research on the causes of and the search for a cure for Parkinson's disease are continuing to be conducted: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on October 24, 1982, is designated as "National Parkinson's Disease Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities and programs.

Mr. GARCIA. Mr. Speaker, House Joint Resolution 531 designates the week beginning on October 24, 1982 as "National Parkinson's Disease Week." Parkinson's disease is one of the most devastating illnesses threatening the citizens of the United States. Parkinson's disease afflicts 1 out of every 100 persons over the age of 60 and is one of the most severely crippling disorders of the nervous system. Research on the causes of and the search for a cure for Parkinson's disease are continuing to be conducted.

This bill has been cosponsored by more than 218 Members of the House.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 241) to provide for the designation of the week of December 12, 1982, through December 18, 1982 as "National Drunk and Drugged Driving Awareness Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 241

Whereas traffic accidents cause more violent deaths in the United States than any other cause, over fifty thousand in 1980;

Whereas traffic accidents also play a substantial role in serious injuries in this country;

Whereas between 40 and 55 per centum of drivers who are fatally injured have alcohol concentrations in their blood above the legal limit and this figure rises to 55 to 65 per centum in single vehicle crashes;

Whereas the total societal cost of drunk driving has been estimated anywhere from $5,000,000,000 to $25,000,000,000 a year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marihuana or other illegal drugs;

Whereas more research is needed on the effects of drugs on driving ability and their impact on the incidence of traffic accidents, either alone or in combination with alcohol;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increased research on the effects of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups such as Mothers Against Drunk Driving (MADD) and Remove Intoxicated Drivers (RID), is demanding a solution to the problem of drunk driving;

Whereas the President has appointed a Commission on Drunk Driving to heighten public awareness and stimulate the pursuit of solutions;

Whereas many States have appointed task forces to examine the existing drunk driving program and make recommendations for a renewed, comprehensive approach;

Whereas an increase in the national awareness of the problem of drunk and

drugged driving may help to sustain current efforts to develop comprehensive solutions at the State and local levels; and

Whereas the Christmas and New Year's holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 12, 1982, through December 18, 1982, is designated as "National Drunk and Drugged Driving Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Mr. GARCIA. Mr. Speaker, Senate Joint Resolution 241 designates the week of December 12-18, 1982 as "National Drunk and Drugged Driving Awareness Week." Traffic accidents cause more violent deaths in the United States than any other cause, over 50,000 in 1980. Between 40 and 55 percent of drivers who are fatally injured have alcohol concentrations in their blood above the legal limit and this figure rises to 55 to 65 percent in single vehicle crashes. An increase in national awareness of the problem of drunk and drugged driving may help to sustain current efforts to develop comprehensive solutions at the State and local levels.

This bill has been cosponsored by more than 218 Members of the House.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FIORELLO H. LA GUARDIA MEMORIAL DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 595) designating December 11, 1982, as "Fiorello H. La Guardia Memorial Day," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BIAGGI. Mr. Speaker, I reserve the right to object to commend the chairman of the Post Office and Civil Service Committee, the gentleman from New York, Mr. GARCIA, for introducing this resolution.

Mr. Speaker, this resolution (H.J. Res. 595), which I introduced with my distinguished colleague from New York (Mr. GARCIA), would honor the 100th anniversary of the birth of Fiorello N. La Guardia, a former Member of this august body and a three-term mayor of New York City.

Specifically, it would designate La Guardia's 100th birthday, December 11, 1982, as "Fiorello H. La Guardia Memorial Day."

This tribute is richly deserved. An incorruptible man, Fiorello La Guardia's many accomplishments and the honest and fairness which characterized his work continue to serve as an inspiration to all Americans, particularly those of us who share his Italian heritage.

He was first elected to Congress in 1916 and participated in the special session called by President Woodrow Wilson to declare war against Germany. Always a man of his word, Congressman La Guardia voted for war and then enlisted for military service himself, as he promised his constituents he would do.

After distinguishing himself in the war, he returned to his seat in the House, which had been reserved for him during his absence by a special act of Congress. He went on to serve 12 years in the House, from 1917-19, and from 1923-33.

In 1933, he was elected mayor of New York City and he was relected in 1937 and again in 1941, making him the first mayor of New York ever to be elected to three consecutive terms.

Among his many accomplishments as mayor were the balancing of the city budget; elimination of the considerable graft and corruption that had existed in the awarding of city contracts; construction of many new public school buildings; the establishment of low-cost housing and slum clearance programs; and improved health and sanitary conditions within the city.

He was also responsible for a number of major construction projects in the city, including the Triborough and Bronx-Whitestone Bridges, the Queens-Midtown Tunnel, and the La Guardia Airport—which bears his name.

Mr. Speaker, Fiorello La Guardia's vast energy, fiery leadership, and considerable wisdom contributed greatly to the betterment of our Nation and the city of New York. His public service career serves as a benchmark from which others are judged.

Who would have ever thought that a young Italian American boy who caught only brief, but everlasting glimpses of Mayor La Guardia campaigning on the streets of New York would become a Member of Congress and have the privilege to pay tribute to one of the greats in American history. It deeply gratifies me to commemorate Fiorello La Guardia's legendary life with this resolution, and I urge its unanimous approval.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 595

Whereas December 11, 1982, is the one hundredth anniversary of the birth of Fiorello H. La Guardia ("The Little Flower"), who served with great distinction for twelve years in the United States House of Representatives and for ten years as mayor of New York City; and

Whereas his vast energy, fiery leadership, and considerable wisdom contributed greatly to the betterment of our Nation and the city of New York; and

Whereas his public service career serves as a benchmark from which others are judged; and

Whereas his many accomplishments and the honesty and fairness which characterized his work continue to serve as an inspiration to all Americans, particularly those who share his Italian heritage: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 11, 1982, is designated as "Fiorello H. La Guardia Memorial Day" and the President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Mr. GARCIA. Mr. Speaker, House Joint Resolution 595 designates December 11, 1982, as "Fiorello H. La Guardia Memorial Day." This is the 100th anniversary of the birth of Fiorello H. La Guardia who served with great distinction for 12 years in the U.S. House of Representatives and for 10 years as mayor of New York City. His vast energy, fiery leadership, and considerable wisdom contributed greatly to the betterment of our Nation and the city of New York and his public career serves as a benchmark from which others are judged.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PEARL STREET CENTENNIAL DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate concurrent resolution (S. Con. Res. 117) commemorating September 4, 1982, as "Pearl Street Centennial Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate concurrent resolution as follows:

H. CON. RES. 117

Whereas on September 4, 1882, Thomas Alva Edison's historic Pearl Street power-

plant began to supplying electricity in New York City; and

Whereas this event signaled the birth of the electric power industry in this country and abroad; and

Whereas the Pearl Street powerplant became the model for every central electric generating station in the world today; and

Whereas the Pearl Street station, and the many central stations built thereafter, made possible a higher standard of living for all the world; and

Whereas September 4, 1982, marks the one hundredth anniversary of the Pearl Street station: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress urges the people of the United States to commemorate September 4, 1982, the one hundredth anniversary of Thomas Edison's Pearl Street central power station, as "Pearl Street Centennial Day".

Mr. GARCIA. Mr. Speaker, Senate Concurrent Resolution 117 designates September 4, 1982 as "Pearl Street Centennial Day." This event signaled the birth of the electric power industry in this country and abroad. The Pearl Street powerplant became the modes for every central electric generating station in the world today. On September 4, 1882, Thomas Alva Edison's historic Pearl Street powerplant began to supply electricity in New York City. The Pearl Street Station and the many central stations built thereafter, made possible a higher standard of living for all the world.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

MYASTHENIA GRAVIS AWARENESS WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 197) designating the week of October 17 through October 23, 1982, as "Myasthenia Gravis Awareness Week," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 197

Whereas the incidence and prevalence of myasthenia gravis present a significant health problem in the United States;

Whereas myasthenia gravis is a severe neuromuscular disorder, characterized by weakness of the voluntary muscles of the body;

Whereas an estimated one hundred thousand to two hundred thousand diagnosed, and over one hundred thousand undiagnosed, Americans of both sexes, and all races and ages, are afflicted with the disease;

Whereas the Nation faces a continuing need to support innovative research into the causes, treatment, and cure of myasthenia gravis;

Whereas it is appropriate to focus the Nation's attention upon the problem of myasthenia gravis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 17 through October 23, 1982, is designated as "Myasthenia Gravis Awareness Week" and the President of the United States is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Mr. GARCIA. Mr. Speaker, Senate Joint Resolution 197 designates October 17 to 23, 1982, as "Myasthenia Gravis Awareness Week." The incidence and prevalence of myasthenia gravis present a significant health problem in the United States. It is a severe neuromuscular disorder, characterized by weakness of the voluntary muscles of the body. An estimated 100,000 to 200,000 diagnosed and over 100,000 undiagnosed Americans of both sexes, and all races and ages, are afflicted with the disease. The Nation faces a continuing need to support innovative research into the causes, treatment, and cure of myasthenia gravis.

An identical bill, House Joint Resolution 498, has been cosponsored by more than 218 Members of the House.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL PORT WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 537) to authorize and request the President of the United States to issue a proclamation designating the first week in October for the calendar years 1982, 1983, and 1984 as "National Port Week," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 537

Whereas the past development of the public ports of the United States is the result of a fruitful partnership with the Federal Government constructing and maintaining the navigable waterways and harbors of the United States, and local municipalities assuming major responsibility for land-based port development;

Whereas our Nation's commercial seaports and inland river ports are indispensable to foreign and domestic waterborne commerce and to the economic well-being and national security of the United States;

Whereas the maintenance and development of our national network of commercial ports is vital to expanded international trade and to the attainment of a favorable trade balance;

Whereas commercial ports serving the waterborne commerce of the United States are responsible for the continued employment of more than one million workers in 1981 generated a total of $70,000,000,000 in direct and indirect benefits to the United States economy;

Whereas there is a continuing need to focus public attention upon the value of a viable and competitive system of commercial ports; and

Whereas the National Port Week observance promotes public recognition of the vital role that our ocean and inland ports have played in the economic growth and national security of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation in each of calendar years 1982, 1983, and 1984 designating the first week in October as "National Port Week" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe that week with appropriate ceremonies and activities.

Mr. GARCIA. Mr. Speaker, House Joint Resolution 537 designates the first week in October of 1982, 1983, and 1984 as "National Port Week." Our Nation's commercial seaports and inland river ports are indispensable to foreign and domestic waterborne commerce and to the economic well-being and national security of the United States. The maintenance and development of our national network of commercial ports is vital to expanded international trade and to the attainment of a favorable trade balance. There is a continuing need to focus public attention upon the value of a viable and competitive system of commercial ports.

This bill has been cosponsored by more than 218 Members of the House.

Mr. BIAGGI. Mr. Speaker. Today, we consider House Joint Resolution 537—authorizing the President to designate the first week in October as "National Port Week." As we are acting on this legislation, literally millions of dollars worth of goods in domestic and international commerce are passing through our inland and ocean ports.

In recent years, both the Democratic and Republican parties—and leaders at the Federal, State, and local levels—have come to realize the vitally important role played by our port cities.

During this Congress, countless hours have been spent in developing and considering legislation to meet the critical needs of our ports. The solutions have not been easily found, because the neglect has been so great.

The search for solutions to these problems has made me more aware of the fundamental role ports play in the economic life of our Nation.

We in the United States are fortunate to have the largest port systems in the world. Throughout our history, this system has made possible the efficient and economical transfer of cargo—making us the world's greatest trading Nation.

The Nation's ports generate significant employment and direct-dollar income to the local and regional economies they serve—and they have a major impact on employment and production in areas far distant from their location.

Our ports provide a wide variety of services and activities essential to the smooth, efficient conduct of foreign trade—and they have a direct impact on our balance of payments.

Over 220 Members have joined with me in sponsoring this resolution. They are Members of both parties and of every ideological persuasion. They represent large cities, small towns, suburban communities, and our agricultural heartland.

Their constituents are industrial workers, farmers, and coal miners who depend on our ports to export the fruits of their labor. Each citizen—whether an exporter of U.S. goods and services, or a consumer of imports—benefits from trade passing through our ports.

Efficiently designed, well-maintained deepwater ports insure that the international trade upon which our economy is so dependent is not constrained by the inability of shippers to move goods competitively in the international market. House Joint Resolution 537 recognizes the vital role ports play in the economic life of our Nation.

As a life-long resident of New York State, I am fully aware of the important role played by ports in our State's economy. From colonial days, the Ports of New York and Buffalo have been an integral part of the commerce and industry of our State. Each year, they are responsible for tens of thousands of jobs and billions of dollars in economic activity. What began as the small trading post of New Amsterdam has grown into one of the world's most modern and active ports.

While New Yorkers and all Americans can be proud of our Nation's ports, we recognize that too often we have neglected them—just as we have neglected other natural resources.

In recent years, the neglect of our ports has been highlighted by the delays associated with steam coal exports. Inadequate facilities not only limit our ability to export coal and other commodities but also increase the cost of exported goods—thereby decreasing the competitiveness of U.S. products.

Indeed, the ports of our Nation provide the vital link in our international trade program. And, as such, they demand constant attention if we are to maintain our preeminent position in world trade.

National Port Week is a time to celebrate the accomplishments of our Nation's ports—and to recognize the major role our ocean and inland ports play in the economic life of our Nation. By declaring the first week in October as National Port Week, we as a nation recognize our commitment to maintaining our great port system.

I would like to submit for the RECORD the list of cosponsors of House Joint Resolution 537:

Mr. Addabbo, Mr. Akaka, Mr. Alexander, Mr. Andrews, Mr. Annunzio, Mrs. Ashbrook, Mr. Atkinson, Mr. Bafalis, Mr. Bailey of Pennsylvania, Mr. Barnard, Mr. Benedict, Mr. Benjamin, Mr. Bennett, Mr. Bevill, Mr. Bingham, Mr. Blanchard, Mrs. Boggs, Mr. Boner of Tennessee, Mr. Brooks, and Mr. Burgener.

Mr. John L. Burton, Mrs. Byron, Mr. Campbell, Mr. Chappell, Mr. Chappie, Mrs. Chisholm, Mr. Clausen, Mr. Clay, Mr. Clinger, Mr. Corcoran, Mr. Corrada, Mr. Courter, Mr. Dan Daniel, Mr. Robert W. Daniel, Jr., Mr. de la Garza, Mr. Dellums, Mr. Derrick, Mr. Dingell, Mr. Dornan of California, and Mr. Dwyer.

Mr. Dymally, Mr. Dyson, Mr. Edwards of Alabama, Mr. Fary, Mr. Fascell, Mr. Fauntroy, Mr. Fazio, Mrs. Fenwick, Ms. Fiedler, Mr. Fish, Mr. Fithian, Mr. Flippo, Mr. Florio, Mr. Foley, Mr. Ford of Tennessee, Mr. Fountain, Mr. Frank, Mr. Frenzel, Mr. Fuqua, and Mr. Gephardt.

Mr. Gilman, Mr. Ginn, Mr. Goldwater, Mr. Grisham, Mr. Guarini, Mr. Hance, Mr. Hatcher, Mrs. Heckler, Mr. Hefner, Mr. Hertel, Mr. Hollenbeck, Mrs. Holt, Mr. Horton, Mr. Hoyer, Mr. Huckaby, Mr. Ireland, Mr. Kemp, Mr. LaFalce, Mr. Lagomarsino, and Mr. Levitas.

Mr. Livingston, Mr. Long of Maryland, Mr. Lott, Mr. Lowry of Washington, Mr. Lungren, Mr. McDade, Mr. McDonald, Mr. McEwen, Mr. Markey, Mr. Martin of New York, Mr. Martin of North Carolina, Mr. Martinez, Mr. Matsui, Mr. Mineta, Mr. Minish, Mr. Moakley, Mr. Molinari, Mr. Montgomery, Mr. Morrison, and Mr. Mottl.

Mr. Murphy, Mr. Neal, Mr. Nelligan, Ms. Oakar, Mr. Ottinger, Mr. Panetta, Mr. Patterson, Mr. Pepper, Mr. Peyser, Mr. Price, Mr. Pursell, Mr. Rahall, Mr. Reuss, Mr. Richmond, Mr. Rinaldo, Mr. Rodino, Mr. Roth, Mr. Savage, Mr. Scheuer, and Mrs. Schneider.

Mr. Shaw, Mrs. Snowe, Mr. Solarz, Mr. Stangeland, Mr. Stanton of Ohio, Mr. Stokes, Mr. Stratton, Mr. Swift, Mr. Synar, Mr. Tauke, Mr. Trible, Mr. Walgren, Mr. Weaver, Mr. Weber of Ohio, Mr. Weiss, Mr. Whitehurst, Mr. Wilson, Mr. Winn, Mr. Wolf, Mr. Won Pat, Mr. Wyden, Mr. Yatron, Mr. Young of Missouri, and Mr. Zeferetti.

Mr. Albosta, Mr. Badham, Mr. Barnes, Mr. Bliley, Mr. Bonior of Michigan, Mr. Phillip Burton, Mr. Butler, Mrs. Collins of Illinois, Mr. Conte, Mr. Conyers, Mr. Downey, Mr. de Lugo, Mr. Edgar, Ms. Ferraro, Mr. Fields, Mr. Gejdenson, and Mr. Green.

Mr. Hartnett, Mr. Heftel, Mr. Holland, Mr. Kazen, Mr. Lantos, Mr. Long of Louisiana, Mr. Marks, Mr. Mica, Mr. Miller of California, Mr. Murtha, Mr. Pashayan, Mr. Robinson, Mr. Roemer, Mr. Rose, Mr. Rostenkowski, Mr. Santini, and Mr. Schumer.

Mr. Solomon, Mr. Spence, Mr. Vander Jagt, Mr. Wampler, Mr. Whitley, Mr. Zablocki, Mr. Dicks, Mr. Gibbons, Mr. Smith of New Jersey, Mr. Stark, Mr. Pickle, and Mr. Evans of Delaware.

● Mr. ROE. Mr. Speaker, I rise today in strong support of House Joint Resolution 537, which authorizes the President to designate the first week in October for calendar years 1982, 1983, and 1984 as "National Port Week."

Our Nation's commercial seaports and inland river ports are among our Nation's most valued resources. They have provided the very base upon which our Nation's economy has grown and prospered.

Our ports have ably served the needs of waterborne commerce and have helped foster increased communications and economic development between ourselves and foreign nations.

Since colonial times, our ports have consistently served as base for the economic growth that resulted in the United States becoming the world leader in trade that it is today.

Equally important our coastal and inland ports have played a vital role in maintaining our Nation's defense as well as providing a strong national transportation network.

Mr. Speaker, our commercial ports generate over 1 million jobs and contribute more than $66 billion every year in direct and indirect income to our national economy.

Some 220 Members of the House have joined in sponsoring House Joint Resolution 537. It is surely a fitting tribute to the important impact that our ports have had on our Nation's history and economy.

The American people have invested wisely in their commercial seaports and inland river ports. National Port Week is an appropriate reminder that we must continue to make every effort to protect that investment in the years ahead.●

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL AGRICULTURE DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 235) proclaiming March 21, 1983, as "National Agriculture Day," and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 235

Whereas agriculture is this Nation's most basic industry, and its associated production, processing, and marketing segments, together, provide more jobs than any other single industry; and

Whereas the productivity of agriculture is a vital ingredient in our strength as a Nation, both domestically and on the world scene; and

Whereas, to maintain a healthy agriculture, it is necessary that all the people of the United States understand how agriculture affects their lives and well-being, and be aware of their personal stake in an abundant food and fiber supply: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 21, 1983, is hereby proclaimed "National Agriculture Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities.

Mr. GARCIA. Mr. Speaker, Senate Joint Resolution 235 designates March 21, 1983, as "National Agriculture Day." Agriculture is this Nation's most basic industry, and its associated production, processing, and marketing segments, together provide more jobs than any other single industry. The productivity of American agriculture is a vital ingredient in our strength as a nation, both domestically and on the world scene. To maintain a healthy agriculture it is necessary that all Americans should understand how agriculture affects their lives and well-being, and should be aware of their personal stake in an abundant food and fiber supply.

This bill has been cosponsored by more than 218 Members of the House.

● Mr. DE LA GARZA. Mr. Speaker, I rise in support of House Joint Resolution 586, and Senate Joint Resolution 235, a resolution to proclaim March 21, 1983, as "National Agriculture Day."

I urge all of my colleagues to join in voting to pass this legislation. By doing so, we will be telling the Nation at large that Congress recognizes the importance of agriculture to all Americans. As chairman of the House Agriculture Committee, I sponsored this legislation in partnership with Mr. WAMPLER, of Virginia, the ranking minority Member of the committee, and with more than 225 other Members of the House, because we believe the role of agriculture in our society deserves continued emphasis.

The 1983 observance of Agriculture Day—on March 21, the first day of spring—will mark the 10th anniversary of this celebration of the achievements and strengths of this vital industry.

This is a milestone, to be sure, but it is also an opportunity to express—in these very difficult times for our farmers and ranchers—our commitment to a healthy agriculture and our understanding of its importance to the economies of this Nation and the world as a whole.

This annual observance is a coordinated, nationwide effort of volunteers throughout agriculture and all the related enterprises to remind other Americans of the strength of this industry and its almost incredible ability to weather blows that others could not possibly withstand.

The 1983 observance will give special emphasis to the breadth of this sector of our economy which, in fact, easily embraces one-fifth of our work force, some 23 million men and women. That is not so hard to understand, when we think of all the jobs involved in making and serving farm equipment and supplies, in examining and extending credit, and in processing, transporting, and marketing farm products.

That agriculture directly embraces so many Americans may not be hard to understand once we think about it, but problems arise because we may not often think about it.

Stimulating such thoughts is the central purpose of Agriculture Day and that is why there has been such a thoroughly bipartisan groundswell of support in the Congress the last 3 years for a joint resolution such as the one before us today.

Agriculture Day is coordinated by the Agriculture Council of American Education Foundation, an independent, nonprofit organization encompassing all the various parts of the agricultural economy and devoted to communicating facts about it. The Secretary of Agriculture serves as the honorary chairman of the observance. This year, a new steering committee of nearly 50 men and women from across the country—including general farm and commodity organizations, individual producers, leading firms and cooperatives, trade associations, and Federal and State Governments—has been formed, specifically to broaden the base of involvement.

The adoption of this resolution adds formal Government recognition to these noteworthy efforts to honor agriculture and raise the consciousness of the public about its workings.

The 1983 observance will bring together millions of American men, women, and children—at exhibits, schools, parades, and ceremonies of many kinds in communities in every State—for a unified refresher course in how American agriculture works as it provides the most abundant and nutritious supply of food that the world has ever known.

Agriculture can be thought of as a food and fiber chain. We often speak of a food chain in a biological sense but I believe we can also see the American food and fiber system as a human food chain—a chain of humans linked together in a performance unrivaled anywhere in the world.

Consider some of the facts, if you will. What Americans spend for agricultural products, plus our exports of these goods in various forms, accounts for 20 percent of this gross national product. In a recent year, the flow of farm products into domestic and export markets generated $156 billion for production agriculture and $765 billion in the nonfarm economy.

Agriculture generates an estimated 23 million jobs, as I said—more than 22 percent of the entire work force in the United States. Eighty-five percent of these jobs are off the farm. These include: 2.3 million jobs related to goods and services used in farm production; 1.7 million jobs in food processing; 4.8 million in manufacturing; 7.2 million in transportation, trade, retailing; and 3.1 million in eating establishments.

When agriculture is healthy, the entire economy benefits. An extra $1 million in feed grain exports (about 540,000 bushels at mid-1982 prices) creates 16 new nonfarm jobs; an extra $1 million in processed meat demand creates 59 nonfarm jobs. Every dollar of agricultural exports generates a little over $2 of total economic activity. Indeed, our farm exports in recent years have cut in half what our trade deficit would be without them.

Agriculture's productivity shows up every time we shop for food, too. In 1966, the average American consumed 1,383 pounds of food. The consumer spent 14.1 percent of his or her after tax income on food to eat at home, and 3.9 percent of his or her income on food away from home. In addition, about 158 billion pounds of farm commodities were exported that year.

In 1980, the average American ate 1,408 pounds of food, 1.8 percent more than in 1966. The consumer spent only 12.2 percent of disposable income in groceries, 13.5 percent less than in 1966. And he or she spent 4.4 percent eating out. More than 359 billion pounds were exported, 127 percent more than in 1966.

In 6 of the last 7 years, food prices have increased less than other prices. In 1981, they rose 7.9 percent even though farm income declined. Our retail food prices remain among the very lowest food price rates in the world. In 1960, an average wage for a hour's factory work could buy 2.1 pounds of round steak, 3 dozen oranges, 9.2 quarts of milk or 3.9 dozen eggs. Twenty years later, 1 hour of factory work could buy 2.6 pounds of round steak, 24 percent more than in 1960; 3.9 dozen oranges, 30 percent more than in 1960; 13.9 quarts of milk, 51 percent more than in 1960; or 8.7 dozen eggs, 123 percent more than in 1960.

Those facts are what Agriculture Day is all about. I wish to encourage all Americans to join in this celebration—which will last a week in many States—and above all, to take this important information to heart.●

● Mr. WAMPLER. Mr. Speaker, I rise in strong support of Senate Joint Resolution 235 which I joined with Chairman DE LA GARZA in supporting on the House side. And, as you know, a number of Members support this resolution. I believe this strong support indicates an appreciation on the part of the Members and the American people for the contribution to our country's economy and the health and well-being of its people that is provided by our farmers, producers, and those who are otherwise involved in the farm sector providing us with our food and fiber. Our agricultural sector provides us the largest and most nutritional diet in the world for the least cost and has done so for many, many years.

Compare the record of this country, if you will, with any other country. In the United States today a little more than 2 percent of the people are involved in agriculture as compared to a much larger percent of the population in other countries.

Moreover, I might add that the amount, quality, and nutritional value of that food is far less in other countries than it is in the United States.

I want to express my appreciation to those who make up the Agriculture Council of America for giving publicity and impetus to Agriculture Day. I want to join with them and with my colleagues here in the House in encouraging every American to celebrate the week-long schedule of projects and events commencing with Agriculture Day, that will occur in March 1983.

I am proud to have joined with others since 1973 in supporting the annual observation of Agriculture Day. I believe the celebration of this has helped to carry the message of the contributions farmers make to the well-being of this country to all consumers, be they in small towns, large cities, or the suburbs of this country. I want to urge all of those in our educational system in 1983 to carry the message of Agriculture Day to those in their classrooms and in their communities. Civic associations and other groups are urged to join in.

Finally, in the future I hope we may be able to explore the possibility of making the observations of Agriculture Day a part of permanent legislation in 1983. My initial thought on the matter is that perhaps the day itself could be celebrated on a Saturday or Sunday with events following that day for an appropriate period of time—perhaps up to a week. I am hopeful that my colleagues here in the House would support such an endeavor. I expressed this hope in 1982, and I am confident we may be able to accomplish this in 1983.●

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the resolutions just passed.

The SPEAKER pro temproe. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6976, MISSING CHILDREN ACT

Mr. SIMON. Mr. Speaker, at the request of Mr. EDWARDS of California, who is a conferee on the bill, I ask unanimous consent that the managers may have until midnight, tonight to file a conference report on the bill, H.R. 6976, the Missing Children Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1920

RESOLUTION TO DECLARE NATIONAL CLOSED CAPTIONED TELEVISION MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. HARKIN) is recognized for 60 minutes.

● Mr. HARKIN. Mr. Speaker, hearing handicapped Americans have traditionally suffered isolation from the mainstream of American life. Little by little, however, technological breakthroughs have made it possible for hearing handicapped persons to lead fuller lives. I am happy to say that a significant breakthrough has recently been made that will go a long way toward lessening the isolation of the hearing impaired.

Almost 10 years of technological research and development, and Government/industry/community cooperation, have resulted in "closed captioned" TV. Through closed captioning, the hearing impaired are able to read on the TV screen what they are unable to hear. Thus for the first time in history, that wealth of information and entertainment that most of us take for granted—the television—will be available for the enjoyment of the hearing-handicapped.

Nationwide "closed captioned" service began in March 1980 on ABC, NBC, and PBS. To date, hearing impaired citizens have invested more than $20 million to purchase decoding devices. This means that approximately 200,000 people are already benefiting from closed captioning. Since this is only a small portion of the 16 million hearing-handicapped Americans, however, it is necessary to increase public awareness of this major breakthrough.

The United States is the first country in the world to develop this type of television service. To recognize this invaluable aid to deaf and hearing impaired Americans, I am proposing a joint resolution to proclaim December 1982 "National Closed Captioned Television Month."●

LABOR, MANAGEMENT, AND GOVERNMENT MUST WORK TOGETHER TO GUARANTEE THE RIGHT OF EVERY AMERICAN TO HAVE A JOB

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. SIMON) is recognized for 60 minutes.

GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SIMON. Mr. Speaker, this is the first time in my 8 years in the House that I have ever asked for time for special orders.

This Nation has not completed all of its social agenda, by any stretch of the imagination. There are those who seem to think that we have. But one of the steps that we can take, one of the steps that I hope before too long we will take, is to guarantee all Americans the right to have a job. But unless you and I in this body start talking about that now, come the time when there is an administration that is sympathetic to that goal, we simply are not going to achieve that goal.

What we have passed is the Humphrey-Hawkins Act, which was a step forward, it was a declaration that we wanted to do something; but we have honored that declaration with very little action.

Right now we have 10.5 million unemployed Americans. This Nation has the choice right now of either paying people for doing something or paying people for doing nothing, because we are not going to let people starve. And faced with that choice, I think clearly we ought to say that we are going to pay people for doing something. To achieve a program to move in that direction where we would say that to every American means that labor and

management and Government have to work together.

President Reagan has said 1 percent unemployment costs the Federal budget $25 billion. There are various estimates on that. I have read estimates as low as $19 billion, I have read estimates as high as $30 billion. Let us assume the President is right. We are talking about a very, very costly thing when we have this very high unemployment.

What would it cost to guarantee every American a job? I think the reality is that we could have such a program at perhaps no cost to the Federal budget or, if any, a relatively small cost.

I will insert in the RECORD at this point a footnote from a chapter in a book I have written called, "The Once and Future Democrats," in which I go into the costs:

There is a variety of ways of roughly calculating the costs. Because of the requirement that beneficiaries should be out of work at least thirty days, approximately half of the eight million unemployed would not be eligible. Of the four million remaining, some would find private employment rather than take the public-service jobs, some would draw benefits under trade-benefit laws or a restructured unemployment-compensation law. Perhaps two million (or at the most three million) would take part. At the peak of the WPA program, three million out of a total of nine million unemployed participated. Assuming two million at a cost per job of $5,500, plus $2,000 per job for supervisory and administrative costs, the total direct outlay would be $15 billion. A rough estimate for budget purposes is that each $1.00 in federal expenditure returns $0.25. That would bring the cost down to $11,250,000,000. There would be some savings on welfare, food stamps, and unemployment compensation that could conservatively be figured at a 10-percent savings, bringing the cost to slightly more than $10 billion. That equals roughly $5 billion per one million public-service employees. If, instead of two million of the four million eligible, there were three million who would be placed, the cost at most would be $15 billion, because with that high a percentage of participation, other government welfare costs would experience a substantial drop. Two other ways of calculating are to use the CETA costs or the WPA costs of the early 1930s and add the inflation factor. Both of these methods come out at a slightly lower figure, though approximately the same.

When the economy is moving well, the costs will be reduced. The president should be given great flexibility in determining the desirable public-service-employment numbers. A program that would stand rigidly at three million jobs in good times and in bad obviously does not make sense.

What those footnotes say is that at a point where we had 8-percent unemployment, which was what it was when I wrote that book, the gross cost would be $15 billion for a program to guarantee a job to every American at a minimum wage level for 32 hours a week. My reason for saying 32 hours a week is because that is what was done under the WPA. That permits someone to work 4 days, to go out and find employment in the private sector wherever possible. Incidentally, the whole program is geared to encouraging private-sector employment. But when you cannot find private-sector employment, instead of telling people. "We will hand you a check for sitting home and doing nothing," to have something productive for them to do.

The program also suggests that we guarantee this only for those who are out of work more than 30 days. If the gross costs are $15 billion at 8 million unemployed, since there is a kind of rule of thumb we used in the Budget Committee and in the budget process that there is a one-fourth immediate return, the immediate net cost is about $11 billion. The savings in unemployment compensation, welfare, and all of the other programs would mean that there would be an appreciable savings below that. Even if there were no savings, you are talking about a fraction of the increase we now have on the defense budget, for example; even if we took it all out of the gasoline tax, you are talking about, say, a 10-percent gasoline tax increase, or a modest increase on cigarettes, or alcohol, or a host of other things that could guarantee a job for every American.

What is the cost, also, not only in dollar terms, but in other ways from our failure to do this fundamental thing? We pay a cost in crime. Whenever unemployment goes up, crime goes up. We pay a cost in battered children and battered spouses every time those unemployment statistics go up. When these tragic statistics go up, we pay a cost in human misery and pride in our cities. The greatest thing that we could do for New York City, or Chicago, or any city with major problems, a city like East St. Louis, Ill., would be to guarantee a job for every American. The greatest thing you could do for areas of rural poverty, like I have in southern Illinois, would be to guarantee a job for everyone.

What are the kinds of things they could be doing? Let me just close by touching on a few of these things. Incidentally, the example for this is something that some of us remember. I am 53. I can remember something called the WPA. The public image was people who leaned on shovels, but those people who leaned on shovels built schools, libraries; we had plays produced, histories written; we become a richer nation by turning the liability of unemployment into a national asset. I think that is what we ought to be doing today.

What should we be doing? Let me just cite a few things very quickly. We could be planting 200 million trees this year. We have a hidden great liability in this country of illiteracy, 10 to 25 million functionally illiterate adult Americans. We could have a massive assault on this thing that could raise the productivity of this Nation. We could build sidewalks. I do not have a community in my district that does not need to improve sidewalks. We could improve the culture of this country. One of the things the WPA did was to have orchestras and all kinds of things like that. We could have that. On every public housing project we could have someone put a mosaic. Public housing projects do not need to be ugly things. There is a host of things that could be done. We could have hiking trails in our national forests. We could be having transportation for senior citizens. We could use the Postal Service. Right now, under this ridiculous setup we have, when you go from one town in my community to another town 13 miles away, you go 5 stops, 125 miles, and it takes 3 days or so for the mail to get there. We could have a few people taking that mail back and forth, improving the Postal Service and improving the postal revenue. We could have people working in subways to keep them clean and at the same time reducing crime. We could have people working to insulate homes so that we use less energy, and senior citizens and people of very limited incomes could have lower utility rates, and the Nation would save on energy.

I was in a town of Mound City in my district in Pulaski County, where about 29 percent of the population is on welfare today.

□ 1930

I saw a number of buildings that need to be torn down. Why do we not take some of those people who are now out of work and put them to work tearing down those buildings.

The railroad beds of this Nation need to be fixed up. Why should the Nation that represents one-third of the world's economy, the most powerful industrial Nation on the face of the Earth, be gradually drifting toward the worst railroad system of any industrial nation on the face of the Earth?

We could have bike paths.

Many of those who are out of work speak foreign languages. We are the only nation on the face of the Earth where you can go through grade school, high school, college, get a Ph. D. and never have a year of a foreign language.

Why do we not use people who can speak foreign languages to teach our fellow Americans Spanish, Japanese, Chinese, Polish, German, you name it.

I have in my district rural cemeteries, long neglected. What if we fixed up there rural cemeteries?

I could go on and list another hundred things that need to be done.

What I am asking is that this House and our friends across the lobby in the other body start discussing and think-

ing now about moving toward guaranteeing all Americans the right to a job.

I think that is the next big step forward this Nation is going to take. And the sooner we take it, the finer this Nation will be. And I hope that I can be sitting in this body in not too many years when that takes place.

● Mr. HAWKINS. Mr. Speaker, the most urgent problem in America today is the staggering number of Americans who are jobless. The greatest tragedy in America today is that the administration's economic policies are deliberately perpetrating this problem and are in violation of the law. It was less than 4 years ago when Congress enacted the Full Employment and Balanced Growth Act. The purpose of that law was "to translate into practical reality the right of all Americans who are able, willing and seeking to work to full opportunity for useful paid employment at fair rates of compensation."

The act lays out a specific program of coordination of Government and private sector actions to achieve the promise of full employment and full production. However, the promise has been broken. There are 11 million people officially unemployed. Almost 6 million more people are working only part time for economic reasons. Businesses have been failing at a rate unprecedented since the Great Depression and factory utilization figures have hit all time lows. Our Nation is in the midst of a most serious recession and it is time for economic policymakers to implement the plans already in law which will set us back on the road to full employment and economic prosperity.

Full employment is good economic policy and good social policy. However, this administration seems intent on denying workers, businesses and the Nation the benefits of full employment. A full employment economy will benefit our Nation by providing a full supply of goods and services, the full utilization of labor and capital resources, and increases in economic well-being. A full employment economy will lower inflation without unacceptable economic disruption. A full employment economy will provide workers with job security, income, skill development and the social, psychological, and physiological good that a job provides. A full employment economy will boost business production, sales, capital flow and productivity. A full employment economy will help balance Federal, State, and local government budgets, will allow boosts in necessary programs and will stabilize the finances of social security.

Full employment is good Government policy and good business. However, full employment will not be achieved by this administration's illogical approach. Unbalanced Federal expenditures, skyhigh interest rates and destruction of valuable capital and human investment programs work against the promise of full employment. What we need is the program outlined in the 1978 act. A coordinated program utilizing monetary, fiscal, and structural policies which will lead our private economy toward full employment. Disjointed money and tax policies have destroyed our economic base. Cruel and counterproductive budget cuts have greatly harmed innocent people whose only crime is to be poor or out of work. Such policy by Government leaders denies proven economic theory and is in contradiction with their responsibilities to uphold and enforce the laws of the land.

Achievement of full employment is already the law of the land, but laws are only as strong as their enforcement. We can reach the goals set by Congress and agreed to by the President. We know how to put our workers back to work. We know how to assist businesses in their plans to produce and expand. We know how to increase revenues without imposing punitive taxes. We must put into place the policies and programs that will put America back to work. The economic and social costs of unemployment are too great to ignore. The benefits of full employment are too great to deny. Let us help America and Americans work again.●

● Mr. MAZZOLI. Mr. Speaker, in his book "The Once and Future Democrats," Representative SIMON gets to the heart of the matter when he quotes economist John Pierson in saying:

> A job will rank with the right of free speech and other precious rights we consider fundamental to the preservation of dignity. The right to a job is more than getting an income; it is the right to perform a useful function and to preserve a respected social status.

Yet, the current statistics on people unable to find jobs in this country are staggering. My own district of Louisville and Jefferson County, Ky., has suffered from double-digit unemployment for over a year now.

Minorities and youths are especially hard hit by unemployment. In some communities—Louisville and Jefferson County, for example—the unemployment rate among youths from 16-21 years old is conservatively estimated to be between 39.8 percent and 57.8 percent.

The Nation has a major problem. We have millions of people out of work. We have millions more who have no training.

The vast majority of unemployed people are not qualified for the types of jobs which are available and the businesses which require skilled workers are not always able to train them.

What are our choices today? Do we decide that substantial unemployment is simply a way of life and invest our limited Federal resources in varying forms of public assistance?

Or, do we funnel our limited resources into involving the private sector in training our people for existing jobs and to meet the long-term, high-skilled technology demand, and into providing some limited public service employment so that the unemployed may now perform a useful function and maintain their self-esteem while awaiting long-term relief?

I, for one, feel we have a responsibility to see that every American citizen willing to work has the education and training to meet employment demands, and the opportunity to find and secure gainful employment.

Accordingly, I am an original sponsor of urban enterprise zones legislation to bring the jobs back to the inner-city areas and keep them there.

On September 16, I joined the majority in voting for House Joint Resolution 562, an emergency measure to provide $1 billion to create some 200,000 temporary public works jobs. This legislation, which complements H.R. 5320, the Jobs Training Act currently stalled in a House/Senate conference committee, faces a hostile Senate.

On September 14, I wrote Chairman CARL PERKINS—a devoted friend of the working man and woman and Dean of the Kentucky congressional delegation—and all of the House and Senate conferees to urge prompt resolution of their differences so that Congress can quickly enact into law the Job Training Act.

On September 22, my Judiciary Committee reported my Immigration Reform and Control Act which has the potential for giving millions of jobs—now held by undocumented illegal aliens—back to Americans who are unemployed. It can also save the taxpayers billions of dollars now paid in the form of unemployment and welfare to American workers displaced by foreign workers.

We are moving in the right direction. Yet, there is so much yet to be done. I say let us get on with it.●

● Mr. PEPPER. I would like to thank my colleague and good friend from the State of Illinois for initiating our discussion of a policy that would guarantee all Americans a chance to be employed. During our Nation's current recession, the number of unemployed workers in our country has surpassed the 10 million mark and the rate of unemployment is at its highest level since World War II. It is therefore appropriate that we take some time to engage in a dialog aimed at developing an approach that would prevent such severe economic problems in the future.

Mr. Speaker, without a doubt our Nation's most valuable economic re-

source is its people. When 10 percent of our work force is idle, the productive capacity of our nation is wastefully diminished. The economic upturn for which we have been waiting so desperately is dampened and slowed by our inability to utilize our human and capital resources. In addition, growing rates of unemployment naturally result in increased expenditures by the Government at all levels for insurance and for social welfare services. The increased spending adds to a Federal deficit which is almost out of control—the highest in our Nation's history, aggravating the ills which have infected our economy.

In addition to the economic hazards which results from a high rate of unemployment, families suffer grievously: Those millions who are willing to work but unable to find jobs, stripped of their pride, despair of providing for themselves and their families. The discouragement which sets in with millions of our citizens is reflected in growing violence, fear, frustration and psychological scars deeply affecting our country. That frustration is intensified when the jobless see the many offerings in the newspaper's "Help Wanted" section and realize that they do not have the means by which they can receive proper training for the available positions. When millions of citizens are in the state of depression that this condition causes, our problems go far indeed beyond simple materialistic concerns.

Under the Humphrey-Hawkins law, which passed with my support in 1978, we set a goal for the Nation of minimal unemployment of no more than 4 percent which, considering inevitable aspects of normal human movement, would practically amount to almost full employment. In that bill we did set a desirable goal to limit inflation to 3 percent. Some say these two goals conflict, but I believe that a capable government can go far to limit nonproductive inflationary speculations while encouraging private productive ventures aiding employment.

I have introduced a bill, H.R. 5799, that would establish the Reconstruction Finance Corporation (RFC) to provide loans and loan guarantees designed to encourage productive investments. The influx of capital which the RFC would provide to our industrial, commerical, and agricultural sectors—giving them the financial resources needed to regain their profitability—would bring about the expansion in our economy that can put Americans back to work. Maintaining the RFC's operating authority indefinitely would allow our Government to step in an invigorate the economy when future downturns occur.

The Comprehensive Employment and Training Act (CETA), which provided for a program that offered training in certain skills, and in some instances jobs, gives participants access to positions that require certain abilities. In our dynamic economy we need programs that prepare our work force to perform functions created by advances in technology.

As responsible lawmakers, we must explore every avenue and strive to enact policies which foster favorable and stable economic conditions. Once we are committed to creating such an atmosphere, the achievement of our goal—full employment of our Nation's work force—will become a realistic possibility.●

● Mr. ROSENTHAL. Mr. Speaker, the effects of Reaganomics on the work force in Queens, N.Y. have been devastating. The unemployment rates in the New York metropolitan area match or exceed national levels. Long-term unemployment in the State exceeds 11 percent and youth unemployment approaches 22 percent. I point to these numbers only to illustrate the extent to which New York and Queens share in the fear of an American work force unable to find work.

Today, our national work force is given no guarantees for economic security by their elected representatives. The economic future is bleak. Foreign trade and technology are creating a vacuum for millions of workers. But, the real culprit is the dearth of needed education and training programs so that workers can shift to new jobs opening up in the new economic sectors. How can American workers obtain the skills necessary for replacement jobs being created? This is the real question of the debate on full employment.

If this Nation is to become productive again, we must direct our attention and resources toward overcoming a major barrier to America's economic renewal—specifically, improving the skills and productivity of the American work force. A national strategy which recognizes this goal must be developed. Investment in our work force is as important as investment in capital equipment. As more advanced plants and equipment enter the service and industrial economies, American workers must have the skills and training to operate the new sophisticated equipment. At present, Government and business are neither prepared to assist displaced workers with training opportunities nor are they formulating a set of goals which will meet these needs.

Let me suggest guidelines for a national employment and training strategy to meet the requirements of America's rapidly changing economic fabric:

First, we must develop a full-employment and training strategy which recognizes the retraining needs of displaced workers and the entry level needs of new workers entering the work force.

Second, the Government should provide incentives for making available retraining and upgrading opportunities to workers already in place.

Third, we must give priority to skills which are essential to our economic and national security outside of the Defense Department.

Fourth, we must provide our youth with educational and training opportunities to prepare them for a role in the economic workplace and society.

Mr. Speaker, the four goals I have briefly outlined are meant as starting points from which we can proceed to develop comprehensive policies, institutions, and programs. Once a consensus can be reached, then the resources, authority, and responsibility can be allocated among the private and public sector.

Treating the economic symptoms will not cure the disease; a qualified and productive work force will.●

THE BALANCED MONETARY POLICY AND PRICE STABILITY ACT: MONETARY REFORM FOR STABLE PRICES AND LOWER INTEREST RATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 60 minutes.

● Mr. KEMP. Mr. Speaker, yesterday with a number of my House colleagues I introduced a bill which would end the monetarist experiment that began in October 1979. Our bill is called the Balanced Monetary Policy and Price Stability Act (H.R. 7218).

Joining me in sponsoring this legislation are our Republican whip, TRENT LOTT of Mississippi, Congressmen, CLAIR BURGENER of California, ED BETHUNE of Arkansas, CARROLL CAMPBELL of South Carolina, JIM COURTER of New Jersey, NEWT GINGRICH of Georgia, TOM HAGEDORN of Minnesota, JOHN HILER of Indiana, NORMAN LENT of New York, DAN LUNGREN of California, DAN MARRIOTT of Utah, JOHN NAPIER of South Carolina, JOHN ROUSSELOT of California, DENNY SMITH of Oregon, MICK STATON of West Virginia, CHARLES PASHAYAN of California, and LYLE WILLIAMS of Ohio.

The 3-year attempt to use monetary policy to target the supply of money—instead of the traditional goal of targeting stable prices and the reasonable rates of interest which go with them—has only destabilized prices, production, employment, and interest rates in our economy. The inflation rate has come down, but interest rates have remained excruciatingly high—against the predictions of those who favored the change in policy under President Carter in 1979. Until the Federal Reserve directly intervened recently to lower interest rates, real interest rates were at their highest levels since the

early thirties. We all know the devastating cost this has imposed upon the economy, particularly in housing, autos, steel, agriculture, small business, and the loss of millions of jobs since 1979.

The question is whether we can bring down interest rates and put people back to work without reigniting inflation. I believe we can, and that we must reject both halves of the Phillips Curve: we cannot use unemployment to fight inflation, or inflation to fight unemployment. That is why we are introducing the Balanced Monetary Policy and Price Stability Act.

The Balanced Monetary Policy and Price Stability Act would direct the Federal Reserve to target short-term interest rates on a monthly basis—just as it does now. But instead of pursuing an arbitrary quantity of money to the exclusion of all else, the goals would be more balanced: achieving historical levels of real interest rates (about 1 to 4 percent), sustained economic growth, stable prices, and stable exchange rates. If any doubt arose, the goal of achieving stable prices, as measured by a current price index, would take precedence. This requirement, which prevents the Federal Reserve from simply "reflating," is a crucial difference between this bill and other monetary legislation now floated in Congress.

This bill would also request an international monetary conference to consider changes in the world's monetary system to promote price stability, financial confidence, and expanded world trade.

While Congress has begun to reform tax policy, spending policy, and regulatory policy, so far it has ignored monetary policy. By introducing the Balanced Monetary Policy and Price Stability Act, we hope to further the debate over how best we can return to conditions of strong economic growth with stable prices.

THE BALANCED MONETARY POLICY AND PRICE STABILITY ACT

The Federal Reserve would establish monthly targets for short-term interest rates, consistent with historical levels of real interest rates (1 to 4 percent), sustained economic growth, stable prices and stable exchange rates.

The targets would be subordinated to the overriding objective of achieving price stability, measured by an index of current prices (such as the Commodity Research Bureau's spot commodity price index).

The Federal Reserve would continue to establish yearly targets for monetary and credit growth, as it does now, but these targets would be consistent with the other objectives.

The bill would not alter the independence of the Federal Reserve.

The Federal Reserve Board would continue to report to Congress twice a year on monetary policy, as required by law.

The Federal Reserve Board could choose to deviate from the targets if the Board believes that changed economic conditions, such as serious inflation or high unemployment caused by falling prices, justify such a change, provided that it reports to Congress on these changes within 10 days.

The Secretary of the Treasury would be directed to seek a meeting of members of the International Monetary Fund to consider reforms of the world's monetary system that would promote stable prices, financial confidence, and expanded world trade.

At this point in the RECORD I include the following:

THE BALANCED MONETARY POLICY AND PRICE STABILITY ACT

1. What would the Balanced Monetary Policy and Price Stability Act do?

It would direct the Federal Reserve to end the monetarist experiment with targeting the money supply, which began in October 1979. Instead, the Federal Reserve would target short term interest rates, consistent with historical levels of real interest rates (about 1 to 4 percent), sustained economic growth, stable prices, and stable exchange rates. But the targets would be subordinated to the overall objective of price stability, measured by an index of current prices. (This would not require the use of gold.)

The bill would also direct the Administration to request an international monetary conference to consider reforms of the world's monetary system to encourage stable prices, financial confidence and expanded world trade.

2. Is the Balanced Monetary Policy and Price Stability approach just a way of accelerating the growth of the money supply—raising the Fed's monetary targets?

No. It is saying that money supply targets themselves are a large part of the problem. An arbitrarily determined supply of money is almost always inappropriate: at one time it will be too low, and at another time too high. The result is fluctuating interest rates, prices, and economic growth. Since the method of targeting the money supply began in October 1979, there has been a boom and bust in commodity prices—mostly a bust. Interest rates have swung wildly. For the first time in decades interest rates have remained dramatically above the rate of inflation; that is, very high in real terms.

The money supply generally grows during a real economic expansion. If the Fed, in an attempt to hit its targets, crunches down on the money supply at such times, each period of real growth will be aborted before it gets off the ground. This may help explain why in the past three years we have had two recessions under two Presidents with completely different fiscal policies. If the Fed has money supply targets at all, they should be clearly subordinate to its more important goals—price stability and affordable credit for the American people.

3. Won't trying to keep real interest rates at historical levels cause an increase in inflationary pressures in the economy?

By itself, it might. But not if the goal of reducing real interest rates is subordinated to price stability. This is the difference between the Balanced Monetary Policy and Price Stability Act and other similar legislation floated in Congress. When the Fed in effect adopted this approach in July and August by reducing short-term interest rates, thus halting a substantial decline in commodity prices, the bond market scored strong gains.

4. Can the Fed really control short-term interest rates?

Absolutely. The Fed, for example, hit its target for the Federal funds rate—the key short-term rates—for the past 24 consecutive months. In July and August of this year, following an 8-to-4 vote of its Open Market Committee in its June 30-July 1 meeting, the Fed reduced short-term rates from around 15 to 9 percent, primarily through two method: open-market operations, and a series of four reductions in the discount rate, which it directly controls.

5. Isn't this just a reversion to the pre-October 1979 policy of the Fed—a concentration on low short-term interest rates that too often neglected the fight against inflation?

No—it's an attempt to find a mean with regard to two extremes. In the 1970s the Fed pursued a policy that aimed at low interest rates—so low that at times there was a negative real interest rate. In other words, the rate of inflation was higher than short-term interest rates. Inflation accelerated dramatically. Since October 1979, the monetarist policy has in effect been a high real interest rate policy. From early 1980 until recently, commodity prices fell sharply.

The Balanced Monetary Policy and Price Stability Act aims at moderate real interest rates and stable prices—rather than the inflationary low real interest rates of the 1970s or the deflationary, high real interest rates of the 1980s.

6. Then the Federal deficit is not the cause of high interest rates?

The deficit unquestionably puts additional and unwelcome pressure on the capital markets. But it's useful to remember that often in the past, higher real deficits have been consistent with far lower interest rates; and that the beginning of the interest-rate crisis in late 1979 came as a result of the Carter-Volcker monetary policy—at a time when the Administration had reduced the deficit by 58 percent over the previous three budgets.

The Fed's August reduction of short-term interest rates came at a time when the Congressional Budget Office and other forecasters were significantly raising their deficit estimates, beyond the Administration estimates.

7. How, exactly, would this policy work?

To understand monetary policy, it is necessary to distinguish between the Federal Reserve's tools and its targets. The tools are the methods with which the central bank creates or withdraws money, thereby influencing short-term interest rates. The Federal Reserve's three primary tools are: open-market operations (the Fed buys or sells government debt securities); discount operations (the Fed makes temporary loans to the banks at its discount rate); and foreign exchange operations (the Fed buys or sells foreign currencies or securities). The Fed may also alter reserve requirements of financial institutions.

The targets of monetary policy are the signals which tell the Fed when and how much money to create or withdraw. Right now, the Fed's primary monetary target is an arbitrary measure of the money supply. Under the Balanced Monetary Policy and Price Stability Act, the Fed would use its control of short-term interest rates to pursue the goals of historical levels of real interest rates, sustained economic growth, stable prices, and stable exchange rates. But

if there were any conflict among these goals, the Fed would give priority to the goal of stable prices, as measured by an index like the Commodity Research Bureau's spot commodity price index. If there was inflation, the Fed would withdraw money; if there was deflation, the Fed would create money—until stable prices were restored. Then the normal policy would be resumed.

8. Does this destroy the independence of the Fed?

No. The Fed, while independent of the President, is a creature of Congress under its constitutional authority to "coin Money, (and) regulate the Value thereof." Throughout its history, Congress has exercised this responsibility. The Fed should be independent from any undue political pressure—but independent to pursue its true goals of price stability and moderate real interest rates, rather than the monetarist policy of 1979-82.

9. Why consider changing the international monetary system? Isn't the current arrangement working?

The world-wide inflation of the 1970's, the world contraction of the 1980's, and the recent financial crises in Mexico and elsewhere—all indicate that the current monetary system is not working. To understand why, imagine what would happen if each of the 50 American states had its own currency, which fluctuated daily against all the rest, instead of the common dollar. The same uncertainty, inefficiency and sheer confusion has occurred on a global scale since 1971. Before then, the post-war Bretton Woods system established a common standard of value for the goods traded between countries. The result of this stability was a tremendous expansion of world trade and productivity. The record of the past dozen years indicates that it's time to consider reforming the international monetary system. The Balanced Monetary Policy and Price Stability Act simply proposes to start those talks.

A MESSAGE TO THE 98TH CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

Mr. REUSS. Mr. Speaker, in these hectic final days of the 97th Congress, few of us have been disposed to reflect on the situation likely to confront our successors. As a departing Member, I will not be among those who will gather her next January. Perhaps I may be permitted a word addressed to my colleagues who will continue in this place, and at those soon to be elected?

First, let us consider the political situation. How different it is from the high tide of reaction only 14 months ago. Then, Members of this body, including many Democrats, lived in palpable fear of this administration. Collectively, we scurried to the bidding of the economic royalists, the supply-side ideologues, the special-interest lobbyist, and the self-appointed arbiters of morality who spoke in its name. Fear muddied our judgment and poisoned our debate. It drove the weak and the susceptible among us to espouse strange and indefensible economic ideas. And it drove a majority among us to adopt the most reprehensible tax and spending changes of my public career.

Smiles and applause greeted those who cast their lot with the administration then. Few doubted that they had taken the sensible political course—that course which would insure personal political survival in the new conservative era. Those who held out in resistance to the Reagan policies were treated with scorn—as outmoded figures who would soon enough disappear. Surely in 1982 the American people, given the clear-cut choice between Ronald Reagan and TIP O'NEILL, would speak decisively for the conservative future and against the liberal past?

The elections are now upon us. By all signs, the American people are prepared to render a verdict in the great struggle between the policies of the President and those of the Speaker. By all signs they will reject the President and vindicate the Speaker. A Democratic victory is building which will force immedicate and total revision of the false punditry which has so permeated our politics in the last 2 years.

And so it appears likely that the 98th Congress will convene under the same sort of "election shock" that accompanied the birth of this one—a massive jolt of dissatisfaction from the voters. The jolt will strengthen those who support the leadership of this body and weaken those who support the administration.

But, more important, it will elevate the House of Representatives to a special position in American politics. This body will shortly hold a fresh mandate from the voters. The other body, where the balance of power is unlikely to shift, will hold no such new mandate. The previous mandate of the administration, overdrawn as it was, will have been newly rejected. Under these conditions, those taking up the challenge of office in the House of Representatives next year will be under a special obligation to the voters. Not only must they serve; they must also lead.

As has happened before in our history, extraordinary political responsibility will coincide with an extraordinary need. For our economic situation threatens to put before the 98th Congress an emergency more massive and demanding than any since the reconstruction of Europe 30 years ago. And the voters will look to this body—not to the President and not to the Senate—for the initiatives necessary to meet that emergency.

I am not among the Cassandras who see a renewed Great Depression behind every twist and turn of our budget debates. As the grim decline of our economy has unfolded in recent months, I have been careful to acknowledge possible signs of hope. Even now, I am persuaded that a decisive turn in policy by the administration and the Federal Reserve could avert the worst. But, the evidence mounts, no turn in policy is in sight, and I am forced every day closer to an appalling conclusion.

Let me state that conclusion, acknowledging that the mind's eye is instinctively repelled by the scale of the events described. This Nation, and the planet which we share with allies and trading partners, faces an imminent and irreversible economic calamity. A freezing over of our financial and trading relations is in prospect. A reversal of the economic progress of decades would follow, not only in remote foreign lands but on our own soil. And there follows the gravest threat to the fragile structures of political democracy and world peace, both of which flourish only on full bellies and calm, rational minds.

The calamity I fear has many names and many manifestations: Panic, financial collapse, trade war, and worldwide depression. The very language has an archaic ring, reflecting the fact that 50 years have gone by since we last faced a similar situation. Modern memory and postwar economics equip us neither to anticipate nor to cure a crisis of this kind. And the history of the Great Depression—which ended only with the world convulsion of the Second World War—teaches us that such a crisis is neither self-correcting nor likely to be reversed by the ordinary workings of our political life.

The technical essence of our problem is a debt deflation, brought about by the interaction of supertight monetary policy and the debt burdens built up in the previous period of growth and inflation. Around the world, companies and governments have built their economic lives around the presumption that debts incurred would be repaid—if at all—only in devalued dollars and out of much larger real pools of economic resources.

The United States has, under the Reagan administration, abruptly put an end to that supposition. Suddenly, companies and governments have found demand for their products and exports declining, while their real interest burden rose. Faced with this squeeze, they have liquidated assets on a massive scale, causing prices to fall, and outstanding real interest burdens to rise even more. New lending dries up. Production, unable to be financed, comes to a halt. In the end, there is a general collapse of confidence.

Faced with a general debt deflation, traditional international safety nets cannot cope.

The reaction of world lending agencies and creditor governments to the problems of sovereign borrowers has

traditionally combined deflationary internal policies with new loans. This formula was adequate when such financial problems were few, isolated, and attributable clearly to internal mismanagement by the debtors. It is not adequate today. In a crisis caused by the mismanagement of the creditor nations, the deflationary policies of the debtors lead not to adjustment but to further economic decline. And the resources available to international lending agencies cannot offset the general private credit contraction caused by the tight monetary policies of the creditor nations.

The traditional formula—deflationary internal policies plus new loans—thus no longer bridges the gap facing sovereign borrowers in crisis. And so the debtor nations are led to reject orderly adjustment. Instead, they close their economies, take central command over their ever scarcer foreign exchange reserves, default on interest and principal payments, and throw the world economy into chaos.

But if Mexico and Argentina and the others cannot by their own actions save the world economy, who can?

The answer is we can. The United States controls the real interest rate, and through it the level of worldwide economic demand. It is U.S. policy which is bringing on a catastrophe. It is U.S. policy which can be reversed to avoid it.

What is to be done?

First, we must have rapid reversal of monetary policy, so as to bring real interest rates down sharply, and permit a gradual restructuring of financial burdens before a wave of debt repudiations and large corporate bankruptcies brings the system down. To do this, the next Congress will have to give incontrovertible instructions to the Federal Reserve, and see to it that those instructions are followed. A new bout of tight money, promised by the Fed for next January—3 months ahead—must be forestalled.

Second, we must have growth here at home. A program of jobs, new public capital and infrastructure investment, and education and training should be designed and put into effect at an early date. Only by showing our determination to grow can we send a signal to the rest of the world that it is safe for them to grow, too.

Third, we must firmly extinguish the twin evils of our economy, inflation and speculation. That means an income policy, matching wage restraint by labor with price stability and social justice. It means a credit conservation policy to put an end to reckless and destructive uses of credit, as well as to guide the credit relief to overburdened companies and governments.

We must not flinch from the scale of the policy reversal which is required. It is large. It grows larger with each day as the world economic disaster deepens. Indeed, the very scale of this transformation forces me to suggest that yet another unprecedent task lies ahead for the next House of Representatives.

Think again, if you will, about the landscape I have just described: Political statemate, economic emergency, and a special public obligation that the House of Representatives rise to the occasion.

What can be done? I suggest that there is really only one solution. The leaders of this body, magnanimous in victory, should approach the President immediately following the elections. They should offer to join him in a common government of national unity to achieve the goals of lower interest and higher growth without inflation. Under the terms of this Government, the House Democrats would have a share in selecting the crucial economic policy Cabinet members, and Congress and the administration would adopt cooperation rather than confrontation as their guide. The country would gain a government that works, instead of a 2-year exercise in frustration and futility.

I am not under the illusion that a grand coalition is likely to occur. The President is ideologically committed to his ways. Moreover, powerful forces in the Democratic Party will resist, urging that a coalition now will make a Democratic victory in 1984 more difficult. Perhaps they are right. But 2 more years of economic failure and political stalemate threaten the Nation. Perhaps at the end of that time the prize will not be as valuable as it is today. And perhaps, indeed, the voters will notice that when, in November 1980, they gave the Democrats of the House of Representatives an historic opportunity, we failed to exercise imagination and the will which the occasion required.

This is not a negligible danger. As President Reagan and his supporters are shortly to discover, the voters have long memories—and high standards.●

EPA TAKES A BIG STEP BACKWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 10 minutes.

● Mr. BROWN of California. Mr. Speaker, the Environmental Protection Agency announced today their decision to approve the requests of three States for an emergency exemption to use the pesticide ferriamicide for control of the imported fire ant. The emergency exemptions allow fall and spring, 1983 applications of this pesticide in the States of Mississippi, Texas, and Arkansas. Several other Southern States are expected in the near future to apply for and obtain comparable emergency exemptions. Mr. Speaker this is a regrettable and ill-conceived Agency decision which contradicts the Agency's regulations and the Federal Insecticide, Fungicide and Rodenticide Act.

I have carefully followed the issue of fire ant control from several perspectives for well over a decade. During this period, Government actions have had a major impact on the technologies available and employed in control of the fire ant. This latest step backward by the EPA is a classic example of how Government actions dictated by political pressure can make a mockery of scientific principles and commonsense. I must confess that while the Government's overall record in this regard has been spotty, it has now sunk to a new low.

Mr. Speaker, the EPA's decision to approve the ferriamicide emergency exemptions disturbs me for several reasons. The action is clearly inconsistent with the Federal Insecticide, Fungicide, and Rodenticide Act and its implementing regulations. Two of the basic stipulations which must be met for the Agency to approve an emergency exemption do not hold in the case of ferriamicide use for fire ant control. First, an emergency exemption can be approved only in cases of true emergency. The scientists participating in last June's EPA-USDA symposium on fire ant control concluded that there is no scientific evidence remotely suggesting the existence of emergency conditions from fire ant infestations in the Southern United States. A second basic requirement an emergency exemption must satisfy is that there can be no registered alternative pesticides available for the same use. There are now many efficacious and proven compounds currently registered for fire ant control, and several more promising compounds are in advanced stages of development and testing. The sizable financial commitment made by the industry to long-run research and development programs seeking safer fire ant control products should be encouraged rather than undermined by Agency regulatory actions.

In light of the controversy surrounding these ferriamicide emergency exemptions, I disagree strongly with the Agency's decision to forego seeking public comment on the applications through publication in the Federal Register. While not an absolute requirement, publication of emergency exemption applications may be done at the Administrator's discretion, and has been done in past cases involving substantial controversy.

The approval of these exemptions highlights the need for the Agency to more clearly and substantively spell out its policy with regard to emergency exemptions. As I read the FIFRA

statute, and its implementing regulations, the Agency's decision criteria should be relatively straightforward. Can a State claiming that an emergency situation exists substantiate its claim? Are other pesticides registered for the use covered by the exemption? Apparently the Agency has recently adopted new policies and procedures allowing negotiations to occur during review of emergency exemption applications. As chairman of the subcommittee with oversight and legislative jurisdiction over FIFRA, I look forward to exploring these new policies and procedures with the Agency in the near future.

In the meantime I urge my colleagues to take note of this action and its implications. I regret to add that this decision to grant ferriamicide emergency exemptions marks the second instance in recent months when the EPA has approved emergency exemptions for extremely hazardous and dangerous pesticides. On August 13, 1982, the Agency approved an emergency exemption request sought by Clemson University for the use of DBCP (dibromochloropropane) in controlling peach tree ring nematodes in South Carolina. Nearly all uses of this pesticide were subject to a notice of intent to cancel by the EPA in 1979 and have since been voluntarily withdrawn. I am including a recent article discussing this South Carolina emergency exemption and the decidedly unenthusiastic response of State health officials to EPA's approval of it.

I would like to share with my colleagues the provision and associated regulations of the Federal Insecticide, Fungicide, and Rodenticide Act under which emergency exemptions are granted.

"SEC. 18. EXEMPTION OF FEDERAL AGENCIES.

"The Administrator may, at his discretion, exempt any Federal or State agency from any provision of this Act if he determines that emergency conditions exist which require such exemptions.

"The Administrator, in determining whether or not such emergency conditions exist, shall consult with the Secretary of Agriculture and the Governor of any State concerned if they request such determination."

From CFR Volume 40:

PART 166—EXEMPTION OF FEDERAL AND STATE AGENCIES FOR USE OF PESTICIDES UNDER EMERGENCY CONDITIONS

§ 166.1 General.

Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972 (86 Stat. 995), the Administrator may exempt from the requirements of the Act a Federal or State agency if he determines that emergency conditions exist which may require such an exemption. An emergency will be deemed to exist when: (a) A pest outbreak has or is about to occur and no pesticide registered for the particular use, or alternative method of control, is available to eradicate or control the pest. (b) significant economic or health problems will occur without the use of the pesticide, and (c) the time available from discover or prediction of the pest outbreak is insufficient for a pesticide to be registered from the particular use. In determining whether an emergency condition exists, the Administrator will also give consideration to such additional facts requiring the use of section 18 as are presented by the applicant. Set forth herein are the procedures that Federal or State agencies must follow in requesting such an exemption.

Mr. Speaker, recent decisions by EPA to approve section 18 emergency exemptions for ferriamicide and other hazardous pesticides do not bode well for those among us who have pursued federal policies protective of the environment. I have spent a major portion of my time during the Congress in pesticide-related oversight and legislative activities. I am prepared to continue diligently monitoring EPA's actions in this area, and will alert the House if other Agency actions so grossly violate the intent of the FIFRA statute.

The article follows:

[From the New York Times, September 28, 1982]

PESTICIDE BARRED IN SOUTH CAROLINA

COLUMBIA, S.C., September 25.—It is never easy to be a peach grower in South Carolina, but to many growers it seems that this year has been particularly difficult.

In the spring, early frosts struck, bringing the worst season in two decades. More than half the state's peach crop, normally a $60 million industry, was destroyed, and an estimated 20 percent of the state's 290 peach growers found themselves much closer to bankruptcy.

Now state health officials have put to rest a proposal that would have allowed the farmers to use thousands of gallons DBCP, a highly toxic pesticide and suspected human carcinogen whose use was suspended three years ago by the Federal Environmental Protection Agency. Angry farmers say the action will allow the proliferation of one of their main nemeses: the ring nematode, a microsopic worm that weakens peach trees by feeding on their roots.

"The issue is moot for this year," Dr. Robert S. Jackson, Commissioner of the State Department of Health and Environmental Control, said earlier this week. "We do not have the time or the manpower to make sure this chemical is applied safely in South Carolina."

PEACH GROWERS OPPOSED

Dr. Jackson's decision ended four weeks of debate that began Aug. 19, when the E.P.A.'s Office of Pesticide Programs approved a petition for an "emergency exemption" to allow the state's peach growers to use 75,000 gallons of DBCP on 20,000 acres of orchards in 11 counties. The petition, submitted by scientists at Clemson University, said the nematode threatened to devastate the state's peach crop, the nation's second largest. But the scientists did not tell the state health agency they were seeking the exemption.

A little-known activist group, the Columbia-based Grass Roots Organizing Workshop, in turn filed a petition Sept. 1 in court, seeking a temporary restraining order on the use of DBCP. The petition was granted the same day.

And late last week, Circuit Court Judge C. Victor Pyle Jr. signed a consent order prohibiting the use of DBCP through Nov. 30, the date the exemption expires. Judge Pyle left open the possibility that he would reconsider the order if state health officials could be persuaded that DBCP could be used without danger to public health, but Dr. Jackson remained unconvinced after a meeting with the scientists Tuesday.

DBCP, of dibromochloropropane, has become well known to farmers, environmental activists and government agencies since it was introduced in 1955 by the Shell Chemical Company and the Dow Chemical Company.

In 1977, the chemical was shown to be the cause of sterility in male workers at a Occidental Chemical Company plant in Lathrop, Calif. California health officials, who found dangerously high levels of DBCP in ground water surrounding the plant, stopped the use of the chemical in the state the same year.

CHEMICAL'S USE SUSPENDED

After a lengthy hearing process, the E.P.A. suspended the pesticide's use in the United States, except for Hawaii's pineapple crops. In the decision, Douglas M. Costle, then Administrator of the agency, wrote that DBCP had been shown to be carcinogenic in laboratory animals, mutagenic and a cause of human sterility.

When the E.P.A. approved the Clemson petition, it required that the state health agency monitor ground water in the area where the pesticide was used, a requirement that surprised Clemson officials and drew criticism from the state agency. "We simply didn't expect that to be a stipulation," said Dr. Louie H. Senn, director fo Clemson's Plant Test Regulatory Service.

Dr. Jackson pointed out that last year the E.P.A. released a study indicating that DBCP had been found in many wells in South Carolina. Moveover, some wells contained 15 times the allowable limit for DBCP, said Dr. Jackson, who added that he found E.P.A.'s role in the issue "disturbing."

"Last year, a month before they released their ground water study, they sent a representative to Columbia to brief me," he said. "They made it sound like the end of the world. A year later they say do anything you want."

In recent months, the E.P.A. has come under increasing criticism for the ease with which emergency exemptions have been granted under a provision of the pesticide control law. In 1978, the agency approved 132 of 199 requests for exemptions. Last year, 298 of 462 requests were approved. And in the first six months of this year, 350 exemptions were granted out of 548 requests.

In Washington, where the Senate is set to consider extension of the Federal Insecticide, Fungicide and Rodenticide Act, E.P.A. officials have consistently defended their record in granting exemptions. Earlier this year, Dr. John Todhunter, assistant administrator for the Office of Pesticides and Toxic Substances, said granting more exemptions was part of a program of "negotiation instead of litigation."

In California, farmers who used DBCP heavily, including peach growers and vineyard owners, predicted heavy financial losses after its use was barred. But recent figures from the California Department of Food and Agriculture indicate the effect, if any, has been minimal.

Meanwhile, in South Carolina, many peach growers predict they will have major problems, especially starting next spring. "I don't know one grower who doesn't need this chemical real bad" said Bubba Barnett, a grower from Sumter County. "The trees are already dying."●

THE HIGH COST OF HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 5 minutes.

● Mr. WEAVER. Mr. Speaker, the legislation I am introducing today addresses one of the most worrisome problems facing older Americans today—the high cost of health care. There can be no doubt that because of the medicare program, we have made tremendous strides toward assuring that seniors have access to essential medical services. Without this program, many of those who are most likely to need health care would be the least able to afford it. But with recent cuts in medicare benefits and administrative outlays, the value of the program is in jeopardy. Seniors are once again faced with financial obstacles to good health.

Because of the astounding increase in the rate of medical-cost inflation since the inception of medicare, the program recently has come under considerable scrutiny from Congress. It is widely accepted that sweeping reform is desperately needed in order to revise the inherently inflationary incentives provided by its current structure. Consequently, some of my distinguished colleagues have proposed comprehensive changes in the structure of the program. However, proposals of such magnitude require lengthy periods of time for debate, passage, and implementation. Meanwhile, older Americans are suffering while the program continues to be ravaged by slashes in the budget.

One of the most common difficulties encountered by medicare beneficiaries is finding a physician who is willing to accept claims assignments. For those medicare patients who are not simultaneously covered by medicaid, only 32 percent of claims are made on the basis of assignment. When a physician refuses to accept assignment, the patient is left liable for not only the premiums, deductibles, and 20 percent coinsurance, but also for the differences between the physician charge and the medicare reasonable fee. This figure averages close to a whopping $20 per claim. The Health Care Financing Administration estimates that with all of these expenses added up, beneficiaries are responsible for an outrageous 69.2 percent of physician charges. What kind of financial protection is that for a senior who is struggling to make it on a fixed income?

Years ago, Congress made a commitment to provide adequate health care for our Nation's senior citizens. We must take steps to insure that we do not neglect this responsibility. It is imperative that we take immediate action to alleviate the cost shifting to beneficiaries caused by physicians' refusal to accept medicare claims assignments. The expected cap on the physicians' fee index used for updating reimbursement rates will force patients treated on a nonassignment basis to pay an increasing amount, as the gap between physician charges and the medicare reasonable fees widens. Consequently, the cost of private supplemental insurance will be driven up as well.

The legislation I am introducing today seeks to restructure physician reimbursement under part B of medicare. It is a simple measure, aimed at achieving the goal of insuring beneficiaries' access to care, without increasing their out-of-pocket expenses or significantly straining the medicare budget. I propose doing this by setting up a voluntary system of cooperating physicians, similar to the Blue Shield system of participating physicians, wherein doctors may annually enter into agreements with the Secretary to accept assignment for all medicare patients they treat. The names of these cooperating physicians will be published in local directories, which will be made available to medicare beneficiaries. Armed with this information, seniors can choose their physicians on the basis of their own financial considerations, as well as their personal preferences. Those individuals who wish to maintain relationships with non-cooperating physicians may elect to do so on whatever terms they agree upon. Those individuals wanting assurance that their out-of-pocket expenses will not exceed that 20 percent coinsurance can select a physician from the directory. Doctors volunteering to become cooperating physicians will benefit from a simplified claims process aimed at reducing their administrative and billing costs.

This program of incentives can be further strengthened by applying the expected physician fee index cap only to non-cooperating physicians. In fact, I have written to Chairman DINGELL of the Committee on Energy and Commerce supporting the proposal to provide an exemption to the cap for physicians who accept assignment in all cases.

In response to economic conditions, and increased competition among the swelling ranks of doctors, the assignment rate took a slight upturn last year. We have the opportunity to accelerate this trend and prevent further cost shifting to medicare beneficiaries, without significantly increasing program payout by enacting a program such as I am proposing today.

Mr. Speaker, each time more cuts are made in social spending, I hear the same refrain, "We must all tighten our belts in order to strengthen our weakened economy." There is no question that we need to control Government spending and balance our budget. However, I cannot watch our Nation's seniors be continually targeted for the brunt of these cutbacks. It is time we fulfilled our commitment to older Americans, by taking the measures to prevent the shifting of more financial burdens onto their shoulders. I offer this bill as one step toward meeting that obligation.●

THE REINSTATEMENT OF THE 5-MILE-PER-HOUR AUTOMOBILE BUMPER STANDARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SCHUMER) is recognized for 5 minutes.

● Mr. SCHUMER. Mr. Speaker, I am pleased to reintroduce today, with 15 cosponsors, H.R. 6552, legislation to reinstate the 5-mile-per-hour automobile bumper standard. I would also like to share with my colleagues an article published by the Bureau of National Affairs.

On May 27, 1982, when the National Highway Traffic Safety Administration lowered the automobile bumper safety standard from 5 to 2.5 miles per hour, I urged my colleagues to join me in opposing the move. I based my opposition to his move on the contention that it will not benefit consumers, but will actually cost consumers in increased insurance rates and in replacement parts.

Regardless of these increased costs, the NHTSA argues that the average consumer would save $28 as a result of the new standard; I believe this contention to be wishful thinking. The results of recent tests performed by the Ford Motor Co. do not support secondary weight savings estimates which figured prominently in the NHTSA cost benefit analysis.

The NHTSA asserts that for every pound of weight removed from an automobile bumper, 1 gallon of gasoline is saved over the life of that car. Ford, however, found that for every pound of weight removed, a more realistic estimate of the savings is between 0.49 and 0.79 gallons of gasoline over the life of the car. Furthermore, both Ford and General Motors admit that even these modest savings would not be realized for at least 5 to 10 years. In actual terms, these savings are quite small.

These new findings reaffirm my belief that the savings in gasoline will not offset, in any substantial way, the increased insurance and repair costs occasioned by the reduced safety standard. I therefore call on you to

support the reinstatement of the 5-mile-per-hour safety standard.

The following 15 Members join me in the sponsoring of this legislation: ANTHONY BEILENSON, CLAUDE PEPPER, JOHN CONYERS, RICHARD OTTINGER, EDWARD MARKEY, HAROLD WASHINGTON, TED WEISS, PARREN MITCHELL, BERKLEY BEDELL, STEWART MCKINNEY, JERRY HUCKABY, TOM HARKIN, HENRY WAXMAN, MIKE LOWRY, and JONATHAN BINGHAM.

I thank these Members for their support and urge my remaining colleagues to join us in our effort.●

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 599

Mr. WHITTEN submitted the following conference report and statement on the joint resolution (H.J. Res. 599) making continuing appropriations for the fiscal year ending September 30, 1983, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 97-914)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 599) making continuing appropriations for the fiscal year ending September 30, 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 7, 8. 11, 12, 13, 16, 24, 28, 31, 34, 35, 36, 38, 39, 41, 42, 44, 45, 47, 48, 49, 52, 55, 60, 70, 77, 87, and 95.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 9, 19, 20, 21, 22, 23, 25, 29, and 32 and agree the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10. and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following:

(c) Pending passage of the regular Department of Defense Appropriation Act for fiscal year 1983, such amounts as may be necessary for continuing activities which were conducted in the fiscal year 1982, for which provision was made in the Department of Defense Appropriation Act, 1982, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $228,700,000,000, which is an increase above the current level, and this increase shall be distributed on a pro-rate basis to each appropriation account and shall operate under the terms and conditions provided for in the applicable appropriation Acts for the fiscal year 1982: Provided, That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1982; this limitation shall include but not be limited to prohibitions on funding availability for initial production of the M-X intercontinental ballistic missile and for long lead or initial production of a second nuclear-powered aircraft carrier until midnight December 17, 1982; and in addition, this limitation shall include the lower appropriation or funding ceilings for specific projects and activities set forth in the Department of Defense Appropriation Act, 1983, as reported to the Senate on September 23, 1982, or as subsequently reported to the House of Representatives: Provided further, That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate multiyear procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later except for the following programs and amounts; AN/ALQ-136 Radar Jamming the purchase of C-2 aircraft under a multiyear contract, $267,800,000: Provided further, That none of the funds appropriated or made available pursuant to this paragraph for the pay of members of the uniformed services shall be available to pay any member of the uniformed services a variable housing allowance pursuant to section 403(a)(2) of title 37, United States Code, in an amount that is greater than the amount which would have been payable to such member if the rates of basic allowance for quarters for members of the uniformed services in effect on September 30, 1982, had been increased by 8 per centum on October 1, 1982: Provided further, That pending passage of the regular Department of Defense Appropriations Act for fiscal year 1983, none of the funds appropriated or made available pursuant to this paragraph shall be available for the additional conversion of any full time personnel in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard, from military technician to Active Guard/Reserve status: Provided further, That none of the funds appropriated or made available pursuant to this paragraph, except for small purchases in amounts not exceeding $10,000, shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto; Nothing in this provision shall preclude the procurement of foreign produced specialty metals used in the production or manufacture of weapons or weapons systems made outside the United States except those specialty metals which contain nickel from Cuba, or the procurement of chemical warfare protective clothing produced outside the United States, if such procurement is necessary to comply with agreements with foreign governments; Nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions; No funds appropriated or made available pursuant to this paragraph shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations other than certain contracts not involving fuel made on a test basis by the Defense Logistics Agency with a cumulative value not to exceed $5,000,000,000, as may be determined by the Secretary of Defense pursuant to existing laws and regulations as not to be inappropriate therefor by reason of national security considerations; That the Secretary specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards of such contracts will be made at a reasonable price and that no award shall be made for such contracts if the price differential exceeds 5 per centum; None of the funds appropriated or made available pursuant to this paragraph shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

And the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

Notwithstanding section 102 of this joint resolution, such amounts as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in S. 2939, entitled the Legislative Branch Appropriation Act, 1983, as reported September 22, 1982, and the provisions of S. 2939 shall be effective as if enacted into law; except that the provisions of section 306(a), (b), and (d) of S. 2939 shall apply to any appropriation, fund, or authority made available for the period October 1, 1982, through December 17, 1982, by this or any other Act.

For purposes of this subsection, S. 2939, as reported September 22, 1982, shall be treated as appropriating the following amounts:

Under the headings "JOINT ITEMS", "CONTINGENT EXPENSES OF THE SENATE", "Joint Economic Committee", $2,327,000, and "CONTINGENT EXPENSES OF THE HOUSE", "Joint Committee on Taxation", $3,233,000; under the headings "CONGRESSIONAL BUDGET OFFICE", "SALARIES AND EXPENSES", $14,825,000; under the headings "ARCHITECT OF THE CAPITOL", "Salaries", $4,301,000; under the headings "COPYRIGHT ROYALTY TRIBUNAL", "SALARIES AND EXPENSES", $606,000, of which $157,000 shall be derived from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807; under the headings "GENERAL ACCOUNTING OFFICE", "SALARIES AND EXPENSES", $244,900,000.

For purposes of this subsection, S. 2939 shall be applied as follows:

The limitation on the number of staff employees of the Congressional Budget Office contained in S. 2939 shall be applied by substituting "222 staff employees" for "226 staff employees";

The fourth proviso under the headings "GOVERNMENT PRINTING OFFICE", "GOVERNMENT PRINTING OFFICE REVOLVING FUND", relating to travel expenses of advisory councils to the Public

Printer, contained in S. 2939 shall be effective only for fiscal year 1983.

And the Senate agree to the same.

Amendment numbered 17:

That the House recede from its disagreement to the amendment of the Senate numbered 17, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

(g) Such amounts as may be necessary for continuing activities which were conducted in fiscal year 1982, for which provision was made in the Energy and Water Development Act, 1982, at the current rate of operations: Provided, That no appropriation, fund or authority made available by this joint resolution or any other Act may be used directly or indirectly to significantly alter, modify, dismantle, or otherwise change the normal operation and maintenance required for any civil works project under Department of Defense-Civil, Department of the Army, Corps of Engineers-Civil, Operation and Maintenance, General, and the operation and maintenance activities funded in Flood Control, Mississippi River and Tributaries: Provided further, That no appropriation or fund made available or authority granted pursuant to this paragraph shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1982 without prior approval of the Committees on Appropriations: Provided further, That no appropriation, fund or authority made available to the Department of Energy by this joint resolution or any other Act, shall be used for any action which would result in a significant reduction of the employment levels for any program or activity below the employment levels in effect on September 30, 1982.

And the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *December 17, 1982*; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 110. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the current fiscal year and for which appropriations were granted: Provided, That no part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year 1982: Provided further, That the limitations of this section shall terminate on December 17, 1982.

And the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of section number 110 named in said amendment insert: *111*; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *101(a)(3)*; and the Senate agree to the same.

Amendment numbered 40:

That the House recede from its disagreement to the amendment of the Senate numbered 40, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert: *: Provided, That except for funds obligated or expended for planning, administration, and management expenses, and architectural or other consulting services, no funds herein appropriated shall be available for obligation or expenditure until such time as the Chancellor, acting on behalf of the Board of Regents of the Smithsonian Institution, certifies that all required matching funds are actually on hand or available through legally binding pledges*; and the Senate agree to the same.

Amendment numbered 43:

That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *101(a)(3)*; and the Senate agree to the same.

Amendment numbered 46:

That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

Notwithstanding section 101(a)(3) of this joint resolution, none of the funds provided by this joint resolution for the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to Sec. 4(a), (b), and (c); Sec. 5; and Sec. 11 of H.R. 3480, as passed the House of Representatives on June 18, 1981: Provided further, That none of the funds appropriated under this joint resolution for the Legal Services Corporation shall be expended to provide legal assistance for or on behalf of any alien unless the alien is a resident of the United States and is—

(1) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15), (20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)).

An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of section 1007(b)(11) of the Legal Services Corporation Act, to be an alien described in subparagraph (C) of such section: Provided further, That none of the funds provided by this joint resolution for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (a) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (b) a qualified nonprofit organization chartered under the laws of one of the States for the primary purpose of furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance: Provided further, That none of the funds appropriated under this joint resolution for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government except in accordance with policies or regulations adopted by the Board of Directors of the Legal Services Corporation.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: *$77,042,000*; and the Senate agree to the same.

Amendment numbered 51:

That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$67,301,000*; and the Senate agree to the same.

Amendment numbered 53:

That the House recede from its disagreement to the amendment of the Senate numbered 53, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert *$7,121,000*; and the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert the proposed Senate language amended to change section

number 122, as follows: *126*; and the Senate agree to the same.

Amendment numbered 56:

That the House recede from its disagreement to the amendment of the Senate numbered 56, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 128. Notwithstanding any other provision of this joint resolution except section 102, funds shall be available for the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), at the rate and under the terms and conditions provided for in Title III of H.R. 7072 as passed the Senate on September 28, 1982.

And the Senate agree to the same.

Amendment numbered 58:

That the House recede from its disagreement to the amendment of the Senate numbered 58, and agree to the same with an amendment, as follows:

In lieu of section number 126 named in said amendment insert: *130*; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

In lieu of section number 129 named in said amendment insert: *132*; and the Senate agree to the same.

Amendment numbered 62:

That the House recede from its disagreement to the amendment of the Senate numbered 62, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 133. (a) In accordance with section 101(b) of this joint resolution, activities under title XV of the Public Health Service Act shall be continued at a rate to maintain current operating levels.

(b) Notwithstanding any other provision of law, no funds appropriated by this joint resolution or any other Act for fiscal year 1983 for any allotment, grant, loan, or loan guarantee under the Public Health Service Act or the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 shall be subject to reduction under section 1521(d)(2) of the Public Health Service Act during the period beginning on October 1, 1982, and ending on the date specified in clause (c) of section 102.

And the Senate agree to the same.

Amendment Numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an amendment, as follows:

In lieu of section number 131 named in said amendment insert: *134;* and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 135. Notwithstanding any other provision of this joint resolution, such amounts as may be necessary shall be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds to support an annual operating level for Medicare claims processing activities of $800,000,000, including $45,000,000 for this purpose which is currently available under section 118 of Public Law 97-248.

And the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 136. Notwithstanding the decision of the United States Court of Appeals for the District of Columbia Circuit in Connecticut v. Schweiker (No. 81-2090, July 27, 1982), section 306 of Public Law 96-272, or section 1132 of the Social Security Act, no payment shall be made, in or with respect to any fiscal year prior to fiscal year 1984, under this or any other Act, and no court shall award or enforce any payment (whether or not pursuant to such decision) from amounts appropriated by this or any other Act, to reimburse State or local expenditures made prior to October 1, 1978, under title I, IV, X, XIV, XVI, XIX, or XX of the Social Security Act, unless a request for reimbursement had been officially transmitted to the Federal Government by the State within one year after the fiscal year in which the expenditure occurred. After fiscal year 1983, any payment made to reimburse such State or local expenditures required to be reimbursed by a court decision in any case filed prior to September 30, 1982 shall be made in accordance with a schedule, to be established under the Social Security Act, over fiscal years 1984 through 1986.

And the Senate agree to the same.

Amendment numbered 66:

That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows:

In lieu of section number 134 named in said amendment insert *137*; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 138. Notwithstanding any other provision of law, of the funds appropriated for fiscal year 1983 to carry out the Community Services Block Grant Act of 1981, not more than 10 per centum of the funds allotted to each State under section 674 of such Act shall be used for purposes other than to make grants to eligible entities as defined in section 673(1) of such Act or to organizations serving seasonal and migrant farmworkers or to designated limited purpose agencies which meet the requirements of section 673(1) of such Act.

And the Senate agree to the same.

Amendment numbered 68:

That the House recede from its disagreement to the amendment of the Senate numbered 68, and agree to the same with an amendment, as follows:

In lieu of section number 136 named in said amendment insert: *139*; and the Senate agree to the same.

Amendment numbered 71:

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows:

In lieu of section number 139 named in said amendment insert *141*; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of section number 140 named in said amendment insert *142*; and the Senate agree to the same.

Amendment numbered 74:

That the House recede from its disagreement to the amendment of the Senate numbered 74, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 144. Notwithstanding any other provision of this joint resolution, except section 102, funds shall be available for the United States Travel and Tourism Administration at an annual rate of $7,600,000.

And the Senate agree to the same.

Amendment numbered 79:

That the House recede from its disagreement to the amendment of the Senate numbered 79, and agree to the same with an amendment, as follows:

In lieu of section number 147 named in said amendment insert: *148*; and the Senate agree to the same.

Amendment numbered 80:

That the House recede from its disagreement to the amendment of the Senate numbered 80, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 149. Of the amounts appropriated to the Department of State for the purposes of "Contributions for International Peacekeeping Activities" not more than $50,000,000 shall be available for expenses necessary for contributions to a United Nations Transition Assistance Group, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 or any other provision of law: Provided, That none of these funds shall be obligated or expended for contributions to the United Nations Transition Assistance Group unless the President determines and reports to the Congress that an internationally acceptable agreement has been achieved among the parties to the Namibia dispute concerning implementation of United Nations Security Council Resolution 435 for the independence of Namibia.

And the Senate agree to the same.

Amendment numbered 81:

That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows:

In lieu of section number 149 named in said amendment insert: *150*; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of section number 150 named in said amendment insert: *151*; and the Senate agree to the same.

Amendment numbered 84:

That the House recede from its disagreement to the amendment of the Senate numbered 84, and agree to the same with an amendment, as follows:

In lieu of the sum named in said amendment insert: *$190,000*; and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate num-

bered 91, and agree to the same with an amendment, as follows:

In lieu of section number 160 named in said amendment insert: *159*; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 160. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

And the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows:

In lieu of section number 163 named in said amendment insert: *162*; and the Senate agree to the same.

Amendment numbered 96:

That the House recede from its disagreement to the amendment of the Senate numbered 96, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 163. None of the funds provided in this joint resolution shall be used to implement an apportionment and staffing plan to specifically phase down the Public Health Service Commissioned Corps.

And the Senate agree to the same.

Amendment numbered 97:

That the House recede from its disagreement to the amendment of the Senate numbered 97, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 164. Notwithstanding section 1804 of the Public Health Service Act, funds provided for the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research by the Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216) shall remain available until December 31, 1982.

And the Senate agree to the same.

Amendment numbered 98:

That the House recede from its disagreement to the amendment of the Senate numbered 98, and agree to the same with an amendment, as follows:

In lieu of section number 167 named in said amendment insert: *165*; and the Senate agree to the same.

Amendment numbered 99:

That the House recede from its disagreement to the amendment of the Senate numbered 99, and agree to the same with an amendment, as follows:

In lieu of section number 168 named in said amendment insert: *166*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 15, 30, 33, 57, 59, 69, 73, 75, 76, 78, 83, 85, 86, 88, 89, 90, 93, and 100.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
JOSEPH P. ADDABBO,
CLARENCE D. LONG,
SIDNEY R. YATES,
EDWARD R. ROYBAL,
TOM BEVILL,
BO GINN,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
SILVIO O. CONTE,
JOSEPH M. MCDADE,
JACK EDWARDS,
JOHN T. MYERS
(except No. 88),
J. KENNETH ROBINSON,
CLARENCE E. MILLER
(except Nos. 29 and 30),
LAWRENCE COUGHLIN,
Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER, Jr.,
JAMES A. MCCLURE,
PAUL LAXALT,
JAKE GARN,
HARRISON SCHMITT,
THAD COCHRAN,
MARK ANDREWS,
JAMES ABDNOR,
ROBERT W. KASTEN,
ALFONSE M. D'AMATO,
MACK MATTINGLY,
WARREN RUDMAN,
ARLEN SPECTER,
WILLIAM PROXMIRE,
JOHN C. STENNIS,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
TOM EAGLETON,
LAWTON CHILES,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON
(except amendment No. 95),
QUENTIN BURDICK,
PATRICK J. LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 599), making continuing appropriations for the fiscal year 1983 and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Amendment No. 1: Deletes the House provision for the Energy and Water Development Appropriation Act, 1983 in Sec. 101. (a)(1).

Amendment No. 2: Deletes language proposed by the House and stricken by the Senate which provides for projects and activities funded in the HUD-Independent Agencies bill at the House or Senate level, whichever is lower.

Amendment Nos. 3, 4, and 5: Provide that when an Act listed in subsection 101(a) has been reported to the House or the Senate but not passed by that House by October 1, 1982, it shall be considered as having been passed by that House.

Amendment Nos. 6, 7, and 8: Technical amendments that delete proposed Senate conforming language.

Amendment No. 9: Specifies that off-budget appropriations for the purchase and transportation of petroleum for the Strategic Petroleum Reserve be continued at the fiscal year 1982 rate of operations, the same as other activities covered in the Interior and Related Agencies Appropriation, as proposed by the Senate.

RATE OF OPERATIONS FOR DEPARTMENT OF DEFENSE

Amendment No. 10: Includes language which provides for continuing the activities of the Department of Defense at not to exceed an annual rate for new obligational authority of $228,700,000,000, and includes certain prohibitions on the use of the funds made available. The House language would have provided for a rate of operations not in excess of the current rate until the Defense Appropriations Act, 1983, was reported in the House whereupon that rate would prevail. The Senate language would have provided for a rate of operations set forth in the Defense Appropriations Act, 1983, as reported to the Senate on September 23, 1982.

The managers have included a provision that prohibits the Department of Defense from initiating or resuming any project or activity for which appropriations or funds were not available in fiscal year 1982. The managers have also specifically included prohibitions of funding for initial production of the M-X missile and for long lead or initial production of a second nuclear-powered aircraft carrier. There is no prohibition on continuing long lead production of the carrier for which long lead production was provided in fiscal year 1982. By including these specific prohibitions, the managers intended only to defer these and other funding initiatives until the Congress has had an opportunity to act on the final funding decisions. The programs specifically included in the funding prohibition are only some major examples of funding issues that are still to be decided by Congress. The managers were of the opinion that a more complete program list of funding prohibitions should not be included, therefore allowing needed flexibility for both the Congress and the Executive Branch. However, the managers direct the Department of Defense to consult with the Appropriations Committees of Congress on any funding decisions where there is a question as to the propriety of proceeding with such funding during the operation of this continuing resolution. The managers also direct the Department to adhere to the lower of the appropriation and funding ceilings for projects, subprojects and activities set forth in the Department of Defense Appropriations Act, 1983, as reported to the House of Representatives or the Senate. In no instance should these ceilings be breached, and by the same token, these funding ceilings should not by interpreted as mandatory obligational levels. The intention of a continuing resolution is to proceed with the government's business at the lowest level possible, retaining Congressional flexibility for funding decisions to be made at a later time. Congress should not be put in a position of being forced to fund programs on which it has not yet had an opportunity to express its will, since such action would impinge on its flexibility in arriving at these final funding decisions.

The managers agreed further that in order to avoid costly interruptions in the industrial base, authorized and appropriated fiscal year 1982 funds, including long-lead funds for defense programs, should continue to be spent unless specifically prohibited

by the authorizing and appropriation committees of Congress.

The managers included a provision limiting variable housing allowance payments. Regular military compensation consists of basic pay, basic allowance for subsistence, and basic allowance for quarters. Each of the components of regular military compensation is affected by cost-of-living pay raise adjustments. Accordingly, this year the determination to limit the pay raise to become effective October 1, 1982, to four percent means that each of the components would be reduced by four percent from the budgeted eight percent pay raise. For those service members receiving basic allowance for quarters, however, the variable housing allowance entitlement program automatically makes up that four percent reduction for the basic allowance for quarters component of regular military compensation. The effect of this situation is to unfairly spread the burden of the pay cap policy since only about one-third of the military population now receives variable housing allowance payments. Further, the variable housing allowance offsetting payments would amount to about $137 million and would therefore reduce anticipated savings from the pay cap policy by that amount.

The limitation in this joint resolution assures that those variable housing allowance payments that would otherwise offset the basic allowance for quarters reduction due to the pay cap are not made. Without this provision, the Congress would face the requirement to fund $137 million in a supplemental bill for these payments, and then make additional reductions of $137 million in other defense programs to stay within its fiscal year 1983 spending allocations for defense.

In fiscal year 1982, congressional report language directed the Department of Defense to let each reserve component be free to determine the appropriate mix of full time military and military technicians. It has come to the managers' attention that this language has been interpreted to mean that cost should not be a principal factor in the determination of the appropriate mix. The managers wish to reaffirm that cost is clearly intended to remain a principal factor in this determination as set forth in Public Law 93-365 (DOD Appropriation Authorization Act of 1975), which directed DOD to "use the least costly form of manpower that is consistent with military requirements and other needs of the Department of Defense". This is particularly the case since (1) the quality of cost comparisons previously presented to the Congress has been called into question by the General Accounting Office; and (2) Congress has approved significant pay increases for the military since the last comprehensive comparative cost assessment of conversions. Furthermore, the managers understand that a significant portion of the conversions planned for fiscal year 1983 are principally responsive to the requirement to reduce the number of civilian personnel to achieve personnel ceiling objectives, rather than considerations of relative cost and relative effect on readiness. Finally, the managers understand that in some components the Active Guard/Reserve personnel involved in these conversions are not deployable assets, which is also in contradiction to congressional report directives.

The language in the joint resolution is intended to put a stop to conversion of military technicians, by whatever means that may be accomplished administratively. It, therefore, is intended specifically to cover the 43 military technician Senior Staff Administrative Assistant positions in the Army Reserve now scheduled to be eliminated on October 1, 1982.

The managers wish to make it clear to the Department of Defense that it should structure its fiscal year 1983 military and civilian pay allocations—not program funding—to provide for at least a 25 percent absorption rate for the pay raise to become effective on October 1, 1982. Management and administrative practices and policies should be implemented from the beginning of the fiscal year to ensure achievement of absorption levels of at least 25 percent.

The managers have agreed to accept a provision included in the Senate reported Defense Appropriations Bill, 1983 (S. 2951), requiring procurement of American-built commodities and materials.

Amendment No. 11: Provides funding for foreign assistance at the level contained in Public Law 97-121 (the 1982 Foreign Assistance Appropriations Bill) or the 1983 request level, whichever is lower, as provided by the House instead of the current level of operations as provided by the Senate.

Amendment 12: Restores the House language ", or any other provision of law".

Amendment 13: Restores the House language which provides for aid to Israel at the level provided in Public Law 97-113 (the 1982 authorization bill).

Amendment No. 14: Provides funding for the operations of the Legislative Branch as provided in, and under the terms and conditions of, S. 2939, the Legislative Branch Appropriation Act for 1983, reported on September 22, 1982, with certain exceptions, for the fiscal year 1983, and extends the senior level salary freeze until December 17, 1982. The House bill had proposed funding as provided in H.R. 7073 for the fiscal year 1983; the Senate bill proposed funding as provided in S. 2939, subject to the termination date of the continuing resolution.

The conferees have agreed on the following exceptions from S. 2939:

Item	*Conference agreement*
Joint Economic Committee	$2,327,000
Joint Committee on Taxation	3,233,000
Congressional Budget Office	14,825,000
Office of the Architect: Salaries	4,301,000
Copyright Royalty Tribunal—Limitation	606,000
Authority to spend receipts	(157,000)
Net direct appropriation	449,000
General Accounting Office	244,900,000

In addition, the conferees agree that the number of staff at the Congressional Budget Office shall be limited to 222; and that the Public Printer, during fiscal year 1983, may pay the travel expenses of advisory councils to the Public Printer out of funds available in the Government Printing Office revolving fund.

Due to the lack of sufficient time on the legislative calendar, and because the Committees on Appropriations in the House and Senate each reported Legislative Branch appropriation bills that are very close in their recommendations, the conferees have decided, after reaching agreement on the differences between the two bills, to fund the Legislative Branch for the entire fiscal year 1983. It is the intention of the conferees that fiscal year 1984 Legislative Branch funding will be acted upon in regular order by both Houses.

The conferees agree that no additional funding will be provided for energy conservation in the Capital complex until a comprehensive analysis of the accrued and estimated costs and benefits of the program has been developed, together with a statement of appropriate goals. Also, in providing annual authority for the Information Industry Council, an advisory body to the Public Printer, the conferees direct that the Council shall be broadly representative of all segments of the printing and publishing industry, including its communications, typesetting, distribution and labor components. Appointees to the Council shall be chosen for their experience and technological expertise within the industry. The Council's task shall be to advise and recommend methods and procedures to the Public Printer for furthering the stated aims of Congress in the field of public printing and distribution. All meetings of the Council shall be open to the public.

RATE OF OPERATIONS FOR MILITARY CONSTRUCTION

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *: Provided, That notwithstanding the foregoing provision of this paragraph and notwithstanding any other provision of this joint resolution, such amounts as may be necessary for projects or activities provided for in the Military Construction Act, 1983 (H.R. 6968), at a rate for operations and to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference as filed in the House of Representatives on September 30, 1982, as if such Act had been enacted into law.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 16: Deletes language proposed by the Senate which provides for projects and activities funded in the HUD-Independent Agencies bill at levels and under the conditions of the Senate reported bill.

Amendment No. 17: Inserts language proposed by the Senate for funding of programs in Energy and Water Development Appropriations at the current rate of operations, modified to require prior approval of the Committees on Appropriations for the initiation or resumption of any project or activity for which appropriations, funds or other authority were not available in fiscal year 1982.

Amendment No. 18: Provides for a termination date for this resolution of Friday, December 17, 1982, rather than December 15, 1982 as provided for by the House or December 22, 1982 as provided for by the Senate.

Amendments No. 19 and 20: Technical amendments correcting two section number references to the United States Code.

Amendment No. 21: Deletes House language in Section 107 providing for funding of Department of Energy National Security Programs, Bonneville Power Administration Fund (Borrowing Authority) and Corps of Engineers Operation and Maintenance pro-

grams at the levels specified for these activities in the Energy and Water Development Appropriation Bill as reported to the House (H.R. 7145).

Amendment No. 22: Changes section number.

Amendment No. 23: Changes section number.

Amendment No. 24: Deletes language proposed by the Senate relating to Water Resources Council.

Amendment No. 25: Changes section number.

Amendment No. 26: Restores language proposed by the House amended to provide that the restriction on GSA rental rates provided in this joint resolution shall expire on December 17, 1982.

Amendment No. 27: Inserts language proposed by the Senate which prohibits the disposal of any federal land tracts or lands with national environmental or economic value until certain conditions are met. The managers agree that, except where provided by law and except in the case of land exchanges, certain requirements must be met by the proper administrative agencies before federal land tracts or lands with national environmental or economic value can be disposed of. As it is not the managers' intent to circumvent current law with respect to land disposals, the managers agree that state in-lieu selections, Alaskan Native Land selections, Desert Land Entry selections, Carey Act land selections, Indian Allotments, patents under the 1872 Mining Act, and other similar land conveyances are activities "provided by law" and, therefore, not subject to the specific requirements provided by this section.

Amendment No. 28: Changes section number.

Amendment No. 29: Inserts language proposed by the Senate which subjects this provision to section 102 of this joint resolution.

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert the following: *moneys deposited into the National Defense Stockpile Transaction Fund under section 9(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)) are hereby made available, subject to such limitations as may be provided in appropriation Acts and in section 5(a)(1) of such Act, until expended for the acquisition of strategic and critical materials under section 6(a)(1) of such Act (and for transportation and other incidental expenses related to such acquisition). This paragraph applies without fiscal year limitation to moneys deposited into the fund before, on, or after October 1, 1982: Provided, That during the fiscal year ending on September 30, 1983, not more than $120,000,000 in addition to amounts previously appropriated, of which not to exceed $85,000,000 shall be available only until the termination of this joint resolution for the purchase of domestic copper mined and smelted in the United States after September 30, 1982, may be obligated from amounts in the National Defense Stockpile Transaction Fund for the acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)) and for transportation and other incidental expenses related to such acquisition*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment makes available $120,000,000 for the purchase of materials for the National Defense Strategic Stockpile, of which $85,000,000 shall be available only until the termination of this joint resolution for the purchase of copper mined and smelted in the United States after September 30, 1982. The conferees are agreed that this amendment does not mandate the purchase of copper and that all the funds made available by this amendment may be used for the purchase of any strategic or critical materials authorized by the Act.

Amendment No. 31: Changes section number.

Amendment No. 32: Inserts language proposed by the Senate which makes funds in the GSA Federal Buildings Fund available for projects in the Senate reported Treasury, Postal Service and General Government Appropriations bill.

The effect of this amendment would be that GSA projects listed by line-item in either House reported or Senate reported Treasury, Postal Service and General Government bill for fiscal year 1983 would be funded.

DISTRICT OF COLUMBIA

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment amended to read as follows:

SEC. 114. (a)(1) Funds provided by this joint resolution for costs to continue the implementation of provisions contained in the District of Columbia Statehood Constitutional Convention Initiative (D.C. Law 3-171) shall be applied first toward ensuring voter education on the proposed constitution by (A) printing, by the Statehood Commission, of the proposed constitution together with objective statements both for and against its provisions as expressed by the Convention delegates taking such positions, (B) mailing of this information to the registered voters of the District of Columbia by October 22, 1982, and (C) preparing for publication as a public document a comprehensive legislative history of the proposed constitution.

(2) None of the funds provided by this joint resolution may be used to pay for the publication of any information or materials by the Statehood Commission which fail to present objective arguments for and against the provisions of the proposed constitution.

(b) Notwithstanding section 102, the paragraph under the heading "LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND" in the District of Columbia Appropriation Act, 1982 (Public Law 97-91; 95 Stat. 1175) is amended—

(1) in the second proviso, by striking out "payments of prizes" and inserting in lieu thereof "payment of fees to ticket agents, fees to contractors supplying gambling paraphernalia or services, and prizes";

(2) in the third proviso, by striking out "payments of prizes" and inserting in lieu thereof "payment of such fees and prizes";

(3) in the fourth proviso, by striking out "prizes and administration of the Board shall not exceed resources available to the Board from appropriated authority or revenues" and inserting in lieu thereof "administration of the Board shall not exceed resources available to the Board from appropriated authority: Provided further, That the annual expenses for fees and prizes shall not exceed revenues"; and

(4) in the fifth proviso, by striking out "for prize money" and inserting in lieu thereof "for fees and prize money".

(c) Notwithstanding any other provision of this resolution, the Superior Court of the District of Columbia may continue to operate the Volunteer Attorney Program and the Community Workers Program, and may implement the hearing commissioner program, from existing resources and position authority. Upon passage of the fiscal year 1983 appropriation Act, full year program funding will be available to pay, retroactively, for program services performed on or after October 1, 1982.

(d) The Washington Convention Center may proceed at an annual rate of operation which does not exceed $5,275,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees are agreed that first call on funds available to the Statehood Constitutional Convention shall be for (1) voter education materials to be mailed to registered voters of the District by October 22, 1982, and (2) preparation of a legislative history of the proposed constitution. The conferees are further agreed that funds may not be used by the Statehood Commission to pay for the preparation or publication of any information or materials which fail to present objective arguments for and against the provisions of the proposed constitution.

The conferees have also agreed to certain technical changes to the permanent legislation enacted in Public Law 97-91, approved December 4, 1981, establishing the lottery and Charitable Games Enterprise Fund. These changes were requested by the District government so that revenues generated from Lottery and charitable games activities may be used to (1) permit the payment of fees to ticket agents and contractors supplying gambling paraphernalia or services, and (2) allow for the payment of prizes from revenues generated by these activities.

The conference agreement further provides that the Superior Court of the District of Columbia may continue, within the resources allowed under this resolution, the Volunteer Attorney Program and the Community Workers Program, and may implement the hearing commissioner program.

The Volunteer Attorney Program and the Community Workers Program have been funded by Federal grant funds that will no longer be available after September 30, 1982. Henceforth, they will be funded from locally generated funds. Each of these programs is provided for in both the House and Senate versions of the fiscal year 1983 appropriations bills for the District of Columbia, which are pending final action by the Congress.

Finally, the conferees have inserted language which allows the Washington Convention Center to proceed towards its scheduled opening late in calendar year 1982, at an annual rate of expenditure of $5,725,000. This will allow the Center to hire the necessary staff and make the required final preparations prior to the first event in January, 1983. This amount does not allow for the purchase of theatre-style seats as proposed in the budget. That item will be resolved during consideration of the regular fiscal year 1983 appropriations bill for the District of Columbia.

Amendments No. 34, 35 and 36: Restore section numbers proposed by the House.

Amendment No. 37: Changes the section reference to 101(a)(3).

Amendment No. 38: Restores House language extending an Agency for International Development health project in Africa for three years.

Amendment No. 39: Restores section number proposed by the House.

Amendment No. 40: Provides that the Chancellor, acting on behalf of the Board of Regents of the Smithsonian Institution, certifies that private funds are available to match the appropriation in lieu of a certification by the Chancellor as proposed by the Senate amendment.

Amendments No. 41 and 42: Restore section numbers proposed by the House.

Amendment No. 43: Changes the section reference to 101(a)(3).

Amendment No. 44: Appropriates funds for Small Business Development Centers at an annual rate of $14,000,000 as proposed by the House instead of $11,000,000 as proposed by the Senate.

Amendment No. 45: Restores section number proposed by the House.

Amendment No. 46: Retains language, proposed by the House, which provides restrictions on the activities of the Legal Services Corporation as contained in H.R. 3480 as passed the House of Representatives on June 18, 1981 as follows:

(a) limitations on the presumptive right to refunding (Sec. 4(a), (b) and (c);

(b) prohibitions on lobbying (Sec. 5);

(c) allocation of funding (minimum access) (Sec. 11); and

(d) restrictions on use of funds for aliens (Sec. 14(a)(6) and (b)).

In addition the conference agreement provides for the restrictions on qualifications of recipients as contained in Sec. 3 of H.R. 3480, as proposed by the House, except, as provided by the Senate, that the Corporation can make grants and contracts to qualified nonprofit organizations chartered under State laws for the primary, instead of the sole, purpose of furnishing legal assistance to eligible clients. The conference agreement also provides for the restrictions on initiation of class action suits as proposed by the Senate instead of the class action provision contained in Sec. 6 of H.R. 3480, as proposed by the House.

The conferees are agreed that none of the funds available under this joint resolution for the Legal Services Corporation shall be available for a full adversarial hearing in advance of the denial of any application for refunding. The conferees are also agreed that prior to the denial of any application for refunding, the Corporation shall insure that, the applicant has been given reasonable notice and an opportunity for a timely and fair hearing pursuant to regulations promulgated by the Corporation.

Amendment No 47: Restores section number proposed by the House.

Amendment No. 48: Restores language proposed by the House which permits the federal government to deduct reasonable amounts from government employees' wages to satisfy indebtedness to the government, when such indebtedness has been determined by a United States Court.

Amendment No. 49: Restores section number proposed by the House.

Amendment No. 50: Makes reference to a total of $77,042,000 available at an annual rate for exchange programs of the United States Information Agency as provided by the conference agreements in amendments numbers 51 through 53 instead of a total of $70,122,000 as proposed by the House and unspecified amounts as proposed by the Senate.

Amendment No. 51: Provides an annual rate of $67,301,000 for the Fulbright and International Visitor Programs instead of $60,415,000 as proposed by the House and $80,886,000 as proposed by the Senate.

Amendment No. 52: Provides an annual rate of $2,620,000 for the Humphrey Fellowship Program as proposed by the House instead of $3,147,000 as proposed by the Senate.

Amendment No. 53: Provides an annual rate of $7,121,000 for the Private Sector Programs instead of $7,087,000 as proposed by the House and $8,630,000 as proposed by the Senate.

Amendment No. 54: Retains Senate language prohibiting the use of funds for activities related to leasing in wilderness and wilderness study areas, to conform to the language in House-passed legislation.

Amendment No. 55: Restores section number proposed by the House.

Amendment No. 56: Provides that the Women, Infants and Children Program (WIC) shall be carried out as provided in Title III of H.R. 7072 as passed the Senate. The conference agreement amends the Senate language to specify as provided "in Title III" of H.R. 7072.

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment amended to read as follows:

In lieu of the section number 125 named in said amendment, insert *129*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CIVIL AERONAUTICS BOARD

PAYMENTS TO AIR CARRIERS

Amendment No. 58: Retains language proposed by the Senate which terminates the section 406 air carrier subsidy program but continues payments to air carriers. The House bill contained no comparable provision.

MILITARY SERVICE BONUSES

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 131. Sections 308(g) and 308a(c) of title 37, United States Code, are amended by striking out "September 30, 1982" and inserting in lieu thereof "December 17, 1982".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 60: Deletes new section proposed by the Senate which would have appropriated $296,500,000 for community service employment for older Americans under title V of the Older Americans Act.

The conferees have deferred action without prejudice. While the conferees support increased appropriations for this program, there is still time to consider this matter in the regular fiscal 1983 Labor, Health and Human Services and Education bill, since it is forward-funded. The conferees intend to press for action on a regular Labor-HHS bill, providing fully adequate funding for this program.

Amendment No. 61: Changes the section number and appropriates $39,000,000 for the childhood immunization program administered by the Centers for Disease Control, as proposed by the Senate. The House resolution contained no special provision for this program.

Amendment No. 62: Changes the section number and provides for continuation of activities under title XV of the Public Health Service Act at the rate authorized by section 101(b) of H.J. Res. 599. The Senate bill appropriated $64,432,000 for these activities. The House bill contained no similar provision.

Also inserts language proposed by the Senate providing that funds appropriated for 1983 shall not be subject to reduction under section 1521(d)(2) of the Public Health Service Act for the duration of the Continuing Resolution. The House bill contained no similar provision.

The conferees have included bill language to continue the health planning program at the current operating level. The conferees direct the Department of Health and Human Services to make certain, in line with the authority in section 101(b) of this Resolution, that funds flow without interruption to health planning agencies so that they may continue to carry out their mission while the appropriate House and Senate committees continue their efforts to reauthorize the health planning program.

Amendment No. 63: Changes the section number and appropriates $34,000,000 for family medicine residencies as proposed by the Senate. The House bill contains no similar provision.

Amendment No. 64: Changes the section number and modifies language proposed by the Senate to read as follows:

Notwithstanding any other provision of this joint resolution, such amounts as may be necessary shall be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds to support an annual operating level for Medicare claims processing activities of $800,000,000, including $45,000,000 for this purpose which is currently available under section 118 of Public Law 97-248.

No similar provision was included in the House bill.

The conferees have agreed to an interim funding level of $800,000,000 for medicare contractors. This includes such amounts as may be necessary, over and above the $45 million already made available by P.L. 97-248 for this purpose, to achieve this operating level. The 1982 funding level for this program was $711 million.

Amendment No. 65: Changes the section number and modifies language proposed by the Senate related to certain claims submitted by the States under various public assistance entitlements. The revised language reads as follows:

Notwithstanding the decision of the United States Court of Appeals for the District of Columbia Circuit in Connecticut v. Schweiker (No. 81-2090, July 27, 1982), section 306 of Public Law 96-272, or section 1132 of the Social Security Act, no payment shall be made, in or with respect to any fiscal year prior to fiscal year 1984, under this or any other Act, and no court shall award or enforce any payment (whether or not pursuant to such decision) from amounts appropriated by this or any other Act, to reimburse State or local expenditures made prior to October 1, 1978, under title I, IV, X, XIV, XVI, XIX, or XX of the Social Security Act, unless a request for reimbursement had been officially transmitted to the Federal Government by the State within one year after the fiscal year in which the expenditure occurred. After fiscal year 1983,

any payment made to reimburse such State or local expenditures required to be reimbursed by a court decision in any case filed prior to September 30, 1982 shall be made in accordance with a schedule, to be established under the Social Security Act, over fiscal years 1984 through 1986.

No similar provision was included in the House bill.

On July 27, 1982, the United States Court of Appeals for the District of Columbia Circuit reversed a lower court decision which had found approximately $382 million in claims by the States to have been untimely filed under applicable appropriations restrictions (Connecticut v. Schweiker, No. 81-2090). For the most part, these claims arose under the AFDC, Medicaid and title XX programs. Some of them related to expenditures under those programs occurring almost thirty years ago. As of the date of this conference, the appeal rights of the government in the case have not yet expired, and there remains the possibility of Supreme Court review or other court action affecting the eventual payment by the government of these sums. The language agreed to is not intended to prejudice the outcome of this court case either on behalf of the government or for the States. The position of the Congress on this issue has already been amply expressed through its action on the fiscal year 1980, 1981 and 1982 appropriations bills and related continuing resolutions. The amendment is, however, intended to prohibit payment of any of these claims during fiscal year 1983. If the courts determine that payments must be made, the language agreed to provides a procedure for orderly payment of claims over a 3 year period beginning in fiscal year 1984.

Amendment No. 66: Appropriates $18,000,000 for fiscal year 1983 to carry out the Runaway and Homeless Youth Act, as proposed by the Senate, and changes the section number.

Amendment No. 67: Changes the section number and modifies language proposed by the Senate relating to the Community Services Block Grant. The conference agreement maintains the current requirement that States "pass through" at least 90% of funds allotted to them to local community action agencies and groups serving migrant and seasonal farmworkers.

Amendment No. 68: Inserts new section as proposed by the Senate extending the availability of funds appropriated in 1982 for close-out activities of the former Community Services Administration.

Amendment No. 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of section number 137 named in said amendment, insert *140.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment modifies the statutory requirement for making preliminary impact aid payments from funds available under the continuing resolution.

Amendment No. 70: Deletes language proposed by the Senate which would have appropriated an additional $50,000,000 over the amount otherwise made available for 1983 by the continuing resolution for vocational education basic State grants.

It is the intent of the conferees that increases in funding for vocational education aimed at job training and other employment preparation for displaced, unemployed workers will be considered as part of the fiscal 1983 funding bill for the Department of Education.

Amendment No. 71: Changes section number and appropriates $9,000,000 to remain available for obligation until September 30, 1988, as proposed by the Senate, to carry out part H, subpart 2 of Title XIII of the Education Amendments of 1980 relating to the establishment of the General Daniel James Memorial Health Education Center at the Tuskegee Institute in Alabama. There was no funding for this purpose in the House resolution.

Amendment No. 72: Changes the section number and appropriates $5,000,000 for nursing research, as proposed by the Senate. The House bill contained no similar provision.

UNITED STATES COAST GUARD

HEALTH CARE RESPONSIBILITIES

Amendment No. 73: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number 141 named in said amendment, insert *143.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 74: Inserts language proposed by the Senate that maintains the funding level at an annual rate of $7,600,000 for the United States Travel and Tourism Administration within the Department of Commerce, but deletes the Senate provision concerning the numbers of offices and employees in foreign countries. The conferees note that this provision is included in the FY 1983 Appropriations Bill for the Department of Commerce, Justice, and State, the Judiciary and Related Agencies (S. 2956) as reported to the Senate.

Amendment No. 75: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment, as follows:

In lieu of the section number named in said amendment, insert: *145.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment of the Senate requires that government agencies make loan commitments in the full amount provided by law subject only to the availability of qualified applicants and the limitations contained in appropriation Acts.

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number 144 named in said amendment, insert: *146.*

The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to language proposed by the Senate which extends for 120 days the 6 month moratorium on the issuance of new nursing home regulations contained in Public Law 97-248.

Amendment No. 77: Deletes language proposed by the Senate to provide the Secretary of Agriculture with authority to conduct boundary surveys of National Forest System lands. The Managers are aware that the Bureau of Land Management has not met adequately Forest Service land line location needs. The two agencies are directed to comply with the existing Memorandum of Understanding. The Managers also urge the Authorizing Committees to address the proposals to give the Forest Service authority to conduct boundary surveys of National Forest System lands. In the event the above actions do not alleviate the Forest Service problem, the Committee will address an adequate remedy in fiscal year 1983.

URBAN MASS TRANSPORTATION ADMINISTRATION

FORMULA GRANT APPORTIONMENTS

Amendment No. 78: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 147. Notwithstanding any other provision of this joint resolution or any other provision of law, appropriations for urban and nonurban formula grants authorized by the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601 et seq.) shall be apportioned and allocated using data from the 1970 decennial census for one-quarter of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the 1980 decennial census.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 79: Inserts language proposed by the Senate that adds $13,555,000 to the annual rate provided by Section 101(a) of the resolution for the LANDSAT program, administered by the National Oceanic and Atmospheric Administration within the Department of Commerce.

Amendment No. 80: Inserts language proposed by the Senate amended to read as follows:

SEC. 149. Of the amounts appropriated to the Department of State for the purposes of "Contributions for International Peacekeeping Activities" not more than $50,000,000 shall be available for expenses necessary for contributions to a United Nations Transition Group, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 or any other provision of law: Provided, That none of these funds shall be obligated or expended for contributions to the United Nations Transition Assistance Group unless the President determines and reports to the Congress that an internationally acceptable agreement has been achieved among the parties to the Namibia dispute concerning implementation of the United Nations Security Council Resolution 435 for the independence of Namibia.

The conference agreement requires achievement of "an internationally acceptable" agreement among the parties to the Namibia dispute instead of an "adequate" agreement as proposed by the Senate.

Amendment No. 81: Appropriates $365,000 for salaries and expenses of the National Security Council as proposed by the Senate for the President's Foreign Intelligence Advisory Board and the President's Intelligence Oversight Board.

Amendment No. 82: Transfers $5,200,000 from salaries and expenses of the National Endowment for the Humanities to "matching grants" to be used for challenge grants as proposed by the Senate, amended to change section number.

Amendment No. 83: Reported in disagreement.

Amendment No. 84: Appropriates $190,000 to carry out section 301 of the Native Hawaiians Study Commission Act to remain

available until expended instead of $200,000 as proposed by the Senate.

Amendment No. 85: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate. This amendment authorized the Administration to regulate the entry of steel products into this country.

Amendment No. 86: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment provides that importation of steam will be duty free.

Amendment No. 87: Deletes language proposed by the Senate.

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment, as follows:

In lieu of section number 156 named in said amendment, insert *155.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment adds a new section to the joint resolution providing for admittance of Tessie and Enrique Marfori into the United States for permanent residence.

The conferees are agreed that very unusual circumstances exist in this case and that the action of the conferees is not to be considered as a precedent for future consideration of private immigration bills.

DEPARTMENT OF TRANSPORTATION

INTERSTATE TRANSFER GRANTS

Amendment No. 89: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 156. Notwithstanding any other provision of this joint resolution, there is appropriated $518,000,000, to remain available until expended, for Department of Transportation Interstate Transfer grants—Highways, and $365,000,000, to remain available until expended, for Department of Transportation Interstate Transfer grants—Transit: Provided, That allocations of these funds shall be distributed in accordance with House Report 97-783 or Senate Report 97-567, whichever is higher.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number 158 named in said amendment, insert *157* and in lieu of the section number 159 in said amendment, insert *158.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to language expressing the sense of the Senate that (1) Congress should reject any proposal to impose a means test on the Medicare program, and (2) that October 10, 1982 be designated National Peace Day.

Amendment No. 91: Inserts language proposed by the Senate extending the construction deadline for financial adjustment factor (FAF) eligible housing units from October 1, 1982, to January 1, 1983, and changes section number.

Amendment No. 92: Provides validating language identical to language included last year in lieu of language proposed by the Senate.

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 161. Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out "October 1, 1982" and inserting in lieu thereof "December 17, 1982".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment extends the expiration date of the International Coffee Agreement Act from October 1, 1982 to the date of the expiration of this joint resolution.

Amendment No. 94: Inserts new section as proposed by the Senate specifying that amounts made available by section 101 for continuing activities conducted in 1982 under the Comprehensive Employment and Training Act of 1973 are also available to continue those activities under the provisions of S. 2036 as reported by the Committee of Conference. S. 2036 is the new employment training authorization bill; the conference report was filed on September 28.

Amendment No. 95: Deletes language proposed by the Senate postponing the effective date of tenant rent contributions regulations.

Amendment No. 96: Changes the section number and modifies language proposed by the Senate to read as follows: *None of the funds provided in this joint resolution shall be used to implement an apportionment and staffing plan to specifically phase down the Public Health Service Commissioned Corps.*

No similar provision was included in the House bill.

The conferees have agreed to a limitation on the use of funds provided by this continuing resolution which prohibits the executive branch from taking any actions which are specifically designed to reduce the size of the Commissioned Corps of the Public Health Service. The conferees are agreed that this limitation does not restrict the authority of the Secretary of the Department of Health and Human Services to make reductions in the size of the Corps which he determines to be in the best interest of the Public Health Service.

Amendment No. 97: Extends availability of funds provided for the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research in the Urgent Supplemental Appropriations Act until December 31, 1982, instead of March 31, 1983, as proposed by the Senate, and changes the section number. The House bill contains no similar provision.

Amendment No. 98: Inserts Senate housekeeping item language regarding certain telephone mileage charges.

Amendment No. 99: Inserts language proposed by the Senate to prohibit studies of "market rate" pricing of hydroelectric power by the six Federal public power authorities or other agencies or authorities of the Federal government. The language is in no way intended to affect specific case-by-case rate reviews that are required to be conducted by the Federal Energy Regulatory Commission under existing statutes and changes section number.

FEDERAL AVIATION ADMINISTRATION

AIRPORT GRANTS

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 167. Section 508 of the Airport and Airway Improvement Act of 1982 is amended by adding at the end thereof the following new subsection:

"(e) USE OF CERTAIN APPORTIONED FUNDS FOR DISCRETIONARY PURPOSES.—(1) Subject to paragraphs (2) and (3), if the Secretary determines, based upon notice provided under section 509(e), or otherwise that any of the amounts apportioned under section 507(a) will not be obligated during a fiscal year, the Secretary may obligate during such fiscal year an amount equal to such amounts at his discretion for any of the purposes for which funds are made available under section 505.

"(2) The Secretary may make obligations in accordance with paragraph (1) only if the Secretary determines that the total of obligations for such fiscal year for purposes of section 505 will not exceed the amount authorized for such fiscal year under section 505(a) and if the Secretary determines that sufficient amounts are authorized under section 505(a) for later fiscal years for obligation for such apportioned amounts which were not obligated during such fiscal year and which remain available under section 508(a).

"(3) For the purposes of carrying out this subsection—

"(A) None of the funds provided in the joint resolution providing continuing appropriations for the fiscal year 1983 shall be available for the planning or execution of programs the commitments for which are in excess of $1,050,000,000 for the two fiscal years ending prior to October 1, 1983, for grants-in-aid for airport planning, noise compatibility planning and programs, and development; and

"(B) Section 506(e)(4) of this Act shall not in any manner whatsoever impair the limitation established by this paragraph."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees direct that any carryover fiscal year 1982 contract authority be obligated during October, 1982.

JAMIE L. WHITTEN,
EDWARD P. BOLAND,
WILLIAM H. NATCHER,
NEAL SMITH,
J.P. ADDABBO,
CLARENCE D. LONG,
SIDNEY R. YATES,
EDWARD R. ROYBAL,
TOM BEVILL,
BO GINN,
WILLIAM LEHMAN,
JULIAN C. DIXON,
VIC FAZIO,
SILVIO O. CONTE,
JOSEPH M. MCDADE,
JACK EDWARDS,
JOHN T. MYERS
(except amendment No. 88),
J. K. ROBINSON,
CLARENCE E. MILLER
(except amendments Nos. 29 and 30),
LAWRENCE COUGHLIN,
Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER, Jr.,
JAMES A. MCCLURE,
PAUL LAXALT,
JAKE GARN,
HARRISON SCHMITT,
THAD COCHRAN,
MARK ANDREWS,
JAMES ABDNOR,
R. W. KASTEN,
ALFONSE M. D'AMATO,
MACK MATTINGLY,
WARREN B. RUDMAN,
ARLEN SPECTER,
WILLIAM PROXMIRE,
JOHN C. STENNIS,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
TOM EAGLETON,
LAWTON CHILES,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON
(except amendment No. 95),
QUENTIN BURDICK,
PATRICK J. LEAHY,
JIM SASSER,
DENNIS DECONCINI,
DALE BUMPERS,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MORRISON) to revise and extend their remarks and include extraneous material:)

Mr. ROUSSELOT, for 15 minutes, today.

Mr. RUDD, for 5 minutes, today.

Mr. LEACH, for 30 minutes, today.

Mr. KEMP, for 60 minutes, today.

Mr. RUDD, for 5 minutes, October 1, 1982.

(The following Members (at the request of Mr. SIMON) to revise and extend their remarks and include extraneous material:)

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Mr. KEMP, for 60 minutes, today.

Mr. RUDD, for 5 minutes, October 1, 1982.

(The following Members (at the request of Mr. SIMON) to revise and extend their remarks and include extraneous material:)

Mr. REUSS, for 30 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. CROCKETT, for 5 minutes, today.

Mr. BROWN, of California, for 10 minutes, today.

Mr. WEAVER, for 5 minutes, today.

Mr. SCHUMER, for 5 minutes, today.

Mr. ALEXANDER, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BEREUTER, immediately following the remarks of Mr. FAUNTROY during consideration of H.R. 7144 in the Committee of the Whole today.

Mr. LEHMAN, in support of H.R. 7144, immediately following the opening remarks of Mr. DIXON in the Committee of the Whole today.

Mr. LOWRY of Washington, during consideration of S. 1210 today.

(The following Members (at the request of Mr. MORRISON) and to include extraneous matter:)

Mr. TAUKE.
Mr. COUGHLIN.
Mr. GINGRICH in two instances.
Mr. RINALDO.
Mr. STATON of West Virginia.
Mr. RUDD.
Mr. ROUSSELOT in two instances.
Mr. WOLF.
Mr. CONTE.
Mr. LAGOMARSINO.
Mr. YOUNG of Alaska.
Mr. GILMAN in two instances.
Mr. RITTER in two instances.
Mr. PAUL in two instances.
Mr. JOHNSTON.
Mr. DANNEMEYER.
Mr. MOORHEAD.
Mr. MITCHELL of New York.
Mrs. HECKLER in two instances.
Mr. GOLDWATER.
Mr. NAPIER in two instances.
Mr. LEBOUTILLIER in two instances.

(The following Members (at the request of Mr. SIMON) and to include extraneous matter:)

Mr. BONIOR of Michigan.
Mr. BARNES.
Mr. MINETA in two instances.
Mr. BEILENSON.
Mr. D'AMOURS in two instances.
Mr. ROE in three instances.
Mr. YATRON.
Mr. PEPPER.
Mr. STOKES in four instances.
Mr. DE LUGO.
Mr. LEHMAN in two instances.
Mr. NATCHER.
Mr. COELHO in three instances.
Mr. BOLLING.
Mr. CORRADA.
Mr. MURTHA.
Mr. BAILEY of Pennsylvania.
Mr. MOFFETT in two instances.
Mr. MARKEY.
Mr. GUARINI.
Mr. HUBBARD.
Mr. ROSENTHAL in two instances.
Mr. ADDABBO.
Mr. HOWARD.
Mr. EDWARDS of California.
Mr. AUCOIN.
Mr. OTTINGER in two instances.
Mrs. SCHROEDER.
Mr. WEAVER.
Mr. APPLEGATE.
Mr. FARY.
Mr. DONNELLY in two instances.
Mr. FLORIO in two instances.
Mr. MOTTL.
Mr. YOUNG of Missouri.
Mr. SIMON.
Mr. SHAMANSKY.
Mr. WALGREN.
Mr. SOLARZ in two instances.
Mr. CONYERS.
Mr. WILLIAMS of Montana.
Mr. O'NEILL in two instances.
Mr. GORE.
Mr. STOKES.
Mr. RAHALL.
Mr. LONG of Louisiana.
Mr. SKELTON in three instances.
Mr. STARK.
Mrs. KENNELLY.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1661. An act to authorize the Secretary of the Interior to acquire certain lands by exchange for addition to Effigy Mounds National Monument in the State of Iowa, and for other purposes; to the Committee on Interior and Insular Affairs;

S. 1688. An act to combat violent street crime by establishing a Federal offense for continuing a career of robberies or burglaries by using a firearm to commit a third or subsequent such offense, and providing a mandatory minimum sentence of between fifteen years and life imprisonment; to the Committee on the Judiciary; and

S.J. Res. 255. Joint resolution to designate the week of October 10, 1982, through October 16, 1982, as "Freedom Week U.S.A."; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles.

S. 1409. An act to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes; and

S. 2852. An act to require a separate family contribution schedule for Pell grants for academic years 1983-84 and 1984-85, to establish restrictions upon the contents of such schedule, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined

and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3881. An act to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands conveyed to the Arkansas Forestry Commission, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such lands to such Commission;

H.R. 4623. An act to amend titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the Code;

H.R. 5154. An act to amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for the use within such State, and to encourage private enterprise with special emphasis on the preservation of small business;

H.R. 6133. An act to authorize appropriations to carry out the provisions of the Endangered Species Act of 1973 for fiscal years 1983, 1984, and 1985 and for other purposes;

H.R. 6168. An act to amend title 18, United States Code, to provide a criminal penalty for threats against former Presidents, major Presidential candidates, and certain other persons protected by the Secret Service, and for other purposes;

H.R. 6454. An act to amend title 18, United States Code, to clarify the applicability of offenses involving explosives and fire;

H.R. 6956. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes; and

H.J. Res. 207. Joint resolution to require the Secretary of the Interior to place a plaque at the U.S. Marine Corps War Memorial honoring Joseph Rosenthal, photographer of the scene depicted by the memorial.

ADJOURNMENT

Mr. SIMON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to, accordingly at (7 o'clock and 33 minutes p.m.), the House adjourned until tomorrow, Friday, October 1, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4873 A letter from the Governor of Maryland and the Governor of Pennsylvania, transmitting a copy of the interstate emergency management and civil defense compact entered into by the State of Maryland and the Commonwealth of Pennsylvania pursuant to the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

4874. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to convert to contractor performance the inactive ship maintenance function at the Naval Inactive Ship Maintenance Facility, Portsmouth, Va., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4875. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notice of the Air Force's decision to convert to contractor performance the military family housing maintenance function at Nellis Air Force Base, Nev., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4876. A letter from the Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notice of cancellation of proposed conversion studies at sundry locations as contained in letter of February 5, 1982; notice of the Air Force's plans to study additional conversions at various locations from in-house operation to contractor performance, pursuant to section 502(a) of Public Law 96-342; to the Committee on Armed Services.

4877. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense articles and services to Denmark (Transmittal No. 82-87), pursuant to section 36(b) of the Arms Control Act; to the Committee on Foreign Affairs.

4878. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's proposed lease of defense articles to the Government of Spain, pursuant to section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4879. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4880. A letter from the Assistant Secretary for Health, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4881. A letter from the Attorney General of the United States, transmitting draft of proposed legislation to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

4882. A letter from the Comptroller General of the United States, transmitting a report and recommendation concerning the claim of the Atlanta Journal for advertising provided for the Army Division, Fort Stewart, Ga., pursuant to the act of April 10, 1928 (45 Stat. 413, 31 U.S.C. 236); to the Committee on the Judiciary.

4883. A letter from the Secretary of Transportation transmitting a report on the effect on the shipyard mobilization base of a proposal by United States Lines, Inc., to construct 14 containerships in a foreign shipyard, pursuant to section 615(b) of the Merchant Marine Act of 1936, as amended (95 Stat. 753); to the Committee on Merchant Marine and Fisheries.

4884. A letter from the Director, Office of Management and Budget, transmitting a watershed plan and environmental impact statement for the Los Olmos Creek Watershed, Tex., pursuant to sections 104 and 204 of Public Law 89-90; to the Committee on Public Works and Transportation.

4885. A letter from the Executive Secretary, Office of the Secretary of Defense, transmitting a report covering the period October 1981 through June 1982 on Defense Department procurement from small and other business firms, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

4886. A letter from the Administrator, U.S. Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act; to the Committee on Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 or rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. Report on contempt of Congress (Rept. No. 97-898). Referred to the Committee of the Whole House on the State of the Union.

Mr. ST GERMAIN: Committee of conference. Conference report on H.R. 6267 (Rept. No. 97-899). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. Report on mismanagement of SSA's computer systems threatens social security programs (Rept. No. 97-900). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on reorganization and budget cutbacks may jeopardize the future of the Nation's statistical system (Rept. No. 97-901). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on strengthening audits at the Railroad Retirement Board (Rept. No. 97-902). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 603. Resolution providing for the consideration of the conference report on the bill (H.R. 6267) to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and insuring the availability of home mortgage loans (Rept. No. 97-903). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 187. An act to authorize the Secretary of the Interior to convey certain lands near Miles City, Mont., and to remove certain reservations from prior conveyances; with an amendment (Rept. No. 97-904). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. House Resolution 558. Resolution expressing the sense of the House of Representatives that regulations recently proposed by the Secretary of Education under the Education of the Handicapped Act should not be permitted to take effect; with an amendment (Rept. No. 97-906). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6471. A bill for the acquisition by the United States by exchange of certain Native-owned lands or interest in lands in Alaska; with an amendment (Rept. No. 97-907). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 503. An act to authorize the purchase, sale, and exchange of lands by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation, N. Dak., and for other purposes; with amendments (Rept. No. 97-908). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Education and Labor. H.R. 6103. A bill to amend the Fair Labor Standards Act of 1938 to provide that an employer who violates section 6 or 7 of that act shall be liable to the employee involved for three times the amount of wages involved in the violation, and for other purposes; with amendments (Rept. No. 97-909). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 1856. A bill to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes (Rept. No. 97-910, Pt. I). Ordered to be printed.

Mr. EDWARDS of California: Committee of conference. Conference report on H.R. 6976 (Rept. No. 97-911). Ordered to be printed.

Mr. BOLLING: Committee on Rules. House Resolution 604. Resolution providing for the consideration of the joint resolution H.J. Res. 350 proposing an amendment to the constitution altering Federal budget procedures (Rept. No. 97-912). Referred to the House Calendar.

Mr. GINN: Committee of conference. Conference report on H.R. 6968 (Rept. No. 97-913). Ordered to be printed.

Mr. WHITTEN: Committee of conference. Conference report on House Joint Resolution 599 (Rept. No. 97-914). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. S. 188. An act to authorize the Secretary of Agriculture to convey certain lands in the Gallatin National Forest, and for other purposes. (Rept. No. 97-905). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON:

H.R. 7224. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Mr. BREAUX (for himself and Mr. FORSYTHE):

H.R. 7225. A bill to establish an exclusive economic zone adjacent to the territorial sea of the United States, to assert national rights therein, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, Foreign Affairs, and Ways and Means.

By Mrs. BYRON:

H.R. 7226. A bill to amend the Internal Revenue Code of 1954 to permit the rollover of gain from the sale (under a farmland preservation program) of farmland development rights to any State or political subdivision thereof or to certain charitable organizations, and for other purposes; to the Committee on Ways and Means.

By Mr. DYSON:

H.R. 7227. A bill to amend the Soil Conservation and Domestic Allotment Act with respect to the authority of the Secretary of Agriculture to provide financial assistance for conservation measures providing drainage of land by means of open ditches; to the Committee on Agriculture.

By Mr. EVANS of Iowa:

H.R. 7228. A bill to amend the Internal Revenue Code of 1954 to provide for a 2-year period an additional 15-percent investment tax credit for certain construction and agricultural equipment manufactured in the United States; to the Committee on Ways and Means.

By Mr. FINDLEY:

H.R. 7229. A bill to prevent the use of automatic adjustment clauses by federally regulated gas and electric utilities; to the Committee on Energy and Commerce.

By Mr. GILMAN (for himself and Mr. FISH):

H.R. 7230. A bill to authorize public participation funding in proceedings under the Atomic Energy Act of 1954; to the Committee on Interior and Insular Affairs.

By Mr. GORE:

H.R. 7231. A bill to amend the Disaster Relief Act of 1974 to increase the aggregate amount of grants which may be made under such act to any individual or family adversely affected by a major disaster; to the Committee on Public Works and Transportation.

H.R. 7232. A bill to amend the Small Business Act to reduce the interest rate payable on the Federal share of certain disaster loans made under such act; to the Committee on Small Business.

By Mr. HOLLAND:

H.R. 7233. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans and encourage employer participation in these plans by modifying the rules respecting funding, premium rates, asset sales, and employer withdrawal liability, and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. McCOLLUM (for himself and Mr. SHAW):

H.R. 7234. A bill to amend the Immigration and Nationality Act respecting powers and procedures in immigration emergencies, and for other purposes; to the Committee on the Judiciary.

By Mr. McGRATH:

H.R. 7235. A bill to promote fairness and certainty in sentencing, eliminate unwarranted disparity in sentencing, improve the administration of justice, and for other purposes; to the Committee on the Judiciary.

H.R. 7236. A bill to reestablish constitutional procedures for the sentence of death, and for other purposes; to the Committee on the Judiciary.

H.R. 7237. A bill to amend the Bail Reform Act of 1966 to permit consideration of danger to the community in setting pretrial release conditions, to permit pretrial detention of certain offenders, and for other purposes; to the Committee on the Judiciary.

H.R. 7238. A bill to provide financial assistance to the States to undertake comprehensive criminal justice construction programs to improve the criminal justice system of the States, to provide that the Secretary of the Treasury is authorized to make interest subsidy payments on criminal justice facility construction bonds, and for other purposes; to the Committee on the Judiciary.

By Mr. MINETA:

H.R. 7239. A bill to amend the Congressional Budget Act of 1974 to limit the Federal deficit over a 3-year period to specified percentages of the projected gross national product; to the Committee on Rules.

H.R. 7240. A bill to amend the Congressional Budget Act of 1974 to improve the congressional budget process, and for other purposes; jointly, to the Committees on Government Operations and Rules.

H.R. 7241. A bill to amend the Impoundment Control Act of 1974 to require the obligation of direct loans and the commitment of loan guarantees and insurance to the full extent required by law, and for other purposes; jointly, to the Committees on Government Operations and Rules.

By Mr. RAHALL (for himself, Mr. PERKINS, Mr. SIMON, Mr. MURPHY, Mr. MOLLOHAN, and Mr. KOGOVSEK):

H.R. 7242. A bill to provide for a program to stimulate coal mining and construction industry jobs through the reclamation of abandoned mine lands; to the Committee on Interior and Insular Affairs.

By Mr. REGULA:

H.R. 7243. A bill to amend the Natural Gas Policy Act of 1978 to prohibit further increases in the price of natural gas which are recovered through the use of purchased gas adjustment clauses; to the Committee on Energy and Commerce.

Mr. RINALDO:

H.R. 7244. A bill to amend the Solid Waste Disposal Act to modify the criminal sanctions applicable with respect to hazardous waste, and for other purposes; to the Committee on Energy and Commerce.

Mr. ROUSSELOT:

H.R. 7245. A bill to amend the Internal Revenue Code of 1954 relative to physicians' and surgeons' mutual protection associations; to the Committee on Ways and Means.

By Mr. SEIBERLING:

H.R. 7246. A bill to permit small businesses to use interest-bearing demand deposits (NOW accounts); to the Committee on Banking, Finance and Urban Affairs.

By Mr. SEIBERLING (by request):

H.R. 7247. A bill to amend the Internal Revenue Code of 1954 to provide a refundable credit to taxpayers who vote in Federal elections; to the Committee on Ways and Means.

By Mr. SIMON:

H.R. 7248. A bill to require the Secretary of Commerce or his designee to study the feasibility of operating a computerized foreign language business and job referral service and to submit a report to the President and the Congress with respect to such a study; to the Committee on Education and Labor.

By Mr. SHAMANSKY (for himself and Mr. RATCHFORD):

H.R. 7249. A bill to amend the Interstate Land Sales Full Disclosure Act for purposes of regulating the sale or lease of time-share intervals; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STARK:

H.R. 7250. A bill to amend the Internal Revenue Code of 1954 to clarify the tax treatment of certain expenses incurred in closing a landfill site; to the Committee on Ways and Means.

By Mr. TAUKE (for himself, Mr. EVANS of Iowa, Mr. LEACH of Iowa, Mr. SMITH of Iowa, Mr. BEDELL, Mr. HARKIN, Mr. DAUB, Mrs. MARTIN of Illinois, and Mr. SNYDER):

H.R. 7251. A bill to amend the Natural Gas Policy Act of 1978 to clarify the definition of abuse for purposes of disqualifying certain cost passthroughs to distributors and consumers of natural gas; to the Committee on Energy and Commerce.

By Mr. VENTO:

H.R. 7252. A bill to provide assistance, through the Federal Housing Finance Corporation and the Internal Revenue Code of 1954, to individuals and families purchasing a residence for the first time, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. WEAVER (for himself and Mr. LOWRY of Washington):

H.R. 7253. A bill to authorize the Bonneville Power Administration to finance the installaton of energy conservation features in new homes which are energy efficient; to the Committee on Interior and Insular Affairs.

By Mr. WEAVER (for himself, Mr. FORD of Tennessee, Mr. SYNAR, Mr. MOFFETT, Mr. HUGHES, Mr. SEIBERLING, Mr. MARKEY, Mr. LEHMAN, and Mrs. SCHROEDER):

H.R. 7254. A bill to amend part B of title XVIII of the Social Security Act to provide for a program of cooperating physicians to increase the medicare assignment rate; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. YOUNG of Alaska:

H.R. 7255. A bill to provide a comprehensive national policy with respect to Arctic research; to the Committee on Science and Technology.

By Mr. ECKART:

H.J. Res. 617. Joint resolution proposing an amendment to the Constitution altering Federal budget procedures; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Mr. VANDER JAGT, and Mr. ADDABBO):

H.J. Res. 618. Joint resolution designating December 1982 as "National Closed-Captioned Television Month"; to the Committee on Post Office and Civil Service.

By Mr. HOYER:

H.J. Res. 619. Joint resolution designating January 17, 1983 as "Public Employees' Appreciation Day"; to the Committee on Post Office and Civil Service.

By Mr. RUSSO:

H. Con. Res. 417. Concurrent resolution disapproving a rule submitted by the Federal Trade Commission relating to funeral industry practices; to the Committee on Energy and Commerce.

By Mr. WILLIAMS of Montana:

H. Con. Res. 418. Concurrent resolution to declare Montana, "The Official U.S. Gateway to the 1988 Calgary Olympics"; to the Committee on Post Office and Civil Service.

By Mr. WILLIAMS of Montana (for himself and Mr. KOGOVSEK) (by request):

H. Con. Res. 419. Concurrent resolution reaffirming the policy of the United States that federally owned lands shall remain in public ownership; to the Committee on Interior and Insular Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

506. By the SPEAKER: Memorial of the Legislature of the State of California, relative to wool and mohair research; to the Committee on Agriculture.

507. Also, Memorial of the Legislature of the State of California, relative to employment on the Outer Continental Shelf; to the Committee on Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of the rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 217: Mr. YATES.

H.R. 835: Mr. YATES.

H.R. 1641: Mr. YATES.

H.R. 2372: Mr. STUMP.

H.R. 3040: Mr. YATES.

H.R. 3117: Mrs. COLLINS of Illinois and Mr. YATES.

H.R. 3524: Mr. EDGAR.

H.R. 4070: Mr. OTTINGER and Mr. ROE.

H.R. 4454: Mr. RITTER, Mr. RUDD, Mr. MAVROULES, Mr. BAILEY of Pennsylvania, Mr. LEATH of Texas, Mr. DE LA GARZA, and Mr. DYMALLY.

H.R. 4588: Mrs. CHISHOLM, Mrs. COLLINS of Illinois, Mr. CORCORAN, Mr. FITHIAN, Mr. LEVITAS, Mr. PEASE, and Mr. WILSON.

H.R. 4829: Mr. SOLOMON.

H.R. 4889: Mr. YATES.

H.R. 5088: Mr. RAHALL and Mr. FITHIAN.

H.R. 5279: Mr. CHAPPELL.

H.R. 5437: Mr. SHAMANSKY, Mr. ANTHONY, and Mrs. FENWICK.

H.R. 5559: Mr. SOLOMON, Mr. ROEMER, Mr. FAZIO, Mr. CORCORAN, Mr. SHAMANSKY, Mr. HOWARD, Mr. FISH, Mr. ANTHONY, and Mr. BROWN of California.

H.R. 5995: Mr. ST GERMAIN.

H.R. 6003: Mr. HYDE.

H.R. 6009: Mr. BROWN of Ohio and Ms. OAKAR.

H.R. 6463: Mr. FLIPPO, Mr. NICHOLS, Mr. EDWARDS of Alabama, Mr. SHELBY, Mr. WEBER of Ohio, Mr. MONTGOMERY, and Mr. SMITH of Alabama.

H.R. 6552: Mr. BEILENSON, Mr. PEPPER, Mr. CONYERS, Mr. OTTINGER, Mr. MARKEY, Mr. WASHINGTON, Mr. WEISS, Mr. MITCHELL of Maryland, Mr. BEDELL, Mr. MCKINNEY, Mr. HUCKABY, Mr. HARKIN, Mr. WAXMAN, Mr. LOWRY of Washington, and Mr. BINGHAM.

H.R. 6591: Mr. MINETA.

H.R. 6673: Mr. HUNTER and Mr. REGULA.

H.R. 6701: Mr. LATTA, Mr. JEFFRIES, Mr. SMITH of New Jersey, and Mr. STRATTON.

H.R. 6901: Mr. YATRON.

H.R. 6999: Mr. DELLUMS.

H.R. 7060: Mr. CRAIG.

H.R. 7098: Mr. ZEFERETTI and Mr. SIMON.

H.R. 7123: Mr. BARNES, Mr. MOLLOHAN, Mr. JEFFORDS, Mr. HAMILTON, Mr. ALEXANDER, and Mr. MAZZOLI.

H.J. Res. 102: Mr. STUMP and Mr. PATTERSON.

H.J. Res. 172: Mr. LANTOS.

H.J. Res. 459: Mr. DORGAN of North Dakota and Mr. PHILLIP BURTON.

H.J. Res. 460: Mrs. BOGGS, Mr. LUKEN, Mr. REUSS, and Mrs. SCHROEDER.

H.J. Res. 485: Mr. SHELBY, Mr. BLILEY, and Mr. SANTINI.

H.J. Res. 498: Mr. ALBOSTA, Mr. ASPIN, Mr. AUCOIN, Mr. BEDELL, Mr. BETHUNE, Mr. BLILEY, Mr. BREAUX, Mr. BROWN of California, Mr. BROYHILL, Mr. BURGENER, Mr. CAMPBELL, Mr. CARMAN, Mr. CHAPPELL, Mr. CHENEY, Mr. CONYERS, Mr. JAMES K. COYNE, Mr. CRAIG, Mr. CROCKETT, Mr. DAN DANIEL, Mr. MARTINEZ, Mr. DASCHLE, Mr. DAUB, Mr. DE LA GARZA, Mr. DENARDIS, Mr. DREIER, Mr. DYSON, Mr. EDGAR, Mr. EDWARDS of California, Mr. EMERY, Mr. ERTEL, Mr. EVANS of Georgia, Mr. FARY, Mr. FINDLEY, Mr. FOUNTAIN, Mr. FROST, Mr. GILMAN, Mr. GINGRICH, Mr. GOLDWATER, Mr. GUNDERSON, Mr. HAMMERSCHMIDT, Mr. HARTNETT, Mr. HILER, Mr. HOLLENBECK, Mr. HOPKINS, Mr. HUNTER, Mr. JONES of Tennessee, Mr. LAGOMARSINO, Mr. LELAND, Mr. LENT, Mr. MCDADE, Mr. MADIGAN, Mr. MARTIN of North Carolina, Mr. MATTOX, Mr. MONTGOMERY, Mr. MOORE, Mr. MOTTL, Mr. NEAL, Mr. OTTINGER, Mr. PATTERSON, Mr. PERKINS, Mr. PRITCHARD, Mr. ROBERTS of Kansas, Mr. ROGERS, Mr. RUSSO, Mr. SANTINI, Mr. SHARP, Mr. STUMP, Mr. TAUZIN, Mr. TRAXLER, Mr. UDALL, Mr. WORTLEY, Mr. ATKINSON, Mr. BADHAM, Mr. SHANNON, Mr. YOUNG of Alaska, Mr. WIRTH, Mr. WINN, Mr. MARKEY, Mr. BONER of Tennessee, Mr. HEFTEL, Mr. CORRADA, Mr. WOLF, Mr. BRODHEAD, Mr. PRICE, Mr. PURSELL, Mr. BEARD, Mr. MOAKLEY, Mr. GREEN, Mr. WOLPE, Mr. MINISH, Mr. JOHN L. BURTON, Mr. BIAGGI, Mr. WEISS, Mr. SMITH of Alabama, Mr. RHODES, Mr. EMERSON, Mr. SABO, Mr. CHAPPIE, Mr. OXLEY, Mr. NATCHER, Mr. SNYDER, Mr. DYMALLY, Mr. MARRIOTT, Mr. DICKS, Mr. WAXMAN, Mr. ROBINSON, Mr. WEBER of Ohio, Mr. HOWARD, Mr. LEBOUTILLIER, Mr. WILLIAMS of Ohio, Mr RAILSBACK, Mr. RINALDO, Mr. HOYER, Mr. HAMILTON, Mr. DUNN, Mr. SAM B. HALL, JR., Mr. MCEWEN, Mr. FITHIAN, Mr. DORNAN of California, Mr. FASCELL, Mr. BARNES, Mr. HATCHER, Mr. LAFALCE, Mr. COATS, Mr. SMITH of New Jersey, Mr. FORD of Michigan, Mr. EDWARDS of Alabama, Mr SHAMANSKY, Mr. SIMON, Mr. CLAY, Mr. GONZALEZ, Mr. ROUSSELOT, Mr. SYNAR, Mrs. BYRON, Mr. ZABLOCKI, Mr. SAWYER, Mr. STATON of West Virginia, Mr. EDWARDS of Oklahoma, Mr. ROBERTS of South Dakota, Mr. SKEEN, Mr. GUARINI, Mr. DOUGHERTY, Mr. BARNARD, Mr. ANDERSON, Mr. BONIOR of Michigan, Mrs. BOUQUARD, Mr. BROWN of Ohio, Mr. BENEDICT, Mr. NOWAK, Mr. MARTIN of New York, Mr. AKAKA, Mr. STANTON, of Ohio. Mr. WYDEN, Mr. YATRON, Mr. YOUNG of Florida, Mr. LOWERY of California, Mr. LANTOS, Mr. BROOMFIELD, Ms. OAKAR, Mr. GEPHARDT, Mrs. CHISHOLM, Mrs. FENWICK, Mr. JACOBS, Mr. BRINKLEY, Mr. ZEFERETTI, Mr. HORTON, Mr. STANGELAND, Mr. ROE, Mr. PEYSER, Mr. ARCHER, Mr. LEHMAN, Mr. LONG of Maryland, Mr. GINN, Mr. YATES, Mr. RUDD, Mrs ROUKEMA, Mr. RATCHFORD, Mr. BINGHAM, Mr. DWYER, Mr. EARLY, Mr. MOLINARI, Mr. JEFFORDS, Mr. FRANK and Mr. FLORIO.

H.J. Res. 533: Mr. CHAPPIE.

H.J. Res. 539: Mr. SCHEUER, Mr. TRAXLER, Mr. SOLOMON, Mr. DORNAN of California, Mr. KOGOVSEK, Mr. WRIGHT, Mr. STANGELAND, Mr. MORRISON, Mr. ROBERTS of South Dakota, Mr. ANTHONY, Mr. GREGG, Mr. PANETTA, Mr. HYDE, and Mr. BIAGGI.

H.J. Res. 591: Mr. CLAUSEN and Mr. STRATTON.

H.J. Res. 594: Mr. RITTER, Mr. NAPIER, Mr. BIAGGI, Mr. LUNDINE, and Mrs. COLLINS of Illinois.

H.J. Res. 595: Mr. DENARDIS, Mr. BINGHAM, Mr. RANGEL, Mr. ROSENTHAL, Mr. ADDABBO, Mr ANNUNZIO, Mr. RINALDO, Mr. PEYSER, Mr. BOLLING, Mr. SOLARZ, Mr. SCHUMER, Mr. OTTINGER, Mr. STRATTON, Mr. PANETTA, and Mr. FISH.

H.J. Res. 607: Mr. FOGLIETTA, Mr. STUDDS, Mrs. COLLINS of Illinois, and Mr. OTTINGER.

H. Con Res. 321: Mr. LEHMAN and Mr. STOKES.

H. Con. Res. 336: Mr. WEBER of Minnesota and Mr. GLICKMAN.

H. Con. Res. 392: Mr. DELLUMS.

H. Res. 424: Mrs. BOUQUARD, Mr. PHILLIP BURTON, Mr. HUCKABY, and Mr. LOWRY of Washington.

H. Res. 532: Mr. QUILLEN, Mr. ZABLOCKI, Mr. MARTINEZ, Mr. JEFFORDS, Mr. EDWARDS of Alabama, Mr. WASHINGTON, Mr. MCCLOS-

KEY, Mr. ATKINSON, Mr. WORTLEY, Mr. LENT, Mr. ANNUNZIO, Mr. DICKINSON, Mr. WEISS, Mr. KASTENMEIER, Mr. BROWN of California, Mr. GILMAN, Mr. LIVINGSTON, Mr. ANTHONY, Mr. SYNAR, Mr. HERTEL, Mr. ROSENTHAL, Mr. DOWNEY, Mr. OTTINGER, Mr. DYSON, and Mrs. FENWICK.

H. Res. 553: Mr. STOKES, Mr. MARKEY, Mr. BINGHAM, Mr. WAXMAN, Mr. WEISS, and Mr. MITCHELL of Maryland.

H. Res. 558: Mr. BEARD.

H. Res. 577: Mr. HORTON, Mrs. ROUKEMA, Mrs. HECKLER, Mr. BONIOR of Michigan, Mr. TRAXLER, Mr. GILMAN, Mr. RATCHFORD, Mr. OTTINGER, Mr. FRANK, Mr. LEACH of Iowa, and Mr. GUNDERSON.

H. Res. 598: Mr. WALGREN, Mr. MATSUI, Mr. LONG of Maryland, Mr. RAHALL, Mr. DERWINSKI, Mr. PEPPER, Mr. SOLOMON, Mr. SCHEUER, Mr. HUGHES, Mr. ATKINSON, Mr. RATCHFORD, Mr. CARMAN, and Mr. DORNAN of California.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 6467: Mr. PARRIS.

PETITIONS, ETC.

Under clause 1 of rule XXII,

631. The SPEAKER presented a petition of Local 23-25, the International Ladies' Garment Workers' Union, AFL-CIO, New York, N.Y., relative to the immigration laws; which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.J. Res. 350

By Mr. ALEXANDER:

—Strike out all after the resolving clause and insert in lieu thereof the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

ARTICLE —

SECTION 1. The President shall, no later than the fifteen days after the Congress convenes, submit to the Congress a proposed statement of receipts and outlays for the next fiscal year in which total outlays are no greater than total receipts.

SEC. 2. Prior to each fiscal year the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts, except that the Congress may, by declaration of National Emergency, adopt a statement of receipts and outlays in which total outlays are greater than total receipts.

SEC. 3. The Congress shall implement this Article by appropriate legislation.

SEC. 4. This Article shall not be deemed to provide any person with any legal right or cause of action not otherwise provided by this Constitution or the laws of the United States.

SEC. 5. This article does not provide any powers to the President to enforce its provisions other than any powers which may be established by law.

SEC. 6. This article shall take effect for the second fiscal year beginning after its ratification.

H.R. 746

By Mr. LEVITAS:

(Amendment offered to the amendment in the nature of a substitute.)

—Insert the following new section after section 204 (and redesignate the subsequent sections accordingly):

CONGRESSIONAL REVIEW PROCEDURES

SEC. 205. (a) Part I of title 5 of the United States Code is amended by inserting after chapter 7 the following new chapter:

"Chapter 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"Sec.
"§ 801. Definitions; applicability of chapter
"802. Resolution of disapproval.
"803. Resolution for reconsideration.
"804. Procedure for consideration of resolutions.
"805. Computation of days of continuous session of Congress.
"806. Effect on judicial review.

"§ 801. Definitions; applicability of chapter

"(a) For purposes of this chapter—

"(1) the term 'agency' means an agency as defined in paragraph (1) of section 551 of this title, except that such term includes the functions set forth in subparagraph (H) of such paragraph;

"(2) the term 'rule' means a rule as defined in section 551(4) of this title.

"(3) the term 'rulemaking' means rulemaking as defined in section 551(5) of this title;

"(4) the term 'ratemaking proceeding' means agency process for the approval or prescription for the future of rates, wages, corporate or financial structures, or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor, or of valuations, costs, or accounting or practices relating to such rates, wages, structures, prices, appliances, services, or allowances; and

"(5) the term 'promulgation' means the filing of a final rule with the Office of the Federal Register for publication.

"(b)(1) Sections 802 and 803 of this title do not apply to—

"(A) a rule of particular applicability;

"(B) a rule involving a military or foreign affairs function of the United States;

"(C) a rule relating to agency management or personnel practices;

"(D) a rule describing the organization, procedure, or practice requirements of an agency;

"(E) an interpretative rule or a rule prescribing general statements of policy unless such rule has general applicability and substantially alters or creates rights or obligations of persons outside the agency promulgating the rule;

"(F) a rule promulgated on the basis of a ratemaking proceeding; or

"(G) a rule relating to monetary policy promulgated by the Board of Governors of the Federal Reserve System.

"(2) Section 802 of this title does not apply to a rule with respect to which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule promulgated) that the delay in placing the rule into effect which would result from the application of section 802 of this title is impracticable, unnecessary, or contrary to the public interest.

"§ 802. Resolution of disapproval

"(a)(1) Each agency, after promulgating a rule to which this section applies, shall submit such rule to the Congress for review in accordance with this section. Such rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session.

"(2)(A) Except as provided in subparagraph (B), a rule submitted under paragraph (1) may not take effect if—

"(i) either House of the Congress adopts a resolution described in paragraph (3) relating to such rule before the end of the period of 60 calendar days of continuous session of the Congress beginning on the date of submission of the rule; and

"(ii) if such a resolution is adopted in such period, such a resolution is not disagreed to by the other House of Congress before the end of the period of 65 calendar days of continuous session of the Congress beginning on such date.

"(B) If before the end of the applicable period under clause (i) or (ii) of subparagraph (A) either House of the Congress disagrees to a resolution described in paragraph (3) relating to a rule submitted under paragraph (1), such rule shall take effect on the day after the date of disagreement or on such later date as the rule may specify.

"(C) For purposes of subparagraphs (A) and (B), a House of the Congress disagrees to a resolution if on the vote to agree to the resolution it fails to agree to the resolution.

"(3) The resolution referred to in paragraph (2) is a resolution the matter after the resolving clause of which is as follows: 'That the———disapproves the rule promulgated by———dealing with the matter of———, which rule was submitted to the Congress on ———.', the first blank being filled with the House of the Congress in which the resolution is introduced, the second blank being filled with the name of the agency promulgating the rule, the third blank being filled with the title of the rule and such further description as may be necessary to identify it, and the fourth blank being filled with the date of submission of the rule to the Congress.

"(b)(1) An agency may not promulgate a new rule identical to one disapproved under subsection (a) unless the agency determines that a statute has been enacted after the date of the disapproval affecting the agency's powers with respect to the subject matter of the rule.

"(2) If a rule of an agency is disapproved under subsection (a) and the agency, subject to paragraph (1), promulgates a rule which relates to the same subject matter as the disapproved rule, such rule may be based, in whole or in part, on the rulemaking record of the disapproved rule.

"(3) An agency after promulgating a rule under paragraph (2) shall submit the rule to the Congress in accordance with subsection (a).

"(c) If a rule which was promulgated subject to a statutory time limit for rulemaking is disapproved under subsection (a), the statutory time limit shall apply also to the rulemaking begun as a result of the disapproval of the rule and shall begin on the date on which the rule was disapproved.

"§ 803. Resolution for reconsideration

"(a) Either House of the Congress may adopt a resolution directing agency reconsideration of a rule which is in effect. The matter after the resolving clause of such a

resolution shall be as follows: 'That the ——— directs ——— to reconsider its rule dealing with the matter of ——— which rule is found at ———.', the first blank being filled with the House of the Congress in which the resolution is introduced, the second blank being filled with the name of the agency promulgating the rule, the third blank being filled with the title of the rule and such further description as may be necessary to identify it, and the fourth blank being filled with the citation to the rule in the agency records.

"(b) If a resolution for reconsideration is adopted by a House of the Congress under subsection (a) with respect to a rule, the agency which promulgated the rule shall—

"(1) publish a notice in the Federal Register stating that the agency has reviewed the rule and determined that no agency action with respect to the rule is required; or

"(2) initiate such rulemaking proceedings respecting the rule as the agency determines are appropriate to respond to the resolution.

"(c)(1) If a resolution for reconsideration is adopted by a House of the Congress with respect to a rule which was not subject to section 802 because of section 801(b)(2) and if the agency which promulgated the rule published a notice under subsection (b)(1) stating that no agency action would be taken with respect to the rule, the agency shall submit the rule to the Congress for review in accordance with section 802. Such rule shall be delivered to each House of the Congress on the same date and on the first date following the date of the publication of the notice under subsection (b)(1) on which the Congress is in session. Such rule shall stay in effect unless—

"(A) either House of the Congress adopts a resolution described in section 802(a)(3) relating to such rule before the end of the period of 60 calendar days of continuous session of the Congress beginning on the date of submission of the rule; and

"(B) if such a resolution is adopted in such period, such a resolution is not disagreed to by the other House of Congress before the end of the period of 65 calendar days of continuous session of the Congress beginning on such date.

"(2) If a resolution for reconsideration is adopted by a House of the Congress with respect to a rule and if the agency which promulgated the rule promulgated another rule on the basis of rulemaking proceedings described in subsection (b)(2), the rule subject to the resolution for reconsideration shall continue in effect during the pendency of the review under section 802 of the rule so promulgated. If the rule so promulgated does not take effect because a resolution of disapproval is adopted, the agency which promulgated the rule subject to the resolution for reconsideration may continue such rule in effect.

"(d) Any rule promulgated on the basis of rulemaking proceedings described in subsection (b)(2) shall not be subject to the provisions of subchapter II of chapter 6 of this title.

"§ 804. Procedure for consideration of resolutions

"(a) The provisions of this section are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in such House in the case of resolutions described in sections 802 and 803 of this title, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

"(2) with full recognition of the constitutional right of either House of the Congress to change the rules (so far as relating to the procedure of such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

"(b)(1)(A) Except as provided in subparagraph (B), resolutions of disapproval described in section 802 of this title and resolutions for reconsideration described in section 803 of this title shall, upon introduction, be referred immediately by the presiding officer of the Senate or of the House, in accordance with the rules of the respective House, to the standing committee having primary legislative responsibility with respect to the subject matter of the rule to which the resolution relates.

"(B) If such presiding officer determines that more than one standing committee has primary legislative responsibility with respect to the subject matter of the rule involved, then the presiding officer shall—

"(i) determine which such committee is the most appropriate committee for consideration of the resolution, and refer the resolution only to such committee; or

"(ii) appoint, with the approval of the Senate or the House, as the case may be, a special ad hoc committee for consideration of the resolution, naming Members from among the membership of each committee which has such primary legislative responsibility.

"(2) If a committee to which a resolution of disapproval of a rule described in section 802 of this title is referred does not report the resolution before the end of the period of 45 calendar days of continuous session of the Congress beginning on the date of referral, it shall be in order to move to discharge the committee from further consideration of the resolution.

"(3)(A)(i) A motion to discharge described in paragraph (2) shall be in writing and presented to the Secretary of the Senate or the Clerk of the House, as the case may be.

"(ii) In the case of a major rule (other than a major rule relating to public property, loans, grants, benefits, or contracts)—

"(I) the motion to discharge may be presented under clause (i) after the period of 7 calendar days of continuous session of the Congress beginning on the date of referral of the resolution to the committee involved; and

"(II) the motion may be called up only if the motion has been signed by one-fifth of the Members of the Senate or the House, as the case may be.

"(iii) In the case of a rule which is not subject to clause (ii)—

"(I) the motion to discharge may be presented under clause (i) after the period of 3 calendar days of continuous session of the Congress beginning on the date of such a referral; and

"(II) the motion may be called up only if the motion has been signed by 34 Members of the Senate or 150 Members of the House, as the case may be.

"(iv) For purposes of this subparagraph, the term 'major rule' has the meaning given it in subsections (a)(6) and (b)(2) of section 621 of this title.

"(B) In the House, the motion to discharge shall be placed in the custody of the Clerk, who shall arrange a convenient place for the signature of Members. Upon receiving the required number of signatures, the motion shall be entered in the Journal of the House and shall be printed (together with a listing of the Members signing the motion) in the CONGRESSIONAL RECORD. A signature may be withdrawn by a Member in writing at any time before the motion is entered in the Journal.

"(C) A motion to discharge—

"(i) is privileged in the House and in the Senate;

"(ii) shall not be subject to any intervening motion, except a motion to postpone to a day certain (which shall not be subject to amendment) and a motion to lay on the table; and

"(iii) may not be made after the committee involved has reported a resolution of disapproval or a resolution for reconsideration with respect to the same rule.

"(D) In the House, a motion to discharge shall be voted upon in the 5-day period of continuous session of the Congress beginning on the day after the date on which the motion is printed in the RECORD, and the Speaker, in his discretion, shall determine on which day in such period the motion shall be entertained. Debate on a motion to discharge shall be limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C)(1) Except as provided in paragraphs (2) and (3), consideration of a resolution of disapproval or a resolution for reconsideration shall be in accordance with the rules of the Senate and of the House, respectively.

"(2)(A) When a committee of the Senate has reported or has been discharged from further consideration of a resolution with respect to a rule, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution.

"(B)(i) When a committee of the House has reported a resolution with respect to a rule, the resolution shall be referred to the Regulatory Review Calendar in accordance with clause 1 of Rule XIII of the Rules of the House.

"(ii) When a committee of the House has been discharged from further consideration of a resolution of disapproval, the Speaker shall, before the expiration of the applicable period under section 802(a)(2), entertain a motion to proceed to the immediate consideration of the resolution.

"(C) Any motion under subparagraph (A) or subparagraph (B)(ii) is privileged and is not debatable. The motion shall not be subject to any intervening motion, except a motion to lay on the table. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(3) Debate on the resolution shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"§ 805. Computation of days of continuous session of Congress

"(a) For purposes of computing calendar days of continuous session under sections 802 and 804 of this title—

"(1) continuity of session is broken only by an adjournment of sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 10 days to a day certain are excluded in the computation.

"(b) If an adjournment sine die of the Congress occurs after an agency has submitted a rule under section 802(a)(1) of this title and before the expiration of the applicable period specified in such section, the agency shall—

"(1) resubmit such rule to the Congress; or

"(2) initiate rulemaking proceedings to amend or repeal such rule.

If the rule is resubmitted or an amended rule is submitted, the periods specified in section 802(a)(2) of this title shall begin on the date of such resubmission or submission.

"§ 806. Effect on judicial review

"Congressional inaction on or rejection of a resolution of disapproval or of a resolution for reconsideration of a rule under this chapter shall not be deemed an expression of approval of such rule.".

(b) The table of chapters for part I of title 5 is amended by inserting immediately after

"7. Judicial Review ..... 701"

the following:

"8. Congressional Review of Agency Rulemaking ..... 801".

(c)(1) Clause 1 of Rule XIII of the Rules of the House of Representatives is amended by striking out "three" and inserting in lieu thereof "four", and by adding at the end thereof the following:

"Fourth. A Regulatory Review Calendar, to which shall be referred all resolutions of disapproval described in section 802 of title 5, United States Code, and all resolutions for reconsideration described in section 803 of such title.".

(2) Rule XXIV of the Rules of the House is amended by adding at the end thereof the following new clause:

"9. (a) On the second Monday or the second Tuesday of each month (as determined by the Speaker), immediately after approval of the Journal of the House, the Speaker shall direct the Clerk to call the resolutions on the Regulatory Review Calendar.

"(b)(1) On the fourth Monday or the fourth Tuesday of each month (as determined by the Speaker), immediately after approval of the Journal of the House, the Speaker shall direct the Clerk to call any resolution of disapproval on the Regulatory Review Calendar if the applicable period during which the House may consider such resolution under section 802(a)(2) of title 5, United States Code, will expire before the next calling of resolutions on the Calendar under subclause (a).

"(2) On any day on which resolutions are called on the Regulatory Review Calendar under paragraph (1), the speaker may direct the clerk to call other resolutions on the calendar after all the resolutions specified in paragraph (1) have been called if the Speaker determines that consideration of such resolutions will not unduly interfere with the orderly conduct of the business of the House.

"(3) If the Speaker is not required to direct the Clerk to call resolutions of disapproval on the Regulatory Review Calendar under paragraph (1) on any fourth Monday or fourth Tuesday of the month, then the Speaker, immediately after approval of the Journal of the House on either such day, may direct the clerk to call resolutions on the Calendar if the Speaker determines that consideration of such resolutions will not unduly interfere with the orderly conduct of the business of the House.

"(c) On any day on which resolutions on the Regulatory Review Calendar are called in accordance with this clause, no other business shall be in order before the calling of such resolutions unless the House, by majority vote on a motion to dispense with the calling of all resolutions (or any remaining portion of resolutions) on the Calendar, shall otherwise determine. Such motion may be renewed, after intervening business, regardless of whether a previous motion to the same effect has been disagreed to. On any such motion debate shall be limited to five minutes for and five minutes against the motion.

"(d) The Clerk, in calling resolutions under subclause (a) or subclause (b)(3), shall call each resolution of disapproval on the Calendar before calling any resolution for reconsideration.

"(e) Upon the calling of a resolution on the Regulatory Review Calendar under subclause (a) or (b), it shall be in order to move to proceed to the immediate consideration of the resolution. The motion is privileged and is not debatable. The motion shall not be subject to any intervening motion, except a motion to lay on the table and a motion to postpone to a day certain. A amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.".

(d)(1)(A) Except as provided in subparagraph (B), the amendments made by this section shall apply only to rules for which notice of proposed rulemaking is given after the effective date of this Act and to rules promulgated after such effective date for which a notice of proposed rulemaking is not required.

(B) Section 803 of title 5, United States Code, as added by subsection (a), shall apply to all rules in effect.

(2) Any provision of law in effect before the effective date of this Act which governs procedures for congressional review of agency rules shall cease to have any force or effect on such effective date with respect to rules specified in paragraph (1)(A).

(3) For purposes of this subsection, the terms "agency" and "rule" have the meanings given them in section 551 of title 5, United States Code.

That portion of the amendment in the nature of a substitute which proposes to add a new section 553(g) in title 5, United States Code, is amended (1) by striking out paragraph (2) through paragraph (10) of the proposed section 553(g); (2) by striking out "(g)(1)" in the proposed section 553(g) and inserting in lieu thereof "(g)"; and (3) by inserting closing quotation marks and a period following such closing quotation marks at the end of the proposed section 553(g), as amended in the foregoing clauses.

H.R. 7145

By Mr. BEARD:

—Page 36, line 8, insert ", of which $1,266,900 shall be available for economic and community development in Hawkins, Sullivan, Smith, Trousdale, Sumner, Wilson, Macon and Hardin Counties in Tennessee and Tishomingo and Alcorn Counties in Mississippi" before the period.

SENATE—*Thursday, September 30, 1982*

(Legislative day of Wednesday, September 8, 1982)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Almighty God, we thank Thee that we were created in Your image. We thank Thee for the fundamental freedom—freedom of will—freedom to choose.

Help us to use our freedom wisely. May we choose to serve rather than to be served. May we choose to give rather than receive. May we choose to build rather than destroy—to praise rather than to condemn—to honor rather than demean—to act rather than to procrastinate—to grow rather than spoil—to listen rather than ignore—to strengthen rather than weaken.

May we choose to love rather than to be indifferent or to hate. We pray this in the name of Jesus Christ, Love Incarnate. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

JUDGE FRANK WILSON

Mr. BAKER. Mr. President, this morning, I want to pause, in grief, in memory of my good friend Judge Frank Wilson who died last night of a heart attack at the age of 65. I am terribly saddened by Frank's death and I want to extend my deepest sympathies to his wife Helen.

As a U.S. district judge, Frank Wilson ruled on many of the important issues that affected desegregation and civil rights in the Chattanooga area. His professionalism went beyond party lines and Tennessee borders—he was a judge of national importance for both parties and a man of the highest integrity. In 1980 Judge Wilson was rated best district judge of all jurists in the U.S. sixth circuit, which includes Tennessee, Kentucky, Ohio, and Michigan. In 1975, he was mentioned as a possible Supreme Court candidate, but a heart condition ruled out that possibility.

Judge Wilson was appointed to the bench in 1961 by President Kennedy, and in 1970 became chief judge for the eastern district of Tennessee. Judge Wilson and I used to joke about the fact that his first and only venture into politics in 1960 ended in defeat in the race for the second congressional seat from Tennessee by my father.

Always, Frank Wilson proved to be a dedicated and admired public servant, and always will his presence be sorely missed.

SENATE AGENDA

Mr. BAKER. Mr. President, today, after the recognition of the two leaders under the standing order, four Senators will be recognized on special orders of not to exceed 15 minutes each, those being Senators RANDOLPH, CRANSTON, SASSER, and NUNN.

After that, there will be a time for the transaction of routine morning business of not more than 10 minutes in length in which Senators may speak for not more than 2 minutes each.

Mr. President, it is anticipated that a variety of matters will be brought before the Senate today. First, those privileged matters which are available, such as conference reports, will be presented. There is a list of other items as they were identified last evening from which the Senate may choose its task for this day, and I refer Senators to that list in yesterday's RECORD.

Mr. President, the prospects for completing that list, or most of it, I think, are very good. It is my hope that we will be able to conclude the conference with the House of Representatives on the continuing resolution promptly and that the Senate can act on that yet today. In order to do that, it may be necessary to remain in late.

The Senate will be in session tomorrow. It is hoped that we could complete the action of the Senate and of the Congress in time to go out at a reasonably early hour tomorrow afternoon.

I must tell Members, however, that that is the purest sort of speculation motivated by desire and wish as much as by reality.

Mr. President, there are other matters that I am sure Members have noted that will affect the ultimate disposition of the Senate schedule. For instance, the House of Representatives yesterday discharged the Judiciary Committee from further consideration of the balanced budget amendment. I do not know what action the House leadership and the House of Representatives will make of that. I do not know when that item will be considered or if it will be considered, but I discussed this matter briefly last evening with the minority leader. We have not attempted to adjust our schedule in any way because we do not know what the House schedule is going to be. However, Members should have at least a sensitivity of the fact that that is a complication looming on the horizon that may affect the schedule of the Senate hereafter.

Mr. President, I reserve the time allocated to the two leaders. I have no further need for my time.

Is the Senator from Wisconsin prepared, or the Senator from Ohio, to act on behalf of the minority leader at this time?

Mr. PROXMIRE. Yes, I am, I say to my good friend, the majority leader.

I will use part of the time and reserve the remainder of it.

Mr. BAKER. I thank the Senator.

Mr. President, I yield then so that the Senator from Wisconsin as acting minority leader may be recognized.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER (Mr. GORTON). The acting minority leader is recognized.

ISRAEL SHOWS THE REAL MEANING AND FORCE OF DEMOCRACY

Mr. PROXMIRE. Mr. President, out of its agony and pain, Israel has given the world a new understanding of the remarkable capacity of this particular democratic people to bring its government, and its Prime Minister and military hero to account for its failure to protect innocent men and women and children. What is happening today in Israel may become a shining hour for democracy as a form of government. Consider what Israel has done. Here is a country surrounded by enemies that have sworn its destruction.

Now, its army moves against its prime terrorist adversary. Its army wins a spectacular victory, and drives its adversary out of a position that threatened Israel. The army evacuates and then returns to mop up and permits a group of allied troops—not Israeli troops to move into the territory right after the leader of these allied forces has just been assassinated, presumably by some of the nationals associated with the terrorists Israel also had opposed. The allied forces commit a series of atrocities in revenge for the assassination of their leader. And the Israeli forces are held responsible by much of the world's opinion. The Israeli Prime Minister and its military hero deny their responsibility. At first they refuse to permit an inquiry into Israel's responsibility for the atrocities. And then a remarkable—I would call it miraculous—event develops, the Israeli people speak out. They organize a fantastic mass protest, estimated at 400,000 people far and away the biggest Israeli protest ever. It would compare with a turnout of 25 million Americans considering the differences in population. Through the Israeli opposition party, and the resignation of some of the political allies of the Prime Minister and of top army officers, the Prime Minister is forced to agree to an inquiry, a full-fledged inquiry including subpenaing of witnesses, conducted under the auspices of the chief justice of the supreme court, to determine the extent of the guilt of the Israeli Prime Minister and the military hero. Now, just think about the significance of all this.

If ever a country had reason to develop a superpatriotism to the point of self-centered chauvinism, it is the Israelis. In little more than a generation they have established a country, a nation, a homeland for the first time in thousands of years. They have won four punishing, painful wars. They continue to make immense sacrifices for their independence. A full one-half of their entire economy is used to maintain the military strength absolutely essential to their survival under a truly crushing burden of taxation. Every man in Israel remains either on active duty or in reserve to be called on 24 hours' notice to serve in military action until the age of 50. This little country of 3 million has developed the fourth most powerful military force on the face of the Earth. And again and again they have found they needed it to survive.

Now in the hour of one of their greatest military triumphs, not the Israelis but troops of another nation have been accused of engaging in atrocities against people belonging to the Israeli's sworn enemies. And what has this little embattled Israel done? I will tell you what the people of virtually every other nation on the face of the Earth at almost any time you want to name in human history would do under similar circumstances. They would hail their Prime Minister and their military hero. They would turn with red-hot anger and probably with violence on anyone who had the temerity to question the conduct of their leaders. But not the Israelis. They have won a smashing military victory and yet they recognize the tragedy of foreign but innocent men and women slain possibly because the Israeli military did not exercise the kind of protective restraint they have demanded of their soldiers. The Israeli people have found that moral courage, the moral conviction to challenge their own leaders, to demand a full accounting and the Israelis obviously stand prepared to condemn any inhumanity or lack of full concern for the life of these who belong to the nation that has terrorized them.

As the New York Times said on Wednesday, "Their (Israel's) democracy bids to rescue their honor and their reputation." They opine, would that other people of the region could speak with equal force. I would amend that by saying that other people in the world in every nation, on every continent could speak with equal force against political and military leadership that permit cruel and inhuman conduct in the name of patriotism or national survival. What the Israeli democracy opposes is sadly common in this world; opposition by the people against a victorious military and its political leaders is so rare as to be almost miraculous.

BOMBS AND BUSINESS

Mr. PROXMIRE. Mr. President, perhaps the most dangerous and unwise course of action the administraton has undertaken since coming into office has been the policy of systematically gutting existing restraints on U.S. nonproliferation efforts. Placing business interests before elementary considerations of survival, the administration has step by step begun the dismantlement of U.S. export restraints governing nuclear materials and technology.

In an attempt to secure the international nuclear market for U.S. businessmen, our Nation has agreed to license for export items considered as "dual use." In the case of South Africa, an emerging nuclear country, a metallurgial press that would enhance their capability to build nuclear weapons currently is under consideration for export.

We have stepped back from the ban on commercial reprocessing of plutonium and we have agreed to provide such technology to other nations. All of this in the absence of foolproof inspection procedures and against the backdrop of intelligence indicates a strong interest in developing nuclear weapons in many of the countries we plan to sell technology to.

Mr. President, the world is speeding toward a nuclear catastrophe with the appearance of the U.S. applying pressure to the accelerator. The number of nuclear nations most likely will double in the next 10 years. The opportunities for miscalculation or accident increase geometrically. Instead of curtailing this headlong flight to oblivion, our current policy is to encourage it.

Nothing, absolutely nothing, poses a greater risk to the survival of mankind than the unthinking dedication of our business interests ahead of our nonproliferation policy.

Mr. President, I ask unanimous consent that a New York Times editorial on this subject be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POTENTIAL BOMBS VERSUS POTENTIAL BUSINESS

Secretary of State Shultz says curbing the spread of nuclear weapons is one of his main objectives. Then why does he name a fox like Richard T. Kennedy to guard the chicken coop? Appointing Mr. Kennedy as his chief adviser on nonproliferation is yet another example of Reagan Administration carelessness with the issues of The Bomb.

Mr. Kennedy is one of the architects of the Administration policy of removing key restraints on nuclear exports and on the use of plutonium as a fuel. The restrictions imposed by the Ford and Carter Administrations, and by the 1978 Nuclear Nonproliferation Act, have been weakened. Only action by Congress can close the loopholes.

The law's chief House author, Jonathan Bingham of New York, has started that process. His Foreign Affairs subcommittee has unanimously voted out vital amendments. If the full committee acts quickly they could pass the House this year, sounding a warning to the Administration and stimulating early Senate action.

The Nonproliferation Act bars the Nuclear Regulatory Commission from licensing exports to nations that reject "full-scope" safeguards—international inspection of all their nuclear facilities. The President may waive these rules for national security, but can be overridden by a two-house majority.

But the act failed to apply these restraints to the Energy and Commerce Departments, which are now more interested in promoting profitable exports than deterring the spread of nuclear weapons. Commerce has authority to license exports for so-called "dual use" equipment. It is currently trying to clear for shipment to South Africa a metallurgical press that might be used to shape atomic bombs.

The Energy Department can authorize foreign affiliates of American businesses to ship nuclear facilities, fuel and technology to nations that may want to bomb and reject full-scope safeguards—like Pakistan, South Africa, Argentina and Brazil. Unlike the N.R.C., the department can ignore proliferation concerns and cannot be overruled by Congress. It has already authorized the export of sensitive equipment to Switzerland for a heavy water plant being built in Argentina. It secretly authorized export to France of research equipment for commer-

cial isotope separation lasers to enrich uranium. It has enabled Brazil and South Africa to replace embargoed American nuclear fuel with European fuel and waived a $20 million penalty for Brazil.

Most disturbingly, the Administration has lifted the Ford and Carter ban on commercial reprocessing of plutonium in the United States. It has reversed a 30-year ban on export of reprocessing technology—to countries it contends "do not constitute a proliferation risk." It plans to give such countries blanket authority to reprocess American fuel even though there is no timely way to discover diversions of the separated plutonium to bomb-making. A bomb can be put together in a few days.

The Bingham amendments would require Energy and Commerce to abide by the N.R.C.'s export criteria, including full-scope safeguards. The export of reprocessing technology would be forbidden. Europeans could get blanket permission to reprocess American fuel only if they apply full-scope safeguards when they export.

These repairs would not revive the vigorous efforts needed to stave off a plutonium economy and the spread of nuclear weapons to a dozen or more countries. But they would at least keep the rest of the genie in the bottle. The Administration, more interested in potential business than potential bombs, seems not to care. Congress has to care.

RECENT MASSACRES BRING NEW URGENCY TO THE RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, between El Salvador and Honduras there are two rivers—the Lempa and the Sumpul—which serve as natural boundaries for the two countries. In the springs of 1980 and 1981, these normally tranquil, picturesque waterways became the scenes of two horrible massacres. While the nationality of the culprits has yet to be determined, the indentity of the hundreds of victims is painfully evident and their clear noncombatant status is an indictment of all of the parties contributing to the violence in this troubled region. Moreover, the carnage and cruelty of these attacks demonstrate vividly the terrible potential for genocide in areas like this and the urgent need for the ratification of the Genocide Convention.

In the months preceding the Lempa attack, isolated murders and shootings were a common occurance in the area and discoveries of dozens of dead "compañeros," or peasants, at a time was not at all usual. The increased terrorizing of the "compañeros" in El Salvador by the left and the right coupled with the luring prospects for peace in Honduras served to make Lempa a main thoroughfare for escaping refugees. Nevertheless, last year's massacre surpassed all of the past attacks in both size and savagery.

In March of 1981, a large group of refugees were sighted approaching the Lempa and preparing to swim across to the Honduras side. When the refugees reached the banks of the river, they were met by local priests, nuns, doctors, and volunteers from Honduras who proceeded to assist them in their crossing. For the first hour everything seemed to be going smoothly and greater and greater numbers of peasants entered the river to swim across. Then, with the water packed with people, helicopters suddenly appeared and started raking the river and its inhabitants with 50 caliber bullets. "Everyone ran for shelter," a U.S. fieldworker recalled, "We soothed the babies, while the helicopters tried systematically to massacre us all, riveting the river up and down, both shores, with machinegun fire." Before the helicopters had finished their grizzly task, 200 people—the majority women and children—floated dead in the water and scattered on the shores. No guerrillas nor military equipment were ever found and, as is usually the case with these sort of atrocities, no nation has come forward to take responsibility for this senseless slaughter.

The Honduras Bishops Council and other human rights organizations have documented many attacks similar to the one at Lempa. At Sumpul, for example, 600 people were killed trying to forge the river, among which 150 were women, 100 were children, and 50 were elderly. In that massacre which occurred in May of 1980, the peasants were surrounded by ground troops to keep them from fleeing the killing zone. The bodies of children captured after the attack were found decapitated and mutilated in the river.

Mr. President, these stories are tragic ones but, regrettably, not unique in this region. The 800 people who perished within their banks were after all "compañeros" and in this area "compañeros" vanish in the thousands with every new season of violence and terror. Eight hundred people whose only crime was a desire for a life without torture and repression; whose only motive was to secure an existence founded on hopeful dreams for the future instead of painful memories of the past. Eight hundred reasons why the Genocide Convention must be ratified; not in rememberance of past genocidal crimes but in anticipation of new ones. Their individual tragedies are humanity's collective guilt and our manifest warning.

Mr. President, I yield the floor.

I ask unanimous consent that the remainder of the Democratic leader's time be reserved for his use at a later period.

The PRESIDING OFFICER. Without objection, it is so ordered.

COAL MINING AND CONSTRUCTION JOBS STIMULUS ACT OF 1982

Mr. ROBERT C. BYRD. Mr. President, I have introduced legislation to address two serious problems affecting West Virginia and other States—unemployment and the environmental hazards caused by abandoned minesites.

Title IV of the Surface Mining Control and Reclamation Act of 1977 created the abandoned mine reclamation trust fund. The trust fund is intended to be used to finance reclamation projects on minesites that have been abandoned. Many abandoned minesites are the result of mining operations carried out decades ago, before the advent of the high-technology mining and reclamation methods in use today.

A fee is paid by coal producers on every ton of coal mined and is deposited in the abandoned mine reclamation trust fund. The burden of this fee is borne by the coal industry to right past wrongs—to reclaim minesites which were active before modern mining and reclamation methods were on the scene. The sole purpose of the fee is to provide funds for abandoned mine reclamation. The coal industry has supplied the trust fund with a current balance of $630 million.

Of this total amount, $269 million is designated by a formula in the Surface Mining Act to be used for Reclamation projects at the discretion of the Secretary of the Interior.

The remainder of the trust fund is earmarked for eventual distribution to the States. Those States that have achieved primacy—the authority to carry out the Surface Mining Act in a manner consistent with the unique circumstances of each State—are eligible to seek allocation from the trust fund to perform reclamation projects.

I have said in the past that the allocation of moneys from the trust fund to the States, and from the portion of the fund controlled by the Secretary of the Interior for projects has occurred too slowly.

The bill that I have introduced seeks to put a greater emphasis on abandoned mine reclamation. Even more important, this legislation will help provide the unemployed coal miners and construction workers in West Virginia—who have been extremely hard-hit by the recession—an opportunity to work.

My bill provides that the portion of the abandoned mine reclamation trust fund controlled by the Secretary of the Interior be used, to the maximum extent practicable, in support of a program which provides for the hiring of unemployed mineworkers or construction workers for the purpose of performing reclamation work at abandoned minesites.

West Virginia mineworkers and construction workers have experienced prolonged unemployment by the thousands during this recession. At present, 8,000 of West Virginia's 55,000 coal miners are out of work.

Twice that number have been out of work at some time during this year. Thousands more are on short workweeks or reduced hours.

The construction industry in West Virginia is on its back. Construction activity has fallen by as much as 30 percent during this recession.

This legislation seeks to provide an opportunity for unemployed mineworkers and construction workers, many of whom have had experience with reclamation projects, to perform badly needed reclamation projects.

I fully expect that another group that would benefit from this legislation is the independent mining concerns in West Virginia and other States. These independent operators are smaller than the energy giants who are so prevalent in the industry today, and many of the independents have the equipment, manpower, and know-how to perform the reclamation projects that could be financed by my legislation. The independent operators, who have been struggling for their economic lives in a regional depression, would welcome the opportunity to pursue reclamation work on abandoned minesites. My legislation will help make that possible.

My bill does not create a need for any new funding. The Federal portion of the reclamation trust fund has been sitting nearly idle, collecting revenues, since its creation.

Further, the program created in my bill would not extend past the end of fiscal year 1983, it is a temporary program to utilize unemployed mineworkers and construction workers—to respond to record-high levels of unemployment and perform vital reclamation work—not a permanent "bailout" of any particular industry.

It is time that the revenues in the Federal portion of the abandoned mine reclamation trust fund be put to work. By doing so, we will be giving our own long-suffering mineworkers and construction workers a worthy task, and a chance to work productively once again.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The assistant majority leader.

THE ALASKA RAILROAD

Mr. STEVENS. Mr. President, I have inquired of the Senator from Ohio if he is willing now to take the House-passed railroad bill from the desk to get it so we can substitute the Senate Commerce Committee version and send it to the House.

As the Senate knows, such action takes unanimous consent. He has indicated that he is unwilling to do that unless we agree to take the House version of the bill. The Senate version of the bill was unanimously reported by the Commerce Committee, and it contains a provision that is very important to my State.

That is a provision which is, on balance, the same treatment or near the same treatment that the Congress has given to States and local political subdivisions and nonprofit entities that have acquired the Conrail properties from the Federal Government.

In that proposal from the Senate Commerce Committee, my State would assume the existing liabilities of the railroad including a severe deferred maintenance problem, the existing liabilities for employees, the liabilities for modernization of the plant and assume the liability to maintain passenger service on the railroad for a period of 5 years. It assumes the responsibility to maintain the road for 10 years, and it is the only railroad in Alaska that carries freight to the two major interior military bases, Fort Wainwright and Eielson Air Force Base.

The Senator from Ohio persists in being an obstructionist so far as the work of the Senate is concerned. He has a hold on the shipping bill. He is opposed to the timber bill. He is opposed to the hydroelectric bill.

As a matter of fact, this Senator has been searching to find out something the Senator is for; because my constituents say, "Why don't we retaliate?" The unfortunate part of it is that we cannot find anything the Senator from Ohio is for. He has only sponsored one bill that has passed this year or last year. That was a resolution. It is a little difficult to deal with a Senator who uses obstructionist tactics when there is nothing he is for.

One of the things I did was to make a study of the employment statistics of the State of Ohio. In manufacturing, the State of Ohio has lost 257,000 jobs in the last 2 years. Do you know where those jobs were? During the period of the oil pipeline construction, the insulation used in that $800 million pipeline came from the Owens-Corning insulation manufacturing plant in Toledo. That brought tens of millions of dollars in terms of payroll into the State of Ohio.

All the gas turbines used to power the system pumps of the oil pipeline came from Ohio, from the Cooper-Bessemer, Mount Vernon, Ohio, plant. Again, tens of millions of dollars in wages to the people of Ohio.

Sohio bought the trenching equipment it purchased for the oil pipeline from the Bucyrus-Erie plant in Bucyrus, Ohio.

If the people of Ohio wonder why there is high unemployment in that State, it is because they are a manufacturing State and they supply resource development States such as mine.

The Senator from Ohio has the luxury of having filed a suit against the Alaska gas pipeline. In his capacity as a Senator, he filed a suit to declare the act passed by Congress unconstitutional. The court, in its wisdom, has dismissed that, I understand; but the Senator indicates that he is going to file it again. As a result, it is difficult to go ahead with financing a $30 billion pipeline as long as that threat of a lawsuit perists.

In terms of the timber industry—which is important to the State of the present occupant of the chair, the Senator from Washington (Mr. GORTON) and to my State—in this period of high inflationary prices, many people bid on Federal timber at inflated prices. Now that there is a recession, they cannot afford to pay those prices and keep people employed at the same time. They have sought relief, and the Energy Committee overwhelmingly reported a bill to deal with that problem, to give these people a chance to reduce the cost of that timber so that they can keep people employed in the States of Washington, Oregon, Idaho, and Alaska. But the Senator from Ohio, in his wisdom, has indicated that he will block that bill, too.

I think it is high time that the people of Ohio and the people of the country knew what is going on in the Senate.

I have talked to the Teamster representatives, to the United Transportation Union representatives, and to the representatives of the operating engineers. I have talked to all the people who represent the employees throughout our States who will lose jobs because of the obstructionist tactics of the Senator from Ohio.

However, the Senator from Ohio does not hear. He told me this morning that he would grant my request that the bill come off the desk, in the case of the railroad bill, if I would agree to the House provisions that pertain to the Alaska Railroad. Those provisions are not acceptable to my State.

The Senate Commerce Committee unanimously found that they were unacceptable and reported a bill that would change them. They would require my State to pay 75 percent of the liquidation value of the assets of the railroad, when, as a going concern, it has no value at all; when, as a going concern, my State assumes responsibility for almost three-quarters of a billion dollars to operate this railroad because we feel it is important to the future of our State.

I know that the Senator from Ohio is here. I find it unfortunate that we have to debate this bill during the period for routine morning business. I

would be happy to have him explain to the people of my State and the people of Ohio why he opposes the hydroelectric bill, why he opposes the shipping bill, why he opposes the railroad bill, why he opposes the timber bill.

What is the Senator for? In the last 2 years, he has not spoken for anything that I can find. I can assure you that in the next 2 years, if he speaks for anything, I will look at it very carefully, because the Senator from Ohio is about to kill the Alaska Railroad.

The Federal Government, the House of Representatives, and the executive branch have indicated that the Government should no longer finance that railroad. It is the only railroad that takes parts into the interior of Alaska to support the pipeline and the only railroad that supplies the two interior military bases.

The PRESIDING OFFICER. The time of the Senator from Alaska has expired.

Mr. METZENBAUM. Mr. President, does the minority leader have any time?

The PRESIDING OFFICER. The minority leader has time reserved.

Mr. METZENBAUM. And the Senator from Ohio has no right to speak, except on the minority leader's time. Is that correct?

The PRESIDING OFFICER. The Senator from Ohio will have an opportunity to speak during routine morning business. There are four special orders.

Mr. METZENBAUM. How much time does the minority leader have?

The PRESIDING OFFICER. Seven minutes and 14 seconds.

Mr. METZENBAUM. I ask unanimous consent that I be permitted to use the minority leader's time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. METZENBAUM. Mr. President, I do not intend to reply or respond to the Senator from Alaska.

It is my understanding that my responsibility here is to be accountable to the people of Ohio, and I am very proud of the record I have made in the Senate. I am very proud of the fact that I have indeed authored many pieces of legislation that have been enacted into law.

The Senator from Alaska wants to know what I am for. I am for extending unemployment benefits; and if he had voted with us yesterday, that matter would have passed. I am for the jobs bill that TED KENNEDY offered; and with his help, perhaps we might have been able to pass it.

I am for doing something about the problems that exist in America today—the recession this country is in. I have a deep sense of concern about what is happening to America.

If anyone cares to check, every bill that this Senator has a hold on has to do with a giveaway to some special interest.

The Alaska railroad bill—what a wonderful piece of legislation that is! Give to Alaska, that very poor, depressed State, without a dollar in its treasury, a railroad, free, from the Federal Government. Give them the coal, timber, gravel and the land that are all around; 36,000 acres of land in addition to the track right of way that go with the giveaway.

The House bill provided that some payment would be made for it—not enough, but at least some payment—75 percent of the liquidated value of those properties. Not 100 percent, but 75 percent. Not 100 percent of the value of a going concern, but 75 percent.

I have said that I will accept the House bill as it is, with no amendments, but I am not going to give an Alaska railroad to the State of Alaska for nothing, if I can possibly help it.

Mr. President, when we were debating the gas pipeline and that issue was on the floor of the Senate, the Senator from Alaska said that he would debate me on that issue. I offered to debate any Member of this Senate on that issue, and I offered to debate them anyplace in the country. The Senator from Alaska said, "I accept your challenge, and I'll be glad to debate you in the State of Ohio." The most prestigious forum in the State of Ohio, the City Club, extended a number of invitations to him, that we might debate the Alaska pipeline, but he did not see fit to accept, and I understand.

Mr. STEVENS. Does the Senator want to yield on that?

Mr. METZENBAUM. No.

The Senator from Alaska stated within the last 24 hours that he was coming to Ohio to speak and discuss with my constituents my record in the Senate.

I might say that anytime that I can find an opportunity to have the Alaskan oil and gas Senator speaking to the people of Ohio I think it would only highlight some of the issues. So if he sees fit to come I will certainly welcome his visiting my State as have so many other Senators.

With respect to the legislation that I have authored and passed, I have authored and passed a number of bills. When my constituents inquire of me as to what those bills are I shall stand proudly before them and spell them out, one after the other. Apparently the research of the Senator from Alaska is not much better than his support for the Alaska railroad bill.

Mr. President, I reserve the remainder of the time of the minority leader.

Mr. STEVENS. Mr. President, are we in the morning hour?

The PRESIDING OFFICER. We are not. At this point there is no more majority leader time. There are four special orders of 15 minutes each beginning with the Senator from West Virginia.

RECOGNITION OF SENATOR RANDOLPH

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia (Mr. RANDOLPH) is recognized for not to exceed 15 minutes.

A TRIBUTE TO ELEANOR ROOSEVELT

Mr. RANDOLPH. I will not say "Mr. President," I will say good morning Mr. President.

And I do think of each morning as a good morning, an opportunity to work not only in this Chamber but in our duties on Capitol Hill. Each day is not just another day. It is a new day.

I will be talking briefly, yet with understanding and feeling of a very gallant, generous, great lady of an earlier period in the history of our country. I say to other Senators who are to speak of Eleanor Roosevelt, as I shall speak of her that perhaps their words shall be placed in the RECORD because they are in committee sessions and other official duties.

Our "FDR Centennial Year" is drawing to an end. As we close this second session of the 97th Congress, I believe it is appropriate to recognize the public service of Eleanor Roosevelt—a truly remarkable woman and outstanding First Lady. I hope my colleagues will join in this tribute.

Eleanor told me she would always be grateful for a time when an unhappy part in her youth was made glorious: Franklin Delano Roosevelt, her fifth cousin and 2-year elder, came up and asked her to dance. And dance they did!— from a Saint Patrick's Day wedding in 1905, into the New York State Senate, on to the governorship of the Empire State and eventually into the White House.

Initially shy, Eleanor Roosevelt began slowly to come out of her shell—making courtesy calls and getting acquainted with newspapermen who covered politics. But the moment that really tested her mettle came on a dark, chilly day in 1921 at Campobello: Franklin's disabling attack of infantile paralysis. It was this cruel stroke that brought Franklin to an increased dependence on Eleanor—and to her a deepened determination that he must be helped to resume his career in public life. She worked to bring him back into politics and truly helped guide him to the very summit.

Our Nation was accustomed to seeing and hearing a First Lady of the Land on election night, inaugural day

and very seldom otherwise. Eleanor was astonishing. In fact, she was probably the biggest surprise package the American people ever opened on an Inaugural morning. Before the Cabinet wives of 1933 and even my own wife, Mary, had their inaugural gowns rehung in the closet, this whirlwind of a First Lady had organized The White House for a large and lively family, made some speeches and was traveling all over the country.

Eleanor wanted to see what unemployment and the depression were doing to our American families. She went out among the people. She visited soup kitchens, slums, coal mines in our West Virginia hills and even battle fronts. She talked with ordinary folks, really listened and took to heart what they said. Even those who never met Eleanor thought of her as a friend. She was a good reporter and Franklin relied on "her eyes and ears."

Standing in receiving lines was not exactly an inspiring occupation for Eleanor. On many occasions she rallied White House guests in a square dance before the party ended. And the next day she awoke early and drove in her own car to appointments while others were still sleeping.

One time, FDR inquired, "Where is Eleanor?" and was told, "She's in prison this morning, Mr. President." He than chortled, "I'm not surprised, but I wonder what she has done this time."

Eleanor was genuinely touched by the words of ordinary people whose cause she championed. She had a keen insight into what the people of this country needed. Her compassion was manifested in her advocacy of the oppressed. Hearing about the struggle of Appalachian farmers to reclaim land, Eleanor became a strong advocate of the Arthurdale Resettlement Administration project and devoted her lecture fees as well as her influence to help the community.

We reflect on the career of one of the truly outstanding American women. In fact, of the women who have had careers of leadership throughout the world, no lady had a more remarkable, many faceted career than did Eleanor Roosevelt.

We are in the centennial of the birthday of Franklin Roosevelt, the President of the United States who took office in the devastating economic distressed times of March 4, 1933. This is a very natural time for our expressions of those moments of history in which Eleanor Roosevelt made such a positive impact. She worked with men and women and children to structure our country and the world on a foundation that would stand the test of time.

The anniversary of Mrs. Roosevelt's birth is in a few days. There is to be a very natural linkage between the President and the First Lady in those earlier days, and for many, many days and years. I think of Eleanor not only as a First Lady, although that was very, very important. I do couple with it my feeling about her life as a public servant. She was at the White House and doing the normal and understandable part in the functions that fall to the wife of the President then and now. Mary, my devoted and helpful wife, who has been gone some 18 months, having succumbed to cancer, was often in the company of Eleanor. I recall she would say, in essence, that the President's wife had a seemingly inexhaustable energy. I remember so very, very vividly even at this moment her visits into the State of West Virginia.

Those were times of trial and tribulation and of questioning whether we were going to be able to come back. I shall never forget these periods. I think that Mrs. Roosevelt, in reference to West Virginia for example, left a glowing imprint in our society, in our State, Nation and world. We remember that she was the first Chairman of the Human Rights Commission in the United Nations.

I remember so very well—her newspaper column, over a long period of years, "My Day", in which she did not boast about what she was doing but touched the readers, with humaness, her activities in a period of 1 day.

I think of the dedication of our community church in Arthurdale, named for Eleanor Roosevelt. Her coming there and she worked with our people in that project, first, Federal homestead in the United States, high in the hills of Preston County, to the east of Morgantown where one of our two fine State universities is located.

And she was instrumental in having the President come to West Virginia, to the homestead, for the elementary school graduation with FDR as the speaker. It was a day never to be forgotten.

Mrs. Roosevelt was there with us planning and working. In the uplands we were to have the homestead project with scores and scores of homes and gardens and a life different from that in the narrow valley below, where Scott's Run twisting its way through the hills. I think of the efforts to improve the lot of the people who were caught with unemployment in the coal mines at that time.

Eleanor had secured the cooperation of the Society of Friends with valuable aid from Clarance Pickett. Wendell Lund and Bushrod Grimes, the latter deceased, were active in the project.

The homestead effort was one of the truly experimental programs, a part of the New Deal. Louis Howe, close to the President, helped us.

Another of those projects in West Virginia was in Randolph County. To the south of Elkins we had in the Tygart Valley another of those homesteads.

We had the dimension mill, near Elkins where I live, where homesteaders worked. We established a factory in Arthurdale. Rightfully, Mr. President, we named a community in Putnam County, between Charleston and Huntington; the name was and remains today "Eleanor" in memory of her many, many missions to our State. I do not call them missions of mercy. They were missions in which people were brought together. They counseled together under the leadership of Eleanor Roosevelt.

I remember when I went deep into the earth with Mrs. Roosevelt in one of our coal mines. There she saw the miners at work, not standing as most people do but very, very hunched down, laboring with picks the precious coal, hundreds of feet beneath the earth. Coal has been a good industry for America. I turn aside to say that I believe in less nuclear power. I think of the many, many uses of coal which have not yet been fully tapped to benefit humanity.

In connection with that trip into the mine and that long day, there were aides who were part of her party—she did not have many people in her entourage—who suggested that she rest in the evening. However, there was a square dance in the community hall. "That is where I want to go, she said and the caller had a happy thrill in his voice, as he intoned "partners promenade all."

The fatigue, if it showed, was not allowed to stop Eleanor Roosevelt from going ahead and doing something after the long hours, in helping people and understanding their problems.

She was constantly interested in bringing people to West Virginia, to join in her commitment of helping people.

Eleanor Roosevelt with Franklin Roosevelt, brought Bernard Baruch into Preston County. I remember that this financier from Wall Street was very conscious of another part of life other than the one in which he was so expert. He helped.

Mrs. Roosevelt had Doris Duke come with her into the area. At that time presumably Miss Duke was the richest girl in the world or an heiress to a great fortune, great wealth.

In mentioning wealth I recall we were driving from West Virginia to Washington over old Route 50. I had called the New Century Hotel in Romney, an excellent place to have a tasteful meal. We had supper there. I made arrangements for the six or seven people. As we ate, I began thinking: "Here I am with the First Lady and here I am with perhaps the richest girl in the world, but I have only 34 cents in my pocket and I am hosting the supper."

So I moved out to the hotel desk and told one of the two owners that I would like to have the bill given to me and that I would send a check the next day from Washington, D.C.

Back come the memories. They are not important, but certainly as I talk today of Eleanor Roosevelt, it is in the positive that I speak of her. It was her influence, at least in some degree, that caused the President to nominate at the beginning of his first term, Frances Perkins to be Secretary of Labor of the United States.

Individuals in Government felt the impact of Eleanor's initiatives and concern.

Our speaking today of Eleanor Roosevelt, is a very merited idea of Bernice Marker, a sculptress from nearby Silver Spring.

There are those persons, including Bernice, who felt now, in the centennial of FDR; that it was a time of reflection for this great lady.

Mr. President, I ask to place in the RECORD the spontaneous written thoughts of Bernice Marker, entitled "Such As You Are."

There being no objection, the article was ordered to be placed in the RECORD, as follows:

SUCH AS YOU ARE

Eleanor Roosevelt made an art of life! Through art bonds of understanding and knowledge are established among men. They are the bonds of a great Brotherhood. Those who are of the Brotherhood know each other, and time and space cannot separate them. Nothing can destroy this Brotherhood—it goes steadily on. It is the evolution of man. All change that is real is due to the Brotherhood.

The development of the artist in E. R. came from childhood when imagination provided a world apart from an unhappy life. She refused to accept rejection by others—she was not a "Nanny" as her mother called her.

She dug deep into what makes for a good person. Traits like loyalty, truth and caring began to surface and grow. These made for character. Her biggest lesson in school was that everybody has something to contribute—no matter what they look like.

What to contribute—compassion, interest and encouragement. She learned to listen to how others felt and apply this to her development of adaptability and self-reliance. Above all, she knew what it was to feel as a non-person and that respect for human dignity was the key to the individual's survival.

A most important remark was made to President Truman wherein she said to show that democracy was greater than communism was to show it—to make democracy work in this country.

People who met E. R. saw a beautiful human being. She walked the earth as an individual unafraid and as an example of man's love for man. It is doubtful whether there is any power greater in human affairs than this. E. R. was the spokesperson for the human race. We haven't had as much fun and felt love since she left; she made us feel that life had value and was worth living.

Adlai Stevenson said: "It is not an irreverance, I trust, to say that the immortality Mrs. R. would have valued most would be found in the deeds and visions her life inspired in others, and in the proof that they would be faithful to the spirit of any tribute conducted in her name."

Let's follow in her giant footsteps towards Peace and Brotherhood.

Eleanor Roosevelt believed in civil rights for black Americans. The White House listened. As always, she set an example. At a 1939 Birmingham meeting inaugurating the Southern Conference on Human Rights, it was Eleanor who was present.

Eleanor earned money. She preferred giving it away to causes and charities. She even wore "bargain counter" dresses with as much gusto as she did originals. I understand she never did collect the $10,000 pension entitled to Presidential widows.

Eleanor Roosevelt really brought the job of First Lady up front. She established a precedent, and First Ladies ever since have been in the public eye where they are measured and judged. It was she who made it socially and politically acceptable—in fact, desirable for a President's wife to be active for causes in which she believed.

Yes, Eleanor and Franklin indeed created an unparalleled partnership to respond to the needs of a nation in crisis.

Not long after her husband's death, Eleanor Roosevelt told a reporter: "The story is over." But no one who cared so much for so many causes, and was so effective a leader, could long remain on the sidelines. Over the next decade and a half, she continued to be a dynamic woman in American politics.

President Truman named Eleanor Roosevelt to the U.S. delegation which went to London for the organization of the United Nations General Assembly in 1946. Later, as the first Chairman of its important Human Rights Commission, she was such a tireless and effective spokesperson for the democratic longings of all people that she was often referred to as "The First Lady of the World." Traveling to India, Japan, the Middle East and the Soviet Union, Eleanor spoke for the best that was in America.

Eleanor reached out and touched our world in profoundly emotional ways. Although committed to the traditional idea of women as primarily responsible to husband and family, she indeed personified the strength of the independent woman. Both by fate and by will, Eleanor Roosevelt became, perhaps the most important public woman of the 20th century.

TRIBUTE TO ELEANOR ROOSEVELT

Mr. MATHIAS. Mr. President, we began this session of the 97th Congress with a joint meeting to mark the centennial of President Franklin Delano Roosevelt's birth and it is fitting that we close it by honoring his remarkable wife, Anna Eleanor Roosevelt.

I would like to commend our distinguished colleague, Mr. RANDOLPH, for this initiative. It was a rare inspiration. It provides dramatic unity. And, perhaps most importantly, it allows us to close this session of the Senate on the same high ground where we began it. The less said about the quagmires encountered in between the better.

Unlike the distinguished senior Senator from West Virginia, who is unique among us for having served in the Congress during the famous first 100 days of the Roosevelt Presidency, I cannot speak from personal experience about Mrs. Roosevelt. I wish I could.

One of the great intangible perquisites of serving in the Congress of the United States is that you have the opportunity at one time or another to meet most of the great figures of our time. But, unfortunately, I never had the good fortune to meet Eleanor Roosevelt. Still, like millions of people all over the world, I feel as if I had for I have tasted the fruits of her labor and they are sweet indeed.

Eleanor Roosevelt's substantial contribution to the struggle for civil rights for all Americans is well-known to us. Her contribution to the struggle for human rights is legend throughout the entire world.

The Universal Declaration of Human Rights is the work of her hand; its passage by the United Nations General Assembly on December 10, 1948, was bought with the sweat of her brow. But Eleanor Roosevelt was not alone in that protean struggle. Marylanders have long derived satisfaction from the fact that a great Baltimorean, the late Jacob Blaustein, was associated with it from the very beginning. In 1945 Franklin Roosevelt asked him to work to get human rights provisions incorporated into the U.N. Charter at the U.N.O. organizing meeting in San Francisco and from then until his death in 1970 the cause of human rights was central in his life.

Now, with the passage of 34 years, it is hard to appreciate how difficult it was to achieve passage of the Universal Declaration of Human Rights. This excerpt from Eleanor Roosevelt's biography in "Notable American Women," published by the Belknap Press of the Harvard University Press, gives a hint of flavor of that victory:

Appropriately, President Truman nominated Eleanor Roosevelt as a United States delegate to the United Nations. There she argued, debated, lobbied for the creation of a document on human rights that would embody standards which civilized humankind would accept as sacred and inalienable. Finally, on December 10, 1948, The Universal Declaration on Human Rights, fundamentally shaped by her, passed the General Assembly.

Delegates rose in a standing ovation to the woman who more than anyone else had come to symbolize the cause of human rights.

When we met to observe Franklin Roosevelt's centennial at the beginning of this year, I spoke of the legacy he left the Nation: His vision of a just society. Eleanor Roosevelt, who contributed so much to shaping her husband's ample vision, left a priceless legacy of her own: The vision of a just world.

We are very far from achieving that just world, but, as Adlai Stevenson observed at Eleanor Roosevelt's funeral: "Because of her, millions of others may have experienced a new sense of possibility."

Mr. SASSER. Mr. President, I rise today to join my colleague, the senior Senator from West Virginia, in paying tribute to Eleanor Roosevelt. I commend the gentleman for reserving this time.

It is entirely appropriate that we honor Mrs. Roosevelt in this the centennial of the birth of Franklin Roosevelt. It has been said how much Eleanor Roosevelt owed to her husband's position and career. But he also owed much to her.

First as wife of the Governor of New York and later as wife of the President, she reached out to people and supported causes her husband could not for political reasons or the constraints of time. She supported workers in their struggle for minimum wage and maximum hours protection. She took up the cause of civil rights in an era when it was politically unpopular. While the results fell short of the hoped for goals, her support insured the poor and the oppressed a voice in the political process—and the knowledge that someone was listening.

The rate of progress may not have always lived up to the dreams, but Mrs. Roosevelt's support and voice in confronting the Nation's problems in many ways defined the political agenda for a generation.

When asked by a reporter after her husband's death if she would continue her public life, Mrs. Roosevelt replied, "the story is over." But the story was just beginning.

Appointed by President Truman to the U.S. delegation to the United Nations, she quickly established her stature in that body. She focused the attention of the United States and the United Nations on post-war problems and the needs of a changing world. In a world dominated by the great powers but increasingly concerned with the challenge of the developing nations, she never forgot the human factor, and always remembered that all nations inhabit the same planet and that we must find a way to live in peace together.

Mr. President, we could stand here all day and list the accomplishments of this remarkable lady. We would still be missing the point. The real legacy of Eleanor Roosevelt is not in accomplishments of the past but in hope for the future—the hope of workers, women, and minorities in this country and the hope of millions around the world. The lasting mark of Eleanor Roosevelt is not merely in what she did but in what she inspired others to do. In our country, there are thousands of citizens whose interest in politics was sparked by her example. Abroad, America still reaps the benefits of the compassion and understanding of others exhibited by this remarkable women.

IN HONOR OF ELEANOR ROOSEVELT

Mr. D'AMATO. Mr. President, Eleanor Roosevelt, a native of New York, was a lady who accomplished a great deal as a woman in her own right as well as the wife of our 32d President. The chronicling of her accomplishments would be a task requiring many volumes. I wish to bring to attention only a few of them, some of general knowledge, others more obscure, but all of which bespeak of the tremendous compassion that characterized her every moment.

Born into a life which offered a succession of easy choices, Mrs. Roosevelt reached out to those less fortunate with an indefatiguable spirit that left few unmoved. Long before any political advantage could be attributed as her motive, she joined many organizations in order to further the cause of those whose rights were underprotected. The presence of the questions of equality for women and minorities in the national spotlight may be directly attributed to her efforts.

As First Lady, she served a unique role in this country's history. President Roosevelt, because of his illness, could not travel around the country. Therefore, Mrs. Roosevelt acted as his eyes and ears, ceaselessly moving in order to apprise him of the feelings of the people. In the midst of the steepest depression and most cataclismic war in this country's history, she carried a beacon of hope whose light none of her critics could dim. Many soldiers, wounded and far from home, were comforted by her. The long hours she spent in this task and others too numerous to cite are legend born of fact.

After the tragic death of her husband, Eleanor Roosevelt continued to play a vital role in the affairs of our country. As American Ambassador to the United Nations, she was the guiding force behind the Universal Declaration of Human Rights and commanded the respect of the assemblage in a way none of her successors has been able to match.

Her final official capacity, in which she served until her death, was as chairman of President Kennedy's Commission on the Status of Women. She championed the cause of equality both by her words and through the example she set.

Today, we accept as "givens" many of the benefits Eleanor Roosevelt fought for. Let us not forget, however, the dedication, toil and, most of all, compassion of the woman who was their champion. She stood, often alone, for justice in America and the world. She remains the standard bearer of the conscience of our Nation and will always be remembered by those who admire the select few whose deeds outstrip their words.

VITIATION OF SPECIAL ORDERS FOR SENATORS SASSER, NUNN, AND CRANSTON

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the special orders on behalf of Senators SASSER, NUNN, and CRANSTON be vitiated.

The PRESIDING OFFICER. Is the Senator asking on behalf of those Senators?

Mr. RANDOLPH. Yes, I am acting for them in the request I have just made.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 10 minutes with statements limited to 2 minutes each.

The Senator from West Virginia.

SENATOR JENNINGS RANDOLPH RECALLS FIRST OF 10,000 ROLLCALL VOTES

Mr. RANDOLPH. Mr. President, yesterday, we discussed the number of votes I had cast since coming to Capitol Hill in the 73d Congress as a Member of the House in 1933. Later, some Members asked me if I could recall the subject of our first rollcall of those 10,000 for the record.

I remember it was the election of Henry T. Rainey, a Member of Congress from the State of Illinois. He was elected Speaker of the House of Representatives.

He was man of normal stature. He had a strong face, heavily lined. His eyes twinkled and he had a shock of white hair—not just hair, but a shock of white hair—and as he would talk, the mane would flop back and forth.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR STEVENS TO SPEAK IN OHIO

Mr. STEVENS. Mr. President, I see the distinguished Senator from Ohio is not on the floor so I will not speak at length. I will state, however, that he indicated he is willing to invite me to debate in Ohio. I intend to go to Ohio, as I have indicated. I would be happy to debate him anytime he would like to arrange it while I am there.

I particularly would like to tell the people that a State that has 12.5 percent unemployment against a national average of 9.6 certainly ought to be interested in jobs.

My State is an oil and gas State. We are proud of the fact we produce about one-sixth of the oil and gas of the whole Nation. In order to do so we need valves, we need insulation, we need instruments, all of the things—ventilation equipment—that the State of the Senator from Ohio produces.

It is unfortunate there are so many people unemployed out there because they have the distinguished Senator from Ohio here on the floor of the Senate.

BOB SELTZER—ADMINISTRATIVE ASSISTANT NONPAREIL

Mr. LEVIN. Mr. President, a big piece of my life is leaving my side in mid-October when my administrative assistant, Bob Seltzer, departs for different pastures.

Almost 5 years ago, I coaxed and cajoled him to leave the University of Detroit where he was perfectly content with living a normal life. He became my campaign manager and, but for him, I would not be in the U.S. Senate. After my election, I painted such a persuasive picture of the necessity of his talents in Washington that he uprooted his family and came to the Hill. For almost 4 years he has been the nonpareil administrative assistant, holding together a diverse and far-flung operation with charm and reason.

He and his family made a gift of time to me, my constituents and our country beyond conscience. We are indebted to his wife, Helen, and his children, Cathy and Jenny, for that gift. Bob Seltzer's values are why I asked him to head my staff. Those same values, including his keen loyalty to family and his need to fulfill his own sense of self are what takes him away from us now.

His legacy is more than the words he so uniquely hones and gracefully strings together. It is far more than the logic which powers his arguments and the legislation with which I have been involved. He leaves a sense of constancy to noble values, and sense of humor with human struggles to achieve those values. As he seeks to have a little more time to watch his kids grow and to chase some different dreams, my staff and I want him to know how much we will miss him as we cheer him on.

The PRESIDING OFFICER. The time for morning business has expired.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended to not later than 10:45 a.m. under the same terms and conditions.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Without objection, it is so ordered.

WASTE, FRAUD, AND ABUSE IN HEALTH CARE PROGRAMS

Mr. HEINZ. Mr. President, during the last few weeks, considerable public and congressional attention has been directed to problems relating to the purchase and use of cardiac pacemakers under medicare. These problems were identified by the Senate Special Committee on Aging in accordance with the committee's responsibility for oversight of programs designed to assist older Americans. I would like to take this opportunity to put the committee's investigative work into a larger context, and to announce an investigative program in the weeks and months ahead and for the coming Congress.

In 1965, when the medicare and medicaid programs were enacted, Congress' primary concern was to make medical health services available to the poor, aged, blind, and disabled. Comparatively little thought was given to the need to protect these programs against those who would steal Government funds by fraud and other associated abuses.

Since the enactment of medicare, total health care expenditures in this country have increased by nearly 500 percent. Per capita expenditures have increased from $211 in 1965 to $1,067 in 1980. The Government's share of this total health bill has risen from 26 to 42 percent, with total health outlays under medicare and medicaid exceeding $80 billion in 1982.

There is no question that these programs are providing valuable services to a great number of needy Americans. Despite their escalating costs, none of use would seriously consider repealing or crippling either program—even in these times of growing fiscal constraint. At the same time, we are faced with conclusive evidence that medicare and medicaid are in fact being crippled, their purpose perverted by a growing number of individuals who seek to use the programs for their personal profit.

On September 10, 1982, the Senate Special Committee on Aging concluded an exhaustive investigation of one small segment of the medicare program—the pacemaker industry. At every level, we found medicare costs associated with pacemaker therapy are unreasonable. Manufacturers' profits are inordinate. Physicians' fees are excessive. Kickbacks, rebates and other inducements to do business at the taxpayer's expense are pervasive. In all, the necessity of as much as half of the $2 billion medicare pays each year for these devices and related procedures is questionable.

Earlier this year, the committee reviewed the excesses of some hospitals operating under the medicare program. We found some hospitals had charged medicare for inappropriate administrative expenses, including gourmet foods billed as dietary expenditures, and riverboat cruises for the benefit of employees. We found excessive charges for supplies and ancillary services and complicated related party transactions designed to drive up the cost of services for the benefit of a few enterprising individuals.

The committee identified $1.5 billion in overpayments to hospitals and the immediate possibility for the recovery of an additional $1.3 billion if contractors were funded to a level permitting 100-percent hospital audits. Based on this and other evidence presented to the committee at that time, I estimated that these kinds of abuses in the operation of hospitals cost the medicare program about $4 billion a year.

These findings do not stand alone. Over the last 10 years, the Committee on Aging has conducted more than 30 hearings concerning fraud, abuse, and waste in programs under the committees jurisdiction. Problems have been identified in all of the programs examined.

We found extensive kickback arrangements in clinical laboratories under medicaid accounted for at least 20 percent of related program costs. Nursing home operators were found to have charged medicare and the taxpayer for mink coats, airplanes, yachts, elaborate vacations, college tuition for their children, renovations to private residences, and works of art, including paintings by Matisse and Renoir. Similar problems were found in the operation of boarding homes, welfare hospitals, home health agencies, medicaid mills and others. Bills were padded or kited. Patients were churned or ping ponged from one pro-

vider to another without need, while necessary services were not delivered.

Five years ago, the committee estimated these kinds of abuses cost the medicare and medicaid programs about $3 billion. Subsequently, the Inspector General of the Department of Health and Human Services estimated that $5 to $7 billion of federally sponsored health care programs was lost to fraud, waste, and abuse.

At the time, those estimates were greeted with some disbelief. In fact, it is now clear, they were conservative. Fraud, waste, and abuse in Government health programs has reached epidemic proportions. Based on the committee's continuing investigations I estimate waste, fraud, and abuse cost Government health programs as much as $10 billion a year.

This is a staggering loss. But beyond the issue of wasted resources is another parallel concern, equally inescapable from the committee's investigations, and of even greater importance. Invariably, we have found that patient abuse or neglect follow fraud and financial manipulation.

At our March hearing, the committee received evidence that the deaths of 16 people at a California hospital were related, at least in part, to the medicare frauds identified. Our September hearing demonstrated many beneficiaries are needlessly subjected to the risks of surgery for pacemakers they do not need. Other committee investigations have identified dentists who drilled holes in perfectly good teeth to justify fillings being billed to medicaid, radiologists who needlessly subjected beneficiaries to repeated X-rays and other similar abuses. Clearly, the existing incentives to maximize cost-based reimbursement lead to poor care, no care, and worse.

In the aggregate the evidence before us presents a devastating indictment of our ability to control cost and insure effective service. In the context of our current budget crisis, these conditions are simply intolerable.

Each of us has faced a series of hard choices in this Congress as we have attempted to reconcile the legitimate needs of our constitutents with diminishing Federal resources. In many cases needed services have been reduced under the pressure of fiscal constraints. Some have been eliminated. At least some of these difficult decisions would not have been necessary if our existing programs were effectively structured and efficiently run.

For this reason, I have directed the staff of the Senate Committee on Aging to immediately broaden its oversight activities and spearhead an attack on fraud, waste, and abuse in selected health and income security programs that present potential areas for greater efficiency. Six areas representing total annual expenditures of more than $175 billion in public funds have been targeted as of this moment for review in the coming year.

The committee has already requested the General Accounting Office to initiate a review of two of the targeted areas. Additional support, where appropriate, will be requested from the Inspector General, the Department of Health and Human Services; the Department of Justice; Federal Bureau of Investigation; professional standards review organizations; professional societies; and consumer groups.

The six areas I have targeted for review include:

First. Coronary by-pass operations. Coronary by-pass operations are among the most frequent surgical procedures. Critics charge the operation is performed more frequently than necessary. Costs are said to exceed $3.3 billion.

Second. Hemodialysis. Since 1972 when end stage reneal disease was brought under medicare funding, the number of individuals receiving this service has grown from 40 patients per million to 200 patients per million. Related medicare expenditures are expected to exceed $1 billion in 1982.

Third. Alcohol detoxification. Medicare pays the reasonable cost of alcohol detoxification and up to 3 weeks rehabilitation in detoxification clinics. Total program costs exceed $150 million in 1982. Some clinics are said to churn and ping pong patients and provide detoxification services to individuals who are not alcoholics.

Fourth. Durable medical equipment. Durable medical equipment includes hospital beds, wheelchairs, oxygen, commodes, and other reusable supplies purchased or rented by medicare and medicaid. The General Accounting Office has found the rate paid for these supplies varies from State to State and providers within some States by as much as 50 percent. There are allegations some suppliers kite bills, offer kickbacks and other improper inducements to do business.

Fifth. Consumer frauds against the elderly. When I say that, I am talking about the consumer frauds that in general are a massive problem in our society, the kind of consumer frauds we held hearings on last year. A disproportionate number of the victims are said to be elderly. Consumer's losses related to just one of these frauds—arthritis quackery—are said to exceed $1 billion annually.

Sixth. The administration of social security. In 1982 SSA is expected to pay more than $170 billion in program benefits to more than 50 million beneficiaries. At least 2 million of the 36 million checks issued each month are said to be in error. Basic questions have been raised concerning the integrity of the enumeration process and the accuracy of payment and earnings records.

Mr. President, I am announcing these investigations because we must insure that all the costs associated with these programs are necessary and that precious resources are not wasted. We must give notice to the profiteers who feed on Federal progams that their excesses must end. We must insist that proper law enforcement agencies recognize the impact of these abuses on public programs. Those who steal from the Government must be indentified, indicted, convicted, and sent to jail.

Finally, we must focus on the fundamental issue. We must recognize the seeds of our present situation were carried in the design of the programs enacted 17 years ago. In designing new programs and redesigning existing programs, we must look beyond the good intentions leading to the program's creation to the potentially evil intentions of those who would abuse it.

Mr. President, we should use these investigations not just to save money for the taxpayer, not just to end these abuses, but we want people to understand that perhaps we need to redesign our medicare and medicaid systems so they do a better job for people and are not as subject to abuse.

I think we have demonstrated in our recent pacemaker inquiry that it is not only the greedy who are at fault; it is the way medicare pays for everything on a cost-plus basis. That system invites people to come along and rip it off. In these tight budgetary times the result is ultimately to put a squeeze on the medicare beneficiary because we are under such pressure to slow down the growth in those program costs.

We cannot, on behalf of the 38 million people who benefit from the social security program, allow medicare to be put in that kind of a squeeze.

We must consider the incentives provided for fraud and waste and the impact of these incentives on the morality and conduct of our provider community. In our deliberations we would do well to observe the 11th commandment—"Lead us not into temptation."

These concerns, though philosophical, are not academic. Under Roman law a crime against the public was considered a greater offense and carried a heavier penalty than a similar crime against an individual. We have reached the point in this country where the opposite is the case. The public's money is considered free for the taking. In fact, one convicted felon interviewed by the committee compared ripping off medicare and medicaid to "finding an open wallet stuffed with hundred dollar bills."

We have begun to approach the point, as demonstrated in our pacemaker inquiry, where fraud, waste, and deception in public programs are

acknowledged and excused as business as usual. We must see that presumption reversed. We must begin to structure our programs with positive incentives for quality care. We must make fraud and abuse more trouble than it is worth.

The task is delicate and difficult. Purging the problems in existing programs, eliminating waste, and establishing public confidence cannot be quickly and easily achieved. Together, with dedication, it can be done. Today I pledge my full commitment to the ongoing effort to eliminate the abuses that plague our public benefit programs.

I believe that our investigations come at a critical time. They come at a time when any dollar we waste diminishes our ability to provide essential services, and we cannot afford to fail our constituents, our citizens, and our country in this endeavor.

NURSE PRACTITIONERS IN IDAHO

Mr. SYMMS. Mr. President, Idahoans take pride in the quality of health care in our State, although such care is often not readily accessible for rural residents or those in remote areas. One way in which health needs are being met for such people is through services provided by a nurse practitioner, a registered nurse who has taken additional training and has met State licensing requirements for this specialty.

Idaho has the distinct honor of being the first State to give legal recognition to the expanded role of nurse practitioner, in 1972. There are currently 92 nurse practitioners actively practicing in Idaho, the majority of whom are family nurse practitioners. Their services have been well received by their patients, the medical community, and their supervising physicians.

Residents in eight Idaho communities look to their nurse practitioner as their primary health care provider. One such community is Homedale, Idaho, and the following article by Dianne Hales, printed recently in America's Health, describes the experiences of Family Nurse Practitioner Mary Carlson. I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A DIFFERENT KIND OF "DOCTORING"

Years before designers stitched their names on the seats of blue jeans, the folks of the mountain states were choosing jeans and boots as the most practical things to wear for ranching and farming. "Western" never had been just a way of dressing or a type of music in towns like Homedale, Idaho (population 2,000). The land along the banks of the Snake River is a place that hasn't lost the feeling of the frontier.

But today, a new breed of pioneer has come to Idaho: innovative nurse-practitioners who do a great deal of what earlier generations might have described as "doctoring." Mary Carlson, R.N. 36, is one of these pioneers. She sees 18 to 20 patients a day at the Homedale Community Health Clinic. She takes histories, performs examinations, draws blood, orders laboratory tests and X-rays, makes house calls and, when appropriate, prescribes drugs. If patients need more extensive care, nurse Carlson consults with or refers patients to the physician who spends two full days and two afternoons at the clinic.

"To me, this seems like a natural extension of my clinical responsibilities," she explained. "I like it because I can be independent and still be a nurse. I worked for eight years as a general nurse in a hospital setting, and I was always following orders and doing what I was told. Here I make decisions on my own. Yet I don't see myself as competing with physicians, but as cooperating with them."

In the wide open spaces of the West, doctors and nurses are often so scarce that competition is hardly an issue. Homedale, a farming and ranching community about 50 miles west of Boise, lost its sole physician in 1971, when he moved his practice to the larger town of Marsing. The Homedale Clinic, one of four operated in the area by Community Health Clinics, Inc. (a) nonprofit organization supported by the Public Health Service and rural health agencies), opened that same year. It now provides health care to about 700 patients a month.

KNOWING THE LIMITS

"Our patients are remarkably diverse," said Ms. Carlson. "Some of them are lawyers. Some walk in wearing their farm overalls. Since there are quite a few retired farmers and ranchers, we have a large geriatric population. And there's a migrant camp a few miles away, so we see those workers too." The fees are on a sliding pay scale, based on a patient's ability to pay.

The health problems are as varied as the people who have them: colds, flus, allergies, rashes, gynecologic disorders, high blood pressure (hypertension), injuries, chronic illnesses. Prenatal exams, well-baby checkups and contraceptive needs are also attended to at the clinic. And Ms. Carlson handles most of these maladies on her own.

"I see anything and everything that walks in the door. We do have a physician here part of the time, but a good deal of his time is spent on the serious chronic problems of our geriatric patients. Usually the first time patients come in, they ask to see the doctor. I explain that I'm a nurse-practitioner and ask if I can help. In most cases, I can. Patient acceptance has been wonderful."

According to Idaho law, nurse-practitioners (who must complete a postgraduate program in addition to their basic nursing education) can prescribe from a limited formulary that includes antibiotics, contraceptives, antihistamines, decongestants, topical ointments, vaginal creams, and eye and ear medications (except those with steroids). They can give immunization shots and order diagnostic tests but cannot initiate treatment of a chronic disease, such as hypertension or epilepsy. Once a physician has prescribed an antihypertensive or anticonvulsant medication, they can prescribe them after seeing the patient.

Only three states allow nurse-practitioners to prescribe medicine, though more are expected to permit this in the future. But nearly all of the 18,000 to 20,000 nurse-practitioners in rural, urban, and suburban areas across the country share these duties with Carlson: giving physicals, helping patients to manage health problems (from arthritis to obesity), and educating their patients to possible health risks in their lives.

Depending on where they practice—in a clinic, a health maintenance organization (HMO), school, or even with a large industrial corporation—other duties vary. Nurse-practitioners with a specialty may concentrate on just a specific group, such as children or the elderly. In rural areas, their work is often more family-oriented.

"In some parts of the northwest, nurse-practitioners are the only health care professionals, and they have to get around on snowmobiles in the winter to see their patients. For them, the restrictions on medicines like heart drugs can cause serious problems. In my setting, I have ready access to a physician if I feel drug therapy should be started. And there are some drugs, such as tranquilizers and sleeping pills, that I wouldn't want to be able to prescribe. It makes it easier to deal with patients who might abuse them."

Ms. Carlson estimates that she refers four of the patients she sees in a day—about 20 percent—to the staff physician. "I know my limits. There are a lot of clinical problems I'm very confident in dealing with. A boy comes in with an ear infection. It's easy to diagnose, and there are established protocols for treatment with antibiotics. If the initial drug doesn't work, I switch to the next one. It's quite simple, but if I have any hesitation at all, the patient sees a physician or goes to the hospital."

A DOCTOR IN DISGUISE?

Aren't those decisions difficult to make? Not really, nurse Carlson explains. Her medical "instinct" helps. "I get a sense that maybe I'm missing something. I know Mrs. Jones' boy is really sick, and I want to make sure it's not meningitis."

For nurse Carlson, the expanded clinical responsibilities do not reflect a desire to be other than a nurse-practitioner or do anything else. "When I was a hospital nurse, people would ask me why I didn't go to medical school. Well, the fact is I don't want to be a doctor. I would never want to lose the qualities that come with nursing or to feel that my time was so important that I had to move fast and see as many patients as possible."

Spending extra time with patients is what makes her job so rewarding and her patients so receptive. "I do a lot of counseling. I'll talk about the simple everyday things a mother might do to make a sick child more comfortable. I'm trying to generate more interest in health maintenance. I talk about nutrition and exercise. A lot of our patients come here initially because they have an acute problem, like a bad cold or a rash, yet they don't want to drive for 20 to 30 minutes to go to the hospital in Marsing.

When they realize that they get quality health care, they come back." The nurse-practitioners provide the continuity many patients like. The physicians are recipients of National Health Scholarship Corps grants, working for two years to repay the aid they received in medical school.

The primary physician currently splitting his time between two community clinics is Tony B. Golden, M.D., one of six full-time physicians in the four-clinic system. "We work extremely well together," said Ms. Carlson. "Sometimes I'll examine the patient and call him in. Sometimes he'll call

me in because I've seen more people with a particular rash or whatever. Even if he doesn't see the patient, we talk about most of the cases. And every day one of the physicians reviews our charts. That sort of review is a strong part of our system, and I'm very careful to document why I'm prescribing a certain treatment or why I think a follow-up visit is necessary."

Ms. Carlson sees her share of emergencies, particularly on the one night a week and one weekend a month that she's on call. "The physician on call is usually in the hospital delivering babies or doing surgery. The nurse-practitioner makes the rounds of the three smaller clinics in what we call the 'outback' and evaluates the medical problems. Sometimes I make emergency house calls, and I've called for an ambulance and sent patients to the hospital because they were having a heart attack. In that sort of emergency situation, I can start treatment with oxygen and intravenous medications."

The ambulance service is entirely volunteer, staffed by local citizens, not trained paramedics. If a patient requires continuous treatment, nurse Carlson goes along in the ambulance for the 20- to 30-minute drive along a winding two-lane road. "There probably are some people alive today who wouldn't have been if not for us, simply because they would not have gotten medical care in time," she said.

Ms. Carlson's duties include administrative as well as clinical responsibilities. Like the nurse-practitioners at the other three clinics in the area, she serves as clinic manager, overseeing a staff made up of an X-ray technician, two licensed practical nurses, a receptionist, billing clerk, and a medical secretary. "I make sure that people get to work when they should and do the jobs they are supposed to do. I do the hiring and evaluating. Once a month I get together with the other nurse-practitioners and the clinics' administrator, and we review budgeting, costs, policy, those sorts of issues. Each clinic also has an advisory board elected from the community. That's how we get feed-back on whether we're meeting the needs of the local people." A half-day a week is devoted to continuing education programs for the physicians and nurses.

A WORKING MOTHER IN GOD'S COUNTRY

By some standards, nurse Carlson is still a newcomer to Idaho, where she moved four years ago, and to the West. She got her bachelor's degree in nursing from Florida State and worked for eight years before enrolling in the primary care nurse-practitioner program at the University of California, San Diego, in 1975. Her first job in her new role was with the Kaiser Permanente clinic in Woodland Hills, a community north of Los Angeles.

The personal adjustment to frontier living has at times been more difficult than the professional one. Ms. Carlson has a 15-year-old daughter and a 12-year-old son by her first husband. She recently remarried. "As a single parent, it was difficult because the area is very family-oriented. And my job is hard on my kids because I put in long hours. But the people are genuinely friendly, and we're just a few hours away from God's country—from Sun Valley and the most beautiful mountains I've ever seen. I wouldn't want to leave."

She has plans for expanding her practice, with more emphasis on house calls and patient education. "We have a lot of teenage mothers in the area. Some are Spanish, but most are Anglos. These girls are very nervous with tiny babies, and I think a home visit in the first two weeks after delivery could help them and their newborns. I'd also like to do more follow-up on our surgical patients. A lot of them make too much money to qualify for free home nursing but not enough to afford a private nurse. One widow walked to the clinic because she thought she was having a heart attack. By the time she got here (over a distance of more than a mile), she was too weak to open the door. Well, she's recovering quite nicely, but I'd really like to check on her at home to make sure she's getting the help she needs."

As she talks about her patients and her plans, nurse Carlson sounds like one of the most beloved figures in American folklore: the old-time country doc, calling on patients with his black bag and one-horse carriage. She laughs at the image but concedes that she does have much in common with health providers of an earlier time. Like them, she's there where and when her patients need her most. She handles a broad variety of medical problems in people of all ages, sizes, backgrounds, and needs. And beyond the clinical skills is something more: a quality of caring that is both timeless and priceless and that is far more than a matter of a degree, medical or nursing.

PRIVILEGE OF THE FLOOR

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the entire day: Wes Howard, Marge Baker, David Springer, Thom Hall, Jeanne Connelly, Roy Meyers, Doug Lowenstein, and David Starr.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TRIBUTE TO JOE SMITH

Mr. HEFLIN. Mr. President, on Monday, September 6, 1982, Alabama lost one of its most outstanding attorneys, when Joseph W. Smith, a longtime friend, tragically passed away. Joe worked his way through college, and did not stop that kind of extra exertion until the disease which robbed him of his eyesight in 1963 took his life at the age of 65.

Joe not only distinguished himself as a lawyer, but he also contributed greatly to the State in a civil capacity. As a State legislator for many years, he took a strong interest in education and attracted business to our fair State of Alabama, namely a papermill called Alabama Kraft Co. In 1959 he was recognized for his devoted service with the honor of Alabama's Legislator of the Year.

Born and raised in Phenix City, Joseph lost an eye to cancer during Army service in World War II. Yet despite this disability, and the further handicap of legal blindness some years later, Joe persevered in his legal career and his role as a conscientious citizen.

Joe served as chairman of the Russell County School Board for 10 years, working to upgrade the quality of education. During his tenure two new high schools were built. He also was on the president's cabinet at the University of Alabama.

Joe was also widely known and respected for his leadership as president of the Lions Club and director of the Boys' Club.

While juggling all of these interests and commitments, Joe also firmly established himself as a family man and a churchgoer. He met and married his wife, the former Lenora West Coghlan, while in the military, and he attended the First Methodist Church of Phenix City. He was also a prolific gardener. The Smiths' backyard is garlanded with flowers. His son remembers him as a gardener who "loved growing Tropicana roses best."

Joseph Smith's many accomplishments, together with his years of work in public service, and the high esteem in which he was held, serve as testimony that we have indeed lost a great American. He will be sorely missed by the Alabama legal and educational communities and by all who knew him well. The sadness of his passing is overshadowed only by the magnitude and noble nature of his accomplishments.

Mr. President, I ask unanimous consent to have printed in the RECORD a newspaper article and editorial from the Columbus Enquirer and an editorial from the Columbus Ledger.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Columbus Enquirer, Sept. 7, 1982]

PHENIX CITY LEGISLATOR SMITH DIES

(By Laura Betty)

A noted state legislator, a driving force in attracting industry to Russell County, a supporter of quality education—Joseph Wilson Smith died Monday at M. D. Anderson Hospital in Houston, Texas. He was 65.

Before the former Alabama legislator retired, he was, more than any other person, instrumental in paving the way for Alabama Kraft Co. paper mill to locate in Russell County. The plant offered some 400 jobs for county residents.

As a 10-year chairman of the Russell County Board of Education, Smith worked for the construction of the new Central and Girard high schools.

And, in 1959, the politically active and civic-minded Phenix City attorney was named Alabama's Legislator of the Year.

Mr. Smith was born Feb. 12, 1917, in old Girard, Ala., one of the 10 children of Butcher Ernest Clifford Smith and his wife, Essie.

He attended Central High School, graduating in 1936 and winning praise for his athletic abilities in football and basketball. He was a member of the first bi-city football team.

Smith's son, Joe W. Smith Jr. of Birmingham, said his father "worked his way through undergraduate and law school by working as a waiter at the University of Alabama dining hall. His first job was picking up litter on campus," he said.

At the university, Smith played an active role in student government and later was elected as president of the law school stu-

dent body. He was tapped for the national honorary leadership society, Omicron Delta Kappa, and was listed in Who's Who in American Colleges and Universities. He also was a member of Pi Kappa Alpha social fraternity, Phi Alpha Delta legal fraternity and Delta Kappa honorary fraternity.

Two weeks after completing college requirements for his bachelor's of law and letters in 1941, Smith was drafted into the Army to serve as a military policeman, emerging six years later as a major. During his military service, he met and married the former Lenora West Coghlan, who now serves as president of Phenix City's Riverfront Development Board.

The highly respected barrister became an Alabama senator in 1954, serving on the Senate's finance and taxation committee. Later, he gained a seat in the Alabama House, where he was one of former Gov. John Patterson's most effective floor leaders and was chairman of the Ways and Means Committee. He served again in the Senate from 1962 to 1966, when he retired.

His son said that he had lost one eye in the war and the other failed him about the time he was re-elected for senator. By 1963, he was legally blind.

"This ended his political career," the younger Smith said.

In 1959, the Alabama Press Corps elected him Outstanding Legislator and also the hardest working member of the legislature.

He was a former president of the Lions Club, a director of the Boy's Club and a director and a former president of the Phenix City-Russell County Chamber of Commerce. The Junior Chamber of Commerce in Phenix City elected him Outstanding Young Man of the Year in 1947.

Smith also served as director of Phenix-Girard Bank and as chairman of the Chattahoochee Valley Airport Commission. He was a member of the Alabama Education Commission from 1957-59 and served on the Phenix City Utility Board. At the time of his death, he was legal counsel for the Phenix City Industrial Development Board.

Smith was an active member of Phenix City's First Methodist Church. He served in the President's Cabinet at the University of Alabama, where he advised the president of the university on policy. He also was a member of the Association of the U.S. Army.

"He was a gardener and liked growing Tropicana roses best," his son said. "We had a whole back yard full of roses.

"He just really loved people," the younger Smith said.

Funeral arrangements will be announced by Striffler-Hamby Mortuary's Phenix City Chapel.

Survivors beside his wife and son include two daughters, Mrs. Jerry Murl Smith of Columbus, and Mrs. Norman W. Gregory of New Orleans; another son, Walter Clifford Smith II of Birmingham; four sisters, Mrs. Alton E. Martin, Mrs. Harry Hurst and Mrs. Lemuel Downing, all of Phenix City, and Mrs. Arthur G. Dahl of Woodruff, Wisc.; two brothers, Roy L. Smith Sr. of Phenix City, and Arthur J. Smith of Columbus; and two grandchildren.

The family requests that instead of flowers, contributions be made to the University of Alabama scholarship fund, care of 1st Alabama Bank of Phenix City.

[From the Columbus Enquirer, Sept. 8, 1982]

VALUED CITIZEN

Joseph W. Smith was a Phenix City-Russell County civic leader who was admired and respected by all who knew him.

Born in old Girard (now a part of Phenix City) in 1917, Smith worked his way through the University of Alabama. After receiving his law degree, he returned home and began a successful law practice.

But Joe Smith was not content with personal success. He quickly became involved in efforts to improve the community.

He served for 10 years as chairman of the Russell County school board, working to upgrade the quality of education. During this time the new Central and Girard high schools were built.

He was active in the Phenix City-Russell County Chamber of Commerce and the Phenix City Industrial Development Board and played a leading role in bringing the Alabama Kraft Co. to the county. The paper mill employs some 400 persons.

Smith represented Russell County in the State Legislature, serving in both the Senate and House. He was an effective floor leader for Gov. John Patterson, a fellow Phenix Citian, and in 1959 was named as Alabama's Legislator of the Year.

Among his other interests were the Boys Club, the Chattahoochee Valley Airport Commission and his church, Phenix City's First Methodist.

With Smith's death Monday, Phenix City and Russell County have lost one of their most distinguished citizens.

[From the Columbus Ledger, Sept. 8, 1982]

JOE SMITH'S PRODUCTIVE LIFE

Joseph W. Smith was a successful Phenix City lawyer who found time for a wide range of civic and professional activities.

At the time of his death Monday at 65, he was attorney for the Phenix City Industrial Development Board, was a member of the President's Cabinet at his alma mater, the University of Alabama, and was active in his church, Phenix City's First United Methodist.

He had had a distinguished career in the state legislature, being named Alabama's Legislator of the Year in 1959. He'd been a bank director, Chamber of Commerce president, Boy's Club director and Lions Club president. He belonged to the Association of the U.S. Army. He was an enthusiastic gardener, with a special love of growing roses.

Incredibly, Smith had been legally blind since 1963. His eye troubles started when he lost an eye to cancer during Army service in World War II, and grew progressively worse.

Many, perhaps most of us, would have seen blindness as a disability so crippling that we would have made no attempt to lead a normal life, much less to be contributing citizens.

Joe Smith had a different attitude. He loved his community and his state, and didn't regard his disability as any reason for not doing his best for both. The things he accomplished in his busy, productive life have made Phenix City and Alabama a better place to live.

STEVE MEANS AWARDED "CIRCLE OF SERVICE"

Mr. HEFLIN. Mr. President, it is a great honor for me to rise today to share with my colleagues a story about a great honor recently received by a fine Alabamian.

For the past several years, I have been honored to cosponsor, along with Senator DOLE and several other colleagues, resolutions proclaiming a National Circle K Week. This has been to recognize the efforts of Circle K International, the college affiliate of Kiwanis International.

In August, at their annual international convention, in Fort Worth, Tex., the more than 800 clubs and almost 15,000 members of Circle K awarded their highest honor, the Circle of Service Award, to Steve Means, the mayor of Gadsden, Ala.

The "Circle of Service" is given annually to the non-Circle K member who has made the most outstanding contribution to the ideals and purposes of Circle K. To understand the true significance of this award, it is important to have at least a brief understanding of Circle K.

Circle K International is the world's largest collegiate service and leadership development organization. This definition, however, as nice as it may sound, does not completely capture the true essence of the organization.

Circle K, and its members, have exceptionally high ideals of service. They are dedicated to identifying the needs of a campus or community, and, more importantly, working to satisfy those needs. They are deeply committed to making the world a better place, and tomorrow a better day, through personal service.

It is within this framework—together with the embellishments of Circle K's efforts on behalf of the Muscular Dystrophy Association and the Cystic Fibrosis Foundation, on behalf of local boys and girls clubs, working with orphanages and nursing homes and the Special Olympics program and so many other groups—it is within this framework that one can understand the significance of the Circle of Service Award.

This award recognizes the non-Circle K member who has made the most outstanding contribution to Circle K—as an adviser, a counselor, an example, a friend. There could have been no better choice this year than Steve Means.

Steve is, in all respects, an outstanding young man. He was just recently elected to his third term as mayor of Gadsden, one of Alabama's largest cities. When first elected in 1974, at the age of 28, he was the youngest mayor in the history of Gadsden, and certainly one of the youngest in the history of Alabama. In 1978 and again this year, the people of Gadsden have reelected him, each time with overwhelming percentages of the vote.

Steve has served Alabama in many capacities besides his mayoral one. He is chairman of the Legislative Commit-

tee of the Alabama League of Municipalities, a member of the Alabama Commission of Higher Education, a past chairman of the East Alabama Regional Planning Commission, and a past chairman of the Alabama Cancer Crusade. In 1976, he was named one of the four outstanding young men in Alabama.

Despite all these other involvements, one of Steve's major interests for years has been Circle K. He first became involved with Circle K while an undergraduate at Auburn University. In his years at Auburn, Steve went on to serve as president of the Auburn Circle K Club, treasurer and governor of the Alabama District of Circle K, and, finally, as a trustee of Circle K International.

After graduating from Auburn, Steve still refused to leave Circle K behind. He joined the Gadsden Kiwanis Club. Next, he was appointed by the governor of the Alabama Kiwanis District to serve as a zone chairman, or regional adviser, for Circle K.

Steve served in that capacity for a few years, and then was chosen to fill a vacancy in the position of district administrator. In this position, Steve was an adviser for the entire district and district board, and a liaison for Circle K with the Kiwanis District Board. During his almost 10 years as administrator, Steve gained a reputation throughout all of Circle K as being dedicated to the organization, and was chosen several times to serve as moderator of international workshops on how to be an effective district administrator.

As administrator, Steve was truly dedicated. He was a respected adviser, a trusted counselor, and a close friend to Circle K members and officers, and he certainly made a great impact on Circle K in Alabama.

About 2 years ago, Steve stepped down as administrator, in large part due to the ever-increasing demands of serving as mayor. Even then, he was persuaded to continue in the newly created position of assistant administrator. Steve is still a constant attendee at Circle K conferences, conventions, and board meetings. He is still deeply interested in the organization and its members.

Alabama has long had a fine Circle K district organization. One evidence of this is the fact that Alabama is the only Circle K district which has had three winners of the "Circle of Service." The two before Steve were Allan Hayse, an adviser to the Samford University Circle K Club, and the late Bob Palmer, and adviser to the Birmingham-Southern College Circle K.

Steve Means is certainly one of the major reasons Circle K has prospered in Alabama, and I know that Circle K International could not have made a finer choice to receive this year's "Circle of Service." As long as people like Steve are interested in, and involved with, college students and young people in our society, then I am certain that the future is in good hands.

NATIONAL RESPIRATORY THERAPY WEEK

Mr. HEFLIN. Mr. President, I would like to take this opportunity to express my sincere appreciation to the thousands of Americans who work to help those unfortunate people who suffer from various respiratory ailments, and to remind my distinguished colleagues that, during the upcoming recess, we will celebrate National Respiratory Therapy Week. This celebration will be during the week of November 7–13, 1982, as established by our approval of Senate Joint Resolution 193 earlier this year.

I was, indeed, very pleased to have the opportunity to cosponsor Senate Joint Resolution 193. This resolution pays tribute to the 80,000 respiratory therapy practitioners and the significant contributions they make to the ever-important field of health care.

Respiratory therapy practitioners are involved in the treatment, control, evaluation, and care of patients with serious deficiencies of the cardiopulmonary system. The field is a medical specialty encompassing the application of principles, methods, and procedures in areas ranging from diagnosis to research. Respiratory therapists deal with a variety of clinical conditions and diseases, including asthma, emphysema, chronic bronchitis, pneumonia, black and brown lung, trauma, drowning, infant respiratory distress syndrome, cystic fibrosis, and cardiac arrest. Recent technological advances have caused respiratory therapy to expand into the sophisticated areas of cardiac stress testing and monitoring.

As developments through the years have increased the scope, complexity, and demands of the profession, respiratory therapists have long been recognized among their professional peers as an integral and vital component of the health care profession. These practitioners provide necessary acute and chronic care services, 24 hours a day, 7 days a week, in primary, secondary, and long-term care facilities, as well as in the home.

In my home State of Alabama, we have long been blessed with excellent health care professionals and facilities. Our hospitals and medical schools have become among the best known in the world. An important part of the reason for this growing reputation has been the fine work done by the Alabama Society of Respiratory Therapy. This organization represents more than 2,000 respiratory therapy practitioners in Alabama, and both the organization and its members should be congratulated, and thanked, for their hard work, diligence, and dedication.

It is for these reasons that I thank each of my colleagues for supporting Senate Joint Resolution 193, and proclaiming a National Respiratory Therapy Week. National recognition for the field has been neglected for too long, and these important contributions are far too crucial for us to allow them to continue to go unnoticed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SYMMS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I am told that both sides have cleared for action at this time H.R. 5106, the so-called Tris bill. If there is no objection to that at this time, I would be prepared to ask that the Chair proceed to the consideration of that matter.

Could I ask the acting minority leader if that is agreeable?

Mr. METZENBAUM. On behalf of the minority leader, that has been cleared on this side.

Mr. BAKER. I thank the Senator.

CLAYTON ACT AMENDMENTS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 5106 and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5106) to amend the Clayton Act to modify the amount of damages payable to foreign states and instrumentalities of foreign states which sue for violations of the antitrust laws.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 1347

Mr. BAKER. Mr. President, I send an amendment to the desk on behalf of the distinguished President pro tempore, the chairman of the committee, Senator THURMOND, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) on behalf of Mr. THURMOND proposes an unprinted amendment numbered 1347.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. —. (a) the United States Claims Court shall have jurisdiction to hear, determine, and render judgment upon any claim for losses sustained by any producer, manufacturer, distributor, or retailer of children's sleepware, or by any producer, converter, manufacturer, distributor, or retailer of fabric, yarn, or fiber contained in or intended for use in children's sleepwear, (1) if those losses resulted from the actions taken by the Federal Government under the Federal Hazardous Substances Act on April 8, 1977, and thereafter relating to apparel, fabric, yarn, or fiber containing Tris (2,3-dibromopropyl) phosphate, and (2) if such children's sleepwear or such fabric, yarn, or fiber, as the case may be, at the time of its manufacture was subject to the requirements of or was subject to use in compliance with the mandatory Federal flammability standard FF3-71 or FF5-74.

(b)(1) In determining the validity of any claim under this Act and the amount of the losses sustained for which such a claim is brought, the court shall consider the following factors:

(A) The degree to which reasonable alternatives to Tris (2,3-dibromopropyl) phosphate existed at the time the Federal Government established the applicable mandatory Federal flammability standard referred to in subsection (a).

(B) Whether it would have been feasible or reasonable for the claimant to have tested Tris (2,3-dibromopropyl) phosphate for chronic hazards at the time the Federal Government established such flammability standard.

(C) The degree to which the Federal Government or other nationally known researchers tested Tris (2,3-dibromopropyl) phophate for toxicity or other health hazards and disseminated the results of those tests.

(D) The degree of good faith demonstrated by the claimant in seeking to comply fully with such Federal flammability standard.

(E) The extent to which a claimant may have relied in good faith upon assurances from suppliers that the products containing Tris (2,3-dibromopropyl) phosphate were safe.

(F) The degree to which the claimant acted reasonably in using Tris (2,3-dibromopropyl) phosphate.

(G) The degree to which the claimant, in good faith, complied with actions taken by the Federal Government upon the Federal Hazardous Substances Act on April 8, 1977.

(H) The degree to which the claimant, in good faith, complied with those provisons relating to exports contained in section 14 of the Federal Hazardous Substances Act and section 18 of the Consumer Product Safety Act.

(2) The court may not enter judgment in favor of a claimant under this Act, nor may the Attorney General agree to any settlement with a claimant under this Act, unless the claimant produces proof, to the satisfaction of the court or the Attorney General, as the case may be, that the claimant lawfully disposed of the apparel, fabric, yarn, or fiber with respect to which the claim was brought.

(3) In determining the amount of the losses for which a claim is brought under this Act, the amount of such losses shall not include lost profits, proceeds from distress sales, attorney's fees, or interest on any loss suffered by any producer, converter, manufacturer, distributor, or retailer of children's sleepwear, or by any producer or manufacturer of fabric, yarn, or fiber.

(c)(1) The measure of losses for any producer or manufacturer of children's sleepwear shall be the cost of producing or manufacturing the sleepwear garment, plus the cost of the fabric, yarn, or fiber used for such production or manufacture, or the cost of such sleepwear, fabric, yarn, or fiber held in stock on the date of the enactment of this Act, less the fair market value, if any, of the sleepwear garment or the fabric, yarn, or fiber. If such garment, fabric, yarn, or fiber was resold after April 8, 1977, but prior to such date of enactment, then the measure of losses shall be the cost of producing or manufacturing the sleepwear garment plus the cost of the fabric, yarn, or fiber, less the proceeds from any such sale.

(2) The measure of losses for any producer, converter, or manufacturer of fabric, yarn, or fiber shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber, plus the cost of the raw materials used for such production, converting, or manufacturing, or the cost of such fabric, yarn, or fiber held in stock on the date of the enactment of this Act, less the fair market value, if any, of the fabric, yarn, or fiber on such date. If the fabric, yarn, or fiber was resold after April 8, 1977, but prior to such date of enactment, then the measure of losses shall be the cost of producing, converting, or manufacturing the fabric, yarn, or fiber plus the cost of the raw materials used for such production, converting, or manufacturing, less the proceeds from any such sale.

(3) The measure of losses for any distribution or retailer shall be the distributor's or retailer's purchase price for the children's sleepwear, fabric, yarn, or fiber involved, less the fair market value, if any, of such sleepwear, fabric, yarn, or fiber, and less the amount of any reimbursement received for such sleepwear, fabric, yarn, or fiber.

(4) In addition to the losses determined under paragraphs (1), (2), and (3) of this subsection, a claimant may also be compensated for (A) unreimbursed costs of transportation paid for the return of the sleepwear garments, fabric, yarn, or fiber involved, and (B) unreimbursed costs of the lawful disposal of such garments, fabric, yarn, or fiber.

(d) No claim under this Act may be brought as a class action. No claim under this Act may be brought by two or more parties unless damages are claimed to be jointly recoverable or are disputed among the parties.

(e) Upon payment of any claim under this Act, whether or not such payment is the result of a court judgment or a settlement, the United States shall be subrogated to the claimant's rights to recover losses or to assert a claim against any person relating to the subject matter of such claim paid by the United States. The claimant shall take the necessary steps, as determined by the Attorney General, to secure such rights in the United States in order to be entitled to the entry of a judgment by the court or payment under this Act, and the failure of the claimant to take such steps shall constitute cause to deny the entry of such judgment or such payment. The failure of the claimant to take such steps shall not limit or adversely affect the right of the United States to act as subrogee or assignee to the full extent of its payments under this Act. Any purported limitation on the right of the United States to act as assignee or to become subrogated to the rights of a claimant shall be without any effect, to the extent that the United States has made payments under this Act.

(f) Any claim under this Act shall be barred unless commenced within two years after the date of the enactment of this Act.

(g) No person shall have any claim under this Act who, on or after June 14, 1978, (1) exported from the United States any apparel, fabric, yarn, or fiber containing Tris (2, 3-dibromopropyl) phosphate which was produced, converted, manufactured, or sold for use in the United States, or (2) transferred any apparel, fabric, yarn, or fiber described in clause (1) to another person with knowledge that such apparel, fabric, yarn, or fiber would be exported from the United States.

(h) Before payment is made on any claim under this Act, the Attorney General shall notify the Administrator of the Small Business Administration of the claim. The Administrator shall, after receipt of such notification, notify the Attorney General as soon as possible of—

(1) any unpaid loans made by the Small Business Administration under the Small Business Act, and

(2) other amounts owing to the Small Business Administration on account of loans made under the Small Business Act,

For the purpose of assisting the claimant on account of losses sustained as a result of the actions taken by the United States under the Federal Hazardous Substance Act on April 8, 1977, and thereafter relating to apparel, fabric, yarn, or fiber containing Tris (2, 3-dibromopropyl) phosphate. The Attorney General shall offset, from the amount of the payment on the claim under this Act, the amount of any such unpaid loans or other amounts owing to the Small Business Administration.

(i) Nothing in this Act shall be construed as an admission of fault or liability on behalf of the United States for any personal injury which may hereafter be claimed to arise from exposure to Tris (2, 3-dipromopropyl) phosphate.

Mr. METZENBAUM. Mr. President, would the chairman of the Judiciary Committee or the majority leader indicate if the amendment is the so-called Tris amendment?

Mr. THURMOND. That is correct. It is the Tris amendment. It has passed the Senate, I believe, four times and the House twice. The Subcommittee on the Judiciary in the House has approved it. It does not look like the full committee will get to it this year, so we thought we would attach it to this bill from the House and send it back so both could be passed.

Mr. METZENBAUM. And the distinguished chairman of the committee represents that that is all that is in the amendment and that is just the Tris amendment?

Mr. THURMOND. That is correct.

I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee (Mr. BAKER).

The amendment (UP No. 1347) was agreed to.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 5106) was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I thank all Senators and I thank the distinguished chairman of the committee.

Mr. THURMOND. Mr. President, I wish to express my appreciation to the able leader and the distinguished Senator from Ohio for their cooperation.

Mr. BAKER. Mr. President, I am told that the banking bill conference report is available. If the acting minority leader is prepared to proceed to that at this time, I am prepared on this side to call up the matter and yield the floor to the chairman of the committee.

Mr. METZENBAUM. Mr. President, we are.

NET WORTH GUARANTEE ACT—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 6267 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6267) to revitalize the housing industry by strengthening the financial stability of home mortgage lending institutions and insuring the availability of home mortgage loans, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. BAKER. Mr. President, would it be possible, might I ask the chairman of the committee and the distinguished ranking member, to have a time agreement on this conference report?

Mr. RIEGLE. Mr. President, I certainly see no reason why we cannot have one of modest duration.

Mr. BAKER. I thank the Senator.

Mr. GARN. Mr. President, I would be agreeable to a time agreement of a short nature.

Mr. BAKER. Mr. President, I ask unanimous consent that there be a time limitation for debate on this measure of 20 minutes, to be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the conferees from the Senate and House Banking Committees met yesterday. And, I might add, at the highest level of cooperation I have seen since I have been in the Senate, not only from Senator RIEGLE on the Senate side but from Chairman ST GERMAIN from the House and the ranking minority member, BILL STANTON.

In a relatively brief period of time, on some very, very complex issues that have been worked on for more than a year, we were able to come together yesterday and produce a conference report.

The conferees recognize that the depository institutions, particularly the thrift industry, are in an ever-increasing competitive framework in the financial industry as a whole.

The conference report essentially is in major part the Senate bill. The major provisions of the Senate bill that was passed last Friday have been incorporated in the conference report and the changes that were made in conference yesterday were minor.

The partial capital assistance program of the Senate was accepted over the net worth guarantee approach suggested by the House. The program will be funded from the resources of the Federal insurance agencies and not the U.S. Treasury. Thus a major difference in the Senate approach is the capital assistance program for thrift institutions plus the provision of new asset powers so that Federal thrifts may remain profitable in a volatile marketplace and continue to provide residential financing.

All depository institutions, both banks and savings and loans, will be provided with a new deposit instrument which will be directly equivalent to and competitive with money market funds. This is a major feature of the bill.

I would add that in the mandatory new deposit instrument for depository institutions, the conferees intended that the minimum shall be no more than $5,000 and that each month three checks or drafts to third parties, as well as three preauthorized or automatic transfers, would be permitted without subjecting the account to transaction reserves.

This new account will truly be the equivalent of, and directly competitive with, money market funds, as the Banking Committee intended. Commercial banks are provided additional bank service corporation powers which enhance their competitive position. Credit unions will be more able to effectively serve the needs of their members. Unnecessary and costly regulations on all depository institutions are being removed.

Two years ago few thought such a bill as this would be possible. The Senate did recede to the House on some issues which improved the bill. But, again, the bill accepted by the conferees is generally the Senate bill as passed on September 24.

Mr. President, I wish to clarify one other issue. We had months of negotiations on a lot of issues. But one issue was particularly emotional and difficult, the issue of resolving the due-on-sale controversy. Finally, eight different trade associations, including the homebuilders, realtors, ABA, and U.S. Savings and Loan League, agreed to a due-on-sale compromise, put it in writing and a memorandum and signed it. We thought we resolved a great difficulty in the bill, and we did at that time, and we have.

But, in looking at the report after it was all completed—and I want to repeat this is not in the statutory language, not in the report language, but in a footnote of legal terminology, containing legal background supplied by the Library of Congress—the footnote discussed a number of States, including my own, where State legislatures had passed laws concerning due-on-sale.

And it discussed this background purely in a legal sense. The bottom line of that footnote is: "The highest court in those States could be the final arbiter of the impact of those laws."

Now, I stress "could be." What has happened, at least in my humble opinion, is here we have some high paid general counsel on both sides of this argument who are trying to make something out of nothing. Because whether it says it in a footnote or not, certainly any court could make a decision on anything that comes before them.

The Supreme Court could make and has made a decision on due on sale. The State supreme court in Utah could make a decision on this issue.

Of course they can. That is not just implied. That is the right of courts, to make decisions. That is all it says.

So we created a rather large flap because it says, "The highest courts in the States could be the final arbiter of the impact of those laws."

Certainly, it was not the intent of the Senate Banking Committee or the Senate to take sides by trying to find what the window period in this particular compromise was for a particular State.

So I want to put into the RECORD a statement indicating what my intention was and again state that it was not the intent of the legislation to define the window period in any given State. As noted in the committee report, determination of the date which triggers the beginning of the window period could be, in some instances, ultimately decided by State courts construing State constitutional provisions, statutes, and State judicial decisions, or Federal courts construing State constitutional provisions, statutes, and judicial decisions.

Again, that says that the committee is neutral. We are not going into States and taking one side or the other. Statutory language is just what was agreed to. No changes. The report language does not say anything else.

The reason I am repeating this over and over again is that somebody reading the footnote will not miss it. The committee intended to remain neutral. The committee is neutral. The Senate intended to remain neutral. The Senate is neutral.

Of course State courts could make a decision. Any attorney in this country should recognize that. Some of them undoubtedly will go to court, but we are not taking a side.

I hope I have been understood as plainly as it is possible to be on the intention of staying neutral, and that I do not feel that this footnote means anything except to some attorneys who are trying to make their living by supplying their employers with bits and pieces of nonsensical information.

Mr. President, I have one further clarification of this section.

Section 341(c) requires borrowers that are assuming window period loans to meet customary credit standards. As in the rest of subsection (c), it is the intent of this provision to continue State practices concerning credit approval processes for the assumption of window period loans.

Mr. President, I have nothing further to say other than I once again want to thank my distinguished colleague from Michigan for the inordinate amount of help and time he has put in in the last couple of months since he became ranking minority member of the Banking Committee, helping me put this legislation together and to make it possible to go to a conference with the House and produce a final report before we adjourn.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, I yield myself whatever time I may consume.

I want to thank the chairman, Senator GARN, for his very generous comments, and to again recognize and commend him as the chairman of our committee for his most effective leadership in guiding this legislation to final passage. He has worked tirelessly with all Members on both sides of the aisle to successfully wrap up this legislation which is vital to the depository institutions of our country.

The critical situation facing the savings and loan industry is well known. More than 1,000 savings and loan associations in the country have insufficient net worth to survive the next 2 years at their current loss rate.

High interest rates and the depressed state of the economy are also adversely affecting commercial and mutual savings banks as well as credit unions and all other financial depository institutions.

The purpose of this legislation, the Depository Institutions Amendments of 1982, is to expand the authority of the bank regulators to assist these troubled depository institutions through broadened merger options and financial aid.

I consider passage of this legislation to be extremely important not only for the preservation of our current financial depository institutions, but also for the maintenance of specialized depository institutions.

In addition to expanding the authority of the regulators to assist troubled institutions, S. 2879 directs the Depository Institutions Deregualtion Committee to adopt a new deposit instrument that is directly equivalent to and competitive with accounts offered by money market mutual funds.

This new instrument is intended to correct the competitive imbalance that has arisen between regulated and unregulated financial institutions.

Mr. President this legislation brings much needed modification to our banking laws and should be adopted without delay.

I would only make a concluding comment to again acknowledge the exceptional work done by the members of the professional staff on the minority side and on the majority side.

As the chairman has said, it has been very difficult to find a balanced package that has the support of a number of competing financial institution sectors. I believe we have accomplished this with this legislation. It is vital that it go forward. I would hope that the Senate would express itself forcefully in behalf of this legislation today.

I yield the floor.

SECTION 411

Mr. CRANSTON. Mr. President, I note that real estate investment trusts are added for the first time to the list of affiliates, whose transactions with member banks are subject to regulation by the Federal Reserve Board.

I also note that under subsection (e)(2), the Fed is given discretion to "exempt transactions or relationships from the requirements of this section if it finds such exemptions to be in the public interest and consistent with the purposes of this section."

It has also been brought to my attention that there are only four REIT's that have advisory agreements with companies that are member banks or subsidiaries of member banks. Coincidentally, each of these REIT's has offices and investment interests in California.

The REIT industry has recently taken a number of steps to insure a large measure of independence between the member bank or subsidiary and its adviser. In fact, two-thirds of the trustees of each of the four REIT's in question are independent, having no relationship with the adviser company or its affiliates.

I would therefore ask whether the Federal Reserve might be expected to take these and other pertinent facts into account in determining whether to subject transactions between REIT's and the institutions they advise to regulation under section 23A.

Mr. GARN. I would say to the gentleman that while the Federal Reserve will be authorized to regulate transactions between REIT's and the member banks and subsidiaries they advise, the Fed may indeed determine that the manner in which the relationship has been constructed justifies an exemption under subsection (e)(2). Such a determination, at the discretion of the Fed, would involve a judgment as to the degree of independence and an evaluation of other factors bearing on the appropriateness of an exemption. I assure the gentleman that such an exercise of discretion is fully within the contemplation of subsection (e)(2).

Mr. GLENN. Mr. President, I want to express my appreciation to the conferees on the banking bill for incorporating in the compromise a well-designed provision that I believe improves the fairness of this bill and helps to insure stability for all depository institutions. I am thankful that the Senate conferees, as I had asked them to do, not only gave careful consideration to the status of thrift institutions insured under State law, but agreed to a provision that will make capital assistance available to these institutions.

Although concentrated in a handful of States, these institutions represent a significant number of people. Overall, they number about 560 and have total deposits of about $22 billion from some 6.5 million depositors. I believe that the conference committee's provision, requiring the State funds to indemnify the Federal deposit insurance agencies for any losses which may occur as the result of providing capital

assistance to State-insured institutions, and requiring comparable premiums to be charged, is a fair approach to making sure that State-insured thrifts and their depositors are not put at a disadvantage under this legislation. I believe this provision materially improves the bill.

Mr. RIEGLE. Is there anything in this legislation that will change the long-standing policy of the Board of Governors of the Federal Reserve System regarding purchases of or participation in loans originated by an affiliate where the purchasing or participating affiliate has made a prior independent credit analysis?

Mr. GARN. No; there is nothing in this legislation which would change or cause the Board to change its ruling as set forth in 12 CFR 250.250, and related rulings, stating that such purchases or participations are not restricted.

The PRESIDING OFFICER. Who yields time?

Mr. GARN. Mr. President, I know of no others who wish to speak on the bill. I ask unanimous consent that the conference report be printed in full as a Senate report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Do Senators yield back their time?

Mr. RIEGLE. Having no additional requests for time, I yield back the remainder of my time.

Mr. GARN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOB TRAINING PARTNERSHIP ACT—CONFERENCE REPORT

Mr. BAKER. Mr. President, the Senator from Massachusetts and the Senator from Indiana are the principals involved in the management of the conference report on the Job Training Partnership Act. I wonder if the manager of the conference report, Senator QUAYLE, and the minority manager, Senator KENNEDY, are prepared to proceed to the consideration of that item at this time.

Mr. KENNEDY. I certainly am. I welcome the opportunity to join the Senator from Indiana in urging that the Senate proceed rapidly to favorable consideration of this legislation.

Mr. BAKER. I thank the Senator. I am grateful for his cooperation and good work on this measure.

Is the Senator from Indiana ready to proceed?

Mr. QUAYLE. I am ready to proceed.

Mr. BAKER. Mr. President, I also inquire of the two managers if they would be agreeable to a time limitation of 30 minutes, equally dividied, on the conference report.

Mr. QUAYLE. I am agreeable to that.

Mr. KENNEDY. I am. I do not think there is any opposition, so it would mean an early vote. I hope we will be able to get a vote on this measure.

Mr. BAKER. Mr. President, I ask unanimous consent when the conference report on S. 2036, the Job Training Partnership Act, is laid before the Senate, there be a limitation of 30 minutes of debate, equally divided, with control of the time to be in the usual manner.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I submit a report of the committee of conference on S. 2036 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2036) to provide for a job training program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 28, 1982.)

Mr. BAKER. Mr. President, do I correctly understand that the two managers would like to have a rollcall vote?

Mr. KENNEDY. The majority leader is correct. It has been indicated that we would vote on certain treaties, and if it is the judgment of the leaders to place this after that vote, I would not object.

Mr. BAKER. I will be happy to do that, if it is suitable to the Senator from Indiana.

Mr. QUAYLE. It is agreeable.

Mr. BAKER. Mr. President, I ask unanimous consent that if a rollcall vote is ordered on this measure, it occur immediately after the executive session votes ordered last evening, without intervening debate, motion, point of order, or other proceedings.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. I thank the Senator from Indiana and the Senator from Massachusetts.

Mr. QUAYLE. Mr. President, I am pleased to urge the Senate to adopt the conference report on the Job Training Partnership Act.

I should like to pay my respects and compliments to a number of Senators who have been very much involved in the making of this legislation.

First, I thank Senator Kennedy, who was an original cosponsor in the drafting of S. 2036. His background in job training and in other pieces of legislation provided great insight and direction as to how this new comprehensive bipartisan Job Training Partnership Act should work. His efforts were extraordinary. Not only do I commend him, but also, I respect him for his talents and dedication to making sure that this bill moved along in a proper, functional manner.

Also, Mr. President, I pay special attention to the other two original cosponsors, Senator HAWKINS and Senator PELL.

I wish to say a word about Senator HAWKINS. Many times she was in the thick of the debate, supporting what we were doing. Though at times there were disagreements, every time she put the idea forward to help the young people to get a job training program, and she was one Senator who really provided words of encouragement and support as this legislation traversed its legislative process.

Finally, Mr. President, as to another cosponsor, I pay special tribute to the chairman of the committee, Senator HATCH. I may be speaking a little bit out of school on this, but I wish to share with my colleagues how the chairman was involved in promoting this legislation because he told me from the outset, "Do not worry. When we get going along I am going to bring the parties together to make sure that this legislation is finally passed."

I can assure you, Mr. President, that every step of the way Chairman HATCH was there bringing the parties together, and believe me there were diverse parties and opinions at times. There were disagreements not only in the conference but there were disagreements within the Senate, and he was there trying to work out the differences. I am delighted to report that those differences have been worked out, and the resulting compromises are

embodied in this Job Training Partnership Act.

Mr. President, this legislation involves the private sector initiative in partnership with the public sector. It has a role for the Governor. It enhances the opportunities for training. There is provision for summer jobs, but this is primarily a training bill. It is not emphasizing supportive services, but supportive services that are essential to training are provided in this bill. They are flexible. The decisionmaking will be made at the local level of government with the private industrial council in conjunction with the mayors and other locally elected officials. This is a bill that will provide hope and opportunity for job employment and job development for not only the people who are unemployed but the young people who are just coming out of school who want to seek new skills.

We are certainly in a transition in this country, a fundamental transition dealing with the dislocated workers. I pay particular attention to that section of the bill because it is a new feature of this bill. The new feature of the bill is that we will have for the first time a section on dislocated workers.

A dislocated worker is a person who is identified as having no real chance of regaining his or her place of employment.

This dislocated worker program will obviously go to those States and those areas that are having a high rate of unemployment, and to those people who do not have a chance to go back to work, even if general economic recovery comes. Even if recovery comes in the auto industry or steel industry, there are still going to be thousands of individuals who are not going to be going back to their original place of employment. These people certainly need to have the training and opportunity that this legislation provides.

This was a long and difficult conference because of the difference in philosophy between the Senate and the House conferees and I want to pay tribute to the House conferees particularly Subcommittee Chairman HAWKINS and Full Committee Chairman PERKINS and the ranking minority members, Mr. ERLENBORN and Mr. JEFFORDS, who at all times spared no effort to reach a compromise agreement that would be acceptable to both sides.

When the job training bill came to the Senate floor in July, I emphasized that new job training legislation must be based on four basic principles which I consider to be essential for any successful job training program. I am pleased to announce that the conference report retains all of these principles. These principles as I stated them in the Senate floor debate were as follows:

First, new legislation must provide for the involvement of the private sector in the design and administration of the training programs. The conference agreement preserves that role for the private industry council operating in partnership with the local government.

Second, job training legislation must recognize the true principles of federalism. Again the new legislation follows that principle in giving the Governor's approval authority over local plans as well as basic fiscal and monetary controls over these programs.

Third, I said the job training legislation must truly be a training program and not an income maintenance program. Again the conference agreement comports with this principle by providing that 70 percent of all expenditures be for training and the remainder for supportive services and administration. This limitation is subject to certain exceptions which I will describe.

Fourth, I stated that the legislation must insist on performance. This principle also is contained in the conference agreement.

As I indicated above, the conference agreement is consistent with all of the fundamental principles on which the Senate bill was based. Let me now describe the major compromises that were reached between the House and Senate conferees.

First. With respect to the relationship between private industry and local government the conference agreed to provide for a true partnership between business and local government. That partnership was recommended by every business witness that appeared before our committee in its rather extensive hearings. The conference agreement does not spell out the details of how that partnership is to work at the local level, but instead leaves much discretion to local decisionmaking.

The important fact, however, is that the PIC is given a basic role in determining policy and providing oversight for job-training programs in the area. We intend a function for the PIC that will attract the major business executives in the area, and that mandatory role is its role in policy formulation and oversight. In addition we provide that the PIC shall negotiate with the local government on the details on how the partnership is to be implemented, that is, the PIC and the local government will work out an agreement on how the local plan is to be developed, either by the PIC, the local government, or any manner consistent with the PIC's the local government, or any manner consistent with the PIC's agreement. Similarly the bill does not specify who will administer programs in the local area. Again the entity to administer the program will be determined jointly by the PIC and the local government and presumably these arrangements will vary depending on the administrative capacity of the local government, the PIC, or other alternative administrative possibilities in the area.

The second major item of compromise in the bill concerns the role of the Governor. The basic structure of the Senate bill was retained in that the Governor is the grant recipient and the Governor approves local plans. However, the conference agreement somewhat restricts the discretion of the Governor in plan approval because it sets forth specific criteria for disapproval of local plans by the Governor and provides that such disapproval may be appealed to the Secretary.

Perhaps the most difficult area of the conference was the resolution of questions concerning the relationship between expenses for training and expenses for support services and necessary cash payments. The compromise retains the basic structure of the Senate bill, requiring that 70 percent of the funds must be used for training and limiting other expenses to 30 percent. However, it provides limited authority for the local plan to permit costs in addition to the 30-percent limitation where it is determined necessary. It is important to emphasize that a request for such additions above the 30 percent must be initiated by the PIC, then it must be agreed to between the PIC and the local government so that it may be included in the plan and last the requirements for this waiver are strictly limited to specified conditions.

No conference agreement is exactly what either House wanted. But I believe that the compromises that we have made are reasonable and entirely consistent with the basic principles on which the Senate-passed bill was passed. I believe the Senate conferees have reached a fair and equitable compromise with the House conferees, a compromise that is consistent with the principles which I have been urging for job training programs for the year and a half that I have spent developing this bill. I am particularly pleased that the terms of the compromise have been so solidly endorsed by the President.

Finally, Mr. President, I must commend and give my thanks to the staff who worked so diligently on this legislation. Bob Guttman, Diann Howland, Vi Thompson, Renee Coe, and Mary Sharp of my own staff were outstanding. I want to pay a particular tribute to Bob Guttman, without whom there would be no Job Training Partnership Act today.

I also thank staff members Kris Iverson, Robin Rushton, David Starr, and Kitty Higgins for their help.

The PRESIDING OFFICER. Who yields time?

Mr. QUAYLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator wish the time charged equally?

Mr. QUAYLE. I ask unanimous consent that the time not be charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I thank the Senator from Indiana for his very kind and generous remarks about my involvement in the development and shaping of this legislation. I welcome the opportunity to work with Senator QUAYLE in this important area of job training and the other provisions of this legislation. And I have found in endeavor the Senator from Indiana to be open to ideas and suggestions and that he has been tireless in attempting to try and find ways so that those of us who might have approached this in a somewhat different way could get behind legislation which can realy make an important difference in providing needed skills to many young people in this country so that hopefully when the job opportunities do become available they will be able to find gainful employment.

I point out at this time, Mr. President, and I think the Senator from Indiana has been entirely too reluctant to do so, this legislation would not be before the Senate if it had not been for the efforts and the energies of the Senator from Indiana. The administration was strongly opposed to this type of a program and resisted the efforts that had been developed in the committee to move this whole process forward in a timely fashion. I think we are very fortunate and lucky, quite frankly, to have been able to get this legislation passed in the final hours really of this session, and if it had not been for the persistence of the Senator from Indiana it would not have been the case.

I can remember very well a little over a year ago when the administration decided to abandon the whole concept of youth training. At that time he made sure that the legislation needed to continue these programs was passed. In preparing for the debate on job training legislation. The Senator from Indiana took his subcommittee on the road and traveled across this country and developed a very important record on the need for this program.

He also recognized that a number of us have been interested in job training and youth training over the period of years, and he worked with us to fashion the legislation now before the Senate.

So I think that this legislation as much as any that has come out of our Labor and Human Resources Committee has been really the result of the tireless efforts of the Senator from Indiana, and I say that very sincerely because I think there are going to be hundreds of thousands, perhaps millions, of young people who will be helped who otherwise would have been denied that opportunity if it had not been for his very effective work.

I am pleased to join with my colleagues on the other side of the aisle in asking that the Senate support the bipartisan Job Training Partnership Act. This legislation is urgently needed to train and retrain millions of unemployed and disadvantaged workers in our country.

The conference agreement retains the major principles of the Quayle-Kennedy bill adopted unanimously by the Senate on July 1. A new partnership is created between Washington, States, local governments and private industry. The unemployed will be trained for permanent jobs in the private sector.

We have heard a lot about the jobs advertised in the want ads. The vast majority of those positions can be filled only by people with skills—in areas such as computer programing, health care, the secretarial field, and the service industries. In spite of double-digit unemployment, the demand is high today and will be even greater in the future for workers skilled enough to fill them.

We have learned from past experience. We know that training the disadvantaged is a good investment. It makes taxpayers out of tax users. It raises the Nation's productivity. It is the best kind of supply side economics, because it is not just investment in tools and robots, but investment in human capital, too.

We also know that there is no payoff in training workers for jobs that do not exist. That is where business will make its contribution. CEO's will work with local officials and community groups to plan this program. They will help decide what jobs to train for, and they will design the training for those jobs. In return, they will reap the benefit of qualified employees whom business all too often cannot find today.

Governors will be asked to do more. It will be their task to see that public funds are spent effectively so that workers are trained and placed in productive jobs. Mayors will be on the firing line as well, insuring that no citizen in their communities are left behind.

This legislation also builds on the concept of performance standards included in the youth training legislation I introduced in 1980.

Performance in this new program will also be measured. The rules will be clear and all who participate will be required to follow them. Good programs will be rewarded with increased funding, and bad ones will get their own layoff slips.

Finally, let me say that I am pleased to finally have the President's support for this job training bill. But I would challenge the President's claim that Congress has dragged its feet on job training. The record clearly shows that the administration slowed this legislation down at A number of turns by forcing cancellation of key hearings and committee markups.

I am submitting for the RECORD, a chronology of the most important dates during the course of this legislation which is intended to set the record straight.

I also submit for the RECORD a comparison of the administration bill, the House and Senate bills and the conference agreement. As this chart indicates the bi-partisan conference agreement is a long way from the administration's proposal on a number of critical issues:

Funding for job training is at $3.7 billion not the $2.4 billion in the President's budget.

Job Corps funding is nearly doubled.

The summer jobs program will be continued.

Mayors will be full partners with business in running these programs.

The Older Americans program is continued.

A new program for displaced workers has been established.

This training program is new—but it is not the New Federalism. It is not a turnback program for the States. And it is certainly not a turn-your-back program for the poor, the hungry, and the unemployed. In this legislation, we reaffirm our Nation's free enterprise system by establishing a new national commitment to work and to the men and women who perform it.

Mr. President, I ask unanimous consent to have printed in the RECORD the chronology and comparison to which I have made reference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF KEY PROVISIONS IN JOB TRAINING BILLS

Issue	Administration bill	Quayle/Kennedy bill	Hawkins/Jeffords bill	Conference agreement
Use of funds (70–30)	70 percent for training; 30 percent for administration and supportive services; prohibits wages and allowances.	Same as administration	70 percent for training including work experience and support services; 30 percent for administration and allowances.	70 percent for training including 50 percent of wages for work experience. 30 percent for administration, support services, and allowances with a waiver of excess costs if justified.
Job Corps	$387,000,000	$537,000,000	$650,000,000	$618,000,000.
Older Americans community employment program (title IV).	Repeal authorization; Secretary's discretion	Retain	Retain	Retain.
WIN program	do	do	do	Do.
Authorization	4 yr	Permanent	Permanent	Permanent
Funding level	$2,400,000,000	$3,900,000,000 [1]	$5,400,000,000 [1]	$3,700,000,000. [2]
Size of local delivery area	500,000 single jurisdictions	500,000 single jurisdictions; 250,000 if agreement with PIC.	150,000 single jurisdictions and consortia	200,000 single jurisdictions and consortia.
funding levels for local areas	Governor decides	Determined by formula	Determined by formula	Determined by formula
Appointment of PIC members	Governor	Local elected official	Local elected official	Local elected official.
Role of local government	None	Appoints PIC approves plan developed by PIC	Appoints PIC develops plan with approval of PIC.	Appoints PIC develops agreement with PIC on planning and administration of programs.
Role of Governor	Determine local areas and local funding, appoint local PICS, approve and monitor local plans.	Plan approval and oversight of local programs	Statewide coordination.	Plan approval, oversight, and statewide coordination.
Eligible participants	Welfare recipients and dropouts	Economically disadvantaged with 50 percent of funds for youth under 25.	Economically disadvantaged with 50 percent funds for youth under 22.	Economically disadvantaged with 40 percent of funds for youth under 22.
Displaced workers	Secretary's discretion. No separate program	Separate authorization	Separate authorization	Separate authorization.
Summer jobs	No program	Separate title	Eligible activity	Do.

[1] As originally introduced.
[2] First budget resolution.

CHRONOLOGY OF JOB TRAINING LEGISLATION

Date	Bill	Action taken
Dec. 15, 1981		Senator Quayle, Senator Kennedy, Congressman Hawkins, and Congressman Jeffords meet and agree to move bipartisan bills to replace CETA which expires Sept. 30, 1982, and agree to hold joint hearings to expedite the process.
Jan. 25, 1982	H.R. 5320	Congressman Hawkins introduces bill in House.
Feb. 2	S. 2036	Senators Quayle and Kennedy introduce bipartisan bill in Senate.
Feb. 4	H.R. 5461	Congressman Jeffords introduces his bill in House.
Feb. 22–26	S. 2036/H.R. 5320 and H.R. 5461	Joint hearings first scheduled. Postponed at administration's request since their bill not ready.
Mar. 9	S. 2184	Administration's bill introduced by Senators Hatch and Quayle but not introduced in House.
Mar. 15, 16, 17, and 18	All bills	Joint hearings held.
Mar. 25	S. 2036	Subcommittee markup scheduled but canceled at administration's request.
Mar. 30	S. 2036	Subcommittee markup rescheduled but cancelled by Senator Quayle.
Apr. 1	H.R. 5320	Subcommittee markup. Bipartisan bill reported to full committee in House.
Apr. 20	S. 2036	Secretary Donovan sends letter to Senators Hatch and Quayle opposing the bipartisan Quayle/Kennedy bill.
Apr. 22	S. 2036	Subcommittee markup. Bipartisan bill reported to full committee in Senate.
May 17	H.R. 5320	Full committee markup. Bipartisan bill reported to House floor.
May 26	S. 2036	Full committee markup. OMB sends letter to Senator Hatch outlining the administration's amendments that must be accepted in order to support the bill. Bipartisan bill reported to Senate floor with administration amendment.
July 1	S. 2036	Bipartisan bill passed by Senate 95 to 0.
Aug. 1	H.R. 5320	Bipartisan bill passed by House 356 to 52.
Aug. 12		Conferees appointed.
Aug. 16–Sept. 22		Conferees meet eight times. Agreement reached on Sept. 22.
Sept. 21		President Reagan announces his support for the bipartisan conference agreement.
Sept. 29		Final passage of bill in both Houses.

Mr. KENNEDY. Mr. President, I think there are important provisions in this legislation.

I do think that there are some extremely important areas of public policy and I welcome the fact that the Senate is going to pass this overwhelmingly.

I sit on the Joint Economic Committee, and at the beginning of each month we hear the reports on unemployment in this country. The news has not been good. Next Friday, the most recent statistics will be available and we are likely to get more bad news. The most troubling aspect of these statistics is that they mean the denial of real hope and opportunity to millions of young people in this Nation.

I think all of us have witnessed those within the administration who oppose any training, and hold up at press conferences newspapers and point out the list of want ads in the newspapers and say, "If young people are ambitious enough, resourceful enough, they can find positions in our society."

That is basically hogwash, Mr. President, as anyone who will take the time to read through those want ads will find out. There are jobs in those want ads, but only those with skills can qualify. That is what this bill is about. Trying to provide the unemployed with those skills so that they can fill what jobs are available. Hopefully, if we get a reversal of economic policy there will be new and additional opportunities for young people.

This bill also has important performance standards which have not previously been part of our training programs. I think that is an important improvement in this legislation.

We are building on the private sector, and I think that is an important improvement.

We have been able to retain in this program, Mr. President, the Job Corps, the summer jobs program, the Older Americans program, and a new program for displaced workers.

I think we have worked out in the developments of the relationship between the Governors and the mayors and the private sector a delicate balance, but one that can result in a strengthened job-training program, and that is why this legislation is called the Job Training Partnership Act.

So, Mr. President, I urge the Senate to accept this legislation. I commend my colleagues and all those who have worked on it, and I thank the staff members, particularly Bob Guttman, Rene Coe, and Mary Sharp, of the Senator from Indiana, as well as my own staff, Kitty Higgins, Susan Simb, Annie Jones, and La Verne Walker. They have worked very hard and have made a very substantial contribution to the success of this legislation, and I look forward to its passage and implementation.

(By request of Mr. KENNEDY, the following statement was ordered to be printed in the RECORD:)

● Mr. HATCH. Mr. President, the conference report now before the Senate represents a significant legislative achievement. It is significant in two ways. First, and most important to our constituents, is the fact that we have totally overhauled the system for delivering training services to the economically disadvantaged and those who have barriers to employment. We have effectively learned from our experiences with CETA, the good and

the bad, and have passed legislation which will bring responsibility for the planning and implementation of a performance-based training program to a private sector-local government partnership. Second, we have demonstrated a true partnership with the House of Representatives and with the executive branch. Historians will write that political partisanship was set aside in the effort to construct a meaningful compromise bill which would effectively benefit those in our country who need job training. I would like to express my deep appreciation to Congressmen CARL PERKINS and AUGUSTUS HAWKINS, chairmen of the House Education and Labor Committee and Employment Opportunities Subcommittee and to JOHN ERLENBORN and JAMES JEFFORDS, the full committee and subcommittee ranking members, for their willingness to compromise and for their dedication to enacting this key legislation.

I would also like to state publicly my sincere thanks to the officials of the Reagan administration who have helped develop the fundamental reforms contained in the bill. Many people from the Department of Labor and the Office of Management and Budget participated throughout the process of this legislation, and without whose input we may well have reinvented the wheel.

Let me state for the record some of the really important concepts we have incorporated into this bill. First, we have established some clear priorities for the expenditure of public funds under this program. At least 70 percent of the funds appropriated for this program must be spent directly for training. Administration, wages, allowances, and supportive services should not exceed 30 percent of the funds available. Recognizing, however, that some service delivery areas will be unable to adequately serve those who could most benefit from training with this limitation due to the economic conditions in the area, the conference report provides that a waiver will be granted if the Private Industry Council requests it and that request and the justifications for it are included in the job training plan. It should be said, however, that above all, this is a training bill, not a substitute measure providing additional income maintenance or imaginary jobs.

Second, we have created a true partnership between private industry and local governments. The Private Industry Council (PIC), of which at least a majority will be private business and industry representatives, will lend the service delivery area its expertise in the policymaking and planning process. The PIC, together with the chief local elected officials, will work to establish the best possible job training plan for that area's citizens.

Third, this system will not be judged on the basis of how forms are filed. This job training program will be evaluated on results. The conference report sets out two primary goals, earnings gains and reductions in welfare dependency. The Secretary of Labor will write specific standards to measure each area's success in placement, retention, earnings, welfare reductions, and so forth.

Fourth, we have not bypassed the State level of government. Governors have a special knowledge of the strengths and needs of their States and can help develop a delivery system which coordinates effectively with other State and Federal economic development initiatives. The Governor is also in a position to effectively perform the monitoring and oversight functions now burdening the Secretary of Labor. The integrity of programs can be better protected with supervision closer to home and with a reduction in the number of administrative units.

Mr. President, I urge the Senate's adoption of this carefully considered conference agreement. It is the end of a long, uphill road to authorization of a job training program which will meet the needs of eligible participants as well as insure good stewardship of public funds. I am poud to say that I believe this legislation before you does both. Senator QUAYLE has worked hard on this legislation from the beginning and deserves the admiration of his colleagues for this success. Without his commitment, we may not have had this bill. Senator HAWKINS has contributed substantially. Senator KENNEDY should be praised for his efforts and spirit of bipartisan cooperation. We owe Senators NICKLES and PELL our thanks for the excellent provisions of the bill relating the training system to education. Certainly this is not an exhaustive list of those in the Senate, in the House, in the administration, or in the private sector, who have given us the benefit of their views and suggestions on this legislation. It has been my privilege to work with all of these people. I hope that our final product will be widely accepted and enthusiastically implemented in every part of our country.●

Mr. QUAYLE. Mr. President, I yield to the Senator from Florida such time as she may consume.

The PRESIDING OFFICER (Mr. COHEN). The Senator from Florida is recognized.

Mrs. HAWKINS. Mr. President, I was honored to have been a part of the conference on the Job Training Partnership Act. The legislation that we developed is the successful result to over 1½ years of hard work by the Senate Subcommittee on Employment and productivity and the House Subcommittee on Employment Opportunities. A great deal of time and effort went into developing this legislation, and we would not be considering final passage today but for the long hours of steady work by Senator QUAYLE and his subcommittee staff.

The chief architect of this legislation, the Senator from Indiana, DAN QUAYLE, has dedicated himself to improving our Nation's employment and training programs. He and his staff of Bob Guttman, Vi Thompson, and René Coe have put in long hours meeting with individuals, organizations, and interest groups to solicit there ideas on improving this program. DAN has chaired over ten hearings both before and after the introduction of S. 2036, and he has always been very open to the concerns, ideas, and suggestions and everyone else. His concern was considered and thoughtful and his goal important: A Federal employment and training program that works. I commend him for his dedication to fairness and usefulness.

I really should refer to these employment and training programs as training and employment programs. The cause-and-effect process should be emphasized here. Training should, ideally, lead to employment. The two should be inextricably linked. Unfortunately, this is not always the case. But this legislation is a big step toward establishing that link.

This is the most significant legislation to be reported from our Senate Labor and Human Resources Committee—and probably the most important authorization bill to be enacted this session. Guiding this legislation to passage was a formidable task. DAN QUAYLE has demonstrated his willingness and enthusiasm, and he is to be commended for a real legislative accomplishment.

I also would like to remind you that Senator HATCH played a leading role in developing this legislation and his wisdom and leadership were clearly evident during the conference sessions. Senator HATCH's suggestions on properly allocating training and supportive services and his work on developing waiver provisions were keys to the conference agreement. He is a respected and trusted colleague, and his presence has never been more valuable.

It was a formidable task to reconcile the more than 300 points of disagreement between the House and Senate versions. We have reached an agreement, though, on a legislative proposal that is a significant improvement over the existing CETA program. This task was made easier by the fact that all the conferees—Republican and Democrat, Congressmen and Senators—shared goals important to all Americans; increasing our Nation's productivity and providing the unemployed with skills and training. This legislation will give greater hope to all those who want to work but cannot find a

job. This legislation will improve Federal employment and training programs so that the unemployed will have the skills needed to compete for available jobs.

Throughout consideration of this legislation, we have been guided by four basic principles: Increased involvement of the private sector, recognition of the true principles of federalism, adherence to performance standards, and emphasis on training rather than on income maintenance. The agreement developed by the conferees recognizes those four principles.

The private sector, through the formation of private industry councils, are given a dominant role in the formation of employment and training programs for their community. These private industry councils will be chaired by and have 51 percent business representation. The councils will have an equal partnership with local elected officials in planning training procedures, deciding on the skills needed in their labor market, and selecting the administrator and the trainers.

The Governor's role in coordinating employment and training activities within the State will also be strengthened in recognition of the true principles of federalism. This legislation recognizes the key role that States should play in monitoring employment and training programs and realizes the special needs of certain local communities.

Furthermore, for the first time, funding for training programs will be performance based. CETA was criticized because it often trained people for jobs that did not exist or provided opportunities only for make-work projects that taught no skills. We can no longer continue to waste money on unsuccessful programs. Both the House and Senate bills stress the need for performance standards. In furthering this goal, conference agreement eliminates the redtape and constantly shifting regulations that plagued CETA, and concentrates on results. To receive continued funding, the programs communities design must be successful. They must meet performance standards, such as increased wages or reduced welfare payments. Otherwise, they risk reorganization and a new administrative entity will be established to distribute funds.

One of the most difficult issues we faced in developing this legislation was the need to divide equally the funding between training and supportive services. CETA clearly placed too much emphasis on income maintenance and not enough on training. The conferees have insured that the majority of funding will be spent on training activities, while at the same time providing the necessary supportive services so that all those who could benefit by training have the opportunity to finance it.

The conference proposed that 70 percent of the Federal funds be spent on training; 15 percent on administrative costs; and 15 percent on wages, allowances, and other supportive services. If a local service delivery area demonstrates that its training plan necessitates a variation from the 70/30 split, then a waiver can be granted. However the waiver must be initiated by the private industry council, agreed to by the PIC and the local elected official, and adhered to the local service delivery area's training plans. This waiver gives local communities the flexibility to develop training programs that best serve the needs of their communities. Waiver provisions do not excuse areas from meeting their performance standards, however. There is a definite incentive not to seek waivers for improper reasons.

Mr. President, I want to commend for a second time the tremendous contribution of Senators HATCH and QUAYLE for their leadership on this legislation. This is a bill which many thought would never be enacted, much less by the reauthorization deadline of September 30. But, through the hard work and leadership of Senators HATCH and QUAYLE, we have not only met the deadline, we have developed a bill that we can be proud of, a Federal employment and training system that will work. Here is a system that will assist the unemployed and disadvantaged in gaining the skills necessary to obtain employment. Here is a piece of legislation that emphasizes the essential cost-and-effect link between training and employment—that is, that good training unquestionably leads to long-term employment. This legislation insures that training is designed and funded in such a way to forge that link.

Mr. President, I was proud to be a part of this. I yield back to Senator QUAYLE.

Mr. QUAYLE. Mr. President, again, I just wish to emphasize the hard work and dedication the Senator from Florida put into this legislation.

I certainly thank her for the kind comments, but this legislative accomplishment to which she referred to would not have been possible without her involvement. I recall a number of private conversations that the distinguished Senator from Florida and I had about this bill. She said, "By golly, we are going to get a job training bill," and a job training bill is what we have put forth.

It is a good bill. The Senate should support this overwhelmingly; unanimously, I hope. But it takes a lot of players to put a piece of legislation like this on the table. One of the key players throughout the whole debate, the whole discourse, was the distinguished Senator from Florida, Senator HAWKINS. I certainly wish to commend her.

Mr. PRESSLER. Mr. President, I have been extremely concerned about this job training legislation and the impact it will have on States like my home State of South Dakota. The original Senate bill, although preferable to the House version in many respects, included an allocation formula for the public employment offices program which was based solely on the civilian labor force. This formula would have caused my State to lose funding for a program which has been extremely effective and of which we are extremely proud.

In addition, the Senate bill mandated a substate allocation formula for these same funds, again based on the civilian labor force. I firmly believe that this is not the only factor that should be taken into account in the distribution of these funds. States like South Dakota suffer from such problems as high transportation costs, travel distances, basic operating costs, and high unemployment areas. These factors are best understood by the individual States, and they should be given the flexibility to apply the funds according to local conditions.

Finally, the original legislation failed to specifically provide that an entire State could be designated as a single service delivery area. In a State like South Dakota, service delivery areas are not always easily defined. Under the present program my State has one urban prime sponsor for job training with the rest of the State organized under a balance of State program. This has allowed the State to save administrative funds and, thereby, spend more of these dollars in providing services. I think this is a very important aspect of this legislation.

I would like to commend my distinguished colleagues, Senator HATCH, chairman of the Labor and Human Resources Committee, and Senator QUAYLE, chairman of the Subcommittee on Employment and Productivity, for the many positive aspects of this legislation. The conference agreement respresents their efforts to treat all States as fairly as possible. I would like to clear up a few points of particular concern before we bring the conference report to a vote.

Mr. QUAYLE. Mr. President, I would be happy to answer any questions from my distinguished colleague from South Dakota.

Mr. PRESSLER. I thank the Senator from Indiana. As I have noted, the original Senate version of this legislation did not clearly include States as potential deliverers of job training services. I understand that this situation has been clarified by the conference, and that whole States are now named specifically as possible single service delivery areas. Is that correct?

Mr. QUAYLE. That is correct. Section 101(a)(1)(A) specifically states that a service delivery area may be "the State or one or more units of general local government."

Mr. PRESSLER. The allocation formula for the public employment offices program outlined in the original Senate bill would have reduced the funding received by many small, rural States, by eliminating some of the factors used in earlier formulas for this program. These factors were used to offset some of the special problems of rural areas, and these problems still exist. Do you feel that the allocation formula included in the conference report treats small rural States equitably?

Mr. QUAYLE. Yes, I do. In recognition of some of the problems that may be encountered by rural States, the conference agreement provides first, for a 90-percent hold-harmless provision for every State, of the share that it received the prior year and second, a protection that no State shall receive less than 0.28 percent of the total allocation and third, that the Secretary shall reserve 3 percent of the total funds so that each State will have an allotment sufficient to provide staff and other resources necessary to carry out employment service activities and related administrative and support functions on a statewide basis.

Mr. PRESSLER. Similarly, the suballocation formula mandated by the original Senate bill distributed funds on the basis of the relative number of individuals in the civilian labor force. In keeping with the philosophy of New Federalism, it seems to me that the individual States are best suited to make determinations such as this. The original House version of this legislation contained no such suballocation formula. How has this difference been resolved?

Mr. QUAYLE. The conference agreement has eliminated the substate allocation formula for Wagner-Peyser funds.

Mr. PRESSLER. I thank the Senator from Indiana for his answers, and for his cooperation in hearing the concerns of those like myself who represent rural areas.

Mr. QUAYLE. I would like to compliment my friend from South Dakota for the work he has done to protect the interests of small, rural States like his own. It is sometimes difficult to gain attention for the problems suffered by a minority, and rural areas are becoming more and more a minority. Senator PRESSLER, however, has done an admirable job of making clear to the conferees the need for attention to the special problems of rural States. Largely as a result of his efforts, the conference version of this legislation includes some special recognition for the particular needs of such States which was not included in the original Senate legislation. South Dakotans can be proud of their senior Senator for speaking with such an eloquent and forceful voice on their behalf.

Mr. BUMPERS. I would like to ask a question of my distinguished colleague from Massachusetts that concerns me and Senator PRYOR. I have examined the conference report and it appears to me that the conferees recognize the need for programs which are run by nonprofit organizations and which have been effectively training handicapped persons for jobs to remain eligible for funds. However, I have been contacted by two such programs in my own State, Pathfinders in Jacksonville, Ark., and the Texarkana Special Education Center, who are concerned that the provisions of this bill might be interpreted by local private industry councils to exclude these organizations from competing for funds. Could the Senator from Massachusetts answer these concerns by clarifying the provisions for the handicapped in his bill?

Mr. KENNEDY. The Senator from Arkansas raises an excellent point. The conferees recognized the special training needs of the handicapped. Handicapped individuals are specifically defined as eligible participants in two separate sections of the bill.

First, handicapped adults are considered eligible participants if their individual incomes fall within the definition of "economically disadvantaged" even if they are living at home. Thus, family income is not a factor. Only the individual's income may be taken into account in determining eligibility.

Second, handicapped youth fall within the 10-percent window of individuals who are not economically disadvantaged but who have encountered barriers to employment.

To further emphasize the need for training the handicapped section 107(a) states that proper consideration shall be given to community-based organizations which include by definition "rehabilitation facilities and agencies serving the handicapped." I believe the bill tries to insure that the excellent programs that are now being conducted around the country which provide job training tailored to handicapped individuals will be continued.

Mr. BUMPERS. I thank the Senator from Massachusetts for clarifying those provisions.

Mr. HATCH. The Senator from Massachusetts is quite correct. I can assure my colleagues from Arkansas that the training needs of the handicapped were given considerable consideration during the development of this legislation. In fact, I spent some time this week at a special hearing and exhibition on technologies for the handicapped, an experience which only reinforced my view that our citizens who happen to be disabled can be productive in private sector positions if given the chance.

I would just add to what Senator KENNEDY has said the fact that the bill also lists rehabilitation agencies as eligible for representation on the private industry councils, which are charged with setting policy guidelines in conjunction with local officials. While it is true that no organization, public or private, will automatically be selected to provide training, and it is expected that service providers will be selected competitively based on their capabilities and past performance, we have intended that a broad range of organizations and businesses with training and labor market expertise be involved in the establishment of criteria for the selection of service providers for the local service delivery areas.

MAKING CORRECTIONS IN THE ENROLLMENT OF S. 2036

Mr. QUAYLE. Mr. President, I sent to the desk a concurrent resolution with some technical corrections that have been cleared on both sides and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 127) directing the Secretary of the Senate to make corrections in the enrollment of S. 2036.

Mr. HEINZ. Mr. President, I congratulate my colleagues, Senator QUAYLE of Indiana, Senator HATCH of Utah, and Senator KENNEDY of Massachusetts for the passage of a new jobs training bill. I have wholeheartedly supported this legislation, and was one of its earliest cosponsors. The Jobs Training Partnership Act should receive the enthusiastic support of every Member of this distinguished body. It is the most significant piece of legislation produced this year, and its principal architect, DAN QUAYLE, deserves the praise of each of us in this Chamber and around the country for his commitment to improving this country's response to our great needs in the areas of employment and training.

One week from now, the Federal Government will release the figures on the percentage of Americans who are unemployed. These figures may prove to be the worst since the Great Depression. Thousands of these people who have worked in the great plants and factories of the Northeast and of my home State Pennsylvania, face the reality that they will not in the near future—indeed, may not ever—have the opportunity to work again in those same plants and factories. They must learn new skills, and train for the job opportunities of the future.

In this legislation, we have dramatically increased the opportunities of disadvantaged youth and underskilled adults for entering productive employ-

ment, by giving them the skills of the future.

Throughout my years in the Congress of the United States, no problem has been of greater concern to me than that of unemployment, especially for the young and the unskilled. Such unemployment, as we all know, unfortunately has a particularly strong impact in our urban centers and among our minorities.

In this session of the Congress, I have actively worked to develop legislative remedies of this continuing, and now growing, problem. As Chairman of the Finance Committee Subcommittee on Economic Growth, Employment and Revenue Sharing, I fought hard and successfully for renewal of the targeted jobs tax credit program, and I have also supported urban enterprise zones legislation.

At the same time, I have long felt that we need a new, imaginative and comprehensive, national job training policy and program. It is my view that the CETA program, while it had many positive aspects, also would benefit from changes which emphasize the crucial importance of job training, and the vital role of the private sector, in the overall effort to provide more jobs.

It was, therefore, with great pleasure that I cosponsored S. 2036, the Training for Jobs Act. This legislation is aimed at preparing America's unemployed youth and long-term unemployed to enter, or return to, the productive job market.

I should like to take a few moments to explain my overall approach to helping the unskilled jobless, and to describe how and why I felt that S. 2036 would be an effective approach to dealing with this matter. First of all, I believe that the Federal Government has a clear and important responsibility with respect to employment and training policies. In this regard, CETA was a valid attempt to create and institute a viable employment and training policy. As we all know, it has not been perfect. It has had well-documented failures, as well many successes. However, it was an important beginning. We must learn from our past record and improve upon it. No longer can we train people for jobs that do not exist. We must insure that people are taught skills that are remarkable. The cruelest hoax of all is the false promise of jobs and security. Those days must be gone forever.

Mr. President according to the latest data available from Pennsylvania, statewide unemployment in the Commenwealth in January of this year was 11.8 percent. Overall unemployment in Philadelphia for 1981 was 13.9 percent. Youth unemployment in Philadelphia was 32 percent in 1981.

The bill proposed the provision of formula grants to the States with suballocations to "service delivery areas." Training programs in these areas will be designed by a private industry council in coordination with local elected officials. The Councils will have a majority of business members, and include representatives from local government, organized labor, education, community based groups, economic development agencies, and the employment service. Funds are to be made available for training the economically disadvantaged and others with significiant barriers to employment. At least 50 percent of the funds are reserved for programs for youths under 22 years of age.

I have worked very closely with representatives of Private Industry Councils in Pennsylvania and of regional and local prime sponsors to insure that we do not throw out good programs in our effort to produce better legislation. I am convenced that the provisions strengthening the role of private industry in implementing local and regional employment and training programs are essential. I am also pleased that the States will be given more responsibility in coordinating and overseeing those programs. At the same time, I wanted to be very sure of two things: (1) that prime sponsors which are doing a good job have the opportunity to continue their good works; and (2) that prime sponsors faced with special problems of concentrations of underskilled youth, especially minority youth, have sufficient leeway to meet the special needs of these populations.

The Conference Committee worked out a compromise in the designation of service delivery areas that is sufficiently flexible to allow consortia of local jurisdictions in concert with local PIC's to continue their programs regardless of population. The threshold of 200,000 population which qualifies local governments and consortia automatically for designation as service delivery areas represents a sensible compromise in the interest of administrative effectiveness.

For cities such as Philadelphia with high unemployment and disproportionately high number of participants with special employment disadvantages there is sufficient flexibility in the legislation to permit greater expenditures for supportive services such as day care and transportation. This will enable single heads of households, the handicapped, and others to participate in the employment and training programs.

As our resources become increasingly scarce, we need to determine just what it is we wish to accomplish and then design a program to meet those goals. I believe that we need to target funds of those people who, even under the best of circumstances, cannot compete in the labor market because of their lack of education or training. In my estimation we need a bill that trains people to get jobs and to keep them. That is what this legislation is designed to do: To encourage business, State and local governments to work together to train people for the jobs of the future.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution, Senate Concurrent Resolution 127, was agreed to, as follows:

S. CON. RES. 127

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 2036), to provide for a job training program and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) In section 121(a)(1), strike out "section 7(a)" and insert in lieu thereof "section 8".

(2) In section 122(b)(2), strike out "State job training report" and insert in lieu thereof "Governor's coordination and special services plan".

(3) In section 125(a), after "section 202(b)(4)" insert "and section 461(b)".

(4) In section 141(c), insert "unless" immediately before "such relocation".

(5) In section 141(p), strike out "a job training plan" and insert in lieu thereof "part B of this title or part A of title II".

(6) In section 164(d), strike out "subsection (d)" and insert in lieu thereof "subsection (e)".

(7) In section 202(a)(2)(A), strike out "excess".

(8) In section 203(b)(1), strike out "paragraphs (2) and (3)" and insert in lieu thereof "paragraph (2)".

(9) In section 205(e)(3), insert "be" after "may".

(10) In section 305, strike out "therefore" and insert in lieu thereof "therefor".

(11) In section 481(a), strike out "sections 105(c)(1), 202(a)(1), and 212(a)(1)" and insert in lieu thereof "sections 203(a)(1), 401, and 402".

(12) In section 481(b)(1), strike out "section 103" and insert in lieu thereof "section 102".

(13) In the second sentence of section 462(e), insert "soon as" after "as".

(14) In section 402(e), strike out "native Americans" and insert in lieu thereof "migrant and seasonal farmworkers".

Mr. QUAYLE. Mr. President, I do not have any other request on this side. I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARMED CAREER CRIMINAL ACT OF 1982

Mr. BAKER. Mr. President, I am advised that Calendar Order No. 855, S. 1688, has been cleared for action and that there is no objection to proceed-

ing to its consideration. If that is, indeed, the case, I would advise my friend the minority leader that we have a requirement for a rollcall but no requirement for further debate. If he has no objection, I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1688) to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Tennessee (Mr. BAKER)?

Mr. ROBERT C. BYRD. No objection.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Armed Career Criminal Act of 1982".

SEC. 2. Chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2118. Armed Career Criminals

"(a) Any person who while he or any other participant in the offense is in possession of or has readily available any firearm or imitation thereof, commits, or conspires or attempts to commit robbery or burglary in violation of the felony statutes of the State in which such offense occurs or of the United States—

"(1) may be prosecuted for such offense in the courts of the United States if such person has previously been twice convicted of robbery or burglary, or an attempt or conspiracy to commit such an offense, in violation of the felony statutes of any State or of the United States; and

"(2) shall, if found guilty pursuant to this section, and upon proof of the requisite prior convictions to the court at or before sentencing, be sentenced to a term of imprisonment of not less than fifteen years nor more than life and may be fined not more than $10,000.

"(b) Notwithstanding any other provision of law: (1) any person charged pursuant to this section shall be admitted to bail pending trial or appeal as provided in section 3148 of title 18, United States Code; (2) the prior convictions of any person charged hereunder need not be alleged in the indictment nor shall proof thereof be required at trial to establish the jurisdiction of the court or the elements of the offense; (3) any person convicted under this section shall not be granted probation nor shall the term of imprisonment imposed under paragraph (a), or any portion thereof, be suspended; and (4) any person convicted under this section shall not be released on parole prior to the expiration of the full term of imprisonment imposed under paragraph (a).

"(c) For purposes of this section—

"(1) 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States;

"(2) 'felony' means any offense punishable by a term of imprisonment exceeding one year; and

"(3) 'firearm' has the meaning set forth in section 921 of title 18, United States Code.

"(d) Except as expressly provided herein, no provision of this section shall operate to the exclusion of any other Federal, State, or local law, nor shall any provision be construed to invalidate any other provision of Federal, State, or local law.".

SEC. 3. The table of sections for chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"2118. Armed Career Criminals.".

SEC. 4. (a) It is the intent of Congress regarding the exercise of jurisdiction under this Act that ordinarily the United States should defer to State and local prosecutions of armed robbery and armed burglary offenses. However, if after full consultation between the local prosecuting authority and the appropriate Federal prosecuting authority, the local prosecuting authority requests or concurs in Federal prosecution and the Attorney General or his designee approves such prosecution to be appropriate, then Federal prosecution may be initiated under this Act.

(b) It is further the intent of Congress that any person prosecuted pursuant to this Act be tried expeditiously and that any appeal arising from a prosecution under this Act be treated as an expedited appeal.

(c) This section shall not create any right enforceable at law or in equity in any person, nor shall the court have jurisdiction to determine whether or not any of the procedures or standards set forth in this section have been followed.

Mr. BAKER. Mr. President, I ask unanimous consent that any rollcall ordered on this measure occur in sequence after the previous rollcalls ordered to begin at 1 p.m. and occur seriatum without intervening debate, motion, or other business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask for the yeas and nays on this measure.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, this bill is unique in the history of law enforcement because for the first time it puts the Federal Government directly into the fight against violent street crime. This bill authorizes prosecution in the Federal court of repeat offenders using firearms to commit further felonies. And it goes to the core of the problem of street crime—the robberies and burglaries which are the most prevalent street crimes. Thus, it is not procedural, but is a substantive bill that changes the jurisdiction of the U.S. courts. Moreover, it is a practical bill that will result in faster trials, and longer sentences of career robbers and burglars. By allowing Federal prosecutions of such offenders, the bill adjusts priorities so that existing resources can now be used against career criminals. No increase in budgetary authority is required.

Even a limited number of Federal prosecutions will have a great impact in preventing crimes. Because the offenders the bill is designed for often commit a felony a day until age 30–40, the bill will prevent hundreds or even thousands of felonies for each repeater prosecuted.

Sentencing is the heart of the problem of local justice in some courts in certain jurisdictions, particularly some of the larger cities. Too often career robbers and burglars get away with only a brief sentence because of the breakdown in the criminal justice system caused by overcrowded prisons and trial dockets, lenient judges, and other causes. What is needed is sentences that are swift, sure, and sufficient. So S. 1688 contains a mandatory minimum sentence of 15 years without parole. Sentence may be longer and may be for life.

S. 1688 is based on the Federal Firearms Act (18 U.S.C. App. 1202) which makes it a Federal offense for anyone convicted of any State felony to even possess a firearm. What the bill allows is prosecution for use of the gun to commit further robberies and burglaries. While on its face, S. 1688 expands Federal jurisdiction, it does not apply to any person or transaction that does not already involve at least one Federal crime and usually more. The jurisdiction is based on the broad power of Congress under the commerce clause as interpreted by the Supreme Court in the Perez case and other opinions. I believe that there is no doubt about the constitutionally of the bill. The Justice Department agrees.

Second, S. 1688 is modeled on the habitual criminal statutes in force in some 44 States, which provide for extended sentences and mandatory prison terms for persons convicted of multiple felonies.

The bill also reflects my own experience over 20 years in law enforcement, particularly as district attorney of Philadelphia for 8 years and as a member of the National Commission on Criminal Justice Standards and Goals.

Mr. President, this bill was introduced 1 year ago tomorrow. Within weeks, I had a meeting with President Reagan who liked the approach. Later, after the Office of Management and Budget completed a study of its budgetary implications, the administration endorsed the bill. The bill was also supported by the big-city prosecutors who appeared as witnesses in subcommittee hearings.

On the concern of some over the nature and degree of control of the local prosecutor, I have agreed to accept an amendment offered by Senator KENNEDY which will move from the back of the bill to the front, language

worked out with the distinguished chairman of the Judiciary Committee, Senator THURMOND. That language makes clear that no prosecution can be brought by Federal authorities unless requested or agreed to by the local district attorney. With that change, all concerns expressed by anyone have been met.

Mr. President, let me outline the need for this bill in a summary fashion. Fuller treatment of this subject appears in the committee report on the bill which is a detailed, comprehensive study of 100 pages in length. The following are the essential facts and arguments:

1. The core of the crime problem in America is "violent crime for profit", particularly robberies and burglaries which are by far the most prevalent such offenses. Burglaries occur 40 times more often than rapes and robberies 7 times more often. Robberies and burglaries so terrorize citizens at home, at work, and on the street, where they are random victims of total strangers, that Americans are forced to change their lifestyles and live in fear.

Nearly 4 million reported burglaries per year result in losses of $4 billion and ½ million reported robberies always result in psychological trauma, 90% of the time result in substantial financial loss, and 30% of the time result in physical injury. Justice Department Victimization Surveys suggest that the actual incidence of these two offenses is twice the reported incidence. For both robbery and burglary, the stolen property is never recovered in 75% of the cases.

The crime rate for these offenses is up nearly 30% in just the last 3 years; the crime rate generally is up 200% since 1962 and 400% since World War II. The robbery rate is ten times or more the rate of England and other western industrial democracies and 20 times the rate in Japan. The burglary rate is 100 times that of Japan.

Every year one in three American households is touched by crime and one in ten households is touched by these two offenses.

Counting all direct costs, America loses $8 billion per year to crime. Counting indirect costs, America pays $125 billion per year.

2. Career criminals commit the majority of such offenses. According to various studies by RAND Corporation and others, fewer than 10% of those arrested are responsible for more than 60% of the robberies and burglaries. One study showed that only 49 career criminals imprisoned for robbery in California admitted committing 10,000 felonies over 20 years. Another study revealed that the most active robbers committed a robbery a week. Burglars may commit a crime a day, on the average. Various studies show that 60–86% of those arrested for robbery have a prior felony arrest record. Moreover, career criminals commit robberies, burglaries and other offenses interchangeably.

3. Many career criminals are narcotics addicts and sellers and engage in six sales for every robbery or burglary. When taking narcotics, they commit six times the number of offenses than in periods of abstinence. Only 238 such offenders committed half a million crimes over an eleven year period in Baltimore.

4. The most dangerous robberies and burglaries are those committed with firearms. They can easily turn into murders. About one-third of all robberies involve firearms. One third of all robberies involved multiple actors and tend to be the same robberies involving guns.

Possession of a firearm by any person previously convicted of a state or federal felon in itself is already a federal offense.

5. In many local jurisdictions, particularly in major cities, trial delays in such cases range from six to eighteen months after indictment, while comparable cases in federal courts are tried within less than three months.

In major cities, the robbery rate is 3 times the national average. In many cities, it increased 30% just in 1980.

6. Robbery prosecutions in state court result, on the average, in time served in prison of less than three years for all robbery offenders and less than four years for those with prior convictions. In the federal courts, sentences imposed for bank robbery average in excess of 12 years.

The median state sentence served for burglary was a year and a half. Even burglars with prior convictions and jail sentences served less than two years, on the average. Federal sentences for burglary-type offenses are far longer.

7. In many urban jurisdictions, prosecutions in state courts suffer from excessive plea-bargaining (50–80 percent of all dispositions) and judge shopping, resulting in grossly inadequate sentences for robbers and burglars with prior convictions. Often they receive probation or only a few months in jail. Federal prosecutors sharply limit plea bargaining and federal courts utilize the individual judge calendar which prevents all judge shopping.

8. Bail laws and practices in some states do not permit the judge to consider dangerousness and deny bail in appropriate cases. In combination with long trial delays, pretrial release of dangerous career criminals results in many more offenses being committed while offenders are awaiting trial.

One study in Washington in 1974 determined that one third of those arrested for robbery or burglary were at the time on conditional release—bail, probation or parole. The same study showed that 24% of those arrested had other prosecutions pending and were on bail. S. 1688 allows the court to consider dangerousness and permits pre-trial incarceration in appropriate cases.

9. Many state prisons and county jails suffer severe overcrowding which deters some judges from imposing appropriate sentences on career criminals. While the Federal Prison System currently contains more inmates than its "rated capacity", it does not have serious overcrowding and could hold a larger number of inmates, if necessary. In any event, "armed career robbers and burglars", the criminals covered by S. 1688, are far more dangerous than many federal inmates and, therefore, should take precedence over those convicted of theft, fraud and immigration violations and other nonviolent offenses.

10. A large percentage of career robbers and burglars are narcotics addicts and sellers. Where career criminals are narcotics addicts and sellers, their continuing robberies and burglaries imply a substantial federal enforcement responsibility since virtually all narcotics reach them via international and interstate commerce in violation of federal criminal law.

11. Where criminals with prior felony convictions receive firearms and possess and use them to commit further robberies and burglaries, their continuing criminal activity implies a heavy federal enforcement responsibility since nearly all handguns are acquired in interstate commerce and their mere receipt and possession by such persons is always a federal offense under present law: 18 U.S.C. App. § 1202, the Firearms Act.

12. S. 1688 does not extend federal criminal jurisdiction to any person or event not already covered by some federal criminal statute. Since to commit a robbery or burglary with a gun, one must necessarily possess the firearm, there is always at least one federal violation committed. In addition to the Firearms Act, common federal violations would include bank robbery and burglary, commercial robbery affecting interstate commerce (Hobbs Act) and a "pattern of robberies in violations of state law by an entity in or affecting interstate commerce" (RICO), Interstate Transportation of Stolen Property, and Unlawful Flight to Avoid Prosecution.

13. Federal jurisdiction for armed robberies and burglaries by career criminals is based on the Commerce Clause because such crimes in the aggregate constitute a burden on interstate commerce. The nexus to interstate commerce arises because:

a. These offenses adversely affect interstate commerce by depleting the assets of businesses engaged in interstate commerce, by raising insurance and tax rates and driving companies out of business, and by directly impeding the free flow of money, goods and persons in interstate commerce.

b. The stolen money and goods are often disposed of thru interstate commerce by multi-state "fencing" operations.

c. Perpetrators frequently travel across state lines en route to and from the scene of the offense.

d. The firearms used have travelled in interstate commerce.

e. For addicts and sellers, the narcotics they receive, possess, use and sell have travelled in interstate commerce.

14. Like the Firearms Act, the RICO statute, the Controlled Substance Act and the Loansharking statute do not require proof in the individual case of an effect on interstate commerce. The loansharking statute plainly applies to purely intra-state transactions and is based on Congressional findings that all extortionate credit transactions affect interstate commerce directly or indirectly. In the Perez case, the U.S. Supreme Court specifically upheld this statute as within the powers of Congress under the Commerce Clause.

15. Justice Department policies to emphasize prosecution of violent crime, particulary when it involves firearms, assures that violations of S. 1688 will not be declined as a general matter. In addition, the Administration has endorsed S. 1688, following my meeting with President Reagan. Justice officials have testified that federal investigative, prosecutive, judicial and correctional manpower is sufficient to bring a substantial number of cases under the Act. No increase in any budgetary line is required.

16. In accordance with the trend in the states, the recommendations of the Attorney General's Violent Crime Task Force and provisions of the proposed Federal Criminal Code Revisions, S. 1688 provides for a mandatory minimum and a determinant sentence, without parole. The sentence is to a fixed term of not less than 15 years. It can be longer than 15 years and can be for life. This form of sentencing has the highest deterrent effect. It also incapacitates the career criminal for the rest of his "career" which usually continues until age 30–40.

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17. Since no prosecution under the Act can be initiated without the consent of the local District Attorney, there is no risk of exacerbating tensions, case "stealing" or lack of coordination. Since Justice must approve taking the case, there is no danger of cases being "dumped" on the Federal Government.

18. Robberies affect elderly Americans disproportionately. Between 1964 and 1979, robberies of Americans 55 or older were up 230% and all serious offenses were up 257%, compared with 177% for the general population.

19. While the robbery and burglary rates in large cities are at least twice as high as for the U.S. as a whole, robberies and burglaries have also greatly increased in suburban and rural areas. From 1972 to 1980, robberies in rural areas increased 84% and burglaries 76%.

20. Local law enforcement resources are down in many cities even though crime is up sharply. New York City, for example, has one-third fewer policemen than in 1975, but almost one-third more violent crime. Boston is down from 2,500 officers in 1965 to 1,620. Los Angeles, Philadelphia and other cities have also lost police manpower. In many other cities, police manpower has been frozen because of budgetary pressures even though violent crime is up sharply in the last few years.

In New York City, as a result of insufficient manpower, police will not even investigate burglaries unless more than $5,000 worth of property was taken. Although studies show that arrests are unlikely unless police are called within one minute and respond very fast and that arrests are made in less than 10 percent of all urban burglaries and less than 20 percent of all urban robberies, in Houston police are so shorthanded that it takes them 25 minutes to answer the average emergency call.

21. Prosecutors and judges are even more shorthanded. Excessive plea bargaining results and in turn leads to insufficient sentences for repeat offenders. In New York City, a police study revealed that of 3,000 felony arrests in Manhattan, 51% were reduced by prosecutors to misdemeanors, two-thirds for reasons wholly unrelated to the evidentiary strength of the case. In addition, only one in five felony arrests even led to indictment in the first place.

In Manhattan, the typical career robber had twelve prior arrests with four misdemeanor convictions and one felony conviction, but had served total jail time of only six months. Of approximately 100,000 felony arrests per year, only 6,000 convicts go to prison.

In Washington, D.C., a study in 1974 revealed that of criminals arrested for armed robbery, less than one-fourth were sentenced to prison.

22. Public opinion polls indicate extreme concern over serious crime and dissatisfaction with the criminal justice system. Various polls indicate that more than 80% of the public thought the courts were too lenient in sentencing violent criminals. A Newsweek poll in 1981 revealed that 59% had "not very much" confidence in the courts to properly sentence serious offenders.

For criminals using firearms, 51% thought 5-10 years should be added to their sentences. Indeed, 15% thought the sentence should be life.

A Los Angeles Times poll showed that one-half the residents of that city were afraid to walk alone at night or take public transportation. In Philadelphia, 91% felt unsafe in their neighborhood streets at night and 75% feared walking in center city in daylight.

In a Philadelphia study, crime was cited as the number one cause of businesses closing down.

In terms of priorities, most polls in recent years show that the people are more concerned about violent and serious crime than any other national problem except the economy-jobs-inflation. When asked about the biggest problem hurting their city as opposed to the nation generally, people in New York, Los Angeles and Baltimore listed crime as the number one problem. Even from the national perspective, people were as worried about crime as about war and the Soviet threat.

Mr. President, these facts, interpreted in the light of reason and the experience of those of us who have been in law enforcement, support important findings and conclusions. They are:

(1) Robberies and burglaries adversely affect interstate commerce. Robberies of banks, stores and travelers directly interfere with the free flow of funds, goods, services, and people. Burglaries increase insurance rates, depreciate the value of real estate, contribute to the decline of neighborhoods, increase the operating cost of operating businesses and indirectly interfere with interstate commerce;

(2) Robberies and burglaries cause billions of dollars of damage and loss to property each year;

(3) Robberies and burglaries occur with far greater frequency, injure more people and cause greater loss than other major felonies;

(4) Career criminals commit a large percentage of the violent and major felonies afflicting society, including robberies and burglaries. These repeat offenders are often narcotics addicts who also commit frequent narctoics violations, including sales. Narcotics are imported from abroad and distributed in interstate commerce. Narcotics enforcement is primarily a Federal responsibility.

(5) The continuing felonious activity of career robbers and burglars adversely affects interstate commerce;

(6) A significant percentage of the vast number of robberies and burglaries are committed by a limited number of repeat offenders, many of whom individually commit hundreds of such offenses during their criminal careers. Some studies estimate that the majority of these offenses are committed by career criminals. Career criminals often have no lawful employment; their fulltime occupation is crime for profit and they may commit crimes on a daily basis;

(7) Career robbers and burglars, particularly those who employ firearms, often combine into criminal groups or gangs. Approximately one-half the robberies involve multiple perpetrators. They often cross jurisdictional and state lines to commit their offenses and abuse instrumentalities of interstate commerce;

(8) The most dangerous of these offenders are the ones who place in jeopardy the life and limb ot their victims by the use of firearms. These weapons circulate in interstate commerce. Many of these firearms are cheap handguns known as "Saturday Night Specials" which have no legitimate, lawful use; all are carried in violation of local law and federal law which prohibit possession, concealment and felonious use of firearms by convicted felons. Many of these deadly weapons were illegally imported into and distributed throughout the United States. The illegal trafficking in handguns is primarily a Federal enforcement responsibility;

"(9) Despite prior conviction for serious offenses, many repeat offenders are placed on probation or sentenced to unduly short terms of imprisonment by State judges, to the deteriment of public safety;

"(10) Career robbers and burglars, particularly those who use firearms which usually acquired through interstate commerce, often dispose of stolen goods across state lines, cross state lines to commit offenses, and directly disrupt interstate commerce. Therefore, such career robbers and burlgars are properly the subject of Federal enforcement and are well within the traditionally and constitutionally mandated limits of Federal jurisdiction;

"(ii) The epidemic of robberies and burglaries violates the Federal constitutional rights of the victims. The United States Government has a legal responsibility to protect the people from "domestic enemies", insure "domestic tranquility", guarantee the right not to be deprived of life or property except by due process of law, and safeguard interstate commerce and the instrumentalities of interstate commerce."

Mr. President, this bill is entirely consistent with the report of the Attorney General's Violent Crime Task Force and the provisions of bills such as the Proposed Criminal Code Revision and S. 2572, on all points, including: Mandatory minimum sentences for felonies with firearms; bail reform to permit the judge to consider the defendant's dangerousness to the community; sentencing reform to eliminate early release on parole; and the imposition of determinant or "flat" sentences.

The bill is fully supported by the Justice Department which was extensively consulted. All Justice Department suggestions were adopted. On March 18, Assistant Attorney General Lowell Jensen, himself a former local prosecutor as district attorney in Oakland, Calif., testified to the administration's endorsement of S. 1688. A few references and excerpts from his testimony are in order here:

Mr. Jensen stressed that the Bill reflects the same priority to increase efforts to combat violent street crime which the Department of Justice has established. He stated: "The Department of Justice is committed to doing a more effective job of combating violent crime in this nation" (p. 34). Mr. Jensen noted that: "S. 1688 is designed to strike at the heart of violent crime, the recidivist" (p. 34). Mr. Jensen agreed that by targeting those recidivists who are using firearms, the Bill has identified the most dangerous of all offenders for special attention. He said: "It is our view that the Bill appropriately focuses on the critical problem of repeat offenders who use a firearm in the commission of yet another robbery or burglary" (p. 34). Mr. Jensen emphasized that because of "the limited class of offenders targeted by this Bill" (Statement, p. 4), S. 1688 "facilitates a concrete federal participation in attacking" the core of the problem of violent crime in America (p. 4). Because of its focus on this limited class of offenders, Mr. Jensen stated that the Bill

provided a "means of making an impact on violent crime" (p. 5).

Indicating that the Bill contains "a number of significant features" (Transcript p. 33), Mr. Jensen stressed that "defendants convicted under this provision are subject to a term of imprisonment of fifteen years to life, without the benefit of probation, parole, or a suspended sentence" (p. 33). With its mandatory minimum sentence of fifteen years imprisonment, the Bill "recognizes the need to deal swiftly and effectively with those offenders who habitually prey on the property and safety of innocent victims. . . ." (p. 34). Mr. Jensen stressed the Department's support for "enhanced penalties for career criminals" (Statement pp. 3-4). Mr. Jensen explicitly agreed with the central premise of S. 1688 that lengthy incarceration is needed. Without incapacitation of career criminals, there is little prospect of reducing the spiraling rates of violent crime. In this regard, Mr. Jensen said: "Substantial periods of incarceration for persons who have demonstrated repeatedly that they are a violent threat, is one way of insuring the safety of our communities and curtailing the disproportionate number of offenses committed by career criminals." (Page 4)

Not only are lengthy sentences essential for these offenders, but the impact on prevalence of crime will be significant. Mr. Jensen indicated that the direct impact of the Bill would be substantial. He said: "The incarceration of even a small number of recidivists, robbers, and burglars woud save our communities millions of dollars (p. 5).

Mr. Jensen stressed that the penalty provisions of the Bill not only reflected the position of the Department of Justice, but also of the Attorney General's Violent Crime Task Force. He noted that: The proposed legislation is consistent with the mandatory sentence recommendations of the Attorney General's Task Force on Violent Crime." (page 4) Task Force explicitly adopted the theory behind S. 1688 that federal prosecution should be instituted where it will result in sufficient sentence which might not be obtained in the state courts. The Task Force stated in Recommendation 21: "The appropriate federal role is to initiate prosecution, in order to bring federal prosecutorial resources and more serious offenders in a locality who are apprehended with firearms in their possession" (page 30). The Task Force also recognized that since federal prosecution could not be brought against all firearms—bearing convicts, efforts would have to be concentrated on the worst and most dangerous offenders in a particular locality. In the Commentary the Task Force explicitly recognized that the need for federal intervention will vary greatly from one jurisdiction to the next. The Commentary noted, for example, that local firearms laws vary significantly. The Commentary states: "In some states, the federal firearms laws are significantly more severe than comparable state statutes". Of course, with its minimum mandatory sentence of fifteen years, S. 1688 will provide for the certainty of a substantially longer sentence in many cases.

The Task Force also recognized that the federal prosecution may be preferable to state prosecution, even where the ultimate sentences might be similar, since in many jurisdictions federal prosecution will be far more speedy. The commentary stated: ". . . in many federal districts the federal court dockets are not as crowded as county and city court calendars" (page 32).

Mr. Jensen also stressed the policy of the Justice Department that the attack on violent crime in America must reflect an overall national program. He expressed the view that S. 1688 formed an essential part of this national program. In this regard he noted that "This legislative proposal is intended to assist the national effort to combat the rising incidence of violent crime" (Transcript, page 34). By providing new federal jurisdiction, the Bill enables the federal government to participate in new, better and more effective ways in combating violent crimes. Mr. Jensen said: "We believe this legislation . . . facilitates a concrete federal participation in attacking that problem . . ." and does so without requiring significant increases in federal resources (Statement, page 4).

Mr. President, in conclusion, I wish to thank all my colleagues who joined me to cosponsor S. 1688, members of the Judiciary Committee, Chairman THURMOND and Senator BIDEN who both helped extensively, Senator KENNEDY, the minority leader, Senator BYRD and particularly the majority leader, Senator BAKER.

Mr. KENNEDY. Mr. President, the amendment which I propose to the Armed Career Criminal Act, and which has been accepted by the bill's author, removes any trace of doubt about the role of the local prosecutor in the determination of whether prosecutions of armed robbers and burglars under this act will be brought by the State or local prosecutor or by the Federal prosecutor.

The amendment provides that armed robbers and burglars will generally be prosecuted by the State or local prosecutor. It further provides that Federal prosecution under the act is prohibited unless, after full consultation between the local prosecutor and the appropriate Federal prosecutor, the local prosecutor specifically requests that Federal prosecution be brought, or agrees to Federal, rather than State or local, prosecution. Only if the local prosecutor requests or agrees to Federal prosecution and the Attorney General approves such prosecution as appropriate can Federal prosecution be initiated under this act.

This amendment assures that the authority of the State or local prosecutor to prosecute armed robbery and burglary offenses will not be diminished in any manner by this legislation. I urge my colleagues to support this amendment.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am advised that on the measure we were just discussing, the career criminals bill, Calendar Order No. 855, we may have jumped the track a little bit. Could I inquire of the Chair if there are amendments to that measure?

The PRESIDING OFFICER. There is a substitute.

Mr. BAKER. Mr. President, I ask the Chair to lay that before the Senate at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. ROBERT C. BYRD. Mr. President, is this on the committee amendment?

The PRESIDING OFFICER. That is correct.

UP AMENDMENT NO. 1348

(Purpose: To provide for Federal prosecution under this act only where the local prosecuting authority requests or concurs in such Federal prosecution)

Mr. ROBERT C. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. KENNEDY and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), on behalf of Mr. KENNEDY, proposes an unprinted amendment numbered 1348.

Beginning on page 5, delete subsection 4(a) and renumber the remaining subsections accordingly.

On page 5, after line 17, add new subsection 2(e) as follows:

Ordinarily the United States should defer to State and local prosecutions of armed robbery and armed burglary offenses. However, if after full consultation between the local prosecuting authority and the appropriate Federal prosecuting authority, the local prosecuting authority requests or concurs in Federal prosecution and the Attorney General or his designee approves such prosecution to be appropriate, then Federal prosecution may be initiated under this Act.

● Mr. MOYNIHAN. Mr. President, I am pleased to rise in support of S. 1688, the Career Criminal Life Sentence Act of 1981. I am a cosponsor of this measure which takes strong action against criminals who refuse to learn their lesson and who continue to commit serious crimes. By imposing a term of imprisonment of 15 years to life on those who commit a robbery or burglary with the use of a firearm after already having been convicted twice for the same offense, we will have sent a strong message to the criminal element among us. I would note that this measure is consistent with a measure I have introduced, the Firearms Felony Act of 1982 (S. 2981).

My legislation would, first, make it a separate Federal offense for carrying or using a firearm during the commission of a felony under State law; second, strengthen the penalties already provided for carrying or using a firearm during the commission of a felony under Federal law; and third, impose a mandatory and additional sentence of 3 to 10 years for first con-

viction under the terms of this legislation, and 10 to 25 years for a second or subsequent conviction under this act.

I commend my distinguished colleague Senator SPECTER for his leadership on this issue and urge my colleagues to lend their strong support to S. 1688.●

Mr. BAKER. Mr. President, could I inquire? Is the Kennedy amendment to the committee substitute?

Mr. ROBERT C. BYRD. That is correct. The committee substitute has not been acted upon yet.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (UP No. 1348) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. BAKER. Mr. President, are there other amendments?

The PRESIDING OFFICER. No further amendments would be in order at this point.

Mr. BAKER. I thank the Chair.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the vote on this measure will occur after the vote on the conference report on S. 2036.

Mr. BAKER. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I am advised that there are two conference reports available which are cleared for action by unanimous consent.

I ask the minority leader if he is in a position that we might proceed the conference report on H.R. 5930, aviation insurance, and the conference report on H.R. 5890, the NASA conference report.

Mr. ROBERT C. BYRD. Mr. President, I am advised that we are ready to proceed.

AUTHORIZATION OF APPROPRIATIONS FOR NASA—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 5890 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5890) to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. SCHMITT. Mr. President, the Senate will approve the conference report authorizing appropriations to the National Aeronautics and Space Administration for fiscal year 1983. In the statement of the committee of the conference, language explaining expenditures for certain items was inadvertently omitted. For clarification, the intent of the conferees' action on these expenditures, described in item 2 of the report should read:

The Committee of Conference authorizes $1,699,000,000 for the Space Flight Operations program including $77.4 million for Development, Test, and Mission Support/Engineering and Technical Base activities; $120 million for Shuttle/Centaur related activities; $5 million for Advance Shuttle Upper Stage studies; and $1,286.1 million for Space Transportation Systems Operations activities. The amount for Space Transportation Systems Operations activities reflects a $128 million reduction in authorization of appropriation for Shuttle operations costs related to the launch of defense and national security payloads.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AVIATION INSURANCE PROGRAM EXTENSION—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 5930 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for five years, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 23, 1982.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. CANNON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, we have a few more moments before we can reach the next item on the list. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN TRADE AGENCIES

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2555, Calendar Order No. 581.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, that has been cleared on this side of the aisle. There is no objection.

The PRESIDING OFFICER. Without objection——

Mr. METZENBAUM. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. May I ask the Senator from Kansas which measure this is?

Mr. DOLE. This is S. 2555, an authorization bill. We have worked out one area of disagreement with Senator MATSUNAGA.

Mr. METZENBAUM. I thank the Senator from Kansas. I have no objection.

The PRESIDING OFFICER. The clerk will state the bill.

The legislative clerk read as follows:

A bill (S. 2555) to authorize appropriations for the United States International Trade Commission, the United States Customs Service, and the Office of the United States Trade Representative for fiscal year 1983, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 1349

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1349: On page 3, line 19 strike "530,524,000" and insert in lieu thereof "564,224,000".

Mr. DOLE. Mr. President, the amendment, which I understand has been agreed to on both sides, would add approximately $33.7 million to the customs authorization to provide the Customs Service sufficient funds to maintain the existing personnel levels.

I urge the adoption of the amendment. That is the amendment of the distinguished Senator from Hawaii (Mr. MATSUNAGA). I am offering it as a committee amendment in his absence.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1349) was agreed to.

Mr. DOLE. Mr. President, H.R. 6094, if enacted, would authorize appropriations for the U.S. International Trade Commission, the U.S. Customs Service, and the Office of the U.S. Trade Representative for fiscal year 1983. A similar bill, S. 2555, was ordered favorably reported by the Finance Committee on May 7, 1982, following a hearing on authorization of appropriations for the three agencies by the Subcommittee on International Trade of the Finance Committee on April 14, 1982.

Mr. President, the Committee on Finance offers S. 2555, as amended, as a substitute for the provisions of H.R. 6094. I urge my colleages to approve it as amended.

THE INTERNATIONAL TRADE COMMISSION—THE AUTHORIZATION WOULD MAINTAIN EXISTING PERSONNEL LEVELS

Mr. President, both the House and the Finance Committee bills provide an authorization of $19,737,000 for the U.S. International Trade Commission for fiscal year 1983. This would provide funding for the same number of employee positions as in the previous 2 fiscal years. This funding level is the minimum necessary for the ITC to carry on its increasing responsibilities. It represents only a 5-percent increase over the fiscal year 1982 request. Of the increase, 96 percent results from built-in increases in employee compensation, inflation, and space rental increases. When we consider that the Commission caseload roughly doubled in the last 2 years, their standstill authorization request for next year, when the caseload is again expected to increase, deserves our support.

THE U.S. CUSTOMS SERVICE—THE ADMINISTRATION'S REQUEST WILL PERMIT NECESSARY FUNCTIONS TO BE CARRIED ON

Mr. President, the administration has requested an authorization of $530.5 million for the U.S. Customs Service for fiscal year 1985. This sum includes approximately $31.5 million for alcohol and tobacco functions which may be transferred from BATF. For customs operations alone, the administration has requested $499 million, an increase of about $6 million over last year's appropriation. This level of funding assumes a reduction in force of 1,500 positions and the loss of an additional 800 positions through attrition.

H.R. 6094, as approved by the House, provides an authorization of $568 million or $38 million more than the administration's request. The amendment contains an authorization of $564,224,000. This amount effects the same purpose as the House bill by providing an amount which is sufficient to maintain current staffing levels, according to CBO estimates.

THE U.S. TRADE REPRESENTATIVE

The Finance Committee has recommended an authorization of $11.1 million for fiscal year 1983 for the U.S. Trade Representative. This represents an increase of $1 million above the administration's request and the amount approved by the House. The additional funds would provide the USTR with 15 to 25 additional positions. It is the finance committee's position that this additional funding of $1 million is necessary to enable the USTR to meet its expanding workload and is a small additional cost to maintain the efficient operation of such a vitally important office. In the past few months the committee has encouraged the USTR to expand its activities in the areas of services, high technology products, and foreign investment. All these areas are critically important to expanding markets for U.S. business interests. Unless we provide the additional resources to perform the additional tasks we have encouraged the USTR to undertake, we will have shortchanged ourselves, the USTR, and the business interests we seek to serve.

The committee has also recommended an amendment to current law which would increase from two to three the number of Deputy U.S. Trade Representatives. The additional deputy is necessary to provide appropriate support and management for the additional responsibilities the office is undertaking.

Mr. President, I urge my colleagues to support this measure.

(By request of Mr. ROBERT C. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. MATSUNAGA. Mr. President, the amendment of the Senator from Kansas (Mr. DOLE) would provide an authorization of $564,224,000 for Customs functions of the U.S. Customs Service for fiscal year 1983. A letter from the Congressional Budget Office to the Finance Committee states that $564,224,000 is the amount needed to maintain current Customs operations.

As the distinguished chairman of the Finance Committee knows, my concern all along has been to preserve current staff positions and levels of service for this agency. The administration has sought to reduce the Customs Service by 15 percent; 2,300 positions would be eliminated—800 through attrition and 1,500 through firing. These job cuts not only cause human problems, they compound our fiscal problems. The personnel cut would impair the Customs Service ability to collect the $9.2 billion in duties and taxes it collected in 1981.

But it is my understanding that the chairman's amendment raises the Customs Service authorization to $533.7 million and avoids the need for any cut in current staff positions for the Customs Service. This amount represents the total authorization less that authorized for Bureau of Alcohol, Tobacco, and Firearms functions that may be transferred to Customs. Furthermore, it is my understanding that the Customs Service, if authorized $533.7 for million for fiscal year 1983, will not undertake any reduction in force for that year. If the chairman shares my understanding, I find this compromise amendment very acceptable and wish to thank him for his effort in resolving the problem. His amendment will result not only in saving jobs, but also in the collection of tariffs and duties far in excess of the salaries paid to those who will be retained in the Customs Service.

I request the inclusion in the RECORD, of the CBO budget analysis memorandum following this statement.

The material follows:

[Memorandum]

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., May 5, 1982.

To: Staff, Subcommittee on International Trade, Senate Committee on Finance.

From: Steve Martin, Budget Analysis Division.

Subject: 1983 Budget Request for the Customs Service.

At your request, I have compared the budget proposal for the Customs Service for fiscal year 1983 with the CBO projection to establish the level of funding necessary to maintain a constant level of service. Excluding the transfer of BATF activities, since this was not incorporated into the Customs Service's 1982 appropriation, we estimate that an appropriation of about $533 million

would be necessary in 1983 to maintain the 1982 activity level. This amount represents an addition of $33.7 million over the Administration's request for Customs, exclusive of the BATF portion. Including BATF, we estimate that an appropriation of $564.2 million would be needed in 1983, compared to the Administration's request of $530.5 million.

The CBO projection incorporates the $9.4 million increase in Federal Buildings Fund payments and the $22.6 million for salary and personnel benefits increases estimated by the Customs Service. The Administration's current services estimate is about $10.6 million above the CBO estimate. This reflects an Administration base that is $6 million higher, since it excludes the funding reduction in the continuing resolution. The Administration's 1983 figures also include relatively large increases for travel and transportation, communications, utilities, supplies and materials.

In addition to these adjustments, the Committee may want to incorporate two other elements—space reductions (−$3.1 million) and reductions in operating costs (−$4.5 million)—that the Customs Service maintains can be accomplished without diminishing its activities.

The following table summarizes the differences between the CBO and Customs Service estimates relative to the fiscal year 1982 base:

COMPARISON OF CURRENT SERVICES ESTIMATES FOR THE CUSTOMS SERVICE

[In billions of dollars]

	1982 base	Administration's 1983 current services estimate		CBO projection—1983	
		Amount	Percent increase	Amount	Percent increase
Pay and personnel benefits	379.5	402.1	6	402.1	6
Other expenses:					
Travel and transportation	13.2	15.8	20	14.2	8
Standard level user charges	33.4	42.8	28	42.8	28
Communication, utilities and other rent	25.8	30.8	19	27.8	8
Supplies and materials	9.2	10.5	15	9.8	6
All other	33.5	35.3	5	36.0	7
Subtotal	494.6	537.3		532.7	
Plus: Assumed increase to offset continuing resolution reduction		6.0			
Total		543.3		532.7	

Additional items that could be included in the current services estimate: Assumed space reductions not associated with the proposed 1983 program cuts, −$3.1 million. Assumed reduction in operating costs (travel, training, equipment purchases, etc.) that the Customs Service claims would not diminish its ability to perform its functions, −$4.5 million.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. DOLE. I ask unanimous consent that the Senate proceed immediately to the consideration of H.R. 6094, Calendar Order No. 681.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I have no objection.

Mr. METZENBAUM. Reserving the right to object, Mr. President, will the Senator be good enough to indicate which measure that is?

Mr. DOLE. That is the House bill.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6094) to authorize appropriations for the International Trade Commission, U.S. Customs Service, and the office of the U.S. Trade Representative for fiscal year 1983, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

Mr. DOLE. Mr. President, I move that the Senate strike all after the enacting clause and insert in lieu thereof the text of S. 2555 as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read a third time, the question is, Shall it pass?

The bill (H.R. 6094) was passed.

Mr. DOLE. I move that consideration of S. 2555 be indefinitely postponed.

The PRESIDING OFFICER (Mr. DURENBERGER). The question is on agreeing to the motion.

The motion was agreed to.

Mr. DOLE. I move to reconsider the vote by which the bill passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, notwithstanding the order for debate to begin at 1 p.m. on the treaties, I ask unanimous consent that the Senator from Kansas may be recognized to proceed on another matter of not to exceed 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCHAPTER S REVISION ACT OF 1982

Mr. DOLE. Mr. President, I call up H.R. 6055, Calendar No. 927, the Subchapter S Revision Act of 1982.

Mr. ROBERT C. BYRD. Mr. President, I was distracted by conversation. I do not think I have any objection, but will the Senator restate his request?

Mr. DOLE. Mr. President, I ask unanimous consent to call up H.R. 6055, the Subchapter S Revision Act, Calendar No. 927.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. METZENBAUM. Mr. President, I would have no objection. Of course, I cannot object to the Senator from Kansas calling it up, but I had understood there would be no amendments in order other than committee amendments.

Mr. BAKER. I am perfectly happy to do that, if the minority leader has no problem with it.

Mr. ROBERT C. BYRD. Mr. President, it would not have been cleared had that not been the understanding, may I say to the Senator from Ohio.

Mr. BAKER. Mr. President, may I say to the Senator from West Virginia, the Senator from Ohio was not aware of that, otherwise I would have included it.

Let me put the request.

Mr. President, I ask unanimous consent that on this measure no amendment be in order except committee amendments.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6055) to revise subchapter S of the Internal Revenue Code of 1954 relating to small business corporations.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance, with amendments, as follows:

On page 6, strike line 4, through and including line 13, and insert the following:

"(B) MANNER AND TIME OF ELECTION.—

"(i) SEPARATE ELECTION WITH RESPECT TO EACH S CORPORATION.—An election under this paragraph shall be made separately with respect to each S corporation the stock of which is held by the trust.

"(ii) ELECTIONS WITH RESPECT TO SUCCESSIVE INCOME BENEFICIARIES.—If there is an election under this paragraph with respect to any beneficiary, an election under this paragraph shall be treated as made by each successive beneficiary unless such beneficiary affirmatively refuses to consent to such election.

"(iii) TIME, MANNER, AND FORM OF ELECTION.—Any election, or refusal, under this

paragraph shall be made in such manner and form, and at such time, as the Secretary may prescribe.

On page 7, strike line 12, through and including line 25, and insert the following:

"(C) the terms of which require that—

"(i) during the life of the current income beneficiary there shall be only 1 income beneficiary of the trust,

"(ii) any corpus distributed during the life of the current income beneficiary may be distributed only to such beneficiary,

"(iii) the income interest of the current income beneficiary in the trust shall terminate on the earlier of such beneficiary's death or the termination of the trust, and

"(iv) upon the termination of the trust during the life of the current income beneficiary, the trust shall distribute all of its assets to such beneficiary.

On page 10, strike line 28, through and including page 11, line 9, and insert the following:

"(3) WHERE PASSIVE INVESTMENT INCOME EXCEEDS 25 PERCENT OF GROSS RECEIPTS FOR 3 CONSECUTIVE TAXABLE YEARS AND CORPORATION HAS SUBCHAPTER C EARNINGS AND PROFITS.—

"(A) TERMINATION.—

"(i) IN GENERAL.—An election under subsection (a) shall be terminated whenever the corporation—

"(I) has subchapter C earnings and profits at the close of each of 3 consecutive taxable years, and

"(II) has gross receipts for each of such taxable years more than 25 percent of which are passive investment income.

"(ii) WHEN EFFECTIVE.—Any termination under this paragraph shall be effective on and after the first day of the first taxable year beginning after the third consecutive taxable year referred to in clause (i).

"(iii) YEARS TAKEN INTO ACCOUNT.—A prior taxable year shall not be taken into account under clause (i) unless—

"(I) such taxable year began after December 31, 1981, and

"(II) corporation was an S corporation for such taxable year.

On page 20, after line 17, insert the following:

"(3) REDUCTION IN PASS-THRU FOR TAX IMPOSED ON EXCESS NET PASSIVE INCOME.—If any tax is imposed under section 1375 for any taxable year on an S corporation, for purposes of subsection (a), each item of passive investment income shall be reduced by an amount which bears the same ratio to the amount of such tax as—

"(A) the amount of such item, bears to

"(B) the total passive investment income for the taxable year.

On page 24, in the material between line 22 and line 23, insert the following:

"Sec. 1375. Tax imposed when passive investment income of corporation having subchapter C earnings and profits exceeds 25 percent of gross receipts.

On page 29, after line 11, insert the following:

"SEC. 1375. TAX IMPOSED WHEN PASSIVE INVESTMENT INCOME OF CORPORATION HAVING SUBCHAPTER C EARNINGS AND PROFITS EXCEEDS 25 PERCENT OF GROSS RECEIPTS.

"(a) GENERAL RULE.—If for the taxable year an S corporation has—

"(1) subchapter C earnings and profits at the close of such taxable year, and

"(2) gross receipts more than 25 percent of which are passive investment income,

then there is hereby imposed a tax on the income of such corporation for such taxable year. Such tax shall be computed by multiplying the excess net passive income by the highest rate of tax specified in section 11(b).

"(b) DEFINITIONS.—For purposes of this section—

"(1) EXCESS NET PASSIVE INCOME.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'excess net passive income' means an amount which bears the same ratio to the net passive income for the taxable year as—

"(i) the amount by which the passive investment income for the taxable year exceeds 25 percent of the gross receipts for the taxable year, bears to

"(ii) the passive investment income for the taxable year.

"(B) LIMITATION.—The amount of the excess net passive income for any taxable year shall not exceed the corporation's taxable income for the taxable year (determined in accordance with section 1374(d)).

"(2) NET PASSIVE INCOME.—The term 'net passive income' means—

"(A) passive investment income, reduced by

"(B) the deductions allowable under this chapter which are directly connected with the production of such income (other than deductions allowable under section 172 and part VIII of subchapter B).

"(3) PASSIVE INVESTMENT INCOME; ETC.—The terms 'subchapter C earnings and profits', 'passive investment income', and 'gross receipts' shall have the same respective meanings as when used in paragraph (3) of section 1362(d).

"(c) SPECIAL RULES.—

"(1) DISALLOWANCE OF CREDIT.—No credit shall be allowed under part IV of subchapter A of this chapter (other than section 39) against the tax imposed by subsection (a).

"(2) COORDINATION WITH SECTION 1374.—If any gain—

"(A) is taken into account in determining passive income for purposes of this section, and

"(B) is taken into account under section 1374,

the amount of such gain taken into account under section 1374 shall be reduced by the portion of the excess net passive income for the taxable year which is attributable (on a pro rata basis) to such gain.

On page 33, strike line 9, through and including line 19, and insert the following:

"(3) STOCK ACQUIRED BY REASON OF DEATH, GIFT FROM FAMILY MEMBER, ETC.—

"(A) IN GENERAL.—For purposes of paragraph (2), if—

"(i) a person acquired stock in the corporation after December 31, 1982, and

"(ii) such stock was acquired by such person—

"(I) by reason of the death of a qualified transferor,

"(II) by reason of a gift from a qualifed transferor who is a member of such person's family, or

"(III) by reason of a qualified buy-sell agreement from a qualified transferor (or his estate) who was a member of such person's family,

then such stock shall be treated as held on December 31, 1982, by the person described in clause (i).

"(B) QUALIFIED TRANSFEROR.—For purposes of subparagraph (A), the term 'qualified transferor' means a person—

"(i) who held the stock in the corporation (or predecessor stock) on December 31, 1982, or

"(ii) who acquired the stock in an acquisition which meets the requirements of subparagraph (A).

"(C) FAMILY.—For purposes of subparagraph (A), the term 'family' has the meaning given such term by section 267(c)(4).

"(D) QUALIFIED BUY-SELL AGREEMENT.—For purposes of subparagraph (A), the term 'qualified buy-sell agreement' means any agreement which—

"(i) has been continuously in existence since September 28, 1982, and

"(ii) provides that on the death of any party to such agreement, the stock in the S corporation held by such party will be sold to surviving parties to such agreement who were parties to such agreement on September 28, 1982.

On page 53, line 21, strike "provided in subsection (b)", and insert "otherwise provided in this section";

On page 54, after line 3, insert the following:

(3) NEW PASSIVE INCOME RULES APPLY TO TAXABLE YEARS BEGINNING DURING 1982.—In the case of a taxable year beginning during 1982—

(A) sections 1362(d)(3), 1366(f)(3), and 1375 of the Internal Revenue Code of 1954 (as amended by this Act) shall apply, and

(B) section 1372(e)(5) of such Code (as in effect on the day before the date of the enactment of this Act) shall not apply.

On page 54, line 15, strike "June 23", and insert "September 28";

On page 55, after line 26, insert the following:

(3) CERTAIN CORPORATIONS WITH OIL AND GAS PRODUCTION.—

(A) IN GENERAL.—In the case of any qualified oil corporation—

(i) the amendments made by this Act shall not apply, and

(ii) subchapter s (as in effect on July 1, 1982) of chapter 1 of the Internal Revenue Code of 1954 shall apply.

(B) QUALIFIED OIL CORPORATION.—For purposes of this paragraph, the term "qualified oil corporation" means any corporation if—

(i) as of September 28, 1982, such corporation—

(I) was an electing small business corporation, or

(II) was a small business corporation which made an election under section 1372 (a) after December 31, 1981, and before September 28, 1982,

(ii) for calendar year 1982, the combined average daily production of domestic crude oil or natural gas of such corporation and any one of its substantial shareholders exceeds 1,000 barrels, and

(iii) such corporation makes an election under this subparagraph at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe.

(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), the average daily production of domestic crude oil or domestic natural gas shall be determined under section 613A(c)(2) of such Code without regard to the last sentence thereof.

(D) SUBSTANTIAL SHAREHOLDER.—For purposes of subparagraph (B), the term "substantial shareholder" means any person who on July 1, 1982, owns more than 40 percent (in value) of the stock of the corporation.

On page 56, line 32, strike "(3)", and insert "(4)";

On page 57, after line 19, insert the following:

(d) TREATMENT OF EXISTING FRINGE BENEFIT PLANS.—

(1) IN GENERAL.—In the case of existing fringe benefits of a corporation which as of September 28, 1982, was an electing business

corporation, section 1372 of the Internal Revenue Code of 1954 (as added by this Act) shall apply only with respect to taxable years beginning after December 31, 1987.

(2) REQUIREMENTS.—This subsection shall cease to apply with respect to any corporation after whichever of the following first occurs:

(A) the first day of the first taxable year beginning after December 31, 1982, with respect to which the corporation does not meet the requirements of section 1372(e)(5) of such Code (as in effect on the day before the date of the enactment of this Act).

(B) any termination after December 31, 1982, of the election of the corporation under subchapter S of chapter 1 of such Code, or

(C) the first day on which more than 50 percent of the stock of the corporation is newly owned stock within the meaning of section 1378(C)(2) of such Code (as amended by this Act).

(3) EXISTING FRINGE BENEFIT.—For purposes of this subsection, the term "existing fringe benefit" means any employee fringe benefit of a type which the corporation provided to its employees as of September 28, 1982.

(e) TREATMENT OF CERTAIN ELECTIONS UNDER PRIOR LAW.—For purposes of section 1362(g) of the Internal Revenue Code of 1954, as amended by this Act (relating to no election permitted within 5 years after termination of prior election), any termination under section 1372(e) of such Code (as in effect on the day before the date of the enactment of this Act) shall not be taken into account.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, H.R. 6055, the Subchapter S Revision Act of 1982, is intended to simplify and modify the tax rules relating to eligibility for subchapter S status and the operation of these small business corporations. This is accomplished principally by removing unnecessary eligibility restrictions, and by revising the rules relating to income and distributions that tend to create traps for the unwary.

Congress originally enacted the subchapter S provisions to minimize the effect of Federal income taxes on the choice of a business organization's form, and to permit the incorporation and operation of certain small businesses without the imposition of a tax at both the corporation and shareholder levels.

H.R. 6055 maintains the ability of small business corporations to elect a single level shareholder tax on the corporate earnings, and by simplifying the rules governing the election, encourages more small businesses to take advantage of this election.

The bill replaces the rules of present law with a partnership-like scheme of taxation for subchapter S corporations. In addition, because the history of subchapter S demonstrates the ability of sophisticated taxpayers, or those with sophisticated advisers, to reap unintended tax benefits from the subchapter S rules, the bill attempts to eliminate these unwarranted benefits.

An identical bill, S. 2350, was introduced on April 1, 1982, by the ranking minority member of the Committee on Finance, Senator LONG and myself. This introduced bill was developed by the staffs of the tax-writing committees in cooperation with the Treasury Department, professional bar and accounting groups, and small business representatives to simplify the operation of the subchapter S provisions. A hearing was held on September 10, 1982, and revisions were made in response to the comments presented.

Mr. President, H.R. 6055 will simplify subchapter S for small businesses. I strongly urge adoption of H.R. 6055, the Subchapter S Revision Act of 1982.

Mr. President, this is a matter that Senator LONG has been working on for a number of years. I joined Senator LONG this year. It has also been on the House side a bipartisan effort with Congressman CONABLE and Congressman ROSTENKOWSKI. We believe it is a tax simplification measure that should be passed. There was strong bipartisan support for this in the committee.

Mr. GRASSLEY. Mr. President, I want to praise the Department of Treasury, the Joint Committee on Taxation, and the Committee on Finance staff for their hard work on this difficult problem. This subchapter S reform legislation is very important to my constituents, many of whom are shareholders of subchapter S corporations.

In my opinion, the new eligibility requirements are much more realistic. Permitting the number of shareholders to be increased from 25 to 35 people is a sensible move which more accurately reflects modern business organization. Eliminating the one class of stock restriction and the passive investment restrictions on corporations without earnings and profits and ongoing subchapter S corporations is an important reform which would eliminate much of the hardship small corporations face when their profit picture changes. Another reform denies a shareholder the right to permit a subchapter S election if he or she buys stock after the election was made—a sensible requirement to prevent minority tyranny.

Additionally, this bill extends the time during which an individual can elect to become a subchapter S corporation or elect out of subchapter S status. This change is important to many small businessmen who have difficulty projecting their annual earnings by the end of the first month of the taxable year. Extending the time for election to the 15th day of the third month of the calendar year will enable many small businessmen to select the corporate form most suited to their needs.

Another important provision of this bill permits losses to be carried forward to the extent the losses exceed the shareholder's basis in stock and loans to the corporation. This eliminates another senseless restriction on subchapter S corporations who are often struggling to make ends meet.

This bill is an important milestone in creating parity between subchapter S corporations and other conduit forms of corporate organization. In my view, this legislation makes great progress in ending the needless discrimination between subchapter S and other corporate forms of organization. The chairman and all the dedicated staff people who participated in this project deserve our congratulations for their efforts on this important project.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The committee amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

NAIROBI PROTOCOL ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS

CONVENTION WITH MEXICO FOR THE RECOVERY AND RETURN OF STOLEN OR EMBEZZLED VEHICLES AND AIRCRAFT

CONVENTION ON TONNAGE MEASUREMENTS OF SHIPS, 1969

CONSERVATION OF SALMON IN NORTH ATLANTIC OCEAN

ESTATE AND GIFT TAX TREATY WITH THE REPUBLIC OF AUSTRALIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, we are in executive session?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I am advised by my cloakroom that there is a request from the Department of State that treaty No. 35 be withdrawn from en bloc consideration and returned to the calendar.

If the minority leader has no objection to that, I will ask for that at this time.

Mr. ROBERT C. BYRD. There is no objection.

Mr. BAKER. Mr. President, I ask unanimous consent the previous unan-

imous-consent order be amended to delete treaty No. 35, and that item be returned to the Executive Calendar.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, is the vote to occur at 1:10 p.m. today?

The PRESIDING OFFICER. There is 10 minutes of debate provided before the vote.

Mr. BAKER. All right. This will be now one vote to count for five votes instead of one vote to count for six?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

Mr. PERCY. Mr. President, the Senate will vote today on six treaties for which the President has asked our advice and consent. All of these treaties were reported unanimously by the Committee on Foreign Relations during this session, and we are not aware of opposition to any of them. They deal with a range of different subjects and the reports are available to every Member of the Senate. I urge my colleagues to approve each of them.

STATEMENT OF SENATOR PERCY ON THE MONTREAL PROTOCOLS

Mr. President, before turning to the treaties which are before the Senate for a vote today, I would like to direct the attention of the Members to a treaty which is not being considered today, but which I fully hope and expect will be dealt with by the Senate before the end of this Congress. I am referring to the treaty which incorporates the Montreal Protocols, Nos. 3 and 4, dealing with the compensation of victims and their families in the event of international aviation accidents.

On the op-ed page of this morning's New York Times, there appears a column entitled "Cheating Air Travelers" written by the distinguished junior Senator from South Carolina, Senator HOLLINGS. It repeats very concisely the kind of arguments being made against the Montreal Protocols by the American Trial Lawyers Association, which has spearheaded the opposition to this treaty for 5 years and which has succeeded thus far in preventing these treaties from coming to a vote in the Senate.

Mr. President, I hope we will have a full opportunity during the forthcoming session of the Senate to address the charges made in Senator HOLLINGS' column and to present what I believe is the much more persuasive argument in favor of U.S. ratification. I trust the Senator from South Carolina will cooperate in the development of a reasonable time agreement to permit such a debate.

Let me simply note for the record today, that the basic reason why we must proceed with the ratification of these agreements without further delay is that the vast majority of American travelers will be far better off if we do so. Contrary to the implication of this morning's column, it is the interest of the American consumer which argue in favor of ratification, not against it. That is why the members of the Committee on Foreign Relations voted 16 to 1 in favor of the protocols and why I am confident that if we can get to a vote in the Senate on this issue, following an opportunity for debate, we will achieve the support of the two-thirds of the Senate necessary for advice and consent.

For whatever the trial lawyers' association may claim about the current situation in aviation accident compensation, the fact of the matter is that most people presently receive far less compensation today in the event of accident than they would under the proposed system. They also must pay much more of it to a lawyer and they often must wait much longer to obtain it. Furthermore, without an international treaty system such as that proposed in the protocols, some Americans will find themselves without access to U.S. courts and with an even lower limit on available recoveries.

In short, I think we can effectively respond to the claims made in Senator HOLLINGS' article this morning. I trust he will agree to bringing the treaty up later this year.

PROTOCOL ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS

Mr. President, the Senate has before it for advice and consent a treaty protocol dealing with the elimination of duties on a range of educational, scientific, and cultural materials. It is known as the "Nairobi Protocol" because of the site of the negotiations themselves and amends a longstanding treaty known as the Florence Agreement.

The Nairobi Protocol is an expansion of the original Florence Agreement and extends duty-free treatment to such materials as books, publications and documents, works of art and collectors' pieces, visual and auditory materials, scientific instruments and apparatus, and articles for the blind. It will have important economic benefits for the United States, both in lower cost imports for U.S. consumers and in increased markets for U.S. exporters who are highly competitive in the products covered by the protocol.

The Committee on Foreign Relations reported the Nairobi Protocol without dissent several months ago. Both the report of the committee, No. 97-53, and the hearing record from last fall are available to all Members. The committee is not aware of any opposition to the ratification of this protocol by the United States and has received expressions of strong support from the following organizations: American Foundation for the Blind, Association of University Presses, American Library Association, Association of American Publishers, Recording Industry Association of America, and the Canadian Film Development Corp.

The protocol will enter into force for the United States when our instrument of ratification is deposited by the President subsequent to Senate advice and consent. The administration has indicated its intention not to take such a step until implementing legislation is enacted. Furthermore, in order to insure that our exporters will receive generally equivalent benefits from other countries, the administration has expressed its intention not to take such a step until it is clear that certain other major trading nations will be ratifying the protocol. However, the proposed implementing legislation would provide for temporary duty-free treatment for certain articles during the interim period. Such legislation was recently reported by the Senate Finance Committee.

Mr. President, the Nairobi Protocol deserves the advice and consent of the Senate and I urge my colleagues to support it.

CONVENTION WITH MEXICO FOR THE RECOVERY AND RETURN OF STOLEN AND EMBEZZLED VEHICLES AND AIRCRAFT

Mr. President, on June 30, by a vote of 15-0, the Committee on Foreign Relations approved the proposed convention between the United States and Mexico for the recovery and return of stolen and embezzled vehicles and aircraft now before the Senate for its advice and consent. This vote of approval was preceded on June 11 by a full morning committee hearing during which administration and public witnesses testified in support of the proposed convention which has already been ratified by Mexico.

Specifically, the proposed convention, Treaty Document 97-18, supersedes a 1936 convention with Mexico that established the principle of mutual assistance between the two signatory countries in the recovery and return of vehicles and aircraft stolen or embezzled in one country and seized in the other's territory. By mutual agreement, the convention was renegotiated to provide for more efficient procedures in effecting such returns or determining that a vehicle or aircraft is not within the terms of the proposed convention.

As further background, it is now estimated that as many as 20,000 vehicles valued at $100 million to $200 million are stolen in the United States and taken into Mexico annually. The procedures for return under the 1936 convention are time consuming and subject to a complicated bureaucratic process whereby all requests for return are made to the Mexican Ministry of Foreign Relations and not the

Mexican law enforcement agency that has control of the vehicle or aircraft. Therefore, from the U.S. perspective, a primary reason for renegotiating the 1936 convention was to improve the prospects for the speedy return of motor vehicles and aircraft stolen or embezzled in the United States and brought into Mexico since that convention has not always proven effective in facilitating their easy and prompt return.

The Mexican Government was interested in renegotiating the 1936 convention primarily because of its concern over the smuggling into Mexico from the United States of $1 billion worth of contraband, appliances, electronic equipment, and firearms annually. The Mexican Government asserted that the majority of this contraband was being brought into Mexico by private aircraft, many of which were allegedly stolen or embezzled in the United States, and then landed with contraband at clandestine airstrips in remote areas of northern Mexico. Such smuggling was not a problem when the 1936 convention was negotiated and that convention generally obligated the parties to return aircraft stolen or embezzled in one country and found in the other's territory whether or not the vehicle or aircraft had been used in the commission of a crime. The Mexican Government felt, however, that, smuggling could only be deterred if it had the authority to seize and not return aircraft and vehicles used in smuggling operations. The Mexicans thus sought to insure the inclusion of this authority in the proposed convention.

A detailed analysis of the major provisions of the proposed convention is contained in Executive Report No. 97-55 prepared by the Committee on Foreign Relations and available at the desk of each Senator.

Mr. President, I urge my colleagues to approve the proposed convention so that it can be ratified by the President as soon as possible.

CONVENTION ON TONNAGE MEASUREMENTS OF SHIPS, 1969

This convention is designed to establish uniform principles and rules with respect to the determination of the tonnage of vessels engaged in international voyages.

The tonnage measurement of vessels produces two figures. The first, commonly referred to as a gross tonnage, is intended to give an indication of the overall size of a ship. This figure has been used to provide a basis for comparison of vessels in connection with administration of national and international laws, statistics, drydocking charge schedules and to provide an index when the relative sizes of vessels are important. The second figure produced by the tonnage measurement is called net tonnage, and usually constitutes the measure of a ship's cargo carrying capacity. This measurement has been utilized principally by port and other dues-collecting authorities as a basis for the assessment of canal tolls and other charges.

Different systems of tonnage measurements have caused duplication in the work of measuring vessels, complicated the movement of ships in and out of the various ports of the world and have created economic inequities among ships of different nationalities. This convention is designed to establish uniform principles and rules with respect to the determination of the tonnage of vessels engaged in international voyages.

The first attempt at unifying tonnage measurements was initiated in 1925 by the League of Nations. A draft convention with regulations was drawn up in 1937, but the outbreak of World War II postponed a proposed conference. In 1947, a convention based on the 1937 draft was adopted by 16 nations at Oslo, Norway. However, the rigid amending procedure of this convention made it impractical as a binding legal agreement.

In 1959, work on the unification of tonnage measurement was taken over by the Intergovernmental Maritime Consultative Organization (IMCO). After 10 years of drafting proposals, IMCO convened an international conference which adopted the present convention. The convention was signed in London on June 23, 1969, and was submitted on June 15, 1972.

CONSERVATION OF SALMON IN NORTH ATLANTIC OCEAN

The Convention for the Conservation of Salmon in the North Atlantic Ocean was signed in March 1982 by the United States, Canada, Denmark, the European Community, Iceland, Norway, and Sweden. Its purpose is to conserve, restore and manage the salmon stocks of the North Atlantic Ocean.

Atlantic salmon from nations bordering the North Atlantic Ocean annually migrate to the waters off Greenland to feed before returning to natal rivers to spawn and renew the life cycle. In the years 1964-72, the Danes, Norwegians and Faroese increased the Greenland "high-seas" fishery to a point where scientists feared for the survival of the species. Catches in home waters plummeted to record lows. A movement spearheaded by the private sector in the United States working closely with the U.S. Government secured the United States-Danish Atlantic Salmon Agreement of January 1972, which phased out the "high-seas" fishery by 1976 and established an 1,190-ton quota on the "inshore" fishery by native Greenlanders. This was later incorporated into an ICNAF (the International Commission for Northwest Atlantic Fisheries) agreement.

After the termination of ICNAF in 1976, the Atlantic salmon was left without protection. There are international treaties for other highly migrating species, the tunas, the whales, the seals, and Pacific salmons, but none for the Atlantic salmon.

In 1975, a private organization entitled the Restoration of Atlantic Salmon in America, Inc. (RASA) became the first to call for a multilateral treaty. By 1978, the efforts of this group persuaded the U.S. Department of State to introduce a draft of a convention for comment by interested nations. Since then, five meetings of interested parties were held, in Washington, Brussels, Ottawa, Oslo, and Geneva. A diplomatic conference held in Reykjavik in January 1982 produced a final convention.

The convention applies to salmon stocks which migrate beyond areas of fisheries jurisdiction of coastal nations of the Atlantic Ocean north of 36 degrees north latitude throughout their migratory range. It is designed to control and manage the high seas interception of salmon before they return to their rivers of origin. The following is the manner in which the agreement hopes to achieve its purpose.

First, fishing beyond 12 miles of the coast would be prohibited except in the case of Greenland and the Faroe Islands. This restriction would not affect U.S. fishing patterns because there are no salmon fisheries now operating beyond 12 miles from our coast, and none are expected to become viable for decades.

Second, the convention will establish a new organization consisting of a council and three regional commissions to promote and coordinate conservation, restoration and scientific investigations of salmon in the North Atlantic Ocean. These regional commissions will be empowered to adopt proposals to regulate the interceptions by one country of salmon originating in rivers of other countries. Again, this will not lead to limits on U.S. fishermen because the United States does not intercept salmon of foreign origin.

The expected results of these measures is that more salmon will return to spawn in their rivers of origin—not just in the United States, but in Canada, Iceland, Norway, Sweden, the United Kingdom and elsewhere.

The committee notes that U.S. salmon interests are in favor of this convention. The committee has received letters of support from the following organizations: Restoration of Atlantic Salmon in America, Inc., National Coalition for Marine Conservation, Inc., and the Connecticut River Salmon Association.

I would also like to ask unanimous consent that the statement of the Director of the Office of Fisheries Affairs in the Department of State sup-

porting the ratification of this treaty be included in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF LARRY L. SNEAD

Mr. Chairman and Members of the Committee:

I am pleased to have this opportunity to appear before you to request Senate advice and consent to ratification of the Convention for the Conservation of Salmon in the North Atlantic Ocean. The United States took the lead nearly four years ago in developing this Convention to respond to domestic and international concern regarding the need for a comprehensive international treaty to deal with Atlantic salmon issues. As you know, provisions of United States law authorize the Department to undertake such negotiations. The negotiations were successfully concluded at a Diplomatic Conference held in Reykjavik, Iceland in January 1982. The Convention has been signed by the United States, Canada, the European Community, Iceland and Norway, and will remain open for signature through August 31, 1982.

The Convention applies to salmon which migrate beyond areas of fisheries jurisdiction of coastal states of the Atlantic Ocean north of 36 degrees North Latitude throughout their migratory range. Salmon spawning in U.S. rivers, for example, migrate to sea where they are intercepted within Canadian and, to a lesser extent, Greenland fishery jurisdictions before returning to spawn in U.S. rivers. These interceptions (catches by one country of salmon which originate in the rivers of another) must be controlled if effective management and restoration of depleted U.S. salmon stocks is to be achieved. Atlantic salmon of Canadian and European origin are also affected by interceptions off foreign coasts, but these salmon are not known to migrate into U.S. waters in any substantial numbers.

The United States had three primary objectives in undertaking these negotiations: (1) to address the worldwide decline in Atlantic salmon stocks by establishing an international forum to consider salmon conservation and management problems; (2) to replace inadequate short-term bilateral arrangements with a permanent treaty to develop cooperation between salmon harvesting and salmon producing interests; and (3) to facilitate salmon enhancement efforts by developing a mechanism to control salmon interceptions. I would like to interject here, Mr. Chairman, that the United States also sought from the beginning to limit the scope of this treaty to deal with salmon resources only. Our purpose was to avoid trade-offs between salmon problems and unrelated fishery problems in the Atlantic Ocean.

The key provisions of this Convention are:

1. Salmon fishing beyond 12 miles offshore is banned, except in the case of West Greenland and the Faroe Islands where fishing may occur within 40 miles and 200 miles offshore, respectively.

2. A new organization is established consisting of a Council and three regional Commissions to promote and coordinate salmon conservation, management and restoration activities as well as scientific investigations of salmon in the north Atlantic Ocean.

3. These Commissions may, on the basis of unanimity, propose regulations on salmon interceptions.

The need for a three-Commission structure was recognized early in the negotiations. Atlantic salmon conservation and management is complicated by the interrelationship between salmon which migrate from their rivers of origin in either North America or Europe and then co-mingle in a common feeding area off the West coast of Greenland. The three Commissions cover distinct areas in the North Ocean, and report to a single Council which coordinated their activities. These Commissions, their members and areas of coverage are:

1. North American Commission. Membership is limited to the United States and Canada. The European Community may submit and vote on proposals for regulatory measures concerning salmon stocks of European origin. The area of geographic coverage is the maritime waters under the jurisdiction of the United States and Canada off the Atlantic coast of North America.

2. West Greenland Commission. Membership is initially limited to the United States, Canada and the European Community. The area of coverage is the maritime waters under the jurisdiction of Greenland off the west coast of Greenland.

3. Northeast Atlantic Commission. Membership is initially limited to the European Community, Iceland, Norway, Denmark (in respect of the Faroe Islands) and Sweden. The United States and Canada may submit and vote on proposals for regulatory measures concerning salmon of United States and Canadian origin. The area of geographic coverage is all maritime waters east of the West Greenland Commission area.

The North American Commission will be of particular interest to the United States because of its bilateral nature and because most interceptions of U.S. origin salmon occur off Canada. Accordingly, the United States and Canada agreed to three additional provisions in the North American Commission which are highly significant to U.S. domestic interests.

First, the stated objective of the Commission is to minimize interceptions as opposed to the main function of the West Greenland and Northeast Atlantic Commissions to consult and cooperate on interception problems. Since the United States does not conduct salmon fisheries which intercept Atlantic salmon, this means, from a practical standpoint, that Canada is obliged to make efforts to minimize its catch of U.S. origin salmon in Canadian salmon fisheries.

Second, patterns in salmon fisheries within the Commission area shall not be altered in a manner which results in the initiation of or increases in interceptions, without the consent of the state of origin. This provision will give important new protection to U.S. origin salmon while they are migrating inside waters under Canadian jurisdiction.

Third, each member of the Commission shall, with respect to its vessels and the area under its fisheries jurisdiction, take the measures necessary to minimize the interception of salmon in non-salmon fisheries. Again, this will give important new protection to salmon of U.S. origin which are taken as by catch in trawl nets or other fishing gear by either Canadian or other foreign fishermen operating inside the Canadian fisheries zone.

Mr. Chairman, I believe it will also be of interest to the Committee to note that the fiscal obligations of the United States under this Convention are relatively minimal in terms of the potential benefits. The budget formula adopted by the Convention, while divided on a fair and proportionate basis among the Parties, will result in a United States share of only about 5 percent of the total budget for the near future. The total budget of the Organization will also be kept small, by relying on a small Secretariat staff and by utilizing the International Council for the Exploration of the Seas (ICES) as the primary source of scientific advice.

Other U.S. scientific support to the Organization would normally be given directly by the technical branches of the Federal agencies involved which are supported by the regular appropriations process. On a comparative basis, the Atlantic Salmon Convention would be the least costly fishery convention to which the United States is a Party. Our request for funds to cover U.S. contributions under the Convention has been approved by the Office of Management and Budget for inclusion in the fiscal year 1983 budget.

Mr. Chairman, I am pleased to inform members of the Committee that our negotiations have succeeded in all substantive respects in achieving the domestic objectives I cited earlier. The proposed Convention will provide for the first time a permanent forum for salmon producing states and salmon harvesting states to work together cooperatively to solve critical salmon conservation, restoration and management problems in the Atlantic Ocean.

It will for the first time focus worldwide attention on the unique status of Atlantic salmon stocks and provide a framework for resolving potential conflicts and addressing regional, national and local salmon interests through multi-national cooperation. It will create a more favorable environment for salmon restoration in the United States and abroad by increasing the opportunity for fair economic returns from salmon enhancement costs. For these reasons, Mr. Chairman, the Department strongly urges Senate advice and consent to ratification.

The United States believes it is important that the Convention enter into force at the earliest possible time. However, an issue which may affect timing for the Convention's entry into force centers on a provision under Article 17, which requires, in essence, the deposit of instruments of ratification, approval or accession by the United States, Canada and the European Community, together with one other Party.

Failure of any one of these three signatories to ratify or approve the Convention will block its entry into force. Canada is seeking firm assurances that the provisions of a separate bilateral agreement with the European Community concerning the West Greenland salmon quota for 1982 and 1983, which was approved last year, will continue to apply through 1983. Maintenance of adequate conservation measures in the 1983 West Greenland salmon fishery is also important to the United States since U.S. origin salmon are intercepted in that fishery.

The United States has been actively working with Canadian and European officials since January in attempting to find a solution which will allow early entry into force of the Convention, but which will also provide for adequate conservation measures off West Greenland in 1983. Our efforts on this issue are continuing, Mr. Chairman, and hopefully a satisfactory solution will be achieved soon.

I would be pleased at this time to answer any questions Members of the Committee might have.

ESTATE AND GIFT TAX TREATY WITH THE REPUBLIC OF AUSTRIA

Mr. PERCY. Mr. President, the purposes of the proposed estate, gift, and generation-skipping transfer tax treaty between the United States and Austria are to alleviate double taxation on the estates, gifts, and generation-skipping transfers of citizens and domiciliaries of those countries by modifying the jurisdictional rules of such taxation with respect to these individuals and to prevent evasion of taxes on estates, gifts, inheritances, and deemed transfers. The treaty modifies the jurisdictional rules in two ways.

First, an individual's country of domicile is given primary tax jurisdiction over the estates, gifts, and deemed transfers of its domiciliaries (article 7). However, real property and business property located in the other country ("situs country") are subject to primary tax jurisdiction in the situs country (articles 5 and 6).

The second modification is that in situations were both countries under their own domestic laws consider an individual to be a domiciliary, the individual will be treated as having only one country of domicile for purposes of the taxes covered by the treaty. The treaty sets forth several criteria to determine which country is the country of domicile (article 4).

In situations where both countries retain the right to tax transfers the treaty generally provides for relief from double taxation by the country of domicile or citizenship (article 9). Where the United States is the country of domicile or citizenship, relief is granted through a foreign tax credit. Where Austria is the country of domicile, relief is granted by Austria exempting the property from tax.

The treaty contains the standard provision (the "saving clause") contained in U.S. tax treaties that the United States retains the right to tax its citizens as if the treaty had not come into effect (article 9). In addition, it contains the standard provision that the treaty will not be applied to deny any taxpayer any benefits he would be entitled to under the domestic law of either country or under any other agreement between the two countries (article 1); that is, the treaty will only be applied to the benefit of taxpayers.

The treaty also contains standard nondiscrimination provisions and provides for exchanges of information and administrative cooperation between the tax authorities of the two countries to avoid double taxation and prevent fiscal evasion.

Mr. BAKER. Mr. President, I have no further need for the time for debate. I see no Senator seeking recognition. If the minority leader wishes to proceed, I am willing to yield our time to him.

Mr. ROBERT C. BYRD. Mr. President, I have no indication of anyone on this side who wishes to make a statement.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the resolutions of ratification.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON), is necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON), would vote "yea."

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Votes Nos. 374, 375, 376, 377, 378, Leg.]

YEAS—97

Abdnor	Garn	Mitchell
Andrews	Glenn	Moynihan
Armstrong	Goldwater	Murkowski
Baker	Gorton	Nickles
Baucus	Grassley	Nunn
Bentsen	Hart	Packwood
Biden	Hatch	Pell
Boren	Hatfield	Percy
Boschwitz	Hawkins	Pressler
Bradley	Hayakawa	Proxmire
Brady	Heflin	Pryor
Bumpers	Heinz	Quayle
Burdick	Helms	Randolph
Byrd, Harry F., Jr.	Hollings	Riegle
	Huddleston	Roth
Byrd, Robert C.	Humphrey	Rudman
Cannon	Inouye	Sarbanes
Chafee	Jackson	Sasser
Chiles	Jepsen	Schmitt
Cochran	Johnston	Simpson
Cohen	Kassebaum	Specter
Cranston	Kasten	Stafford
D'Amato	Kennedy	Stennis
Danforth	Laxalt	Stevens
DeConcini	Leahy	Symms
Dixon	Levin	Thurmond
Dole	Long	Tower
Domenici	Lugar	Tsongas
Durenberger	Mathias	Wallop
Eagleton	Mattingly	Warner
East	McClure	Weicker
Exon	Melcher	Zorinsky
Ford	Metzenbaum	

NOT VOTING—3

Denton	Dodd	Matsunaga

The PRESIDING OFFICER. Two-thirds of the Senators present and voting having voted in the affirmative, the resolutions of ratification are agreed to.

The resolutions of ratification agreed to are as follows:

NAIROBI PROTOCOL ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol to the Agreement on the Importation of Educational, Scientific, and Cultural Materials, adopted at Nairobi on November 26, 1976, and signed by the United States on September 1, 1981.

CONVENTION WITH MEXICO FOR THE RECOVERY AND RETURN OF STOLEN OR EMBEZZLED VEHICLES AND AIRCRAFT

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of a Convention Between the United States of America and the United Mexican States for the Recovery and Return of Stolen or Embezzled Vehicles and Aircraft which was signed at Washington on January 15, 1981.

CONVENTION ON TONNAGE MEASUREMENTS OF SHIPS, 1969

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the International Convention on Tonnage Measurements of Ships, 1969, which was signed for the United States at London, June 23, 1969, subject to the following understanding:

That in the assessment of tolls for transit of the Panama Canal, the United States will continue to have the right to apply the present Panama Canal tonnage system or to adopt any other basis, in computing tonnages derived from volumes or other measures developed in connection with the said convention.

CONSERVATION OF SALMON IN NORTH ATLANTIC OCEAN

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Convention for the Conservation of Salmon in the North Atlantic Ocean, signed in March 1982 by the United States, Canada, the European Community, Iceland, and Norway.

ESTATE AND GIFT TAX TREATY WITH THE REPUBLIC OF AUSTRIA

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention Between the United States of America and the Republic of Austria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Estates, Inheritances, Gifts, and Generation-Skipping Transfers, signed at Vienna on June 21, 1982 (Treaty Document 97-26).

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the resolutions of ratification were agreed to.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

JOB TRAINING PARTNERSHIP ACT—CONFERENCE REPORT

The PRESIDING OFFICER. The question is on agreeing to the conference report on S. 2036. The yeas and

nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Louisiana (Mr. LONG), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

The PRESIDING OFFICER. Is there any Senator in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 379 Leg.]

YEAS—95

Abdnor	Ford	Metzenbaum
Andrews	Garn	Mitchell
Armstrong	Glenn	Moynihan
Baker	Goldwater	Murkowski
Baucus	Gorton	Nickles
Bentsen	Grassley	Nunn
Biden	Hart	Packwood
Boren	Hatch	Pell
Boschwitz	Hatfield	Percy
Bradley	Hawkins	Pressler
Brady	Hayakawa	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd, Harry F., Jr.	Helms	Randolph
	Hollings	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Humphrey	Rudman
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Cochran	Jepsen	Schmitt
Cohen	Johnston	Simpson
Cranston	Kassebaum	Specter
D'Amato	Kasten	Stafford
Danforth	Kennedy	Stennis
DeConcini	Laxalt	Stevens
Dixon	Leahy	Symms
Dole	Levin	Thurmond
Domenici	Lugar	Tsongas
Durenberger	Mathias	Wallop
Eagleton	Mattingly	Warner
East	McClure	Weicker
Exon	Melcher	Zorinsky

NOT VOTING—5

Denton	Long	Tower
Dodd	Matsunaga	

So the conference report was agreed to.

ARMED CAREER CRIMINAL ACT OF 1982

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on passage of S. 1688.

The bill having been read the third time, the question is, shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON) and the Senator from Texas (Mr. TOWER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Louisiana (Mr. LONG), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BOREN) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. BOREN) would vote "yea."

The PRESIDING OFFICER (Mr. WALLOP). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 93, nays 1, as follows:

[Rollcall Vote No. 380 Leg.]

YEAS—93

Abdnor	Glenn	Moynihan
Andrews	Goldwater	Murkowski
Armstrong	Gorton	Nickles
Baker	Grassley	Nunn
Baucus	Hart	Packwood
Bentsen	Hatch	Pell
Biden	Hatfield	Percy
Boschwitz	Hawkins	Pressler
Bradley	Hayakawa	Proxmire
Brady	Heflin	Pryor
Bumpers	Heinz	Quayle
Burdick	Helms	Randolph
Byrd, Harry F., Jr.	Hollings	Riegle
	Huddleston	Roth
Byrd, Robert C.	Humphrey	Rudman
Cannon	Inouye	Sarbanes
Chafee	Jackson	Sasser
Chiles	Jepsen	Schmitt
Cochran	Johnston	Simpson
Cohen	Kassebaum	Specter
Cranston	Kasten	Stafford
D'Amato	Kennedy	Stennis
Danforth	Laxalt	Stevens
DeConcini	Leahy	Symms
Dixon	Levin	Thurmond
Dole	Lugar	Tsongas
Domenici	Mathias	Wallop
Durenberger	Mattingly	Warner
Eagleton	McClure	Weicker
Exon	Melcher	Zorinsky
Ford	Metzenbaum	
Garn	Mitchell	

NAYS—1

East

NOT VOTING—6

Boren	Dodd	Matsunaga
Denton	Long	Tower

So the bill (S. 1688), as amended, was passed, as follows:

S. 1688

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Armed Career Criminal Act of 1982".

SEC. 2. Chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following new section:

§ 2118. Armed Career Criminals

"(a) Any person who while he or any other participant in the offense is in possession of or has readily available any firearm or imitation thereof, commits, or conspires or attempts to commit robbery or burglary in violation of the felony statutes of the State in which such offense occurs or of the United States—

"(1) may be prosecuted for such offense in the courts of the United States if such person has previously been twice convicted of robbery or burglary, or an attempt or conspiracy to commit such an offense, in violation of the felony statutes of any State or of the United States; and

"(2) shall, if found guilty pursuant to this section, and upon proof of the requisite prior convictions to the court at or before sentencing, be sentenced to a term of imprisonment of not less than fifteen years nor more than life and may be fined not more than $10,000.

"(b) Notwithstanding any other provision of law: (1) any person charged pursuant to this section shall be admitted to bail pending trial or appeal as provided in section 3148 of title 18, United States Code; (2) the prior convictions of any person charged hereunder need not be alleged in the indictment nor shall proof thereof be required at trial to establish the jurisdiction of the court or the elements of the offense; (3) any person convicted under this section shall not be granted probation nor shall the term of imprisonment imposed under paragraph (a), or any portion thereof, be suspended; and (4) any person convicted under this section shall not be released on parole prior to the expiration of the full term of imprisonment imposed under paragraph (a).

"(c) For purposes of this section—

"(1) 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States;

"(2) 'felony' means any offense punishable by a term of imprisonment exceeding one year; and

"(3) 'firearm' has the meaning set forth in section 921 of title 18, United States Code.

"(d) Except as expressly provided herein, no provision of this section shall operate to the exclusion of any other Federal, State, or local law, nor shall any provision be construed to invalidate any other provision of Federal, State, or local law.

"(e) Ordinarily the United States should defer to State and local prosecutions of armed robbery and armed burglary offenses. However, if after full consultation between the local prosecuting authority and the appropriate Federal prosecuting authority, the local prosecuting authority requests or concurs in Federal prosecution and the Attorney General or his designee approves such prosecution to be appropriate, then Federal prosecution may be initiated under this Act.".

SEC. 3. The table of sections for chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"2118. Armed Career Criminals.".

SEC. 4(a). It is the intent of Congress that any person prosecuted pursuant to this Act be tried expeditiously and that any appeal arising from a prosecution under this Act be treated as an expedited appeal.

(b) This section shall not create any right enforceable at law or in equity in any person, nor shall the court have jurisdiction to determine whether or not any of the procedures or standards set forth in this section have been followed.

The title was amended so as to read:

"A bill to combat violent street crime by establishing a Federal offense for continuing a career of robberies or burglaries by using a firearm to commit a third or subsequent such offense, and providing a mandatory minimum sentence of between fifteen years and life imprisonment.".

Mr. BAKER. I move to reconsider the vote by which the bill was passed.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE—H.R. 6056

Mr. BAKER. Mr. President, I ask unanimous consent that when Calendar Order No. 865, H.R. 6056,is considered by the Senate no amendments be in order except the following amendments: The committee amendments and two technical amendments, one by Senator TSONGAS and one by Senator HUDDLESTON.

Mr. BUMPERS. Mr. President, reserving the right to object, what is the popular title of the bill?

Mr. DOLE. These are technical amendments on the tax bill.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BAKER. Now, Mr. President, I yield so that the distinguished chairman of the committee may call up that measure.

The PRESIDING OFFICER. The Senator from Kansas.

TECHNICAL CORRECTIONS ACT OF 1982

Mr. DOLE. Mr. President, I call up H.R. 6056.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I will not object. This has been cleared with Mr. LONG, so there is no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6056) to make technical corrections to the Economic Recovery Tax Act of 1981.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance, with amendments.

On page 11, after line 11, insert the following:

(9) ANTI-CHURNING PROVISIONS.—Paragraph (4) of section 168(e) (relating to certain transactions in property placed in service before 1981) is amended—

(A) by adding at the end of subparagraph (D) thereof the following new sentence: "In the case of the acquisition of property by any partnership which results from the termination of another partnership under section 708(b)(1)(B), the determination of whether the acquiring partnership is related to the other partnership shall be made immediately before the event resulting in such termination occurs."; and

(B) by adding at the end thereof the following new subparagraphs:

"(H) ACQUISTIONS BY REASON OF DEATH.—Subparagraphs (A) and (B) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

"(I) SECTION 1245 PROPERTY ACQUIRED INCIDENTAL TO ACQUISITION OF SECTION 1250 PROPERTY. —Under regulations prescribed by the Secretary, subparagraph (B) shall apply (and subparagraph (A) shall not apply) to section 1245 property which is acquired incidental to the acquisition of section 1250 property.".

(10)(A) Subparagraph (D) of section 168(f) (relating to special rule for leases), as in effect before the amendments made by the Tax Equity and Fiscal Reponsibility Act of 1982, is amended by adding at the end thereof the following new sentence: "Under regulations prescribed by the Secretary, public utility property shall not be treated as qualified leased property unless the requirements of rules similar to the rules of sections 46(f) and 167(l) are met with respect of such property.".

(B) The amendment made by subsection (a) shall apply such respect to property to which the provisions of section 168(f)(8) of the Internal Revenue Code of 1954 (as in effect before the amendments made by the Tax Equity and Fiscal Responsibility Act of 1982) apply.

On page 14, strike line 12 through line 15, and insert the following:

(c) AMENDMENTS RELATED TO SECTION 206.—

(1) Paragraph (1) of section 1248(c) is amended by striking out "section 312(k)(3)" and inserting in lieu thereof "section 312(k)(4)".

(2) Section 562 (relating to rules applicable in determining dividends eligible for dividends paid deduction) is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULES FOR REAL ESTATE INVESTMENT TRUSTS.—In the case of a real estate investment trust, in determining the amount of dividends under section 316 for purposes of computing the dividends paid deduction, the earnings and profits of such trust for any taxable year beginning after December 31, 1980, shall be increased by the total amount of gain (if any) on the sale or exchange of real property by such trust during such taxable year.".

On page 19, line 1, strike "our", and insert "out";

On page 20, line 14, strike "and";

On page 20, after line 16, insert the following:

, and

(C) by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation.".

On page 20, line 24, strike "reference", and insert "reference";

On page 21, after line 2, insert the following:

(8) APPLICATION OF TRANSITION RULES.—Paragraph (2) of section 212(e) of the Economic Recovery Tax Act of 1981 is amended by adding at the end thereof the following new sentence:

On page 26, after line 21, insert the following:

(4) PERIOD DURING WHICH LOW-INCOME DETERMINATION IS MADE.—Effective with respect to certifications made after the date of the enactment of this Act with respect to individuals beginning work for an employer after May 11, 1982, paragraph (11) of section 51(d) (defining members of an economically disadvantaged family) is amended by striking out "the month in which such determination occurs" and inserting in lieu thereof "the earlier of the month in which such determination occurs or the month in which such individual was hired".

On page 29, after line 11, insert the following:

(5) Subparagraph (A) of section 128(c)(2) (defining qualified institution) is amended—

(A) by striking out "or" at the end of clause (ii), and

(B) by inserting after clause (iii) the following new clause:

"(iv) a banking facility (whether or not insured under Federal or State law) which is operated under a cost plus agreement with the Department of Defense for members of the Armed Forces of the United States serving outside the United States and their dependents, or".

On page 55, after line 16, insert the following:

(b) AMENDMENTS RELATED TO SECTION 502.—

(1) IN GENERAL.—Clause (ii) of section 263(g)(2)(A) (defining interest and carrying charges) is amended to read as follows:

"(ii) all other amounts (including charges for temporary use of the personal property in a short sale, or to insure, store, incurred to carry the personal property, over".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to property acquired, and positions established, by the taxpayer after September 22, 1982, in taxable years ending after such date.

On page 56, line 7, strike "(b)", and insert "(c)";

On page 58, strike line 1, through and including line 9, and insert the following:

(A) CASH SETTLEMENT CONTRACTS.—Subsection (b) of section 1256 (defining regulated futures contract) is amended by adding at the end thereof the following new sentence:

"A contract which requires the delivery of an amount of cash which is determined by reference to the value of any property or any index based on such value shall be treated as meeting the requirements of paragraph (1).".

(B) FOREIGN CURRENCY CONTRACTS.—Subsection (b) of section 1256, as amended by subparagraph (A), is amended by add'ıg at the end thereof the following new sentence: "The term 'regulated future contract' includes any foreign currency contract.".

On page 59, line 1, strike "(B)", and insert "(C)";

On page 59, strike line 19, through and including line 22, and insert the following:

(D) EFFECTIVE DATES.—

(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the amendments made by subparagraphs (B) and (C) shall apply only with respect to contracts entered into after May 11, 1982.

(ii) ELECTION BY TAXPAYER OF RETROACTIVE APPLICATION.—If the taxpayer elects within 90 days after the date of the enactment of this Act, the amendments made by subparagraphs (B) and (C) shall apply as if included within the amendments made by title V of the Economic Recovery Tax Act of 1981, except that the provisions of section 509(a)(3) and (4) of such Act shall not apply. Any election which may be made under sections 508(c) or 509(a) of such Act solely by reason of the preceding sentence shall be treated as timely made under such sections if made within 90 days after the date of enactment of this Act.

(iii) ELECTION BY TAXPAYER WITH RESPECT TO POSITIONS HELD ON MAY 11, 1982.—In lieu of the election under clause (ii), a taxpayer may elect to have the amendments made by subparagraphs (B) and (C) apply to positions held on May 11, 1982, in taxable years ending after such date, except that the provisions of section 509(a)(3) and (4) of the Economic Recovery Tax Act of 1981 shall not apply.

On page 61, after line 13, insert the following:

(d) AMENDMENT RELATED TO SECTION 506.—

(1) REQUIREMENT THAT OPTIONS BE DESIGNATED AS HELD FOR INVESTMENT.—Section 1236 (relating to dealers in securities) is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULE FOR OPTIONS.—For purposes of subsection (a), any security acquired by a dealer pursuant to an option held by such dealer may be treated as held for investment only if the dealer, before the close of the day on which the option was acquired, clearly identified the option on his records as held for investment.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to securities acquired after September 22, 1982, in taxable years ending after such date.

On page 62, after line 21, insert the following:

(4) CREDIT OR REFUND FOR BENEFICIARIES OF TRUST OWNING ROYALTY INTERESTS.—

(A) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by adding at the end thereof the following new section:

"SEC. 6430. CREDIT OR REFUND OF CHAPTER 45 TAXES TO CERTAIN TRUST BENEFICIARIES.

"(a) IN GENERAL.—Under regulations prescribed by the Secretary, any amount treated as an overpayment of tax by a qualified beneficiary under subsection (b) shall be credited against the tax imposed by section 4986 or refunded to such qualified trust beneficiary.

"(b) OVERPAYMENT.—That portion of the tax imposed by section 4986 which is paid by any trust with respect to the allocable trust production of any qualified beneficiary shall be treated as an overpayment by such qualified beneficiary of such tax.

"(c) LIMITATION.—

"(1) IN GENERAL.—The aggregate amount of any qualified beneficiary's allocable trust production removed from the premises during the calendar year which may be taken into account under subsection (b) shall not exceed the excess of—

"(A) the qualified royalty limit for such calendar year, over

"(B) the amount of exempt royalty oil (within the meaning of section 4994(f))—

"(i) of which such qualified beneficiary is the producer, and

"(ii) which is removed from the premises during such calendar year.

"(2) ALLOCATION.—If the allocable trust production of any qualified beneficiary which is removed from the premises during the calendar year exceeds the limitation under paragraph (1) for such calendar year, such qualified beneficiary may allocate such limitation to any allocable trust production of such qualified beneficiary as he selects.

"(3) QUALIFIED ROYALTY LIMIT.—

"(A) IN GENERAL—For purposes of this subsection, the term 'qualified royalty limit' means with respect to any calendar year, an amount equal to the product of—

"(i) the number of days in such calendar year, multiplied by

"(ii) the limitation in barrels determined under the following table:

"In the case of allocable trust production during:	*The limitation barrels is:*
1982	2
1983	2
1984	2
1985 and thereafter	3

"(B) ALLOCATION.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 6429(c) shall apply with respect to the qualified royalty limit.

"(d) ALLOCABLE TRUST PRODUCTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'allocable trust production' means with respect to any qualified beneficiary, the qualified royalty production of any trust of which such qualified beneficiary is a beneficiary which—

"(A) is removed from the premises during the calendar year, and

"(B) is allocated to such qualified beneficiary under paragraph (2).

"(2) ALLOCATION OF PRODUCTION.—All qualified royalty production of a trust removed from the premises during the calendar year which is subject to the same amount of tax per barrel under section 4987(a) shall be allocated among beneficiaries of such trust in an amount which bears the same relationship to all such qualified royalty production as that portion of the amount of the deduction allowable under section 611(a) with respect to all property held by such trust which is allocated to such beneficiary under section 611(b)(3) bears to the entire amount of such deduction.

"(3) PRODUCTION FROM TRANSFERRED PROPERTY.—

"(A) IN GENERAL.—The allocable trust production of any qualified beneficiary shall not include any production attributable to an interest in property that has been transferred after June 9, 1981, in a transfer which—

"(i) is described in section 613A(c)(9)(A), and

"(ii) is not described in section 613A(c)(9)(B).

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply in the case of any transfer so long as the transferor and the transferee are required by subsection (c)(3)(B) to share the qualified royalty limit under subsection (c)(1)(A). The preceding sentence shall apply to the transfer of any property only if the production attributable to the property was allocable trust production or qualified royalty production of the transferor.

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED BENEFICIARY.—The term 'qualified beneficiary' means any individual or estate which is a beneficiary of any trust that is a producer.

"(2) QUALIFIED ROYALTY PRODUCTION.—The term 'qualified royalty production' means, with respect to any person, taxable crude oil (within the meaning of section 4991(a)) which is attributable to an economic interest of such person other than an operating mineral interest (within the meaning of section 614(d)). Such term does not include taxable crude oil attributable to any overriding royalty interest, production payment, net profits interest, or similar interest of the person which—

"(A) is created after June 9, 1981, out of an operating mineral interest in property which is proven oil or gas property (within the meaning of section 613A(c)(9)(A)) on the date such interest is created, and

"(B) is not created pursuant to a binding contract entered into prior to June 10, 1981.

"(3) PRODUCER.—The term 'producer' has the meaning given to such term by section 4996(a)(1).

"(f) CLAIM FOR CREDIT OR REFUND.—Any claim for credit or refund under this section shall be filed in such form and manner, and at such time, as the Secretary may prescribe by regulations.".

(B) ALLOCATION OF LIMITATION BETWEEN EXEMPT ROYALTY OIL AND ALLOCABLE TRUST PRODUCTION.—Paragraph (2) of section 4994(f) (relating to royalty limit) is amended—

(i) by striking out "A qualified" in subparagraph (A) and inserting in lieu thereof "Except as provided in subparagraph (C), a qualified", and

(ii) by adding at the end thereof the following new subparagraph:

"(C) QUALIFIED BENEFICIARIES.—Any qualified royalty owner who is a qualified beneficiary (within the meaning of section 6430(e)(1)) for any quarter may elect (at such time and in such manner as the Secretary may prescribe by regulations) to reduce by any amount the qualified royalty owner's royalty limit determined under subparagraph (A) for such quarter.".

(C) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by adding at the end thereof the following new item:

"Sec. 6430. Credit or refund of chapter 45 taxes to certain trust beneficiaries.".

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply with respect to calendar years beginning after December 31, 1981.

On page 69, strike line 1, through and including line 6, and insert the following:

(b) AMENDMENT RELATED TO SECTION 603.—Paragraph (2) of section 4994(g) (relating to limitations for certain transferred properties) is amended by striking out "owned by a person other than an independent producer (within the meaning of section 4992(b)(1))." and inserting in lieu thereof "owned by any person (other than the producer) who during the period of ownership after such date was not an independent producer (within the meaning of section 4992(b)(1)). The preceding sentence shall not apply to property so owned by any person if, at the time of transfer of such property by such person, such property was not a proven property (within the meaning of section 613A(c)(9)(A))".

On page 70, strike line 12, through and including line 23, and insert the following:

(b) AMENDMENTS RELATED TO SECTION 724.—Subsection (c) of section 5761 (relating to application of section 6659) is amended—

(1) by striking out "section 6659(a)" and inserting in lieu thereof "section 6660(a)", and

(2) by striking out "SECTION 6659" in the heading and inserting in lieu thereof "SECTION 6660".

On page 75, after line 18, insert the following:

(3)(A) Subparagraph (A) of section 4994(b)(1) (defining qualified charitable interest) in amended—

(i) by striking out "or" at the end of clause (ii),

(ii) by striking out "and" at the end of clause (iii) and inserting in lieu thereof "or", and

(iii) by adding at the end thereof the following new clause:

"(iv) held by an organization described in section 509(a)(3) which is operated exclusively for the benefit of an organization described in—

"(I) clause (ii), or

"(II) section 170(b)(A)(ii) which is also described in section 170(c)(2), and".

(B) Subparagraph (B) of section 4994(b)(1) is amended by striking out "or (ii)" and inserting in lieu thereof "(ii), (iii), or (iv)".

(C) Paragraph (2) of section 4994(b) is amended—

(i) by striking out "clause (ii) or (iii)" and inserting in lieu thereof "clause (ii), (iii), or (iv)",

(ii) by striking out "clause (i) or (ii)" each place it appears and inserting in lieu thereof "clause (i), (ii), or (iv)", and

(iii) by inserting ". whichever is applicable," after "paragraph (1)(A)" each place it appears.

On page 77, strike line 21, through and including page 78, line 4, and insert the following:

"(B) NET PROFITS INTERESTS.—

"(i) IN GENERAL.—Except to the extent otherwise provided by regulations, in the case of any property, all cost recovery oil covered by a net profits agreement (within the meaning of subsection (h) shall be treated as produced by the parties to such agreement in proportion to their respective shares (determined after reduction for such cost recovery oil) of the production of the crude oil covered by such agreement.

"(ii) CLAUSE (I) NOT TO APPLY BEFORE PAYOUT.—In the case of any property, clause (i) shall only apply for—

"(I) the first taxable period in which, under the agreement with respect to such property, one or more persons receives a share described in subsection (h)(1)(B), and

"(II) all subsequent taxable periods to which such agreement applies.".

On page 80, line 1, after "property.", insert the following:

The Secretary shall by regulation prescribe rules for allocating the cost recovery oil to the oil produced from the property.

On page 85, strike line 3, through and including line 8, and insert the following:

"(d) AMENDMENTS TO SECTION 613A.—

(1) Subparagraph (E) of section 613A(c)(10) is amended by inserting "and, in the case of any property, also includes necessary production equipment for such property which is in place when the property is transferred" before the period at the end thereof.

(2) Paragraph (2) of section 613A(d) (relating to exclusion of retailers) is amended by inserting "(excluding bulk sales of aviation fuels to the Department of Defense)" after "any product derived from oil or natural gas" the first place it appears.

(e) AMENDMENT TO SECTION 232 OF THE ACT.—Subsection (h) of section 232 of the Crude Oil Windfall Profit Tax Act of 1980 (relating to effective dates) is amended by adding at the end thereof the following new paragraph:

(4) ADDITION OF DENATURANTS.—Notwithstanding paragraph (1), the provisions of section

On page 87, after line 2, insert the following:

(4) NO WITHHOLDING BY REASON OF CONDENSATE PROVISION.—No withholding of tax shall be required under section 4995 of the Internal Revenue Code of 1954 by reason of the amendment made by section 201(h)(2)(A) of this Act before the date on which regulations with respect to such amendment are published in the Federal Register.

On page 90, after line 12, insert the following:

(c) TRANSFER OF ASSETS IN A TITLE 11 OR SIMILAR CASE.—Clause (i) of section 368(a)(3)(B) (relating to transfer of assets in a title 11 or similar case) is amended by striking out "such corporation" and inserting in lieu thereof "any party to the reorganization".

(d) RECAPTURE OF GAIN ON SUBSEQUENT SALE OF STOCK.—Subparagraph (A) of section 108(e)(7) (relating to recapture of gain on subsequent sale of stock) is amended—

(1) by striking out "and" at the end of clause (i),

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof ", and", and

(3) by inserting after clause (ii) the following new clause:

"(iii) an exchange of such stock qualifying under section 354(a), 355(a), or 356(a) shall be treated as an exchange to which section 1245(b)(3) applies.".

On page 91, after line 17, insert the following:

SEC. 306. TECHNICAL AMENDMENTS TO REVENUE PROVISIONS OF TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

(a) AMENDMENTS RELATING TO TITLE II.—

(1) Section 201 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended—

(A) by redesignating the second subsection (c) as subsection (d), and

(B) by striking out "subsection (c)(1)" in subsection (e)(2) and inserting in lieu thereof "subsection (d)(1)".

(2) subsection (d) of section 208 of such Act is amended—

(A) by striking out "described in section 1381(a)" in paragraph (3)(E)(i) and inserting in lieu thereof "engaged in the furnishing of electric energy to persons in rural areas", and

(B) by inserting ", or section 168(f)(8)(J) of such Code, as added by subsection (b)(4)" after "as added by subsection (a)(1)" in paragraph (5) thereof.

(3) The last sentence of paragraph (2) of section 222(f) of such Act is amended by inserting ", except that in applying such section both direct and indirect ownership of stock shall be taken into account" before the period at the end thereof.

(4)(A) Subsection (d) of section 224 of such Act is amended by adding at the end thereof the following new paragraph:

"(4) RULES FOR ACQUISITIONS DESCRIBED IN PARAGRAPH (2).—

"(A) IN GENERAL.—For purposes of applying section 338 of such Code with respect to any acquisition described in paragraph (2)—

"(i) the date on which the election described in paragraph (2)(C) is made shall be treated as the acquisition date,

"(ii) a rule similar to the last sentence of section 334(b)(2) of such Code (as in effect on August 31, 1982) shall apply, and

"(iii) subsections (e), (f), and (i) of such section 338, and paragraphs (4), (5), (6), and (7) of subsection (h) of such section 338, shall not apply.

"(B) AUTHORITY TO REVOKE ELECTIONS MADE BEFORE SEPTEMBER 28, 1982.—In the case of an acquisition described in paragraph (2), if the election described in paragraph (2)(C) was made before September 28, 1982, such election may be revoked by the purchasing corporation if revoked not later than November 15, 1982.".

(B) Subparagraph (A) of section 224(d)(2) of such Act is amended by striking out "under paragraph (1)" and inserting in lieu thereof "(within the meaning of section 338 of such Code without regard to paragraph (4) of this subsection)".

(5) Section 235(g)(5) of such Act is amended by striking out "section 253" and inserting in lieu thereof "section 242".

(6) Section 266(c)(3) of such Act is amended by striking out "section 103(f)(2)(C)" and inserting in lieu thereof "section 101(f)(2)(C)".

(7) DATE FOR PAYMENT OF TAX ON CIGARETTE FLOOR STOCKS.—Section 283(b)(2)(B) of such Act (relating to liability for tax and method of payment) is amended by striking out "January 18" and inserting in lieu thereof "February 17".

(8) Clause (ii) of section 55(e)(5)(B) (defining qualified investment income) is amended by striking out "net capital gain" and inserting in lieu thereof "capital gain net income".

(9) Paragraph (1) of section 291(a) (relating to 15-percent reduction for certain preference items) is amended by adding at the end thereof the following new sentence: "Under regulations prescribed by the Secretary, the provisions of this paragraph shall not apply to the disposition of any property to the extent section 1250(a) does not apply to such disposition by reason of section 1250(d).".

(b) AMENDMENTS RELATING TO TITLE III.—

(1) Section 7701(a) (relating to definitions) is amended by redesignating paragraph (38) (as added by section 336(a) of the Tax Equity and Fiscal Responsibility Act of 1982) as paragraph (39).

(2) Subparagraph (B) of section 6038A(c)(2) (defining controlled group) is amended by inserting ", (b)(2)(C)," after "(a)(4)".

(c) AMENDMENTS RELATING TO TITLE IV.—

(1) Subsection (b) of section 405 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

"(b) PENALTY.—Subsection (a) of section 6679 (relating to failure to file returns as to organization or reorganization of foreign corporations and acquisitions of their stock), as amended by section 340(b)(1), is amended by striking out 'section 6035 or 6046' and inserting in lieu thereof 'section 6035, 6046, or 6046A'. ".

(2) Paragraphs (2) and (3) of section 405(c) of such Act are amended to read as follows:

"(2) The section heading of section 6679, as amended by section 340(b)(2), is amended to read as follows:

"'SEC. 6679. FAILURE TO FILE RETURNS, ETC. WITH RESPECT TO FOREIGN CORPORATIONS OR FOREIGN PARTNERSHIPS.'".

(3) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6679 and inserting in lieu thereof the following:

"'Sec. 6679. Failure to file returns, etc. with respect to foreign corporations or foreign partnerships.'".

SEC. 307. EXTENSION OF CERTAIN PROVISIONS RELATING TO MEMBERS OF THE ARMED FORCES MISSING IN ACTION.

(a) SURVIVING SPOUSE.—Clause (i) of section 2(a)(3)(B) (relating to special rule where deceased spouse was in missing status) is amended by striking out "January 2, 1978" and inserting in lieu thereof "December 31, 1982".

(b) INCOME TAXES ON MEMBERS OF ARMED FORCES ON DEATH.—Paragraph (1) of section 692(b) (relating to income taxes of members of the Armed Forces on death while in a missing status) is amended by striking out "January 2, 1978" and inserting in lieu thereof "December 31, 1982".

(c) JOINT RETURNS BY HUSBAND AND WIFE.—The last sentence of section 6013(f)(1) (relating to joint return where individual is in missing status) is amended by striking out "January 2, 1978" and inserting in lieu thereof "December 31, 1982".

(d) TIME FOR PERFORMING CERTAIN ACTS POSTPONED.—Paragraph (1) of section 7508(b) (relating to the application to spouse of provisions relating to the time for performing certain acts postponed by reason of service in combat zone) is amended by striking out "January 2, 1978" and inserting in lieu thereof "December 31, 1982".

SEC. 308. TECHNICAL CORRECTIONS RELATING TO SPENDING REDUCTION PROVISIONS OF TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982.

(a)(1) Section 101(b)(2)(B) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "title 5" and inserting in lieu thereof "title 44".

(2) Section 104(b) of such Act is amended by striking out "made by this section".

(3) Section 108 of such Act is amended by redesignating subsection (c) as subsection (b).

(4) Section 109(b)(2) of such Act is amended by striking out "section 108(b)(2)" and inserting in lieu thereof "section 108(a)(2)".

(5) Section 122(g)(5) of such Act is amended by striking out "1866(b)(2)(A)" and inserting in lieu thereof "1866(a)(2)(A)".

(6) Section 122 of such Act is amended by redesignating the last three subsections as subsections (i), (j), and (k).

(7) Section 122(k) of such Act (as redesignated by paragraph (6)) is amended by striking out "1861(dd)(2)(A)(iv)" and inserting in lieu thereof "1861(dd)(2)(A)(iii)".

(8) Section 131 of such Act is amended by redesignating the last two subsections thereof as subsections (c) and (d).

(9)(A) The second sentence of section 150(a) of such Act and the first sentence of section 150(b) of such Act are each amended by striking out "contract" and inserting in lieu thereof "agreement".

(B) The first sentence of section 150(b) of such Act is amended by striking out "contracts" and inserting in lieu thereof "agreements".

(10) Section 278(c)(2)(A) of such Act is amended by striking out "paragraph (3) of that subsection" and inserting in lieu thereof "paragraph (2) of that subsection".

(b)(1) Section 226A(a)(1)(B)(iii) of the Social Security Act is amended by striking out "210(p)) after December 31, 1982," and inserting in lieu thereof "section 210(p))".

(2) Section 1153(d) of such Act is amended—

(A) in paragraph (1), by striking out "(c)(5)(B)" and inserting in lieu thereof "(c)(6)(B)"; and

(B) in paragraph (2), by striking out "(c)(5)(C)" and inserting in lieu thereof "(c)(6)(B)".

(3) Section 1154(a)(1)(A) of such Act is amended by striking out "or otherwise allowable under section 1862(a)(1)" and inserting in lieu thereof "and whether such services and items are not allowable under subsection (a)(1) or (a)(9) of section 1862".

(4) Section 1154(a)(2)(B) of such Act is amended by striking out "posthospital".

(5) Section 1812(d)(2)(A) of such Act is amended by striking out "or to other than services" and inserting in lieu thereof "or to services".

(6) The heading of subsection (i) of section 1814 of such Act is amended to read as follows:

"Payment for Hospice Care".

(7) Section 1814(i)(1) of such Act is amended by inserting "made" before "for bereavement counseling".

(8) Section 1839(d) of such Act is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (g)".

(9) The heading of subsection (dd) of section 1861 of such Act is amended to read as follows:

"Hospice Care; Hospice Program".

(10) Section 1862(b)(3)(A)(i) of such Act is amended—

(A) by inserting "in any month" after "service furnished"; and

(B) by inserting "during any part of such month" after "70 years of age" each place it appears.

(11) Section 1866(a)(2)(A) of such Act is amended by inserting a comma after "1813(a)(1)".

(12) Section 1876(g)(1) of such Act is amended by striking out "subsection (b)(1)" and inserting in lieu thereof "subsection (b)".

(13) Section 1886(a)(4) of such Act is amended by striking out "and such costs are determined" and inserting in lieu thereof "as such costs are determined".

(14) Section 1886(b)(1) of such Act is amended by striking out "sections 1814(b)" and inserting in lieu thereof "section 1814(b),".

(15) Section 1886(b)(6)(C) of such Act is amended by striking out "under this subsection" in the matter before clause (i) and inserting in lieu thereof "under this title (taking into account any limitation under subsection (a))".

(16) Section 1903(t)(3) of such Act is amended to read as follows:

"(3) Only for the purposes of computing under this subsection the Federal share of expenditures for a State for fiscal years 1982, 1983, and 1984 (in the case of the payment which may be made for the first quarter of fiscal years 1983, 1984, and 1985, respectively), the Federal medical assistance percentage for fiscal years 1982, 1983, and 1984 shall be the lower of the Federal medical assistance percentage for the State in effect for fiscal year 1981, or the Federal medical assistance percentage for the State in effect for fiscal year 1982.".

(17) Section 1915(c)(2)(B) of such Act is amended by striking out "need for such services" in the matter following clause (iii) and inserting in lieu thereof "need for such skilled nursing facility or intermediate care facility services".

(18) Section 1916(c) of such Act is amended by striking out "this subparagraph" and inserting in lieu thereof "this subsection".

(19) Section 1916(d) of such Act is amended by striking out "unless authorized under this section" and inserting in lieu thereof ", except as provided in subsections (a)(3) and (b)(3)".

(20) Section 1916(d)(5) of such Act is amended by striking out "in which participation is voluntary, or in which provision is made" and inserting in lieu thereof "is voluntary, or makes provision".

(21) Section 1917(b)(2)(B) of such Act is amended by striking out "and has lawfully resided" and inserting in lieu thereof "who has lawfully resided".

(22) Section 1917(c)(2)(B)(iii) of such Act is amended—

(A) in subclause (1), by striking out "cannot" and inserting in lieu thereof "can", and

(B) in subclause (IV), by striking out "if".

(23) Subsection (p) of section 210 of such Act (as added by section 269(b) of the Tax Equity and Fiscal Responsibility Act of 1982, relating to treatment of real estate agents) is redesignated as subsection (q).

(c)(1) Any amendment to the Tax Equity and Fiscal Responsibility Act of 1982 made by this section shall be effective as if it had been originally included in the provision of such Act to which such amendment relates.

(2) Any amendment to the Social Security Act made by this section shall be effective as if it had been originally included as a part of that provision of the Social Security Act to which it relates, as such provision of such Act was amended or added by the Tax Equity and Fiscal Responsibility Act of 1982.

(d) In order to avoid unfairly discriminating against professional standards review organizations whose performance was evaluated during the first and second calendar quarters of 1982, the Secretary of Health and Human Services shall disregard the results of such evaluations and shall carry out such new evaluations of such organizations as may be necessary to select utilization and quality control peer review organizations in accordance with subtitle C of title I of the Tax Equity and Fiscal Responsibility Act of 1982 and part B of title XI of the Social Security Act as amended by such subtitle.

(e) Section 122(i) of the Tax Equity and Fiscal Responsibility Act of 1982 (as redesignated by subsection (a)(6) of this section) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Notwithstanding the provisions of paragraph (1), the Secretary of Health and Human Services, upon request of the hospice involved, shall permit continuation of a hospice demonstration project described in paragraph (1) until September 30, 1986 if the hospice involved in such demonstration project does not provide hospice care directly but acts as a channeling agency for the provision of hospice care.

"(B) During the period after the date on which a hospice demonstration project described in subparagraph (a) would otherwise have terminated under the provisions of paragraph (1), and prior to September 30, 1986, any such hospice demonstration project shall be subject to the same requirements as are imposed under the hospice program provided for under the amendments made by this section with respect to reim-

bursement and benefits, other than the requirement that certain benefits be provided directly by the hospice involved.".

SEC. 309. TECHNICAL CORRECTION RELATING TO FEDERAL SUPPLEMENTAL UNEMPLOYMENT COMPENSATION PROGRAM.

(a) Section 602(d) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) the maximum amount of Federal supplemental compensation payable to any individual for whom an account is established under subsection (e) shall not exceed the lesser of (A) the amount established in such account for such individual, or (B) in the case of an individual filing a claim under the interstate benefit payment plan for Federal supplemental compensation, an amount equal to his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year, multiplied by the number '6', '8', or '10', whichever is applicable under subsection (e)(2)(A)(ii) in the State in which such individual is filing such interstate claim under the interstate benefit payment plan for the week in which he is filing such claim.".

(b) The amendment made by subsection (a) shall be effective as if it had been originally included in section 602 of the Tax Equity and Fiscal Responsibility Act of 1982.

On page 105, line 6, strike "306", and insert "310";

On page 105, after line 23, insert the following:

(d) FOR SECTION 306.—The amendments made by section 306 shall take effect as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 to which such amendments relate.

Mr. DOLE. Mr. President, I will state, in the absence of the distinguished Senator from Louisiana (Mr. LONG), that this has not only been cleared by the distinguished Senator from Louisiana, but he has been urging its passage.

Mr. President, H.R. 6056, the Technical Corrections Act of 1982, contains technical, clerical, conforming, and clarifying amendments to provisions enacted in the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Act of 1980, the Installment Sales Revision Act of 1980, the Bankruptcy Tax Act of 1980, and certain other legislation enacted in 1980.

The amendments were developed as a result of a review of the application of the statutory changes made by the original legislation, taking into account comments submitted by the Treasury Department, the Internal Revenue Service, the staffs of the tax-writing committees, tax practitioners, and others from the public. The Committee on Finance approved several amendments on September 24, 1982, as a result of the comments received. Several technical amendments to the recently enacted Tax Equity and Fiscal Responsibility Act of 1982 were also made in order to correct errors in situations where prompt clarification is required.

The bill is divided into three titles. The first title provides technical amendments to the Economic Recovery Tax Act of 1981. The second title provides amendments to the Crude Oil Windfall Profit Tax Act of 1980, and the third title provides amendments to the Installment Sales Revision Act of 1980, the Bankruptcy Tax Act of 1980, and other tax legislation enacted in 1980.

Mr. President, the amendments made by H.R. 6056 are designed only to make technical or clarifying changes and to rectify inadvertent drafting errors and omissions. The committee made every effort to avoid making any substantive changes to the original tax legislation.

By this I mean that we are not changing the policy behind any of the provisions of ERTA, the Windfall Profit Tax Act, the Installment Sales Revision Act, or the Bankruptcy Tax Act. Nor does this legislation make new policy, or carve out any new special exceptions to the tax laws. This bill is exactly what it says it is: An act to clean up technical problems in recent tax legislation that were overlooked in the haste of the legislative process. I would add that the legislation before us, H.R. 6056, was not prepared in haste. The bill was considered by the House Ways and Means Committee in hearings last April, and that committee took initial action on the legislation some months ago. In addition, the need for most of the corrections made by H.R. 6056 has been known for some time, as members of the legal and accounting professions, the Treasury Department, and the professional tax staffs of Congress have reviewed and worked with the revenue provisions addressed by this bill. It is important that we fulfill our legislative responsibility and pass the Technical Corrections Act now, in the form in which it was reported, confined to needed corrections and clarifications of the law.

Mr. President, I urge my colleagues to approve H.R. 6056, the Technical Corrections Act of 1982.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time, and passed.

Mr. DOLE. Mr. President, I send a committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair informs the Senator from Kansas that there are pending committee amendments at this time.

Mr. DOLE. Mr. President, I ask that the pending committee amendments be adopted.

The amendments were agreed to.

UP AMENDMENT NO. 1350

(Purpose: Relating to transitional rules of safe harbor leasing for certain aircraft)

Mr. DOLE. Mr. President, I send a committee amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1350.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 92, line 9, strike out "and".

On page 92, line 13, strike out the period at the end of subparagraph (B) and insert in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

(C) by adding at the end of subparagraph (D) of paragraph (3) the following new sentence "For purposes of sections 47 and 168(f)(8) of the Internal Revenue Code of 1954, if any property described in this subparagraph—

"(I) is sold (or assigned) pursuant to a title 11 or similar case (within the meaning of section 368(a)(3)(A)), or is transferred subsequent to such sale or assignment, and

"(II) is used outside the United States,

such property shall, with respect to the lessor under any agreement with respect to such property under section 168(f)(8), be treated as property described in section 48(b)(2)(B)(i).".

(4) None of the benefits provided herein shall inure to a foreign air carrier, however, it shall not be considered a benefit for a foreign air carrier to purchase airplanes sold in circumstances described in section 3(c)(I) above.

Mr. DOLE. Mr. President, I can explain the amendment very quickly.

The Committee on Finance approved an amendment to H.R. 6056, the Technical Corrections Act of 1982, that would affect property covered by the safe harbor leasing transitional rule for airline property upon bankruptcy of the lessee.

Under current Treasury regulations, if property subject to safe harbor leasing is sold as a result of the bankruptcy of the lessee and certain requirements are met, there is no recapture of the lessor's tax benefits. However, there is a recapture if the purchaser uses the property predominantly outside the United States.

Under the committee amendment, there would be no recapture of tax benefits in a bankruptcy situation as a result of use of an airline by a purchaser or subsequent transferee outside the United States so long as the

other requirements of the Treasury safe harbor leasing regulations regarding bankruptcy dispositions are met.

I might say the amendment applies only to property covered by the safe harbor leasing regulations for airlines; because of the concern expressed by the distinguished Senator from Ohio; we included in that amendment no provision for safe harbor leasing tax benefits to foreign air carriers. He was concerned about that. We have added a provision to make it clear that that is not the intent.

I think that satisfies the distinguished Senator from Ohio.

Mr. GORTON. Will the Senator yield?

Mr. DOLE. Yes. I might say before I yield to the Senator from Washington that this is to clarify the intent of the Gorton amendment which was a part of the Tax Reform Act. I appreciate the concern of the distinguished Senator from Ohio in reference to this amendment.

Mr. GORTON. That was the question of the Senator from Washington. I thank the Senator from Kansas for his thoughtful consideration.

The amendment (UP No. 1350) was agreed to.

UP AMENDMENT NO 1351

(Purpose: To modify the effective date for changes in tax treatment of distributions of appreciated property in redemption of stock)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of the distinguished Senator from Massachusetts (Mr. TSONGAS), which is a technical amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), on behalf of Mr. TSONGAS, proposes an unprinted amendment numbered 1351.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 94, after line 23, insert at the end of section 306 (a) the following new paragraph:

"(10) Subparagraph (B) of section 223(b)(2) of such Act (relating to effective date for changes in tax treatment of distributions of appropriated property in redemption of stock) is amended to read as follows:

"(B) either before October 21, 1982, or within 90 days after the date of such ruling.".

Mr. DOLE. Mr. President, this amendment has been cleared on both sides. It is a transitional rule that involves one taxpayer who would be adversely impacted if we did not adopt this transitional rule. It is the amendment of the distinguished Senator from Massachusetts and supported by the senior Senator from Massachusetts (Mr. KENNEDY).

The merger and acquisitions rule in TEFRA repeal certain exceptions to the requirements that a corporation distributing appreciated property in redemption of its stock recognizes gain. One such exception applied to distributions that completely terminated the interest of a shareholder owning 10 percent or more of the corporation's stock. The repeal was generally effective for distributions occurring after August 31, 1982.

A transition rule preserved nonrecognition for distributions pursuant to a ruling granted by the Internal Revenue Service if a ruling request had been filed by July 23, 1982, and the distribution was made within 90 days after the ruling was granted.

In one case a ruling had been granted prior to July 23, 1982, and scheduled distributions could not be made by August 31, 1982.

For any case in which a ruling was obtained by the taxpayer before July 23, 1982, the amendment would provide for nonrecognition to apply if the distribution is made within 90 days from such date, or by October 21, 1982.

The amendment (UP No. 1351) was agreed to.

UP AMENDMENT NO. 1352

(Purpose: To amend the Internal Revenue Code of 1954 to specify the time for filing a return and paying the taxes imposed by section 5701 of such code)

Mr. DOLE. Mr. President, the only other amendment is a technical amendment which I will offer on behalf of the distinguished Senator from Kentucky (Mr. HUDDLESTON) and the distinguished Senator from North Carolina (Mr. HELMS). I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Kansas (Mr. DOLE), on behalf of Mr. HUDDLESTON, Mr. HELMS, and Mr. EAST proposes an unprinted amendment numbered 1352.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . (a) Subsection (b) of section 5703 of the Internal Revenue Code of 1954 (relating to method of payment of tax) is amended to read as follows:

"(b) METHOD OF PAYMENT OF TAX.—

"(1) IN GENERAL.—The taxes imposed by section 5701 shall be determined at the time of removal of the tobacco products and cigarette papers and tubes. Such taxes shall be paid on the basis of a return. The Secretary shall, by regulations, prescribe the period or the event for which such return shall be made and the information to be furnished on such return. Any postponement under this subsection of the payment of taxes determined at the time of removal shall be conditioned upon the filing of such additional bonds, and upon compliance with such requirements, as the Secretary may prescribe for the protection of the revenue. The Secretary may, by regulations, require payment of tax on the bais of a return prior to removal of the tobacco products and cigarette papers and tubes where a person defaults in the postponed payment of tax on the basis of a return under this subsection or regulations prescribed thereunder. All administrative and penalty provisions of this title, insofar as applicable, shall apply to any tax imposed by section 5701.

"(2) TIME FOR MAKING OF RETURN AND PAYMENT OF TAXES.—In the case of tobacco products and cigarette papers and tubes removed after December 31, 1982, under bond for deferred payment of tax, the last day for filing a return and paying any tax due for each return period shall be the last day of the first succeeding return period plus 10 days.

(b) The amendments made by subsection (a) shall apply with respect to tobacco products and cigarette papers and tubes removed after December 31, 1982.

Mr. DOLE. Mr. President, all this amendment does is extend the period for payment of excise taxes for 10 days.

Mr. HELMS. Mr. President, no tobacco farmer, manufacturer, or smoker needs to be told that tobacco is subject to a tax burden that is excessive, regressive, discriminatory, and inequitable.

Not so well known, however, is another discriminatory and unfair aspect of the Federal excise tax on tobacco products—the fact that it must be prepaid by manufacturers who also act as unpaid tax collectors for the Federal Government. This excise tax is levied on the manufacturers of tobacco products and must be paid by them to the Federal tax collector within 15 days following their shipments in a bimonthly period. Since the manufacturer has to wait, on the average, 34 days to receive payment from his customers on these shipments, he bears an additional cost of financing the tax payment for several days. According to a study by a respected accounting firm, the advance payment amounts to $65,000,000 in each tax period.

Mr. President, a parallel to this situation in the field of income taxation would occur if the Federal Government took the tax this week on income which the the taxpayer is to receive 2 weeks later.

Clearly the tobacco industry should be granted enough time to pay its excise tax to permit it a reasonable opportunity to collect on its shipments before turning the tax portion of its receipts over to the Government. The time should be at least 30 days after the close of each bimonthly shipment period instead of 15. It is interesting to note that the Federal Government

does give to the distilled liquor industry a grace period of 30 days to pay the excise tax on its products.

As a matter of equity and sound economic policy, I have been fighting for an extension of the time allowed for payment of tobacco excise taxes from 15 to 30 days. Now that the tax has been doubled, this reform is even more necessary to relieve the industry and consumers of at least one of the discriminatory burdens associated with the highly regressive tobacco tax. It would also free for productive purposes tens of millions of dollars which the industry advances to Government because of early payment of this tax.

I support the pending amendment to extend the time allowed to 25 days, and hope we can go the rest of the way to accomplish the simple equity of the matter at an early time. And I am grateful to the distinguished Senator from Kansas (Mr. DOLE) for his helpfulness in connection with this matter.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1352) was agreed to.

Mr. MOYNIHAN. Mr. President, I would like to ask the chairman of our committee, the distinguished Senator from Kansas, for some clarification of provisions dealing with the affirmative commitment rules under code section 46(a)(2)(C)(iii). These provisions concern the effective period for the energy credit on long-term projects after 1982.

As the chairman knows, these rules require certain actions by the end of 1982 and a technical amendment is made under the bill to resolve one area of potential interpretative difficulty in applying these rules to the diverse types of financing, permitting, and engineering activities in energy credit projects, particularly highly complex synthetic fuel and substitute feedstock projects. However, the availability of the energy credit is crucial to these projects and the lack of interpretation on what project sponsors must do to satisfy other aspects of the affirmative commitment rules by the end of this year creates great uncertainty for these projects. For example, it is not clear what is expected of these projects from the standpoint of permit applications and engineering studies. I would like to ask my distinguished chairman what he expects would be appropriate interpretations of these rules.

Mr. DOLE. I want to assure the Senator that I am aware of the problems he raises on the affirmative commitment rules, particularly in the case of synthetic fuel and substitute feedstock projects. I know that these projects take 3 to 6 years to build and the various parts of an integrated project are built in phases, some of which will not begin until the latter part of the construction period. I am also aware that these projects may require 100 or more separate permits, some of which are applicable to the project in general, while others are applicable to separate parts of a project, including parts which will be built in the latter stages of the construction period.

I hope the affirmative commitment rules will not be interpreted in an overly restrictive manner for these projects. For example, an appropriate interpretation of the term "engineering studies" would not require detailed design but would be those planning or engineering studies done in the final stage before a decision is made to construct the project. An example of this type of engineering study is the lengthy engineering feasibility study which is typically submitted in the application process to the U.S. Synthetic Fuels Corporation or the Department of Energy. Similarly, I would expect that a reasonable interpretation of the permit application rule would not require applications for all project permits at the end of 1982, since some of these applications would be premature and incomplete at this time. It would be appropriate to require permit applications in connection with commencement of construction of the project as a whole as well as those specifically applicable to the initial construction phase or phases of a project. I believe these interpretations are consistent with the legislative history of the 1980 act. I hope they will provide some guidance about what is required by the end of 1982.

Mr. MOYNIHAN. I thank the distinguished chairman for these clarifications.

The PRESIDING OFFICER. Are there further amendments to be proposed? If not, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 6056) was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I thank the Senator from Kansas and the Senator from Texas for their management of this matter.

EXPORTS OF AGRICULTURAL PRODUCTS TO JAPAN

Mr. BAKER. Mr. President, there are two items that I hope have been cleared on both sides. I invite the attention of the minority leader to the first item, the consideration of Senate Resolution 462.

Mr. ROBERT C. BYRD. Mr. President, that is cleared on this side of the aisle. Mr. BENTSEN, a member of the Finance Committee, is very interested in this matter.

The PRESIDING OFFICER. The resolution will be stated by title.

The bill clerk read as follows:

A resolution (S. Res. 462) to express the sense of the Senate concerning consultations with the Government of Japan on exports of agricultural products from the United States to Japan.

JAPANESE TRADE TALKS

Mr. BENTSEN. Mr. President, I thank the distinguished majority leader and the distinguished minority leader for their consideration of my request to bring this resolution before the full Senate. I realize the difficulties they have with the packed schedule of legislative items competing for the limited amount of time in this last day or two before we recess for the elections.

However, this resolution is of pressing importance to our Nation's agricultural trade policy. By approving this resolution the Senate will be giving an important boost to U.S. trade negotiators who are scheduled to meet with their Japanese counterparts beginning October 20 to discuss the removal of Japanese quotas on American beef and citrus.

My resolution, which I introduced together with the Senator from Missouri (Mr. DANFORTH) on September 14 and which was approved by the Senate Finance Committee the next day, puts the Senate squarely on record in support of open access to the Japanese market for U.S. beef and citrus. It also expresses the clear intent of the Senate that failure to make progress in these negotiations will not be written off as "business as usual." We expect the executive branch to seek results through the enforcement provisions of the international trade agreements if necessary, not to come back and explain the difficulties of negotiating with the Japanese. I know how the Japanese negotiate—they talk and talk and ship and ship.

These trade negotiations are very important to the ranchers and farmers of Texas. My home State of Texas is the No. 1 cattle State in the Nation. Texas is also a major producer of citrus, including some of the finest grapefruit in the world. We stand to gain very directly from open access to the Japanese market.

But these negotiations are much more important than the figures on tonnage and dollars which are involved. These negotiations are important as a symbol of American agricultural trade policy, and as such they are vitally important to all parts of

our Nation's largest industry, agriculture.

DOES THE UNITED STATES SUPPORT AGRICULTURAL TRADE?

Mr. President, American farmers and ranchers want to know if this country really stands behind them on agricultural trade issues. They are rightly skeptical of the results of USDA's self-proclaimed "export-oriented" farm policy when the value of farm exports has fallen 9 percent from last year. They are tired of paying the bills for our Nation's foreign policy, whether through embargoes, or refusals to negotiate needed trade agreements, or simply failures to push hard enough for the removal of unfair trade barriers for fear of offending our friends. They feel as I do, very strongly, that the time has long since come for the State Department to start working for the American farmer instead of the other way around.

These negotiations provide an opportunity to show some positive results for our agricultural trade policy.

JAPANESE BEEF QUOTAS

Japan maintains a system of import quotas on beef that is a clear and flagrant violation of the General Agreement on Trade and Tariffs, the GATT. This quota limits American exports to only 9 ounces of U.S. beef per Japanese per year—about one steak or two hamburgers. As a result, Japanese beef prices are sky high. Average meat prices in Japan are three times as high as in the United States, and steaks selling for $3.46 per pound in the United States were priced at $14.35 per pound in Tokyo supermarkets.

In addition, there is a further thicket of the trade barriers for which Japan is rightly famous waiting just behind this quota wall. These include a 25-percent tariff, and additional variable import surcharge, and the quasi-governmental Livestock Industry Promotion Corp., which controls most Japanese meat imports. Through these and other mechanisms American ranchers are not only denied the opportunity to compete and develop a market for their products in Japan, but the tremendous profits from the higher meat prices in Japan are siphoned off before the American cattleman has a chance at them.

The U.S. Department of Agriculture has projected that U.S. beef sales to Japan could increase sevenfold to 200,000 metric tons within 5 years if these trade barriers were dropped. That figure, which may be conservative, would roughly triple total U.S. beef sales abroad and would boost cattle industry income by about $370 million annually at current cattle prices.

JAPANESE CITRUS QUOTAS

American citrus growers, especially Texas grapefruit growers, are being victimized by illegal Japanese trade barriers, as well. Japan does not produce grapefruit, and Japan has no quota on imports of fresh grapefruits. However, Japan keeps a quota on grapefruit juice, a major Texas product, that caps annual imports at a paltry 6,000 metric tons, or less than 2 ounces per Japanese.

The impact of strict quotas on citrus products are reflected in per capita figures on orange juice consumption. In 1981 U.S. orange juice consumption averaged 17 liters per person, and it was 16 liters in Canada and 15 liters in Sweden. But Japanese trade barriers worked so well that Japanese consumption was a scant 2.5 liters per capita.

The demand for citrus in Japan is obviously much greater than that, and experience with liberalization of trade in other citrus products proves that point. When Japanese barriers against lemon imports were relaxed, for example, U.S. exports soared thirtyfold from 8.3 million pounds under quotas to 246 million pounds in 1981, without quotas.

TRADE LIBERALIZATION IS NEEDED

The United States has made every effort to live up to our obligations under the GATT. We have the most open and free trading system of any nation.

Yet our open trade policy has been interpreted by some not as an example to follow, but as an invitation to be taken advantage of. While American agricultural products are kept out of Japanese markets, billions of dollars worth of Japanese TV's, autos, computers, and other products crowd into our ports and stores as fast as Japanese producers can pile them onto ships. A lot of those ships return empty even though they could easily be carrying U.S. farm exports.

Past negotiations with Japan have not been very productive. For example, 3 years of bargaining on meat import quotas won American ranchers the equivalent of one hamburger per Japanese per year.

This is not good enough.

A sizable share of Japan's wealth is tied to the production and export of goods to the United States. It is high time that Japan met its obligations, both under the GATT and as the free world's second biggest economy, to hold high the principle of open trade. Japan, more than almost any other nation, has benefited from an open world trading system. It is time that they made some investments in keeping that system.

This resolution will put the Japanese on notice that they are expected to make such contributions. Japan is a country that operates by consensus. They must understand that a consensus is growing in this country in favor of a level playing field in international trade, in favor of trade that is free and fair to both, not just free to one. As the cochairman of the Senate Export Caucus and as ranking member of the International Trade Subcommittee, and as a Senator from Texas, I have been working and will continue to work to build that consensus. The Senator from Missouri (Mr. DANFORTH), who is the chairman of the International Trade Subcommittee, is also a leader in this effort and has joined with me in introducing this resolution.

This resolution is an important statement of that growing consensus. Its passage will place the full Senate on record in support of it, and it will provide needed support to our negotiators in these upcoming trade talks. I urge the adoption of this resolution.

Mr. President, I ask unanimous consent that the names of the Senator from Florida (Mr. CHILES) and the Senator from Wyoming (Mr. WALLOP) be added as cosponsors of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 462

Whereas the United States and Japan are among the signatories to the General Agreement on Tariffs and Trade; and

Whereas the United States has worked for an open world trading system within the framework of the General Agreement on Tariffs and Trade and has allowed Japan open access to United States markets; and

Whereas Japan has enjoyed this open access and has achieved a dominant position in many United States markets and now has an $18,000,000,000 annual trade surplus with the United States; and

Whereas Japan has used a system of import quotas and other tariff and nontariff trade barriers to restrict imports of twenty-two categories of agricultural products, including beef and citrus in which the United States has a comparative advantage in production; and

Whereas this system of import restrictions has forced Japanese consumers to pay unreasonably high prices for beef, citrus, and other foods produced in the United States while denying United States farmers and ranchers reasonable access to these markets and denying United States farmers and ranchers the opportunity to sell their products at these higher prices; and

Whereas consultations between the United States and Japan on liberalization of trade in beef and citrus are scheduled to begin in Honolulu on October 20: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States in such consultations should seek completely open access to the Japanese market for United States beef and citrus, including the removal of all trade barriers to the export of such agricultural products to Japan.

SEC. 2. It is further the sense of the Senate that in the even such consultations do not result in open access to the Japanese market for United States beef and citrus, then the Government of the United States should evaluate what remedies under United States law and internaitonal agree-

ments are appropriate under the circumstances.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CAPITAL REEF NATIONAL PARK

Mr. BAKER. Mr. President, there was another item that I believe has been cleared on both sides. I inquire of the minority leader if he is prepared to proceed to the consideration of the House message on S. 1872.

Mr. ROBERT C. BYRD. Yes, Mr. President.

Mr. BAKER. I thank the Senator.

Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1872.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1872) entitled "An Act to amend the Act establishing the Capitol Reef National Park in the State of Utah to provide for a grazing phaseout schedule, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. Where any Federal lands included within the boundary of Capitol Reef National Park are legally occupied or utilized on the date of enactment of this Act for grazing purposes, pursuant to a lease, permit, or license which is—

(1) for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, and

(2) scheduled for termination before December 31, 1987,

notwithstanding the provisions of section 3 of the Act of December 18, 1971, entitled "An Act to establish the Capitol Reef National Park in the State of Utah" (85 Stat. 740; 16 U.S.C. 273b), the Secretary of the Interior shall allow the persons holding such grazing privileges (or their heirs) to retain such grazing privileges until December 31, 1987.

SEC. 2. The Secretary of the Interior, acting through the Director of the National Park Service, shall take such steps as may be necessary to, within ninety days after the enactment of this Act, enter into a contract with the National Academy of Sciences for the purpose of conducting a study of grazing in Capitol Reef National Park and vicinity to:

(1) determine the historic and current impact of grazing upon the natural ecosystem and cultural resources of the park;

(2) determine the impacts of grazing upon visitor use within the park;

(3) evaluate alternatives to grazing within Capitol Reef National Park including means to increase grazing carrying capacity on adjacent Bureau of Land Management lands;

(4) determine the economic impact upon grazing permit holders, and on the local economy, if such permits were terminated; and

(5) include such other information and findings as may be deemed necessary by the Director of the National Park Service.

Such study shall be conducted in accordance with the best scientific methodology (as set forth by the National Academy of Sciences) and shall be transmitted by the National Academy of Sciences to the Committee on Energy and Natural Resources of the United States Senate, to the Committee on Interior and Insular Affairs of the United States House of Representatives, and to the Director of the National Park Service no later than January 1, 1987. Progress reports regarding the study shall be transmitted to the above Committees on January 1, 1984, and January 1 of each year thereafter.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act. No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Nothing in this section shall be construed to prevent the Secretary of the Interior from utilizing, for purposes of the contract referred to in section 2, funds which are available to the Secretary for such purposes under authority of law.

Amend the title so as to read "An Act to provide for a study of grazing phaseout at Capitol Reef National Park, and for other purposes.".

Mr. BAKER. There are amendments, Mr. President.

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 1353

Mr. BAKER. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from Idaho (Mr. MCCLURE).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. MCCLURE, proposes an unprinted amendment numbered 1353.

Mr. BAKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amendment to the text of S. 1872 as amended by the House:

Strike out all after the enacting clause and insert:

SECTION 1. Where any Federal lands included within the boundary of Capitol Reef National Park are legally occupied or utilized on the date of enactment of this Act for grazing purposes, pursuant to a lease, permit, or license which is—

(1) for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, and

(2) scheduled for termination before December 31, 1992,

notwithstanding the provisions of section 3 of the Act of December 18, 1971, entitled "An Act to establish the Capitol Reef National Park in the State of Utah" (85 Stat. 740; 16 U.S.C. 273b), the Secretary of the Interior shall allow the persons holding such grazing privileges (or their heirs) to retain such grazing privileges until December 31, 1994.

SEC. 2. The Secretary of the Interior, acting through the Director of the National Park Service, in cooperation with the Director of the Bureau of Land Management, shall take such steps as may be necessary to, within ninety days after the enactment of this Act, enter into a contract with the National Academy of Sciences for the purpose of conducting a study of grazing in Capitol Reef National Park and vicinity to:

(1) determine the historic and current impact of grazing upon the natural ecosystem and cultural resources of the park;

(2) determine the impacts of grazing upon visitor use within the park;

(3) evaluate alternatives to grazing within Capitol Reef National Park including means to increase grazing carrying capacity on adjacent Bureau of Land Management lands;

(4) determine the economic impact upon grazing permit holders, and on the local economy, if such permits were terminated; and

(5) include such other information and findings as may be deemed necessary by the Secretary of the Interior.

Such study shall be conducted in accordance with the best scientific methodology (as set forth by the National Academy of Sciences) and shall be transmitted by the National Academy of Sciences to the Committee on Energy and Natural Resources of the United States Senate, to the Committee on Interior and Insular Affairs of the United States House of Representatives, and to the Director of the National Park Service no later than January 1, 1992. Progress reports regarding the study shall be transmitted to the above Committees on January 1, 1984, and January 1 of each year thereafter.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act. No authority under this Act to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Nothing in this section shall be construed to prevent the Secretary of the interior from utilizing, for purposes of the contract referred to in section 2, funds which are available to the Secretary for such purposes under authority of law.

Amend the title so as to read "An Act to provide for a study of grazing phaseout at Capitol Reef National Park, and for other purposes.".

Mr. METZENBAUM. Mr. President, is the majority leader in a position to state what this McClure amendment is? I know about S. 1872, but I did not know about the amendment.

Mr. BAKER. Mr. President, the clearance process on this side of the aisle indicates that the bill and the amendment have been cleared, but I will withhold until the Senator from Ohio has had an opportunity to examine the amendment.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1353) was agreed to.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendments with the Senate amendment which has just been adopted.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION OF INSULAR AREAS APPROPRIATIONS

Mr. BAKER. Mr. President, there is one other item that I hope has been cleared.

I call the attention of the minority leader to a message from the House on H.R. 5139, and I ask if he is prepared to consider that item at this time.

Mr. ROBERT C. BYRD. Mr. President, this matter has been cleared on this side.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5139.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 5139) entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

TITLE I—GUAM

SEC. 101. Section 7 of the Organic Act of Guam (64 Stat. 384, 487), as amended, is revised to read as follows:

"SEC. 7. (a) The people of Guam shall have the right of initiative and referendum, to be exercised under conditions and procedures specified in the laws of Guam.

"(b) Any Governor, Lieutenant Governor, or member of the legislature of Guam may be removed from office by a referendum election in which at least two-thirds of the number of persons voting for such official in the last preceding general election at which such official was elected vote in favor of recall and in which those so voting constitute a majority of all those participating in such referendum election. The referendum election shall be initiated by the legislature of Guam following (a) a two-thirds vote of the members of the legislature in favor of a referendum, or (b) petition for such a referendum to the legislature by registered voters equal in number to at least 50 per centum of the whole number of votes cast at the last general election at which such official was elected preceding the filing of the petition.".

SEC. 102. Section 1(a)(1) of Public Law 95-348 (92 Stat. 487) is amended by deleting "involved." and inserting in lieu thereof "involved, and $6,052,000 for fiscal year 1983, such sums to remain available until expended.".

SEC. 103. Section 205 of Public Law 95-134 (91 Stat. 1159, 1162), as amended by subsection 1(d) of Public Law 95-348 (92 Stat. 487, 488), is further amended by deleting "Medical Center of the Marianas:" and inserting in lieu thereof "Medical Center of the Marianas, to renovate, maintain, and operate the Guam Memorial Hospital, and to construct, maintain, and operate a health care facility in the northern part of Guam:".

SEC. 104. The Organic Act of Guam (64 Stat. 384), as amended, is further amended—

(a) by deleting the first sentence of the sixth paragraph of section 6, as amended (82 Stat. 842, 843), and substituting the following: "The Governor shall prepare, publish, and submit to the Congress and the Secretary of the Interior a comprehensive annual financial report in conformance with the standards of the National Council on Governmental Accounting within one hundred and twenty days after the close of the fiscal year. The comprehensive annual financial report shall include statistical data as set forth in the standards of the National Council on Governmental Accounting relating to the physical, economic, social, and political characteristics of the government, and any other information required by the Congress. The Governor shall transmit the comprehensive annual financial report to the Inspector General of the Department of the Interior who shall audit it and report his findings to the Congress. The Governor shall also make such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall also submit to the Congress, the Secretary of the Interior, and the cognizant Federal auditors a written statement of actions taken or contemplated on Federal audit recommendations within sixty days after the issuance date of the audit report."; and

(b) by deleting section 9-A (82 Stat. 842, 845), as amended (91 Stat. 1159, 1161), in its entirety, and inserting in lieu thereof the following new section 9-A:

"SEC. 9-A. (a) The following functions, powers, and duties heretofore vested in the government comptroller for Guam are hereby transferred to the Inspector General, Department of the Interior, for the purpose of establishing an organization which will maintain a satisfactory level of independent audit oversight of the government of Guam:

"(1) The authority to audit all accounts pertaining to the revenue and receipts of the government of Guam, and of funds derived from bond issues, and the authority to audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of Guam including those pertaining to trust funds held by the government of Guam.

"(2) The authority to report to the Secretary of the Interior and the Governor of Guam all failures to collect amounts due the government, and expenditures of funds or uses of property which are irregular or not pursuant to law.

"(b) The authority granted in paragraph (a) shall extend to all activities of the government of Guam, and shall be in addition to the authority conferred upon the Inspector General by the Inspector General Act of 1978 (92 Stat. 1101), as amended.

"(c) In order to carry out the provisions of this section, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the office of the government comptroller for Guam related to its audit function are hereby transferred to the Office of Inspector General, Department of the Interior.".

TITLE II—TRUST TERRITORY OF THE PACIFIC ISLANDS

SEC. 201. In section 402(a) of Public Law 96-597 (94 Stat. 3478) strike "by October 1, 1982," and insert in lieu thereof: "by a date not later than ninety days following termination of the trusteeship agreement governing the administration of the Trust Territory of the Pacific Islands,".

SEC. 202. (1) The Act of June 13, 1975 (89 Stat. 212), is amended by inserting the following language before the last sentence: "The corpus, income of, or distributions from such trust, or distributions to the beneficiaries of such trust shall not be subject to any form of United States Federal, State, or local taxation.".

(2) The corpus, income of, or distributions from the Ujelang Trust Fund numbered 2 (established by the High Commissioner of the Trust Territory of the Pacific Islands), or distributions to the beneficiaries of such trust fund shall not be subject to any form of United States Federal, State, or local taxation.

SEC. 203. The Act of March 21, 1972 (86 Stat. 87), relating to the Trust Territory of the Pacific Islands is amended—

(a) by amending section 5 (86 Stat. 88), to read: "The chief executives of the governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands shall prepare, publish, and submit to the Congress and the Secretary of the Interior a comprehensive annual financial report in conformance with the standards of the National Council on Governmental Accounting within one hundred and twenty days after the close of the fiscal year. The comprehensive annual financial report shall include statistical data as set forth in the standards of the National Council on Governmental Accounting relating to the physical, economic, social, and political characteristics of the government, and any other information required by the Congress. The chief executives shall transmit the comprehensive annual financial report to the Inspector General of the Department of the Interior who shall audit it and report his findings to the Congress. The chief executives shall also make such other reports at such other times as may be required by the Congress or under applicable Federal laws. The chief executives shall submit to the Congress, the Secretary of the Interior, the High Commissioner of the Trust Territory of the Pacific Islands, and the cognizant Federal auditors a written statement of actions taken or contemplated on Federal audit recommendations within sixty days after the issuance date of the audit report. This section is not subject to termination under section 502(a)(3) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (90 Stat. 263, 268).";

(b) by deleting section 4 of the Act of June 30, 1954 (68 Stat. 330), as amended (87 Stat. 354; 91 Stat. 1162; 94 Stat. 85), in its entirety, and inserting in lieu thereof the following new section 4:

"SEC. 4. (a) The following functions, powers, and duties heretofore vested in the government comptroller for Guam with respect to the government of the Trust Territory of the Pacific Islands and the government of the Northern Mariana Islands are hereby transferred to the Inspector General, Department of the Interior, for the purpose of establishing an organization which will maintain a satisfactory level of independent audit oversight of the governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands:

"(1) The authority to audit all accounts pertaining to the revenue and receipts of the

governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands, and of funds derived from bond issues, and the authority to audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the aforementioned governments including those pertaining to trust funds held by such governments.

"(2) The authority to report to the Secretary of the Interior, the High Commissioner of the Trust Territory of the Pacific Islands, the chief executives of the governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands all failures to collect amounts due the governments, and expenditures of funds or uses of property which are irregular or not pursuant to law.

"(b) The authority granted in paragraph (a) shall extend to all activities of the governments of the Marshall Islands, the Federated States of Micronesia, Palau, and the Northern Mariana Islands, and shall be in addition to the authority conferred upon the Inspector General by the Inspector General Act of 1978 (92 Stat. 1101), as amended. This section is not subject to termination under section 502(a)(3) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (90 Stat. 263, 268).

"(c) In order to carry out the provisions of this section, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the office of the government comptroller for Guam related to its audit function, with respect to the government of the Trust Territory of the Pacific Islands and the government of the Northern Mariana Islands are hereby transferred to the Office of Inspector General, Department of the Interior.".

(d) Section 201(a) of Public Law 96-205 (94 Stat. 85), is hereby repealed in its entirety.

SEC. 204. (a) That the Northern Mariana Islands shall not be considered a foreign country for purposes of subsection (k) of section 2680 of title 28, United States Code.

(b) This section shall expire upon the establishment of the Commonwealth of the Northern Mariana Islands.

SEC. 205. The Secretary shall conduct, upon request of the affected regional governments and through the Director of the National Park Service, a comprehensive inventory and study of the most unique and significant natural, historical, cultural and recreational resources of the Trust Territory of the Pacific Islands (specifically composed of the Mariana, Caroline and Marshall Islands). Areas or sites exhibiting such qualities shall be described and evaluated with the objective of the preservation of their values and their careful use and appreciation by the public, along with a determination of their potential for attracting tourism. Alternative methodologies for such preservation and use shall be developed for each area or site (including continued assistance from the National Park Service); current or impending damage or threats to the resources of such areas or sites shall be identified and evaluated; and authorities needed to properly protect and allow for public use and appreciation shall be identified and discussed. Such inventory and study shall be conducted in full cooperation and consultation with affected governmental officials and the interested public. The inventory and study shall also identify areas or sites which qualify to be listed on the Registry of Natural Landmarks and the National Register of Historic Places. A full report on such inventory and study shall be transmitted to the respectively involved governments, the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than two complete calendar years after the effective date of this Act.

TITLE III—VIRGIN ISLANDS

SEC. 301. (a) Effective October 1, 1982, there is authorized to be appropriated to the Secretary of the Interior $150,000 for to be paid as a grant to the government of the Virgin Islands for use by the College of the Virgin Islands to study and plan for the creation of an institution for Caribbean educational, cultural, and technical interchange.

(b) The Secretary may place such stipulations as he deems appropriate on the use of funds appropriated pursuant to subsection (a) of this section.

(c) Grant funds appropriated pursuant to subsection (a) but not obligated or expended during the fiscal year in which they are appropriated shall remain available for obligation or expenditure in subsequent fiscal years.

SEC. 302. Section 405 of Public Law 96-205 (94 Stat. 84, 89) is amended by adding at the end thereof the following new sentence: "The officials of the Customs and Postal Services of the United States are directed to assist the appropriate officials of the United States Virgin Islands in the collection of these taxes.".

SEC. 303. There are authorized to be appropriated to the Secretary of the Interior, not to exceed $10,000,000 for grants to the government of the Virgin Islands for improvements in the generation and distribution of water and power, to remain available until expended.

SEC. 304. There are authorized to be appropriated to the Secretary of the Interior $3,000,000 for grants to the government of the Virgin Islands for construction of two juvenile pretrial detention facilities, one on the island of Saint Thomas, and one on the island of Saint Croix, to remain available until expended.

SEC. 305. Any discharge from a point source in the United States Virgin Islands in existence on the date of the enactment hereof which discharge is attributable to the manufacture of rum (alcoholic spirits classified under item 169.13 and 169.14 of the Tariff Schedules of the United States (19 U.S.C. section 1202)) shall not be subject to the requirements of section 301 (other than toxic pollutant discharges), section 306 or of section 403 of the Federal Water Pollution Control Act if—

(1) such discharge occurs at least one thousand five hundred feet into the territorial sea from the line or ordinary low water from that portion of the coast which is in direct contact with the sea, and

(2) the Governor of the United States Virgin Islands determines that such discharge will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity, or teratogenicity), or synergistic propensities.

SEC. 306. Sections 8 (d) and (e) of the Revised Organic Act of the Virgin Islands (68 Stat. 500; 48 U.S.C. 1574 (d) and (e)) are repealed.

SEC. 307. Section 4(d) of the Organic Act of the Virgin Islands of June 22, 1936 (49 Stat. 1808, 48 U.S.C. 1405c(d)) is amended by substituting the word "legislature" for the words "legislative assembly" wherever they appear.

SEC. 308. The following provisions of the Organic Act of the Virgin Islands of June 22, 1936, as amended, are repealed: Section 2 (49 Stat. 1807; 48 U.S.C. 1405a); section 3 (49 Stat. 1807; 48 U.S.C. 1405b); section 5 (49 Stat. 1808; 48 U.S.C. 1405d); section 6 (49 Stat. 1808; 48 U.S.C. 1405e); section 7 (49 Stat. 1808; 49 U.S.C. 1405f); section 8 (49 Stat. 1809; 49 U.S.C. 1405g); section 11 (49 Stat. 1809; 48 U.S.C. 1405j); section 12 (49 Stat. 1809; 48 U.S.C. 1405k); section 13 (49 Stat. 1810; 48 U.S.C. 1405l); section 14 (49 Stat. 1810; 48 U.S.C. 1405m); section 15 (49 Stat. 1810; 48 U.S.C. 1405n); section 16 (49 Stat. 1810; 48 U.S.C. 1405o); section 17 (49 Stat. 1811; 48 U.S.C. 1405p); section 19 (49 Stat. 1811; 48 U.S.C. 1405r); section 22 (49 Stat. 1812; 48 U.S.C. 1405u); section 23 (49 Stat. 1813; 48 U.S.C. 1405v); section 24 (49 Stat. 1813; 48 U.S.C. 1405w); section 25 (49 Stat. 1813; 48 U.S.C. 1405x); section 27 (49 Stat. 1813; 48 U.S.C. 1405z); section 28 (49 Stat. 1814; 48 U.S.C. 1406); section 29 (49 Stat. 1814; 48 U.S.C. 1406a); section 30 (49 Stat. 1814; 48 U.S.C. 1406b); section 31 (49 Stat. 1814; 48 U.S.C. 1406c); section 32 (49 Stat. 1814; 48 U.S.C. 1406d); section 33 (49 Stat. 1815; 48 U.S.C. 1406e); section 34 (49 Stat. 1815; 48 U.S.C. 1406g); and section 39 (49 Stat. 1817; 48 U.S.C. 1406k).

SEC. 309. The following statutes are repealed:

(a) Section 4 of the Act of March 3, 1917, as amended (39 Stat. 1133; 48 U.S.C. 1395).

(b) That portion of section 1 of the Naval Service Appropriations Act, 1922, of July 12, 1921 (42 Stat. 123; 48 U.S.C. 1393), which reads: "That no person owing allegiance to any country other than the United States of America shall be able to hold office as a member of the colonial councils of the Virgin Islands of the United States nor to hold any public office under the government of said islands: Provided further,".

(c) Section 8 of the Act of July 3, 1930 (46 Stat. 948), as amended, by section 1 of the Act of July 1, 1932 (47 Stat. 565; 48 U.S.C. 1399).

(d) The Act of May 20, 1932 (47 Stat. 160; 48 U.S.C. 1400).

(e) Section 2 of the Act of July 1, 1932 (47 Stat. 565; 48 U.S.C. 1392b).

(f) The Act of December 20, 1944, as amended (58 Stat. 827; 48 U.S.C. 1409 to 1409j).

(g) The Act of June 30, 1949, as amended (63 Stat. 350; 48 U.S.C. 1407 to 1407i): Provided, That nothing in this subsection shall affect the pension rights of former employees of the Virgin Islands Corporation.

(h) The Act of October 29, 1951 (65 Stat. 661; 48 U.S.C. 1409m through 1409o).

(i) Section 30 of the Revised Organic Act of the Virgin Islands (68 Stat. 509; 48 U.S.C. 1544).

(j) Section 4 of the Act of August 19, 1976 (90 Stat. 1195; 48 U.S.C. 1574d).

SEC. 310. The Revised Organic Act of the Virgin Islands (68 Stat. 497), as amended, is further amended—

(a) by amending the fourth paragraph of section 11 (68 Stat. 503), as amended (82 Stat. 837, 838), to read: "The Governor shall prepare, publish, and submit to the Congress and the Secretary of the Interior a comprehensive annual financial report in conformance with the standards of the National Council on Governmental Accounting within one hundred and twenty days after the close of the fiscal year. The comprehensive annual financial report shall include statistical data as set forth in the standards of the National Council on Governmental Accounting relating to the physical, economic, social, and political characteristics of the government, and any other information required by the Congress. The Governor shall transmit the comprehensive annual financial report to the Inspector General of the Department of the Interior who shall audit it and report his findings to the Congress. The Governor shall also make such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall also submit to the Congress, the Secretary of the Interior, and the cognizant Federal auditors a written statement of actions taken or contemplated on Federal audit recommendations within sixty days after the issuance date of the audit report. He shall have the power to issue executive orders and regulations not in conflict with any applicable law. He may recommend bills to the legislature and give expression to his views on any matter before that body."; and

(b) by deleting section 17 (68 Stat. 505), as amended (72 Stat. 1094; 76 Stat. 43; 82 Stat. 840; 91 Stat. 1162), in its entirety, and inserting in lieu thereof the following new section 17:

"SEC. 17. (a) The following functions, powers, and duties heretofore vested in the government comptroller for the Virgin Islands are hereby transferred to the Inspector General, Department of the Interior, for the purpose of establishing an organization which will maintain a satisfactory level of independent audit oversight of the government of the Virgin Islands:

"(1) The authority to audit all accounts pertaining to the revenue and receipts of the government of the Virgin Islands, and of funds derived from bond issues, and the authority to audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of the Virgin Islands including those pertaining to trust funds held by the government of the Virgin Islands.

"(2) The authority to report to the Secretary of the Interior and the Governor of the Virgin Islands all failures to collect amounts due the government, and expenditures of funds or uses of property which are irregular or not pursuant to law.

"(b) The authority granted in paragraph (a) shall extend to all activities of the government of the Virgin Islands, and shall be in addition to the authority conferred upon the Inspector General by the Inspector General Act of 1978 (92 Stat. 1101), as amended.

"(c) In order to carry out the provisions of this section, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the office of the government comptroller for the Virgin Islands related to its audit function are hereby transferred to the Office of Inspector General, Department of the Interior.".

TITLE IV—AMERICAN SAMOA

SEC. 401. Effective January 1, 1983, section 5 of Public Law 95-556 (92 Stat. 2078) is amended by striking out the colon and all that follows and inserting a period in lieu thereof.

SEC. 402. Section 501 of Public Law 96-205 (94 Stat. 90) is hereby deleted in its entirety, and inserted in lieu thereof is the following new section 501:

"SEC. 501. (a) The Governor of American Samoa shall prepare, publish, and submit to the Congress and the Secretary of the Interior a comprehensive annual financial report in conformance with the standards of the National Council on Governmental Accounting within one hundred and twenty days after the close of the fiscal year. The comprehensive annual financial report shall include statistical data as set forth in the standards of the National Council of Governmental Accounting relating to the physical, economic, social, and political characteristics of the government, and any other information required by the Congress. The Governor shall transmit the comprehensive annual financial report to the Inspector General of the Department of the Interior who shall audit it and report his findings to the Congress. The Governor shall also make such other reports at such other times as may be required by the Congress or under applicable Federal law. He shall also submit to the Congress, the Secretary of the Interior, and the cognizant Federal auditors a written statement of actions taken or contemplated on Federal audit recommendations within sixty days after the issuance date of the audit report.

"(b) The following functions, powers, and duties heretofore vested in the government comptroller for American Samoa are hereby transferred to the Inspector General, Department of the Interior, for the purpose of establishing an organization which will maintain a satisfactory level of independent audit oversight of the government of American Samoa:

"(1) The authority to audit all accounts pertaining to the revenue and receipts of the government of American Samoa, and of funds derived from bond issues, and the authority to audit, in accordance with law and administrative regulations, all expenditures of funds and property pertaining to the government of American Samoa including those pertaining to trust funds held by the government of American Samoa.

"(2) The authority to report to the Secretary of the Interior and the Governor of American Samoa all failures to collect amounts due the government, and expenditures of funds or uses or property which are irregular or not pursuant to law.

"(c) The authority granted in paragraph (b) shall extend to all activities of the government of American Samoa, and shall be in addition to the authority conferred upon the Inspector General by the Inspector General Act of 1978 (92 Stat. 1101), as amended.

"(d) In order to carry out the provisions of this section, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the office of the government comptroller for American Samoa relating to its audit function are hereby transferred to the Office of Inspector General, Department of the Interior.".

TITLE V—PUERTO RICO

SEC. 501. Section 202 of the Federal Water Pollution Control Act (Public Law 97-117) is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this Act, the amount of any grant for treatment works in Puerto Rico made under this Act shall be 95 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1982, 90 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1982, 90 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1983, 85 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1984, and 75 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1985.".

TITLE VI—MISCELLANEOUS

SEC. 601. Section 607 of Public Law 96-597 (94 Stat. 3477, 3483) is amended by deleting subsections (b), (c), and (d) and inserting in lieu thereof the following:

"(b) The Governors of Guam and the Virgin Islands shall, as a condition for a grant pursuant to subsection (a) of this section, submit a plan which is designed to eliminate the respective territory's general fund deficit by the beginning of fiscal year 1987 to the Secretary of the Interior. Within sixty days after he has received such a plan, the Secretary of the Interior shall transmit the plan, together with his comments and recommendations to the Congress. The plan shall provide for—

"(1) implementation of an effective budgetary and accounting system;

"(2) realistic revenue and expenditure projections which will progressively reduce current year general fund deficits and result in a balanced general fund budget no later than the beginning of fiscal year 1987;

"(3) financing of accumulated general fund deficits; and

"(4) quarterly goals and timetables for implementing the plan. The plan shall also indicate that the Governor has the necessary authority to implement the plan.

"(c) Not later than thirty days after the close of each quarter which occurs after the plan has been transmitted to the Congress, the respective Governor shall submit a report to the Secretary of the Interior and the Congress describing in detail the success or failure of such territory in meeting the goals and timetables described in such plan.".

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment with further amendments on behalf of the Senate, which I send to the desk.

UP AMENDMENT 1354

The PRESIDING OFFICER. The clerk will state the first amendment.

The bill clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. MCCLURE, proposes an unprinted amendment numbered 1354.

Mr. BAKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amendments to H.R. 5139 (as amended by the House on Sept. 9, 1982) as follows:

(1) In section 101, change "(64 Stat. 384, 487)" to "(64 Stat. 384, 387)"

(2) At the end of section 203, insert a new subsection (e) as follows:

"(e) Nothing in this section shall be construed as requiring the Governor of the Northern Mariana Islands to submit any statement or report to the High Commissioner of the Trust Territory of the Pacific Islands."

(3) Change section 204(a) to section 204 and strike "United States Code." and insert in lieu thereof "United States Code with respect to claims which accrued no more than two years prior to the effective date of this Act." and strike subsection (b) in its entirety.

(4) In section 309, strike subsections (a), (d) and (i) in their entirety and renumber subsequent paragraphs accordingly.

Mr. METZENBAUM. Mr. President, is the majority leader in a position to advise us what this amendment is?

I have no objection.

Mr. BAKER. Mr. President, were two amendments sent to the desk?

The PRESIDING OFFICER. Yes.

Mr. BAKER. And were both reported and considered en bloc?

The PRESIDING OFFICER. Only one amendment was reported.

Mr. BAKER. Has that amendment been adopted?

The PRESIDING OFFICER. No amendment has been adopted.

Mr. BAKER. I believe I previously moved that the Senate concur in the House amendment and the clerk has reported the first of two Senate amendments. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. But it has not yet been adopted?

The PRESIDING OFFICER. That is correct.

Mr. McCLURE. Mr. President, H.R. 5139 is a measure originally introduced by Congressman WON PAT to authorize appropriations for certain insular areas of the Untied States and to accomplish certain other purposes. The measure passed the House with a committee amendment on December 11, 1981 and was referred to the Committee on Energy and Natural Resources. The committee conducted hearings on the provisions of the bill together with other measures than pending before the committee and reported the bill to the Senate with an amendment in the nature of a substitute on April 29, 1982. The Senate agreed to the committee amendment and the measure passed the Senate on May 10, 1982. Since that time both the Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs have conducted further hearings on a variety of measures affecting the territories and insular areas of the United States, and on September 9 the House took action to agree to most of the Senate-passed provisions of H.R. 5139 and, in addition, to pass several other measures which have been subject to hearings. The action taken by the House would provide necessary authorizations to cover appropriations sought by the territories and, in part, by the administration for fiscal year 1983, and would strengthen the process of local self-government in the territories.

Briefly, the House amendments to H.R. 5139 would accept the Senate provision providing for a right of initiative and recall in Guam which was supported by the administration. It would increase the amount authorized for construction in Guam in fiscal year 1983 from the Senate authorized level of $5,000,000 to $6,052,000. The administration has requested authorization and appropriation of funds for these projects and the change in authorization level is due to information received from the Government of Guam subsequent to the submission of the President's budget and the original consideration of H.R. 5139. The House has also adopted a modification of the language authorizing funds for health care needs in Guam, but the change would not authorize any additional expenditures beyond those originally provided.

The change in language would simply make clear that renovation of Guam Memorial Hospital and the construction of a dispensary falls within the meaning of the words "health care needs." In sections 104, 203, 310, and 402, the House has adopted language proposed by the GAO to implement the findings of their report on strengthening the audit function of the Federal Comptrollers in the territories. The administration has endorsed these provisions and the Committee on Energy and Natural Resources conducted hearings on these provisions on September 13 of this year. I would note, however, that during the hearing process some questions arose with respect to a clarification of the Comptrollers' access authority to documents and records, and it may be necessary at some future point to clarify this authority.

The House amendments also accepted the Senate provision delaying the transfer of property in the trust territory until the termination of the trusteeship, and also accepted Senate-passed provisions providing authorization for a Caribbean Studies Center at the College of the Virgin Islands, and authorization for the U.S. Postal Service and Custom Service to assist the Government of the Virgin Islands in the collection of excise taxes.

These provisions were also endorsed by the administration, and with respect to the Caribbean Center, was endorsed specifically by the President as a part of his program on the Caribbean Basin. The House also adopted a Senate-passed provision which would have modified the process for submission of deficit elimination plans by the territories of Guam and the Virgin Islands to the Congress. Additional House amendments included clarifying the tax exempt status of the trust funds established for the populations of Bikini and Enewetak atolls as a result of their relocation during the nuclear testing program in the trust territory; and a clarification that the Federal Tort Claims Act does in fact apply in the Northern Marianas, a conclusion with which the Department of Justice agreed during committee hearings on September 13. The House amendments include a study of the significant natural and historic resources of the trust territory to be conducted by the National Park Service.

The National Park Service is currently undertaking a study of sites within the trust territory as part of the War in the Pacific legislation enacted several years ago and it would seem appropriate that in conducting that study the natural and historic resources be evaluated at the same time. The House amendments would also authorize $10 million for upgrading of the water and power systems in the Virgin Islands and $3 million for juvenile detention facilities in the Virgin Islands.

Given the importance of tourism to the economy of the Virgin Islands, an adequate and assured water and power supply is essential as well as adequate facilities for pretrial detention of juvenile offenders.

The House also included language affecting the rum industry in the Virgin Islands which had been endorsed by the administration most recently in testimony on the Caribbean Basin Initiative. In sections 306, 307, 308, and 309, the House has approved a variety of changes in the organic legislation of the Virgin Islands which had been prepared by the Departments of Justice and the Interior at the request of Senator WEICKER in order to update the organic legislation and to eliminate those provisions of law which had become either archaic or superseded by subsequent enactments but never specifically repealed.

Again the Committee on Energy and Natural Resources considered these provisions in our hearing on September 13. Section 401 of the House amendments deals with an internal administrative matter in the House relating to the clerk hire allowance for the nonvoting delegate from American Samoa. The House has also adopted a provision affecting the matching

grants for treatment works in Puerto Rico.

Mr. President, the House did delete one provision of the Senate-approved version of H.R. 5139 which I very reluctantly agree to. When the Congress considered general Federal tax legislation, it unfortunately forgot that the Federal internal revenue laws are directly mirrored in the territories of the United States who do not have the general authority available to the several States to raise revenues. As a result, the Federal tax cuts were directly mirrored in reduction in revenues to the territories at the same time as the Federal Government was turning increased responsibility for the administration of Federal programs over to local governments.

In considering H.R. 5139, the Senate agreed to an authorization to reimburse the territorial governments for the revenues which they would lose as a result of the Federal tax legislation on an incremental basis so that they would have the time to adjust their budgets to take into account the reduced revenues. The administration has strenuously objected to that provision and the House has acceded to the administration's request that the provision be deleted.

Mr. President, the amendments agreed to by the House are important and useful, and although, as I have indicated, some further action may be necessary with respect to several provisions, and although I am not pleased with the elimination of the tax reimbursement language, I believe this a worthwhile amendment and I enthusiastically support it.

Mr. President, there are four amendments to the House amendment which we are prepared to offer after having cleared their acceptability on both sides of the aisle and with the other body. The first amendment is a technical correction of a statutory citation in section 101. The second amendment drafted by the Department of Justice clarifies that any reports required under this section from the Governor of the Northern Mariana Islands are not required to be submitted to the High Commissioner of the trust territory. The third amendment also requested by the Department of Justice clarifies the applicability of the Tort Claims Act to the Northern Mariana Islands. The last amendment deletes the repeal of certain laws in conformance with amended provisions of the remainder of the bill and at the request of Justice.

It is also my understanding that there are two additional amendments sponsored by the Committee on Environment and Public Works. These amendments have been reviewed by me and are acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1354) was agreed to.

UP AMENDMENT NO. 1355

Mr. BAKER. Mr. President, I ask that the clerk state the second amendment.

The bill clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. Chafee, proposes an unprinted amendment numbered 1355.

Mr. BAKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, beginning on line 7: Strike section 305 and renumber the other sections accordingly.

And on page 21 beginning on line 9: Strike subsection (c) and insert in lieu thereof:

"(c) Notwithstanding any other provision of law, sums allotted to the Commonwealth of Puerto Rico under section 205 of this Act for fiscal year 1981 shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twenty-four months. Such sums and any unobligated funds available to Puerto Rico from allotments for fiscal years ending prior to October 1, 1981, shall be available for obligation by the Administrator of the Environmental Protection Agency only to fund the following systems: Aguadilla, Arecibo, Mayaguez, Carolina, and Camuy Hatillo. These funds may be used by the Commonwealth of Puerto Rico to fund the non-federal share of the costs of such projects. To the extent that these funds are used to pay the non-federal share, the Commonwealth of Puerto Rico shall repay to the Environmental Protection Agency such amounts on terms and conditions developed and approved by the Administrator in consultation with the Governor of the Commonwealth of Puerto Rico. Agreement on such terms and conditions, including the payment of interest to be determined by the Secretary of the Treasury, shall be reached prior to the use of these funds for the Commonwealth's non-federal share. No Federal funds awarded under this provision shall be used to replace local governments funds previously expended on these projects.".

Mr. CHAFEE. Mr. President, the construction grants program authorized by the Clean Water Act specifically provides financial assistance to municipalities in the planning, design, and construction of publicly owned treatment works. This assistance is based on a matching formula under which the Federal Government has statutorily provided 75 percent of eligible costs, with local government providing the remaining share. Under this program, EPA has awarded approximately $300 million for treatment facilities in the Commonwealth since 1972. Despite Puerto Rico's economic commitments and projections, soaring energy costs and an unemployment rate of over 20 percent have made it virtually impossible for the Commonwealth to match the available Federal construction grants dollars as originally anticipated.

As a consequence of the serious shortage in local funding, five facilities in which $180 million has been invested are not yet operational and are still under construction. Others have been completed, but now await the construction of necessary interceptor sewers to bring municipal waste water to the plant and outfalls to take the treated effluent away. In addition, some completed facilities are experiencing problems due to their idleness, such as corrosion, structural deterioration, and equipment malfunctions. Without a resolution of the funding situation, the effectiveness of these facilities and the value of the sizable Federal investment therein are in jeopardy.

To complete ongoing construction projects, Puerto Rico Aqueduct and Sewer Authority—PRASA—needs approximately $60 million through June 30, 1983. It currently has about $30 million. Under the very best of circumstances, the Government of Puerto Rico may be able to appropriate $22 million for waste water treatment leaving PRASA with an $8 million deficit. Such a deficit precludes the initiation of any further construction until fiscal year 1984 at the earliest. In addition, because of the lack of funds EPA has terminated 10 construction projects, which have received $42 million in Federal grants. These projects are essential to the health and well-being of the people of Puerto Rico, since, at the present time, almost all of Puerto Rico's more than 120 treatment plants are in violation of their NPDES permits and are contravening water quality standards. PRASA is under a Federal consent decree to upgrade existing treatment facilities or construct new ones.

The amendment passed by the House as part of H.R. 3159 on September 9, 1982, does not address the Commonwealth's immediate problem; that is, the lack of local funds to complete ongoing construction of the five regional treatment systems for Carolina, Camuy Hatillo, Mayaguez, Aquadilla, and Arecibo. While it would provide them with increased percentages of Federal funding shares, it does not afford them any means to address the local funding issue. The attached amendment recognizes the extreme problem faced by the Commonwealth and the immediate need to complete these much-needed facilities. The amendment will accomplish the following:

First. Prevent the loss of approximately $30 million in unobligated 1981 Federal funds, making it available for an additional year.

Second. Provide a mechanism by which these moneys would be used to finance Puerto Rico's local share to allow completion of the five existing and uncompleted facilities.

Third. Provide that this local share which is initially financed by the Fed-

eral Government will be repaid with interest under a plan worked out between the EPA and the Commonwealth of Puerto Rico.

Passage of this amendment will effectively relieve the financial crisis now jeopardizing the waste water treatment program in the Commonwealth of Puerto Rico without the appropriation of any additional Federal funds. Unless we act by September 30 these funds will be lost to the Commonwealth.

With regard to my other amendment it simply deals with deleting an amendment to the Clean Water Act that was included during consideration of this measure in the House. It would provide for a waiver from certain requirements of the Clean Water Act by the producers of rum in the Virgin Islands. This is presently before the Environmental Protection Agency for administrative attention and similar legislation which is being stricken is under consideration by the Environment and Public Works Committee as an amendment to the Clean Water Act. This is neither the time nor the place to take such action and I therefore urge that it be stricken.

The amendment to assist Puerto Rico in coming up with its matching share is not something I relish doing. I feel strongly that each political jurisdiction has a responsibility to develop its own local share. The circumstances in Puerto Rico are truly extraordinary. This legislation is a one-time fix and will allow Puerto Rico to complete needed facilities and protect the investment that already exists in these facilities to not be wasted.

One final word about the process that we are following to make certain that this amendment is enacted. Clearly the areas of H.R. 5139 that are being discussed in this amendment are within the jurisdiction of the Committee on Environment and Public Works. But because of the actions in the other body we are placed in this position. We appreciate the efforts of the chairman of the Energy and Natural Resources Committee, Mr. McCLURE, and the chairman of the subcommittee, Mr. WEICKER, in helping us protect our jurisdiction. Their cooperation and the efforts of their staffs has been greatly appreciated. Obviously, if something occurs in the other body to muddle our committee's jurisdiction it is regrettable, but there is not much we can do about it. I would only say that in the future I will strenuously object to any attempts to circumvent our committee in order to amend the Clean Water Act. This amendment with regard to Puerto Rico's share of the construction grants program is only being accepted because we are up against the deadline of September 30 and the consequences of not acting are worse than acting. However, this is the last time that we will be placed in this position.

Mr. RANDOLPH. Mr. President, I concur with the statement of the distinguished chairman of the Subcommittee on Environmental Pollution, Senator CHAFEE. H.R. 5139, the territorial omnibus bill, is a product of the Energy and Natural Resources Committee of the Senate and the Committee on Interior and Insular Affairs of the House. Yet one section of this legislation amends the Clean Water Act and another section exempts certain point sources from requirements of the Clean Water Act. That act is entirely within the jurisdiction of the Committee on Environment and Public Works, on which I proudly serve as ranking minority member.

The Subcommittee on Environmental Pollution has been working for months on amendments to the Clean Water Act. Unfortunately, time will not permit this legislation to reach the floor of the Senate prior to the October recess. I do anticipate, however, that action will take place on Clean Water Act amendments when the Congress reconvenes in late November. And that is the time when amendments such as those in this bill should be considered.

Having said that, I do understand the peculiar circumstances surrounding the Puerto Rico situation. Because Puerto Rico has been unable to meet its non-Federal payment requirements, it now through circumstances largely beyond its control stands to lose $30 million in unobligated Federal funds unless Congress takes action by September 30 of this year. The amendment which Senator CHAFEE has suggested as a substitute for section 501 of H.R. 5139 will keep these funds available to the Commonwealth for an additional year. Puerto Rico may use these funds to finance the non-Federal share of five treatment projects currently under construction, but must repay that sum, with interest, to the Environmental Protection Agency.

Mr. President, I support the Chafee amendment to this bill because I believe the Puerto Rico situation to be truly unique. Puerto Rico cannot meet its local share of five large projects now under construction. The amendment does not relieve the Commonwealth of its responsibility, but merely allows it to use Federal money, repaying it at a later date with interest. If this amendment were not adopted, the Federal Government would probably lose $180 million which has been expended for the Federal share of these projects.

While I would prefer to see this amendment on a bill coming from the Committee on Environment and Public Works, I recognize that the time element has made it necessary to use another bill as a vehicle. The territorial omnibus bill, coming up 1 day before the end of this fiscal year, is the best alternative.

With regard to the section of H.R. 5139 exempting Virgin Island rum distillers from certain requirements of the Clean Water Act, a similar amendment is being considered by the Subcommittee on Environmental Pollution. I concur with that part of Senator CHAFEE's amendment which strikes that section, so that the Committee on Environment and Public Works can more properly address the issue.

I also join with Senator CHAFEE in stating my strong conviction that amendments to statutes under the jurisdiction of the Committee on Environment and Public Works belong within that committee. We will vigorously oppose any further attempts to attach Clean Water Act amendments to measures coming out of other committees in this manner.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1355) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader to concur in the House amendment with amendments on behalf of the Senate.

The motion was agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME AND DRUG ENFORCEMENT IMPROVEMENTS ACT OF 1982

Mr. BAKER. Mr. President, some time ago I indicated that I would ask the Senate to proceed to the consideration of the crime package. It is a matter of great interest to a number of Senators, not only the chairman of the committee but also the distinguished minority leader, and especially the Senator from Georgia (Mr. NUNN), the two Senators from Florida (Mrs. HAWKINS and Mr. CHILES), and the senior Senator from Tennessee.

I am pleased now to inquire of the minority leader if he is prepared for us to proceed to that item at this time.

Mr. ROBERT C. BYRD. Yes, Mr. President, this side is prepared. We are ready, willing, and able to proceed.

I thank the majority leader.

Mr. BAKER. Mr. President, in the interest of transacting as much business as we can today, I ask unanimous consent that during the consideration of S. 2572, at any time, after first con-

sulting with the minority leader, I may ask the Senate to lay aside S. 2572 and take up routine calendar items that have been cleared for floor action.

Mr. ROBERT C. BYRD. There is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Senator.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 599, S. 2572.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2572) to strengthen law enforcement in the areas of violent crime and drug trafficking, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I yield the floor, so that the distinguished chairman of the Judiciary Committee may seek recognition.

Mr. THURMOND. Mr. President, I wish to express my appreciation to the leadership on both sides of the aisle for their support in bringing this important crime legislation before the Senate. I especially wish to thank the distinguished ranking minority member of the Senate Committee on the Judiciary, Mr. BIDEN, for his cooperation and assistance in this effort. I am proud to note that 62 of my colleagues have joined me as cosponsors of this measure.

As the title of the bill suggests, we simply must improve the Federal law enforcement response to violent crime and drugs. I believe the No. 1 domestic problem in the United States today is crime. We are failing at every level of government to meet the single most important function of government—the protection of our people in their peaceful endeavors and in their homes.

Mr. President, we cannot solve all of our problems at once but there are substantial improvements that can be made. In my judgment, this bill—the Violent Crime and Drug Enforcement Improvements Act of 1982—would, if enacted, make a major contribution to this effort.

Mr. President, over 1 year ago—on June 18, 1981—I rose on this floor in support of Senate Resolution 141, a resolution to express the sense of the Senate that taking all appropriate action necessary to combat violent crime should be a national priority, as well as a priority of the Senate, and should receive immediate attention. I pledged at that time to start the Committee on the Judiciary on the arduous road to examine and consider major legislation to improve our Federal law enforcement and criminal justice system.

It is appropriate at this time, as the Senate moves to consider S. 2572, to review briefly the work of the Judiciary Committee during this past year. Much of the committee's work provides the foundation for the measure we will consider today.

In some instances, it has seemed more appropriate to proceed with separate legislation. The activities include, among other matters:

Criminal Code Reform Act—hearings were completed in October 1981. S. 1630 was reported to the Senate on January 25, 1982, and is pending on the Senate Calendar.

Capital punishment—hearings were completed early in the First Session. S. 114 was reported to the Senate on July 1, 1981, and is pending on the Senate Calendar.

Bail reform—hearings were completed by the Subcommittee on the Constitution. S. 1554 was reported to the Senate on March 4, 1982, and is pending on the Senate Calendar.

Protection of intelligence agents—hearings were held on S. 391 by the Subcommittee on Security and Terrorism. Legislation signed into law on June 23, 1982.

Record and video tape piracy—hearings were held on S. 691 by the Subcommittee on Criminal Law. Legislation signed into law on May 24, 1982.

Protection of senior Federal officials—hearings were held on S. 904 and S. 907 by the Subcommittee on Criminal Law. S. 907, as amended, made it a Federal offense to kill, kidnap, or assault a cabinet officer, the second in command in a department, a justice of the Supreme Court, or a senior White House official. The bill passed the Senate on May 5, 1982.

Electronic surveillance amendments—hearings were deemed unnecessary. S. 1640, as amended provided for emergency surveillance in life endangering situations. Passed the Senate March 25, 1982.

Extradition—hearings were completed by the full Judiciary Committee on October 15, 1981. S. 1940, as amended, reported by the Committee on April 15, 1982, and is pending on the Senate Calendar.

Criminal forfeiture—based on hearings in previous Congresses, S. 2320 was considered by the Committee and ordered reported to the Senate on June 23, 1982.

Habeas corpus reform—hearings completed by the full committee. S. 2216 is pending on the Committee Agenda.

Labor violence—hearings were completed by the Subcommittee on Criminal Law. A related bill, S. 2189, is pending on the Committee Agenda.

Exclusionary rule—hearings were completed by the Subcommittee on Criminal Law. No further action contemplated this Congress.

Insanity defense—hearings by the Subcommittee on Criminal Law and the full Judiciary Committee should be completed within the next several weeks.

Victim/witness protection—hearings completed by the Subcommittee on Criminal Law. S. 2420 is pending on the Committee Agenda.

Mr. President, this partial summary of crime-related activities of the committee indicates the seriousness with which I and other members of the Judiciary Committee view the crime situation in this country today.

A year ago I asked the rhetorical question: Why are we so concerned about crime? The answer is still the same. Almost one-third of American households are victimized by crime each year. A crime is committed every 2.4 seconds. A murder occurs in this country every 23 minutes. A woman is raped every 6 minutes. Someone is robbed every 58 seconds, and a burglary takes place every 8 seconds.

As if this were not enough, our people are being incapacitated and destroyed by the lucrative trade in dangerous drugs. Almost every day we read of some prominent individual's death from drug use. Unreported and unheralded are the thousands of American citizens who die or suffer irreparable injury from drugs. Moreover, I am informed that a recent Temple University study on crimes committed by heroin addicts in Baltimore found that each of 243 addicts committed an average of one or more crimes on each of 200 days per year over a period of 10 years—with the whole group accounting for the astonishing figure of almost 500,000 crimes in the 10-year period.

Mr. President, the challenge is ours. We have the obligation to provide the tools needed by the criminal justice system to effectively and efficiently deal with serious crime. In my judgment, we have laid the foundation in this Congress to make important improvements today and to point the way for an agenda for further improvements in the future.

Now, let me turn briefly to some of the major features of S. 2572. It is divided into nine titles.

Title I amends the Bail Reform Act of 1966 to make some long-needed changes in our approach to those persons charged with crimes who pose a danger to the community. Among other things, it would, first, permit danger to the community to be considered in determining whether to release a defendant pending trial, or, if release is appropriate, in determining conditions for release; second, tighten significantly the criteria for postconviction release pending sentencing and appeal; third, provide procedure for revocation of release and contempt of court prosecution for committing a crime while on release; fourth, provide consecutive sentences for crimes committed on pretrial release; and fifth, increase the penalties for bail jumping. At the same time, the bill provides safeguards to insure that due process rights of individuals are protected.

Title II is an important step in the direction of reorienting our criminal justice system to reflect concern for victims and witnesses. It provides needed protection through improved criminal offenses for interfering with, or retaliating against, this group of

persons. It creates new injunctive and civil remedies to protect them.

Title III seeks to make our drug penalties more effective. It has at least four significant features: First, it increases substantially the fine levels for drug trafficking; second, it increases significantly the penalties for trafficking in large amounts of the most dangerous drugs; third, it increases the penalties for offenses involving the most dangerous nonnarcotic drugs, such as LSD, PCP, and the amphetamines, to bring them into line with the penalties for offenses involving narcotics, such as heroin and the opiates; and fourth, it cures certain inconsistencies between the Controlled Substances Act and the Controlled Substances Import and Export Act and permits State and foreign felony drug convictions to be considered under the enhanced sentencing provisions for repeat drug offenders.

Title IV amends sections 351 and 1751 of title 18, United States Code, to make it a Federal crime to kill, kidnap, or assault certain senior White House officials, a member of the Cabinet or his next in command, or a Justice of the Supreme Court.

Title V seeks to make fundamental changes in the Federal sentencing system to enhance accomplishing the basic purposes of sentencing.

The major features of title V include for the first time setting forth the purposes of sentencing and changing the sentencing system to a determinative system, with no parole and with limited good time credits. A seven-member sentencing commission would be responsible for promulgating sentencing guidelines, subject to review by the Congress, for courts to use in determining an appropriate sentence. The court must explain on the trial record the basis for passing sentences which are outside of guidelines. The Government may appeal a sentence which is more lenient than the applicable guideline, and the defendant may appeal a sentence more severe than the applicable guideline. So-called safety net provisions are included to provide, after service of a specified portion of the sentence, an opportunity for review and modification of a long sentence in unusual circumstances.

Title VI is designed to strengthen the current criminal forfeiture provisions applicable to organized crime and drug trafficking. This title would, among other things, first, make it clear that proceeds of racketeering activity are forfeitable and define with greater specificity other types of currently forfeitable property, or its equivalent value, notwithstanding efforts to conceal, transfer, or remove the forfeitable property; second, provide judicial power to issue appropriate preindictment protective orders; third, provide for orderly consideration and disposition of third-party claims; fourth, extend criminal forfeiture to all serious drug trafficking offenses by enacting provisions parallel to the racketeer influenced corrupt organizations legislation for felony drug violations; and fifth, establish a pilot program to set aside 25 percent of the funds, realized through forfeiture under the drug laws, for awards relating to obtaining information and assistance to facilitate forfeiture.

Mr. President, title VII of this bill, dealing with the insanity defense and mental competency provisions, was deleted in the time limitation agreement on S. 2572, adopted on July 1, 1982. This important subject is presently the object of hearings by the committee and will be dealt with in separate legislation which we hope to bring before the Senate within the next 30 days.

Title VIII provides authority for the Administrator of the General Services Administration to convey to State and local governments surplus Federal property determined by the Attorney General to be required for use as an authorized correctional facility.

Finally, title IX makes numerous relative minor, but still significant, miscellaneous improvements in the Federal laws relating to violent crime and drugs, including provisions directed at major arson, murder-for-hire, protection of Federal officials, and drug sales around schools.

Mr. President, I want to again commend Senator BIDEN for his support and cooperation in getting this crime package together in a bipartisan fashion. He has been most helpful in making sure that any comprehensive bill be one that would not only receive support from Republicans, but, also, from many of our colleagues on the other side of the aisle.

Senator LAXALT and Senator HATCH have also been extremely cooperative and helpful in assisting in this effort. I express my appreciation to them.

Mr. President, as I emphasized when S. 2572 was introduced, the time for talking tough about crime has passed. It is time to act. I urge my colleagues to approve this measure.

Mr. President, I ask unanimous consent that a summary of the major provisions of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

[Section-by-Section Analysis]

S. 2572—VIOLENT CRIME AND DRUG ENFORCEMENT IMPROVEMENTS ACT

TITLE I—BAIL REFORM

I. Introduction

Title I of this bill substantially revises the Bail Reform Act of 1966 (18 U.S.C. 3146 et seq.) and is based, with only minor modifications, on S. 1554, as reported by the Committee on the Judiciary (S. Rept. No. 97-317, 97th Cong., 2d Sess. (1982)). The purpose of this title is to address such problems as the need to consider community safety in setting nonfinancial conditions of release, the need to expand the list of statutory release conditions, the need to permit the pretrial detention of defendants as to whom no conditions of release will assure their appearance at trial or assure the safety of the community or of other persons, the need for a more appropriate basis for deciding on post-conviction release, the need to permit temporary detention of persons who are arrested while on a form of conditional release, and the need to provide procedures for revocation of release for violation of a condition of release.

Clearly, the most fundamental part of this title is its provision for pretrial detention based on defendant dangerousness. The Judiciary Committee's report on S. 1554 (S. Rept. No. 97-317) contains an extensive discussion of the pretrial detention issue and should be referred to for a fuller discussion of this matter. Briefly, in determining that our bail laws must be amended to give the courts the authority to deny release to the minority of defendants who are so dangerous that no form of conditional release would be sufficient to reasonably assure the safety of the community or other persons, the Committee reached the following conclusions. First, as a general matter, considerations of defendant dangerousness should be placed on an equal footing with currently permitted considerations of risk of flight. Second, the commission of crimes by those released on bail is a serious problem that can and should be addressed in Federal law. Third, judges can, with an acceptable degree of accuracy, identify that minority of defendants who pose such a danger to others that no form of conditional release is appropriate. Fourth, pretrial detention based on dangerousness is not unconstitutional if appropriately limited in application and if available only in the framework of reasonable procedural safeguards. Fifth, it is likely that a substantial number of dangerous Federal defendants are now detained pending trial through the use of high money bond, and this practice, to the extent that it exists, may be effectively replaced by a carefully drawn pretrial detention statute that would not only permit the court to address the issue of defendant dangerousness squarely and honestly, but would also be fairer to defendants than the use of money bond to achieve detention of particularly dangerous defendants.

While the pretrial detention provisions and certain other aspects of this title represent a departure from the Bail Reform Act of 1966, many of the improvements worked by that Act have been retained.

II. Section-by-section analysis

Set out below is a brief section-by-section analysis of title I. The section-by-section analysis in the Committee's report on S. 1554 should be consulted for a more in-depth description of these provisions.

Section 101 provides that this title may be cited as the "Bail Reform Act of 1982".

Section 102 repeals current section 3141 through 3151 of title 18 of the United States Code and inserts in their place new sections 3141 through 3150. Each of these new sections of title 18 is analyzed as follows:

Section 3141, Release and Detention Authority Generally, like current 18 U.S.C. 3141, specifies which judicial officers have the authority to order the release or detention of persons pending trial (subsection (a)) or pending sentence or appeal (subsection

(b)). The authority set out in current law has, with only two minor modifications, been carried forward.

Section 3142, Release or Detention of a Defendant Pending Trial, makes several substantive changes in the basic provisions of the Bail Reform Act of 1966. That Act adopted the concept that non-capital cases a person is to be ordered released under the minimum conditions reasonably required to assure his presence at trial. Danger to the community and the protection of society are not to be considered in making release decisions under current law.

Considerable criticism has been leveled at the Bail Reform Act for its failure to recognize the problem of crimes committed by those on pretrial release. See S. Rept. No. 97-317, pages 36-37. The constraints of the current Bail Reform Act prevent the courts from imposing conditions of release geared toward assuring community safety, or from denying release to those defendants who pose an especially severe risk to others. It is intolerable that the law denies judges the tools to make honest and appropriate decisions regarding the release of such defendants. To address this problem, section 3142 departs from current law in two significant ways. First, it permits an assessment of a defendant's dangerousness in setting any conditions of release, a concept that has been widely supported. (See S. Rept. No. 97-317, page 37.) Second, as noted above, the courts are given the authority in limited circumstances to deny release to defendants as to whom even the most stringent form of conditional release would be insufficient to reasonably assure community safety. (The need for pretrial detention is discussed at length in the report on S. 1554, S. Rept. No. 317; see especially pages 38-42.) The core pretrial detention provisions of section 3142 are contained in subsections (e) and (f), as discussed below.

Subsection (a) of section 3142 provides that when a person charged with an offense is brought before a judicial officer, the judicial officer is to pursue one of four alternative courses of action set out in subsections (a) through (e).

Subsection (b) of section 3142 requires the judicial officer to release the person on his personal recognizance or upon execution of an unsecured appearance bond unless he determines that such release (1) will not reasonably assure the appearance of the person or (2) will endanger the safety of any other person or the community. As in current law, this is the favored form of release. However, unlike current law, this provision permits a consideration of defendant dangerousness. If released pursuant to this provision, the defendant is subject to the mandatory condition that he not commit another offense while on release. Those released pursuant to the conditions enumerated in subsection (c) are subject to the same mandatory condition.

Subsection (c) of section 3142 provides that if the judicial officer determines that release on personal recognizance or on an unsecured appearance bond will not give the necessary assurances, he is to release the person pursuant to the least restrictive condition or combination of conditions that will give the required assurances concerning appearance and community safety. Except for financial conditions of release, which may be imposed only to assure the defendant's appearance, any of the discretionary conditions of release set out in subsection (c)(2) may be imposed to assure either appearance or community safety. These discretionary conditions carry forward those now listed in 18 U.S.C. 3146 and incorporate nine more. The final sentence of section 3142(c) retains the current authority set forth in 18 U.S.C. 3146(e) for the court to amend the release order at any time.

Subsection (d) of section 3142 permits the judge to detain a defendant for a period of up to ten days if the person was arrested while already on a form of conditional release, such as bail, probation, or parole. The purpose of this provision is to allow the government time to notify the original releasing authorities so that they may take whatever action may be appropriate in light of the defendant's arrest. This provision is based largely on a similar provision in the D.C. Code. (For a further discussion of this provision, see S. Rept. No. 97-317, pages 47-48.)

Subsections (e) and (f) of section 3142 set forth the findings and procedures that are required for an order of detention. The standard for an order of detention is contained in subsection (e), which provides that the judicial officer is to order the person detained if, after a hearing pursuant to subsection (f), he determines that no condition or combination of conditions of release will reasonably assure the appearance of the defendant as required and the safety of any other person and the community. The facts on which the finding of dangerousness is based must, under subsection (f), be supported by clear and convincing evidence. Thus, this subsection not only codifies existing authority to detain persons who are serious flight risks or who threaten witnesses or jurors, but also creates new authority to detain persons who pose especially serious dangers to community safety.

Generally, subsection (e) does not specify the kinds of information that will support the findings necessary to deny release. However, it does specify two sets of circumstances which, if established, create a rebuttable presumption that no form of conditional release will be adequate. The first is where the defendant has a history of having committed a serious offense while on release. The second is where the defendant is charged (and an appropriate probable cause determination is made) with either one of the most serious drug trafficking offenses or the use of a firearm in the commission of a felony (18 U.S.C. 924(c)). Further discussion of these rebuttable presumptions is to be found in S. Rept. 97-317, pages 49-50.

Subsection (f) of section 3142 describes, in paragraphs (1) through (6), the circumstances under which a detention hearing may be held. Under paragraphs (1) through (3), a detention hearing may be held if the defendant is charged with (1) a crime of violence; (2) an offense punishable by death or life imprisonment; or (3) a major drug trafficking offense. These offenses are essentially the same categories of offenses for which a pretrial detention hearing may be held under the D.C. Code.

Subsection (f)(4), (5), and (6) describe the other cases in which a pretrial detention hearing may be held. The first two types of cases, those involving either a serious risk that the defendant will flee or that he will obstruct justice or threaten or injure witnesses or jurors, reflect the scope of current case law authority permitting denial of release. The third type of case is that in which a defendant charged with a serious offense has a substantial history of committing dangerous offenses.

It should be noted that S. 1554, as reported, required a pretrial detention hearing in the circumstances described in subsection (f)(1), (2), and (3). The advisability of this requirement, even when the government and court agreed that detention was unnecessary, which might result in the unnecessary expenditure of strained judicial and prosecutive resources, has been questioned, and thus the requirement is deleted in this title.

The procedural requirements for the pretrial detention hearing are set forth in section 3142(f) and track those of the analogous provision in the D.C. Code. For a further discussion of this and other aspects of subsection (f), see S. Rept. No. 97-317, pages 50-53.

Subsection (g) of section 3142 enumerates the factors that are to be considered by the court in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of other persons and the community. Most of these factors are drawn from current law. Subsection (g) also contains a new provision making clear the authority of the court to conduct a hearing into the source of property used to post bond. Experience has shown that where money bond is financed through the proceeds of crime it is generally ineffective in assuring the defendant's appearance. This provision makes clear the authority of the court to inquire into the source of property used to post bond (now called Nebbia hearings) and to decline to accept the bond if it is not satisfied as to the source. For a further discussion of subsection (g), see S. Rept. No. 97-317, pages 53-55.

Subsection (h) of section 3142 provides that in issuing an order of release under subsection (b) or (c), the judicial officer is to include a written statement setting forth all the conditions of release. He is also required to advise the person of the penalties for a violation of a condition of release. A similar provision exists in current law. See 18 U.S.C. 3146(c).

Subsection (i) of section 3142 requires that an order of detention include written findings of fact and a written statement of the reasons for the detention. The court's order must also direct that the person be confined in a facility separate from convicted offenders, if practicable, and permit the person a reasonable opportunity for private consultation with counsel while confined.

Section 3143, Release or Detention of a Defendant Pending Sentence or Appeal, makes several revisions in that portion of current 18 U.S.C. 3148 which concerns post-conviction release. The basic distinction between the existing provision and section 3143 is one of presumption. Under current 18 U.S.C. 3148, the judicial officer is instructed to treat a person who has already been convicted according to the release standards of 18 U.S.C. 3146 that apply to a person who has not been convicted, unless he has reason to believe that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community.

The current presumption favoring post-conviction release should be eliminated. Once guilt of a crime has been established, there is no reason to favor release pending imposition of sentence or appeal. The conviction, by which the defendant's guilt of a crime has been established beyond a reasonable doubt, is presumably correct in law. Also, release of a criminal defendant into the community after conviction may undermine the deterrent effect of the criminal

law, especially in those situations where an appeal of the conviction may drag on for many months or even years.

Section 3143 separately treats release pending sentence, release pending appeal by the defendant, and release pending appeal by the government. As to release pending sentence, subsection (a) provides that a person convicted shall be held in official detention unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or to pose a danger to the safety of any other person or the community. Subsection (a) covers those awaiting the execution of sentence as well as its imposition.

Subsection (b) of section 3143 deals with release after sentence of a defendant to imprisonment who has filed an appeal or a petition for a writ of certiorari. Such person is also to be detained unless the judicial officer finds by clear and convincing evidence that the defendant is not likely to flee or pose a danger to the safety of any other person or the community. In addition, the court must affirmatively find that the appeal is not taken for the purpose of delay and that it raises a substantial question of law or fact likely to result in reversal or an order for a new trial. Under the current 18 U.S.C. 3148, release can be denied if it appears that the appeal is frivolous or taken for delay. Subsection (b) is based on the release pending appeal provisions of the D.C. Code, section 23–1325.

Subsection (c) of section 3143 concerns release pending appeal by the government from an order of dismissal of an indictment or information, or suppression of evidence, pursuant to 18 U.S.C. 3131. As both of these kinds of appeal contemplate a situation in which the defendant has not been convicted, the defendant is to be treated under section 3142, the general provision governing release or detention pending trial. See S. Rept No. 97–317, pages 56–57.

Section 3144, Release or Detention of a Material Witness, carries forward, with two changes, current 18 U.S.C. 3149, which concerns the release of a material witness.

The first change in current law is that section 3144 would permit the judicial officer to order the detention of the witness if there were no conditions of release that would assure his appearance. A witness could not be detained for inability to comply with a condition of release if his testimony could be adequately secured by deposition and if detention is not required to prevent a failure of justice. Currently, 18 U.S.C. 3149 ambiguously requires the conditional release of the witness in the same manner as for a defendant awaiting trial, yet the language of the statute recognizes that certain witnesses will be detained because of an inability to meet the conditions of release imposed by the judicial officer.

The other change is to grant the judicial officer not only the authority to set release conditions for a detained material witness, or, in an appropriate case, to order this detention pending his appearance at the criminal proceeding, but also to authorize the arrest of the witness in the first instance. It is anomalous that current law authorizes release conditions but at the same time does not authorize the initial arrest. For further discussion of this provision, see S. Rept. 97–317, page 58.

Section 3145, Review and Appeal of a Release or Detention Order, sets forth the provisions for the review and appeal of release and detention orders. Subsections (a) and (b) provide for the review of release and detention orders by the court having original jurisdiction over the offense in situations in which the order is initially entered by a magistrate, or other court not having original jurisdiction over the offense (other than a Federal appellate court).

Subsection (c) of section 3145 grants both the defendant and the government a right to appeal release or detention orders, or decisions denying the revocation or amendment of such orders.

Although based in part on current 18 U.S.C. 3147, section 3145 makes two substantive changes in present law. First, section 3145 permits review of all release and detention orders. Second, it permits the government to appeal release decisions. For further discussion of this provision, see S. Rept. 97–317, pages 59–60.

Section 3146, Penalty for Failure to Appear, basically continues current law, although the maximum penalty has been increased to more nearly parallel that of the underlying offense with which the defendant was charged. This increased penalty provision is designed to eliminate the temptation to a defendant to go into hiding until the government's case for a serious felony grows stale or until a witness becomes unavailable—often a problem with the passage of time in narcotics offenses—and then to surface at a later date with criminal liability limited to the less serious failure to appear offense. Subsection (a) provides that a person commits an offense if, after having been released pursuant to the provisions of chapter 207 of title 18, as amended by the bill: (1) he knowingly fails to appear before a court as required by the conditions of his release; or (2) he knowingly fails to surrender for service of sentence pursuant to a court order.

Subsection (c) of section 3146 provides that it is an affirmative defense that "uncontrollable circumstances prevented the defendant from appearing or surrendering, that the defendant did not contribute to the creation of such circumstances in reckless disregard of the requirement that he appear or surrender, and that the defendant appeared or surrendered as soon as such circumstances ceases to exist.".

Subsection (d) of section 3146 emphasizes that, in addition to the penalties of fine and imprisonment provided for failure to appear, the court may also order the person to forfeit any bond or other property he has pledged to secure his release if he has failed to appear.

Section 3147, Penalty for an Offense Committed while on Release, is designed to deter those who would pose a risk to community safety by committing another offense when released under the provisions of this title and to punish those who indeed are convicted by another offense. Accordingly, this section prescribes a penalty in addition to any sentence ordered for an offense committed while on release. This additional penalty is a term of imprisonment of at least two years and not more than ten years if the offense committed while on release is a felony. If the offense committed while on release is a misdemeanor, this additional penalty is at least 90 days and not more than one year

Section 3148, Sanctions for Violations of a Release Condition, provides, in subsection (a), for two distinct sanctions that are applicable for persons released pursuant to section 3142 who violate a condition of their release—revocation of release and an order of detention, and a prosecution for contempt of court.

Subsection (b) of section 3148 sets out the procedure for revocation of release. Specific provisions for revocation of release are new to Federal bail law, although a similar provision exists in the D.C. Code. Generally, an order of revocation and detention will issue at this hearing if the court finds, first, that there is either probable cause to believe that the person has committed a Federal, State, or local crime while on release, which is a violation of a mandatory condition imposed on all released persons, or clear and convincing evidence that the person has violated any other condition of his release; and, second, that either no condition or combination of conditions can be set that will assure that the person will not flee or pose a danger to the safety of any other person or the community, or that no condition or combination of conditions will assure that the person will abide by reasonable conditions.

Since the establishment of probable cause to believe that the defendant has committed a serious crime while on release constitutes compelling evidence that the defendant poses a danger to the community, once such probable cause is established it is appropriate that the burden rest on the defendant to come forward with evidence indicating that this conclusion is not warranted in his case. Therefore, section 3148(b) provides that if there is probable cause to believe that the person has committed a Federal, State, or local felony while on release, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community.

Subsection (C) of section 3148 emphasizes that the court may impose contempt sanctions if the person has violated a condition of his release. This carries forward the provisions of current 18 U.S.C. 3151.

Section 3149, Surrender of an Offender by a Surety, except for minor word changes, is identical to current 18 U.S.C. 3142. This section provides that, if a person is releasesd on an appearance bond with a surety, such person may be arrested by his surety and delivered to a United States marshal and brought before the court. The person so returned will be retained in custody until released.

Section 3150, Applicability to a Case Removed from a State Court, specifies that the release provisions of chapter 207 of title 18 of the United States Code, as amended by this title, are to apply to a case removed to a Federal court from a State court.

Section 103 of this title contains two technical amendments to 18 U.S.C. 3041 and 3042; deletes section 3043 (Security for peace and good behavior), a provision little used and unnecessary in light of this title's grant of authority to consider dangerousness in release decisions; and creates a new section 3062.

Section 3062 grants to a law enforcement officer who is authorized to make arrests for offenses committee in his presence the authority to arrest a person released under this Act if the officer has reasonable grounds to believe the person is violating certain release conditions in his presence. Since a violation of a release condition constitutes contempt, it is likely that officers have such authority currently. However, this provision will assure that law enforcement officers with arrest authority for offenses committed in their presence are made especially aware of the importance of arresting a person on release who is subject to one of the conditions that is aimed primarily at preventing further crimes by the

defendant and assuring against harm to victims and witnesses.

Section 104 of this title amends 18 U.S.C. 3731 to permit, in accordance with new 18 U.S.C. 3146(c), the government to appeal release decisions.

Section 105 of this title sets out a conforming amendment to 18 U.S.C. 3772.

Section 106 of this title sets out a conforming amendment to 18 U.S.C. 4282.

Section 107 of this title sets out a conforming amendment to 28 U.S.C. 636.

Section 108 of this title sets out what are, for the most part, technical or conforming amendments to the Federal Rules of Criminal Procedure. The amendment to Rule 46(e)(2) adds language emphasizing that a surety's surrender of a person into custody may be an appropriate basis for setting aside forfeiture of all or part of the bond. New Rule 46(h) makes it clear that, when authorized by statute or regulation, minor charges may be disposed of by ordering the forfeiture of collateral. This procedure is currently used to dispose of minor offenses, such as traffic violations, and permits those charged with such offenses to forgo appearing at an official proceeding if they so wish. See Rule 4(a) of the Rules of procedure for the Trial of Misdemeanors before United States Magistrates.

Section 109 of title I amends Rule 9(c) of the Federal Rules of Appellate Procedure to provide that a convicted person seeking release pending appeal is to bear the burden of proof both with respect to the issues of his appearance and considerations of community safety and with respect to the merit of his appeal.

TITLE II—WITNESS-VICTIM PROTECTION

I. Introduction

Title II of the bill is substantially the same as S. 2420, introduced earlier this Congress by Senator Heinz and Laxalt and 39 of their colleagues. It represents a legislative response to the serious law enforcement and social problems generated by the intimidation of victims and witnesses. The purpose of this title is to enhance the role of victims and witnesses in our criminal justice system. Too often, they have been the system's forgotten persons.

II. Section-by-section analysis

Section 202 amends Rule 32(c)(2) of the Federal Rules of Criminal Procedure to require that presentence reports include a "Victim Impact Statement." Today, because so many cases are disposed of by plea rather than trial, the sentencing judge has no opportunity to hear from the victim concerning the crime and its consequences. Under this section, the judge would be informed of the impact of defendant's crime on the victim, and could take that information into consideration in fashioning an appropriate sentence. This procedure is currently being used in the Baltimore Federal courts with success.

Section 203 of title II deals with the problem of victim-witness intimidation. The American Bar Association, after extensive research and hearings, drafted a model victim-witness intimidation package. This, in turn, has been re-drafted in the form of two Federal criminal statutes, similar to provisions included in the Criminal Code Reform Act. Two offenses are created: First, proposed 18 U.S.C. 1512 applies to offenses against witness, victims, or informants that occur before the witness testifies or the informant communicates with law enforcement officers. Second, proposed 18 U.S.C. 1513 applies to retaliation against witnesses or informants for their testimony or report to law enforcement officers. See S. Rept. No. 97-307, pages 349-358.

Section 204 of title II adds a new chapter, Protection of Witnesses, to title 18 of the United States Code. The new sections in this chapter are as follows:

Section 3521 deals with witness relocation and protection. Under current law, the Attorney General is only authorized to relocate and protect witnesses in narcotics and other organized crime cases. This section gives the Attorney General the discretion to order whatever degree of protection he deems necessary, regardless of the underlying offense. Often, extraordinary measures such as change of identity and relocation are not only unnecessary, but actually encourage the potential witnesses to forgo testifying simply because the resulting disruption would be so great.

Section 3522 permits the Attorney General to condition the provision of assistance on complete or partial reimbursement to the United States of the expenses incurred by the United States.

Section 3523 is new to Federal law and would permit the Attorney General to initiate a civil proceeding to obtain a court order prohibiting intimidation or harassment of a witness or a victim. This provision allows the court to order the defendant, or any other person before the court, to maintain a prescribed distance from a specified witness or victim and not to communicate with him. Violation of the court's order could result in revocation of the defendant's pretrial release or the invocation of the contempt powers of the court. See S. Rept. No. 97-307, pages 1265-1266.

Section 205 of title II is a new provision, similar to a bill introduced in the last Congress by Senator Laxalt, which would provide a cause of action and, hence, a legal remedy, to those citizens who are victimized by those who are prematurely released from Federal custody through the gross negligence of government employees. Today, the government pleads sovereign immunity. This doctrine ignores a citizen's implied right to be free of the consequences of the outrageous conduct of government officials. Under this section, for example, the Parole Commission or the Bureau of Prisons, not their members in their individual capacities, would be civilly liable. It is expected that these agencies and departments will, therefore, be less inclined to release prematurely those criminals with a history of violent crime.

Section 206, the last section of this title, would require reports to the Congress by the Attorney General on various aspects of this title.

TITLE III—CONTROLLED SUBSTANCES PENALTIES

I. Introduction

The purpose of title III is to provide a more rational penalty structure for the major drug trafficking offenses punishable under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.). Trafficking in illicit drugs is one of the most serious crime problems facing the country, yet the present penalties for major drug offenses are often inconsistent or inadequate. This title primarily focuses on three major problems with current drug penalties.

First, with the exception of offenses involving marihuana (see 21 U.S.C. 841(b)(6)), the severity of current drug penalties is determined exclusively by the nature of the controlled substance involved. While it is appropriate that the relative dangerousness of a particular drug should have a bearing on the penalty for its importation or distribution, another important factor is the amount of the drug involved. Without the inclusion of this factor, penalties for traffikers in especially large quantities of extremely dangerous drugs are often inadequate. Thus, under current law, the penalty for trafficking in 500 grams of heroin is the same as that provided for an offense involving 10 grams. The drug penalties schedule of the criminal code reform bill reported by the Committee on the Judiciary this year (S. Rept. No. 97-307) addressed this problem by punishing as a Class B felony (up to twenty-five years' imprisonment) offenses involving trafficking in large amounts of opiates and other extremely dangerous drugs. Based on this approach, title III amends 21 U.S.C. 841 and 960 to provide for more severe penalties than are currently available for such major trafficking offenses.

The second problem area addressed by this title is current fine levels for major drug offenses. Drug trafficking is enormously profitable. Yet current fine levels are, in relation to the illicit profits generated, woefully inadequate. It is not uncommon for a major drug transaction to produce profits in the hundreds of thousands of dollars. However, with the exception of the most recently enacted penalty for distribution of large amounts of marihuana (21 U.S.C. 841(b)(6)), the maximum fine that may be imposed is $25,000. This title provides more realistic fine levels that can serve as appropriate punishments for and deterrents to, these tremendously lucrative crimes.

A third problem addressed by this title is the disparate sentencing for offenses involving Schedules I and II substances, which depends on whether the controlled substance involved in the offense is a narcotic or nonnarcotic drug. Offenses involving Schedules I and II narcotic drugs (opiates and cocaine) are punishable by a maximum of 15 years' imprisonment and a $25,000 fine, but in the case of all other Schedule I and Schedule II substances the maximum penalty is only 5 years' imprisonment and a $15,000 fine. The same penalty is applicable in the case of a violation involving a Schedule III substance. This penalty structure is at odds with the fact that non-narcotic Schedule I and Schedule II controlled substances include such extremely dangerous drugs as PCP, LSD, methamphetamines, and methaqualone, and Federal prosecutions involving these drugs typically involve huge amounts of illicit income and sophisticated organizations. Removing the distinction, for the purposes of sentencing, between narcotic, as opposed to non-narcotic, controlled substances in Schedule I and Schedule II was proposed in S. 1951 in this Congress, and this concept is included in this title.

II. Section-by-section analysis

Section 301 of title III provides that this title may be cited as the "Controlled Substances Penalties Amendments Act of 1982".

Section 302 amends 21 U.S.C. 841(b), the provision which sets out the penalties for the most serious domestic drug trafficking offenses. Each of the paragraphs of this section is discussed below.

Paragraph (1) revises 21 U.S.C. 841(b)(1), which describes the penalties for offenses involving controlled substances in Schedules I, II, and III. (Although marihuana is a Schedule I controlled substance, trafficking in amounts over 1,000 pounds is currently governed by 21 U.S.C. 841(b)(6), and distri-

bution of small amounts for no remuneration is treated as mere possession under 21 U.S.C. 841(b)(4).) Currently, offenses involving narcotic Schedule I and Schedule II substances (opiates and cocaine) are governed by section 841(b)(1)(A), while offenses involving non-narcotic Schedule I and Schedule II substances and all Schedule III substances are governed by section 841(b)(1)(B). This part of the amendment would redesignate these subparagraphs as subparagraphs (B) and (C) and create a new subparagraph (A) under section 841(b)(1) that would provide, for offenses involving large amounts of particularly dangerous drugs, higher penalties than those now provided under section 841.

Under this new section 841(b)(1)(A), an offense involving (i) 100 grams or more of an opiate; (ii) a kilogram or more of cocaine (a more complex manner of defining opiates and cocaine is necessary in the amendment because of the way in which such substances are defined elsewhere in title 21); (iii) 500 grams or more of PCP; or 5 grams or more of LSD, would be punishable by a maximum of 20 years' imprisonment, and a fine of $250,000. Consistent with the current structure of section 841, these maximum penalties would be doubled where the defendant had a prior felony drug conviction. The amendment's description of the prior offense which may trigger the more severe penalty does, however, differ from the description used in current law. In current law, this enhanced sentencing is available only in the case of a prior Federal felony drug conviction. The amendment would permit prior State and foreign felony drug convictions to be used for this purpose as well. The prior conviction language of current provisions of section 841 and of section 962 (relating to importation and exportation offenses) has been amended in a similar manner to include State and foreign, as well as Federal, felony drug convictions.

All other offenses involving a Schedule I or II substance, except those involving less than 50 kilograms of marihuana, 10 kilograms of hashish, or one kilogram of hashish oil, are to be punished under section 841(b)(1)(B). Thus, the current distinction, for purposes of punishment, between Schedule I and II substances which are narcotic drugs and those which are not, has been abandoned. The maximum 15-year term of imprisonment, currently applicable to offenses involving narcotic Schedule I and II substances is retained. However, the current maximum fine level of $25,000 has been raised to $125,000. (By virtue of current section 841(b)(6), offenses involving large amounts of marihuana are already punishable at this 15-year/$125,000 fine level.) Similarly, offenses involving Schedule III substances and lesser amounts of marihuana, hashish, and hashish oil, governed in the amendment by section 302(1)(C), are punishable at the current level of 5 years' imprisonment, but the maximum fine has been raised from $15,000 to $50,000. (As noted parenthetically above, marihuana is currently treated in the same manner as a Schedule III controlled substance when the amount involved is less than 1,000 pounds. Thus, this formula is generally consistent with current law.)

Paragraph (2) amends section 841(b)(2) to raise the fine level for a violation involving a Schedule IV substance from $10,000 to $25,000. Also included is the amendment noted above in relation to new section 841(b)(1)(A) which would treat State and foreign, as well as Federal, felony drug convictions as prior convictions for the purpose of enhanced sentencing.

Section 303 amends 21 U.S.C. 960(b), which sets out the penalties for the major drug importation and exportation offenses, in a manner consistent with the amendments to 21 U.S.C. 841(b) discussed above. Each of the paragraphs of this section is discussed below.

Paragraph (1) creates a new section 960(b)(1) which provides for heightened penalties for importation offenses involving large amounts of extremely dangerous drugs. This section is analogous to the new section 841(b)(1)(A), added by paragraph (1) of section 302 of the title.

Paragraph (2), as was done with respect to section 841(b)(1) in section 302 of this title, consolidates the treatment of offenses involving all Schedule I and Schedule II substances except lesser amounts of marihuana and hashish. The current 15-year level of imprisonment is retained, but the fine is raised from $25,000 to $125,000, as was done with respect to the analogous offense under section 841(b)(1).

Paragraph (3) amends current section 960(b)(2) (redesignated as section 960(b)(3) in this title) which now governs offenses involving all controlled substances other than Schedule I and Schedule II narcotic drugs. As amended, this section would continue to govern violations involving lesser amounts of marihuana and hashish, and all Schedule III, IV, and V substances, would retain the current five-year maximum term of imprisonment, and would raise the current fine of $15,000 to $50,000. (Unlike current 21 U.S.C. 841(b), current 21 U.S.C. 960 does not provide separate penalties for offenses involving Schedule IV and Schedule V substances.)

Section 304 amends 21 U.S.C. 962 to permit prior State and foreign, as well as Federal, felony drug convictions to be considered for the purpose of this section's enhanced sentencing for repeat drug offenders. As noted above, various provisions of 21 U.S.C. 841(b) were amended in a similar manner.

TITLE IV—PROTECTION OF FEDERAL OFFICIALS

I. Introduction

Title IV of the bill would close a gap in the present law whereby, with few exceptions, it is not a Federal offense to kill, assault, or kidnap a Cabinet officer or senior Presidential or Vice Presidential staff member such as the White House Chief of Staff or Press Secretary. Such an offense would today normally have to be prosecuted under State law with an attendant wide variation in standards of proof and sentences that could be imposed. In addition, this title would assert Federal jurisdiction over violent crimes committed against Supreme Court justices and the second in command to cabinet level positions. It is extremely doubtful whether Supreme Court justices are presently afforded this protection. This title is identical to S. 907, which was favorably reported by the Committee on the Judiciary (see S. Rept. No. 97-320) and passed the Senate on May 5, 1982.

II. Section-by-section analysis

Section 401 amends section 18 U.S.C. 351(a) to make it a Federal crime to kill a Cabinet officer, defined as a member of the Executive Branch of the Government who is the head of a department listed in 5 U.S.C. 101, the second ranking official in each such department, the Director or Deputy Director of Central Intelligence, or a Supreme Court Justice or nominee. This protection of Federal law is presently accorded by section 351 to Members of Congress and Members-of-Congress-elect.

Since present subsections (b), (c), (d), and (e) refer to kidnapping, attempted killing or kidnapping, conspiracy to kill or kidnap, and assaults upon persons named in subsection (a), the effect of this section would be to create Federal jurisdiction over these offenses as well when directed at a Supreme Court justice or nominee, a Cabinet officer, or his principal deputy. The penalties would presently extend to life imprisonment for the murder, kidnapping, attempted murder or kidnapping, or conspiracy to murder or kidnap such a person. The penalty for an assault on such a person would be a fine of not more than $5,000 or imprisonment for up to one year or both, but if personal injury results the penalty for assault could extend to a $10,000 fine and imprisonment for up to ten years, or both.

Subsection (f) contains a conforming amendment to 18 U.S.C. 2516, which specifies the offenses for which the Attorney General may authorize an application for a warrant to intercept oral or wire communications.

Section 402 amends 18 U.S.C. 1751 to extend to the most senior officials in the Executive Office of the President and in the Office of the Vice President the same protection presently given to the President and Vice President with respect to murder, manslaughter, kidnapping, and an attempt or conspiracy to commit these crimes. For any of these offenses the penalty could extend to life imprisonment under current law. The officials so protected are persons employed in the Executive Office of the President or in the Office of the Vice President authorized to receive pay at the rate which applies for positions at level II of the Executive Schedule.

Subsection (b) amends subsection 1751(e), dealing with the penalty for assault. The penalty for assault on the President, President-elect, Vice President, Vice President-elect or person next in line to the Presidency, if there is no Vice President, will continue to be up to 10 years' imprisonment and a $10,000 fine. However, the penalty for assaulting one of the Presidential or Vice Presidential aides, added to section 1751(a) by this title, would be 10 years' imprisonment and a $10,000 fine, or both, only if personal injury results. In other cases, the maximum penalty for an assault on one of these aides would be a $5,000 fine and imprisonment for 1 year, or both. This makes the penalty for assault on a Presidential aide consistent with that for an assault on a Cabinet officer or Supreme Court justice under section 351.

Subsection (c) amends subsection (g) of section 1751, which provides that the Attorney General in his discretion is authorized to pay up to $100,000 for information and services concerning a violation of the section. Subsection (c), as amended, would preclude the application of subsection (g) of section 1751 to those individuals added by the proposed amendment.

TITLE V—SENTENCING REFORM

I. Introduction

Sentencing, the culmination of the criminal trial process, is the act by which the justice system gives formal expression to the seriousness, or lack of seriousness, with which the defendant's criminal conduct is viewed. Ideally it should express society's moral standards as applicable to the behavior of the defendant in any individual case,

and as necessary to deter future criminal conduct by others.

Over the past decade, a consensus has developed among persons of different political views that the current Federal sentencing system is riddled with serious shortcomings. More recently, there has also developed a substantial agreement, although not a unanimous one, as to a practical approach by which the shortcomings might be remedied. The following discussion outlines the perceived shortcomings and the new approach taken in title V, which is derived from the sentencing provisions of the Criminal Code Reform Act of this Congress. See S. Rept. No. 97-307.

II. Sentencing under current law and practice

A. The Sentencing Process

Sentencing today is left to the discretion of Federal judges who are trained in the law but who have no special competence in ascertaining the values of society and applying them to sentencing in individual criminal cases. In employing their discretion, the judges are left to their own devices and philosophies. Congress has provided no general statutory guidance as to the purposes to be achieved by the sentencing process, has set forth no sentencing philosophy (other than occasional hints at rehabilitation), and has given no direction concerning factors to be considered in determining an appropriate sentence. The only real legislative guidance is that provided by the maximum sentences specified in the penal statutes—and these only indicate the Congressional view of the appropriate sentence for the most serious offense under the provision. In imposing sentences, judges are not required to state any rationale, and few do.

B. Sentencing Options

While current statutes provide sentencing alternatives of probation, fines, and imprisonment, each is encumbered.

1. Probation. Probation is treated as a suspension of the imposition or execution of a sentence rather than as a sentence itself, and partly for that reason there is little incentive to impose conditions on probation that might make it a more effective punitive or remedial sanction. It tends to be viewed as a vehicle for rehabilitation only.

2. Fines.—The maximum fine levels carried by penal offenses vary inexplicable. They usually also reflect penalty levels of previous centuries, and today are much too low to be considered a realistic measure of the gravity of most offenses. Even when fines are imposed, statutory processes for collection rely too heavily upon cumbersome State procedures to assure collection.

3. Imprisonment.—Imprisonment under current law is a two-step process. First, the sentencing judge sets the outside limit of the period of time that he believes appropriate for the defendant to spend in prison. Second, the parole authorities decided what portion of the imposed term the defendant actually should serve. The practice is based upon a 19th Century rehabilitative theory that has proved to be faulty.

a. The Theory. The theory underlying current imprisonment practices is that criminality is a disease to be cured through rehabilitative programs in a prison setting. The purpose of a sentence to imprisonment is to rehabilitate. At the time of sentencing, however, no one knows how long a defendant's rehabilitation will take. Therefore, a defendant should be sentenced to a considerably more lengthy term than is probably necessary in order to ensure that he remain imprisoned long enough to be rehabilitated. Later, the parole authorities will examine the defendant's behavior in prison, and, when they find that he has become rehabilitated, will then release him before the expiration of his imposed term.

b. Problems with the Theory. There are two principal problems with the theory:

First, many sentences to imprisonment are not designed to rehabilitate, but to deter, incapacitate, or punish. Sentences imposed for these purposes do not require any review of the defendant's prison behavior by parole authorities in order to set the proper length of the term. Such sentences logically should be set by the court for a definite term, and should not be subject to later variation.

Second, the theory is unsoundly predicated even for sentences designed to rehabilitate. Behavioral scientists have recently concluded that there exists no satisfactory means of inducing rehabilitation on a regular basis. More importantly, they have also concluded that no one can tell from a prisoner's behavior whether he has become rehabilitated. Consequently, the basic reason for an indeterminate sentence that may be adjusted by parole authorities—for the existence of parole boards—has disappeared.

C. Adaptation of the System to the Demise of the Theory. The Federal Parole Commission today acknowledges that it cannot tell from a prisoner's behavior when he has become rehabilitated. It therefore no longer even attempts to accord its practice with the original theory. Instead, with few exceptions, it releases prisoners at the times specified by the Commission's self-developed guidelines—guidelines that are based upon factors known at the time of sentencing. Since the Commission's release determinations need no longer await an opportunity to observe the prisoner's conduct in confinement, there is no reason why the Commission cannot inform a prisoner of his proposed release date at about the time of his incarceration—and this in fact is just what the Commission now does.

The imprisonment process today, therefore, involves two branches of government—acting at approximately the same time and basing their determinations on essentially the same information—solemnly announcing quite different sentences to be served by the same defendant. The result is not just an awkward adaptation of practice to an anachronistic theory; it leaves the judges attempting to adjust their sentences so as to overcome what they perceive as inappropriately harsh or lenient consequences of the parole process, and leaves the parole authorities regularly ignoring the actual sentences meted out by judges.

C. Review of Sentences

There is no mechanism today for securing review of sentences that appear either unusually harsh or unusually lenient.

D. Consequences of the Current System

As might be expected, numerous studies have documented considerable disparity in sentences meted out by Federal judges to similarly situated defendants who have committed like offenses. Various attempts to reduce such disparity have been ineffective. The perception of this disparity tends to encourage defendants to engage in continual relitigation of the issue of their guilt. It also, in combination with the artificial process by which judges impose lengthy sentences and parole authorities grant early release a short time thereafter, serves to leave the public jaded about the efficacy of the whole criminal justice system, and to rob the system of whatever potential deterrent effect it might otherwise be capable of producing.

III. Sentencing under Title V

Title V of the bill completely revises current law as to the purposes of sentencing, the process by which the judge determines the appropriate sentence in a paraticular case, and review of sentence to assure its legality and reasonableness.

A. Legislatively Prescribed Purposes

The title gives legislative recognition for the first time to the appropriate purposes to sentencing. The stated purposes specifically include assurance of just purnishment, deterrence of criminal conduct by others, and protection of the public, and lessen the previously implied emphasis on rehabilitation. (Proposed 18 U.S.C. 3533(a)(2).)

B. The Sentencing Process

Judges are directed to sentence with the above purposes in mind, pursuant to guidelines established by a Sentencing Commission.

1. The Sentencing Commission. The Sentencing commission is to be an independent agency in the judicial branch consisting of four members appointed by the President; three members designated by the President from a list submitted by the Judicial Conference; and an ex-officio, non-voting member, the Attorney General. The Commission is directed to draft guidelines for use by Federal judges, taking into consideration all offender and offense characteristics that appear relevant to the specified purposes of sentencing. For each Federal offense, the guidelines will be expected to specify a variety of appropriate sentencing ranges, depending upon different combinations of offender and offense characteristics. Development of the guidelines is subject to the public hearing process of the Administrative Procedure Act. The initial guidelines, and all subsequent modifications, are to be transmitted by the Commission to the Congress for review and possible modification. If Congress does not act to change the Commission's proposed guidelines within the specified time period, they will go into effect without change. (Proposed chapter 58 of title 28, United States Code.)

In a few areas (involving e.g., recidivists, organized crime offenders, first offenders) the title provides general legislative guidance to the Commission as to the kind of sentence and degree of severity that would seem to be appropriate for inclusion in the guidelines. These provisions are intended to accord some direction to the Commission without so circumscribing its consideration of occasional countervailing factors as to prove unduly rigid. The provisions are limited to subject areas that otherwise would be considered likely candidates for legislatively directed mandatory sentences to imprisonment, or legislatively directed presumptions in favor of probation.

2. The Guidelines. For each Federal offense, the guidelines will specify a varity of appropriate sentencing ranges—encompassing imprisonment, fines, and probation—depending upon the particular history and characteristics of the defendant in the case and the particular circumstances under which the offense is committed. Each offense, therefore, may have a dozen or so sentencing ranges specified, only one of which will fit a given case. (Proposed 28 U.S.C. 994(a).)

3. Judicial Application of the Guidelines. After a sentencing hearing, a judge will determine the particular guideline range that is applicable to the offender and the offense. He will then be expected to sentence within the narrow range specified. The judge may, however, sentence above or below the specified guidelines range in unusual circumstances, but must give specific reasons for such a sentence.

C. Sentencing Options

1. Probation.—Probation is cast by title V as a penalty in itself, rather than as a deferred penalty. A judge is required to impose as a condition of probation in a felony case a condition that the defendant pay a fine or make restitution to the victim or that he enage in community service. The judge is required, for every crime, to impose a prohibition against the defendant's committing another crime during the probationary period. A variety of potentially useful discretionary conditions of probation (including undertaking vocational training or undergoing medical or psychiatric treatment) are set forth by the title for the consideration of the Sentencing Commission and the judges. (Proposed subchapter B of chapter 227 of title 18, United States Code.)

2. Fines.—The maximum fine levels under title V are dramatically increased. The maximums specified for felonies are up to a quarter of a million dollars for an individual defendant, and up to half a million dollars for an organizational defendant, although the actual amount imposed is to be predicated upon the defendant's ability to pay as well as upon the gravity of the offense and related considerations. (Proposed subchapter C of chapter 227 of title 18.) Lien procedures, like those in the tax laws, are provided to assure an effective means of collecting imposed fines. (Proposed subchapter B of chapter 229 of title 18.)

3. Imprisonment.—The title makes a change in sentences to imprisonment. It moves to a determinate system, abolishing early release on parole and providing for the first time that the sentence announced by the sentencing judge will be for almost all cases the sentence actually served by the defendant (except for a potential 10 percent credit for "good time"). Such sentences will not need to involve the artificially lengthy terms that are imposed today in the expectation that they will be shortened later by parole authorities. Although early release on parole is abolished, in a case in which a judge believes that a defendant should be supervised for a period after the expiration of his term of imprisonment, he may order a term of post-release supervision. (Proposed subchapter D of chapter 227 of title 18.)

Term of imprisonment ordinarily will not be subject to later adjustment. However, an exception is made in the case of an unusually long term of imprisonment. A defendant serving a term of imprisonment longer than six years will be entitled after six years to petition the sentencing judge for reexamination of the sentence, and the judge will be empowered to reduce the sentence upon a finding of the existence of extraordinary and compelling reasons and a finding of compatibility of such a reduction with Sentencing Commission standards. A defendant sentenced to an unusually long sentence that is above the applicable guideline will be able to obtain a second review, for which the same standards will apply, after he has served the maximum time specified in the applicable guideline. (Proposed 18 U.S.C. 3582(c).)

4. Collateral Sentencing Orders.—In addition to the penalties traditionally applicable, a court is empowered by this title to order a convicted defendant found guilty of an offense causing bodily injury, or property damage or loss, to make direct restitution to the victim of the offense, even if a term of imprisonment is also imposed. (Proposed 18 U.S.C. 3556.) This is not possible under current law. A court is further empowered to order a defendant convicted of a fraud (a situation in which an appropriate amount of restitution might be difficult to ascertain in an ordinary sentencing hearing) to give notice of the conviction to the victims of the offense (who may not be known to anyone other than the defendant) in order to facilitate their bringing of whatever private recovery actions might prove to be appropriate. (Proposed 18 U.S.C. 3555.)

D. Review Process

The bill contains an appellate process to review sentence propriety in questionable cases. By incorporating the appeal procedures into the general structure of the guideline sentencing system, the amendments assure that the extremes of sentencing that most deserve review may be called to the attention of an appellate court, without overburdening the court with a flood of challenges to sentences well within the bounds of what would generally be considered reasonable under all of the circumstances. The defendant is permitted to appeal a term of imprisonment, a restrictive condition of probation, or a fine, that falls above the range specified in the applicable guideline, and to appeal a restitution order or a notice order. Recognizing that sentence disparity reaches in two directions, the bill also permits the government, on behalf of the public, to seek review of a sentence that falls below the applicable guideline range in a case in which the Attorney General approves the filing of such an appeal. In both situations, the question on appeal is whether the sentence imposed is, under the circumstances, "clearly unreasonable". (Proposed 18 U.S.C. 3742.)

IV. Section-by-section analysis

Section 501 of title V specifies that this title may be cited as the "Sentencing Reform Act of 1982".

Section 502(a)(1) redesignates a number of sentencing provisions in current law with new section numbers in order to preserve them.

Section 502(a)(2) repeals current chapters 227, 229, and 231 of title 18, United States Code, and replaces them with new sentencing provisions. New chapter 227 of title 18 describes in some detail the kinds of sentences available, and new chapter 229 of title 18 describes the means of implementing those sentences.

Chapter 227—Sentences

Subchapter A, General Provisions, of new chapter 227 of title 18, contains general provisions relating to the types of sentences that can be imposed on individuals and on organizations, and to the considerations that should go into the determination of an appropriate sentence. Section 3551 lists the types of sentences that may be imposed upon a defendant who has been found guilty of an offense. Section 3552 contains the requirements for pre-sentence investigations and reports. Section 3553 lists the factors to be considered by a sentencing judge in imposing sentence, and sets forth the requirement that the judge state reasons for a particular sentence. Sections 3554 through 3556 describe the collateral sentences of an order of criminal forfeiture, an order of notice to victims of a fraudulent offense, and an order of restitution. Sections 3557 and 3558 refer to other provisions of title 18 relating to appellate review and implementation of sentences. Section 3559 classifies all Federal offenses according to the grading system set forth in section 3581.

Section 3551, Authorized Sentences, outlines the authorized sentences for defendants found guilty of Federal offenses, other than offenses described in an Act of Congress applicable exclusively in the District of Columbia or the Uniform Code of Military Justice. It requires that each Federal offender be sentenced in accordance with the provisions of chapter 227 of title 18 in order to achieve the general purposes of sentencing set out in section 3553(a)(2). Subsection (b) of section 3551 specifies that an individual offender must either be placed on probation, fined, or imprisoned as provided in the subchapters governing the imposition of such sentences. It requires the imposition of at least one of these sentences. It further states that a fine may be imposed in addition to any other sentence, as may any of the other sanctions authorized by sections 3554, 3555, and 3556. Subsection (c) requires that an organization that is convicted of a Federal offense be sentenced to a term of probation or to pay a fine, or both. At least one of these sentences must be imposed. In addition, an organization may, in an appropriate case, be made subject to an order of criminal forfeiture, an order of notice to victims, or an order of restitution.

Section 3552, Presentence Reports, requires the preparation of a presentence report by a probation officer in accordance with the provisions of Rule 32(c) of the Federal Rules of Criminal Procedure. Subsection (b) of section 3552 carries forward the provisions of 18 U.S.C. 4205(c), which provide that, if the court desires more information concerning a convicted defendant, either before or after receiving the presentence report and any report concerning the defendant's mental condition, it may assign the offender to the custody of the Bureau of Prisons for a period of study and preparation of a report concerning matters appropriate to the sentencing decision. The bill amends current law by reducing the maximum period for the study from six months to 120 days in order to advance the time for final sentencing while still allowing an adequate period for study. The bill also amends current law to specifically require that the court order for a study specify the information sought by the court. Subsection (c) adds a new provision to the law that specifically permits the court to order a presentence examination by a psychiatric or psychological examiner concerning the current mental condition of the defendant. The examination would be conducted pursuant to section 4247, and the court would be provided with a written report by the examiner. See S. Rept. 97-307, pages 982-987.

Section 3553, Impostition of a Sentence, in subsection (a), sets out the factors that a judge is required to consider in selecting the type of sentence to be imposed in a particular case and the length of each sentence. Subsection (a)(1) directs the judge to consider "the nature and circumstances of the offense and the history and characteristics of the defendant". Subsection (a)(2) requires that the judge consider the need for the sentence imposed to carry out the four purposes of sentencing: the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for law,

and to provide just punishment for the offense; to afford adequate deterrence to criminal conduct; to protect the public from further crimes of the offender; and to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner. (See S. Rept. No. 97-307, pages 987-989.) Subsection (a)(3) requires the judge to consider the kinds of sentences available. Subsections (a)(4) and (a)(5) require that the sentencing judge consider the kinds of sentence and the sentencing range applicable to the category of offense committed by the category of offender under sentencing guidelines issued pursuant to 28 U.S.C. 994(a), as that provision is enacted by section 507 of this title. Subsection (a)(6) requires the judge to consider "the need to avoid unwarranted disparities among defendants with similar records who have been found guilty of similar conduct".

Subsection (b) of section 3553 requires the sentencing judge to impose a sentence consistent with the sentencing guidelines unless he finds that there is an aggravating or mitigating circumstance present in the case that was not adequately considered in the formulation of the sentencing guidelines and that the circumstance should result in a different sentence. The provision is designed to achieve the goal of avoiding unwarranted disparity—sentences that are not justified by differences among offenses or offenders. At the same time, the provision provides the flexibility necessary to assure adequate consideration of circumstances that might justify a sentence outside the guidelines.

Subsection (c) contains a new requirement that the court, at the time of sentencing, state the reasons for the imposition of the sentence in each case. It also requires that, if the sentence is within the guidelines, the court state the reason for imposing sentence at a particular point within the range, and that, if the sentence is of a different kind or outside the range set out in the sentencing guidelines, the court state the specific reason that the sentence imposed differes from the guidelines. This statement would essentially indicate why the court felt that the guidelines did not adequately take into account all the pertinent circumstances of the case at hand. If the sentencing court felt that the case was an entirely typical one for the applicable guideline category, it would have no adequate justification for deviating from the recommended range. See S. Rept. 97-307, page 991. The statement of reasons for a sentence outside the guidelines would assist the appellate court, in a case in which the defendant or the government appealed the sentence pursuant to section 3742, to evaluate whether the sentence was "clearly unreasonable" or not. The statement of reasons would also inform the defendant and the public of the reasons for the sentence, and aid probation and prison officials in fashioning an appropriate program for a defendant.

Subsection (d) of section 3553 requires that the court give prior notice to the defendant and the government that it is considering imposing an order of notice under section 3555 or an order of restitution under section 3556 as part of the sentence. The purpose of this notice is to enable the parties to prepare adequately for the sentencing hearing. The subsection also requires that the court, upon motion of the defendant or the government or on its own motion, permit the parties to submit affidavits and written memoranda concerning matters relevant to the imposition of an order of notice or restitution (e.g., identification of individual, or classes of, victims, evaluation issues, and defenses that a defendant could assert in a civil action with respect to any victim); afford counsel an opportunity to address in open court the issue of the appropriateness of such an order; and include in its statement of reasons for the sentence specific reasons for imposing the order. See S. Rept. 97-307, pages 992-993.

Section 3554, Order of Criminal Forfeiture, specifies that the court, in imposing a sentence on a defendant who has been found guilty of an offense described in section 1962 of title 18, relating to racketeering activity, or an offense described in title II or III of the Comprehensive Drug Abuse Prevention And Control Act of 1970, relating to drug trafficking, order. in addition to the sentence that is imposed pursuant to the provisions of section 3551, that the defendant forfeit property to the United States in accordance with the provisions of section 1963 of title 18 or section 413 of the Comprehensive Drug Abuse and Control Act of 1970, as those provisions are amended by title V of this bill.

Section 3555, Order of Notice to Victims, is a new provision that allows a court to require a defendant who has been found guilty of an offensive involving fraud or other intentionally deceptive practices to give notice and explanation of the conviction to the victims of the offense. The provision should facilitate any private actions that may be warranted for recovery of losses from the offense. Without such a provision, many victims of major fraud schemes may not become aware of the fraud (for example, that the mining stock they purchased is counterfeit) until it is too late to seek legal redress, or may not be able to ascertain the perpetrator's current whereabouts (for example, a "fly-by-night" home repair operation). The provision should also serve to alert fraud victims to the advisability of other action on their part (for example, news of the worthlessness of a phony "cancer cure" may prompt a victim to visit a doctor in time for proper medical attention). In order to avoid the possibility of the offender's making only token efforts of giving notice, the court is empowered to designate the advertising areas and media in which notice is to be given. The judge is required, in determining whether to require notice, to consider not only the factors set forth in section 3553(a), but also the cost of giving notice as it related to the loss caused by the offense. In addition, the section limits to $20,000 the amount that the court may require the defendant to pay for such notice. These provisions are intended to assure that the order of notice requires only such publication as is reasonable under the circumstances of the case. See S. Rept. No. 97-307, pages 996-999.

Section 3556, Order of Restitution, permits the court, for the first time, to order payment of restitution in addition to any other sentence imposed pursuant to section 3551. Under subsection (a), in a case causing bodily injury or death, the court may order restitution in an amount that does not exceed the expenses necessarily incurred by the victim for medical expenses or by his estate for funeral and burial expenses. In a case involving unlawful obtaining, damaging, or destruction of property, the order of restitution could require that the defendant restore the property to the victim, or make restitution to the victim in an amount that does not exceed the value of the property. The provision is drafted to assure that the restitution determination will not unduly complicate the sentencing proceedings. Subsection (b) specifies that restitution should not be ordered in any situation where the victim is bound by a civil judgment relating to the same injury or damage. It also provides that any amount paid to a person under an order of restitution should be set off against any civil damages.

Section 3557, Review of a Sentence, provides that the review of a sentence imposed pursuant to section 3551 is governed by the proivisons of section 3742.

Section 3558, Implementation of a Sentence, provides that the implementation of a sentence imposed pursuant to section 3551, is governed by the provisions of chapter 229 of title 18.

Section 3559, Sentencing Classification of Offenses, in subsection (a), creates a grading scheme for offenses described in sections that specify a maximum sentence rather than a letter grade for the offense. The purpose of the provision is to indicate more clearly how the sentencing provisions of subchapters B, C, and D of this chapter apply to offenses with particular maximum sentences today. The provision also serves to eliminate some of the unevenness existing in current law in the maximum terms of imprisonment. Under subsection (a)(1), if the maximum term of imprisonment authorized for the offense is life imprisonment, or if the maximum penalty is death, the offense becomes a Class A felony. Under subsectin (a)(1)(B), if a term of years of 20 years or more is specified as the maximum sentence, the offense becomes a Class B felony. Under subsection (a)(1)(C), if the maximum specified in current law is less than 20 years but ten or more years, the offense becomes a Class C felony. Under subsectin (a)(1)(D), if the maximum specified in current law is less than ten years but five or more years, the offense becomes a Class D felony. Under subsection (a)(1)(E), if the maximum specified in current law is less than five years but more than one year, the offense is a Class E felony. For the misdemeanor level offenses, if current law provides a sentence that is equal to the sentence specified in section 3581 for the grade of offense, or is less than that amount but more than the maximum specified for the next lower grade, the offense is designated as an offense of the grade equal to or just above that specified in current law.

Subsection (b) of section 3559 provides that current law offenses classified by operation of subsection (a) carry all the incidents assigned to the applicable letter designation, unless the maximum fine in current law is higher, in which case the higher fine level applies.

Subchapter B, Probation, of chapter 227 of title 18, United States Code, governs the imposition, conditions, and possible revocation of the sentence to a term of probation. In keeping with modern criminal justice philosophy, probation is described as a form of sentence rather than, as in current law, a suspension of the imposition or execution of sentence.

Section 3561, Sentence of Probation, authorizes the imposition of a sentence to a term of probation in all cases, unless the case involves a Class A felony or an offense for which probation has been expressly precluded, or the defendant is sentenced at the same time to a term of imprisonment for the same or a different offense. The section also specifies that the maximum term of probation for a felony is five years, and the

minimum is one year. The maximum term of probation for a misdemeanor is two years, and for an infraction is one year, with no minimum term specified for these offenses.

Section 3562, Imposition of a Sentence of Probation, sets forth the criteria to be considered by the court in determining whether to impose a sentence of probation and in determining the length of the term and the conditions of probation. It also makes clear that, despite the susceptibility of a term of probation to modification, revocation, or appeal, a judgment of criminal conviction that includes such a sentence constitutes a final judgment for all other purposes. Subsection (a) requires that the judge, in determining whether to impose a sentence to a term of probation upon an organization or an individual, and in setting the terms and conditions of and sentence to probation that is imposed, consider the factors set forth in section 3553(a) to the extent that they are applicable. These include the history and characteristics of the offender and the nature of the offense, the four purposes of sentencing set forth in section 3553(a)(2), and the sentencing guidelines and policies of the Sentencing Commission created under proposed 28 U.S.C. 994. Subsection (b) codifies current judicial decisions that hold that judgments imposing probation are final judgments for all purposes, particularly for purposes of appeal, even though the sentence is subject to compliance with specified conditions, is revocable for non-compliance with those conditions, and is subject to modification, extension, or early termination in certain situations. See S. Rept. No. 97-307, pages 1007-1010.

Section 3563, Conditions of Probation, in subsection (a), specifies that the court is required to provide, as a condition of probation for any Federal offense, that the defendant not commit another Federal, State, or local crime during the term of probation, and to provide as a condition of probation for a defendant convicted of a felony that the defendant pay a fine or restitution or engage in community service.

Subsection (b) of section 3563 sets out optional conditions which may be imposed, the last of which makes clear that the enumeration is suggested only, and is not intended as a limitation on the court's authority to consider and impose other appropriate conditions. The subsection indicates that the discretionary conditions on probationary freedom must be reasonably related to the nature and circumstances of the offense, the history and characteristics of the offender, and the four purposes of sentences. If a condition involves a deprivation of property or liberty, the condition must be reasonably necessary to carry out the purposes of sentencing set forth in section 3553(a)(2). In addition, under subsection (a), the policy statements and sentencing guidelines promulgated by the Sentencing Commission should be considered in determining the conditions of probation. Most of the conditions set forth in section 3563(b) have been used and sanctioned in approrpiate cases under the current statute. Among the discretionary conditions are conditions that the defendant pay a fine in accordance with subchapter C, make restitution to a victim of the offense pursuant to section 3556, give notice to the victims of the offense pursuant to section 3555, remain in the custody of the Bureau of Prisons during nights, weekends, or other intervals of time, or participate in community service as directed by the court. For a detailed discussion of these and other discretionary conditions of probation, see S. Rept. No. 97-307, pages 1011-1015.

Subsection (c) permits the court to modify, reduce, or enlarge the conditions of a sentence of probation at any time before its expiration, and requires that the court hold a hearing before making such a modification.

Subsection (d) requires that the probation officer provide the defendant with a written statement of the conditions to which he is subject, and requires that statement to be sufficiently clear and specific to serve as a guide to the defendant's conduct and for such supervision as is required.

Section 3564, Running of a Term of Probation, governs the commencement of a term of probation; the effect of other sentences upon the running of the term; and the court's power to terminate or extend a term of probation.

Subsection (a) of section 3564 provides that the term of probation commences on the day the sentence of probation is imposed, unless otherwise ordered by the court.

Subsection (b) provides that multiple terms of probation are to run concurrently, regardless of when or for what offense or by what jurisdiction they are imposed, and that a term of probation is to run concurrently with a term of supervised release; consequently, unlike the situation under current law, consecutive terms of probation may not be imposed. Of course, if a defendant is sentenced to terms of probation for offenses of varying seriousness, the maximum term of probation would be measured according to the term for the most serious offense. This subsection also makes it clear that probation does not run during any period during which the defendant is imprisoned in connection with a conviction for any other offense, except, of course, during limited periods of confinement as a condition of probation or supervised release.

Subsection (c) authorizes the court, after considering the factors set forth in section 3553(a), to terminate a term of probation and to discharge the defendant prior to its expiration at any time in the case of a misdemeanor or an infraction or at any time after one year in the case of a felony, if the conduct of the defendant and the interest of justice warrant such action. See S. Rept. No. 97-307, page 1018.

Subsection (d) of section 3564 authorizes the court, after a hearing and pursuant to the provisions applicable to the initial setting of the term of probation, to extend the term of probation, unless the maximum term was previously imposed, at any time prior to its expiration or termination.

Subsection (e) provides that a term of probation remains subject to revocation during its continuance.

Section 3565, Revocation of Probation, provides that probation may be revoked if the defendant violates a condition of probation, and specifies the period during which such revocation may take place.

Subsection (a) provides that if the defendant violates a condition of probation, the court may, after a hearing pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure, either continue the defendant on the sentence of probation, subject to such modification to the term or conditions of probation as it deems appropriate, or may revoke probation and impose any other sentence that could have been imposed at the time of the initial sentencing.

Subsection (b) provides that revocation of probation and imposition of another sentence may occur after the term of probation has expired if a violation of the condition occurred prior to its expiration, if the adjudication occurs within a reasonable period of time, and if a warrant or summons on the basis of an allegation of such a violation was issued prior to the expiration of the term of probation.

Section 3566, Implementation of a Sentence of Probation, which has no counterpart in current law, directs attention to the fact that provisions governing the implementation of probation are contained in subchapter A of chapter 229.

Subchapter C, Fines, of chapter 227 of title 18, sets the maximum monetary fines that may be imposed for the various levels of criminal offenses, specifies the criteria to be considered before imposition of fines, and provides for the subsequent modification or remission of fines previously imposed.

Fines generally have been an inappropriately underused penalty in American criminal law, even though there are many instances in which a fine in a measured amount could constitute a highly effective means of achieving one or more of the goals of the criminal justice system. Part of the reason for the under-utilization of fines as a criminal sanction is the fact that the levels of fines under current law, with rare exceptions, are so low that the courts are not able to use them effectively as a sentencing option. These statutory limits are largely the product of an earlier era when the average wage-earner achieved a yearly income considerably lower than that of today, and when inflation had not yet reduced the value of currency to its present level. See S. Rept. No. 97-307, pages 1021-1029.

Section 3571, Sentence of Fine, establishes the general statutory authority for the imposition of a fine as a penal sanction. The maximum amount of the fine that may be imposed in a particular case depends on whether the offense is classified as a felony, a misdemeanor, or an infraction; whether the offender is an individual or an organization; and, in the case of a misdemeanor, whether the offense resulted in loss of human life.

Subsection (a) of section 3571 authorizes the use of fines in criminal sentencing. There are no offenses for which a fine may not be imposed. Payment of a fine may also be made a discretionary condition of probation for any offense, or a mandatory condition of probation for a convicted felon. See proposed section 3562.

Subsection (b) established the maximum limits of fines for felonies, misdemeanors, and infractions. Under the provisions of proposed 18 U.S.C. 3559, the fine levels specified in subsection (b) apply to existing offenses unless current law specifies a higher maximum fine. The maximum fines specified in subsection (b) for an individual defendant are $250,000 for a felony or for a misdemeanor resulting in the loss of human life, $25,000 for any other misdemeanor, and $1,000 for an infraction. The maximum fine levels set forth in the subsection for organizations are higher than those for individuals, following the New York model, in order to take cognizance of the fact that a sum of money that is sufficient to penalize or deter an individual may not necessarily be sufficient to penalize or deter an organization, both because the organization is likely to have more money available to it and because the sentence for an organization obviously cannot include a term of imprisonment. For an organization, subsection

(b) provides a maximum fine for a felony, or for a misdemeanor that results in loss of human life, of $500,000; for any other misdemeanor, a maximum fine of $100,000; and for an infraction, not more than $10,000. See S. Rept. No. 97-307, pages 1022-1025.

Section 3572, Imposition of a Sentence of Fine, sets out factors that the court must consider in imposing a fine, specifies the degree to which the sentence to pay a fine is final, places a limit on the aggregation of multiple fines, provides that the court may specify the time and method of the payment of the fine, precludes the imposition at the time a sentence is imposed of an alternative sentence to be served if an imposed fine is not paid, provides notice that agents of an organization who are authorized to disperse its assets are individually responsible for payment from the funds of the organization, and provides that a fine imposed on an agent or shareholder of an organization may not be paid from the assets of the organization, unless expressly permitted under applicable State law.

Subsection (a) of section 3572 specifies the factors to be considered by the court in determining whether to impose a fine, and in determining its amount and the means of payment. In addition to the factors set forth in section 3553(a), the court is required to consider the ability of the defendant to pay the fine, the nature of the burden the payment of the fine will impose on the defendant and on any person dependent on him, any restitution or reparation made by the defendant to the victim of the offense, and, if the defendant is an organization, any measure taken by the organization to discipline the persons responsible for the offense or ensure against the recurrence of the offense.

Subsection (b) provides that the aggregate of fines that may be imposed on a defendant at the same time for offenses that arise from a common scheme or plan and that do not cause separable or distinguishable kinds of harm or damage, is twice the amount imposable for the most serious offense. The provision was included to avoid the possibility that for some offenses, particularly regulatory offenses, an ongoing pattern of conduct might constitute numerous minor offenses that did not warrant a maximum fine equal to the aggregate fine for all of the minor offenses.

Subsection (c) of section 3572 makes clear that, even though a fine imposed by the sentencing judge may be modified or remitted, or corrected or appealed pursuant to section 3742, the judgment of conviction that includes a fine is final for all other purposes.

Subsection (d) permits the court to authorize payment of a fine within a specified period of time or in installments. This provision gives necessary flexibility to the fine provisions by permitting the imposition of a relatively high fine on a defendant who can pay it over a period of time if that is a preferable sentence to imprisonment.

Subsection (e) prohibits the imposition at the time of the sentence to pay a fine is imposed of an alternative sentence to be served if the fine is not paid. If the defendant fails to pay his fine, the court may determine the appropriate remedy after the non-payment occurs. See S. Rept. No. 97-307, page 1027.

Subsection (f) makes clear that, if an organization is fined, it is the duty of each of the organization's employees or agents who is authorized to make disbursements of the assets of the organization to pay the fine from those assets. The subsection also bars payment of a fine imposed on an agent or shareholder of an organization from assets of the organization, unless State law expressly permits such payments.

Section 3573, Modification or Remission of Fine, permits modification or remission of a fine if there have been changes in the financial condition of a defendant. Since section 3572 specifies that ability to pay is relevant to the amount of the fine, a modification or remission of the fine should be available when that ability lessens. The section permits the court to adjust the fine of a well-intentioned defendant in order to avoid creating unjustifiable impoverishment. However, an unexcused failure to pay a fine may still be prosecuted as any other criminal contempt.

Section 3574, Implementation of a Sentence of Fine, states that the provisions concerning implementation of a sentence to pay a fine are contained in subchapter B of chapter 229.

Subchapter D, Imprisonment, of Chapter 227 of Title 18, sets forth the basic considerations governing the imposition of sentences of imprisonment. It creates the frame of reference used to determine the applicability of sentence provisions to offenses throughout the United States Code. It deals specifically with the terms of imprisonment and supervised release authorized for the various grades of offenses, criteria for imposing such sentences, collateral aspects of sentences of imprisonment, operation of multiple sentences, and calculation of terms of imprisonment.

Section 3581, Sentence of Imprisonment, provides that a defendant convicted of an offense may be sentenced to a term of imprisonment. It also creates nine classes of offenses, five felony classes with authorized terms of imprisonment ranging from life imprisonment to three years, three misdemeanor classes with maximum terms ranging from one year to 30 days, and an infraction category that carries a maximum of five days' imprisonment. See S. Rept. No. 97-307, pages 1034-1036.

Section 3582, Imposition of a Sentence of Imprisonment, in subsection (a), specifies for the first time in the Federal criminal law the factors that a court must consider in imposing a sentence of imprisonment. These include the nature and circumstances of the offense and the history and characteristics of the defendant; the need for the sentence imposed to provide just punishment, a deterrent effect, incapacitation, and an opportunity for rehabilitation; and the guidelines and policy statements of the Sentencing Commission that apply to the case. Subsection (a) also specifies that in light of current knowledge, the judge should recognize, in determining whether to impose a term of imprisonment, "that imprisonment is not an appropriate means of promoting correction and rehabilitation". The statement is designed to discourage the employment of a term of imprisonment on the grounds that the prison has a program that might be of benefit to the prisoner. This does not mean, of course, that, if a defendant is to be sentenced to imprisonment for other purposes, the availability of rehabilitative programs should not be an appropriate consideration, for example, in recommending a particular facility.

Subsection (b) of section 3582 provides that a court may not modify a sentence of imprisonment unless one of three conditions warrant the use of a "safety valve" for modification of the sentence.

The first "safety valve" permits the modification of the sentence in the unusual case in which the defendant's circumstances are so changed, such as by terminal illness, that it would be inequitable to continue the confinement of the prisoner. In such a case, the Director of the Bureau of Prisons could petition the court for a reduction in the sentence, and the court could grant a reduction if it found that the reduction was justified by "extraordinary and compelling reasons" and was consistent with applicable policy statements issued by the Sentencing Commission.

The second "safety valve" permits a defendant with an unusually long sentence—one that is over six years in length—to file a motion with the court after he has served six years of that term, for reduction of the term of imprisonment. The Director of the Bureau of Prisons may also file such a motion for the prisoner. The court may grant the motion if, after considering the factors set forth in section 3553(a), it finds that extraordinary and compelling reasons require such a reduction and that a reduction is consistent with applicable policy statements issued by the Sentencing Commission. An additional review of the sentence may be sought by a defendant with an unusually long prison term who is sentenced above the maximum applicable sentencing guideline. Such a defendant may seek a second review of his sentence after he has served the maximum applicable guideline sentence, and the same review standards apply as apply to the first review.

The third "safety valve" permits the reduction of the sentence of a defendant who was sentenced to a term of imprisonment under sentencing guidelines that were later reduced by the Sentencing Commission, if such a reduction is appropriate considering the factors set forth in section 3553(a) and it is consistent with applicable policy statements issued by the Sentencing Commission. It is expected that the Sentencing Commission would, whenever it revised its sentencing guidelines as to a particular offense, indicate its views as to the appropriate situations in which a sentence should be reduced for persons previously sentenced under earlier guidelines.

Subsection (d) of section 3582 permits the court to include in the sentence of a drug trafficker or racketeer an order that the defendant not associate or communicate with a specified person, other than his attorney, if there has been a showing of probable cause to believe that such association or communication would be for the purpose of enabling the defendant to control, manage, direct, finance, or otherwise participate in an illegal enterprise. The provision is designed to prohibit a manager of a criminal enterprise from continuing to manage that enterprise while he serves his term of imprisonment.

Section 3583, Inclusion of a Term of Supervised Release After Imprisonment, is a new section that permits the court, in imposing a term of imprisonment for a felony or a misdemeanor, to impose as part of the sentence a requirement that the defendant be placed on a term of supervised release after imprisonment. Unlike current parole law, the question whether the defendant will be supervised following his term of imprisonment is dependent on whether the judge concludes that the defendant needs supervision, rather than on the question whether a particular amount of the term of imprisonment happens to remain. The term of supervised release would be a separate

part of a defendant's sentence, rather than being the end of the term of imprisonment.

Subsection (b) specifies the authorized terms of supervised release, with the terms ranging from a term of not more than one year for a defendant sentenced for a Class E felony or for a misdemeanor, to a term of not more than three years for a defendant released after serving a term of imprisonment for a Class A or B felony. The length of the term of supervised release will be dependent on the needs of the defendant for supervision.

Subsection (c) describes the factors that the judge is required to consider in determining whether to include a term of supervised release as a part of the defendant's sentence, and if a term of supervised release is included, the length of that term. The judge is required to consider the history and characteristics of the defendant, the nature and circumstances of his offense, the need for the sentence to protect the public from further crimes of the defendant and to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner, the applicable sentencing guidelines and policy statements, and the need to avoid unwarranted sentencing disparity.

Subsection (d) describes the conditions that the judge may impose on the term of supervised release. The court is required to order, as a condition of supervised release, that the defendant not commit another crime during the period of supervision. It may also order any of the conditions set forth as conditions of probation in section 3563(b)(1) through(b)(10) and (b)(12) through (b)(19), and any other condition it considers appropriate, if the condition is reasonably related to the history and characteristics of the offender and the nature and circumstances of the offense, the need for the sentence to protect the public from further crimes of the defendant, and the need to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment. The conditions also may not involve a greater deprivation of liberty than is necessary to protect the public and to provide needed rehabilitation or corrections programs, and must be consistent with any pertinent policy statement issued by the Sentencing Commission. For a further discussion of the available conditions of supervised release, see S. Rept. No. 97-307, pages 1010-1016.

Subsection (e) of section 3583 permits the court, after considering the same factors considered in the original imposition of a term of supervised release, to terminate a term of supervised release previously ordered at any time after one year or, after a hearing, to extend the term of supervised release (if less than the maximum term authorized was originally imposed) or to modify, reduce, or enlarge the conditions of release.

Subsection (f) requires the court to direct the probation officer to provide the defendant with a clear and specific statement of the conditions of supervised release.

Section 3584, Multiple Sentences of Imprisonment, provides the rules for determining the length of the term of imprisonment for a person convicted of more than one offense. It specifies the factors to be considered in determining whether to impose concurrent or consecutive sentences, and provides that consecutive sentences shall be treated for administrative purposes as a single aggregate term of imprisonment.

Section 3585, Calculation of a Term of Imprisonment, provides the method of calculating the beginning of a term of imprisonment and contains provisions for crediting an offender for time served in prior custody. Under subsection (a) the sentence commences on the date that the defendant is received into custody awaiting transportation to, or arrives voluntarily to commence service of sentence at, the official detention facility at which sentence is to be served. Subsection (b) provides credit toward the service of an imprisonment term for any time the defendant has been in official custody prior to the date the sentence was imposed if the custody was a result of the same offense for which the sentence was imposed or was a result of a separate charge for which the defendant was arrested after commission of the current offense. No credit would be given if such time had already been credited toward the service of another sentence.

Section 3586, Implementation of a Sentence of Imprisonment, sets forth a cross-reference to the provisions concerning implementation of a sentence of imprisonment contained in subchapter C of chapter 229, and, if the sentence includes a term of supervised release, by the provisions of subchapter A of chapter 229.

Chapter 229—Post-Sentence Administration

Chapter 229 consists of three subchapters which cover the administration of the various types of sentences imposed under subchapters B, C, and D of chapter 227. Subchapter A of chapter 229 provides for the appointment of probation officers and sets forth their duties. In addition, it provides for special probation and record expungement procedures for drug possession offenses. Subchapter B covers the payment and collection of fines which may be imposed under chapter 227. Subchapter C sets forth the procedures governing those persons sentenced to a prison term.

Subchapter A, Probation, of Chapter 229 of Title 18, United States Code, contains the provisions for implementation of a sentence to probation pursuant to subchapter B of chapter 227, the placement of juvenile delinquents on probation, and the placement of an individual on supervised release pursuant to section 3583. The subchapter, for the most part, carries forward current law concerning the appointment of probation officers by the court and the powers and duties of those officers.

Section 3601, Supervision of Probation, requires that a person sentenced to a term of probation under subchapter B of chapter 227, placed on probation pursuant to the provisions of chapter 403, or placed on supervised release pursuant to the provisions of section 3583, be supervised by a probation officer to the degree warranted by the conditions specified by the sentencing court.

Section 3602, Appointment of Probation Officers, is largely derived from current 18 U.S.C. 3654. Subsection (a) requires each district court of the United States to appoint suitable and qualified persons to serve with or without compensation as probation officers under the direction of the court. Those appointed with compensation are removable by the court for cause, rather than removable at the discretion of the court. The change was made upon the recommendation of the Probation Committee of the Judicial Conference. Voluntary probation officers serving without compensation remain subject to removal at the discretion of the court. The requirement that probation officers be "qualified" as well as "suitable" is added to the law in order to emphasize that probation officers who will be supervising innovative conditions of probation permitted under the probation subchapter should be qualified by their training or background to be probation officers. There may even be circumstances where a probation officer should be a "specialist" who might be available, as the need arose, to any one of several courts. For example, such a probation officer might be needed if a union or brokerage house, rather than a street criminal, were under supervision.

Section 3603, Duties of Probation Officers, carries forward the provisions of current 18 U.S.C. 3655 relating to the duties of probation officers with respect to supervision of probation and the keeping of records and making of reports, and modifies the provisions to refer to persons released on supervised release following a term of imprisonment pursuant to section 3583. The section includes a number of specific requirements not in current law, including the requirements that the probation officer be responsible for supervision of any probationer or person under supervised release known to be within the judicial district (in order to clarify supervisory authority over probationers and persons on supervised release transferred into his district or temporarily present in the district), and that, when requested, the probation officer supervise and furnish information about persons on work release, furlough, or other authorized release or in pre-release custody pursuant to section 3624(c).

Section 3604, Transportation of a Probationer, carries forward the provisions of current 18 U.S.C. 4283 permitting a court to order a United States marshal to furnish to a person placed on probation transportation to the place where he is required to go as condition of probation. The provision also removes the dollar limitation on the amount of subsistence expenses that may be paid for a probationer while travelling to his destination, substituting a provision that permits the Attorney General to prescribe reasonable subsistence payments.

Section 3605, Transfer of Jurisdiction Over a Probationer, relating to transfer of jurisdiction over a probationer or person on supervised release from one court to another, is derived from current 18 U.S.C. 3653. Both current law and section 3605 require the concurrence of the court receiving jurisdiction over a probationer to the transfer of jurisdiction. Section 3605 expands current law to cover persons on supervised release and provides that the transfer of a probationer or a person on supervised release to another district may be made either as a condition of probation or supervised release or with the permission of the court, unlike current law which provides for transfer of a probationer only "from the district in which he is being supervised". The section would also permit a court to which jurisdiction over a probationer or a person on supervised release was transferred to exercise all the powers over the probationer or releasee that are permitted by this subchapter or subchapter B of chapter 227. This differs from current law, which requires the consent of the sentencing court to a change in the period of probation. See S. Rept. No. 97-307, pages 1233-1234.

Section 3606, Arrest and Return of a Probationer, continues the provisions of current 18 U.S.C. 3653 which authorize the arrest and return of a probationer to the court having jurisdiction over him when there has been a violation of a condition of probation, and expands the provisions to

refer to persons on supervised release pursuant to section 3583. See S. Rept. No. 97-307, page 1234.

Section 3607, Special Probation and Expungement Procedures for Drug Possessors, carries forward the provisions of 21 U.S.C. 844(b), relating to special probation without entry of judgment for first offenders found guilty of violating a drug possession statute if there has been no previous conviction of an offense under a Federal or State law relating to controlled substances. The section also permits, as does current law, expungement of records of persons placed on probation under the section if they were under the age of 21 at time of the offense and did not violate a condition of probation.

Subchapter B, Fines, of Chapter 229 of title 18, United States Code, is designed to increase the efficiency with which the government collects fines assessed against criminal defendants. Present law, 18 U.S.C. 3565, provides that a judgment to pay a criminal fine "may be enforced by execution against the property of the defendant in like manner as judgments in civil cases". Thus, the Federal government is greatly confined by State law and must litigate in order to collect a fine from an uncooperative defendant. These relatively cumbersome procedures have resulted in collection by the United States in recent years of only 60 to 70 percent of the amount of fines imposed. This subchapter proposes to remedy this situation by treating criminal fine judgments like tax liens for collection purposes, thereby making available to the Attorney General summary collection procedures similar to those used by the Internal Revenue Service. Foremost among these is the power to administratively levy against the property of the defendant, which precludes disposition of the property to avoid payment and permits realization of amount of the fine without litigation.

The collection procedures of the subchapter are also made applicable to execution of orders to pay restitution pursuant to section 3556.

Section 3611, Payment of a Fine, provides for the payment of a fine imposed under subchapter C of chapter 227 to the clerk of the sentencing court to be forwarded to the United States Treasury. The section requires either immediate payment or payment by the time and method specified by the sentencing court.

Section 3612, Collection of an Unpaid Fine, requires the sentencing court, whenever a fine is imposed, to provide the Attorney General with certain certified information. The Attorney General is then responsible for collecting the fine if it is not paid at the time required. See S. Rept. No. 97-307, page 1236.

Section 3613, Lien Provisions for Satisfaction of an Unpaid Fine, establishes the procedure by which the Attorney General is to make collection of unpaid fines. This section significantly improves current practices by providing a Federal collection procedure independent of State laws that is patterned on the collection procedures utilized by the Internal Revenue Service.

Subsection (a) eliminates the clerical procedures necessary to create judgment liens, by providing that the fine is a lien in favor of the United States upon all property belonging to the person fined. The lien arises at the time of the entry of judgment and continues until the liability has been satisfied or set aside, or until it becomes unenforceable pursuant to subsection (b). See S. Rept. No. 97-307, page 1238.

Subsection (b) of section 3613 changes current law by imposing a 20-year statute of limitations on the collection of a criminal fine. Under existing law, the government's right to seek execution of a criminal sentence, including a fine, is not subject to any time limit. Thus, a criminal fine may be satisfied only through payment in full, death of the debtor, or presidential pardon. The limitation period established by subsection (b) will permit the closing of files by United States attorneys for cases which are so old the collection of fines is unlikely. The period for collection may be extended by a written agreement entered into by the defendant and the Attorney General prior to expiration of the period, as is permitted in similar provisions in the tax area. Subsection (b) also provides that the running of the 20-year statute of limitations is to be suspended "during any interval for which the running of the period for the limitation for collection of a tax would be suspended" pursuant to several provisions of the tax laws.

Subsection (c) of section 3613 provides that certain sections of the Internal Revenue code of 1954, as amended, apply to a fine and to the lien imposed under subsection (a) as if the liability of the person fined were for a tax assessment, except to the extent that the application of such statutes is modified by regulations issued by the Attorney General to accord with differences in the nature of the liabilities. See S. Rept. No. 97-307, pages 1239-1242, for a description of those provisions.

Subsection (d) of section 3613 provides that a notice of a lien imposed under subsection (a) is to be considered a notice of a lien for taxes payable to the United States for the purpose of any State or local law providing for the filing of the notice of tax lien.

Subchapter C, Imprisonment, of Chapter 229 ot Title 18, United States Code, contains the provisions for implementation of a sentence of imprisonment imposed under subchapter D of chapter 227. the subchapter generally follows existing law, except that custody of Federal prisoners is placed in the Bureau of Prisons directly rather than in the Attorney General, thus giving the Bureau direct authority to determine matters which are presently determined by the Attorney General. The subchapter also substantially revises the method by which the release date of an imprisoned person is determined.

Section 3621, Imprisonment of a Convicted Person, is derived from existing law.

Subsection (a) is derived from 18 U.S.C. 4082(a), except that the new provision places custody of Federal prisoners directly in the Bureau of Prisons rather than in the Attorney General. See S. Rept. No. 97-307, page 1234.

Subsection (b) follows existing law in providing that the authority to designate the place of confinement for Federal prisoners rests in the Bureau of Prisons. The designated penal or correctional facility need not be in the judicial district in which the prisoner was convicted and need not be maintained by the Federal government. Subsection (b) adds a new requirement that a facility meet minimum standards of health and habitability established by the Bureau of Prisons.

Section 3622, Temporary Release of a Prisoner, is derived from current 18 U.S.C. 4032(c), and permits temporary release of a prisoner by the Bureau of Prisons for specified reasons. The only criterion for such release in current law is that there be "reasonable cause to believe . . . [the prisoner] will honor his trust". Under section 3622, the release would also have to appear to be consistent with the purposes for which the sentence was imposed and with any pertinent policy statements of the Sentencing Commission. This places emphasis on factors important to the overall correctional program for the defendant, rather than limiting the factors to be considered to the probability of the prisoner's return to the facility at the appropriate time. In addition to the current law list of purposes for which a prisoner may be released, such as attending a funeral or working at paid employment or participating in a training program in the community on a voluntary basis, subsection (b) includes a new provision permitting temporary release to participate in an educational program, to make it clear that release may be for such things as pursuing a course of study in college as well as for vocational training.

Subsection (c) of section 3622, relating to employment, modifies current law (18 U.S.C. 4082(c)(2)) by dropping the requirement that local unions be consulted, and a provision barring work release where other workers might be displaced. This will give the Bureau of Prisons more flexibility than provided in current law in developing work programs in appropriate cases. Subsection (c)(1) carries forward the provisions of current law that require that work in the community must be at the same rate and under the same conditions as for similar employment in the community involved. Subsection (c)(2) amends current law to require that a prisoner pay costs incident to his detention as a condition of work release. See S. Rept. No. 97-307, page 1245.

Section 3623, Transfer of a Prisoner to State Authority, delineates the circumstances under which the Director of the Bureau of Prisons must order the transfer of a Federal prisoner to a State facility prior to his release from the Federal facility. Like current 18 U.S.C. 4085, section 3623 provides that the Director of the Bureau of Prisons must order that a prisoner be transferred to an official detention facility within a State prior to the prisoner's release from the Federal prison if certain requirements are satisfied. First, the prisoner must have been charged in an indictment or in an information with a felony or have been convicted of a felony in that State. Second, the transfer must have been requested by the governor or other executive authority of the State. Next, the State must send to the Director, usually along with the request, a certified copy of the indictment, information, or judgment of conviction. Further, the Director must find that the transfer would be in the public interest. Finally, the section provides that the costs of transferring a prisoner to a State authority will be borne by the State requesting the transfer. See S. Rept. No. 97-307, pages 1245-1246.

Section 3624, Release of a Prisoner, describes the method by which the release date of a prisoner is determined. It replaces a confusing array of statutes and administrative procedures that now govern the determination of the date of release of a prisoner. Perhaps the most confusing aspect of the current law provisions is the fact that, for a regular adult prisoner whose term of imprisonment exceeds one year, there are two mechanisms for determining the release date, each of which requires recordkeeping and constant evaluation of presioner eligibility for release. The prisoner is ultimately released on the earlier of the two release

dates that results from the parallel determinations. First, current 18 U.S.C. 4163 requires that a prisoner who has not been released earlier, for example, on parole, must be released at the expiration of this sentence less credit for good conduct. For a prisoner whose term of imprisonment exceeds one year in length, at the same time that the Bureau of Prisons is keeping records on good time allowances, the United States Parole Commission is periodically evaluating whether the prisoner should be released on parole. (Other release date statutes apply to prisoners who are serving less than one year in prison.) See S. Rept. No. 97-307, page 1247. Subsection (a) replaces the multiplicity of release dates statutes with a single provision that describes the mechanism for setting release dates. It provides that a prisoner is to be released at the expiration of his term of imprisonment less any credit toward the service of this sentence for satisfactory prison behavior accumulated pursuant to subsection (b). Thus, as discussed in the introduction to this title of the bill, every sentence to a term of imprisonment will represent the actual time to be served less good time. There will be no artificially high sentence to allow for the operation of the parole system, which has no role as to prisoners sentenced under the revised statutes.

A prisoner may be subject on release to a term of supervised release pursuant to section 3583 if his term of imprisonment exceeded one year in length.

Subsection (b) of section 3624 contains the provision concerning the earning of credit toward early release for satisfactory prison behavior. It applies only to persons who are sentenced to terms of imprisonment longer than one year, except those sentenced to life imprisonment. The provision also substantially simplifies the computation of credit toward early release over the computation required under current law. See S. Rept. No. 97-307, page 1249.

Subsection (c) is new. It provides that, to the extent practicable, the last ten percent of the term of imprisonment, not in excess of six months, should be spent in circumstances that afford the prisoner a reasonable opportunity to adjust to and prepare for reentry into the community. The Bureau of Prisons would have a substantial amount of descretion in determining what opportunity for reentry needs to be made available in each particular case. The probation system is required, to the extent practicable, to offer assistance to prisoners at this pre-release stage.

Subsection (d) of section 3624, relating to the allotment of clothing, transportation, and funds to a prisoner at the expiration of his term of imprisonment, amends current law to increase to $500 the amount of money furnished to a prisoner, and to omit provisions for loans to prisoners. The loan provisions in existing law have not proved successful, having caused greater administrative costs and difficulties than the amount of money involved justifies. The Director of the Bureau of Prisons is to determine the amount of money to be given to each prisoner, and a new provision is added to require that the determination be made in accord with the public interest and needs of the prisoner. As in current law, the prisoner must be furnished transportation to one of three places: (1) the place of conviction: (2) his bona fide residence within the United States; or (3) any other place designated by the Dirctor of the Bureau of Prisons.

Subsection (e) provides that a prisoner whose sentence includes a term of supervised release shall be released to the supervision of the probation officer. It also specifies that the term of supervised release begin on the date of release and runs concurrently with any other term of supervised release, probation, or parole unless the person is in prison other than for a brief period as a condition of probation or supervised release.

Section 3625, Inapplicability of the Administrative Procedure Act, makes clear that certain of the provisions of the Administrative Procedure Act do not apply to any determination, decision, or order of the Bureau of Prisons. This result is in accord with recent case law, and will assure that the Bureau is able to make decisions concerning the appropriate facility, corrections program, and disciplinary measures for a particular prisoner without constant second-guessing. the provision, of course, would not eliminate constitutional challenges by prisoners under the appropriate provisions of law. The phrase "determination, decision, or order" in the provision is intended to mean adjudication of specific cases as opposed to general rulemaking.

Section 502(a)(3) of title V of the bill adds two new sections at the end of chapter 232 of title 18 of the United States Code. The first, new section 3671, requires the Attorney General to establish procedures under which a Federal government agency may transfer personal property that is useful for law enforcement purposes to a State or local law enforcement agency if the property was forfeited to the United States pursuant to a statute that provides for forfeiture of property used, intended for use, or possessed, in connection with the Federal offense, and the property is not needed by a Federal law enforcement agency.

New section 3672 of title 18 contains definitions of the terms "found guilty", "commission of an offense", and "law enforcement officer", for use in the sentencing provisions contained in chapters 227 and 229 of title 18, United States Code.

Section 502(a)(4) of title V enacts the caption and section analysis for new chapter 232 of title 18, United States Code.

Section 502(b) amends the chapter analysis of Part II of title 18.

Section 503, subsection (a), adds to chapter 235 of title 18 new section 3742, which relates to appellate review of sentencing. The section describes the circumstances in which a defendant or the government can appeal a sentence in the Federal criminal justice system.

Under subsection (a), the defendant can file a notice of appeal in the district court for review of an otherwise final sentence if the sentence was imposed in violation of law, was imposed as a result of an incorrect application of the guidelines, or, if it was imposed for a felony or a Class A misdemeanor, was greater than the sentence specified in the guidelines and not consistent with a plea agreement. Similarly, under subsection (b) of section 3742 the government may appeal a sentence that was imposed in violation of law, was imposed as a result of an incorrect application of the sentencing guidelines, or was imposed for a felony or a Class A misdemeanor and is less than the applicable guideline and not consistent with a plea agreement. Before the government may appeal a sentence, the Attorney General or the Solicitor General must personally approve the filing of a notice of appeal. For a discussion of the constitutionality of government appeal of sentence, see S. Rept. No. 97-307, pages 1226-1227.

It should be noted that, under current law, there is specific authority in rule 35 of the Federal Rules of Criminal Procedure for the trial judge to correct an illegal sentence. In order to be sure that all sentencing issues can be raised in a single proceeding, a proceeding which goes beyond the appellate review of sentencing provided in current law, the new provisions combine review of issues relating to illegality of sentence with all other issues relating to sentencing. Thus, if the trial judge were to discover that he had made an error in a sentence that made it illegal, he could notify the counsel for the defendant and the counsel for the government in order to permit them to raise that issue as part of any sentencing appeal they might file.

Subsection (c) of section 3742 indicates the record on which appeal is based.

Subsection (d) of section 3742 requires the court of appeals to determine upon review of the record whether the sentence was imposed in violation of law, imposed as a result of incorrect application of the sentencing guidelines, or, if it is outside the range of the applicable sentencing guideline, is unreasonable. Under subsection (e), if the court of appeals determines that the sentence was imposed in violation of law or imposed as a result of an incorrect application of the sentencing guideline, it is required to remand the case for further sentencing proceedings or to correct the sentence. If the court determines that the sentence is outside the range of the applicable sentencing guideline and is unreasonable, it is required to state specifiic reasons for its conclusions and to remand the case or correct the sentence. If the sentence was appealed by the defendant and is too high, the court may remand the case for further sentencing proceedings or for imposition of a lower sentence, or impose a lesser sentence itself. If the sentence was appealed by the government and is too low, the court may remand the case for further sentencing proceedings or for imposition of a higher sentence, or impose a higher sentence itself. If none of these is found by the court of appeals, the court, of course, would affirm the sentence.

Section 503(b) of title V of the bill makes a technical correction in the sectional analysis of chapter 235.

Section 504 of title V amends 403 of title 18, United States Code, relating to juvenile defendants. Amended section 5037(a) requires the court to hold a disposition hearing. As under current law, the disposition hearing must be held within 20 court days after the juvenile delinquency hearing. After the disposition hearing, the court may suspend the finding of juvenile delinquency, enter an order of restitution pursuant to section 3556, place the juvenile on probation, or commit him to official detention. The provisions of chapter 207 title 18 are specifically made applicable to the decision on whether to release or detain the juvenile pending an appeal or a petition for a writ of certiorari after the disposition.

Subsection (b) of section 5037 sets forth the probation terms for juveniles. If the juvenile is less than 17 years old, the probation term may not extend beyond the date when the juvenile becomes twenty-one or the maximum term that would be authorized under the adult probation statute if the juvenile had been tried and convicted as an adult. If the juvenile is between the ages of 17 and 21, the probation may not extend

beyond three years or the maximum that would be authorized for an adult.

Subsection (c) of amended section 5037 provides the maximum periods for official detention of a juvenile found to be a juvenile delinquent. It parallels the 1974 Act provision set forth in current law for juveniles under 18 at the time of the proceeding. However, for juveniles between the age of 17 and 21 at the time of the proceeding, the amendment specifies that the term of official detention for a Class A, B. or C felony is a maximum of five years and for any other offense the maximum term is the lesser of three years or the maximum sentence applicable to an adult offender.

Section 504(b) of title V repeals section 5041 of title 18 of the United States Code in light of the abolition of the payroll system in Federal law.

Section 504(c) of title V amends section 5042 title 18 by striking out references to parole and parolees.

Section 504(d) of title V amends the sectional analysis to accord with the other amendments made by section 504.

Section 505 of title V contains a number of amendments to the Federal Rules of Criminal Procedure that are necessitated by the amendments of the sentencing provisions of title 18, United States Code.

Subsection (a) of section 505 of title V amends Rule 32 in several respects. First, it amends subdivision (a)(1) of the Rule to require that, before the sentencing hearing, the court make available to counsel for the defendant and the attorney for the government notice of the probation officer's determination, pursuant to the revised provisions of subdivision (c)(2)(B), as to the sentencing classification and sentencing guidelines range believed to be applicable to the case. The sentencing hearing will then focus on any questions that arise as to the accuracy of the probation officer's determination on those questions. In addition, the subdivision is amended to permit the postponement of imposition of sentence for a reasonable time, upon a motion jointly filed by the defendant and by the attorney for the government that asserts that a factor important to the determination is not capable of being resolved at that time. The purpose of this amendment is to permit the sentencing determination to be delayed somewhat if, for example, a factor in the sentencing guidelines is the cooperation of the defendant with the government in prosecution of another person, and delay is necessary to assure that such cooperation actually occurs.

Subdivision (c)(1) of Rule 32 is amended to require that a probation officer make a presentence investigation and report before imposition of sentence unless the court finds that there is in the record information sufficient to enable the meaningful exercise of sentencing authority pursuant to 18 U.S.C. 3553. This change is necessitated by the fact that it is essential that the judge have all the information he needs in order to accurately apply the sentencing guidelines.

Subdivision (c)(2) of Rule 32 is amended to spell out in some detail the information that should be included in the presentence report in order to assure the accurate application of the guidelines. This amendment assures that the information relating to the requirements of the sentencing guidelines system is contained in the presentence report. See S. Rept. No. 97-307, pages 1303-1304.

Section 505(b) of title V amends Rule 35 of the Federal Rules of Criminal Procedure to accord with the provisions of new 18 U.S.C. 3742, concerning appellate review of sentence. New subdivision (a) of the Rule requires the court to correct a sentence that is determined on appeal under 18 U.S.C. 3742 to have been imposed in violation of law, to have been imposed as a result of an incorrect application of the guidelines, or to be unreasonable. New subdivision (b) permits the court, on motion of the government, to lower a sentence within one year after its imposition to reflect a defendant's subsequent, substantial assistance in the investigation or prosecution of another person who has committed an offense, to the extent that such assistance is a factor recognized in applicable guidelines or policy statements issued by the Sentencing Commission.

Section 505(c) of title V amends Rule 38 of the Federal Rules of Criminal Procedure to make technical changes in the Rule necessitated by the enactment of provisions for appellate review of sentences. See S. Rept. No. 97-307, page 1306. Section 505(c) also adds two new subdivisions to Rule 38. New subdivision (e) relates to the stay of an order of criminal forfeiture, notice to victims, or restitution, if an appeal of the conviction or sentence is taken.

New subdivision (f) of Rule 38 provides for the stay of a civil or employment disability that arises under a Federal statute by reason of the defendant's conviction or sentence, if an appeal is taken from the conviction or sentence.

Section 505(d) of title V makes a correction in a cross-reference in Rule 40 of the Federal Rules of Criminal Procedure.

Section 505(e) of title V amends Rule 54 to re-define the term "petty offense" in subdivision (c) to refer to the class structure of offenses created in proposed 18 U.S.C. 3583, and to add a definition of the word "grade" that specifies that the word "grade" includes the issue whether, for the purposes of section 3571, relating to the sentence of fine, a misdemeanor resulted in the loss of human life.

Section 505(f) of title V amends the tables of rules of the Federal Rules of Criminal Procedure to accord with the other amendments to the rules.

Section 506 contains a number of technical amendments to the Rules of Procedure for the Trial of Misdemeanors Before United States Magistrates to take into account the fact that title V amends title 18 of the United States Code to impose a grading structure on Federal offenses.

Section 507, in subsection (a), adds a new chapter 58 to title 28 of the United States Code. This new chapter creates the United States Sentencing Commission and outlines its functions.

Chapter 58 of title 28, United States Code, Sentencing Commission

28 U.S.C. 991 creates the United States Sentencing Commission and sets out its purposes. The Commission is established as an independent commission in the judicial branch consisting of seven voting members, four of whom are appointed by the President, by and with the advice and consent of the Senate, and three of whom are appointed by the President from a list of at least ten judges submitted to him by the Judicial Conference. The Attorney General or his designee is an ex officio, non-voting member of the Commission.

Under subsection (b) of section 991, the purposes of the Sentencing Commission are to establish sentencing policies and practices for the Federal criminal justice system that will assure meeting the purposes of sentencing, provide certainty and fairness in meeting those purposes, avoid unwarranted sentencing disparity among defendants with similar records who have been found guilty of similar criminal conduct, and reflect, to the extent practicable, advancement in knowledge of human behavior as it relates to the criminal justice process. In addition, subsection (b) requires the Commission to develop means of measuring the degree to which sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing. See S. Rept. No. 97-307, pages 1327-1330.

28 U.S.C. 992, Terms of Office; Compensation, sets up, in subsection (a), a staggered system of appointments for the Chairman and voting members of the Commission so that, once in operation, the Commission membership will be replaced or reappointed over a period of six years—at least two members, or one member and the Chairman, every two years. Subsection (b) of section 992 provides that a voting member may serve no more than two full terms and that a member appointed to serve an unexpired term shall serve only the remainder of the term. Subsection (c) sets the compensation of voting members at the rate of court of appeals judges. A Federal judge is specifically authorized to be designated, or appointed, as a member of the Commission without having to resign his appointment as a Federal judge. The salary for a Federal judge on the Commission would be that of a court of appeals judge only so long as he was on the Commission. See S. Rept. No. 97-307, page 1331.

28 U.S.C. 993, Powers and Duties of Chairman, provides that the Chairman, who is appointed as such by the President, with the advice and consent of the Senate, is to call and preside at meetings, and to direct the preparation of appropriations requests and the use of funds made available to the Commission.

28 U.S.C. 994, Duties of the Commission, sets out the duties of the Sentencing Commission.

Subsection (a) requires the Commission to promulgate sentencing guidelines and policy statements to be used by the sentencing judge in determining the appropriate sentence in a particular case. The sentencing guidelines and policy statements are to be promulgated pursuant to the rules and regulations of the Sentencing Commission and to be consistent with all pertinent provisions of titles 18 and 28. Guidelines and policy statements must be adopted by an affirmative vote of at least four members of the Commission.

Under subsection (a)(1)(A), the guidelines are required to provide guidance for the judge in determining whether to sentence a convicted defendant to a sentence to probation, to pay a fine, or to a term of imprisonment. See S. Rept. No. 97-307, pages 1331-1333.

Subsection (a)(1)(B) of section 994 requires that the sentencing guidelines recommend an appropriate amount of fine or appropriate length of a term of probation or imprisonment. In recommending an appropriate fine, the Commission could, of course, provide a formula or a set of principles for determining an appropriate fine relative to the damage caused, the gain to the defendant, or the ability of the defendant to pay, consistent with the flexibility possible because of the high maximum fines set forth in chapter 227 of title 18, rather than specifying a dollar amount of fine.

Subsection (a)(1)(C) requires the sentencing guidelines recommend whether a category of defendant convicted of a particular offense who was sentenced to a term of imprisonment should be required to serve a term of supervised release, and if so, what length of term is appropriate.

Finally, subsection (a)(1)(D) requires that the sentencing guidelines include recommendations as to whether sentences to terms of imprisonment should be ordered to run concurrently or consecutively.

Under subsection (a)(2), the Commission is required to issue general policy statements concerning application of the guidelines and other aspect of sentencing and sentence implementation that would further the ability of the Federal criminal justice system to achieve the purposes of sentencing. Policy statements are required to address the questions of the appropriate use of the sanctions of order of criminal forfeiture, order of restitution, and order of notice to victims; conditions of probation and supervised release; sentence modification provisions for fines, probation, and imprisonment; authority under Rule 11(e) of the Federal Rules of Criminal Procedure to accept or reject a plea agreement; and temporary release under section 3622 of title 18 and pre-release custody under section 3624(c) of title 18. These policy statements could also address, for example, such questions as the appropriateness of sentences outside the guidelines where there exists a particular aggravating or mitigating factor which did not exist sufficiently frequently to be incorporated in the guidelines themselves. The policy statements might also address such issues as the kind of recommendations a judge might make pursuant to section 3582(a) of title 18 to the Bureau of prisons as to an appropriate prison facility for a defendant committed to its custody. Another important function of the policy statements might be to alert Federal district judges to existing disparities which have not adequaltely been cured by the guidelines, while offering recommendations as to how these situations should be treated in the future. An additional area in which the Sentencing Commission might wish to issue general policy statements concerns the imposition of sentence upon organizations convicted of criminal offenses. See S. Rept. No. 97-307, page 1334.

Under subsection (a)(3) of section 994, the Sentencing Commission is required to issue either guidelines or policy statements concerning the appropriate use of probation revocation under 18 U.S.C. 3565 and use of the provisions for modification of the term or conditions of probation or supervised release set forth in sections 3563(c), 3564(d), and 3583(e) of title 18.

Under subsection (b) of section 994 of title 28, the Commission is to devise categories based on characteristics of the offense and categories based on characteristics of the offender. For each combination of a category of offense and a category of offender, a sentence or sentencing range is to be recommended that is consistent with all pertinent provisions of title 18 of the United States Code. This subsection contemplates a detailed set of sentencing guidelines, to be used an indicated in subsection (a) and in chapter 227 of title 18, as amended by this title, that are designed to achieve the purposes of sentencing set forth in title 18. The subsection further requires that, if the guidelines recommend a term of imprisonment for a particular combination of offense and offender characteristics, the maximum of the sentencing range recommended may not exceed the minimum of that range by more than 25 percent. See S. Rept. No. 97-307, page 1336.

Subsection (c) of section 994 lists a number of offense characteristics which the Sentencing Commission is required to examine for the purpose of determining whether and to what extent they are pertinent to the establishment of categories of offenses for use in the sentencing guidelines and in policy statements dealing with the nature, extent, location, or other incidents of an appropriate sentence. The Commission is required to determine whether and to what extent each factor might be pertinent to the question as to the kind of sentence that should be imposed; the size of the fine or the length of a term of probation, imprisonment, or supervised release; and the conditions of probation, supervised release, or imprisonment. The commission may conclude, with respect to any of the listed factors, that, for example, the factor should not play a role at all in sentencing for a particular purpose. The Commission is also required under subsection (c) to determine whether other factors not specifically listed are relevant to the sentencing decision. For a detailed discussion of the various factors the Commission is required to consider, see S. Rept. No. 97-307, pages 1337-1339.

Subsection (d) of section 994 contains a list of a number of offender characteristics that the Sentencing Commission is required to examine in order to determine whether and to what extent they are pertinent to the establishment of categories of offenders for use in the sentencing guidelines and in policy statements concerning the nature, extent, location, or other incidents of an appropriate sentence. The subsection parallels subsection (c) in its description of the issues that the Commission is required to examine. It also contains a specific provision that "the Commission shall assure that the guidelines and policy statements are entirely neutral as to race, sex, national origin, creed, and socioeconomic status of offenders".

Subsection (d)(1) specifies that the Commission should consider what effect the age of the defendant should have on the sentencing decision. The factor derives in part from the fact that under the Youth Corrections Act and young adult offender provisions in current law, the youth of an offender frequently plays a role in the sentencing decision. This role may, depending upon the way in which the current law provisions are applied, result in a more harsh or less harsh sentence than a regular adult offender would receive for the same offense committed under similar circumstances. The provision of subsection (d)(1) is intended to require that consideration of youth in determining the appropriate sentence be employed in a more rational and consistent way than it is today. Accordingly, the bill repeals the Youth Corrections Act and the young adult offender sentencing provisions and requires the Commission to consider, in promulgating the sentencing guidelines and policy statements, what effect age—including youth, adulthood, and old age—should have on the nature, extent, location, and other incidents of an appropriate sentence. For a discussion of the other factors listed in subsection (d), see S. Rept. No. 97-307, pages 1340-1342.

Subseciton (e) of section 994 specifically requires that the Sentencing Commission ensure that the sentencing guidelines and policy statements reflect the "general inappropriateness" of considering education, vocational skills, employment record, family ties and responsibilities, and community ties of the defendant in recommending a term of imprisonment or the length of a term of imprisonment. See S. Rept. No. 97-307, page 1342.

Subsections (f) through (*l*) of section 994 contain a number of provisions giving general guidance to the Sentencing Commission concerning the considerations that the Congress believes to be appropriate in establishing the sentencing guidelines. Subsection (f) emphasizes the importance of providing certainty and fairness in sentencing and reducing unwarranted sentencing disparities. Subsection (g) requires the Commission to take into account the nature and capacity of the penal, correctional, and other facilities and services available to the Federal criminal justice system. Subsection (h) requires that the Commission guidelines specify a sentence to a substantial term of imprisonment for serious repeat offenders, career criminals, and drug traffickers. Subsection (i) indicates that the guidelines should reflect the general appropriateness of not imposing a sentence of imprisonment in cases in which a defendant is a first offender who has not been convicted of a crime of violence or an otherwise serious offense, and, conversely, that the guidelines reflect the general appropriateness of imposing a sentence of imprisonment in cases in involving a crime of violence that results in serious bodily injury. The words "general appropriateness" are intended to make clear that there may be exceptions to this general statement, and that it is intended only to provide general guidance to the Commission. Subsection (j) requires that the guidelines reflect the inappropriateness of imposing a sentence to a term of imprisonment for the purpose of rehabilitating the defendant or providing the defendant with needed educational and vocational training, medical care, or other correctional treatment. Subsection (k) is designed to ensure that the guidelines reflect the appropriateness of imposing incremental penalties for multiple offenses, and the general inappropriateness of imposing consecutive terms for a conspiracy or solicitation and for the offense that was the sole object of the conspiracy or solicitation. Subsection (*l*) requires the Commission to review the average sentences imposed in categories of cases under current practice, including the average term of imprisonment, but makes clear that the Commission is not bound by these averages.

Subsection (m) of 28 U.S.C. 994 requires the Commission to continually update its guidelines and to consult with a variety of interested institutions and groups. This revision and refinement of the guidelines will represent the bulk of the Commission's work once the initial guidelines and policy statements are promulgated. The provision mandates that the Commission constantly monitor the implementation of the guidelines in order to determine whether sentencing disparity is effectively being dealt with. In a very real way, the subsection complements the appellate review sections by providing effective oversight as to how well the guidelines are working. The oversight would not involve any role for the Commission in second-guessing individual judicial sentencing actions either at the trial or appellate level. Rather, it would involve an examination of the overall operation of the guideline system to determine whether the guidelines are being effectively implemented and

to revise them if for some reason they fail to achieve their purposes.

Subsection (n) of 28 U.S.C. 994 requires that proposed amendments to the guidelines be reported, along with the report of the reasons for the recommended changes, to the Congress at or after the beginning of a session of the Congress but no later than the first of May. It provides that the amendments will take effect 180 days after the Commission reports them, except to the extent that the effective date is enlarged or the guidelines are disapproved or modified by Act of Congress. The provision is modeled after 18 U.S.C. 3771, relating to amendments to the Federal Rules of Criminal Procedure.

Subsection (o) requires the Commission and the Bureau of Prisons to conduct a thorough analysis of the optimum utilization of resources to deal with the Federal prison population, and to report to the Congress on the results of that study.

Subsection (p) requires the Commission to evaluate the impact of the sentencing guidelines on prosecutorial discretion, plea bargaining, sentencing disparity, and the use of incarceration.

Subsection (q) requires the Commission to make recommendations to the Congress concerning raising or lowering of grades for offenses, or otherwise modifying the maximum penalties for offenses. This provision is especially important in light of the fact that the sentencing provisions are now contained in an amendment to title 18 that does not revise the definitions of offenses and regrade them according to their relative seriousness. Thus, it is probable that the Commission will find in promulgating its guidelines that the maximum sentences for some offenses do not adequately reflect the relative seriousness of those offenses, with some maximum sentences being too high relative to those for similar offenses while others are too low. It is expected that the Commission will promulgate its guidelines according to what it believes the sentences should be for a given combination of offense and offender characteristics, and if such recommendation necessitates an amendment to the statutory maximum sentence for a particular offense, that the Commission will recommend such a change in the law.

Subsection (r) of 28 U.S.C. 994 requires the Sentencing Commission to give "due consideration" to a request by a defendant for modification of the sentencing guidelines applied to his case. The Commission is required to respond, to state reasons for any declination to make modifications, and to keep the Congress informed of such actions on an annual basis.

Subsection (s) requires the Commission to describe the "extraordinary and compelling reasons" that would justify a reduction of a particularly long sentence pursuant to section 3582(c)(2) of title 18. The subsection specifically states, consistent with the rejection of the rehabilitation theory as the basis for determining the length of a term of imprisonment, that "rehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason" for reducing the sentence.

Subsection (t) requires the Sentencing Commission, in reducing sentence for a particular category of offense, to specify by what amount the sentence of a prisoner sentenced outside the guidelines might be reduced if the person was sentenced before the reduction. This specification would then be used by the court in assessing a prisoner's petition pursuant to section 3582(c)(3) of title 18.

Subsection (u) provides that the policy statements issued by the Commission shall include a policy limiting consecutive terms for an offense involving violation of a general prohibition and an offense involving a specific prohibition contained within the general prohibition. The policy is intended to apply to those offenses which in effect are "lesser included offenses" in relation to other, more serious ones, but which for merely technical reasons do not quite come within the definition of a lesser included offense.

Subsection (v) provides that the appropriate judge or officer will supply the Commission in each case with a written report of the sentence containing detailed information as to the various factors relevant to the sentence and other information found appropriate by the Commission. This provision is necessary for the Sentencing Commission to be able to monitor the effectiveness of various sentencing policies and practices. The Commission is required to submit at least annually to the Congress an analysis of the reports submitted to it under these provisions and any recommendations for legislation that the analysis indicates is warranted.

Subsection (w) makes provisions of 5 U.S.C. 553, the provisions of the Administrative Procedure Act that relate to rulemaking, applicable to the promulgation of guidelines pursuant to section 994. This is an exception to the rule that the Administrative Procedure Act is not generally applicable to the judicial branch and also to the rule that the Federal Register is not generally used by that branch for publication required under the Act.

28 U.S.C. 995, Powers of the Commission, describes the powers of the Sentencing Commission. Subsection (a) enumerates 21 specific powers that may be exercised by majority vote of the Commission members present and voting, and provides, in paragraph (22), that the Commission may perform such other functions as are required to permit Federal courts to meet their sentencing responsibilities under 18 U.S.C. 3553(a), and to permit others involved in the Federal criminal justice system to meet their related responsibilities. The first eight paragraphs of subsection (a) contain general administrative powers necessary to carry out the functions of the Commission. See S. Rept. No. 97-307, pages 1348-1349. In addition, section 995 gives the Commission a number of powers relating specifically to its role in monitoring the effectiveness of the sentencing practices and policies in the Federal criminal justice system.

Under subsection (a)(9) of section 995, the Commission has authority to monitor the performance of probation officers with respect to sentencing recommendations, including those relating to application of guidelines and policy statements. Under subsection (a)(10), the Commission is authorized to issue instructions to probation officers concerning the application of guidelines and policy statements of the Commission. See S. Rept. No. 97-307, page 1349.

A number of additional provisions provide for extensive research and data collection and dissemination authority in the sentencing area. These functions are essential to the ability of the Commission to carry out two of its purposes: the development of a means of measuring the degree to which various sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing, and the establishment (and refinement) of sentencing guidelines and policy statements that reflect, to the extent practicable, advancement in knowledge of human behavior as it relates to the criminal justice process.

Subsection (b) of section 995 is a broad statement as to powers and duties similar to section 995(a)(22), and includes specific authority to delegate powers other than promulgation of general policy statements and guidelines for sentencing pursuant to section 994(a) and the decision as to the factors to be considered in establishing categories of offenders and offenses pursuant to section 994(h). It also contains language that requires the Commission to coordinate certain of its activities, to the extent practicable with any related activities of the Administrative Office of the United States Courts and the Federal Judicial Center in order to avoid unnecessary duplication.

Subsection (c) requires Federal agencies to make services, equipment, personnel, facilities, and information available to the greatest practicable extent upon request of the Commission in the execution of its functions.

Subsection (d) of 28 U.S.C. 995 provides that a simple majority of the membership then serving shall constitute a quorum for the conduct of Commission business. Except for the promulgation of sentencing guidelines or policy statements, the Commission may exercise its powers and fulfill its duties by a simple majority vote of those members present.

Subsection (e) requires the Commission, except where otherwise provided by law, to make available for public inspection a record of the final vote of each member on any action taken.

28 U.S.C. 996, Director and Staff, describes the authority of the staff director to supervise the activities of the Sentencing Commission employees and perform other duties assigned by the Commission, and to appoint such officers as are necessary in the execution of the functions of the Commission, subject to the approval of the Commission. It is intended that the Commission staff consist of persons with a wide variety of backgrounds pertinent to conducting criminal justice research and making recommendations as to sentencing policy. The officers and employees of the Commisson are, under subsection (b), exempted from civil service provisions in title 5 of the United States Code, except for the benefits provided in chapters 81 through 89.

28 U.S.C. 997, Annual Report, requires the Commission to report annually to the Judicial Conference, the Congress, and the President on the activities of the Sentencing Commission.

28 U.S.C. 998, Definitions, contains definitions necessary to the understanding of chapter 58 of title 28 of the United States Code.

Repealers

Section 508(a) of title V of the bill repeals a number of provisions of title 18 of the United States Code as follows:

18 U.S.C. 1, which defines felonies, misdemeanors, and petty offenses, is deleted as covered in the sentencing provisions of chapter 227.

Chapter 309, relating to good time allowances and release dates, is repealed as covered by the release provisions of 18 U.S.C. 3624, as enacted by this bill.

Chapter 311, relating to parole, is repealed as replaced by the new sentencing provisions.

Chapter 314, relating to sentencing of narcotic addicts, is repealed consistent with the decision to repeal specialized sentencing provisions and replace them with provisions for sentencing guidelines that permit consideration of all combinations of offense and offender characteristics in a systematic manner.

18 U.S.C. 4281, 4283, and 4284, relating to discharge and release payments, are deleted as covered by provisions of chapter 229.

Chapter 402, the Federal Youth Corrections Act, is repealed as covered by the sentencing guidelines provisions, particularly 28 U.S.C. 994(d)(1).

Section 508(b) through (e) of title V contain technical amendments to various analyses contained in title 18 to reflect the repeal of these sections and chapters.

Section 509, in subsection (a), repeals sections 404(b) and 409 of the Controlled Substances Act (21 U.S.C. 844(b) and 849), the specialized sentencing provisions for special dangerous drug offenders. These special dangerous offender provisions are more adequately covered in the sentencing guidelines provisions that require the guidelines to reflect a substantial term of imprisonment for drug traffickers.

Technical and Conforming Amendments

Section 510 of title V, in subsection (a), amends section 212(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)) to reflect the deletion of the concept of petty offense. Subsection (b) amends section 242 of the same Act (8 U.S.C. 1252(h)) to add a reference to a term of supervised release after a reference to a parole term.

Section 511 of title V amends section 4 of the Act of September 28, 1962 (16 U.S.C. 460k-3) to replace a reference to petty offenses with a reference to misdemeanors.

Section 512 of title V amends section 9 of the Act of October 8, 1964, to reflect the authority of the United States magistrate to try and sentence persons charged with the commission of misdemeanors and infractions, as defined in 18 U.S.C. 3581.

Section 513 of title V of the bill makes certain amendments to title 18 of the United States Code as follows:

18 U.S.C. 924(a) is amended to delete a reference to parole, since parole is abolished;

18 U.S.C. 1161 is amended to update a cross-reference;

18 U.S.C. 1761(a) is amended to make an exception to the restriction on transportation or importation of prison-made goods applicable to a person on supervised release as well as to one on parole;

18 U.S.C. 1963 is amended in order to reflect the enactment in title VI of this bill of substantial amendments to the criminal forfeiture provisions;

18 U.S.C. 3006A is amended to reflect the new grading scheme in the sentencing provisions and to delete references to revocation of parole, since parole is abolished by this title of the bill;

18 U.S.C. 3143, as amended by title V, is amended to preclude the detention pending sentencing of a person for whom the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994 does not recommend a term of imprisonment, and to reflect the enactment of 18 U.S.C 3742, relating to government appeal of sentence;

18 U.S.C. 3147, as amended by title V, is amended to delete minimum sentence language that is not needed in light of the sentencing guideline provisions enacted by title V of the bill;

18 U.S.C. 3156(b)(2), 3172(2), and 3401(h), are amended to reflect the new grading scheme set forth in section 3581 of title 18; 18 U.S.C. 3401 is also amended by repealing subsection (g), which relates to magistrate sentencing in youth offender cases, since the youth offender provisions in current law are repealed;

18 U.S.C. 3668 (formerly 3619) is amended as to cross-references;

18 U.S.C. 4004 is amended by deleting a reference to parole officers;

chapter 306, relating to transfer of offenders to and from foreign countries, is amended in several respects—

18 U.S.C. 4101 is amended to include a term of supervised release in the definition of parole and to conform the description of probation to the provisions of subchapter B of chapter 227;

18 U.S.C. 4105(c) is amended to bring a reference in the first paragraph into conformity with the revised provisions in 18 U.S.C. 3624, relating to credit toward service of sentence for satisfactory behavior, to conform cross-references in paragraphs (1) and (2), to delete paragraph (3) because of the new provisions relating to good time set forth in 18 U.S.C. 3624, and to amend paragraph (4) to delete references to forfeiture of good time as inconsistent with the new provisions;

18 U.S.C. 4106 is amended to place offenders on parole in a foreign country who are transferred to the United States under supervision by the probation system rather than the Parole Commission, which is abolished by title V of the bill, and to provide that an offender transferred to serve a term of imprisonment be released in accordance with the provisions of 18 U.S.C. 3624(a) after serving the period of time specified in the applicable sentencing guideline. If the guidelines recommend a term of supervised released for such an offender, the offender will be placed on such a term. Sentence review procedures of 18 U.S.C. 3742 are made applicable to a sentence under the subsection, and the United States court of appeals for the district in which the offender is imprisoned or under supervision after transfer to the United States has jurisdiction to review the sentence as though it has been imposed by the district court. Section 4106(c) is repealed, since it relates to parole release; and

4108(c) is amended to require that, when an offender's consent to transfer to the United States is verified, the offender be informed of the applicable guideline sentence for his offense;

18 U.S.C. 4321 is amended to delete a reference to parole;

18 U.S.C. 4351(b) is amended to make the Chairman of the Sentencing Commission a member of the National Institute of Corrections Advisory Board in place of the Chairman of the Parole Commission; and

18 U.S.C. 5002 is amended to make the Chairman of the Sentencing Commission a member of the Advisory Corrections Council, and to delete reference to the Parole Commission.

Section 514 of title V of the bill amends section 410 (b)(1)(A), (b)(1)(B), (b)(2), (b)(5), and (c) of the Controlled Substances Act to delete references to a special parole term for various drug trafficking offenses. Section 404 and 405A (added by title IX of the bill) are amended similarly. Section 408(c) is amended to delete a reference to parole.

Section 515 of title V of the bill deletes references in the Controlled Substances Import and Export Act to special parole terms.

Section 516 of title V of the bill amends 23 U.S.C. 114(b) to add a reference to a term of supervised release.

Section 517 of title V of the bill amends section 5871 of the Internal Revenue Code of 1954 to delete a reference of eligibility of parole.

Section 518 of title V of the bill amends 28 U.S.C. 509 to delete a reference to the Parole Commission; amends 28 U.S.C. 591 to conform to the grading of misdemeanors and infractions; and, in subsection (c), amends 28 U.S.C. 2901 to add a reference to a term of supervised release and to conform a cross-reference to chapter 227 of title 18.

Section 519 of title V of the bill amends section 504(a) of the Labor Management Reporting and Disclosure Act of 1959, which forbids, with certain exceptions, a current or former member of the Communist party or a person convicted of one of a list of specific offenses from holding office in a labor organization, to specify that the sentencing judge, rather than the Parole Commission, should decide whether a person convicted of a Federal offense can hold union office. If the offense is a State or local offense, a judge of the United States district court for the district in which the offense was committed may, under the amendment, make the decision upon motion of the attorney for the government. Section 504(a) is also amended to specify that decisions under the section are to be made pursuant to sentencing guidelines and policy statements promulgated pursuant to 28 U.S.C. 994(a), as enacted by this title of the bill.

Section 520 of title V of the bill amends section 411(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111(c)(3)) to add a reference to a term of supervised release after a reference to parole.

Section 521 of title V of the bill amends section 454(b) of the Comprehensive Employment and Training Act of 1973 to add a reference to a term of supervised release.

Section 522 of title V, in subsection (a), amends section 341(a) of the Public Health Service Act to delete references to hospitalization of drug addicts convicted of an offense and sentenced under the Narcotic Addict Rehabilitation Act of 1966 or the Federal Youth Corrections Act. Both of those provisions are repealed by this title in favor of permitting sentencing guidelines to recommend appropriate sentences for all combinations of offense and offender characteristics. In section 522(b), section 343(d) of the Public Health Service Act is amended to add a reference to a term of supervised release after the reference to parole.

Section 523 of title V amends 49 U.S.C. 11507 to add a reference to a term of supervised release.

Section 524 of title V amends section 10(b)(7) of the Military Selective Service Act (50 U.S.C. App. 460(b)(7)) to substitute a reference to "release" for a reference to "parole".

Effective Date

Section 525 of title V of the bill, in subsection (a)(1)(A), makes the repeal of chapter 402 of title 18, United States Code, effective on the date of enactment. Subsection (a)(1)(B) makes the provisions of chapter 58 of title 28, United States Code, relating to the creation and responsibilities of the United States Sentencing Commission, effective on the date of enactment. It also specifies that the Sentencing Commission shall submit the initial sentencing guidelines promulgated pursuant to 28 U.S.C.

994(a)(1) to the Congress within 18 months of the date of enactment. The sentencing guidelines, and provisions of sections 3581, 3583, and 3624 of title 18, United States Code, do not go into effect until after the Sentencing Commission has submitted the initial set of guidelines, the General Accounting Office has had three months to study them and report to Congress, and the Congress has had six months from the date of submission of the guidelines by the Sentencing Commission to examine them and consider comments. All other provisions of title V go into effect on the first day of the first calendar month beginning twenty-four months after the date of enactment. Section 525(a)(2) provides that, for purposes of determining when the terms of office of the first members of the Sentencing Commission expire, their terms are deemed to begin to run when the sentencing guidelines first go into effect.

Section 525(b) specifies that certain provisions of current law relating to sentencing will continue to apply to individuals convicted of an offense or adjudicated to be a juvenile delinquent before the effective date, and as to a term of imprisonment imposed during the period described in subsection (a)(1)(B) of this section. This will assure that the length of a term of imprisonment, and the parole and good time statutes, will remain in effect as to any prisoner sentenced before the sentencing guidelines and the provisions of proposed 18 U.S.C. 3553 and 3624 to into effect. All other aspects of the sentencing provisions will go into effect 24 months after the date of enactment.

Most of those individuals incarcerated under the old system will be released during the five-year period. As to those who will not have been released at the end of that period, the Parole Commission must set a release date prior to the expiration of the five years that is the earliest date that applies to the prisoner under the applicable parole guidelines. (It is intended that, in setting release dates under this provision, the Parole Commission give the prisoner the benefit of an applicable new sentencing guideline if it is lower than the minimum parole guideline.)

Subsection (b) also assures that, while the Parole Commission remains in existence, the Chairman of the Commission or his designee will remain a member of the National Institute of Corrections, and the Chairman will remain a member of the Advisory Corrections Council ex officio and be an ex officio, non-voting member of the Sentencing Commission.

TITLE VI—CRIMINAL FORFEITURE

I. Introduction

Title VI of the bill is designed to enhance the use of forfeiture, and in particular the sanction of criminal forfeiture, as a law enforcement tool in combatting two of the most serious crime problems facing the country: racketeering and drug trafficking.

There are presently two types of forfeiture statutes in Federal law. The first provides for civil forfeiture, a civil in rem action, brought directly against property which is unlawful or contraband, or which has been used for an unlawful purpose. The majority of drug-related property, including drug profits, must be forfeited civilly under 21 U.S.C. 881. While this civil forfeiture statute has been an extremely useful tool in the effort to combat drug trafficking, a significant drawback is the requirement that a separate civil suit be filed in each district in which forfeitable property is located. Where the property to be forfeited is the property of a person charged with a drug violation, and that violation constitutes the basis for forfeiture, a more efficient way of achieving forfeiture would be to employ the second type of forfeiture statute, a criminal forfeiture statute.

Criminal forfeiture is relatively new to Federal law, although it has its origins in ancient English common law. It is an in personam proceeding against a defendant in a criminal case, and is imposed as a sanction against the defendant upon his conviction. Criminal forfeiture is now available under two statutes: The Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. 1960 et seq., hereinafter referred to as RICO) and the Continuing Enterprise statute (21 U.S.C. 848, hereinafter referred to as CCE), which punish those who engage in racketeering enterprises or drug trafficking organizations.

In the last decade there has been an increasing awareness of the extremely lucrative nature of drug trafficking and of the illicit economy which it generates and through which it is sustained, and thus, of the importance of effective tools for attacking the economic aspects of such crime. A similar awareness with respect to racketeering led to the enactment of the RICO and CCE statutes more than ten years ago.

Both civil and criminal forfeiture hold significant promise as important law enforcement tools in separating racketeers and drug traffickers from their ill-gotten profits and the economic power bases through which they operate. However, because of limitations of and ambiguities in present forfeiture statutes, the law enforcement potentional of forfeiture in these areas has not been fully realized. Title VI is designed to address these problems and is based with only minor modifications on S. 2320, the criminal forfeiture bill drafted by the Administration which was the subject of a hearing before the Judiciary Committee's Subcommittee on Security and Terrorism on April 23, 1982.

Title VI is divided into three parts. Part A sets forth an amended version of 18 U.S.C. 1963, the provisions of current law governing the penalties, including criminal forfeiture, for violations of the RICO offenses described in 18 U.S.C. 1962. The most significant of the proposed changes in the current RICO forfeiture provisions are in two areas. First, language is included to make it clear that property which constitutes, or is derived from, the proceeds of racketeering activity punishable under 18 U.S.C. 1962 is subject to an order of criminal forfeiture. Although the Department of Justice has taken the position that such proceeds are already subject to forfeiture under 18 U.S.C. 1963, several courts have rejected this position. Other of the more significant amendments to section 1963 are designed to address the problem of defendants defeating forfeiture actions by removing, concealing, or transferring forfeitable assets prior to conviction. These amendments include a provision expanding to the pre-indictment state courts' authority to enter restraining orders, a provision setting out clear authority voiding such transfers in the context of criminal forfeiture actions, and a provision permitting the court to order the defendant to forfeit substitute assets when the property originally subject to forfeiture is no longer available at the time of conviction.

Part B of title VI makes several amendments to the Comprehensive Drug Abuse Prevention and Control Act of 1970. The most significant of the amendments is the creation in section 603 of a new criminal forfeiture statute that would be applicable in all cases involving major criminal violations of the Act. This new statute would provide for the criminal forfeiture of the proceeds of drug offenses as well as other property used in the commission of such offenses, and would reduce the need to pursue parallel criminal prosecutions and civil forfeiture actions. This forfeiture statute would also include several of the improvements proposed with respect to the RICO criminal forfeiture statute in Part A of this title. Part B would also amend the civil forfeiture provisions of the narcotics laws (21 U.S.C. 881) to allow, in certain new circumstances, the forfeiture of real property, and to require the stay of civil forfeiture proceedings pending disposition of a criminal case in those instances where the criminal prosecution and forfeiture action cannot, or should not, be consolidated.

Part C of title VI would establish for a two-year period, a program under which twenty-five percent of the proceeds of forfeitures under the Comprehensive Drug Abuse Prevention and Control Act would be set aside to be used exclusively for the payment of awards to compensate those who have provided information or other assistance that has resulted in forfeiture under the Act.

II. Section-by-section analysis

Section 601 provides that this title may be cited as the "Comprehensive Criminal Forfeiture Act of 1982".

Part A

Section 602 of title VI amends 18 U.S.C. 1963, the provision which sets out the penalties for a violation of the RICO statute (18 U.S.C. 1962). The current penalties of fine and imprisonment are retained, but the provisions relating to criminal forfeiture have been amended and expanded. Each of the subsections of 18 U.S.C. 1963, as it would amended by section 602, is discussed below:

18 U.S.C. 1963(a) sets out the penalties for a violation of 18 U.S.C. 1962. Paragraph (1) carries forward the current fine and imprisonment levels. Paragraph (2) describes the property of the defendant that is subject to an order of criminal forfeiture. The substantive change worked by paragraph (2) is that it will specifically provide for the forfeiture of the profits generated by racketeering activity that serves as the basis for a RICO prosecution. Several courts have held that such profits are not currently forfeitable under RICO, and this limiting interpretation has significantly diminished the utility of the statute's criminal forfeiture sanction. The criminal forfeiture provisions of the criminal code reform bill also provided for the forfeiture of proceeds. See S. Rept. No. 97-307, page 948.

18 U.S.C. 1963(b), as amended emphasizes that property subject to civil forfeiture may be either real property or tangible or intangible personal property, and underscores an intent, consistent with current law (see, e.g., *United States* v. *Rubin*, 559 F.2d 975 (5th Cir. 1977)), that the concept of "property" as used in section 1963 is to be broadly construed.

18 U.S.C. 1963(c), as amended, is a codification of the "taint" theory long recognized in forfeiture cases. Under this theory, forfeiture relates back to the time of the illegal acts which give rise to the forfeiture. From that time forward, the property is tainted and remains subject to forfeiture regardless of any subsequent disposition. Absent such a principle, a defendant could avoid forfeit-

ure simply by transferring his property prior to conviction. This subsection makes it clear, however, that in the case of a transfer to a bona fide purchaser for value, the Attorney General may not proceed with disposition of the property. Such persons may obtain a return of their property by filing a petition for remission or mitigation of forfeiture.

18 U.S.C. 1963(d) is new to the law. It provides that where property found to be subject to forfeiture has been removed, concealed transferred, or substantially depleted, the court may order that the defendant forfeit substitute assets. This section addresses one of the most serious impediments to significant forfeitures. Presently, a defendant may avoid the impact of forfeiture simply by transferring his assets to another, placing them beyond the jurisdiction of the court, or taking other actions to render such property unavailable at the time of conviction. Section 1963(d) addresses this problem. See S. Rept. No. 97-307, pages 948-949.

18 U.S.C. 1963(e), as amended, expands the current authority of the courts to enter restraining or protective orders with respect to property that may be subject to forfeiture. The current restraining order authority, set out in 18 U.S.C. 1963, is limited to the post-indictment period. However, defendants often become aware, prior to indictment, of a criminal investigation and will move to conceal or alienate their forfeitable assets at that time. To address this problem, amended section 1963(e) describes certain circumstances under which the government may obtain a pre-indictment restraining order. This section also articulates the circumstances in which an ex parte restraining order may be issued. Such an order is limited to a term of ten days, and may be issued only when it appears that the giving of notice will result in the transfer or removal of the property before an order could be issued.

18 U.S.C. 1963(f), as proposed, governs matters arising during the period from the entry of the order of forfeiture until the time that the Attorney General directs disposition of the property. For the most part, these provisions are drawn from current law and practice, and have been formulated to provide necessary flexibility.

18 U.S.C. 1963(g) concerns matters regarding the disposition of property, and is drawn largely from current law. A new aspect of this provision is that it specifically authorizes the court to stay disposition of the forfeited property pending an appeal of the criminal case if a third party claiming an interest in the property demonstrates that such disposition will result in irreparable injury, harm, or loss to him. Once the property has been disposed of, the proceeds are to be used to pay the expenses of the forfeiture and sale, including costs arising from the seizure, maintenance, and custody of the property. The remaining amounts are to be deposited in the general fund of the Treasury.

18 U.S.C. 1963(h) sets forth several aspects of the authority of the Attorney General with respect to property that has been ordered forfeited. This authority is in essence carried forward from existing law, although in a more straight-forward manner. This provision also improves on current law in that it articulates a standard for judicial review of the Attorney General's decision with respect to a petition for remission or mitigation of forfeiture, the mechanism whereby innocent third parties may obtain relief from a forfeiture of property in which they may have a legitimate interest.

18 U.S.C. 1963(i). Under current 18 U.S.C. 1963(c), the procedures for most post-seizure matters are governed by the customs laws. In some respects, however, these customs laws provisions have been inadequate in addressing some of the complex issues that arise in RICO cases, where forfeited property may include complex interests in ongoing businesses. Subsection (i) therefore requires the issuance of regulations to govern certain post-seizure matters which may be drafted to address some of the unique problems arising in RICO forfeiture cases.

18 U.S.C. 1963(j) codifies the currently recognized limitations on the commencement of legal actions by third parties claiming an interest in property subject to forfeiture. See *United States* v. *Mandel*, 505 F. Supp. 189 (D. Md. 1981).

18 U.S.C. 1963(k) emphasizes the current jurisdiction of the court to enter orders under Part A of this title without regard to the location of the property—a principle which distinguishes criminal forfeiture action from in rem civil forfeiture actions.

18 U.S.C. 1963(l), as amended, authorizes the court to order the taking of depositions to facilitate the identification and location of property that has been ordered forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture. The taking of such depositions will provide for a more orderly and fair consideration of these matters and will permit the development of a more complete record.

Part B

Part B of title VI of the bill sets out various amendments to the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.).

Section 603 creates a new generally applicable criminal forfeiture statute for all felony violations of Titles II and III of the Comprehensive Drug Abuse Prevention and Control Act. This statute is, in virtually all respects, identical to the RICO criminal forfeiture statute as amended by section 602 of this title, and will appear as a new section 413 of the Act. Section 413 is divided into the following subsections:

Subsection (a) of section 413 provides for the sanction of criminal forfeiture upon a defendant's conviction for a felony drug offense. Property which is subject to criminal forfeiture under this provision includes the proceeds of the drug violation (now subject to civil forfeiture under 21 U.S.C. 881(a)(6)), property used or intended to be used to commit the violation (such property is largely subject to civil forfeiture under current 21 U.S.C. 881), and the property already subject to criminal forfeiture under the Continuing Criminal Enterprise statute (21 U.S.C. 848).

Subsection (b) of section 413, like the analogous provision of 18 U.S.C. 1963, as amended by section 602, emphasizes that the term "property", as used in section 413(a), is to be broadly construed.

Subsection (c) of section 413—see analysis of section 602 above that refers to new 18 U.S.C. 1963(c).

Subsection (d) of section 413—see analysis of section 602 above that refers to the analogous substitute assets provision of new 18 U.S.C. 1963(d).

Subsection (e) of section 413 provides for a permissive presumption that property of a defendant is subject to forfeiture if the government establishes that the defendant acquired the property at or within a reasonably related time after the commission of the offense and that he had no apparent legal sources of income to explain his acquisition of the property. This provision is much like the "net worth" method of proof commonly used in tax cases. Framed as a permissive and rebuttable inference rather than a mandatory presumption, this provision would appear to fully meet constitutional requirements. See *Ulster County Court* v. *Ulster*, 442 U.S. 140 (1979).

Subsection (f) of section 413—see analysis of section 602 of title VI that refers to the analogous protective order provision of new 18 U.S.C. 1963(e).

Subsection (g) recognizes that in drug cases forfeitable assets frequently take the form of cash, precious metals and gems, and other property that is easily moved or concealed. With respect to such property, a restraining or protective order may not be sufficient to assure the availability of the property for forfeiture. Therefore, this section provides for the issuance of a warrant of seizure if the government demonstrates that a protective or restraining order will not be sufficient.

Subsection (h) of section 413—see analyis of section 602 of this title that refers to the analogous provision of new 18 U.S.C. 1963(f), governing certain matters arising in the period between the entry of the order of forfeiture and the disposition of the property.

Subsection (i) of section 413—see analysis of section 602 of this title that refers to the analogous provision of new 18 U.S.C. 1963(g), which governs matters concerning the disposition of property ordered forfeited.

Subsection (j) of section 413—see analysis of section 602 of this title that refers to the analogous provision of new 18 U.S.C. 1963(h), enumerating the authorities of the Attorney General.

Subsection (k) of section 413 retains the current application of the customs laws to certain matters arising under forfeitures effected under title 21, United States Code. See 21 U.S.C. 881(d).

Subsection (l) of section 413—see analysis of section 602 above that refers to new 18 U.S.C. 1963(j).

Subsection (m) of section 413—see analysis of section 602 of title VI that refers to new 18 U.S.C. 1963(k).

Subsection (n) of section 413—see analysis of section 602 above that refers to new 18 U.S.C. 1963(l).

Section 604 of title VI incorporates in 21 U.S.C. 824(f) (relating to the forfeiture of controlled substances held by a dispenser or manufacturer whose registration has been revoked) the "taint" theory discussed above under sections 602 and 603.

Section 605 deletes the separate criminal forfeiture provisions of the Continuing Criminal Enterprise statute (21 U.S.C. 848). Criminal forfeiture arising out of a violation of this statute will be governed by the new criminal forfeiture statute set out in section 603 of this title.

Section 606 amends certain provisions of 21 U.S.C. 881, which provides for the civil forfeiture of a variety of drug related property, and which also governs certain procedural matters both in civil and criminal forfeitures under the CCE statute.

The first amendment would add to the list of property subject to civil forfeiture real property which is used in a felony violation of title 21. An "innocent owner" exception like that now included in other provisions of section 881(a) is included.

The amendments to subsections (b), (c), (d), and (e) of section 881 are essentially

technical and conforming amendments. In addition, two new subsections are added to 21 U.S.C. 881. The first codifies the "taint" theory now clearly applicable in civil forfeiture actions. The second provides for a stay of civil forfeiture proceedings where a criminal action including criminal forfeiture of the same property is commenced.

Section 607 adds a new section at the end of Title III of the Comprehensive Drug Abuse Prevention and Control Act to make it clear that the new criminal forfeiture statute applies in cases of felony violations involving the import or export of controlled substances.

Section 608 carries necessary conforming amendments.

Part C

Section 609 establishes, for a two-year period, a program under which twenty-five percent of the amounts realized from civil and criminal forfeitures under title 21, United States Code, are to be available to pay for discretionary rewards for information or other assistance that leads to such forfeitures. The amount of such rewards is limited to the lesser of $50,000 or twenty-five percent of the amount realized in a forfeiture case. During the two-year period, detailed audits of the expenditure of these funds are to be made semi-annually by the Attorney General.

TITLE VII—OFFENDERS WITH MENTAL DISEASE OR DEFECT

I. Introduction

Title VII of the bill amends various provisions of title 18, United States Code, and of the Federal Rules of Criminal Procedure, relating to the procedure to be followed in Federal courts with respect to offenders who are or have been suffering from a mental disease or defect. Among the matters provided for by these amendments are the determination of mental competency to stand trial, the determination of the existence of insanity at the time of the offense, to limit the scope of a separate insanity defense, and the post-trial hospitalization of defendants suffering from a mental disease or defect.

II. Section-by-section analysis

Section 701 provides a comprehensive amendment of current chapter 313 of title 18 of the United States Code. Proposed 18 U.S.C. 4241 deals with the determination of mental competency to stand trial; 18 U.S.C 4242 relates to the determination of the existence of insanity at the time of the offense and limits the separate insanity defense to a mens rea test of criminal responsibility; 18 U.S.C. 4243 provides for the hospitalization of a person acquitted by reason of insanity; 18 U.S.C. 4244 deals with the hospitalization of a convicted person who is suffering from a mental disease or defect; 18 U.S.C. 4245 covers the hospitalization of an imprisoned person who suffers from a mental disease or defect; 18 U.S.C. 4246 deals with the situation of such a person who is scheduled to be released; and 18 U.S.C. 4247 contains general provisions for chapter 313. These sections are discussed in more detail below:

18 U.S.C. 4241, Determination of Mental Competency to Stand Trial, contains five subsections which deal exclusively with the determination of the mental competency of the defendant to stand trial or to enter a plea. Subsection (a) permits either the defendant or the government to move for a hearing to determine the defendant's mental competency, and requires the court to order a hearing if there is reasonable cause to believe that a mental disease or defect renders the defendant unable to understand the proceedings or to assist in his defense. Subsection (b) permits the court to order a psychiatric or psychological examination of the defendant prior to the hearing. Subsection (c) requires that the hearing be conducted pursuant to the provisions of section 4247. Subsection (d) provides that a defendant found by a preponderance of the evidence to be mentally incompetent shall be hospitalized for treatment in a suitable facility for a reasonable period of time to determine whether there is a substantial probability that he will attain the capacity to permit the trial to proceed. If the defendant appears unlikely to improve sufficiently, he is to be treated in accordance with the provisions of section 4246. Subsection (e) provides for the discharge from the hospital of a defendant who has recovered sufficiently to stand trial. Subsection (f) specifies that a court finding of competency to stand trial shall not prejudice the defendant in raising the issue of his insanity as a defense to the crime charged, and shall not be admissible as evidence at trial. See S. Rept. No. 97-307, pages 1191-1197.

18 U.S.C. 4241, Determination of the Existence of Insanity at the Time of the Offense, specifies the extent to which a defendant's mental disease or defect constitutes a defense to prosecution, provides for an examination of a defendant who intends to rely on such a defense, and sets forth the types of verdict to be rendered in such cases.

Subsection (a) states that it is not a defense to prosecution under any Federal statute that the defendant, as a result of mental disease or defect, lacked the state of mind required as an element of the offense charged, and specifies that mental disease or defect does not otherwise constitute a defense. By limiting the separate, judicially-developed, insanity defense, this statutory approach to the issue of the criminal responsibility of a person suffering from a mental disease or defect focuses on two critical questions: did the defendant act with the state of mind required for the offense charged and, if he did so act but was suffering from a mental disease or direct, should he be imprisoned, hospitalized, or otherwise treated. See S. Rept. No. 97-307, pages 95-108. See also, remarks of Senator Hatch upon introduction of S. 818, Cong. Rec., pp. S 2809-2828, March 26, 1981 (daily ed.).

Subsection (b) provides for the psychiatric or psychological examination of a defendant who files a notice of intent to rely on the defense set forth in subsection (a).

Subsection (c) specifies that in a case involving such a defense the trier of fact is to return a verdict of guilty, or not guilty, or not guilty only by reason of insanity.

18 U.S.C. 4243, Hospitalization of a Person Acquitted by Reason of Insanity, sets out the procedure to be followed when a person is found not guilty only by reason of insanity at the time of the offense. Subsection (a) requires that such a person be committed to a suitable facility until he is eligible for release pursuant to subsection (d). Subsection (b) requires that the person undergo a psychiatric or psychological study, while subsection (c) mandates a hearing on his present mental condition within forty days following the verdict. Subsection (d) provides that if, after the hearing, the person is found by clear and convincing evidence to be then suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, he shall be committed to the custody of the Attorney General for treatment, preferably in a State facility. Subsection (e) provides for the absolute or conditional release of such a person pursuant to a medical certification and a court finding that such release will no longer create a substantial risk to the person or property of others. Subsection (f) permits revocation of a conditional release order if such a risk is created anew by the person's failure to comply with the conditions of release. See S. Rept. No. 97-307, pages 1200-1203; see also, remarks of Senator Hatch upon introduction of S. 1558, Cong. Rec., pp. S. 9102-9105, July 31, 1981 (daily ed.).

18 U.S.C. 4244, Hospitalization of a Convicted Person Suffering From Mental Disease or Defect, sets forth procedures new to Federal law, to be followed when there is reasonable cause to believe that a recently convicted defendant may be suffering from a mental disease or defect and in need of care or treatment in a suitable facility. Subsection (a) permits the court, shortly after a guilty verdict and before sentencing, on motion of the defendant or the government or on its own motion, to order a hearing on the defendant's present mental condition if there is reasonable cause to believe he is suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility. Under subsection (b), the court may order a psychiatric or psychological examination of the defendant. If, after a hearing provided for by subsection (c), the court determines by a preponderance of the evidence pursuant to subsection (d) that the standard set forth in subsection (a) has been met, the defendant is to be committed to the custody of the Attorney General for hospitalization in a suitable facility, in lieu of being imprisoned. Subsection (e) permits the discharge and final sentencing of a hospitalized defendant when the director of the facility certifies that the defendant is no longer in need of custody for care and treatment. See S. Rept. No. 97-307, pages 1204-1206.

18 U.S.C. 4245, Hospitalization of an Imprisoned Person Suffering from Mental Disease or Defect, deals with the hospitalization of an imprisoned person who is suffering from a mental disease or defect for which he is in need of custody for care and treatment, if the person objects to being hospitalized. Unlike current Federal law, subsection (a) provides that, when a defendant who is imprisoned objects to being transferred to a suitable facility for care and treatment of a mental disease or defect, the court shall, on the government's motion, order a hearing on the defendant's present mental condition if there is reasonable cause to believe that the defendant may be suffering from a mental disease or defect for the treatment of which he is in need of custody for care and treatment in a suitable facility. Subsections (b) and (c), respectively, provide for the psychiatric or psychological examination of the defendant, and for the conduct of the hearing. Subsection (d) provides that a defendant who is found to be suffering from a mental disease or defect and in need of custody for care and treatment shall be hospitalized in a suitable facility until he is no longer in such need, or until his prison sentence expires. Subsection (e) provides for the defendant's discharge from the hospital and return to prison upon the certification by the director of the facility that he is no longer in need of custody for care and treatment. See S. Rept. No. 97-307, pages 1206-1208.

18 U.S.C. 4246, Hospitalization of Person Due for Release but Suffering from Mental Disease or Defect, covers those circumstances where State authorities will not institute civil commitment proceedings against a hospitalized defendant whose Federal sentence is about to expire, who is mentally incompetent to stand trial, or against whom all criminal charges have been dropped solely for reasons related to his mental condition, and who is presently mentally ill. Subsection (a) requires the court to order a hearing if the director of the facility in which the person is hospitalized certifies that he is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, and that suitable arrangements for State custody and care of the person are not available. Subsections (b) and (c), respectively, provide for the psychiatric or psychological examination of the person and for the conduct of the hearing. Subsection (d) provides that if the facts certified are found by the court by a preponderance of the evidence, the person is to be committed to the custody of the Attorney General for treatment, preferably in a State facility. Subsection (e) provides for the absolute or conditional release of such a person pursuant to a medical certification and a court finding that such release will no longer create a substantial risk to the person or property of others. Section (f) permits revocation of a conditional release order if such a risk is created anew by the person's failure to comply with the conditions of release. Subsection (g) deals with mentally ill persons who have been hospitalized and against whom all charges have been dismissed for reasons not related to their mental condition. If the director of the hospital certifies that the release of such a person would create a substantial risk of bodily injury to another person or serious damage to property of another, the Attorney General is required to release the person to appropriate State officials for the institution of State civil commitment proceedings. If the appropriate State will not assume responsibility, and so informs the Attorney General, the person must be released. See S. Rept. No. 97-307, pages 1209-1212.

18 U.S.C. 4247, General Provisions for Chapter, contains a definition of terms used in chapter 313, as well as other provisions generally applicable to sections 4241-4246. Subsection (a) defines the terms "rehabilitation program" and "suitable facility". Subsections (c) and (c), respectively, set forth requirements for court ordered psychiatric or psychological examinations and reports. Subsection (d) enumerates the rights a person has at a hearing to determine his mental condition. Subsection (e) pertains to reports by mental facilities, and contains a requirement that a hospitalized person be informed of the availability of rehabilitation programs. Subsection (f) permits the court to order and examine a vidiotape record of a defendant's testimony or interview which forms a basis of a period report of his mental condition. Subsection (g) concerns the admissibility in evidence of statements made by a defendant during the course of a phsychiatric or psychological examination. Subsections (h) and (i), respectively, preserve the availability of the writ of habeas corpus, and permit a hospitalized person to move for a hearing to determine whether he should be released. Subsection (j) sets forth the authority and responsibility of the Attorney General under chapter 313. Subsection (k) provides that chapter 313 does not apply to a prosecution under an Act of Congress applicable exclusively to the District of Columbia or the Uniform Code of Military Justice. See S. Rept. No. 97-307, pages 1212-1213.

Section 702 of the bill amends Rule 12.2 of the Federal Rules of Criminal Procedure to conform with chapter 313 of title 18, as amended by this title of the bill.

Section 703 amends section 3006A of title 18 of the United States Code to conform with chapter 313 of title 18, as amended by this bill.

TITLE VIII—SURPLUS FEDERAL PROPERTY AMENDMENTS

I. Introduction

Title VIII of the bill is designed to make it easier for the Federal government to transfer to the State and local governments surplus Federal property for use by the transferee for the care or rehabilitation of criminal offenders. It is identical to S. 1422 as passed by the Senate on May 26, 1982. See S. Rept. No. 97-322. The provisions are also in accord with Recommendation 56 of the Attorney General's Task Force on Violent Crime, which cited the transfer of surplus property for this purpose as a "significant opportunity for Federal involvement in easing State and local correctional facility overcrowding". Attorney General's Task Force on Violent Crime, Final Report, p. 79 (1981).

II. Section-by-section analysis

Section 801 of title VIII of the bill amends section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) to permit the Administrator of the General Services Administration to transfer or convey to a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or any political subdivision or instrumentality thereof, surplus property determined by the Attorney General to be required for a correctional facility by the transferee or grantee. Because of the knowledge of the Bureau of Prisons as to the appropriateness of particular facilities for particular corrections programs, the Attorney General rather than the Administrator of GSA would approve the transfer. The transfers under the provision would be made without charge to the State or local government receiving the property. If the property ceases to be used for the authorized purpose, it will revert, at the option of the United States, to the United States.

Section 802 of title VIII of the bill further amends section 203 of the Federal Property and Administrative Services Act of 1949 to require that the head of the transferring agency under the amendment made to section 203 by section 801 of the bill submit an annual report to the Congress showing the acquisition cost of personal property donated and of real property disposed of during the preceding fiscal year.

TITLE IX—MISCELLANEOUS CRIMINAL JUSTICE IMPROVEMENTS

Introduction

Title IX of the bill incorporates a number of additional improvements in the Federal criminal justice system, including the creation of new offenses, the expansion of existing offenses, and the revision of procedural provisions of Federal law.

Part A—Contract Murder

Section 901 would add two new sections, 1952A and 1952B, to title 18, United States Code, to proscribe contract murder. Although designed primarily for use in cases of murder-for-hire carried out at the orders of organized crime figures, section 1952A would also reach other such calculated murders. Section 1952A follows the format of 18 U.S.C. 1952, interstate travel in aid of racketeering. Section 1952 presently covers murder if the perpetrator traveled in interstate commerce to commit the murder, or used a facility of interstate commerce to commit it, and the crime was in furtherance of an unlawful activity involving offenses relating to gambling, untaxes liquor, narcotics, prostitution, extortion, bribery, or arson.

Section 1952A would reach the travel in interstate of foreign commerce or the use of the mails or a facility in interstate or foreign commerce (such as a telephone if used for an interstate call) with the intent that a murder be committed in violation of State or Federal law. The murder must be planned or carried out as consideration for the receipt of something of pecuniary value or a promise or agreement to pay something of pecuniary value. Both the person who ordered the murder and the "hit man" would be covered. If the victim is killed the punishment may extend to life imprisonment and a $50,000 fine, but lesser punishments are provided if the planned murder does not take place or the attempt results only in an injury to the victim.

Section 1952B is designed to deal with contract murders and other violent crimes by organized crime figures which do not involve interstate travel or other interstate facilities or are committed not for money but rather as a part of membership in a criminal organization. This section proscribes murder, kidnapping, maiming, serious assaults, and threats of violence committed as consideration for payment or promise to pay anything of pecuniary value from an "enterprise" engaged in "racketeering activity". "Racketeering activity" is defined as set forth in the RICO statute, section 1961, and "enterprise" is defined as an organization, group, or entity whose activities affect interstate commerce. The proposed section also covers murder, kidnapping, maiming, serious assaults, and threats of violence committed as a means of gaining entrance into or improving one's status in an enterprise engaged in racketeering activity. Attempts and conspiracies to commit these offenses are also covered. The person who ordered the offense could also be punished as an aider and abettor under 18 U.S.C. 2.

While section 1952B proscribes murder, kidnapping, maiming, assault with a dangerous weapon, and assault resulting in serious bodily injury in violation of Federal or State law, it is intended to apply to these crimes in a generic sense, whether or not a particular State has chosen those precise terms for such crimes. For example, section 120.10 of the Penal Code of New York provides that a person is guilty of assault in the first degree when "(1) with intent to cause serious physical injury to another person, he causes such injury or such person or to a third person by means of a deadly weapon or a dangerous instrument; or (2) with intent to disfigure another person seriously and permanently, or destroy, amputate, or disable permanently a member or organ of his body, he causes such injury to such or to a third person. . .". A person who committed such an offense in New York would violate the proposed new section if he acted for payment of anything of pecuniary value from an organization engaged in racketeer-

ing activity or for advancement in such an organization.

Part B—Administrative Forfeiture Amendment

Section 902 amends the Tariff Act of 1930 (19 U.S.C. 1202 et. seq.), which governs not only seizures and forfeitures under the customs laws, but also those under the narcotics laws to address the increasing problem of unmanageable backlogs of civil forfeiture actions in areas such as South Florida. The Tariff Act currently provides for the mechanism of administrative forfeiture as a means of quickly disposing of uncontested forfeitures. However, this mechanism is currently of little utility since it may be invoked only when the value of the seized property does not exceed $10,000, a dollar amount unchanged since the enactment of the Tariff Act. Presently, much of the property seized as the result of violations of the customs and narcotics laws has a value in excess of $10,000, and thus, even though the forfeiture of the property is uncontested, the property may be forfeited only after a judicial proceeding, a proceeding which, because of the backlog of civil cases in the Federal courts, may be delayed until more than a year after the property has been seized. Pending such judicial proceedings, the United States must bear the expense of storing and maintaining the property. Furthermore, much of this property consists of "wasting" assets whose value will decline substantially during the delay.

To address these problems, section 902 amends 19 U.S.C. 1607 and 1610, to permit the administrative rather than judicial forfeiture of personal property valued at less than $100,000, where such forfeiture is uncontested. In light of this increase, section 902 also amends 19 U.S.C. 1608 to increase the amount of a bond that is to be filed if a party wishes to contest a forfeiture of such property in a judicial proceeding from the current level of $250 to the greater of $250 or ten percent of the appraised value of the property.

Part C—Arson

Section 903 amends two subsections of section 844 of title 18, United States Code, to resolve a problem that has impeded the use of that section in major arson cases. Section 844 deals with the criminal misuse of explosives. Section 844(i) presently proscribes the destruction of property used in or affecting interstate or foreign commerce by means of an explosive. Section 844(f) prohibits the destruction by means of an explosive of property of the Federal government or of an organization receiving Federal financial assistance.

Section 944(i) has been successfully used as a basis for prosecution in some arson cases where gasoline or another flammable liquid has been employed. An ignited mixture of air and gasoline vapor has been held to be an "explosive" within the definition applicable to 844(f) and 844(i). See, e.g., *United States* v. *Agrillo-Ladlad* and *United States* v. *Fleming*, Nos. 80-2822 and 80-2826 (7th Cir., Apr. 14, 1982) and cases cited therein. But the Ninth Circuit has refused to apply section 844(i) in this type of case. *United States* v. *Gere*, 662F.2d 1291 (9th Cir. 1981). Moreover, demonstrating that a particular "torching" of a building was carried out by means of such an explosive is often difficult and time consuming. Section 903 would overcome these problems by amending 18 U.S.C. 844(i) to cover damage to property used in or affecting commerce by means of fire as well as by an explosive, and by amending 18 U.S.C. 844(f) to cover destruction of Federal property by fire or explosive.

Part D—Electronic Surveillance Amendments

I. Introduction

Part D is identical to S. 1640, as passed by the Senate on March 25, 1982, and amends Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. 2510 et seq.), the provisions of current law which govern electronic surveillance, to achieve two distinct purposes: First, to establish uniform procedures for the use of surreptitious entries to install court authorized electronic eavesdropping devices, and second, to provide for emergency interceptions of wire or oral communications in life-endangering situations. See S. Rept. No. 97-319, for an extensive discussion of the need for these provisions.

Surreptitious entry

In *United States* v. *Dalia*, 441 U.S. 238 (1979), the Supreme Court held that neither the Fourth Amendment nor Title III required specific court authorization of a surreptitious entry necessary to install an interception device to effect a court ordered interception of communications. Nonetheless, the Court stated that the "preferable approach" would be for Government agents to make explicit to the court their expectation that an entry would be needed to carry out the surveilliance, and noted with approval a Department of Justice policy, still in effect, which requires not only that an application for a Title III order indicate whether a surreptitious entry is expected, but also that specific authorization of such an entry be included in the court's order. The provisions of Part D essentially incorporate this long-standing policy of the Department of Justice.

Life-endangering exception

Generally, Title III requires prior court authorization of an interception of communications. However, 18 U.S.C. 2518(7) permits an interception without such prior authorization in two types of emergency situations when there is not time to obtain a court order: those involving either "conspiratorial activities threatening the national security" or "conspiratorial activities characteristice of organized crime". The absence of similar specific authority to intercept communications in emergency situations in which there is an imminent threat to human life has been of grave concern to law enforcement authorities. Part D would amend 18 U.S.C. 2518(7) to provide such authority.

As noted in the Senate Report on S. 1640, a spokesman for the Department of Justice testified about past and future situations in which the need for such emergency authority was and would be necessary:

"Situations have arisen and may arise in which terrorists or felons, while holding hostages, use an available telephone to arrange with associates a strategy to force action on their demands or a plan of escape. Similarly, there may be situations in which plans for an imminent murder are learned, but the location or identity of the victim is unknown or law enforcement authorities are otherwise unable to take measures to assure his safety. In such situations, the interception of communications may be necessary to protect the lives of the hostages or victims, yet time for obtaining a court order may not be available." (S. Rept. No. 97-319, p. 7.)

The FBI also provided a number of case studies illustrating the need for the emergency life-in-danger amendment which are set out in note 37 of the Report.

II. Section-by-section analysis

Section 904 amends 18 U.S.C. 2510 to include a definition of the term "surreptitious entry". "Surreptitious entry" is defined to mean a "physical entry upon a private place or premises to install, repair, reposition, replace, or remove" an eavesdropping device, and includes both covert entries and entries effected by ruse or subterfuge.

Section 905 amends 18 U.S.C. 2518(1) to require that an application for an order authorizing the interception of communications specify whether a surreptitious entry will be required to carry out the order, and would thus alert the issuing judge to the fact that a surreptitious entry was anticipated.

Section 906 amends 18 U.S.C. 2518(4) to require that the court's order authorizing an interception state whether a surreptitious entry is authorized to effect the order and identify the agency authorized to make the entry.

Section 907 amends 18 U.S.C. 2518(7) to add to the bases for an interception of communications without a prior court order (currently limited to emergency situations involving conspiratorial activities characteristic of organized crime) emergency situations involving an "immediate danger of death or serious physical injury to any person". As under the existing emergency interception provision, an interception based on such life-endangering circumstances would be permitted only if the grounds for obtaining a court ordered interception exist and an application for such an order is made within forty-eight hours. This amendment is in accord with the established principle that the existence of exigent circumstances requiring immediate action is justification for conducting a warrantless search. There is no reason why the same principle should not also apply in the area of interception of communications, particularly in view of the narrowly drawn basis for emergency authorization set forth in this amendment. Certainly, an immediate threat of danger to human life is an equally, if not a more compelling justification for emergency interception than the current statutory basis set out in 18 U.S.C. 2518(7).

This section also makes it clear that an emergency interception authorized under 18 U.S.C. 2518(7) may include a surreptitious entry.

Section 908 amends 18 U.S.C. 2519 which requires that certain information concerning Title III interceptions be reported to the Administrative Office of the U.S. Courts. The amendment adds the requirement that information regarding surreptitious entries be included in these reports.

Section 909 corrects the paragraph references in 18 U.S.C. 2519(2) to reflect the addition of a new section 2519(1).

Part E—Juvenile Delinquency Amendments

I. Introduction

Part E of title IX makes several amendments to the juvenile delinquency chapter of title 18, United States Code.

II. Section-by-section analysis

Section 910 lowers from eighteen to seventeen the age at which act that would be considered a crime if committed by an adult is to be considered to be an act of juvenile delinquency.

Section 911 amends 18 U.S.C. 5032 to provide that the provision relating to deferral of juvenile prosecutions to State authority does not apply to an offense that is a felony if there is a substantial Federal interest in the case or the offense that warrants the exercise of Federal jurisdiction. This amendment was recommended by the Attorney General's Task Force on Violent Crime. The Task Force Report indicates, at page 83, that it believes that the Federal government "should have the opportunity to prosecute those individuals, be they adults or juveniles, who violate Federal law".

Section 911 also amends section 5032 to permit adult prosecution of anyone over fourteen who is charged with a crime of violence or an offense described in section 841, 952(a), 955, or 959 of title 21, United States Code, relating to drug trafficking. Under current law, a person may be charged as an adult only if he is over 16 and is charged with an offense punishable by ten years or more in prison, life imprisonment, or death.

Section 912 amends 18 U.S.C. 5038 to permit the fingerprinting and photographing of a juvenile for law enforcement purposes.

Part F—Kidnapping of Federal Officers

Section 913 amends 18 U.S.C. 1201 to cover the abduction of a Federal officer listed in 18 U.S.C. 1114, if the crime is committed while the victim is engaged in his official duties or on account of his official duties. Presently only murder and assault on these persons are Federal offenses and kidnapping would not be covered unless the victim happened to be transported in interstate commerce or the offense was committed in an area of special Federal jurisdiction. The amendment also complements the amendment contained in Part G, which proscribes the murder, assault, or kidnapping of family members of Federal law enforcement officers and high level Federal officials if the offense is committed to impede or retaliate against the Federal officer or employee because of his official duties.

Part G—Protection of Families of Federal Officials

Section 914 adds a new section 115 to title 18 of the United States Code to make it a Federal offense to commit or threaten to commit a murder, kidnapping, or assault upon an immediate family member of a Federal judge, Federal law enforcement officer, or certain high-level Federal officials if the purpose of the attack is to impede, interfere with, intimidate, or retaliate against the Federal employee on account of his official duties. Since it would be an element of the new offense that the act was done because of the official duties of the employee, the section represents no real expansion of Federal jurisdiction. The scope of the offense is linked to acts done with a purpose to obstruct or retaliate against Federal officials because of their job-related responsibilities—acts for which a State or local jurisdiction might lack the necessary degree of interest to vindicate the crime and for which Federal jurisdiction is thus appropriate.

The subjects of the new offense are family members—spouse, parent, brother, sister, child, and other relatives of the official who actually live in his household—of those government employees and officers most likely to be subject to attacks by terrorists or other criminals in an attempt to interfere with vital functions of the government and the administration of justice, namely law enforcement officers, the President, Vice President, Members of Congress, Cabinet officers and Federal judges, including Supreme Court justices. In part this section complements title IV of this bill, which protects Supreme Court justices and Cabinet officers themselves by making attacks on their persons a Federal crime.

Part H—Destruction of Motor Vehicles

Section 916 amends the definition of "motor vehicle" in 18 U.S.C. 31, the section that defines the term as it is applied in 18 U.S.C. 33, which proscribes the destruction of motor vehicles or the disabling of a driver of a motor vehicle. Presently "motor vehicle" means any device used for commercial purposes on the highways for the transportation of passengers or passengers and property. It does not include vehicles used to transport only cargo. Another statute which does cover the actual or attempted destruction of cargo moving in interstate commerce, 15 U.S.C. 1281, is restricted to the destruction of the cargo itself. Thus, there is no Federal coverage of a sniper who shoots at a cargo truck since the truck carries only cargo which usually is not destroyed. The amendment would close this gap by expanding the definition of "motor vehicle" to include a vehicle used for carrying "passengers and property, or property or cargo."

Part I—Currency and Foreign Transactions Report Act Amendments

I. Introduction

Part I would amend various sections of chapter 21 of title 31 of the United States Code to strengthen the ability of law enforcement authorities to stem the illicit flow of currency involved in narcotics trafficking and money laundering schemes often associated with organized crime. The chapter presently provides for the filing of reports relating to certain large-scale domestic currency transactions, and to the importation or exportation of monetary instruments—generally cash or the equivalent—in large amounts.

II. Section-by-Section Analysis

Section 916(a) raises the civil penalty authorized in 31 U.S.C. 1056 for a willful violation of the chapter by a financial institution or a participating officer or employee from $1,000 to $10,000.

Section 916(b) raises the criminal penalty for a willful violation of the chapter from its present misdemeanor level to a felony with an authorized punishment of five years' imprisonment and a $50,000 fine, or both.

Section 916(c) amends 31 U.S.C. 1101(a), which currently requires a report to be filed by a person who transports monetary instruments of $5,000 or more into or out of the United States. First, it would raise the reporting requirement to those transporting $10,000 in recognition of the fact that legitimate tourists today may carry more than $5,000. Second, it would add a reporting requirement for those who attempt to transport the larger amount. Presently there is no attempt provision. As a result, court decisions have held that as to transporting currency out of the country the statute is not violated until the person has actually departed the United States. At that point Federal arrest authority is generaly lacking.

Section 916(d) amends section 1105 of title 31 by allowing a customs officer to make a warrantless search of a vessel, vehicle, airplane, or person entering or departing from the United States if he has reasonable cause to believe the conveyance or person is transporting monetary instruments in violation of the reporting requirements of section 1101. Warrantless border searches of persons and conveyances entering the United States have long been judicially sanctioned. This subsection extends this type of search to outgoing traffic. The only court which has squarely considered this question concluded that the similarity of incoming and outgoing border searches compelled a holding that a warrantless search on less than probable cause was proper. *United States* v. *Stanley*, 545 F.2d 661 (9th Cir. 1976), cert. denied, 436 U.S. 917 (1978).

Section 916(e) authorizes rewards for persons who provide information which leads to a fine, civil penalty, or a substantial forfeiture for a violation of the currency reporting laws.

Section 917 adds currency reporting violations to the definition of "racketeering activity" in 18 U.S.C. 1961(1), thereby making United States Code title 31 crimes predicate offenses for a RICO prosecution.

Part J—Pharmacy Robbery

Section 918 adds a new section 2118 to title 18 of the United States Code to proscribe the taking of certain narcotics, amphetamines, or barbiturates from a pharmacy or from a registered manufacturer, distributor, or dispenser of controlled substances by force, violence, or intimidation. See S. Rept. No. 97-307, pages 674-675.

Part K—Solicitation to Commit a Crime of Violence

Section 919 adds a new section 373 to title 18 of the United States Code to proscribe the offense of solicitation to commit a Federal crime of violence. This section is of principal utility in a situation where a person makes a serious effort to induce another to engage in activity constituting a crime of violence but is unsuccessful in doing so. The solicitor is clearly a dangerous person and his act merits criminal sanctions. Yet at present there is no Federal law that prohibits solicitation generally, although solicitation offenses are common in modern State criminal codes and a solicitation offense was included in the proposed Federal criminal code reform bill. See S. Rept. No. 97-307, pages 179-186.

Only solicitation to commit a crime of violence is covered by the amendment. "Crime of violence" is defined, in a new 18 U.S.C. 16, as a crime that has an element the use or attempted use of physical force against another's person or property, or any felony that involves a substantial risk that physical force will be so used. Thus, although the new offense rests primarily on words of instigation to crime, what is involved is legitimately proscribable criminal activity, not advocacy of ideas which is protected by the First Amendment right of free speech.

Part L—Felony-Murder

Section 920 amends the felony-murder portion of the Federal murder statute, 18 U.S.C. 1111. Presently, premeditated murder is murder in the first degree. Under common law, a murder committed during a common law felony was held to be committed with a sufficient degree of malice to warrant punishment as first degree murder, but section 1111 only applies the felony-murder doctrine to killings committed during an actual or attempted arson, rape, burglary, or robbery. The amendment would expand the list of underlying offenses by adding escape, murder—for example if the defendent acts in the heat of passion in an attempt to kill A but instead kills B—kidnapping, treason, espionage, and sabotage, since these crimes also pose as great, if not

greater, danger to human life as the four presently listed.

Part M—International Year Against Drug Abuse

Section 921(a) states that it is the sense of the Congress that the President is urged to promote a declaration by the United Nations of an International Year Against Drug Abuse. The statement of the sense of the Congress follows congressional findings that the problems of drug abuse continue to worsen in most parts of the world, that the number of drug abusers has risen and abuse has spread geographically, that the types and quantities of drugs abused has expanded, and that a declaration by the United Nations of an International Year Against Drug Abuse would be a catalyst for international action against the problem.

Section 921(b) requires that the Secretary of the Senate transmit copies of the resolution to the President.

Part N—Distribution of Drugs Near Schools

Section 922 enacts a new section 405A of the Controlled Substances Act to provide, in subsection (a), that, if a person is convicted of distributing a controlled substance in or on, or within one thousand feet of, a public or private elementary or secondary school or its premises, he will be punishable by imprisonment or a fine that is twice that provided in 21 U.S.C. 401(b) and by a special parole term that is twice that authorized for a first offense involving the same controlled substance and schedule.

Section 405A(b) provides that, if the offense is a second offense, the person is punishable by a term of imprisonment of not less than three years and not more than twenty years and at least three times the special parole term authorized for a second or subsequent offense under section 21 U.S.C. 401(b).

Section 405(c) makes the sentence under subsection (b) mandatory and makes the offender ineligible for parole until he has served the minimum specified sentence.

Subsections (b), (c), and (d) of section 922 of this part contain conforming amendments.

Part O—Budget Act Requirements

Section 923 contains a provision to ensure that the bill conforms to the Budget Act requirements.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield myself as much time as I may need.

Mr. President, as a Member of this body for 10 years, and having practiced law prior to coming here, particularly in the criminal courts, it seems as though I have spent the majority of my adult life dealing with the issues we are going to be discussing here today.

We have a great problem facing us today, and it is not merely reflected in the statistics that the Senator from South Carolina read to us today. It is a problem that relates to the American public—whether or not they believe anything we do makes any difference in this area, and also whether or not the American public believes any of it makes any difference. That is important for reasons I hope to fully expand upon adequately as we move on.

I am convinced that drug abuse and crime are as grave a threat to our national security as any foreign threat we face.

Unfortunately, as I indicated, I believe public opinion and we in public office, in fact, are somewhat skeptical about whether or not we can do anything about this problem.

When you see an elderly woman and a small child on the late news learning to shoot a .30 caliber pistol at a firing range for their self-protection or you examine the multibillion-dollar personal security market that has come into being in the last decade or you realize that over 50 percent of all the crimes committed are never even reported to the police. It is clear that the American public doubts its Government's ability to deal with the rising crime rate.

In this Chamber we are required to understand that making promises about ending crime or eliminating drugs are promises that we just cannot accomplish, that we must instead begin by making some small but positive steps toward reducing crime and diminishing drug availability in this country.

We are promising to solve the crime and drug problem overnight only if we engage in the rhetoric of the past decade and a half, which I hope we will ignore today on the floor of the U.S. Senate. Promising to solve them overnight only reinforces the public's view that we have nothing to offer to this serious problem but rhetoric.

Before I discuss some of the immediate steps which I believe, along with my colleague from South Carolina, should be taken to improve our crime-fighting efforts, let me give you some of the facts about how devastating the problem is we are talking about.

I should also note at this juncture that traditionally this Chamber has been divided between those who believe the answer to the crime problem is to eliminate the fourth or fifth or sixth or eighth amendment, and those who suggest that the problem is not as serious as we think it is, and if we just do something about unemployment all will be well.

So I think we should look at some of the facts. As Senator THURMOND said, 3 in every 10 households in America were affected by crimes involving theft or violence last year. Three in ten.

U.S. families are more prone to have a member of their family attacked in a serious violent crime then they are to have a residential fire or have a family member injured in an automobile accident.

The violent crime epidemic has increased by 33 percent since 1975, and 90 percent of all victims of robberies in 1980—the last accurate statistics we have, which equals 548,000 such people—90 percent of these victims of robberies resulted in some form of physical injury.

The crimes of burglary and robbery alone cost over $8 billion a year, in damage and in loss of property, and 75 percent of the property stolen is never recovered.

The Harris and Gallup polls show that people believe crime is worse in their neighborhoods, with 68 percent of them saying that crime is on the upswing. In 1978, only 48 percent of the people responded in the affirmative to that question, a 20-percent increase in the perception that crime is on the upswing in their individual neighborhoods.

Another Harris poll—and I am aware of Disraeli's admonition, that there are three kinds of lies, lies, damn lies, and statistics. Of course, polls are sort of the third kind of lie, but they do lend some credibility to the direction in which we are going. In a Harris poll, 48 percent of the people feel personally unsafe on the streets in their neighborhoods compared to 40 percent saying that in the year 1978.

A study of the Temple Medical School revealed that 243 heroin addicts committed over one-half million crimes in an 11-year period.

Their study demonstrates that the frequency of their offenses was far greater when they were actually on drugs than when not addicted.

Eight out of every ten Americans in a sample survey on public attitudes agreed that the criminal justice system does not know how to rehabilitate, and one-half believe current sentencing policies do not serve as a deterrent to future crime.

The real cost of crime is the physical and mental anguish that victims, family members, and their friends suffer. There are no statistics or dollar figures that put into perspective the psychological damage and the fear that results from having our home or our office invaded or by being physically harmed as a victim of crime.

As many law enforcement and criminal justice experts know, more than 94 percent of the crimes committed in this country fall within the jurisdiction of the State and local agencies. Therefore, we in the Federal Government are often viewed with skepticism as we rant and rave about crime and how bad it is and what we are going to do about it.

Having worked on this issue for 9½ years in this Chamber, I do believe that there is a legitimate Federal role and a responsibility in addressing the crime problem, notwithstanding the fact that only 6 percent of the kind of crime we are concerned about falls within the direct jurisdiction of the Federal Government.

The place where the Federal Government should focus its law enforcement resources—and I believe this package does—is in going after drug traffickers and organized crime and in

setting up models to which the States can refer. These two areas of crime—that is, drug trafficking and organized crime—not only cross State lines but involve international issues.

And I should also note at this point, Senator NUNN is on the floor and his investigative subcommittee in Government operations, with which I have worked for some time now, has highlighted the pernicious impact of organized crime on the entire crime picture in this country.

The interstate operations of organized crime have become so large, so well organized, and so grotesquely profitable that they threaten the public welfare and legitimate commerce on a national scale. S. 2572, the so-called Violent Crime and Drug Enforcement Improvements Act of 1982, tries to deal with many of these issues.

With these two issues in mind—that is, drugs and organized crime—I would like to discuss very briefly several initiatives that are included in this bipartisan crime package.

It seems as though we have had a number of people who began to focus more and more on this issue as a consequence of the diligence of the chairman of the full committee and the persistence over the last several years of the Senator from Florida, Senator CHILES.

The bill is now endorsed by more than 60 Senators from both sides of the aisle. It incorporates many well thought-out crime fighting initiatives that many of us have been working on for years.

Of particular importance are initiatives that focus on bail reform. I became acutely aware of the problem of the bail system when it was brought to my attention several years ago by the Senator from Florida. The Senator from Florida happens to represent a State that has significant problems with drug trafficking. He came to me to say we had to do something about drug traffickers that are jumping bail; it is epidemic and we have to have some means by which we can contain them beyond dollars.

So what we attempt to do here in this initiative is to see to it that we can focus on truly reforming the bail system on the question of career criminals. The small group of people who commit a large group of crimes know that they exist statistically, but we have not done much about it legislatively.

Forfeiture of narcotics profits is essential. The Senator from south Florida keeps bending my ear, and the ear of anyone who will listen, to say that unless we go at the assets of big-ticket narcotics organizations, we are not going to have much impact. The bill strengthens forfeiture provisions of current law.

In the area of violence and intimidation by organized crime the Senator from South Carolina and the Senator from Georgia, particularly the Senator from Georgia, have made a phenomenal record of showing the need for the Federal Government to be involved.

Mr. President, 12,000 questionnaires were sent to criminal justice professionals all across the country by myself and Senator THURMOND. They range from policemen to criminologists. The response to these questionnaires has been extraordinary, with over 4,000 of these detailed questionnaires filled out and returned to the Senator from South Carolina and me.

Mr. President, because so many of the responses relate directly to the issues included in this bill, I ask unanimous consent that the table of figures that compile the results be printed in the RECORD at this time also.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CRIME AND DRUG QUESTIONNAIRE

[In percent]

	Favorable	Not sure	Unfavorable
1. In order to effectively combat our national drug problem, the Federal Government should:			
Work on stopping cultivation and production of drugs abroad	69	17	13
Focus resources on the larger organized traffickers	97	2	1
Set higher bail and stiffer sentences for drug traffickers	92	5	3
Seize assets of organizations and individuals convicted of drug trafficking	89	8	3
Spend more resources on successful treatment programs for addicts	58	20	21
2. The Federal Government should provide assistance funds for states and cities to build or improve our jails and prisons	74	9	18
3. Federal assistance to state and local criminal justice agencies is necessary if we are to find new successful crime fighting and crime prevention techniques	80	8	11
4. I am just as concerned about the crime problem in this country as I am about our military readiness and national defense	93	2	5
5. Active participation by citizens and businesses in carrying out crime prevention helps reduce crime	93	2	5
6. The only sure deterrent we know to crime is swift and certain punishment	71	14	16
7. I support the continuation of the juvenile justice and deliquency prevention program	77	16	7

Mr. BIDEN. Mr. President, we have, I suspect, a long day. There are many issues that are going to be discussed and debated, most of which I believe the Senate will work its will on fairly rapidly. But before we move to the first amendment, and before others make their opening statements, let me conclude by saying I wish to thank the Senator from South Carolina. He has been the quintessential gentleman.

There are many things he would like in this package that we believe might hinder the progress of a substantial piece of anticrime legislation passing through this body and moving on over to the House of Representatives hopefully for action. And he has refrained from that, and I suspect at some political cost, by agreeing to the unanimous-consent request.

I would also like to thank personally the Senator from Florida and the Senator from Georgia for being so persistent and, I believe, as a consequence of their persistence, very helpful in moving this body to entertain this bill. Many provisions of it were included in the package that the Senator from Florida and the Senator from Georgia previously drafted.

So, all in all, I think we have had great cooperation thus far. I guess it is like giving the benediction before the fight has begun, but I am confident that we will see to it that the cooperation that has occurred from both sides of this aisle does not go for naught here today. I look forward to debating and discussing many aspects of these amendments.

Mr. President, I am prepared to yield time to the Senator from Florida if he wishes to make an opening statement at this time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I thank the distinguished Senator from Delaware. I appreciate his kind remarks. I want to pay tribute to the Senator from Delaware and the Senator from South Carolina, the distingusihed chairman of the Judiciary Committee, who have worked so long and so hard to bring this package together.

This is a package that is a happy day for the Senator from Florida and the Senator from Georgia. We have been on the Senate floor for over 4 months now speaking every day, trying to get the Senate to take up these particular bills. I think that we made some 82 speeches so far. I have never felt that, on the day that we got these bills to the floor, we would have that much difficulty in passing them.

I have always felt that the difficulty was more in trying to see that we got significant elements of a major package together so that we could have some impact and that we were able to get those out of the different committees where they might be resting, or the subcommittees, and get them to the floor.

I think by being able to put together the package of bills that Senator NUNN and I helped to put together, we tried to show the way to use the rules to go with a bill directly to the calendar. I am delighted to see S. 2572 follow that. I helped to put that bill on the calendar. Now, today, I think we are going to get a chance to take up that bill. I feel that we began to have some success last year when we were able to amend the bill amending the posse comitatus, allowing the military to share its intelligence devices, equipment, and information-gathering devices. We are already seeing a healthful result of that bill in south Florida, having the Navy Hawkeye planes giving us radar cover.

Last year, we were able to remove the prohibition against the use of entering into agreements with other

countries that are receiving foreign aid from the United States to try to get them to enter into spray agreements and to use herbicides in order to control marihuana.

Hopefully, with the new President of Colombia, we might have some chance of moving with that.

Last year we had that success and this year, through the persistence of the Senator from Georgia and others, primarily through the work that he has done, we were able to move the bill amending the Privacy Act and the Tax Reform Act which allowed the IRS to come into the act. We passed that in the Senate last year on the tax bill. We failed to be able to get the House to concur with that. But this year in the tax bill it went in and it is now the law. So that change has been made.

So those successes have been made. I think we now have an opportunity to strike another major lick if we can pass this comprehensive package or a package containing bills like S. 2572. I think it is essential that we finally do get a chance to work on that today.

I trust that we are going to be able to pass it. I think it will pass overwhelmingly once it gets to the floor. Suddenly it seems to be popular and you can get it passed. But it has been a long fight in trying to get that bill to the floor, and still we will have to try to see that we get action in the House. That, again, will be a problem in getting that done.

This has been a bipartisan effort. I am delighted to see the work that the Judiciary Committee has done. I am delighted to see the Senator from Alabama on the floor because he has had strong initiatives in pushing many of these bills. I know that this is a good day for him, too, to see efforts he has been making in his capacity as a member of the Judiciary Committee and the introducer of parts of the package of this bill coming to fruition.

Mr. President, I rise today in strong support of S. 2572, the bipartisan crime fighting bill. As an original sponsor of the bill, I am absolutely delighted that the bill is now before the full Senate for consideration. I believe that there are few issues more deserving of our attention than the issue of fighting crime, curbing drug trafficking, and reforming our criminal justice system.

Earlier this year, and over the past few months, I had become increasingly concerned and alarmed that the Senate would not act on a crime fighting package of bills this session. Time was slipping away. In May, I introduced a package of crime fighting bills and since that time, Senator Nunn and I have spoken out on crime each day that the Senate has been in session, some 82 speeches so far. But time continued to pass. Since the time that S. 2543 and S. 2572 were placed on the Senate Calendar, the Senate has been in session some 59 days. Since a time agreement was reached which framed the debate for S. 2572, the Senate has met on 41 days. During that time, the Senate has considered a number of important matters, including the budget reconciliation bill, the tax bill, and the debt ceiling bill. In fact, during that time, the Senate has actually passed 122 separate bills and proposals. Some of those, like the matters I just mentioned, were very important, while others required little or no debate. However, while it is difficult to compare priorities, I do believe that doing something about crime and court reform must be a national priority second to none. I would have been deeply disappointed had we not taken action on this crime fighting bill. As it is, I am delighted that we are now moving ahead with our consideration of it.

If we pass this bill today, however, we will be able to send it over to the House, and hopefully work with the House to assure that these reforms are enacted into law.

The fact that this bill has received such broad support—a total of 54 Senators have sponsored it—shows that there is a deep and strong commitment here in the Senate to fighting crime. That commitment here in the Senate is a reflection of the public concern over crime and violence and drug trafficking. I know the people of my home State of Florida no longer are willing to let violence ruin their neighborhoods and towns, or let drugs ruin the lives of their children. They are ready to act to fight crime, and they expect us as their elected officials to join with them in that fight. By acting on this bill today, we will show them that we have heard their voices and that we stand with them in their fight. Equally important, we will be strengthening our laws to help our law enforcement authorities to track down criminals, to make sure that those who are arrested are unable to escape justice by abusing laws designed to protect the innocent, and to establish penalties that will deter would-be lawbreakers and make sure that convicted criminals are not back out on the street with little more than a slap on the wrist.

Most importantly, the provisions of this bill will help curb the illegal drug trade, and break up the organized crime rings that use violence and coercion to maintain and expand their control. The experience of my home State of Florida in recent years has shown how crime, violence, and illegal drugs are intertwined. The crime rates in Florida have soared over the last several years: Miami is now the murder capital of the United States and three of the eight most crime-ridden cities in the United States are located in Florida. At the same time, Florida has become the Nation's port of entry for a tide of illegal drugs, with an estimated 70 percent of the marihuana and cocaine that comes into the country flowing in through Florida. Are these two developments related?

Mr. President, I think that there is no doubt that they are related. Back in late 1978 and early 1979, the Senate Permanent Subcommittee on Investigations began investigations into the illegal drug trade, investigations which ended up in a series of hearings focusing on the drug traffic in south Florida. These hearings revealed not only the alarming quantity of the traffic; they also showed that the traffic was controlled by organized crime rings which are able to use the enormous profits made on drug sales to get their way. Those who can be corrupted are bought off, and those who cannot be corrupted are simply eliminated by hired killers. The men at the top of the crime rings, the money men, could not be reached because they put layers of people between them and the actual drugs and violence. They moved their narcotics profits out of the country, laundered them in offshore banking havens, and then brought them back in and used them to compete against legitimate businesses, or else to buy up anything in sight. A real estate economist showed that drug money was actually driving up the rate of inflation, especially in the real estate market. The findings we made in these hearings, as well as in other hearings and investigations by other committees, made it possible to outline the strategy for an attack on crime and drug smuggling.

I and other Senators began to introduce proposals to start putting this strategy in place. We introduced legislation to get the military involved in helping track down drug smugglers. We introduced a bill to allow the IRS to assist other Federal law enforcement officials in breaking up sophisticated organized crime operations. We introduced proposals to reform our bail laws and increase criminal penalties for the big time drug operators. We introduced legislation but nothing happened. Somehow the crime problem was just not important enough to get to the top of the committees' agenda. Sure, we are all against crime but the Congress always seemed to have more pressing matters to attend to.

Fortunately, the people saw it differently and though it sometimes takes awhile, our legislative branch does follow the demands of the American public. Over this long haul we faced in getting action, I have seen an important new phenomenon develop. In my State and across the country I have seen the development of a persistent and growing voice to do something about the crime epidemic. It might be

said that we now have a "lobby" against crime. State and local law enforcement officials who fight the criminal element every day have become active proponents for crime fighting legislation. Individual citizens are not just getting concerned, they are getting organized: Becoming involved in the legislative process and demanding that Congress act. I have seen all segments of the community in Dade County, an area beseiged by crime, join together and bring their many resources to bear on getting congressional action. Business and community leaders in my State have taken the initiative of contacting their counterparts throughout the country to urge their involvement in this campaign. If the Congress discharges its responsibility and sends this package to the President, all these citizens can take pride in a difficult job well-done.

The strategy we have worked on for the past several years called for an attack on drugs and crime on several different fronts. First, we needed to do something to cut off the flow of drugs into the United States. Second, we needed to have the tools to attack the criminal organizations that controlled the drug traffic. Third, we needed to make sure that we had penalties in place to assure that those drug dealers and criminals who are arrested come to justice.

Fortunately, we have been able to make progress on the first front. Last year, Congress passed two important measures that will help cut off the flow of drugs into the United States. The first was a bill that I authored. It lifted the restrictions on the use of American foreign aid money for crop eradication programs overseas, on drug crops in the countries where they are grown. Already, Colombia has used some of the money which became available through the passage of this new law to purchase equipment that was instrumental in a massive drug campaign, Operation Tiburon, earlier this year. Operation Tiburon was able to intercept 6 million pounds of marijuana. The other proposal was an amendment to the posse comitatus laws, an amendment which will allow the military to pass on information it picks up about the location of drug smuggling planes and ships to law enforcement authorities.

On the second front, breaking up the criminal organizations, we have seen some signs of progress. Last year, the Senate approved an amendment to the Tax Reform Act of 1976 which will enable the Internal Revenue Service to get fully involved in the fight against crime. IRS participation is absolutely critical in reaching the money men at the top. The House did not see fit to adopt the proposal we in the Senate passed last year. However, earlier this year, we were able to reach agreement on a new version of this proposal with key Members in both the House and the Senate. Just last month, this new version of the IRS reform proposal passed both Houses of Congress, and became law.

More remains to be done in this second front of our attack on crime, and I am pleased to note that several of the provisions in S. 2572 will help us fight organized crime, and arrest the money men at the top of the rackets. The most significant proposal is contained in title VI of S. 2572. It provides for more effective criminal forfeiture laws, and we have come to see that criminal forfeiture is the best way to immobilize a criminal organization. Today, we have learned that the arrest of a member of a crime ring, even of the top member, will not stop the criminal activities of the ring. Others are ready to step in and keep the operation going, or in some cases, the crime ring is simply run from prison. The way to stop the activities of the ring is to take away its assets: Its ships, its planes, and the cash it uses to finance its operations. Title VI of S. 2572 strengthens today's forfeiture laws, and makes it clear that forfeiture applies to the proceeds of criminal racketeering activities and to all major drug-smuggling cases. If we put this law on the books, it will be of invaluable assistance to our law enforcement authorities and our prosecutors in breaking up criminal organizations. Other provisions which will help fight organized crime include provisions similar to those in title I of S. 2543, the crime bill Senator NUNN and I introduced. Specifically, they provide for Federal jurisdiction over murder-for-hire cases. An essential tool in fighting the violence that organized crime relies on to get its way. Another provision makes needed changes in our currency reporting laws, changes which will help stop money laundering operations. It is similar to a proposal that I and the other members of the Senate Permanent Investigations Subcommittee sponsored last year, and it will help us stop the corruption that the laundering of drug money creates and enable us to track down the money men who run the drug operations.

Finally, a provision that will help fight organized crime is the improved witness protection program established in title II of S. 2572. It recognizes that organized crime often uses violence or the threat of violence, to intimidate those who would come forward to give testimony which can be used to break up crime organizations. Accordingly, the bill provides for better protection for those who do come forward to testify, and it imposes tough criminal penalties on anyone who tries to intimidate a victim. These improved protections will help us break up criminal organizations.

The third prong of our attack on crime and drugs focuses on the criminal justice system, and on what happens to a criminal once he is arrested. It has become evident that today's criminal justice system is tilted in favor of the criminal on trial, and against the victim of crime and society in general. It is no surprise that 70 percent of the American public has little or no confidence in the ability of our present criminal justice system to convict and sentence criminals. It is in this area where the reforms in S. 2572 have their greatest impact. It calls for reforms in our court system that will restore the balance between the individual and society at large, a balance that will help assure a fair trial for anyone accused of a crime, but will also make sure that the guilty are not able to avoid justice by relying on legal loopholes designed to protect the innocent. Title I of S. 2572 reforms our bail laws, and allows the person making a bail determination to consider whether the release of the arrested person on bail would pose a danger to the community. Today, judges are unable to consider that important issue in making bail determinations. Instead, they are required to focus solely on whether the defendant is likely to show up for subsequent court proceedings, no matter how dangerous he might be. The Chief Justice of the U.S. Supreme Court in a report on the state of the Federal judiciary, underscored this problem with our bail laws. He cited studies which showed that, in the District of Columbia, the percentage of people arrested who were out on release at the time of arrest, either on bail or on probation, was 28 percent of all those arrested. We need to make sure that our bail laws do not inadvertantly put dangerous criminals back on the streets to commit more crimes. One other key provision of the bail reform aspects of S. 2572 relate to persons arrested on drug charges. In my home State of Florida, drug dealers who have been arrested use the bail laws as their ticket to freedom. No matter how high bail is set, they will pay it and then simply never show up for later proceedings. In fact, a recent report compiled by the Administrative Office of the U.S. Courts showed that in Federal courts in south Florida, one out of every six persons arrested on drug charges pays bail and then disappears. Moreover, the average amount of bail set for those who ultimately jump bail is over $74,000. The bail reform provisions of S. 2572 will help close this revolving door situation by allowing judges to consider all persons arrested on major drug trafficking charges as a danger to the community for purposes of a bail release determination. Equally important, it enables judges to force persons to show where the money that they plan to use for bail came from. This provision, which is similar to a bill that my colleague

from Florida, Mrs. HAWKINS and I introduced, will prevent drug dealers from using their narcotics profits to buy their way out of jail.

Other provisions of S. 2572 create new and tougher penalties for drug trafficking. These penalties are needed to assure that those convicted on drug trafficking charges serve a penalty that is proportionate to the crime they committed, and to deter would-be criminals from getting involved in the drug trade.

Today's penalties simply are not tough enough. We need new penalties in order to wage a more effective war on drug trafficking and violence. Needless to say, I am pleased because these increased penalties are similar to the ones established in title 3 of S. 2543, the crime fighting package that Senator NUNN and I introduced. In addition, the bail reform procedures in this bill, especially the provision that allows for consideration of danger to the community in a bail release determination, take an approach similar to the one laid out in title 2 of S. 2543. They will be helpful in curbing violent crime and drug trafficking, and in letting our Federal law enforcement authorities know that we want to make sure the criminals who are arrested will not be able to take advantage of a shortcoming in our laws to evade justice.

Mr. President, there are many other important reforms contained in this proposal. At this point, I want to mention three others that I think are of special importance. The first is title 8, which enables the Federal Government to help State and local authorities cope with today's higher costs and smaller law enforcement budgets by authorizing the donation of surplus Federal property, at no cost, to State and local governments for correctional purposes. Today, Dade County, Fla. is facing overcrowded conditions in its jail system, and the county is under a Federal court order to make conditions better. The money to do that simply is not there, however, and ultimately, dangerous criminals end up being released. Title 8 would help Dade County by enabling it to obtain Federal property in the area, like abandoned military bases, which are not in use. Title 8 is identical to S. 1422, a bill that Senator GRASSLEY has worked on, and which has my full support.

Mr. President, taken together, the reforms in S. 2572 will be of invaluable assistance in the fight against crime. Equally importantly, our actions will help show the American public that we in the Senate are committed to fighting crime. Doing that is of the utmost importance.

Earlier this year, I had grave doubts as to whether we could translate the sentiment which we share with the American public to fight crime into concrete action. I was concerned because we were facing so many other issues, and had so little time left in the session. It appeared as if action on crime would fall through the cracks, so to speak. There was no crime bill ready to be considered, and on momentum for action. With that in mind, it seemed to me that we needed a vehicle to focus our attention and the public's on the need for a comprehensive crime fighting package. Senator NUNN and I discussed this problem, and we decided that it made sense to develop a crime-fighting package. We did that, and we introduced a bill, S. 2543 and were able to have that bill placed directly onto the Senate Calendar.

We then had the vehicle we wanted. A package of crime fighting proposals that was ready to be called before the Senate at any time. We then began to speak out on crime every day, to remind our colleagues that, while other issues were before us, the issue of crime and drug trafficking was before us as well. We tried to give examples of crime, and of shortcomings in our criminal justice system which we felt could be fixed if we passed a package of anticrime bills. We spoke out here on the floor of the Senate every day since the day we introduced our crime fighting package, a total of 82 days so far. By speaking out, we hoped that we could highlight the need for prompt Senate action on crime. I would like to think that those speeches had some small effect. Back in July, the majority leader said that our actions had been like water dripping on a stone, wearing the stone down slowly but surely. We served to remind him of the need for the Senate to pass crime fighting legislation.

In effect, we were a form of irritant, reminding the Senate of the need to act on crime. I appreciate those remarks by the majority leader. We felt that what we were doing was something we did for all of the public, for the victims of crime, for the police officers who are on the frontlines in that fight, for the district attorneys who must represent the public's interest in a just and safe society, for the judges who must carry out justice. But most of all, Mr. President, we wanted to speak for the individual citizens who have become sick of violence and unsafe neighborhoods, who have become fed up with drugs and drug abuse, and who want a criminal justice system that is fair to all of society. They are the people who have come together in grassroots organizations to fight crime in their neighborhoods. And they are the people who have asked us to help them in their fight against crime. The fact that this bill is now the pending business of the Senate, is a victory for them, and for their persistence.

If we pass this bill, will we cure all crime? We know that we will not. We will need to get tough laws on the books in our States and in our towns and cities. We need to make a commitment to give our law enforcement agencies the resources and the people they need to fight crime effectively. We need to educate the public, and especially the young people in this country, that drugs are poison and that crime does not pay. What we are beginning to do today is another step, and an important one, in that effort. The step we begin today is possible because people like the majority leader and the minority leader have shown that they consider this crusade against crime to be a top priority. It is possible because Senator THURMOND and Senator BIDEN have worked so hard and so long to make sure that we could have a solid package of crime fighting proposals to act on. It is possible because all of us worked to get this proposal before the full Senate.

We must continue, however, and make sure that this bill passes the Senate. Then, we must continue our efforts to work with the House of Representatives to secure its passage in that body. By doing so, by enacting this proposal into law, we demonstrate to the American people that we have heard their voices, and that we agree with them that the fight against crime is a priority second to none.

Mr. HATCH. Mr. President, I rise in strong support of S. 2572, the Violent Crime and Drug Enforcement Improvements Act. It has been a privilege to have worked with Senator THURMOND, Senator BIDEN, Senator LAXALT, and others in the development of this legislation. In addition, a large number of Senators deserve particular credit for their efforts in developing the individual pieces of legislation that form the component parts of this omnibus measure.

While S. 2572 does not represent a panacea for the problems that beset our criminal justice system, I do believe that it represents a significant first step toward solving these. It represents a significant first step toward restoring a proper balance between solicitude for the criminal elements in this country and solicitude for those who are preyed upon by these elements. It represents a significant first step toward restoring as the primary function of the criminal justice system the pursuit of truth rather than the present search for the perfect procedural trial. It represents a significant first step toward restoring the integrity and respect of the Federal criminal justice system, a system badly in need of such renewed integrity and respect.

Mr. President, I do not want to comment at length upon the specific provisions of S. 2572 now, with two exceptions. Suffice it to say that I have supported virtually every provision of this measure in the context of individual

legislation that has been before the Judiciary Committee at one time or another in recent years. Virtually every provision in this measure has been the subject of careful and thorough scrutiny during this period. I would like to focus in just a bit more detail upon two issues that I have worked on for several years: reform of Federal bail laws and reform of the Federal insanity defense.

Title VII of S. 2572, as introduced, contained provisions to eliminate any possible abuse of the insanity defense. This provision was deleted during earlier efforts to reach an agreement for consideration of S. 2572. It seems ironic that the Senate is failing to address such a vitally needed criminal law reform in the wake of the acquittal of Presidential assailant John Hinckley.

BAIL REFORM

The problem of crime committed by individuals free on bail is a problem created by the current state of the law. When judges are only permitted to consider conditions of release to assure appearance at trial, a dangerous defendant, one likely to commit other crimes, is required to be released if he can demonstrate an excellent past record of responding to court summons.

Unfortunately the law permits this to happen all too often. For instance, a defendant was recently apprehended after two plainclothes policemen watched the suspect beat and rob an unsuspecting victim. At the time of his arrest, this defendant had four pending cases in the judicial system for charges of armed robbery—for which he had been arrested only 4 days prior to this last arrest—second degree burglary, grand larceny, receiving stolen property, and attempted unwarranted use of a vehicle. In another case, a 17-year-old was apprehended for the fatal shooting of a 68-year-old in the course of a robbery. This defendant had two armed robbery cases pending at the time of the killing. Finally, a defendant stabbed a man at a bar who refused to buy him a drink. This victim is still only barely clinging to life in a hospital intensive care unit. At the time of the crime, the defendant was on pretrial release for another charge of assault with intent to kill for another incident in the same bar under identical circumstances. In addition, he was under grand jury investigation for at least one other unprovoked stabbing.

I mention these actual cases so that we do not make the mistake of concentrating on statistics that fail to account for the human suffering involved in crime. These type of stories become even more alarming, however, when we realize that a study compiled last year in 12 jurisdictions around the country found that 16 percent of all defendants released pending trial were later arrested for other charges while on bail. Thirty percent of these were arrested more than once while on bail and the average number of arrests before trial was 1.4.

Title I of S. 2572 is a rewrite of the Bail Reform Act of 1966. The Subcommittee on the Constitution, provoked by some of the considerations mentioned above, held hearings and approved this language by a vote of 4–0. During its consideration of this question, the subcommittee particularly explored the meaning of the eighth amendment in order to recommend to the Senate language which would address the national problem of crimes committed by persons free on bail without the slighest conflict with the letter or spirit of the Constitution. As Chairman of the Constitution Subcommittee, I can confidently announce that title I of S. 2572 implements Congress constitutional authority to resolve this crime problem. My remarks today are designed to assure the Senate that the Constitution fully authorizes these changes in our bail policy.

The primary change in current bail policy made by this title would allow Federal courts to consider community safety in setting pretrial conditions of release. This language expands the list of conditions which the court may impose upon a defendant to assure his appearance for trial. In the event that a judicial officer does not ascertain that these release conditions will assure the safety of the community or of other persons or that conditions will assure the defendant's appearance at trial, he may opt to detain the suspect pending trial. This title also permits temporary detention of individuals who are arrested while subject to some form of conditional release stemming from an earlier arrest. This will allow the authorities to notify the jurisdiction from which the arrestee has fled.

Since this provision is a significant departure from the current philosophy of the Bail Reform Act which recognizes only a single purpose for bail laws—assuring the appearance of the defendant at judicial proceedings—my comments will trace the development of our bail laws to establish the constitutionality and merit of this change.

HISTORY OF BAIL

Bail laws in the United States grew out of a long history of English statutes and policies. During the colonial period, Americans relied on the bail structure that had developed in England hundreds of years earlier. When the colonists declared independence in 1776, they no longer relied on English law but formulated their own policies which closely paralleled the English tradition. The ties between the institution of bail in the United States and England are especially evident in the American constitutional guarantees; the eighth amendment's statement that "excessive bail shall not be required" comes directly from English law.

With James Madison designated to prepare an initial draft for the Bill of Rights in 1789, the Virginia constitution, often referred to as the Virginia bill of rights, became the model for the first 10 amendments that passed Congress in 1789 and were ratified in 1791. The eighth amendment in this Bill of Rights was taken virtually verbatim from section 9 of the Virginia constitution and provided that "Excessive bail shall not be required . . ." Like the identical clause in the English Bill of Rights and the Virginia constitution, the eighth amendment bail provision was intended to prohibit excessive bail as a means of holding suspects accused of offenses deemed bailable by Congress.

The sequence of events in the First Congress pertaining to American bail policy is critical to an understanding of the framers of the eighth amendment and the Judiciary Act of 1789. Only a few days after final passage of the Bill of Rights in Congress on September 21, 1789, and before its final adoption, the First Congress passed the Judiciary Act of 1789 on September 29, 1789. Following the tradition of State laws developed during the colonial period which in turn were based on English law,[1] the Judiciary Act stated that all noncapital offenses were bailable and that in capital offenses, the decision to detain a suspect before trial was left up to the judge:

> [U]pon all arrests in criminal cases, bail shall be admitted where punishment may be by death, in which cases it shall not be admitted but by the supreme or a circuit court, or by a justice of the supreme court, or a judge of a district court, who shall exercise their discretion therein, regarding the nature and circumstance of the offense, and of the evidence, and the usages of law.[2]

In the context of its legislative history, the eighth amendment is illuminated by reading it in conjunction with the Judiciary Act of 1789. The first Congress adopted the amendment to prevent judges from setting excessive bail in cases prescribed as bailable by Congress. The same legislators then enacted a bill prescribing which offense would be bailable. The eighth amendment, therefore, is not self-executing. It requires legislation creating legal entitlements to bail to give it effect. Recognizing this, the First Congress provided almost simultaneously the legislation that gave the amendment effect. The First Congress did not choose a strange legal arrangement; it chose precisely the system most familiar to these former English citizens. The First Congress recognized that the amendment was not intended to limit congressional discretion to de-

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Footnotes at end of article.

termine the cases for which bail would be allowed, but was designed to circumscribe the authority of courts to ignore or circumvent that congressional policy with excessive bail requirements.

OVERVIEW OF FEDERAL COURT TREATMENT OF BAIL—EIGHTH AMENDMENT

As stated earlier in the "History of Bail" section, the words of the eighth amendment prohibit only excessive bail requirements. The language of the amendment thus restricts to some degree the discretion of judges to set bail at unreasonable levels. It leaves Congress with the power to establish which offenses, if any, shall be eligible for bail in the first place. This meaning of the language in the eighth amendment is evident from the meaning given those exact same words in English law and tradition from which they were derived.

The Supreme Court first acknowledged this understanding of the eighth amendment in Ex parte Watkins with the statement that "the Eighth Amendment is addressed to the courts of the United States exercising criminal jurisdiction, and is doubtless mandatory to them and a limitation on their discretion." [3] The implicit message of this passage from Watkins was that Congress was not bound by the Constitution to create a right to bail. Subsequent court decisions followed the direction indicated by the Watkins court. For instance, the sixth circuit in 1926 noted that a right to bail must be grounded in statute.[4] The New York Court of Appeals interpreted the New York Constitution's excessive bail language to refer "only to the amount of bail." [5]

On occasion, however, a court did not investigate the historical record and articulated the notion that the amendment required bail in all cases.[6] This minor confusion was clarified in 1951 when the Supreme Court directly addressed the issue. The Court had managed to avoid the issue for years primarily because the statutory standards for bail in the Judiciary Act of 1789 had been in place longer than the eighth amendment itself.

The Supreme Court finally decided two cases concerning bail in 1951. The first, Stack against Boyle,[7] concerned the issue of "excessiveness;" and later, Carlson against Langdon [8] concerned the issue of whether detainees were entitled to bail as a right under the eighth amendment. In Stack, the Court held that bail set at $50,000 for suspects accused on conspiring to violate the Smith Act was excessive bail under the eighth amendment. The Court pointed to the tradition of statutory bail guarantees in noncapital cases as an argument for the importance of allowing pretrial freedom whenever possible. The only legitimate reason for restricting pretrial freedom in noncapital cases, argued Chief Justice Vinson writing for the Court, was a likelihood that the defendant would not appear for trial. Thus, the Court held that:

Bail set at a figure higher than an amount reasonably calculated to fulfill this purpose (assuring appearance at trial) is "excessive" under the Eighth Amendment.[9]

It is significant that the decision did not concern the issue of denied bail; the question before the Court was merely the propriety of the amount of bail in the particular circumstances of the case. The language in the opinion referring to a tradition of pretrial freedom related only to longstanding statutory practice and implied no absolute constitutional right to bail. Indeed, the decision clearly recognized at least one factor which could restrict the statutory tradition of pretrial freedom—the risk that the suspect would fail to appear for trial.

Though Stack did not concern the issue of whether the eighth amendment guarantees an absolute constitutional right to bail, the Supreme Court did decide this issue only a few months later in Carlson against Landon.[10] Whereas Stack involved defendants who were bailed but claimed the bail set was excessive, Carlson concerned defendants who had been detained without bail. The suspects, aliens belonging to the Communist Party, were held pursuant to section 23 of the Internal Security Act of 1950 which permitted the Attorney General to detain aliens who were members of the Communist Party pending a determination of their deportability. The Court in Carlson upheld the right of Congress to deny bail despite the tradition of statutory guarantees of pretrial freedom which the same Court had alluded to in Stack. The opinion of the Court, written by Justice Reed and joined by Chief Justice Vinson who had just written Stack, reasoned that the eighth amendment bail clause, like the English Bill of Rights from which it was taken, was only meant to prohibit excessive bail in those circumstances where Congress had already legislated a right to bail. The eighth amendment, according to the Court does not prevent Congress from defining bailable and nonbailable offenses:

The bail clause was lifted with slight changes from the English Bill of Rights Act. In England that clause has never thought to accord a right to bail in all cases, but merely to provide that bail shall not be excessive in those cases where it is proper to grant bail. When this clause was carried over into our Bill of Rights, nothing was said that indicated any different concept. The Eighth Amendment has not prevented Congress from defining the classes of cases in which bail shall be allowed in this country. Thus in criminal cases, bail is not compulsory where the punishment may be death. Indeed, the very language of the amendment fails to say all arrests must be bailable.[11]

Thus with Carlson the question was resolved with the declaration that Congress was entrusted with the power to delineate those offenses for and circumstances under which bail may be denied.

The Supreme Court precedents have since been followed by lower courts. For instance, in U.S. ex rel. Covington against Coparo, the U.S. District Court for the Southern District of New York upheld a denial of bail to a murder suspect:

The Eighth Amendment . . . does not mention, much less distinguish between capital and other felonies. It is true . . . that some courts have construed the Eighth Amendment to guarantee the right to bail on all but capital cases, but such statements must be considered in the context of the congressional statute governing bail, rather than as a command under the Eighth Amendment. 297 F. Supp. 203, 205 (1969).

LEGAL RECOGNITION OF DANGEROUSNESS

United States against Gilbert [12] addressed the question of whether pretrial detention was constitutional if a defendant threatened the safety of witnesses. The U.S. Court of Appeals for the District of Columbia held that the judicial interest in detaining the suspect outweighs his statutory right to bail and that detention was permissible:

The necessities of judicial administration prevail, and the right to bail is not literally absolute * * * the courts have the inherent power to confine the defendant in order to protect future witnesses at the pretrial stage as well as during trial.[13]

Significantly, Gilbert did not consider dangerousness to the general public, but only to witnesses. In addition, it required that pretrial detention, even when based on threats to witnesses, must be preceded by a hearing at which the defendant had an ample opportunity to refute the charges against him.

Another case, United States against Wind[14] also considered dangerousness in terms of threats to witnesses but hinted that a more general definition of dangerousness could be accepted. Like Gilbert, Wind held that a suspect who threatened or harmed a witness could be detained on the basis of sound judicial administration. The 1975 opinion further stated, however, that a suspect's dangerousness to the general public might also be considered in setting pretrial release conditions:

We hold that in a pretrial bail hearing of a noncapital offense, a judicial officer may consider evidence that the defendant has threatened witnesses and is a danger to the community in determining whether the defendant should be released pursuant to 18 U.S.C. SEC. 3146.

Wind expanded the traditional interpretation of Federal bail law, therefore, as it allowed a suspect to be denied the release procedure set forth in the 1966 Bail Reform Act if he was a danger to the community.

By the mid-1970's a trend had been established of allowing consideration of a suspect's potential danger to future witnesses and, in some decisions, his dangerousness to the general public when determining release conditions. Decisions like Gilbert and Wind did not directly address the issue of statutory preventive detention; they concerned either court procedure or the 1966 Bail Reform Act which did not provide for preventive detention. In 1974 a case did arise which a preventive detention statute was tested; yet even then the court did not rule on the most explicit preventive detention provisions. Blunt against United States[16] concerned a man detained for threatening a witness and upheld the constitutionality of parts of the 1970 District of Columbia Criminal Procedures Act which provided for pretrial detention of dangerous criminals. While the court upheld the constitutionality of D.C. Code 1973, section 23-1322(a)(3) which provides for detention of dangerous suspects to prevent obstruction of justice and threatening of witnesses, it did not pass judgment on the constitutionality of detention under D.C. Code 1973 section 23-1322(a) (1) or (2) which provide for detention to insure community safety. Nevertheless, the D.C. Court of Appeals did decide that pretrial detention on the basis of a defendant's dangerousness was, at least under some conditions, constitutional. Moreover, it did so in the context of a statute which, like none before, explicitly provided for preventive detention to insure community safety.

PRESUMPTION OF INNOCENCE AND DUE PROCESS

The most significant aspect of the Blunt opinion was that it straighforwardly rejected some of the traditional arguments against pretrial detention in general and preventive detention in particular. Significantly, the court not only dismissed an absolute eighth-amendment right to bail but also rejected claims that the evidentiary rule concerning a presumption of innocence, presumably linked to the fifth amendment, would prohibit pretrial detention of any kind.

> The presumption of innocence, however, has never been applied to situations other than the trial itself. To apply it to the pretrial bond situation would make any detention for inability to meet conditions of release unconstitutional. No cases so hold, and the history of criminal jurisprudence in this country and England, where many are held for inability to meet release conditions, reveals the inapplicability of the presumption to pretrial detention.[17]

The Fifth Amendment forbids any official restraints on liberty without "due process of law." If this were interpreted to mean that no individual could be detained before convicted, law enforcement officers would also be barred from apprehending any suspect to stand trial. Other observers of the system have made the same point:

> If such a pretrial presumption of innocence existed as a bar to detention of the dangerous before trial, it would also bar pretrial detention of those charged with capital offenses, those held on money bond and could even be extended to prevent police from arresting persons and taking them into custody on probable cause.[18]

Clearly the fifth amendment cannot be construed as an absolute ban on pretrial detention. The Supreme Court has provided a more reasonable reading of the amendment:

> [T]he fact that a liberty cannot be inhibited without due process does not mean that it can under no circumstances be inhibited. The requirements of due process are a function not only of the extent of the governmental restriction imposed, but also of the extent of the necessity for the restriction.[19]

Accordingly, the individual's liberty must be balanced against the society's reasons for restraint. In the case of conditions placed on pretrial liberty, there are two bases for the restrictions: To insure the individual will appear to stand trial and to protect the community. Already the Supreme Court has upheld various forms of detention as a means of protection.[20]

While Blunt clearly showed that preventive detention is not a prima facia violation of due process, the courts have described certain limits to pretrial restriction procedures based on the due process clause. In Morrisey against Brewer[21] the Supreme Court held that a man's parole could not be revoked without a hearing. Three years later in Gerstein against Pugh[22] the same Court applied the Morrisey standard to pretrial release procedure. The Court ruled that a suspect is entitled to a timely hearing before a magistrate for a "judicial determination of probable cause as a prerequisite to extended restraint of liberty following arrest."[23] Gerstein changed the Morrisey standard somewhat, however, for while Morrisey described a set of procedural rules required at the hearing such as the right of the parolee to cross examine witnesses against him, Gerstein held that "the full panoply of adversary safeguards—counsel, confrontation, cross examination, and compulsory process for witnesses"[24] is not constitutionally required. Thus, according to Gerstein the only due process requirement for pretrial detention is a hearing at which a determination of probable cause is made that the suspect had indeed committed the crime with which he has been charged.

In 1978, the Supreme Court again had the opportunity to rule on due process requirements under pretrial detention. This case focused on pretrial detention centers where the detainees were subject to various restrictions. In Bell against Wolfish, the Supreme Court held that the restrictions were not in violation of due process even though the detainees had not been convicted. Though Bell concerned restrictions imposed after detention and not the validity of the decision to hold suspects itself, the opinion upheld the basic principle that restrictions in advance of adjudication need not be unconstitutional.

As in Blunt against United States, the Court in Bell rejected outright the argument that the rule of evidence known as the presumption of innocence and presumably linked to the fifth amendment applies before trial:

> Without question, the presumption of innocence plays an important role in our criminal justice system * * * But it has no application to a determination of the rights of a pretrial detainee during confinement before his trial has even begun.[25]

The Court did say, though, that under the due process clause, the "detainee may not be punished prior to an adjudication of guilt".[26] The Question, then, is whether pretrial detention amounts to punishment. The Court answered that pretrial restriction of liberty is regulatory rather than punitive.

> Not every disability imposed during pretrial detention amounts to "punishment" in the constitutional sense, however. Once the Government has exercised its conceded authority to detain a person pending trial, it obviously is entitled to employ devices that are calculated to effectuate this detention . . . the fact that such detention interferes with the detainee's understandable desire to live as comfortably as possible and with as little restraint as possible during confinement does not convert conditions or restrictions of detention into "punishment".[27]

Clearly, Bell has great pertinence to the issue of pretrial detention but, like the Federal bail decisions before it, its holding was limited; the facts of Bell did not constitute a direct challenge to pretrial detention based solely on protecting community safety.

Not until 1980 in the District of Columbia Court of Appeals decision United States against Edwards was this question put directly to a Federal court. The Edwards decision concerned a man accused of armed rape and detained pursuant to the 1970 District of Columbia Criminal Procedures Act on the basis of the risk he posed to the community. Whereas the earlier Blunt decision had upheld only the sections of this act requiring detention to prevent obstruction of justice and threatening of witnesses,[28] Edwards was detained under section (a)1 of the act. This decision, therefore, upheld the specific provision of the 1970 act permitting detention on the basis of dangerousness. Defendant Edwards claimed that the preventive detention statute deprived him both of an eighth amendment constitutional right to bail and of his right to due process of law. The court dismissed both these claims. On the constitutional right to bail the court went along with the well-established pattern of describing the bail right as a

statutory tradition rather than an absolute constitutional right:

While the history of the development of bail reveals that it is an important right, and bail in noncapital cases has traditionally been a federal statutory right, neither the historical evidence nor contemporary fundamental values implicit in the criminal justice system requires recognition of the right to bail as a "basic human right" which then must be construed to be of constitutional dimensions.[29]

As in Bell against Wolfish, Edwards asserted a due process infringement on the notion that preventive detention constituted punishment before conviction. As in the earlier decision concerning restrictions in detention facilities, Edwards declared that preventive detention itself is not punishment but regulation:

Pretrial detention is regulatory rather than penal in nature * * * Pretrial detention to prevent repitition of dangerous acts under sec. 23-1322(a)1 by incapacitating the detainee seeks to curtail reasonably predictable conduct, not punish for prior acts.[30]

Edwards also made a claim that his due process rights were violated in that the detention hearing did not include all of the procedural requirements he claimed were guaranteed by the Constitution; namely, confrontation, cross-examination, compulsory process, and findings established beyond a reasonable doubt. The court followed the earlier Gerstein decision on this point and held that procedural safeguards included in the District of Columbia statute "satisfy the minimum demands of procedural due process before a person may be detained pending trial on the grounds of dangerousness to the community."[31] The court recognized, as in Gerstein, that "the full panoply of adversary safeguards" was not constitutionally required in order to detain a dangerous suspect and that furthermore, the Government has an obvious interest in not conducting a full-blown criminal proceeding twice, one for pretrail detention and a second time for the trial of the charges.[32]

Shortly after the Edwards decision, a Federal court again considered pretrial detention but in the context of the constitutionality of a State law. In Hunt against Roth,[33] the Eighth Circuit Court of Appeals held a provision of the Nebraska State constitution unconstitutional that prohibited bail for all suspects charged with "sexual offenses involving penetration by force or against the will of the victim . . . where the proof is evident or the presumption great."[34]

The Supreme Court was given ample opportunity this year to declare bail restrictions unconstitutional but, significantly, declined to do so. Upon finding Hunt's claim was moot, the Court vacated the decision of the court of appeals.[35] This judgment, as stated by Justice White, gives "new life" to the bail restrictions in the Nebraska constitution.[36] The Court also denied certiorari to Edwards. These actions are an indication that the Supreme Court will allow both courts to consider dangerousness when setting bail conditions.

POLICY REASONS TO ALLOW JUDGES TO PROTECT COMMUNITY SAFETY

The current policy of the Bail Reform Act presents Federal judicial officers with a genuine dilemma. Without legal authority to deny bail on grounds of dangerousness, courts are in a dilemma. Many judges apparently resolve this difficulty by setting a financial condition of release that exceeds the defendant's ability to pay. The Attorney General's Task Force on Violent Crime recognized this subrosa form of pretrial detention with the terse observation that "there is a widespread practice of detaining particularly dangerous defendants by the setting of high money bonds to assure appearance."[37] In testimony before the Senate Judiciary Committee a few years after the enactment of the 1966 act, former Judge Tim Murphy of the District of Columbia Court of General Sessions explained the reasons judges may resort to high money bail:

An unreasonable law has the ultimate effect of forcing those who administer it to ignore it, calloused of the consequences, or else to make extreme rationalization in circumventing it; this applies to judges. You cannot expect judges to follow the letter of a law that requires them to turn many dangerous criminals loose day after day.[38]

The ultimate irony of this situation is that the Bail Reform Act of 1966, enacted to protect individuals against detention "because of their financial inability to post bail,"[39] placed courts in the posture of regularly setting bail beyond a defendant's financial ability. By forbidding any weighing of the suspect's dangerousness, the statute, in continuing to rely on the category of "capital" offenses to describe the gravest crimes, despite the limitation over time of that category to virtually the sole offense of first degree murder, and in conjunction with the demographical factors undermining the classical surety system, had the unintended effect of making the detention of defendants on high money bail a "widespread practice."

To remedy this situation, the Chief Justice has stressed the need to provide for greater flexibility in our bail laws to permit judges to give adequate consideration to the issue of threats to community safety.[40] His recommendation is joined by the American Bar Association Standards Relating to the Administration of Justice,[41] The National Conference of Commissions on Uniform State Laws,[42] and the National Association of District Attorneys.[43]

Statutory provisions granting courts the discretion to weigh risk to community safety as a factor in pretrial release decisions, however, have been vaguely criticized as requiring judges to predict future behavior. Although this approach to the problem would involve the courts in weighing as a factor the potential for future behavior based on the defendant's past record, this is not an unusual burden for the courts. The Bail Reform Act itself allows a judge to examine the suspect's proclivity for future violence when determining bail in a capital case. Moreover, the same bail law requires the courts to predict the potential for flight by the defendant in all instances of pretrial release. When balancing protection of the public against the first amendment right to hold a mass demonstration, the courts also must weigh the potential for violence. Thus, projecting potentialities

FOOTNOTES

[1] William Duker, "The Right to Bail: A Historical Inquiry" 77-83, 42 Albany L. Rev. 33 (1977)
[2] The Judiciary Act of 1789, 1 Stat. 73, 91.
[3] 32 U.S. 568, 574 (1833).
[4] *Prentis v. Manoogian*, 16 F.2d 422 (6th Cir. 1926).
[5] *Shapiro v. Keeper of City Prisons*, 290 N.Y. 393, 49 N.E. 2d 498 (1943).
[6] *United States v. Motlow*, 10 F.2d 657 (7th Cir. 1926).
[7] 342 U.S. 1 (1951).
[8] 342 U.S. 524 (1952).
[9] 342 U.S. at 5.
[10] Supra note 8.
[11] Id. at 545.
[12] *U.S. v. Gilbert*, 425 F.2d 490 (D.C. cir. 1969).
[13] Id. at 491.
[14] *United States v. Wind*, 527 F.2d 672 (6th Cir. 1975).
[15] Id. at 675.
[16] *Blunt v. United States*, 322 A.2d 579 (1974).
[17] Id. at 584.
[18] John N. Mitchell, "Bail Reform and the Constitutionality of Pre-trial Detention." 55 Virginia L. Rev. 1223, 1231-32 (1969).
[19] *Zemel v. Rusk*, 381 U.S. 1, 14 (1965).
[20] *Greenwood v. United States*, 350 U.S. 366 (1956), allows detention of those incompetent to stand trial who may endanger safety of the community. *Minnesota ex rel. Pearson v. Probate Court*, 309 U.S. 270 (1940) allows detention of sexual psychopaths deemed dangerous.
[21] 408 U.S. 471 (1972).
[22] 420 U.S. 103 (1974).
[23] Id. at 114.
[24] Id. at 119.
[25] *Bell v. Wolfish*, 441 U.S. 520, 533 (1978).
[26] Id. at 535.
[27] Id. at 537.
[28] D.C. Code 1973 Sec. 23-1322(a) 3.
[29] *United States v. Edwards*, No. 80-294 (D.C. App. May 8, 1981) (slip opinion), petition for cert. filed July 8, 1981, at 19.
[30] Id. at 22-23.
[31] Id. at 26.
[32] Id. at 33.
[33] 648 F. 2d 1148 (1981).
[34] Nebraska Const. Art. I. Sec. 9.
[35] *Sub. nom. Murphy v. Hunt*, 50 U.S. L.W. 4264.
[36] Id. at 4266.
[37] Attorney General's Task Force on Violent Crime, Final Report, at 51, Aug. 17, 1981.
[38] Hearings on amendments to the Bail Reform Act before the Subcommittee on Constitutional Rights of the Senate Judiciary Committee, 91st Congress, 1st session, at 220-221 (1969).
[39] Bail Reform Act of 1966, 18 U.S.C. 3146, section 2 (findings).
[40] Chief Justice Warren E. Burger's annual address to the American Bar Association, February 1981.
[41] American Bar Association Standards on Pretrial Release 10-5.2 (1978).
[42] National Conference of Commissioners on Uniform State Laws, Uniform Rule of Criminal Procedure 341 (1974).
[43] Bail reform hearings, supra note 36 (testimony of James C. Anders).

and tendencies in the interest of public safety is not beyond the capability of the courts.

When the court makes a determination about the likelihood of dangerous conduct between arrest and trial, it is not idly gazing into a nonexistent crystal ball, but instead examining a reliable record of past conduct. The current bail act, in effect, blacks out that aspect of the record most relevant to public safety, dangerousness of the defendant, and leaves the court to make its projection based solely on the risk that the suspect will not appear for trial. The current law does not prevent courts from predicting but only withdraws that part of the record that would make the forecast reliable.

THE INSANITY DEFENSE

Mr. President, in the wake of extensive media coverage of the Hinckley assassination attempt and trial, the public outcry for changes in the insanity defense has been clear and sustained. Few aspects of criminal law, in recent memory, have provoked as much criticism of our courts and judicial system as has the use of the insanity defense.

Generations of Federal judges have struggled to define the circumstances under which mentally abnormal offenders should be held responsible for their conduct, without notable success. As Dr. Abraham Halpern, the distinguished psychiatrist, has noted, "insanity has come to mean anything anybody wants it to mean."

The traditional insanity defense is both a legal anachronism and a concept ill-suited to modern psychological theory. It presents issues—important issues—that are not susceptible of intelligent resolution in the courtroom environment. Trials in which the insanity defense has been raised have often degenerated into swearing contests between opposing teams of expert witnesses, all of whom are forced to translate the language of the psychiatric profession into the quite alien language of the legal profession. It is this attempt to marry these two incompatible disciplines that has created the current confusion.

The insanity defense evolved principally as a means by which English jurists could avoid—in a legally rational manner—the discomfiture of condemning to death a felon who was so mentally deranged that his execution would affront ordinary moral sensibilities. As Lord Erskine stated in the earliest years of the 19th century, "Delusion . . . is the true character of insanity." Individuals suffering in this manner could not truly be considered "responsible" in the legal sense.

Although the criminal law over the years substituted imprisonment and lesser penalties for capital punishment and substituted judicial discretion for mandatory penalties, the insanity defense, as an exception to the ordinary consequences of criminal conduct, survived the former strict legal requirements which it has been designed to avoid.

Even within the psychological community, the insane asylum, which once served as a warehouse for the criminally insane, has become just a brief stepping stone back to the street.

In the United States, the Congress has never enacted legislation on the insanity defense. Its development has largely been left to the courts, particularly the courts of appeals. The foundation of the present defense was laid down in M'Naghten's case (8 Eng. Rep. 718 House of Lords, 1843) in which it was stated—

> To establish a defense on the ground of insanity, it must be clearly proved that at the time of the committing of the act, the party accused was laboring under such defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing or, if he did know it, he did not know he was doing what was wrong.

The so-called right-wrong test of insanity posited in M'Naghten has gradually, but steadily, been broadened over the years.

Most importantly, the M'Naghten test, a purely cognitive test was supplemented by a volitional test stating that an individual who could discern right from wrong, yet who, for reasons of mental disease, could not control his actions, could avail himself of the insanity defense. As it came to be known, the "irresistible impulse" rider to M'Naghten, inquired into whether an offender was able to restrain his actions once having been shown to appreciate the wrongness of such actions, see *Davis* v. *United States,* 165 U.S. 373 (1897). In that case the court held—

> An accused is not criminally responsible if his unlawful act was the product of mental disease or defect.

After nearly two decades of interpreting the provisions of this rule, provisions whose meanings were by no means widely agreed upon, the District of Columbia court in 1972 adopted a formulation that had previously been adopted by other circuits.

The American Law Institute's model panel code—section 4.01 proposed official draft 1962—stated that—

> (1) A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity to appreciate the criminality of his conduct or to conform to the requirements of the law.
>
> (2) The term "mental disease or defect" do not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

It is this language that serves today as direction for the insanity defense in the Federal courts.

With widely divergent psychological theories on the origin of behavior, it is no wonder that standards like the ALI test become completely unmanageable when interpreted by different psychiatric experts representing opposing sides of a legal dispute. Even in the absence of the adversial context of the courtroom, psychiatrists wage academic wars over questions like what conduct is the result of mental disease or how individuals learn to appreciate the criminality of their conduct. Adding the courtroom atmosphere to the internecine conflicts of the field of psychology only complicates the jury's task of making fine legal distinctions. The unfortunate result of this confusion is that some individuals are able to avoid responsibility for committing heinous crimes by exploiting disagreements in the field of psychology. Perhaps this explains to some degree the reason that acquittals on the grounds of insanity have risen to more than 50 per year in New York State—seven times the number in the late 1960's.

The current insanity defense has also become a "rich man's defense." Only the wealthy are able to pay a battery of expensive expert psychiatric witnesses from the best universities around the country to provide testimony likely to help exculpate the defendant. The hundreds of thousands of dollars spent on Hinckley's defense is an excellent case in point. Less well-to-do defendants, on the other hand, often lack the resources to hire experts to provide favorable testimony and must instead rely on court-appointed experts whose reports are available to both sides in litigation. This disparity of judicial treatment and result also argues strongly for change in the defense.

At this point I would like to turn to our task—finding a legislative solution to these unjust results. S. 1558, my bill which previously had been incorporated into title VII of S. 2572, would add a new section to title 18 of the United States Code that would read as follows:

> It shall be a defense to a prosecution under any Federal statute, that the defendant, as a result of mental disease or defect, lacked the state of mind required as an element of the offense charged. Mental disease or defect does not otherwise constitute a defense.

Perhaps I can restate the concept behind this language to make it more clear: There is no such thing as a crime per se. An act is not in and of itself criminal. For instance, any killing is not murder. A killing only becomes murder when each element of the carefully defined criminal offense is established in a court of law. These elements of a crime have developed over centuries of Anglo-American common law to define which individual acts endanger the safety and survival of the community and require society's intervention to protect itself. One of these elements is, in nearly every instance, the mens rea, or state of mind requirement. The current

Federal code states that "Murder is the unlawful killing of a human being with malice aforethought," 18 U.S.C. 1111. The mens rea in this crime requires the prosecution to show that the defendant planned the killing in advance of executing it and did so with a wrongful motivation. Until a killer is found by a court to have demonstrated this mens rea, he is not a murderer subject to punishment for first degree murder.

Before deletion from this bill, title VII of S. 2572 would have allowed the introduction of evidence by a defendant to show that he did not possess the proper mens rea because of a mental disease or defect. In other words, a claim of insanity is only valid in a criminal proceeding to the degree that the defendant can show that his mental condition at the time of the purported crime negated the requisite state of mind requirement. In the case of first degree murder, the defendant might defeat the prosecution's case by showing that he did not possess adequate mental control or capacity to maliciously plan to kill. The jury's deliberations would be limited to the same deliberations undertaken in any criminal trial: Did the prosecution prove each element of the offense beyond a reasonable doubt?

The court would not become involved in a juridical circus with "experts" trying to convince the jury that the defendant could appreciate right and wrong—the M'Naghten Rule—or that the defendant was subject to an "irresistable impulse"—Davis case addition to M'Naghten—or that the defendant's act was the product of mental disease and that the defendant was unable to conform his actions to the requirements of the law—ALI test. Instead the jury would make the same strictly legal judgment that juries have been making for centuries: Did the prosecution prove each element of the offense beyond a reasonable doubt?

Under the former version of S. 2572, the "insanity defense"—and I put that in quotes because strictly speaking there would be no "insanity defense" but only an argument by the defendant that the crime was not committed because one of its elements, namely mens rea, was absent—would be confined to legal issues. The complexity of modern psychological theory with its unknowns would be irrelevant, except to the degree that these theories might shed some light on whether the defendant demonstrated a mens rea. In the words of Chief Justice Burger, who commented while still a circuit judge: "No rule of law can possibly be sound or workable which is dependent on the terms of another discipline whose members are in profound disagreement about what those terms mean." *Campbell* v. *U.S.* 307 F. 2nd 597, 612 (1962). This bill makes contentions about the mental state of the defendant a question to be addressed within the legal terms of the state of mind requirements of any criminal offense.

Perhaps I should specifically address what this means about burdens. Centuries of criminal procedure would continue to dictate this course as well. The prosecution, of course, has the initial burden to demonstrate that each legal element is present in the act that is purported to be a crime. If it fails to show that each element is present, the defense could move for a directed verdict before it even presents its arguments and the court would be compelled by the law to dismiss the case. Once the prosecution has established that the elements are present, the defense makes its argument that one or more of the elements are not present based on the facts of the case. Each side gets one more chance to rehabilitate its contentions and undermine the other's arguments before the jury takes over. The jury must decide if the prosecution has established each element of the offense beyond any reasonable doubt.

Let us take the Hinckley case for example. The prosecution presented evidence that Hinckley intended to kill the President—what he referred to as an "historic act" in one letter—and that he planned the killing in advance. Unless the defense could have shown that his mental condition made it impossible for him to plan or to form an intent, Hinckley would have been found guilty—the likely outcome under the facts of that case. Hinckley admitted intent and planning but contended under the ALI test that he "lacked substantial capacity to appreciate the criminality of his conduct or to conform to the requirements of the law."

Current criminal procedure handles perfectly well the question of burdens of proof in criminal adjudications. We have no need to alter centuries of precedents on that subject. We need only confine the scope of the insanity defense to the mens rea requirements of any criminal offense. As I mentioned earlier, this means, in effect, that there will be no affirmative insanity defense. Instead the defendant will be able to argue that the crime was not committed because its state of mind element was not proven beyond a reasonable doubt. Since S. 2572, in effect, abolishes the insanity defense, neither the defendant nor the prosecution has the burden of proof on it.

Upon proof beyond a reasonable doubt that an individual committed the prohibited conduct with the required state of mind, the individual would be found guilty of the offense. At the time of sentencing, however, the court would hear whatever further psychiatric testimony was available to assist it in determining the conditions under which the defendant would be committed to a prison, mental hospital, or some other facility.

These points in favor of my approach are covered very concisely by a letter from the Attorney General endorsing this title of the Crime Control Act:

> This proposed reform of the present insanity defense would strictly limit sanity issues which may be raised at trial to those bearing upon the one truly relevant mental element involved in every criminal prosecution: whether the defendant had the mens rea or legal state of mind necessary for the offense . . . Under the mens rea approach, psychiatric testimony to the effect that the defendant did not know right from wrong or was acting in response to an irresistible impulse would be irrelevant and inadmissible during the guilt determination phase of a criminal trial. Of course such evidence could be admitted during the sentencing stage if the defendant is found guilty.
>
> By limiting the insanity defense to the one truly legal issue, we would avoid the miscarriages of justice and the gross deviations from basic rules of semantics which occur when a defendant is found "not guilty by reason of insanity" even where it is clear that he committed the offense and had the requisite legal state of mind. This, we believe, is the cause of the recent public outrage over the verdict in the Hinckley case.
>
> Adoption of the mens rea approach would also avoid the unseemly "battle of psychiatric experts," the waste of judicial, prosecutorial, and medical resources and the unfairness arising from the present insanity procedure. On this last point, present law favors well-to-do over economically disadvantaged defendants. Futhermore, limitation of the insanity defense to the one legal issue—mens rea—avoids the necessity of further complicating the law by shifting burden of proof or by reducing the standard of proof; in fact, the government must always, under our constitution, bear the burden of proof beyond a reasonable doubt as to the state of mind element of every criminal offense. Letter of Attorney General William F. Smith, July 1, 1982, 128 Cong. Rec. S. 7869.

This insightful letter from our Attorney General restates with precision the reasons that the approach of title VII of S. 2572 is the most reasonable way to solve the dilemmas created by the current insanity defense procedure.

Next, Mr. President, I would like to briefly comment on the distinctions between the various legislative approaches pending before the Judiciary Committee.

S. 1106 adopts essentially the same approach outlined in my bills, S. 818, S. 1558, and title VII of S. 2572. It uses the same approach of restricting the scope of the insanity defense to the established legal criteria of the mens rea element of the crime. In one fundamental respect, however, it differs. The plea which the defendant would enter to invoke the defense in S. 1106 would be "guilty but insane," instead of "not guilty only by reason of insanity." This misconstrues the nature of the mens rea defense. A crime is only a crime if all elements of its definition

are present. If the defendant can show that he did not have the proper state of mind, he did not commit that crime. It, therefore, makes no sense to call him "guilty" of a crime he did not, by its own terms, commit. A more correct legal characterization of his plea is that he is "not guilty," but that "not guilty" plea is only possible because he lacks the mens rea "by reason of insanity."

Once the defendant has shown a lack of the mens rea, both S. 1106 and my bills adopt the same approach of authorizing the court to supervise the individual's custody. Instead of the current system, which allows a panel of psychiatrists to determine that an individual should be released as early as 50 days after he has been committed to a mental institution, the court would be empowered to insure that no dangerous individuals would be prematurely transferred away from a secure treatment facility.

Another bill before the committee, S. 2658, changes the burden of proof to the defendant to prove, under the existing ALI or M'Naghten tests, that he did not know the nature and quality of his actions or did not know the wrongfulness of his actions. While shifting the burden to the defendant diminishes the chances that responsible individuals might escape responsibility for their criminal behavior, this approach perpetuates the basic problems of current law.

In the first place, the terms of psychology will continue to muddle legal decisions. Courts and juries will struggle to make decisions with profound legal consequences based on the vague standards of the ALI and M'Naghten tests.

Second, a point related to the first, the guilt or innocence of particular defendants may still depend on the credibility of a battery of "expert witnesses," instead of on the legal question of whether the defendant committed the crime as defined in law. This perpetuates all the problems of the "rich man's defense" with countless resources of psychiatrists and courts poured into a juridical circus of psychological testimony extraneous to issues of mens rea and the elements of the crime.

Third, this approach uses current law to handle a defendant who successfully convinces a court that he is insane. The defendant is surrendered to the jurisdiction of the civil authorities who place him in a mental institution until a panel of doctors, for reasons perhaps completely unrelated to legal obligations—such as overcrowding in the asylum—decide he may be released. As the media has learned in the Hinckley case, this could occur within 50 days under such a system.

Finally, this burden shift still would exculpate any defendant who can stretch the elastic ALI and M'Naghten language to show by a mere preponderance of the evidence that he was insane. Fifty-one factors out of a hundred on the side of insanity exculpate an individual who otherwise has committed every element of a criminal offense. This would have the damaging result of undermining the public's respect for our legal institutions. In the long run, this may be the worst consequence of failing to depart from our current misguided course.

Finally, permit me to recount a number of arguments that weigh in favor of the changes in the insanity defense that I advocate:

First, those individuals suffering the most serious forms of mental disabilities are unlikely to be criminally convicted under any circumstance. Such individuals will either be found incompetent to stand trial in the first place or continue to be acquitted under the proposed amendment's mens rea test. It is in the case of borderline sociopaths or antisocial personalities that this test differs from the American Law Institute and other tests.

Second, it has become very difficult to separate mental illness from environmental and economic conditioning, due to the determinist ideology of the 20th century. The objective of S. 1558 is to keep the insanity defense an exception not a rule.

Third, the present insanity defense is an imprecise way for determining whether individuals ought to be institutionalized and, if so, to what type of institution. My proposed change would allow this question to be faced directly and explicitly by the court. Rather than focusing only upon some elusive and fluctuating concept of responsibility at the time of the offense, the focus would be upon insuring proper means of treatment of the underlying mental problem. Under the amendment, it is likely that the number of truly abnormal individuals assigned to traditional prisons would be reduced since the sentencing options of the sentencing judge would be increased. This would keep the jurisdiction of the case in the hands of the criminal court and not pass it on to the second-hand knowledge of civil authorities.

Fourth, the amendment would encourage more effective use of professional psychiatric resources, as well as legal resources. Highly trained psychiatrists and psychologists could devote more of their time as clinicians and advisors, not tying up their valuable talents in courtroom battles.

Fifth, the present insanity defense, it has been suggested, encourages juries to overlook the fundamental question of whether or not defendants may simply not be guilty by virtue of lacking in mens rea.

Finally, and in some respects the most important, the insanity tests, as they have become increasingly broad in application, have undermined significantly public respect for and confidence in the criminal justice system as they have resulted in the release of individuals clearly dangerous to society.

I will not cite specific horror stories, but suffice it to say they are not difficult to identify. I am confident that each of us here is familiar with instances in which the present insanity defense has been abused, and, quite probably, in which acquitted individuals have wreaked further violence upon society. In the past several months alone, we have witnessed invocation of the defense in several highly celebrated trials, including those of former San Francisco city supervisor Dan White and John Wayne Gacy in Chicago and most recently John W. Hinckley, Jr.

I feel that there is a need for reform, and the time is now. John Hinckley, Jr., was not the first attempted presidential assassin to be acquitted on the insanity defense. Richard Lawrence's pistol misfired when aimed at Andrew Jackson in 1835 and John Schrank wounded Theodore Roosevelt in 1912.

Mr. President there is an obvious difference between these cases and the Hinckley case. Both of these earlier assassins had definite psychotic illusions. Andrew Jackson's assailant believed he was King Richard III, and the man who wounded Theodore Roosevelt claimed the shooting was ordered by President McKinley's ghost. There is another notable difference. Richard Lawrence went to an asylum for life, and Schrank went to a mental ward for 31 years where he died.

Contrast these severe symptoms of psychosis and the hospitalization that was diagnosed in treatment, with the mild behavior which Hinckley exhibited and the length of hospitalization which will most probably be quite short.

As is evidenced by these contrasting cases, there has been a marked change in the meaning and the action of the insanity defense in the past century.

Proponents of the insanity defense argue that there is no need to change the existing insanity defense laws, because criminal defendants plead insanity in only a small fraction of the cases around the country, but the number of such cases has been growing rapidly. In addition, the insanity defense, once invoked, almost exclusively in cases where the defendant was charged with murder, is now being used in trials for "less serious" offenses with increasing frequency. The most tragic example of this extension is surely the use of the insanity defense in cases of rape and child abuse, where repeated acquittal may be gained on grounds of insanity, for offenses which are generally held as crimes having high rates recidivism and low rates of success in the ability to "treat" and "cure" those known to

have a tendency to commit these offenses.

Mr. President, there are, in my opinion, few legislative acts in the area of criminal justice that this body can take that will do more to restore public confidence in our system than by reforming the present antiquated insanity defense.

The proposed amendment would concentrate trial exploration of the defendant's mental state in the sole area in which it is legally meaningful—the evaluation of the necessary mens rea—while enabling the posttrial process to concentrate upon the question of disposition of the defendant, free from the artificial fetters of evidentiary rules.

This amendment would end the insanity charade that has demeaned the Federal courts for too long. It would establish an effective means by which offenders could appropriately be channeled into either the punitive-correctional system or the medical-legal system. Most importantly, it would insure that this determination took place in an environment that is suited for making it, rather than, as is presently the case, in an environment in which legal and psychiatric questions are confusingly and inappropriately intertwined.

There is among psychiatrists simply nothing that even remotely approaches a consensus on what constitutes insanity or on how such a condition is to be medically determined, much less legally determined.

The proposed reform of the insanity defense is supported by a large number of responsible observers, including doctors Seymour Halleck and Karl Menninger, law professors Norval Morris, Father James B. McGoldrick, and Joseph Golstein, the Justice Department under Edward Levy, 62 percent of the respondents of a survey conducted among the departments of mental health in the States by the Senate Judiciary Committee, a number of local and State bar associations, and a committee of the American Bar Association. In addition, a number of States and foreign countries have adopted formulations similar to the proposed language.

To emphasize once more, the proposed reform of the insanity defense would promote better than any present insanity defense two objectives that are critical to a sound system of criminal justice: First, it would promote the integrity of the system, and promote protection of the community, by insuring that individuals who are found guilty of an offense with the requisite mens rea are treated as blameworthy criminals. Second, it would promote genuine promise of rehabilitation by allowing the court to focus upon their legal guilt. Nebulous and extraneous issues would be removed from the consideration of each of these questions. For these very important reasons, I must express my deep regret that this important crime measure will not contain a change in the insanity defense.

Mr. HEFLIN. Mr. President, many times during my service here in the Senate, I have addressed this body on the problem of crime in the United States.

Violent crime has reached epidemic proportions in America and is running rampant in every section and locale in the country.

No longer is violent crime isolated to the Nation's big cities, but it is now spreading in areas traditionally thought of as safe—particularly the suburbs and rural areas.

The American people are virtually being held hostage in their own homes by criminals who operate in the streets with impunity with little or no fear of arrest or punishment.

Over the years, we have grown weary of newspaper and television reports recounting gruesome details of murder, assault, rape, and muggings. We Americans have tired of the lack of an effective, coordinated effort on the part of law enforcement officials and we are tired of changing our lifestyles to accommodate the threats of our assailants.

Even as I speak, several crimes have been committed. The FBI's crime report indicates that there is a murder every 23 minutes, a rape every 6 minutes, a robbery every 55 seconds, a burglary every 8 seconds, and an aggravated assault every 49 seconds. Over $9 billion worth of property was stolen this year alone.

I am not going to stand here and recite to you the horrors of specific infamous crimes because each of you know of such tragedies or have read about them. The American people do not want to hear any more speeches full of statistics and rhetoric—they want action.

The average American citizen wants to be able to walk to the grocery store without being attacked for the sake of a five dollar bill. He wants to be able to go out to a restaurant and not come home to a burglarized home.

The American people have had enough, and feel it is time to do battle with those who wage battle against them in their streets and in their homes.

Now, I am pleased that our war on violent crime has finally come to the forefront of legislative priorities, and that at least the beginning of a long-awaited legislative response has begun.

I would like to commend Chairman THURMOND and his able staff for the capable and thorough review of many of the issues in the Judiciary Committee. I would also like to thank Senator BIDEN and his likewise capable staff for their efforts in this area.

As I mentioned earlier, the FBI's 1982 crime report indicates that a violent crime occurs every 2 seconds in our country. Given this increasing rate of crime, it is incomprehensible that our criminal justice system permits a person with a known propensity to commit serious crimes, to be put back out on our streets. It is time that we recognize the need to remedy this serious defect in our criminal justice system and in our fight against crime.

Title I of this bill will reform our antiquated bail laws which are based on a two-century-old system. Historically, the legal basis of release decisions has been whether the defendant will appear for trial, and conditions of release have been constrained to be the least restrictive ones preventing flight.

The current law continues to follow this system. Under the Bail Reform Act of 1966, the only criterion a judge can use in freeing someone accused of a crime is whether he is likely to appear for trial. While a judge can set bail at a high amount, this does not prevent those engaged in highly profitable crimes such as drug trafficking from obtaining their freedom.

This bill will modify these bail laws by permitting the judge to consider the danger the defendant poses to the community as a factor in determining whether to release the person. Too often a person with a known criminal history is given the freedom to walk our streets and to engage in further criminal conduct. It is ironic that a criminal justice system which is supposed to take the criminal off the street is the same system which puts him back on the street.

Chief Justice Burger is among the persons who have proposed that this factor not be overlooked in setting bail. By failing to account for this potential danger, the Federal bail laws may have actually contributed to the increase in crime.

While this bill works toward keeping the dangerous criminal off the street pending trial, this pretrial detention will not violate the defendant's due-process rights. The District of Columbia Court of Appeals, in United States against Edwards recently upheld the constitutionality of the District of Columbia preventive detention statute. This bill will also establish due-process procedures to protect defendants detained prior to trial on the grounds that they might pose a danger to the community or flee.

Title II provides for victim witness protection. It is about time that someone pay attention to the victim of crime. Too often the victim is left to recover as best he can or is further burdened through official impositions such as police interviews and court testimony.

For each crime there is at least one victim, and oftentimes at least one wit-

ness. While we must assume that the defendant is afforded his or her constitutional rights, we also owe a duty to the victim—a duty to assure that he or she is not victimized twice. First by the criminal, and then by the criminal justice system itself.

This insensitivity to the victim must be corrected. Title II of S. 2572 will address the serious needs of victims and witnesses. The first provision of this section calls for a victim's impact statement to be included in the sentencing report sent to the judge. This nonargumentative statement will assess the financial, social, psychological, and medical impact upon, and any cost to the victim of the crime in question. The effect is to insure that the judge considers the effect of the crime on the victim before sentencing the accused.

The bill will also insure protection of victims and witnesses, Currently, the law only provides criminal penalties for intimidation or retaliation against witnesses. This bill would change the law so as to apply to victims as well.

This bill further provides for a cause of action to those citizens who are victimized by those who are prematurely released from Federal custody through the gross negligence of Government employees. Under this title, the Parole Commission of the Bureau of Prisons, not their members in their individual capacities would be civilly liable. Thus, these agencies should be less inclined to release prematurely those criminals with a history of violent crime.

Title III of this bill reforms penalties for offense involving controlled substances.

It is a well-known fact that drug trafficking is a very lucrative crime and is a serious problem facing our country today. It is also a well-known fact that there is a direct connection between the use of drugs and other violent crimes. This use of drugs often results in irrational and violent behavior. Those addicted to drugs may also be forced to engage in criminal acts in order to have a resource to pay for their habit.

It has been estimated that 90 percent of the illegal drugs consumed in the United States comes from abroad. An estimated 3.6 to 4.3 tons of heroin were shipped to this country in 1980. There were estimated to be 10 million annual users of cocaine in the United States in 1980. To meet this demand, 40 to 48 tons of cocaine were imported to the United States in 1980. The retail value of this cocaine was between $27 million and $32 million. The supply of marihuana to the United States was estimated to be between 10,000 and 15,000 tons. The retail value was $18 million to $27 million. The total value of illegal drugs supplied to the U.S. market in 1980 was between $69 million and $90 million.

These drug traffickers are well organized and sophisticated in terms of facilities, smuggling capability, distribution network, and finance. These organizations are also unhesitating in their resort to violence to eliminate competition.

Mr. President, the fine level for drug trafficking is totally inadequate in light of the huge profits reaped in a drug transaction. This section of the bill will provide more realistic fine levels that can act as both a logical punishment and a deterrent.

This bill will also act to correct the disparate sentencing for offenses involving schedule I and II substances which depends on whether the drug involved is narcotic or nonnarcotic. The punishment for offenses involving narcotic drugs is a maximum of 15 years imprisonment and a $25,000 fine. On the other hand, the case of nonnarcotics, yet extremely dangerous drugs such as PCP and LSD, methamphetamines and methaqualone, the penalty is only 5 years imprisonment and a $15,000 fine.

It is time that we address the serious problem of drug trafficking and act to halt it by providing more adequate penalties which will act as punishment and act as a deterrent.

Title IV will strengthen the protections in our criminal laws for our Federal officials. The blantent shooting, last March of President Reagan, clearly points to the need for reform in this area. Title IV will extend Federal jurisdiction to any senior aides and Cabinet members in the executive branch and to Supreme Court Justices. This provision will send a message to the criminal element that the people of American will not tolerate such cold-blooded, ruthless attacks on its leaders.

This bill will further make major changes in the sentences of imprisonment. The public no longer has confidence in a system which permits a defendant to serve only a fraction of his sentence. This act will end this system of imposing artificially lengthy terms by abolishing early release on parole and providing that the sentence announced will be served in almost all cases.

This section is necessary to remedy the serious flaws in our sentencing process. It is time that our system reflect the seriousness of the offense and the public's indignation for criminal conduct. These reforms will provide more adequate punishments and deterrents and restore the public confidence in our criminal justice system.

Title VI of this bill is designed to further the use of criminal forfeiture as a law enforcement tool in combatting racketeering and drug trafficking. We are all well aware of the lucrative nature of drug trafficking and the huge illicit profits which it generates. Drug trafficking and racketeering continues to be persistent and pervasive due to the strong economic power base from which it operates. Thus, the ability to effectively control, deter, and punish the commission of these crimes depends on our ability to separate these criminals from their sources of economic power.

In 1970, Congress recognized the importance of attacking the economic aspects of such crimes and sanctioned the use of criminal forfeiture in the racketeer influenced and corrupt organization statute and the continuing criminal enterprise statute.

This crime bill will meet the limitations, ambiguities, and problems found with the present forfeiture statutes. This will significantly improve the Government's ability to separate racketeers and major drug offenders from their sources of economic power by obtaining the forfeiture of the property which they derive from and use to sustain their criminal activity. Without such tools, efforts to combat the increasingly serious problems of organized crime and illicit trafficking in dangerous drugs cannot be fully effective.

By approving this legislation, we can take an important step toward taking the bars off the windows of the homes of America, and taking the fear out of the hearts of the American people.

Thank you, Mr. President.

● Mr. KENNEDY. Mr. President, the subject of crime ranks among the foremost concerns of the American people. With the exception of the troubled state or our economy and the fear of nuclear war, no issue is of greater importance to the well-being of our citizens or the future of our country. Crime is not just an urban issue or a suburban issue or a rural issue. It transcends geographical boundaries. The daily toll of violence permeates every city and every neighborhood. It afflicts the lives and affects the daily living habits of every American.

Crime in our society is not a new problem. But its unchecked growth has become more and more a source of fear and alarm for all our people.

In light of the grim statistics and events, the American people justifiably ask, why has Government abdicated its responsibility for public safety? Why have we failed to free our streets and neighborhoods from the fear of violence and sudden death? Why can we not bring the soaring crime rate down? What good does it do to arm America to the teeth against enemies abroad, while losing the war at home against enemies within?

The bill before the Senate today provides law enforcement officials with some of the weapons they desperately need to prevail in the war against violent crime. The cornerstone of this legislation is the reform of Federal bail and sentencing provisions. I

have worked for several years with my colleagues on the Judiciary Committee to develop the bail and sentencing reforms in these areas which I sponsored as separate legislation in this Congress.

No single reform of Federal criminal law is more important than the provisions in this bill to reform Federal sentencing procedures. When we talk about how current laws promote injustice, how they mean different things to the rich and the poor, the one criticism that rises above the rest is the flawed system of sentencing.

There are no guidelines in current law to aid judges in exercising their sentencing discretion. There is no appellate review of sentences. Different judges hand out widely different sentences to similar offenders convicted of similar crimes. Some criminals, including many repeat offenders, escape jail altogether while others, convicted of the same crime, are sentenced to prison to serve excessive terms.

Arbitrary parole practices free some offenders too early, while unfairly extending the sentences of others convicted of the same crime. Judges and parole boards roam at will, dispensing ad hoc justice in ways that defy reason and deny fairness.

These sentencing disparities have a devastating impact on justice in America. Certainty of punishment is a joke. The process is tilted against minorities, the young and the poor. Flagrant inequities nurture a growing public cynicism about law enforcement institutions. Youths who take a joyride or commit petty larceny are sentenced to a year in jail because they need to be taught a lesson. But tax evaders, price fixers, and polluters receive suspended sentences, because the stigma of their conviction is punishment enough.

Judges, in order to assure a lengthy term in prison, sentence a defendant to three times what is proper, because they fear that the parole board will approve the prisoner's release after only one-third of the sentence has been served.

The current system is actually a nonsystem. It is unfair to the defendant, the victim, and society. It defeats the reasonable expectation of the public that a reasonable penalty will be imposed at the time of a defendant's conviction, and that a reasonable sentence will actually be served.

Congress has been debating sentencing law for years. The needed reforms are neither too complicated to legislate nor too difficult to implement. Realistic reforms are obvious. They include certainty of sentencing, guidelines to limit judicial discretion, abolition of parole, and appellate review of sentences.

The bill sets out four generally accepted purposes of sentencing—deterrence; protection of the public; assurance of just punishment; and rehabilitation. A Sentencing Commission is created to establish guidelines for sentences in all Federal offenses. The guidelines will take into consideration factors such as the purposes of sentencing, the characteristics of the offender, and any aggravating or mitigating circumstances of the crime.

In a given case, a judge will be expected to impose a sentence within the range established in the guidelines. If the judge believes that the guideline range is inappropriate in a particular case, he may impose a sentence above or below the range, provided that he explains his reasons for doing so.

If an offender is sentenced below the range specified in the guidelines, the Government may seek appellate review of the sentence, if an offender is sentenced above the range, the offender may seek appeal. These overdue reforms will insure greater uniformity and fairness in sentencing, while retaining necessary judicial flexibility. Most imporant, they will significantly cut down the gross disparities in sentencing that are so pervasive in current law.

This new approach will also end the use of indeterminate sentences. In such cases in the past, a convicted bank robber could be sentenced anywhere from a term of probation to 25 years in prison; a rapist could be sentenced anywhere from probation to life imprisonment. Under this bill, determinate sentences, announced at the outset, will tell the offender and society the actual prison time that will be served.

With fixed sentences, the current system of parole release will be eliminated. The sentence a defendant gets is the sentence he must serve. Both society and justice will be served by the elimination of parole. Too often, it is an arbitrary device for arbitrarily keeping offenders in jail or prematurely releasing them.

As Judge Marvin Frankel, the father of sentencing reform, has stated:

The idea of this kind of process is splendid. It deserves wide understanding and support.

With respect to bail, the bill also contains far-reaching and essential reforms. For the first time, judges will be permitted by law to consider the dangerousness of a defendant in establishing conditions of bail release.

If, after a detailed hearing, the judge finds that the defendant is likely to flee the jurisdiction, or presents a danger to another person or the community, release on bail may be denied.

At the same time, the bill makes equally important charges in the existing law on money bail. It expressly prohibits the practice by which judges, under the pretext of assuring a defendant's appearance at trial, set bail at levels they know the defendant cannot meet, because they feel the defendant is a danger to the community. It prohibits the arbitrary use of money bail as a means to assure a defendant's appearance at trial. In the future, the amount of money bail will be limited to a defendant's ability to pay. No longer will defendants be jailed because they are unable to pay an unfair ransom for release.

The endless debate over the effectiveness and utility of current bail procedures and over the constitutionality of preventive detention has long obscured the fundamental issue on bail—the unfair, unprincipled use of money bail as an indirect device to achieve pretrial detention. For years, there has been a false debate between advocates and opponents of preventive detention. Both sides have ignored the historic abuses permeating the existing bail procedure, which operates a de facto system of preventive detention.

This bill confronts the reality of bail today and mandates real reforms. It requires actual consideration by judges of the two essential issues in any bail decision—dangerousness of the defendant and the likelihood of flight before trial.

Clear, on-the-record consideration of these factors will reduce the unacceptable abuses that have become all too routine under present practice. Dangerous defendants will not be released into the community to mug or rob or kill again. And defendants will no longer be jailed awaiting trial because they are too poor to meet the bail that has been set. This bill achieves these profound reforms by addressing these sensitive issues in a candid, forthright way. It is a gain for civil liberties, a gain for law enforcement, and a gain for the safety of communities across the Nation.

The bill also improves Federal law relating to penalties for drug trafficking by providing stiffer penalties for major drug trafficking offenses, and larger fines that bear a closer relationship to the exorbitant profits from sales of illicit drugs.

In addition, the bill eliminates the sentencing disparities for narcotic and nonnarcotic drug offenses, and strengthens the sanction of criminal forfeiture as a penalty for racketeering and drug trafficking.

It is time for Congress to take decisive action against the rising tide of violent crime. This measure is a good beginning. I urge my colleagues in the Senate to support its passage.●

● Mr. DOMENICI. Mr. President, I commend the majority leader and Senator THURMOND for bringing S. 2572, the Violent Crime and Drug Act to the floor. The urgent need for this legislation is chronicled in our Nation's newspapers and televised at 6 and 10 each evening. Each day brings new tales of horror, each years statistics confirm

that crime is rampantly increasing. Opinion polls show that crime is the second most important concern of New Mexicans. It is second only to the state of the economy, and it is very close to surpassing it in importance.

The pendulum is swinging from concern for criminals to concern for the law-abiding citizens who suffer, directly or indirectly, from crime. Among criminals, the rumor on the street is that crime pays. Leniency in our system is an added incentive. It is incumbent upon this Congress to make the criminal pay. S. 2572 is a step in that direction.

We have had 20 years of permissive criminal justice. During that period we have learned that the liberal criminal theories have not worked. Instead of a lower recidivism rate brought about by rehabilitation, we have experienced a stampede of criminal activity.

The violence is appalling, its prevalence is astounding, its impact on our citizens is unacceptable. The spectrum of victims is far reaching. However, the elderly, because of their vulnerability, are victimized more than any other segment of our society.

Instead of controlling crime, crime is controlling us. The potential of being the victim of a senseless crime has had its impact. Every 24 seconds somewhere in the United States a violent crime is committed. Every 6 minutes a woman is raped, every 55 seconds a robbery occurs, and every 23 minutes a murder is committed. We organize our life styles so as to avoid the terror. We have deadbolt locks, window bars, guns, doormen, security systems, and guard dogs. We do not go out at night. We avoid certain streets. We are afraid, and with good reason. Criminals have drastically reduced the personal freedom and security that Americans used to know.

Even in the smallest communities the day is gone when the family could leave the door unlocked when no one is home. Many of our citizens lock their doors when they are at home, and set the alarm system when they leave.

Our quality of life has been significantly altered by the raising level of crime. To quote Saul Bellows, "we have lost the penumbra of private inviolability." People today feel isolation and powerlessness. They feel vulnerable and entrapped. They do not know what to do. It is clear they want more stringent laws, longer sentences, and more actual time served. They are depending upon Congress. S. 2572 gives muscle tone to our flabby criminal system in several important areas. It is time that Congress stand up for a crackdown on crime. I am going to vote for this bill and urge my colleagues to do likewise.

The bill is composed of several very necessary titles which cover a variety of topics. It is aimed primarily at violent crime and serious drug offenses. The bill includes provisions that would allow judges to deny bail if the defendant is considered dangerous to the community, creates a Federal sentencing procedure through the creation of a new system of sentencing guidelines, fixed sentences, abolition of parole and limited credit for good time, and an increase in penalties for major drug offenses.

Federal bail provisions are for the most part governed by the Bail Reform Act of 1966 and the only issue that may be considered by the judge in making a bail decision is the likelihood that the accused will appear for trial if released. Although an accused seeking release on bail may pose a significant risk to the safety of the community, the courts may not deny bail on that basis. This bill will correct this deficiency.

The Judiciary Committee report contains excerpts from several studies regarding crimes committed by persons out on bail. Some of these figures struck me as good evidence that our policy regarding bail must be changed. One study showed that 70 percent of those persons arrested for robbery were rearrested while on bail; 65 percent of those released after an arrest for auto theft were taken into custody for another auto theft while out on bail. Another study disclosed that 28 percent of the murders, 19 percent of the rapes, 31 percent of the robberies and 32 percent of the burglaries and 11 percent of the assaults were committed by persons free on some form of conditional release. Another study disclosed that for a defendent with a previous record of two or more prior arrests the chance of rearrest before trial was twice as great as for those with one or no previous arrests. While all of the studies do not agree as to the exact percentage, it is clear that the number of crimes committed by persons out on bail is staggering.

Last week the newspaper carried a story about a 31-year-old police officer who was killed in the Capitol Hill area. The accused murderer was out on bail awaiting trial. He is a career criminal with a long record of criminal offenses pending against him.

Historically, bail can only be denied if an accused is likely not to show up for trial. Prior to shooting the policeman this criminal had always showed up for his court dates. This dependability entitled him to bail and the judge was powerless to deny it even though it was obvious that he was dangerous to the community. To me, shooting a police officer is not only a crime against an individual, innocent victim, but against the society that he represents. The changes we make in the bail reform today will not bring back this officer or comfort his family, but it does recognize that we have career criminals in our society and that they should not be out on bail.

These studies and the daily reports in the newspapers indicate the need for changing the standard for pretrial release and detention so that judges can openly consider the possible threat a suspect poses to community safety. These examples lead me to believe that the freedom bail provides should not be for sale at any price for career criminals.

Title I of S. 2572 also contains another important bail provision. It is the presumption that a particular individual is a danger to the community if he committed a serious drug trafficking offense or used a firearm during the commission of a violent crime.

Another title of this bill addresses sentencing and parole. There is widespread agreement that the present Federal approach to sentencing is outmoded and unfair to both the public and persons convicted. It is based on an outmoded rehabilitation model in which the judge is supposed to set the maximum term of imprisonment and the Parole Commission is to determine when to release the prisoner because he is rehabilitated. Federal judges now have essentially unlimited and unguided discretion in imposing sentences. As a result, offenders with similar backgrounds who commit similar crimes often receive very different sentences in the Federal courts. Some defendants receive sentences that may be too lenient for the proper protection of the public and others may be given sentences that are unnecessarily harsh. Under the present sentencing structure, the length of time that a prisoner actually spends in prison is determined by the U.S. Parole Commission.

The sentencing provision of this bill create a sentencing commission within the judicial branch that is directed to establish sentencing guidelines. They will recommend to the sentencing judge an appropriate kind and range of sentence for a given category of offense committed by a given category of offender. In addition, sentences are fully determinate. The sentence imposed by the judge is the sentence that will actually be served subject only to modest good time credits. The bill provides a truth-in-sentencing package that will inform both the public and the offenders of the real penalty being imposed on each defendant.

I see this title as also addressing the career criminal problem. With stiffer mandatory sentences we will be locking up for a longer period of time the worst criminals. These defendants commit on an average 10 crimes for every 1 on which they are convicted. If we put away 10,000 career criminals we can prevent 100,000 crimes.

Another title of the bill increases the fine levels for drug trafficking to not less than 20 years or a fine of not more than $250,000 or both. With a prior offense the maximum sentence is 40 years and/or a fine of not more than $500,000. Another significant aspect of this bill that I support is increasing the penalties for offenses involving the most dangerous nonnarcotic drugs, such as LSD, and PCP and amphetamines to bring them into line with penalties for heroin and the opiates. This is the kind of legislation that we need if we seriously intend to deter drug trafficking.

The other titles of the bill are needed. This act will help correct those inequities which have ebbed the confidence of the American people in our Nation's system of justice.

I would like to speak about three items that this bill does not address, the insanity defense, the exclusionary rule changes, and the habeus corpus reform. These are three areas which are part of the President's crime package. They are three areas that are a necessary compliment to the crime bill we are discussing today.

We are told that the insanity defense reform is too controversial. Should an accused bear the burden of proving himself insane, or should the prosecution bear the burden of proving his sanity? Who is the better expert on a defendant's competence to stand trial, a psychiatrist or a lawyer? What should psychiatrists be allowed to say to juries? How many experts should be allowed to rebut and refute the opposing experts? These are the questions that fuel the intellectual debate on reforming the insanity defense.

These questions have little impact on the American public consensus. Last fall an Associated Press/NBC News poll showed that 87 percent of the public believed that too many murderers were using the insanity plea to avoid jail. Nearly 70 percent would have banned insanity defenses altogether in murder cases. The public perceives the insanity defense as an easy route by which defendants in grisly murders, attempts on the lives of national leaders and bizarre sex crimes can hope to avoid punishment. The insanity defense is a criminogenic eating at the American people like a cancer. Congress has the responsibility to do surgery and to effectively cut out the abuse of the insanity defense.

Under present law the insanity defense is based upon the American Law Institute Test. According to this model, a "person is not responsible for criminal conduct if at the time of such conduct, as a result of a mental disease or defect he lacks substantial capacity to understand the wrongfulness of his conduct or to conform to the requirements of the law."

This test is based on knowing "right from wrong" or possessing "an irresistable impulse" or "lacking substantial capacity." This test invites the presentation of massive amounts of conflicting and irrelevant evidence by psychiatric experts.

The defense has been denounced as a rich man's defense. The defense has also been criticized by legal scholars, bar association representatives, and psychiatrists as time consuming, confusing, and expensive. Recent memory brings to mind the John W. Hinckley, Jr., trial. It has been estimated to have cost the Government and Hinckley's parents more than $3 million. The extensive role played by no less than nine psychiatrists made the case one of the most expensive prosecutions in the history of the insanity defense. The Government spent $300,000 on three private psychiatrists and one psychologist. Hinckley's defense also employed a team of six. The bill for their services was around $200,000. Two $57,000 per year, assistant U.S. attorneys spent full-time on the case and a third assistant spent a significant amount of 17 months preparing the case for trial. The main item challenging their legal skills was the insanity issue. The costs associated with the jury exceeded $40,000, and the transcript of all this expert testimony was price-tagged at $70,000. It is obvious that this trial was time consuming, confusing and expensive.

Another problem with the insanity defense as it is presently written is that the decision on who gets an insanity acquittal has more to do with the state of mind of the jury than the state of mind of the accused. This is because the present test requires the jury to determine the motive. That is a difficult and unpredictable task.

States have made the first move to bring some consistency and predictability to the insanity defense. Michigan, Georgia, Illinois, and Indiana have adopted a guilty but mentally ill verdict. More than half of the remaining States' legislatures are considering the same approach. Montana and Idaho went even further and have effectively eliminated the separate defense of insanity.

The administration proposes that a person could be found not guilty by reason of insanity only if, as a result of mental disease or defect he lacked the state of mind required by statute as an element of his offense. Under this mens rea test disease or defect would not otherwise constitute a defense. In a vast majority of cases mental illness would be a factor considered only in sentencing, the only segment of a criminal proceeding where mitigating circumstances are properly relevant.

The often cited illustration used to explain the test is the man who strangles his wife believing he is merely squeezing lemons. His defense is that he lacked the intent to kill another human being. Evidence of his mental disease is relevant because it lends credibility to his story. Under the new test, the lemon-squeezing spouse-killer would be acquitted if the jury were persuaded that he literally thought that his wife was a lemon.

The new test would elminate reference to knowing right from wrong and having irresistible impulses or lacking substantial capacity to conform with the law. It is a more stringent test. It will also make the outcome more reliable.

The practical ramifications of this stricter test is to protect the community. A mental disease or defect would be no defense if a defendant acted out of an irrational or insane belief that his act was morally justified because the victim was an evil man whose death would end injustice, be just recompense for past wrongs or lead to a social utopia. Mental disease or defect would constitute a defense only if the defendant did not even know he had a gun in his hand or thought, for example he was shooting robots, or trees.

This new test eliminates the insanity defense to the maximum extent permitted under the Constitution. Its toughness is a warning, a deterrent and a no-nonsense signal that this recently and frequently overabused escape hatch in the criminal code has been boarded up. I sincerely hope that early in the next Congress we will address this issue.

Another criminal law area that is not addressed in this bill but is in dire need of reform is the exclusionary rule. The exclusionary rule is a court created rule under which evidence is barred from introduction at a criminal trial if the evidence is determined to have been obtained by illegal search and seizure. The legitimate purpose of the exclusionary rule—to deter illegal police conduct by preventing illegally obtained evidence from being used in a criminal trial—has been lost. Its application has grown to include trivial technicalities. The result is that good, reliable evidence has been kept from juries and guilty criminals go free when constables unwittingly blunder. Another result is diminished public respect for courts and our judicial process.

In the crime package proposed by the President the exclusionary rule would not be invoked where evidence was obtained pursuant to a search or seizure undertaken by law enforcement officers in the reasonable and good faith belief that their actions were lawful. This change would enhance the operation of the Federal criminal justice system by allowing courts greater access to all reliable evidence relevant in determining the guilt or innocence of the defendant. It

would promote renewed respect for that system.

A third area addressed in the President's crime package but not included in this bill is changes in the habeas corpus law. The proposed changes would ordinarily bar consideration by a Federal habeas corpus court of any claim that has not been properly raised in State proceedings, unless the State has failed to provide an opportunity to raise the claim.

Every day for months, Senator NUNN and Senator CHILES have given us examples of habeas corpus review abuses, such as petitions filed as much as 30 years after the accused finished serving his sentence. As Chief Justice Burger pointed out in this speech to the American Bar Association, "there must be, at some point, finality of judgment." The recommendations made by the President do not in any way diminish the "great writ," but rather promote respect for it, by limiting the writ to situations where it is truly needed.

Today we will pass the crime bill, S. 2572. It is the beginning of a necessary reform. I want to commend Senator THURMOND for his hard work on this vital issue. I want to voice my further support for the other items on the criminal procedure agenda. I sincerely hope we can debate those issues in the near future.●

Mr. BIDEN. Mr. President, I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I personally commend the Senator from South Carolina and the Senator from Delaware for bringing this proposal to the floor of the Senate today. I know they have many other matters in their committee. I know they have a lot of other committee responsibilities. I commend both of them for the great leadership they have displayed in making the crime package we have before us today the priority business of the Senate.

I also want to commend the Senator from Delaware particularly because he has been working in this area for the last 5 years. He and I started about 5 years ago working together, I in my investigating subcommittee and Senator BIDEN in his Judiciary Subcommittee. We have worked together very closely and our staffs have worked together very closely in developing a lot of the legislation that is in this package today, and in developing, most importantly, support for this kind of legislation through detailed hearings in the investigative subcommittee and detailed legislative hearings in Senator BIDEN's subcommittee and the full committee.

I also commend the Senator from Florida, Senator CHILES, who has cosponsored a great number of bills in this particular package. He and I have worked together on probably 40, 50, or 60 percent of the package we have before us today. We worked together on it in the investigating subcommittee. We have had a number of days of hearings over the last 5 years. We have made speeches on the floor every day, just about every day, since the spring of this year, bringing the matter of this package and other crime proposals before the Senate for, hopefully, urgent and priority action.

The Senator from Florida I think has done more than any other single individual in this body to call to the attention of the Senate of the United States and the American people the urgent problems that are facing us in the law enforcement field. I think without his diligent, persistent, and, I am sure I could say with some certainty that others would agree, without his constant attention in this area, I do not believe that this package would be here before us today.

So the Senator from Florida, probably more than anyone in this body, has stimulated Senate action in this respect.

I might also say I doubt if there is anyone in the Chamber who has the first-hand view of what criminal problems can do in an area that the Senator from Florida has because of the tremendous problems that have developed in the Miami area in narcotics and other types of crimes, particularly violent crime. The work that the Senator from Florida has done on the posse comitatus statute is already having a profound effect on the country and most particularly, his region of the country, in stemming the tide of narcotics invading this country. I commend the Senator from Florida for all of his efforts, substantively and procedurally, in getting this package before us.

Mr. President, I rise in full and enthusiastic support of S 2572, the legislative crime package now before us. In urging Senate adoption of S. 2572, I want to initially point out that I am most encouraged by the Senate's decision to today focus on the critical need for strong and effective anticrime legislation. It is exactly with that purpose in mind that Senator CHILES and I, over 4 months ago, introduced S. 2543, the Crime Control Act of 1982, hoping to dramatically underscore the American public's desire for clear statutory assistance to law enforcement in its never ending battle against crime.

In introducing our bill, Senator CHILES and I asked the Senate to take cognizance of the very important priority which the problem of crime in this country deserves. We also asked the Senate to keep in mind a resolution passed in the summer of 1981, which was introduced by Senator HEFLIN, in which this body declared its intention to address the crime problem as one of its major priorities. We purposely designed S. 2543 as a comprehensive crime package, incorporating legislative proposals which Senator CHILES and I had previously introduced in four highly critical areas of needed criminal law reform: Sentencing, bail reform, habeas corpus, and organized crime and the protection of witnesses. We succeeded in having the consolidated proposal, S. 2543, placed directly on the Senate calendar, hopefully facilitating its early consideration by the Senate.

To emphasize the urgent need for prompt action on anticrime legislation, Senator CHILES and I have, since the introduction of our bill in May of this year, been speaking daily on the Senate floor in the hope that the Senate would move to act, and act decisively, on the issue of crime. We have gone to great lengths in this Chamber to point out example after example of the violence which the American people continue to suffer while the Senate neglected to act on strong legislation against crime. The crime and corruption which daily fills the pages of American newspapers gave us more than ample proof of the drastic need for a strong congressional commitment against crime.

Since introducing S. 2543, we have welcomed those of our colleagues who have also come forward to voice their support for strong and effective anticrime legislation. As that support has grown stronger over the past months, so has the Senate calendar become increasingly crowded with a variety of proposals for anticrime legislation. At last count, we now have five separate pieces of anticrime legislation awaiting action on the calendar.

Shortly following the introduction of S. 2543 by Senator CHILES and I myself, Senator THURMOND introduced S. 2572, the comprehensive anticrime package which we are considering today. S. 2572 included proposals similar to three of the four areas which Senator CHILES and I originally included in S. 2543, omitting only our proposals for habeas corpus reform.

On August 17, 1982, Senator THURMOND introduced a new bill, S. 2838, consisting of proposals for habeas corpus reform differing only slightly from our suggestions in S. 2543. The new bill was also placed directly on the calendar to facilitate early consideration. On September 14, 1982, S. 2902, the Insanity Defense Act of 1982, was introduced by Senator THURMOND and placed directly on the Senate calendar. Incorporating many of the same proposals which Senator CHILES and I had offered in June of this year as S. 2678, the new bill was the product of full Judiciary Committee hearings on the insanity defense. Finally, on September 14, 1982, President Reagan's recently announced anticrime package was also placed on the calendar as S. 2903, under Senator THURMOND's sponsorship. The Reagan package includes proposals for habeas corpus reform,

insanity, and the exclusionary rule, similar in many respects to various bills already pending in the Senate.

While all these legislative proposals have remained pending on the Senate calendar, violent and organized crime has continued to relentlessly victimize the American public. Only last week the Department of Justice released a study calling victimization by crime a common event in American households. The Department estimated that some 30 percent of American households were directly touched by violent crime or theft in 1981. As Senator CHILES and I have said again and again in this Chamber, the time is surely long overdue for strong congressional action against crime. I am extremely pleased that the Senate today, by consideration of S. 2572, has at long last heeded our persistent calls for a vigorous commitment against crime.

I think the majority leader has responded to the greatest extent of his ability, considering other pressures, in trying to get this legislation before us. I commend the majority leader. I also commend the minority leader, Senator BYRD, for his cooperation and his push in getting this legislation before us today.

As to the specific provisions of S. 2572, I have spoken in this Chamber many times on the issue of crime as well as registering my support for many of the provisions contained in this bill. In fact, this package contains many of the very same proposals contained in our original bill, particularly in the areas of tougher bail and sentencing provisions for narcotics and violent offenders.

As former chairman and current ranking minority member of the Permanent Subcommittee on Investigations, I have been especially vocal in urging stronger law enforcement and anticrime measures. Our subcommittee has held extensive hearings on many aspects of the crime problem, including illicit narcotics profits, mob violence, international narcotics smuggling, labor racketeering, and the Federal witness protection program. As a result of those hearings, I have previously sponsored many of the very same anticrime measures which have now been included in the pending crime package.

We have had many days of hearings over the last 4 years. We have had hundreds and hundreds of witnesses. We have had thousands of pages of testimony. As a result of these hearings, as a result of hundreds of hours of efforts by myself and the other members of the subcommittee, as well as thousands of staff hours, we have sponsored many of the very same anticrime measures which are now included in the pending crime package.

As long ago as 1979, our subcommittee began to focus congressional attention on the astounding scope of the illicit narcotic industry in this Nation. We pointed out in 1979 that the retail value of drugs in this Nation stood somewhere between $65 and $89 billion. We have repeatedly urged reform of our Federal law enforcement efforts in an attempt to seriously tackle that problem. After many years of effort, both the Senate and the House this year passed S. 2565, sponsored by myself, Senators GRASSLEY, CHILES, DOLE, and others. By amending the disclosure provisions of the Tax Reform Act of 1976, that legislation will encourage and enhance IRS assistance and cooperation in criminal law enforcement efforts.

Mr. President, that legislation did not receive a lot of attention when it passed. Unfortunately, the tax bill it was attached to was the dominant focus in those days. I happen to believe that giving the Internal Revenue Service the explicit authority and responsibility to cooperate with law enforcement agencies will turn out to be one of the most significant anticrime measures that has passed this body in the last two decades. I think more and more, we shall have the capability to go after those at the top, those people who may never touch the narcotics, those people who may never, themselves, engage in violent crime, those people who are the ones who finance the operation and who derive most of the benefit through profits. The Internal Revenue Service is in a unique position to cooperate with other agencies of the Federal and State Governments in making this one of their top enforcement priorities.

As a result of our narcotics hearings, I sponsored strong bail provisions for such offenders in both S. 1253 and S. 2543. The current crime package, S. 2572, adopts many of the very same principles and proposals set forth in those earlier bills. Along with the bail problem, our hearing showed time and again the need for tougher and more consistent sentencing laws to combat organized crime and naracotics trafficking. In S. 1522 and S. 814, as well as S. 2543, I sponsored enhanced sentencing measures for violent offenders and major narcotics traffickers. Similar provisions have been included in the crime package now scheduled for consideration. It is indeed reassuring to see the promise of prompt Senate action on the very issues which have concerned me greatly for so many years.

Other titles of this bill, such as those devoted to witness protection, the protection of Federal officials, and criminal forfeiture have also been the subject of many of our hearings. During those hearings, the need for this type of legislation has been amply demonstrated time and time again

In our 1980 hearings on organized crime and the use of violence, we exposed the need for a Federal murder-for-hire statute as well as legislative action relating to the use of explosives and crimes of violence in aid of racketeering. I note that these same topics are similarly treated in the package legislation being considered today.

Specifically, S. 2572 make contract murder a Federal offense and extends statutory protections to Government witnesses and informants, as well as the families of Federal law enforcement officials. As a result of our 1980 hearings on organized crime and the use of violence, I originally brought similar provisions to the Senate's attention in S. 814 the Organized Crime Act of 1981, and subsequently in S. 2543 the Crime Control Act of 1982. It is to the credit of the drafters of this legislation that they have recognized the merit in anticrime proposals introduced in the past by many Senators on both sides of the aisle, regardless of party lines.

The scheduled crime package, however—and I have to point this out, Mr. President, that it is through no fault of the Senator from South Carolina, because he is anxious to get this passed—fails to speak to one area which drastically needs immediate legislative reform. That is the writ of habeas corpus. I am not in favor of putting that on this bill, because I recognize, as the Senator from Delaware and many others pointed out, that to put that on this bill might well preclude the passage of this bill in this session. But I feel I have to talk about it, because blatant abuse of habeas corpus by criminals has resulted in needless delay and the lack of certainty and finality of punishment in our criminal justice system. We have reached the point where the writ, rather than serving to protect innocent individuals, is routinely manipulated to insulate the guilty from their just and deserving punishment. To prevent such abuse, Senator CHILES and I included proposals for habeas corpus reform in S. 2543. Similar proposals are included in S. 2838, introduced by Senator THURMOND, as well as S. 2903, the Reagan anticrime package. Unless and until we act decisively in this area, the frivolous and repetitive petitions of career criminals will continue to transform our courts into overburdened and overcrowded judicial lotteries. Senator CHILES and I intend to continue to press the Senate for immediate action on this most critical issue.

As to the bill now before us, S. 2572, I urge its prompt adoption by the Senate. The American public has suffered at the hands of career criminals for far too long. The time is more than ripe for strong and decisive anticrime legislation. We can and should and, I am confident, we will act not to pass S. 2572 as proof of the commitment of

this Congress to the fight against crime.

Mr. President, I ask unanimous consent that a list of bills and a brief summary of them, which have grown out of the hearings of the Permanent Subcommittee on Investigations and which are now part of this package, be printed as part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY

S. 2572 contains provisions for criminal law reform based on or similar to provisions previously sponsored by Senator Nunn in the following legislation:

1. Bail Reform—Provisions allowing for the denial of bail in certain cases as previously covered in both S. 1253 (introduced May 21, 1981) and S. 2543 (introduced May 19, 1982). They permitted the denial of bail in cases of previously convicted narcotics offenders, narcotics parolees and probationers, illegal aliens, fugitives and individuals possessing false passports.

2. Protection of actual and potential Federal witnesses as well as families of Federal law enforcement officers—These provisions were originally included in S. 814 (introduced April 27, 1981) as well as S. 2543 (introduced May 19, 1982);

3. Contract murder—A provision similar to that included in S. 2572, making murder for hire or contract murder a Federal offense, was included in both S. 814 (introduced April 27, 1981) and S. 2543 (introduced May 19, 1982);

4. Sentencing—Includes increased sentencing for certain narcotics and violent offenses similar to those proposals introduced in both S. 1522 (introduced July 27, 1981) and S. 2543 (introduced May 19, 1982);

5. Reform of Federal Parole System—S. 2572 abolishes the parole system, a recommendation consistent with the findings in GAO report entitled "Federal Parole Practices: Better Management and Legislative Changes Are Needed," dated July 16, 1982, as originally requested by Senator Nunn on March 17, 1980.

Mr. THURMOND. Mr. President, I take this opportunity to express my appreciation to the able Senator from Georgia (Mr. NUNN) and the able Senator from Florida (Mr. CHILES) for the impetus they have given to taking steps to curb crime. Day after day, week after week, they have spoken in this Chamber on the subject of crime, with special emphasis on habeas corpus reform. I am very pleased we were able to address some of their concerns in this package. We were not able to consider some things, including a number of things I would like to see enacted. For example, there are four matters which I strongly feel deserve attention, but they are so controversial that we felt it would jeopardize the whole bill to include them. These issues are habeas corpus reform, the exclusionary rule, the insanity question, and the death penalty. All of those need to be addressed, but there is no use running the risk of not being able to pass the important provisions in S. 2572.

However, next year, I intend to offer and to get the ranking minority Member to go along with me, if he will, and others who will join us, to address these matters for the good of the public. Right at this moment, we felt it inadvisable to try to include those in the package.

UP AMENDMENT NO. 1356

Mr. THURMOND. Mr. President, I send to the desk certain amendments—in fact a group of amendments that I hope can be considered and adopted en bloc.

The PRESIDING OFFICER. The clerk will state the amendments.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment numbered 1356

(1) On page 3, strike out lines 7 and 8 and insert in lieu thereof the following: "conditional release, deportation, or exclusion pursuant to the provisions of subsection (d); or".

(2) On page 6, beginning with line 15, strike out through line 10 on page

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(2) On page 6, beginning with line 15, strike out through line 10 on page 7 and insert in lieu thereof the following:

"(d) TEMPORARY DETENTION TO PERMIT REVOCATION OF CONDITIONAL RELEASE, DEPORTATION, OR EXCLUSION.—If the judicial officer determines that—

"(1) the person—

"(A) is, and was at the time the offense was committed, on—

"(i) release pending trial for a felony under Federal, State, or local law;

"(ii) release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for any offense under Federal, State, or local law; or

"(iii) probation or parole for any offense under Federal, State, or local law; or

(B) Is not a citizen of the United States or lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(A)(20)); and

"(2) the person may flee or pose a danger to any other person or the community;

he shall order the detention of the person, for a period of not more than ten days, excluding Saturdays, Sundays, and holidays, and direct the attorney for the Government to notify the appropriate court, probation or parole official, or State or local law enforcement official, or the appropriate official of the Immigration and Naturalization Service. If the official fails or declines to take the person into custody during that period, the person shall be treated in accordance with the other provisions of this section, notwithstanding the applicability of other provisions of law governing release pending trial or deportation or exclusion proceedings. If temporary detention is sought under paragraph (1)(B), the person has the burden of proving to the court that he is a citizen of the United States or is lawfully admitted for permanent residence.".

(3) On page 8, lines 19, 20, 21, strike out ", upon motion of the attorney for the Government or upon the judge's own motion,"; and in line 25, strike out "that involves—" and insert in lieu thereof "(1) upon motion of the attorney for the Government, that involves—".

(4) On page 9, line 1, strike out "(1)" and insert in lieu therof "(A)"; in line 2, strike out "(2)" and insert in lieu thereof "(B)"; in line 4, strike out "(3)" and insert in lieu thereof "(C)"; in line 9, following the semicolon, insert the word "or"; in line 17, strike out "paragraphs (1) through (3)" and insert in lieu thereof "subparagraphs (A) through (C)"; in line 19 strike out "paragraphs (1) through (3)" and insert in lieu thereof "subparagraphs (A) through (C)"; in line 20, strike out the word "existed." and insert in lieu thereof "existed; or" in lines 15 through 20, designate such paragraph (6) as subparagraph "(D)" and insert such subparagraph (D) between lines 9 and 10; after the new subparagraph (D) has been inserted between lines 9 and 10, add the following:

"(2) upon motion of the attorney for the Government or upon the judge's own motion, that involves—";

in line 10, strike out "(4)" and insert in lieu thereof "(A)"; in line 10, following the semicolon, insert the word "or"; in line 11, strike out "(5)" and insert in lieu thereof "(B)"; and in line 14,

(5) On page 12, strike out lines 24 and 25 and insert in lieu thereof the following: "and officers of the court), 1510 (relating to obstruction of criminal investigations), 1512 (tampering with a witness, victim, or an informant), and 1513 (retaliating against a witness or an informant).".

(6) On page 13, strike out lines 1 through 25 and insert in lieu thereof the following:

"(i) CONTENTS OF DETENTION ORDER.—In a detention order issued pursuant to the provisions of subsection (e), the judicial officer—

"(1) shall include written findings of fact, and a written statement, or a written reference to the hearing record, concerning the reasons for the detention;

"(2) shall direct that the person be committed to the custody of the Attorney General for confinement in a correstions facility in accordance with regulations promulgated pursuant to the provisions of subsection (j); and

"(3) may recommend that the person receive special medical or similar treatment or attention, but the Attorney General shall not be bound by such a recommendation.

"(j) CUSTODY WHILE AWAITING TRIAL.—The Attorney General shall promulgate regulations governing custody of persons detained pending trial. The regulations shall provide that—

"(1) to the extent practicable, the person be confined—

"(A) in a facility located near the court in which the person will have to appear;

"(B) separate from persons awaiting or serving sentences or being held in custody pending appeal; and

"(C) separate from persons who are defendants in the same case;

"(2) the person be afforded reasonable opportunity for private consultation with his counsel and, to the extent practicable, for private visits with his family or other persons;

"(3) on order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which the person is confined shall deliver the person to the custody of a United States Marshal or other appropriate Federal law enforcement officer for the purpose of an appearance in connection with a court proceeding or for another official purpose; and

"(4) the person may be released temporarily, in the custody of a United States Marshal or other appropriate person, if necessary for preparation of the person's defense or for another compelling reason.".

(7) On page 13, following line 25, insert the following:

"(k) PRESUMPTION OF INNOCENCE.—Nothing in this section shall be construed as modifying or limiting the presumption of innocence.".

(8) On page 28, strike out line 11 and all that follows through line 21 on page 41 and insert in lieu thereof the following:

"TITLE II—WITNESS-VICTIM PROTECTION

"SEC. 201. This title may be cited as the 'Witness-Victim Protection Act of 1982'.

"PART A—VICTIM'S IMPACT STATEMENT

"SEC. 202. Subsection (c)(2) of Rule 32 of the Federal Rules of Criminal Procedure is amended by striking out ', and such other information as may be required by the court.' and inserting in lieu thereof '. The report shall also contain verified information stated in a nonargumentative style assessing the financial, social, psychological, and medical impact upon and cost to any person who was the victim of the offense committed by the defendant. The report shall also include a statement of any need of the victim for restitution and such other information as may be required by the court.'.

"PART B—PROTECTION OF VICTIMS AND WITNESSES FROM INTIMIDATION

"SEC. 203. (a) Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"'§ 1512. Tampering with a witness, victim, or an informant

"'(a) OFFENSE.—Whoever—

"'(1) knowingly uses or attempts to use physical force, threat, intimidation, or fraud with intent to—

"'(A) influence the testimony of another person in an official proceeding;

"'(B) cause or induce another person to—

"'(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"'(ii) alter, destroy, mutilate, or conceal an object with intent to impair such object's integrity or availability for use in an official proceeding;

"'(iii) evade legal process summoning him to appear as a witness, or to produce a record, document, or other object in an official proceeding; or

"'(iv) absent himself from an official proceeding to which he has been summoned by legal process; or

"'(C) hinder, delay, or prevent the communication to a law enforcement officer of information relating to an offense or a possible offense;

"'(2) knowingly and maliciously hinders, delays, prevents, or dissuades or attempts to hinder, delay, prevent, or dissuade—

"'(A) a witness or victim from attending or testifying in an official proceeding; or

"'(B) a witness, victim, or a person acting on behalf of a victim from—

"'(i) making a report of an offense or a possible offense to a judge, a law enforcement officer, a probation or parole officer, or an officer of a correctional facility;

"'(ii) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted or assisting in such prosecution or proceeding; or

"'(iii) arresting, or causing or seeking the arrest of, a person in connection with an offense; or

"'(3) corruptly, or by threats of force, or by any threatening letter or communication, intentionally influences, obstructs, or impedes or attempts to influence, obstruct, or impede the—

"'(A) administration of justice;

"'(B) administration of a law under which an official proceeding is being or may be conducted; or

"'(C) exercise of a legislative power of inquiry;

shall be punished as provided in subsection (b).

"'(b) PUNISHMENT.—Whoever is guilty of an offense set forth in subsection (a)(1) shall be fined not more than $100,000, or imprisoned not more than ten years, or both. Whoever is guilty of an offense set forth in subsection (a)(2) or (a)(3) shall be fined not more than $25,000, or imprisoned not more than five years, or both. Whoever is convicted for a second or subsequent offense under this section shall be sentenced to a term of imprisonment, or fine, or both, up to twice those authorized for such offense.

"'(c) AFFIRMATIVE DEFENSE.—In a prosecution for an offense under subsection (a)(1) of this section, it is an affirmative defense, as to which the defendant has the burden of proving the defense by a preponderance of the evidence, that the conduct engaged in consisted solely of lawful conduct and that the defendant's sole intention was to encourage or cause the other person to testify truthfully.

"'(d) DEFENSES PRECLUDED.—It is not a defense to a prosecution under this section that—

"'(1) an official proceeding was not pending or about to be instituted;

"'(2) the testimony, or the record, document, or other object, would have been legally privileged or would have been inadmissible in evidence; or

"'(3) no person was injured physically, or, in fact, intimidated.

"'(e) JURISDICTION.—There is Federal jurisdiction over an offense described in this section if—

"'(1) the official proceeding, offense, or prosecution is or would be a Federal official proceeding, offense, or prosecution;

"'(2) the officer is a Federal public servant and the information or report relates to a Federal offense or a possible Federal offense;

"'(3) the administration of justice, administration of a law, or exercise of a legislative power of inquiry relates to a Federal Government function;

"'(4) the United States mail or a facility in interstate or foreign commerce is used in the planning, promotion, management, execution, consummation, or concealment of the offense, or in the distribution of the proceeds of the offense; or

"'(5) movement of a person across a State or United States boundary occurs in the planning, promotion, management, execution, consummation, or concealment of the offense or in the distribution of the proceeds of the offense.

"'§ 1513. Retaliating against a witness or an informant

"'(a) OFFENSE.— Whoever—

"'(1) Knowingly engages in conduct by which he causes bodily injury to another person or damages the property of another person because of—

"'(A) the attendance of a witness or party at an official proceeding, or any testimony given, or any record, document, or other object produced, by a witness in an official proceeding; or

"'(B) any information relating to an offense or possible offense given by a person to a law enforcment officer; or

"'(2) being a Federal public servant, unlawfully subjects a Federal public servant to economic loss or injury to his business or profession because of any matter described in subparagraph (A) or (B) of paragraph (1);

shall be punished as provided in subsection (b).

"'(b) PUNISHMENT.—Whoever is guilty of an offense set forth in subsection (a)(1) shall be fined not more than $100,000, or imprisoned for not more than ten years, or both. Whoever is guilty of an offense in any other case under this section shall be fined not more than $10,000, or imprisoned for not more than two year, or both.

"'(c) JURISDICTION.—There is Federal jurisdiction over an offense described in this section if—

"'(1) the official proceeding is a Federal official proceeding;

"'(2) the law enforcement officer is a Federal public servant and the information relates to a Federal offense or a possible Federal offense;

"'(3) the United States mail or facility in interstate or foreign commerce is used in the planning, promotion, management, execution, consummation, or concealment of such offense punishable under this section, or in the distribution of the proceeds of such offense; or

"'(4) movement of a person across a State or United States boundary occurs in the planning, promotion, management, execution, consummation, or concealment of the offense, or in the distribution of the proceeds of such offense punishable under this section.

"'§ 1514. Definitions

"'As used in sections 1512 and 1513 of this title—

"'(1) "law enforcement officer" means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant (including an elected official, judge, or juror)—

"'(A) authorized under law to engage in or supervise the prevention, detention, investigation, or prosecution of an offense; or

"'(B) serving as a parole or probation officer under this title;

"'(2) "maliciously" means for the purpose of—

"'(A) intimidating, harassing, harming, or injuring in any other way another person; or

"'(B) interfering with the orderly administration of justice;

"'(3) "official proceeding". means—

"'(A) a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, or a Federal grand jury, a parole or probation officer;

"'(B) a proceeding before the Congress; or

"'(C) a proceeding before a Federal Government agency which is authorized by law;

"'(4) "physical force" means physical action against another, and includes confinement;

"'(5) "victim" means an individual against whom an offense has been or is being committed, or was attempted to be committed;

"'(6) "witness" means an individual—

"'(A) who has knowledge of the existence or nonexistence of facts relating to an offense;

"'(B) whose declaration under oath is or may be received in evidence for any purpose;

"'(C) who has reported an offense to a judge, a law enforcement officer, or probation officer, or an officer of a correctional facility;

"'(D) who has been served with a subpoena, including a grand jury subpoena, issued under the authority of a court of the United States;

"'(E) who a reasonable person would believe to be an individual described in this paragraph; or

"'(F) who the defendant in fact believed was an individual described in this paragraph.

"'§ 1515. Penalty for an offense committed while on release pending judicial proceeding

"'Any term of imprisonment which is imposed under section 1503, 1512, or 1513 when the offense is committed while such person is released under chapter 207 of this title shall be consecutive to any sentence of imprisonment for the offense with respect to which release was ordered.'.

"(b) The analysis for chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"'1512. Tampering with a witness, victim, or an informant.
"'1513. Retaliating against a witness or informant.
"'1514. Definitions.
"'1515. Penalty for an offense committed while on release pending judicial proceeding.'.

"SEC. 204. (a) Title 18 of the United States Code is amended by adding after chapter 223 the following new chapter:

"'CHAPTER 224—PROTECTION OF WITNESSES

"'Sec.
"'3521. Witness relocation and protection.
"'3522. Reimbursement of expenses.
"'3523. Civil action to restrain witness or victim intimidation.
"'3524. Definition for chapter.

"'§ 3521. Witness relocation and protection

"'(a) RELOCATION.—The Attorney General may provide for the relocation or protection of a government witness or a potential government witness in an official proceeding if the Attorney General determines that an offense described in section 1503, 1512, or 1513, or a State or local offense that is similar in nature or that involves a crime of violence directed at a witness, is likely to be committed. The Attorney General may also provide for the relocation or protection of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered.

"'(b) RELATED PROTECTIVE MEASURES.—In connection with the relocation or protection of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the Attorney General may take any action he determines to be necessary to protect such person from bodily injury, and otherwise to assure his health, safety, and welfare, for as long as, in the judgment of the Attorney General, such danger exists. The Attorney General may—

"'(1) provide suitable official documents to enable a person relocated to establish a new identity;

"'(2) provide housing for the person relocated or protected;

"'(3) provide for the transportation of household furniture and other personal property to the new residence of the person relocated;

"'(4) provide a tax-free subsistence payment, in a sum established in regulations issued by the Attorney General, for such times as the Attorney General determines to be warranted;

"'(5) assist the person relocated in obtaining employment; and

"'(6) refuse to disclose the identity or location of the person relocated or protected, or any other matter concerning the person or the program after weighing the danger such a disclosure would pose to the person, the detriment would cause to the general effectiveness of the program, and the person seeking the disclosure.

"'(c) CIVIL ACTION AGAINST A RELOCATED PERSON.—Notwithstanding the provisions of subsection (b)(6), if a person relocated under this section is named as a defendant in a civil cause of action, arising prior to the person's relocation, for damages resulting from bodily injury, property damage, or injury to business, process in the civil proceeding may be served upon the Attorney General. The Attorney General shall make reasonable efforts to serve a copy of the process upon the person relocated at his last known address. If a judgment in such an action is entered against the person relocated, the Attorney General shall determine whether the person has made reasonable efforts to comply with the provisions of that judgment. The Attorney General shall take affirmative steps to urge the person relocated to comply with any judgment rendered. If the Attorney General determines that the person has not made reasonable efforts to comply with the provisions of the judgment, he may, in his discretion, after weighing the danger to the person relocated, disclose the identity and location of that person to the plaintiff entitled to recovery pursuant to the judgment. Any such disclosure shall be made upon the express condition that further disclosure by the plaintiff of such identify or location may be made only if essential to the plaintiff's efforts to recover the judgment, and only to such additional persons as is necessary to effect the recovery. Any such disclosure or nondisclosure by the Attorney General shall not subject the government to liability in any action based upon the consequences thereof.

"'§ 3522. Reimbursement of expenses

"'The provision of transportation, housing, subsistence, or other assistance to a person under section 3521 may be conditioned by the Attorney General upon reimbursement of expenses in whole or in part to the United States by a State or local government.

"'§ 3523. Civil action to restrain witness or victim intimidation

"'(a) INITIATION OF ACTION.— The Attorney General may initiate a civil proceeding to prevent and restrain an offense involving a witness or a victim under section 1503, 1512, or 1513. After a hearing and upon a finding, which may be based upon hearsay or the representation of the attorney for the government or the counsel for the defendant, that an offense under section 1503, 1512, or 1513 involving a witness or a victim has occurred or is reasonably likely to occur, the court may order that a defendant, a witness or other person connected with the case, or any individual in the courtroom—

"'(1) refrain from engaging in conduct in violation of section 1503, 1512, or 1513;

"'(2) maintain a prescribed distance from a specified victim or witness; and

"'(3) refrain from communicating with a specified victim or witness except under such conditions as the court may impose.

"'(b) JURISDICTION.—A district court of the United States in which a proceeding is initiated under this section has jurisdiction to hear and determine the matter so presented, and to prevent and restrain an offense referred to in subsection (a). In a proceeding initiated under this section, the court shall proceed as soon as practicable to a hearing and determination.

"'§ 3524. Definition for chapter

"'As used in this chapter, "government" includes the Federal Government and a State or local government.'.

"(b) The table of chapters for part II of title 18, United States Code, is amended by adding after the item for chapter 223 the following new item:

"'224. Protection of witnesses..... 3521.'

"(c) Title V of the Organized Crime Control Act of 1970 (84 Stat. 933) is repealed.

"PART C—RESTITUTION

"SEC. 205. (a) Chapter 227 of title 18, United States Code, is amended by adding at the end the following:

"'§ 3579. Order of restitution

"'(a) ORDER.—The court, in imposing a sentence on a defendant for any offense under this title, except an offense described in subsection (d), may order the defendant to make appropriate restitution. The order of restitution shall require that the defendant—

"'(1) in the case of an offense causing injury or death, make restitution to the victim of the offense or estate of the victim in an amount that does not exceed income lost because of the victim's incapacitation or death, necessary medical expenses including ones associated with physical, psychological or vocational rehabilitation, and, if applicable, the expenses for the funeral and burial of the victim; and

"'(2) in the case of an offense resulting in loss, damage, or destruction of property—

"'(A) restore the property to the victim of the offense; or

"'(B) make restitution to the victim of the offense in an amount that does not exceed the value of the property.

The court may order that restitution be made in the form of money or, if the victim agrees, in services to the victim or to a person or organization designated by the victim. If the court does not order restitution, the court must state for the record the reasons. The court shall make the order of restitution as fair as possible to the victim

without unduly complicating or prolonging the sentencing process.

"'(b) RELATIONSHIP TO CIVIL PROCEEDINGS.—

"'(1) The court shall not order restitution as to any victim who is bound by an earlier judgment in, or settlement of, a civil proceeding involving the underlying offense.

"'(2) Any amount paid to a person pursuant to an order of restitution shall be set off against an amount later recovered as compensatory damages by such person in any civil proceeding.

"'(3) A conviction of a defendant by a Federal court of an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the victim.

"'(4) If appropriate the court may consider ordering restitution to any party who has compensated the victim for expenses or losses directly related to the crime.

"'(5) An order of restitution may be enforced by the victim or the United States in the same manner as a judgment in a civil action and notwithstanding any other provision of law, an order of restitution shall be satisfied by the defendant before any Federal lien.

"'(c) RESTITUTION AS CONDITION.—If a defendant is placed on probation or paroled pursuant to this title, any restitution ordered under this section shall be a condition of such parole or probation. Failure to comply with an order of restitution shall be grounds for the revocation of parole or probation.'

"(b) The analysis for chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"'3579. Order of restitution.'

"PART D—FEDERAL ACCOUNTABILITY FOR ESCAPE OR RELEASE OF FEDERAL PRISONER

"SEC. 206. (a) Section 1346(b) of title 28, United States Code, is amended by inserting '(1)' immediately after '(b)'.

"(b) Section 1346(b) of title 28, United States Code, is amended by adding at the end thereof the following:

"'(2)(A) Subject to the provisions of chapter 171 of this title and subparagraph (B) of this paragraph, the district courts, together with the United States District Court of the Virgin Islands, shall have exclusive jurisdiction of any civil action on a claim against the United States for damages, accruing on and after the date of enactment of this paragraph, for personal injury or death directly caused by any dangerous offender charged with or convicted of a Federal offense who is released from, or who escapes from, lawful custody of an employee of, or any person acting as the lawful agent of, the United States as a result of the gross negligence of such employee or person.

"'(B) For the purposes of this paragraph, 'dangerous offender' means a person charged with or convicted of a crime involving the use, attempted use, or threatened use of violence against the person of another.'".

(9) On page 45, line 10, renumber section "303" as section "304", and on page 47, line 7, renumber section "304" as "305".

(10) On page 45, between lines 9 and 10, insert the following:

SEC. 303. (a) Title III of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new section:

"IMITATION CONTROLLED SUBSTANCES

"SEC. 308. (a) For purposes of this section, the term—

"(1) 'imitation controlled substance' means any substance other than a controlled substance or prescription drug, or combination of such substances, which is marketed, sold, or distributed to encourage recreational drug use or abuse or any similar nonmedical use and—

"(A) by representation or appearance (including color, shape, size, and markings) would lead a reasonable person to believe that the substance is a controlled substance; or

"(B) purports to act, either alone, in multiple doses, or in combination with a substance or substances, like a controlled substance, either stimulant or depressant as defined in section 102(9) of the Controlled Substances Act;

"(2) 'distribute' means the actual, constructive, or attempted transfer, delivery, or dispensing to another of an imitation controlled substance;

"(3) 'manufacture' means the production, preparation, propagation, compounding, or processing of an imitation controlled substance, and includes any packaging or repackaging of such substance or labeling or relabeling of its container; except that such term does not include the preparation, compounding, packaging, or labeling of an imitation controlled substance in conformity with applicable State or local law by a practitioner as an incident to his administering or dispensing of such substance in the course of his professional practice; and

"(4) 'controlled substance' is used as defined in section 102(6) of the Controlled Substances Act.

"(b)(1)(A) Except as provided in subparagraph (B), it shall be unlawful for any person knowingly or intentionally to create, manufacture, or distribute, or possess with intent to create, manufacture, or distribute an imitation controlled substance. Any person who violates this paragraph shall be sentenced to a term of imprisonment of not more than two years, a fine of not more than $10,000, or both.

"(B) Subparagraph (A) does not apply to the creation, manufacure, distribution, or possession of an imitation controlled substance by a person if the imitation controlled substance is created, manufactured, distributed, or possessed for use as a placebo in the course of the professional practice of a practitioner registered under part C of the Controlled Substances Act or in research conducted under section 505(i) of this Act or conducted in connection with an application filed under section 505(b) of this Act.

"(2) Any person at least 18 years of age who violates paragraph (1)(A) by distributing an imitation controlled substance to a person under 18 years of age shall be sentenced to a term of imprisonment of not more than four years, fined not more than $20,000, or both.

(c) It is unlawful for any person to place any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement of solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of imitation controlled substances. Any person who violates this subsection is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined not more than $5,000, or both.".

(b) Subsection (a) of section 302 of such Act is amended by striking out "paragraphs (h), (i), and (j)" and inserting in lieu thereof "paragraphs (h) and (j)".

(11) On page 47, beginning with line 12, strike out all through line 2 on page 51 and renumber subsequent titles accordingly.

(12) On page 59, beginning with line 20, strike out all through line 6 on page 61 and insert in lieu thereof the following:

"§ 3556. Order of restitution

"(a) ORDER.—The court, in imposing a sentence on a defendant for any offense under this title, except an offense described in section 3671, may order the defendant to make appropriate restitution. The order of restitution shall require that the defendant—

"(1) in the case of an offense causing injury or death, make restitution to the victim of the offense or estate of the victim in an amount that does not exceed income lost because of the victim's incapacitation or death, necessary medical expenses including ones associated with physical, psychological, or vocational rehabilitation, and, if applicable, the expenses for the funeral and burial of the victim; and

"(2) in the case of an offense resulting in loss, damage, or destruction of property—

"(A) restore the property to the victim of the offense; or

"(B) make restitution to the victim of the offense in an amount that does not exceed the value of the property.

The court may order that restitution be made in the form of money or, if the victim agrees, in services to the victim or to a person or organization designated by the victim. If the court does not order restitution, the court must state for the record the reasons. The court shall make the order of restitution as fair as possible to the victim without unduly complicating or prolonging the sentencing process.

"(b) RELATIONSHIP TO CIVIL PROCEEDINGS.—

"(1) The court shall not order restitution as to any victim who is bound by an earlier judgment in, or a settlement of, a civil proceeding involving the underlying offense.

"(2) Any amount paid to a person pursuant to an order of restitution shall be set off against an amount later recovered as compensatory damages by such person in any civil proceeding.

"(3) A conviction of a defendant by a Federal court of an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the victim.

"(4) If appropriate the court may consider ordering restitution to any party who has compensated the victim for expenses or losses directly related to the crime.

"(5) An order of restitution may be enforced by the victim or the United States in the same manner as a judgment in a civil action and notwithstandig any other provision of law, an order of restitution shall be satisfied by the defendant before any Federal lien.

"(c) RESTITUTION AS CONDITION.—If a defendant is placed on probation or a term of supervised release pursuant to this title, any restitution ordered under this section shall be a condition of such term of supervised release or probation. Failure to comply with an order restitution shall be grounds for the revocation of probation or for prosecution for contempt.".

(13) On page 75, after line 24, add the following:

"(c) CAREER CRIMINALS.—

"(1) For the purposes of this section, a career criminal is defined as a person sixteen years of age or older who has been found guilty of a crime of violence which is a felony offense or an offense described in section 841, 952(a), 955, or 959 of title 21, and has been convicted of two prior felony offenses, each of which is either a crime of violence in violation of State or Federal law or an offense described in section 841, 952(a), 955, or 959 of title 21.

"(2) A career criminal shall receive the maximum or approximately the maximum penalty for the current offense.

"(3) Prior to full implementation of the provisions of Title V, relating to sentencing reform, a career criminal may receive a sentence of imprisonment without parole prior to the expiration of the full term of imprisonment imposed by the court."

(14) On page 91, line 24, following the period, add: "On application of the person fined, the Attorney General shall—

"(1) issue a certificate of release, as described in section 6325 of the Internal Revenue Code, of any lien imposed pursuant to this section, upon his acceptance of a bond described in section 6325(a)(2) of the Internal Revenue Code; or

"(2) issue a certificate of discharge, as described in section 6325 of the Internal Revenue Code, of any part of the person's property subject to a lien imposed pursuant to this section, upon his determination that the fair market value of that part of such property remaining subject to and available to satisfy the lien is at least three times the amount of the fine.".

(15) On page 101, line 7, strike out "sections" and insert in lieu thereof "section"; strike out lines 9 through 23; and in line 24, strike out " 3672" and insert in lieu thereof "3671".

(16) On page 102, between lines 14 and 15, strike out the item for section 3671 and redesignate the item for section 3672 as section 3671.

(17) On page 113, line 12, following the word "committed" add ", and any need of such individual for restitution".

(18) On page 118, beginning with line 14, strike out all through line 22 on page 119 and insert in lieu thereof the following:

"(a) There is established as an independent commission in the judicial branch of the United States a United States Sentencing Commission which shall consist of seven voting members and one non-voting member. The President, after consultation with representatives of judges, prosecuting attorneys, defense attorneys, law enforcement officials, senior citizens, victims of crime, and others interested in the criminal justice process, shall appoint the voting members of the Commission, by and with the advice and consent of the Senate, one of whom shall be appointed, by and with the advice and consent of the Senate, as the Chairman. Not more than four of the members of the Commission shall be members of the same political party. The Attorney General, or his designee, shall be an ex officio, non-voting member of the Commission. The Chairman and members of the Commission shall be subject to removal from the Commission by the President only for neglect of duty or malfeasance in office or for other good cause shown.".

(19) On page 127, strike out lines 16 through 22 and insert in lieu thereof the following:

"(g) The Commission, in the course of promulgating guidelines pursuant to subsection (a)(1) to meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code, shall review the nature and capacity of the penal, correctional, and other facilities and services available, and shall make recommendations concerning any change or expansion in the nature or capacity of such facilities and services that might become necessary as a result of the guidelines promulgated pursuant to the provisions of this chapter."

(20) On page 128, line 22, insert before "cases" the word "many".

(21) On page 130, strike lines 6 through 15 and insert in lieu thereof the following:

"(l) The Commission shall insure that the guidelines reflect the fact that, in many cases, current sentences do not accurately reflect the seriousness of the offense. This will require that, as a starting point in its development of the initial sets of guidelines for particular categories of cases, the Commission ascertain the average sentences imposed in such categories of cases prior to the creation of the Commission, and in cases involving sentences to terms of imprisonment, the length of such terms actually served. The Commission shall not be bound by such average sentences, and shall independently develop a sentencing range that is consistent with the provisions of this section and with the purposes of sentencing described in section 3553(a)(2) of title 18, United States Code."

(22) On page 157, following line 18, insert the following:

"REVIEW BY CONGRESS

"SEC. 526. (1)(1) Four years after the sentencing guidelines promulgated pursuant to section 994(a)(1), and the provisions of sections 3581, 3583, and 3624 of title 18, United States Code, go into effect, the General Accounting Office shall undertake a study of the guidelines in order to determine their impact and compare the guideline system with the operation of the previous sentencing and parole release system, and, within six months of the undertaking of such study, report to the Congress the results of its study.

"(2) Within one month of the start of the study required under subsection (a), the United States Sentencing Commission shall submit a report to the General Accounting Office detailing the operation of the sentencing guideline system and discussing any problems with the system or reforms needed.

"(b) The Congress shall review the study submitted pursuant to subsection (a) in order to determine—

"(1) whether the sentencing guideline system has been effective;

"(2) whether any changes should be made in the sentencing guideline system; and

"(3) whether the parole system should be reinstated in some form and the life of the Parole Commission extended.".

(23) On page 157, line 21, strike out the word "Criminal".

(24) On page 168, lines 3 and 4, strike out "collector of customs" and insert in lieu thereof "Customs Service".

(25) On page 179, lines 24 and 25, strike out "including any appurtenant to or improvements on such property" and insert in lieu thereof "including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements".

(26) On page 182, beginning with line 8, strike out all through line 21 on page 183 and insert in lieu thereof the following:

"PART C

"SEC. 609. (a) Section 511(e)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) is amended by adding after 'retain the property for official use' the following: 'or transfer the custody or ownership of any forefeited property to any Federal, State, or local agency pursuant to section 616 of the Tariff Act of 1930 (19 U.S.C. 1616)'.

"(b) Section 511 (e) of the Comprehensive Drug Abuse Prevention and Control Act of 1972 (21 U.S.C. 881 (e)) is further amended by striking out all that follows 'this subchapter shall be' and inserting in lieu thereof the following: 'deposited in the Drug Assets Forfeiture Fund.'

"SEC. 610. The Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.) is amended by inserting after section 516 the following new section to read as follows:

"§ 517. Drug assets forfeiture fund

"(a) There is hereby established in the Treasury of the United States a special account that shall be entitled the 'Drug Assets Forfeiture Fund.' This account shall be available without fiscal year limitations for the following purposes of the United States Department of Justice:

"(1) the payment of all expenses necessary to inventory, safeguard and maintain property under seizure, detention, or forfeited pursuant to any provision of this Act. Expenses of maintenance may include payments for contract services and payments to reimburse any Federal, State, or local agency for any expenditures made to perform the foregoing functions;

"(2) the payment of awards for information or assistance leading to a civil or criminal forfeiture under, or regarding any violation of, this Act, at the discretion of the Attorney General;

"(3) the payment of valid liens and mortgages against any property that has been forfeited pursuant to any provision of this Act, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made.

"(b) The Drug Assets Forfeiture Fund shall be initially funded by any sums not otherwise obligated from the 1981 and 1982 fiscal year appropriations of the United States Department of Justice.

"(c) All proceeds from the sale or other disposition of property forfeited under any provision of this Act and any seized and forfeited currency shall be deposited to the Drug Assets Forfeiture Fund.

"(d) At the end of each calendar quarter, any sums in the Fund in excess of ten million dollars shall be transferred to the general fund of the Treasury of the United States.

"(e) Amounts in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(f) Within sixty days of the end of each fiscal year, the Attorney General shall report to the appropriate oversight committee of the Congress on the receipts and disbursement of the Drug Assets Forfeiture Fund.

"(g) The provisions relating to payments to and disbursements from the Drug Assets Forfeiture Fund established by this section shall apply to all property disbursed of or in Department of Justice custody on or after the effective date of the Violent Crime and

Drug Enforcement Improvements Act of 1982.".

"PART D

"SEC. 611. Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"§ 607. Seizure; value $100,000, or less; prohibited articles; transporting conveyances

"If—

"(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed $100,000;

"(2) such seized merchandise consists of articles the importation of which is prohibited; or

"(3) such seized vessel, vehicle, or aircraft was used to import, export, or otherwise transport or store the appropriate customs officer shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.".

"SEC. 612. Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended by striking out '$250' in the second sentence and inserting in lieu thereof the following: '$2,500 or ten percent of the value of the claimed property, whichever is less,".

"SEC. 613. Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended by striking out 'after deducting the actual expenses of seizure, publication, and sale in the Treasury of the United States,' and inserting in lieu thereof the following: "into the Customs Forfeiture Fund.".

"SEC. 614. Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended by striking out 'If the value of any vessel, vehicle, merchandise, or baggage so seized is greater than $10,000,' and substituting in lieu thereof the following: 'If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to the procedure set forth in section 607.'.

"SEC. 615. Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended by—

"(1) inserting 'aircraft,' immediately after 'vehicle,' wherever it appears in the section;

"(2) striking out 'and the value of such vessel, vehicle, merchandise, or baggage as determined under section 606 does not exceed $10,000,' in the first sentence and inserting in lieu thereof the following: 'and the article is subject to the provisions of section 607 of this Act,'; and

"(3) striking out 'If such values of such vessel, vehicle, merchandise, or baggage exceeds $10,000,' in the second sentence and inserting in lieu thereof the following: 'If the article is not subject to the provisions of section 627 of this Act,'

"SEC. 616. (a) Section 613(a) of the Tariff Act of 1938 (19 U.S.C. 1613(a)) is amended by striking out 'disposed of as follows:' and clauses (1), (2), and (3), and inserting in lieu thereof the following: 'deposited in the Customs Forfeiture Fund.'.

"(b) Section 613(b) of the Tariff Act of 1930 (19 U.S.C. 1613(b)) is amended by striking out '(a) (1) and (2) of this section' and inserting in lieu thereof '(a)(4) of section 613a of this Act (19 U.S.C. 1613a (a)(4)).'.

"SEC. 617. The Tariff Act of 1930 is amended by adding a new section immediately after section 613 (19 U.S.C. 1613) to read as follows:

"§ 613a. Customs forfeiture fund

'"(a) There is hereby established in the Treasury of the United States a special account for the United States Customs Service that shall be entitled the 'Customs Forfeiture Fund'. This account shall be available without fiscal year limitations for the following purposes of the United States Customs Service—

'"(1) the payment of all expenses necessary to inventory, safeguard, and maintain property under seizure, detention, or forfeited pursuant to any law enforced or administered by the United States Customs Service, including payments for expenses of maintenance, contract services, and to reimburse any Federal, State, or local agency for any expenditures made for the maintenance of property;

'"(2) the payment of awards of compensation to informers under section 619 of the Tariff Act of 1930, as amended;

'"(3) the payment by appropriate customs officers for the purchase of information concerning violations or possible violations of any law enforced or administered by the Customs Service; and

'"(4) the payment to persons whom the appropriate customs officer determines hold valid—

'"(A) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

6"(B) liens against property that has been forfeited pursuant to any law enforced or administered by the United States Customs Service, subject to the condition that no payment to a lienholder shall exceed the net proceeds of the sale or, where the property is retained or transferred for official use, the appraised value less all applicable expenses.

'"(b) The Fund shall be initially funded by any sums not otherwise obligated from the 1981 and 1982 fiscal year appropriations of the United States Customs Service.

'"(c) All proceeds from the sale or other disposition of property forfeited, including any seized and forfeited currency, under any law enforced or administered by the Customs Service shall be deposited to the Customs Forfeiture Fund.

'"(d) At the end of each calendar quarter, any sums in the Fund in excess of $10,000,000 shall be transferred to the general fund of the Treasury of the United States.

'"(e) Amounts in the Fund which are not currently needed for the purposes of this subsection shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

'"(f) Within sixty days of the end of each fiscal year, the Commissioner of Customs will report to the appropriate oversight committee of the Congress on the receipts and disbursement of the Customs Forfeiture Fund.

'"(g) The provisions relating to payments and disbursements from the Fund established by this section shall apply to all property disbursed of or in the custody of the Customs Service on or after the effective date of this Act.".'.

SEC. 618 A new section, section 616, is added to the Tariff Act of 1930 (19 U.S.C. 1616) to read as follows:

"§ 616. Disposition of forfeited property

"(a) Notwithstanding any other provision of law, the Commissioner is authorized to retain forfeited property for official use or to transfer such forfeited property on such terms or conditions as he may determing to—

"(1) any other Federal agency; or

"(2) to any State or local governmental agency which routinely assists in the enforcement of the laws of the United States or participated in any of the acts which led to the property being seized.

The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency.

"(b) The Secretary of the Treasury is authorized to order the discontinuance of any Federal forfeiture proceedings in favor of the institution of forfeiture proceedings in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute when he determines that such action is in the best interest of the United States. After the filling of a complaint for forfeiture in a United States district court, the appropriate attorney for the Department of Justice shall also have the authority to seek a voluntary dismissal of the complaint in favor of States or local action when he deems it to be in the best interest of the United States.

"(c) When ever forfeiture proceedings are discontinued by the Federal Government in favor of State or locale proceedings, the Secretary in authorized to transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials.

"(d) Whenever forfeiture proceedings are discontinued by the Federal Government in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of such a decision. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of siezed property to State or local officials.'.

SEC. 619. Section 619 of the Tariff Act of 1932 (19 U.S.C. 1619) is amended by striking out '$50,000' wherever it appears and inserting in lieu thereof '$250,000'.

SEC. 620. (a) The Tariff Act of 1930 is amended by adding a new section to read as follows:

"§ 589. Arrest authority of customs officers

"Subject to the direction of the Secretary of the Treasury, an officer of the Customs as defined in section 401(i) of this Act, as amended, may—

"(1) carry a firearm;

"(2) execute and serve any order, warrant, subpena, summons, or other process issued under the authority of the United States for arrest, search or seizure, or production of evidence;

"(3) make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

"(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.".

"(b) Section 7607 of the Internal Revenue Act of 1954 (26 U.S.C. 7607) is repealed.

SEC. 621. Sections 602, 605, 606, 608, 609, 611, 613, 614, 615, 618, and 619 (19 U.S.C. 1602, 1605, 1606, 1608, 1609, 1611, 1613, 1614, 1615, 1618, and 1619) of the Tariff Act of 1932 are amended by inserting the word "aircraft," immediately after the words "vehicle" or "vehicles," wherever they appear.".

(27) On page 211, following the period in line 5, add the following: "If the Attorney

General determines that any surplus property transferred or conveyed pursuant to an agreement entered into between March 1, 1982, and the enactment of this subsection was suitable for transfer or conveyance under this subsection, the Administrator shall reimburse the transferee for any monetary consideration paid to the United States for such transfer or conveyance.".

(28) On page 216, beginning with line 12, strike out all through line 18 on page 217, and reletter subsequent parts of title IX.

(29) On page 220, line 19, strike out the word "and".

(30) On page 221, line 2, strike out "respectively." and insert in lieu thereof "respectively;", and between lines 2 and 3, insert the following:

"(4) in the fourth paragraph, by striking out the period at the end of the paragraph and inserting in lieu thereof '; however, a juvenile who is alleged to have committed one of the preceding enumerated felonies after having been found guilty of one act which if committed by an adult would have been a crime of violence or an offense described in section 841, 952(a), 955, or 959 to title 21, or a crime of violence in violation of a State felony statute, shall be transferred to the appropriate district court of the United States for criminal prosecution.'; and

"(5) by adding at the end of the section the following:

" 'Whenever a juvenile transferred to district court under this section is not convicted of the crime upon which the transfer was based or another crime which would have warranted transfer had the juvenile been initially charged with that crime, further proceedings concerning the juvenile shall be conducted pursuant to the provisions of this chapter.

"Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until any prior juvenile court records of such juvenile have been received by the court, or the clerk of the juvenile court has certified in writing that the juvenile has no prior record, or that the juvenile's record is unavailable, and why it is unavailable.

"Whenever a juvenile is adjudged delinquent pursuant to the provisions of this chapter, the specific acts which the juvenile has been found to have committed shall be described as part of the official record of the proceedings and part of the juvenile's official record".

(31) On page 221, insert the following between lines 5 and 6, and redesignate subsection (d) as subsection (e);

"(d) Whenever a juvenile is found guilty of committing an act which if committed by an adult would be a felony that is a crime of violence or an offense described in section 841, 952(a), 955, or 959 of tiltle 21, such juvenile shall be finger-printed and photographed. Fingerprints and photographs of a juvenile who is not prosecuted as an adult shall be made available only in accordance with the provisions of subsection (a) of this section. Fingerprints and photographs of a juvenile who is prosecuted as an adult shall be made available in the manner applicable to adult defendants.".

(32) On page 229, beginning with line 16, strike out all through line 9 on page 230 and insert in lieu thereof the following:

"SEC. 921. (a) The problem of drug abuse continues to worsen in most parts of the world;

"(b) the number of drug abusers has risen and abuse has spread geographically;

"(c) the number, variety, and potency of illicitly used narcotics, drugs, and psychotropic substances have increased;

"(d) illicit production has expanded and trafficking flourishes; and

"(e) a declaration by the United Nations of an International Year Against Drug Abuse would serve as a catalyst for interest and action at all international levels involving families, communities, neighborhoods, schools, religious institutions, and public, private, and voluntary associations:

It is the sense of the Congress that the President is urged to promote a declaration by the United Nations of an International Year Against Drug Abuse.".

(33) On page 232, after line 3, add the following new Parts:

"PART N

SEC. 924. Section 425 of part D of the Controlled Substances Act (21 U.S.C. 845) is amended to read as follows:

"§ 845. Distribution of juveniles

"(a) Any person at least twenty-one years of age who violates section 401(a)(1) by distributing a controlled substance in schedule I or II other than marijuana to a person under eighteen years of age shall be punished by a mandatory minimum term of imprisonment of five years as a part of any sentence imposed pursuant to section 401(b). No part of a sentence of imprisonment imposed pursuant to this section shall be suspended.

"(b) Any person at least twenty-one years of age who violates section 401(a)(1) by distributing marijuana or a controlled substance in schedule III to a person under eighteen years of age shall be punished by a mandatory minimum term of imprisonment of three years as a part of any sentence imposed pursuant to section 401(b). No part of a sentence of imprisonment imposed pursuant to this section shall be suspended.

"(c) Any person sentenced under this section shall be ineligible for parole or any other type of release from imprisonment during the period of the mandatory minimum term of imprisonment.".

"PART O

SEC. 926. (a) Chapter 44 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 929. Use of restricted ammunition

"(a) Whoever, during and in relation to the commission of a crime of violence for which he may be prosecuted in a court of the United States, including a felony which provides for an enhanced punishment if committed by the use of a dangerous weapon or device, uses or carries any handgun loaded with armor-piercing ammunition as defined in subsection (b), shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than five years. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection, nor place him on probation, nor shall the terms of imprisonment run concurrently with any other terms of imprisonment including that imposed for the felony in which the armor-piercing handgun ammunition was used or carried. No person sentenced under this subsection shall be eligible for parole.

"(b) For purposes of this section—

"(1) 'armor-piercing ammunition' means ammunition which, when or if fired from any handgun used or carried in violation of subsection (a), under the test procedure of the National Institute of Law Enforcement and Criminal Justice Standard for the Ballistics Resistance of Police Body Armor promulgated December, 1978, is determined to be capable of penetrating bullet-resistant apparel or body armor meeting the requirements of Type IIA of Standard NILECJ-STD-0101.01 as formulated by the United States Department of Justice and published in December of 1978;

"(2) 'crime of violence' means—

"(i) an offense, other than a misdemeanor that consists solely of damage to property and that does not place another person in danger of death or serious bodily injury, that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(ii) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, and

"(3) 'handgun' means any firearm, including a pistol or revolver, originally designed to be fired by the use of a single hand."

(b) The table of sections for chapter 44 of title 12, United States Code, is amended by adding at the end thereof the following:

"929. Use of restricted ammunition.".

"PART P

"SEC. 927. (a) Chapter 65 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1365. Aggravated property destruction of an energy facility

"(a) whoever knowingly and willfully—

"(1) damages the property of an energy facility in an amount that in fact exceeds $5,000; or

"(2) damages the property of an energy facility in any amount and causes a significant interruption or impairment of a function of an energy facility,

shall be punished in accordance with subsection (b).

"(b) An offense described in this section is—

"(1) punishable by a fine of not more than $50,000 or imprisonment of not more than ten years, or both—

"(A) in the circumstances set forth in subsection (a)(1) if the damage exceeds $100,000; and

"(B) in the circumstances set forth in subsection (a)(2); or

"(2) punishable by a fine of not more than $25,000, or imprisonment of not more than five years, or both, in any other case.

"(c) For purposes of this section, the term 'energy facility' means a facility that is involved in the production, storage, transmission, or distribution of electricity, fuel, or another form or source of energy, or research, development, or demonstration facilities relating thereto, regardless of whether such facility is still under construction or is otherwise not functioning except a facility subject to the jurisdiction, administration, or in the custody of the Nuclear Regulatory Commission.

"(d) There is Federal jurisdiction over an offense described in this section if the offense is committed on the premises of an energy facility.".

"(b) The table of contents for chapter 65 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1365. Aggravated property destruction of an energy facility".

"PART Q

"SEC. 928. (a) AUTHORIZATION.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions and purposes of this Act.

"(b) EFFECTIVE DATE.—Notwithstanding any other provision of this Act, no provision of this Act shall take effect prior to October 1, 1982.".

Mr. THURMOND. Mr. President, I have sent to the desk a group of amendments that I hope can be considered and adopted en bloc. These amendments are offered on behalf of the various Senators who have amendments within the scope of the time agreement adopted on July 1, 1982, and which the distinguished Senator from Delaware (Mr. BIDEN) and I feel are acceptable amendments. These Senators are sensitive to the necessity to save time and have agreed to en bloc consideration of their amendments to accommodate passage of this bill. Rather than get into an extended discussion of the apparent merits of the various proposals, I ask unanimous consent that a brief summary of the various amendments with a notation identifying the original sponsor be printed in the RECORD at this point. I appreciate the cooperation of all concerned and urge that these amendments be adopted en bloc.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

ORIGINAL SPONSOR AND SUMMARY OF EN BLOC AMENDMENTS

SENATOR BAKER'S BAIL AMENDMENTS (NOS. 1, 2, AND 6)

The bill currently provides for detention of up to ten days of a defendant on probation, parole, or pretrial release on other charges to give the appropriate official time to decide whether to revoke such conditional release. This amendment would provide for detention of ten working days and expand the class of persons subject to the provision to include non-immigrant aliens who may be deportable either before or after conviction. This latter feature provides time for the Immigration Service to be consulted in determining an appropriate disposition of the case. The amendment also clarifies the appropriate allocation of authority between the court and the Attorney General concerning custody of the defendant awaiting trial.

SENATOR LAXALT'S VICTIM-WITNESS AMENDMENTS (NOS. 5, 8, 12, AND 17)

These amendments would replace title II of the bill, which relates to protection of witnesses and victims, with substantially the provisions of S. 2420 on the same subject, which passed the Senate on September 14, 1982. The amendments simply reflect the language of the Senate-passed bill.

SENATOR LEAHY'S BAIL AMENDMENTS (NOS. 3 AND 4)

The amendments place the sole responsibility for requesting a pretrial detention hearing in a case involving a possibly dangerous offender on the prosecutor. The judge would retain his authority to hold a detention hearing on his own motion in a case in which there is a risk of flight or a potential for obstruction of justice.

The bill as drafted would permit the judge to hold a detention hearing on his own motion if he felt there was a possibility that a defendant charged with a crime of violence or other very serious crime posed a danger to others. The provision is unnecessary since the prosecutor should be expected to carry out his responsibility for asking for a hearing whenever he believes it to be justified by the potential dangerousness of the defendant.

SENATOR LEVIN'S AMENDMENT RELATING TO PRESUMPTION OF INNOCENCE (NO. 7)

This amendment to title I, the bail reform provisions, makes clear that the provisions relating to pretrial release and detention of persons charged with crime should not be construed as modifying or limiting the presumption of innocence. It merely gives statutory recognition to the fact that the conclusion that a defendant should be detained prior to trial because of a risk of flight or dangerousness has no effect on the requirement that the government prove the defendant guilty at trial.

SENATOR DANFORTH'S AND SENATOR HUMPHREY'S SIMULATED CONTROLLED SUBSTANCES AMENDMENTS (NOS. 9 AND 10)

The amendments provide Federal criminal sanctions for the manufacture, sale, and advertising of simulated controlled substances. The sale, manufacture, and distribution of these drugs—defined as any drug containing non-controlled substances that purport to act like a controlled substance, either stimulant or depressant—would be punishable by imprisonment of not more than two years. Distribtution to a minor would carry a four-year penalty. Advertising these drugs would be a misdemeanor. The Food and Drug Administration would have the primary enforcement authority.

SENATOR THURMOND AMENDMENT TO DELETE TITLE IV (NO. 11)

This amendment deletes title IV of the bill as no longer necessary. The provisions in this title duplicated those in S. 907, which has been passed by both Houses and sent to the President for signature.

SENATOR KENNEDY'S AMENDMENTS RELATING TO JUVENILES AND CAREER CRIMINALS (NOS. 13, 29, 30, AND 31)

These amendments strengthen a number of provisions relating to violent juveniles and career criminals.

First, they provide that any person sixteen years old or older, who is found guilty of a violent felony and has two previous violent felony convictions, is a career criminal and shall receive the maximum sentence or approximately the maximum sentence for the current offense. Prior to full implementation of Title V related to sentencing reform, a career criminal may receive a prison sentence without parole. They also require that, where a juvenile is adjudged delinquent, the delinquent act which the juvenile committed must be recorded as part of the record of the proceedings.

Second, they provide for automatic waiver to adult court for a juvenile over 16 who is charged with a serious violent crime or drug trafficking offense and who has been found guilty of one previous act which, if committed by an adult, would have been a serious state or Federal violent crime or drug trafficking offense.

Third, they provide for waiver back to juvenile court for sentencing of a juvenile who is tried in adult court but convicted of a crime which would not have warranted transfer to adult court rather than the offense charged.

Fourth, they require that before proceedings against a juvenile are commenced, the court must have the juvenile's record before it, or a certification that the juvenile has no prior record, or it is unavailable.

Fifth, they require fingerprinting and photographing of a juvenile found guilty of an act which if committed by an adult, would be a violent felony. Such records are to be used for law enforcement purposes only.

SENATOR DENTON FINE LIEN AMENDMENT (NO. 14)

This amendment would place a limit on the amount of a defendant's property subject to a lien to assure payment of a fine imposed on him. Under the bill as introduced, the lien would be on all the defendant's property. Under the proposed amendment, the defendant could limit excessive lien coverage. Generally, liens would not extent beyond property unless it is non-severable property. This amendment assures that the lien is sufficiently high to protect the interests of the government in collecting the fine while not being so high as to be grossly disproporationate to the amount of the fine.

SENATOR BAKER FORFEITURE AMENDMENTS (NOS. 15, 16, AND 23–28)

These amendments streamline the forfeiture accounting process by establishing and creating procedures for operating forfeiture accounts for the Department of Justice and Customs Service. Forfeited property could be directly transferred to State and local law enforcement agencies. The civil forfeiture procedures are improved by expanding the scope of summary administrative forfeiture for unclaimed property. The law enforcement authority of customs agents is standardized.

SENATOR DENTON SENTENCING AMENDMENTS (NOS. L8–12)

The amendments would make all appointments to the Sentencing Commission subject to the advice and consent of the Senate, and would delete the requirement that at least three members of the Commission be Federal judges. Under the bill as introduced, the appointment of only four of the seven members would be subject to advice and consent of the Senate; the remaining three members would be designated by the President from a list of at least ten judges of the United States supplied by the Judicial Conference. The bill continues to assure that the President will consult with representatives of various groups, including the judiciary, interested in and knowledgeable about the criminal justice system. The bill would also continue to permit members of the Federal judiciary to be appointed to the Commission; it just would not require such appointments.

In addition, the amendments would revise proposed 28 U.S.C. 994(g) to make clear that the Commission should be aware of the nature and capacity of penal, correctional, and other facilities available and should make recommendations for changes in the nature or capacity of these facilities if necessitated by the guidelines. The Commission might conclude, for example, that a larger percentage of persons convicted of one offense should be placed on probation than is the current practice. While this might be offset by a conclusion that a larger percentage of persons convicted of another offense should be sentenced to prison, it could instead place an added burden on probation facilities. If so, the Commission should be expected to make recommenda-

tions to the Congress and prison and probation authorities concerning the need for change in their capacity. The guidelines might result in a similar potential inmpact on prision resources.

The amendment also makes clear that in many cases, a first offender convicted of a non-serious, nonviolent offense should not be sentenced to imprisonment. The amendment indicates, that while this is frequently true, there may be cases in which imprisonment would be the most appropriate sentence.

Finally, the amendment adds language to proposed 28 U.S.C. 994(*l*) stating that current sentences in many cases do not accurately reflect the seriousness of the offense. Thus, while the Sentencing Commission will necessarily examine current sentencing practices in developing the first set of sentencing guidelines, it is free to provide a different sentence in the guidelines, either a harsher or a less harsh sentence, if it believes such a sentence will more accurately reflect the relative seriousness of the offense.

SENATOR MATHIAS' AMENDMENT RELATING TO CONGRESSIONAL REVIEW OF SENTENCING SYSTEM (NO. 22)

This amendment would require the Congress to review the operation of the sentencing system after receiving a study by the General Accounting Office of the first four years of operation of the sentencing guidelines. The GAO study would compare the new system to that under current law and would be based in part on a report and recommendations by the Sentencing Commission. After reviewing these materials, the Congress would decide whether any changes in the law were needed, including whether the Parole Commission should be reinstated.

SENATOR GLENN'S AMENDMENT ON SURPLUS PROPERTY (NO. 27)

This amendment simply cures an inadvertent omission. It was intended to include in the bill the identical provisions of S. 1422, as it passed the Senate. This amendment was a floor amendment to S. 1422. It would make the surplus property provisions retroactively to March 1, 1982.

SENATOR THURMOND'S AMENDMENT TO DELETE PART C OF TITLE IX (NO. 28)

This amendment deletes Part C of title IX of the bill as no longer necessary. Identical provisions have passed both Houses (H.R. 6454) and been sent to the President for signature.

SENATOR THURMOND'S AMENDMENT RELATING TO AN INTERNATIONAL YEAR AGAINST DRUG ABUSE (NO. 32)

This amendment is a technical substitute for Part M of title IX of the bill relating to the declaration of an International Year agaist Drug Abuse. It cures an objection by the Senate Parliamentarian that this part was not drafted in the proper form under the Senate rules. This amendment cures the defects without making any substantive changes.

SENATOR BAKER'S DISTRIBUTION OF DRUGS TO MINORS AMENDMENT (NO. 33)

This amendment would provide a mandatory minimum prison term of five years for a person at least 21 years old to distribute the more dangerous controlled substances to a person under age 18. Distribution of other controlled substances under the same circumstances would be subject to a three-year mandatory prison term.

SENATOR SCHMITT'S ARMOR-PIERCING BULLET AMENDMENT (NO. 33)

This amendment would add a new section 929 to title 18 that would provide a mandatory minimum sentence of five years for using or carrying a handgun loaded with armor-piercing ammunition during the commission of a crime of violence, including a felony having an enhanced penalty for using a dangerous weapon. The penalty imposed by the court would be in addition to the penalty imposed for committing a felony in which a dangerous weapon is used. The court could not suspend the sentence, place the defendant on probation, or authorize the term of imprisonment to run concurrently with any other term of imprisonment. Finally, an individual sentenced under this subsection would not be eligible for parole.

SENATOR HEFLIN'S ENERGY FACILITY DESTRUCTION AMENDMENT (NO. 33)

This amendment would create a new Federal offense relating to damaging property of an energy facility. The offense would be a ten-year felony if it resulted in more than $100,000 worth of damage or, regardless of the amount of damage, if it significantly impaired a function of the energy facility. The offense would be a five-year felony if it caused between $5,000 and $100,000 worth of damage.

SENATOR THURMOND'S AMENDMENT FOR THE AUTHORIZATION OF FUNDS AND TO PROVIDE AN EFFECTIVE DATE (NO. 33)

This amendment is a technical amendment to provide authorization for such appropriations as may be necessary to carry out the provisions and purposes of this Act and to establish an effective date to ensure compliance with the Budget Act.

This is not an authorization for the Department of Justice or any program outside this particular Act. In fact, the only significant funding with respect to this authorization relates to the operation of the Sentencing Commission and possible increased expenses under the bail provisions.

The effective date part of the amendment is needed in order to ensure no demands will be made on the budget in the fiscal year ending September 30, 1982.

Mr. BIDEN. Mr. President, I want to echo the sentiments of the distinguished Senator from South Carolina. These gentlemen have done something unusual in the Senate. They have forgone the opportunity to tell everybody how they worked so hard on these amendments. I join the Senator from South Carolina in pointing that out. Those Senators are Senators BAKER, DANFORTH, DENTON, GLENN, HEFLIN, KENNEDY, LAXALT, LEAHY, LEVIN, MATHIAS, SCHMITT, THURMOND—Thurmond we know about. All of their amendments are part of this package. I thank them publicly for doing it this way.

Mr. SCHMITT. Mr. President, I would like to express my appreciation to the distinguished majority leader for bringing up the Violent Crimes and Drug Enforcement Improvements Act of 1982, S. 2572, before the end of this session of Congress. I strongly support the provisions of this bill and hope that it will be passed quickly. On behalf of my colleagues, Senators PERCY and HEINZ, I would also like to thank the Senator from South Carolina and the Senator from Delaware for agreeing to accept my amendment on killer bullets.

I believe that this amendment would close a gap in our Federal criminal laws as well as provide some protection to our beleaguered law enforcement officers. Simply, this amendment would provide for a mandatory minimum sentence of not less than 5 years for using or carrying a handgun loaded with armor-piercing ammunition during the commission of a crime of violence. In addition, a judge could neither suspend the sentence nor impose probation under this amendment, and a defendant would not be eligible for parole.

I strongly believe that this amendment is necessary to counter a very real threat facing our law enforcement officers. During the past few years, significant progress has been made in the development of soft body armor. Vests, capable of providing protection against handgun ammunition, are no longer bulky and uncomfortable. Because of these improvements, more than half of all police officers now wear some kind of protective armor on a regular basis. Unfortunately, the security that these bullet-proof vests give our law enforcement officers has been completely negated by the easy availability of several classes of ammunition that can pierce through these vests.

Using these so-called killer bullets is not illegal, but until recently they were only available to the police. Now I understand that in some areas of the Nation, these bullets can be purchased over the counter in gun shops despite their "for police use only " label.

The tactical advantage that widespread use of these destructive bullets would give criminals is significant and cannot be tolerated. I believe that my amendment would serve as a deterrent to any criminal who may consider using one of these bullets. Moreover, this amendment may induce some police officers to wear their vests.

The language of my amendment is the same as the language the Department of Justice submitted to the House Judiciary Committee in May. In a letter dated July 20, 1982, the Department expressed its strong support for this amendment. At this time I would like to ask unanimous consent that the text of the letter supporting my amendment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., July 20, 1982.

Hon. HARRISON SCHMITT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCHMITT: This is in response to your request for the views of the Department of Justice with respect to the amendment which you and Senator Percy intend to propose to the Violent Crime and Drug Enforcement Improvements Act of 1982, S. 2572. In summary, your proposal would establish minimum mandatory prison sentences for the use of armor-piercing handgun ammunition during the course of a federal crime of violence.

As you know, the Department of Justice shares your deep concern over the threat which armor-piercing handgun ammunition poses to police officers and other officials—including the President—who rely upon body armor for protection during the course of their duties. As it was the Department of Justice which developed the soft body armor now worn by thousands of law enforcement officials, we know how important this development has been and feel that publicity surrounding the availability of handgun ammunition capable of defeating soft body armor seriously jeopardizes users of body armor in two ways. First, recent publicity, by creating a "shopping list" for professional criminals and would-be assassins, has increased the threat that such dangerous ammunition will be used in attacks upon law enforcement and other officials. Second, this publicity contributes to a fatalistic attitude on the part of law enforcement officials with the result that body armor available to law enforcement officials is less likely to be used. In this regard, it is a constant problem for police administrators to insure that body armor issued to officers is indeed worn rather than left in a locker or the trunk of a squad car.

The specific proposal which you intend to offer on the Senate Floor is identical to the draft bill submitted to the House Judiciary Committee by the Department of Justice during a hearing in May of this year. We believe that this is an important step toward deterring the use of armor-piercing handgun ammunition during federal crimes of violence and that is will serve as a model for the many State governments interested in protecting law enforcement officials. Moreover, this measure would assure the law enforcement community that the Congress is responsive to their needs and is seeking to provide improved safeguards for officers who do wear body armor. In short, we view this as a stop-gap approach to the problem of armor-piercing handgun ammunition which should be enacted while the Department seeks to develop a more effective long-range solution.

Because the proposal you plan to submit is identical to the one developed by the Department of Justice, we have no objection to it and, in fact, believe that its enactment is necessary to protect the lives and safety of the nation's law enforcement officers. Moreover, we believe that this proposal in one way intrudes upon the rights of law-abiding gun owners and feel, therefore, that its addition to S. 2572 would not in any way jeopardize prospects for enactment of the omnibus crime bill.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

Mr. BENTSEN. Mr. President, the crime package before the Senate provides much needed reform of many existing criminal statutes, and I am pleased to support it. I believe it will help us in the effort to control crime in America and provide protection for millions of law-abiding citizens who are currently terrorized and victimized by crime.

I am especially pleased to note the changes made by the Judiciary Committee to section 401 of the Controlled Substances Act and section 1010 of the Controlled Substances Import and Export Act. These changes eliminate the distinction in penalties between narcotic and nonnarcotic drugs under the Controlled Substances Act and incorporate the spirit of the provisions contained in S. 1951, legislation I introduced on December 14, 1981, and which has been cosponsored by Senators CHILES, HAWKINS, DECONCINI, NUNN, ROTH, RUDMAN, MELCHER, and HAYAKAWA.

These changes are needed because the Controlled Substances Act as currently written lists dangerous substances in five schedules, with those that are the most dangerous and subject to abuse listed in schedules I and II. The act, however, distinguishes between narcotic and nonnarcotic drugs in regard to penalties for dealers. Trafficking in narcotic drugs is punishable by imprisonment for a term of up to 15 years or a fine of up to $25,000, or both. However, the dealer in nonnarcotic drugs listed in schedules I and II is subject to a jail term of not more than 5 years or a fine of up to $15,000 or both. Mr. President, this historical distinction has lost most of its validity with the advent of widespread abuse of substances like LSD, PCP and speed, none of which is a narcotic.

Many of these dangerous and illicit drugs are manufactured in domestic, clandestine laboratories, and these amendments would give the Drug Enforcement Administration an effective weapon to use in trying to shut them down.

The requirement for these changes was made clear in a GAO report in 1981, which concluded that these domestic clandestine laboratories produced virtually all of the stimulant methamphetamine (speed) and hallucinogens, (such as PCP and LSD) available in this country. Additionally, they produce substantial quantities of amphetamines and methaqualone.

One of our future problems in drug control will be the appearance of substances like PCP, which are made entirely from synthetic, easily obtainable ingredients. A few years ago PCP was being manufactured through amateur chemistry in garages and vans all across the country, and it was having a devastating effect on thousands of our citizens. In 1978, I submitted and Congress enacted, legislation requiring the registration of purchasers of piperidine, an essential ingredient of PCP. This legislation has helped achieve a dramatic reduction in the availability of PCP. In fact, the DEA recently reported to me that for the period from November of 1978 through July of 1981, there has been a 48.5 percent reduction in the incidence of PCP related treatments in our Nation's hospital emergency rooms. That is good news, Mr. President.

So, it is important to remember that narcotics are no longer the sole or even the major threat in the area of drug abuse. We simply must do something to clamp down on the manufacture and distribution of dangerous nonnarcotic drugs and, these changes will accomplish just that. These are especially needed because, during a period of time when the abuse of drugs has increased, our efforts to enforce the Controlled Substances Act have been a failure. The GAO study to which I referred earlier, reviewed 68 closed clandestine laboratory cases at 13 DEA field offices from 1978 to 1980. These cases involved 153 violators who were convicted in Federal courts for dealing in dangerous drugs.

Incredible as it may sound, 44 of them, or 29 percent never went to prison; they were placed on probation, had their sentences suspended, or were simply fined. Fifty-six of them, or 37 percent received prison sentences of 3 years or less. So even when we catch them, try them and convict them—2 out of 3 of them get off scot-free, or serve less than 3 years in jail.

There is no doubt that crime is major concern of the American people. The importation, manufacture and distribution of illegal substances is responsible, directly or indirectly, for much of the criminal activity in America today. It is time to do more to drug traffickers than slap them on the wrist and let them go. I hope that the Senate will adopt this bill and, in particular, the amendments to the Controlled Substances Act. It will provide an incentive for law enforcement officals to put these clandestine laboratories out of business.

VIOLENT JUVENILE OFFENDERS AND CAREER CRIMINALS

Mr. KENNEDY. Mr. President, I have introduced an amendment to S. 2572 to strengthen the tools available to law enforcement officials and the courts to deal with the rising tide of violent crime in America.

For Americans in 1982, crime now rivals the economy as the No. 1 domestic concern. The facts of crime in America reveal an escalating conflict in which the wrong side is winning. Violent crime has soared by 85 percent over the past decade. One out of every three households was victimized by a serious crime last year. Some experts say that over a 5-year period, virtually

every home in the Nation will be hit by crime.

It is well documented that a relatively small number of repeat offenders are responsible for the bulk of the violent crime on our streets. In Washington, D.C., it is estimated that 25 persons are responsible for committing 400 crimes a month. A recent Rand Corp., study in California reveals that the average drug dealer has committed at least five assaults and robberies against strangers in order to ply his trade. It is likely that 50 percent of all violent crimes are committed by only 5 percent of all criminals. Shrinking law enforcement resources must be targeted on incapacitating the tiny minority of criminals responsible for the overwhelming majority of violent crimes. Career criminals must be put on notice that their chronic violence will be punished by maximum prison sentences for their offenses, without parole.

The vast majority of career criminals commit their first crimes when they are juveniles, and their most active criminal periods occur between the ages of 16 and 22 years. Seventy-five percent of all serious crime in Philadelphia is committed by juveniles under 18, with a record of five or more previous convictions. A recent study of prison inmates found that 88 percent of them had committed their first crime before the age of 18, and many juvenile offenders admitted having committed as many as 8 to 11 crimes for each time they were arrested. Chronic youthful offenders commit many more crimes than chronic adult offenders—an average of 36 per year for juveniles versus an average of 12 per year for adults. Experts agree that two-thirds of violent crimes are perpetrated by 6 percent of the juvenile offenders. And nearly one-half of all those arrested for violent crimes are juveniles.

The juvenile justice system, which is designed to protect problem children, is ill equipped to handle chronic violent offenders. Young persons who stab, shoot, mug, and rob should not be allowed to misuse their youth as an automatic excuse for their crimes.

Experts agree that seriousness of the current offense and a history of violence are the best indicators of future violence. Juvenile offenders who have been found guilty of a violent act and are charged with another violent offense are not problem children. They are menaces to society who should be treated as adults, tried as adults, and sentenced as adults.

In order to identify and properly sentence those juvenile offenders who pose the greatest threat to society, it is essential to maintain comprehensive records on violent juvenile offenders. In a 1980 Rand Corp. study, 60 percent of prosecutors questioned said the police "never" or "rarely" provided them with juvenile histories on youthful offenders. These records must be available before proceedings against a juvenile are commended, and should be complete, including photographs and fingerprints of violent offenders, and specific descriptions of previous act of delinquency.

My amendment emphasizes the identification and incapacitation of violent offenders 16 years old or older, as follows:

Provides that any person 16 years old or older, who is found guilty of a violent felony and has two previous violent felony convictions is a career criminal and shall receive the maximum sentence or approximately the maximum sentence for the current offense. Prior to full implementation of title V related to sentencing reform, a career criminal may receive a prison sentence without parole;

Provides for automatic waiver to adult court for a juvenile over 16 who is charged with a serious violent crime or drug trafficking offense and who has been found guilty of one previous act which, if committed by an adult, would have been a serious State or Federal violent crime or drug trafficking offense;

Requires that, where a juvenile is adjudged delinquent, the delinquent act which the juvenile committed must be recorded as part of the record of the proceedings;

Provides for waiver back to juvenile court for sentencing of a juvenile who is tried in adult court or convicted of a crime which would not have warranted transfer to adult court;

Requires that before proceedings against a juvenile are commenced, the court must have the juvenile's record before it, or a certification that the juvenile has no prior record, or it is unavailable;

Requires fingerprinting and photographing of a juvenile found guilty of an act which if committed by an adult, would be a violent felony. Such records are to be used for law enforcement purposes only.

This amendment is a comprehensive approach to dealing with the critical problem of violent crime, especially juvenile violent crime, in our society, I urge my colleagues to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendment (UP No. 1356) was agreed to.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Mr. DANFORTH. Mr. President, the Senator from New Hampshire, Mr. HUMPHREY, and I are offering an amendment to deal with the problem of look-alike drugs. Cosponsoring this amendment are Senators ANDREWS, GRASSLEY, and LUGAR. This amendment is now part of the lengthy committee amendment.

The past few years have witnessed the birth of a new drug problem which has most of the moral and medical dangers of narcotics abuse, and yet the drugs being abused are legal under current Federal law. In legal circles, these drugs are known as imitation controlled substances; the press refers to them as look-alikes; and street pushers call them turkeys or kiddie dope. The tablets are a combination of legal substances such as caffeine and powerful decongestants, but they are packaged to look like well-known controlled substances such as amphetamines and Quaaludes. Buyers, many of whom are junior high and high school students, think they are getting the illegal drugs when they are in fact receiving the look-alike.

According to the Drug Enforcement Administration, "the wholesale vending of look-alike drugs has become a major nationwide drug abuse problem." DEA reports that a handful of distributors at the end of 1979 grew to 110 in 1981. The pills are offered by the big distributors in 1,000-pill jars, with advertising that they can be sold individually for tremendous profits. DEA estimates that production of these pills has reached 30-million units per week.

Profits in this business are substantial. One small-time distributor of these drugs in Dallas, Tex., interviewed by the Texas Monthly, claims profits of $90,000 a year; the profits of some larger manufacturers based in New York and large distributors such as Mid-State Supply in Oklahoma and Chicago Specialty Distributors of Illinois run into the millions of dollars. Even more troubling, the over-the-counter drug store, devoted entirely to the sale of look-alikes, opened in Los Angeles last fall despite the protests of concerned citizens. Officials fear this to be the first of what may be a string of similar stores which could appear all over the Nation. Indeed, some have already opened in New Mexico.

The manufacturers and distributors of look-alike amphetamines and barbiturates use every means of advertising legally available. The small-time dealer in Dallas walks the Texas beaches distributing his business cards; larger companies use more sophisticated advertising methods. One look-alike company mails its color brochures to college freshmen. The Drug Enforcement Administration reports that another look-alike company which distributes to college campuses puts the following words on envelopes: "To College Mail Handlers: Please deliver to dorms that have a high proportion of drug users. We request that this letter be delivered to an individual that needs or uses drugs so that he may be given direction and shown the way." The implication here is that the brochure inside is from some public

service organization which wishes to discourage drug abuse—a cheap ploy to reach potential customers.

The first danger of look-alikes is, then, their tendency to encourage drug abuse. As a member of the Ohio State Board of Pharmacy put it, look-alikes are "a very natural step up to the real thing." The medical hazards of look-alikes is a second. Consider the situation where someone has been using look-alikes and is then given the real amphetamine. One DEA official put it this way: "They take six or seven of the phonies and then they take six or seven of the real thing someday and they are dead." Many people do not realize that the look-alikes themselves can be lethal. The FDA has confirmed 12 deaths from look-alikes, and other sources say many more have died, and all within the last 2 years. For example, the Illinois Department of Public Health claimed six deaths in 9 months from look-alikes. Recent deaths attributed to look-alikes include a 17-year-old girl from Belvidere, Ill., a 21-year-old carnival worker from Columbus, Ga., and three young men from Albuquerque, N. Mex., aged 15 to 20, who were in excellent physical condition but suffered brain hemorrhaging from the drugs.

The medical problem presented by look-alike overdoses is ironic. Hospital officials usually find pills on the person of victims and assume the look-alikes to be real amphetamines. They then treat the patient for amphetamine overdose and he or she dies of a caffeine overdose. As an Illinois Department of Public Health official put it, "Treating a caffeine problem like it was amphetamines is useless." It is time to try to put an end to such deaths.

The Drug Enforcement Administration has advocated State and local laws prohibiting the manufacture and sale of look-alikes, and many of the States have responded. This is a commendable effort. But relying on the uncoordinated actions of a diverse group of lawmaking bodies is inadequate. The absence of Federal criminal sanctions makes the look-alike problem, according to a Delaware official, "like dealing with a greased pig." Presently, manufacturers or distributors chased out of one State simply set up in another. The American Pharmacy magazine has criticized the Federal Government for its failure to take action, saying "* * * there appears to be no central plan of action, no spearhead force to halt this nationwide scourge * * *. Yet this problem is a national one that must be stopped." In its report on look-alike drugs, Time magazine noted that "probably no serious headway will be made * * * until the Federal Government finds a way to block the look-alike loophole with a uniform national law."

Making the manufacture and sale of look-alike drugs a Federal crime will be more than a symbol, more than a gesture. Look-alike pushers are in business because their product is legal. One dealer has said: "This can't last forever. Someday they've got to write a law against it." Mr. President, we can no longer tolerate drug pushers who hide behind a facade of business cards, brochures, slogans, and sham corporations in an attempt to imitate the respectable business community.

This problem is beginning to get the attention it deserves. The Select Committee on Narcotics Abuse and Control in the House of Representatives, chaired by Congressman LEO ZEFERETTI of New York, has held very productive hearings on the dangers of look-alike drugs. Mr. ZEFERETTI has asked hard questions about how the Federal Government can stifle this new drug abuse problem that has grown to alarming proportions. The Select Committee on Narcotics has sought the advice of both the Food and Drug Administration, charged with protecting the health of the Nation against impure and unsafe drugs, and the Drug Enforcement Agency Administration, charged with suppressing narcotics and other dangerous drugs.

In September 1981, the Food and Drug Administration seized 15 million capsules and tablets and 20 million empty capsules used in the look-alike drug trade, as well as the machinery used to manufacture these items. This seizure was made possible because of the Federal statutes that outlaw the manufacture of counterfeit prescription drugs. This year, beginning in mid-August, the FDA seized 1 million finished capsules and tablets containing a combination of caffeine, ephedrine, and PPA, which had been advertised as "100 percent legal" pep pills and speed. The FDA has advised the manufacturers that pills with this combination of substances require their approval before they can be marketed. These and similar efforts on the part of FDA are commendable, and yet they are not enough. We must do more than confiscate the pills and implement new regulations.

In my view the time has come for Federal criminal sanctions for the manufacture, sale, and advertising of look-alike drugs. The amendment offered by the Senator from New Hampshire and myself is quite simple. It defines look-alike drugs and any other drug containing noncontrolled substances that purports to act like a controlled substance, either stimulant or depressant. The sale and manufacture and distribution of these drugs would be a felony under our amendment, with maximum imprisonment up to 2 years. Distributing these drugs to a minor would be an aggravated offense with imprisonment up to 4 years. Advertising these drugs would be a misdemeanor. The Food and Drug Administration will have the primary enforcement authority of these provisions. The FDA seems the best choice for enforcement because they now have jurisdiction over all noncontrolled substances, and they already have been active in the fight against look-alikes.

This amendment will not hamper any legitimate over-the-counter drug manufacturer. The intent of the amendment is clear. We are out to stop the look-alike drug trade, to stop those drugs sold primarily to teenagers and frequently passed off as controlled substances. The purpose of these drugs is clearly nonmedical.

The mushrooming look-alike drug market has been covered by all three national television networks and by publications ranging from American Pharmacy and Drug Topics to Time and the Wall Street Journal. I ask unanimous consent to insert into the RECORD a number of these program transcripts and newspaper and magazine articles about this drug problem.

I believe the Federal Government can afford to give no quarter to drug abuse. We must take sterner measures. This amendment is part of what must be a larger effort.

I want to extend my thanks to the chairman of the Judiciary Committee, Senator THURMOND, both for including this amendment in the committee amendment, and for the important work he has done on this entire legislation. Let me also extend my thanks to Mr. Paul Summitt, special counsel to the Judiciary Committee, who has devoted so much of his time to improving the criminal statutes of the United States. His tireless efforts are to be commended, and we in the Senate are glad to have the benefit of his able assistance.

LOOKALIKE DRUGS: PART I—ABC NEWS TRANSCRIPT

MAX ROBINSON. In another national money scandal of sorts, the victims are primarily the young. Come-on fake drugs, pills made to look like more potent stimulants, and often sold at the same high prices. It's not illegal. The problem is, the lookalikes can be exceedingly dangerous.

Rebecca Chase has a Special Assignment report.

REBECCA CHASE. Amphetamines. On the street they are called speed, uppers, black beauties. Whatever you call them, they are strong drugs that stimulate the central nervous system. Selling or possessing these pills without a prescription could land you in jail.

These pills are also called speed, uppers and black beauties, but these are completely legal. They are fakes, but they look just like the real thing.

This is Dexamyl, a controlled substance. The only visible difference in the counterfeit on the right is the marking. It would take an expert to tell the real biphetamine on the left from the phony on the right.

All the pills on the right are counterfeits, lookalikes. And although they have different shapes, they all contain basically the same ingredients: caffeine, the same stimulant found in coffee; ephedrine, a mild stimulant in antihistamine; and phenylpropanolamine, a commonly used decongestant.

TY FAHNER. And the whole gimmick of this garbage is it's made and manufactured to look like a real controlled substance, which means you're trying to fool someone.

CHASE. And that means big profits for a whole new kind of drug dealing. For example, this real amphetamine on the left would go for $5 on the street. The lookalike on the right can also be sold for $5. But it can be bought for 4½ cents.

In provocative ads that promise a legal high and a big kick, the pills are being hawked to truck drivers, to college and even high school students. And much of the advertising also promises big profits to those who would sell the lookalikes as the real thing.

The Drug Enforcement Administration says there are 110 distributors selling lookalikes by the millions throughout the country.

The ads are right that the pills are legal. But there is growing evidence from all over the country that they are not safe. In fact, in some cases they have been deadly.

Dr. ARTHUR LEIBOWITZ. I don't think that you can say that any pill that has the potential for taking a normal person and making them basically a paraplegic can possibly be described as safe.

CHASE. In Philadelphia, doctors say two fake amphetamines caused a 15-year-old girl to have a stroke. She is still paralyzed today.

Dr. LEIBOWITZ. It became clear that she had had a massive brain infarction. Part of her brain had been essentially killed.

CHASE. In Albuquerque, a healthy 17-year-old, Danny Campos, took two counterfeit biphetamines at a high school dance. He was brought here to St. Joseph's Hospital complaining of blinding headache. Three days later, he was dead. Doctors said the two pills he took caused a massive stroke.

SABRINE CAMPOS. Many people had come and asked to pray over him, and we gave permission to turn off the respirator. And about 20 minutes after they turned it off, he died.

CHASE. Doctors aren't sure just what it is about the fakes that is causing teen-agers to have strokes. But they fear some people may have an unpredictable and violent reaction to phenylpropanolamine.

Dr. BARRY DISKANT. People that are taking phenylpropanolamine are playing Russian roulette because they're taking a drug which is extremely potent, has a potential for causing marked rise in blood pressure and leading to real catastrophe.

CHASE. But in Albuquerque you don't have to order lookalike pills through the mail. You can walk right in and buy them over-the-counter in a store like this, one of several in the city.

This man, Jerry Hecht, supplies four Albuquerque stores with a quarter of a million lookalikes a week. He believes he's on top of a huge trend that he likes to call the stimulating of America.

JERRY HECHT. I mean it. I want to put it on the breakfast table between the Geritol and the one-a-day vitamins. And you can look at it as you drink your orange juice.

CHASE. Hecht was recently indicted for fraud for selling lookalike drugs in exchange for food stamps. But he claims no responsibility for the abuse of the lookalikes, even though the Campos believe the pills that killed their son came from one of Hecht's stores.

HECHT. I am concerned, but I'm not stopping selling it. It's what this country asked for and it's what they're going to get.

CHASE. Tomorrow, a look at why the Federal Government is powerless to stop the spread of lookalike drugs, and visit to Daytona Beach, Florida, where police say the sale of lookalikes is out of control.

LOOKALIKE DRUGS: PART II—ABC NEWS TRANSCRIPT

MAX ROBINSON. New York's Postal Service said today it has stopped the mail of 39 of the largest distributors of lookalike drugs, pills purposely made to appear like more powerful stimulants. The reason, false advertising and deceptive practices.

Yesterday Rebecca Chase began a Special Assignment series on the growing abuse of such drugs, and tonight she has her final report.

REBECCA CHASE. They look like real amphetamines, hard drugs, but they are not. They are phonies, lookalikes which contain legal over-the-counter drugs and caffeine. They are advertised as safe, but many doctors say they are the cause of a number of recent strokes, and even deaths, in young people.

Widely available in stores and through the mail, the lookalike amphetamines, phony Quaaludes, and even bogus cocaine, have opened the door to a whole new kind of drug dealing.

MAN. It's encouraging the individual who buys these drugs at a very low price, as low as 4½ cents a piece to go out and sell the drugs at a higher price.

CHASE. This is Daytona Beach, Florida, a popular vacation spot for families and students. But authorities here fear it is also becoming a free trade zone for bogus drugs.

MAN. Most of these people, I'm sure, leave this area thinking that drug sales are rampant and they're wide open in broad daylight in highly congested areas where the tourists go.

CHASE. In fact, drug dealers do operate openly and with impunity. At least that's what we found after spending an afternoon on the crowded beach. ABC News producer Ed Hirsch posed as a tourist. And when he expressed an interest in obtaining drugs, this man returned within minutes with three tablets he claimed were Quaaludes. In full view, the deal was made. The man pocketed $11.

While the pills looked authentic, police provided an on-the-scene analysis. The verdict?

MAN. It's a fake. It's beat dope.

CHASE. And because 85 percent of the drugs sold in Daytona Beach are beat dope, as it is called, police say they're letting dealers walk away because they can't make drug charges stick. And an arrest for petty theft just isn't worth it.

MAN. Legally, you can't prosecute somebody for the much higher-level offenses dealing with drug trafficking and drug selling if the drug that they're selling is not in fact a controlled substance.

CHASE. Because the sale of bogus drugs is getting out of control, in October, Florida will join ten other states which have already outlawed the sale of lookalikes. Six other states are considering similar laws.

Here in Washington, federal officials agree that lookalike drugs have become an enormous national problem. But they also admit that, at least for now, they are powerless to do anything about it.

MAN. It flags a hole, in effect, in our jurisdiction. And this is—they're going to drive through it until somebody at the federal or state level takes enough concern over it that that hole will be cut off.

CHASE. The Postal Service has come up with at least a stopgap measure, but that does nothing to shut down the lookalike drug stores, like Jerry Hecht, who sells a quarter of a million pills a week.

JERRY HECHT. I'm not going to quit. I like making the money. And I'm filling a need. And I'm not cheating anyone who walks in this store.

CHASE. Most people agree that the Food and Drug Administration is the proper agency to put a stop to the bogus drug trade. But the FDA says it is still studying the problem. That is little encouragement to Jerry Campos, whose son died when he took two lookalike amphetamines.

JERRY CAMPOS. They should be taken out of the market. I don't understand how they can just keep it, you know. I mean we're losing—you know, we lost a son. And there's going to be some more that's going to be lost. And yet they still keep these drugs, I mean freely, to be bought, and by anybody who just walks in the store.

CHASE. But authorities fear that until the Federal Government moves in or every state passes a law, the sale of lookalike drugs will continue out of stores, out of magazines, and out of control.

LOOKALIKE DRUGS—CBS NEWS TRANSCRIPT

DAN RATHER. They look so much like the real thing that even experts or longtime users can't tell them apart. In fact, that's what they're called, lookalikes, 100 percent legal drugs that are almost exact copies of hard-to-get amphetamines. But as we hear from Steve Young, the effects these lookalikes can have are as authentic as can be.

DON QUEEN. Somebody comes in and says they're driving from here to New York and want to stay awake, so I recommend the small black beauties.

STEVE YOUNG. Don Queen sells drugs that resemble prescription stimulants. Street users call the real amphetamines speed and use nicknames like black beauties and white crosses. These nonprescription capsules and tablets only look like amphetamines, but they can get you high.

The lookalikes contain caffeine, ephedrine, phenylpropanolamine. One or two of these ingredients are contained in over-the-counter diet pills. But the Food and Drug Administration says these nonprescription pills are the only products on the market that contain all three. The combined effect can be unpredictable.

They are being sold across the nation as legal stimulants, blatently in Albuquerque, New Mexico in specialty shops known as speed boutiques, a bizarre sight to passing travelers. The boutiques are a pill-popper's paradise. Owners claim they sell only to those over 18, but police say that, directly or indirectly, the lookalikes are winding up in younger hands.

BOB MILLIMAN. I have arrested numerous juveniles, ages 14 through 16 that have sold these pills within the city limits of Albuquerque.

YOUNG. Seventeen-year-old Danny Campos took two of them last January before a high school dance. Soon after, he began vomiting, had horrible headaches,

and was taken by his mother to a hospital emergency room the next day.

SABRINA CAMPOS. They gave him brain—brain scans, I guess it's called. And they said that the minute he had gone into a coma, that he was—he had severe brain damage, that it had collapsed his brain. If he lived, he would be like a vegetable.

So we gave permission to turn the respirator off. I guess it was about four. And they turned it off. And 20 minutes later he died. And that was the end [unintelligible].

YOUNG. An autopsy showed that Danny, a healthy athlete, succumbed to a stroke triggered by sudden intense high blood pressure.

Dr. Barry Diskant worked to save Danny in an emergency room where about 10 look-alike victims have been treated. Two of them died. Danny and the other victim who died each had taken just two pills. Diskant thinks the phenylpropanolamine was linked to the fatal reactions, and can't understand why it's allowed in any product.

Dr. BARRY DISKANT. I can't think of a single drug that the FDA would allow where if you took double the amount that's recommended, you could have toxic reactions, or perhaps even death.

YOUNG. Statistically, Danny's death was unusual. Although millions of lookalikes are being sold, only 11 resulting deaths have been reported. But the number may be higher. Sometimes the only evidence to go on are the pills themselves. And since lookalikes are often such close copies of the real thing, doctors looking at the bottle may attribute death to the wrong drug.

Another cause for concern. Lookalike users typically take more than one pill to get high. The real amphetamines are much more powerful. If lookalike users stumble onto amphetamines and take several of them, overdose and death can result.

JERRY HECHT. You don't see any damned labels or warnings on a bottle of whiskey, Mister. I don't want to hear that crap. I've heard it too long. Gun dealers are the same thing. A guy goes out and blows his old lady away; that's not the gun dealer's fault. That's the idiot that pulled the trigger.

YOUNG. Jerry Hecht markets his pick-me-ups at five lookalike boutiques in Albuquerque a big void there. And those same people, a lot of them, need something to get them from one end of the day to the other, one day a week, five days a week. I don't know.

YOUNG. Hecht is part of a burgeoning business. He says his profit sometimes runs to 3000 percent. Lookalikes sold by other distributors are advertised in national tabloids, like The Globe, complete with an offer of free samples. Cosmopolitan magazine has regularly accepted ads for the lookalikes.

Except for efforts by U.S. Postal authorities to bar use of the mails for fraud, most federal and state officials have done little about the lookalike drugs.

WILLIAM LENCK. Other than—other than just gathering intelligence and furnishing it to FDA, and also concerned state authorities, we're just acting as a liaison with FDA and the state agencies concerned.

WAYNE PINES. FDA has limited jurisdiction. We are concered with drug labeling. We are concerned with drug formulation. And our legal authority is limited.

YOUNG. So, neither government agency the public might expect to come to grips with the problem has done so.

Faced with a vacuum, Delaware has passed a law making it a felony to sell lookalikes, and several other states have enacted similar legislation.

Jerry Hecht says he'll get around lookalike laws by eliminating lookalike trademarks and putting out fake speed in red, white and blue capsules.

HECHT. I made a prediction once. I said I'm going to put pick-me-ups on the breakfast table between the one-a-day vitamins, Geritol, right next to the glass of orange juice. And I mean it.

YOUNG. About two miles from where Danny Campos lived, Jerry Hecht has opened Albuquerque's latest speed boutique. Just in time, Mrs. Campos says, for the start of the 1981 school year.

LOOKALIKE PILLS—NBC NEWS TRANSCRIPT

ROGER MUDD. Tonight our Special Segment is about lookalike pills, one of the latest fads among drug users. The pills are manufactured to look like amphetamines. They're mostly caffeine, but can be more dangerous than the drug they resemble.

Mark Nycanon reports.

MARK NYCANON. Steve Lewis, stroke victim at 21.

STEVE LEWIS. My brain was wiped out for a long time.

NYCANON. Lisa Bromerich (?), dead at 17.

WOMAN. It just doesn't seem like she's dead. It seems like she should really be coming home.

NYCANON. Lewis paralyzed, Bromerich killed by what authorities call dangerous look-alike pills, stimulants made to look almost exactly like prescription amphetamines. Lewis is one of thousands of people nationwide who have overdosed on look-alike pills. Lisa Bromerich's overdose is one of 11 deaths drug experts link to the pills in the past two years.

Look-alike pills are legal in most states. They are made because there's a large demand for black-market amphetamines. Police say drug dealers buy thousands of look-alike pills and resell them on the street as amphetamines.

A look-alike pill. An amphetamine pill. The amphetamine pill contains powerful chemicals and is sold only with a prescription. The look-alike pill contains the maximum legal amounts of caffeine and a two other stimulants. It's a nonprescription drug sold mainly through the mail. But some drug experts say taking look-alike pills can be more deadly than taking amphetamines.

MAN. A lethal amount can be absorbed into the system before we realize it. And that's usually not the situation with amphetamines.

NYCANON. Large concentrations of caffeine in look-alike pills can make the heart stop, causing death; and blood vessels in the brain to burst, causing a stroke.

Drug experts say look-alike pill use is increasing as young people are lured by ads in numerous national publications and brochures like this one. The ads say the pills are legal, effective, safe.

LEWIS. I was little tired and needed something to pick me up.

NYCANON. Musician Steve Lewis suffered a stroke 45 minutes after taking three of the pills given to him by a friend. The right side of his body was paralyzed. He's recovering slowly. His right hand is still paralyzed. Doctors don't know whether he'll ever regain its use.

LEWIS. I was going to be the greatest guitarist that ever lived. And now I can't even tie my own shoes, you know. How can I play the guitar.

NYCANON. Steve Lewis's father is angry.

LEWIS. I'm furious at the people that manufacture these pills to the extent that they are. They're making profit off of misery.

NYCANON. the Drug Enforcement Administration says there are 115 look-alike pill distributors in 22 states. The center of the look-alike pill trade is in Lewistown in Central Pennsylvania. Lewistown is called the caffeine capital of the country by law enforcement officials, who say that at least 50 look-alike pill distributors are headquartered here.

Every weekday afternoon, hundreds of thousands of pills are driven, carried, and wheeled into Lewistown's post office, where they are mailed to customers across the country.

MAN. Our office here probably handles 80 percent of the distributing business of the caffeine pills.

NYCANON. Why Lewistown?

MAN. There was a place in Lewistown that went in this business, and they seen how well the guy done financially.

Clifford Kerstetter manufactures and sells tens of millions of look-alike pills at his 184-acre estate.

CLIFFORD KERSTETTER. Yeah, we do okay.

NYCANON. Kerstetter sells this pill. Police say "Dex" is printed on the capsule to make users think it is dexedrine, a powerful amphetamine.

KERSTETTER. All the companies are trying to associate with their capsules with prescription items. Like I said, I'm one of many.

TYRONE FAHNER. They're low-life entrepreneurs. They're very sleazy people. They're preying on young people that don't have an option to decide for themselves.

NYCANON. Illinois Attorney General Tyrone Fahner plans to have legislation introduced that would make it illegal to sell the pills in Illinois. In the last year, 12 states passed laws making it illegal to sell look-alike pills. But the pills are still legal in most states, and that angers Steve Lewis.

LEWIS. I'm lucky. Some people are dead. And these are legal drugs? That's too much.

LOOKALIKES—CBS RADIO NETWORK TRANSCRIPT

JERRY HECHT. I made a prediction once. I said, "I'm going to put pick-me-ups on the breakfast table between the one-a-day vitamins, Geritol, right next to the glass of orange juice." And I mean it.

CHRISTOPHER GLENN. Jerry Hecht is a drug dealer. He sells fake speed, amphetamine substitutes that are perfectly legal for across-the-counter sale in many states. In some places, death has been the result for people who took such lookalikes.

In a minute, more on the pick-me-ups that can bring you down.

GLENN. Correspondent Steve Young, in a report for the CBS Evening News, outlines a new drug problem, the lookalikes, pills full of substitute amphetamines sold legally in many places without prescription.

In Albuquerque, 17-year-old high school athlete Danny Campos took two lookalikes before a dance. Then he began vomiting and developed fierce headaches. His mother took him to a hospital emergency room.

SABRINA. They said that the minute he had gone into a coma, that he was—he had severe brain damage, that it had collapsed his brain. If he lived, he would be like a vegetable.

So we gave permission to turn the respirator off. And they turned it off. And 20 minutes later he died. And that was the end of [unintelligible].

GLENN. That was the end of Danny, and at least one other of the ten victims of the lookalikes who have been treated at that hospital.

Dr. Barry Diskant questions why the chemicals in the lookalikes are permitted in any over-the-counter product.

Dr. BARRY DISKANT. I can't think of a single drug that the FDA would allow where if you took double the amount that's recommended, you have toxic reactions, or perhaps even death.

GLENN. Jerry Hecht runs five lookalike shops, or speed boutiques, in Albuquerque and Santa Fe.

HECHT. I fill a need. The doctors, the AMA, the drug industry strung out millions and millions of people on amphetamines. And there's a big void there. And those same people, a lot of them, need something to get them from one day a week, five days a week. I don't know.

GLENN. The Food and Drug Administration and the Drug Enforcement Adminstration are two government agencies you might think would be able to do something about it. But as William Lenck of DEA says:

WILLIAM LENCK. Other than just gathering intelligence and furnishing it to FDA, and also concerned state authorities, we're just acting as a liaison with FDA and the stage agencies concerned.

GLENN. Wayne Pines of FDA says their hands, too, are tied.

WAYNE PINES. FDA has limited jurisdiction. We are concerned with drug labeling. We are concerned with drug formulations. And our legal authority is limited.

GLENN. So, several state legislatures have passed laws to ban sale of lookalikes. But Jerry Hecht says he'll bypass such laws by eliminating lookalike trademarks and selling the pills in red, white and blue capsules.

HECHT. You don't see any damned labels or warnings on a bottle of whiskey, Mister. I don't want to hear that crap. I've heard it too long. Gun dealers are the same thing. A guy goes out and blows his old lady away; that's not the gun dealer's fault. That's the idiot that pulled the trigger.

CHARGES AGAINST LOOKALIKE DRUG COMPANIES

BARBARA ALLEN. Postal inspectors have filed charges against 40 mail-order companies across the country for distributing lookalike drugs. Lookalikes were the subject of a report by Jack Cloherty earlier this summer.

Cards advertising the pills are being put on car windshields at area rock concerts. The pills appear to be hard drugs like Speed and Quaaludes and similar products, but they are, in fact, caffeine pills. The Postal Service is charging the firms with misrepresentation and distribution of dangerous substances.

By the way, there have been several deaths reported from overdosing on those caffeine pills.

[From American Pharmacy Magazine, May 1982]

STAMPING OUT CONTROLLED SUBSTANCES "LOOK ALIKES"

There has been much flailing about in the year or so since we first learned about the scam that was sweeping the nation like wildfire—"legal" street sales of nonprescription drugs that look like well-known Schedule II controlled substances. Federal, state and local governments, as well as pharmaceutical manufacturers and health professions, have been attacking the problem from several different directions, giving all appearances of trying to stomp out a brush fire in a windstorm.

The problem is "look alike" drugs that mimic the size, shape and color of controlled substances, sometimes even featuring identical trade markings. Most contain phenylpropanolamine, caffeine or ephedrine or some combination of these. They are sold openly on school playgrounds and street corners as "body stimulants," but the intent is to confuse them for "black beauties," "dexies," "rainbows," and other controlled substances.

The Food and Drug Administration has confirmed 12 deaths associated with the use of these seemingly innocuous drugs. At least nine suicides have been related to their use, mostly caused by acute caffeine overdose from consuming as many as 50 capsules. Teenagers are known to take them with alcohol, a potentially fatal combination. Even more insidious is the danger that the buyer will unwittingly confuse the real controlled substance for the phony drug and overdose on quantities that, with the look alikes, would provide only a minor buzz.

Halting the distribution and sale of look alikes has been difficult under current laws. But some progress has been made in breaking the trade:

Last fall, FDA filed a counterfeiting and mislabeling complaint against nine manufacturers in five states and, with the help of federal marshals, seized millions of capsules and tablets and a large amount of manufacturing equipment. In January, FDA cracked down on a tenth manufacturer.

The U.S. Postal Service has filed charges with an administrative law judge against more than 40 distributors, claiming they were using false and misleading advertising to solicit money through the mail. All 40 distributors have stopped this activity.

The Drug Enforcement Administration drafted a Model & Imitation Controlled Substances Act and has been assisting states in developing their own approaches to the problem.

Legislation to combat the imitation drug industry has been enacted in 16 states—Arkansas, Colorado, Connecticut, Delaware, Florida, Indiana, Kansas, Louisiana, Maryland, North Carolina, Oklahoma, Oregon, Pennsylvania, South Dakota, Virginia, and Wisconsin.

Some cities, such as Independence, MO, have passed local ordinances prohibiting sales of look alikes in "pill boutiques" or very esoteric "drug stores." One such store in Los Angeles closed after heavy picketing by neighbors and stars from television shows incuding "Quincy" and "Hill Street Blues."

Manufacturers of gelatin capsules and tableting equipment have been cooperating with federal and state officials in refusing to sell their products to potential buyers who are suspected of making look alikes.

National and regional health organizations have become involved. The American Medical Association, for example, recently drafted its own model legislation that would make it illegal for anyone except those authorized by law to manufacture, process, package, distribute, or sell a noncontrolled, nonprescription substance that resembles or is labeled to resemble a specific controlled substance. The bill also makes it unlawful for anyone to misrepresent a drug as a controlled substance. Several states are reported to be considering such legislation.

While these efforts appear to have stemmed some of the problems in some areas of the country, there appears to be no central plan of action, no spearhead force to halt this nationwide scourge. So far, no national legislation has been introduced into the Congress, although staff of the House subcommittees on crime say one is in the offing this year. Nor has any federal agency stepped forward to take the lead, as current drug laws don't make the products outright illegal. And both DEA and FDA want the states to have the authority—and responsibility—for controlling sales and distribution at the local level, simply because of a lack of enforcement manpower.

Yet this menace is a national one that must be stopped. These imitation controlled substances pose a very real health threat. And they are giving pharmacy and ethical pharmaceuticals a black eye. It's high time that a unified effort be made to halt the counterfeiting and sale of all such look alike drugs. Pharmacists, and organized pharmacy, can take the lead in encouraging passage of local, state and federal laws and supporting law enforcement in this area.

[From the Chicago Tribune, Oct. 26, 1981]

"LOOK-ALIKE" DRUGS MAKE DOPE OF BUYER

(By Ronald Yates)

LOS ANGELES.—It's called the Over-the-Counter Drug Store, but unlike most drugstores, this one doesn't advertise, doesn't offer rebate coupons, and doesn't even have a telephone number.

In fact, if it weren't for the pickets who have marched outside the store since it opened last month, you might not know it was there.

The Over-the-Counter Drug Store, you see, is not your everyday, neighborhood corner drugstore.

You don't walk into this store to get a milkshake, a tube of toothpaste, or a candy bar.

Instead, the Over-the-Counter Drug Store, which may be the first of its kind in the nation, is in business to sell "look-alike" drugs—pills and capsules that look like amphetamines and dexedrine manufactured by major pharmaceutical companies, but which are really imitations.

And though the "black beauties," "white crosses," and "yellow jackets" sold in the nondescript shop in Los Angeles' Studio City district are legal, law enforcement agencies and state legislators are looking into state antifraud statutes in an effort to close the first of what they fear may eventually be a string of similar stores that could spring up across the nation.

Look-alike drugs are being sold nationwide, although not in stores like the Over-the-Counter Drug Store, according to state and federal officials. An agent for the federal Drug Enforcement Administration said the office receives daily reports of overdoses and occasionally of deaths.

In Illinois, Atty. Gen. Tyrone Fahner's office has filed suits against 39 manufacturers and distributors of look-alike drugs on charges of consumer fraud and public nuisance. So far 15 of the defendants have agreed to stop distributing the drugs in Illinois, Fahner said.

Federal Food and Drug Administration officials and state officials who have tested the look-alikes say they are made from a combination of caffeine and two antihistamines known as ephedrine and phenylpropanolamine. Ephedrine is a stimulant used to treat asthma and phenylpropanolamine is a decongestant used in cold pills.

Like "speed," the street name for amphetamines and dexedrine, the look-alikes offer

the user a lift, but nowhere near the kind he gets from the real thing.

"None of the stuff that goes into these pills is a controlled substance," said a Federal Drug Enforcement Agency spokesman here. "So we're helpless to stop it.

"The sad thing is that by taking this stuff, kids are being groomed for the real thing," he said. They take six or seven of these phonies and then they take six or seven of the real thing someday and they're dead."

According to Paul Linderschmid, a founder of the Studio-City-based Crime Prevention Committee, thousands of the look-alikes are being sold in schools as the real thing. Lindenschmid organized a recent demonstration outside the controversial store which included such television personalities as Jack ("Quincy") Klugman, Gordon Jump of "WKRP in Cincinnati" and Daniel J. Travanti of "Hill Street Blues."

"I've seen men come out of that place with boxes and boxes of these things," Lindenschmid said. "They are pushing them as the real thing and they are making a fortune doing it."

Indeed, according to police, the phony pills cost about 3 cents each to make and sell 18 to 19 cents to a wholesaler like the Over-the-Counter Drug Store. However, the street value of the pills runs from $1 to $5 each—about like the real thing.

"The thing is, if you're a dealer and you get caught selling these things, you're not violating the law," a DEA spokesman said. "And if the buyer discovers what you've done, who's he going to complain to? Is he going to call the cops and say, 'Hey, I bought some dope that wasn't the real dope?'"

About the only recourse, state and local officials say, is to apply antifraud statutes to those who peddle the fake pills. A person who sells the pills could be charged with fraud if he represented the capsules by the generic name amphetamine, but can legally use the slang term "speed."

"The thing is, these pills look so much like the real thing not even I can tell them apart," a narcotics agent for the Los Angeles police said. "You have to take them to a chemist to find out for sure just what they are."

"It's so stupid, so incredibly thoughtless—playing games, pretending to be taking real drugs," said Travanti, the Emmy award-winning cop in "Hill Street Blues."

"Anyone who promotes that is a fool," he said.

While the owner of the Over-the-Counter Drug Store was not available for comment on the controversy swirling around his store, a 19-year-old "dealer" in the fake pills asked a reporter why everyone was "making such a big deal about the store.

"Taking one of these pills is like drinking two cups of coffee," he said as he loaded a shoebox-size collection of look-alikes into his Japanese sports car. "Where's the danger in that?"

Reminded that taking the look-alikes could turn children and adults alike onto the real thing some day, the dealer shrugged and said:

"I used to eat candy cigarettes when I was a kid and look at me now—I don't even smoke."

[From Council of Better Business Bureaus Report, August 1981]

LOOK-ALIKE DRUGS

"Look-Alike" drugs are being advertised across the country by various mail order firms. These "look-alikes" are actually over-the-counter drugs (such as caffeine and decongestants) that are packaged in a variety of capsules and tablets to resemble controlled, prescription drugs. One such distributor advertises "Legal body stimulants," ". . . Best body stimulants and sleep aids on the market today," "Call for information and a generous supply of samples."

According to the U.S. Food and Drug Administration (FDA), "There has been a recent proliferation of non-prescription capsules and tablets manufactured to mimic through their appearance various controlled, prescription substances. Many of these products are a similar size, shape and color, with similar markings, as amphetamine-type products such as Biphetamine T20, Ionamin-30, Dexedrine and Fastin. The look-alikes usually contain a combination of legal over-the-counter drugs, including caffeine, phenylpropanolamine (an appetite suppressant and nasal decongestant) and ephedrine (a decongestant), or pseudoephedrine and caffeine, or ephedrine and caffeine, or just caffeine. These products are being distributed nationwide through ads in campus newspapers and the mails and are labeled ostensibly in compliance with FDA's current labeling requirements for use as decongestants and bronchodilators in the management of bronchial asthma and for use as stimulants to aid mental alertness. Persons purchasing large quantities may sell individual tablets without labeling, as if they were strong, controlled stimulants."

The FDA and various state agencies have reported deaths associated with the use of these products.

The Illinois Attorney General recently warned that ". . . people who are used to using amphetamines may underestimate the potency of the capsules and take a large quantity seeking the expected 'kick;' people used to the 'look alikes' may unknowingly obtain real amphetamines and fall into accidental overdose; the drugs lend themselves to mis-diagnosis by emergency personnel due to their deceptive appearance; and the products readily lend themselves to 'rip-off' transactions among users and lead to other criminal problems."

One state recently filed consumer protection lawsuits against 26 distributors of "look-alike" drugs. At this time, at least 12 states have passed legislation banning the distribution of these drugs: Arkansas, Colorado, Connecticut, Delaware, Florida, Indiana, Kansas, Louisiana, Maryland, Oklahoma, South Dakota, and Tennessee. Others are reported to have such legislation under consideration.

This report is based on information available to the Council.

[From Council of Better Business Bureaus Report, October 1981]

LOOK-ALIKE DRUGS

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The FDA and various state agencies have reported deaths associated with the use of these products. At the request of the FDA and the Department of Justice, U.S. Marshals recently seized fake pep pills and other non-prescription "look-alike" drugs at factories in New York, Illinois, Pennsylvania, Florida and Alabama. The marshals seized approximately (15 million) counterfeit tablets and capsules and one million dollars worth of equipment used in making them.

The Illinois Attorney General warned that ". . . people who are used to using amphetamines may underestimate the potency of the capsules and take a large quantity seeking the expected 'kick;' people used to the 'look alikes' may unknowingly obtain real amphetamines and fall into accidental overdose; the drugs lend themselves to mis-diagnosis by emergency personnel due to their deceptive appearance; and the products readily lend themselves to 'rip-off' transactions among users and lead to other criminal problems." Illinois has already filed consumer protection lawsuits against 39 distributors of "look-alike" drugs.

At this time, it is reported that at least 13 states have passed legislation banning the distribution of these drugs: Arkansas, Colorado, Connecticut, Delaware Florida, Indiana, Kansas, Louisiana, Maryland, North Carolina, Oklahoma, Oregon, and South Dakota. Others are considering such legislation.

According to a representative of the U.S. Postal Service (U.S.P.S.) administrative law suits have been filed against 39 "look-alike" distributors alleging violation of federal false representation statutes. U.S.P.S. is seeking to stop both the delivery of mail and the payment of postal money orders to these distributors. It has already obtained either consent agreements or mail stop orders against nine companies, and has taken action to obtain injunctions against four of the largest distributors.

This report is based on information available to the Council.

[From the Drug Survival News, May-June 1981]

OPEN MARKET: "PEASHOOTERS" GO PUBLIC

(By Jim Parker)

Up until the last year or so, peashooters were toys that kids used to torment each other and lookalikes were people—like the Doublemint twins.

No more.

Lookalike drugs—usually replicas of pharmaceutical amphetamines, but increasingly simulations of cocaine and prescription downers, as well—have become big business all across America.

Ingredients in the products—also known as "peashooters"—are generally 100% legal, typically featuring over-the-counter stimulants, decongestants, antihistamines, and other preparations, either singly or in combination.

Coming in from the alleys and out of the closet in recent months, lookalikes have emerged as a major new category of abused substances, and as a burgeoning new industry in the bargain. Manufacturers and distributors proudly tout the latest additions to their lookalike lines in national magazines, and "speed boutiques" and mail-order firms have emerged as thriving, above-ground drug connections for hundreds of thousands of Americans in communities across the country. That the lookalike drug industry is largely unregulated, unmonitored, unpoliced, and unseen adds to the diffculty in properly evaluating America's newest "drug problem."

Where did the problem come from? Let's have a look.

Lookalikes began attracting street interest and professional scrutiny on a large scale nationwide in early 1980. Although the lookalike phenomenon "started in the Southeast" in the late seventies, according to Bill Deac of the U.S. Drug Enforcement Administration, it quickly exploded across the rest of the nation in very short order.

The peashooter explosion has been fueled by the tremendous appetite of Americans for stimulant drugs, an appetite that has been largely undiminished by declining prescription distribution of amphetamine "diet pills." Amphetamines and other appetite-suppressant drugs achieved tremendous popularity as diet aids in the 1960s and early 1970s as America became fixated on youthfulness and slenderness—and dieting. Amphetamines provided users with the easiest diet in town—appetite suppression was near-total (for short periods of time at stable dosage levels), but so was a psychological habituation which the drugs produced.

Health care professionals generally began to look with increasing disfavor on amphetamine-fueled diet plans, with the result that prescription distribution of amphetamines has declined consistently since the halcyon days of a decade ago. Diet pill production, which peaked in 1971, when over 12 billion amphetamine and non-amphetamine diet pills were produced in this country, declined by 1980 to a market level in which less than two million prescriptions for amphetamines were processed in the nation's pharmacies.

But demand for stimulant drugs didn't go away just because physicians stopped writing prescriptions and pharmacists stopped filling them. Demand on the street has remained relatively stable and, gradually, lookalikes began to fill the street speed void left by declining amphetamine production.

Where do peashooters come from? The name itself was immortalized in a September, 1980 High Times article, which traced production of a sizable portion of the lookalikes in circulation nationally to a Tampa, Florida manufacturer and an Atlanta, Georgia distributor. The article also described an incident in which the Georgia Bureau of Investigation was stung to the tune of $20,000 in an attempted bust of one lookalike firm. When the state crime lab showed the 100,000 capsules purchased by the GBI to contain only caffeine and a review of the actual transaction showed no attempt by the seller to represent the capsules as amphetamines, controlled substance delivery charges were dropped and the GBI's $20,000 buy money was not recovered.

As lookalike distribution became more national in focus, points of origin for the drugs have become more diverse. According to the DEA's Bill Deac, a large part of current manufacture and distribution is concentrated in the East. "It basically started in the Southeast, but a lot now is being made in Pennsylvania, "Deac told Drug Survival News. "Naturally it's also spread to other parts of the country."

One reason for the tremendous expansion of the lookalike industry, is the tremendous profitability of peashooters. According to Deac, the lookalike industry has become "multi-million dollar. When you're dealing with thousands and thousands of these pills, it's just an incredible market."

Another reason for the unrestrained growth of the peashooter industry has revolved around the lookalikes' shadowy status. Although the ingredients of the pills are usually entirely legal, carefully falling within U.S. Food and Drug Administration guidelines for non-prescription products, the lookalikes themselves—at least until recently—have almost certainly been intended to be eventually misrepresented in street drug transactions. Legitimate manufacturers of over-the-counter stimulants and diet aids have steered clear of the lookalike industry, leaving the field open to entrepreneurs with an eye on profits and a cut-and-run mentality.

David Ogden, of PharmChem Laboratories, the nation's largest street drug analysis service, described peashooter manufacturers as inhabiting a legal gray area. "The people who manufacture these drugs," Ogden said, "are straddling a real narrow fence. In one sense they're operating within the law, but in another sense, they're infringing on the black market."

Federal regulatory agencies have been stymied in controlling or even adequately monitoring the lookalike drug industry as a result of this quasi-legal status.

Dr. Edward Tocus, Chief of the Drug Abuse Section at the U.S. Food and Drug Administration told Drug Survival News that the lookalikes fall into a "jurisdictional gray area," both interdepartmentally at FDA, involving the Over-the-Counter and Drug Abuse divisions, as well as with the DEA.

"What's happening," Dr. Tocus said, "is that lookalikes are throwing a lot of confusion into something that, up until now, we thought we had control over."

Deac also explained the DEA's inability to intervene as jurisdictional. "We operate under the Controlled Substance Act of 1970," he said, "and these lookalikes are not controlled substances."

"There's no way we could dedicate manpower to follow this problem in detail. We would be doing a disservice to the taxpayer by using our facilities for something we are not empowered to look into."

The DEA only investigates lookalikes when they're passed off as legitimate amphetamines, Deac reported. This doesn't happen often, at least not on the level of dealing which the DEA investigates.

"Some drug traffickers have tried to pawn off lookalikes as the real thing," Deac added, "but the manufacturers and distributors don't. The point at which this happens, generally, is the lower-level. The schoolyard-type distributor is the one who tries to pass it off as the real things to make the maximum profit."

While the DEA is powerless to intervene in lookalike transactions, individual states have begun to look more closely at the peashooter situation, and take legislative steps to control it. Delaware recently amended its Uniform Controlled Substance Act to specifically include "counterfeit controlled substances." According to section A-1 of the amendment, a person convicted of delivery or attempted delivery of a noncontrolled substance purported to be a controlled substance or "under such circumstance which would lead a reasonable person to believe that the substance was a controlled substance," can be imprisoned for up to ten years and fined up to $10,000.

The lookalikes, themselves, often look a great deal like the popular prescription amphetamines they're designed to simulate. So much so, in fact, that even seasoned speed users and street drug observers have been easily confused by the lookalikes.

"The capsules look almost identical, in many cases, to the pharmaceutical drugs they're designed after," Randy Webber of the Illinois Dangerous Drugs Commission told DSN. "They're very clever facsimiles. A lot of people have been taken in by these things."

The most popular single line of peashooters, so far, has been a group of solid black capsules known on the street as "black beauties." The pharmaceutical prototype for lookalike black beauties is Pennwalt Pharmaceutical's Biphetamine.

Biphetamine by any street name has always been a highly-prized form of speed. The contents in the legitimate Pennwalt version of the drug are resin complexes of amphetamine and dextro-amphetamine, at a fairly substantial (20 mg) dose level. Street replicas of the Biphetamine capsule have been manufactured for years, but most, until recently, were found to contain at least trace amounts of amphetamine. With the advent of large-scale production of lookalikes, the contents of "black beauty" type street amphetamines have generally involved only combinations of caffeine, ephedrine, pseudoephedrine, and phenylpropanolamine—all legal, over-the-counter drugs having stimulant properties.

Detecting lookalikes requires a trained eye and a current edition of the Physician's Desk Reference. While legitimate Biphetamine capsules carry specific insignia and markings (as do most drugs manufactured for prescription distribution), lookalikes mimic these markings closely without violating trademark and copyright laws. Lookalike manufacturers have been able to successfully exploit inexperienced drug users' ignorance of the exact significance of embossed product identification codes, which, to inexperienced users, "must mean something." While the standard Biphetamine capsule carries identifying marks which include the Pennwalt corporate logo and the numbers "18-875" embossed on either side of the capsule, lookalikes have turned up with similar, but different, logos and similar, but different, numerical codes. Black capsules carrying the numbers "18-789" and other numbers have dominated the lookalike Biphetamine market, but stiff competition has come from similar capsules embossed with "RJS," "RUS," "335," "AKS," "127," "DEX," and "MOLE."

Contents of the Biphetamine lookalikes and other amphetamine lookalikes generally involve blends of legal stimulants at various dosage levels. According to a letter from P. Susan Jordan, Pharm D., published in the American Journal of Hospital Pharmacy, in January 1981, surrogate Biphetamine analyzed by the Alcolhol and Drug Abuse Training Services (ADAPTS) program in

Richmond, Virginia, have been found to contain combinations of the three most widely-found ingredients in lookalikes, caffeine, ephedrine, and phenylpropanolamine in varying doses. According to Dr. Jordan, the dosage levels of the three compounds ranged from 100–300 mg caffeine and 35–50 mg phenylpropanolamine, with a stable level of 25 mg ephedrine sulfate in most samples.

Contents and design of other peashooters are similar to Biphetamine lookalikes. Particularly popular lookalikes simulate a range of much-sought-after prescription stimulants, including Pennwalt's lonamin (yellow capsules with numbers similar to the manufacturer's 18–904) and Smith Kline and French's Dexamyl and Benzedrine spansules (green and clear and brown and clear capsules with various markings).

Just because the lookalikes are legal doesn't mean that they're without their dangers. All of the ingredients contained in the products are potentially hazardous when taken in sufficient quantity, and the potential for adverse reactions or idiosyncratic responses (special sensitivity to particular substances in certain individuals) is marked with all the substances, particularly phenylpropanolamine.

In the February 13, 1981 issue of the "Journal of the American Medical Association", Dr. Albert J. Dietz describes a number of "exaggerated central nervous system effects," he has witnessed in phenylpropanolamine users. Primary among the effects he ascribed to phenylpropanolamine are restlessness, agitation, hypertension, and hallucinations, but also he described one psychotic episode triggered by the drug.

Other ingredients in lookalikes also have a distinct potential for adverse consequences in users. Dr. Richard Gilbert of the Addiction Research Foundation in Toronto has written extensively about caffeine and its effects. He has described significant health hazards which have been associated in adults with regular consumption of more than 600 mg of caffeine a day, including sleep disturbance, chronic anxiety, heart disease, gastrointestinal ulceration, bladder cancer, and reproductive disorders." Although acknowledging "considerable debate over most of these associations," Dr. Gilbert claims that regular consumption of more than 350 mg of caffeine a day can produce physical dependence, including withdrawal symptoms when the regular ration of caffeine is withdrawn.

Ephedrine and pseudoephedrine, the final major category of lookalike ingredients, act as nasal decongestants at therapeutic dosage levels. Possible side effects of these substances include nausea and headache, in addition to the range of anxiety-related symptoms associated with phenylpropanolamine and caffeine.

* * * * *

Another potential danger of the peashooter is the danger to users who develop tolerance to lookalike drugs, and who then might unknowingly be exposed to their legitimate amphetamine counterparts. This lookalike quality, according to Bill Deac of the DEA, places users in "great danger."

"Can you imagine if a kid is taking four or five of these pills at a time—because you have to take quite a few to get a good charge out of it—and he thinks he's taking the real thing. Then, one day, someone comes into the schoolyard and does sell him the real thing. If he takes four or five of those, the next thing you know you have a hospital or a morgue case."

Since going nationwide, distributors of lookalikes have launched major advertising campaigns to market their products. In addition to regular ads in the national drug press, distributors have taken mainstream publications with a vengeance, and currently hawk their products in student and community newspapers, and various national publications.

The style and quality of ads for lookalikes range from New Wave Bizzarro to Madison Avenue Gloss. One ad promotes its products as "The Most Powerful Stimulants Available without A Prescription," and advises readers to "Discover the fun of sustained intellectual effort, elevated mood and a keener appreciation of stimuli . . ." Other, less-glossy ads simply list lookalike products along with quantity and price information. All the ads seem to have one thing in common: they work. They move peashooters.

Steve Lux, Acting Director of Mother Sunshine, a drug treatment program in Dekalb, Illinois, described an unintended, but probably unavoidable consequence of the increasing advertising by lookalike distributors: lower prices. "Advertising has brought the price down." Lux told DSN, citing price cuts in the DeKalb area following extensive exposure of peashooter ads. "In some cases, the prices have fallen from a dollar each to ten cents each."

Where will the "peashooter phenomenon" go from here? Anywhere, really. It depends on who you ask.

Bill Deac of the Drug Enforcement Administration sees it as an increasing problem. "This is a problem that is a fairly new one," Deac said. "It's getting worse every year. It is up to the various jurisdictions to confront the problem and to get legislation passed."

To be sure, the movement to enact legislation to control lookalikes has begun to gather momentum, with various legislatures considering lookalike legislation to control the spread of lookalike drugs. Jurisdiction to control the industry will have to come from within the states, according to Deac, because local prosecution "is not within our mandate."

Dr. Tocus of the Food and Drug Administration predicted that the lookalike phenomenon may well run out of gas, the victim of its promoters own greed.

"I think a quick killing's being made now," Dr. Tocus said. "The companies making these drugs are spending a great deal on promotion because they know the government will eventually get around to regulating these things. When it becomes less profitable, they'll get out."

One of the most remarkable aspects of the entire lookalike controversy right now is that it has continued for as long as it has. Until the explosion of advertising involving lookalikes, it was a safe bet that most lookalikes were destined sooner or later to be the substance around which a rip-off is constructed. Someone, somewhere along the national drug supply chain—maybe not at the top as Mr. Deac pointed out—but somewhere, would most assuredly represent his product as legitimate, bona fide, pharmaceutical-quality amphetamine. Then money would change hands and the burn would be complete. That's what lookalikes, everyone thought, were all about.

Making the current lookalike situation interesting is that interest and demand have not abated with the publicity that peashooters aren't, in Mr. Deac's words, "the real thing." Apparently, from the obvious financial success that manufacturers and distributors continue to enjoy, people want the lookalikes anyway, which apparently means they're satisfied, at least for the time being.

So, where does the "peashooter phenomenon" go from here? Probably in the direction of greater controls on manufacturers and restrictions on distributors. But the difficulties involved in effectively cracking down on a substance as ubiquitous in our society as caffeine—and, increasingly, the other non-prescription medications found in peashooters—is going to take some doing.

For these and other reasons, not the least of which is our society's continuing mania for mood-altering substances of all kinds, it looks like lookalikes might just be around for a long, long while.

[From the Progressive, December 1981]

FAT PROFITS FROM DIET PILLS

(By Cindy Bogard)

MADISON, WIS.—Major pharmaceutical companies seem to have taken a sudden interest in drug abuse among the young—at least, when the drug being abused is street speed.

The usual ingredients of street speed, or "peashooters," are all perfectly legal over-the-counter stimulants—caffeine, ephedrine sulfate, and phenylpropanolamine. But many entrepreneurs have built a huge market by making the drugs look like popular, hard-to-get brand-name amphetamines—real speed, available only by prescription. (Only 3 to 10 percent of black-market speed contains any amphetamine these days, largely because of a massive Federal crackdown on shady prescription-writing. The rest of the street trade in stimulants is mostly in peashooters.)

More than a year ago, ads began appearing in High Times, the trade magazine of the illegal drug business, offering pills or capsules that looked like real amphetamine for $125 per 1,000, or 12.5 cents apiece. Thousands of dealers quickly caught on: The look-alikes could be marked up and passed off as the real thing to unsuspecting street buyers. Soon, young people were paying as much as two dollars apiece for what they thought was an amphetamine pill.

As advertising increased, word got out that this speed was not the real stuff. But that did not affect demand for the drug in the least. Buyers, apparently, were satisfied with the high they could get from the look-alikes. What the increased advertising did do was bring prices down. Today, street speed may be had for ten cents to thirty-five cents a hit.

All of this has the corporate drugmakers on edge. Their own versions of "peashooters," weight-control capsules, contain the same legal stimulants as street speed—and sell for up to five times as much.

Industry giants see the bootleggers underpricing them and picking up a sizable share of a lucrative market. In addition, they worry that their trademarks are being violated, and that they may be implicated in lawsuits stemming from overdoses and deaths caused by the look-alikes. Already, six deaths have been reported, and physicians fear there may be more. Dr. Barry Diskant, an emergency room physician at an Albuquerque hospital where three of the victims died, has called for laws taking the stimulants off the market completely, citing "study after study" showing them ineffective for long-term weight control.

But the pharmaceutical industry has its own approach. The Proprietary Association, the mouthpiece of the over-the-counter drug industry, has helped draft legislation now pending in several states that would ban only the counterfeit look of the drugs. The chemicals would still be legal.

Such a plan would boot many bootleggers out of the business. Said one maker from Janseville, Wisconsin, "I got into this business because I knew I could make some fast money. My real interest is in home television radar units. I just needed some bucks to get the business off the ground. I grossed over a million dollars last year, so if the bill [regulating look-alikes] passes, I'll get out."

But kids would go on buying speed as usual. "When I can't get street speed, I buy Dexatrim or one of the other diet pills," said a seventeen-year-old high school student from rural Wisconsin. "But street speed's a lot cheaper." Corporate stimulants may be advertised as "weight control capsules," but the youth of America have something else in mind when they down a hit of Dietac.

[From the Texas Monthly, April 1981]

A BITTER PILL

(By Christi Harlan)

Roger is 25, and he expects to make $90,000 this year. Sitting in his North Dallas apartment-office, with his glossy hair barely brushing the shoulders of his well-tailored sport coat, he could almost pass for a hip young executive. On the wall behind him hangs a state sale tax certificate bearing the name of his very successful business, the Texas Armadillo Drug Company.

Most of this customers, he says, have been attracted by the thousands of distinctive business cards he passes out at Texas beaches and other youth hangouts. One reads: "Call the Armadillo Drug Co. Speed—Diet—Alertness Pills. RJS (Blacks), 18876 (Blacks), Yellows, White Cross, Others (Call & Ask). We are a legal business. Don't wait/Call now. Satisfaction guaranteed." all of his cards carry the company slogan, "Eat a couple and boogie."

A few months ago Dallas police had only to see a sample of the advertised "blacks" to boogie—right down to the station with the pills' possessor in the back seat of a squad car. The suspect would be booked on a charge of possession of a controlled substance—maybe biphetamines or "speed"—and the drugs sent over to the Dallas County forensics lab for chemical analysis. And the suspect would be freed in a matter of hours.

The blacks, the white crosses, and several other varieties of pills and capsules came back from the lab with identical analyses: ephedrine sulfate, phenylpropanolamine hydrochloride, and caffeine—the same ingredients sold over the counter in nonprescription decongestants, diet pills, and stimulants. Roger and others like him have created a gold mine from substances no more potent than Contac, Dexatrim, and NoDoz through the alchemy of basic marketing principles: choose an attractive package and make the advertising a grabber. Armadillo's advertised "18-876" black capsule—sold at your local grocery store as a decongestant—closely resembles Pennwalt's biphetamine, a potent prescription stimulant federally registered as number 18-875 and illegally sold as a "black molly." The appearance of the caffeine-laced facsimile, so numerically similar to the genuine item, will fool all but the most seasoned speed freaks, not to mention the police.

The first look-alike drugs in Texas showed up about four years ago in Amarillo. They were taken there, Roger says, by truck drivers importing products sold by the industry's originator, the Peashooter of Tampa, Florida. From Amarillo, the business spread southeast through Dallas, Austin, ad Houston. At one time Roger, who has been in business for four years, distributed his products in Abilene, and until recently he ran a booming Austin office as well as the one in Dallas. But he consolidated his operations after some associates were arrested in Austin. (Roger himself has never been arrested.) Today, most of the stock sold in Texas comes from Mid-States Supply in Oklahoma City, but four-color brochures advertising mail-order stimulants have been mailed to college freshmen in Texas by Pharm-Chem of Conway, Arkansas. One peddler estimates that a thousand "sales reps" are on the streets, selling look-alike drugs both independently and for large companies like Armadillo.

Roger pays less than $100 for a thousand of the black capsules. He sells them for $250 per thousand or in lots of one hundred for $50 to $60—a 150 per cent profit at the minimum. The capsules will bring as much as $1.50 each on the street, so most of Roger's customers are interested primarily in their resale value. By selling only in large lots, he effectively insulates himself from the consumer at the end of the line—who may be less than wholly satisfied with the product.

"Most everybody that buys these pills knows exactly what they are," Roger insists. "When people call me they know that they're asking for. It makes a joke out of the drug laws.

Guy Robinson, for one, isn't laughing. In the food and drug office at the Texas Department of Health in Austin, Robinson keeps two large plastic bottles, one half-full of black capsules. What remains of the label reads "decongestant," but Robinson is more interested in the part that's missing: the name of the manufacturer or distributor.

By erasing the name and the ingredients and by breaking the package to sell smaller lots of capsules, distributors like Roger do, in fact, break the law. The mislabeling of otherwise legal drugs and the exposure of the capsules to "contaminated," nonlaboratory conditions are violations—not of the Texas Controlled Substances Act but of the much weaker Food, Drug, and Cosmetic Act, which is enforced mainly by Robinson and his two field agents. The offense is only a Class C misdemeanor, punishable by a $25 to $200 fine, so the police generally don't show much zeal in making arrests, even in the unlikely event that they are aware of the law.

Despite having to operate at the bottom of the penal ladder, Robinson and his assistants are pursuing violators like a tiny pack of bloodhound puppies—and about as effectively. Seizures of mislabeled drugs at storefront businesses in the Dallas-Fort Worth area have failed to stop or even disconcert the distributors, except for one Tarrant County operator arrested for possession of a little marijuana and some purportedly stolen small appliances. J&L Distributing of Dallas, which advertises "mental alertness pills" at its storefront site on Harry Hines Boulevard, was raided in August, but the business never closed; a salesman named Ken continued to answer the phone and offer callers free samples of his merchandise.

John, a twenty-year-old Dallas entrepreneur, dishes out even more exotic samples: "cocaine." His friend David displays chunks of a white crystalline powder, offering a gran for $90 and a quarter-ounce for $400. But when pressed, David admits that the cocaine is "aromatic Florida Snow incense, patent pending," which he bought from S&W Distributing for $800 an ounce and marked up 100 per cent. Inhaling the unburned incense will give you a "buzz," David says, claiming that he has seen people "shoot it up" after mixing it with water.

"As far as I know, it does everything cocaine does," Roger says. "It's just not as long-lasting." It may turn out to be just as dangerous, however. Preliminary laboratory tests of imitation coke purchased by undercover narcotics officers employed by the Department of Public Safety showed that it contained large amounts of lidocaine—a drug given to heart patients. Most lidocaine preparations must be labeled "Caution: Federal law prohibits dispensing without a prescription." So far, though, Guy Robinson hasn't managed to find any law restricting the sale of crystalline lidocaine, so for the time being his hands are tied. All he can do is pressure the Legislature to put more teeth into the statutes governing the repackaging of over-the-counter drugs.

"This won't last forever," Roger admits. "Someday they've got to write a law against it." But by then he should be one very wealthy young man.

[From Time Magazine, Sept. 21, 1981]

"LOOK-ALIKES": A NEW DRUG DANGER

The 17-year-old girl in Belvidere, Ill., seemed to be just one more victim of an overdose of illegally obtained amphetamines. Police, finding the type of pills that allegedly killed her, thought they looked just like "black beauties," one of several forms in which amphetamines are sold. Analysis showed, however, that they were not amphetamines at all but a combination of substances commonly found in the cold remedies, diet and keep-awake pills sold over the counter in drugstores. The dead girl was a victim of the nation's latest drug danger: the "look-alike" pill.

Though they are made to mimic the appearance of the more expensive amphetamines, look-alike drugs contain no federally controlled substances (i.e., with a high potential of dangerous abuse). Their primary ingredients are caffeine, a stimulant; ephedrine, a vascular constrictor; and phenylpropanolamine (PPA), a chemical cousin of amphetamines. The danger lies not in the kinds of chemicals they contain but in the amount. Whereas the average diet-aid capsule may contain about 50 mg of PPA and between 100 mg and 200 mg of caffeine, a look-alike capsule can carry 50 mg of PPA and 200 mg to 500 mg of caffeine, which in heavy doses can cause heart or respiratory failure. Says Dr. John Spikes, an Illinois toxicologist: "People hear caffeine, and they think of a cup of coffee. You get between 50 mg and 100 mg in a cup of coffee. The people we're seeing using these drugs are taking ten to 20 pills at once." In other words, they can ingest the caffeine of dozens of cups of coffee in one gulp. In the past two years, look-alikes have been implicated in the deaths of at least 14 people in New York, Maryland, Michigan, New Mexico, California and Illinois.

For the small manufacturers and dealers who purvey look-alikes, the product yields a lot of money with little legal risk. Says Lieut. Robert Long of the Massachusetts state police narcotics unit: "A dealer can

buy about 1,000 look-alike pills for $45 per jar, or approximately 4 cents each. Then he goes out to some eighth-grader and sells those same pills for $2 apiece. Right off the bat he's making a profit of more than $2,000."

Ads for mail-order look-alikes ("safe, effective and legal") have appeared in publications like Cosmopolitan and Chicago's Reader and in leaflets passed out at rock concerts and in schoolyards. Ironically, the only instance in which it is not legal to make or sell them is when a manufacturer or dealer claims they are real amphetamines. In that case he can be prosecuted for fraud. But sellers carefully label look-alikes as "stimulants" and often include warnings about maximum dosage. Says Lieut. Long: "Most of these guys are not going to make the mistake of claiming to have something they don't. They just let the kids think they have it."

Because the drugs are not mislabeled by the manufacturer the Food and Drug Administration, which is responsible for the safety and efficacy of drugs, can do nothing under present laws. Neither can the Drug Enforcement Administration, which applies laws only against illegal use of controlled substances. But the U.S. Postal Service has filed complaints against 39 mail-order companies, charging them with misrepresenting the safety of their products. Delaware was the first of several states to pass special statutes against look-alikes, known as "turkey" laws, so named because "turkey" is the street term for phony drugs. Probably no serious headway will be made, however, until the Federal Government finds a way to block the look-alike loophole with a uniform national law.

[From the Washington Post, Feb. 11, 1981]

PARENTS UP IN ARMS OVER SALE OF BOGUS PILLS

(By Celestine Bohlen)

RICHMOND, Feb. 10—One day more than a year ago, Carolyn Kramer was putting away her son's clothes when she found 20 black capsules in a coat pocket. Alarmed, she and her husband, a doctor, tried to identify the pills in his Physician's Desk Reference.

The size, shape, even the numbers on the pills were remarkably similar to a well-known amphetamine nicknamed Black Beauties, available only through prescription. Nothing in the book, however, exactly matched the capsules the Kramers found in their 16-year-old son's coat.

"He didn't know what he was using," said Kramer, who is convinced her son was fooled into thinking he was buying speed, the slang term for amphetamines. "He thought he was taking the real thing."

This week, Carolyn Kramer and 10 other Fairfax County parents visited the Virginia General Assembly to lobby for bills that would ban the sale of so-called "lookalike" drugs—legal drugs manufactured and marketed to look like the illegal "uppers" and "downers" popular among teen-age drug users. Del. James H. Dillard II (R-Fairfax), sponsor of one of the bills, said today he expects the legislature to approve some measure to control the phony pills.

Lookalikes are so pervasive that, according to Dr. Mel Riddile, coordinator of the substance abuse program in Fairfax County schools, only one out of every 10 pills sold in the drug underground is what buyers think it is. Bottles of 25,000 are available for $30, although the pills often are sold for as much as $2 apiece.

The imitations—called Pink Footballs, Robin's Eggs, Pink Hearts—contain caffeine and commonly used nasal decongestants, but the packaging does not resemble any over-the-counter cold remedies. Riddile said he has seen teen-agers buy pills they think are quaaludes, a sedative, because the coding on the lookalikes—Lemon 714 or Lennon 714—is deceptively like Lemmon 714, the inscription on a brand-name prescription drug.

At a hearing before the House Courts of Justice Committee, parents repeatedly pleaded for controls on lookalike drugs, which they said are enticing young people into the drug culture at enormous profit to fly-by-night distributors and at some risk to the consumer.

The U.S. Food and Drug Administration supports state laws banning the sale of look alikes. Although the ingredients are safe if taken in limited quantities, teen-agers often down five, six or more at a time, looking for a high they'd expect from amphetamines or other drugs.

The FDA said the effects can be lethal, particularly among people with a tendency to high blood pressure. At least 15 deaths nationwide have been traced to lookalike drug use, according to FDA spokesman Christopher Smith.

School officials have said the suggestive effects of the pills also are a problem: Students believe they're taking speed and their behavior is close to what it would be if they had. They become animated, talkative, restless," said Riddile.

Parents are concerned that their children, misled by the mild effects of the lookalikes, may be tempted to take an overdose of amphetamines or barbiturates, particularly if they can't tell the real from the fake.

"It's plain old ordinary rip-off," Smith said. "We all know why they are being manufactured that way, made to look that way, are numbered that way. I can't imagine why some of the kids haven't caught on."

Mr. HUMPHREY. Mr. President, I am delighted that the Senate Judiciary Committee has accepted this amendment to the crime bill because it contains a powerful new weapon against those who prey on our youth by manufacturing and distributing look-alike drugs to promote drug abuse.

Look-alikes resemble or duplicate the appearance of certain highly abused controlled substances such as amphetamines, barbiturates, and tranquilizers. They contain only substances commonly sold over the counter, but in multiple doses or in combination with aspirin or caffeine produce stimulant or depressant effects similar to the controlled substances they resemble.

Manufacturers and distributors are actively promoting these pills as the "legal way to get high" and have engaged in extensive advertising campaigns claiming their products to be both safe and legal. Look-alikes are sometimes advertised using the "street terms" for amphetamines and barbiturates such as black beauties, yellow jackets, speed, and white crosses, and are promoted through college newspapers, handbills at rock concerts, direct mail solicitations, magazine advertisements, and storefront operations near school campuses.

The industry is lucrative and growing. According to the Drug Enforcement Administration (DEA), mail order and storefront wholesale distributors grew from a mere handful in early 1980 to more than 150 outlets in November 1981 and production had increased to 30 million dosage units per week. The profits to distributors have been estimated to range from $100,000 per year for the small operator into the millions for a larger distributor.

As chairman of the Subcommittee on Alcoholism and Drug Abuse, the rapid expansion of this industry is extremely disturbing to me. First and most importantly, look-alikes are not safe. If taken in multiple doses or in combination with alcohol, there is a risk of hypertension, cardiac problems, or cerebral hemorrhage. To date the Food and Drug Administration (FDA) has documented at least 12 deaths attributed to look-alike drugs. Additionally, the marketing of these legal drugs solely to encourage recreational mind alteration or experimentation supports the drug culture in our society and by encouraging teenagers to accept a climate of drug use, may lead to the later use of illegal drugs. Finally, development of the look-alike industry seriously undermines the efforts of all of us, both in Government and the private sector, who are working to educate young people about the serious risks of drug use and reduce the drug problem in our society.

Especially disturbing is the apparent lack of effective Federal jurisdiction over this industry. DEA has jurisdiction over drugs which are illegally trafficked if the drug components are scheduled in the Controlled Substances Act. Since DEA's jurisdiction is limited to enforcement of the Controlled Substances Act, DEA has no power to restrict sales and distribution of look-alikes which do not contain controlled substances. DEA has been influential in the fight against look-alikes by developing and distributing to the States a Model Imitation Controlled Substances Act. To date 28 States have passed some legislation aimed at dealing with look-alikes and 17 more States have legislation pending. Individual statutes differ from jurisdiction to jurisdiction and manufacturers only seek new locations more favorable to their activities.

Over the counter substances are regulated by the FDA under the Federal Food, Drug and Cosmetic Act. The FDA has exerted jurisdiction under the counterfeit provisions of the act against those look-alikes designed to resemble specific controlled substances. In September 1981, the FDA seized materials and manufacturing equipment from nine manufacturers which produced and mislabeled coun-

terfeit drugs, and is now proceeding to move against distributors under both its counterfeit and imitation provisions.

But as a result of these FDA enforcement actions manufacturers have become more sophisticated and are currently producing pills, tablets, and capsules that do not look like controlled substances and therefore are no longer subject to legal action under the Federal Food, Drug and Cosmetic Act. Now that the market has been established among our young people, these non-look-alikes are being promoted and sold in the same manner to willing buyers. As so often happens, the drug abuse promoters remain one step ahead of existing law.

Recently the FDA announced that the triple combination of phenylpropanolamine, ephedrine sulfate, and caffeine—the ingredients commonly contained in look-alikes—will now be regarded as a "new drug" and will thus require an application to FDA for marketing approval. Regulatory letters were issued to 14 manufacturers of triple combination products informing them that shipment of these drugs in interstates commerce without FDA approval violates the law. But there is already evidence that the response of these manufacturers has been to simply delete one or more of the three ingredients and thus produce a product that already possesses FDA approval. This is only further evidence of the ability of these manufacturers to modify their behavior to escape piecemeal Federal regulation, and of the need for a comprehensive Federal statute outlawing the manufacture and distribution of both look-alikes and non-look-alikes.

The U.S. Postal Service has also been involved in the look-alike drug enforcement effort. The Postal Service filed complaints against 41 distributors under its false representation statute and obtained false representation orders or consent agreements requiring postmasters to discontinue mail delivery to these distributors. The problem, however, continues. Most of the major promoters are evading the orders and agreements by restricting their business to telephone orders and payment by credit card, bank wire, or United Parcel Service COD.

Also, look-alike distributors and manufactuers no longer claim their products are absolutely safe and occasionally enumberate side effects related to consumption. Since the labels no longer misrepresent the nature of the product, the Postal Service is without jurisdiction to restrain use of the mails for product distribution.

The only other Federal agency which may have jurisdiction over the advertising and distribution practices exhibited by look-alike dealers is the Federal Trade Commission (FTC), I am informed the Commission is reviewing its jurisdictional posture, but to date has not prosecuted.

Thus the look-alike industry appears to have circumvented ordinary regulation due to the unique characteristics of this product and the industry's innovative ability to make changes in order to frustrate law enforcement efforts. We are confronted with an industry promoting drug use and abuse in our youth which we have no direct ability to regulate.

For these reasons, in July I introduced in the Senate a legislative package intended to supplement and clarify ongoing Federal enforcement efforts against look-alikes. The package of three bills was designed to fill the existing gaps and articulate a national policy in opposition to those who would encourage our children to take drugs for recreation, those who would make "pill popping" a national pasttime, and those who would seek to make drug trafficking a socially acceptable occupation.

And it is for these reasons that I join today with Senator DANFORTH in offering this amendment to S. 2572, which incorporates the thrust of this look-alikes legislation. Our amendment is simple and straightforward. It outlaws the creation, manufacture, and distribution of imitation controlled substances which look like, or are represented to be controlled substances, and substances which purport to act like controlled substances, if they are marketed to encourage recreational drug use or abuse or any similar nonmedical use. Our definition of imitation controlled substances is broad enough to include both look-alikes and non-look-alikes, so long as they are marketed, sold, or distributed to encourage recreational drug use or abuse—but narrow enough to make it clear that prescription drugs, over-the-counter drugs, and legitimate generic drugs, over the counter drugs, and legitimate generic drugs are excluded. Exemptions are also included for placebos used in the course of professional practice and research.

The amendment imposes a felony sanction and intentional sales to minors would result in a doubled penalty. The amendment also imposes a misdemeanor sanction for advertisement of imitation controlled substances. Enactment of this legislation vests jurisdiction in the FDA to monitor and control the marketing practices of distributors.

Further, the amendment proposes to amend the Federal Food, Drug and Cosmetic Act to provide the FDA, acting through the U.S. Attorney, with power to seek injunctions to restrain manufacturers of counterfeit drugs. Currently the FDA can seize materials and equipment used to manufacture counterfeits but they are unable to restrain the manufacturer from distribution. Thus if the subject manufacturer has other warehouses stockpiled with counterfeits that are unknown to food and drug agents, the manufacturer can continue to distribute inventories until the FDA seizes it. The omission of injunctive power does not make sense and probably was a legislative oversight. The FDA should be empowered to restrain distribution by counterfeit manufacturers until it can be assured that future distribution by the subject manufacturer is in compliance with Federal Law.

Mr. President, enactment of this legislation will send a powerful signal that the Federal Government is firm in its resolve to shut down the look-alikes drug industry. Dr. Carlton Turner, Director of the President's Drug Abuse Policy Office, DEA, FDA, FTC, the National Institute on Drug Abuse, the U.S. Postal Service, the Internal Revenue Service, and the Consumer Product Safety Commission are now doing all within their power, through interagency meetings and cooperative efforts, to coordinate a Federal effort against these unscrupulous manufacturers and distributors. It is important that the Congress assist these agencies in this effort with a clear and comprehensive Federal policy outlawing the manufacture, distribution, and sales of look-alike drugs for the purpose of fostering drug abuse. I urge my colleagues to support this amendment in order that we may protect our young people by moving quickly and decisively against the look-alike industry.

● Mr. DENTON. Mr. President, my amendment is composed of several provisions designed to strengthen the parts of the bill governing the work of the proposed U.S. Sentencing Commission, and one additional provision dealing with the imposition of a property lien. On the whole, the provisions are similar to amendments that I would have offered during consideration of S. 1630, the Criminal Code Reform Act. I believe that both the majority and minority sponsors of the legislation have agreed to accept the amendment as a good faith and workable attempt to improve the bill.

First, my amendment would permit the President to appoint all seven members of the Sentencing Commission only after consultation with a wide range of citizens interested in the criminal justice process, including representatives of judges, senior citizens, prosecuting attorneys, defense attorneys, victims of crime, and law enforcement officials. This procedure should help insure that the Commission adequately represents the attitudes and views of the public as a whole.

Second, my amendment would insure that the Sentencing Commission will not be bound by current sentences in formulating its initial guide-

lines. This provision should help insure that excessively lenient sentences given violent criminals under current law will not be carried forward under the Commission's guidelines.

Third, my amendment would clarify the circumstances in which it is appropriate to impose a sentence other than imprisonment for a first offender. The amendment would provide that, under the guidelines, there would be some circumstances in which a nonviolent first offender should be incarcerated.

Fourth, my amendment would insure that the Sentencing Commission's knowledge of the capacity and nature of penal facilities would not adversely affect the promulgation of appropriate sentencing guidelines. It would, however, give the Commission the responsibility to examine the nature and capacity of penal facilities and make recommendations about any change or expansion that may be required.

I believe my amendment is acceptable to the other supporters of the bill.●

Mr. THURMOND. Mr. President, if anyone has an amendment he wishes to bring up, we wish to move forward. The majority leader is eager to get through with this bill as soon as possible. We would appreciate it if those who have amendments, if there are any, would come forward and offer them.

If nobody has amendments, Mr. President, I ask for third reading of the bill.

The PRESIDING OFFICER. Are there further amendments?

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MATHIAS. Will the Chair advise the Senator what time has been reserved for him under the unanimous-consent order?

The PRESIDING OFFICER. There is 1 hour reserved for the Senator from Maryland on the bill generally.

In addition, there was a 4-hour reservation on an amendment equally divided by the Senator from Maryland.

Mr. MATHIAS. I thank the Chair.

Mr. President, at this time I would like to utilize a part of my time on the bill itself.

The PRESIDING OFFICER. The Senator may proceed.

Mr. MATHIAS. Mr. President, I think it is well known today that the incumbent in the White House, the President of the United States, is a man who values consistency. He likes to be consistent, and therefore I would say that this bill in its present form is in danger of being vetoed because it is a budget buster. If there was ever a budget buster, it is this bill. Unless the managers of the bill are going to proposed that as a part of this legislation we increase the budget of the Justice Department, that we provide the capital to vastly increase the present Federal prison system, and that we increase the annual appropriation for the operation of prisons, then, Mr. President, this bill will surely bust the budget because it will probably double the population of the Federal prisons.

Now, that might not be so bad if at the same time it was going to half the rate of crime. If there was any reasonable expectation that this bill would cut the rate of crime in half, it would be worth doubling the prison population, vastly increasing the capital expenditure for building prisons, vastly increasing the annual expenditure for operating prisons. But nothing that has been said on the floor today leads me to believe that we will cut crime in half. In fact—and I say this with a great deal of reluctance and sorrow, but I say it anyway—there has been nothing said today that leads me to believe there will be a material reduction in the rate of crime. So here we have a budget buster; it is going to cost people a lot of money.

Nobody has said anything about the cost of this bill yet. But I thought it was going to be one of our cardinal principles around here that from now on we would have a cost estimate on things before we adopt them. I hope the managers of the bill at some point will give us their estimate of what this bill is going to cost.

I do want to congratulate the managers on one aspect of this bill. We started out several years ago with a general codification of Federal criminal law. That effort ran to about 450 printed pages. It never quite made it into the statute books. It went through several different editions in the draft stage. But the managers now have been able, through Herculean efforts, to reduce this bill from about 450 pages to about 250 pages, and that is progress, Mr. President. That encourages me. If we keep on reducing the size of it, we will get it down to about where it ought to be. I do not think we are there yet, and I want to make a contribution a little later on in this debate to taking a few more pages out.

My own preference, and I have stated this many times before, would be that we would take on this job of modifying and reforming the Criminal Code on an incremental basis; that we would take a certain number of sections each year over a 5-year period, because I believe in that way the Judiciary Committee could give detailed, intense, and minute scrutiny to an extremely important subject; that the membership of the Senate at large and of the other body, which may not have the time and the expertise to give quite such a searching examination, would at least be able to comprehend the principal points. I think when we deal with it on an omnibus basis, which I must say involves either 250 pages or 450 pages, the chance of an intimate acquaintance with the bill by the general membership of the Congress is in inverse proportion to the number of pages.

I recognize that we need to make some changes in the Criminal Code. We have an appalling rate of crime in this country. We have an appalling rate of violent crime. It is important that the Congress register its concern by taking some action, but we need more than symbolism. We need more than just a symbolic response to the kind of bloodshed that is taking place on the streets of America.

Some of the things that are done in this bill are the things that I would want to see done and which I enthusiastically support. There are provisions such as the witness-victim protection sections of the bill. There are those provisions that seek a more effective enforcement of the drug abuse problem in this country, more effective enforcement of our antidrug laws. These and other provisions are important, and they deserve our support, but there are other sections, such as the sentencing provisions, that I think will require more searching examination. I hope Members of the Senate will be willing to devote the time and the attention to those sections as we proceed through this debate.

I reserve the remainder of my time, Mr. President.

Mr. President, I reserve the remainder of my time.

Mr. BIDEN. Mr. President, I should like to point out, briefly, that everything that is contained in this package has been through the mill at least once—some provisions as many as 8, 10, or 12 times.

The sentencing provisions to which the Senator refers were passed through this body on two occasions, I believe. They have been before the Judiciary Committee since the famous S. 1 and son of S. 1 Criminal Code recodifications.

Although I have never served in the other body, I am surprised that they have not addressed these issues.

Mr. MATHIAS. Mr. President, if the Senator will yield, it is in the other body more than it is here. Frankly, I tell the Senator that I did not know what was in that 450-page bill—page by page, line by line—and I would question whether very many members of our own committee would have been able to stand up to a bar examination-type inquiry as to their knowledge of what was in that bill.

Mr. BIDEN. I misunderstood. I thought the Senator was referring to what is in this bill.

My experience with our colleagues in the House is that they are somewhat more specialized than we are. I found them to be very diligent in knowing what is in this bill.

I guess the Senator is going to identify what he believes is the budget-busting aspect of this bill, since it does not carry with it any appropriation. I cannot quite understand how he argues that this will have no impact on crime and then suggests that because of this legislation, more people will be arrested and convicted and put in jails, thereby causing us to have to spend more money on jails. So I do not know how he can have it both ways. I do not know how this is the big budget buster and how he can argue that it will lead to the need for more prisons—that is implicitly saying that it will be effective because you are going to arrest and convict more peole and move more criminals off the streets.

I would be delighted to hear an explanation of why my interpretation of what he said is not accurate. I assume he is going to debate it more in detail later.

I respectfully suggest to the Senator from Maryland, with whom I very seldom disagree on any issues relating to the criminal justice system or civil liberties, that he cannot have it both ways.

If the reason why this is a budget buster is that it is going to put more folks in jail, then obviously it is working.

I happen to agree with the Senator from Maryland. With the help of the Republican majority on the committee, we successfully were able to beat back some attempts to reinstate some of the moneys cut for the criminal justice system. I am delighted that he is continuing to persist in that effort, as I am, to see that we must, in fact, match our pocketbooks with our rhetoric here.

However, the basic point that should be kept in mind, and the Senator is right, is that this ultimately will cost us more money—not a lot more money, but more money, because it means that we are going to put violent criminals, who have proven records, who are repeaters, who are threats to society, in prison.

That is not even certain, in the sense that the total number of Federal prisoners will increase. What is certain is that the total number of violent offenders will increase, and under the way the sentencing provisions are written, we are providing for a more imaginative and reasonable approach to sentencing.

For example, some of us feel that, by our lack of imagination, we really waste prison space on people who are not a threat to society but rather a nuisance to society. Nonetheless they must pay the price for having broken the law.

It may be, for example, that instead of putting in jail people who have no proven record of violence but who are guilty of larceny, they should be sentenced to work at the home of Mrs. Smith, from whom they just stole an automobile, for the next 15 weekends in a row. Instead of going to jail, they may be told, "What you will have to do is pay back Mrs. Smith. You stole $2,000 from Mrs. Smith, and now you have to pay it back."

We found an interesting pattern, and I suspect that if my colleagues went into their own State prison systems, they would find the same thing. Not long ago, in the Delaware prison system, a Federal judge ruled that there was overcrowding and that it was a violation of the rights of prisoners involved. So he ordered that unless something were done to change the conditions, the prisoners would have to be released.

The State came along, seeking help as to what we could do. Upon examining the makeup of the population in the prison, we found that almost half of those people were in there on capias or awaiting trial or were in there because of nonpayment of support, or, in the scope of things, for relatively minor offenses.

The point is that the Senator from Maryland may debate the provisions of this legislation as they relate to sentencing. But I suggest that on the issue of witness protection and all the other things in this package which I believe the Senator acknowledged are worthwhile, there is no budgetary tag to them.

I wish to make clear that whether or not these amendments are adopted and this becomes law, the Federal Government will have to accept the responsibility of spending more money to fight and deal with violent crime.

The Senator from Georgia, for example, who is known as a stalwart and an expert on defense matters, and one who is not known to be rushing to the floor to slash the defense budgets of this country, believes—as I said at the outset, when we introduced the Democratic crime package some time ago—that he would be willing to take some money out of defense if he were assured it was going to go into fighting crime. It is a national defense problem, in the sense that you are at as much jeopardy in the street as you are from a Soviet missile.

Yet, in the entire Federal system, we spend less than $3 billion. If you take just one ingredient, one element, of illegal activity in this country, the profits from drug trafficking were $80 billion. We are spending $3 billion for everything, the whole works.

So, obviously, the Senator from Maryland is right about the need to spend more. But I suggest that that is a weak excuse as to why we should not go forward with this legislation.

Last, the Senator listened to my opening statement. He is aware that the first thing I pointed out is what he has said and that is this is no panacea. We are not promising to end crime. We are not suggesting that we are going to cut crime in half. We are not suggesting that this is the be all to end all. We are not suggesting we are going to wipe out drug trafficking. But we are suggesting that these are credible, reasonable steps toward taking a bite out of organized crime and drug trafficking, which many times is synonymous with violent crime in America.

They are helpful, and useful. The record after they are implemented will show just how successful they are.

I reserve the remainder of my time.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment being suggested by the Senator from Maryland. In fact I hope the distinguished Senator, after thinking the matter over will see fit not to offer the amendment.

There are a number of reasons why I cannot support this effort to strike the sentencing provisions of S. 2572.

First, these provisions have been passed by the Senate already as a part of S. 1437, the criminal code bill in the 95th Congress. The Senate has already expressed itself on this very specific matter.

Second, we have tried to accommodate the Senator from Maryland by including an amendment to require Congress to reexamine the operation of the new sentencing system after 4 years. And after 4 years if we need to make any changes we can do it. But now is the time to go forward.

Third, the Department of Justice strongly opposes this amendment. I have a letter here from the Department of Justice that I wish to read to the Senate.

It says:

DEAR MR. CHAIRMAN: It has just come to my attention that an unexpected amendment has been proposed to S. 2572, the Violent Crime and Drug Enforcement Improvement Act of 1982. The amendment would strike in their entirety the sentencing reform provisions now included in title V.

The Department of Justice strongly urges that you and your colleagues reject the proposed amendment. The sentencing reform proposals contained in title V are crucial to a fair and effective federal criminal justice system. These particular provisions will provide the basic for a comprehensive, integrated, rational sentencing system that has heretofore been lacking in our criminal justice process. The details of the provisions have been worked out over a protracted period of time by Senators from both sides of the aisle, working in conjunction with representatives from the Department of Justice, to achieve these badly needed reforms. The effort has been genuinely bipartisan. I regret that at this late date an amendment would be proposed that would undo the years of work that have gone onto this proposals.

There is the position of the Justice Department on this matter. And I think the Justice Department is exactly right, and I hope the able Senator from Maryland will not see fit to offer this amendment. I might say that we have substantial support on this in the Senate. This bill has 62 cosponsors and these Senators all favor provisions in the bill without this amendment, including the distinguished Senator from Massachusetts, Mr. KENNEDY, and the distinguished ranking member of this committee, Senator BIDEN. They both strongly support the sentencing approach in this bill.

I hope the Senate will see fit to reject this amendment if it is offered but I hope my good friend will not offer it.

Mr. MATHIAS. Mr. President, I just say to my distinguished chairman, my friend from South Carolina, when he suggested that we can handle this matter after 4 years, there is no doubt that he will be here after 4 years, but I do not have the same confidence that I will be here to do it after 4 years.

UP AMENDMENT NO. 1357

(Purpose: To provide mandatory imprisonment for firearm violations)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 1357.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"SEC. . Section 924(c) of title 18 of the United States Code is amended to read as follows:

"(c) Whoever—

"'(1) uses any firearm to commit any felony for which he may be prosecuted in a court of the United States; or

"'(2) carries a firearm during the commission of any such felony if an element of the offense is the use of violence or threat of imminent violence as defined in section 16 of this title;

shall, in addition to the punishment provided for the commission of the felony, be sentenced for the first such offense to a term of imprisonment of not less than one year nor more than ten years, and for a second or subsequent such offense under this subsection or after conviction of using or carrying a firearm in the course of a similar felony under a State, local, or foreign law, to a term of imprisonment of not less than five nor more than twenty-five years. A term of imprisonment imposed pursuant to this subsection shall be consecutive to any other sentence of imprisonment for commission of the felony in which the firearm was used or carried. Notwithstanding any other provision of law, the court shall not suspend the imposition or execution of sentence or place the person on probation, nor shall the person be paroled before completing the specified minimum term of imprisonment.'".

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, this amendment will establish certainty of a prison sentence for those who use a gun in the commission of a Federal felony. Current law purports to accept this principle but it is flawed by the discretion it allows the courts to suspend the sentence or to provide probation in those instances and that discretion destroys the certainty of prison punishment which we seek for persons who use guns in the commission of a Federal felony.

Section 924(c) of title 18 currently provides that, in addition to the punishment provided for the commission of the felony, the defendant shall be sentenced to a term of imprisonment for not less than 1 year nor more than 10 years. In the case of a second or subsequent conviction, the law provides that the defendant shall be sentenced to a term of imprisonment not less than 2 nor more than 25 years in addition to the term served for the felony.

But the present law is ineffective because it does not provide the certainty of punishment for persons using guns in felonies because the court can suspend the sentence or grant a probationary sentence.

The amendment that we are offering today corrects that flaw in the law by providing that the judge must sentence the defendant convicted of using a gun in a felony to a minimum of 1 year in prison whenever a firearm is used in the commission of a Federal felony. If the defendant is a second or subsequent offender, he would receive upon conviction a minimum of 5 years in prison if he used the firearm in the commission of a felony.

The law needs to be strengthened in this way so that it will have a greater deterrent effect on those who use firearms in the commission of crimes. As it stands now, there is no certainty that any period of confinement will be imposed for use of a firearm in the commission of a Federal felony. Unless the law is applied with certainty when a firearm is used, it fails to achieve its primary purpose as a deterrent.

Mr. President, I have been concerned about this problem for a number of years at the local level. As a member of the Detroit City Council, I introduced an amendment to Detroit's gun control ordinance which established a mandatory minimum period of incarceration for persons who violated the ordinance. I believed then, and I still believe, that stricter enforcement of the laws already on the books would reduce the number of firearm injuries and deaths. The amendment I offered in 1971 was needed to put teeth into the existing ordinances prohibiting possession of loaded firearms in motor vehicles and to drive home the point that those who violated the city's gun control ordinances would go to jail. Similarly, in order to sink into the minds of would-be gun-toting criminals that the use of a firearm in the commission of a Federal felony will result in a term of imprisonment, we need to pass this amendment which eliminates the discretionary elements of the existing law.

Mr. President, according to the Attorney General's Task Force on Violent Crime, in 1978, firearms were used in 307,000 offenses of murder, robbery, and aggravated assault in the United States which were reported to the police. The 1980 FBI "Crime Clock" further reveals that Americans are subjected to a violent crime ever 24 seconds and a property crime every 3 seconds.

Because of the crime rate in our country, American citizens have been forced to make fundamental changes in their pattern of life. No longer do people feel comfortable leaving their homes after dusk for a walk in their own neighborhoods. Homeowners have installed bars on their windows, additional locks and bolts on their doors and elaborate alarm systems designed to warn them of intruders—particularly armed intruders.

In 1977 my State of Michigan passed a felony firearm statute which established a 2-year mandatory sentence for first offenders and a 5-year mandatory sentence for second and subsequent offenders.

Two years after the law took effect, the Detroit police crime analysis section made available figures which showed that the law had reduced the number of crimes committed with guns. According to a Detroit Free Press article of January 26, 1979:

Murders commited with guns fell from 531 in 1976 to 352 in 1977. Rapes at gunpoint decreased from 371 to 252, and armed robberies in which a gun was used dropped from 9,208 to 6,408. The decrease in rapes at gunpoint represented a drop of 28 percent, despite a slight increase in the overall incidence of rape in the city.

That was the finding of our Detroit Free Press.

A simultaneous study conducted by physicians at Detroit General Hospital resulted in a finding that the felony gun law had reduced the number of major operations performed on gunshot victims by nearly one-half. With regard to the hospital study, the same Detroit Free Press article stated:

Michigan's felony gun law has been credited with saving lives and reducing the number of serious injuries from gunshot wounds . . . the study compared the number of gunshot wounds requiring surgery for the first six months of 1976 to the number during the first six months of 1977, when

the felony gun law went into effect. The number had dropped from 244 to 128.

The apparent success of the Michigan felony gun law may have been linked to the massive compaign undertaken in the State to inform the public of the law. Bumper stickers and billboards displayed a firearm with the slogan "One Will Get You Two." In order for mandatory minimum sentences to effectively deter, there must be certainty of punishment which the public is made aware of.

Critics of mandatory minimum sentences argue that even if lawmakers eliminate the judge's discretion to suspend the sentence or grant the defendant probation, there will always be some other way to circumvent the intent of Congress. A law is only as good as its enforcement. Even if the law is changed in the manner I have outlined, there may be other methods, not addressed by this amendment, which can be used to circumvent the imposition of a mandatory minimum term of imprisonment. As a result, the Congress will need to carefully monitor the effects of the new law to determine whether defendants are receiving the additional term of imprisonment prescribed by this amendment. If the law is being undermined through plea bargaining or charge reduction, for example, then we should explore other ways to insure its enforcement.

The Attorney General's Task Force on Violent Crime strongly recommended that the Congress change the Federal law to provide a stronger deterrent when they stated in their final report:

> We believe that the cost to an individual of committing a crime with a gun should be made greater than the benefit. This cost, in part, should be manifested in the sentence that is meted out to those convicted of such acts . . . We recommend legislation to require a mandatory sentence for those convicted of the use of a firearm in the commission of a Federal felony. This proposal, supported as it is by the public and the police, would provide an effective deterrent to crimes of this sort.

So spoke the Attorney General's Task Force on Violent Crime.

Mr. President, it is time the Congress acted to provide measured and effective relief to citizens who are now living in the constant fear of being victimized. We need to make certain that those who use a gun in the commission of a felony will be sentenced to a term in prison. The amount of the minimum sentence is probably less important than the certainty that prison will result from the use of a gun in a felony.

Senator BUMPERS has long been active in this area, long before I have been in the Congress. It is his opinion that a 2-year minimum is more appropriate than a 1-year certain minimum for the first offense. He will offer a perfecting amendment to my amendment to so provide. I value his judgment and his experience, and when offered I intend to accept Senator BUMPERS' perfecting amendment based as it is on his long experience and wisdom and judgment in this area.

Our amendment represents only a very modest step in the fight against crime, but it is a step which, if strictly enforced, will send a strong message of certain punishment, of certain prison to those who would use firearms to threaten the lives and property of Americans.

Mr. President, at this point I yield the floor.

UP AMENDMENT NO. 1358

Mr. BUMPERS. Mr. President, I send a perfecting amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The second-degree amendment will not be in order until the time on both sides has been yielded back, unless there is a unanimous-consent request to do so.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to offer the amendment without both sides yielding their time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1358 as a perfecting amendment to UP Amendment No. 1357.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On line 15 of page 1 of the amendment offered by the Senator from Michigan (Mr. LEVIN), strike "one year" and insert in lieu thereof "two years".

Mr. BUMPERS. Mr. President, this is a very simple amendment. First, I want to thank my distinguished colleague and good friend from Michigan (Mr. LEVIN) for taking a strong leadership role in the area of mandatory sentencing for crimes committed with the use of a firearm.

First of all, he and I talked about this at great length, and the amendment that I offered in the Senate some time ago and filed will raise the mandatory sentence on conviction of a crime and the use of a firearm in the commission of that crime to a minimum of 5 years.

Now that may be entirely too harsh, and I can conceive of situations, particularly where young adults are involved and teenage children, where perhaps it is too hard. So I have agreed to reduce that to 2 years. While that is a 3-year reduction of what I originally proposed, it is a 1-year addition to Senator LEVIN's amendment which is 1 year.

Mr. President, I think it would be well to point out that prior to 1970 we had a 2-year mandatory sentence for any crime committed and using a firearm in the commission of that crime.

Under the omnibus crime bill of 1970, for reasons which are not available to me at this moment, the time was cut back to 1 year.

Well, this amendment does about three things: No. 1, it raises the mandatory minimum sentence for a crime committed with a firearm to 2 years. That is a 2-year sentence in addition to the sentence you get for the crime. If the jury finds, for example, that you should be convicted of the crime itself, and the jury decides to give you 3 years, and the jury further finds that you have used or could have used or had on your body, and the courts have even gone so far as to say in one drug case you had a gun in the car, there is implicit in that a threat of the use of a firearm in the commission of that crime, and if you do that you get a 2-year minimum sentence in addition to the sentence for the conviction of the crime itself, and the judge does not have the discretion of suspending or paroling or any other commutation of that sentence. That is 2 years.

The second thing this amendment does, of course, is to provide—and this is on all fours with the Senator from Michigan's amendment—in the commission of a second offense it provides for a 5-year minimum sentence if you use a firearm. There again no commutation, no parole, a mandatory 5-year sentence for a second offense.

A third thing it does, under current law where there is a mandatory sentence for a second offense it is only if it is a second Federal offense. In other words, the only way a mandatory sentence for a second offense and using a firearm can kick in is if your first offense was a Federal crime. Our amendment changes that to provide if your first offense, violent offense, with the use of a firearm was in a State court and the second one is a Federal offense you are still subject to the mandatory penalty.

Mr. President, we do not change the definition of a firearm. That definition is set under 18 U.S.C. 921(A)(3) where it is defined as:

> (3) The term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm."

Mr. President, if I may just make two observations. I do not consider mandatory sentencing of any kind as a panacea to the crime problems of this country. But I do believe, if this Con-

gress would face up to an additional responsibility and understand that a lot of the things that we do are hacking away at the branches and not at the roots of the problems in this country, but also understand that until we can get at its roots there is a criminal element in this country that must be taken off the streets, that the only way you are going to take them off the streets is if you provide more penitentiaries and jails to put them in.

Now, some of the libertarians in this country just cringe when you say things like that. And I know that ultimately penitentiaries are no panacea either. But I can tell you one thing, for every criminal you take off the streets and lock up, that street is just a little bit safer.

While are are standing here debating the crime bill—which I applaud and I certainly applaud the Senator from South Carolina and the Senator from Delaware for the mignificant work they have done in getting this bill on the floor—but the truth of the matter is until you couple it with the building of more facilities in this country to get these people off the streets, mandatory sentencing and all the other things we are doing on this are not going to be as effective as they might be.

So, as long as the courts are saying you have overcrowding—Lord knows they are overcrowded. The jail that has been in the limelight here in Washington, D.C., for the last couple of weeks was built to accommodate about 120 and I understand it has 450. When I was elected Governor of my State we were stacking 200 inmates into a barracks that could not conceivably be healthy or even humane for more than 75 to 80.

And I must say, if I may stop to applaud my State, we have made great strides in not only penal reform but in the kind of penal facilities we have in our State. And I recommend that a lot of States go to Arkansas and see what we have been able to do there in the last 12 years.

But let me just close out by saying here is the reason we are here today with this bill: In any given 24-hour period, 37 Americans are murdered with a firearm. That is one American every 39 minutes being murdered. In any given 24-hour period, 382 Americans are assaulted with firearms, and more than 500 robberies occur.

A 1981 study found that 45 percent of the people of this country are afraid to walk out at night. That means that 45 percent of the people of this country are afraid to walk within a mile of their home after dark.

About 21,000 murders occur in this country every year, and 63 percent of those are by firearms. Over 180,000 armed robberies are perpetrated every year and more than 140,000 armed aggravated assaults.

That 1981 survey also found that 90 percent of the people in this country think the courts deal too leniently with criminals.

Incidentally, I heard a youngster on Barbara Jordan's "Crisis to Crisis" program. It is on PBS every week. I have talked with a number of my colleagues and none of them have seen it. It is a weekly series. It is one of the finest documentaries I have ever seen.

There was a youngster on the night before last talking about what a tough character he was and how he did not mind going to jail because he figured out he would be out in 1 hour. That is the attitude of a lot of the youngsters.

Finally, Mr. President, there may be as many as 200 million firearms in this country, nobody really knows. In 1980 in the United States, with a population of more than 220 million, violent crimes numbered 340,000. I want to repeat that: 340,000 violent crimes in the United States in 1980.

In West Germany, with 70 million people, about a third of our population, they had less than 300. In Japan, which has 115 million people, about half our population, violent crimes with firearms numbered 171. In that same year, there were 1,700 murders in New York City alone.

Mr. President, I move the adoption of my amendment.

The PRESIDING OFFICER (Mr. COCHRAN). Who yields time?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield myself just 60 seconds. The point the Senator made about ultimately needing to do something about prison construction and dealing with that is absolutely accurate. I just would suggest to him that it has been shown sometimes by allegedly putting the cart before the horse you can produce the horse. Senator MATHIAS was very instrumental in adoption of the Speedy Trial Act, until we had the Speedy Trial Act we were not able to get more judges. Yet everyone on the floor here knew we needed more judges in the Federal system to deal with the problems of the system.

The Speedy Trial Act, in large part impacted upon the crisis, because you said unless you try them, you have got to let them go. We need to have the judges to try them, so we moved it.

Although this has no dollars attached to it, once it passes, you will find that if it is effective, we will focus the attention on what is clearly a glaring problem in America—the American penal system—and begin to focus on solutions to that, many of which cost money.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, I appreciate the interest in mandatory penalties for the use of a firearm shown by my colleagues. I have been working on mandatory penalty sentencing since 1966, and it is a difficult issue. If no discretion is left to the judges, the language in the law must be so precise that jailing is not required when it is not appropriate, for example, if the gun bears no relation to the crime as in a case in which someone commits a nonviolent crime or if violence is not directed at a person.

In Virginia, a drunk driver may be charged with murder but whether or not he had a gun in the trunk of his car is not an element of the crime. Similarly, someone who shoots an endangered species or a duck out of season is using a gun to commit a crime. He deserves to be punished, but the statute should not require that the judge must sentence a criminal to many years in jail. Violations of Federal gun control law are felonies, but Federal gun law deals only with violations that are malum prohibitum acts. BATF's own officials have said that the vast majority of BATF cases are brought against people who believed they were obeying the law. There is also the danger of the person who believes mistakenly that he is acting in a self defense or uses excessive force in apprehending a felon. In some of these cases legal action is appropriate, and could be justified but mandatory sentences would result in a miscarriage of justice if applied to cases like these.

In S. 1030, The Firearm Owners Protection Act, I took these questions into consideration and I think I have language which brings about a fairer and more balanced approach to mandatory sentencing. I intend at the first opportunity to have the Senate consider acting on mandatory sentencing as outlined in my bill.

Mr. THURMOND. Mr. President, the amendment before the Senate by the distinguished Senator from Michigan (Mr. LEVIN), as amended by the amendment by the distinguished Senator from Arkansas (Mr. BUMPERS), we feel would improve the current firearm laws by eliminating loopholes now used to evade mandatory minimum prison terms for using a firearm to commit a felony. It also makes modest increases in the mandatory penalties applicable to such use of a gun.

For these reasons, Mr. President, since we feel that this amendment, as amended, would be an improvement to the bill, we are willing to accept the amendments.

The PRESIDING OFFICER. Is all time yielded back on the Bumpers amendment?

Mr. BUMPERS. Mr. President, I yield back such time as I have remaining.

Mr. THURMOND. Mr. President, we yield back the remainder of our time.

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The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Arkansas (Mr. BUMPERS).

The amendment (UP No. 1358) was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Michigan (Mr. LEVIN), as amended. Is all time yielded back on the amendment of the Senator from Michigan?

Mr. LEVIN. Mr. President, I yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Michigan (Mr. LEVIN).

The amendment (UP No. 1357) was agreed to.

Mr. THURMOND. Mr. President, I promised to yield to the distinguished Senator from Florida, Senator HAWKINS, if she is ready to make her statement.

Mrs. HAWKINS. Mr. President, I am intensely concerned about a problem in this country that is particularly disturbing and insidious—disturbing because drug abuse and drug-related crimes are so often committed in the vicinity of our schools; insidious, because the victims of drug abuse are so often vulnerable and deeply impressionable adolescents and even children.

My concern was aroused especially when I found out there was a Select Committee on Narcotics in the House of Representatives but no comparable Narcotics Committee in the Senate. Therefore, in January, I joined with 28 of my colleagues to form the bipartisan Senate Drug Enforcement Caucus. Our goals are to promote legislation to eliminate drug smuggling, drug abuse, and drug-related crime. We intend to make drug enforcement a priority here in the Senate. Specifically, the caucus and I have met with Dr. Carlton Turner, Senior White House Adviser on Drug Policy; Dominick DiCarlo, Assistant Secretary of State for International Narcotics Matters; Francis M. Mullen, Acting Director of the Drug Enforcement Authority; Director of the Federal Bureau of Investigation; Adm. Bobby Inman, Deputy Director of the Central Intelligence Agency; Admiral Murphy, Director of the Vice President's Task Force on South Florida; John Walker, Assistant Secretary of Treasury for Enforcement and Operations; William von Raab, Commissioner of the U.S. Customs Service; and Thomas Boyatt, the U.S. Ambassador to Colombia. These meetings have helped the caucus learn about how the war on drugs is being waged and led to legislative suggestions that will allow us to fight back more effectively.

I am therefore especially pleased that the Senate is considering the Violent Crime and Drug Enforcement Improvement Act of 1982, introduced by Senators THURMOND and BIDEN. The bill includes many proposals recommended by the caucus. These include bail bond reform, increased penalties for narcotics trafficking, and forfeiture of narcotics profits.

I would like to discuss these important reforms and through every day examples show why they are needed. Consider first bail reform. In May 1981, a kingpin of a major underground organization was arrested for smuggling marihuana. The Government requested $1 million bail. The bail, however, was set at only $50,000. The suspect posted bail and fled.

In April 1981, a man who controlled several drug trafficking operations was delivering hundreds of pounds of marihuana from the Gulf of Mexico to the Southeastern United States. He was making between $250,000 and $500,000 a month. He was arrested and bail was set at $21 million. Bail was later reduced to $10 million; and then to $500,000. The man posted bail, fled, and is still at large.

In February 1981, two people were arrested in Miami for possession of 20 kilograms of cocaine. The Government recommended that each be held on $5 million bail. A bail of only $500,000 was set for one. The suspect posted the bail, fled, and is still at large. The recommendation was followed for the other suspect, however. He did remain in jail, was convicted, and is now serving a prison term.

Obviously, there is a need for bail reform. S. 2572 revises the Bail Reform Act of 1966 so that judges may consider the danger to the community drug traffickers pose in setting pretrial release conditions. S. 2572 also revises laws concerning postconviction release. By raising bonds to levels that insure defendants will show up for trial or by denying bail when the circumstances warrant it, we will insure that justice is done.

Now consider the problem of lenience in punishing drug traffickers.

In 1979, five men were convicted of smuggling 25 tons of marihuana into Virginia. At the time of their arrest, these men had $1.7 million in cash in their possession. The presiding judge sentences the offenders to prison terms ranging from 10 to 20 years, but 4 months ago the judge ordered the early release of three of the men. Of the three men released, two had served less than a year in jail. The third had served only 13 months. In 1981, several men were arrested and charged with conspiring to import 2,937,000 quaalude pills and 7,500 pounds of marihuana into Florida. One of the men pleaded guilty to the charge, and in February a U.S. district judge gave the man a sentence of 5 years probation. he did not serve a day in jail.

I find these examples shocking. These examples show that the threat of long-term incarceration is not credible while large financial rewards remain. We must reduce the implicit incentives of dealing with drugs by increasing the risks. This means insuring convictions and long prison sentences. This means amending our criminal laws. S. 2572 increases the fine levels for drug trafficking and increases penalties for offenses involving the dangerous nonnarcotic drugs such as LSD, PCP, and amphetamines. Finally, S. 2572 permits State and foreign drug convictions to be considered under enhanced sentencing provisions for repeat drug offenders.

Since money is the reward of drug trafficking, we need a punishment harsh enough, a deterrent strong enough to outweigh the tremendous incentives.

Drug trafficking is a pernicious—but enormously profitable—crime. One ounce of impure cocaine retails at a higher cost than 1 ounce of pure gold. Thousands and thousands of pounds of cocaine as well as tremendous quantities of other controlled substances—marihuana, quaaludes, "angel dust"—are dealt annually. The Drug Enforcement Administration estimates that the retail value of illegal narcotics sales in this country totaled more than $79 billion in 1980—up 22 percent from the previous year.

Therefore, perhaps the most important drug enforcement initiative contained in the Violent Crime and Drug Enforcement Improvement Act of 1982 is forfeiture of profits derived from narcotic trafficking. It is essential that persons convicted of serious drug crimes and racketeering forfeit to the United States the property they have amassed through these contemptible crimes. As chairman of the Senate Drug Enforcement Caucus, I strongly encourage my colleagues to enact the forfeiture provision of S. 2572. Help us to deprive racketeers and drug traffickers of the profits of crime and the economic power by which they victimize us—and our children.

In addition to these reforms, I am pleased that S. 2572 contains changes that will help solve the drugs-in-school crisis, involving our children that I feel must be solved. Last January, the Subcommittee on Investigations and General Oversight of the Labor and Human Resources Committee, which I chair, held hearings on drug abuse in the American school system. Our investigation revealed that an alarming number of children, often as young as 11 or 12, are smoking marihuana and drinking alcohol in school. Many of these young people are also using hard

drugs, such as PCP, quaaludes, and LSD. What begins in a search—and a hope—for pleasure, a "good time," so often ends in addiction, debilitation, or a painful death. In many cases, these drugs are bought from other students. During the hearing, though, six people testified that these drugs are often "dealt" near school grounds by smalltime, or middle-level dealers.

A particularly distressing example cited at the hearing involved a woman and her three sons who lived across from a Miami high school. The mother would send one of her sons to the school to sell the drugs or students would show up at the door of their home. In the words of one witness:

You could pull up to the house and buy drugs at the house. It was not uncommon to see the 12-year-old kid come out and sell it to you if mama did not feel like it.

As a result of the hearing, I introduced S. 2263, making it a separate Federal crime for distributing a controlled substance on the premises of an elementary or secondary school or within 1,000 feet of a real property of the school. At present there is no such provision in the United States Code. The bill also establishes penalties appropriate to the enormity of the crime. First-time offenders would be subject up to twice the current penalties for distributing drugs in an area not adjacent to the school. Second-time offenders face a mandatory minimum sentence of not less that 3 years and not more than 20 years. I want to express my appreciation for making S. 2263 part of the Violent Crime and Drug Enforcement Improvements Act of 1982.

Finally, because over 90 percent of the illegal drugs used in the United States are produced abroad, it is critical that we promote aggressive international drug enforcement. To this end, I introduced Senate concurrent resolution, along with 20 cosponsors, urging the President to promote passing a United Nations resolution declaring an International Year Against Drug Abuse. Passing such a resolution will enhance awareness of the tragic scope of drug abuse worldwide and trigger international interest and positive action. I am pleased that the authors of S. 2572 decided to include this resolution in their package.

In summary, Mr. President, I urge the Senate to adopt S. 2572. The harsh punishments outlined in it reflect a new perception of drug-related crime. These criminals are not merely petty thieves. Money—the taxpayers, the buyers, the smugglers—is not the chief issue here. The problem is graver than that. These criminals must be punished as the murderers, and saboteurs they are, strangling our way of life, betraying our children, sabotaging our future.

Finally, Mr. President, I compliment the tremendous work done on this bill by the great President pro tempore, chairman of the Senate Committee on the Judiciary, my good friend, STROM THURMOND, and Senator BIDEN, the ranking minority member, for their great sensitivity to a problem that has become of enormous magnitude in this country.

UP AMENDMENT NO. 1359

Mr. MATHIAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The Secretary of the Senate read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an unprinted amendment numbered 1359.

On pages 51 through 157: Strike all of Title V, and renumber the Titles accordingly.

Mr. MATHIAS. Mr. President, let me first express my appreciation for the fact that the amendment was read in person by the Secretary of the Senate. This is an unusual honor to confer upon any piece of legislation and I want to be sure the record fully reflects that unusual circumstance.

Mr. President, in my earlier remarks, I said this was a budget buster. The Senator from Delaware asked me to explain why this bill is a budget buster. He said it could be a budget buster only if it resulted in doubling the number of arrests and convictions. I do not think the Senator from Delaware really put his mind on that, because this bill is going to be a budget buster even if there are not any increases in the number of arrests and convictions. I say that with a great deal of regret, because I wish it were otherwise. If the Senator from Delaware will simply reflect on the problems we are now having in our social security system, perhaps it will become clear to him.

It is not that, suddenly, we found out that twice as many people were born in the early part of this century as we had thought which is overloading the social security system, but it is a fact that, through the miracles of modern medicine, those people who were born are living longer, are collecting benefits for more years.

That is the same principle which would begin to work if title 5 of this bill remains in its present form. That is one of the several reasons that I have suggested that we strike title 5, because it will mandate longer sentencing, longer periods of incarceration, and will, I suspect, virtually double the prison population without an increase in the rate of convictions, without any more arrests, without picking any more criminals up off the streets. That is exactly one of the points I wanted to make, and I appreciate the Senator from Delaware raising that question so I could return to the point and make it perhaps more clear than I had been able to before.

The distinguished chairman of the Committee on the Judiciary, the manager of the bill (Mr. THURMOND), has just read to the Senate a letter from the Department of Justice, which states the opposition of the Assistant Attorney General, Mr. McConnell, to this amendment. Mr. President, I am tempted—in fact, I shall succumb to the temptation—to paraphrase that old line from western movies and say that "Lawman speak with forked tongue." Or maybe Mr. McConnell does not speak with a forked tongue, maybe he just is not aware of all the things that are going on in that vast empire which we call the Department of Justice.

While he, on the one hand, is opposing this amendment, the National Institute of Justice is saying just the opposite. In a study that they released recently, they say:

Laws designed to eliminate sentencing discretion may only succeed in displacing that discretion in ways that may be counter to legislative intent. Effecting meaningful change depends on the concurrence of actors at every stage, from police through courts and corrections to the final release authority. Changing one or two parts of this sequence still leaves room for the exercise of considerable discretion elsewhere.

Then, Mr. President, the study went on to cite the experience of Massachusetts and New York, where the enactment of a fixed sentencing law led to fewer arrests—fewer arrests—fewer prosecutions, fewer convictions. In addition, there were fewer guilty pleas and there was a dramatic increase in the number of cases going to trial.

Mr. President, that is the pragmatic result of a study by the Department of Justice, which now opposes this amendment. That is why I say "Lawman speak with forked tongue"—because here, they are releasing an official study which says that if you do what title 5 of this bill proposes to do, on the basis of experience in Massachusetts and New York, you will have fewer arrests, fewer prosecutions, fewer convictions, fewer guilty pleas, and a dramatic increase in the number of trials.

Mr. President, this is something to make you ponder. I wish that we had the Assistant Attorney General here with us today, so he could explain to us in a little more detail why he thinks the Department should oppose my amendment, when the experts in the Department seem to be so clearly on the other side.

I would not want it to be thought that I am happy with the current record of sentencing. I do think that the determinate sentencing provisions in title 5 of Senate bill 2572 are the wrong solution, because the gains it hopes to achieve by eliminating sentencing discretion by judges and by

eliminating the parole system will, in my judgment, be more than offset by the substantial new burdens that it will impose on the other areas of the criminal justice system.

The Criminal Law Subcommittee held very extensive hearings last year on the devastating overcrowding problems being faced in prisons and jails over the country. It is interesting to note that four-fifths of the States—four-fifths, 80 percent of the States—are today under court orders to deal with overcrowding and inhumane conditions in prisons.

This reflects the experience which our distinguished colleague from Arkansas (Mr. BUMPERS), the former Governor of Arkansas, recited a few moments ago in the Senate about his own observations in that State. Over the past 12 months, Federal, State, and local inmate populations have increased by 12 percent. Instead of considering ways to address the problems in our correctional facilities, which are already under siege, we are here considering legislation that well exacerbate the already critical situation by abolishing all forms of parole release while not shortening statutory maximum sentence legislation.

That is something to think about, Mr. President. If we are going to do this, at the very least, we should have incorporated some form of remedy for prison condition, such as that, just by way of illustration, in the bill that has been proposed by the distinguished Senator from Kansas (Mr. DOLE), a member of the Judiciary Committee.

At least that addresses itself to the State problem. Here we are doing something which we know is going to make things worse in Federal prisons. We are not addressing any kind of solution to that problem.

To the extent that rigid controls are imposed, the effect may be to penalize some of the less serious offenders while the punishment for the more serious cases is postponed, reduced, or avoided altogether. I think that is one of the consequences that we should consider.

Mr. BIDEN. Will the Senator yield for a second for a question on how he would like to proceed?

The Senator raises some very valid points, and I would be delighted, either now or at the end, to respond to each of them by pointing out the distinction, to speak for our forked tongue friend in the Department of Justice and explain why he is not for it. Any time the Senator wants me to do that. If he thinks I should do it a piece at a time, I would be delighted to.

Mr. MATHIAS. Let me get a little further into the case and then I will be happy to step aside.

Mr. BIDEN. The Senator is doing very well.

Mr. MATHIAS. And let the Senator wrestle with it.

This is not some special quirk of my own. These concerns are widely shared by thoughtful people.

Those at the National Institute of Justice are only one example of knowledgeable, experienced people, experts in the area, who are worried.

I believe that the record of the American Civil Liberties Union is extraordinary in raising thoughtful and concerned questions in a positive way in American society. They are not always right; no one is. I do not always agree with them. That would be too much to expect. However, I applaud and admire their efforts. They have addressed themselves to the problems that are presented by title V of this bill.

I should like to read very briefly from a letter written on behalf of the American Civil Liberties Union under date of July 16, 1982, which I received, and I suspect other members of the Judiciary Committee received, in which they say:

> The second major problem area in S. 2572 is Title V, "Sentencing Reform." The ACLU has had a long-standing interest in federal sentencing reform. We have carefully studied the sentencing provisions of S. 2572—which are similar to the provisions in S. 1630, the omnibus federal criminal code proposal—and we have concluded that while including several valuable reforms, these provisions have a variety of fundamental problems. The reforms include a requirement that judges state on the record their reasons for imposing sentences, and specific inclusion of community service as a permissible condition of probation.
>
> The reforms, however, do not balance the significant flaws in the sentencing provisions. First, the government is given extraordinary new authority to appeal sentences imposed by trial courts. Second, S. 2572 is substantially tilted towards increasing the use of imprisonment, and there is a substantial risk that prison terms longer than under current law will be widely imposed under the bill. Little, if any, incentive is given to judges or the proposed sentencing commission to devise alternative sentences to imprisonment for non-dangerous offenders. By abolishing parole and limiting good time, the bill closes the safety valves of the system and risks even longer periods of incarceration then under current law. Under current law, most offenders receive a presumptive release date of one-third of the sentence of imprisonment. If parole release is abolished without cutting statutory maximums, time spent in prison could increase indiscriminately by as much as two-thirds. The federal prison population could easily double in a short time. The fact that the sentencing commission will consider current actual time served in setting the guidelines does little to mitigate the risk of substantial increase in prison sentence lengths. For this reason, an administrative early-release mechanism should remain in place during a transitional period after the guidelines are implemented.
>
> The third flaw in the sentencing provisions is that the system for guiding judicial discretion is riddled with inconsistencies, and unwarranted disparity in sentencing will therefore be likely to continue. For example, under Section 3553, an offender could be sentenced for the purpose of deterrence while another offender who committed the same crime in similar circumstances could receive a different sentence for the purpose of incapacitation.

That is an example, Mr. President, of the kind of concerns that are being voiced in the country about this legislation.

Finally, before I yield the floor to my friend from Delaware, let me suggest that what we are lacking in section V is really a philosophy of correction in the classic sense of the use of that word "correction." We in the Congress through section V are not giving the kind of leadership to the judicial system on the purposes and uses of imprisonment as a means of reducing the level of violent crime in this country and, if you like, correcting the criminal element in this country.

I think that we really need to inject into this section the kind of philosophy that will be genuinely helpful to the courts and that will result in judges imposing more uniform sentences, regardless of the court in which the crime is tried and conviction obtained, and regardless of what State the crime may have been committed in. That is one of the goals of this legislation, and I think it is a goal we will miss if title V remains in its present form.

I would like to discuss this philosophical question at some greater length, but at this point, Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield myself as much time as may be needed.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. I would like to respond to the very reasonable concerns raised by the Senator from Maryland.

Let me begin first by picking up where the Senator from Maryland left off and said he would later pick up, and that is the philosophical question surrounding whether or not the change that the Senator from Maryland is attempting to strike from the bill has any justification.

The person who did the most work on changing the sentencing laws as proposed in the bill is the former chairman of the full committee, Senator KENNEDY. I suspect that he became involved for the same reason I did and came to the same perspective and concern as the Senator from Maryland.

As to the difficulty of the Senator from Maryland on occasion, I suspect he is viewed as being of the same philosophic persuasion in civil liberty matters as the Senator from Massachusetts and the Senator from Delaware and others on this floor.

What we found as we pursued hearings relating to sentencing is something that we all must acknowledge: The present system does not work.

Although the Senator from Maryland points out that he believes our proposals are fatally flawed, I doubt whether he is suggesting that the system as we have it now is a good system. I doubt that he believes it is working and is a good system. So, No. 1, it does not work. Let us figure out how to make it better. I believe everybody acknowledges that it must be improved.

Another problem has come to my attention, and it has been clear to me from the time I practiced. I had a very unlikely background for being elected to the U.S. Senate. Many of us are attorneys, but I was almost exclusively a defense lawyer. I represented those murderers, junkies, rapists, and drug dealers, as a public defender and as a lawyer in private practice, and I found an interesting phenomenon.

In our State, there is burglary in four different degrees. Burglary II carries a 15-year sentence. If I represented a young black man on a burglary charge and he was convicted and he had an Afro and wore a dashiki and he moved a little and did not look the judge straight in the eye, and when he did, he did it with "contempt," I found that man went to jail for 15 years.

If, on the same day, for the same crime, the same assignment from the public defender, the defendant was a white man from the middle-class, who had on a Brooks Brothers suit, and his mother told him to shine his shoes and get a haircut, and he brushed his teeth, and his mom and dad came in and got the Governor or the mayor or a member of the city council to write a note of recommendation, that man got probation.

I had difficulty explaining to my black clients why they went to jail longer than my white clients.

It was not just my experience. A study done several years took similar offenses, similar crimes, under similar circumstances, and picked out 15 or 20 Federal judges. A strange thing occurred. There was a decisive pattern that emerged.

If you were poor, if you were black, you went to jail longer than if you were white and you were middle class, for the same crime.

So the Senator from Maryland understandably is worried about discrepancies within the system—unwarranted disparity. The fact is that there clearly is, at this moment, unwarranted disparity in the sentencing system.

The third thing that got the Senator from Delaware interested in doing something about this matter—although I have not been involved in it quite as much as Senator KENNEDY—I have been doing it for years, the same bill, the same provisions—is that we have not figured out how to rehabilitate, if that is our goal. We not only have not figured out how to do it; we cannot even identify it when it happens; and on the rare occasion when we are all convinced it has happened, we do not know why it has happened.

Yet, our entire criminal justice system, as it relates to sentencing, is premised upon the notion that you go to jail as long as it takes for you to be rehabilitated. I wondered why the American people did not think we know what the heck we are doing.

I said it all through law school, and I said it when I was in a county office, until I started to practice law. I came to the Senate when I was 29. I found something interesting. They said:

Hey, look—we know you know you don't know how to rehabilitate. But we know that you're saying the sentencing system is based upon rehabilitation; and we know you tell us if we just work harder at it, whatever it is, being rehabilitation, crime will come down, recidivism will be impacted upon.

What started to happen? A constant erosion of public confidence in our ability to deal with the problem.

As my constituency, as my mother, my father, my brother, my wife, my friends, became more and more upset about the inability of the system to apparently dish out anything remotely approaching just desserts, I found them willing to listen to people who had less reasonable solutions. I found them willing to listen to a man who now apparently has changed a lot, a former Governor, who may be the future Governor of Alabama. In the late 1960's, he talked about "them pointy-headed judges" and about electing the Federal judiciary and about impeaching judges and about, "All we got to do is bring back hangin'."

In my State, I am not proud to say, until the mid-1960's we had a thing called the whipping post—literally, a whipping post. You lashed the fellow to the post and you whipped him. The last time it occurred was in the early 1960's.

I found apparently reasonable people, who became increasingly frightened and increasingly disturbed by civil libertarians like me who acknowledged that we did not know what we are doing, looking to the old George Wallace's of the world and saying, "Well, let's pass laws that we elect Federal judges. Let's pass laws saying that we need capital punishment," which I happen to oppose.

It is the same on the floor today, in this session: Let us do away with the Miranda ruling, let us get into other matters, which I truly believe are threats to America's civil liberties. There are disagreements in this body about that, but I believe that.

So it seems to me that we are left with this option: Do we let a system that is in place stand, when we acknowledge that it does not work, or, for the reasons I stated, do we try to reform it?

Let me speak specifically to some of the points raised by the Senator from Maryland.

The first is the fact that even if there are no more arrests and convictions, the criminal population will increase significantly.

The Senator was right to point out to me that, in my response to him, it was shortsighted of me not to acknowledge that the prison population could increase even if there are not any more convictions than presently occurring. This is because there is more certainty within the system. But the analogy to social security, which is a very compelling analogy, is unfortunately not appropriate because if the Senator has read the provisions of how the new sentencing system will function he knows, that it establishes a Commission and the sentencing guideline for judges that we instruct the Commission to promulgate are based on current time served.

Let me make sure everyone understands that who is listening on the squawkbox. Current time served includes all those sentences which incorporate the presumption the Senator from Maryland referred to that once you serve a third of your sentence you are able to be paroled. Many prisoners are. Many prisoners are released. A lot more white people are released than black people, but both are released.

Now, what do we find out? We say, acknowledge this and we direct the Commission to as to the guideline they must use. If you find for burglary the actual time served was 7 years and that incorporates parole or 2 years then that is the guideline you should put into the law telling us how long the sentence must be.

So in point of fact it is not like social security. It is not like doctors figuring out how to make folks live longer and thereby increasing the amount of money drained out of the system because folks are living a lot longer. These folks are not going to go to jail any longer.

By the way I might add that I find it strange how things work. I took a great deal of heat for that because my conservative friends, not all of them, but some, did not like the notion that we would actually in point of fact probably be reducing the maximum time present Federal statutes allow for. If a present Federal law for a class one felony says 15 years but after the Commission looks at it and all those people who are convicted of class one felonies actually only served 10 years, the presumptive sentence will be 10 years. So we are not increasing the amount of time. We are being realistic and my major objective here as I see it and Senator KENNEDY and others, who

spent more time on this than I, is to deal with the thing that the Senator from Maryland and the ACLU kept coming back to about unwarranted disparity.

So we are probably going to have shorter sentences in fact in the law on the books but everyone is going to serve them.

Now, the other thing that my friends in the ACLU are concerned about and the Senator from Maryland is concerned about is the question of whether or not we are granting some major new prerogative, the question of whether or not we are somehow conferring on the Federal Government some new power that is so all pervasive and so onerous as to fundamentally tip the scales in the criminal justice system that we give them the right to appeal.

The notion that the Government should have the right to appeal is not, it seems to me, either novel or outrageous, because we are passing a law telling the judge what in fact the presumptive sentencing is. Is it unreasonable to suggest that the judge alters what is totally within the prerogative of the legislative body to determine, the length of a sentence as to what we think it should be? We are in turn delegating that to a commission. The Commission in turn is going to say what it should be.

I do not see anything outrageous to suggest that the judge goes beyond it to justify why he or she is going beyond it or going under it, either way. I do not see anything so strange about that.

The other and on its face the most damaging criticism of this section, and quite frankly one that really took me back when my staff pointed out to me 8 months ago or 6 months ago, was that the Justice Department study—referred to by the Senator from Maryland which found that mandatory sentencing had the exact opposite result and produced all the things that the Senator is alleging this will do.

After reading the study I concluded they were right. But it was not relevant to this and that is why at the invitation of the local Washington television stations I went on the air. They were looking for different points of view to campaign against District of Columbia mandatory requirements. People might say how could you do that, how could you be arguing against that and say this study has some validity apparently wanting to do what you want to do. It is very simple: What the law in Massachusetts and Illinois did is different than what we are doing.

It picked out selected crimes. So it said for this crime for crime A, B, C, and D, if you are convicted you go to jail for 2, 5, 10, 12, whatever number of years.

So what happened was Johnny Jones commits crime A and the prosecutor does not think that Johnny Jones really should get hung with 5 years for extenuating circumstance or the judge does not think that even though he be required to give Johnny Jones 5 years that that is fair. So what Johnny Jones' lawyer is able to do is go to the Illinois prosecutor and say Johnny Jones will plead to a lesser included offense. Let us say the mandatory sentence is for burglary one or burglary. Johnny Jones would plead to petty larceny. And that is how Johnny Jones could get around it and not get a jail sentence for anything.

But that is not the case here. We do not cover specific crimes. We cover all of them, and so the ability of Johnny Jones' lawyer to say:

> Look, I will get you out of serving any time in jail because what I am going to do with you is I am going to convince the prosecutor or get the judge to suggest to the prosecutor, 'Why don't we move this thing along and plead to a crime that does not carry a prison sentence.

That is not likely under our system as we have it here.

This is presumptive, not mandatory. This is all inclusive, not selective. This is different, to use a phrase my colleagues always like to use around here, that the bottom line is, this is comparing apples and oranges. They are not particularly persuasive, but the fact is they are different, and that is why the study is not particularly appropriate.

(Mr. HAYAKAWA assumed the chair.)

Mr. BIDEN. With regard to cost, the Congressional Budget Office in a letter directed to Senator DOMENICI as chairman of the Budget Committee, signed by Alice M. Rivlin, Director of CBO, on July 16, 1982, when asked for an estimate of cost of the whole sentencing title, said the estimated cost for the year 1987 was $7.2 million.

This is for all of title V, looking at all the consequences of title V, including the consequences about which the Senator from Maryland is warning us. The total cost by the CBO estimate in 1987 is $7.2 million; beginning with $4.1 million in 1983.

I apologize for the lack of continuity. I am just trying to pick up each of the points as the Senator from Maryland raised them to the best of my recollection. On the ACLU's question about maximum sentences I might say I have spent many hours discussing these provisions with them over the years. The sentencing criteria that Federal judges use now are skewed against the underprivileged, the poor, and the minorities.

The point that the Senator apparently raised—and I did not hear him raise it but it was pointed out to me by staff—that the way to deal with this would be to reduce maximums, to reduce maximum time, the problem is that maximum time does not in any way correlate to the actual time served. The fact of the matter is that under the way the law as written now the defendant's social background probably is more likely to determine how long a defendant will serve. Reducing the maximums is not really going to accomplish very much, and will not, in fact, put into place the kind of certainty, No. 1, and lack of disparity, No. 2, needed to put into the system.

I am sure there are some points raised by the Senator from Maryland that I did not speak to, and I would be delighted to do so if he can refresh my recollection as to some of the things he raised that I apparently failed to get as I was making notes. I hope that, at least in large part, is responsive, if not acceptable, to the criticisms raised by the Senator from Maryland as to the provisions of this title.

Mr. MATHIAS. Mr. President, the Senator from Delaware is illuminating, as always, and he has addressed himself in a very forceful and helpful way to the issues involved in this bill and particularly to the issues involved in title V.

He has said it is not his contemplation—at least I want to be sure I understood him correctly—that sentences, by and large, would be longer as a result of the enactment of this bill, and I hope he is right. But there are those who have looked carefully at the question who would disagree with him, and to be specific I might cite a study that was conducted by the Library of Congress which concluded that it is entirely possible that prison time served by convicted persons would be longer than under current law, if, as, and when the sentencing provisions of the bill go into effect. That is a conclusion that has been reached not only by the experts at the Library of Congress who, as far as I know, are entirely impartial in this matter—they just look at it as professionals—but it has been the same view expressed by some noted criminologists, who have predicted longer sentences and, therefore, the kind of larger prison populations which I mentioned earlier.

Mr. BIDEN. May I ask the Senator did that study to which the Senator refers address, was it a study of, the provisions the Senator is attempting to strike?

Mr. MATHIAS. It was a study of the bill, yes.

Mr. BIDEN. All right.

Mr. MATHIAS. I think it does not take really a lot of expertise, just a certain modicum of commonsense, to indicate just how that might be the case.

For example, under the parole release system of current law all prisoners are entitled to a presumptive release after serving a third of their sentence. Well, now, that, of course, would be changed. Time could be tri-

pled, depending on the action of the commission which creates the guidelines, but that is a possibility, that time could be tripled under the provisions of this bill, and that is the kind of factor that I think you have to take into account when you say that sentences will conceivably be longer and prison populations substantially larger.

That is one of the reasons that at least during the phasein period of the sentencing guidelines system, during the transition, it might be desirable to preserve a parole release safety valve, and that is an area that I think we might well proceed on with some caution.

Mr. BIDEN. Mr. President, will the Senator yield for a response on the congressional study, to make sure I understand it?

Mr. MATHIAS. Sure.

Mr. BIDEN. Was it the Library of Congress study the Senator referred to?

Mr. MATHIAS. Yes.

Mr. BIDEN. That is true, it did do that. You know, I am about to cite a study of the Library of Congress which they did after that, but before I do that it reminds me of a story, an incident, that occurred to me the first time I was in the family court in Delaware on what we call a competency hearing in my State. There was a young fellow right on the border. He was not quite old enough to be tried automatically in the adult court for the serious crime, and it happened to be murder that I was assigned to represent him for, and yet he was under Delaware law capable if the State proved he was "competent to stand trial as an adult," a judgment made by the family court, and he could be moved up.

So I prepared my case, went into court. Unfortunately for me I had as my opponent a prosecutor who had been a judge for 22 years, had resigned from the bench, went into retirement, and was called out of retirement to be the chief prosecutor for the attorney general for the State of Delaware. His nickname was "Apples" Rirdan, Judge Rirdan, a craggy old fellow, still around and astute.

I stood down there and I said, "Your Honor, before we proceed I would like to ask for an extension of 1 day because my psychiatrist, who is prepared to testify this man is not competent to stand trial in the superior court, is not available."

"Apples" Rirdan jumped up and said, "Your Honor, I will stipulate that whatever Mr. Biden says the psychiatrist would say."

I said, "Lordy, that is amazing. What a great coup on my part to get this seasoned lawyer to stipulate. Obviously he is going to say my guy is not competent."

So I began to say, "Your Honor, in that case," and he said, "Under one condition, though: That the court give me 2 hours to find another psychiatrist, because, as the court full well knows, I will find one that will say the exact opposite."

Now, that is a little bit like comparing these studies. I am not sure how much they all mean, but let me give you the most recent studies done by the same outfit the Senator refers to, and it depends on the assumptions made.

The fact is the latest Library of Congress study concluded that if the court followed the intent of the Congress in the bill, the sentences would, in fact, be shorter, not longer.

So it is like garbage in, garbage out in computers. It all depends on what you pump into the system. Obviously, it is possible. Sentences could not only be tripled, but quadrupled. They could be increased tenfold if, in fact, they chose to ignore what the laws say. Then we have to deal with that.

But I do not think it can be presumed, if the intent of Congress is followed, as incorporated in the statute, that there will be longer sentences. If anything, the most recent study suggests that they would be shorter.

I thank the Senator for yielding.

Mr. MATHIAS. Mr. President, let me suggest to the Senator that we have already just today made what I think is a questionable situation even more questionable. We adopted certain amendments a while ago which deal with the sentencing provisions. Perhaps the Senator, as one of the managers of the bill, would just summarize very briefly for the Senate the impact of the Denton amendments on title V.

Mr. BIDEN. Mr. President, I am always reluctant to summarize anything of Senator DENTON's or any other Senator.

But while my staff is digging up the amendments, because I cannot recall what they all are—

Mr. MATHIAS. I think they have the impact of lengthening sentences.

Mr. BIDEN. While that is being done, let me point out the way the statute works now, or is supposed to work.

The sentencing commission must submit an initial set of sentencing guidelines to the Congress pursuant to—and I am reading from page 154 of the bill, lines 5 through 9—

> pursuant to subparagraph (B)(i), along with a report stating the reasons for the commission's recommendations:

(b) the General Accounting Office has undertaken a study of the guidelines, and their potential impact in comparison with the operation of the existing sentencing and parole release system, and has, within three months of the submission of the guidelines, reported to the Congress the results of its study; and

(c) the Congress has had six months after the date described in subclause (a) in which to examine the guidelines and consider the reports.

So let us assume the Senator is right, but I believe he is not, that sentences are, in fact, increased threefold, we have an opportunity to deal with that.

Also, on page 131 of the bill, lines 18 to 24, in subsection (o), it says:

(o) The Commission and the Bureau of Prisons shall submit to Congress an analysis and recommendations concerning maximum utilization of resources to deal effectively with the Federal prison population. Such report shall be based upon consideration of a variety of alternatives, including—

(1) modernization of existing facilities;

(2) inmate classification and periodic review of such classification for use in placing inmates in the least restrictive facility necessary to ensure adequate security; and

(3) use of existing Federal facilities, such as those currently within military jurisdiction.

So the point is there is an awful lot built in here. To be really honest with you, my criticism of my own bill is that I think we have been too flexible. I am not nearly as disturbed about the movement toward flat time as everybody else. But the point is to accede to those concerns we have done an awful lot.

The Senator from Maryland raises valid concerns that I hope I can answer about Senator DENTON's amendment, one of which relates to using current time served standard in developing guidelines.

The fact of the matter is, it says, as this is amended, that although this is one of the considerations the commission should use, they are not bound by it.

> The Commission shall not be bound by such average sentences, and shall independently develop a sentencing range that is consistent with the provisions of this section and with the purposes of sentencing described • • •

and it refers back to the bill.

The fact of the matter is that this, in fact, still refers us back to the other safeguards in the bill to which I have just referred, and that is the commission, when its work is done, still comes back to the General Accounting Office, they still look at it, and it ends up back in the Congress.

What may happen, and I predict might very will happen, is that you may find them going below average sentences. It is just as possible that the commission decides that when they want to accede from or move away from the average sentence that they might want to make it lower. They might conclude that the average sentence time served for such and such a crime is too high and they may make it lower. But the ultimate safeguard that we have is the way in which the timeframe works.

The fact of the matter is it is not at all likely that there is going to be very much disparity at all in this. We are

not talking about Genghis Khan being the chairman of this commission. The Congress has 6 months after the date we get these guidelines to receive a report back from both the sentencing commission and the General Accounting Office in which to examine the guidelines and consider the reports and change the guidelines if they do not like them. And I am referring to subsection (c) on page 154, beginning at line 17. So, although the Senator is right—and I thank him for correcting me, because I was speaking to the bill as if that amendment had not taken place. But I would argue that, although the amendment has been accepted, it will not substantially change because of the other safeguards built in in giving us time to act.

But the Senator is right in pointing out to me that I represented earlier in my discussions that they were absolutely, in effect, bound by average time served. I thank him for calling that to my attention.

The other Denton amendments, I do not see where they would have any effect at all on this. Although I agree that the one that we just spoke to can arguably have an effect. I believe it will not.

Mr. THURMOND. Mr. President, does the Senator from Maryland have anything else to say on the amendment?

Mr. MATHIAS. Yes, I have just a few more things to say.

Mr. President, the Senator from Delaware, I think, has served a very useful purpose this afternoon by stating, on behalf of the managers of the bill—and I hope that both of the managers of the bill will concur in what I am about to say—that it was not the intention, or at least that is what I thought I heard him say, that sentences should be increased as a result of passage.

Mr. BIDEN. That is correct.

Mr. MATHIAS. I tend to believe, if that is the intention, that they are going to be disappointed.

Mr. BIDEN. Mr. President, I want to make it clear, overall it is not the intention. There are increases for certain violent crimes, two of which were just accepted, one being on crimes with handgun.

Mr. MATHIAS. We are discussing in general that there should not be a general advance, a general increase, in the length of sentence, which I think will happen and which the Senator from Delaware thinks will not happen. But I think it is of some importance that he has made that statement on behalf of the managers of the bill because the guidelines commission is going to obviously look at the Senate proceeding for some direction.

Mr. BIDEN. That is my strong conviction and I hope they do read it. I hope they do listen to it. From the beginning, from the outset, that has been the intention of the Senator from Delaware, and prior to that the Senator from Massachusetts. I want to reiterate for the record that that is exactly our intention.

Mr. MATHIAS. That is of importance.

Turning to another point made by the Senator from Delaware, let me refer to the day in court that he described to us, in which he represented a black defendant who got one sentence and a white defendant who was guilty of the exact same offense and who received a different sentence.

I certainly agree with him that that is the kind of distinction, determination, variation, whatever you want to call it, that ought to be eliminated.

If you will turn to the bill, Mr. President, and look at the provisions on page 55 relating to the imposition of sentence, the factors to be considered in imposing sentence, you find that really what we are saying to the guidelines commission and subsequently to the courts is that there are four basic philosophies involved in imposing sentence.

One of them would be rehabilitation or correction. One of them would be deterrence. One of them would be retribution. A fourth is incapacitation.

We have not attempted to give priority to whether we think that deterrence, correction, retribution, or incapacitation should be the dominant factor in imposing sentence. But clearly, these are important philosophical questions upon which the Congress ought to have a view, and the Congress ought to express that view. That should be of some guidance to the courts.

So I think in the absence of direction, and in fact by just throwing out four potentially conflicting rationales for imprisonment, we leave plenty of room for the same kind of discrimination to occur which should not occur as the Senator from Delaware has described, but which will not necessarily be eliminated by the provisions of title 5.

Mr. BIDEN. Once again I think the Senator has raised an extremely valid point. I must tell him this is the part of the bill that personally concerns me the most. I believe the Senator takes me at my word when I say my rationale for getting involved in this was driven most by eliminating discrepancies.

To refresh the Senator's recollection, I would like to give a brief history of how we got to where we are with section 3553, beginning on page 55.

You may recall when we had the first two codifications there were a number of other additional provisions in that section and they related to everything from length of employment, family roots in the community, and a whole range of other issues, all of which I firmly believed mitigated against minorities. Huge percentages of the minority population, in many places, is unemployed. Unfortunately, for whatever the reasons, and I think they are explicable, there are a number of minority communities where there is a single head of household, but there is a question of who the father or mother is. So when you put in things like the length of stay, or living in the community, the family employment record, to show stability and standing and all the rest, I believe that is all mitigated against the minorities. So we tried to pare them down.

The alternative we are left with is we either make it flat-time sentencing or we give some guidelines as to how the sentence shall be determined. Since the alternative was a flat-time sentence guaranteeing that everybody got the same exact time, which I suspect the Senator from Maryland and many others have found more offensive, we came up with what we hoped would be guidelines that reasonable men and women in the court would look to and apply as fairly as they can.

I have no illusions about the fact that there will be some courts that will be particularly prejudicial because we all come to our jobs with certain prejudices. Hopefully, judges come to their jobs with fewer.

But the commission, it says on page 127, "shall assure that the guidelines and policy statements are entirely neutral as to the race, sex, national origin, and creed."

Further down it says "reflect the general inappropriateness of considering the education, vocational skills, employment record, family ties and responsibilities, community ties of the defendant."

Not only did I ask them to be taken out, but we have them in another provision saying that they are not matters that should be considered because, once again, they mitigate against minorities.

But the guidelines that are left are ones that I think are much more difficult to use against, if you will, first-time offenders, people of the same standing, different race and different background.

The nature and circumstance of the offense and the history and characteristics of the defendant. Well, that is reasonable.

Again, by the way, the judge has to justify why he is imposing the sentence. He has to set out why that is happening. He has to speak to those issues. So if in fact he suggests that someone should in fact go to jail because of their history based on prior record, or their actions before the court, or their conduct during arrest, all of which could mitigate against the defendant, there is nothing wrong in considering that.

Also, in section 2 we say the need for the sentence imposed should reflect the seriousness of the offense.

Well, it is hard to take that out of the system, although I acknowledge a judge could prostitute our intent there.

When we get down to the one that the Senator is concerned about, I must point out, if the Senator will recall, at the hearings we had time and time, hour after hour on these provisions, one item that concerned me the most was rehabilitation.

Reading from page 128, "The commission shall insure that the guidelines reflect the general appropriateness of imposing a sentence other than imprisonment in a case in which the defendant is a first offender who has not been convicted of a violent crime or an otherwise offense, and the general appropriateness of imposing a term of imprisonment on a person convicted of a crime of violence."

Again, speaking to whether we are mitigating for or against imprisonment, if it is not violent, we want to discourage the judge from putting the person in prison and being more imaginative about it. If it is violent, we want them to be put in prison. What we do not want is what is happening now. We do not want violent criminals not being put in prison for lack of space or for lack of inclination on the part of the judge, and nonviolent criminals being put in jail. Society does not really benefit by that.

The last point, Mr. President, to respond to the Senator's concern, hopefully, is subsection (j) on page 129;

The Commission shall insure that the guidelines reflect the inappropriateness of imposing a sentence to a term of imprisonment for the purpose of rehabilitating—

"rehabilitating"—

the defendant or providing defendant with needed educational or vocational training, medical care, or other correctional treatment.

That is what they used to do. That is what they do now. They say, "We are going to put you in prison until you've rehabilitated—whatever that means—and keep you there longer than the other guy."

Mr. President, I hope that is responsive and I should be happy to answer any more of these questions.

Mr. THURMOND. Mr. President, if both sides will yield back their time, as I understand on this amendment, the proponent will take just a voice vote.

The PRESIDING OFFICER. Do both sides yield back their time?

Mr. MATHIAS. Mr. President, I urge the Senate to adopt this amendment. I think the bill will be substantially better by having been reduced by the elimination of title 5.

I yield back my time on the amendment but not my time remaining on the bill.

Mr. BIDEN. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back on the amendment. The question is on agreeing to the amendment of the Senator from Maryland.

The amendment (UP No. 1359) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I yield myself 30 seconds.

I compliment the Senator from Maryland (Mr. MATHIAS), because I think every issue he raised is important to raise. It is of genuine concern and, although his amendment was not adopted, I think at a minimum, what he did was build a legislative record so it will be more difficult to obviate the intent of the Senator from Delaware and the managers of the bill on these provisions. I compliment him for doing it and I thank him for his cooperation.

Mr. MATHIAS. Mr. President, I thank the Senator from Delaware for his observations. I hope we did something useful in this discussion over the past several hours.

Mr. THURMOND. Mr. President, I thank the Senator from Maryland for his advocacy. He is always an able adversary and he always does a fine job of presenting his point of view. Of course, I do not agree with his point of view, but I compliment him.

Mr. MATHIAS. I thank the Senator. We may have an opportunity to fight again over this issue.

Mr. THURMOND. Mr. President, we are ready to hear other amendments if anyone has one to offer.

UP AMENDMENT NO. 1360

(Purpose: To establish an Office of Director of National and International Drug Operations and Policy in the executive branch to plan and coordinate drug enforcement in order to provide a single Federal entity with authority to direct the national and international drug enforcement efforts of the Federal Government)

Mr. DECONCINI. Mr. President, I have an unprinted amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI), for himself and Mr. PELL, proposes an unprinted amendment numbered 1360.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 47, between lines 11 and 12, add the following:

SEC. 305. (a) This section may be cited as the "National Narcotics Act of 1982".

(b)(1) The Congress hereby makes the following findings:

(A) The flow of illegal narcotics into the United States is a major and growing problem.

(B) The problem of illegal drug activity falls across the entire spectrum of Federal activities both nationally and internationally.

(C) Illegal drug trafficking is estimated by the General Accounting Office to be a $79,000,000,000 a year industry in the United States.

(D) The annual consumption of heroin in the United States is in the range of four metric tons, and annual domestic consumption of cocaine is estimated to be forty to forty-eight metric tons.

(E) Despite the efforts of the United States Government and other nations, the mechanisms for smuggling opium and other hard drugs into the United States remain virtually intact and United States agencies estimate that they are able to interdict no more than 5 to 15 per centum of all hard drugs flowing into the country.

(F) Such significant indicators of the drug problem as drug-related deaths, emergency room visits, hospital admissions due to drug-related incidents, and addiction rates are soaring.

(G) Increased drug trafficking is strongly linked to violent, addiction-related crime and recent studies have shown that over 90 per centum of heroin users rely upon criminal activity as a means of income.

(H) Much of the drug trafficking is handled by syndicates which results in increased violence and criminal activity because of the competitive struggle for control of the domestic drug market.

(I) Controlling the supply of illicit drugs is a key to reducing the crime epidemic confronting every region of the country.

(J) The magnitude and scope of the problem requires a Director of National and International Drug Operations and Policy with the responsibility for the coordination and direction of all Federal efforts by the numerous agencies.

(K) such a director must have broad authority and responsibility for making management, policy, and budgetary decisions with respect to all Federal agencies involved in attacking this problem so that a unified and efficient effort can be made to eliminate the illegal drug problem.

(2) It is the purpose of this section to insure—

(A) the development of a national policy with respect to illegal drugs;

(B) The direction and coordination of all Federal agencies involved in the effort to implement such a policy; and

(C) that a single, competent, and responsible high-level official of the United States Government, who is appointed by the President, by and with the advice and consent of the Senate, and who is accountable to the Congress and the American people, will be charged with the responsibility of coordinating the overall direction of United States policy, resources, and operations with respect to the illegal drug problem.

(c) There is established in the executive branch of the Government an office to be known as the "Office of the Director of National and International Drug Operations and Policy" (hereinafter in this section referred to as the "Office of the Director"). There shall be at the head of the Office of the Director a Director of National and International Drug Operations and Policy (hereinafter in this section referred to as

the "Director"). There shall be a Deputy Director of National and International Drug Operations and Policy (hereinafter in this section referred to as the "Deputy Director") to assist the Director in carrying out the Director's functions under this section.

(d) (1) The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director and the Deputy Director shall each serve at the pleasure of the President. No person may serve as Director or Deputy Director for a period of more than four years unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. The Director shall be entitled to the compensation provided for in section 5313, title 5, United States Code. The Deputy Director shall be entitled to the compensation provided for in section 5314, title 5, United States Code.

(2) The Director shall serve as the principal director and coordinator of United States operations and policy on illegal drugs.

(3) The Director shall have the responsibility, and is authorized to—

(A) develop, review, implement, and enforce United States Government policy with respect to illegal drugs;

(B) direct and coordinate all United States Government efforts to halt the flow into, and sale and use of illegal drugs within the United States;

(C) develop in concert with governmental entities budgetary priorities and budgetary allocations of entities of the United States Government with respect to illegal drugs; and

(D) coordinate the collection and dissemination of information necessary to implement United States policy with respect to illegal drugs.

(4) In carrying out his responsibilities under paragraph (3) the Director is authorized to—

(A) direct, with the concurrence of the head of the agency employing such personnel, the temporary reassignment of government personnel within the United States Government in order to implement United States policy with respect to illegal drugs;

(B) procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the grade of GS-18 of the General Schedule;

(C) accept and use donations of property from all government agencies; and

(D) use the mails in the same manner as any other department or agency of the executive branch.

(5) Notwithstanding any other provision of law, rule, or regulation to the contrary, the Director shall have the authority to direct each department or agency with responsibility for drug control to carry out the policies established by the Director consistent with the general authority of each agency or department.

(6) The Administrator of the General Services Administration shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

(e) The Director shall submit to the Congress, within nine months after enactment of this section, and annually thereafter, a full and complete report reflecting United States policy with respect to illegal drugs, plans proposed for the implementation of such policy, and, commencing with the submission of the second report, a full and complete report reflecting accomplishments with respect to the United States policy and plans theretofore submitted to the Congress.

(f) For the purpose of carrying out this section, there are authorized to be appropriated $500,000 for fiscal year 1983, and such sums as may be necessary for each of the four succeeding fiscal years, to be available until expended.

(g) This section shall be effective January 1, 1983.

Mr. DECONCINI. Mr. President, on behalf of myself and my distinguished colleague from Rhode Island (Mr. PELL), I offer this unprinted amendment to S. 2572. This amendment embodies a concept which has become familiar to many—that of creating a "drug czar" to develop policy and coordinate Federal drug enforcement efforts. Our amendment would establish an Office of National and International Drug Operations and Policy in the excutive branch of Government. The Director of the Office and his or her Deputy would have as their primary responsibility the coordination of the activities of all Federal agencies engaged in drug enforcement efforts.

In recent decades, we Americans have become painfully aware of the impact of the illegal drug trade on our lives. Consumption of illegal drugs has reached epidemic proportions. Recent statistics indicate that 1.7 million people use heroin, with 453,00 using it on a daily basis. It is estimated that nearly 10 millllion American have used cocaine and 43 million have tried marihuana.

The economic costs are high. The illegal drug market generates a multibillion dollar industry, which places a tremendous drain on the U.S. economy not to mention that there are few or no taxes paid. Huge sums of money change hands between users and dealers, sums which help to corrupt legitimate businesses and openly invite organized crime to flourish. An unknown amount of this money goes overseas and is forever lost to our economy.

Perhaps most devastating, however, is the social cost of drug abuse. While statistics may accurately reflect the billions spent on law enforcement, medical treatment absenteeism, and nondrug crime, they simply cannot account for the social toll in terms of broken homes, ruined lives, and other human suffering.

Clearly, Mr. President, we have a problem—a very serious problem. But we are not the first to recognize it.

A variety of Federal agencies and offices have been established to contend with the illegal drug problem. While each of these efforts was well-intentioned, they were all, unfortunately, plagued by the same flaw—the absence of an overall U.S. drug policy and the lack of coordination between various agencies with drug enforcement responsibilities. We have seen the Bureau of Narcotics and Dangerous Drugs, the Cabinet Committee on International Narcotics Control, the Drug Enforcement Administration, and the Office of Drug Abuse Policy, just to name a few. These offices have been variously described as "fragmented," having "serious operational shortcomings," and as sources of "interagency conflicts."

In December 1975, the General Accounting Office published a report about these very problems and pointed out the need for a "clear delegation of authority to someone acting on behalf of the President to monitor adherence to guidelines and tell agencies what is expected of them." A 1979 GAO report went beyond suggesting that someone monitor agencies and recognized the need for someone who has the authority to demand corrective actions. This is exactly what Senator Pell and I propose this afternoon.

The United States must assume a much tougher and a more consistent stance against illegal drugs. Drugs destroy the very fiber of America—our people. We must eradicate this pervasive problem, which is harming all too many of our fellow citizens—our young people in particular. We must resolve the organizational difficulties which dilute law enforcement efforts at our borders. We must clarify the roles of law enforcement agencies. I believe this amendment provides a solution—a single competent, high-level official who is responsible for the coordination of the overall direction of U.S. policy, resources, and operations with regard to drug enforcement.

Senator PELL has worked closely with me on this amendment and I believe that, together, we have developed an amendment which will strengthen U.S. drug enforcement efforts.

Mr. President, this country cannot abide our present system of fragmented drug enforcement efforts. Coordination of policy and enforcement is the key. The drug czar will provide such coordination.

Mr. President, I urge support of this very important measure.

Mr. President, as a former prosecutor, having had some experience in developing coordinated effort on a State level, I really believe this is a great opportunity to move in a direction where we have brought successful efforts from the State level to the Federal Government. I hope that the Committee can accept the amendment.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to this amendment. I want to assure the distinguished Senator from Arizona, however, that I fully support his intentions to strengthen efforts to fight international drug

trafficking. I do not believe, however, the approach being taken in this amendment is sound. First, it would create a new bureaucracy in the White House which would answer only to the President. Second, it would duplicate efforts of the FBI, the Customs Service, the DEA, and other Federal agencies. Coordination between those agencies has always been a problem, but this amendment does not seem practical because of increased costs and personnel.

Third, perhaps a Cabinet-level committee, either now in existence or to be created by Presidential order, can be used to force closer coordination of drug enforcement efforts.

I would be pleased to work with the Senator in working out an approach that will not cost more money and lead to further bureaucracy.

Mr. President, I have a letter from the U.S. Department of Justice on this subject opposing this specific amendment, and I want to read that to the Senate. It says:

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice regarding the Floor amendment to be offered to S. 2572 by Senators DeConcini and Pell to establish an Office of Director of National and International Drug Operations and Policy to control all federal drug enforcement operations. The Department is vigorously opposed to this proposal and believes it would adversely affect drug enforcement efforts by imposing upon the Executive Branch a further and inflexible layer of bureaucracy.

As you know, this Administration has made unprecedented efforts to improve coordination of federal drug enforcement activities. A Cabinet Council on Legal Policy and a Sub-Council on Drug Supply Reduction have been established to pull together, at the highest levels of government, all the departments and agencies with jurisdiction over various aspects of the drug problem. Moreover, an Office of Drug Abuse Policy has been established within the White House to coordinate federal drug enforcement activities and to develop a comprehensive federal drug strategy which will be announced in the near future. The Attorney General has assigned to the Federal Bureau of Investigation general supervision over drug enforcement efforts and has given the Federal Bureau of Investigation concurrent jurisdiction over drug offenses thereby substantially increasing investigative resources devoted to narcotics enforcement. Finally, the Administration has established, under the personal supervision of the Vice President, the South Florida Task Force on Crime which has undertaken a massive offensive against narcotics trafficking. In short, this Administration has made greater progress toward coordinating federal drug enforcement efforts than has ever been achieved in the past.

Based upon the experiences we have gained during the past few months, we expect that major policy announcements will be forthcoming from the President in the weeks ahead concerning future plans for narcotics enforcement. We feel very strongly, therefore, that this proposed amendment to S. 2572 is premature and that it would, in effect, strait-jacket federal drug enforcement activities and close off possible avenues for new enforcement initiatives.

Finally, we would note that such a far-reaching reorganization proposal should be subjected to intensive analysis by the Congress. In this regard, no Congressional Committee has conducted hearings on this proposal and the Department, therefore, has not had the opportunity to assess and comment in detail with respect to the consequences of such an extreme modification of existing law. We hope, therefore, that the Senate will firmly reject this proposal.

Mr. President, it seems to me that this is certainly premature. The President expects soon to make some announcements on this subject. Why not wait and see what he does on this? There are plans underway now for the President to take steps along this line. But I say let us give him a chance and see what he will do. If we do not think proper steps are taken, then we can take action.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, as reluctant as I am to depart from my colleague from South Carolina on this point, I think that Senator DECONCINI is absolutely, positively correct. As a member of the Intelligence Committee, the Foreign Relations Committee, and the Judiciary Committee, I have been convinced for the last 3 years that there is no coordination. It does not exist. The turf fighting among the existing bureaucrats will continue. I believe this is the single most significant thing that we could do to have an impact upon international drug trafficking.

There are numerous examples of the breakdown of cooperation and coordination uncovered while I chaired the oversight Judiciary Subcommittee on Federal Drug Efforts in the last Congress.

In 1980, CIA drastically cut its intelligence commitment to narcotics collection. No one at White House level seemed to have authority to even protect this loss. As far as we know there never was even a government-wide estimate of the consequences of this loss.

No one at the White House or elsewhere was able to break down bureaucratic intransigence and jealousy. DEA seemed reluctant to turn over advanced intelligence to Customs to make seizures at border. Staff has been advised of drug cases in Chicago and Washington in which information obtained in Customs investigations was never pursued when turned over to DEA, because of the unformalized referral mechanism between these agencies

IRS sometimes even refused to discuss ways of turning over financial information on traffickers.

CIA steadfastly refused at times to turn over evidence of trafficking out of fear that criminal prosecutions would compromise its operations.

We found similar problems at NSA

We found that this disorganization results in inaccurate information because agencies could not even cooperate on statistics and intelligence assessments. We found double counting of asset forfeitures IRS, Customs and DEA might all take credit for the same seized airplane used by a trafficker.

The committee found FBI and DEA were not necessarily in agreement on who are the top people in organized crime. Therefore, there seemed to be no way to know definitively whether arrest of a "top trafficker" was truly the head of an organization.

A cabinet level office will begin to solve some of these problems. It will increase accountability. One person will be accountable for narcotics policy. He will be accountable to the President and Congress. He will act in the name of Mr. President to resolve these bureaucratic differences.

Mr. BIDEN. Mr. President, let me point out to Senators that this was included in the original so-called Democratic crime package at my insistence and with the cooperation of all of my colleagues. It is a matter of understandable concern to the administration, and I might add it was of understandable concern to the last administration. They did not like the idea either, and I do not imagine any administration is going to like it until someone forces the issue and allows one person to head the task.

We do not have in this administration, nor did we have in the last administration, a blueprint or narcotics control strategy for how we are going to deal with the problem, because nobody has the authority to call the shots.

The guys at the State Department do not like to carry anything but treaties in their briefcases. The guys at the Justice Department do not like to have to deal with those spooks at the CIA. The spooks at the CIA do not trust the DEA, and the DEA wants to be involved in getting the bust and not share the glory with the FBI, and it goes on and on and on.

Mr. CHILES. Will the Senator yield?

Mr. BIDEN. Yes, I will yield to the Senator from Florida.

Mr. CHILES. Mr. President, a good example of this is an operation that is going on in south Florida right now. It is called the South Florida Task Force on Crime. It happens to be headed by the Vice President, and it is having good success. One of the reasons it is having good success is because the Vice President has a little clout. He is sort of sitting up on top and then his man, the admiral, is sitting there, and they are bringing the people together—just the thing that the Senator

from Delaware is saying, where you have DEA and Customs and all of the other particular agencies, and you can go on. You can put the Coast Guard into the situation where you are trying to put these people together and now the military, because, of course, in drugs we are seeking to use the military. One of our biggest problems is to try to get from them the kind of information that they are capable of giving us and equipment that can be used. I guarantee that you do not get somebody from DEA who can call the Department of Defense and do something. So unless you have someone charged with that authority who has some clout, you are not going to do the job.

My only concern would be, when you are talking about where the drugs are, we really want it to be the Vice President or somebody of that stature involved, because if you do not have that, you will not do anything. I think the Senator is on the right track.

I have seen the success of what is happening in the South Florida Task Force. I know exactly what the situation was before, when we had a strike force or when we had other people, because you had no one in authority who could push these agencies together, and that is crucial.

THE PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield to the cosponsor of this measure, the Senator from Rhode Island.

Mr. PELL. I thank my friend from Delaware.

I am pleased to join with my friend and colleague Senator DECONCINI in offering this amendment to crime package.

I know every Member of the Senate is deeply concerned about the crime epidemic confronting our society today. In the course of a year, one out of every three households in the United States is touched in some form by this crime epidemic.

Much of the mounting crime rate can be directly traced to the recent unprecedented increase in illegal drug trafficking throughout the United States. We are literally being engulfed by a flood of illegal drugs that are entering the counrty by sea, by air, and at our borders. And we see the byproducts of this problem daily in our own communities: In the stores and homes burglarized by addicts supporting their drug habit, and the innocent citizens who are victimized by muggings, assaults, and other violent drug related crimes.

Drug trafficking has become an $80 billion a year big business in the United States, producing an alarming increase in drug overdose deaths and addiction rates. We have an estimated 420,000 heroin addicts in this country, 90 percent of whom are believed to support their habit through criminal activity.

This is a problem that—by its very nature—local law enforcement is virtually powerless to control. Nearly all the dangerous drugs consumed in the United States are smuggled into the country from other nations, notably from South America and the Caribbean area, as well as the "Golden Crescent" of Southwest Asia and the "Golden Triangle" of Southeast Asia.

Despite the best efforts of a number of agencies—and successful initiatives such as the Florida Task Force—on balance we are losing the battle against drug traffickers. The best estimates are that we are stopping no more than 5 to 15 percent of all the dangerous drugs being smuggled into the United States.

Perhaps our most important failure has been the lack of a consistent and well-coordinated national strategy. No high-level official presently has the authority to set overall policy and to coordinate the many departments and agencies—spread throughout the government—with responsibilities in this area. Moreover, no official has the lead responsibility for overseas drug enforcement and spearheading greater international efforts to reduce drug trafficking.

The amendment Senator DECONCINI and I are offering would provide the policy direction and coordination between agencies that has been sorely lacking. It would establish within the executive branch an Office of the Director of National and International Drug Operations and Policy. The Director would report directly to the President and be responsible for the development, review, implementation, and enforcement of all U.S. Government policy with respect to illegal drugs. He or she would have the authority to bring the various agencies together, pooling their staffs and resources where appropriate, to act with a single voice and authority against drug traffickers.

This amendment would provide the leadership we must have to win the war against drug-related crime. Informal task forces, such as the one established by Vice President Bush to deal with the crisis in Florida, can achieve dramatic short-term results. As a result of the high degree of coordination in Florida between the Navy, the Coast Guard, the FBI, and the Drug Enforcement Administration, drug trafficking in that area has been sharply reduced. Unfortunately, the success of the Florida Task Force has made the North Atlantic Coast an increasing attractive target for drug traffickers, who have moved further north in search of safer ports for their contraband cargoes.

Earlier this month, the New England Association of Police Chiefs declared that drug trafficking has become the No. 1 law enforcement problem in our region. Senator DECONCINI has spoken of the even greater urgency of this problem in the Southwest.

So we cannot rely upon short-term successes as we have had recently in Florida. We need a consistent attack on this problem at the highest levels of our Government, starting with a clearcut strategy for combating drug trafficking in all regions of the country. A Director of National and International Drug Operations and Policy would provide the high-level, responsible and effective leadership that is presently lacking in the war on crime and drugs. I urge my colleagues to join Senator DECONCINI and me in supporting the establishment of this badly needed position.

Mr. DECONCINI. I thank the distinguished Senator from Rhode Island. Quite frankly, this would not have happened if it had not been for the time he and his staff have put in.

Mr. President, I do not want to belabor this matter. I ask for the yeas and nays on my amendment.

THE PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr President, we have waited a long time for some real leadership here. I am not going to indicate my displeasure with the administration, because I had the same problem with the last administration. What I hope this legislation might do is spur administration to come forward.

The Senator from South Carolina mentioned that they are working on something. Maybe this can be the beginning of that something. What we are doing now is just minimal and is not working.

In the area of Federal departments and agencies dealing with drug abuse and enforcement, we have 9 Cabinet departments, 29 departmental agencies, and 4 independent agencies. Some of these are far reaching in research, but no one can mandate that they work together.

Mr. BIDEN. Mr. President, with the permission of the chairman of the committee, I ask unanimous consent that we put the vote on this amendment aside and stack if back to back, to occur immediately before final passage.

For the information of my colleagues, I do not expect that we will be here much more than another 15 or 20 minutes. There are several more amendments, most of which will be accepted, and I do not know of anything else that will require a rollcall vote.

I ask unanimous consent that the vote on the amendment of the Senator from Arizona and the Senator from Rhode Island be ordered to occur im-

mediately prior to the vote on final passage.

THE PRESIDING OFFICER. Is there objection?

Mr. DECONCINI addressed the Chair.

THE PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield to the Senator from Arizona.

Mr. DECONCINI. Mr. President, I rise in support of S. 2572. This legislation is desperately needed to restore to our criminal justice system the emphasis on protecting the innocent and isolating and punishing the guilty. For too many years we have neglected the safety of law abiding citizens and placed our priority on creating as little inconvenience as possible to those charged or found guilty of violations of our criminal laws.

Our citizens no longer feel safe in their own homes, much less on the streets of our Nation; 13.3 million major crimes were reported in 1980 alone—an increase of 1 million over 1979. In a single decade, major crimes reported in the United States have increased by over 50 percent. A major crime is committed every 3 seconds in the United States; a violent crime is committed every 27 seconds.

Because we have adopted an overly permissive attitude toward crime and criminals, crime has gotten out of hand. All too often, we have tended to see the criminal as the victim of society, not the other way around. As a result, we have been overly lenient at every level of the criminal justice system. The courts, however, have been the worst offenders, releasing criminals on an unsuspecting population because of technicalities and too liberal interpretations of our bail and sentencing laws.

I believe S. 2572 will remedy many of the procedural problems that have resulted in what has been described as "revolving door justice." S. 2572 is a result of hundreds of hours of testimony over many years. Chairman THURMOND and Senator BIDEN have finely crafted S. 2572 by combining provisions of S. 1630, the Omnibus Criminal Code Reform bill, with several other meritorious bills that were introduced separately. The result is a very necessary bill that can pass this body and become law. I am hopeful that the other body will recognize the importance of resolving this issue and take quick action.

Many of us in the Senate have sought for years to see the reforms provided for in this bill enacted into law. At this point I would like to especially commend Senators NUNN and CHILES for reminding us each morning of the importance of these issues.

I am a cosponsor of most of the provisions that were combined to form S. 2572 and the author of some. While all of the provisions of S. 2572 are needed and important, the two keystones of the bill are bail reform and sentencing reform.

Title I of S. 2572 is based on S. 1554. This long overdue legislation would require judicial officers to make bail decisions based on their impact on society and not just on the defendant. S. 1554 underwent extensive examination in the Constitution Subcommittee. The subcommittee held numerous hearings and heard countless witnesses. Out of this process, emerged legislation which I feel is, in all respects, an excellent revision of our bail laws. It is felt by many experts that Federal bail laws have contributed directly to the rise in crime by releasing suspects who then commit subsequent offenses. Present law has also eroded public support for our justice system by releasing dangerous repeat offenders.

I should like to particularly note one aspect of title I. Section 3142 contains a provision which I authored and added to S. 1554 at subcommittee to put an end to the disappearing drug dealer who continually jumps bail. Often a person who has been arrested for drug dealing may not be dangerous in the sense that he is likely to commit a violent offense against another. It is clear, however, that the defendant is dangerous to our community, in that he has been selling drugs to men, women, and children.

We are dealing in these cases with individuals who make enormous amounts of money from their illicit trade, and consider the cost of bail money simply a cost of doing business. With large amounts of cash readily available. It is no surprise that, no matter how high bail is set, the drug dealer who has been arrested will make bail. More often than not, once the bail has been made and the drug dealer is released, he is never heard from again.

The provision that I added to S. 1554 creates a rebuttable presumption of a defendant's dangerousness to the community in the case of large drug offenses. Thus, through my amendment, a large drug dealer could be detained behind bars and not set free to disappear somewhere across America.

The sentencing provision of S. 2572, title V, reflect views I have long held on sentencing. The emphasis under the current law is on what is best for the criminal. We should use sentencing as a deterrent and as an assurance to the law abiding that convicted criminals will be kept away from them.

Congress has never given Federal judges adequate quidelines on what kind of sentencing we expect. For this failure, we must accept responsibility. However, many judges have used the absence of guidelines as permission to give only the most minimal sentences to even the repeat offenders who appear before them.

S. 2572 reverses this trend. It gives judges firm instructions that we intend that an individual who commits a felony is punished and is kept out of society.

Many of the provisions of S. 2572 are measures that I have advocated for many years. As a local prosecutor, I came to know the human tragedy of crime. I believe this bill will allow us to begin to reduce this tragedy.

Mr. PERCY. Mr. President, I strongly support the amendment which has been offered by the Senator from New Mexico that would establish a minimum, mandatory prison sentence of 5 years for the use of armor-piercing handgun ammunition during the course of a Federal crime of violence. I ask unanimous consent to be listed as a cosponsor. Senator SCHMIDT and I agree that there is a pressing need for swift action against these deadly bullets. Because they are capable of piercing the soft body armor which is being worn by more and more of our police officers, they represent a direct and serious threat to the lives and well-being of these vital officials. The Senate should act, and act swiftly, to pass this measure.

Mr. President, in March the Senator from New Mexico and I offered a bill, S. 2262, the Police Officers' Protection Act of 1982 which contained several proposals that would go significantly beyond the provisions of this amendment. Specifically, the bill would provide authority for the Secretary of the Treasury and the Attorney General to seize quantities of armor-piercing handgun ammunition which are now on the market. It would also make it a crime to manufacture, sell, transport, or possess such ammunition, and would also outlaw importation of such ammunition from other countries. Our bill has been sent to the Judiciary Committee, and I urge the Committee to hold hearings on it at an early date. But, Mr. President, the Senator from New Mexico and I feel strongly that the need for action on this problem is urgent.

It is now clear that the administration has agreed with us, at least in part. The amendment which we offer today has been endorsed in open testimony by Rudolph Giuliani, the Associate Attorney General. In his testimony, Mr. Giuliani said that if this language is enacted by the Congress, the Department of Justice would notify the 50 States and urge enactment of similar State laws to protect State and local law enforcement officials. I believe this is a very positive step for the administration to propose, and I strongly endorse it. I would, however, encourage the States to consider also the elements of the broader approach

which Senator SCHMITT and I advanced in March.

Mr. President, I recognize the difficulty of attempting to legislate in this rather technical area. For this reason, I am pleased to note that the definition of "armor-piercing ammunition" contained in the amendment we offer today is considerably more precise than earlier versions. It relies on well-established test procedures developed by the National Institute of Law Enforcement and Criminal Justice, and specifies with precision the type of body armor used as a reference standard. I think this definition represents a step forward in this area, and will save considerable time by identifying the rounds precisely.

Finally, I would like to say that since we introduced the Police Officers' Protection Act in March, I have received many strong messages of support from citizens, State, and local officials in Illinois. Several Illinois communities, including Chicago, have launched initiatives to body armor for their police officers. I feel strongly that passage of this amendment will lend real Federal support to these fine initiatives by citizens in Illinois, and similar initiatives in other States. I urge my colleagues in the Senate to join with us in support of a much-needed improvement that should be included in the significant legislation improving the Federal criminal laws which is before us today.

UP AMENDMENT 1361

(Purpose: To require that any person detained prior to trial shall be tried within 60 days)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER) proposes an unprinted amendment numbered 1361.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 28 add a new section 109 to read:

SEC. 109. Section 3164 to title 18, United States Code, is amended—

(a) by striking in subsection (b) the phrases "(a)(1) or" and "continuous detention or".

(b) by striking in subsection (c) the words "ninety day", and inserting in lieu thereof "sixty day".

(c) by relettering subsection (c) as subsection (d).

(d) by inserting a new subsection (c) as follows:

"(c) The trial of any person described in subsection (a)(1) of this section shall commence not later than sixty days following the beginning of such continuous detention. The periods of delay enumerated in section 3161(h) are excluded in computing the time limitation specified in this section."

Mr. THURMOND. Mr. President, since we have delayed the vote, I should like to reply to the Senator from Arizona.

I emphasize again that the Department of Justice is opposed to the amendment offered by the distinguished Senator from Arizona and the distinguished Senator from Rhode Island.

We now have a Cabinet council on legal policy. A subcouncil on drug supply reduction. We have an office of drug abuse policy that has been established in the White House. Under the personal supervision of the Vice President, we have the South Florida Task Force on Crime.

Also, major policy announcements will be made soon from the White House. The President is working on these matters now. It is premature to legislate and put in law something that later we may have to change.

I suggest that we delay action on this matter until the President has a chance to make recommendations on the subject.

As the Department of Justice has said, this might have the effect of straitjacketing Federal drug enforcement activities and close off possible avenues for new enforcement initiatives.

Furthermore, the Department would like an opportunity to comment. There should be a hearing, if we are to consider establishing a drug enforcement structure similar to what the Senator from Arizona has recommended. Let the Department of Justice comment, let the White House make recommendations, and then we can determine if changes should be made to what is being done at present.

This is premature, and I hope the Senate will reject the amendment of the Senator from Arizona.

I now yield to the distinguished Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished chairman of the Judiciary Committee.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from Maine (Mr. MITCHELL) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, the amendment I propose simply stated, reduces the time from 90 to 60 days during which a defendant must be tried in accordance with the provisions for pretrial detention in the bill. The provisions on pretrial detention has been subject to extensive controversy, since first evolved in the late 1960's. It was the subject of an extensive and erudite memorandum written by Justice Rehnquist while he was an Assistant Attorney General in the U.S. Department of Justice.

The concern over pretrial detention turns essentially on the presumption of innocence, which applies to anyone charged with crime, however serious it may be.

In my judgment, there are good and sufficient reasons for pretrial detention when the dangerousness of the individual is established through appropriate hearings procedures, but it is my judgment that the maximum allowable period of time for such detention before trial and before a verdict of guilty should be 60 days.

As a matter of basic fairness to the defendant who is kept in custody, the case should be brought to trial promptly and, in my judgment, 60 days is the outer limit for detention before trial.

A second reason for limiting the time to 60 days is that, in my judgment, a 60-day period is the maximum time which will withstand constitutional scrutiny. The pretrial detention provision of the District of Columbia Code, which was set at 60 days, was tested in the case of the United States against Edwards and from a reading of the opinion it is apparent that the provision came very close to being upset on constitutional grounds. Again, as a matter of judgment, at least in my opinion, had it been longer than 60 days, it might well have been declared to have been unconstitutional.

For these reasons I respectfully suggest that the period of time be set at 60 days rather than 90 days.

I yield the floor.

The PRESIDING OFFICER (Mr. HUMPHREY). Who yields time?

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

Mr. President, I rise in opposition to this amendment. There are several reasons for my opposition.

First, the Federal prosecutors need the 90 days provided for in the Speedy Trial Act to locate witnesses, find and analyze the evidence and generally prepare for trial.

Second, a time period of 60 days would also have an adverse impact on the judicial system. Criminal dockets are crowded now. Additional pressure to bring criminal cases to trial when they may not be prepared to go to trial would affect the fairness of criminal trials in a negative way.

And, third, the Judiciary Committee has not had hearings on the Speedy Trial Act and the impact of reducing the time for trial from 90 to 60 days. We should study this in committee before acting here on the Senate floor.

It seems to me we should hear what the Justice Department has to say. I have a letter from them opposing this amendment. But we need to conduct hearings so we can hear from the Attorney General, prosecutors, the Judicial Conference, and the defense bar

and get their firsthand evidence before we even consider this.

Mr. President, the Justice Department does oppose this amendment by the Senator from Pennsylvania. They have written me a letter opposing it, and I ask unanimous consent to have printed in the RECORD the part of the letter concerning this amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., September 30, 1982.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on two amendments Senator Specter may offer to S. 2572, the "Violent Crime and Drug Enforcement Improvements Act of 1982." For the reasons set out below, the Department is strongly opposed to both these amendments.

The first of these amendments would revise the bail provisions of S. 2572 to require the release, after a period of sixty days, of those persons who had been ordered detained pending trial because they posed either an extreme danger to the safety of others or a serious risk of flight. Pretrial detention would not be a novel product of the bail reforms set out in S. 2572. Under our current bail system, a number of defendants are held in custody while awaiting trial either because of their inability to meet conditions of release or because of the courts' exercise of inherent authority to order the detention of defendants who are substantial flight risks or who have threatened jurors or witnesses. In recognition of this fact, the Congress several years ago acted to address the need to guard against undue delays in bringing detained persons to trial by including in the Speedy Trial Act of 1974 a provision assigning priority to cases of defendants detained pending trial and limiting the period of detention to 90 days (18 U.S.C. 3164). Senator Specter's amendment, then, would change current law only in the respect that it would reduce the permitted period of detention by one third. Experience under the present provisions of the Speedy Trial Act provides no justification for this change. Moreover, the consequences of the amendment, in terms of releasing very dangerous defendants into the community and shortening the time in which the government may prepare for the trial of these most violent offenders, are unknown and could be quite harmful from the standpoint of public safety.

Mr. THURMOND. Mr. President, I shall quote one paragraph from that letter so that those here can hear it:

The first of these amendments would revise the bail provisions of S. 2572 to require the release, after a period of sixty days, of those persons who had been ordered detained pending trial because they posed either an extreme danger to the safety of others or a serious risk of flight. Pretrial detention would not be a novel product of the bail reforms set out in S. 2572. Under our current bail system, a number of defendants are held in custody while awaiting trial either because of their inability to meet conditions of release or because of the court's exercise of inherent authority to order the detention of defendants who are substantial flight risks or who have threatened jurors of witnesses. In recognition of this fact, the Congress several years ago acted to address the need to guard against undue delays in bringing detained persons to trial by including in the Speedy Trial Act of 1974 a provision assigning priority to cases of defendants detained pending trial and limiting the period of detention to 90 days (18 U.S.C. 3164). Senator Specter's amendment, then, would change current law only in the respect that it would reduce the permitted period of detention by one third. Experience under the present provisions of the Speedy Trial Act provides no justification for this change.

I want to repeat that. Here is what the Justice Department says:

Experience under the present provisions of the Speedy Trial Act provides no justification for this change. Moreover, the consequences of the amendment, in terms of releasing very dangerous defendants into the community and shortening the time in which the government may prepare for the trial of these most violent offenders, are unknown and could be quite harmful from the standpoint of public safety.

Mr. President, how can we pass such an amendment as that when the Justice Department takes a position that we have dangerous criminals here and if they cannot get to them in 60 days they want to keep the present law of 90 days? Certainly, we should not change it until we hear from the prosecutors over the country and hear from the Justice Department.

Therefore, I feel that this amendment should not pass.

Mr. SPECTER. Mr. President, I share the concern expressed by the distinguished Senator from South Carolina, the chairman of the Judiciary Committee, concerning the problem of dangerous criminals, and I appreciate the comments that have come from the Department of Justice.

No one has been more concerned over the course of the past quarter of a century with the problem of dangerous criminals than have I, largely in my capacity as district attorney of the city of Philadelphia. I think it is fair and accurate to say that no one in the Department of Justice has more experience with this problem or in dealing with violent crime than the experience that I have had as the district attorney of America's fourth largest city.

We have had the problem of bail provisions for dangerous criminals under existing law because of the presumption of innocence, time-honored presumption which is fundamental to the criminal justice process.

If we are to preserve the provisions of preventive detention, we are going to have to proceed on a very careful basis. If we allow the time before trial to extend to 90 days, this statute is most likely going to be held to be unconstitutional. That is my considered judgment based upon a reading of the case of United States against Edwards from the District of Columbia Court of Appeals, as reported in 430 Atlantic Reporter 2d series, at page 1321. The objective of dealing effectively with dangerous criminals warrants our using the 60-day provision rather than the 90-day provision.

When the distinguished Senator from South Carolina refers to the categories of potential flight or the threatening of witnesses, those are two categories for which the denial of bail is long established, but to detain without bail on grounds of danger to the community is not an accepted or established legal principle. Denial of bail on the ground of danger to the community, as I have said, is a new approach that has to be very carefully calibrated and monitored if it is to be enacted and upheld.

With regard to the issue of flight, that has been a traditional reason for denying bail absolutely, because the purpose of bail has always been to guarantee the appearance of the defendant at trial. Accordingly, if there is sufficent reason to believe the defendant will not appear, there has traditionally been good ground to deny bail altogether.

Similarly, there has traditionally been reason for denying bail if the defendant has threatened witnesses. For example, the U.S. Court of Appeals for the District of Columbia Circuit in United States against Gilbert, the Sixth Circuit in United States against Wind and the District of Columbia Court in Blunt against United States all upheld denial of bail on this ground. There is also, I believe, a learned opinion by Mr. Justice Douglas upholding the denial of bail in a case, I believe after conviction, where there was reason to believe that the defendant had threatened witnesses. But those exceptions do not apply full force to the circumstances of preventive detention when there is danger to the community.

When the distinguished Senator from South Carolina refers to reasons such as locating witnesses or preparing for a trial, those are objectives that have been achieved prior to the time the indictment has been brought by the prosecuting attorney.

When the distinguished Senator from South Carolina refers to the necessity for hearings on this issue, there has been ample opportunity for hearings during the course of the past many weeks since notice of this proposed amendment was filed. At the time this matter was acted upon by the Judiciary Committee in the form of S. 1554 in December 1981, I advised the distinguished chairman of my concern about this one provision, which was a primary reason why I did not join as a cosponsor of S. 2572, because of the important considerations involved in this bail provision.

Fundamental fairness, in my opinion, requires that those held in deten-

tion be tried at the earliest practicable date, and if 60 days were practicable for the District of Columbia, I suggest it is practicable under the provisions of S. 2572. If the 60-day provision were necessary to uphold constitutionality under the terms of the D.C. Code, as examined in United States against Edwards, I similarly suggest that a 60-day period is necessary if constitutionality is to be upheld under this statute.

I thank the Chair and I yield the floor.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. SPECTER. Mr. President, I reserve the remainder of my time.

I yield to the distinguished Senator from Maine (Mr. MITCHELL) who wishes to make a statement on the subject.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I am pleased to rise as a cosponsor of the amendment offered by the Senator from Pennsylvania. The amendment we are offering would amend title I of S. 2572 dealing with bail reform to expedite the trial of anyone held under the preventive detention provisions of the bill.

The bill before us would make broad and sweeping changes to the Bail Reform Act of 1966 to allow a judge to consider a defendant's dangerousness to the community in setting bail. I believe these changes are both necessary and appropriate.

Under the provisions of the Bail Reform Act of 1966, the only factor a judge may consider in setting bail is the likelihood a defendant will appear in court for subsequent proceedings, particulary for trial. As difficult as it is to believe, a Federal judge may not consider a defendant's dangerousness to the community in setting bail. As a former Federal judge, I am aware of the difficulty current law poses for our Nation' judges who must at times choose between inappropriately setting excessively high monetary bail—which the Bail Reform Act specifically discourages—or allowing a dangerous defendant to be released pending trial.

In the 15 years since the Bail Reform Act was enacted, it has been the object of much criticism because of its inflexibility. In its final report, the Attorney General's Task Force on Violent Crime summarized the problems associated with the act:

> The primary purpose of the act was to deemphasize the use of money bonds in the Federal courts, a practice which was perceived as resulting in disproportionate and unnecessary pretrial incarceration of poor defendants, and to provide a range of alternative forms of release. These goals of the act, cutting back on the excessive use of money bonds and providing for flexibility in setting conditions of release appropriate to the characteristics of individual defendants—are ones which are worthy of support. However, 15 years of experience with the act have demonstrated that, in some respects it does not provide for appropriate release decisions. Increasingly, the act has come under criticism as too liberally allowing release and as providing too little flexibility to judges in making appropriate release decisions regarding defendants who pose serious risks of flight or danger to the community.

The need to allow a judge to consider a defendant's dangerousness to the community in setting bail is clear. A study conducted by the Lazar Institute in 1981 found that in the eight jurisdictions studied, approximately one out of six defendants was rearrested pending trial.

Of these defendants, one-third were rearrested more than once.

S. 2572 would address the inadequacies contained in current law by allowing a judge to consider a defendant's dangerousness to the community in setting bail. It would allow the judge, following a detention hearing, to order a defendant detained prior to trial if the judge found that "no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person in the community." In allowing a judge to consider a defendant's dangerousness to the community, we are attempting to strike a balance between the rights of the accused and the legitimate interests and rights of society.

But one of the oldest legal principles—in fact, the principal one which our entire criminal law system is based—is that a person is innocent until proven guilty in a court of law. Allowing a judge to order a defenddant detained prior to trial does not change that presumption, but in so doing we curtail an individual's personal freedom prior to his or her trial and before the defendant has been convicted of anything.

In such cases, it is imperative and it is simple fairness that we make every effort to expedite the defendant's trial. And that is the purpose of this amendment. It would amend the Speedy Trial Act to require that the trial of a defendant held in preventive detention commence within 60 days from the time of detention. If the trial did not commence within 60 days, the defendant would be released subject to the least restrictive set of conditions set forth in subsections (b) and (c) of this title which would reasonably assure both the safety of the community and the appearance of the defendant in court.

The purpose of this amendment is simply to expedite the trial of those detained under the preventive detention provisions of the bill. All it says is if you are going to put someone in jail before they are convicted of anything in an American court of law then you have a corresponding obligation to try them as soon as possible.

I want to say that I was a State prosecutor, I was a Federal prosecutor, I was a Federal judge, and I have tried many, many, many cases in courts on both sides, and many complex cases. And I say to you that 60 days is sufficient time for both the prosecution and the defense to adequately prepare their cases. If it is important enough to put a person in jail before he has been convicted of anything, it is important enough to give that person a prompt trial.

At the same time, we all must recognize that there may be some cases where there may be some period of delay which should not be counted against the 60 days. And for that reason, this amendment excludes the periods of delay enumerated in section 3161(h) of the Speedy Trial Act.

I ask unanimous consent, Mr. President, that a reprint of that section be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MITCHELL. Mr. President, what that means is that you will exclude from the 60-day period those periods of delay, for example, that a defendant who must undergo substantial psychiatric testing would endure to determine his or her mental capacity, as was the case with John Hinckley. They simply would not be counted in the 60-day period. Other examples include those periods of delay resulting from: the absence or unavailability of an essential witness; a continuance granted by a judge if the judge determines that "the ends of justice" are best served by the continuance; or from the transportation of a defendant to another district. Excluding these periods of delay from the 60-day time limit should allay any reasonable fear that an absolute time limitation would prove unworkable.

Mr. President, I support the concept of bail reform in this bill that says you have to be able to consider the defendant's potentional danger to the community in setting bail. But simple fairness and our entire legal tradition also require that if that occurs there be a prompt and speedy trial so that a person has a right to establish his innocence or her innocence in a court of law and that the only people who really go to jail are those who have been convicted of a crime in an American court of law. That is a simple fairness amendment. I thank the Chair and I thank the Senator.

EXHIBIT 1

(h) The following periods of delay shall be excluded in computing the time within which an information or an indictment must be filed, or in computing the time within which the trial of any such offense must commence:

(1) Any period of delay resulting from other proceedings concerning the defendant, including but not limited to—

(A) delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant;

(B) delay resulting from any proceeding, including any examination of the defendant, pursuant to section 2902 of title 28, United States Code;

(C) delay resulting from deferral of prosecution pursuant to section 2902 of title 28, United States Code;

(D) delay resulting from trial with respect to other charges against the defendant;

(E) delay resulting from any interlocutory appeal;

(F) delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion;

(G) delay resulting from any proceeding relating to the transfer of a case or the removal of any defendant from another district under the Federal Rules of Criminal Procedure;

(H) delay resulting from transportation of any defendant from another district, or to and from places of examination or hospitalization, except that any time consumed in excess of ten days from the date an order of removal or an order directing such transportation, and the defendant's arrival at the destination shall be presumed to be unreasonable;

(I) delay resulting from consideration by the court of a proposed plea agreement to be entered into by the defendant and the attorney for the Government; and

(J) delay reasonably attributable to any period, not to exceed thirty days, during which any proceeding concerning the defendant is actually under advisement by the court.

(2) Any period of delay during which prosecution is deferred by the attorney for the Government pursuant to written agreement with the defendant, with the approval of the court, for the purpose of allowing the defendant to demonstrate his good conduct.

(3)(A) Any period of delay resulting from the absence or unavailability of the defendant or an essential witness.

(B) For purposes of subparagraph (A) of this paragraph, a defendant or an essential witness shall be considered absent when his whereabouts are unknown and, in addition, he is attempting to avoid apprehension or prosecution or his whereabouts cannot be determined by due diligence. For purposes of such subparagraph, a defendant or an essential witness shall be considered unavailable whenever his whereabouts are known but his presence for trial cannot be obtained by due diligence or he resists appearing at or being returned for trial.

(4) Any period of delay resulting from the fact that the defendant is mentally incompetent or physically unable to stand trial.

(5) Any period of delay resulting from the treatment of the defendant pursuant to section 2902 of title 28, United States Code.

(6) If the information or indictment is dismissed upon motion of the attorney for the Government and thereafter a charge is filed against the defendant for the same offense, or any offense required to be joined with that offense, any period of delay from the date the charge was dismissed to the date the time limitation would commence to run as to the subsequent charge had there been no previous charge.

(7) A reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted.

(8)(A) Any period of delay resulting from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for the Government, if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial. No such period of delay resulting from a continuance granted by the court in accordance with this paragraph shall be excludable under this subsection unless the court sets forth, in the record of the case, either orally or in writing, its reasons for finding that the ends of justice served by the granting of such continuance outweigh the best interests of the public and the defendant in a speedy trial.

(B) The factors, among others, which a judge shall consider in determining whether to grant a continuance under subparagraph (A) of this paragraph in any case are as follows:

(i) Whether the failure to grant such a continuance in the proceeding would be likely to make a continuation of such proceeding impossible, or result in a miscarriage of justice.

(ii) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section.

(iii) Whether, in a case in which arrest precedes indictment, delay in the filing of the indictment is caused because the arrest occurs at a time such that it is unreasonable to expect return and filing of the indictment within the period specified in section 3161(b), or because the facts upon which the grand jury must base its determination are unusual or complex.

(iv) Whether the failure to grant such a continuance in a case which, taken as a whole, is not so unusual or so complex as to fall within clause (ii), would deny the defendant reasonable time to obtain counsel, would unreasonably deny the defendant or the Government continuity of counsel, or would deny counsel for the defendant or the attorney for the Government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

(C) No continuance under paragraph (8)(A) of this subsection shall be granted because of general congestion of the court's calendar, or lack of diligent preparation or failure to obtain available witnesses on the part of the attorney for the Government.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to compliment the Senator from Pennsylvania and the Senator from Maine. I think this is a good amendment.

But there is a slight discrepancy here. The Senator from Maine talked very persuasively not only about the fairness of the amendment, in light of the change taking place in bail, but in light of the fact that there were exceptions. He cited the Hinckley case.

Unfortunately, the Senator from Pennsylvania does not include any of those exceptions as presently exist in the law as they relate to a speedy trial.

So the Senator from Maine, the former Federal judge, points out that moving it down to 60 days is what we should do and then says, on the other hand, but obviously we should include these exclusions.

But apparently there has been a switch in signals, because I agree with the Senator from Maine. It should be moved to 60 days, but it should include the exclusions. Unfortunately, the Senator from Pennsylvania does not include those exclusions.

And my question—if I can interrupt for a moment the conference of my two colleagues—is, did I misread the amendment of the Senator from Pennsylvania? Does it include the exceptions or does it not and if it does not is he willing to accept an amendment to include the exceptions?

Mr. SPECTER. It does not include the exceptions and I am currently discussing the matter with the Senator from Maine while the Senator from Delaware is speaking.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I ask unanimous consent for two things. First, the time I am about to use, which will not be very much, not be charged against any order in respect to this amendment and second that no interruption appear in the presentation of the distinguished Senator from South Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have consulted with the minority leader and I have communicated with the leaders of the House of Representatives to try to ascertain the situation of the schedule for the remainder of the day, this evening, and tomorrow.

I announce that unless they change their plans the House of Representatives plans to go out tonight at 6:30 p.m. The effect of that is that there is nothing much we can do tonight as far as the continuing resolution is concerned since the House of Representatives must act first.

Mr. President, it is the intention of the leadership on this side to ask the Senate to complete this measure, to do whatever routine matters we can by unanimous consent, and then to go out until 10 a.m. tomorrow.

ORDER FOR RECESS UNTIL 9:30 TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The convening time was subsequently changed to 9:30 a.m.)

Mr. BAKER. Mr. President, what that means is that we will do this amendment and perhaps two or three others. I hope that we can limit the number of rollcall votes. I hope as well that we can stack the votes and that we can recess pretty soon because I know there are commitments on both sides of the aisle. That is especially so since it would serve no good purpose to ask the Senate to return after we break.

So with that announcement, Mr. President, once again we are going to finish the crime package. I believe there will be perhaps two rollcall votes. I hope requests will be made that they be stacked. I am prepared to make that request at this time.

Mr. BIDEN. Mr. President, if the Senator will yield at this moment, I made that request earlier. There is some confusion as to whether or not the unanimous-consent request was ruled upon.

For assurance I ask unanimous consent again that votes be stacked.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, if it will help the majority leader and all colleagues who are listening, does the Senator from Pennsylvania intend to ask for a rollcall vote on this amendmend?

Mr. SPECTER. Yes, I do.

Mr. BIDEN. I suspect this will be the only amendment. There are three more, all of which will be accepted. I cannot imagine them taking a total more than 5 minutes. So I would see that we probably will have three back-to-back votes.

Mr. BAKER. Mr. President, why do we not do this? I judge from the action of the Chair just now that we ordered final passage and votes on the DeConcini amendment back to back.

Mr. BIDEN. That is correct.

Mr. THURMOND. That is right.

Mr. BAKER. I ask unanimous consent, Mr. President, that if any other rollcall votes are ordered tonight they be stacked in sequence in which they would normally be presented to the Senate to occur with the first vote to be 15 minutes, subsequent votes to be 10 minutes each with no intervening debate, motion, or other business to be transacted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Now, Mr. President, I hope Senators will expedite the proceedings. I regret that we cannot finish the continuing resolution tonight. I regret that we cannot do a number of other matters tonight except by unanimous consent. But we are powerless to do anything about that since the House of Representatives must first act on the continuing resolution. The conferees have not completed action on the continuing resolution and there is no expectation that the House of Representatives will act until in the morning.

Mr. President, I thank the Senator for yielding.

Mr. THURMOND. Mr. President, I do not anticipate but three rollcalls, one on the amendment by the Senator from Arizona, and one on the amendment of the Senator from Pennsylvania and then final passage.

Mr. BIDEN. Mr. President, I ask unanimous consent that we may temporarily set aside the amendment of the Senator from Pennsylvania and move to the amendment of the Senator from Iowa (Mr. GRASSLEY), which I do not expect will take much more than 2 minutes. I ask unanimous consent that we temporarily set aside the Specter amendment and move to the Grassley amendment.

The PRESIDING OFFICER. The Chair will advise the Senator that the yeas and nays have already been agreed to so that when time is yielded back the amendment would automatically be stacked.

Mr. BIDEN. I realize that, but that was not my request. My request was, while we are trying to work out an agreement on the Specter amendment, that we temporarily set aside that amendment and move to the Grassley amendment, at the completion of which we would move back to the Specter amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

UP AMENDMENT NO. 1362

(Purpose: To restrict the distribution of material involving the sexual exploitation of minors)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. GRASSLEY), for himself, Mr. DENTON, Mr. JEPSEN, Mr. SPECTER, Mr. DECONCINI, Mr. NICKLES, Mr. Nunn, and Mr. THURMOND, proposes an unprinted amendment numbered 1362.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

PART—

SEC. . (a) Section 2252 of title 18, United States Code, is amended—

(1) in subsection (a)(1) by striking out ", for the purpose of sale or distribution for sale, any obscene" and inserting in lieu thereof "any"; and

(2) in subsection (a)(2) by striking out "for the purpose of sale or distribution for sale, or knowingly sells or distributes for sale, any obscene" and inserting in lieu thereof ", sells, or distributes any".

(b) Section 2253(3) of title 18, United States Code, is amended by striking out ", for pecuniary profit".

Mr. GRASSLEY. Mr. President, in recognition of the Supreme Court's recent decision in the case of New York against Ferber, I ask that we consider an amendment to more effectively combat child pornography. This amendment is cosponsored by Senators DENTON, JEPSEN, SPECTER, DECONCINI, NICKELS, NUNN, and THURMOND.

I want to note for the RECORD how truly gracious and helpful the distinguished Senator from Delaware, Mr. BIDEN has been in accommodating this amendment. And as is inevitably the case, our chairman, Senator THURMOND has once again lent his aid in seeing that a valuable piece of legislation is adopted. I also want to thank ARLEN SPECTER for his help with this bill.

Current Federal law prohibits the use of children in pornographic depictions only if the materials meet the difficult and confusing standard of legal obscenity. Last July the Supreme Court decided that where our children are involved, the regulation of pornography need not comport with the legal definition of obscenity. Hence this amendment would remove the requirement of legal obscenity from child pornography statutes thus making it easier to prosecute offenders and protect our children.

In Ferber the Court held that the obscenity standard developed in Miller does not apply to a photographic or other depiction of children actually engaging in sexual conduct. Abandoning the Miller standard in child pornography was predicated upon the Court's recognition that a State has a compelling interest in protecting the physical and psychological well being of minors. The Court held that child pornography constitutes a category of material (like obscenity) which is outside the protection of the first amendment.

Originally I filed an amendment to this bill, amendment 2006 that would have just removed the word "obscenity" from the Federal statute. Since July 29 when I filed the amendment, I have had a chance to sit down with concerned parties and improve upon my original text.

Specifically, in addition to eliminating the requirement that child pornography statutes comport with the legal definition of obscenity as enunciated in the case of Miller against California, I am removing the commercial-purpose limitation of this provision. Utilization of the applicable statute,

18 U.S.C. 2252, by enforcement officials has been limited by the fact that the statute covers the distribution of child pornography materials only for commercial purposes.

However, many of the individuals who distribute materials covered by the statute do so by trade or exchange, without any commerical purpose. If 18 U.S.C. 2252 is to be rendered more useful as a prosecutorial vehicle, the words "for the purpose of sale or distribution for sale" should be deleted from subsections (a) (1) and (a) (2), and the words "for sale" should be deleted from subsection (a) (2) following the words "knowingly sells or distributes." Additionally we are striking the "pecuniary profit" provision from section 2253 of title 18, section 3.

No discussion of this amendment would be complete without noting how harmful the use of children in pornographic materials is to the physiological, emotional and mental health of the child. It should be noted that because the child's actions are reduced to a recording, there is a permanent record of the child's participation and the harm to the child is exacerbated by circulation. According to one study by the Academy of Child Psychiatry, sexually exploited children are unable to develop healthy affectionate relationships in later life, have sexual dysfunctions, and tend to become sexual abusers as adults. Another report by the Illinois Legislative Investigatory Commission emphasizes that sexual molestation by adults is often involved in the production of child sexual performances. In view of these detrimental effects, I urge all of my colleagues to support this amendment.

Mr. President, this amendment has been cleared by both sides of the aisle.

Mr. BIDEN. Mr. President, the amendment is acceptable on this side. I move its adoption by voice vote. I am sure it is acceptable to the Senator from South Carolina.

Mr. THURMOND. Mr. President, the amendment is acceptable to us. We think it is a good amendment and hope the Senate will adopt it.

Mr. BIDEN. Mr. President, I ask unanimous consent that we may continue to set aside the Specter amendment and move next to the Bentsen amendment, which will take only a few minutes, and then to the Jepsen amendment, which will take a few minutes.

The PRESIDING OFFICER. Will the Senator withhold? The amendment has not been acted upon. Is all time yielded back on the amendment?

Mr. BIDEN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Iowa (Mr. GRASSLEY).

The amendment (UP 1362) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I renew my unanimous-consent request. I ask unanimous consent that the Senator from Texas may proceed with his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1363

(Purpose: To amend the Federal Aviation Act of 1958 to provide for the revocation of certificates and punishment where aviation involves drug trafficking, and for other purposes)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

THE PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 1363.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 47, between lines 11 and 12, add the following:

SEC. 305. (a) Section 609(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1429) is amended—

(1) by inserting "(1)" after "(b)", and

(2) by adding at the end the following new paragraph:

"(2) Any airman certificate issued under this Act shall be revoked upon the conviction in any court of the holder of such certificate for any violation of any State or Federal statute relating to the transportation or distribution of any controlled substance as defined by the Controlled Substances Act.".

(b) The amendment to section 609(b) of the Federal Aviation Act of 1958 made by subsection (a) shall not apply to any offense committed before the date of enactment of this section.

(c) Section 902(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(b)) is amended—

(1) by striking out "(b) Any person who" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), any person who";

(2) by striking out "uses or attempts to use" and inserting in lieu thereof "sells, uses, attempts to use, or possesses with the intent to use," and

(3) by adding at the end the following new paragraph:

"(2)(A) Any person who violates paragraph (1) (other than by selling a fraudulent certificate) with the intent to violate any State or Federal statute relating to the transportation or distribution of any controlled substance as defined by the Controlled Substances Act shall be subject to a fine not exceeding $25,000 or to imprisonment not exceeding five years, or both.

"(B) Any person who sells a fraudulent certificate (as that term is used in paragraph (1)) with the knowledge that the purchaser intends to use such certificate in connection with any act violating any State or Federal statute relating to the transporting or distribution of any controlled substances as defined by the Controlled Substances Act shall be subject to a fine not exceeding $25,000 or to imprisonment not exceeding five years, or both.".

(d)(1) Chapter 2 of title 18 of the United States Code is amended by adding after section 35 the following:

"§ 36. Use of aircraft for narcotics purposes

"(a) Any person who operates an aircraft (as defined by section 1301 (31) of title 49 of the United States Code) with knowledge that such aircraft is, incident to such operation, used or intended to be used in the commission of an act which is a violation of any State or Federal statute relating to the transportation or distribution of any controlled substances as defined by the Controlled Substances Act shall be subject to a fine of not more than $25,000 or imprisonment for not more than 5 years, or both.

"(b) Any person convicted of a second violation of subsection (a) of this section, shall be subject to a fine of not more than $50,000 or imprisonment for not more than 10 years, or both.

"(c) Any penalty imposed for a violation of this subsection shall be in addition to, and not in lieu of, any penalty imposed under any State or Federal statute relating to the transportation or distribution of any controlled substances as defined by the Controlled Substances Act.".

(2) The table of sections for chapter 2, title 18, United States Code, is amended by adding after the item relating to section 35, the following:

"36. Use of aircraft for narcotic purposes.".

Mr. BENTSEN. Mr. President, I am pleased to offer today an amendment which I introduced to the Senate last summer as S. 1344. This measure would put a stop to the ever-increasing flow of illicit drugs coming across our borders by land, sea and air by putting some teeth into the law that covers smuggling by air.

We all know that drug smuggling is big business and involves millions of dollars a year, if not millions of dollars per transaction. Under current law, a person who pilots an aircraft involved in drug smuggling can only be fined a maximum of $1,000 and have his pilot's license suspended for no more than 1 year. There are absolutely no provisions for a jail sentence in the FAA regulations. Since we are dealing with people who stand to make thousands or hundreds of thousands of dollars with a planeload of illegal drugs, and who would not even go to jail, this penalty is little or no deterrent to the professional criminal.

Is it any wonder that we face this ever-increasing onslaught of drugs from across our borders? Is it any wonder that these pilots return again and again to the air to carry load after load of drugs into America? Is it any

wonder that with these kinds of penalties we cannot stop the ever-increasing menace of illegal narcotics? I propose that we do something now to put some real bite into our FAA regulations.

The amendment I am offering today, and which has been introduced by Mr. BENNETT, of Florida and 64 cosponsors in the House as H.R. 3485, substantially increases the penalties for pilots who smuggle drugs; this amendment will provide for the revocation of a pilot's license upon conviction of drug trafficking. For a first offense, it also will increase the possible fine to $25,000 or provide for a prison term of 5 years or both.

This should deter a professional criminal as well as give second thoughts to the more casual criminal who otherwise makes a legitimate living as a pilot. Further, if a person does choose to take to the air to smuggle more drugs after having been convicted and having his license revoked under this act, he will face a double sentence. The doubling will include a fine of up to $50,000 as well as an increased prison term of 10 years. The original $25,000 fine and 5-year prison term will also apply to the owner of any aircraft who knowingly allows their plane to be used for this type of criminal activity.

The Drug Enforcement Administration estimates that more than 3,000 airplanes are involved in illegal drug trafficking each year. The pilots of these aircraft, however, need not fear the force of the law so much as the possibility that their often overloaded planes will crash before they can reach some isolated airstrip in west Texas or Florida. If each of those planes carried 1,000 pounds of illegal drugs, that would equal 3 million pounds of illegal drugs imported into the country by air every year. If we can get these drug-smuggling pilots out of the air and into our jails, we will be making some real headway in our efforts to combat this enormous problem.

The amendment I am offering today will make some badly needed changes in our FAA regulations and will accomplish that objective. I am hopeful that the majority of my colleagues here today will join me in support of it and I hope that the majority of my colleagues here today will join me in support of it and I hope that the managers of S. 2572 will be able to accept this amendment.

Mr. President, I know of no opposition to the amendment. I move its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I support the amendment of the Senator from Texas. On our side, we would be happy to accept the amendment.

Mr. THURMOND. Mr. President, we think the Senator from Texas has offered a good amendment and we are willing to support it.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

Mr. BIDEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1363) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent that we now move to an amendment to be offered by Senator JEPSEN.

The PRESIDING OFFICER. The Senator from Iowa.

UP AMENDMENT NO. 1364

(Purpose: To assure the maximum Federal effort to curb the problem of pharmacy robberies)

Mr. JEPSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. JEPSEN) proposes an unprinted amendment numbered 1364.

Mr. JEPSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 227, after line 15, insert the following:

(C)(1) The Senate finds that—

(A) There has been an alarming increase in the number of pharmacy robberies since enactment of the Comprehensive Drug Abuse Prevention and Control Act of 1970;

(B) there is a serious need to ensure the maximum Federal effort in attempting to curb these often violent crimes; and

(C) this goal can best be accomplished through consultation between the relevant government agencies and those dealing with controlled substances.

(2) It is the sense of the Senate that—

(A) the Attorney General, in consultation with the Secretary of Health and Human Services, through the Administrator of the Drug Enforcement Administration should regularly meet with the Joint Commission of Pharmacy Practitioners to discuss this problem; and

(B) that in order to provide accurate and current information on the nature and extent of pharmacy crime the Department of Justice should collect relevant data and include pertinent results in its annual Uniform Crime Report.

Mr. JEPSEN. Mr. President, the amendment I propose is quite simple. It expresses the sense of the Senate that in order to assure the maximum Federal effort in attempting to curb the serious problem of pharmacy robberies, the Attorney General, through the Drug Enforcement Administration, should meet on a regular basis with the Joint Commission of Pharmacy Practitioners (JCPP).

In addition, my amendment calls upon the Department of Justice to collect and include data relevant to the pharmacy crime issue in the uniform crime report.

But before discussing my amendment, I would just like to take a moment and congratulate the distinguished chairman of the Judiciary Committee, Senator THURMOND, for getting this bill to the Senate floor. I know it has not been an easy task.

Furthermore, I would like to thank the chairman for including language in this bill which would make the robbery of a controlled substance from a pharmacy a Federal offense. As he knows, this has been a goal of mine for quite some time. Had the criminal code reform bill been brought up earlier this year, an amendment I submitted, which as I understand it would have been accepted, would have achieved the same results as the language in this bill. On behalf of the thousands of pharmacists who have contacted me to let me know their support for this language, I want to say thank you.

As the chairman will recall, in addition to the amendments I have offered on this issue, I have also introduced legislation in this area. S. 661, would make the robbery of a controlled substance from a pharmacy a Federal offense. But this bill also has a provision which attempts to insure an ongoing effort to halt these violent crimes.

Section 2 of S. 661 calls for periodic consultation between the Drug Enforcement Administrator, the Department of Justice, the Department of Health and Human Services, and the Joint Commission of Pharmacy Practitioners. The goal of these meetings would be to come up with additional recommendations on how best to deal with this problem.

Finally, Mr. President, section 2 calls upon the Justice Department to collect data relevant to the pharmacy crime issue and include it in the uniform crime report.

While the heart of my bill was the section dealing with the actual crime, I believe it is vital that we go one more step and assure that we continue to monitor the situation to insure that we are being successful in our efforts. Quite possibly the meetings and information could identify ways to improve enforcement of this law.

This resolution is not binding on the Justice Department, the Drug Enforcement Administration or the Department of Health and Human Serv-

ices. But it will give them an indication of the congressional concern for this problem. I strongly urge these agencies to comply with this resolution because if these meetings do not occur and this information is not included in the uniform crime report, then I intend to seek the adoption of legislation which will require it.

I trust this resolution can be adopted by the Senate by unanimous vote. It is important that we not back down from our efforts to end violent crimes in this Nation.

The organizations which comprise the Joint Commission of Pharmacy Practitioners are as follows:

American College of Apothecaries,
American Society of Consultant Pharmacists,
American Society of Hospital Pharmacists,
National Association of Chain Drug Stores, and the
National Association of Retail Druggists.

Mr. President, I yield back the remainder of my time and I move adoption of the amendment.

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

Mr BIDEN. Mr. President, the amendment is acceptable to us. We yield back our time.

Mr. THURMOND. We have no objection to the amendment.

THE PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1364) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, are there any other amendments to be proposed by anyone?

UP AMENDMENT NO. 1361, AS MODIFIED

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Pennsylvania. There are 4 minutes remaining to the Senator from South Carolina.

Mr. SPECTER. Mr. President, are we back on the amendment that the Senator from Maine and I offered?

The PRESIDING OFFICER. The Senator is correct.

Mr. SPECTER. Mr. President, I am prepared to modify my amendment to permit the exclusions set forth in section 3161(h) of title 18, except as to two exclusions——

The PRESIDING OFFICER. The Senator is advised that to modify his amendment will require unanimous consent.

Mr. SPECTER. Mr. President, I ask unanimous consent that my amendment include the exceptions set forth in section 3161(h), except for those exceptions for delay based upon the complexity of case and based upon the unavailability of essential witnesses, which are subsections (8)(B)(ii) and (3)(a) of that section.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment, as modified, reads as follows.

On page 28 add a new section 109 to read:

SEC. 109. Section 3164 of title 18, United States Code, is amended—

(a) by striking in subsection (b) the phrases "(a)(1) or" and "continuous detention or".

(b) by striking in subsection (c) the words "ninety day", and inserting in lieu thereof "sixty day".

(c) by relettering subsection (c) as subsection (d).

(d) by inserting a new subsection (c) as follows:

"(c) The trial of any person described in subsection (a)(1) of this section shall commence not later than sixty days following the beginning of such continuous detention. The periods of delay enumerated in section 3161(h), except for subsections (3)(a) and (8)(B)(ii), are excluded in computing the time limitation specified in this section."

Mr. SPECTER. Mr. President, just to add two more sentences——

Mr. BIDEN. Mr. President, does this Senator have time remaining?

The PRESIDING OFFICER. The Senator from Delaware has time on the bill.

Mr. BIDEN. Mr. President, I yield 1 minute to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SPECTER. Do I have time on this amendment?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPECTER. How much time did I have?

The PRESIDING OFFICER. The Senator had 15 minutes.

Mr. SPECTER. In that event, I accept the time from the Senator from Delaware.

Mr. THURMOND. Mr. President, how much time have I remaining on this bill?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. SPECTER. Mr. President, I have sought accommodation with the distinguished Senator from Maine (Mr. MITCHELL) so we would be unified in our approach to changing the time from 90 to 60 days.

I am prepared, as already noted, to accept most of the exceptions under section 3161(h), except for the provisions relating to complex litigation and essential witness.

If the provisions relating to complex litigation were an exception, it would be entirely possible to have the defendant held in custody for a very protracted period of time, perhaps as long as a year or more.

Similarly, if a trial were delayed because of the absence or unavailability of an essential witness, due to no major fault of the defendant, the period of delay could be for as long as a year or more.

With those two exceptions eliminated, I am willing to have the other provisons of section 3161 apply.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I just want to again say that the speedy trial act allows 90 days. The Justice Department feels that 60 days in some cases is not enough. They have investigations to make. They have witnesses to locate to bring into court. There is a bad policy to let criminals go loose for the sake of a few days.

Why do we want to shorten this to 60 days? The Justice Department sent a letter and said it would be dangerous to do so.

Mr. President, I hope the Senate will see fit to follow the Justice Department and the prosecutors over the Nation who feel they need the 90 days.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BIDEN. There are three votes that have a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. There are three votes now, stacked back to back, is that correct?

The PRESIDING OFFICER. There are two rollcall votes.

Mr. BIDEN. I think there are three. One on passage, I believe, was the third.

The PRESIDING OFFICER. The yeas and nays have not been ordered on passage.

Mr. BIDEN. I ask for the yeas and nays on passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Mr. President, I am going to reluctantly support the Senator from Pennsylvania. I think he was wrong in excluding the last two provisions. I hope if we are not successful here, we shall have hearings on the matter. I am going to support him, although somewhat reluctantly.

The PRESIDING OFFICER. Does the Senator from Delaware yield back his time?

Mr. BIDEN. I yield back the remainder of my time.

Mr. THURMOND. Mr. President, will the Chair state the first vote?

The PRESIDING OFFICER. The situation is this: There are three rollcall votes stacked back to back. Under the previous order, the first vote will be 15 minutes, the subsequent votes will be 10 minutes.

VOTE ON UP AMENDMENT NO. 1360

The question now is on agreeing to the amendment by the Senator from Arizona (Mr. DECONCINI).

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Missouri (Mr. DANFORTH) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BOREN) is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 63, nays 33, as follows:

[Rollcall Vote No. 381 Leg.]

YEAS—63

Baucus	Garn	Mitchell
Bentsen	Glenn	Moynihan
Biden	Hart	Nunn
Bradley	Hatch	Packwood
Bumpers	Hatfield	Pell
Burdick	Hawkins	Proxmire
Byrd, Harry F., Jr.	Heflin	Pryor
	Heinz	Randolph
Byrd, Robert C.	Hollings	Riegle
Cannon	Huddleston	Roth
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Cohen	Johnston	Schmitt
Cranston	Kassebaum	Specter
D'Amato	Kennedy	Stafford
DeConcini	Leahy	Stennis
Dixon	Levin	Tsongas
Domenici	Long	Warner
Durenberger	Mattingly	Weicker
Eagleton	McClure	Zorinsky
Exon	Melcher	
Ford	Metzenbaum	

NAYS—33

Abdnor	Gorton	Nickles
Andrews	Grassley	Percy
Armstrong	Hayakawa	Pressler
Baker	Helms	Quayle
Boschwitz	Humphrey	Rudman
Brady	Jepsen	Simpson
Cochran	Kasten	Stevens
Denton	Laxalt	Symms
Dole	Lugar	Thurmond
East	Mathias	Tower
Goldwater	Murkowski	Wallop

NOT VOTING—4

Boren	Dodd
Danforth	Matsunaga

So the amendment (UP No. 1360) was agreed to.

Mr. DeCONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

Mr. RANDOLPH. Mr. President, a point of order. The Senate is not in order.

The PRESIDING OFFICER. The Chair advises Senators that under the unanimous-consent agreement, we are to proceed to another vote, but we cannot do so until the question can be stated.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Was there a time limit set for the last vote and for the next two votes?

The PRESIDING OFFICER. Subsequent votes are limited to 10 minutes.

Mr. KENNEDY. Will the Chair tell us how long the last vote took, please?

The PRESIDING OFFICER. Twenty-two minutes.

Mr. KENNEDY. Will the Chair insist that we comply with the consent agreement on this vote?

VOTE ON UP AMENDMENT NO. 1361, AS MODIFIED

The PRESIDING OFFICER. The question is on agreeing to unprinted amendment numbered 1361, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Missouri (Mr. DANFORTH) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I also annnounce that the Senator from Oklahoma (Mr. BOREN) is absent because of illness in family.

The PRESIDING OFFICER (Mr. RUDMAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 32, nays 64, as follows:

[Rollcall Vote No. 382 Leg.]

YEAS—32

Andrews	Garn	Mitchell
Armstrong	Gorton	Murkowski
Baker	Hart	Packwood
Baucus	Hatfield	Pell
Biden	Johnston	Pryor
Boschwitz	Kennedy	Riegle
Burdick	Leahy	Rudman
Chafee	Levin	Specter
Cranston	Long	Stafford
Dole	Mathias	Weicker
Durenberger	Melcher	

NAYS—64

Abdnor	Goldwater	Nickles
Bentsen	Grassley	Nunn
Bradley	Hatch	Percy
Brady	Hawkins	Pressler
Bumpers	Hayakawa	Proxmire
Byrd, Harry F., Jr.	Heflin	Quayle
	Heinz	Randolph
Byrd, Robert C.	Helms	Roth
Cannon	Hollings	Sarbanes
Chiles	Huddleston	Sasser
Cochran	Humphrey	Schmitt
Cohen	Inouye	Simpson
D'Amato	Jackson	Stennis
DeConcini	Jepsen	Stevens
Denton	Kassebaum	Symms
Dixon	Kasten	Thurmond
Domenici	Laxalt	Tower
Eagleton	Lugar	Tsongas
East	Mattingly	Wallop
Exon	McClure	Warner
Ford	Metzenbaum	Zorinsky
Glenn	Moynihan	

NOT VOTING—4

Boren	Matsunaga
Danforth	Dodd

So Mr. SPECTER's amendment (UP No. 1361), as modified, was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I rise as a cosponsor of S. 2572, the Violent Crime and Drug Enforcement Act of 1982, to urge my colleagues to lend their support to this much needed measure, which is designed to reduce the level of criminal activity in our Nation. I commended the majority leader, Senator BAKER, for his willingness to bring this matter to the floor for debate prior to adjournment of the 97th Congress. By enacting this measure now, we will also have made it possible for the House of Representatives to act before Congress adjourns later this year. Most important, I believe this legislation has the overwhelming support of the American people who are disturbed with the extent to which criminal activity affects their lives.

The primary responsibility for law enforcement rests and should remain with State and local officials. And, of course, citizens too play a major role in helping to discourage crime. Across the Nation, citizens are organizing in their communities to form voluntary groups that keep watch for suspicious activity in their neighborhoods. The markings of valuables for identification; the making secure of homes and apartments; all of these activities can and do play an important part in the effort to prevent criminal activity. More needs to be done, however, including the enactment of strong measures which insure that those who commit a crime are not only apprehended but punished. That is precisely what we seek to achieve through enactment of S. 2572. And by adopting the reforms included in S. 2572, the Federal Government will set an example for the States.

S. 2572 is a comprehensive approach to violent crime and illegal drug trafficking in the United States. It contains certain important reforms of the criminal code including provisions to eliminate parole for Federal offenses, make it more difficult for defendants who are considered dangerous to a community to be released on bail, provide greater protection for victims and witnesses, increase sentences for illegal drug trafficking, and make it a Federal crime to kill, kidnap, or attack certain Federal officials.

I am particularly interested in the provisions in S. 2572 that strengthen existing penalties for trafficking in illicit drugs. The trafficking of illicit

drugs in the United States fosters crime. According to a recent study by the Rand Corp., the annual crime rate of inmates who had previously been both out of prison and addicted to heroin for a year or longer was 33.6 robberies, 67.6 burglaries, 4 assaults, and 68.5 thefts. These are annual rates, and they amount to 167 crimes a year by each addict. In contrast, inmates who did not use illegal drugs had, during the course of a comparable year on the streets, committed 2.3 robberies, 3.4 burglaries, 1 assault, and 6.2 thefts.

Much of the illicit drug supply enters the United States from abroad. In 1969, while serving as Assistant to the President for Urban Affairs, I traveled to Turkey and France on the President's behalf in an effort to enlist the cooperation of those Governments in our efforts to stem the flow of illicit drugs into the United States. Our efforts at the time were successful; both Governments, to different degrees, helped us.

However, the problem of illicit drugs entering our Nation from abroad continues. That is why I have introduced legislation that would direct the President to use his existing authority to halt American assistance to any, "foreign country whose government has failed to take adequate measures to prevent opium or any of its illicit derivatives from being produced or refined for illegal export to the United States."

My bill, S. 2670, is now pending before the Committee on Finance. And while that proposal cannot be considered in connection with the bill now before us, I do hope that the Senate will have an opportunity to consider it in the near future.

Finally, Mr. President, I believe the Congress will be taking a positive step today by enacting S. 2572. I urge my colleagues to support its enactment.

● Mr. GRASSLEY. Mr. President, the Senate has before it today a package of legislation designed to combat the rampant growth of crime in our society. While even our most intense efforts as a legislative body will not realistically halt all criminal activity, these reforms of our Federal criminal laws are a first step in dealing effectively with this problem.

I commend my distinguished colleagues from South Carolina and Delaware, Senator STROM THURMOND and Senator JOSEPH BIDEN, for their cooperative efforts in assembling this piece of legislation. I concur with them that we can no longer delay in taking action against crime. I believe that this proposal, drawn up in such a way as to attract support from both sides of the aisle, is one that can and should be enacted in this Congress.

Statistics illustrating the frightening rate of violent crime have already been cited before this body but bear mentioning again. The Federal Bureau of Investigation reports a murder is committed every 23 minutes, a woman raped every 6 minutes, and a robbery occurs every 58 seconds in this country. These grim facts should impress upon us society's critical need for protection and the urgency to which we should take steps to better provide an atmosphere of law and order. These steps should not be taken, however, without rational consideration of our country's dedication to personal rights. I believe the measure before us effectively supports the rights of citizens to live in a peaceable society while maintaining accused offenders' rights to due process of law as guaranteed by our Constitution.

One of the effects of an upward spiraling crime rate is the existence of more prisoners than can be accommodated in our correctional facilities. Between 1972 and 1978, State prison populations jumped 50 percent while capacity increased only one-quarter of that amount according to a study conducted for the National Institute of Justice. The following 3 years saw an influx of 60,000 prisoners into the overburdened State prisons.

This overstuffing of our correctional facilities breeds anxiety both inside and outside the prison bars. Poor conditions as a result of overcrowding are frequently cited as impetus for prison outbursts prompting State officials to scramble for ways to cope with what has become an emergency situation. One tendency in the court system has been to try to alleviate the problem somewhat by opting for probation in place of incarceration. But in the face of so many unsuccessful rehabilitative efforts, this leaves some violent offenders unpunished and society unprotected.

Title VIII of this bill, drawn from S. 1422 which I introduced last year, would hopefully lessen this burden on States to deal with overcrowded prisons. This title would authorize the donation of surplus Federal property to any State for the construction or modernization of correctional facilities. While not a final solution to prison crowding, this would provide States with some much needed aid and help foster a cooperative relationship between Federal and State Governments.

Title II of this bill, similar to S. 2420 which I cosponsored, addresses the problem of intimidation of witnesses or victims involved in the criminal justice process. That process is placed in grave danger if offenders or their accomplices successfully circumvent our justice system by way of threat or harm to witnesses. In many cases the absence of witness testimony prevents judicial officers from possessing enough evidence to detain violent offenders. This again results in accused criminals escaping punishment and the public facing increased danger.

This title establishes criminal penalties for annoyance or harm of witnesses or victims before, during or after a criminal justice proceeding. It is the intention that the establishment of these criminal penalties will act as a deterrent to those who attempt to hinder or retaliate against victims or witnesses. But as an added measure, the title also authorizes the Attorney General to take steps to provide additional protection to victims and witnesses.

Among title IX's "Miscellaneous Criminal Justice Improvements" is a measure to correct a void in our Federal laws regarding robbery of controlled substances from pharmacies. This provision, drawn from S. 1025 which I introduced, would extend Federal jurisdiction and penalties to pharmacy robberies and hopefully deter the rash of robberies, assaults and murders connected with drug stealing.

In the last decade, armed robberies to obtain federally controlled substances from pharmacies have increased by 150 percent—far in excess of the national robbery rate. The aspects of this siege on pharmacies become even more grim considering 1 in 5 of these robberies results in death or injury to victims. Providing Federal sanctions against this crime will unify the existing punishments available under varying State laws and make known to possible offenders the threat of strict Federal penalties for such crimes.

The other titles to this bill address many areas of Federal law in need of revision including important measures to strengthen our laws against the drug trafficking industry. Although this package remains an incremental approach to revising our Federal criminal statutes, as opposed to earlier efforts at a complete revamp of the Federal Criminal Code, it provides us with an opportunity to launch an important first step in striking out against crime. It is my hope that my colleagues will join me in supporting this measure and restoring the public's confidence in our ability to act against crime.●

Mr. LEAHY. Mr President, the bail provisions in S. 2572 are a sincere attempt to deal with at least one piece of the violent crime puzzle, crimes by defendants out on bail. At the same time the bill eliminates the inequity of the money bail system, which permits dollars to be the keys to the jailhouse. Both of these are commendable goals. But any preventive detention measure will raise problems in protecting the rights of the accused, as well as practical problems for the courts and prosecutors. I am happy that on its journey to the Senate floor, the bill has received some important improvements,

including unanimous acceptance of an amendment I recently proposed.

First, a few words about the problems. Preventive detention means that a significant period of incarceration will often occur before a determination of guilt. The constitutional presumption of innocence will not mean a great deal unless the period of detention is made as short as possible. The period of detention is only as short as possible if there is a ready staff of prosecutors able to prepare and try cases on short notice, even in the face of a large, existing docket. To maintain a staff able to accommodate peak loads means one thing—high costs.

The U.S. attorneys are already strapped for resources and face further cutbacks. Yet, the predecessor to this bill, S. 1554, would have imposed mandatory detention hearings for a host of crimes. These hearings would have covered an extensive number of issues. It would have caused a kind of bail plea bargaining to conserve valuable prosecutorial resources. To do otherwise would have jeopardized bringing those resources to bear to insure speedy trials. Yet, a speedy trial is the one criminal justice tool that has been shown to cut the number of crimes committed by people released pending trials.

Moreover, the kind of detention hearing contemplated by the original bill would have given defendants a substantial advantage in discovering the prosecution's case and in setting up defenses before the Government has had the chance to prepare its case.

To help alleviate these problems, I proposed an amendment to S. 1554 to limit application to cases where the U.S. attorney files a motion for preventive detention, enabling the judge to weigh the evidence that the accused would be a danger to the society if released pending trial. If the U.S. attorney has discretion not to file such a motion, his limited prosecutorial resources will not be strained in every case, with obvious cost savings. A very similar proposal was incorporated into S. 2572, but the bill would have extended to the court the same discretion as that of the U.S. attorney. I was prepared to file an amendment to limit the judge's own motion to cases where the defendant might flee or where he might attempt to obstruct justice. I was pleased that this change has been acceptable to all parties.

Let me add that practicality and fairness are closely related in this bill. If a U.S. attorney can limit the number of cases in which preventive detention will be applied, there is a real chance that he can insure a speedy trial in each of those cases. Again, speedy trials can minimize the chance of violating the defendant's constitutional rights. For this reason I urge my colleagues to support Senator SPECTER's amendment requiring a trial in 60 days. In allowing prosecutors to focus their resources on cases where they regard preventive detention as essential, defendants will either have the right to pretrial release or have a rapid determination of their guilt or innocence. This result gives prosecutors the flexibility of urging preventive detention where it is necessary and preserves the essential personal rights of defendants. And a byproduct of protecting both of these important interests is a saving in public funds that would otherwise be spent on unessential pretrial detention.

Mr. GLENN. Mr. President, I ask unanimous consent that my name be added to the list of cosponsors of S. 2572—the Violent Crime and Drug Enforcement Improvements Act of 1982. I commend the sponsors of the bill for their skill in developing a bipartisan anticrime package around which there is broad consensus and for their ability in bringing this legislation up for consideration by the full Senate. While S. 2572 falls short of the extensive reformation of the Federal Criminal Code which is needed, it nevertheless is a significant step in the right direction: It puts much of the get-tough-on-crime rhetoric into action. Among other things, the bill will make it tougher on the violent criminal and the drug trafficker and its new bail and sentencing provisions will slow down what has been described as the revolving door of the criminal justice system.

Most of the bill's provisions have been previously considered or approved by the Senate Judiciary Committee either as separate pieces of legislation or as part of the Criminal Code reform bill.

In my remarks that follow, I will briefly address the burgeoning crime problem in this country, including the role of Congress in the war on crime, my legislative efforts and the provisions of S. 2572.

CRIME

The public is outraged by the burgeoning crime problem. Crime has created fear and anxiety in each one of us—and for good reason: The Justice Department has reported that nearly one out of three households was touched by serious crime last year. This fear has begun to permeate our society with people locking their doors, barring their windows and arming themselves. Often the victims of crime are those least able to defend themselves; the elderly, for example, are easy prey for the violent criminal.

A serious crime is committed in this country every 2 seconds. Violent crimes are committed with the appalling frequency of one every 24 seconds: A murder is committed every 23 minutes, a forcible rape every 6 minutes, a robbery every 55 seconds and an aggravated assault every 49 seconds. Crimes against property occur with the even greater frequency of one every 3 seconds: A larceny-theft is committed every 4 seconds, a burglary every 8 seconds, and a motor vehicle theft every 29 seconds. In addition, 4 arson fires are set every hour of every day.

The increase in crime often correlates with the increase in international drug trafficking. In 1980, revenues from illicit drug trafficking in this country rose from $64 billion to $90 billion. The rate of violent crime during 1980 rose 11 percent over 1979. In Dade County, Fla., which is known for its active drug activity, violent crime increased 18 percent during 1980. The Dade County Medical Examiner estimated that 30 to 40 percent of the county's violent crimes were drug related. Some law enforcement officials place this figure around 50 percent.

There are also studies that support the correlation between the availability of drugs and increased crime. A study by Temple University is a notable example. The study found that 237 drug addicts were responsible for more than 500,000 crimes over an 11-year period. According to the Drug Enforcement Agency:

> Narcotics trafficking frequently involves violent crime; invariably breeds violence; it questionably causes acute misery and, in many instances, death. It also generates huge profits that can be used to avoid detection and finance further organized crime enterprises.

CONGRESSIONAL ROLE

Although only about 6 percent of crime falls directly under Federal control, Congress can nevertheless make a significant contribution to the war on crime.

First, Congress must take prompt, aggressive and decisive action which will impact on the entire crime problem. This will send a signal to the rest of the country that it is serious about getting tough on crime.

A year ago, the Senate, by a vote of 95 to 0, passed Senate Joint Resolution 141, thereby signaling its intention to address the crime problem as one of its major priorities. I was pleased to have been a cosponsor of that measure. Unfortunately, the momentum was lost. In the year that followed, the Congress failed to consider any comprehensive anticrime legislation, including the Criminal Code Reform bill or the Democratic crime package. However, S. 2572 again presents Congress with the opportunity to signal its commitment—to weigh in for the fight against crime. Although I am confident the Senate will pass this measure, the prospects for passage by the House during the 97th Congress appears less certain.

Second, Congress must devise and implement new and effective approaches to the crime problem which will serve as a model for the States.

The bail and sentencing provisios contained in S. 2572 are examples of model legislation which could be adopted by the States.

Third, Congress must provide assistance to the States. Although budgetary restraints will make this difficult, it will not be an insurmountable task. For example, the Senate recently passed S. 1422 which would authorize the donation of Federal surplus property to States for the modernization and construction of prisons and correctional facilities. I cosponsored this measure because it will help States to overcome a critical shortage of prison space without the expenditure of Federal funds. Moreover, many States, including my home State of Ohio, face court orders which will require the construction of additional prison facilities.

The Federal Government can also provide technical assistance to States in their fight against crime. The antiarson research and training programs of the U.S. Fire Administration, for example, have provided invaluable assistance to States and localities in their efforts to combat the crime of arson. The agency has helped to establish over 300 Federal, State, and local arson task forces, developed an arson information management system and provided training in antiarson techniques. The assistance provided by the Bureau of Alcohol, Tobacco and Firearms in arson investigations and laboratory analyses is another example of how Congress can assist States and localities. Congress should seek to expand such forms of assistance rather than reduce or eliminate it as proposed by the administration.

Finally, Congress must concentrate on those areas of criminal law enforcement which have traditionally been a responsibility of the Federal Government. Congress must provide adequate funding for Federal law enforcement agencies. It must seek better coordination between Federal agencies with overlapping jurisdiction. For example, there are at least eight major Federal agencies with significant antiarson responsibilities. I introduced legislation which would create a Federal interagency task force to coordinate the antiarson activities of these agencies. The Democratic crime package contained a proposal to create a new Cabinet level post to provide for better coordination of Federal efforts to combat the illegal drug problem. Congress must also improve upon the ability of the Federal Government to deal with crimes which are national or international in scope. The resources of the Federal Government, for example, can be used to help halt the flow of illicit drugs into this country before they reach our shores and to fight organized crime which often operates across interstate boundaries.

ARSON

I have concentrated my anticrime efforts against the deadly, billion dollar crime of arson.

Arson in the United States:

Represents the highest rate of arson in the world;

Has become this Nation's fastest growing crime, quadrupling in the last 10 years and increasing tenfold in dollar losses;

Represents 25 percent of all fires and also 25 percent of our fire insurance premiums;

Kills 1,000 people annually;

Injures as many as 10,000 more;

Causes direct property losses of at least $1.7 billion; and

Results in indirect losses estimated at up to $15 billion.

I have introduced antiarson legislation in the last three Congresses. Several years ago, I succeeded in having arson classified as a major or "Part I" crime for purposes of the FBI's Uniform Crime Reports. Each year this classification is extended by virtue of being included in the Department of Justice authorization bill.

Last year, I introduced S. 294, the Antiarson Act of 1981. A month ago, the Senate Committee of Governmental Affairs favorably considered this measure.

On September 22, 1982, the Senate passed S. 294 as an amendment to another antiarson measure, H.R. 6454. If enacted, it will require the FBI to permanently classify arson as a "Part I" crime. This will insure that we obtain accurate, reliable statistics on arson so that we can begin to effectively combat this burgeoning crime.

I have also introduced legislation, S. 2438, during this session of Congress which would make it clear that Federal jurisdiction exists over arsons involving property used in or affecting interstate or foreign commerce. In addition to resolving a split of authority among several U.S. Circuit Courts of Appeals over the scope of Federal jurisdiction in certain arson cases, the bill would facilitate the proof in many major arson cases. The companion version of this legislation, H.R. 6454, along with my "Part I" amendment will likely be enacted into law prior to the October adjournment of Congress.

Finally, I fought against the elimination of the antiarson programs of the U.S. Fire Administration and the Bureau of Alcohol, Tobacco and Firearms. I recently introduced Senate Concurrent Resolution 89 to express the support in Congress for the antiarson research and training programs of the Fire Administration. This agency is so important because it provides the Federal focus for our antiarson efforts.

I have also urged Congress to fund the antiarson activities of the BATF. This agency investigates major arson-for-profit schemes which are perpetrated by white-collar criminals, arson rings and organized crime which operate across interstate boundaries.

S. 2572

While there are issues that must be resolved during the Senate's consideration of S. 2572, the bill represents a positive advancement in the fight against crime. S. 2572 consists of nine separate titles as follows:

Title I contains bail reform provisions. The most important provision in this title would permit "danger to the community" to be considered in determining whether or not to release a defendant pending trial or if release is appropriate, in determining conditions for release. Under current Federal law, the only consideration concerning release is whether or not a defendant will appear for trial. While this consideration is of obvious importance, we simply cannot continue to ignore the safety and protection of our communities. In addition, the bill contains safeguards to protect the rights of the accused during pretrail bail determinations. This includes the right to a hearing by a judicial officer.

Title II essentially incorporates the Omnibus Victim Protection Act of 1982, of which I am a cosponsor. This title provides for the protection of victims and witnesses. We must not forget the rights of innocent victims who are the objects of crime. Nor can we forget the safety of witnesses who are so vital to our criminal justice system. Title III provides for increased fines and penalties for drug trafficking. Title IV would make it a Federal crime to assault, kidnap or murder certain high Government officials.

Title V would help restore confidence to our criminal justice system by providing for uniformity in sentencing. The bill provides for a system of determinate sentencing and abolishes parole. Title VI would strengthen the current criminal forefeiture laws relating to racketeering and drug trafficking offenses.

Title VII would change the procedures for dealing with mentally ill persons in the Federal criminal justice system. It would also replace the Federal insanity defense with a much more narrow defense. In the aftermath of the Hinckley verdict, there has been a nationwide furor over the insanity defense. However, our shock at the verdict must not lead us to enact hasty, ill-conceived legislation.

Accordingly, Title VII has been deleted from the bill. This will allow time for additional hearings to be conducted so that a thorough, careful reexamination of the seldom used but troublesome insanity defense can be undertaken. Such an examination should take into account whether or not the defense places too much of a burden on the prosecutions well as psychiatrists who are asked to make

both moral and psychological judgments.

Title VIII would provide for the donation of Federal surplus property to States for use as prison and correctional facilities. The bill incorporates S. 1422, which I previously referred to, and will provide invaluable assistance to States. The final title of S. 2572 contains a number of amendments which would improve our ability to deal with violence crime and drug offenses.

CONCLUSION

I feel that the Violent Crime and Drug Enforcement Improvements Act of 1982 represents a reasonable, balanced approach to the crime problem. However, in dealing with future anticrime initiatives, we must guard against two dangers.

First, we must not let the furor over crime blind us to the rights of those accused of crime. In this regard, there are extremely important constitutional rights which protect all of us from deprivations of liberty and overzealous law enforcement. These include the right to be free from unreasonable searches and seizures, the right of due process of law, the right against self-incrimination and the right to counsel. These rights should never be compromised. Part of America'a greatness is that it stands apart from repressive regimes aroung the world that have no regard for the fundamental liberties of their citizens.

Second, we must guard against demagoguery. We must resist the impulse to just jump on the bandwagon because crime is now a ripe political issue. We must formulate thoughtful, careful, reasoned solutions to the crime problem. We should each take a careful look at the various anticrime proposals to determine which measures are in the best interests of our country and our constituencies. Blind support for tough but unwise anticrime measures will cause us more harm than good.

Mr. SASSER. Mr. President, I am pleased that the Senate has taken this important step to send a message to criminals that the open season on the people of this country is over.

In this country, violent crime rose by 11.1 percent in 1981, and law enforcement personnel are convinced that this surge of criminal activity is largely drug related. Drug trafficking is "big business" for organized crime. The estimate for the value of the illicit drug trade is $64 billion. That figure would make it the second largest corporation in the United States, behind Exxon and slightly ahead of Mobil.

The byproduct of this illegal industry is more violent crimes every year. In my own State of Tennessee, there were 20,824 violent crimes in 1980. These include 10,427 assaults, 8,208 robberies, and 489 murders. Other States fared no better. Georgia's violent crime total was 29,993. Florida is experiencing a virtual crime epidemic due to increased drug activity. Its violent crime total for 1980 was 94,095, including 1,387 murders. These are the kinds of crime that touch most people's lives—muggings, robberies, thefts, and often murder.

Many of us whose States are particularly affected have on numerous ocasions given graphic accounts of the results of this crimewave; instances of defendants putting down millions of dollars for bail and vanishing; of witnesses intimidated or killed; of justice frustrated.

The legislation we have passed today is the first step in reversing that sorry record. S. 2572 is a compromise bill incorporating sections which have been introduced as separate legislation and many extensively debated.

I am grateful that the bill incorporates legislation I introduced last year which makes the theft of a controlled substance from a pharmacy a Federal crime.

As the demand for drugs covered by the Controlled Substances Act has increased and as other sources for these drugs have been effectively eliminated, the criminal element has turned to retail pharmacies to supply certain narcotics. Under current law, while these drugs are controlled by Federal law, when a pharmacist is robbed because he has these drugs on hand, the Federal Government can do nothing to give him help. It does not have the jurisdiction. The Federal Government controls who may prescribe drugs and for what illness. It sets penalties for illegal sales and possession. The Federal Government has done a very good job of drying up many traditional illicit sources of drugs. Paradoxically, that is one of the reasons drugstore robberies have increased. Our pharmacists need help and they need it now.

I do not think that we should allow any more delay. In 1980, I held hearings in the Senate Small Business Committee where this matter was discussed. I heard from pharmacists who live in daily fear of the crime that afflicts their industry. They have been victims and their friends have been victims. It is an unfortunate fact of life in their business. They fear not only for their property but also for their lives. In hearings this June before the Judiciary Committee, we heard again from the pharmacists—and we heard that things are getting worse. So I am glad that we are finally passing legislation dealing with this problem.

The bill we are passing today will provide the national commitment which is needed if we are to cope with the threat of crime.

Mr. CANNON. Mr. President, I rise to express my support for the prompt adoption by the Senate of S. 2572, the "Violent Crime and Drug Enforcement Improvements Act." I am pleased to be a cosponsor of this urgently needed legislation.

Mr. President, during recent visits to my State, I have heard from my constituents on this subject. I have heard from the elderly, the young—people of all ages. And they all fear the same thing: They are fearful for their safety, and they want someone to do something about violent crime in this country.

Well, Mr. President, I am in total agreement with my constituents. The incidence of violent crime in the United States is appalling. And I believe that something can be done to reduce violent crime. Make no mistake, there is much to do. However, I believe that the provisions of S. 2572 are a good first step toward achieving this goal.

Each of the provisions of this bill—bail reform, drug enforcement, sentencing reform, and others, are credible, useful changes which, I believe, are necessary toward curbing violent crime. Mr. President, we all know the statistics—we all know why we desperately need this legislation. There is a murder every 23 minutes in this country; a woman is raped every 6 minutes; there is a robbery every 58 seconds and a burglary every 8 seconds. The Drug Enforcement Administration reported that during 1981 it seized cash and property valued at $161 million from drug violators. Certainly, the illegal profits from drug trafficking count in the billions of dollars. Is it any wonder, Mr. President, that people in this country fear for their safety and do not want to venture outside their homes at night? Violent crime jeopardizes the very life and liberty of each and every American.

I want to discuss briefly some of the provisions in this legislation which I believe are important. First, bail is a prime problem in the criminal justice system. How often have we seen in news accounts stories of persons who have been accused of violent crime and are free on bail to commit other crimes? How often have we seen those who are caught redhanded in the course of a burglary or robbery freed from jail before the victims have left the hospital? I believe that the change in S. 2572, which permits danger to the community to be considered in determining whether to release a defendant pending trial, is a change that can work and one that can be adopted under criteria that are clearly constitutional.

Another important part of this bill increases penalties for drug trafficking. Mr. President, I cannot emphasize enough how important this title of S. 2572 is. Drug trafficking has become a multibillion-dollar business in this country, and it is affecting the health and well-being of our children. I be-

lieve we must take stern measures against this illegal drug trafficking, and I applaud the authors of this bill for including these critical changes.

I also support the far-reaching provisions of the sentencing title. I believe that they will bring some regularity, conformity, and strength to the current sentencing system. Many experts have shown us that our existing sentencing system is not working, and I believe that these changes are essential to the fight against violent crime.

In closing, Mr. President, I am proud to be a cosponsor of S. 2572, and I urge my colleagues to vote for its adoption.

Mr. BENTSEN. Mr. President, once again, I wish to express my support for this bill and to commend my colleagues on the Judiciary Committee in proposing these much-needed changes in our criminal law. I am especially pleased with section 3174, which imposes additional and consecutive penalties on defendants who are convicted of an offense committed while on pretrial release for a separate crime.

This is a concept which I have supported and which is embodied in S. 1357, which I introduced on June 11, 1981, and which has been cosponsored by Senators BOREN, GARN, HOLLINGS, CHILES, NUNN, EXON, ZORINSKY, DECONCINI, HEFLIN, BYRD of Virginia, COCHRAN, LONG, PELL, HELMS, DENTON, HAWKINS, EAST, PRYOR, SASSER, JOHNSTON, and SYMMS.

Under our current system, when an individual is arrested for the commission of an offense, there is a fairly good chance that he will be released until a trial date has been set. I recently contacted the Federal pretrial services of the probation division of the U.S. courts. They advised that in 10 Federal Judicial Districts set up as pilot projects for the years 1976 through 1981, there were 36,103 individuals arrested. Of these, 31,915 were released pending their trial. That is 88.4 percent of those arrested in the Federal system. What do these individuals do after they are released? Studies substantiate that they take this opportunity to go back out onto the streets and commit yet another crime. One study reveals that one out of every six defendants is rearrested during the pretrial period.

The Judiciary Committee recommends two important changes to remedy this flaw in our judicial system. First, it substantially revises the Bail Reform Act of 1966, and allows a defendant's potential danger to the community to be placed on an equal footing with the risk of flight considerations by a judge in making his pretrail release decisions. It also, for the first time, recognizes that the commission of crimes by individuals released on bail is a serious matter that can and should be addressed at the Federal level.

Second, the bill establishes new penalties if a person is convicted of an offense while on pretrial release. If the individual commits a felony, he is subject to a term of imprisonment of not less than 2 years nor more than 10 years. If the offense is a misdemeanor, the individual is liable for a term of not less than 90 days nor more than 1 year. These penalties are in addition to the penalties for the offense which the defendant originally committed. More importantly, however, this penalty will be imposed consecutively to any other sentence of imprisonment.

This change is vital to our judicial sytem, Mr. President. It sends a clear signal to the criminal that he will not be able to commit two or three crimes for the penalty of one. Each new crime will be penalized with consecutive additional penalties. It will be a strong deterrent to the commission of additional offenses while on pretrail release. I urge my colleagues to support this measure.

Mr. KASTEN. Mr. President, people in this country are sick and tired of crime. They want something done to keep their cities and neighborhoods safe. It is time for Congress to enact legislation which will deal with the problem of crime.

Under our present judicial system, the punishment often fails to fit the crime. People are not being deterred from criminal activity—they have found that crime really can pay. Those with long police records are often back on the street within days. Even when a person is caught in the act of committing a crime, he may never go to jail. The bill before us today, the Violent Crime and Drug Enforcement Improvements Act of 1981, addresses these problems, and would help bring the crime situation in this country under control.

The bill contains provisions which are designed to make our judicial system tougher, and fairer. The sentence reform provisions make clear that those persons convicted of crimes will serve a sentence equal to the crime. The controlled substances provisions will tighten the laws against drug dealers and will protect our children by providing tougher penalties for drug dealing near schools.

And the bail reform provisions will make it tougher for someone to be put back out on the street after committing a crime.

Mr. President, these provisions and the others which make up this bill will send a message to criminals that they can expect to pay, and pay dearly, for unlawful behavior. It will tell the American people that Congress is working to free them from the ever-increasing fear of crime. I strongly support this legislation, and I urge my colleagues to join me in voting for it today.

Mr. BAKER. Mr. President, I thank the distinguished chairman of the Judiciary Committee. Senator THURMOND, and the distinguished ranking minority member, Senator BIDEN, for their fine leadership in bringing the Violent Crime and Drug Enforcement Improvements Act of 1982 before the Senate. Many hours of hard work have been devoted to developing this measure and I believe it is perhaps the most important bill to strengthen the Nation's law enforcement efforts to come before the Senate this year.

The most essential reform contained in this bill concerns the setting of bail for defendants in criminal cases. The new standards set forth will permit the courts to refuse bail to those defendants considered a threat to other persons in the community and allows the courts greater discretion in setting conditions of pretrial release on bail.

The importance of this reform cannot be overstated. Recent surveys in the Federal courts show that of 730 persons arrested for Federal drug law violations in the southern district of Florida in 1979 and 1980, 669, or 92 percent, were released on bail prior to trial. Of these, 118, or 17.6 percent, failed to appear, and 73 percent of those are still fugitives from justice. This is more that eight times the national average. Clearly something must be done to remedy this intolerable situation, and the new bail reform act will be a major step in that direction.

Another important reform contained in this bill is the restructuring of sentencing procedures. Presently, there is little guidance to the courts in their sentencing responsibilities.

The sentencing authority of the courts has been eroded over the years due to the increased decisionmaking powers of the parole authorities. Sentencing authority should be returned to the courts, but with guidelines set forth to insure fairness to all defendants, regardless of which district court has jurisdiction. Title V is designed to remedy this situation and will bring new respect to sentencing by the courts.

Another tool of law enforcement greatly enhanced by this bill is the procedure for criminal and civil forfeitures. For the first time, Federal agencies would be allowed to turn over seized property to State and local agencies in order to encourage increased cooperation with Federal authorities. This forfeiture process would be streamlined for greater efficiency.

The crime package also provides for the transfer of Federal surplus properties to State and local governments for use as jail facilities. The Senate has already approved this action, but the House of Representatives has not yet considered S. 1422. The lack of jail fa-

cilities is the No. 1 problem facing law enforcement authorities in the country.

The many important provisions of this "anticrime" bill will help the Nation in continuing its efforts in the war against drug smugglers and other criminals. Senator THURMOND, Senator BIDEN, and the bill's 61 cosponsors are to be commended for their outstanding contribution.

Mr. President, I ask unanimous consent to have printed in the RECORD analyses of certain titles of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANALYSIS

S. 2572—AMENDMENTS TO TITLE I—BAIL REFORM

I. Amendment to proposed 18 U.S.C. § 3142(d)—Temporary Detention to Permit Revocation of Conditional Release.

This subsection permits the courts to order a defendant detained for up to ten days if that defendant is on probation or parole from a federal or state offense or out on bail for pending charges. The purpose is to allow the appropriate concerned official time to act to obtain an arrest warrant or a detainer against the defendant before he has the opportunity to flee the jurisdiction. This is an excellent provison, but should be expanded in two directions—(1) to give the appropriate officer reasonable time to act and (2) to include aliens who are deportable if they are found guilty of committing an offense so as to provide the INS with an opportunity to exercise more control over the vast number of illegal and non-immigrant aliens in this country. This proposed amendment to the temporary detention subsection would accomplish both goals by (1) expanding the detention period to an automatic ten working days and (2) by including illegal and non-immigrant aliens in the classification of persons who are on conditional release.

The ten working day period should be the minimum period of detention since the bureaucracies of the federal, state, and local governments cannot respond to requests much sooner. For example, the INS in Miami is so burdened that it cannot respond to all of the requests for checks now being issued by the various state, local and federal agencies. It is estimated that 30 days would be the minimum necessary for the INS to respond to a request for checks on even a few of the defendants. By expanding the period to an automatic ten working days, the government agencies will at least have a fighting chance. With only ten days, their response time is cut substantially. For instance, if a person has a bail hearing on Friday afternoon before a three-day weekend, the Government would in effect only have four days within which to act since five days would be holidays and the Government would presumably have to respond to the Court at its regularly scheduled calendar on a Monday, which is the tenth day. If the officers are going to have ten days to act then they should have ten days during which they will actually be working.

Non-immigrant aliens as defined in the Immigration and Nationality Act are permitted to enter the United States on the condition that they are not coming here for the purpose of residing permanently. They almost always retain foreign passports and are free to leave this country at any time. Their connections with this country are usually much more tenous than those of citizens and permanent residents. Moreover, non-immigrants and illegal entrants are here at the sufferance of the United States, which has the authority to initiate deportation or exclusionary proceedings for the person who violates the laws of the United States. The INS should be given the opportunity to at least check defendants and place a detainer against them in order to obtain their custody for deportation or exclusionary proceedings. Otherwise, a mockery is being made of the nation's immigration laws.

The language to be added at the end of the paragraph in subsection 3142(d) is needed only to remind the courts that the Attorney General, through the INS, has separate authority under law to set bonds for aliens subject to deportation and exclusionary hearings and even for entry into the U.S. The Courts, especially in the Southern District of Florida, have usurped this authority from the Attorney General by informally advising the U.S. Attorney and the INS that if it exercises its authority to set bonds once an alien has been arrested in federal court, that the courts will release the defendant without bond. The Courts have no power to set aside the authority of the Attorney General as provided by Congress and should be reminded of that.

Finally, the burden is placed upon the defendant to prove that he is a citizen or lawful permanent resident. The burden of proof he must meet is the lightest of all—he must prove it to the "satisfaction" of the court. Such proof could logically be met by presenting one's voter registration identification card, birth certificate, passport, or even the testimony of friends, family and the defendant himself. The burden would then shift to the government to present contrary evidence, if it has any. If the Government had the responsibility of initially bearing the burden of proof, then the subsection might as well be deleted, because Government machinery could not normally respond in the day or so between arrest and the defendant's hearing. If it could, then the ten day temporary detention would not be needed at all. To ask the defendant to identify his citizenship and immigration status is not a real burden upon him and is not an unreasonable condition of bail in any event.

The major caveat to this change is that the Government still has the burden of proving that the defendant may flee the jurisdiction or pose a threat to the community, even if he is an illegal alien, before the Court can order the temporary detention.

II. Proposed amendment to § 3142(i)—contents of detention order and the addition of a new subsection (j)—custody while awaiting trial.

These amendments are proposed for the purposes of imposing statutory requirements upon the Attorney General in his duties for maintaining persons in custody while awaiting trial and to limit the authority of the court so that the Marshals will not be faced with a separate requirement for each and every person in custody, depending upon the various detention orders.

First, subsection (i)(1) is amended to allow judicial officers to either set forth all findings of fact and reasons for detention in the detention order itself, or to adopt by reference the findings of fact and reasons for detention as set forth orally at the detention hearing where that has occurred. The defendant would be able to obtain a copy of the transcript of the detention hearing proceedings, so his due process rights are not being abridged. The judicial officer has the same judicial responsibility but is relieved of the clerical duty of stating all the actions of the hearing in a separate written order.

Secondly, with the proposed amendment a court's detention order will merely read such as follows: "ordered detained in the custody of the Attorney General of the U.S. pursuant to 18 U.S.C. S3141(e) and (j)", or in case of temporary detention, "pursuant to 18 U.S.C. S3141(d) and (j)". Because all of the other conditions set forth in the present 3141(i) are to be included in the new subsection 3141(j), there will be no need for setting these duties out in each and every detention order. The primary reason for this change is to relieve the marshals of the burden of complying with detention orders that may well include different conditions for each and every person in custody. It will also relieve the courts of the burden of hearing and ruling upon each and every defendant's special needs. It places the responsibility for determining the safety and health needs of the persons in custody upon the Attorney General rather than several hundred judicial officers, allowing standards to be set forth so that persons can be treated as equally as possible. The person in custody has his rights protected by this legislation, probably more so than the case may be under some courts' orders. The standards set forth in subsection (j) clearly provides for more lenient custodial conditions for persons who have not been tried than for any other class of prisoner.

ANALYSIS

S. 2572—AMENDMENTS TO TITLE IX—FORFEITURE PROVISIONS

The proposed amendments to the forfeiture provisions contained in S. 2572 are concerned mainly with Parts C and a new Part D. Part C would be eliminated and a new part substituted that would create a forfeiture fund for Jusice. Part D would amend the civil forfeiture provisions of the Tariff Act to allow Customs and D.E.A. to operate more efficiently while providing the same rights for claimants of seized property. Furthermore, for the first time Customs and D.E.A. would be allowed to transfer forfeited property such as cars, planes, boats, radio equipment, etc., directly to state and local law enforcement agencies who assist them in the enforcement of the laws of the United States. This would be a boost to federal/state cooperation and would fit in with the Administration's new federalism program.

The major feature of the proposed amendments is the establishment of forfeiture funds both for the Department of Justice (to be used for controlled substance violations only) and for Customs (Sec. 609 and Sec. 618 of this Act). The primary purposes of such special operating funds are: (1) to remove certain "contingency appropriations" from the agencies' budgets, thereby resulting in budget savings, (2) to provide for greater efficiency in the handling of seized and forfeited property, and (3) to eliminate the irony that the agencies' operating funds for enforcement actions are decreased by the amount of monies spent as expenses on forfeitures, which has the net effect of reducing Customs' funds for more direct law enforcement purposes.

Included in the Customs and D.E.A. appropriation are amounts for care and storage of seized property and purchase of in-

formation and/or evidence. However, by their very nature, these expenditures are not subject to agency control or prediction (i.e., Operation Florida). Establishment of the forfeiture funds logically removes consideration of these items from the budget and places control of the funds in the appropriate Congressional oversight committee. This would have eliminated $9.5 million in Custom budget request for fiscal year 1981.

Under present law the costs of handling each seizure are deducted from the proceeds of that seizure, if any. The resulting "net proceeds" are then transferred to the General Fund in the Treasury. But if the proceeds do not exceed the expenses, the agency must cover the expenses out of its regular budget. In other words, the net proceeds from the sale of one seizure cannot presently be used to offset the unrecouped costs of another seizure. The new fund would allow the agencies to balance all proceeds against all expenses, with the over-all net proceeds being transferred to the General Fund of the Treasury. The agencies would only maintain a balance of ten million dollars in their funds for operating purposes.

The current procedure requiring the agencies to account separately for costs associated with each individual seizure is inefficient, both in costs to the appropriation and manpower, but would no longer be required under the proposed forfeiture funds. The establishment of the special accounts would also encourage more efficient maintenance, storage and inventory procedures than are feasible under current requirements, such as possible national inventory and property maintenance control through computerization.

The establishment of the funds would also give greater protection to innocent lienholders since they could be paid immediately on their liens without the necessity of waiting for a sale or a transfer to another agency. It would also allow the agencies to pay the costs of maintenance of the properties on a regular basis without regard to the sale or transfer date of the property and without the need of contracting for services on a contingency basis. The net effect would be to relieve the agencies of the financial restrictions and complications of having to deal with each and every seizure on a separate basis. But would maintain the accountability on an over-all basis. The agencies would be required to furnish a complete accounting of these deposits and expenditures to the Congress.

The second major provision contained in the proposed amendments is the change in the current law to allow D.E.A. and Customs to transfer seized property directly to state and local law enforcement agencies once it has been forfeited. The amendment would also allow them to do this indirectly by merely declining to pursue forfeiture actions in favor of state action. Sec. 610 and Sec. 617 of the Act would be changed so as to amend 21 U.S.C. 881(e) and create a new 19 U.S.C. 1616 in order to accomplish this goal. The new provisions could result in many vehicles and other properties being transferred from the seizing agency to another federal agency or to a state agency without the necessity of utilizing the present cumbersome procedure of going through G.S.A. Under the current procedure there is no way to insure that the property will be transferred to any particular agency, federal or state. The new authority would provide incentive to the state and local police to cooperate more with the federal agencies while providing them with the equipment necessary for their duties. Federal-state-local cooperation would be greatly enhanced and President Reagan's new federalism concept would be well served.

The third major purpose of the proposed amendments are the changes in the Tariff Act of 1930, i.e. the proposed new part D, that would enable Customs and D.E.A. to more quickly and efficiently process civil forfeiture actions without altering the rights of the claimants. First, the properties that are subject to the summary forfeiture provisions (19 U.S.C. 1607) would be vastly increased by excepting all vehicles used in transporting contraband as well as other property valued at less than $10,000. This means that if no one files a claim for seized property that falls within the exceptions just stated, the agency could summarily declare the property forfeited and dispose of it according to law. Of course, proper notice to interested parties is required before such action could be taken. There would be no denial of a right to trial in District Court since the claimant could still pursue such action by the filing of a cost bond with the court. The net effect of the changes would be to merely allow the agencies to proceed with those cases that would result in a default judgment anyway in Federal court. For example, of the 600 cases now pending in the Southern District of Florida, over 25% will end in default judgments if past experience is repeated. The new Amendment would relieve the agencies, the courts, the U.S. Attorneys and the U.S. Marshals of the burden of these needless lawsuits, resulting in the savings of time, costs and manpower. It would also save a lot on maintenance expenses since the properties are incurring dockage or other storage fees, costs of guards, and upkeep costs while awaiting a judicial default. It can take up to more than six months just to get a default judgment in court.

In conclusion, administrative forfeiture in accordance with current Treasury Regulations and the provisions of the new section 607(c) (19 U.S.C. 1607(c)) would fully protect lien-holders and innocent owners while relieving court congestion and unnecessary burdens upon the U.S. Attorneys, Marshals and the agencies. It would also result in reduced storage and maintenance costs and attorneys fees by providing quicker disposition of cases.

The other important provision in the amendment would be Sec. 620, creating a new Section 589 of the Tariff Act (19 U.S.C. 1589) to set forth the arrest authority of Customs officers. Under existing law, a Customs officer has authority to make arrests without a warrant for violations of the narcotic drug and marijuana laws under section 7607 of the Internal Revenue Code and for violation of the customs or navigation laws or any law respecting the revenue under section 581 of the Tariff Act, where the violation is committed in the officer's presence or where the officer has reason to believe that the person to be arrested has committed or is committing such violation. In addition, miscellaneous conservation, fisheries and pollution laws also confer arrest authority on customs officers in various situations. (16 U.S.C. 3405; 16 U.S.C. 772d, 916g, 959(b); and 33 U.S.C 413).

The present law requires customs officers making arrests for export violations and assaults on customs officers to rely on the various state laws conferring arrest authority on private persons, unless state law confers peace officer status on them. This reliance on fifty different state laws is both confusing and inconsistent with the authority conferred upon other Federal law enforcement officers. See *U.S.* v. *Swaroviski*, 557 F.2d 40 (2d Cir., 1977) and *U.S.* v. *Heliczer*, 373 F.2d 241 (2d Cir., 1967), cert. den., 388 U.S. 917 (1967). The proposed amendment creating a new section 589 in the Tariff Act merely confers upon Customs law enforcement officers the same kind of authority that other Federal law enforcement officers have.

Customs officers are now engaged in Federal enforcement programs not heretofore within the sphere of Customs activity. Their limited arrest authority has proven to be clearly inadequate and potentially compromises and hinders the Customs Service's role in the efficient enforcement of such Federal programs. For example, customs officers in the cargo security program frequently observe violations of non-customs laws, such as thefts from interstate shipments (18 U.S.C. 659). Also, fugitive felons and persons in possession of stolen property have been encountered entering the United States by customs inspectors who have access to the National Crime Information Center. In both of these instances, customs officers presently must call upon our law enforcement officers to make the arrest. In remote border areas and late at night, these other law enforcement officers may be unavailable. In addition, customs officers engaged in protecting Federal property and employees, like those who participated in the Federal air security program and the so-called "Cuban Freedom Flotilla" program, had to be sworn in as deputy United States Marshals to enable them to carry out their duties. This procedure has proven to be inefficient, cumbersome and inadequate.

The proposal would grant the additional arrest authority to officers of the customs as those officers are defined in section 401(i) of the Tariff Act of 1930, as amended (19 U.S.C. 1401). It would incorporate present authority contained in section 7607 of the Internal Revenue Code of 1954 for customs officers to carry firearms, execute and serve search and arrest warrants, and serve subpoenas and would, in addition, authorize an officer of the Customs Service to make arrests without a warrant for any offense against the United States committed in the officer's presence, or outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed, or is committing, a felony.

An enactment of subsection (2) at this time would also make it clear that Customs officers may serve search and arrest warrants for any federal offense. This would eliminate the problem raised in *U.S.* v. *Harrington*, 520 F. Supp. 93 (E.D. Cal., 1981) which is presently on appeal. That case questioned customs authority to serve search warrants in joint DEA-Customs investigations away from the border.

The bill would also authorize customs officers to perform any other law enforcement duties that the Secretary of the Treasury designates. This provision would codify present practice and permit maximum utilization of Customs personnel in other Treasury activities, such as protective details and inspector general investigations.

Miscellaneous amendment—The proposed amendments include several minor changes in S. 2572 as follows:

(1) Section 902 of Part B of Title IX is deleted (p. 216) because this matter is covered

by the new Part D to the forfeiture bill, sections 611–615 of the Act.

(2) Title V (Sentencing Reform), Subchapter C, S3671, Transfer of forfeited property for law enforcement purposes (p. 101), is deleted because these provisions are set forth in the newly proposed Part D of the forfeiture bill, Sec. 617 (to be the new 19 U.S.C. 1616).

(3) Title VI, Sec. 601 is amendment so that the title of the bill will be the "Comprehensive Forfeiture Act of 1982." The word criminal should be deleted from the title since the new part D of the bill are all amendments to the Tariff Act which are all civil forfeiture provisions.

(4) Title VI, Sec. 602 (page 168, lines 3 & 4) is to be amended by substituting the term "Customs Service" for "collector of customs" since the collector's position has been abolished.

(5) Title VI, Part B, Sec. 606(a), at p. 179, line 24, is to be amended by setting forth a definition for the term "real property." The definition of real property as "right, title, and interest in the whole of any lot or tract of land" is needed to more clearly specify the extent of an interest in real property that may be subject to forfeiture by virtue of its use in a major drug violation. The absence of statutory guidance on this issue had, in the context of earlier statutes authorizing the forfeiture of land on which illegal stills were operated, led to overly narrow court interpretations permitting the forfeiture of only small, isolated portions of property. Such limited interests cannot be easily sold or put into official use and their forfeiture did not significantly punish violators.

This amendments will prevent this portion of the bill, which authorizes the civil forfeiture of real property used in major drug offenses, from being too narrowly construed by the courts. It does not, however, permit overreaching by the government. First, only property used to commit major drug trafficking violations will be subject to forfeiture under section 606 of the bill. Second, only the smallest recorded unit of land on which the illegal activity takes place will be forfeited. Third, in light of the tremendously lucrative nature of drug trafficking, the illegal profits anticipated from the use of the property will, in most cases, either approximate or exceed the value of the land forfeited.

ANALYSIS

S. 2572 INSERTED AS A NEW PART, PART P, TO AMEND SECTION 405 OF THE CONTROLLED SUBSTANCES ACT (21 U.S.C. 845)

Section 405 of the Controlled Substances Act was intended to deter distribution of drugs to minors by increasing the maximum possible punishment under the Act if the defendant distributed drugs to one who was under 21. The maximum penalties were doubled. Subsection (b) tripled the allowable penalties for a second conviction under the section. 21 U.S.C. 845.

Section 405 has been seldomed used since being enacted in 1970. Its use in the future will be even more seldom since the D.E.A. and F.B.I. are not usually interested in distributors of small quantities of controlled substances, which is primarily what this section covers as a practical matter. Inasmuch as the primary purpose of section 405 is a worthy one, however, the proposed new section 405 is submitted in hopes that it will be a much stronger bill and one more selectively targeted to accomplish its objectives. It should be substituted for the current section 405 for the following reasons:

1. A mere increasing of the possible sentences does not appear to have near the deterrent effect upon possible violators as would a mandatory minimum term of imprisonment. The discretion of the trial judge to be lenient would be eliminated. No longer would the court be free to ignore the purpose of this section. This would speak to violators in much stronger terms than is now being done.

2. The increasing of the maximum penalties is not really necessary anyway since this is accomplished by the prosecutor's filing multiple counts in the indictment, which can be done in almost all cases. In any event, what is accomplished if the court is free to ignore the available range of penalties? But consecutive sentencing on multiple counts will accomplish the same purpose as the present section 405.

3. By making the term of imprisonment a long one (three years for marijuana and schedule III items and five years for other schedule I & II substances) without any eligibility for parole or early release, the "dealers" will know that if they are convicted under this section, they will have no bargaining power in an effort to get an early out. It will be strong deterrent. And

4. Even though federal agencies seldom investigate cases involving only "hand to hand" distribution of controlled substances, the proposed new section 405 could be useful to local law enforcement. It would allow local officials to refer to the U.S. Attorneys any cases involving especially important defendants; cases where there is concern that a state prosecution will not result in as favorable a sentence as that provided in the new section 405. This would not be a common practice, but it would give the police extra leverage in special cases, provided they have the cooperation of the U.S. Attorney.

Mr. President. An amendment I have introduced to S. 2572, which has been incorporated into the committee's amendment, simply states that nothing in the bail reform section of the bill "shall be construed as modifying or limiting the presumption of innocence." The amendment is needed because title I of S. 2572, for the first time, allows judges to order that persons accused of noncapital crimes be detained until trial where a determination is made that they would be a danger to the community if released.

Current law provides that a noncapital defendant "shall be ordered released pending trial on his personal recognizance" or on personal bond unless the judicial officer determines that these incentives will not adequately assure his appearance at trial. However, an examination of the current practices of judges in setting bail suggests that community safety may factor in their decision to set high bail. The practice of setting high money bonds to detain persons considered to be dangerous has a disproportionate impact upon the poor and forces judges to ignore the dictates of the current law. These realities make it necessary to change the law, but I am concerned that in doing so we are undermining one of the most fundamental principles of the common law—that a person accused of a crime is presumed to be innocent until proven guilty. It is therefore important that we make an unequivocal statement that permitting the judge to order pretrial detention considering predictions of future dangerousness should not be allowed as a prejudgment of their guilt.

For these same reasons, I also intend to support an amendment which will be proposed to the bail reform section of this bill to require the Govenment to try a person detained within a specified number of days. If we are to change the law in a manner which will ultimately increase the number of persons detained until their trial and while they are still presumed to be innocent, it is essential that the Government provide that person with a speedy trial.

Mr. BENTSEN. Mr. President, I am pleased to express my strong support of the Senate Judiciary Committee's Violent Crime and Drug Enforcement Improvements Act of 1982. This legislation is a carefully crafted bipartisan package comprised of a number of critical legislative initiatives which address provisions of our Criminal Code that are in desperate need of revision: bail reform, sentencing reform, victim and witness protection, drug trafficking penalties, criminal forfeiture for racketeering and drug offenses and use of surplus Federal property for State correctional purposes. I do not believe it is an overstatement, Mr. President, to say that most Americans today have abandoned faith in the American system of justice. All too often, as I visit with friends and constituents, the talk turns to a recent burglary or assault or mugging in which either they or a neighbor were the victims. in 1981, 30 percent of our Nation's households were touched by a crime of violence or theft. Violent crime has become an inescapable element of the American experience.

I receive letter after letter in my office pleading with me to remember the plight of victims as vividly as the rights of those accused. This bill appropriately does so. Title II, originally, S. 2420, requires that judges in criminal cases be furnished with a written assessment of how the victim has been affected, physically and psychologically. Further, title II protects the victim and those testifying on the victim's behalf from harrassment, intimidation and harm during the criminal justice process. I think we are on the right track with this kind of provision.

As my colleagues here today know, I have been actively fighting the influx of illegal and dangerous drugs from the Caribbean region and Mexico and have introduced a series of bills designed to stop a large part of this flow before it reaches our shores. The proliferation of dangerous drugs in this country is a major problem and one

that we have simply not been able to control. It has become a billion dollar business which fuels violent crime and undermines our Nation's future. Even our most prestigious neighborhoods are saturated and our schools, reluctantly, have had to accept the problem as entrenched. I am pleased that this omnibus crime bill effectively addresses the drug problem. Not only does it stiffen penalties for trafficking in illegal drugs, but it includes a number of secondary provisions, one of which I authored earlier this session to eliminate the distinction in penalties between narcotic and nonnarcotic drugs. another increases the penalties for distributing controlled substances in or within 1,000 feet of an elementary or secondary school. These measures are desperately needed and I heartily endorse them.

Mr. President, bail reform is an issue of particular importance to me and, thus, I am gratified to see that S. 2572 amends the Bail Reform Act of 1966 to tighten up the criteria for pretrial release. In addition to mandating consecutive sentencing for offenses committed while on pretrial release, this bill, for the first time, allows a judge to consider a defendant's potential danger to the community in deciding to release him pending trial. It also tightens the criteria for postconviction release and increases the penalties for bail jumping. Most importantly, however, S. 2572 includes the presumption that an individual is a danger to the community if he or she has committed a serious drug trafficking offense or used a firearm in the commission of a violent crime.

The bill also incorporates a concept which I have been advocating for a number of years—a determinate sentencing structure with no parole and limited good time credits. This provision will eliminate most of the confusion surrounding the current sentencing process and clearly delineate the sentence which convicted individuals must serve. It tells the American people that we are concerned with the disparity in treatment under the present sentencing scheme and that we are serious in our efforts to deter crime by insuring that criminals actually serve their sentence.

Another essential element of this bill is the criminal forfeiture provisions. S. 2572 embodies the intent and concepts contained in S. 2320 which is designed to strengthen the current criminal forfeiture provisions related to racketering and drug trafficking offenses. It makes clear that the proceeds of racketeering activities are forfeitable and it extends criminal forfeiture to all serious drug trafficking offenses by enacting provisions parallel to R.I.C.O. for felony drug violations. This type of clarification of the Federal forfeiture statutes is critical to our war on drugs.

Mr. President, I would be remiss if I did not take this opportunity to express my support for the provisions of S. 2572 that extends Federal criminal liability to robberies of pharmacies. This provision sends a clear message to drugpushers that we are serious in our efforts to crack down on the availability of illicit drugs in this country. Much of our Government's current effort is focused on curtailing domestic sources of drugs. We must also be willing to provide a domestic line of defense. By involving the Federal Government in this crucial effort, we are demonstrating our commitment and dedication to reducing the amount of drugs on the market and our intention to assist the efforts of the drug enforcement administration in enforcing the law.

This legislation, Mr. President, is desperately needed in our country today and I fully support it. I urge my colleagues to join me in sending this unerring message to the American criminal.

BAIL REFORM

Mr. BIDEN. Mr. President, there is nothing more frustrating for a law enforcement officer or prosecutor who has put in weeks or work on an investigation, indictment, and the arrest only to see a major organized crime figure or drug trafficker post bond and flee the jurisdiction. Organized crime and drug traffickers look upon our current system as a cost of doing business. In a case last year, a class I drug trafficker charged with numerous drug trafficking violations thought little of posting a $400,000 bond and then fleeing. In fact, when he was finally arrested in Las Vegas on other charges he had in his possession $185,000!

In another case last year in Florida, a Bolivian drug dealer arrested in connection with a $9 million cocaine deal posted a reduced bail of $100,000 and fled the country.

The Justice Department estimates there are approximately 3,000 drug dealers who are now fugitives with open Federal warrants. In fact, there are now more than three drug dealer fugitives for every two drug enforcement administration agents.

These examples can only increase the public's skepticism about our judicial process and bail system. In an effort to rectify this problem, one of the provisions of the Violent Crime and Drug Enforcement Improvement Act of 1982 would be to permit judges to hold defendants in custody, without bail, after a due process hearing establishes that no conditions of release will assure the defendant's appearance and safety of the community. In addition, these revisions in our Federal bail laws will for the first time permit the judge to consider whether the defendant is a threat to the community in setting release conditions.

These provisions will permit the detention of major organized crime and drug dealers without bail. No longer will judges rely upon the subterfuge of posting high money bond to detain dangerous defendants.

At the same time that existing law has resulted in release of "bail jumping" by the most dangerous narcotics traffickers, it has resulted in unnecessary detention of poor defendants, as the committee points out in its report on the revisions of the Criminal Code:

> At the same time, these new provisions recognize that the existing bail system all too often promotes injustice through the arbitrary imposition of financial conditions which cannot be satisfied by a defendant and which result in his incarceration pending trial.

S. 2572 incorporates a provision, adopted on two occasions by the Judiciary Committee in this Congress, restricting the use of money bail as a means of detaining poor defendants who are otherwise good bail risks.

In testimony before our committee, Bruce Beaudin, Director of the District of Columbia Pretrial Services Agency, pointed out the unfairness and ineffectiveness of money bail. Mr. Beaudin probably has more practical experience with preventive detention and administration of the Federal bail laws than anyone. Mr. Beaudin points out:

> In short, if we continue money bail as an option, we will continue the possibility of abuse of discretion, discrimination between rich and poor, and, most important, we will leave the door open to further exploitation of the community by permitting the existence of a mode of release that serves absolutely no purpose.

Therefore, in enacting this legislation we strike a blow for fairness and safety to the community.

I ask unanimous consent that a study conducted by the administrative office of the U.S. courts on narcotics-related fugitive problems in south Florida and the testimony of Bruce Beaudin and his correspondence with the Judiciary Committee on the failure and inequity of money bail be reprinted at this point in the RECORD.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., October 14, 1981.

Hon. LAWTON CHILES,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR CHILES: Last spring, the Subcommittee on Crime held hearings in Florida on the crime problem in the Miami area. That hearing made clear to me that part of the problem related to the enormous number of narcotics prosecutions, and the very high rate of defendants who fail to appear for court appearances. As a result, I requested the Administrative Office of the United States Courts to conduct an in-depth study of the entire pretrial release situation in the Federal Courts in the Southern Dis-

trict of Florida. I have now received the final report of the Administrative Office and am enclosing a copy for your review. I hope this material will be of use to you.

If you have any questions about the report or the hearing in Miami, please don't hesitate to contact either me or a member of the staff of the Subcommittee on Crime at 225-1695.

Sincerely,

WILLIAM J. HUGHES,
Chairman, Subcommittee on Crime.

Enclosure.

SUMMARY OF FINDINGS

Failure to appear and defendants charged with drug offenses in the Southern District of Florida.

PREPARED BY THE PRETRIAL SERVICES BRANCH

The Pretrial Services Branch, in response to a request made by Congressman William J. Hughes, Chairman of the House Subcommittee on Crime, conducted a study which examined the nature of the fugitive and failure to appear problem regarding defendants charged with drug offenses in the Southern District of Florida.

The major findings of that study reveals that even though "drug defendants" in the Southern District of Florida have financial conditions of release set more often and at much higher amounts than in the 10 PSA districts they fail to appear eight (8) times as often as those in the demonstration districts.

The reasons for this cannot be stated with any certainty, however, it is worth noting that defendants who were charged with drug offenses and failed to appear had extremely poor roots in the community in which they were arrested.

(1) While the number of criminal filings in the federal courts declined approximately 10% from July 1, 1978 through June 30, 1980, the number of cases increased by 10% in FL/S.

(2) During the same time period the number of defendants prosecuted in the federal courts declined 10% but the number increased 15% in FL/S.

(3) For the same time period overall federal drug prosecutions declined while they increased 30% in FL/S.

(4) Less than one in five of all defendants prosecuted nationally were charged with drug offenses while almost one half the defendants in FL/S were so charged.

(5) For the time period July 1, 1978–June 30, 1980 the failure to appear rate in FL/S was 12.9%. In the 10 PSA districts it was 2.3%.

(6) The failure to appear rate for "drug defendants" was 17% in FL/S. During the same period it was 2% in the PSA districts.

(7) Ninety-two percent (92%) of all defendants in FL/S were released prior to trial. In the 10 PSA districts the rate was 88%.

(8) Eighty-five percent of the defendants who were charged with drug offenses and failed to appear in the FL/S had lived in the district for less than one month at the time they were charged. This rate was only 10% in the 10 PSA districts.

(9) U.S. citizens made up 45.4% of the defendants prosecuted in FL/S. In the 10 PSA districts they accounted for 92% of the total.

(10) The overall failure to appear rates in the FL/S were much higher than in the 10 PSA districts despite the fact that money bail was set more often in FL/S (50% to 31%).

(11) The failure to appear rate was approximately eight times greater for "drug defendants" in the FL/S than the PSA districts even though bail was set above $20,000 more than twice as often (63 and 29 percents) for those defendants in FL/S than in the PSA districts.

(12) The average amount of bail set for "drug defendants" who failed to appear was $75,800.

REPORT ON THE INCIDENCE OF FAILURE TO APPEAR BY DEFENDANTS CHARGED WITH DRUG CRIMES IN THE SOUTHERN DISTRICT OF FLORIDA

This report was proposed by the Pretrial Services Branch of the Administrative Office of the United States Courts at the request of Congressman William J. Hughes, Chairman of the Subcommittee on Crime of the House Committee on the Judiciary. In a letter written March 17, 1981, to Mr. William E. Foley, Director of the Administrative Office of the United States Courts, Congressman Hughes asked that a study be conducted which would examine the nature of the fugitive and failure to appear problem regarding defendants charged with drug offenses in the Southern District of Florida. It was specifically requested that the analysis include:

An identification of the defendants who fail to appear for trial after having met release conditions established at a bail hearing and those who are classified as fugitives by other criteria (such as by being the subjects to unexecuted arrest warrants, being sought by law enforcement, etc.) The study should analyze the fugitive problem by offense, conditions of release, previous conviction and arrest records of defendants, stage of the proceedings at which flight occurs, nationality status and ties to the community, and by other relevant factors. It should, of course, compare flight cases with nonflight ones, for any knowledge that may be contained in this information concerning the setting of appropriate and successful release conditions. Cases in which the release conditions were not met and the defendants remained in pretrial detention should be similarly examined.

To assist in this study the Pretrial Services Branch selected pretrial services officers with extensive experience in collecting and coding bail data. The team was supervised and assisted by the pretrial services specialist who has had primary responsibility for compiling similar information provided to Congress on the 10 Pretrial Services demonstration districts. These districts are: Southern New York, Eastern New York, Eastern Pennsylvania, Maryland, Northern Illinois, Eastern Michigan, Western Missouri, Northern Georgia, Northern Texas, and Central California. The officers' experience enhances the accuracy of the data and the reliability of the findings in this report.

The report consists of four major sections. The first is a description of the general demographic data that was collected in the district; the second examines the characteristics of defendants charged with drug offenses; the third deals with those defendants who were charged with drug offenses and failed to appear; the final section analyzes the characteristics of drug defendants who were detained until the disposition of their cases. All available information on each defendant prosecuted in statistical year 1979 (the 12-month period ending June 30, 1980) and statistical year 1980 (the 12-month period ending June 30, 1980) was collected. Cases involving Rule 20 transfers to or from other districts for prosecution as well as cases in which defendants were secured for prosecution by writs of habeas corpus were excluded from the study. All cases which were not "closed" were also excluded. (A closed case is defined as one in which a final sentence or judicial verdict was rendered or one in which the defendant failed to appear and a bench warrant was issued.) This report is based on the 1,473 defendant cases that met these criteria and where significant, comparisons are made with statistics generated by the ten Pretrial Services demonstration districts and the annual report of the Director.

I. GENERAL STATISTICS ON ALL DEFENDANTS

An examination of some of the general statistics regarding the Southern District of Florida reveals the following:

TABLE 1

	Southern District of Florida	Nationally
1-year period ending June 30, 1979:		
Cases filed	548	31,536
Defendants prosecuted	1,057	42,245
Average defendant/case	1.93	1.34
1-year period ending June 30, 1980:		
Cases filed	602	27,968
Defendants prosecuted	1,216	38,033
Average defendant/case	2.02	1.36

The above table reveals that for the last 2 completed statistical years, while the number of cases filed and the number of defendants prosecuted nationally have declined by about 10 percent, the number of cases filed in the Southern District of Florida increased by 10 percent and the number of defendants proscecuted in that district has increased 15 percent.

In addition, the number of defendants per case is higher in the Southern District of Florida than in the national average. A possible explanation for this disparity in trends between the Southern District of Florida and the national average may be seen in the table below.

TABLE 2

	Southern District of Florida	Nationally
1-year period ending June 30, 1979:		
Drug cases filed	182	3,277
Defendants prosecuted for drug offenses	572	7,208
Average defendants per drug case	3.14	2.20
1-year period ending June 30, 1980:		
Drug cases filed	241	3,130
Defendants prosecuted for drug offenses	573	6,678
Average defendants per drug case	2.46	2.13

The national statistics reveal a decline in drug prosecutions from 1979 to 1980, while the Southern District of Florida's drug cases increased over 30 percent during that same time period.

The average number of defendants per drug case in the Southern District of Florida remains consistently higher than the national average. Since the nondrug cases in the SD/FL have remained relatively stable from 1979 to 1980, the increase in the work of the courts appears to be directly attributable to the increase in narcotics cases filed in that district.

Most drug prosecutions in the Federal courts are fairly evenly distributed among the identified activities of possession and sale with the activities of importing, manu-

facturing, and improper dispensing occurring less frequently. In the Southern District of Florida the activities most often identified in indictments are sales and importation.

Fewer than 1 in 5 of all defendants prosecuted nationally are charged with drug offenses, while approximately every other defendant brought before the court in the Southern District of Florida is charged with a drug offense.

A. Defendant Characteristics

As explained in the introduction, 1,473 closed defendant cases from the Southern District of Florida were examined.

The following table identifies the status of those 1,473 defendants in the survey as of July 15, 1981:

TABLE 3

	Number	Percent
Number FTA [1]	1,158	78.6
Never arraigned—fugitive	39	2.6
Made bail, FTA before trial—fugitive	102	6.9
Made bail, convicted, FTA before sentence—fugitive	6	0.4
Made bail, convicted, sentenced, appealed, FTA—fugitive	6	0.4
Made bail, FTA, apprehended and sentenced	57	3.9
Never released	105	7.1

[1] Failed to appear.

One hundred and fifty-three (73%) of the 210 defendants who fled from prosecution at any stage of the process are still at large.

Of the 1,473 closed defendant cases, 39 (2.6% of the total cases) defendants were never arrested or summoned to appear (law enforcement simply could not locate these defendants to arrest them—they remain fugitives to date) and thus, never entered the court system beyond being named in an indictment. Since bail was never set on these defendants, they will be excluded in any discussion concerning bail violations or bail rates.

One hundred and five (7.1%) defendants were arrested, appeared at an initial bail hearing, and subsequently were never able to meet their bail requirements (usually money bail). As they were never released on bail, they will also be excluded in any discussion concerning bail violations or bail rates.

Percentages in this portion of the report are based on the actual number of defendants on which data was available for that specific characteristic. Data was not available for all characteristics in the Southern District on all defendants. Subsequent descriptions comparing the Southern District of Florida with the 10 Pretrial Services Agency districts reflect the extent data was not available for each category and the percentages in those tables are based on total number of defendants in the study.

Citizenship.—U.S. citizens made up 49.4% the defendants prosecuted the Southern District of Florida during the time period covered by the study. In the 10 Pretrial Services Agency districts, U.S. citizens accounted for 92.2% of the defendants. Legal aliens accounted for 15.7% of the defendant population, and illegal aliens another 8.7%. The research team was unable to precisely identify the citizenship of 26.2% of those prosecuted, though in considering all surrounding factors, an educated guess is that most were"illegals" from Central and South America.

Ethnicity.—The largest ethnic groups represented were white, 43.8%; Hispanic (South and Central American), 33.1%; and Hispanic (Cuban), 12.9%. The ethnicity of the remaining 10.2% was unknown.

Time in District.—The statistics in this category provide insight to the problems of crime and failure to appear in the district. Forty-seven percent (47%) of all the defendants in the study had resided in the district less than one month at the time they were being prosecuted. This compares to a percentage of only 7.4% in the 10 pilot Pretrial Services districts.

Employment.—Sixty-four percent (64%) of defendants were employed. This percentage in the 10 Pretrial Services Agency districts is only 50%. The differences here can be attributed to the large number of high volume drug dealers in the Southern District of Florida and their claims of self-employment in enterprises which are no more than "fronts" for their illegal activities.

Marital Status.—Forty-one percent (41%) of all the defendants were married, 26% were single, and the remainder were divided among the subcategories of separated, divorced, widowed, and unknown.

Opiate Addiction.—Only 1.3% of all the defendants admitted to or were determined to be addicted to opiates. This figure, on its face, seems unusually low, especially when you consider that drug cases occur 2½ times more frequently in this district than nationally, and that opiate addiction in the 10 Pretrial Services Agency districts exceeds 5%. However, the percentages are not surprising when considering that (1) arrests involving opiates account for only 5% of the defendants in the Southern District of Florida drug cases and, that (2) addicts are not reliable couriers or business associates in such large scale drug operations.

Criminal History.—Twenty-seven percent (27%) of the defendants had previous adult convictions, 13.5% had been committed to adult criminal institutions, 12.1% had a pending offense at the time of their arrest, and 0.9% were on parole.

B. Defendants and the Court Process

An overwhelming percentage of cases in the district are processed in Miami (75%). Drug cases were the type most frequently filed in the district. The 747 defendants charged in that category make up 50.7% of the total. Defendants charged with fraud and embezzlement violations were the second largest group (13.8%) followed by immigration cases (11.5%).

Bail and Detention.—Bail was set for 1,444 defendants and 1,329 were released at some point of the proceedings for an overall release rate of 92.3%. It is worth noting that the release rate in the 10 Pretrial Services districts was 88% during the same time period. In the Southern District of Florida 952 of the 1,329 released defendants (71%) were able to meet the conditions of bail at their initial appearance and 672 of the 1,329 (50%) were held in pretrial custody for less than one day. The initial release rate in the 10 Pretrial Services Agency districts was 76%.

Conditions of release in which a defendant had to post cash or collateral or utilize compensated sureties were set in 50% of the cases. During the same period such conditions were set only 31% of the time in the 10 Pretrial Services Agency districts.

Failure to Appear.—The failure to appear rate for defendants who had bond set at a court appearance and were released was 12.9%. During the same time period the 10 Pretrial Services districts experienced failure to appear rates of 2.3% (less than ⅙ of the rate in the Southern District of Florida).

Case Disposition.—There were 39 (2.6% of total cases) defendants who were never arrested and are still fugitives. Of the 1,329 defendants who were released, 102 (7.6%) failed to appear after bond was set at a court hearing and are still at large. Excluding the 39 defendants who were never arrested, 1,026 (71.5%) of the remaining 1,434 defendants were convicted, 220 (15.3%) had their cases dismissed, 76 (5.3%) were acquitted, and 8 (.55%) died during the pretrial process. Six hundred and seventy-five (675) or 66% of those convicted received custodial sentences of some type.

II. DEFENDANTS CHARGED WITH DRUG OFFENSES

Defendants charged with drug offenses were reviewed in a manner similar to the preceding general defendant population. As previously stated, court records revealed that 747 (50.7%) of the total number of defendants (1,473) in the 2-year period were charged with drug offenses.

TABLE 4.—TYPES OF DRUGS AND ACTIVITIES

	Import	Sell	Possess	Totals
Marijuana	160	73	35	268
Heroin	4	27	5	36
Cocaine	89	199	75	363
Quaalude	4	63	7	74
All Others	0	6	0	6
Totals	257	368	122	747

Table 4 indicates the type of illegal activity charged and the specific type of drug involvement. These indicators were taken directly from indictments filed in each case. The largest number of defendants were charged with selling cocaine (199 or 27%). However, during the investigation, it became obvious that the activity of primary concern in this district is importation due to the large quantites of drugs involved. Wholesale value of all drugs seized during the period studied was over one-half billion dollars.

A. Defendant Characteristics

Citizenship.—U.S. citizens made up 45.8% of those defendants charged with drug offenses. Legal aliens accounted for 21.4%, illegal aliens 6.6%, and 20.7% were of undetermined citizenship. In the 10 demonstration districts 87% of those defendants prosecuted for drug offenses are U.S. citizens.

Ethnicity.—The largest ethnic group represented was Hispanic, with Cubans (18.2%) and South and Central Americans (34%) accounting for a total of 52.2% of all drug defendants. Whites made up the second largest group (42.8%).

Time in District.—Almost one half (48%) of the defendants charged with drug offenses had lived *less* than 1 month in the district at the time the offense for which they were prosecuted was committed.

In the 10 Pretrial Services Agency districts defendants in that category made up only 11.8 percent of the total during the same time period.

Employment.—Court records indicated that 51 percent of the drug defendants were employed, with another 17.8 percent of unidentified status. In the Pretrial Services Agency districts, 61 percent of the drug offenders were employed.

Marital Status.—Married defendants made up 38.7 percent of the drug offender category. Twenty-four percent were single and 20.4 percent were divorced or separated.

Opiate Addiction.—Only 1 percent of these defendants claimed or were found to be addicted to opiates at the time of their arrest, while in the Pretrial Services Agency districts, almost 5 percent were addicted.

Criminal History.—Slightly more than 27 percent of these defendants had previous adult convictions (45 percent in PSA) and 11 percent had some type of adult criminal commitment (20 percent in PSA). Only 1.4 percent were on probation or parole at the time of their arrest.

B. Defendants and the Court Process

Bail and Detention.—After removing the 17 defendants who were never arrested from the total of 747, the overall release rate for drug offenders is 92 percent (669 released out of 730) release rate in PSA districts is 88 percent. Sixty-one percent of these defendats made the bail that was set at their initial appearance. The rate at which money bail (financial conditions of release) was set was 65 percent. During the same period of time the 10 Pretrial Services Agency districts set money bond for 54 percent of the drug defendants.

When financial conditions of release were set in Florida, the bond amount for drug defendants was in the $20,000 to $50,000 range in 44 percent of the cases and above $50,000 another 19 percent of the time. In the Pretrial Services Agency districts it was in the former range for 19 percent of the defendants and the latter 10.5 percent of the time. Thus, money bail was set in drug cases in amounts greater than $20,000 more than twice as often in the Southern District of Florida than in the 10 Pretrial Services Agency districts (63 percent-29.5 percent).

Failure to Appear.—A total of 118 (17.6 percent) of 669 defendants failed to appear after bail was set and they were released. In addition, 17 defendants were never arrested and remain fugitives.

The table below depicts the release and fugitive status of all 747 defendants charged with drug offenses.

TABLE 5

	Number	Percent
Number FTA [1]	551	73.8
Never arrested-fugitive	17	2.3
Made bail, FTA before trial-fugitive	78	10.4
Made bail, convicted, FTA before sentence-fugitive	4	0.5
Made bail, convicted, sentenced, appealed, FTA-fugitive	4	0.5
Made bail, FTA, apprehended and sentenced	32	4.3
Never released		8.2

[1] Failed to appear.

Case Disposition.—Seventeen (2%) of the drug defendants were never arrested and are still fugitives and another 78 (11%) remain fugitives after being released on bail. Of the remaining 652 defendants, 522 (80%) were convicted, 80 (12%) had their cases dismissed, 49 (7.5%) died prior to trial.

The average length of sentence was 44 months. The average custody sentence in the 10 demonstration districts for the same time period is 33 months. Of the 52 who were convicted, a custodial sentence was given to 449 (85%) defendants.

III. DEFENDANTS CHARGED WITH DRUG OFFENSES WHO FAILED TO APPEAR

There were 135 defendants charged with drug offenses in the Southern District of Florida who became fugitives. The particular point in the court proceedings at which these defendants became fugitives is isolated in columns 2 through 6 of table 5 (preceding page).

A. Defendant Characteristics

Citizenship.—Only 23 (17%) of the defendants in this category were American citizens, 4 (2.9%) where illegal aliens, and 100 (74%) were of undetermined citizenship.

Ethnicity.—Seventy-five percent of the defendants in this group were Hispanic. The remaining 25% were white.

Time in District.—Over 85% of the narcotics defendants who failed to appear had been in the district for less than one month. Defendants in the same category in the 10 Pretrial Services Agency districts had been in the district less than 1 month in only 10.4% of the cases.

Employment.—Employment information was available for only 54% of these defendants. Fourteen point eight percent of the defendants were employed and the remaining 31% were unemployed. Store front "businesses" and unverified claims of self-employment were believed to be untrue claims by defendants to explain large amounts of money derived from drug transactions.

Marital Status.—Data on marital status for defendants in this category was too incomplete to utilize.

Opiate Addiction.—The researchers were unable to identify any opiate users or addicts among defendants in this category.

Criminal History.—Sixteen percent (16%) of those in this category had previous convictions, 11% had previous adult criminal commitments, 2% were on probation or parole at the time of the new charges, and 5% had other charges pending. In the 10 demonstration districts 54% had prior records, 50% had adult convictions, 37.5% had previous adult commitments, and 27.1% had other pending offenses.

B. Defendants and the Court Process

As 17 of the above discussed 135 defendants never entered the court process other than being named in an indictment and having a warrant issued for their arrest, they will be excluded from the remainder of the analysis. They were never arrested, bond was never set and, thus, by definition, are not true bond jumpers (FTA's).

Bail and Detention.—Of the 117 drug defendants who jumped bond, 63 (54%) were not detained at any point of the pretrial process. Of those released, 73 (62%) of the fugitives posted money bond and the remaining 45 (38%) were released on nonfinancial terms. Bail was set above $20,000 for 65% of the defendants who posted bond. The average amount of bond set for these defendants who failed to appear was $75,800. It was set above $20,000 twenty percent of the time in the 10 Pretrial Services Agency districts.

Failure to Appear.—Of the 117 drug defendants who failed to appear, 85 (73%) are still at large. The remaining 32 defendants have been apprehended and their cases concluded, as discussed below.

Case Disposition.—A total of 32 individuals who were placed on bond became fugitives but were apprehended and returned to court for disposition. The average amount of bond set for these defendants was $57,100. Upon their return to court, 14 (44%) were convicted, 1 died, 3 were acquitted, and the remaining 14 defendants were dismissed. Of those 14 convicted, all but one was sentenced to the custody of the Attorney General. Two received less than 18 months and the remaining 12 were sentenced for varying terms of from 3 to 9 years. The average length of custody time given was 66 months.

By comparison, 77.5% (1026/1324) of all offenders studied in this 2-year analysis (drug and nondrug) were convicted and sentenced, and of those sentenced, 64.8% (665/1026) were sentenced to the custody of the Attorney General. Of drug offenders, 80.5% (522/648) were convicted and sentenced and of those sentenced, 85% (446/522) were sentenced to the custody of the Attorney General. The average prison term for nondrug offenders was 22 months while the average prison term for drug offenders was 44 months.

IV. DEFENDANTS WHO WERE DETAINED UNTIL CASE DISPOSITION

There were 105 defendants who, once arrested, were never released until there was a final disposition of their case. This amounts to 7.1% of the total 1,473 defendants.

A. Defendant Characteristics

Citizenship.—Illegal aliens made up 53% of the defendants that were never released pending case disposition, legal aliens 22.9%, and U.S. citizens 13.3%. The remainder were of unknown citizenship.

Ethnicity.—The largest ethnic group represented in this category were Hispanics (66%) with whites second (21.9%), and blacks third (13.3%).

Time in the District.—Seventy-six percent (76%) of these defendants had been in the community less than 1 month at the time they were arrested.

Employment.—Records indicated that 42% of these defendants were unemployed and that 44% were employed. There were no data available regarding the employment status of the other 14%.

Marital Status.—Single defendants made up the largest group in this category (43%), with married defendants second (37%), and those divorced third (6.5%).

Opiate Addiction.—Eleven percent (11%) of the defendants in this category were identified as opiate abusers.

Criminal History.—Defendants with prior adult convictions constituted 18.1% of this category. Those with previous custodial commitments equaled 11.4%. Thirteen percent (13%) of these defendants had pending offenses at the time of the federal arrest.

B. Defendants and Court Process

Bail and detention.—Sixty-one percent (61%) of the defendants who were detained until disposition had bails in excess of $20,000. The average amounts of bail for those charged with narcotics offenses never released was $212,000, and the average amount set for nondrug defendants was $19,300.

Case Dispositions.—Of those 105 defendants never released, 1 (.9%) was discharged, 5 (4.8%) were dismissed, 6 (5.7%) were acquitted, and 93 (88.6%) were convicted.

Of the 93 defendants convicted, 19 (20.4%) received a probation sentence; 2 (2.2%) received probation, fine and restitution; 10 (10.8%) received a split sentence (custody and probation); 59 (63.4%) received custody sentences; 2 (2.2%) received custody, fine, and restitution; and 1 (1.1%) received a mixed sentence (probation to follow prison term).

Of the 59 sentenced to custody, 10 (16.9%) received 1-6 months, 11 (18.6%) received 7-18 months, 20 (33.9%) received 19-36 months 10 (16.9%) received 37-60 months, 4 (6.8%) received 61-84 months, 1 (1.7%) received 85-108 months, 1 (1.7%) received 109-132 months, and 2 (3.4%) received 133-999 months.

Sixty-one (58%) of those defendants never released were charged with drug offenses.

Of the 61 defendants that were charged with drug offenses and never released, 1 was discharged, 2 were dismissed, 4 were acquitted, and 54 were convicted.

Of those convicted, 1 received probation, 1 received probation, fine, and restitution, and the remaining 52 received custody sentences. The average length probation sentence for those never released was 15 months. Forty-eight of the 52 custody sentences were straight custody sentences with 6 (11.5%) receiving 1-6 months, 11 (21.2%) receiving 7-18 months, 20 (38.5%) receiving 19-36 months, 8 (15.4%) receiving 37-60 months, 4 (7.7%) receiving 61-84 months, and 1 each receiving 85-108, 109-132, and 133-999 months. The average length of sentence for those who were convicted of drug offenses and never released pretrial was 36 months. The average length of sentence in the 10 Pretrial Services Agency districts for this category was 59 months.

SUMMARY

Drug offenders make up over 50% of the defendants in the Southern District of Florida and prosecution for drug related offenses is on the increase. The offenses most frequently charged were selling and importation of cocaine and marijuana. Of those defendants charged with drug offenses, less than 50% were U.S. citizens, over 50% were Hispanic of Latin American origin, and almost one-half of the defendants had lived in the district less than one month at the time the offense for which they were charged occurred. We could verify prior criminal record in only 26% of the drug cases. Money bail exceeding $20,000 was set for 63% of the drug defendants resulting in a 92.3% release rate and of those released, 17.6 failed to appear after bail was set. The average amount of bail for those charged with drug offenses who appeared for trial was $41,000. The average length of sentence for the drug offender receiving a custody sentence is 44 months.

Of those defendants charged with drug offenses who failed to appear, 74% were of undetermined citizenship, 75% were Hispanic origin, 85% had been in the district for less than a month at the time the offense occurred, and of those who failed to appear, 73% remain in fugitive status. We could verify prior criminal record in only 21.5% of the cases and only 5.2% were found to have other charges pending at the time of release. The average amount of bail set for those charged with drug offenses who failed to appear was $75,800 compared to $212,000 average bail set for those charged with drug offenses who were detained and never released pretrial. For the 26% who failed to appear but were later returned to court and sentenced to custody, the average amount of bail was $57,100 and the average sentence was 59 months.

In 10 districts where comparable data have been collected by Pretrial Services, drug offenders account for approximately 20% of the total number of defendants and the prosecution for drug related offenses have shown a slight decline over the past 2 years. The offenses most often charged in the ten districts are possession and distribution. Of those defendants charged with drug offenses, 87% were U.S. citizens, 58% were white, 38% were black, and 10.4% were Hispanic. Only 11.8% of those drug offenders in the 10 demonstration districts had lived in the district for less than one month prior to committing the offense for which they were charged. In this category 46.9% were found to have a prior record with 16.6% having other charges pending at the time of release. Money bail exceeding $20,000 was set for 19% of these defendants resulting in an 88% release rate and of those released, 1.6% failed to appear. The average bail set for those who were released and appeared for trial and disposition with no failure to appear was $25,000. The average length of sentence for the drug defendants receiving custody sentences was 33 months.

Of those 48 defendants who failed to appear, 68.8% were U.S. citizens. Thirty-nine point six percent of those who failed to appear were caucasian, 31.3% were black, and Hispanics accounted for 20.8%. Only 10.4% of the 48 defendants who failed to appear had been in the district for less than one month prior to committing the crime for which they were charged. In this group, 25.4% had a prior record and 40.3% had other offenses pending at the time of release. The average amount of bail set for those charged with drug offenses that appeared for trial and final disposition was $16,000. The average length of sentence for those receiving a custody sentence in this group was 46 months.

The volume and dollar value of drugs per defendant in the Southern District of Florida is immense—many times greater than the volume and dollar value of drugs per defendant in the 10 Pretrial Services Agency districts or nationally. In addition, the impact of plea bargaining and a defendant's cooperation with the government are variables that we cannot assess. The volume of drugs, plea bargaining, and cooperation with the government all may have substantial impact on the release conditions and the length of final sentence.

The frequency of drug offenses, the value of the drugs per offense, citizenship, ethnicity, length of time in the community, and criminal history appear to be the variables that reflect the greatest contrast between the defendants in the Southern District of Florida who fail to appear and those in the 10 Pretrial Services Agency districts.

PREPARED STATEMENT OF BRUCE D. BEAUDIN

It is a privilege to be invited to testify before this Subcommittee concerning S. 1554 (The Bail Reform Bill of 1981) and I very much appreciate the opportunity to be here.

As Director of the D.C. Pretrial Services Agency since 1968; Director and Staff Attorney of the Public Defender Service here between 1964 and 1968; and member of the staff of the original D.C. Bail Project; founder and Chairman of the Board of the Pretrial Services Resource Center; founder, first President, and Co-Chairman of the Advisory Board of the National Association of Pretrial Services Agencies; and as someone concerned about the several problems posed by the release of certain defendants; I hope that my experiences of the past 17 years can be of some assistance to the deliberations of this Committee.

In general, I think S. 1554 offers the most significant and, I might add, long overdue amendment to bail practices since we first "borrowed" the concept of bail from our English forebears. Its focus on the issue of danger and how it should be treated and its elimination of surety and money bail as an anachronistic and outmoded method of release commend it as a Bill well worth passage. Before addressing the Bill in its specifics, please permit me to mention briefly some background that sets the context for the balance of my remarks.

BACKGROUND AND HISTORY

In 1966, Congress passed the Federal Bail Reform Act. This law was the culmination of many studies of the overwhelmingly complex problems posed by the release of people charged with crime pending trial. Because many people were indigent and because the bail system that had grown up in the United States usually required access to fairly large sums of money in order to secure release, many people were detained solely because of inability to raise the necessary funds.

The original purpose of the Bail Reform Act was to eliminate discrimination between rich and poor and to provide less restrictive methods of release for persons awaiting trial than the traditional option of posting bail through a surety. Without recounting the evils of the surety system and the inherent difficulties in using financial conditions to address the specific problems posed, suffice to say that the main goal of the Act was to effect the safe release of more people and to change the release methods from financial to less restrictive, nonfinancial means.

Unfortunately, during hearings on the bills, the issue of community safety, although addressed in testimony, was never mentioned in the law. The sole criterion that was established for determining which release conditions were appropriate was, "Will the condition imposed reasonably assure the appearance of the defendant as required?"

As mentioned, the initial purpose of the Bail Reform Act was to provide alternatives to the surety system to permit the release of more people pending trial and, at the same time, to eliminate discriminatory practices based on financial ability to "pay out." The Act did not address the practice of setting bail not so much to assure appearance as to protect society. The issue of community safety was subsumed into risk of flight considerations. Many bail setters used, and continue to use, high bail to detain dangerous persons. They justify the high bail on risk of flight grounds, however. Unless the issue of safety is addressed in the open and on the record, the bail process will continue to be criticized for its apparent inefficiency.

We need a new approach to the bailing of the criminal suspect. But an understanding of where we are and the course bail reform should take, first requires an examination of the myths and realities of current bail practices:

Myth No. 1.—Current bail laws assure that the bail decision is limited to a single issue: whether the suspect is likely to appear for trial. This noble constitutional principle is honored in the breach today. Most suspects detained in jail pending trial are unlikely threats to flee. The possibility of flight is all too often used as a pretext to detain suspects perceived by the court to be dangerous to the community if released. A pervasive hypocrisy infects the bail process as sub rosa considerations of community safety lie at the heart of the bail decision while judges make public pronouncements about the likelihood of flight. Former Supreme Court Justice Arthur Goldberg in testimony before this Subcommittee in June of 1970 stated, "The judge who predicts that a given defendant may commmit a serious crime may set the bail at an amount he knows the defendant cannot afford."

Myth No. 2.—The more serious the crime, the more likely the possibility that an offender, if bailed, will flee. This is the most pervasive of the prevailing myths. Recent data confirms an opposite conclusion—that motivation to flee does not increase in direct proportion to the seriousness of the offense. The poorest bail risks—those most likely to flee rather than appear at trial—are not those charged with murder, rape and robbery, but, rather, suspects charged with rel-

atively minor offenses such as larceny and prostitution.

Myth No. 3.—The setting of a financial bond is an effective way to guarantee a suspect's appearance at trial. Study after study demonstrates that the setting of a bail bond discriminates against the poor and that a simple promise to appear is as effective as the use of the bail bondsman in assuring appearance at trial. At the same time, it is clear that many who post bail (accused alien smugglers and narcotics traffickers, for example) can post even high bail, consider it a business expense, and fail to appear despite the substantial investment.

Myth No. 4.—Bail bondsmen are the best guarantors of court appearance. We have all grown up with the notion that people charged with crime get a bondsman and get out of jail. If court is missed, we all believe that bondsmen go and get the culprit. Yet, available data suggest that those released on recognizance and other conditions have better appearance records than those released through the efforts of professional bail bondsmen. (For summary findings, see Pretrail Services Annual Journal-IV, 1981, "A Proposal For The Reform Of Pretrial Release And Detention Practices In The United States"—Beaudin, Pryor and Henry, Wash., D.C. 1981, note 27, p. 80.)

Of even more import is research that discloses that bondsmen play a rather meager role in returning to court those defendants who abscond. (See the above cited article, footnote 29 at p. 82.)

Those of us who are a part of the existing bail system continue to witness first-hand the evils traceable to these prevailing myths. The hypocrisy of the current system is responsible for the pretrial detention of thousands of suspects. It is time to recognize that considerations of community safety should candidly and publicly be taken into account by judges in attempting to fashion appropriate bail conditions.

THE SURETY CONDITION: AN OUTMODED ALTERNATIVE

The American Bar Association, the National Advisory Commission on Criminal Justice Standards and Goals, the National Association of Pretrial Services Agencies, and the States of Wisconsin, Kentucky, Oregon, and Illinois have all concluded that the surety option of release serves absolutely no purpose. Both associations have recommended abolition of surety for profit. In the states named, the surety option has been eliminated and data reveal that neither recidivism, as measured by rearrest, nor failures to appear have increased while the percentage of people who have been able to secure release has increased. In fact, the commonwealth of Kentucky has made it a crime to post bond for profit and the Kentucky Supreme Court has upheld the validity of that law.

The surety bondsman has existed in our criminal justice society as an independent business person who exists to make a profit. In most cases, a surety charges 10 percent of the bond set as his fee for effecting release. That fee, once paid, is nonrefundable. We have permitted this enterprise on the theory that the bondsman, having a substantial monetary stake in the defendant's appearance (he may be liable for the face amount of the bond if the defendant fails to appear) will insure the appearance of his bailees. Again, data being collected by various pretrial services agencies, courts, and independent organizations is revealing. Most defendants who fail to appear are brought back into the system by law enforcement officers executing warrants not by bondsmen. In addition, where forfeitures are ordered, they are seldom, if ever, collected.

Thus, where we have hard evidence that alternatives work better, we should use them. S.1554 is exemplary in its direction to do just that, viz., eliminate surety and money bail as a release option. In scuttling this dollar alternative, the Bill puts to rest once and for all the ability of the system to misuse money in a fashion that clearly discriminates against the poor.

DANGER AND PREVENTIVE DETENTION

It is clear that considerations of danger—*never* a legal consideration in the bail process constitutionally or traditionally—can no longer be avoided. The right of the people to move safely about our Nation's streets is without question. We who would not tolerate another country's taking of American hostages, cannot afford to be taken hostage ourselves by fear of domestic crime. Yet we must avoid the rhetoric of "quick-fix" answers and preserve our reputation as a Nation that protects the Civil Liberties of all of its citizens.

Since recent data demonstrate that those charged with serious offenses are among the most likely to appear at trial, we can no longer continue to justify their pretrial detention on some appearance based rationale. Rather, we must fashion release conditions designed to protect the community while, at the same time, assuring the release of most of those not yet convicted. Yet, we must establish a fair and accountable means for detaining those few who cannot be released. S. 1554 is a giant step in the right direction.

THE BILL ITSELF

With two minor exceptions, I heartily endorse the Bill as it stands.

1. In S. 3146, "Penalty for failure to appear," the Bill provides that a releasee is guilty of an offense if "he fails to appear before a court as required. . . "

Our own data show that over half the failures to appear are non-wilful. They occur for such reasons as no notice of court date; hospitalization; detention in a foreign jurisdiction; and other justifiable excuses. Given this circumstance, I would suggest that the following be substituted:

"he wilfully fails to appear . . . etc." and

"he wilfully fails to surrender . . . etc."

2. In S. 3141 proposed as a substitute for S. 3146, in paragraph (4) where the term "Crime of Violence" is defined, Sections A and B state ". . . physical force against the person or property of another. . . "

Since the real heart of the proposed "danger" amendments is to address the fear of violent crime to the person, I think the language should be changed. As presently defined, were I to bash in a car window to steal it, I could be detained as having been charged with a violent crime. I would suggest deletion of the words "or property" so that the section would read, ". . . . physical force against the person of another . . . etc.," in both Sections A and B.

CONCLUSION

In the past 17 years, I have witnessed bail abuse in many of our Country's States—including my own jurisdiction. I have worked with countless local, county, and state officials on the problems posed by such abuse. I have testified in some cases of bail abuse. At the heart of most of this abuse is the hypocrisy which permits judges to jail people under the guise of setting a release condition too burdensome to meet. The only way to eliminate this situation is to do exactly what S. 1554 proposes; eliminate money as a means by which release is secured and permit an on-the-record confrontation of the issue of danger.

Thank you for your attention.

DISTRICT OF COLUMBIA
PRETRIAL SERVICES AGENCY,
Washington, D.C., October 28, 1981.

Hon. ORRIN G. HATCH,
Chairman, Subcommittee on the Constitution, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR HATCH: I respectfully submit this letter as a follow-up to the testimony I provided the Subcommittee last Wednesday (October 21, 1981) during hearings on S. 1554 (Bail Reform Act Amendments). At the conclusion of my testimony, I was asked to respond to the following five (5) questions:

1. I understand that the rate of no-shows has been significantly reduced in many districts where Pretrial Services Agencies have been established. To what degree have they been reduced? To what do you attribute any success in reducing the number of fugitives?

(a) As I understand it, both the Pretrial Services Division of the Administrative Office of the U.S. Courts (responsible for the administration of the 10 federal demonstration agencies created under the Speedy Trial Act) and the Lazar Institute (a Washington, D.C. based consultant firm that has just completed an evaluation of several state systems) have both concluded that both "no-show" and "rearrest" rates have improved with the advent of pretrial services agencies and with the use of alternative methods of release that have generally replaced the traditional surety bond alternative. I respectfully refer you to Mr. Guy Willetts (633-6449) of the Pretrial Services Division and Ms. Mary Toborg (232-2400) for specific data.

(b) To answer this question, I should caution you that the word fugitive is usually used to identify someone who has fled a particular jurisdiction to avoid prosecution. These are few in number comprising fewer than 1 or 2 percent of the total number of people released. Data gathered by the Pretrial Services Resource Center (a federally funded clearinghouse of data concerning all types of pretrial services) indicates that most true fugitives are "recovered" by law enforcement officials. (You may contact Alan Henry or Don Pryor at 638-3080 for futher information.) Of more concern than fugitivity—as a matter of court disruption—is concern over the matter of court disruption-is concern over the failure to appear rate—a rate made up of persons who miss court dates for various reasons but do not flee. Data show that these rates have been significantly reduced by services provided by pretrial services agencies. In the District of Columbia, where our Agency has operated since 1963, we have learned that better than 50 percent (½) of the failures to appear are non-willful on the part of the defendant, e.g., he is in jail, in the hospital, or has an otherwise valid reason for failing to appear. Special efforts on our part have reduced the failure to appear rate from about 12 percent four years ago to less than 8 percent in 1980.

2. How would you compare your services in pretrial supervision with the services provided by professional bail bondsmen? Which do you think come closest to fulfilling the classical role of a surety? What is the cost to the government involved in your services?

(a) The services we provide to the Court System and the pretrial releases are far more comprehensive and intensive than those provided by the professional surety. In the initial instance, we gather background information about community ties, criminal histories, etc., on every defendant brought before the court for bail hearing. The Court, the Prosecutor, and others are given a full report that enables a much more accurate and informed decision to be made. Also, most of the information becomes a matter of public record that is available for subsequent legal considerations such as sentence, diagnostic classification by correctional personnel, etc. In addition, subsequent to release, every defendant is notified of every court date; weekly contact is maintained with most releasees; assistance in locating and procuring various social services is provided; and, most important, the "system" is advised in writing of any violation of any court ordered condition of release. In contrast, the bondsman interviews only those he chooses; provides no information to the court initially other than notice of intent to "bail" the defendant; is not concerned with and generally does not monitor safety control conditions ordered by the court; and does not generally provide information at sentence.

(b) In the feudal days, the surety literally stood in the place of a defendant for whom he stood bail. Usually a relative or close friend, the bond between bailor and bailee was close. In fact, in a case of default, the surety went to jail in place of the defendant. Modern practice results in an attenuated relationship between surety and defendant that is based strictly on a financial incentive contract mutually defined by bondsman and defendant with the Court having little or no say in the bargaining. In the words of one jurist often quoted, ". . . the bondsman (not the Court) holds the key to the jailhouse in his pocket." A bondsman's *only* incentive is profit. Pretrial Services Agencies, on the other hand, are interested in assisting both the Courts and the defendants. As a result, their role is much closer to that of the original surety.

(c) Our program costs the D.C. Government $1,250,000 per year. For this cost, over 25,000 reports are delivered at initial bail setting; over 50,000 notification letters are dispatched; over 15,000 cases are supervised for a minimum of a 9 month average; and presentence writeups are delivered in over 1,000 cases. Average cost: $50 per case. While certainly not all these people would be jailed, it must be remembered that as little as 5 years ago, there was a jail overcrowding problem in the District of Columbia. The new facility built to replace one constructed in the early 19th century was scaled down saving nearly $20,000,000, in construction and maintenance costs. The cost to maintain a prisoner in an institution in D.C. exceeds $55 *per day* according to D.C. Department of Correction estimates. Since this figure includes fixed costs—overhead, building maintenance, etc., it might be misleading to calculate savings based on that computation. We have been told, however, that transportation and "out-of-pocket" costs for food, clothing, etc., exceeds $30 per day per prisoner. A quick mathematical computation shows that 41,667 days can be bought for the amount of our budget. This means that 154 people could be detained for 9 months. Without our services, given 9000 felonies of which 1500 are considered dangerous under the D.C. Statute, only 10% could be detained for the equivalency investment of our budget. These figures, of course, do not even address the issues of human costs, right to release, etc. Suffice to say, as was said by the United States Department of Justice in citing the D.C. Pretrial Services Agency as one of 35 exemplary programs so designated since the inception of LEAA:

"After nearly 20 years of experience and research, the Pretrial Services Agency has shown that the courts can grant non-financial release to the majority of defendants without increasing rates of rearrest or failure to appear. The Agency's services are exceptionally comprehensive, well documented, and adaptable to jurisdictions of any size."

3. One of the major objections to money bail is that judges have used it as a means to achieve pretrial detention in the absence of a statute allowing them to detain suspects on account of the threat they may pose to the community. If this Bill does as you recommend in making dangerousness a factor in bail proceedings, then judges should not have to use money bail as a subterfuge. With that problem out of the way, would it not be appropriate to let the court, in its discretion, continue to use financial inducement to appear for trial? If we eliminate the need for courts to abuse money bail, why should we eliminate this additional tool to get defendants to court?

(a) When the D.C. Bail law was passed in 1970, Attorney General Mitchell and Deputy Associate Attorney General Donald Santarelli, heralded the detention and danger sections of the Bill as the means by which the hypocritical use of high money bail to detain dangerous (as distinguished from flight risk) defendants would be eliminated. Unfortunately, the law retained the use of money bail to address flight concerns providing, "No financial condition may be imposed to assure the safety of any other person or the community." It was believed that danger and flight issues would be faced squarely and separately. They were not; they seldom are to this day. History reveals the sparse use of the detention sections since 1971. Explanations vary. In my judgment, its use has been sparse precisely because the prosecutors have done what they've always done: used arguments about flight risks to justify requests for high money bail which, in most cases, will result in pretrial detention. The only way to insure community protection—after all, alleged racketeers and narcotics traffickers can post inordinate amounts of bond and consider it a cost of doing business—is to see to it that no loophole exists which can permit the system to avoid its responsibility. On the other hand, all the data we have collected since the bail revolution of the 60's has demonstrated that most defendants—particularly those charged with so called violent crimes—are excellent risks when it comes to appearance. Their pretrial detention simply cannot be justified on flight grounds since they virtually never fail to appear. Despite the conventional wisdom that tells us people facing serious penalties are more likely to flee, our experience has disproved the myth. In short, if we continue money bail as an option, we will continue the possibility of abuse of discretion, discrimination between rich and poor, and, most important, we will leave the door open to further exploitation of the community by permitting the existence of a mode of release that serves absolutely no purpose.

(b) Put simply, the Bill as it stands would eliminate the need for courts to abuse money bail. If, however, money bail is left in, the federal system will experience what happened in D.C. Rather than face the stringent requirements necessary to satisfy a detention order, Prosecutors will simply take the easy way and seek high bail on what we know to be inaccurate and phony grounds. Why? To get high bail one need only say a person is a high risk based on the severity of sentence he faces. This logic has prevailed in most appellate courts; indeed, even in the U.S. Supreme Court. To effect a detention order, one must show he has a colorable chance of a successful prosecution; that the defendant fits a certain class; and that no conditions other than detention would protect the community. A final reason for eliminating financial conditions is simply that they are unnecessary. In reviewing literally thousands of cases in the last 20 years, I have never seen one where other conditions would not do the job as well as posting money. For the wealthy, signing over titles to property to be held by the court provides more motivation to return than posting dollars that are easier to get . . . and leave. For the poor who need the use of resources, threat of loss of prized possessions, threat of sanctions for condition violations, etc., are more effective than money. Of all conditions, money is the worst and least effective as a means of inducing appearance . . . and we do not need to hypothecate on this issue; we have proved it in testing alternatives that have worked.

4. Could you give the Subcommittee some more detail about the studies you mentioned in your statement that demonstrate that money bail does not help assure a suspect's appearance for trial?

In an article entitled, "A Proposal For The Reform Of Pretrial Release And Detention Practices In The United States," Pretrial Services Resource Center Annual Journal, 1981, Washington, D.C. p. 68, authors Beaudin, Pryor, and Henry cite many studies that support their various suggestions for reform. At p. 97 in a section entitled reform No. 5, the authors argue that bail bond for profit (Surety) should be eliminated, and financial conditions severly curtailed. At p. 100 they say, "Although statistically it is clear that the use of monetary forms of release are no better at assuring court appearance than are nonfinancial forms of release . . ." and cite the following:

(a) Michael Kirby, *FTA—Failure To Appear: What Does It Mean. How Can It Be Measured?* (Wash., D.C., Pretrial Services Resource Center, 1979) p. 7;

(b) Stevens Clarke, Jean Freeman, and Gary Koch, The Effectiveness of Bail Systems: An Analysis Of Failure To Appear In Court And Rearrest While On Bail (Chapel Hill, N.C.: Institute of Government, University of North Carolina, 1976) Table 4 showing bondsmen with the highest FTA rate of all five types of release;

(c) Michael Kirby, An Evaluation of Pretrial Release And Bail Bond In Memphis And Shelby County (Memphis, Tenn.: The Policy Reserach Institute, Southwestern College, 1974) p. 36 showing significantly higher nonappearance rates for those released through bondsmen (compared with those released through the release program) for both misdemenaor and felony causes;

(d) Jeffrey Roth and Paul Wice, Pretrial Release and Misconduct in the District of Columbia (Wash., D.C.: Institute for Law and Social Research, 1980, pp 43-44 showing comprable appearance rates for bondsmen and personal recognizance and other forms of release;

(e) note 27 at pp 80-81 which cites studies in Philadelphia, Connecticut, etc., to the same point, viz., that recongizance is as effective as money bail.

5. You recommend that the Subcommittee change the S. 1554 definition of "crime of violence" which now reads, "physical force against the person or property of another" by deleting the words "or property." This crime of violence definition is important in determining when pretrial detention is justified. I can envision cases, such as destructive burglaries, arsons, or auto thefts, which are crimes against property, which, in the discretion of the courts, might justify some form of detention. If an individual commits several violent crimes against property and is likely to commit others if released, why would you deny the courts the discretion to detain him? In some instances, these crimes against property could result in bodily injury if the court does not prevent the suspect from continuing to perform them—arson or burlary, for instance, should not the court have discretion to detain these individuals?

(a) I don't think the courts should be denied the opportunity to order detention of those charged with crimes that have the actual potential for harm to human beings. The problem here is in including the potential for using the statute in totally inappropriate cases . . . such as breaking into a warehouse at night, stealing a car with no one in it, etc. At common law, property crimes were divided into those with potential for harm to persons and those without, e.g., housebreaking into an occupied dwelling at night carried a much stiffer penalty than housebreaking during the day into an unoccupied dwelling. I maintain that the language, ". . . any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person of another may be used". . . would cover any case in which an apparent property crime, i.e., theft, potentially involves personal harm while excluding such cases as grand larceny from a warehouse.

(b) I think my answer in (a) above covers this question.

If you should have any additional questions or if I can be of any additional assistance, please do not hesitate to contact me.

Yours truly,

BRUCE D. BEAUDIN.

Mr BIDEN. Mr. President, violent crime ranks among the most frequently discussed and least understood problems in America. Nearly every day we hear of how our citizens fear crime and stories of unfortuate victims followed by a call to "get tough" on crime. Unfortunately, a "get tough" policy, with its implied over simplistic cure of increased incarceration, fails to take full advantage of what we know about who causes violent crime and how they can be stopped.

First, we know that a small number of offenders commit a disproportionately large number of serious crimes. One long term study conducted in Racine, Wis., found that 1 percent of the males identified in 1942 had four or more felony contacts with police and accounted for 29 percent of all such contacts. In 1949, the 3 percent who had four or more felony contacts accounted for nearly 50 percent of the contacts, and in 1955, 6 percent who had four or more felony contacts accounted for 70 percent. (Shannon, Lyle W., 1980. "Assessing the Relationsip of Adult Criminal Careers to Juvenile Careers." Draft manuscript. Iowa Urban Community Research Center, University of Iowa, Iowa City.)

Similarly, a study of males born in Philadelphia in 1945 found that the 6 percent of the individuals with five or more official police contacts were responsible for 51 percent of all officially recorded police contacts in their teen years. At age 30, they had been charged with 24 percent of all of the official crime by members of the studied group, 84 percent of the personal injury offenses, and 82 percent of the serious property offenses. (Collins, James J., 1977. "Offender Careers and Restraint: Probabilities and Policy Implications." Final draft report. Washington, D.C.: Law Enforcement Assistance Administration, U.S. Department of Justice.)

These career criminals should be the primary focus of our efforts if we truly want to have an impact on violent crime.

Unfortunately, the criminal justice system does not punish career criminals with a severity commensurate with the seriousness of their crimes. An article in "Crime and Justice" summarized research on career criminals:

Recidivists, even when arrested, are unlikely to be convicted and imprisoned. A study of sentencing practices in Los Angeles County showed that only 50 percent of defendants who had served a prior prison term received a prison sentence for a subsequent robbery conviction (Greenwood 1977). Recidivists were often spared stringent punishment by prosecutors willing to reduce charges for a guilty plea and by judges hopeful of rehabilitation. The fast return to the streets of some defendants, especially those sufficiently sophisticated to manipulate the criminal justice system to their advantage, followed by their resumption of crime and subsequent rearrest, created a dismaying image of "revolving door" justice. One implication of these results was that serious crime might be significantly lessened if recidivists were reliably identified, vigorously prosecuted, and consistently imprisoned. (Petersilia, Joan 1980, "Criminal Career Research: A Review of Recent Evidence.")

These figures cannot be ignored. They mandate changes in the criminal justice system which will have an impact on career criminals.

The violent crime and drug enforcement improvement act (S. 2572) is a package of proposals which will make many long overdue changes in Federal law to deal more effectively with violent crime and narcotics law enforcement.

Some of those proposals will also improve the Federal response to career criminals.

Title V of S. 2572 makes substantial changes in procedures which will be used to sentence all Federal offenders. Those procedures will have a significant impact on the sentencing of career criminals.

For example, the bill establishes a sentencing guideline system to assist judges in setting uniform and appropriate sentences. The guidelines will specify a substantial term of imprisonment for defendants who first, have two or more felony convictions, second, commit the offense as part of a pattern of criminal conduct from which he derived a substantial portion of his income, third, commit the offense as part of a pattern of racketeering, fourth, commit the offense while on release pending trial sentencing or appeal, or fifth, traffic in large quantities or narcotics.

S. 2572 also authorizes the Government to appeal sentences below the sentencing guideline while protecting defendants against inordinately punitive sentencing by authorizing them to appeal sentences above the guideline.

Career criminals will have greater respect for the criminal justice system because parole is abolished. Under the bill the sentence imposed by the judge will be served in full. Offenders and the public recognize that the present sentencing system is a sham—judges set an artificial term of imprisonment while the true length of sentence is determined by a parole board far removed from the courtroom.

Mr. President, more than 50 of my colleagues have cosponsored the Violent Crime and Drug Enforcement Improvements Act of 1982. I am certain that they join with me in urging all of our colleagues on both sides of the aisle to carefully analyze the bill and to join us in moving forward on this legislation.

I ask unanimous consent that an expert pertaining to sentencing from the Senate Judiciary Committee's report on the criminal code recodification be printed in the RECORD following my remarks.

The provisions described in that report are practically identical to title V of S. 2572.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PART III. SENTENCES

A. INTRODUCTION

Part III together with parts of chapters 37 and 38 of title 18 and several proposed chapters of title 28 of the United States Code, represents the first comprehensive sentencing law for the Federal system. It is the culmination of a reform effort begin more than a decade ago by the National Commission and championed in recent years by former United States district judges Marvin E. Frankel and Harold R. Tyler, Dean Norval Morris of the University of Chicago Law School, Professor Alan Dershowitz of Harvard Law School, and numerous others including Senators John L. McClellan and Edward M. Kennedy, who sponsored legislation in the 94th and 95th Congresses. After extensive hearings on that legislation,

which resulted in further refinement of the proposals, comprehensive sentencing reform provisions were included in S. 1437, as reported in the 95th Congress by this Committee and overwhelmingly passed by the Senate on January 30, 1978. These comprehensive sentencing provisions are carried forward in the bill, with further refinements resulting from additional research and suggestions received by the Committee since S. 1437 was passed. The current version of the proposals has recently received the strong endorsement of the Attorney General's Task Force on Violent Crime.[1]

Criminal sentencing today is in desperate need of reform. It is based on an outmoded rehabilitation model in which the judge is supposed to set the maximum term of imprisonment and the Parole Commission to determine when to release the prisoner because he is "rehabilitated"—yet almost everyone involved in the criminal justice system now doubts that rehabilitation can be induced reliably in a prison setting, and now is quite certain that no one can really detect when a prisoner does become rehabilitated. Since the sentencing laws have not been revised to take this into account, each judge is left to apply his own notions of the purposes of sentencing. As a result, every day Federal judges mete out an unjustifiably wide range of sentences to offenders convicted of similar crimes. One offender may receive a sentence of probation, while another—convicted of the very same crime and possessing a comparable criminal history—may be sentenced to a lengthy term of imprisonment. Even two such offenders who are sentenced to terms of imprisonment for similar offenses may become subject to widely differing prison release dates; one may be sentenced to a relatively short term and be released after serving most of the sentence while the other may be sentenced to a relatively long term but be denied parole indefinitely.[2]

Footes at the end artcle.

These glaring disparities, whether they occur at the time of the initial sentencing or at the parole stage, can be traced directly to the unfettered discretion the law confers on those judges and parole authorities responsible for imposing and implementing the sentence. This sweeping discretion flows from the lack of any meaningful statutory guidance or review procedurtes to which courts and parole boards might look.[3] These problems are compounded by the fact that the sentencing judges and parole officials are constantly secondguessing each other, with the result that prisoners (and the public) remain constantly uncertain as to the real sentence a defendant will serve.

In order to alleviate these problems, the Committee set several goals that it believes any sentencing reform legislation should meet. First, sentencing legislation should contain a comprehensive and consistent statement of the Federal law of sentencing, setting forth a rational set of purposes to be served by the sentencing system and a clear statement of the kinds and lengths of sentences available for Federal offenders.

Second, it should assure that sentences are fair both as to the offender and as to society, and that this fairness is achieved both in the individual case and in the pattern of sentences in all Federal criminal cases. Third, it should assure that the offender, the individuals in the Federal criminal justice system charged with implementing the sentence, and the general public are certain as to the sentence for the offender and the reasons for it. Fourth, it should assure the availability of a full range of sentencing options from which to impose the most appropriate sentence in a particular case. Fifth, it should assure that each stage of the sentencing process, from the imposition of sentence by the judge through the end of any period during the offender remains within the jurisdiction of any part of the criminal justice system, is working in concert with the same goals for the offender and for society.

Unfortunately, it is fair to say that current Federal law fails to achieve any of these goals. Each participant in the process from the courts through the probation and parole systems does the best it can with the assistance of substantial reform of sentencing legislation.

Following is a description of current sentencing law and the attempts of the Federal criminal justice system to ameliorate the problems caused by that law. That description is followed by a description of the sentencing reform proposals in the bill, as reported, and a discussion of how those proposals will achieve the goals set by the Committee. More detailed descriptions of current law and the sentencing provisions are contained in the materials that follow this introduction.

B. CURRENT FEDERAL SENTENCING LAW

1. Lack of comprehensiveness and consistency

There is no general Federal sentencing law in the current criminal code. Instead, current law specifies the maximum term of imprisonment and the maximum fine for each Federal offense in the section that describes the offense.[4] These maximums are usually prescribed with little regard for the relative seriousness of the offense as compared to similar offenses.[5]

Current law also contains several specialized sentencing statutes that are each applicable to a narrow class of offenders—offenders between the ages of 18 and 22,[6] offenders between 22 and 26,[7] nonviolent offenders who are drug addicts,[8] offenders who are "dangerous special offenders," [9] and offenders who are "dangerous special drug offenders". [10] Other categories of offenders that might just as logically be covered by specialized statutes are left unidifferentiated.

The sentencing provisions of current law were originally based on a rehabilitation model in which the sentencing judge was expected to sentence a defendant to a fairly long term of imprisonment during which the defendant was eligible for release on parole for at least two-thirds of the term. The Parole Commission was charged with setting the release date for the defendant within that period of eligibility if it concluded that the defendant was sufficiently rehabilitated that there was not an undue risk that he would commit additional offenses after release.

Current findings suggest that this approach, although noble in design, has failed dramatically.[11] Yet it is the only basis on which the continued existence of both the indeterminate sentence and the United States Parole Commission can be justified.[12] If rehabilitation, and particularly the type of "coercive" rehabilitation which ties prison release dates to the successful completion of certain vocational, educational and counseling programs, continues as the anomalous ideal upon which to base a sentencing system, then both the indeterminate sentence and the concept of parole release should be perpetuated.

Most sentencing judges and the Parole Commission, however, have recognized in recent years that the rehabilitation model is not an appropriate basis for sentencing decisions—too little is known about human behavior to accurately determine whether or when a particular defendant has been rehabilitated—yet the sentencing statutes have not been amended to take account of this invalidity. The judges and Parole Commission are left to exercise their discretion to carry out what each believes to be the purpose of sentencing.

The judge imposes what he believes to be an appropriate type and length of sentence in accord with what he believes to be the purposes of sentencing with little or no statutory guidance.[13] While one judge may continue to impose a relatively long prison sentence on the rehabilitation model or may impose a long sentence to incapacitate the offender, another judge may sentence a similar defendant to a shorter prison term for punishment purposes or sentence a similar defendant to probation for rehabilitative purposes.[14]

The Parole Commission, in turn, releases the defendant according to its views of the appropriate term of imprisonment. In recent years the Parole Commission has attempted to perform its function in a manner that will alleviate disparity in judicially imposed terms of imprisonment and provide increased certainty as to the prisoner's release date. It has sought to achieve the goal of reduction in disparity by considering parole guidelines[15] that recommend an appropriate period of incarceration for different combinations of offense and offender characteristics. It has sought to increase certainty in release dates by setting a "presumptive release date" in most cases within a few months of commencement of the term of imprisonment.[16]

The Committee believes that this research on the scope of unwarranted sentence disparity makes clear that no variation in characteristics of offenses or offenders explains all the apparent disparities in the statistics.[29]

Disparities in sentencing that are not justified by differences among offenses or offenders are unfair both to offenders and to the public. A sentence that is unjustifiably high as compared to sentences for similarly-situated offenders is clearly unfair to the offender. Conversely, a sentence that is unjustifiably low as compared to sentences for similarly-situated offenders is clearly unfair to the public. Unjustifiably high or low sentences are unfair to offenders and the public in more subtle ways as well. Sentences that are disproportionate to the seriousness of the offense, whether they are too high or too low, create a disrespect for the law. Sentences that are too severe create unnecessary tensions among prison inmates and add to disciplinary problems.[30]

In recent years, the United States Parole Commission has attempted to alleviate the disparity in judicially imposed sentences. It now determines the release date for prisoners in its jurisdiction after considering parole guidelines that recommend a period of imprisonment for a person convicted of a particular offense who has a particular history and characteristics.[31] The release date is usually set within the range suggested by the guidelines if the prisoner is eligible for parole during that period. The Parole Commission may, of course, order the release of a prisoner at a time outside the guidelines range if it has a specific reason for doing so.

The Parole Commission is unable to alleviate disparity in all sentences. It does not have jurisdiction over offenders who are not

sentenced to prison or who are sentenced to terms of a year or less.[32] It may only order release of a prisoner within the period of parole eligibility, even if the prisoner is not eligible for release within the guidelines period. It rarely amends the release date for a prisoner whose term less good time falls within or below the guidelines range. Further, the parole guidelines themselves may contribute to disparity by grouping offenses according to supposed severity, while rarely distinguishing them according to such characteristics as the amount of harm done by the offense, the criminal sophistication of the offender, and whether the offender played a major or minor role in an offense committed with others. Similarly, the offender characteristics fail to make distinctions in evaluating criminal histories between major and minor previous offenses, and give the same weight to all but very old previous offenses.

3. Uncertainly in release date

A term of imprisonment in excess of one year that is imposed by a judge frequently has little to do with the amount of time the an offender will spend in prison. The term represents only the maximum length of time that offender may spend in prison if he earns no good time credits[33] and if the United States Parole Commission does not set a release date that falls before the date of expiration of sentence.[34]

The sentencing judge may influence the release date in two ways: He may specify that the prisoner is eligible for parole before the statutory period of one-third of the sentence.[35] If he believes a sentence no longer than the period specified in the parole guidelines is appropriate, he may impose a sentence that is within or below the parole guidelines range, in which case the prisoner probably will be released at the expiration of the sentence less good time.

Neither of the ways in which the sentencing judge may influence the release date informs the public of the period of time that the offender will spend in prison. The judge specifies the maximum length of time the offender may spend in prison and any early eligibility for parole in a public proceeding; the Parole Commission determines the actual release date in a closed proceeding. The public has no way of knowing when a judge has imposed a sentence that will be served in full or when he has imposed a sentence only a small percentage of which will actually be served. If the sentence appears to be short, the public may think the defendant will serve only one-third of the sentence when in fact he may serve the full term less good time deductions. Conversely, if the sentence appears to be long, the public may be confused when the defendant serves only a small percentage of it.

Under current law, a prisoner sentenced to serve more than one year in prison is released on the earlier of two dates: the date on which his sentence ends less good time allowances,[36] or the date on which he is released on parole.[37]

The United States Parole Commission recently has attempted to reduce the uncertainty in release dates by informing most prisoners of their presumptive release date soon after they begin serving their sentences.[38] The Parole Commission may tell the prisosner he will be released at the expiration of his sentence less good time, particularly if his sentence is within or below the guidelines, or may set another tentative release date. In either case, the date remains subject to change: If the presumptive release date is the date of expiration of sentence less good time, the prisoner may have the date subject to constant adjustment because of the withholding or forfeiture of all or part of the good time he has earned for compliance with institutional rules and the possible partial or total restoration of that good at a later date. If the presumptive release date is another date, the Parole Commission may move it forward in exceptional cases or may delay it for disciplinary problems in prison—and the Parole Commission may or may not adjust the release date for a rules violation that resulted in the withholding or forfeiture of good time, and may delay the release date even though the Bureau of Prisons restored all good time lost for the same violations.[39]

4. Limited availability of sentencing options

Current law is not particularly flexible in providing the sentencing judge with a range of options from which to fashion an appropriate sentence. The result is that a term of imprisonment may be imposed in some cases in which it would not be imposed if there were better alternatives—or a longer term might be imposed than would be imposed if other alternatives served some of the purposes of sentencing that the judge sought to achieve in imposing a long sentence.

The only type of sentence for which current law provides an ample—some would argue too ample—range and services is a term of imprisonment. Maximum fines in current law are generally too small to provide punishment and deterrence to major offenders[40]—frequently a fine does not come close to the amount the defendent has gained by committing the offense. The probation statutes suggest few possible conditions, and do not provide for such possible alternatives to all or part of a prison term as community service or brief intervals, such as evenings or weekends, in prison. Current law also limits restitution to use as a condition of probation,[41] so that it may not be used in conjunction with a term of imprisonment or a fine. Finally, current law makes no provision for notifying victims of a fraudulent offense of the conviction so they may seek civil remedies.

5. Apparent inconsistency of purpose

Rather than working with a unified purpose in imposing and implementing a sentence, the Federal criminal justice system—no matter how well-intentioned it may be—seems frequently to be working at cross-purposes. Many theories have been advanced as to what are permissible purposes for levying a prison sentence. But no one view has been accorded the congressional imprimatur.[42] One judge may sentence an offender to a term of imprisonment in order to deter potential criminals; another may view imprisonment as an effective way to punish; a third judge may seek to incapacitate the offender; and a fourth may cling to the notion of imprisonment as a means to rehabilitate the offender.[43] Indeed, there may be other rationales which judges embrace.

Even if the sentence were appropriately tailored to the four general purposes of sentencing, the individuals in the criminal justice system will probably be unaware of the purposes the judge thinks should be served by the sentence. The judge is not required to state his reasons for giving a particular sentence, and rarely does so. If the judge does state reasons, but states them at the hearing rather than putting them in writting, the statement may never reach the appropriate officials in the criminal justice system since the statement is transcribed only if it becomes the subject of an appeal.

As a result of this all too frequent lack of communication, prisons and parole officials may not know, for example, whether the judge intended that the offender spend most of his term of imprisonment in prison because he was afraid the offender would continue to commit crimes or whether he intended that the offender spend only a brief period in prison as punishment and as a deterrent to additional crime unless his prison behavior made early parole release unjustified.

Perhaps the most serious example of parts of the criminal justice system working at cross-purposes is the secondguessing of judges' sentencing decisions by the Parole Commission.[44] The judge imposes the maximum term applicable to the defendant and may specify that the defendant will be eligible for release on parole at a time earlier than the statutory one-third.[45] The Parole Commission has full discretion to set the parole release date anywhere within the range between the date of parole eligibility and the date of expiration of sentence less good time credits. While it bases any release decision within, the parole guidelines entirely on information known at the time of sentencing, and bases most other decisions on information known at the time of sentencing, this does not mean that the sentencing judge and the Parole Commission are in agreement as to the length of time the defendant should spend in prison.

Even if the judge attempts to convey his idea of how long the defendant should spend in prison under particular circumstances, the Parole Commission may ignore the judge's wishes.[46] For example, the judge may specify early parole eligibility for a defendant because he believes he should spend a short period in prison and be released early unless he fails to comply with institutional disciplinary rules. In all probability, the Parole Commission will release the defendant under the guidelines at the same time as a defendant who was not made eligible for early parole release, since the guidelines make no distinction between the two types of sentences.

The Parole Commission is not entirely at fault in secondguessing the judges. It has been assigned responsibility for attempting to alleviate unwarranted disparity in judicially imposed sentences.[47] Because sentencing judges impose each sentence according to their own views as to the purposes of sentencing, the Parole Commission cannot distinguish between a relatively short sentence that the judge intends to be served in full and the relatively long sentence of which the judge intends the defendant to serve only a small percentage. With little or no explanation by the judge of the reasons for the sentence, the Parole Commission has no choice but to treat equally two defendants who appear to the Commission to be equal.

It appears that the problem of different parts of the criminal justice system working at cross-purposes may be getting worse. Some judges deliberately sentence defendants to terms of imprisonment that fall within or below the parole guidelines.[48] The Parole Commission is then left to set a presumptive release date equal to the statutory date for expiration of sentence, leaving its function as to more than half the defendants technically within its jurisdiction virtually meaningless. While imposing sentences within the parole guidelines range has the useful result of avoiding sentencing disparity from the outset rather than waiting for the Parole Commission to correct it, it also leaves the judges in the position of second

guessing the Parole Commission so the Commission cannot second guess them.

C. SENTENCING PROVISIONS IN THE CODE

1. Comprehensiveness and Consistency

The Code contains for the first time a comprehensive statement of the Federal law of sentencing. It outlines in one place the purposes of sentencing, describes in detail the kinds of sentences that may be imposed to carry out those purposes, and prescribes the factors that should be considered in determining what kind of sentence to impose in a particular case and the amount or length or conditions of the sentence.

The Code gives congressional recognition to four purposes of sentencing: the need to afford adequate deterrence to criminal conduct; the need to protect the public from further crimes of the defendant; the need to reflect the seriousness of the offense, to promote respect for law, and to provide just punishment; and the need to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.[49]

The Code specifies that an individual may be sentenced to a term of probation, a fine, or a term of imprisonment, or to a combination of a fine and probation or a combination of a fine and imprisonment.[50] An organization may be sentenced to a term of probation or a fine, or to a combination of these.[51] Either an individual or an organization may be ordered as a part of the sentence to forfeit any interest in a racketeering syndicate,[52] to give notice to victims of a fraudulent offense,[53] or to make restitution to the victim of an offense that causes bodily injury, or in the course of which the defendant unlawfully obtained, damaged, or destroyed property of another.[54]

The Code creates for the first time a device by which each offense is graded according to its relative seriousness.[55] This device is also useful in defining the attributes of the sentence for each grade of offense. It is used to define in a comprehensive manner the maximum terms of imprisonment, maximum fines, maximum terms of probation, and maximum terms of post-release supervison for each grade of offense. The result is a consistent pattern of maximum sentences for equally serious offenses instead of the current almost random maximum sentences caused by the piecemeal approach to creation of Federal criminal laws in the past.[56]

Rather than providing specialized sentencing statutes that cover a narrow class of offenders without regard to the fact that a given offender might fall within the classes covered by more than one such statute, the Code creates a sentencing guidelines system that will be able to treat in a consistent manner all classes of offenses committed by all categories of offenders.[57] The sentencing guidelines will recommend to the sentencing judge an appropriate kind and range of sentence for a given category of offense committed by a given category of offender. The guidelines will be supplemented by policy statements that will address such questions as: the appropriate use of the sanctions of criminal forfeiture, order of notice to victims, and order of restitution; and the use of conditions of probation and post-release supervision. The formulation of sentencing guidelines and policy statements will provide an unprecedented opportunity in the Federal system to look at sentencing patterns as a whole to assure that sentences imposed are consistent with the purposes of sentencing. At the same time, the use of sentencing guidelines and policy statements will assure that each sentence is fair as compared to all other sentences.

The sentencing guidelines system will not remove the judge's sentencing discretion. Instead, it will guide the judge in making his decision as to the appropriate sentence. If the judge finds that an aggravating or mitigating circumstance is present in the case that was not adequately considered in the formulation of the guidelines and that should result in a sentence different from that recommended in the guidelines, the judge may sentence the defendant outside the guidelines.[58] A sentence that is above the guidelines may be appealed by the defendant;[59] a sentence below the guidelines may be appealed by the government.[60] The case law that is developed from these appeals may, in turn, be used to further refine the guidelines.

2. Assuring fairness in sentencing

A primary goal of the sentencing reform measures is the elimination of unwarranted sentencing disparity.[61] The Parole Commission's efforts to alleviate disparity come too late in the process to achieve this goal.

One of the main benefits of the sentencing guidelines system discussed earlier is that it can achieve the purpose of eliminating disparity in sentences that is not justified by differences among offenses and offenders. The Code requires the judge, before imposing sentence, to consider the history and characteristics of the offender, the nature and circumstances of the offense, and the purposes of sentencing.[62] He is then to determine which sentencing guidelines and policy statements apply to the case. He may either decide that the guideline recommendation reflects the offense and offender characteristics that should affect the sentence and impose sentence according to the guidelines recommendation, or conclude that the guidelines fail to adequately reflect an aggravating or mitigating circumstance that should affect the sentence and impose sentence outside the guidelines.[63] A sentence outside the guidelines is appealable, with the appellate court directed to determine whether the sentence is reasonable.[64] Thus, the Code assures that the majority of cases will result in sentences within the guidelines range, while sentences outside the guidelines will be imposed only in appropriate cases.

The Committee does not intend that the guidelines be imposed in a mechanistic fashion. It believes that the sentencing judge has an obligation to consider all the factors in a case and to impose sentences outside the guidelines in an appropriate case. The purpose of the sentencing guidelines is to provide a structure for evaluating the fairness and appropriateness of the sentence for an individual offender as compared to similarly situated offenders, not to eliminate the imposition of thoughtful individualized sentences. Indeed, the use of sentencing guidelines will actually enhance the individualization of sentences as compared to current law. The sentence now imposed too frequently depends on the identify of the sentencing judge. Under a sentencing guidelines system, the sentence will depend on a comprehensive examination of the characteristics of the particular offense and the particular offender and a comparison of those characteristics to the characteristics of similar offenses and offenders to determine whether they should result in the same or a different sentence.

The Parole Commission has argued that it should be given the function under the Code of determining the appropriate length of a term of imprisonment pursuant to guidelines after the sentencing judge has decided that a particular defendant should serve a term of imprisonment.[65] It bases this belief on the argument that a small collegial body will be better able to achieve the goal of elimination of unwarranted sentencing disparity. The Committee strongly disagrees with the view of the Parole Commission. Such a proposal is entirely at odds with the whole concept of the proposed guidelines system, and harks back to a thoroughly discredited philosophy and procedure.[66] Moreover, it has several practical deficiencies that would result in continuing some of the unfairness and uncertainty in the current system. First, it would delay the setting of the term of imprisonment, perhaps for a few months, leaving the defendant and the public in doubt as to the defendant's sentence.

Second, it would draw an artificial line between imprisonment and probation, forcing the sentencing guidelines system and the judges to formulate sentencing policy that assumes that a term of imprisonment, no matter how brief, is necessarily a more stringent sentence than a term of probation with restrictive conditions and a heavy fine. Such an assumption would be a roadblock to the development of sensible comprehensive sentencing policy.

Third, it would continue the current law problem that actual terms of imprisonment are determined in private rather than public proceedings.

Fourth, it would assume that judges have no experience with sentencing guidelines even though they have been evaluating the potential impact of current parole guidelines on the sentences they impose at least since July 1, 1978, and will have gained training and further experience by the time the sentencing guidelines system goes into effect.

Fifth, it would take from the judges an essential part of the judicial function of imposing sentence. The better view is that sentencing should be solely within the province of the judiciary, since vesting the power to review judicially imposed sentences in a parole board would seriously undermine the operation of the new sentencing guidelines, improperly intrude into the judiciary's realm, and perpetuate at least the appearance of the discredited rehabilitative model. Indeed, it is arguable that the Parole Commission, by having its decisions based on factors known at the time of sentencing, rather than factors not known at that time, has already usurped a function of the judiciary.

Sixth, the argument that the Parole Commission, whose initial decisions are made by more than thirty hearing examiners, not by the nine Commissioners, is a "small collegial body" is debatable. It seems unlikely that more than 40 people making administrative decisions would result in substantially less inconsistency than a few hundred people making judicial decisions, after hearing arguments presented by counsel for both sides, which are subject to appellate review by eleven courts of appeal sitting in panels and, ultimately, by a single Supreme Court.

Seventh, under the Parole Commission's proposal the procedures for review of a sentence outside the guidelines—for example, when both a term of imprisonment and a fine outside the guidelines is imposed—would be virtually unworkable. Apparently,

the find level would be reviewed publicly in the courts of appeal while the term of imprisonment would be reviewed privately by the Parole Commission.

Finally, the Parole Commission might be basing decisions on a different sentencing philosophy than is reflected in the sentencing guidelines. This would be especially troubling if the Parole Commission were to issue its own guidelines for lengths of prison terms rather than rely on guidelines promulgated by the Sentencing Commission.

The Committee believes that there may be unusual cases in which an eventual reduction in the length of a term of imprisonment is justified by changed circumstances. These would include cases of severe illness, cases in which extraordinary and compelling circumstances justify a reduction of an unusually long sentence, and some cases in which the sentencing guidelines for the offense of which the defender was convicted have been amended to provide a shorter term of imprisonment. The Committee believes, however, that it is unnecessary to continue the existence of the expensive and cumbersome Parole Commission to deal with the relatively small number of cases in which there is justification for reducing a term of imprisonment. The bill, as reported, provides instead in section 2302(c) for court consideration of the question whether there is justification for reducing a term of imprisonment in situations such as those described.

3. Certainty in release date

Under the Code, the sentence imposed by the judge will be the sentence actually served. A sentence to a term of imprisonment that exceeds one year may be adjusted at the end of each year by 36 days for compliance with institutional regulations, with no adjustment or a smaller adjustment of the sentence for less than satisfactory compliance with the rules.[67] Once this credit has been given by the Bureau of Prisons, it cannot be withdrawn, nor may credit that has been denied later be granted. The prisoner, the public, and corrections officials will be certain at all times how long the prison term will be and of the consequences to that sentence of causing institutional discipline problems.

The Parole Commission will have no jurisdiction over offenders sentenced under the guidelines sentencing system.[68] The Committee believes that, in a guidelines sentencing system, no useful purpose will be served by continuing the Commission. Prison sentences imposed will represent the actual time to be served by the prisoner, and, on the average, prison sentences imposed will be approximately the length of terms of imprisonment acutally served under current law. Prisoners, and the public, will know when offenders will be released from prison. Prisoner morale will improve with uncertainties as to release dates removed.[69] Public respect for the law will grow when the public knows that the sentence announced in a particular case represents the real sentence rather than one subject to constant adjustment by the Parole Commission.

The other purposes served in current law by the parole release mechanism will be better achieved under the Code than they can be under the current system. First, as already discussd, the sentencing guidelines system is better able than the parole system to achieve fairness and certainty in sentencing.

Second, the Code requires that the judge decide, based on factors known at the time of sentencing, whether a defendant who is sentenced to a term of imprisonment will need post-release supervision and what the conditions of that release should be.[70] Under current law, a prisoner is placed on parole supervision if he is released on parole more than 180 days before expiration of sentence.[71] This does not assure that the prisoner who will need post-release supervision will receive it, nor does it assure that probation system resources will not be wasted on providing supervisory services to releasees who do not need them.

Third, because of the increased certainty of release dates, the Code should enhance rehabilitation efforts in prison because prison officials will be able to work with prisoners to develop realistic work programs and goals within the context of a set term of imprisonment. It is inappropriate to detain a defendant for an indefinite period until he is supposedly rehabilitated. No one knows when or whether a prisoner has been rehabilitated, and it is unfair to base the length of a prison term on such a determination. As Norval Morris has illustrated, parole boards are not able to predict with any degree of certainty which prisoners are likely to be "good" release risks and which are not.[72] Indeed, such determination seems especially suspect when made on the basis of how a prisoner responds to prison rehabilitative programs.

Fourth, the Code provides improved mechanisms over the parole system for dealing with institution discipline problems. Credit toward service of a term of imprisonment will continue to be given for satisfactory institutional behavior,[73] but it will not be subject to constant adjustment by prison officials, nor will an agency such as the Parole Commission be able to step in and second-guess the determination of prison officials as to the effect that disciplinary problems should have on the release date. The certainty that prisoners will have that their prison behavior has a direct effect on their release date should serve to improve prison discipline by making the earning of full credit toward early release a goal that can be set by every prisoner for himself. It should be noted that prisons officials now rely on a number of disciplinary measures, such as changing institutions or privileges, in addition to the current ineffective good time allowances, to effect good institutional behavior.[74]

Finally, the Bureau of Prisons under the Code is required to assure, to the extent practicable, that the last ten percent of a prison term is spent "under conditions that will afford the prisoner a reasonable opportunity to adjust to and prepare for his reentry into the community."[75] It is unnecessary to continue the parole system to carry out this purpose. In fact, since under the current system fewer than half the persons released after serving terms of imprisonment in excess of one year are supervised following release, this mechanism cannot be relied on for transition services when they are needed, and the Bureau of Prisons has instituted a program in which transition services are made available to many prisoners while they are still serving their sentences.

4. Availability of sentencing options

The comprehensive sentencing provisons of the Code provide a full range of sentencing options. The Sentencing Commission in promulgating guidelines and the sentencing judge in imposing sentence may fashion a sentence that suits the characteristics of each offense and offender.

As noted earlier, the only type of sentence for which current law provides a full range of options under current law is the term of imprisonment. This probably results in too much reliance on terms of imprisonment when other types of sentences would serve the purposes of sentencing equally well without the degree of restriction on liberty that results from imprisonment.

Under the Code, maximum fines have been substantially increased from current law.[76] This will permit the imposition of a substantial fine in lieu of some or all of a prison term in appropriatate cases.

The Code treats probation as a form of sentence with conditions,[77] rather than as a deferral of imposition or execution of a sentence, and requires that in felony cases it be accompanied by a fine, an order to pay restitution, or an order to engage in community service.[78] The Committee encourages the fashioning of conditions of probation that may in many cases make probation a useful alternative to a term of imprisonment. A full range of possible probation conditions is suggested in the Code to encourage the sentencing judge to consider whether a probationary term appropriate to the offense and offender could be imposed.[79] For example, the Code permits the requirement that nights or weekends be spent in a penal or correctional facility as a condition of probation. It permits conditions designed to prevent the recurrence of an offense committed because of the nature of the work performed by the defendant. It continues the ability to require that the defendant reside at, or participate in a program of, a community correction facility.

The Code adds two new sanctions that may be imposed in addition to a sentence to a term of probation or imprisonment or to pay a fine. The first permits the judge to order that a defendant convicted of an offense involving fraud or other intentionally deceptive practices give reasonable notice and explanation of the conviction to the victims of the offense so that they may seek appropriate civil redress.[80] The second permits the judge to order a defendant found guilty of an offense that caused bodily injury or property damage, destruction, or loss to make restitution to the victim.[81]

5. Consistency of purpose

For the first time, the Federal sentencing law will assure that the Federal criminal justice system will function with a consistent sentencing philosophy and that each part of the system will know the purposes intended to be achieved by the sentence in each particular case.

As previously noted, the Code itself sets forth the four basic purposes of criminal sanctions.[82] It requires that the Sentencing Commission consider these purposes in developing sentencing guidelines and policy statements [83] and that the sentencing judge consider them in imposing sentence.[84]

The Code requires that the sentencing judge announce how the guidelines apply to each defendant [85] and state his reasons for the sentence imposed.[86] The judge is also required to state the reason for imposing sentence at a particular point within the guidelines or, if the sentence is outside the guidelines, specific reasons for imposing a sentence of a different kind or length than recommended in the guidelines.[87]

The statement of reasons can be used by each part of the Federal criminal justice system charged with reviewing or implementing a sentence. It will assist the appellate courts in reviewing the reasonableness

of a sentence outside the guidelines. It will also assist the appellate courts in determining whether it is desirable to grant a petition to review a sentence that was imposed within the guidelines that a party alleges represents an incorrect application of the guidelines, and in reviewing such application if the petition is granted. The statement of reasons can be used by the probation or prison officials in working with the convicted defendant toward the goals the judge hoped the sentence would achieve.

Finally, the abolition of the Parole Commission will eliminate the second-guessing of the judge's sentencing by the Parole Commission and will obviate the need for the judge to attempt to guess how the sentence he imposes may be altered by the Parole Commission.

6. Miscellaneous criticisms

In an undertaking of this magnitude one expects criticism. Perhaps the most prevalent criticism concerns the fear that any move toward determinate sentencing would result in substantially longer terms of imprisonment than are imposed today. Complementing this argument is the view that available prison capacity will be unable to meet the flood of new prisoners likely to enter our prison system.

A comprehensive sentencing study, recently completed by the Library of Congress, indicates that such fears are not well founded in the context of the reported bill's approach.[88] In addition, the bill requires that the Commission, in promulgating its guidelines, take into account not only the average sentence currently being imposed but the average length of time currently being served in prisons where imprisonment terms are imposed.[89] The bill also directs the Commission, in promulgating its guidelines, to take into account:

"The nature and capacity of the penal, correctional, and other facilities and services available in order not only to assure that the most appropriate facilities and services are utilized to fulfill the applicable purposes *but also* to assure that the available capacities of such facilities and services will not be exceeded.[90] (Italic added.)

Even in the unlikely event that the Commission ignored its statutory mandate, Congress would have an opportunity to review carefully whatever guidelines the Commission promulgated; to assess their potential impact; and, if necessary, to revise or reject them.[91] Congress has delegated authority to the Commission to promulgate the guidelines but has reserved the ultimate power either to accept, amend, or reject the finished product through the enactment of legislation.

Some have questioned the idea of a Commission promulgating the guidelines rather than the Congress. These critics view the Commission idea as an abdication of Congressional responsibility. The Committee, however, views the Commission as a major asset of the bill. Congress historically has delegated authority to a host of administrative agencies [92] where the task involves complex issues requiring continuous monitoring and fine tuning by experts in the field. The Committee believes the creation of sentencing guidelines contemplated under this bill similarly requires expert attention.

Other critics lament that the bill lacks a general presumption in favor of alternatives to imprisonment. [93] They point out the correctional system has largely failed and the archaic and decrepit prisons hardly hold out much hope for turning the criminal away from a life of crime. Still other critics fault the bill for failing to create a presumption for lengthy imprisonment—mandatory minimum sentences—in a wide variety of felonies, pointing out that probation and short prison sentences have failed to provide needed deterrence and incapacitation. Congress has engaged in over a decade of debate over whether there should be a general presumption for or against imprisonment. [94] S. 1630 bypasses this ultimately fruitless debate in the course of establishing a much superior, completely new sentencing system in which general presumptions are absent and in which specific guidelines guarantee more individual consideration in each case. There are two exceptions to this rule: the bill requires the Commission to promulgate guidelines which provide a substantial term of imprisonment for categories of offenders who are, in effect, professional or career criminals,[95] and it mandates that the Commission's guidelines reflect alternatives to imprisonment for most first offenders who have not committed a violent or otherwise serious offense.[96]

Another frequent criticism leveled at S. 1630 is that it should not provide the government with the power to appeal a sentence. If the reforms are to be effective in reducing unwarranted sentencing disparity and achieving overall fairness, however, there must be some mechanism to appeal on behalf of the public those sentences which fall below the applicable guidelines.[97] If the defendant alone could appeal, there would be no effective opportunity for the reviewing courts to correct an injustice arising from a sentence that is patently too lenient. Appellate review for the defendant alone would not be an effective weapon to fight disparity, since the appellate court could reduce excessive sentences but not raise inadequate ones. The effort to achieve greater uniformity, therefore, might unintentionally result in a gradual scaling down of sentences to the level of the more lenient ones.

D. CONCLUSION

The shameful disparity in criminal sentences is a major flaw in the existing criminal justice system, and makes it clear that the system is ripe for reform. Correcting our arbitrary and capricious method of sentencing will not be a panacea for all of the problems which confront the administration of criminal justice, but it will constitute a significant step forward.

The bill, as reported, meets the critical challenge of sentencing reform. The bill's sweeping provisions are designed to structure judicial sentencing discretion, eliminate indeterminate sentence, phase out parole release, and make criminal sentencing fairer and more certain. The current effort constitutes the most important attempt in two hundred years to reform and streamline the manner in which we sentence convicted offenders. The Committee believes that the bill represents a major breakthrough in this area.

FOOTNOTES

[1] See Attorney General's Task Force on Violent Crime, Final Report, pp. 56-57 (1981) (hereinafter cited as Task Force Final Report).

[2] Such disparate release dates are the result of the wide discretion granted to sentencing judges and the United States Parole Commission under current Federal law. See 18 U.S.C. 4203 (powers and duties of the Commission); 18 U.S.C. 4206 (parole determination criteria: prisoner may be released by the Commission "upon consideration of the offense and the history and characteristics of the prisoner . . . and pursuant to guidelines promulgated by the Commission. . . . [The] Commission may [also] grant or deny release on parole notwithstanding [these] guidelines . . . if it determines there is good cause for so doing. . . . "); 18 U.S.C 4207 (allowing consideration of reports from any and all sources).

[3] Review of sentences imposed by the courts is confined to two special sentencing statutes (18 U.S.C. 3576, relating to dangerous special offenders, and 21 U.S.C. 849, relating to dangerous special drug offenders) unless the sentence is illegal. Review of decisions of the Parole Commission is generally confined to the question of whether it has abused its discretion.

[4] For most offenses, the judge may suspend execution or imposition of the sentence and place the convicted offender on probation, or impose a split sentence of up to six months in prison followed by probation. See 18 U.S.C. 3651.

[5] For example, there are approximately 130 theft offenses under current law, with maximum sentences ranging from no imprisonment and a $500 fine, 18 U.S.C. 288, to ten years of imprisonment and a $10,000 fine, 18 U.S.C. 641. While the theft statutes occasionally vary the penalty according to the amount that is stolen, e.g., 18 U.S.C. 288, there is little difference among offenses that would justify differences in sentences. Embezzlement is an excellent illustration. The maximum penalty for embezzling manpower funds is a $10,000 fine and two years of imprisonment if the amount embezzled is more than $100; if the amount embezzled is not more than $100, the maximum penalty is a $1,000 fine and one year of imprisonment, 18 U.S.C. 665(a). If a bankruptcy trustee embezzles any amount of money from a bankrupt estate, the maximum penalty is a $5,000 fine and five years of imprisonment, 18 U.S.C. 153. If a person, entrusted with public funds embezzled them, the maximum penalty, if the amount embezzled is more than $100 is a fine of the amount embezzled and ten years of imprisonment; if the amount embezzled is $100 or less, the maximum penalty is a $1,000 fine and one year of imprisonment, 18 U.S.C. 648.

[6] 18 U.S.C. 5005 *et seq.*

[7] 18 U.S.C. 4216.

[8] 18 U.S.C. 4251 *et seq.*

[9] 18 U.S.C. 3575 *et seq.*

[10] 21 U.S.C. 849.

[11] Several published analyses of correctional treatment and programs illustrate their ineffectiveness. See Robinson & Smith, *The Effectiveness of Correctional Programs*, 17 Crime and Delinquency 67 (1971); Martinson, *What Works: Questions and Answers about Prison Reform*, 1947 Pub. Int. 22; D. Lipton R. Martinson & J. Wilks, *Effectiveness of Correctional Treatment: A Survey of Treatment Evaluation Studies* (1975). See also D. Greenburg, *Much Ado about Little: The Correctional Effects of Corrections* (June 1974) (unpublished summary of effectiveness studies prepared for the Committee for the Study of Incarceration); also discussed in A Von Hirsch, *Doing Justice: The Choice of Punishments*, 14-15 (1976), which concludes that "the rehabilitative disposition is plainly untenable". Id. at 18.

[12] 18 U.S.C. 4206. The Commission is given discretion to determine release dates on the basis of several primary considerations which include: adherence by the prisoner to institution rules during confinement, the nature and circumstances of the offense, the history and characteristics of the offender, and the public welfare in allowing release. *Id.*

[13] A recent study indicates that federal judges disagree considerably about the purposes of sentencing. While one-fourth of the judges thought rehabilitation was an extremely important goal of sentencing, 19 percent though it was no more than "slightly" important; conversely, about 25 percent thought "just deserts" was a very important or extremely important purpose of sentencing, while 45 percent thought it was only slightly important or not important at all. INSLAW, Inc., Yankelovich, Skelly, and White, *Federal Sentencing: Toward a More Explicit Policy of Criminal Sanctions*, III-4 (1981).

[14] *Id.* at III-9—III-14.

[15] 28 C.F.R. § 2.20.

[16] 28 C.F.R. § 2.12.

[29] See Hearings, pp. 8870, 8881, 8897, 8903, 8916, 8960.

[30] See Hearings, p. 9095.

[31] 28 C.F.R. § 2.20.

[32] See 18 U.S.C. 4205.

[33] See 18 U.S.C. 4161 *et seq.*

[34] See 18 U.S.C. 4163.

[35] 18 U.S.C. 4205(b).

[36] 18 U.S.C. 4163.

[37] 18 U.S.C. 4206.

[38] 28 C.F.R. § 2.12.

[39] 28 C.F.R. §§ 2.12(e), 2.14(a)(3)(ii), 2.14(a)(3)(iii), 2.34.

[40] There are a few exceptions in recently enacted provisions. See, e.g., 15 U.S.C. 1, 2, and 3.

[41] See 18 U.S.C. 3651.

[42] The closest that existing law comes to establishing a correctional philosophy can be found in several specialized sentencing statutes that apply only to certain categories of offenders; 18 U.S.C. 5010(b) ("treatment" and supervision" for youth offenders; 18 U.S.C. 4126 ("treatment" for young adults offenders); 28 U.S.C. 4252 *et seq.* ("treatment" and supervision for certain drug addicts); 18 U.S.C. 3575 *et seq.* (incapacitation for "dangerous special offenders"); and 21 U.S.C. 849 (incapacitation for "dangerous special drug offenders").

[43] See INSLAW, Inc., and Yankelovich, Skelly and Wright, Inc., *supra* n. 13 at III-4.

[44] The Supreme Court, in *United States* v. *Addonizio*, 442 U.S. 178 (1979), held that a sentence was not subject to collateral attack under 28 U.S.C. 2255 in a case in which the United States Parole Commission did not release the defendant at the time that the sentencing judge expected the defendant to be released. The sentencing judge indicated in his decision in the section 2255 proceeding that he intended that, if the defendant's prison behavior was "exemplary," he would be released on parole after serving one-third of a 10-year term of imprisonment. The U.S. Parole Commission, considering not the defendant's behavior in prison but the seriousness of the offense, refused to release the defendant at that time. In denying Federal court jurisdiction over the section 2255 motion, the Court said:

"The import of [the] statutory scheme is clear: the judge has no enforcible expectations with respect to the actual release of a sentenced defendant short of his statutory term. The judge may well have expectations as to when release is likely. But the actual decision is not his to make either at the time of sentencing or later if his expectations are not met. To require the Parole Commission to act in accordance with judicial expectations, and to use collateral attack as a mechanism for ensuring that these expectations are carried out would substantially undermine the congressional decision to entrust release decisions to the Commission and not the courts. Nothing in § 2255 supports—let alone mandates—such a frustration of congressional intent." *Id.* at 190.

[45] 18 U.S.C. 4205(b).

[46] *United States* v. *Addonizio, supra* note 44.

[47] "Whether wisely or not, Congress has decided that the [Parole] Commission is in the best position to determine when release is appropriate, and in doing so, to moderate the disparities in the sentencing practices of individual judges." *United States* v. *Addonizio, supra* note 44, at 188-189, citing S. Conf. Rept. 94-368, 94th Cong., 1st Sess., at 19 (1976).

[48] See note 17, *supra*. About half the prisoners within the jurisdiction of the Parole Commission are released at the expiration of sentence, less good time rather than on parole.

[49] Sections 101(b) and 2003(a)(2).

[50] Section 2001(b).

[51] Section 2001(c).

[52] Section 2004.

[53] Section 2005.

[54] Section 2006.

[55] See section 2301(b).

[56] Compare section 1731 and the statutes cited in note 5, *supra*.

[57] See proposed 28 U.S.C. 991(b) and 944(a), section 2003(b).

[58] Section 2003(b).

[59] Section 3725(a).

[60] Section 3725(b).

[61] See proposed 28 U.S.C. 991(b)(2); section 2003(a)(6).

[62] Section 2003.

[63] Section 2003(b).

[64] Section 3725.

[65] Hearings, pp. 9020-28.

[66] The Committee's view that parole should be abolished in the context of a completely restructured guidelines sentencing system is consistent with the general sentencing philosophy expressed by numerous commentators on the current sentencing process. See e.g., P. O'Donnell, J. Churgin, and D. Curtis, *Toward a Just and Effective Sentencing System: Agenda for Legislative Reform*,. pp. 13, 14, 28, 56 (New York 1977) (the study on which the sentencing provisions in S. 1630 are largely based) (". . .[O]ur decision to recommend a guideline approach for sentencing requires abolition of parole, at least as that process has been administered in the past"); Kennedy, *Toward a New System of Criminal Sentencing: Law with Order*, 16 Am. Cr. L. Rev. 353 (Spring 1979); Frankel, *Panel on Sentencing Provisions in the Proposed Federal Code*, 80 F.R.D. 151, 153 (1979; panel held December 28, 1977) ("Let the judges judge and be accountable. The idea of a parole board or commission serving in effect to review the judges was not sound when it was more or less covert; it does not improve as an express proposition."); Newman, *A Better Way to Sentence Criminals*, 63 A.B.A.J. 1563, 1566 (November 1977) ("By rating cases according to offense severity and offender backgrounds only and abandoning any pretense of being able to perform the impossible task of determining when a prisoner has been 'rehabilitated,' the parole commission has demonstrated abundantly that it can now go out of business."); Morris, *Toward Principled Sentencing*, 37 Md. L. Rev. 276 (1977); Skrivseth, *Abolishing Parole: Assuring Fairness and Certainty in Sentencing*, 7 Hofstra L. Rev. 281, 313 (1979); van den Haag, *Punitive Sentences*, 7 Hofstra L. Rev. 123, 135 (1978); Genego, Goldberger, and Jackson, *Parole Release Decisionmaking and the Sentencing Process*, 84 Yale L.J. 897 (March 1975) (". . .[T]he Parole Board can make no greater contribution than can the judiciary in fairly effectuating the goals of punishment or reducing the most serious sentencing disparity."); Pierce, *Rehabilitation in Corrections: A Reassessment*, 38 Fed. Probation 14-19 (1974); Fairbanks, *Parole—A Function of the Judiciary?* 27 Okla. L. Rev. 657 (1974) (". . .[P]arole boards do not have information reasonably related to prediction, they have no apparent predictive skills, they are not even the putative experts, the entire business of predicting recidivism even by so-called experts is so dubious that it can hardly stand as a rationale for the discretionary release aspect of parole. . . .The case for the abolishment of parole is not as radical or as difficult as might first appear. Having shown parole to be ineffective, and not likely to improve; and having also shown that in terms of what parole actually does it is duplicative. . . ."; McAnany, Merritt, and Tromanhauser, *Illinois Reconsiders Flat Time: An Analysis of the Impact of the Justice Model*, 52 Chicago-Kent L. Rev. 640 (1976); Stanley, *Prisoners Among Us: The Problem of Parole*, pp. 77-79 (Washington, D.C. 1976); N. Morris, *The Future of Imprisonment* (Chicago, (1974).

A number of witnesses at the Committee hearings on the Code also expressed a sentencing philosophy consistent with the abolition of parole in the context of comprehensive sentencing reform. See, e.g., Hearings, pp. 8595-96 (Testimony of Attorney General Griffin B. Bell); pp. 9008-09 (Statement of Ronald L. Gainer); p. 8961 (Testimony of former Judge Harold Tyler: "[I]f the [Sentencing] Commission works well there would then be no need of parole commissions as we now know them. . . ."); p. 8973 (Testimony of Judge Morris Lasker: "I do believe that history is showing that parole as an institution is an idea whose time may be past,"); p. 9127 (Statement of Kay Harris: "NMPC [the National Moratorium on Prison Construction] favors in principle the abolition of parole, but believes that parole abolition should not be attempted in isolation from other major criminal justice system changes. . . . [W]e believe that the parole system is fatally flawed conceptually, based as it is on prediction of future individual conduct. Parole has often served to increase, rather than decrease, arbitrary and inequitable treatment of prisoners.").

The House Judiciary Subcommittee on Criminal Justice, in the course of its consideration of a revised Federal Criminal Code in the last Congress also received testimony and letters in support of parole abolition. Former Judge Harold Tyler testified before the Subcommittee on October 11, 1979, that the proposal to retain the Parole Commission for five years under consideration by the Subcommittee, was "extremely unwise" for several reasons: first, "it will be impossible to understand or know whether judges in fact were sentencing an offender to the amount of time they actually intended or to twice the time they intended in anticipation that the Parole Commission would grant one-half parole"; second, there "is the likelihood that there would be confusion and unfairness to sentenced offenders and to the public at large"; third, "it seems to me that continuing the Parole Commission is really unnecessary in order . . . to deal with that occasional case where, in a determinant sentencing scheme, an offender receives a sentence which turns out to be manifestly unfair or 'wrong', particularly in light of post-sentence developments" and that there are alternative methods for solving this problem. See also, letter of Harvey A. Silverglate, a member of the Executive Board of the Massachusetts Chapter of the American Civil Liberties Union, to Congressman Robert F. Drinan, Chairman, Subcommittee on Criminal Justice, House Committee on the Judiciary, dated October 4, 1979, suggesting abolition of parole; and letter from Circuit Judge Jon O. Newman, United States Court of Appeals for the Second Circuit, to Congressman Drinan, dated September 14, 1979, opposing even the temporary retention of the Parole Commission in a sentencing guidelines system and suggesting possible "safety valves" in the unusual case in which one is needed.

[67] Section 3824(b).

[68] Under section 134(b) of the reported bill, the Parole Commission will remain in existence for 5 years after the sentencing guidelines go into effect to set release dates for prisoners sentenced before that date. At the end of that period the Parole Commission will set final release dates for all prisoners still in its jurisdiction.

[69] The official report on the Attica riots indicates that uncertainty in release was a major cause of the riots. New York Special Commission on Attica, *Attica* (1972) cited in von Hirsch. *Doing Justice: The Choice of Punishments*, at p. 31, n. 11. See also Hearings, p. 8881.

[70] Section 2303.

[71] 18 U.S.C. 416 and 4205.

[72] See, e.g., N. Morris, *The Future of Imprisonment*, pp. 31-34 (1974).

[73] Section 3824(b).

[74] See Hearings, pp. 212-13.

[75] Section 3824 (c).

[76] Section 2201(b).

[77] See Sections 2001 (b) and (c) and 2101.

[78] Section 2103(a)(2).

[79] Section 2103.

[80] Section 2005.

[81] Section 2006.

[82] Sections 101(b) and 2003(a)(2).

[83] Proposed 28 U.S.C. 991(b) and 994 (a) and (f).

[84] Section 2003(a)(2).

[85] Proposed Rule 32(a)(1), F.R.Crim.P.

[86] Section 2003(c).

[87] Id.

[88] Library of Congress Congressional Research Service, Sentencing provisions of major criminal code reform legislation of the 95th Congress: Possible impact on sentence length and time served in prison (November 17, 1978).

[89] Proposed 28 U.S.C. 994(*l*).

[90] Proposed 28 U.S.C. 994(g). Among other features of the bill that statutorily encourage or mandate ameliorative sentencing practices are proposed 28 U.S.C. 994(l) (directing the Sentencing Commission to insure that the guidelines reflect the appropriateness of a sentence other than imprisonment for a first offender who has not been convicted of a crime of violence or otherwise serious offense); proposed 28 U.S.C. 994(j) (inappropriateness of imprisonment for rehabilitative purposes); proposed 28 U.S.C. 994(u) (limits on consecutive sentences); proposed 18 U.S.C. 2302(c)(2) (permitting court review of a sentence to a term of imprisonment that exceeds five years to determine, after at least five years of the term have been served, whether extraordinary and compelling reasons, or the need to avoid unwarranted disparity, call for a reduction of the sentence); proposed 18 U.S.C. 2302(c)(3) (permitting court review of a sentence imposed for an offense for which sentencing guidelines were later reduced to determine whether the sentence should be reduced in light of policy statements of the Sentencing Commission). Also, the drafting technique used in the bill of separating the criminal conduct from the jurisdictional elements of the offense in many cases drastically will reduce exposure to multiple count indictments as compared to current law. For example, every mailing in a mail fraud scheme under current law is a separate indictable offense whereas a mail fraud indictment under the reported bill would involve only offense (scheme to defraud). A similar reduction occurs where the same conduct under current law is covered by several Federal interests, e.g., theft of government property from a post office located on an army base.

[91] Sec. 134(a)(1)(B)(iii) of S. 1630 and proposed 28 U.S.C. 994(n). This point is often overlooked in any discussion of the guidelines. It is true that Congress would delegate the authority to promulgate guide-

lines to a Commission; but, as with the Federal Rules of Criminal Procedure and the Federal Rules of Evidence, Congress would have an opportunity to review the guidelines. The initial guidelines could be changed by enacting legislation within twelve months after the Commission reports them, and amendments to the guidelines could be disapproved by resolution of one House of Congress within 180 days of their submission to the Congress.

[92] See e.g., 15 U.S.C. 41 (establishing the Federal Trade Commission); 15 U.S.C. 78d (creating the Securities and Exchange Commission); 47 U.S.C. 151 (establishing the Federal Communications Commission).

[93] See testimony of representatives of the American Civil Liberties Union, Hearings, Part XVI, pp. 11957, 11962, 12006–12011.

[94] See Hearings. Parts I–XV (1971–1979).

[95] Proposed 28 U.S.C. 994(h).

[96] Proposed 28 U.S.C. 994(i).

[97] The Committee rejects the argument that government appeal of a sentence would be unconstitutional under the double jeopardy provision of the Constitution. See discussion with respect to section 3725 (Review of a Sentence).

Mr. BIDEN. Mr. President, title VI of S. 2572 changes the law of criminal forfeiture in several important ways. In July 1980, we held hearings on the subject of the Government's efforts to obtain the assets of major drug traffickers. Statutes have been in place for over 10 years that could be used to eliminate those networks and punish those defendants where it hurts the most—their wallets. A report by the General Accounting Office on the subject was also done at my request.

The report and the hearings showed clearly that efforts to forfeit assets have been a failure. Some suggestions for improving the statutes were made. However, increased cooperation among Government agencies would also eliminate some of the problems inherent in attempting to reduce the assets of criminal defendents to the U.S. Treasury.

My own forfeiture bill, S. 1126, which was introduced in May 1981, incorporated many of the suggestions that grew out of the hearings and the report. The forfeiture title in this bill includes all the features of my bill. Thus, the legislation will allow prosecutors to get more money from traffickers by broadening the kind of property that can be forfeited: By making it easier to prove that the money came from illegal narcotics activities, and by making sure that when a defendant puts illegally generated property in someone else's name or transports it out of the United States, the Government can get substitute money from him.

Some additional features of this title should also solve problems encountered by prosecutors who want to make the present statutes work. All Federal narcotics law violations will trigger the possibility of a criminal forfeiture. It will not be necessary for the prosecutor to prove that an enterprise or a conspiracy was formed. Title is vested in the United States in forfeitable property at the time of the commission of the illegal act. Since the illegal act creates the property, there is no reason to indulge in the fiction that the violator is entitled to this property at any point in time after the crime has been committed.

To make sure that the illegally acquired property is preserved and not hidden or transformed by the defendant, the court is allowed to issue a restraining order or injunction either before or after the indictment. This court order may be ex parte if it is effective for less than 10 days. This allows the Government to maintain the present status of the property while the defendant is brought to trial.

The Attorney General is given the authority to seize and sell forfeited property and to compensate informants from the sale. In this light, regulations must be promulgated within 180 days of enactment of this statute. Those regulations would govern the interests of third parties and any claims to the property. The complex, sometimes immaterial customs laws that are now applicable would thus be eliminated. The ultimate decision of the Attorney General is subject to court review. Thus the property rights of innocent third parties will no longer be able to intervene in the criminal trial or appeal and civil actions cannot be initiated until the criminal case is completed. Scarce judicial and Government resources will therefore be allocated to the most important task first—making sure that drug offenders are tried and convicted.

Finally, the Drug Enforcement Administration is authorized to set aside, until 1984, 25 percent of the net amount of money realized from the forfeiture of assets seized by it for the payment of awards to informants. This insures that the agency that is charged with responsibility for enforcing these laws has the funds that it needs to do the job.

I am sure that these changes will result in an obvious increase in the amount of money that the U.S. Treasury gets from forfeiture. Hopefully those who profit from the multinational drug trade will realize that our Government is serious about the elimination of that trade. Strengthening the forfeiture laws and making them consistent, fair, and understandable to the courts and the prosecutors is only one step in that process of elimination, but it is a very important step.

Mr. President, I ask unanimous consent that a brief summary of the General Accounting Office report, entitled "Asset Forfeiture—A Seldom Used Tool in Combatting Drug Trafficking" be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL'S REPORT TO THE HONORABLE JOSEPH R. BIDEN, U.S. SENATE

DIGEST

The Federal Government's record in taking the profit out of crime is not good. Billions of dollars are generated annually by organized crime; drug trafficking alone is estimated at $60 billion annually. These illicit profits and the assets acquired with them were the target of legislation passed nearly 10 years ago to combat organized crime through forfeiture of assets. However, assets obtained through forfeiture have been minuscule.

The Government has simply not exercised the kind of leadership and management necessary to make asset forfeiture a widely used law enforcement technique. The Department of Justice has not given investigators or prosecutors the incentive or guidance to go after criminal assets. Steps are now underway to do more, but emerging case law indicates legislative changes are also needed if investigators and prosecutors are to make meaningful attacks on the economic base of organized crime.

Whether or not an improved asset forfeiture program will make a sizeable dent in drug trafficking is uncertain. The almost insatiable demand for drugs and the huge dollar amounts involved may be obstacles too great for law enforcement alone to overcome. But a successful forfeiture program could provide an additional dimension in the war on drugs by attacking the primary motive for such crimes—monetary gain.

FEW ASSETS HAVE BEEN FORFEITED

Simply put, neither the dollar value nor the type of assets forfeited to the Government by criminal organizations has been impressive compared to the billions generated annually through drug trafficking.

Since enactment in 1970 through March 1980, the Racketeer Influenced and Corrupt Organization and Continuing Criminal Enterprise statutes (acts authorizing criminal forfeiture) have been used in 98 narcotics cases. Assets forfeited and potential forfeitures in those cases amounted to only $2 million. (See pp. 10 and 11.)

Since enactment in November 1978 of the Psychotropic Substance Act amendments (providing for civil forfeiture) through March 1980, the Drug Enforcement Administration has seized $7.1 million in currency involved in drug transactions. Of that amount only $234,000 had been forfeited; cases involving $6.8 million of the $7.1 million were pending. Seizures or forfeitures of other types of assets have been minimal. (See p. 12.)

Most forfeitures have been acoomplished under various civil authorizations by the Drug Enforcement Administration and the U.S. Customs Service. However, these forfeitures have been primarily the vehicles and cash used in drug trafficking and represent mere incidental operating expenses for large narcotics organizations. Total civil forfeitures from 1976 through 1979 were $29.9 million. (See pp. 12 and 13.)

Equally disturbing are the kinds of assets forfeited. The Racketeer Influenced and Corrupt Organization and Continuing Criminal Enterprise statutes were intended to destroy the economic base of criminal organizations and to combat organized crime's infiltration into commercial enterprise. The Department of Justice has estimated that 700 legitimate businesses in this country have been infiltrated by organized crime, yet no significant business interests acquired with illicit drug funds or profits from other criminal activity have been forfeited. (See p. 11.)

WHY MORE FORFEITURES HAVE NOT BEEN REALIZED

The reasons why the forfeiture statutes have not been used more extend across the legal, investigative, and prosecutive areas.

Emerging case law indicates the forfeiture statutes are ambiguous in some areas or incomplete and deficient in others. (See pp. 30 to 42.)

Investigators and prosecutors were not given the guidance and incentive for pursuing forfeiture. (See pp. 19 to 24.)

Access to financial information may be limited. (See pp. 25 to 29.)

But the primary reason has been the lack of leadership by the Department of Justice. Nearly 10 years after the forfeiture statutes were enacted the Government lacked the most rudimentary information needed to manage the forfeiture effort. No one knew how many narcotics cases had been attempted using the Racketeer Influenced and Corrupt Organization or Continuing Criminal Enterprise statutes, the disposition of all the cases, how many cases involved forfeiture attempts, and why those attempts either failed or succeeded. (See pp. 16 to 18.)

Efforts are being made to remedy the matter. The Department of Justice has (1) issued guidance on the use of forfeiture statutes, (2) is analyzing in detail all narcotics Racketeer Influenced and Corrupt Organization and Continuing Criminal Enterprise cases prosecuted since 1970, and (3) is preparing a manual on how to conduct financial investigations in drug cases. Also, the Drug Enforcement Administration has made forfeiture a goal of all major trafficker investigations. These initial efforts must be continued and implementation monitored if the Government is going to improve its forfeiture law enforcement effort.

RECOMMENDATIONS TO THE CONGRESS

GAO recommends that the Congress amend the criminal forfeiture provisions of the Racketeer Influenced and Corrupt Organizations statute to:

Make explicit provision for the forfeiture of profits and proceeds that are (1) acquired, derived, used, or maintained in violation of the statute or (2) acquired or derived as a result of a violation of the statute.

Authorize forfeiture of substitute assets, to the extent that asserts forfeitable under the statute: (1) cannot be located, (2) have been transferred, sold to, or deposited with third parties, or (3) have been placed beyond the general territorial jurisdiction of the United States. This authorization would be limited to the value of the assets described in (1), (2), and (3), above.

GAO recommends that the Congress amend the criminal forefeiture provisions of the Continuing Criminal Enterprise statute to:

Clarify that assets forfeitable under the statute include the gross proceeds of controlled substance transactions.

Authorize forfeiture of substitute assets, but only to the extent that assets forfeitable under the statute (1) cannot be located (2) have been transferred or sold to, or deposited with third parties, or (3) placed beyond the general territorial jurisdiction of the United States. (See pp. 41 and 42; proposed criminal forfeiture legislation is shown in app. V.)

RECOMMENDATIONS TO THE ATTORNEY GENERAL

Although statutes authorizing the forfeiture of criminal assets are 10 years old, the Government has used them sparingly. Starting in 1980, the Department of Justice began various corrective actions to increase the use of statutes authorizing forfeiture of criminal assets. These initial efforts must be supplemented if forfeiture cases are to increase. Accordingly, GAO recommends that the Attorney General direct the Department of Justice's Criminal Division to analyze on a continuing basis the extent to which forfeiture statutes are used and the reasons for the success or failure of their application, and evaluate the workability of current forfeiture procedures and take the appropriate steps to effect any necessary revisions. (See p. 29 and p. 42.)

AGENCY COMMENTS

The Department of Justice was provided a draft of this report on February 9, 1981, for its comments. The Department did not respond within the required 30 days as is stipulated in Public Law 96-226. The comments were received on March 19, 1981. (See app. VI.) Because of the late submission by Justice and the report issue date set by the requestor, GAO could not evaluate the comments in detail. In general, however, the agency concurs with the findings but points out the need to clarity certain matters.

VIOLENCE AND INTIMIDATION BY ORGANIZED CRIME

Mr. BIDEN. Mr. President, recognizing that the Federal role in controlling crime is limited, in our bipartisan crime packages S. 2572, we have focused our efforts on those proposals which will improve narcotics and organized crime control. One of the most important features of our package are those based upon legislation proposed by the former chairman of the Permanent Subcommittee on Investigations, Senator NUNN. Many of these proposals were originally contained in S. 814, the Organized Crime Act of 1981.

Although our package does not contain all of the proposals contained in that bill it does contain many of the most important ones. S. 814 was based upon hearings on the use of violence and intimidation by organized crime conducted in 1980 by the subcommittee under Mr. NUNN's leadership. The proposals that grew out of these hearings that have been incorporated in the bipartisan package would:

Expand Federal jurisdiction over murder for hire;

Expand Federal criminal offenses in the use of violence in aid of racketeering;

Expand explosives to cover arson;

Provide greater Federal protection of the immediate families of Federal law enforcement personnel who are often threatened in the course of organized crime investigations;

Make it a crime to solicit the commission of a Federal crime of violence; and

Strengthen the Federal witness protection program.

As Senator NUNN pointed out in a statement on the floor last year in behalf of this legislation:

Our hearings painted an alarming picture of organized crime and its use of violence. As Judge Webster testified, organized crime consists of "various groups engaged in an enormous, structured and deadly serious illegal business that rely on violence to maintain themselves."

Even though organized crime has become richer and somewhat more sophisticated, the testimony we received indicated that it still relies on intimidation and violence to achieve its ends, just as it did in the days of Al Capone, Lucky Luciano, and the prohibition wars of the 1920's. Perhaps the most alarming display of this legacy of violence today is organized crime's use of force and threats to take over otherwise legitimate businesses.

Certainly, recently, the most infamous examples of the use of violence and intimidation by organized crime has occurred in South Florida, where drug traffickers have created their own crime wave. According to testimony in the subcommittee, in 1979, police investigated 189 murders, an increase of 81 percent over 1978. Forty-two of those murders, almost 20 percent, were drug related. According to Senator NUNN: "Many of these murders remain unsolved. Most of them apparently resulted from shootouts between rival gangs." However, to me, the most disturbing example of violence and intimidation by organized crime, disclosed in the Permanent Subcommittee's hearings, involved the so-called River Quay cases in Kansas City.

Senator EAGLETON gave a most succinct description of how organized crime used violence and intimidation to thwart renovation of an area of Kansas City when it became clear that the city was not enamoured with the mob's plans to introduce prostitution and "go-go" joints into the area:

River Quay offered the city of Kansas City the charm, ambience, tourist attraction, and downtown revival potential that Boston has seen in its popular Quincy Market and that San Francisco provided in Ghiradelli Square. Once a thriving riverfront area, River Quay, like so many other American waterfronts, had deteriorated over the years. Structures were abandoned; streets, lights, sidewalks, and sewers were left unrepaired; street crime pervaded the area.

Nonetheless, the original charm of the historic streets and structures remained, and in the midsixties, this charm was discovered by small artisans, restaurauteurs, and counterculture businessmen, who, with no major financial backing, move into River Quay, renovated buildings, and revived the area.

By the early 1970's the revival of River Quay was well underway. The city government began promoting the area as a tourist attraction and furnishing free shuttle bus service to attract shoppers and patrons from the nearby downtown area. By late 1974, the area included 68 rental establishments representing a popular mix of art galleries, restaurants, informal theaters, antiques stores, boutiques, and specialty stores.

Also in 1974, indicative of the areas's commerical potential, a New Orleans developer, Joseph C. Canizaro, later to develop Canal Place in New Orleans, announced plans to invest $30 million in River Quay. City participation in redevelopment was promised, with city funds to be committed for street, light, and sewer repairs.

At the same time, however, organized crime recognized that the area was going to make money, so it decided to grab some of the action—specifically, take over some restaurants so it could introduce go-go girls and prostitutes in the area. Employing its standard operating procedures—pressure on public officials, muggings, murder, bombing, arson—the mob moved in. The legitimate businesses—the restaurants, specialty shops, art galleries, and boutiques—soon were on the way out.

According to developer Canizaro: "After we stated our attempts to restore the area, we ran straight into the face of girlie joints and bars and those kinds of things that began becoming prevalent in the area. The criminal element was moving in and we had indicated long before that that would result in the death of Quay."

It did. Canzaro pulled out; the city let its plan die. Today River Quay is an area of vacant, bombed, burned-out buildings. A promising development which would have added to the lives of thousands of Kansas City residents and visitors extinguished.

Following Senator EAGLETON in the hearings, Michael DeFeo, attorney in charge of the Kansas City Strike Force explained how in his words:

"A community like Kansas City, which enjoys superior local law enforcement and strenuous efforts by Federal investigative and prosecutive agencies, can continue to be victimized by uncontrollable organized crime murders and violence."

MONEY BAIL

Mr. BIDEN. Mr. President, my colleague on the Judiciary Committee (Mr. HATCH) has devoted a great deal of his valuable time to process S. 1554, the Bail Reform Act of 1981. That bill has passed the Judiciary Committee and is, and has been, awaiting action by the full Senate for some time. I support that bill, particularly provisions which establish the alternative of preventive detention to protect citizens from violent criminals. Because the Violent Crime and Drug Enforcement Improvements Act of 1982 contains provisions nearly identical to S. 1554, the Senate report on S. 1554 is important to our consideration of this bill.

Mr. Bruce Beaudin, Director of the District of Columbia Pretrial Services Agency, has noted a possible inconsistency in that report relating to the use of money bail. To clarify the intended use of money bail under S. 1554 and under the bill before us, I ask unanimous consent that Mr. Beaudin's letter be printed in the RECORD.

There being objection, the letter was ordered to be printed in the RECORD, as follows:

DISTRICT OF COLUMBIA
PRETRIAL SERVICES AGENCY,
Washington, D.C., July 14, 1982.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR BIDEN: As S. 1554 nears that I hope will be its ultimate destination—passage by the Senate and House and enactment into law by Presidential signature—I should draw your attention to something that may at first blush appear to be a little significance, but could have vast consequences if left unexplained.

Let me begin by saying that the Bill is one that is long overdue. It will coerce the "system" into facing its majory responsibilities at the bail setting state—considerations of appearance and community safety—in an open, honest, accountable way. It will, once and for all, eliminate the misuse of money bail. In order to achieve this particular goal and retain money as a means of release, great care has been given to describe carefully how money is to be used. I suspect, however, that if portions of the Report accompanying the Bill are not clarified, some confusion will result.

At page two of the Report, in describing an amendment adopted by the subcommittee at Senator Hatch's request, we read: "To avoid, however, any chance that money bail might be incorrectly employed as a detention tool, Chairman Hatch's Amendment also stated that 'the judicial officer may not impose any financial condition that results in the pretrial detention of the person'."

Again, at pages six and seven we read: "To avoid the implication that monetary conditions might be set unreasonably high, and thus operate as a detention tool, the Subcommittee also adopted language clarifying that the 'judicial officer may not impose financial conditions that may result in the pretrial detention of the person'."

Turning to pages forty-six and forty-seven we read: "In addition, section 3142(c) provides that a judicial officer may not impose a financial condition of release that results in the pretrial detention of the defendant. The purpose of this provision is to preclude the sub rosa use of money bond to detain dangerous defendants. However, its application does not necessarily require the release of a person who says he is unable to meet a financial condition of release which the judge has determined is the only form of conditional release that will assure the person's future appearance. Thus, for example, if a judicial officer determines that a $50,000 bond is the only means, short of detention, of assuring the appearance of a defendent who poses a serious risk of flight, and the defendant asserts that, despite the judicial officer's finding to the contrary, he cannot meet the bond, although the judicial officer may reconsider the amount of the bond, if he concludes that the initial amount is reasonable and necessary then it would appear that there is no available condition of release that will assure the defendent's appearance. This is the very finding which, under section 3142(e) is the basis for an order of detention, and therefore the judge may proceed with a detention hearing pursuant to section 3142(f) and order the defendant detained, if appropriate."

A comparison of these two portions of the Report might lead one to conclude there is a contradiction. I think that it is clear that what the Committee intends is that a defendant not be able to frustrate a money requirement by saying, "I may have $100,000 but you're not going to make me use it for bail." At the same time, it appears as though a judge might just say, "We need $10,000 posted by you to insure your appearance," and if he reviews that condition and concludes that it is valid, the condition will remain even if the defendant is unable to meet the condition as distinct from the situation where the defendant chooses not to meet the condition.

I would respectfully suggest that the Report which accompanies the Bill state clearly that a financial condition of release may result in detention only if a defendant chooses that option after a judicial officer has made a finding that the defendant has the resources to fulfill the condition. While the example on pages forty-six and forty-seven seems to say this clearly, I fear that there will be those who may conclude that judges may still be able to detain through the use of money bond.

I appreciate your consideration of my views and would be most happy to continue to assist you in this or any other matter within your jurisdiction.

Yours truly,

BRUCE D. BEAUDIN.

Mr. HATCH. Mr. President, I agree with Senator BIDEN that Mr. Beaudin's letter clarifies the use of money bail under both bills.

Mr. ROBERT C. BYRD. Mr. President, I commend Senator THURMOND and Senator BIDEN for their efforts in putting together a strong, bipartisan crime package, which I enthusiastically support. I am particularly heartened by those provisions which strengthen the Government's efforts to combat the illegal drug traffic which accounts for so much crime in this country.

Various recent studies have shown the dramatic relationship between street crime and drug addiction. The heroin addict can finance his extremely expensive habit only by resorting to robberies and muggings. One inquiry recently concluded that drug users in two major U.S. cities each commit an average of 200-300 crimes per year.

Astonishingly, and despite these facts, the present administration originally proposed cuts last year in Federal crime-fighting programs which added up to approximately $231 million, including about $18½ million from the Federal effort against drug abuse.

How the administration could have proposed such sweeping reductions in combatting the single problem about which the American people have expressed the most alarm and concern—the one program on which the American people are agreed that no cuts should be tolerated—is, in my judgment, unsupported by logic or fact.

The primary responsibility of any civilized society is to insure the safety of its citizenry—indeed that is our very reason for existence as a government of laws and not of men. If we do not fulfill that role to the extent of our capacities, our wisdom, our energies, and our imagination, then we will have dismally failed our constituencies.

It is fortunate that the Senator from Delaware and his Democratic colleagues on the Judiciary Committee were sufficiently aroused by these nightmares we read about day after day—indeed within blocks from this very room in which we are assembled—to face up to this problem. I am proud of those courageous colleagues of mine from this side of the aisle who last year either sponsored or cospon-

sored restorations of $109.2 million in Justice Department law enforcement funds including substantial sums to combat drug abuse.

I am also heartened by the tough provisions contained in the bill which is before us today. It contains almost every significant element of the Democratic crime package which was unanimously endorsed by the Senate Democrats and introduced in the Senate more than 15 months ago, such as—

Pretrial detention of dangerous defendants;

Elimination of parole; and

Stiffer sentences for drug offenders.

I commend my colleagues and am pleased to announce my support for this very important, and strong, anticrime measure.

● Mr. D'AMATO. Mr. President, I rise today to give my support to S. 2572, the Violent Crime and Drug Enforcement Improvements Act of 1982. I am greatly concerned with the dramatic increase in violent and drug related crime in our communities. While none of us are immune from these acts of violence, the victims of crime have most frequently been the poor, the young, and the aged—the very segment of our society least capable of defending itself. In the past, efforts to combat crime have frequently been frustrated by a criminal justice system which served to protect the criminal at the expense of the victim. In addition, this system has hampered the effectiveness of our law enforcement officials, making a mockery of justice. As a result, crime is the number one threat to our society. Clearly, it is time that we get tough with criminals.

The 1980 Uniform Crime Report by the United States Department of Justice presents a shocking portrait of crime in the United States. One violent crime is committed in the United States every 24 seconds. There is one murder every 23 minutes, one forcible rape every 6 minutes, one robbery every 58 seconds and one aggravated assault every 48 seconds. The tremendous magnitude of the problem is also evidenced in property related crime. In 1980 a property related crime was committed every 3 seconds. There was one burglary every 8 seconds, one larceny theft every 4 seconds and one motor vehicle theft every 28 seconds. Between 1979 and 1980 murders in the United States increased significantly with the increase extending into all regions and population groups. Final 1980 national statistics revealed that reported forcible rape offenses were up 8 percent over 1979 figures and 45 percent over the 1976 level. Trends in robbery increased 18 percent in 1980 over the previous year and 31 percent over the 1976 experience. Cities over 250,000 in population and the suburban areas each reported 19-percent rises in robbery offenses. Aggravated assaults and burglaries increased 7 percent and 14 percent respectively. Larceny theft rose 8 percent in the 1980 period over the 1979 statistics. Larceny statistics included a 49-percent rise in pocket picking and a 20-percent rise in theft from buildings. In total, both the violent and property crime catagories in 1980 showed upward trends over those of 1979. From 1976 to 1980, violent crimes were up 33 percent and property crimes rose 16 percent for the 10-year period, 1971-80, violent crimes surged 60 percent and the property crimes escalated 54 percent.

In New York State during an average 24-hour cycle there are 6 murders, 13 rapes, 307 robberies, 163 aggravated assaults, 983 burglaries, 1,459 larcenies and 364 vehicle thefts. Obviously, the time has come to stem this tide.

With these facts in mind, I have joined in cosponsoring S. 2572, the Violent Crime and Drug Enforcement Improvement Act, legislation designed to effectively deal with those who commit crimes. The bill would revise the Bail Reform Act of 1966 to permit consideration of danger to community in setting pretrial release conditions and would revise laws concerning postconviction release and would set additional penalties for committing another crime while on release. Second, the bill provides for much needed revision of laws protecting witnesses and victims and to require a presentence report to include a "victim impact statement." Importantly, S. 2572 would increase line levels for drug trafficking and would include enhanced sentencing provisions for repeat drug offenders. Since much crime is directly related to drug use and trafficking, these enhanced penalties should prove useful to stem the ever increasing flood of drug related crime. S. 2572 would also revise laws dealing with criminal forfeiture to make it clear that proceeds of racketeering activity are forfeited and would extend criminal forfeiture to all serious drug trafficking offenses. The bill would also set aside 23 percent of funds realized through forfeiture under drug laws for awards relating to getting information and aid to facilitate forfeiture. Lastly, S. 2572 would revise laws dealing with surplus Federal property to be used as authorized correction facilities, and would set new penalties for contract murders, lower to age 17 the age at which a person may be tried as an adult and make it a Federal crime to take certain narcotics, amphetamines, or barbituates from a pharmacy.

As a member of the Senate Drug Enforcement Caucus, I am committed to reducing the proliferation of illegal drugs and the simultaneous increase in crime. The war against crime, however, requires the cooperation of all levels of government and the involvement of all Americans. While the primary responsibility for law enforcement has traditionally rested with State and local government, the Federal Government must play a role in resolving this national crisis. I therefore give my full support to S. 2572 and will continue to press for Federal criminal reform.●

● Mr. PRYOR. Mr. President, in these waning hours of our current session, I can think of no higher priority for our attention than S. 2572, the Violent Crime and Drug Enforcement Improvements Act of 1982. I am pleased that, with the press of business, we are not neglecting this crucial concern to so many people in this country.

Within the past 2 weeks the Department of Justice released crime statistics for 1981. The figures, Mr. President, are shocking. Nearly 25 million American households—3 in every 10—were affected by crime last year. Such violent crimes as rape, robbery, assault by strangers, and household burglaries affected 1 household out of every 10, with some being victimized more than once.

The report went on to say that U.S. families are more likely to have a member attacked in violent crime than to have a residential fire or automobile accident. Of the 10 percent of those families involved in serious crime, about 7 percent experienced at least one burglary in 1981, and 6 percent had at least one victim of violent crime, either by a stranger or an acquaintance.

The most common type of crime was larceny—purse snatching, petty thefts, and stealing without forced entry. More than 21 percent of all families in the country were victims of this type of crime in 1981.

As a cosponsor of S. 2572 and other anticrime legislation, I have worked to assure that areas of our criminal code most in need of revision are addressed. I believe that S. 2572 provides this reform.

First, the bill would deal with bail reform. For instance, possible danger to the community would be considered in determining whether to release a defendant pending trial. Increased penalties for bail jumping would be enforced. And, the criteria for postconviction release pending sentencing and appeal would be tightened.

A second provision provides for the protection of victims and witnesses of crime. This legislation would make it a crime to hinder, harm, or in any way injure a victim or witness. In addition, the Attorney General would be given additional authority to relocate and protect witnesses and reimburse witnesses for expenses.

Drug penalties are increased as a third major area. Federal jurisdiction is extended to cover the robbery of drugs from a pharmacy. And penalties are increased for distributing con-

trolled substances in or near an elementary or secondary school.

Finally, sentencing reforms are included. Sentencing guidelines are to be established, with no parole and limited good time credits. The guidelines would be set by a seven-member sentencing commission.

Mr. President, I believe the importance of this legislation is clear to all the Members of the Senate, and I urge its passage.●

The PRESIDING OFFICER. If there be no further amendments the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time. The bill was read the third time.

VOTE ON PASSAGE OF S. 2572

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Missouri (Mr. DANFORTH) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I also announce that the Senator from Oklahoma (Mr. BOREN) is absent because of illness in family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 1, as follows:

[Rollcall Vote No. 383 Leg.]

YEAS—95

Abdnor	Garn	Mitchell
Andrews	Glenn	Moynihan
Armstrong	Goldwater	Murkowski
Baker	Gorton	Nickles
Baucus	Grassley	Nunn
Bentsen	Hart	Packwood
Biden	Hatch	Pell
Boschwitz	Hatfield	Percy
Bradley	Hawkins	Pressler
Brady	Hayakawa	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd, Harry F., Jr.	Helms	Randolph
	Hollings	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Humphrey	Rudman
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Cochran	Jepsen	Schmitt
Cohen	Johnston	Simpson
Cranston	Kassebaum	Specter
D'Amato	Kasten	Stafford
DeConcini	Kennedy	Stennis
Denton	Laxalt	Stevens
Dixon	Leahy	Symms
Dole	Levin	Thurmond
Domenici	Long	Tower
Durenberger	Lugar	Tsongas
Eagleton	Mattingly	Wallop
East	McClure	Warner
Exon	Melcher	Weicker
Ford	Metzenbaum	Zorinsky

NAYS—1

Mathias

NOT VOTING—4

Boren	Dodd
Danforth	Matsunaga

So the bill (S. 2572), as amended, was passed.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I ask unanimous consent that the passage of S. 2572, as amended, be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS OF THE CONTRACT SERVICES FOR DRUG DEPENDENT FEDERAL OFFENDERS ACT OF 1978

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 877, H.R. 3963.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 3963) to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object. I have no objection.

The Senate proceeded to consider the bill.

Mr. THURMOND. Mr. President, I move to amend the bill, H.R. 3963, by adding at the end thereof the text of S. 2572, as amended by the Senate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 3963) was passed as follows:

Resolved, That the bill from the House of Representatives (H.R. 3963) entitled "An Act to amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to extend the periods for which funds are authorized to be appropriated", do pass with the following amendment:

Page 2, after line 7, insert:

SEC. 3. Titles I through VII may be cited as the "Violent Crime and Drug Enforcement Improvements Act of 1982".

TITLE I—BAIL REFORM

SEC. 101. This title may be cited as the "Bail Reform Act of 1982".

SEC. 102. (a) Sections 3141 through 3151 of title 18, United States Code, are repealed and the following new sections are inserted in lieu thereof:

"§ 3141. Release and detention authority generally

"(a) PENDING TRIAL.—A judicial officer who is authorized to order the arrest of a person pursuant to section 3041 of this title shall order that an arrested person who is brought before him be released or detained, pending judicial proceedings, pursuant to the provisions of this chapter.

"(b) PENDING SENTENCE OR APPEAL.—A judicial officer of a court of original jurisdiction over an offense, or a judicial officer of a Federal appellate court, shall order that, pending imposition or execution of sentence, or pending appeal of conviction or sentence, a person be released or detained pursuant to the provisions of this chapter.

"§ 3142. Release or detention of a defendant pending trial

"(a) IN GENERAL.—Upon the appearance before a judicial officer of a person charged with an offense, the judicial officer shall issue an order that, pending trial, the person be—

"(1) released on his personal recognizance or upon execution of an unsecured appearance bond, pursuant to the provisions of subsection (b);

"(2) released on a condition or combination of conditions pursuant to the provisions of subsection (c);

"(3) temporarily detained to permit revocation of conditional release, deportation, or exclusion pursuant to the provisions of subsection (d); or

"(4) detained pursuant to the provisions of subsection (e).

"(b) RELEASE ON PERSONAL RECOGNIZANCE OR UNSECURED APPEARANCE BOND.—The judicial officer shall order the pretrial release of the person on his personal recognizance, or upon execution of an unsecured appearance bond in an amount specified by the court, subject to the condition that the person not commit a Federal, State, or local crime during the period of his release, unless the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community.

"(c) RELEASE ON CONDITIONS.—If the judicial officer determines that the release described in subsection (b) will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community, he shall order the pretrial release of the person—

"(1) subject to the condition that the person not commit a Federal, State, or local crime during the period of release; and

"(2) subject to the least restrictive further condition, or combination of conditions, that he determines will reasonably assure the appearance of the person as required and the safety of any other person and the community, which may include the condition that the person—

"(A) remain in the custody of a designated person, who agrees to supervise him and to report any violation of a release condition to the court, if the designated person is able reasonably to assure the judicial officer that the person will appear as required and will not pose a danger to the safety of any other person or the community;

"(B) maintain employment, or, if unemployed, actively seek employment;

"(C) maintain or commence an educational program;

"(D) abide by specified restrictions on his personal associations, place of abode, or travel;

"(E) avoid all contact with an alleged victim of the crime and with a potential witness who may testify concerning the offense;

"(F) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;

"(G) comply with a specified curfew;

"(H) refrain from possessing a firearm, destructive device, or other dangerous weapon;

"(I) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;

"(J) undergo available medical or psychiatric treatment, including treatment for drug or alcohol dependency, and remain in a specified institution if required for that purpose;

"(K) execute an agreement to forfeit upon failing to appear as required, such designated property, including money, as is reasonably necessary to assure the appearance of the person as required, and post with the court such indicia of ownership of the property or such percentage of the money as the judicial officer may specify;

"(L) execute a bail bond with solvent sureties in such amount as is reasonably necessary to assure the appearance of the person as required;

"(M) return to custody for specified hours following release for employment, schooling, or other limited purposes; and

"(N) satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of any other person and the community.

The judicial officer may not impose a financial condition that results in the pretrial detention of the person. The judicial officer may at any time amend his order to impose additional or different conditions of release.

"(d) TEMPORARY DETENTION TO PERMIT REVOCATION OF CONDITIONAL RELEASE, DEPORTATION, OR EXCLUSION.—If the judicial officer determines that—

"(1) the person—

"(A) is, and was at the time the offense was committed, on—

"(i) release pending trial for a felony under Federal, State, or local law;

"(ii) release pending imposition or execution of sentence, appeal of sentence or conviction, or completion of sentence, for any offense under Federal, State, or local law; or

"(iii) probation or parole for any offense under Federal, State, or local law; or

lawfully admitted for permanent residence, as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)); and

"(2) the person may flee or pose a danger to any other person or the community;

he shall order the detention of the person, for a period of not more than ten days, excluding Saturdays, Sundays, and holidays, and direct the attorney for the Government to notify the appropriate court, probation or parole official, or State or local law enforcement official, or the appropriate official of the Immigration and Naturalization Service. If the official fails or declines to take the person into custody during that period, the person shall be treated in accordance with the other provisions of this section, notwithstanding the applicability of other provisions of law governing release pending trial or deportation or exclusion proceedings. If temporary detention is sought under paragraph (1)(B), the person has the burden of proving to the court that he is a citizen of the United States or is lawfully admitted for permanent residence.

"(e) DETENTION.—If, after a hearing pursuant to the provisions of subsection (f), the judicial officer finds that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, he shall order the detention of the person prior to trial. In a case described in (f)(1), a rebuttable presumption arises that no condition or combination of conditions will reasonably assure the safety of any other person and the community if the judge finds that—

"(1) the person has been convicted of a Federal offense that is described in subsection (f)(1), or of a State or local offense that would have been an offense described in subsection (f)(1) if a circumstance giving rise to Federal jurisdiction had existed;

"(2) the offense described in paragraph (1) was committed while the person was on release pending trial for a Federal, State, or local offense; and

"(3) a period of not more than five years has elapsed since the date of conviction, or the release of the person from imprisonment, for the offense described in paragraph (1), whichever is later.

Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of the community if the judicial officer finds that there is probable cause to believe that the person committed an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Import and Export Act (21 U.S.C. 951 et seq.), section 1 of the Act of September 15, 1980 (21 U.S.C. 955a), or an offense under 18 U.S.C. 924(c).

"(f) DETENTION HEARING.—The judicial officer shall hold a hearing to determine whether any condition or combination of conditions set forth in subsection (c) will reasonably assure the appearance of the person as required and the safety of any other person and the community in a case—

"(1) upon motion of the attorney for the Government, that involves—

"(A) a crime of violence;

"(B) an offense for which the maximum sentence is life imprisonment or death;

"(C) an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 955a); or

"(D) any felony committed after the person had been convicted of two or more prior offenses described in subparagraphs (A) through (C), or two or more State or local offenses that would have been offenses described in subparagraphs (A) through (C) if a circumstance giving rise to Federal jurisdiction had existed; or

"(2) upon motion of the attorney for the Government or upon the judge's own motion, that involves—

"(A) a serious risk that the person will flee; or

"(B) a serious risk that the person will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness or juror.

The hearing shall be held immediately upon the person's first appearance before the judicial officer unless that person, or the attorney for the Government, seeks a continuance. Except for good cause, a continuance on motion of the person may not exceed five days, and a continuance on motion of the attorney for the Government may not exceed three days. During a continuance, the person shall be detained, and the judicial officer, on motion of the attorney for the Government or on his own motion, may order that, while in custody, a person who appears to be a narcotics addict receive a medical examination to determine whether he is an addict. At the hearing, the person has the right to be represented by counsel, and, if he is financially unable to obtain adequate representation, to have counsel appointed for him. The person shall be afforded an opportunity to testify, to present witnesses on his own behalf, to cross-examine witnesses who appear at the hearing, and to present information by proffer or otherwise. The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. The facts the judicial officer uses to support a finding pursuant to (e) that no condition or combination of conditions will reasonably assure the safety of any other person and the community shall be supported by clear and convincing evidence. The person may be detained pending completion of the hearing.

"(g) FACTORS TO BE CONSIDERED.—The judicial officer shall, in determining whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community, take into account the available information concerning—

"(1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence or involves a narcotic drug;

"(2) the weight of the evidence against the person;

"(3) the history and characteristics of the person, including—

"(A) his character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and

"(B) whether, at the time of the current offense or arrest, he was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and

"(4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release. In considering the conditions of release described in subsection (c)(2)(K) or (c)(2)(L), the judicial officer may upon his own motion, or shall upon the motion of the Government, conduct an inquiry into the source of the property to be designated for potential forfeiture or offered as collateral to secure a bond, and shall decline to accept the designation, or the use as collateral, of property that, because of its source, will not reasonably assure the appearance of the person as required.

"(h) CONTENTS OF RELEASE ORDER.—In a release order issued pursuant to the provisions of subsection (b) or (c), the judicial officer shall—

"(1) include a written statement that sets forth all the conditions to which the release is subject, in a manner sufficiently clear

and specific to serve as a guide for the person's conduct; and

"(2) advise the person of—

"(A) the penalties for violating a condition of release, including the penalties for committing an offense while on pretrial release;

"(B) the consequences of violating a condition of release, including the immediate issuance of a warrant for the person's arrest; and

"(C) the provisions of sections 1503 of this title (relating to intimidation of witnesses, jurors, and officers of the court), 1510 (relating to obstruction of criminal investigations), 1512 (tampering with a witness, victim, or an informant), and 1513 (retaliating against a witness or an informant).

"(i) CONTENTS OF DETENTION ORDER.—In a detention order issued pursuant to the provisions of subsection (e), the judicial officer—

"(1) shall include written findings of fact, and a written statement, or a written reference to the hearing record, concerning the reasons for the detention;

"(2) shall direct that the person be committed to the custody of the Attorney General for confinement in a corrections facility in accordance with regulations promulgated pursuant to the provisions of subsection (j); and

"(3) may recommend that the person receive special medical or similar treatment or attention, but the Attorney General shall not be bound by such a recommendation.

"(j) CUSTODY WHILE AWAITING TRIAL.—The Attorney General shall promulgate regulations governing custody of persons detained pending trial. The regulations shall provide that—

"(1) to the extent practicable, the person be confined—

"(A) in a facility located near the court in which the person will have to appear;

"(B) separate from persons awaiting or serving sentences or being held in custody pending appeal; and

"(C) separate from persons who are defendants in the same case;

"(2) the person be afforded reasonable opportunity for private consultation with his counsel and, to the extent practicable, for private visits with his family or other persons;

"(3) on order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility in which the person is confined shall deliver the person to the custody of a United States Marshal or other appropriate Federal law enforcement officer for the purpose of an appearance in connection with a court proceeding or for another official purpose; and

"(4) the person may be released temporarily, in the custody of a United States Marshal or other appropriate person, if necessary for preparation of the person's defense or for another compelling reason.

"(k) PRESUMPTION OF INNOCENCE.—Nothing in this section shall be construed as modifying or limiting the presumption of innocence.

"§ 3143. Release or detention of a defendant pending sentence or appeal

"(a) RELEASE OR DETENTION PENDING SENTENCE.—The judicial officer shall order that a person who has been found guilty of an offense and who is waiting imposition or execution of sentence, be detained, unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released pursuant to section 3142 (b) or (c). If the judicial officer makes such a finding, he shall order the release of the person in accordance with the provisions of section 3142 (b) or (c).

"(b) RELEASE OR DETENTION PENDING APPEAL BY THE DEFENDANT.—The judicial officer shall order that a person who has been found guilty of an offense and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the judicial officer finds—

"(1) by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released pursuant to section 3142 (b) or (c); and

"(2) that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or an order for a new trial.

If the judicial officer makes such findings, he shall order the release of the person in accordance with the provisions of section 3142 (b) or (c).

"(c) RELEASE OR DETENTION PENDING APPEAL BY THE GOVERNMENT.—The judicial officer shall treat a defendant in a case in which an appeal has been taken by the United States pursuant to the provisions of section 3731 of this title, in accordance with the provisions of section 3142, unless the defendant is otherwise subject to a release or detention order.

"§ 3144. Release or detention of a material witness

"If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpena, a judicial officer may order the arrest of the person and treat the person in accordance with the provisions of section 3142. No material witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

"§ 3145. Review and appeal of a release or detention order

"(a) REVIEW OF A RELEASE ORDER.—If a person is ordered released by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court—

"(1) the attorney for the Government may file, with the court having original jurisdiction over the offense, a motion for revocation of the order or amendment of the conditions of release; and

"(2) the person may file, with the court having original jurisdiction over the offense, a motion for amendment of the conditions of release.

The motion shall be determined promptly.

"(b) REVIEW OF A DETENTION ORDER.—If a person is ordered detained by a magistrate, or by a person other than a judge of a court having original jurisdiction over the offense and other than a Federal appellate court, the person may file, with the court having original jurisdiction over the offense, a motion for revocation or amendment of the order. The motion shall be determined promptly.

"(c) APPEAL FROM A RELEASE OR DETENTION ORDER.—An appeal from a release or detention order, or from a decision denying revocation or amendment of such an order, is governed by the provisions of section 1291 of title 28 and section 3731 of this title. The appeal shall be determined promptly.

"§ 3146. Penalty for failure to appear

"(a) OFFENSE.—A person commits an offense if, after having been released pursuant to this chapter—

"(1) he knowingly fails to appear before a court as required by the conditions of his release; or

"(2) he knowingly fails to surrender for service of sentence pursuant to a court order.

"(b) GRADING.—If the person was released—

"(1) in connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal or certiorari after conviction, for—

"(A) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, he shall be fined not more than $25,000 or imprisoned for not more than ten years, or both;

"(B) an offense punishable by imprisonment for a term of five or more years, but less than fifteen years, he shall be fined not more than $10,000 or imprisoned for not more than five years, or both;

"(C) any other felony, he shall be fined not more than $5,000 or imprisoned not more than two years, or both; or

"(D) a misdemeanor, he shall be fined not more than $2,000 or imprisoned more than one year, or both; or

"(2) for appearance as a material witness, he shall be fined no more than $1,000 or imprisoned for not more one year, or both.

A term of imprisonment imposed pursuant to this section shall be consecutive to the sentence of imprisonment for any other offense.

"(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under this section that uncontrollable circumstances prevented the person from appearing or surrendering, and that the person did not contribute to the creation of such circumstances in reckless disregard of the requirement that he appeared or surrender, and that the defendant appeared or surrendered as soon as such circumstances ceased to exist.

"(d) DECLARATION OF FORFEITURE.—If a person fails to appear before a court as required, and the person executed an appearance bond pursuant to section 3142(b) or is subject to the release condition set forth in section 3142(c)(2)(K), or (c)(2)(L), the judicial officer may, regardless of whether the person has been charged with an offense under this section, declare any property designated pursuant to that section to be forfeited to the United States.

"§ 3147. Penalty for an offense committed while on release

"A person convicted of an offense committed while released pursuant to this chapter shall be sentenced, in addition to the sentence prescribed for the offense to—

"(1) a term of imprisonment of not less than two years and not more than ten years if the offense is a felony; or

"(2) a term of imprisonment of not less than ninety days and not more than one year if the offense is a misdemeanor.

A term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

"§ 3148. Sanctions for violation of a release condition

"(a) AVAILABLE SANCTIONS.—A person who has been released pursuant to the provisions of section 3142, and who has violated a condition of his release, is subject to a revocation of release, an order of detention, and a prosecution for contempt of court.

"(b) REVOCATION OF RELEASE.—The attorney for the Government may initiate a proceeding for revocation of an order of release by filing a motion with the district court. A judicial officer may issue a warrant for the arrest of a person charged with violating a condition of release, and the person shall be brought before a judicial officer in the district in which his arrest was ordered for a proceeding in accordance with this section. The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer—

"(1) finds that there is—

"(A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or

"(B) clear and convincing evidence that the person has violated any other condition of his release; and

"(2) finds that—

"(A) based on the factors set forth in section 3142(g), there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

"(B) the person is unlikely to abide by any condition or combination of conditions of release.

If there is probable cause to believe that, while on release, the person committed a Federal, State, or local felony, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community. If the judicial officer finds that there are conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community, and that the person will abide by such conditions, he shall treat the person in accordance with the provisions of section 3142 and may amend the conditions of release accordingly.

"(c) PROSECUTION FOR CONTEMPT.—The judge may commence a prosecution for contempt, pursuant to the provisions of section 401, if the person has violated a condition of his release.

"§ 3149. Surrender of an offender by a surety

"A person charged with an offense, who is released upon the execution of an appearance bond with a surety, may be arrested by the surety, and if so arrested, shall be delivered promptly to a United States marshal and brought before a judicial officer. The judicial officer shall determine in accordance with the provisions of section 3148(b) whether to revoke the release of the person, and may absolve the surety of responsibility to pay all or part of the bond in accordance with the provisions of rule 46 of the Federal Rules of Criminal Procedure. The person so committed shall be held in official detention until released pursuant to this chapter or another provision of law.

"§ 3150. Applicability to a case removed from a State court

"The provisions of this chapter apply to a criminal case removed to a Federal court from a State court.".

(b) Section 3154 of title 18, United States Code, is amended—

(1) in subsection (1), by stiking out "and recommend appropriate release conditions for each such person" and inserting in lieu thereof "and, where appropriate, include a recommendation as to whether each such person should be released or detained and, if release is recommended, recommend appropriate conditions of release"; and

(2) in subsection (2), by striking our "section 3146(e) or section 3147" and inserting in lieu thereof "section 3145";

(c) Section 3156(a) of title 18, United States Code, is amended—

(1) by striking out "3146" and inserting in lieu thereof "3141";

(2) in paragraph (1)—

(A) by striking out "bail or otherwise" and inserting in lieu thereof "detain or"; and

(B) by deleting "and" at the end thereof;

(3) in paragraph (2), by striking out the period at the end and inserting in lieu thereof "; and";

(4) by adding after paragraph (2) the following new paragraphs:

"(3) The term 'felony' means an offense punishable by a maximum term of imprisonment of more than one year; and

"(4) The term 'crime of violence' means—

"(A) an offense that has as an element of the offense the use, attempted use, or threatened use of physicial force against the person or property of another; or

"(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physicial force against the person or property of another may be used in the course of committing the offense."; and

(5) in subsection (b)(1), by striking out "bail or otherwise" and inserting in lieu thereof "detain or".

(d) The item relating to chapter 207 in the analysis of part II of title 18, United States Code, is amended to read as follows:

"207. Release and detention pending judicial proceedings ..... 3141".

(e)(1) The caption of chapter 207 is amended to read as follows:

"CHAPTER 207—RELEASE AND DETENTION PENDING JUDICIAL PROCEEDINGS".

(2) The section analysis for chapter 207 is amended by striking out the items relating to section 3141 through 3151 and inserting in lieu thereof the following:

"3141. Release and detention authority generally.
"3142. Release or detention of a defendant pending trial.
"3143. Release or detention of a defendant pending sentence or appeal.
"3144. Release or detention of a material witness.
"3145. Review and appeal of a release or detention order.
"3146. Penalty for failure to appear.
"3147. Penalty for an offense committed while on release.
"3148. Sanctions for violation of a release condition.
"3149. Surrender of an offender by a surety.
"3150. Applicability to a case removed from a State court."

SEC. 103. Chapter 203 of title 18, United States Code, is amended as follows:

(a) The last sentence of section 3041 is amended by striking out "determining to hold the prisoner for trial" and inserting in lieu thereof "determining, pursuant to the provisions of section 3142 of this title, whether to detain or conditionally release the prisoner prior to trial".

(b) The second paragraph of section 3042 is amended by striking out "imprisoned or admitted to bail" and inserting in lieu thereof "detained or conditionally released pursuant to section 3142 of this title".

(c) Section 3043 is repealed.

(d) The following new section is added after section 3061:

"§ 3062. General arrest authority for violation of release conditions

"A law enforcement officer, who is authorized to arrest for an offense committed in his presence, may arrest a person who is released pursuant to chapter 207 if the officer has reasonable grounds to believe that the person is violating, in his presence, a condition imposed on the person pursuant to section 3142(c)(2)(D), (c)(2)(E), (c)(2)(H), (c)(2)(I), or (c)(2)(M), or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(2)(J).".

(e) The section analysis is amended—

(1) by amending the item relating to section 3043 to read as follows:

"3043. Repealed."; and

(2) by adding the following new item after the item relating to section 3061:

"3062. General arrest authority for violation of release conditions.".

SEC. 104. Section 3731 of title 18, United States Code, is amended by adding after the second paragraph the following new paragraph:

"An appeal by the United States shall lie to a court of appeals from a decision or order, entered by a district court of the United States, granting the release of a person charged with or convicted of an offense, or denying a motion for revocation of, or modification of the conditions of, a decision or order granting release.".

SEC. 105. The second paragraph of section 3772 of title 18, United States Code, is amended by striking out "bail" and inserting in lieu thereof "release pending appeal".

SEC. 106. Section 4282 of title 18, United States Code, is amended—

(a) by striking out "and not admitted to bail" and substituting "and detained pursuant to chapter 207"; and

(b) by striking out "and unable to make bail".

SEC. 107. Section 636 of title 28, United States Code, is amended by striking out "impose conditions of release under section 3146 of title 18" and inserting in lieu thereof "issue orders pursuant to section 3142 of title 18 concerning release or detention of persons pending trial".

SEC. 108. The Federal Rules of Criminal Procedure are amended as follows:

(a) Rule 5(c) is amended by striking out "shall admit the defendant to bail" and inserting in lieu thereof "shall detain or conditionally release the defendant".

(b) The second sentence of rule 15(a) is amended by striking out "committed for failure to give bail to appear to testify at a trial or hearing" and inserting in lieu thereof "detained pursuant to 18 U.S.C. § 3144".

(c) Rule 40(f) is amended to read as follows:

"(f) Release or Detention. If a person was previously detained or conditionally released, pursuant to chapter 207 of title 18, United States Code, in another district where a warrant, information or indictment issued, the Federal magistrate shall take into account the decision previously made and the reasons set forth therefor, if any, but

will not be bound by that decision. If the Federal magistrate amends the release or detention decision or alters the conditions of release, he shall set forth the reasons for his action in writing.".

(d) Rule 46 is amended—

(1) in subdivision (a), by striking out "3146, 3148, or 3149" and inserting in lieu thereof "3142 and 3144";

(2) in subdivision (c), by striking out "3148" and inserting in lieu thereof "3143";

(3) by amending subdivision (e)(2) to read as follows:

"(2) SETTING ASIDE.—The court may direct that a forfeiture be set aside in whole or in part, upon such conditions as the court may impose, if a person released upon execution of an appearance bond with a surety is subsequently surrendered by the surety into custody or if it otherwise appears that justice does not require the forfeiture."; and

(4) by adding the following new subdivision at the end thereof:

"(h) FORFEITURE OF PROPERTY.—Nothing in this rule or in chapter 207 of title 18, United States Code, shall prevent the court from disposing of any charge by entering an order directing forfeiture of property pursuant to 18 U.S.C. § 3142(c)(2)(K) if the value of the property is an amount that would be an appropriate sentence after conviction of the offense charged and if such forfeiture is authorized by statute or regulation.".

(e) Rule 54(b)(3) is amended by striking out "18 U.S.C. § 3043, and".

SEC. 109. Rule 9(c) of the Federal Rules of Appellate Procedure is amended by striking out "3148" and inserting in lieu thereof "3143", and following the word "community", inserting "and that the appeal is not for purpose of delay and raises a substantial question of law or fact likely to result in reversal or in an order for a new trial".

TITLE II—WITNESS-VICTIM PROTECTION

SEC. 201. This title may be cited as the "Witness-Victim Protection Act of 1982.".

PART A—VICTIM'S IMPACT STATEMENT

SEC. 202. Subsection (c)(2) of Rule 32 of the Federal Rules of Criminal Procedure is amended by striking out ", and such other information as may be required by the court." and inserting in lieu thereof ". The report shall also contain verified information stated in a nonargumentative style assessing the financial, social, psychological, and medical impact upon and cost to any person who was the victim of the offense committed by the defendant. The report shall also include a statement of any need of the victim for restitution and such other information as may be required by the court.".

PART B—PROTECTION OF VICTIMS AND WITNESSES FROM INTIMIDATION

SEC. 203. (a) Chapter 73 of title 81, United States Code, is amended by adding at the end thereof the following new sections:

"1512. Tampering with a witness, victim, or an informant

"(a) OFFENSE.—Whoever—

"(1) knowingly uses or attempts to use physical force, threat, intimidation, or fraud with intent to—

"(a) influence the testimony of another person in an official proceeding;

"(B) cause or induce another person to—

"(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

"(ii) alter, destory, multilate, or conceal an object with intent to impair such object's integrity or availability for use in an official proceeding;

"(iii) evade legal process summoning him to appear as a witness, or to produce a record, document, or other object in an official proceeding; or

"(iv) absent himself from an official proceeding to which he has been summoned by legal process; or

"(C) hinder, delay, or prevent the communication to a law enforcement officer of information relating to an offense or a possible offense;

"(2) knowingly and maliciously hinders, delays, prevents, or dissuades or attempts to hinder, delay, prevent, or dissuade—

"(A) a witness or victim from attending or testifying in an official proceeding; or

"(B) a witness, victim, or a person acting on behalf of a victim from—

"(i) making a report of an offense or a possible offense to a judge, a law enforcement officer, a probation or parole officer, or an officer or a correctional facility;

(ii) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted or assisting in such prosecution or proceeding; or

"(iii) arresting, or causing or seeking the arrest of, a person in connection with an offense; or

"(3) corruptly, or by threats of force, or by any threatening letter or communication, intentionally influences, obstruct, or impedes or attempts to influence, obstruct or impede the—

"(A) administration of justice;

"(B) administration of a law under which an official proceeding is being or may be conducted; or

"(C) exercise of a legislative power of inquiry;

shall be punished as provided in subsection (b).

"(b) PUNISHMENT.—Whoever is guilty of an offense set forth in subsection (a)(1) shall be fined not more than $100,000, or imprisoned not more than ten years, or both. Whoever is guilty of an offense set forth in subsection (a)(2) or (a)(3) shall be fined not more than $25,000, or imprisoned not more than five years, or both. Whoever is convicted for a second or subsequent offense under this section shall be sentenced to a term of imprisonment, or fine, or both, up to twice those authorized for such offense.

"(c) AFFIRMATIVE DEFENSE.—In a prosecution for an offense under subsection (a)(1) of this section, it is an affirmative defense, as to which the defendant has the burden of proving the defense by a preponderance of the evidence, that the conduct engaged in consisted solely of lawful conduct and that the defendant's sole intention was to encourage or cause the other person to testify truthfully.

"(d) DEFENSES PRECLUDED.—It is not a defense to a prosecution under this section that—

"(1) an official proceeding was not pending or about to be instituted; or

"(2) the testimony, or the record, document, or other object, would have been legally privileged or would have been inadmissible in evidence; or

"(3) no person was injured physically, or, in fact, intimidated.

"(e) JURISDICTION.—There is Federal jurisdiction over an offense described in this section if—

"(1) the official proceeding, offense, or prosecution is or would be a Federal official proceeding, offense, or prosecution;

"(2) the officer is a Federal public servant and the information or report relates to a Federal offense or a possible Federal offense;

"(3) the administration of justice, administration of a law, or exercise of a legislative power of inquiry relates to a Federal Government function;

"(4) the United States mail or a facility in interstate or foreign commerce is used in the planning, promotion, management, execution, consummation, or concealment of the offense, or in the distribution of the proceeds of the offense; or

"(5) movement of a person across a State or United States boundary occurs in the planning, promotion, management, execution, consummation, or concealment of the offense or in the distribution of the proceeds of the offense.

"§ 1513. Retaliating against a witness or an informant

"(a) OFFENSE.—Whoever—

"(1) knowingly engages in conduct by which he causes bodily injury to another person or damages the property of another person because of—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given, or any record, document, or other object produced, by a witness in an official proceeding; or

"(B) any information relating to an offense or possible offense given by a person to a law enforcement officer; or

"(2) being a Federal public servant, unlawfully subjects a Federal public servant to economic loss or injury to his business or profession because of any matter described insubparagraph (A) or (B) of paragraph (1); shall be punished as provided in subsection (b).

"(b) PUNISHMENT.—Whoever is guilty of an offense set forth in subsection (a)(1) shall be fined not more than $100,000, or imprisoned for not more than ten years, or both. Whoever is guilty of an offense in any other case under this section shall be fined not more than $10,000, or imprisoned for not more than two years, or both.

"(c) JURISDICTION.—There is Federal jurisdiction over an offense described in this section if—

"(1) the official proceeding is a Federal official proceeding;

"(2) the law enforcement officer is a Federal public servant and the information relates to a Federal offense or a possible Federal offense;

"(3) the United States mail or facility in interstate or foreign commerce is used in the planning, promotion, management, execution, consummation, or concealment of such offense punishable under this section, or in the distribution of the proceeds of such offense; or

"(4) movement of a person across a State or United States boundary occurs in the planning, promotion, management, execution, consummation, or concealment of the offense, or in the distribution of the proceeds of such offense punishable under this section.

"§ 1514. Definitions

"As used in sections 1512 and 1513 of this title—

"(1) 'law enforcement officer' means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant (including an elected official, judge, or juror)—

"(A) authorized under law to engage in or supervise the prevention, detention, investigation, or prosecution of an offense; or

"(B) serving as a parole or probation officer under this title;

"(2) 'maliciously' means for the purpose of—

"(A) intimidating, harassing, harming, or injuring in any other way another person; or

"(B) interfering with the orderly administration of justice;

"(3) 'official proceeding' means—

"(A) a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, or a Federal grand jury, a parole or probation officer;

"(B) a proceeding before the Congress; or

"(C) a proceeding before a Federal Government agency which is authorized by law;

"(4) 'physical force' means physical action against another, and includes confinement;

"(5) 'victim' means an individual against whom an offense has been or is being committed, or was attempted to be committed;

"(6) 'witness' means an individual—

"(A) who has knowledge of the existence or nonexistence of facts relating to an offense;

"(B) whose declaration under oath is or may be received in evidence for any purpose;

"(C) who has reported an offense to a judge, a law enforcement officer, or probation officer, or an officer of a correctional facility;

"(D) who has been served with a subpoena, including a grand jury subpoena, issued under the authority of a court of the United States;

"(E) who a reasonable person would believe to be an individual described in this paragraph; or

"(F) who the defendant in fact believed was an individual described in this paragraph.

"§ 1515. Penalty for an offense committed while on release pending judicial proceeding

"Any term of imprisonment which is imposed under section 1503, 1512, or 1513 when the offense is committed while such person is released under chapter 207 of this title shall be consecutive to any sentence of imprisonment for the offense with respect to which release was ordered".

(b) The analysis for chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"1512. Tampering with a witness, victim, or an informant.
"1513. Retaliating against a witness or informant.
"1514. Definitions.
"1515. Penalty for an offense committed while on release pending judicial proceeding.".

SEC. 204. (a) Title 18 of the United States Code is amended by adding after chapter 223 the following new chapter:

"CHAPTER 224—PROTECTION OF WITNESSES

"Sec.
"3521. Witness relocation and protection.
"3522. Reimbursement of expenses.
"3523. Civil action to restrain witness or victim intimidation.
"3524. Definition for chapter.

"§ 3521. Witness relocation and protection

"(a) RELOCATION.—The Attorney General may provide for the relocation or protection of a government witness or a potential government witness in an official proceeding if the Attorney General determines that an offense described in section 1503, 1512, or 1513, or a State or local offense that is similar in nature or that involves a crime of violence directed at a witness, is likely to be committed. The Attorney General may also provide for the relocation or protection of the immediate family of, or a person otherwise closely associated with, such witness or potential witness if the family or person may also be endangered.

"(b) RELATED PROTECTIVE MEASURES.—In connection with the relocation or protection of a witness, a potential witness, or an immediate family member or close associate of a witness or potential witness, the Attorney General may take any action he determines to be necessary to protect such person from bodily injury, and otherwise to assure his health, safety, and welfare, for as long as, in the judgment of the Attorney General, such danger exists. The Attorney General may—

"(1) provide suitable official documents to enable a person relocated to establish a new identity;

"(2) provide housing for the person relocated or protected;

"(3) provide for the transportation of household furniture and other personal property to the new residence of the person relocated;

"(4) provide a tax-free subsistence payment, in a sum established in regulations issued by the Attorney General, for such times as the Attorney General determines to be warranted;

"(5) assist the person relocated in obtaining employment; and

"(6) refuse to disclose the identity or location of the person relocated or protected, or any other matter concerning the person or the program after weighing the danger such a disclosure would pose to the person, the detriment would cause to the general effectiveness of the program, and the person seeking the disclosure.

"(c) CIVIL ACTION AGAINST A RELOCATED PERSON.—Notwithstanding the provisions of subsection (b)(6), if a person relocated under this section is named as a defendant in a civil cause of action, arising prior to the person's relocation, for damages resulting from bodily injury, property damage, or injury to business, process in the civil proceeding may be served upon the Attorney General. The Attorney General shall make reasonable efforts to serve a copy of the process upon the person relocated at his last known address. If a judgment in such an action is entered against the person relocated, the Attorney General shall determine whether the person has made reasonable efforts to comply with the provisions of that judgment. The Attorney General shall take affirmative steps to urge the person relocated to comply with any judgment rendered. If the Attorney General determines that the person has not made reasonable efforts to comply with the provisions of the judgment, he may, in his discretion, after weighing the danger to the person relocated, disclose the identity and location of that person to the plaintiff entitled to recovery pursuant to the judgment. Any such disclosure shall be made upon the express condition that further disclosure by the plaintiff of such identity or location may be made only if essential to the plaintiff's efforts to recover under the judgment, and only to such additional persons as is necessary to effect the recovery. Any such disclosure or nondisclosure by the Attorney General shall not subject the government to liability in any action based upon the consequences thereof.

"§ 3522. Reimbursement of expenses

"The provision of transportation, housing, subsistence, or other assistance to a person under section 3521 may be conditioned by the Attorney General upon reimbursement of expenses in whole or in part to the United States by a State or local government.

"§ 3523. Civil action to restrain witness or victim intimidation

"(a) INITIATION OF ACTION.—The Attorney General may initiate a civil proceeding to prevent and restrain an offense involving a witness or a victim under section 1503, 1512, or 1513. Upon a hearing and upon a finding, which may be based upon hearsay or the representation of the attorney for the government or the counsel for the defendant, that an offense under section 1503, 1512, or 1513 involving a witness or a victim has occurred or is reasonably likely to occur, the court may order that a defendant, a witness or other person connected with the case, or an individual in the courtroom—

"(1) refrain from engaging in conduct in violation of section 1503, 1512, or 1513;

"(2) maintain a prescribed distance from a specified victim or witness; and

"(3) refrain from communicating with a specified victim or witness except under such conditions as the court may impose.

"(b) JURISDICTION.—A district court of the United States in which a proceeding is initiated under this section has jurisdiction to hear and determine the matter so presented, and to prevent and restrain an offense referred to in subsection (a). In a proceeding initiated under this section, the court shall proceed as soon as practicable to a hearing and determination.

"§ 3524. Definition for chapter

"As used in this chapter 'government' includes the Federal Government and a State or local government.".

(b) The table of chapters for part II of title 18, United States Code, is amended by adding after the item for chapter 223 the following new item:

"224. Protection of witnesses..... 3521".

(c) Title V of the Organized Crime Control Act of 1970 (84 Stat. 933) is repealed.

PART C—RESTITUTION

SEC. 205. (a) Chapter 227 of title 18, United States Code, is amended by adding at the end the following:

"§ 3579. Order of restitution

"(a) ORDER.—The court, in imposing a sentence on a defendant for any offense under this title, except an offense described in subsection (d), may order the defendant to make appropriate restitution. The order of restitution shall require that the defendant—

"(1) in the case of an offense causing injury or death, make restitution to the victim of the offense or estate of the victim in an amount that does not exceed income lost because of the victim's incapacitation or death, necessary medical expenses including ones associated with physical, psychological or vocational rehabilitation, and, if applicable, the expenses for the funeral and burial of the victim; and

"(2) in the case of an offense resulting in loss, damage, or destruction or property—

"(A) restore the property to the victim of the offense; or

"(B) make restitution to the victim of the offense in an amount that does not exceed the value of the property.

The court may order that restitution be made in the form of money, or if the victim agrees, in services to the victim or to a person or organization designated by the victim. If the court does not order restitu-

tion, the court must state for the record the reasons. The court shall make the order of restitution as fair as possible to the victim without unduly complicating or prolonging the sentencing process.

"(b) RELATIONSHIP TO CIVIL PROCEEDINGS.—

"(1) The court shall not order restitution as to any victim who is bound by an earlier judgment in, or settlement of, a civil proceeding involving the underlying offense.

"(2) Any amount paid to a person pursuant to an order of restitution shall be set off against an amount later recovered as compensatory damages by such person in any civil proceeding.

"(3) A conviction of a defendant by a Federal court of an offense involving the act giving rise to restitution under this section shall top the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the victim.

"(4) If appropriate the court may consider ordering restitution to any party who has compensated the victim for expenses of losses directly related to the crime.

"(5) An order of restitution may be enforced by the victim or the United States in the same manner as a judgment in a civil action and notwithstanding any other provision of law, an order of restitution shall be satisfied by the defendant before any Federal lien.

"(c) RESTITUTION AS CONDITION.—If a defendant is placed on probation or paroled pursuant to this title, any restitution ordered under this section shall be a condition of such parole or probation. Failure to comply with an order of restitution shall be grounds for the revocation of parole or probation.".

(b) The analysis for chapter 227 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3579. Order of restitution."

PART D—FEDERAL ACCOUNTABILITY FOR ESCAPE OR RELEASE OF A FEDERAL PRISONER

SEC. 206. (a) Section 1346(b) of title 28, United States Code, is amended by inserting "(1)" immediately after "(b)".

(b) Section 1346(b) of title 28, United States Code, is amended by adding at the end thereof the following:

"(2)(A) Subject to the provisions of chapter 171 of this title and subparagraph (B) of this paragraph, the district courts, together with the United States District Court of the Virgin Islands, shall have exclusive jurisdiction of any civil action on a claim against the United States for damages, accruing on and after the date of enactment of this paragraph, for personal injury or death directly caused by any dangerous offender charged with or convicted of a Federal offense who is released from, or who escapes from, lawful custody of an employee of, or any person acting as the lawful agent of, the United States as a result of the gross negligence of such employee or person.

"(B) For the purposes of this paragraph, 'dangerous offender' means a person charged with or convicted of a crime involving the use, attempted use, or threatened use of violence against the person of another.".

TITLE III—CONTROLLED SUBSTANCES PENALTIES

SEC. 301. This title may be cited as the "Controlled Substances Penalties Amendments Act of 1982".

SEC. 302. Subsection (b) of section 401 of the Controlled Substances Act (21 U.S.C. 841(b)) is amended—

(1) in paragraph (1), by—

(A) redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively, and inserting after "(1)" a new subparagraph to read as follows:

"(A) In the case of a violation of subsection (a) of this section involving—

"(i) 100 grams or more of a controlled substance in schedule I or II which is a mixture or substance containing a detectable amount of a narcotic drug other than a narcotic drug consisting of—

"(a) coca leaves;

"(b) a compound, manufacture, salt, derivative, or preparation of coca leaves; or

"(c) a substance chemically identical thereto;

"(ii) a kilogram or more of any other controlled substance in schedule I or II which is a narcotic drug;

"(iii) 500 grams or more of phencyclidine (PCP); or

"(iv) 5 grams or more of lysergic acid diethylamide (LSD);

such person shall be sentenced to a term of imprisonment of not more than 20 years, a fine of not more than $250,000, or both. If any person commits such a violation after one or more prior convictions of him for an offense punishable under this paragraph, or for a felony under any other provision of this title or title III or other law of a State, the United States, or a foreign country relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 40 years, a fine of not more than $500,000, or both";

(B) in subparagraph (B), as redesignated above, by—

(i) striking out "which is a narcotic drug" in the first sentence and inserting in lieu thereof "except as provided in subparagraphs (A) and (C),"

(ii) striking out "$25,000" and "$50,000" and inserting in lieu thereof "$125,000" and "$250,000", respectively; and

(iii) striking out "of the United States" in the second sentence and inserting in lieu thereof "of a State, the United States, or a foreign country"; and

(C) in subparagraph (C), as redesignated above, by—

(i) striking out "a controlled substance in schedule I or II which is not a narcotic drug" and ", (5), and (6)" and inserting in lieu thereof "less than 50 kilograms of marihuana, 10 kilograms of hashish, or one kilogram of hashish oil" and "and (5)", respectively;

(ii) striking out "$15,000" and "$30,000" and inserting in lieu thereof "$50,000" and "$100,000", respectively; and

(iii) striking out "of the United States" in the second sentence and inserting in lieu thereof "of a state, the United States, or a foreign country";

(2) in paragraph (2), by—

(A) striking out "$10,000" and "$20,000" and inserting in lieu thereof "$25,000" and "$50,000", respectively; and

(B) striking out "of the United States" and inserting in lieu thereof "of a state, the United States, or a foreign country";

(3) in paragraph (3), by—

(A) striking out "$5,000" and "$10,000" and inserting in lieu thereof "$10,000" and "$20,000", respectively; and

(B) striking out "of the United States" and inserting in lieu thereof "of a state, the United States, or a foreign country";

(4) in paragraph (4), by striking out "(1)(B)" and inserting in lieu thereof "(1)(C)";

(5) by striking out paragraphs (5) and (6).

SEC. 303. (a) Title III of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end thereof the following new section:

"IMITATION CONTROLLED SUBSTANCES

"SEC. 328. (a) For purposes of this section, the term—

"(1) 'imitation controlled substances' means any substance other than a controlled substance or prescription drug, or combination of such substances, which is marketed, sold, or distributed to encourage recreational drug use or abuse or any similar nonmedical use and—

"(A) by representation or appearance (including color, shape, size, and markings) would lead a reasonable person to believe that the substance is a controlled substance; or

"(B) purports to act, either alone, in multiple doses, or in combination with a substance or substances, like a controlled substance, either stimulant or depressant as defined in section 102(9) of the Controlled Substances Act;

"(2) 'distribute' means the actual, constructive, or attempted transfer, delivery, or dispensing to another of an imitation controlled substance;

"(3) 'manufacture' means the production, preparation, propagation, compounding, or processing of an imitation controlled substance, and includes any packinging or repackaging of such substance or labeling or relabeling of its container; except that such term does not include the preparation, compounding, packaging, or labeling of an imitation controlled substance in conformity with applicable State or local law by a practioner as an incident to his administering or dispensing of such substance in the course of his professional practice; and

"(4) 'controlled substance' is used as defined in section 102(6) of the Controlled Substances Act.

"(b)(1)(A) Except as provided in subparagraph (B), it shall be unlawful for any person knowingly or intentionally to create, manufacture, or distribute, or possess with intent to create, manufacture, or distribute an imitation controlled substance. Any person who violates this paragraph shall be sentenced to a term of imprisonment of not more than two years, a fine or not more than $10,000 or both.

"(B) Subparagraph (A) does not apply to the creation, manufacture, distribution, or possession of an imitation controlled substance by a person if the imitation controlled substance is created, manufactured, distributed, or possessed for use as a placebo in the course of the professional practice of a practitioner registered under part C of the Controlled Substances Act or in research conducted under section 505(i) of this Act or conducted in connection with an application filed under section 505(b) of this Act.

"(2) Any person at least 18 years of age who violates paragraph (1)(A) by distributing an imitation controlled substance to a person under 18 years of age shall be sentenced to a term of imprisonment of not more than four years, fined not more than $20,000, or both.

"(c) It is unlawful for any person to place any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of imitation controlled substances. Any person who vio-

lates this subsection is guilty of a crime and upon conviction may be imprisoned for not more than one year, fined not more than $5,000, or both.".

(b) Subsection (a) of section 302 of such Act is amended by striking out "paragraphs (h), (i), and (j)" and inserting in lieu thereof "paragraphs (h) and (j)".

SEC. 304. Subsection (b) of section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and inserting after "(b)" a new paragraph to read as follows:

"(1) In the case of a violation under subsection (a) of this section involving—

"(A) 100 grams or more of a mixture or substance containing a detectable amount of a narcotic drug in schedule I or II other than a narcotic drug consisting of—

"(i) cocoa leaves;

"(ii) a compound, manufacture, salt, derivative, or preparation of cocoa leaves; or

"(iii) a substance chemically identical thereto;

"(B) a kilogram or more of any other narcotic drug in schedule I or II;

"(C) 500 grams or more of phencyclidine (PCP);

"(D) 5 grams or more of lysergic acid diethylamide (LSD);

the person committing such violation shall be imprisoned for not more than twenty years, or fined not more than $250,000, or both.";

(2) in paragraph (2), as redesignated above, by—

(A) striking out "narcotic drug in schedule I or II, the person committing such violation shall" and inserting in lieu thereof "controlled substance in schedule I or II, the person committing such violation shall, except as provided in paragraphs (1) and (3),"; and

(B) striking out "$25,000" and inserting in lieu thereof "$125,000";

(3) in paragraph (3), as redesignated above, by—

(A) striking out "a controlled substance other than a narcotic drug in schedule I or II, the person committing such violation shall" and inserting in lieu thereof "less than 50 kilograms of marihuana, less than 10 kilograms of hashish, less than one kilogram of hashish oil, or any quantity of a controlled substance in schedule III, IV, or V, the person committing such violation shall, except as provided in paragraph (4)"; and

(B) striking out "$15,000" and substituting "$50,000".

SEC. 305. Section 1012 of the Controlled Substances Import and Export Act (21 U.S.C. 962) is amended by striking out "the United States" in subsection (b) and inserting in lieu thereof "a State, the United States, or a foreign country".

SEC. 306. (a) This section may be cited as the "National Narcotics Act of 1982".

(b)(1) The Congress hereby makes the following findings:

(A) The flow of illegal narcotics into the United States is a major and growing problem.

(B) The problem of illegal drug activity falls across the entire spectrum of Federal activities both nationally and internationally.

(C) Illegal drug trafficking is estimated by the General Accounting Office to be a $79,000,000,000 a year industry in the United States.

(D) The annual consumption of heroin in the United States is in the range of four metric tons, and annual domestic consumption of cocaine is estimated to be forty to forty-eight metric tons.

(E) Despite the efforts of the United States Government and other nations, the mechanisms for smuggling opium and other hard drugs into the United States remain virtually intact and United States agencies estimate that they are able to interdict no more than 5 to 15 per centum of all hard drugs flowing into the country.

(F) Such significant indicators of the drug problem as drug-related deaths, emergency room visits, hospital admissions due to drug-related incidents, and addiction rates are soaring.

(G) Increased drug trafficking is strongly linked to violent, addiction-related crime and recent studies have shown that over 90 per centum of heroin users rely upon criminal activities as a means of income.

(H) Much of the drug trafficking is handled by syndicates which results in increased violence and criminal activity because of the competitive struggle for control of the domestic drug market.

(I) Controlling the supply of illicit drugs is a key to reducing the crime epidemic confronting every region of the country.

(J) The magnitude and scope of the problem requires a Director of National and International Drug Operations and Policy with the responsibility for the coordination and direction of all Federal efforts by the numerous agencies.

(K) Such a director must have broad authority and responsibility for making management, policy, and budgetary decisions with respect to all Federal agencies involved in attacking this problem so that a unified and efficient effort can be made to eliminate the illegal drug problem.

(2) It is the purpose of this section to insure—

(A) the development of a national policy with respect to illegal drugs;

(B) the direction and coordination of all Federal agencies involved in the effort to implement such a policy; and

(C) that a single, competent, and responsible high-level official of the United States Government, who is appointed by the President, by and with the advice and consent of the Senate, and who is accountable to the Congress and the American people, will be charged with the responsibility of coordinating the overall direction of United States policy, resources, and operations with respect to the illegal drug problem.

(c) There is established in the executive branch of the Government an office to be known as the "Office of the Director of National and International Drug Operations and Policy" (hereinafter in this section referred to as the "Office of the Director"). There shall be at the head of the Office of the Director a Director of National and International Drug Operations and Policy (hereinafter in this section referred to as the "Director"). There shall be a Deputy Director of National and International Drug Operations and Policy (hereinafter in this section referred to as the "Deputy Director") to assist the Director in carrying out the Director's functions under this section.

(d)(1) The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director and the Deputy Director shall each serve at the pleasure of the President. No person may serve as Director or Deputy Director for a period of more than four years unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. The Director shall be entitled to the compensation provided for in section 5313, title 5, United States Code. The Deputy Director shall be entitled to the compensation provided for in section 5314, title 5, United States Code.

(2) The Director shall serve as the principal director and coordinator of United States operations and policy on illegal drugs.

(3) The Director shall have the responsibility, and is authorized to—

(A) develop, review, implement, and enforce United States Government policy with respect to illegal drugs;

(B) direct and coordinate all United States Government efforts to halt the flow into, and sale and use of illegal drugs within the United States;

(C) develop in concert with governmental entities budgetary priorities and budgetary allocations of entities of the United States Government with respect to illegal drugs; and

(D) coordinate the collection and dissemination of information necessary to implement United States policy with respect to illegal drugs.

(4) In carrying out his responsibilities under paragraph (3) the Director is authorized to—

(A) direct, with the concurrence of the head of the agency employing such personnel, the temporary reassignment of government personnel within the United States Government in order to implement United States policy with respect to illegal drugs;

(B) procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the grade of GS-18 of the General Schedule;

(C) accept and use donations of property from all government agencies; and

(D) use the mails in the same manner as any other department or agency of the executive branch.

(5) Notwithstanding any other provision of law, rule, or regulation to the contrary, the Director shall have the authority to direct each department or agency with responsibility for drug control to carry out the policies established by the Director consistent with the general authority of each agency or department.

(6) The Administrator of the General Services Administration shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

(e) The Director shall submit to the Congress, within nine months after enactment of this section, and annually thereafter, a full and complete report reflecting United States policy with respect to illegal drugs, plans proposed for the implementation of such policy, and, commencing with the submission of the second report, a full and complete report reflecting accomplishments with respect to the United States policy and plans theretofore submitted to the Congress.

(f) For the purpose of carrying out this section, there are authorized to be appropriated $500,000 for fiscal year 1983, and such sums as may be necessary for each of the four succeeding fiscal years, to be available until expended.

(g) This section shall be effective January 1, 1983.

SEC. 307. (a) Section 609(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1429) is amended—

(1) by inserting "(1)" after "(b)", and

(2) by adding at the end the following new paragraph:

"(2) Any airman certificate issued under this Act shall be revoked upon the conviction in any court of the holder of such certificate for any violation of any State or Federal statute relating to the transportation or distribution of any controlled substance as defined by the Controlled Substances Act.".

(b) The amendment to section 609(b) of the Federal Aviation Act of 1958 made by subsection (a) shall not apply to any offense committed before the date of enactment of this section.

(c) Section 902(b) of the Federal Aviation act of 1958 (49 U.S.C. 1472(b)) is amended—

(1) by striking out "(b) Any person who" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), any person who";

(2) by striking out "uses or attempts to use" and inserting in lieu thereof "sells, uses, attempts to use, or possesses with the intent to use"; and

(3) by adding at the end the following new paragraph:

"(2)(A) any person who violates paragraph (1) (other than by selling a fraudulent certificate) with the intent to violate any State or Federal statute relating to the transportation or distribution of any controlled substance as defined by the Controlled Substances Act shall be subject to a fine not exceeding $25,000 or to imprisonment not exceeding five years, or both.

"(B) Any person who sells a fraudulent certificate (as that term is used in paragraph (1)) with the knowledge that the purchaser intends to use such certificate in connection with any act violating any State or Federal statute relating to the transportation or distribution of any controlled substances as defined by the Controlled Substances Act shall be subject to a fine not exceeding $25,000 or to imprisonment not exceeding five years, or both.".

(d)(1) Chapter 2 of title 18 of the United States Code is amended by adding after section 35 the following:

"§ 36. Use of aircraft for narcotics purposes

"(a) Any person who operates an aircraft (as defined by section 1301(31) of title 49 of the United States Code) with knowledge that such aircraft is, incident to such operation, used or intended to be used in the commission of an act which is a violation of any State or Federal statute relating to the transportation or distribution of any controlled substances as defined by the Controlled Substances Act shall be subject to a fine of not more than $25,000 or imprisonment for not more than 5 years, or both.

"(b) Any person convicted of a second violation of subsection (a) of this section, shall be subject to a fine of not more than $50,000 or imprisonment for not more than 10 years, or both.

"(c) Any penalty imposed for a violation of this subsection shall be in addition to, and not in lieu of, any penalty imposed under any State or Federal statute relating to the transportation or distribution of any controlled substances as defined by the Controlled Substances Act.".

(2) The table of sections for chapter 2, title 18, United States Code, is amended by adding after the item relating to section 35, the following:

"36. Use of aircraft for narcotic purposes.".

TITLE IV—SENTENCING REFORM

SEC. 401. This title may be cited as the "Sentencing Reform Act of 1982".

SEC. 402. (a) Title 18 of the United States Code is amended by—

(1) redesignating sections 3577, 3578, 3611, 3612, 3615, 3617, 3618, 3619, 3620, and 3656 as sections 3661, 3662, 3663, 3664, 3665, 3666, 3667, 3668, 3669, and 3670 of a new chapter 232 of title 18 of the United States Code, respectively;

(2) repealing chapters 227, 229, and 231 and substituting the following new chapters:

"CHAPTER 227—SENTENCES

"Subchapter
"A. General Provisions 3551
"B. Probation 3561
"C. Fines 3571
"D. Imprisonment 3581

"SUBCHAPTER A—GENERAL PROVISIONS

"Sec.
"3551. Authorized sentences.
"3552. Presentence reports.
"3553. Imposition of a sentence.
"3554. Order of criminal forfeiture.
"3555. Order of notice to victims.
"3556. Order of restitution.
"3557. Review of a sentence.
"3558. Implementation of a sentence.
"3559. Sentencing classification of offenses.

"SUBCHAPTER A—GENERAL PROVISIONS

"§ 3551. Authorized sentences

"(a) IN GENERAL.—Except as otherwise specifically provided, a defendant who has been found guilty of an offense described in any Federal statute, other than an Act of Congress applicable exclusively in the District of Columbia or the Uniform Code of Military Justice, shall be sentenced in accordance with the provisions of this chapter so as to achieve the purposes set forth in subparagraphs (A) through (D) of section 3553(a)(2) to the extent that they are applicable in light of all the circumstances of the case.

"(b) INDIVIDUALS.—An individual found guilty of an offense shall be sentenced, in accordance with the provisions of section 3553, to—

"(1) a term of probation as authorized by subchapter B;

"(2) a fine as authorized by subchapter C; or

"(3) a term of imprisonment is authorized by subchapter D.

A sentence to pay a fine may be imposed in addition to any other sentence. A sanction authorized by section 3554, 3555, or 3556 may be imposed in addition to the sentence required by this subsection.

"(c) ORGANIZATIONS.—An organization found guilty of an offense shall be sentenced, in accordance with the provisions of section 3553, to—

"(1) a term of probation as authorized by subchapter B; or

"(2) a fine as authorized by subchapter C. A sentence to pay a fine may be imposed in addition to a sentence to probation. A sanction authorized by section 3554, 3555, or 3556 may be imposed in addition to the sentence required by this subsection.

"§ 3552. Presentence reports

"(a) PRESENTENCE INVESTIGATION AND REPORT BY PROBATION OFFICER.—A United States probation officer shall, pursuant to the provisions of Rule 32(c) of the Federal Rules of Criminal Procedure, make a presentence investigation of a defendant, and shall, before the imposition of sentence, report the results of the investigation to the court.

"(b) PRESENTENCE STUDY AND REPORT BY BUREAU OF PRISONS.—If the court, before or after its receipt of a report specified in subsection (a) or (c), desires more information than is otherwise available to it as a basis for determining the sentence to be imposed on a defendant found guilty of a felony, it may order that the defendant, for the purpose of a study, be committed to the custody of the Bureau of Prisons for a period of not more than sixty days. The order shall specify the additional information that the court needs before determining the sentence to be imposed. Such an order shall be treated for administrative purposes as a provisional sentence of imprisonment for the maximum term authorized by section 3581(b) for the offense committed. The Bureau shall conduct a complete study of the defendant during such period, inquiring into such matters as are specified by the court and any other matters that it believes are pertinent to the factors set forth in section 3553(a). The period of commitment may, in the discretion of the court, be extended for an additional period of not more than sixty days. By the expiration of the period of commitment, or by the expiration of any extension granted by the court, the Bureau shall return the defendant to the court for final sentencing, shall provide the court with a written report of the pertinent results of the study, and shall make to the court whatever recommendations the Bureau believes will be helpful to a proper resolution of the case. The report shall include recommendations of the Bureau concerning the guidelines and policy statements, promulgated by the Sentencing Commission pursuant to 28 U.S.C. 994(a), that it believes are applicable to the defendant's case. After receiving the report and the recommendations, the court shall proceed finally to sentence the defendant in accordance with the sentencing alternatives and procedures available under this chapter.

"(c) PRESENTENCE EXAMINATION AND REPORT BY PSYCHIATRIC OR PSYCHOLOGICAL EXAMINERS.—If the court, before or after its receipt of a report specified in subsection (a) or (b) desires more information than is otherwise available to it as a basis for determining the mental condition of the defendant, it may order that the defendant undergo a psychiatric or psychological examination and that the court be provided with a written report of the results of the examination pursuant to the provisions of section 4247.

"(d) DISCLOSURE OF PRESENTENCE REPORTS.—The court shall assure that a report filed pursuant to this section is disclosed to the defendant, the counsel for the defendant, and the attorney for the government in a timely manner, pursuant to the provisions of Rule 32(c) of the Federal Rules of Criminal Procedure.

"§ 3553. Imposition of a sentence

"(a) FACTORS TO BE CONSIDERED IN IMPOSING A SENTENCE.—The court, in determining the particular sentence to be imposed, shall consider—

"(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

"(2) the need for the sentence imposed—

"(A) to reflect the seriousness of the offense, to promote respect for law, and to provide just punishment for the offense;

"(B) to afford adequate deterrence to criminal conduct;

"(C) to protect the public from further crimes of the defendant; and

"(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

"(3) the kinds of sentences available;

"(4) the kinds of sentence and the sentencing range established for the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines that are issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1) and that are in effect on the date the defendant is sentenced;

"(5) any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2) that is in effect on the date the defendant is sentenced; and

"(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.

"(b) APPLICATION OF GUIDELINES IN IMPOSING A SENTENCE.—The court shall impose a sentence of the kind, and within the range, referred to in subsection (a)(4) unless the court finds that an aggravating or mitigating circumstance exists that was not adequately taken into consideration by the Sentencing Commission in formulating the guidelines and that should result in a sentence different from that described.

"(c) STATEMENT OF REASONS FOR IMPOSING A SENTENCE.—The court, at the time of sentencing, shall state in open court the reasons for its imposition of the particular sentence, and, if the sentence—

"(1) is of the kind, and within the range, described in subsection (a)(4), the reason for imposing a sentence at a particular point within the range; or

"(2) is not of the kind, or is outside the range, described in subsection (a)(4), the specific reason for the imposition of a sentence different from that described.

If the sentence does not include an order of restitution, the court shall include in the statement the reason therefor. The clerk of the court shall provide a transcription of the court's statement of reasons to the Probation System, and, if the sentence includes a term of imprisonment, to the Bureau of Prisons.

"(d) PRESENTENCE PROCEDURE FOR AN ORDER OF NOTICE OR RESTITUTION.—Prior to imposing an order of notice pursuant to section 3555, or an order of restitution pursuant to section 3556, the court shall give notice to the defendant and the government that it is considering imposing such an order. Upon motion of the defendant or the government, or on its own motion, the court shall—

"(1) permit the defendant and the government to submit affidavits and written memoranda addressing matters relevant to the imposition of such an order;

"(2) afford counsel an opportunity in open court to address orally the appropriateness of the imposition of such an order; and

"(3) include in its statement of reasons pursuant to subsection (c) specific reasons underlying its determinations regarding the nature of such an order.

Upon motion of the defendant or the government, or on its own motion, the court may in its discretion employ any additional procedures that it concludes will not unduly complicate or prolong the sentencing process.

"§ 3554. Order of criminal forfeiture

"The court, in imposing a sentence on a defendant who has been found guilty of an offense described in section 1962 of this title or in title II or III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 shall order, in addition to the sentence that is imposed pursuant to the provisions of section 3551, that the defendant forfeit property to the United States in accordance with the provisions of section 1963 of this title or section 413 of the Comprehensive Drug Abuse and Control Act of 1970.

"§ 3555. Order of notice to victims

"The court, in imposing a sentence on a defendant who has been found guilty of an offense involving fraud or other intentionally deceptive practices, may order, in addition to the sentence that is imposed pursuant to the provisions of section 3551, that the defendant give reasonable notice and explanation of the conviction, in such form as the court may approve, to the victims of the offense. The notice may be ordered to be given by mail, by advertising in designated areas or through designated media, or by other appropriate means. In determining whether to require the defendant to give such notice, the court shall consider the factors set forth in section 3553(a) to the extent that they are applicable and shall consider the cost involved in giving the notice as it relates to the loss caused by the offense, and shall not require the defendant to bear the costs of notice in excess of $20,000.

"§ 3556. Order of restitution

"(a) ORDER.—The court, in imposing a sentence on a defendant for any offense under this title, except an offense described in section 3671, may order the defendant to make appropriate restitution. The order of restitution shall require that the defendant—

"(1) in the case of an offense causing injury or death, make restitution to the victim of the offense or estate of the victim in an amount that does not exceed income lost because of the victim's incapacitation or death, necessary medical expenses including ones associated with physical, phychological, or vocational rehabilitation, and, if applicable, the expenses for the funeral and burial of the victim; and

"(2) in the case of an offense resulting in loss, damage, or destruction of property—

"(A) restore the property to the victim of the offense; or

"(B) make restitution to the victim of the offense in an amount that does not exceed the value of the property.

The court may order that restitution be made in the form of money or, if the victim agrees, in services to the victim or to a person or organization designated by the victim. If the court does not order restitution, the court must state for the record the reasons. The court shall make the order of restitution as fair as possible to the victim without unduly complicating or prolonging the sentencing process.

"(b) RELATIONSHIP TO CIVIL PROCEEDINGS.—

"(1) The court shall not order restitution as to any victim who is bound by an earlier judgment in, or a settlement of, a civil proceeding involving the underlying offense.

"(2) Any amount paid to a person pursuant to an order of restitution shall be set off against an amount later recovered as compensatory damages by such person in any civil proceeding.

"(3) A conviction of a defendant by a Federal court of an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the victim.

"(4) If appropriate the court may consider ordering restitution to any party who has compensated the victim for expenses or losses directly related to the crime.

"(5) An order of restitution may be enforced by the victim or the United States in the same manner as a judgment in a civil action and notwithstanding any other provision of law, an order of restitution shall be satisfied by the defendant before any Federal lien.

"(c) RESTITUTION AS CONDITION.—If a defendant is placed on probation or a term of supervised release pursuant to this title, any restitution ordered under this section shall be a condition of such term of supervised release or probation. Failure to comply with an order of restitution shall be grounds for the revocation of probation or for prosecution for contempt.

"§ 3557. Review of a sentence

"The review of a sentence imposed pursuant to section 3551 is governed by the provisions of sections 3742.

"§ 3558. Implementation of a sentence

"The implementation of a sentence imposed pursuant to section 3551 is governed by the provisions of chapter 229.

"§ 3559. Sentencing classification of offenses

"(a) CLASSIFICATION.—An offense that is not specifically classified by a letter grade in the section defining it, is classified—

"(1) if the maximum term of imprisonment authorized is—

"(A) life imprisonment, or if the maximum penalty is death, as a Class A felony;

"(B) twenty years or more, as a Class B felony;

"(C) less than twenty years but ten or more years, as a Class C felony;

"(D) less than ten years but five or more years, as a Class D felony;

"(E) less than five years but more than one year, as a Class E felony;

"(F) one year or less but more than six months, as a Class A misdemeanor;

"(G) six months or less but more than thirty days, as a Class B misdemeanor;

"(H) thirty days or less but more than five days, as a Class C misdemeanor; or

"(I) five days or less, or if no imprisonment is authorized, as an infraction.

"(b) EFFECT OF CLASSIFICATION.—An offense classified under subsection (a) carries all the incidents assigned to the applicable letter designation except that the maximum fine that may be imposed is the fine authorized by the statute describing the offense, or by this title, whichever is the greater.

"SUBCHAPTER B—PROBATION

"Sec.
"3561. Sentence of probation.
"3562. Imposition of a sentence of probation.
"3563. Conditions of probation.
"3564. Running of a term of probation.
"3565. Revocation of probation.
"3566. Implementation of a sentence of probation.

"SUBCHAPTER B—PROBATION

"§ 3561. Sentence of probation

"(a) IN GENERAL.—A defendant who has been found guilty of an offense may be sentenced to a term of probation unless—

"(1) the offense is a Class A felony;

"(2) the offense is an offense for which probation has been expressly precluded; or

"(3) the defendant is sentenced at the same time to a term of imprisonment for the same or a different offense.

"(b) AUTHORIZED TERMS.—The authorized terms of probation are—

"(1) for a felony, not less than one nor more than five years;

"(2) for a misdemeanor, not more than two years; and

"(3) for an infraction, not more than one year.

"§ 3562. Imposition of a sentence of probation

"(a) FACTORS TO BE CONSIDERED IN IMPOSING A TERM OF PROBATION.—The court, in determining whether to impose a term of probation, and, if a term of probation is to be imposed, in determining the length of the term and the conditions of probation, shall consider the factors set forth in section 3553(a) to the extent that they are applicable.

"(b) EFFECT OF FINALITY OF JUDGMENT.—Notwithstanding the fact that a sentence of probation can subsequently be—

"(1) modified or revoked pursuant to the provisions of section 3564 or 3565;

"(2) corrected pursuant to the provisions of rule 35 and section 3742; or

"(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

"§ 3563. Conditions of probation

"(a) MANDATORY CONDITIONS.—The court shall provide, as an explicit condition of a sentence of probation—

"(1) for a felony, a misdemeanor, or an infraction, that the defendant not commit another federal, State, or local crime during the term of probation; and

"(2) for a felony, that the defendant also abide by at least one condition set forth in subsection (b)(2), (b)(3), or (b)(13).

"(b) DISCRETIONARY CONDITIONS.—The court may provide, as further conditions of a sentence of probation, to the extent that such conditions are reasonably related to the factors set forth in section 3553 (a)(1) and (a)(2) and to the extent that such conditions involve only such deprivations of liberty or property as are reasonably necessary for the purposes indicated in section 3553(a)(2), that the defendant—

"(1) support his dependents and meet other family responsibilities;

"(2) pay a fine imposed pursuant to the provisions of subchapter C;

"(3) make restitution to a victim of the offense pursuant to the provisions of section 3556;

"(4) give to the victims of the offense the notice ordered pursuant to the provisions of section 3555;

"(5) work conscientiously at suitable employment or pursue conscientiously a course of study or vocational training that will equip him for suitable employment;

"(6) refrain, in the case of an individual, from engaging in a specified occupation, business, or profession bearing a reasonably direct relationship to the conduct constituting the offense, or engage in such a specified occupation, business, or profession only to a stated degree or under stated circumstances;

"(7) refrain from frequenting specified kinds of places or from associating unnecessarily with specified persons;

"(8) refrain from excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802), without a prescription by a licensed medical practitioner;

"(9) refrain from possessing a firearm, destructive device, or other dangerous weapon;

"(10) undergo available medical, psychiatric, or psychological treatment, including treatment for drug or alcohol dependency, as specified by the court, and remain in a specified institution if required for that purpose;

"(11) remain in the custody of the Bureau of Prisons during nights, weekends, or other intervals of time, totaling no more than the lesser of one year or the term of imprisonment authorized for the offense in section 3581(b), during the first year of the term of probation;

"(12) reside at, or participate in the program of, a community correction facility for all or part of the term of probation;

"(13) work in community service as directed by the court;

"(14) reside in a specified place or area, or refrain from residing in a specified place or area;

"(15) remain within the jurisdiction of the court, unless granted permission to leave by the court or a probation officer;

"(16) report to a probation officer as directed by the court or the probation officer;

"(17) permit a probation officer to visit him at his home or elsewhere as specified by the court;

"(18) answer inquiries by a probation officer and notify the probation officer promptly of any change in address or employment;

"(19) notify the probation officer promptly if arrested or questioned by a law enforcement officer; or

"(20) satisfy such other conditions as the court may impose.

"(c) MODIFICATION OF CONDITIONS.—The court may, after a hearing, modify, reduce, or enlarge the conditions of a sentence of probation at any time prior to the expiration or termination of the term of probation, pursuant to the provisions applicable to the initial setting of the conditions of probation.

"(d) WRITTEN STATEMENT OF CONDITIONS.—The court shall direct that the probation officer provide the defendant with a written statement that sets forth all the conditions to which the sentence is subject, and that is sufficiently clear and specific to serve as a guide for the defendant's conduct and for such supervision as is required.

"§ 3564. Running of a term of probation

"(a) COMMENCEMENT.—A term of probation commences on the day that the sentence of probation is imposed, unless otherwise ordered by the court.

"(b) CONCURRENCE WITH OTHER SENTENCES.—Multiple terms of probation, whether imposed at the same time or at different times, run concurrently with each other. A term of probation runs concurrently with any federal, State, or local term of probation, or supervised release, or parole for another offense to which the defendant is subject or becomes subject during the term of probation, except that it does not run during any period in which the defendant is imprisoned, other than during limited intervals as a condition of probation or supervised release, in connection with a conviction for a federal, State, or local crime.

"(c) EARLY TERMINATION.—The court, after considering the factors set forth in section 3553(a) to the extent that they are applicable, may terminate a term of probation previously ordered and discharge the defendant at any time in the case of a misdemeanor or an infraction or at any time after the expiration of one year of probation in the case of a felony, if it is satisfied that such action is warranted by the conduct of the defendant and the interest of justice.

"(d) EXTENSION.—The court may, after a hearing, extend a term of probation, if less than the maximum authorized term was previously imposed, at any time prior to the expiration or termination of the term of probation, pursuant to the provisions applicable to the initial setting of the term of probation.

"(e) SUBJECT TO REVOCATION.—A sentence of probation remains conditional and subject to revocation until its expiration or termination.

"§ 3565. Revocation of probation

"(a) CONTINUATION OR REVOCATION.—If the defendant violates a condition of probation at any time prior to the expiration or termination of the term of probation, the court may, after a hearing pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure, and after considering the factors set forth in section 3553(a) to the extent that they are applicable—

"(1) continue him on probation, with or without extending the term or modifying or enlarging the conditions; or

"(2) revoke the sentence of probation and impose any other sentence that was available under subchapter A at the time of the initial sentencing.

"(b) DELAYED REVOCATION.—The power of the court to revoke a sentence of probation for violation of a condition of probation, and to impose another sentence, extends beyond the expiration of the term of probation for any period reasonably necessary for the adjudication of matters arising before its expiration if, prior to its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.

"§ 3566. Implementation of a sentence of probation

"The implementation of a sentence of probation is governed by the provisions of subchapter A of chapter 229.

"SUBCHAPTER C—FINES

"Sec.
"3571. Sentence of fine.
"3572. Imposition of a sentence of fine.
"3573. Modification or remission of fine.
"3574. Implementation of a sentence of fine.

"SUBCHAPTER C—FINES

"§ 3571. Sentence of fine

"(a) IN GENERAL.—A defendant who has been found guilty of an offense may be sentenced to pay a fine.

"(b) AUTHORIZED FINES.—Except as otherwise provided, the authorized fines are—

"(1) if the defendant is an individual—

"(A) for a felony, or for a misdemeanor resulting in the loss of human life, not more than $250,000;

"(B) for any other misdemeanor, not more than $25,000; and

"(C) for an infraction, not more than $1,000; and

"(2) if the defendant is an organization—

"(A) for a felony, or for a misdemeanor resulting in the loss of human life, not more than $500,000;

"(B) for any other misdemeanor, not more than $100,000; and

"(C) for an infraction, not more than $10,000.

"§ 3572. Imposition of a sentence of fine

"(a) FACTORS TO BE CONSIDERED IN IMPOSING FINE.—The court, in determining whether to impose a fine, and, if a fine is to be imposed, in determining the amount of the fine, the time for payment, and the method of payment, shall consider—

"(1) the factors set forth in section 3553(a), to the extent they are applicable, including, with regard to the characteristics of

the defendant under section 3553(a), the ability of the defendant to pay the fine in view of the defendant's income, earning capacity, and financial resources and, if the defendant is an organization, the size of the organization;

"(2) the nature of the burden that payment of the fine will impose on the defendant, and on any person who is financially dependent upon the defendant;

"(3) any restitution or reparation made by the defendant to the victim of the offense, and any obligation imposed upon the defendant to make such restitution or reparation to the victim of the offense;

"(4) if the defendant is an organization, any measure taken by the organization to discipline its employees or agents responsible for the offense or to insure against a recurrence of such an offense; and

"(5) any other pertinent equitable consideration.

"(b) LIMIT ON AGGREGATE OF MULTIPLE FINES.—Except as otherwise expressly provided, the aggregate of fines that a court may impose on a defendant at the same time for different offenses that arise from a common scheme or plan, and that do not cause separable or distinguishable kinds of harm or damage, is twice the amount imposable for the most serious offense.

"(c) EFFECT OF FINALITY OF JUDGMENT.—Notwithstanding the fact that a sentence to pay a fine can subsequently be—

"(1) modified or remitted pursuant to the provisions of section 3573;

"(2) corrected pursuant to the provisions of rule 35 and section 3742; or

"(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

"(d) TIME AND METHOD OF PAYMENT.—At the time a defendant is sentenced to pay a fine, the court may provide for the payment to be made within a specified period of time or in specified installments. If no such provision is made a part of the sentence, payment is due immediately.

"(e) ALTERNATIVE SENTENCE PRECLUDED.—At the time a defendant is sentenced to pay a fine, the court may not impose an alternative sentence to be served in the event that the fine is not paid.

"(f) INDIVIDUAL RESPONSIBILITY FOR PAYMENT.—If a fine is imposed on an organization, it is the duty of each individual authorized to make disbursement of the assets of the organization to pay the fine from assets of the organization. If a fine is imposed on an agent or shareholder of an organization, the fine shall not be paid, directly or indirectly, out of the assets of the organization, unless the court finds that such payment is expressly permissible under applicable State law.

"§ 3573. Modification or remission of fine

"(a) PETITION FOR MODIFICATION OR REMISSION.—A defendant who has been sentenced to pay a fine, and who—

"(1) has paid part but not all thereof, and concerning whom the circumstances no longer exist that warranted the imposition of the fine in the amount imposed or payment by the time or method specified, may petition the court for—

"(A) an extension of the time for payment;

"(B) a modification in the method of payment; or

"(C) a remission of all or part of the unpaid portion; or

"(2) has thereafter voluntarily made restitution or reparation to the victim of the offense, may petition the court for a remission of the unpaid portion of the fine in an amount not exceeding the amount of such restitution or reparation.

"(b) ORDER OF MODIFICATION OR REMISSION.—If, after the filing of a petition as provided in subsection (a), the court finds that the circumstances warrant relief, the court may enter an appropriate order.

"§ 3574. Implementation of a sentence of fine

"The implementation of a sentence to pay a fine is governed by the provisions of subchapter B of chapter 229.

"SUBCHAPTER D—IMPRISONMENT

"Sec.
"3581. Sentence of imprisonment.
"3582. Imposition of a sentence of imprisonment.
"3583. Inclusion of a term of supervised release after imprisonment.
"3584. Multiple sentences of imprisonment.
"3585. Calculation of a term of imprisonment.
"3586. Implementation of a sentence of imprisonment.

"SUBCHAPTER D—IMPRISONMENT

"§ 3581. Sentence of imprisonment

"(a) IN GENERAL.—A defendant who has been found guilty of an offense may be sentenced to a term of imprisonment.

"(b) AUTHORIZED TERMS.—The authorized terms of imprisonment are—

"(1) for a Class A felony, the duration of the defendant's life or any period of time;

"(2) for a Class B felony, not more than twenty-five years;

"(3) for a Class C felony, not more than twelve years;

"(4) for a Class D felony, not more than six years;

"(5) for a Class E felony, not more than three years;

"(6) for a Class A misdemeanor, not more than one year;

"(7) for a Class B misdemeanor, not more than six months;

"(8) for a Class C misdemeanor, not more than thirty days; and

"(9) for an infraction, not more than five days.

"CAREER CRIMINALS.—

"(1) For the purposes of this section, a career criminal is defined as a person sixteen years of age or older who has been found guilty of a crime of violence which is a felony offense or an offense described in section 841, 952(a), 955, or 959 of title 21, and has been convicted of two prior felony offenses, each of which is either a crime of violence in violation of State or Federal law or an offense described in section 841, 952(a), 955, or 959 of title 21.

"(2) A career criminal shall receive the maximum or approximately the maximum penalty for the current offense.

"(3) Prior to full implementation of the provisions of Title V, relating to sentencing reform, a career criminal may receive a sentence of imprisonment without parole prior to the expiration of the full term of imprisonment imposed by the court.

"§ 3582. Imposition of a sentence of imprisonment

"(a) FACTORS TO BE CONSIDERED IN IMPOSING A TERM OF IMPRISONMENT.—The court, in determining whether to impose a term of imprisonment, and, if a term of imprisonment is to be imposed, in determining the length of the term, shall consider the factors set forth in section 3553(a) to the extent that they are applicable, recognizing that imprisonment is not an appropriate means of promoting correction and rehabilitation. In determining whether to make a recommendation concerning the type of prison facility appropriate for the defendant, the court shall consider any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2).

"(b) EFFECT OF FINALITY OF JUDGMENT.—Notwithstanding the fact that a sentence to imprisonment can subsequently be—

"(1) modified pursuant to the provisions of subsection (c);

"(2) corrected pursuant to the provisions of rule 35 and section 3742; or

"(3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742;

a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes.

"(c) MODIFICATION OF AN IMPOSED TERM OF IMPRISONMENT.—The court may not modify a term of imprisonment once it has been imposed except that—

"(1) in any case—

"(A) the court, upon motion of the Director of the Bureau of Prisons, may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that extraordinary and compelling reasons warrant such a reduction and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission; and

"(B) the court may modify an imposed term of imprisonment to the extent otherwise expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure;

"(2) in the case of a defendant who has been sentenced to a term of imprisonment in excess of six years, the court, upon motion of the defendant or the Director of the Bureau of Prisons, may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if it finds that extraordinary and compelling reasons require such a reduction and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission; but the court may consider only two such motions with respect to a particular defendant, one, after the defendant has served at least six years of his sentence, and a second, after the defendant has served at least the maximum term of imprisonment specified in the applicable guideline issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1); and

"(3) in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(n), upon motion of the defendant or the Director of Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

"(d) INCLUSION OF AN ORDER TO LIMIT CRIMINAL ASSOCIATION OF ORGANIZED CRIME AND DRUG OFFENDERS.—The court, in imposing a sentence to a term of imprisonment upon a defendant convicted of a felony set forth in chapter 95 (racketeering) or 96 (racketeer influenced and corrupt organizations) of this title or in the Comprehensive

Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.), or at any time thereafter upon motion by the Director of the Bureau of Prisons or a United States attorney, may include as a part of the sentence an order that requires that the defendant not associate or communicate with a specified person, other than his attorney, upon a showing of probable cause to believe that association or communication with such person is for the purpose of enabling the defendant to control, manage, direct, finance, or otherwise participate in an illegal enterprise.

"§ 3583. Inclusion of a term of supervised release after imprisonment

"(a) IN GENERAL.—The court, in imposing a sentence to a term of imprisonment for a felony or a misdemeanor, may include as a part of the sentence a requirement that the defendant be placed on a term of supervised release after imprisonment.

"(b) AUTHORIZED TERMS OF SUPERVISED RELEASE.—The authorized terms of supervised release are—

"(1) for a Class A or Class B felony, not more than three years;

"(2) for a Class C or Class D felony, not more than two years; and

"(3) for a Class E felony, or for a misdemeanor, not more than one year.

"(c) FACTORS TO BE CONSIDERED IN INCLUDING A TERM OF SUPERVISED RELEASE.—The court, in determining whether to include a term of supervised release, and, if a term of supervised release is to be included, in determining the length of the term and the conditions of supervised release, shall consider the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(D), (a)(4), (a)(5), and (a)(6).

"(d) CONDITIONS OF SUPERVISED RELEASE.—The court shall order, as an explicit condition of supervised release, that the defendant not commit another Federal, State, or local crime during the term of supervision. The court may order, as a further condition of supervised release, to the extent that such condition—

"(1) is reasonably related to the factors set forth in section 3553(a)(1), (a)(2)(B), and (a)(2)(D);

"(2) involves no greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553(a)(2)(B) and (a)(2)(D); and

"(3) is consistent with any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a);

any condition set forth as a discretionary condition of probation in section 3563(b)(1) through (b)(10) and (b)(12) through (b)(19), and any other condition it considers to be appropriate. If an alien defendant is subject to deportation, the court may provide, as a condition of supervised release, that he be deported and remain outside the United States, and may order that he be delivered to a duly authorized immigration official for such deportation.

"(e) MODIFICATION OF TERM OR CONDITIONS.—The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(D), (a)(4), (a)(5), and (a)(6)—

"(1) terminate a term of supervised release previously ordered and discharge the person released at any time after the expiration of one year of supervised release, if it is satisfied that such action is warranted by the conduct of the person released and the interest of justice; or

"(2) after a hearing, extend a term of supervised release if less than the maximum authorized term was previously imposed, and may modify, reduce, or enlarge the conditions of supervised release, at any time prior to the expiration or termination of the term of supervised release, pursuant to the provisions applicable to the initial setting of the term and conditions of post-release supervision.

"(f) WRITTEN STATEMENT OF CONDITIONS.—The court shall direct that the probation officer provide the defendant with a written statement that sets forth all the conditions to which the term of supervised release is subject, and that is sufficiently clear and specific to serve as a guide for the defendant's conduct and for such supervision as is required.

"§ 3584. Multiple sentences of imprisonment

"(a) IMPOSITION OF CONCURRENT OR CONSECUTIVE TERMS.—If multiple terms of imprisonment are imposed on a defendant at the same time, or if a term of imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment, the terms may run concurrently or consecutively, except that the terms may not run consecutively for an attempt and for another offense that was the sole objective of the attempt. Multiple terms of imprisonment imposed at the same time run concurrently unless the court orders or the statute mandates that the terms are to run consecutively. Multiple terms of imprisonment imposed at different times run consecutively unless the court orders that the terms are to run concurrently.

"(b) FACTORS TO BE CONSIDERED IN IMPOSING CONCURRENT OR CONSECUTIVE TERMS.—The court, in determining whether the terms imposed are to be ordered to run concurrently or consecutively, shall consider, as to each offense for which a term of imprisonment is being imposed, the factors set forth in section 3553(a).

"(c) TREATMENT OF MULTIPLE SENTENCES AS AN AGGREGATE.—Multiple terms of imprisonment ordered to run consecutively shall be treated for administrative purposes as a single, aggregate term of imprisonment.

"§ 3585. Calculation of a term of imprisonment

"(a) COMMENCEMENT OF SENTENCE.—A sentence to a term of imprisonment commences on the date the defendant is received in custody awaiting transportation to, or arrives voluntarily to commence service of sentence at, the official detention facility at which the sentence is to be served.

"(b) CREDIT FOR PRIOR CUSTODY.—A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences—

"(1) as a result of the offense for which the sentence was imposed; or

"(2) as a result of any other charge for which the defendant was arrested after the commission of the offense for which the sentence was imposed;

that has not been credited against another sentence.

"§ 3586. Implementation of a sentence of imprisonment

"The implementation of a sentence of imprisonment is governed by the provisions of subchapter C of chapter 229 and, if the sentence includes a term of supervised release, by the provisions of subchapter A of chapter 229.

"CHAPTER 229—POSTSENTENCE ADMINISTRATION

"Subchapter
"A. Probation 3601
"B. Fines 3611
"C. Imprisonment 3621

"SUBCHAPTER A—PROBATION

"Sec.
"3601. Supervision of probation.
"3602. Appointment of probation officers.
"3603. Duties of probation officers.
"3604. Transportation of a probationer.
"3605. Transfer of jurisdiction over a probationer.
"3606. Arrest and return of a probationer.
"3607. Special probation and expungement procedures for drug possessors.

"SUBCHAPTER A—PROBATION

"§ 3601. Supervision of probation

"A person who has been sentenced to probation pursuant to the provisions of subchapter B of chapter 227, or placed on probation pursuant to the provisions of chapter 403, or placed on supervised release pursuant to the provisions of section 3583, shall, during the term imposed, be supervised by a probation officer to the degree warranted by the conditions specified by the sentencing court.

"§ 3602 Appointment of probation officers

"(a) APPOINTMENT.—A district court of the United States shall appoint qualified persons to serve, with or without compensation, as probation officers within the jurisdiction and under the direction of the court making the appointment. The court may, for cause, remove a probation officer appointed to serve with compensation, and may, in its discretion, remove a probation officer appointed to serve without compensation.

"(b) RECORD OF APPOINTMENT.—The order of appointment shall be entered on the records of the court, a copy of the order shall be delivered to the officer appointed, and a copy shall be sent to the Director of the Administrative Office of the United States Courts.

"(c) CHIEF PROBATION OFFICER.—If the court appoints more than one probation officer, one may be designated by the court as chief probation officer and shall direct the work of all probation officers serving in the judicial district.

"§ 3603. Duties of probation officers

"A probation officer shall—

"(a) instruct a probationer or a person on supervised release, who is under his supervision as to the conditions specified by the sentencing court, and provide him with a written statement clearly setting forth all such conditions;

"(b) keep informed, to the degree required by the conditions specified by the sentencing court, as to the conduct and condition of a probationer or a person on supervised release, who is under his supervision, and report his conduct and condition to the sentencing court;

"(c) use all suitable methods, not inconsistent with the conditions specified by the court, to aid a probationer or a person on supervised release who is under his supervision, and to bring about improvements in his conduct and condition;

"(d) be responsible for the supervision of any probationer or a person on supervised release who is known to be within the judicial district;

"(e) keep a record of his work, and make such reports to the Director of the Administrative Office of the United States Courts as the Director may require;

"(f) upon request of the Attorney General or his designee, supervise and furnish information about a person within the custody of

the Attorney General while on work release, furlough, or other authorized release from his regular place of confinement, or while in prerelease custody pursuant to the provisions of section 3624(c); and

"(g) perform any other duty that the court may designate.

"§ 3604. Transportation of a probationer

"A court, after imposing a sentence of probation, may direct a United States marshal to furnish the probationer with—

"(a) transportation to the place to which he is required to proceed as a condition of his probation; and

"(b) money, not to exceed such amount as the Attorney General may prescribe, for subsistence expenses while traveling to his destination.

"§ 3605. Transfer of jurisdiction over a probationer

"A court, after imposing a sentence, may transfer jurisdiction over a probationer or person on supervised release to the district court for any other district to which the person is required to proceed as a condition of his probation or release, or is permitted to proceed, with the concurrence of such court. A later transfer of jurisdiction may be made in the same manner. A court to which jurisdiction is transferred under this section is authorized to exercise all powers over the probationer or releasee that are permitted by this subchapter or subchapter B or D of chapter 227.

"§ 3606. Arrest and return of a probationer

"If there is probable cause to believe that a probationer or a person on supervised release has violated a condition of his probation or release, he may be arrested, and, upon arrest, shall be taken without unnecessary delay before the court having jurisdiction over him.

"§ 3607. Special probation and expungement procedures for drug possessors

"(a) PRE-JUDGMENT PROBATION.—If a person found guilty of an offense described in section 404 of the Controlled Substances Act (21 U.S.C. 844)—

"(1) has not, prior to the commission of such offense, been convicted of violating a federal or State law relating to controlled substances; and

"(2) has not previously been the subject of a disposition under this subsection;

the court may, with the consent of such person, place him on probation for a term of not more than one year without entering a judgment of conviction. At any time before the expiration of the term of probation, if the person has not violated a condition of his probation, the court may, without entering a judgment of conviction, dismiss the proceedings against the person and discharge him from probation. At the expiration of the term of probation, if the person has not violated a condition of his probation the court shall, without entering a judgment of conviction, dismiss the proceedings against the person and discharge him from probation. If the person violates a condition of his probation, the court shall proceed in accordance with the provisions of section 3565.

"(b) RECORD OF DISPOSITION.—A nonpublic record of a disposition under subsection (a), or a conviction that is the subject of an expungement order under subsection (c), shall be retained by the Department of Justice solely for the purpose of use by the courts in determining in any subsequent proceeding whether a person qualifies for the disposition provided in subsection (a) or the expungement provided in subsection (c). A disposition under subsection (a), or a conviction that is the subject of an expungement order under subsection (c), shall not be considered a conviction for the purpose of a disqualification or a disability imposed by law upon conviction of a crime, or for any other purpose.

"(c) EXPUNGEMENT OF RECORD OF DISPOSITION.—If the case against a person found guilty of an offense under section 404 of the Controlled Substances Act (21 U.S.C. 844) is the subject of a disposition under subsection (a), and the person was less than twenty-one years old at the time of the offense, the court shall enter an expungement order upon the application of such person. The expungement order shall direct that there be expunged from all official records, except the nonpublic records referred to in subsection (b), all references to his arrest for the offense, the institution of criminal proceedings against him, and the results thereof. The effect of the order shall be to restore such person, in the contemplation of the law, to the status he occupied before such arrest or institution of criminal proceedings. A person concerning whom such an order has been entered shall not be held thereafter under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of his failure to recite or acknowledge such arrests or institution of criminal proceedings, or the results thereof, in response to an inquiry made of him for any purpose.

"SUBCHAPTER B—FINES

"Sec.
"3611. Payment of a fine.
"3612. Collection of an unpaid fine.
"3613. Lien provisions for satisfaction of an unpaid fine.

"SUBCHAPTER B—FINES

"§ 3611. Payment of a fine

"A person who has been sentenced to pay a fine pursuant to the provisions of subchapter C of chapter 227 shall pay the fine immediately, or by the time and method specified by the sentencing court, to the clerk of the court. The clerk shall forward the payment to the United States Treasury.

"§ 3612. Collection of an unpaid fine

"(a) CERTIFICATION OF IMPOSITION.—If a fine is imposed, the sentencing court shall promptly certify to the Attorney General—

"(1) the name of the person fined;

"(2) his last known address;

"(3) the docket number of the case;

"(4) the amount of the fine imposed;

"(5) the time and method of payment specified by the court;

"(6) the nature of any modification or remission of the fine; and

"(7) the amount of the fine that is due and unpaid.

The court shall thereafter promptly certify to the Attorney General the amount of any subsequent payment that the court may receive with respect to, and the nature of any subsequent remission or modification of, a fine concerning which certification has previously been issued.

"(b) RESPONSIBILITY FOR COLLECTION.—The Attorney General shall be responsible for collection of an unpaid fine concerning which a certification has been issued as provided in subsection (a). An order of restitution, pursuant to section 3556, does not create any right of action against the United States by the person to whom restitution is ordered to be paid.

"§ 3613. Lien provisions for satisfaction of an unpaid fine

"(a) LIEN.—A fine imposed pursuant to the provisions of subchapter C of chapter 227 is a lien in favor of the United States upon all property belonging to the person fined. The lien arises at the time of the entry of the judgment and continues until the liability is satisfied, remitted, or set aside, or until it becomes unenforceable pursuant to the provisions of subsection (b). On application of the person fined, the Attorey shall—

"(1) issue a certificate of release, as described in section 6325 of the Internal Revenue Code, of any lien imposed pursuant to this section, upon his acceptance of a bond described in section 6325(a)(2) of the Internal Revenue Code; or

"(2) issue a certificate of discharge, as described in section 6325 of the Internal Revenue Code, of any part of the person's property subject to a lien imposed pursuant to this section, upon his determination that the fair market value of that part of such property remaining subject to and available to satisfy the lien is at least three times the amount of the fine.

"(b) EXPIRATION OF LIEN.—A lien becomes unenforceable and liability to pay a fine expires—

"(1) twenty years after the entry of the judgment; or

"(2) upon the death of the individual fined.

The period set forth in paragraph (1) may be extended, prior to its expiration, by a written agreement between the person fined and the Attorney General. The running of the period set forth in paragraph (1) is suspended during any interval for which the running of the period of limitations for collection of a tax would be suspended pursuant to section 6503(b), 6503(c), 6503(f), or 7508(a)(1)(I) of the Internal Revenue Code of 1954 (26 U.S.C. 6503(b), 6503(c), 6503(g), or 7508(a)(1)(I)), or section 513 of the Act of October 17, 1940, 54 Stat. 1190.

"(c) APPLICATION OF OTHER LIEN PROVISIONS.—The provisions of sections 6323, other than 6323(f)(4), 6331 through 6343, 6901, 7402, 7403, 7405, 7423 through 7426, 7505(a), 7506, 7508, 7602 through 7605, 7622, 7701, and 7805 of the Internal Revenue Code of 1954 (26 U.S.C. 6323, 6331 through 6343, 6901, 7402, 7403, 7405, 7423 through 7426, 7505(a), 7506, 7508, 7602 through 7605, 7609, 7610, 7622, 7701, and 7805) and of section 513 of the Act of October 17, 1940, 54 Stat. 1190, apply to a fine and to the lien imposed by subsection (a) as if the liability of the person fined were for an internal revenue tax assessment, except to the extent that the application of such statutes is modified by regulations issued by the Attorney General to accord with differences in the nature of the liabilities. For the purposes of this subsection, references in the preceding sections of the Internal Revenue Code of 1954 to 'the Secretary' shall be construed to mean 'the Attorney General,' and references in those sections to 'tax' shall be construed to mean 'fine.'

"(d) EFFECT OF NOTICE OF LIEN.—A notice of the lien imposed by subsection (a) shall be considered a notice of lien for taxes payable to the United States for the purposes of any State or local law providing for the filing of a notice of a tax lien. The registration, recording, docketing, or indexing, in accordance with 28 U.S.C. 1962, of the judgment under which a fine is imposed shall be considered for all purposes as the filing prescribed by section 6323(f)(1)(A) of the Inter-

nal Revenue Code of 1954 (26 U.S.C. 6323(f)(1)(A)) and by subsection (c).

"SUBCHAPTER C—IMPRISONMENT

"Sec.
"3621. Imprisonment of a convicted person.
"3622. Temporary release of a prisoner.
"3623. Transfer of a prisoner to State authority.
"3624. Release of a prisoner.
"3625. Inapplicability of the Administrative Procedure Act.

"SUBCHAPTER C—IMPRISONMENT

"§ 3621. Imprisonment of a convicted person

"(a) COMMITMENT TO CUSTODY OF BUREAU OF PRISONS.—A person who has been sentenced to a term of imprisonment pursuant to the provisions of subchapter D of chapter 227 shall be committed to the custody of the Bureau of Prisons until the expiration of the term imposed, or until earlier released for satisfactory behavior pursuant to the provisions of section 3624.

"(b) PLACE OF IMPRISONMENT.—The Bureau of Prisons shall designate the place of the prisoner's imprisonment. The Bureau may designate any available penal or correctional facility that meets minimum standards of health and habitability established by the Bureau, whether maintained by the federal government or otherwise and whether within or without the judicial district in which the person was convicted, that the Bureau determines to be appropriate and suitable, considering—

"(1) the resources of the facility contemplated;

"(2) the nature and circumstances of the offense;

"(3) the history and characteristics of the prisoner;

"(4) any statement by the court that imposed the sentence—

"(A) concerning the purposes for which the sentence to imprisonment was determined to be warranted; or

"(B) recommending a type of penal or correctional facility as appropriate; and

"(5) any pertinent policy statement issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28.

The Bureau may at any time, having regard for the same matters, direct the transfer of a prisoner from one penal or correctional facility to another.

"(c) DELIVERY OF ORDER OF COMMITMENT.—When a prisoner, pursuant to a court order, is placed in the custody of a person in charge of a penal or correctional facility, a copy of the order shall be delivered to such person as evidence of this authority to hold the prisoner, and the original order, with the return endorsed thereon, shall be returned to the court that issued it.

"(d) DELIVERY OF PRISONER FOR COURT APPEARANCES.—The Bureau of Prisons shall, without charge, bring a prisoner into court or return him to a prison facility on order of a court of the United States or on written request of an attorney for the government.

"§ 3622. Temporary release of a prisoner

"The Bureau of Prisons may release a prisoner from the place of his imprisonment for a limited period, if such release appears to be consistent with the purposes for which the sentence was imposed and any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2), if such release otherwise appears to be consistent with the public interest and if there is reasonable cause to believe that the prisoner will honor the trust to be imposed in him, by authorizing him, under prescribed conditions, to—

"(a) visit a designated place for a period not to exceed thirty days, and then return to the same or another facility, for the purpose of—

"(1) visiting a relative who is dying;

"(2) attending a funeral of a relative;

"(3) obtaining medical treatment not otherwise available;

"(4) contacting a prospective employer;

"(5) establishing or reestablishing family or community ties; or

"(6) engaging in any other significant activity consistent with the public interest;

"(b) participate in a training or educational program in the community while continuing in official detention at the prison facility; or

"(c) work at paid employment in the community while continuing in official detention at the penal or correctional facility if—

"(1) the rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the community; and

"(2) the prisoner agrees to pay to the Bureau such costs incident to his official detention as the Bureau finds appropriate and reasonable under all the circumstances, such costs to be collected by the Bureau and deposited in the Treasury to the credit of the appropriation available for such costs at the time such collections are made.

"§ 3623. Transfer of a prisoner to State authority

"The Director of the Bureau of Prisons shall order that a prisoner who has been charged in an indictment or information with, or convicted of, a State felony, be transferred to an official detention facility within such State prior to his release from a federal prison facility if—

"(1) the transfer has been requested by the Governor or other executive authority of the State;

"(2) the State has presented to the Director a certified copy of the indictment, information, or judgment of conviction; and

"(3) the Director finds that the transfer would be in the public interest.

If more than one request is presented with respect to a prisoner, the Director shall determine which request should receive preference. The expenses of such transfer shall be borne by the State requesting the transfer.

"§ 3624. Release of a prisoner

"(a) DATE OF RELEASE.—A prisoner shall be released by the Bureau of Prisons on the date of the expiration of his term of imprisonment, less any time credited toward the service of his sentence as provided in subsection (b). If the date for a prisoner's release falls on a Saturday, a Sunday, or a legal holiday at the place of confinement, the prisoner may be released by the Bureau on the last preceding weekday.

"(b) CREDIT TOWARD SERVICE OF SENTENCE FOR SATISFACTORY BEHAVIOR.—A prisoner who is serving a term of imprisonment of more than one year, other than a term of imprisonment for the duration of his life, shall receive credit toward the service of his sentence, beyond the time served, of thirty-six days at the end of each year of his term of imprisonment, beginning after the first year of the term, unless the Bureau of Prisons determines that, during that year, he has not satisfactorily complied with such institutional disciplinary regulations as have been approved by the Attorney General and issued to the prisoner. If the Bureau determines that, during that year, the prisoner has not satisfactorily complied with such institutional regulations, he shall receive no such credit toward service of his sentence or shall receive such lesser credit as the Bureau determines to be appropriate. The Bureau's determination shall be made within fifteen days after the end of each year of the sentence. Such credit toward service of sentence vests at the time that it is received. Credit that has vested may not later be withdrawn, and credit that has not been earned may not later be granted.

"(c) PRE-RELEASE CUSTODY.—The Bureau of Prisons shall, to the extent practicable, assure that a prisoner serving a term of imprisonment spends a reasonable part, not to exceed six months, of the last ten percent of the term to be served under conditions that will afford the prisoner a reasonable opportunity to adjust to and prepare for his reentry into the community. The United States Probation System shall, to the extent practicable, offer assistance to a prisoner during such pre-release custody.

"(d) ALLOTMENT OF CLOTHING, FUNDS, AND TRANSPORTATION.—Upon the release of a prisoner on the expiration of his term of imprisonment, the Bureau of Prisons shall furnish him with—

"(1) suitable clothing;

"(2) an amount of money, not more than $500, determined by the Director to be consistent with the needs of the offender and the public interest, unless the Director determines that the financial position of the offender is such that no sum should be furnished; and

"(3) transportation to the place of his conviction, to his bona fide residence within the United States, or to such other place within the United States as may be authorized by the Director.

"(e) SUPERVISION AFTER RELEASE.—A prisoner whose sentence includes a term of supervised release after imprisonment shall be released by the Bureau of Prisons to the supervision of a probation officer who shall, during the term imposed, supervise the person released to the degree warranted by the conditions specified by the sentencing court. The term of supervised release commences on the day the person is released from imprisonment. The term runs concurrently with any federal, State, or local term of probation or supervised release or parole for another offense to which the person is subject or becomes subject during the term of supervised release, except that it does not run during any period in which the person is imprisoned, other than during limited intervals as a condition of probation or supervised release, in connection with a conviction for a federal, State, or local crime.

"§ 3625. Inapplicability of the Administrative Procedure Act

"The provisions of sections 554 and 555 and 701 through 706 of title 5, United States Code, do not apply to the making of any determination, decision, or order under this subchapter."; and

(3) adding the following new section at the end of chapter 232:

"§ 3671. Definitions for sentencing provisions

"As used in chapters 227 and 229—

"(a) 'found guilty' includes acceptance by a court of a plea of guilty or nolo contendere;

"(b) 'commission of an offense' includes the attempted commission of an offense, the consummation of an offense, and any immediate flight after the commission of an offense; and

"(c) 'law enforcement officer' means a public servant authorized by law or by a

government agency to engage in or supervise the prevention, detection, investigation, or prosecution of an offense."; and

(4) adding the following caption and sectional analysis at the beginning of new chapter 232:

"CHAPTER 232—MISCELLANEOUS SENTENCING PROVISIONS

"Sec.
"3661. Use of information for sentencing.
"3662. Conviction records.
"3663. Firearms possessed by convicted felons.
"3664. Bribe moneys.
"3665. Liquors and related property; definitions.
"3666. Remission or mitigation of forfeitures under liquor laws; possession pending trial.
"3667. Conveyance carrying liquor.
"3668. Disposition of conveyances seized for violation of the Indian liquor laws.
"3669. Vessels carrying explosives and steerage passengers.
"3670. Duties of Director of Administrative Office of the United States Courts.
"3671. Definitions for sentencing provisions.".

(b) The chapter analysis of Part II of title 18, United States Code, is amended by striking out the items relating to chapters 227, 229, and 231, and inserting in lieu thereof the following:

"227. Sentences..... 3551
"229. Post-Sentence Administration .. 3601
"231. Repealed.....
"232. Miscellaneous Sentencing Provisions..... 3661".

SEC. 403. (a) Chapter 235 of title 18, United States Code, is amended by adding the following new section at the end thereof:

"§ 3742. Review of a sentence

"(a) APPEAL BY A DEFENDANT.—A defendant may file a notice of appeal in the district court for review of an otherwise final sentence if the sentence—

"(1) was imposed in violation of law;

"(2) was imposed as a result of an incorrect application of the sentencing guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a); or

"(3) was imposed for a felony or a class A misdemeanor and is greater than—

"(A) the sentence specified in the applicable sentencing guideline issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1), to the extent that the sentence includes a greater fine or term of imprisonment or term of supervised release than the maximum established in the guideline, or includes a more limiting condition of probation or supervised release under section 3563 (b)(6) or (b)(11) than the maximum established in the guideline; and

"(B) the sentence, if any, specified in a plea agreement under Rule 11 (e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure.

"(b) APPEAL BY THE GOVERNMENT.—The government may file a notice of appeal in the district court for review of an otherwise final sentence if the sentence—

"(1) was imposed in violation of law;

"(2) was imposed as a result of an incorrect application of the sentencing guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a); or

"(3) was imposed for a felony or a Class A misdemeanor and is less than—

"(A) the sentence specified in the applicable sentencing guideline issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1), to the extent that the sentence includes a lesser fine or term of imprisonment or term of supervised release than the minimum established in the guideline, or includes a less limiting condition of probation or supervised release under section 3563 (b)(6) or (b)(11) than the minimum established in the guideline; and

"(B) the sentence, if any, specified in a plea agreement under Rule 11 (e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure;

and the Attorney General or the Solicitor General personally approves the filing of the notice of appeal.

"(c) RECORD ON REVIEW.—If a notice of appeal is filed in the district court pursuant to subsection (a) or (b), the clerk shall certify to the court of appeals—

"(1) that portion of the record in the case that is designated as pertinent by either of the parties;

"(2) the presentence report; and

"(3) the information submitted during the sentencing proceeding.

"(d) CONSIDERATION.—Upon review of the record, the court of appeals shall determine whether the sentence—

"(1) was imposed in violation of law;

"(2) was imposed as a result of an incorrect application of the sentencing guidelines; or

"(3) is outside the range of the applicable sentencing guideline, and is unreasonable, having regard for—

"(A) the factors to be considered in imposing a sentence, as set forth in chapter 227 of this title; and

"(B) the reasons for the imposition of the particular sentence, as stated by the district court pursuant to the provisions of section 3553(c).

The court of appeals shall give due regard to the opportunity of the district court to judge the credibility of the witnesses, and shall accept the findings of fact of the district court unless they are clearly erroneous.

"(e) DECISION AND DISPOSITION.—If the court of appeals determines that the sentence—

"(1) was imposed in violation of law or imposed as a result of an incorrect application of the sentencing guidelines, it shall—

"(A) remand the case for further sentencing proceedings; or

"(B) correct the sentence;

"(2) is outside the range of the applicable sentencing guideline and is unreasonable, it shall state specific reasons for its conclusions and—

"(A) if it determines that the sentence is too high and the appeal has been filed under subsection (a), it shall set aside the sentence and—

"(i) remand the case for imposition of a lesser sentence;

"(ii) remand the case for further sentencing proceedings; or

"(iii) impose a lesser sentence;

"(B) if it determines that the sentence is too low and the appeal has been filed under subsection (b), it shall set aside the sentence and—

"(i) remand the case for imposition of a greater sentence;

"(ii) remand the case for further sentencing proceedings; or

"(iii) impose a greater sentence; or

"(3) was not imposed in violation of law or imposed as a result of an incorrect application of the sentencing guidelines, and is not unreasonable, it shall affirm the sentence.".

(b) The sectional analysis of chapter 235 of title 18, United States Code, is amended by adding the following new item after the item relating to section 3741:

"3742. Review of a sentence.".

SEC. 404. Chapter 403 of title 18, United States Code, is amended as follows:

(a) Section 5037 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking out subsections (a) and (b) and inserting the following new subsections in lieu thereof:

"(a) If the court finds a juvenile to be a juvenile delinquent, the court shall hold a disposition hearing concerning the appropriate disposition no later than twenty court days after the juvenile delinquency hearing unless the court has ordered further study pursuant to subsection (e). After the disposition hearing, and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to 28 U.S.C. 994, the court may suspend the findings of juvenile delinquency, enter an order of restitution pursuant to section 3556, place him on probation, or commit him to official detention. With respect to release or detention pending an appeal or a petition for a writ of certiorari after disposition, the court shall proceed pursuant to the provisions of chapter 207.

"(b) The term for which probation may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than seventeen years old, beyond the lesser of—

"(A) the date when the juvenile becomes twenty-one years old; or

"(B) the maximum term that would be authorized by section 3561(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between seventeen and twenty-one years old, beyond the lesser of—

"(A) three years; or

"(B) the maximum term that would be authorized by section 3561(b) if the juvenile had been tried and convicted as an adult.

The provisions dealing with probation set forth in sections 3563, 3564, and 3565 are applicable to an order placing a juvenile on probation.

"(c) The term for which official detention may be ordered for a juvenile found to be a juvenile delinquent may not extend—

"(1) in the case of a juvenile who is less than seventeen years old, beyond the lesser of—

"(A) the date when the juvenile becomes twenty-one years old; or

"(B) the maximum term of imprisonment that would be authorized by section 3581(b) if the juvenile had been tried and convicted as an adult; or

"(2) in the case of a juvenile who is between seventeen and twenty-one years old—

"(A) who is convicted as an adult would be convicted of a Class A, B, or C felony, beyond five years; or

"(B) in any other case beyond the lesser of—

"(i) three years; or

"(ii) the maximum term of imprisonment that would be authorized by section 3581(b) if the juvenile had been tried and convicted as an adult.".

(b) Section 5041 is repealed.

(c) Section 5042 is amended by—

(1) striking out "parole or" each place it appears in the caption and text; and

(2) striking out "parolee or".

(d) The sectional analysis is amended by striking out the items relating to sections 5041 and 5042 and inserting in lieu thereof the following:

"5041. Repealed.
"5042. Revocation of probation.".

SEC. 405. The Federal Rules of Criminal Procedure are amended as follows:

(a) Rule 32 is amended—

(1) by deleting subdivision (a)(1) and inserting in lieu thereof the following:

"(1) IMPOSITION OF SENTENCE.—Sentence shall be imposed without unnecessary delay, but the court may, upon a motion that is jointly filed by the defendant and by the attorney for the government and that asserts a factor important to the sentencing determination is not capable of being resolved at that time, postpone the imposition of sentence for a reasonable time until the factor is capable of being resolved. Prior to the sentencing hearing, the court shall provide the counsel for the defendant and the attorney for the government with notice of the probation officer's determination, pursuant to the provisions of subdivision (c)(2)(B), of the sentencing classifications and sentencing guideline range believed to be applicable to the case. At the sentencing hearing, the court shall afford the counsel for the defendant and the attorney for the government an opportunity to comment upon the probation officer's determination and on other matters relating to the appropriate sentence. Before imposing sentence, the court shall also afford counsel for the defendant an opportunity to speak on behalf of the defendant and shall address the defendant personally and ask him if he wishes to make a statement in his own behalf and to present any information in mitigation of the sentence. The attorney for the government shall have an equivalent opportunity to speak to the court. Upon a motion that is jointly filed by the defendant and by the attorney for the government, the court may hear in camera such a statement by the defendant, counsel for the defendant, or the attorney for the government.";

(2) by adding after the words "right to appeal" in the first sentence of subdivision (a)(2) the words "from the conviction, of his right, if any, to obtain review of the sentence,";

(3) by deleting "right of appeal" in the second sentence of subdivision (a)(2) and inserting in lieu thereof "right to appeal or right to obtain review";

(4) by amending the first sentence of subdivision (c)(1) to read as follows:

"A probation officer shall make a presentence investigation and report to the court before the imposition of sentence unless the court finds that there is in the record information sufficient to enable the meaningful exercise of sentencing authority pursuant to 18 U.S.C. 3553, and the court explains this finding on the record.";

"(5) by amending subdivision (c)(2) to read as follows:

"(2) REPORT.—The report of the presentence investigation shall contain—

"(A) information about the history and characteristics of the defendant, including his prior criminal record, if any, his financial condition, and any circumstances affecting his behavior that may be helpful in imposing sentence or in the correctional treatment of the defendant;

"(B) the classification of the offense and of the defendant under the categories established by the Sentencing Commission pursuant to section 994(a) of title 28, that the probation officer believes to be applicable to the defendant's case; the kinds of sentence and the sentencing range suggested for such a category of offense committed by such a category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1); and an explanation by the probation officer of any factors that may indicate that a sentence of a different kind or of a different length than one within the applicable guideline would be more appropriate under all the circumstances;

"(C) any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(2);

"(D) verified information stated in a nonargumentative style containing an assessment of the financial, social, psychological, and medical impact upon, and cost to, any individual against whom the offense has been committed, and any need of such individual for restitution; and

"(E) such other information as may be required by the court.";

(6) in subdivision (c)(3)(A), by deleting "exclusive of any recommendations as to sentence" and inserting in lieu thereof ", including the information required by subdivision (c)(2) but not including any final recommendation as to sentence,";

(7) by deleting "or the Youth Correction Division of the Board of Parole pursuant to 18 U.S.C. 4208(b), 4252, 5010(e)" in subdivision (c)(3)(B) and inserting in lieu thereof "pursuant to 18 U.S.C. 3552(b)"; and

(8) by deleting "or imposition of sentence is suspended;" in subdivision (d) and inserting in lieu thereof a comma.

(b) Rule 35 is amended to read as follows:

"Rule 35. Correction of Sentence

"(a) CORRECTION OF A SENTENCE ON REMAND.—The court shall correct a sentence that is determined on appeal under 18 U.S.C. 3742 to have been imposed in violation of law, to have been imposed as a result of an incorrect application of the sentencing guidelines, or to be unreasonable, upon remand of the case to the court—

"(1) for imposition of a sentence in accord with the findings of the court of appeals; or

"(2) for further sentencing proceedings if, after such proceedings, the court determines that the original sentence was incorrect.

"(b) CORRECTION OF SENTENCE FOR CHANGED CIRCUMSTANCES.—The court, on motion of the government, may within one year after the imposition of sentence, lower a sentence to reflect a defendant's subsequent, substantial assistance in the investigation or prosecution of another person who has committed an offense, to the extent that such assistance is a factor in applicable guidelines or policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a).".

(c) Rule 38 is amended—

(1) by amending the caption to read: "Stay of Execution" and deleting "(a) STAY OF EXECUTION.";

(2) by deleting subdivisions (b) and (c);

(3) by redesignating subdivisions (a)(1) through (a)(4) as subdivisions (a) through (d), respectively;

(4) in subdivision (a), by adding "from the conviction or sentence" after "is taken";

(5) in the first sentence of subdivision (b), by adding "from the conviction or sentence" after "is taken";

(6) by deleting "or a fine and costs" in the first sentence of subdivision (c);

(7) by deleting "and costs" in the second sentence of subdivision (c);

(8) by amending subdivision (d) to read as follows:

"(d) PROBATION.—A sentence of probation may be stayed if an appeal from the conviction or sentence is taken. If the sentence is stayed, the court shall fix the terms of the stay."; and

(9) by adding new subdivisions (e) and (f) as follows:

"(e) CRIMINAL FORFEITURE, NOTICE TO VICTIMS, AND RESTITUTION.—A sanction imposed as part of the sentence pursuant to 18 U.S.C. 3554, 3555, or 3556 may, if an appeal of the conviction or sentence is taken, be stayed by the district court or by the court of appeals upon such terms as the court finds appropriate. The court may issue such orders as may be reasonably necessary to ensure compliance with the sanction upon disposition of the appeal, including the entering of a restraining order or an injunction, or requiring a deposit in whole or in part of the monetary amount involved into the registry of the district court or execution of a performance bond.

"(f) DISABILITIES.—A civil or employment disability arising under a Federal statute by reason of the defendant's conviction or sentence, may, if an appeal is taken, be stayed by the district court or by the court of appeals upon such terms as the court finds appropriate. The court may enter a restraining order or an injunction, or take any other action that may be reasonably necessary to protect the interest represented by the disability pending disposition of the appeal.".

(d) Rule 40 is amended by deleting "3653" in subdivision (d)(1) and inserting in lieu thereof "3605".

(e) Rule 54 is amended—

(1) by amending the definition of "Petty offense" in subdivision (c) to read as follows: "'Petty offense' means a class B or C misdemeanor or an infraction."; and

(2) by adding a new definition as follows: "'Grade' includes the issue whether, for the purposes of section 3571 (Sentence of Fine), a misdemeanor resulted in the loss of human life.".

(f) The Table of Rules that precedes Rule 1 is amended as follows:

(1) The item relating to Rule 35 is amended by deleting the words "or Reduction";

(2) The item relating to Rule 38 is amended to read as follows:

"38. Stay of Execution.
"(a) Death.
"(b) Imprisonment.
"(c) Fine.
"(d) Probation.
"(e) Criminal forfeiture, notice to victims, and restitution.
"(f) Disabilities.".

SEC. 406. The Rules of Procedure for the Trial of Misdemeanors Before United States Magistrates are amended as follows:

(a) Rule 1 is amended by deleting "(including petty offenses)".

(b) Rule 9 is amended by deleting "as defined in title 18, U.S.C., § 1(3)".

(c) A new Rule 12 is added at the end thereof to read as follows:

"Rule 12. Definitions

"As used in these rules—

"(1) 'minor offense' means a misdemeanor or an infraction;

"(2) 'petty offense' means a Class B or C misdemeanor or an infraction.".

(d) The Table of Rules that precedes Rule 1 is amended by adding at the end thereof the following new item:

"12. Definitions".

SEC. 407. (a) Title 28 of the United States Code is amended by adding the following new chapter after chapter 57:

"CHAPTER 58—UNITED STATES SENTENCING COMMISSION

"Sec.
"991. United States Sentencing Commission; establishment and purpose.
"992. Terms of Office; compensation.
"993. Powers and duties of chairman.
"994. Duties of the Commission.
"995. Powers of the Commission.
"996. Director and staff.
"997. Annual report.
"998. Definitions.

"§ 991. United States Sentencing Commission; establishment and purpose

"(a) There is established as an independent commission in the judicial branch of the United States a United States Sentencing Commission which shall consist of seven voting members and one nonvoting member. The President, after consultation with representatives of judges, prosecuting attorneys, defense attorneys, law enforcement officials, senior citizens, victims of crime, and others interested in the criminal justice process, shall appoint the voting members of the Commission, by and with the advice and consent of the Senate, one of whom shall be appointed, by and with the advice and consent of the Senate, as the Chairman. Not more than four of the members of the Commission shall be members of the same political party. The Attorney General, or his designee, shall be an ex officio, nonvoting member of the Commission. The Chairman and members of the Commission shall be subject to removal from the Commission by the President only for neglect of duty or malfeasance in office or for other good cause shown.

"(b) The purposes of the United States Sentencing Commission are to—

"(1) establish sentencing policies and practices for the federal criminal justice system that—

"(A) assure the meeting of the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

"(B) provide certainty and fairness in meeting the purposes of sentencing, avoiding unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct while maintaining sufficient flexibility to permit individualized sentences when warranted by mitigating or aggravating factors not taken into account in the establishment of general sentencing practices;

"(C) reflect, to the extent practicable, advancement in knowledge of human behavior as it relates to the criminal justice process; and

"(2) develop means of measuring the degree to which the sentencing, penal, and correctional practices are effective in meeting the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

"§ 992. Terms of office; compensation

"(a) The voting members of the United States Sentencing Commission shall be designated or appointed for six-year terms, except that the initial terms of the first members of the Commission shall be staggered so that—

"(1) one member designated by the President from the list of recommended judges submitted by the Judicial Conference and the chairman serve terms of six years;

"(2) one member designated by the President from the list of recommended judges submitted by the Judicial Conference and two members appointed by the President serve terms of four years; and

"(3) one member designated by the President from the list of recommended judges submitted by the Judicial Conference and one member appointed by the President serve terms of two years.

"(b) No voting member may serve more than two full terms. A voting member designated or appointed to fill a vacancy that occurs before the expiration of the term for which his predecessor was designated or appointed shall be designated or appointed only for the remainder of such term.

"(c) Each voting member of the Commission shall be compensated during the term of office as a member of the Commission at the rate at which judges of the United States courts of appeals are compensated. A Federal judge may serve as a member of the Commission without resigning his appointment as a Federal judge.

"§ 993. Powers and duties of chairman

"The Chairman shall—

"(a) call and preside at meetings of the Commission; and

"(b) direct—

"(1) the preparation of requests for appropriations for the Commission; and

"(2) the use of funds made available to the Commission.

"§ 994. Duties of the Commission

"(a) The Commission, by affirmative vote of at least four members of the Commission, and pursuant to its rules and regulations and consistent with all pertinent provisions of this title and title 18, United States Code, shall promulgate and distribute to all courts of the United States and to the United States Probation System—

"(1) guidelines, as described in this section, for use of a sentencing court in determining the sentence to be imposed in a criminal case, including—

"(A) a determination whether to impose a sentence to probation, a fine, or a term of imprisonment;

"(B) a determination as to the appropriate amount of a fine or the appropriate length of a term of probation or a term of imprisonment;

"(C) a determination whether a sentence to a term of imprisonment should include a requirement that the defendant be placed on a term of supervised release after imprisonment, and, if so, the appropriate length of such a term; and

"(D) a determination whether multiple sentences to terms of imprisonment should be ordered to run concurrently or consecutively;

"(2) general policy statements regarding application of the guidelines or any other aspect of sentencing or sentence implementation that in the view of the Commission would further the purposes set forth in section 3553(a)(2) of title 18, United States Code, including the appropriate use of—

"(A) the sanctions set forth in sections 3554, 3555, and 3556 of title 18;

"(B) the conditions of probation and supervised release set forth in sections 3563(b) and 3583(d) of title 18;

"(C) the sentence modification provisions set forth in sections 3563(c), 3573, and 3582(c) of title 18;

"(D) the authority granted under rule 11(e)(2) of the Federal Rules of Criminal Procedure to accept or reject a plea agreement entered into pursuant to rule 11(e)(1); and

"(E) the temporary release provisions set forth in section 3622 of title 18, and the prerelease custody provisions set forth in section 3624(c) of title 18; and

"(3) guidelines or general policy statements regarding appropriate use of the probation revocation provisions set forth in section 3565 of title 18, and the provisions for modification of the term or conditions of probation or supervised release set forth in sections 3563(c), 3564(d), and 3583(e) of title 18.

"(b) The Commission, in the guidelines promulgated pursuant to subsection (a)(1), shall, for each category of offense involving each category of defendant, establish a sentencing range that is consistent with all pertinent provisions of title 18, United States Code. If a sentence specified by the guidelines includes a term of imprisonment, the maximum of the range established for such a term shall not exceed the minimum of that range by more than 25 percent.

"(c) The Commission, in establishing categories of offenses for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, have any relevance to the nature, extent, place of service, or other incidents of an appropriate sentence, and shall take them into account only to the extent that they do have relevance—

"(1) the grade of the offense;

"(2) the circumstances under which the offense was committed which mitigate or aggravate the seriousness of the offense;

"(3) the nature and degree of the harm caused by the offense, including whether it involved property, irreplaceable property, a person, a number of persons, or a breach of public trust;

"(4) the community view of the gravity of the offense;

"(5) the public concern generated by the offense;

"(6) the deterrent effect a particular sentence may have on the commission of the offense by others; and

"(7) the current incidence of the offense in the community and in the nation as a whole.

"(d) The Commission in establishing categories of defendants for use in the guidelines and policy statements governing the imposition of sentences of probation, a fine, or imprisonment, governing the imposition of other authorized sanctions, governing the size of a fine or the length of a term of probation, imprisonment, or supervised release, and governing the conditions of probation, supervised release, or imprisonment, shall consider whether the following matters, among others, with respect to a defendant, have any relevance to the nature, extent, place of service, or other incidents of an appropriate sentence, and shall take them into account only to the extent that they do have relevance—

"(1) age;

"(2) education;

"(3) vocational skills;

"(4) mental and emotional condition to the extent that such condition mitigates the defendant's culpability or to the extent that such condition is otherwise plainly relevant;

"(5) physical condition, including drug dependence;

"(6) previous employment record;

"(7) family ties and responsibilities;

"(8) community ties;

"(9) role in the offense;

"(10) criminal history; and

"(11) degree of dependence upon criminal activity for a livelihood.

The Commission shall assure that the guidelines and policy statements are entirely neutral as to the race, sex, national origin, creed, and socioeconomic status of offenders.

"(e) The Commission shall assure that the guidelines and policy statements, in recommending a term of imprisonment or length of a term of imprisonment, reflect the general inappropriateness of considering the education, vocational skills, employment record, family ties and responsibilities, and community ties of the defendant.

"(f) The Commission, in promulgating guidelines pursuant to subsection (a)(1), shall promote the purposes set forth in section 991(b)(1), with particular attention to the requirements of subsection 991(b)(1)(B) for providing certainty and fairness in sentencing and reducing unwarranted sentence disparities.

"(g) The Commission, in the course of promulgating guidelines pursuant ot subsection (a)(1) to meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code, shall review the nature and capacity of the penal, correctional, and other facilities and services available, and shall make recommendations concerning any change or expansion in the nature or capacity of such facilities and services that might become necessary as a result of the guidelines promulgated pursuant to the provisions of this chapter.

"(h) The Commission shall assure that the guidelines will specify a sentence to a substantial term of imprisonment for categories of defendants in which the defendant—

"(1) has a history of two or more prior Federal, State, or local felony convictions for offenses committed on different occasions;

"(2) committed the offense as part of a pattern of criminal conduct from which he derived a substantial portion of his income;

"(3) committed the offense in furtherance of a conspiracy with three or more persons engaging in a pattern of racketeering activity in which the defendant participated in a managerial or supervisory capacity;

"(4) committed a crime of violence that constitutes a felony while on release pending trial, sentence, or appeal from a Federal, State, or local felony for which he was ultimately convicted; or

"(5) committed a felony that is set forth in section 401 or 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 841 and 960), and that involved trafficking in a substantial quantity of a controlled substance.

"(i) The Commission shall insure that the guidelines reflect the general appropriateness of imposing a sentence other than imprisonment in many cases in which the defendant is a first offender who has not been convicted of a crime of violence or an otherwise serious offense, and the general appropriateness of imposing a term of imprisonment on a person convicted of a crime of violence that results in serious bodily injury.

"(j) The Commission shall insure that the guidelines reflect the inappropriateness of imposing a sentence to a term of imprisonment for the purpose of rehabilitating the defendant or providing the defendant with needed educational or vocational training, medical care, or other correctional treatment.

"(k) The Commission shall insure that the guidelines promulgated pursuant to subsection (a)(1) reflect—

"(1) the appropriateness of imposing an incremental penalty for each offense in a case in which a defendant is convicted of—

"(A) multiple offenses committed in the same course of conduct that result in the exercise of ancillary jurisdiction over one or more of the offenses; and

"(B) multiple offenses committed at different times, including those cases in which the subsequent offense is a violation of section 3146 (Penalty for failure to appear) or is committed while the person is released pursuant to the provisions of section 3147 (Penalty for an offense committed while on release) of title 18; and

"(2) the general inappropriateness of imposing consecutive terms of imprisonment for an offense of conspiring to commit an offense or soliciting commission of an offense and for an offense that was the sole object of the conspiracy or solicitation.

"(l) The Commission shall insure that the guidelines reflect the fact that, in many cases, current sentences do not accurately reflect the seriousness of the offense. This will require that, as a starting point in its development of the initial sets of guidelines for particular categories of cases, the Commission ascertain the average sentences imposed in such categories of cases prior to the creation of the Commission, and in cases involving sentences to terms of imprisonment, the length of such terms actually served. The Commission shall not be bound by such average sentences, and shall independently develop a sentencing range that is consistent with the provisions of this section and with the purposes of sentencing described in section 3553(a)(2) of title 18, United States Code.

"(m) The Commission periodically shall review and revise, in consideration of comments and data coming to its attention, the guidelines promulgated pursuant to the provisions of this section. In fulfilling its duties and in exercising its powers, the Commission shall consult with authorities on, and individual and institutional representatives of, various aspects of the Federal criminal justice system. The United States Probation System, the Bureau of Prisons, the Judicial Conference of the United States, the Criminal Division of the United States Department of Justice, and a representative of the Federal Public Defenders shall submit to the Commission any observations, comments, or questions pertinent to the work of the Commission whenever it believes such communication would be useful, and shall, at least annually, submit to the Commission a written report commenting on the operation of the Commission's guidelines, suggesting changes in the guidelines that appear to be warranted, and otherwise assessing the Commission's work.

"(n) The Commission, at or after the beginning of a regular session of Congress but not later than the first day of May, shall report to the Congress any amendments of the guidelines promulgated pursuant to subsection (a)(1), and a report of the reasons therefor, and the amended guidelines shall take effect one hundred and eighty days after the Commission reports them, except to the extent the effective date is enlarged or the guidelines are disapproved or modified by Act of Congress.

"(o) The Commission and the Bureau of Prisons shall submit to Congress an analysis and recommendations concerning maximum utilization of resources to deal effectively with the Federal prison population. Such report shall be based upon consideration of a variety of alternatives, including—

"(1) modernization of existing facilities;

"(2) inmate classification and periodic review of such classification for use in placing inmates in the least restrictive facility necessary to ensure adequate security; and

"(3) use of existing Federal facilities, such as those currently within military jurisdiction.

"(p) The Commission shall evaluate the impact of the sentencing guidelines on prosecutorial discretion, plea bargaining, disparities in sentencing, and the use of incarceration, and shall, by affirmative vote of a majority of the voting members of the Commission, issue a report of its findings to all appropriate courts, the Department of Justice, and the Congress.

"(q) The Commission, within three years of the date of enactment of the Sentencing Reform Act of 1982, and thereafter whenever it finds it advisable, shall recommend to the Congress that it raise or lower the grades, or otherwise modify the maximum penalties, of those offenses for which such an adjustment appears appropriate.

"(r) The Commission shall give due consideration to any petition filed by a defendant requesting modification of the guidelines utilized in the sentencing of such defendant, on the basis of changed circumstances unrelated to the defendant, including changes in—

"(1) the community view of the gravity of the offense;

"(2) the public concern generated by the offense; and

"(3) the deterrent effect particular sentences may have on the commission of the offense by others.

Within one hundred and eighty days of the filing of such petition the Commission shall provide written notice to the defendant whether or not it has approved the petition. If the petition is disapproved the written notice shall contain the reasons for such disapproval. The Commission shall submit to the Congress at least annually an analysis of such written notices.

"(s) The Commission, in promulgating general policy statements regarding the sentencing modification provisions in section 3582(c)(2) of title 18, shall describe what should be considered extraordinary and compelling reasons for sentence reduction, including the criteria to be applied and a list of specific examples. Rehabilitation of the defendant alone shall not be considered an extraordinary and compelling reason.

"(t) If the Commission reduces the term of imprisonment recommended in the guidelines applicable to a particular offense or category of offenses, it shall specify by what amount the sentences of prisoners serving terms of imprisonment that are outside the applicable guideline ranges for the offense may be reduced in order to carry out the purpose of the reduction.

"(u) The Commission shall ensure that the general policy statements promulgated pursuant to subsection (a)(2) include a policy limiting consecutive terms of imprisonment for an offense involving a violation of a general prohibition and for an offense involving a violation of a specific prohibition encompassed within the general prohibition.

"(v) The appropriate judge or officer shall submit to the Commission in connection with each sentence imposed a written report of the sentence, the offense for which it is imposed, the age, race, and sex of the offender, information regarding factors made relevant by the guidelines, and such other information as the Commission finds appropri-

ate. The Commission shall submit to Congress at least annually an analysis of these reports and any recommendation for legislation that the Commission concludes is warranted by that analysis.

"(w) The provisions of section 553 of title 5, relating to publication in the Federal Register and public hearing procedure, shall apply to the promulgation of guidelines pursuant to this section.

"§ 995. Powers of the Commission

"(a) The Commission, by vote of a majority of the members present and voting, shall have the power to—

"(1) establish general policies and promulgate such rules and regulations for the Commission as are necessary to carry out the purposes of this chapter;

"(2) appoint and fix the salary and duties of the Staff Director of the Sentencing Commission, who shall serve at the discretion of the Commission and who shall be compensated at a rate not to exceed the highest rate now or hereafter prescribed for grade 18 of the General Schedule pay rates (5 U.S.C. 5332);

"(3) deny, revise, or ratify any request for regular, supplemental, or deficiency appropriations prior to any submission of such request to the Office of Management and Budget by the Chairman;

"(4) procure for the Commission temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code;

"(5) utilize, with their consent, the services, equipment, personnel, information, and facilities of other federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(6) without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529), enter into and perform such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

"(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679 of the Revised Statutes of the United States (31 U.S.C. 655(b));

"(8) request such information, data, and reports from any federal agency or judicial officer as the Commission may from time to time require and as may be produced consistent with other law;

"(9) monitor the performance of probation officers with regard to sentencing recommendations, including application of the Sentencing Commission guidelines and policy statements;

"(10) issue instructions to probation officers concerning the application of Commission guidelines and policy statements;

"(11) arrange with the head of any other federal agency for the performance by such agency of any function of the Commission, with or without reimbursement;

"(12) establish a research and development program within the Commission for the purpose of—

"(A) serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on federal sentencing practices;

"(B) assisting and serving in a consulting capacity to federal courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

"(13) collect systematically the data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing process;

"(14) publish data concerning the sentencing process;

"(15) collect systematically and disseminate information concerning sentences actually imposed, and the relationship of such sentences to the factors set forth in section 3553(a) of title 18, United States Code;

"(16) collect systematically and disseminate information regarding effectiveness of sentences imposed;

"(17) devise and conduct, in various geographical locations, seminars and workshops providing continuing studies for persons engaged in the sentencing field;

"(18) devise and conduct periodic training programs of instruction in sentencing techniques for judicial and probation personnel and other persons connected with the sentencing process;

"(19) study the feasibility of developing guidelines for the disposition of juvenile delinquents;

"(20) make recommendations to Congress concerning modification or enactment of statutes relating to sentencing, penal, and correctional matters that the Commission finds to be necessary and advisable to carry out an effective, humane, and rational sentencing policy;

"(21) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties; and

"(22) perform such other functions as are required to permit federal courts to meet their responsibilities under section 3553(a) of title 18, United States Code, and to permit others involved in the federal criminal justice system to meet their related responsibilities.

"(b) The Commission shall have such other powers and duties and shall perform such other functions as may be necessary to carry out the purposes of this chapter, and may delegate to any member or designated person such powers as may be appropriate other than the power to establish general policy statements and guidelines pursuant to section 994(a) (1) and (2), the issuance of general policies and promulgation of rules and regulations pursuant to subsection (a)(1) of this section, and the decisions as to the factors to be considered in establishment of categories of offenses and offenders pursuant to section 994(b). The Commission shall coordinate its activities under subsections (a)(9), (a)(10), (a)(11), (a)(12), (a)(13), (a)(14), (a)(15), (a)(16), (a)(17), and (a)(18), to the extent practicable, with any related activities of the Administrative Office of the United States Courts and the Federal Judicial Center for the purpose of avoiding unnecessary duplication.

"(c) Upon the request of the Commission, each federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

"(d) A simple majority of the membership then serving shall constitute a quorum for the conduct of business. Other than for the promulgation of guidelines and policy statements pursuant to section 994, the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the members present.

"(e) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member of any action taken by it.

"§ 996. Director and staff

"(a) The Staff Director shall supervise the activities of persons employed by the Commission and perform other duties assigned to him by the Commission.

"(b) The Staff Director shall, subject to the approval of the Commission, appoint such officers and employees as are necessary in the execution of the functions of the Commission. The officers and employees of the Commission shall be exempt from the provisions of part III of title 5, United States Code, except the following chapters: 81 (Compensation for Work Injuries), 83 (Retirement), 85 (Unemployment Compensation), 87 (Life Insurance), 89 (Health Insurance), and 91 (Conflicts of Interest).

"§ 997. Annual report

"The Commission shall report annually to the Judicial Conference of the United States, the Congress, and the President of the United States on the activities of the Commission.

"§ 998. Definitions

"As used in this chapter—

"(a) 'Commission' means the United States Sentencing Commission;

"(b) 'Commissioner' means a member of the United States Sentencing Commission;

"(c) 'guidelines' means the guidelines promulgated by the Commission pursuant to section 994(a) of this title; and

"(d) 'rules and regulations' means rules and regulations promulgated by the Commission pursuant to section 995 of this title.".

(b) The chapter analysis of part III of title 28, United States Code, is amended by adding after the item relating to chapter 57 the following new item:

"58. United States Sentencing Commission..... ..... 991".

REPEALERS

SEC. 408. (a) The following provisions of title 18, United States Code, are repealed:

(1) section 1;

(2) chapter 309;

(3) chapter 311;

(4) chapter 314;

(5) sections 4281, 4283, and 4284; and

(6) chapter 402.

(b) The item relating to section 1 in the sectional analysis of chapter 1 of title 18, United States Code, is amended to read: "1. Repealed.".

(c) The chapter analysis of Part III of title 18, United States Code, is amended by amending the items relating to—

(1) chapters 309 and 311 to read as follows:

"309. Repealed

"311. Repealed";

and

(2) chapter 314 to read as follows:

"314. Repealed".

(d) The sectional analysis of chapter 315 of title 18, United States Code, is amended by amending the items relating to—

(1) section 4281 to read: "4281. Repealed."; and

(2) sections 4283 and 4284 to read as follows:

"4283. Repealed.

"4284. Repealed.".

(e) The item relating to chapter 402 in the chapter analysis of Part IV of title 18, United States Code, is amended to read as follows:

"402. Repealed".

SEC. 409. (a) Sections 404(b) and 409 of the Controlled Substances Act (21 U.S.C. 844(b) and 849) are repealed.

(b) Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by deleting the designation "(a)" at the beginning of the subsection.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 410. The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended as follows:

(a) The second sentence of section 212(a)(9) (8 U.S.C. 1182(a)(9)) is amended to read: "An alien who would be excludable because of the conviction of an offense for which the sentence actually imposed did not exceed a term of imprisonment in excess of six months, or who would be excludable as one who admits the commission of an offense for which a sentence not to exceed one year's imprisonment might have been imposed on him, may be granted a visa and admitted to the United States if otherwise admissible: Provided, That the alien has committed only one such offense, or admits the commission of acts which constitute the essential elements of only one such offense.".

(b) Section 242(h) (8 U.S.C. 1252(h)) is amended by adding "supervised release," after "parole,".

SEC. 411. Section 4 of the Act of September 28, 1962 (16 U.S.C. 460k–3) is amended by deleting "petty offense (18 U.S.C. 1)" and substituting "misdemeanor".

SEC. 412. Section 9 of the Act of October 8, 1964 (16 U.S.C. 460n–8) is amended—

(a) in the first paragraph, by deleting "commissioner" each place it appears and substituting "magistrate"; and

(b) in the second paragraph, by amending the first sentence to read: "The functions of the magistrate shall include the trial and sentencing of persons charged with the commission of misdemeanors and infractions as defined in section 3581 of title 18, United States Code."

SEC. 413. Title 18 of the United States Code is amended as follows:

(a) Section 924(a) is amended by deleting ", and shall become eligible for parole as the Board of Parole shall determine".

(b) Section 1161 is amended by deleting "3618" and inserting in lieu thereof "3667".

(c) Section 1761(a) is amended by adding ", supervised release," after "parole".

(d) Section 1963 is amended—

(1) in subsection (a), by deleting "(1) any interest he has acquired" and all through the end of the subsection and substituting "the property described in section 3554 in accord with the provisions of that section."; and

(2) by repealing subsections (b) and (c).

(e) Section 3006A is amended—

(1) in subsections (a)(1) and (b), by deleting "misdemeanor (other than a petty offense as defined in section 1 of this title)" each place it appears and substituting "Class A misdemeanor"; and

(2) in subsections (a)(3) and (g), deleting "subject to revocation of parole," each place it appears.

(f) Section 3143, as amended by this Act, is amended—

(1) in subsection (a), by adding "other than a person for whom the applicable guideline promulgated pursuant to 28 U.S.C. 994 does not recommend a term of imprisonment," after "sentence,"; and

(2) in subsection (c), by adding the following at the end thereof: "The judge shall treat a defendant in a case in which an appeal has been taken by the United States pursuant to the provisions of section 3742 in accordance with the provisions of—

"(1) subsection (a) if the person has been sentenced to a term of imprisonment; or

"(2) section 3142 if the person has not been sentenced to a term of imprisonment.".

(g) Section 3147, as amended by this Act, is amended—

(1) in paragraph (1), by deleting "not less than two years and"; and

(2) in paragraph (2), by deleting "not less than ninety days and".

(h) Section 3156(b)(2) is amended by deleting "petty offense as defined in section 1(3) of this title" and substituting "Class B or C misdemeanor or an infraction".

(i) Section 3172(2) is amended by deleting "petty offense as defined in section 1(3) of this title" and substituting "Class B or C misdemeanor or an infraction".

(j) Section 3401 is amended—

(1) by repealing subsection (g); and

(2) in subsection (h), by deleting "petty offense case" and substituting "Class B or C misdemeanor case, or infraction case,".

(k) Section 3668 (formerly section 3619) is amended by deleting "3617" and "3618" and substituting "3666" and "3667", respectively.

(l) Section 4004 is amended by deleting "record clerks, and parole officers" and substituting "and record clerks".

(m) Chapter 306 is amended as follows:

(1) Section 4101 is amended—

(A) in subsection (f), by adding ", including a term of supervised release pursuant to section 3583" after "supervision"; and

(B) in subsection (g), by deleting "to a penalty of imprisonment the execution of which is suspended and" and substituting "under which", and by deleting "the suspended" and substituting "a".

(2) Section 4105(c) is amended—

(A) in paragraph (1), by deleting "for good time" the second place it appears and substituting "toward service of sentence for satisfactory behavior";

(B) in paragraphs (1) and (2), by deleting "section 4161" and substituting "section 3624(b)";

(C) in paragraph (1), by deleting "section 4164" and substituting "section 3624(a)";

(D) by repealing paragraph (3); and

(E) by amending paragraph (4) to read as follows:

"(4) Credit toward service of sentence may be withheld as provided in section 3624(b) of this title.".

(3) Section 4106 is amended—

(A) in subsection (a), by deleting "Parole Commission" and substituting "Probation System";

(B) by amending subsection (b) to read as follows:

"(b) An offender transferred to the United States to serve a sentence of imprisonment shall be released pursuant to section 3624(a) of this title after serving the period of time specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994(a)(1). He shall be released to serve a term of supervised release for any term specified in the applicable guideline. The provisions of section 3742 of this title apply to a sentence under this subsection, and the United States court of appeals for the district in which the offender is imprisoned or under supervision after transfer to the United States has jurisdiction to review the sentence as though it had been imposed by the United States district court."; and

(C) by repealing subsection (c).

(4) Section 4108(a) is amended by adding ", including any term of imprisonment or term of supervised release specified in the applicable sentencing guideline promulgated pursuant to 28 U.S.C. 994(a)(1)," after "consequences thereof".

(n) Section 4321 is amended by deleting "parole or".

(o) Section 4351(b) is amended by deleting "Parole Board" and substituting "Sentencing Commission".

(p) Section 5002 is amended by deleting "Board of Parole, the Chairman of the Youth Division," and substituting "United States Sentencing Commission,".

SEC. 414. The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended as follows:

(a) Section 401 (21 U.S.C. 841) is amended—

(1) in subsection (b)(1)(A), by deleting the last sentence;

(2) in subsection (b)(1)(B), by deleting the last sentence;

(3) in subsection (b)(2), by deleting the last sentence;

(4) in subsection (b)(4), by deleting "subsections (a) and (b) of", and by adding "and section 3607 of title 18, United States Code" after "404";

(5) in subsection (b)(5), by deleting the last sentence; and

(6) by repealing subsection (c).

(b) Section 405 (21 U.S.C. 845) is amended—

(1) in subsection (a), by deleting "(1)" the second place it appears, and by deleting ", and (2) at least twice any special parole term authorized by section 401(b), for a first offense involving the same controlled substance and schedule"; and

(2) in subsection (b), by deleting "(1)" the second place it appears, and by deleting ", and (2) at least three times any special parole term authorized by section 401(b), for a second or subsequent offense involving the same controlled substance and schedule".

(c) Section 405A, as added by title IX of this Act, is amended—

(1) in subsection (a)—

(A) by deleting "(1)"; and

(B) by deleting "and (2) at least twice any special parole term authorized by section 401(b) for a first offense involving the same controlled substance and schedule";

(2) in subsection (b)—

(A) by deleting "(1)" and "not less than three years and"; and

(B) by deleting "and (2) at least three times any special term authorized by section 401(b) for a second or subsequent offense involving the same controlled substance and schedule"; and

(3) by deleting subsection (c).

(d) Section 408(c) (21 U.S.C. 848(c)) is amended by deleting "and section 4202 of title 18 of the United States Code".

SEC. 415. The Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended as follows:

(a) Section 1010 (21 U.S.C. 960) is amended—

(1) in subsection (b)(1), by deleting the last sentence;

(2) in subsection (b)(2), by deleting the last sentence; and

(b) Section 1012(a) (21 U.S.C. 962(a)) is amended by deleting the last sentence.

SEC. 416. Section 114(b) of title 23, United States Code, is amended by adding ", supervised release," after "parole".

SEC. 417. Section 5871 of the Internal Revenue Code of 1954 (26 U.S.C. 5871) is amended by deleting ", and shall become eligible for parole as the Board of Parole shall determine".

SEC. 418. Title 28 of the United States Code is amended as follows:

(a) Section 509 is amended—

(1) in paragraph (3), by deleting "; and" and substituting a period; and

(2) by repealing paragraph (4).

(b) Section 591(a) is amended by deleting "petty offense" and substituting "Class B or C misdemeanor or an infraction".

(c) Section 2901 is amended—

(1) in subsection (e), by deleting "section" and substituting "section 3581"; and

(2) in subsection (g)(3), by adding ", supervised release," after "parole", and by adding "supervised release," after "parole,".

SEC. 419. Section 504(a) of the Labor Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504(a)) and section 411(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111(a)) are amended—

(a) by deleting "Board of Parole of the United States Department of Justice" and substituting "if the offense is a Federal offense, the sentencing judge or, if the offense is a State or local offense, on motion of the attorney for the government, the district court of the United States for the district in which the offense was committed";

(b) by adding ", pursuant to sentencing guidelines and policy statements issued pursuant to 28 U.S.C. 994(a),";

(c) by deleting "Board" and "Board's" and substituting "court" and "court's", respectively; and

(d) by deleting "an administrative" and substituting "a".

SEC. 420. Section 411(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111(c)(3)) is amended by adding "or supervised release" after "parole".

SEC. 421. Section 454(b) of the Comprehensive Employment and Training Act of 1973, as added by section 2 of the Act of October 27, 1978 (29 U.S.C. 927(b)), is amended by deleting "or parole" the first place it appears and substituting ", parole, or supervised release".

SEC. 422. The Public Health Service Act (42 U.S.C. et seq.) is amended as follows:

(a) Section 341(a) (42 U.S.C. 257(a)) is amended by deleting "or convicted of offenses against the United States and sentenced to treatment" and "addicts who are committed to the custody of the Attorney General pursuant to provisions of the Federal Youth Corrections Act (chapter 402 of title 18 of the United States Code),".

(b) Section 343(d) (42 U.S.C. 259(d)) is amended by adding "or supervised release" after "parole".

SEC. 423. Section 11507 of title 49, United States Code, is amended by adding ", supervised release," after "parole".

SEC. 424. Section 10(b)(7) of the Military Selective Service Act (50 U.S.C. App. 460(b)(7)) is amended by deleting "parole" and substituting "release".

EFFECTIVE DATE

SEC. 425. (a)(1) This title shall take effect on the first day of the first calendar month beginning twenty-four months after the date of enactment, except that—

(A) the repeal of chapter 402 of title 18, United States Code, shall take effect on the date of enactment; and

(B)(i) chapter 58 of title 28, United States Code, shall take effect on the date of enactment of this Act or October 1, 1982, whichever occurs later, and the United States Sentencing Commission shall submit the initial sentencing guidelines promulgated pursuant to section 994(a)(1) of title 28 to the Congress within eighteen months of the effective date of the chapter; and

(ii) the sentencing guidelines promulgated pursuant to section 994(a)(1), and the provisions of sections 3581, 3583, and 3624 of title 18, United States Code, shall not go into effect until the day after—

(a) the United States Sentencing Commission has submitted the initial set of sentencing guidelines to the Congress pursuant to subparagraph (B)(i), along with a report stating the reasons for the Commission's recommendations;

(b) the General Accounting Office has undertaken a study of the guidelines, and their potential impact in comparison with the operation of the existing sentencing and parole release system, and has, within three months of the submission of the guidelines, reported to the Congress the results of its study; and

(c) the Congress has had six months after the date described in subclause (a) in which to examine the guidelines and consider the reports.

(2) For the purposes of section 992(a) of title 28, the terms of the first members of the United States Sentencing Commission shall not begin to run until the sentencing guidelines go into effect pursuant to paragraph (1)(B)(ii).

"(b)(1) The following provisions of law in effect on the day before the effective date of this Act shall remain in effect for five years after the effective date as to an individual convicted of an offense or adjudicated to be a juvenile delinquent before the effective date and as to a term of imprisonment during the period described in subsection (a)(1)(B):

(A) Chapter 311 of title 18, United States Code.

(B) Chapter 309 of title 18, United States Code.

(C) Sections 4254 through 4255 of title 18, United States Code.

(D) Sections 5041 and 5042 of title 18, United States Code.

(E) Sections 5017 through 5020 of title 18, United States Code, as to a sentence imposed before the date of enactment.

(F) The maximum term of imprisonment in effect on the effective date for an offense committed before the effective date.

(G) Any other law relating to a violation of a condition of release or to arrest authority with regard to a person who violates a condition of release.

(2) Notwithstanding the provisions of section 4202 of title 18, United States Code, as in effect on the day before the effective date of this Act, the term of office of a Commissioner who is in office on the effective date is extended to the end of the five-year period after the effective date of this Act.

(3) The United States Parole Commission shall set a release date, for an individual who will be in its jurisdiction the day before the expiration of five years after the effective date of this Act, that is the earliest date that applies to the prisoner under the applicable parole guideline. A release date set pursuant to this paragraph shall be set early enough to permit consideration of an appeal of the release date, in accordance with Parole Commission procedures, before the expiration of five years following the effective date of this Act.

(4) Notwithstanding the other provisions of this subsection, all laws in effect on the day before the effective date of this Act pertaining to an individual who is—

(A) released pursuant to a provision listed in paragraph (1); and

(B)(i) subject to supervision on the day before the expiration of the five-year period following the effective date of this Act; or

(ii) released on a date set pursuant to paragraph (3);

including laws pertaining to terms and conditions of release, revocation of release, provision of counsel, and payment of transportation costs, shall remain in effect as to that individual until the expiration of his sentence, except that the district court shall determine, in accord with the Federal Rules of Criminal Procedure, whether release should be revoked or the conditions of release amended for violation of a condition of release.

(5) Notwithstanding the provisions of section 991 of title 28, United States Code, and sections 4351 and 5002 of title 18, United States Code, the Chairman of the United States Parole Commission or his designee shall be a member of the National Institute of Corrections, and the Chairman of the United States Parole Commission shall be a member of the Advisory Corrections Council and a nonvoting member of the United States Sentencing Commission, ex officio, until the expiration of the five-year period following the effective date of this Act. Notwithstanding the provisions of section 4351 of title 18, during that five-year period the National Institute of Corrections shall have seventeen members, including seven ex officio members. Notwithstanding the provisions of section 991 of title 28, during the five-year period the United States Sentencing Commission shall consist of nine members, including two ex officio, nonvoting members.

SEC. 426. (a) (1) Four years after the sentencing guidelines promulgated pursuant to section 994 (a) (1), and the provisions of sections 3581, 3583, and 3624 of title 18, United States Code, go into effect, the General Accounting Office shall undertake a study of the guidelines in order to determine their impact and compare the guideline system with the operation of the previous sentencing and parole release system, and, within six months of the undertaking of such study, report to the Congress the results of its study.

(2) Within one month of the start of the study required under subsection (a), the United States Sentencing Commission shall submit a report to the General Accounting Office detailing the operation of the sentencing guideline system and discussing any problems with the system or reforms needed.

(b) The Congress shall review the study submitted pursuant to subsection (a) in order to determine—

(1) whether the sentencing guideline system has been effective;

(2) whether any changes should be made in the sentencing guideline system; and

(3) whether the parole system should be reinstated in some form and the life of the Parole Commission extended.

V—CRIMINAL FORFEITURE

SEC. 501. This title may be cited as the "Comprehensive Forfeiture Act of 1982".

PART A

SEC. 502. Section 1963 of title 18, United States Code, is amended to read as follows:

"§ 1963. Criminal penalties

"(a) Whoever violates any provision of section 1962 of this chapter—

"(1) shall be fined not more than $25,000 or imprisoned for not more than twenty years, or both; and

"(2) shall forfeit to the United States any property, irrespective of any provision of State law—

"(A) constituting, or derived from, any interest in or contribution to an enterprise he has acquired, maintained, established, operated, controlled, conducted, or participated

in the conduct of, in violation of section 1962 of this chapter;

"(B) constituting a means by which he has exerted influence or control over any enterprise he has acquired, maintained, established, operated, controlled, conducted, or participated in the acquisition, maintenance, establishment, operation, conduct or control of, in violation of section 1962 of this chapter; and

"(C) constituting, or derived from, any proceeds which he obtained, directly or indirectly, from racketeering activity or unlawful debt collection in violation of section 1962 of this chapter.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this section, that he forfeit to the United States all property described in paragraph (2).

"(b) Property subject to criminal forfeiture under this section includes—

"(1) real property, including things growing on, affixed to, and found in land; and

"(2) tangible and intangible personal property, including rights, privileges, interests, claims, and securities including, but not limited to—

"(A) any position, office, appointment, tenure, commission, or employment contract of any kind which the incumbent acquired or maintained in violation of section 1962 of this chapter, through which the incumbent conducted, or participated in or facilitated the conduct of, the affairs of an enterprise in violation of section 1962 of this chapter, or which afforded the incumbent a source of influence or control over the affairs of an enterprise which was exercised in violation of section 1962 of this chapter;

"(B) any compensation, right or benefit derived from a position, office, appointment, tenure, commission, or employment contract described in subparagraph (A) which the incumbent obtained, directly or indirectly, through a pattern of racketeering activity or unlawful debt collection in violation of section 1962 of this chapter, or which accrued to the incumbent during the period that he controlled, influenced, conducted, or participated in or facilitated the conduct of, the affairs of the enterprise in violation of section 1962 of this chapter; and

"(C) any amount payable or paid under any contract for goods or services which was awarded or performed through a pattern of racketeering activity or unlawful debt collection.

"(c) All right, title, and interest in property described in subsection (a)(2) vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is held in the name of, or possessed by, a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States: Provided, That the Attorney General shall not direct disposition of any such property if, in a proceeding under subsection (h), the person establishes to the Attorney General by evidence contained in a petition, or the Attorney General otherwise has reason to know, that—

"(1) the person was a bona fide purchaser of the property for value; and

"(2) the person was reasonably without cause to believe that the property was of the type described in subsection (a)(2).

"(d) If any of the property described in subsection (a)(2)—

"(1) cannot be located,

"(2) has been transferred to, sold to, or deposited with, a third party,

"(3) has been placed beyond the jurisdiction of the court,

"(4) has been substantially diminished in value by any act or omission of the defendant, or

"(5) has been commingled with other property which cannot be divided without difficulty,

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

"(e)(1) Upon application of the United States, the court may, after a hearing with respect to which any adverse parties have been given reasonable notice and opportunity to participate, enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a)(2) for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of section 1962 of this chapter and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if the court determines—

"(i) that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that the property is in the possession or control of the party against whom the order is to be entered, and

"(ii) that the party against whom the order is to be entered has failed to demonstrate that the entry of the requested order would result in substantial and irreparable harm or injury to him that outweighs the need to preserve the availability of the property through the entry of the requested order:

Provided, however, That an order entered pursuant to subparagraph (B) shall be effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) Upon application of the United States, a temporary restraining order to preserve the availability of property described in subsection (a)(2) for forfeiture under this section may be granted without notice to the adverse party or his attorney if—

"(A) an indictment or information described in paragraph (1)(A) has been filed or if the court determines that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that the property is in the possession or control of the party against whom the order is to be entered; and

"(B) the court determines that the nature of the property is such that it can be concealed, disposed of, or placed beyond the jurisdiction of the court before the adverse party may be heard in opposition.

A temporary order granted without notice to the adverse party shall expire within such time, not to exceed ten days, as the court fixes, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. If a temporary restraining order is granted without notice to the adverse party, a hearing concerning the entry of an order under paragraph (1) shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(f) Upon conviction of a person under this section, the court shall enter a judgment of forfeiture of the property to the United States and shall also authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following the entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from an enterprise, or an interest in an enterprise, ordered forfeited under this section may be used to offset ordinary and necessary expenses to the enterprise which are required by law, or which are necessary to protect the interests of the United States or third parties.

"(g) Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of the property by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm or loss to him. The proceeds of any sale or other disposition of property forfeited under this section and any moneys forfeited shall be used to pay all proper expenses for the forfeiture and the sale, including expenses of seizure, maintenance and custody of the property pending its disposition, advertising and court costs. The Attorney General shall forward to the Treasurer of the United States for deposit in the general fund of the United States Treasury any amounts of such proceeds or moneys remaining after the payment of such expenses.

"(h) With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation, or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this chapter;

"(2) compromise claims arising under this chapter;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

A person who has filed a petition for remission or mitigation of forfeiture under this subsection, and who is dissatisfied with the Attorney General's decision regarding his petition, may obtain review of the Attorney General's decision in the district court in which the order of forfeiture was entered. The court shall set aside the decision of the Attorney General if it finds, based on the record of the petition proceedings, that the decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(i) The Attorney General shall within one hundred and eighty days of the enactment of this Act promulgate regulations with respect to—

"(1) making reasonable efforts to provide notice to persons who may have an interest in property ordered forfeited under this section;

"(2) granting petitions for remission or mitigation of forfeiture;

"(3) the restitution of property to victims of an offense petitioning for remission or mitigation of forfeiture under this chapter;

"(4) the disposition by the United States of forfeited property by public sale or other commercially feasible means;

"(5) the maintenance and safekeeping of any property forfeited under this section pending its disposition; and

"(6) the compromise of claims arising under this chapter.

Pending the promulgation of such regulations, all provisions of law relating to the disposition of property, or the proceeds from the sale thereof, or the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof. Such duties as are imposed upon the Customs Service or any other person with respect to the disposition of property under the customs law shall be performed under this chapter by the Attorney General.

"(j) Except as provided in this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property, prior to or during the trial or appeal of the criminal case, or during the period in which any petition for remission or mitigation of forfeiture is pending before the Attorney General.

"(k) The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"(l) In order to facilitate the identification or location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under rule 15 of the Federal Rules of Criminal Procedure.".

PART B

SEC. 503. Part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by adding at the end thereof the following new section:

"CRIMINAL FORFEITURES

"Property Subject to Criminal Forfeiture

"SEC. 413. (a) Any person convicted of a violation of this title or title III punishable by imprisonment for more than one year shall forfeit to the United States, irrespective of any provision of State law—

"(1) any property constituting, or derived from, any proceeds he obtained, directly or indirectly as the result of such violation;

"(2) any of this property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation; and

"(3) in the case of a person convicted of engaging in a continuing criminal enterprise in violation of section 408 of this title (21 U.S.C. 848), he shall forfeit, in addition to any property described in paragraphs (1) or (2), any of his interest in, claims against, and property or contractual rights affording a source of control over, the continuing criminal enterprise.

The court, in imposing sentence on such person, shall order, in addition to any other sentence imposed pursuant to this title or title III, that he forfeit to the United States all property described in this subsection.

"Meaning of Term 'Property'

"(b) Property subject to criminal forfeiture under this section includes—

"(1) real property, including things growing on, affixed to, and found in land; and

"(2) tangible and intangible personal property, including rights, privileges, interests, claims and securities.

"Third Party Transfers

"(c) All right, title, and interest in property described in subsection (a) vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is held in the name of, or possessed by, a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States: Provided, That the Attorney General shall not direct disposition of any such property if, in a proceeding under subsection (i), the person establishes to the Attorney General by evidence contained in a petition for remission or mitigation of forfeiture, or the Attorney General otherwise has reason to know, that—

"(1) the person was a bona fide purchaser of the property for value; and

"(2) the person was reasonably without cause to believe that the property was of the type described in subsection (a).

"Substitute Assets

"(d) If any of the property described in subsection (a)—

"(1) cannot be located,

"(2) has been transferred to, sold to, or deposited with a third party,

"(3) has been placed beyond the jurisdiction of the court,

"(4) has been substantially diminished in value by any act or omission of the defendant, or

"(5) has been commingled with other property which cannot be divided without difficulty,

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

"Protective Orders

"(e)(1) Upon application of the United States, the court may, after a hearing with respect to which any adverse parties have been given reasonable notice and opportunity to participate, enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of this title or title III for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if the court determines—

"(i) that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that the property is in the possession or control of the party against whom the order is to be entered, and

"(ii) that the party against whom the order is to be entered has failed to demonstrate that the entry of the requested order would result in substantial and irreparable harm or injury to him that outweighs the need to preserve the availability of the property through the entry of the requested order: Provided, however, That an order entered pursuant to subparagraph (B) shall be effective for not more than ninety days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) Upon application of the United States, a temporary restraining order to preserve the availability of property described in subsection (a) for forfeiture under this section may be granted without notice to the adverse party or his attorney if—

"(A) an indictment or information described in paragraph (1)(A) has been filed or if the court determines that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that the property is in the possession or control of the party against whom the order is to be entered; and

"(B) the court determines that the nature of the property is such that it can be concealed, disposed of, or placed beyond the jurisdiction of the court before the adverse party may be heard in opposition.

A temporary order granted without notice to the adverse party shall expire within such time, not to exceed ten days, as the court fixes, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. If a temporary restraining order is granted without notice to the adverse party, a hearing concerning the entry of an order under paragraph (1) shall be held at the earliest possible time and prior to the expiration of the temporary order.

"Warrant of Seizure

"(f) The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this sec-

tion in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (f) may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

"Execution

"(g) Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

"Disposition of Property

"(h) Following the seizure of property ordered forfeited under this section, the Attorney General shall direct the disposition of the property by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or a person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

"Authority of the Attorney General

"(i) With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this chapter;

"(2) compromise claims arising under this chapter;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, in accordance with the provisions of section 511(e) of this title (21 U.S.C. 881(e)), of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

A person who has filed a petition for remission or mitigation of forfeiture under this subsection, and who is dissatisfied with the Attorney General's decision regarding his petition, may obtain review of the Attorney General's decision in the district court in which the order of forfeiture was entered. The court shall set aside the decision of the Attorney General if it finds, based on the record of the petition proceedings, that the decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"Applicability of Civil Forfeiture Provisions

"(j) Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 511(d) of this title (21 U.S.C. 881(d)) shall apply to a criminal forfeiture under this section.

"Bar on Intervention; Exhaustion of Administrative Remedies

"(k) Except as provided in this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property, prior to or during the trial or appeal of the criminal case, or during the period in which any petition for remission or mitigation of forfeiture is pending before the Attorney General.

"Jurisdiction To Enter Orders

"(l) The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"Depositions

"(m) In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under rule 15 of the Federal Rules of Criminal Procedure.".

SEC. 504. Section 304 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 824) is amended by adding at the end of subsection (f) the following sentence: "All right, title, and interest in such controlled substances shall vest in the United States upon a revocation order becoming final.".

SEC. 505. Section 408 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 848) is amended—

(a) in subsection (a)—

(1) by striking out "(1)";

(2) by striking out "paragraph (2)" each time it appears, and inserting in lieu thereof "section 413 of this title"; and

(3) by striking out paragraph (2); and

(b) by striking out subsection (d).

SEC. 506. Section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881) is amended—

(a) in subsection (a) by inserting at the end thereof the following new subsection:

"(7) All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this title punishable by more than one year's imprisonment, except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.";

(b) in subsection (b)—

(1) by inserting "civil or criminal" after "Any property subject to"; and

(2) by striking out in paragraph (4) "has been used or is intended to be used in violation of" and inserting in lieu thereof "is subject to civil or criminal forfeiture under";

(c) in subsection (c)—

(1) by inserting in the second sentence "any of" after "Whenever property is seized under"; and

(2) by inserting in paragraph (3) ", if practicable," after "remove it";

(d) in subsection (d) by inserting "any of" after "alleged to have been incurred, under";

(e) in subsection (e)—

(1) by inserting "civilly or criminally" in the first sentence after "Whenever property is"; and

(2) by striking out in paragraph (3) "remove it for disposition" and inserting in lieu thereof "and dispose of it"; and

(f) by inserting at the end thereof the following new subsections:

"(h) All right, title, and interest in property described in subsection (a) shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(i) Pending, or upon, the filing of an indictment or information charging a violation of this title or title III for which criminal forfeiture may be ordered under section 413 of this title, and alleging that property would, in the event of conviction, be subject to criminal forfeiture, any civil forfeiture proceeding concerning such property commenced under this section shall, for good cause shown, be stayed pending disposition of the criminal case.".

SEC. 507. Part A of title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by adding at the end thereof the following new section:

"CRIMINAL FORFEITURES

"SEC. 1017. Section 413 of title II, relating to criminal forfeitures, shall apply in every respect to a violation of this title punishable by imprisonment for more than one year.".

SEC. 508. The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended—

(a) by adding immediately after

"Sec. 412. Applicability of treaties and other international agreements."

the following new item:

"Sec. 413. Criminal forfeitures."; and

(b) by adding immediately after

"Sec. 1016. Authority of Secretary of the Treasury."

the following new item:

"Sec. 1017. Criminal forfeitures.".

PART C

SEC. 509. (a) Section 511 (e)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1972 (21 U.S.C. 881) is amended

by adding after "retain the property for official use" the following: "or transfer the custody or ownership of any forfeited property to any Federal, State, or local agency pursuant to section 616 of the Tariff Act of 1938 (19 U.S.C. 1616)."

(b) Section 511 (e) of the Comprehensive Drug Abuse Prevention and Control Act of 1972 (21 U.S.C. 881 (e)) is further amended by striking out all that follows "this subchapter shall be" and inserting in lieu thereof the following: "deposited in the Drug Assets Forfeiture Fund."

SEC. 510. The Comprehensive Drug Abuse Prevention and Control Act of 1972 (21 U.S.C. 881 et seq.) is amended by inserting after section 516 the the following new section to read as follows:

"§ 517. Drug assets forfeiture fund

"(a) There is hereby established in the Treasury of the United States a special account that shall be entitled the "Drug Assets Forfeiture Fund." This account shall be available without fiscal year limitations for the following purposes of the United States Department of Justice:

"(1) the payment of all expenses necessary to inventory, safeguard and maintain property under seizure, detention, or forfeited pursuant to any provision of this Act. Expenses of maintenace may include payments for contract services and payment to reimburse any Federal, State, or local agency for any expenditures made to perform the foregoing functions;

"(2) the payment of awards for information or assistance leading to a civil or criminal forfeiture under, or regarding any violation of, this Act, at the discretion of the Attorney General;

"(3) the payment of valid liens and mortgages against any property that has been forfeited pursuant to any provision of this Act, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made.

"(b) The Drug Assets Forfeiture Fund shall be initially funded by any sums not otherwise obligated from the 1981 and 1982 fiscal year appropriations of the United States Department of Justice.

"(c) All proceeds from the sale or other disposition of property forfeited under any provision of this Act and any seized and forfeited currency shall be deposited to the Drug Assets Forfeiture Fund.

"(d) At the end of each calendar quarter, any sums in the Fund in excess of ten million dollars shall be transferred to the general fund of the Treasury of the United States.

"(e) Amounts in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(f) Within sixty days of the end of each fiscal year, the Attorney General shall report to the appropriate oversight committee of the Congress on the receipts and disbursement of the Drug Assets Forfeiture Fund.

"(g) The provisions relating to payments to and disbursements from the Drug Assets Forfeiture Fund established by this section shall apply to all property disbursed of or in Department of Justice custody on or after the effective date of the Violent Crime and Drug Enforcement Improvements Act of 1982.".

PART D

SEC. 511. Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended to read as follows:

"§ 607. Seizure; value $100,000, or less; prohibited articles; transporting conveyances

"If—

"(1) the value of such seized vessel, vehicle, aircraft, merchandise, or baggage does not exceed $100,000;

"(2) such seized merchandise consists of articles the importation of which is prohibited; or

"(3) such seized vessel, vehicle, or aircraft was used to import, export, or otherwise transport or store any controlled substances, the appropriate customs officer shall cause a notice of the seizure of such articles and the intention to forfeit and sell or otherwise dispose of the same according to law to be published for at least three successive weeks in such manner as the Secretary of the Treasury may direct. Written notice of seizure together with information on the applicable procedures shall be sent to each party who appears to have an interest in the seized article.".

SEC. 512. Section 628 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended by striking out "$250" in the second sentence and inserting in lieu thereof the following: "$2,500 or ten percent of the value of the claimed property, whichever is less."

SEC. 513. Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended by striking out "after deducting the actual expenses of seizure, publication, and sale in the Treasury of the United States." and inserting in lieu thereof the following: "into the Customs Forfeiture Fund.".

SEC. 514. Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended by striking out striking out "If the value of an vessel, vehicle, merchandise, or baggage so seized is greater then $10,000," and substituting in lieu thereof the following: "If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to the procedure set forth in section 607,".

SEC. 514. Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended by—

(1) inserting "aircraft," immediately after "vehicle," wherever it apears in the section;

(2) striking out "and the value of such vessel, vehicle, merchandise, or baggage as determined under section 605 does not exceed $10,000," in the first sentence and inserting in lieu thereof the following: "and the article is subject to the provisions of section 607 of this Act,": and

(3) striking out "If such values of such vessel, vehicle, merchandise or baggage exceeds $10,000," in the second sentence and inserting in lieu thereof the following: "If the article is not subject to the provisions of section 607 of this Act.".

SEC. 516. Section 613(a) of the Tariff Act of 1930 (19 U.S.C. 1613(a)) is amended by striking out "disposed of as follows:" and clauses (1), (2), and (3), and inserting in lieu thereof the following: "deposited in the Customs Forfeiture Fund.".

(b) Section 613 (b) of the Tariff Act of 1930 (19 U.S.C. 1613(b)) is amended by striking out "(a) (1) and (2) of this section" and inserting in lieu thereof "(a) (4) of section 613a of this act (19 U.S.C. 1613a(a)(4))".

SEC. 517. The Tariff Act of 1930 is amended by adding a new section immediately after section 613 (19 U.S.C. 1613) to read as follows:

"§ 613a. Customs forfeiture fund

"(a) There is hereby established in the Treasury of the United States a special account for the United States Customs Service that shall be entitled the "Customs Forfeiture Fund". This account shall be available without fiscal year limitations for the following purposes of the United States Customs Service—

"(1) the payment of all expenses necessary to inventory, safeguard, and maintain property under seizure, detention or forfeited pursuant to any law enforced or administered by the United States Customs Service, including payments for expenses of maintenance, contract services, and to reimburse any Federal, State, or local agency for any expenditures made for the maintenance of property;

"(2) the payment of awards of compensation to informers under section 619 of the Tariff Act of 1930, as amended;

"(3) the payment by appropriate customs officers for the purchase of information concerning violations or possible violations of any law enforced or administered by the customs service; and

"(4) the payment to persons whom the appropriate customs officer determines hold valid—

"(A) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law; and

"(B) liens against property that has been forfeited pursuant to any law enforced or administered by the United States Customs Service,

subject to the condition that no payment to a lienholder shall exceed the net proceeds of the sale or, where the property is retained or transferred for official use, the appraised value less all applicable expenses.

"(b) The Fund shall be initially funded by any sums not otherwise obligated from the 1981 and 1982 fiscal year appropriations of the United States Customs Service.

"(c) All proceeds from the sale or other disposition of property forfeited, including any seized and forfeited currency, under any law enforced or administered by the Customs Service shall be deposited to the Customs Forfeiture Fund.

"(d) At the end of each calendar quarter, any sums in the Fund in excess of $10,000,000 shall be transferred to the general fund of the Treasury of the United States.

"(e) Amounts in the Fund which are not currently needed for the purposes of this subsection shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(f) Within sixty days of the end of each fiscal year, the Commissioner of Customs will report to the appropriate oversight committee of the Congress on the receipts and disbursement of the Customs Forfeiture Fund.

"(g) The provisions relating to payments and disbursements from the Fund established by this section shall apply to all property disbursed of or in the custody of the Customs Service on or after the effective date of this Act.".

SEC. 518. A new section, section 616, is added to the Tariff Act of 1930 (19 U.S.C. 1616) to read as follows:

"§ 616. Disposition of forfeited property

"(a) Notwithstanding any other provision of law, the Commissioner is authorized to retain forfeited property for official use or to transfer such forfeited property on such terms or conditions as he may determine to—

"(1) any other Federal agency; or

"(2) to any State or local governmental agency which routinely assists in the enforcement of the laws of the United States or participated in any of the acts which led to the property being seized.

The United States shall not be liable in any action arising out of the use of any property the custody of which was transferred pursuant to this section to any non-Federal agency.

"(b) The Secretary of the Treasury is authorized to order the discontinuance of any Federal forfeiture proceedings in favor of the institution of forfeiture proceedings by State or local authorities under an appropriate State or local statute when he determines that such action is in the best interest of the United States. After the filing of a complaint for forfeiture in a United States district court, the appropriate attorney for the Department of Justice shall also have the authority to seek a voluntary dismissal of the complaint in favor of State or local action when he deems it to be in the best interest of the United States.

"(c) Whenever forfeiture proceedings are discontinued by the Federal Government in favor of State or local proceedings, the Secretary is authorized to transfer custody and possession of the seized property to the appropriate State or local official immediately upon the initiation of the proper actions by such officials.

"(d) Whenever forfeiture proceedings are discontinued by the Federal Government in favor of State or local proceedings, notice shall be sent to all known interested parties advising them of such a decision. The United States shall not be liable in any action arising out of the seizure, detention, and transfer of seized property to State or local officials."

SEC. 519. Section 619 of the Tariff Act of 1930 (19 U.S.C. 1619) is amended by striking out "$50,000" wherever it appears and inserting in lieu thereof "$250,000".

SEC. 520. (a) The Tariff Act of 1930 is amended by adding a new section to read as follows:

"S. 589. Arrest authority of customs officers

"Subject to the direction of the Secretary of the Treasury, an officer of the Customs as defined in section 401(i) of this Act, as amended, may—

"(1) carry a firearm;

"(2) execute and serve any order, warrant, subpena, summons, or other process issued under the authority of the United States for arrest, search or seizure, or production of evidence;

"(3) make an arrest without a warrant for any offense against the United States committed in the officer's presence or for a felony, cognizable under the laws of the United States committed outside the officer's presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

"(4) perform any other law enforcement duty that the Secretary of the Treasury may designate.".

(b) Section 7607 of the Internal Revenue Act of 1954 (26 U.S.C. 7607) is repealed.

SEC. 521. Sections 602, 605, 606, 608, 609, 611, 613, 614, 615, 618, and 619 (19 U.S.C. 1602, 1605, 1606, 1608, 1609, 1611, 1613, 1614, 1615, 1618, and 1619) of the Tariff Act of 1930 are amended by inserting the word "aircraft," immediately after the words "vehicle" or "vehicles," wherever they appear.

TITLE VI—SURPLUS FEDERAL PROPERTY AMENDMENTS

SEC. 601. Section 203 of the Federal Property and Administrative Services Act of 1949 as amended (40 U.S.C. 484), is further amended by adding at the end thereof the following new subsection:

"(p)(1) Under such regulations as he may prescribe, the Administrator is authorized in his discretion to transfer or convey to the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, or any political subdivision or instrumentality thereof, surplus property determined by the Attorney General to be required for correctional facility use by the authorized transferee or grantee under an appropriate program or project for the care or rehabilitation of criminal offenders as approved by the Attorney General. Transfers or conveyance under this authority shall be made by the Administrator without monetary consideration to the United States. If the Attorney General determines that any surplus property transferred or conveyed pursuant to an agreement entered into between March 1, 1982, and the enactment of this subsection was suitable for transfer or conveyance under this subsection, the Administrator shall reimburse the transferee for any monetary consideration paid to the United States for such transfer or conveyance.

"(2) The deed of conveyance of any surplus real property disposed of under the provisions of this subsection—

"(A) shall provide that all such property shall be used and maintained for the purpose for which it was conveyed in perpetuity, and that in the event the property ceases to be used or maintained for that purpose, all or any portion of the property shall, in its then existing condition, at the option of the United States, revert to the United States; and

"(B) may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States.

"(3) With respect to surplus real property conveyed pursuant to this subsection, the Administrator is authorized and directed—

"(A) to determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in any instrument by which such transfer was made;

"(B) to reform, correct, or amend any such instrument by the execution of a corrective reformative or amendatory instrument where necessary to correct such instrument or to conform such transfer to the requirements of applicable law; and

"(C) to (i) grant releases from any of the terms, conditions, reservations, and restrictions contained in, and (ii) convey, quitclaim, or release to the transferee or other eligible user any right or interest reserved to the United States by any instrument by which such transfer was made, if he determines that the property so transferred no longer serves the purpose for which it was transferred, or that such release, conveyance, or quitclaim deed will not prevent accomplishment of the purpose for which such property was so transferred: Provided, That any such release, conveyance, or quitclaim deed may be granted on, or made subject to, such terms and conditions as he or she shall deem necessary to protect or advance the interests of the United States.".

SEC. 602. The first sentence of subsection (o) of section 203 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(o)), is further amended by revising the first sentence of such subsection to read as follows:

"(o) The Administrator with respect to personal property donated under subsection (j) of this section and with respect to personal or real property transferred or conveyanced under subsection (p) of this section, and the head of each executive agency disposing of real property under subsection (k) of this section, shall submit during the calendar quarter following the close of each fiscal year a report to the Senate (or to the Secretary of the Senate if the Senate is not in session) and to the House of Representatives (or to the Clerk of the House if the House is not in session) showing the acquisition cost of all personal property so donated and of all real property so disposed of during the preceding fiscal year.".

TITLE VII—MISCELLANEOUS CRIMINAL JUSTICE IMPROVEMENTS

PART A

SEC. 701. (a) Chapter 95 of title 18, United States Code, is amended by adding new sections 1952A and 1952B, following section 1952, as follows:

"§ 1952A. Use of interstate commerce facilities in the commission of murder-for-hire

"(a) Whoever travels in or causes another (including the intended victim) to travel in interstate or foreign commerce, or uses or causes another (including the intended victim) to use the mail or any facility in interstate or foreign commerce, with intent that a murder be committed in violation of the laws of any State or the United States as consideration for the receipt of anything of pecuniary value or for a promise to pay anything of pecuniary value, shall be fined not more than $10,000 or imprisoned for not more than five years, or both; and if personal injury results, shall be fined not more than $20,000 and imprisoned for not more than twenty years, or both; and if death results, shall be subject to imprisonment for any term of years or by life imprisonment, or shall be fined not more than $50,000, or both.

"(b) As used in this section—

"(1) 'anything of pecuniary value' means anything of value in the form of money, a negotiable instrument, a commercial interest, or anything else the primary significance of which is economic advantage; and

"(2) 'facility of interstate commerce' includes means of transportation and communication.".

"§ 1952B. Violent crimes in aid of racketeering activity

"(a) Whoever, as consideration for the receipt of or as consideration for a promise or agreement to pay anything of pecuniary value from an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in an enterprise engaged in racketeering activity, murders, kidnaps, maims, assaults with a dangerous weapon, commits assault resulting in serious bodily injury upon, or threatens to commit a crime of violence against any individual in violation of the laws of any State or the United States, or attempts or conspires so to do, shall be punished—

"(1) for murder or kidnapping, by imprisonment for any term of years or for life or a fine of not more than $50,000, or both;

"(2) for maiming, by imprisonment for not more than thirty years or a fine of not more than $30,000, or both;

"(3) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than twenty years or a fine of not more than $20,000, or both;

"(4) for threatening to commit a crime of violence, by imprisonment for not more than five years or a fine of not more than $5,000, or both;

"(5) for attempting or conspiring to commit murder, by imprisonment for not more than ten years or a fine of not more than $10,000, or both; and

"(6) for attempting or conspiring to commit a crime involving maiming, assault with a dangerous weapon, or assault resulting in serious bodily injury, by imprisonment for not more than three years or a fine of not more than $3,000, or both.

"(b) As used in this section—

"(1) 'racketeering activity' has the meaning set forth in section 1961 of this title; and

"(2) 'enterprise' includes any partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, which is engaged in, or the activities of which affect, interstate or foreign commerce.".

(b) The analysis at the beginning of the chapter is amended by adding after the item relating to section 1952 the following:

"1952A. Use of interstate commerce facilities in the commission of murder-for-hire.
"1952B. Violent crimes in aid of racketeering activity.".

PART B

SEC. 702. Section 2510 of title 18 of the United States Code is amended—

(1) in paragraph (10), by striking out "and" at the end thereof;

(2) in paragraph (11), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(12) 'surreptitious entry' means a physical entry upon a private place or premises to install, repair, reposition, replace, or remove any electronic, mechanical, or other device, and includes both covert entry and entry effected by means of a ruse or subterfuge.".

SEC. 703. Section 2518(1) of that title is amended—

(1) in paragraph (e), by striking out "and" at the end thereof;

(2) in paragraph (f), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(g) a statement whether surreptitious entries are required to carry out the order.".

SEC. 704. Section 2518(4) of that title is amended—

(1) in paragraph (d), by striking out the "and" at the end thereof;

(2) in paragraph (e), by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(f) whether surreptitious entries are authorized or approved to carry out the order, and, if such entries are authorized or approved, the identity of the agency authorized to make the surreptitious entries.".

SEC. 705. Section 2518(7) of that title is amended—

(1) by amending paragraph (a) to read as follows:

"(a) an emergency situation exists that involves—

"(i) immediate danger of death or serious physical injury to any person,

"(ii) conspiratorial activities threatening the national security interest, or

"(iii) conspiratorial activities characteristic of organized crime,

that requires a wire or oral communication to be intercepted before an order authorizing such interception can, with due diligence, be obtained, and"; and

(2) by inserting a comma and "and may make any surreptitious entry required to effect such interception," immediately before "if an application for an order".

SEC. 706. Section 2519(1) of that title is amended—

(1) by inserting immediately after paragraph (e) the following:

"(f) the fact that surreptitious entries to carry out the order were authorized or approved;"; and

(2) by redesignating paragraphs (f) and (g) as paragraphs (g) and (h), respectively.

SEC. 707. Section 2519(2) of that title is amended in paragraph (a) by striking out "(g)" and by inserting in lieu thereof "(h)".

PART C

SEC. 708. Section 5031 of title 18 of the United States Code is amended by striking the word "eighteenth" both places it appears and inserting in lieu thereof the word "seventeenth".

SEC. 709. Section 5032 of title 18 of the United States Code is amended—

(1) by striking out the word "or" preceding "(2)" in the first paragraph;

(2) by striking the period at the end of the first paragraph and inserting in lieu thereof ", or (3) that the offense charged is a felony and that there is a substantial federal interest in the case or the offense to warrant the exercise of federal jurisdiction.";

(3) in the fourth paragraph, by striking "punishable by a maximum penalty of ten years imprisonment or more, life imprisonment or death," and insert in lieu thereof "that is a crime of violence or an offense described in sections 841, 952(a), 955, or 959 of title 21,"; and in the same paragraph, strike out "sixteen" and "sixteenth" and insert in lieu thereof "fourteen" and "fourteenth", respectively;

(4) in the fourth paragraph, by striking out the period at the end of the paragraph and inserting in lieu thereof "; however, a juvenile who is alleged to have committed one of the preceding enumerated felonies after having been found guilty of one act which if committed by an adult would have been a crime of violence or an offense described in section 841, 952(a), 955, or 959 to title 21, or a crime of violence in violation of a State felony statute, shall be transferred to the appropriate district court of the United States for criminal prosecution."; and

(5) by adding at the end of the section the following:

"Whenever a juvenile transferred to district court under this section is not convicted of the crime upon which the transfer was based or another crime which would have warranted transfer had the juvenile been initially charged with that crime, further proceedings concerning the juvenile shall be conducted pursuant to the provisions of this chapter.

"Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until any prior juvenile court records of such juvenile have been received by the court, or the clerk of the juvenile court has certified in writing that the juvenile has no prior record, or that the juvenile's record is unavailable, and why it is unavailable.

"Whenever a juvenile is adjudged delinquent pursuant to the provisions of this chapter, the specific acts which the juvenile has been found to have committed shall be described as part of the official record of the proceedings and part of the juvenile's official record.".

SEC. 710. Section 5038 of title 18 of the United States Code is amended by striking subsection (d) and inserting in lieu thereof the following:

"(d) Whenever a juvenile is found guilty of committing an act which if committed by an adult would be a felony that is a crime of violence or an offense described in section 841, 952(a), 955, or 959 of title 21, such juvenile shall be finger-printed and photographed. Fingerprints and photographs of a juvenile who is not prosecuted as an adult shall be made available only in accordance with the provisions of subsection (a) of this section. Fingerprints and photographs of a juvenile who is prosecuted as an adult shall be made available in the manner applicable to adult defendants.

"(e) Unless a juvenile who is taken into custody is prosecuted as an adult neither the name nor picture of any juvenile shall be made public by any medium of public information in connection with a juvenile delinquency proceeding.".

PART D

SEC. 711. Section 1201 of title 18 of the United States Code is amended—

(1) in subsection (a)(3), by deleting "or" at the end thereof;

(2) in subsection (a)(4), by deleting the comma at the end thereof and substituting "; or"; and

(3) by adding after subsection (a)(4) a new subsection (a)(5) to read as follows:

"(5) the person is among those officers and employees designated in section 1114 of this title and any such act against the person is done while the person is engaged in, or on account of, the performance of his official duties,".

PART E

SEC. 712. Chapter 7 of title 18 of the United States Code is amended by adding a new section at the end thereof to read as follows:

"§ 115. Influencing, impeding, or retaliating against a federal official by threatening or injuring a family member

"(a) Whoever assaults, kidnaps, or murders, or attempts to kidnap or murder, or threatens to assault, kidnap or murder a member of the immediate family of a United States official, United States judge, or federal law enforcement officer, with intent to impede, intimidate, interfere with, or retaliate against such official, judge or law enforcement officer while he is engaged in or on account of the performance of his official duties, shall be punished as provided in subsection (b).

"(b)(1) An assault in violation of this section shall be punished as provided in section 111 of this title.

"(2) A kidnapping or attempted kidnapping in violation of this section shall be punished as provided in section 1201 of this title.

"(3) A murder or attempted murder in violation of this section shall be punished as provided in sections 1111 and 1113 of this title.

"(4) A threat made in violation of this title shall be punished by a fine of not more than $5,000 or imprisonment for a term of not more than five years, or both, except that imprisonment for a threatened assault shall not exceed three years.

"(c) As used in this section, the term—

"(1) 'Federal law enforcement officer' means any officer, agent, or employee of the United States authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of federal criminal law;

"(2) 'immediate family member' of an individual means—

"(A) his spouse, parent, brother or sister, child, or person to whom he stands in loco parentis; or

"(B) any other person living in his household and related to him by blood or marriage;

"(3) 'United States judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate; and

"(4) 'United States official' means the President, President-elect, Vice President, Vice President-elect, a Member of Congress, a Member-elect of Congress, a member of the executive branch who is the head of a department listed in 5 U.S.C. 101, or the Director of Central Intelligence.".

PART F

SEC. 713. Section 31 of title 18 of the United States Code is amended in the definition of "motor vehicle" by striking out "or passengers and property;" and inserting in lieu thereof "passengers and property, or property or cargo;".

PART G

SEC. 714. (a) Section 207(a) of the Currency and Foreign Transactions Reporting Act (31 U.S.C. 1056(a)) is amended by striking out "a civil penalty not exceeding $1,000" and inserting in lieu thereof "a civil penalty not exceeding $10,000".

(b) Section 209 of such Act (31 U.S.C. 1058) is amended by striking out "$1,000, or imprisonment not more than one year, or both" and inserting in lieu thereof "$50,000, or imprisonment not more than five years, or both".

(c) Section 231(a) of such Act (31 U.S.C. 1101(a)) is amended—

(1) by inserting ", or attempts to transport or cause to be transported," after "transports or causes to be transported" in paragraph (1); and

(2) by striking out "in an amount exceeding $5,000" and inserting in lieu thereof "in an amount exceeding $10,000".

(d) Section 235 of such Act (31 U.S.C. 1105) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting the following new subsection after subsection (a):

"(b) A customs officer may stop and search, without a search warrant, a vehicle, vessel, aircraft, or other conveyance, envelope or other container, or person entering or departing from the United States with respect to which or whom the officer has reasonable cause to believe there is a monetary instrument being transported in violation of section 231.".

(e)(1) Chapter 1 of such Act is amended by adding the following new section at the end thereof:

"§ 214. Rewards for informants

"(a) The Secretary may pay a reward to an individual who provides original information which leads to a recovery of a criminal fine, civil penalty, or forfeiture, which exceeds $50,000, for a violation of this title.

"(b) The Secretary shall determine the amount of a reward under this section. The Secretary may not award more than 25 per centum of the net amount of the fine, penalty, or forfeiture collected or $250,000, whichever is less.

"(c) An officer or employee of the United States, a State, or a local government who provides information described in subsection (a) in the performance of official duties is not eligible for a reward under this section.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.".

(2) The table of contents of such chapter is amended by adding the following new item after the item relating to section 213:

"214. Rewards for informants.".

SEC. 715. Section 1961(1) of title 18, United States Code, is amended—

(1) by striking out "or" after "(relating to embezzlement from union funds),"; and

(2) by inserting before the semicolon at the end thereof the following: ", or (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act".

PART H

SEC. 716. (a) Chapter 103 of title 18 of the United States Code is amended by adding at the end thereof a new section as follows:

"§ 2118. Robbery of a pharmacy

"(a) Whoever takes property from a pharmacy or a person registered with the Drug Enforcement Administration under section 302 of the Controlled Substances Act (21 U.S.C. 822) by force or violence, or by intimidation, shall be imprisoned for not more than ten years, or fined not more than $5,000, or both.

"(b) For purposes of this section, the term 'property' means a controlled substance, consisting of a narcotic, amphetamine, or barbiturate that is listed in Schedules I through IV established by section 202 of the Controlled Substances Act (21 U.S.C. 812).".

(b) The analysis for chapter 103 of title 18 of the United States Code is amended by adding at the end thereof the following:

"2118. Robbery of a pharmacy.".

(c)(1) The Senate finds that—

(A) There has been an alarming increase in the number of pharmacy robberies since enactment of the Comprehensive Drug Abuse Prevention and Control Act of 1970;

(B) There is a serious need to ensure the maximum federal effort in attempting to curb these often violent crimes; and

(C) This goal can best be accomplished through consultation between the relevant government agencies and those dealing with controlled substances.

(2) It is the sense of the Senate that—

(A) The Attorney General, in consultation with the Secretary of Health and Human Services, through the Administrator of the Drug Enforcement Administration should regularly meet with the Joint Commission of Pharmacy Practitioners to discuss this problem; and

(B) That in order to provide accurate and current information on the nature and extent of pharmacy crime the Department of Justice should collect relevant data and include pertinent results in its annual Uniform Crime Report.

PART I

SEC. 777. (a) Chapter 19 of title 18 of the United States Code is amended by adding at the end thereof the following new section:

"§ 373. Solicitation to commit crime of violence

"(a) OFFENSE.—Whoever, with intent that another person engage in conduct constituting a Federal crime of violence, and under circumstances strongly corroborative of that intent, solicits, commands, induces, or otherwise endeavors to persuade such other person to engage in such conduct, shall be imprisoned not more than one-half the maximum term of imprisonment or fined not more than one-half the maximum fine prescribed for the punishment of the crime solicited, or both; or if the crime solicited is punishable by death, shall be imprisoned for not more than twenty years.

"(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution under this section that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant prevented the commission of the crime solicited. A renunciation is not 'voluntary and complete' if it is motivated in whole or in part by a decision to postpone the commission of the crime until another time or to substitute another victim or another but similar objective. If the defendant raises the affirmative defense at trial, the defendant has the burden of proving the defense by a preponderance of the evidence.

"(c) DEFENSE PRECLUDED.—It is not a defense to a prosecution under this section that the person solicited could not be convicted of the crime because he lacked the state of mind required for the commission of the crime, because he was incompetent or irresponsible, or because he is immune from prosecution or otherwise not subject to prosecution.".

(b) Chapter 1 of title 18 of the United States Code is amended by adding at the end thereof a new section as follows:

"§ 16. Crime of violence defined

"Except as otherwise expressly provided, as used in this title 'crime of violence' means—

"(1) an offense that has an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(2) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.".

PART J

SEC. 718. Section 1111 of title 18 of the United States Code is amended by adding after the word "arson" the words "escape, murder, kidnapping, treason, espionage, sabotage,".

PART K

SEC. 719. (a) The problem of drug abuse continues to worsen in most parts of the world;

(b) The number of drug abusers has risen and abuse has spread geographically;

(c) The number, variety, and potency of illicitly used narcotics, drugs, and psychotropic substances have increased;

(d) Illicit production has expanded and trafficking flourishes; and

(e) A declaration by the United Nations of an International Year Against Drug Abuse would serve as a catalyst for interest and action at all international levels involving families, communities, neighborhoods, schools, religious institutions, and public, private, and voluntary associations. It is the sense of the Congress that the President is urged to promote a declaration by the United Nations of an International Year Against Drug Abuse.

PART L

SEC. 720. (a) Part D of the Controlled Substances Act is amended by adding after section 405 the following new section:

"DISTRIBUTION IN OR NEAR SCHOOLS

"SEC. 405A. (a) Any person who violates section 401(a)(1) by distributing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school is (except as provided in subsection (b)) punishable (1) by a term of imprisonment, or fine, or both up to twice that authorized by section 841(b) of this title and (2) at least twice any special parole term authorized by section 401(b) for a first offense involving the same controlled substance and schedule.

"(b) Any person who violates section 401(a)(1) by distributing a controlled substance in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school after a prior conviction or convictions under subsection (a) have become final is punishable (1) by a term of imprisonment of not less than three years and not more than twenty years and (2) at least three times any special term authorized by section 401(b) for a second or subsequent offense involving the same controlled substance and schedule.

"(c) In the case of any sentence imposed under subsection (b) imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under section 4202 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection."

(b) Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "or 405A" after "405".

(c) Section 401(c) of such Act is amended by inserting "or 405A" after "405" each place it occurs.

(d) Section 405 of such Act (21 U.S.C. 845) is amended by striking out "Any" in subsections (a) and (b) and inserting in lieu thereof "Except as provided in section 405A, any".

PART M

SEC. 721. Notwithstanding any other provision of this Act, all contracts entered into pursuant to the authority granted in this Act shall be effective for any fiscal year only to such an extent or in such amounts as are provided in appropriation Acts.

PART N

SEC. 722. Section 425 of part D of the Controlled Substances Act (21 U.S.C. 845) is amended to read as follows:

"§ 845. Distribution to juveniles

"(a) Any person at least twenty-one years of age who violates section 481(a)(1) by distributing a controlled substance in schedule I or II other than marijuana to a person under eighteen years of age shall be punished by a mandatory minimum term of imprisonment of five years as a part of any sentence imposed pursuant to section 401(b). No part of a sentence of imprisonment imposed pursuant to this section shall be suspended.

"(b) Any person at least twenty-one years of age who violates section 401(a)(1) by distributing marijuana or a controlled substance in schedule III to a person under eighteen years of age shall be punished by a mandatory minmum term of imprisonment of three years as a part of any sentence imposed pursuant to section 401(b). No part of a sentence of imprisonment imposed pursuant to this section shall be suspended.

"(c) Any person sentenced under this section shall be ineligible for parole or any other type of release from imprisonment during the period of the mandatory minimum term of imprisonment.".

PART O

SEC. 723. (a) Chapter 44 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 929. Use of restricted ammunition

"(a) Whoever, during and in relation to the commission of a crime of violence for which he may be prosecuted in a court of the United States, including a felony which provides for an enhanced punishment if committed by the use of a dangerous weapon or device, uses or carries any handgun loaded with armor-piercing ammunition as defined in subsection (b), shall, in addition to the punishment provided for the commission of such felony, be sentenced to a term of imprisonment for not less than five years. Notwithstanding any other provision of law, the court shall not suspend the sentence of any person convicted of a violation of this subsection, nor place him on probation, nor shall the terms of imprisonment run concurrently with any other terms of imprisonment including that imposed for the felony in which the armor-piercing handgun ammunition was used or carried. No person sentenced under this subsection shall be eligible for parole.

"(b) For purposes of this section—

"(1) 'armor-piercing ammunition' means ammunition which, when or if fired from any handgun used or carried in violation of subsection (a) under the test procedure of the National Institute of Law Enforcement and Criminal Justice Standard for the Ballistics Resistance of Police Body Armor promulgated December, 1978, is determined to be capable of penetrating bullet-resistant apparel or body armor meeting the requirements of Type IIA of Standard NILECJ-STD-0101.01 as formulated by the United States Department of Justice and published in December of 1978;

"(2) 'crime of violence' means—

"(1) an offense, other than a misdemeanor that consists solely of damage to property and that does not place another person in danger of death or serious bodily injury, that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(ii) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; and

"(3) 'handgun' means any firearm, including a pistol or revolver, originally designed to be fired by the use of a single hand.".

(b) The table of sections for chapter 44 of title 18, United States Code, is amended by adding at the end thereof the following:

"929. Use of restricted ammunition.".

PART P

SEC. 224. (a) Chapter 65 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1365. Aggravated property destruction of an energy facility

"(a) Whoever knowingly and willfully—

"(1) damages the property of an energy facility in an amount that in fact exceeds $5,000; or

"(2) damages the property of an energy facility in any amount and causes a significant interruption or impairment of a function of an energy facility,

"(b) An offense described in this section is—

shall be punished in accordance with subsection (b).

"(1) punishable by a fine of not more than $50,000 or imprisonment of not more than ten years, or both—

"(A) in the circumstances set forth in subsection (a)(1) if the damage exceeds $100,000; and

"(B) in the circumstances set forth in subsection (a)(2); or

"(2) punishable by a fine of not more than $25,000, or imprisonment of not more than five years, or both, in any other case.

"(c) For purposes of this section, the term 'energy facility' means a facility that is involved in the production, storage, transmission, or distribution of electricity, fuel, or another form or source of energy, or research, development, or demonstration facilities relating thereto, regardless of whether such facility is still under construction or is otherwise not functioning except a facility subject to the jurisdiction, administration, or in the custody of the Nuclear Regulatory Commission.

"(d) There is Federal jurisdiction over an offense described in this section if the offense is committed on the premises of an energy facility.

"(b) The table of contents for chapter 65 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1365. Aggravated property destruction of an energy facility.".

PART Q

SEC. 725. (a) AUTHORIZATION.—There are herby authorized to be appropriated such sums as may be necessary to carry out the provisions and purposes of this Act.

"(b) EFFECTIVE DATE.—Notwithstanding any other provision of this Act, no provision of this Act shall take effect prior to October 1, 1982.

PART R

SEC. 726. (a) Section 2252 of title 18, United States Code, is amended—

(1) in subsection (a) (1) by striking out ", for the purpose of sale or distribution for sale, any obscene" and inserting in lieu thereof "any"; and

(2) in subsection (a)(2) by striking out "for the purpose of sale or distribution for sale, or knowingly sells or distributes for sale, any obscene" and inserting in lieu thereof ", sells, or distributes any".

(b) Section 2253 (3) of title 18, United States Code, is amended by striking out ", for pecuniary profit".

PART S

727. Section 924(c) of title 18 of United States Code is amended to read as follows:

"(c) Whoever—

"(1) uses any firearm to commit any felony for which he may be prosecuted in a court of the United States; or

"(2) carries a firearm during the commission of any such felony if an element of the offense is the use of violence or threat of imminent violence as defined in section 16 of this title;

shall, in addition to the punishment provided for the commission of the felony, be sentenced for the first such offense to a term of imprisomenet of not less than two years, nor more than ten years,m and for a second or subsequent such offense under this subsec-

tion of after conviction of using or carrying a firearm in the course of a similar felony under a State, local, or foreign law, to a term of imprisonment of not less than five nor more than twenty-five years. A term of imprisonment imposed pursuant to this subsection shall be consecutive to any other sentence of imprisonment for commission of the felony in which the firearm was used or carried. Notwithstanding any other provision of law, the court shall not suspend the imposition or execution of sentence or place the person on probation, nor shall the person be paroled before completing the specified minimum term of imprisonment.".

Mr. THURMOND. Mr. President, I move that the Senate insist on its amendments and request a conference with the House and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer (Mr. RUDMAN) appointed Mr. THURMOND, Mr. MATHIAS, Mr. LAXALT, Mr. HATCH, Mr. DOLE, Mr. BIDEN, Mr. KENNEDY, and Mr. LEAHY conferees on the part of the Senate.

Mr. BIDEN. Mr. President, I would like to do what is considered usually perfunctory but I mean it very sincerely, and that is to thank the staff. Although I am not certain what the state of this bill will be, I am hopeful we can succeed on the House side and that it will become law.

The fact of the matter is that no one believed we would ever get to the point where we would be able to have a bill like this. And a large part, a lion's share of the credit goes to the staff, not only Mr. Lide, Mr. Summit, and Mr. Hultman, on the majority side, but I would like to pay tribute to Mark Gitenstein, the chief minority counsel, and Kathy Zebrowski, who I think are probably the most expert of anyone I have around me on the Criminal Code generally, and Scott Green of my staff and Christine Philipps, who Gitenstein and Zebrowski made stay up all hours of the night typing much that may need not have been typed.

So I wish to pay my tribute to them and thank my colleague from South Carolina who had the political gumption to be willing to keep off of this bill a number of items he strongly favored because it would have killed the bill, in our opinion. I referred to him earlier as the quintessential legislator. For those of my staff who suggested it it was not particularly appropriate, he is the consummate legislator. He is a man who wants to get things done, he usually gets them done, and he is willing to compromise.

I will not say any more because I am sure I will end up in a brochure in 1984.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Delaware for his kind remarks. Again I would like to express my appreciation to him for the magnificent leadership that he gave on this crime package. Without the fine support and assistance of the distinguished Senator from Delaware, it would have been impossible to have gotten this package before the Senate and to have gotten it passed here, as we did. He has cooperated in every way. Again, I bow to him and pay my deepest respects to him.

Mr. President, I would also like to thank, as he did, the staffs on both sides who worked so hard. I do not know all of his staff members, but I know Miss Zebrowski and Mr. Mark Gitenstein. They did a very fine job.

I wish to express my appreciation on our side to the staff of the Judiciary who were so helpful all the way through, the chief counsel, Mr. Lide, and Mr. Paul Summitt, who is special counsel on the staff for criminal matters, and also Mr. Eric Hultman, who is a very prominent member of the staff who has helped in so many matters, including this bill. I also appreciate the efforts of Mabel Downey, legislative clerk for criminal law, working with Mr. Summitt on the bill, amendments, and statements. These are very dedicated and capable public servants. We can be proud of men of their caliber.

Again, I thank my distinguished colleague from Delaware for everything he did to promote the passage of this bill.

I would also like to thank the majority leader, Senator HOWARD BAKER, and the minority leader, Senator ROBERT C. BYRD, for assisting us in getting this bill before the Senate and all that they did to support its passage. We are very grateful to both of them.

Mr. ROBERT C. BYRD. I thank the Senator.

MAKING TECHNICAL CORRECTIONS IN THE ENGROSSMENT OF THE SENATE AMENDMENTS TO H.R. 6056

Mr. McCLURE. Mr. President, I send a resolution to the desk on behalf of Mr. DOLE and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 489) directing the Secretary of the Senate to make technical corrections in the engrossment of the Senate amendments to H.R. 6056.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

Mr. ROBERT C. BYRD. Mr. President, this has been cleared with Mr. LONG on this side and there is no objection.

Mr. McCLURE. Mr. President, it has been cleared by all Senators on this side as well.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 489) was agreed to, as follows:

S. RES. 489

Resolved, That in the engrossment of the Senate amendments to H.R. 6056, the Secretary of the Senate shall make the following technical amendments:

Subparagraph (I) of section 168(e)(4) of the Internal Revenue Code of 1954, as added by section 102(a)(9) of the Act, is amended by inserting "class" before "property" each place it appears in the text and heading thereof.

Paragraph (10) of section 102(a) of the Act is amended—

(1) by inserting "(8)" after "section 168(f)" in subparagraph (A) thereof,

(2) by striking out "sections 46(f) and 167(l)" in the matter to be inserted by subparagraph (A) thereof and inserting in lieu thereof "subsection (e)(3) of this section and section 46(f)", and

(3) by striking out "subsection (a)" in subparagraph (B) thereof and inserting in lieu thereof "subparagraph (A)".

In the matter proposed to be inserted by section 102(1)(4) of the Act insert "by the employer" after "hired'.

Subsection (e) of section 1236 of the Internal Revenue Code of 1954, as added by section 105(d) of the Act, is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'option' includes the right to subscribe to or purchase any security.".

Paragraph (2) of section 6430(c) of the Internal Revenue Code of 1954, as added by section 106(a) of the Act, is amended by striking out "may allocate such limitation to any allocable trust production of such qualified beneficiary as he selects" and inserting in lieu thereof "shall allocate such limitation to allocable trust production under regulations prescribed by the Secretary".

In the matter proposed to be inserted by section 106(b) insert a period at the end of the last sentence.

In the matter proposed to be inserted by section 201(f)(3)(B) of the Act strike out "(ii), (iii)," and insert in lieu thereof ", (ii)".

Section 203(b)(3) of the Act is amended to read as follows:

"(3) Amendments to section 613A.—

"(A) The amendment made by section 202(d)(1) shall apply to transfers in taxable years ending after December 31, 1974, but only for purposes of applying section 613A of the Internal Revenue Code of 1954 to periods after December 31, 1979.

"(B) The amendment made by section 202(d)(2) shall apply to bulk sales after September 18, 1982.".

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Mr. President, what is the order for the meeting of the Senate on tomorrow?

The PRESIDING OFFICER. The current order has the Senate convening at 10 a.m.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. McCLURE. Mr. President, I ask unanimous consent that the previously entered order be modified to reconvene at the hour of 9:30 a.m. on tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. McCLURE. Mr. President, following the recognition of the two leaders under the standing order on tomorrow, I ask that the following Senators be recognized for not to exceed 15 minutes each: Senator GORTON, Senator ABDNOR, and Senator PRYOR.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. McCLURE. Mr. President, following the execution of the special orders on tomorrow, I ask unanimous consent that there be a period for the transaction of routine morning business, not to extend beyond the hour of 10:30 a.m., with statements limited therein to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACID RAIN: THERE'S THE GOOD REASON, THEN THERE'S THE REAL REASON

Mr. FORD. Mr. President, this week the Washington Post carried two articles on Canada, the United States, and acid rain. These articles are most timely, particularly in view of the fact that Canada's National Minister of Environment, John Roberts, has expressed frustration at America's "disappointing lack of action toward resolving the acid ra'n problem." While castigating the United States for doing nothing and lobbying us heavily for the passage of legislation, Canada's approach to the very same problem has been to do little more than talk.

H. L. Mencken used to hold that there are two reasons for doing everything: "there's the good reason, then there's the real reason." I find Canada's chagrin with the United States interesting in light of its own inaction, but it is even more fascinating when one considers the very real possibility that the export of Canadian power stands to make a quantum jump with the passage of an American acid rain control plan.

Consider these facts: EPA has reported a 40-percent drop in sulfur dioxide concentrations over the past 10 years, and a 15-percent drop in sulfur dioxide emissions in the Ohio River Basin which is allegedly the source of Canada's acid rain.

These are impressive reductions, for as sulfur dioxide levels were falling in the United States, electric generation was rising from 888 billion kilowatt-hours to 1.4 trillion kilowatt-hours—an increase of 56 percent. During that time, coal burning rose by 65 percent.

Over the past 10 years, America's industry—in an effort ultimately shared by the American consumer—spent nearly $160 billion on air pollution control, that is, on removing pollutants from our plants and automobiles.

There are already 89 scrubbers in place in the United States at an annual operating cost of nearly $2 billion; 40 more scrubbers are under construction. And EPA says that half of all coal-burning facilities will be fitted with scrubbers within 20 years.

This is in marked contrast to the performance of our neighbors to the north where not one utility has installed a single scrubber. Additionally:

INCO, the world's largest smelter and North America's largest single source of sulfur dioxide, sends 1 million tons of sulfur dioxide into the air each year. The Canadian Government boasts that INCO's daily emissions have been cut from 3,500 tons to 2,500 tons. How was this accomplished—by pollution control equipment? No, by a reduction in output, which is a consequence of the flagging world market, and which has been achieved at the expense of Canadian workers. I cannot accept unemployment as a legitimate method of pollution control.

Take the case of Ontario Hydro. Since 1980, the facility has actually increased its emissions by some 31 percent while Michigan Utilities, situated directly across Lake St. Clair, has decreased its emissions almost 50 percent since 1975.

To add insult to injury, utility officials have recently announced Ontario Hydro's decision to delay or shelve entirely putting scrubbers on two of its coal-fired generating units.

In closing, I would like to mention the appropriateness of a foreign government actively lobbying our Federal Government and the American people on behalf of acid rain control in the United States. I cannot recall any examples of the U.S. Government spending millions of dollars to try to persuade a foreign legislature to implement a specific piece of legislation. It is unusual that the Canadians would do so when their track record of trying to control their own emissions is so poor. But it is more suspect when the possibility exists that the Canadian economy might benefit from the passage of such legislation.

If the control strategy currently being proposed by the Committee on Environment and Public Works were ever put into effect, the soaring increase in the cost of coal-generated American power would create an incentive for many utilities to reduce their generating capacity—that is, to produce only as much power as they need and to wheel little of it. The resulting vacuum in our power needs could easily and logically be filled by Canada.

This is no idle threat. The General Accounting Office had just released a study recommending that, in view of the anticipated increases in Canadian imports, the Federal Government establish clear policy guidelines toward Canadian power imports. The report's summary mentions that "Canadian utilities have 10,000 to 20,000 megawatts of reserve power available for export through 1996, and the provincial governments are interested in marketing any power excess to their own needs. In addition, Canadian Provinces and utilities have expressed interest in constructing additional generating projects for export." Furthermore, "Canadian Federal and Provincial officials and the Canadian utilities * * * also reaffirmed their intent to market more of their surplus power to U.S. markets."

Mr. President, I ask unanimous consent that there be printed in the RECORD a statement delivered by Carl E. Bagge, president of the National Coal Association, before the annual meeting of the Canadian Bar Association in Toronto this summer; notes from an address delivered by David Peterson, Leader of the Official Opposition, before the same forum; an article from the Energy Daily entitled, "Ontario Hydro Puts $240 Million Scrubber Program on Hold"; an article from Fortune magazine, "Pushing to Peddle Canadian Power"; and the summary of the GAO report, "Clear Federal Policy Guidelines Needed for Future Canadian Power Imports".

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ACID RAIN—RIGHTS AND REMEDIES: THE AMERICAN COAL INDUSTRY VIEW

(Remarks prepared by Carl E. Bagge)

Honorable ladies and gentlemen of the Canadian Bench and Bar: It's a special privilege for a member of the American Bar Association to join you at your annual meeting in Toronto. I should like to thank Chairman Poch and the members of the Board of Directors for inviting me to share the dais with so many distinguished Canadian political leaders and lawyers.

Looking over the list of other speakers on this important occasion and considering

what they might say, my thoughts drifted back to Daniel.

Let the record show, Mr. Chairman, that I walked into this den of lions of my own free will, and I hope to leave it—as Daniel—in one piece.

I've just returned from a recent successful fishing trip to your magnificent outdoors—lured from Washington by a provincial government advertisement in the U.S. that caught my eye because it was headlined, "Great Lakes."

The ad promised "Water, water everywhere . . . over 400,000 crystal clear lakes . . . unspoiled wilderness . . . natural delights . . ."

Let the record show, Mr. Chairman, that your tourism and acid rain ministers need to get their act together in the U.S.

"Geography has made us neighbors. History has made us friends. Economics has made us partners. And necessity has made us allies.'

John Kennedy's words to the Canadian Parliament in 1961 ring true today. For we cannot repeal our unique partnership, our friendship, and our economic kinship.

Rowland Frazee, Chairman of the Royal Bank of Canada, recently put it this way: "We cannot change Canada's close and intricate relationship with our major trading partner, the United States. Our recession and our recovery are tied to theirs . . . In most major ways," he added, "events here depend on events there."

That's why the acid rain issue cannot be separated from economics—from the most far-reaching air quality progam proposed in American history. And that's why the effects of this proposal on both our economies is part of my message today.

For it's the recognition of these effects that leads directly to the still unanswered scientific questions so closely tied to the acid rain issue. They are not a "smokescreen" as we hear so often from Ottawa. Scientific understanding—not wishful thinking, not political slogans—is the foundation for sound solutions to both human and environmental problems. And it's answers to these scientific questions that have to steer the acid rain course of our two great nations.

There are at least three plausible explanations of acid rain.

One, the "local-source" theory, holds that emissions don't regularly travel long distances before falling as dry particles or wet precipitation. Instead, acid rainfall is caused principally by sulfur and nitrogen oxides from local sources.

Also, many scientists believe that these pollutants serve as raw materials, which are converted into acid compounds by other oxidizing chemicals. Under this "catalytic theory," it's not the amount of sulfur and nitrogen oxides in the atmosphere, but the oxidants which make possible the acid content of rainfall.

Two weeks ago, the Battelle Institute announced that its scientists believe a vital chemical link to acid rain has been found—a catalyst that's common in urban smog. Battelle says that this potential breakthrough opens up an entirely new area of research.

Yet, it's the "coal plant-long transport" theory which is touted as *the* single cause. It's accepted by some politicians on both sides of the border, and often reported as fact by the media in Canada and the United States.

As this theory goes, acid rain is caused when sulfur dioxide from Midwestern coal-fired plants mixes with nitrogen oxides. These effluents are sent on the winds hundreds of miles where they fall as acid rain on parts of the Northeastern United States and Canada. Emissions from coal plants allegedly are directly involved in lake acidification and fish kills, harming vegetation, and linked to some human health problems.

Three theories, three possible answers, but we believe the jury is still out. I ask you to consider some of the reasons:

Scientists haven't found any sound evidence of acid rain damage to vegetation in the natural environment, and no direct link between acid rain and human health problems has been confirmed. Clearly, the most important scientific question at issue is whether there's a direct cause and effect relationship among sulfur dioxide from coal plants, acid rain, and ecosystem damage.

The recent National Academy of Sciences study, called Atmosphere-Biosphere Interactions, is the most widely-quoted in support of this theory—basing its findings on "overwhelming circumstantial evidence."

One reason is the statement found on page 182: "Acid rain, due to further oxidation of sulfur and nitrogen oxides . . . from anthropogenic (man-made) sources," the author wrote, . . . "is causing widespread damage to ecosystems . . ." But here's what the same author wrote on page 142: " . . . direct cause and effect linkages between sources of acids and effects on ecosystems will not be possible for the foreseeable future."

Not even the most skillful form of press agentry can reconcile internal conflicts like these. Based on the second statement, it's impossible to draw a direct cause and effect relationship between coal plants and acid rain.

The mystery doesn't end there. Central to the "long-transport" theory is the hypothesis that effluents are traveling hundreds of miles where they are falling as acid rain in Canada and the United States.

But as it turns out, American and Canadian scientists can track emissions from a particular source only about 30 miles, not hundreds of miles. Since this is so, scientists from both nations are using computer models to help track effluents much longer distances.

The problem is, there's insufficient long-term rainfall monitoring data of reliable quality. What's more, scientists are having difficulty modeling the complexities of atmospheric phenomena, which are known to affect effluent movements. This means that the statements pinpointing how much acid rain is coming from the United States, and how much pollution is of local or distant origin, are purely hypothetical and theoretical.

Last year, in a Los Angeles Times story, an official of the Ontario Ministry of Environment admitted that computer modeling is only a "useful guideline" to help find out what's happening in the atmosphere over one year. Computer guidelines are useful. But they aren't a scientifically-proved method. And there's no justification for using these guidelines, however useful, as the basis for a multi-billion dollar regulatory program, regardless of what you've been led to believe.

One acid rain theory—as you'll recall—holds that local sources are possibly to blame for acid rain. But acid rain theorists on both sides of the border seem to get an advanced case of myopia when local sources are suggested as a possible cause of lake acidification. A case in point is the INCO smelter.

The INCO smelter is the world's largest. It's sending nearly one million tons of sulfur dioxide into the air each year from a "superstack" taller than the Sears Tower. That's one to three percent of all sulfur dioxide in the Western Hemisphere.

Yet, we read and hear that thousands of Canadian lakes are increasingly "sensitive" to acid rain from the United States. Press reports claim that by century's end 50,000 lakes "may" be dead.

Let's look at what's actually happening, rather than what might happen. A "sensitive" lake isn't an affected lake. The Canadian lakes so far identified as dead are a tiny fraction of the half-million lakes in this vast country. What's more, many of these dead lakes are found in the Sudbury area—the INCO smelter's backyard.

Canadians aren't the only ones who are looking past local pollution sources. The same myopia persists among "long-transport" theorists in the United States. The acid rain bill reported out of the Senate Environment Committee, for example, essentially ignores sulfur dioxide from oil-burning plants, and for all intents and purposes controls only coal-burning plants in 31 states on or east of the Mississippi River.

Kentucky and New York have roughly the same overall sulfur dioxide emissions. Yet, Kentucky—a large coal-burning state—would have to cut its emissions four times as much as New York—an oil-burning state.

The American coal industry isn't making light of acid rain. Acidified lakes are real, not imagined. And we are keenly aware of the economic implications of damage to Canada's environment. But inflammatory rhetoric can't replace unvarnished facts. Above all, let's get our facts straight.

There's no doubt that a large percentage of sulfur dioxide in the United States is produced from man-made sources. But if the "coal plant-long-distance transport" theory is to hold water, as sulfur dioxide levels go down, so should acid rain.

Yet, scientists aren't even sure if acid rain is increasing or decreasing. In the longest-running survey of rainfall in the United States, the United States Geological Survey found virtually no change in rainfall acidity in New York State over 13 years beginning in 1965. This is significant, because New York is one of the most often-mentioned targets of acid rain damage.

Also, EPA is reporting a 40 percent drop in sulfur dioxide concentrations over the past ten years, and a 15 percent drop in sulfur dioxide emissions in the Ohio River Basin—the alleged source of Canada's acid rain.

These cuts are all the more impressive, for as sulfur dioxide levels were falling, electric generation in the United States was rising from 888 billion kilowatt-hours to 1.4 trillion kilowatt-hours—a 56 percent jump. During that same time, coal burning by America's electric utilities shot up 65 percent.

In light of these trends, we are dismayed at Ottawa's charge that the United States isn't doing its fair share to curb air pollution. Over the past ten years, American industry—and ultimately consumers—spent nearly $160 billion on air pollution control. We are doing an outstanding job removing pollutants from our plants and our automobiles.

This doesn't imply that the coal industry has supported every tenet of America's clean air laws, any more than the Canadian Provinces welcome every pronouncement by the Ottawa Government.

It means that American people are paying willingly but dearly for clear air—some $14 billion each year to keep the Clean Air Act in force. And it's simply wrong-headed for Ottawa to suggest that our industry and our government are "footdragging" on cleaning the air, or that our government's actions aren't reflecting the wishes of the American public.

We find these allegations even harder to take, given the Ottawa Government's continued heralding of its pollution-control efforts. Again, let's look at the record.

One good example are pollution controls at the INCO smelter. These controls are offered by Canada's environment Minister, John Roberts, and others as evidence of Canada's good faith to meet its obligations on what's called a "two way street."

In a recent interview, Mr. Roberts said that the smelter's emissions have been cut from 3,500 tons per day to 2,500 tons. "This is a significant step," he said. I agree, but how were these reductions made? Mr. Roberts gave the answer: "It was done successfully at the sacrifice of potential production at the world's largest smelter."

Isn't this a perverse kind of progress? I doubt the Canadian people—particularly in the Sudbury area where unemployment is reported at 40 percent—relish more pollution controls at the expense of this nation's already-flagging industrial performance.

The coal industry and the American people will never support clean air progress through economic stagnation. We aren't "backing away" from clean air goals. But we are also supporting greater economic growth—more jobs, and better paychecks for the working people of our country. And it's this tandem goal that's at the heart of our efforts to streamline the Clean Air Act.

And, we should remember that the United States Clean Air Act is still the world's most effective. Unlike Canada, our federally-mandated clean air laws are enforced vigorously with civil penalties and the cutoff of federal funds.

Just as important, the Clean Air Act continues to benefit both our countries. New Source Performance Standards are in force. So, as new coal plants go into service, replacing older, less efficient ones, the air will get progressively cleaner—even in the face of quickened economic growth.

On the other hand, the proponents of tighter sulfur dioxide controls got a lot of mileage out of Ontario Hydro's decision to build two scrubbers. According to press reports, an Ontario Hydro official said the building of scrubbers would likely have a "multiplier effect." In short, if Ontario Hydro "bit the bullet," perhaps utilities in the United States would jump on the bandwagon.

I'm not sure what the gentleman means. For there are already 87 scrubbers in the United States at a cost of $4 billion, plus an annual cost of $1.7 billion to keep them operating. Thirty-five more scrubbers are under construction. And EPA is reporting that half of all America's coal-burning units will be outfitted with scrubbers in less than 20 years. Canada, I am quick to add, has yet to build a single utility scrubber.

I've also heard talk that Ottawa's much touted acid rain program is a ploy to increase electric power exports to the United States, which last year brought in several million dollars.

Mr. George Rejohn of the Canadian Embassy in Washington recently said, "Such silly inventions and distortions do not merit serious nor thoughtful attention."

I agree. We don't accept these conspiracy theories. But can you blame people for wondering, when Ontario Hydro cancels its first two scrubbers, and admits the decision came after the loss of potential power sales to General Public Utilities?

When you step back and take a long, hard look at all the evidence, it comes down to this: The causes and effects of acid rain are unknown. America has the best clean air record in the world. We've spent billions of dollars on clean air, and billions more are committed. Yet, despite all this—despite the sacrifices—the acid rain theorists, including the Ottawa Government, say it's not enough.

We are asked to embrace the potentially most burdensome regulatory program in American history, and are expected to have guilt feelings if we resist.

Mr. Roberts summed up the Canadian Government's view this way: American calls for more acid rain research are like saying: "We need to know which mosquitoes are carrying malaria before we clean up the swamp."

I would only remind the honorable gentleman of Lord George's famous warning. He said: "It is very dangerous to leap a chasm in two bounds."

Can the coal industry—and the American people—possibly look past the chasm of scientific doubt and make a leap of faith to accept what in reality is a 12-million ton cut in sulfur dioxide over the next 12 years? How can we when the Department of Energy is predicting costs to industry and consumers of as much as $300 billion—over and above the present Clean Air Act—in the next 30 years? Shouldn't we be angry when electric rates in some parts of the United States are expected to rise 100 percent, placing an awesome burden on consumers, who already are strapped by the high cost-of-living?

Why shouldn't we fight this legislation? According to the United Mine Workers of America, the jobs of 89,000 mining industry employees and 225,000 jobs in related industries would be affected. Total income loss would be $6.6 billion per year. These job losses would hit in Northern Appalachia and the Midwest areas where unemployment is at 10 percent or more.

The coal industry will stand fast in opposition to this bill and let me make the reason crystal clear: Even with the billions of dollars spent, the jobs lost, and the crushing effects on our economy, there's not the slightest assurance that the acidity of rain will be affected.

Yet, when the coal industry and the U.S. Government through its State Department point to the lack of acid rain evidence, the enormous costs and job losses, we are accused by your acid rain Minister in Ottawa of engaging in "informational haze." What's more, the Ottawa Government is expressing "outrage" at our attitude, and predicts a worsening of relations between our two countries unless we come to our senses. Frankly, I believe the "outrage" is misplaced, and it's not just the weakness of the case for acid rain controls.

Your Government is openly proud of the millions of dollars spent in lobbying our Congress to enact acid rain controls. The Ottawa Government apparently believes that these tactics are successful. For after the acid rain bill was reported out of the Senate Public Works and Environment Committee, it was followed by speeches in the Canadian Parliament calling the action a "great breakthrough."

But let's not let our wishes become the father of our thoughts. As reasonable men and women, do you actually believe that a majority of Congressmen and Senators from the 31 affected states will support a bill that imposes such massive electric rate increases on their consumers with no assurance of benefit?

Is there likely to be much support for a bill that would have such devastating human dimensions, and such crucial implications for the revitalization of America's industrial and commercial heartland?

Acid rain is based on the theory of gravitation—that what goes up must come down. But don't forget Newton's Law, which says: For every action there's an equal and opposite reaction. And we are reacting.

Calling to mind what Rowland Frazee said about the close and intricate relationship of our two economies, let there be no doubt: If this legislation becomes a part of the Clean Air Act, the higher energy costs, the job losses and severe overall economic effects will also affect this side of the border.

What's more, if this bill is part of the Clean Air Act, the chances are good that there will be no change in the law. This means, very frankly, that the efforts to streamline this Act—while preserving both economic growth and clean air goals—will be lost, also to the detriment of both our nations.

There is a reasonable course, and I urge you to consider it. The American coal industry believes deeply that acid rain research must be accelerated, and we are in good company.

Two weeks ago, a federal task force set up under the Acid Precipitation Act of 1980, called for more research to fill the "major gaps" of information about the causes and effects of acid rain.

Several bills are pending in Congress which would build a strong acid rain research foundation.

One bill of considerable merit, which would step up research, is sponsored by Senator Robert C. Byrd, the Senate Democratic Leader. In the House of Representatives a similar legislative approach is sponsored by Congressman Edward Madigan. His bill was approved by the House Energy and Commerce Committee by an overwhelming 27-5 margin. And, I might add, it is the only acid rain legislation approved by the House.

These bills call for more acid rain research beyond the three-year $64-million commitment of the Reagan Administration, and would augment the $32 million already spent or earmarked by the American Utility Industry.

A key element of the House bill is to restore existing acidified lakes with liming, and other methods known to be effective.

Acid rain may well be a serious problem for our two countries. But we must be certain that the cures that are prescribed actually works, that it doesn't have the side-effects of greater economic adversity and a worsening of relations between our two great nations.

How can we allow the acid rain issue to undermine the trust and cooperation between Canada and the United States, which has flourished for nearly 200 years? I urge the thoughtful members of the Canadian bench and bar through this organization to send a message to your public officials. Good common sense must replace strident rhetoric.

I'm no diplomat. But it doesn't take a statesman to see the need for voices to be lowered, and for thoughtful consideration

to begin. We need to get this issue out of politics and public relations and into the laboratory where it belongs!

Let me close with these thoughts.

Churchill once said, "The farther backward you can look, the farther forward you can see." His admonition applies to the United States of America.

For many years, our domestic policy was fueled with a spirit of action, despite the financial costs. We sent men to the moon and brought them safely back to earth. We opened our hearts and our treasury to help create a better life for millions of our people. And we are still waging a war to protect the health and safety of our citizens, and to preserve a legacy of environmental quality.

We've had a large measure of success, but we've also learned some lessons from experience. For far more could have been accomplished, at far less cost, if we had tempered our burning desire to act with a proper understanding of what we were trying to get done.

Armed with the lessons of history, we are optimistic about the future—about finding solutions to both our human and environmental problems—and with good reason.

America has no lack of scientific genius. We have some of the world's best minds. America doesn't lack political will. Our record in building one of the greatest societies on earth is beyond question. And we suffer from no lack of spirit. The flame of desire to forge a better life for our children and grandchildren still burns brightly.

Yet, the acid rain debate brings into sharper focus an overriding challenge facing America. We must find a way to face the future with a relatively diminishing amount of financial resources. Like it or not, these hard choices must be made in the years to come.

This doesn't imply that the United States is ready to set aside any of its national goals. Far from it. But it means that we must meet all our goals with the resources at our command without sacrificing any one of them.

Clean air is one of America's goals. But it isn't the only one. We must also produce more energy at reasonable cost—energy needed to build economic growth and development which serves all our people. We can do it only by tackling our many goals in an efficient, and a cost-effective way, and with a full understanding that greater use of coal is essential to our success.

That's why our government—and your government—must understand the full dimensions of acid rain, before creating more bureaucracy, more costs, and an uncertain economic future for our people.

But it isn't just economic uncertainty that's at stake for our two nations. For I remind you again of what John Kennedy said to the Canadian Parliament nearly two decades ago: "Geography has made us neighbors. History has made us friends. Economics has made us partners. And necessity has made us allies."

Then the President added this thought: "What nature hath so joined, let no man put asunder."

I hope, and I pray God we don't forget it.

NOTES FROM AN ADDRESS BY DAVID PETERSON
LEADER OF THE OFFICIAL OPPOSITION

Earlier this year, the people of Canada entered a new legal era.

Henceforth, we must take into account the impact upon each and every one of us of the new charter of Rights and Freedoms.

This Charter enshrines the traditional concepts of rights and freedoms: our democratic and legal rights; the fundamental freedoms of conscience, religion and public expression.

In addition, other rights have become increasingly more evident, with the development of modern technology, with the acquisition of greater knowledge of the world around us, with the scientific evidence of the consequences of actions which might in the past have been permissible and acceptable.

These "newer" rights must be equally jealously protected, equally securely enshrined in legislation, equally the responsibility of governments.

Here today, we must concern ourselves with our own entitlement and that of future generations to clean air, clean water, and a healthy environment.

The greatest threat to the environment of Ontario and Eastern North America at this time is Acid Rain. It's damaging effects are widespread—and almost certainly irreversible.

U.S. contributions to Acid Rain in Ontario and Eastern Canada are substantial. Without question, Canadians are absolutely justified in calling upon our American neighbours to clean up their act.

Nevertheless, the war against Acid Rain must be fought on both sides of the Border.

We must practise what we preach.

To date, the Ontario Government has shown an abysmal lack of leadership in the fight against Acid Rain—as in so many other vital areas.

Someone less charitable than I am might go so far as to equate the government's lack of effective action to a policy of actual collusion with Ontario's two greatest polluters—INCO and Ontario Hydro;

The government has allowed INCO to get away with what amounts to environmental murder over the past 12 years.

Until 1970, INCO regularly—every day—emitted into Ontario's atmosphere some 5,700 tons of sulphur dioxide.

The Ministry of the Environment issued a control order in 1970 which required INCO to reduce polluting emissions to 750 tons a day by the end of 1978. However, the company continued to emit 3,600 tons a day throughout the seventies.

We had a provincial election in 1975, and that year INCO and the Ministry discussed a plan to reduce emissions to 1,500 tons a day by the end of 1979.

Unfortunately, the plan never really got off the ground, and a year later the company withdrew its offer on the basis that it was neither economically nor technically feasible, and would result in massive quantities of sulphuric acid which would prove impractical to either store or sell.

No attempt was made by the Ministry of the Environment to study the validity of INCO's argument, or to determine if technologies used elsewhere in the world could be applied to the INCO dilemma.

In 1978, INCO's Superstack in Sudbury—North America's largest single source of sulphur dioxide—was licensed by the Ontario Government to emit a daily 3,600 tons. This meant that over a 12-month period, with the tacit approval of Queen's Park, the Superstack spewed into the air breathed by Ontarians some 1.3 million tons of sulphur dioxide—equivalent to one per cent of the natural and man-made sources in the entire world.

What was the extent of the company's emissions at that time? 3,600 tons.

Coincidence No. 1.

In May 1980, yet another draft control order was imposed upon INCO, limiting total emissions to an average of 2,500 tons per day.

Cause for environmentalists to be a little optimistic, perhaps? Not at all. The truth is that, due to poor market conditions, INCO had reduced its production and was emitting only 2,500 tons per day at that time.

Coincidence No. 2.

The May 1980 order also called upon INCO to install equipment to reduce emissions by 25%, to 1,950 tons per day, by the 31st December, 1982.

However, in the Fall of 1979, INCO announced discovery of a new separation process which permitted a 25% reduction in emissions. In effect, therefore, the 1980 control order required the company to reduce emissions by the exact percentage possible with the new process.

Obviously, INCO has been writing its own ticket with respect to pollution control in Ontario.

No fewer than five reports have discussed the technical and economic viability of INCO reducing sulphur dioxide emissions to between 850 and 1,000 metric tonnes a day.

We are approaching the end of 1982. Soon, we shall learn what the Minister of the Environment and his officials plan to do with respect to controlling INCO's sulphur dioxide emissions.

Dare we hope that a government directive will stipulate emission reduction to between 850 and 1,000 metric tonnes a day?

Or can we anticipate yet further evidence of government betrayal of the people of Ontario, yet further environmental negligence?

The continued pollution of Ontario's air by the INCO Superstack raises the entire controversial issue of human and social rights versus powerful industrial interests. As I mentioned at the outset, Ontarians—today and in the future—are entitled to clean air, clean water, and a healthy environment.

Apart from the environmental damage resulting from Superstack emissions, there are the following unavoidable natural and social

Consequences:

Damage to the health of our people; destruction of our precious lakes and water supplies; reduction in the productivity of our forests and farmland; erosion of valuable and historical stone monuments, of expensive and essential concrete structures; blistering of automotive and building paint; reduced property values—not to mention reduced pride and pleasure in ownership—for cottage and home owners in acidified lake areas; lost revenues for tourist operators; and lost job opportunities in the tourist industry.

And this is only a partial list, not forgetting the fact that the total and cumulative consequences of Acid Rain may well not yet be known to us.

If the Government's culpability with respect to INCO is suspect, there can be absolutely no doubt about it with respect to the other major Acid Rain polluter in this province—

That monolithic out-of-control Crown Corporation has persistently and defiantly opposed pollution controls, and continues to build uncontrolled new coal-fired generating stations.

The Atikokan generating station is being constructed without scrubbers, in spite of the Canadian Government's proposed guidelines for the control of new thermal power plants.

More than two years ago, in May 1980, we were promised early abatement strategies from Hydro's emissions. Almost a year later a regulation was issued with this ostensible intention.

The regulation, developed exclusively by Hydro and the Ministry of the Environment, is clearly inadequate.

Yet once again, as has happened so many times in the past, Hydro has dictated to the government what it would do, rather than the government telling Hydro what it must do.

Since 1980, when the pseudo regulation was developed, Hydro has actually been permitted to increase emissions by some 31 percent.

Mr. Macaulay has the audacity to claim a reduction in emissions levels of 50% from 1982 . . . A totally misleading assessment of the situation, based upon a false premise.

1980, the year the regulation was developed, should rightly be used as the base year for emission levels.

On this basis, Hydro will be reducing emissions through to 1986 by a mere 4.9 percent, to 1990 by 36.6 percent—a far cry from the 50 percent constantly referred to—in duet—by Hydro's Chairman and the Minister of the Environment.

The government's regulation—obviously—should have imposed mandatory operating and equipment requirements.

Regrettably, it completely failed to do so, with the inevitable results.

Early in 1981, Hydro made a so-called major commitment to install scrubbers on two of its coal-fired generating units.

Since the Corporation operates 20 such units at three large coal-fired generating stations, the scrubber program, if implemented, would only be capable of removing acid gas from a mere 11 percent of its coal-fired generating capacity.

Now, we learn that Hydro may delay or shelve entirely its scrubber program. Apart from the direct environmental consequences of such action, Ontario—as represented by Hydro and the Provincial Government—will lose credibility vital to the success of the crucial acid rain negotiations with our U.S. neighbors.

Whatever happened to the Throne Speech pledge of leadership in the fight against Acid Rain?

Who is running this Province anyway—the government or Ontario Hydro—when the Premier promises installation of two scrubbers, and six months later, Hydro plans to shelve the scrubber program?

How can we effectively fight against Acid Rain, when the Premier permits Hydro to destroy his own credibility, and that of the Province?

What hope have we of showing leadership to utilities in the Ohio valley, when 222 U.S. scrubber units are operational, under construction, or in the planning stages, while here in Canada we have not one single scrubber on stream?

If Canadians are seen to be shying away from the Acid Rain fight, then obviously negotiations with the U.S. government haven't a hope in Hades of succeeding.

And if Hydro, with the approval of the government, shelves the scrubber program, it will be guilty of environmental negligence, and will effectively destroy an all-important symbol of Ontario's good faith in the negotiations with the U.S.

Earlier, I accused the government of an abysmal lack of leadership.

Here and now, I reiterate that accusation, and call upon the government—specifically the Premier—to take this opportunity, before it is too late, to refute my statement:

By taking effective action to restore Ontario's good name in the international negotiations on this vital question; by giving Ontario Hydro clear and unequivocal directives; and by showing the people of Ontario that the government is prepared to lead the way in protecting Ontarians against environmental hazards.

The sad truth is that for generations countless companies have used—and abused—the precious environment. No longer can they claim ignorance of the consequences of their actions.

Responsible corporate citizens have shown their willingness to take the necessary measures to avoid pollution. Time and again, it has been amply demonstrated that, in effect, pollution prevention actually pays off for business and industry. Far from the demands of the marketplace and the economy being in competition with the essential needs of the environment, the reverse is frequently true.

Attempts have been made, by those with ulterior motives, to demonstrate that we must make a choice—between a healthy economy, productivity and desperately needed jobs, and a healthy environment.

This is not the case, and I strongly suspect that the people who espouse this view are as well aware of the truth as I am.

As in so many areas today, we face new and tremendous challenges in reconciling the needs of the economy and the care of the environment. We must take up these challenges, using all our talent, intelligence, skill and energy—for our own sakes, for the sake of our children, and of generations yet unborn.

While polluters may look upon the environment as a free and unrestricted disposal unit, society as a whole is being forced to pay a heavy price in environmental debasement and degradation.

An overall emission reduction strategy is desperately and urgently needed if we are to have any hope at all of averting further—possibly irremediable—damage to our environment.

Such a strategy would also clearly demonstrate to the United States that we are absolutely and unalterably determined to fight Acid Rain, and that we intend to do whatever is necessary to protect our province and our people against the ravages of this deadly environmental menace.

Last year, the Federal Environment Minister told the Americans that Canada was prepared to reduce emissions by 50 percent in provinces East of the Saskatchewan/Manitoba border by 1990, contingent upon parallel U.S. action.

The Ontario Liberal Party believes that Canada should make an immediate commitment to such a program, regardless of U.S. action.

To achieve a 50-percent reduction by 1990 for Eastern Canada, Ontario—by far the greatest Acid Rain polluter—must reduce emissions by some 60 percent.

To this end:

(1) INCO must reduce emissions within five years to a maximum of 850 metric tonnes.

(2) Ontario Hydro must install best available technology on ALL its coal-fired generating stations.

(3) Sulphur dioxide emissions must be reduced by 50 percent at all other point sources in Ontario, including Algoma Steel in Wawa, Falconbridge Nickel Mines Limited in Subbury, emission sources in Metropolitan Toronto, Hamilton and Niagara, petroleum refineries such as Imperial Oil in Sarnia, and sulphite pulp plants.

This strategy will obviously have a price-tag, but the costs of not cleaning up will far exceed the costs of executing the necessary measures.

In many cases, the energy savings alone will help to defray capital costs of emission reductions, confirming once again that pollution prevention pays.

We must lose no time in dealing with the vital and important issue of Acid Rain.

We cannot afford delays which run the risk of incurring environmental damage which is as widespread as it is irremediable.

We must protect the future interests of our children and our children's children, who have an inherent and inalienable right to an environment which we have been vigilant and diligent in protecting to the best of our ability.

[From the Energy Daily Aug. 23, 1982]

ONTARIO HYDRO PUTS $240 MILLION SCRUBBER PROGRAM ON HOLD

(By Kennedy Maize)

While Canada lobbies Washington for acid rain controls on coal-fired powerplants in the U.S., Ontario Hydro, a Canadian utility, may delay putting flue gas desulfurization scrubbers on its own coal plants. Utility officials acknowledge that the political timing of the scrubber decision is "awkward" but insist that economics dictate the decision on the $240 million (Canadian) scrubber project.

Ontario Hydro had planned to select two 500 megawatt coal-fired units from a group of plants situated on Lake Erie and near Windsor and to put scrubbers on them by 1986. But late last month a utility news release revealed that the "timing" of the scrubbers is under review. Later Ronald Taborek, head of the utility's acid gas control program, told a Canadian reporter that the company does not plan to have the scrubbers on line until 1989 at the earliest and that 1993 was a more likely date.

The news release said that Ontario Hydro decided to build the scrubbers 18 months ago "when Hydro expected to sell large amounts of electricity to General Public Utilities of New Jersey, and when growth of electrical demand, in both Ontario and the U.S. eastern seaboard, warranted the estimated $240 million outlay." But all that has changed. The GPU deal fell through and now the utility sees no possibility of substantial demand growth for the next decade, according to spokesman Cecil Morris.

Morris says that the utility will be able to meet its current pollution control order without installing scrubbers. Under Canadian regulation, provincial officials give polluters an order capping annual emissions and they may use any means they want—including burning low-sulfur coal or running the plant at lower capacity—to get there.

Ontario Hydro is under orders to reduce the 600,000 tonnes of acid gas it will produce in 1982 to 450,000 tonnes in 1986 and 300,000 tonnes in 1990. The 50 percent reduction is politically important. Canadian lobbyists have told Congress that they will cut SO_x emissions in half if U.S. polluters will do the same.

If there was strong demand for Ontario Hydro's power, Morris said, scrubbers might be the only way to meet the order. But with less demand, the utility figures it can switch from burning high-sulfur Pennsylvania coal to low-sulfur coal from western Canada.

[From Fortune, Sept. 20, 1982]

PUSHING TO PEDDLE CANADIAN POWER

(By Peter A. Holmes)

With loads of surplus generating capacity now coming on stream and even more planned for the future, Hydro-Québec—Canada's largest corporation—is setting out in earnest to fill up its order book south of the border. Canadian officials, including Minister of Energy Marc Lalonde and Quebec Prime Minister René Lévesque, have taken to the stump in the U.S. to promote Canadian electricity.

The sales push comes at a critical time: unless it is successful, work on the James Bay hydroelectric power project—one of Canada's most cherished undertakings—will slow, if not halt, in 1985. The effort also coincides with a dispute between Canada and the U.S. over the environmental phenomenon of acid rain that could—if settled on Canada's terms—make coalfired generating capacity in the U.S. considerably more expensive.

The James Bay project, named after the southern end of Hudson Bay, is enormously ambitious. Even the first phase, now abuilding, ranks as a formidable engineering accomplishment: five rivers have been diverted and more than a hundred miles of earthen dikes, five dams, and three reservoirs are channeling the La Grande River through a powerhouse whose annual output is greater than that of the Grand Coulee Dam, the largest powerhouse in the U.S. If the next three phases are completed as planned, conceivably by the end of the next decade, James Bay will overshadow the U.S. Pacific Northwest as a producer of hydropower, with some 25,000 megawatts of generating capacity, capable of spinning out about 145 billion kilowatt-hours of electricity annually. That would be almost five times New York City's total consumption.

When James Bay was begun back in 1972, it was meant to serve mainly domestic needs. "We thought of exports as icing on the cake," says Richard Pouliot, Quebec's associate deputy minister of energy. But conservation, higher prices, and a deteriorating economy have cut Quebec's growth in demand by half. The pace of construction has not slowed yet, largely because the project is important to Quebec's economy: about 75% of the $15 billion allotted to the first phase is being spent within the province.

The prospect of U.S. sales has been invoked to justify pressing on despite a lot of financial bad news. Hydro-Québec's net income fell 25% to $559 million (in Canadian dollars) last year, on revenues of $2.8 billion, while its interest expenses grew 22%, to $1.6 billion, because of soaring rates and the weakening Canadian dollar. Hydro-Québec is regarded as well managed, but it will have a tough time getting the capital to build the later phases on schedule unless it can sell large quantities of power under contracts running 15 to 20 years. Prime Minister Lévesque acknowledges that the utility must get firm commitments for at least 2,000 megawatts "no later than 1983 or 1984."

SIGHTING DOWN THE SEABOARD

Hydro-Québec has recently landed two significant orders—a contract with the Power Authority of the State of New York for 111 billion kilowatt-hours over 13 years beginning in 1984, and a preliminary agreement with the New England Power Pool for 33 billion kilowatt-hours over 11 years starting in 1986. Both of these are for so-called non-firm power—electricity typically supplied to U.S. utilities during peak demand periods on mid-summer days but retained by Quebec during its peak periods on winter afternoons.

Even with these deals, says Pouliot, "we still will be left with a substantial amount of surplus energy." When the subsequent stages of James Bay are complete, he says, Hydro-Québec could supply as much as 5,000 megawatts to the U.S.—enough, say, to meet 90% of New York State's new demands for the rest of the century. The utility's big hopes ride on the sales of baseload power—capacity that is available yearround, which U.S. utilities could use either to meet future demand or to replace existing fossil-fuel-fired generating capacity. The Hydro-Québecers are looking for customers not only in the Northeast but farther south in regions with bigger growth prospects and smaller reserves—in New Jersey, Pennsylvania, Maryland, and farther down the Atlantic seaboard. In an expansive moment Pouliot envisions a day when even Florida might light its lamps and condition its air with hydropower from the Canadian north country.

Canada's evident eagerness to sell electricity to the U.S. has aroused some suspicions about its approach to the acid rain problem, which the Canadian government has lately ballyhooed into a major diplomatic issue. The Canadians say that high and maybe rising levels of acidity in rainfall and in lakes and streams in Canada are caused by sulfur emissions from upwind power plants, particularly those burning high-sulfur coal in the industrial Midwest. In its effort to bring sulfur emissions down at existing power plants in the eastern half of the U.S., Ottawa is not only negotiating with the Administration but—along with its U.S. environmentalist allies—vigorously lobbying Congress.

The sought-for reductions may or may not lower the acidity of rain in Canada by enough to matter—scientific understanding of the causes and prevention of acid rain is still primitive despite lots of costly research—but they can be guaranteed to greatly increase the cost of coal-generated electricity in the U.S. American Electric Power Co., for example, estimates that electricity costs from scrubber-equipped boilers would rise by 50% or more. An increase of that magnitude would create a big incentive to abandon as much coal-fired capacity as possible. It would also force New York utilities to look again at their 15-year plan to convert some 3,700 megawatts of oil-fired capacity to coal.

Hydro-Québec would not be the only beneficiary: Ontario Hydro, already interconnected to the Michigan and New York power grids, is on the way to having nearly 9,000 megawatts of new nuclear capacity by the end of the Eighties and will have power of its own to sell.

"Canadian electricity may have a lot to do with the hysteria over acid rain," huffs Congressman Clarence J. Brown, an Ohio Republican and gubernatorial candidate in this November's election. "Keeping utilities from burning high-sulfur Ohio coal would eliminate one source of competition for the Canadians."

Of course, anything that makes coal-fired plants more expensive in the U.S. would work to the advantage of the Canadian power exporters. Asked if the acid rain issue is improving the prospects of power sales from James Bay, Hydro-Québec Chairman Joseph Bourbeau simply smiles, shrugs, and nods. Still, almost all public officials north and south of the border scoff at the notion that an effort to gain a commercial advantage is behind the Canadians' environment argument. Acid rain, they say, stands on its own as an issue. More to the point, so do the economics of Quebec hydropower, which are powerfully attractive. Quebec's electricity exports to the U.S. have been priced one-fifth lower than the oil-generated power that accounts for 60% of the capacity in New York and New England. Substituting 5,000 megawatts of water power for oil power at 1980 prices would save utilities some $270 million a year.

Savings could be even greater if prices were more closely related to costs. Electricity from the first phase of James Bay costs Hydro-Québec 2.3 cents per kilowatt-hour, while electricity from oil-fired plants in the U.S. cost an estimated 6.6 cents last year. Electricity from U.S. coal-fired plants averaged 2.9 cents and from nuclear plants 2.6 cents. Imports would also relieve U.S. utilities of the regulatory risks and uncertainties of building new plants.

RENEGING ON A CONTRACT

A more substantial problem arising from Canadian politics is the reliability of supplies. Even advocates of James Bay power imports like John S. Dyson, chairman of the Power Authority of the State of New York, worry whether Canada can be depended upon to honor contracts. Newfoundland, for example, is trying to renege on a 40-year sales agreement it signed with Quebec in 1969 that allows Quebec to purchase at pre-OPEC rates virtually all the output of a 5,225-mega-watt hydropower plant at Churchill Falls in Labrador. In conjunction with other doubts about the Canadians' reliability—the federal government in Ottawa is eager to extract new tax revenues from provincially controlled resources and the judiciary is unpredictable—this squabble has created "very grave questions," warns Dyson. "If they are not careful in Canada they may lose the battle because of their internal political arguments."

INCENTIVES NEEDED

There are other obstacles. Sizable Canadian imports would result in the U.S. utility industry's becoming less vertically integrated, as some companies with low generating costs specialized in producing juice while others became primarily transporters and distributors. Under current regulatory policies, shareholders of distribution-oriented companies can't profit from the sale of imported power. Edward F. Burke, chairman of the National Association of Regulatory Utility Commissioners and the Rhode Island Public Utilities Commission, acknowledges that rate-setting procedures for utilities must be rewritten to provide incentives to purchase power generated by others.

But the biggest threat to the completion of James Bay in this century may come from the size of the project. Together with big chunks of new capacity coming on stream in Ontario, James Bay may have generated a buyer's market for Canadian power. "With the surplus they have and the economy we have, the whole supply picture has changed," says John D. Fassett, chairman of the executive committee of the New England Power Pool and head of United Illuminating Co. of New Haven. He argues that the future price of Canadian power should be based on the cost of production, rather than pegged to oil prices. By 1985, market realities may persuade not only the financiers but also Hydro-Québec and Pre-

mier Lévesque that one or more of the next three phases of James Bay should be put off until the 21st century.

CLEAR FEDERAL POLICY GUIDELINES NEEDED FOR FUTURE CANADIAN POWER IMPORTS

(By the Comptroller General)

United States imports of Canadian electricity have been rapidly increasing for the last 10 years and are expected to continue for the next decade. Canadian utilities have excess capacity equivalent to the output of 10 to 20 large nuclear powerplants available for export through 1996.

The Department of Energy exercises control over imports of Canadian electricity by issuing permits for the construction of electrical transmission facilities at international borders. To date such permit applications have been appraised on a case-by-case basis. But anticipated increases in Canadian imports clearly signify the need for clear policy guidelines on the role of Canadian power to guide DOE's permit approval program and as part of its overall electricity planning efforts.

GAO recommends that the Secretary of Energy work with the executive subcabinet working group on Regulation, Competition, and Efficiency in the Electric Utility Industry to establish clear Federal policy guidelines toward Canadian power imports.

DIGEST

United States and Canadian utilities have been exchanging power since 1901. However, since the Middle East oil embargo of 1973-74, oil-dependent U.S. utilities began purchasing large amounts of surplus Canadian power. As a result, net imports of Canadian power to the United States increased sharply—going from about 4 billion kilowatt-hours in 1971 to an estimated 34 billion kilowatt-hours in 1981.

Imports of Canadian power should continue to increase because proposed new interconnections will allow U.S. utilities to increase their purchases, Canadian utilities have 10,000 to 20,000 megawatts of reserve power available for export through 1996, and the provincial governments are interested in marketing any power excess to their own need. In addition, Canadian provinces and utilities have expressed interest in constructing additional generating projects for export.

Canadian power purchases have affected both U.S. utilities and consumers. They have—lowered electricity prices—increased the dependence on Canadian power—reduced domestic oil use, and—affected the environment.

Additional purchases can be expected to have these same effects in the future and could cause some utilities to forego construction or expansion of their domestic generating capacity.

The Department of Energy (DOE) is the Federal focal point for international electricity exchanges. Its responsibilities include issuing Presidential Permits to utilities which want to construct electrical transmission facilities at international borders, and undertaking a unified and coordinated electricity planning role.

To date, permit applications have been approved on a case-by-case basis without clear Federal policy guidelines. In the past this posed no problem because the size of the interconnections were small and power was exchanged, but in the future the impact of this power should increase. Anticipated increases in Canadian imports clearly signify the need for clear policy guidelines on the role for Canadian power to guide DOE's permit approval program and its overall electricity planning efforts. GAO believes that lack of clear policy guidance contributes to the following:

The appropriate role for Canadian power within the United States remains undetermined.

The Department has no direction on how to fulfill its permitting responsibilities and thus has no specific set of criteria to conduct a permit review process.

The utility industry is without a clear understanding of the Federal Government's position on importing power and what is required in the permitting process.

Clear policy guidance would better define DOE's role in these transactions and provide the direction needed to make DOE's permitting process more efficient. However, as long as no policy guidelines exist, the availability of surplus Canadian power may become more uncertain.

Lack of policy guidelines may be part of a larger problem—no formal electricity policy. In addition, the Department has not fulfilled its electricity planning responsibilities which could provide an informational basis for making permitting decisions. An effort now underway by a subcabinet group to develop a national electricity policy could include the policy guidance needed for Canadian electricity.

Recommendations

The Department of Energy can provide assistance and support to the States and utilities by improving its issuance of Presidential Permits and in its electricity planning responsibilities. GAO recommends that the Secretary of Energy work with the executive subcabinet working group on Regulation, Competition, and Efficiency in the Electric Utility Industry to establish clear Federal policy guidelines on the role for future Canadian electricity in the United States. This could be done as part of this group's total effort in looking at a national electricity policy.

If the subcabinet group is unable to develop policy guidelines, the Secretary, after obtaining input from the utility industry and the Department of State, should establish policy guidelines on its own. After development, the Secretary should inform utilities of the Department's requirements.

During the interim period before policy guidelines are developed, the Secretary should expedite the permitting process by working closely with utilities during the technical and economic reviews to assure utilities are aware of the purpose for submitting the data, how these data will be used, and the circumstances in which a permit could be issued with conditions.

Agency comments

Copies of the draft of this report were furnished to the Departments of Energy, State, and Defense. Pertinent sections of the draft were sent to the Power Authority of the State of New York, General Public Utilities Service Corporation, and the North American Electric Reliability Council; and in Canada to Ontario Hydro, Hydro-Quebec, the National Energy Board, the Federal Department of Energy, Mines and Resources, and the Provincial Ministries of Energy in Ontario and Quebec to verify factual information. Written responses are included in appendicies VI to XV. Oral comments were obtained from both Provinces. The Department of Defense had no substantive comments. The agency comments along with GAO's response to them are discussed in chapter 4. In general, these major points were made by the agencies:

The Department of State pointed out that while no formal electricity import policy statement has been made, utility companies, state energy offices, and Canadian energy authorities are fully cognizant of the United States' favorable view toward Canadian imports and their useful role in helping meet our energy needs. The Department also recognizes, however, that in the not-too-distant future, developments may require DOE policy attention—the prospects of Canada's building surplus nuclear reactors for exporting electricity to the United States.

DOE stated it does have a policy on Canadian imports—it places no limits on them. In view of recent and anticipated increases in Canadian imports, GAO believes this approach does not provide clear policy guidance on the future role for canadian electricity in the United States nor does it provide clear direction on the criteria and approach taken by DOE in carrying out its permitting process. GAO found this has led to utility frustration which could magnify as the level of Canadian reserves increases. GAO believes clearly defined Federal policy guidelines are needed, and as also recognized by the Department of State, there is increasing interest in Canada in electricity exports which could require DOE policy attention in the not-too-distant future. DOE acknowledges this issue, by necessity, will be a part of the considerations of the subcabinet group.

The North American Electric Reliability Council acknowledges that since the electricity transfers are like any other international trade transaction, it is reasonable to expect the Federal Government to have some control. The Council further points out that with this Federal role, the utilities should be able to reasonably expect certain treatment from the Government, including promptness, consistency, and fairness.

The Power Authority of the State of New York notes the lack of guidelines for evaluating applications and issuing permits, and supported the implementation of a systematic and efficient permitting process. General Public Utilities Service Corporation felt the report adequately reflected its views.

Canadian Federal and provincial officials and the Canadian utilities provided comments which allowed GAO to clarify certain statements in its report and update the factual data on the amounts of imports and the latest load and capacity forecasts. Canadian officials also reaffirmed their intent to market more of their surplus power to U.S. markets.

REQUIEM FOR THE METRIC BOARD

Mr. PELL. Mr. President, today marks the death knell of the U.S. Metric Board, a tiny, fledgling agency we created just 6 years ago to assist in the process of voluntary conversion to the metric system.

I deeply regret the untimely demise of the Metric Board, which is a victim of the administration's budget cuts. The need for this small, $2 million a year agency is just as great today—in fact even greater—than it was in 1976 when the Board was created.

While there has been little public attention devoted to the issue, conver-

sion to the metric system has been quickening in most all areas of our economy. Without our realizing it, many areas of everyday life have "gone metric" For instance, cameras, cigarettes, and skis now routinely come in metric sizes. Coke, Pepsi, and 7-Up have joined the wine industry in going metric and distilled spirits are almost totally metricated. The major automakers, as well as the producers of computers, office equipment, electrical equipment, and the aerospace industry are well along in converting their product lines to metrics.

Why, then, the need for a U.S. Metric Board? The answer is that our failure to adopt a strong national policy on conversion has cost U.S. industry untold millions in lost export trade. As the only industrialized nation in the world not officially on the metric standard, our nonmetric products are effectively excluded from most international markets.

Take the machine tool industry, in which the United States, was, until recently, the world leader, for example. We traditionally enjoyed a very favorable balance of trade in machine tools—until 1978, when the Common Market countries began requiring that U.S. exports to them be marked solely in metric units. Today, American firms rank a poor sixth in their share of the total world market for machine tools.

By actively encouraging and promoting metric conversion in the machine tool industry, our Government would open the door for new markets in an industry that has been extremely sluggish with new orders and is currently operating at 74 percent of productive capacity. The phasing out of the Metric Board represents an abandonment of leadership and innovation in this area. Ironically, one of the final reports submitted to the Board cited the machine tool industry as a prime example of the need for a stronger Government role in spurring "metric-sensitive" exports.

Government policies leading to the revitalization of industry and to greater promotion of exports are critically needed. Abolishing the Metric Board just as we need a more aggressive export policy makes very little sense. Export products must be produced according to standards which the international market recognizes and demands.

The Metric Board was an effective catalyst in those areas where conversion has been shown to contribute to more competitive U.S. industry. The need for an agency like the Metric Board will, I believe, quickly become apparent and something very much like the Board will emerge, perhaps as part of a major export initiative. The shortsighted abolition of the Metric Board should not dim our commitment to a stronger national policy in this area.

ELIMINATE LAMEDUCK CONGRESSES AND PRESIDENCIES

Mr. PELL. Mr. President, the Congress and the Nation is faced, once again, with the dismal prospect of a lameduck session of the Congress, a session to be held after the congressional elections in November but before newly elected Senators and Representatives begin to serve the terms for which they were elected.

The disadvantages of postelection sessions of the Congress are self-evident. In such sessions votes will be cast by a number of Members of the House and of the Senate despite the fact that the voters on November 2 will have chosen to replace them.

In addition, little action of significance can realistically be expected from lameduck sessions of the Congress. After the November elections, both the proponents and opponents of any legislation will know whether the prospects for passage of the legislation will be better or worse when the newly elected Congress convenes in January. On almost every issue the lines will be drawn between those who see an advantage in immediate lameduck action and those who see advantage in awaiting the arrival of newly elected Members more favorable to their cause. It is a prescription for stalemate and parliamentary maneuvering instead of serious consideration of national policy.

To underscore this point, consider just two examples of matters that some have suggested should be considered during the post-election session of the Congress this year.

In the Senate there are suggestions that action should be taken on basic revision of the social security system after issuance of the anticipated report by the blue ribbon commission.

In the House of Representatives action may be taken on a proposed constitutional amendment dealing with a balanced budget.

Both of these issues are now being debated by opponents in Senate and House election contests across the Nation. Although no election is a referendum on a single issue, we must presume that the candidates elected next month will more closely reflect the views of the American people on these issues than do the current membership of the House and the Senate. In light of this I think it is neither prudent, nor good government for a lameduck Congress to act on issues that do not require immediate or urgent action.

Mr. President, lameduck sessions are not only undesirable, they are really unnecessary. In my view there is no reason, in this age of rapid communication and transportation, why newly elected Members of Congress should wait 2 months after their election before taking office.

In all but a very few cases, the results of House and Senate elections are known decisively within a few hours of the closing of the polls. The long delay between the date of election and the date of assuming office is totally unnecessary. Indeed, the Congress in 1789 initially provided, under the Constitution, for a 4-month delay between the November election and the beginning of the terms of office of the President, Vice President, and Members of the House and Senate. That 4-month period was considered necessary at the time because of the slowness of transportation and communications.

Then, 50 years ago, in 1932, the Congress proposed what became the 20th amendment to the Constitution, reducing the hiatus from election to assumption of office by 2 months.

Today, there is no reason for a hiatus of even 2 months.

Early in this Congress I introduced legislation (S.J. Res. 27) that would eliminate any possibilities of either lameduck Congresses or lameduck Presidents. Under this amendment, the terms of Members of Congress would begin on November 15, following the date of election, and in Presidential election years, the President and Vice President would be inaugurated on November 20 after their election.

This proposal was prompted in large part by the justified public dismay over the constitutionally required delay in 1980 between the election of President Reagan and his inauguration. It was a time when President Carter, having been defeated, had lost much of his authority to deal with foreign nations or the Congress, and Mr. Reagan, although President-elect, had no real authority at all.

That experience brought home clearly to all of us that a lameduck Presidency is bad for the Nation. In my view, a lameduck Congress also is bad for the Nation.

Both of these problems—lameduck Presidencies and lameduck Congresses—are unnecessary. We can provide for a more efficient democracy, and for better representation of the people by permitting newly elected Federal Government officials to take office promptly.

The coming lameduck session of the Congress will be the seventh postelection congressional session in the past 17 Congresses, dating back to a 2-hour lameduck session held by the 80th Congress in 1945. Although the record shows that some significant legislation was enacted during those postelection sessions, the record also shows that the lameduck sessions frequently were marked by acrimony and filibusters.

I do not mean to criticize the leadership of the House or the Senate for agreeing to President Reagan's request for a lameduck session this year. There are important measures, includ-

ing appropriations bills, upon which action is desirable. The fault lies not with the congressional leadership, but with our outdated constitutional provision which extends the life of a Congress for 2 months after the people have selected the membership of a new Congress. It is time to change that provision.

WOMEN AND PEACE

Mr. PELL. Mr. President, on Tuesday, September 21, a very important event took place on the steps of the U.S. Capitol. The U.S. Section of the Women's International League for Peace and Freedom in conjunction with other American women's organizations held a press conference to reaffirm the strong commitment of American women to peace and to express their determination to halt the nuclear arms race. Also participating were two Members of the House, Congresswomen SCHNEIDER and SCHROEDER.

For many years women have played a vital role in the pursuit of peace. During World War I, over 1,000 women participated in an International Women's Congress at The Hague. These women sought to put pressure on the alliance and entente powers, which did not sanction the Congress, to bring the war to an end.

The Women's International League for Peace and Freedom was born out of the women's movement to end World War I. The league, which is organized in 25 countries and more than 100 American cities and towns, has a long tradition of working for peace and world disarmament. For example, league members were strong advocates of a ban on above ground nuclear testing as well as outspoken opponents of the Vietnam war. In March of this year, the league launched STAR—a year-long campaign to register 1 million American women to stop the arms race. Through STAR, American women are not only showing their support but also presenting their demands for a Soviet-American nuclear weapons freeze, a comprehensive nuclear test ban treaty and other measures designed to bring the arms race to an end.

In recent months other American women's organizations have joined the league in the quest for world peace. Many of these organizations developed out of the concern that has been growing in the United States about nuclear war—a concern which I share. Peace Links—Women Against Nuclear War was founded early this year by Mrs. Betty Bumpers, the wife of our distinguished colleague from Arkansas. Thanks to the dedication of Mrs. Bumpers, Peace Links has evolved from a core of 35 women in Arkansas to a national effort. By working through traditional community groups and State chapters, Peace Links educates American women and their families about nuclear issues and helps them to make their voices heard.

Women's Action for Nuclear Disarmament (WAND), founded by Dr. Helen Caldicott, has an active network of women and men working in more than 70 affiliate groups across the United States. Members of WAND, like members of the league, Peace Links, and the National Women's Political Caucus, are especially active in the nuclear freeze campaign.

As the first U.S. Senator to support the freeze proposal, in November 1981, and as a cosponsor of the Kennedy-Hatfield resolution calling for an immediate freeze to be followed by substantial reductions of nuclear weapons, I am delighted that American women strongly support the freeze. In my view the freeze is the first and most crucial step in curbing the nuclear arms race and reducing the risk of nuclear war.

In testimony before the Foreign Relations Committee last November, Gen. David C. Jones, chairman of the Joint Chiefs of Staff, told me that an all-out nuclear war "would be the greatest catastrophe in history of many orders of magnitude." American women, like their counterparts in Europe and the Soviet Union, recognize the dangers of nuclear war and are desperately trying to warn us that we must take action now to avoid the impending disaster.

I believe that it is our duty and our moral responsibility to heed these warnings. Indeed, we can afford to do no less. A nuclear war between the United States and the Soviet Union would bring an end to our society as we know it and, in the words of Jonathan Schell, create "an abyss in which all human purposes would be drowned for all time."

Mr. President, I would like to take this opportunity to commend the women of the United States for their invaluable contributions to the cause of peace.

THE HUD-INDEPENDENT AGENCIES CONFERENCE AGREEMENT

Mr. DOMENICI. Mr. President, it is with pleasure that I comment on the passage of the HUD-independent agencies appropriations bill, which is the first appropriation for 1983 to pass the Congress. Senators GARN and HUDDLESTON have again managed to achieve their objective of providing funding for the important programs covered in this bill before the fiscal year begins.

I am personally grateful to the conferees for providing an appropriation of $103.5 million for construction and renovation of the Albuquerque veterans medical care facility. That project will now proceed on schedule for the benefit of the many veterans in my State.

The following table compares the spending totals in the conference agreement on H.R. 6956 with the Budget Resolution for fiscal year 1983. The table indicates that this bill, together with other actions already competed and possible later requirements, will put the subcommittee $0.1 billion under its section 302 (b) crosswalk allocation for budget authority and $0.3 billion above that allocation in outlays.

This computation includes an expected later requirement of $9.6 billion in budget authority for subsidized housing. The Senate should note that the Senate conferees receded to the House position on housing. The conferees withheld action on several housing appropriation items pending newly revived efforts to pass a 1983 housing authorization bill when the Congress returns after the election recess. It is my hope and expectation that Congress will then be able to utilize the amounts provided in the budget resolution and the 302(b) allocation to support the housing programs covered by this subcommittee. I know that Senator GARN will exercise his usual leadership in an effort to resolve housing authorization and funding questions this year.

Table 2 displays the relationship of the conference agreement to the credit budget. The bill is $3.4 billion under the subcommittee's allocation for new direct loan obligations and $3.0 billion over the allocation for new primary loan guarantees, largely due to the reduction in direct loan obligations. It is equal to the allocation for new secondary loan guarantee commitments.

TABLE 1.—HUD–INDEPENDENT AGENCIES SUBCOMMITTEE—SPENDING TOTALS

[In billions of dollars]

	Fiscal year 1983	
	Budget authority	Outlays
Outlays from prior-year budget authority and other actions completed		23.0
H.R. 6956, conference agreement	46.9	33.1
Possible later requirements:		
Subsidized housing	9.6	
Low-income housing operating subsidies	.1	.1
Veterans compensation, pensions, and readjustment benefits		.8
Total for HUD-Independent Agencies Subcommittee	56.6	56.9
Deduct entitlement increases above First Budget Resolution assumptions	−.2	
Adjusted total	56.4	56.9
First Budget Resolution 302(b) allocation	56.5	56.6
Possible amount over (+)/under(−)	−.1	+.3
H.R. 6956:		
President's request	[1] 46.6	32.8
House-passed	47.0	33.1
Senate-passed	47.5	33.0
Conference agreement	46.9	33.1

[1] Excludes amounts for subsidized housing. The conferees have postponed action on these requests without prejudice.

Note: Numbers may not add due to rounding.

TABLE 2.—HUD–INDEPENDENT AGENCIES SUBCOMMITTEE—CREDIT TOTALS

[In billions of dollars]

	Fiscal year 1983		
	New direct loan obligations	New primary loan guarantee commitments	New secondary loan guarantee commitments
H.R. 6956, conference agreement, with direct loan obligations resulting from prior-year commitments and other actions completed	2.6	59.7	68.3
First Budget Resolution 9(b)(2) allocation	6.0	56.7	68.3
Possible amount over(+)/under(−)	−3.4	+3.0	
H.R. 6956:			
President's request	3.6	53.6	38.4
House-passed	2.6	58.9	68.3
Senate-passed	2.9	59.7	68.3
Conference agreement	2.6	59.7	68.3

THE PACIFIC ISLAND TREATIES

Mr. PERCY. Mr. President, tomorrow, the final day before an extended recess, the leadership has scheduled a vote on four treaties that were voted out of the Foreign Relations Committee unanimously. They are:

A treaty of friendship with the Republic of Kiribati.

A treaty of friendship with Tuvalu.

A treaty with the Cook Islands on friendship and delimitation of the maritime boundary between the United States of America and the Cook Islands.

A treaty with New Zealand on the delimitation of the maritime boundary between the United States of America and Tokelau.

The four treaties were signed in 1979 and 1980, and provide for settling the status of 25 small islands to which the United States had claims, for establishing maritime boundaries for American Samoa, and for facilitating access to fishing grounds for boats serving the canneries in American Samoa. The most important purpose of the treaties is to protect U.S. interests in the light of the extensive political change which has taken place in the South Pacific in recent years. During this time, these islands have emerged from colonial status, dependent on Great Britain, Australia, or New Zealand, to become indpendent or self-governing states. Under these circumstances, the United States must treat the island nations as sovereign, as indeed they are.

The part of the South Pacific area in which these islands lie is important to the United States as a strategic link to Australia and New Zealand and the Indian Ocean/Persian Gulf, and as a source of significant marine resources. Protection of our interests in the region requires that the islands remain stable, peaceful, and free of great-power rivalry and that the new states look to us as a friend.

U.S. claims to these islands were extremely tenuous and were not supported by any other nation. Maintenance of these claims would amount to denying the sovereignty of the new island states and would certainly invite friction between ourselves and not only the states directly involved, but their neighbors in the South Pacific. I believe it is very much in our own national interest to relinquish these claims amicably, to draw agreed maritime boundaries between the several islands concerned, and to further access to the fishing grounds in the area for vessels from American Samoa and from the continental United States.

The Department of State has prepared an extensive background memorandum on the legal issues related to the Pacific Island treaties. I ask unanimous consent that this memorandum be included in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE—BACKGROUND MEMORANDUM—LEGAL ISSUES RELATED TO THE PACIFIC ISLAND TREATIES

There are currently before the Senate Foreign Relations Committee treaties with Kiribati, Tuvalu, the Cook Islands and New Zealand. The four treaties together effect the renunciation of United States claims to twenty-five islands in the South Pacific. This memorandum discusses two legal questions raised by these treaties: first, the constitutional authority to renounce territorial claims by treaty and without action by the House of Representatives, and, second, the merits of the United States claims to the islands.

I. THE CONSTITUTIONALITY OF THE SETTLEMENT OF TERRITORIAL CLAIMS BY TREATY

This type of territorial settlement is within the traditional limits of treaty power. Previous examples of such settlements include the Treaty with Spain of February 22, 1818, which relinquished claims to territory west of the Mississippi in exchange for cession of Florida; the Webster-Asburton Treaty of August 9, 1842, which ceded to Canada lands claimed to be within the jurisdiction of Maine and Massachusetts; the Treaty of June 12, 1846, with Great Britain, settling upon 49° as the northwest boundary between the United States and Canada; and the Chamizal Convention of August 29, 1963, with Mexico, providing for relocation of the Rio Grande Channel and thereby ceding land to Mexico formerly held by the United States. More recently and very closely analogous, the Treaty with Honduras on the Swan Islands, signed November 22, 1971, entered into force September 1, 1972, 23 U.S.T. 2630, resulted in U.S. renunciation of its claims to the Swan Islands; similarly, the Treaty with Colombia concerning the Status of Quita Sueno, Roncador and Serrana, signed September 8, 1972 effect the renunciation of its claims to these islands.

The U.S. Court of Appeals for the District of Columbia Circuit Court has recently upheld the power of the Senate and the President under Atricle IV, Sec. 3, cl. 2 of the Constitution to dispose of property of the United States by a self-executing treaty. *Edwards* v. *Carter* 580 F.2d 1055 (D.C. Cir.); *cert denied* 98 Sup. Ct. 2240 (1978). The court relied on a number of precedents referred to above as evidence of a well established practice. It is clear that the treaty power encompasses agreements renouncing territorial claims.

II. THE MERITS OF THE UNITED STATES CLAIMS

A. A general survey of U.S. claims to all 25 islands

1. An Historical Summary

The 25 islands were discovered by Western seamen in the period 1775–1860. Several of the discoveries were made by genuine explorers who purported to claim dominion over the islands for their sovereigns. In the vast majority of cases, however, the islands were simply visited by whaling fleets which noted their location but made no claims of dominion. U.S. nationals, generally whalers, may properly be identified as having first discovered some seven or eight islands, including Canton, Enderbury, Hull, McKean, Gardner, Phoenix, Funafuti, and Fafaofu. The remainder were principally discovered by the British, although it is impossible to ascertain with any degree of certainty who the original discoverers of several islands were.

In the late 1850s, it was determined that many of these islands might be a source for profitable guano mining. Congress passed an act in 1856 which permitted the President to consider "as appertaining to the United States" islands on which U.S. nationals might mine guano.[1] The Act required that the discoverer notify the Department of State that he had discovered, occupied, and taken possession of any such island and that he satisfactorily establish that the island was not already in the possession or occupation of any other government. Upon the establishment of these facts, the Department of State issued a certificate vesting exclusive mining rights in the discoverer and requiring him to post a bond in way of guarantee that all guano would be returned to the United States.

It is unclear how many islands were actually mined in this manner. It seems certain that the Department did not issue certificates validating many of the claims, and that many of those claims which were certified and for which bonds were filed were never actually mined. The Guano Act was municipal law of the United States which could not of itself serve as a basis on which to assert sovereignty except to the extent that acts taken pursuant to it satisfied the requirements of international law. It is clear that both Congress and the Executive intended that U.S. jurisdiction be extended to these islands only so long as there were mining operations. By this temporary extension of jurisdiction, there was no apparent intention on the part of the United States itself to claim sovereignty in perpetuity over the islands. Frequent statements were made in succeeding decades by the highest U.S. Government officials to the effect that the U.S. did not in fact consider itself to have made sovereign claims to any of the guano islands.

In the 1870s and 1880s, British nationals began mining guano from many of the same islands. They were authorized to do this by government licenses which, like the U.S. guano certificates, only purported to extend British jurisdiction temporarily to the islands for the purposes of the mining. A con-

[1] Act of August 18, 1856. Thirty-Fourth Congress, Sess. I, Ch. 164

siderable number of British nationals mined guano under such licenses.

Determining exactly who mined guano from which islands, for how long, and under auspices, is not, however, possible with any degree of certitude with respect to many of the islands. There are, for example, a number of instances of U.S. miners operating under British license, or of mixed groups of miners. Further, even in the scanty records which indicate that U.S. nationals were indeed mining on a particular island, it is doubtful in many instances that they were the same persons who filed the proper guano bond in the United States. By the late 1880s, guano mining had virtually ceased in the islands. Between 1888 and 1892, Britain began formally asserting sovereignty over all of these islands. This consisted initially of declaring the islands to be protectorates, of authorizing various sorts of commercial activities, and of providing for the administration of elementary governmental functions on those islands which were inhabited. With respect to the most remote and least inhabited islands, British actions often took the form of nothing more than a repeated assertion of dominion and occasional attempts at colonization. The Northern Cook Islands and the Tokelau Islands were placed under the administration of New Zealand in 1901.

The United States did not protest any of the British or New Zealand actions or assertions from the late 1880s until 1939.

Stimulated by the South Pacific civil air activities of the 1930s the United States first adduced its formal claims to the 25 islands in 1939. With the exceptions of Canton, Enderbury, and Christmas Islands, which are discussed below, there have been no significant events since that date which support U.S. claims. The U.S. has been careful to reserve its claims whenever it has seemed necessary. However, with the exception of Canton and Enderbury, open, continuous, effective administration of the islands by great Britain and New Zealand continued after 1939.

2. Legal Analysis of the Claims

The claims of the United States, Great Britain, and New Zealand all rest on some combination of discovery and occupation of the islands. Discovery does not, under traditional international law, give rise to an absolute claim of sovereignty. Rather, it gives rise only to an inchoate claim which temporarily bans the establishment of dominion by another state until the discovering state has had a reasonable opportunity to occupy and possess the territory. Nor does discovery by a national of itself suffice to create even an inchoate claim; the state itself, rather than its nationals, must manifest some intention to establish its dominion.[2]

From this perspective, it may be seen that the discovery by U.S. nationals of some of the islands in question, in the absence of an intent to establish dominion, established little or no basis for a claim by the United States to the Islands. With the possible exception of Christmas Island (see below), there is no evidence that the U.S. itself adduced any of the discoveries of its nationals as the basis for a sovereign claim to any of the islands until 1939. It is, therefore, doubtful the U.S. had itself established even an inchoate claim before 1939, and it is questionable whether at that late date the U.S. could still rely on the minimal acts of discovery of its nationals of a century or more earlier.

The principal basis, therefore, on which the U.S. claims to these islands rests is an effective occupation during the period of guano mining in the 1860s and 1870s. As has been noted, however, the records from this era are extremely sketchy and, even more important, it was demonstrably not the intention of the United States at that time to assert sovereign dominion over the islands, but rather only to establish to temporary jurisdiction for the purpose of exploiting the guano deposits. Subsequent statement by the courts construing the Act support the conclusion that the guano islands were never considered to be U.S. sovereign territory.[3]

The British claims to discovery and claims arising from guano mining activities may be considered equally weak, and for the same reasons. However, the British attempts from 1888 on to establish sovereignty over the various islands (and the subsequent assumption of this role with respect to the Northern Cook Islands and the Tokelau Group by New Zealand) are of a different nature. These were clearly an attempt to establish dominion over all of the islands and did in fact result in an effective, unchallenged occupation for approximately half a century. Although Great Britain did not physically occupy the least habitable of these islands, it repeatedly asserted its intention to exercise dominion over them. The U.S. did not at any time challenge the British assertions.

Even if the U.S. had had valid claims to sovereignty over some or all of the islands as of the early 1880s, it thus made no attempt to perfect those claims for more than half a century thereafter. It is clear under traditional international law that a state may abandon its claim or forfeit its sovereign rights to a territory by allowing another state without protest openly and notoriously to occupy that territory. How long such adverse possession must last is not settled, but the better legal view in this instance would almost certain regard the U.S. as having forfeited whatever rights it previously had.

In sum, then, the United States manifested no intention to claim these islands during the 19th century and would have had a very weak basis on which to do so. By the time it first asserted a claim of sovereignty in 1939, the United States had abandoned or forfeited whatever rights it may have had by over one-half century of silence and inaction. With the three exceptions previously noted, the acts and assertions of the United States since that date have been wholly ineffective to overcome the claims of Great Britain and New Zealand.

3. U.S. Claims Vis-a-vis Newly Independent States

Eighteen of the islands which the U.S. claims now form part of two newly independent states: Kiribati (Gilbert Islands) and Tuvalu (Ellice Islands). Both were granted independence by the United Kingdom and thus succeeded to that nation's claims. In addition, these states may claim in their own right under the principle of national self-determination. Whatever the validity of U.S. claim to these islands vis-a-vis the British, it is also relevant, therefore, to consider how viable such claims would be vis-a-vis the newly independent government.

The right to self-determination (if not its exact scope) is universally recognized in international law, and many States regard it as a preemptory norm of international law. A series of United Nations resolutions have specifically extended this principle to the Gilbert Islands. General Assembly Resolution 3426 (XXX) of December 8, 1975, approved the granting of independence to the State of the Gilbert Islands. General Assembly Resolution 32/407 of November 28, 1977, reaffirmed the unalienable right of the people of Tuvalu to self-determination. The United States participated in the consensus on these and similar resolutions.

In this context, it seems clear that the United States is precluded from effectively asserting a legal claim to sovereignty over any of the islands in the new States which are inhabited. The argument can be made, however, that those islands which are uninhabited, or which have very small indigenous populations which have migrated there only recently, do not come within the ambit of the exercise of self-determination and thus sovereignty over the islands should properly be determined by reference to the validity of historical claims. However, the unihabited islands, principally those in the Phoenix Group, are part of a common grouping of islands, a natural link in the chain of the inhabited islands. The Phoenixes are included within the territories of the new State already publicly announced by its inhabitants and by the administering colonial power. A statement that the new state would include the Phoenixes and specifically Canton was included in a report to the United Nations which was approved by the above-mentioned General Assembly Resolution 3426 (XXX) of December 8, 1975. To challenge the sovereignty of Kiribati would accordingly be extremely difficult.

B. A detailed consideration of U.S. claims to particular islands

The legal basis for United States claims to most of the islands is insubstantial. There are, however, circumstances involving five of the islands which merit special mention. In all cases the conclusion remains the same: that the United States claim to sovereignty is not supported by international law.

1. Canton and Enderbury Islands

Canton Island was probably first discovered by American whalers sometime before 1820. It was first surveyed and mapped by Commander Richard W. Meade of the U.S.S. *Narragansett* in 1872. A U.S. guano bond was subsequently filed, but it would appear that no U.S. nationals ever actually mined guano on the island. Guano diggers did operate there in 1885–86. Britain subsequently issued mining leases on Canton Island in 1899 and again in 1916, but it appears that no mining occurred under either lease. In 1936, Britain formally asserted sovereignty over the island.

Enderbury Island was discovered by an American captain in command of a British whaling ship, and was mapped by a U.S. Exploration Expedition in 1840. A U.S. guano bond was filed and extensive mining took place from 1860 to 1877. Several years after the Americans left, British miners occupied the island and also mined guano for a time. Subsequent British leases of the island, like those for Canton, appear to have been left unused. In 1937, Enderbury and the other Phoenix Islands were placed under the administration of the Gilbert and Ellice Islands Colony.

[2] Under current international law, discovery of and the exercise of dominion over inhabited islands, even with the requisite intent, are not effective to establish sovereignty in view of the right of self determination possessed by the inhabitants.

[3] *Jones* v. *US.* 137 U.S. 202 (1890); and *Grafflin* v. *Navassa Phosphate Co.* 35 F. 474, (C.C. Md. 1888).

For the half-century following the cessation of U.S. interest in the guano deposits of the area, the U.S. took no action with regard to Canton and Enderbury, and did not protest British leasing activities. During the 1930's, civil air interest in the area began to develop. In 1938, President Roosevelt purported to place both Canton and Enderbury Islands under the control of the Secretary of the Interior, and an American party of seven actually landed on Canton and set up a camp alongside the British. For the next year or so, a diplomatic dispute ensued over sovereignty to the islands, resulting in an exchange of notes in 1939 by which a joint administration was established for 50 years. The 1939 agreement reserves the claims of each party to absolute sovereignty.

Until 1971, both States shared administration of the islands, although the U.S. presence predominated and the U.S. bore the cost of most joint services. Between 1971 and Gilbertese independence in 1979, the U.S. exercised sole administration over the islands, paying the British in recognition of their continued interest.

Analysis: Neither party had a compelling claim to these two islands as of 1936. U.S. activities as of that date were probably marginally more significant, but the failure of the U.S. to assert any claim for over 50 years, and, indeed, express U.S. disavowals of any sovereign interest in the islands significantly weaken the U.S. claim based on these activities. The best legal view, therefore, would probably hold that neither party had sufficient bases on which to assert a claim as of 1936. In that event, the British acts asserting dominion over Canton in 1936 and Enderbury in 1937 would take precedence over the slightly later U.S. acts.

2. Christmas Island

Christmas Island was originally discovered by Captain Cook in 1777. In succeeding decades, the island was visited from time to time by many whaling vessels, including a visit in 1825 by an American captain, one John Stetson. After the passage of the Guano Act in 1856, Captain Stetson recalled having seen guano on the island and deeded it to a firm by the name of A.G. Benson and Associates. In 1858 the firm sent to Christmas a ship commanded by a Captain Pendleton, who purported to take possession of the island on behalf of A.G. Benson and on behalf of the United States.

Records of what transpired thereafter are incomplete and contradictory. It appears that the State Department refused to issue a guano certificate to A.G. Benson because of insufficient evidence of the quantity and quality of guano to be found. Another U.S. ship then visited the island and a certificate may have been subsequently issued, although in the name of the "U.S. Guano Co." One record says that this company mined the island for several years, another says that there is no record whatsoever of any occupation by that company. In 1872, it seems that three Americans were in fact working the island but on behalf of an entirely different company which had never filed a bond nor been granted a certificate. By 1879 the island was, in any event, abandoned.

In the early 1880s, there were several visits to the island by British ships attempting to establish commercial rights for private firms. In 1888, a British Captain Wiseman landed on Christmas Island and took possession of it for Great Britain. When the British inquired if the U.S. had abanoned its claim, the Secretary of State replied: "They (the company) are still considered to be entitled to the protection guaranteed by the laws of the United States, in their possessory right, so far as such occupation may be necessary to secure to the company or its assigns there" (sic). It is difficult to ascertain from these cryptic statements the precise juridical position of the U.S. on sovereignty over the island. At least one study concluded that U.S. actions at this point neither constituted a new assertion of a sovereign claim nor reserved whatever U.S. rights may have already existed.

Over the next several decades, Great Britain leased Christmas Island to various companies which met only indifferent success in establishing coconut plantations. In 1919, the island was made a part of the Gilbert and Ellice Islands Colony by an Order in Council, and Christmas Island was governed thereafter by a commissioner residing on nearby Fanning Island. A fairly prosperous copra business was established by the mid-1920s.

There is no record of any U.S. attempt whatsoever to challenge the British occupation of Christmas Island between 1888 and 1939, when the general U.S. claim to all 25 Pacific Islands was made.

During World War II the U.S., with British concurrence, occupied the island and constructed a number of facilities at a cost of several million dollars. The U.S. abandoned its facilities in 1948. Although the U.S. has formally reserved its claim to sovereignty over Christmas Island on a number of occasions since, it has generally acquiesced in the face of British administration.

Analysis: Had the U.S. wished to claim Christmas Island in the nineteenth century, it would have had a strong basis of discovery and occupation on which to do so. It is doubtful, however, that the U.S. ever made such a sovereign claim and questionable whether Christmas Island was even formally put under temporary U.S. jurisdiction for purposes of guano mining. Express disavowals by USG officials of sovereign rights to any of the guano islands confirm the absence of a nineteenth century claim.

In any event, the U.S. had knowledge of British occupation from 1888 to 1939 and made no objection. Whatever the earlier U.S. rights, this long period of adverse possession almost certainly resulted in the establishment of an unchallengeable British claim. It is to be doubted that U.S. occupation during the war of an ally's territory, with that ally's express consent, and with a subsequent abandonment, in any way altered the legal status quo.

Finally, it may be noted that Christmas Island is intended to become the principal center of population of the new State of Kiribati. Resettlement from overcrowded other islands is already underway. Any residual claim the U.S. may have had must be regarded as effectively precluded by the exercise of self-determination by the island's inhabitants.

3. Hull Island

Hull was discovered by the U.S. Exploring Expedition of 1840. A guano bond was subsequently filed for Hull in 1859 or 1860, but there is no record of any guano actually having been mined there. Great Britain declared Hull to be a protectorate in 1892 and made it a part of the Gilbert and Ellice Islands Colony in 1937; the U.S. did not protest these actions. In the interim, a number of commercial enterprises were instituted there under British auspices, but they met little success and were abandoned. Hull is not occupied, but was used by the U.S. from 1971 until 1979 in connection with U.S. activities on Canton and Enderbury Islands.

Analysis: The U.S. claim to Hull Island is without substance.

4. McKean Island

McKean Island, like Hull, was discovered by a U.S. Expedition of 1840 and a guano bond was also filed for it in 1859. Fairly extensive mining operations took place from 1859-71. There is no record of any subsequent British occupation, and Great Britain incorporated the island into the Gilbert and Ellice Islands Colony in 1937.

Analysis: Great Britain's claim to McKean is among its weakest. In the absence of effective occupation, Britain would have to claim that only the repeated assertion of dominion is necessary to establish sovereignty over an uninhabitable island.

This is a tenable legal position, but not an overwhelming one.

The U.S. claim is, however, probably even weaker. This is another instance of an abandoned guano island with no U.S. attempt for nearly 70 years to reserve a claim and, with numerous disavowals over that period of any intention to establish sovereignty to any of the guano islands.

As between these two weak claims, the formal incorporation by Great Britain in 1937, two years prior to the assertion of sovereignty by the United States and exercise of the right of self-determination by Kiribati tip the balance against the U.S. claim.

Mr. PERCY. I urge my colleagues advise and consent to the ratification of these treaties. They are important to our valued ally New Zealand, whose distinguished Ambassador called me to emphasize the desirability of prompt ratification.

MARIHUANA CULTIVATION

Mr. HAYAKAWA. Mr. President, the cultivation of marihuana in the United States is big business—big and illegal. I wish to place in the RECORD articles which have appeared over the past 2½ years in major magazines.

These articles demonstrate that not only is the growing of marihuana very profitable, it is also relatively easy to do without fear of apprehension. Some law enforcement officials feel they are able to locate and erradicate less than 10 percent of the domestic crop. The apprehension of growers is very costly and time consuming for local law enforcement agencies.

The cultivation of marihuana on public lands is to be the topic of a hearing I chaired this morning in the Senate Agriculture Committee. Congress must begin to face this pervasive illegal activity. If we are willing to commit the needed resources, control of the situation is possible.

I ask unanimous consent that the articles referred to be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From Time, Aug. 9. 1982]

GRASS WAS NEVER GREENER

(By Anastasia Toufexis)

San Fernando Ed. 35, paced in the balmy California night air and totted up the rewards of being a successful farmer. They included two Porsches, a Datsun, three four-wheel-drive pickup trucks, a redwood home perched on a hilltop in Northern California, a three-bedroom house with an outdoor Jacuzzi near the beach in Los Angeles and a custom-built vacation hideaway in Hawaii. Then he opened up a plastic bag and pinched out a sample of the crop that has made his fortune of nearly $1 million: marijuana.

San Fernando Ed, it seems, is no isolated case. Today illegally grown pot is the nation's fourth largest cash crop. Law-enforcement officials insist that it ranks just behind corn, soybeans and wheat in market value. Last year's marijuana harvest had an estimated street value of $8.5 billion; in each of more than 30 states, law-defying entrepreneurs produced crops worth at least $100 million at retail. California's harvest, worth an almost unbelievable but reasonably documented $1.5 billion at retail, led the list. Hawaii was second; its $750 million crop rivaled the sugar-cane and pineapple harvest in value. In Oklahoma, the $350 million harvest ranked just behind wheat. In Kentucky and Tennessee, each with a $200 million yield, dope growing has replaced moonshine as the favorite illicit enterprise. Harvesting of this year's crop begins in August and September, and experts predict a bumper yield. Says Bill Keester of the Oklahoma state police: "We've had a lot of rain, and we're blessed with good crops of everything. Unfortunately that means a lot of marijuana as well as wheat."

Pot patches have been spotted everywhere by overworked law-enforcement officials: between rows of corn on Iowa farms, in narrow strips along streambeds in the Ozarks, in cleared plots on timberland owned by giant companies, even on public lands. Says Ernie Anderson, the Forest Service's director of law enforcement: "We've had reports of marijuana cultivation on practically every one of the 154 national forests and grasslands."

The profit of growing pot has lured not only the leftover hippies of the 1960s but even well-educated professionals, including lawyers and stockbrokers, as well as many laid-off workers or financially squeezed farmers. Few, though, are trying-to-make-ends-meet amateurs in the underground trade. Says a Kansas police official: "Most growers around here have a lot of pride, know-how and a college degree in agriculture." Not many demonstrate excessive guilt about their lawbreaking. Says an agent for the Drug Enforcement Administration: "People don't perceive growing marijuana as being really wrong, even though it's illegal."

The business bloomed in the late 1970s after the Nixon Administration pressured Mexico to spray its grass crop with paraquat, a potent weed killer. U.S. smokers, frightened of potential lung damage from tainted Mexican grass, turned to growing their own. That reliance on the domestic weed was further heightened when the DEA cracked down on the smuggling of Colombian marijuana into the U.S. Today, though many growers cultivate small quantities of pot strictly for their own or friends' use, 100,000 or so, according to NORMI, the propot lobby group, are commercial growers. They supply about 20 percent of the grass consumed annually by the nation's 25.5 million smokers.

The preferred crop today is sinsemilla (a seedless marijuana produced through intensive cultivation of only the female plant) that has a very high concentation of tetrahydorcannabinol, or THC, marijuana's psychoactive ingredient. Sinsemilla produces a heady euphoria and sells for around $2,000 per lb. this is roughly the yield from a single plant. The sinsemilla produced by U.S. growers is so prized that seeds have been smuggled into Mexico and Colombia to enrich crops there.

But for U.S. authorities this improved "American" has produced only headaches. Local police are often loath to arrest growers, especially when communities are dependent on pot income. Some even tip off planters to impending law-enforcement raids. In many states, the penalties meted out for growing grass often amount to little more than a wrist slap anyway. Even with stiffer sentencing, enforcement would remain difficult. Growers have become adept at hiding pot patches from airborne police One farmer in Kentucky is growing plants on flatbeds that he can wheel into the barn at the first buzz of a light plane. Other growers protect their crops with armed guards, attack dogs, pit traps studded with sharpened sticks and trip with attached to crossbows. Farmers say the measures are taken to foil rustlers more than the police. Still, they present a menace to both. A deputy sheriff in Oklahoma was shot to death last fall by a guard who had mistaken him for a thief.

Officials admit that they are managing to seize only 5 to 10 percent of the domestic crop at best. The DEA contends that enforcement could become more efficient if the newly discovered marijuana fields were to be sprayed with paraquat. The state of Florida, in apparent agreement, has announced that it will spray some fields with the herb killer. The Florida plan has prompted critical editorials in local newspapers as well as a lawsuit from NORML. In addition, the Chevron Chemical Co., a distributor of paraquat, has fired off a warning letter to the U.S. Department of Justice and the DEA: "The product label bears the word poison and the skull-and-crossbones insignia, but terrifying people in order to modify behavior is not a registered use." Still, Florida officials remain committed to paraquat, in part out of support for the Reagan Administration's policy. Washington has urged Colombia to spray the herbicide on its marijuana crop, but the country refuses to do so until the U.S. does the same to its own. Even if the U.S. begins using paraquat, many Government experts fear that domestic marijuana production has gone too far to be undercut at this late date. Says one discouraged DEA official: "Sometimes I feel like we are trying to enforce Prohibition."

[From U.S. News and World Report, Oct. 12, 1981]

MARIJUANA: A U.S. FARM CROP THAT'S BOOMING

(By John Lang)

All across America, furtive farmers are racing early frost and police raids to bring in a record harvest of what is rapidly turning into a major cash crop—marijuana.

Amounts of the illegal weed already seized and destroyed in raids over recent weeks have convinced law-enforcement officials that pot farming is a multibillion-dollar national industry.

Authorities in California say marijuana is being grown commercially in 43 of the state's 58 counties. Unofficially, they estimate its worth at 1 billion dollars—a figure rivaling the grape crop and twice as valuable as the raisin harvest.

Lt. Louis Stiles of Kentucky's state police says marijuana may be a 200-million-dollar crop there. He adds: "When I started, I found it difficult to believe it could be Kentucky's biggest cash crop, but I don't find that too hard to believe any more."

OUTPUT CLIMBS

Oklahoma officials predict growers there will produce 200 million dollars' worth of pot this year, ranking it second in value only to the 751-million-dollar wheat crop.

Between July 1 and mid-September, Virginia authorities made a record 71 seizures of marijuana, confiscating 21,000 pounds with an estimated street value of 9.7 million dollars. "There's nothing approaching this magnitude in my almost 20 years with the department," says Special Agent Dennis Robertson of the Virginia narcotics division.

The National Organization for the Reform of Marijuana Laws (NORML), the pro-pot lobby, claims that last year's domestic crop was worth 5 billion dollars and predicts that this year's output likely will be almost double.

Officials of the U.S. Drug Enforcement Administration argue that claims of a harvest worth billions are inflated—a self-serving estimate by growers who want to give the impression that everyone is growing marijuana and so it should be legalized. However, they admit they cannot disprove the figures and acknowledge attempts to increase their own budget from $60,000 to 1 million dollars to fight illicit farming.

Whoever is right, there is no question that high demand is boosting local marijuana farming as an underground business. According to the National Institute on Drug Abuse, some 22 million Americans smoke marijuana at least once each month. NORML contends that 1 million people grow small amounts for personal use and up to 100,000 do so for profit.

The boom in U.S. pot production dates from 1978, when it was reported that Mexican marijuana was being dusted with the herbicide paraquat, which could cause permanent lung damage.

NORML's political director, George Farnham, asserts: "The government thought that would be a deterrent, but instead it created a demand among American marijuana consumers for an uncontaminated product. So people turned to the U.S. as a source."

Law-enforcement officers believe another reason for the surge in home-grown marijuana is that there are less cost and risk in raising the weed here than in smuggling it in from the Caribbean and South America.

"The logistics are a lot easier," explains E. Wayne Dickey, an agent with the Florida Department of Law Enforcement. "It's easier than going to Colombia, making a deal and hoping you'll get out of there alive."

SMUGGLING DROP OFF

Thomas Dial of Mississippi's Bureau of Narcotics echoes that theory: "Within the next three to five years—if that long—domestic production of marijuana will rival output from Colombia, and that will eventually curtail the smuggler problem."

Some authorities worry that legitimate farmers will try to grow marijuana as they get bogged down in dwindling income and high interest rates. As Mississippi's Dial

puts it: "Say the crops fail and the loans are past due and a person stands to lose everything. This may seem like a good way out. A drowning man will clutch at a straw."

Experts report that American marijuana farmers now are growing a strain of pot, cannabis indica, that is far stronger than Colombian or Mexican varieties. Some are specializing in trying to grow sinsemilla, seedless and unfertilized female buds that contain nearly 10 times as much THC—the intoxicating agent—as ordinary plants.

Officials contend that pot growers often flourish with the connivance of respected local businessmen, who make money by selling the growers goods and services. Agents in California point to an $86,000 bank loan made on 40 acres of marijuana, due in full on November 15—after the harvest.

"We have an underground economy geared to marijuana production," reports Rick Pariser, head of a four-county effort to stop drug traffic around Carbondale, home of Southern Illinois University. "You see a lot of people under 30 driving expensive, flashy cars and young people with no apparent source of income spending 50 to 75 bucks a night in the college bars. We call them the Southern Illinois Dope Growers Association."

"Marijuana is the difference between a profit and a loss for many local business people," says Ted Eriksen, agriculture commissioner of Mendocino County, Calif. "Take a 3-to-4-acre field of 4,000 plants," notes Harold W. Brown, chief DEA agent in Louisville. "You're talking about 2,000 pounds of marijuana, with sales ranging from $300 to $1,600 per pound. Even at the low end, that's big money."

The lure of easy money, police busts and competition have made marijuana farming a sometimes deadly business.

Officers descending by helicopter on hidden fields often must face explosive booby traps, tripwires rigged to shotgun shells, sharpened punji sticks like those used by guerrillas to cripple soldiers in Vietnam—even live rattlesnakes tied to marijuana stalks.

SERIOUS GAME

The struggle over pot has been particularly vicious in eastern Oklahoma, a region whose history includes the likes of Belle Starr, Pretty Boy Floyd, Ma Barker and Bonnie and Clyde. Oklahoma's chief narcotics agent, Fred Means, says: "These are not good old boys distilling moonshine. This is a serious game, with serious consequences and serious money."

Police report that marijuana growers took three young Oklahomans to a mountainside last spring and shot them to death one at a time because the youths had stolen 3 pounds of weed. Two other recent homicides in the area are suspected of beign drug related.

Narcotics agents note that most violence is aimed at rivals in the drug trade rather than at the law. Yet increasingly lawmen are being killed or injured in searches for marijuana farms. An officer in Riverside, Calif., was wounded last year while on aerial surveillance. A pilot for the Oklahoma Narcotics Bureau was killed in a crash in August during a search.

While fulfilling a campaign pledge to curb the spread of drugs in Braxton County, W.Va., newly elected Sheriff Vincent Zummo was killed on September 11 when his helicopter crashed during a search for marijuana fields.

On August 7, Kentucky detective Darrell Phelps was killed in a gun battle with armed guards stationed at a hidden pot farm. State Police Commissioner Marion Campbell reports: "It's dangerous, not just for police but for hunters who might walk in there by mistake and be shot or killed."

Many growers take elaborate measures to avoid detection. In California, some decorate marijuana plants with red Christmas-tree balls so that they look from a distance like tomato plants.

Midwestern pot farmers camouflage their fields with rows of corn. The fields still can be spotted from the air, so some scatter the plants in tiny plots.

In the hollows of West Virginia and bottom lands of Kentucky and Oklahoma, marijuana farms are not laid out in orderly fashion. Plants fill narrow strips along creek beds. Often, underbrush in a forest will be cleared for the plants, with just enough branches left on tall trees to afford cover and filter sunlight.

For many pot tenders, public lands and Indian reservations are popular sites because they are remote and growers cannot be traced through deeds.

WATER-BED METHOD

With more money at stake, marijuana cultivation becomes steadily more sophisticated. Narcotics agents have discovered marijuana in greenhouses, in caves under special lights and in plots with automatic sprinklers and electric soil stimulators. California officers found one plantation where an ingenious grower used four water beds on a hillside to provide drip irrigation for his plants.

Indiana police report "marijuana factories" with drying kilns, production lines and trash compactors to bale goods.

While the guile and equipment of large-scale pot farmers grow, the audacity of some small-time operators astonishes police. In the resort area of Virginia Beach, Va., officers made 61 arrests this summer after seizing marijuana growing in 26 apartments. Reports Sgt. Earnest Marrow: "The ironic point about it was all we did was walk through the apartment complexes. The plants were in plain view where you could see them—in hanging baskets, regular pots and makeshift pots."

While some pot users assume that relaxed narcotics laws and tolerant social attitudes mean no one notice, or cares, police everywhere are gearing up for tougher enforcement.

As one Oklahoman put it: "If it runs away with us, we face an explosion of official and political corruption—murder for hire, larceny, corruption of the criminal-justice system. We'll be a harbinger of things to come in the U.S."

[From U.S. News & World Report, May 19, 1980]

CALIFORNIA'S FARM BOOM—IN MARIJUANA

(By K. M. Chrysler)

Here in the remote and frequently trackless hills and valleys of California's North Coast, marijuana is both a major crop and a political dilemma.

For California as a whole, marijuana is fast becoming the state's most valuable cash crop, worth between 500 million and a billion dollars a year. That is more than either lettuce or oranges and is in the same league as grapes and cotton.

Much of the illegal crop is grown right here along the North Coast, with Mendocino and Humboldt counties leading the way. "Marijuana will grow almost anywhere, but ours is the most and the best," says a proud Mendocino producer.

"It's a dubious honor," replies a legitimate businessman, who resents the notoriety and would rather the problem just dried up and blew away.

With so many here involved in growing marijuana, lawmen find themselves frustrated, both in catching those who break the law and in prosecuting those they do arrest.

One grower told agents he had never seen better odds—1 in 100 of being arrested, then only 1 in 1,000 of going to jail.

A MATTER OF ECONOMICS

For many in this area, depressed by a slump in the lumber industry, "pot" is a simple matter of economics.

Local officials talk about the widow on Social Security who raised 13 plants and made $8,000 or the civil servant who cleared $10,000 tax-free from spare-time growing. Then there are the commerical growers, about 1,000 in all, for whom pot is big business—paying off in secret bank accounts, condominiums in Hawaii, twin-engine airplanes and new four-wheel-drive vehicles every year.

"With even a little land and security, you can easily clear $30,000 to $40,000 a year, tax-free," says a grower.

Officials say it's hard to get a clear picture of the growing activity because marijuana gardens range in size from a few square feet in a back yard to secluded acreage in the backwoods. But there is no denying the impact that pot-growing has had, both economically and politically, since production was stepped up in the mid-1970s.

Transplanted "flower children" in search of an alternate lifestyle in the hills started growing pot in the late 1960s. But it was not until growers began using "the old American knowhow" to improve their product that the boom started.

Cultivation today is a mix of science and tender loving care. It involves selective breeding, force-feeding with fertilizers and commercial boosters, precise irrigation and systematic removal of male plants to yield a more potent kind of pot.

Known as sinsemilla, these ungerminated tops of the female plant contain 10 to 12 times as much tetrahydrocannabinols (THC) as the varieties first grown. It is the THC that gives smokers a "high."

"Sinsemilla is not a new variety but a production technique, like fine winemaking," says Matt O'Connor, one of the state's top narcotics agents.

Other agents report that, on the street, sinsemilla is rated superior to Panama Red and Acapulco Gold and on a par with Maui Wowie, the prized pot from Hawaii. It is priced accordingly—from $1,500 to $3,000 a pound, wholesale.

The marijuana industry, growers say, is labor intensive, with the demand for pickers high at harvest time. "Merchandising is very important," says one grower. "You must satisfy customers with the supermarket look."

Side benefits of the marijuana growing are everywhere. Some say that Garberville, population 750, has literally been given a new lease on life. A small hardware store there is said to sell more plastic pipe—which can be used for irrigation—than any other merchant north of San Francisco. Another store sells fertilizer by the truckload, cash-and-carry.

A real-estate firm's offer of 160 acres of secluded, logged-over land, with no buildings, for $86,000 inspired the scornful obser-

vation that "nobody pays $500 an acre for mountainside to raise trees."

A STEP BEHIND

All this has presented an often insurmountable problem to law-enforcement officers since an aerial survey in 1974 first hinted at the size of the illeged crop. No matter what they try, the police seem always to be a step or two behind the growers.

It was 1978 before a federal grant permitted formation of the Sinsemilla Strike Force. Now agents pick out marijuana gardents from the air with special binoculars and direct ground forces to the target.

Even though raids in Humbolt County last year destroyed 12,266 plants and some sophisticated cultivation systems, Deputy Sheriff Chris Thiel says agents are lucky if they can seize 8 to 10 percent of what they spot in the rugged, often roadless, backcountry.

One problem is lack of local support for the enforcement efforts. The moral aspects of using—or growing—pot tend to be softpedaled, and comparisons with Prohibition are popular. One argument often heard: The only laws being broken are silly and unpopular. Besides, the environment is not damaged and no one gets hurt.

"Growers are basically decent people taking a calculated risk because the profits are incredible and untaxed," says Humboldt County Supervisor Danny Walsh.

Local politicians frequently get caught in the middle. State Senator Barry Keene found himself accused of distortion after he released a survey last year suggesting that 2 out of 3 of his constituents favor legalizing or decriminalizing marijuana.

But, Agriculture Commissioner Ted Eriksen, Jr., notes: "You're sure shoveling sand against the tide to oppose pot in Mendocino County."

Growers were a major factor in passage of a county ordinance forbidding aerial spraying of herbicide, which kills marijuana plants as well as the forest underbrush at which the chemical is aimed.

In neighboring Humboldt County, the Board of Supervisors gave frustrated law officers another setback last year by voting 3 to 2 against accepting a $19,643 federal grant for the Sinsemilla Strike Force.

Officials often attempt to distinguish between small growers and the big operators. "We intend to make it impossible to grow dope in commercial quantities," says Joe Allen, the Mendocino district attorney. His counterpart in Humboldt County, Bernard Di Paoli, agrees, and complains that marijuana cases clog the courts.

"If officials can prove to me that marijuana is harmful, then I'll take another look," Di Paoli, says.

Humboldt, Supervisor Walsh is even more outspoken. "Present laws don't work," he says.

"Why spend money on exotic Boy Scout raids to eradicate something you can't eradicate?"

Narcotics agents are bitter about what they regard as lukewarm support from prosecutors. They say havens are being created for growers, who rarely get anything more than probation even if convicted. Only two have gone to prison, and one cynic insists jail is only for growers who get arrested on Friday and can't arrange bail until the banks open on Monday.

"The courts are where the system falls down," says Humboldt County Sherff Gene Cox, who believes that a larger measure of support from local political leaders would help stamp out the pot traffic.

He notes that he had 10 growers targeted last October when his annual budget for raids ran dry.

CRIME RATE UP

The sheriff and other law-enforcement officers in the area report an increase in robberies and in other crimes of violence—including at least one murder that has been linked to the marijuana traffic.

"A $40,000 garden is a great temptation to a lot of people," says a grower who has been robbed at gunpoint.

Some growers reportedly have been banding together in cooperatives to handle their own security problems, and raids by lawmen often turn up arsenals—semiautomatic weapons, shotguns, rifles and pistols.

"If I knew the total bloodshed that goes unreported inside Humboldt County, I'm sure I'd be shocked," says Sheriff Cox, who also has to worry that organized-crime elements may decide to move into the lucrative operation.

For all the local reluctance to end the profitable business, statistics show an increase in arrests, with three times as much marijuana seized in the area in 1979 as during the previous year. Some state agents say, however, that these figures reflect more the rapid growth in production than increased enforcement.

In the meantime, Mendocino Agriculture Commissioner Eriksen listed marijuana on his 1979 report as the county's leading crop—worth at least 90 million dollars. "It's an economic fact of life. We'd unrealistic to ignore it."

GOVERNMENT RELATIONS AND SMALL BUSINESS

Mr. HAYAKAWA. Mr. President, an article by Joseph W. Harrison entitled "Government Relations: Why Bother," appeared in the August 1982, issue of San Francisco Business, and I would like to commend it to my colleagues.

As a member of the Small Business Committee, I have been a strong supporter of increasing the levels of influence and responsibility of this important segment of the private sector. In his article, Mr. Harrison discusses the attitudes that businesses and individuals have toward Government. By realizing that government relations is a two-way street, businesses and individuals can directly influence the laws and regulations affecting small businesses. Letting big business take the lead is both risking not being represented and shirking responsibility.

I hope my colleagues will take a few minutes to read this article and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GOVERNMENT RELATIONS: WHY BOTHER

(By Joseph W. Harrison)

Government relations and public affairs are concepts alien to most business executives and misunderstood by many others. Too often they're viewed simply as another phase of politics' grubby doings, and that's an unfortunate attitude. Unlike common belief, most of politics isn't grubby and most government and public affairs matters don't fall under the standard definition of "politics." Instead, public affairs can be an essential part of corporate well-being, and there's much to be gained through a government relations program designed to help a business achieve its goals. They really can affect the bottom line.

Take a look at some recent private-sector gains on the federal level. The dramatic change in legislative attitudes over the last few years began with the 1978 reduction in capital gains tax rates. That good news didn't come about because of a change in heart among anti-business legislators. They changed their minds because they learned to count—to count the votes represented by a well-organized campaign by American business. It was a staggering victory, and the first of many to come if the various coalitions of business and industry continue their momentum. Unfortunately, most business organizations declined to get involved in the 1978 effort and have not seen fit to contribute much since, content instead to accept the benefits resulting from the combined efforts of others.

There is a large segment of the business world which hopes that ignoring government will make it go away. It won't. In fact, government can easily surround and sometimes strangle business. It won't change on any permanent or reliable basis. Business will have victories here and successes there, but not without constant vigilance and effort, for government's natural tendency is toward greater and greater involvement in everyday business life.

Old attitudes die slowly and it has taken years for business leaders to realize that even government relations activities can have a positive bottom line. Though usually eluding measurement, they can sometimes be quantified. One major California company contributed $22,000 (including staff time) in an effort to lower the capital gains rate—legislation which saved that corporation $2 million a year in taxes. Does it deserve all the credit? Of course not. Without the efforts of many, many businesses there would have been no reduction. Did your company benefit? Did it help in the effort?

"We participate through our trade association," reply many corporate executives. Yes, but only the the least common denominator as viewed by trade association leaders with much to fear should they become too vocal on a matter of less than industry-wide popularity. And on single company-related problems, these associations rarely help at all.

"We're too small to have our own government relations program." others complain. That depends on what's at stake, and even the corner drugstore has something at stake. The principals of very small organizations might only be able to contact their own legislators, getting to know them socially and positioning themselves for substantive follow-up at a crucial time. Yet that seemingly minor effort is more than many large corporations do now.

Small corporations can take small steps—and still influence the course of legislation: there are grass-roots programs, political action committees (PACs), plant tours for legislators, and many other tools of the trade. In most cases, these programs don't even require staffing. They can be a part-time staff assignment for a fairly senior manager or set up quickly and inexpensively by a professional consultant in public and government affairs.

"We don't want to get the company involved in political stuff," comes another view. You already are involved, and you'll stay that way until you leave the business arena. Most of this "political stuff" has direct impact on your operations, even if it can't be seen by budgeteers and line managers. The line manager has a point when he complains that the income he produces is being used for political purposes. But it is of limited validity. Professionals in government relations don't waste hard-earned corporate dollars. They pinpoint and target for positive results, and search for legislation or regulation which would do a lot more to undermine that line manager's labors than the cost of a small public affairs staff.

Is building a better business environment really "political stuff"? Do minimizing bureaucratic hassles or becoming acquainted with an official who can help solve a company's problems fall into the same lump?

One California manufacturer with 1,000 employees thought government relations interfered with his production, so he ignored government—until he found he had been summarily and arbitrarily precluded from the right to bid on some federal contracts. The company has a plant in a district represented by a very influential congressman who could have helped—had the company taken the time to get to know him (a plant tour works wonders). But the congressman didn't know anything about this manufacturer, thus his efforts were token and unproductive.

Too bad. It could easily have been worth millions to the company had it made some low-key easy efforts at gettting to know its representatives.

In far too many cases, the desire to avoid political involvement is a rationalization for reaping the benefits without sharing the load. Smaller companies are not expected to shoulder the same burden as their larger brethren, but they should be on hand to make a good-faith contribution.

This entry-level effort need not be expensive. A PAC might cost as little as $1,000 to create and maintain, with money for political contributions coming from employee donations. Some companies fear internal criticism or labor difficulties if they start a PAC, but in their brief history some 1,500 corporate PACs have been formed without problems. The idea has taken hold in corporate America as a legitimate means of involvement.

Still, a PAC is only a tool, where employees serve as a company's part-time lobbyists, getting to know their own legislators and seeking their support as constituents on matters crucial to the survival of their employers. Legislators listen to constituents—closely.

Grass-roots programs, too, can be created with some professional guidance and little money. Companies in the franchise food business are find this network approach does have an impact on legislative policymaking. This is especially true at the federal level for a company with nationwide operations, since each manager becomes acquainted with his own congressman, thus spreading the influence over a wide base. And the fast-food industry certainly has some hot issues—pricing of agricultural products like meat, milk and cheese: youth wage differentials, and a host of others vital to the well-being of the industry. Here again, too many smaller chains let larger ones do the letter-writing and phone-calling. Perhaps they don't fully understand how little the effort costs and how great the reward can be.

Each of the techniques described—PACs, grass-roots programs, plant tours, direct contributions, legislative and regulatory proposal monitoring—is just a tool, not an end in itself. Their purpose is to foster an atmosphere conducive to business, so that those line managers won't feel they must bad-mouth government and government wont' be on the backs of business.

There's also the matter of individual political involvement. If you can create in your company an atmosphere where employees gladly—even proudly—give to the PAC and communicate their views on corporate issues to their legislators, that gets them involved. To bring employees to that point, companies first must give them the tools. That means you must carry your share. When properly structured, political involvement isn't much of a burden in view of its potential for a positive—and measurable—impact on your earnings.

BILINGUAL EDUCATION

Mr. HAYAKAWA. Mr. President, I hope that my colleagues have read the second part of Dr. Rossier's paper which I put in the CONGRESSIONAL RECORD. This section discussed the advantages of a language program that offers total immersion on the English language.

The acquisition of a new language is far easier for children than for adults. Children at the ages of 4 to 6 are at the height of their language learning powers. In families where the father speaks to the children in one language, the mother in another, and the maid in a third, the children grow up trilingual with no difficulty. From the age of 6 onward, there is a gradual decline in a child's language-speaking powers, so that learning a new language as an adolescent is a more difficult and self conscious process than it is for a child.

Through my personal communications studies, I have observed that the more academic instruction children get in their immigrant parents' language, the less quickly they learn English. I personally believe that ESL and immersion techniques allow non-English-speaking students to master our language so they can join the mainstream of society more quickly than through traditional bilingual education. As a result, those who master the English language will have overcome a major hurdle to participation in our democracy. Passage of my bilingual education proposal will insure that we maintain a common basis for communicating and sharing ideas.

The third part of Dr. Rossier's paper is directed toward discussion of whether or not bilingual education, as an educational program, meets the requirements for providing equal educational opportunity to students who speak languages other than English. This was distinguished in Lau against Nichols. In addition, this portion of the paper dealt with the obvious political character of the bilingual movement. As Dr. Rossier points out,

There is little or no research, nor operational evidence to show that bilingual education facilitates the learning of English for monolingual immigrant students. In spite of this, instruction of this type has been vigorously promoted at every level of government with little criticism, except in a board emotional way".

The explanation for this is provided by the fact that the bilingual education movement has been a political, rather than an educational movement from its very beginning. Dr. Rossier notes in his paper that the leading spokesmen of the movement from the initial stages understood that the establishment of bilingual programs in the schools had enormous potential as a political device. In the first place, anything having to do with other cultures and especially with learning a second language offered the movement a perfect shield from criticism of the movement and the theory behind it. Americans have, in general, been spectacularly unsuccessful as language learners because of their relative lack of linguistic and cultural sophistication. They have been, however, quick to accept the claims of the bilingual activists, or, if they did not entirely accept them, have been reluctant to criticize them for fear of displaying their own ignorance. Most of the Government propaganda has gone unchallenged except for sporadic outbursts by a few hardy souls who have been momentarily aroused by the problem. Unfortunately, those who speak out seldom, if ever, have the professional experience or practical background in second language learning that gives them the special knowledge needed to be able to present effective arguments against bilingual education.

I ask unanimous consent that the third part of Dr. Rossier's paper be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BILINGUAL FAILURE—THE LAU TEST

The most intriguing question of all will probably not be answered soon or at all because of the powerful political pressures associated with the bilingual education movement. Does bilingual education as an educational program meet the test for providing equal educational opportunity to students who speak languages other than English as set forth in Lau vs. Nichols? The reasoning behind this question derives from the landmark United States Supreme Court decision which has been widely interpreted as a mandate for bilingual education. In this case the plaintiffs, a group of Chinese students in the San Francisco schools, sued the school district because they said that instead of being given special English instruction as was another group of Chinese students they were placed in the regular instructional program with English speaking students. The Court decided that the plaintiffs were being deprived of equal educational opportunity in accordance with the 1964 Civil Rights Act because they did not receive special instruction prior to entering the regular instruc-

tional program. No particular type of instruction was asked for by the plaintiffs nor was any specified by the Court although bilingual education as well as special all-English instruction were mentioned as possibilities.

Contrary to popular belief, then, Lau vs. Nichols did not mandate bilingual education but instead did permit any special instructional method that would satisfy the equal educational opportunity provision of the 1964 Civil Rights Act. The Court decided that the instruction must be special in the sense that it would enable the students to learn English well in a setting other than that of the regular classroom where they were at a disadvantage because they had to compete with native-English speaking classmates. When these students achieved sufficient proficiency in English in the special classes, they would then be able to enter the regular educational program where they could take advantage of the educational opportunity open to the native-English speaking students.

It follows logically that the test of any special instructional program that claims to prepare non-English speaking students for the regular educational program should be the relative degree of efficiency of the method in teaching English. In the case of bilingual education, the lack of evidence of any positive effect in promoting English language learning leads to the inescapable conclusion that this method does not meet the Lau test.

POLITICAL CHARACTER OF THE BILINGUAL MOVEMENT

If there is little or no research and operational evidence to show that bilingual education facilities the learning of English for nonlingual immigrant students, then why has this type of instruction been so vigorously promoted at every level of government and so little criticized except in a broad, emotional way? The answer to this question is that the bilingual education movement has been a political rather than an educational movement from its very beginning and has achieved many of its goals by building an extremely effective lobby composed of individuals who seek and usually obtain personal gain from their active support of the concept.

The leading spokesmen of the movement from the very beginning understood that the establishment of bilingual programs in the schools had enormous potential as a political device. In the first place, anything having to do with other cultures and especially with learning a second language offered the movement a perfect shield from criticism of the method and the theory behind it. Americans have, in general, been spectacularly unsuccessful as language learners and because of their relative lack of linguistic and cultural sophistication have been quick to accept the claims of the bilingual activists or, if they did not entirely accept them, have been reluctant to criticize them for fear of displaying their own ignorance. Most of the movement propaganda has gone unchallenged except for sporadic outbursts by a few hardy souls who have been momentarily aroused by the problem. Unfortunately, those who speak out seldom if ever have the professional experience or practical background in second language learning that gives them the special knowledge needed to be able to present effective arguments against bilingual education. To my knowledge, there has never been an organized, long-term campaign by any group against the concept.

The persons most affected by bilingual education, the immigrant students and their parents, have not really been given a chance to express their opinion in any organized matter. It is worth noting, though, that in school districts with adult school programs, immigrant parents clamor for the opportunity to learn English taught in English and attend this type of instruction in great numbers.

A liberals's view

Because bilingual activities calculated that there would be little effective opposition to the establishment of bilingual programs in the schools, they pushed through Congress the Bilingual Education Act of 1968 and much enabling state legislation that paved the way to the funding, jobs, and influence they anticipated would be the reward for their efforts. The predominately political character of the bilingual education movement has not gone unnoticed in recent years, even by some liberals who in earlier years were taken in by the visionary talk of the activists. In a recent article in New Republic, a publication with impeccably liberal credentials, Abigail Thernstrom observed that "from the very start bilingual education was a bad cause for liberals." The cause was bad she asserts because it diminished the educational and economic opportunities of disadvantaged, mostly Hispanic, children rather than increasing them and it did so "in programs that segregate the children from their black and white peers." This charge of segregation is not new, of course; Noel Epstein of the Washington Post criticized the segregative character of bilingual programs some years ago in a widely circulated monograph which drew outraged howls of protest from bilingual activists.

Why, then, if these programs segregate and reduce educational and economic opportunity, are they still defended by their propenents? Thernstrom lays the body on the doorstep, "——, support for bilingual instruction, particularly among Hispanic activists, has not lessened. And the reason is clear: the programs provide both employment and political opportunities, as schools are forced to hire Hispanics without regular teaching credentials, and as students are molded into an ethnically conscious constituency."

Bilingual benefits for everyone but the students

Her indictment is actually extremely understated. A large percentage of those involved with bilingual education in one form or another—teachers, aides, adminstrators, school board members, legislators, appointees to policy making boards and commissions, researchers, textbook writers and publishers, etc.—has benefited directly from the large scale establishment of bilingual programs in the public schools. If the reward was not in the form of jobs created for teachers or aides who had not previously been employed in the schools, then it came in the form of promotions to administrative or supervisory positions or to specially created jobs as consultants or specialists. Many districts now find that their bilingual programs represent a district within a district whose size rivals that of the regular program of education.

Even school boards members have not been averse to using the establishment of bilingual programs in their districts for personal gain. In Los Angeles, for example, one board member was a leader of the activists who pushed for the establishment of bilingual and ethnic cultural programs in the district. While he spoke eloquently of the great benefit these programs would have for thousands of language minority studnts, he failed to mention how these programs would benefit him personally. As a professor at a local university he had written several books on cultural themes whose titles were later found on the recommended lists for the cultural components of the district's bilingual programs. More importantly, he was able to use his influence as a board member in the selection of personnel to staff the well paid administrative and supervisory positions in the bilingual hierarchy of the district. In one case, for example, he arranged for the employment as a special consultant on bilingual education of a friend and collaborator in much of the ethnic political agitation that troubled the school district in the late 60's and early 70's The position, for which the friend, a layman, had no educational nor professional background, paid a salary which ranked with that of the district's middle administrators.

Bilingual education has been good business not only for selected individuals in the schools but also for many outside of them. There has been a veritable revolution in the text book industry and in those supply other types of educational products. Large numbers of texts have been translated or have been specially written in bilingual form. Signs, posters, films and filmstrips, tapes, records, and all sorts of other educational materials have been created. Professional books on bilingual education have been produced by some of the researchers and professional experts mentioned earlier in this article and others. Many of these same people have set up consulting firms that solicit business with every level of goverment from the federal down to local school districts. The universities have also profited from the bilingual revolution. In states with large numbers of immigrants and many bilingual programs, special bilingual credentialing laws have been written that require teachers to take a number of special cultural and methodological courses and pass proficiency tests in Spanish or another language.

In the political realm, bilingual education has proven to be a great asset to the ethnic politician who, in many cases, does not care if bilingual instruction is a valid method of teaching English because he understands that in some ways it would be politically advantageous for immigrant students to continue to rely on their native language instead of perfecting their English—dependence on the home language tends to isolate the group and make it more manipulable. What does matter to him is that the majority English speaking segment of the population (most of the voters) perceive him as being uniquely qualified linguistically and culturally to represent his ethnic brethren and the establishment of bilingual education programs helps to reinforce this perception. This explains, of course, why the more militant activists in the movement insist that the top priority in bilingual education be given to maintenance of the home language with the learning of English as a distinctly secondary goal. Relatively rapid and efficient learning of English inevitably means that many members of the immigrant group move closer culturally to the general society or even become relatively assimilated. If this happens, political control becomes more difficult.

It would not be difficult (only time consuming) to catalogue completely all of the

individuals and groups who actively support bilingual education in some manner or another but this is not the point that should be made. What is essential is to apply the test of objectivity to individuals or groups who are lobbying for bilingual legislation or appropriations, or who are trying to enlist the support of influential persons or organizations.

Two basic questions should be asked of bilingual education advocates:

(1) Will you personally benefit from your advocacy?

(2) Can you produce substantial objective evidence to demonstrate that bilingual instruction is superior to other special instruction for teaching English to NES or LES students?

There is nothing wrong with advocacy of an instructional method, of course, even if one benefits personally from it, if the superiority of the method over others can be shown clearly and objectively every time. Bilingual enthusiasts have been unable to demonstrate this superiority, though, and yet they still clamor for the expansion of bilingual education and the power and influence that accrues to them as a result of this expansion.

FEDERAL COERCION—THE OFFICE OF CIVIL RIGHTS

As Thernstrom pointed out, the 1974 Supreme Court Lau Decision, while requiring "affirmative steps to rectify the language deficiency" of children who spoke little or no English, did not specify one, particular method as a remedy. It was the former HEW Department that perverted the sense of the Court's decision and created a bilingual monopoly with what is known as the "Lau Remedies." These remedies pretty much mandated bilingual education by providing the government with a yardstick with which it could measure school districts to see if they were complying with its wishes with respect to bilingual education. If districts did not comply, they were threatened with the loss of federal funding of any kind.

BILINGUAL EDUCATION

Mr. HAYAKAWA. Mr. President, I am pleased to submit the fourth section of a paper written by Dr. Robert Rossier entitled "Bilingual Education: A Non Conforming View." In this section he describes how the present bilingual education system has become victim to the chronic numbers game resulting in the use of some questionable tactics by school district officials in an effort to rationalize their funding.

The problem stems from the 1974 Supreme Court Lau decision, which required "Affirmative steps to rectify the language deficiency" of children who spoke little or no English, but did not specify one particular method as a remedy. It was the former HEW Department that perverted the sense of the "Lau remedies." These remedies mandated bilingual education programs by providing the Government with a yardstick with which it could measure school districts to see if they were complying with its wishes with respect to bilingual education. If districts did not comply, they were threatened with the loss of Federal funding of any kind.

Dr. Rossier illustrates that the Office of Civil Rights which is the enforcement arm of the Department of Education, selected the members of the task force that created the Lau remedies. It should be no surprise that the task force was made up mainly of advocates of bilingual-bicultural education. In straight-forward language this is referred to as stacking the deck. Due to the lack of specificity in naming methods to be used, the bilingual activists were able to control the process of developing the remedies in such a way as to favor their cause.

As a result, school officials have resorted to the strategies necessary for survival in the numbers game. In their eargerness to demonstrate a need to expand their school district's bilingual education programs and qualify for funding, the officials threw caution to the winds and began to claim larger and larger numbers of NES and LES students. This was done independent of any supporting evidence that these students actually existed.

In addition, other methods were developed to make bilingual education a growth industry in the schools. Students new to a school, who were capable of functioning adquately in an English learning environment, were identified as LES on the initial proficiency test. Another interesting point is that students have been kept in bilingual classes even after they were able to function in classes conducted in English.

These situations raise important questions as to the method and validity of proviciency testing, as well as to the ethics of the officials administrating the bilingual programs in various school districts. I ask unanimous consent that this fourth part of Dr. Rossier's paper be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL COERCION—THE OFFICE OF CIVIL RIGHTS

As Thernstrom pointed out, the 1974 Supreme Court Lau Decision, while requiring "affirmative steps to rectify the language deficiency" of children who spoke little or no English, did not specify one, particular method as a remedy. It was the former HEW Department that perverted the sense of the Court's decision and created a bilingual monopoly with what is known as the "Lau remedies." These remedies pretty much mandated bilingual education by providing the government with a yardstick with which it could measure school districts to see if they were complying with its wishes with respect to bilingual education. If districts did not comply, they were threatened with the loss of federal funding of any kind. The enforcement arm of the Department of Education, the Office of Civil Rights (OCR), in concert with the activist zealots that are found in every community, has been singularly successful in creating a monopoly situation for bilingual education across the country.

A 1980 Los angeles Times series of articles on bilingual education explains how the OCR was able to force bilingual programs on school districts throughout the nation. An excerpt from the introductory article to the series gives a graphic description of this compulasion:

"The court (U.S. Supreme Court) did not say what methods should be employed—bilingual education, English as a Second Language, or some other approach. However, a task force assembled by the Office for Civil Rights and including mainly advocates of bilingual-bicultural education produced a set of guidelines called the 'Lau remedies,' which emphasized the bilingual approach.

"They required school districts found to be in violation of Lau, and having 20 or more elementary school children from a non-English language group, to provide bilingual-bicultural education for these children in the native language or languages.

"The 'Lau remedies' were devised in the summer of 1975 and became the basis for the Office of Civil Rights' review of more than 300 school districts, enrolling more than 1 million national-origin minority children. The 'remedies' have had a curious history. They were not law, or even official federal regulations, never having been published in the Federal Register. Yet they became the basis for extensive negotiations between the Office for Civil Rights and local school districts."

Two facts stand out from the above excerpt taken from the Times article. First, the OCR's special task force that created the "Lau remedies" was made up of "mainly advocates of bilingual-bicultural education." In more straight-forward language, this is known as "stacking the deck." Despite the Supreme Court's lack of specificity in naming a method to be used, the bilingual activist politicians were able to rig the process of developing the remedies in such a way as to favor their cause.

Furthermore, even though the Lau remedies had no standing in law as the Times stated (and still do not), they were used to compel school districts to establish bilingual programs when the districts had none and to expand them when the bilingual activists thought that they did not draw in enough children.

THE LOS ANGELES CASE

Again the Los Angeles Unified School District serves as a case in point. Agitation for bilingual education in the Los Angeles schools dates back to the early 60's. In 1969, the first year of federal funding of bilingual programs under the Bilingual Education Act, a controversy arose over the funding of a highly successful intensive reading program at the Malabar Street School. Critics of the program, including high officials of the Office of Education, were successful in denying bilingual funds to the program because they claimed it used English as a Second Language rather than a bilingual approach. However, last minute intervention by HEW Secretary Robert Finch temporarily saved the program by providing federal Title I funds for its continuance. The rescue was short-lived, however, for within a few years this successful program was terminated through political action at the district level by bilingual activitists who would not tolerate any alternative program to bilingual education.

At the same time that the Malabar School controversy was taking place, bilingual pro-

grams were being established in four Los Angeles elementary schools. With no opposition to the concept, the program grew rapidly in Los Angeles and by March of 1977 the school district claimed to have 23,000 students in programs in many schools. But this figure was far too small according to Chicano activists mobilized by the intensely political Mexican-American Education Commission. The Commission, a quasi-official, supposedly advisory arm of the Los Angeles Board of Education, had come into existence after the student walkouts of 1968 and other related militant and sometimes violent actions had caused the school board to accede to the demands of the militants that it establish an ethnic oversight group. One of the prime objectives of the Commission and its followers according to a March 1977 Los Angeles Times article was the hiring of more Mexican-American personnel, and Commission spokesmen, insisted that these people were needed to staff a vastly expanded bilingual program.

Predictably, the leverage for the expansion of the bilinual program came from the OCR. A Times article dated October 24, 1977, carried the headline "L.A. Schools Denied $24 Million Grant." The grant in question had been applied for by the school district for desegregation purposes but the application was denied because the OCR said the district was in violation of a section of the Civil Rights Act of 1964 because it had "failed to provide what is, in effect, bilingual instruction to limited-and non-English-speaking students." The 23,000 students the district had in bilingual programs were not enough; the Regional Director of OCR notified the Superintendent of th Los Angeles District that it was not in compliance because less than 50% of the NES and LES students in the schools were receiving "special language assistance as required by law."

THE NUMBERS GAME

Ironically, the charge of non-compliance by the OCR was probably caused by the bumbling efforts of Los Angeles school officials to play the "numbers game." In their eagerness to demonstrate that there was need to expand the district bilingual program, these officials threw caution to the winds and began to claim larger and larger numbers of NES and LES students independent of any supporting evidence that these students actually existed. Even before the district set up a language survey and testing program in 1978 under the recently passed Chacon-Moscone State Bilingual Education Act, officials had reported on a number of occasions that there were 100,000 NES/LES students in the district. In the fall of 1977, a district publication, the Spotlight, published an article on the growth of bilingual education in the Los Angeles schools in which a figure of 120,000 NES/LES (more than one out of every five students in the district) was given as an estimate and emphasized that the number was increasing by about 20,000 students a year. By the next year, the Valley News, another area newspaper, stated that district sources put the number at 142,000.

A challenge to the widely escalating numbers game was eventually presented by one of the Los Angeles District teacher organizations, the Professional Educators of Los Angeles (PELA), and this challenge slowed to some extent the head-long rush to power of the bilingual movement in Los Angeles. The PELA Vice-President, Mrs. Betty Cordoba, in an appearance before the Los Angeles Board of Education in August of 1978, asked the Board to answer a series of questions which reflected the growing skepticism about the numbers of NES/LES claimed by the district.

That this skepticism was justified can be understood by comparing the number of immigrant students in special language programs in Los Angeles a decade before with statistics in the bilingual era. In 1967-68, an official district publication listed 7,549 secondary students in ESL classes. The number had grown to 8,690 by the next school year with 4,200 in elementary classes for a total of 12,890 in all grades. While at this time students were not identified as NES or LES, the figures pretty much indicate the total number of students needing special language instruction to help them learn English. The growth of these programs of special English instruction had been steady but not spectacular throughout the decade of the 60's but it was to be nothing compared with the almost incredible spruts of growth in the bilingual era.

According to a November 1977 presentation report to the Los Angeles Board of Education by the Bilingual-ESL Services Branch, the number of students identified as NES and LES five years later in 1973-74 was 56,036, more than four times the number in ESL programs in 1968-69. The next year there was a modest increase to 58,041 but in the following year, 1975-76, the number jumped almost 50 percent to 83,822 and in 1976-77 the Board was told that there was another huge increase to 100,000 students. This meant that in two years time the number of NES/LES students almost doubled. The board members, without any real experience or special knowledge in this field, accepted the presentation report virtualy without question and without pinpointing the obvious problem with the accuracy of the counts which was how they could be accepted if there was no valid method of identification during these years. It was not until the 1977-78 school year that a testing program was set up in the district to measure the English proficiency of these students.

Closer scrutiny would have also indicated to the board members that all but a very small percentage of the growth was in the count of the LES, not in the NES count where it would be expected because of the large influx of immigrants and refugees into the Los Angeles area. The three-year growth presented for NES students was from 22,000 to 29,000, about a 30 percent increase—a growth rate that seems reasonable. The LES increase, however, was an astounding 108 percent, from 34,000 to 71,000—and this increase for some reason was in the last two years of the three-year period. From 1973-74 to 1974-75 the number of LES increased by only 400 students but in the next year for no apparent reason it shot up almost 25,000 students and then 16,000 more in the last year of the period.

Although district officials in charge of bilingual programs were present at the meeting, none of Mrs. Cordoba's questions was answered at that time. Instead, more than two weeks later in a letter which he knew would not have to be placed in the public record, the Associate Superintendent with direct responsibility for the Bilingual/ESL Services Branch responded to the question with the knowledge that whatever he wrote in his letter would not be scrutinized by either the board members or the press.

To the question of why the district bypassed the 1977-78 state-mandated census figures in favor of those for the previous year, a year in which highly unreliable estimates were used rather than proficiency testing, the Associate Superintendent answered that this was done because the validity of the testing instrument used was questionable. This official then revealed that the NES/LES count for 1977-78 was 72,180 while the figure for the prior year, the one reported to the state as the official count, was 84,213—more than 12,000 students higher. Obviously, the 1976-77 figure was preferable to that for 1977-78 because it demonstrated that there was greater need for bilingual programs and the special funding that they generate. In addition, the 84,000 count was closer to the 120,000 and 142,000 figures that had been announced in the press and, more importantly, to the 100,000 figure that had been given in testimony in court in the integration case.

It would seem from even a cursory analysis of the Los Angeles District's erratic reporting of its NES/LES student population during these years that certain district officials, at the very best, were confused about what they were doing or, at the very worst, consciously and deceptively claimed enormous growth in the number of these students in order to promote expansion of the district's bilingual education program. It should be pointed out that while some of the exorbitant numbers could be attributed to hyperbole by district officials in press and media interviews, many of them were given in official presentations to the Los Angeles Board of Education or to state or federal agencies and, on one occasion, as testimony in the Los Angeles integration case in Federal District Court.

DON'T LET THEM OUT

The tremendous increase reported in the number of NES/LES students reinforces the impression that the school district's claims were more statitical manipulations than real growth. While it is relatively easy to identify students at the NES (speak little or no English) end of an English proficiency scale, the determination of who is LES is completely arbitrary, especially when it comes to deciding where to place the dividing line between limited and fluent English speakers—between those who need special language instruction and those who will benefit more if placed in a regular classroom situation. One of the most frequently expressed criticisms of bilingual education heard in the schools is that students are kept in bilingual programs long after they should be placed in regular classes. The federally funded American Institutes of Research (AIR) Study, conducted in the 1975-76 school year in 117 schools in many sections of the United States, confirmed this criticism. This massive study of approximately 5,300 Title VII and 2,400 non-Title VII students found that "less than one-third of the students enrolled in the Title VII classrooms in grades two through six were of limited English-speaking ability." Interviews of the project directors disclosed why this was so. Approximately 85% of the directors indicated that the Title VII students remained in their bilingual programs after they were able to function in school in English while only 5 percent of the directors said that the students were transferred to English-only classrooms once they had learned English well enough to function in school.

There are two practices, then, that make bilingual education a "growth industry" in the schools. The first of these is the practice of keeping students in bilingual classes after they are able to function in English-

only classrooms and the second is to identify students new to the school as LES on the initial proficiency testing even though they would be able to function adequately in an English learning environment. Both of these practices require only that the designation limited-English-speaking (LES) be given a broad rather than narrow definition so that more immigrant students are drawn into the bilingual net and then kept there. Empire building requires numbers and the identification and assessment procedures used in bilingual education are an important part of this building process.

PROFICIENCY TESTS—INVALID VALIDITY

The proficiency test or, as it is called in modern educational jargon, the assessment instrument, must not be too narrow in its determination of who is limited in English proficiency or it will let some of the fish slip through the net. In the 1977-78 school year, the first year of state-mandated assessment of English proficiency, the Los Angeles School District apparently chose an assessment instrument that did not produce the numbers of LES students expected. In reaction to this testing fiasco, the school district took two actions. The first action was intended to provide support for its claim of large numbers of LES students and the second to close the gaping hole in the assessment net. I have already mentioned that the LES numbers for 1977-78 were bypassed in favor of those of the preceding year, 1976-77, a year in which the determination of which students were LES was left to local school personnel, experienced and inexperienced, and was decided in each school by whatever method was at hand and without any district-wide standard or objective definition of the term LES. The 1976-77 count, then, was reported to the State of California not because it was a more valid figure than that that came out of the 1977-78 proficiency testing program but simply because it was more than 12,000 students greater and thus closer to the district's earlier claims of anywhere from 100,000 to 142,000 NES/LES students.

In addition to going back a year in its report of the census of LES students, officials decided to abandon the first-year assessment instrument, the San Diego Observation Assessment Instrument, and chose another which would, they said, have higher validity and reliability ratings. The instrument chosen, the Bilingual Inventory of Natural Language (BINL), differed from the San Diego test in that it has been used in Los Angeles to assess English proficiency only, while its predecessor was used to assess bilingual proficiency. In addition, educational aides and community lay people who were speakers of other languages were used to administer the San Diego test while teachers have been used to administer the BINL. But the differences in the two tests have not been that great. They are similar in that they are both pictorial elicitation tests—tests in which illustrated pictures are shown to the students being tested in order to elicit more or less spontaneous descriptions of what they see in the pictures. And they are similar, too, in their low validity ratings.

The district switch to the BINL was heralded as a move to not only solve practical problems which had developed in administering the San Diego test but also as a means of increasing the validity of the testing procedure. Despite claims of high validity by the test designer and the district, however, the schools experienced difficulties with the BINL almost from the start. Stories began circulating through the district about cases of students (some of them native-born) being identified as LES and even as NES in some cases. In one junior high school, for example, the number of students identified as either NES or LES jumped from 150 to 208 in the first year of the BINL; only one half (104) of the students identified in this school were in ESL or bilingual classes at the time. Four students in this particular school were assessed as non-English-speaking even though there was clear evidence that they could and did function well in English. One of the students was native-born, had attended regular classes in the Los Angeles schools since kindergarten, and had a B average in regular classes at the time; a second was foreign-born but had attended school here since the first grade and had a C average in regular classes; and the two remaining students had lived in the United States three and four years each but were straight A students in regular English-only classes.

Other indications surfaced that the validity and reliability of the BINL in practice were not at the high level claimed by the school district. In February of 1979, a committee of secondary school administrators and bilingual specialists met to discuss the progress made in implementation of the district's Lau Plan. One of the concerns of the committee, set down in the written record of the meeting, was that, "The question remains of validity and reliability of the BINL." In spite of their concern about the validity and reliability of the BINL, the committee members evidently did not feel any urgency in making a change. The BINL is still used in Los Angeles as the principal instrument for determining student English language proficiency and there have been no appreciable changes in the procedures for using it.

Even more damaging to the case for the validity of the BINL was the report found in a publication of the Northwest Regional Educational Laboratory entitled "Oral Language Tests for Bilingual Students: An Evaluation of Language Dominance and Proficiency Instruments." The report of this study, funded by the then Office of Education, rated the BINL as near the bottom in a ranking of 14 oral proficiency tests evaluated. The evaluation used a three-point scale (good, fair, poor) to rate four criterion areas: measurement validity, examinee appropriateness, technical excellence, and administrative usability. Only on one measure, examinee appropriateness, did the BINL receive even a fair rating. On the other three, including measurement validity, it received poor ratings.

There is evidence, then, that the BINL test was not chosen because it was superior to other tests in making valid determination of English language proficiency. Besides persistent unofficial reports circulating in the Los Angeles District of English proficient students being identified as LES, we know, as reported above, that district officials expressed concerns about the BINL's validity and that it was also rated as having low validity by a prestigious educational research organization. If the BINL was such a poor instrument, why was it selected ahead of other tests that were rated as having higher validity and why is it still being used by the Los Angeles Unified School District?

The only logical answer to this question is that this test was chosen by district officials because they believe it to be the best possible instrument for producing a large number of students identified as LES in order to support their demands for expansion of and increased funding for the district bilingual education program and not because they were interested in accurately assessing the English language proficiency of the students.

FLIGHT FROM CZECHOSLOVAKIA

Mr. LEAHY. Mr. President, during the years when I was State's attorney, I got to know a remarkable couple, Al and Vera Soucek. Like all Vermonters who have come in contact with them, I greatly admire them not only for what they have accomplished today but what they have survived in the past.

Recently, in my local newspaper, there was an article about the Souceks which I would like to share with my colleagues in the Senate. I ask unanimous consent that it be printed in full following these remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Burlington Free Press, Sept. 7, 1982]

COUPLE REMEMBER PATH TO FREEDOM

(By Sally Jacobs)

When Al Soucek set out on foot to cross the German-Czechoslovakian border 34 years ago, imbedded in his rear molar was the source of a new beginning for himself and his family.

The gaping cavity was not caused by natural decay or filled by routine dental cement. It was crafted by dental design as a repository for a perfect 1½-carat diamond.

Rumors flew thick in the Czechoslovakia of 1948. If the Russians flanking the wartorn border did not confiscate people's valuables, then the Americans surely would.

"When we had decided to flee I kept thinking about what we should take. I was going to put the diamonds in the heel of my boot but then I realized they might force me to take them off," said Soucek, 72. "The tooth seemed the perfect place."

That calcium-encased diamond was one of the few things that Soucek, now owner of the Underhill-based Continental Catering, and his wife, Vera, were able to take in their flight from Communist domination.

Fear of recognition and subsequent incarceration in a "reformatory" were strong incentives to travel light on the Souceks' two-day journey through the dense Black Forest with their 6-month-old daughter. As they grew increasingly weary, even their two straw suitcases become too much to carry and were abandoned near a clump of trees.

Behind them the couple left not just an apartment full of personal belongings but the 65-room hotel with nightclub and beer garden that Soucek's father had been grooming his son to manage. Months before Soucek and his family left the country, Communist officials nationalized the family-run business, as they were doing to all commercial operations.

"It was like a disease. You thought everyone would get it but you," Soucek explained in his heavily accented English. "I remember when the 12 officers walked into the hotel, my father sat in his office very red in the face and could not talk.

"They kept telling us that everything would be better because it would all be

owned by the state, including our hotel. Well, that night I gave everything away, the champagne and other things. It wasn't mine, it was the state's," Soucek said.

Soucek and his pregnant wife were forced to move into a cramped one-room apartment soon after their hotel was seized. Several weeks later in the dark of a spring night their sleep was shattered by a group of government officials banging at the door. Soucek, they declared angrily, had been determined to be an enemy of the state.

"I said, how can I be an enemy of the state? I have done nothing," Soucek recalled. "Well, that was just it. I had done nothing. I hadn't worked for the betterment of the state so I was a capitalist and an enemy. I thought I was going to be taken to jail."

Soucek, an old-world figure whose genteel manners have faded not at all, was put to work in a dye-making factory in the company of many of his colleagues who, like himself, had been labeled enemies of the state by the new government and had their businesses seized. Elbow to elbow, they worked for 10 and 12 hours a day, earning barely enough to live on.

Told they would need gas masks, although they were not provided with them, the men tied red kerchiefs about their faces to protect themselves from the noxious fumes emanating from the dye.

"You were breathing green, seeing red and spitting out blue. We knew it was bad for our health but there was little we could do," Soucek said.

The news that prompted the young couple's departure came from an unexpected source. A police officer, whose son in need of medical care Soucek's father had helped years before, tapped Soucek on the shoulder and told him he had been targeted for arrest and was to be seized in a few days.

In a frantic search for a way to leave, Soucek again found aid from an unexpected source, a British officer at the Canadian consulate in Prague. A few years earlier Soucek had allowed a pair of British intelligence officers to work for several months as bartenders at his hotel, where they gleaned valuable information from conversing Communist officials.

Soucek was given maps of the border terrain and the names of pastors along the way willing to provide housing for refugees.

With the family jewels hung in a small bag under his shirt and their small child sedated to prevent her from crying in the woods, the couple set out on their arduous journey. On the third day, they crouched in exhaustion behind a clump of bushes by the heavily patroled border, weighing their chances.

Determined to make their bid for freedom, the Souceks boldly strode across the border and to their surprise were stopped only briefly. Officials examined their small collection of valuables but, Soucek said, were confiscating only paper money that could be used for intelligence purposes.

Eventually the three emigrated to Canada but their pursuit of U.S. citizenship was delayed five years because of quotas restricting the flow of East European refugees into the country.

The Souceks, who had traveled extensively before their flight, had earlier transferred several thousand dollars into a Swiss bank account, but it was the diamond in Soucek's mouth that provided the money for their apartment and furniture in the new country.

"I went to a dentist and asked him to take the diamond out of my mouth. I told him he had to be very careful because it was perfect in shape and could be easily damaged," Soucek said.

"Well, he just looked at me and I could see a kind of fearful expression in his eyes. I think he thought I was from Waterbury. I explained I was from behind the Iron Curtain and he began to understand."

With the money from the sale of the diamond, which the Souceks think would be valued now at about $15,000, they assumed a lease on a Toronto cigar store which she managed for several years while he worked in the banking department of a local hotel.

Since their arrival in the United States in 1955, the Souceks have worked extensively in the hotel and catering business, including management of a Long Island hotel, the University Club in New York City and a Pennsylvania country club.

In the 16 years the Souceks have been in Vermont they have leased a ski lodge in Jeffersonville and managed the Burlington Country Club, the Alpine Restaurant and their catering business.

Looking back over the years to the events that led to their flight from their homeland is a nostalgic experience for the Souceks, and they paused intermittently in conversation, deep in memory. But, Mrs. Soucek said, after many years of being away from Czechoslovakia, neither yearns to return.

"It's hard to believe that it all really happened," she said. "But you've got to remember we grew up in a bad time, we have very few good memories. When there's little that's nice to remember, you don't want to go back."

WHAT ITALY EXPECTS OF THE UNITED STATES

Mr. LEAHY. Mr. President, the United States is indeed fortunate to have a long history of friendship and cultural association with the great nation of Italy.

It is because of that spirit that I feel we have been honored by Italy with the excellent representation they have provided to this country by their Ambassador, the Honorable Rinaldo Petrignani.

I would like to share with my colleagues remarks made by H. E. Rinaldo Petrignani, Ambassador of Italy, on the occasion of the Third Biennial Conference of the National Italian-American Foundation on Friday, September 10, 1982, and I ask unanimous consent that they be entered into the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS MADE BY H. E. RINALDO PETRIGNANI

WHAT ITALY EXPECTS OF THE UNITED STATES

I would like to open my remarks by conveying the warmest greetings of the Italian Government to all the participants in the Annual Conference of the N.I.A.F. for 1982.

I am indeed particularly pleased to see so many prominent personalities participating in the different panels now underway. This distinguished membership is a clear demonstration of the N.I.A.F.'s ability to gain the attention of an ever-growing number of American citizens of Italian descent and to help the Italian American community to gain an increasing political and social importance among the forces actively involved in the progress of the United States.

The theme on which I have been invited to speak "What Italy Expects of the United States" is undoubtedly a sensitive and challanging one. Indeed, the very fact that an issue of this nature was proposed by the organizers of this conference shows how much the relations between our two countries are a two-way relationship, which thrives on a mutual give and take in the creation of a solid partnership.

In fact, from whom could one be entitled to expect something if not from a friend?

And friendship is the first and foremost factor in the Italo-American relationship. I would say that friendship for the United States, as seen from our perspective, is something more than a matter of policy, although all democratic governments which have succeeded themselves in Italy in the last 35 years have constantly adhered to the American friendship as a fundamental tenet of our foreign policy; it is a spontaneous attitude, which is shared by the great majority of the political forces represented in the Italian Parliament; it is a genuine feeling, which has widespread, deep, strong roots in the great masses of the Italian people, irrespective of political affiliation and doctrine; perhaps even more than that, it is a general aspect of the life of contemporary Italy. Since 1946, when at the Peace Conferences in Paris Secretary Byrnes—he and he alone—got up and shook De Gasperi's hand after our Prime Minister had pronounced his impassioned speech in defense of Italy in the cold silence of the audience, Italy has always found a friend, a helping hand, a partner in the United States of America. The Italians have not forgotten this, as they have not forgotten that twice in this century American boys have come to the rescue of liberty and democracy, which were threatened in Europe.

Political ideals, common interests, natural affinities—that kind of vitalism which permeates so characteristically both American and Italian life—bind us together. The Alliance binds us together. But I am convinced that there is also something else. There is another important factor—there is you. You Americans of Italian descent who constitute such a strong irresistible human bond between our two countries. Who amongst you does not have family, interests, connections, business in Italy? By the millions, these ties extend their ramifications in all walks of life in both countries and from a marvelous web of friendship which projects itself from the private into the public sector. As you, the Italian American Community, or more simply, Americans of Italian ancestry, become more and more an important and essential part of this splendid society and gain influence, weight and prestige, you bring deeper and deeper into the image of America something of your Italian heritage, of your Italian faces. Through you and thanks to you, there is a part of America which reminds us of Italy, not "Little Italy", just Italy, a part of America which is familiar to us, which looks like us.

What do we expect from the United States? To ask a foreign envoy such a question almost means to invite him to come up with a ready-made shopping list and read out from it. I will do nothing of the sort; I will rather confine myself to a few essential points.

First, we expect understanding for what contemporary Italy really is today. We would like to see a better, and we think, a

truer image of Italy projected in this country. As all of you are aware, there is still the traditional remnant of an image of Italy made up of old cliches, which does not reflect the reality of today nor does justice to it. We need your help to have this image corrected.

In fact, a growing attention has been devoted in recent years to some flamboyant aspect of Italian life: creativity and excellence in the arts, in the world of fashion and design, the taste for beauty, the Italian way of life, which are all aspects linked to our individualism, to the history of our culture and of our cities. At the opposite end of the spectrum, attention has been focused on political factionalism on the Mafia, on terrorism, on the earthquakes. But no comparable attention has been devoted to the progress achieved by Italy in the last 35 years as a modern nation and society. And this is precisely the aspect which we would like to see reflected, with your help, in the new image of Italy in the American press and public opinion.

Of course, we have our share of the problems which all the industrial democracies in the world today are afflicted by, plus some of our own, which in a certain way—but this is no excuse for not coming to grips with them and doing our best to solve them—are also the legacy of our history: a still recent unification process, an initially weak economic development, social fragmentation, long-lasting historic cleavages between North and South, between the cities and the countryside, to mention just a few.

But the awareness of our own difficulties should not hide the fact, neither in our own eyes nor in those of our friends, that within the consistent framework of her internal democratic system, Italy has undergone in the post-war period a tremendous process of modernization, as few other developed countries have undergone in such a short time.

From a predominantly agricultural society, which Italy still was at the beginning of the fifties, she has become today one of the great industrial democracies of the world: the sixth largest industrial democracy, the seventh largest economy. With a G.N.P. of 394 billion dollars, equivalent to 6,480 dollars per capita (according to the latest report of the World Bank), we are today not far behind the economy of Great Britain, in spite of an almost total lack of oil and raw materials and entirely dependent, as we are, on a "processing economy". Some of the Italian industries have gained a leading position in Europe and are responding with creativity and success to the tremendous challenges of the economic recession. We also have reached brilliant positions in several fields of advanced technology, as shown by our participation in joint ventures with American companies. The tertiary sector of the Italian economy is expanding fast, as that of other major countries entering into the post-industrial age, which is another sign of progress.

I can only limit myself to a very summary sketch. But let me stress that the economic transformation has entailed some dramatic changes in many aspects of our society. Millions of people moved from the South to the North and from countryside to the cities; the crust of old traditions was broken; the patterns of social behavior have changed, as also the role of the Church in Italian society. The Middle Class has expanded. A new Italian society has emerged, more affluent, more open, more free.

The modernization of the economy has made the way of life of the Italians much closer to the standards of any other major industrialized democracy. And this, of course, has had its profound bearing also on the political life of the country. In spite of the frequent government crises, which unfortunately weaken the authority of the Executive and spread the impression of political instability (an impression which proves itself wrong if you look at the behavior of the Italian electorate), I would say that a much broader national consensus has developed in Italy over the last years. Because of a change of attitudes of the political parties and in particular the progressive modernization and democratization of the Italian left, I think that a new cohesion, heretofore unknown, has strengthened the fabric of Italian society. The distances between social classes have diminished, the disputes between political parties have become less ideological and more pragmatic. Democracy has spread. Also the successful, although not yet concluded struggle against terrorism, carried out in full respect of the principles of democracy and individual freedom, even at the cost of more sacrifices, has helped, in a way, to unify the Italians.

I repeat, many serious problems remain unsolved, I may add that the progresses of the last thirty years have been uneven and that by themselves they have contributed to highlighting many inadequacies of the public structures. The very rapidity of the transportation has contributed to generating new social tensions, which also help to explain the phenomenon of terrorism. But on the whole, the changes have been enormously positive.

In essence, we have made a new Italy. The diversity, the pluralism, the richness of the cities which are still the center of Italian life, the humanity of the individual, the quest for the classical sense of beauty and harmony, all represent the continuity of a tradition of centuries. But the country has grown, has renewed itself profoundly.

We would like to see all of this reflected in the American perception of Italian reality. Italy, also because of its unique combination of old and new, is a complicated scene. But we think it deserves more attention, also beneath the superficial appearances.

With your help, we will be able to make her real face more familiar and more understandable to the American public. The effort is worthwhile, because it concerns an industrial democracy of 56 million people, which is your friend, your partner, your Ally.

There still is something else that Italy expects besides understanding—and that is to be always acknowledged and treated by you—the American People, the American Government—as a major Ally: one of the four major European partners of the United States. Let me briefly amplify this point.

The awareness of the contribution given by Italy to Western civilization, the meaning of Italian national unification in political, economic and demographic terms, the key strategic position of Italy in Europe and in the Mediterranean, the perception we have of our national identity; all these factors bring the Italians to consider their own country, despite some historic weaknesses not yet entirely overcome, to be one of the great nationalities in Europe, belonging to the same category as that of Great Britain, France the Federal Republic of Germany, even if we don't have the same nuclear weapon status that Great Britain and France have or the same economic potential that Germany has. Such a perception of our national identity is at the very heart of the Italian determination to play a role in international affairs.

I may be allowed to point out in this connection that for more than thirty years Italian foreign policy has remained firmly committed to the pro-western choices made after the war. Allegiance to the Western World is the expression in the filed of international relations of those same forces and traditions which brought about our deep commitment to freedom and democracy in the domestic field, means for us European unity. Atlantic solidarity and friendship for the United States. In more recent years, as Italy has grown and has become more solid internally, her interest and determination to assume larger responsibilities in the Western Alliance with a view toward contributing to international stability and peace, have also increased. Let me mention, as an example, the rapid and substantial growth of Italian aid to developing nations (4.5 billion dollars allocated for the period 1981/1983). Let me point out, about all, the determination and the steadfastness with which Italy took her own share of burdens for the restoration of a military balance in Europe: here decisive contribution to the double track NATO decision of 1979 for the modernization of theatre nuclear forces in Europe, the beginning of construction work on the cruise missile base at Comiso, the active role played by Italy within the Alliance to maintain unity and solidarity in the post-Poland phase, her participation in the Multinational Force for the Sinai and now in the Multinational Force for Lebanon.

As I said, the political and phychological foundation on which this attitude is based is our perception of the Italian national identity as a nation having the capability and the responsibility to play an important role in international affairs. We can help in Europe and in the world for the preservation of security and the promotion of peace and economic development. We can act together with you as your friend and your partner in the Alliance and strive together for the attainment of our common goals. But we ask from our friends a compatible attitude.

The exclusion of Italy from any restricted groups which might be formed in one way or the other within the West for the discussion of matters of common concern would be neither understood nor accepted by us. Any such discrimination would be taken in Italy as a rejection by our friends of our own identity as a nation and would set in motion centrifugal forces which would kill the spirit of Italian participation in the Alliance. We count therefore on our friends to see that this will never happen, as President Reagan promised to President Pertini when they met at the White House last March.

We expect to see our position as one of your major European partners fully recognized; to see our relationship enriched and strengthened by regular consultations and by frequent contacts and exchange of visits, even at the highest level, so that an even closer personal and direct rapport may be established between our political leaders to our mutual advantage.

Furthermore, we expect to see our trade relations not only resist the temporary difficulties of the adverse economic situation but also grow much above their present level. We want to buy more from you—coal is just an example of how much our imports from the United States can grow. But in order to do that, we have to be able to sell more. And to this effect I am convinced that the Italo-American community could do a

precious work to make more and more widely known in this country the quality of Italian products.

We expect to see also our cultural relations grow much above their present level. The influence of American culture in Italy, as in most other European countries, is immense. I don't pretend that the Italian culture should have an equal impact in America, but certainly it could have a greater impact than it now has. There is today a greater demand on your part of Italian culture, which could grow even larger. You must tell us in which direction we have to move in order to satisfy this demand. The diffusion of the knowledge of the Italian language would seem to me to be a precious channel.

We expect to see this splendid community of Americans of Italian descent become always more prosperous and numerous and to see other relatives, families join it from Italy. In this connection, may I be allowed to mention briefly a heartfelt hope of ours that some restrictive provisions of legislation presently under consideration should be modified by Congress, so as to safeguard that principle of family reunion which stems from our heritage.

I realize that I have spoken much too long. But you will grant that your question "What Italy expects of the United States" is one that an Italian envoy seldom has the opportunity to answer.

In concluding, I would like to summarize my thoughts by saying that what we would like to see is something like a "priviledged relationship" growing between the United States and Italy. Maybe my aspiration is ambitious, but I firmly believe that the ties and common interests between us so strong that we can aim high. This kind of relationship would play a helpful role also in the context of the relations between the European Ten and the United States which presently are going through a phase of considerable difficulties. The Italian Government has always maintained that the bond between Europe and the United States must be an irrevocable one. We believe, therefore, that whatever the differences and the difficulties may be they must be equitably resolved through consultations in our common interest, in the interest of the preservation of Western unity which is in turn an essential condition for the preservation of the equilibrium between East and West, and therefore of stability and peace in Europe and in the World. In this spirit, Italy remains firmly committed to European unification, Atlantic solidarity and friendship with the United States: that friendship which was symbolized by the kiss given by President Pertini to the American Flag at the White House last March.

A TINY COMMUNICATIONS EMPIRE

Mr. LEAHY. Mr. President, I recently read a story about Dana and Eleanor Haskins and how they have paved the way for computer services in their home town, Waitsfield, Vt.

I have known Dana and Eleanor for many years. They epitomize the combination of Vermont ingenuity and state-of-the-art technology that is so unique in Vermont and in Vermonters.

I ask unanimous consent that the article about them be placed in the RECORD to demonstrate to the country what we can accomplish in rural areas.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From The Sunday Rutland Herald and the Sunday Times Argus, Sept. 5, 1982]

A TINY COMMUNICATIONS EMPIRE

(By Dan Gillmor)

WAITSFIELD.—You get up at 8:30 a.m., shower and go downstairs to the kitchen. You grab a bowl of cereal and look out the window. It's snowing hard, and there's no way you'd want to go anywhere today.

That's okay. You don't have to.

You go into the study, turn on the cable TV/computer, plug it into the telephone, dial up the news and start reading a "menu" of choices. You want to find out what's happening in Vermont? Just type the correct letter and you get today's Vermont news. Looking for a used chainsaw? The menu tells you how to look through the video classified advertisments. Want to know the score of the Red Sox game? Tell the computer to find the story.

You're done with the news. It's time for work. You're already at your office. Dial up a different number—and go to work. The company wants some cost projections, which you compile on your computer. You receive and send messages and data; instead of paper memos you use the computer.

You're done for the day, and decide to whip up some new Chinese-style wok concoction you saw in a cookbook and stored on a computer disk. While the kids watch any one of dozens of different channels on the cable TV, you call up the recipe and, as the computer takes you through the process, you make dinner.

All day and all night, the computer keeps tabs on the house, regulating heating systems, window shades and electric appliances to provide comfort without unnecessarily using energy. When you're away, the communications system, linked to a central computer at the telephone company office, turns lights off and on to simulate your presence and acts as sentry, in case someone breaks in, by listening for abnormal sound waves inside the house.

Dana and Eleanor Haskin have a plan: They want to bring this future, or something like it, to the Mad River Valley, and they're well under way.

What's going on in Waitsfield, Warren and Fayston may be a harbinger of coming rural telecommunications. The Haskin family, which owns and operates three related businesses, literally wants to wire the valley. The family has put together a blend of companies— the Waitsfield-Fayston Telephone Co., Waitsfield Cable, and Selectronics Inc.—which, when combined, become a whole with the potential to be far greater than the individual parts.

Charles Larkin, the Vermont Public Service Department's telecommunications specialist, puts it this way: "The Haskins are good telephone people—damned good telephone people—but they also have the ability to see beyond the ends of their noses."

Dana Haskin is president and Eleanor is treasurer of the Waitsfield Telephone Co., one of Vermont's oldest telephone services. The company has been around since 1904, when the only phone in Waitsfield was the one at the general store. Eleanor Haskin's father came to work for the company in 1908, eventually becoming the owner and manager, and telephones have been part of the family ever since. Today, the company has 3,500 customers in the valley, with service acknowledged to be among the best in New England. State-of-the-art equipment, combined with management that is determined not to be left behind in the telecommunications race of the 1980s, has kept the company at the forefront of the communications industry.

The Haskins aren't running ahead of the crowd solely because they derive pleasure from risk. They see the new technologies, coupled with federal deregulation, both as a boon and a potential disaster for small telephone companies around the nation.

One potential result of recent moves toward deregulation of the telephone industry, according to many critics, is the possibility that telephone service for rural residents may become extremely expensive, if not extinct. Toll call revenues have been divided up in a formula that gives an advantage to local exchanges where people make a lot of long-distance calls and stay on the phone for a long time.

Waitsfield-Fayston Telephone Co. has been fortunate to make good money on toll calls in the past; but that won't be the case any more due to a likely new formula for dividing up toll call cash. The favorable toll collections have been a major boost for the company, which at every turn has been able to afford the latest equipment.

What is certain is that Waitsfield-Fayston's Telephone Co. revenues are not going to hold up in the same manner in the future. The new era means local rates will rise to partially make up for lost long-distance money, but not enough to make up the entire difference. The company's move into new technologies like cable and computers has been funded, in essence, by long-distance calls of the past, and probably none too soon.

This is not to say the company is nearing the poorhouse. Last year's rate of return on average equity was about 11.6 percent, not including depreciation or the paying off of long-term notes. The company's net income—the bottom line—therefore amounted to a good return, made all the better by the fact that the Haskins' salaries are not part of net income.

But the Haskins don't expect it to last, so they are practicing what strategists learn early: The best defense is a good offense.

"This is the most challenging and exciting time to be in this industry," Eleanor Haskin says. "It's challenging because the future can go one way or the other. We can fail or we can succeed."

Echoes Dana, "We want to stay in business. The telephone industry is going to change dramatically. We'll do our best to change the way we do our business."

The Haskins are widely known as innovators at the leading edge of the industry. They have used their experiences as members—and leaders—of national telephone industry organizations to gain firsthand knowledge of the burgeoning technology that will transform telecommunications. And they have brought it home.

"When I was growing up it was a manual (telephone) switchboard for fewer than 100 subscribers," recalls Eleanor Haskin. "We had iron wires that would cross when the trees fell. We've gone from that to a computerized switching system." A digital-computer switcher is the best technology available, and the Waitsfield system is one of only two such switchers in the state (Northfield has the other).

Another component of the Haskin "empire" is the newly awarded cable television franchise for the valley. Scheduled to

go into service soon, the cable will be available to all of the phone company's subscribers, a rare service in a rural area. With the help of a large satellite receiver mounted next to the phone company switching building, the cable service will provide perhaps the most varied programming of any cable system in the state. Programming includes network stations, the Cable News Network, ESPN (sports), Home Box Office and other entertainment channels.

The final link in the valley communications chain is a new retail store, Selectronics, in which the Haskins sell telephone equipemnt, high-fidelity sound gear and computers. The computers may be the key ingredient to virtually limitless possiblities.

As Eleanor Haskin notes, data has replaced voice as the major transmission item over the nation's telephone cables. "The marriage of home computers and the telephone network is what's going to drive the future," she says. "I really believe that this flow of information is going to be the principal use of the phone system."

She ought to know. As president in 1980 of the Organization for the Protection and Advancement of Small Telephone Companies, an industry lobbying and education group, she spent a great deal of time in Washington, dealing with others in the industry and lobbying for small companies.

"We knew what was coming," she says. "The forward-looking companies are looking at ways of generating revenues internally rather than by borrowing. We'll have to be better marketing people, have better strategies and know our customers better."

The Haskins' enthusiasm seems contagious at the company. Up at the telephone switching office one weekday afternoon, Mike Feilon, chief cable technician, is putting the final touches on a portion of the system which is due to go into service in October. Feilon used to move around New England for International Telephone & Telegraph Co., and installed the digital switcher in Waitsfield. He stayed for six months to fill a maintenance contract, and when the Haskins offered him a job he stayed for good.

Feilon likes the variety of his job; ITT workers do one thing, and one thing only, he says: "Here, you have to be an expert at so many different fields. We do everything from cleaning the floors to installing the data terminals."

Of the Haskins, he says, "Eleanor and Dana have seen to it that this equipment is the state of the art."

What Mad River Valley residents can expect in coming years is limited solely by their needs and imaginations, Eleanor says. "We envision customers being able to shop by phone, get needed information over the computer,' she says, adding that newspaper classified advertising is a likely target of the new computer networks.

"If I were a newspaper publisher, says Eleanor, "I'd do everything I could to get into the computer environment."

She laughs and adds, "Of course, I've given up on the papers. They're just doom and gloom. But I do want to know how the Red Sox are doing."

ROBERT WILMOUTH, HEAD OF NATIONAL FUTURES ASSOCIATION

Mr. LEAHY. Mr. President, recently my friend Robert Wilmouth became head of the new National Futures Association. Many of us who know Bob Wilmouth are not sure whether we should congratulate him or offer our condolences.

The Wall Street Journal says that he is the NFA's biggest asset, and I must agree. He is a man of enormous energy and I applaud the NFA for choosing him. Like many of his friends, the Congress wishes him the best.

I ask unanimous consent that the article from The Wall Street Journal be made a part of the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[The Wall Street Journal, Thursday, Sept. 2, 1982]

THE COMMODITY FUTURES INDUSTRY STARTS BIG PROGRAM TO POLICE ITSELF

(By Claudia Waterloo)

CHICAGO.—The commodity futures industry is trying to polish its image.

Knowing there's quite a bit of tarnish to deal with, the industry has started an extensive program of self-regulation called the National Futures Association. Robert Wilmouth, the influential former president of the Chicago Board of Trade, is leading the effort.

A lot is riding on the NFA's success. If the association can't stop the cheats and swindlers who are using commodity investment schemes to defraud the public, the government seems likely to move against the industry with force—a thought that makes people in the commodities business shudder.

They fear that, at best, an expanded federal regulatory program would be expensive, and they would be the ones paying for it. At worst, they say, the government's commodity watchdog would botch the job, and the task of overseeing their business would fall into the hands of less-sympathetic securities regulators.

GOING AFTER THE TOUGHIES

Though the transfer of commodities regulatory power to the Securities and Exchange Commission doesn't seem imminent, it has been talked about ever since the explosion of trading in so-called financial futures, such as stock indexes and treasury bonds.

Through the efforts of the NFA, the commodities industry hopes to show that it needs less government in it business, not more. Proving it can police its own is a tall order, but the NFA is confident.

"We're going after the toughies first," Mr. Wilmouth says from his new office, which has a view of the Chicago Board of Trade building.

What he calls the "toughies" are commodity trading firms that are federally licensed but aren't members of any of the 11 commodity exchanges—the central markets for all trading in contracts for future delivery of commodities. Known as "nonmember" firms, they take their customers' trades to exchange members for processing. Thus, the nonmembers themselves aren't subject to the exchanges' scrutiny.

ESCAPING REGULATION

In theory, at least, federal regulators at the Commodity Futures Trading Commission are supposed to oversee nonmember companies, but their thin resources haven't stretched far. Nonmembers have largely escaped effective regulation, with dire consequences.

"To a great extent, the black eye the commodities industry has received has been due to the fraudulent activities" of some nonmembers, says Thomas Russo, a New York commodities lawyer.

Some of the more spectacular failures of nonmember firms include Incomco Inc. of New York, Chicago Discount Commodity Brokers, Inc. of Chicago, and TMI Commodities Inc. of West Des Moines, Iowa. The CFTC took all three companies to court, charging that the firms dipped into money in customers' accounts to pay for big trading losses the firms or their associates took. Eventually, the losses sank the companies, and customers were out millions.

Exchange members, which are closely monitored for financial health by exchange staff, haven't suffered such disasters, but they've felt the ripple effects. Even though the nonmember failures have been relatively few, "they've been bad PR, and bad PR means less business," says Mr. Russo. Adds Michael Weiner, a partner in a Chicago commodities trading firm, "The industry just can't afford any more nonmember bankruptcies. They don't help anyone's reputation."

MONEY FOR AUDITS

The National Futures Association plans to concentrate on nonmember firms when the organization officially gets under way Oct. 1. "We're going to audit them all in the first three months," Mr. Wilmouth says. "We're going to start out with a bang."

The NFA's budget will come from assessments on contract trading and from membership fees. Its budget in its first year is projected to be between $8 million and $10 million. Audits will consume about 60% of that.

Once it gets its bearings, and what Mr. Wilmouth calls "the CFTC's imprimatur," the NFA plans to conduct special audits of nonmember firms that trade options on commodity futures, a new product that several exchanges are tentatively scheduled to begin offering soon. Keeping that business aboveboard won't be easy. The last time widespread commodity-options trading was legal, abuses were rife. Skeptics say the same could happen again.

NFA auditors also will be cracking down on "another big unregulated mass," Mr. Wilmouth says: operators of commodity pools which are pools of money traded much like mutual funds, and commodity trading advisers, who sell commodity market analyses and develop trading strategies for customers. Eventually, the NFA plans to set up arbitration courts in more than a dozen cities, phasing out a cumbersome federal reparations process where customers complaints stack up "like cordwood," congressional critics have said.

A GRADE FROM CONGRESS

The NFA's plans are ambitious, but so is Mr. Wilmouth, its chief executive officer. He figures he has two years to get the organization on its feet because the CFTC is being asked to evaluate the NFA in March 1985 for Congress. "That intrigued Bob Wilmouth," says Jean Tippins, the NFA's vice president for administration. "How many times do you get to have Congress grade your report card?"

Observers say Mr. Wilmouth is the NFA's biggest asset. Regarded as a capable administrator and an aggressive advocate for the futures industry, the 54-year-old former banker regularly works 12-hour days and knows his way around Washington. Mr. Wilmouth alone won't be able to carry the organization, however. His senior staff also will "have to get knowledgeable and aggres-

sive for the NFA to work," says Mr. Russo, the New York commodities lawyer.

Harsher critics doubt whether the NFA will succeed in its mission. "I don't have a great deal of confidence presently that the motivating forces at the NFA will be able to police adequately the growing fraud in the commodities industry," says Michael Unger, the director of the Massachusetts state securities division.

He criticizes the industry for fighting the adoption of suitability, or "know-your-customer," rules similar to those that exist in the securities business. The suitability rule requires that brokers know their customers well enough to determine whether the investments the clients are considering won't put them in over their heads. Responds John Stassen, outside counsel to the NFA, the requirement that commodities traders post a daily "margin," or good-faith money, which ensures that they will peform on their contracts, "has a tremendous self-disciplinary effect . . . It's a system of absolute liability which doesn't need any lables like know-your-customers," he says.

ANNA MAY HAWEKOTTE SMITH

Mr. DIXON. Mr. President, I would like to take this opportunity to direct the Senate's attention to a truly outstanding Illinoisan, Anna May Hawekotte Smith, who will be honored on October 23 with the Barat College Margaret Burke Alumnae Award.

This award is given annually to an alumna who exemplifies in her life the qualities Barat seeks to foster in its students * * * "the growth of intellectual, artistic and professional competence, of cultural, moral and spiritual awareness and of personal commitment and service."

Anna May Smith, a 1938 graduate of Barat College, is a woman exceptionally worthy of this recognition by her alma mater and, I believe, by all Illinoisans.

She was associated with Barat from 1938 to 1951, first as an instructor of speech and drama in the English department and eventually as chairman of the department of speech and drama. Serving in numerous management development capacities in Illinois for many years, she returned to Barat in 1965 as the director of continuing education and the Upward Bound program. Currently, she is professor of management at Sangamon State University in Springfield, where she has taught since 1973.

Professor Smith is a founding member of the Illinois Women Administrators, Inc., an honorary member of the National Press Club here in Washington, and holds memberships in numerous other State and national organizations, such as the Association for Continuing Education.

Mr. President, Mrs. Smith has given her community untiring dedication through her efforts, and is, indeed, an outstanding woman. On behalf of all Illinois citizens I would like to extend our warmest congratulations to Anna May Hawekotte Smith for this well-deserved honor and express our deep appreciation for a career of devotion to the world of education and service to Illinois.

BUYING TIME WITH MIRRORS—RESPONSIBILITY OF ACCOUNTANTS

Mr. MATHIAS. Mr. President, every day the newspapers spin out new tales of economic calamity—business failures, personal bankruptcies, and global indebtedness.

Braniff has gone under. Mexico's financial difficulties followed on the heels of Poland's and the international financial markets are still reeling.

I paint this gloomy picture not to create alarm or to add to the worldwide jitters, but the time has come to sound a warning to business executives and government finance ministers alike. Simply stated, my warning is this: Resist the temptation to buy time with mirrors. Do not count on illusions to give red ink the appearance of black ink. Do not ask your accountants to keep the company alive by artificial respiration.

Certified public accountants have a tremendously important role to play in returning world financial markets to an even keel. They must be true to their larger responsibilities and not the rosy prognoses their corporate clients would wish. To borrow the argot of the sports world, they must tell it like it is. If corporate heads roll and a corporation's stock prices plummit, that is the price we have to pay for honest books and accurate accounting. If they save one house of cards from collapse with misleading or incomplete audits, that is bad enough. But if they do so as a practice to be condoned by the times, the ultimate collapse will be heard around the world and will suck healthy companies and sound economies down as well.

The accounting profession is the trustee of public confidence to a greater degree than almost ever before. Thus it is vulnerable to a greater degree of pressure to portray the financial picture in soft tones and muted colors that avoid giving unpleasant sensations to readers.

Accounting firms that collaborate in their clients' attempts to disclose half the truth and to veil the other half from the outside directors, from the stockholders and from the world at large, will have to answer to history and to their own consciences. They will have plenty of blame and suffering to spread around between them.

Fortunately, the number of accountants who can be persuaded to play these games is small. The majority are firms that are true to their professional canons of ethics and give their clients the unvarnished facts. They could save us from disaster and earn the respect and gratitude of all of us. We should salute their professional standards and their truthful rendering of accounts—the highest duty of the good and faithful steward.

THE ABORTION ISSUE AND MINORITIES

Mr. HELMS. Mr. President, I have at hand a letter from the Reverend Edward V. Hill, B.S., LL.D., the pastor of Mount Zion Missionary Baptist Church in Los Angeles. Reverend Hill is a man of many achievements. Among other things, he is president of the Baptist Joint Commission of California, visiting professor at the California Graduate School of Theology, board member of the Billy Graham Association, board member of the Los Angeles Opportunity Industrial Center, life member of the National Baptist Convention, and life member of the NAACP.

The letter from Reverend Hill involved an issue of special importance to the black community. It is one not normally thought of as involving racial matters. But, according to Reverend Hill, it does. It is the abortion issue.

In his letter Reverend Hill says the following:

> It is clear that present government policies of abortion on demand have a disproportionate effect on racial minorities: more black babies are being killed by abortion and more black women, men and children suffer the psychological consequences than members of any other group. This is occurring despite the fact that polls show black people to be more strongly against abortion than other groups. Subtle coercion in a new welfare plantation system is continuing where slavery left off to destroy black family structures. This new war on the black family benefits a new breed of college-educated overseers.

Mr. President, I strongly recommend that my colleagues carefully consider these and other comments in Reverend Hill's letter.

Enclosed with Reverend Hill's letter was an interesting brief submitted to the Supreme Court in its pending abortion case, City of Akron against Akron Reproductive Health, Inc. It was submitted on behalf of the Catholic League for Religious and Civil Rights which was represented by Prof. Charles E. Rice and Mr. Thomas Patrick Monaghan. The brief exposes a number of the false assumption underlying *Roe* v. *Wade*, 410 U.S. 113 (1973), and points out many anomalies in the current law.

In passing I should note that it is heartening to see Baptists and Catholics working together on the abortion issue. As is well known, the abortion issue has been divisive in the United States in general. On the other hand, it has produced a high degree of cooperation among diverse religious groups and Christian denominations. Although these groups and denomina-

tions may have differing opinions on a number of things, they are in one accord on the intrinsic value of all human life.

Mr. President, I ask unanimous consent that the letter of Reverend Hill dated September 10, 1982, and the amicus curiae brief of the Catholic League be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material ws ordered to be printed in the RECORD, as follows:

MOUNT ZION MISSIONARY BAPTIST CHURCH.

Los Angeles, Calif., September 10, 1982.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: The recent debates on the Voting Rights Act gave much attention to the "effects" test in reviewing government policies to determine whether they were discriminatory. In this connection, pages 19-26 of the enclosed amicus brief prepared by the Catholic League for Religious and Civil Rights on the abortion cases pending before the Supreme Court are brought to your attention. Like the amicus brief presented by the Solicitor General, this brief confronts the fundamental error of *Roe* v. *Wade*—a case destined to join *Dred Scott* v. *Sandford* and *Plessy* v. *Ferguson* as another monument of judicial arrogance, error and unconstitutional action.

It is clear that present government policies of abortion on demand have a disproportionate effect on racial minorities: more black babies are being killed by abortion and more black women, men and children suffer the psychological consequences than members of any other group. This is occurring despite the fact that polls show black people to be more strongly against abortion than other groups. Subtle coercion in a new welfare plantation system is continuing where slavery left off to destroy black family structures. This new war on the black family benefits a new breed of college-educated overseers.

"I have a dream . . ." was Martin Luther King's cry for human rights—again that claim is being brought before you. Abortion is not part of the dream of redemption born of the suffering of the black soul in America.

Now is the time for a more searching Congressional inquiry along the lines of an effects test on the Court-imposed abortion on demand policies, and for action by Congress and the Executive.

As my brother, the Reverend Richard John Neuhaus, has pointed out, *Roe* v. *Wade* is an attempt to govern by separating law from morality and asserting law simply as law, and ". . . the reason why *Roe* v. *Wade* has been repudiated by the American people, and why it will eventually be turned around, is that for the first time in American jurisprudence, it was explicitly stated that it is possible to address these issues of ultimate importance without any reference to the Judeo-Christian tradition that has always been the primary source of public values in America."

In the Pledge of Allegiance, it is recognized we are "under God." To be under God means to be under judgment and to acknowledge God to Whom we are held accountable.

Abraham Lincoln in his Second Inaugural spoke of the judgment of God on our nation:

"The Almighty has His own purposes. 'Woe unto the world because of offences! for it most needs be that offences come; but woe to that man by whom the offence cometh!' He gives to both North and South, this terrible war, as the woe due to those by whom the offence [of American Slavery] came . . . Fondly do we hope—fervently do we pray—that this mighty scourge of war may speedily pass away. Yet, if God wills that it continue, until all the wealth piled by the bondman's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash, shall be paid by another drawn with the sword, as was said three thousand years ago, so still it must be said 'the judgments of the Lord, are true and righteous altogether.'"

Are there any who think that our country will escape judgment for the abomination of abortion on demand any more than we escaped judgment for slavery? If God wills that every drop of blood drawn by the scalpel will be paid by another drawn by the sword then we, too, with Abraham Lincoln, ". . . as was said three thousand years ago, so still it must be said 'the judgments of the Lord, are true and righteous altogether.'"

I call to you leaders of man's government, the covenant of God to Moses—"I call heaven and earth to witness against you that today I have set before you life or death, blessing or curse. . . . Oh that you would choose life that you and your children might live."

We stand in the tradition of Abraham in the desert and Abraham on the prairie. We must be true to our very being. We are a people whose forbears with hope and faith, mine in chains, in small, frail, crowded boats, crossed the oceans when they were wider than the stars are now far. Each of us is the product of a distressful pregnancy at some point in our chain of existence. We were the unwanted of Europe, Asia, and Africa. If we betray our heritage of bravery, hardship, and honor by telling the child there is no room in the inn—we will find we are a people without destiny, and there is no room for us in the stars.

Yours, sure of salvation through Christ,

EDWARD V. HILL,
Pastor.

[In the Supreme court of the United States, October Term, 1981]

(No. 81-746)

CITY OF AKRON, ET AL., PETITIONERS, V. AKRON CENTER FOR REPRODUCTIVE HEALTH, INC., RESPONDENTS.

INTERESTS OF THE AMICUS CURIAE

The Catholic League for Religious and Civil Rights is a non-profit voluntary association, national in membership, organized to promote goodwill and harmonious relations in the community, to combat all forms of religious prejudice and discrimination and to defend the human rights and sanctity of each human life.

SUMMARY OF ARGUMENT

I. *The Abortion Cases* cannot and do not preclude the legislature from making a value judgment as to the dignity of each human life regardless of whether the life is discarded. The nature of the act of abortion, the consequent loss of a human life and the intrinsic value fo each human life, may be recognized by the legislature and appropriate statutory provisions enacted providing for the humane disposal of aborted human remains.

II. Because of the devastating impact on minorities disproportionate to the rest of the population of the present abortion policy, and the erroneous factual and legal base of the *Roe v. Wade* decision, *Roe v. Wade* and its progeny are not sound enough to be relied upon under any theory of "substantive due process" to deny the ligitimacy of a reasonable, legislative response to the problem of the humane disposal of aborted human remains.

ARGUMENT

I. Legal Provision for the Humane Disposal of Aborted Human Remains is Constitutional.

The Sixth Circuit in *Akron Center for Reproductive Health, Inc. v. City of Akron*, 651 F.2d 1198, 1211 (6th Cir. 1981), struck down § 1870.16 of the Akron Ordinance requiring that "Any physician who shall perform or induce an abortion upon a pregnate woman shall insure that the remains of the unborn child are disposed of in a humane and sanitary manner," as void for vagueness.

Arguably, expecting an elemental of understanding of "humane" by abortion providers or "abortionists," *Colautti v. Franklin*, 439 U.S. 379 (1979) (White, J., Burger, C.J. Rehnquist, J., dissenting at 403, 408, 409), may be too much to base criminal sanctions on, particularly given the inhumane aspects of the abortion profession. B. Nathanson, M.D., *Aborting America*, 97-145 1979); Kaltneider, et al, *The Impact of Mid-trimester Abortion Techniques on Patients and Staff*, Am. J. Orthopsychiatry, July 1971 at 620-626. Given the mind-set addressed, more specificity may be required in such an ordinance than might be required in common human understanding. While there are certain problems in requesting and trusting one who is an abortion provider to understand and comply with treating a human fetus, just aseptically terminated by him, in a humane manner, i.e., a manner "marked by compassion, sympathy, or consideration for other human beings or animals," *Webster's Third New International Dictionary* 1100 (1965), any ruling should make clear that the state may recognize the value of those human beings at the stage of development they are.

However, in striking down the "humane disposal" provision on the grounds of "vagueness," the Sixth Circuit indicates that an essential basis of the ruling was the court's objection "to mandat[ing] some sort of 'decent burial' of an embryo at the earliest stages of formation." *Akron Center*, 651 F.2d at 1211. Such language impliedly aligns the Sixth Circuit with the district court in *Margaret S. v. Edwards*, 488 F. Supp. 181, 222 (E.D. La. 1980), which explicitly held that humane disposal provisions were unconstitutional because they recognized a value in the human fetus. Two issues are presented by § 1870.16 of the Akron Ordinance.

First, there is the standard question of "vagueness," interestingly stated in that abortionists are asked to humanely dispose of their target.

Secondly, there is the hidden issue addressed clearly in *Edwards*, and by implication in the Akron decision now before the Court that the "right" constructed in *Roe v. Wade*, 410 U.S. 113 (1973) constitutionally precludes the state from recognizing value in the human embryo or human fetus and in making any statement of that value judgment.

This is the issue as to humane disposal addressed in this brief by the amicus to the Court.

In *Leigh v. Olson*, 497 F. Supp. 1340 (D.N.D. 1980) the court acknowledged that the state may regulate the disposal of a dead fetus, but held the involvement of the woman in the process unduly burdened her decision.

The humane disposal provisions of the statutes in *Edwards* and in *Leigh* differ distinctly from those in the Akron Ordinance in that the woman is not involved in the humane disposal decision under the Akron Ordinance. Therefore, as to the woman's decision about her pregnancy, there is clearly no interference to even be assessed as "unduly burdensome" or not. *Maher v. Roe*, 432 U.S. 464, 474 (1977).

A review of the underlying and unspoken presupposition of the newly constructed abortion liberty that human life before birth is valueless and legally nonexistent will illustrate how humane disposal of the fetus or embryo sums up the continuing confrontation over abortion in our society, a clash which will continue to exacerbate as long as judicial involvement remains prominent.

"We need not resolve the difficult question of when life begins." *Roe v. Wade*, 410 U.S. at 159.

"The lie is the specific evil which man has introduced into nature. . . . The lie is our very own invention, different in kind from every deceit that the animals can produce." Martin Buber, quoted in Rosenblum, *Coercion in Liberation's Guise*, in Abortion and Social Justice 143, 146 (Hilgers, Horan eds. 1972).

"Physicians, biologists, and other scientists agree that conception marks the beginning of the life of a human being—of a being that is alive and is a member of the human species. There is overwhelming agreement on this point in countless medical, biological, and scientific writings. Extensive quotation from such writings would be unnecessarily redundant except for the strenuous efforts by some parties to deny or to obscure this basic fact. . . . If the United States government is to give reasonable consideration to the abortion issue it must start from the fact that unborn children are human beings. . . . No governmental body that approaches the abortion question with honesty can accept semantic gymnastics that obscure the real issue. Any suggestion that some human beings can be 'nonpersons' under the law simply echoes the holding of *Dred Scott* v. *Sandford*, 60 U.S. (19 How.) 393 (1857), a decision the fourteenth amendment was intended to reverse." Senate Committee on the Judiciary, The Human Life Bill—S. 158, S. Rep. No. J-97-16, 97th Cong., 1st Sess. 7, 13, 24 (1981).

"It is worth noting that of all the twenty-two expert witnesses who testified before the Senate Subcommittee on the Separation of Powers . . . on the medical and biological questions, none ever claimed that unborn children are not alive nor that they belonged to any other species than human, or even that they were part of the mother rather than a distinct individual human being. . . . Wasn't the significance of the birth of Louise Brown that her conception was in a test tube?" Hyde, The Human Life Bill Spring 1982 The Human Life Review, 6 at 7, 10.

Then, on January 11, 1982, Newsweek magazine showed a picture of an eight week old human embryo on its cover entitled, "How Life Begins" and announced, in the mass media market, despite the "difficult question of when life begins," *Roe* v. *Wade*, 410 U.S. at 159, that human life beings at conception.

"If newborns could remember and speak, they would emerge from the womb carrying tales as wondrous as Homer's. They would describe the fury of conception and the sinuous choreography of nerve cells, billions of them dancing pas de deux to make connections that infuse mere matter with consciousness. They would recount how the amorphous glob of an arm bud grows into the fine structure of fingers agile enough to play a polonaise. They would tell of cells swarming out the nascent spinal cord to colonize far reaches of the embryo, helping to form face, head and glands. The explosion of such complexity and order—a heart that beats, legs that run and a brain powerful enough to contemplate its own origin—seems like a miracle. It is as if a single dab of white paint turned into the multicolored splendor of the Sistine ceiling." How Human Life Begins, Newsweek, Jan. 11, 1982, at 38.

Still, the unborn child, who in Dean Prosser's words is as much a person in the path of an automobile as his mother, is declared non-existent before the abortionist's scalpel and fee. *Floyd* v. *Anders*, 440 F. Supp. 535 (D.S.C. 1977). He is spoken of as a child by the government on posters in liquor stores warning that alcohol may be hazardous and in appeals from the March of Dimes, "Take care of your baby before he is born." Yet this amorphous blob of paint that becomes the "multicolored splendor of the Sistine ceiling" is not a person before the law, while General Motors is.

Such an anomaly will not long last, for we will not begin to ask pregnant women "How's your fetus?" any more than we will come to feel a poetic bonding to General Motors as person to person.

We know. The whole world knows. All creation knows.

This is why the question of "humane disposal" raises hackles—because it forces a confrontation with the act itself. (See President's letter, infra, p. 15.) What is it that we are doing and what is this embryo—blob—tissue or whatever? We cannot in one breath recognize it as a blob of paint turning into the "multicolored splendor of the Sistine ceiling" and in another, chuck it in a waste disposal. It is something—a fact we do not care to admit, particularly when we go to kill.

As a point of constitutional right one might certainly state that each of us has a constitutional right to lie to himself. The law does not require one convicted to personally admit that he acted wrongly. Likewise, the fact that a woman contemplating abortion internally knows it is the taking of human life (see Senate Committee on the Judiciary, The Human Life Federalism Amendment S.J. Res. 110, S. Rep. No. 465, 97th Cong., 2d Sess. 42, 50 (1982) and polls cited therein) does not mean that she should externally acknowledge the action.

However, it should be clear that though an individual may have a right to lie to himself, there is no right attached to any individual to demand that society at large give public acceptance to that lie. Those who wish to avail themselves of the abortion liberty have no right to demand that the rest of us deny what they are doing, or that the rest of us act as if nothing were occurring. Such a view of the abortion liberty would certainly be overstated and patently inaccurate as to the fact of killing that is occurring. It would articulate an apocalyptic commitment to abortion that is almost mystical.

Indeed the opposition of the abortion providers to humane disposal raises a question of their own comfortableness with the materialistic philosophy. Jancin, Emotional Turmoil of Physicians, Staff Held Biggest D & E Problem, Ob. Gyn. News, Dec. 15, 1981, at 1, 16. If "it" really is a blob, a speck of flesh, a hank of hair, "potential anything" and nothing more, why care how it is disposed of?

In their opposition to the provision of humane disposal for the "abortus," the "conceptus," the blob, are the abortion providers showing a desire that the public assuage their own consciences? If so, they are perhaps better than their actions.

Then again, they may be truly committed to infecting all with their evil—to wringing from each a statement that each human life has no intrinsic worth—an *auto de fe* for the Secularist Creed, prior to the aseptic and clinical incineration of varying classes of life. However, in the twentieth century's scientific orthodoxy of "man is the measure of all things," an act of obeisance to the lie will not save you, but damn you.

The true target of those opposed to the "humane disposal" concept is not what is done with the human "material" but that the human soul be attacked.

What about our soul?

Yes, that is what is written—soul.

In the positivistic legal world it is a taboo to mention "it" as well—somehow unbecoming in a brief to a court. The established orthodoxy demands that we act as though there were no God (an empirically absurd position) and that we have no soul.

While scientists ponder the Shroud of Turin or the heavens for proof, R. Jastrow, God and the Astronomers (1978), the shocking evidence of our spiritual nature bursts forth in the scientific twentieth century's testimony of Auschwitz, the Gulag, Cambodia, and Nagasaki. And once we admit that recognition of evil demanded by the events of this century, we know *God is* and *we are*—and we know the stakes of the conflict.

As Elie Wiesel heard intuitively on entering a concentration camp as a prisoner: "The soul is important and the enemy knows it; that's why he tries to corrupt it before destroying us. Do not let him." E. Wiesel, One Generation After, 79-80 (1970).

By their public positions against humane disposal, abortion providers show how they internalize the knowledge of killing. In accepting the responsibility of killing, the abortion advocate is driven by a dynamic much like the slaveholders of old. Slavery was once apologetically defended as a "necessary evil." Its actual evil nature compelled it to advocate itself as a "positive good."

Similary, as with slavery, we have watched abortion move from being a drastic measure, a last resort, a necessary evil, an unfortunate occurrence—to being "a fundamental right" upon which a vast industry of death is built. The term "abortion choice" becomes layered with a nonsensical attitude as though it is something that everyone should have along with the chicken in every pot and the car in every garage. The seeds of its own undoing are thus laid.

"Since the old ethic has not yet been fully displaced it has been necessary *to separate the idea of abortion from the idea of killing*, which continues to be socially abhorrent. The result has been a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception and is continous whether intra- or extra-

uterine until death. The very considerable semantic gymnastics which are required to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forth under *socially impeccable auspices." A New Ethic for Medicine and Society,* 113 California Medicine 67, 68 (1970). (emphasis added)

In *Edwards,* 488 F. Supp. 181, the attempt to separate "the idea of abortion from the idea of killing" is carried through under the "socially impeccable auspices" of the federal judiciary. However, due to the remaining stature of the judicial role which has not been completely depleted, the "socially impeccable auspices" of a court accentuates the "ludicrous" nature of the rationalization.

"Such a question (burial or cremation) *equates the abortion process with the taking of a human life,* because fetal remains are required to undergo the same *elaborate formalities* of burial or cremation which are traditionally reserved for deceased persons." *Id.* at 222. (emphasis added)

Not only are we told that abortion is not killing, but now we are told that a funeral, the grieving process for the living, the recognition of the value of the person and the intrinsic worth of the human made in the image of God—all this is nothing but an "elaborate formality." What then, does this mean: that a human body with no remaining human contacts may be cast away as a crumpled Dixie Cup?

We began by denying we knew when life begins; we then denied the fetus is a person; then we denied "it" was a human being; and then, not only in the face of God did we deny its humanity (for who cares of such blasphemy in this century of Progress), but in the face of the findings of the Ethics Advisory Board (a regulatory agency of the United States government itself—perhaps even a "person" under the law?), we even deny "it" the "profound respect" to which the *Report of the Ethics Advisory Board on HEW Support of Research Involving Human In Vitro Fertilization and Embryo Transfer,* 44 Fed. Reg. 35033, 35056 (June 18, 1979) says "it" is "entitled".

We began by denying humane disposal to "it" and now we mock such disposal of ourselves as "elaborate formalities." In following this trend we need not fear such "elaborate formality" will continue to be "traditionally reserved" for any of us, for after all, there are careers to pursue, cases to be argued and decided, and "getting and spending." We shall "let the dead bury the dead," not because we are concerned with eternal life, but because we no longer believe in it at all, or even life here and now or anything.

"Since the fetus is not a person, neither is it a human being," *Edwards,* 488 F. Supp. at 222. The statement enshrined in the West Reporter leaps from the pages, and unless one is either stupid or evil it can only be read with tears or hilarity. Tears for when the reader feels and laughter when he thinks.

Not content with the foolishness inherent in once saying a human fetus is not a human being, the court says it again by criticizing the humane disposal statute for "impermissible" raising "the status of a fetus to that of a human being by using language equating fetal remains with human remains . . ." Id.

Observe how the court uses "fetus" as a noun unmodified, in contrast to "being" as a noun modified by "human".

The question to be asked is what kind of fetus?—if it is a variety of animal fetus than certainly such a fetus can't be raised to the level of a human being or lowered thereto.

Because these are humans, however, who are obtaining abortions, their fetuses are human and no statute does or can raise them to the level of human beings because by all definitions a human fetus is a human being. A dog fetus is a dog being. A cow fetus is a cow being. A horse fetus is a horse being. The principle is rather consistent.

Observe again how the sentence then uses "remains" as a noun modified by "fetal" to contrast with "remains" modified by "human", as if there were some natural opposition between the two. What kind of "fetal" is opposed to "human"? Certainly not a "human fetus" or a "fetal human". If the subject matter for disposal is a human fetus, then the remains are fetal and human. The remains can't be fetal or human—they are either human or non-human, fetal or non-fetal. Human and fetal are not mutually exclusive words.

The verbiage of Edwards, competes with Judge Clement Haynsworth's statement in *Floyd* v. *Anders,* 440 F. Supp. at 539, that ". . . the Supreme Court declared the fetus in the womb is neither alive nor a person within the meaning of the fourteenth amendment."

Overlooking for a moment the jurisdictional requirement, if it were true that the unborn were not alive, the alleged need for abortions under any theory would be obviated. In fact everything would be obviated.

Does human language have to be aborted along with the human fetus?

"If the factual concepts on which legal decisions are based are mandatorily defined in ways which can support only the results reached, the possibility of reasoned public criticism is eliminated." Professor Richard Stith, Valparaiso University School of Law, quoted in S. Rep. No. 465, supra at 47.

Recently in Corpus Christi, Texas, two legally aborted fetuses discovered in a garbage dump were released by authorities for burial. Just as a nation honors her dead abroad and seeks them out whether they be missing in the Southeast Asian jungle or victims of fashionable leftist quackery in San Francisco and South America, so does the continued spectacle of the aborted unborn require us to act in a fitting and proper manner toward the dead.

On May 5, 1982 President Reagan gave public recognition to 17,000 dead kept in containers, labeled in jars, found in Los Angeles when a storage container broke open. In a letter to a Dr. Philip B. Dreisbach the President stated:

"I have received your letter and I want you to know of the great horror and sadness evoked by the incident you described. When all is said and done, being confronted with the reality of abortion and its consequences removes all trace of doubt and hesitation. The terrible irony about this sudden discovery is not that so many human lives were legally aborted, but that they are only a tiny proportion of the 1.5 million unborn children quietly destroyed in our nation each year. This is the truth many would rather not face.

"Your decision to hold a memorial service for these children is most fitting and proper. On such an occasion, we must strengthen our resolve to end this national tragedy. I am hopeful that evidence like that found in California will move those who have thus far preferred silence or inaction and encourage them to agree that something must be done. I have expressed my anticipation that Congress act expeditiously on this matter and approve a measrue which will remove this evil, and all its vestiges, from our society.

"Thank you for writing, and may God bless you in all your efforts."

In this same instance, a judge on June 29, 1982 issued a preliminary injunction restraining Los Angeles County for releasing "fetal tissue" for burial, pending trial, as plaintiffs "will suffer severe and irreparable injury." Feminist Women's Health Center, Duncan Donovan, Atheists United, v. John Van de Camp, No. 413606, Los Angeles Superior Court (June 29, 1982).

The acts of the officials remain on record and there can be no doubt of the emerging consensus. The people as human beings will recognize the intrinsic worth of the human as did the President.

If we are "a deeply religious people," Zorach v. Clausen, 343 U.S. 306 (1952) and a "society that. . . strongly affirms the sanctity of life," Furman v. Georgia, 408 U.S. 238, 286 (1972) Brennan, J., concurring) surely individuals should at least be able to have a memorial service without necessitating first the removal or consideration of a preliminary injunction.

The view that humane disposal provisions are unconstitutional because they recognize a value in the human fetus "misconceive[s] the nature and scope" Maher, 432 U.S. at 471, of the judge-made right in Roe v. Wade. This Court has not yet held that the State must regard and treate the human fetus by the public proclamation or indifference as utterly lacking in human aspect or dignity.

Nothing in the Constitution or in the decisions of this Court thus far forbids a state's recognition of the fact that the human fetus is human life or forbids a state to act on that view except to the extent that its acts might "override the rights of the pregnant woman that are at stake." *Roe* v. *Wade,* 410 U.S. at 162. Presumably those rights of the woman at this time are to terminate pregnancy prior to term without regard to what that entails, and not to demand that society financially underwrite her decision *Harris* v. *McRae,* 488 U.S. 297 (1980); or applaud by pretending "the human embryo" is not "entitled to profound respect" as the *Report of the Ethics Advisory Board, supra* at 35056 concluded "it" was. The newly claimed "right" "implies no limitation on the authority of a State to make a value judgment." *Maher,* 432 U.S. at 474.

II. A Humane Disposal Statute Related to Aborted Human Remains is a Legitimate Matter of Legislative Judgment

In *Ferguson* v. *Skrupa,* 372 U.S. 726, 731-32 (1963) it was hoped this court had buried the discredited doctrines of "substantive due process" of *Lochner* v. *New York,* 198 U.S. 45 (1905) by which "the Court, and not the legislature became the final judge of what might be law . . ." R. Jackson, The Struggle for Judicial Supremacy 70 (1931).

In *Ferguson,* 372 U.S. at 731-732, the Court Said:

"We refuse to sit as a "super-legislature to weigh the wisdom of legislation," and we emphatically refuse to go back to the time when courts used the Due Process Clause "to strike down state laws, regulatory of business and industrial conditions, because they may be unwise, improvident, or out of harmony with a peculiar school of thought."

However, "substantive due process" apparently retained "potential life," for in *Roe* v. *Wade* and its progeny, "substantive due process," with the Court as a "super-legisla-

ture to weigh the wisdom of legislation," came back with a vengeance, striking down abortion laws "out of harmony with a peculiar school of thought." *Id.*

John Hart Ely, in *The Wages of Crying Wolf: A Comment on Roe* v. *Wade*, 82 Yale L. J. 920, 935 (1973), observes that the Court manufactured a "super-protected" right "not inferable from the language of the Constitution" and then afforded the improvident and extravagant liberty "more stringent" protection than "the present Court accords the freedom of the press explicitly guaranteed by the First Amendment."

"While I would hesitate to argue that one *(Roe* or *Lochner)* is more defensible than the other in terms of judicial style, there are differences in that regard that suggest *Roe* may turn out to be the more dangerous precedent." *Id.* at 940.

"More dangerous" because the "fundamental right" fiction attempts to insulate the claim from rationality tests and requirements.

The actions of the Court in reviving "substantive due process" have impressed upon a whole people and vulnerable minorities the Court's "concepts of the socially desirable, the publicly acceptable, and the morally sound, with a touch of the devil-take-the-hindmost." *Beal v. Doe*, 432 U.S. 438, 462-63 (1977) (Blackmun, J., dissenting).

Polls show black people to be more strongly against abortion than other groups. Senate Judiciary Committee Report, No. 465, *supra* at 48; *Black Stand on Abortion*, New York Daily News, March 12, 1978, yet from their number come the most abortions in a stunningly disproportionate ratio.

Could subtle coercion and upper class manipulation of racial and sexual self-hatred be a factor in the contrast between the level of opposition to abortion and the level of utilization of abortion?

"Non-white women obtain abortions at nearly double the rate of whites . . ." *McRae*, 448 U.S. at 343 (Marshall, J., dissenting). Citing this, the dissent then called for "more searching judicial inquiry" along lines of an *impact* test so as to mandate funds for abortion on the grounds of discrimination!

Others observing this disproportionate rate of abortion among non-whites have wondered too—not about alleged discrimination in *not* financing the killing off of a generation, but at the obvious discrimination in *financing* such a program, the net *impact* and *result* of which is the elimination of the minority—admittedly by subtle coercion and democratic selection, but still the *impact* and *result* exposes the program for its inherent racism. Novak, *How Placidly They Accept Aborting So Many Black Babies* (November 14, 1976) *reprinted* in Spring 1978 The Human Life Review 95.

The black population ". . . suffers a disproportionate share of the psychological effects of abortion upon mothers and upon other children." *Id. See also*, Freeman and Graves, *Risk of premature delivery among indigent Negro women based on past reproductive performance*, Obstet. Gynecol. 34: 648 (1969); Iffy, *Perinatal Statistics: The Effect Internationally of Liberalized Abortion*, in Hilgers, Horan, and Mall, New Perspectives on Human Abortion, 92-127, at 118, 119 (1981).

The evidence increases of this "brutal effect." *Beal*, 432 U.S. at 460 (Marshall, J., dissenting). Surely, "at some point a showing that state action has a devastating impact on the lives of minority racial groups must be relevant." *Jefferson v. Hackney*, 406 U.S. 535, 558, 575-576 (1972) (Marshall, J. dissenting).

"Black women are being aborted at a rate 2.5 times greater than any other ethnic group in New York City. Why? They are not being given the freedom to say no! They are being coerced into destroying their children! This must come to an immediate halt! Then, an investigation should be carried out, and those responsible should be brought to trial for one of the most ghastly crimes of this century. Erma Clardy Craven, *Abortion, Poverty and Black Genocide: Gifts to the Poor?*" Abortion and Social Justice, *supra* at 240.

". . . there truly is 'another world' 'out-there', the existence of which the Court, I suspect, either chooses to ignore or fears to recognize . . ." *McRae, 448* U.S. at 348, citing *Beal*, 432 U.S. at 463 (Blackmun, J., dissenting).

It is time the world "out there" of welfare coercion, of those enslaved in a new urban planation system be recognized for what it is. And those afraid to recognize it for what it is are its administrators and their governmental supporters, whose power and influence depend on a continuing and self-perpetuating caseload without regard to human cost.

Under National Socialism abortion was promoted for Jewish and East European women only, not German women. William C. Brennan, *Medical Holocaust: Exterminative Medicine in Nazi Germany and Contemporary America*, Vol. I, 79, 80, 99, 124, 135 (1981). Governments, classes and cliques provide abortion as social policy for those for whom they do not care. The real world "out there" and "in here" is relentless in its vicious destruction, in the name of compassion and progress.

Abortion for "penniless pregnant women," *Beal*, 432 U.S. at 454 (Brennan, J., dissenting) is the epitome of "ethical bankruptcy". *Id.* at 456 (Marshall, J., dissenting).

The "peculiar school of thought" *Ferguson*, 372 U.S. at 732, requiring "a troubling journey into the realm of substantive due process," *Scheinberg v. Smith*, 659 F.2d 476, 484 (5th Cir. 1981) trots out many themes—welfare costs, poverty and child abuse, health and privacy, among others. These legislative policy arguments must be examined so that the basic nature of the humane disposal question not be similarly misconstrued by increased court involvement on the authority of *Roe v. Wade*, a case with such an inadequate base in law and fact that in time it will be disavowed.

It has been argued in governmental bodies legislative and judicial that there should be a pro-abortion policy because of "the welfare costs that will burden the state for the new indigents and their support in the long, long years ahead . . . And so the cancer of poverty will continue to grow." *Beal*, 432 U.S. at 463 (Blackmun, J., dissenting).

This cost-benefit analysis is mirrored well in Problem 95 in a mathematics textbook in use in Germany in the 1930's.

"Problem 95. The construction of an insane asylum required six million RM. How many new housing units at 15,000 RM each could have been built for this sum? Adolf Dorner, Mathematik en Diensteder Nationalpolitischen Erziehung (1935)."

There are unanticipated consequences to such an attitude, as the West German Court noted in finding an abortion statute unconstitutional. That court stated that its ruling could "be understood only in light of the historical experience and the spiritual-moral confrontation with the previous system of National Socialism." Jonas and Gorby, *The West German Abortion Decision: A Contrast to Roe v. Wade*, 9 J. Mar. J. of Prac. and Proc. 605, 662 (1976). *See also* J. Burtchaell, *Die Buben sind unser Ungluck! The Holocaust and 'Abortion,'* in Rachel Weeping and Other Essays on Abortion, 141 (1982).

The dangers of the unwanted child and child abuse have been put forth. "The unwanted minority and mixed race children now spend blighted lives . . . ," *Beal*, 432 U.S. at 456 (Marshall, J., dissenting) and "absent day care facilities" they force their mothers "into full time child care." *Id. at 458.*

In order to justify abortion on such grounds, as "absent day care facilities," one must totally separate oneself from reality and judge *potential* and imagined violence or deprivation to a child later in life as more real than the real flesh and blood violence which ends the child's life, and the actual psychological violence which hounds the woman and her surviving children in later years. Calef, *The Hostility of Parents to Children: Some notes on Infertility, Child Abuse and Abortions*, 1 Intl. Journ. of Psychoanalytic Psychotherapy 79 (1972). The policy in time will give way to cruelty and come readily to consent to the removal of the original object of concern—the poor themselves.

The data seem to indicate that abortion causes problems of child abuse by destroying the bonding process between mother and infant and in other ways. Ney, *Is elective abortion a cause of child abuse?* 4 Sexual Medicine Today 31 (June 1980); Ney, Relationship between Abortion and Child Abuse, 24 Can. Journ. of Psychiatry 620 (1980).

The devaluing of the child *in utero* is increasing psychological and physical problems for all, mothers and children. Kent, *Emotional Sequelae of Therapeutic Abortion: A Comparative Study*, 20 Brit. Colum. Med. Journ. 118 (1978); Kumar and Robson, *Previous Induced Abortion and Antenatal Depression in Primiparae*, 8 Psychological Medicine (1978).

"While suicide . . . is not unknown as a reaction to abortion, it is almost unknown among pregnant women and even among new unmarried mothers." S. Rep. No. 465, *supra* at 43. Contrast the actual empirical data with the assertion in *McRae, 448* U.S. at 340 (Marshall, J., dissenting) that the result of no abortion funding "may be suicide." *See also* Tishler, *Adolescent Suicide Attempts Following Elective Abortion: A Special Case of Anniversary*, 1981 Pediatrics 670.

The indications are that where abortion is widespread, infant mortality is increasing and higher than in those areas where normal, natural childbirth is the rule. For example, Washington, D.C. has the highest repeat abortion rate in the country, S. Rep. No. 465, *supra*, and *City Infant Mortality Rate Rises*, The Washington Post, June 19, 1981. *See also* Levin, *Association of Induced Abortion with Subsequent Pregnancy Loss*, June 27, 1980, J. A. M. A., 2495; *Iffy, Perinatal Statistics: The Effect Internationally of Liberalized Abortion*, New Perspectives, *supra* at 92-127.

A study by Thomas W. Hilgers, M.D. and Dennis O'Hare, *Abortion Related Maternal Mortality: An In-Depth Analysis*, New Perspectives, *supra* at 90 has found that "natural pregnancy was found to be safer in both the first and second 20 weeks of pregnancy"

than legal abortion. Contrast this actual empirical data of 1981 with the 1973 assertion of "the now established medical fact of safety" of abortion over natural pregnancy, *Roe* v. *Wade*, 410 U.S. at 163.

John Cardinal Newman writes about a hidden danger in an excessive reading of novels—the habitual arousing of noble impulses to action with no real object or healthy outlet. In this way, an individual jaundices himself by experiencing emotional heights and depths without needing to involve himself in mental judgment or commitment or action. Right feeling never comes to inform right action. Thus the individual concerns himself with whether he has *feelings* of pity, righteous anger and charity, rather than whether he allows his feelings to inform *moral acts*.

Three of the dissenting opinions in *McRae*, 448 U.S. at 329 (Brennan, J., Marshall, J., and Blackmun, J., dissenting) are replete with such proper feelings, yet the morality of the act of abortion is avoided.

Indeed one is treated again to: "Abortion and child birth, when stripped of the sensitive moral arguments surrounding the abortion controversy, are simply two alternative medical methods of dealing with pregnancy . . ." *McRae*, 448 U.S. at 332-333 (Brennan, J., dissenting; quoting *Beal*, 432 U.S. at 449.)

Professor John Noonan has noted, of this repeated statement:

". . . It is a bit like saying 'stock fraud and speculation in stocks, when stripped of the sensitive moral arguments surrounding them, are simply two alternative financial methods of dealing in the stock market.' When moral sensitivities are eliminated how do you distinguish good procedures from bad? . . . Is, this so far from writing, 'Life is unquestionably a condition requiring medical services . . . Treatment for the condition may involve medical procedures for its termination or its continued support? 'Certainly the bland equation of life or death as two alternative and acceptable outcomes is shocking to the least tender conscience." Noonan, *A Half Step Forward: The Justices Retreat on Abortion*, Fall 1977 The Human Life Review, 11, 12, 16.

However, in the deliberately chosen starvation of the Bloomington baby, Infant Doe, the ". . . lawyer concocted an Orwellian euphemism for this refusal of potentially life-saving treatment—'treatment to do nothing.'" Will, *The Killing Will Not Stop*, The Washington Post, April 22, 1982, at A29, col. 3.

But stripped of the changing social engineering justifications of that "another world out there," *Beal* 432 U.S. at 463 (Blackmun, J., dissenting), there is an assertion of privacy as the basis of this judge-made right.

Legal commentators, regardless of their position on abortion, quickly pointed out the flimsy nature of a privacy rationale. J. O'Meara, in *Abortion: The Court Decides a Non-Case*, 1974 Supreme Court Review 337, 340, wrote, "there is nothing private about an abortion" and Ely, *supra*, at 932, observed that the detriments of pregnancy cited by the Court have "nothing to do with privacy in the Bill of Rights or any other sense the Constitution suggests."

The commentators, however, overlook the underlying logic of the *privacy* rationale, given the nature of the act of abortion. It is understandable that *privacy* be proclaimed as its basis, for *privacy* is a "peculiar school of thought" for such an act.

". . . of all human pursuits murder has the most deadly need of privacy; . . . man will go to almost any lengths to preserve the solitude in which he evacuates or makes love but he will go to any length for that in which he takes life, even to homicide, yet by no act can he more completely and irrevocably destroy it . . ." W. Faulkner, *Intruder in the Dust* 57 (1948).

The foregoing experiences with judicial legislating on unsound theory should be kept in mind before answering the questions posed by what to do with the remains of aborted human beings

Can the elected legislature make provisions for the humane disposal of aborted human remains? Can the elected legislature prevent the use of aborted human remains for experimentation or in the manufacture of cosmetics? Thimmesch, *Our grisly human fetal industry*, Victoria Advocate, Dec. 18, 1981. Can trafficking in aborted human remains be prohibited, Will *Roe v. Wade* now be read to demand judicial prohibition of legislative responses to the problems of the disposal of the remains of discarded individual human life?

The judicial and judicious answer is that the appropriate branch of government, a legislature, must so provide for the humane disposal of aborted human remains. S. Rep. No. 465, *supra* at 4, 5.

A "substantive due process" answer is of course by its nature arbitrary and not so predictable. Epstein, *Substantive Due Process By Any Other Name: The Abortion Cases*, 1973 Supreme Court Review 159; Viera, *Roe and Doe: Substantive Due Process and the Right of Abortion*, 25 Hastings L. J. 867 (1974).

The unforeseen impact and result of the Court's "substantive due process" abortion legislation and the eroding factual base upon which the regulations were so enacted indicate it is time we begin to journey back to a sane and rational jurisprudence that respects the constitutional separation of powers. S. Rep. No. J-97-16, *supra;* S. Rep. No. 465, *supra*.

"Substantive due process"—an oxymoron—should once again be laid to rest. Humane recognition of our own is clearly within the power of the legislature. It is a Constitution not a *Zeitgeist* this Court is charged to interpret, and it is that duty to which the Court is urged to return. Article III creates a judiciary, not a peerage.

III. Conclusion

The passage of time cannot cure "an improvident and extravagant exercise of the power of judicial review" made without "authority," *Roe* v. *Wade*, 410 U.S. at 221-222 (White, J., dissenting); and "judicial legislation," *Id.* at 174 (Rehnquist, J., dissenting), like all legislation, is subject to becoming outdated rapidly.

Nine years after *Plessy* v. *Ferguson*, 163 U.S. 537 (1896), the Constitution was still "color blind," (Harlan, J., dissenting); and nine years after *Roe* v. *Wade* the "exercise of raw judicial power," *Id.* at 221-222 (White, J., dissenting) is still raw and eroding the authority upon which judicial power must ultimately rest.

To come before the Court and say the truth is to be a friend of the Court.

It is a lack of respect for the Court in argument to attempt to intellectualize the irrational and overreaching "substantive due process" categories which the unconstitutional *Roe* v. *Wade* blandly states.

A case regularly criticized in law reviews, *see* S. Rep. No. 465, *supra* at 34 and critical articles cited therein; J. Noonan, A Private Choice: Abortion in America in the Seventies, 20-32 (1979), and a topic of lampooning in law classes across the country cannot be salvaged by obsequious fawning, masking itself as scholarship. It should be and will be disavowed.

At the very least though, at this time we should expect a legal recognition of that most fitting and proper right to respect and humanely care for the human life sacrificed.

Whether this Court will be allowed to seize this opportunity to begin to properly interpret the Constitution by limiting or disavowing the unconstitutional *Roe* v. *Wade* is not a matter within the powers of the Court or those before it. Not just because of the power and sway of vested error, by comparison to which vested wealth is naught, but more because the blood, guilt, and accumulated self-hatred of nine years is heard.

"Then I shall make Pharoah's heart stubborn and he will set out in pursuit of them. But I shall win glory for myself at the expense of Pharoah and all his army and the Egyptians will learn I am Yahweh." *Exodus* 14:4.

THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Mr. DURENBERGER. Mr. President, I would like to call to the attention of my colleagues H.R. 7173, which was passed by the House on Tuesday of this week and sent to the Senate, where it is being held at the desk.

This bill would add several new positions to the Advisory Commission on Intergovernmental Relations, specifically one Federal judge, one State judge, and a local school board member. The bill would also include a role for the National Association of Towns and Townships in naming local members to the Commission.

I know that Senators will be interested in this question, because ACIR has a long and respected history of bringing the best thought to bear on problems of intergovernmental relations and the best information to the Congress on how our intergovernmental system operates. As good as the record is, many Senators believe it could be improved upon by adding new voices to the Commission's deliberations. Senator PERCY has introduced legislation which is cosponsored by Senators ROTH and SASSER and several others to add school board representation. I have my own bill cosponsored by Senators DANFORTH, SPECTER, and ABDNOR which would add more representation from towns, townships, and small communities.

As easy and perhaps appropriate as it would be to invite everyone under the ACIR tent, the matter of membership is somewhat more complicated than an open invitation. Two concerns have always been reflected in the structure of the Commission's membership. First, that it be balanced among Federal, State, and local views. And second, that it represent the views of general purpose governments

and not special communities of interest.

PROBLEMS WITH ERISA

Mr. COHEN. Mr. President, for 65 years, Coles Express has served the State of Maine. Founded in 1917, this family-owned trucking company is Maine's oldest general freight highway carrier. Today, the future of Coles Express and the other companies within Cole Enterprises are in jeopardy due to action taken by the Congress a few years ago.

In 1974, Congress enacted the Employee Retirement Income Security Act, commonly known as ERISA. Six years later, the multiemployer pension plan amendments to ERISA were adopted. These laws were intended to strengthen the private retirement system and to protect the interests and benefits of participants in private sector employee benefit plans.

ERISA was an important step toward insuring that employees who pay into private pension plans over a period of years, believing they are investing in a secure retirement future, are not, after a lifetime of work, denied benefits if their pension plan fails or is terminated. It has become increasingly clear, however, that ERISA has also created serious inequities which threaten the continued survival of many businesses and, in turn, the jobs and pension benefits of their employees.

Multiemployer plans, which cover most of the employees in the trucking industry, came under the jurisdiction of ERISA in 1980. Many such plans have large unfunded liabilities. In order to discourage employers from withdrawing from such plans, there by avoiding liabilities to the plan and leaving the remaining employers with the obligation to pay for employee benefits, ERISA contains stringent withdrawal liability provisions.

The withdrawal liability provisions of ERISA have created serious problems for many businesses participating in multiemployer plans. These problems have been particularly acute for the trucking industry which, in addition to ERISA, has had to adjust to changes resulting from the Motor Carrier Act of 1980 which deregulated the industry. Since July 1980, the trucking industry has had to adapt to an environment of increased competition as a result of deregulation. Since 1980, the industry has also had to comply with and adjust to the strictures imposed by ERISA which includes potential liabilities of up to 100 percent of an employer's net worth in the event of a partial or complete withdrawal from a plan or a plan's termination. The existence of these liabilities has seriously interferred with the ability of firms to enter into normal and routine business transactions, including those which have been necessary to respond to a more competitive marketplace.

The situation faced by Coles Express is not unique, but I believe it illustrates the problems faced by many small businesses across the country. The following is a portion of a statement submitted earlier this year by Galen Cole, chairman of Coles Express and son of the company's founder, to the Senate Subcommittee on Labor which has held a series of hearings on ERISA reform.

The provisions of ERISA relating to employers contributing to Multiemployer Pension Plans has cast a dark shadow on not only the future of Coles Express, but also on the future business and jobs of other independently operated companies which are owned by Cole Enterprises and which have nothing whatsoever to do with the New England Teamsters Pension Plan.

The trucking industry is more competitive today than at any time since the passage of the Motor Carrier Act of 1935. Greatly increased competition is accelerating the demise of weaker companies in this industry. In New England we have lost in the past few years more than 60 Teamster competitors. Replacing these carriers are lower wage non-union companies and a few giant carriers.

In Maine, where total intrastate deregulation became effective January 1, 1982, competitive pressures are becoming extreme. After many years of strict State regulations, only 6 of the 123 Maine based trucking companies which existed in 1941 are still in business today, and each of these are family businesses.

We at Coles Express are attempting to compete in this changed environment. We are striving to continue our unbroken history of 65 years of service to the most remote areas of the State, knowing that our capital is more highly at risk now than at anytime since the Great Depression.

Since 1950, Coles has had little choice but to participate in the National Master Freight Agreement, which has required the company to contribute to the Multiemployer Teamsters Plan. There are currently 184 Teamster employees comprising only 62 percent of the work force of Coles Express and only 42 percent of the work force of the companies in the Cole Enterprises group. At the same time, our companies have contributed to company-sponsored retirement plans for all other employees. I should add that we recognize our obligation under our non-Teamster retirement plans, and contributions to our profit sharing retirement plan have been made for 24 years without interruption.

As part of their organizing strategy Teamsters have sold long-service employees on the past service retirement credits which would accrue to them by joining the union. Of course, those past-service credits are liabilities to employers like Coles who must participate in funding the enlarged base created by the union organizers. These new and additional liabilities were assessed to the plan, buy never with our sanction.

If Coles Express chose or were forced to contract substantially, or its employees chose to be represented by a union other than the Teamster, or if the company were shut down by a strike of any duration and were unable to reopen, a past-service liability up to its entire shareholders' equity of $3 million could be payable to a Multiemployer Pension Plan benefiting only 62 percent or 184 employees, placing approximately 100 non-Multiemployer employees at Coles Express out of work. Should there be any reason in the world why a company like Cole Enterprises, or its other non-Multiemployer subsidiaries have their corporate assets confiscated and the jobs of its employees confiscated in assuming the liability of a minority of its employees?

We estimate now that our pre-1980 liability is in the area of $2,851,000, using information supplied by the Teamsters Plan. If Coles Express were not able to raise this amount, however, this liability extends under present law to the capital, net worth, and job security of those independently managed sister companies. Surely, to create a situation where the future viability and jobs of a company are in jeopardy because of a common ownership with another company who is a contributor to a Multiemployer Plan, is wrong. What is particularly disturbing about this enormous liability is that it was never the subject of bargaining. What was bargained was the level of contributions by the company to the Teamsters Plan, not the unseen level of expense necessary to fund promises over which we had no control.

It has been and continues to be a source of pride to all our shareholders that we have paid no dividends since the company's founding in 1917 and that we have over the years reinvested all of our earnings in the business. Now we find that in a time of increased business risk, the capital prudently accumulated in the business is only ours if we continue in business as before. If the new and growing competition forces us to contract substantially, our company could be bankrupt. Because of withdrawal liability, our bargaining position with the Teamsters Union in order to reduce our costs in contract negotiations is greatly weakened. Should we be forced to close our doors from competitive pressures brought on by the Motor Carrier Act of 1980, not only will the jobs of Coles Express' other employees be forfeited along with the net worth of its shareholders, but the future and 135 jobs of another company, A. J. Cole & Sons, another subsidiary of Cole Enterprises, will be in jeopardy as well.

Although I have confined my remarks to the effects of this law on Coles Express, I am sure that there are thousands of other small, family-owned companies throughout the country which find themselves in a similar situation.

Coles Express prides itself on its responsibility to its employees and to the public in the communities it serves. Should some new regulation be implemented requiring Coles to cover the full present and future costs of its own Teamster pensions, we would certainly recognize that obligation, step up to it, and if necesary engage in collective bargaining with respect to it. The inequity posed by this present law is that we have not had such an opportunity in the past, and have therefore not been able to price our services or recognize this liability. And yet, all the interests of our shareholders, the public, and the majority of our employees are made subordinate to those Teamster members of a Multiemployer Pension Plan.

To recap, I would say in 1980, with the Motor Carrier Act, Congress took away the major asset of our company, the value of our operating authority. It allowed the hundreds of new non-Teamster companies to enter the market previously controlled basically by the Teamsters Union. That same year, the Multiemployer Pension Plan

Amendments Act set up liabilities for us Teamster companies that exceed nearly every carrier's net worth. With a small Teamster trucker not being able to compete long-term on the one hand with non-Teamster competitors and on the other hand with the trucking giants, the Multiemployer ERISA law prohibits the owners from closing down without complete confiscation of the company's assets.

In the case of Coles Express not only are its assets in jeopardy, but also the assets of its parent company seriously affecting the jobs of employees who have no Multiemployer retirement. I can't believe Congress ever intended to put a minority of any corporation's employees out of work to satisfy non-negotiated retirement benefits for a minority of any company or group of companies. Further, I can't believe it was Congressional intent to take a company which has had nearly 50 consecutive profitable years, never declared a dividend, and confiscate all of its assets in order to fund retirements for only 42 per cent of its employees.

The predicament faced by Coles Express and other businesses across the country must be addressed. By placing the existence of such companies in jeopardy, we also jeopardize the jobs and pension benefits of their employees. The private pension system, if it is to fulfill the critical role of meeting the retirement needs of our Nation's retired population, must be placed on a sound and equitable footing.

Reforms must be adopted to provide relief from the problems caused by ERISA's withdrawal liability rules and, at the same time, to protect the interests of pension plans, plan participants, and employers.

MESSAGES FROM THE HOUSE

At 11:56 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the amendments of the Senate numbered 1, 2, 3, and the amendment to the title of the bill (H.R. 1952) authorizing appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1982, 1983, and 1984, and for other purposes; and it agrees to the amendment of the Senate numbered 4 to the bill, with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendments of the Senate to the joint resolution (H.J. Res. 599) making continuing appropriations for the fiscal year 1983, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. LONG of Maryland, Mr. YATES, Mr. ROYBAL, Mr. BEVILL, Mr. GINN, Mr. LEHMAN, Mr. DIXON, Mr. FAZIO, Mr. CONTE, Mr. MCDADE, Mr. EDWARDS of Alabama, Mr. MYERS, Mr. ROBINSON, Mr. MILLER of Ohio, Mr. COUGHLIN, and Mr. YOUNG of Florida as managers of the conference on the part of the House.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6133) to amend the Endangered Species Act of 1973.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 1486) to establish the Protection Island National Wildlife Refuge, Jefferson County, State of Washington.

The message further announced that the House has passed the following bill, without amendment:

S. 2874. An act to amend the Act of March 16, 1934, as amended, to credit entrance fees for the migratory-bird hunting and conservation stamp contest to the account which pays for the administration of the contest.

ENROLLED BILL SIGNED

At 12:18 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4623. An act to amend titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the Code.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

At 2:27 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House agrees to the amendment of the Senate to the bill (H.R. 4613) to increase the efficiency of Government-wide efforts to collect debts owed the United States and to provide additional procedures for the collection of debts owed the United States, with an amendment, in which it requests the concurrence of the Senate.

At 5:33 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 1210) amending the Environmental Quality Improvement Act of 1980.

The message also announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 1573. An act to exempt the Lake Oswego, Oregon, hydroelectric facility from part I of the Federal Power Act (Act of June 10, 1920) as amended, and for other purposes; and

S. 2177. An act to amend title III of the Colorado River Basin Project Act, Public Law 90-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505).

The message further announced that the House has passed the following bills, each without amendment:

S. 188. An act to authorize the Secretary of Agriculture to convey certain lands in the Gallatin National Forest, and for other purposes; and

S. 1777. An act relating to the establishment of a permanent boundary for that portion of the Acadia National Park as lies within the town of Isle au Haut, Maine.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6457. An act to amend the Public Health Service Act to revise and extend the authorities under that act relating to the National Institutes of Health and the national research institutes, and for other purposes; and

H.R. 7144. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 7:35 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1409. An act to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes;

S. 2852. An act to require a separate family contribution schedule for Pell Grants for academic years 1983-84 and 1984-85, to establish restrictions upon the contents of such schedule, and for other purposes;

H.R. 3881. An act to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain lands conveyed to the Arkansas Forestry Commission, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such lands to such Commission;

H.R. 5154. An act to amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for the use within such State, and to encourage private enterprise with special emphasis on the preservation of small business;

H.R. 6133. An act to authorize appropriations to carry out the provisions of the Endangered Species Act of 1973 for fiscal years 1983, 1984, and 1985, and for other purposes;

H.R. 6168. An act to amend title 18, United States Code, to provide a criminal penalty for threats against former Presidents, major Presidential candidates, and certain other persons protected by the Secret Service, and for other purposes;

H.R. 6454. An act to amend title 18, United States Code, to clarify the Applicability of offenses involving explosives and fire;

H.R. 6956. An act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes; and

H.J. Res. 207. Joint resolution to require the Secretary of the Interior to place a plaque at the United States Marine Corps War Memorial honoring Joseph Rosenthal,

photographer of the scene depicted by the memorial.

The enrolled bill H.R. 6956 was subsequently signed by the President pro tempore (Mr. Thurmond).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOLE, from the Committee on Finance, without amendment:

S. Res. 462. Resolution to express the sense of the Senate concerning consultations with the Government of Japan on exports of agricultural products from the United States to Japan (Rept. No. 97-642).

By Mr. ROTH, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1562. A bill to provide comprehensive national policy dealing with national needs and objectives in the Arctic; and

S. 1782. A bill to amend section 305 of the Federal Property and Administration Services Act of 1949 pertaining to contract progress payments made by agencies of the Federal Government, providing for the elimination of retainage in certain instances, and for other purposes.

By Mr. DOLE, from the Committee on Finance; with amendments, and an amendment to the title:

H.R. 1524. An act to amend the Internal Revenue Code of 1954 to provide that certain procedures and adjustments shall be treated as inconsistent with the normalization method of treating public utility property (Additional views filed) (Rept. No. 97-643).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Richard R. Burt, of the District of Columbia, to be an Assistant Secretary of State (Exec. Rept. No. 97-63); and

Richard T. McCormack, of the District of Columbia, to be an Assistant Secretary of State (Exec. Rept. No. 97-64).

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH, from the Committee on Labor and Human Resources:

Mr. HATCH. Mr. President, I am submitting the names of a number of presidential nominees reported favorably this morning by the Committee on Labor and Human Resources in executive session. I feel compelled to single out one of them in particular for brief comment at this time, though I am impressed with the qualifications of all and I request that they receive consideration by the full Senate at the earliest opportunity.

I wish to address a few words in support of the nomination of Dr. Gary L. Jones to be Under Secretary of the Department of Education. Dr. Jones holds a doctorate from Michigan State University and his broad administrative experience has prepared him well for the second ranking position in the Department. He has served as the assistant director of admissions at Albion College, as executive assistant to Senator Robert P. Griffin, as vice president for administration of the American Enterprise Institute, as vice president and director of general grants of the MacArthur Foundation, and as a member of the Fairfax County School Board—for the Nation's 11th largest school district—for 4 years.

Even more to the point he was confirmed by the Senate in October of last year as Deputy Under Secretary for Planning and Budget and filled that post with vigor and competence until his nomination in June of this year as Under Secretary. In both positions he has been an articulate proponent for the administration's education policies, while maintaining a commendable flexibility and openness to discussion.

I simply wish the record to reflect that I support Dr. Jones' nomination, I support his desire to clarify—and in many areas reduce—the Federal role in local education matters, and I am convinced that he is guided by a desire to improve education and better serve parents, students, and educators within the proper bounds of that Federal role.

Gary L. Jones, of Virginia, to be Under Secretary of Education;

Harry M. Singleton, of the District of Columbia, to be Assistant Secretary for Civil Rights, Department of Education;

Lawrence F. Davenport, of Virginia, to be Assistant Secretary for Elementary and Secondary Education, Department of Education;

Gary L. Bauer, of Virginia, to be Deputy Under Secretary for Planning and Budget, Department of Education;

Charles L. Heatherly, of Virginia, to be Deputy Under Secretary for Management, Department of Education;

William Arthur Webb, of Pennsylvania, to be a Member of the Equal Opportunity Commission for the term expiring July 1, 1987;

Walter C. Wallace, of New York, to be a Member of the National Mediation Board for the term expiring July 1, 1984;

Elizabeth Helms Adams, of California, to be a Member of the National Museum Services Board for a term expiring December 6, 1984;

Alice Wright Algood, of Tennessee, to be a Member of the National Museum Services Board for a term expiring December 6, 1984;

Anne Carroll Badham, of California, to be a Member of the National Museum Services Board for a term expiring December 6, 1984;

Fucheng Richard Hsu, of New Jersey, to be a Member of the National Museum Services Board for a term expiring December 6, 1985;

Craig C. Black, of Pennsylvania, to be a Member of the National Museum Services Board for a term expiring December 6, 1986;

Ann Duncan Haffner, of Virginia, to be a Member of the National Museum Services Board for a term expiring December 6, 1986;

Dorothy J. Tyson, of California, to be a Member of the National Museum Services Board for a term expiring December 6, 1986;

Robert V. Bush, of New Mexico, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1982;

Joseph Dusenbury, of South Carolina, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1982;

Hunt Hamill, of Illinois, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1982;

Henry Viscardi, Jr., of New York, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1982;

H. Latham Breunig, of Virginia, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1983;

Michael Marge, of New York, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1983;

Sandra Swift Parrino, of New York, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1983;

Alvis Kent Waldrep, Jr., of Texas, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1983;

Marian North Koonce, of California, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 23, 1984;

Justin W. Dart, Jr., of Texas, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1984;

John S. Erthein, of California, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1984;

Roxanne S. Vierra, of Colorado, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1984;

Robert V. Bush, of New Mexico, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1985;

Joseph Dusenbury, of South Carolina, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1985;

Hunt Hamill, of Illinois, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1985;

Henry Viscardi, Jr., of New York, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1985;

Carmine R. Lavieri, of Connecticut, to be a Member of the National Council on the Handicapped for the remainder of the term expiring September 17, 1983; and

Elinor M. Hashim, of Connecticut, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1986.

(The above nominations were reported from the Committee on Labor and Human Services with the recommendation that they be confirmed, subject to the nominees' commitment to re-

spond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

James Ernest Yonge, of Florida, to be a Member of the Board of Directors of the Export-Import Bank of the United States;

Rita M. Rodriguez, of Massachusetts, to be a Member of the Board of Directors of the Export-Import Bank of the United States;

Alfred J. Fleisher, Sr., of Missouri, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1982; and

Alfred J. Fleisher, Sr., of Missouri, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships, for the term expiring October 27, 1985.

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

Orville G. Bentley, of Illinois, to be an Assistant Secretary of Agriculture; and

Fowler C. West, of Texas, to be Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1987.

(The above nominations were reported from the Committee on Agriculture, Nutrition, and Forestry with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before and duly constituted committee of the Senate.)

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Stephen A. Sharp, of Virginia, to be a Member of the Federal Communications Commission for a term of seven years from July 1, 1982

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PACKWOOD. Mr. President, the Commerce, Science, and Transportation Committee today favorably reports the nomination of Stephen A. Sharp to be a Federal Communications Commissioner. Mr. Sharp was nominated by the President on May 24, 1982, for a term of 7 years from July 1, 1982. This nomination was made prior to the passage of the Omnibus Reconciliation Act of 1982 which included a provision reducing the Federal Communications Commission to five members as of July 1, 1983. Therefore, I wanted to clarify for the record that Mr. Sharp's term expires June 30, 1983.

By Mr. THURMOND, from the Committee on the Judiciary: George G. Fagg, of Iowa, to be United States Circuit Judge for the Eighth Circuit.

By Mr. HATCH, from the Committee on Labor and Human Resources:

Jeffrey Hart, of New Hampshire, to be a Member of the National Council on the Humanities for a term expiring January 26, 1988.

(The above nomination was reported from the Committee on Labor and Human Resources with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JOHNSTON:

S. 2984. A bill to amend the Federal Aviation Act of 1958 to require establishment of minimum wind shear alert standards; to the Committee on Commerce, Science, and Transportation.

By Mr. CANNON (for himself and Mr. LAXALT):

S. 2985. A bill to amend the Internal Revenue Code of 1954 to provide that debts shall accrue only in certain circumstances; to the Committee of Finance.

S. 2986. A bill to provide for the reimbursement of certain Indian tribes for expenses incurred by such tribes for community impact planning activities related to planning for the then potential deployment of the MX missile system; to the Committee on Armed Services.

By Mr. ROTH:

S. 2987. A bill entitled "The Bloodmobile Act of 1982"; to the Committee on Finance.

By Mr. BENTSEN:

S. 2988. A bill to prohibit export restrictions that interfere with existing contracts for the exportation of agricultural commodities; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SASSER:

S. 2989. A bill for the relief of John Smitherman; to the Committee on the Judiciary.

By Mr. HELMS (by request):

S. 2990. A bill to provide Federal payments to certain jurisdictions to finance food and nutritional assistance for needy persons; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2991. A bill to reduce the cost and simplify the administration of the child nutrition programs by providing States with greater flexibility and autonomy in administering nutrition assistance to children through a consolidated grant-in-aid; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. McCLURE:

S. 2992. A bill to allow a tax deduction for the increase in electricity rates for certain power consumers; to the Committee on Finance.

By Mr. DURENBERGER:

S. 2993. A bill to provide a program of emergency unemployment compensation for areas experiencing high rates of unemployment; to the Committee on Finance.

By Mr. DURENBERGER (for himself and Mr. BOSCHWITZ):

S. 2994. A bill to provide for the use and distribution of funds awarded to Red Lake Band of Chippewa Indians in docket 15-72 of the U.S. Court of Claims; to the Select Committee on Indian Affairs.

By Mr. MOYNIHAN:

S. 2995. A bill to reinact the Emergency School Aid Act; to the Committee on Labor and Human Resources.

By Mr. COCHRAN (for himself and Mr. DURENBERGER):

S. 2996, A bill to reduce temporarily the duty on certain disposable gowns and surgical drapes; to the Committee on Finance.

By Mr. STEVENS:

S. 2997. A bill to to establish an exclusive economic zone adjacent to the territorial sea of the United States, to assert national rights therein, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CANNON (for himself and Mr. LAXALT):

S. 2998. A bill to declare that the United States holds certain lands in trust for the Las Vegas Paiute Tribe; to the Select Committee on Indian Affairs.

By Mr. ROTH:

S. 2999. A bill to provide for the issuance of a stamp to commemorate the 100th anniversary of the merit system in Federal employment; to the Committee on Governmental Affairs.

By Mr. GORTON:

S. 3000. A bill to address several problems relating to vessel service to the State of Alaska; to the Committee on Commerce, Science, and Transportation.

By Mr. HART (for himself, Mr. COCHRAN, Mr. HATFIELD, Mr. PRYOR, Mr. KENNEDY, Mr. MITCHELL, Mr. DURENBERGER, Mr. PELL, Mr. LEAHY, and Mr. DIXON):

S.J. Res. 259. Joint resolution renewing chemical warfare negotiations; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON:

S. 2984. A bill to amend the Federal Aviation Act of 1958 to require establishment of minimum wind-shear alert standards; to the Committee on Commerce, Science, and Transportation.

WIND-SHEAR ALERT STANDARDS

Mr. JOHNSTON. Mr. President, July 9 of this year was a day of tragedy in Louisiana. All of us were shocked and dismayed when Pan American flight 759 crashed at New Orleans in a thunderstorm—with the loss of 153 lives. Subsequent investigation has shown that there is a great similarity between this accident and the crash of Eastern Airlines flight 66 at John F. Kennedy International Airport in 1975 that killed 113 people—many of whom where Louisianians. An important element in both of these crashes, and, unfortunately, other aircraft disasters that could be cited, is a meteorological phenomenon known as "wind- shear."

Since the New Orleans accident, I have spent a good deal of time attempting to understand fully the status of wind-shear detection and the Federal Aviation Administration's efforts in this area. My research has led me to some very disappointing discoveries. The FAA's pursuit of this important safety subject is far from adequate. The FAA has failed to fund

properly research by the National Center for Atmospheric Research, failed to establish state-of-the-art criteria for preventing takeoffs or landings during dangerous wind shear conditions, and the FAA and the Commerce Department have underfunded the development of a new generation of weather radar that can detect the presence of wind shear much more accurately.

These findings have led me to propose a three-pronged legislative approach for addressing the problem of wind shear. I encourage each of my colleagues to support S. 2984, which I am introducing today. I would ask also that we find a way to implement this program in the short time left to us this session. The safety of our citizens requires that we address the deadly phenomenon of wind shear at the earliest possible moment.

On September 29, the chairman of the Transportation Appropriations Subcommittee of the Senate Appropriations Committee and I entered into a colloquy to the effect that $500,000 of the appropriations for the Department of Transportation, under the continuing resolution, should be used to provide funding for a National Academy of Sciences study to identify state-of-the-art scientific criteria for determining whether it is safe for an aircraft to take off and land under differing wind-shear assumptions. The findings of the National Academy of Sciences are to be reported to the FAA Administrator no later than April 15, 1983.

S. 2984 is the next step. This legislation requires the FAA Administrator to promulgate the standards identified by the National Academy of Sciences as part of a proposed rule. The proposed rule will provide that, when the wind-shear conditions identified by the National Academy of Sciences exist, the air traffic control tower must deny takeoff clearance and, except in cases of true emergency, must also deny landing clearance. The FAA Administrator will be required after notice, and public comment, to finalize an enforceable regulatory standard within 180 days.

I fully recognize that there may be some objections to this legislation. For example, this bill runs contrary to the traditional "pilot in command" concept. However, the protection of the lives of our citizens on the ground and in the air requires, I believe, a deviation from this concept in this instance. There have been numerous suggestions by the Pilots Union and others that airlines pressure their crews to maintain on-time performance. The airlines deny these allegations. I have no way of knowing whether or not these allegations are true. However, it is clear to me that pilots are subjected to a variety of pressures and have a natural desire to keep to the schedule of their flights. This bill will eliminate such pressures on pilots. Even more importantly, wind-shear detection devices feed a significant amount of data into a control facility that must be collated and analyzed. The cockpit is not the appropriate place, based upon my understanding of existing technology, to place the added workload of gathering and analyzing this data.

I also recognize that some persons may claim that this bill increases the Federal Government's liability for weather-related aircraft accidents. The Federal Government already has some liability in these accidents. It is not my intention, however, to either increase or decrease the Government's liability through this legislation.

Finally, some may claim that this bill will slow down air travel. Perhaps so. However, life threatening wind-shear conditions do not tend to last but a few seconds or even a few minutes in the critical area of aircraft takeoff and approach patterns. But even delays of 15 to 45 minutes or longer are fully justified when compared to the tragic loss of life that can occur from wind shear.

The third prong of the three-phased program I am recommending to my colleagues relates to future funding of two technical systems. By the FAA's own admission, it appears that the most promising solution to the problem of detecting wind shear is a radar known as "Nexrad Doppler radar." Despite this admission, the FAA and the Department of Commerce have underfunded this program. In the fiscal year 1983 budget there is, between these two agencies, only about $9 million allocated to cover at least $14 million in current needs. Approximately $4 billion remains in the aviation trust fund that is supposed to be spent on just this sort of safety equipment. I urge my fellow Senators to join with me in assuring that the necessary funds are allocated in fiscal year 1983 and in subsequent years to perfect this weather radar program at the earliest possible time.

Even with the proper emphasis on development, procurement, and deployment of this radar, widespread use of this new system is at least 4 to 6 years away. Therefore, we must see that the FAA takes advantage of a relatively inexpensive, available, interim technical device to enhance safety. There are currently 60 low-level wind shear detection systems in place at U.S. airports. The FAA plans to deploy another 50 of these systems. Most recent technical data reveals, however, that the spacing of the existing sensors is too far apart to detect adequately microbursts such as those which are believed to have occurred at New Orleans. These existing systems can accommodate a doubling or even a tripling of sensors at a modest cost of $100,000 to $200,000 per airport. This program should be undertaken without hesitation.

I would especially ask my colleagues on the relevant Aviation Subcommittees to undertake immediately to see that the two programs I have referred to are fully funded and that the appropriated funds are deployed expeditiously.

In closing, Mr. President, we have an obligation to act to assure that another plane loaded with our citizens is not lost because wind shear could have been detected and avoided. The Fedral Government has devoted a good deal of study to the wind shear problem. Solutions, both interim and long range, are close at hand. Congress must act now to assure that these solutions are perfected and deployed throughout our air traffic system.

Mr. President, I ask that the text of S. 2984 appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2984

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title VI of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.) is amended by adding at the end thereof the following new section:

"WIND SHEAR ALERT STANDARDS

"ESTABLISHMENT OF STANDARDS

"SEC. 613. (a) Not later than six months after the date of enactment of this section, the Secretary shall issue proposed rules which carry out recommendations of the National Academy of Sciences with respect to wind shear alert standards. Not later than six months thereafter, the Secretary shall promulgate rules prescribing wind shear alert standards. The Secretary may amend such rules from time to time.

"DEFINITION

"(b) For purposes of this section, the term 'wind shear alert standards' means technically feasible and economically practicable minimum standards governing takeoff and landings in the presence of wind shear, and procedures for denying takeoff clearances and, except for emergencies, landing clearances to commercial and general aviation aircraft when wind shear levels in excess of such standards are present."

SEC. 2. That portion of the table of contents contained in the first section of such Act which appears under the center heading."Title VI—Safety Regulations of Civil Aeronautics" is amended by adding at the end thereof the following new sideheading:

"Sec. 613. Wind shear alert standards."

By Mr. CANNON (for himself and Mr. LAXALT):

S. 2985. A bill to amend the Internal Revenue Code of 1954 to provide that debts shall accrue only in certain circumstances; to the Committee on Finance.

ACCRUAL METHOD OF ACCOUNTING

Mr. CANNON. Mr. President, on behalf of myself and my colleague, Senator LAXALT, I am introducing leg-

islation to amend the Internal Revenue Code to provide that certain debts shall accrue only when they are paid. Mr. President, this legislation will correct a little-known but detrimental situation with regard to the accrual method of accounting.

I would like to briefly review the background of this issue and discuss its implications on not only Nevada's economy, but on Government revenues as well. Mr. President, in Nevada, the law states that gambling markers are not legally enforceable debts. Therefore, these debts are not accrued, for income tax purposes, into income before the debts, markers, are paid to the taxpayer. Since 1967, the Internal Revenue Service has attempted to invalidate Nevada's law on this subject by bringing suit against two of Nevada's hotel/casinos for deficiency payments based on reduced income for uncollected markers. One case was decided in favor of the hotel/casino in U.S. Tax Court. The Government is now appealing that decision. The second case was decided in favor of the Government.

In both of these cases, Mr. President, we see that an all-important tax principle is being challenged. I am speaking of the so-called "all events test," which was adopted by the Supreme Court in 1926 and which is now an integral part of the Department of Treasury's regulations. Basically, this principle states that income should not be accrued for tax purposes until "all events" have occurred which fix the taxpayer's right to receive the income. If we apply this principle to Nevada, this would mean the point at which the money for the markers is actually collected.

I think it is interesting to review the U.S. Tax Court's decision when it found in favor of the Nevada hotel/casino. Using a construction by the IRS Commissioner of his own regulation, the court basically said that, in Nevada, because markers are not legally enforceable, "all events" had not occurred giving rise to the "right" of the income.

In the other case, the Ninth Circuit Court of Appeals determined that the long-standing "all events test" should not apply to Nevada's legal gaming industry, despite the fact that this principle has been applied to hundreds of businesses for many years. Indeed, the court indicated that a "reasonable expectancy" of collection was sufficient for accrual.

If this rationale is upheld in the Government's pending appeal, just what exactly are the implications of such a determination? Well, Mr. President, the answer to that question is clear. First, I think that such a decision raises very serious and troublesome question about the issue of State's rights. It appears to me, Mr. President, that the effect of this Internal Revenue Service challenge is to litigate away Nevada's law that gambling debts are not legally enforceable.

Second, the impact on the economy of my State would be severe. As I am sure my colleagues know, Nevada's hotel/casino industry provides 81 percent of Nevada's State, county, and municipal government revenues and employs 61 percent of all nonagricultural workers in the State. I cannot overemphasize the importance of this issue to the continued economic well-being of my State. In fact, an article from the July 5, 1982, issue of Forbes addresses this very issue. The article indicates that working capital will have to be utilized to pay off the assessments by the IRS. And, this situation will not be confined to the two cases I cited earlier. All who use the accrual method of accounting will be assessed back taxes and interest. At a time when unemployment is at a peak and when all of our energies should be directed to facilitating capital formation, expansion, and employment, it seems to me, Mr. President, that forcing an industry into such a situation is not the appropriate approach.

Third, Mr. President, I would like to point out one effect that such a determination by the courts would have on Federal revenues—and one, I might add, that I do not believe has been taken into account by the Department of Treasury. If the court concurs with the Government, it appears that the language employed by the ninth circuit could well be utilized by other taxpayers on the accrual methods of accounting as authority to defer, perpetually, taxes on reserves which have been established to meet statistically determinable future expenses. The standards for the accrual of deductions are indistinguishable from the standards for accrual of income. If a "reasonable expectancy" is sufficient for accrual, the ramifications of the impact upon Treasury receipts would far outweigh any advantage that might be gained from prevailing over the Nevada hotel/casino industry. Accelerated deductions as a result of such a decision would cost the Treasury billions of dollars.

After reviewing these implications, it is clear to me that enactment of this legislation is vital. Taxpayers who utilize the accrual method of accounting should pay taxes only on the income to which they are legally entitled—in this case, legally enforceable debts.

Mr. President, I urge the Senate to support this legislation.

Mr. LAXALT. Mr. President, today I join Senator CANNON in introducing legislation to amend section 446 of the Internal Revenue Code to clarify that taxpayers who use the accrual method of accounting shall not be deemed to be in receipt of income until the right to receive the income becomes legally enforceable. This legislation is required because of what I believe to be a misinterpretation by the U.S. district court in Nevada and the Ninth Circuit Court of Appeals of the law and congressional intent in this area. To compound the problem, there is a conflict between the U.S. Tax Court and the ninth circuit over the exact same set of facts. Not only does this cause grave harm to the taxpayers involved, but if the opinion of the ninth circuit prevails, it could have a devastating impact on the Treasury. Logical application of the ruling in the ninth circuit case could cause the Treasury to lose billions of dollars in revenues. At a minimum, it would result in hundreds of lawsuits.

At issue is the U.S. district court's reinterpretation of the "all events test." The "all events test" was created by the courts and the I.R.S. to determine when accrual method taxpayers must declare that income is received. Often income becomes a fixed, binding legal obligation before it is actually paid in cash, and it should be considered as income to the accrual method taxpayer. As the court said in one case, "Under the accrual method of accounting, income is reported when all events have occurred which fix right to receive income and amount can be determined with reasonable accuracy; thus, it is right to receive income, and not actual receipt, that determines inclusion of amount in gross income." *Kent Homes, Inc.* v. *U.S.* 279 F. Supp. 650 (1967).

The key to this concept is determining when this future income becomes definite enough to be considered income. Two criteria must be met to meet the all-event test which is the benchmark. They are: One, the right to receive the income must be fixed, and two, the amount must be reasonably ascertainable. This test has become a fixture in our tax law and has served both the taxpayers and the Government well over the years.

The first criterion—the right to receive the income must be fixed—has, in virtually every case, meant that the debt was legally enforceable. Obviously, if the debtor could raise a legal defense to a debt obligation, the taxpayer could hardly expect that he would always receive payment. The obligation could not be considered fixed or unconditional. I believe this interpretation by the courts is the correct one and the one Congress intended.

Yet, in 1980 the U.S. district court in Nevada ruled that gaming markers, held by an accrual method taxpayer at the end of a tax year, had to be included in gross income even though they constituted unenforceable gambling debts under Nevada law. Gaming debts in Nevada are void and cannot be collected through the courts. When a gambling resort owner in Nevada issues a "marker" or cash loan to a

customer for the purpose of gambling, the owner cannot enforce the subsequent debt through the courts. Thus, while the owners carefully screen their applicants for credit, there is no guarantee that they will eventually be paid back for their markers.

Despite this fact, the district court ruled the legal enforceablity was not a necessary element of a fixed right to receive income within the "all events test" for including an item in gross income under the accrual method of accounting. The ninth circuit affirmed this ruling.

However, on this same issue, in a different case, the Tax Court, which, of course, specializes in cases of this kind, held that where a marker given by a patron of a gambling casino would be found to be a gambling debt under State law and, therefore, unenforceable, such a marker would not represent accruable income until actually paid.

Thus, we have a situation where two courts differ on the same issue. If the decision of the ninth circuit stands, taxpayers will be forced to include in gross income debts which are void in court and are legally unenforceable. Millions of dollars of taxes would be paid on income the taxpayer might never see. Mr. President, I do not believe this is the interpretation Congress intended. We have a conflicting legal situation with potentially unfair results.

Even worse, to weaken the "all events test" would confuse the law for all accrual taxpayers. New income could be included for millions of taxpayers. But on the flip side, since the same "all events test" determines what can be deducted under the accrual method, taxpayers could also increase their deductions. There are billions in potential deductions that are fixed obligations but not yet legally enforceable. For example, insurance company reserves are known obligations but are not legally enforceable until each case is settled. If insurance companies could deduct all their reserves, the loss would be billions of dollars to the Treasury. The potential gain in this instance would be far outweighed by the potential losses.

The bill we are introducing seeks to correct this problem. It would clarify the intent of Congress that debts must be legally enforceable before they can be included in gross income for accrual method taxpayers. It would protect both the taxpayers and the Treasury. There is no revenue loss since no revenue has been collected yet under the new cases. This bill would preserve the status quo tax collectionwise. It would strengthen the law and the "all events test."

I urge my colleagues to enact this needed legislation.

By Mr. CANNON (for himself and Mr. LAXALT):

S. 2986. A bill to provide for the reimbursement of certain Indian tribes for expenses incurred by such tribes for community impact planning activities related to planning for the then potential deployment of the MX missile system; to the Committee on Armed Services.

REIMBURSEMENT OF CERTAIN EXPENSES FOR MX MISSILE DEPLOYMENT

Mr. CANNON. Mr. President, for myself and my distinguished colleague, Senator LAXALT, I introduce for appropriate reference a bill which will authorize Indian tribes to participate in the MX planning program provided in Public Law 96-418, the Military Construction Authorization Act of 1981. That act authorized up to $5 million to be provided to communities near MX weapons system sites, for planning purposes.

Unfortunately, Indian tribes and colonies were not specifically included in that definition, and the Air Force has construed that authority narrowly, which has excluded affected Indian communities. Last year the Air Force proposed to specifically include Indian tribes in the fiscal year 1982 program. However, Congress terminated action on the legislation when the MX multiple protective shelter basing mode was cancelled.

Several Indian communities in southern Nevada and southern Utah would have been located directly among the missile sites proposed for the MX multiple protective shelter program. These communities, like other non-Indian communities, were forced to spend thousands of dollars in an effort to plan for the introduction of the MX missile system and to mitigate possible adverse impacts on their communities. These legitimate, unplanned expenses were incurred because of the policies of the Federal Government. While non-Indian local governments have been reimbursed for those planning expenses, the Indian communities have been forced to absorb their expenses because of the unfortunate interpretation read into the Military Construction Authorization Act. I can assure you, Mr. President, that the Indian communities are the least able, financially, to absorb such expenses. Further, it is simply inequitable that Indian communities should be denied assistance for the same expenses reimbursed to other non-Indian communities.

Mr. President, the need has been documented, and I feel these communities should not be denied simply because of what I feel was an oversight of the Congress in the Military Construction Authorization Act.

Mr. President, I include in this record a letter dated February 26, 1982, from John M. Fritz, Deputy Assistant Secretary for Indian Affairs at the Department of the Interior, and a letter signed by Mr. James F. Boatright, Deputy Assistant Secretary of the Air Force. The two letters take opposite views on whether Indian communities should have been included in the definition of "local governments" designated to participate in the reimbursement program, and I ask unanimous consent that the letters be printed in the RECORD. It seems appropriate to me that the Senate provide for the payment of the expenses by the Department of the Air Force under its planning reimbursement program.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FEBRUARY 26, 1982.

Hon. HOWARD CANNON,
U.S. Senate, Washington, D.C.

DEAR SENATOR CANNON: Thank you for your recent letter on behalf of various Indian tribes in Nevada and Utah that are seeking reimbursement from the U.S. Department of the Air Force for expenses which they incurred relating to the proposed MX project. As described in the January 26, 1982, letter to you from Preston Tom, Chairman of the Moapa Band of Paiutes, these expenses were incurred by the tribes in their efforts to become involved in the planning process for the proposed MX, including the preparation and review of the environmental impact statement (EIS) on deployment area selection. The claimed expenses are supported by over 300 pages of documentation.

This office first became aware of the nature of tribal concerns over the MX project through correspondence initiated by the Duckwater Shoshone Tribe in early 1980. Throughout 1980 and much of 1981 the Duckwater Shoshone Tribe and the Moapa Band of Paiutes invested substantial amounts of time and effort in trying to convince the U.S. Department of the Air Force of its responsibility to consider tribal concerns in the preparation of the EIS for the proposal to deploy the MX missile system in multiple protective shelters. Both tribes were concerned about potential adverse impacts on interests such as water rights, religious and cultural sites on Federal lands, and losses of wildlife and native vegetation which have cultural importance. Both tribes were also concerned that the proposal might conflict with their hopes to have their reservations enlarged through Congressional action. (While the EIS was in preparation the Moapa Reservation was enlarged by P.L. 96-491, although the draft EIS did not reflect this fact.) Most importantly, the tribes were concerned that the U.S. Department of the Air Force did not relate to them in a manner consistent with their status as governmental entities which are distinct from the states. In short, the tribes expected to be involved in the EIS process in a manner similar to that in which the states and local governments were involved.

When the draft EIS was released, it became apparent that the various MX deployment alternatives (except the Texas-New Mexico alternative) had potential for causing adverse impacts on tribes in addition to Moapa and Duckwater. For example, alternatives which would have located operating bases in southern Utah might have conflicted with the acquisition of land to es-

tablish a reservation for the Paiute Indian Tribe of Utah, a federally recognized tribe established by P.L. 96-227 and comprised of five bands of Paiutes which had been "terminated" in 1954. Other tribes which also may have been affected include the Yomba Shoshone Tribe, Goshute Tribe, and the Ely Indian Colony. The kind of impacts which were likely to have occurred included socioeconomic impacts associated with the influx of large numbers of people, increased need for governmental services to respond to socioeconomic impacts, and impacts on tribal religious and cultural sites on Federal lands.

Under the regulations which govern Federal agency compliance with the National Environmental Policy Act (NEPA), the lead agency is responsible for the adequacy of an EIS (40 CFR § 1507.2(c)). Other Federal agencies, state and local governments, Indian tribes, and others which participate as cooperating agencies or which submit comments on a draft EIS usually do so at their own expense, although the lead agency may fund the activities of others if necessary to produce an adequate EIS. The MX proposal was a rather unusual proposed Federal action in terms of the magnitude of its impacts. Because of this, the Military Construction Authorization Act of 1981 (P.L. 96-418) authorized up to $5,000,000 to be provided to "communities near MX Weapon System sites" for community planning assistance. The Secretary of Defense was also authorized to assist such communities in providing increased municipal services and facilities.

It is our understanding that appropriated funds were accordingly provided to the states of Nevada and Utah for distribution to potentially impacted communities and that these communities used these funds to participate in the planning process, including the EIS process. Since the Authorization Act said "communities near MX Weapon System sites" and did not specify that only states and their political subdivisions were eligible for such assistance, it would seem that the tribes were amply justified in believing that they were entitled to receive a fair share of this funding assistance. However, as Chairman Tom's letter indicates, the tribes only received $20,000 from the U.S. Department of the Air Force, and this took a long time to process. In addition, the Bureau provided $30,000 to the Duckwater Shoshone Tribe to help meet its expenses regarding the MX. The documented expenses for which the tribes now seek reimbursement do not include expenses which were covered by the $50,000 which has already been provided.

The Bureau's comments on the draft EIS noted several deficiencies in addressing Indian concerns, which might have been avoided if the Air Force has recognized the status of Indian tribes from the outset and dealt with them accordingly. This is recognized in Major Taggart's draft report, included with Chairman Tom's letter, which states that the MX project "suffered from failure to recognize unique status of Native Americans in contemporary American society." Also, the comments of the Bureau could not adequately compensate for lack of involvement by the tribes since much of the impacts would have affected cultural practices, a subject on which the tribes are the best sources of knowledged and judges of the impacts involved.

In sum, we believe that the expenses incurred by the tribes in connection with the MX proposal could have been funded by the U.S. Air Force pursuant to the authorization in P. L. 96-418. We cannot vouch for all of the expense documentation enclosed with your letter, other than to agree that in general these expenses seem justified. We have photocopied the enclosures for our records and are returning them to your office. If we can be of further assistance, please let us know.

Sincerely,

JOHN W. FRITZ,
Deputy Assistant Secretary, Indian Affairs (Operations).

Enclosure.

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., September 28, 1982.

Mr. JOHN FRITZ,
Deputy Assistant Secretary, Indian Affairs (Operations), Department of the Interior, Washington, D.C.

DEAR MR. FRITZ: Our legal staff has carefully reviewed the July 16, 1982 memorandum of the Associate Solicitor, Division of Indian Affairs, concerning reimbursement of M-X-related expenses incurred by Nevada and Utah Indian tribes, which representatives from your office and the Office of the Solicitor provided to us at our recent meeting on the matter. We have re-examined the Air Force position based on the arguments presented in this memorandum and our further research of the issues. Unfortunately, this further consideration and research failed to turn up any new basis of authority which would legally support reimbursement of these expenses. We regretfully conclude that we must adhere to our previous position that the Air Force does not have the requisite legal authority to reimburse the tribes for MX-related expenses out of the FY 1981 MX community impact planning funds.

We recognize, of course, that Congress has, on numerous occasions, provided for participation of Indian tribes in federal programs of financial assistance to state and local governments, by either separately identifying Indian tribes as eligible grantees or expressly including them in the definition of "local government." However, no such provision for participation of Indian tribes in the MX community impact planning program was included in the FY 1981 Military Construction Authorization and Appropriation Acts. Nor do the committee reports accompanying this legislation evidence any intent to include the tribes as participants in the program. The sole statutory reference contained in these committee reports is to the Intergovernmental Cooperation Act of 1968. This reference appears in H. Rept. 96-1097, accompanying the FY 1981 Military Construction Appropriations Act (P.L. 96-436), in connection with a description of "comprehensive plans." A review of the Intergovernmental Cooperation Act reveals that Indian tribes are neither separately identified as a governmental entity, nor included within the definitions of the terms "political subdivision" or "local government" (42 U.S.C. 4201(3)).

As we have previously pointed out, since the Air Force does not have Congressionally granted authority to reimburse the tribes for MX-related expenses, funding for such past or future activities requires new legislation. Upon becoming aware that Indian tribes were not included under the FY 1981 M-X community impact planning program, the Air Force made express provisions for the tribes in the proposed FY 82 program. However, Congress terminated action on the proposed legislation, of which this effort was a part, with the cancellation of the M-X multiple protective shelter basing mode proposal.

We appreciate the concerns voiced by the tribes and your office, and should Congress provide the necessary authority to reimburse the tribes for M-X related expenses, the Air Force will implement such legislation as expeditiously as possible.

Sincerely,

JAMES F. BOATRIGHT,
Deputy Assistant Secretary of the Air Force (Installations, Environment and Safety).

By Mr. ROTH:

S. 2987. A bill entitled "The Bloodmobile Act of 1982"; to the Committee on Finance.

THE BLOODMOBILE ACT OF 1982

● Mr. ROTH. Mr. President, I am pleased to sponsor legislation to aid nonprofit organizations engaged in blood collection activities.

Mr. President, the bill I am introducing corrects a small but important inequity and oversight in the law which exempts certain public service vehicles from Federal excise taxes. At the present time excise taxes are not imposed on vehicles such as schoolbuses, firetrucks, ambulances, and hearses. Also exempt from Federal excise taxes are bloodmobiles used by the American Red Cross (ARC).

However, Mr. President, half of our Nation's volunteer blood supply is not collected by the ARC. Nonprofit hospital and community blood banks collect the other half and these institutions are being taxed when they purchase mobile drawing stations or bloodmobiles. These institutions, in hundreds of American communities, work quietly and efficiently to collect blood from volunteer donors so that lives may be saved. An important part of this outreach involves the use of mobile drawing stations or bloodmobiles. These vehicles are customized schoolbuses and in many rural and suburban areas they enable thousands to give blood and save lives.

The Congress should eliminate inequitable tax treatment of nonprofit institutions which are engaged in blood collection activities. This bill is in the public interest. It will make bloodmobiles more affordable to nonprofit institutions, encouraging their use, and thus expanding the opportunity of citizens to donate blood. Costs of obtaining blood will be reduced and the Government, which pays millions for blood annually through medicare, will share in the cost reduction.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2987

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)

Section 4063(a) of the Internal Revenue Code of 1954 (relating to exemptions from the federal excise tax on motor vehicles) is amended by adding at the end thereof the following new paragraph:

"(8) BLOODMOBILES.—The tax imposed under Section 4061(a) shall not apply in the case of any vehicle which is to be used exclusively in the collection and transportation of blood.●

By Mr. BENTSEN:

S. 2988. A bill to prohibit export restrictions that interfere with existing contracts for the exportation of agricultural commodities; to the Committee on Banking, Housing, and Urban Affairs.

EXPORTATION OF AGRICULTURAL COMMODITIES

● Mr. BENTSEN. Mr. President, I am today introducing legislation to address one of our major agricultural export problems—the fact that many of our trading partners quite rightly view the United States as an unreliable supplier of agricultural products. The U.S. Government has shot the American farmer in the foot so many times that he has very few toes left. I believe that it is long past time that we put a stop to this nonsense. I have strongly opposed all agricultural embargoes and I voted to end the last Russian embargo in spite of opposition from both President Carter and President Reagan. However, it is apparent that it will be difficult if not impossibel to stop defacto embargoes such as the Reagan administration's refusal to negotiate a new long-term grain agreement with the Soviet Union and the administration's refusal to guarantee the deliverability of contracts in excess of the minimal amount specified in the current 1-year agreement.

To address this problem I am introducing legislation to guarantee the deliverability of contracts for the export of agricultural commodities for a minimum of 9 months even if a trade embargo should be imposed. This 9-month period would take most agricultural commodities from planting through harvest and would help farmers to avoid the impact of the embargo until they have had time to make appropriate adjustments in their plans for producing the next year's crops.

This country has proven time and time again that agricultural embargoes simply do not work. They only hurt American farmers. President Nixon's 1973 embargo of soybean exports is a classic example. This embargo so shocked the Japanese, who at that time were totally dependent on U.S. soybean producers for a major portion of their daily food supply, that they invested over a billion dollars in developing the Brazilian soybean industry. Today, Brazil is a major force in the world soybean market which the United States once controlled. Prior to this embargo U.S. exports comprised over 90 percent of the world soybean trade.

Similarly, the Russian grain embargo of the Carter and Reagan administrations dropped the U.S. share of the Russian grain market from over 70 percent to about 25 percent. It ruined markets for U.S. agricultural products and U.S. farmers today are still suffering from the lasting effects of that embargo.

Farmers have been told by this Department of Agriculture that our farm policies will be "export oriented." Yet the value of U.S. agricultural exports has dropped by 9 percent so far this year. U.S. farmers were told by Secretary of Agriculture Earl Butz to "plant fence row to fence row" and to rely on export markets. Now those export markets have turned sour and a large part of the blame lies with the Federal Government.

Mr. President, the American farmer is the most efficient and productive in the world. He produces on average enough food for 52 Americans and 26 more people living abroad. He sees that the American consumer is well fed and at a cost of only 16 percent of disposable income—the lowest in the world.

The farmer does all this and then when someone wants to impose an embargo or refuse to negotiate a needed trade agreement then he is also called on to pay the bills for this Nation's foreign policy. The American farmer has enough bills to pay already without having to foot that one, too.

I believe that it is high time that the State Department started working for the American farmer instead of the other way around. This bill is a step in the right direction for the American farmer. It will help him to know that he has at least this protection the next time someone at the State Department decides to shoot him in the foot, and it will allow more aggressive marketing of U.S. farm products and will combat our bad reputation as an "unreliable supplier."

Mr. President, I commend this legislation to my colleagues and urge that it be enacted into law.●

By Mr. SASSER:

S. 2989. A bill for the relief of John Smitherman; to the Committee on the Judiciary.

JOHN SMITHERMAN

● Mr. SASSER. Mr. President, since 1977 Mr. John D. Smitherman of Mulberry, Tenn., has sought a decision of service-connected disability by the Veterans' Administration as a result of exposure to atomic detonations and resulting radiation while serving in the U.S. Navy.

While participating in "Operation Crossroads" aboard the U.S.S. *Sumner* in July 1946 at the Bikini Atoll, Mr. Smitherman was exposed to high levels of radiation causing severe lymphedema and resulting in eventual amputation of both legs. Documentation substantiates that Mr. Smitherman's condition did not exist prior to his enlistment in the Navy, and that the severe pain and swelling he has suffered began while in the service and after his participation in "Operation Crossroads."

Medical personnel determined that Mr. Smitherman's condition is not a result of any disorders that would commonly cause this condition and that he does, indeed, suffer from lymphedema. Navy records and scientific data collected by leading scientists have established that Mr. Smitherman was exposed to radiation sufficient to cause the medical problems he has suffered from since being in the service.

Veterans' Administration regulations state that a veteran may be awarded service-connected disability compensation if his disease is incurred in or aggravated by military service. Yet the Veterans' Administration has failed to award Mr. Smitherman the compensation that he deserves, despite certification by respected experts that Mr. Smitherman received high radiation exposure while in the U.S. Navy and that the radiation did indeed induce his lymphedema, and despite numerous appeals before the VA.

In light of these facts, I am today taking steps to guarantee Mr. Smitherman the medical care and compensation he deserves. I am introducing S. 2989 which proposes to grant service-connected disability to John D. Smitherman of Mulberry, Tenn., as a result of exposure to radiation while in the U.S. Navy, during atomic test blasts over the Bikini Atoll in July 1946.

Mr. President, I ask the unanimous consent that the contents of S. 2989 be published in whole at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of determining eligibility to receive veteran benefits for wartime disability compensation under subchapter II and, except as provided in section 2 of this Act, subchapter VI of chapter 11 of title 38, United States Code, and hospital, nursing home, domiciliary, and medical care under chapter 17 of such title, John Smitherman of Mulberry, Tennessee, shall be deemed to have incurred a disability resulting from personal injury suffered or disease contracted in line of duty in the active naval service, during a period of war, when he developed lymphedema resulting in amputation of both legs and severe lymphedema in his left hand and arm, after exposure to radiation during atomic testing blasts over the Bikini Atoll in 1946.

SEC. 2. Nothing in this Act shall be construed to entitle any relative of John Smitherman to any benefit under title 38, United States Code.●

By Mr. HELMS (by request):

S. 2990. A bill to provide Federal payments to certain jurisdictions to finance food and nutritional assistance for needy persons; to the Committee on Agriculture, Nurtrition, and Forestry.

FOOD AND NUTRITION CONSOLIDATION ACT OF 1982

● Mr. HELMS. Mr. President, I submit today on behalf of the administration a bill to provide block grant funding to the territories of the United States in lieu of the various nutrition programs which operate there now.

Under the administration's proposal, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam would be removed from participation in programs operated pursuant to the Food Stamp Act of 1977, the National School Lunch Act, and the Child Nutrition Act of 1966.

Currently, Mr. President, the four territories are each participating in several of the food assistance programs as follows:

Guam: Food stamp, school lunch, school breakfast, child care food, summer food.

Commonwealth of the Northern Mariana Islands: Commodities in lieu of food stamps for needy families, school lunch, school breakfast, child care food.

American Samoa: School lunch and school breakfast.

Virgin Islands: Food stamps, school lunch, school breakfast, child care food, summer food, and special supplemental food program (WIC).

These programs will cost approximately $51.5 million during fiscal year 1982. The administration's proposal would establish funding at $43.76 million based on fiscal year 1983 estimates.

This legislation was sent to the Congress some months ago. Almost by the time the legislation arrived, however, it was clear that the budgetary impetus for the legislation had passed. The administration had included this proposal in a number of reforms which were part of an effort to reduce the size and cost of programs within the Food and Nutrition Service, the largest agency within the Department of Agriculture.

The reconciliation instructions of the First Concurrent Budget Resolution assumed a much lower level of savings than the administration had requested, and thus this proposal was among those that did not receive consideration in the committee.

It seems to me, however, that the administration's proposal to provide block grant nutritional assistance to the territories in place of the existing programs is an advisable course to pursue. This is true not only because of the modest $8 million annual savings, but also—and more importantly—because of the improved flexibility that would be granted. As Deputy Secretary Richard Lyng notes in his letter:

It is the administration's position that the existing categorical feeding programs as operated on the mainland are inappropriate for the insular areas.

So, Mr. President, I am introducing this legislation at this point in the session to invite public scrutiny and comment. It would be my intention to pursue this proposal further—if not later this year, early in 1983.

I believe that the administration has shown creative thinking and initiative in analyzing the unique problems of the territorial areas, and in proposing a realistic solution to them.

I ask unanimous consent that the transmittal letter, a section-by-section analysis, and the text of the legislation be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2990

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That this Act may be cited as the "Food and Nutrition Consolidation Act of 1982".

DEFINITION

SEC. 2. As used in this Act, the term "Secretary" means the Secretary of Agriculture.

PAYMENTS TO ELIGIBLE JURISDICTIONS

SEC. 3. (a)(1) Subject to the provisions of this section, section 4, and section 8 of this Act, the Secretary shall, for each fiscal year, pay not to exceed—

(A) $21,370,000 to the Virgin Islands,

(B) $1,991,000 to American Samoa,

(C) $3,733,000 to the Commonwealth of the Northern Mariana Islands, and

(D) $16,666,000 to Guam,

for expenditures for food assistance and nutrition assistance provided to needy persons, including 50 per centum of the administrative expenses related to the provision of such assistance. Such assistance includes, but is not limited to, the provision of assistance for (i) the purchase of consumable food products, (ii) the provision of meals in institutions and schools, and (iii) instruction concerning nutritional needs, and also includes administrative expenses related to the provision of such assistance.

(2) The payments to an eligible jurisdiction for each fiscal year shall not exceed the expenditures for assistance provided for in the plan of the jurisdiction approved under section 4 and 50 percentum of the related administrative expenses.

(d) The Secretary shall, subject to the provisions of section 4, pay to each eligible jurisdiction for the applicable fiscal year, at such times and in such manner as the Secretary may determine, up to the amount estimated by each such jurisdiction pursuant to section 4(a)(1)(D), reduced or increased to the extent of any prior overpayment or underpayment which the Secretary determines has been made to the jurisdiction under this Act and with respect to which adjustment has not already been made.

REQUIREMENTS FOR PARTICIPATION

SEC. 4. (a)(1) In order to receive payments under this Act for any fiscal year, each eligible jurisdiction must have a plan for that fiscal year approved by the Secretary under this section. By July 1 of each year each jurisdiction which wishes to receive payments must submit a plan for the provision of the assistance described in section 3(a)(1) for the following fiscal year which—

(A) designated a single agency within the jurisdiction which shall be responsible for the administration, or supervision of the administration, of the jurisdiction's program for the provision of such assistance;

(B) assesses the food and nutrition needs of needy persons residing in the jurisdiction;

(C) describes the program of the jurisdiction for the provision of such assistance, including the assistance to be provided and the persons to whom such assistance will be provided, and any agencies designated to provide such assistance, which program must meet such requirements as the Secretary may by regulation prescribe for the purpose of assuring that assistance is provided to the most needy persons in the jurisdiction;

(D) estimates the amount of expenditures necessary for the provision of the assistance described in the program of the jurisdiction and related administrative expenses, up to the amount provided for payment to that jurisdiction by section 3(a)(1); and

(E) includes such other information as the Secretary may require.

(2)(A) The Secretary shall approve or disapprove any plan submitted pursuant to paragraph (1) no later than August 1 of the year in which it is submitted. The Secretary shall approve any plan which complies with the requirements of paragraph (1). If a plan is disapproved because it does not comply with any of the requirements of that paragraph the Secretary shall, except as provided in paragraph (2)(B), notify the jurisdiction which submitted the plan that payments will not be made to it under section 3 for the fiscal year to which the plan applies until the Secretary is satisfied that there is no longer any such failure to comply, and until the Secretary is so satisfied, the Secretary will make no payments to the jurisdiction.

(B) The Secretary may suspend the denial of payments under paragraph (2)(A) for such period as the Secretary determines appropriate and instead withhold payments provided for under section 3, in whole or in part, for the fiscal year to which the plan applies, until the Secretary is satisfied that there is no longer any failure to comply with the requirements of paragraph (1), at which time such withheld payments shall be paid to the jurisdiction.

(b)(1) Each jurisdiction shall provide for a biennial audit of expenditures under its program for the provision of the assistance described in subsection (a)(1)(A), and within 120 days of the end of each fiscal year in which the audit is made, shall report to the Secretary the findings of such audit.

(2) Within 120 days of the end of the fiscal year, each jurisdiction shall provide the Secretary with a statement as to whether the payments received under subsection (a) for that fiscal year exceeded the expenditures by it during that year for which payment is authorized under this section, and if so, by how much, and such other information as the Secretary may require.

(3)(A) If the Secretary finds that there is a substantial failure by a jurisdiction to

comply with any of the requirements of paragraphs (1) and (2), or to comply with the requirements of the plan approved under subsection (a)(2), the Secretary shall, except as provided in paragraph (3)(B), notify the jurisdiction that further payments will not be made to it under section 3 until the Secretary is satisfied that there will no longer be any such failure to comply, and until the Secretary is so satisfied, the Secretary shall make no further payments to the jurisdiction.

(B) The Secretary may suspend the termination of payments under subparagraph (3)(A) for such period as the Secretary determines appropriate, and instead withhold payments provided for under section 3, in whole or in part, until the Secretary is satisfied that there will no longer be any failure to comply with the requirements of paragraphs (1) and (2) and subsection (a)(1), at which time such withheld payments shall be paid to the jurisdiction.

(C) Upon a finding of a substantial failure to comply under paragraph (3)(A), the Secretary may, in addition to or in lieu of any action taken under paragraphs (3)(A) and (3)(B), refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance by the jurisdiction, and upon suit by the Attorney General in an appropriate district court and a showing that noncompliance has occurred, appropriate injunctive relief shall issue.

PROGRAM REVIEW AND TECHNICAL ASSISTANCE

SEC. 5. (a) The Secretary shall provide for the review of the programs for the provision of the assistance described in section 3(a)(1) for which payments are made under this Act.

(b) The Secretary is authorized to provide to eligible jurisdictions such technical assistance as the Secretary deems practicable with respect to their programs for the provision of the assistance described in section 3(a)(1).

CRIMINAL PENALTIES

SEC. 6. Whoever knowingly and willfully embezzles, misapplies, steals or obtains by fraud, false statement, or forgery, any funds, assets, or property provided or financed under this Act shall be fined not more than $10,000 or imprisoned for not more than five years, or both, but if the value of the funds, assets or property involved is not over $200, the penalty shall be a fine of not more than $1,000 or imprisonment for not more than one year, or both.

NONDISCRIMINATION

SEC. 7. (a) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this Act are considered to be programs and activities receiving Federal financial assistance.

(b) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part.

(c) Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under section 3 of this Act, has failed to comply with a provision of law referred to in subsection (a), with subsection (b), or with an applicable regulation (including one prescribed to carry out subsections (a) and (b)), the Secretary shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty day, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

(3) take such other action as may be provided by law.

(d) When a matter is referred to the Attorney General pursuant to subsection (c) or whenever he has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a) or in violation of subsection (b), the Attorney General may bring a civil action in any appropriate district court for such relief as may be appropriate, including injunctive relief.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. (a) There is authorized to be appropriated for the purpose of carrying out the provisions of this Act, $43,760,000 for fiscal year 1983, and such sums as are necessary for fiscal years 1984, 1985, 1986 and 1987.

(b) If the amount appropriated for fiscal year 1983, 1984, 1985, 1986 or 1987 is less than or greater than the amount authorized to be appropriated for fiscal year 1983, there shall be a pro-rata reduction or increase of the maximum amount which may be paid to each eligible jurisdiction under section 3(a)(1).

CONFORMING AMENDMENTS

SEC. 9. (a) Section 12 of the National School Lunch Act is amended by—

(1) amending subsection (d)(1) to read as follows: "(1) 'State' means any of the fifty states, the District of Columbia, the Commonwealth of Puerto Rico and the Trust Territory of the Pacific Islands (excluding the Northern Mariana Islands).";

(2) striking out in the second sentence of subsection (d)(5), "; and (ii) the average annual per capita income for American Samoa shall be disregarded in determining the average annual per capita income for all the States for periods ending before July 1, 1967"; and

(3) in section (f), striking out "Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands," and inserting in lieu thereof "Alaska, Hawaii, Puerto Rico and the Trust Territory of the Pacific Islands (excluding the Northern Mariana Islands)".

(b) Section 19 of the National School Lunch Act is repealed.

(c) Section 3 of the Child Nutrition Act of 1966 is amended by striking out in the second sentence "Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands," and inserting in lieu thereof "the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands (excluding the Northern Mariana Islands)".

(d) Section 15(a) of the Child Nutrition Act of 1966 is amended to read as follows: "(a) 'State' means any of the fifty states, the District of Columbia, the Commonwealth of Puerto Rico and the Trust Territory of the Pacific Islands (excluding the Northern Mariana Islands)."

(e) Section 3 of the Food Stamp Act of 1977 is amended by—

(1) striking out in 3(m) ", the District of Columbia, Guam, the Virgin Islands of the United States," and inserting in lieu thereof "and the District of Columbia";

(2) striking out in 3(o) clause (3) and redesignating clauses (4) through (7) as clauses (3) through (6).

(f) Section 5 of the Food Stamp Act of 1977 is amended by—

(1) striking out "and blindness payments under titles I, II, X, XIV, and XVI" each time it appears therein and inserting in lieu thereof "payments under title II";

(2) striking out in subsection (b) ", Hawaii, Guam, and the Virgin Islands of the United States" and inserting in lieu thereof "and Hawaii";

(3) striking out everything that follows "Alaska" in subsection (c) and inserting in lieu thereof "and Hawaii.";

(4) striking out in the first and fourth sentences of subsection (e) ", Hawaii, Guam, and the Virgin Islands of the United States" and inserting in lieu thereof "and Hawaii";

(5) striking out in the first sentence of subsection (e) ", $120, $170, and $75" and inserting in lieu thereof "and $120"; and

(6) striking out in the fourth sentence of subsection (e) ", $165, $140, and $85" and inserting in lieu thereof "and $165".

(g) Section (6)(c)(1) of the Food Stamp Act of 1977 is amended by striking out "and blindness payments under titles I, II, X, and XVI" and inserting in lieu thereof "payments under title II".

EFFECTIVE DATE

SEC. 10. The provisions of this Act shall be effective October 1, 1982. The Secretary is authorized, with respect to payments for the fiscal year beginning October 1, 1982, to grant such waivers of the requirements of section 4 with respect to the submission and approval of plans as he determines necessary for the purposes of this Act.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., May 26, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for consideration by the Congress is a draft bill "To provide Federal payments to certain jurisdictions to finance food and nutrition assistance for needy persons." This new legislation, entitled the "Food and Nutrition Consolidation Act of 1982", would remove the Virgin Islands, American Samoa, the Commonwealth of Northern Mariana Islands, and Guam from programs authorized under the Food Stamp Act of 1977, the National School Lunch Act and the Child Nutrition Act of 1966, all as amended. Annual grants would be provided to each of these jurisdictions for food and nutrition assistance including related administrative expenses.

The draft bill and the accompanying section-by-section analysis are enclosed. It is the Administration's position that the existing categorical feeding programs as operated on the mainland are inappropriate for the insular areas. The administrative complications of the existing programs are only heightened in these outlying areas. The draft bill is consistent with earlier legislation enacted in 1977 by the Congress (Title V of P.L. 95-134) which authorized Federal

agencies to consolidate grants made to insular areas. The draft bill provides a specific funding level of $43,760,000 and specifies administrative requirements.

The amendments in this draft bill would result in savings of approximately $8,300,000 in fiscal year 1983 from a current services estimate of $52,100,000 for that year. Enactment of the proposed legislation will enable us to make reductions in federal expenditures while providing the insular areas maximum flexibility in targeting nutrition assistance on their needy individuals.

The Office of Management and Budget advises that enactment of this proposed legislation would be in accord with the President's program.

A similar letter is being sent to the Speaker of the House.

Sincerely,

RICHARD E. LYNG,
Acting Secretary.

SECTION-BY-SECTION ANALYSIS

SECTION 2: DEFINITION

Section 2 defines "Secretary" as the Secretary of Agriculture.

SECTION 3: PAYMENTS TO ELIGIBLE JURISDICTIONS

This section authorizes the Secretary, subject to available appropriations, to pay specified amounts to the Virgin Islands, American Samoa, the Commonwealth of the Mariana Islands and Guam to assist those jurisdictions in providing food assistance and nutrition assistance to needy persons. The funds may be used only to provide food assistance and nutrition assistance and to pay 50 percent of the administrative costs associated with providing such assistance. The payents to each jurisdiction cannot exceed expenditures provided for in the approved plan of operations required of each jurisdiction.

SECTION 4: REQUIREMENTS FOR PARTICIPATION

Subsection (a) provides that in order to receive payments under section 3, each jurisdiction must submit a plan of operations by July 1 of each fiscal year which designates the agency which will administer or supervise the administration of the jurisdiction's plan, assess the food and nutrition needs of needy persons in the jurisdiction, describes the plan for providing assistance to needy persons, estimates the amounts of expenditures needed to carry out the plan including administrative expenses, up to the amount which can be financed under the Act, and includes any other information the Secretary requires.

The Secretary must approve or disapprove plans no later than August 1 of each fiscal year. If the Secretary disapproves a plan, the Secretary must notify the jurisdiction of such disapproval and that no payments will be made to the jurisdiction until an approved plan exists. Until the Secretary is satisfied that their will no longer be a failure to compy with the plan requirements, the Secretary can make no payments to the jurisdiction. Subparagraph (a)(2)(B) allows the Secretary to suspend the denial of payments under subparagraph (a)(2)(A), and withhold the payments in whole or in part until the Secretary is satisfied there will no longer be a failure to comply with plan requirements.

Each jurisdiction must provide for a biennial audit of expenditures under this Act and, within 120 days after the end of each fiscal year in which the audit is made, report to the Secretary the findings of the audit. Each jurisdiction must, within 120 days after the end of each fiscal year, provide the Secretary with a statement as to whether payments received by it under the Act exceeded expenditures.

If the Secretary discovers that a jurisdiction has substantially failed to provide for or report on the audit or provide the statement on expenditures, or to comply with requirements for the administration of an approved plan, the Secretary must notify the jurisdiction that further payments will not be made until the Secretary is satisfied there will no longer be a failure to carry out those requirements.

The Secretary may suspend such termination of payments and instead withhold the payments in whole or in part until the Secretary is satisfied that there will no longer be a failure to comply with those requirements.

Upon a finding by the Secretary that the state has failed to expend funds in the manner specified in the approved state plan, has failed to conduct and report the findings of the audit, or has failed to provide the statement on expenditures, the Secretary may, in lieu of or in addition to the above-mentioned actions, refer the matter to the Attorney General for institution of legal action to secure an injunction against the jurisdiction.

SECTION 5: PROGRAM REVIEW AND TECHNICAL ASSISTANCE

This section requires the Secretary to review the programs instituted by jurisdictions under this Act and authorizes the Secretary to provide technical assistance to jurisdictions.

SECTION 6: CRIMINAL PENALTIES

This section fixes the criminal penalties for embezzlement, misapplication, theft, or acquisition through fraud of funds, assets or property financed or provided under the Act.

SECTION 7: NONDISCRIMINATION

This section makes clear that the programs and activities carried out with funds given under this Act are considered programs and activities receiving Federal financial assistance for purposes of Federal laws prohibiting discrimination on the basis of age, sex, handicap, race, color or national origin. This section also prohibits discrimination on the grounds of sex or religion concerning participation or receipt of benefits under any program or activity funded in whole or in part by funds given pursuant to this Act. This section also establishes the procedure the Secretary will follow to ensure compliance with the discrimination provisions.

SECTION 8: AUTHORIZATION OF APPROPRIATIONS

This section authorizes appropriations of $43,760,000 for fiscal year 1983 and such sums as are necessary for fiscal years 1984, 1985, 1986 and 1987, for the purpose of carrying out the Act.

Subsection (b) of this section provides that if the funds appropriated for any of these fiscal years are greater than or less than $43,760.000, then the amount paid to each jurisdiction under section 3 shall be ratably increased or reduced.

SECTION 11: CONFORMING AMENDMENTS

This section makes conforming amendments to the National School Lunch Act, Child Nutrition Act of 1966 and the Food Stamp Act of 1977 to remove references to the jurisdictions as defined in section 3.●

By Mr. HELMS (by request):

S. 2991. A bill to reduce the cost and simplify the administration of the child nutrition programs by providing States with greater flexibility and autonomy in administering nutrition assistance to children through a consolidated grant-in-aid; to the Committee on Agriculture, Nutrition, and Forestry.

CHILD NUTRITION AMENDMENTS OF 1982

● Mr. HELMS. Mr. President, I introduce today on behalf of the administration, legislation designed to provide greater flexibility and autonomy in State administration of nutrition assistance which currently provided through several Federal programs.

The administration's proposal would consolidate the funding for the existing school breakfast program and the child care food program and substitute in their place a block grant to the States to be used for child nutrition purposes. Funding for the summer food service and special milk programs would be eliminated inasmuch as these programs have outlived their usefulness. States would have the discretion to use the available funds for any mix of services for child nutrition.

Mr. President, the bill also eliminates funding for the nutrition education and training program and removes Department of Defense schools from the national school lunch and breakfast programs. Separate legislation from the Department of Defense would authorize that Department to operate and fund these programs.

The consolidation does not affect the largest child nutrition program, the national school lunch program. Participation and funding levels remain the same—except for the removal of Department of Defense—and would authorize that Department to operate and fund these programs.

The proposed consolidation of programs would result in significant savings of $363 million, based on fiscal year 1983 estimates.

The administration has again shown innovation in providing for increased State flexibility in the administration of child nutrition programs. Federal funding would be provided, but the States would have the autonomy needed to establish and operate programs most appropriate to the needs of each State.

The administration had proposed this reform as part of its fiscal year 1983 budget earlier this year. Because the savings required under the First Concurrent Budget Resolution were significantly lower than the administration had recommended, this reform did not receive committee consideration inasmuch as sufficient savings were achieved through other programs—primarily food stamps and the dairy program.

Nevertheless, it seems to me that the proposal has merit aside from the budget savings.

Improved State flexibility is a desirable goal, and I believe the administration has proposed a reasonable approach to improve it.

We currently have a patchwork of nutrition programs, which has resulted in duplication of both administration and benefits. A thorough consideration of consolidation and reform is in order.

I introduce the legislation at this point in the session in order that it might attract the attention of my colleagues and the public for further comment.

While there may not be sufficient time to consider the proposal this year, I intend to pursue the matter further during 1983. It may be that some modified form of the administration's recommendations could be more acceptable, and we will need to study it carefully. Nevertheless, the concept is a sound one which deserves thoughtful consideration by the Congress.

I ask unanimous consent that the letter of transmittal, a section-by-section analysis, and the text of the legislation be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Nutrition Amendments of 1982".

TERMINATION OF THE SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SECTION 1. (a) Section 13 of the National School Lunch Act is repealed.

(b) Section 3 of the National School Lunch Act is amended in the first sentence by striking out "13, 17, and 19" and inserting in lieu thereof "17 and 19".

(c) Section 6(a)(2) of the National School Lunch Act is amended by striking out "sections 11 and 13" and inserting in lieu thereof "section 11".

(d) Section 7 of the Child Nutrition Act of 1966 is amended—

(1) in subsection (a)—

(A) by striking out "programs authorized under section 13 or" in the first sentence of paragraph (2) and inserting in lieu thereof "program authorized under section";

(B) by striking out "and under section 13(k)(1) of the National School Lunch Act" in paragraphs (5) and (6); and

(2) in subsection (h) by striking out "(except Section 13 of that Act)".

(e) This section shall be effective on October 1, 1982.

TERMINATION OF THE SPECIAL MILK PROGRAM FOR CHILDREN

SEC. 2. (a) Section 3 of the Child Nutrition Act of 1966 is repealed.

(b) Section 6 of the Child Nutrition Act of 1966 is amended by striking out "3 through" and inserting in lieu thereof "4, 6, and".

(c) Section 7 of the Child Nutrition Act of 1966 is amended—

(1) in subsection (a), by striking out "3 and" in the first sentence of paragraph (1) and by striking out "sections 3 and 4" in the first sentence of paragraph (2) and inserting in lieu thereof "section 4"; and

(2) in subsection (b) by striking out "sections 3 and 4" and inserting in lieu thereof "section 4"; and

(d) Section 11(a) of the Child Nutrition Act of 1966 is amended by striking out "sections 3 and 4" and inserting in lieu thereof "section 4".

(e) This section shall be effective on July 1, 1982.

TERMINATION OF THE NUTRITION EDUCATION AND TRAINING PROGRAM

SEC. 3 Section 19 of the Child Nutrition Act of 1966 is repealed effective October 1, 1982.

TERMINATION OF THE CHILD CARE FOOD PROGRAM AND SCHOOL BREAKFAST PROGRAM AND ESTABLISHMENT OF GENERAL NUTRITION ASSISTANCE

SEC. 4. (a) Section 4 of the Child Nutrition Act of 1966 is repealed.

(b) Section 17 of the National School Lunch Act is stricken and a new section 17 is inserted as follows:

"GENERAL NUTRITION ASSISTANCE

"AUTHORIZATION FOR APPROPRIATION

"SEC. 17. (a) There is authorized to be appropriated $488 million for each of the fiscal years 1983, 1984, 1985, 1986, and 1987 for purposes of allotments under subsection (b).

"ALLOTMENTS

"(b)(1) From the amounts appropriated under subsection (a) for any fiscal year and available for allotment under this subsection, the Secretary shall allot to each State an amount which bears the same ratio to the available amounts for that fiscal year as the amounts provided by the Secretary under the provisions of law listed in paragraph (2) to the State and entities in the State for fiscal year 1981 bore to the total amount appropriated for such provisions of law for fiscal year 1981.

"(2) The provisions of law referred to in paragraph (1) are the following provisions of law as in effect on September 30, 1981:

"(A) The authority for grants for the Child Care Food Program under section 17 of the National School Lunch Act.

"(B) The authority for grants for the School Breakfast Program under section 4 of the Child Nutrition Act of 1966.

"(3) In any fiscal year, to the extent that all the funds appropriated under subsection (a) are not allotted to States under subsection (b) because one or more States—

"(1) have not submitted an intended use report or description or activities in accordance with subsection (e) of this section for the fiscal year, or

"(2) have notified the Secretary that they do not intend to use the full amount of their allotment, or

"(3) receive reduced allotments because of an offset under subsection (f) of this section, or

"(4) have repaid amounts under subsection (f) of this section,

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States under subsection (b) without regard to this subsection.

"PAYMENTS TO STATES

"(c)(1) For each fiscal year, the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State from its allotment under subsection (b) (other than any amount reserved under subsection (b)(3) from amounts appropriated for that fiscal year).

"(2) Any amount paid to a State for a fiscal year and remaining unobligated by the State at the end of such year shall remain available until the end of the next fiscal year to such State for the purposes for which the payment was made.

"USE OF ALLOTMENTS

"(d)(1) The amounts paid to a State under this section may be used for the provision of nutrition assistance to children, for related activities including planning, administration, education, technical assistance, evaluation and State administrative costs associated with providing such assistance.

"(2) The State shall define 'children' for purposes of this section.

"(3) A State may not use amounts paid to it under this section to—

"(A) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major equipment, other than food service equipment,

"(B) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds, or

"(C) provide financial assistance to any entity other than a public or nonprofit private entity or an entity providing nonresidential day care services for which it receives compensation for amounts granted to States under title XX of the Social Security Act (but only if such organization receives compensation under such title for at least 25 percent of the children for which the entity provides such nonresidential day care services).

"The Secretary may waive the limitation contained in paragraph (A) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this section.

"INTENDED USE REPORT

"(e)(1) In order to receive an allotment for a fiscal year under subsection (b) each State shall develop an intended use report. The State shall provide for public input during the development of the report. A copy of the report shall be transmitted to the Secretary. The report shall be made available for public inspection. The report shall contain the following information concerning funds received under this section:

"(A) a statement of the State's goals and objectives in using funds,

"(B) a description of the types of activities to be carried out under this section,

"(C) the geographic areas which will be served,

"(D) the characteristics of individuals which will be served, and

"(E) the criteria for and method of fund disbursement.

"REPORTS AND AUDITS

"(f)(1) Each State shall prepare an annual report on its activities under this section. The report shall contain an analysis of the degree to which the activities carried out by the State in each fiscal year compared to the goals and objectives set forth in the previous year's intended use report under subsection (e) of this section.

"(2) Each State shall establish fiscal control and fund accounting procedures as may

be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State for use under this section.

"(3) Each State shall conduct biennial financial and compliance audits concerning the use of funds received under this section. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this section and in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions.

"(4) Each State shall, after being provided by the Secretary with adequate notice and opportunity for a hearing, repay to the United States amounts found not to have been expended in accordance with the requirements of this section. If such repayment is not made, the Secretary shall, after providing the State with adequate notice and opportunity for a hearing within the State, offset such amounts against the amount of any allotment to which the State is or may become entitled under this section.

"(5) The State shall make copies of the reports and audits required by this subsection available for public inspection within the State.

"NONDISCRIMINATION

"(g)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this part are considered to be programs and activities receiving Federal financial assistance.

"(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part.

"(3) Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under subsection (b), has failed to comply with a provision of law referred to in paragraph (1), with paragraph (2), or with an applicable regulation (including one prescribed to carry out paragraphs (1) and (2)), the Secretary shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

"(B) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

"(C) take such other action as may be provided by law.

"(4) When a matter is referred to the Attorney General pursuant to subparagraph (3)(A), or whenever he has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in paragraph (1) or in violation of paragraph (2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief."

(c) This section shall be effective on October 1, 1982.

ELIMINATION OF DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS FROM PARTICIPATION IN THE NATIONAL SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM

SEC. 5. (a) Section 22 of the National School Lunch Act, as enacted by Public Law 95-562, is repealed.

(b) Section 20 of the Child Nutrition Act of 1966 is repealed.

CHANGES IN THE AMOUNT AND DISTRIBUTION OF STATE ADMINISTRATIVE EXPENSE FUNDS

SEC. 6. (a) Section 7 of the Child Nutrition Act of 1966 is further amended by—

(1) in subsection (a), as amended by this Act—

(A) striking out in paragraph (1) "4, 11 and 17" and inserting in lieu thereof "4 and 11";

(B) striking out in paragraph (1) "and 4 of this Act";

(C) striking out in the first sentence of paragraph (2), "or under section 17 of this Act";

(D) striking out in the first sentence of paragraph (2) "and section 4 of this Act";

(E) striking out in the last sentence of paragraph (2) "the amount such State was allocated in the fiscal year ending September 30, 1981, or $100,000, whichever is larger" and inserting in lieu thereof "$100,000";

(F) striking out paragraphs (3) and (5);

(G) striking out in paragraph (6) "this Act or";

(H) renumbering paragraphs (4) and (6) as (3) and (4) respectively; and

(2) in subsection (b), as amended by this Act—

(A) striking out "4, 11 and 17" and inserting in lieu thereof "4 and 11";

(B) striking out "and section 4 of this Act"; and

(3) in subsection (d), striking out "or child care institutions".

(b) This section shall be effective on October 1, 1982.

PRO RATA DISTRIBUTION OF PAYMENTS

SEC. 7. (a) If the Secretary determines that the amounts made available for payments under sections 4, 11 and 14 of the National School Lunch Act are not sufficient to make the payments provided under any of those sections, the Secretary may pay each state its pro rata share of the amounts made available and impose such deadlines for the submission of claims for these payments as the Secretary determines necessary to carry out the pro rata distribution efficiently.

PROVISION OF TECHNICAL ASSISTANCE

SEC. 8. A new section 5 is inserted in the National School Lunch Act as follows:

"TECHNICAL ASSISTANCE

"SEC. 5. The Secretary may provide technical assistance to States in planning and carrying out activities under this Act or the Child Nutrition Act of 1966. The Secretary may provide technical assistance to a State in planning and carrying out activities under section 17 of this Act only if requested by the State."

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., May 26, 1982.

Hon. GEORGE BUSH,
President of the Senate, Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of Congress is a draft bill "To reduce the cost and simplify the administration of the Child Nutrition Programs by providing states with greater flexibility and autonomy in administering nutrition assistance to children through a consolidated grant-in-aid." This draft legislation does not affect Federal subsidies in the National School Lunch Program, thereby protecting needy children with the service of free and reduced price lunches.

The draft bill would amend the National School Lunch Act and the Child Nutrition Act of 1966 to eliminate a number of restrictive categorical programs including the Summer Food Service Program for Children, the Nutrition Education and Training Program, the Child Care Food Program, and the School Breakfast Program. These programs would be replaced with a General Nutrition Assistance Grant designed to permit States the maximum flexibility in designing programs to meet the particular needs of their low-income children.

The proposed amendments also eliminate the Department of Defense schools from the National School Lunch and Breakfast Programs. The Department of Defense will propose legislation to authorize that Department to operate and fund these programs. The amendments also provide for adjustments in the payment of State administrative expense funds because of the repeal of the programs cited previously.

Finally, the proposed amendments provide the Secretary with discretionary authority to allocate funds among States to best serve recipient needs, when appropriations are insufficient to fund all meals served at statutorily defined reimbursement rates.

The amendments in the bill provide a fiscal year 1983 savings of $363 million by comparison with current estimates of the fiscal year 1983 costs of the programs supplanted by this legislation. This will enable us to make essential reductions in Federal expenditures and focus resources to assure service of free and reduced price lunches to the most needy children.

The Office of Management and Budget advises that enactment of this proposed legislation would be in accord with the President's program.

A similar letter is being sent to the Speaker of the House.

Sincerely,

RICHARD E. LYNG,
Acting Secretary.

SECTION-BY-SECTION ANALYSIS

SECTION 1: TERMINATION OF THE SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

Section 1 repeals section 13 of the National School Lunch Act thus eliminating the Summer Food Service Program for Children. This section is effective October 1, 1982.

With the availability of other Federal nutrition assistance programs, such as Food Stamps, which was not a national program when summer feeding began, the Summer Food Service Program is now unnecessary. Moreover, despite legislative and regulatory efforts to curb past abuses, the program still suffers from not targeting free meals solely to needy children and extensive waste due to fluctuations in attendance at feeding sites.

SECTION 2: TERMINATION OF THE SPECIAL MILK PROGRAM

Section 2 repeals section 3 of the Child Nutrition Act of 1966 thus eliminating the

Special Milk Program. This section is effective July 1, 1982.

The program's original goal—promotion of fluid milk consumption in schools—has been superseded by the large subsidies ($700 million in 1982) for milk consumption in other Federal meal programs. The $34 million now anticipated to be spent on Special Milk in 1982 will have a negligible effect on milk consumption in the United States.

SECTION 3: TERMINATION OF NUTRITION EDUCATION AND TRAINING PROGRAM

This section repeals section 19 of the Child Nutrition Act of 1966 thereby eliminating the Nutrition Education and Training Program. This section is effective October 1, 1982.

Since 1978, when the Nutrition Education and Training program was established, large sums of funds have been allocated to the program. States have already designed and developed curricula and other teaching aids that may be used to continue the program with a minimum of their own financial resources.

SECTION 4: TERMINATION OF THE CHILD CARE FOOD PROGRAM AND SCHOOL BREAKFAST PROGRAM AND ESTABLISHMENT OF GENERAL NUTRITION ASSISTANCE

The Administration proposes to eliminate the categorical School Breakfast and Child Care Food Programs and replace them with a General Nutrition Assistance Grant. While the federally-funded school lunch program is based on the premise that access to the home is usually inconvenient during the middle of the school day, this same argument for Federal funding cannot be made about breakfast which is eaten before the start of the school day. In special circumstances where access to breakfast at home is a problem, the States can design their block grant to meet that need.

In addition, the proposed block grant will eliminate the complex Child Care Food Program. Direct grants to States will allow more effective targeting of these resources according to State and local priorities and reduce burden by eliminating Federal regulations for over 60,000 child care feeding centers.

The block grant also allows States to refocus eligibility requirements from sponsoring organizations to needy individuals. Unlike the current requirements of these two programs, States will not be limited to specific intermediary organizations in the operation of their nutrition assistance program. Instead, States will have the flexibility to design a program that will more effectively serve the needy.

Subsection (a) authorizes, for each of the Fiscal Years, 1983, 1984, 1985, 1986 and 1987, $488 million for carrying out the purposes of section 17.

Subsection (b) requires the Secretary to allot to States from available appropriated funds, an amount which bears the same ratio to the total appropriated funds as the States' allotment under the Child Care Food Program and the School Breakfast Program for Fiscal Year 1981 bore to the total funds appropriated for those programs. Subsection (b) also provides that if a State (1) does not submit the required application or description of activities; (2) does not use the entire amount of their allotment; or (3) makes a repayment or has its allotment offset, the Secretary must allocate the funds attributable to those events among the remaining States in the same proportion as the original allotment.

Subsection (c) provides that the Secretary shall make payments to States from the allotments determined under subsection (b). Any funds obligated by the States at the end of a fiscal year are to remain available to a State for the next fiscal year, for the same purposes as originally given.

Subsection (d) limits the use of funds given to States under section 17 to payment for the provision of nutrition assistance to children, related activities such as planning, administration, education, technical assistance and evaluation. States may not use funds given under section 17 to (1) purchase or improve land, or purchase, construct or permanently improve buildings or facilities or purchase major equipment, except food service equipment; or (2) satisfy any requirement for the expenditures of non-federal funds as a prerequisite for receipt of Federal funds. The Secretary may, upon demonstration by the State that extraordinary circumstances exist, waive the restrictions described in (1) above.

Subsection (e) requires each State, as a prerequisite to receipt of funds under section 17, to develop an intended use report with input from the public. The report shall be transmitted to the Secretary. The report must contain a statement of the State's goals and objectives in using funds, a description of the types of activities to be carried out, the geographic areas and characteristics of individuals to be served and the criteria for and method of fund disbursement. Also, the report must be made available to the public.

Subsection (f) requires States to prepare annual reports concerning activities carried out under section 17. These reports will describe how the State has met the goals and objectives established in their intended use report.

States are required to establish and maintain fiscal control and fund accounting procedures to insure disbursal of and accounting for Federal funds.

States are also required to conduct biennial financial and compliance audits of activities under section 17. These State audits are to be conducted by an entity independent of the administering agency and in accordance with the Comptroller General's standards.

After notice and hearing, a State must repay to the Secretary amounts found not to have been expended in accordance with the requirements of section 17. If repayment is not made, the Secretary may offset the amount due the Secretary from funds due the State under subsections (b) and (c).

Subsection (g) makes clear that activities and programs funded under this section are "receiving Federal financial assistance" for purposes of Federal legislation prohibiting discrimination on the basis of age, handicap, sex, race, color, national origin, or religion. This subsection also establishes the procedure the Secretary is to follow in assuring State compliance with the nondiscrimination provision.

Section 4 takes effect on October 1, 1982.

SECTION 5: ELIMINATION OF DEPARTMENT OF DEFENSE SCHOOLS FROM THE NATIONAL SCHOOL LUNCH AND BREAKFAST PROGRAMS

This section repeals section 22 of the National School Lunch Act and section 20 of the Child Nutrition Act of 1966 thereby eliminating the special statutory authority which allowed schools operated by the Department of Defense for dependents of personnel stationed overseas to participate in the National School Lunch and Breakfast Programs. The Department of Defense will propose legislation to authorize that Department to operate and fund these programs.

SECTION 6: CHANGES IN THE AMOUNT OF DISTRIBUTION OF STATE ADMINISTRATIVE EXPENSE FUNDS

This section eliminates references to the Child Care Food Program (section 17 of the National School Lunch Act), the Special Milk Program (section 3 of the Child Nutrition Act of 1966) and the School Breakfast Program (section 4 of the Child Nutrition Act of 1966). This section also eliminates the requirement that the minimum State administrative expense fund grant be determined by comparing the larger of the amount a State was allocated under section 7 of the Child Nutrition Act of 1966 in the fiscal year ending September 30, 1981, or $100,000. The minimum grant is fixed at $100,000.

SECTION 7: PRO RATA DISTRIBUTION OF PAYMENTS

This section makes clear that the Secretary, upon determination that the amount of available appropriated funds is insufficient to make the payments provided under sections 4, 11, and 14 of the National School Lunch Act, may pay to each State a pro rata share of the available funds. The Secretary may also impose such deadlines for the submission of claims, both at the State and local level, as he determines necessary to carry out a pro rata distribution. The Secretary may, if he chooses under this section, hold claims submitted by States until all States have submitted claims in order to distribute the funds fairly among all States.

SECTION 8: PROVISION OF TECHNICAL ASSISTANCE

This section inserts a new section 5 which makes clear the Secretary's authority to provide technical assistance to States. The assistance may be in the area of planning or carrying out activities under this Act or the Child Nutrition Act of 1966.●

By Mr. McCLURE:

S. 2992. A bill to allow a tax deduction for the increase in electricity rates for certain power consumers; to the Committee on Finance.

TAX DEDUCTION FOR CERTAIN USERS OF POWER

● Mr. McCLURE. Mr. President, the critical situation which has arisen in the Pacific Northwest regarding the failure of the so-called WPPSS 4 and 5 nuclear powerplants has serious consequences not only for the region but for the Nation as a whole. Naturally, as a Senator from a State with utilities and power consumers directly affected by the WPPSS problem, I must be very concerned about the impact on electric utility rates failure to complete the plants will have on the customers of the participant utilities. But in a broader sense, I am equally concerned about the disaster which could befall the Nation's securities market should the participants fail to meet their financial obligations. Remember that WPPSS is the largest single issuer of bonds in the Nation outside the Federal Government. The ripple effect of the default on a debt so large and far-reaching could be devastating to the economic recovery we are working so hard to bring about. A responsible and acceptable way must be found to make

certain that these obligations are satisfied.

Let me emphasize that I do believe the participant utilities must face up to the responsibility created by the events which have occurred, and that those who are suggesting responsibility belongs to BPA, other electric power consumers, or some other scapegoat are totally off base. I continue to believe the decision to proceed with the construction of the WPPSS 4 and 5 plants was a sound one in the context of time it was made and with the information available at that time. Furthermore, I am convinced that more recent load forecasts which show an energy surplus in the region are seriously low, and that the nuclear plants will indeed be needed if we expect to see growth in the economy of the region. We need to do better in these forecasts than merely projecting out current trend lines. Nevertheless, the decision not to proceed with WPPSS 4 and 5 has been made, and the real impact doesn't necessarily come from the closedown of the plants; the real impact comes from the fact that once terminated, the terms of the bonds issued to finance the plants require that the entities must begin to pay back principal as well as interest. That means that WPPSS and its 88 contract entities have to raise enough money to pay back $2.5 billion together with all the interest on it—with no new stream of income to aid them in paying that back. When you have to pay back the money with no additional income it simply means taking it out of the hide of the present ratepayers. In some instances that will mean a more than doubling of the rates—literally overnight.

The legislation I am proposing today is intended to provide a method of encouraging the affected utilities to meet their financial responsibilities by allowing their customers a tax deduction for the increase in utility rates attributable to the utility's share of the WPPSS debt. An analogy can be drawn to the tax treatment of loss on a bad investment. Many uncontrollable outside factors contributed to the failure of WPPSS 4 and 5, but since the utilities involved are cooperatives or mumicipalities which are nonprofitmaking, tax assistance for the loss is not available to them. But their customers must pay for the bad investment. This language would, therefore, pass the ability for some tax relief on through to the individual consumer. Business customers can already realize a tax break since electric bills can be deducted from tax as a cost of doing business under the Tax Code.

I realize that this solution may be in need of some refinement and perfection. I further realize that it can be considered to create a new tax expenditure the budget impact of which is not yet fully known. But I would venture to say that its cost which can be stretched out over time is small when compared to the potential economic disruption which the Nation could experience if these debts are not paid. This is one way of bolstering the confidence of the participants in meeting these obligations by providing some relief for their customers. Even though it is late in the session, I believe this is one option which should be a part of the discussion on the subject, and I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2992

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subparagraph (D) of paragraph (4) of subsection (d) of section 163 of the Internal Revenue Code of 1954 [26 USC 163(d)(4)(D)] is amended by striking the period (.) and adding at the end thereof the following: ", and for purposes of this section, notwithstanding section 262 of this Act, in the case of an individual any increase in electric utility rates directly attributable to the payment of debt by the utility resulting from the default of another entity for failure to complete a nuclear power plant in which the utility has an interest or share may be treated as construction interest in any taxable year in which such increase is charged, where such increase is greater than 30 percent in a single calendar year."●

By Mr. DURENBERGER:

S. 2993. A bill to provide a program of emergency unemployment compensation for areas experiencing high rates of unemployment; to the Committee on Finance.

EMERGENCY UNEMPLOYMENT COMPENSATION ACT OF 1982

● Mr. DURENBERGER. Mr. President, the unemployment picture in a three-county area of northern Minnesota called the "Iron Range" is frightening. Today I am introducing a bill that provides temporary relief for the unemployed in this area and other parts of Minnesota and the Nation that are hit hard by unemployment.

My bill would modify the requirements that trigger eligibility for extended unemployment compensation benefits. It would permit States to make high-unemployment areas eligible for extended benefits even though the State as a whole does not qualify. To be eligible, an area would have to have an insured unemployment rate (IUR) of 6 percent or higher.

The Secretary of Labor would designate the areas, which generally would have a minimum population of 50,000. A person living or previously working in an area with a 6 percent IUR would be eligible to receive these extended benefits after his or her regular and supplemental benefits are exhausted. As with the present extended benefit program, the cost would be shared equally by the Federal Government and the State.

Minnesota's unemployment situation dramatically illustrates the need for an area trigger. The State's most recent unemployment level was 7.4 percent, with an IUR of 3.77 percent. That is below the trigger level for extended benefits.

Yet, the unemployment levels in a number of Minnesota counties are staggering. In Lake County the unemployment rate is 34.7 percent—over three times the national average. In St. Louis County it's 20.1 percent, and in Itasca County 17.9 percent. Nor is the Iron Range the only part of the State with high unemployment. Elsewhere, the counties of Clearwater, Morrision, Red Lake, Marshall, Roseau, and Koochiching also have high jobless levels.

In Minnesota State agencies, unions, and businesses are working to alleviate the myriad of problems caused by high levels of long-term unemployment. The State has funded an emergency jobs program to provide minimum wage employment on the Iron Range. One of the State's major corporations, the Pillsbury Co., has donated 32,000 pounds of food to the food shelf program on the Iron Range, providing food to needy families. they have also committed to an additional 64,000 pounds of food if matched by local donations.

In Babbitt and three other Minnesota communities, the United Steel Workers Union originated "survival seminars"; 30 organizations provided assistance, including lessons on low-budget meal planning, talks by the elderly on how they survived the depression, free medical tests for blood pressure and glaucoma, films for battered spouses, and information on eligibility for Federal and State assistance programs. Also in Babbitt, a town meeting was held to "brainstorm" about what the business community could do to deal with the problems caused by unemployment. Many of the ideas generated at this meeting are being implemented.

Social service and mental health agencies are increasing their efforts to deal with the special strain caused by long-term unemployment. One agency is conducting discussion groups for unemployed couples to address issues such as role-reversal, when the wife becomes the sole breadwinner and the husband remains at home to care for the children.

The need for such seminars is manifest. Verified cases of child abuse in St. Louis County are up 107 percent from the first quarter of 1981 to the first quarter of 1982. Other forms of domestic violence are also on the increase. Too often, the family is the outlet for stress associated with extraordinary economic pressures, and

with the identity crisis that the jobless often suffer in a society that measures worth by employment.

Relocation is often not the answer for those who have exhausted their unemployment compensation. The uprooting of families who have lived all their lives on the Iron Range is extremely difficult, emotionally. And even if the family decides to make the move, the practical problem of selling their home can frequently be almost insurmountable. One realty company in Hibbing is experiencing a 36 percent increase in listings but an average 25 percent decrease in sales.

Mr. President, I have taken some time today to outline the problems facing the Iron Range and other areas of Minnesota, and the steps that government and private enterprise are taking to ease the problem. I am not asking the Federal Government to be the sole savior of the unemployed in Minnesota. This must be a concerted effort by all levels of government and the private sector as well. My bill alone is not the solution, but it is an important link in the chain of relief for the jobless while we rebuild the American economy and the economies of highly distressed areas.

This bill is a continuation of my efforts to bring relief to the long-term unemployed. In May of this year I supported inclusion of a supplemental unemployment benefits program in the first budget resolution. We were defeated in that effort, but in August we were successful in passing a resolution expressing the will of the Senate that such a program be included in the tax bill that passed the Congress last month. Minnesotans are now receiving those 10 weeks of supplemental benefits.

Just this week I joined with some of my colleagues in an effort to extend the program of supplemental benefits and to defer last year's tightening of the trigger for statewide extended benefits until national unemployment is below 8.7 percent, which is expected to be at the end of March 1983. Unfortunately, this attempt was defeated by two votes.

I sincerely hope that we will not again shirk our obligation to help ease the pain of high and long-term unemployment. I urge prompt and favorable consideration of this measure and ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2993

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Emergency Unemployment Compensation Act of 1982".

FEDERAL-STATE AGREEMENTS

SEC. 2. (a) Any State, the State unemployment compensation law of which is approved by the Secretary of Labor (hereinafter in this Act referred to as the "Secretary") under section 3304 of the Internal Revenue Code of 1954, may enter into and participate in an agreement with the Secretary under this Act, if such State law contains (as of the date such agreement is entered into) a requirement that extended compensation be payable thereunder as provided by the Federal-State Extended Unemployment Compensation Act of 1970. Any State which is a party to an agreement under this Act may, upon providing thirty days' written notice to the Secretary, terminate such agreement.

(b) Any such agreement shall provide that the State agency of the State will make payments of emergency compensation—

(1) to individuals who—

(A) have exhausted all rights to regular compensation under the State law and to Federal supplemental compensation under the Federal Supplemental Compensation Act of 1982;

(B) have no rights to compensation (including regular compensation, extended compensation, and Federal supplemental compensation) with respect to a week under such laws or any other State unemployment compensation law or under any other Federal law; and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada,

(2) for any week of unemployment which begins in—

(A) an emergency benefit period (as defined in subsection (c)(2)), and

(B) the individual's period of eligibility (as defined in section 5 (a)(2));

except that no payment of emergency compensation shall be made to any individual for any week of unemployment which begins more than two years after the end of the benefit year for which he exhausted his rights to regular compensation.

(c)(1) For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhausted his rights to regular compensation under a State law when—

(A) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

(B) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(2) For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhausted his rights to Federal supplemental compensation under the Federal Supplemental Compensation Act of 1982 when—

(A) no payments can be made under such Act because such individual has received all the compensation available in his account established under section 602(e) of such Act;

(B) such individual's period of eligibility under such Act has expired; or

(C) compensation may not be paid under such Act because of the termination date set forth in section 602(f)(2) of such Act.

(3)(A)(i) For purposes of subsection (b)(2)(A), in the case of any area of a State, an emergency benefit period—

(I) shall begin with the third week after a week for which there is an area "emergency on" indicator; and

(II) shall end with the third week after the first week for which there is an area "emergency off" indicator.

(ii) In the case of any area of a State, no emergency benefit period shall last for a period of less than 13 consecutive weeks.

(iii) When a determination has been made that an emergency benefit period is beginning or ending with respect to any area of a State, the Secretary shall cause notice of such determination to be published in the Federal Register.

(B)(i) For purposes of subparagraph (A), there is an area "emergency on" indicator for a week if the rate of insured unemployment in such area for the period consisting of such week and the immediately preceding 13 weeks equaled or exceeded 6 percent.

(ii) For purposes of subparagraph (A), there is an area "emergency off" indicator for a week if the rate of insured unemployment in such area for the period consisting of such week and the immediately preceding 13 weeks is less than 6 percent.

(d) For purposes of any agreement under this Act—

(1) the amount of the emergency compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him during his benefit year under State law for a week of total unemployment; and

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall (except where inconsistent with the provisions of this Act or regulations of the Secretary promulgated to carry out this Act) apply to claims for emergency compensation and the payment thereof.

(e)(1) Any agreement under this Act with a State shall provide that the State will establish, for each eligible individual who files an application for emergency compensation, an emergency compensation account with respect to such individual's benefit year.

(2) The amount established in such account for any individual shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

(B) 13 times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

The total amount of emergency compensation payable under this Act to any individual shall not exceed the amount in such individual's account.

(f) No emergency compensation shall be payable to any individual under an agreement entered into under this Act for any week beginning before whichever of the following is the later:

(1) the week following the week in which such agreement is entered into, or

(2) the first week which begins after the date of the enactment of this Act.

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF EMERGENCY COMPENSATION

SEC. 3. (a) There shall be paid to each State which has entered into an agreement under this Act an amount equal to 50 percent of the emergency compensation paid to individuals by the State pursuant to such agreement.

(b) No payment shall be made to any State under this section with respect to compensation to the extent the State is entitled to reimbursement with respect to such compensation under the provisions of any Federal law other than this Act.

(c) Sums payable to any State by reason of such State's having an agreement under this Act shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this Act for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which would have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 4. (a) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this Act. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the funds appropriated pursuant to subsection (b) to the account of such State in the Unemployment Trust Fund.

(b) There are hereby authorized to be appropriated from the general fund of the Treasury, without fiscal year limitation, such sums as may be necessary to carry out the purposes of this Act.

DEFINITIONS

SEC. 5. (a) For purposes of this Act—

(1) the terms "compensation", "regular compensation", "extended compensation", "base period", "benefit year", "State", "State agency", "State law", and "week", shall have the meanings assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970;

(2) the term "period of eligibility" means, in the case of any individual, the weeks in his benefit year which begin in an emergency benefit period and, if his benefit year ends within such emergency benefit period, any weeks thereafter which begin in such emergency benefit period;

(3) the term "area" means, with respect to any State—

(A) a labor market area or part of a labor market area which is located within such State, and

(B) all other parts of such State which are not located within any labor market area;

(4) the term "labor market area" means any area (determined without regard to paragraph (3)) designated by the Secretary as being a continguous population center with a population of at least 50,000 individuals;

(5) the term "rate of insured unemployment" means the percentage arrived at by dividing—

(A) the average weekly number of individuals who are filing claims for regular compensation for weeks of unemployment with respect to the specified period and whose last employment during their base periods was in the area (as determined on the basis of the reports made by the State agency to the Secretary), by

(B) the average monthly covered employment in the area for the specified period;

(6) the rate of insured unemployment for any 13-week period shall be determined by reference to the average monthly covered employment in the area under the State law for the first four of the most recent six calendar quarters ending before the close of such period; and

(7) determinations with respect to the rate of insured unemployment in any area of a State shall be made by the State agency in accordance with regulations prescribed by the Secretary.

For purposes of any State law which refers to an extension under Federal law of the duration of benefits under the Federal-State Extended Unemployment Compensation Act of 1970, this Act shall be treated as amendatory of such Act.

(b) For purposes of this Act, to the extent that an emergency benefit period is not in effect in all areas of a State, the determination of an individual's period of eligibility or of whether there is an emergency benefit period applicable to the individual shall be made by reference to the area in which the individual either resides or was last employed during the base period for the benefit year with respect to which such individual most recently received regular compensation.

FRAUD AND OVERPAYMENTS

SEC. 6. (a) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of emergency compensation under this Act to which he was not entitled, such individual—

(1) shall be ineligible for further emergency compensation under this Act in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for regular unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b)(1) In the case of individuals who have received amounts of emergency compensation under this Act to which they were not entitled, the State is authorized to require such individuals to repay the amounts of such emergency compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(A) the payment of such emergency compensation was without fault on the part of any such individual, and

(B) such repayment would be contrary to equity and good conscience.

The State agency shall return to the Secretary an amount equal to 50 percent of the amount of such repayments.

(2) The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency compensation payable to such individual under this Act or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State Agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the three-year period after the date such individuals received the payment of the emergency compensation to which they were not entitled, except that no single deduction may exceed 50 per centum of the weekly benefit amount from which such deduction is made.

(3) No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(c) Any determination by a State agency under subsection (a) or (b) shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.●

By Mr. DURENBERGER (for himself and Mr. BOSCHWITZ):

S. 2994. A bill to provide for the use and distribution of funds awarded to Red Lake Band of Chippewa Indians in docket 15-72 of the U.S. Court of Claims; to the Select Committee on Indian Affairs.

RED LAKE BAND OF CHIPPEWA INDIANS

● Mr. DURENBERGER. Mr. President, the members of the Red Lake Bank of Chippewas were awarded $6 million by the Court of Claims on February 6, 1981. This was the result of damages to timber by the National Guard during the Korean war. The tribal members have yet to receive their per capita payments, and the tribal government has likewise never received its share of the judgment.

This legislation is necessary because the Department of Interior failed to submit the plan to Congress within the 180 days mandated under Public Law 94-134. Regardless of the reasons for this lapse, the bill I have drafted now contains the necessary mechanism for the use and distribution of these funds.

The legislation earmarks 20 percent of the funds for use by the tribal government. The plan for use of the funds would have to be approved by the Secretary of the Interior.

As you know, the economic climate on Indian reservations is poor. The quick approval and passage of this bill would enable the Secretary of the Interior to begin the process of distribution to individuals who badly need these funds. This in turn would improve the economic conditions of individuals and the surrounding business community.

I urge your prompt approval of this legislation.●

By Mr. MOYNIHAN:

S. 2995. A bill to reenact the Emergency School Aid Act; to the Committee on Labor and Human Resources.

REENACTMENT OF EMERGENCY SCHOOL AID ACT

● Mr. MOYNIHAN. Mr. President, I am today introducing legislation to reverse the decision made last year during consideration of the Omnibus Reconciliation Act of 1981 to include the emergency school aid program in the President's education block grant proposal. My bill would separate this

program from the block grant thereby reestablishing it as title VI of the Elementary and Secondary Education Act, a categorical program specifically designed to assist local communities with their efforts to desegregate the public schools. I recommend Congress take this remedial step because I view the decision to include this program in the block grant as ill-advised, contrary to the objectives of the block grant and, most importantly, because I believe we will have hampered the effort to desegregate the public schools if the decision made last year is allowed to stand. I have a history with this program. In 1970, I was a member of President Nixon's administration and was much involved in education matters for the President when he first proposed the creation of a program to assist local communities to voluntarily desegregate their schools. He recommended that $1 billion be provided for that purpose and directed, by Executive order, the creation of the emergency school aid program. Two years later, Congress adopted the Emergency School Aid Act, later to become title VI of the Elementary and Secondary Education Act of 1965. The purpose of the 1972 act was to encourage communities to voluntarily adopt desegregation programs. Federal funds to assist local school districts with desegregation have been made available ever since.

In fiscal year 1981 there was $561.7 million available for all of the programs folded into the education block grant. In fiscal year 1982, however, this amount will decline to $483.2 million. With respect to emergency school aid assistance, school districts in 43 States received $149.2 million in fiscal year 1981. Such assistance will not be forthcoming under the block grant. This is due in part to the formula embodied in the block grant which has the effect of increasing the number of school districts eligible to receive Federal education assistance at a time when the level of funding is being reduced. In addition, desegregation is far down on the list of priorities specified in the block grant. In New York State, for example, the city of Buffalo received over $6 million in emergency school aid in 1981-82. In 1982-83, Buffalo expects to receive $956,867, a drop of 86 percent. Other cities in New York—Rochester and New York for example—face a similar reduction in ESAA aid for this school year.

One purpose of the education block grant is to allow local officials greater flexibility in determining where education dollars can best be spent. Local control of education is a well-established principle in this Nation. In the area of desegregation, however, the Federal Government has played a major role. Desegregation has been a national effort and over the past 12 years Federal funds have assisted local communities with this task. Under the block grant approach, however, the Federal Government is, in effect, removed from this effort. More importantly, encouraging school districts to voluntarily desegregate their schools by providing Federal funds would appear to me to involve exactly the type of local decisionmaking which the education block grant was designed to encourage.

By sharply curtailing the amount of funds to be made available for desegregation I fear we shall realize two results which were not intended by the enactment of the education block grant. First, the loss of Federal funds will seriously hamper local efforts to desegregate, making it more difficult for some communities to comply with the law. Second, without funds for desegregation efforts, schools may find themselves ordered to desegregate by Federal judges, regardless or whether the school districts have the resources available to do so. Such was the result in Buffalo several weeks ago when a Federal judge ordered the schools to spend millions of dollars more on desegregation. Such a result is hardly consistent with the purpose behind the block grant. Finally, some communities, in reliance on the continued availability of Federal funds, embarked on desegregation plans designed to take effect over several years. These districts now find themselves in the second or third year of a multiyear plan facing the loss of Federal funds which they relied on and for which there may well be no replacement.

I urge my colleagues to give serious consideration to the proposal which I offer today. I would also ask unanimous consent that testimony Eugene T. Reville, superintendent of Buffalo schools, gave on September 9, 1982, before the House Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary be placed in the RECORD following my remarks. In his statement, Superintendent Reville presents a compelling argument for the continuation of Federal funds being made available for desegregation purposes.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY BEFORE THE HOUSE SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS OF THE COMMITTEE ON THE JUDICIARY

In considering the impact of the Emergency School Aid Act and the Title IV-C Civil Rights funds on the Buffalo Public Schools, it must be made clear that many significant improvements have been made as a result of this funding. The funding received made possible a well planned, sustained effort and the development of excellent programs staffed by teachers, aides and support personnel. The withdrawal of funding commitment will result in the decimation of those programs and their concomitant benefit to students.

Buffalo is operating what is probably the largest and most successful court-ordered, voluntary desegregation plan in the nation. The plan has been acclaimed by representatives of the U.S. Justice Department, the National Education Strategy Center, and program officers of the U.S. Office of Education. Most recently, in a meeting with Buffalo area Congressmen, its success was acknowledged by Secretary Bell.

Visitors from the Ford Foundation, Race Desegregation Support Centers, Training Institutes, and the New York State Office of Multicultural Education are in unanimous agreement that Buffalo's program is outstanding and that the district is truly integrated. Perhaps United States District Judge John T. Curtin, who has presided in Buffalo's desegregation case since its inception, best summarized the progress made in his order of June 30, 1982. He stated:

"As a constant observer of the Buffalo Public Schools, the Court is aware that many improvements have been made in the School system, and many programs which have been instituted will result in additional improvements in the years ahead. Standardized test scores have improved over the years. There has been no massive flight of majority students from the City schools, no violence or disruptions of any kind. A recent newspaper report from the Chicago Tribune quoted James Barnes, the Director of the National Educational Strategic Center, which has monitored desegregation programs throughout the United States as saying: "Buffalo is a model . . . It has got to be the best there is."

In the 1975-76 school year, about 76 percent of our total student body, some 43,000 students in 73 buildings, were in educational settings which did not conform to Court guidelines of 30 percent to 65 percent minority. Today, the district's magnet schools are balanced at a 50/50 ratio, with entrance waiting lists which include both races. These schools are at inner city sites which were originally considered impossible to integrate. In fact, throughout the system, only two elementary schools remain outside the Court guidelines for racial balance, and these have shown steady progress toward that objective. "Whatever analysis one utilized," said Judge Curtin in his August 8, 1980 order, "the Board has taken substantial steps to provide an ever-increasing number of children with an opportunity for an integrated education in a sound and stable system."

Integration, however, is not the plan's only accomplishment. Academic achievement has improved dramatically, with a corresponding decrease in the need for remediation. Space and time do not permit a complete elaboration of this point, but at least one example can be cited, remembering that the example represents only one instance of many similar gains. In 1977, an inner city building, Fillmore Middle School, was converted to a magnet school and renamed Campus East. That year, the third grade class ranked at the 39th percentile on Mathematics PEP tests. By 1980, those same students were in the sixth grade and scored at the 70th percentile, a truly significant increase. When Metropolitan Achievement Tests were given in 1981, scores showed that 61 percent of the school's third grade students were above the 90th percentile, and only 4 percent of the sixth graders were below the 50th percentile.

This kind of achievement, coupled with a variety of innovative programs being offered, has been responsible for the commu-

nity support evidenced in Buffalo. Our desegregation plan is predicated on the idea that there must be something educationally desirable and significant "at the end of the bus ride". To assure parent recognition of that desirability, community involvement has been constant and continuous since the start of our program. Ideas and plans were solicited and explained at meetings in all parts of the city. Evaluations and criticisms were carefully considered and many of them incorporated in the plan.

As a result, in the six years during which the various phases of our desegregation effort have been implemented, the image of the Buffalo Public Schools has changed so that people who had previously sought private educational experiences for their children are now actively supporting the public system. Buffalo has been cited as a city where, because of that success, "white flight" has not been a factor. In 1981, Buffalo lost only 2.1% of its school population while diocesan schools lost 4.8% and neighboring suburbs lost 5.2%. In the five years from 1977 to 1982, some 1,577 students transferred from private schools to our magnet schools. Many families changed their plans about moving out of the city, and some families moved back in—because of excellent and successful schools.

Judge Curtin referred to these gains in his June 19, 1980 order when he noted:

"I believe that the plaintiffs and the defendants have made significant and very welcome progress toward a final settlement with respect to the remedy in this case. All concerned should be congratulated and thanked for the hard work which went into this effort. . . . the (Board) proposals are based upon the concept of offering parents and children an excellent educational program through which desegregation can be accomplished. A principal part of the proposal . . . promises to be an excellent educational experience attractive to all parents, and it promises to provide a new impetus in the desegregation process." In actual practice, the "promise" became a reality. Systemwide, we have seen improved student attendance, decreased student suspension, and decreased frequency of discipline problems. As exciting and encouraging as these improvements are, they represent only a small portion of the overall number of positive changes which have literally turned around the Buffalo Public Schools. These gains are now very seriously threatened, and, indeed, may be totally cancelled.

The vast majority of the gains cited were directly related to E.S.A.A. funding. These monies were appropriated for the specific purpose of assisting districts in designing and implementing desegregation plans. Of the twenty-nine titles now consolidated in Chapter 2 as a result of the Education Consolidation Improvement Act of 1981, E.S.A.A. intents and directions seem to be the most seriously subverted.

The Buffalo Magnet School Grant ranked among the top five in the country, and its Basic Project ranked as number 1 in New York State. From 1976 through 1982, the Buffalo Public Schools received a total of $28,975,608. In 1981-82 alone, we were awarded $6,715,056. To "replace" this amount, after deducting the non-public share of Buffalo's allocation, 1982-83 E.C.I.A. Chapter 2 funds will allow only $956,867. This is a drop, in one year, of almost 86%. This draconian decision will result in cuts in instructional materials, in-service, curriculum planning, and the elimination of 374 personnel. Magnet and special instructional programs cannot be sustained and the much needed increase in minority personnel, hired through E.S.A.A. funds, will be wiped out. The National Diffusion Network and Title IV-C programs, implemented in 48 of our 76 schools, will be lost. Extra-curricular activities, which have enriched students' cultural experiences, will be lost. Parent effectiveness training which helped us achieve and maintain peaceful implementation of integration programs will be eliminated.

Perhaps most important, parents who placed their children in Buffalo Public Schools, expecting and receiving specific quality educational programs, will be victimized because of broken educational commitments. Buffalo has had the distinction of being among the very few cities which were awarded basic and magnet grants for a five year period. The past year, 1981-82, marked only the second year of that five year cycle. Our plans for careful implementation of superior educational programs will grind to a halt. Parents will feel we have not kept faith; in reality, it is the five year Federal commitment that has been broken.

In a June 22, 1982 letter to our area Congressmen, Secretary Bell suggested that:

"The Buffalo School district may, of course, use funds appropriated under Chapter 2 of the same Act for its desegregation program. Funds under Chapter 2 are made available to school districts to use in accordance with educational priorities that they identify at the local level."

Unfortunately, the Secretary has no solution to the problem of distributing $956,867 to pay for essential services costing $6,715,056. That kind of decrease is not a "phase-out" of services; it is an obliteration for which there is no "loaves and fishes" solution.

To the suggestion that the City of Buffalo should supply the needed funds, it should be noted that Buffalo has the highest rate of unemployment in the State and one of the highest in the nation. With a shrinking population and the problems of municipal and educational overburden, our city can ill afford to address all if, indeed, any of the fiscal problems caused by a virtual elimination of Federal and State aid.

Aid from private foundations is not the answer to our plight. Buffalo schools have long been successful in winning grants for a variety of programs from private foundations, but their funds, too, are limited and decreasing, and none of them are capable of providing a grant of approximately $6,000,000. The problem of private funding is compounded by the fact that few of the country's largest businesses maintain headquarters in Buffalo, primarily because of the city's economic distress.

Finally, it has been suggested that "the schools do some belt tightening". The fact is that the schools already operate with limited fiscal resources. The demands of court-ordered desegregation have further strained those limited resources. When the public school "belt" tightens, it is students and their future welfare which are "squeezed".

The benefactors of the new federal fund allocations would seem to be some of the wealthier suburban districts which will be receiving a veritable windfall under E.C.I.A. For almost ten years, these districts have rejected suggestions by the Court and the Commissioner of Education to participate and cooperate with the Buffalo Public Schools in desegregation efforts. Now, they will receive a very considerable share of our hard-won monies and, at the same time, place Buffalo schools at an even greater economic disadvantage. Indeed, the effect of these cuts is felt most keenly by the poor and disadvantaged. A recent Rand study identified East St. Louis, Camden, and eighty-four other areas as "trouble-prone suburbs" suffering from the same conditions which have been plaguing larger, central cities. Schools in those "suburbs" and elsewhere could learn from Buffalo. We have met our problems with school programs which have proven to be educationally effective and worthy of replication. Current federal funding cuts will result in the annihilation of programs which have more than incidentally, served as a template for other districts with similar problems.

As the only district in New York State under a Federal Court order to desegregate, Buffalo is in a unique position. We have used the challenge to effect some of the most dramatic improvements ever achieved by an urban school district. Buffalo, the second largest school district in New York State, seems destined to see more than six years of carefully planned, intensive effort thrown out almost overnight—due to the withdrawal of what was represented—only two years ago—to be long-term Federal support. There are no viable solutions to our problem except Federal support. The people of Buffalo, and its 47,000 public school students, have no other recourse.

What is at risk here are solid and creative educational programs and schools which are desegregated both in letter and in spirit. To achieve our ends, we directed positive action to clearly conceived purposes. We have an obligation to insure that the permanence and stability of our desegregation efforts be preserved and we need your support to keep the strong, attractive and relevant desegregation program we have in Buffalo.●

By Mr. COCHRAN (for himself and Mr. DURENBERGER):

S. 2996, a bill to reduce temporarily the duty on certain disposable gowns and surgical drapes; to the Committee on Finance.

REDUCTION OF DUTY ON CERTAIN DISPOSABLE GOWNS AND SURGICAL DRAPES

● Mr. COCHRAN. Mr. President, I am introducing today a bill to amend the Tariff Schedules of the United States to provide a temporary reduction in the duties on disposable gowns and surgical drapes made of bonded fiber fabric and designed for use in hospitals, clinics, laboratories, and contaminated areas.

This legislation is needed to remedy an inequity currently existing in the Tariff Schedules which applies a duty rate of 5.6 percent ad valorem to disposable hospital gowns and drapes made predominantly of paper and a duty rate of 20 cents per pound and 25.8 percent ad valorem and 21 cents per pound and 14 percent ad valorem on disposable hospital gowns and drapes made predominantly of bonded-fiber fabric.

The rates on these bonded-fabric products are not only four to five times greater than those on paper products, but are also six to ten times the 1981 International Trade Commission average tariff collected for all

free and dutiable imports of 3.4 percent.

The tariff reduction proposed by this bill is temporary and would be in effect until January 1, 1988. It is anticipated that this 5-year period will provide time for the Kimberly-Clark Corp., the major beneficiary of this legislation, to assess the success and effectiveness of its capital investment in the manufacture of polypropylene base sheet, used by the company in the production of disposable gowns and drapes.

Kimberly-Clark has spent more than $100,000,000 for the construction of its mill in Corinth, Miss., which manufactures the polypropylene sheet, employing 250 people. Kimberly-Clark is nearing completion of a $55 million expansion there which will add another 75 jobs. In addition, Kimberly-Clark is considering the building of another such facility in the United States.

This 5-year term will also coincide with the Multilateral Trade Negotiation final tariff reduction in 1987. Thus the 5.6 percent tariff would increase to the final rates of 17 percent and 9 percent for hospital gowns and drapes should the Congress choose not to maintain the reduced tariff rate.

Mr. President, an equalization in the tariff rates on bonded-fiber fabric and paper disposable gowns and drapes would be equitable and just because these products are substantially identical. The bonded-fiber fabric products made by Kimberly-Clark are 100 percent polypropylene. The paper products, classified as reinforced paper and thus eligible for the lower 5.6 percent tariff rate, are 55 percent polyester and only 45 percent wood pulp.

No rational basis exists for one fabric to be assessed a tariff one-fifth that of substantially identical competing product. The chief component of both fabrics is manmade fiber. Further, Kimberly-Clark's 100 percent polyporpylene base sheet has demonstrated in laboratory testing such desirable characteristics as low lint, effective bacterial barrier properties, good fabric breathability and drapability, and minimal likelihood of supporting flame.

Mr. President, this temporary tariff reduction will rectify an inequity in the tariff schedules and will enable smaller health care businesses like Kimberly-Clark's Health Care Division to be more effective competitors.

By Mr. STEVENS:

S. 2997. A bill to establish an exclusive economic zone adjacent to the territorial sea of the United States, to assert national rights therein, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EXCLUSIVE ECONOMIC ZONE ESTABLISHMENT ACT

Mr. STEVENS. Mr. President, I have several times addressed the Senate to commend the President's decision to not sign the Law of the Sea Treaty. Many Members of the Senate share my concern that we must tell the world that we will not agree to participate in the permanent cartelization of the oceans resources.

Mr. President, the 1980's truly is the decade of the oceans. Vast potential lies just off our shores—both in living and nonliving resources. This legislation will complete the job that we began in the Fisheries Conservation and Management Act fo 1976, and the Deep Seabed Hard Mineral Resources Act of 1980, by extending plenary U.S. jurisdiction over the 200 mile zone.

I am offering this bill today with my good friend Congressman BREAUX of Louisiana, who has introduced the same bill in the House.

In brief, the bill establishes an exclusive economic zone which runs 197 miles seaward from the territorial sea. Within this zone, the United States will assert sovereign rights for the purpose of exploring, exploiting, conserving, and managing all natural resources—both living and nonliving. The bill specifically asserts that the fisheries resources of this Nation are to be used to the benefit of the U.S. fishing industry.

Mr. President, I feel that this legislation will take the step that is now long overdo in my opinion. We can now strengthen the status of our ajoining oceans resources and facilitate their orderly development.

By Mr. CANNON (for himself and Mr. LAXALT):

S. 2998. A bill to declare that the United States hold certain lands in trust for the Las Vegas Paiute Tribe; to the Select Committee on Indian Affairs.

TRANSFER OF CERTAIN LAND TO LAS VEGAS PAIUTE TRIBE

Mr. CANNON. Mr. President, for myself and my distinguished colleague, Senator LAXALT, I am today introducing a bill to transfer approximately 3,150 acres of vacant, undeveloped public lands in trust to the Las Vegas Paiute Tribe.

The Las Vegas Paiute Tribe is a federally recognized Indian tribe located near Las Vegas, Nev. The original reservation consisted of only 10 acres, acquired in 1911. Since then, the tribe has acquired an additional 2½ acres with their own meager funds.

The population of the tribe has increased by 300 percent since 1911. In addition, 3,000 native Nevada Paiutes which the reservation was meant to serve, are now widely scattered throughout the Las Vegas area. The present allocation of 12½ acres of land cannot accommodate the minimal needs of the tribal membership.

The tribe wishes to continue, and to perpetuate, their traditional culture and practices, but cannot do so with their membership so distantly separated from one another.

Additionally, the tribe desires to pursue the commendable objectives of self-determination, economic self-sufficiency and mutual involvement with the private sector, but are thwarted by the paucity of land upon which to establish an economic base.

An earnest objective of the Las Vegas Paiutes is to diminish the historical reliance upon Federal programs. The tribe has already demonstrated its willingness and ability to develop an economic base and to utilize the special skills and enterprise of its members to generate tribal revenues. This business activity not only benefits tribal members but adds to the economic base of other southern Nevada communities. This business development will be encouraged and facilitated by the land transfer.

The present reservation is wholly occupied and no longer available for additional development. The tribe has put together an ambitious use plan for the additional land it seeks through this bill. The land would be used for residential housing, community support facilities, an industrial park for light manufacturing, and limited agricultural development.

I am advised that all interested and involved parties, the city of Las Vegas, the State of Nevada, the city of North Las Vegas and other neighboring interests support this transfer. All rights-of-way, minerals, and water will be protected.

Mr. President, I trust that appropriate hearings can be conducted in order that the bill will be thoroughly considered and action taken on the measure at the earliest practicable time.

By Mr. ROTH:

S. 2999. A bill to provide for the issuance of a stamp to commemorate the 100th anniversary of the merit system in Federal employment; to the Committee on Governmental Affairs.

ANNIVERSARY OF MERIT SYSTEM IN FEDERAL EMPLOYMENT

● Mr. ROTH. Mr. President, on January 16, 1883, the Civil Service Act, or so-called Pendleton Act, was passed, creating the first basic structure for the Federal Government under which appointments and advancement of Government employees would be made "with sole reference to merit." The act was a direct result of the assassination of President Garfield by a man who was not given a Federal job despite his support for the President. This action shocked the Nation and brought to the attention of the public the corruption and office buying which was then common in Government in part because jobs were based not on "what you knew" but on "who you knew."

The passage of the Civil Service Act was a significant step forward in the effort to make Government work more efficiently and with less waste. It helped to lay the groundwork for what has today become a highly professional and capable work force. It is for these reasons and more that I am today introducing legislation directing the U.S. Postal Service to issue a commemorative postage stamp on January 16, 1983, to mark the 100th anniversary of the Civil Service Act, initiating the merit system in Federal employment. I think such a commemoration is important not because the act cured all Government ills. It clearly did not. Rather, such a remembrance will help remind us all that there are thousands of public employees at the local, State, and Federal levels who work hard every day to provide services of almost every conceivable stripe to this Nation, and I think they quite deservedly should be recognized for their efforts on behalf of us all.●

By Mr. GORTON:

S. 3000. A bill to address several problems relating to vessel service to the State of Alaska; to the Committee on Commerce, Science, and Transportation.

VESSEL SERVICE TO THE STATE OF ALASKA

● Mr. GORTON. Mr. President, the bill I now introduce addresses several problems relating to vessel service to the State of Alaska.

The urgency of this bill results from the imminent prospect that foreign-built, foreign-flag, foreign-crew operations may soon be initiated from the ports of either Vancouver or Prince Rupert, British Columbia under a narrow exemption from the Jones Act found in the third proviso of section 27 of that act. The immediate and grave effect of such alternative service may be to redirect cargo now moving to and from Alaska through the ports on Puget Sound in my State of Washington. The potential erosion of jobs and economic activity of the Puget Sound ports and in ancillary local manufacturing, packaging, supply, warehousing, and transportation industries requires prompt legislative action. Not only the carriers now serving Alaska from Puget Sound, but the longshoremen, truckers, and shipper employees all rely on the Alaska trade.

It is to prevent the dislocation of a major segment of the Puget Sound economic infrastructure that Congress must close the narrow loophole to the Jones Act found in the "third proviso." This bill, however, closes the third proviso only for a 3-year period, during which time the Department of Transportation shall conduct a study on measures necessary to improve marine transportation to, from, and within the State of Alaska. After that study, Congress could exercise its judgment whether to let this temporary closure expire, or whether to extend it or make it permanent.

In the meantime, all operations in existence on September 1, 1982, under the third proviso are grandfathered notwithstanding the temporary closure.

Also, subject to the same 3-year expiration clause, this bill addresses pressing deficiencies in Alaska's marine transportation service.

Foreign-built fish processing vessels may transport merchandise that is directly fisheries related between points in the United States, if they are documented as U.S.-flag vessels, notwithstanding the U.S.-built requirement of section 27 of the Jones Act or the citizenship requirements for coastwise trade under the Shipping Act. Since most fish-processing vessels flying the U.S. flag are foreign built, and since many are owned by corporations whose stock is more than 25 percent held by foreign citizens, it is important for the stimulation of the Alaska fisheries and fish processing industries that this provision be adopted. This provision applies to fish processing vessels, as distinguished from tenders or fishing vessels engaged principally in harvesting or transporting fish or fish products. Directly fisheries related merchandise includes salt, plastic, cardboard, and other items used in the handling or packing of fish or fish products as well as merchandise necessary for the effective operation of the fish processing vessel.

Again, it is important to emphasize that the entire package of provisions relating to Alaska marine transportation contained in this bill is subject to a 3-year expiration. When Congress reconsiders the issues addressed in this bill, it will have the benefit of 3 years experience as well as a thorough Department of Transportation study on the subject.

Mr. President, I realize very clearly the important and traditional symbiotic relation that the States of Alaska and Washington have enjoyed. Our commercial links have bound us in a vigorous effort to come to grips with an immediate threat. I will work closely with Senators STEVENS, MURKOWSKI, and JACKSON to develop a well-thought-out solution. I urge the Senate and the House to act on this bill soon in the interest of preserving for American vessels, American seamen, and American ports and communities, the valuable and essential domestic waterborne commerce of the United States.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third proviso of section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) is amended to read as follows: *"Provided further,* That this section shall not apply to merchandise transported between points within the continental United States, including Alaska, in any vessel which on September 1, 1982 was engaged in the provision of services over through routes theretofore recognized by the Interstate Commerce Commission which involved transportation, in part, over Canadian rail lines;".

SEC. 2. Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) or section 2 of the Shipping Act, 1916 (46 U.S.C. 802), documented vessels, which are foreign built and which are used in the processing or assembly of fishery products, may transport merchandise which is directly fisheries-related between points in the United States.

SEC. 3. Within one year of the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Congress, together with such recommendations for legislation as he deems to be appropriate, on measures necessary to improve marine transportation to, from, and within the State of Alaska. The Secretary shall take into account the future development and transportation needs of the State of Alaska and its remote communities, developments in maritime transportation, the current requirement that all vessels serving Alaska in the domestic trades be built in the United States, any advantages derived from service incidental to international voyages, and the adequacy of services currently provided by the Bureau of Indian Affairs and private industry in western Alaska.

SEC. 4. Effective January 1, 1986:

(1) sections 2, 3, and 4 of this Act are repealed; and

(2) the third proviso of section 27 of the Merchant Marine Act, 1920, is amended to read the way it reads on the day prior to the date of enactment of this Act.●

By Mr. HART (for himself, Mr. COCHRAN, Mr. HATFIELD, Mr. PRYOR, Mr. KENNEDY, Mr. MITCHELL, Mr. DURENBERGER, Mr. PELL, Mr. LEAHY, and Mr. DIXON):

S.J. Res. 259. Joint resolution renewing chemical warfare negotiations; to the Committee on Foreign Relations.

CHEMICAL WARFARE NEGOTIATIONS

● Mr. HART. Mr. President, today, Senators COCHRAN, HATFIELD, PRYOR, KENNEDY, MITCHELL, DURENBERGER, PELL, LEAHY, DIXON, and I are introducing a joint resolution which calls upon the President to reconvene the bilateral negotiations with the Soviet Union on a verifiable chemical warfare disarmament treaty.

On January 22, 1975, the President of the United States signed the instruments of Ratification of the Geneva Protocol of 1925 which prohibited the use in war of asphyxiating, poisonous, or other gases and bacteriological methods of warfare.

The signing by President Ford of the Geneva Protocol of 1925 sent a clear signal to the world that the United States, after nearly 50 years of internal policy debate, officially embraced

a policy of no first use of chemical and bacteriological weapons. However, the United States and the Soviet Union did reserve the right to retaliate in kind after the first use by another signatory of the treaty. In addition, the Protocol does not prohibit the development, stockpiling, or production of chemical weapons.

During the 1974 summit meeting in Moscow, the United States and the Soviet Union agreed to consider a joint initiative in the United Nations' Conference of the Committee on Disarmament for a total prohibition of chemical weapons. Later, President Carter reaffirmed the principles of the 1974 agreement by establishing U.S. goals in these negotiations, which had been actively pursued since August 1975. President Carter directed that negotiations with the Soviet Union should proceed with the goal of a comprehensive treaty to ban chemical weapons. The primary objective of those bilateral talks with the Soviet Union was a complete and verifiable ban on the production of all chemical weapons. Once an agreement was reached, the joint United States-Soviet initiative would be presented to the U.N. Committee on Disarmament for elaboration into multilateral chemical weapons disarmament treaty.

Mr. President, since the initiation of those bilateral talks in 1975, over 12 rounds of talks with the Soviet have been held in Geneva and considerable progress have been made toward a satisfactory and verifiable treaty. The United States suspended those negotiations after the Soviet invasion of Afghanistan in 1980.

While it is important to note that U.S. negotiators continue to participate with the working group of the U.N. Committee on Disarmament in Geneva, without a meaningful bilateral initiative on CW disarmament, no multilateral agreement is possible.

Mr. President, the aggressive effort by this administration to move forward with the development and production of binary chemical weapons may signal the beginning of a new chemical warfare arms race with the Soviet Union. Of equal concern is the potential for the proliferation of chemical warfare agents to other countries and terrorists. The failure of the bilateral negotiations with the Soviets, coupled with the development of new chemical weapons capabilities will undercut the existing relatively stable relationship of mutual deterrence in chemical weapons and encourage other nations to develop a chemical warfare capability.

Mr. President, as I have stated many times before, chemical weapons have a very limited degree of tactical effectiveness on the battlefield. Moreover, the deployment of new CW weapons on European soil is not encouraged by our NATO allies. These facts significantly reduce the deterrent effect of chemical weapons.

The development of a new generation of CW binary weapons will not enhance our security. Only the negotiation of a complete, effective, and verifiable chemical warfare disarmament treaty will prevent a new superpower competition in these heinous weapons and significantly enhance this Nation's security.

Mr. President, this resolution simply calls upon the President to reconvene the bilateral negotiations with the Soviet Union on a satisfactory and verifiable chemical warfare disarmament treaty. I urge all my colleagues to support this joint resolution which would assist the effort to ban chemical warfare weapons.●

ADDITIONAL COSPONSORS

S. 1688

At the request of Mr. SPECTER, the names of the Senator from Florida (Mrs. HAWKINS), the Senator from Iowa (Mr. JEPSEN), and the Senator from New York (Mr. D'AMATO) were added as cosponsors of S. 1688, a bill to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment.

S. 2167

At the request of Mr. SPECTER, the name of the Senator from West Virginia (Mr. ROBERT C. BYRD) was added as a cosponsor of S. 2167, a bill to amend the Unfair Competition Act of 1979 and Clayton Act to provide for further relief in the event of unfair foreign competition.

S. 2334

At the request of Mr. DURENBERGER, the names of the Senator from Delaware (Mr. BIDEN), and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of S. 2334, a bill to provide that registration and polling places for Federal elections be accessible to handicapped and elderly individuals, and for other purposes.

S. 2371

At the request of Mr. SASSER, the name of the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2371, a bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for contributions and payments to sheltered workshops.

S. 2572

At the request of Mr. METZENBAUM, his name was added as a cosponsor of S. 2572, A bill to strenghten law enforcement in the areas of violent crime and drug trafficking, and for other purposes.

At the request of Mr. GLENN, his name was added as a cosponsor of S. 2572, supra.

S. 2631

At the request of Mr. KASTEN, the name of the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of S. 2631, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 2815

At the request of Mr. BENTSEN, the names of the Senator from Wyoming (Mr. WALLOP), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 2815, a bill to amend the Social Security Act to provide an improved system for determining and monitoring the need for a representative payee with respect to benefits paid under titles II and XVI of such act.

S. 2876

At the request of Mr. NUNN, the names of the Senator from Florida (Mr. CHILES), and the Senator from Wyoming (Mr. WALLOP) were added as cosponsors of S. 2876, a bill to amend the Small Business Investment Act of 1958 to provide debentures for State development companies.

S. 2912

At the request of Mr. METZENBAUM, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2912, a bill to provide that the amount of unnegotiated social security checks shall be returned to the social security trust funds, and for other purposes.

S. 2918

At the request of Mr. CHAFEE, the name of the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 2918, a bill to permit the investment of employee benefit plans in residential mortgages.

S. 2942

At the request of Mr. COHEN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2942, a bill to provide that disability benefits under title II of the Social Security Act shall continue to be paid through the end of the administrative appeals process, and that periodic reviews of disability cases shall be carried out only to the extent determined to be appropriate.

S. 2947

At the request of Mr. BENTSEN, the name of the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 2947, a bill to amend the Internal Revenue Code of 1954 with respect to the unrelated business taxable income of certain nonprofit charitable organizations.

S. 2979

At the request of Mr. PRYOR, the name of the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 2979, a bill to establish a Federal Grain Storage Insurance Corporation to protect farmers who store

grain in certain warehouses against losses caused by the insolvency of such warehouses, and for other purposes.

SENATE JOINT RESOLUTION 215

At the request of Mr. HATCH, the name of the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of Senate Joint Resolution 215, a joint resolution to provide that the week beginning March 6, 1983 shall be designated as "Women's History Week."

SENATE JOINT RESOLUTION 220

At the request of Mr. PRYOR, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of Senate Joint Resolution 220, a joint resolution to authorize the erection of a memorial on public grounds in the District of Columbia to honor and commemorate members of the Armed Forces of the United States who served in the Korean war.

SENATE JOINT RESOLUTION 222

At the request of Mr. WEICKER, the name of the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of Senate Joint Resolution 222, a joint resolution to designate the week of February 13 through February 19, 1983, as "National Police Athletic League Week."

SENATE JOINT RESOLUTION 236

At the request of Mr. MCCLURE, the name of the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of Senate Joint Resolution 236, a joint resolution to designate the week of October 24 through 28, 1982, as "National Water Resources Week."

SENATE JOINT RESOLUTION 240

At the request of Mr. BOREN, the name of the Senator from West Virginia (Mr. ROBERT C. BYRD) was added as a cosponsor of Senate Joint Resolution 240, a joint resolution to authorize and request the President to designate the week of January 16, 1983, through January 22, 1983, as "National Jaycee Week."

SENATE JOINT RESOLUTION 246

At the request of Mr. LONG, the names of the Senator from Texas (Mr. BENTSEN), the Senator from Minnesota (Mr. DURENBERGER), and the Senator from New Jersey (Mr. BRADLEY) were added as cosponsors of Senate Joint Resolution 246, a joint resolution to authorize and request the President of the United States to issue a proclamation designating the first week in October for the calendar years 1982, 1983, and 1984 as "National Port Week."

SENATE JOINT RESOLUTION 249

At the request of Mr. KENNEDY, the name of the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of Senate Joint Resolution 249, a joint resolution to provide for the designation of the month of October 1982 as "National Spinal Cord Injury Month."

SENATE JOINT RESOLUTION 253

At the request of Mr. CHAFEE, the names of the Senator from Maine (Mr. MITCHELL), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Joint Resolution 253, a joint resolution to assure that regulations governing the special supplemental food program for women, infants, and children (WIC) enhance the health status of participants in the program.

SENATE JOINT RESOLUTION 258

At the request of Mr. WEICKER, the name of the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of Senate Joint Resolution 258, a joint resolution to authorize and request the President to designate the month of December 1982 as "National Close-Captioned Television Month."

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. DOLE, the name of the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes.

SENATE RESOLUTION 458

At the request of Mr. JACKSON, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of Senate Resolution 458, a resolution to express the sense of the Senate that the Export-Import Bank of the United States shall be given sufficient authority and shall provide competitive financing for American exports.

SENATE RESOLUTION 462

At the request of Mr. BENTSEN, the names of the Senator from Florida (Mr. CHILES), and the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of Senate Resolution 462, a resolution to express the sense of the Senate concerning consultations with the Government of Japan on exports of agricultural products from the United States to Japan.

SENATE CONCURRENT RESOLUTION 126—CONCURRENT RESOLUTION RELATING TO SUPPORT FOR THE PEOPLE OF AFGHANISTAN

Mr. TSONGAS (for himself, Mr. ABDNOR, Mr. ANDREWS, Mr. ARMSTRONG, Mr. BAKER, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BOREN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BRADY, Mr. BUMPERS, Mr. BURDICK, Mr. HARRY F. BYRD JR., Mr. CHAFEE, Mr. CHILES, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DANFORTH, Mr. DECONCINI, Mr. DENTON, Mr. DIXON, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EAGLETON, Mr. EAST, Mr. EXON, Mr. FORD, Mr. GARN, Mr. GLENN, Mr. GOLDWATER, Mr. GORTON, Mr. GRASSLEY, Mr. HART, Mr. HATCH, Mr. HATFIELD, Mrs. HAWKINS, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. JEPSEN, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. LEVIN, Mr. LONG, Mr. LUGAR, Mr. MATSUNAGA, Mr. MATTINGLY, Mr. MCCLURE, Mr. MELCHER, Mr. METZENBAUM, Mr. MITCHELL, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PERCY, Mr. PRESSLER, Mr. PROXMIRE, Mr. PRYOR, Mr. QUAYLE, Mr. RANDOLPH, Mr. RIEGLE, Mr. ROTH, Mr. RUDMAN, Mr. SARBANES, Mr. SASSER, Mr. SCHMITT, Mr. SIMPSON, Mr. SPECTER, Mr. STAFFORD, Mr. STENNIS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WEICKER, Mr. ZORINKSY, Mr. ROBERT C. BYRD, Mr. CANNON, Mr. CRANSTON, Mr. LAXALT, Mr. LEAHY, Mr. NICKLES, Mr. STEVENS, and Mr. TOWER) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 126

Whereas the freedom fighters of Afghanistan have withstood the might of the Soviet Army for over two and a half years and gained the admiration of free men and women the world over with their courageous sacrifice, bravery, and determination;

Whereas the Soviet invasion of Afghanistan is the first Soviet seizure of independent territory since the 1940's and represents a dangerous and unacceptable development in Soviet foreign policy;

Whereas the struggle for liberation in Afghanistan can succeed if those of us who believe in freedom come to its support;

Whereas the European Parliament, the Non-Aligned Movement, the United Nations, the Conference of Islamic Nations, the Association of Southeast Asian Nations, and the United States Congress have all condemned the Soviet invasion and occupation of Afghanistan;

Whereas the Soviet airbases in southwest Afghanistan present an unacceptable threat to the Hormuz oil passage lanes which are so vital to the free world's economies;

Whereas many individuals and private organizations all over the world have already sent substantial aid to the Afghan freedom fighters;

Whereas it would be indefensible to provide the freedom fighters with only enough aid to fight and die but not enough to advance their cause of freedom: Now, therefore, be it

Resolved by the Senate (and the House of Representatives concurring), That it should be the policy of the United States:

(1) to encourage and support the people of Afghanistan in their struggle to be free from foreign domination;

(2) to provide the people of Afghanistan, if they so request, with material assistance, as the U.S. considers appropriate, to help them fight effectively for their freedom;

(3) to pursue a negotiated settlement of the war in Afghanistan, based on the total withdrawal of Soviet troops and the recognition of the inalienable right of the Afghan people to choose their own destiny free from outside interference or coercion, so that the four million Afghan refugees can

return to their country in safety and in honor.

Mr. TSONGAS. Mr. President, I rise to submit a concurrent resolution calling upon the U.S. Government to provide assistance to the Afghan freedom fighters. I am pleased to welcome 98 of my colleagues as cosponsors.

It has been almost 3 years since the Soviet Union invaded Afghanistan. For 3 years the United States has shown a grave and disturbing reluctance to aid a people whose essential freedoms are being trampled by a foreign force. Instead, we lift grain embargoes and impose pipeline sanctions much to the distress of our European allies and to the delight of the Kremlin.

I point out the vote yesterday in the House, 206 to 203, on the pipeline to show how fragile the support is for those decisions.

Unconfirmed press reports contend that covert U.S. aid is going to the Afghans now, but the freedom fighters say that they need substantial U.S. assistance. If there is a current U.S. program, it is not enough to tip the military scale in the Afghan's favor. The United States should provide the Mujahideen of Afghanistan, covertly or overtly, with material assistance, arms if appropriate, to help them fight more effectively for their freedom.

This concurrent resolution does not specify the modalities of such assistance, only that it be first requested by the Afghans themselves and that it be provided generously enough to help advance the cause of freedom in Afghanistan. Questions concerning the covert or overt nature of such assistance, its timing, its quantities, its quality, its transport, and its exact recipients are not addressed in the resolution and are left to the discretion of the executive branch. The purpose of the resolution is to communicate the support of Congress for a meaningful program of assistance.

In 1979, the Soviet Union invaded Afghanistan, deposed President Amin, installed a puppet regime, and launched their brutal war against the Afghan people. The fighting continues to this day.

But what began as a sporadic, localized resistance against the Soviet Army has blossomed into a coordinated, sophisticated and resilient war of liberation. The Afghan freedom fighters brave modern Soviet planes and helicopters to attack convoys and patrols. The puppet government of Babrak Karmal is isolated in Kabul from its own people. The Afghan Army is little more than a training program for future defectors to the Mujahideen. By all accounts, 95 percent of the Afghans support the resistance.

By all standards of morality and international law, the Soviets are clearly in the wrong and the Afghan resistance is clearly in the right.

But the United States has been reluctant to undertake a meaningful program of material assistance to the freedom fighters. Why? Many arguments have been put forward; none hold water any longer.

In the early days of the resistance, there was a justifiable concern here that a significant American effort might taint the resistance as an American creation and a "tool of imperialism." Soviet propaganda would have capitalized on the opportunity with a major effort to isolate the resistance in the United Nations and the Third World. American aid might then have blurred the clear picture of Soviet aggression.

Today, the situation has changed. The independence and integrity of the freedom fighters are well established around the world. In 3 years of fighting, they themselves repeatedly have asked for American material aid. Any Soviet propaganda gains would now be confined to the already converted.

If American assistance is delivered to the Mujahideen, some argue that the Soviets may retaliate elsewhere against nations friendly to the United States. Pakistan is considered a likely target.

There are indeed risks associated with aid to the freedom fighters. Retaliation by the Soviets is a real possibility in the region. Such states as Pakistan, however, have much more to fear from an outright Soviet victory in Afghanistan. A consolidated pro-Soviet regime in Kabul would only encourage further Soviet expansion and prevent the return of millions of Afghan refugees from Pakistan.

Some have claimed that it is best to leave the war in Afghanistan as it is. The Soviets are hard-pressed militarily and politically vulnerable. The Soviet military presence has remained constant. Any American effort to aid the freedom fighters, according to this theory, would only escalate the conflict and cost more lives.

That is little more than a call for U.S. complacency. It says: If the Soviets drop chemical and biological weapons of Afghan villages, we should ignore it. If the Afghan guerrillas are defenseless against Soviet helicopters and planes, we should accept it. If we are presented with a low cost, compelling pressure point against the Soviet Union, we should decline it. If the Afghans will fight heroically against impossible odds, we should admire their pluck and watch them die.

Such positions are morally and tactically untenable. If not the Afghan freedom fighters, who are more deserving recipients of American assistance?

Some will argue that aid to the freedom fighters is a vain undertaking because the Soviets are a super power with vast resources.

Most observers, however, and even members of the resistance, acknowledge that the Soviets cannot be defeated militarily in Afghanistan. But their costs in men and equipment can be forced upward by better-equipped freedom fighters. The objective of American assistance should be: to compel the Soviets and their clients in Kabul to negotiate an end to the war and a Soviet troop withdrawal; to promote self-determination for the Afghan people; and to bring home millions of Afghan refugees in peace and in honor.

The U.N.-sponsored talks between Kabul, Pakistan, and Iran are a possible path to these goals, but their progress will depend largely on how effective the freedom fighters are in the field against the Soviet Army. American aid to the Mujahideen or even the threat of such aid will help apply pressure on the Soviets for a fair, negotiated resolution of the war.

One must ask, finally, who will come to power in Afghanistan if the Soviets leave? Will American interests be served?

The Afghan resistance is not a single political entity. Islamic fundamentalist groups vie with Western oriented moderates for outside assistance. Both claim to represent the majority of the freedom fighters. Inside Afghanistan, an array of ethnic, political, religious, and tribal groups accept aid from whatever source, and remain distrustful of one another despite the common Soviet foe. There are recent and encouraging signs of political unity and military coordination in the resistance, but the divisions remain. They will make it difficult for U.S. planners to decide which factions should receive assistance and which will be most likely to inherit the capital city, Kabul, once the Soviets leave.

History, however, has presented the United States with a unique opportunity. Afghan people all agree now on one issue—the expulsion of the Soviets. It may be naive to expect a pro-American government to take power in a free Afghanistan, but the freedom fighters will not forget who provided assistance when they so desperately needed it.

So, for a small investment now, we stand to reap just rewards in the future. The same is not true of other United States initiatives, such as the sanctions against the Soviet pipeline that are inflicting heavy costs on ourselves and our European allies while leaving the Soviets relatively unscathed. It is time to apply pressure where we can have an impact, where our costs are low, where the cause is just, and where our allies will be supportive—in Afghanistan.

Mr. President, as my colleagues know, I have not been in support of U.S. military aid to some of the regimes around the world that we have been supportive of where I think the cause is very questionable. Here is the clearest case of where the United States can stand up to the Soviet Union, and it is my hope that we will do so and that in the long term that is a far more effective way of approaching the issue than what we have done in the past.

Mr. RIEGLE. Mr. President, I am pleased to join the distinguished Senator from Massachusetts, Senator TSONGAS, in supporting a resolution declaring that it should be the policy of the United States to provide material assistance to the freedom fighters in Afghanistan.

The Soviet incursion into Afghanistan and the continued Soviet military occupation of that country is a flagrant violation of international law and must not be tolerated. Long experience has shown that the Soviets are quick to take advantage of any opportunity to further their expansionist aims. It is the responsibility of nations of the free world, therefore, to insure that the struggle for liberation of the Afghan freedom fighters is not in vain.

During the early months of the Soviet occupation, the freedom fighters were able to resist the Soviets' tanks without any appreciable aid or weapons. Today, nearly 3 years later, the resistance movement still survives. Although the Afghan fighters have received enough aid to continue their struggle, it is time they be supplied with sufficient aid, in volume and sophistication, to overcome their Soviet oppressors and regain their freedom.

The United States had made clear its support of the freedom fighters' cause. It is now time to demonstrate that support through a willingness to supply adequate assistance to the Afghan people. I believe this resolution represents a positive and necessary step toward that goal.

Mr. GLENN. Mr. President, the Soviet invasion of Afghanistan is an unconscionable act of war against the Afghan people, a challenge to our national interests and but another of a lengthy series of Soviet expansionist moves. Soviet moves some years ago into Hungary and Czeckoslovakia have been matched in more recent times by the original coup in Afghanistan, by the use of Cuban surrogates with Soviet equipment in Angola, Ethiopia, Somalia, Eritrea, and South Yemen on the border of the Saudi Arabian oil field. The Soviets have increased their naval presence in the Indian Ocean as well as moved as many as 10,000 troops into the disputed Kuriel Islands north of Japan and have been the principal support for Vietnam in their incursions into Cambodia. Soviet moves in the Mideast and the sub-Asian and African area all surround the vital Persian Gulf area, source of a major part of the industrialized world's oil supply. The heavy shadow of Soviet military might fell over the blossoming Polish Solidarity Union movement late last year.

This blatant attempt to dictate events inside Afghanistan by the massive and sustained introduction of Soviet combat units is abhorent to all free people everywhere, and for the United States to do nothing would constitute the worst sort of appeasement. Too often lately we have failed to call the Soviets to account for their aggressive behavior throughout the world only to discover that our inaction was viewed by the Soviets as a sign of weakness. We must inform them through our words and actions, that military aggression of any sort is unacceptable behavior. I believe the United States should be prepared to provide assistance to the Afghan freedom fighters whose courageous resistence to Soviet domination inspires our respect and admiration. We cannot allow the passage of time to numb our outrage at the attempted Soviet subjugation of a sovereign and fiercely independent people. I am pleased to be an original cosponsor of this resolution and note the nearly unanimous support for this pledge of support for the Afghan people in the Senate.

AMENDMENTS SUBMITTED FOR PRINTING

WATER RESOURCES PLANNING

AMENDMENT NO. 3627

(Ordered to be printed and to lie on the table.)

Mr. ABDNOR (for himself and Mr. MOYNIHAN) submitted an amendment intended to be proposed by them to the bill (S. 1095) to amend the Water Resources Planning Act.

● Mr. ABDNOR. Mr. President, on behalf of the Committee on Environment and Public Works, I was pleased that the Senate earlier this year passed S. 2494, which is now under consideration in the House.

S. 2494 was very similar to title III of S. 1095, which has been on the Senate Calendar for 16 months.

In an effort to more accurately target the remaining portions of S. 1095, which has been stalled for so long on the Senate Calendar, I am today introducing an amendment to S. 1095. This amendment, which is cosponsored by the distinguished ranking minority member of the Subcommittee on Water Resources (Mr. MOYNIHAN), is a full substitute for S. 1095.

First, I must note that this amendment contains no portion of title III of the reported version of S. 1095, since that title passed the Senate as S. 2494.

Nor does this amendment include any authority for river basin commissions, which were included in title IV of the reported version of S. 1095. While I support the concept of comprehensive river basin planning, I recognize the general lack of enthusiasm for the commissions. That is an issue that should be taken up at another time.

What the amendment does include is several clarifying and technical changes in the remaining titles of S. 1095. These changes will target more carefully the program of coordination and State grants that would be provided through a new National Board of Water Policy. I would hope that this amendment will overcome many of the concerns that have been expressed to me regarding the reported bill.

I recognize that these changes are unlikely to satisfy fully the position taken by the administration. The administration opposes State program grants. More significantly, it opposes the creation of a National Board of Water Policy to coordinate Federal water resources development efforts.

This Nation needs an agency to coordinate Federal water policy, and to work more closely and openly with the States and the Congress. This amendment achieves that goal.

The new language also clarifies such items as the full protection required for States rights, utilizing noncontroversial language from the existing law.

Mr. President, I hope that this amendment will resolve many of the problems over S. 1095. To assist my colleagues, I ask unanimous consent that a copy of the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3627

Strike all after the enacting clause and insert in lieu thereof the following:

That the Water Resources Planning Act, as amended (42 U.S.C. 1962 et seq.), is further amended by deleting all after the enacting clause and inserting in lieu thereof the following: "That this Act may be cited as the 'National Water Resources Planning Act of 1982'.

"TITLE I—GENERAL PROVISIONS

"DECLARATION OF POLICY

"SEC. 101. To meet the expanding demands for water, it is hereby declared to be the policy of the Congress to encourage coordination among Federal agencies with responsibilities for water resources; and to encourage planning by the States for the conservation, development, and use of water and related land resources of the United States on a cooperative basis with the Federal Government and other units of government.

"NATIONAL BOARD OF WATER POLICY

"SEC. 102. (a)(1) There is hereby established a National Board of Water Policy (hereinafter in this Act referred to as the 'Board'), to be composed of the Secretary of the Army, the Secretary of the Interior, the

Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and a chairman chosen by the President, with the advice and consent of the Senate. The Chairman shall request that the Secretary of Housing and Urban Development, the Secretary of Transportation, and the Secretary of Energy participate with the Board, without a vote, when matters affecting their responsibilities are considered by the Board. The Chairman shall be compensated at the rate for Level II of the Executive Schedule under section 5313 of title 5, United States Code. The President, in making the selection, shall not appoint an individual who has been an official of any of the agencies represented on the Board within the preceding five years. Actions of the Board shall be by majority vote.

"(2) In the event a Board member, other than the Chairman, is unable to attend a Board meeting, he or she shall designate a representative from the level of assistant secretary or its equivalent."

"(b) The Board shall meet at least six times annually to: (1) advise the President and Congress on matters relating to water resources policy; (2) identify inconsistencies in such policy and programs and to recommend to the President and Congress changes in law or procedures that will emphasize the wise, cost-effective development, use, and conservation of the water resources of the United States; (3) establish, after such consultation with other interested entities, both Federal and non-Federal, as the Board may find appropriate, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects, and (4) recommend to appropriate Federal agencies goals and priorities for programs within their jurisdiction, including studies and research, where needed, and the development of plans for river basins that have been identified by the Board, to assure the wise management, development, and conservation of the waters of the United States.

"(c) The Board shall, as necessary, utilize the expertise that is available in departments and agencies of the United States.

"(d) When so requested, the Board shall review water policy issues brought to its attention by the State Advisory Committee, established by section 103 of this title.

"(e) Utilizing the technical expertise of the United States Geological Survey, the National Oceanic and Atmospheric Administration, and the departments and agencies represented on the Board, the Board is authorized to prepare and submit to the President and the Congress periodic assessment of national water needs, including studies of the adequacy of supplies of water needed to meet national, regional, State, and local requirements; the Board shall include in such assessment an estimate of the costs, on a State-by-State basis, of the needs for necessary authorized or planned projects.

"(f) For the purposes of this section, including administration of this Act and reimbursing other Federal departments and agencies for staff assistance under the terms of subsection (c) of this section, the sum of $4,000,000 is authorized to be appropriated to the Board for each of the fiscal years ending September 30, 1983 through September 30, 1986.

"STATE ADVISORY COMMITTEE

"SEC. 103. (a) To assist the work of the Board, there is hereby established a State Advisory Committee (hereinafter in this Act referred to as the 'State Committee'), which shall be composed of five members.

"(b)(1) The chairman of the State Committee shall be appointed by the Board from at least two persons recommended by the governing body of the National Governors Association on the basis of his or her understanding of the Nation's water resources needs and shall participate in all meetings of the Board to assure that it is informed of the position of the various States on all issues before it.

"(2) The remaining members of the State Committee shall be selected jointly by the Board and the Chairman of the State Committee from at least eight persons recommended by the governing body of the National Governors Association in order to provide for a broad national and regional representation in water resources management.

"(c) The State Committee shall meet at least six times a year to review actions and proposals made by the Board, and to offer its analysis of such actions and proposals, including recommendations for changes. Any such analysis shall accompany any report which the Board submits to the President and Congress.

"(d) The sum of $50,000 is authorized to be appropriated to the Board to reimburse the members of the State Committee for necessary expenditures for each of the fiscal years ending September 30, 1983, through September 30, 1986.

"SEC. 104. Nothing in this Act shall be construed—

"(1) to expand or diminish either Federal or State jurisdiction, responsibility, or rights in the field of water resources planning, development, or control; nor to displace, supersede, limit or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government; nor to limit the authority of the Congress to authorize and fund projects;

"(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this Act with respect to the preparation and review of comprehensive regional or river basin plans and the formulation and evaluation of Federal water and related land resources projects;

"(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water and related land resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of this Act; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States Operating Entity or Entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico; or

"(4) as authorizing any entity established or acting under the provisions hereof to study, plan, or recommend the transfer of waters between areas under the jurisdiction of more than one river basin commission or entity performing the function of a river basin commission.

"SEC. 105. As used in this Act, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

"TITLE II—STATE WATER PLANNING

"SEC. 201. In order to assist the various States in the wise use, development, conservation, and management of the water resources of the United States, and after consultation with the State Committee, the Board is authorized to make grants to the States to assist them in developing comprehensive programs and plans for the use, development, conservation, and management of water and related land resources.

"SEC. 202. (a) From the sums appropriated pursuant to section 204(a) of this title; the Board shall make grants to the States in accordance with regulations promulgated by the Board, on the basis of (1) the population, (2) the land area, (3) the need for comprehensive water and related land resources planning programs, and (4) the financial need of the respective States, including needs resulting from the impact of Federal activities or project upon such State or region.

"(b) From sums appropriated pursuant to section 204(b) of this title, the Board shall make grants to the States on the basis of applications by such States to study specific water resources problems with national or regional character, and to develop specific plans to address such problems.

"(c) The sums allocated under this section for the purpose of implementing a program approved under section 203 of this title shall be matched on the basis of no less than one non-Federal * * *

"SEC. 203 (a)(1) For the purpose of section 202(a) of this Act, the Board shall approve any program for comprehensive water and related land resources planning which is submitted by a State, if such program—

"(A) provides for comprehensive management of the intrastate or interstate water resources, or both, in such State, necessary to meet the needs for water and water-related activities, taking into account the need to coordinate among Federal, State, and local agencies, and any nongovernmental entities having responsibilities in the affected fields;

"(B) designates a State agency to administer such program; and

"(C) provides such accounting, budgeting, and other procedures for the proper and efficient administration of the program necessary for keeping appropriate accountability of the funds allocated to the States under this title.

"(2) For the purposes of section 202(b) of this Act, the Board shall approve any program for comprehensive water and related land resources planning which is submitted by a State, if such program—

"(A) provides for a comprehensive program, including specific plans, for the management, conservation, and development of the intrastate or interstate water resources, or both, in such State, necessary to meet problems of a national or regional character related to water and water-related activities, taking into account the need to coordinate among Federal, State, and local agencies, and any nongovernmental entities having responsibilities in the affected fields;

"(B) designates a State agency to administer such program; and

"(C) provides such accounting, budgeting, and other procedures for the proper and efficient administration of the program as are necessary for keeping appropriate accountability of the funds granted to the States under this title.

"(b) The Board shall not disapprove any program under paragraph (a)(1) of this section without first giving reasonable notice and opportunity for hearing to the State agency administering such program.

"SEC. 204. (a) For the purpose of the grants to be made under the terms of section 202(a) of this title, there is authorized to be appropriated to the Board the sum of $12,000,000 for each of the fiscal years ending September 30, 1983, and September 30, 1984.

"(b) For the purposes of the grants to be made under the terms of section 202(b) of this title, there is authorized to be appropriated to the Board the sum of $10,000,000 for each of the fiscal years ending September 30, 1985 and September 30, 1986."

SEC. 2. (a) Rules and regulations issued prior to the date of enactment of this Act under the authority of 42 U.S.C. 1962 et seq. shall remain in full force and effect under this Act until superseded by new rules and regulations promulgated under this Act.

(b) All unobligated funds from the Water Resources Council, established pursuant to 42 U.S.C. 1962 et seq. are transferred to the Board.

(c) The National Board of Water Policy, shall develop and submit to the President and Congress no later than June 30, 1984, a review and assessment of the water resources research programs of the agencies of the Federal Government, recommendations on improving the coordination of such research, and evaluation of the relative need for various areas of water research undertaken with the assistance of the Federal Government.●

DEEP DRAFT CHANNELS AND HARBORS

AMENDMENT NO. 3628

(Ordered to be printed and to lie on the table.)

Mr. ABDNOR (for himself and Mr. MOYNIHAN) submitted an amendment intended to be proposed by them to the bill (S. 1692) to provide for the operation, maintenance, and construction of deep-draft channels and harbors.

● Mr. ABDNOR. Mr. President, I believe it is important that the Congress address the issue of harbor development before the close of the 97th Congress. To that end, the Senate Committee on Environment and Public Works reported S. 1692 nearly 1 year ago. That bill, which I sponsored, has attracted considerable controversy. That controversy appears focused on these portions of S. 1692 that involve ongoing maintenance dredging of our harbors.

Despite that controversy, our Nation must move forward in developing deeper, more cost-effective harbors, harbors that will permit substantial savings in shipping costs as a result of the use of large bulk-cargo vessels. This will immediately enhance our national ability to export coal, as well as grain and other bulk commodities.

In an effort to move this issue toward an early resolution, I am today introducing a construction-only version of S. 1692. I am very pleased that the banking minority member of the Subcommittee on Water Resources (Mr. MOYNIHAN) has joined me in sponsoring this pared-down version. I would hope that the amendment will be considered in the context of S. 1692, or as separate legislation, or as an amendment to other legislation.

I must underline for my colleagues this fact: This amendment requires no non-Federal cost sharing on maintenance dredging; thus it requires and imposes no user charges on maintenance dredging. Stated another way, this amendment authorizes full Federal funding on maintenance dredging at existing harbors, as well as any harbor that would be improved by non-Federal interests under the construction provisions of this amendment.

In addition, this amendment includes language relieving the construction debt of the St. Lawrence Seaway Corporation.

Mr. President, to assist my colleagues, I ask unanimous consent that a copy of this new amendment be printed at this point in the RECORD, together with certain portions of the committee report on S. 1692.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3628

Strike all after the enacting clause and insert in lieu thereof the following:

"That this Act may be cited as the "National Harbors Improvement Act of 1982."

"CONSTRUCTION OF IMPROVEMENTS

"SEC. 2. (a)(1) A non-Federal interest is authorized to undertake any improvement for the purposes of navigation in the deep-draft channels and harbors of the United States, subject to obtaining permits required pursuant to Federal and State laws in advance of the actual construction of such improvements.

"(2) Pursuant to paragraph (1) of this subsection, the non-Federal interest shall provide for 50 per centum of the costs expended for any necessary relocation and alteration of existing pipelines, cables, and related facilities (but not to include any cost for upgrading or improvements to such pipelines, cables, and related facilities).

"(b) The Secretary of the Army, acting through the Chief of Engineers (hereinafter referred to as the "Secretary") is authorized, when requested by an appropriate non-Federal interest, to undertake all necessary studies and engineering for improvements to be undertaken under subsection (a) of this section, and assist in obtaining all necessary permits, provided that the non-Federal interest contracts with the Secretary to reimburse the United States for the cost of such studies and engineering during the period that they are conducted.

"(c) The Secretary is authorized to complete and transmit to the appropriate non-Federal interest any study for improvements to the deep-draft channels and harbors of United States that was initiated prior to the date of enactment of the Act, or, upon the request of such non-Federal interest, to terminate such study and transmit such partially completed study to the non-Federal interest. Studies under this subsection shall be completed without regard to the requirements of subsection (b) of this section.

"(d) The Secretary is authorized to complete channel and harbor improvement projects for which such work was initiated by the Secretary prior to the date of enactment of this Act: *Provided*, That for projects in which the appropriate non-Federal interest has not entered into a written contract as of December 31, 1981, with the Secretary to provide the local cooperation required pursuant to the project authorization, including, where applicable, an agreement under section 221 of Public Law 91-611, as amended, such non-Federal interest shall be required to contract with the Secretary to repay, within 50 years of the date of enactment of this Act, the cost of all such work undertaken after September 30, 1982, together with interest on the unpaid balance at a rate to be determined by the Secretary of the Treasury. The Secretary of the Treasury, in determining such rate of interest, shall consider the average market yields during the month preceding the fiscal year in which each advance is made on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the reimbursement period of the project.

"(e) Beginning on the date of enactment of this Act, the Secretary shall undertake no improvement on a deepdraft channel or harbor of the United States except under the terms of this section, or section 3 of this Act.

"NATIONAL DEFENSE ACTIVITIES

"SEC. 3. (a) Nothing in this Act shall be construed to prohibit or otherwise interfere with the Secretary or other Federal authority to improve any deep-draft channel or harbor of the United States for purposes of Coast Guard navigation requirements, Department of the Navy navigation requirements, or requirements for vessels carrying military personnel and materiel.

"(b) Any project authorized under the provisions of this section may include additional improvements requested by the appropriate non-Federal interest: *Provided*, That prior to the commencement of such improvements, the appropriate non-Federal interest enters into a contract with the Secretary, or other Federal authority, to pay, during the period of undertaking such improvements that portion of the project's cost which the Secretary, or other Federal authority, determines to be allocable to non-defense-related needs. If such non-Federal interest fails to so participate, the Secretary or other Federal authority shall design such project solely to meet national defense requirements.

"(c) If non-Federal interests undertake a project under the terms of Section 2 of this Act that can be expected to provide direct benefits to the national defense requirements of the United States, the Secretary, or other Federal authority, is authorized prior to the commencement of improvements to contract with such non-Federal interests, subject to appropriations Acts, to pay, during the period of improvements, that portion of the project costs directly attributable to national defense requirements, as defined by subsection (a) of this section.

"HARBOR USER CHARGES

"SEC. 4. (a) Notwithstanding any other provision of law, any appropriate non-Federal interest, upon enactment of this Act and in accordance with the provisions of this section, is authorized to recover its obligations for the cost of improvements under-

taken pursuant to this Act, including associated administrative expenditures, by the collection of fees for the use of such projects by vessels in commercial waterway transportation.

"(b) Any fees collected to recover the cost of any channel or harbor improvement undertaken pursuant to this Act shall reflect the service and benefits provided to each commercial vessel or cargo laden therein. The preceding sentence shall not limit the ability of the non-Federal interest to impose fees, commensurate with service and benefits from such improvement, on all commercial vessels or cargo laden therein. Such fees shall be established after a public hearing pursuant to State law.

"(c) Fees collected by a non-Federal interest pursuant to the authority of this section shall be used only for the purpose of paying for the non-Federal share of the cost of improvements of the deep-draft channels and harbors of the United States, or any obligations undertaken for that purpose.

"(d) Fees authorized by this section shall not be imposed on—

"(1) vessels owned and operated by the United States or any other nation or any political subdivision thereof and not engaged in commercial service; or

"(2) vessels used by a State or political subdivision thereof in transporting persons or property in the business of the State or political subdivision and not engaged in commercial service.

"PERMITS

"SEC. 5. (a) The Secretary, upon receipt from an appropriate non-Federal interest of a written notice of intent to undertake improvements for the purpose of navigation in the deep-draft channels and harbors of the United States, shall initiate procedures to establish a schedule of compliance for the purpose of joint processing of all Federal permits required prior to initiation of such improvements.

"(b)(1) Within fifteen days after the receipt of the correspondence under the terms of subsection (a) of this section, the Secretary shall publish such notice in the Federal Register. The Secretary shall also notify in writing all State and local agencies that may be required to issue permits for construction of such improvements and related activities that such improvements are proposed. The Secretary shall solicit the cooperation of such agencies and request that they also become parties to a memorandum of agreement (hereinafter in this section referred to as the "agreement"). If within thirty days following publication of notice in the Federal Register any such non-Federal agency advises the Secretary in writing of its willingness to become a signatory to the agreement, the Secretary shall include such agency in the agreement.

"(2) Within ninety days of the Secretary's receipt of the correspondence described in subsection (a) of this section, the Secretary of the Interior, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and any State or local agencies which have notified the Secretary in writing shall enter into the agreement with the Secretary to establish a schedule of compliance with the necessary Federal permits required for undertaking such improvements. The schedule of compliance shall not exceed two years from the date of the agreement.

"(c)(1) The agreement shall, to the extent possible, consolidate hearing and comment periods, procedures for data collection and report preparation, and the environmental review and permitting process with data collection and analysis associated with any studies conducted by the non-Federal interest. The agreement will also detail the non-Federal interest's responsibilities with respect to data development, and information necessary to process each permit, including a schedule when such information and data will be provided to the appropriate Federal, State, or local agency.

"(2) Such agreement shall also include a schedule by which the Secretary, taking into consideration the views of all of the affected Federal agencies, shall determine whether there is a reasonable likelihood that the Federal permit or permits will be issued. If the Secretary determines there is a reasonable likelihood the necessary permit or permits will not be issued, then the Secretary shall so notify the appropriate non-Federal interest and the Congress. The Secretary may revise the agreement only once to extend the schedule of compliance for a period not to exceed one hundred and twenty days for the purpose of allowing the non-Federal interest to revise the original application to meet any objections.

"(d) Six months prior to the final day of the schedule, the Secretary shall provide to Congress a written progress report. The report shall summarize all work completed in accordance with the agreement and shall include a detailed work plan to assure completion of all remaining work in accordance with the agreement.

"(e) Not later than the final day of the compliance schedule, the Secretary shall notify the non-Federal interest as to whether the Federal permit or permits have been issued.

"(f) As soon as practicable after the date of enactment of this Act, the Secretary shall consult with the Secretary of the Interior, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the head of other interested Federal agencies to develop procedures intended to facilitate the implementation of this section.

"(g) Not later than March 1, 1984, the Secretary shall prepare and transmit to the Congress a report describing the amount of time required to issue Federal permits related to the construction of improvements in the deep-draft channels and harbors of the United States. The Secretary shall include in such report recommendations for reducing the time required to issue such permits, including any proposed changes in existing law.

"MAINTENANCE

"SEC. 6. The Secretary is authorized to operate and maintain any project improved under the terms of Section 2 or Section 3 of this Act, provided such improvement widens or deepens the dimensions of a project for which the Secretary was authorized to provide maintenance as of the date of enactment of this Act.

"SAINT LAWRENCE SEAWAY DEBT

"SEC. 7. Notwithstanding any other provision of law, any bond issued under section 5 of the Act of May 13, 1954 (68 Stat. 94; 33 U.S.C. 985), is hereby canceled together with the obligation to pay such bond and section 12(b)(5) of such Act is hereby repealed: *Provided*, That paragraphs (10), (11), and (12) of section 4 of the Act of May 13, 1954, are hereby redesignated as paragraphs (11), (12), and (13) respectively and a new paragraph (10) is enacted to read as follows:

"(10) may retain toll revenues for purposes of eventual reinvestment in the Seaway.

"DEFINITIONS

"SEC. 8. For the purposes of this Act—

"(1) the term "deep-draft channels and harbors of the United States" means ocean or Great Lakes harbors of the United States (other than channels or ports administered by the Saint Lawrence Seaway Development Corporation) and main waterway channels of a depth of greater than fourteen feet: *Provided*, That such channels and harbors on the Columbia River, Washington and Oregon, shall be considered to exist only up to the downriver side of Bonneville Lock and Dam: *And provided further*, That such term does not mean local access or boating Channels;

"(2) the term "non-Federal interest" means a State or a legally constituted public body of a State or of more than one State which has full authority and capability to enter into and perform agreements and to pay damages, if necessary, in the event of failure to perform;

"(3) the term "State" means any State of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Marianas Trust Territories, or the Virgin Islands; and

"(4) the term "commercial waterway transportation" means any use of a vessel in any deep-draft channel or harbor of the United States—

"(A) in the business of transporting persons or property for compensation or hire, or

"(B) in transporting property in the business of the owner, lessee, or operator of the vessel.".

DISCUSSION OF "CONSTRUCTION DREDGING POLICY" FROM SENATE REPORT ON S. 1692

CONSTRUCTION DREDGING POLICY

S. 1692 provides a new approach to future dredging to deepen or widen harbors. The bill requires that all new construction dredging be financed by non-Federal interests, allowing the market to determine the projects with the highest priority and greatest economic efficiency. S. 1692 also includes a fast-track provision that limits the processing and review of all necessary Federal permits to a period of two years.

Current Federal policy provides for new harbor dredging decisions to be made through specific Congressional authorizations and specific appropriations. Congress authorizes a study for a construction project, the Corps of Engineers performs the study, estimating the costs and economic benefits. If the project has benefits greater than its cost, the project is likely to be authorized, and perhaps funded.

Traditionally, Federal expenditures have been spread broadly, but thinly, among the nation's ports. Rather than target the Federal investment, funds and work have been distributed widely among many ports along the four coasts; 48 ports now have authorized depths of 40 feet or more. When one port obtains a deeper channel, many others have sought and received the same.

While valuable in the past, this approach now thwarts the nation's ability to develop the deep harbors needed to handle the larger, more cost-effective superships. Most studies set the cost of a typical 55-foot harbor at close to half a billion dollars. It appears highly improbable that the Federal government will finance work, in any timely manner, on any of the 34 ports that have

been identified by the Federal Coal Export Task Force as potential sites for major coal export harbors.

In a recent study, the Office of Technology Assessment came to this conclusion:

"Dredging projects presently take decades to progress through the various stages from project proposal to completion. This system is seen by many authorities as seriously impeding the growth of U.S. bulk-cargo capabilities."

In testimony before the Committee, a panel of port representatives agreed that only one to four deep-draft ports were needed initially for coal exports. However, the port representatives agreed that if the Federal Government funded the full cost of development, as occurs now, there could be as many as several dozen ports interested in expanding their capabilities to coal port status. If the Federal Government continues to fund new development, a number of 55-foot ports may exist by the early years of the 21st century. However, the necessary one to four 55-foot ports are unlikely to be developed in this decade.

Unless Federal policy is altered to recognize and encourage local initiative, the slow and often fruitless pace of development seems certain to continue. This means that the vast opportunities for increasing export trade will be missed. Anything that involves Congress directly in the process of port-by-port authorization or appropriation is likely to significantly delay the process of development, while attracting more ports into the bidding for 55-foot channels.

There is a need to obtain those few deep harbors quickly. To accomplish this goal, a politically neutral force—the marketplace—should become the controlling factor in site selections. The Committee has concluded that a system of local financing, where a port authority or local government must go to the bond market and potential users to test the economic viability of the project, provides such a neutral force.

The new policy to require local interests to finance all future harbor improvements recognizes that any decision to expand a particular harbor is essentially a commercial decision. Therefore, the marketplace should be utilized to determine future actions. Harbor construction dredging projects will be achieved in a more timely and economical fashion when the decision is made by the interested parties, rather than the Federal Government.

Harbor expansion at a specific location in most cases provides marginal benefits to national commerce as a whole. The major beneficiaries are the commercial enterprises that ship through the particular harbor, as well as the ocean transport companies berthing there. This view is corroborated by the Corps of Engineer's own method of calculating the benefits of deep-draft improvements.

Under the Corps' regulations on the evaluation of navigation benefits, the basic economic benefits from the deep-draft features of water resources projects are the reduction in the cost to transport commodities and the offsetting increase in the value of goods and services. Transportation savings may result from the use of larger vessels, more efficient use of vessels, reduction in transit time, lower cargo handling and tug assistance costs, reduced storage costs, and the use of water transportation rather than an alternative land mode.

This is the method used by the Corps to justify navigation projects to the Congress. All of the so-called national economic development benefits are stated in terms of benefits to commercial users of the projects. If the Federal Government uses such an evaluation to justify a $300 to $500 million construction project to the Congress, a similar analysis should be as compelling to non-Federal financing bodies. Otherwise, the very basis of the Corps' evaluation procedures must be called into question.

Present transportation costs to move coal from the East Coast to Europe are about $18 per ton. According to studies by the Office of Technology Assessment, this cost is subject to a savings of 30 to 50 percent ($5.49 to $9) through the use of larger, more efficient vessels. Other studies estimate the per-ton-savings from the use of larger ships at $6 per ton of coal.

This is part of the economic equation. The other part is the anticipated growth in coal export traffic. The Federal Coal Export Task Force has estimated U.S. exports of steam coal at 197 million tons by the year 2000. The following are coal export estimates made by the National Coal Association:

U.S. COAL EXPORTS

[In million tons]

	1980	1985	1990
Total exports	90	110	143
Steam coal exports	23	52	85

Assuming average savings of $6 a ton, and assuming 53 million ton growth in export coal by 1990, the annual savings from deep harbors would be $318 million. This, of course, assumes only the growth in traffic is carried on the more efficient ships. If by 1990 all 143 million tons go aboard deep-draft ships, the savings would be $858 million annually.

Testimony to the Committee indicated that the annual transportation savings by 1990, through the use of deep-draft vessels nationally, would be $1.15 billion, with a $5 a ton in savings in shipment from the East Coast, and $7 a ton from New Orleans.

A recent study indicates the substantial benefits to be realized from deepening the main channels in Norfolk, Va. The report of the Chief of Engineers was submitted to the Secretary of the Army on November 20, 1981. Under this proposal, the main channels would be dredged to 55 feet, from a presently authorized depth of 45 feet. The Corps estimates, as of October 1981, that the total first cost for the project would be $480,000,000. The annual amortized cost for the project, over 50 years, is estimated at $38,334,000, using an interest rate of 7⅝ percent.

The annual cost of $38 million, of course, is considerable. If bonded by local interests over a shorter period, using more realistic interest rates on tax-exempt bonds, the annual amortized cost is likely to be higher, although it may be partially offset by the lower costs often available in non-Federal dredging contracts. But the key consideration must be the comparison between that amortized cost and the direct benefits that would flow to the shipping industry as a result of the increased depth.

The primary export traffic presently moving through Norfolk is coal. In 1980, 48,600,000 tons of coal were exported from Norfolk: traffic should be considerably higher this year and in future years. In this study, the Corps of Engineers, assumed benefits for the Norfolk project only on the basis of existing coal traffic. With coal traffic of 50 million tons a year, the annual savings in shipping costs from Norfolk would be $132,860,000. Larger ships, ones that are more economical in per-ton operations, would haul the coal.

This "savings" is nearly four times the annual amortized investment.

If traffic at Norfolk increases to 90,000,000 tons of coal a year—a tonnage on which current landside expansion plans are based—the annual savings to shippers at Norfolk from that $38,000,000 annual investment would be $224,160,000. With a crude oil refinery, the yearly savings at Norfolk rises to $253,000,000, according to the Corps' calculation.

If these economic analyses are valid, even with an error of as much as 100 percent, the private sector, working through a non-Federal public body, should be willing to make this investment on the basis of the significant return. If the non-Federal interests are unwilling to make such an investment, there would appear to be no true need for the projects, no matter who financed it.

The Corps is in the process of studying the feasibility of dredging several ports to 50 or 55 feet. Those at the top of the list include: Baltimore, Norfolk, Mobile, and New Orleans.

Estimate of costs per ton for new port construction, based on Corps feasibility studies and traffic forecasts developed by the consulting firm of Temple, Barker, and Sloane are as follows:

Harbor	Annual amortized cost [1]	Deep-draft tonnage	Cost per ton [2]
Baltimore	$36,413,000	32,451,500	$1.12
Norfolk	42,099,000	45,302,500	.93
Mobile	36,652,000	9,365,700	3.91
New Orleans	43,874,000	65,852,200	.67

[1] Based on 50 years; repaid with 10 percent interest.
[2] Assumes all costs to be borne by deep-draft vessels, benefitting from deeper channels.

With respect to Norfolk, the figures differ somewhat from those stated previously for Norfolk due to the difference in interest rate assumed. The cost-savings to deep-draft ships of using a deeper channel outweigh any potential user fees; otherwise, the project shouls not be built.

More importantly, however, the market would determine which ports should be constructed, and in what order. As discussed previously, port representatives testified the Nation initially needed only one to four ports at a 55 foot depth. With full Federal funding, close to 50 ports would compete for construction funds. If the Federal Government were to commit 50 percent of construction funding, the witnesses estimated that about 10 ports would be willing to finance the additional 50 percent. With requirements for 100 percent non-Federal financing for new development, the witnesses estimated three or four ports would be likely to finance this development.

The requirement to finance harbor improvements for channels is based on the assumption that our existing ports, developed over the last 200 years, provide adequate capacity for any national security need that could conceivably arise. According to the Maritime Administration of the Department of Transportation, a "Ports for National Defense" program has been established to assure that our Nation's ports could adequately and rapidly respond to a national defense emergency.

The Department of Defense has designated 27 ports throughout the Nation as necessary for the transport of troops, vehicles, and other military materiel. Other Federal agencies have further advised the Maritime Administration of their need for shipping other vital government cargoes. Our existing ports are more than adequate to accommodate increased shipments necessary to respond to any conceivable national defense emergency. It is therefore the view of the Committee that local financing of future harbor dredging will in no way jeopardize our Nation's readiness for a national emergency.

Less attention has been focused on local financing mechanisms, but it is an important issue. A number of financing methods are available for port development, and have been used in the past to finance other types of port facilities.

Ports already obtain financing for various aspects of harbor improvements. This not only includes dockage and storage facilities, but also channel improvements. There are several ways a port can finance new development:

General obligation bonds, backed by the assets of the port authority or other public agency, and repaid by an increased mil levy imposed on property. Such an option is particularly viable for ports which are part of a municipality, which have substantial assets and a sound cash flow.

Revenue bonds, with specific fees and/or assets pledged against the bonds. These are viable for ports with a sound cash flow, and those which have recently issued other bonds. Most large ports now use revenue bonds to finance new facility development. It is also an option for those ports which have long-term contracts with specific port users, because the port can demonstrate that revenues to pay back a high portion of the bonds are virtually assured.

Industrial development bonds are a mechanism to raise funds for specific facilities which will be used by corporate customers. The port authority uses its tax free status to issue bonds, while the industry pledges its assets against the bond. Numerous ports have used this approach.

Many ports have recently floated large bond issues and should be able to obtain similar financing for dredging. Mobile, New Orleans, and Norfolk, have each recently floated bond issues in excess of $100 million for facility improvements. This is also true for ports which have customers willing to enter into long-term contracts, or pledge company assets against bonds. Larger ports which seek major expansion have the financial history and the private sector customers to finance extensive development. The partnership which already exists between ports and commercial users of the ports will be strengthened as the port finances new development.

Ports of any size, of course, will be able to expand in a similar manner. Financing would be possible if the port authority obtained long-term contracts from port users, revenues from which would assure repayment of a portion of the bonds. State loan guarantees, at least for a portion of the bonds, would also facilitate financing. If the economic benefits can be realized, then the port will be able to finance this development. The private sector and State governments will be expected to take a more aggressive role than in the past. This is appropriate, because the commercial users and non-Federal governments benefit to the greatest degree from such development.

Ports have other options to finance new development. In States where budget surpluses exist, State funds could be used to finance development, to guarantee loans, or as front money to be reimbursed with port user fees. If a port has a prospective large industrial customer, private financing could be obtained for a portion of the development, or industrial bonds could be issued. The port could employ a combination of any of these options to finance development.●

AMENDMENT OF FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

AMENDMENT NO. 3629

(Ordered to be printed and to lie on the table.)

Mr. STAFFORD (for himself, Mr. MITCHELL, and Mr. RANDOLPH) submitted an amendment intended to be proposed by them to the bill (H.R. 5203) to amend the Federal Insecticide, Fungicide, and Rodenticide Act.

Mr. STAFFORD. Mr. President, I am introducing a set of amendments to the Federal Insecticide, Fungicide, and Rodenticide Act. I believe they are all self-explanatory, but there is one among them on which I wish to especially comment. That amendment is one which would create a compenstation mechanism for the victims of toxic substances.

I first offered such a proposal 4 years ago when the original "Superfund" proposals were introduced. Unfortunately, in order to enact the Superfund law, it became necessary to delete the victim compensation mechanisms. However, to assure some continuing attention to this problem the Congress required the creation of a study group, charged with assessing the adequacy of our existing compensation mechanisms.

At noon today that study group's report—900 pages in length and 18 months in the making—was released. This group of 12 distinguished lawyers—three from each of the Nation's largest and most prestigious legal groups—concluded that today's victims of toxic chemicals have little recourse but to continue suffering. They called on the Congress to act, and that is what I hope we will do.

The study group's report is an important benchmark in developing legislation to help the thousands of men, women, and children who are exposed to poisonous toxic chemicals. We tried in 1978 to develop a compensation system and failed. We tried again in 1980 with the Superfund law and, although we came closer, still did not succeed. Armed with this report our chances should be greatly improved.

The importance of this report is that a group of first-rate lawyers representing a wide range of views, but all experts, have agreed after close examination of the issues and the facts that the people of this country need help. They have agreed that the present system leaves those who have suffered from toxic chemical contamination little choice but to suffer further. And they have agreed that the problem is serious enough and large enough that the Government should act.

There may be some disagreement as to exactly what we should do, but there was no disagreement whatsoever that this is a problem in urgent need of solution. I believed that to be the case 3 years ago when we fought for a victim compensation plan, and I am even more convinced of it today. Having received this report, the way is now clear for us to schedule hearings early next year with the goal of passing a law by the end of the 98th Congress.

Enacting the group's recommendations will not be easy.

There are those who are adamantly opposed to any kind of program like that recommended by the study group. They will fight this every step of the way with every resource at their disposal.

Mr. President, one appropriate place and time to act will be when the Senate considers the amendments to the FIFRA reported by the Committee on Agriculture. But whether we act then or during the following Congress, act we must.

Mr. President, I would ask unanimous consent that the text of my amendment, together with a press release announcing the study group's findings, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3629

H.R. 5203 is amended by adding a new subsection at the end thereof, numbered accordingly, as follows:

"SEC. . This section may be cited as the "Environmental Poisoning Compensation Act".

"(a) Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510) shall be amended by adding the following:

"(D) any out-of-pocket medical expenses, including diagnostic services, rehabilitation costs, and burial costs, for personal injury resulting from such a release.".

"(b) Section 107(c)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96-510) is amended by inserting before 'shall not exceed' the following: '(other than for damages specified in subparagraph (D) of subsection (a) of this section)'.

"(c) Section 111(b) of the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Public Law 96-510) is amended to read as follows:

"(b) Claims asserted and compensable but unsatisfied under provisions of section 311 of the Clean Water Act which are modified by section 304 of this Act, may be asserted against the Fund under this title. The following other claims resulting from a release or threat of release of a hazardous substance from a vessel or a facility may be asserted against the Fund under this title:

"'(1) any out-of-pocket medical expenses, including diagnostic services, rehabilitation costs and burial costs;

"'(2) any injury to, destruction of, or loss of natural resources, including the costs of assessing such injury, destruction or loss: Provided, that any such claim may be asserted only by the President, as trustee, or by any State for natural resources within the boundary of that State belonging to, managed by, controlled by, or appertaining to the State.'.

"(d) (1) Section 101(6) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96-510) is amended by striking '85' and inserting in lieu thereof '50'.

"(e) Section 303 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96-510) is amended to read as follows:

"'SEC. 303. Unless reauthorized by the Congress, the authority to collect taxes inferred by this Act shall terminate on September 30, 1990, or when the sum of the amounts received in the Response Trust Fund totals $5,000,000,000, whichever first occurs.'."

MEMBERS OF THE SUPERFUND STUDY AND THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS WILL BE AVAILABLE AT 11:30 A.M. ON SEPTEMBER 30 IN ROOM 4200 OF THE DIRKSEN SENATE OFFICE BUILDING TO ANSWER QUESTIONS FROM MEMBERS OF THE PRESS.

WASHINGTON.—A panel of legal experts has charged the present system for helping toxic pollution victims is "inadequate" and called on the Congress to create a special federal aid program paid by industry taxes.

The recommendations are contained in a 900-page report submitted by a blue ribbon panel of 12 lawyers created two years ago when Congress passed the "superfund" law to deal with toxic chemical dumps and spills.

The chairman of the Senate Committee responsible for superfund, Sen. Robert T. Stafford (R-Vt.), predicted that the report was "bound to be controversial" but hearings would be held next year anyway.

Stafford said that "everytime you turn around this problem crops up—Agent Orange and Vietnam veterans, asbestos for shipyard workers, Love Canal residents, atomic bomb testing victims—the list seem endless.

"Sooner or later we must face up to this task," he added.

The report said the present help available for victims of toxic pollution was inadequate "in view of the substantial number of claims that may arise and the factual and legal complexities."

The Federal program would fill the need for "an efficient and speedy remedy" created by mass chemical injuries and diseases which remain hidden for many years, according to the report.

The report was prepared by representatives of four major legal organizations—the American Bar Association, the American Trial Lawyers Association, the National Association of Attorneys General and the American Law Institute. Congress directed the panel to study the plight of chemical victims when supporters of a Federal program to help them were forced to drop their proposals as the price of enacting the Superfund law.

Stafford, chairman of the Senate Committee on Environment and Public Works and one of the first sponsors of the superfund law, said he hoped to schedule hearings early next year. He called the report a "benchmark in developing legislation to help the thousands of men, women and children who are exposed to poisonous toxic chemicals."

In addition to the creation of a Federal program, the group recommended the court system be changed to make it easier for victims to sue. The group noted that in some states a victim's right to sue expires only a few years after exposure to a chemical even though "the latency period for the appearance of injury or disease is likely to be extended for thirty years or more."

To correct this, the report recommends that the right to sue start at the date the victim discovers the disease rather than the date of exposure.

Stafford warned that enacting the group's recommendations would not be easy.

"There are those who are adamantly opposed to any kind of program like that recommended by the study group. They will fight this every step of the way with every resource at their disposal," he predicted.

Attached is a list of the Study Group members, together with a summary of their major recommendations.

First Recommendation: Federal Administration Compensation and State Judicial Remedies.

In light of the limited availability and the inadequacy in many situations of existing remedies, and particularly in light of the inadequacy of the present tort system to deal with relatively small claims, the Study Group recommends a two-tier system of remedies. The first tier will provide an administrative compensation remedy without a showing of fault. Its major purposes would include the provision of limited compensation to meet the economic and medical needs of persons injured in a manner which is more prompt and less costly than tort litigation.

The second tier would keep intact the existing system of tort law in the several states, with some recommendations for procedural and other improvement.

The plenary judicial action provides the usual unlimited damages in tort, including full recovery for loss of earnings, medical expenses, and pain and suffering.

The Study Group was unanimous in recommending the two-tier approach, and it was also unanimous in its recommendation that the amount of any compensation award recovered by the claimant on Tier One be deducted from, and be paid back out of, any judgment or settlement recovered in a Tier Two plenary action.

The Study Group, by a 9 to 3 vote, agreed that a claimant who has obtained a compensation award in Tier One should be free to bring a plenary action in Tier Two.

Second Recommendation: Tier One—A New Federal Administrative Remedy for Injuries from Exposure to Hazardous Wastes.

The Study Group recommends the establishment by federal law of an administrative compensation system to provide full coverage of medical expenses, and substantial, though limited, coverage for loss of earnings.

Exposures to be covered include exposure to contaminated soils, inhalation of vapors, the ingestion of contaminated water supplies and injuries resulting from transportation or spills.

The system of compensation for personal injuries is coextensive with the system established by CERCLA (the Superfund law).

The Study Group does not recommend that the proposed compensation plan take over any of the functions of the state workers' compensation law.

Third Recommendation: Tier One—Establishment of the Claim for Compensation; Filing of Claim; Causation; Presumptions.

The Study Group recommends that for a compensation award, the claimant must file the claim no later than three years after he has discovered or should reasonably have discovered, the injury or disease and its cause. The essential elements to establish a claim should consist of proof of exposure, proof of the disease or injury, proof of causation and, finally, proof of compensable damages. It is further recommended that proof of causation include reliance on appropriate rebuttable presumptions.

Fourth Recommendation: Tier One—Rebuttable Presumptions

The Study Group recommends that legislation establishing the compensation system provide for two kinds of rebuttable presumptions; the first extending merely to the issue of causation, the second going beyond proof of causation into such issues as the nature and extent of the disease or injury resulting from exposure. The presumptions would be based on the proof of several elements which then give rise to rebuttable presumptions of causation.

Fifth Recommendation: Tier One—Compensation Awards; Collateral Sources.

The Study Group recommends that the compensation award provide full recovery for all of a claimant's reasonable medical costs, and an amount for loss of earnings due to exposure related disease or disability limited to two-thirds of the full regular earnings up to a monthly limit, to be set by Congress, which, under current economic conditions should not exceed $2,000 for such two-thirds, for as long as the disability continues. The majority of the Study Group recommended that the award be reduced by amounts to which the claimant may be entitled under public programs such as Medicare, Medicaid, and others.

The Study Group also recommends that the claimant remain entitled to compensation for injury or disease discovered after the conclusion of the proceeding or during and after the period of the compensation award, in view of the long latency of some diseases and the probability of the later emergency of more serious consequences that the condition which gave rise to the earlier award.

Sixth Recommendation: Tier One—Administration of Compensation Remedy; Costs of Administration.

The Study Group recommends that the administrative compensation remedy established pursuant to federal law be administered in each state by an appropriate state agency pursuant to federal requirements.

The Study Group recommends that the federal government contribute 80% of the cost of administration of the state compensation agencies, including legal expenses, and that the states contribute the remaining twenty percent.

Seventh Recommendation: Tier One—Compensation Awards: Payments from Hazardous Waste Compensation Fund; Recovery from Responsible Parties for Future Exposures by Subrogation.

The Study Group recommends the establishment of a federal fund to be applied to the payment of compensation awards pursuant to the administrative compensation Tier One remedy. The fund analogous to the Superfund created by CERCLA, should be established by contributions from, or taxes on, the production of hazardous or toxic

chemicals, and crude oil, and by a tax on the deposit of hazardous wastes.

The majority of the Study Group recommends that the Compensation fund should pay all proven claims for compensation for injuries and illness arising out of exposure to hazardous substances or wastes disposed of, transported, or spilled prior to the adoption of this proposal.

Eighth Recommendation: Tier One—Judicial Review of Compensation Awards.

The Study Group recommends that the grant or denial of a compensation award or the amount and adequacy of the award be subject to judicial review in the appropriate state courts, in the manner in which the determination of state workers' compensation awards and other similar administrative determinations are normally reviewable.

Ninth Recommendation: Tier Two—Plenary State Court Actions; Removal of Obstacles and Barriers to Effective Court Actions for Personal Injuries Resulting from Exposure to Hazardous Wastes.

The Study Group recommends that the several states enhance and develop common law and statutory remedies, and that they remove unreasonable procedural and other barriers to recovery in court action for personal injuries.

(a) Statutes of Limitations

Since many of the hazardous wastes are carcinogens, mutagens, teratogens or substances with delayed impact on different organs or the central nervous system, the latency period for the appearance of injury or disease is likely to be extended for thirty years or more. In states that have not clearly adopted the discovery rule (i.e., that the cause of action accrues from the time the plaintiff discovered or reasonably should have discovered the injury or disease) the cause of action will usually be time barred when the plaintiff discovers his hurt. The Study Group recommends that all states that have no already done so, clearly adopt the rule that an action accrues when the plaintiff discovers or should have discovered the injury or disease and its cause. The Recommendation is intended also to cover the repeal of the statutes of repose which, in a number of states have the same effect as some statutes of limitation in barring plaintiff's claim before the knows that he has one.

(b) Parties Plaintiff

Exposure to hazardous wastes may not be limited to a single person but may often involve a substantial number of persons. The evidentiary problems in hazardous waste cases are substantial and involve sophisticated expert testimony of a medical and scientific nature, relating both to causation and nature of injury.

The Study Group recommends that states adopt liberal joinder rules, so as to allow complex issues of causation and liability to be tried together.

(c) Parties Defendant; Apportionment

It is impossible in suits involving toxic chemicals, as in other instances of environmental pollution, to attribute and allocate responsibilities and liabilities with specificity. Substantive and procedural rules that require such specific allocation will defeat the plaintiff's claim.

The Study Group therefore recommends that the states review and, where appropriate, revise their substantive and procedural rules so as to hold contributors to injury or damage jointly and severally liable, under the theory of concert of action or other approaches that place the burden of allocating separate contributions to the injury among a number of defendants, once there has been proof that a defendant has contributed to the risk or to the injury.

(d) Proof of Causation and Related Evidentiary Problems

The establishment of the causal connection between the exposure to hazardous wastes and the injury or disease suffered remains a difficult evidentiary problem because of long latency periods and the variety of exposures.

A number of evidentiary presumptions have been recommended by the Study Group to operate in the "Tier One" hazardous waste compensation remedy proposal, and the Study Group expresses the view that the presumptions in plenary tort actions in Tier Two be left to the development of the law in the several states.

(e) Strict Liability

The Study Group recommends that the several states develop and enhance causes of action that apply strict liability.

Tenth Recommendation: Damage to Private Property and Environmental Interests

The Study Group recommends that for cases of environmental damage to private property, including economic injury, resulting from exposure the states adopt the procedural and substantive changes and improvements of existing common law remedies contained in the Ninth Recommendation, as may be appropriate, adding to its Recommendation that in the case of actions for damage to private property, class actions may well be suitable.

The Study Group also recommends that the states consider the commencement of parens patriae claims against Superfund on behalf of their affected ctizens whose property has been affected by such contamination, under CERCLA § 111(c) which provides for use of Superfund for remedial action in the case of such public environmental assets as the waters and subsurface waters of the state.

The Study Group also recommends that the states consider the adoption of laws and public programs to provide remedial measures in situations that are not being addressed in the implementation of the Superfund.

MEMBERS OF § 301(e) SUPERFUND STUDY GROUP

(Letters in Parenthesis Indicate Source of Designation)

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ADDITIONAL STATEMENTS

JAPANESE VIEWS ON DEFENSE BURDEN-SHARING

● Mr. SYMMS. Mr. President, the security relationship between Japan and the United States has long been considered to be of fundamental importance to the national interests of both countries and to the security and stability of the Northeast Asia region. For more than three decades after World War II, the United States has carried the major portion of the defense burden as it applies to Japanese and American contributions to security. It has become increasingly obvious to U.S. policymakers that the time has come for Japan, an economic superpower, to take up a more equitable share of the defense burden. In the early days of the Reagan administration, movement in the direction of increased Japanese defense effort appeared to be steady and certain, but as events unfolded in the several United States-Japanese meetings in the spring and early summer of 1981, it became clear that there were sharp differences between Washington and Tokyo regarding what was perceived and intended on the issue of defense burden sharing. Contrary to expectations of a significant increase in Japan's defense budget as understood at the end of the Carter administration and the beginning of the Reagan administration, Japan is holding to a degree of increase which will at best keep defense spending to 0.9 of a percent of GNP. This article addresses the problem of the differences in Japanese and American perceptions of the national security issue, and what can be done about bridging this gap. It is based on interviews with leading Japanese defense and foreign policy experts in Tokyo in August 1981.

Mr. President, as one of a large number of cosponsors of Senator LEVIN's fine resolution urging the Japanese to increase their defense budget, I believe that the following article would be of interest to my colleagues. It was published in Stanford Research Institute's journal Comparative Strategy in spring 1982, and it is entitled "Japanese Views on Defense Burden-Sharing." It was written by two eminent American defense experts, Dr. Stephen P. Gibert and Mr. William M. Carpenter.

The article follows:

[From Comparative Strategy]

JAPANESE VIEWS ON DEFENSE BURDEN-SHARING

(By William M. Carpenter and Stephen P. Gibert)

(Abstract: For more than three decades after World War II, the United States has carried the main burden of the defense of Japan and the preservation of security and stability in Northeast Asia. Clearly the time has come for Japan, now the second largest economic power in the world, to take up an appropriate share of the defense burden. It is also quite clear, however, that there are significant gaps in perception between American and Japanese defense experts and policymakers regarding the threat to Japan and what to do about it. If this gap in perception and action is to be bridged, it is up to the United States to gain a better understanding of its origins and to pursue purposefully the policies and actions necessary to make defense burden-sharing a reality.)

On October 22, 1981 an amendment was introduced in the United States Senate requesting the President "to enter into negotiations with the Government of Japan . . . with the objective of establishing a full partnership and closer cooperation in sharing the burden of the common defense." Other aspects of the resolution noted that "as a tangible sign of commitment to international peace and security, the Government of Japan should increase its defense expenditures."

In the discussion that followed, the Chairman of the Senate Foreign Relations Committee pointed out that 39 Senators had signed a letter in 1980 addressed to Prime Minister Ohira, indicating that Japan should and must do more for its self-defense and the common defense. Senator Percy also noted that while Japan has increased its support for U.S. forces in Japan, ". . . we would like Japan to do more. Japan's spending on defense as a percentage of gross national product is extraordinarily low. There is no question Japan could do more to improve its defense capability. I have personally made these points to former Prime Minister Ohira—now deceased—and Prime Minister Suzuki."

Nevertheless, Senator Percy opposed the amendment as "counterproductive" at the present time and the resolution was withdrawn upon his assurnace that the Senate Foreign Relations Committee would hold hearings on the subject as part of a forthcoming review of East-West relations.

The letter referred to by Senator Percy, the amendment, and the promised hearings all indicate that Japan's assuming a "fair share" of the mutual defense burden is an issue whose time has come. And well it might; the Mutual Security Treaty of 1960 between Japan and the United States is in essence a formalization of a protectorate-like status for Japan. Although now enjoying the world's second largest economy, Japan remains an anomaly in world politics—an unarmed state dependent for its very existence upon the United States.

This situation led the two authors of this essay to undertake a trip to Japan in August, 1981, to interview leading Japanese defense and foreign policy experts to ascertain their views of the Japanese-American security relationship and to determine why Japan remains essentially defenseless despite growing Soviet military power. A number of defense officials, members of the Diet, representatives of the Japanese Foreign Ministry, professors, and journalists gave extensively of their time to explain how they perceived the defense problem and security burden-sharing. Because of their important positions, confidentiality must be maintained. It is hoped, however, that the analysis which follows reflects faithfully their views.

PERCEPTION GAP

There is no significant disagreement between the United States and Japan on the static facts of the military balance in Asia. U.S. estimates and figures are accepted as a matter of course by the Japanese government and not seriously questioned by the opposition. There is also general agreement that an imbalance in the Soviet Union's favor constitutes a "threat" whereas U.S. superiority would not. The difference in views is rather over the seriousness of the threat and the implications for Japan of the growing military imbalance in the Far East, i.e., it is a case of Japan's taking into account only military capabilities, while the United States believes it necessary to evaluate both capabilities and intentions of the enemy. To the extent that Soviet intentions are considered, the general consensus is that the buildup of Soviet forces is directed at China, not Japan.

A key element of this perception gap is a difference in views on the possibility of war. Most Japanese, leadership and public alike, consider major war inconceivable and rule out any possibility of a direct attack on Japan under almost any circumstances. This is an opinion shared by many educated people of liberal persuasion throughout the world. But Japan is the only country where belief in the inevitability of peace serves as the basis of defense policy. The logic of this view holds that a superpower nuclear war would be suicidal; no one could win it and therefore no one would start it. A recent comment by Prime Minister Suzuki at a press conference after returning from Washington illustrates this. When asked whether the government would permit the United States to introduce nuclear weapons to Japan under wartime conditions, Suzuki responded, "I can't even conceive of a war condition. It is too frightful. I am not going to consider this issue from such an unlikely assumption." This is not a view unique to the Prime Minister. It is the generally accepted position of the majority of the Japanese people.

The Japanese feel confident about the "war is impossible" theory because they have been able to avoid seriously considering defense matters, beging sheltered since 1945 by America's guarantee of protection. Without the burden of responsibility, the "war is impossible" theory is a comforting excuse for not thinking about a very unpleasant topic. "Allout nuclear war" and "mutual assured destruction" terms familiar to defense planners in other countries, are not well understood in Japan. War games and detailed strategic analyses of current and future threats common to NATO are comparatively limited in Japan.

Preoccupation with war and the threat of war has been foreclosed by a national concentration on economic issues, and in more recent years on social issues confronting a modern industrial society. Typifying the low priority given defense thinking is the status of the highest office dealing with defense matters; it is an agency, not a ministry, i.e., below Cabinet level. The Japan Defense Agency is firmly under civilian control, the heads of the military services are kept under tight rein, as the 1978 incident involving the Chairman of the Joint Staff Council illustrates. General Hiroomi Kurisu was dismissed in a highly controversial incident caused by his public criticism of the government defense policy in failing to prepare for national emergency situations, when he stated that: "The Japanese Self Defense Forces cannot engage an enemy in combat unless the Prime Minister, the Defense Council, the Cabinet, and the Diet issue an order and, therefore, in case of an emergency we cannot help but go beyond the limits of the law." Thus, if Japan were attacked, the Self Defense Forces are not legally empowered to defend Japan or themselves without explicit authorization from the Prime Minister. Since there is no central military communication system, an invasion could be well under way before the Prime Minister could be found and resistance started. The lack of concern by Japanese officials over this situation, which would be thought appalling in any other nation, was illustrated by the response to Kurisu's criticism made by the then Defense Vice Minister Maruyama. When asked by reporters what the Japanese armed forces should do if such a situation occurred, his celebrated response was, "flee."

Joint maneuvers with the United States and other nations began only a few years ago, and the first joint maneuvers of Japanese land, sea, and air forces were conducted in July 1981. There is no equivalent to NATO in the Pacific, no collective framework for cooperative efforts in apportioning responsibility for the common defense, and it is doubtful that Japan would have become a member if there were such a regional security organization. It was something of a breakthrough for Japanese naval units to join the multinational RIMPAC exercise in 1980, and it is a hopeful sign that there are plans for Japan's participation to be repeated in RIMPAC '82. The approach to Japan-U.S. contingency planning has been cautious and of recent origin, and only in the late 1970s did the Defense Agency's White Papers begin to contain specific descriptions of the Soviet and other threats to Japan. A pattern had developed over the years of relying on the United States for the inputs to defense planning, including force structure and equipment recommendations. Coordination among the three elements of the SDF has been hampered by the absence of anything like the American joint staffs and unified commands. All this is gradually changing and provides evidence that at what one U.S. military official referred to as the "worker bee" level the gap in seriousness about planning for national defense is narrowing. The higher "up the chain" one goes, however, the wider the gap appears to be between Japanese and American perceptions of the threat in Northeast Asia.

Lest it be inferred that responsibility for the gap in threat perceptions lies entirely with the Japanese, it should be remembered that until the recent past the United States conveyed to Japan by its official statements and its actions the basic message that Japan's military role was best kept minimal, limited strictly to defense of the home islands and clearly subordinate to the American military posture. It is a matter of history that John Foster Dulles attempted during and after the Korean War to get Japan to assume a substantial regional defense role, but when this concept was rejected by the Japanese leadership of that period, the two nations arrived at a mutually acceptable military relationship, within which Japan became a protectorate of a superpower. Periodically over the two and a half decades after the Korean War, United

States officials pointed out to Japanese leaders that a defense budget of only one percent of GNP was less than a nation of Japan's size and economic health ought to be spending, but such admonitions were never pushed to action and were undercut by concurrent statements that conveyed a different message, e.g., expressions of concern over the dangers of resurgent Japanese militarism; statements of praise for Japan's making economic development rather than rearmament a priority goal; reaffirmation of America's commitment to the maintenance of security in Northeast Asia, etc. As late as 1977, the U.S. Assistant Secretary of State for East Asia and the Pacific was explicit in eschewing a U.S. desire for any regional defense role for Japan, or any buildup of Japan's military capabilities. It is not surprising, then, that in the environment of a defender-protectorate relationship, Japan would tend to avoid thinking about the hard and unpleasant facts of dangers to its security and survival.

Short of thinking about the contingency of actually going to war, there is little concern in Japan over the consequences of military inferiority. "Finlandization," or the danger of intimidation should the Russians achieve overwhelming superiority, is dismissed as inconsistent with "Japanese character"; they see themselves as a strong and homogeneous people, unlikely to be politically coerced no matter what the military imbalance may be. Informed Japanese do not deny that in the last few years the Russians have significantly increased their power in Northeast Asia, dramatically increasing their striking power and range by adding Backfire bombers and SS-20 missiles, enlarging and upgrading their ground forces in Siberia, and enhancing their Pacific Fleet. This buildup has been accompanied by increasingly provocative demonstrations of their new strength, e.g., stationing division-size forces on Japan's northern islands (still under Russian occupation); an increasing number of intrusions of military aircraft into Japanese air space; naval maneuvers off Japan's coast; and increasingly blatant intimidation of Japanese fishermen. These growing pressures have indeed caused concern among Japan's leaders, as well as the public at large, but not to the point where they have brought about any major change in Japan's behavior. Outsiders might claim that Russian intimidation efforts can be regarded as successful in that the Japanese have not acted to counter these growing threats nor stirred up any outburst of patriotism, and such criticism of these Soviet actions as has been heard has been diluted by equivocation in the official comments. The Japanese, however, tend to attribute this conciliatory approach as consistent with détente and with past American policy. In contrast, the Japanese view the current American government's concern as unduly alarmist. As one person interviewed in Tokyo commented, "If things are so bad, why didn't President Carter say so?"

Despite the fact that a pessimistic view concerning Japanese willingness to significantly increase defense seems warranted, both the defense intellectual establishment and the political establishment have been moving toward greater realism regarding the defense issue in recent years. This is true in the case of many old and new members of the ruling LDP as well as opposition parties—notably the Democratic Socialist Party, which on balance is stronger on defense than the LDP; the Komeito, which has reversed its position to official support for the U.S.-Japan Treaty; and some splinter groups like the New Liberal Club and Shaminren.

The Diet members interviewed all expressed their concern with the directions their leadership is moving in and frustration over their inability to counter this. All stressed the vital importance of America's exerting strong and public pressure on Japan to do more, based on a coherent plan for closer and deeper defense cooperation. As politicians they felt they could not justify opposing their own leadership to support the spending of more tax money on defense unless United States leaders made it absolutely clear that the alternative could be a real crisis in American-Japanese relations.

CURRENT ELITE THREAT PERCEPTION

It is important to note that perception of the Soviet threat varies widely among the people who comprise the defense, political, bureaucratic, media, and university communities in Japan. Opinions as to the nature and intensity of the Soviet threat probably range about as widely as they do in the United States. Again, as in other democratic countries, opinion held depends upon "where one sits," with the professional defense experts not only being better informed but also more pessimistic about the Soviet threat and more anxious that some policies be developed to counter the threat. In contrast, at the other end of the spectrum are those persons, such as university professors, who deny altogether the existence of the threat. In short, there is no monolithic Japanese threat perception, and hence it is not possible to present the threat in a uniform way to all elites and expect opinion to change. Additionally, it should be observed that Japanese recognition and agreement on the threat may be less of a problem than formulating policies to persuade Japan to act to meet the threat. Accurate threat perception is only one—and not necessarily the most critical—dimension of the problem of Japanese-American burden sharing.

The pro-defense group

A number of the people interviewed for this paper represented both the better informed and the more pro-defense or "hawkish" segments of elite opinion. However, the most important difference between Japanese "hawks" and American or European "hawks" is the inclusion of a large number of defense experts who, by American standards, would be described as decidedly "dovish." Opinions expressed by faculty members of the defense college during an afternoon seminar are a good example. None of the professors was strongly in favor of significantly greater defense efforts by Japan. Some thought this would increase Japan's vulnerability by increasing the likelihood of its becoming involved should a war actually occur. Soviet Russia's military strength was thought to be offset by its economic weakness, not requiring a "provocative" American military response. As for Japan, its best course would be one of moving very cautiously, continuing to support the United States but not "rocking the boat" by changing its policies very much.

It is a matter of some confusion regarding threat perceptions that so many of the Japanese "experts" on defense claim to have views of the Soviet threat congruent with American perceptions when in fact they do not. What these people agree on are the numbers and locations of Soviet forces, i.e., the basic descriptions of Soviet military capabilities. Beyond that, when one comes to the necessity for giving some thought to Soviet intentions—in both the short term and the long term—these "Hawks" either take refuge in the cliché that "capabilities are measurable, but intentions are not," or simply put out of their minds any concern about what the Soviet-Japan relationship will be in the 1990s if present trends persist. There is a further problem: even in those cases in which these thinkers on defense matters accept the reality of malign Soviet intentions over the longer term, they again tend to take the fatalistic attitude that Japan can't do anything about it; only the United States with its huge nuclear-conventional military potential can save Japan from such Soviet grand designs.

In making use of the term "hawk" to describe a Japanese defense expert, it must be remembered that over the past two decades almost any professional who took a public interest in the question of Japan's national defense, at whatever level of military capability, was likely to be called a "hawk." A distinction must be drawn between some of these older "hawks" of the 1960s, whose views are considerably softer on defense, and an emerging group of young defense experts who prefer not to be called "hawks" but rather "neo-realists," to connote their having made a major change in their views toward a more forthright and realistic stand on coping with the threat to Japan.

The "neo-realists" are aware of the shift that has occurred in the Soviet-American strategic nuclear balance in the last decade. While this group appears to be strongly pro-American and anxious for Japan to undertake a large share of the defense burden, most are concerned that the United States is more Europe than Asia oriented. They consider this a mistake; the United States is and must continue to be the only global military power. This means that the United States must remain in the Western Pacific but also must concern itself with the Persian Gulf and ensuring security of the sealanes. While this group deplores the "Nixon shocks" and Carter's plan to withdraw American troops from South Korea, these actions did have the salutary effect, in their opinion, of making the Japanese people more aware of Japan's vulnerabilities. Not until the USSR invaded Afghanistan, however, did the ordinary Japanese take cognizance of his country's exposed position vis-a-vis the Soviet Union.

Certainly many of the persons interviewed, especially the professional military, understand the threat completely and would like for countervailing measures to be taken. These persons recognize the Soviet buildup, know the number of divisions of troops the USSR maintains in the Far East, are sensitive to the fact that the Soviet SS-20s and Backfires are a direct threat to Japan, and specifically and repeatedly mention the Soviet naval buildup and characterize the Soviet Pacific Fleet as a "blue water" navy, now stronger than U.S. naval forces in the Western Pacific. Japanese naval planners have a realistic and workable concept of burden-sharing, whereby Japanese naval forces would have a major responsibility for defending local sea areas; the task of regional maritime defense would be shared with the United States (and others as appropriate), leaving the global naval problem to the United States. To undertake this kind of distribution of security labor would, however, require a substantial increase in Japan's naval capabilities, a step the political leaders are not yet willing to take.

Since the "hawks" or "neo-realists" accept the Soviet threat, they are less concerned with discussing it than they are in what to do about it. Some believe it is essential to change the Japanese Constitution, especially Article 9. This change is not legally necessary in order for Japan to improve its defense posture; rather, it may be politically necessary, since the Constitution is "used" by the anti-defense people, particularly the press, such as Asahi Shimbun, to rally support against a greater Japanese defense effort. One interviewee suggested that it might be useful for Washington to acknowledge that the "Peace Constitution" was an American creature—this might make the Japanese more willing to amend it!

Others in the pro-defense group argue that a "backlash" might occur if there is an attempt to revise the Constitution. They believe that since there is no legal reason forbidding a greater defense role for Japan, it would be better to choose other ways of securing greater political support for an enhanced defense effort.

Some of those interviewed think that the best way to get the Japanese people to be concerned about defense is for the United States to call for the revision of the Mutual Security Treaty of 1960. There is general agreement that the revision of the treaty and changing the Constitution are linked. That is to say, converting the MST of 1960 into a truly reciprocal agreement would create a constitutional debate in Japan. In general, it is felt that while the Constitution is not a bar to a greater Japanese effort, making the MST reciprocal might necessitate constitutional changes. There was no general agreement on this point.

With regard to Japanese relationships with other countries, the "neo-realists" unanimously agreed that the Russians were very unpopular in Japan and that Soviet behavior was "helpful" to those who wished Japan to do more in defense. With one exception, the members of this group believed that the Soviet military buildup was directed as much and probably more against China than against Japan. The sole exception argued that the ideological bonds between the USSR and the PRC were or would soon prove to be sufficiently strong to overcome present Sino-Soviet disagreements. This person believes, accordingly, that China is a greater political threat to Japan than is the Soviet Union.

The professional active-duty military naturally had to be circumspect in advancing their views. They felt, in general, that while they understood the Soviet threat, the political leader did not. They stressed the deficiencies of the Self-Defense Forces, on the one hand, but on the other emphasized the limitations of Japan's role. At least obliquely they acknowledged a substantial gap between Japan's responsibilities and the capabilities of the Self-Defense Forces. All stated the absolute essentiality of firm U.S.-Japan security cooperation; without it Japan's defense against the USSR would be hopeless. While most agreed that the United States was correct in pressing an expanded air and naval role for Japan, it was believed by at least one person that Washington was unwittingly encouraging neglect of Japanese ground forces.

Ground force requirements tend to be slighted in favor of the more obvious naval and air augmentation needed to expand Japan's local and regional defense roles, but it ought not to be overlooked that a ground force which would be commensurate in readiness with the other two branches ought to have greater firepower (including armed helicopters), stronger air defenses, and larger stocks of ammunition—at present, ground forces could fight only a few days before running out of ammunition.

All of the "hawk" group agreed that Japan should maintain its three nuclear principles (no manufacture, no possession, no introduction) but that it was foolish to maintain that U.S. ships armed with nuclear weapons could not enter Japan. Transit rights should be granted; the three nuclear principles really should become the two-and-a-half principles.

As a generalization, the "neo-realists" believe that progress on the defense issue will be unacceptably slow unless Washington exercises strong and continuous pressure on the Japanese government. They believe that if the Japanese government acts, the public will not resist. They think the public may be ahead of the government on the defense issue, is more and more aware of the threat, and would be supportive of a greater defense effort. They unanimously agree that there is no economic reason why Japan cannot make a much greater effort. This would already have occurred had the Carter Administration been more competent and if the present Japanese political leadership were more informed and had a broader vision of the world. They hope the Reagan Administration will pursue Japanese defense carefully but vigorously and consistently. If this occurs, they are optimistic that progress will be made.

One point regarding U.S. insistence on Japan's doing more arose repeatedly in discussions with Japanese defense experts: The United States should make its case for expanded Japanese military capabilities within the framework of a strategic analysis. There was too much of an American tendency to go directly to numbers of ships, aircraft, and other equipment that the Americans see the Japanese as needing, without preparing the rationale for these numbers within the context of the political, economic, and military factors which bear upon the future regional and global environments that the United States and Japan must cope with. The preparation of a strategic rationale would serve at least two ends: it would be received by the Japanese counterparts to the U.S. defense experts as conveying more consideration for their ability to understand and possibly concur in the rationale, and in addition, provide them with better means of persuading their political and financial policymakers to undertake greater defense efforts.

Another related, though much less frequent, point should be noted. A few interviewees expressed the view that a very good case can be made for Japanese rearmament, but unless it is to be a massive effort, capable of placing Japan back among the world's major military powers, as in the years before Japan's defeat in World War II, these persons saw little reason for Japan's bothering with the kinds of marginal increases that they perceived Americans are talking about today. If this kind of massive policy shift were to be made, it would very likely involve Japan's becoming virtually independent of the United States for its military security.

The anti-defense group

The "dove" position, as represented, for example, by several professors, is fairly easy to summarize: these people know very little about the threat and receive what scanty information they get from the media, particularly such newspapers as *Asahi Shimbun*. One bluntly stated that the threat had not worsened; what had happened, he argued, was that Reagan had replaced Carter and Reagan was a kind of warmonger. Why, if there was a threat, had not Carter said so? Why, if there was a threat, had Carter started to take the troops out of Korea? Just because the American threat perception had changed was no reason Japan should invent a threat that did not exist.

As for the Soviet Union, it was a weak country generally—rather backward and poor. The only way the Russians could count in the world was through their military—without that no one would pay attention to them. So, to the extent that the military buildup was real, and not a figment of the U.S. military and Reagan's imagination, it simply represented the one area where the Russians could be noticed. Regarding the shift in the military balance, this was seen as exaggerated. In any event, there is no such thing as military superiority or inferiority in the nuclear age—everyone would lose and there would be no winners. The Russians know this and therefore would not start a conflict. Japan had once tried the military road and this brought disaster and should not happen again. If the United States persisted in its efforts to get Japan to rearm, the reaction would be negative and Japan would become neutral.

Finally, this group tends to emphasize the key role economic strength plays in world politics. Japan, they argued, is very strong economically and this is more of a contribution to the noncommunist world than could be accomplished by increasing Japan's military might. Regarding the opinions of Japan's Self-Defense Force generals and admirals, they are not very sophisticated about international affairs and are devoted to their parochial interests.

As a generalization, this group simply refuses to study the facts, willfully ignores the evidence, and feels resentful that the United States keeps "bothering" Japan on this false issue. Among the explanations these persons adduce for their being skeptical of U.S. motivations in pressing the defense issue with Japan is their belief that a prime motive of the Americans is to sell sophisticated military equipment to Japan to help balance the U.S. trade deficit.

The middle group

A number of persons would be called neither "hawk" or "dove" on Japanese defense. This in-between group took a variety of positions on the Soviet threat and Japanese-American security cooperation. These middle positions represented the Foreign Office, the press, and some of the members of the Defense College faculty.

Several members of this group acknowledged growing Soviet capabilities but said either that this had no political significance or that intentions were essentially unknowable. Regarding the lack of political significance for Japan, it was argued that the circumstances of 1975-76 had not changed. There was still a Sino-Soviet conflict. There was still NATO. Perhaps the military balance had changed but not significantly.

To many in this group, the Soviet military buildup was directed at China. They argued that there was no rational reason why the Soviet Union should attack Japan. Of course, should a world war occur, it would be possible that Japan might come under attack. On the other hand, a Soviet-American nuclear war might be waged "over Japan's head" and Japan might escape unscathed. In any event, Japan could do noth-

ing in the nuclear field, so there was no particular reason to consider the nuclear problem.

Members of this group did not think the Constitution should be amended and thought it forbade a truly reciprocal Japanese-American mutual security treaty. On the whole, this group did not favor any strong pressure on Japan on the part of the United States but readily conceded that Japan would not act without American pressure. The overall viewpoint seemed to be that to the extent Japan should rearm, it was less because of the Soviet threat than to appease the United States. But the Americans should realize that Japan was still strongly antimilitaristic. The Japanese people did not trust the military—they remembered the militarist Japanese governments in the 1920s and 1930s and wanted no return to that era. It would be more useful if Japan assisted in economic rather than military ways. To be sure, the military balance may have changed somewhat but it was up to the United States to rectify that, not Japan. It was understandable that the United States did not like this but, in truth, the United States had very little leverage over Japan.

Since this group believes that there is next to no possibility that Japan will actually be under attack, the greatest danger lies in the possible disruption of Japan's oil lifelines. For this reason, Japan perhaps should strengthen its naval and air forces and assist the United States, as Prime Minister Suzuki stated, as far as west of Guam and north of Luzon. But it would take time to build Japan's capability to do this. At Honolulu, The Americans presented long lists of requirements such as increasing the number of Japanese submarines from 16 to 25 and air squadrons from 10 to 14. This was "like asking someone to go from a one-story to ten-story building instead of from one to two stories." Currently the Japanese government is operating under a plan for 1983–87 force levels and it is "impossible" to change this plan. Besides, the United States did not provide any strategic rationale for increasing Japan's Self-Defense Forces—just put arbitrarily selected numbers on the table. There is no strategic framework or plan which makes a plausible case for such a significant military buildup.

Many in this group acknowledged that while invasion of Japan was unlikely, it was possible that the aim of the Soviet buildup was political coercion, to separate Japan from the United States, and to move Japan into a neutral position. While some accepted that these events might occur, others were adamant that no amount of Soviet pressure, even if backed by overwhelming military power, would succeed against Japan. Finlandization might be possible in Europe but not in Japan. Japan is too homogeneous, too culturally close-knit, too nationalistic to be coerced by the Soviet Union.

The middle group is saying that Japan cannot do anything about the nuclear problem, so the SS–20s and Backfires are of no real concern. Conventional invasion is extremely unlikely and thus no real buildup is required. The Japanese people are too strong to be politically coerced, and consequently the military imbalance is not terribly threatening. The Soviet buildup, in any event, is directed at China, not Japan. The only real threat is in the Persian Gulf, and since the Afghan invasion the Japanese people are more willing to consider a greater defense effort than in the past. However, this will take time and can come only gradually. The United States has no real leverage, but Japanese governments need good relations with Washington and so, if not pushed too hard, will respond to American requests. But President Reagan personally will have to insist and keep on insisting if the United States wants Japan to do more. Perhaps it will be feasible for Japan gradually to play a greater air and naval—especially naval—role in the Western Pacific.

Probably the in-between groups—neither "hawks" nor "doves"—represent majority elite opinion. While grudgingly acknowledging the facts of the Soviet military buildup, political factors persuade them that there is little danger to Japan. They believe Japan will improve its security posture under careful American prodding, but progress will be slow. Japan will not in the foreseeable future become a strong military power. It may, however, gradually acquire sufficient naval capability to augment the American role in the Western Pacific. Japan can help in other ways—through technology exports to the United States, economic aid to allied countries, facility assistance to U.S. forces, and in helping to preserve political stability in East Asia.

CONCLUSIONS

A distinguishing characteristic of U.S foreign policy since the Second World War is its emphasis upon an alliance strategy to contain Soviet pressures on the noncommunist world. It is unfortunately the case, however, that American policymakers are finding it increasingly difficult, despite general economic prosperity in Japan and Western Europe, to motivate allied powers to assume a "fair share" of the defense burden. Nowhere is this more glaringly apparent than in the Japanese case. Japan has the strongest economy in the industrial world but contributes the least to mutual defense. This anomalous and unacceptable situation lay behind the interviews conducted for this essay. Why, from the Japanese perspective, will not Japan contribute more to the common defense?

Four dominant themes emerged from the interview data. The first concerns the Soviet threat, as perceived by leading Japanese defense experts. In terms of the "nuts and bolts" of the Soviet buildup in Northeast Asia, most interviewees agreed with American assessments. In fact, to some degree Japanese perceived an even stronger Soviet military presence in East Asia than do American decision-makers. Japanese are aware of the number of Soviet divisions in the Far East, have accurately assessed Soviet naval power, and are concerned about the emplacement of Soviet SS–20 missiles and Backfire bombers in the Northeast Asia region. While there some notable exceptions, most persons interviewed accepted the fact that Soviet strength was increasing in East Asia relative to that of the United States.

Less comprehension was evident concerning the global strategic nuclear balance. It is obvious that this subject has not been closely analyzed in Tokyo. Many who are otherwise well informed tend to reject thinking about nuclear war. Probably a principal explanation for the insufficient attention paid to the nuclear balance is the widespread belief that Japan has no nuclear role to play in any event; therefore, why be troubled about this issue?

When conversation shifts from the quantitiative dimensions of the threat in East Asia to the longer-term political implications of the growing imbalance, the gap between American and Japanese views of the threat perceptibily widens. Whether because of strong nationalist feelings, self-confidence born of economic success, or disdain for Russians, most Japanese interviewed simply were unconcerned about Soviet political pressures on Japan. The American concept of the political utility of military power does not find echoes in Japan. As to the possibility of the future Finlandization of Japan, this is an entirely alien concept. On the fundamental problem of the political and economic uses to which Moscow might put its military superiority, there is no commanality of viewpoint between Tokyo and the Reagan Administration.

A second important factor in Japan's refusal to increase its defense capability is the belief that the Soviet military buildup is directed at China and not Japan. The current Japanese defense plan was drawn up in 1976 on the assumption of continuing Sino-Soviet hostility. Many interviewees stated that, if anything, Soviet-Chinese relations have deteriorated even more. Therefore, these people think that the USSR will not threaten Japan since Moscow has enough problems on its hands in dealing with Peking. One person, a member of the Diet, brought up the question of a Sino-Soviet rapproachment. If this should occur, then the military imbalance in East Asia would be serious indeed. Most persons, however, think this is too remote a possibility to consider.

A third reason advanced for Japan's lack of response to the threat was an internal one; neither the Constitution nor public opinion will permit a Japanese buildup. Frequently those who held this view also spoke of opposition elsewhere in Asia to increased Japanese military power. Relatedly, many interviewees believe that Japan is simply not able to affect significantly the Soviet-American military balance. Japan is too weak militarily, too vulnerable, and relatively helpless in the face of the enormous arsenals at the disposal of the two superpowers. Since this is so, the most prudent course for Japan is to remain lightly armed.

While many persons stressed the problem of persuading the Japanese public that an improved military posture had become necessary, most interviewees agreed that the public is much more ready to accept a greater defense role for Japan than was the case a few years ago. Considering the anti-defense bias of much of the Japanese press, this is indeed remarkable and indicates that the growing military imbalance in Northeast Asia has not escaped the man on the street. With strong political leadership on the defense issue—hitherto lacking—it seems likely that Japanese public opinion would not prove to be a significant obstacle.

Finally, the fourth reason: despite tension in Japanese relations with the United States, most persons interviewed think that America will continue to protect Japan. There is an almost touching belief that the United States will behave responsibly toward Japan no matter how irresponsibly Tokyo behaves toward Washington. However, those less friendly to the United States think that Washington has no leverage to exert over Japan in any event. America must protect Japan because Japan is too important for the United States not to do so.

It is the opinion of the authors of this essay that the unsatisfactory security relationship with Japan will not be resolved unless the United States adopts a strong stand to counteract the attitudes described here. Washington should stress to Tokyo that single-minded concentration on economic success is not acceptable; some atten-

tion must be paid to the security of Japan and the noncommunist world. Continued friction between Tokyo and Washington on this point encourages Moscow to believe it can drive a wedge between Japan and the United States.

If these themes are put forward at the highest levels of government in Washington, over and over again, it is not unlikely that Japan will significantly improve its military posture. Japanese prime ministers and other political leaders cannot allow themselves to be vulnerable to the charge in Japan that they cannot "manage" the American relationship. Such a situation is too threatening to Japan; if one set of leaders cannot satisfy the Americans, another set will be found. Tokyo's leaders cannot be perceived as being completely inept in dealing with Washington. It should be the Reagan Administration's aim and that of the U.S. Congress to make all those in Japan who oppose reasonable security burden-sharing to suffer that charge.

As a last resort, the United States might consider other actions designed to persuade Japan to improve its defensive capability. Such possibilities include trade sanctions, removing American troops from Okinawa and Japan, and insisting upon revision of the Mutual Security Treaty. Such a policy would carry strategic costs and should be considered only if all attempts to improve the situation fail. But if necessary, such actions should be undertaken. The United States should be interested in a fair and truly mutual defensive alliance; nonreciprocal troop-stationing accords no longer advance American purposes.

ACKNOWLEDGMENTS

The authors wish to thank their many Japanese and American friends who assisted them in many ways while they were in Japan. Particular thanks go to Hideaki Kase, Director of the Japan Center for the Study of Security Issues, and Garrett N. Scalera, President, Tokyo Institute of Policy Studies, who arranged the numerous interviews and personal meetings in Tokyo, and who made helpful and expert contributions to this article.●

JOHN E. JANNUZI.

● Mr. SPECTER. Mr. President, I commend Mr. John E. Jannuzi, superintendent of the Scotland School for Veterans' Children, in Scotland, Pa., who is officially retiring February 1, 1983, following 30 years of dedicated service to the faculty, administration, and students of the Scotland School.

Mr. Jannuzi began his career at the Scotland School in 1952, as a teacher of mathematics, science, and social studies. Within a time span of three decades, Mr. Jannuzi served as school principal, assistant superintendent, and superintendent, the position he has occupied for the past 5 years.

Mr. Jannuzi demonstrated his concern and commitment to the students of the Scotland School by coaching the football and basketball teams, and serving as the school's athletic director, as well.

For the past 75 years, the Scotland School for Veterans' Children has provided more than 7,000 men and women with a sound education, job and trade training, a love for country, and a respect for mankind. For 30 years, Mr. Jannuzi has been a vital, integral part of that training. He will long be remembered by his colleagues and students alike.

Distinguished service in the U.S. Marine Corps during World War II, and the Korean conflict, preceded Mr. Jannuzi's academic service.

It is my privilege to bring to the attention of this body the accomplishments of such an outstanding Pennsylvanian. I extend to Mr. Jannuzi my best wishes for a relaxing and rewarding retirement. It is a retirement well deserved by one who has devoted his life to the education and advancement of our veterans' children.●

INADEQUATE APPROPRIATIONS FOR SCIENCE EDUCATION PROGRAMS

● Mr. KENNEDY. Mr. President. Last Friday, the Senate acted upon the HUD and Independent Agencies appropriations bill for the fiscal year ending September 30, 1983. I am concerned about the inadequate appropriation included for science education programs funded by the National Science Foundation (NSF). In fact, other than for graduate fellowships, no moneys for science education programs were appropriated.

The NSF's mission has, since its inception, been to strengthen both the scientific research and science education capabilities of our Nation. We have now embarked upon a course which casts adrift science education. A policy of dollars for research, but nothing for science education will have dire consequences for our future for generations to come. America's presence in a world economy and in a world political arena depends on its capabilities to complete. America's capabilities to compete, in turn, are dependent upon talented, educated, and trained citizens. America is beginning to fall behind other nations in its science education efforts.

From 1970 to 1977, the number of scientists and engineers per 10,000 workers increased by 48 percent in Japan, 43 percent in West Germany and approximately 40 percent in the Soviet Union. During that same time, the number actually dropped in the United States by 9 percent. The same trend can be seen in the number of degrees awarded in science and engineering. In 1960, right after Sputnik, the United States trailed the Soviet Union by 81 percent, by 1980, that gap had almost tripled.

Furthermore, the Soviet Union, East Germany, the People's Republic of China, and Japan generally provide for an educational system that gives greater emphasis to education. Their school years average 240 days compared to the typically scheduled 180 days in the United States. Their students attend school 8 hours a day, 5½ to 6 days a week, compared to the 4–5 hours per day and 5 days per week of U.S. children. Specialized study in the above countries begins in the sixth grade with separate courses in mathematics, biology, chemistry, physics, and geography, these courses last 4–6 years and are required of all students; the time spent on these subjects, based on class hours, is approximately three times that spent by the average science oriented student in the United States.

A good science education program can make a crucial difference in opening science careers to young people. Let me mention a portion of a letter from Prof. Kathleen Parson from Macalester College:

I have been extremely fortunate to be the recipient of support and encouragement throughout my career as a direct result of NSF programs. I was born and raised in Pine City, a community of 2,000 in central Minnesota. Neither of my parents had the opportunity to attend college, yet I remember often hearing "Education is something they can't take away from You.

(In 1962) I was invited to attend a NSF sponsored summer institute for high school students. This was a turning point for me. For the first time I was among peers with similar interests and values. Biochemistry emerged as my major interest.

The investment of funds in science education is an investment in the future. Undercutting support of science education at the pre-college and college level is going to affect not only those students who might have gone on to become scientists, but also students who must be better informed as citizens when they make decisions regarding issues in science and technology.

There are countless similar stories, like Sylvia Ceyer at Hope College, the first in her family to go to college, who is now a professor of chemistry at MIT, thanks in part to support from NSF's undergraduate research participation program.

In fiscal year 1981, the NSF received and spent over $70 million for various science and engineering activities. These activities included faculty improvement, science education resources improvement, science education development and research and science education comunication. None of these programs can be continued with the proposed fiscal year 1983 budget of $15 million. However, most of these programs are known to be effective and to have a substantive impact. We can save dollars today, by failing to make an investment in tomorrow. But, tomorrow we shall pay.

I am not alone in my concerns about the state of science education in the country. The National Academy of Sciences, the National Academy of Engineering, the Association for the Advancement of Science, the National Science Teachers Association, the Great Lakes Colleges Association, the

American Educational Research Association, and the National Association of State Universities and Land Grant Colleges are but a few of the organizations that have expressed alarm at the issues that I have raised here. Many colleges, universities, school systems, teachers, parents, and students have registered their concerns about the fate of science education in America.

Here, in Congress, several Congressmen such as Representatives FUQUA, WALGREN, PERKINS, and WINN, and Senators GLENN, HART, and PELL have introduced legislation designed to address the subject of science and engineering education. This legislation comes in response to a growing public awareness of the national crisis in science and engineering.

It is clear that we will have to move aggressively on improving the state of science education in America. The process has begun. We must build on the important programs of the NSF. At least the NSF must support activities that will raise the professional level of decisionmaking in science curriculum at the State and school district level.

I will be working with my colleagues here in the Senate and in the House to push comprehensive science education legislations through the Congress.

The private sector, too, is concerned about the shortages of science manpower in America. Mr. President, I ask that an article by John R. Opel, president and chief executive officer of IBM, which appeared in Science magazine, September 17, 1982, be reprinted in the RECORD for the benefit of my colleagues.

The article follows:

[From Science magazine, Sept. 17, 1982]

EDUCATION, SCIENCE, AND NATIONAL ECONOMIC COMPETITIVENESS

(By John R. Opel)

The United States still ranks first in the world in its total economic, educational, and technological strength. But there is a national problem which is seen in international competition: that we risk losing out against tougher, more pragmatic, more adventurous international contenders in the years ahead. We have seen signs of slippage: our imports of Japanese and German automobiles, steel, and television sets (not to mention semiconductor memory chips); our loss of market share in exports of manufactured goods; and above all our rate of increase in manufacturing productivity, which has been lagging behind that of virtually every other industrialized country in the world.

These signs of decline, of course, have many causes and require many solutions, including more savings and more investment in plant and equipment. But I want to focus on the trend that to me seems most alarming of all: that the United States is slipping in the race to strengthen not its capacity in buildings and machines, vital as they are, but the capabilities of its people: talented, educated, and trained human beings—the ultimate resource in any nation.

Nearly a quarter-century ago the Russians put up Sputnik, the first earth satellite. That event took us by surprise. It frightened us into a sustained national effort, and 12 years later we landed the first man on the moon.

Today we face, I believe, an even more ominous threat. In contrast to Sputnik, we have no spectacular event to jolt us into action. We have only a succession of facts—facts so subtle that we often overlook them or bury them on the inside pages.

For nearly two decades, the average combined verbal and mathematical scores on Scholastic Aptitude Tests (SAT's) given to U.S. high school students have been falling; they have fallen by a total of 90 points.

Half of all U.S. high school students take no mathematics at all after the tenth grade. Only one junior or senior in six takes a science course. Only one in fourteen takes physics.

No wonder so many students graduate from high school unqualified to enter engineering school. No wonder 30,000 to 40,000 American students who enter engineering school every year need remedial algebra or remedial trigonometry before they can start on calculus, the beginning math course for an engineering major.

And when we move further up the ladder, what do we find? Some 2,000 vacancies in our engineering facilities, with particularly glaring weaknesses in computer science, chemical engineering, and electrical engineering. And, even in a recession, 17,000 unfilled entry-level engineering jobs coast to coast, and no prospect that we can possibly fill that gap any time soon.

The Japanese are outproducing us per capita in engineers by more than 2 to 1. Between 1965 and 1977, for every 10,000 in the labor force, the number of scientists and engineers in research and development nearly doubled in Japan. In the United States it fell.

In the face of these facts, the time has come for action. It could well start with a resounding federal declaration of a long-range commitment to scientific and engineering excellence and with a willingness to spend the money and do the work to make it happen.

Four years ago a distinguished group of university educators recommended that that the National Science Foundation increase its competitive graduate fellowships in science and engineering from 500 new starts a year to 2,000. What happened? Last year the Administration budget not only did not increase those fellowships, it eliminated new starts altogether. Only congressional action restored the old number, 500. In this year's proposed budget the number of new starts remains flat. That flat trend line discloses a shortsighted penny-wise policy.

We do have to reduce the deficit, we do have to cut out waste, and we do have to make sacrifices. But we cannot foreclose our future—a future which will hinge significantly on the scientific and technological training of our most gifted young people. The IBM company itself is increasing its science and engineering fellowships 20 percent, from 100 to 120 a year.

Another thing we should do is to modernize the equipment in university laboratories. Much of it today is obsolete and worn out. To bring it up to industrial standards would cost between $1 billion and $4 billion. The new tax law encourages donations of corporate equipment to universities. We in industry should act on this provision to help close the gap. Another provision of the tax law permits industrial sponsorship of university research. We should modify the tax law to change that "permit" to "encourage."

We need to unleash a secret weapon: women. Women make up half our population, but they make up less than 100 percent of our scientists and engineers. Why? Because for years we have told them that math and science and engineering belong to the boys. The result is that we have a great reservoir of talent that we are not tapping. And while we are at it, we must do a far better job of tapping the talents of minorities, also sharply underrepresented in our scientific and technological work force.

In addition to these corrections in higher education, we must reach down to the roots of the problem—down into the secondary school system.

Last year a survey of state science supervisors revealed a shortage of high school chemistry teachers in 38 states, a shortage of mathematics teachers in 43 states, and a shortage of physics teachers in 42 states, including 27 states with a "critical" shortage.

In the 1970's the annual average number of new science and math teachers produced by our colleges and universities plunged: the science teachers by 64 percent, the math teachers by 78 percent.

The result is that the schools have been forced to bring in "emergency" science and math teachers, men and women who are unqualified to teach these subjects. Last year they totaled half of all new math and science faculty members hired.

Moreover, while the average SAT scores of U.S. students were declining during the 1970's, the SAT scores of those intending to major in education and to teach in public schools were declining more than 1½ times as fast. No wonder some of our leading scientists—the members of the National Science Board—have set up a commission on precollege education in mathematics, science, and technology. Its findings and its suggestions for action will not come a moment too soon.

However, I believe that we already know much of what we have to do: roll up our sleeves and go to work in our public school systems to insist that they heighten instruction in these fields, pay what it takes to recruit able trained people, and reverse our downhill course.

There are a few specific actions we must take. But let us be clear about the full extent of the problem. It is not confined to science and engineering. It will not be eliminated by a neat programmed solution, by some kind of quick government fix. What we are seeing when we look at all those facts on our eroding performance is a decline in our capacity as a people to solve problems—not just problems in laboratories but all sorts of problems—through a disciplined capacity to think.

So widespread a decline demands a widespread response. We should recall the example of Thomas Jefferson, a man trained and disciplined not only in mathematics and the sciences but also in the arts and history, who was prepared to find pragmatic solutions to practical problems. The productivity of our country in agriculture and in industry throughout our history has relied on that kind of intelligence. Above all, we should recall Jefferson's faith in the individual man and woman—in the power of an aroused citizenry to overwhelm any problem they confront. That, more than anything else, will arrest our present decline. What we need now is another such shock of recognition: an awareness in community after community across the land that we face an urgent national problem and a resolve to

overcome it. Without that recognition, we cannot succeed. With it we cannot fail.●

SAM JACKSON WILL BE LONG REMEMBERED

● Mr. DOLE. Mr. President, Sam Jackson—an old friend and fine American—passed away on Monday. Sam was a fellow Kansan, and a man who relentlessly worked for civil rights and improvements in the quality of life for all of us. He will be long remembered by the many he touched.

Samuel C. Jackson's résumé could hardly be surpassed: Director of the Topeka NAACP office; an orginal member of the Equal Opportunity Commission; vice president of the American Arbitration Association; assistant secretary of Housing and Urban Development; member of President Reagan's Blue Ribbon Commission on Housing; nationally recognized corporate attorney with the law firm of Strook, Strook & Lavan.

Impressive credentials, indeed, but paper qualifications can hardly suffice when attempting to document the mark left by a man of Sam Jackson's stature. Respected attorney, persuasive politician, successful public official—Sam was, of course, all of them. But friends and associates will remember him in other ways.

He was inexhaustible—walking proof that hard work and perseverance do pay off. Colleagues knew him to be cooperative, intelligent, and personable. He was a delight to work with, and he nearly always achieved his lofty personal and professional goals.

But if Sam disagreed with you, he would let you know. No one ever had to ask about where he stood on any particular issue, nor should they have worried about recrimination if there was a difference of opinion. Sam Jackson was big enough to understand all points of view, while continuing his fight for the convictions that he held so dear.

Above all, Sam Jackson was a deeply religious family man. His belief in equal rights was sincere and deep felt, but the love he held for his wife Judy and daughters Brenda and Marcia was always his No. 1 concern.

Mr. President, we have all benefited by the work of Sam Jackson, and the Senator from Kansas offers sincere condolences to his family and many friends.●

NATIONAL AERONAUTIC ASSOCIATION HONORS WILLIS M. HAWKINS, JR.

● Mr. GOLDWATER. Mr. President, the National Aeronautic Association, the oldest aviation association in the United States, recently announced the selection of Willis M. Hawkins, Jr., as the recipient of the coveted Wright Brothers Memorial Trophy.

Mr. Hawkins' long and distinguished service to aviation with the Lockheed Corp. as well as his years as Assistant Secretary of the Army and as the first chairman of the National Academy of Engineering's Aeronautics and Space Engineering Board make him a most worthy recipient of this prestigous award. Mr. Hawkins is a truly outstanding individual and his contributions to American society, both in public life and national affairs, provide an excellent example to the youth of our Nation.

Mr. President, I ask that the press release issued by the National Aeronautic Association be printed in the RECORD.

The press release follows:

WILLIS MOORE HAWKINS, JR., SELECTED 1982 WRIGHT TROPHY WINNER

WASHINGTON, D.C.—The Wright Trophy Selection Committee of the National Aeronautic Association today announced the selection of Willis M. Hawkins, Jr., Senior Adviser to the Lockheed Corporation as the winner of the much coveted Wright Brothers Memorial Trophy.

Mr. Hawkins has combined a lifelong career in aviation with distinguished achievement in pulic service and national affairs. He has been recognized by his community, state and the federal government as a contributor of his time, talent and philanthropic efforts to all areas of society.

Joining the Lockheed Aircraft Corporation, California Division, in 1937 after graduation from the University of Michigan, he became the Director of the preliminary design office.

In 1953 he assisted in the founding of the Lockheed Missiles and Space Company, became its Chief Engineer and rose during the ensuing eight years to become the Vice President and General Manager of the Lockheed Missiles and Space Company Space Systems Division.

In 1962 he became the Vice President, Science and Engineering of the Lockheed Aircraft Corporation.

During the nearly 45 years he has devoted to aviation, his singular mark was stampled indelibly on the progress of both his company and country. He has received the Navy's Distinguished Public Service Medal for his contributions to the Polaris missile program, and NASA's Distinguished Public Service Medal for his leadership and personal contributions in reviewing critical NASA programs and recommending corrective actions.

For his service as Assistant Secretary of the Army, he twice received the Army's Distinguished Civilian Service Award, one for contributions to the Army's research and development and the other for his direction of the U.S.-German main battle tank development.

As the first chairman of the National Academy of Engineering's Aeronautics & Space Engineering Board, he was instrumental in cementing the excellent, cooperative relations the NAE and NASA enjoy. His advice and counsel to NASA and the U.S. Department of Defense remain valuable commodities given to a country by one of its finest citizens.

His personal attributes are many and have proven time and again their value to his colleagues and to his own career. Always having taken an optimistic view of technology's importance, he was, and continues to be, known as a credible enthusiast for mankind's positive progress through the efforts of scientists and engineers.

He has demonstrated a traditional kind of American success story, advancing through his own efforts—which included working his way through the University of Michigan—to a position today as one who embodies that rare combination of practical engineer, creative thinker, and administrator upon whom the nation so heavily depends for its technological progress.

The 1982 Wright Brothers Memorial Trophy will be presented to Mr. Hawkins by Maj. Gen. Clifton F. von Kann, President of the National Aeronautic Association at the Sheraton Washington Hotel in Washington, D.C. on December 10, 1982. The Banquet will be hosted by the Aero Club of Washington.

The NAA is the oldest National Aviation organization in the United States. Throughout its 76 years history, NAA has avoided special interest objectives and has maintained one prime goal—to keep the United States first in air and space flight.●

ALLEN J. ELLENDER MEMORIAL

● Mr. JOHNSTON. Mr. President, Dr. Allen J. Ellender, Jr., the son of our late friend and colleague, U.S. Senator Allen J. Ellender, has informed me that a memorial to Senator Ellender has been established in his hometown of Houma, La.

In the Terrebonne Museum, the Terrebonne Historical and Cultural Society has recreated, as closely as possible in size, furniture, and distribution of artifacts, Senator Ellender's private office in room 245 of the Russell Senate Office Building. The desk, desk chairs, and bookcases were those used by him during his six terms in the Senate, and the photographs and memorabilia are all from his Washington office.

These mementos, touching as they are for those of us who knew and admired Allen Ellender, are more than just souvenirs: They are a graphic illustration of much of the history of our country and our century. Allen Ellender served the public for more than 50 years, 36 of them in this body. He was, as the saying goes, present at the creation of legislation that has shaped our society. In many cases—the national school lunch program, rural electrification, land and water conservation, flood and water pollution control, food for peace—he was the moving force. Senator MANSFIELD called him a man of integrity, devotion, and dedication, diligent and hard working, with a wide knowledge of world affairs.

His concern for young people has been memorialized by the Allen J. Ellender Fellowships of the Close-up Foundation, a program for educating students and teachers about the processes of the Federal Government by bringing them to Washington for a week of discussions with Congress, the Judiciary and other Government lead-

ers. To help needy students participate, a Federal contribution, the fellowships, is matched many times over by corporate and philanthropic donations. Last year more than 4,000 students were aided by the Allen J. Ellender Fellowships established by Congress in the Senator's memory.

He has left his mark in other ways. He was a fine Cajun cook, and a gumbo prepared from his recipe is often served in the Senate dining room. For those of us who remember him with affection, it is pleasant to know that he is remembered as well in Terrebonne Parish and in all the communities served by Close-up. Mr. President, I ask that Dr. Ellender's notice be printed in the RECORD.

The notice follows:

ALLEN J. ELLENDER—LAWYER; FARMER; STATESMAN—SEPTEMBER 24, 1890–JULY 27, 1972

Allen Joseph Ellender was born at Hardscrabble, the family sugar plantation on Bayou Terrebonne below Bourg, Louisiana and was the eldest of four boys and one girl, the children of Wallace R. Ellender and Victoria Jarveaux. He married Helen Calhoun Donnelly of New Orleans who died in Washington, D.C. on September 30, 1949, and is survived by one son, Dr. Allen J. Ellender, Jr., and thirteen grandchildren.

Allen Ellender attended the local school at Bourg, and St. Aloysius College in New Orleans in preparation for Tulane Law School from which he graduated in 1911 with an LLB.

Ellender practiced law in Houma, first alone and later with his brother Claude. His interest in politics was apparent throughout his career. He served as City Attorney of Houma 1913–15; District Attorney, Terrebonne Parish 1915–16; Delegate to the 1921 Louisiana Constitutional Convention; member of the Louisiana House of Representatives 1924–36; Floor Leader 1928–32 during the administration of Governor Huey P. Long; Speaker of the House of Representatives 1932–36; United States Senator from Louisiana 1937–72. During his 36 year tenure in the Senate, Allen Ellender served as Chairman of the Senate Agriculture Committee, Chairman of the Senate Appropriations Committee, and as President pro tempore of the Senate.

He died in Washington, D.C. while in the midst of a spirited race for re-election to the United States Senate with Louisiana's present junior Senator, J. Bennett Johnston. His funeral in Houma was attended by President Nixon, Vice-President Agnew, and a large number of his colleagues from both the Senate and House.

Before entering the Senate, Ellender was an accomplished farmer and grew Irish potatoes on the Upper Bayou Coteau and at Mechanicsville. He soon learned that by using selective seed, proper fertilization and rotation of crops, the yield was more than double the average per-acre production of Irish potatoes in Terrebonne Parish. During one bumper crop year he was proclaimed "King Potatus I".

Senator Ellender's special interests in the United States Senate were agriculture, public works and conservation of natural resources. He supported the Marshall Plan for economic aid to Europe when it was inaugurated, but spoke out against it when the countries of Europe regained stability and opposed it consistently thereafter. He made numerous foreign aid inspection trips to countries throughout the world. Memorabilia of his trips abroad and in this country are on display in the bookcases in his office.

Both Senator Harry Byrd of Virginia and Senator Ellender preached economy in government to the Congress. He practiced what he preached by returning each year to the Senate a substantial portion of his office allowance for salaries and expenses.

Senator Ellender was quite at home in the kitchen and even today in the U.S. Senate dining room a gumbo is served using his recipe and is so named in his memory. In his "hide-out" in the Senate Wing of the United States Capitol, he prepared and served Louisiana Cajun cooking—gumbo, jambalaya, roast wild duck, etc.—to Presidents, Vice-Presidents, Cabinet Members and members of the Senate and House of Representatives. He was dubbed "Master Chef" of the Senate. Copies of his pamphlet "Creole Recipes" are available on request without charge.

Senator Ellender loved the young people of America and, when possible, hosted Louisiana groups in Washington so that they could see how things worked first-hand. Since his death, the U.S. Senate funded the "Closeup Program" in his honor, and it enables high school students to participate in a well planned study of the federal government during a week long stay in Washington, D.C.

In the Senator Ellender Room of The Terrebonne Museum, the Terrebonne Historical & Cultural Society has recreated as closely as possible, in size, furniture and distribution of artifacts, the Senator's private office at 245 Senate Office Building, Washington, D.C. The desk, desk chairs with black leather, and bookcases are those used by Senator Ellender during his six terms in Washington. All were given by the Senate to his son, Dr. Allen J. Ellender, Jr. The remainder of the furniture, although not the original, is identical to the furniture in the Senator's office and was obtained from the U.S. Senate through the efforts of Senator Russell B. Long. The photographs and memorabilia, all from the Washington office, were donated and arranged by the Ellender family. The photographs comprise about one-fifth of those which were displayed in his four-room suite in Washington.

Senator Ellender served almost thirty-six years in the United States Senate. At the time of his death, and as of this date he holds the record for longevity of service in the United States Senate from Louisiana.

Senator Ellender is buried, with his wife Helen Calhoun Donnelly, in the Magnolia Cemetery, Houma, Louisiana, near the south gate.●

PROTECTING RIGHTS OF HANDICAPPED PERSONS

● Mr. COHEN. Mr. President, I should like to direct the attention of my colleagues to an area that has been of prime importance to me throughout my career of public service, protecting the rights of our handicapped citizens.

As Americans, we cherish the principle of equal opportunities for all. For our handicapped citizens, these rights—no less precious—are far more difficult to attain.

An article which appeared in a recent issue of the Presque Isle Star Herald renewed my faith in the ability of the Government, local communities, and private businesses to work together to reach common goals. The article describes the story of Mr. Pat Marquis, a victim of Down's syndrome living in northern Maine, who faced possible institutionalization because it was feared he had reached a plateau in his development. But despite his handicap, Mr. Marquis' story has a happy ending. Through the compassionate assistance of the Central Aroostook Association for Retarded Citizens, Mr. Marquis is now employed as a dishwasher in a local restaurant.

Not only has this opportunity brought about a change in attitude and the opportunity for independence for Mr. Marquis, but his employer is delighted with his job performance and is even considering hiring another handicapped employee from this program.

I commend the efforts of the members of the community on behalf of Mr. Marquis, and I hope that other communities in Maine and throughout the country will be encouraged to assist in reaching a most laudable goal—providing equal opportunities for our handicapped Americans.

I ask that the article be printed in the RECORD.

The article follows:

INDEPENDENCE: SOURCE OF PRIDE FOR MAN WITH DOWN'S SYNDROME

(By Marilyn Mangus)

Independence.

Usefulness.

They come so naturally to most of us. But for a young man afflicted with Down's syndrome they are dearly won and greatly prized possessions.

Pat Marquis, a sociable 27-year-old, has Down's syndrome, a congenital disease characterized by mental deficiency, a broad face, slanting eyes and shortened fingers.

Pat, whose father Edgar Marquis is a Fort Kent resident, has been living for the last 10 years in Presque Isle at the state run Aroostook Residential Center and attending the Work Activity Center, operated by the Central Aroostook Association for Retarded Citizens.

Although Pat had a strong desire to be independent, staff at the Work Activity Center said Pat had reached a plateau in his training and was becoming institutionalized.

This realization prompted the staff to survey Pat's abilities. They found the one thing he was especially good at was washing dishes and cleaning.

Walter Mosher, director of the Work Activity Center, approached Dean Doody, manager of the Bonanza Family Restaurant in Presque Isle, about the possibility of hiring Pat as a dishwasher.

Doody said that although Bonanza "had never done something like this before," he was willing to give Pat a chance—a chance which has meant a whole new outlook on life for Pat.

When Pat returned to the Work Activity Center after his first day at Bonanza, staff described him as "beaming with pride."

Since that time his level of motivation has increased enabling him to gradually learn

new skills and expand his responsibilities at Bonanza.

Since his employment, Pat is shedding his institutional behaviorisms, is more verbal and shows more of an interest in outside activities, Mosher said.

Larry Davis, director of the residential center, said Pat is "more self-motivated" than in the past. Where attending a baseball game or a movie was something staff had to initate, now Pat is taking the incentive.

Included among the activities enjoyed by Pat and his roommate are sporting events, movies, swimming and walking. He spends a lot of time in the community, Davis said.

Pat also has progressed to the point where within a year, it is hoped he can be moved from his present transitional apartment at the residential center to a secondary transitional apartment in the community.

As residents, of the residential center gain new skills, they are carefully placed by staff with selected roommates, who can assist each other with various skill problems, and advanced through a series of progressively independent living situations.

Once in a community apartment, staff still supervise as each situation warrants.

When approached about hiring Pat, Bonanza did not have a position open, but they were short-handed in the kitchen during the lunch hour when the dishwasher was called upon to help cook.

Pat, who began working July 14, five days a week for a total of eight hours, fills in as dishwasher during the time the regular dishwasher is cooking.

During his first two months of employment Bonanza is being reimbursed by the state Bureau of Mental Retardation for 75 percent of Pat's wages. The second two months the percentage will drop to 50 percent, and the following two months it will decrease to 30 percent. After six months Bonanza will pay Pat's entire salary.

The state program also pays for Pat's on the job training.

Bonanza's manager indicated that he was willing to give Pat a chance even before he found out about the state reimbursement. Doody said he has been so pleased with the program that he might even be willing to take on another "special" employee.

The Work Activity Center, which led to Pat's new-found independence, is one of many programs sponsored by the Central Aroostook Association for Retarded Citizens. The association has put together one of the most comprehensive programs in the state.

In 1959, with no programs to serve the mentally retarded in the central Aroostook County area, three sets of parents advertised a meeting for anyone interested in mental retardation. Six sets of parents attended.

The totally volunteer group held its programs at St. Luke's parish hall in Caribou.

After two years, when it became obvious that they had outgrown that facility, the Central Aroostook Association for Retarded Citizens moved to the Northern Maine Sanitarium where they occupied three classrooms. It was at this time that the need for hired staff became evident.

In 1967 the group learned that the state was about to turn $100,000 in special education money back to the federal government. They prevailed upon the state to let them have the money, which was combined with additional federal dollars, and was used to construct the Opportunity Training Center. The OTC was the first such school in Maine built from the ground up.

Two years later it became apparent that an adult program, which would provide training for daily activities and work skills, was needed.

Today the program for adults includes the Work Activity Center, which is a day care center for developmentally disabled adults, and the Work Opportunity Center, which is a sheltered employment center for developmentally disabled adults.

In 1976 a program was added for preschool children.

Currently, a written proposal is being drawn up for an infant center which would provide for home visits by staff as well as day center programs.

The non-profit Central Aroostook Association for Retarded Citizens, which sponsors all these programs, is composed of appoximately 100 members and is governed by a 15 member board of directors.

All the programs are designed to serve the mentally retarded except the preschool program which also includes the handicapped.●

JOHN DOUGLAS ON THE NUCLEAR ARMS RACE

● Mr. KENNEDY. Mr. President, I would like to call the attention of my colleagues to a thoughtful article by John W. Douglas on the dangers of the nuclear arms race, which appeared in the September 28 issue of the Philadelphia Inquirer.

A Washington attorney and chairman of the board of the Carnegie Endowment for International Peace, Mr. Douglas, cogently analyzes the extreme dangers inherent in the next round of the arms race—particularly the deployment of new missiles which would drastically cut the warning time available for strategic decisionmaking and could lead to the adoption of a perilous "launch on warning" posture by the nuclear powers.

In the face of an increasingly untenable balance of terror, Mr. Douglas, like so many of his distinguished colleagues in the fields of law and public policy, finds that the only responsible policy alternative is to seek significant and well-founded arms-control agreements with the Soviets. In his words, "Just as new weapons have accelerated the nuclear arms race, so successful new agreements, particularly a nuclear freeze, would pave the way for more restraint and more agreements." Mr. President, I commend this article to the Senate, and ask that it be printed in full at this point in the RECORD.

The article follows:

[From the Philadelphia Inquirer, Sept. 28, 1982]

ARMS AGREEMENT: NO MARGIN FOR ERROR

(By John W. Douglas)

Some weeks ago, Soviet Defense Minister Ustinov raised the nuclear stakes a notch by announcing publicly that because of a prospective reduction in the warning time for incoming missiles, the Soviet Union was now giving "serious consideration" to a "launch-on-warning" option. While the nature of the Soviet review is unclear, the announcement itself has undescored the bankrupt and dangerous nature of the Soviet-American weapons chase.

Under this option, missiles would be launched as soon as a warning was received that the other country had started firing its own missiles. But the flaw is obvious: Nobody can be sure that the warning would be correct. In one recent 18-month span, 151 unintended false alarms were received by the North American Air Defense Command.

Launch-on-warning is also dangerous because it is subject to manipulation. One person could interpret a particular warning one way; another could interpret it another way. The same would be true of the protocols written for the computer programs.

Thus, without anybody realizing what was happening; launch-on-warning could slide into a preemptive-strike thesis—the death knell which both countries have pledged to avoid. Certainly, the line between first-warning and first-strike would be thin.

In assessing nuclear dangers, one can assume that leaders of the United States and the Soviet Union are sufficiently versed in the horrors of nuclear war that each group wishes to avoid its outbreak. After all, each country has enough nuclear weapons to destroy the other, and the rest of the world for that matter, several times over.

The real peril, therefore, lies in a confluence of mistakes in some future showdown. In practical terms, there is the danger that in an acute crisis one side might fire its own missiles in a mistaken belief that the other side had either fired its missiles or was in the process of doing so.

While the number and complexity of crisis considerations is rising—because of the proliferation of weapon systems and the difficulty of managing them—the time available for their evaluation is generally declining. Some of this shrinkage comes from technological improvements which will enable missiles to reach targets more quickly and more effectively.

Forward basing of missiles by both sides is also cutting the distances between missiles and destinations; this includes our prospective 1983 deployment of Pershing II's in Western Europe.

Such developments increase the potential for grave mistakes. One of the past false alarms in our NORAD system lasted for six minutes. We must hope that the Soviet Union's warning system does not experience a similar malfunction when the Pershing II's cut Soviet warning time for incoming missiles from the present 30 minutes to less than 10 minutes. In the absence of some overriding considerations, how do policies which increase significantly the risk of fatal miscalculations comport with anybody's national interest?

The likely nature of decision-making in a future acute crisis provides particular cause for alarm. It is apparently that in such a crisis, which could grow out of a nonsuperpower, local conflict escalating over a period of days, there would be ultimate reliance on decisions by individuals.

It would be folly to abdicate responsibility for man's fate to computers, given the impossibility of assuring either an error-free computer program or the absence of any operational malfunction.

Nonetheless, to the extent that Americans think of the handling of future crises, we tend to idealize the process and to overlook the fallibility of human judgments. Thus, the popular image is of a smooth process in which men and machines mesh effectively, facts are revealed unequivocally, and interim actions are taken in conformity with the demands of each emerging problem, all lead-

ing inexorably to a straightforward decision whether to push this or that button.

But the interlocking complexities of weapons, organizations, forces, deployments and of human nature itself point to a far less sanguine picture. In this view, the process would be complicated and would have its ups and downs.

It would involve many individuals, organizations, machines and computer programs. Large amounts of information would be transmitted, and some of it would be murky. There would be some glitches and some confusion. And, at the top, struggling with all this and more would be a small circle of individuals, with human strengths and vagaries, acting under stress so tremendous as to surely compromise the quality of individual and group judgments.

Although such a decision-making process appears to be logical imperative of tomorrow's weapon technologies, it should command no confidence. Indeed, the profile reads like a prescription for unintended disaster. It bristles with opportunities for miscalculations even though a future nuclear crisis would allow scant margin for error. And, if nothing else, such a forecast cries out for the earnest pursuit of measures which would minimize the necessity for ever having to start the process in motion in the first place.

What to do? Above all, in the near future we need Soviet-American arms control treaties which are militarily significant, build mutual confidence, increase the time for strategic decisions and reduce the variety as well as the number of nuclear armaments. Progress toward these objectives would improve the chances that some future clash of interests would not deteriorate into a full-blown crisis and that, if such a crisis should ever occur, crucial mistakes would not be made.

Furthermore, if the arms spiral could once be broken, even in some modest fashion, promising new vistas will unfold. For just as new weapons have accelerated the arms race, so succesful new agreements, particularly a nuclear freeze, would pave the way for more restraint and more agreements. And if the two countries were to stabilize and then cut back their own arsenals, they would be in a far better position to restrain dangerous nuclear developments in the Third World.

Regardless of the nature of Soviet society, we could still not rely on Soviet good will in fashioning arms agreements. This, however, is of little importance, because, in making treaties, we cannot rely on the good will of the other country, even if that country is a close friend. And we would still have to expect the Soviets to exploit every loophole.

Thus, the United States must insist that arms control agreements be tightly drawn and contain strong verification and compliance procedures. The foregoing certainly argues against poor agreements with the Soviet Union, but it does not argue against good ones. The need for the latter remains compelling and urgent.

The challenge of arms control and disarmament will surely last as long as life itself.●

STUDENT LOAN ASSISTANCE AMENDMENTS OF 1982—S. 2655

● Mr. WEICKER. Mr. President, I am speaking in support of Senator FORD's bill, S. 2655, the Student Loan Assistance Amendments of 1982, which would amend the Higher Education Act of 1965, to provide supplemental borrowing authority under the guaranteed student loan program for all students denied social security benefits as a result of the 1981 budget reconciliation legislation.

Those students, whose income-earning parent is either decreased, retired, or disabled, had depended along with their families on the Government promise of financial assistance to attend college. Most of the students will not be able to compensate for the loss of social security benefits which is in the form of a grant even if it is phased out over 4 years. Since the 1981 budget resolution, there are stricter eligibility requirements and less funds available for all the Federal student aid programs. At a time of a paucity of financial resources, the denial of social security benefits will only exacerbate the situation for needy students. This subsistence benefit made the difference for those students whose family was not able to contribute to their college education.

The loss of social security benefits will seriously limit "access to" and "choice of" college for needy students. These are two basic tenets of equal educational opportunity. Equal educational opportunity is a basic principle by which we live. It is inconsistent with our ideals that some citizens should be denied a college education due to inability to pay. We must preserve this right for all our people. A college education not only benefits the individual; there are also benefits to society. Higher education for our citizens contributes to the Nation's political, economic, and cultural advancement. It is an investment in our Nation's future.

This bill insures continuity in the financial support provided by the Federal Government for needy students which, in essence, provides an equal educational opportunity for all. In my State of Connecticut alone, 10,000 students would be eligible for this assistance which is a loan, not a grant, subject to determination of need. It is a small cost to the Federal Government but it will make a big difference to many needy students.

I urge my colleagues to support this worthwhile piece of legislation.●

SENATOR GOLDWATER'S VIEWS ON THE NEWS MEDIA

● Mr. GOLDWATER. Mr. President, it was my honor to have been asked to address the National Newspaper Association in Phoenix, Ariz., on September 23. However, senatorial commitments kept me in Washington and prevented my speaking before that group. I had looked forward to it because I had something on my mind and still do relative to the media, and, having prepared a speech, I should like to place it in the CONGRESSIONAL RECORD so that those who might read it might have some idea of the many things that bother me relative to our national press.

I ask that this article be printed at this point in the RECORD.

The article follows:

SENATOR GOLDWATER'S VIEWS ON THE NEWS MEDIA

Ladies and Gentlemen, for nearly 30 years, I have been blessed with a career as a public servant. I have had the privilege of representing the people of Arizona in the senate for that time. I have treasured the opportunity to share the interests and concerns of the people of this state and to do for them in Washington all that they asked and all that was in my power to achieve.

When you've been around national politics as long as I have, and when you've traveled the paths I've chosen, you are twice-blessed. You get to know not only your own constituents, but people from all corners of this great nation.

It has been a richly rewarding experience to speak to and, more important, to listen to people from all over America—rich and poor, powerful and meek, young and old.

But in some ways this has been a troubling experience, as well. They, and I, have been asking some tough questions lately and not getting answers. Too often, we don't find these answers in the press. All the more tragic is that we often don't see the questions there, either.

Frankly, ladies and gentlemen, you've been covering the wrong stories. A survey published in Public Opinion magazine earlier this year showed that, on the whole, the media elite do no reflect the values of mainstream America. I think this has shown through in your news coverage.

Patriotism, the work ethic, free enterprise, and other values upon which this country was built are not considered "sexy" by the press and are virtually ignored.

"The preservation of the sacred fire of liberty," George Washington said in his first inaugural address, "and the destiny of the republican model of government are . . . staked on the experiment entrusted to the hands of the American people."

I believe the fire of liberty still burns brightly within the hearts of the American people. Deep in all of our hearts we know that the American system still stands as the towering achievement of modern civilization.

But too many of our people take this for granted. Too many people assume that the liberty we enjoy is a natural state that will always exist, no matter what we do. Too few Americans, and too few members of the Fourth Estate, realize that we must work constantly to protect our freedom and maintain the character of our society.

To do this effectively, we must find answers to some of those tough questions I mentioned. I can think of no better group to whom I might pose these problems than those who make the greatest impression on the minds of our citizens, the newspapers.

Question. What has happened to the sense of pride and patriotism in this country?

I travel all through this country and I see it displayed constantly in formal ceremonies and informal discussions. But I just don't see this in the press or on television.

Those of us who have seen the American spirit at work during times of severe crisis will always have a deep, abiding patriotism.

Many of us have lived through economic disasters, world wars, the resignation or assassination of presidents, and numerous natural disasters that have destroyed cities or severely damaged crops and livestock.

With our survival of each new crisis, our faith in the American system grows ever stronger and more enduring. Moreover, the tyranny and deprivation that we see throughout the world makes us appreciate even more the stability of the American government and economy.

Why are these notions not filtering through to the young people? Why are they not reinforced regularly by the press? What is it about our system of journalism that makes these facts and any demonstration of patriotism less newsworthy than rumors of "personality clashes" among government officials, unsubstantiated hints of scandal, or other lurid gossip dredged from unnamed sources?

Question. What has happended to the work ethic in this country.

What happened to the old-fashioned ambition of a person wanting to get to the top and being willing to work, work, work to get there?

Thomas Edison once said "There is no substitute for hard work." This notion goes to the core of our society. It provided the foundation for the growth of our society.

"A day's work for a day's pay." What could better describe the American spirit? the earliest colonial settlers would have perished if they shunned hard work. The valiant frontiersmen who settled Arizona and the West understood the meaning of work. Their example still inspires us. And the industrial revolution and post-industrial boom could never have been achieved without the energy and character of the modern American worker.

So why have we become in large measure a welfare state? And why does no one in the press talk about it? Why do we have so great a number of people who just won't work, who prefer to live on government subsistence?

Liberty will not long endure in a society in which government controls the survival of the masses. A government on which people depend too strongly for basic welfare will accrue too much power. Such power in the wrong hands could lead to a dictatorship.

We need to revitalize the work ethic in the United States. We cannot do this without tough measures that make it undesirable to remain out of work when there are jobs available and you're able to work. "Workfare" programs, where administered properly, have been a start in this direction. We should make it clear, however, that welfare and other state or federal programs designed to help the truly needy will not be available to any able-bodied person who is unwilling to work.

We also need the cooperation of labor unions. It hardly seems productive to push so hard for wage increases or benefits that would have the effect of driving the employer out of business, or that would result in layoffs. While there has been some improvement in recent years, labor unions must, if they are to survive, curtail featherbedding and the protection of unproductive workers.

I hope we will see more from the media on these issues in the future. In the past, the pro-labor bias and liberal instincts of the establishment press have made these subjects taboo. It's not "progressive thinking" to fret about welfare abuses or excesses. It would seem too "reactionary" to challenge the unions on the counter-productive activities.

But often it is the over-protective friend, rather than the outspoken adversay, who proves more destructive in the end. If we don't succeed in creating a new environment in which hard work is demanded and socially desirable, we face a serious threat to the survivial of our system.

Question. What has happened to the private institutions in our society?

Why have we allowed government to usurp the authority of those small, private institutions through which we have developed and spread our traditional values.

Americans have always been joiners. From the earliest days of this Republic, we depend on the private sector to form associations and combat social problems.

Families, neighborhoods and ethnic organizations took care of their own. Churches initiated efforts to deal with poverty, hunger, and other social problems. Voluntary associations consisting of community leaders, local residents and businessmen were formed to address general needs or specific problems. Union locals have always been a valuable resource for members in need.

For most of our history, Americans got along pretty well by looking to these and other institutions in times of distress. The benefits went both ways:

Those in trouble were able to turn to people who lived near them, shared their values, and understood their needs

Those who gave of their time and resources benefited not only from the satisfaction of helping another, but came to understand the kinds of problems their community faced.

Over the past two decades, government has moved more and more into this area. It was intended originally that government would assist these private institutions.

But a funny thing happened along the way. Government has almost completely taken over these functions. And as the perception has grown that social services are the exclusive responsibility of government, the willingness of people to contribute their time and money to private groups has diminished steadily. We are losing a vital resource: the initiative, the creativity, and the neighborly spirit of the private sector. Social services have become the province of bland bureaucrats administering sterile programs that do little to improve the living standards of the needy.

President Reagan has given a high priority to voluntarism and "private sector initiatives." This is a good start. But we need to reinvigorate the private sector and we need to do it soon. We need new ideas and strong leadership in this area.

This, again, is not a "sexy" issue. Many in the media, it seems, took a cursory look at this notion and scoffed at the idea that the private sector could replace the government in helping the needy. To follow the press accounts on this issue, one would assume the government has always controlled social welfare and is the only sector capable of doing so.

But government's resources are not unlimited. We cannot afford to fund ever higher costs for social programs that, in many cases, don't achieve what they set out to do. Remember that these problems were addressed by the private sector for most of our history. Modern society requires new solutions, but a government monopoly on social services is not the answer. Our traditional private institutions must be allowed to work along with government to reduce costs and improve performance in social programs.

Question. What has happened to education in this country?

Why have we allowed the quality of education in the United States, which once was unrivalled anywhere in the world, to deteriorate to a point where it just might be the worst of any major country?

The ironic thing is that while the quality of education has gone down, the amount we spend on education has increased tremendously. And we are educating more people to a high level than ever before.

Expenditures for public elementary and secondary education across America was about $2,450 per pupil in the 1979-80 school year. Ten years earlier, we spent $955 per pupil. I'd like to know why the level of education being given was not two-and-a-half times better.

We're raising a generation that spends half its time in front of a television set or a video game. When they grow up on Pac Man and Popeye, they are going to have little tolerance for the complicated problems we will be facing towards the end of this century.

The greatest danger is that we are not training enough technical experts, engineers and scientists. Whatever happened to the great American dream of studying to be a scientist? Why is it that nearly 50 percent of the engineering degrees conferred this year by American colleges and universities went to foreign students? Why have we not seen these concerns addressed fully in the press?

Question. Why are we not willing to spend what is necessary to ensure a strong national defense?

Why is the long-overdue buildup in American defense in the past two years attacked so stridently while little concern is voiced about the massive Soviet buildup in recent years?

In the post-Vietnam years of the 1970s, the United States Congress allowed our military to slip badly behind the Russians in nuclear and conventional weapons. Our defense industry deteriorated rapidly, with nearly half of all defense-related companies going out of business.

Vital strategic weapons, such as the B-1 Bomber and MX Missile system, were delayed by Congressional bickering.

We are facing a crisis in this country that has been largely ignored by the press. Almost 90 percent of the world's known supply of key minerals and metals needed for modern jets is located in either southern Africa or Siberia. In other words, we are dependent for vital strategic minerals and metals on the volatile nations of southern Africa and our most formidable enemy, the Soviet Union.

In recent years, these materials, such as cobalt and molybdenum, have increased in price by as much as 300 percent.

We hope that certain areas of the United States might contain large supplies of these materials, but it has been difficult to find out because of environmental restrictions on mining those areas.

The economic damage inflicted on the defense industry during the past decade also created a dangerous situation. The time required to build jets and other weapons has doubled and, in some cases, tripled in recent years. Shortages in engineers, machinists and other skilled craftsmen and technicians has hindered the companies. Whereas more than 6,000 companies were involved in defense related projects—mostly as subcontractors—in the midseventies, that number

dropped to less than 3,500 last year. This has further slowed the process.

Another big problem for defense contractors has been the uncertainty connected to government contracts. Procurement practices varied widely from year to year, and long-term contracts could not be counted on, because funding might be eliminated in the future.

The increases in the past two years in real dollars has started us on the road to recovery for our military. This will not be a sustained recovery if we resort once again to frequent flip flops on defense spending.

I understand the frustration of those who are trying to cope with cuts in social spending and seeing large increases in defense expenditures. But we cannot rescue our economy at the expense of national security and defense. The most important economic decision we make each year is that one in which we appropriate funds for defense. Without a strong defense, and the security it ensures, other economic decisions become superfluous—we won't be around to benefit from them, at least not in a society as we know it.

It's sad to say, but we have become a country of summer soldiers and sunshine patriots. "Tyranny, like hell, is not easily conquered, . . ." Thomas Paine told our forefathers. "What we obtain too cheap, we esteem too lightly."

We need to help the American people to understand that the security of our nation requires tradeoffs. We can have no freedom without sacrifices.

The American press does what it sets out to do better than any other country in the world. American journalists today are better educated and, on the whole, exhibit greater integrity than at any time in our history. They also wield more power and wider influence than in any earlier period. I'm not certain which of these facts is a cause and which is an effect; it doesn't really matter.

What matters is that the significant change in the level of power and influence controlled by the press changes the nature of its responsibility to the public and to our society.

You have done a fine job in recent years of fanning the flames of controversy. It's about time you took some responsibility for fanning that flame of liberty our Founding Fathers entrusted to us.

The American media have a grave responsibility: to bring this country back to its senses. The stability of our economy and the survival of our system of government depend on our ability to effect some fundamental changes in our system. Many Americans don't recognize the dangers we face. The press is so wrapped up in day-to-day, short-term problems that it rarely sheds light on the real problems we're facing.

I'm not suggesting that the adversary relationship between government and the press should change. I'm not suggesting that the will of any government leaders be imposed on journalists. And I'm not suggesting that you stop covering the "news" as you see it.

I am suggesting that the American press begin reevaluating its role in our society. With the instant communications that reach so many people today, and the enormous increase in population in the past two decades, the average American gets most of his or her information on government and public policy from newspapers and television or radio news. They are not exposed directly to their political leaders as much as before. With the decline in participation in private institutions, they have fewer and fewer opportunities to collect information from any source other than news organizations.

If you don't start covering the stories that really matter, then, we could continue to drift away from prosperity and liberty.

More than ever before, the fate of our nation and our society is controlled by the press. A fully informed America is not a luxury, it's a necessity.

Thank you.●

A PROPOSAL TO BREAK THE NUCLEAR DEADLOCK IN EUROPE

● Mr. KENNEDY. Mr. President, I would like to call the attention of my colleagues to a proposal recently presented by Paul C. Warnke, on behalf of the Committee for National Security, a nonpartisan group of experts formed in 1980 to promote constructive debate on national security issues, to break the deadlock in the Intermediate-range Nuclear Force (INF) talks presently underway in Geneva. This proposal, which was conceived by Paul Warnke, former Director of the U.S. Arms Control and Disarmament Agency (ACDA) and chief SALT II negotiator, Raymond Garthoff, former member of the SALT I negotiating team, James Leonard, former Deputy U.S. Ambassador to the United Nations and Assistant Director of ACDA, and David Linebaugh, former Deputy Assistant Director of ACDA, deserves the careful attention of all who are truly committed to genuine arms control and arms reductions in Europe.

Unlike the European proposal presented by the Reagan administration, and the counter-proposal with which the Soviets responded, the Committee's initiative is balanced and negotiable. It deserves serious consideration as a promising approach, among others which might by considered, for meaningful reduction of nuclear weapons in Europe and for addressing the critical relationship between intermediate range and strategic nuclear arms control.

I commend the Warnke proposal to the attention of my colleagues, and ask that it be printed at this point in the RECORD.

The proposal follows:

BREAKING THE DEADLOCK IN THE GENEVA INTERMEDIATE RANGE NUCLEAR FORCE (INF) TALKS

The United States-Soviet negotiations about intermediate range nuclear weapons, which began in Geneva in November last year, have made little progress. Each side has introduced proposals which have been rejected by the other. Unless this impasse is broken, by late 1983 or early 1984 the United States may deploy in Western Europe two new weapons—the Pershing II missile and the ground-launched cruise missile—which will be the first systems in twenty years that can reach Soviet territory from Western Europe. The Soviets threaten to respond with new deployments possibly targeted on the United States. The arms race will accelerate in Europe.

In Geneva, the United States has proposed the zero option: The United States would not deploy the Pershing II and the ground-launched cruise missiles; the Soviets would dismantle all their intermediate range land-based missiles, the SS-4s, SS-5s, and SS-20s. There would be no limitations on aircraft. The Soviets have labeled this proposal a demand for unilateral disarmament. They would be expected to dismantle about 600 missiles. The United States would dismantle none, since it has no land-based missiles of intermediate range.

The Soviets have tabled a proposal which calls for equal reductions by the two sides of missiles and aircraft in two stages. British and French forces would be included in the Western force count. The Soviets assert that the East-West balance is now equal. But the Reagan Administration argues that the balance favors the Soviets by a wide margin and that equal reductions would be extremely disadvantageous to the West.

AN ALTERNATIVE

To break this deadlock, the United States should propose that, after appropriate consultation with its allies, (1) all intermediate range missiles be taken into account, regardless of nationality or whether launched from the land or sea, and (2) the United States would cancel the Pershing II and GLCM deployment if the Soviet reduce and equivalent number of warheads.

The United States would not deploy the 572 single warhead Pershing II and GLCMs if the Soviets reduce an equivalent number of warheads by dismantling all 280 of their obsolete SS-4 and SS-5 single warhead missiles and about 100 SS-20 missiles which are targeted on Western Europe carrying 300 warheads, for a total of 580 Soviet warheads. The result would be equilibrium between the Soviet land-based force of SS-20 missiles and the Western (British, French, and American) sea-based missiles of intermediate range. The Soviets would have 215 SS-20 missiles[1] carrying 645 warheads, and the West would have 184 missiles carrying 544 warheads.[2]

Nuclear-capable American aircraft in Europe and in the Mediterranean—American forward-based-systems—have long been regarded by the Soviet Union as a serious threat. The Soviets insist that these aircraft be included in any INF agreement. The problem is difficult because U.S. and Soviet estimates of the aircraft balance differ sharply. The most threatening aircraft are the American F-111 strike aircraft and the Soviet Backfire bomber. Therefore, the U.S. should propose that specific limitations be confined to the F-111 and Backfire. These limitations would also apply to the U.S.-based FB-111, which is not limited by SALT, but has a nuclear mission against the Soviet Union. The number of F-111's and Backfires should be frozen. Other aircraft would be constrained by non-circumvention provisions, which would include undertakings not to increase their numbers or substantially alter their deployment patterns and roles.

An interim INF agreement on these lines, presumably limited to a few years, could in due course become part of the START agreement. In START, the 40 American Poseidon missiles assigned to the NATO commander would be counted as intermediate

[1] 100 of which would remain targeted only on China or Japan.

[2] There are also 18 land-based French IRBMs and approximately 30 Soviet SS-N-5 SLBMs.

and not as strategic weapons. Thus the net effect would be the addition of 40 sea-based missiles to the total permitted American force.

This proposal would result in substantial Soviet reductions, thus satisfying a major West European objective. The threat to Western Europe would be lessened and a dangerously divisive issue inside NATO would be solved. The world-wide application of the limitations would meet the interests of China and Japan in restricting Soviet SS-20 deployments. Soviet interests would be met through the cancellation of Pershing II and GLCM and through constraints on other U.S. "forward-based systems." U.S. would have gained politically by taking this initiative for peace.

The INF talks are bilateral, between the United States and the Soviet Union. But the defense of Western Europe is an alliance problem, not just a U.S. problem. It is in the American interest to recognize the role of British and French forces. They share, or should share, responsibility for the defense of Western Europe and the deterrence of the Soviet Union.

The British and French governments have been opposed to the inclusion of their forces in the bilateral United States-Soviet negotiations in Geneva, even if they are simply taken into account. They wish to retain freedom of action. On the other hand, the German Social Democratic Party favors their inclusion, in some unspecified way.

To take account of British and French concerns, they would not be parties to the United States-Soviet negotiations or to any United States-Soviet agreement. Furthermore, their forces would not be limited in any way. They would retain all the freedom with respect to their forces that they now possess. But the existence of their forces would be recognized in the East-West balance.

The United States should discuss this proposal with the United Kingdom and France and with other NATO allies who are becoming anxious about the lack of progress in Geneva.

In conclusion, we believe that this proposal can: break the deadlock; result in significant reductions; reduce the risk of nuclear war in Europe; relate the INF talks to the START negotiations; reduce Soviet missiles targeted against Western Europe by 380 missiles and 580 nuclear warheads; and take account of allied nuclear forces without imposing limits on them.

This is a formula for progress, not stalemate.

TABLE I.—*The INF balance* [1]

U.S. view: [2]	
United States:	
IRBM	0
Bombers:	
F-111 in Europe	164
FB-111 in U.S.	63
F-4	265
A-6, A-7	68
Total	560
U.S.S.R.:	
IRBM:	
SS-20	250
SS-4+5	350
SS-12/22	100
SS-N-5	30
Bombers:	
Backfire Tu-26	45
Blinder Tu-16	350
Badger T-22, Su-17, Su-24, Mig-27	2,700
Total	3,825
Soviet view:	
United States plus NATO:	
IRBM:	
French IRBM	18
French SLBM	80
U.K. Polaris	64
Bombers:	
F-111	172
FB-111	65
F-4	246
A-6, A-7	240
French Mirage IVA	46
U.K. Vulcan	55
Total	986
U.S.S.R.:	
IRBM:	
SS-20	243
SS-4+5	253
SS-N-5	18
Bombers:	
Backfire Tu-26, Blinder Tu-16, Badger Tu-22	461
Total	975

[1] From Sharp in "Arms Control Today" of March 1982. Note that the number of SS-20's has now risen by about 65 and the number of SS-4's and 5's has dropped by about 70.

[2] Note that the U.S. view ignores its own Pershing 1A while counting analogous SS-12/22 missiles on the Soviet side and includes all Soviet Frontal Aviation as nuclear-capable but ignores much of NATO nuclear-capable tactical aircraft. The Soviet view assumes A6's and A7's on all U.S. aircraft carriers available to Europe and includes NATO short-range systems but excludes its own tactical aircraft.

Sources: The New York Times, Nov. 30, 1981, and interview material, Geneva, December 1981.

TABLE II.—THE MISSILE BALANCE FOLLOWING AN INTERIM INF AGREEMENT

Name of missile	Number of missiles employed	Warheads deployed
United States plus NATO forces: [1]		
French IRBM	18	18
French SLBM	80	80
Polaris (UK)	64	64
Poseidon (US/NATO SLBM)	40	±400
Total United States/NATO	202	562
Soviet forces: [2]		
SS-20 (Soviet IRBM)	215	645
SS-4 (Soviet IRBM)	0	0
SS-5 (Soviet IRBM	0	0
SS-N-5 (Soviet SLBM)	30	30
Total Soviet forces	245	675

[1] The United States would not build and deploy Pershing II's and GLCM's.

[2] The Soviets would dismantle all currently deployed SS-4 and SS-5's and 90 SS-20's targeted on Europe.●

MEETING CHALLENGES TO U.S. SECURITY INTERESTS IN THE WESTERN HEMISPHERE

● Mr. SYMMS. Mr. President, I ask consent that the following article from the 1982 summer issue of the "International Security Review" by Congressman JACK KEMP entitled "Meeting Challenges to U.S. Security Interests in the Western Hemisphere," be printed in the CONGRESSIONAL RECORD. I am very concerned about the intrusion of Soviet power and influence in the Western Hemisphere. Congressman KEMP outlines these dangers in this very well written article. I commend it to the attention of all my colleagues.

MEETING CHALLENGES TO U.S. SECURITY INTERESTS IN THE WESTERN HEMISPHERE

(By Representative Jack Kemp)

The Cuban missile crisis occasioned a forceful and unambiguous declaration that the United States regarded any Soviet effort to intrude militarily into this hemisphere a clear and provocative threat to our vital security interests. That judgment lay at the root of the accord reached between President Kennedy and Premier Khrushchev five days after the U.S. blockade of Cuba went into effect. The agreement provided three things. First, the Soviet Union would withdraw all offensive weapons from Cuba, and pledge that no new offensive arms would be introduced into Cuba. Second, in exchange for that withdrawal and forebearance, the United States agreed not to invade Cuba. Finally, and central to the agreement, was the tacit understanding that Cuba would not engage in disruptive activity in this hemisphere, and the Soviets would not provide encouragement or the means for it to do so.

Twenty years have passed since that agreement was reached; and during those 20 years the Soviet Union has progressively violated this solemn agreement in two fundamental respects, both of which have grave consequences for the security of the United States. In the first place, the presence of Soviet military power in the Western Hemisphere has grown, and today goes far beyond that permissible under the 1962 accord. And secondly, Cuba's aggressive and subversive activities—fully supported and made possible by the Soviet Union—have already brought two Caribbean nations, Nicaragua and Grenada, into the Soviet fold, and currently threaten the stability and security of El Salvador. Other governments in the region—Guatemala, Honduras, Colombia, and even Costa Rica—are eventually threatened by this spread of revolutionary terrorism, if it is not contained.

When President Kennedy revealed the presence of Soviet ballistic missiles, lightweight bombers and combat troops in Cuba, Congress and the American public, stunned by the Soviet Union's offensive incursion into our hemisphere, rallied behind the President's decision to quarantine Cuba and demand a Soviet withdrawal. In light of the public reaction at that time, it is surprising that, in response to recent developments, the American public has not been incensed, and no serious confrontation has occurred. There are many reasons for this. First, the Soviet buildup in Cuba has proceeded incrementally—intercontinental bomber flights beginning in 1969, a submarine base in 1970, a squadron of MiG-23 fighter-bombers in 1978, a Soviet brigade in 1979, and so forth—rather than suddenly. Second, Cuba's interference and subversive actions have grown commonplace over the course of Castro's reign. Third, American attention has been drawn elsewhere. Ironically, central Europe, Afghanistan, and Southeast Asia seem to attract our foreign policy interest far more than events on our own doorstep.

Even so, the challenge facing the United States today is as real as it was 20 years ago. In many ways it is greater, since it is no longer confined to the island of Cuba but has spread. It has spread beyond the Carib-

bean and Central America to Africa, where Cuba maintains 30,000 Soviet-supported troops. I believe that we must articulate a strategy for protecting and advancing American interests in this hemisphere that seizes the high ground in terms of both our leadership and our commitment. If instead we continue to rely on a reactive posture to determine our policy, we are likely to find ourselves losing ground steadily. And if we do not take the lead in creating conditions that will allow the growth of free markets and democratic institutions, we will be giving Cuba (and now Nicaragua) full rein to spread the totalitarian answer to social welfare and human dignity—which is a denial of both.

General Warren Nutting, Commander-in-Chief of the Southern Command, recently detailed the Soviet presence in Cuba at hearings before the House Subcommittee on Foreign Operations, which I called in order to examine U.S. security interests in the Western Hemisphere. A 3,000-man Soviet brigade has been stationed near Havana since 1979, which General Nutting speculated may be there to guard and control electronic warfare facilities; whether nuclear weapons may also be under its control is not known. Additionally, there are some 10,000 Soviet "advisers" stationed in Cuba. Soviet nuclear submarines operate out of Cienfuegos along Cuba's southern coast, despite a November 1970 Soviet agreement that no nuclear submarines would be serviced in or from Cuban ports. The Soviets are operating heavy, TU-95 "Bear" bombers out of Havana; and in February of this year it was reported that two of these Bear bombers penetrated 42 miles into the U.S. air defense zone off the cost of Virginia, to within one mile of the new *USS Carl Vinson* nuclear aircraft carrier.

The Soviet Union provides $3 billion in aid to Cuba each year, or one quarter of Cuba's total GNP. This aid clearly supports Cuba's military establishment and its foreign adventures. Last year alone, Cuba received 63,000 tons of Soviet arms shipments, three times more than in the previous year and more than in any year since 1962; and the rate thus far for 1982 is even higher. Cuba already has an air force second only to that of the U.S. in the Western Hemisphere: indeed, a total military force second only to the U.S. The arrival this year of a second squadron of MiG-23 fighter-bomber aircraft and an unspecified number of modern attack helicopters enhances that capability.

I believe that, taken together, the Soviet buildup of Cuban offensive military capability and the introduction into Cuba of Soviet forces and modern arms constitute a blatant violation of the agreement reached in 1962 forbidding the emplacement of offensive weapons in Cuba. The President has noted such violations, and other U.S. government officials, including CIA Director William Casey, Undersecretary of Defense Fred Ikle, and former Chairman of the Joint Chiefs of Staff David Jones, have expressed the judgment that the Soviet offensive presence in Cuba violates the Kennedy-Khrushchev understanding.

The systematic violation of that accord has now produced an even more serious threat to the security of the Western Hemisphere, which has only recently been officially acknowledged. It is now the declared judgment of the United States government that the Soviet Union, through its regional surrogate Cuba and its newly acquired allies Nicaragua and Grenada, has embarked on the express objective of destabilizing as many governments in the Caribben as possible, with a view toward spreading violence and expanding pro-Soviet regimes and Soviet power in this hemisphere. I share that somber assessment.

Cuba's exportation of revolution has persisted over the past two decades, entailing support for insurgents in at least 13 Latin American countries. Success in Nicaragua has provided a key base of forward operations from which to direct insurgencies throughout Central America. These terrorist operations are designed to disrupt public life, to weaken economic and industrial infrastructures, to undercut confidence in personal security, and in the ability of the existing governments to afford protection against guerrilla actions, and ultimately to cause those governments to fall. And there is no longer any doubt about the guerrillas' source of inspiration, supplies, and arms.

The State Department and the Defense Intelligence Agency have made public evidence of the vast Soviet-Cuban-Nicaraguan arms supply effort in Central America, including their direction of terrorist forces. Other information available to the U.S. government has been reviewed by the Select Intelligence Committees of Congress, which have affirmed the Administration's judgment of intimate Soviet-Cuban control and support of guerrilla insurgents in Central America. Moreover, the international character of the terrorist effort is underscored by Yasser Arafat's public boasting of the presence of PLO operatives in Nicaragua.

And we should not overlook the fact that the terrorist's victims include people, as well as governments. Their tactics of fomenting guerrilla warfare and strife, if unchecked, will surely generate a stream of refugees seeking to escape violence and looking for a life that offers some promise of well-being. This was true in Cuba following Castro's take-over in 1959, and the flow of Cuban refugees continues today. We have witnessed the plight of Southeast Asian refugees with deep sadness. Marxist totalitarian successes in Latin America not only would bring yet further tragic losses and human suffering, but the ability of the United States and other nations in this hemisphere to absorb such refugees would be severely taxed.

While combating guerrilla forces, the nations of Central America must also confront the growing disproportionate military might of Nicaragua, which is already far beyond anything credibly needed for Nicaragua's defense. The Sandinistas have announced their intention to build up their armed forces from an estimated 60,000—already the largest in the history of Central America—to 250,000, equivalent to the standing armed forces of Cuba. Major Soviet arms shipments to Nicaragua have reportedly included 25 T-55 tanks with 100 mm guns, truck-drawn howitzers, armored personnel carriers, and amphibious military ferries.[1] If Soviet MiG-17 or MiG-21 fighters are shipped to Nicaragua later this year—as expected—the threat to neighboring countries would dramatically increase. Currently, as estimated 70 Nicaraguans are being trained as jet fighter pilots and mechanics in Bulgaria; and four major airfields in Nicaragua are being readied to accommodate heavy attack aircraft.

There is reason to believe that these air bases in Nicaragua, in addition to Cuban air bases, are under Soviet supervision. Soon to be added is an airbase now under construction in Grenada, with a 9,800-foot runway capable of handling heavy fighter-bomber and troop transport aircraft. Grenada's Minister of National Mobilization has announced that the new air base and housing facilities in his country are at the disposal of Cuba and the Soviet Union.

As the Soviet/Cuban military presence has grown, the overall military balance has shifted to the detriment of the U.S.

At the time of the Cuban missile crisis, Khrushchev's emissary Kuznetsov—who is now Deputy Foreign Minister and a member of the Politburo—declared that never again would the Soviet Union back down to the United States in a direct confrontation. Since then, the Soviets have been laying the groundwork to make good on that promise.

For the past two decades, the Soviet Union has engaged in the most massive military buildup in peacetime history. During the 1970's—the years of so-called detent—Soviet defense spending increased by 40 percent, while U.S. defense spending steadily declined in the same real terms. Over that period, the Soviet Union spent $355 billion more than the United States in weapons investment alone—the major determinant of future capability—representing a yearly effort 90 percent greater than our own.

Contrary to popular rhetoric, President Reagan's planned defense buildup is but a modest beginning in reversing this alarming trend. Defense expenditures for the current fiscal year will be only six percent of GNP. In 1962, when President Kennedy successfully guided this country through the Cuban missile crisis, that figure was over nine percent. President Reagan's defense expenditures for 1982 will be 25 percent of total federal spending. In 1962, that figure was 45.9 percent. If the President's proposed five-year defense plan were scrupulously followed, military spending would rise to just 7.8 percent of GNP and 37 percent of total federal spending. Even these out-year targets are still far under our pre-Vietnam defense spending levels.

While in 1962, the United States enjoyed unquestioned strategic and naval superiority over the Soviet Union, President Reagan has said that now the Soviets have a margin of superiority over the U.S. The Soviet Union has exploited the decade of so-called detente to achieve a three-to-one edge over the U.S in the production of almost all types of strategic and tactical weapons. And we are still facing a destabilizing window of vulnerability in our strategic deterrent forces, due to the Soviet Union's concerted expansion of its strategic offensive capability throughout the negotiation and aftermath of SALT I and SALT II.

This change in "the correlation of forces" has emboldened the Soviets to take certain risks, such as their invasion of Afghanistan, their intimidation of the Polish people, their willingness to intervene in Africa, their offensive presence in Southeast Asia, and their threats to Western interests in the Middle East. In this regard, Soviet efforts to expand militarily into the Western Hemisphere should not be considered in isolation, but rather are part of a pattern of Soviet intervention worldwide. Similarly, our response has implications beyond the immediate regional security concerns. If we should prove unable or unwilling to respond to threats to peace and freedom here, in our own back yard, how can we be a credible ally in parts of the world far removed from our shores? America's response to threats to our security interests in the Western Hemisphere has a pervasive impact upon world

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Footnotes at end of article.

perceptions of U.S. determination to protect our interests elsewhere.

Our ability to deter Soviet intervention in this hemisphere as elsewhere depends in the first instance on Soviet preception of our will and determination. As President Kennedy wrote to Premier Khrushchev on October 22, 1962, "The one thing that has most concerned me has been the possibility that your government would not correctly understand the will and determination of the United States in any given situation." The President continued:

"It was in order to avoid any incorrect assessment on the part of your Government with respect to Cuba that I publicly stated that if certain developments in Cuba took place, the United States would do whatever must be done to protect its own security and that of its allies . . . . Moreover, the Congress adopted a resolution expressing its support of this declared policy."

That resolution, S.J. Res. 230, was signed into law by President Kennedy in 1962 and still remains the law of the land. It reads in part, "the United States is determined to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere." These principles were echoed in a declaration issued by the Organization of American States, in support of measures necessary to prevent Cuba from threatening the peace and security of the hemisphere.[2] And President Kennedy also pledged that if Cuba ever became a military base of significant capacity for the Soviets, then the United States would take any action necessary to protect itself and its hemispheric allies.[3]

The danger of incorrect assessment by the Soviets and Cubans is still very real. If the Soviets should see the U.S. allowing adverse changes in this hemisphere to proceed without opposition, they may misunderstand the depth of our commitment to the independence of our neighbors and to the defense of our vital interests. I believe that an express Congressional reaffirmation of S.J. Res. 230 would make an important contribution to our efforts to deter Cuban aggression and Soviet expansion. Accordingly, I have introduced a resolution in the House of Representatives that would reaffirm this standing law. The Senate may very well act first on a similar resolution that has been introduced by Senator Steve Symms of Idaho and now has 23 cosponsors. The Administration has thrown its support behind this resolution, which should assure its passage.

But no policy proclamation, no matter how forcefully expressed, will serve to deter subversion or offensive incursions if we lack the military capability necessary to defend our security interests. President Reagan came to office with the pledge to reverse the dangerous decline in the U.S. defense effort over the past 20 years and to redress the serious deficiencies in our forces, both strategic and general. However, due in no small measure to Congressional recalcitrance and narrow fiscal concerns, only the most marginal improvements have been made. This business-as-usual attitude cannot persist without incurring the most serious risks for our national security. It is imperative that we recognize the urgency of our defense requirements and rededicate ourselves to meeting those requirements as our highest national priority.

Beyond this, I believe that President Reagan's security and bilateral economic assistance programs deserve continued Congressional support. Last year, for the first time in three years, Congress passed a Foreign Assistance Appropriations Bill. I confess that I have never been a big partisan of foreign aid. But I fought for passage of that bill, because I am convinced that bilateral assistance, judiciously applied, can be a major investment in our own security and prosperity. First, U.S. security assistance is needed to enable important friends and allies to counter immediate threats to their security and stability and to achieve democratic reform. And second, recognizing that economic decline creates a ripe culture of discontent that destabilizing forces can exploit, we must help establish and protect the democratic institutions and free market mechanisms essential to economic prosperity. U.S. development assistance, if wisely conceived, can help pro-Western governments extend to their citizens the benefits of democratic capitalism from which economic well-being and independence can grow. Perhaps nowhere is the promise of both of these goals of our foreign policy more immediately apparent than in our assistance efforts to the Caribbean nations.

A dramatic case in point is El Salvador, the most immediate victim of Soviet-Cuban expansionist designs in the Western Hemisphere. The recent elections in El Salvador were a sign of hope for the success of democratic ideals and individual liberty over guerrilla terrorism and insurgency. But those elections would not have been possible without direct security assistance from the United States to the government of El Salvador to meet the military threat from Cuban- and Nicaraguan-backed insurgents seeking to destabilize the government and terrorize the populace. And that newly elected democratic government will not be able to serve the people of El Salvador without continuing U.S. support, both in term of military aid and vital development assistance structured to maximize individual incentives and the strength of the free market system. In light of the courage displayed by the men and women who went to the polls throughout El Salvador, in the face of violent threats and intimidation by leftist elements, I believe that the United States should continue to support that spirit of freedom by giving the democratically elected new government the chance to succeed.

Less dramatic but equally important are the election results in Jamaica and the Dominican Republic, and very recently St. Lucia, where pro-Western parties overcame leftist opposition with the help of broad popular support. The success and longevity of these democratic governments, plus the prospects for favorable elections elsewhere, may well depend on the economic health of the nations of the Caribbean.

In February of this year, President Reagan outlined his Caribbean Basin Initiative, a set of programs designed to promote economic growth among the nations of the Caribbean. In presenting the Caribbean Basin Initiative, the President correctly emphasized that the major assistance that we can offer to Caribbean nations is free trade. To accompany this trade, the President proposed to grant investment tax credits to U.S. firms expanding in the region and to provide supplemental economic support assistance to governments particularly hard hit economically.

But the program under consideration does not go far enough. As I said in a speech before the Council on Foreign Relations, this gesture of good faith cannot be mistaken for continuing policy. Above all, we must bring to bear the creative energies and proven successes of our system of democratic capitalism if the nations of this hemisphere are ever to know economic growth and opportunities for the creation of wealth.

Nations participating in the Caribbean Basin Initiative should be encouraged to undertake thorough reforms of their domestic fiscal policies to restrain government claims on resources and to restore economic incentives for individuals and businesses. The principle of individual rights to property and contracts should be established, including rights of due process. To foster such economic freedoms, Congress should structure CBI legislation to include bilateral agreements that will promote open markets and attract private equity capital. Finally, much greater emphasis must be placed on developing human resources—the single most powerful economic force in any economy—by concentrating our efforts on education and training, including studies of democratic institutions.

Our commitment to the independence and political integrity of the Western Hemisphere is an inalienable part of America's history and future, for this is our home and the free nations of this hemisphere our natural allies. In the familiar words of President Monroe, "With the movements in this hemisphere we are of necessity more immediately connected . . . we should consider any attempt by outside powers to extend their system to any portion of this hemisphere as dangerous to our peace and security."[4]

Today the intrusion of Soviet power and influence, in violation of solemn international agreement, poses a growing, unacceptable threat to the peace and security of the Western Hemisphere, and to the peace and security of the United States. We must reassert our national dedication to protect our hemisphere from external intervention and manipulation, as we work together with out neighbors to cultivate the growth of democratic capitalism, free institutions and American ideals—the infrastructure of freedom upon which our peace and security ultimately depend.

FOOTNOTES

[1] *Aviation Week and Space Technology* (March 15, 1982).

[2] Resolution approved by OAS Council (October 23, 1962).

[3] 57 *Department of State Bulletin*, 450, 481 (1962).

[4] Annual Message to Congress (December 2, 1823).●

VIEWS OF THE OHIO RIVER BASIN COMMISSION: A NATIONAL WATER POLICY TAKES PRECEDENCE

● Mr. STAFFORD. Mr. President, the Ohio River Basin Commission recently issued its water resources priorities report for 1982. I was most interested to discover that the Commission cited as its No. 1 priority the development of a coherent and generally accepted rational water policy. While I may disagree with some of the details the Commission regards as necessary for such a policy, I find this emphasis on new policy directions both refreshing and challenging. I applaud the Commission.

Mr. President, I ask that the Commission's statement be printed at this point in the RECORD.

The statement follows:

OHIO RIVER BASIN COMMISSION—1982 PRIORITIES REPORT

FIRST PRIORITY: NEW NATIONAL WATER POLICY

The Ohio Region's first priority is development of a coherent and generally accepted national water policy. Water resources planning and management is entering another period of change. Many of the existing water resources laws, programs and institutions have fallen short of expectations or require modification because of changing situations. The search for a better way to insure that the nation's people have adequate supplies of clean water must fully involve all levels of government and all sections of the nation.

The Commission is concerned about the water problems that its states and communities will face during the next few decades. The region's coal and water resources, coupled with its closeness to the nation's population centers, have already made the Ohio Basin a focus of intensive energy development, which will continue, with or without federal involvement. The states of the Commission are anxious that independent actions by any governmental level or element, but particularly some major federal policy decisions, may be made without adequate knowledge of, or concern for, the impacts such actions may have on the ability of other governmental units to properly fulfill their roles. This is why the ORBC has placed development of a sound national water policy as its top priority and why it wants to insure that this region is properly represented in the discussions that lead to changes in the old policies and creation of the new.

Any new national water policy should have the following characteristics:

It must provide for a working partnership between all levels of government while insuring that the states have the primary role in water resources planning and management.

It must provide for continuity of federal participation in water planning and management programs.

It must insure that water resources decisions consider the needs of all those affected and be flexible enough to permit each state or region to develop and manage its water resources in the manner most suitable for that state's or region's needs and characteristics.

It should be even-handed, applying the same rules, criteria and levels of commitment equally to all levels of government.

Consistent with these principles, there must be some national independent water resources policy group to simultaneously advise both the Executive and the Legislative Branches of the federal government. This national water policy group should include provisions for state participation. The states should also have the opportunity to create regional entities aligned with this national institution to advise it of regional needs and problems.

It is anticipated that there will be fewer direct federal projects in the future and that the work of the 1980's will be dominated by refinement in management systems and approaches. Such management planning may point to a need for redesignation of existing multi-purpose project uses. In addition, a number of regulatory programs are in need of reform. These include surface mining regulations where state primacy, consistent with general federal policy, is preferable to the current arrangements; and revision in hydroelectric power licensing relative to municipal preferences, states' supremacy over state-owned dams and water management responsibilities.

A major concern that will affect the future solutions to the region's needs and problems is the cost sharing arrangement under which the federal and state governments participate in water development projects. The first items to be considered and resolved by the national water resources policy group should be: Section 221 of PL 91-611; federal encroachment on water rights, whether direct or indirect; federal and non-federal cost recovery through user/beneficiary charges; the current priority afforded the water quality program under the Clean Water Act; and non-federal cost sharing of projects, studies and research.

The above examples of revision in national water policy are but a beginning. Through the coordinating mechanism cited, the region's interest in participating in the development of a new national water policy should be able to be accomplished.●

YEARLONG OVERSIGHT OF EEOC AND OFCCP

● Mr. HATCH. Mr. President, today marks the conclusion of more than a yearlong analysis I have conducted of the two principal Federal agencies responsible for equal employment opportunity, the Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Programs (OFCCP). Over the last year, I held 7 days of hearings before the Senate Labor and Human Resources Committee on the activities of these two agencies, establishing what I believe is a comprehensive record of their accomplishments and failures. This record, in turn, has provided the basis for the compilation of a thorough and responsible list of recommendations for their improvement.

There seems to be little question that the goals of eliminating discrimination and insuring equal opportunity have become fundamental social objectives. Consequently, the agencies responsible for their implementation must undergo periodic review to make certain that they are as effective and equitable as possible.

Those of us in public office are well aware of the constant need to monitor our governmental agencies. Without review, these bureaucracies often follow a familiar pattern. They quickly evolve into Federal institutions, primarily preoccupied with their own perpetuation. Their regulations become creatures of custom, justified more by habit than reason. Moreover, their staffs lose sight of their mandated task and develop priorities of importance to them alone. Eventually, these agencies become established, impregnable fixtures on the regulatory landscape. To revitalize such institutions then requires a Herculean effort, often beyond the power or patience of Congress.

The need for oversight hearings of the EEOC and OFCCP stemmed from my concern that there was a growing polarization within the American public over affirmative action and the remedying of discrimination, coupled with a general frustration with needless regulations and guidelines. My purpose was twofold: First, to evaluate the effectiveness of both agencies in carrying out their respective mandates; and second, to develop answers as to how best the Federal Government can pursue the twin goals of eliminating discrimination and increasing minority and female access to employment opportunities.

In the past, congressional oversight of OFCCP and EEOC has not been as thorough as it shoud have been. For example, little attention has been given to the experience of those being regulated, yet their comments would seem critical to any complete analysis of the performance of a Federal agency. Similarly, little concern was given to whether these agencies were utilizing the most effective methods available to them or had established a mechanism for measuring the agencies' success.

It must be remembered, however, that the regulations and guidelines of these two agencies affect the vast majority of working men and women. Today, approximately 86 percent of the population belongs to a group afforded some specific protection under Federal statutes or regulations. Consequently, the relative success or failure of the EEOC and the OFCCP has a profound impact on the employment patterns of this country and should be of interest to all of us.

Unlike previous congressional hearings, representatives of both contractors and civil rights groups were asked to testify at my oversight hearings on OFCCP. Although opinion varied greatly, when viewed together the testimony made it clear that by the end of the Carter administration the agency had lost sight of its unique mission. It was operating out of control. Unnecessary regulations, belligerent staff and erratic management were the rule not the exception.

All in all, its regulations were costing employers more than $1 billion each year, yet its officials were unable to provide any concrete evidence of whether their requirements were increasing access to employment opportunities for minorities, women, and the handicapped. Moreover, the agency seemed torn between being a mini-EEOC and fostering affirmative action programs, and it became clear that it could not simultaneously perform these separate tasks in a productive manner.

The hearings also revealed, however, that there is a strong commitment among both employers and civil rights leaders to the original intent of Executive Order 11246—the elimination of the barriers of employment discrimination to create equal access for all to employment opportunities. What was at issue was whether OFCCP's current regulatory program is the most practical, effective, and equitable method available.

These hearings culminated in a report which I issued in April of this year. It contained 14 recommendations which I believe will improve the program dramatically. These were based on three critical presumptions: First, that this Nation's commitment to ending employment discrimination is as strong today as it was during the passage of the Civil Rights Act of 1964; second, that a similar commitment exists to the original intent of Executive Order 11246; and third, that the problems of the 1980's cannot be solved by blind reliance on the popular solutions of the 1960's.

The recommendations are as follows:

EEOC needs to be strengthened.

It must be reaffirmed that the purpose of the Federal contract compliance program is to increase the number of employment opportunities for minorities and women.

The Federal contract compliance program must be prospective.

The need for training must be given priority.

An effective program must be inclusive.

An effective, equitable system for selecting contractors for review must be adopted.

The program should not exceed statutory requirements.

There must be a reaffirmation of good faith efforts as the standard of compliance.

The standards used in the program must be flexible.

Data requests must be based upon an identifiable need and must be protected.

If goals are to be set and underutilization measured based upon availability, then this figure should represent "current availability" not some "ultimate availability."

Hearing procedures must be established that insure both quick resolution of disputes and due process of law.

A standard for measuring the program's success must be established.

A procedure must be established for quick termination of unlawful or unnecessarily burdensome demands by agency personnel.

OFCCP was not inactive during this period. On April 25, 1981, it issued its first set of regulatory proposals, and a second set almost a year later, on April 23, 1982. Some of the recommendations made in my report were addressed in the second regulatory package, which contained proposals concerning the critical issues of availability, backpay, and job groups.

Moreover, a followup survey by my staff revealed that the new director of OFCCP, Ms. Ellen Shong, had made several improvements in the program's administration during her first year in office. Many of the abuses outlined in the report had become the exception not the rule and the belligerence between compliance officers and the contracting community seemed to be dissipating. In addition, documents submitted to the committee which have been included in the record indicate that the OFCCP is handling more complaints and conducting more compliance review than in the past.

Nonetheless, the fundamental regulatory problems besetting the agency can only be remedied by the issuance of either new regulations or a new Executive order. The regulatory proposals which were promulgated by OFCCP did not resolve the basic structural problems confronting the Executive order program. Moreover, they failed to keep the program inclusive. Large and small contractors must continue to be covered. Any regulatory burden stemming from broad coverage can be mitigated by varying the paperwork requirements of the program according to the size of the contractor.

On May 26, 1982, I asked Robert B. Collyer, Deputy Under Secretary for Employment Standards Administration, and Ms. Shong to testify before the committee on the steps they had taken and plans they are considering to remedy the problems besetting the agency. We also asked what goals they had established for improving the agency and when they hoped to achieve these goals. Although their complete testimony is contained in the hearing record which is being issued today, they did outline several key administrative activities which should be highlighted.

For example, they stated that the agency had completed a soon-to-be-released study which would demonstrate the effectiveness of the contract compliance program in increasing employment opportunities for minorities and women. They study was referred to throughout their testimony as justification for many of the regulatory techniques employed by the agency.

Second, they stated that a new system for selecting contractors for review was being developed which they hoped to have in place at the end of the year. Similarly, a new complaint screening procedure had been put together that insured that the agency's limited resources were not being wasted on complaints that were outside its jurisdiction or lacked even prima facie merit. These new procedures were to go into effect this summer.

Third, two task forces were established, the first to insure consistency in regulation among the agency's various regional offices and the second to review its systematic discrimination procedures. Both projects were given an expected completion date of the end of this summer.

Finally, the agency stated that it would be necessary for there to be extensive retraining of staff in its new procedures and policies. The lack of training of compliance officers was repeatedly cited during the hearings as a major cause of delay, antagonism, and the disruption between the OFCCP and the contracting community. As I understand, since the hearing a new task force has been formed to update the agency's compliance manual.

Obviously, all of these proposals are commendable. Unfortunately, as is so often true with governmental programs, the best laid plans can go awry. As I understand from recent news releases, the Department of Labor will not be finalizing either set of regulatory proposals in the foreseeable future. Apparently, much needed changes in the agency's regulations will be put off until 1983. Similarly, only a few of the proposed administrative steps have been taken, due in part to the absence of new regulations, and the study which demonstrates the agency's success has not been issued.

Testimony given by Mr. Collyer and Ms. Shong during the hearing also indicated that several of the problems OFCCP experienced in the past have yet to be addressed.

For example, the previous disregard for informing the contracting community and the public of important policy developments remains unchanged. When the decision was made that in the future OFCCP would not find illegal seniority systems considered legal under title VII, no mention of this new development was made public. No press release was issued, nor was a memorandum sent to the agency's regional offices, even though this alteration represented a significant departure from previous policy.

Obviously, given the importance and impact of developments such as the agency's shift of position on seniority systems, a decision with which I entirely agree, a more thorough mechanism for informing interested individuals and contractors of new policies and procedures must be developed.

In addition, a study conducted by the staff of the Senate Labor and Human Resources Committee indicated that the average cost of preparing the paperwork OFCCP routinely requests during a compliance review exceeds $25,000. If the agency continues to conduct approximately 3,130 reviews a year, this cost will exceed $78 million in 1982, an amount that is almost double the agency's entire

budget. Moreover, this data is not requested on the basis of need, but simply as a matter of course. Consequently, Federal contractors and ultimately the public will have to pay $78 million because of the agency's continuing failure to correct its paperwork requirements.

Finally, OFCCP is still duplicating the functions that Congress gave to the EEOC under title VII of the Civil Rights Act of 1964. According to documents submitted to the committee by the agency, approximately 20 percent of its budget is being spent in fiscal year 1982 on the investigation and remedying of past discrimination arising under the Executive order. Obviously, such duplication does not lend itself to an efficient expenditure of Federal resources and it always creates an opportunity for different and contradictory standards of compliance.

In fact, the hearings made it quite clear that there are two different standards of compliance—one under title VII and another under Executive Order 11246. These differences were the subject of several questions during the May 26 hearing, as well as written questions submitted to the Department of Labor after the hearing. When viewed together, the answers to these inquiries highlight not only the existence of a double standard, but the complications that arise from such duplication. Both the questions and the Department's responses are included in the hearing record.

In a letter dated July 13, 1982, Mr. Collyer stated that OFCCP will apply title VII case law in enforcing the antidiscrimination provisions of Executive Order 11246, including those relating to seniority systems. But then he went on to distinguish this rule with regard to specific issues I raised in my question, namely the adverse impact theory, the definition of availability, the timeliness of charges and the confidentiality of data.

Consequently, despite what I believe are the sincere attempts by this administration to establish correlative standards between the EEOC and the OFCCP, its officials have been unable to insure that the Government is enforcing only one standard for remedying discrimination. Until the duplication of responsibility between the OFCCP and EEOC is eliminated and there is only one Federal agency charged with investigating and remedying discrimination, it probably will be impossible for the Federal Government to have a single, consistent policy for enforcing equal employment opportunity. Instead, there remains a possibility today that employer conduct could be found lawful under title VII but violative of the Executive order program.

Moreover, the failure to define clearly the agency's legal standards has made it difficult for contractors and civil rights groups to determine what is and is not permitted under the Executive order program. I hope that these issues can be resolved early next year and believe that the recommendations contained in my report provide an equitable solution.

Advocating that the OFCCP no longer duplicate the activities of the EEOC does not mean that the complaint investigations currently processed by the former agency should be ignored. Instead, it simply seems prudent to have one agency investigating discrimination and the other fostering affirmative acts which will increase minority and female access to employment opportunities. Such a division avoids duplication and enables each agency to pursue more expeditiously its individual mandate.

Any revision in the responsibilities of the OFCCP must be based on a strong and effective EEOC. This presumption led to my initiating a correlative, yearlong review of the EEOC. As I began this investigation, numerous reports of mismanagement and financial irregularities were brought to my attention. Given the severity of some of these allegations, I requested that the General Accounting Office conduct an investigation of the EEOC's financial management to determine the extent of the deficiencies in the Commission's controls over appropriated funds.

The final report, published a year later on May 17, 1982, depicted a financial quagmire. According to the GAO, there were over $27 million in unliquidated obligations, over $9 million in unrecorded transactions, and more than $1 million in outstanding travel advances. Financial reports were unreliable, receivables and payables were mismanaged, fund controls were inadequate, and there were misstatements concerning yearend certifications.

Moreover, during the last 2 years of the Carter administration, $1.2 million was disbursed among five civil rights groups to finance employment discrimination suits. Under this program, attorneys representing plaintiffs could ask for a loan of $1,500 for individual complaints and $7,500 for class actions to cover the administrative cost of bringing suit. If the plaintiff won, it was expected that the loan would be repaid. If the defendant won, the loan was considered a grant and there was no requirement of repayment. It is interesting to note that of the $1.2 million set aside for these programs, $334,000 never was loaned out, but instead was spent administering the loans, a cost that works out to approximately $1,600 per loan.

In July 1982, the EEOC submitted to the committee the first detailed analysis of the status of the loan program; 201 loans were issued, of which 148 are still outstanding, accounting for almost $700,000.

The propriety of the loan program is highly questionable. Although legal arguments have been proffered both in favor and opposition to the program, it raises a more serious question—that is, Should the Government be underwriting one party in a private lawsuit? One can only imagine the hue and cry that would be raised if a similar loan fund had been established with the chamber of commerce to help small employers with less than 20 employees offset the administrative cost of discrimination suits.

Finally, it was revealed that during the Carter administration, a series of performance standards were established for supervisory personnel which required, among other things, that 45 percent of all complaints investigated by those working for the supervisor be resolved in favor of the complainant and that an average of $1,200 be awarded for every charge processed. Obviously, such standards would seem inappropriate for any agency charged with conducting objective investigations.

All of these issues were addressed in a hearing I conducted on June 15, 1982, the hearing record for which will be released within a week. I asked officials from the GAO who conducted the investigation to outline their findings, and EEOC Chairman Clarence Thomas was asked to describe the mission of EEOC and the steps he was undertaking or planned to take to correct the agency's deficiencies.

The record established by Chairman Thomas over the last several months is one of accomplishment. For the first time in recent memory, the EEOC was able to balance its books in June 1982. Accounting records have been reconciled and the ageny's financial system now meets normal Government standards.

As far as travel advances are concerned, the EEOC has collectd more than 50 percent of its overdue travel accounts and is continuing to make progress in recovering the remaining balance. The private loan fund is not being refunded, and efforts are now being made to collect the $700,000 still outstanding. The issue of possible yearend certification violations has been referred to the Dpartment of Justice and the questionable performance standard are being revised for the coming fiscal year, fiscal year 1983. I hope that the Commission will discontinue the use of both of these standards.

Chairman Thomas has also completed a thorough reorganization of the Commission's headquarters. Although several of the details of the reorganization initially caused concern, I am confident that Mr. Thomas has implemented a program that will be consist-

ent with his basic interest in effective management and active and involved Commissioners.

It should be noted that these accomplishments would not have been possible without the cooperation and interest of the other Commissioners at EEOC. Together they have formed what I hope will be a cooperative and productive team.

Despite the numerous allegations concerning this administration's commitment to equal employment opportunity that one sees constantly in the press, the Commissioners that have been nominated by President Reagan and confirmed by the Senate represent some of the best appointments to the EEOC in its history. Clarence Thomas, Cathy Shattuck, and Tony Gallegos are all experienced lawyers or administratiors who bring both skill and dedication to the Commission.

Achievement of equal employment opportunity is not simply an inevitable consequence of commitment. For Federal programs to work, the agencies responsible for their implementation must be well managed, efficient, and equitable as well as committed. The Reagan administration has placed several individuals who reflect all of these qualities in key positions with the two agencies. It should be noted that despite the commotion made when President Reagan was elected, OFCCP has not been eliminated as predicted, and the EEOC is one of the few Federal agencies whose budget has not been cut.

Instead, these agencies have benefited from the fresh review brought about by the change in administration and the oversight activities of the Senate Labor and Human Resources Committee. The EEOC has remedied many of the managerial problems that were revealed by the committee's investigation and seems properly positioned for continued improvement during the next 2 years.

OFCCP has not been as successful, due in part to the complexities of promulgating new Federal regulations and in part to its failure to address squarely the principal, structural problems with the program. Until its officials resolve the legal responsibilities and limitations of the agency, the Executive order contract compliance program, from a regulatory standpoint, will continue to be hampered.

Nonetheless, the agency is by no means dormant. The administrative improvements Ms. Shong has been able to implement have resulted in an increase of 20 percent in the number of compliance reviews conducted by the agency each year and a 24-percent increase in the annual number of complaint investigations, commendable accomplishments by themselves.

Both hearings demonstrate the value of and necessity for consistent, periodic congressional oversight, and this oversight will continue in the Senate. I began the hearings last year with a basic question—if we are committed to the goal of insuring equality of opportunity for women and minorities, how should we pursue this goal? I will continue to ask this question in the future. I am confident that by doing so this Nation will be able to provide all of its citizens with not just a promise but a guarantee of equal employment opportunity.●

ANNIVERSARY OF FIRST CHURCH OF CHRIST CONGREGATIONAL IN HARTFORD, CONN.

● Mr. WEICKER. Mr. President, I rise today to acknowledge the 350th anniversary of an event which is of historical importance to New England particularly and the Nation in general: The founding of the First Church of Christ Congregational in Hartford, Conn.

In October 1632 the settlers who had founded Newtown, later Cambridge, of the Massachusetts Bay Colony, established a simple Puritan congregation in which they could practice the faith which had been outlawed in England. The Reverend Thomas Hooker, a recent emigree from Britain via the Netherlands, was made the pastor and the Reverend Samuel Stone his assistant. Despite living in a Puritan theocracy, Hooker and his parishioners were not content. They sought greater autonomy from the colonial government and more freedom in running their church. They wanted to move to the west toward "the great tidal river," the Connecticut. Because the colony feared Dutch claims to that region and sought to acquire more and fertile land, the General Court of the colony soon gave the people of Newtown permission "to seek out some convenient place" on the river on which to settle.

Hooker and 100 followers left Newtown in the spring of 1636. For 3 weeks they drove their herds through the New England wilderness, singing the Psalms of David as they went. Upon reaching the river they crossed it and situated themselves at a place which the Indians called Suckiaug. Hooker renamed it after Reverend Stone's native town of Hertford in southeastern England. Their new home was to be Hartford. The Newtown church was relocated to Hartford, and it was from this pulpit that Hooker in 1639 articulated the Fundamental Orders, the first written constitution in the New World. Since that time the Center Church, as it is known, has served as the spiritual heart of the city of Hartford and an inspiration to all who have known it.

Last month, in remembrance of the founding of their Church, two dozen members retraced the route which Hooker and his followers took on their pilgrimage. They found it to be a thrilling experience which renewed their pride and love for Center Church. The faith and conviction exhibited by those at the church for three and a half centuries is the essence of what Connecticut is. It is with great honor that I salute the First Church of Christ in Hartford.●

CENTENNIAL OF ST. LUKE'S HOSPITAL

● Mr. DANFORTH. Mr. President, St. Luke's Hospital of Kansas City, Mo., is observing its centennial year. The vitality of St. Luke's is an excellent commentary on the strength of the Nation's institutions.

The story of St. Luke's Hospital is one of vision and commitment to excellence in providing medical care to the people of Kansas City and a growing service area. I join with countless other friends of St. Luke's in expecting very high accomplishments in the future.

St. Luke's Hospital was incorporated as All Saints Hospital on October 3, 1882, the first Episcopal hospital in the Kansas City area. In the years since, St. Luke's Hospital has provided greater service in response to growing need.

In 1902, the first surgery was performed at St. Luke's. The School of Nursing, which trains more than 300 students annually under full accreditation, opened in 1903. A children's hospital was constructed in 1945. In 1968, the Nation's first hyperbaric care unit—a breakthrough in the treatment of smoke inhalation and vascular insufficiency—was put into service. The hospital performed its first kidney transplant in 1969.

The decade ending in 1982 was a period of vigorous expansion—the Helen F. Spencer Center for Education, 1972; the Sexual Assault Treatment Center, 1974; the Ambulatory Surgery Center, 1978; and Health Institute, 1980, the Mid-American Heart Institute, 1981.

The programs of St. Luke's—the Kansas City area's largest, at 665 beds—extend beyond patient care to education, research, rehabilitation, and preventive medicine. The hospital is known nationally as a teaching hospital, affiliated with the Schools of Medicine of the University of Missouri-Kansas City and the University of Kansas. St. Luke's maintains medical research programs through laboratories specializing in kidney and heart disease. The Health Institute and Lifewise programs promote preventive and rehabilitative medicine.

Excellence is the heritage of St. Luke's. Excellence in any significant endeavor cannot be the product of happenstance. It is, instead, the result

of commitment, hard work, vision, and the willingness to reach high in pursuit of goals.

To those who seek a sense of optimism about the strength and resilience of America's institutions, I am proud to recommend the example of St. Luke's Hospital.●

PHILIPS INDUSTRIES, INC.

● Mr. METZENBAUM. Mr. President, today Philips Industries, Inc., of Dayton, Ohio, will be celebrating the occasion of its 25th anniversary. I want to extend my congratulations to the personnel of Philips Industries and to the company's chairman of the board of directors and chief executive officer, Mr. Jesse Philips.

In 1957, Philips Industries was founded with one manufacturing plant and a payroll of 20. Today, the company is a multinational corporation employing nearly 800 Ohioans. Still headquartered in Montgomery County, Ohio, Philips Industries has provided a quarter century of service and economic stability to the community, sharing its success with the people of the region. The rapid growth of this company is a fine tribute to the outstanding business climate in the State of Ohio.

A tremendous amount of credit for the growth of Philips Industries must go to its founder and chairman, Jesse Philips, a gifted, resourceful and creative businessman. I commend Ohio Gov. James A. Rhodes for proclaiming September 30 "Jesse Philips Day," and I join all Ohioans in thanking Mr. Philips for giving so much to our State.

Mr. President, at a time when so much of our economic news is bleak, it is especially heartening to hear a business that continues to thrive and look toward the future with confidence and anticipation.

I wish Philips Industries, Inc., the same success in its next 25 years that it has enjoyed in its first quarter century.

I submit for the RECORD the various proclamations and resolutions adopted in Ohio and Indiana.

The material follows:

A RESOLUTION

Since 1957, Philips Industries, Inc. has been an important business citizen of the Montgomery County community. During the 25 years that have elapsed since this great business enterprise was established, Philips Industries, Inc. has conducted both administrative and manufacturing operations in Montgomery County, providing jobs and contributing to the economic health of the entire community.

By maintaining its corporate headquarters in Montgomery County, Philips Industries, Inc. has voted its confidence in our area as an outstanding community in which to live, work, and conduct business.

On the occasion of the 25th Anniversary of Philips Industries, Inc., to be celebrated on the 30th day of September, 1982, the Board of County Commissioners of Montgomery County Ohio sends congratulations on behalf of all citizens of the county to Philips Industries, Inc. and to Mr. Jesse Philips, founder and chairman of Philips Industries, Inc. on the great record of growth and service to the community achieved by the company during the past quarter century.

STATE OF OHIO—PROCLAMATION

Whereas, Philips Industries, Inc., headquartered in Dayton, Ohio, is celebrating the occasion of its 25th anniversary; and

Whereas, Philips Industries, Inc., has been an upstanding and progressive business in the State of Ohio over the past quarter century; and

Whereas, Philips Industries has, and will continue, to achieve success in the corporate world; and

Whereas, Jesse Philips, Chairman of the Board of Directors and Chief Executive Officer of the company, is a highly respected and valued businessman;

I, James A. Rhodes, Governor of the State of Ohio, do hereby proclaim that the date of Thursday, September 30, the 25th anniversary of Philips Industries, Inc., be known as "Jesse Philips Day."

A RESOLUTION

Whereas, Philips Industries, Inc. was founded in Dayton in 1957 with one manufacturing plant and 20 employees and since that time has grown to become a multinational corporation providing employment to nearly 800 Ohioans in three communities of this state; and

Whereas, Philips Industries, Inc. has maintained its corporate headquarters in Ohio since it was founded, providing solid testimony to the outstanding business climate found in the State of Ohio,

Now therefore, be it resolved that on the occasion of the Twenty-Fifth Anniversaries of Philips Industries, Inc., the House of Representatives of the State of Ohio send congratulations to Philips Industries, Inc., and its chairman, Mr. Jesse Philips, on the growth and progress achieved by the company during its first quarter century of operation.

A PROCLAMATION

Whereas, Philips Industries, Inc. is celebrating the occasion of its 25th anniversary; and

Whereas, Philips Industries, Inc. has been a successful part of Indiana's business world since 1963; and

Whereas, this company has achieved great strides in progress and economic stability in the state of Indiana; and

Whereas, Mr. Jesse Philips, Chairman of the Board of Directors and Chief Executive Officer of the company, has acted as a respected and honored businessman in the State of Indiana;

I, Robert D. Orr, Governor of the State of Indiana, do hereby proclaim Thursday, September 30, as "Jesse Philips Day."

A PROCLAMATION

Whereas, Philips Industries, Inc. has been a valued and respected corporate citizen of Dayton for a quarter of a century; and

Whereas, Philips Industries, Inc. has in those 25 years made a significant contribution to the growth, prosperity, and overall economic health of Dayton and the entire Upper Miami Valley Community; and

Whereas, Philips Industries, Inc. has testified to its confidence in our community as a good place to live and do business by maintaining its corporate headquarters in metropolitan Dayton; and

Whereas, the people of Philips Industries, Inc., following the personal example of Jesse Philips, Chairman and Chief Executive Officer, have made countless individual contributions to community life and service; and

Whereas, Philips Industries, Inc. is officially commemorating its 25th Anniversary as a company with special ceremonies and festivities to be held on the 30th day of September, 1982; and

Whereas, Chairman Jesse Philips is being honored by the Newcomen Society in North America on that occasion;

Now, therefore, be it resolved that it is appropriate for the people and the government of the City of Dayton to recognize the contributions to the community made by Philips Industries, Inc. and Mr. Jesse Philips during the past quarter century, and that in furtherance of this recognition, I, Paul J. Leonard, Mayor of the City of Dayton, do hereby proclaim that Wednesday, the 30th day of September, 1982, shall be known as Philips Industries Day in Dayton, and urge my fellow citizens to join me in congratulating Philips Industries, Inc. and Mr. Jesse Philips on the occasion of this important event in the company's history.●

CANDID COMMUNICATION

● Mr. D'AMATO. Mr. President, I wish to bring to the attention of the Senate a letter from Mr. C. Edward Acker, chairman and president of Pan American World Airways, to each of Pan Am's 30,000 plus employees. The letter is a model of candid communication between management and employees. It describes the company's present predicament, presents a careful plan for improvement, and explains the sacrifices that will be required if the company is to return to profitability.

I commend the letter to my colleagues, and I ask that it be printed in the RECORD.

The letter referred to follows:

PAN AM,
September 24, 1982.

DEAR FELLOW PAN AM EMPLOYEE: It is now just over a year that I have been associated with Pan Am, and I want to thank all of you for your dedication, sacrifice and effort to return your Company to profitability. I believe we will reach our goal in 1983. I would like to report to you what I consider we have accomplished in the past year and look at the year ahead and discuss what we must accomplish in 1983.

When I first came to Pan Am, I set forth five objectives that were essential if Pan Am was to survive and then prosper. They were as follows:

1. Improve the balance sheet; that is, the financial condition of the Company;

2. Substantially reduce unit costs of operations;

3. Improve the product; that is, do a better job for our customer;

4. Reduce the operating losses and position the Company for a return to profitability;

5. Increase the revenue stream by increasing capacity over the 1981 level, and improve the yield per revenue passenger mile.

The first four objectives were accomplished. However, revenue (or Objective #5) has remained static, and although our operating losses have diminished, we must now take additional steps to lower our costs, further improve our product and totally eliminate operating losses.

Our 1982 plan has been adversely affected by a number of problems, such as the continued airport slot restrictions, continued recession in the United States and all the major countries we serve, and the Falklands War between Argentina and England.

However, the two unique problems that have affected revenues are the continued strength of the U.S. dollar and the lack of confidence that exists in the minds of certain individual travellers and the travel agent industry in Pan Am's ability to stay in business. Were it not for these two continuing problems, together with the extended recession, Pan Am would achieve an operating profit for the year 1982.

There is very little we can do about the strength of the dollar, but we can and must vigorously address the confidence factor by taking whatever steps are necessary to conclusively prove to the travel industry and the financial and travel trade press that Pan Am is not going out of business. Until we "knock out" the constant rumors of impending bankruptcy, we will continue to suffer revenue erosion. It is human nature for sales persons of competing airlines to speculate on Pan Am financial condition, and we—all of us—must counter those actions by knowing without any doubt that our Company is going to make it.

For the first eight months of 1982, Pan Am suffered loss of revenue due to "dollar strength" of $100,000,000.00. We forecast, due to lower U.S. interest rates, the dollar will moderately weaken in 1983, and a large part of the erosion will be stopped.

We estimate the "lack of confidence" factor could reduce our 1982 revenue by a minimum of $120,000,000.00, and that is probably a very low figure.

Were it not for the two major unexpected problems of "dollar strength" and the confidence factor, our Fly Our Way Back to Profitability plan would have been very successful. All major banks and economic forecasters predicted a weaker dollar for 1982, and our forecasts were based on a consensus of their forecasts. The confidence problem was created mainly as a result of the Laker and Braniff bankruptcies.

At any rate, we have made progress:

1. Our balance sheet is much improved. All short-term and floating rate debt is gone and our various financial ratios compare very favorably with the rest of our industry.

2. Unit costs have decreased. For example, available seat mile costs are down over 20 percent, and breakeven load factor is also down over 20 percent. Also, yield per passenger revenue mile has increased in spite of the currency problem.

3. Our product is much better by every statistical measurement. Particularly significant is a 35 percent decrease in complaints and a 40 percent increase in compliments.

Looking ahead at 1982, we must take additional action that will once and for all remove any questions concerning Pan Am's ability to produce profits.

1. We will continue to improve the balance sheet by converting non-productive assets to cash, such as B747-200F freighters excessive to our needs, excess gates at Houston Intercontinental, B727-100 series aircraft, certain spare engines and other equipment, and non-productive real estate.

We will also dispose of our L-1011 fleet, and this will cut our total debt in half and save the company over $150,000,000.00 in costs once fleet disposition occurs.

2. We will reduce our operating costs by eliminating certain routes that produce less revenue than the cost to fly them, by routing certain traffic on one-stop flights already operating and eliminating non-stop service, such as suspending Houston to London Gatwick and routing our Houston passengers over New York to London Heathrow.

3. We will reduce our labor costs by an amount equal to the elimination of 5,000+ employee headcount. We approach this with an objective of furloughing the fewest people possible, by offering early retirement, leaves of absence and using job sharing techniques. I have been in this industry 18 years as a senior executive and this will be the first time I have ever furloughed anyone: I don't take it lightly and I don't like it either. But to protect the jobs of all other employees and enhance recall of those to be furloughed, we must act quickly to reduce labor costs, and consequently, there is no way to avoid a furlough.

4. We are currently negotiating financing arrangements with commerical banks and investment bankers to raise as much as $200,000,000.00 additional capital in addition to the cash received from asset sales.

As you can see, the 1983 plan should be well financed by borrowing and asset sales in addition to our current cash reserves. The substantial reduction in labor costs, elimination of non-profitable flying, disposition of the L-1011 fleet and restoration of confidence in Pan Am will produce a 1983 result of which we will all be proud. It will also be a result that will put Pan Am on a road to prosperity that will produce more and better jobs. Pan Am should and will again be a growth company.

The effects of deregulation, recession, inflation and high interest rates have taken their toll on the airline industry, particularly the large trunks and international carriers. The last 3 years have been tough ones. Pan Am has improved more in 1982 than any other major carrier, and we must keep up our momentum. What we have to do is not pleasant, but it will be rewarding and above all else, it is absolutely necessary.

As we go through the next year, I will keep you advised of our progress by a monthly "How Goes It" newsletter, to be sent to all employees and authored by me and other members of the senior executive staff. The first copy will be distributed in early November.

My thanks again for your considerable role in the progress made in the last twelve months.

Best regards.

C. EDWARD ACKER.[1]

NATIONAL PRODUCTIVITY IMPROVEMENT WEEK

● Mr. NUNN. Mr. President, the week of October 4 through October 9, 1982, has been designated "National Productivity Improvement Week," pursuant to Senate Resolution 453. In offering this resolution on behalf of the American Institute of Industrial Engineers, our purpose was to emphasize the critical role productivity gains play in determining our living standards, and to reaffirm our commitment to taking steps designed to improve the future productivity performance of American business.

As you know, the strength of productivity growth determines the degree to which our society can grow and prosper. Our standard of living is directly tied to our ability to use our limited real and financial resources in the most efficient manner. To the extent that we do not use our resources efficiently and we permit productivity growth to decline, unit labor costs are increased, which in turn boosts inflationary pressures and erodes our competitive position in world trade. Unfortunately, this is precisely what has happened.

Over the last decade we have witnessed a marked deceleration in the productivity of American business, while businesses in countries such as Japan and West Germany have maintained exceptionally high rates of productivity. As a consequence, the competitiveness of American business has been severely eroded, resulting in an estimated $125 billion in lost production and a loss of more than 2 million industrial jobs. Unless the dismal productivity performance of American business of the last 10 years is reversed, we will not regain our peeminent position in world trade, and American jobs will continue to be lost to foreign manufacturers.

As policymakers, we can foster an environment that will be more conducive to improved productivity growth. Well conceived long-term economic policies must not be sacrificed to achieve illusory short-term gains. Inflationary policies of the past must be continually avoided, and the promotion of greater investment and research and development expenditures must also remain the highest of priorities.

Mr. President, I am very pleased that the American Institute of Industrial Engineers has continued their public information campaign to promote a better understanding of the vital aspects of productivity improvement. With the grim prospects of slow economic growth for the foreseeable future, achieving increased productivity growth becomes more important than ever. As we enter "National Productivity Improvement Week," it is imperative that we carry on a renewed sense of commitment toward establishing policies that will contribute to the improvement of American business productivity.●

HARVARD PRESIDENT'S REPORT ON STUDENT FINANCIAL AID PROGRAMS

● Mr. HUDDLESTON. Mr. President, the student financial aid programs of the Federal Government are an important means of assuring that all students have an opportunity to attend

college. Unfortunately, the Reagan administration views much of the funding for these programs as unnecessary and has repeatedly asked for further cuts in aid levels. These policies are inconsistent with our desire to have an educated populace that will be able to meet the challenges of the coming decades.

Dr. Derek C. Bok, the president of Harvard University, prepared a detailed history of the student financial aid programs along with his recommendations for the future of student assistance. While this report was prepared in March of this year before Congress rejected many of the administration's proposed changes, it is still timely. I am sure Congress will be asked to eliminate or reduce assistance again when the President's fiscal year 1984 budget is received.

We need to remember that we will only be hurting our country in the future if we shortchange education today. Education as a tool to a better tomorrow has always been the great American dream—and it should not be sacrificed to short-term objectives.

Mr. President, I ask that the President's Report for Harvard University be printed in the RECORD.

The material follows:

HARVARD UNIVERSITY—THE PRESIDENT'S REPORT 1980–81

(By Derek C. Bok, President)

To the Members of the Board of Overseers:

Ladies and Gentlemen, I have the honor to present my report for 1980–81.

The subject of this year's report was conceived last December during a meeting in the White House with one of President Reagan's deputies. Accompanied by my counterpart from Princeton, I had come to discuss proposals from David Stockman that would dismantle much of the bipartisan program for student aid that Congress had constructed over the previous fifteen years. We arrived armed with figures, statistics, and careful recitations of the harm that would befall the nation's students if Mr. Stockman's ideas were enacted. But we had scarcely sat down when we were greeted with an unexpected challenge. "What we need from you," said the White House aide, "is some help in thinking through what the role of the federal government ought to be in higher education." Alas, like jesting Pilate, our host could not tarry for an answer. We had been told before we entered that we were fortunate even to receive an appointment in an unusually hectic week and that we could stay no more than fifteen minutes.

Yet the task of defining the proper federal role is still important, and not merely because of Mr. Stockman's startling proposals. The programs of student aid that took shape during the 1970s developed in an era of seeming affluence, of social engineering, of ambitious government. Suddenly, all that has changed. The nation feels pinched and overextended. A new administration is in office riding a ground swell of public concern that the government has tried to do too much and should sharply cut back its responsibilities.

At such a time, educational programs are a natural target for scrutiny. Their values are intangible, their effects long-term. They fall squarely within that narrow band of federal undertakings that seem discretionary, up for grabs, outside the more secure redoubts of defense expenditures and payments on the national debt. And yet, in a period of sluggish growth and grave concern over the economy, education is a matter of acute national importance. As Peter Drucker once observed: "The abundant and increasing supply of highly educated people has become the absolute prerequisite of social and economic development in our world. It is rapidly becoming a condition of national survival. . . . The essential new fact is that a developed society and economy are less than fully effective if anyone is educated to less than the limit of his potential" In such a world, we need to review the government's educational programs with special care not only to decide in what respects they are overgenerous but also to consider the extent to which they represent a sound investment in the nation's future.

This subject is also vital to colleges and universities, and no less so to Harvard. Alumni often ask me how great a portion of the University's budget comes from the federal government—and it is clear that they would prefer it if the fraction sank to zero. Although I understand their sentiments, the plain fact is that universities like ours could not survive in their present form without federal support. In 1980, Harvard received $108 million from Washington, almost 25 percent of our total budget. The bulk of these funds went to support our research programs, chiefly in the Faculty of Arts and Sciences, the Medical School, and the School of Public Health. But a full $12 million came in the form of student grants, another $34 million went directly to students as federally subsidized loans, and more than $3 million arrived as federal subsidies for campus jobs for students. So pervasive has this assistance become that during the year just passed 70 percent of our student body received some form of financial support from the government.

Student aid, of course, was an integral part of Harvard policy for generations and even centuries before the emergence of federal aid. In 1643, Lady Anne (Radcliffe) Mowlson contributed the sum of 100 pounds sterling to provide "a perpetuall stipend for and towards the yea[rly] maintenance of some poor scholler. . . ." Through much of the seventeenth century, the College devoted up to one-third of its total revenues to student assistance. Although this percentage fell sharply in later years, Harvard's scholarship endowments slowly grew and helped to keep the University open to able young men of modest means.

In the early 1930s, the University strove mightily to increase its scholarships to attract a diverse and genuinely national student body. As President Conant declared, "We should be able to say that any man with remarkable talents may obtain his education at Harvard whether he be rich or penniless, whether he come from Boston or San Francisco." By and large, these efforts proved successful. Yet even at the end of the 1950s, Professor Seymour Harris observed that "Harvard for generations has not been able to finance those most in need of help . . . the bottom 20 percent in family incomes."

The growth of federal assistance made it possible to attract more students of limited means while defraying some of the added costs of admitting these young men and women. And Harvard quickly responded. As President Pusey remarked in 1968, "The heightened interest shown . . . last year in attracting more disadvantaged students was sufficiently great to constitute virtually a basic change [in admissions policy]." In the years that followed, federal aid proved critical in enabling Harvard and other universities to maintain these policies despite inflation, growing regulatory burdens, and an exceedingly sluggish stock market. Not only in the College but in most of our graduate schools as well, the steady growth in government support from 1965 to 1980 made it possible to keep increasing student charges in the face of rapidly rising costs without driving away poor and middle-income applicants. Within two decades, therefore, federal assistance had become a vital force in shaping the character and diversity of the entire Harvard student body.

Although government aid is important to Harvard in fulfilling its basic philosophy and mission, no one likes to receive federal dollars that do not serve some important national purpose. Such support would not be justified. And as a practical matter, it would not last. Hence, at a moment when the nation seems to be reexamining so many government programs, I thought it timely to devote this annual report to a discussion of the proper federal role in assisting students attending colleges and universities.[1]

A BRIEF HISTORY

Although the federal government provided massive scholarship aid under the GI Bill after World War II, a sustained program of student support really began in 1958 under President Eisenhower. At that time, the launching of Sputnik dramatized the strength of Soviet science and convinced the public that the nation required a greater national effort in education. At the President's urging, Congress soon passed the National Defense Education Act. In the opening sentences of the bill, the lawmakers expressed their purposes in no uncertain terms:

"The Congress hereby finds and declares that the security of the Nation requires the fullest development of the mental resources and technical skills of its young men and women. . . . We must increase our efforts to identify and educate more of the talent of our Nation. This requires programs that will give assurance that no student of ability will be denied an opportunity for higher education because of financial need."

Although the terms of the Act were less ambitious than these sweeping goals implied, Congress did provide extensive low-interest loans for needy students and extended even more generous support to those entering fields of critical need, such as foreign language training and Ph.D. programs. This emphasis on encouraging particular types of needed manpower later grew to include the health professions, engineering, and elementary and secondary school teaching.

Congress took a further step forward in 1965 at the request of President Johnson. In the Higher Education Act of that year, the government moved beyond a concern for national preparedness to embrace an even more ambitious goal. In Johnson's words:

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[1] When I began this report, I hoped to cover each of the two major categories of government support: student aid and research. It soon became clear that I could not do justice to both topics within the limits of space mercifully imposed on reports of this kind. I have therefore decided to confine myself to student aid, not because it is necessarily more important but because it is currently under attack to a degree far greater than is yet the case for research.

"Every child must be encouraged to get as much education as he has the ability to take. We want this not only for his sake—but for the nation's sake. Nothing matters more to the future of our country: not our military preparedness—for armed might is worthless if we lack the brainpower to build a world of peace; not our productive economy—for we cannot sustain growth without trained manpower; not our democratic system of government—for freedom is fragile if citizens are ignorant."

To further these ends, Congress created a new program of undergraduate scholarships for low-income students, supplemented by funds to subsidize student jobs and loan guarantees to make credit available to those needing help in paying for the costs of their education.

President Nixon returned to these goals in his higher education message of 1970. In his words: "No qualified student who wants to go to college should be barred by lack of money." Emphasizing a commitment that went beyond assisting talented students or students in fields of acute national need, the President declared that "equal educational opportunity . . . must now become a reality for every young person in the United States, whatever his economic circumstances." In 1972, Congress responded with an ambitious program, offering Basic Educational Opportunity Grants, as well as additional loans and stipends, to secure a college education for all students with financial need.

Yet another step was taken in President Carter's administration when Congress recognized the growing financial strain encountered by middle-income families in paying for advanced education. The Middle Income Student Assistance Act of 1978 expanded the definition of need expressed in earlier legislation so that Basic Educational Opportunity grants could now go to students from families with incomes up to $25,000 per year. Two years later, federally guaranteed and subsidized loans were offered not only to families of low and moderate income but to all students regardless of need. With this amendment, President Carter could declare that "we've brought college within the reach of every student in this Nation who's qualified for higher education. The idea that lack of money should be no barrier to a college education is no longer a dream, it's a reality." In fact, not only had college become a reality to all interested applicants; federally insured and subsidized loans made it possible for students to finance their graduate and professional education as well.

The size of these programs grew steeply as more and more students began to take advantage of them. By the end of the Carter administration, total federal outlays were climbing toward $7 billion per year—over $2.5 billion in scholarship grants, almost $2 billion in subsidized loans, approximately $2 billion in scholarships to dependents under the Social Security Program, and most of the remainder in work-study subsidies. As a result of these generous appropriations, over 2.85 million students were receiving federal grants by 1981 while 3.5 million obtained subsidized loans.

It was obvious from the outset of the Reagan administration that these programs would receive careful scrutiny. Nine days after his inauguration, presiding over the installation of his new Secretary of Education, the President announced that the Secretary's mission would be "to look at the appropriate role of the federal government in education, if there is one, and to report back." (Emphasis added.) The axe began to fall shortly thereafter. First, Fiscal Year 1981 appropriations were cut $600 million from the levels required to maintain existing levels of support for all eligible students. Next, in the summer of 1981, Congress agreed to phase out the $2 billion in social security grants paid annually to dependent children. At the same time, the Budget Reconciliation Act cut $1 billion more from student aid appropriations for Fiscal Year 1982. Through these measures, Congress effectively repealed the Middle Income Student Assistance Act of 1978, which had extended the federal grant program to students from families earning from $15,000 to $25,000 per year. In addition, the legislators took back much of the ground gained by the 1980 amendments, which had increased the size of the grants and expanded eligibility for subsidized loans.

It was against this backdrop that the Office of Management and Budget announced its recommendations for sweeping new cuts last December. As reported in The Washington Post, Mr. Stockman hoped to reduce the already shrunken basic grant appropriations by over 60 percent, thus restricting awards to students from families earning less than $7,500 per year. Appropriations for loan programs would fall by more than 20 percent, with graduate students having to borrow at much higher rates and undergraduates being required to repay their loans at rates of interest but rose to market levels commencing two years after finishing college. Under these proposals, total federal outlays for student aid would sink to less than half of their 1981 levels, and the entire structure of student assistance would be radically transformed. It was this prospect that brought us to the White House and prompted an invitation to offer our views on the basic rationale for federal involvement in higher education.

THE NATIONAL INTEREST IN HIGHER EDUCATION

Higher education at any level can bring satisfactions to those who seek them. Some of the rewards lie in acquiring new interests, added knowledge, and greater appreciation of intellectual endeavors. Others come from gaining vocational skills that open doors to higher incomes and more challenging occupations. In either case, the benefits can often last a lifetime. But they are not the sort of benefits that justify large expenditures of public funds. At least in times of austerity and fiscal restraint, one can strongly support federal outlays only insofar as they serve some public purpose that transcends the private ends of the immediate beneficiaries.

The public benefits of higher education have been traditionally defined in much the same way as described by a succession of Presidents during the growth of student assistance programs after 1958: to enrich our civic life by preparing a more educated citizenry; to promote economic growth by enhancing the skills and talents of the labor force; to allow opportunities for everyone to advance and prosper to the extent that their native abilities allow. These purposes are so familiar, so instinctively plausible, that we can easily take them for granted. Nevertheless, a skeptical mind can attack them on a number of fronts, especially when they are used to justify a multi-billion dollar program financed with tax dollars. Is more education supposed to bring us higher productivity, better government, and greater upward mobility? Why is it, then, after such a vast expansion of our college and graduate school enrollments, that productivity has declined, that voter participation has diminished, that confidence in our public institutions has eroded, that we are more concerned than ever about our culture of poverty with its persistent underclass of welfare recipients and unemployed? Granted, no sensible person would argue that the growth of higher education has caused productivity to decline, or welfare rolls to grow, or confidence in our government to wane. Many other factors are at work to explain these unfortunate trends. But if we thought that further education would improve the workings of government or the performance of the economy, surely our recent experience should lead us to pause and reconsider.

In thinking further about the problem, we quickly discover how little we really know about the effects of higher education. How do students actually change and grow through their undergraduate experience? How much does college—or graduate school, for that matter—truly help people become better leaders, make wiser judgments, be more productive? In fact, our answers are not at all firm. We can show that college graduates are more inclined to vote, run for office, exercise leadership. And it is also true of most demanding jobs that employers prefer applicants with B.A.'s to those who have only a high school education. But do graduates vote more and earn more because they went to college or only because they were more intelligent and energetic to begin with? And do employers really know that college graduates are more successful employees or do they merely use a college degree as a convenient shortcut, a sorting device to identify applicants who have at least shown enough intelligence and persistence to make their way through four more years of education?

Beyond these troublesome inquiries, skeptics have still more vexing questions to ask. Even if we assume that a college education helps people perform better in demanding jobs, does the economy need more graudates than we would have without expensive federal programs? Although we affirm the goal of opportunities for all, isn't it true that those who really wish to better themselves will somehow find a way to obtain a college education? And if some financial assistance is required, hasn't this traditionally been the responsibility of the states, abetted by private philanthropy to create scholarships for the needy?

These are all legitimate questions. We should ponder them carefully. But as we do, we cannot succumb to that extreme skepticism that asks us to legitimate each federal expendure by proving its value conclusively and demonstrating its effectiveness empirically. Such requirements are simply not feasible. In estimating the effects of a college education, for example, it is hard to devise truly reliable yardsticks to measure progress. And even if we had them, it would be difficult to isolate the value added by a college education, since it is so hard to find an adequate control group—i.e., a truly comparable group of young people who did not go to college. Such difficulties are not peculiar to higher education; they affect most forms of public expenditure. For example, we have no way of being sure that each new bomber and battleship is necessary to our safety, nor can we be certain that the weapons we buy today will help us win the unanticipated wars we may face in the future. All public programs depend on estimates arrived at in the face of inadequate information. Although we should consider the available evidence and make the most of our experience and logic, our ultimate decisions

must often remain little more than informed and plausible guesses.

From this perspective, what can we say about the need for higher education? Is it growing? Is it overrated? We cannot be certain, but such evidence as we have strongly suggests that the need is increasing steadily.

To begin with, there is a widely shared perception that the tasks of leadership in all walks of life are becoming more difficult. Whether one looks at legislators, high public officials, business executives, hospital directors, college presidents, or school principals, one has a sense of mounting complications—more information to assimilate, more factors to consider, more sophisticated techniques to utilize, more constituencies to satisfy. We have only to look at Harvard's own record of executive education to see the effects of these developments. Starting several decades ago with business executives, the demand for mid-career training has gradually spread to lawyers, judges, health care administrators, high school prinicpals, state and local officials, even newly elected congressmen and mayors. These people do not come to us to relax or to savor Harvard, for we often work them harder than our regular students. They come because their jobs are growing more difficult and they are looking for a framework, a method of analysis, a chance to search with colleagues for some systematic approach that will help them meet professional challenges that seem to be constantly growing in difficulty.

This mounting complexity—with its demand for greater breadth, greater knowledge, and greater sophistication of technique—creates an urgent national need to identify as many talented students as we can find and give to each the best preparation we can offer. Only then can we maintain a sufficient pool of able people to fill a growing number of key positions that already tax human capacities to the utmost. Since almost all leadership positions require at least an undergraduate education, the attempt to develop talent presupposes an effort to encourage every young person of unusual ability to enter college, and probably to obtain suitable graduate or professional training as well.

If we look beyond key leadership positions to the labor force as a whole, the need for expanded educational opportunities seems equally clear. In the past thirty years, the percentage of professionals in our work force grew appreciably, as did the proportion of managers and administrators. In contrast, the percentage of blue-collar workers dropped and that of farm workers fell precipitously. To be sure, the service sector has also expanded with its waiters, salespersons, taxi drivers, and others holding less skilled jobs. But service occupations require large fractions of highly skilled people—almost twice the proportion, in fact, as the manufacturing sector. Labor Department projections suggest that these trends will continue in the foreseeable future.

Various groups in the work force essential to national needs illustrate these tendencies especially clearly. In the military, for example, 42 percent of all Navy billets called for highly skilled personnel in 1980, as opposed to 23 percent in 1945. In competing for world markets, we likewise perceive the critical role of products, such as computers, aircraft, and precision instruments, that require advanced skills and large numbers of people trained in science and engineering. As other nations continue to develop, with wage levels well below our own, our ability to compete is bound to call for increasing emphasis on sophisticated fields of endeavor where advanced technology and education are the key ingredients. In the words of two economists, Eli Ginzberg and George Vojta:

"The U.S. cannot maintain its position among the industrial nations of the world unless it pursues policies that encourage the greater use of resources in which the country has gained a comparative advantage as a result of its generous investment in human capital, such as research and development, management and organization, the development of new products and improved services ranging from financing to marketing."

Is a college education truly important in meeting these needs? We may not be able to prove that it is, but a great many people have relied heavily on that assumption. Millions of college students are currently enrolled in some form of vocational major, presumably because they believe that such training will equip them for a better career. It is also virtually impossible today to be a business executive, an engineer, a doctor, a lawyer, a teacher, or a military officer without a college degree, typically in the liberal arts. One must assume that these professions have not put such emphasis on an undergraduate diploma merely as a formality or guild restriction but rather because of a strongly shared belief that a college education provides a useful foundation for a successful career. Similarly, it would be strained to assert that employers prefer college graduates for many demanding jobs simply as a sorting device; there are other techniques that would work better for this purpose if an undergraduate education did not seem to enhance the performance of employees in these positions.

It is true, of course, that the premium paid to college graudates declined during the 1970s, since enrollments were high while demand in many occupations requiring the B.A. tended to stagnate or decline. These trends might lead us to wonder whether we may not be enrolling too many students in college, thus casting doubt on any federal program to increase the number further. Yet even in the 1970s, the economic return on a college education continued to be substantial. And in the 1980s, the demand is likely to rise appreciably.

During the next fifteen years,the number of 18- or 21-year-olds in this country will undergo an unprecedented decline of more than 20 percent while the need for college-trained people continues to increase. As the supply of young people diminishes, we will have to be particularly energetic in helping enough highly talented students to acquire the best available education in order to maintain an adequate pool of outstanding people for particularly important positions. At the very least, we should be careful not to create higher economic barriers to higher education, since we will presumably need a greater, not a lesser, proportion of college-trained people in a generation that is so much smaller than its predecessor.

We have traditionally believed in education as a means not only of increasing productivity and economic growth but of achieving the social goals of promoting social mobility and allowing individuals to advance according to their merits. On this score, the case for attending college is even simpler. Do we continue to believe, as a national ideal, in maximizing individual opportunity and minimizing rigid barriers of social class? If so, access to college is indispensable, because so many of the most desired occupations require at least a college education (and often a professional degree as well). In addition, we should avoid policies that would relegate students of modest means to the lowest cost institutions, since such a result would hamper young people in advancing as far as their talents permit and would also tend to segregate our colleges and universities according to social class.

These arguments take on particular force in the context of our continuing struggle to overcome the problems of race in our society. No one can feel confident in prescribing exactly how we can finally succeed in this effort. But surely everyone will agree that it cannot be helpful to continue, as we did until the mid-1960s, with virtually no minority persons in positions of leadership and with less than 2 percent of our doctors and lawyers and less than 3 percent of our engineers, our scientists, and our college professors being black.

However clumsily administered, our national commitment to affirmative action is based in part on the premise that the presence of more minority persons in leadership positions in our professions and major institutions will help build bridges to increase understanding and give encouragement and motivation to other minority youth who will follow. We cannot be certain that this prescription will work. But there are no alternatives that offer as great a prospect for success, and it would be absurd not to do our best to make the strategy succeed. If it is to work, however, it will require a continuing effort to make higher education readily accessible to minorities along with other promising young people who might otherwise find it difficult to attend.

Assuming we agree that there are important public benefits to be expected from encouraging qualifed students to pursue a higher education, it does not automatically follow that the federal government has a responsibility to intervene. Why should we not leave the task where it was traditionally left—in the hands of individual students and their families, supplemented by the efforts of the various states and the generosity of private benefactors?

Of course, almost all students do contribute a substantial share of the cost of their education. Even if they come from the lowest economic group, they must either take out loans or pay for part of their expenses by working, and generally both. Certainly, this has long been the case of Harvard. Throughout the eighteenth century, the administration would not offer scholarships to cover all of the costs of attending the College on the ground that such assistance would be morally corrupting. Today, whether or not Harvard students receive help from the government, even the poorest must contribute at least $1,900 per year through self-help (i.e., employment earnings) and another $2,000 by seeking loans. In theory, of course, it would be possible to ask students to pay all of their expenses by working and borrowing. If worst came to worst, a student could delay his education for several years to earn enough to pay for his college expenses. And some would not be troubled by this idea. As Senator Orrin Hatch has put it: "I am not at all offended that it may take many students five or six years to obtain their baccalaureate nor that more sweat may be generated along the way."

In practice, however, there are several problems with this approach, not only from the students' point of view but from the perspective of the public interest as well. To begin with, most high school graduates would have to work for a very long time to

earn enough to defray their college costs. Many of them might not even find a job that would allow them to save much money in a time when teenage unemployment is over 20 percent and exceeds 50 percent for black youths in many cities. Young people can always seek loans, but without some sort of government program, banks will normally refuse credit to finance a college education unless they know the family and feel confident that it has the assets to repay the debt. Moreover, human nature being what it is, many students of modest means will not be farsighted enough to forgo present earnings and incur large debts at high rates of interest to prepare themselves for careers that offer a distant prospect of comfortable salaries after long years of study.

For all these reasons, the nation cannot safely adopt a laissez-faire attitude toward higher education and expect students to acquire the amount and type of education they need to meet the needs of the society. On the contrary, there is good reason to believe that many students, especially from poor families, would not attend college without some form of public aid. Thus, a careful study by David Wise of our School of Government estimates that more than half of all students from families with incomes under $12,000 would not enter college in the absence of a Basic Educational Opportunity Grant. The same will be even truer of aid at the graduate school level. If students from low- and moderate-income groups must delay their education in order to earn their way through college, they may be reluctant to go to work again simply to finance their professional training, especially in fields that require many years of study or lead to occupations that do not offer high salaries. One can always condemn such students for not trying hard enough. But whether or not these complaints are just, the fact remains that from the public standpoint, we will have lost whatever benefits the nation might have gained from having these individuals receive the added education they need to make their greatest social contribution.

Even granting the existence of a public need for some form of student aid, is it not proper to ask the states to assume this responsibility? After all, they have traditionally played the major role in securing advanced education for their residents. In each of the fifty states, extensive systems of higher learning have gradually developed to include institutions ranging from community colleges to world-renowned universities. In 1980 alone, a total of $21 billion was appropriated to operate these vast networks.

Notwithstanding these efforts, the states, by and large, have not succeeded in facilitating access to college and graduate school for all deserving students. In 1965, before the enactment of the Higher Education Act, federal officials asserted that more than one hundred thousand talented youths of modest means were not continuing beyond high school. This estimate is probably understated. In fact, approximately one-third of all high school seniors from the highest ability quartile and the lowest economic quartile have traditionally failed to go on to college. Despite the low tuitions at public institutions, many of these students presumably cannot afford to forgo full-time employment and pay the living costs and fees required to attend colleges and universities. Although many states have provided some scholarship funds, the average awards in 1980 ranged from $313 in Georgia to $1,421 in California, sums that are hardly sufficient to induce many needy students to attend.

There are several reasons why many states are likely to provide less than an optimum amount in scholarships and student loans. In the first place, even if broader educational opportunities will stimulate growth and productivity, a single state cannot be certain to capture all of the resulting benefits, nor will it pay the full penalty for underinvesting in higher education. A state that brings college and graduate school within reach of all its citizens will see a substantial fraction of them leave the area for employment elsewhere. Conversely, a state that offers much less generous opportunities may not suffer all of the consequences, since skilled manpower can be recruited from beyond its borders. In these circumstances, no state will necessarily feel that its economic interests require it to achieve the levels of access which might be optimal for the nation as a whole. There is reason to believe, moreover, that temptations to skimp on funds for higher education will grow stronger in the future. Most states are laboring under heavy financial burdens, especially now that the federal government is cutting back on many programs that assisted them in the past. With college-age populations declining, most legislatures will also feel diminishing pressure from their constituents to spend large sums for higher education. Already, tuitions for public universities are climbing more rapidly than the cost of living while scholarship funds are failing to keep pace.

Just as the states may not see to it that public institutions achieve all of their important social objectives, so can private philanthropy fall short of insuring access and quality in our independent colleges and universities. During the past fifteen years, private institutions have greatly increased their efforts to attract gifts. Even so, faced with rising inflation and lagging stock markets, private colleges have had to raise tuitions more rapidly than the cost of living while still being forced to defer needed maintenance of their buildings, cut back acquisitions to their libraries, and allow their faculty salaries to decline substantially in real terms. Without the growth of federal aid, it is clear that these colleges would have had to limit the scholarships and loans they provide to needy students while probably having to lower the quality of their educational programs as well. Although one can always exhort donors to do more, the prospects for success are not bright. Uncertainties in the economy are likely to have a depressing effect on philanthropy. And most experts predict that the administration's tax cuts will inhibit private gifts by reducing the tax savings to donors, especially the wealthiest benefactors who supply the bulk of total giving to higher education.

For all these reasons, there is an important though supplementary role for the federal government to play if we are to satisfy the public need for recruiting talented leadership, maintaining a suitably educated work force, and providing social mobility and opportunities for individuals to progress according to their merits. In short, the federal government must be the ultimate guarantor to secure reasonable access to colleges and graduate schools. Moreover, although the government may not have an obligation to support colleges and universities, it does at least have a strong interest in avoiding sudden or drastic shifts in student aid that would significantly threaten the strength and quality of higher education. These are not responsibilities that Washington should assume grudgingly. In an interdependent society, the quality of our leadership, the performance of our economy, the fulfillment of our commitment to equal opportunity, and our desire for an informed and involved citizenry are not merely state and local concerns. They are national objectives, and the national government has a part to play in seeing to it that they are achieved.

EVALUATING FEDERAL POLICY

With these aims in mind, how can we assess the programs that existed at the end of President Carter's term and the new directions now proposed by the Reagan administration? In answering this question, we can proceed more clearly if we separate the policies pertaining to undergraduate education from those that apply to graduate and professional training.

Undergraduate Education. The foundation of federal policy from 1973 to 1980 was the Basic Education Opportunity Grant. Its chief purpose was to encourage more students of modest means to go to college by reducing the cost. As far as one can tell, the program has made progress toward this goal. Recent studies suggest that as many as half of the recipients from families earning less than $12,000 per year would probably not have continued their education without federal aid. Almost all of them chose to attend two-year colleges or technical and vocational institutes where they could presumably prepare for better and more productive jobs.

Despite these gains, one can criticize the Basic Education Opportunity Grants on at least two counts. In 1978, Congress liberalized the eligibility requirements to authorize payments to students from families earning up to $25,000 per year. This step greatly increased the cost of the program. But studies indicate that almost none of these newly eligible recipients decided to continue their education because of the grants; virtually all of them would have gone to college anyway. As a result, the effect of the liberalization was not to improve access but simply to put more money in the pockets of middle-income families and relieve the scholarship budgets of a number of institutions. Conceivably, the grants may have enabled some students to choose a college where they could acquire an education better suited to their needs. Nevertheless, we have no evidence that this is so, and the small grants given to middle-income students would not appear to exert much effect on their choice of institution. As a result, we are left with an impression that the added expenditures brought public benefits that were only marginal at best.

The second problem with the program was that it made no effort to avoid giving grants to students who ultimately failed to complete their education. This is no small problem since approximately 40 percent of all students entering college do not receive a degree. Although those who drop out may not completely waste their time, it is safe to say that much of the value the government seeks by providing opportunity grants will be lost on young men and women who fail their courses or leave college prematurely. Of course, there is no sure way of predicting which students will fall by the wayside. But we do know that students with low College Board scores and/or a low class ranking in high school are much more likely to drop out than students who do better according to these measures. Indeed, students in the lowest quartile of their high school class

with a combined College Board score of 700 or less will have only a 30 percent probability of finishing their course of study. With these odds, it would be wise to consider some way of targeting grants on those who seem likely to complete the programs they enter. Otherwise the possibility that the recipient would have gone to college anyway, coupled with his low probability of receiving a degree, produces very high odds that the grant will not achieve a significant public purpose.

In sum the previous program succeeded in improving access but was more expensive than it had to be. In these circumstances, what can we make of the Reagan administration's policies? Although we cannot yet tell just what the government has in mind for the federal grants, the rapid, severe cuts originally proposed by the Office of Management and Budget (OMB) make one wonder whether some officials would not prefer to do away with the grants altogether. That would be a serious mistake. Clearly, a properly crafted program can serve a useful purpose in inducing substantial numbers of low-income students to attend college and receive an education that promises to enlarge their opportunities and enhance their contribution to the economy. Even to cut the program back, as OMB originally proposed, to cover only students from families earning less than $7,500 per year seems far too drastic, since it would exclude large numbers of young people for women an award will make the difference in deciding to acquire further education. The final budget proposals are much better in this respect, since they would permit grants to families earning up to $16,000 per year. Unfortunately, however, the maximum grant has been slashed substantially while educational costs have continued to rise rapidly. Such cuts seem counterproductive, since they are likely to sharply reduce the number of students who are actually persuaded by a federal grant to continue their education, thus undermining the primary purpose of the program.

Rather than save money in this way, the government could lift the maximum grants substantially and impose some modest threshold of College Board score and high school ranking to increase the odds that recipients will complete their educational programs. Since this requirement may seem too arbitrary, it might be even better to convert the entire program to loans and then cancel repayment for all recipients who finish their course of study. By this device, the government could make certain that all of its grants go only to students who actually achieve some significant educational goal. Such measures may seem harsh. But limited funds will surely produce greater results if they are targeted in this fashion instead of being spread thinly over a larger number of students who may never use their grants to acquire enough education to benefit themselves or the economy.

At least as important as the federal grants is a program to insure that students have access to credit to finance their education at terms they can afford. Most banks and credit sources are presently unwilling, without federal assistance, to loan money to college students; the process of collecting the loans is too burdensome and the risks involved too high. Hence, some form of federal intervention is required, or hundreds of thousands of students will be unable to enter the college of their choice, or indeed to attend any college at all, even though they are quite willing to pay the cost.

To solve this problem, Congress developed an elaborate system whereby the government guaranteed loans of up to $2,500 per year at subsidized rates of interest (9 percent) and undertook to relieve students of the burden of paying interest during the time that they remained in school. This program plainly succeeded in making credit available to students. By 1980, over three million undergraduates were borrowing under arrangements of this sort; for many of them, federal loans made a critical difference in enabling them to achieve the education they desired. Once again, however, the program reached levels of liberality that are exceedingly hard to justify. In the amendments to the Middle Income Assistance Act of 1980, Congress actually extended eligibility for subsidized loans to all families regardless of need. As a result, the wealthiest families found it profitable to seek a college loan at 9 percent and invest the money saved at substantially higher rates. This result was indefensible, even in affluent times.

The Reagan administration has already acted to cut back subsidized loans by restricting eligibility to students who can demonstrate need. This step is appropriate, and even the current rules could be tightened somewhat further, as the government now proposes. But the administration has gone far beyond this point by urging steps that would chip away at the in-school subsidy by charging each student a 10 percent origination fee while bringing the interest rate from 9 percent to market levels commencing two years after graduation. The effect of these changes would be to increase the interest cost on student loans by almost 50 percent.[2]

Conceivably, these measures will have no irreparable effects. Students may find some way to scrape up the few hundred extra dollars they need each year to cover the government's new origination fee. And faced with the prospect of higher rates of interest, many may work full time to pay off their loans within two years after graduation—provided they can find a sufficiently remunerative job, have not added debts or dependents, and face no other pressing obligations. No one can be certain that these adjustments will not occur, nor is it possible to locate the point at which the burdens of financing an education will become too severe. Nevertheless, as the government continues to reduce the in-school subsidy and increase the interest charges, the risks will mount and their nature will be clear. Some students may decide not to attend college. Many will have to work more hours than they should in college to earn enough to pay the origination fees or other charges. Many more will feel obligated to attend lower-cost institutions in order to minimize their debt burden.

These dangers do not trouble everyone. In the words of Senator Hatch: "Many middle-income students protest that without assistance they will be forced into presumably substandard state schools and barred from the high-priced glamour institutions. I am basically unsympathetic. . . . A student committed to learning can obtain a fine education at even a less than 'glamorous' school." Stripped of its loaded adjectives, Senator Hatch's statement suggests that the government need not be concerned over restricting students in their choice of college. For some students, this observation is undoubtedly correct. In fact, one can think of individuals enterprising enough to educate themselves without ever going to school at all. Yet I suspect that most senators do believe that it matters that their own children go to the college of their choice. Certainly, it matters a great deal to most parents and to their children as well. It matters because, despite the guesswork and uncertainty involved, we have a strong conviction that colleges do differ significantly and that some will be much more beneficial than others for the education and development of our own sons and daughters. In the same way, we should assume that some loss of educational quality will follow from federal policies that seriously restrict the choices available to the student population as a whole.

Similarly, although most of us suspect that our children could work a number of hours each week without harming their education, we are reasonably sure that beyond a certain point, working at an outside job will begin to diminish the value of a college education by taking too many hours away from study and by making excessive inroads on all the activities and human relationships that enable the college years to add significantly to growth and personal development. Since a majority of students on financial aid are already working part-time (and a very large majority are employed in the summer), one cannot be entirely sanguine about the effects of forcing them to work longer hours by heaping higher financial burdens on them. Indeed, in a time of high unemployment—and with the government seeking drastic cuts in campus work-study programs—one cannot even be sure that needy students will succeed in finding jobs. For these reasons, we could be skeptical of policies that could cause students to work longer hours or abandon the college they would prefer in favor of one that happens to cost less. Such measures threaten to impair the quality of education that needy students receive and thus may adversely affect not only our young people but the national interest as well.

Another unfortunate effect of higher credit costs is that they will cause many private colleges, and even state universities, to become more segregated according to economic class as fewer students from low- and moderate-income families find it possible to attend. Already, colleges as well endowed as Wesleyan and Yale have stated that they may no longer be able to accept the ablest applicants regardless of their financial circumstances. This trend will be further accentuated by the administration's proposal to eliminate Supplemental Educational Opportunity Grants for needy students attending higher priced institutions. In the eyes of many, the end result will be unfortunate both for wealthier students and for those who no longer can attend the school of their choice. Undergraduates often regard the diversity of their fellow classmates as among the more important experiences of their college years. Donors presumably give scholarships for similar reasons. And in a society that prides itself on avoiding the drawbacks of a rigid class system, no one can be comfortable with a change in policy

[2] The interest cost on a $1,000 loan under the current program would be $570.40 over the ten years of the loan. Assuming a market rate of interest of 14 percent, the total interest charge would rise to $845.80, an increase of 48 percent.

that might take us a significant way toward relegating the poorest students to community colleges while transforming many of the most sought-after institutions into privileged enclaves populated chiefly by the well-to-do.

We should also be aware that a policy which eliminates supplemental grants and substantially increases the cost of educational loans puts private colleges and universities at a particular disadvantage because of their higher tuition charges. To this concern, one can quickly retort that it is not the business of the federal government to keep individual colleges afloat. While that statement is undoubtedly correct, the problem is not so simple. In the first place, academic institutions are not corporations competing in an open market. If private colleges cannot survive, it may not be because they are less efficient or provide a poorer education then their counterparts; they are likely to fail because they do not have the benefit of large state subsidies to keep tuitions low. In addition, while the federal government has no necessary concern for the fate of any single institution, it does have a strong interest in the system of higher education as a whole, since that system is essential to the achievement of many national goals.

Throughout our history, the mixture of public and private colleges and universities has been a major source of strength for American higher education. Extensive networks of state institutions have not only produced some outstanding universities; they have provided the means for making certain that a wide range of public educational needs are satisfactorily met. If public colleges and universities did not exist, we would clearly have to invent them. But private institutions have likewise made important contributions. They have offered a diversity of choice by providing small colleges, denominational colleges, black colleges, single-sex colleges, experimental colleges—a diversity that has been important in accommodating the varying needs and aspirations of a large, heterogeneous student population. Private institutions have also permitted many more centers of initiative and experimentation in a field of endeavor that is inherently imperfect, intangible, and in need of new ideas. Finally, private universities, aided by their independent status, have consistently accounted for most of the nation's highest ranking academic departments (and professional schools as well) even though they enroll only 23 percent of the nation's students. Such achievements have not only made a contribution in their own right; they have also set standards to which public institutions can point in order to protect themselves from ill-advised political efforts to resist innovation, cut salaries and staff, or curtail expenditures for libraries and other academic facilities. All in all, therefore, the peculiar success of our system of higher education is due in large part to the reinforcement and the stimulus that public and private institutions give to one another.

In the past thirty years, the enrollment of students in private colleges and universities has shrunk from more than one half to less than one quarter of the total undergraduate population. In the next generation, private institutions face serious problems caused not only by high inflation but by the prospect of severe enrollment declines resulting from a dwindling college-age population. At such a time, the government should think very carefully before imposing greater burdens on these colleges by sudden, drastic changes in its financial aid policies. Harvard will surely survive, as will Princeton, Stanford, or Yale (although we will all be hard-pressed to maintain our policy of admitting every qualified student regardless of his or her financial circumstances). But many other private colleges may have to close down or substantially reduce the quality of their programs. If the government does not take care, therefore, its proposals could permanently weaken one side of a partnership that has played an important role in lifting American higher education to a level unequalled in the World. And that would be an odd result from an administration so committed to a vigorous private sector.

With these considerations in mind, one can evaluate the administration's proposals in the following terms:

1. With respect to basic grants, the administration is on sound ground in seeking to restrict awards to students from low-income families. Such grants are plainly intended to increase access to higher education, and there is no good evidence to suggest that students above a modest income level will be affected in their decision to enter college by the existence of a federal stipend. On the other hand, if the government wishes to use its funds to the maximum effect, it would do well to offer higher grants and restrict them to students who can succeed in completing their chosen course of study.

2. In the case of guaranteed loans, the administration is likewise justified in offering subsidized credit only to students who can actually demonstrate that their college costs exceed their means. In stringent times, it may also be defensible to eliminate subsidized interest rates after a reasonable period following graduation.[3] Even with the maximum accumulated loan of $10,000, most college graduates can earn enough to pay back their indebtedness in a few years. Granted, those who wish to pursue their education further may have to delay their plans. But this is not an unreasonable demand to make in a time of austerity; in fact, it may even be beneficial for many students to gain the experience of working for a time before finally committing themselves to graduate or professional school.

3. The most troublesome measures advanced by the administration are those that would chip away at the in-school loan subsidy, severely reduce work-study programs, and eliminate supplemental grants. These measures would have serious effects, but it is important to be clear about what those results are likely to be. There is no strong evidence that the proposals would keep students from attending college, especially if the basic grants are increased, for available data suggest that only grants to poor students have much effect on the decision to pursue some sort of postsecondary education. Nevertheless, such initiatives could well have an adverse impact on the quality of education that students receive. They would restrict choice by discouraging students from attending the more expensive public and private colleges. They would segregate student bodies by forcing low- and moderate-income students into less costly institutions. They would also force students to take more time from their studies to pay for their college costs while restricting their employment opportunities, especially the more convenient campus jobs made possible by work-study programs.

The administration's proposals would further affect the quality of education by threatening the standards and even the survival of many colleges. During the 1970s, subsidized loans, work-study, and supplemental grants may not have accomplished much to increase access to higher education. But they did enable most colleges to weather a difficult decade by allowing them to raise tuitions without intolerable student assistance costs. To shrink federal programs to the extent now proposed would seriously deplete the financial aid resources of many institutions at the very time when their economic difficulties will be compounded by a sharp drop in the college-age population. For leading public universities, the effects will depend on the reactions of their state legislature. Under present conditions, however, the likely consequences of such reductions will be to reduce access or to lower the quality of educational programs, as many states conclude that they cannot replace all that Washington has taken away. For private colleges, the risks do not merely involve an erosion of quality; many colleges may actually have to close their doors if they are not blessed with large endowments or ample applicant pools. Whether these results are warranted by the savings to the federal budget is clearly a matter of opinion. But at a time when investments in human capital seem more important than ever to the nation, the drastic cutbacks proposed by the administration are highly questionable. In seeking to correct a short-term fiscal problem, the administration threatens to lower the quality of many students' education and to weaken colleges and universities to a degree that could do long-term harm to the public interest.

Graduate and Professional Education. Turning to student assistance beyond the college level, we find somewhat different policies that have changed markedly over the years. When Congress first acted in the wake of the Sputnik launching, its chief concern was to expand particular fields of specialized training that seemed especially vital to the national interest. Accordingly, the government made low-interest loans available to Ph.D. candidates and international specialists. Later on, students who became school teachers could convert their loans to grants while heavy subsidies were offered to medical students to enlarge the nation's supply of doctors. Commencing in the 1970s, however, the emphasis shifted to undergraduate education with the overriding goal of opening our colleges to all students regardless of their financial means. Grants to doctoral students were reduced to very modest levels. School teachers were no longer relieved of their obligation to repay student loans. By 1981, the only major program available to graduate and professional school students was the same subsidized loan program provided to undergraduates.

As previously mentioned, this loan program was gradually enlarged beyond reasonable levels. Congress extended generous subsidies not only to students of modest incomes but to the children of wealthy families as well. Such liberality is hard to defend, especially in the present fiscal climate. As a result, the government stands on

[3] I would prefer to extend the period of subsidized interest to at least three or four years following graduation, since the two-year period proposed by the administration seems too brief to enable many college graduates to repay up to $10,000 in accumulated loans.

firm ground in cutting back subsidies to restrict them to needy students.

More recently, however, the administration has gone much further by proposing to eliminate the regular Guaranteed Student Loan program for graduate students and, instead, to provide credit up to $8,000 per year at a 14 percent rate. Interest would be payable immediately with no subsidy while a borrower remains in school. If enacted, these recommendations would raise the total cost of graduate student loans by up to 67 percent while increasing the interest charges by a full 142 percent.[4] Worse yet, few students would be able to borrow at 14 percent—or even borrow at all—since banks are normally reluctant to make educational loans if the government will not pay the interest costs while the students are still in school. Thus, most poor and middle-income students could be effectively barred from entering professions that require a substantial period of training. Without loans, needy students have no way of amassing the tens of thousands of dollars required to become a doctor, a scientist, an architect, a dentist, or a college professor. The results would be intolerable not only for the individuals affected but for the national interest as well.

Even if the administration's program can be made to work, graduate students will face much stiffer credit terms than those available to undergraduates. It is not immediately obvious why Congress should approve this result. Graduate and professional students make up less than one-sixth of total enrollments and account for less than one-third of all guaranteed loans, so that the cost of subsidizing their loans is relatively low. In addition, graduate and professional education is particularly important to our economic and social progress, since it is here that students prepare specifically for such key occupations as medicine, law, teaching, scientific research, business administration, and many others. If there is any level of education in which it seems most important to break down economic barriers for talented, needy students, it is in the graduate and professional schools. Is there any reason, then, to treat these students more severely apart from the obvious fact that they are less numerous and hence less politically influential?

One possible reason for disfavoring graduate students is that many of them seem more able to take care of themselves. As President Eliot declared generations ago, "Ordinary scholarships . . . should be given sparingly in graduate schools, because by that time an energetic student ought to be able to provide in large part for his own support." Although the costs of graduate education have grown enormously since Eliot's day, his remarks still have considerable force for some professional fields. In business and law, for example, students can look forward to substantial salaries immediately after graduation; many of them from the leading schools may actually earn more than $40,000 in their first year of work. Even while they are still in school, summer employment is often available at attractive salaries, thus making it possible for them to begin paying interest on their loans during the years prior to graduation. For these students, then, the pressing need is to have access to credit but not to receive large federal subsidies.

Unfortunately, there are many other important occupations in which mere access to credit is not enough. Some of these fields may offer attractive salaries but only after a prolonged period of preparation. Medicine is the prime example. With tuitions in many schools exceeding $10,000 per year, needy students will have to borrow heavily to complete their training. Since they will often emerge from college already owing a substantial sum, they may be fearful of accumulating much greater debts at high rates of interest over the many years required to prepare them for practice. Unless they receive more liberal credit, many poor students will decide that they simply cannot afford medical school. Even those of moderate means may feel impelled to go to the lowest cost school they can find and to enter lucrative specialties rather than fields, such as primary care, that are more urgently needed by the public. None of these results will serve the national interest.

Even more serious problems for the country will arise in occupations that are socially important yet provide relatively low levels of compensation. Teaching affords one illustration; the ministry another. Both fields are already attracting a smaller pool of talent than seems desirable. In public school teaching, for example, salaries are relatively low, conditions of work have deteriorated, and able women—who contributed so much to the profession for so long—can now find opportunities in much more lucrative callings. As a result, the College Board scores of students entering teacher training have sunk far below the national median.[5] Higher interest costs on student loans will surely aggravate the problem, since many young people, already burdened with undergraduate debts, will not have confidence that they can earn enough as school teachers to repay a further round of loans with annual repayment charges far above those applicable in the past. This prospect should be daunting even to conservatives, such as Senator Hatch. In his words, "Whatever form our responses take we must spare no effort to enlist from among our most effective motivators, our most perceptive analysts, our most skilled technicians, from among our best and most highly principled people in the broadest sense those who will instruct and, in many aspects, shape our youth." Alas, the abilities of the students we are now recruiting to "shape our youth" over the next forty years fall far below the senator's expectations. And at a time when the public is already disenchanted with the quality of education in many of our public schools, the current administration's proposals will only make matters worse.

A final example, of particular concern to Harvard, involves the Ph. D. and the recruitment of talented young people to become the college teachers, the basic scientists, and the scholars who will serve us for the next generations. The situation facing our Ph. D. programs is somewhat different from those previously described. Jobs are rapidly drying up because of the expected drop in student enrollments resulting from the demographic trends earlier described. Because of this sharp decline, universities are enrolling far more Ph. D. candidates than can possibly find academic jobs, and this situation may well persist for a long time to come. Even so, while doing our best not to increase the number of Ph. D. students, universities must attract at least a few thousand students each year of truly outstanding talent or the quality of science and the advancement of knowledge are bound to decline. In short, a sound strategy for graduate education must embrace two seemingly irreconcilable goals: to recruit fewer students but still enroll a substantial number of the very highest ability.

At present, the prospects for maintaining high levels of quality are not good. The dismal prospects for an academic career are undoubtedly causing able biology students to become doctors, able history majors to go to law school, able political science concentrators to attend business school. The effects are already visible at Harvard, as at other universities. Fifteen years ago, over 80 percent of our summa cum laude seniors expressed an intent to pursue the Ph. D. Last year, the figure had dropped to 31 percent. Worse yet, we should not forget that much of the postwar luster of American science and the preeminence achieved by our leading universities were actually due to the influx of outstanding scholars and scientists who fled from Europe after 1935. This stream of talent has dwindled markedly and will probably decline still further. In these circumstances, we have a major problem on our hands if we mean to uphold the standards of our faculties around the country.

In view of these difficulties, the response of the current administration is not encouraging. Facing many years of graduate study, and with uncertain job prospects at the other end, talented students will be even less willing to pursue the Ph.D. if they must pay much higher costs for the loans they accumulate over several years of study. Moreover, the administration has also attempted to cut back the last remaining graduate student grant program by urging reductions in the number of scholarships offered each year to the most outstanding students entering doctoral programs in the sciences. No one can prove what effect such a measure would have on the quality of people who decide to become scientists. Nevertheless, in view of the critical importance of research to the nation and the problems of maintaining the quality of our graduate student population, the risk is hardly a prudent one to take. Any adverse effects will be irremediable, for talented students who have once decided to enter other fields are not likely to return to graduate school later on. They will be permanently lost to science.

These difficulties illustrate the complexity of student aid beyond the undergraduate level. Far more than college, graduate and professional education is made up of many different fields with widely varying characteristics and problems. In a time of austerity, when generous aid cannot go to everyone, it takes great imagination to conceive of policies that will fit these differing situations in a manner that serves legitimate national aims.

Several possibilities come to mind. For example, the government might consider some form of contingent repayment plan that would require borrowers to pay back loans for a stipulated period of years with the payments being set at a small, fixed percentage of taxable income. Such schemes would offer various advantages. They would

[4] Under the present program, a student borrowing $1,000 would pay $570.40 in interest and fees over the ten-year term of the loan. The administration's proposals would lift the total interest burden to $1,423.60.

[5] In 1976, the SAT verbal scores for college seniors majoring in education were 46 points below the average for graduating seniors, while math scores fell 52 points below the average. Of 16 occupational groups, only office-clerical and vocational-technical had lower verbal scores and only office-clerical had lower math scores.

minimize payments while students are still in school and unable to assume large interest charges. They would keep the cost of repayment at manageable levels for teachers, ministers, and others performing socially important tasks that yield low levels of compensation. At the same time, they would allow the government to recover all or most of its costs while relying on the federal tax system to minimize the burden of administration. Such plans do place heavier burdens on borrowers who eventually earn larger incomes. If this feature seems politically unacceptable, the government could at least impose a ceiling on the percentage of income that a borrower would have to devote to repaying loans—or even defer repayment by students earning less than a stipulated minimum per year. As with contingent repayment plans, the intent of such measures would be to keep able students from turning away from important occupations with relatively low salary levels through fear of being unable to discharge their debts.

Congress would also do well to reconsider the use of federal scholarships in limited situations where the nation has an interest in increasing the supply of particular specialists—as in the case of M.S.'s and Ph.D.'s in computer science—or where the supply of students is adequate but the national interest requires a continuing flow of exceptionally gifted people, as in the basic sciences or university teaching. Such grants should help to attract able students who are interested in these fields but deterred by the large debts they will incur during the course of their studies. To be sure, a substantial fraction of the awards will probably go to students who would have chosen such careers in any event. Even so, much of this support will doubtless help to relieve the scholarship budgets of the schools that talented students wish to attend and thus will work indirectly to strengthen the best graduate and professional schools. Far from wasting public funds, such aid offers a simple way of preserving quality education in fields of particular national importance, and at a time when financial pressure might otherwise endanger the maintenance of high standards.

Regardless of the specific programs ultimately chosen, the national interest plainly demands some workable scheme to insure that graduate students can actually have access to credit to finance their studies. Moreover, the nation's special need for talent in particular occupations will require more than measures that simply seek to save money by doing away with graduate scholarships and raising the cost of student loans to near market levels. As we have seen, these needs can be met in creative ways that will cost much less than the programs currently in place. Under the administration's proposals, however, we run a grave risk of impoverishing important fields of endeavor that are already short of talent while restricting other professions to students wealthy enough not to need large loans.

CONCLUSION

This brief review reaffirms the public interest in maintaining strong financial aid programs in our colleges and universities. In today's world, we must encourage all students to acquire the education they need to make their fullest social contribution. Experience suggests that we will not achieve this goal by relying simply on private initiative or even on the support of state governments and private benefactors. Instead, the federal government must ultimately guarantee that all students have access to credit at terms they can afford, that poor students receive the help they need to induce them to continue their studies, and that able young people are not deterred by educational costs from entering modestly paid careers that serve important public interests.

Despite these needs, we are clearly in the midst of a profound shift in our attitudes and policies toward the federal role in human development and higher education. From a time of extreme liberality—where even the affluent could receive federal largesse—we have suddenly entered an era of severe retrenchment that promises a substantial rise in the cost of higher education for millions of students from low- and moderate-income families. This rapid swing, of course, reflects an equally profound change from a national mood of ebullience and growth to a feeling of austerity marked by a widely shared concern that we have been living beyond our means.

Such swings in national attitudes are inevitable. But those who guide our country should not overestimate the permanence of these moods or exaggerate the degree of change that has actually occurred in our underlying situation. It was a mistake to use the taxpayers' money to offer subsidies to well-to-do college students. It would likewise be a mistake to move too far in the opposite direction. The United States is still the most powerful country with the largest economy in the world. It has serious problems, to be sure, but it is important to be clear about what these problems are lest we prescribe false remedies that merely aggravate our ailments.

America faces no threat of immediate collapse or national bankruptcy. It does confront a longer-term danger of losing its vitality, its competitive edge, its ability to find creative solutions to persistent issues that afflict our domestic well-being and erode our position in the world. Our place in the international economy is increasingly challenged by other nations that are vigorous and ingenious in encouraging economic progress. Our society at home suffers from a host of nagging problems, problems of productivity, inflation, unemployment, race, crime, and many more. It may be difficult to know how to attack these issues, or even to perceive how best to begin. In the long run, however, one thing is clear. As a nation, we can no longer depend on the protection of the oceans or on unlimited land and abundant national resources. We must increasingly rely on the abilities and imagination of our people and on the knowledge and discoveries they provide.

It is especially important to keep these needs fully in mind during the next decade. In contrast to the swelling enrollments in colleges and professional schools so characteristic of the 1970s, the 1980s will bring an unprecedented drop of more than 20 percent in the number of college-age men and women. Under these conditions, we cannot take for granted that we will readily find all of the able, well-trained people that a vigorous society requires. At such a time, therefore, it is hardly wise to shift to policies that run the risk of discouraging talented people from developing their abilities to the utmost, from entering important occupations, and, ultimately, from making their fullest contribution to the welfare and progress of the society.

In the words of economists Eli Ginzberg and George Vojta: "The proposed reindustrialization of an economy dominated by services is an exercise in futility. Americans must unshackle themselves from the notion, dating back, to Adam Smith, that goods alone constitute wealth whereas services are nonproductive and ephemeral. At the same time, they should act on Smith's understanding that the wealth of a nation depends on the skill, dexterity, and knowledge of its people."

Put bluntly, the challenge before us is not simply to reindustrialize the economy but to revitalize the entire society. In this endeavor, higher education, and the students it serves, have a critical role to play. At such a time, Harvard should make every effort to maintain the principle of admitting all students according to their talents and promise regardless of their ability to pay. The government should be no less determined in doing its part to preserve sound, adequate programs of student aid. If we mean to recapture our momentum and press forward as a nation, we cannot affort to respond to short-term fiscal problems by restricting educational opportunities and diluting the talents of the very people on whom our future progress ultimately depends.

March 1982.●

POSITION ON VOTE—H.R. 7072

● Mr. NICKLES. Mr. President, I cast my vote aginst H.R. 7072, the fiscal year 1983 Agriculture appropriations bill because it exceeded by $2 billion both the administration's request and House-passed bill.

The majority of these cost-overruns were in the Federal feeding programs as follows: $1.3 billion for food stamps; $285 million for child nutrition; $20 million for special milk; $408 million for WIC; and $32 million for commodity supplemental food.

Mr. President, these feeding programs constitute 56 percent of this bill. While American farmers are being asked to tighten their belts another notch, by this bill Congress continues to refuse to control costly income transfer programs such as these.

I think every Member of this body recognizes this country's urgent need to reduce the national debt. Unfortunately, when it comes to making difficult program changes, very few seem willing to follow through.

Mr. President, we had an opportunity and an obligation in this bill to avoid adding $2 billion to that tremendous debt, and we did not do it. Therefore, I found that I could not support passage of H.R. 7072.●

BRADFORD PENNEY

Mr. PELL. I congratulate and thank my legislative aide Bradford Penney for the sterling work he did in working out the successful passage of the DeConcini-Pell amendment setting up

a center for control of the international drug traffic.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. McCLURE. Mr. President, in accordance with the order previously entered, I move that the Senate now stand in recess until the hour of 9:30 a.m. tomorrow.

The motion was agreed to; and the Senate, at 7:45 p.m. recessed until Friday, October 1, 1982, at 9:30 a.m.

EXTENSIONS OF REMARKS

ARCTIC RESEARCH

HON. DON YOUNG
OF ALASKA
IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. YOUNG of Alaska. Mr. Speaker, I am introducing today legislation which will, for the first time, focus and coordinate research activities in the increasingly strategic area of the United States Arctic. At this time, there is no such coordination, no such cooperation, and very little research going on in an area that will serve as a future treasure house for the people of the United States through its energy, mineral, and protein wealth. There is very little research being conducted in an area that serves as the only common border with the Soviet Union, and we need to learn more about this area for our national security.

Mr. Speaker, the legislation I introduce today will hopefully pave the way for a heightened interest and understanding of the Arctic climate and its unique relationship to the rest of the world. It will serve to enhance an understanding of our Arctic areas in order to insure that the vast resource wealth of the Arctic can be harvested and utilized in an environmentally sound manner based on research instead of guesswork. The United States cannot afford to stumble into its Arctic regions—into areas fragile in their environment and yet hostile to man—without appropriate technology derived through adequate research background material.

The increased leasing in Arctic areas of the United States, with all the good it will bring this Nation in energy independence, will not come without potential problems. These problems will be easier to overcome, and the energy resources more rapidly forthcoming, through the research efforts that would flow through this legislation.

It is evident to me that the Members of this body are quick to stand up and suggest the need for a national policy of energy independence. It is equally clear that this Congress has done less to further this independence than any in recent memory. This measure will give some of those Members who have suggested they are interested in energy independence an opportunity to vote for a measure to further research in an area that will undoubtedly enhance this Nation's energy resource base. This is an identical measure to a bill that was sponsored and has been guided through the other body by my good friend from the State of Alaska, Senator FRANK MURKOWSKI. He has devoted a great deal of time and effort on this legislation, spending many days working out the details with the various agencies involved in research presently, with the State of Alaska, and with the Native groups in Arctic areas whose lives will be impacted through the anticipated development in the Arctic. Through his leadership, a fine measure has been hammered out, with most of the parties standing behind this bill as a compromise that will benefit all.

I must add that this legislation has implications beyond the anticipated energy development and the national security considerations. The Arctic has a significant impact on the weather patterns that affect the world—weather patterns which are affected by certain natural and manmade pollutants. The research envisioned by this bill may enhance agricultural production in the Grain Belt, assist in predicting natural disasters and alleviating their impacts, and grant us further keys with which to unlock the secrets of the globe. Mr. Speaker, I hope my colleagues will recognize the importance of this bill for the future, and I submit the bill to be printed in the RECORD.

Thank you, Mr. Speaker.

The text of the bill follows:

H.R. 7255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Arctic Research and Policy Act of 1982".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) the Arctic, onshore and offshore, contains vital energy resources that can reduce our dependence on foreign oil and improve the national balance of payments;

(2) as our only common border with the Soviet Union, the Arctic is critical to national defense;

(3) the renewable resources of the Arctic, specifically fish and other seafood, represent one of the Nation's greatest commercial assets;

(4) Arctic conditions directly affect global weather patterns and must be understood in order to promote better agricultural management throughout the United States;

(5) industrial pollution not originating in the Arctic region collects in the polar air mass, has the potential to disrupt global weather patterns, and must be controlled through international cooperation and consultation;

(6) the Arctic is the only natural laboratory for research into human adaptation, physical and psychological, to climates of extreme cold and isolation and may provide information crucial for future defense needs;

(7) atmospheric conditions peculiar to the Arctic provide a unique testing ground for research into high-latitude communications, which is likely to be crucial for future defense needs;

(8) Arctic marine technology is critical to cost-effective recovery and transportation of energy resources and to the national defense;

(9) most Arctic-rim countries, particularly the Soviet Union, possess Arctic technologies far more advanced than those currently available in the United States;

(10) Federal Arctic research is fragmented, uncoordinated and undercapitalized at the present time;

(11) such fragmentation has led to the neglect of certain areas of research and to unnecessary duplication of effort in other areas of research;

(12) there is an immediate need to formulate a comprehensive national policy to organize and fund currently neglected scientific research with respect to the Arctic;

(13) the Federal Government, in cooperation with State governments, should focus its efforts on the collection and characterization of basic data related to biological and geophysical phenomena in the Arctic, directing special attention to the broad accumulation of data related to sea-ice dynamics; and

(14) research into the long-range environmental and social effects of development in the Arctic is necessary to mitigate the adverse consequences of such development to the land and its residents.

(b) The purposes of this Act are—

(1) to establish an Arctic Science Policy Council and an Arctic Research Commission to promote Arctic research;

(2) to establish a centralized system for the collection and retrieval of scientific data with respect to the Arctic; and

(3) to establish priorities and provide financial support for basic and applied scientific research with respect to the Arctic that is currently being neglected and is essential to our Nation's needs.

ARCTIC SCIENCE POLICY COUNCIL

SEC. 3. (a) There is established a council to be known as the Arctic Science Council (hereafter in this Act referred to as the "Council").

(b) The Council shall be composed of the following members:

(1) A chairperson appointed by the President, with the advice and consent of the Senate.

(2) Two individuals from the State of Alaska who have demonstrated a knowledge and interest in the field Arctic of Research, appointed by the President from a list of individuals submitted by the Governor of the State of Alaska. The President in his or her discretion may request additional names to be submitted.

(3) Two individuals who have demonstrated a knowledge and interest in the field of Arctic Research, appointed by the President from lists submitted by the Secretary of Commerce, the Secretary of Defense, the Secretary of the Interior, the Secretary of the Department of Energy, the Secretary of State, the Secretary of Transportation (on behalf of the Coast Guard) and the Director

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

of the National Science Foundation. The President in his or her discretion may request additional names to be submitted.

(c) Each member shall have an equal vote on matters decided by the Council.

(d)(1) Except as provided in paragraph 2, the term of office for a member of the Council shall be two years.

(2)(A) Of the members of the Council originally appointed under paragraphs (2) and (3) of subsection (b), one member appointed under paragraph (2) of such subsection, and one member appointed under paragraph (3) of such subsection shall be appointed for a term of one year.

(B) A member may serve after the expiration of his term of office until the President appoints a successor.

(e)(1) A member of the Council not otherwise employed by the United States shall be compensated at a rate equal to the daily equivalent of the rate for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day such member is engaged in the actual performance of his duties as a member of the Council.

(2) A member of the Council who is an officer or employee of the United States or of the State of Alaska shall serve without additional compensation.

(3) All members of the Council shall be reimbursed for travel (in accordance with 5 U.S.C. 5701) and other necessary expenses incurred by them in the performance of their duties as members of the Council.

(4) No member may be compensated for more than ninety days of service each year in performance of his or her duties as a member of the Council.

DUTIES OF COUNCIL

SEC. 4. (a) The Council shall—

(1) facilitate cooperation between the Federal Government and State governments with respect to Arctic research;

(2) coordinate and promote cooperative Arctic scientific programs with other nations (in consultation with the Secretary of State);

(3) develop and supervise an integrated national Arctic science policy (except with respect to the areas of authority specifically reserved to the Arctic Research Commission under section 7 of this Act);

(4) appoint the members of the Arctic Research Commission; and

(5) cooperate with the Governor of the State of Alaska and with such agencies and organizations of the State as the Governor may designate (including but not limited to the Alaska Council on Science and Technology) with respect to the formulation of Arctic science policy.

(b) Not later than January 31 of each year, the Council shall—

(1) publish a statement of goals and objectives with respect to Arctic research to guide the Arctic Research Commission in the performance of its duties; and

(2) submit to Congress a report describing the activities and accomplishments of the Council during the immediately preceding calendar year.

COOPERATION WITH THE COUNCIL

SEC. 5. (a)(1) The Council may acquire from the head of any Federal agency unclassified data, reports, and other non-proprietary information with respect to Arctic research which the Council considers useful in the discharge of its duties.

(2) Each such agency shall cooperate with the Council and furnish all data, reports, and other information requested by the Council to the extent permitted by law.

(b) The Council may utilize the facilities and services of any Federal agency (with the consent of the appropriate agency head, with or without reimbursement), taking every feasible step to; avoid duplication of research and effort.

ARCTIC RESEARCH COMMISSION

SEC. 6. (a) There is established a commission to be known as the Arctic Research Commission (hereafter in this Act referred to as the "Commission").

(b)(1) The Commission shall be appointed by the Arctic Science Policy Council and shall be composed of the following members:

(A) Four members shall be appointed from among individuals with expertise in representative areas of research relating to the Arctic (including, but not limited to, the physical, biological, and social sciences), at least one of whom shall be employed by the University of Alaska.

(B) Two members shall be appointed from among residents of the Arctic who are representative of the needs and interests of Arctic residents and live in areas directly affected by Arctic resource development.

(C) Two members shall be appointed from among individuals familiar with the Arctic and representative of the needs and interests of private industry undertaking resource development in the Arctic.

(D) One member shall be appointed from among individuals familiar with the Arctic and employed by the United States Coast Guard.

(2) Upon the appointment of the members of the Commission pursuant to paragraph (1), the Council shall designate a member of the Commission to be chairperson of the Commission.

(c)(1) Except as provided in paragraph (2), the term of office for a member of the Commission shall be four years.

(2) Of the members of the Commission originally appointed under paragraph (1) of subsection (b)—

(i) two shall be appointed for a term of one year;

(ii) two shall be appointed for a term of two years;

(iii) two shall be appointed for a term of three years; and

(iv) three shall be appointed for a term of four years.

(3) A member may serve after the expiration of his term of office until the Council appoints a successor.

(d)(1) A member of the Commission not otherwise employed by the United States shall be compensated at a rate equal to the daily equivalent of the rate for GS-16 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of his duties as a member of the Commission.

(2) A member of the Commission who is an officer or employee of the United States or the State of Alaska shall serve without additional compensation.

(3) All members of the Commission shall be reimbursed for travel (in accordance with section 5701 of title 5, United States Code) and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(4) No member may be compensated for more than one hundred and eighty days of service each year in performance of his or her duties as a member of the Commission.

DUTIES OF COMMISSION

SEC. 7. (a) The Commission shall—

(1) survey Arctic research conducted by Federal and State agencies, the University of Alaska and other universities, and other private and public institutions to determine priorities for future Arctic research, and make recommendations thereon to the Council and other interested parties;

(2) establish a data collection and retrieval center for Arctic research (which shall be located in the State of Alaska) and promulgate guidelines for the use and dissemination of Arctic research information;

(3) make grants for such Arctic research as the Commission deems necessary and desirable to further the goals and objectives published annually by the Council pursuant to section 4(b)(1), with special consideration being given to studies in neglected areas of Arctic research; and

(4) consult the Council with respect to—

(A) all proposed, ongoing, and completed research programs and studies funded by the Commission,

(B) recommendations proposed by the Commission with respect to future Arctic research, and

(C) guidelines for awarding and administering Arctic research grants.

(b)(1)(A) Not later than December 31 of each year, the Commission shall transmit to the Council a report describing the activities and accomplishments of the Commission during the immediately preceding calendar year and making recommendations with respect to future Arctic research policy.

(B) Such report shall be available for public inspection at reasonable times.

(2) Not later than March 31, 1983, the Commission shall submit to Congress and to the Legislature of the State of Alaska a report making recommendations with respect to the continued operation of Government-operated laboratory facilities conducting Arctic research taking into account the efficiency and effectiveness of such facilities and the degree to which the operation of such facilities would result in the duplication of research and effort.

(c) The Commission shall cooperate with the Governor of the State of Alaska, and with such agencies as the Governor may designate (including but not limited to the Alaska Council on Science and Technology) with respect to—

(1) the recommendations proposed by the Commission pursuant to section 7(a)(4)(B);

(2) the planning, funding, and logistical support of Arctic research; and

(3) the storage, transfer, and dissemination of Arctic scientific and technological knowledge and data.

ADMINISTRATION OF THE COMMISSION

SEC. 8. The Commission may—

(1) in accordance with civil service laws and subchapter III of chapter 53 of title 5, United Stated Code appoint and fix the compensation of an Executive Director and such additional staff personnel as may be necessary;

(2) procure temporary and intermittent services as authorized by section 3109 of title 5, United Stated Code;

(3) enter into contracts and procure supplies, services, and property; and

(4) enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Commission and the Administrator of the General Services Administration.

STATE ELECTION

SEC. 9. (a) The State of Alaska may elect to participate or not to participate in the activities of the Council and the Commission.

(b) Failure of the State of Alaska to contribute to the Arctic Research Fund (established by section 10 of this Act) for a fiscal year an amount equal to one-quarter of the amount appropriated to such Fund by the United States for the previous fiscal year shall constitute an election by such State not to participate in the Council and the Commission.

(c) Upon an election by the State of Alaska not to participate in the Council and the Commission pursuant to subsection (b)—

(1) appointments to such Council or Commission which are required to be made from among individuals—

(i) employed by the State of Alaska, or

(ii) nominated by the Governor of the State of Alaska

shall be vacated; and

(2) an appointment to fill a vacancy created by such election shall be made in such manner and from among such individuals as other appointments to such Council or Commission are required to be made (as determined by the chairperson of the Council or Commission).

(d) An election by the State of Alaska not to participate in the Council and the Commission pursuant to subsection (b) shall not affect the powers or duties of those bodies.

(e) Should the State of Alaska wish to reinstate its participation following an election not to participate, it may do so by meeting the funding requirement for the year in which reinstatement is sought.

ARCTIC RESEARCH FUND

SEC. 10. (a) There is hereby created a trust fund to be known as the Arctic Research Fund (hereafter in this Act referred to as the "Fund"), to be available for the support of the activities of the Arctic Science Policy Council and the Arctic Research Commission.

(b) Such Fund shall consist of—

(1) amounts appropriated to such Fund;

(2) amounts contributed to such Fund by the State of Alaska;

(3) amounts contributed by private individuals and organizations.

(c) Amounts in the Fund shall be available, until expended, for the purposes of this Act, to the extent and in such amounts as are provided for in advance in appropriation Acts.

(d)(1) There is authorized to be appropriated for the Arctic Research Fund for the fiscal year beginning October 1, 1983, and for each succeeding year thereafter, $25,000,000.

(2) In determining the amount contributed to such Fund by the State of Alaska for a fiscal year—

(A) the fair market value (as determined by the Council in good faith) of all facilities, services, materials, and other support contributed to the Fund by the State of Alaska during such fiscal year, and

(B) all amounts contributed by private individuals and organizations,

shall be taken into account.

DEFINITION

SEC. 11. The term "Arctic" shall mean all United States and foreign territory north of the Arctic Circle and all United States territory north and west of the boundary formed by the Porcupine, Yukon, and Kuskokwim Rivers; all contiguous seas, including the Arctic Ocean and the Beaufort, Bering, and Chukchi Seas; and the Aleutian chain.

NONAPPLICABILITY OF NEPA

SEC. 12. The National Environmental Policy Act of 1969 shall not be construed to require the submission of environmental impact statements for any activities conducted pursuant to this Act.●

NOW ACCOUNTS FOR SMALL BUSINESSES

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. SEIBERLING. Mr. Speaker, the Monetary Control Act of 1980 (Public Law 96-221) authorized the Nation's banking institution of offer their customers the use of negotiable order of withdrawal (NOW) accounts. For millions of this country's consumers, interest-paying checking accounts are an attractive method of banking.

As enacted, Public Law 96-221 permits NOW accounts to be used only by individuals and by not-for-profit organizations, such as religious or charitable groups. Evidently there was concern at the time that permitting everyone, including businesses, to use NOW accounts would cause a massive shift in deposits from banks which were not then offering NOW accounts to those which were.

That does not seem to be a problem anymore. Accordingly, I am today introducing legislation to authorize the use of NOW accounts by small businesses. In today's economic climate, I think our small businesses need every break they can get, and I see no reason why they should be denied the use of interest-paying checking accounts.

I am pleased to introduce this legislation, and I hope Congress will act on it promptly.●

DAVID BOWEN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. LAGOMARSINO. Mr. Speaker, I rise to pay tribute to my friend and colleague on the Committee on Foreign Affairs, the gentleman from Mississippi, DAVID BOWEN.

DAVID has served on the Foreign Affairs Committee during the 96th and 97th Congresses, and has been a responsible voice for peace and strength in developing and implementing America's foreign policy around the world. His support on the committee for many of the tough, but necessary decisions we have had to make in recent years has been a significant contribution and one for which we are very grateful. It is one reason he will be sorely missed in the coming Congress.

DAVID also took an active role on the committee in a number of areas relating to agricultural issues which were significant both for our Nation and for his constituents as well. He played an important role in our consideration of Public Law 480 legislation and the need for more effective administration of that program as well as in consideration of legislation relating to the export revolving fund, antiembargo legislation, export credit and the Tokyo round of the GATT negotiations.

For all of his contributions to this Nation and to the people he served, we can be proud to have known him and worked with him. I wish him good luck and Godspeed!●

H.R. 6170

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. LEE. Mr. Speaker, colleagues, please allow me to add my most heartfelt thanks and congratulations to the Members of this House who participated yesterday (September 29) in the passage of H.R. 6170 dealing with the establishment of tougher national standards for drunk drivers.

Without question, every congressional district, every American community, and far too many American families can be grateful for this action. Far too many of us have been touched personally by the loss of a family member or the loss of a friend to drunken drivers. Each of us can take a personal pride in this legislation. It is ironic to me to think that Congress and world leaders can pay so much attention to efforts to avert war while we allow unbridled, largely preventable carnage to continue on our highways. This bill is a solid step in the right direction.

I am extremely proud to have been part of the process which resulted in the appointment of New York State Senator William T. Smith, a close personal friend and one of my home State's finest legislators, to the President's Task Force on Driving While Intoxicated. Senator Smith has been a moving force in our own State and the inspiration for anti-drunk-driving bills in many others. He also helped me to introduce legislation very similar to H.R. 6170 during the last Congress which was incorporated into the fine legislation approved here yesterday.

My thanks are extended for each Member who helped set this national priority in an extremely important area, and to those persons like Senator Smith in each of the 50 States who have worked so hard for this bill as part of a total war against drunken driving.●

1982—NATIONAL 4-H WEEK

HON. WILLIAM H. NATCHER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. NATCHER. Mr. Speaker, National 4-H Week will be observed the week of October 3 to 9, and once again I am pleased to commend this excellent program for its accomplishments of the past year. The 4-H, the largest youth program in America, with nearly 5 million youths participating in its activities, is administered by the Cooperative Extension Service of the Department of Agriculture. Last year 600,000 volunteers donated their time and energy in assisting 4-H youth in completing over 9 million projects.

The theme for National 4-H Week is "4-H—Pathways to the Future." This is a challenge to 4-H youth to become self-directing, productive, and contributing members of society. There are many pathways to the future, and no matter which path is taken, each youngster is able to achieve personal goals and prepare to cope with challenges of life.

Any youth between the ages of 9 and 19 may join this program. The urban 4-H population is increasing, but the program continues to serve a high percentage of farm and rural youth—about 60 percent of the youth participants come from rural areas and over 23 percent live in suburbs and cities. The focus of 4-H has changed over the years from a program concerned primarily with improving agricultural production and food preservation to a program dedicated to development of youth. Therefore, youth from urban areas are now becoming involved in this program to a much greater extent.

The 4-H program has been right successful in the Commonwealth of Kentucky, involving 36 percent of all youth between the ages of 9 and 19 last year—nearly 200,000 youth—and more than 24,000 adult and teen volunteers. Plant science, livestock production, energy education, career exploration, and foods and nutrition were among the more popular projects last year. Kentucky has been a leader in the use of computers in 4-H educational programs and is sharing this with many other States.

I would like to commend the youth participating in 4-H activities for a job well done last year and to wish them continued success in all their future endeavors.●

HISPANIC UNEMPLOYMENT

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. CORRADA. Mr. Speaker, our Nation is currently undergoing a great economic strain, the extent of which can be seen in the unemployment rate of 9.8 percent which was reported last month. But if the Nation as a whole is experiencing difficulties in finding and keeping jobs, then the unemployment situation among Hispanics must be termed disastrous—fully 14.6 percent of Hispanics in the United States are out of work, and Hispanics in Puerto Rico are experiencing rates of 24.6 percent unemployment.

The National Commission on Employment Policy recently completed a study entitled "Hispanics and Jobs: Barriers to Progress," which examines the unique problems of Hispanics in the labor market in an attempt to identify possible solutions to their high rates of unemployment. I would like to commend Kenneth Smith, Chairman of the Commission, and Commissioner Roberto Cambó for their efforts in making this project a reality and for highlighting the Hispanic situation in Commission discussions.

Mr. Speaker, I would like to include for the benefit of my colleagues, the executive summary of this excellent report:

EXECUTIVE SUMMARY

Hispanic-Americans are a sizable and growing part of the U.S. population. Many have problems finding good jobs and earning a decent income even in prosperous times. The dimensions of their difficulties are often hidden by figures on the position of all Hispanic-Americans, since the type of problem differs among Mexican-Americans, Puerto Ricans, Cuban-Americans, and persons from Central and South America. For some, finding work is a severe problem; for others, low pay is the major issue.

At the same time, Hispanics generally experience common barriers to labor market success: lack of proficiency in English, low levels of formal schooling, and discrimination. Difficulties communicating in English directly reduce their prospects for good jobs, impede their educational attainment, and operate as a vehicle for labor market discrimination.

CHARACTERISTICS OF HISPANICS

The 1980 census estimates that there are 14.6 Hispanic-Americans living on the U.S. mainland and another 3.2 million in Puerto Rico. They are 6.5 percent of the population on the mainland, up from 4.5 percent a decade ago.

Hispanics differ from the rest of the U.S. population in several important ways.

Hispanics are geographically concentrated in a few States. Two-thirds live in California, New York, Texas, and Florida; less than one-third of the total population lives in these States.

Hispanics are more likely than the rest of the population to be immigrants. In 1970, about 1 out of every 4 Hispanics was foreign born, compared to 1 out of 20 in the total population.

Hispanic adults have fewer years of schooling than either whites or blacks. Among persons over age 25 (when most people have finished their schooling), half of the Hispanic population has completed fewer than 11 years of schooling, about 2 years less than whites, and 1½ years less than blacks.

Many Hispanic adults, whether native or immigrant, have problems communicating in English. Almost 15 percent of those 21 years or older speak only Spanish and almost 30 percent consider Spanish to be their major language.

Hispanics are a young population. Half are under age 24 and almost one-third are under age 15. Half of the white population is under age 31 and about 20 percent are under age 15.

Many Hispanic youth leave school before graduation. Their dropout rate is about 1½ times that of blacks and almost 3 times that of whites.

Many Hispanic youth have problems with English. About 70 percent of those age 5 to 14 (or 1.7 million children) who have been raised in Spanish-speaking homes have limited proficiency in English.

The experiences of Hispanics in the job market differ from those of blacks and whites.

The rate of participation in the labor force among Hispanic men is as high as that of whites and above that of blacks. Hispanic and white women have about the same rate of participation, which is below that of black women. Hispanic youth participate in the job market at a rate below that of whites but above that of blacks.

The unemployment rates of Hispanic men, women, and youth are above those of whites, but below those of blacks.

Hispanics are more likely to be in blue-collar jobs than either whites or blacks.

Hispanic men earn less per hour than black or white men. All groups of women earn less than men and Hispanic women earn the least per hour among women.

The annual income of Hispanics is between that of blacks and whites.

THE DIVERSITY OF THE HISPANIC POPULATION

The majority of Hispanics on the mainland are Mexican-Americans (60 percent). Fourteen percent are Puerto Rican, 6 percent are Cuban-American, 8 percent are from Central and South America, and 12 percent are "other Spanish." This last group includes persons of mixed Hispanic background.

Because most Hispanics are Mexican-American, statistics on Hispanics as a group largely reflect the experiences of Mexican-Americans and tend to obscure trends and problems of the other groups. The several groups of Hispanics differ in important ways.

They are located in a few widely separated regions of the U.S. with different rates of economic growth and different occupation/industry mixes. In general, Mexican-Americans are located in the Southwest; Puerto Ricans on the mainland live mainly in the Northeast; and most Cuban-Americans in Florida.

The groups became citizens in different ways and at different times. Mexicans' land was annexed by the U.S. in the mid-1840's. By 1970, about 50 percent were at least second-generation Americans and less than 20 percent were immigrants. Puerto Ricans

also became Americans when the island was annexed by the U.S. in 1898. A unique characteristic of this group is their frequent migration between the Spanish-speaking island and the English-speaking mainland. The vast majority of Cubans are immigrants and children of immigrants who began arriving in the U.S in the early 1960's. Most Central/South Americans are also recent immigrants.

Mexican-Americans and Puerto Ricans are, on average, a young population. Their median age is 22 years, 8 years below the median age of non-Hispanics. By contrast, Cuban-Americans are a relatively old group; their median age is 36 years.

Mexican-Americans and Puerto Ricans have a low level of education. Those over 25 years old have a median education of 9 and 10 school years, respectively. The comparable figure is about 12½ years for the total U.S. population. The low levels of education are partly due to the lack of schooling of immigrants, who comprise a large proportion of these groups than of the non-Hispanic population. However, native Mexican-Americans and mainland-born Puerto Ricans average at least 1 year less of schooling than white non-Hispanics of the same age. By contrast, Cubans are a well-educated group. Their median formal education is about the same as that of the non-Hispanic population.

Due to their different characteristics, the Hispanic groups have different experiences in the job market.

Difficulties finding work—as indicated by low rates of participation in the labor force and high rates of unemployment—are especially severe for Puerto Rican men and women both on this island and on the mainland. By these two measures they fare no better than blacks.

Mexican-American men have the largest proportion in blue-collar jobs and they earn less per hour than any other group of men. Mexican-American women have high rates of unemployment and earn less than the other groups of Hispanic and non-Hispanic men and women.

Compared to the other Hispanic groups, Cuban men and women do well in the labor market: their participation in the labor force is high, unemployment is low, and their median personal income is also high. On the other hand, their income position is substantially below that of non-Hispanic whites. Also, these figures exclude a large number of Cubans—the recent Mariel refugees, of whom a substantial number are jobless.

REASONS FOR HISPANICS' PROBLEMS IN THE JOB MARKET

Determinig the reasons for Hispanics' difficulties in the labor market is an empirical problem. The goal is to disentangle the effects (for example, on wages) of various characteristics such as location, immigrant status, age, education, and proficiency in English.

Research shows that while the several groups experience different labor market problems, the major causes are the same: lack of proficiency in English, low levels of formal schooling, and discrimination in the labor market. In this context, "lack of proficiency in English" means not only a limited ability to speak and understand the language, but also an infrequent use of English.

Research also suggests that the Hispanic groups are treated differently in the job market. However, due to Hispanics' widely scattered locations and to limited data, it is not possible to determine whether these differences reflect the effects of (1) belonging to a particular Hispanic group or (2) living and working in a particular place.

In general, Hispanic men who have problems with English earn less than those who are proficient. Language difficulties for women are associated, on average, with reduced participation in the labor force. Language is also associated with reduced earnings among women who have 12 or more years of education.

Hispanics' low levels of education, operating separately and in combination with their language problems, are another important reason for their low wages and poor occupational position. Lack of formal schooling has a particularly strong effect on the wages of Mexican-American men and women.

Language deficiencies are one vehicle through which discrimination against Hispanics occurs in the labor market. Even among men with similar language problems, Hispanics are in lower-paying occupations than non-Hispanics. Evidence indicates that discrimination against Hispanic men on the basis of their ethnic, as well as their linguistic, characteristics contributes to their low wages, although its severity varies among the several groups of Hispanic men. Discrimination has not been found to be a cause of differences in pay between Hispanic and non-Hispanic women.

GOVERNMENT ACTIONS TO IMPROVE HISPANICS' POSITION

There have been several important governmental actions that seek to reduce Hispanics' problems in the job market. Bilingual education was designed to help all language minorities, but it is considered by the Hispanic community to have been a major instrument of the Federal Government to help Hispanics enter the American mainstream. Federal training programs are also considered here.

BILINGUAL EDUCATION

Over the past two decades the Federal Government has supported educational programs sensitive to the needs of young people whose first language is not English. The three major components of this support are title VI of the 1964 Civil Rights Act, the Bilingual Education Act of 1968, and the Supreme Court's 1974 decision in *Lau* v. *Nichols*. The Supreme Court ruled that students whose first language is not English do not receive an education free from unlawful discrimination if they are instructed in English, without regard to their language difficulties.

There are several approaches to teaching language-minority students: English as a second language, transitional bilingual, bilingual bicultural, and structured immersion. The goal of each program is to teach English to the students while continuing their education in other subject areas. Bilingual bicultural programs give equal emphasis to parallel development of the students' own languages and cultures.

There are examples of successful projects for each of these approaches, but there is no consensus regarding which program works best. The literature does show that to be effective, individual programs should consider the students' age, social background, and educational needs. Also, the programs must have sufficient teaching materials and adequately trained staffs.

FEDERALLY SPONSORED TRAINING PROGRAMS

Federally sponsored training programs, such as those authorized by the Comprehensive Employment and Training Act of 1973 (CETA), are available to economically disadvantaged persons who wish to improve their skills. In general, more Hispanics participated in CETA training programs than would be expected on the basis of their proportion of the national eligible population.

The services and treatment Hispanics received did not differ from that of blacks and whites, once differences in program-relevant characteristics were taken into account. However, Hispanic women were more likely than men to be training for (or working in) low-paying jobs.

Analyses of all racial and ethnic groups of participants indicate that after completing the training program, men's yearly earnings did not increase above those of otherwise similar men who had not been in a training program. Women's yearly earnings rose above those of the comparison group, largely due to higher levels of employment, and somewhat to higher wages.●

MOXHAM BANK LAUNCHES NEW "BUY AMERICAN CAMPAIGN"

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. MURTHA. Mr. Speaker, I want to insert into the RECORD a news release announcing a new loan program by the Moxham National Bank in Johnstown, Pa., designed to encourage the purchase of American products made in America by American labor.

I spoke this week with Mr. Hugh Hudnall, vice president for marketing with the bank, who informed the program is off to a very strong start and receiving a strong response in the Johnstown area.

Once again, I congratulate the bank for their effort and wish to insert into the RECORD the statement announcing the program.

"BUY AMERICAN CAMPAIGN"

The Moxham National Bank announces entry into a "Buy American Campaign." The bank has established a special fund of $1,000,000 to be loaned to people of the greater Johnstown area at the rate of 12 percent annual rate of simple interest. Loans made from this fund will be granted for the purpose of purchasing products made in America by American labor. This program will begin September 22, 1982, and will be available from any community office of Moxham National Bank.

This action is being taken by the bank to show its support for the local coal and steel industries. We hope to help stimulate the local economy and improve the employment prospects of the people in our area. Our bank is willing to do our share and we invite the other financial institutions in the Johnstown area to join us in attempting to bring interest rates back to earth.

Additional terms and conditions of this program include: that the loans be granted for no more than 3 years, the borrowers must be credit worthy, there must be a one-third down payment, and the bank holds the item being purchased as security on the loan, and the dealer selling the product as

well as the borrower from our bank must be located within 10 air miles of Johnstown.●

TRIBUTE TO ROBERT E. RUTT

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. BONIOR of Michigan. Mr. Speaker, I would like to place a few remarks into the public record, concerning the pending retirement of one of America's leading trial lawyers, who is also the president of one of this country's largest civil defense trial law firms.

On October 1, 1982 Robert E. Rutt, trial lawyer, will retire from the active practice of law. He was admitted to practice in the State of Michigan in 1947, and associated himself with four other lawyers. Today, that association of lawyers has developed into the firm of Plunkett, Cooney, Rutt, Watters, Stanczyk Pedersen, P.C., Detroit, Mich. This firm's growth to over 80 lawyers has been a direct result of his leadership, guidance, and inspiration.

Bob Rutt's undergraduate education was completed in 1940 upon his graduation from the University of Detroit. He entered the University of Detroit School of Law, where his legal education was interrupted by his service as an officer in the U.S. Army during World War II. During his tour of duty in the European theater, he was twice captured, and twice escaped captivity during the Battle of the Bulge.

After his return to civilian life, Bob graduated from law school and began to pursue what developed into an outstanding legal career. Bob's specialty has been the practice of products liability law, and he has represented literally hundreds of manufacturers of products with an acknowledged tenacity and resourcefulness.

I might add that Bob's appeal to both judges and juries (although not always to his opponents), has been based on his ability to analyze and crystalize complex issues and to present those issues with a wry sense of humor.

Bob's retirement from the active practice of law is the profession's loss. However, even though he will be spending more time in his boats on Michigan's Great Lakes, and in Florida aggravating the fish, and also traveling about the world with his lovely wife Lucille, we know that his love of his profession will never diminish.

I join Bob Rutt's law partners, associates, and clients in wishing him the best of luck and good health in the years ahead.●

H.R. 4230

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. WILSON. Mr. Speaker, Kansas City Southern Lines Railroad and its parent company, Kansas City Southern Industries, have been among the strongest opponents of the coal pipeline legislation, H.R. 4230, which has been reported by the House Interior and Public Works Committees. An article from the September 13 edition of Forbes magazine, which I am putting in the RECORD today, may explain the reason for Kansas City Southern's opposition and makes a compelling case for the adoption of this legislation in this session of Congress.

The Kansas City Southern enjoys excellent profitability, with its earnings increasing 400 percent in the last 5 years. One reason given for the increased profitability is the strategic position Kansas City Southern enjoys in transporting coal from the Powder River basin in Wyoming to utilities in Texas and Louisiana. As the article indicates, the Burlington Northern Railroad can take Powder River basin coal to Kansas City, but only Kansas City Southern can take it on to the utilities in Texas and Louisiana. Now here is the kicker—and I quote from the Forbes article—

When it came to negotiating shipping contracts over the newly upgraded rail, Hockaday (the President of Kansas City Southern Industries) and railroad President Tom Carter stood tough. Other railroads give coal shippers the option of buying or leasing unit coal trains. Not KCS. "We gave them prices for both, but we never intended to buy those unit trains," says Carter with a grin. If utilities want the coal, let them own the trains. That shrewd calculation has saved KCS $225 million to date.

That shrewd calculation—which could not be made if the Kansas City Southern had to compete with coal pipelines for the transportation of Powder River basin coal—has cost electric consumers in Louisiana and Texas $225 million to date. When utilities are forced to buy unit trains—and I might add they must still pay haulage rates to the railroads for pulling those unit trains across their tracks—then the cost comes out of the hides of our consumers.

I hope each of my colleagues will read this interesting and revealing article on the Kansas City Southern Lines Railroad. Little time remains in this session, but sufficient time remains for the House to consider and pass H.R. 4230, which will allow coal pipelines to compete with the railroads for coal haulage. The railroads are perfectly happy to use every device to delay our consideration of this legislation and, if successful, to prevent the House from considering this important legislation which is supported by just about everybody except the railroads and the railroad labor unions. I hope the Rules Committee will do the right thing and allow this legislation to be considered by the full House this session.

I ask that the entire text of the Forbes article entitled "Who Needs Merger?" appear in the RECORD.

WHO NEEDS MERGER?

(By Lisa Gross)

With the most direct route between the Kansas City rail gateway and the Gulf of Mexico, it goes without saying that the Kansas City Southern Lines railroad would fetch a premium price in the national railroad merger market. But because of Irvine Hockaday's achievements over the last 14 years, the KCS attracts more than a premium. It commands tribute.

One analyst suggests the Burlington Northern or the Santa Fe ask Hockaday—president of Kansas City Southern Industries—to name his price, add on 50 percent and buy the KCS as a bargain. It is not so much that BN or SF will need KCS' strategic 1,700 miles of track once the Union Pacific and Missouri Pacific merge. It is that Hockaday has increased rail earnings 400 percent in the last five years, to $26.4 million on $321 million revenues in 1981, and made the KCS one of the most profitable railroads in the nation.

First it had to be saved, then rebuilt. Less than a year after Hockaday joined KCS' legal department in 1968, he noticed accumulation in its stock. He responded quickly, persuading the board to institute staggered terms for directors, flushed the secret buyer—Lee National Corp., an investment and real estate firm—and exulted. Because Lee was an investment company, and KCS owned 54 percent of a mutual fund management company, University of Michigan-trained lawyer Hockaday "sued every Wall Street brokerage firm that held stock for Lee and withheld dividends." He stopped the takeover cold, eventually buying out Lee's $23 million of KCS in a trade for real estate in 1971. The next year, when he was 36, Hockaday was named president of KCS.

Then he learned that salvation was easy, redemption harder. In 1972 Kansas City Southern Industries had $139 million revenues, $7 million earnings and a railroad badly in need of maintenance. The company had spent ten years debating how much to commit to the railroad and how much to diversification, and the roadbed reflected its waffling and tough competition from trucking. But Hockaday listened closely as his marketing people talked about the 20-year coal contracts Gulf States Utilities and Southwestern Electric Power were about to sign with mining companies in the Powder River Basin. The Burlington Northern could take that coal to Kansas City, but only KCS could take it on to the utilities in Texas and Louisiana. Hockaday "opted to bring the roadbed up to state of the art—even to err on the side of overdoing it," and authorized what became a $341 million, ten-year upgrading program. Then he scrambled to pay for it by selling off diversifications in metal fabrication and financial services, but chiefly by husbanding KCS' capital.

When it came to negotiating shipping contracts over the newly upgraded rail, Hockaday and railroad President Tom Carter stood tough. Other railroads give coal shippers the option of buying or leasing unit

coal trains. Not KCS. "We gave them prices for both, but we never intended to buy those unit trains," says Carter with a grin. If utilities want the coal, let them own the trains. That shrewd calculation has saved KCS $225 million to date. With that sort of thinking, plus strict budget controls, KCS has been able to pay for renewing its line while keeping long-term debt manageable—46 percent of capital by last year. The renewal is still paying off. This year, KCS estimates unit coal train tonnages will increase 25 percent, raising coal revenues at least 75 percent, to about $74 million.

Hockaday has brought KCS from desperation to a company with enviable options. He figures the coal surge will last another five years, based on current contracts. Adding to that, he counts on exporting soda ash from Wyoming and Montana through the Gulf—where KCS happens to own the only existing soda ash handling facility, at Port Arthur, Tex.

Then there's a new KCS innovation, the "Big D" cooperative carloading agreement with the Santa Fe at Dallas—a connection to or from the Southeast, West Coast and Central regions—which brought in $47.5 million revenues in this year's first half. KCS' share is about 20 percent. Hockaday is seeking similar agreements with Burlington and Southern Pacific, trying to make the most of his small railroad's strategic position. "Before the UP/MoPac merger talks," he notes dryly, "trying to get the big guys to listen on things like the Big D connection was like trying to teach a duck to sprint."

An eventual merger? Hockaday, 46, doesn't blink. "We think we know best how to run our railroad," he says firmly. The evidence confirms it.●

DAVID BOWEN

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. COELHO. Mr. Speaker, I am proud to join my colleagues today in paying a tribute to a gentleman who for the past 10 years has served this House with a sense of duty and thoughtfulness that is only matched by the quality of his leadership and sincerity, DAVID BOWEN. Such a salute is an appropriate action for DAVID, who has not only made this Congress a more responsible legislative body during his tenure, but has represented his constituency in an exemplary manner. He has served many long and hard hours on House committees, including Foreign Affairs, Merchant Marine and Fisheries, and Agriculture. I was privileged to serve on the Agriculture Committee with him where his insight and guidance proved invaluable to me. As chairman of the Subcommittee on Cotton, Rice and Sugar, he displayed a persistence in committee debate and he did more than just talk, he got things accomplished for agriculture. He was one of the best friends our Nation's farmers ever had, and they will miss him and his dedicated and perservering support.

Throughout his tenure, DAVID has exhibited an unquestionable allegiance both to this Nation as well as his constituents, and his loss will be deeply felt. I will miss not only the distinguished colleague, but a sincere friend and I wish DAVID all the best in his endeavors in the years to come.●

FIGHT FIRE WITH FIRE ON EXPORTS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednsday, September 29, 1982

● Mr. CONTE. Mr. Speaker, let me call your attention to an editorial that appeared in yesterday's New York Times (Sept. 28, 1982), entitled "Fight Fire With Fire on Exports." I will include a copy for the RECORD.

The basic message of this commentary is clear: The Eximbank must be adequately funded so that American business can be competitive with our foreign trading rivals.

The facts speak for themselves.

It is estimated that every $1 billion of exports financed by Exim supports 35,000 to 40,000 American jobs. In 1980, Exim activities directly supported 724,000 jobs in the United States.

In 1981 over 2,600 businesses utilized Exim programs directly, and 13 percent of the total dollar amount of Exim support went to small business.

Exim critics call its program welfare for the rich, since two-thirds of its prime contract awards benefit seven large corporations (Boeing, Westinghouse, McDonnell-Douglas, Combustion Engineering, Lockheed, Western Electric, and General Electric).

However, in my view this criticism is unfounded. In most cases, the prime contractor of record subcontracts large portions of their work to other companies. For example, although Boeing is listed as the recipient of $2.5 billion in Exim awards, $600 million of that amount was immediately subcontracted to United Technologies.

In virtually all cases, the effect of Exim loans is disbursed through subcontracting to other companies. In the history of Exim programs, over 10,000 suppliers in all 50 States have benefited from Exim financing commitments.

Mr. Speaker, during this difficult recovery period—when unemployment is approaching 10 percent—we must not abandon job-creating progams. The Eximbank is one such program. The Department of Commerce, Bureau of the Census, documented that 79 percent of all new jobs created in the manufacturing sector between 1977 and 1980 were due to exports.

Now, more than ever, America needs a strong Eximbank.

[From the New York Times, Sept. 28, 1982]

FIGHT FIRE WITH FIRE ON EXPORTS

Practically everyone agrees that subsidizing exports with low-cost Government loans is a bad idea. Cheap credit, like any form of export subsidy, is just another "beggar-thy-neighbor" policy, creating jobs in one country at the expense of jobs in another. What everyone does not agree about, though, is how to get rid of it.

Budget Director Stockman leads the fight to cut funding for America's Export-Import Bank, the agency that now offers below-market interest loans to foreign buyers of American products. Other countries, he presumes, could then be persuaded to follow our example. There is a more likely route to success: convince our trade rivals that the United States is prepared to match (and thereby neutralize) their export credit subsidies.

Mr. Stockman has made the Export-Import Bank a priority target since taking office. In 1981 he asked Congress to trim the bank's lending by one-third, to $3.7 billion. He didn't get all that he wanted: Congress authorized $4.4 billion. But he did manage to appoint an ally, William Draper, as president of the bank. Mr. Draper has used his discretionary authority to tighten lending terms. And the Administration is once again asking for cuts in the bank's budget.

The Administration's opposition to Export-Import lending is partly based on principle. The President's economic advisers favor open world trade and believe, correctly, that it is being undermined by export subsidies from the industrialized countries. But the policy also serves more pragmatic purposes. Virtually all Export-Import loans go toward sales by a few very large corporations—Boeing, Westinghouse, General Electric, McDonnell Douglas. By opposing Ex-Im programs the President can agrue that he wants to cut Government aid to the rich and powerful as well as the poor.

The ploy is understandable, but it only distracts from the tactical question of how best to eliminate all export subsidies. The Administration is now asking the Europeans to end all cheap financing on commercial aircraft, save those sold to very poor countries. And it will no doubt ask for similar reforms from all industrial exporters when the industrialized Western nations meet next year to discuss export credit policies.

The Europeans, Canadians and Japanese might be persuaded by sweet reason. But the long, sorry history of such negotiations suggests otherwise, especially during recession. The more practical approach is to prove our determination to slug it out in the marketplace unless they eliminate subsidies to buyers who can afford to pay. And the first step along that route is for Congress to support Export-Import Bank lending at pre-Reagan levels.●

H.R. 3

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. PEPPER. Mr. Speaker, in 1977, this body considered H.R. 3. That bill proposed amendments to the Social Security Act to reduce fraud and

abuse in the medicare and medicaid programs.

On September 23, 1977, I proposed an amendment to H.R. 3 to protect patients and their families from unscrupulous nursing home and hospital administrators who sought money in excess of medicaid reimbursement as a precondition of admission or as a condition of continued stay in the facility. Although these practices can be directed against any patient, they are most frequently directed at the elderly and their relatives.

As I have frequently explained in this Chamber, the elderly are at risk on many fronts. However, at perhaps no time are they more vulnerable than when seeking admission for a spouse or for themselves to a nursing home. It is therefore especially important that adequate safeguards be established and enforced to prevent victimization of this population at this difficult time.

I therefore proposed an amendment 5 years ago to bar nursing homes from seeking or accepting contributions as a precondition of entry or as a condition of continued stay. That amendment to section 1909 of the Social Security Act provided as follows:

(d) Whoever knowingly and willfully—

(1) charges, for any services provided to a patient under a State plan approved under this title, money or other consideration at a rate in excess of the rates established by the State, or

(2) charges, solicits, accepts or receives in addition to any amount otherwise required to be paid under a State plan approved under this title, any gift, money, donation, or other consideration (other than a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the patient)—

(A) as a precondition of admitting a patient to a hospital, skilled nursing facility, or intermediate care facility, or

(B) as a requirement for the patient's continued stay in such a facility, when the cost of the services provided therein to the patient is paid for (in whole or in part) under the State plan, shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $25,000 or imprisoned for not more than five years or both.

Because unscrupulous owners and administrators are extremely imaginative, I did not limit the scope of my amendment to only contributions. Instead, the amendment reached "any gift, money, donation, or other consideration."

This amendment to H.R. 3 was accepted by this body and ultimately was incorporated in the legislation that was passed by the Congress and signed by the President as Public Law 95-142. I had hoped that that legislation would eliminate at least this type of abuse.

I was therefore saddened to learn recently that these practices have not ceased. At the request of the Maryland Department of Health and Mental Hygiene, the attorney general of Maryland, Stephen H. Sachs, reviewed the legality of certain preadmission practices of nursing homes.

On July 7, 1982, that office issued a letter declaring that Federal law prohibited nursing homes from requiring patients to agree to pay private pay rates for a year before they could rely on medicaid reimbursement. That letter also declared that nursing homes could not require patients or their families to make donations as a precondition of admission or continued stay. His letter was reviewed and approved by the office of the regional attorney of the U.S. Department of Health and Human Services.

I have reviewed the letter of the Maryland attorney general and agree that its contents carry out the intent of my amendment. As I emphasized before this body in introducing that amendment, "Where the gifts are required, they are in truth not gifts at all but blackmail." Patients are told that they can either agree to pay private pay rates or find another home. In light of the shortage of nursng home beds in many areas, patients are really left with no choice at all.●

MIKE GORDON: AN OLDER MAN AND THE SEAFOOD

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. LEHMAN. Mr. Speaker, Mike Gordon has been more than just my good friend for many years. To me and to many people in south Florida, Mike Gordon is a symbol of the American dream.

Mike worked hard and he played hard as he has shown what free enterprise is all about. He became successful because he offers a better product and has devoted years of hard work to the restaurant that bears his name. All south Florida has come to his restaurant to enjoy the quality and ambience that is Mike Gordon's on Biscayne Bay.

The following story in the "Neighbors" section of the Miami Herald of September 19 does an excellent job of capturing the essence of Mike Gordon, but the best way for my colleagues to get to know Mike is to be there at Mike Gordon's. It is almost impossible to separate Mike from his business. His personality and presence are so intertwined with the restaurant. Perhaps that has been the key to his success. His total involvement has made Mike Gordon's work for himself, his employees, and his customers.

The story follows:

MIKE GORDON: AN OLDER MAN AND THE SEAFOOD

Mike Gordon is everywhere in the bay side seafood restaurant that bears his name.

He's the host showing off the restaurant at 79th Street and Biscayne Bay like a favorite child, pointing to pictures on the paneled walls of a young Miami and a younger Gordon.

He's the old man and the sea, drinking at the bar that looks out on a changed Miami Beach skyline. When he opened the restaurant 36 years ago, there were no lights across the bay, no condominiums, no causeway. Today, Gordon says his restaurant does $5 million worth of business a year.

He's the young man flirting with the help he considers family, his eyes dancing the way they must have when he came to Miami in the 1930s.

He's a man in love with his work. He needs just four hours of sleep a day, racing the clock like he raced speedboats 20 years ago.

He runs a tight ship, buying fish across the country and checking all the orders. He opens the Cape-Cod-style restaurant every day, making phone calls at 6:30 a.m. and closing the place after 11 p.m.

"I've done very well," said the short, bespectacled 73-year-old. "But I've worked. My creed is to open and close. I still like the business. I like the customers. And I like to go to the bank on Mondays."

Gordon paused and laughed. "I don't go to the bank anymore. They come and get it. Brinks comes and gets it—in a wheelbarrow."

Mike Gordon's Restaurant—begun in 1946 with a $2,000 GI loan—has turned its owner into a millionaire. He also owns The Fish Peddler, a restaurant on Biscayne Boulevard by NE 87th Street.

Gordon's first restaurant began as a bait and tackle shop, but the bait didn't sell very well. So Gordon's mother started cooking it. The bait sold faster in sandwiches for fish lovers than in bait buckets for fishermen.

In 1960, Gordon built a home next door in the same style as his restaurant. He also owns two square blocks by 79th Street, land in Davie, four townhouses, an auto repair shop and a boat shop.

Gordon was born in New York, the son of a Greenwich village artist (artiste, he says, with a chuckle) and a dressmaker. "My family had nothing," he said.

His first job, at age 16, was ushering at New York's Paramount Theater.

A few years later, while shooting pool with a waiter, he learned of a coatroom job at the 21 Club. He got it, was promoted to busboy, then dishwasher, cashier and finally bartender.

Gordon likes to drink. A glass of Jack Daniels bourbon is always in hand. Bartending took him from New York to Miami Beach, where a bartender could make good money and meet the right kind of people.

By 1946, so many people knew him, he said, that he opened a restaurant and gave it his name.

The restaurant burned in 1968, but Gordon rebuilt it and opened The Fish Peddler in 1979.

Many of his employes have worked with him for years. Bookkeeper June Martin has been with Gordon since 1963. "He's not afraid to bus a table or bartend or run his own errands or repair," she said. "He can do it."

In recent years, Gordon has "mellowed a bit. He doesn't crack the whip as much," she said. "He's a good boss. If you do your work, he can't do enough for you."

Gordon says he also has an interest in a machine he invented to extract the meat from lobster legs.

"The meat goes out one way," he said, "and the shell the other. It comes out almost like toothpaste."

The idea sprang from an old-fashioned clothes wringer he used to dry out towels. One day, an inspired Gordon brought the wringer into the kitchen. He experimented with crawfish, putting the shellfish between the rollers.

"Man, in no time we had a nice little pot of meat," Gordon said.

He also owns two speedboats, but he's stopped entering races. Insurance companies won't cover drivers older than 65. Gordon, at one time, held state and national speed records.

His retirement hasn't stopped him from sponsoring two local races annually. He posts more than $40,000 in prize money for the races.

His former wife, Ann, worked as a waitress for him. When Gordon crashed in a speedboat race she came to the hospital to see him every day. During a one-year period, Gordon's boat flipped over four times. Fractured bones and hospital stays almost became a routine.

He married at 55 and adopted her three boys. One works at The Fish Peddler, another works as a chef at Mike Gordon's. His daughter is still in school. Although the couple has split up—their second divorce—the children still live with Gordon.

"I made my daughter when I was 56 years old," he bragged. "That was a tough job."

What next? He wants to write a book about the Miami he used to know.

It should be a mouth-watering tale.●

TRIBUTE TO JOHN RHODES

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. BOLLING. Mr. Speaker, JOHN RHODES and I have been friends for a long time. His service on the Rules Committee in this Congress has given me real pleasure. He is a totally dedicated, able and agreeable public servant. I will really miss working with him. The country will miss him.●

DAVID BOWEN

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 1982

● Mr. BINGHAM. Mr. Speaker, I want to thank the dean of the House for arranging this opportunity for us to pay tribute to our colleague DAVID BOWEN who is retiring from the House after 10 years of distinguished service.

Since DAVID BOWEN came on the Foreign Affairs Committee in 1979, I have had the pleasure of working closely with him. He has shown great interest in the work of the committee and has made many useful contributions. He has been an articulate spokeman for his point of view, thus adding to the quality of discussion in the committee. While we have not always agreed on the issues, DAVID has been unfailingly courteous to his colleagues and witnesses coming before the committee. The gentleman from Mississippi has been exactly that, a true gentleman in the finest tradition of our Southern States.

DAVID BOWEN has taken a special interest in the work of the Council of Europe, a parliamentary group of long standing, and has regularly headed the U.S. delegation to sessions of the Council in Europe and acted as host when the Council sent delegations to this country. In this fashion DAVID BOWEN performed a real service, not only for the House of Representatives, but in helping the United States to maintain good relations with our friends in Western Europe.

My wife and I wish DAVID all the best in whatever he undertakes to do next. He has a lot to contribute.●

AMERICAN SPECIALTY STEEL INDUSTRY

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. YATRON. Mr. Speaker, the American specialty steel industry is in serious difficulties because of illegally dumped and subsidized imported specialty steel. The health of this industry is of great importance to the people of the Sixth Congressional District of Pennsylvania. Carpenter Technology Corp., a vital specialty steel company, is located in Reading, Pa. This company is crucial to the people and economic growth in our area.

This industry is a critical part of our national defense and is a world leader of technological innovation. Despite specialty steel's importance, however, domestic producers are being forced out of business. Unemployment in some specialty steel companies exceeds 50 percent and even this figure is an understatement of employment difficulties as many workers are now employed on a part-time basis. Action is needed now to deal with the continued problem of unfair trade practices engaged by foreign producers. We cannot allow important domestic industries to vanish and we cannot allow unfair imports in our country at the expense of our work force and our productivity.

To prevent continuing severe injury by reason of unfair imports, the domestic industry has filed a series of unfair trade cases before the Department of Commerce, International Trade Commission and the U.S. Trade Representative. Despite unanimous findings by the ITC of injury caused by imports and the obvious losses to the specialty steel industry, no effective action has yet been taken to halt these unfair imports.

The proposed settlement negotiated with the European coal and steel community is not adequate to address the concerns of the specialty steel industry. The U.S. Trade Representative has delayed requesting GATT consultations pending a potential negotiated settlement. Now the specialty steel industry fears that action by the Trade Representative may be delayed until after the GATT consultations are completed, which would prove devastating to the industry.

I ask my colleagues in the Congress to join me in urging the administration to take appropriate actions immediately. We must direct negotiations toward a settlement covering all specialty steel products, the U.S. Trade Representative must aggressively pursue section 301 cases and the Department of Commerce must move forward rapidly on its unfair trade investigations without delay. These are tangible actions, which if vigorously pursued will put our people back to work and save a vital American industry of critical importance to our defense posture.●

FREDERIC FELDMAN: PATRIOT, TEACHER, OUTSTANDING CITIZEN

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. BAILEY of Pennsylvania. Mr. Speaker, on Saturday, October 2, Mr. Frederic Feldman will be honored as the outstanding citizen of Monessen, Pa., during ceremonies at the annual banquet of the Monessen Chamber of Commerce. I commend the chamber and the city of Monessen for their wisdom in honoring so deserving and so distinguished a citizen as Mr. Feldman and I would like to share with you some of the highlights in the life of this extraordinary man.

Fred Feldman is a native son of Monessen and was born there on November 13, 1909, to Emanuel and Sadie Feldman. He graduated from California State Teachers College in California, Pa., in 1933, the year that the Great Depression hit bottom in this country. Undismayed by the economic chaos and virtual lack of any kind of employment opportunities during that tragic time, Fred set out to find work. With the courage and determination which would subsequently characterize his later life, Fred Feldman did succeed in securing employment with the Monessen School District as a teacher of health and physical education. He taught in the Monessen school system for 40 years prior to his retirement in 1973. He served as a junior high basketball coach for 25 years and as a tennis coach for 15

years. These were, by an large, successful years for Fred Feldman and his coaching successes made such an impact on the community that he was asked to return as tennis coach in 1980—7 years after his initial retirement. He graciously accepted this call to a postretirement coaching assignment and produced championship-caliber tennis teams which became the pride of the community. I might add that during Fred's years of dedication to his coaching duties, he also served the city of Monessen for 45 years as community recreation director. He has, indeed, devoted his life to the youth of Monessen and impressed upon them the importance of fair play, dedication, and love of country and community.

Fred Feldman's teaching career was interrupted by the outbreak of World War II. As tough as the labor gang foremen who work the steel mills of his native Monessen and as indestructible as the steel which they produce, Fred fought his way across the European theater of war helping to drive the Nazi menace from France, Holland, and finally, Germany itself.

Back home in 1945 following the end of the war, Fred joined the Veterans of Foreign Wars, Post 1190. In the years to come, he was to become very active in veterans activities. For many years, Fred assembled all the veterans parades, Flag Day ceremonies, and Memorial Day observances for the city of Monessen. Fred's activities and sacrifices on behalf of veterans have earned him the sobriquet "Mr. Veteran." It is a name well deserved. Today, Fred Feldman serves as president of the Veterans Council of Monessen and continues his tireless efforts to insure fair treatment, proper recognition, and improved benefits for veterans and their dependents.

I am proud of Fred Feldman's many achievements over the years and value the close personal and working relationship that I have enjoyed with this outstanding man and his vivacious wife, Esther. This Saturday, when Fred is called to the rostrum to accept his award, the citizens of Monessen can rest assured that they have chosen well. An asset to the teaching profession and a tireless servant to both community and country, it has been a special honor to know Frederic Feldman: Patriot, teacher, outstanding citizen.●

VOTING TAX CREDIT

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. SEIBERLING. Mr. Speaker, today I am introducing legislation, by request, which would amend the Internal Revenue Code of 1954 to provide a $30 refundable tax credit to taxpayers who vote in a Federal general election.

The concept of a voting tax credit is the brainchild of Mr. Frank Martino, president of the International Chemical Workers Union. It proposes a voting tax credit as a method to get more Americans out to vote in Federal elections. According to the ICWU, the credit is "designed to provide an incentive for all Americans, rich and poor alike, to exercise their franchise as responsible citizens of our country."

Mr. Speaker, the low percentage of voter turnout in Federal elections has become a deplorable situation in this country. Apathy on the part of eligible voters has soared, and many Americans do not vote simply because they are frustrated with politicians. More and more Americans seem to believe that their vote is not really important anymore.

The extent of voter alienation is apparent in the statistics released by the Census Bureau. These figures are disheartening as well as alarming. In the 1968 Presidential election, there was only a 60.9-percent voter turnout. In the 1972 election, after 18-year-olds got the vote, voter turnout dropped to 55.6 percent. And in the latest election, only 53.2 percent of the American population eligible to vote participated. The figures are even more alarming for offyear elections. In 1970 there was a 43.5-percent turnout compared to 35.5 percent in 1978—with a population increase of 21 percent.

The nationwide decline in voting should be of serious concern to anyone who believes in democracy. One of our basic freedoms as American citizens is to choose our public officials through the election process. Then if we are not satisfied with those in office, we can make changes by exercising our right to vote. Those who cite disillusionment or disgust with the system as their reason for not casting a ballot are simply perpetuating the situation they dislike. We cannot stand back. It is time for all Americans to realize that their votes do count, and we must do something to encourage eligible voters to participate.

The voting tax credit is one way to encourage eligible voters to take the time to vote. Taxpayers who vote in a Federal general election will receive the credit, $60 for a joint return, by attaching their ballot stub to their Federal income tax return. In those States where a ballot stub is not used, a stamp or other document which is evidence of voting will be issued.

I think we owe it to the country to give this proposal our attention.●

U.S. METRIC BOARD—R.I.P.

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. RUDD. Mr. Speaker, this week officially marks the last week of operation of one of the truly wasteful and unaccomplishing creations of Congress: The U.S. Metric Board.

Set up in 1978 as a result of the equally dubious Metric Conversion Act of 1975, the U.S. Metric Board never had a mandate to do anything but that which was already being dismissed by the vast majority of American people.

By that I mean Congress had the wise foresight in the 1970's to reject the suggestion by some who argued that America should mandate by law the conversion to the French-conceived international system of units (SI)—commonly known as the metric system—by some arbitrary date, like 1985. In every public opinion poll I have ever seen, the American public has strongly disagreed with the idea of a forced conversion to metric. Few citizens see any wisdom of turning away from our customary inch-based system of measurement, and even fewer can understand why the Federal Government should impose something which is not supported by the people themselves.

The resulting Metric Conversion Act passed by Congress after much debate was a compromise for the ardent metric proponents. It authorized the creation of another agency—the U.S. Metric Board—but fortunately gave it no regulatory authority or powers to determine our Government policy on weights and measures.

On the latter point, I would like to emphasize that our Nation's policy on weights and measures has always been under the direct control of the U.S. Congress, this power vested by our Constitution, not to any select group of appointed or unappointed bureaucrats.

So what did the Metric Board do for the last 4 or 5 years? The independent board was charged with the responsibility of educating the public and facilitating voluntary conversion for those who seek to convert.

What in fact the Metric Board acted as, was a taxpayer supported promotional agency that ended up costing our citizens about $8 million. As an independent board of primarily prometric sentiment, The Metric Board's ad hoc Interagency Committee on Metric Policy (ICMP)—a group of agency representatives responsible to no one—fostered Federal bureaucratic imposition of metrication through the issuance of Federal regulations and guidelines.

While Congress itself has never authorized a timetabled conversion to the metric system, both the Commerce Department and the Defense Department have set target dates of 1985 and 1990, respectively, to completely convert all departmental activities to metric. To say the least, these are decisions exceeding the clear intent of Congress that the private sector play a lead role in conversion, if desired, and not the Federal Government.

I think it is fair to say that the private sector as a whole has found little, if any, desire to go metric as the minority of metric enthusiasts had hoped. Small businesses, which constitute the vast majority of our American private enterprises, continually rejected the notion of converting because quite simply, the metric proponents failed to convince people of the merits of their case. And fortunately, the voice of the people still counts in our Republic.

The most extensive study ever done on the metric question was the 1978 General Accounting Office Report: "Getting a Better Understanding of the Metric System—Implications if Adopted by the United States." This report told us what many metric advocates failed to admit: That a complete conversion would come at great cost to American consumers, a cost not calculable but in the many billions of dollars. The GAO also rejected one of the favorite claims of the prometric advocates when it disputed the alleged benefits in worldwide trade to be gained by the United States.

Perhaps the most important conclusion made by the GAO in examining the metric issue was that the notion that "the U.S. is going metric whether we like or not" is simply not true. Using the traditional system of units, America has built the most successful industrial and trade empire in the world today, and the fact that we deal primarily with a measurement system different than many foreign nations has not slowed us down any more than the English language.

Conversion would affect almost every single aspect of American life and it would be no simple task to accomplish it. Certainly, no Government agency, or no Federal laws—as they have been attempted in Canada and other nations—are going to change the long held customs and way of life of a nation such as ours. To be sure, no free nation in the world with an economy or population near the size or complexity of the United States has ever converted to the metric system.

The U.S. Metric Board cannot convince Americans to change their minds.

The 1975 Metric Conversion Act and the U.S. Metric Board were mistakes, and I am glad to see the President's decision to eliminate funding for the Metric Board. But this does not mean the fight against bureaucratic imposition is over.

As a compromise with the House committee which authorizes the U.S. Metric Board, additional funds were included in the Department of Commerce's budget to take over certain minimal functions of the Metric Board. It is the duty of Congress to make sure Government agencies are responsive to the expressed directives of the law, and our Nation's policy on weights and measures as determined by Congress.

The policy of our Nation on weights and measures is the same as it has been since July 28, 1866 when voluntary use of metric measurement standards were first authorized. Nothing has changed since then, only the passage of the 1975 act which confused many Americans and led them to believe that conversion was inevitable, a fallacy perpetuated by the Metric Board in its public meetings and educational and advertising programs.

To make our policy clear to overambitious Federal agencies and the American public, I continue to encourage passage of my bill, H.R. 1660, to repeal the 1975 law, which would plainly and simply state what our national policy is: "To continue a dual system of customary and metric measurement in the United States, as dictated by the needs and desires of the private sector, and to prevent Federal Government promotion or imposition of metric conversion."

Such a bill, if adopted, would allow private entities to do what is in their best interests, not those of a few select bureaucrats, and avoid wherever possible undue or harmful socioeconomic dislocations or costs as the result of Federal Government programs or actions.

The death of the U.S. Metric Board should be a signal that Government intrusion or involvement is not acceptable in areas that can be easily and intelligently decided by the private sector. Indeed, the best motivating force for an individual or private enterprise in the marketplace is that of profit. When it is in the interests of our people and our private sector to change measurement standards, as a few have already done, this will be done without the prodding of any government entity. In the meantime, however, that choice has not been made.

I commend the Reagan administration for supporting the interests of the American people and private sector in cutting out the needless U.S. Metric Board.●

L. H. FOUNTAIN

HON. IKE ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 1982

● Mr. ANDREWS. Mr. Speaker, I would like to take this opportunity to join with my colleagues here and the people back in our home State of North Carolina to pay special tribute to Congressman L. H. FOUNTAIN.

The esteemed dean of our delegation is retiring at the end of the 97th Congress, after 30 years of meritorious service to the people of North Carolina and our Nation.

Mr. FOUNTAIN was already a veteran of 20 years in Congress when I came here in 1973. Since then, it has been my privilege to become a close personal friend of this distinguished gentleman, and I value deeply the many things I have learned from him.

As I represent the District adjacent to his, I know firsthand the high esteem in which he has been held by his constituents in the Second District of North Carolina.

I also have had occasion to see the effectiveness with which he worked here, and the respect and admiration accorded him by his colleagues.

There is a monument in the heart of the campus of the University of North Carolina at Chapel Hill. The inscription thereon reads in part: "Duty is the sublimest word in the English language."

For 30 years, L. H. FOUNTAIN has exemplified the spirit behind those words, carrying out his duty with a quiet, dignified strength and unflagging sense of purpose. This body shall miss him.●

EQUAL RIGHTS FOR FORMER MILITARY WIVES

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. GINGRICH. Mr. Speaker, in passing the Uniformed Service Former Spouses' Protection Act, we have given ex-wives of military men exactly what they are due.

I wholeheartedly supported the amendment.

I grew up in a military family and I saw firsthand how hard it is for a wife to find a good job, get some seniority, and be eligible for the pension plan when her husband moves around every few years with the military.

Judy Mann's column "Justice," which appeared in the September 8 edition of the Washington Post, is an excellent tribute to all who worked for the passage of H.R. 3039. She calls the

bill a significant benefit for women, and an optimistic piece of legislation.

Mr. Speaker, I would like to share with my colleagues Mann's column, which follows.

[From the Washington Post, Sept. 8, 1982]

JUSTICE

(By Judy Mann)

An unlikely alliance of conservative and liberal members of Congress, of divorced women, widows, housewives and feminists, has produced what is probably the most significant piece of legislation benefiting women to come out of the 97th Congress. With unexpected speed, Congress has approved a measure that allows military retirement benefits to be divided by state courts in divorce settlements, thereby nullifying last summer's controversial Supreme Court ruling that the pay belonged only to the spouse who served.

In so doing, Congress has corrected a situation that has left thousands of former military spouses in jeopardy and taken yet another step toward economic recognition of the contributions homemakers make to marriages.

"Credit has to rest right in the lap of Pat Schroeder (D-Col.)," says Patricia Reuss, legislative director of the Women's Equity Action League. "Six years ago, she talked about pensions for military, Foreign Service and civil service wives and people thought: That's a nice feminist thing to do, but don't expect anything to happen."

Both military and Foreign Service spouses argue that because of frequent moves a wife generally cannot establish an independent career that would qualify her for a pension. The wives also argue that marriage is an economic partnership in which they shoulder the family responsibilities and make social contributions that are beneficial to their husbands' careers.

Two years ago, Schroeder sponsored precedent-setting legislation that allowed state courts to split Foreign Service pensions. She introduced a similar bill for military spouses in the House, and was joined in the Senate by Roger Jepsen, an Iowa republican who is chairman of the Senate Armed Forces subcommittee on manpower and personnel.

Jepsen's wife, Dee—President Reagan's newly appointed coordinator for women's issues—met with WEAL, the National association of Military wives, and Ex-Partners of Servicemen for equality and was highly influential in involving her husband in the military spouses legislation. Other key supporters included Rep. Kent Hance (D-Tex.), in whose state military spouses have been unable to garnish paychecks for delinquent alimony and child support, and William Whitehurst (R. Va.), who has been interested for several years in relieving the plight of former military spouses who had serious illnesses and have been unable to get insurance after divorce.

The bill, which President Reagan is expected to sign today, came out of the legislative process providing more to military spouses than its most optimistic supporters could have hoped for. Key provisions are:

Military retirement can be considered property to be divided in divorce cases no matter how short a time the military marriage lasted. There is a provision for state courts to reopen pension issues in divorce settlement occuring after last summer's *McCarty* v. *McCarty* decision and before the signing of this legislation.

Garnishment of military retirement paychecks is limited to situations in which the ex-spouse was married at least 10 years while the member was in the service. Child support and alimony can be garnished without the 10-year requirement. Payments do not terminate upon remarriage.

Payments cannot be more than 50 percent of the military member's retirement or retainer pay.

Service members, including those already divorced, may elect to have their former spouses designated as beneficiaries of their Survivor's Benefit Plan. If a service member terminates his wife as a beneficiary of survivor's benefits, the service secretary has to notify her.

Former military spouses who were married at least 20 years during the member's service now have access to military health facilities and commissaries, although these terminate upon remarriage. This legislation will not take effect until Feb. 1, 1983. Carolyn Becraft, who has analyzed the legislation for WEAL, stresses that it is particularly important for spouses who have been married to military personnel for 20 years or more to wait until Feb. 1 before their divorces become final, to be eligible for medical, commissary and military exchange provisions.

Homemakers have been courted by the left and the right and their economic perils have been the subject of windy political rhetoric. In a climate widely seen as bleak for women, there has finally been a breath of fresh air. Instead of merely talking about the value of wives and mothers, Congress has voted to recognize women's unpaid contributions to marriage and has taken an important step forward in protecting the future of America's homemakers.●

DEBATE CLINCH RIVER BEFORE NOVEMBER ELECTION

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. COUGHLIN. Mr. Speaker, I call attention to the Wall Street Journal editorial of Monday, September 27, on the Clinch River breeder reactor. This article illustrates the fact that Congress can no longer afford or justify spending billions of dollars on an energy technology that is obsolete and unneeded.

Unlike the Senate, the House has had no opportunity this year to debate openly and fully the pros and cons of appropriating money for the controversial Clinch River project. I urge the House leadership to allow such a debate by bringing up the fiscal 1983 energy and water development bill this week. Our constituents deserve to know where we stand on the Clinch River breeder reactor before the November election.

The Wall Street Journal editorial is as follows:

SCUTTLING CLINCH RIVER

Construction crews broke ground last Wednesday for the long-delayed Clinch River breeder reactor near Oak Ridge, Tenn. If some members of Congress get their way, however, that may be as far as the project will ever get.

Sens. Gordon Humphreys and Dale Bumpers plan to introduce an amendment tomorrow to the continuing budget resolution that would terminate funding for the nuclear reactor. Supporters of the amendment think they have a good chance at passage because the last crucial Senate test of the program last year won by only a two-vote margin after Majority Leader Howard Baker lobbied intensely for this big investment in his home state. Since then, several conservative senators, who are normally supporters of nuclear power, have apparently turned around on Clinch River.

One big reason is acceptance of the simple view that government should get out of the energy business. The success of oil deregulation attests to the fact that market forces can easily cope with our energy demands without government intrusion and no good purpose would be served by further massive federal subsidization of any energy project, even nuclear power. This was in fact, the Reagan administration's initial view on Clinch River until the White House acquiesced to gain Sen. Baker's support in the budget and tax fights on Capitol Hill last year.

Another concern is money. Only last week the General Accounting Office concluded that the cost of the project could exceed $8 billion, more than twice the administration's current estimate. The cost totals of the 11-year old program have already been revised six times, and critics now say the total could rise to more than $10 billion if the reactor encounters any construction delays and suffers escalation costs.

It's also becoming clearer to many that the only reason the federal government is so enmeshed in the project is that breeder technology isn't economical and the private energy sector doesn't want to waste its own money. At least one study projects that given the availability of relatively cheap uranium fuel, breeder reactors won't be economical until the year 2030 or beyond.

Besides these concerns, there is also the haunting worry about nuclear proliferation. Breeder technology provides an easy means of acquiring weapons grade plutonium. American support of such an uneconomic nuclear technology could encourage other countries to pursue their own breeder programs with more than just electricity production in mind.

It makes no sense, especially in light of current budgetary constraints, to sink billions of federal dollars into a nuclear project that won't be economical for at least 50 years. The Senate could do us all a favor by sinking the Clinch River reactor.●

CONSTITUENT VEIWS

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. BEILENSON. Mr. Speaker, during the summer, I mailed my 1982 questionnaire to the constituents of the 23d Congressional District I represent in California, requesting their views on controversial issues of major public interest that have dominated this Congress. The response to the

survey was overwhelming—we received over 18,000 completed questionnaires.

The respondents answered questions on a wide range of issues, including:

The major social issues before us (strongly opposing pending constitutional amendments to allow prayer in public schools and to prohibit abortion rights);

The budget deficit (dividing almost evenly on cutting entitlements like Federal pensions and social security to reduce the deficit, but strongly supporting reductions in military spending); and

Foreign affairs (overwhelmingly opposing aid to El Salvador and, by an even larger percentage, favoring a nuclear freeze).

I think the results will be of interest to other Members of Congress, and I would like to share them with my colleagues.

	Percentage		
	Yes	No	No answer
1. Budget deficit			
Congress recently approved the Reagan-endorsed 1983 budget which will result in a deficit of about $115 billion next year. Most experts agree that such a high deficit will further damage the economy and insure continued high interest rates.			
Which of the following proposals to reduce the Federal deficit do you favor?			
A. Slowing the growth of "entitlement" programs, such as social security, medicare, and Federal civilian and military pensions (which together comprise about 33 percent of the total budget)	45	43	12
B. Slowing the growth of defense spending (30 percent of the total budget)	72	19	9
C. Making further cuts in domestic programs such as education, health, energy, environmental protection, public transportation, job training, etc. (which together comprise about 15 percent of the total budget)	25	61	14
D. Making further cuts in welfare programs such as medicaid, food stamps, aid to families with dependent children and supplemental security income for the aged, blind, and disabled (which together comprise 3 percent of the total budget)	25	60	15
E. Eliminate some of the corporate tax benefits enacted last year	71	20	9
F. Eliminating or postponing some of the personal income tax cuts enacted last year	48	41	11
2. Clean Air Act			
The Clean Air Act is being reviewed by Congress this year, and attempts—supported by the administration—are being made to weaken the law. Supporters of the changes argue that the law is too burdensome for business and will result in higher prices for cars. Opponents argue that having cleaner air to breathe is worth a possible increase in prices.			
Do you think Congress should vote to maintain the strong provisions of the existing Clean Air Act?	80	17	3
3. Immigration control			
Congress is considering legislation to reduce illegal immigration by penalizing employers who knowingly hire illegal aliens. Proponents of this measure believe that employer sanctions are needed because job opportunities are the primary reason the vast majority of illegal immigrants come to the United States. Opponents argue that penalties are unfair to employers and difficult to enforce without infringing on civil rights.			
Do you think Congress should vote to impose penalties on employers who knowingly hire illegal aliens, as a way to reduce illegal immigration?	71	25	4
4. Abortion			
Congress has pending before it a number of proposed constitutional amendments that would overturn the 1973 Supreme Court decision upholding a woman's right, in most circumstances, to decide whether or not to have an abortion.			
Do you think the Constitution should be amended to overturn the right to a legal abortion?	11	87	2
5. Campaign financing reform			
Political action committees (PAC's), formed by special-interest groups to make donations to congressional campaigns, have more than quadrupled in the past 8 years. In this year's election, they will contribute more than $80 million to House and Senate candidates.			
To curb this massive flow of money to candidates, Congress is considering legislation to reform existing campaign funding laws by placing a $75,000 ceiling on total PAC contributions to each congressional candidate, and by enacting a public financing law for congressional elections (similar to that which already exists for presidential campaigns).			
A. Do you think congressional campaign financing should be reformed by placing a $75,000 ceiling on total PAC contributions to each congressional candidate?	81	11	8
B. Do you think Congress should enact a public financing law for congressional elections to be financed by the same $1 checkoff on personal income tax forms that already exists for Presidential elections?	66	26	8
6. Tuition tax credits			
President Reagan has asked Congress to approve his $500 tuition tax credit plan for parents of private elementary and secondary school students.			
Supporters claim that credits would enhance the right of parents, whose taxes already support public education, to choose between private and public schools.			
Opponents say that Government's duty is to provide public schooling only, that credits are too costly—especially in this time of budget limitations when the President has cut Federal spending for public education, and that credits violate the constitutional principle of separation of church and state since 90 percent of private schools are church-related.			
Do you favor President Reagan's proposal to provide tuition tax credits for families sending their children to private schools?	35	63	2
7. Handgun control			
The Kennedy-Rodino handgun crime control bill would prohibit the manufacture and sale of cheap "Saturday night specials," establish a waiting period for purchase of other handguns to deter persons with criminal intent or those who are mentally unstable, require the report of weapons thefts, and establish a mandatory jail sentence for commission of a felony with a handgun.			
Supporters argue that the Constitution guarantees the right to bear arms only to State militias—not individuals, that we must have national controls to prevent criminals and the mentally ill from buying handguns, and that the bill's provisions will help reduce the rising crime rate. Opponents of the bill say that the Constitution guarantees individuals the right to bear arms for self-protection and that handgun control would interfere with hunting and target-shooting and would lead to registration and confiscation of guns.			
Do you support the Kennedy-Rodino handgun control bill?	73	25	2
8. The economy			
The United States is currently experiencing high interest rates, high rates of unemployment, and record-high Federal deficits. President Reagan believes that his economic program, based on supply-side economics, will soon bring about recovery. Opponents of his program believe that economic recovery and a reduction in the record-high Federal deficit will be difficult to achieve without a slowdown in his proposed buildup and a reduction in his 3-year tax cut.			
Do you agree with the President that his plan deserves more time, and that no changes should be made now in his economic program?	36	59	5
9. School prayer			
President Reagan has proposed a constitutional amendment to permit organized, government-sponsored prayer in public schools, overturning the Supreme Court rulings that such official, state-mandated prayer violates the religious freedom guaranteed by the Constitution.			
Supporters contend that organized prayer should be allowed in schools, that—as Mr. Reagan said—"public expression through prayer of our faith in God is a fundamental part of our heritage which should not be excluded by law from any American school."			
Opponents point out that the Supreme Court has ruled only that the Consitution prohibits the Government from imposing specified prayers in schools, but has never prohibited private, truly voluntary prayer by students in our public schools. And, opponents believe that religious freedom can best be maintained by keeping prayer the province of the individual, the family, and the religious community—but that is not the responsibility of the Government.			
Do you support a constitutional amendment which would permit organized, Government-sponsored prayer in public schools?	21	77	2
10. Equal rights amendment			
As time ran out on June 30, the equal rights amendment (ERA) fell three States short of the 38 States needed for constitutional ratification. There are proposals in Congress to submit the ERA to the States for ratification again next year.			
Do you think Congress should resubmit the equal rights amendment to the States for ratification?	60	37	3
11. El Salvador			
In its 1983 foreign aid proposal, the administration has requested $60 million in U.S. military assistance to El Salvador.			
Do you support continued provision of military aid to El Salvador?	21	71	8
12. Nuclear freeze			
Congress is considering legislation calling for the United States and the Soviet Union to "achieve a mutual, verifiable freeze on the testing, production, and further deployment of nuclear warheads and missiles," and then to pursue "substantial, equitable, and verifiable reductions" of nuclear weapons.			
Supporters of a nuclear freeze argue that our existing arsenal of 9,000 intercontinental nuclear weapons is more than adequate to deter a Soviet nuclear attack (the U.S.S.R. has 7,500 such warheads), and that any further buildup is unnecessary, costly, and increases the chances of nuclear war. Opponents claim that we need to increase the size of our nuclear arsenal because Soviet nuclear forces are superior to ours, and that such a buildup is necessary before we can successfully negotiate reductions in nuclear arms.			
Do you favor a verifiable, bilateral freeze by the United States and the U.S.S.R. on the testing, production, and deployment of nuclear weapons?	21	4	

NATURAL GAS CONSUMER PROTECTION ACT

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. TAUKE. Mr. Speaker, I am introducing today, along with seven of my colleagues, legislation that will remedy some inequities in our natural gas pricing system and help hold down the spiraling costs of natural gas to consumers.

The price consumers pay for natural gas continues its upward spiral despite both a supply surplus and a decreasing

demand. In Iowa, we have seen natural gas prices increase by nearly 100 percent in the last 3 years. For the average Iowa homeowner, this translated a $71 January 1979 heating bill into a $130 bill in January 1982. Other States are similarly impacted.

Recently we have seen the example of a local pipeline company, Columbia Gas, buying expensive Sunbelt gas while refusing to buy less expensive gas in Ohio, which, for want of a market, is being flared at the wellhead. Some pipelines are even buying expensive liquified natural gas from foreign producers. Consumers ultimately bear the extra cost.

Such unconscionable distortions of the marketplace are the result of provisions of the Natural Gas Policy Act (NPGA) of 1978 which permit pipelines to automatically pass through cost increases to distributors and ultimately to consumers. The 1978 act did remedy a supply problem by allowing producers higher prices for new gas. But many pipelines, in their zeal to insure future supplies, have negotiated long-term contracts with the producers of new gas on terms which do not fairly represent consumer interests. With automatic passthrough of costs, pipelines have not had incentives to consider, in contract negotiations, either customer demand or supply fluctuations. Their contracts frequently contain take-or-pay clauses guaranteeing returns to producers irrespective of market demand, clauses providing automatic price increases on the occurrence of events unrelated to production costs, and "most-favored-nation" clauses tying price to the highest existing area price. "Market-out" clauses allowing pipelines to escape from contracts when their markets disappear are often not included.

The NGPA cost passthrough provisions give the Federal Energy Regulatory Commission (FERC) authority to deny cost passthrough in cases of fraud and abuse. But FERC has narrowly interpreted the term "abuse," with the result that passthrough is virtually assured, even if consumer interests are considered during contract negotiation.

Our bill would clarify the definition of abuse to give authority to FERC to disallow passthrough where consumer interests are clearly ignored. Specifically, it would establish a rebuttable presumption of abuse in the case of contracts containing take-or-pay clauses, price escalator or redetermination clauses, or most- favored- nation clauses. Such a presumption would also arise if a market-out clause is absent.

I am not unmindful of the fact that my colleagues, the gentleman from Ohio (Mr. BROWN) and the gentleman from Pennsylvania (Mr. RITTER), have introduced a bill, H.R. 7122, intended to provide similar relief to consumers of natural gas. Their bill would deem producer-pipeline contracts to include provisions allowing pipelines to renegotiate contracts containing the offending clauses so imprudently agreed to. I support it. Our bill is complementary. It will clarify FERC's authority and will send a clear signal to pipelines that they may no longer ignore consumer interests in their supply contract negotiations with full assurance of cost passthrough approval. I urge my colleagues to support it.

Mr. Speaker, I ask unanimous consent that the bill be printed in the RECORD as follows:

H.R. 7251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Natural Gas Consumer Protection Act of 1982".

DEFINITION OF ABUSE

SEC. 2. Section 2 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3301) is amended by adding at the end thereof the following:

"(38) ABUSE.—The term 'abuse' includes misrepresentation, imprudence on the part of the pipeline, failure by a pipeline to bargain at armslength with any producer, and the entering into of or operating pursuant to any contract by any pipeline with any producer if such contract materially prevents the pipeline from responding to changes in customer demand or other market forces. A rebuttable presumption arises that a contract materially prevents a pipeline from responding to changes in customer demand or other market forces under the following circumstances:

"(A) INCLUSION OF CERTAIN CLAUSES.—If any of the following contract clauses are contained in the contract involved:

"(i) TAKE-OR-PAY CLAUSES.—In the case of any contract between a pipeline and a producer which is not an affiliate of the pipeline, any contract provision whereby the pipeline is committed to pay for a minimum quantity of natural gas whether or not taken during a given period if that quantity is greater than 50 percent of daily contract quantity on an annual basis. In the case of any contract between a pipeline and a producer which is affiliated with the pipeline, any contract provision whereby the pipeline is committed to pay for a minimum quantity of natural gas whether or not taken during a given period or is required to pay any fee or other charge with respect to natural gas for which delivery is not taken.

"(ii) INDEFINITE PRICE ESCALATOR CLAUSES.—Any indefinite price escalator clause (as defined in section 105(b)(3)(B)) which functions on the basis of an event not having economic significance to the sale of the natural gas involved and which contravenes the policy of eliminating market frustrating impediments.

"(iii) MOST FAVORED NATION CLAUSES.—Any contract provision whereby the purchase price paid by any pipeline to a producer is set by the highest price in a particular production area.

"(B) ABSENCE OF A MARKET-OUT CLAUSE.—If the provisions of the contract involved fail to allow the buyer to escape the contract or to negotiate a new lower price if the natural gas is not marketable at the contract price.".

MAXIMUM CONTRACT DURATION

SEC. 3. (a) Section 315(a)(1) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3375(a)(1)) is amended by inserting "or maximum duration" after "minimum duration".●

THE CRIMINAL JUSTICE REFORM ACT

HON. DAVID MICHAEL STATON

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. STATON of West Virginia. Mr. Speaker, recently, President Reagan forwarded a proposed Criminal Justice Reform Act which will go a long way in strengthening our criminal justice system and insuring the safety of our citizens.

No one disputes that it is a fundamental right for persons accused of crimes to receive a fair trial and to have the presumption of innocence until proven guilty. Our standard of proof to convict a defendant in a criminal proceeding is beyond a reasonable doubt. This is a strict burden and rightfully so. However, we must not permit overzealous advocacy for the rights of the accused to trample into oblivion the rights of other citizens, particularly the victims of crime. We as a civilized society have an obligation to protect our people. Unfortunately, some misdirected judicial decisions of the recent past have seriously compromised the ability of society to fulfill this obligation. As a result, the average law abiding citizen all too often sees criminals go free because of some legal technicality. Every time this occurs we experience an erosion of confidence in the criminal justice system, not to mention increased concern for personal well-being and safety. We find that crimes go unreported because of the victim's or witnesses' fear that the perpetrator will be released to avenge his arrest. In addition, the deterrent effect of punishment for criminal behavior is severely diluted when the potential lawbreaker weighs the the odds of conviction. And police may hesitate to make legitimate arrests because of confusion about the latest status of such complex legal thickets as the exclusionary rule.

The administration's proposal addresses this problem in three ways: It defines and limits the insanity defense; it reforms the exclusionary rule to prevent the suppression of evidence seized by police acting in a reasonably good belief that their actions were in accordance with law; and it limits the duplicative and time-consuming Federal review, through the habeas corpus procedure, of State criminal convictions that have been upheld by State appellate courts.

Mr. Speaker, the administration's proposal is a well thoughtout vehicle

for restoring a needed sense of confidence in our maligned criminal justice system. I heartily endorse it and urge my colleagues to do the same.●

NATIONAL MARKET SYSTEM

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. RINALDO. Mr. Speaker, one of the major issues in the securities industry is the creation of a "National Market System," as directed by legislation we enacted in 1975. The aim of this system is to connect all securities markets in the country in order to give the public full access to the best possible price for a security.

The Securities and Exchange Commission has been conscientiously carrying out its congressional mandate in implementing the "National Market System." Earlier this year, it took the important step of ordering the linkage of the exchanges' Intermarket Trading System with the Computer Assisted Execution System of the National Association of Securities Dealers, those who deal in over-the-counter securities.

However, the Commission has yet to promulgate a rule that is a necessary complement to linkage: A public order exposure rule to protect against securities dealers keeping orders off the market by trading them internally amongst their own customers. Such a rule would insure the maximum interaction of all buying and selling interests among investors. It is a safeguard for all investors.

Twenty members of the House Energy and Commerce Committee—on both sides of the aisle—have urged the Commission to adopt a public order exposure rule to insure investor interests in the National Market System. A copy of the letter with a list of signatories follows these remarks.

The Commission has the question under consideration, and I am confident it will take the necessary action to facilitate proper implementation of the National Market System.

This is an important issue for the effective functioning of our securities markets, and I wish to bring it to the attention of my colleagues:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 22, 1982.

Hon. JOHN SHAD,
Chairman, Securities and Exchange Commission, Washington, D.C.

DEAR MR. CHAIRMAN: As members of the House Energy and Commerce Committee, we are interested in the SEC's implementation of a National Market System as required by the Securities Acts amendments of 1975. On balance, we believe that the Commission's thrust and direction in carrying out its mandate for a National Market System has been consistent with what was intended by Congress.

However, the SEC's action of May 6, 1982 in ordering a linkage of the exchange's Intermarket Trading System and the NASD's Computer Assisted Execution System raises very serious concerns that the Commission, in one respect, has misunderstood a clear and major objective of the 1975 Act.

The idea of linking the exchanges with upstairs markets for those issues which are suitable for auction trading is a logical and appropriate step. Our objection is not to the linkage per se: it is, rather, the omission of investor safeguards which Congress deemed to be so very important in calling for the National Market System.

We are concerned that the SEC has not required simultaneously with linkage a public order exposure rule that would insure the maximum interaction of all buying and selling interests among investors. We believe that the SEC order does not adequately protect against securities dealers short-circuiting orders—or trading them internally—before they have had an opportunity to be exposed to the linked, national market. In other words, the marketplace becomes vulnerable to fragmentation, which is completely contrary to the principle of a National Market System. What is particularly disturbing in the SEC's order is that, by omission, it ignores a fundamental understanding of what is probably the most strongly agreed upon point of the 1975 Act: the crucial importance of interaction of all investor orders. We understand of course, that this question is now out for comment, and we strongly urge the Commission to adopt a rule to insure the investor protection the Congress envisioned.

The legislative history of the 1975 Act clearly supports this paramount objective of the National Market System, namely, as our Conference Report stated, the "centralization of all buying and selling interests." Moreover, the House Report noted that "market fragmentation becomes an increasing concern in the absence of mechanisms designed to assure that public investors are able to obtain the best price for securities regardless of the type or physical location of the market upon which transactions may be executed. Investors must be assured that they are participants in a system which maximizes the opportunites for the most willing seller to meet the most willing buyer."

The Senate agreed with this basic principle. Its report clearly stated, "The National Market System has, its fundamental goal, the elimination of fragmented markets for securities suitable for auction trading," and it went on to say that the objective of a national linkage is "to reduce or eliminate market fragmentation." The report further expressed "a clear Congressional policy supporting the preservation and extension of the protections associated with auction type trading."

To avoid being in conflict with the central objectives of the Congressionally mandated National Market System, we believe the SEC should adopt a rule to guarantee that all investor orders are exposed to the public market and not withheld by dealers for internal execution in their public offices.

We commend the Commission for its overall role in the progress toward developing a National Market System, and we strongly urge that you take this next step which is so important for its proper implementation.

Sincerely yours,

Matthew J. Rinaldo, Norman F. Lent, Tom Bliley, Carlos Moorhead, Tom Corcoran, Al Swift, Jim Broyhill, Jim Santini, Billy Tauzin, Ed Madigan, James M. Collins, James Scheuer, Hal Rogers, Bill Dannemeyer, Cleve Benedict, Thomas J. Tauke, Richard Shelby, Richard Ottinger, Ron Wyden, and Gary A. Lee.●

ADMINISTRATION NOT ANXIOUS TO HELP PROTECT FARMLANDS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. BROWN of California. Mr. Speaker, the conversion of agricultural land to nonfarm uses remains a serious national problem. I am pleased to report that significant strides have been made in some States and local areas in constructively coming to grips with the inevitable conflict between community development and farming enterprises. Several States and hundreds of counties have in place carefully tailored programs encouraging through several means a rational accommodation of development and farming interests.

I know that nearly all Members representing mixed urban-rural districts are concerned about keeping a viable agriculture base in their districts for economic, aesthetic and other reasons. During the course of several oversight hearings this session, the Agriculture Subcommittee I chair explored the activities of the U.S. Department of Agriculture in implementing the newly enacted "Farmland Protection Policy Act" subtitle of the Agriculture and Food Act of 1981. This subtitle directs the USDA to take a lead role in assuring that projects of the Federal Government are conducted in a fashion minimizing the negative impacts on prime and unique farmlands. To carry out this task, Secretary Block appointed the Soil Conservation Service to act as a lead agency in developing the criteria and regulations needed to implement the Farmland Protection Policy Act. The staff members in SCS who have diligently worked on this task are to be commended for their efforts to faithfully adhere to congressional intent as specified in the 1981 farm bill. However, it is becoming increasingly clear that this administration opposes a meaningful Federal role in agricultural land protection efforts because, they argue, an unfettered marketplace in agricultural land would more efficiently allocate farmland to competing uses. In light of this administration's track record in translating freemarket economic dogma into effective policy decisions, I fear that Congress can expect little in the way of concrete results in implanting the Farmland Protection Policy Act.

I am submitting for the record one recent example of this administra-

tion's newfound wisdom on the question of agricultural land conversion. In a speech delivered September 24, 1982, by the Deputy Assistant Secretary of the USDA overseeing development of the Frarmland Protection Policy Act criteria, the new perspective of the administration on this issue is abundantly clear. The official states that the loss of 3 million acres of agricultural land per year "is not a very large percentage. And much of the land involved in that 3 million acres was never used in agriculture and probably never would have been, according to Emery Castle, president of Resources for the Future. When we focus on cropland alone, the losses cause even less concern * * *."

The speech contains some disturbing factual errors of omission which call into question the analytic credibility of the Department on this issue. The speech states that the Department's best estimate of annual conversion from the 540 million acres of cropland and potential cropland is 675,000 acres. Yet this figure, according to the Department's own data, actually represents conversion from only the 413-million-acre cropland base. The Department has developed a figure for the additional 127 million acres of potential cropland as part of the Resources Conversion Act analysis. According to the RCA report, an additional estimated 200,000 are converted annually from the potential cropland base. Hence, the total estimate of annual conversion should have been 875,000 acres annually.

The Department also has apparently determined that grazing and forestry uses of agricultural land do not constitute agricultural uses, and hence the loss of such lands are of little or no significance. Some of my colleagues and significant segments of the public might take exception to this contention.

When the Congress returns after the election recess, I intend to continue my efforts to closely monitor the progress of the Department in implementing the Farmland Protection Policy Act. I hope other Members will join me in urging the Department of Agriculture to formally publish in the Federal Register for public notice and comment the criteria and regulations it intends to adopt in implementing the Farmland Protection Policy Act.

The material referred to follows:

RETENTION OF IMPORTANT FARMLAND—THE FEDERAL RESPONSE

(Speech by Richard D. Siegel, Deputy Assistant Secretary of Agriculture for Natural Resources and Environment, at the Florida Chapter, Soil Conservation Society of America, Panama City Beach, Fla., Sept. 24, 1982)

It's a pleasure to be here and take part in this important conference. I commend you, the membership of the Florida Chapter of the Soil Conservation Society of America, for undertaking its sponsorship.

Florida is one of our leading States in agricultural production with the third largest net income per farm in the United States. Florida grows 70 percent of the nation's citrus and 80 percent of the nation's winter vegetables. Your State ranks eleventh nationally in total farm cash receipts, and its farms add nearly $3.4 billion to the State's economy and provide employment for 97,000 people on 35,500 farms.

Nevertheless, the land that produces these statistics is under pressure from other sources. Florida's semi-tropical climate—so conducive to growing fruit and vegetables—is a major attractor of people. In fact, it's so good at attracting people that Florida is now the fastest growing State in the nation, adding 600 people to its population each day.

To accommodate these new citizens with housing, shopping, utilities, and recreation, Florida is losing agricultural land at one of the highest rates in the country.

In many cases, the important farmland that supports the State's citrus industry is the land that's being converted. Population pressure has been extreme along the orange and grapefruit belt from Orlando to Sarasota. Hillsborough County wraps around Tampa Bay. With Tampa and St. Petersburg putting pressure on its development, it is now 50 percent urbanized. The paradox is that this is one of Florida's best agricultural areas, producing much of the citrus, tomatoes, and strawberries consumed on the eastern seaboard. The same goes for Dade County, possibly the richest agricultural area in Florida. Here on 74,000 acres, farmers grow 52 different crops including tomatoes, beans, potatoes, avocadoes, limes, mangoes, and papayas. Nevertheless population pressure from the metro Miami area keeps the land conversion rate to urban uses one of the highest in the State.

While it is an exaggeration to say, as some have predicted, that Florida's good farmland will be all paved over by the year 2000, we do have a problem in Florida. Your concern here in Florida is justified, because of the jobs and revenues from agriculture and the adjustments Florida faces as more farmland turns to other uses.

So what can we do and what should we do?

This meeting is an important step. We are here to discuss and analyze the situation. We need to do this objectively, with the facts before us!

So let me start this meeting by talking to you about the farmland conversion situation from a national perspective. During this discussion, I want to bring you up to date on work in implementing the Farmland Protection Policy Act. I also want to speak honestly—and in some detail—on the controversy over data and interpretations used in the National Agricultural Lands Study. Finally, I want to outline the approach that this Administration intends to take in retaining important farmlands.

The Farmland Protection Policy Act was included in the Agriculture and Food Act of 1981. Its purposes are twofold: (1) to assure that Federal programs do not contribute to unnecessary and irreversible conversion of farmland to nonagricultural uses, and (2) to assure that Federal programs are administered in a manner that will be compatible with State and local programs and policies to protect farmland.

The Act applies only to prime and unique farmlands and those determined by the State or local government to be of State or local importance.

Let me make clear that there is nothing in the Act to prevent any landholder from converting farmland to nonagricultural uses. But it does prevent the Federal government from being a party—either through a Federal project or through financial assistance—to an unnecessary conversion, except for national defense purposes or where other national needs override the benefits of protecting farmland.

USDA has drafted the criteria to implement the Act and Secretary Block has sent them to the twelve Federal departments and agencies most likely to be involved in any farmland conversion. They are Commerce, Interior, Army, Housing and Urban Development, Transportation, Energy, Postal Service, General Services Administration, Environmental Protection Administration, Interstate Commerce Commission, Veterans Administration, and Tennessee Valley Authority.

TVA's Board of Directors has already announced that its policy will be to prevent conversion of TVA-owned prime farmland, unique farmland, or farmland designated by the States as being of statewide importance. The TVA Board took this action on June 22.

These agencies have until the end of September to comment on the material. After that, it will be published in the Federal Register.

In addition, Secretary Block has proposed organizing USDA Agricultural Lands Protection Committees in each State to review and evaluate Federal projects that involve land conversion. They will see to it that every reasonable effort has been made to adopt an acceptable alternative course of action before the Federal Government has any participation in converting prime, unique, and locally important farmlands.

We see this Act as a necessary effort on the part of the Federal Government to set an example for others and to make the Federal Government more responsible for its actions in the conversion of farmland to other uses. The Act also carries out one of the recommendations of the National Agricultural Lands Study, with which most of you are familiar.

The NALS report, along with the tremendous amount of publicity it generated, certainly helped get the Farmland Protection Policy bill passed. But the report also kicked off a controversy over many conclusions the study reached.

Newspapers, magazines, radio and television stations have publicized the study's report from coast to coast.

Many of the stories in the media have been very emotional in nature, maybe more so than justified by the study's report. Among other things, we have read:

That as the world's food needs increase, the U.S. keeps losing farmland to land developers.

That we are rapidly running out of our best land for food production.

That food prices will skyrocket as our most productive farmland is paved over or is used for homes, schools, or commercial establishments.

That as our farmland disappears, our exports will drop.

That U.S. exports mean the difference between life and death to millions of less fortunate people whose lives are marred by chronic hunger.

It's time to put these fears into perspective.

There is no cause for alarm insofar as our national food supply, now or in the future, is concerned. NALS itself does not call the

problem a present-day crisis. It only points to the long-term risks in areas like Hillsborough or Dade counties, where population pressures threaten highly productive farmland. We cannot deny the existence of these critical areas around many major cities. But we have to look at the whole national picture before we conclude that these localized phenomena are going to spell a national threat to our agriculture.

The most publicized and controversial figure to emerge from the NALS was this: during the years 1967 to 1975 about 29 million acres of land—or 3 million acres a year—were converted from agricultural uses to urban and built-up uses, a notable increase from the conversion rates of previous years.

First, we need to realize that the total U.S. land in farms and ranches comes to more than one billion acres. That includes not only cropland, but also pastureland, rangeland, privately owned wasteland, and forest land found on farms. Assuming the 3-million acre annual loss figure is correct, it amounts to only three-tenths of one percent of our total farm and ranch land. That is not a very large percentage. And much of the land included in that 3 million acres was never used in agriculture and probably never would have been, according to Economist Emery Castle, President of Resources for the Future.

When we focus on cropland alone, the losses cause even less concern. Cropland and potential cropland in the United States total 540 million acres, and the loss of this land to urbanization and other non-farm uses in the 1967-75 period was 675,000 acres per year. This is the figure SCS works with. That annual loss represents less than two-tenths of one percent of our cropland base.

"This is enough," writes Don Paarlberg, former chief economist with USDA, "to cause adjustment problems in particular local areas, but not enough to jeopardize food production."

Castle agrees with the 675,000-acre figure, and observes that "even in the unlikely event the rate of cropland loss were to continue, by 2005 we will have suffered an accumulated loss of less than 4 percent of the potential U.S. cropland base of 540 million acres."

Most economists concur that the rate of conversion in the decade from 1967 to 1977 has declined since then, abating the threat to farmland.

Another important reason why our food production is not threatened by this small annual loss in acreage is because we expect annual increases in crop yields of one or two percent. The upward trend in corn yields during the last decade has been slightly better than 2 percent, and this trend is expected to continue. In other words, increased yields per acre will offset the loss of cropland to urbanization by from five to ten times, and possibly more.

Two other economists, Julian Simon of the University of Illinois and William Fischel of Dartmouth College, have entered the fray. They claim that both SCS and the NALS grossly overstated the total land conversion figure by two and possibly three fold.

They contend that instead of 3 million acres of land converted yearly the figure should be closer to 1 million acres. And only a fraction of that would be cropland.

The economists contend, that much of the land counted as urban and built-up in the 1977 study was already in that status prior to 1967. This resulted in an exaggerated finding of "new" urban expansion, they say.

Julian Simon, as many of you know, has attacked the Federal role in farmland preservation on philosophical grounds as well, and I now want to turn to this issue.

Most recently he wrote an article in the August edition of "The American Spectator" entitled "The Farmer and the Mall: Are American Farmlands Disappearing?" In this article, Simon writes, "The preoccupation with the loss of prime farmland seems to involve a fundamental misunderstanding of economic principles." Then he went on to state that if a farm is of greater benefit to the economy as a shopping center, it should become a shopping center.

This Administration is devoted to free market economics, and so the Simon approach appeals to us. Nevertheless, we in the Department of Agriculture believe that the proper role of the Federal government with respect to the issue of prime farmland conversion has been spelled out by the Farmland Protection Policy Act. We do not seek to intrude in free market economic decisions to any degree greater than is called for by that Act. After all, for every shopping center developer buying farmland, there has to be a willing farmer ready to sell. It is not the Federal role to intrude into this kind of transaction. But Congress has clearly given a mandate that Federal participation in a project consuming farmland has to be done only after analysis of the other options available. We support and will carry out this mandate. In addition, we intend to keep a watchful eye on the conversion of farmland for the time being, to make sure it does not suddenly become more of a national problem that we now perceive it to be.

We feel this is a proper approach to the farmland preservation issue on the Federal level, given the present scope of the problem.

We will have a much better idea of conversion trends a year from now, when the 1982 National Resources Inventory report is made. This study will be the most comprehensive ever undertaken by SCS. We hope this will finally bring the various professional experts into closer agreement on the facts. And this will help us keep an eye on the situation here in Florida. For while in most areas of the country, farmland conversion hasn't been much of a problem to begin with, in areas such as Florida, the local trend in land conversion must continue to be watched, in case it remains strong enough to warrant further study and further action.

Florida is just one of the localities around the country that should be watched. And from the grass roots, we see state after state, county after county, rising to address the problem.

This is where the thrust for farmland retention must come from—the local and State levels, not the Federal level. Counties and states are where the resources are. That's where the pressures are being felt most intensely, and that's where the land-use decisions appropriately should be made.

SCS has a lot to contribute to State and local efforts—the data, the analytic techniques, the technical assistance—but only when we are asked.

The decision on which way Florida will go has to be made in the State or in the local communities; it is not a matter for Federal policymaking.

I thank you for the opportunity to be here and take part in your program.●

RUDOLPH J. SCHAEFER

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. OTTINGER. Mr. Speaker, I would like to take this opportunity to pay tribute to Rudolph J. Schaefer of Mamaroneck, N.Y., a beloved member of his community, who passed away on September 2, 1982.

Mr. Schaefer was born in Larchmont, N.Y., on July 8, 1900, the son of Rudolph Jay and Fredericka Vilette (Beck). He was educated at the Carpenter School, New Rochelle High School, and Princeton Preparatory School. He received a B.S. from Princeton University in 1924.

Rudolph Schaefer married Lucia Moran on September 30, 1924. Before her death, they raised four children together: Edmee (Mrs. William Combs), Lucy Katherine (Mrs. Peer T. Pedersen), Rudolph Jay III and William M.; in all he had 20 grandchildren and 12 great-grandchildren. On February 1, 1968 he married Janet Udall.

Mr. Schaefer became vice president and director of F. & M. Schaefer Brewing Co. in 1923, vice president and treasurer in 1926, and president in 1927. He was chairman of the Board from 1950 to 1969; and he retired in 1976.

During his lifetime, Mr. Schaefer was an outstanding civic leader. He served as trustee emeritus and former vice president of Mystic Seaport Museum, Inc. He served on the Board of Governors of New Rochelle Hospital Medical Center as chairman of the board and as an active member. During this time he served the NRHMC with tremendous leadership, devotion and inspiration. He was a former vestryman of St. Johns Episcopal Church in Larchmont.

In addition to his other activities, Mr. Schaefer was a member of: Cruising Club of America; New York Athletic Club; New York Yacht Club; Princeton (N.Y.C.); Winged Foot Golf Club; former Commodore of Larchmont Yacht Club; member of Royal Bermuda Yacht Club;' creator "America", launched in 1967, replica of the original "America" of 1851; and author of "J. E. Buttersworth—19th Century Marine Painter".

I ask all my colleagues to join me in saluting this outstanding individual.●

RECESSION'S "HIDDEN" COSTS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. FLORIO. Mr. Speaker, administration economic policies have created monumental Federal deficits, new tax preferences which force working Americans to subsidize the well-to-do, record unemployment, and a national recession the most servere and sustaining since World War II. Economic statistics issued by the administration, however, only chart a small portion of the individual and institutional costs resulting from the intensity and duration of the recession. The following article analyzes some of the "hidden" costs of the recession which will burden our economy and the strength of our society for many years to come. Mr. Speaker, I submit the following article for my colleagues' review.

[From Newsweek, Oct. 4, 1982]

THE COST OF UNEMPLOYMENT

(By Lester C. Thurow)

With unemployment approaching the double-digest range, it has supplanted inflation as the No. 1 economic problem in the public-opinion polls. But the Reagan administration still dithers when it comes to adopting policies that could start unemployment on a downward path.

America's 11 million officially unemployed are unfortunately augmented by almost as many who are not officially unemployed. There are 1.5 million discouraged workers who have ceased to take active steps to look for work because they believe none is available, 2.1 million workers who are working part time but would like full-time work, 3.6 million part-time workers who would like more hours of work than they now have, 250,000 unemployed 14- and 15-year-olds who are no longer being counted as unemployed and more than 1 million workers who are in govenment make-work programs. If all of those groups are considered, more than 17 percent of the labor force is totally or partially unemployed—within striking distance of the 25 percent recorded at the peak of the Great Depression in 1933.

SNAPSHOT

The official "average duration of unemployment" is 16 weeks, not a trivial number, but that number also does not express what it seems to express: the length of time the average person will remain unemployed. Suppose that every worker were to remain unemployed exactly 32 weeks. A national snapshot of unemployment would find an equal number of unemployed workers in every week from 1 week to 32 weeks—with an average duration of unemployment of 16 weeks—even though every unemployed worker would actually be unemployed 32 weeks. In addition, many of the jobless leave unemployment not because they have found work, but because they drop out of the labor force.

Unemployment insurance certainly mitigates the economic hardships for those who get it, but it covers a surprisingly small percentage of the unemployed. Only 4.3 million workers, almost 40 percent of those who are unemployed, are currently getting unemployment-insurance checks.

Economic distress is, however, only part of the problem. Harvey Brenner at Johns Hopkins finds that unemployment is associated with an increase in mortality rates, suicides, homicides, alcoholism and admissions to both state mental hospitals and prisons. In recent weeks you only had to read a newspaper to see the individual analogues of such collective statistical studies.

Anyone who has been unemployed or who has had a friend who has been unemployed for a substantial period of time knows that it is almost impossible not to get "down" on yourself. What is in fact a social disease—there simply is not enough work to go around and someone is going to be unemployed—is seen as a personal disease. "I am economically worthless."

This feeling is compounded in a society that uses work to measure worth. I was told the story recently of a five-year-old whose father was going to take her to her first day of kindergarten. She asked her father to wear a suit so that the other children wouldn't think that he was unemployed. Suppose he had been unemployed. Think of the disgrace to both the child and the father.

Rioting: The individual disasters have their social analogues. Think of the institutions that are being ripped apart in the budget crisis in states such as Michigan. It is not at all obvious that the great universities for which Michigan is justly famous will ever again be what they once were. Destruction is simply a lot easier than construction.

As unemployment has risen I have repeatedly heard the sentiment privately expressed that it cannot really be that bad—after all, they aren't rioting. Democracy was invented, however, to solve problems before they lead to riots and revolution. Riots are a mark of profound failure—not a statistical indicator that it is time for policymakers to address the problem of unemployment.

Where the Reagan administration was once a believer in supply-side tax cuts to get the economy moving again, it now seems to be a believer in spontaneous combustion. In the Reagan scenario, a recovery is going to occur but it is not going to be started by government pump-priming. Unfortunately, the Great Depression taught us, or should have taught us, that once capitalism gets mired down in a worldwide recession with all of the attendant financial problems, spontaneous combustion does not occur. It took World War II to yank us out of the economic quicksands of the Great Depression. Without a governmental yank, this recession is not going to end.●

IMMIGRATION AND CONTROL ACT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 1982

● Mr. EDWARDS. Mr. Speaker, I have grave reservations about the Immigration Reform and Control Act of 1982, H.R. 6514, as passed recently from the Judiciary Committee. I have included for the RECORD a letter from many concerned Hispanic community groups regarding this bill.

SEPTEMBER 23, 1982.

Hon. DON EDWARDS,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN EDWARDS: We wish to express our appreciation for your continued advocacy in defense of human and civil rights. Regarding the "Simpson-Mazzoli" bill, we particularly appreciate your sensitivity to the concerns of Hispanics.

Congressman Edwards, we as Hispanics in California are opposed to the bill for many of the same reasons you expressed throughout the Judiciary Committee mark-up hearings. Our communities have manifested their opposition in a letter writing campaign to key Congressional members. Further, we have entrusted to the League of United Latin American Citizens (LULAC), Washington, D.C. office, a total of 10,000 letters to be transferred to you for delivery. We ask you as the Chairman of the Democratic Delegation from California and a ranking member of the House Judiciary Committee to reflect our opposition and your own concerns in the Congressional Record.

We, the Latin American community, oppose the Simpson-Mazzoli bill because, for the first time in the history of these United States, immigration laws are being enacted that will force people to buy their application for legal status through years of work without rights, with no guarantees. People will be obligated to pay taxes and register for the military draft, but will not receive any of the benefits as other people in the United States. The National I.D. card introduces into American society a concept foreign to our traditions. It represents one of the most serious attacks on our Constitutional right to privacy.

Further, the bill is divisive in nature by establishing several categories and subgroups—citizens, permanent residents with rights, permanent residents without rights; temporary workers without rights; guest workers without rights, and undocumented workers without rights. In essence this bill will create a caste system which will split the Latino community based on legal status and will pit people in general against each other based on legal status, color and language.

In addition, the bill is anti labor. The employer sanctions provisions, the temporary resident and guest worker status, linked to the national identity card, constitute a severe attack on labor in general, and particularly on labor unions whose membership includes a large number of minority and foreign born persons. By deputizing employers as immigration agents, the Simpson-Mazzoli bill strengthens an employer's hand to harass, and get rid of the workers who dare attempt to better their conditions through any kind of protest or organization.

In closing, we urge you to register in the Congressional Record the concerns you have as well as ours. Please urge your colleagues to do so also. Again, you have our thanks and support.

Respectfully submitted,

BERT CORONA,
La Hermandad Mexicana.

ANTONIO H. RODRIGUEZ,
Director, L. A. Center for Law and Justice.

PARTIAL LIST OF ENDORSERS

Father Pedro Villarroya, Our Lady of Talpa Church; John Huerta, Director MALDEF (Mexican-American Legal Defense Fund); Los Angeles Coalition for Visas & Rights for the Undocumented; Renny Mendez Martin, President, Board of Directors, National Immigration Coalition; E.L.A. Labor Community Coalition; Rosario Munoz, Chairperson, E.L.A. Labor Community Coalition; M.A.P.A., (Mexican American Political Association); G.I. Forum, Region 3; Mexican-American Bar Association; American Friends Service Committee; District 65, U.A.W.●